

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
O.A/T.A No. 129/2007

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

CERTIFICATE OF ADOPTION OF
COMPLAINT NUMBER

ORDERS SHEET

1. Original Application No. 129/07

2. Miscellaneous Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant (S) SI Dipankar Dutta vs Union of India & Ors

Advocate for the Applicant (S) M. Chandra, S. Nair

Ms. Le. Dutta

Advocate for the Respondent (S) Ms. M. Ahmed
Ms. M. Das

Notes of the Registry Date Order of the Tribunal

This application is in form
is filed/C.F. for Rs. 50/-
deposited vide PO/BD
No. 24662838
Dated 5.4.07

Dy. Registrar

Petition copy for
issue notes annexed

29/5/07

29.5.07. Issue involved in this case is that the applicant earlier has approached this Tribunal by filing M.P./No.46 of 06 in O.A.No.406 of 02 for implementation of the judgment and order dated 29.10.03. But the Respondents filed affidavit in M.P.No.46 of 06 intimating that there is no vacancy under PR quota to promote the applicants. Counsel for the applicant has submitted that some junior's persons of the applicants has already been promoted to the cadre of Inspector Gr. 'C'. The limited prayer in this O.A. is, to direct the respondents to hold review DPC to consider the promotion of the applicants to the cadre of Inspector Gr. 'C'.

Contd/-

Opd - 129/07 2-

29.5.07.

Considering the facts and circumstances I am of the view that notice has to be issued to the respondent. Issue notice on the respondents. Counsel for the respondents wanted time to get instruction. Six weeks time is granted as prayed for. Post the matter on 12.7.07.

Received steps with order
for respondents no. 3, 4, 5
Alsha Dan
Addl. C.S.C.
31/5/07

Vice-Chairman

Im

steps with order for R-3,
4, 5 received by Miss U. Das,
Addl. C.G.S.C. on 31/5/07.

Post the matter on 26.7.07 for filing reply.

Vice-Chairman

Notice & order sent to
D/Section for issuing^{26.7.07}
to R-1, 2, 6, 7, 8, 9, 10 and
11 by regd. A/D Post.

One week further time is sought for by
the respondents to file written statement.

Post on 3.8.2007 for written statement
and further order.

Vice-Chairman

Notice ~~at~~ for Resp. no-6^{pg}
received back as unserved
with a postal remarks⁺
"Addressed Left".

3.8.2007

Ms. U. Das, learned Addl. C.G.S.C. will
file reply statement within one week with a
copy to the learned counsel for the
Applicant. Applicant is liberty to file
rejoinder, within two weeks thereafter.

Post the case on 28.08.2007.

Vice-Chairman

Notice duly served
on resp. no-7.

/bb/

Wls not billed.

my
25.7.07

Wls not billed.

my
28.8.07.

- 3 -

3

O.A. 129/07

Notes of the Registry	Date	Order of the Tribunal
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20.7.07

Letter dated Nil at flag A is received from M.S. Banerjee, Inspector, Central Excise Bongaigaon Range, Dhuburi Division regarding in O.A. 129/07 which will speak itself.

Laid before the court as per order dated 19.7.07 of the Hon'ble V.C.

[Signature]

[Signature]

29.8.07

W/s submitted by the Respondents. Copy served.

[Signature]

Rejoinder not filed.

21
1.10.07

6.12.07

Rejoinder submitted by the Applicant. Copy served.

[Signature]

28.8.07 Counsel for the respondents submitted that she will file written statement by tomorrow.

Post the matter on 30.8.07 for filing written statement.

[Signature]
Vice-Chairman

pg

30.8.2007

Further time of four weeks is granted to the Applicant to file rejoinder.

Post on 3.10.2007

[Signature]
Vice-Chairman

/bb/

30.8.2007

Let the case be posted on 3.10.2007 along with O.A. 129/2007.

[Signature]
/bb/

[Signature]
Vice-Chairman

30.8.2007

~~Some of the Respondents have filed reply statements. As requested, four weeks~~

[Signature]

03.10.2007

Call this matter on 05.11.2007

awaiting rejoinder from the Applicant.

Notes of the Registry

Date

Order of the Tribunal

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

03.10.2007

Call this matter on 05.11.2007

awaiting rejoinder from the Applicant.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

05.11.2007

Mr.M.Chanda, learned counsel
for the Applicant requests for further
four weeks time to file rejoinder.

Call this matter on 07.12.2007.

Member (A)

07.12.2007

Learned counsel for the parties are
present. Counter and rejoinder have
already been filed in this case.

Subject to question of law to be
examined at the time of hearing, this case
is admitted and set for hearing on
13.12.2007.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing as
record is and
rejoinder filed
by the parties.

12.12.07.

/bb/

PTO

13.12.2007

On the prayer of Ms. U. Das, learned Addl. Standing counsel appearing for the Union of India, call this matter on 31.12.2007.

The case is ready
for hearing.

mm
27.12.07.


(Gautam Ray)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/


31.12.2007

Ms. U. Das, learned Addl. Standing counsel appearing for the Respondents is present. A prayer has been made on behalf of the learned counsel for the Applicant seeking adjournment of the matter.

The case is ready
for hearing.

mm
22.1.08.

Call this matter on 23.01.2008.


(M.R. Mohanty)
Vice-Chairman

/bb/


23.01.2008


On the request of Mr. M. Chanda, learned counsel appearing for the Applicant (made in presence of Ms. Usha Das, learned Addl. Standing Counsel for the Union of India) this case stands adjourned to 01.02.2008 for hearing.

Call this matter on 01.02.2008.

The case is ready
for hearing.

mm
4.2.08


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

O.A. 129/07

05.02.2008

Call this matter on 17.3.2008.

The case is ready
for hearing.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

14.3.08.

17.03.2008

Call this matter on 28.03.2008.

The case is ready
for hearing.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

nkm

27.3.08.

28.03.2008

Call this matter on 19.05.2008..

The case is ready
for hearing.

lm

16.5.08.

19.05.2008

Mrs. U. Dutta, learned counsel

appearing for the Applicant
for the Respondents.

Call this matter on 27th
hearing.

Send copies of this
Applicant and to the Resp
address given in the O.A, so
come ready for hearing on the

Mr. G. Baishya, learn

O.A. 129/07

19.05.2008

Mrs. U. Dutta, learned counsel appearing for the Applicant is present. None for the Respondents.

Dt. 19.5.08

Please send copies of this order to the Applicant and to the Respondents.

21.5.08

Order dt. 19/5/08

Send to D/Section for issuing to applicant and to the respondents by post.

D/No-2535 to 2546

Dt. 27/5/08.

lm

19.6.08

Additional Rejoinder submitted by the Applicant. Copy served.

20.6.08

The case is ready for hearing.

24.6.08

The case is ready for hearing.

28.7.08

2.9.08
Additional Ws submitted by the Respondents. Copy served.

24.9.08

The case is ready for hearing.

Mrs. U. Dutta, learned counsel

appearing for the Applicant is present. None for the Respondents.

Call this matter on 27th June, 2008 for hearing.

Send copies of this order to the Applicant and to the Respondents in the address given in the O.A, so that they should come ready for hearing on the date fixed.

Mr. G. Baishya, learned Sr. Standing counsel appearing for the Respondents undertakes to intimate the parties to come ready for hearing on the date fixed.

(M.R.Mohanty)
Vice-Chairman

27.06.08

Mrs U. Dutta, learned counsel for the Applicant and Mr M.U.Ahmed, learned Addl. Standing counsel representing Union of India are present.

Call this matter on 29.07.2008 for hearing; by which time the Respondents may obtain instruction, written objection to the additional rejoinder filed by the Applicant.

(M.R.Mohanty)
Vice-Chairman

pg

29.07.2008

Call this matter on 04.09.2008 for hearing.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nkm

04.09.2008

Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Union of India is on accommodation. Mr. M. Chanda, learned counsel appearing for the Applicant seeks an adjournment^{of} hearing of this case.

Call this matter on 30th October 2008, for hearing.

lm

(Khushiram)
Member(A)

(M.R.Mohanty)
Vice-Chairman

30.10.2008

None appears for either of the parties. A prayer has been made on behalf of Mr.M.Chanda, learned counsel appearing for the Applicant, seeking an adjournment.

Call this matter on 04.11.2008 for hearing.

(S.N.Shukla)
Administrative Member

(M.R.Mohanty)
Vice-Chairman

/bb/

The case is ready for hearing

04.11.2008

None appears for either of the parties.

Call this matter on 12.12.2008 for hearing.

(S.N. Shukla)
Member (A)

(M.R. Mohanty)
Vice-Chairman

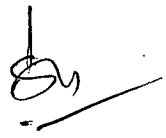
11.12.08.

nkmm

O.A.129/07

12.12.2008 Mr. M.Chanda, learned counsel for the Applicant is present. None present for the Respondents.

Call this matter on 6th January, 2009.


(S.N.Shukla)
Member(A)

pg

06.01.2009 Mrs. U. Dutta, learned counsel appearing for the Applicant is present. Mr. M. U. Ahmed, learned Addl. Standing Counsel representing the Respondents is also present. On the prayer of learned counsel appearing for the parties, call this matter on 09.01.2009.


(M.R.Mohanty)
Vice-Chairman

lm

*Recd on the order
in support of Respondent
no. 3, 4 & 5.
Admitted 22.1.09
CDU/AL SARMA
Director (Law)
Court Ex. Punjab.*

09.01.2009

Vide order passed separately, this O.A. stands dismissed on withdrawal.


(M.R.Mohanty)
Vice-Chairman

lm

29.1.09

*Copy of the order
send to the D/Sec.
for issue the
order to the Applicant
A Regd no. 142.*



**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A. No. 129 of 2007

DATE OF DECISION : 09.01.2009

Dipankar Dutta & Ors.

.....Applicant/s

Mrs. U.Dutta

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

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

..... Advocate for the
Respondents

CORAM

THE HON'BLE MR.MANORANJAN MOHANTY, VICE-CHAIRMAN

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Vice-Chairman /Member-

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.129 of 2007

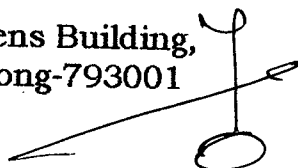
Date of Order: This the 9th Day of January, 2009.**HON'BLE MR.MONORANJAN MOHANTY, VICE-CHAIRMAN**

1. Shri Dipankar Dutta
Son of Late Durgadas Dutta
Working as Senior Tax Assistant
Office of the Commissioner (Appeals)
Customs and Central Excise,
6th Floor, Udyog Bikash Bhawan
Bhangagarh, Guwahati-781005
2. Shri Hemankar Roy
Son of Sri Jyotish Chandra Roy,
Working as Senior Tax Assistant
Office of the Dy. Commissioner,
Customs and Central Excise,
Sibbai Road, Karimganj, Assam
3. Shri Rajat Subhra Sengupta
Son of Late Ranjit Kumar Sengupta,
Working as Senior Tax Assistant,
Office of the Asstt. Commissioner ,
Central Excise Division, Digboi,
IOC New Market, Tinsukia-786171

By Advocate Mr.M.Chanda, Mr.S.Nath,Mrs. U.Dutta Applicants

-Versus-

1. Union of India,
Represented by Secretary to the
Government of India,
Ministry of Finance
Department of Revenue,
North Block, New Delhi-110001.
2. Central Board of Excise and Customs,
Govt. of India,
Through it's Chaiman, North Block,
New Delhi-110001.
3. The Chief Commissionr
Central Excise and Customs,
Shillong Zone,
3rd Floor, Crescens Building,
M.G.Road, Shillong-793001

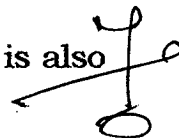


4. The Commissioner of Central Excise,
Shillong zone,
3rd floor, Crescens Building
M. G. Road, Shillong-793001
5. The Additional Commissioner (P&V)
Central Excise and Customs
Morllo Compound
Shillong-793001
6. Shri Subrata Sengupta,
Inspector, Central Excise
Office of the Asstt. Commissioner,
Central Excise Division, Digboi
IOC New Market, Tinsukia-786171
7. Shri Saurajit Paul,
Inspector, Central Excise
Office of the Deputy Commissioner,
Central Excise Division, Dhubri
Kealing Road, Ward No.1,Dhubri-783301
8. Shri Pranesh Dhar, Inspector
Custom Preventive Division,
Christiab Basti, Guwahati-781005
9. Shri Sanjib Kumar Dhalua, Inspector
Office of the Deputy Commissioner,
Central Excise Division, Aizwal
P.O.Aizwal, Mizoram-796001.
10. Shri V.Thanzuala, Inspector,
Office of the Deputy Commissioner,
Central Excise Division-1
P.O.-Aizwal, Mizoram-796001
11. Smt. Shakuntala Basumatary,
Inspector, Central Excise
Office of the Deputy Commissioner,
Central Excise Division, Dhubri
Keating Road, Ward No.1,Dhubri-783301

By Mr.M.U.Ahmed, Addl.Standing Counsel Respondents.

ORDER (ORAL)
09.01.2009

Mrs. U. Dutta, learned counsel for the Applicants is present. Mr.
M. U. Ahmed, learned Addl. Standing Counsel for the Respondents is also



present. Mrs. U. Dutta, learned counsel appearing for the Applicants has filed a memo dated 09.01.2009 to the following effect:-

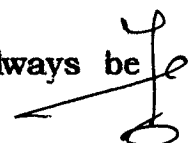
"With due respect, I pray before your Lordship that I may be permitted to withdraw the abovementioned matter, under the instruction of my client, with liberty to file a fresh, if so advised"

2. Mr. M. U. Ahmed, learned Addl. Standing Counsel, representing the Respondents produces a copy of the letter (of the three Applicants) addressed to the Registrar of this Tribunal (with copy to the Commissioner of Central Excise, Shillong) on 24th December, 2008. The text of the said letter (as produced by Mr. M. U. Ahmed, learned Addl. Standing Counsel) reads as under:

"Subject: O.A.No.129 of 2007 filed by Shri Dipankar Dutta & others before the Hon'ble CAT, Guwahati-submission of withdrawal petitioners due to considerate view of the authority - reg.

With due respect and humble submission, we the petitioners beg to approach before you generosity to kindly issue order for withdrawal of the above O.A.No.129 of 2007 pending before the Hon'ble CAT, Guwahati due to the initiative taken by the authority for considering promotion to all the petitioners to the grade of Inspector. For this purpose, the authority had already conducted Physical Fitness Test held on 22.12.2008 and the Viva-Voce Test held on 23.12.2008 and the intention of the authority was very much positive to consider the promotion to these petitioners in the grade of Inspector. With this in view, all the petitioners have decided to withdraw the above O.A.No.129 of 2007 pending before the Hon'ble CAT, Guwahati. However, any deviation from the above will have the right to further approach before the Hon'ble CAT, Guwahati."

3. In the aforesaid premises, the prayer of the counsel for the Applicants to withdraw this case is allowed. Liberty shall always be



available (to the Applicants) to approach this Tribunal; if they are still aggrieved by the action/omissions of the Respondents.

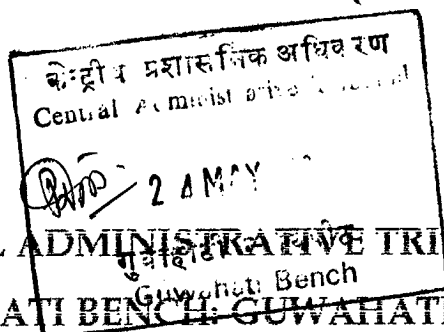
4. This case is, accordingly, dismissed being withdrawn.

5. Send copies of this order to the Applicant and all the Respondents.

Free copies of this order be also supplied to the Advocates of both side.


(M.R. MOHANTY)
VICE-CHAIRMAN

LM



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

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

O. A. No. 129 /2007

Shri Dipankar Dutta & Ors.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

All the 3 applicants are presently working as Senior Tax Assistant (erstwhile Data Entry Operator Gr. 'B') in the Central Excise department and posted in different offices under the administrative control of the Commissioner, Central Excise, Shillong. Their next avenue of promotion is Inspector Gr. 'C'.

- 19.07.2001- Govt. of India, Ministry of Finance redesignated post of Data Entry Operator Grade 'B' as Senior Tax Assistant by merging the post of Data Entry Operator with the ministerial cadre namely Tax Assistant. (Annexure- A)
- 27.11.2002- Respondent No. 4 published a proposed seniority list of Tax Assistant in view of the merger, wherein applicants are shown at Sl. No. 17, 18 and 19. (Annexure- B)
- 24.12.2002- Respondent No. 4 decided to fill up certain vacancies by way of promotion, name of the applicants have been deliberate excluded to appear in the selection/interview. (Annexure- C)
- 27.12.2002- This Hon'ble Tribunal by way interim order in OA No. 406/02 directed the respondents to allow the applicants to appear in the selection/interview held on 29/30.12.02. All the applicants appeared in the selection/interview. (Annexure- D)
- 29.10.2003- Hon'ble Tribunal allowed the OA No. 406/02 declaring the present applicant eligible for consideration of promotion to the cadre of Inspector Gr. 'C' and directed the respondents to consider the case of the applicants for promotion to the cadre of Inspector Gr. 'C'. (Annexure- F)
- 23.04.2006- Applicants approached this Hon'ble Tribunal by filing MP No. 46/06 in OA No. 406/02 for implementation of the judgment and order dated 29.10.03. Notices were issued in MP No. 46/06.
- 406/02

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Respondents filed affidavit in MP No. 46/06 intimating that there is no vacancy under PR quota to promote the applicants. In additional affidavit respondents for the first time stated that all the 3 applicants found unfit by the DPC for promotion to the post of Inspector Gr. 'C' held in the month of Dec' 02. It is surprised to note that results of the selection test held on Dec' 02 of the applicants were never declared by the respondents at any point of time. (Annexure- G and H)

31.12.2002/27.10.03 - 15 juniors of the applicants promoted to the cadre of Inspector Gr. 'C' w.e.f. 31.12.03 and 28 juniors have been promoted to the cadre of Inspector Gr. C w.e.f. 27.10.03 ignoring the case of the applicants. Applicants came to learn this fact in a reply furnished under RTI Act. (Annexure- I)

04.10.2004- Central Board of Excise and Customs decided to comply judgment of the Hon'ble Bombay High Court dated 17.10.03, wherein similarly situated employees were declared entitled for promotion. (Annexure- J)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to direct the respondents to hold review DPC to consider the promotion of the applicants to the cadre of Inspector Gr. 'C' in the light of the direction contained in the judgment and order 29.10.03 passed in O.A No. 406/2002 with all consequential service benefits including seniority and arrear monetary benefits at least from the date of promotion of the respondent Nos. 6 to 11 to the cadre of Inspector Gr. 'C'.
2. Costs of the application.
3. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

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

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.
-

24 MAY 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 129 /2007

Shri Dipankar Dutta & Ors. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

Dutta

Advocate

Date: - 23.05.07

Dipankar Dutta

Filed by: - the applicant
Through: - U. Dutta
Advocate
On 23.05.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 129 /2007

BETWEEN:

1. **Shri Dipankar Dutta**
Son of Late Durgadas Dutta
Working as Senior Tax Assistant
Office of the Commissioner (Appeals)
Customs and Central Excise,
6th Floor, Udyog Vikash Bhawan
Bhangagarh, Guwahati- 781005.
2. **Shri Hemankar Roy,**
Son of Sri Jyotish Chandra Roy,
Working as Senior Tax Assistant
Office of the Dy. Commissioner,
Customs and Central Excise,
Sibbari Road, Karimganj, Assam.
3. **Shri Rajat Subhra Sengupta,**
Son of Late Ranjit Kumar Sengupta,
Working as Senior Tax Assistant,
Office of the Asstt. Commissioner,
Central Excise Division, Digboi,
IOC New Market, Tinsukia- 786171.

-----Applicants.

-AND-

1. **The Union of India,**
Represented by Secretary to the
Government of India,
Ministry of Finance
Department of Revenue,
North Block, New Delhi- 110001.
2. **Central Board of Excise and Customs,**
Govt. of India,
Through it's Chairman, North Block,
New Delhi-110001.

Dipankar Dutta

3. The Chief Commissioner
Central Excise and Customs,
Shillong Zone,
3rd Floor, Crescens Building,
M.G. Road, Shillong- 793001.
4. The Commissioner of Central Excise,
Shillong Zone,
3rd Floor, Crescens Building,
M.G. Road, Shillong- 793001.
5. The Additional Commissioner (P&V)
Central Excise and Customs
Morellow Compound
Shillong- 793001.
6. Shri Subrata Sengupta,
Inspector, Central Excise
Office of the Asstt. Commissioner,
Central Excise Division, Digboi,
IOC New Market, Tinsukia- 786171.
7. Shri Saurajit Paul,
Inspector, Central Excise
Office of the Deputy Commissioner,
Central Excise Division, Dhubri,
Keating Road, Ward No. 1, Dhubri- 783301.
8. Shri Pranesh Dhar, Inspector,
Custom Preventive Division,
Christian Basti, Guwahati- 781005.
9. Shri Sanjib Kumar Dhalua, Inspector,
Office of the Asstt. Commissioner,
Central Excise Division, Dibrugarh,
Milan Nagar, Lane 'F',
P.O- C.R. Building, Dibrugarh- 786003.
10. Shri V. Thanzuala, Inspector,
Office of the Deputy Commissioner,
Central Excise Division, Aizwal
P.O- Aizwal, Mizoram- 796001.
11. Smt. Shakuntala Basumatary,
Inspector, Central Excise
Office of the Deputy Commissioner,

Dibombar Dutta

Central Excise Division, Dhubri,
Keating Road, Ward No. 1, Dhubri- 783301.

..... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made praying for a direction upon the respondents to hold the review DPC to consider promotion of the applicants to the cadre of Inspector (Group 'C' posts) in the Central Excise and Customs department in compliance in the judgment and order dated 29.10.03 passed in O.A. No. 406/2002 (Dipankar Dutta & Ors. -Vs- U.O.I & Ors.) and also praying for a direction upon the respondents to promote the applicants at least w.e.f. 27.10.03, the date on which, the juniors of the applicants have been promoted to the cadre of Inspector (Group 'C') with all consequential service benefits, including seniority and monetary benefits.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

The applicants further declare that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act 1985.

4. Facts of the case:

- 4.1 That the applicants are citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

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- 4.2 That the applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules' 1987 as the relief's sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.3 That all the applicants are presently working as Senior Tax Assistant (erstwhile Data Entry Operator, Grade 'B') in different offices under the administrative control of the Commissioner, Central Excise, Shillong. That the applicants states that the post of Data Entry Operator, Grade 'B', was equivalent to the post of pre re-structuring Tax Assistant and the said post of the applicants as Data Entry Operator, Grade B, is now redesignated as Senior Tax Assistant.
- 4.4 That it is stated that following restructuring of Group 'C' cadre in the Customs and Central Excise Department pursuant to the Government of India, Ministry of Finance letter No. F. No. A-11019/72/99 Ad. IV dated 19.7.2001 whereby the post of Data Entry Operator, Grade B, has been redesignated as Senior Tax Assistant by merging the post of Data Entry Operator, Grade 'B', with the Ministerial cadre namely Tax Assistant, Upper Division Clerk (Special pay). The restructuring order of the Government of India has already been implemented vide Notification dated 19.07.2001.
- Copy of the Notification dated 19.07.01 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- A.
- 4.5 That it is stated that after issuance of the Notification dated 19.07.2001 the office of the Commissioner of the Central Excise, Shillong vide its letter bearing No. C. No. I (9) 1/ET-I/2002/4205-88 dated 27.11.2002 published a proposed seniority list of Tax Assistant, Data Entry Operator Group 'B' in view of merger to the grade of Senior Tax Assistant consequent to cadre restructuring. In the said seniority list the name of the applicants are shown

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at Sl. Nos. 17, 18 and 19 respectively. Be it stated that incumbents who are placed at Sl. Nos. 24 to 65 were working as Tax Assistant in the pre restructuring cadre. In the proposed seniority list those incumbents who have been placed at Sl Nos. 24 to 65 declared junior to the present applicants in the cadre of Senior Tax Assistant.

