

26

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A/T.A No. 16/2007
R.A/C.P No.
E.P/M.A No.

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16. Counter Reply.....

SECTION OFFICER (JUDI.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 16/07
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) P. B. Das 7012 VS Union of India & Ors

Advocate for the Applicant(s) S. Saurav, Mr. B. Devi

Mr. H.K.Das

Advocate for the Respondent(s) Sr. Case - G-Boarding

Notes of the Registry	Date	Order of the Tribunal
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Application is in form
of O.A. No. 501/2004
Dated 22.2.05
286.9258.96
26.1.07
Heels
C. Registrar
22.2.07
Petition's copy to
Respondents submitted with
envelops for issue notice.

23.2.07. This is a second round of litigation. There are six applicants and they have sought retrospective promotion to the cadre of Officer Surveyor. Earlier the applicants have filed O.A.No.151 of 2004. This Tribunal has passed an order dated 18.08.2005 operative portion of which is as follows:

"We do not find any rules which prohibits such retrospective promotions of regular promotion at least from that date is against justice, equity and good conscience. Such action is unreasonable and unjustified. However, the respondents are directed to arrange for a Review DPC. If the applicants are promoted to the post of officer Surveyor with retrospective effect from the date of their adhoc promotion based on the Review DPC the official respondents will fix the inter se seniority of the applicants."

contd-

23.02.07

The applicants have challenged the impugned order dated 15.02.2006, wherein the respondents have stated that even if regular DPC were convened on 23.7.98 i.e. the date of adhoc promotion the said DPC could have considered only 22 vacancies, in which case the applicants were not eligible to be included for promotion. The counsel for the applicant has submitted that if such statement is made in the impugned order against the facts, she will be able to convince the Court with documental evidence whether the applicants are eligible or not to be considered for their promotion.

① Service report awaited.

23
5.4.07.

Issue notice on the respondents. The applicant will take process for private respondents.

Post the matter on 9.4.07.

Vice-Chairman

lm

23. 4.07

Counter reply filed 16.5.2007 by Respondent No. 5, page 1 to 24. Service copy kept in 'C' file.

23

Mr. H.K.Das, learned counsel for the Applicant is present. Mr. G. Baishya, learned Sr. C.G.S.C. sought further time to file reply statement. Accordingly, four weeks' time is allowed.

Post on 18.06.2007.

Vice-Chairman

18.6.07.

① Counter reply filed by R. No. 5.
② No 1015 filed by R. No. 1 to 4 & 6.

At the request of learned counsel for the respondents further four weeks time is granted to the respondents to file written statement. Post the matter on 27.7.2007.

Vice-Chairman

OA-16/07

20.7.2007

Let the case be posted on 13.8.2007.

In the meantime the Respondents other than 5th Respondent are at liberty to file reply statement.

Counter reply filed
by R.No. 5.

② No W.Ls filed by
R.No. 1 to 4 & 6.

Vice-Chairman

My
12.9.07.

/bb/

13.9.07

11-10-07
① W.Ls filed by R-5 (Plz. Repd)
② No W.Ls from the other Respondents.

On

pg

12.10.07.

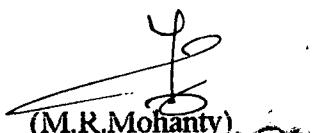
Respondent No.5 has already filed the Written statement. The other Respondents ^{have} ~~are~~ not filed their Written Statement as yet.

Call this matter on 04.12.07. Mr.G.Baishya, learned Sr.Standing Counsel appearing for the Respondents undertakes to file written statement.

① W.Ls filed by R.No.5.
② No W.Ls from the other Respondents.

My
3.12.07.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

04.12.2007.

Mr. H. K. Das, learned counsel for the

Applicant is present. In this matter, the Respondents No.5 (Anand Kumar) has already filed Counter Affidavit, since 18th April 2007. It appears that the copy of the same has not been served on the Applicant/Counsel for the Applicant.

Respondent No.5 is called upon to serve the copy of the Counter Affidavit on the Applicant/Counsel for the Applicant and also on the Sr. Standing Counsel for the Union of India (Mr.G.Baishya,) well before the next date.

Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Union of India undertakes to file Written Statement for the official Respondents in course of the day. He should serve the copy of the Written Statement on the Applicant and on the ~~first~~^{Co-} Respondents by the next date.

Call this matter on 09.01.2008.

Send copies of this order to Respondent No.5 in the following Address given in the original application:-

Shri Anand Kumar,
S/O Shri Chhanga Ram,
R/O Badripur (Tillwari), I.I.P.,
Mohkampur, Dehra Dun -248005
(Uttarakhand)

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

Im

09.01.2008 Written statement for the official Respondents is filed in Court today, after serving a copy thereof on the learned counsel for the Applicant. Mr.H.K.Das, learned counsel appearing for the Applicant, seeks more time to file rejoinder. Prayer is allowed.

Call this matter on 04.02.2008 awaiting rejoinder from the Applicant.

16.1.08
W/S submitted
by the Respondents.
Copy served.


(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

/bb/

Rejoinder not
filed.

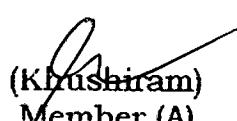
05.02.2008

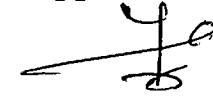
No rejoinder has been filed in this case as yet by the Applicant.

Call this matter on 27.2.2008 awaiting Rejoinder from the Applicant.

33
4.2.08.
Rejoinder not
filed;

Lm


(Khushiram)
Member (A)

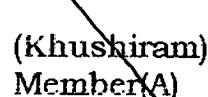

(M.R.Mohanty)
Vice-Chairman

33
26.2.08.

27.02.2008

The Respondents have filed this Application for extension of time for implementation of the judgment and order dated 02.07.2007 in O.A.294 of 2005.

Call this matter on 19.03.2008.


(Khushiram)
Member (A)

O.A. 16/07

27.02.2008 Mr. H. K. Das, learned counsel for the Applicant has filed rejoinder after having served the copy to the Sr. Standing counsel appearing for the Respondents. Copy of the rejoinder may also be sent to all the private respondents also on the ~~the post~~ ^{the post} for which shall be supplied by the ~~Applicant~~ ^{Applicant}. Counsel for the Applicant has stated that the Respondents have not responded to the initial notice but that can not be ~~reason~~ ^{reason} not to keep them informed of the developments in the case. Call this matter on 10.04.2008.

lm

(Khushiram)
Member (A)

O.A.16 of 07

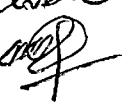
27.02.2008 Mr. H. K. Das, learned counsel for the Applicant has filed rejoinder after having served the copy to the Sr. Standing counsel appearing for the Respondents. Copy on the rejoinder may also be sent to all the private respondents also on the address given in the O.A. the postage for which shall be supplied by the Applicant. Counsel for the Applicant has stated that the Respondents have not responded to the initial notice but that can not be reason not to keep them informed of the developments in the case.

7.3.08
Rejoinder filed
by the Applicant.
Copy served.


Call this matter on 10.04.2008.

lm

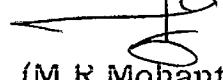
(Khushiram)
Member (A)

Received


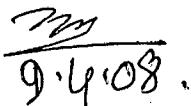
30.05.2008. 2008 Divisional Bench matter. Hence adjourned

to be taken up on 26.06.2008 for hearing.


(Khushiram)
Member(A)

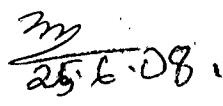

(M.R. Mohanty)
Vice-Chairman
Member (A)

The case is ready
for hearing.


lm

30.05.2008 Division Bench matter. Hence adjourned
to be taken up on 26.06.2008 for hearing.

The case is ready
for hearing.


26.6.08.

/bb/


(Khushiram)
Member (A)

26.06.08 None appears for the Applicant nor
the Applicant is present. However, Mr
G.Baishya, learned Sr. Standing
counsel for Respondents is present.

Call this matter on 08.07.2008 for
hearing.


(M.R. Mohanty)
Vice-Chairman

-t - } UT-16/87

08.07.08

Mr S. Sarma, learned counsel for the

Applicant and Mr G.Baishya, learned

Mr. Standing counsel are on

accommodation.

Call this matter on 19.08.2008 for

hearing.

300-1200-000
18.08.2008

time. *as and so*

R.C.Panda
Member(A)

(M.R. Mohanty)
Vice-Chairman

19.08.2008

Mr. H. K. Das, learned Counsel

appearing for the Applicant, is on
the 11th May, 1861.

accommodation. However, Mr. G. Dasgupta, the I.A.S. Officer, has

learned Sir. Standing Counsel for the Union

of India, is present.

Ca

hearing.

23/03/2013 11:57

John C. Stennis

(Khushiram)

Member(A)

(M.R. Mohanty)
Visa Chairman

19.09.2008

Mr H. Das, learned Counsel appearing for the Applicant, and Mr G. Baishya, learned Sr. Standing Counsel for the Union of India, are present.

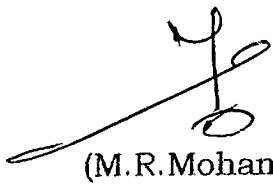
Call this matter on 24.11.2008 for hearing.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

24.11.2008

Call this matter on 9 of 07th
January, 2009.


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.

1m

12.01.2009

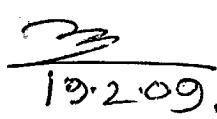
Mr. H.K. Das, learned Counsel
appearing for the Applicant, is present. Mr
G. Baishya, learned Sr. Standing Counsel
for the Union of India, is also present.

Call this matter on 20.02.2009.


(M.R. Mohanty)
Vice-Chairman

nkm

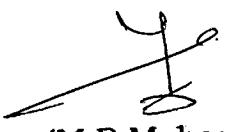
The case is ready
for hearing.


19.2.09.

20.02.2009

None appears for the
Applicant. However, Mr. G. Baishya,
learned Sr. Standing Counsel appearing
for the Respondents is present.

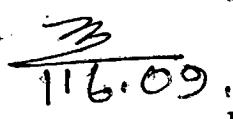
Call this matter on 21.04.2009.

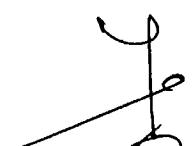

(M.R. Mohanty)
Vice-Chairman

pb.

21.04.2009

Call this matter on 2nd June 2009 for
hearing.

The case is ready
for hearing.

1m


(M.R. Mohanty)
Vice-Chairman

O.A. 16/2007

02.06.2009

Call this matter on 27.07.2009.

The case is ready
for hearing.

3
/bb/

27.07.2009

Call this matter on 07.09.2009 for hearing.

4
(M.R.Mohanty)
Vice-Chairman

The case is ready
for hearing.

3
/bb/

~~(M.K.Chaturvedi)~~
Member (A)

~~(M.R.Mohanty)~~
Vice-Chairman

07.09.2009

On the prayer of counsel for both
the parties, call this matter on 05.11.2009.

The case is ready
for hearing.

3
/bb/
4.11.09

~~(M.K.Chaturvedi)~~
Member (A)

~~(M.R.Mohanty)~~
Vice-Chairman

05.11.2009

The controversy lies in a narrow
campus namely, whether the
applicants are entitled to
retrospective promotion with effect
from 1996 when there has been
increase in cadre strength in the
grade of Officer Surveyor or they are
entitled to seniority from the date
they were regularly appointed.
Admitted facts are applicants in this
case were regularly appointed to
the post of Office Surveyor by the
order dated 16.7.2001. They were
granted ad hoc promotion on the

Contd/-

5.11.09 said grade on 23.7.1998. In 1995 a exercise was undertaken for cadre review and by order dated 20.1.1996 136 posts were created in the grade of Officer Surveyor. Prior to cadre review the sanctioned strength were 359, ^{the same was 495.} With effect from 20.1.1996, The grievance of the applicants is as per the rules of the year 1983 which was also amended by Govt. of India in the year 2001, 75% posts were to be filled up by holding DPC and 25% to be filled by Limited Departmental Competitive Examination (LDCE) as prescribed under the RRs. Applicants grievance is that the respondents filled up 25% posts based on LDCE retrospectively while the same treatment had not been given to the applicants for promotion. Learned counsel for the Respondents contends that applicants were not within the zone of consideration in the year 1988 and therefore they were granted ad hoc promotion which order clearly spelt out that they were ^{wk} entitled to seniority or regularization. The moot question arise for consideration whether different treatment could be given to different modes of appointment namely, promotion by DPC and LDCE.

5.11.09

Let a specific affidavit be filed by the respondents within two weeks from toady.

List on 2.12.2009 for hearing.

It is made clear that no further adjournment will be allowed to the parties.



(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

02.12.2009

Vide detail order dated 5.11.09 respondents were required to file an affidavit on the issue noticed by the said order, which has not been done. This Direction remains uncomplied. Learned counsel for the respondents seeks further time to file affidavit. We noticed that the matter has been heard in detail and comprehensive order was passed on 5.11.09. In the circumstances last and final opportunity is granted to comply with the aforesaid order.

List on 14.12.2009.



(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

Affidavit filed by _____
in Respondent No. _____
1 to 3 in Copy _____
Served _____
- 17/12/09

14.12.2009

Three weeks time is extended as sought for to file an affidavit in terms of order dated 4.11.2009.

List the matter on 04.01.2010.



(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

31.12.09

The case is ready for hearing.

O.A. No. 16 of 2007

04.01.2010 On the request of Mrs. M. Das, learned Sr. CGSC for Respondents, case is adjourned to 13.01.2010.

The case is ready for hearing.

20
12.1.2010

/PB/


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

13.01.2010 On the request of Mrs. M. Das, learned Sr. C.G.S.C for the respondents list on 19.1.2010.


(Madan Kr. Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

/pg/

19.1.2010. A written request has received from the learned counsel for Applicant Mr. H.K. Das, similarly, learned proxy counsel on behalf of Mrs. M. Das, learned counsel for the Respondents states that she has some personal difficulty.

In the circumstances, case is adjourned to 01.2.2010.

The case is ready for hearing.

29
29.1.2010

Received by:

Has
11.2.10.

Received True
copy of the order
of 01.02.2010
M. A. Laskar

/lm/


(Madan Kr. Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

01.02.2010

Heard counsel for the parties.
Hearing concluded.

For the reasons recorded
separately the O.A is allowed.


(Madan Kr. Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

/pg/

9/3/2010

Judgment / Final Order

dated 1/2/2010. Before

and before me I declare

for issuing me all the

defendants by Post and

issued Advocate or both

Sides

vide No 523 to 525

CLONE

dated 09-3-2010

(A.M.)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....
O.A. No. 16 of 2007.

DATE OF DECISION: 01-02-2010.

Shri Patal Bihari Das & Ors.

.....Applicant/s

Mr H.K. Das

.....Advocates for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

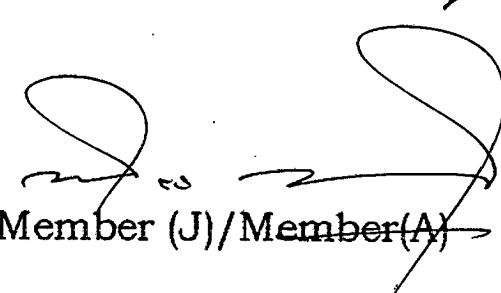
Mrs M. Das, Sr.C.G.S.C

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)
THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)

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


Member (J)/Member (A)

10

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 16/2007.

Date of Order : This the 1st Day of February, 2010.

THE HON'BLE MR MUKESH KUMAR GUPTA, JUDICIAL MEMBER

THE HON'BLE MR M.K.CHATURVEDI, ADMINISTRATIVE MEMBER

1. Shri Patal Bihari Das
2. Shri P. Purkayastha
3. Shri Tushar Kanti Gupta
4. Shri Gakul Ch. Das
5. Shri S. Bamutlang Kharbangar
6. Shri Jaspar Mayboon Nongkhlaw

.....Applicants

All the applicants are presently holding the posts of Officer Surveyor, in the Director, North Eastern Circle, Post Box No. 89, Shillong-793001, Meghalaya.

By Advocate Mr H.K.Das.

-Versus-

1. Union of India
represented by the Secretary to the
Govt. of India,
Dept. of Science and Technology,
Technology Bhawan,
New Delhi-1.
2. The Surveyor General of India
At Hathibarkala Estate,
Dehradoon.
3. The Director,
North Eastern Circle,
Post Box No. 89,
Shillong- 793001, Meghalaya.
4. Sri Saroj Kumar
Uttaranchal GDC, Dehradun,
17, EC Road, Dehradoon 248001.
5. Sri Anand Kumar, DMC,
Survey of India,
NGDC, PB No. 200, Block No. 6,
Hathibarkala Estate,
Dehradoon - 248001.

6. Sri D.S. Meher, CST & MP Campus
Survey of India, Uppal Hyderabad 500039.

7. Sri KPS Sinha,
Survey of India Complex,
Near Magistrate Colony,
Doranda, P.O. Hinoo,
Ranchi – 834002, Jharkhan.

8. Sri B. Patra,
Uttaranchal GDC,
Dehradoon,
17, EC Road, Dehradoon 248001. Respondents

By Advocate Mrs M. Das, Sr.C.G.S.C

ORDER (ORAL)

MUKESH KUMAR GUPTA, MEMBER(J)

Six applicants in this second round of litigation challenge validity of communication dated 15.2.2008 (Annexure-5) rejecting their claim for counting of adhoc service rendered in the cadre of Officer Surveyor. They also seek direction to the respondents to promote/regularise them retrospectively i.e. 30.1.1996 by amending the promotion orders dated 16.7.2001 and consequently recasting the seniority list, so issued. They also seek restrain order to the respondents not to promote the persons to next higher post of Superintending Surveyor, with all consequential benefits.

2. Admitted facts are on earlier occasion, they, including one another person approached this Tribunal vide O.A.151/04 precisely seeking the same relief, as claimed in present O.A. Said O.A has been disposed of vide order dated 18.8.2005 (Annexure-4) requiring the

respondents to verify as to whether the applicants were qualified and eligible for being promoted to the post of Office Surveyor as per rule then existed and consequently regulate the relief so claimed. Initially, the recruitment to said posts were governed by the Recruitment Rules of 1962, which provided 50% of the vacancy to be filled up by Limited Departmental Competitive Examination (LDCE) and 50% by promotions from Class III. Said rule were amended vide Notification dated 27.04.1983 and provided 75% promotion and 25% LDCE. The number of sanctioned strength to said cadre were prescribed as 359. In the year 1996-97 admittedly there were 22 vacant post in said grade. A cadre review had been undertaken in the year 1995 and 136 additional posts were created in said cadre. As no DPC as well as LDCE method had not been resorted to, no recruitment by either mode could be effected. In such circumstances, a meeting was held on 11.9.97 with the Surveyor General of India and members of Officers Surveyors Association wherein it was requested that 136 posts so created by the cadre review be filled up as an interim measure so that the members of the association would get relief from the acute stagnation. Accordingly, keeping in reserve 25% posts meant for LDCE, 124 officials were promoted on ad hoc basis to the post of Officer Surveyor vide order dated 23.7.2998, based on Recruitment rules 1983 against the vacancies for the year 1996-97 and considering 22 earlier vacancies and 102 posts so created out of 136 posts, being the 75% of their share.

3. Their grievance is that there promotion was regularised vide order dated 16.12.2001, and before the said date, the amended

rules were notified vide Notification dated 30.11.2000. Since they had been regularized prospectively, they have suffered in terms of seniority, which is impermissible. Placing reliance on (2004) 1 SCC 245, P.N.Premachandran vs. State of Kerala, Mr H.K.Das, learned counsel for the applicants contended that since there had been administrative lapses for not holding DPC on yearly basis, they cannot be made to suffer for no fault on their part. Reliance was also placed on 1999 (3) GLT 324 Lily Choudhury vs. Zonal Manager, FCI & Ors., wherein it was held that petitioner was entitled to the benefit of ad hoc service. Further reliance was placed on 2003 (3) GLT 10 A.T.Gayakwad vs. Union of India, wherein the Division Bench has concluded that the petitioner was entitled to seniority from the date of ad hoc promotion and the judgment of this Tribunal holding it otherwise had been set aside. Mr Das, learned counsel further contended that by amendment made vide notification dated 30.11.2000, there had been no substantive amendment in the rules, either in the eligibility criteria or mode of promotion. The percentage of posts meant for LDCE as well as promotion as well as their eligibility condition also remain unchanged. What has undergone change is only number of sanctioned strength, which is very insignificant amendment and cannot be a reason for not holding yearwise DPC. It is settled law that DPC should be held yearwise. Thus it was emphasized that the applicants are entitled to relief.

4. By filing reply as well as additional reply the respondents contested the claim stating that there was only 22 vacancy under 75%

promotion quota in the year 1996-97 and the applicants position in the seniority being lower namely, 73, 80, 87, 100, 198 and 201, they would not have fallen even within the zone of consideration. Due to non finalization of the Recruitment Rules for promotion to the grade of Officer Surveyor, after increasing the number of sanctioned strength, DPCs could not be held. No action could be initiated because of a ban on framing/amending RRs. Subsequently in view of the 5th CPC recommendation, the process of amendment in RRs had been undertaken. The amended rules were notified only on 30.11.2000 after consultation with DOPT and UPSC and in the Gazettee Notification post of Officer Surveyor had been shown as 474, instead of 359 shown in the year 1983. Thus it was emphasized by Mrs M. Das, learned Sr. C.G.S.C that applicants are not entitled to any relief. It was further urged that the applicants are estopped from challenging any action as the Association had agreed in the meeting held with the Surveyor General on 11.9.2007 that they should be promoted as an interim measure pending amendment of the RRs.

5. We have heard learned counsel for the parties and perused the pleadings and other materials placed before us. Before proceeding further it would be expedient to note that observation made by this Tribunal vide order dated 18.8.2005, relevant excerpts of which reads as under :

"In the instant case, the respondents themselves realizing the difficulty in making regular promotions to the post of Officer Surveyor created in 1996, have decided to make adhoc promotions and had promoted the applicants and others on adhoc basis in July 1998. If as a matter of fact the applicants were

eligible and entitled to be promoted on the basis of their seniority on the date when adhoc promotions were made the DPC for promotion convened in 2001 ought to have considered the same and the regular promotion of the applicants should have been made from the date from which they were promoted on adhoc basis as Officer Surveyors. We do not find any rules which prohibits such retrospective promotions. Denial of regular promotion at least from that date is against justice, equity and good conscience. Such action is unreasonable and unjustified.

However, it is a matter to the respondents to verify as to whether the applicants were qualified and eligible for being promoted to the post of office Surveyor as per the rules then existed. The competent authority among the official respondents is directed to verify all those matters from the service records of the applicants and if the applicants do satisfy all the required eligibility criteria the respondents will arrange for a review DPC and take a decision in the light of the observations made hereinabove within a period of four months from the date of receipt of this order. If the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their adhoc promotion based on the Review DPC the official respondents will fix the inter se seniority of the applicants without any further delay. No other points deserve consideration." (emphasis supplied).

Examination of the above would reveal that what the respondents were required was to examine as to whether they were "qualified and eligible" for being promoted to the post of Officer Surveyor as per the rules then existed. The promotion "as per the rules then existed" is significant aspect and the entire issue raised in the present case depends upon it. We may note neither the mode of recruitment nor percentage of promotion or LDCE has been changed nor there was any variation in respect of the qualification prescribed under the rules of 1983. Both aspects remains intact. What has been the changed precisely is number of sanctioned strength of the cadre, which aspect in

our considered view is totally insignificant. Generally the sanction strength depicted under Col. 2 in the RRs is dependant on the work load, which varies from time to time. Such number of strength can always be changed and indeed changed by the Govt. in exercise of its executive power by a mere notification. It do not involve the exercise of legislative power. Further this does not require a detail examination or exercise of legislative power. In the circumstances we have no hesitation to hold that the respondents had not convened yearly DPCs which is required under the law, and therefore their action is untenable in law. This is yet another aspect which must be noticed. As far as the recruitment based on LDCE is concerned, we may note that though examination was held in the year 2001 but it was relatable to the years 1997-98, 1999-2000 respectively. We fail to appreciate as to why a totally different and distinct stand has been taken in respect of "promotion". If the persons who is appointed by another mode namely, LDCE could be given ante-dated appointment how the respondents could take totally apposite view, is beyond our comprehension and has not been explained at all.

Accordingly applicants have a justification to contend that the following the rules and law on said subject applicants were entitled to be considered in the year 1996-97 when there had been an increase in the number of vacancies due to cadre re-structuring. We also note that applicants date of birth is namely, 31.1.1948, 5.2.1950, 6.3.50, 1.3.53 and 1.3.59 respectively. As far as the date of birth in respect of applicant No.6 is concerned, it has not been disclosed in the

pleading raised and factually placed on record and therefore we are not able to make any comment. First applicant has attained the age of superannuation during the pendency of present O.A. Two of them namely 2 and 3 are attaining age of superannuation in February and March 2010 respectively.

6. Taking an overall view of the matter, we hold that the applicants are entitled to relief. DPC had not been convened for no fault of the applicants, for which they cannot be made to suffer. Accordingly the respondents are required to regulate the applicants claim with reference to the year 1996-97 by holding review DPC and accordingly amend their promotion order and grant them seniority and promote them to next higher grade also, if any of their junior has been so promoted. However, the applicants will not be entitled to any arrear of pay etc.

Application is accordingly disposed of. Aforesaid exercise shall be undertaken as expeditiously as possible and not later than 3 months from the date of receipt of this order. No costs.

Chaturvedi
(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER

Mukesh
(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

केन्द्रीय प्रशासनिक अदायक दरम
Central Administrative Tribunal

24.11.2007

गुवाहाटी बायपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CONSOLIDATED APPLICATION

O.A. No. 16 of 2007

BETWEEN

Shri Patal Bihari Das and ors

..... Applicants.

AND

Union of India & ors.

..... Respondents.

SYNOPSIS

The applicants in the instant application has raised a grievance against the impugned orders dated 15.2.06 issued to each of the applicants. The impugned orders are not sustainable in the eye of law in as much as same- are violative of the direction issued by the Hon'ble Tribunal vide its judgment and order dated 18.8.05.

28
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CONSOLIDATED APPLICATION

O.A. No. 16 of 2007.

BETWEEN.

Shri Patal Bihari Das and Ors. Applicants.

AND.

Union of India & ors. Respondents.

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Filed by :Miss B.Devi. Advocate.

Regn.No.:

File :D:\PRIVATE\PBDAS

Date : 20.1.07

29
The Applicants
through
Hridip K. Das.
24/1/07

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An Application under section 19 of the Central Administrative
Tribunal Act, 1985)

CONSOLIDATED APPLICATION

16
O.A.No. of 2007.

BETWEEN

1. Shri Patal Bihari Das,
Son of Late Pulir Kumar Das
2. Shri P. Purkayastha,
Son of Late Radha Binod Purkayastha
3. Shri Tushar Kanti Gupta,
Son of Late Srish Kumar Gupta
4. Shri Gakul Ch. Das.
Son of Late Makunda Ram Das.
5. Shri S. Bamutlang Kharbangar,
Son of Late S. Phan Buh.
6. Shri Jaspar Mayboon Nongkhla,
Son of Late N.B. Kharsohnoh.

All the applicants are presently holding the posts of
Officer Surveyor, in The Director, North Eastern Circle, Post Box
No. 89, Shillong-793001, Meghalaya.

..... Applicants.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt. of India,
Dept. of Science and Technology, Technology Bhawan,
New Delhi-1.
2. The Surveyor General of India,
At-Hathibarkala Estate,
Dehradoon.
3. The Director,
North Eastern Circle,
Post Box No. 89,
Shillong-793001. Meghalaya.
4. Sri Saroj Kumar,
Uttaranchal GDC, Dehra Dun,
17, EC Road, Dehra Dun, 248001.
5. Sri Anand Kumar, DMC, Survey of India,
NGDC, PB No.200, Block No.6,
Hathibarkala Estate ,
Dehra Dun, 248001.
6. Sri D.S.Meher, CST & MP Campus,
Survey of India, Uppal Hyderabad, 500039.
7. Sri KPS Sinha, Survey of India
Complex, Near Magistrate Colony, Doranda,
P.O. Hinoo, Ranchi-834002, Jharkhan.
8. Sri B.Patra, Uttaranchal GDC, Dehra Dun,
17, EC Road, Dehra Dun, 248001.

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION
IS MADE:

This application is directed against the identical orders issued vide memo No. C.500/P.F. (Shri P.B.Das, OS) dated 15.2.06 rejecting the claims of the applicants for retrospective promotion to the post of Officer Surveyor.

This application is also directed against the action of the respondents in not convening year wise D.P.C and panel for the 75% quota for promotion to the grade of Officer Surveyor, which has resulted in inordinate delay in effecting promotions in case of the applicants to the grade of Officer Surveyor, keeping the vacancies unutilized for years together.

The applicants through this application also pray for implementation of cadre review held in the year 1996 providing retrospective effect to their promotions to the grade of Officer Surveyor, and to recast their seniority after counting of their adhoc service in the grade of Officer Surveyor from the actual date when the vacancies were surfaced.

This application is also directed against the action on the part of the respondents in providing the undue preference to the promotees belonging to the 25% in excess operation of the said quota depriving the present applicants from their legitimate claim of promotion."

2. LIMITATION:

The applicants declare that the instant application has been filed by the legality and validity of the identical orders dated 15.2.2006 and as such the present OA has been filed well within the period of limitation as prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

That all the applicants are aggrieved by the identical impugned orders and the relief sought for herein are similar. Hence the applicants crave leave of this Hon'ble Tribunal to allow them join together in a single application invoking Rule 4(5)(a) of the Central Administrative Tribunal (procedure) Rules, 1987.

4.1. That the applicants in the instant OA had occasions to approach this Hon'ble Tribunal by filling OA No.151/94 praying for modification of their promotion order to the Cadre of Officer Surveyor towards its effect. They made specific prayer for providing them retrospective effect. They made specific prayer for providing them retrospective effect of such promotions pointing out the fact that due to the cadre Review effected in the year 1995 good number of posts in the cadre of officer Surveyor surfaced. However, due to the inordinate delay in implementation of the cadre Review and consequential utilization of the said post so surfaced the promotion of the applicants to the cadre of Officer Surveyor only w.e.f. 16.7.2001, whereas they were made to handle those posts on ad-hoc basis since 31.7.98. The methodology of adhocism was the basic issue of the OA which the Hon'ble Tribunal held it to be incorrect and illegal vide its

judgment and order dtd. 18/8/05. The Tribunal while dealing with the issue in elaborate term held that there is no prohibition as such in granting the retrospective promotion to the applicants. The applicants brought the judgment to the notice of the respondents with a prayer for implementation of the same. But having found no positive response they had to approach the Hon'ble Tribunal by initiating contempt proceeding which was numbered and registered as C.P 3/06 in which the Hon'ble Tribunal was pleased to issue notice to the contemners thereto. It was during the currency of the contempt proceeding the respondents issued the identical impugned orders dtd. 15/2/06 rejecting the claims of the applicants re-iterating the stand taken in the W.S in O.A No. 151/04.

