

9

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 17/2007

R.A/C.P No.

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SECTION OFFICER (Judl.)

Halita
20.9.17

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

ORDER SHEET

1. Original Application No. 17/07
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) N.C. Das Chaudley vs Union of India & Ors

Advocate for the Applicant(S) M. Chanda, S. Nain
Mrs. B. Dutta, G. K. Chakraborty

Advocate for the Respondant Shri. C. S. M. Das

Notes of the Registry	Date	Order of the Tribunal
Application is in form No. 286/98/1880 Dated 17.1.07	16.3.07.	post the matter on 21.3.07. Member Vice-Chairman
petitioner's copy of respondent's for immediate not submitted	21.3.07.	post the matter on 28.3.07. Member Vice-Chairman

petitioner's copy of
respondent's for immediate
not submitted

Defects removed not
as put up for kind signature

24.1.07.

Defects removed today.

15.3.07.

This is the second round of litigation. The applicant is working as Electrician H.S. (II) in the office of the Garrison Engineer. Vide order-dated 13.01.1997 (Annexure 7) the applicant has promoted to the post of Electrician H.S.-I. The applicant passed the Trade Test and was promoted to the post of Electrician H.S.II vide order dated 07.04.1997 (Annexure 8). The applicant

Contd/-

27.3.07

has submitted representations dated 27.12.1996, 19.11.99, 03.09.01 praying for consideration of his promotion to the grade of HS II and H.S.I The applicant declared passed vide Part II order 25 dated 23.06.2003. The applicant again submitted representations dated 15.05.03, 16.08.03, 21.05.03 for consideration of his promotion. Respondent No.3 informed the applicant that he may be promoted to Electrician HS I with notional seniority at par with his juniors who have been promoted to Electrician (SK) to Electrician HS II earlier with pay benefit. As per letter dated 22.12.88 the said benefit has been denied to the applicant. The applicant has approached this Tribunal by filing O.A.No.188 of 2003, which was disposed of with the direction to file a detailed representation and with a further direction to the respondents to pass an appropriate order on the representation. The applicant submitted representation as directed by the Tribunal. But the respondents vide impugned order dated 15.4.03 rejected representation of the applicant. Aggrieved by the said order the applicant has filed this O.A.

I have heard Mr.M.Chanda learned counsel for the applicant and Ms.M.Das learned Addl.C.G.S.C. for the respondents. When the matter came up for hearing the learned counsel for the respondents has submitted that he would like to take instructions. Let it be done. Post the matter on 11.5.07.

Vice-Charman

Received for Res.
M. D. Das
23/4/07

Received
M. D. Das
23/4/07
Addl. C. S. C.

11.5.07.

Counsel for the respondents of station and case is adjourned to 6.5.07.

Vice-Chairman

lm

No Wls has been filed.

By 5.6.07.

06.06.07.

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

Post the matter on 9.7.07.

Vice-Chairman

lm

Wls not filed.

By 31.7.07.

9.7.07. Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 1.8.07.

Vice Chairman

lm

Wls not filed.

By 30.8.07.

1.8.07.

Counsel for the respondents wanted to file written statement. Let it be done. the matter on 31.8.07.

Vice-Chairman

lm

Wls not filed.

By 4.10.07.

31.8.2007

Post the case on 5.10.2007 granting four weeks time to the respondents to file reply statement.

4.10.07.

1. Steps not taken.
2. No order to issue notice. /bb/ by.

OA 17/07

05.10.07. Mr.M.Chanda, learned counsel appearing for the Applicant undertakes to file copies of the Original Application for issuance of Notice to the Respondents by 8th October, 2007.

Registry to issue notice to the Respondents, requiring them to file reply by 5th November, 2007. Mrs. Manjula Das, learned Addl. Standing Counsel for the Central Government also gives undertaking to file reply by 5th November, 2007.

Call this matter on 5th November, 2007.

(Khushiram)
Member(A)

(Monoranjan Mahanty)
Vice-Chairman

05.11.2007

The O.A. is admitted. Written statement has been filed by the Respondents. Mr.M.Chanda, learned counsel for the Applicant requests for four weeks time to file rejoinder.

Call this matter on 06.12.2007 for filing of rejoinder.

Member (A)

/bb/

06.12.2007

In this case written statement has already been filed. Mr.M.Chanda, learned counsel for the Applicant seeks time to file rejoinder.

Call this matter on 07.01.2008 awaiting rejoinder from the Applicant.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

8/11/07
OF. W rejoinder filed
by
5/12

05.10.07

of. issue notices
Respondents.

time R-1707

Post

1D post.

29/10/07
22/11/07
14/11/07

2.11.07

Sania re. w. admitted

Sania re. w. admitted

Rejoinder not
b'leed

07.01.2008

No rejoinder has yet been filed in this case. Mr.M.Chanda, learned counsel appearing for the Applicant seeks more time to file rejoinder.

my
4.1.08

Call this matter on 01.02.2008 awaiting rejoinder from the Applicant.

Rejoinder not
b'leed

/bb/

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

01.02.2008

Despite opportunities, no rejoinder has yet been filed by the Applicant.

my
1.3.08

In the aforesaid premises, call this matter for hearing on 20.03.2008.

Rejoinder not
b'leed

(Khushiram)
Member (A)

(M. R. Mohanty)
Vice-Chairman

my
27.3.08

nkm

28.03.2008

Call this matter on 15.05.2008.

Rejoinder not
b'leed

(M.R.Mohanty)
Vice-Chairman

my
15.5.08

lm

15.05.2008

On the prayer of Mr M. Chanda, learned Counsel appearing for the Applicant, this case stands adjourned to be taken up for hearing on 12.06.2008.

Rejoinder not
b'leed

my
11.6.08

(Khushiram)
Member

(M.R. Mohanty)
Vice-Chairman

nkm

O.A. 17/07

6

Mrs. M. Das, learned Addl. Standing Counsel appearing for the Respondents, undertakes to file reply to the rejoinder filed by the Applicant by the next date.

Call this matter on 05.08.2008.

(Khushiram
Member(A))

(M.R. Mohanty)
Vice Chairman

lm

12.06.2008 On the prayer of learned counsel appearing for both parties, call this matter on 5th August, 2008. Mrs. M. Das, learned Addl. Standing Counsel appearing for the Respondents, undertakes to file reply to the rejoinder filed by the Applicant by the next date.

Call this matter on 05.08.2008.

(Khushiram
Member(A))

(M.R. Mohanty)
Vice-Chairman

lm

05.08.2008 Call this matter on 10.09.2008.

(M.R. Mohanty)
Vice-Chairman

nkm

10.09.2008 Mr. M. Chanda, learned counsel appearing for the Applicant is present. Mrs. M. Das, learned Addl. Standing Counsel appearing for the Union of India is absent.

Call this matter on 07.11.2008.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

20.6.08
Rejoinder Submitted
by the Applicant.
Copy served.

[Signature]

Reply filed on
behalf of the
respondents against
the rejoinder filed
by the applicant.

4.8.08

The case is ready
for hearing.

9.9.08

The case is ready
for hearing.

6.11.08

7

O.A. 17/2007

07.11.2008

On the prayer of Mrs.U.Dutta, learned counsel for the Applicant the case is adjourned and posted on 17.12.2008 for hearing.

(S.N.Shukla)
Member (A)

(M.R.Mohanty)
Vice-Chairman

The case is ready
for hearing.

/bb/

16.12.08.

17.12.2008

Heard Mr M.Chanda, learned counsel appearing for the Applicant and Mrs M. Das, learned Addl. Standing counsel for the Respondents in part.

Hearing of this case stands adjourned to 20.01.2009.

(S.N.Shukla)
Member

(M.R.Mohanty)
Vice-Chairman

pg

The case is ready
for hearing.

20.1.09 Bench is not available
List on 26.2.09.

25.2.09.

by
CO.

26.02.2009

On the request of Mrs.U.Dutta, learned counsel appearing for the Applicant call this matter on 23.04.2009 for hearing.

(M.R.Mohanty)
Vice-Chairman

The case is ready
for hearing.

/bb/

22.4.09

24.04.2009

Call this matter on 04.06.2009 for hearing.

(M.R.Mohanty)
Vice-Chairman

The case is ready
for hearing.

/bb/

3.6.09.

O.A.17/2007

04.06.2009

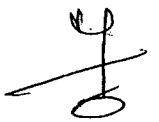
Call this Division Bench matter on

30.07.2009.

The case is ready
for hearing.

29.7.09

/bb/


(M.R. Mohanty)
Vice-Chairman

30.07.2009

On the prayer of the learned Counsel
for the parties, call this matter on
14.09.2009.

The case is ready
for hearing.

11.9.09

nkm


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

14.09.2009

Call this Division Bench matter on

12.11.2009.

The case is ready
for hearing.

11.11.09


/lm



(M.K. Chaturvedi)
Member (A)

12.11.2009

Heard Mr.M.Chanda, learned counsel
for Applicant and Mrs.M.Das, learned
Sr.C.G.S.C. for Respondents.

Reserved for orders.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

/bb/

Received on behalf of
Mrs. M. Das, Sr. CGSC

M. Deka
10.12.09

30.11.2009

For the reasons recorded separately,
the O.A. stands dismissed.

10-12-09

Final order dated
30/11/09 sent to the
J/Section for issuing
the call the respondents
by post. vide No 13884-13890 dated 11-12-09

/lm/


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.17 of 2007

DATE OF DECISION 30.11.2009

Sri N.C.Das Choudhury

.....Applicant/s.

Shri M.Chanda & Smt.U.Dutta

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

- Versus -

U.O.I. & QPS

.....Respondent/s

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

.....Advocate for the
Respondents

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?
2. Whether to be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?

Yes/No

Yes/No

Yes/No

Judgment delivered by

Hon'ble/Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 17 of 2007

Date of Order: This, the 30th day of November, 2009

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A)

Sri Narendra Chandra Das Choudhury
Son of Late Nagendra Chandra Das Choudhury
Electrician H.S. II
Office of the Garrison Engineer
Masimpur, MES
P.O. Silchar – 25
District – Cachar, Assam.

...Applicant

By Advocate: Shri M. Chanda & Smt. U.Dutta.

-Versus-

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Defence, South Block
New Delhi – 110001.
2. The Headquarter Chief Engineer
Eastern Command
Fort William, Kolkata – 21.
3. The Command Works Engineer
S.E. Falls, Shillong – 11.
4. The Army Headquarter Engineer - in
Chief's Branch, Kashmir House
P.O. – New Delhi, New Delhi – 110011.
5. The Garrison Engineer
Silchar, Masimpur, MES
P.O. – Silchar – 25, District – Cachar, Assam.
6. Md. M.R. Laskar
O/o – Garrison Engineer, Silchar
Viranti, P.O. – Lailapur, C/o – 99 APO.
7. Sri S.C. Nath
O/o – Garrison Engineer, Silchar
Masimpur, P.O. – Arunachal
Dist – Cachar, C/O – 99 APO.

...Respondents

By Advocate: Smt. M.Das, Sr. C.G.S.C.

2

ORDER
30.11.2009

MUKESH KUMAR GUPTA, MEMBER (J) :

In this second round of litigation, Sri Narendra Chandra Das Choudhury, Electrician HS-II challenges validity of communication dated 15.04.2006 rejecting his representation dated 10.08.2005 seeking retrospective promotion in the cadre of HS-II & HS-I at par with his alleged juniors. He seeks direction to the Respondents to promote him to the cadre of Electrician HS-II w.e.f. 15.10.1984 in the light of Army Headquarters letter dated 10.02.1995 with all consequential benefits and modifying the promotion order dated 07.04.1997, besides direction to consider and promote him to next higher grade of Electrician HS-I with all its consequential benefits along with costs.

2. Admitted facts are that he was initially appointed as Wireman on 03.06.1968, declared quasi-permanent w.e.f. 03.06.1971. He appeared and passed the trade test for the post of Instrument Repairer, which post was subsequently restructured as Machine Precision Instrument (in short MPI) in 1986. The Government of India, Ministry of Defence vide order 15.10.1984 conveyed sanction of the President for upgradation of certain categories from semi-Skilled to Skilled grade, which did not include the trade held by Applicant, namely, Instrument Repairer. On rationalization of Trades of the Industrial cadre of the MES, vide order dated 24.06.1987 sanction of the President was also conveyed for redesignation and codification of certain categories of personnel which included the grade of Line Man, Switch Board Attendant and Wireman, which were feeder grade to the post of Electrician Skilled Grade. Vide letter dated 21.02.1994

(Annexure-5) order dated 24.06.1987 had been amended and the post of Instrument Repairer was redesignated as Electrician (SK). Consequently, Engineer-in-Chief of Army Headquarters issued letter dated 10.02.1995 and it required to hold review DPCs to consider Instrument Repairer/MPI, who were otherwise eligible for promotion to the post of Electrician HS-II with notional seniority at par with their immediate juniors, which were already promoted.

3. Applicant's grievance is that vide order dated 13.01.1997 (Annexure-7) Shri Satya Gopal Bhattacharjee and Shri Rathindra Nath Brahmachari were promoted to the grade of Electrician HS-II with notional seniority w.e.f. 15.10.1984 and 11.08.1985 respectively. Said benefits have not been extended to him though his immediate superior authority vide communication dated 05.04.1997 (Annexure-10) recommended his claim. Various representations, so made from time to time elicited no response, and therefore, he was compelled to approach this Tribunal vide O.A. No.188/2003. Said O.A. had been disposed of vide order dated 26th July 2005 noticing the recommendation made by higher authorities on 24.05.2003 (Annexure-18). Vide order dated 26.07.2005, he was directed to submit a detail representation narrating his grievances and the Respondents were also directed to pass appropriate orders thereto within a time frame prescribed therein. In compliance of aforesaid direction, though he had submitted a detailed representation dated 10.08.2005 wherein vide paragraphs 4 & 5 he pointed out that order dated 10.02.1995 had been implemented in respect of Shri Satya Gopal Bhattacharjee and Shri Rathindra Nath Brahmachari and many others but said benefits had not been extended to him, which amounts to invidious discrimination. Said



contention had not been taken into consideration while passing speaking order dated 15.04.2006, impugned in present O.A.

4. Shri M.Chanda, learned counsel appearing for Applicant along with Smt. U.Dutta raised the following contentions:-

- (i) Applicant had acquired valuable legal right for grant of promotion to post of Electrician HS-II as well as HS-I at least from the date of promotion of his immediate juniors working in other trades like lineman, switch board attendant and wireman etc. in terms of order dated 10.02.1995 read along with order dated 13.02.1997.
- (ii) The trade of Instrument Repair merged with Electrician cadre vide Ministry of Defence letter dated 21.02.1994 had been included as a result of rationalization of trades vide order dated 24.06.1987. Delay and lapse on the part of Respondents in issuing said order cannot adversely affect his promotion and seniority in the Grade of Electrician. In any case Applicant is entitled to antedated promotion at par with Shri Satya Gopal Bhattacharjee, Shri Rathindra Nath Brahmachari, M.R.Laskar, S.C.Das and Ramakanta Das.
- (iii) His representations were rejected by competent authority vide impugned communication dated 15.04.2006 without any application of mind. Though requirement of passing trade test as pre-condition has been dispensed with, yet perusal of impugned communication dated 15.04.2006 would reveal that basic reason disclosed for his non-promotion was for "not



passing the trade test", which is totally unjustified. He had passed trade test of HS-II and promoted to said grade vide order 07.04.1997. Similarly, he had passed trade test of HS-I in December 2002 but not been promoted to said grade so far.

- (iv) Respondents' action is violative of Rules of Govt. orders on the subject. His juniors have been promoted without considering his claim and, therefore, entire action of the Respondents is arbitrary, malafide, unfair and illegal besides opposed to principles of natural justice.

5. Reliance has been passed on **2001(3) SLJ (CAT) 66 Jodhbur Bench 66, Rajendra Prasad Sharma vs. Union of India & Another** wherein it has been observed that requirement of trade test had been dispensed with vide Ministry of Defence letter dated 08.04.1986 which provided with 20% vacancies of Electrician HS-II as on 15.10.1984 shall be filled up on the basis of seniority, without obligation to qualify trade test. Reliance was also placed on **2001(2) SCC 118, S.Ramanathan vs. Union of India & Others** wherein it has been observed that it would not be appropriate to deny the relief to the appellant on the ground of administrative chaos if he was otherwise entitled to same. Further reliance was placed on **2007(11) SCC 447, Kusheshwar Prasad Singh vs. State of Bihar** wherein it has been observed that authorities cannot be allowed to take undue advantage of their own fault & failure to act in accordance with law. Lastly reliance was also placed on **2004 (1) SCC 245 P.N.Premachandran vs. State of Kerala** wherein it was observed that due to administrative lapse on the part of the State, the individual cannot be made to suffer.



6. Filing reply as well as additional reply, it was stated that while introducing three grades structure based on Expert Classification Committee, trade of Instrument Repairer had not been included vide communication dated 15.10.1994. As per existing norms of the department DPC is being conducted for giving promotion to the industrial person on the basis of vacancy and seniority of respective CWE only. He appeared in trade test for Electrician HS-II held during July 1995, result of which was declared vide order dated 08.04.1996 and accordingly he was promoted to said grade on 12.08.1996. He accepted said promotion without any demur. He appeared for trade test of HS-I on 20/21.01.2000 but could not succeed and therefore, his name was not included in list of successful candidates. He passed said trade test in December 2002 but could not be promoted due to want of vacancies. Promotion cannot be claimed as a matter of right. Vide order dated 15.10.1984 only 15 categories were notified for upgradation, which did not include trade of Instrument Repairer and as such he was rightly not considered for grant of benefits of promotion. Review DPC in terms of E-in-Cs' Branch, Army Headquarters letter dated 10.02.1995 was not done in respect of Applicant because of existing promotional norms. Promotion to industrial persons is granted based on vacancy position and seniority in respective CWE. Sri S.G.Bahattacharjee and R.N.Brahmachari were not from the same CWE and therefore, he cannot claim parity with said officials. Furthermore, it cannot be contended that Applicant was senior to said officials. It was stated that Sri M.R.Lasker, Sri S.C.Nath and Sri Ramapada Das have not been promoted to HS-I and are still holding post of Electrician HS-II. He will be considered for promotion to Electrician HS-I as and when vacancy arises in terms of his seniority. Passing of trade test was a mandatory



provision for promotion to Electrician HS-II and therefore, there is no justification to accord him antedated promotion being not eligible under the Rules. Some officials who have passed trade test in January 2001 are still in the queue of promotion to the post of HS-I.

7. We have heard Shri M. Chanda, learned counsel for Applicant and Smt. M. Das, learned Sr. C.G.S.C. for Respondents at great length, perused the pleadings and other material placed on record. We have also carefully gone through the various judgments relied upon by the Applicant.

8. The short question which arises for consideration is whether Applicant is entitled for promotion/upgradation as Electrician HS-II w.e.f. 15.10.1984 or not.

9. On examination of the matter with reference to the Ministry of Defence letter dated 15.10.1984, we notice that it conveyed sanction of the President to upgrade post in certain trades, which did not include trade of Instrument Repairer. Said trade of Instrument Repairer was included by amending communication dated 24.06.1987 vide which President's sanction was also issued for re-structuring and codification of certain categories of personnel in the MES. It is undisputed fact that trade of Instrument Repairer had not been included either in letter dated 15.10.1984 or in 24.06.1987. It is undoubtedly clear that certain categories, namely, lineman, switch board attendant and wireman were included vide letter dated 24.06.1987. We may note that rationalization of posts, restructuring as well as creation of posts and cadre is also a policy decision of the Govt. of India. Furthermore, validity of said orders have not been challenged by the Applicant. He basically seeks retrospective operation of order dated .