Copy of the seniority list dated 27.11.02 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- B.

- 4.6 That your applicant beg to state that in view of the merger of the post of Data Entry Operator Grade B, Tax Assistant to the newly created cadre of Senior Tax Assistant pursuant to the Notification dated 19.07.2001 are equally qualified for promotion to the cadre of Inspector Group 'C' (Executive) in terms of Revised Recruitment Rules of Inspector Group 'C' 2002. After the aforesaid restructuring in the Group 'C' cadre, the Commissionerate of Central Excise Shillong then decided to fill up certain vacancies of Group 'C' Inspector (Executive) by way of promotion vide Commissionerate letter dated 24.12.2002 whereby the date of interview/selection was scheduled to be held on 29th and 30th December 2002. Surprisingly in the said interview only Tax Assistants/Stenographers/UDCs/Draftsman of pre-restructuring cadre have been called for interview/selection. The name of the present applicants have been deliberately excluded to appear in the said interview/selection. The present applicants being highly aggrieved with the action/inaction of the respondents approached this Hon'ble Tribunal for protection of their valuable rights to appear in the said interview/selection, by filing an Original Application No. 406/2002 (D. Dutta & Ors. -Vs- U.O.I & Ors.). In the said Original Application, the applicants prayed for the following relief (s): -

- "8.1. That the Hon'ble Tribunal be pleased to set aside and quash to the extent of the column 12 of the clause (b) (i) "with two

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years regular service in the grade" as Senior Tax Assistant as prescribed in the Central Excise and Land Customs Department Inspector Group 'C' posts Recruitment Rule, 2002 (Annexure- D).

- 8.2 That the Hon'ble Tribunal be pleased to declare that the applicants are (now re designated as Senior Tax Assistant) are eligible for consideration of promotion to the post of Inspector Group 'C' under the Recruitment Rule 2002 as mentioned above.
- 8.3 That the Hon'ble Tribunal be pleased to direct the respondents to consider the case of the applicants for promotion in the existing vacant post of Inspector Group 'C' (Executive).
- 8.4 That the respondents to include the name of the applicants in the eligibility list published under letter dated 24.12.2002 by necessary amendment/modification.
- 8.5 Costs of the application.
- 8.6 Any other relief (s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper."

During pendency of the said Original Application, the present applicant prayed for an interim order to allow the applicants to appear in the interview/selection scheduled to be held on 29/30.12.02 for promotion to the cadre of Inspector Group 'C' pursuant to Communication issued under Memo No. C. No. II (3) 2/CON/92/1576-121 dated 24.12.2002. However, the learned Tribunal vide order dated 27.12.2002 allowed all the 3 applicants to appear in the interview/selection held on 29/30.12.02. By virtue of the said interim order, the present applicants were allowed to

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appear in the selection. However, results of the selection was made subject to the outcome of the O.A.

Copies of the letter dated 24.12.02 and interim order dated 27.12.02 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- C and D respectively.

4.7 That it is stated that in the impugned recruitment rules for Inspector Group 'C' 2002 a clause is incorporated in Col. No. 12 of the Recruitment Rule as follows:

"(b) (i) Senior Tax Assistant with 2 yrs. Regular service in the grade."

Whereas in the case of Tax Assistant/UDC of the pre-restructuring cadre, the eligibility criteria has been laid down in the aforesaid Recruitment Rules as follows:

"(a) (i) Tax Assistant with two years service as Tax Assistant or 5 years service as Tax Assistant and Upper Division Clerk put together.

(ii) Upper Division Clerk or Stenographer Grade III with 5 yrs. Service."

It is quite clear from above that a hostile discrimination is made towards the applicants so far criteria or eligibility conditions prescribed as stated above with the incumbents who were working in the cadre of Tax Assistant/Upper Division Clerk/Stenographer Grade III in the pre-restructuring cadre. It is pertinent to mention here that the post of Sr. Tax Assistant has been created for the first time following the Notification dated 19.07.2001 as such the question of attaining experience of 2 yrs. Service in the cadre of Sr. Tax Assistant by the incumbent earlier holding the post of Data Entry Operator Grade 'B' and completed not less than 8 years of service in the department does not arise and same is a absurd

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clause incorporated in the impugned Recruitment Rules of Group 'C' Inspector (Executive) 2002 whereas, in the case of Tax Assistant/Upper Division Clerk/Stenographer Grade III the eligibility criteria for consideration of promotion to the cadre of Group C Inspector laid down by the respondents Union Of India relating to their experience earned in the pre-restructuring cadre and as a result other than the present applicants, Tax Assistant/UDC/Stenographer Grade III has now attained eligibility in terms of the Group 'C' Inspectors Recruitment Rules 2002. Therefore, the eligibility criteria laid down in clause (b) (i) to the extent "with two years regular service in the grade" of the Recruitment Rules for Group C Inspectors, 2002 was highly discriminatory, unfair, arbitrary and a measure adopted by the respondents to restrain the present applicants to appear in the selection/interview for promotion to the Inspector Group 'C'.

A copy of the recruitment rules 2002 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- E.

- 4.8 That it is stated that although the present applicants appeared in the interview/selection held on 29/30.12.02, but their results were not declared by the authority, at any point of time. But surprisingly the results of other employees including juniors of the applicants have been declared and many of their juniors accordingly promoted to the cadre of Inspector Group 'C' during the year 2002 itself. Be it stated that in as much as 15 juniors have been promoted to the cadre of Inspector Group 'C' (Executive). The names of those juniors are furnished hereunder:

1. Sri Debabrata Dey
2. Sri Gurudas Debnath
3. Sri Rajiv Paul
4. Sri Debananda Singha
5. Shri Abhijit Sengupta
6. Shri Sujit Kr. Roy.
7. Shri Joydeep Nandi Mazumdar
8. Smti Nita Nag

9. Shri A.M. Warjri
10. Shri Y. Yansa
11. Shri Deepak Mill
12. Shri T.T. Bhutia
13. Shri W. Nonghyndah
14. Shri Sanjib Kr. Das
15. Shri S.O. Kharjana.

4.9 That it is stated that the O.A No. 406/2002 came before the learned Tribunal for hearing on 29.10.03, and Hon'ble Tribunal after hearing the parties was pleased to allow the O.A. and declared the present applicants eligible for consideration of promotion to the cadre of Inspector Group 'C' and further directed the respondents to consider the case of the applicants for promotion to the post of Inspector Gr. 'C' along with other feeder categories for promotion, and also directed to complete the entire exercise as expeditiously as possible preferably within a period of 3 months from the receipt of the order.

Copy of the judgment and order dated 29.10.03 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- F.

4.10 That your applicants further beg to say that immediately after judgment and order dated 29.10.03 the applicant repeatedly approached the higher authority for implementation of the same. The applicants finding no response from higher authorities submitted representation dated 24.03.05 addressed to respondent No. 3 and the same was duly forwarded by the Superintendent on 28.03.05, again applicant No. 1 submitted representation on 05.09.05 addressed to the respondent No. 3 but to no result. The applicant No. 2 and 3 also submitted representations to the higher authorities but no action was taken for compliance of the Hon'ble Tribunal's order dated 29.01.03.

In the circumstances, finding no other alternative, the applicants preferred a Misc. Petition under Rule 24 of the CAT (Procedure) Rule 1987

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praying for a direction upon the respondents for implementation of order dated 29.10.03 passed in OA No. 406/2002. The Hon'ble Tribunal was pleased to issue notice upon the respondents on 23.05.06 in the Misc. Petition No. 46/2006 in OA No. 406/02. The respondent Union of India after receipt of the notices in the aforesaid Misc. Petition initially submitted a reply stating inter alia that the said judgment and order dated 29.01.03 could not be implemented on the alleged ground that there is no vacancy available under the promotion quota in the cadre of Inspector Group 'C' and also stated that as and when vacancy arises under the PR quota to the cadre of Inspector Gr. 'C', in that event DPC will be held to consider the cases of the applicants as per rules.

It is pertinent to mention here that in para 2 of the additional affidavit filed by the present respondents, it has been stated that all the three (3) applicants were found unfit by the DPC for the post of Inspector held in the month of December 2002 pursuant to the direction passed by this Hon'ble Tribunal as an interim measure on 27.12.2002. It is surprised to note here at this stage that at no point of time the respondents have formally declared the results of the applicants who appeared in the interview held on December 2002. But now when one application filed before the learned Tribunal under Rule 24 for implementation of the learned Tribunal's order dated 29.10.03 in OA No. 406/02, the respondents disclosed that all the 3 applicants have been found unfit in the interview. Therefore, Hon'ble Court be pleased to direct the respondents to produce the entire records of the selection proceedings held in the month of December 2002 for perusal of Hon'ble Tribunal.

It is also pertinent to mention here that the respondents have raised a further contention in their additional affidavit that there is no vacancy available under the PR quota and already there is 111 excess promotions has been made and further pointed out that altogether 16 excess appointment has been made in the cadre of Inspector. The aforesaid statement made in the additional affidavit does not appear to be correct. It

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is relevant to mention here that even the respondents Union of India in their reply furnished under RTI Act on a specific quarries raised by one Sri Debasis Purkayastha, resident of Rangpur, Santipur, Silchar, Cachar, it has been admitted that in as much as 15 juniors have been promoted to the cadre of Inspector Group 'C' w.e.f. 31.12.2002 during the year 2002 and further in as much as 28 juniors who were working in the cadre of Sr. Tax Assistant at that relevant point of time have been promoted to the cadre of Inspector w.e.f. 27.10.03, which would be evident from Annexure- C of the reply furnished under RTI Act by the respondent department. It would further be evident from Annexure-B of the reply given under RTI Act that at least 33 persons have been promoted on 27.10.03. Therefore there was no justification on the part of the respondents not to consider the promotion of the applicant, more particularly when large numbers of juniors not less than 28 juniors have been admittedly promoted to the cadre of Inspector, as such contention of the respondents that the applicants will be considered for promotion as and when vacancy will arise cannot be sustainable in the eye of law. Hence the present application.

Copy of the affidavit, additional affidavit, the reply furnished under RTI Act are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- G, H and I respectively.

- 4.11 That it is stated that after the judgment and order dated 29.10.03, when the learned Tribunal declared the present applicants eligible for consideration of promotion to the cadre of Inspector and also held that they are liable to be promotion along with the other feeder categories and the said declaration and direction was given by the learned Tribunal way back in the month of October 2003 but thereafter no action was taken by the respondents for compliance of the Hon'ble Tribunal's order dated 29.10.03. However, after receipt of the notices in the M.P. No. 46/2006 in OA No. 406/02 now the respondents have filed an affidavit before this Hon'ble

Tribunal with certain vague pleas and contended that as and when vacancies will be available then only the cases of the applicants would be considered for promotion to the cadre of Inspector. In this connection it may be stated that the respondent Union of India are well aware of the pendency of the OA No. 406/2002 since 2002 as such it was obligatory on the part of the respondents to consider promotion of the juniors with specific condition that the promotion would be subject to the outcome of the pending OA No. 406/02 but no such course is adopted in the instant case. Moreover, no attempt is made to review the promotion granted to the juniors on 27.10.03 after the pronouncement of the judgment and order dated 29.10.03. It is categorically submitted that in the facts and circumstances as explained above the respondents are duty bound to hold the review DPC to consider the promotion of the applicants who have been excluded arbitrarily from the purview of the DPC held during the year 2003. Therefore, considering the facts and circumstances of the present case the Hon'ble Tribunal be pleased to direct the respondents to hold the review DPC and to consider the promotion of the present applicants along with their juniors who have been promoted in the year 2003 and further be pleased to direct the respondents to grant promotion to the applicants to the cadre of Inspector with all service benefits including seniority and arrear monetary benefits. It is admitted fact that the case of the present applicants were not considered along with their juniors in the year 2003. As such it is obligatory on the part of the respondents to hold the review DPC with immediate effect to consider the promotion of the present applicants.

- 4.12 That it is stated that the similar issue came before the Bombay High Court as well as on the other Benches of the Hon'ble Tribunal and the Hon'ble Bombay High Court in the judgment and order dated 17.10.2003 passed in W.P (C) No. 6957/2003, wherein it is held that similarly situated employees are entitled to the promotion. Moreover, the Central Board of Excise and Customs vide its order No. F. No. C/18013/25/2004.AD.III.B dated

04.10.04 have further decided to comply of the orders of the learned Tribunal as well as Hon'ble High Court. The applicants being similarly situated entitled to benefit of the decision communicated vide circular dated 04.10.04.

A copy of the circular dated 04.10.04 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- I.

4.13 That it is stated that the applicants have no other alternative but to approach this Hon'ble Tribunal for protection of his valuable legal right and interest. It is needless to say that when juniors have been promoted during the year 2003, including private respondents Nos. 6 to 11 who are juniors to the applicants, among the 28 juniors who have been promoted during the year 2003, to the cadre of Inspector Gr. 'C', as such the private respondent No. 6 to 11 have been impleaded in the instant case, as an abundant caution. Although the basic relief as prayed by the present applicants against the respondent Union of India since respondents Union of India has failed to redress the grievances of the applicants in spite of the direction passed by this Hon'ble Tribunal. The present O.A. has been filed since there was no direction in the earlier judgment and order dated 29.10.03 to hold the review DPC. Therefore, the instant application has been filed praying for a specific direction to hold the review DPC for consideration of promotion of the present applicant since no step has been taken to implement the judgment and order dated 29.10.03, rather juniors have been considered and promoted to the cadre of Inspector Group 'C'.

4.14 That this application is made bonafide and for the cause of justice.

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

5.1 For that, the respondents Union of India did not take any steps for compliance of the judgment and order dated 29.10.03 passed in OA No. 406/2002 and as a result the applicants have not been considered for

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promotion to the cadre of Inspector Group 'C' whereas at least 28 juniors of the applicants including the private respondents have been promoted to the cadre of Inspector Gr. 'C' long back on 27.10.03 without considering the case of the present applicants as such it is obligatory on the part of the respondents Union of India to hold a review DPC in terms of the judgment and order dated 29.10.03.

- 5.2 For that, it has been admitted by the respondents while furnishing reply in an inquiry under RTI Act that at least 28 juniors of the applicants have been promoted to the cadre of Inspector Gr. 'C' even on 27.10.03, without considering the cases of the present applicants
- 5.3 For that, non-availability of vacancies in the cadre of Inspector Group 'C' cannot be a ground to deny the promotional benefit to the applicants, in view of the fact when juniors of the applicants have been allowed the promotional benefit.
- 5.4 For that, non-consideration of promotion of the present applicants, who are senior to the private respondents No. 6 to 11, attracts Article 14 and 16 of the Constitution of India and the present applicants have been meted out with hostile discrimination in the matter of promotion to the cadre of Inspector Gr. 'C'.
- 5.5 For that, other Commissionerate of the Central Excise department have considered promotion of the similarly situated employees in the light of the direction passed by the various Benches of the CAT as well as by the Hon'ble High Court, as such denial of similar benefit to the present applicants is arbitrary, unfair and illegal.
- 5.6 For that, the applicants have suffered irreparable loss and injury in the matter of promotion to the cadre of Inspector Gr. 'C' since 28 juniors have already been promoted to the cadre of Inspector Gr. 'C', as such the

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applicants are entitled to be promoted to the cadre of Inspector Gr. 'C' including seniority and monetary benefits.

6. Details of remedies exhausted.

That the applicants declare that they have exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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

The applicants further declare that save and except filing OA No. 406/2002 they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

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

8.1 That the Hon'ble Tribunal be pleased to direct the respondents to hold review DPC to consider the promotion of the applicants to the cadre of Inspector Gr. 'C' in the light of the direction contained in the judgment and order 29.10.03 passed in O.A No. 406/2002 with all consequential service benefits including seniority and arrear monetary benefits at least from the date of promotion of the respondent Nos. 6 to 11 to the cadre of Inspector Gr. 'C'.

8.2 Costs of the application.

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

9. Interim order prayed for

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

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10.

11. Particulars of the I.P.O

i)	I.P.O No.	: 346652838 .
ii)	Date of issue	: 5.4.07
iii)	Issued from	: G.P.O., Guwahati.
iv)	Payable at	: G.P.O., Guwahati.

12. List of enclosures:

As given in the index.

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VERIFICATION

I, Shri Dipankar Dutta, Son of Late Durgadas Dutta, aged about 36 years, presently working as Senior Tax Assistant, in the Office of the Commissioner (Appeals), Customs and Central Excise, 6th Floor, Udyog Vikash Bhawan, Bhangagarh, Guwahati- 781005, applicant No. 1 in the instant Original Application, duly authorized by the others to verify the statements made in the Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 22nd day of May 2007.

Dipankar Dutta

F.NO.A-11019/72/99 Ad.IV. **18- Annexure-A**
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF EXCISE & CUSTOMS

New Delhi, Dated: July 19, 2001.

To

All Chief Commissioners of Central Excise at Customs,
All Chief Commissioners of Customs,
All Directors General,
All Commissioners of Central Excise/Customs/Directors under CBEC.

Subject:- Restructuring of Customs & Central Excise Department

Sir,

I am directed to say that the Central Government has approved the restructuring of Customs & Central Excise Department. As a result of restructuring there has been a change in the number and nomenclature of the various grades/posts. The revised number and designation of the various posts at different levels in Customs and Central Excise Department has been indicated in Annexure-'I'

2. All the posts at different levels as per Annexure -'I' stand sanctioned with immediate effect. Wherever there is a reduction in the number of posts at any level, such reduction will be effective after the existing incumbents of the posts are promoted to the higher level or the posts fall vacant on account of retirement etc. The number of categories of the posts other than those referred to in Annexure 'I' have been kept in their existing strength and in their existing pay scales only.

3. No direct recruitment may be made to the various grades for the year 2001-2002 without approval of Ministry/ Department as the Cabinet has approved a one time relaxation for filling of all vacancies by promotion in all Cadres.

4. The formation wise distribution of posts at different levels will be notified separately.

5. The details of the Other Posts that have been included in the Restructuring proposal but have not been proposed to be altered on the scale or strength are included in Annexure-II.

6. The Cadres/Post which have not been included in the Restructuring Proposal are stated in Annexure-III.

This issues in pursuance to the approval conveyed vide Cabinet Secretariat Notification No. 28/CM/2001 (i) dated 16.07.2001.

Yours faithfully,
(K. C. Jain)

Dy. Secretary to the Govt. of India

*Noted
10/8/01
Advocate*

Sl. NO.	Post	Existing Pay Scale	Post Redesignated as	Pay Scale	Sanctioned Strength
EXEC					
1	Chief Commissioner	22400-24500	Chief Commissioner	22400-24500	47
2	Commissioner	18400-22400	Commissioner	18400-22400	290
3	Additional Commissioner	14300-18300	Additional Commissioner	14300-18300	300
4	Joint Commissioner	12000-16500	Joint Commissioner	12000-16500	276
5	Deputy Commissioner	10000-15200	Deputy Commissioner	10000-15200	701
6	Assistant Commissioner	8000-13500	Assistant Commissioner	8000-13500	690
B' EXEC					
7	SUPDT. CEX Y S.I.O / I.O / A.A.D	6500-10500	SUPDT.	6500-10500	9437
8	SUPDT. CUS	6500-10500	SUPDT.	6500-10500	2520
9	Appraiser	6500-10500	Appraiser	6500-10500	809
C' EXEC					
10	INSPECTOR / PO / EXAMINER	5500-9000	INSPECTORS	5500-9000	18053
A' MIN					
11	CAO	8000-13500	CAO	8000-13500	155
B' MIN					
12	AO / ACAO / EAO	6500-10500	AO	6500-10500	972
13	Sr. PA	6500-10500	Sr. PA	6500-10500	337
14	PROGRAMMER	NEW		6500-10500	20
15	OTHERS *				177
C' MIN					
16	DOS L-I	5500-9000	DOS-L-I	5500-9000	631
17	DOS-L-II	5000-8000	DOS-L-II	5000-8000	1353
18	DEO GR. D	5500-9000	ASSTT. PROG.	5500-9000	60
19	Sr. TAX ASSISTANT		NEW	5000-8000	3152
20	TAX ASSISTANT		NEW	4000-6000	5525
21	LDC	3050-4590	LDC	3050-4590	717
22	STENO GR-I	5500-9000	STENO GR-I	5500-9000	244
23	STENO GR-II	5000-8000	STENO GR-II	5000-8000	490
24	STENO GR-III	4000-6000	STENO GR-III	4000-6000	490
25	OTHERS *				803
C' EXEC (OTHERS)					
26	DRIVERS-I	4500-7500	DRIVERS-I	4500-7500	414
27	DRIVERS-II	4000-6000	DRIVERS-II	4000-6000	526
28	DRIVERS-III	3200-4900	DRIVERS-III	3200-4900	1130
29	ARMOURER	3200-4900	ASI (weapons)	3200-4900	61
30	OTHERS *				55
C' EXEC (OTHERS)					
31	HAVILDAR	2650-4000	HAVILDAR	2650-4000	4326
32	SEPOY	2550-3540	SEPOY	2550-3540	9330

DETAILS OF THE POSTS IN THE DEPARTMENT THAT HAVE BEEN INCLUDED IN THE RESTRUCTURING PROPOSAL BUT HAVE NOT BEEN PROPOSED TO BE ALTERED IN SCALE OR STRENGTH.