The contentions raised by the respondents in the impugned communication dtd. 15/2/06 is nothing but the re-iteration of their stand taken in the W.S in O.A No. 151/04 which was duly taken note of by the Hon'ble Tribunal leaving no scope for further interpretation whatsoever. Such an action is in fact contemptuous in nature wherein the respondents have made an attempt virtually to rewrite the said judgment which has attained its finality having not being challenged before any appropriate forum.

The applicants in this O.A have questioned the legality and validity of the afore mentioned identical impugned orders dtd. 15/2/06 being opposed to the settled proposition of law and the rules holding the field. --Hence, this O.A.

Detail facts leading to filing of the present O.A is enumerated below:-

4.2 That the applicants are citizens of India and as such they are entitled to all the rights, privileges and protection guaranteed by the Constitution of India and laws framed thereunder. The grievances raised and the reliefs sought for by the applicants in the instant application are similar and as such the applicants pray before the Hon'ble Tribunal to allow them to join together in a single application invoking Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 to minimize the number of litigation as well as the cost of the application.

4.3 That the rules governing the issue raised by the applicants in the instant OA are highlighted below for ready reference of this Hon'ble Tribunal. The pointed issue presented by the applicants in the OA is relating to their promotion to the Cadre of Officer Surveyor with retrospective effect and its effect thereto and consequential reliefs flown from such retrospectivity.

4.4 That the recruitment rule prevailing during 1962 pertaining to promotion from the Cadre of Surveyor, Geodetic, Computers and Draftsman Division-I provides 50% of such promotion by adopting the method of selection and the remaining 50% by Competitive examination. The relevant portion is quoted below for ready reference:

"50 percent of the vacancies will be filled up by selection on the basis of merit from among specially deserving officers of Class-III (Div.-I) Topographical establishment of Survey of India on the recommendation of the Departmental Promotion Committee. The remaining 50

percent vacancies will be filled up by Competitive examination vide Part-II of the Rules."

The applicants crave leave of the Hon'ble Tribunal for a direction towards the respondents to produce the recruitment rules of 1962 at the time of hearing of the case as the same is not being made available to them in spite of repeated requests.

4.6 That the aforesaid recruitment rules of 1962 in respect of promotion to the Cadre of Officer Surveyor was subsequently superseded by another set of rules. In the year 1983 the respondents published the Gazette notification dtd. 27/10/83 notifying the Recruitment Rule in the name and style "The Survey of India Officer Surveyor Recruitment Rules, 1983". The said Recruitment Rule came into effect w.e.f 27/4/1983. The Rule so far as it is relevant for the enquiry at hand provides as under:

"In case of recruitment by promotion/ deputation/ transfer/ grades from which promotion/ deputation/ transfer to be made.

Promotion

- 1) 75% of promotion quota by selection from Surveyors, Survey Assistants, GODT Computers and Draftsman Div.1 with at least 8 years regular service in the respective grade, including service, if any, rendered in the Selection grade of the above categories of posts.

2) 25% of the promotion quota by limited departmental competitive examination from Surveyors, Survey Asstt's, Scientific Assistants, GODT Computers and Draftsman Div.1 who have passed the Bachelors Degree with mathematics as a subject and 5 years of regular service in respective grade. The examination shall be conducted by the Director, Survey Training Institute, Hyderabad in accordance with the scheme as may be finalized by the Surveyor General of India in consultation with the Deptt. of Science and Technology from time to time. An employee shall avail of not more than 3(three) chance to appear at the said examination during his service period.

The applicants crave leave of this Hon'ble Tribunal for a direction towards the respondents to place the Recruitment Rule of 1983 at the time of hearing of this case.

4.6 The applicants beg to state that in terms of the 1983 Recruitment Rules there are two sets of Officer Surveyor presently serving under the respondents, one belong to 75% quota and another belong to 25% quota. It is due to the availability of the 2 sets of employees in the same Cadre the respondents are therefore duty bound to adhere to the Quota Rota rules to fix up their inter-se seniority as well as promotion quota so as to determine the vacancy position. It is stated that the respondents are therefore duty bound to prepare year wise penal for promotion

to the post of Officer Surveyor by convening year wise DPC so as to keep alive the Quota Rota as well as the Roster. It is also the bounded duty of the respondents to effect cadre review periodically so as to maintain the ratio between 2(two) sets of officers, of the Officers Surveyor Cadre in terms of the Rules.

4.7 That in the year 1995 only the higher authority of the respondents took a decision for review of the cadre of Officer Surveyor and due to such cadre review number of posts in the cadre of Officer Surveyor surfaced and the higher authority took a decision to implement the said cadre review by early part of 1996. However, the said direction of the higher authority of the respondents were never implemented in the year 1996 and the said vacant posts were kept unutilized for years together. The respondents subsequently, issued an order dated 31.07.98 by which the applicants were given the promotion to the post of Officer Surveyor on ad-hoc basis, and same was done following the due processes of selection. The respondents who were duty bound to fill up the said posts on regular basis, filled up the said vacant posts only on ad-hoc basis. The respondents ought to have filled up those posts on regular basis in the year 1996 itself by convening regular DPC. But no regular DPC was convened in the year 1996 as directed by the higher authority and the matter was kept pending without any further steps. However, in the month of July, 1998 the respondents have issued promotion order dated 31.07.98 to the applicants promoting them to the post of Officer Surveyor on ad-hoc basis. All the applicants accordingly joined the said post on ad-hoc basis w,e,f, 23.07.1998.

A copy of the order dated 31.7.98 is
annexed herewith and marked as
ANNEXURE-1.

4.8 That the applicants beg to state that admittedly the post surfaced in the Cadre of Officer Surveyor due to Cadre Review in the year 1995 were kept unutilized till 31/7/1998 (the date on which the Respondents have effected ad-hoc promotions to the present applicants). Although the higher authorities of the respondents kept on pursuing utilization of the posts so surfaced due to the Cadre Review in the year 1995-96 itself but due to the inaction on the part of the respondents no regular DPC was held. It is pertinent to mention here that at that relevant point of time the Recruitment Rule of 1983 was prevailing and the respondents were duty bound to adhere to the method of Recruitment Rules of 1983 towards promoting the officers to the cadre of O.S.

4.9 That the applicants state that initially the said order of ad-hoc promotion to the post of Officer Surveyor was made effective for a period of six months or till regular DPC held but the respondents by issuing various subsequent orders kept on extending the said period of Ad-hoc service and same continued uninterruptedly till the applicants got their regular promotion in the said Cadre. The respondents in this connection issued orders of which mention may be made of order dated 16.06.99.

The applicants crave leave of the Hon'ble Tribunal for a direction towards the respondents for production of the said orders at the time of hearing of the case.

From the above order of adhoc promotion dated 31.7.98 it is crystal clear that the posts held by the applicants in the

cadre of O.S. on the adhoc basis were the posts identified and surfaced during the cadre review of 1995.

4.10. That the applicants beg to state that the vacancies as surfaced due to the cadre review of 1995 in the cadre of O.S. were the regular vacancies and to that effect the respondents ought\ to have convened regular DPC to fill-up those posts on regular basis in the year 1995-96 itself. It was only on 31.7.98 those posts were filled up by the applicants on adhoc basis. Thereby the respondents allowed the said vacancies to be unutilized for years together and subsequently those posts were filled up by resorting to the adhocsism without there being any necessity for resorting to such a short-cut method, in fact at that relevant point of time the Recruitment Rule of 1983 was prevailing prescribing the method of recruitment of O.S.

4.11. That the applicants state that the respondent authorities ought to have initiated steps for filling up of the post surfacing in pursuance to the said cadre review. and the case of the applicants ought to have been considered for promotion to the said cadre with effect from the date the said posts became available. In the event the said posts could not be filled up immediately on its becoming available, the respondent authorities ought to have convened D.P.C's for preparing panels for vacancies arising in each year. In the event steps for preparing year wise panels were undertaken the applicants would not have been deprived of their due service benefits and there would not have arisen any occasion for any grievance relating to their super session by juniors.

4.12. That the applicants beg to state that their claim under 75% quota as per their eligibility as on 1995 were not taken into consideration when the 136 additional posts surfaced due to cadre review effected on 30.6.96 and at the same time by convening limited departmental competitive examination the respondents continued to fill up the 25% quota creating anomalous situation so far it relates to maintenance of settled principles of quota rota. This breaking down of quota rota rule has resulted in wrong fixation of seniority amongst the os falling under 75% quota vis-a-vis the os falling under 25% quota.

4.13. That the applicants state that they were all promoted on Ad-hoc basis to the cadre of Officer Surveyor with effect from 23.7.1998 and their such promotions were regularized with prospective effect, w.e.f 18.7.2001. The promotion of the applicants on regular basis with prospective effect is discriminatory, illegal and discriminatory. Such action on the part of the respondent authorities is bad in law and liable to be set aside to the extent that the orders promoting the applicants on regular basis makes its applicable only with prospective effect.

A copy of the said promotion order is annexed herewith and marked as ANNEXURE-2.

4.14. That the applicants beg to state that due to the inaction on the part of the respondents in not utilizing the vacancies that surfaced due to the cadre review in the month of January 1996 and due to non convening of regular DPC in respect of filling up of the posts of os falling under 75% quota and on

the other hand promoting the persons junior to the applicants to the post of os falling under 25% quota without following the roaster, has created an anomalous situation in the matter of fixation of seniority between the os belongs to 75% quota vis-a-vis the os belongs to 25% quota. The respondents taking into consideration the said incorrect seniority position now has been promoting the os to the next higher grade. Admittedly there has been dispute in respect of fixation of seniority of the applicants who falls under the 75% quota vis-a-vis the os falling under 25% quota and as such the respondents ought to have taken steps to recast the seniority immediately. There has been a total breaking down of quota rota rules and the seniority position prevailing at present does not reflect the correct seniority position. The applicants preferred representations to the respondents ventilating their grievances but same yielded no result in positive.

A copy of one of such representation is annexed herewith and marked as ANNEXURE-3

4.15 That the applicant submits that the decision taken by the respondents in not implementing the cadre review and not effecting the promotion to the cadre of Officer Surveyor to the applicants in time has resulted in deprivation of their legitimate claim of timely promotion which has also resulted in the seniority position. In such a situation the applicants have made some of the juniors as party respondent in the present OA while demonstrating the illegalities committed by the official respondents.

4.16 That the applicants beg to state that the respondents have acted contrary to the settled principles of maintaining

Quota-Rota in between the promotees of 25% LDCE as well as the promotees of 75% promotional quota. It is noteworthy to mention here that 136 posts in the Cadre of Officer Surveyor surfaced due to the Cadre Review w.e.f 30.1.96. The respondents have convened Limited Departmental Competitive Examination in the year 2002, in the following dates and the promotions made therein have made with retrospective effect from 1997 itself:

Year of exam.	Date of merit test	Date of interview	Date of declaration of result	Remarks
1997	13-14 Dec 2001	14-15 Jan 2002	21 Jan, 2002, 2003	
1998	11-12 Mar. 2002	11-12 April 2002	19 April, 2002 2003	
1999	13-14 June 2002	11-12 July 2002	19 July, 2002 2003	
2000	12-13 Sept. 2002	10-11 Oct. 2002	18 Oct. 2002 2003	
2001	12-13 Dec, 2002	13-14 Jan 2003	21 Jan, 2003 2003	

4.17 That the respondents have provided retrospective effect to the promotees belong to the 25% LDCE in respect of their promotions to the cadre of Officer Surveyor where as in the case of the present applicants although admittedly there were 136 vacancies as on 30.01.1996 but no such benefits have provided. Even the respondents have virtually rejected the claims of the applicants for counting their ad-hoc service period. The law in this regard is settled that the ad-hoc promotions made and in the event of its subsequent regularisation pursuant to a regular DPC is required to be relate back to the date of ad-hoc promotion and to provide all service benefits. In that view of the facts and circumstances the applicant pray that their promotions made in the cadre of Officer Surveyor vide order dated 17.07.01 should have been made with retrospective effect.

4.18 That the applicants beg to state that the respondents have acted contrary to the settled principles in filling up the vacancies in the cadre of Officer Surveyor. Admittedly the vacancies occurred during the year 1996 and at that point of time the 1983 Recruitment Rules was in force. Apart from that the respondents could not have adopted two different rules parallel in filling up the vacancies of the Officer Surveyor. The respondents have admittedly applied two different sets of rules in filling up the said vacancies and same has admittedly prejudiced the service careers of the applicants in respect of their seniority. It is noteworthy to mention here that since no regular DPCs were held as completed in the rules and since the respondents have effected the said promotions in the cadre of 25% quota with retrospective effect most of their juniors have been given promotions and as such the applicants have made the respondents No 4 to 8 as private respondents who got the promotions in the year 2002 but the effect of such promotions have been made w.e.f, 1997. In such an eventuality the promotions made effective to the said private respondents as well as other juniors without adhering to the principles of quota-rota rules may be modified or alternatively effect the promotions given to the applicants may be made with retrospective effect with all consequential service benefits.

4.19 That the applicants ventilating the aforesaid grievances preferred OA No. 151/04 before this Hon'ble Tribunal praying for a direction towards the respondents to give retrospective effect to their promotions to the rank of Officer Surveyor by modifying the orders of promotion i.e w.e.f 1995-1996

providing all consequential service benefits and to recast the seniority etc.

Instead of repeating the contentions made in the OA the applicants crave leave of the Hon'ble Tribunal to rely and refer upon the OA No. 151/04 at the time of hearing of the case.

4.20 That the respondents on receipt of the notice of the OA No. 151/04 submitted their Written Statement admitting the fact that vide order dtd.30/1/96, as a result of Cadre Review, 136 posts were created in the cadre of Officers Surveyor but due to non availability of recruitment rules regular promotions could not be made. The respondents at the same time have indicated the fact that at that point of time Recruitment Rules of 1983 was holding the field. The respondents could not explain the delay in convening DPC satisfactorily in their WS.

The applicants crave leave of the Hon'ble Tribunal to rely and refer upon the contentions raised in the said WS at the time of hearing of this case.

4.21 That the applicants in response to the said WS filed by Respondent No. 1,2 and 3 submitted the rejoinder to the WS. It is pertinent to mention here that despite notice the private respondents did not participate in the proceeding nor they have submitted their WS controverting the stand taken by the applicants.

The applicants crave leave of the Hon'ble Tribunal to rely and refer upon the statements made in the rejoinder at the time of hearing of the case.

4.22 That the applicants beg to state that the Hon'ble Tribunal after hearing the learned counsels for both the parties and on perusal of records of the case was pleased to allow the said OA No. 151/04 vide judgment and order dtd. 18/8/05 directing the respondents to convene Review DPC within a period of 4(four) months from the date of receipt of the order and thereafter to refix the seniority of the applicants without further delay.

A copy of the said judgment and order dtd. 18/8/05 passed in OA No. 151/04 is annexed herewith and marked as Annexure-4

4.23 That the applicants beg to state that they have submitted the certified copy of the judgment and order dtd.18/8/05 before the respondents for implementation of the same.But the respondents have not implemented the judgment passed by the Hon'ble Court even after the time stipulated for implementation has elapsed.Having found no other alternative the applicants had to approach the Hon'ble Tribunal once again by filing CP No. 3/06.The respondents after receipt of the contempt notice have issued the identical impugned orders dtd. 15/2/06 rejecting the claim of the applicants only with the sole purpose to avoid the contempt proceeding. In fact the contempt proceeding was closed taking in to consideration the impugned orders to a part/wrong compliance.

A copy of one of such identical impugned orders dtd. 15/2/06 is annexed herewith and marked as Annexure-5.

That the applicants crave leave of the Hon'ble Tribunal to produce all the identical impugned orders as and when required.

4.26 That the applicants beg to state that the Hon'ble Tribunal vide its judgment and order dtd. 18/8/05 observed as under:

"In the instant case, the respondents themselves, realizing the difficulty in making regular promotions to the post of Officer Surveyor created in 1996, have decided to make adhoc promotions and had promoted the applicants and other on ad hoc basis in July, 1998. If as matter of fact the applicants were eligible and entitled to be promoted on the basis of their seniority on the date when ad hoc promotions were made the DPC for promotions convened in 2001 ought to have considered the same and the regular promotion of the applicants should have been made from the date from which they were promoted on ad hoc basis as Officer Surveyors. We don't find any Rule which prohibits such retrospective promotions. Denial of regular promotion at least, from that date is against justice, equity and good conscience. Such an action is unreasonable and unjustified.

However the respondents have failed to take into consideration the observations and the directions and flouting the said judgment issued the impugned order without convening the Review DPC.

4.26. That the applicants as stated above beg to state that at the time of convening the cadre review the recruitment rules of 1983 was holding the field. the respondents however, made a

statement in the impugned orders that due to non-availability of the recruitment rules they could not promote the applicants to the cadre of OS, which is not at all correct. The recruitment rules holding the field at the time of arising out the vacancies should have been the rules guiding the promotion, not the subsequent amended recruitment rules. The said proposition of law has been settled by the Hon'ble Apex Court in number of occasion in Its judicial pronouncements. the stand taken by the respondents in implementing the judgment and order dated 18.8.05, is contemptuous in nature. In this connection the mind of the decision making machinery has been noted by the Hon'ble Tribunal in Misc Petition filed by the respondents in the C.P. No 3/06 which is quoted below for ready reference;

The judgment dated 18.8.06 pronounced by the Hon'ble CAT, Guwahati is wholly unsustainable as a direction to grant promotion from the retrospective date is against the service rules."

In this connection the applicants while praying for withdrawal of suo-moto contempt against each of the respondents, beg to state that the respondents failed to produce the service rules which has restricted the retrospective promotion. It is stated that the Hon'ble Tribunal vide its judgment and order dated 18.8.05, has clearly spelt out the reason for issuance of the direction for retrospective promotion. It is stated that the respondents have not yet filed any Writ Petition against the said judgment and order dated 18.8.05 and as such under any circumstances such remark made by the respondents that too on

oath, is nothing but an attempt to rewrite the judicial pronouncement of a court and as such each of the respondents are liable to be punished severely for their such unsaintly attitude.

That the applicants crave leave of the Hon'ble Tribunal to produce the copy of the reply affidavit, in the Misc Case No 24/06, at the time of hearing of the case.

4.26. That the applicants beg to state that the respondents themselves have on realising their mistake convened DPC and promoted the applicants (in total 136) to the post of OS, which goes to show that the reasoning adopted by them in not coming in the zone of consideration is not at all sustainable and unreasonable. The 136 posts that surfaced in the year 1996, due to cadre review which they filled up in the year 2001, could have been filled up regularly in the year 1996 only without resorting to the adhocism in the mid way i,e, in the year 1998. The short cut method applied by the respondents has put the applicant in serious distress and same has caused serious prejudice to their service career.

4.27. That the applicants beg to state that the stand taken by the respondents in the impugned orders dated 15.2.2006, regarding non finalisation of the recruitment rules is totally baseless and same can be revealed from the fact that during the said period, the respondents have kept on promoting the persons falling under 25% quota of OS. Had there been no recruitment rules the respondents could not promoted persons to the cadre of OS even on 25 % quota . From the above it is crystal clear that the respondents have not applied their mind in issuing the impugned orders and as such same is liable to be set aside and quashed.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents in issuing the impugned orders to the applicant is illegal, arbitrary and same is violative of Principles of Natural Justice.

5.2. For that the applicants being eligible to hold the post of Officer Surveyor, and there being vacancies to accommodate them in the year 1996 itself, the action of the respondents in delaying their promotion is illegal and arbitrary and same is liable to be set aside and quashed.

5.3. For that the impugned action/ inaction on the part of the respondents in not implementing the cadre review effected in the year 1996 and not promoting the applicants to the cadre of Officer Surveyor in time is illegal, and violative of the settled propositions of law and as such same is not sustainable in the eye of law and liable to be set aside and quashed.

5.4. For that the impugned action/inaction on the part of the respondents in not recasting the inter-se seniority of the applicants vis-a-vis the Officers Surveyor belong to the 25% quota of promotion is not sustainable in the eye of law and same is liable to be set aside and quashed.

5.5. For that the applicants who were qualified to hold the post of Officer Surveyor in the year 1996 itself and in view of the that there were posts in existence, the action on the part of

the respondents in resorting to adhocism is not permissible in the eye of law and same is liable to be set aside and quashed. The respondents ought to have convened regular DPC and prepare year wise panel for promotion to the post of Officer Surveyor .

5.6. For that the respondents have violated the settled principles of quota-rota rules in providing retrospective promotions to the private respondents who are admittedly junior to the present applicants.

5.7. For that reasoning put forwarded by the respondents in the impugned orders are not only illegal but the same are also violative of the judgment and order passed by the Hon'ble Tribunal and as such same are not at all sustainable and liable to set aside and quashed.

5.8. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

The applicants crave leave of the Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that they have exhausted all the remedies available to them and there is no alternative remedy available to them.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

The applicants further declare that they have not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicants most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the identical impugned orders dated 15.2.86.

8.2. To promote the applicants to the rank of OS, by making necessary alteration to the promotion order dated 16.7.2001, making it with retrospective effect i,e, the date on which the vacancies arose i,e, 30.1.1996, and to provide them all the consequential service benefits, including arrear salary and seniority.

8.3. To direct the Respondent authorities to recast the seniority of the applicants in the cadre of Officer Surveyor after giving retrospective effect to the promotions of the applicants as Officer surveyor.

8.4. To restrain the respondent authorities from convening any D.P.C for considering the cases of eligible persons in the cadre of Officer Surveyor for further promotion to the post of Superintending Surveyor, without first recasting the seniority of the applicants in the cadre of Officer Surveyor.

8.5. To restrain the respondent authorities from effecting any promotion from the cadre of Officer Surveyor without first recasting the seniority of the applicants in the cadre of Officer Surveyor.

8.6. To draw up suo-moto contempt proceeding against the respondents for their willful and deliberate violation and for their attempt to rewrite the judgment and order dated 18.8.05 and to punish them severely.

8.7. Cost of the application.

8.8 Any other relief/reliefs to which the applicants are entitled to under the facts of the present case.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicants pray for an interim order directing the respondents not to effect any promotion from the cadre of Officer Surveyor to the next higher cadre i,e, the cadre of Superintending Surveyor.

10. *****

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 28G 925896
2. Date : 20.1.07
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Shri Patal Bihari Das, son of Late P.K.Das, aged about 57 years, resident of Survey of India Estate, Barik, Shillong- 793001, do hereby solemnly affirm and verify that the statements made in paragraphs 4.2, 4.3, 4.8, 4.11, 4.12, 4.15, 4.18, 4.26, 4.27, are true to my knowledge and those made in paragraphs 4.4-4.7, 4.9-4.10, 4.13, 4.14, 4.16, 4.17, 4.19-4.25 are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 23rd day of January of 2007.

Patal Bihari Das

Signature.

SURVEY OF INDIA
NORTH EASTERN CIRCLE OFFICE
POST BOX NO. 89
SHILLONG 793 001 (MEGHALAYA)

Dated, the 31 July 1998

10

D.C. No. 9 Party(NEC)
D.C. No. 12 Party(NEC)
D.C. No. 22 (P) Party(NEC)
D.C. No. 35 Party(NEC)
D.C. No. 80 (P) Party(NEC)

TRANSFER/POSTING OF GROUP 'C' DIVISION-I ON PROMOTION TO THE LE-DE OF OFFICER SURVEYOR ON AIXOC BASIS.

The undermentioned Gp. 'C' Div. I Officers of this Circle are promoted to the post of Officer Surveyor Gp. 'B' post on adhoc basis for a period of six months initially or till such time the regular incumbents are made available whichever is earlier with effect from 22 July 1998.

23 July, 1998:-

(Authority :- S.G's No.C-2425/707 dt.23-07-98.)

Sl. No.	Name & Designation	Present Posting	New Posting
1.	Shri Sridhar Foy, (ST), Surveyor	No.9 Party(NEC)	No.9 Party(NEC)
2.	" P. Purkayastha, Surveyor	No.12 Party(NEC)	No.12 Party(NEC)
3.	" B.P. Chendola, Surveyor	No.22(P)Party (NEC)	No.22(P)Party (NEC)
4.	" D.R. Verma, Surveyor	No.22(P)Party (NEC)	No.79 Party(NEC)
5.	" Kirenjan Prasad, Surveyor	No.22(P)Party (NEC)	Dehra Dun.
6.	" R.K. Kuril, Surveyor	No.22(P)Party (NEC)	No.92 P(EO) Varanasi.
7.	" Pancham Singh, (ST), Surveyor	No.22(P)Party (NEC)	-do-
8.	" G.C. Das, (SC), Surveyor	No.22(P)Party (NEC)	C.C.Jabalpur
9.	" P.B. Das, Surveyor	No.35 Party(NEC)	No. 35 Party(NEC)
10.	" T.K. Gupte, Surveyor	No.60(P)Party (NEC)	No.73 D.O. (NEC)
11.	" S.B. Kharbengar, (ST), Surveyor	No.80(P)Party (NEC)	No.12 D.O. (NEC)
12.	" W. Tariang (ST), Surveyor	No.80(P)Party (NEC)	No.80(P)Party (NEC)
13.	" J.M. Nongkhlaw (ST), Surveyor	No.29 Party(NEC)	No.29 Party(NEC)

Oct. 1. - Collision Das. 1st

congratulations 1981
for shui g. c.
AMERICAN
4/18/98

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P.T.O.

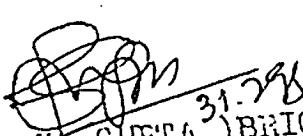
SURVEY OF INDIA	
NO. 35 PART 4	
DAIRY NO. 1119	
FILE NO. 2-F	
DATE 10-8-98	

The above adhoc promotion would be effective from the date of actual assumption of charge by the officer concerned in promotion. It may please be made clear to the officers that this adhoc promotion is purely provisional and would not bestow any right of seniority and can be terminated at any time.

3. These orders may please be implemented within one month from the date of issue of this letter. While communicating to the above promotions, it may be intimated to the concerned officers in writing that their failure to take-up the adhoc promotion within one month of issue of this order will amount to their refusal to accept the offer of promotion leading to filling up of the vacancies by other eligible officers.

4. Necessary certificate of assumption of charge on form 0.115(Acc.) may please be sent to this office in triplicate, for further action, at the earliest.

Shri S. C. Kunder
for immediate action
Pl. 8
A 8
A 98


31.7.98
(P.K. GUPTA) BRIGADIER
DIRECTOR NORTH I.I.S.TERN CIRCLE.

— 28 —

भारतीय सर्वेक्षण विभाग
SURVEY OF INDIA

SURVEYS
Ph: 0091-135-744064
Telephone: 0091-135-744064
E-mail: sgo@nde.vsnl.net.in

No.C-3274/707

To
The Addl. S.G.:
The Director:

The Deputy Director :- Photo (NC).
E&AO 'A' (SGO).

FAX
SPEED POST

महासर्वेक्षक का कार्यालय
SURVEYOR GENERAL'S OFFICE
काल बक्स नं 37, POST BOX No.37,
देहरादून-248001 (उत्तराखण्ड)-भारत।
DEHRA DUN-248001 (UTTARAKHAND), INDIA

Dated: 16th July, 2001

16/07/01
MR/67
NZ / SZ / EZ / WZ / STI.
NC / NWC / S (Air) / SC / SCC / SSEC / EC / NEC / SEC /
EC / WC / MP / G&RB / MCC / DMC (D.Dun) / DMC
(Hyd.) / R&D.

PROMOTION TO THE POST OF OFFICER SURVEYOR GROUP 'B'

The following Division-I (Surveyors & Survey Assistants) are promoted on regular basis to the grade of Officer Surveyor (CCS Group 'B') in the scale of pay Rs.6,500-200-10300 w.e.f. the date they take over charge of the post on promotion as indicated below:—

No.	Name	Designation	Present posting	New posting
1.	Shri J.K. Chatterjee	Surveyor	No. 1 DO (MP) D.Dun	No. 1 DO (MP) D. Dun
2.	Shri D.K. Nichani	Surveyor	Survey (Air) N.Delhi	No. 64 (AHS) P. N.Delhi
3.	Shri Attar Singh	Surveyor	No. 94 P (SA) N.Delhi	No. 93 (Geom) P. N.Delhi
4.	Shri J.P. Shukla	Surveyor	G&RB D.Dun	G&RB D. Dun
5.	Shri A.K. Babbar	Surveyor	No. 32 (P) P (WC) Mt Abu	No. 32 (P) P. (WC) Mt Abu
6.	Shri Mohan Lal	Surveyor	No. 90 P (NC) D.Dun	No. 90 P (NC) D. Dun
7.	Shri Awd. Srivastava	Surveyor	No. 43 P (SSEC) Hyderabad	No. 43 P (SSEC) Hyderabad
8.	Shri N.K. Saxena	Surveyor	No. 65 P (SA) N.Delhi	No. 93 (Geom) P. N.Delhi
9.	Shri H.M. Kulkarni	Surveyor	No. 1 P (NC) D.Dun	No. 1 P. (NC) D.Dun
10.	Shri A.K. Saxena	Surveyor	No. 94 P (SA) N.Delhi	Bdy. Cell (SGO) N. Delhi
11.	Shri M.K. Paul	Surveyor	No. 63 P (EC) Kolkata	No. 63 P (EC) Kolkata
12.	Shri Tilak Raj	Surveyor	DMC D.Dun	DMC D. Dun
13.	Shri G.B. Saxena	Surveyor	No. 91 P (NC) Lucknow	No. 91 P (NC) Lucknow
14.	Shri P.C. Bist	Surveyor	No. 94 P (SA) N.Delhi	No. 93 (Geom) P. N.Delhi
15.	Shri Siban Singh	Surveyor	No. 69 P (G&RB) D.Dun	No. 69 P (G&RB) D. Dun
16.	Shri Pritam Singh Mehar	Surveyor	No. 52 P (SCC) Pune	No. 52 P. (SCC) Pune
17.	Shri S.K. Gupta	Surveyor	No. 66 P (SA) N.Delhi	W.Z. Jaipur
18.	Shri Jai Ram Das	Surveyor	No. 7 (P) P (WC) Mt. Abu	No. 7 (P) P (WC) Mt. Abu
19.	Shri H.S. Anand	Surveyor	No. 16 DO (MP) D.Dun	No. 16 DO (MP) D. Dun
20.	Shri S.N. Mathur	Surveyor	No. 66 P (SA) N.Delhi	No. 83 P (WC) Jaipur
21.	Shri N.K. Gupta	Surveyor	No. 69 P (G&RB) D.Dun	No. 69 P (G&RB) D. Dun
22.	Shri G.S. Bist	Surveyor	No. 14 P (G&RB) D.Dun	No. 14 P. (G&RB) D. Dun
23.	Shri O.P. Virmani	Surveyor	MCC D.Dun	MCC D. Dun
24.	Shri Paramjeer Singh	Surveyor	No. 48 (P) P (CC) Jabalpur	No. 48 (P) P (CC) Jabalpur
25.	Shri N.K. Bhatia	Surveyor	No. 26 (P) P (NC) D.Dun	No. 26 (P) P (NC) D. Dun
26.	Shri R.K. Bhatia	Surveyor	No. 79 (P) P (NWC) D.Dun	No. 79 (P) P (NWC) D. Dun
27.	Shri R.K. Mukherjee	Surveyor	No. 62 P (EC) Kolkata	No. 62 P (EC) Kolkata
28.	Shri Adesh Kumar	Surveyor	No. 82 P (G&RB) D.Dun	No. 82 P (G&RB) D. Dun
29.	Shri Sukhpal Singh	Surveyor	G&RB D.Dun	G&RB D. Dun
30.	Shri D. Narayan	Surveyor	No. 47 P (STI) Hyderabad	No. 47 P (STI) Hyderabad
31.	Shri Gurdev Singh	Surveyor	No. 6 DO (NC) D.Dun	No. 6 DO (NC) D. Dun

Contd.. 2/-

Attested

[Signature]

Advocate.