21.02.1994 which had amended earlier communication dated 24.06.1987. The communication emanating from E-in-C, Army Headquarter dated 10.02.1995 though required convening review DPC to consider the officials holding the grade of Instrument Repairer/MPI which were otherwise eligible for promotion to Electrician HS-II with notional seniority, but it did not mean one has to be considered for promotion irrespective of the fact whether one satisfies prescribed eligibility conditions or not. Rather para 2.(b) thereto clearly states that officials who should be considered by review DPC shall be "**otherwise eligible for promotion**". Thus, the condition precedent for promotion is that one should be eligible under the rules. It is admitted fact that Applicant participated and qualified in the trade test for Electrician HS-II in July 1995, result of which was declared on 08.04.1996 and consequently promoted on 12.08.1996. If he was so sure of his eligibility for promotion in terms of letter dated 10.02.1995, there could have been no occasion to participate in the trade test. Furthermore, he accepted the promotion for Electrician HS-II in 1996 without any protest or demur. Thus, by applying the principle estopple, acquiescence, he is estopped to take up said issue at this belated stage.


10. Another contention raised by Respondents of passing of trade test is necessary, as projected vide reply para 12.6 and the persons who had passed said test prior to him are still awaiting promotion, has not been disputed by Applicant in his rejoinder filed.

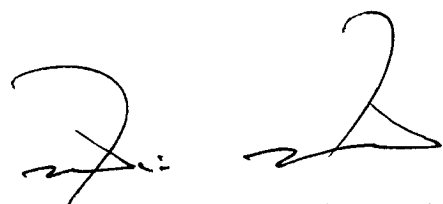
11. Further contention which requires consideration is whether S.C.Bhattacharjee, R.N.Brahmachari, M.R.Lasker, S.C.Nath and Ramapada Das were juniors to him or not. We may note that Respondents have categorically stated that promotion is based on vacancy and seniority of

the respective CWE. In rejoinder filed by the Applicant, this aspect has not been refuted & disputed. No seniority list has been produced by Applicant to establish as to whether he belongs to same CWE to which other officials, noticed hereinabove, belong to. In absence of any documents placed on record by Applicant to establish that he as well as said officials belong to same CWE, no findings regarding he being senior or junior can be recorded or would be warranted.

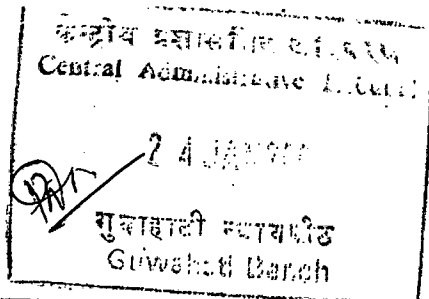
12. As far as reliance placed on judgments by Applicant are concerned, we may note that astray observations relied upon by Applicant from said judgments would not advance his plea. It is not the ratio of said judgments that one need to be promoted irrespective of the fact whether one satisfies the eligibility conditions, as prescribed under the rules or not. Therefore, we are of the considered view that said judgments are totally distinguishable. Taking a cumulative view of the matter, we find no illegality or arbitrariness has been committed by the Respondents while passing impugned communication dated 15.04.2006. Applicant is not senior to Sri S.G.Bhattacharjee and Sri R.N.Brahmachari. Similarly, he has placed no documents to establish that said officials are junior to him and no comparison can be made amongst them as they belong to other CWE, categorically stated vide para 5 of the impugned communication dated 15.04.2006.

13. Thus, finding no merits, O.A. is dismissed.


(MADAN KUMAR CHATURVEDI)
MEMBER (A)


(MUKESH KUMAR GUPTA)
MEMBER (J)

/BB/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 17 /2007

Sri Narendra Chandra Das Choudhury

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 3/6/68 1971-
- Applicant was initially appointed as Wireman on regular basis under G.E. Silchar, MES.
- 17.02.1978- Applicant was declared quasi permanent w.e.f. 03.06.1971 vide letter dated 17.2.1978. (Annexure-1).
- 1982- Applicant appeared in the Trade Test for up gradation to the post of Instrument Repairer, which subsequently redesignated as Machine Precision Instrument (in short-MPI).
- 08.12.1986- Applicant passed in the Trade Test of MPI vide P.T.O. No. 49/86. (Annexure-2).
- 15.10.1984- Deputy Secretary, Govt. of India, Ministry of defence introduced three grade structure for facilitating promotional avenues of the MES Industrial workers vide Office Order bearing No. 3310/DS/(Q&M)/Cir-I/84 dated 15.10.1984. (Annexure-3).
- 24.06.1987- Govt. of India, Ministry of Defence vide order bearing letter dated 24.06.87 rationalized certain trades of the Industrial cadre by way of re-designation. (Annexure-4)
- 21.02.1994- Govt. of India, Ministry of Defence issued an addendum made a further amendment by re-designating the post of 'Instrument - Repairer' to the cadre of 'Electrician (SK)'. The said amendment is communicated vide CE's letter dated 02.05.1994. (Annexure-5)
- 10.02.1995- Office of the E-in-C's Branch, Army Headquarter, New Delhi instructed all the commands to convene Review DPCs to consider promotion of the incumbent holding the post Instrument Repairer/M.P.I to the cadre of Electrician H.S. (II). (Annexure-6).
- 14/7/95

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- 13.01.1997- Some of the Instrument Repairer who are junior to the present applicant were promoted to the post of Electrician HS-I vide their promotion order dated 13.01.1997. (Annexure-7).
- 07.04.1997- Applicant passed the Trade Test and was promoted to the post of Electrician H.S. II vide order dated 07.04.1997. (Annexure-8)
- 27.12.1996, 19.11.99, 03.09.01- Applicant submitted representation praying for consideration of his promotion to the grade of HS II and H.S. I. (Annexure-9 to 13)
- 23.06.2003- Applicant declared passed vide Part II order No. 25 (Annexure-15).
- 15.05.03, 16.08.03, 21.05.03- Applicant again submitted representation for his promotion as well as notional seniority both in the grade of HS-II and H.S. I. (Annexure- 16, 17)
- 21.05.2003- Respondent No. 3 informed the applicant that he may be promoted to Electrician HS I with notional seniority at par with his juniors who have been promoted to Electrician (SK) to Electrician HS II earlier, with pay benefit with Electrician HS I as conveyed earlier vide letter dated 05.04.1997. (Annexure-18)
- 14.07.1995- Respondent No. 2 vide letter dated 14.07.95 informed the Respondent No. 3 that erstwhile MPI/Instrument Repairer have now allowed seniority, pay scale with effect from the date of introduction of three grade structure as per Army Headquarter letter dated 22.12.88 but the said benefit has been denied to the applicant. (Annexure- 19)
- 09.04.2002- Army Headquarter, Engineer-in-Chief Branch, New Delhi informed that an expert committee was constituted on the order of the Hon'ble CAT, Kolkata passed in O.A. No. 118/97 for redressal of grievances of employees. But even then applicant has been denied grant of higher financial benefit in the upgraded scale with retrospective effect. (Annexure- 20)
- 26.07.2005- Applicant approached this Hon'ble Tribunal through OA No. 188/2003, which was disposed of with the direction to file a detailed representation narrating his grievances and with a further direction to the respondents to pass an appropriate order on the representation. (Annexure- 21)
- 10.08.2005- Applicant submitted representation as directed by the Hon'ble Tribunal. (Annexure- 22)

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15.04.2006- Respondents vide impugned order dated 15.04.03 arbitrarily rejected representation of the applicant ignoring Govt. letter dated 14.07.1995 and 10.02.1995. (Annexure- 23)

Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned speaking order bearing No. 1015/188/03/NCDC/187/E1 Court dated 15.04.2006 (Annexure-23).
2. That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant to the cadre of Electrician (HS-II) with immediate effect at least with effect from 15.10.1984 by holding review DPC in the light of the instructions contained in the Army Head-quarter's letters dated 10.02.1995, with all consequential service benefit including monetary benefit by necessary modification of the promotion order of the applicant dated 07.04.1997 in the cadre of Electrician H.S-II.
3. That the Hon'ble Tribunal be pleased to direct the respondents to consider promotion of the applicant in the cadre of Electrician H.S. I at least with effect from the date of promotion of his immediate juniors in the light of the instruction contained in the letter issued by the Govt. of India, dated 15.10.1984, 10.02.1995, 14.07.1995, 09.04.2002 and 24.5.2003 with all consequential service benefits including seniority and monetary.
4. Costs of the application.
5. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

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

1. That the Hon'ble Tribunal be pleased to make an observation that the pendency of this application shall not be a bar for the respondents to consider the case of the applicant.

Alexandra C. van Chonkay

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

Title of the case :

O. A. No. 17 /2007

Sri Narendra Chandra Das Choudhury :

Applicant

-Versus -

Union of India & Others.

Respondents.

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Filed by

S. Nath.

Advocate

Date: 24/1/07

Narendra Ch. Das Choudhury

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 17 /2007

BETWEEN:

Sri Narendra Chandra Das Choudhury
Son of Late Nagendra Chandra Das Choudhury.
Electrician H.S. II
Office of the Garrison Engineer
Masimpur, MES
P.O. Silchar-25, District-Cachar, Assam.

...Applicant.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of Defence,
South Block
New Delhi- 110001.
2. The Headquarter Chief Engineer
Eastern Command,
Fort William, Kolkata- 21.
3. The Command Works Engineer
S.E. Falls, Shillong-11.
4. The Army Headquarter Engineer-in
Chief's Branch, Kashmir House,
P.O. New Delhi, New Delhi-110011.
5. The Garrison Engineer, Silchar.
Masimpur, MES
P.O. Silchar-25, District-Cachar, Assam.
6. Md. M.R. Laskar,
O/o- Garrison Engineer, Silchar,
Viranti, P.O- Lailapur,
C/o- 99 APO.
7. Sri S.C. Nath,
O/O- Garrison Engineer, Silchar,
Masimpur, P.O- Arunachal, Dist- Cachar.
C/O- 99 APO.

...Respondents.

Filed by the applicant-
through: S. Nath, 25
Advocate
14.01.2007

Narendra Chandra Das Choudhury

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DETAILS OF THE APPLICATION

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

This application is made against the impugned order no. 1015/188/03/NCDC/187/E1 Court dated 15.04.2006 of the respondents conveyed to the applicant vide letter No. 1021/A/NCDC/127/E1E dated 29.04.2006 of Garrison Engineer, Silchar. By the said impugned order, the representation dated 10.08.2005 which was submitted by the applicant in compliance with the direction passed by this Hon'ble Tribunal in its judgment and order dated 26.07.2005 in O.A. No. 188/2003, has been rejected, thereby denying the prayer of the applicant for his promotion with retrospective effect to the cadre of HS-II and HS-I at par with his juniors.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant was initially appointed in the year 1971 as Wireman on regular basis under the G.E. Silchar, MES. It is relevant to mention here that at the relevant time the post of Electrician was the next promotional

Nazendra Choudhary

post of the incumbents holding the post of Wireman, Lineman and Switch Board Attendant.

- 4.3 That, the applicant while working as wireman in the year 1972, he was allowed to appear in the Trade Test after being found eligible for consideration of his promotion to the post of Electrician. Be it stated that the applicant was declared passed in the aforesaid Trade Test for consideration of his promotion for the post of Electrician in the year 1972. However, due to alleged non-availability of sanctioned post of Electrician at the relevant point of time the promotion of the applicant to the post of Electrician could not be implemented in 1972. Be it stated that the applicant is declared quasi-permanent w.e.f. 3.6.1971 vide letter dated 17.2.1978 issued by the G.E., Silchar.

A copy of the letter dated 17.2.1978 is annexed herewith as Annexure-1.

- 4.4 That your applicant being highly disappointed for non-consideration of his promotion to the post of Electrician after a lapse of few years i.e. in the year 1982 again appeared in the Trade Test for consideration of his upgradation to the post of Instrument Repairer, which subsequently redesignated as Machine Precision Instrument (in short MPI). The applicant also declared passed in the aforesaid Trade Test. Thereafter, vide P.T.O. No. 49/86 dated 8.12.1986 the applicant was posted as Instrument Repairer in the interest of state under GE, 872 EWS but without granting any financial benefit. The applicant thereafter accordingly started discharging his duties as Instrument Repairer.

A copy of the P.T.O. No. 49/86 dated 08.12.1986 is annexed herewith as Annexure-2.

- 4.5 That it is stated that the Deputy Secretary, Govt. of India, Ministry of Defence vide Office Order bearing letter No. 3310/DS/(Q&M)/Civ-I/84

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dated 15.10.1984 introduced a three grade structure for facilitating promotional avenues of the MES Industrial Workers by way of fitment of Industrial Workers of MES in pay scales recommended by the 3rd Pay Commission. In the said letter 3 grade structures were introduced viz. (a) Highly skilled Grade-I (Rs. 380-560) 15%, (b) Highly skill Grade II (Rs. 330-480) 20% and (c) Highly skilled Grade (Rs. 260-400) 65% and it is specifically stated that the order dated 15.10.1984 would be given effect on the date of issue of the order. In the said order item 3 Electrician in Annexure-I also included with the intention to provide promotional benefit to the incumbents holding the post of Electrician under the 3 grade structures introduced by the Government of India. However, the post of Instrument Repairer/MPI was not included in the said order dated 15.10.1984 as a result the applicant was excluded from the benefit of the promotional scheme introduced vide order dated 15.10.1984 at the relevant time and as a result the applicant was forced to continue in the said post of IR/MPI.

A copy of the letter dated 15.10.1984 issued by the Government of India, Ministry of Defence is annexed as Annexure-3.

- 4.6 That the Govt. of India, Ministry of Defence vide order bearing letter No. 91026/E-I-C/88/116/D(W-II), dated 24.06.1987, rationalized certain trades of the Industrial cadres by way of redesignation in order to confirm to the structure of the National Classification of Occupations. By the said order dated 24.6.87, the post of Lineman, Switchboard Attendant and Wireman were redesignated as Electrician(SK) and those posts were merged with the higher cadre of Electrician (SK) and those incumbents who joined much later than the appointment of the applicant and were working in the grade of Lineman, SBA, Wireman, in fact got a lift over the present applicant by virtue of the order dated 24.6.1987.

A copy of the order dated 24.6.1987 is annexed as Annexure-4.

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- 4.7 That your applicant further begs to state that Government of India, Ministry of Defence vide letter No. 91026/E-I-C(3)/672/E(W.II) dated 21.02.1994 issued an addendum with reference to Ministry's earlier letter No. 91026/E-I-C/88-89/D(W-II), dated 24.6.1987 made a further amendment by redesignating the post of 'Instrument Repairer' to the cadre of 'Electrician (SK)' with the concurrence of Ministry of Finance, government of India's letter No. LD. No. 254-Works-1/94 of 1994. The aforesaid amendment is communicated vide GE's letter No. 1000/P/1534/E-I dated 2.5.1994.

In view of the aforesaid amendment the post of Instrument Repairer was redesignated as Electrician (SK) long after the induction of other trades namely, Lineman, Wireman, SBA which were merged with the post of Electrician (SK) vide order dated 24.6.1987. As a result of such belated decision of the Government of India for inclusion of the post of Instrument Repairer with the post of Electrician by way of redesignation caused much loss and irreparable sufferings to the present applicant in the matter of promotion, fixation of pay and loss of promotion prospect in comparison to those juniors who joined in service ranging from the year 1980-82 in the post of Wireman, SBA and Lineman.

A copy of the letter dated 21.02.1994 communicated by letter dated 2.4.1994 is annexed as Annexure-5.

- 4.8 That it is stated that the office of the E-in-C's Branch, Army Headquarter, New Delhi vide letter bearing No. 90270/89/EC/EIC(3) dated 10.2.1995 addressed to CEFC instructed all the Commands to convene Review DPCs for the incumbent holding the post of Instrument Repairer/MPI who were otherwise eligible for promotion and further directed to consider their promotion to the cadre of Electrician HS-II with notional seniority at par with their immediate junior i.e. Electrician (SK)/

Varendera Ch. Das Chaudhary

Wireman/Lineman who have already been promoted to Electrician HS-II and HS-I.

But most unfortunately the case of the applicant was not considered for notional seniority, financial benefit in the manner and direction contained in the Army Headquarter letter dated 10.02.1995, which was communicated to Headquarter 137, Works Engineer, Commander Works Engineer, Shillong vide letter NO. 70203/2/3490/E-I-C(2) dated 19.4.1995. As a result of such non-consideration of promotion of the applicant to HS-II as well as HS-I the applicant is suffering huge financial loss in emolument and also loss in promotion prospect.

A copy of the letter dated 10.2.1995 communicated vide letter dated 19.4.1995 is annexed as Annexure-6.

- 4.9 That it is stated that in the light of the instruction contained in the Army Headquarter's letter dated 10.2.1995 some of the Instrument Repairer, namely; Sri S.G. Bhattacharjee, Sri R.N. Bshamunachari who were also working as Instrument Repairer under the CWE, Shillong and in fact they were also similarly circumstanced like that of the present applicant but their cases were considered for antedated promotion by holding Review DPC on 5th November 1996 in terms of the Army Headquarters' letter dated 10.2.1995 and granted promotion to the cadre of Electrician HS-II with effect from 15.10.1984 with the benefit of notional seniority vide order bearing letter No. 1455/DPC/96-97/49/EIA dated 13th January, 1997. However, financial benefits were also granted to them following the order passed in O.A. No. 371/99 by this Hon'ble Tribunal although initially the same was denied.

The present applicant being similarly circumstanced like that of Sri S.G. Bhattacharjee and Sri R.N. Brahmachari in fact entitled to similar relief from the respondents Union of India but the same is denied to the present applicant for the reasons best known to the respondents. In this connection it may be stated that although there was a specific direction to

Narendra Choudhary

hold Review DPC in terms of the Army Headquarter's letter dated 10.02.1995 but the respondents did not take any action for holding any such Review DPC in the case of the present applicant. As a result, the present applicant is discriminated in the matter of promotion to the cadre of Electrician HS II which causing irreparable financial loss each and every month. It is categorically submitted that both Sri S.G. Bhattacharjee and R.N. Brahmachari are junior to the present applicant as because Sri S.C. Bhattacharjee was appointed as Lineman on 19.07.1971 and thereafter posted as Instrumental Repairer on 08.09.1980 and Sri R.N. Brahmachari was initially appointed as Lineman in the year 1972 and thereafter posted as Instrument Repairer.

A Copy of the order of promotion-dated 13.1.1997 is annexed as Annexure-7.

- 4.10 That it is stated that after re-designation of the post of Instrument Repairer/MPI as Electrician (SK) the applicant was allowed to appear in the Trade Test in 1995 for consideration of his promotion to the post of Electrician HS-II. The applicant declared passed in the said Trade test and then he was promoted to the cadre of Electrician HS-II vide Part II order PTO No. 14 dated 07.04.1997 issued by the GE, Silchar Division. By the order-dated 07.04.1997 the applicant was given promotional benefit to the cadre of Electrician HS II only w.e.f. 12.8.1996 whereas his much juniors namely, Sri S.G. Bhattacharjee and Sri R.N. Brahmachari were granted promotion with notional seniority and financial benefit to the cadre of HS II with effect from 15.10.1984. As such, the applicant is meted out with hostile discrimination and the action of the respondents infringed the fundamental rights of the applicant guaranteed by Article 14 of the Constitution.

A copy of the Part II order dated 7.4.1997 promoting the applicant to the cadre of Electrician HS-II is annexed as Annexure-8.