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Annex - 'A'

Group 'B' Ministerial (Sl. No. 15)		No. of Posts
1	PAO	67
2	Accounts Officer	68
3	Asstt. Director (OL)	42
	Total	177
Group 'C' Executive (Sl. No. 30)		
1	Lady Searcher	49
2	Sub Inspector	1
3	A.S.I.	5
	Total	55
Group 'C' Ministerial (Sl. No. 25)		
1	Sr. Hindi Translator	24
2	Jr. Hindi Translator	72
3	Hindi Typist	62
4	Draughtsman	32
5	Sr. Gestner Operator	17
6	A.A.O. / J.A.O.	61
7	Record Keeper	140
8	Accountant	377
9	L.D.C. (PAO)	5
10	Cashier	7
11	Dy. Cashier	3
12	Pin Point Operator	1
13	Book Binder	2
	Total	803
Group 'D' (Sl. No. 33)		
1	Peon	66
2	Gestetner Operator	140
3	Farash	168
4	Safaiwala	351
5	Chowkidar	57
6	Mall	132
7	Bhightl	6
8	Daftri	27
9	Peon(PAO)	28
10	Sorter	2
11	Scale Man	33
12	Liftman	18
13	Koyal	7
14	Darwan	16
15	Cooper	2
16	Scavanger	4
17	Canner	14
	Total	1071

1. The posts in the grade of Superintendents also include posts of SIO, AAD, IO of various directorates (SI No 7)
2. The posts in the grade of Inspectors also include the posts of P O and Examiner and Intelligence Officers. (SI No 10)
3. The posts in the grade of AO also include the posts of ACAO and EAO (SI No 12)
4. The existing posts in the cadres of Asstt, Tax Asstt, UDC (Sp Pay), DEO Gr (C) and DEO Gr (B) have been merged into and redesignated as Sr Tax Asstt (SI No 19)
5. The existing posts in the cadres of UDC, DEO(A) and LDC (except 717 posts of LDC for the purpose of promotion of Group D) have been merged and redesignated as Tax Asstt (New) (SI No 20)
6. The cadre of O S has been abolished and the posts have been merged in the posts of A-O (SI No 12)
7. Other posts which exist in the department and are not reflected in the above table have been kept in their existing strength in the existing pay scales only.
8. Details of other posts are given in Annexure II (SI No 15, 25, 30 & 33)

(K C Jain)

Dy Secretary to the Govt of India

Lists of Cadres / Posts which have not been included in Restructuring proposal

1. A.D. (Cost).
2. Marine Posts.
3. Telecom Posts.
4. Chemical Services, (C.R.C.L).
5. Factory Posts (Chief Controller of Factories)
6. Press & Publication Posts in the Directorate of Publications
7. Group 'B', 'C' & 'D' of the Office of Narcotics Commissioner/CBN.
8. Statistics Posts in the Directorate of Statistics & Intelligence.

*Attended
Dutta
A W*

ANNEXURE-B

GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
GUWAHATI

(6)

40

C.No. II(31)/ET-4/2002/

4255-88

Dated:

27 NOV 2002

GOTA
27/12/2002

To

The Deputy/Asstt. Commissioner,
Central Excise Division,
Silchar (All).The Deputy/Asstt. Commissioner,
Customs Preventive Division,
(All).The Section Heads of Hqs. Office,
Shillong (All).

Subject: Re-fixation of Seniority of Tax Assistant and Data Entry Operator Gr. 'B' in view of merger to the grade of Sr. Tax Assistant consequent to Cadre Re-structuring. - regd.

Vide Ministry's letter F.No. A-12018/48/2000-Ad.W B dated 28th October, 2002 the Data Entry Operator, Gr. 'B' (4500-7000) and Tax Assistant (4500-7000) have been placed in the higher scale of 5000-8000 and they shall be placed below the Assistant and Data Entry Operator Gr. 'C' and their inter-se placement shall be fixed in accordance with the date of regular appointment to the respective grade subject to the condition that their inter-se placement in respective category shall not be disturbed.

Consequently, the relative seniority between Tax Assistant and Data Entry Operator Gr. 'B' have been re-fixed, a copy of which is enclosed herewith which may be circulated to all concerned Tax Assistant/ Data Entry Operator Grade 'B' working under your charge.

Encls: As above.

(B. THAKUR)
ADDITIONAL COMMISSIONER (P&V)
CENTRAL EXCISE & CUSTOMS,
GUWAHATI

E NO - II(34)/ET/ACS/2002 DATED 10/12/02

Copy forwarded for information and necessary action to:-

1. Sri Debabrata Dey, Tax - Assistant.
2. Sri Bibekananda Chakrabarty Tax - Assistant
3. Sri Debananda Singha, Tax - Assistant.
4. Sri Bibhuti Bhushan Das, Tax - Assistant
5. Sri Joydeep Dutta, Tax - Assistant.
6. Sri Rajat Subhra Sengupta, D.E.O (Grade B)
7. Sri Hemankar Roy, D.E.O (Grade B)
8. Sri Sumit Deb, D.E.O of Central Excise Division, Silchar.

Administrative Officer
Central Excise
Silchar
9/12/2002

Attended
Dutta
AW

Execution of

PROPOSED MERGER OF TAX-ASSISTANT AND DEO GR. 'B' OF SHILLONG CENTRAL EXCISE AND CUSTOMS COMMISSIONERATE VIDE MINISTRY'S LETTER F. NO. A/12018/43/2000-AD.II B. DATED 28TH OCTOBER, 2002 IN THE GRADE OF SENIOR TAX ASSISTANT

Sl.No.	Name & Educational Qualification	Date of Birth	Date of Apptt. in Govt. service	Date of confirmation in Govt. service	Deemed Date of Apptt. As Tax Asstt./DEO Gr.'B'	Whether DR/PR	Remarks
01	02	03	04	05	06	07	08
1.	Abul Hassan, B.A.	01.03.70	05.12.94	10.06.98	15.03.2000	PR	Offg. As T. A.
2.	Ghana Kanta Nath , HSLC	29.12.63	02.08.89	23.11.91	15.03.2000	PR	do
3.	Dambidhar Sonowal, (ST) PU	07.05.65	12.10.89	23.11.91	15.03.2000	PR	do
4.	Shyamalendu Sinha, BA	17.02.61	21.02.90	21.02.92	15.03.2000	PR	do
5.	Postangbam Surjit Singh, BA	31.01.69	21.02.90	21.02.92	15.03.2000	PR	do
6.	Devendra Rana, PU	01.03.69	02.04.90	02.04.92	15.03.2000	PR	do
7.	Selil Chakraborty, B.Sc.	01.12.63	30.03.90	02.04.92	15.03.2000	PR	do
8.	Narayan Ch. Paul, PU	14.11.64	29.03.90	02.04.92	15.03.2000	PR	do
9.	Satyabrata Chakraborty, B.Sc.	21.05.67	17.10.90	23.10.92	15.03.2000	PR	do
10.	Smt. Chitra Medhi, BA	01.03.69	06.10.95	06.10.97	15.03.2000	PR	do
11.	Rijoy Basumatary, (ST) HSLC	01.03.67	01.11.90	01.12.92	15.03.2000	PR	do
12.	Bhudeb Bhattacharjee, BA (Major)	08.03.70	05.05.96	06.05.98	15.03.2000	PR	do
13.	W. Joyanta K. Maitai, B.Sc.	01.02.67	04.12.90	04.12.92	15.03.2000	PR	do
14.	Siddhartha Sankar Roy, B.Sc.(H)	31.12.70	10.06.95	10.06.98	15.03.2000	PR	do
15.	Smt. Josephine T. Lanong (ST) BA	13.08.68	02.01.91	02.01.93	15.03.2000	PR	do
16.	Nayan Basumatary, (ST) HSLC	15.02.61	19.03.81	01.02.82	15.03.2000	PR	do
17.	Dipankar Dutta, BSc	26.08.70	28.10.94	01.11.96	03.04.2001	PR	Offg. As DEO Gr. 'B'
18.	Hemankar Roy, HSLC	27.02.73	31.08.94	01.11.96	03.04.2001	PR	do
19.	Rajat Subira Sengupta, BSC (H)	15.01.68	31.08.94	01.11.96	03.04.2001	PR	do
20.	Smt. Juliana Moinjong (ST), BSC	27.06.68	01.07.94	01.11.96	03.04.2001	PR	do
21.	Majid Alam, HSLC	01.03.69	21.11.94	21.11.96	03.04.2001	PR	do
22.	Chakreswar Sharma, B.A.	01.02.63	26.08.94	21.11.96	03.04.2001	PR	do
23.	Md. Allmuddin Shah, PU	01.02.70	04.12.90	04.12.92	06.09.2001	PR	Offg. As T. A.
24.	Subrata Sengupta, PU	01.01.67	03.12.90	04.12.92	06.09.2001	PR	do
25.	Biwajit Dey, HS	16.02.63	07.12.90	07.12.92	06.09.2001	PR	do
26.	Pranesh Dhar, HSLC	24.05.71	21.01.91	21.01.93	06.09.2001	PR	do
27.	Debabrata Dey, B.Com.	09.09.65	16.01.91	21.01.93	06.09.2001	PR	do
28.	Gurudas Debnath, HSLC	08.04.68	19.01.91	21.01.93	06.09.2001	PR	do
29.	Rajiv Paul, B.Com.(Major)	20.04.68	15.01.91	21.01.93	06.09.2001	PR	do
30.	Debananda Singha, BA	07.12.68	24.01.91	24.01.93	06.09.2001	PR	do

Sl No	Name & Educational Qualification	Date of Birth	Date of Apptt. in Govt. service	Date of confirmation in Govt. service	Desmed Date of Apptt. As T.A. Asstt./DCI Gr. B	Whether DR/PR	Remarks
01	S/Shri	02	03	04	05	06	07
31.	Abhijit Sengupta, B.Com	10.07.66	21.01.91	24.01.93	06.09.2001	PR	08
32.	Bibhuti Bhushan Das, B.Com	28.06.65	11.03.91	11.03.93	06.09.2001	PR	Offg. As T.A.
33.	Vivekananda Chakraborty, B.Sc.	11.11.65	21.04.91	11.03.93	06.09.2001	PR	do
34.	Sujit Kr. Roy, BA(H)	15.07.73	14.05.98	14.04.2000	06.09.2001	PR	do
35.	Joydeep Nandi Mazumder, BA(H)	23.07.66	06.09.90	19.02.2000	06.09.2001	PR	do
36.	Smt. Sujata Dam, M.Sc.	01.01.71	09.07.98	09.07.2000	06.09.2001	PR	do
37.	Smt. Nita Nag, M.Sc.	26.07.71	29.04.98	29.04.2000	06.09.2001	PR	do
38.	Asa Manikumar Wanjri (ST) B.Com.	17.12.73	24.07.98	24.07.2000	06.09.2001	PR	do
39.	Partha Chakraborty, B.Sc. (H)	06.04.72	27.02.98	09.07.2000	06.09.2001	PR	do
40.	Yansethung Yansa (ST) BA	15.11.69	09.07.98	09.07.2000	06.09.2001	PR	do
41.	Deepak Mill, (ST) M.Sc.	20.12.74	23.12.97	23.12.99	06.09.2001	PR	do
42.	T.T. Bhutia, (ST) B.Sc. (H) B.Ed.	01.11.72	22.12.97	22.12.99	06.09.2001	PR	do
43.	Wanteiri Nonghyndah, (ST) BA(H)	05.05.70	05.01.98	05.01.2000	06.09.2001	PR	do
44.	Sanjib Kr. Das, (SC) B.Sc.	01.03.70	30.12.97	30.12.99	06.09.2001	PR	do
45.	S. Chandra Khajuria (ST) BA	25.08.70	18.12.97	18.12.99	06.09.2001	PR	do
46.	Jayanta Dey, OBC, B.Sc.	21.04.70	03.02.98	03.02.2000	06.09.2001	PR	do
47.	Saurejit Paul, OBC, M.Sc.	26.02.69	06.05.95	06.06.2000	06.09.2001	PR	do
48.	Kula Kumar Deori, (ST) BA	04.01.66	22.10.98	22.10.2000	06.09.2001	PR	do
49.	Kamleshwar Deka, OBC, BA(H)	31.12.73	20.03.98	20.03.2000	06.09.2001	PR	do
50.	Sudip Ghosh, OBC B.Com.	10.03.73	04.05.98	04.05.2000	06.09.2001	PR	do
51.	Ramkrishna Barmen, (SC) BA	20.01.70	29.12.97	29.12.99	21.09.2001	PR	do
52.	Smt. Banani Purkayastha, BA	24.06.61	15.02.91	11.03.93	21.09.2001	PR	do
53.	Jagat Kr. Dutta, PU	01.04.66	25.03.91	25.03.93	21.09.2001	PR	do
54.	Ms. Shilpi Chakraborty, BA	05.07.70	26.04.91	26.04.93	21.09.2001	PR	do
55.	Ashoke Dutta, HSLC	20.08.63	02.05.91	02.05.93	21.09.2001	PR	do
56.	Nilmoni Chanda, HS	02.08.67	29.04.91	29.05.93	21.09.2001	PR	do
57.	Priyabrata Sarkar, (PH) HSLC	22.12.61	26.04.91	29.05.93	21.09.2001	PR	do
58.	Th. Debadutta Singh, OBC, (PH) BA	28.02.62	30.04.91	29.05.93	21.09.2001	PR	do
59.	Ayhom Neinghen (ST), HSLC	01.11.64	12.03.92	12.03.94	21.09.2001	PR	do
60.	Smt. Sonrita Bangs (ST) PU	01.11.56	09.03.92	12.03.94	26.02.2002	PR	do
61.	Sendownstar Marak, (ST) HSLC	13.02.73	13.03.92	13.03.94	23.04.2002	PR	do
62.	Sanwan Kr. Gareri B.Sc. (H)	05.12.75	24.02.99	Offg.	12.09.2002	PR	do
63.	Smt. Bina Das, (SC), HSLC	01.05.72	04.08.93	01.04.96	12.09.2002	PR	do
64.	Smt. Usha Das (SC) PU	12.10.53	22.11.93	01.04.96	12.09.2002	PR	do
65.	V. Thanziala (ST) HSLC	01.11.56	12.07.78	01.04.90	12.09.2002	PR	do

Checked
10/10/03
Saw

42

25-

24-12-2002 15:33 FROM: CENT. EXCISE, SHILLONG 0364226215

TO: 910384236418

PAGE: 1

ANNEXURE C

43

FAX



GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND, SHILLONG - 793 001

C.No.11(3)2/CON/92/1576-121

Dated:- 24 DEC 2002

To,

1. The Deputy/Assistant Commissioner,

Customs/Central Excise (All)

2. The C.A.O./Supdt./A.O./Branch-in-charge

*Inform
person concerned
pl.*

24/12

Subject :- Conducting of Physical Fitness Test/ Interview for selection of
Tax Asst./Stenos/ UDCs/Draughtsman to the grade of
Inspectors- Reg.

The Physical Fitness Test for promotion of Tax
Assistan/Stenos/UDCs/Draughtsman to the grade of Inspectors will be held on 29.12.2002 at
9:00 Hrs. all candidates should report to Superintendent (Hqrs.) Morello Compound, Shillong
latest by 8:30 Hrs. The Interview for this purpose has been fixed for 30.12.2002 at 10:30 A.M. at
Headquarters Office, Morello Compound, Shillong. Hence, you are requested to direct the
officers who are under your charge as per enclosed list to appear for the said test and interview
on the above-mentioned date and time.

Encl: As above.

*Attested
B.T.H. MAR
24/12*

[Signature]
24.12.2002

(B.T.H. MAR)
ADDITIONAL COMMISSIONER (P&V)

Annex - 2

34

AN ASSISTANTS/STENOS/UDCs/DRAFTSMAN TO BE APPEARED FOR
FITNESS TEST AND INTERVIEW TO BE HELD ON 29TH & 30TH DECEMBER 2002

S.NO	NAME OF THE OFFICERS S/SHR/SMTL
1	2
1	Ruma Mukherjee
2	Abul Hassan
3	Ghana Kanta Nath
4	Dambidhar Sonowal (ST)
5	Shyamalendu Sinha
6	Postangbam Surjit Singh
7	Devendra Rana
8	Satit Chakravorty
9	Narayan Chandra Paul
10	Satyabrata Chakravorty
11	Dhira Medhi
12	Dugadas Paul
13	Bijoy Basumatary (ST)
14	Bhudeb Bhattacharjee
15	W. Jayanta Kumar Meitei
16	Siddhartha Sankar Roy
17	Ashit Chatterjee
18	Sujit Shome
19	Bedabrata Debbarma (ST)
20	Josephine T Lanong (ST)
21	Nayan Basumatary (ST)
22	Md Afmuddin Shah
23	Subrata Sengupta
24	Biswajit Dey ✓
25	Pranesh Dhar ✓
26	Debabrata Dey ✓
27	Gundul Debbarma ✓

S.NO	NAME OF THE OFFICERS S/SHR/SMTL
1	2
28	Rajiv Paul
29	Debananda Singha
30	Abhijit Sengupta
31	Bibhuti Bhushan Das
32	Vivekananda Chakravorty
33	Sujit Kumar Roy
34	Joydeep Nandi Mazumdar
35	Sejata Dam
36	Nita Nag
37	Asa Mankupar Wajri (ST)
38	Partha Chakravorty
39	Yansathung Yansa (ST)
40	Deepak Mili (ST)
41	T. T. Bhutia (ST)
42	Wanteini Nonghyndah (ST)
43	Sanjib kumar Das (SC)
44	S Osborne Kharjana (ST)
45	Jayanta Dey (OBC)
46	Sourajit Paul (OBC)
47	Kula Kumar Deori (ST)
48	Kamaleshwar Deka (OBC)
49	Sudip Ghosh (OBC)
50	Ramkrishna Barman (SC)
51	V. Muthulakshmi
52	Dipen Chandra Das (SC)
53	Partha Pratim Sarkar
54	Sudip Choudhury

- 27 -

SL. NO. 267

Annexure-D

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 406 / 2002
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s): Sri Dipankar Datta & 2 cons

- Vs. -

Respondent(s): U. O. I. & ors

Advocate for the Applicant(s): Mr. M. Chanda

Advocate for the Respondent(s): Mr. G. N. Chakraborty

C.G.S.C.

Notes of the Registry

Date

Order of the Tribunal

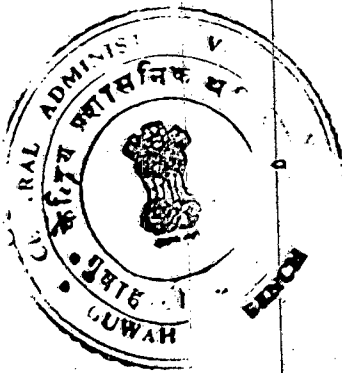
27.12.2002

Heard Mr.M.Chanda, learned counsel for the applicants.

The application is admitted, call for the records. Mr.M.Chanda, learned counsel for the applicants prayed for an interim ~~xxxx~~ direction upon the respondents to allow the applicants to appear before the interview/selection scheduled to be held on 29th & 30th December, 2002 for promotion to the post of Inspector Group-C (Executive) pursuant to intimation communicated vide memo ~~xxx~~ C.No.II(3)2/CON/92/1576-121 dated 24.12.2002 and ~~xxx~~ in his support he referred to the order passed by the Hon'ble CAT, Mumbai Bench in O.A.918 of 2002 dated 26.11.2002 and the follow up action taken by the Dy.Commissioner (P&V), Customs and Central Excise, Goa.

Also heard Mr.B.C.Pathak, learned Addl.C.G.S.C. in support of the decision of the respondents.

Contd.




*Witnessed
M. Chanda
G.N. Chakraborty*

Contd.
27.12.2002

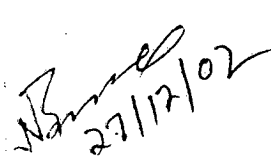
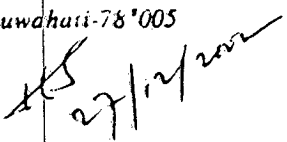
Issue notice on the respondents to show cause as to why interim order as prayed for shall not be granted ~~xxxxxx~~ ~~the xxxxxxxx~~ returnable by three weeks. In the meantime, the respondents are directed to ^{allow} the applicants to appear before the interview/selection, which is scheduled to be held on 29th & 30th December, 2002 for consideration of promotion to the post of Inspector Group C (Executive) provisionally and the result shall be subject to outcome of this application.

The respondents are also directed to restrain from declaring the results of the applicants until further orders.

List the case on 21.1.2003.


Sd/- Vice-Chairman

Certified to be true Copy
प्रमाणित प्रतिलिपि

11

Section Officer (J)
C.A.T., GUWAHATI BENCH
Guwahati-781005


-29-

(Department of Revenue)

Annexure-E

NOTIFICATION

New Delhi, the 29th November 2002

G.S.R 494.- In exercise of powers conferred by the proviso to article 309 of the Constitution and in supersession of the Customs Department (Group 'C') Recruitment Rules, 1979, except as respect things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to Group 'C' posts of Inspector in the Central Excise and Land Customs Department, namely:—

1. Short title and commencement.- (i) These rules may be called the Central Excise and Land Customs Department Inspector (Group 'C' posts) Recruitment Rules, 2002.

(ii) 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, its classification and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule annexed to these rules.

3. Method of recruitment, age limit, other qualification etc.- The method of recruitment, age limit, qualification and other matters relating to the said post shall be specified in Columns 5 to 14 of the said Schedule.

4. Special provision.- (1) Each Commissionerate shall have its own separate cadre unless otherwise directed by the Central Board of Excise and Customs:

(2) Notwithstanding anything contained in sub-rule (1), the jurisdictional Chief Commissioner of Central Excise may, if he considers to be necessary or expedient in the public interest so to do and subject to such conditions as he may determine having regard to the circumstances of the case and for reasons to be recorded in writing, order any post in the Commissionerate of Central Excise to be filled by absorption of persons holding the same or comparable posts but belonging to the cadre of another Commissionerate of Directorate under the Central Board of Excise and Customs.

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 the said post:

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 reservation, relaxations of age limit and other concessions required to be provided for the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Ex-serviceman and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

*Attested
10/11/02
AS*

SCHEDULE

1	2	3	4	5
Director of Public Instruction (General Excise)	15366*(2002) *Subject to variation depending on existing or existing or restructured strength.	General Central Service, Group 'C' Non-gazetted, Non-ministerial	Rs.5500-175-9000	Not applicable
Age limit for direct recruits		Whether benefit of added years of services admissible under rule 30 of the Central Civil Services (Pension) Rules, 1972.	Educational and other qualifications required for direct recruits	
6		7	8	
Between 18 to 27 years. Relaxable for Government servants upto 5 years in accordance with the instructions issued by the Central Government). The crucial date determining the age limit shall be the closing date for receipt of applications from candidates in the State (and not the closing date prescribed for those in Assam, Arunachal Pradesh, Manipal, Tripura, Sikkim, Ladakh, Jammu and Kashmir, Ladakh and Spiti district, Pangi Sub-Division of Jammu and Kashmir, Lakshadweep).		No	Degree from recognized university or an equivalent qualification. Note:- Candidates shall be required to pass physical tests and to possess physical standards as prescribed below: For male candidates: (i) Physical standard (minimum): Height: 157.5 cms (relaxable by 5 cms in the case of Garhwalis, Assamese, Gorkhas and members of the Scheduled Tribes); Chest: 81 cms (fully expanded with minimum expansion of 5cms); (ii) Physical test: Walking: 1600 meters in 15 minutes; Cycling: 8 km in 30 minutes For female candidates: (i) Physical standard (minimum): Height: 152 cms and weight: 48 Kgs, (Height relaxable by 2.5 cms and weight relaxable by 2 Kgs, for Garhwalis, Assamese, Gorkhas and members of the Scheduled Tribes); (ii) Physical test: Walking: 1 Km in 20 minutes; Cycling: 3 km in 25 minutes.	
Other conditions	Period of probation, if any	Method of recruitment whether by direct	In case of recruitment by promotion/deputation/absorption, grade from which promotion/deputation/absorption	If a Departmental Promotion Committee Public Service

Qualifications prescribed for direct recruits will apply in the case of promotion

recruitment or by promotion or by deputation/transfer and percentage of the vacancies to various methods

tion to be made

exists, what is its composition

Commission is to be consulted

	10	11	12	13	14
Not applicable	Two years for direct recruits	66.2/3% by direct recruitment 33.1/3% by promotion	<p>Promotion:</p> <p>(a) By selection from those candidates working in the following restructured cadres:</p> <p>(i) Tax Assistant with 2 years service as Tax Assistant or 5 years service as Tax Assistant and Upper Division Clerk put together;</p> <p>(ii) Upper Division Clerk or Stenographer Grade III with 5 years service;</p> <p>(iii) Upper Division Clerk with 13 years of total service as Upper Division Clerk and Lower Division Clerk taken together subject to the condition that they should have put in a minimum of 2 years service in the grade of Upper Division Clerk;</p> <p>(iv) Stenographer Grade II with 2 years service;</p> <p>(v) Stenographer Grade II or Stenographer Grade III with 12 years service as Stenographer or Upper Division Clerk and Lower Division Clerk, if any, taken together subject to the condition that they have completed a minimum of 2 years service as Stenographer Grade III or Upper Division Clerk;</p> <p>(vi) women searcher with 7 years service in the grade;</p> <p>(vii) Draftsman with 7 years service in the grade.</p> <p>(b) By selection from those candidates working in the following restructured cadre:</p> <p>(i) Senior Tax Assistant with 2 years regular service in the grade;</p>	<p>Group 'C'</p> <p>Departmental Promotion Committee:</p> <p>Chairman- Commissioner of Central excise</p> <p>Members-Two Additional or Joint Commissioner of Central Excise</p> <p>Member - One Assistant or Deputy Commissioner of Income Tax.</p> <p>Note: Where none of the members belongs to the Scheduled Castes or the Scheduled Tribes category, a Group 'A' officer, belonging to the Scheduled Castes or the Scheduled Tribes category shall also associate as a member of the Department Promotion Committee.</p>	Not applicable

(ii) Stenographer Grade II with 2 years regular service in the grade;

(iii) Women searcher with 7 years service in the grade;

(iv) Draftsman with 7 years service in the grade.