Name	Designation	Present posting	New posting
Shri T.K. Bhowmik	Surveyor	No. 45 P (CC) Jabalpur	No. 45 P (CC) Jabalpur
Shri M.P. Kotiyal	Surveyor	No. 94 P (SA) N.Delhi	No. 9DO(NWC) Chandigarh
Shri C. Manjunatha Setty	Surveyor	No. 84 (P) P (SC) Bangalore	No. 84 (P) P (SC) Bangalore
Shri B.R.S. Rawat	Surveyor	No. 64 P (SA) N.Delhi	No. 3P (NWC) Ambala
Shri A.V. Godse	Surveyor	No. 31 P (SCC) Pune	No. 31 P (SCC) Pune
Shri R.K. Chauhan	Surveyor	No. 26 (P) P (NC) D.Dun	No. 26 (P) P (NC) D. Dun
Shri Pangulury S. Gandhi	Surveyor	No. 53 P (SSEC) Hyderabad	No. 53 P (SSEC) Hyderabad
Shri Hira Mani	Surveyor	No. 20 (P) P (NC) D.Dun	No. 20 (P) P (NC) D. Dun
Shri Krishan Kumar	Surveyor	No. 3 P (NWC) Ambala	No. 3 P (NWC) Ambala
Shri H.S. Thapa	Surveyor	NC D.Dun	NC D. Dun
Shri C.T. Muthian	Surveyor	No. 52 P (SCC) Pune	No. 52 P (SCC) Pune
Shri H.S. Panwar	Surveyor	No. 64 P (SA) N.Delhi	WZ Jaipur
Shri Ram Nath	Surveyor	No. 70 (F) P (NC) D.Dun	No. 70 (F) P (NC) D. Dun
Shri N.S. Bisht	Surveyor	No. 56 P (NWC) Chandigarh	No. 56 P (NWC) Chandigarh
Shri Samar Vir Singh	Surveyor	No. 68 P (G&RB) D.Dun	No. 68 P (G&RB) D. Dun
Shri S.K. Gaur	Surveyor	No. 1 P (NC) D.Dun	No. 26 (P) P (NC) D. Dun
Shri C.K. Nautilyal	Surveyor	No. 70 (F) P (NC) D.Dun	No. 70 (F) P (NC) D. Dun
Shri D.R. Verma	Surveyor	No. 79 (P) P (NWC) D.Dun	No. 13DO (MP) D. Dun
Shri S.C. Dutta	Surveyor	No. 38 P (SSEC) Hyderabad	No. 38 P (SSEC) Hyderabad
Shri Shridhar Prasad Sati	Surveyor	MCC D.Dun	No. 1 D.O. (MP) D. Dun
Shri P. Purkayastha	Surveyor	No. 12 P (NEC) Shillong	No. 12 P (NEC) Shillong
Shri H.K. Gulati	Surveyor	Photo Sector (NC) D.Dun	Photo Sector (NC) D. Dun
Shri S.K. Potti	Surveyor	No. 67 P (SA) Coimbatore	No. 67 P (SA) Coimbatore
Shri Rajpal Singh	Surveyor	No. 90 P (NC) D.Dun	No. 90 P (NC) D. Dun
Shri T.S. Madhok	Surveyor	No. 47 P (STI) Hyderabad	No. 47 P (STI) Hyderabad
Shri B.S. Tyagi	Surveyor	SGO D.Dun	SGO D. Dun
Shri Rajendra Singh	Surveyor	No. 6 DO (NC) D.Dun	No. 6 DO (NC) D. Dun
Shri M.R. Kumar	Surveyor	NZ Chandigarh	NZ Chandigarh
Shri S.N. Maindola	Surveyor	No. 20 (P) P (NC) D.Dun	No. 26 (P) P (NC) D. Dun
Shri J.L. Banerjee	Surveyor	No. 30 (P) P (EC) Kolkata	No. 30 (P) P (EC) Kolkata
Shri V.K. Upreti	Surveyor	No. 23 P (NC) Mussoorie	No. 23 P (NC) Mussoorie
Shri Sukumar Das	Surveyor	No. 63 P (EC) Kolkata	No. 63 P (EC) Kolkata
Shri P.B. Das	Surveyor	No. 13 DO (NEC) Shillong	No. 13 DO (NEC) Shillong
Shri Jai Singh	Surveyor	SGO D. Dun	SGO D. Dun
Shri S.P. Bahuguna	Surveyor	No. 23 P (NC) Mussoorie	No. 23 P (NC) Mussoorie
Shri N.N. Dey	Surveyor	No. 37 P (EC) Kolkata	No. 37 P (EC) Kolkata
Shri C.V. Chari	Surveyor	No. 15 P (STI) Hyderabad	No. 15 P (STI) Hyderabad
Shri G.C. Das (SC)	Surveyor	No. 35 P (NEC) Guwahati	No. 35 P (NEC) Guwahati
Shri Sant Ram (SC)	Surveyor	No. 27P (NC) Mussoorie	No. 27P (NC) Mussoorie
Shri Niranjan Prasad (SC)	Surveyor	No. 68 P (G&RB) D.Dun	No. 68 P (G&RB) D. Dun
Shri N.C. Behera (SC)	Surveyor	No. 75 P (EC) Patna	No. 75 P (EC) Patna
Shri Gurmail Singh (SC)	Surveyor	No. 42 P (NWC) Ambala	No. 42 P (NWC) Ambala
Shri Upendra Malik (SC)	Surveyor	No. 78 (P) P (SCC) Hyderabad	SCC Hyderabad
Shri Ram Lal Ram (SC)	Surveyor	No. 92 P (EC) Varanasi	No. 92 P (EC) Varanasi
Shri Lakshmi Kanta Bar (SC)	Surveyor	No. 30 (P) P (EC) Kolkata	No. 30 (P) P (EC) Kolkata
Shri R.K. Kuril (SC)	Surveyor	No. 22 P (NEC) D.Dun	No. 22 P (NEC) D. Dun
Shri V.K. Binodia (SC)	Surveyor	No. 61 P (CC) Jabalpur	No. 61 P (CC) Jabalpur
Shri Kumbhakarna Majliss (SC)	Surveyor	No. 11 DO (SEC) Bhub.	No. 11 DO (SEC) Bhub.
Shri Biranchi Narayan Patra (SC)	Surveyor	No. 13 DO (NEC) Shillong	No. 13 DO (NEC) Shillong
Shri S.B. Kharbangar (ST)	Surveyor	No. 80 (P) P (NEC) Shillong	No. 80 (P) P (NEC) Shillong

Contd...3/-

SBK

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Name	Designation	Present posting	New posting
Shri J.M. Nongkhlaw (ST)	Surveyor	No. 29 P (NEC) Shillong	No. 29 P (NEC) Shillong
Shri Wordkiouson Tariang (ST)	Surveyor	No. 80 (P) P(NFC) Shillong	No. 80 (P) P(NEC) Shillong
Shri Baris Pyngrope (ST)	Surveyor	No. 80 (P) P(NEC) Shillong	No. 80 (P) P(NEC) Shillong
Shri Tarcitus Bara (ST)	Survey Asstt.	No. 5 P (NEC) Shillong	No. 5 P (NEC) Shillong
Shri Jitendra Baraik (ST)	Survey Asstt.	No. 11 P (SEC) Ranchi	No. 11 P (SEC) Ranchi
Shri J.R. Gond (ST)	Survey Asstt.	No. 88 (P) P (CC) Raipur	No. 88 (P) P (CC) Raipur
Shri Surendra Prasad (SC)	Surveyor	No. 60 P (CC) Gwalior	No. 60 P (CC) Gwalior
Shri Bidyadhar Mallik (SC)	Surveyor	SEC Bhubaneshwar	No. 77 (P) P(SEC) Bhub
Shri S.C. Dabral	Surveyor	No. 3 DO (WC) Jaipur	No. 3 DO (WC) Jaipur
Shri Madan Mohan Singh	Surveyor	NWC Chandigarh	NWC Chandigarh
Shri P.C. Badke	Surveyor	No. 44 P (CC) Indore	No. 44 P (CC) Indore
Shri S.D. Uniyal	Surveyor	No. 91 P (NC) Lucknow	No. 91 P (NC) Lucknow
Shri M.S. Chauhan	Surveyor	No. 44 P (CC) Indore	No. 44 P (CC) Indore
Shri A.K. Roy	Surveyor	No. 62 P (EC) Kolkata	No. 14 D.O. (EC) Kolkata
Shri A.K. De	Surveyor	No. 30 (P) P (EC) Kolkata	No. 30 (P) P (EC) Kolkata
Shri T.K. Gupta	Surveyor	No. 12 DO (NEC) Shillong	No. 12 DO (NEC) Shillong
Shri S.K. Chadha	Surveyor	No. 57 P (NWC) Chandigarh	No. 57 P (NWC) Chandigarh
Shri B.G. Helkar	Surveyor	No. 46 P (CC) Jabalpur	No. 46 P (CC) Jabalpur
Shri B.B. Komala	Surveyor	No. 20 (P) P (NC) D.Dun	MP D.Dun
Shri O.P. Ratra	Surveyor	No. 4 P (WC) Ajmer	No. 4 P (WC) Ajmer
Shri Brijendra Kumar	Surveyor	No. 59 P (SCC) Hyderabad	No. 59 P (SCC) Hyderabad
Shri Laxman Das	Surveyor	No. 79 (P) P (NWC) D.Dun	No. 6 DO (NC) D. Dun
Shri R.K. Goyal	Surveyor	G&RB D.Dun	G&RB D.Dun
Shri S.K. Verma	Surveyor	MCC D.Dun	DMC D. Dun
Shri S.C. Bhole	Surveyor	R&D Hyderabad	R&D Hyderabad
Shri N.K. Dobhal	Surveyor	No. 22 P (NEC) D.Dun	No. 22 (P) P (NEC) D. Dun
Shri A. Janardhan Rao	Surveyor	No. 8 DO (SCC) Hyderabad	No. 8 DO (SCC) Hyderabad
Shri Mohd. S. Rehman	Surveyor	No. 74 P (SEC) Ranchi	No. 74 P (SEC) Ranchi
Shri Y.P. Rareshwar	Surveyor	No. 20 (P) P (NC) D.Dun	No. 14 P (G&RB) D.Dun
Shri Mulk Ra	Surveyor	No. 79 (P) P (NWC) D.Dun	No. 19 P (G&RB) D.Dun
Shri Satish Kumar	Surveyor	No. 26 (P) P (NC) D.Dun	DMC D. Dun
Shri R.K. Sharma	Surveyor	No. 26 (P) P (NC) D.Dun	No. 71 P (G&RB) D.Dun
Shri T.P.S. Chauhan	Surveyor	No. 26 (P) P (NC) D.Dun	No. 72 P (G&RB) D.Dun
Shri M.N. Handique	Surveyor	No. 78 (P) P (SCC) Hyderabad	No. 51 P (SCC) Hyderabad
Shri Gahama Mahanta	Surveyor	No. 76 (P) P (SEC) Bhub.	No. 76 (P) P (SEC) Bhub.
Shri Rajendra Paswan (SC)	Surveyor	No. 74 P (SEC) Ranchi	No. 74 P (SEC) Ranchi
Shri Kallash Ekka (ST)	Surveyor	No. 18 P (SEC) Ranchi	No. 18 P (SEC) Ranchi
Shri Kulwant Singh (SC)	Surveyor	No. 17 DO (NWC) Jammu	No. 17 DO (NWC) Jammu
Shri Shyam Singh (SC)	Survey Asstt.	No. 28 P (NWC) D.Dun	No. 1 DO (MP) D. Dun
Shri Mahavir Singh (SC)	Survey Asstt.	No. 29 P (NEC) Shillong	No. 29 P (NEC) Shillong
Shri Amar Singh (SC)	Survey Asstt.	No. 16 DO (MP) D.Dun	No. 15 DO (MP) D. Dun
Shri Hira Lal (SC)	Survey Asstt.	G&RB D.Dun	No. 3 P (NWC) Ambala
Shri Bharat Singh (SC)	Survey Asstt.	No. 28 P (NWC) D.Dun	No. 9 DO (NWC) Chandigarh
Shri Ramesh Chandra (SC)	Survey Asstt.	No. 26 (P) P (NC) D.Dun	No. 55 P (NWC) Chandigarh
Shri Prem Chand (SC)	Survey Asstt.	No. 20 (P) P (NC) D.Dun	No. 9 DO (NWC) Chandigarh
Shri Khem Raj Jawada (SC)	Survey Asstt.	No. 58 P (WC) Ajmer	No. 58 P (WC) Ajmer
Shri G.B. Rajwania (SC)	Survey Asstt.	WC Jaipur	No. 3 DO (WC) Jaipur
Shri Mam Chand (SC)	Survey Asstt.	No. 22 P (NEC) D.Dun	No. 57 P (NWC) Chandigarh

Name	Designation	Present posting	New posting
Shri Lal Adival	Survey Asstt.	No. 32 (P) P (WC) Mt Abu	No. 32 (P) P (WC) Mt Abu
Shri Bishnu Binha (ST)	Survey Asstt.	No. 13 DO (NEC) Shillong	No. 12 DO (NEC) Shillong
Shri B.S. Munda (ST)	Survey Asstt.	No. 11 P (SEC) Ranchi	No. 18 P (SEC) Ranchi
Shri Ram Gopal Meena (ST)	Survey Asstt.	No. 83 P (WC) Jaipur	No. 83 P (WC) Jaipur
Shri Arvi Chand (ST)	Surveyor	No. 27 P (NC) Mussoorie	No. 27 P (NC) Mussoorie
Shri P.L. Meshram (SC)	Surveyor	No. 45 P (CC) Jabalpur	No. 45 P (CC) Jabalpur
Shri N.L. Bhutange (SC)	Surveyor	No. 85 P (SCC) Nagpur	No. 85 P (SCC) Nagpur

entry on ad-hoc basis as Officer Surveyor upto 19-07-2001.

The date of their relying on promotion or the date of refusing promotion, as the case may please be intimated to this office by 16-08-2001 positively. It may be made clear to the concerned who refuses the offer of promotion that no fresh offer of promotion will be made to him for a period of one year from 16-08-2001 in terms of para 17.12 of DP&T's OM No.22011/5/86-Estt. (D) dated 10-04-1989 they will lose seniority vis-a-vis their juniors will be promoted to the higher grade.

3. Necessary certificate of assumption of charge in respect of the above officers may please be sent on Form O.115 (Acc.) to this office, in duplicate, for issue of Gazette Notification.

4. The above officers will be on probation for a period of two years from the date of their regular promotion as Officer Surveyor (Group 'B'). Necessary Assessment Reports on the work and performance of the officers have to be made available to us for the said period.

5. Necessary action for re-verification of caste status of persons belonging to Schedule Caste/Schedule Tribe may please be taken, on their reporting for duty on promotion by the concerned Director and they should be promoted with a clear stipulation that in case their re-verification, if it is found that they do not belong to Schedule Caste/Schedule Tribe category, they will be reverted to their previous grade forthwith.

6. On promotion, the individuals would be required to exercise an option under FR 22(1)(a)(i) for fixation of their pay in the new scale.

7. In case of any vigilance case/disciplinary proceedings or pendency of punishment against any of the above official(s) is noticed at your end, the orders of promotion may not be implemented.

I.S.P. GOEL
DEPUTY SURVEYOR GENERAL
for SURVEYOR GENERAL OF INDIA

Copy to :-

1. OC Boundary Cell, New Delhi.
2. OC Nos. 1, 3, 6, 8, 9, 11, 12, 13, 14, 15, 16 and 17 Drawing Offices.
3. OC Nos. 1, 3, 4, 5, 6, 7, 11, 12, 14, 15, 18, 19, 20(P), 22, 23, 26(P), 27, 28, 29, 30(P), 31, 32(P), 35, 37, 38, 42, 43, 44, 45, 46, 47(P), 48(P), 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70(F), 71, 72, 73, 74, 75, 76, 77, 78(P), 79(P), 80(P), 81, 82, 83, 84(P), 85, 86, 87, 88(P), 89, 90, 91, 92, 93 & 94 Parties.
4. The Central Pay & Accounts Officer, Survey of India, Dehra Dun.
5. The Regional Pay & Accounts Officer, Survey of India, Hyderabad/Kolkata/ Jaipur.
6. EI Section (SGO).
7. Confidential Assistant (SGO).

The Surveyor General of India,
Mathibankola, Dehra Dun.

(Through Proper channel)

Sub: SENIORITY OF OFFICER SURVEYORS AS ON 01.01.2002.

Ref: Your letter No.E1-12389/707 dated 01.08.2003 endorsed under DNEC's letter
No.C1-561/3-D-2 dated 28.08.03.

Sir,

In inviting your kind attention to the letter under reference on the above mentioned subject, I would like to bring to your kind notice that the date mentioned under Col. 'Date of joining the Govt. service in SOI' against my name(SI No.309) is not correct. The same may please be corrected to 17.12.1966.

Further, on the above mentioned subject, I vehemently express my dissatisfaction when to my utter surprise I found that I was placed in the seniority list much below to the Officers of my cadre selected through LDCE on later dates than my promotion to the post of Officer Surveyor on regular basis w.e.f. 17.07.2001 To cite an example, it may be mentioned here that S/Shri D.S..Mehar(SI No243), Saroj Kumar(SI No 275), T. Tirkey(SI No 283) joined to the post of Officer Surveyor on 15.4.02, 18.04.02, 23.04.02 respectively who were selected through LDCE held in the month of December,2001, whereas I was promoted to the post of Officer Surveyor w.e.f. 17.07.01. Moreover, against the vacancy existed as on 31.12.1995, I was promoted to the post of Officer Surveyor w.e.f. 23.07.98 on Ad-hoc basis which was subsequently extended on 5(five) occasions till to the date of my regular promotion without any break.

That sir, after having served in the post of Officer Surveyor on Ad-hoc basis for nearly 3(three) years and almost for a year on regular basis I have, now been made junior to those who were promoted/selected on the later dates as mentioned above. The situation arises here because of the fact that the orders relating to our service matter might have been misconstrued while preparing the seniority list.

As I know that I have to serve the department for about four and half years from now, nothing more than my present status is expected even everything goes smoothly but at the same time felt humiliated due to the fact of fixing my seniority much, much below to the Officer Surveyors named above which is unjust in terms of law and also against the natural justice.

Sir, so far I remember there were instances in our department regarding anomalies in inter-seniority amongst DPC promotee and LDCE promotee with the Ministerial staff and ultimately which was sorted out on the behalf of Surveyor General of India.

Sir, under the circumstances stated above, I fervently pray before your honour to kindly look into the matter and issue a fresh order restoring my seniority and enable me to serve the department confidently with full sincerity to the best satisfaction of bona fide seniors.

Thanking you,

Dated, Shillong, the 11th Sept.03.

Yours faithfully,


(P. B. DAS),
Officer Surveyor,
No.12 Party (NEC),
Survey of India.

Attested



Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH.

Original Application No. 151 of 2004.

Date of Order: This, the 18th day of August, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Shri Patal Bihari Das ✓
2. Shri P. Purkayastha ✓
3. Shri Tushar Kanti Gupta ✓
4. Shri Gakul Ch. Das ✓
5. Shri S. Bamutlang Kharbangar ✓
6. Shri Jasper Mayboon Nongkhlaw ✓
7. Shri Wordkinson Taiang ✓

... Applicants.

All the applicants are presently holding the posts of Officer Surveyor, in the Director, North Eastern Circle, Post Box No.89, Shillong-793001, Meghalaya.

By Advocates Mr. S. Sarma, Mr. U.K. Goswami & Ms. B. Devi.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Dept. of Science and Technology,
Technology Bhawan
New Delhi -1.
2. The Surveyor General of India
At-Hathibarkala Estate
Dehradoon.
3. The Director
North Eastern Circle
Post Box No.89
Shillong-793001
Meghalaya.
4. Sri Saroj Kumar, J&K GDC
Survey of India, Dehra Dun,
Uttaranchal.
5. Sri Anand Kumar, DMC
Survey of India 17
EC Road, Karanpur, Dehra Dun
248001.

Attested


Advocate.

6. Sri D.S. Meher, CS & MP Campus
Survey of India, Uppal
Hyderabad-500 039.

7. Sri KPS Sinha, No 11 Party
Survey of India Complex
Near Magistrate Colony
Doranda, P.O: Hinoo
Ranchi-834002
Jharkhand.

8. Sri B. Paton, UPGDC, Dehra Dun
17, EC Road, Karanpur,
Dehra Dun-248001.

..... Respondents.

ORDER

SIVARAJAN, J. (V.C.) :

Applicants 7 in number are presently holding the posts of Officer Surveyor in the office of the 3rd respondent. They have filed this application seeking for the following reliefs:

"8.1 To set aside and quash the promotion orders of the applicants as Officer Surveyor to the extent it gives prospective effect to such promotion.

8.2 To direct the Respondent authorities to consider the cases of the applicants for promotion to the cadre or Officer Surveyor with effect from the dates vacancies were available in pursuance to the cadre review carried out in the cadre of Officer Surveyor in the year 1995 and to give retrospective effect to the promotions effected in the case of the applicants to cadre of Officer Surveyor with effect from the dates the vacancies were so available in pursuance to the cadre review.

8.3 To direct the Respondent authorities to recast the seniority of the applicants in the cadre of Officer Surveyor after giving retrospective effect to the



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promotions of the applicants as Officer Surveyor.

8.4 To restrain the respondent authorities from convening any D.P.C. for considering the cases of eligible persons in the cadre of Officer Surveyor for further promotion to the post of Superintending Surveyor, without first recasting the seniority of the applicants in the cadre of Officer Surveyor.

8.5 To restrain the respondent authorities from effecting any promotion from the cadre of Officer Surveyor without first recasting the seniority of the applicants in the cadre of Officer Surveyor.

8.5.a To direct the respondents to effect the promotions made to the applicants vide order dated 17.07.01 with retrospective effect above the private respondents."

Their main case is that as a result of the cadre review made in 1995, in addition to the existing cadre strength of Officer Surveyor, 136 posts of Officer Surveyor were created in cadre review as per order dated 30.1.1996 but the respondents failed to convene regular DPC for regular selection and appointment to the post of Office Surveyors till 2001. It is also stated that instead of convening DPC for regular selection of qualified employees from the lower grade the respondents, in the year 1998, had effected only adhoc promotions to the quota available for promotion. Their grievance is that when the respondent had effected regular promotions in the year 2001 to the posts created in the year 1995 instead of promoting persons qualified on the date of occurrence of the vacancy in the year 1996 that too with retrospective effect, the respondent had effected



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regular promotions to the said vacancies only prospectively which had adversely affected the further prospects of the applicants. The applicants were promoted to post of Officer Surveyor on adhoc basis from 1998 as per order dated 31.7.1998 (Annexure-1) and promoted on regular basis as per order dated 16.7.2001 (Annexure - 2) with effect from the date they take over charge of the post on promotion. According to them, they, being qualified and eligible for promotion to the post of Officer Surveyors in 1995 itself, should have been promoted to the said post from the date of occurrence of the vacancy based on their seniority in the post of Surveyors and that at any rate since they had worked as Officer Surveyors since July, 1998 their regular promotion should have been made at least with effect from the date of their adhoc promotion i.e. from 31.7.1997. They have also got a case that inter se seniority between 75% quota Officers and 25% quota Officers has not been fixed which has resulted in depriving them of their due promotion to the next higher cadre - viz Superintending Surveyor. It is also stated that the juniors of the applicants, respondents 4 to 8 had a march over them in the matter of promotion to the post of Officer Surveyor based on limited competitive examination.

2. The respondents have filed a written statement. It is stated therein that as a result of cadre review made in 1995 the sanctioned strength of Officer Surveyor was reduced from 359 to 338 and additional 136 posts are created as per order dated 30.1.1996. The DPC for the

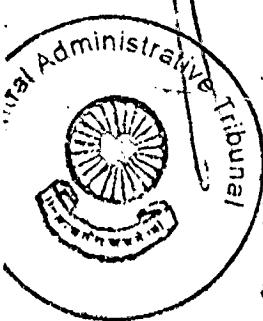


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created post could not be convened due to some administrative reasons in the absence of recruitment rules and were granted adhoc promotion. As per the existing rules 1983, 75% of the promotional quota is to be filled up by DPC promotees and 25% to be filled up by LDCE promotees. It is also stated that it was clearly stated in the promotion order for the post of Officer Surveyor on adhoc basis as per letter dated 31.7.1998 (Annexure-1) that adhoc promotion is purely provisional and would not bestow any benefits of seniority and can be terminated at any time. The reason for the delay in holding DPC for filling up the newly created posts are detailed. The seniority in the cadre of Officer Surveyor between DPC promotees and LDCE promotees, it is stated, had been fixed according to the Rules. An additional written statement is also filed to the amended application. The applicants have filed rejoinder and also reiterated that the applicants have to be promoted on regular basis from the date of occurrence of the vacancy or at any rate from the date on which they were promoted on adhoc basis i.e. from July, 1998.

3. We have heard Mr.S.Sarma, learned counsel for the applicants and Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents. They made submissions on the basis of their respective pleadings.

4. The main contention of the applicants, as already stated, is that on a cadre review of the staff strength of Officer Surveyors, 136 more posts were created in early



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1996 but the same was filled up by the official respondents on adhoc basis in July, 1998 and on regular basis only in July, 2001. It is their case that the respondents did not take urgent steps for filling up the additional posts created then and there, that the respondents had inordinately delayed the matter. It is also their case, that even though it is for the respondents to decide as to when the vacancies has to be filled up once they decide to fill up the vacancies the same must be done with reference to the date of occurrence of the vacancies and from those dates. Their further contention is that they were qualified and eligible for being promoted to the post of Officer Surveyor on the basis of their seniority in 1995 itself and therefore they must be promoted on regular basis with retrospective effect from the date on which the vacancies arose. The respondents had promoted the applicants on adhoc basis from July, 1998 in view of the delay in finalizing the Rules to meet the situation which arose on account of restructuring and cadre review as per order dated 30.1.1996. It is their stand that in the adhoc promotion order itself it is stated that the adhoc promotion given to the applicants is only provisional and that it will not confer any right to claim seniority and that it can be terminated at any time. They have also stated that as per the consolidated instructions on Departmental Promotion Committee and Related Matters rule 6.4.4 promotions will be made in the order of the consolidated select list, such

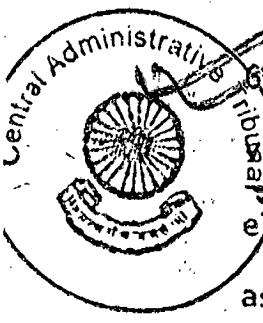


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promotions will have only prospective effect even in cases where the vacancies related to the earlier years.

5. In the instant case, the respondents themselves, realizing the difficulty in making regular promotions to the post of Officer Surveyor created in 1996, have decided to make adhoc promotions, and had promoted the applicants and others on adhoc basis in July, 1998. If as a matter of fact the applicants were eligible and entitled to be promoted on the basis of their seniority on the date when adhoc promotions were made the DPG for promotion convened in 2001 ought have considered the same and the regular promotion of the applicants should have been made from the date from which they were promoted on adhoc basis as Officer Surveyors. We do not find any rules which prohibits such retrospective promotions. Denial of regular promotion at least from that date is against justice, equity and good conscience. Such action is unreasonable and unjustified.

However, it is a matter to the respondents to verify as to whether the applicants were qualified and eligible for being promoted to the post of Office Surveyor as per the rules then existed. The competent authority among the official respondents is directed to verify all those matters from the service records of the applicants and if the applicants do satisfy all the required eligibility criteria the respondents will arrange for a review DPG and take a decision in the light of the observations made hereinabove within a period of four



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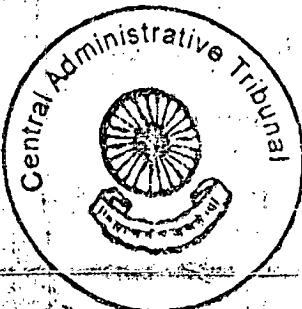


months from the date of receipt of this order. If the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their adhoc promotion based on the Review DPC the official respondents will fix the inter se seniority of the applicants without any further delay. No other points deserve consideration

The O.A. is disposed of as above. In the circumstances of the case there will be no order as to costs.

sd/VICE CHAIRMAN

sd/MEMBER (A)



TRUE COPY

प्रतिलिपि

23.8.05
अनुभाग अधिकारी
Section Chief (Jud)

Central Administrative Tribunal

गुवाहाटी-२, आर्यपीठ

GUWAHATI, Assam

গুৱাহাটী, আর্যপীঠ

23/8/05

SURVEY OF INDIA

Telegram : "SURVEY8"
 Fax-cum-Telephone : 0091-138-744064
 E-Mail : sgo@ndo.vsnl.net.in

SURVEYOR GENERAL'S OFFICE
 POST BOX No.37,
 DEHRADUN-248001 (Uttarakhand), INDIA

No.C- 500/P.F. (Shri P.B. Das, OS)

Dated: 15th February, 2008ORDER

IN COMPLIANCE OF DIRECTIONS OF HON'BLE CAT, GUWAHATI ORDER DATED 18-8-2005 IN O.A. NO.151/2004 – FILED BY SHRI P.B. DAS, OFFICER SURVEYOR & OTHERS V/s UOI & OTHERS – REGARDING.