Ximendra Chandra Choudhary

4.11 That it is stated that due to inaction of the respondents even after the issuance of the Army Headquarters' letter dated 10.2.1995 the applicant is denied of the benefits of promotion, seniority as well as fixation of pay and monetary benefit in the cadre of Electrician HS II with retrospective effect, which also further causing loss to the applicant in the matter of promotion to the cadre of Electrician HS-I. In such compelling circumstances the applicant approached the authorities submitting series of representations since 1991 for redressal of his grievances more particularly for consideration of his promotion with retrospective effect both in the cadre of HS II and HS I at least from the date of promotion of his immediate juniors, namely Sri S.G. Bhattacharjee, Sri R.N. Brahmachari, Sri M.R.Laskar, Sri S.C. Nath. It is relevant to mention here that the applicant was allowed to appear in the Trade Test of Electrician H.S. I held in December, 2002 and the applicant was declared passed vide Part II order, P.T.O. No. 25 dated 23.06.2003. However, his juniors, namely, Mr. M.R.Laskar, and Sri S.C. Nath and Mr. Ramakanta Das were promoted to the cadre of Electrician HS-I. In this connection it is relevant to mention here that the applicant succeeded most of the trade tests on first attempt and gained sufficient experience in the respective trades. Moreover, the applicant is one of the senior most employee in the Electrical Trade but he is denied promotion in a most arbitrary manner in spite of his repeated request made to the Army Headquarter. It is pertinent to mention here that the applicant submitted representations on many occasions such as 30.09.1991, 29.03.1994, 07.04.1994, 20.07.1995, 08.07.1996, 30.08.1996, 27.12.1996, 07.01.1998, 19.11.1999, 03.09.2001, 09.05.2003. In the representation dated 30.09.1991 the applicant prayed for redressal of his grievances so far his promotion is concerned in the grade of HS-II as well as HS-I. He had also indicated that some of his juniors superseded him in the grade of HS-II. The said representation was in fact forwarded to the E-in-C's branch by the Headquarter CEEC, Calcutta, vide letter bearing No. 110/417/EI dated 17th June, 1992. On 29.3.1994, 20.7.1995, 8.7.1996,

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30.8.1996, 15.7.1996 27.12.1996 also made similar prayer for consideration of his promotion to the grade of HS II and HS I. However, on 13.7.1997 G.E. Silchar informed the applicant that his case for promotion and pay fixation is under consideration and the result if any, would be informed to the applicant as and when necessary or decision if any taken. However, in the meantime the applicant was promoted to the grade of HS II with effect from 12.8.1996 vide Part II order dated 7.4.1997. In this connection it may be stated that the representations of the applicant dated 27.12.1996 for promotion to Electrician H.S. II and H.S.I at par with his juniors were forwarded to the higher authorities by the GE, silchar as well as by the CWE wherein, the case of the applicant was strongly recommended for consideration on verification of records and declared that the case of the applicant for promotion is a genuine one but to no result. The applicant urged to produce all the representations indicated above at the time of hearing.

Copies of the representations dated 27.12.1996 as well as forwarding letter dated 26.05.1997 are annexed as Annexure-9 & 10 respectively.

- 4.12 That your applicant again submitted representation on 07.01.1998, 19.11.1999, 03.09.2001 inter alia praying for consequential promotional benefit both in the grade of HS II and H.S. I at least with effect the date of promotion of his immediate juniors. However, the representation dated 3.9.2001 was forwarded to the Headquarter, 137 Works Engineer for further necessary action in order to remove anomalies in fixation of pay on promotion in Electrical HS-II. However, no progress is made thereafter by the respondents in the case of the present applicant.

Copies of the representation dated 19.11.1999, 03.09.2001 and letter dated 28.02.2001 are annexed as Annexure-11, 12, and 13 respectively.

Varendera Ch. Das Chowdhury

- 4.13 That it is stated that the applicant was awarded commendation certificate issued by the Garrison Engineer being a diligent worker on 21.02.1995. It is relevant to mention here that his fixation of pay after his promotion to the cadre of Electrician HS-II is made vide Part II order bearing PTO No. 27 dated 06.07.1998 in the scale of Rs. 4000-6000 which was communicated vide letter dated 13.07.1998. It is further relevant to mention here that the present applicant who appeared in the Trade Test held on 4th and 5th December, 2002 for Electrician HS I and declared passed vide GE Silchar Part II order No. 25 dated 23.06.2003. As such, he has declared qualified for appointment to HS I but till date no positive action is taken for consideration of his promotion in the grade of HS-I.

Copy of the commendation certificate dated 21.02.95 and Part II order dated 23.06.2003 are annexed as Annexure-14 and 15 respectively.

- 4.14 That your applicant again submitted representation dated 15.05.2003 and also on 16.08.2003 for consideration of his promotion as well as notional seniority both in the grade of HS II and H.S. I to the higher authorities. However, the Commander Works Engineer, vide his letter bearing No. 1228/DPC/204/EIC(2) dated 21.5.2003 returned the documents submitted by the applicant and further informed him that he may be promoted to Electrician HS I with notional seniority at par with his juniors who have been promoted to Electrician (SK) to Electrician HS II earlier, with pay benefit with Electrician HS I as conveyed earlier vide letter dated 5.4.1997. This decision of the respondent is highly arbitrary as because there is no specific time limit indicated in the letter for consideration of his promotion with retrospective effect both in the cadre of HS II and HS I. Moreover, a reference is made of the letter dated 5.4.1997 where it was indicated that as and when the department will take a final decision regarding his retrospective promotion would be communicated to the applicant. As

Narendra Chandra Choudhary

such, the reply of the respondents is seemingly arbitrary and in such compelling circumstances the applicant approached earlier this Hon'ble Tribunal for redressal of his grievances.

Copy of the representation dated 19.05.2000, 16.08.2003 letter dated 21.5.2003 are enclosed as Annexure-16, 17 and 18 respectively.

- 4.15 That it is stated that the Headquarter 137 Works Engineer, vide letter dated 14.7.1995 also informed the Headquarter, Chief Engineer, Shillong Zone, Shillong that since the orders of MPI/Instrument Repairer (Promoted from Wireman, Lineman, Switch Board Attendant) were withheld, they were not absorbed as Electrician HS II though qualified having passed the Trade Test of Electrician, they were deemed to have qualified the Trade Test, HS II, they have now been allowed seniority with effect from the date of introduction of three grade structure as per Army Headquarter letter No. 22.12.1988 as also directed to all other benefits, scale etc. as one time relaxation but unfortunately these instructions were not followed in the instant case of the applicant.

A copy of the letter dated 14.07.1995 is annexed as Annexure-19.

- 4.16 That it is stated that the Army Headquarter, Engineer- in-Chief Branch, New Delhi vide it's letter bearing No. 90270/73/86/EIC (3) dated 9th April, 2002 informed that an expert committee was constituted following the order of the Hon'ble CAT, Kolkata, passed in O.A. No. 118/97 with the view to remove anomalies and while implementing the recommendations of the expert committee, comments of the various commands were invited ho were instructed to submit their comments by 15.05.2002. In the said expert committee's report, particularly in paragraph 13 and 14 it is observed that some of the Wireman, SBA who are junior to the incumbents holding the post of Electrician, Armature, Winder and Instrument Repairer started drawing higher pay scale of Rs. 330-480 because of the up-gradation against a quota of 10% of the total vacancies.

Narendra C. K. Choudhary

It is relevant to mention here that this applicant is also a victim of the aforesaid circumstances. As such GE, Silchar as well as CWE 137 works Engineer, recommended the case of the applicant for the grant of higher financial benefit in the upgraded scale with retrospective effect at least from the date when other incumbents who were junior to the applicant in other trades were granted. But even thereafter no action whatsoever has been taken on the matter.

Copy of the letter dated 09.04.2002 is annexed hereto and marked as Annexure-20.

- 4.17 That being aggrieved at the inaction of the respondents even after all efforts, the applicant approached this Hon'ble Tribunal by filing O.A. No. 188/2003 for redressal of his grievances. This Hon'ble Tribunal vide its judgment and order dated 26.07.2005 in O.A. No. 188/2003 disposed of the O.A directing the applicant to file a detailed representation narrating his grievances within one month, with further direction that if such representation is received, the respondents shall pass appropriate order thereon within four months from the date of receipt of such representation. It was also made clear in the judgment that the representation must be with regard to the implementation of Annexure-18 order and in respect of matters stated in the letter dated 09.04.2002 which is the recommendation of an expert committee with regard to certain anomalies.

Copy of the judgment and order dated 26.07.2005 is enclosed and marked as Annexure-21.

- 4.18 That in compliance with the order dated 26.07.2005 aforesaid, the applicant submitted through proper channel a detailed representation on 10.08.2005 to the respondent No. 4 narrating all his grievances and enclosing therewith all relevant orders/documents including the judgment dated 26.07.2005 in support of his claims and prayed for his

Narendra Ch. Das Chowdhury

promotion and seniority to the cadre of HS-II with retrospective effect from 15.10.1984 and further to promote him to the grade of HS-I at least from the date of promotion of his juniors, with all consequential benefits.

Copy of representation dated 10.08.2005 is annexed hereto as Annexure-22.

- 4.19 That in response to the representation dated 10.08.2005 of the applicant, the HQ 13 works Engineer has issued the impugned speaking order bearing No. 1015/188/03/NCDC/187/E 1 Court dated 15.04.2006, conveyed to the applicant vide forwarding letter No. 1021/A/NCDC/127/E 1 E dated 29.04.2006 of the GE, Silchar. By the said impugned letter, the respondents have rejected the claim of the applicant for his retrospective promotion and notional seniority stated above, thereby acting against the spirit of the judgment and order dated 26.07.2005. The grounds of rejection stated in the impugned letter are not sustainable in the eye of law since those are simply the repetitions of what they contended before this Hon'ble Tribunal while pleading in earlier O.A No. 188/2003. As such the impugned order is liable to be set aside under the facts stated in paragraphs hereinabove and on the grounds stated in para 5 herein below.

Copy of the impugned order dated 15.04.06 along with forwarding letter dated 29.04.2006 is annexed hereto as Annexure-23.

- 4.20 That the impugned letter dated 15.04.2006 is highly arbitrary, unfair, illegal as because the said impugned letter has deliberately ignored the Govt. decision communicated through letter dated 10.02.1995 (Annexure-6) as well as Govt. decision communicated through subsequent letter dated 22.12.1988. Be it stated that there is no mention or discussion regarding validity or existence of the Govt. letter dated 10.02.1995 as well as Govt. letter dated 22.12.88 in the impugned letter dated 15.04.1995. It is

Varendra Ch. Das Chowdhary

pertinent to mention here that the entire claims of the applicant is based on the Govt. letter dated 10.02.1995 and also on the basis of letter dated 14.07.95, and the letter dated 09.04.2002 is a consequential letter issued by the Govt. of India for redressal of grievances of the employees who are victims of the anomalies due to non-implementation of the Govt. orders or due to delayed action of the Government in redressing the grievances of the victim employees like the present applicant, who was superseded in the matter of promotion and seniority, pay scale in comparison to his juniors. In the impugned letter dated 15.04.2006 the respondents deliberately did not deal with the contention raised by the applicant in paragraph 4 and 5 of the representation dated 10.08.05, wherein the applicant categorically stated that his juniors namely; Sri S.G. Bhattacharjee, Sri R.N. Brahmachari, Sri M.R. Laskar, Sri S.C. Nath and Sri Ramakanta Das were promoted to H.S II and I without considering his case. Moreover, in the Govt. letter dated 10.02.1995 (Annexure-6) there was a direction to hold review DPC but there was no direction to arrange trade test as indicated in the impugned letter 15.04.2006, however assuming if there was direction in that event it is the duty of the authority to ask the applicant to appear the trade test but no such arrangement is made by the authority for holding such trade test at any point of time. In this connection it is relevant to mention here that Sri S.G. Bhattacharjee, Sri R.N. Brahmachari were given promotion with retrospective effect simply by holding review DPC but without holding any trade test. It is relevant to mention here that Respondent No. 6 and 7 were also promoted without holding any trade test but in the light of one time relaxation granted by the Govt. of India vide it's letter dated 22.12.1988 as indicated in the letter dated 14.07.1995 (Annexure-19) by the authority itself. In the impugned letter dated 15.04.2006, it is repeatedly stated that the applicant was not qualified in the trade test at the relevant point of time as per existent rule, this contention is not correct and misleading as because vide Govt. letter dated 10.02.1995 (Annexure-6) the applicant for the first time

Narendra Ch. Das Chowdhary

declared eligible for promotion at par with their juniors, namely; Electrician (SK)/Wireman, therefore passing of trade test prior to 10.02.1995 does not arise at all but after 10.02.1995, the respondents never hold the review DPC or never asked the applicant to appear in any trade test for granting the benefit of retrospective promotion in the light of the Govt. order dated 10.02.1995, as such the grounds stated in the impugned letter dated 15.04.2006 is liable to be set aside and quashed.

It is relevant to mention here that the applicant in the meanwhile has passed the trade test for H.S-I on 23.06.2003 as such there is no impediment in promoting the applicant in the cadre of H.S-I with retrospective effect. The respondent authority also did not dealt with letter dated 21.05.2003 (Annexure-18 of the earlier O.A) and most mechanically passed the impugned order dated 15.04.2006 as such the impugned order dated 15.04.2006 is liable to be set aside and quashed.

- 4.21 That it is stated that the promotion of the applicant in HS II as well as HS I are due long back but the respondent Union of India on different pretext did not take any decision in the light of the direction contained in the GE's recommendation letter and also in the light of the opinion of the expert committee reflected in the Army Headquarter letter dated 09.04.2002, with all consequential benefit.
- 4.22 That due to non-consideration of promotion and seniority of the applicant with retrospective effect as stated above, the applicant has suffered great financial loss and finding no other alternative, the applicant is now approaching this Hon'ble Tribunal for protection of his rights and interests and it is a fit case of this Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant by directing the respondents for granting retrospective promotions and seniority to the applicant both in the cadre of HS-II and HS-I with consequential financial benefits arising thereto.

Narendra C. Das Chatterjee

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

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

5.1 For that, the applicant has acquired a valuable and legal right for grant of promotion to the cadre of Electrician HS- II as well as HS I at least with effect from the date of promotion of his immediate juniors who were working in other trades such as Wireman, SBA, in the light of the recommendation made by the Garrison Engineer, Silchar as well as 137 CWE.

5.2 For that, the applicant is entitled to be promoted to the cadre of HS I by virtue of his trade and seniority and also in the light of the report of the Expert Classification Committee constituted by the Army Headquarter, New Delhi for redressal of grievances/anomalies the anomalies, which occurred as a result of implementation of the recommendation of the earlier expert classification committee for fitment of pay scale in the respective trade, in short, in the matter of fitment of Industrial category as indicated in para 13 and 14 of the Army Headquarters letter dated 09.04.2002.

5.3 For that, the applicant is entitled to be placed in the Grade of HS II at least w.e.f. 15.10.1984 and the applicant is further entitled to higher pay scale of Rs. 480-560 (Pre-revised) with effect from 15.10.84 to 31.12.95 in the rank of highly Skilled Grade-I and thereafter in the revised corresponding scales, in view of the discrepancies/anomalies shown above.

5.4 For that, the applicant is also entitled to be considered for promotion to the cadre of H.S. II in the higher pay scale as reflected in terms of order contained in Army Headquarter letter dated 10.02.1995 and also in terms of CWE's letter dated 14.07.1995.

Marendra Ch Bis Choudhary

- 5.5 For that, the applicant has been promoted to the cadre of HS II only with effect from 12.8.1996 due to discrepancies in seniority and also in view of anomalies resulted while implementing the Govt. order dated 10.02.1995.
- 5.6 For that, after a long lapse the trade of Instrument Repairer merged with Electrician Cadre vide Ministry of Defence letter dated 21st February, 1994. As a result, the applicant suffered seniority and promotional benefit in the grade of Electrician at the relevant time when juniors of the applicant of other Trades who were merged with Electrician Trade got promotion in the cadre of HS-II and HS-I by virtue of their seniority in the cadre of Electrician as because they were merged earlier with the trade of Electrician.
- 5.7 For that, the applicant was not given the benefit of antedated promotion both in the cadre of HS-II and HS-I even after discrepancies reflected in GE's, CWE's statement recommending the case of the applicant for antedating promotion.
- 5.8 For that, the applicant submitted several representations for consideration of his promotion with retrospective effect at least at par with his immediate junior both in the grade of HS II and HS I but to no result.
- 5.9 For that, the applicant incurring huge financial loss for non-consideration of his antedated promotion both in the cadre of HS II and HS I and due to non-fixation of pay, the applicant further incurring financial loss each and every month which gives rise to further cause of action both in the matter of promotion and fixation of pay.
- 5.10 For that, the applicant suffering loss of promotional prospect due to wrong adoption of promotion policy by the Army Headquarter Engineer-in-Chief, New Delhi and more particularly in view of the fact that the post of Instrument Repairer was included/merged with the trade of Electrician

Narendra A. Das Chaudhary

after a long lapse of time whereas junior trades like Lineman, Wireman, SBA were merged with the cadre of Electrician long back. As a result, incumbent who were junior to the applicant but initially holding the post of Wireman and SBA got promotion both in the cadre of HS II and HS I long back. As such the applicant is meted out with hostile discrimination.

- 5.11 For that the applicant is entitled to promotion to the cadre of HS II at least w.e.f. 15.10.84 as well as he is also entitled to promotion in the H.S. I in the higher pay scale of Rs. 480-560/- with effect from the date of promotion of his immediate junior and onwards under 15% quota reflected in the Ministry of Defence letter dated 15.10.84.
- 5.12 For that the applicant passed trade test for HS-II and was promoted to the grade of HS-II vide order dated 07.04.1997. he also passed trade test for HS-I vide C.E Silchar's Part-II order no. 25.
- 5.13 For that the actions of the respondents are violative of the rules and government orders and against the contents and spirit of the judgment and order dated 26.07.2005 in O.A No. 188/2003 passed by this Hon'ble Tribunal.
- 5.14 For that the actions of the respondents are against the recommendations of the competent authorities made in the instant case and opposed to the recommendations of the expert committee. As such it is arbitrary, mala fide, unfair, illegal, discriminatory and opposed to the principles of natural justice.
- 5.15 For that it is a statutory duty on the part of the respondents Union of India to implement the Government order communicated through letter dated 10.02.1995 (Annexure-6) as well as Govt. decision communicated through letter dated 14.07.1995 (Annexure-19) in the manner it has decided by the Government for redressal of grievances of the applicant.

Varendera Ch. Das Chowdhury

5.16 For that impugned letter dated 26.07.2005 has been issued without application of mind and also without consulting the grievances of the applicant stated in his representation dated 10.08.2005.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

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

The applicant further declares that saves and except filing OA No. 188/2003 he has not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

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

3.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned speaking order bearing No. 1015/188/03/NCDC/187/E1 Court dated 15.04.2006 (Annexure-23).

3.2 That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant to the cadre of Electrician (HS-II) with immediate effect at least with effect from 15.10.1984 by holding review DPC in the light of the instructions contained in the Army Head-quarter's letters dated 10.02.1995, with all consequential service benefit including monetary

Harendra Ch. Das Chowdhury

benefit by necessary modification of the promotion order of the applicant dated 07.04.1997 in the cadre of Electrician H.S-II.

8.3 That the Hon'ble Tribunal be pleased to direct the respondents to consider promotion of the applicant in the cadre of Electrician H.S. 1 at least with effect from the date of promotion of his immediate juniors in the light of the instruction contained in the letter issued by the Govt. of India, dated 15.10.1984, 10.02.1995, 14.07.1995, 09.04.2002 and 24.5.2003 with all consequential service benefits including seniority and monetary.