(c) Failing the method of recruitment specified under Clause (b) above, by selection from those candidates working as Tax Assistant and Stenographer Grade III having not less than 10 years service including the service to be included for this purpose under the provisions of the rules regulating the method of recruitment to the post of Tax Assistant:

Note 1: Promotion under Clause (a) above shall be only operative for a period of two years from the date on which the restructured cadres mentioned under Clause (b) above comes into existence.

The service rendered under the new grade in the restructured cadres shall be counted towards considering the eligibility for promotion under Clause (a) above.

Note 2: Candidates shall be required to pass such written test as may be determined by the Central Board of Excise and Custom from time to time. The maximum age of eligibility for the departmental candidates shall be 45 years in the case of candidates belonging to the Scheduled Castes or Scheduled Tribes category. However, those of the officials who were not considered for such promotion upto the age of 45 or 47 years, as the case may be, shall be granted the benefit of relaxation in age limit upto 50 years in order to enable a fair opportunity of a minimum of two chances. However, those officials who were considered for promotion upto the age limit of 45 or 47 years as the case may be, on two or more occasions and were not found fit for

promotion shall not be eligible for this relaxation.

Note 3: Candidates shall be required to pass physical tests and confirm the physical standards as specified in Column 8.

Note 4: The eligible officers under Clause (a), (b) and (c) above shall be required to pass through an interview before promotion.

Note 5: Where juniors who have completed their qualifying or eligibility service are being considered for promotion, their seniors would also be considered provided they are not short of the requisite qualifying or eligibility service by more than half of such qualifying or eligibility service or two years, whichever is less and have successfully completed their probation period for promotion to the next higher grade along with their juniors who have already completed such qualifying or eligibility service.

[F.No. A-12108/4/2002-Ad.III(B)]
Y.P. VASHISHAT. Under Secy., Ad.III(B)

*Attested
Date
A.M.*

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

Annexure - F

ORDER SHEET

Original Application No : 406 / 2002
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s): Sri Dipankar Dutta & 2005

- Vs. -

Respondent(s): U. O. I. & Ors

Advocate for the Applicant(s): Mr. M. Chanda

Advocate for the Respondent(s): Mr. G.N. Chakraborty
Mr. B.C. Pathak
Addl. C.G.S.C.

Notes of the Registry

Date

Order of the Tribunal

29.10.2003

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents.

The issue raised in this application is no longer res integra in view of the judgment and order passed by the C.A.T., Chandigarh Bench dated 14.08.2003 in O.A. 1221/CH/2002 as well as the judgment and order passed by the C.A.T., Madras Bench in O.A. Nos. 495/2003 & 995/2002 disposed on 04.09.2003. The issue raised in this application is squarely dealt with by the two co-ordinate Benches. ^{as well as the law involved in} since the facts of the present case are similar to the aforementioned two cases, we respectfully concur with the views taken by the aforesaid two Benches.

In view of the facts mentioned above, the O.A. is allowed. The applicants ^{are} declared eligible for consideration for promotion to the post of Inspector Group C and the respondents are directed to consider them alongwith other feeder categories for promotion to the said post in accordance with the rules.

The application is thus allowed. The respondents are directed to complete the exercise as expeditiously as possible ^{practicably} within a period of three months from the date of receipt of the order.

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

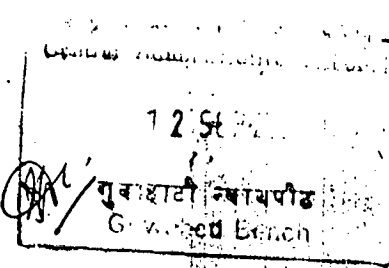
50- Vice-Chairman

50- Member 141



Certified to be true Copy
প্রমাণিত প্রতিলিপি

Section Officer (D)
C.A.T. GUWAHATI BENCH
Guwahati-781005



-35-

Annexure-G

Filed by the respondents through Advocate Mr. S. C. S. C.

53

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

M.P. NO. 46 OF 2006

IN.O.A. NO. 406 OF 2002

Dipankar Dutta & Ors.

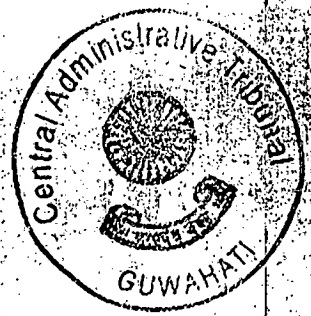
.....Petitioners/
Applicants

-VS-

Union of India & Ors.

..Respondents

An affidavit-in-reply filed on behalf of the respondents in connection with MP No. 46/2006.



MOST RESPECTFULLY SHEWETH:

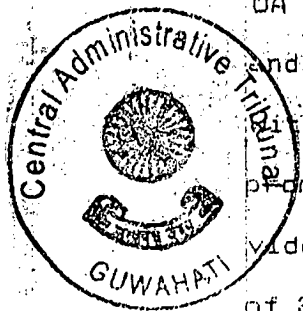
1. That as regards to the statement made in paragraphs 1 and 2 of the instant Misc petition, the answering respondents beg to state that those are matters of record and hence no comment.

2. That as regard to the statement made in paragraph 3 of the instant petition, the answering respondents have no comment.

Attested
Dutta
Adv

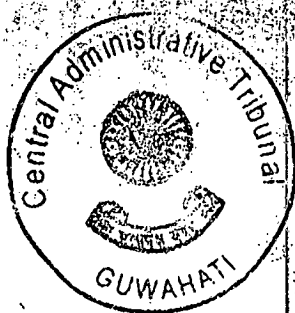
Contd..P/-

3. That with regard to the statement made in paragraph 4 of the instant petition, the answering respondents begs to state that the Hon'ble CAT vide interim order dated 27.12.2002 in OA No. 406 of 2002 filed by Sri Dipankar Dutta and other two DEOs directed the respondents to allow the applicants to appear before the interview/selection to be held on 29th and 30th Dec'2002 for consideration of promotion to the post of Inspector provisionally and the result shall be subject to outcome of his application. In pursuance of the interim order dated 27.12.2002 of CAT, Guwahati Bench in OA No.406/2002, Sri Dipankar Dutta, Shri Hemankar Roy and Shri Rajat Subhra Sengupta were also called along with others for the interview for consideration for promotion to the post of Inspectors. The Hon'ble CAT vide order dated 29.10.2003 disposed of the OA No. 406 of 2002. The Hon'ble CAT held that the issue raised in this application is no longer res integra view of the judgment dated 14.8.2003 in OA No. 1221/CH/2002 of CAT, Chandigarh Bench as well as judgment and order dated 4.9.2003 in OA No. 495 of 2003 and 995 of 2002. The issue raised here was dealt in the aforesaid two cases. The Hon'ble CAT vide order dated 29.10.2003 declared the applicants eligible for consideration for promotion and directed to consider them along with other feeder categories for promotion to the said post in accordance with the rules.



Contd..F/-

Shri Dipankar Dutta, Shri Hemankar Roy and Shri Rajat Subhra Sengupta who were called along with others for the interview in December, 2002 for consideration for promotion to the post of Inspectors in pursuance of the CAT's interim order dated 27.12.2002 were found "unfit" for the promotion. Moreover, after the CAT's final order dated 29.10.2003 in OA No. 406 of 2002, there have been no promotion to the post of Inspector as there was no vacancy in respect of promotion to the post of Inspector. As and when vacancy in respect of promotion to the post of Inspector will arise, their case will be considered as per rules.



Date of Application :
Date on which copy is received :
Date on which copy is forwarded :
Certified to be true copy

Section Officer (Judl)
C. A. T. Guwahati Bench
Guwahati-5.

AFFIDAVIT

I, Sri B. Holanath Dasgupta s/o Late G. J. M. Dasgupta
 aged about 55 years, working as Deputy Commissioner of Central Excise, Guwahati
 under Central Board of Excise and Customs, Morellow
 Compound, Shillong-793001 do hereby solemnly affirm and
 state as follows:

1. That I the competent officer of the respon-
 dents authority in this petition and as such I am well
 acquainted with the facts and circumstances of the case
 and as such I am competent to swear this affidavit on
 behalf of the respondents.

2. That the statements made in this affidavit
 and in paragraphs 1 to 3 are true to
 my knowledge, those made in paragraphs
 being matters of record are true to my information
 derived therefrom which I believe to be true and the
 rest are my humble submissions before this Hon'ble
 Tribunal.

And I sign this affidavit on this 1st day of
 July, 2006 at Guwahati.

Identified by:

Gandam Prasad

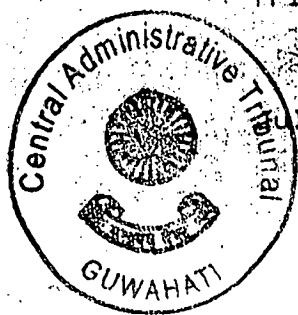
Advocate's Clerk

B. Holanath Dasgupta
 DÉPONENT

B. Dasgupta
 Dy. Commissioner
 Central Excise, Ghy.

Date of Application : 15.5.07
 Date on which copy is ready : 15.5.07
 Date on which copy is collected : 15.5.07
 Certified to be true copy

[Signature]
 15.5.07
 Section Officer (Judl)
 C. A. T. Guwahati Bench
 Guwahati
 15.5.07



-39-

Central Administrative Tribunal

-5FF9-

GUWAHATI BENCH
Guwahati Bench

Annexure-H

Filed by

the respondents

Through Grantur Singh
S.O. 07

57

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

M.P. No. 46 of 2006

in O.A. No. 406 OF 2002

Bri Dipankar Dutta & Ors.

...Petitioners

-Versus-

Union of India & Ors.

....Respondents

An additional Affidavit-in-reply
filed on behalf of the respondents
in connection with Rejoinder of M.P.
No. 46 of 2006.



ADDITIONAL AFFIDAVIT-IN-REPLY

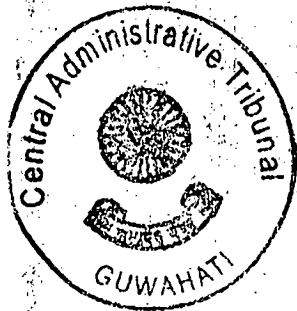
I, Shri. Kehozhol Ashiklieyasplate Kehozhol Khierya
aged about 43 years, presently working as Addl. Commr, Central Excise
under Central Board of Excise and Customs, Morellow
Compound, Shillong-793001, do hereby so solemnly affirm
and state as follows:

1. That I am the competent officer of the respondents authority in this petition and as such I am well acquainted with the facts and circumstances of the case and I am competent to sign and swear this affidavit on behalf of the respondents.

Contd...P/-

[2]

2. That with regard to the statements made in paragraph 1 of the instant petition the deponent begs to state that the Hon'ble CAT, Guwahati Bench vide order dated 29.10.2003 disposed of the OA No. 406 of 2002 filed by Shri Dipankar Dutta and others and declared the applicants eligible for consideration for promotion and directed the respondents to consider them along with other feeder categories for promotion to the said post in accordance with the rules. Shri Dipankar Dutta, Shri Hemankar Roy and Shri Rajat Subhra Sengupta who were called along with others for the interview in December, 2002 for consideration for promotion to the post of Inspectors in pursuance of the CAT's interim order dated 27.12.2002. But they were found "unfit" by the DPC for the post of Inspector. After the CAT's final order dated 29.10.2003 in OA No. 406/2002 in which they were declared eligible for promotion to the post of Inspector, there have been no promotion to the post of Inspector as there was no vacancy in respect of PR Quota for promotion to the post of Inspector. So, before the CAT's final order dated 29.10.2003 in OA No. 406 of 2002, some juniors were given promotion as the applicants were not eligible for promotion to the post of Inspector at that time.



3. That with regard to the statements made in paragraph 2 of the instant petition the deponent begs to state that the vacancy position in respect of Inspector

Contd...P/-

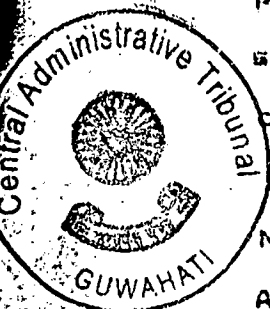
as shown in the letter C No. II(31)14/Et.II/Pt.I/2006/33821 dated 10.10.2006 had been corrected vide letter C. No. II(26)1/PAC(CON)/2006 dated 12.12.2006. The vacancy position in respect of Inspector as shown in the letter C No.II(31)14/Et.II/Pt.I/2006/33821 dated 10.10.2006 may be read as follows:

<u>Vacancies</u>	<u>Sanction strength</u>	<u>Working strength</u>	<u>Vacancy</u>
DR quota	408	313	95
PR quota	204	315	111(excess)
TOTAL	612	628	16(excess)

4. That with regard to the statements made in paragraph 4 of the instant petition the deponent begs to state that the chart showing vacancy position in respect of Inspector from 2002 is being sent.

Lastly, it may be mentioned here that the DA No. 406/2002 had already been disposed of on 29.10.2003. After CAT's final order dated 29.10.2003 in DA No. 406/2002, there was no promotion to the post of Inspector as there was no vacancy in respect of PR quota for promotion to the post of Inspector. As and when vacancy in respect of PR quota for promotion to the post of Inspector arise, DPC in this regard will be held and their case will also be considered as per rules. The MP No. 46/2006 in DA No. 406/2002 has no merits and the Sr. CGSC of the CAT, Guwahati Bench may be requested for the early disposal of the Misc petition.

Contd...P/-



[4]

5. That the statement made in this affidavit and in paragraphs 1 to 4 are true to my knowledge and those made in paragraph being matter of records are true to my information derived therefrom which I belief to be true and the rest are my humble submissions before this Hon'ble Tribunal.

I sign this affidavit on 5th day of February, 2007 at Guwahati.

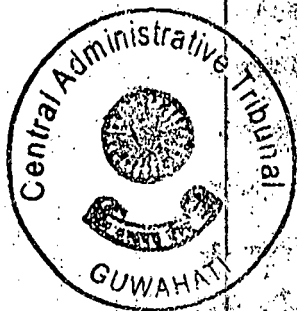
Kehoghol Ashi Khiega

Identified by:

Deponent

Gautam B. Singh

Advocate



Date of Application : 15.5.07
Date on which copy is ready : 15.5.07
Date on which copy is collected : 15.5.07
Certified to be true copy

N. J. Singh
15.5.07
Section Officer (Jd)
C. A. T. Guwahati Bench
Guwahati-5.

15/5/07

- 43 -

Registered Post



Annexure-I

COMMISSIONER OF CENTRAL EXCISE : SHILLONG
Morello Compound, Shillong - 793 001.

Tel: 0364-2224751. Fax: 0364-2223428/2226215/2223030. E-mail: cexshill@excise.nic.in

REPLY/ORDER NO.10/06 UNDER THE RIGHT TO INFORMATION ACT, 2005

Sub: RTI reply in response to request made by Sri. Debasish Purkayastha, C/O Sri. Sitikanta Purkayastha, P.O. Rongpur, Santipara, Cachar, Assam, for information under the Right to Information Act 2005, addressed to the Central Public Information Officer/ Commissioner of Central Excise, Shillong.

Central Public Information Officer, Central Excise, Shillong has considered the representation furnished by Sri. Debasish Purkayastha under the above provision and desired information is furnished below:-

1. Information/Documents Sought:- Photocopy of the Order(s) of Ministry/ Board regarding promotion to the grade of Inspector (Central Excise) in the last 12 (twelve) years.

Information/ Documents Supplied: Photocopy of the Order(s) of Ministry/ Board regarding promotion to the grade of Inspector (Central Excise) in the last 12 (twelve) years are enclosed and marked as Annexure-'A'.

2. Information/Documents Sought:- Details of vacancy positions in respect of DR and PR quota for last 12 (twelve) years.

Information/ Documents Supplied: Enclosed and marked as Annexure-'B'.


3. Information/Documents Sought:- The names of Officers who were junior to the erstwhile D.E.Os in proposed/ final seniority list of Senior Tax Ass. published by the Department for the year 2002 and 2003 and who has subsequently been promoted to the grade of Inspector (Central Excise) in the year 2002 and 2003.

Information/ Documents Supplied: Enclosed and marked as Annexure-'C'.

4. Information/Documents Sought:- Names of Officers who were promoted to the grade of Inspector (Central Excise) against Deputation post for last 12 (twelve) years.

Information/ Documents Supplied: There is no such provision for maintaining names of Officers who have been promoted against deputation post. All the vacancies arising in a particular year due to retirement, death, deputation etc. are taken together and combined vacancy is furnished for a particular year.

26


(KARNAIL SINGH)
Central Public Information Officer & Commissioner
Central Excise: Shillong.

C.NO.IV-16/86/TECH/RTI/2006

Dated:-

Forwarded to :
Sri. Debasish Purkayastha, C/O Sri. Sitikanta Purkayastha, P.O. Rongpur, Santipara, Cachar, Assam. This disposes off his letter dated 9th August 2006 under the Right to Information Act, 2005.

Encl:- 16 (sixteen) sheets.


(KARNAIL SINGH)
Central Public Information Officer & Commissioner

- 44 -

ANNEXURE - B.

14/12/03

VACANCY POSITION IN RESPECT OF DR AND PR QUOTA FOR LAST 12 (TWELVE) YEARS.

DR QUOTA VACANCIES		PR QUOTA VACANCIES	
YEAR	NO. OF VACANCIES	Date of Promotion	No. of promotions
2005-06	00	27.10.03	33
2004-05	75	31.12.02	29
2003-04	75	24.07.01	23
2002-03	90	08.02.2000	41
2001-02	64	01.07.97	28
2000-01	51	17.06.97	01
1999-00	45	18.11.96	01
1998-99	45	20.08.96	06
1997-98	03	14.07.95	02
1996-97	30	12.07.95	01
1995-96	12	27.06.95	02
1994-95	25	28.10.94	16
-	-	28.01.94	09

27

Attested
By *[Signature]*
Administrative Officer (F&S)
Customs & Central Excise
Shillong

-45-

ANNEXURE - C

THE OFFICERS WHO WERE PROMOTED IN THE YEAR 2002 AND WHO WERE JUNIOR TO THE DEO GR. 'B' (Sr. TAX ASSISTANT w.e.f. 20.01.03) IN THE PROPOSED SENIORITY LIST OF SR. TAX ASSISTANT IS FURNISHED BELOW

1. Shri Debabrata Dey
2. Shri Gurudas Debnath
3. Shri Rajiv Paul
4. Shri Debananda Singh
5. Shri Abhijit Sengupta
6. Shri Sujit Kr. Roy
7. Shri Joydeep Nandi Mazumder
8. Smt. Nita Nag
9. Shri A.M. Warjri
10. Shri Y. Yansa
11. Shri Deepak Mill
12. Shri T.T. Bhutia
13. Shri W. Nonghyndah
14. Shri Sanjib Kr. Das
15. Shri S.O. Kharjana

THE OFFICERS WHO WERE PROMOTED IN THE YEAR 2003 AND WHO WERE JUNIOR TO THE ERSTWHILE DEO GR. 'B' (Sr. TAX ASSISTANT w.e.f. 20.01.03) IS FURNISHED BELOW

- ✓ 1. Shri Subrata Sengupta
- ✓ 2. Shri Saurajit Paul
- ✓ 3. Smt. V. Muthulakshmi
4. Shri Pranesh Dhar
5. Shri Ashok Dutta
6. Shri Nilmoni Chanda
7. Smt. Suslela Marwein
8. Shri Partha Chakraborty
9. Shri Jayanta Dey
10. Smt. Senorita Bangs
11. Shri Md. Alimuddin Shah
12. Shri Sarwan Kr. Gareri
13. Shri Sudipto Kr. Deb
14. Shri Biswajit Dey
15. Shri Bibhuti Bhusan Das
16. Shri K.K. Deori
17. Shri Sendownstar Marak
18. Smt. Iophika Nongkynrih
19. Smt. Sujata Dam
20. Shri Sudip Ghosh
21. Shri Ruby Langstleh
22. Shri Jagat Kr. Dutta
23. Smt. Arati Limbu
24. Shri Kamaleshwar Deka
25. Shri Ayhom Weingken
- ✓ 26. Shri Sanjib Kr. Dhalua
- ✓ 27. Shri V. Thanzuala
- ✓ 28. Smt. Shakuntala Basumatary

28

Attested
Shakuntala Basumatary
5.9.06
Administrative Officer (P.T.O.)
& Charge of Section
1803

ANNEXURE - A.

ANNEXURE - C.

- 46 -

YEAR	Total Nos. of Vacancies in the grade of Inspectors	DR QUOTA		Total Nos. of PR vacancies	PR QUOTA		Ratio of the PR/DR quota in the grade of Inspector
		Total Nos. of DR vacancies	Nos. of Officers Joined from Direct Recruit (Staff Selection Commission)		Nos. of officers are promoted in the grade of Inspectors	Date of promotion	
1995		43	46		2+1+2 = 5	27.6.95, 12.7.95 & 14.7.95	75% (DR) 25% (PR)
1996		33	17		6+1 = 7	20.8.96 & 18.11.96	
1997		30	07		1 + 28 = 29	17.6.97 & 1.7.97	
1998		03	01		00		
2000		00	00		41	8.2.2000	66.67%(DR) 33.33%(PR)
2001		49	00		23	24.7.2001	
2002		64	00		29	31.12.02	
2003		90	00		33	27.10.03	
2004		75	02		00		
2005		75	62		00		
2006 (upto September, 2006)		06	35		00		

The above information is provided as per records available in this office.