Sri P B Das, then Surveyor, and other applicants were promoted to the post of Officer Surveyors, on ad-hoc basis with effect from 23.07.1996, with the condition that the ad-hoc promotion is purely provisional and would not bestow any benefits of seniority and can be terminated at any time. They were, later on promoted to the post of Officer Surveyor on regular basis, with effect from 17.07.2001(AN), after convening regular DPC proceedings. Sri P.B Das Officer Surveyor & Others filed O.A. No. 151/2004 in the Central Administrative Tribunal, Guwahati Bench, Guwahati, against Union of India & Others, claiming, promotion from retrospective effect to the post of Officer Surveyor, from the date of ad-hoc promotion and recast their seniority in the cadre of Officer Surveyor.

2. While disposing the subject OA vide their Order dated 18th August 2005, the Hon'ble CAT, Guwahati Bench, Guwahati has observed:

"However, it is a matter to the respondents to verify as to whether the applicants were qualified and eligible for being promoted to the post of Officer Surveyor as per the rules then existed. The competent authority among the official respondents is directed to verify all those matters from the service records of the applicants and if the applicants do satisfy all the required eligibility criteria the respondents will arrange for a review DPC and take a decision in the light of the observations made hereinabove within a period of four months from the date of receipt of this order. If the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their ad-hoc promotion based on the Review DPC the official respondents will fix the inter se seniority of the applicants without any further delay."

3. In compliance of the said Order by the Hon'ble CAT, Guwahati Bench, Guwahati, the matter pertaining to the eligibility of the applicants was examined. It is observed:

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Attested


 Advocate.

- 42 -

- 2 -

(a) That, the rules then existed was Survey of India, Officer Surveyor Recruitment Rules, 1983. As per these Rules, appointment by Direct Recruitment was stopped, providing for filling up the posts in the ratio of 75% by DPC promotees and 25% by LDCE promotees. The number of posts as per these rules was 359.

(b) That, in the Cadre Review vide Department of Science & Technology letter No. SM/02/044/088 dated 30-01-1998, out of 359 posts, 21 posts were earmarked for Chief Draftsman for promotion from the Grade of Draftsman Div I. Hence 21 posts were reduced in the grade of Officer Surveyor. Thus sanctioned strength of Officer Surveyor was 338. Further, 136 additional posts were created in this cadre review, thus bringing the total number of posts in the Cadre of Officer Surveyor to 474.

(c) That, the post of Chief Draftsman having been created in the cadre review from the existing strength of Officer Surveyors, amendments/framing of Recruitments Rules of Officer Surveyors was required before any such regular promotion in this grade. However, no action could be initiated in this direction, because there was a ban existing at that time on framing/amendments of Recruitment Rules. It was only in the year 1998, that the Government had lifted the ban, in view of the 5th Pay Commission report. The process of framing/ amendments of the Recruitment Rules was initiated and the Rules was notified on 30.11.2000 after consultation with DOPT and the UPSC.

(d) That, in the meantime, the Surveyor's Association had filed an O.A. 1343/98 in the Central Administrative Tribunal, Allahabad, Nainital Bench to fill up the vacancies. Pending the outcome of the O.A. the Surveyors Association in a meeting held on 11-09-1997 with Surveyor General of India had suggested/requested that 136 post of Officer Surveyors created in Cadre Review be filled up conditionally as an interim measure so that the members of the Association would get relief from the acute stagnation. Shri P.B. Das and others were very well aware of this fact being the member of the Association. The Administration took a sympathetic view and action was initiated to grant promotion on ad-hoc basis from the feeder cadre. In the absence of Recruitment Rules, after getting approval from the competent authority, promotion on ad-hoc basis was granted with effect from 23.07.98. On finalizing and notification of the Recruitment Rules, regular DPC was convened and posts were filled on regular basis with effect from 17.07.2001(AN).

(e) That, at the time of ad-hoc promotion to the posts of Officer Surveyors based on the Recruitment Rules of 1983, the regular vacancies of the year 1996 and 1997 were also considered along-with 102 posts created by the cadre review (75% of 136 posts) as per the details given under:

i) carried forward vacancies from 1996	= 05	
ii) 75% of 22 vacancies of 1997	= 17	
iii) 75% of 136 vacancies of cadre review	= 102	
Total		= 124

- 3 -

The Applicants (S.No. 1 to 7 of the O.A.) stood at S.No. 73, 80, 87, 100, 129, 131 and 132 respectively in the seniority list prepared for ad-hoc promotion to the post of Officer Surveyor. Even if regular DPC were convened on 23.7.98 i.e. the date of adhoc promotion, the said DPC could have considered only 22 vacancies, in which case, the applicants were not eligible to be included for promotion.

4. In view of the above it is observed that the applicants in the OA were not eligible for being promoted to the post Officer Surveyor with effect from 23.7.98 as per the rules then existed.

15th February 2006

H C R
(M. GOPAL RAO)
MAJOR GENERAL
SURVEYOR GENERAL OF INDIA

To

Shri P.B. Das, Officer Surveyor & Others,
C/o Director,
Meghalaya & Arunachal Pradesh GDC,
Shillong-793 001

10 APR 2007

Guwahati Bench,

গুৱাহাটী বেচ

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI.

O. A. No. 16 / 2007

P.B. Das & Others Applicants.

Versus

Union of India & Others Respondents.

To

The Hon'ble Vice-Chairman and his Companion Members of the
aforesaid Hon'ble Tribunal.

The applicant most respectfully submits as under:-

1. That the applicant is Respondent No.5 in the abovementioned OA.
2. That the applicant is employed in the Dehradun office of Survey of India and is a resident of Dehradun.
3. That the applicant is enclosing herewith the Counter Affidavit in the above mentioned OA No.16 of 2007 on behalf of Private Respondent Nos.4, 5, 6 and 8.
4. That due to certain unavoidable domestic circumstances, the applicant is presently unable to appear before the Hon'ble Tribunal and therefore, seeks permission of the Hon'ble Tribunal to send the enclosed Affidavit by post.
5. It is most respectfully prayed before the Hon'ble Tribunal that the Counter Affidavit enclosed herewith may kindly be taken on record.

Received copy

H.K. Das.

9.1.08

Place:- Dehra Dun.
Dated:- 10-04-07

(ANAND KUMAR)
Applicant.
Respondent No.5.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 16 of 2007

P. B. Das and others Applicants

v/s

Union of India and others Respondents

COUNTER AFFIDAVIT OF RESPONDENT No.5

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3.	Annexure R-2, Copy of order dated 06-12-2001	18, 19
4.	Annexure R-3, Copy of order dated 18-10-2001	20, 21
5.	Annexure R-4, Copy of revised Recruitment Rules, 2000	22, 23, 24


(ANAND KUMAR)
Deponent,
Respondent No.5.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O. A. No. 16 of 2007

Patal Bihari Das & others Applicants

v/s

Union of India & others Respondents

COUNTER AFFIDAVIT ON BEHALF OF PRIVATE RESPONDENTS

Affidavit of Shri Anand Kumar, aged about 47 years, s/o Shri Chhanga Ram, r/o Badripur (Tillwari), I.I.P., Mohkampur, Dehra Dun -248005 (Uttarakhand).

I, the deponent named above, do hereby affirm and state on oath as under:

1. That the deponent is Respondent No.5 in the above case and is, as such, fully acquainted with the facts of the case. Further, the deponent makes this affidavit in his own behalf and also on behalf of Respondent Nos. 4, 6 & 8 who have authorized him to do so.
2. That before submitting para-wise reply to the O.A. the deponent makes following submissions which have a bearing on the case.
 - 2.1 That the applicants, along with one more, had filed O.A. No. 151/04 before this Hon'ble Tribunal on the same subject praying that,

‘8.2 To direct the respondent authorities to consider cases of the applicants for promotion to the cadre of Officer Surveyor with effect from the dates the vacancies were available in pursuance to the cadre review carried out in the cadre of officer Surveyor in the year 1995 and to give retrospective effect to the promotions effected in the case of applicants to the cadre of Officer Surveyor with effect from the dates the vacancies were so available in pursuance to the cadre review.

‘8.3 To direct the respondent authorities to recast the seniority of the applicants in the cadre of Officer Surveyor after giving retrospective effect to the promotions of the applications as Officer Surveyor’

- 2.2. That the said O.A. No.151/04 was decided by this Hon’ble Tribunal vide its order dated 18-8-2005 directing the respondent department ‘...to verify as to whether the applicants were qualified and eligible for being promoted to the post of Officer Surveyor as per the rules then existed. The competent authority among the official respondents is directed to verify all those matters from the service records of the applicants and if the applicants do satisfy all the required eligibility criteria the respondents will arrange for a Review DPC and take a decision in the light of the observations made hereinabove within a period of four months from the date of receipt of this order. If the applicants are promoted to the post of Officer Surveyor with retrospective effect from the date of their ad hoc promotion based on the Review DPC the official respondents will fix the inter-se seniority of the applicants without any further delay.’
- 2.3 That the official respondents in the said OA No. 151/04 complied with the orders of the Hon’ble Tribunal and examined the matter pertaining to the eligibility of the applicants. The Surveyor General of India then issued a speaking order bearing No.C-500/PF(Shri P.B. Das, OS) dated 15-02-2003 in compliance of directions of the Hon’ble Tribunal dated 18-8-2005 in O.A. No.151/2004.

2.4 That the Applicants and the Respondents in the present case are the same as in O.A. No.151/04 decided by this Hon'ble Tribunal vide order dated 18-8-2005. Also the issue raised in the present application is the same as in the said O.A. No.151/04 already decided by this Hon'ble Tribunal vide the said order dated 18-8-2005. The present application is, therefore, barred by the principle of Res judicata as enshrined in Section 11 of the Code of Civil Procedure.

2.5 That the deponent, or any other private respondent, did not have notice of O.A. No.151/04 which was decided by this Hon'ble Tribunal by order dated 18-8-2005 and, as such, he could not file his Counter Affidavit in that case. The case was heard and decided behind his back.

2.6 That, on the same subject, affecting nearly the same sets of officers and contesting similar issues, an application, namely, O.A. No.400 / CH/2006, was filed by Shri Chander Kant and others in the Hon'ble C.A.T., Chandigarh Bench, which is still pending. The deponent and three other private respondents herein are also respondents in the said O.A. before the Chandigarh Bench of the Hon'ble C.A.T. The official respondents in the said case before the Chandigarh Bench are the same as in the present application before this Bench. The major relief prayed for by the applicants in the said O.A. No.400/CH/2006 is as under:-

“ That the impugned seniority list of Officer Surveyors issued vide letter dated 11-10-2005, Annexure A-14, be quashed and a revised seniority list be ordered to be issued by the official respondents firstly by fixing inter-se seniority of applicants qua 21 persons respondents promoted on the basis of LDCE, 1997, through Office Order dated 18-10-2001 and then to follow the roster in the ratio of 3:1 qua persons promoted through D.P.C. for the year 1998 since no regular DPC was held in 1998 so that the applicants are placed firstly by fixing their inter-se seniority with the 21 respondents of 2nd LDCE-1997 and then they may be placed en bloc after DPC/LDCE-1997 but before DPC/LDCE- 1999. In this manner the placement in seniority be worked out, year-wise in which recruitments were actually made.”

It is submitted that there is a possibility of conflicting judgments coming in the present case before the Hon'ble Guwahati Bench and in O.A. No.400/CH/2006 before the Hon'ble Chandigarh Bench. It would, therefore, be in the interest of justice that the present OA before this Hon'ble Bench awaits the disposal of the OA before the Chandigarh Bench.

- 2.7 That the matter of fixation of seniority between DPC candidates and LDCE candidates came up before the Hon'ble C.A.T., Cuttack Bench, in B.Mahapatra and others v/s Union of India and others. In pursuance of the judgment of the Hon'ble C.A.T., the Ministry of Science & Technology issued guidelines under their No. SM/04/035/98 dated 7-7-98 addressed to the Director, South Eastern Circle, with a copy to the Surveyor General of India (Respondent No.2 herein) in the matter of fixation of seniority between DPC promotes and LDCE recruits in the ratio of 3:1. It is so provided therein that inter-se seniority between 75% DPC and 25% LDCE promotes of a vacancy year shall be fixed in the ratio of 3:1 even though either DPC or LDCE for any particular vacancy year was held later than the vacancy year.

A copy of letter dated 7-7-98 of Respondent No.1 is enclosed herewith as **Annexure R-1.**

- 2.8 That later, in O.A. No. 438 of 1999, Swapan Kumar Chakraborty and another v/s Union of India and others, the full bench of Hon'ble CAT, Cuttack, vide its order dated 27-3-2000, upheld the aforesaid provisions contained in the LDCE Scheme and ruled that the inter-se seniority between 75% DPC promotes and 25% LDCE recruits may be fixed subject to the eligibility criteria of 5 years and possession of the recruitment qualification for fixing their seniority in respect of respective vacancy year.
- 2.9 That the number of vacancies to be filled up under the LDCE Test, 1997, was revised by Surveyor General of India (Respondent No.2) vide his order No.E1-8985/579-Rules/LDCE dated 6-12-2001 from 30 to 24 after recalculation of the

vacancies on implementation of the post based rosters for all cadres including the cadre of Officer Surveyor as per guidelines of DOP&T OM No. 36012/2/96-Estt (Res.) dated 02-7-1997, in place of existing vacancy based rosters. The vacancies falling in 1998, 1999, 2000 and 2001 were also recalculated on the basis of post based roster and it was found that no vacancy was available for the LDCE quota for these years. Accordingly, the LDCE test, announced earlier for the years 1998, 1999, 2000 and 2001 was kept in abeyance vide Surveyor General's order dated 6-12-2001, enclosed herewith as Annexure R-2.

- 2.10 That the cadre review report created 21 posts of Chief Draftsman which had to be carved out from the cadre of Officer Surveyor. These posts are provided to be filled by promotion from Draftsman, Division I, which hitherto was one of the feeder grades for Officer Surveyor. This necessitated an amendment in the recruitment rules and revision in the combined seniority list maintained for promotion to the grade of Officer Surveyor. The revised recruitment rules were notified on 30-11-2000. Necessary action for holding DPC and LDCE for filling up vacancies in the grade of Officer Surveyor was therefore initiated only after this date.
- 2.11 That the applicants, along with others, were promoted as Officer Surveyors on regular basis under 75% DPC quota under Surveyor General's order dated 16-7-2001(Annex.2 of the OA). This promotion order contains year-wise DPC results for the years 1997(including cadre review vacancies), 1998, 1999 and 2000. The private respondents were promoted as Officer Surveyor on regular basis under 25% LDCE quota under Surveyor General's order dated 26-3-2002 against the vacancies of 1997 (including cadre review vacancies).
3. That paragraphs 1, 2 & 3 of the O.A. need no reply.
4. That averments made in para 4.1 of the O.A. are partly denied. It is denied that there was inordinate delay in implementing the cadre review proposals. The vacancies in the grade of Officer Surveyor, howsoever created, were filled up by granting ad hoc promotions to eligible Surveyors, including the Applicants. DPC

for regular promotions could not have been held as the Recruitment Rules were being amended. The cadre review proposals included creation of some posts in the grade of Chief Draftsman (Group B) for promotion of Draftsman, Division I, and deletion of the category of Draftsman, Division I, from the feeder grades of Officer Surveyor. This necessitated amendment of Officer Surveyor Recruitment Rules and splitting of the combined seniority list of Group C, Division I into two separate lists – one for Draftsman, Division I, and one for rest of the Division I categories including Surveyors, Survey Assistants, Geodetic Computers and Scientific Assistants. The DPC for Officer Surveyor could not have been convened without amending the rules and without drawing up the new seniority list. The revised rules were notified on 30-11-2000. Necessary exercise for convening the DPC started soon thereafter.

It is further submitted that an application was filed by the Surveyors Association in 1996, registered as OA No.1343/1996, before the Hon'ble CAT, Allahabad Bench, praying for a direction to the official respondents to fill up the posts of Officer Surveyor created through cadre review immediately as prolonged delay could result in the abolition of these posts. Since the revision of Recruitment Rules was taking time and the affected staff was getting impatient for promotions, the Surveyors Association proposed to the official respondents to fill up the vacancies on ad-hoc basis. The proposal was accepted.

It is submitted that the concept of retrospective promotions does not exist in service jurisprudence. Where, for reasons beyond the control of the appointing authority, the DPC could not be held in a year(s), even though the vacancies arose during that year (years), the first DPC that meets thereafter follows the following procedure:-

- (i) Determine the actual number of regular vacancies that arose in each of the previous year(s) immediately preceding and the actual number of regular vacancies proposed to be filled in the current year separately.

- (ii) Consider in respect of each of the years those officers only who would be within the field of choice with reference to the vacancies of each year starting with the earliest year onwards.
- (iii) Prepare a 'Select List' by placing the select list of the earlier year above the one for the next year and so on.

While promotions will be made in the order of the consolidated 'Select List', such promotions will have only prospective effect even in cases where the vacancies relate to earlier year(s).

- 5. That averments made in para 4.2 of the O.A. are not contested.
- 6. That contents of para 4.4 of the O.A. need no reply. However, it is reiterated that promotions made through DPC cannot have retrospective effect.
- 7. That averments made in para 4.5 of the O.A. are irrelevant as the recruitment rules had been revised, first in 1983 and then again in 2000.
- 8. That the contents of para 4.6 of the O.A. are admitted to the extent that the recruitment rules were revised in 1983. It is further submitted that the rules were again revised in 2000.
- 9. That with regard to para 4.7 of the O.A. it is not admitted that the cadre of Officer Surveyor in Survey of India comprises two distinct sets of officers. The fact is that this is a single homogenous cadre comprising officers all promoted from the same feeder grade with the same technical qualifications and with slightly varying length of service. It is also submitted that the respondent department has not failed in its duty to adhere to the Rota Quota Rules or to prepare year wise panel for promotion by convening year wise DPC. The official respondents have also not failed in their duty to affect the cadre review periodically.

10. That with regard to para 4.8, 4.9, 4.10 and 4.11 of the OA it is submitted that the cadre review posts were created in 1996 but prolonged consultations between the official respondents dragged the effect to 1997. Thereafter the exercise for amendment of recruitment rules was undertaken which took longer than three years of time for various reasons.
11. That with regard to contents of para 4.12 of the OA it is submitted that the assumption of the applicants that they would have been considered fit by the DPC if it were convened in 1998, is baseless. The applicants were considered fit for promotion by the DPC held in 2001. If the DPC were held in 1998, a different set of A.C.Rs. would have been considered and the result could also have been different.

It is further submitted that in the Survey of India, Officer Surveyor Recruitment Rules, 2000, notified on 30th December, 2000, eligibility condition for promotion to the grade of Officer Surveyor through DPC has been laid down as 6 years service in the grade of Surveyor/ Survey Assistant/ Scientific Assistant/ Geodetic Computer. The DPC held in 2001, therefore, considered ACRs. for the years 1995 to 2000 and found the applicants fit. Prior to 30-12-2000, the eligibility criteria for the same promotion was 8 years regular service in the above mentioned feeder grades. If the DPC were held in 1998, then the ACRs. for the years 1990 to 1997 would have been considered. It cannot be said that the officer who was fit for promotion on the basis of his ACR entries for the years 1995 to 2000 would have also been fit on the basis of ACR entries for the years 1990 to 1997. The claim of the applicants for promotion with effect from 1998 on the basis of ACRs. which were considered by the DPC, therefore, has no justification.

12. That with regard to para 4.13 of the OA, it is submitted that DPC for the vacancies of 1994 and 1995 was held in 1996 and promotions were ordered in February, 1996. Thereafter, DPC for the vacancies of 1996 was held in 1997 and promotions ordered in 1997. LDCE Test for the vacancies of 1994, 1995 & 1996 was held in 1997. Results of this test were withheld due to a court case till 2001 and promotions were ordered in July, 2001.

Failure of the department to hold year wise DPC and LDCE regularly for whatsoever reasons it be, has not always worked to the disadvantage of DPC candidates. It has equally worked to the disadvantage of the LDCE candidates also. During the years 1998 to 2000, however, no DPC and no LDCE could be held for reasons explained in para 4 above.

13. That averments made in para 4.14 of the OA are admitted to the extent that the applicants were promoted to the post of Officer Surveyor on regular basis through DPC vide order dated 16-7-2001 of the Surveyor General of India.(Annexure 2 of the OA). It is submitted that the period of ad-hoc appointment from 1998 to 2001 does not count for seniority. Reasons for delay in holding DPC and LDCE have been explained in the foregoing paragraphs.
14. That the contents of para 4.15 of the OA are not admitted. It is not admitted that there was any inaction on the part of the department in utilizing the vacancies created through cadre review. As stated in para 4 of this Counter Affidavit, the cadre review provided some posts of Officer Surveyors to be transferred to the cadre of Chief Draftsman and simultaneously deleted the Draftsman, Division I, from the feeder grades of Officer Surveyor. Thus the Draftsmen would now seek promotion to Chief Draftsman and not to Officer Surveyor. This necessitated amendments in the recruitment rules and redrawing of the seniority lists. The department gave ad-hoc promotions to the applicants and some others to fill up the vacancies as regular DPC could be held only after notification of revised recruitment rules. As soon as the revised rules were notified, necessary action for holding DPC was initiated and the promotions on regular basis were finally ordered on 16-7-2001.

It is further denied that anomaly has been created by holding the LDCE Test and the DPC on different dates. There is no statutory binding on the Surveyor General of India to hold the DPC and the LDCE on the same date or in the same year. The rules only provide that the Surveyor General will maintain a Recruitment Roster as under:

"9. RECRUITMENT ROSTER – Vacancies to be filled up by promotion by selection through DPC and through the Limited Departmental Competitive Examination Scheme should be fixed on the basis of 3:1 for which a Recruitment Roster will be maintained by the Surveyor General of India. The inter-se seniority of those selected in any one year being determined according to the order of merit in which they are placed in the examination."

It is not admitted that there was any dispute in fixing inter-se seniority of DPC and LDCE selected officers. There has been no break down of the quota rota rules as alleged.

15. That the contents of para 4.16 of the OA are not admitted. The cadre review posts were filled up by promoting the applicants and others on ad hoc basis in 1998. The applicants have not lost anything. They have not suffered any loss of seniority as against the private respondents. The private respondents passed the Limited Departmental Competitive Examination held in 2001 for the LDCE share of vacancies of 1997, while the applicants were recommended for promotion by DPC held in 2001 for the DPC share of vacancies of 1997, 1998, 1999 and 2000. The official respondents have not committed any illegality in preparing the seniority list.
16. That the contents of para 4.17 of the OA are not admitted. It is not admitted that the official respondents violated the settled principles of maintaining quota rota between the promotes of 25% LDCE and the promotes of 75% DPC promotional quota. The recruitment roster quoted in paragraph 14 above has been followed in fixing seniority between the LDCE and the DPC promotes.

It is submitted that the Surveyor General of India issued his order dated 18-10-2001 (**Annexure R-3**) indicating a schedule of LDCE tests to be conducted for year wise vacancies for the years 1997 to 2001. The vacancies earlier indicated for the year 1997 were subsequently revised under order dated 6-12-2001 (**Annexure R- 2**) from 30 to 24. Later, on switching over from vacancy based roster to post based roster, LDCE tests for the years 1998 to 2000 were kept in abeyance vide order **Annexure R-2** to this affidavit.

17. That the contents of para 4.18 are not admitted. No retrospective promotion has been given to the private respondents. It is unreasonable on the part of the applicants to ask for counting their ad-hoc service for promotion and seniority. The rules do not provide for this. Regular promotion can be counted only from the final date of DPC. There is no concept of retrospective promotion.

18. That averments made in para 4.19 of the OA are specifically denied. The official respondents have made promotions strictly according to the rules. The recruitment rules notified in December, 2000 (**Annexure R-4**), have not made much departure from the 1983 rules. Only differences between the two sets of rules are firstly with regard to the feeder grades, from which Draftsman, Division I, has been deleted, and secondly, with regard to qualifying service for promotion through DPC which has been reduced from 8 years to 6 years. No change in the 25% LDCE has been made. The allegation of the applicants that two different sets of rules have been followed, is baseless. No retrospective promotion has been granted to any body.

19. That the contents of paragraphs 4.20 and 4.21 of the OA need no reply from the private respondents. It is, however, submitted that the private respondents did not get an opportunity to be heard in OA No. 151/04. Had they been heard, the result of the said OA could have been different.

20. That with regard to para 4.22 of the OA it is submitted that private respondents submitting this Counter Affidavit had no notice of the OA No. 151/04 before this Hon'ble Tribunal and the contention of the applicants to the contrary is wrong and denied.

21. That with regard to the contents of para 4.23 of the OA it is submitted that the private respondents have no notice of the events described therein and, therefore, have no reply to make.

It is, however, submitted that :-

(a) The general principle is that promotion of officers included in the panel would be regular from the date of validity of DPC panel or the date of their actual promotion, whichever is later.

(b) The date of commencement 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 panel.

22. That the contents of para 4.24 of the OA are strongly denied being misconceived and misleading. As is evident from the Surveyor General's order dated 15-02-2006, annexed with the OA as Annexure 5, the order of this Hon'ble CAT dated 18-8-2005 had been complied with. It is wrong to infer that the said order dated 15-02-06 was issued by the Surveyor General only to avoid contempt proceedings. It was a right decision to close the contempt proceedings after receipt of the above said order of the Surveyor General of India.

23. That the contents of para 4.25 of the OA are not admitted as stated. The order of the Hon'ble CAT dated 18-8-05 was complied with by the Surveyor General vide his order dated 25-02-06 which is self explanatory. It is denied that the respondents failed to take into consideration the observations and directions of the Hon'ble CAT or that they flouted the said CAT order in not convening a review DPC.

24. That the contents of para 4.26 of the OA are not admitted. It is not admitted that DPC could be convened straight away as soon as the cadre review posts came. The cadre review report simultaneously provided that the cadre of Officer Surveyor would be split into two. Some of the sanctioned posts were allotted to the cadre of Chief Draftsman which would be filled exclusively by promotion of Draftsman, Division I. The category of Draftsman, Division I, was to be deleted from the feeder grades of Officer Surveyor. These changes could be brought about only by amending the Recruitment Rules. The revised Recruitment Rules were notified on 30-11-2000 and necessary action for conducting DPC and LDCE for promotion to Officer Surveyor initiated thereafter.

25. That the contents of para 4.27 of the OA are specifically denied. The respondents made no mistake in filling up vacancies after notification of revised recruitment

rules. It is not admitted that the cadre review posts which came in 1996 could have been filled in 1996. It is reiterated that these posts could have been filled on regular basis only after the recruitment rules had been revised for reasons stated in the preceding paragraphs. Ad-hoc promotions were given on the request of Surveyors Association to give benefit to their members because the regular promotions were getting delayed.

26. That the contents of para 4.28 are based on misinformation and are far from truth. Hence denied. Order dated 15-02-06 of the Surveyor General of India gives the true account of events. It is wrong and denied that promotions through LDCE were given during 1997, 1998, 1999 and 2000. No regular promotions, either through DPC or through LDCE, were given during these years. DPC for the years 1997(including cadre review vacancies), 1998, 1999 and 2000 was held during June, 2001. LDCE test for the year 1997(including cadre review vacancies) was held in December, 2001.

GROUND FOR RELIEF:

27. That the contents of para 5.1 are not admitted. The impugned order(s), Annexure A-5 of the OA, was issued by the Surveyor General of India in compliance of judgment and order dated 18-8-2005 of this Hon'ble Tribunal in OA No.151/04. The compliance has been complete and lawful. It is neither illegal nor arbitrary nor violative of the principles of natural justice as alleged.
28. That the contents of para 5.2 are wrong and denied. It is submitted that the applicants have lost nothing. Their assumption that they lost seniority vis a vis the LDCE candidates is baseless. They were arranged in seniority as per rules with the LDCE candidates selected for vacancies of 1997 in the ratio of 3 DPC to 1 LDCE.
29. With regard to para 5.3 it is submitted that after receipt of cadre review report no DPC and no LDCE was conducted till the end of 2000. The reasons have been explained in the preceding paragraphs and need no repetition.

30. That the contents of para 5.4 are denied. The assumption of the applicants that seniority of DPC promotes vis-à-vis LDCE promotes has not been assigned as per rules is wrong. Inter-se seniority of officers promoted through the two channels was arranged year wise according to the year of vacancy as per rules.
31. That in reply to para 5.5 of the OA it is submitted that the circumstances leading to filling up of vacancies on ad-hoc basis have been explained in paragraph 4 above and need no repetition. Promotions on ad-hoc basis were given under compelling circumstances, and on the request of Surveyors Association, one of the most sensible and responsible employees' organization representing the interests of both the applicants and the private respondents alike. It is also submitted that the beneficiaries of ad-hoc promotions include all the applicants but none of the private respondents.
32. That the contents of para 5.6 are strongly denied. No quota rota rule has been violated and no private respondent was given retrospective promotion.
33. That the contents of para 5.7 are denied. The official respondents, in their order Annex. 5 of the OA have only stated facts and have given logical explanations to their acts. The said order does not violate any part of the order of the Hon'ble Tribunal in OA No.151/04.
34. That with regard to para 5.8 of the OA it is submitted that the actions of the responding department are lawful and have been taken in the interest of the department, doing full justice to all the employees involved.
35. That the contents of para 6 of the OA are wrong and misleading, hence denied. The applicants are agitating primarily against the manner in which the order of the Hon'ble Tribunal in OA No.151/04 was complied with. The remedy against the alleged non compliance or unsatisfactory compliance of the CAT order does not lie in filing another OA. This OA is highly misconceived and a misuse of the process of law.

36. That the contents of para 7 of the OA are highly misleading and hence denied. It is submitted that though the applicants have not agitated the subject matter of this application before any other court or any other bench of this Tribunal, they did agitate the subject matter of this OA against the same respondents in this very bench of the Hon'ble Tribunal. They have thus filed a second application in the same bench of the Hon'ble CAT against the same respondents on the same cause of action praying for the same relief.