8.4 Costs of the application.

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

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to make an observation that the pendency of this application shall not be a bar for the respondents to consider the case of the applicant.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I P. O. No.	: 286981880.
ii)	Date of Issue	: 17.1.07.
iii)	Issued from	: G.P.O. Guwahati
iv)	Payable at	: G.P.O. Guwahati

12. List of enclosures.

As given in the index.

Narendra Ch. Das Choudhary

VERIFICATION

I, Shri Narendra Chandra Das Choudhury, Son of late Nagendra Chandra Das Choudhury, aged about 51 years, working as Electrician HS II, office of the Garrison Engineer, Silchar, do hereby declare that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to My legal advice which I believe to be true. I have not suppressed any material fact.

And I sign this verification on this the 24th day of January 2007.

Narendra Ch Das Choudhury

DECLARATION AND ORDER OF APPOINTMENT UNDER
RULES 3 AND 4 OF THE CENTRAL CIVIL SERVICES
TEMPORARY SERVICE RULES, 1965

In pursuance of Rules 3 and 4 of the Central Civil Services (Temporary Service) Rules, 1965 Major CN SINGH

GARRISON ENGINEER SILCHAR DIVISION being satisfied, having regard to the quality of work conduct and character of MES/ 738020

Mr. NARENDRA CHANDRA D. S. CHANDARY, W/Man that he is suitable

to be appointed in a quasi-permanent capacity under the Govt of

Assam, in the post/grade W/Man with effect from 3.6.71

by appointed the said MES - 738020 Mr. NARENDRA CHANDARY

CHANDARY, W/Man

in a quasi-permanent capacity to the said post/grade with effect from the said date.

(Authority : Army HQ, EING's Dr letter No. 27304/EID dated 12 Jan 72).

65-2
 Garrison Engineer Kanyalaya Silchar
 O.C. of the GE Silchar Division
 19 Brunchal Distt: Cachar
 Assam (Pin - 788025)
 Feb 73

(CN Singh)
 Major
 Garrison Engineer Silchar

Distribution

1. A.O. CUTTA
2. GAZ Shillong
3. Garrison HQ 107 Work Engrs
4. Office Book
5. Folder No 3
6. Individual concerned

193/-

Attested
 Private

GE 872 EWS PTO No. 49/86 dt 03 Dec 86, sheet No. 3/6

1 - 2 - 3 - 4 - 5 - 6

QPT APPOINTMENT

PART III, Cont'd.

12. 228489 Shri HK Das Chow (Qpt) 01 Oct 86(FN) Gtd EOL for 8 days upto 08 Oct 86 on MC, but qualified for pen/increment/gratuity etc.
09 Oct 86(FN) Gtd EOL for 6 days upto 14 Oct 86 w/o MC, but not qualified for pen/increment/gratuity etc.
15 Oct 86(FN) Rejoined duty.
03 Nov 86(FN) Gtd EOL for 9 days upto 11 Nov 86 on MC, but qualified for pen/increment/gratuity etc.
12 Nov 86(FN) Rejoined duty.

13. 228662 Shri DC Das Chow (Qpt) 03 Nov 86(FN) Gtd BL for one day on 03 Nov 86.
10 Nov 86(FN) Rejoined duty (09 Nov 86 being sunday).

Part III ends with Sl No. 13.

[Signature]
B S O

STR INCREASE (POSTING IN)

PART IV(a)

14. 228330 Shri NC Das Choudhury (Inst repair designate) W/man (Qpt) 28 Nov 86(FN) Reported arrival on pt transfer from GE Silchar, being selected for promotion to Instrument repairer in the interest of state.
Intervening period from 23 Nov 86 to 27 Nov 86 treated as Journey/Joining time.

Authy :- HQ 137 WF letter No. 1223/2014/FIC(2) dt 26 May 86 and 1223/3013/FIC(2) dt 08 Nov 86 and GE Silchar W.O No. 1006/939/WT dt 13 Nov 86.

PROMOTION

15. 228330 Shri NC Das Choudhury (Instt repairer designate) W/man (Qpt) 28 Nov 86(FN) Promoted from W/man to Instt repairer on probation for ten years in the scale of 950-20-1150-WB-4000 1500 and placed in position wof the same date.

*Attested
Advocate*

[Signature] Cont'd.....4
B S O

1 2 3 4 5 6
OPT APPOINTMENT PART IV(a) Cont'd

16. 243467 Shri Maz 07 Jul Appointed in quasipermanent capacity
Khukon Ch Shil (ty) 86(FN) in the post of Maz wef the same date.

Authy :- **
and GE 872 EWS letter No. 1011/421/EI dt
27 Nov 86.

17. MES/NYA Shri Maz 15 Jun Appointed in quasipermanent capacity
Bhabendra (ty) 86(FN) in the post of Maz wef the same date.
Kalita

Authy :- **
and GE 872 EWS letter No. 1011/422/EI
dt 27 Nov 86.

18. 243541 Shri Ram Maz 06 Jul Appointed in quasipermanent capacity
Subat Rajbhar (ty) 86(FN) in the post of Maz wef the same date.

Authy :- **
and GE 872 EWS letter No. 1011/423/EI dt
27 Nov 86.
Army HQ, E-in-C's Br letter No. 48747/6/EIC
dt 20.2.70 and 27304/EID dt 07 Jun 74.

LEAVE

19. 243423 Shri Maz 12 Oct Gtd FPL for one day on 13 Oct 86.
Faizul Haque (opt) 86(FN)
Laskar 14 Oct Rejoined duty.
86(FN)
28 Oct Gtd FPL for 2 days upto 29 Oct 86.
86(FN)
30 Oct Rejoined duty.
86(FN)

20. 455600 Shri Maz 03 Oct Gtd SL for 10 days upto 12 Oct 86.
MR Paul (opt) 86(FN) on MC.
13 Oct Gtd commuted leave for 5 days upto
86(FN) 17 Oct 86 on MC, debitible to 10
days HPL.

21. 243400 Shri Maz 18 Oct Rejoined duty.
KU Laskar (opt) 86(FN)
13 Oct Gtd FPL for one day on 13 Oct 86.
86(FN)
14 Oct Rejoined duty.
86(FN)

Cont'd.....b

B S O

-25-
COPY

ANNEXURE-3

No. 3310/DS/(O&M)/Civ-I/84
Govt of India
Ministry of Defence

New Delhi, the 15th Oct 1984

To

The Chief of Army Staff
New Delhi

Sub :- FITMENT OF INDUSTRIAL WORKERS OF MES IN PAY SCALES RECOMMENDED BY THE THIRD PAY COMMISSION

Sir,

Based on the decisions taken by the Government on the unanimous recommendations of the Anomalies Committee. I am directed to convey the sanction of the President to the Following :-

- (1) Upgradation of the following jobs from semi-skilled grade (Rs. 210-290) to the skilled grade (260-400) :-

<u>Sl No</u>	<u>Jobs Under Title</u>	<u>Existing Scale</u>	<u>Revised Scale</u>
1.	Book Binder	Rs. 210-290	Rs. 260-400
2.	Saddler	-do-	-do-
3.	Boot Maker	-do-	-do-
4.	Carpenter	-do-	-do-
5.	Pipe Fitter	-do-	-do-
6.	Plumber	-do-	-do-
7.	Mason	-do-	-do-
8.	Moulder	-do-	-do-
9.	Painter/Polisher	-do-	-do-
10.	Sign Writer	-do-	-do-
11.	Sawyer	-do-	-do-
12.	Upholsterer	-do-	-do-

These orders supercode the earlier orders in regard to fitment of the above categories workers in the relevant scales of pay from the date of issue of this letter.

Fresh induction to the trades listed in (1) shall be from

Contd., , , 2/-

(a) Semi-skilled categories to be identified by you or feeded categories in the pay scale of Rs. 210-290 already existing under the present recruitment rules, subject to the worker having rendered a minimum of three years service in the grade and after passing the prescribed trade test; and

(b) Direct recruits with ITI certificate/Ex-trade apprentices/ NCVT etc. inducted in the semi-skilled grade, who have rendered 2 years service in that grade.

(11) Provision/introduction of Highly skilled grade II (Rs. 330-480) and Highly skilled Grade I (Rs. 380-560) for common category jobs listed in Annexure I classified as 'Skilled' depending on the functional requirement of higher skilled jobs, in the following manner as a bench mark percentage :-

(a) Highly skilled Grade I (Rs. 380-560) 15%

(b) Highly skilled Grade II (Rs. 330-480) 20%

(c) Highly skilled Grade (Rs. 260-400) 65%

This should be given to the trades enumerated in Annexure I with viable number of jobs and if there non-viable trades these should be grouped together for the purpose of giving the above benefit. In the trades where the above bench-mark percentages are introduced the selection grade for the skilled grade, if provided, will stand simultaneously abolished as a one time measure.

2. These orders will take effect from the date of issue.

3. The expenditure involved shall be debitable to the respective head of the Defence Service Estimates.

4. This issues with the concurrence of the Ministry of Defence (Finance Division) vide their interdepartmental No 1755/Dir/(AI/ Eqpt) of 15th October 1984.

Yours faithfully,

Sd/- x x x x x x x
(RAMA KRISHNA)

DEPUTY SECRETARY TO THE GOVT OF INDIA
Tele No. 375040

ANNEXURE - I

MES

LIST OF COMMON CATEGORY "SKILLED JOBS"

- | | | |
|-------------------|------------------------------|---------------------|
| 1. Blacksmith | 2. Carpenter | 3. Electrician |
| 4. Fitter Auto | 5. Fitter Auto Elect | 6. Fitter Gen. Mech |
| 7. Fitter Pipe | 8. Fitter Refrigeration Mech | 9. Line Mistry |
| | 11. Moulder | 12. Millwright |
| 10. Mason | 14. Painter | 15. Turner |
| 13. Pattern Maker | | |
| 16. Welder | | |

/COPY/

No. 91026/ETC/88/15 (V-11)
 No. Bldgs/ETO/OC/D(W-18)
 Government of India
 Ministry of Defence,
 New Delhi, the 24 June 1987

Sir,

To

The Chief of the Army Staff
 New Delhi

Subject :- RATIONALISATION OF TRADES OF THE INDUSTRIAL
 CADRE OF THE MES

Sir,

The President is pleased to sanction the redesignation and
 codification of the following categories of personnel in the
 MES in order to conform to the structure of the National Classification
 of Occupations :-

Sl No	Existing Designation	Revised NCO	Code No	Pay scale
1	2	3	4	5
1.	Charge Electrician	Senior Electrician (HS-1)	851.10	380-12-500- EB-15-560
2.	Charge Mechanic	Senior Mechanic (HS-1)	-	-do-
3.	Charge Mechanic Refrigeration	Senior Mechanic Refrigeration & Air Conditioning (HS-1)	845.70	-do-
4.	Driver Mechanical Equipment	Operator Earth Moving Machinery (SK)	974.10 974.15 974.20 979.10	260-6-290-EB: 6 326-8-366-EB-8 396-10-400.
5.	Armature Winder	Electrician (SK)	851.10	-do-
6.	Electrician			
7.	Cabinet Maker	Carpenter (SK)	811.20 (811.20)	
8.	Carpenter	Carpenter (SK)	811.20	-do-
9.	Sawyer			
10.	Filter Engine	Mechanic Petrol and Diesel Engine (SK)	845.10 845.13	-do-
11.	Engine Artificer			
12.	Instrument Repairer	Mechanic precision Instrument	841.15 841.20 851.20	-do-

Contd....2/-

Attested
 Advocate

13.	Refrigerator Mechanic	Mechanic Refrigerator	845.70	260-6-290-EB-6-326-8-366-EB-8-390-10-400
14.	Turner	Machinist (SK)	835.10	-do-
15.	Driver Engine Static, Driller, Road Roller (IC) & Small plant Compressors, Dumpers, Dacauville Engines, Concrete Mixers, Mixer (SK)	(a) Driver Engine Static (SK) (b) Driver Mobile Plant (SK) (c) Driver Concrete Mixer (SK)	961.20 961.25 974.45 974.70	-do-
16.	Driller well Boring	well Driller cum pile driver	717.10	260-6-290-EB-6-326-8-366-EB-8-390-10-400
17.	Line Man	Electrician (SK)	855.10	-do-
18.	Switch Board Attendant	Electrician (SK)	857.10	-do-
19.	Wireman	Electrician (SK)	-	-do-
20.	Mason	Mason (SK)	951.20 951.40 951.90 952.10 952.30 952.60 955.10 976.00	-do-
21.	Packer Grade I	Packer Gde I	-	260-6-290-EB-6-326-8-366-EB-8-390-10-400
22.	Packer Grade II	Packer GDE II	-	210-4-226-EB-4-250-EB-5-290
23.	Pipe Fitter	Fitter Pipe	871.10	260-6-290-EB-6-326-8-366-EB-8-390-10-400
24.	Plumber	-do-	871.20	-do-
25.	Cane Weaver	Cane man	942.30	210-4-226-EB-4-250-EB-5-290
26.	Lift Attendant	Lift Operator	979.30	-do-
27.	Motor pump Attendant	Pump House Operator	961.70	260-6-290-EB-6-326-8-366-EB-8-390-10-400
28.	Ballow Boy	Ballow Boy	-	210-4-226-EB-4-250-EB-5-290
29.	Cable Jointer	Cable Jointer (HS-II)	857.30	330-8-370-10-400-EB-10-480

-3-

22.	Lift Mechanic	Lift Mechanic (SK)	-	260-6-290-EB-326-8-366-EB-8-390-10-400	
31.	Pattern Maker	Carpenter (SK)	891.20	-do-	
32.	Vehicle Mechanic	Vehicle Mechanic (SK)	843.20	-do-	
33.	Welder	Welder (SK)	872.70 872.20	-do-	
34.	Boiler Attendant	Boiler Attendant (SK)	962.20	-do-	
35.	Blacksmith	Blacksmith (SK)	831.10	-do-	
36.	Moulder	Moulder (SK)	725.10	-do-	
37.	Painter	Painter (SK)	932.10 932.30	-do-	
38.	Upholsterer	Upholsterer (SK)	796.10	-do-	
39.	Operator Pneumatic Tools	Operator Pneumatic Tools (SK)	713.10 974.42	-do-	
40.	Hammerman	Hammerman (SS)	831.40	(226) 210-4-6-66-EB-4-250-EB-5-290	
41.	Mate	Mate (SS)	-	-do-	
42.	Valveman	Valveman (SS)	-	-do-	
43.	Mazdoor	Mazdoor (USK)	999	196-3-220-EB-3-232	

44. Sanction is also accorded for the modification in the existing grades as shown below :-

(a) The trade of Tailor will be abolished : existing incumbants will be re-designated as Upholsterers.

(b) The trades of Vcharpoy Stringer, Coal Trimmer and Fireman will be abolished: existing incumbants in the pay scale of Rs.210-290 will be redesignated as Mates. The existing Charpoy Stringers in the pay scale of Rs 196-232 will be redesignated as Mazdoors.

Contd....4/.....

Signwriter and Driver Compressor will also be abolished and existing incumbents re-designated as painter and Driver Engine Static respectively.

(ii) There will be no future recruitment of Glazier, and the category will be abolished when existing holders are washed out.

The relevant recruitment rules will be amended as necessary. Pending such amendment, recruitment as well as the channels of promotion and demotion will be on the basis of above modification as an interim measure.

The duties of the posts will be laid down by the Engineer-in-Chief.

This letter issues with the concurrence of the Ministry of Finance (Defence vide their u.o. No. 1809/VI-III of 1986).

Yours faithfully,
Sd/
(G.P. BKHUGUNA)
Under Secretary to the Govt
of India

*Attested
Muthu
Advocate*

Telephone : Mily - 60

Garrison Engineer Silchar
IC : Arunachal, Dist : Dima
Assam - 788 025

1000/1/1534/EL

02 May '94

AGE E/M Silchar

02 May 94

1. Copy of G of L, M of L No 91026/ELC (3)/672/1 (A-11),
Dated 21.2.94 as received vide Hq CEIC Calcutta No 131501/24/
2561/Engrs/ELC (2) Jtd 19.3.94 is forwarded herewith for your
information and necessary information to the existing staff
working in your sub-divn.

SS/X-X-X-X-X

(SK Sharma)

Major

Garrison Engineer

Copy to :-

E-1(H) - Please publish the casualties
based on the Govt letter in respect
of existing Instrument Repairer.

Copy of G of L, M of L letter No 91026/ELC (3)/672/1 (A-11)
dated 21.2.94.

AMENDMENT

1. This Ministry's letter No 91026/ELC/88/89/.. (A-12)
dated 24th June 1987 regarding rationalisation of Trades of the
Industrial Cadre of the MBS is amended as follow :-

Add the following S.No as (a)

6 (a) Instrument
Repairer

Electrician (SK) 851.10

2. This issues with the concurrence of Ministry of Defence
(Finance/Works-111) vide their L.O No 254-Works-1/94 of 1994.

SS/X-X-X-X-X

(SK Sharma)

Under Secretary to the Govt of India

Collected by
Advocate
SK Sharma

File : 3476

70203/2/3490/ElC(3)
HQ/137WKS Engrs.
CWE Tezpur.
CWE Dinjan.
CWE Shillong.

Headquarters Chief
Engineer Shillong Zone
S.E. Hills Shillong - II.

19 Apr '95

PROMOTION INSTRUMENT REPAIR/MPI (New Redesignated Electrician(SK)).

1. Copy of E-in-C's BR Army HQ letter No. 90270/89/EC/ElC(3) dated 10 Feb 95 received from HQ CEEC Calcutta vide their letter No. 131500/2A/2850/Engrs/ElC(2) dated 08 Mar '95 is forwarded herewith for your information and necessary action, please.

2. HQ 137WKS Engrs only :- This is the disposal of your quarries vide your letter No. 1228/SK/84/ElCC(2) dated 31 Aug 94.

(S C GOYAL)
AEE
SO III(Pers)
For Chief Engineer.

Copy of E-in-C's BR Army HQ New Delhi letter No. 90270/89/EC/ElC(3) dated 10 Feb 95 addressed to CEEC and copies to other CE's command.

PROMOTION :- INSTRUMENT REPAIR/MPI (New Redesignated Electrician (SK))

1. Reference your letter No. 131500/2A/2752/Engrs/ElC(2) dated 11 Oct. 94.

2. Consequent on redesignation of IR/MPI to Electrician (SK) some representation have been received from exiting IR/MPI with regard to their promotion to Electrician H.S.II/H.S.I. The cases have been gone into and following decisions have been taken :-

a). Since prior to introduction Three Grade Structure, Electrician and IR/MPI were the feeder category for promotion to Ch/Electrician, there is no anomaly in redesignation of IR/MPI to Electrician.

b). Review CPC's are to be convened and IR/MPI who are otherwise eligible for promotion, be considered for promotion to Elec.HS.II with notional seniority at par with their immediate junior Elec SK/Wireman who have already been promoted to Elect.HS.II.

However, the over-all percentage of H.S. II/H.S. I. vacancies are to be maintained as per ~~xxx~~ existing instructions.

Sd/
(R S Kanwar)
S.E.
SOI, Engrs Pers
For E-in-C.