29

DR vacancies given
as per records by me - *[Signature]*
Sr. PA.
(P. Chonglat)

[Signature]
AO(ET)

[Signature]
Adm

- 47 -

65

Annexure-J

By Speed Post

F.No.C-18013/25/2004.AD.III.B.
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF EXCISE AND CUSTOMS

New Delhi, the 4th October, 2004

To

All Chief Commissioner of Central Excise & Customs, (By Name)
All Chief Commissioner of Customs, (By Name)
All Director Generals/Directors under CBEC, (By name)

SUBJECT: Subject: Promotion of Data Entry Operators to the posts of Inspector (Central Excise), Inspector (Preventive Officer) and Inspector (Examiner) in pursuance of Mumbai High Court decision dated 17.10.2003 in W.P. No. 6957 and 6958/2003 filed by Shri M.R. Patil & Ors. and Smt. S.S. Dongre & others before Hon'ble High Court at Mumbai-Reg.

Sir,

I am directed to say that the Board in its meeting held on 23.8.2004 and 9.9.2004 has carefully considered the Hon'ble Mumbai High Court's judgement dated 7.10.2003 in Writ Petition No(s). 6957/2003 and 6958/2003 filed by Shri M.R. Patil & Ors. and Smt. S.S. Dongre & others (erstwhile Data Entry Operators) wherein it has been inter-alia held as below:-

12. We are not inclined to agree with the submission of Mr. Singhvi that clauses (b) and (c) of the relevant rules of G.S.R. 495 and G.S.R. 496 should be made applicable only after a period of two years and clause (a) only would be applicable for the initial period of two years. While operation of clause (a) is restricted for the initial period of two years, there is nothing in rules which indicates that clauses (b) and (c) would not be applicable during the said initial period of two years. Clause (a) has been made to make a provision for considering certain persons for promotion during the initial period of two years. That channel of promotion would end after expiry of two years but that does not mean that for the initial period of two years, clause (a) would be the only channel for promotion and clauses (b) and (c) would not be channels on promotion during the initial period of two years.

14. In the circumstances, petitions are allowed. It is declared that the experience gained by the petitioners as Assistant, Tax Assistant, Upper Division Clerks (Special Pay) and Data Entry Operators Grade B and C prior to their appointment as Senior Tax Assistants on unification/reorganization of the department in the year 2002 shall be taken into account for deciding their eligibility for promotion to the next higher grades. Similarly, experiences gained by the petitioners as Upper Division Clerks and Data Entry Operators Grade A prior to their appointment as Tax Assistants on account of unification/reorganization of the cadre in the year 2002 shall be taken into consideration as experience in the posts of Tax Assistants for the purpose of considering their eligibility for promotions. They shall be accordingly be eligible for being considered for promotion by selection to the respective next higher posts...

b6

A Special Leave Petition (SLP) filed by the ministerial employees in the Hon'ble Supreme Court against Mumbai High Court judgement dated 17.10.2003 was dismissed by the Hon'ble Supreme Court. After dismissal of SLP filed by the Ministerial employees, it was decided to implement the judgement of Hon'ble High Court in the case of 47 applicants to the Writ Petitions No. 6957/2003 and 6958/2003

3. Later, various Benches of CAT as well as High Court have allowed the Petitions in favour of the applicants (erstwhile Data Entry Operators) reiterating the decisions of other Benches of CAT and Hon'ble Mumbai High Court decision. Considering that the judgement of the Mumbai High Court though delivered in Writ Petition filed by 47 officers of Mumbai Customs addressed an issue having all-India ramification, the Board has decided that the ratio of the Mumbai High Court decision should be applied to all cases. Further, the CAT judgements passed relying on Mumbai High Court judgement should also be accepted, particularly since, the Branch Secretariat, Mumbai, Ministry of Law and Justice has opined on 21.7.2004 not to file any appeal against the CAT decision in OA No. 632/2003 filed by Shri K.A. Jaisinghania, Data Entry Operator before the CAT Bench, Mumbai and the Special Leave Petition filed by the ministerial employees against Mumbai High Court judgement dated 17.10.2003 has also been dismissed by the Hon'ble Supreme Court.

4. It is, therefore, requested that in the light of the above decision of the Board, you may implement the judgements of various Benches of CAT which are in accordance with the Mumbai High Court decision in Writ Petition No(s). 6957/2003 and 6958/2003. You may also take necessary action to concede the cases where the Department has filed appeal in High Court against CAT's decision based on aforesaid judgement of Mumbai High Court.

5. The receipt of this ^{letter} may please be acknowledged.

Yours faithfully,

S.K. Thakur

(S.K. THAKUR)

UNDER SECRETARY TO THE GOVT. OF INDIA

31

Attended
10/11/04
A.M.

2-
গুৱাহাটী বালকগিৰি
Guwahati Branch

higher scale of Rs. 5000-8000 and re-designated as Sr. Tax Assistants w. e. f. 20.1.2003 vide Estt. Order No. 61/2003 dated 18.2.2003 in accordance to the Senior Tax Assistant (Group C posts) Recruitment Rules, 2003.

C) As per revised Inspector (Group C posts) Recruitment Rules, 2002 of Central Excise and Land Customs Department, published on 29.11.2002, there is a promotion to the post of Inspector.

a) By selection from those candidates working in the following pre-restructured cadres:

- i) TA with 2 years services as TA or 5 years services as TA and UDC put together.
- ii) UDC or Stenographer Grade III 5 years services.
- iii) UDC with 13 years total services as UDC & LDC taken together.
- iv)(v).....(vi).....(vii).....

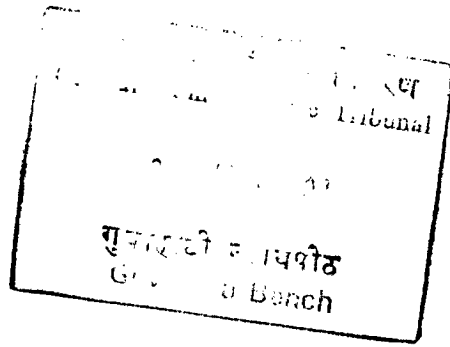
b) By selection from those candidates working in the following restructured cadres:

- i) Sr. TA with 2 years regular service in the grade.
- ii) (iii).....(iv).....

c) Failing the method of recruitment specified in Clause (b) above, by selection from those candidates working as TA and Stenographer Grade III having not less than 10 year service.....

Note 1The service rendered under the new grade in the re-structured cadre shall be counted towards considering the eligibility for promotion under Clause (a) above.

5C
Bor Kumar Yanda



Note 2. Candidates shall be required to pass such written test as may be determined by the CBEC from time to time.....

Note 3. Candidates shall be required to pass physical tests and confirm the physical standards as specified in Column 8.

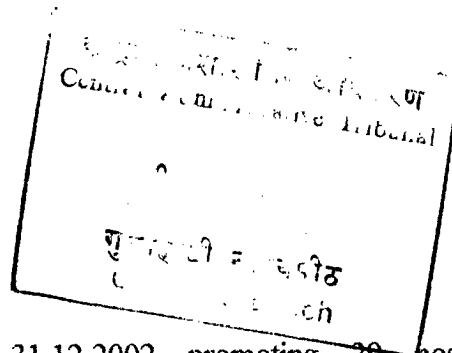
Note 4. The eligible officers under Clause (a), (b) and (c) shall be required to pass through an interview before promotion.

D) Vide office letter dated 24.12.2002, some (54 nos) TA/UDC/ Steno/Draftman s were called for physical Fitness Test and Interview to be held on 29 and 30 th Dec 2002 respectively for the selection/ promotion to the post of Inspector. But the name of the above DEO s were not included in the said list through they were to be senior to some UDC/TA called for interview in the proposed merger of DEO/TA/UDC circulated under letter dated 27.11.2002.

E) Being aggrieved, Shri Dipankar Dutta and the other two DEOs Grade B filed O.A. No. 406/2002 before the Hon'ble CAT, Guwahati Bench. The Hon'ble CAT vide interim order dated 27.12.2002 directed the respondents to allow the applicants to appear before the interview/selection to be held on 29th and 30th Dec, 2002 for consideration of promotion to the post of Inspector provisionally and the result shall be subject to outcome of the application. This interim order was based on interim order dated 26.11.2002 in O.A. No. 918/2002 of the Hon'ble CAT, Mumbai Bench.

F) In compliance of the Hon'ble CAT's interim order dated 27.12.2002, Shri Dipankar Dutta and other two DEOs were also called for the interview view order dated 30.12.2002.

Asok Kumar Mandal 69



G) A promotion order dated 31.12.2002 promoting 29 nos TA/Stenographers/ Draftman to the post of Inspector based on the interview dated 30.12.2002 was circulated vide letter dated 31.12.2002.

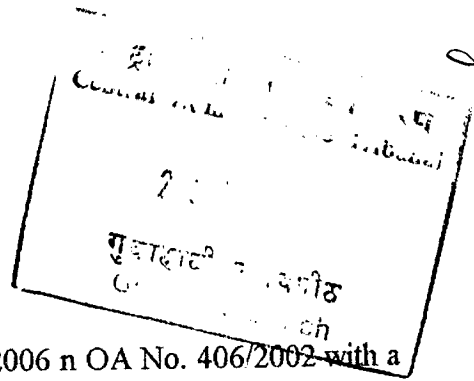
H) Another promotion order dated 27.10.2003 promoting 33 nos Sr. TATA to the post of Inspector was circulated vide letter-dated 27.10.2003. For this promotion, the above DEOs were not called for the Fitness Test/Interview, held on 30.12.2002.

I) The Hon'ble CAT vide order dated 29.10.2003 disposed of the OA No. 402/2002. The Hon'ble CAT held that the issue raised in the application is no longer res integra in view of the judgment dated 14.8.2003 in O.A. No. 1221/CH/2002 of the Hon'ble CAT, Chandigarh Bench as well as judgment and order dated 4.9.2003 in OA No. 495/2003 & 995/2002. The issue raised here was dealt to the aforesaid two cases. The Hon'ble CAT vide order dated 29.10.2003 declared the applicants eligible for consideration for promotion and directed to consider them along with other feeder categories for promotion to the said post in accordance with the rules.

J) Not being considered for promotion to Inspector, they submitted representations dated 24.3.2005, 16.5.2005 to the Commissioner, Central Excise, Shillong in this regard.

K) The representation dated 16.5.2005 of the above DEOs were examined. It was found that as per the Hon'ble CATs interim order dated 27.12.2002, they were called for interview on 30.12.2002 for commiseration for the post of Inspector. But they found unfit. Moreover, it had been pointed out on 14.7.2005 on a Note Sheet of ET Branch " there is no vacancy in respect of PR quota. As and when vacancy will arise, their case will be considered.

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Asor Kumar Pandey

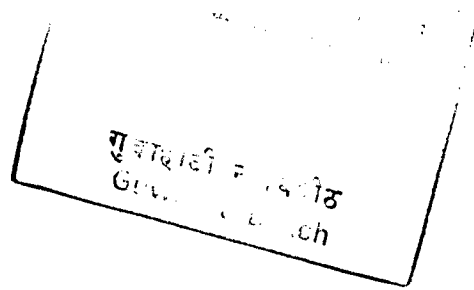


L) Now, they have filed M.P. No. 46/2006 n OA No. 406/2002 with a prayer to direct the respondents to implement the order dated 29.10.2003 in OA No. 406/2002.

M) This may be mentioned here that Board vide letter F.NO.C-18011/25/2004 AD.IIIA dated 4.10.2004 directed to implement the judgments of various Benches of CAT which are in accordance with the Mumbai High Court decision in W.P. Nos. 6957/2003 & 6958/2003. By this judgment of High Court, it was declared "the experience gained by the petitioners as Asst. TA, UDC, DEO grade B & C prior to their appointment as Sr. TA shall be taken into account for deciding their eligibility for promotion to the next higher grade. They shall be accordingly being eligible for being considered for promotion by selection to the respective higher posts. The sealed envelop in respect of the petitioners who were considered for promotion according to interim order, CAT would be opened and the results be declared....." The High Court also discussed the judgment dated 14.8.2003 in OA No. 1221/CH/2002 of CAT, Chandigarh Bench as well as judgment and order dated 4.9.2003 in OA No. 495/2003. The judgment dated 29.10.2003 in OA No. 406/2002 filed by Shri Dipankar Dutta and others before the Hon'ble CAT, Guwahati Bench is similar in nature with the Mumbai High Court decision in W.P. Nos 6957/2003 and 6958/2003 which has been accepted by the Ministry along with similar nature of judgments of CAT/High Court to implement.

N) In judgment and order dated 14.8.2003 in OA No. 1221/CH/2002, the Hon'ble CAT, Chandigarh Bench directed that the respondents shall consider the applicants for promotion to the grade of Inspector in terms of the relevant rules taking into consideration the service rendered by them as DEO Grade B after giving them opportunity to appear in the departmental Examination as provided in Note-2..... In case they are successful and finally selected as Inspectors' as per Rules. They should be promoted as Inspector and assignment suitably seniority Vis-à-vis other

Asst. Registrar

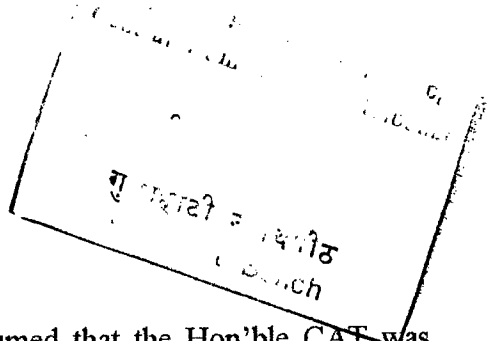


categories of Staff who have already been promoted. It may be mentioned here that it was submitted from the side of the respondents that the applicants were not eligible on the ground that they had not completed two years as required under Note-1 to the Recruitment Rules of Inspectors.

O) In judgment and order dated 04.09.2003 in OA No. 495/2003 & 995/2003 the Hon'ble CAT, Madras Bench directed that the applicants are declared to be eligible for promotion to the post of Inspector (Examiner as well as Preventive Officer) and therefore the respondents are directed to consider them along with other feeder categories for promotion to the said post in accordance with rules. It may be mentioned here that it was submitted from the side of the respondents that the applicants were not eligible on the ground that they had not completed two years as required under Note-1 to the Recruitment Rules of Inspectors etc.

- 3) That with regard to the statement made in paragraphs 4.1 to 4.3 of the OA, the respondents do not offer any comment.
- 4) That with regard to the statement made in paragraphs 4.4 and 4.5 of the OA, the respondents beg to state that the contentions of the applicants are not correct. The Ministry vide letter F.No A 11019/72/99.Ad.IV dated 19.7.2001 was issued only to create the posts. The DEO and Ministerial cadres can be treated to be in these grades only after coming into effect of the Recruitment Rules. The Draft Recruitment Rules was published by Ministry on 28th October 2002 and accordingly a proposed merger of Tax Assistant was issued. The same was finalized only when Ministry has published the Central Excise & Customs Department Senior Tax Assistant (Gr. 'C' posts) Recruitment Rules, 2003 under Notification published in Part II, Section-3, Sub-Section (1) of the Gazette of India vide G.S>R. No. 39 (e) dated 20.10.2003. Consequently this office vide Estt. Order dated 20.10.2003 has redesignated the cadre of Tax Assistant and DEO Gr. 'B' w.e.f. 20.01.2003 i.e., the date of issue of

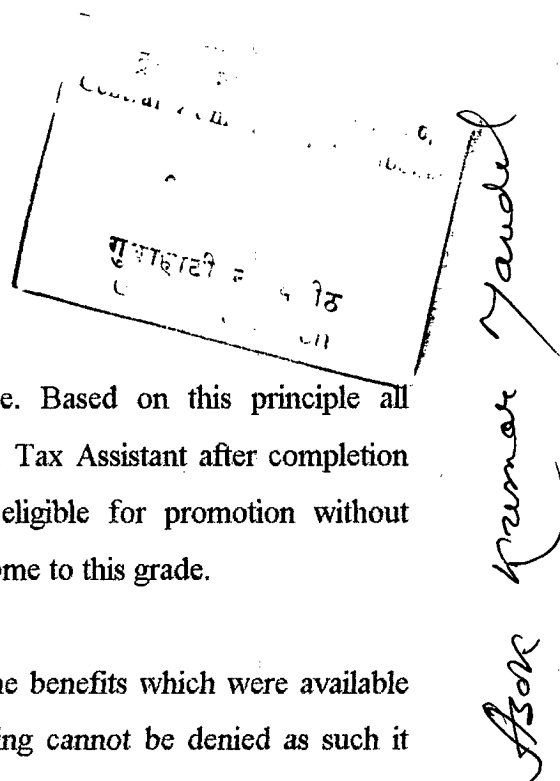
Asok Kumar Mandal 22



Recruitment Rules. Thus it may be well assumed that the Hon'ble CAT was kept in the dark by suppressing the facts.

- 5) That with regard to the statement made in paragraph 4.6 of the OA the respondents while denying the contentions made therein beg to state that the applicants have filed OA before the Hon'ble CAT, Guwahati Bench without waiting the issue of Notifications in respect of above mentioned Draft Recruitment Rules and claimed that they were eligible and qualified for selection to the post of Inspector, Customs and Central Excise as per clause (b) (1) of the schedule given in draft Recruitment Rules. The then DEO Gr. 'C' and DEO Gr. 'B' continued to exist and function with the same nomenclature and re-redesignation order in respect of these posts were issued then. The new cadre of Senior Tax Assistant has come into existence w.e.f. 20.01.2003.
- 6) That with regard to the statement made in paragraph 4.7 of the OA, the respondents beg to state that Note-1 given Column 12 of the Schedule to the Recruitment Rules for the post of Inspector stipulates that promotion under Clause (a) shall only be for a period of 2 years from the date on which the restructured cadres mentioned under Clause (b) comes into existence. The rationale behind the provision in the Recruitment Rules for restructuring has been kept within the eligible clause for promotion to the Grade of Inspectors for a period of 2 years from the date of coming of new Recruitment Rules into force, is as under:
- (i) Prior to Cadre restructuring, DEO could move only in their own line of promotion. Under Cadre restructuring they have been brought in the Ministerial Stream for the first time and as such they cannot claim that the benefits, which were available to them earlier, have been denied.
- (ii) After Cadre restructuring under which new nomenclature to the Ministerial Officers has been laid down, eligibility for promotion from the Ministerial Grade to the Executive Grade is to be based on the service rendered in the

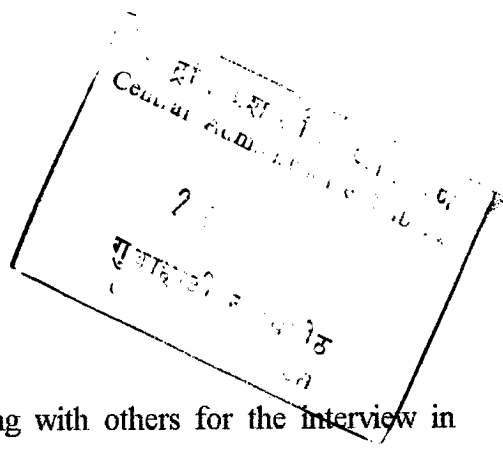
Asok Kumar Mandal



Ministerial grade under the new nomenclature. Based on this principle all officers who are placed in the new grade of Sr. Tax Assistant after completion of 2 years of service in this grade will be eligible for promotion without distinction of the stream from which they have come to this grade.

(iii) During this intervening period of 2 years the benefits which were available to Ministerial officers prior to Cadre restructuring cannot be denied as such it would be necessary to keep in operation the earlier eligible clauses for this intervening period of 2 years. In fact, in all cadres restructuring exercises of this nature benefits available prior to restructuring should not normally be denied.

- 7) That with regard to the statement made in paragraphs 4.8, 4.9 and 4.10 of the OA, the respondents beg to state that the Hon'ble CAT vide interim order dated 27.12.2002 in OA No. 406/2002 filed by Shri Dipankar Dutta and other two DEOs directed the respondents to allow the applicants to appear before the interview/Selection to be held on 29th and 30th December 2002 for consideration of promotion to the post of Inspector provisionally and the result shall be subject to outcome of this application. In pursuance to the interim order dated 27.12.2002 of CAT, Guwahati Bench in OA No. 406/2002, Shri Dipankar Dutta, Shri Hemankar Roy and Shri Rajat Subhra Sengupta were also called along with others for the physical Test and the interview held on 29th and 30th December 2002 for consideration for promotion to the post of Inspectors. The Hon'ble CAT held that the issue raised in this application is no longer res intergra in view of the judgment and order dated 14.8.2003 in OA No. 1221/CH/2002 of CAT, Chandigarh Bench as well as judgment and order dated 04.9.2003 in OA No. 495/2003 and 995/2002. The issue raised here was dealt in the aforesaid two cases. The Hon'ble CAT vide order dated 29.10.2003 declared the applicants eligible for consideration for promotion and directed to consider them along with other feeder categories for promotion to the said post in accordance with the rules.

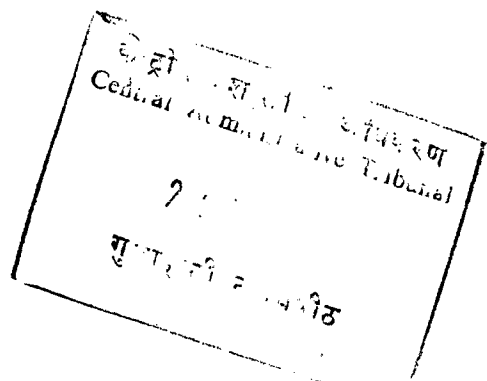


The applicants who were called along with others for the interview in December 2002 for consideration for promotion to the post of Inspectors in pursuance to the CAT's interim order dated 27.12.2002 were found "unfit" for promotion to the post of Inspector. Moreover, after the Hon'ble CAT's final order dated 29.10.2003 in OA No. 4067/2002, there have been no promotion to the post of Inspector as there was no vacancy in respect of RR quota for promotion to the post of Inspector. As and when vacancy in respect of RR quota promotion to the post of Inspector will arise, their cases will be considered as per rules.

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- 8) That with regard to the statement made in paragraph 4.11, 4.12 and 4.13 of the OA, the respondents beg to state that the Hon'ble CAT, may be aware of the fact that prior to Cadre Restructuring the DEOs were confined to the job Computer Data Entry only. They were not exposed to procedural and legal matters which comes up to consideration in the Department, to which Ministerial officers are exposed, while working in the Department. Perhaps, considering that the DEOs need to acquire the experience of Departmental working before they could be considered eligible for promotion in the higher grade, the Ministry vide its letter dated 08.10.2003 has granted one time relaxation of 2 years in qualifying service to all officials in the pre-restructured cadre eligible for promotion to the grade of Inspector, as the applicants were not covered by the above clause they were not considered for promotion.

The other point which has been agitated is to hold review DPC and to consider the promotion of the applicants along with other officers who have been promoted in the year 2003, it will be pertinent to mention here that the proceedings of any DPC may be reviewed only, if the DPC has not taken all material facts into consideration or, if material facts have not been brought to the notice of the DPC or, if there have been grave errors in the procedure followed by the DPC. It is evident from the above that the DPC was held as per the prescribed guidelines and as such there was no procedural lapse whatsoever, on the part of the DPC. Thus the question of review DPC in the instant case does not arise and hence it may be well



assumed that the application is misconceived of facts and ill conceived of law, hence liable to be dismissed with costs.