37. That the applicants are not entitled to any relief from this Hon'ble Tribunal because:

- (i) This Hon'ble Tribunal had already heard and decided the issues involved between the parties herein in OA No. 151/04.
- (ii) The order of this Hon'ble Tribunal in OA No. 151/04 has been complied with by the responding department vide Surveyor General of India's order dated 15-02-06 which is based on facts of the case and is fully lawful.
- (iii) The contention of the applicants that they deserve to be given back dated promotion is not supported by rules. The rule is very clear that promotion on regular basis will take effect from the date of DPC.
- (iv) The contention of the applicants that they have not been given seniority vis-à-vis the LDCE promotes from 1997 is factually incorrect. The fact is that both, the applicants and the private respondents (LDCE promotes), were placed in seniority according to the rules, against the vacancies of 1997, in the ratio of 3 DPC promotes to 1 LDCE promote.
- (v) The ad-hoc promotions ordered in 1998 have given advantage only to the applicants and other DPC promotes. They were fixed in the higher scale in 1998 itself and they earned their annual increments from 1998. On regular promotion in 2001, their salaries were protected. They are therefore on a higher stage in the pay scale as compared to the LDCE promoted private respondents.

38. That with regard to para 9 of the application it is submitted that the applicants are not entitled to any interim relief as prayed for.

The application does not deserve to be admitted as it is founded entirely on misinformation and factually incorrect pleadings and is a repetition of OA No.151/04 which has already been heard and decided by this Hon'ble Tribunal. The applicants are not entitled to any relief from this Hon'ble Tribunal.



ANAND KUMAR
DEPONENT
Respondent No. 5

VERIFICATION:

I, Shri Anand Kumar, aged about 47 years, s/o Shri Chhanga Ram, do hereby verify that the contents of paragraphs 1,2,5,2,7 to 2.11, 3 to 11,15,16, 18 to 21, 24 to 31 and 37 of this affidavit are true to my personal knowledge, those of paragraphs 12,13 and 14 are based on records and those of paragraphs 2.1 to 2.4, 2.6, 17, 22, 23, 27, 33 to 36 and 38 are based on legal advice which I believe to be true. SO HELP ME GOD.



(ANAND KUMAR)
DEPONENT
Respondent No.5

Place:- Dehradun.

Dated :- 10-04-07

प्राची सरकार
विज्ञान प्रोग्रामीकी मंत्रालय
विज्ञान प्रोग्रामीकी विभाग
विभागीय बचत, नया मद्रासी मार्ग, नई दिल्ली - 110016

TELEGRAM/TELEGRAM: 1 SCIENCE/TECH
TELEGRAM/PHONE: 1 662135 (EPABX)
667373
TELEGRAM/TELEX: 1 78361, 73317, 73280
TELEGRAM/FAX: 1 661682, 6862418

GOVERNMENT OF INDIA
MINISTRY OF SCIENCE & TECHNOLOGY
Department of Science & Technology,
Technology Bhavan, New Mehrauli Road, New Delhi - 110016

SM/04/035/98

Date: 7th July, 1998.

To

The Director,
Survey of India, Survey Bhavan,
P.O. RR Laboratory,
Bhubaneshwar - 751013

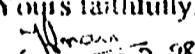
Sub: Judgement in O.A. No. 221 of 1996- Shri B. Mahapatra and others
V/s Union of India and others.

Sir,

I am directed to refer to Survey of India letter No. LC-6441/1196-B (B. Mahapatra) dated 26.5.98 on the above subject and to inform you that the matter was taken up with the concerned Departments and it has been decided that this is not a fit case for filing an appeal. Not holding the Limited Departmental Competitive Examination in year (s) even though the vacancies arose during that year (s) is similar to not holding DPC in such a situation and just as year-wise panel is to be prepared by the DPC as and when it meets and the empanelled officers are allowed relevant year's seniority, similar treatment should be given to those selected through LDCE as and when it is held. Hence, the ruling of C.A.T. in this case to allow 1985 seniority to these applicants on the ground that LDCE was not held in 1985 (even though persons were qualified for taking the LDCE) appears to be unobjectionable.

You are requested to kindly take necessary action for implementing the direction of the Central Administrative Tribunal, Cuttack Bench immediately.

Yours faithfully,


3.7.98

(K.P. Nair)

Desk Officer

Copy to : 1. The Surveyor General of India, Survey of India, Dehra Dun
(Attention Shri S.P. Goel, Deputy Director).

2. Addl. Surveyor General, Eastern Zone, SOI, No. 13, Wood Street,
Calcutta - 700016

BY FAX

No E1- 8985/579-Rules/LCE

SURVEY OF INDIA
SURVEYOR GENERAL'S OFFICE
POST BOX NO.37
DEHRA DUN - 248 001 (UTTARANCHAL)

DATED: 6 DECEMBER, 2001.

To

The Additional Surveyor General,
Survey Training Institute,
Survey of India,
HYDERABAD.

Sub:- LIMITED DEPARTMENTAL COMPETITIVE EXAMINATION (SELECTION TO OFFICER SURVEYOR'S GRADE) REGARDING.

REF.:- i) In continuation of this office letter
No. E1-7835/579-Rules/LCE dated 18.10.2001.
ii) Your letter No.C-9469/2-B(Exam)/STI dated
31.10.2001.

The number of vacant posts shown against 1997
examination may be amended to read as 24 instead of 30, details
of which are furnished hereunder : -

General	- 8
S.C.	- 10
S.T.	- 6

2. The Limited Departmental Competitive Examination for
the years 1998, 1999, 2000 & 2001 may please be kept in abeyance
till further orders.

Appropriate action may be taken at your end.

Signature
(V. R. MAHENDRA) LT. COL.
DEPUTY SURVEYOR GENERAL
for SURVEYOR GENERAL OF INDIA
PHONE NO. 746805.

6/12/2001

.....2/-

-2-

Copy to : The Additional Surveyor General,
SGO/EZ/SZ/NZ/WZ.*

Copy to : The Director, EC/CC/SC/NC/WC/SCC/SEC/NEC/
NWC/DMC(D.DUN)/DMC (Hyd)/MCC/G&RD/MP/R&D/
SSEC/DSA/O.C.Bdy. Cell.*

Copy to : E&AO 'C'/E&AO 'A' (SGO)*

Gto 65 OC Work Party Unit (SGO)

* For information and necessary action.
They are requested to kindly give due circulation of the above
letter and contents may be noted by the participants of the
ensuing Limited Departmental Competitive Examination.

K
for Surveyor General of India
1/2 (D)
6/2/2001

- 19 -

No. E1-1835/579-Rules/LCE

Hyde
SURVEY OF INDIA
SURVEYOR GENERAL'S OFFICE
POST BOX NO. 37
DEHRADUN - 248,001 (UTTARANCHAL),

DATED: 18 October, 2001.

To

The Additional Surveyor General,
Survey Training Institute,
Survey of India,
HYDERABAD.

Sub:- LIMITED DEPARTMENTAL COMPETITIVE EXAMINATION (SELECTION
TO OFFICER SURVEYOR'S GRADE) REGARDING.

This office letter No. E1-16654/579-Rules dated 28 September, 2001 may please be treated as cancelled.

2. The tentative programme for holding the Limited Departmental Competitive Examinations (Selection to Officer Surveyor's Grade) for the years 1997, 1998, 1999, 2000 & 2001 is chalked out as under :-

YEAR OF EXAMINATION	DATE OF WRITTEN TEST	DATE OF INTERVIEW	DATE OF DECLARATION OF RESULT.	REMARKS
1.	2.	3.	4.	5.
1997	13-14 December	14-15 January	21 January	
	2001	2002	2002	
1998	11-12 March	11-12 April	19 April	
	2002	2002	2002	
1999 <i>Thur</i>	13-14 June	11-12 July	19 July	
<i>Fri</i>	2002	2002	2002	
2000	12-13 September	10-11 October	18 October	
	2002	2002	2002	
2001	12-13 December	13-14 January	21 January	
	2002	2003	2003	

843
99/10/2001
3. The vacancies for the years 1997 to 2001 subject to the variation depending upon the result of LDCI, are furnished as under :-

....2....

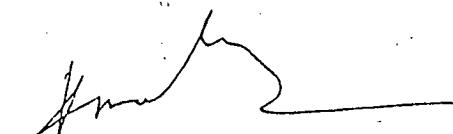
YEAR	GENERAL	SC	ST	TOTAL
1997	8 18	10 0	6 4	24 30*
1998	3 + 10	1	-	4
1999	2 + 11	-	-	2
2000	5	1	-	6
2001	10	2	1	13

(*This includes the back log vacancies & vacancies created under Cadre Review proposal approved vide DST's No. SM/02/44/088 dated 30.1.96).

4. The candidates qualified in the written exam may be directed through their Directors/Head of Offices to report to Additional Surveyor General, Surveyor General's Office on the date mentioned in Col.3 (Date of Interview) of Para 2 above for interview. Their Directors concerned may also be asked to furnish their ACR dossiers direct to Surveyor General's Office under intimation to this office.

5. Those candidates who have completed 5 years qualifying service on 1st January of the year of vacancy will be eligible to appear in the examination.

6. In view of above, you are requested to make necessary arrangements to hold the above examinations and necessary circular may be issued accordingly.


 (V.R. MAHENDRA) LT.COL.
 DEPUTY SURVEYOR GENERAL
 for SURVEYOR GENERAL OF INDIA
 PHONE NO. 746805.

Copy to : 'C' Section (S.G.O.).

रीजस्ट्री. स. दी. पर. - 33001/99

REGISTERED NO. D. L.—330019

भारत का गज़ीत The Gazette of India

प्रधानार से प्रधाना
PUBLISHED BY AUTHORITY

प. 53] नई दिल्ली स्पेशल विलेज, 30, 2000/पोस्ट 9, 1922
No. 53] NEW DELHI, SATURDAY, DECEMBER 30, 2000/POST 9, 1922

इस आम अंदिल पूँज दृश्या एवं इसमें है प्रियतो कि वह अपना संकाशन
प्रेयस दृश्या आ रहे

PART II. Section 3.—स्वीकृतिः (i)

गह गंदालय

बाई दिल्ली, 10 नवम्बर, 2000

नई दिल्ली, 10 नवम्बर, 2000

सा.का.नि. 516.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए गृह मंत्रालय, राजभाषा विभाग, केन्द्रीय हिन्दी प्रशिक्षण संस्थान (प्रशागनिक अधिकारी) भर्ती नियम, 1991 का संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात्:—

1. संक्षिप्त नाम और प्रारम्भः (1) इन नियमों का संक्षिप्त नाम गृह संवालय, राजभाषा विभाग, केन्द्रीय हिन्दी प्रशिक्षण संस्थान (प्रशारात्मिक अधिकारी) भर्ती (संशोधन) नियम, 2000 है।

(2) ये सरकारी राजपत्र में प्रकाशन की तारीख को प्रदृष्ट होंगे ।

२. गृह संचालन, राजभाषा विभाग, केन्द्रीय हिन्दी प्रगिक्षण संस्थान (प्रशासनिक अधिकारी) भर्ती नियम, 1991 की मन्त्रपूरी के स्पर्श पर निम्नलिखित अनुसूची रखी जाएगी, अर्थात्:—

3413 G1/2000-1

(3809)

पाता 11—खंड 3 (i))

भारत का गत्रपत्र: दिसम्बर 30, 2000/प्र० 9.1922

3859

इचिभागीय प्रोत्तति समिति है, तो उसकी संरचना

भर्ती करने में किन परिस्थितियों में संघ नाम सेवा प्राप्तीं
से परामर्श फिल जाएगा

13

14

इचिभागीय प्रोत्तति समिति/पुस्ट समिति:

- 1) भारत का महासर्वेक्षक — अध्यक्ष
- 2) निदेशक/उप सचिव जी विज्ञान और तकनीकी विभाग से संबद्ध हो — सदस्य
- 3) उप महासर्वेक्षक — सदस्य
- 4) भारत के महासर्वेक्षक द्वारा नामनिर्दिष्ट निदेशक (चान्द्रनुकम्भ में) — सदस्य
- 5) अनुसूचित जाति/अनुसूचित जनजातियों समूह का ज्येष्ठतम ग्रधिकारी — सदस्य

संघ नाम सेवा प्राप्तीं में परामर्श फिल जाएगा

[का.स. एस.एस.-01/015/95]

वां.क. चार्चरनी, अवर सचिव

New Delhi, the 30th November, 2000

G.S.R. 528.—In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the Survey of India, Officer Surveyor, Recruitment Rules, 1983, except as respects things done or omitted to be done before the supersession, the President hereby makes the following rules regulating the method of recruitment to the post of Officer Surveyor in Survey of India, under the Department of Science and Technology, namely:—

1. Short title and commencement.—(1) These rules may be called the Survey of India, Officer Surveyor Recruitment Rules, 2000.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. Number of posts, classification and scale of pay.—The number of the said post, its classification and 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 and other qualifications.—The method of recruitment, age limit, qualifications and other matters relating to the said post shall be as specified in columns (5) to (14) of the said Schedule.
4. 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 there are other grounds for so doing, exempt any person from the operation of this rule.

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

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

SCHEDULE

Name of post	No. of posts	Classification	Scale of pay	Whether Selection by merit or selection-cum-seniority or non-selection post	Age limit for direct recruits
1 Officer Surveyor	2 474	3 General Central Services Group 'B' Gazetted, Non-Ministerial	4 Rs. 6500-200-10,500	5 Selection-cum-seniority	6 Not applicable

*Subject to variation dependent on workload.

3860 THE GAZETTE OF INDIA : DECEMBER 30, 2000/PAUSA 9, 1922 (PART II—SEC. 3(i))

Whether benefit of added years of Service admissible under rule 30 of the Central Civil Services (Pension), Rules 1972

Educational and other qualifications required for direct recruits

Whether age and educational qualifications prescribed for direct recruits will apply in the case of Promotees

7

Not applicable

8

Not applicable

9

No

Period of probation, Method of recruitment if any

Whether by direct recruitment or by promotion or by deputation/absorption and percentage of the posts to be filled by various methods

In case of recruitment by promotion/deputation/absorption, grades from which promotion/deputation/absorption to be made

10

Not applicable

By promotion

12

Promotion:

(i) 75% by promotion.

Senior Surveyors (Rs. 5500-9000)/Surveyors (Rs. 5000-8000) with six years combined service in the two grades or Surveyors, Survey Assistants, Scientific Assistants, Geodetic Computers (Rs. 5000-8000) with six years service in the grade.

(ii) 25% By Limited Departmental Competitive Examination

Senior Surveyors (Rs. 5500-9000) Surveyors, Survey Assistants, Scientific Assistant, Geodetic Computers (Rs. 5000-8000) who have passed Bachelor's Degree with Mathematics as a subject and have rendered five years regular service in the respective grades.

NOTE : 1

The Examination shall be conducted by the Additional Surveyor General, Survey Training Institute, Hyderabad in accordance with the Scheme as may be finalised by the Surveyor General of India in consultation with the Department of Science & Technology from time to time.

NOTE : 2

An Employee shall avail not more than three chances to appear at the said Examination during his entire service period.

If a Departmental Promotion Committee exists what is its composition

Circumstances in which Union Public Service Commission is to be consulted in making recruitment

13

Group 'B' Departmental Promotion Committee Confirmation Committee:

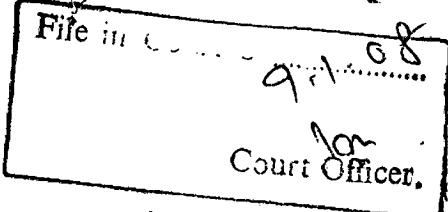
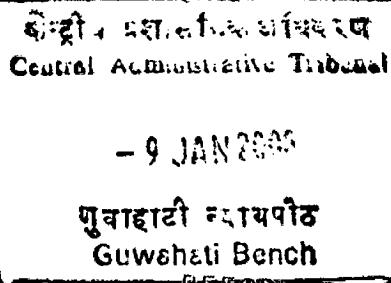
- (i) Surveyor General of India—Chairman
- (ii) Director/Deputy Secretary concerned in the Department of Science and Technology—Member
- (iii) Deputy Surveyor General—Member
- (iv) Director (by rotation) to be nominated by the Surveyor General of India—Member
- (v) Seniormost Scheduled Caste/Scheduled Tribes Officer of Group 'A'—Member

14

Consultation with Union Public Service Commission not necessary.

[F. No. SM-01/015/95]

B. K. RAICHANDANI, Under Secy.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI.

O.A. NO. 16 OF 2007

Patal Bihari Das & Ors.

...Applicants

-versus-

Union of India & Ors.

....Respondents

The written statement on behalf of
the Respondents ^{No. 1, 2 & 3} above named-

WRITTEN STATEMENT OF THE RESPONDENTS.

MOST RESPECTFULLY SHEWEETH:

1. That with regard to the statement made in paragraph 1 o. the instant application the Respondents beg to offer no comment.
2. That with regard to the statement made in paragraph 2 & 3 of the instant application the Respondents beg to offer no comments.
3. That with regard to the statement made in paragraph 4.1 of the instant application the Respondents beg to state that in compliance of the Hon'ble CAI order Guwahati Bench, Guwahati the matter pertaining to the eligibility of promotion on regular basis to the post of Officer Surveyor in respect of the applicants was exa-

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29
Filed by
Monali Gourkar
Date 10/03/2007
Case No. 108

- 9 JAN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench [2]

File

Court Officer.

mined from the existing position of the relevant rules applicable in conducting the DPCs for promotion on regular basis. As per order passed by the Hon'ble CAI dated 18.8.2005 in OA No. 151/2004 a reasoned order dated 15.2.2006 was issued stating all the facts of the case, which was in order and based on factual position. The contention made by the applicants in this para is not correct.

4. That with regard to the statement made in paragraph 4.2 of the instant application the Respondents beg to offer no comments.

5. That with regard to the statement made in paragraph 4.4 of the instant application the Respondents beg to state that the applicant's contention is not based on rules/facts. As per rule at the time of giving adhoc promotion, it was clearly stated in the promotion order for the post of Officer Survey on adhoc basis vide this office letter No. C-2425/707 dated 23.7.1998 that the adhoc promotion is purely provisional and would not bestow any benefits of seniority and can be terminated at any time. As per consolidated instructions on Departmental Promotion Committee and related matters para 6.4.4. clearly stated that "while promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where the vacancies related to the earlier year(s)

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Open for date with

- 9 JAN 2001

गुवाहाटी न्यायालय
Guwahati Bench

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File in Court on.....

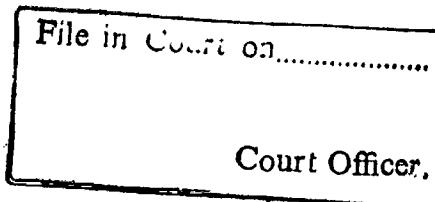
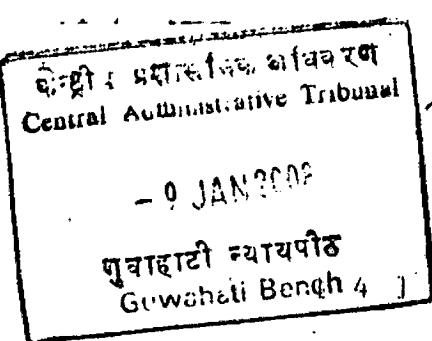
Court Officer.

6. That with regard to the statement made in paragraph 4.5 and 4.6 of the instant application the Respondents beg to state that according to Recruitment Rules before 1983, 50% of the vacancies are to be filled by LDCE and 50% by promotion from Class-III, Division-I (Topographical) Establishment. According to Recruitment Rule 1983 there were 359 sanctioned posts of Officer Surveyor prior to cadre review. As per DST's letter No. SM/02/044/088 dated 30.1.1996, out of 359 posts, 21 posts meant for Chief Draftsman were reduced in the grade of Officer Surveyor. Thus strength of Officer Surveyor got reduced to 338, 136 posts were created in cadre review vide DST's letter No. SM/02/044/088 dated 20.1.1996. The DPC could not be convened for the newly created 136 posts in cadre review due to some administrative reasons and in the absence of revised recruitment rules.

As per existing rules 1983, 75% of the promotional quota is to be filled by DPC promotees and 25% to be filled by LDCE promotees. The annual vacancies occurring in the grade of Officer Surveyor are being distributed/filled up as per the quota prescribed in the existing recruitment rules. The applicants were promoted on adhoc basis w.e.f. 23.7.1998 and they were granted regular promotion to the post of Officer Surveyor w.e.f. 17.7.2001 (AN) after convening the regular DPC. The consolidated instructions on Departmental Promotion

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Open for 824th M/s



Committee and Related Matters Rule 6.4.4 clearly states that "while promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where in the vacancies related to the earlier year(s)".

Prior to the cadre review, promotion to the grade of Officer Surveyors was done by selection from Surveyors, Survey Assistants, Geodetic Computers and Draftsman Division-I. In cadre review in Group-B Chief Draftsman's posts have been sanctioned and excluded from Officer Surveyors post. As such the recruitment rules to the post of Officer Surveyor had to be revised before holding DPC for the newly created posts under Cadre Review. Keeping in view, the delay in finalisation of Recruitment Rules action was initiated to promote the officers on adhoc basis and adhoc promotion continued till such time the DPC for regular promotion was convened. The personnel were promoted on regular basis on their turn according to their seniority in feeder grade and as per norms of the DPC, hence the allegation made by applicants is not correct. The seniority in the grade of officer Surveyor between DPC promotees and LDCE promotees has been fixed according to the rules on the subject.

7. That with regard to the statement made in paragraph 4.7 to 4.9 of the instant application the

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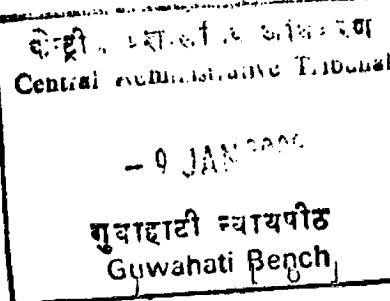
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Respondents beg to state that as per existing recruitment rules 1983, 75% of the promotional quota is to be filled by DPC promotees and 25% to be filled by LDCS promotees. It is reiterated that the annual vacancies occurring in the grade of Officer Surveyor are being distributed/filled up as per the quota prescribed in the existing recruitment rules. As per DOP & I.S. instructions regarding holding of DPC, panel has been prepared year wise and seniority has been fixed accordingly and such promotions will have only prospective effect even in cases where the vacancies related to earlier years.

Prior to the cadre review, promotion to the grade of Officer Surveyors was done by selection from Surveyors, Survey Assistants, Geodetic Computers and Draftsman Division-I. In cadre review in Group-B Chief Draftsman's posts have been sanctioned and excluded from Officer Surveyors post. As such the recruitment rules to the post of Officer Surveyor had to be revised before holding DPC for the newly created posts under Cadre Review. Keeping in view, the delay in finalisation of Recruitment Rules action was initiated to promote the officers on adhoc basis and adhoc promotion continued till such time the regular DPC was convened. The personnel were promoted on their turn according to their seniority in feeder grade and as per norms of the DPC. The Recruitment Rules could be finalised only on 30.11.200 after due process of consultation with UPSC.

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File in Court on.....

Court Officer.

and DoP&T. The Surveyors Association filed an OA No.1343/1996 in Hon'ble CAT, Allahabad Bench, Allahabad to convene DPC to fill up all the vacancies of Officer Surveyors created/upgraded in Cadre Review in the year 1996 as per Survey of India Officer Surveyor Recruitment Rules, 1983. As the finalisation of Recruitment Rules was getting delayed due to pendency of the OA filed by Surveyors Association a meeting was held on 11.9.1997 between Surveyor General of India and Members of the Association and the Association suggested/requested that 136 vacant posts of Officer Surveyor created in Cadre Review be filled up conditionally as an interim measure so that members of the association will get relief from the acute stagnation. The applicants were very well aware of this fact as the applicants at that time were the active members of the Association and well conversed with the factual position regarding the subject matter and specially the first applicant i.e. Shri P.B. Das represented the above said meeting. Hence the applicants allegation is not correct, baseless and not tenable.

8. That with regard to the statement made in paragraph 4.10 and 4.11 of the instant application the Respondents beg to state that it is reiterated that the recruitment rules to the post of Officer Surveyor have to be reframed due to exclusion of Draftsman Division-1 from feeder post and hence implementation of Cadre Review could not be done till finalisation of Recruit-

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Upendra Datt Mitra

ment Rules. As per rule, it is clearly stated in the adhoc promotion order that the adhoc promotion is purely provisional and would not bestow any benefits of seniority and can be terminated at any time, hence under this circumstances the applicants plea could not considered.

9. That with regard to the statement made in paragraph 4.12 of the instant application the Respondents beg to state that the DPC acted strictly in accordance with the rules and DPC guidelines issued by DoPT from time to time. The delay in convening DPC in time was caused by some of the administrative reasons, and amendment to the Recruitment Rules. As already stated in forgoing paras the recruitment rules to the post of Officer Surveyor had to be reframed due to exclusion of Draftsman Division-I from feeder post for implementation of Cadre Review. Only after receipt of revised Recruitment Rules DPC could be held in the year 2001 for the year 1996 to 2000. The annual vacancies occurred in the Officer Surveyor Grade distributed as per the quota prescribed in the existing recruitment rules. The applicants plea that they were superscribed in the existing recruitment Rules. The applicants plea that they were superseded by their juniors is totally incorrect and baseless as they were never banned to appear in the LDCE to the grade of Officer Surveyor and moreover 25% of newly created posts of Officer Surveyor in Cadre Review were only filled through LDCE in the year 2001 and 2002.

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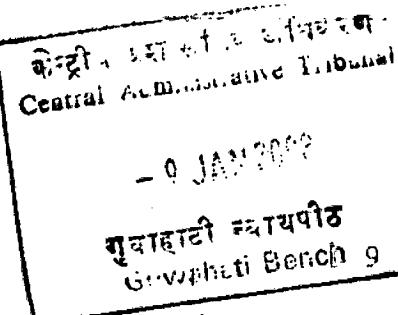
10. That with regard to the statement made in paragraph 4:13 of the instant application the Respondents beg to state that there were 359 sanctioned posts of Officer Surveyor prior to cadre review. As per DSI's letter No. SM/02/044/088 dated 30.10.1996 out of 359 Posts, 21 posts meant for Chief Draftsman was reduced in the grade of Officer Surveyor got reduced to 338. 136 posts were created in cadre review vide DSI's letter No. SM/02044/088 dated 30.01.1996. The DPC could not be convened for the created posts due to some administrative reason in the absence of recruitment rules and were granted adhoc promotion. In cadre review in Group-B Chief Draftsman's posts have been sanctioned and excluded from Officer Surveyor's post. As such the recruitment rules to the post of Officer Surveyor had to be revised before holding DPC for the newly created posts under Cadre Review.

The annual vacancies occurring in the grade of Officer Surveyor are being distributed/filled up as Officer Surveyor as per the quota prescribed in the existing recruitment rules.

On the implementation of judgment, on OA No.221 of 1996 passed by the Hon'ble CAI, Cuttack Bench, Cuttack filed by Shri B. Mahapatra and others v/s Union of India and others, the Limited Departmental Competitive Examination in year(s) even though the vacancies.

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File in Court on.....

Court Officer.

arose during that year(s) is similar to not holding DPC in such a situation and just as year wise panel is to be prepared by the DPC as and when its meets and the empanelled officers are allowed relevant years seniority, similarly treatment is being given to those selected through LDCE as and when it is held. Hence the applicant's seniority is 'fixed' according to rule, which was circulated vide this Office letter EI-12389/707 dated 01.08.2003 and EI-14494/707 dated 08.09.2003. Hence the contention of the applicant is denied.

11. That with regard to the statement made in paragraph 4.14 of the instant application the Respondents beg to state that the applicants were promoted on adhoc basis w.e.f. 23.07.1998. They were promoted to the post of Officer Surveyor on regular basis w.e.f. 17.07.2001 (A/N) after convening the regular DPC. As per consolidated instructions on Departmental Promotion Committee. And Related Matters rules 6.4.4 clearly states that "while promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where the vacancies related to the earlier year(s)". Hence the applicants plea is not tenable.

12. That with regard to the statement made in paragraph 4.15 of the instant application the Respondents beg to state that the seniority of the officer is

Contd... P/-

Upendra Nath

being maintained as per the general principles for determination of seniority in the Central Service matter as per rule 6 of Chapter of Swamy's Compilation on Seniority and promotion, which is reproduced below:

"The relative seniority of direct recruits and of promotees shall be determined according to the rotating to the rotation of vacancies between direct recruits and promotees which shall be based on the quotas of vacancies reserved for direct recruitment and promotion respectively rules."

13. That with regard to the statement made in paragraph 4.16 of the instant application the Respondents beg to state that the contentions made in this para are incorrect, baseless, concocted and hence denied by the respondents.

14. That with regard to the statement made in paragraph 4.17 and 4.18 of the instant application the Respondents beg to state that on the implementation of judgment on OA No.221 of 1996 passed by the Hon'ble CAI, Cuttack Bench, Cuttack filed by Shri B. Mahapatra and others V/S Union of India and others, the Limited Departmental Competitive Examination in year(s) even though the vacancies arose during that year(s) is similar to not holding DPC in such a situation and just as year wise panel is to be prepared by the DPC as and when its meets and the empanelled officers are allowed

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relevant years seniority, similarly treatment should be given to those selected through LDCE as and when it is held. Hence the applicant's seniority is fixed according to rule, which was circulated vide this Office letter E1-12389/707 dated 01.08.2003 and E1-14494/707 dated 08.09.2003.

The applicant's plea to recast their seniority after counting of their adhoc service could not be considered. As per rule at the time of giving adhoc promotion, it was clearly stated in the promotion order for the post of Officer Surveyor on adhoc basis vide this Office letter No. C-2425/707 dtd. 23.7.1998 that the adhoc promotion is purely provisional and would not bestow any benefits of seniority and can be terminated at any time. As per DoP & its instructions regarding holding of DPC, panel has been prepared year wise and seniority has been fixed accordingly and such promotions will have only prospective effect even in cases where the vacancies related to earlier years. Hence the allegation made by the applicants is not correct.

15. That with regard to the statement made in paragraph 4.19 of the instant application the Respondents beg to state that the allegations made by the applicants in this para are not correct and having no substance. No different set of rules have been applied to fill up the vacancies of Officer Surveyor. Due to non finalisation of Service Recruitment Rules for promotion

Contd... P/-

Upendra Nath

- 9 JAY 2001

गुवाहाटी न्यायपीठ
Guwahati Bench

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to the grade of Officer Surveyor after increasing the post in implementation of Cadre Review, the DPCs could not be held. The Rules could be finalised on 30.11.2000. On finalisation and notification of the Recruitment Rules, regular DPC was convened and posts were filled on regular basis with effect from 17.7.2001. On the implementation of judgment on OA No.221 of 1996 passed by the Hon'ble CAT, Cuttack Bench, Cuttack filed by Shri B. Mahapatra and others V/S Union of India and others, the Limited Departmental Competitive Examination in year(s) even though the vacancies arose during that year(s) is similar to not holding DPC in such a situation and just as year wise panel is to be prepared by the DPC as and when it meets and the empanelled officers are allowed relevant years seniority, similarly treatment should be given to those selected through LDCE as and when it is held. Thus the applicant's seniority has been fixed according to rule. Hence the allegation levelled by the applicants is not correct.