GB/

Handwritten signature/initials and word "Advocate"

File No : Milly 6040

Commander Works Engineers
Spread Eagle Falls
Shillong - 793 011

1455/DPC/96-97/49/E1A

13 Jan 97

GE Shillong
GE (AF) Shillong

PROMOTION : INSTRUMENT REPAIRERS/MELCHANICS.
PRECISION INSTRUMENT (RE-DESIGNATED AS
ELECTRICIAN (SKILLED) TO THE GRADE OF
ELECTRICIAN (HIGHLY SKILLED GRADE II)

1. Consequent to the recommendations of the Review Department Promotion Committee meeting held on 05 Nov 96 constituted as per E-in-C's Branch, AHQ, New Delhi order No 90270/39/ELC(3) dated 10 Feb 95, the following EX-MPLs (Re-designated as Electrician (SK)) vide Government of India, Ministry of Defence addendum No 91026/ELC(3)/2395/D(W-II) dated 23 Jun 94) are approved for promotion to the grade of Electrician (HS-II) with notional seniority as shown against their names :-

(a)	(b)	(c)	(d)	(e)
MES No, Name & Designation	Promoted to	Date of notional seniority without financial effect	Formation where serving	
1. MES/223370 Shri Satya Gopal Bhattacharjee, Elect (SK)	Elect (HS-II)	15 Oct 34	GE Shillong	
2. MES/229141 Shri Rathindra Nath Brahmachari, Elect (SK)	Elect (HS-II)	11 Aug 35	GE (AF) Shillong	

2. Before the above promotions are implemented, please ensure that these individuals are not involved in any disciplinary cases or Court of Inquiry, SPE cases and there is nothing against the individuals to warrant withholding of the above promotion.

Continued to page....2 -

*Attended
Mills
Advocate*

*Left on
Cahoon*

-: 2 :-

3. The date from which the above individuals are brought in position against the promoted grade should be intimated to this Hq. Names of the individuals who could not be placed in position in the higher post stating reasons will be intimated to this Hq by 31 Jan 81 latest.

4. Necessary casualty to this effect should be published in the next issue of your PTO.

5. Please take immediate necessary action and accord DPC priority.

Ashok

(Ashok Kumar)

5th

Commander Works Engineers

Copy to :-

- 1) HQ CE DC Calcutta
- 2) Hq CE Shillong Zone
- 3) HQ CE (AF) Shillong Zone
- 4) CWE (AF) Guwahati
- 5) LAO (Army) Shillong
- 6) AAO GE Shillong
- 7) AAO GE (AF) Shillong

SKH/

PART IV (a)

PAY FIXATION

28. 354348 Shri SC Chakraborty FGM 12-08-96 Pay fixed at Rs 1290/- wef 12-08-96 to 30-09-96 and re-fixed for Rs. 1350/- wef 01-10-96 in the Gde of FGM (HS-II) in the Scale of Rs. 1200-30-1440-EB-30-1800/- Pm wef the same date with DNI - 01-10-97.
29. 243443 Shri Ramapada Das Elect 12-08-96 Pay fixed at Rs 1290/- Pm wef 12-08-96 to 30-09-96 and re-fixed for Rs 1350/- Pm wef 01-10-96 in the Gde of Elect (HS-II) in the Scale of Rs 1200-30-1440-EB-30-1800/- Pm wef the same date with DNI 01-10-97.
30. 228633 Shri F.U Choudhary FGM 12-08-96 Pay fixed at Rs 1350/- Pm in the Gde of FGM (HS-II) in the Scale of Rs. 1200-30-1440-EB-30-1800/- wef the same date with D.N.I 12-08-97 (antidated on 01-08-97).
31. 228357 Shri CH Bhattacharjee FGM 12-08-96 Pay fixed at 1380/- in the Gde of FGM (HS-II) in the Scale of Rs. 1200-30-1440-EB-30-1800/- wef the same date with D.N.I 12-08-97 (antidated on 01-08-97).
32. 228747 Shri Indra Mohan Sarkar Elect 12-03-96 Pay fixed at 1130/- in the Gde of Elect (SK) in the scale of Rs. 950-20-1150-EB-25-1500/- Pm wef the same date with D.N.I 12-08-97 (antidated 01-08-97).
33. 228638 Shri A.K Saha FGM 12-08-96 Pay fixed at Rs. 1380/- in the Gde of FGM (HS-II) in the scale of Rs. 1200-30-1440-EB-30-1800/- wef the same date with DNI 12-08-97 (antidated on 01-08-97).
34. 228302 Shri Ranjit Singha FGM 12-08-96 Pay fixed at 1350/- in the Gde of FGM (HS-II) in the scale of Rs. 1200-30-1440-EB-30-1800/- wef the same date with D.N.I 12-08-97 (antidated on 01-08-97).
35. 228330 Shri N.C Das Choudhary Elect 12-08-96 Pay fixed at Rs 1350/- in the Gde of Elect HS-II in the Scale of Rs. 1200-30-1440-EB-30-1800/- wef the same date with D.N.I 12-08-97 (antidated 01-08-97).

Attested
Advocate

(S. S. Swas)
AECB

for Garrison Engineer

From :-
Sri Narendra Ch. Das Choudhury,
Electrician H.S. II,
M E S No. 228330
Office of the Garrison Engineer,
Silchar Division.

To
The Engineer In-Chief,
Army Head Quarter,
" KASHMIR HOUSE "
New Delhi - 110011.

(Through Proper Channel).

Dated, Masimpur, the 27/12/96.

Sub :- Representation for promotion.

Ref :- My Representation submitted through proper
Channel (Copy of representation dt. 7.7.94)
enclosed.

Sir,

With due respect and humble submission I beg
to lay the following facts for favour of your perusal,
sympathetic consideration and favourable orders.

That Sir, I joined as Wireman in MES on
3.6.1968, and thereafter I passed departmental examination
held time to time and required to appear.

That Sir, at the time of my joining in M E S
in 1968 the posts like Wireman, Linemen, SBA were inter-
changeable and these posts were converted and redesigna-
ted as " S.K. Electrician " in 1987.

As regards myself, I was promoted to the post
of MPI in 1986 but that too without any financial benefit
it was rather a feeder promotion to the post of H.S. I.

The line of promotion for the Wiremen in 1985
was as below :-

from the post of Wiremen to the post of Electrician and
then to the Post of charge Electrician

OR

from the post of Wireman to the post of Instrument Repairer
and then to the post of charge electrician the details
thereof were discussed in my representation dt. 7.7.94 --
Copy enclosed for favour of your ready reference.

(Contd....P/2)

*Attested
Advocate*

71026/EIC (3) 672/1 (13-11) 21.2.94
In 1987, I was made S.K. Electrician vide No 1994 and thereby I was again fallen to the group initially composed with Wireman, Linemen, SBA what existed at the time of my initial joining in MES in 1968. So I very much belong to the grade structure of skilled electrician renamed as Electrician H.S. II.

My length of service will show that those who have joined much later than me in 1981 as Wireman have been fortunate enough to get promotion as H.S. Gr. II in 1993 and will naturally as such get the benefit of Gr. I before me, due to the fact that my position was not taken into consideration, while your goodself know it for certain from the records that for availing the Scope of due promotion as charge Electrician as per the Policy existed at the relevant time I passed the Trade Test for MPI in 1982 but got promotion as MPI in 1986 but my juniors already got the promotion.

(In 1984 also 3 (three) other wiremen who were my contemporary were fortunate to get the promotion to the post of H.S. Grade - II whereas I was promoted as S.K. Electrician in 1986 without any financial benefit.

Thus it would be evident from the facts stated above that I was all through deprived from due promotion for no fault of mine although I have duly obtained the requisite qualification for the post of H.S. Grd. I equivalent to charge Electrician.

And Sir, if you kindly go through the entire affairs, your goodself will kindly find that if I were given due consideration of my length of service, attainments, experiences etc. I could be rightly given H.S. Grd. II in 1987 which was over due to me but this benefit of H.S. Grd. II was withheld to me until 1996 by causing deprivation for more than 10 years and for all these deprivations, denial & withholding of my due promotional benefit in consideration of Junior Wiremen can in no way be attributed to me, rather it was sheer my ill luck that my case was not duly considered by the Authority, in formulating rules for filling the higher posts.

Sir, in fine, I pray your goodself once again to kindly consider my case sympathetically taking into account the fact that I joined as Wiremen on 3.6.1968 under you but having all required qualification I was given a lift only on 1986 as MPI and at present holding the post of H.S. II since 12-8-96 whereas the records available with you will

(Contd....P/3)

- 3 -

amply prove that my colleagues who joined as Wireman much after me say in 1981 got the promotion as H.E. Gr. II or even charge Electrician long ago, setting an example of injustice.

This is to request your goodself to kindly remove the anomaly and restore me in my proper position in view of my date of joining (3.6.1968) as Wireman and subsequent passing the Trade tests and for this act of your kindness I shall remain ever grateful to you as duty bound and shall ever pray.

Yours faithfully,

(HARBHARA CH. DAS CHOUDHURY)
Electrician H.E. II
H.E.C. No. 228330,
O/G Garrison Engineer, Silchar Dvn.,
N.E.S.
Silchar.

Copy to :-

- 1) J.H. Dasgupta,
J C H Member,
Army Hq. Council.
- 2) The General Secretary,
All Assam MES Employees Union..

Received
27/12/96
AGS KIM SILCHAR

Tele : Milly-2603

Office of the Garrison Engineer
Silchar Centt. P.O. Arunachal

1021/N/200 /E2

May ' 97

AGE E/M Silchar

REPRESENTATION FOR PROMOTION

1. A copy of HQ 137 W&S Engrs Letter No. 1228/NCDC/28/EIC(2) dtd 05 Apr' 97 addressed to HQ CESZ Shillong with copy to this Division is appended below for info to the indls.

2. Please ack.

(C-M F&I)

(R. P. Muzumdar)

BSO

for Garrison Engineer

Copy to HQ 137 W&S Letter No. 1228/NCDC/28/EIC(2) dtd 5.4.97 addressed to HQ CESZ Shillong and copy to this Office

Sub : AS ABOVE

1. Reference your HQ letter No. 70203/2/19/EIC(2) dtd 25 Feb 97 and this Office Signal No. A-1662 dtd 03.03.97.

2. MES 222330 Shri HC Daschoudhury HVI now Elect HS-II has submitted an application dated 27-Dec-96 for his promotion to Elect HS-I, as his juniors are getting higher Scale of Pay.

3. On critical study of this case and other similar cases it is seen that :-

(a) the indls are submitting their appeal/representation after a lapse of 5 years and in one case after a lapse 9 years (in case of Shri DC Das, F&I of AGE (I) K'Gren).

(b) It becomes very difficult for placement of even genuine cases of promotion due to non availability of vacancy for the particular Gde.

4. The facts stated by the indls are correct. In this connection please refer our letter No. 1228/SK/94/EIC (2) dtd 14 Jul 95 under which comments on the case was forwarded.

5. However, considering the genuineness, of the case it is recommended that the indls may be allowed to appear Trade Test of Elect HS-I, irrespective of present seniority and on passing the Trade Test, the indls can be promoted to Elect HS-I, with notional seniority at par with his juniors, with pay benefits in the Gde of HS-I only, as per your letter HQ letter No. 70203/2/3490/EIC(2) dtd 19 Apr 95. provided the individual submits an undertaking that he will not further claim his seniority/pay benefit for HS-II.

6. It is also requested to kindly issue administrative instruction fixing a period, after which, appeal/representation becomes time barred on trade test/DFC/lost out cases.

7. The appeal is sent herewith in triplicate.

Sd/-

(R. Uberoi)

Col

Cdr W&S Engrs

*Attested
Advocate*

To
The Commandant Works Engineers,
M E S
HQ. 137 Works Engineer,
Delhi, India,
C/o 99 H.P.O.

Dated, Arunachal, the 19th Nov 1999.

Sub : PRAYER FOR LONG-PENDING FINANCIAL BENEFITS
VIS-A-VIS PROMOTIONS.

Sir,

With due respect and humble submission, I beg to lay the following facts for favour of your kind information and favourable order with a view to mitigate my extreme all-round sufferings for the undue deprivation of my legitimate claims pendings for years together for no fault of mine.

That Sir, your goodself is aware that I have been submitting several appeals & petitions to the appropriate authorities from time to time for meeting the ends of justice to remove my genuine claims that have most unfortunately been deprived to me causing both financial & mental suffering to me for no fault of mine despite my all through sincere services and also having the requisite educational & technical qualifications.

That Sir, I have pressed these points to the authorities in my several representations and appeals but these admittedly genuine grievances and claim are still lying unsettled and thereby my sufferings are still continuing. For instance, I may beg to refer you to my recent representation dt. 27.12.96 addressed to the Engineer-In-Chief, Army Head Quarter, New Delhi through proper channel which is yet to obtain the final orders on the prayer from the concerned authority to end my sufferings.

Sir, incidentally, it may be mentioned that long 31 years ago on 3-6-1968 I joined the M E S as a WIREMAN and passed Several examinations to fully qualify me for promotion to the higher posts as per prevailing procedure and line of promotion. I held the post of MPI (MACHINE PRECISION OF INSTRUMENT) in 1986 but I am sorry to mention that the promotion was without any financial benefit - the responsibility of the higher grade/post was entrusted on me but till date I am deprived of the due financial benefit, so to say I have been denied the fair justice.

(Contd....P/2)

Recd PL
AUE Epm
J

Attended
Advocate

2 Sir, your goodself knows it that at the time of my joining the MES under you in 1968 the posts like Wireman, Lineman, SBA were inter changeable posts as because all these posts belong to the same cadre and the requisite qualifications were also same, and these posts were grouped together and redesignated as " S.K. Electrician" in 1987. And in 1987, I was made S.K. Electrician (Ref. order No. 91026/EIC(3)672/D(W-17), dt. 21.2.94 and thereby Sir, what happened I have again been taken to the group of wiremen - Linemen - SBA which posts existed at the time of my joining in MES in 1968 and it therefore goes without saying that I very much belong to grade structure of " SKILLED ELECTRICIAN " renamed later as ELECTRICIAN HS - II in which post I was taken in 1993. Here it is necessary to mention that the Junior incumbents who joined service SIXTEEN/SEVENTEEN YEARS Later than were so fortunate to get promotion as HS Grade - II in 1993 but for no fault or lapse of mine but only for denial of natural justice which a govt. employee of whatever rank and status he be, is protected & guaranteed by the Constitution of India and by the Fundamental rules. This humble self being senior in length of service by 16/17 years as already stated was promoted as HS Gr-II only in 1996 i.e. after long 3 years of his Juniors who were promoted but to repeat NOT FOR HIS LAPSE OR FAULT and that lift to the post of HS Gr-II given to me in 1996 was also not with due financial benefits.

Sir, if your goodself kindly look back to 1984, you will find that 3 (three) other wiremen who were contemporary to me got the promotion of HS Grade - II in 1984 while I was promoted as " SK ELECTRICIAN" in 1986 only and that too without the due financial benefit.

Sir, it is necessary to mention that the facts indicated above will evidently prove that I have duly obtained the requisite qualification etc. for holding the post of HS GRADE-1 (ONE) equivalent to CHARGE ELECTRICIAN - but I have been most unfortunately deprived the due, legitimate and long pending promotion of higher grades, for the reasons not known to me. If you Sir, kindly go through the record that your goodself will be able to satisfy yourself that I was rightly due for promotion at least as HS GRADE - II in 1987 when my Juniors were

(Contd....P/3)

promoted, and this promotion was given to me after long 10 (ten) years in 1996 to cause deprivation of the benefit to me in utter violation of the principles of natural justice and the provisions of the orders & rules in force and this " Promotion " to HS-II in 1996 was also without any financial benefit - as a result the fact remains that no benefit is given to me.

Sir, I understand that my representation dt. 27.12.96 addressed to the Engineer-In-Chief Army Headquarters, New Delhi submitted through proper channel in the matter of my grievances and deprivation of legitimate claim of due promotion deprived at the latest in 1987 when my juniors were promoted was forwarded to HQ. 137 Works Engineer - (Ref. G.E. No. 1021/A/1254/E/E dt. 13.3.97 and it was found later that my claims were genuine and hence it was also recommended by your goodself in Memo No. 1228/MCDC/28/ETC(2) dt. 5.4.97 that I should be given promotional benefits etc. at par with my junior to remove my genuine grievances.

But Sir, to my utter misfortune till date I have not been given the long pending promotion with financial benefits to honour the principle of natural justice and the provisions of rules & orders in force.

Therefore Sir, I pray your goodself to be kind and gracious enough to consider my case and issue proper direction to the authorities for redressal of my grievances taking into account the fact of my date of joining in MES as WIREMAN on 3.6.1968 and the examinations passed, qualification and experiences earned and thus Sir award me the due financial benefits that was wrongfully withdrawn from me by depriving me from the legitimate claim as guaranteed to me by Law in force and for this act of your kindness I shall remain ever grateful to you as duty bound.

Yours faithfully,

Narendra Das Chawla
Electrician H.S.N

M.E.S No:- 228330

C/o G.E. Silchar Division

Date: 19th Nov 99

To
The Commandant,
H.Q. 137 Works Engineers,
C/O 99 APO.

(Through Proper Channel)

Dated Masimpur, the 03 SEP 2006

Sub: PRAYER FOR JUSTICE IN THE MATTER OF DENIAL OF
FINANCIAL BENEFIT AND GRIDS SCALE DEBAR

Sir,

Most humbly I beg to refer your kind visit at Masimpur when your goodself was gracious enough to grant me an interview to represent my all the long drawn genuine grievances on 17.07.2001 at Power House Campus, Masimpur. During the interview in the presence of the Dy. Commanding Works Engineer (E/M) and the Garrison Engineer, Silchar.

Your goodself gave me a patient hearing and in fine, your goodself very kindly assured me that you would investigate into the entire affairs and remove my genuine grievances and also assured me of the justice.

As directed, I again state here under the facts for favour of your perusal and consideration for favourable order.

That Sir, I entered in service in 1968 as an ELECTRICIAN (SEMI SKILLED) which was equivalent to wireman (Semi-Skilled).

There has been a re-structure of the Pay Scale by the authority. In which a provision was made that after necessary test the Electrician/wireman (Semi Skilled) would be taken to grade -- II as Electrician HS II.

My colleagues who were much junior to me were given the benefit of high scale i.e. as Electrician H.S.-II in 1994 while they joined in service under you in 1981 and I joined as Electrician (Semi) in 1968. In this respect I beg to cite the case of Shri. M.R. Laskar and Sri. Rama Kahra Das those who entered service as Electrician (Semi) in 1981 got your blessing and the benefit of the better scale i.e. Electrician H.S.

M. R. Laskar
Sri. Rama Kahra Das

II in 1994 under the new structure, but for your kind information I beg to state that although I joined long 11/12 years, earlier then the above mentioned MR Laskar and Rama Kanta Das but they got the high scale i.e. Electrician HS II in 1994 while I got the benefit of the scale in 1996 i.e. 2 (two) years later than my junior Colleagues Sri MR. Laskar and Sri Rama Kanta Das. Although as per Government of India, Ministry of Defence letter No. 91026/EC(3)672/D(W-17) dt. 21.2.1994 I am entitled to the benefits since 1987 but the financial benefits were extended to me in 1996 only as a result I was deprived of the benefits for year together.

In this connection my last representation dt. 19.11.1999 may also kindly be referred to.

If a detail examination is made and I am given a patient hearing, I am confident that it will be evident that the incumbents junior to me by 16/17 years in service were fortunate to get promotion as HS Grade-II in 1993 also. In this way it will be seen that I have been deprived of my legitimate right and claim for no fault of mine. I was simply denied the scope in time and the juniors are given benefits by depriving me and ignoring my genuine claims.