9) That with regard to the statement made in paragraph 7 of the OA, the respondents beg to offer no comment.

10) That with regard to the statement made in paragraphs 5 to 8 of the OA, the respondents while denying the contention made therein beg to state that taking in to account the statement made above the applicant is not entitled to get any relief from this Hon'ble Tribunal hence the Hon'ble Tribunal may be pleased to dismiss the OA with cost.

11) That the respondents submit that the applicant could not make out a case for adjudication of the matter by the Hon'ble Tribunal hence the Hon'ble Tribunal may be pleased to dismiss the OA with cost.

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Hon'ble Member

VERIFICATION

I Sri Asok Kumar Mandal, s/o
Late Girendra Nath Mandal, aged
about 58.... years at present working as
Deputy Commissioner of Central Excise Guwahati

....., 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, 9, 10 are true

to my knowledge and belief, those made in paragraph

2 to 8 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 28-----th day of August 2007 at Guwahati.

Asok Kumar Mandal

DEPONENT

6 DEC 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Filed by the applicant
through U. Dutta, advocate
on 6/12/07

In the matter of:-

O.A. No. 129 of 2007

Shri Dipankar Dutta & Ors.

Applicants.

-Versus-

Union of India & Ors.

Respondents.

-And-

In the matter of:-

Rejoinder submitted by the applicant against
the written statement submitted by the
respondents.

The above named applicant most humbly and respectfully begs to state as
under:-

1. That with regard to the statements made in paragraph 1, 2 and more particularly 2 (E), F), G), H), I), J), K), L), M), O) of the written statements, the applicants deny the correctness of the same, save and except which are borne out of records. However, it is quite clear from the following statements of the written statements made in para 2 (H):

"H) Another promotion order dated 27.10.2003 promoting 33 nos Sr. TA/TA to the post of Inspector was circulated vide letter-dated 27.10.2003. For this promotion, the above DEOs were not called for the Fitness Test/Interview, held on 30.12.2002."

That the applicants although declared eligible for consideration of promotion by the judgment and order dated 29.10.2003, therefore it was obligatory on the part of the respondents to consider the case of the applicants when 28 juniors out of 33 have been considered and promoted

Dipankar Dutta

6 DEC

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to the cadre of Inspector, but after the pronouncement of judgment and order dated 29.10.2003 in O.A. No. 406/2002, no action was taken by the respondents to hold the DPC/review DPC for consideration of promotion of the applicants, admittedly when they are senior to the other 28 candidates out of 33, who have been considered and promoted to the cadre of Inspector.

It is pertinent to mention here that the result of the interview held on 30.12.2002 was never published or communicated to the applicants. This is for the first time, the applicants could come to learn from a reply filed by the respondents against the M.P. No. 46/2006 in OA No. 406/2002 that they were found unfit in the interview held on 30.12.02. Therefore action of the respondents smacks malafide. But surprisingly, respondents did not take any action to consider the case of the applicants in the subsequent selection proceeding held in 2003, where 33 numbers of posts were filled up in the cadre of 'Inspector' out of which 28 posts were filled up by the juniors of the applicants. As such contention of the respondents that there is no vacancy in respect of PR quota is not sustainable in the eye of law. The sub-para M, N and O of the written statement supports the case of the applicants.

2. That with regard to the statements made in para 4, 5, 6 (i), (ii), (iii) and 7 of the written statement, the applicants beg to say that in view of the judgment and order dated 29.10.03 passed in OA No. 406/02 and also in view of Board's letter dated 04.10.04 (Annexure- J of the instant O.A) and also in view of the categorical admission of the respondents in para 2 (H) and also in view of the further and fair admission of the respondents that 28 juniors have been promoted to the cadre of 'Inspector' in the year 2003 i.e. w.e.f. 27.10.03, where the present applicants have not been considered even though they are senior, as such the present applicants acquired a valuable and legal right for consideration of their promotion along with their juniors by holding a review DPC. It is relevant to mention here that due to non-consideration of their promotion along with their juniors has resulted infringement of the fundamental rights of the applicants, which also attracts violation of Article 14 of the Constitution of India as because

Dipankar Dutta

promotion and seniority are valuable assets in the service carrier of the Govt. employees. Moreover, seniority is a fundamental right under Article 16 of the Constitution, due to non-consideration of their promotion along with their juniors the applicants have been adversely affected in the matter of their promotion and as such they are incurring financial loss each and every month due to non-fixation of pay in the promotional grade, as a result right of the applicants have been violated. Moreover, applicants have been denied the benefit of seniority in the cadre of 'Inspector' due to non-consideration of promotion along with juniors. It is not denied in the written statement that 28 juniors of the applicants have already been promoted to the cadre of 'Inspector' Group 'C' and some of those erstwhile juniors have already been impleaded in the instant case of the applicants as private respondents as an abundant caution, namely; respondent No. 6 to 11. If the applicants were found unfit by the DPC in the year 2002 that does not mean that they have lost their right for consideration in the next DPC which was held in the year 2003. Respondents were all aware regarding pendency of the O.A. No. 406/2002 while promoting those 28 juniors in the cadre of 'Inspector' Gr. 'C' w.e.f. 27.10.03. As such the respondents are bound to hold review DPC to consider the cases of the present applicants who were seniors but left out for consideration of promotion in the year 2003. The applicants in the instant case rely upon the decision of the Supreme Court rendered in the following cases:-

- (1) (2001) 2 SCC 118 (S. Ramanathan -Vs- U.O.I & Ors.)
- (2) (1993) Supp (3) SCC 575 (Syed Khalid Rizvi -Vs- U.O.I & ors.)
- (3) (2004) 1 SCC 245 (P.N. Premachandran -Vs- State of Kerala & Ors.)

3. That with regard to the statement made in para 8, 9, 10 and 11 of the written statement, the applicants deny the correctness of the statements made therein, more particularly in view of the Board's letter dated

Dibamkar Dutta

6 DEC 2003

गुवाहाटी न्यायपीठ
Guwahati Bench

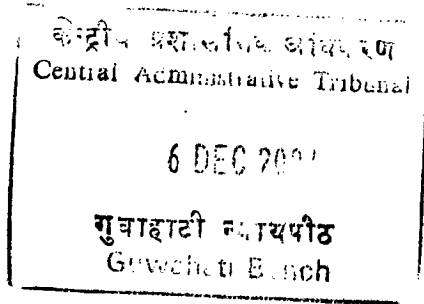
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04.10.04 and also in view of the judgment and order dated 29.10.2003 passed in OA No. 406/2002.

4. That it is relevant to mention here that the applicant No. 1 vide his representation dated 30.08.07, brought to the notice of the Chief Commissioner that as per CBEC's letter No. F. No. A 11013/12/2007-Ad.IV dated 16.08.07, as many as 30 additional posts of 'Inspectors' were allotted to the Shillong Zone (NER), therefore there cannot be any difficulty to consider the case of the applicants for promotion to the cadre of the applicants only on the case of the applicants for promotion to the cadre of 'Inspector'. Otherwise also the respondents are bound to consider the case of the applicants only on the score that juniors have already been promoted without considering the applicants who are seniors in the cadre of Senior TA.
5. That in the facts and circumstances as stated above the Original Application deserves to be allowed with costs.

Sibankar Dutta



VERIFICATION

I, **Shri Dipankar Dutta**, Son of Late Durgadas Dutta, aged about 36 years, presently working as Senior Tax Assistant, in the Office of the Commissioner (Appeals), Customs and Central Excise, 6th Floor, Udyog Vikash Bhawan, Bhangagarh, Guwahati- 781005, applicant No. 1 in the instant Original Application, duly authorized by the others to verify the statements made in the Paragraph 1 to 5 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 5th day of December 2007.

Dipankar Dutta

18 JUN 2008

गुवाहाटी न्यायपीठ
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench

GUWAHATI BENCH: GUWAHATI

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

Additional Rejoinder in O.A. No. 129/2007

Shri Dipankar Dutta & Ors. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

Dutta

Advocate

Date: - 17.06.08

Recd copy
G. S. Dutta
17.06.08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Filed by the applicant
through U. Dutta, advocate
on 17.06.08

In the matter of: -

O.A. No. 129 of 2007

Shri Dipankar Dutta & Ors.

Applicants.

-Versus-

Union of India & Ors.

Respondents.

-And-

In the matter of:-

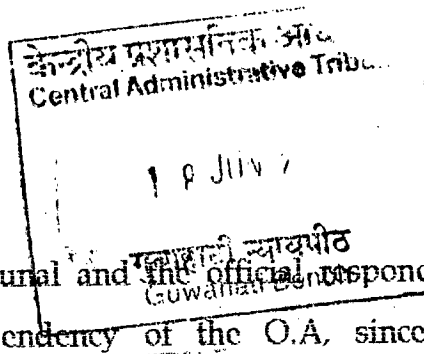
Additional rejoinder submitted by the
applicant against the written statement
submitted by the respondents.

The above named applicant most humbly and respectfully begs to state as
under:-

1. That your applicants approached this Hon'ble Tribunal by filing a O.A No. 129 of 2007 praying interalia to hold a review DPC to consider the promotion to the applicants to the cadre of Inspector, Group-C in the light of the direction contained in the judgment and order dtd. 29.10.2003 passed in O.A.No. 406/2002 with all consequential benefit including seniority and monetary benefits at least from the date of promotion of the respondent no. 6 to 11 in the cadre of Inspector, Group-C.

It is pertinent to mention here that the present applicants were eligible and senior than the respondent no. 6 to 11, who were working in the cadre of Senior Tax Assistant before their promotion to the cadre of Inspector, Group-C, which is evident from seniority list published vide establishment order no. 61 of 2003 dtd. 18.02.2002 issued by the office of the Commissioner of Central Excise, Shillong as well as from the extract of the seniority list of Sr. Tax Assistant published as on 01.05.2003 as well as seniority list of tax Assistant as on 01.07.2003, but surprisingly, when the O.A i.e O.A No. 406 of 2002 (Dipankar Dutta and ors-vs-U.O.I and Ors)

Dipankar Dutta

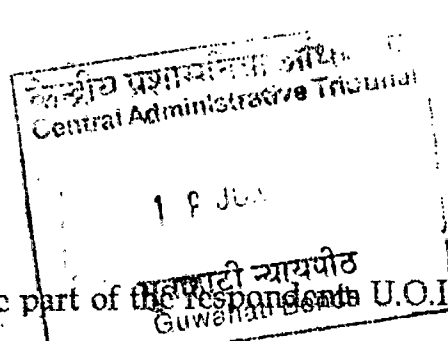


was pending before the Hon'ble Tribunal and the official respondents were also quite aware regarding pendency of the O.A, since the respondents have received notices of the O.A no. 406/2002, wherein the present applicants who were deliberately ignored by the respondents from consideration of their cases for promotion to the cadre of Inspector, group-C, but even then the respondents considered the cases of the private respondents and ors. on 27.10.2003, the respondents U.O.I deliberately ignored the cases of the present applicants for consideration for promotion to the cadre of Inspector, Group-C, who were eligible and senior to the private respondents no. 6 to 11, and as a result respondent no. 6 to 11 have been promoted to the cadre of Inspector, Group C following the recommendation of the DPC held on 27.10.2003. As such the present applicants have acquired a valuable and legal right for consideration of promotion to the cadre of Inspector, Group-C by holding a review DPC.

(Copy of the seniority list dated 18.02.2002, extract of seniority list published as on 01.05.2003 and 01.07.2003 and promotion order dated 27.10.2003 are enclosed herewith and marked as Annexure-A, B, C and D respectively).

2. That it is stated that the respondent no. 6 to 11 was promoted to the cadre of Inspector, Group-C vide establishment order no. 131/2003 dtd. 27.10.2003, it would be evident that the respondent no. 11 have been promoted even before passing the departmental examination, when the cases of the applicant who are senior and eligible than the respondent no. 6 to 11 have been deliberately ignored. Since the applicants were eligible and senior then the respondent no. 6 to 11, as such it is mandatory on the part of the respondents U.O.I to hold a review DPC when eligible persons were omitted to be considered. It would be evident from the condition laid down by the Govt. of India for holding a review DPC, wherein it has been stated that if eligible persons were omitted to be considered in that event there is a necessity to convene a review DPC to rectify the mistake. In the instant case of the present applicants who were omitted for consideration for promotion to the cadre of Inspector, as such convening

Dibomkar Dutta



of a review DPC is mandatory on the part of the respondents U.O.I. The Learned Tribunal allowed the O.A filed by the present applicants on 29.10.2003, thereafter present applicants repeatedly approached the authorities for consideration of their promotion, the copies of the judgments were also served upon the respondents by registry of the Hon'ble tribunal as well as by the present applicants while submitting their representations. Moreover, the said O.A No. 406/2002 was contested by the respondents U.O.I through their counsel but surprisingly inspite of the notices, representations and direction of the learned Tribunal the respondents did not take a single steps to hold a review DPC for consideration of the cases of the present applicants with one pretext or other. Whereas, in the similar circumstances the respondents U.O.I has arranged review DPC following the direction of the Hon'ble Central Administrative Tribunal in O.A.No. 657/1997, 1028/2002 and 350/2004 as well as by the direction of the Mumbai High Court on 17.10.2003. Therefore it is a fit case for the learned Tribunal to pass a direction upon the respondents U.O.I to hold a review DPC for consideration of promotion of the applicants in the cadre of Inspector, Group C in the light of the decision rendered in O.A.No. 406/2002 passed by this learned Tribunal.

(A copy of the establishment order no. 08 of 2006, extract from the Swamy's complete manual on establishment and administration governing the norms laid down for review DPC is enclosed as Annexure-E and F respectively).

3. That it is stated that the arguments advanced by the respondents U.O.I that there was no vacancy under the PR quota for consideration of promotion of present applicants cannot be a ground for the respondents, who deliberately ignored the cases of the present applicants during the pendency of the O.A.No. 406/2002 and also promoted the junior of the applicants in the cadre of Inspector, Group-C. It is a settled position of law that the seniors cannot be ignored in the matter of promotion when their juniors are promoted for such promotion, as such it is a fit case for the learned tribunal to protect the right and interest of the present applicants

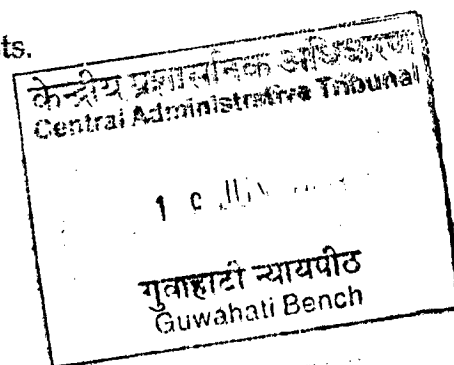
Dibankar Dutta

by passing appropriate order for consideration of promotion of the applicants by holding a review DPC.

4. That it is stated that the present applicants submitted a representation on 22.04.2004, 16.05.2005 and 05.09.2005 praying interalia for implementation of the judgment and order dtd. 29.10.2003 passed in O.A.No. 406/2002, but unfortunately no steps has been taken by the respondents U.O.I to implement the order of the learned Tribunal.

(Copy of the representation dated 22.04.2004, 16.05.2005 and 05.09.2005 is enclosed as Annexure-G, H and I respectively).

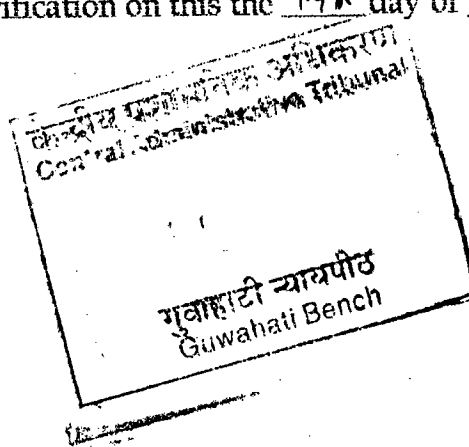
5. That in the facts and circumstances as stated above the original application deserves to be allowed with costs.



VERIFICATION

I Shri Dipankar Dutta, Son of Late Durgadas Dutta, aged about 37 years, presently working as Senior Tax Assistant, in the Office of the Commissioner (Appeals), Customs and Central Excise, 6th Floor, Udyog Vikash Bhawan, Bhangagarh, Guwahati- 781005, applicant No. 1 in the instant Original Application, duly authorized by the others to verify the statements made in the Paragraph 1 to 5 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 14th day of June, 2008.



Dipankar Dutta



Office of the Commissioner
Customs and Central Excise

ANNEXURE 7A

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND, SHILLONG

ESTABLISHMENT ORDER NO. 61/2003
DATED THE 18th FEBRUARY, 2002

GUWAHATI

The Ministry of Finance and Company Affairs (Department of Revenue) have published the Central Excise and Customs Department Senior Tax Assistant (Group 'C' Posts) Recruitment Rules, 2003 under Notification published in Part-II, Section-3, Sub-Section (i) of the Gazette of India vide G.S.R. No. 39(e) dated 20.01.2003. As per these Recruitment Rules forwarded by Ministry vide their letter F. No. A/12018/48/2000-Ad. III B dated 28th October, 2002 the Cadre of Tax-Assistant (4500-7000) & Data Entry Operator Gr. 'B' (4500-7000), have been placed in the higher scale of Rs. 5000-8000. In view of the merger, the following Tax-Assistants and Data Entry Operator Gr. 'B' of Shillong & Dibrugarh Central Excise Commissionerates & Customs (P) Commissionerate, Shillong are hereby re-designated as Sr. Tax-Assistants w.e.f. 20.01.2003 in the scale of pay of Rs. 5000-150-8000/-.

Sl.No.	Name	DESIGNATION	RE-DESIGNATED AS
01	02	03	04.
1.	Abul Hassan,	TAX ASSISTANT	SR. TAX ASSISTANT
2.	Ghana Kanta Nath	TAX ASSISTANT	SR. TAX ASSISTANT
3.	Dambidhar Sonowal	TAX ASSISTANT	SR. TAX ASSISTANT
4.	Postangbam Surjit Singh	TAX ASSISTANT	SR. TAX ASSISTANT
5.	Devendra Rana	TAX ASSISTANT	SR. TAX ASSISTANT
6.	Smt. Dhira Medhi	TAX ASSISTANT	SR. TAX ASSISTANT
7.	Smt. Josephine T. Lanang	TAX ASSISTANT	SR. TAX ASSISTANT
8.	Dipankar Dutta	D.E.O. GR. 'B'	SR. TAX ASSISTANT
9.	Hemankar Roy	D.E.O. GR. 'B'	SR. TAX ASSISTANT
10.	Rajat Subhra Sengupta	D.E.O. GR. 'B'	SR. TAX ASSISTANT
11.	Smt. Jullana Malnglang	D.E.O. GR. 'B'	SR. TAX ASSISTANT
12.	Majid Alam	D.E.O. GR. 'B'	SR. TAX ASSISTANT
13.	Chakreswar Sharma	D.E.O. GR. 'B'	SR. TAX ASSISTANT
14.	Md. Alimuddin Shah	TAX ASSISTANT	SR. TAX ASSISTANT
15.	Subrata Sengupta	TAX ASSISTANT	SR. TAX ASSISTANT
16.	Biswajit Dey	TAX ASSISTANT	SR. TAX ASSISTANT
17.	Pranesh Dhar	TAX ASSISTANT	SR. TAX ASSISTANT
18.	Bibhuti Bhushan Das	TAX ASSISTANT	SR. TAX ASSISTANT
19.	Vivekananda Chakraborty	TAX ASSISTANT	SR. TAX ASSISTANT
20.	Smt. Sujata Dam	TAX ASSISTANT	SR. TAX ASSISTANT
21.	Partha Chakraborty	TAX ASSISTANT	SR. TAX ASSISTANT
22.	Jayanta Dey	TAX ASSISTANT	SR. TAX ASSISTANT
23.	Saurajit Paul	TAX ASSISTANT	SR. TAX ASSISTANT
24.	Kula Kumar Deori	TAX ASSISTANT	SR. TAX ASSISTANT
25.	Kamaleshwar Deka	TAX ASSISTANT	SR. TAX ASSISTANT
26.	Sudip Ghosh	TAX ASSISTANT	SR. TAX ASSISTANT
27.	Ramkrishna Barman	TAX ASSISTANT	SR. TAX ASSISTANT
28.	Smt. Banani Purkayastha	TAX ASSISTANT	SR. TAX ASSISTANT
29.	Jagat Kr. Dutta	TAX ASSISTANT	SR. TAX ASSISTANT
30.	Ms. Shiuli Chakraborty	TAX ASSISTANT	SR. TAX ASSISTANT
31.	Ashoke Dutta	TAX ASSISTANT	SR. TAX ASSISTANT
32.	Nilmoni Chanda	TAX ASSISTANT	SR. TAX ASSISTANT
33.	Priyabrata Sarkar	TAX ASSISTANT	SR. TAX ASSISTANT
34.	Th. Debadutta Singh	TAX ASSISTANT	SR. TAX ASSISTANT
35.	Ayhom Weinghen	TAX ASSISTANT	SR. TAX ASSISTANT
36.	Smt. Senorita Bangs	TAX ASSISTANT	SR. TAX ASSISTANT
37.	Sendownstar Marak	TAX ASSISTANT	SR. TAX ASSISTANT
38.	Sarwan Kr. Gareri	TAX ASSISTANT	SR. TAX ASSISTANT
39.	Smt. Bina Das	TAX ASSISTANT	SR. TAX ASSISTANT
40.	Smt. Usha Das	TAX ASSISTANT	SR. TAX ASSISTANT
41.	V. Thanziala	TAX ASSISTANT	SR. TAX ASSISTANT

The seniority of the above in the grade of Sr. Tax-Assistant will be in the order shown above.

On upgradation the above mentioned officers are retained in their present places of posting and are hereby directed to immediately assume their new post. The posting of these officers as Sr. Tax Assistant will be decided at a later date.