16. That with regard to the statement made in paragraph 4.20 of the instant application the Respondents beg to state that the para 6.4.4 of consolidated instructions on DPC and related matters clearly states that "While promotions will be made in the order of the consolidated select list, such promotions will be prospective effect even in cases where the vacancies related to the earlier year(s). At the time of giving adhoc

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Opposes relief M/s

promotion to the applicants it was clearly stated in the promotion order for the post of Officer Surveyor that the adhoc promotion is purely provisional and would not bestow any benefits of seniority and can be terminated at any time. In compliance of the said order passed by the Hon'ble CAT, Guwahati Bench, Guwahati, the matter pertaining to the eligibility of the applicants was carefully examined and an order in compliance of Hon'ble CAT order was issued by the Surveyor General of India vide their letter No. C-500/PF (Shri P.B. Das, O.S.) dated 15th February, 2006 explaining the factual position of the case, hence the allegations made by the applicants is not correct.

17. That with regard to the statement made in paragraph 4.21 and 4.22 of the instant application the Respondents beg to state that in the cadre review vide Department of Science & Technology letter No. SM/02/044/088 dated 30.10.1996 out of 359 Posts, 21 posts were earmarked for Chief Draftsman for promotion from the Grade of Draftsman Div-I. Hence 21 posts were reduced in the grade of Officer Surveyor. Thus sanctioned strength of Officer Surveyor was 338. Further 136 additional posts were created in this cadre review, thus bringing the total number of posts in the cadre of Officer Surveyor to 474. The post of Chief Draftsman having been created in the cadre review from the existing strength of Officer Surveyors, amendments/training

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Upendra Sait Mishra

of Recruitment Rules of Officer Surveyor was required before any such regular promotion in this grade to be made. However, no action could be initiated in this direction, because there was a ban existing at that time on framing/amendments of Recruitment Rules. The Government had lifted the ban, in view of the 5th CPC report only in the year 1998. The process of framing/amendments of the Recruitment Rules was initiated and the Rules were notified on 30.11.2000 after consultation with DoP&T and the UPSC. It is pertinent to mention here that the above factual position of the case has also been brought to the notice of the Hon'ble CAI while replying against the paras of OA No.151/2004 filed by the applicants in the Hon'ble CAT Guwahati Bench, Guwahati. Hence the contention of the applicants is not correct.

18. That with regard to the statement made in paragraph 4.23 to 4.26 of the instant application the Respondents beg to state that in compliance of Hon'ble CAT, Guwahati Bench, Guwahati order dtd. 18.8.2005 on OA No.151/2004, the matter pertaining to the eligibility of the applicant was examined from the existing position of relevant rules applicable in conducting DPCs for promotion on regular basis/adhoc basis along with service verification of the applicant and the position emerged has already been clearly explained in order dated 15.2.2006 issued by the Surveyor General of India vide this office letter No. C-500/PF (Shri P.B. Das, OS).

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Gauhati Bench 15

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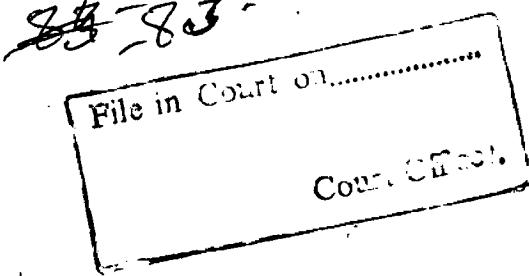
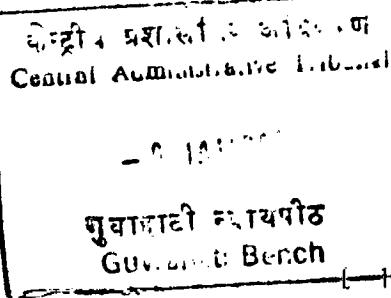
hence the judgment of the Hon'ble CAT has already been complied and necessary order dated 15.2.2006 issued by the Surveyor General of India is quite correct.

19. That with regard to the statement made in paragraph 4.27 of the instant application the Respondents beg to state that the contention made by the applicants in this para is not correct. The factual position of the case has already been explained in detail in foregoing paras. However it is reiterated that due to non finalisation of Recruitment Rules and other unavoidable reasons DPC could not be convened. A delay in convening DPC due to unavoidable reasons does not give rise to a vested right for promotion from the date of occurrence of vacancy. Despite the best intentions of the Govt. it may not be possible to hold a timely DPC for several valid reasons. In such cases promotions can not be allowed retrospectively. Hence the allegations made by the applicants are baseless.

20. That with regard to the statement made in paragraph 4.28 of the instant application the Respondents beg to state that in Survey of India there are two methods for promotion to the post of Officer Surveyor i.e. one promotion from feeder cadres to Officer Surveyor through DPC and the other is through Limited Departmental Competitive Examination having requisite educational qualification and 5 years regular service in

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Open for ratification



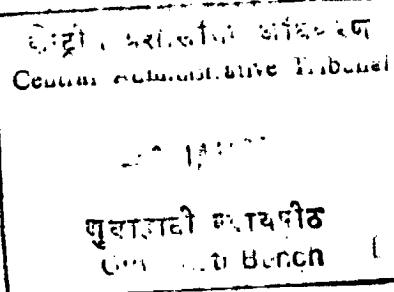
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the grade of Surveyor. The LDCE is a separate scheme to give the fast track promotion to the selected persons. As per existing Recruitment Rules 75% of the promotion quota is to be filled by DPC promotees and 25% to be filled by LCDE promotee. Therefore the annual vacancies occurring in the grade of Officer Surveyor are being distributed as per the quota prescribed in the existing Recruitment Rules. Hence the question does not arise to promote persons junior to the applicant and the seniority in the grade of Officer Surveyor has been fixed according to Rota quota as provided in the rules. No any officer Surveyor promoted through LDCE or through DPC has been given retrospective promotion any how the seniority in the grade of Officer Surveyor has been fixed according to the existing rules. Therefore the allegations made by the applicants is not correct.

21. That with regard to the statement made in paragraph 5.1 to 5.8 of the instant application the Respondents beg to state that in the light of position explained above, the applicants are not entitled for any relief as no injustice has been done to them. The reasoned order dated 15.2.2005 issued by the Surveyor General of India in compliance with the Hon'ble CAI, order dated 18.8.2005 is in order and there are no grounds to grant any relief sought by the applicants. Hence the OA may not be admitted and may be dismissed. The respondents further beg to state that the grounds

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are set forth by the applicant are not good grounds and also not tenable in the eye of law and as such the application is liable to be dismissed.

22. That with regard to the statement made in paragraph 6 & 7 of the instant application the Respondents have no comment.

23. That with regard to the statement made in paragraph 8.1 to 8.9 and 9 of the instant application the Respondents beg to state that in view of the position explained above, the applicants are not entitled for any relief as no injustice has been done to them. The reasoned order dated 15.2.2006 issued by the Surveyor General of India in compliance with the Hon'ble CAI order dated 18.8.2005 is in order as such the question does not arise to quash the same. There are no grounds to grant any relief sought by the applicants; the respondents further beg to state that the claim of the applicants are illegal and illfounded and as such the applicants are not entitled to get any interim relief.

24. That the respondents beg to submit that the instant application has no merit and as such the application is liable to be dismissed.

Upendra Nath Mishra

केन्द्रीय न्यायालय धर्म विभाग
Central Appellate Tribunal
गुवाहाटी न्यायालय
Guwahati Bench

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VERIFICATION

I, Upendra Nath Mishra, Aswad Kishore Mishra,
aged about 2 years, R/o Survey J. F. India Estate
East Ham, ~~Khilkhali~~, District ~~Khilkhali~~ and competent officer of the
answering respondents, do hereby verify that the state-
ment made in paras 1 to 24 are true
to my knowledge and those made in paras — x —
being matters of record are true to my information
derived therefrom which I believe to be true and the
rests are my humble submission before this Hon'ble
Tribunal and I have not suppressed any material fact.

And I sign this verification on this 4th day
of December 2007 at Guwahati.

Upendra Nath Mishra
Signature



Filed by:
The Applicants
through
Hridip Kr. Das
Advocate-1/2
27.2.88

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. No. 16/87

Sri Patal Bihari Das & Ors.

-VS-

Union of India & Ors.

REJOINDER TO THE WRITTEN STATEMENT FILED BY OFFICIAL RESPONDENTS

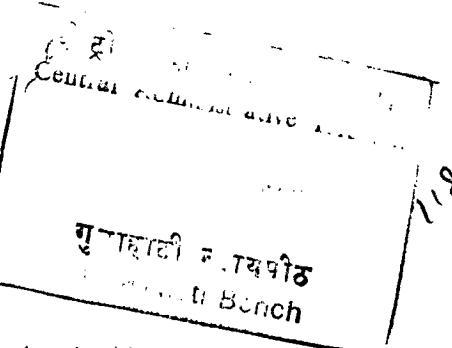
1. That a copy of the written statement has been served upon the counsel for the applicant and they have gone through the same and have understood the contents thereof.

*Copy received
on
27.2.88
Applicant
for Party
(S.C.C.)*

2. That save and except the statements which are admitted herein below other statements made in the written statement are denied. The statements which are not borne on record are also denied and the respondents are put to the strictest proof thereof.

3. That with regard to the statements made in para 1 and 2 the deponent does not admit anything contrary to the relevant records of the case.

4. That with regard to the statements made in para 3 of the written statement the deponent while denying the contentions made by the respondents begs to state that the respondents admittedly did not convene year wise DPC for promotion to the cadre of Officer Surveyor against 75% quota and did not implement



the cadre review effected in the year 1996 and at the same time the respondents continued to fill up the posts of officer supervisor against 25% quota by breaking down the quota rota rules and as a result the applicants have been superseded by their juniors. In this connection it is stated that the vacancies as per the Recruitment Rule of 1983 was 359 as admitted by the respondents in the impugned order dated 15.2.06 and as such the subsequent amendment to the said rule should not have been made applicable in considering the case of the applicants.

5. That with regard to the statements made in para 4 of the written statement the deponent does not admit anything contrary to the relevant records of the case.

6. That with regard to the statement made in para 5 of the written statement the deponent while denying the contentions made therein begs to state that admittedly the vacancies arose during the validity of 1983 Recruitment Rules and as such same are required to be filled up as per the provisions of the said Recruitment Rules not through the amended rules or subsequent rules. It is an admitted fact that the vacancies in question occurred during the unamended rules and law is quite clear on the issue that the vacancies of a particular year pertaining to a particular recruitment rules are required to be filled up by the said set of rule not by the subsequent amended rules. The respondents kept the vacancies ideal for years together after the cadre review and lastly resorted to ad-hoc promotions however, said adhoc promotions were made as per the DPC and as such alternatively the applicants pray that even if the date of ad-hoc promotions if treated as regular, same would cause sufficient justice to the application. It is further stated that the

consolidated instructions on DPC does not have the effect of overriding the law of the land.

7. That with regard to the statement made in para 6, 7 and 8 of the written statement the deponent while denying the contentions made therein begs to state that the respondents have admitted the fact that due to administrative reasons DPC could not be convened in due time and as such the respondents can not take the plea that the vacancies would be filled up by the amended rules.

It is further stated that after the amendment of the 1983 Recruitment Rules the ratio of promotional quota vis-a-vis the quota meant limited departmental competitive examination has been amended along with other amendment and as such it is the categorical case of the applicants that the vacancies occurred during the existence of 1983 Recruitment Rules are required to be filled up by the said set of rules not by the subsequent amendments rules.

Admittedly, after the cadre review (20.1.96) along with the existing vacancies additional 136 posts surfaced and as such said additional 136 posts along with the existing vacancies should have been filled up by applying the yard stick described in the 1983 Recruitment Rules. Having not done so, the respondents have not only violated the settled proposition of law but also they have violated the basic rules of quota rota and thereby allowing the applicants to be superseded by their juniors.

केन्द्रीय नियुक्ति सिविल सेवा विभाग
Central Administrative Service, (p)
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It is stated that admittedly ~~no regular~~ DPC was convened during the existence of the vacancies in question falling under 1983 rules i.e. from 1996 to 30-11-2000 (the date of finalization of the amended rules) and as such the plea taken by the respondents regarding the pendency of O.A. No.1343/96 before the Hon'ble Central Administrative Tribunal, Allahabad Bench has got no legs to stand more so when the present applicants were not made parties to it.

8. That with regard to the statement made in para 9, 10 and 11 of the written statement the deponent while reiterating and reaffirming the statements begs to state that the delay in finalizing the amended Recruitment Rules cannot be a ground for denial of retrospective promotion to the applicants against the vacancies that occurred during the unamended recruitment rule. The contention of the respondents that DPC could not be convened for the created posts since 1996 due to some administrative reasons in absence of Recruitment Rules is self contradictory and is a false statement. In fact prior to the amendment, the Recruitment Rule, 1983 was in force and the respondents could have filled up the vacancies that have occurred in the month of January, 1996 by applying the 1983 Recruitment Rules. The calculations in earmarking the quota as indicated in the impugned order are not correct and same shows clear breaking down of quota-rota rules and same is in clear violation of the law laid down by the Hon'ble Apex Court. The Respondents in above facts and circumstances could have counted the ad-hoc service rendered by the applicants which was effected through duly constituted D.P.C. in continuation to their regular promotion. It is stated that the law is clear enough that adhoc promotion effected through proper selection process is required to be counted as regular service.

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9. That with regard to the statements made in para 12 of the written statement the deponent while reiterating and reaffirming the statements made above as well as in the OA begs to state that from the above narrated sequence of events and the gross irregularities and illegalities committed by the respondents in keeping the 75% promotional quotas unutilized for years together for the flimsy reasons like administrative reasons and not availability of recruitment rules have virtually caused the breaking down of quota rota and thereby the applicants have been superseded by their juniors.

10. That with regard to the statement made in para 13 of the written statement the deponent while denying the contentions made therein begs to state that since 1997 till 2001 the respondents continued to act upon the Recruitment Rule of 1983 by promoting the juniors to the applicants to the cadre of Officer Supervisor under 25% quota, where as the same set of respondents taking the plea of non-availability of Recruitment Rule sought to deny the legitimate claim of the applicants. In this connection the tabular chart shown in para 4.16 of the O.A. makes it clear that the Recruitment Rule, 1983 was in force till framing of the amended rules.

11. That with regard to the statement made in para 14 of the written statement the deponent while reiterating and reaffirming the statements made in OA begs to state that in the given set of facts and taking into consideration the settled law, the respondents are duty bound to convene the review D.P.C. and to effect the promotion of the applicants from the date when such vacancies arose i.e. from the month of January, 1996 or alternatively when the D.P.C. met for effecting the adhoc

promotions i.e. 23.7.98. The plea taken by the respondents under the aid of the office memorandum in denying benefit of past service/adhoc service in the present set of facts is nothing but an attempt to rewrite the law settled by the Hon'ble Apex Court.

12. That with regard to the statements made in para 15, 16 and 17 of the written statement the deponent while reiterating and reaffirming the statements begs to state that the seniority of the applicants after illegal breaking down of quota rota rules has gone down substantially and same has happened only due to the fact that the respondents kept the vacancies under 75% quota unutilized for years together in the name of non availability of Recruitment Rule and administrative difficulties. Such plea of the respondents have already been answered to above. In fact, promotions have been denied to the present applicants in the name of non-existence of Recruitment Rule, whereas at that point of time, 1983 Recruitment Rule was in existence and the respondents continued to utilize the rest 25% quota at least not less than 5 times (refer para 4.16 of the OA).

13. That with regard to the statements made in para 18, 19, 20, 21, 22, 23 and 24 of the written statement the deponent while reiterating and reaffirming the statements made above as well as in the OA begs to state that the judgment and order dated 18.10.2005 in OA 151/04 has not been implemented correctly and the respondents have applied the incorrect yardstick. In fact, the respondents considered the cases of the applicants taking into consideration the amended rules and the said fact has been admitted by them while issuing the impugned orders which are contrary to the settled law laid down by Hon'ble Apex Court.

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Central Administrative Tribunal

ग्रन्ती विभाग
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14. In view of the above the present original application deserves to be allowed with cost on the respondents.

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Patal Behari Das

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केंद्रीय अधिकारी अदालत, ग्री
Central Admin. Law Court, G.

गुरुद्वारी राष्ट्रीय अदालत
Government Bench

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VERIFICATION

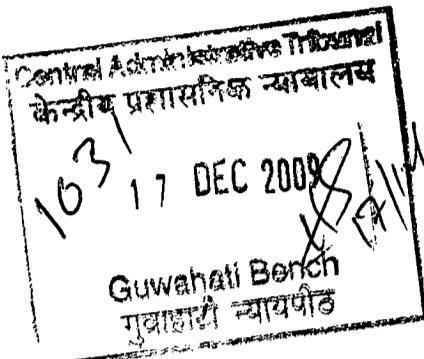
I, Shri Patal Bihari Das, son of Late P.K.Das, aged about 56 years, resident of Survey of India Estate, Barik, Shillong- 793001, do hereby solemnly affirm and verify that the statements made in paragraphs ..1,2,3,5,6,8,9,11,13,14..... are true to my knowledge and those made in paragraphs ..4,7,10,12..... are also matter of records and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 25th day of February 2008.

Patal Bihari Das

Signature.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH



IN THE MATTER OF:

O.A. no. 16/07

Sri P. B. Das and ors.

...Applicants

-Vs-

Union of India and ors

...Respondents

-AND-

IN THE MATTER OF:

Order dated 05.11.09 passed by this Hon'ble Tribunal in O.A. no. 16/07 directing the respondent authority to file a Specific affidavit.

-AND-

IN THE MATTER OF:

Affidavit filed by the official Respondent no.1 to 3.

(AN AFFIDAVIT ON BEHALF OF OFFICIAL RESPONDENTS NO.1 TO 3)

I, Sri R.M. Tripathi, S/o Sri G.M. Tripathi, aged about 52 years, presently working as the Director, Assam and Nagaland GDC, Ganeshguri, Guwahati-781006, do hereby solemnly affirm and state as follows:

1. That in the instant case the official respondents have filed their written statement. I have been authorized to file this affidavit on behalf of the respondent nos.1 to 3.
2. That the humble deponent begs to state that the applicant, Sri P.B.Das, Surveyor and five other applicants were promoted to the post of Officer, Surveyor, Group B on adhoc basis vide order dated 31.07.98 with the condition incorporated in Sl. no. 2,
"that this adhoc promotion is purely provisional and would not bestowed any right of seniority and can be terminated at any time" (Annexure 1 to O.A).

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Filed by
The Respondent no.1 to 3
Mangal Das
S/o. CGSC, CHT, Guwahati
16.12.09

1. DEC 2009

Girnarhiti Bench

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Subsequently the applicants were promoted to the post of Officer Surveyor on regular basis vide order dated 16.07.01 with due recommendation of Departmental Promotion Committee (DPC) as appeared in annexure 2 to O.A. at page 29.

3. That the Recruitment Rules 1983 provides the promotion to the post of Officer Surveyor as follows:

Promotion

1. 75% of the promotion quota:

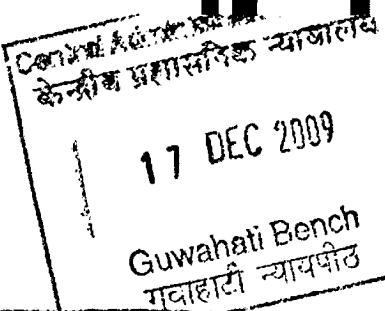
By selection from surveyor, Survey Assistant, Scientific Assistant, Geodetic Computers and Draftsman Division I with 8 years of regular service in respective grade.

2. 25% of the promotion quota:

By limited Departmental Competitive Examination from Surveyor, Survey Assistant, Scientific Assistant, Draftsman Division who have passed Bachelors Degree with Maths as a subject and have rendered 5 years of regular service in respective grade.

4. That the humble deponent begs to state that as per Recruitment Rule 1983 the sanction posts of Officer surveyor in the Department of Science and Technology were 359 prior to Cadre review. As per Department of Science and Technology's letter dated 30.01.96 out of 359 posts, 21 posts made for Chief Draftsman were reduced in the grade of Officer Surveyor. Thus sanctioned strength of Officer Surveyor got reduced to 338. 136 posts were created in Cadre Review vide Department of science & Technology's letter dated 30.01.96 thus bringing the total no. of posts in the cadre of Officer Surveyor to 474. Hence, amendment of the framing of the Recruitment Rules of the Officer Surveyor was required before the regular promotion in the said grade.

5. That the humble deponent begs to state that due to non-finalization of service Recruitment Rules for promotion to the grade of Officer Surveyor after increasing the posts in implementation of the Cadre Review, the DPC could not be held. However, no action could be initiated because there was a ban existing at that time on framing/amendment of the Recruitment Rules. Subsequently the Govt. had lifted the ban in view of the 5th CPC Report only in the year 1998. Thereafter, the process of framing/amendment of the Recruitment Rules was initiated and finally the Recruitment Rules, 2000 was



notified in the Gazette of India on 30.11.00 after consultation with Department of Personnel and Training and the UPSC. In the said Gazette Notification it was mentioned the post of Office Surveyor as 474.

Copy of the said Gazette Notification dated 30.11.2000 is annexed herewith and marked as **Annexure A.**

6. That the humble deponent begs to state that there was a meeting held on 11.09.97 with the Surveyor General of India and the members of the Surveyor's Association requested that 136 vacant posts of Officer Surveyor created in Cadre Review be filled up conditionally as an interim measure so that the members of the Association should get relief from the acute stagnation. Accordingly, total 124 Surveyors including the applicants were promoted on ad-hoc basis to the post of Officer Surveyor vide order dated 23.07.98 based on the Recruitment Rules of 1983 against the vacancies of the year 1996 and 1997 and by considering 102 posts created by the Cadre Review (75% of 136 posts).

It is pertinent to mention here that at that relevant time the regular DPC could not be held due to non-finalization of the amendment of the Recruitment Rules. It is also to be stated that in that relevant time as per earlier Recruitment Rules there were in total 22 vacancies of 75% of the promotion quota in the year 1996-1997.

7. That the humble deponent begs to state that after finalization of the Recruitment Rules of Office Surveyor in the year 2000 the DPC was held for promotion to the post of Officer Surveyor and after recommendation of the DPC the applicants were promoted to the post of Officer Surveyor vide order dated 17.07.01 on regular basis.

8. That the humble deponent begs to state that in pursuance of the Hon'ble Tribunal's order dated 18.08.05 the Department complied with the Hon'ble Tribunal's order and examined the case of the applicants. In this connection it is stated that in the year 1997 as per existing Rules there were 22 vacancies out of 75% of the Promotion Quota. The applicant's position in the combined Seniority List figured against Sl. nos. 73, 80, 87, 100, 129, 131 and 132 respectively.

Even if regular DPC was convened on 23.07.1998 i.e. the date of promotion, the said DPC could have considered only 22 vacancies. In that case the applicants as being found their places against Sl. no 73 onwards in the Gradation/Seniority List they would not have come to the zone of consideration for promotion to the post of Officer Surveyor on regular basis. In view of that the applicants in that respective period are not eligible for being promoted to the post of Officer Surveyor. Hence, in view of that the applicants are not entitled to

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Guwahati Bench
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get the benefit of retrospective promotion from the date when they were promoted on adhoc basis i.e. the date 23.07.1998.

*Copy of the Combined Seniority List
is annexed herewith and marked as
ANNEXURE - B.*

9. That the humble deponent begs to state that in pursuance of the observation made by the Hon'ble Tribunal's order dated 18.08.05, the humble deponent carefully examined the matter of applicants. However, it is found that even if there is a DPC then also the applicants could not be considered as much as there were only 22 vacancies under the 75% of the promotion quota for the year 1996-1997 (Pg 6).

10. That the humble deponent begs to state that in Survey of India there are two methods for promotion to the post of Officer Surveyor i.e. promotion from the Feeder Cadre to Officer Surveyor through Departmental Promotion Committee (DPC) and the other is through Limited Departmental Competitive Examination ('LDCE' in short). Therefore, the annual vacancies occurring in the grade of Officer Surveyor are being distributed as per the quota prescribed in the existing Recruitment Rules.

11. That the humble deponent begs to state that the LDC Examination for the year 1997 was held on December, 2001 against the vacancy of the year 1997. Further the LDC Examinations for the vacancies in the years 1998 to 2001 were held on March '02, June '02, September '02 and December '02 respectively and the results were announced thereafter on January '02, April '02, July '02, October '02 and January '03 respectively.

In this connection it is to be stated here that in the matter of fixation of seniority between DPC candidates and LDCE candidates came up before the Hon'ble Central Administrative Tribunal, Cuttack Bench in Sri B. Mahapatra and others -vs- Union of India and others. In pursuance of the judgement ^{dt. 04.05.98} passed by the Hon'ble CAT, Cuttack Bench in the aforesaid O.A. no. 221/96 the Ministry of Science and technology issued a Guideline dated 07.07.98 to the Director, Survey of India, South Eastern Circle, Bhubaneshwar with a copy to the Surveyor General of India (Respondent no.2 in the instant O.A.) in the matter of finalization of the Seniority between DPC promotees and LDCE recruits. The said Guideline was infact issued in respect of the implementation of the judgement passed in O.A. no. 221/96 where it is directed that "not holding the LDC Examination in the year(s) even though the vacancies arose during that year(s) is similar to not holding DPC in such a situation and just as yearwise panel is to be prepared by the DPC as and when it meets and the empanelled officers are allowed relevant years(s) seniority, similar treatment should be given to those selected through LDC Examination as and when it is held".

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Further it is to be stated here that the inter-se-seniority between 75% DPC and 25% LDCE Recruits was provided as per Recruitment Roster as mentioned below-

"Vacancies to be filled up by promotion by selection through DPC and through LDC Examination Scheme should be fixed on the basis of 3:1 for which a Recruitment Roster will be maintained by the Surveyor General of India. The inter-se-seniority of those selected in any one year being determined according to the order of merit in which they are placed in the examination."

judgement dtd. 04.05.98 and the said

Copy of the said Guideline dated 07.07.98 is annexed herewith and marked as **Annexure C** and **D** respecting

12. That the humble deponent begs to state that the private respondents passed the Departmental Examination held in 2001 for the LDCE quota of vacancies of the year 1997 whereas the applicants were recommended for promotion by the DPC held in 2001 for 75% of promotion quota of vacancies of the years 1997 to 2000.

In view of the Recruitment Roster Policy and as per Quota Roster Rule 3:1 the private respondent's seniority is fixed in accordance with the order of merit in which they are placed in the Examination.

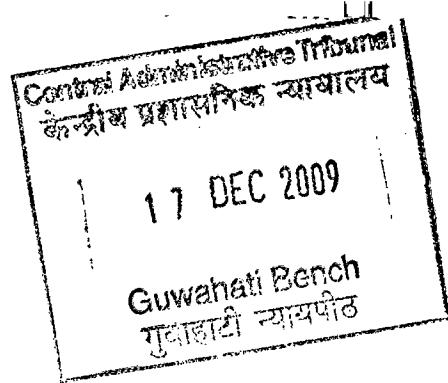
Further it is to be stated here that the applicants were promoted on adhoc basis to the post of Officer Surveyor in the year 1998 and subsequently were promoted in regular basis in the year 2001.

It is pertinent to mention that in the year 1997 there were only 22 vacancies of the Officer Surveyor against the 75% of promotion quota. The applicants' position figured in the Seniority List in the grade of Surveyor from 73 onwards. Hence, at any rate even if DPC is held the DPC could not have considered them against total 22 vacancies for the year 1996-1997. At any rate the applicants could not come under the zone of consideration in that particular time even if there was any DPC held. Hence, the claim for promotion to the post of Officer Surveyor with retrospective effect from the year of 1998 is unsustainable.

Further it is pertinent to mention here that in the adhoc promotion order dated 31.07.98 there was a specific condition that

"Adhoc promotion is purely provisional and would not bestowed any right of seniority and can be terminated at any time."

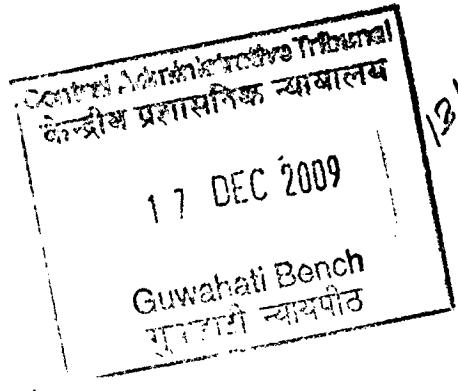
Be it stated that with this condition the applicants accepted the offer for adhoc promotion.



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13. That the humble deponent begs to state that in compliance with the Hon'ble Tribunal's order dated 18.08.05 passed in O.A. no. 151/04 the respondent authority examined the matter carefully and found that due to the limited vacancy of total 22 posts in Officer Surveyor in the year of 1996-1997, if there is any DPC was held, the applicants' case for promotion against the vacancy of 1997 could not be considered at that relevant time. Further the private respondent infact were promoted against the 25% of the promotion quota of Departmental Examination against the vacancy of 1997. The said promotional effect was infact given in the light of the decision of O.A. no. 221/96 passed in Sri B. Mahapatra and others -vs- Union of India and others who are similarly situated with the private respondents.

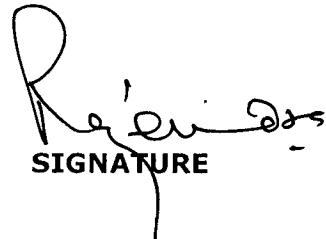
14. That the humble deponent begs to submit that the instant Original Application has no merit at all and is liable to be dismissed.



VERIFICATION

I, Sri R.M. Tripathi S/o Sri G.M. Tripathi aged about 52 years, presently working as the Director, Assam and Nagaland GDC, Ganeshguri, Guwahati-781006, do hereby verify that the statements made in paragraphs 1, 6 and 10.....are true to my knowledge and belief, those made in paragraphs 2 to 5, 7 to 9 and 11 to 13.....being matters of records of the case are true to my information derived therefrom which I believe to be true and the rests are my humble submission before the Hon'ble Tribunal. I have not suppressed any material fact before the Hon'ble Tribunal,

And I sign this verification on the 16th day of December, 2009 at Guwahati.