From my information, I beg to cite the instances of other three colleagues, Sri Ajay Dutta, Sri S.A. Laskar and Sri K.P. Bhargava who were appointed in Service on the date 3.6.1968 along with me but they are given the benefits of HS II in the year 1984 by virtue of Simply length of Service and not on by test, but although joined in service on the same date 3.6.1968 along with Sri Ajay Dutta, Sri S.A. Laskar and Sri K.P. Bhargava but in their case in giving the benefits of HS II they were not required to go through any test and without going through any Test these fortunate colleagues of mine get your blessings and the HS II in ---- but in case of your this humble unfortunate memorialist who although joined in service in same cadre along with the above mentioned gentlemen did not give the financial benefits of HS II (Electrician) until 1996 on the ground of "Passing the Test" which provision was over ruled in the case of the above named colleagues Sri Ajay Dutta & others but strictly applied in my case and thus I was deprived of the benefit of the Scale until

1996 In this connection PTO No. GE872 EWS PTO No. 11/86 dt. 17.3.80 Sheet No. 2/2 for Sri Ajoy Dutta may kindly be referred to.

I beg to mention that I joined in service in 1968 and during this year except the annual incremental benefits I got the only once a benefit of the HS II Scale fixation i.e. during these long 32/35 years only one benefit of the Higher Scale and that too in 1996 only.

From all these points it would appear that I have been denied justice and hence this prayer to your goodself with hope and assurance that I shall get justice this time from your goodself and I shall be given the financial benefits of promotion in Electrician IIS II grade w.e.f. 1987 as envisaged in Ministry's letter No. 91026/ETC(3)672/D(W-17) dt. 21.2.94 to meet the ends of justice and subsequent promotion in respective higher scale and grade taking into account the effect of my promotional benefit in 1987.

I again pray your goodself to be kind and gracious enough to kindly sanction me the benefit of IIS II grade w.e.f. 1987 to which I am legitimately entitled and for this act of your kindness I shall remain ever grateful to you as duty bound and shall ever pray.

Yours faithfully,

03 SEPT 2001

MES/228330

SA NE (DAS CHOWDHURY)

Elect HS-II
GE SILCHAR

46- ANNEXURE-13
Office of the AGE E/M Silchar
PO : Arunāchal
Dist : Cachar (Assam)

106/11¹³/E1

23 Feb 2001

MES-228330 Shri NC Das Dhoudhury, Elect HS II

(Through I/C Elect Supply Sec)

ALOMALIES IN FIXATION OF PAY ON PROMOTION IN
RESPECT OF MES-228330 SHRI NC DAS CHOUDHURY,
ELECT HS II

A copy of GE Silchar letter No 1612/608/E1R dated 27 Feb 2002 is forwarded herewith for your information and resubmission of application as directed by HQ 137 Works Engineers for further action.

copy to - GE Silchar

(A K Das)
AE
AGE E/M Silchar

COPY

Telephone Mily 2500

Office of the GE Silchar Division
PO : Arunachal Dist : Cachar (Assam)
PIN : 788025
27 Feb 2002

1612/608/E1R

AGE E/M
Silchar

ALOMALIES IN FIXATION OF PAY ON PROMOTION IN R/O
MES-228330 SHRI NC DAS CHOUDHURY, ELECT HS II

1. Reference your letter No 106/423/E1 dated 29 Sep 2001.
2. Application dated 03 Sep 2001 submitted by Shri NC Das Choudhury, Elect HS II forwarded to HQ 137 Works Engrs for favour of further action. HQ 137 Wks Engrs intimated that since the service book of the indivl is centralised his case should be progressed with HQ C EC Kolkata.
2. You are hereby advised to obtain the following documents from the individual and forward to this office for our further necessary action:-
 - (a) Application addressed to HQ CE EC Kolkata (in quadruplicate).
 - (b) Comparative statement of pay fixation to juniors who were drawing higher pay (in quadruplicate)

Sd/-
(S K Rai)
AEE
Garrison Engineer

Attested
By
Advocate

NO. GE/SIL/1021

GARRISON ENGINEER SILCHAR

COMMENDATION CERTIFICATE

DILIGENT WORKER

This Commendations Certificate of Diligent Worker is
Awarded to MES 228330 Sri Narendra Chandra Das
Designation Electrician working in A&E E/M Sub Divn.,
for the year 1994 in a Sanction held on 21 FEB '95,
to Commend the Hard Work, Dedicated Duties and
Meritorious Performance.

He is commended for sustained Hard Work, maintaining
Integrity, Devotion to duty with highest Traditions of service
and bringing the good name to this Division & Military
Engineer Services.

It is wished that this Commendations Certificate of Diligent
Worker shall inspire him further and motivate his Fellow
Workers to compete and achieve this Award.


WELFARE OFFICER


GARRISON ENGINEER
CHAIRMAN

*Attended
Advocate*

- 47A -

21

21

ANNEXURE- 15

(Typed true copy)

UNIT: GE SILCHAR PART II ORDER NO 25 DATED 23 JUNE 2003: PAGE NO 03

Ser No	MES No & Name	Category	Casualty		
			From	To	Particulars

PART II ENDS WITH SL NO 09

PART III

CANCELLATION

10 23739 Shri Chinmoy Paul (SB Cent)	Duftry (OTP)	This office PTOs 14/8/2000 15/15/2001 and 14/6/2002 are hereby made cancelled.
--	--------------	--

PART III ENDS WITH SL NO 10

PART IV (a)

VERIFICATION OF QUALIFYING SERVICE

11 A/6302949 Shri Monilal Singha	Mazdoor	07-09-87 31-03-02	Nature of years months Days Service
			Maz 14 06 25
			Total 14 06 25
			NIL
EOL./Dies Non Less Non qualifying service			-
Net qualifying service			14 06 25

Auth:- RAO (MES) Kolkata letter SLA/CEEC/467/73/Pen/1 dt
17 Jun 03 & HQ CEEC Kolkata letter No. 131906/2B/GE Silchar/
78/Engrs/EIR (B/4) dt 18 Jun 03

RESULT OF TRADE TEST

12 228330 Shri NC Das Choudhury (SB Cent)	Elect IIS II	Appeared Trade Test for Elect HS I held on 04 th & 5 th Dec 2002 and declared <u>PASSED</u> .
13 242279 KK Bhowmick (SB Cent)	Elect HS II	Appeared Trade Test for Elect HS I held on 04 th & 5 th Dec 2002 and declared <u>PASSED</u> .
14 228302 Shri Ranjit Singh (SB Cent)	FGM HS II	Appeared Trade Test for FGM HS I held on 04 th & 5 th Dec 2002 and declared <u>PASSED</u> .
15 228357 Shri CH Bhattacharjee (SB Cent)	FGM HS II	Appeared Trade Test for FGM HS I held on 04 th & 5 th Dec 2002 and declared <u>PASSED</u> .

UNIT : GE SILCHAR PART II ORDER NO. 25 DATED 23 JUN 2003 : PAGE NO. 031

Sl. No.	Name	Category	From	To	Particulars
10	Chinnoy Paul	(SB Cent)	07-09-87	31-03-02	

CANCELLATION
 10 237939 Shri Chinnoy Paul (SB Cent) (OTD)
 This office PTOs 14/8/2000, 15/15/2001 and 14/6/2002 are hereby made cancelled.

PART IV (a)				
VERIFICATION OF QUALIFYING SERVICE				
Sl. No.	Name	Category	From	To
11	X/6302949 Shri Mazdoor	07-09-87	31-03-02	
	Monlal Singha			
	(SB Cent)			

Auth:- RAO (MES) Kolkata letter SL/CEEC/467/73/Pen/1 dtd 17 Jun 03 & HQ CEEC Kolkata letter No 131906/2B/CJE Silchar 78/ Engrs/ER(U/4) dt 18 Jun 03

RESULT OF TRADE TEST

Sl. No.	Name	Category	Result
12	NC Das Chondhury	(SB Cent)	Appeared Trade Test for Elect HS I held on 04 th & 5 th Dec 2002 and declared PASSED .
13	KK Bhownick	(SB Cent)	Appeared Trade Test for Elect HS I held on 04 th & 5 th Dec 2002 and declared PASSED .
14	Ranjit Singh	(SB Cent)	Appeared Trade Test for FGM HS I held on 04 th & 5 th Dec 2002 and declared PASSED .
15	CH Bhattacharjee	(SB Cent)	Appeared Trade Test for FGM HS I held on 04 th & 5 th Dec 2002 and declared PASSED .

AE

Advocate

- 49 -

ANNEXURE-16
13

To
The Chief Engineer
Eastern Command Kolkata
(Through Proper Channel)

AN APPEAL IN THE MATTER OF PROMOTION

Sir,

1. Most humbly and respectfully I beg to lay before you the following few lines for your kind personnel and sympathetic consideration please.
2. That Sir, I submitted my prayer for consider my case for promotion to your end through proper channel vide my application dated 21 Mar 2003.
3. That Sir, several time submitted my application through proper channel but every time the application turned down with this or that reasons.
4. That Sir, after the length of 36 year service in the Deptt. I am depriving from my promotion which has demoralized me and I have been depressed.
5. I therefore, pray your honour to be kind enough to look into the fact sympathetically so that I may get the justice for promotion as acknowledgement of my hard work to serve the Deptt and for this act of your kindness. I remain grateful to you Sir.

Thanking you Sir.

Yours faithfully,

Nz
Narendran Das Choudhury
MES No 228330
Electrician HS-II

Received 15 May 2003

Copy to :-

The Secretary
AA MES EU, Silchar Br

- for information with details for take up the case with appropriate authority please.

File No
10

Attested
Advocate

To

The Headquarters Chief Engineer,
Indian Army,
Eastern Command,
Fort William,
Kolkata-21

(Through proper channel)

Subject : AN APPEAL IN THE MATTER OF PROMOTION

Sir,

Most humbly and respectfully I beg to submit the following for favour of your kind perusal, sympathetic consideration and necessary orders.

1. That, I joined my duties as "Wireman" in the establishment of Garrison Engineer, Masimpur Cantonment (Silchar within the State of Assam) on 03.6.1968. I am a matriculate and a certificate holder in "Wireman trade" from the Industrial Training Institute.
2. That, I passed the Trade Test for Electrician in 1971. However, I was not promoted to the higher post after qualifying myself in the said Trade Test.
3. That, I passed the Trade Test for MPI in 1982 and got promotion to the post of MPI in 1986 without any pay benefit whatsoever.
4. That, I passed the Trade Test for Electrician HS-II in 1996 and got promotion to the said post with an advance periodic increment only in the higher scale.
5. That, sent a petition through proper channel to in Engineer-In-Chief, Army Headquarters, New Delhi on 30-09-1991 explaining inter-alia, as to how I was deprived of promotion to the post of Electrician HS-II in 1984 when my three colleagues having the same status of being wireman and inter-se-seniority, were promoted to the post of Electrician HS-II followed by the fact as to how some of my junior colleagues having the status of wireman, were promoted to the post of Electrician HS-II. Under in said petition, I prayed for allowing myself to appear in the Trade Test for Electrician HS-II.

ANNEXURE - (A) is the photo copy of the said petition dated 30.9.1991

Advocate
Advocate

The reply to my said petition was communicated vide letter dated 17.6.1992.

ANNEXURE - (B) is the photo copy of the said reply dated 17.6.1992.

6. That, I sent a similar petition through proper channel to the Engineer-In-Chief, Army Headquarters, New Delhi on 29.3.1994 stating inter-alia, as to how I was deprived of higher pay and allowances after being promoted to the post of MPI in 1986 and prayed for adequate redressal thereof.

ANNEXURE - (C) is the photo copy of my said petition dated 29.3.1994.

However, I did not receive any reply to the said petition.

7. That, I sent a petition in detailed through proper channel to in Engineer-In-Chief, Army Headquarters, New Delhi on 07.7.1994 praying for promotion to the higher cadre.

ANNEXURE - (D) is the photo copy of my said application in detailed dated 07.7.1994.

However, I did not receive any reply to the said petition.

8. That, I drew the attention of the commanding works Engineer, IIQ. 137 works Engineer, C/o 99 APO by sending a petition through proper channel on 20.12.1995 praying for promotion to the higher cadre.

ANNEXURE - (E) is the photo copy of my said petition dated 20.12.1995.

However, I did not receive any reply to the said petition.

9. That, I sent a petition through proper channel to the Engineer-In-Chief, Army Headquarters, New Delhi on 08.07.1996 with a copy in advance to the said authority praying for promotion to the higher cadre.

ANNEXURE - (F) is the photo copy of my said petition date 08.07.1996.

Pursuant to said petition, I was asked to submit my explanation allegedly for committing misconduct under certain averments in the said petition.

ANNEXURE - (G) is the photo copy of the letter dated 15.7.1996 from the appropriate authority asking for explanation from my end.

ANNEXURE - (H) is the photo copy of another letter dated 13.8.1996 asking for explanation from my end.

That, I submitted my explanation through proper channel on 30.8.1996.

ANNEXURE - (I) is the photo copy of my said explanation against which I did not receive any reply whatsoever from my disciplinary authorities.

10. That, I sent a petition through proper channel to the Engineer-In-Chief, Army Headquarters, New Delhi on 27.12.1996 praying for promotion to the higher cadre.

ANNEXURE - (J) is the photo copy of my said application in detailed dated 27.12.1996.

ANNEXURE - (K) is the photo copy of the letter dated 13.3.1997 from the appropriate authority intimating myself of the fact that my application dated 27.12.1996 was being considered by the higher authorities and that I would be intimated about the progress of the matter in due course.

ANNEXURE - (L) is the photo copy of the letter dated 26.5.1997 from the appropriate authority forwarding the findings and decision of the Headquarters 137 works Engineer. In his letter dated 05.4.1997 vide ANNEXURE - (L), Headquarters 137 works Engineer had been pleased to admit that the facts having stated in my application dated 27.12.1996 vide ANNEXURE - (J) were correct. And considering the genuineness of my case, Headquarters 137 works Engineer had been kind enough to recommend my candidature for appearing in the Trade Test for Electrician HS-I. And since then, I was eagerly waiting for receiving formal instruction towards appearing in the Trade Test for Electrician HS-I.

11. However, for want of any such formal instruction towards appearing in the Trade Test for Electrician HS-I, I had been constrained to send two more applications on 07.01.1998 and 19.11.1999 vide ANNEXURES - (M) and (N) respectively praying for promotion etc.

I did not receive any reply against my petitions dated 07.01.1998 and 19.11.1999 vide ANNEXURES (M) and (N) respectively.

12. That, the Trade Test for Electrician HS-I was held in January, 2000 and the result was intimated in November, 2001 to the successful candidates only. It appeared that three of my junior colleagues viz., Mr. M. R. Laskar, Mr. S. C. Nath and Mr. Ramakanta Das, who amongst others, had earlier superseded me to the post of Electrician HS-II, had been, in fact, selected for the post of Electrician HS-I and they are awaiting promotion. But surprisingly, I have not yet been intimated anything whatsoever in person as to whether I qualified myself in the said Trade Test or not. It needs to be mentioned here that I passed the previous three Trade

Tests in one chance in 1971, 1982 and 1996 respectively. Thus with all respect, I would like to say that although I should not boast of myself being much in expertise in my own trade, yet for all practical purpose and by all reasonable material time, I had the conviction in my mind to come out with flying colour especially when I had to face the Test in question after having served the department for more than three decades to the satisfaction of all concerned !

13. It further needs to be mentioned here that I sent atlast a petition through proper channel on 03.9.2001 addressing the Headquarters 137 works Engineer praying for enforcing my long standing claim for promotion etc.

ANNEXURE - (O) is the photo copy of my said application dated 03.9.2001.

The appropriate authority vide their reply dated 28.02.2002 (ANNEXURE-P), had been pleased to inform that my case should be progressed with the Headquarters Chief Engineer, Eastern Command at Kolkata following my Service Book being centralised. I was advised to submit my application in quadruplicate and a comparative statement of pay fixation addressing the Headquarters Chief Engineer, Eastern command at Kolkata.

14. Thus, on the strength of the instruction having communicated vide ANNEXURE - (P), I am preferring this humble appeal before your goodself with the photo copy all ANNEXURES in quadruplicate. The ANNEXURES would speak for themselves and, as such, for the sake of brevity, their repetition is avoided herein. It is practically not possible on my part to prepare the comparative statement of pay fixation in relation to my juniors for want of material informations following the Service Books being centralised.

15. That, on the strength of Defence Ministry's relevant letters coupled with departmental letters/circulars from time to time besides the fact of my lougets longest of service unlike other promotees, I ought to have been promoted to the post of Electrician HS-II in 1987 and that of to the post of Electrician IIS-I sometime in 1991. Moreover, pursuant to the findings and / or observations having made by the Headquarters 137 works Engineer vide ANNEXURE - (L), if Trade Test for Electrician HS-I is considered to be the mendatory yard-stick in determining the efficiency at the fag end of my prolonged unblemished service career, then the spirit of NATURAL JUSTICE would remain a myth than an actual reality on my part. However, I am still ready to face such Trade Test, if asked for.

78

- 54 -

16. Under the circumstances, my promotion to the posts of Electrician HS-II and HS-I along with fixation of pay in the higher time scales are required to be implemented retrospectively in 1987 and 1991 respectively and I am to be allowed to draw my legitimate arrear pay and allowances otherwise, I shall be highly prejudiced suffering great and irreparable loss.

I, therefore, pray before your goodself kindly to consider my humble appeal sympathetically and being satisfied, be pleased to allow the appeal causing my promotion to the posts of Electrician HS-II and HS-I retrospectively in 1987 and 1991 respectively and further be pleased to cause fixation of my pay to the higher time scales retrospectively in those years respectively and allow me to draw the arrear pay and allowances accordingly and for this act of kindness, I, as in duty bound, shall exorpray.

Yours faithfully,

N. C. Das Choudhury

MES No. 228330

Electrician HS-II

C/o G. E., Silchar Division.

*Attested
Advocate*

VERIFICATION

The statements having made by me in this appeal are true to my knowledge. I have concealed nothing and not part of my foregoing statements is false.

I proof whereof, I sign this verification at silchar this, the 16th day of August, 2002.

Signature of the Appellant/Petitioner

HQ 137 WBS
C/O 99 APO

9/4 May 2003

1024/4/1330/E1E

1228/DP/7 /E1C(2)

GE Silchar

AN APPEAL IN THE MATTER OF PROMOTION

TITLE

1. Reference your letter No. 1024/4/1330/E1E dated 21.3.2003.
2. Application dated 16 Aug 2002 and 21 Mar 2003 alongwith its connected documents submitted by MES-228330 Shri NC Das Choudhury, Elect HS-II received vide your letter under reference are returned herewith. In this connection, after passing of trade test for HS-II to HS-I which was conducted by HQ CE SZ Shillong during 04.2.05 Dec 2002, the individual can be promoted to Elect HS-I with notional seniority at par with his juniors who have been promoted from Elect (SK) to Elect HS-II earlier with pay benefit of Elect HS-I only. Please inform the individual accordingly as conveyed with our earlier letter No. 1228/PCDC/28/E1C(2) dt. 05 Apr 27.

✓
✓
/from the date of TOS on promotion as HS-I.

(Sreekumar NS)
Major
Adjt
for CEE

Encls : As above

Attestd
Advocate

ANNEXURE - 19

Headquarters
137 Worker Engineers
C/O 22 A/C

Jul 96

1234/1090/1085/RIC(2)

Headquarters
Chief Engineer
Shillong Zone
Sunder Nagar Falls
Shillong-11

1	2	3	4	5	6	7	8	9	10

1. Reference your letter No 70216/2/5425/RIC(2) dated 25 Oct 94

2. It is to indicate that both incumbents have not passed the Trade test of Elect IB-II as the Cadre of MPI was kept aside of the Main stream of Grade structure of Elect. However it is to add that the Juniors to these incumbents have been granted Scale of Elect of Elect IB-II as One Time Relaxation. Now that they have brought in the grade Elect (SK) and provided relative seniority as per E-in-C's Branch letter No 91026/RIC(5) dated 22 Dec 88 noted in GE EO Calcutta No 131500/2A/2600/Engrs/RIC(2) dated 06 Jun 94 thus they are aggrieved and have sought justice, because incumbents/Elect holding same grade/scale and qualified of the same Trade Test as of theirs and Juniors to them have been provided with grade of Elect IB-II.