Central Administrative Tribunal

ADDITIONAL COMMISSIONER (P&V)

CUSTOMS & CENTRAL EXCISE

SHILLONG

Guwahati Bench

SENIORITY LIST OF SENIOR TAX ASSISTANT AS ON 01.06.2003

S.No.	Name & Educational Qualification	Date of Birth	Date of Appt. in Govt. service	Date of confirmation in Govt. service	Date of Appt. As UDC/DEO GR 'B'	Date of assumption of charge in the grade	Remarks
01.	2	03	04	05	06	07	08
1.	Abul Hassan, B.A.	01.03.70	05.12.94	10.06.98	05.12.94	20.01.2003	Orig. As Sr. T.A.
2.	Ghans Kanta Nath, HSLC	29.12.63	02.08.89	23.11.91	30.06.95	20.01.2003	-do-
3.	Dambidhar Sonowal, (ST) PU	07.05.65	12.10.89	23.11.91	07.06.95	20.01.2003	-do-
4.	Postangbam Surjit Singh, BA	31.01.69	21.02.90	21.02.92	05.06.95	20.01.2003	-do-
5.	Devendra Rana, PU	01.03.69	02.04.90	02.04.92	30.05.95	20.01.2003	-do-
6.	Smt. Dhira Medhi, BA	01.03.69	06.10.95	06.10.97	06.10.96	20.01.2003	-do-
7.	Smt. Josephine T. Lanong (ST) BA	13.08.68	02.01.91	02.01.93	23.08.96	20.01.2003	-do-
8.	Dipankar Dutta, B.Sc.	26.08.70	28.10.94	01.11.96	04.04.2001	20.01.2003	-do-
9.	Hemankar Roy, HSLC	27.02.73	31.08.94	01.11.96	04.04.2001	20.01.2003	-do-
10.	Rajat S. Sengupta, B.Sc. (H)	15.01.68	31.08.94	01.11.96	04.04.2001	20.01.2003	-do-
11.	Ms. Juliana Manglang, (ST) B.Sc.	27.06.68	01.07.94	01.11.96	04.04.2001	20.01.2003	-do-
12.	Maid Alam, HSLC	01.03.69	21.11.94	21.11.96	04.04.2001	20.01.2003	-do-
13.	Chakreswar Sharma, B.A.	01.02.63	26.08.94	21.11.96	09.04.2001	20.01.2003	-do-
14.	Md. Alimuddin Shah, PU	01.02.70	04.12.90	04.12.92	31.08.96	20.01.2003	-do-
15.	Subrata Sengupta, PU	01.01.67	03.12.90	04.12.92	09.08.96	20.01.2003	-do-
16.	Biswaji Dey, HS	16.02.63	07.12.90	07.12.92	23.08.96	20.01.2003	-do-
17.	Pranesh Dhar, HSLC	24.05.71	21.01.91	21.01.93	14.10.96	20.01.2003	-do-
18.	Bibhut Bhusan Das, B.Com	28.06.65	11.03.91	11.03.93	28.11.96	20.01.2003	-do-
19.	Vivekananda Chakraborty, B.Sc.	11.11.65	21.04.91	11.03.93	25.11.95	20.01.2003	-do-
20.	Smt. Sujata Datta, M.Sc.	01.01.71	03.07.98	09.07.2000	03.07.98	20.01.2003	-do-
21.	Partha Chakraborty, B.Sc. (H)	06.04.72	27.02.98	09.07.2000	27.02.98	20.01.2003	-do-
22.	Jayanta Dey, OBC, B.Sc.	21.04.70	03.02.98	03.02.2000	03.02.98	20.01.2003	-do-
23.	Saurajit Paul, OBC, M.Sc.	28.02.69	08.06.98	08.06.2000	03.02.98	20.01.2003	-do-
24.	Kula Kumar Deori, (ST) BA	04.01.68	22.10.98	22.10.2000	22.10.98	20.01.2003	-do-
25.	Kameleshwar Deka, OBC, BA(H)	31.12.73	20.03.98	20.03.2000	20.03.98	20.01.2003	-do-
26.	Sudip Ghosh, OBC B.Com.	10.03.73	04.05.98	04.05.2000	04.05.98	20.01.2003	-do-
27.	Ramkrishna Barman, (SC) BA	20.01.70	29.12.97	29.12.99	29.12.97	20.01.2003	-do-
28.	Smt. Barani Purkayastha, BA	24.06.61	15.02.91	11.03.93	15.07.98	20.01.2003	-do-
29.	Jagat Kr. Dutta, PU	01.04.63	25.03.91	25.03.93	21.07.98	20.01.2003	-do-
30.	Ms. Shuli Chakraborty, BA	05.07.70	26.04.91	26.04.93	07.07.98	20.01.2003	-do-
31.	Ashoke Dutta, HSLC	20.08.63	02.05.91	02.05.93	05.07.98	20.01.2003	-do-
32.	Nimoni Chanda, HS	02.08.67	29.04.91	29.05.93	05.07.98	20.01.2003	-do-
33.	Priyabrata Sarkar, (PH) HSLC	22.12.61	26.04.91	29.05.93	09.07.98	20.01.2003	-do-
34.	Th. Debadutta Singh, OBC, (PH) BA	28.02.62	30.04.91	29.05.93	10.07.98	20.01.2003	-do-
35.	Ayhom Weingken (ST), HSLC	01.11.64	12.03.92	12.03.94	10.07.98	20.01.2003	-do-
36.	Smt. Senorita Bangs (ST) PU	01.11.56	09.03.92	12.03.94	07.07.98	20.01.2003	-do-
37.	Sandowmar Marak, (ST) HSLC	13.02.73	13.03.92	13.03.94	04.07.98	20.01.2003	-do-
38.	Sarwan Kr. Gera, B.Sc. (H)	05.12.75	24.02.98	24.02.2001	24.02.98	20.01.2003	-do-
39.	Smt. Bina Das, (SC) HSLC	01.05.72	04.08.93	01.04.96	09.04.99	20.01.2003	-do-
40.	Smt. Usha Das (SC) PU	12.10.53	22.11.93	01.04.96	12.04.99	20.01.2003	-do-
41.	V. Thanziala (ST) HSLC	01.11.56	12.07.78	01.08.80	13.04.99	20.01.2003	-do-

Attached
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SENIORITY LIST OF TAX ASSISTANT AS ON 01.07.2003

Sl. No.	Name & Educational Qualification	Date of Birth	Date of Apptt. in Govt. service	Date of confirmation in Govt. service	Date of Apptt. As UDC/DEO GR. 'B'	Date of assumption of charge in the grade	Remarks
01.	02	03	04	05	06	07	08
1.	Dipen Ch. Das, (SC), BA	01.10.65	19.06.88	18.11.88	28.07.93	05.05.2003	
2.	Sumit Deb, HSLC	28.02.70	09.09.94	21.11.96	09.09.94	05.05.2003	
3.	Chandan Kr. Das, B. Sc	11.01.72	10.11.94	21.11.96	10.11.94	05.05.2003	
4.	Lalit Hubert S. Thaboh (ST), P. U.	18.04.64	29.06.94	21.11.96	29.06.94	05.05.2003	
5.	Ms. P. I. Devi, B. Sc. (Hons)	07.03.72	07.11.94	21.11.96	07.11.94	05.05.2003	
6.	Sanjeev Dev Burman (ST), B. A.	20.11.70	04.09.95	21.11.96	04.09.95	05.05.2003	
7.	Lemchwa Turner Chalkam (ST), B. Com.	21.01.66	13.07.94	21.11.96	13.07.94	05.05.2003	
8.	Prasanta Borah, B. A.	28.12.69	01.09.94	21.11.96	01.09.94	05.05.2003	
9.	Debajyoti Kari, B. Sc.	07.04.70	08.09.94	21.11.96	08.09.94	05.05.2003	
10.	Dilip Goswami, B. Com.	18.01.69	09.09.94	21.11.96	09.09.94	05.05.2003	
11.	Ms. Laiawmpui Hmar (ST), P. U.	29.09.71	25.01.96	25.01.96	25.01.96	05.05.2003	
12.	Ms. Natasha A. Kharkongor (ST), B. A (H)	03.10.73	19.02.98	19.02.98	19.02.96	05.05.2003	
13.	Ms. Ragana Kharkongor (ST), B. A.	10.06.71	25.01.96	25.01.98	25.01.96	05.05.2003	
14.	Debabrata Das (SC), B. Com.	30.09.72	28.02.96	28.02.96	28.02.96	05.05.2003	
15.	Ms. Khamti Mary Kharkongor (ST), B. A (H)	13.10.72	31.01.96	31.01.96	31.01.96	05.05.2003	
16.	Ms. Ruma Moohi (SC), B. A.	30.04.70	07.02.96	27.02.98	07.02.96	05.05.2003	
17.	Standhope K. Sanlang (ST), P. U.	20.12.71	24.01.96	24.01.98	24.01.96	05.05.2003	
18.	Phingstar Kharanin (ST), P. U.	18.12.75	29.04.98	29.04.2000	23.04.98	05.05.2003	
19.	Babington Schun (ST), B. A (H)	11.03.72	23.04.98	23.04.2000	23.04.96	05.05.2003	
20.	Reamingson Shylla (ST), B. A (H)	03.03.75	16.04.98	16.04.2000	16.04.96	05.05.2003	
21.	Sanjib Kr. Dhalua, (SC) PU	23.11.72	30.07.93	01.04.96	09.04.99	05.05.2003	
22.	Smt. Shakuntala Basumatary, (ST), BA	01.04.59	17.12.99	Offg.	17.12.99	05.05.2003	
23.	Smt. Arati Limbu, HSLC	15.06.60	26.07.93	01.04.96	01.04.99	05.05.2003	
24.	Smt. Baby Deb Chaudhury, BA	27.12.51	10.12.99	Offg.	10.12.99	05.05.2003	
25.	D.P. Haokip (ST) HSLC	01.03.58	15.07.78	01.08.80	13.04.99	05.05.2003	
26.	Sudipta Kr. Deb, HSLC	16.11.71	17.11.93	01.04.96	12.04.99	05.05.2003	
27.	Smt. Sibra Deb, HSLC	02.03.64	15.11.93	01.04.96	03.04.2001	05.05.2003	
28.	Umesh Ch. Eora, HSLC	23.08.60	16.03.81	01.02.82	04.04.2001	05.05.2003	
29.	Nimai Ch. Sonowal, (ST) HSLC	01.07.60	18.04.81	01.02.82	04.04.2001	05.05.2003	
30.	Soram Ibobi Singh, PU	01.02.74	25.11.94	01.12.96	04.04.2001	05.05.2003	
31.	T. Khamthiangmuang, (ST)	31.03.67	11.01.95	11.01.97	04.04.2001	05.05.2003	
32.	Rajarshi Dey Purkayastha, BA	19.08.69	29.03.94	01.12.96	03.04.2001	05.05.2003	

Checked
By
Date

Sl. No.	Name & Educational Qualification	Date of Birth	Date of Apptt. in Govt. service	Date of confirmation in Govt. service	Date of Apptt. As UDC/DEO GR. B	Date of assumption of charge in the grade	Remarks
01	02	03	04	05	06	07	08
33	Rajesh Rai, HSLC	21.11.70	30.03.84	01.12.96	03.04.2001	05.05.2003	
34	Smt. Clara Nongrum, (ST) PU	10.10.67	30.03.84	01.12.96	03.04.2001	05.05.2003	
35	Smt. Pupa Rangad (ST) PU	06.08.69	28.03.84	01.12.96	03.04.2001	05.05.2003	
36	Anup Kr. Barua, PU	15.03.72	30.03.84	01.12.96	04.04.2001	05.05.2003	
37	Sutara Roy, HSLC	20.11.70	31.03.84	01.12.96	03.04.2001	05.05.2003	
38	Phanton Ghonglah (ST) BA	11.11.68	09.05.84	01.12.96	03.04.2001	05.05.2003	
39	Anil Ghosh, OBC B.Ccm.	15.08.70	25.03.84	01.12.96	03.04.2001	05.05.2003	
40	Smt. K. Fairlinda Syiemlieh (ST) BA	05.02.72	04.04.84	01.12.96	03.04.2001	05.05.2003	
41	Smt. Bethelda Lyngdoh, (ST) BA(H)	03.05.71	16.05.84	01.12.96	03.04.2001	05.05.2003	
42	Smt. Hiko Mary Khamawlong (ST) PU	02.08.70	07.04.84	01.12.96	03.04.2001	05.05.2003	
43	Ms. Mary Nanglyndoh (ST) BA	05.05.69	25.03.84	01.12.96	03.04.2001	05.05.2003	
44	Santanu Das, B.Sc.(Hons)	15.02.79	13.01.2003	Offg.	13.01.2003	05.05.2003	
45	Smt. Saswati Bhattacharjee, BA	03.06.68	01.01.2003	Offg.	01.01.2003	05.05.2003	
46	Ms. Evelyn Wahlang, (ST), BA	24.02.74	02.01.2003	Offg.	02.01.2003	05.05.2003	
47	Ms. Kshama Deb, BA	01.01.68	02.01.2003	Offg.	02.01.2003	05.05.2003	



ANNEXURE → D
23

GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND, SHILLONG - 793 001

ESTABLISHMENT ORDER NO. 181 /2003

DATED SHILLONG, THE 27th OCTOBER 2003

Subject: Establishment promotion, transfer & posting in the grade of Inspector- order regarding.

PART-I

PROMOTION

The following Sr Tax Assistants, Stenographers Gr- II and Tax Assistants of Central Excise and Customs are hereby promoted to the grade of Inspector in the scale of pay of Rs. 5500-175-9000/- with effect from the date they assume charges of higher post at their places of posting as shown in PART-II of this order with immediate effect and until further orders.

They are hereby asked to exercise option within one month from the date of promotion as to whether their initial pay should be fixed in the higher post on the basis of FR 22 (I) (a) (1) straightway without any further review on accrual of increment in the pay scale of the lower post or their pay on promotion should be fixed initially in the manner as provided under FR 22 (a) (i) which may be refixed under the provisions of FR 22 (I) (a) (1) on the date of accrual of next increment in the scale of pay of lower post. Option once exercised shall be final.

Sl No	Name (S/Shr/Smtl)
01	Subrata Sengupta
02	Saurajit Paul
03	V. Muthulakshmi
04	Pranesh Dhar
05	Ashoke Dutta
06	Nilmoni Chanda
07	Susiela Marwel
08	Josephine T. Lanong
09	Partha Chakraborty
10	Jayanta Dey
11	Senorilla Bangs
12	Devendra Rana
13	Md. Alimuddin Snoh
14	Barwan Kumar Gared
15	Sudipto Kr Deb
16	Biswajit Dey
17	Ghana Kanla Nath
18	Bibhuti Bhushan Das
19	Kula Kumar Deori
20	Sendownstar Marak
21	Iophica Nongkynrli
22	Postangbam Surjit Singh
23	Sujata Dami
24	Sudip Ghosh
25	Ruby Langstieh
26	Jagat Kumar Dutta
27	Arati Limbu
28	Dambhidar Sonowal
29	Kamaleshwar Deka
30	Ayhorn Weingken
31	Sanjib Kr. Dhalua
32	V. Thanzuala
33	Shakuntala Basumatary

Central Administrative

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officer to duty

NOTE: (a) Shakuntala Basumatary (SI) (Sl. No. 33 above) is promoted to the grade of Inspector purely on ad-hoc basis as she has not passed the Departmental Examination required for promotion to the grade of Inspector. The promotion of Shakuntala Basumatary is subject to her passing the Departmental Examination by 31st December 2003. In case she fails to pass the Departmental Examination by the aforesaid date she will stand reverted to the grade she held earlier to this promotion order.

(b) In the event of any deputationist(s) being reverted to parent Commissionerate, the junior most officer(s) in the above promotion order will be reverted.

The seniority of the above officers in the grade of Inspector will be fixed in the order shown above.

In the event of refusal of promotion they would be debarred from promotion for a period of one year.

PART-II

TRANSFER AND POSTING

On promotion, the above officers are hereby retained at their present places of postings and regular postings will be issued at a later date.

ADDITIONAL COMMISSIONER (P&V)
CUSTOMS & CENTRAL EXCISE
SHILLONG

Dated: 27 OCT 2003

C.No. II(3)28/E.I.III/2000/1731

Copy forwarded for information & necessary action to:-

1. Shri. R.K. Kalia, Deputy Secretary, Central Board of Excise and Customs, North Block, New Delhi-110 002. This promotion order is issued in view of the one time relaxation of 2 (two) years in qualifying service extended for promotion to higher grades in Gr. 'C' and 'D' vide F.No. A.32011/18/2003-Ad.IIIA dated 8th October 2003.
2. The Chief Commissioner Central Excise, Shillong Zone, CRESCENS Bldg, M.G. Road, Shillong.
3. The Joint Secretary (Admin), Central Board of Excise and Customs, North Block, New Delhi-110 002.
4. The Commissioner of Central Excise, Dibrugarh.
5. The Commissioner of Customs (Prev), NER, Shillong.
6. The Additional Commissioner (Tech.), C. Ex. Hqs. Office, Shillong.
7. The Additional Commissioner (P&V), Central Excise, Dibrugarh.
8. The Additional Commissioner (Hqs), Customs Hqs Office, Shillong.
9. The CAO/PAO, Customs and Central Excise, Shillong.
10. The Deputy /Assistant Commissioner, Central Excise /Customs Division.
11. The A.C.A.O., Central Excise Hqs., Shillong. Copy(s) meant for the concerned officer is/are enclosed.
12. Sri _____ for compliance.
13. Accts. & II/Confidential Branch /CIU-cum-VIG Branch, C. Ex. Hqs. Office, Shillong.
14. The General Secretary, Gr. C Ex. Hqs. Office, Customs & Central Excise, Shillong.
15. Guard File.

केंद्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

18 JUN 2003

गुवाहाटी न्यायालय
Guwahati Bench

CUSTOMS & CENTRAL EXCISE
SHILLONG

GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE :::::::::::PATNA

Estt. Order 08 /2006
Dated 06.01.2006

In pursuance of Hon'ble CAT's orders dated 14.12.2004 in O.A. No. 657/97, dated 10.02.2005 in O.A.No. 712/97 & dated 06.10.2005 in the O.A. No. 1028/2002, M.A.No.343/2003, CCPA No.32/2004, M.A.NO.450/2005 and O.A. No. 350/2004 and order dated 17.10.2003 of Hon'ble Mumbai High Court, review DPCs. were held on 09.12.2005 and 15.12.2005 & 05.01.2006. On the recommendations of this review DPCs., in partial modification of the office Establishment Order No. 123/2003 dated 16.10.2003, 149/2003 dated 15.12.2003, 64/2004 dated 16.06.2004 & 65/2004 dated 16.06.2004 vide which the following Tax Assistants/UDCs/Steno (Now Inspector) of Central Excise & Customs Commissionerate, Patna/Jamshedpur/Ranchi were promoted to the grade of Inspector on regular basis (except Shri P.K. Patra who was promoted on ad-hoc basis) are hereby treated as Inspector on Ad-hoc basis in the pay-scale of Rs. 6500-200-10,500/- plus other allowances with effect from the date they assumed the charge of the higher post till further order :-

Sl.No.	Name S/Shri	Date of birth
01	Ajay Kumar, Steno (Now Inspector)	11.11.73
02	M.Z. Baig, STA (Now Inspector)	15.05.55
03	Dina Nath Prasad, Steno (Now Inspector)	02.06.70
04	Arbind Kumar, Steno (Now Inspector)	21.01.69
05	Shailendra Kumar, STA (Now Inspector)	15.08.56
06	Ram Nath Ram, STA (Now Inspector)	02.01.66
07	K.K.P. Verma, STA (Now Inspector)	07.01.55
08	Laxmi Kant Mahito, Steno (Now Inspector)	02.11.70
09	Edward Anthony, STA (Now Inspector)	16.07.55
10	Pradeep Kumar Patra, Steno (Already Ad-hoc Inspector)	08.01.72

केन्द्रीय प्रशासनिक
Central Administration
18
गुवाहाटी न्यायपीठ
Guwahati Bench

Further, Shri Satyendra Prasad, Senior Tax Assistant, Central Excise (H), Patna is hereby also promoted to the grade of Inspector in the pay-scale of Rs. 6500-200-10,500/- plus other allowances purely on ad-hoc basis with effect from the date he assumes the charge of the higher post till further order.

- The above promotion order is subject to any clarification/guidelines/Order from Board/Ministry/CAT/Court in this regard.
- THE INTER-SR-SENIORITY OF THE OFFICERS PROMOTED TO THE GRADE OF INSPECTOR VIDE THIS OFFICE ESTABLISHMENT ORDERS SINCE THE YEAR 1998 ONWARDS INCLUDING ABOVE PROMOTED OFFICERS WILL BE DECIDED SEPARATELY AND ON MERITS OF EACH CASE.
- In case any officer(s) on deputation decide(s) to revert from deputation, the requisite number of slot(s) shall be made available for him/them by reversion of appropriate number of officer(s) to the feeder grade.
- Consequent upon this promotion order in the grade of Inspector, all the above promoted officers will remain at their present places of posting till further orders as Inspector, Central Excise and Customs with immediate effect.

[Signature]
Joint Commissioner (P&V)
Central Excise :::: Patna.

*Attended
Mita
dow*

do not require to be approved by the Commission, the date of Commission's letter forwarding fair copies of the minutes duly signed by the Chairman of the DPC or the date of the actual promotion of the officers, whichever is later, should be reckoned as the date of regular promotion of the officer. In cases where the Commission's approval is also required, the date of UPSC's letter communicating its approval or the date of actual promotion of the officer, whichever is later, will be the relevant date. In all other cases, the date on which promotion will be effective will be the date on which the officer was actually promoted or the date of the meeting of the DPC, whichever is later. Where the meeting of the DPC extends over more than one day the last date on which the DPC met shall be recorded as the date of meeting of the DPC.

Appointments to posts falling within the purview of ACC can, however, be treated as regular only from the date of approval of ACC or actual promotion, whichever is later, except in particular cases where the ACC approves appointments from some other date.

[*Relief of official on promotion.*— After careful consideration of the demand that a time-limit may be prescribed within which an official must be relieved of his duties from lower post on his promotion to higher post and having regard to the relevant factors, it is directed that Government servants ordered for promotion should be relieved immediately on receipt of the relevant orders of promotion. In exceptional circumstances where the retention of the official in the lower post is felt absolutely necessary in exigencies of services, the fact may be brought to the notice of the controlling officers and orders sought for retention for a specific period ranging from 1-3 months depending on the merits of each case. While doing so, it should specifically be brought to the notice of the controlling officer that the delay in relieving the officer will cause him pecuniary loss so that the retention may be avoided as far as possible.]

The matter has been raised again by the Staff Side in the National Council (JCM) and it has been decided to reiterate these instructions. It has also been decided to fix responsibility on controlling authority for relieving of the Government servant within the period of three months in any case.

Refusal of promotion

17.12 When a Government employee does not want to accept a promotion which is offered to him, he may make a written request that he may not be promoted and the request will be considered by the appointing authority, taking relevant aspects into consideration. If the reasons adduced for refusal of promotion are acceptable to the appointing authority, the next person in the select list may be promoted. However, since it may not be administratively possible or desirable to offer appointment to the persons who initially refused promotion, on every occasion on which a vacancy arises,

1. G.I., Dept. of Per. & Trg., O.M. No. 16/790-Estt. (Pay-1), dated the 9th September, 1992 and 20th March, 1995.

13

ANNEXURE →

PROMOTIONS

during the period of validity of the panel no fresh offer of appointment on promotion shall be made in such cases for a period of one year from the date of refusal of first promotion or till a next vacancy arises, whichever is later. On the eventual promotion to the higher grade, such Government servant will lose seniority vis-a-vis his juniors promoted to the higher grade earlier irrespective of the fact whether the posts in question are filled by selection or otherwise. The above-mentioned policy will not apply where *ad hoc* promotions against short-term vacancies are refused.

[In cases where the reasons adduced by the officer for his refusal for promotion are not acceptable to the appointing authority, then he should enforce the promotion of the officer and in case the officer still refuses to be promoted, then even disciplinary action can be taken against him for refusing to obey his order.]

Validity of a panel

17.13.1 The panel for promotion drawn up by DPC for 'selection' posts would normally be valid for one year. It should cease to be in force on the expiry of a period of one year and six months or when a fresh panel is prepared, whichever is earlier.

17.13.2 The date of commencement of the validity of panel will be the date on which the DPC meets. In case the DPC meets on more than one day, the last date of the meeting would be the date of commencement of the validity of the panel. In case the panel requires, partially or wholly, the approval of the Commission, the date of validity of panel would be the date (of Commission's letter) communicating their approval to the panel. It is important to ensure that the Commission's approval to the panel is obtained, where necessary, with the least possible delay.