SIGNATURE

(আরো এমো ত্ৰিপাঠী)
(R. M. TRIPATHI)
নির্দেশক /DIRECTOR
অসম এবং নাগালেণ্ড জি.ডী.সী.
ASSAM & NAGALAND GDC

Discrepancy Enquiry

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GOVERNMENT OF INDIA
MINISTRY OF SCIENCE AND TECHNOLOGY
DEPARTMENT OF SCIENCE AND TECHNOLOGY

Dated: 30th November, 2009

17 DEC 2009

Notification

OSR. In exercise of the powers conferred by the proviso to article 309 of the Constitution of India in supersession of Survey of India, Officer Surveyor, Recruitment Rules, 1983, except in respects things done or omitted to be done before supersession, the President hereby makes the following rules regulating the method of recruitment to the post of Officer Surveyor in Survey of India, under the Department of Science & Technology namely:-

Short title and commencement :- (1) These rules may be called the Survey of India Officer Surveyor Recruitment Rules, 2009.

(2) They shall come into force on the date of their publication in the Official Gazette.

Number of posts, Classification and scale of pay:- The number of the said post, classification and scale of pay attached thereto shall be as specified in column (2) to (1) of the Schedule annexed to these rules.

Method of recruitment, age limit and other qualifications:- The method of recruitment, age limit, qualifications and other matters relating to the said post shall be as specified in columns (5) to (14) of the said Schedule.

Disqualification:- No person,

(a) Who has entered into or contracted a marriage with a person having a spouse living,

Or

(b) Who, having a spouse living, has entered into or contracted 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 valid under the personal law applicable to such person and the other party to the marriage and there are other grounds for so doing, exempt any person from the operation of this rule.

Discrepancy Enquiry
Date:

7/12/2009
Guru Nanak Dev

Guwahati Bench
गुवाहाटी न्यायालय

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-164-

Where the Central Government is of the opinion that it is necessary for expediency to make any order to be recorded in writing and in consultation with the Union Public Service Commission, these rules with respect to any class or category of persons.

Saving :- Nothing in these rules shall affect reservations, relaxations of age limit and other concessions required to be provided for the Scheduled Castes, Scheduled Tribes, 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.

The Schedule attached

B.K. Raichandani
(B.K. Raichandani)
Under Secretary to the Govt. of India

File No. SA/01/015/95
Dated : 30.11.2000

TU

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

North Block, New Delhi N.R.

1. Department of Personnel and Training, P.R. Section, their U.O. No. 397/DS(RR)99 dated 24.4.2000.
2. The Secretary, Union Public Service Commission, New Delhi N.R. their letter No. (1)(G)-99-SW dated 16.6.2000.
3. Ministry of Law, Justice (Legislative Department) Shastri Bhawan, New Delhi with reference to their U.O. No. 1897/2000 dated 11.8.2000.
4. Ministry of Law, Official Language Wing, Superintending (Leg. II Section), 3rd floor, India Law Institute Building, Bhagwan Das Road, New Delhi, with reference to their U.O. No. 430/2000 dated 28.9.2000.
5. Surveyor General of India, Survey of India, Dehra Dun.
6. Information and Documentation Officer, DST with the request to arrange 2 copies of the Notification to be published in the Gazette of India for SMC Division.
7. Spare Copies (5).

B.K. Raichandani
(B.K. Raichandani)
Under Secretary to the Govt. of India

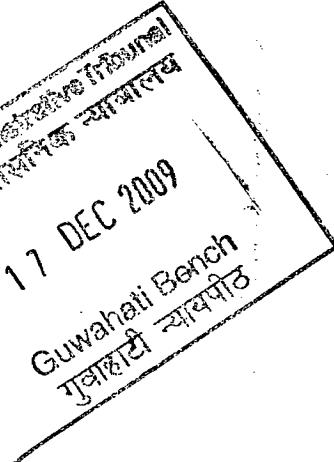
11 DEC 2000

Guwahati Ben
গুৱাহাটী ন্যায়াল

Period of rotation if any	Method of recruitment whether by direct recruitment or by promotion or by deputation/ absorption and percentage of the post to be filled by various methods	In case of recruitment by promotion/deputation/absorption, grades from which promotion/ deputation/absorption to be made.	If a Departmental Promotion Committee is to be set up what is its composition	Circumstances in which Union and Public Sector Services Commissions is to be controlled making recruitment
10 P.O. applicable	11 BY PROMOTION - PROMOTION:	12	Group 'B' Departmental from Competitive/Qualification Committee	Committee with Union Public Sector Services Commissions is to be controlled making recruitment
		<p>i) 75% by promotion Senior Surveyors (Rs.3500-9000)/Surveyors (Rs.3000-8000) with six years combined service in the two grades of Surveyors, Survey Assistants, Scientific Assistants, Geodetic Computers (Rs.3000- 8000) with six years service in the grade.</p> <p>ii) 25% By Limited Departmental Competitive Examination Senior Surveyors (Rs.3500-9000), Surveyors, Survey Assistants, Scientific Assistant, Geodetic Computers (Rs.3000-8000) who have passed Bachelor's Degree with Mathematics as a subject and have rendered five years regular service in the respective grades</p>	<p>i) Surveyor General of India ii) Director/Deputy Surveyor designated in the Department of Science and Technology iii) Deputy Surveyor General iv) Director (by nomination) to be nominated by the Surveyor General of India. v) Seniormost Scheduled Caste Scheduled Tribes Officer Group 'A'.</p>	<p>Chairman Member Member Member Member</p>

NOTE: 1.
The Examination shall be conducted by the Additional Surveyor
General, Survey Training Institute, Hyderabad in accordance with
the Scheme as may be finalised by the Surveyor General of India
in consultation with the Department of Science & Technology
from time to time.

NOTE: 2.
An Employee shall avail not more than three chances to appear at
the Examination during his entire service period.



SURVEY OF INDIA
SURVEYOR GENERAL'S OFFICE
POST BOX NO.37
DEHRA DUN - 248001 (U.P.)

Dated: 4TH November, 1999

The Addl.S.Gs. S.Z./W.Z./N.Z./E.Z./ S.T.I.
The Directors: E.C./N.E.C./S.E.C./C.C./W.C./SVY(AIR)/
S.S.E.C./M.P./S.C./R.&D./S.C.C./N.C./
G.&R.B./N.W.C./M.C.G./D.M.C., Dehra Dun/
D.M.C., Hyderabad/Stores Officer, Surveys.

0:- COMBINED SENIORITY LIST OF GROUP 'C' DIVISION I (TOPOGRAPHICAL ESTABLISHMENT)

-:000:-

The combined seniority list of the cadres of Surveyor, Survey Assistant, Scientific Assistant, Geodetic Computer and Draftsman Division I as on 31.8.1999 is sent, herewith, for circulation amongst the staff.

The data mentioned in the enclosed list against the names of the individual may please be verified from the records available with us and if there is any discrepancy, it may please be intimated to this office by 25.11.99 for necessary correction.

The seniority of the cadres of Surveyor, Scientific Assistant, Geodetic Computer are based on the entry in the Division I as per Surveyor and Survey Assistant and Draftsman Division I are as per the P.C. panels.

(GIRISH KUMAR)MAJOR
ASSISTANT SURVEYOR GENERAL
for SURVEYOR GENERAL OF INDIA
PHONE NO.744064

Copy to 'C' Section(SGO). 4/11/99

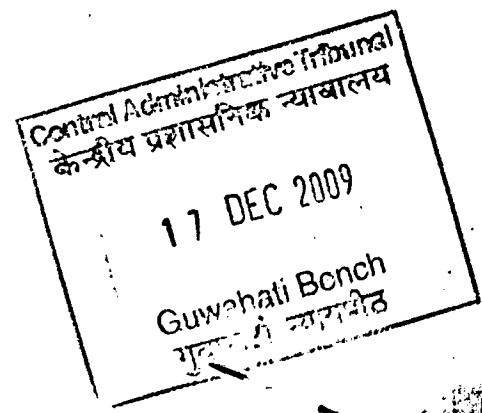
Copy to O.C.Boundary Cell(SGO).

Copy to E.&A.O.'A'(SGO) for information and similar necessary action.

Copy to the Surveyors' Association/Draftsman(Cartographic) Association.

Copy for File 707

R.M.
29.10.1999.

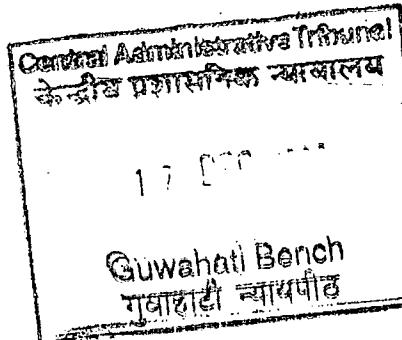


COMBINED SENIORITY LIST OF OFFICERS IN THE GRADE OF GROUP 'C' DIVISION I (TOPOGRAPHICAL ESTABLISHMENT)

NAME OF THE OFFICER WITH DESIGNATION	WHETHER BELONGS TO SC/ST. IF NOT SAY NEITHER	DATE OF BIRTH	DATE OF APPOINTMENT TO THE GRADE	Central Administration
2	3	4	5	47 DEC 2009
R.K. Sharma	Surveyor	Neither	26.01.42	08.11.71 O.S. (Adhoc basis)
J.K. Chatterjee	Surveyor	Neither	14.11.45	08.11.71 O.S. (Adhoc basis)
D.K. Michani	Surveyor	Neither	20.08.43	03.08.72 O.S. (Adhoc basis)
S.K. Chadha	Surveyor	Neither	30.07.47	01.01.73 O.S. (Adhoc basis)
Attar Singh	Surveyor	Neither	06.11.42	01.01.73
J.P. Shukla	Surveyor	Neither	25.06.44	01.01.73 O.S. (Adhoc basis)
A.K. Babbar	Surveyor	Neither	09.05.48	01.01.73 O.S. (Adhoc basis)
Mohan Lal	Surveyor	Neither	10.10.45	01.01.73 O.S. (Adhoc basis)
Amod Srivastava	Surveyor	Neither	18.01.49	01.01.73 O.S. (Adhoc basis)
N.K. Saxena	Surveyor	Neither	25.05.44	01.04.73
H.M. Kukreti	Surveyor	Neither	25.02.45	01.04.73 O.S. (Adhoc basis)
A.K. Saxena	Surveyor	Neither	16.01.49	01.04.73
M.K. Paul	Surveyor	Neither	30.11.47	01.04.73 O.S. (Adhoc basis)
Tilak Raj	Surveyor	Neither	02.06.46	01.04.73 O.S. (Adhoc basis)
G.B. Saxena	Surveyor	Neither	15.08.44	01.04.73 O.S. (Adhoc basis)
P.C. Bist	Surveyor	Neither	05.07.46	01.04.73
Soban Singh Gosain	Surveyor	Neither	20.03.44	01.04.73 O.S. (Adhoc basis)
Sam Nath Bhasin	Surveyor	Neither	09.11.42	01.04.73 O.S. (Adhoc basis)
Pritam Singh Mehar	Surveyor	Neither	07.07.42	01.04.73 O.S. (Adhoc basis)
S.K. Gupta	Surveyor	Neither	01.03.43	01.04.73
Jai Ram Das	Surveyor	Neither	12.03.47	01.04.73 O.S. (Adhoc basis)
H.S. Anand	Surveyor	Neither	07.07.44	01.04.73 O.S. (Adhoc basis)
S.N. Mathur	Surveyor	Neither	07.10.43	01.07.73 On Deputation
N.K. Gupta	Surveyor	Neither	31.12.45	01.07.73 O.S. (Adhoc basis)
B.P. Chandola	Surveyor	Neither	03.03.41	01.07.73 O.S. (Adhoc basis)
Ram Singh	Surveyor	Neither	05.03.41	01.07.73 O.S. (Adhoc basis)
G.S. Bist	Surveyor	Neither	04.05.44	01.07.73 O.S. (Adhoc basis)
P.B. Ajaani	Surveyor	Neither	06.01.41	01.07.73 O.S. (Adhoc basis)
O.P. Virmani	Surveyor	Neither	06.04.43	01.07.73 O.S. (Adhoc basis)
Paramjeet Singh	Surveyor	Neither	30.09.44	01.07.73 O.S. (Adhoc basis)
N.K. Bhatia	Surveyor	Neither	19.07.41	01.07.73 O.S. (Adhoc basis)
Dinesh Chandra	Surveyor	Neither	02.11.42	01.07.73 O.S. (Adhoc basis)
R.K. Bhatia	Surveyor	Neither	17.11.43	01.07.73 O.S. (Adhoc basis)
R.K. Mukherjee	Surveyor	Neither	12.02.43	01.07.73 O.S. (Adhoc basis)
Om Prakash	Surveyor	Neither	13.10.40	01.07.73 O.S. (Adhoc basis)
Adesh Kumar	Surveyor	Neither	30.12.49	01.07.73 O.S. (Adhoc basis)
Sukhpal Singh	Surveyor	Neither	10.06.42	01.07.73 O.S. (Adhoc basis)
D. Narayan	Surveyor	Neither	15.06.45	01.01.74 O.S. (Adhoc basis)
Gurdev Singh	Surveyor	Neither	11.04.44	01.01.74 O.S. (Adhoc basis)
T.K. Bhowmick	Surveyor	Neither	01.07.47	01.01.74 O.S. (Adhoc basis)
M.P. Kotiyal	Surveyor	Neither	06.07.44	01.01.74
C. Manjunatha Setty	Surveyor	Neither	12.08.46	01.01.74 O.S. (Adhoc basis)

Guwahati Bench
T.T.C.

1. B.R.S. Rawat	Surveyor	Neither	10.12.44	01.01.75		95. S.C. Bholia
2. A. Godse	Surveyor	Neither	19.10.49	01.01.75	O.S. (Adhoc)	96. N.K. Dobhal
3. R.K. Chauhan	Surveyor	Neither	24.12.51	01.01.75	O.S. (Adhoc)	97. Mohd. S. Reh
46. Pangulury S. Gandhi	Surveyor	Neither	21.01.48	01.01.75	O.S. (Adhoc)	98. Y.P. Parashar
47. Hira Mani	Surveyor	Neither	08.06.42	01.01.75	O.S. (Adhoc)	99. Mulk Raj
48. Krishan Kumar	Surveyor	Neither	18.08.48	01.01.75	O.S. (Adhoc)	100. G.C. Das
49. H.S. Thapa	Surveyor	Neither	23.04.44	01.01.75	O.S. (Adhoc)	101. Satish Kumar
50. C.T. Muthian	Surveyor	Neither	10.03.53	01.01.75	O.S. (Adhoc)	102. R.K. Sharma
51. H.S. Panwar	Surveyor	Neither	02.03.45	01.01.75	O.S. (Adhoc)	103. T.P.S. Chauhan
52. Ram Nath	Surveyor	Neither	04.03.47	01.01.75	O.S. (Adhoc)	104. M.N. Handique
53. H.S. Bisht	Surveyor	Neither	31.12.46	01.01.75	O.S. (Adhoc)	105. Surendra Prasad
54. Samar Vir Singh	Surveyor	Neither	08.09.42	01.01.75	O.S. (Adhoc)	106. Gahama Mahant
55. S.K. Gaur	Surveyor	Neither	01.06.43	01.01.75	O.S. (Adhoc)	107. Biswanath Mahant
56. C.K. Nautilal	Surveyor	Neither	26.02.44	01.01.75	O.S. (Adhoc)	108. S.B. Mohanty
57. D.R. Verma	Surveyor	Neither	18.12.43	01.01.75	O.S. (Adhoc)	109. Murlidhar Samanta
58. S.C. Dutta	Surveyor	Neither	17.08.51	01.01.75	O.S. (Adhoc)	110. Hemanta Kumar
59. Shridhar Prasad Sati	Surveyor	Neither	27.05.42	01.01.75	O.S. (Adhoc)	111. Mohd. Mustafa
60. P.P. Purkayastha	Surveyor	Neither	05.02.50	01.01.75	O.S. (Adhoc)	112. H.K. Jain
61. H.K. Gulati	Surveyor	Neither	05.04.52	01.01.75	O.S. (Adhoc)	113. E.A.G.K. Nair
62. S.K. Potti	Surveyor	Neither	22.05.43	01.01.75	O.S. (Adhoc)	114. Krishna Chandra
63. Ranjit Singh	Surveyor	Neither	02.01.44	01.01.75	O.S. (Adhoc)	115. Mohan Singh Bisht
64. T.S. Madhok	Surveyor	Neither	21.04.45	01.01.75	O.S. (Adhoc)	116. A.K. Ohote
65. B.S. Tyagi	Surveyor	Neither	01.01.45	01.01.75	O.S. (Adhoc)	117. B.S. Gaur
66. Rajendra Singh	Surveyor	Neither	19.03.45	01.01.75	O.S. (Adhoc)	118. Hrudananda Prasad
67. M.R. Kumar	Surveyor	Neither	10.07.52	01.01.75	O.S. (Adhoc)	119. Sant Ram
68. S.N. Maindola	Surveyor	Neither	05.02.48	01.01.75		120. D.S. Rawat
69. J.L. Banerjee	Surveyor	Neither	23.04.42	01.01.75	O.S. (Adhoc)	121. Mohan Singh Ma
70. V.K. Upreti	Surveyor	Neither	27.02.42	01.01.75	O.S. (Adhoc)	122. Bishnu Charan
71. Sukumar Das	Surveyor	Neither	01.03.42	01.01.75	O.S. (Adhoc)	123. P.K. Purushotham
72. B.G. Heikar	Surveyor	Neither	25.06.45	01.01.75		124. U.P. Panda
73. P.B. Das	Surveyor	Neither	30.01.48	01.01.75	O.S. (Adhoc)	125. Sanjib Kumar N.
74. Jai Singh	Surveyor	Neither	03.09.45	01.01.75	O.S. (Adhoc)	126. Satyabadi Dash
75. S.P. Bahuguna	Surveyor	Neither	05.03.49	01.01.75	O.S. (Adhoc)	127. Niranjan Prasad
76. N.N. Dey	Surveyor	Neither	07.06.43	01.01.75	O.S. (Adhoc)	128. K.A. Xavier
77. C.V. Chari	Surveyor	Neither	03.01.43	01.04.75	O.S. (Adhoc)	129. Kiran Kumar
78. S.C. Dabral	Surveyor	Neither	24.03.52	01.04.75	O.S. (Adhoc)	130. Madan Mohan Mohanty
79. Madan Mohan Singh	Surveyor	Neither	14.03.48	01.04.75	O.S. (Adhoc)	131. Anandi Gupta
80. A. Janardhana Rao	Surveyor	Neither	15.02.45	01.04.75		132. S. Purnachandra
81. P.C. Badke	Surveyor	Neither	01.02.42	01.04.75	O.S. (Adhoc)	133. S.C. Sharma
82. S.D. Uniyal	Surveyor	Neither	23.06.43	01.04.75	O.S. (Adhoc)	134. Hari Krishna
83. M.S. Chauhan	Surveyor	Neither	15.12.42	01.04.75	O.S. (Adhoc)	135. R.C. Chandrawal
84. A.K. Roy	Surveyor	Neither	01.03.46	01.04.75		136. Anil Kumar Saha
85. A.K. De	Surveyor	Neither	15.11.42	01.04.75	O.S. (Adhoc)	137. Ram Swaroop Roy
86. E.V.S. Murthy	Surveyor	Neither	12.08.47	01.04.75		138. Nagendra Singh
87. T.K. Gupta	Surveyor	Neither	06.03.50	01.07.75	O.S. (Adhoc)	139. V.K. Gupta
88. B.B. Kotnala	Surveyor	Neither	19.01.45	01.01.76		140. R.S. Maurya
89. O.P. Ratra	Surveyor	Neither	03.11.48	01.01.76	O.S. (Adhoc)	141. J.K. Mohanty
90. Brijendra Kumar	Surveyor	Neither	04.02.49	01.01.76	O.S. (Adhoc)	142. Davananda Yadav
91. Laxman Das	Surveyor	Neither	10.06.44	01.01.76		143. H.C. Behera
92. P.M. Daniel	Surveyor	Neither	23.03.43	01.01.76	O.S. (Adhoc)	144. Tilak Raj
93. R.K. Goyal	Surveyor	Neither	15.10.52	01.01.76		145. Amar Nath
94. S.K. Verma	Surveyor	Neither	12.02.51	01.01.76		146. Ganeshwar Mahant



17. DEC 2009

Guwahati Bench
गुवाहाटी न्यायालय
O.S. (Adhoc-basis)

95.	S.C. Bhole	Surveyor	Neither	06.05.44	01.01.76	
96.	N.K. Dobhal	Surveyor	Neither	05.10.52	01.01.76	
97.	Mohd. S. Rehman	Surveyor	Neither	10.07.45	01.01.76	
98.	Y.P. Parashar	Surveyor	Neither	01.07.44	01.01.76	
99.	Mulk Raj	Surveyor	Neither	07.10.43	01.01.76	
100.	G.C. Das	Surveyor	S.C.	01.03.53	01.01.76	
101.	Satish Kumar	Surveyor	Neither	08.06.48	01.01.76	
102.	R.K. Sharea	Surveyor	Neither	25.11.43	01.01.76	
103.	T.P.S. Chauhan	Surveyor	Neither	27.11.52	01.01.76	
104.	M.N. Handique	Surveyor	Neither	01.10.44	01.01.76	
105.	Surendra Prasad	Surveyor	S.C.	01.10.52	01.01.76	O.S. (Adhoc basis)
106.	Gahama Mahanta	Surveyor	Neither	21.03.50	01.07.76	
107.	Biswanath Mahapatra	Surveyor	Neither	17.02.54	01.07.76	
108.	S.B. Mohanty	Surveyor	Neither	01.04.52	01.07.76	
109.	Murlidhar Samal	Surveyor	Neither	05.06.51	01.07.76	
110.	Hemanta Kumar Sahu	Surveyor	Neither	03.10.50	01.07.76	
111.	Mohd. Mustafa Ansari	Surveyor	Neither	04.11.52	01.07.76	
112.	H.K. Jain	Surveyor	Neither	07.12.45	01.10.76	
113.	E.A.G.K. Hair	Surveyor	Neither	14.03.45	01.10.76	
114.	Krishna Chandra Rath	Surveyor	Neither	01.01.54	01.10.76	
115.	Mohan Singh Bisht	Surveyor	Neither	30.06.46	01.10.76	
116.	A.K. Dhote	Surveyor	Neither	14.07.45	01.10.76	
117.	B.S. Gaur	Surveyor	Neither	05.01.46	01.10.76	
118.	Hrudananda Pradhan	Surveyor	Neither	25.07.53	01.10.76	
119.	Sant Ram	Surveyor	S.C.	06.07.45	01.10.76	O.S. (Adhoc basis)
120.	D.S. Rawat	Surveyor	Neither	25.06.45	01.10.76	
121.	Mohan Singh Makkar	Surveyor	Neither	01.02.44	01.10.76	
122.	Bishnu Charan Sahoo	Surveyor	Neither	24.04.52	01.10.76	
123.	P.K. Purushothaman	Surveyor	Neither	05.06.44	01.10.76	
124.	U.P. Panda	Surveyor	Neither	27.11.51	01.10.76	
125.	Sanjib Kumar Handa	Surveyor	Neither	12.03.55	01.10.76	
126.	Satyabadi Dash	Surveyor	Neither	15.11.52	01.10.76	
127.	Hiranjan Prasad	Surveyor	S.C.	19.11.50	01.10.76	O.S. (Adhoc basis)
128.	K.A. Xavier	Surveyor	Neither	30.10.45	01.10.76	
129.	Kiran Kumar	Surveyor	Neither	03.06.45	01.10.76	
130.	Madan Mohan Mohanty	Surveyor	Neither	20.10.55	01.10.76	
131.	Anandi Gupta	Surveyor	Neither	02.05.50	01.10.76	
132.	S. Purnachandra Rao	Surveyor	Neither	03.08.46	01.10.76	
133.	S.C. Sharma	Surveyor	Neither	13.11.45	01.10.76	
134.	Hari Krishna	Surveyor	Neither	05.03.46	01.10.76	
135.	R.C. Chandrawal	Surveyor	Neither	19.02.45	01.10.76	
136.	Anil Kumar Samanta	Surveyor	Neither	23.05.55	01.10.76	
137.	Ram Swaroop Roy	Surveyor	Neither	03.08.49	01.10.76	
138.	Nagendra Singh	Surveyor	Neither	26.06.50	01.10.76	
139.	V.K. Gupta	Surveyor	Neither	14.04.46	01.10.76	
140.	R.S. Maurya	Surveyor	Neither	11.07.45	01.10.76	
141.	J.K. Mohanty	Surveyor	Neither	21.09.49	01.10.76	
142.	Davananda Yadav	Surveyor	Neither	23.09.49	01.10.76	
143.	N.C. Behera	Surveyor	S.C.	13.02.54	01.10.76	O.S. (Adhoc basis)
144.	Tilak Raj	Surveyor	Neither	28.07.45	01.10.76	
145.	Amar Nath	Surveyor	Neither	17.08.44	01.10.76	
146.	Ganeshwar Mahanta	Surveyor	Neither	02.06.49	01.10.76	

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48. N. Balakrishnan	Surveyor	Neither	01.06.44	01.10.76	S.K. Deb
149. R.S. Tamrakar	Surveyor	Neither	27.02.44	01.10.76	Bidyadhar Mallik
150. P.K. Ahluwalia	Surveyor	Neither	29.01.47	01.10.76	✓ J.M. Nongkhaw
151. Madhusudan Mohanta	Surveyor	Neither	20.04.52	01.10.76	✓ 201. W. Ordinson Taria
152. Vishnu Pad Banerjee	Surveyor	Neither	15.11.45	01.10.76	Ramakanta Jana
153. Mool Chand	Surveyor	S.C.	25.01.41	01.10.76	Rajendra Paswan
154. Gurmail Singh	Surveyor	S.C.	15.05.45	01.10.76	Kailash Ekka
155. S.N. Mishra	Surveyor	Neither	05.07.45	01.10.76	Uttam Kumar De
156. Upendra Malik	Surveyor	S.C.	02.01.45	01.01.77	Nihar Bhattacharji
157. U.V. Puranik	Surveyor	Neither	10.06.52	01.01.77	Ambika Prasad
158. D.K. Padhi	Surveyor	Neither	05.07.44	01.01.77	R.C. Sundriyal
159. Narayan Mishra	Surveyor	Neither	15.06.51	01.01.77	Kulwant Singh
160. Premananda Das	Surveyor	Neither	17.10.56	01.10.77	Baris Pyngrope
161. S.L. Sandal	Surveyor	Neither	25.06.46	01.10.77	S.A. Mohammad
162. Shradhanjan Behera	Surveyor	Neither	10.03.53	01.10.77	J.R. Jain
163. C.E. Raju	Surveyor	Neither	25.05.45	01.10.77	K.N.G. Nair
164. S.P. Kestwal	Surveyor	Neither	09.07.46	01.10.77	Lalit Mohan Pande
165. V.K. Kukreti	Surveyor	Neither	01.12.46	01.10.77	K.L. Sawhney
166. R.K. Nautiyal	Surveyor	Neither	15.08.47	01.10.77	M.K. Maingain
167. E.V. Sreedharan	Surveyor	Neither	11.01.46	01.10.77	Y.S. Tomar
168. Bijaya Kumar Pradhan	Surveyor	Neither	26.02.54	01.10.77	S.K. Sharma
169. Sripati Barik	Surveyor	Neither	01.10.52	01.10.77	K.S. Kohli
170. Radhamohan Mahapatra	Surveyor	Neither	02.04.57	01.10.77	Raghav Nath
171. Dasharath Thakur	Surveyor	Neither	29.07.49	01.10.77	Raj Vilochan Kukre
172. Naresh Prasad	Surveyor	Neither	12.10.52	01.10.77	R.P. Naithani
173. J.K. Malhotra	Surveyor	Neither	06.03.45	01.10.77	Shyam Singh
174. Debraj Singh	Surveyor	Neither	03.02.56	01.10.77	C.P. Singh
175. Ram Lal Ram	Surveyor	S.C.	15.01.54	01.10.77	Bhagwat Prasad Sh
176. D.C. Pal	Surveyor	Neither	16.01.44	01.10.77	Bal Ram
177. Randhir Kumar Das	Surveyor	Neither	04.04.49	01.10.77	Anand Singh Hegi
178. Prabhas Ranjan Dafta	Surveyor	Neither	20.10.54	01.10.77	S.K. Bhattacharya
179. Lakshmi Kanta Bar	Surveyor	S.C.	21.01.50	01.10.77	George Mathew
180. Hari Saran	Surveyor	Neither	24.08.46	01.10.77	Panna Lal
181. Hukum Singh Sajwan	Surveyor	Neither	01.01.48	01.01.78	Mahavir Singh
182. Subhas Chandra	Surveyor	S.C.	11.01.45	01.01.78	S.P. Srivastava
183. R.K. Kuril	Surveyor	S.C.	04.08.44	01.01.78	Jagdish Chandra
184. V.K. Sinodia	Surveyor	S.C.	01.07.45	01.01.78	D.D. Naithani
185. M.C. Tyagi	Surveyor	Neither	15.01.45	01.10.78	Prem Singh
186. Rabi Narayan Mishra	Surveyor	Neither	01.07.53	01.10.78	Amar Singh
187. Trilochana Maharana	Surveyor	Neither	15.03.56	01.10.78	J.P. Chaturvedi
188. V.K. Thomas	Surveyor	Neither	07.02.42	01.10.78	Hira Lal
189. Purushottam Sahoo	Surveyor	Neither	02.04.52	01.10.78	C.D. Purohit
190. Kumbhakarna Mallick	Surveyor	S.C.	17.10.54	01.10.78	K.C. Varughese
191. Biranchi Narayan Patra	Surveyor	S.C.	28.02.57	01.10.78	Bharat Singh
192. B.K. Khantwal	Surveyor	Neither	09.11.41	01.10.78	Ramesh Chandra
193. B. Prasad Rao	Surveyor	Neither	26.04.42	01.10.78	Prem Chand
194. Sewa Singh Matharu	Surveyor	Neither	18.06.43	01.10.78	Khem Raj Jawada
195. S. Brahmaji	Surveyor	Neither	12.08.51	01.10.78	G.B. Rajmania
196. Bir Singh Rawat	Surveyor	Neither	20.02.41	01.10.78	Man Chand
197. Jaya Krishna Nayak	Surveyor	Neither	20.10.49	01.10.79	Jitendra Barsik
198. S.B. Kharbangar	Surveyor	S.T.	01.03.59	01.10.79	Nathu Lal Adiwal
					B.N. Patel

Central Administration
কেন্দ্ৰীয় প্ৰশাসনিক ব্যৱস্থা
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MANUFACTURE APPLICANT NO. 221 OF 1996.