5. It is further submitted in the subject matter that the Trade Test for Elect IB-II had been introduced wof year 1988 after the issue of orders for three grade structure viz

Electrician (SK) erst while Wireman/Lineman/SDA
Electrician IB-II erst while Electrician etc
Electrician IB-I erst while Charge Electrician

4. All the Electrician were absorbed as Elect IB-II but since the orders for MPI/Instrument repairer (Promoted from Wireman/Lineman/SDA) were withheld they were not absorbed as Elect IB-II through verified having passed the Trade test of Electrician. All as per the Electricians who had been considered as equivalent and qualified to Elect IB-II, On the same analogy they are deemed to have qualified the Trade Test of Elect IB-II.

5. The relative seniority wof date of introduction of three grade structure (at par with other equivalent categories of Elect brought under the three grade structure) have now been allowed as per AM E-in-C's Branch letter No 91026/RIC(5) dated 06 Jun 94/91026/RIC (5) dated 22 Dec 88.

6. In view of the above decision of the AM E-in-C's Br for implementation of all other benefits /Scale etc as one Time Relaxation kindly be obtained.

1090, 1085
1141

(Vipin Bakshi)
Major
Mjt/in
for Cdr Wks Engrs

Copy to:-
GE 311 char

for info wrt their letter No 1021/A/1030/E1 dated 25 Mar 95.

RAGU/202

Tele: 3019107

Army Headquarters
 Engineer-in-Chief's Branch
 BHQ PO, Kashmir House
 New Delhi-110011

No 90270/73/86/EIC(3)

Chief Engineer(3)

Southern Command Pune
 Eastern Command Kolkata
 Central Command Lucknow
 Western Command Chandimandir
 Northern Command C/o 56 AFO
 ADG (OP) R & D Hyderabad

09 Apr 02

COMMENTS ON THE REPORT OF THE EXPERT COMMITTEE
FOR IMPLEMENTATION OF CAT KOLKATA BENCH ORDER
IN OA No 11897 FILED BY SHI PR MOLANTA & OTHERS

1. An expert Committee was constituted on the orders of the Hon'ble CAT Kolkata to examine the grievances of the applicants of subject OA, for the purpose of removal of anomalies as claimed by the applicants. The Committee has now submitted its report. Copy of extract of the report is forwarded herewith.
2. Action is required to be taken on the recommendations of the Expert Committee regarding the anomalies pertaining to all the effected employees of MES.
3. In view of above, you are requested to offer your comments on the Expert Committee Report so that no further anomalies are created while implementing the recommendations of the Expert Committee Report. Your views/comments should reach this office by 15 May 2002.

Encl. As above

(Raj Kumar)
 LICM
 SOE EIC
 For E-in-C

Attested
 Writs
 Advocates

In order to conduct this study in the matter, the Committee collected 20 numbers of various government orders and instructions issued by Ministry of Defence and E-in-C's Branch AHQ i.e. EIC. These letters are listed as Annexure I and the copies of the same are enclosed.

6. Besides the above mentioned orders/letters/circulars EIC section of E-in-C's Branch were also requested to furnish certain information and documents by the Committee vide letter No. 36323/Court Case/CEI. dated 02 Aug 2001. In response EIC Section provided under mentioned documents for study by the Committee vide EIC Section letter No. 90270/TGS/MISE/EIC (3) dated 03 Oct 2001 (Copy enclosed as Annexure II).

(a) Expert Classification Committee Report in the bound volumes.

(b) Representations submitted by six individuals from Northern Command. Copies of the representations are enclosed as Annexure III to this report.

(c) The copy of executive instructions which was issued the by Govt./E-in-C's Branch in which it was ordered to grant higher pay scale of Rs. 330-480 to 10 percent of SBA and Wireman with effect from 16 Oct 1981. However, this letter could not be traced out and produced to this Committee.

7. In order to ascertain the nature of problem, its causes and effect on the employee, the committee visited certain selected places and met affected employee, their trade-union representatives and also two of the applicants of the subject OA No. 118/1997.

8. The Committee heard the grievances/views of employees as well as the views of the administration, the office orders and statement submitted by the committee are here under:-

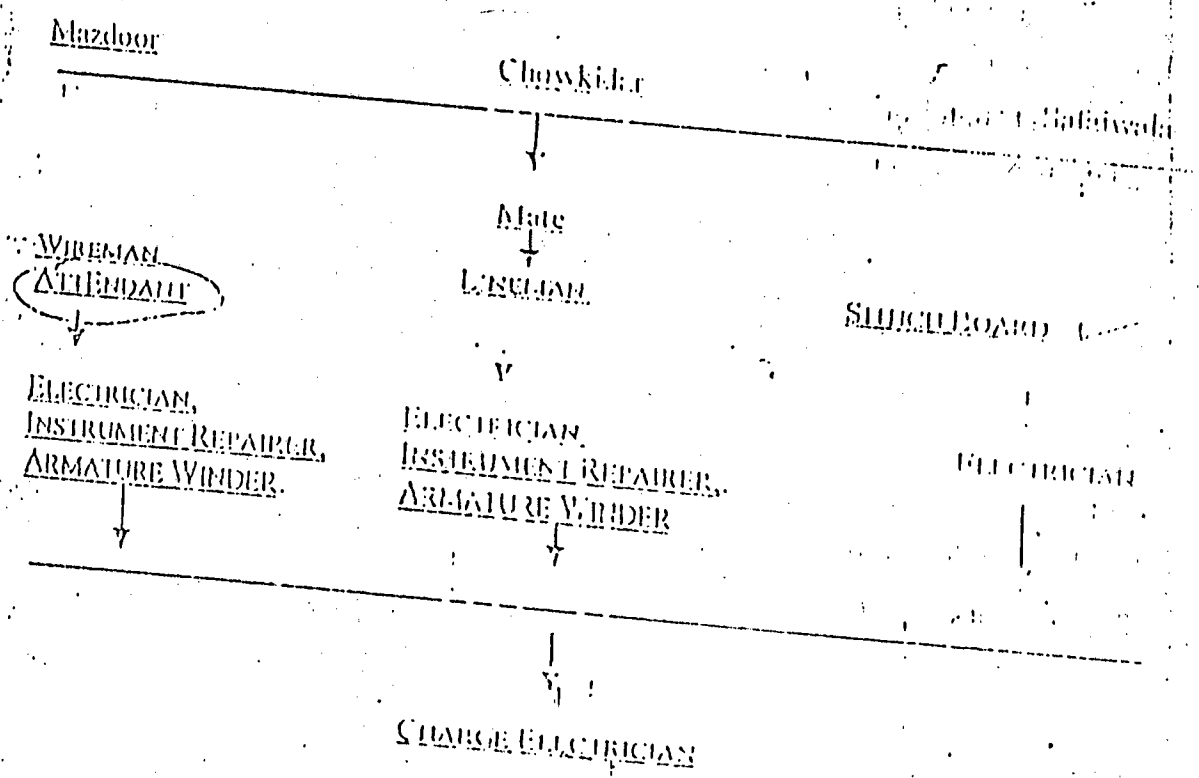
(i) Chief Engineer, Southern Command Pune

Attested
for
Admission

- 58
- 59
- 83
- (ii) Chief Engineer, Pune Zone, Pune
 - (iii) Chief Engineer (Air Force), Bangalore
 - (iv) Chief Engineer (Navy), Kochi
 - (v) CWF(Navy) Kochi
 - (vi) HQ Chief Engineer Eastern Command, Kolkata
 - (vii) Chief Engineer Kolkata Zone, Kolkata
 - (viii) Chief Engineer Siliguri zone, Siliguri

260-
CIRCUMSTANCES LEADING TO DISCREPANCIES IN THE PAY OF SECTION
VIS-A-VIS HIS JUNIORS

9. Prior to fitment of industrial grades posts in various pay scales, the recommendations of Expert Classification Committee and re-structuring of the trades, the components of existing Electrician Category and their line of promotion was as shown below:-



10. The posts of Wireman, Linenan and SwitchBoard Attendant (SBA) were in Semi-Skilled grade with a pay scale of Rs 210-290 and their next higher grade posts for promotion i.e., Electrician, Armature Winder and Instrument Repairer were in the skilled grade with a pay scale of Rs 260-350.

*Attested
Advocate*

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- 61 -
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ANOMALIES COMMITTEE

15. Due to implementation of the fitment as brought out above certain anomalies had arisen. Certain Jobs needed re-evaluation and re-structuring of various grades for implementing the three-grade structure and thus grant of Highly Skilled Grade II & Highly Skilled Grade I, as also certain other problems were required to be resolved. In an effort to remove the anomalies, the govt. thus appointed an Anomalies Committee in 1982 which was headed by an Officer of the rank of a Joint Secretary and ten other members (Six from official side and four from staff side). The committee had submitted its report during May 1984.

*Attested
Advocate*

UPGRADATION OF SKILLED POSTS

13. Further, pursuant to the Expert Classification Committee's recommendation the Ministry of Defence, after discussing the matter with the staff side, approved that a proportion of 10 percent of a few skilled trades posts were granted further or a higher pay scale where it was felt that promotional avenues were limited. Under this scheme, 10 percent of Wireman and SBA were granted a further higher pay scale of Rs 330-430 with effect from 16 Oct 1981. The upgradation was granted strictly on the basis of Seniority without requirement of passing any further trade test etc.

14. After implementation of fitments in the respective pay scales pursuant to ETC recommendations, as approved by the govt., the pay scale of feeder categories of Electrician, Armature Winder and Instrument Repairer not only was upgraded at par with their pay scale, but some of the erstwhile Juniors in the post of Wireman and SBA started drawing even higher pay scale of Rs 330-430 because of the upgradation against a quota of 10 percent of the total vacancies.

*Attested
Advocate*

63 - 76 - 87

INTRODUCTION OF THREE GRADE STRUCTURE

16. Based on the recommendations of Anomalies Committee, Ministry of Defence, introduced three-grade structure in certain common categories of Industrial Tradesmen with benchmark percentages as under: -

- (a) Highly Skilled Gde I - 15%
- (b) Highly Skilled Gde II - 20%
- (c) Skilled Gde - 65%

17. Government orders to implement the above-mentioned three-grade structure were issued vide Ministry of Defence letter No.3310/DS (Ore)/Civ.1/84, dated 15 Oct 1984. As per this Govt. order the three-grade structure was made applicable to 16 common categories which included Electrician and Line Mistry (Lineman in MES). This was to be given with effect from 15 Oct 1984. Consequent upon issue of the Govt. Order, the E-in-C's Branch also issued an executive order to club Electrician and Lineman together for the purpose of granting promotion to HS Gde II and HS Gde I respectively as both these posts were in the same line of promotion. However, for want of detailed instructions regarding implementation, it was not possible for the field units to implement this scheme of three-grade structure and it was not done in most of the places. These orders regarding implementation of three grade-structure were implemented only after detailed instructions were issued vide Ministry of Defence letter No. 101/30/D (ECC/CC) vol. III dated 08 Apr 1986.

18. As per above mentioned Govt. order dated 08 Apr 1986 promotion against initial 20% vacancies in the HS Gde II grade was to be granted on the basis of seniority without any further requirement to pass any trade test etc. (as a one-time measure only) with effect from 15 Oct 1984. Over and above these 20% vacancies a further 15% (wherever applicable) were also to be promoted to HS Gde II against the vacancies pertaining to HS Gde I with effect from the same date i.e. 15 Oct 84 after passing the prescribed trade test in two chances. Those promoted to HS Gde II would thereafter be eligible to be promoted to HS Gde I against the 15% vacancies in HS Gde I.

*Attended
Writings
Advocate*

CLUBBING OF OTHER TRADES/POSTS WITH ELECTRICIAN

19. In 1987, the Ministry of Defence vide their letter No. 91026/EIC/38/D (W-II), dated 24 June 1987 codified and re-designated the under-mentioned categories as Electrician Category:-

- (i) Armature Winder
- (ii) Lineman
- (iii) Switch Board attendant (SBA)
- (iv) Wire-man

Subsequently Instrument Repairer Category too was codified/re-designated as Electrician vide Ministry of Defence letter No. 91026/EIC (3)/672/D (W-II), dated 21 Feb 1994 read with letter No. 91026/EIC (3)/2395/D (W-II), dated 28 June 1994.

20. Consequent to clubbing up of the above mentioned categories with Electrician Category there was this requirement to review the promotions which were granted earlier to 20 % of Electricians/Linemen. In view of this, instructions were issued by E-in-C's Branch vide letter No. 91026/EIC (3), dated 22 Dec 88 instructing the field units to prepare a combined Seniority list of Electricians after the clubbing with these categories. As per the instructions all the Electricians (who were promoted from Lineman, Wireman and SBA) were to be placed en-block senior to others. As per

Attested
Advocate

HIGHER PAY SCALE TO A JUNIOR

21. On the combined seniority of Electricians which was recast after inclusion of Wireman, SBA etc Electrician, Armature Winder, Instrument Repairer were placed enmasse senior to Wireman and SBA. However, since certain Wireman and SBA were already granted higher pay scale of Rs 330-480 with effect from 16 Oct 81 against 10% vacancy and they were all to be placed below Electrician, Armature Winder and Instrument Repairer. This, thus created a situation that a junior was drawing higher pay scale than his senior was drawing. Subsequently when they were further promoted to higher grades the anomaly was carried over to HS Gde I and further higher level as well.

*Attested
Duty
Advocate*

REPRESENTATIONS AND CASES WITH CENTRAL ADMINISTRATIVE
TRIBUNALS AND COURTS OF LAW

22. The anomaly of a junior Electrician drawing higher pay than the senior was thus to become a cause for generating representations from many a number of employees. Due to various reasons, it appears that there was no positive remedial action, which was taken to redress these grievances of the employees. As complete old records/files are not presently available the reasons for not taking action to resolve the issue could not be ascertained by this committee. On account of the anomaly there have been several cases filed by the aggrieved individuals in the Central Administrative Tribunal and the affected employees in most of these cases were granted relief through the orders/judgements by the respective benches of the Central Administrative Tribunal. In 1997, on this very issue, one Shri PK Mahanta and six other Electricians working in Siliguri Area filed an OA No. 118/1997 in the Central Administrative Tribunal Calcutta Bench. In that OA Hon'ble Central Administrative Tribunal instead of directing the respondent department to grant relief to the petitioner has directed the respondent to appoint an Expert Committee to take the decision in the matter and to resolve the anomaly as claimed by the applicants. Accordingly the Ministry of Defence had constituted this committee

*Attested
Advocate*

OBSERVATIONS OF THE COMMITTEE

23. After studying the complete case, the committee has come to the conclusion that the disparity in the pay of the senior vis-à-vis his junior in the Electrician category has occurred because of the grant of higher pay scale of Rs 330-480 to 10% of Wiremen and SDAs with effect from 16 Oct 81 as the cut-off date, without considering the fact that the line of promotion of these categories was that of an Electrician. As per the instructions issued, the higher Scale of Rs 330-480 was granted to 10% of the wireman and SDA who were holding their post as on 16 Oct 81. Those Wiremen and SDAs who were already promoted to next higher grade i.e. Electrician, Armature Winder or Instrument Repairer were deprived of the benefit of this up-gradation even though they were senior to these Wiremen and SDAs who did receive the benefit of higher pay scale simply because on the particular cut-off date they happened to be within the first 10% amongst the Wiremen and SDAs on the rolls of a particular CWE. Further, out of three categories of feeder grades to Electrician, Armature Winder and Instrument Repairer, only Wireman and SDA were granted the benefit and the third category i.e. Lineman was excluded.

24. Prior to issue of Ministry of Defence letter No.91026/EIC/88/D (Civ-II) dated 24 Jun 87, the cases of a junior drawing higher pay than the senior was not existing because of the fact that after attainment of trades as per ECC recommendations the post of Wireman and SDA were upgraded to skilled category and had ceased to be in the hierarchy of Electrician category. Their line of promotion to Electrician, Armature Winder and Instrument Repairer had been snatched after their pay scale came at par with their erstwhile promotional post. However, after issue of the govt. letter dated 24 Jun 87, wherein all the categories were again clubbed into one category the anomaly came to surface. Since all the categories were pooled into one combined seniority.

25. It has been observed by the Committee, that as per para 2 (c) (iii) of E-in-C's Branch letter No.91026/EIC (J) dated 22 Dec 88, those Wiremen and SDAs who had been granted higher pay scale of Rs 330-480 against 10% vacancies as on 16 Oct 81 were to be placed in the seniority list HS Grade II below other HS Grade II incumbents.

26. The Committee considers that these instructions are not in order because this would place the erstwhile linemen in a position of disadvantage for no fault of theirs. For example, it is illustrated this with an example set out in the subsequent para below.

Shri. P. S. Advocate

27. Let us assume that there are two individuals Sanvishri A and B. Shri A was promoted as a Lineman in 1977 and Shri B was promoted as a Wireman in 1979. Shri A has got the benefit of higher pay scale of Rs 330-430 w.e.v. 16 Oct 81 against a quota of 10% of the total vacancies of Wireman in a particular CWI area without any net on his part because of this one-time up-gradation. Thus it would be observed that Shri A, who is senior to Shri B, remained in the pay scale of Rs 260-400 without any fault or failure on his part because of this one time up-gradation suddenly coming up. Now if Shri B is placed in the seniority of HIS Grade II above as compared to Shri A, it will be injustice to Shri A who is placed in the Seniority list of a lower grade and thus will also remain at a disadvantage as compared with Shri B whereas he was senior to him and has done nothing adverse which causes him to deserve this file.

28. In view of above the Committee suggest that E-in-C's Branch should review the instructions in this regard.

29. It has also been observed by the Committee that in E-in-C's Branch letter dated 22 Dec 1983 the instructions regarding fixing of seniority in combined Electrician category speaks only about placing Electrician category empaneled senior to others. It does not mention anything regarding fixing of Seniority in a similar manner in respect of Armature Winder which was also clubbed with Electrician vide Govt. Order dated 24 June 1987. Further, consequent to inclusion of Instrument Repairer in Electrician Category in 1994, similar treatment is also necessary to be given to this category.

30. The anomalies in the matter of pay etc appear to have occurred because the instructions on fitment, red signation and clubbing of various categories have been issued by different section in the Ministry of Defence viz D(EIC), D(Civ-I) and D(W-I) at different points of time.

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RECOMMENDATIONS OF THE COMMITTEE

31. (a) As per the govt. policy a senior employee cannot be allowed to draw lesser pay than his Junior unless there is something adverse against him. This policy is reflected in the Government of India decisions/instructions under Fundamental rules. As per Govt. Order under FR 22, when a Junior employee starts drawing pay at higher stage in the pay scale due to application of pay fixation rules the pay of the senior has to be stepped up at par with the pay of the Junior. Although these provision of the rules cannot be applied in toto in the case of the senior electrician but the committee recommends that the spirit of the govt policy as enunciated in the Fundamental Rules should also be applied in these cases and the senior electrician should be granted higher pay scale of Rs 330-480 with effect from 16 Oct 1981 at par with their juniors. Since seniority/promotion etc. in respect of industrial personnel in MES are C.W.E. area based for the purpose of identification of senior or junior it should be on C.W.E area basis. In other words in any C.W.E area if any junior Wireman or SBA had been granted higher pay scale of Rs 330-480 wef 16 Oct 1981, the pay of their senior counterpart who had already been promoted to Electrician, Armature Winder or Instrument Repairer prior to 16 Oct 1981 or those Linemen who were senior in the grade as compared to those 10% of Wireman and SBA their pay should also be upgraded to the scale of Rs 330-480 with effect from the date their juniors were granted with all consequential benefits.