Review of panels

17.14 The 'select list' should be periodically reviewed. The names of those officers who have already been promoted (otherwise than on a local or purely temporary basis) and continue to officiate should be removed from the list and rest of the names, if they are still within the consideration zone, along with others who may now be included in the field of choice should be considered for the 'select list' for the subsequent period.

PART - VI

REVIEW DPCs

When Review DPCs may be held

18.1 The proceedings of any DPC may be reviewed only if the DPC has not taken all material facts into consideration or if material facts have not been brought to the notice of the DPC or if there have been grave errors in the

1. G.I., D.P. & A.R., O.M. No. 22034/3/81-Estt. (D), dated the 1st October, 1981.

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procedure followed by the DPC. Thus, it may be necessary to convene Review DPCs to rectify certain unintentional mistakes, e.g.,—

- (a) where eligible persons were omitted to be considered; or
- (b) where ineligible persons were considered by mistake; or
- (c) where the seniority of a person is revised with retrospective effect resulting in a variance of the seniority list placed before the DPC; or
- (d) where some procedural irregularity was committed by a DPC; or
- (e) where adverse remarks in the CRs were toned down or expunged after the DPC had considered the case of the officer.

These instances are not exhaustive but only illustrative.

Review DPC only if the change in the number of vacancies will result in exclusion of any person(s) empanelled by the original DPC.—The Union Public Service Commission has expressed a doubt as to whether it is necessary to hold review DPC in cases where excess number of vacancies were reported to DPC which resulted in an inflated zone of consideration leading to consideration/empanelment of employees who would not have been covered by the zone of consideration, if the vacancies had been reported accurately. The basis of doubt is that, the situation has not been specifically enumerated in Para. 6.4.2 or Para. 18.1 of the O.M., dated 10-4-1989.

3. In this connection, it is clarified that the situations enumerated in the aforesaid Paras. (6.4.2 and 18.1) are only illustrative and not exhaustive. As already mentioned in Para. 18.1 of the said OM, the primary objective of holding a review DPC is to rectify any mistake that took place at the time of holding of the original DPC. Over-reporting of vacancies is also one of the mistakes which needs to be rectified by holding a review DPC. Therefore, the provision made in Para. 18.1 was/is required to be read to cover this situation also. However, it is directed that in the case of over-reporting of vacancies, a review DPC may be held only if the change in the number of vacancies would result in exclusion of any person(s) empanelled by the original DPC, on account of over-reporting of vacancies which led to inflated zone of consideration. As such, no review DPC need be convened where it may prove to be an infructuous exercise.

[G.I., Dept. of Per. & Trg., O.M. No. 22013/1/97-Estt. (D), dated the 13th April, 1998.]

AUTHORS' NOTE.—Non-reporting of vacancies due to error or omission — See Para. 6.4.2 (ii).

Scope and procedure

18.2 A Review DPC should consider only those persons who were eligible as on the date of meeting of original DPC. That is, persons who became eligible on a subsequent date should not be considered. Such cases will, of course, come up for consideration by a subsequent regular DPC.

Further, the review DPC should restrict its scrutiny to the CRs for the period relevant to the first DPC. The CRs written for subsequent periods should not be considered. If any adverse remarks relating to the relevant period were toned down or expunged, the modified CRs should be considered as if the original adverse remarks did not exist at all.

18.3 A Review DPC is required to consider the case again only with reference to the technical or factual mistakes that took place earlier and it should neither change the grading of an officer without any valid reason (which should be recorded) nor change the zone of consideration nor take into account any increase in the number of vacancies which might have occurred subsequently.

Cases where adverse remarks have been expunged or toned down

18.4.1 In cases where the adverse remarks were toned down or expunged subsequent to consideration by the DPC, the procedure set out herein may be followed. The appointing authority should scrutinize the case with a view to decide whether or not a review by the DPC is justified, taking into account the nature of the adverse remarks toned down or expunged. In cases where the UPSC have been associated with the DPC, approval of the Commission would be necessary for a review of the case by the DPC.

18.4.2 While considering a deferred case, or review of the case of a superseded officer, if the DPC finds the officer fit for promotion/confirmation, it would place him at the appropriate place in the relevant select list/list of officers considered fit for confirmation or promotion after taking into account the toned down remarks or expunged remarks and his promotion and confirmation will be regulated in the manner indicated below.

18.4.3 If the officers placed junior to the officer concerned have been promoted, he should be promoted immediately and if there is no vacancy, the junior most person officiating in the higher grade should be reverted to accommodate him. On promotion, his pay should be fixed under FR 27 at the stage it would have reached, had he been promoted from the date the officer immediately below him was promoted but no arrears would be admissible. The seniority of the officer would be determined in the order in which his name, on review, has been placed in the select list by DPC. If in any such case a minimum period of qualifying service is prescribed for promotion to higher grade, the period from which an officer placed below the officer concerned in the select list was promoted to the higher grade, should be reckoned towards the qualifying period of service for the purpose of determining his eligibility for promotion to the next higher grade.

18.4.4 In the case of confirmation, if the officer concerned is recommended for confirmation on the basis of review by the DPC, he should be confirmed and the seniority already allotted to him on the basis of review should not be disturbed by the delay in confirmation.

at

ANNEXURE → G

To,

The Commissioner of
Central Excise,
Shillong (Meghalaya).

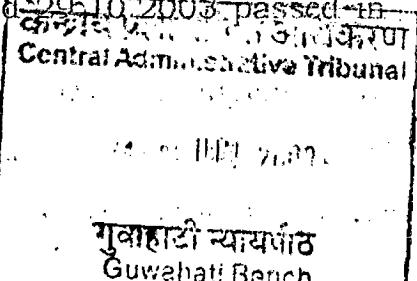
(Through Proper Channel)

Sub: - Prayer for immediate implementation of the judgment and order dated 29.10.03, passed in O.A. No. 406/02 (Dipankar Datta Vs. Union of India & Ors.).

Respected Sir,

I like to draw your kind attention on the subject cited above and further beg to state that the undersigned being aggrieved for not permitting to appear before the interview/selection which was scheduled to be held on 29th and 30th December '2002 for promotion to the post of Inspector Group 'C' (Executive) pursuant to Memo No: C. No. II (3) 2/CON/92/1576-121 dated 24.12.2002, approached the learned CAT Guwahati Bench through O.A. No. 406/2002 and the learned Tribunal vide its order dated 27.12.2002 allowed me to appear before the interview/selection as stated above. Pursuant to the said order dated 27.12.02 of the learned Tribunal I have been allowed to appear in the interview/selection held on 29th and 30th December '2002. By the order dated 27.12.2002 the learned Tribunal further directed not to declare the result of the said examination until further order.

The learned Tribunal vide its order dated 29.10.03 allowed the said Original Application following decision of the Chandigarh Bench and Madras Bench of learned CAT which dealt with similar issues with the similarly situated employees like me, by the order dated 29.10.2003 the learned Tribunal allowed my application and directed to complete the exercise as expeditiously as possible within a period of 3 months from the date of receipt of the order dated 29.10.03. Although the order was duly submitted and communicated but no action was initiated for compliance of the Hon'ble Tribunal's order dated 29.10.2003 passed in



Attested
Datta
Adh

O.A. No. 406/02, as a result consideration of my promotion to the post of Inspector Group 'C' has been withhold since December '2002 and as such the undersigned is incurring financial loss as well as service prospects. Therefore you are requested to declare the result of the undersigned by opening the sealed cover if any and grant me promotion to the cadre of Inspector Group 'C' with all consequential service benefit.

In this connection it may further be stated that similar judgment passed by the CAT Mumbai Bench, namely; O.A. No. 918/2002 and O.A. No. 1113/2002 were carried on appeal before the Mumbai High Court challenging the validity and legality of the judgment of the CAT, Mumbai Bench. However the Hon'ble Mumbai High Court on scrutiny of materials on record upheld the judgment of the CAT, Mumbai Bench.

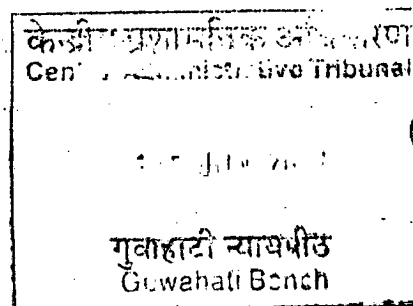
In the facts and circumstances stated above you are requested for declaration of the result of the undersigned as well as for passing of necessary order of promotion of the undersigned to the post of Inspector Group 'C' by opening the sealed cover if any in compliance of the learned CAT, Guwahati Bench order dated 29.10.03 in O.A. No. 406/02. An early action in this regard is highly solicited.

Encls: -

Copy of the order dated
27.12.02 and 29.10.03 and
Bombay High Court judgment dated
17.10.03.

Yours sincerely

Date: 22/4/04



(DIPANKAR DATTA)

The Commissioner,
Central Excise,
SHILLONG.

Subject : **Representation for promotion to the Grade of Inspector Group 'C' as per judgment & order dated 29-10-2003 in O.A. No.406/2002 of Hon'ble CAT, Guwahati Bench [Dipankar Dutta & 2 Ors. Vs U.O.I. & Ors.] – Regarding.**

Sir,

Most respectfully and with humble submission I would like to inform your honour that I have joined in this Department in the Grade of Data Entry Operator (Grade 'A') in the year 1994 and in the year 2001 I was promoted to the Grade of Data Entry Operator (Grade 'B') in the pay scale of Rs.4500-125-7000.

As per C.NO.I(9)1/ET-I/2002/42055-88 dated 27-11-2002 my seniority in the re-designated post of Sr. Tax Assistant was fixed at the serial No.17 (copy enclosed) whereas candidates whose name appeared below my Sl.No. were called for interview/selection for promotion to the grade of Inspector vide C.NO.II(3)2/CON/92/1576-121 dated 24-12-2002. My candidature was totally ignored. Aggrieved upon not being called for interview we approached to the Hon'ble CAT, Guwahati Bench through O.A. No.406/2002. Hon'ble CAT vide its interim order dated 27.12.2002 has directed to the department to allow me to appear before the said Physical Fitness Test/ Interview and not to declare to result until the case is finally disposed. Result of the others candidates were declared vide Estt. Order No.205/2002 dated 31st December, 2002 and 29 candidates were promoted. Among them 15 were junior to me. (copy enclosed) which by any norms is unjustified and denial of justice to me.

Meanwhile our seniority in the grade of Sr. Tax Assistant was fixed vide Estt. Order No.61/2003 dated 18-02-2003 and we were asked to assume charge as Sr. Tax Assistant w.e.f. 20-01-2003. (copy enclosed)

But surprisingly again, on 17-10-2003 vide C.NO.II(3)2/CON/92/1647-62 candidates junior to me above mentioned seniority list were called for interview/ selection scheduled on 23-10-2003 for promotion to the grade of Inspector (Central Excise), ignoring our candidature (copy enclosed). Results were declared and 33 candidates were promoted to the grade of Inspector (Central Excise). Among them 28 candidates were junior to me also candidate who did not clear Departmental Examination was also promoted on ad-hoc basis (namely Smti. Shakuntala Basumatary). [copy enclosed]

Hon'ble CAT, Guwahati Bench vide its final order dated 29-10-2003 observed that the matter being all India phenomenon and already covered under orders of various other Benches of CAT directed the Department to consider me for promotion to the grade of Inspector and complete the exercise as expeditiously a possible preferably within a period of three months.

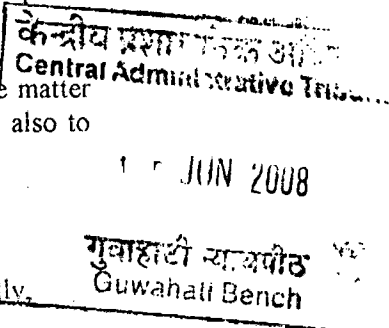
But till date no action has been initiated in this respect. It is pertinent to mention herein that the C.B.E.C. vide his F.NO.C-18013/25/2004.AD.III.A dated 04th October, 2004 has directed the Commissionerate's to implement the judgment of various Benches of CAT and pursuant to it (copy enclosed). Our counterparts in Delhi-I, Chandigarh, Mumbai, Madras and various other Commissionerate's have already been extended the benefit of the judgment of the various Benches of CAT and have already been promoted to the grade of Inspector Group 'C'. (copy enclosed)

In view of the above, I would therefore, request you kindly look into the matter and declare my result of the interview held on 29th & 30th December, 2002, if any, and also to implement the judgment and order dated 29-10-2003 of Hon'ble CAT, Guwahati Bench.

An early action of your honour is highly solicited.

Yours faithfully,

(DIPANKAR DUTTA)
Sr. Tax Assistant



*Submitted
Dutta
Adm*

To
The Commissioner,
Central Excise,
Shillong.

Subject :- Representation for promotion to the grade of Inspector (Central Excise) as per judgment & order dated 29-10-2003 in O.A. No. 406/2002 of Hon'ble CAT, Guwahati Bench [Dipankar Dutta & 2 others. Vs. U.O.I. & others.] - Regarding.

Sir,

I beg to request you kindly to refer to my earlier representations dt. 28.3.2005 and 16.5.2005.

That Sir, as per meeting and discussion held on your honour's chamber on 16.5.2005 I was given a positive assurance that the matter would be looked into and necessary action would be taken as early as possible.

That Sir, it is almost 3 years now that I have been deprived of promotion for the first time on 24.12.2002 and almost 2 years that for the second time on 17.10.2003 and hon'ble CAT, Guwahati Bench on 29.10.2003 has given the judgment and order for completing the exercise as expeditiously as possible. It may be mention here that as many as 43 junior colleagues were promoted in the two exercises.

That Sir, it is already a setback that my junior colleagues are promoted and now working as Inspector for more than 2 years in a higher scale of 6500-200-10500 and I had to carry with scale of 5000-150-8000 for more than two years. Thus, the financial loss I had to incur is too much.

That Sir, one can easily understand the level of frustration and mental agony one goes through when put into such a situation.

That Sir, our colleagues in other Commissionerates who were put into similar situation were already promoted and are now working as Inspector (Central Excise). [copy of promotion order of Chandigarh Commissionerate is enclosed.]

That Sir, in view of the circumstances as explained above I would request your honour to look into the matter and order for early settlement of the matter.

With regards,

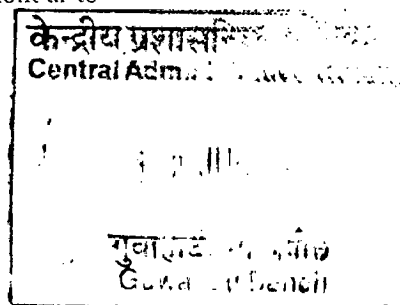
Yours faithfully,

Dutta 5/9/05

(DIPANKAR DUTTA)

Sr. T.A.

O/o the Commissioner (Appeals)
Central Excise, Guwahati



Encl : as above

*Noted
Dutta
Adv*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

IN THE MATTER OF :

O.A. No.129/2007

Shri Dipankar Dutta & Others

.....Applicant

- Versus -

Union of India & Ors.

.....Respondents

- AND -

IN THE MATTER OF :

Addl. Written statement submitted by the Respondents

No.

ADDL.WRITTEN STATEMENT

The humble answering respondents
submit their written statement as
follows :

1.(a) That I Asok Kumar Mandal, s/o Late
Jiten Prakash Mandal, R/o Brahmaputra Apartment, Patkora-

and Respondents No. _____ in the above case and I have gone through
a copy of the rejoinder served on me and have understood the contents
thereof. Save and except whatever is specifically admitted in the
additional written statement, the contentions and statements made in
the rejoinder may be deemed to have been denied. I am competent and
authorized to file the statement on behalf of all the respondents.

2. That with regard to the statements made in paragraphs 1 of
the rejoinder, the answering Respondents beg to state that the

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Filed by
Asok Kumar Mandal
through
M.M. Mandal Case
Addl Case 29/8/2008

Received
Dutta
29/08/08

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गुवाहाटी न्यायापीठ
Guwahati Bench

contentions of the applicant is ~~not correct. It is once~~ again reiterated that the Ministry vide letter F.No.A-11019/72/99.Ad.IV dated 19.7.2001 was issued only to create the posts. The DEOs and Ministerial cadres can be treated to be in these grades only after coming into effect of the Recruitment Rules. The Draft Recruitment Rules was published by Ministry on 28.10.2002 and accordingly a proposed merger of Tax Assistant and DEO Gr. 'B' in the grade of Senior Tax Assistant was issued. The same was finalized only when Ministry has published the Central Excise & Customs Department Senior Tax Assistant (Gr. 'C' posts) Section (1) of the Gazette of India vide G.S.R. No. 39(e) dated 20.01.03. Consequently this office vide Estt. Order dated 18.2.2003 has re-designated the cadre of Tax Assistant and DEO Gr. 'B' w.e.f. 20.01.2003. i.e. the date of issue of Recruitment Rules.

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Remade by
A.S.R.

Moreover, the petitioners have filed an appeal in Hon'ble CAT, Guwahati Bench without waiting for issue of Notifications in respect of above mentioned Draft Recruitment Rules and claimed that they were eligible and qualified for selection to the post of Inspector, Customs & Central Excise as per Clause (b) (1) of the schedule given in draft Recruitment Rules. The then DEO Gr. 'C' and DEO Gr. 'B' continued to exist and function with the same nomenclature and no re-designation order in respect of these posts were issued then. The new cadre of Senior Tax Assistant has come into existence w.e.f. 20.01.2003. Thus it may be well assumed that the Hon'ble CAT was kept in the dark by suppressing the facts.

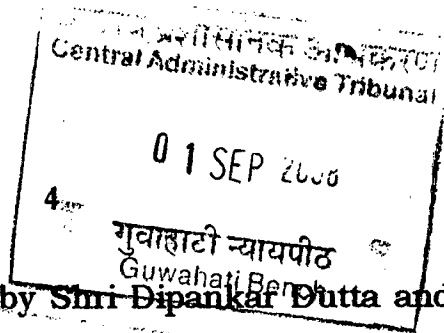
3. That with regard to the statements made in paragraph 2 of the rejoinder, the answering Respondents beg to state the Note 1 given under Column 12 of the schedule to the Recruitment Rules for the post of Inspectors stipulates that promotion under Clause (a) shall only be for

গুৱাহাটী ন্যায্যপীঠ
Guwahati

Asst Curator

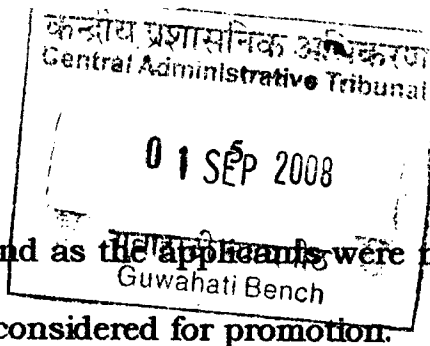
- (i) Prior to Cadre restructuring, DEOs could move only in their own line of promotion. Under cadre restructuring they have been brought in the Ministerial stream for the first time and as such they cannot claim that the benefits which were available to them earlier have been denied.
- (ii) After Cadre restructuring under which new nomenclature to the Ministerial Officers has been laid down, eligibility for promotion from the Ministerial grade to the Executive grade is to be based on the service rendered in the Ministerial grade under the new nomenclature. Based on this principle all officers who are placed in the new grade of Sr. Tax Assistant after completion of 2 years of service in this grade will be eligible for promotion without distinction of the stream from which they have come to this grade.
- (iii) During this intervening period of 2 years the benefits which were available to Ministerial officers prior to Cadre restructuring cannot be denied as such it would be necessary to keep in operation the earlier eligible clauses for this intervening period of 2 years. In fact, in all Cadre restructuring exercises of this nature benefits available prior to restructuring should not normally be denied.

4. That with regard to the statements made in paragraph 3 of the rejoinder, the answering Respondents beg to state that during the



pendency of O.a.406/2002 filed by Shri Dipankar Dutta and others the CAT vide interim order dated 27.12.2002 directed the respondents to allow the applicants to appear before the interview/selection to be held on 29th and 30th December 2002 for consideration of promotion to the post of Inspector provisionally and the result shall be subject to outcome of this application. In pursuance of the interim Order dated 27.12.2002 of CAT, Guwahati Bench in O.A. No.406/2002, Shri Dipankar Dutta, Shri Hemankar Roy and Shri Rajat Subhra Sengupta were also called along with others for the physical Test and the interview held on 29th and 30th December 2002 for consideration for promotion to the post of Inspectors but were found "unfit" for promotion to the post of Inspector. The CAT vide order dated 29.10.2003 declared the applicants eligible for consideration for promotion and directed to consider them along with other feeder categories for promotion to the said post in accordance with the rules. It may be mentioned here that till date there has been no promotion to the post of Inspector due to want of vacancies. As and when vacancy will arise, their case will be considered as per rules.

The Hon'ble CAT, may be aware of the fact that prior to Cadre Restructuring the DEOs were confined to the job of Computer Data Entry only. They were not exposed to procedural and legal matters which come up for consideration in the Department, to which Ministerial officers are exposed, while working in the Department. Perhaps, considering that the DEOs need to acquire the experience of Department. Perhaps, considering that the DEOs need to acquire the experience of Departmental working before they could be considered eligible for promotion in the higher grade, the Ministry vide its letter dated 8.10.2003 has granted one time relaxation of 2 years in qualifying service to all officials in the pre-restructured cadre eligible for promotion to the



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grade of Inspector, and as the applicants were not covered by the above clause they were not considered for promotion.

The other point which has been agitated is to hold review DPC and to consider the promotion of the applicants along with other officers who have been promoted in the year 2003. It will be pertinent to mention here that the proceedings of any DPC may be reviewed only, if the DPC has not taken all material facts into consideration or, if material facts have not been brought to the notice of the DPC or, if there have been grave errors in the procedure followed by the DPC. It is evident from above that the DPC was held as per the prescribed guidelines and as such there was no procedural lapse whatsoever, on the part of the DPC. Thus the question of review DPC in the instant case does not arise and hence it may be well assumed that the application is misconceived of facts and ill conceived of law.

5. That with regard to the statements made in paragraph 4 of the Application, the answering Respondents beg to state that the petitioners were personally informed about the non-availability of vacancy in the grade of Inspector and was also told that as and when vacancies for promotion arises their case will be considered as per law. But no official letters were issued to them.

6. That the application is devoid of any merit and deserved to be dismissed.

7. That this reply has been made bona fide and for the ends of justice and equity.

It is therefore humbly prayed before this Hon'ble Tribunal that the present application filed by the applicants may be dismissed with cost.

VERIFICATION

I, A.K. Kumar Mandal

Son of Late Gitanandhan - Mandal aged about 59
years, resident of Bachanaputra Apartment Patkhar Gany
working as Deputy Commissioner, C. & Excise, Guwahati

duly authorized and competent officer of the answering respondents
to sign this verification, do hereby solemnly affirm and verify that the
statements made in Paras 1, 5, 6 & 7 are true to my knowledge,
belief and information and those made in Para 2, 3, 4 being
matters of record are true to my knowledge as per the legal advice
and I have not suppressed any material facts.

And I sign this verification on this 6th day of July 2008 at

Guwahati

A.K. Kumar Mandal

A.K. Mandal-II
Dy. Commissioner
Central Excise, Guwahati