Get back this the 11 day of May, 1996.

C O I A T I O N:-

THE HONOURABLE MR. SOMNATH SON, VICE-CHAIRMAN
A N D
THE HONOURABLE M.R. S.N. SARKAR, MEMBER (JUDICIAL).

Settlemen t:-

- 1) Bhagirathi Mohapatra,
S/o.Ganeswar Mohapatra,
At. SECO, Survey of India,
PO:R.R.Lab, PS: Shahidnagar,
Dist.Khurda.
- 2) Brajendran Mohanta,
S/o.H.K.Mohanta,
At. SECO, Survey of India,
PO:R.R.Lab,
P.S.--Shahidnagar,
Dist.Khurda.
- 3) Ananta Charan Moharana,
S/o.late Bhimesen Maharana,
PO-R.R.Lab.,At-SECO, Survey of India,
PS-Sahidnagar, Dist.Khurda.
- 4) Bairi Niranjan,
S/o.late B.Kalia,
At.No.77(P),Party(SEC),
Survey of India,PO/PS.Khandagiri,
Dist.Khurda.
- 5) Linesh Kumar Kar,
S/o.late Susanta Sekhar Kar,
At-PO.76(P),Party (R&D),
Survey of India,PO/PS:Khandagiri,
Dist.Khurda.
- 6) Kusha Chandra Patra,
S/o.late Krishna Chandra Patra,
At.No.76(P)Party (R&D),Survey of
India,PO/PS.Khandagiri,Dist.Khurda.

By legal practitioner: /s/ S. Mishra - J. D. Mishra, K. C. Courtney,
Advocates: ... APPLICANTS.

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- 1) Union of India, represented through
Bharat Bhawan Institute of Science & Technology,

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Gyaneshwari Branch

Technology Bhawan,
New Lohapuri Road,
New Delhi.

1) Surveyor General of India,
At-Hathibarkala Estate,
Dehradun.

✓ 2) Shri D.N.Panday,
Map Publication Office,
Survey of India,
Hathibarkala Estate,
Dehradun-1.

✓ 3) Shri Ravi Mohan,
G & RB, Survey of India,
17 E.C.Road,
Dehradun-1.

✓ 4) Shri M.M.Jain,
MCC, Survey of India,
17 E.C.Road,
Dehradun-1.

✓ 5) Shri S.N.Kumar,
G & RB Survey of India,
17 E.C.Road,
Dehradun-1.

✓ 6) Shri J.B.Pawsey,
Map Publication Office,
Survey of India,
Hathibarkala Estate,
Dehradun-1.

✓ 7) Shri S.S.Rawat,
D.Survey(Air) Survey of India,
West Block No.4,
R.K.Puram,
New Delhi-66.

✓ 8) Shri S.D.Chatterjee, South,
Eastern Circle,
Survey of India, Uppal,
Hyderabad-39.

✓ 9) Shri M.C.Balhar,
South Central Circle,
Survey of India,
3-4-526/38,
Barkatpura,
Kachiguda,
Hyderabad-27.

✓ 10) Shri L.P.Hira,
No.27, Forty (IC)

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Castle Hill Estate,
Landour Bazar,
MUSSORIE-79.

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✓ 12) Shri H.R.Aich,
Eastern Circle, Survey of India,
13 Wood Street, Calcutta-16.

13) Shri Somra Tirkey, No.74, Party
Survey of India Complex,
Doranda Po.Hindoo,
Ranchi-2.

✓ 14) Shri S.N.Jugran,
I.C.C, Survey of India, 17 E.C. Road,
Dehradun-1.

✓ 15) Shri B.K.Sahni,
Research & Development
Survey of India,
Uppal, Hyderabad-39.

✓ 16) Shri J.L.J.Kao,
E.M.C, Survey of India,
Uppal Hyderabad-39.

✓ 17) Shri J.K.Das,
Eastern Zone,
Survey of India,
13 Wood Street,
Calcutta-16.

✓ 18) Shri J.C.Khurana,
I.C.C, Survey of India,
17-E.C. q.s.d.,
Dehradun-1.

✓ 19) Shri S.M.Uniyal,
S.G.O., Survey of India,
Nathiberkala Estate,
Dehradun-1.

✓ 20) Shri N.S.Rewat,
Northern Circle, Survey of India,
17 E.C. Road,
Dehradun-1.

✓ 21) Shri M.L.Kumar,
Director, Survey Air,
Survey of India,
A-11, Block-4, K.R.Puram, New Delhi-66.

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✓ 22) Shri S.K.Khatri, S.T.I., Survey of India,
Uppal, Hyderabad-39.

✓ 23) Shri M.S.Parihar, 2 D.O.(NC), Survey of
India, 17 EC Road, Dehradun-1.

✓ 24. Shri H.G.R.Nair, No.41, Party (SC),
Survey of India, XXII/414, Kamakshi Niwas,
New Street, PO.Nukani, Palghat-4.

✓ 25. Shri Bachi Ram, South Central Circle,
Survey of India, Barkatpura,
Kachiguda, Hyderabad-27.

✓ 26. Shri Lalit Prasad, G & RB, Survey of India,
17 EC Road, Dehradun-1.

✓ 27. Shri A.K.Uniyal, 44 Party (CC), Survey of
India, CGO Complex, Opp. Medical College,
Agra Bombay Road, Indore-1 (MP).

✓ 28. Shri T.S.Kana, No. 26(P), Party (LC),
Survey of India, 17 EC Road, Dehradun-1.

✓ 29. Shri J.C.Kekhi, No.32(P) Party (LC),
Survey of India, Abu-1.

✓ 30. Shri S.L.Semwal, No.35, Party (NEC)
Survey of India, Ganeshguri Chariali,
G.S Road, Dispur, Guwahati-6.

✓ 31. Shri Manta Ram, No. 67 (FSP) Party,
20 P.K Playyout, Ward No.13,
Subramanya Puram, Coimbatore-2.

✓ 32. Shri Hari Prasad,
No.60 Party (CC), Survey of India,
Tansen Road, Gwalior-3.

RESPONDENTS .

BY LEGAL PRACTITIONER : -Shri Ashok Mohanty, Senior Standing
Counsel (Central).

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:-

In this Original Application, under section 19 of the Administrative Tribunals Act, 1985 6(six) petitioners have prayed for a direction to Respondent No.2 to re-cast the seniority list by properly fixing the inter-se-seniority positions of the petitioners, who passed the L.C.D.C. examinations 1986 in respect of vacancies of 1984 vis-a-vis the D.P.C. promoters, who were promoted through D.P.C. to the vacancies of the same year in accordance with the 3:1 vacancy roster. There is also a prayer that the order dated 15.12.1995 (Annexure-5) promoting 33(thirty) officer Surveyors to the post of Superintending Surveyors be quashed and Respondent No.2 be directed to issue fresh order of promotion after re-casting the seniority list.

2. The short facts of this case, according to the petitioners are that, the applicants are working under Respondents 1 and 2 as Officer Surveyors prior to 1987. Before, 1983, recruitment to the post of Officer Surveyors, were being made 50% by way of promotion from class-II I division No.1 cadre and the rest 50% by direct recruitment.

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promotion

through the Union Public Service Commission. ~~50% promotion~~ was being given on the basis of seniority. Survey of India Officer Surveyors Recruitment Rules, 1983 came into force with effect from 27-4-1983. This rule, is at Annexure-1. Under this rule, promotion from feeder cadre of the post of Officer Surveyors was fixed at 75% and it was provided that balance 25% of the post of officer Surveyors, shall be filled up through a Limited Departmental Competitive Examination from Surveyors, Survey Assistants, Scientific Assistants, Geodetic computers and Draftsmen Div. I who have passed Bachelor's Degree with Mathematics as one of the subjects and have rendered five years regular service in the respective grade. This has been provided in Schedule-II of the 1983 Recruitment Rules, at Annexure-1. Thus, promotion quota of Limited Departmental Competitive examination in the post of Officer Surveyors, were to be filled up from the same group of people i.e. Surveyors, Survey Assistants, etc. with eight years regular service in respect of the grade, and the rest 25% post shall be filled up by way of promotion through limited Departmental Competitive Examination from the aforesaid category as stated above, who possesses Bachelor's Degree in Mathematics and have rendered five years regular service in respect of grade. It has also been provided in the said rules, that the examination shall be conducted by the Director, Survey Training Institute, in accordance with the

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scheme to be finalised by the Surveyor General of India in consultation with the Department of Science and Technology. It was also provided that an employee shall not avail more than three chances to appear at the said examination during his service period. For appearing at the Limited Departmental Competitive examination, the scheme for Limited Departmental Competitive Examination, apparently took time to be finalised and this was issued only in order dated 3.12.1985 (annexure-2). The scheme is for Limited Departmental Competitive Examination (Selection to the Grade of Officer Surveyor). In para-9, Recruitment Roster has been dealt with and it has been provided that Vacancies to be filled by promotion by selection through D.P.C. and through the Limited Departmental Competitive Examination scheme shall be fixed on the basis of 3:1 for which a recruitment roster will be maintained by the Surveyor General of India. The inter-se-seniority of those selected in any one year being determined according to the order of merit in which they are placed in the examination. Applicants further state that this is in accordance with the Ministry Home Affairs Office Memorandum dated 22.12.1959 (Annexure-12) regarding relative seniority of direct recruits, and promotees. In this Circular in para 2.4.1. it has been mentioned that relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees. In this case, there are no

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new recruits. The two groups are D.P.C. - promotees and promotees through L.D.C. Examination. Applicants case is that according to the provision regarding recruitment Roaster for vacancies to be filled up in a particular year after every three appointments, by way of D.P.C. promotees, one person promoted through Limited Departmental Competitive Examination, will have to be placed. Petitioners case is that they were in the feeder cadre prior to 27-12-1983 when 1983 recruitment rules came into force and they had all the eligibility qualification for appearing in the Limited Departmental Competitive Examn. According to the applicants, on 27.4.1983, the total number of vacancies in the cadre of Officer Surveyors, were 246 of which 185 would have fallen in the promotional quota and 61 in the Limited Departmental Examination quota but in 1983, no vacancies were filled up. Two more vacancies arose during the year 1983 due to retirement and the respective quotas became 187 and 61 as on 1.1.1984. In 1984, three vacancies arose and the respective quotas of the two groups became 189 and 62. In 1985, five further vacancies arose due to superannuation. Hence the numbers of vacancies to be filled up through D.P.C. and L.D.C. through L.D.C. Examn. were 193 and 63. During the same year, out of 193 vacancies in the DPC quota, 175 were filled up by promotion through DPC, thus carrying forward the left over 18 vacancies of DPC quota to the year 1986. In 1985,

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55 DPC promoted vacancies were filled up by holding DPC and remaining 18 vacancies were carried forward in the DPC quota in the year 1986. But the Limited Departmental Examination was not held in 1985 simultaneously and the 63 vacancies of Limited Departmental Examination quota were not filled up, though circulars were issued to hold Limited Departmental Examination during December, 1985. Applicants further state that meeting of the DPC was held in the year 1984 but 175 persons were given promotion in 1985. Even though Respondent No.2 should have conducted the Limited Departmental Examination simultaneously while taking steps for selection through DPC, and waited for the two panels to be drawn up and then fill up the vacancies by taking names from both the panels according to the roster, Limited Departmental Examination was not held in the year 1985. In 1986, 12 vacancies arose; 9 due to retirement, 3 due to creation of new posts. Of this 9 belongs to DPC quota which become 27 taking into account the carry over 18 unfulfilled posts and the LDC quota was three which becomes 66. But no vacancies of either categories were filled up in the year 1986. In 1987 two vacancies arose due to retirement. These two vacancies fall to the 75% DPC quota. Added with the 27 vacancies of the D.P.C. quota carried forward from 1986, the number of vacancies in the DPC quota to be filled up during 1987 is 29. In the year 1987 out of these 29 vacancies, 27

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vacancies were filled up through D.P.C. Ultimately, in

August, 1986, written test for Limited Departmental Examn.

was held. The interview was held in January, 1987 and 17

persons qualified in the written test and interview

and were promoted as Officer Surveyors in 1.7.1987. These six

petitioners are amongst those 17 persons. Petitioners case

is that, these seventeen persons, should have been given

promotion simultaneously with the 175 persons, who were

promoted in the DPC quota during the year 1985 and these

17 persons should have been given their due position in

the gradation list according to the roster of 3:1. But

because of the delay in holding the examination, petitioners

were given promotion as late as in the year 1987. It is

further stated that these seventeen petitioners were

placed enblkok above the DPC promotees of 1987. Petitioners

grievance was that these seventeen examination promotees

of 1987 were given placement according to 3:1 vacancy

roster with the 27 DPC promotees during 1987 instead of

giving such placement with 175 DPC promotees. Subsequently,

in 1988, some vacancies in the 75% DPC quota were filled

up through SPC and some vacancies of 25% LDC examination

quota were also filled up through LDC examination. Petitioners

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As per the 1983 DPC promotees in the list of 1983 DPC promotees were not mentioned in 1987 and placed along with 1987 DPC promotees in 1987 according to roster. It is further stated that in 1988, one Shri S.N.Jugran and one Shri J.C.Khurana filed original application No.1050/1988 and O.A. 1134/1988 before the Central Administrative Tribunal, Allahabad Bench challenging the seniority list published in 1985 and 1986. The Tribunal, in their order dated 14.2.1992, quashed the DPC proceedings held in 1984 and the seniority list of officers Surveyors dated 1.1.1986 and directed for conducting review DPC. Accordingly all the D.P.C. proceedings held between 1984 and 1992 were rendered invalid and a review DPC was held in 1993 and 185 persons were given promotion in the 75% DPC quota revising the list of entire DPC promotees during the period from 1984 to 1992. Petitioners' did not know their seniority positions in the seniority list because the seniority list as on 1.1.1988 was circulated for the first time in 1990. But as the cases including the case of Shri S.N.Jugran were pending before the Central Administrative Tribunal, Allahabad, the petitioners had no reason to challenge the seniority list. In any case, the seniority list was quashed and fresh seniority list was ordered to be drawn up. Petitioner's filed various representation for giving their inter-se seniority position alongwith 175 persons of 1985 promotees but without any result. While the situation was such and no seniority list has been circulated.

Respondent No. 2 promoted certain officers Surveyors as Superintending Surveyors, who are the private Respondents in this application before us. Petitioners case is that had they been given their inter-se-seniority, alongwith DSC promotees of 1995 strictly in accordance with Rules and Departmental Instructions, they would have been considered for promotion to the rank of Superintending Surveyors alongwith Respondents 3 to 32. On the above grounds, they have asked for a direction for recasting the seniority list by properly fixing the inter-se-seniority positions and have further asked for quashing the promotion order dated 15.12.1995 of the Private Respondents.

3. Respondents 1 and 2, in their counter, have stated that the Recruitment Rules, 1983, were given effect to on 27-4-1983. After the Recruitment Rules, 1983, came into force, the process of finalisation of the scheme for examination took time. Several representations and suggestions from Surveyors' Association were taken into consideration and there were several discussions with the representatives of the Association and ultimately approval of the Departmental of Personnel and Training was conveyed and the Department of Science and Technology issued letter on 14-11-1985 only, which is at Annexure-A. Alongwith this annexure, Respondents have also enclosed a copy of the examination scheme which

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Deals with the recruitment roster, referred to earlier.

Respondents have stated that the first written examination under the scheme was conducted in August, 1986 and interview was held in January, 1987 and persons, who were qualified in the said examination, were offered promotion to the Post of Officer Surveyor in August, 1987. Respondents case is that according to the instruction of Government of India, seniority of the applicants, were to be fixed *vis-a-vis* 75% of D.P.C. promotees of 1987. Respondents further stated that private respondents 3 to 32 were promoted as Officer Surveyors during, 1985-86 whereas applicants, were promoted to the post of Officer Surveyors as Limited Departmental Competitive Examination appointees in July, 1987. Respondents have denied the suggestion of the applicants that in 1987 Limited Departmental competitive examination, 84 vacancies were filled up. Their stand is that since the scheme of examination could not be finalised, vacancies existing in the year 1984 and relateable to DPC promotees of 1985-86, could not be filled up. According to Respondents, on 27.4.1983, there were 199 vacancies of which 150 was for DPC promotees and 49 for LDCE promotees. As regards giving seniority position, respondents have made the following averments in their counter:

"That accordingly, the applicants were treated as appointees of 1986 examination

and their seniority was assigned with the promotees of 1985 vacancy".

It is also stated that persons appointed by promotion against 1986 vacancy, were assigned to 1987. Respondents have further stated that it is settled law that seniority will be fixed on the length of service in a particular grade and since the applicants joined the grade of Officers Surveyor only on 15.6.1987, they can not claim that they will be placed alongwith promotees of 1985. On the above grounds, they have opposed the prayer of the applicants.

4. Applicants, in their rejoinder, have pointed out that Respondents, in their counter, in para-7 pointed out that seniority of the applicants have been fixed in accordance with the circular dated 3.7.1986 of the Department of Personnel & Training. This circular is at Annexure-12. This is a consolidated order on principles for determining seniority and the relevant portion dealing with seniority of direct recruits and promotees are at para 2.4.1. which has already been noted earlier.

5. In the rejoinder, the applicants have further stated that the ~~this~~ fixation of seniority, according to recruitment roster is strictly in accordance with para 2.4.1. They have further stated that according to Rules and the recruitment roster, L.I.D.C. examination promotees should find place alongwith L.P.C. Promotees of the

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vacancies relating to the same year irrespective of the fact when these vacancies were filled up. Applicants, have stated that they were given delayed promotion in 1987 against the vacancies of 1983-84. On the above grounds, applicants have re-iterated the fact in the rejoinder.

6. Respondents have filed supplementary counter in which they have stated that promotion of the applicants on L.B.C.E. quota, having taken place in June, 1987, the seniority will be determined in accordance with D.O.P.T order dated 7.2.1986 which is at Annexure-13. They have further re-iterated that since applicants were appointed on 15.6.1987, they can count their seniority only from that date and not prior to that date. In this counter, the Respondents have referred to the decision of the Hon'ble High Court of Karnataka in Writ Petition No. 165 of 1979 in the case of Shri T. V. Rajendran vs. Union of India and others which was also confirmed by the Hon'ble Supreme Court of India in 1990. The quotation from the judgment has been given in this counter though, it is not clear whether it is quotation from the decision of the Hon'ble Supreme Court or Hon'ble High Court of Karnataka.

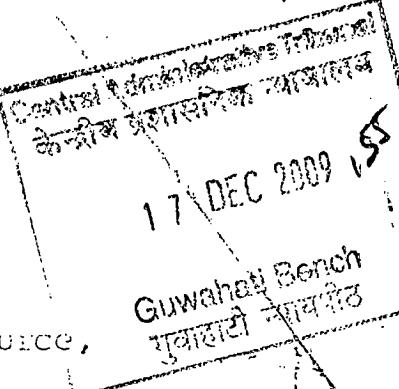
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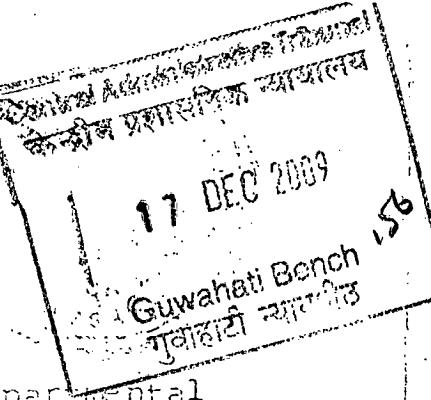
The quotation lays down when persons are promoted or appointed to a particular cadre, by whatever source, it may be, they can reckon their services only from dates of the appointment and they can not reckon their services prior to their appointments. In this counter, respondents have also worked out the quota for DPC appointees/promotees and LLCE appointees/promotees.

7. We have heard Shri S. Mishra-I, learned counsel for the applicants and Shri Ashok Mohanty, learned Senior Standing Counsel appearing on behalf of respondents 1 & 2. The private respondents 3 to 32 have not entered appearance even though notices were issued to them. We have also perused the records.

8. Learned Counsel for the applicant, has filed written note of submission and the factual statement which have also been taken note of. Even though, parties have filed voluminous documents, the dispute essentially falls within a very small compass.

9. Admittedly, according to the recruitment rules, 1983, after coming into force the 1983 rules, the vacancies that were existing on 27.4.1983, 75% of the vacancies of Officer Surveyors, were to be filled up by DPC appointees and 25% by LLCE appointees. Admittedly, the Departmental





authorities delayed in holding the Limited Departmental competitive examination and the applicants got promotion only in June, 1987. They say that as, their quota of vacancies relate to 27.4.1983, they should be given their position according to recruitment roster alongwith 175 DPC recruits who were taken in 1985. The Respondents, on the other hand, claimed that as these applicants joined as Officer Surveyors, only in June, 1987 and the seniority should count from the date of their appointment in the concerned cadre, they can not get seniority alongwith 175 DPC recruits who were taken in 1985.

10. We have given our anxious consideration to the rival submissions of the parties. From the counter, filed by Respondents, we note that even though applicants were appointed in June, 1987, the Departmental Authorities treated them as appointees against 1986 examination alongwith and their seniority were assigned to promotees of 1986 vacancies. This is mentioned in the counter and this portion has already been extracted by us. From this, it appears that Respondents have put the petitioners, who have actually been recruited in 1987 above the 1987 DPC promotees enblock. They have themselves mentioned that seniority of the applicants have been assigned with

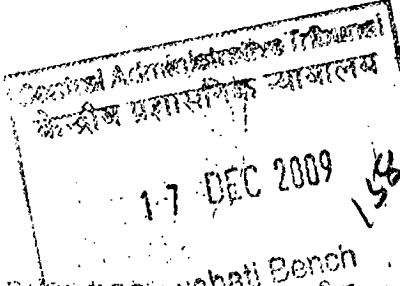
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the promotees of 1986 vacancies. Petitioners have, however, stated that these 17 L.D.C.L. appointees, who joined in June, 1987 have been placed enblock above 1987 DPC recruits. The Recruitment Roster, specifically provides that after 3 (three) DPC promotees, the LDC appointees will have to be placed. This has not been done by the Departmental Authorities. The other aspect is whether, they should be placed alongwith 1985 DPC recruits or 1986 DPC recruits which has already been done. Before considering this, it has to be noted that in 1985, 175 DPC promotees were appointed. Strictly, speaking along with 175 DPC promotees, had the examination been held in time and 58 persons been available from the LDCE quota, then 58 candidates from LDCE quota, would have been taken. But even when the examination was held in 1986 and viva-voce in 1987, only 17 persons qualified in the LDCE examination. As the Respondents have delayed in holding the examination and as the applicants qualified in the first examination which was held and as according to their averments, which has not been denied in the counter, on 27.4.1983, they were qualified to take the examination had it been held alongwith promotion of DPC candidates, the petitioners can not be allowed to suffer. In view of this the correct procedure would be, to give these petitioners their rightful position one after every three

1.1.2.



DPC Circulars of 1986. The arguments of the respondents that they can not be given seniority from a date prior to their initial appointment in the cadre is without any merit for the following reasons.

11. Firstly, the Respondents have not given reference to the decision of the Karnataka High Court, referred to above, in their supplementary counter and it has not been possible for us to look into this reference. From the extract quoted, it is not clear whether it is the observation of the Hon'ble Supreme Court or the Hon'ble High Court of Karnataka. Moreover the extract appears to be only a portion of one sentence. Therefore, it would not be correct to rely on the part of one sentence and deny the claim of the applicants on that basis.

12. The second aspect of the case is that on the basis of Annexure-13 relied on by the applicants, prior to coming into force of this circular of 7.2.1986, such placement in the seniority list even prior to joining was being done. In the circular it has been mentioned that where appointment to a grade is to be made 50% by direct recruitment and 50% by promotion from a lower grade, the inter-se-seniority of different recruits and promotedes is determined on 1:1 basis. It is further provided that while the above mentioned principle was working satisfactorily in cases where direct recruitment and promotion kept pace

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With each other and recruitment could also be made to the full extent of the quotas as prescribed, in cases where enough number of direct recruits or promotees did not become available, there was difficulty in determining seniority. In such cases, the practice followed at present is that the slots meant for direct recruits or promotees which could not be filled up, were left vacant, and when direct recruits or promotees became available through later examinations or selections, such persons occupied the vacant slots, thereby became senior to persons who were already working in the grade on regular basis. In some cases, where there was shortfall in direct recruitment in two or more consecutive years, this resulted in direct recruits of later years taking seniority over some of the promotees with fairly long years of regular service already to their credit.

13. From the above, it is clear that even in cases where direct recruits or promotees are not available, inspite of holding the examination of selection the later recruits, in direct or promotion quota took their position in the slots meant for their respective quotas. Thus, for occupying the slots, the date of joining in their respective grade was not considered at that time. Because of this, in this circular, it has been stated that if adequate number of direct recruits do not become available in a particular year, rotation of quotas for purpose of

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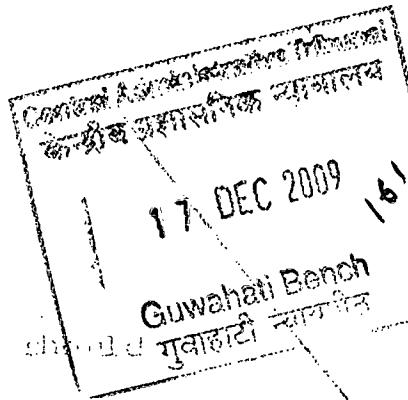
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13. Examination seniority would take place only to the extent of the available direct recruits and the promotees. In other words, to the extent direct recruits not available, the promotees will be bunches together at the bottom of the seniority list, below the last position upto which it is possible to determine seniority on the basis of rotation of quotas with reference to the actual number of direct recruits. Vacancies would, however, be carried forward and added to the corresponding direct recruitment vacancies of the next year. This envisages a situation, where even after holding the examination direct recruits were not available in sufficient number.

14. In this case, the LDCE appointees were not available in 1985 against the DPC promotees because the examination was not held even though persons were qualified for taking the said examination. Therefore, in this case, the applicants must be shown in between 1985 DPC appointees according to the roster point.

15. The contention of the respondents that they can not be shown in the seniority list on a date prior to the date of their appointment as officer Surveyors, is belied by their own averments that these LDCE recruits of 1987 have been assigned their position amongst the DPC appointees of 1986. If they have been given already one year's advantage, presumably because examination could not be held, there is no reason why recruitment roster should not



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be worked out in this case and the applicants should be made to suffer thereby.

iii. The next question is that even though as against 175 DFC appointees, there were 58 slots for LDCE appointees, only 17 qualified - out of which, 6 persons are the applicants in this original Application. Applicants have not stated what their inter-se position is amongst the 17 persons who qualified in the examination. While giving them their position, according to recruitment roster, amongst the 175 DFC appointees, the relative position of these six applicants will have to be taken note of by the Respondents. In otherwords, if applicant No.1 has occupied 5th position, out of 17 qualified examinees, then his position would come after the 19th person amongst the 175 DFC appointees and he would occupy the 20th position. We are unable to order inter-se fixation of position in respect of the eleven LDCE appointees, who are not before us. But their position, can not be usurped by the present applicants. The applicants, who must be given position, according to their inter-se-position, amongst the 17 qualified persons. Respondents should also consider giving relative position to the other eleven LDCE appointees, according to recruitment roster, who are not before us, and therefore, about whom, we are not in a position to pass any orders. After the 17 persons are assigned positions as above, rest of DFC appointees will have to be bunched together because in this case, even though

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examination was held, adequate number of LDCE appointees, did not qualify and were not available in requisite number.

17. This matter of fixing of seniority, according

to recruitment roster, alongwith DPC appointees of

earlier year will have to be done only for LDCE examinees

of 1986 who was appointed in 1987. In the subsequent LDC

examinations, this situation would not arise because

further, on the date of their examination, they will not

have been eligible to appear in the examination or if

they had appeared in the examination, they would not

have qualified. First prayer of the applicants, is, therefore,

allowed to the extent indicated above.

18. As regards the second prayer for quashing

the promotion of private respondents 3 to 32, the

promotion is without any merit. Admittedly they are D.P.C.

appointees of 1985 and according to their eligibility

and suitability, they have been promoted. There is, therefore,

no case for quashing their promotions/appointments. It is,

however, ordered that after the respondents bring out the

seniority list, in accordance with the directions given

above, they should consider the cases of these applicants

for promotion to the post of Subst. Surveyor, from the date,

their juniors, if any, in the revised seniority list got

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मानव विकास
भारत सरकारी विभाग
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911/Telex
911/Phone
911/Telex
911/Fax

1. SC/TECH
2. 662435 (1:PAHN)
667371
1. 76361, 73311, 73280
1. 661632, 6862418

GOVERNMENT OF INDIA
MINISTRY OF SCIENCE & TECHNOLOGY
Department of Science & Technology
Survey Bhavan, New Mehandi Road, New Delhi-110001

SM/04/035/98

Date 7th July, 2008

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Guwahati Bench
গুৱাহাটী ন্যায়পাঠ

To

The Director,
Survey of India, Survey Bhavan,
P.O. RR Laboratory,
Bhubaneshwar - 751013

Sub: Judgement in O.A. No. 221 of 1996 Shri B. Mahapatra and others
V/s Union of India and others.

Sir,

I am directed to refer to Survey of India letter No. LC-6441/1196-B (B. Mahapatra) dated 26.5.98 on the above subject and to inform you that the matter was taken up with the concerned Departments and it has been decided that this is not a fit case for filing an appeal. Not holding the Limited Departmental Competitive Examination in year (s) even though the vacancies arose during that year (s) is similar to not holding DPC in such a situation and just as year-wise panel is to be prepared by the DPC as and when it meets and the empanelled officers are allowed relevant year's seniority, similar treatment should be given to those selected through LDCE as and when it is held. Hence, the ruling of C.A.T. in this case to allow 1985 seniority to these applicants on the ground that LDCE was not held in 1985 (even though persons were qualified for taking the LDCE) appears to be unobjectionable.

You are requested to kindly take necessary action for implementing the direction of the Central Administrative Tribunal, Cuttack Bench immediately.

Yours faithfully,

26.5.98
(K.P. Nair)

Desk Officer

Copy to : 1. The Surveyor General of India, Survey of India, Dehra Dun
(Attention Shri S.P. Goel, Deputy Director).

2. Addl. Surveyor General, Eastern Zone, SOI, No. 13, Wood Street,
Calcutta-700006