(b) In view of the facts as brought out in the observations of the committee in paras 24 to 27, the instructions regarding fixation of seniority vide E-In-C's Branch letter dated 22 Dec 88 is also recommended to be reviewed.

(c) To obviate any further cases going to the Central Administrative Tribunal or becoming causes for grievances/litigation, it is recommended that the C.W.E. concerned be empowered to deal with such cases in the light of FR 22 which can be applied mutatis mutandis, since this rule is not applicable in toto in this context.

(d) The committee during the course of interaction with all concerned in the field units, have also learnt that similar situation may arise in case of certain other categories such as Fitter General Mechanic, which has been created after clubbing several categories of industrial personnel. It is recommended that the same principle may be made applicable in this case too.

Advocate
Advocate

clubbing several categories of industrial personnel. It is felt that the same principle may be made applicable in this case too.

(c) Experts Classification Committee in their deliberations for job evaluation and analysis had observed that the process of job evaluation and analysis is a continuous one and ought to be made a regular feature and a periodical exercise.

(Paras 8.10 to 8.12 on page 15-16 of the report and recommendations ix, x, xi on pages 71-72 refer)

32. The technological changes have brought in a host of far-reaching consequences in the skills requirements, qualifications, experience, hazard, responsibility etc. of the workers and with more automation coming up, these changes will become faster. It is therefore, imperative that this exercise of job evaluation and analysis is made a regular feature at a periodicity of two/three years.

(SK Bhargava)

Chief Engineer

Chairman Expert Committee

SURESH CHITRAL SAO

MEMBER

SURESH KASHI AFA

MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 188 of 2003.

Date of Order : This the 26th Day of July, 2005.

The Hon'ble Mr Justice G.Sivarajan, Vice-Chairman
The Hon'ble Mr K.V.Prahladan, Administrative Member.

Shri Narendra Chandra Das Choudhury,
Son of Late Nagendra Chandra Das Choudhury,
Electrician H.S. II
Office of the Garrison Engineer,
Masimpur, MES,
P.O. Silchar-25,
Dist. Cachar, Assam.

... Applicant

By Advocate Shri M.Chanda

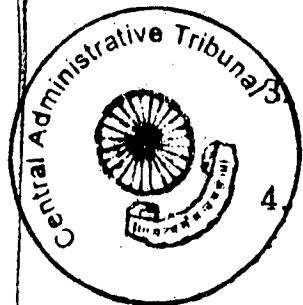
- Versus -

1. The Union of India,
represented by the Secretary to the
Government of India, Ministry of Defence,
New Delhi.
2. The Headquarter Chief Engineer,
Eastern Command,
Fort William,
Kolkata.

The Command Works Engineer,
S.E.Falls, Shillong-11.
4. The Army Headquarter Engineer-in-
Chief's Branch, Kashmir House,
P.O. New Delhi, New Delhi-110011.
5. The Garrison Engineer,
Silchar.
6. Md./ M.R.Laskar,
O/o the Garrison Engineer,
Silchar, Viranti,
P.O. Lailapur,
C/O 99 APO.
7. Sri S.C.Nath,
O/o the Garrison Engineer,
Silchar, Masimpur,
P.O. Arunachal,
C/O 99 APO.

... Respondents

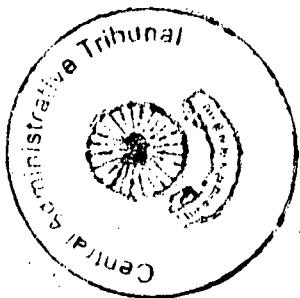
By Shri A.K.Chaudhuri, Addl.C.G.S.C.



Shri A.K. Chaudhuri
Advocate

ORDERSIVARAJAN I.(V.C)

The applicant is presently working as Electrician HS-II in the office of the Garrison Engineer under the 5th respondent. He has filed this application seeking for direction to the respondents to promote him to the cadre of Electrician HS-II with immediate effect at least with effect from 15.10.1984 in the light of the instructions contained in the Army Head-quarter's letters dated 10.2.1995, 9.4.2002 and 24.5.2003 with all consequential service benefits including monetary benefits by necessary modification of the promotion order of the applicant dated 7.4.97 in the cadre of Electrician HS-II. The applicant claims the benefit of fitment of industrial workers of MES in pay scales recommended by the third pay commission. It is the case of the applicant that though the letter dated 15.10.1984 issued by the Government of India, Ministry of Defence had conveyed the sanction of the President for upgradation of the semi skilled grade Rs.210-290/- to the Skilled grade Rs.260-400/- in the case of 14 job titles and for fresh induction to the trades listed in the order, inter alia from direct recruits with ITI certificate/Ex-trade apprentices/NCTVT etc. inducted in the semi-skilled grade, who have rendered 2 years service in that grade the post held by the applicant viz Instrument Repairer has not been included. The post of Instrument Repairer renamed as Mechanic Precision Instrument (MPI) has not been included in the list of persons entitled for upgradation. It is stated that wireman-electrician (SK) were included as it is evident from the Government letter dated 24.6.1987 (Annexure-4). Even then the post of

*Handwritten signature/initials.*

Instrument Repairer or MPI has not been included. The applicant referred us to the communication dated 2.5.1994 (Annexure-5) containing copy of Govt. of India letter No.91026/EIC/(3)/672/D dated 21.2.1994 which added Instrument Repairer - Electrical (SK) as S.No.6(b) in the Ministry's letter dated 24.6.1987 and also the communications dated 19.4.95 (Annexure-6), 13.1.97 (Annexure-7) and submitted that the applicant is entitled to be upgraded to the Electrician HS-II grade i.e. to Rs.330-480/- under the 20% vacancy from 15.10.84. The applicant made representation dated 27.12.96 (Annexure-9) which was forwarded to the AGE, Silchar with recommendation as per communication dated 26.5.97 (Annexure-10). He made further representation dated 19.11.99 (Annexure-11) before the Commandant Works Engineers, MES, C/o 99 APO followed by representation dated 3.9.2001 (Annexure-12) which was also forwarded as per communication dated 28.2.2001 (Annexure-13). The applicant had also made further petition dated 19.5.2003 and 16.8.2002 (Annexure 16 and 17 respectively). The respondents have sent a communication dated 24.5.03, Annexure-18 to the Garrison Engineer, Silchar with copy to the applicant. As already stated the applicant wants the benefit of upgradation to Highly Skilled grade in 20% quota with effect from 15.10.1984.

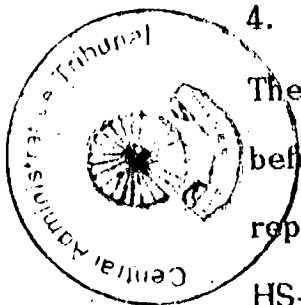
2. The respondents have filed a written statement where it is stated that the claim of the applicant is hopelessly barred by limitation on account of long lapse of about 10 years. It is stated that if any directions are issued at this point of time it will affect lot of other persons who are not in the party array. It is also stated that the applicant got his benefit under Annexure-18 order dated 24.5.2003.

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3. We have heard Mr M.Chanda, learned counsel for the applicant and Mr A.K.Chaudhuri, learned Addl.C.G.S.C for the respondents. Mr Chanda, on the basis of documents annexed with the application and based on pleadings, submits that the applicant is entitled to the relief sought for in this application. Mr A.K.Chaudhuri, learned Addl.C.G.S.C on the other hand submits that the claim for upgradation of the semi skilled grade-II to the highly skilled Grade-I with effect from 15.10.1984 is a highly belated one. He further submits that if the applicant has passed the skilled trade test he will be given promotion from HS-II to HS-I as stated in the communication dated 24.5.2003 (Annexure-18). Mr Chanda, learned counsel for the applicant then submitted that the Calcutta Bench of the Tribunal had issued certain directions in the matter of anomaly occurred in the upgradation as evident from the communication dated 9.4.02 (Annexure-A to the rejoinder) and submitted that it cannot be said that the claim has become stale.

4. We have considered the rival contentions of the parties. The applicant has made various representations which are pending before the authorities. No decision has yet been taken on those representations in the matter of promotion to the post of Electrician HS-II and for that matter Annexure-18 order reads thus :

"Application dated 16 Aug 2002 and 21 Mar 2003 alongwith its connected documents submitted by MES-228330 Shri NC Das Choudhury, Elect HS-II received vide your letter under reference are returned herewith. In this connection, after passing of trade test for HS-II to HS-I which was conducted by HQ CE SZ Shillong during 04 & 05 Dec 2002, the individual can be promoted to Elect HS-I with notional seniority at par with his juniors who have been promoted from Elect (SK) to Elect HS-II earlier with pay benefit of Elect HS-I only. Please inform the individual accordingly



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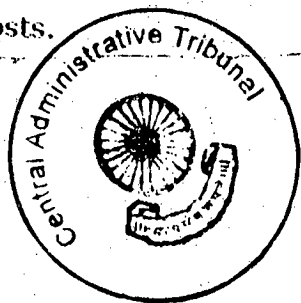
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as conveyed vide our earlier letter No. 1228/NCDC/28/E1C(2) dt. 05 Apr 97."

Thus according to the applicant even after passing the trade test also this has not been implemented by the respondents and no final decision in this regard has yet been taken by the respondents. Considering all aspects of the matter we direct the applicant to file a detailed representation narrating his grievances within one month from today and if such representation is received by the respondents the respondents are directed to pass appropriate order thereon within four months from the date of receipt of such representation. We make it clear that the representation must be with regard to the implementation of Annexure-18 order and in respect of matters stated in the letter dated 9.4.2002 which is the recommendation of an Expert Committee with regard to certain anomalies. The decision taken thereon will be communicated to the applicant without delay.

Application is accordingly disposed of. No order as to costs.



Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)

Notified to be true Copy

प्रमाणित प्रतिलिपि

[Signature]

अनुभाग अधिकारी
for Section Officer (Judl)
Central Administrative Tribunal

गुवाहाटी-5
GUWAHATI-5.

[Signature]

To,

The Army Head Quarter,
Engineer-in-Chief's
Branch, Kahsmir House,
P.O. New Delhi,
New Delhi-110011.

(Through proper Channel)

Sub:- Submission of representation for consideration of promotion with retrospective to the cadre of HS II and HS I at par with juniors in the light of the Govt. orders, with all consequential benefit in the light of the direction contained in the judgment and order dated 26.07.2005 and also praying for implementation of the judgment and order dated 27.07.2005 in O.A. No. 188/03 (N.C. Das Choudhury -Vs- U.O.I & Ors.) by the CAT, Guwahati Bench.

Respected Sir,

Most humbly and respectfully I beg to say that being highly disappointed for non consideration of my promotion to the cadre of HS II and HS I with retrospective effect at par with juniors in terms of the Govt. orders issued from time to time and also on the ground of discrimination and differential treatment towards me on the matter of retrospective promotion, despite the Govt. orders, in such compelling circumstances I approached the Learned C.A.T Guwahati Bench, Guwahati for redressal of grievances by filing an original application under Sec 19 of the Administrative Tribunal Act, 1985, the said original application was registered as O.A. No. 188/2003 (N.C.Das Choudhury -Vs- U.O.I and others).

The aforesaid application was submitted along with following prayers:

- 8.1 That the respondents be directed to promote the applicant to the cadre of Electrician (HS II) with immediate effect at least with effect from 15.10.1984 in the light of the instructions contained in the Army Head quarter's letters dated 10.02.1995, 09.04.2002 and 24.05.2003 with all consequential service benefit including

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Received
Jwb. to AHEIM
JE EIM
12 Aug 2005

Attested
Advocate

monetary benefit by necessary modification of the promotion order of the applicant dated 7.4.97 in the cadre of Electrician H.S-II.

8.2 To direct the respondents to consider the promotion of the applicant of the applicant in the cadre of Electrician H.S.I at least with effect from the date of promotion of his immediate juniors in the light of the instruction contained in the letter issued by the Govt. of India. dated 15.10.1984, 10.2.1995, 9.4.2002 and 24.5.2003 with all consequential service benefits including seniority and monetary.

8.3 Costs of the application.

8.4 Any other reliefs(s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

The said original application was contested by the official respondents and the matter was finally heard and disposed of on 26.07.2005 and the relevant portion of the judgment i.e para 4 is quoted below;

"4. We have considered the rival contentions of the parties. The applicant has made various representations which are pending before the authorities. No decision has yet been taken on those representations in the matter of promotion to the post of Electrician HS-II and for that matter Annexure-18 order reads thus:

" Application dated 16 Aug 2002 and 21 Mar 2003 alongwith its connected documents submitted by MES-228330 Sri N.C. Das Choudhury, Elect HS-II received vide your letter under reference are returned herewith. In this connection, after passing the trade test for HS-II to HS-I which was conducted by HQ CE SZ Shillong during 04 and 05 Dec 2002, the individual can be promoted to Elect. HS-I with notional seniority

at par with his juniors who have been promoted from Elect (SK) to Elect HS-II earlier with pay benefit of Elect HS-I only. Please inform the individual accordingly as conveyed vide our earlier letter no. 1228/NCDC/28/E 1 C (2) dated 05 Apr 97.

Thus according to the applicant even after passing the trade test also this has been implemented by the respondents and no final decision in this regard has yet been taken by the respondents. Considering all aspects of the matter we direct the applicant to file a detailed representation narrating his grievances within one month from today and if such representation is received by the respondents, they are directed to pass appropriate order thereon within four months from the date of receipt of such representation. We make it clear that the representation must be with regard to the implementation of Annexure-18 order and in respect of matters stated in the letter dated 9.4.2002 which is the recommendation of an Expert Committee with regard to certain anomalies. The decision taken thereon will be communicated to the applicant without delay.

Application is accordingly disposed of. No order as to cost"

In view of the aforesaid direction I am submitting the instant representation with the following facts and grounds with relevant documents for your kind consideration.

- 1968- The applicant was initially appointed as Wireman on regular basis under C.E. Silchar, MES.
- 1972- The applicant was allowed to appear in the Trade Test after being found eligible for consideration of his promotion to the post of Electrician.
- 17.2.1978- The applicant was declared quasi permanent w.e.f 3.6.1971 vide letter dated 17.2.1978 (Annexure-1)

- 1982- The applicant appeared in the trade test for consideration of his upgradation to the post of instrument repairer, which subsequently redesignated as Machine Precision Instrument (in short-MPI)
- 8.12.1986- The applicant declared passed in the trade test vide P.T.O No. 49/86 (Annexure-2)
- 15.10.1984- The Deputy Secretary, Govt. of India, Ministry of defence introduced a three grade structure for facilitating promotional avenues of the MES industrial workers vide office order bearing no. 3310/Ds/(QSM)/Cir-I/84 dated 15.10.1984.1(Annexure-3)
- 24.08.1987- The Govt. of India, Ministry of Defence vide order bearing letter no. 91026/E-I-C/68/116/D(W-II) rationalized certain traders of the industrial cadre by way of redesignation.
- 30.09.1991- Applicant submitted representation praying for promotion in the grade of HS-II as well as HS-I.
- 21.2.1994- The Govt. of India, Ministry of Defence vide letter no. 91026/E-I-C(3)/672/E (W.II) issued an addendum made a further amendment by redesignating the post of 'Instrument-Repair' to the cadre of 'Electrician (SK).
- 2.5.1994- The aforesaid amendment is communicated vide GE's letter no. 1000/P/1534/E-I (Annexure-5)
- 10.2.1995- The office of the E-in-C's Branch, army Headquarter, New Delhi instructed all the commands to convene review DPC's to consider the promotion of the incumbent holding the post instrument repairer/M.P.I. to the cadre of Electrician H.S.II). (Annexure-6).
- 21.2.1995- The applicant was awarded commendation certificate issued by the G.E.

- 5.11.1996- Some of the instrument repairer who were similarly situated like that the present applicant were considered for antedated promotion by holding review DPC.
- 13.1.1997- Some of the instrument repairer who are junior to the present applicant were promoted to the post of electrician HS-I vide their promotion order dated 13.1.1997. (Annexure-7)
- 1995- Applicant was allowed to appear in the trade test for consideration of his promotion to the post of electrician HS-II.
- 7.4.1997- Applicant passed the trade test and was promoted to the post of electrician HS-II vide order dated 7.4.1997.
- 27.12.1996- Applicant submitted representation praying for his promotion to the grade of HS-II and HS-I.
- 19.11.1999- Applicant submitted representation interalia praying for consequential promotional benefit both in the grade of HS-II and HS-I (Annexure-11).
- 3.9.01- Applicant submitted representation which was forwarded to the HQ, 137 works engineer.
- 4.12.02/5.12.02- Applicant appeared in the trade test for electrician HS-I.
- 23.6.03- Applicant declared passed vide G.E.Silchar part-II order no.25. (Annexure-15)
- 15.5.03/16.8.03- The applicant again submitted representation for consideration of his promotion as well as notional seniority both in the grade of HS-II and HS-I.
- 21.5.03- The Commander works engineer, vide his letter bearing no. 1228/DPC/204/EIC (2) informed the applicant that he may be promoted to electrician HS-I with notional seniority at par with his juniors who have been promoted to electrician (SK) to electrician HS-II earlier, with pay benefit with electrician

HS-I as conveyed earlier vide letter dated 5.4.1997.
(Annexure-17)

9.4.02 The army H.Q. Engineer-in-Chief branch, New Delhi vide its letter informed that an expert committee was constituted on the order of the Hon'ble CAT. Kolkata passed in O.A.No.118/97 for redressal of grievances of employees.

In view of the following factual position the undersigned is legally entitled to benefit of retrospective promotion and seniority with monetary benefit at least with effect from 15.10.1984 in the cadre of HS-II, more so in view of the following grounds:-

- 1) For that the post of instrument repairer/MPI has been redesignated as Electrician SK after a lapse of about 10 years by the Govt. itself vide order dated 21.02.1994 to extend the necessary benefit contained in the Govt. order dated 15.10.1984.
- 2) For that there was a clear direction of the Govt. of India issued vide order dated 10.2.1995 to hold the review DPC for IR/MPI who are otherwise eligible for promotion. The relevant portion of the Govt. order dated 10.2.1995 is quoted below:

b). Review DPC's are to be convened and IR/MPI who are otherwise eligible for promotion, be considered for promotion to Elect. HS II with notional seniority at par with their immediate junior Elec SK/Wireman who have already been promoted to the Elect. HS II.

But surprisingly the aforesaid direction of the Govt. itself has not been complied with deliberately by the authority to extend the benefit of order dated 10.02.1995

3. For that nos. of representation has been submitted to the authorities and my grievances although acknowledge by the authorities but no steps has been taken to redress the grievances.
4. For that the order dated 10.2.1998 has been implemented in respect of Sri Satya Gopal Bhattacharjee, Rathindra Nath Brahmachary, the then electrician GK working under CWE, Shillong and given promotion benefit of HS-II w.e.f 15.10.1984 with arrear monetary benefit vide order 1455/DPC/96-97/49/E1 A dated 13.01.1997 issued by CWE, Shillong. Be it stated that Sri Bhattacharjee and Brahmachary are junior to me. But I am discriminated in the matter of retrospective promotion to the cadre of HS-II and as result also denied consequential benefit of retrospective promotion to the post of HS-I.
5. For that other juniors namely M.R. Askar, S.C. Das and Sri Ramakanta Das were also granted promotional benefit from due date both in the cadre of HS-II and HS-I but the same has been denied to me for the reasons best known to the authorities. It is obligatory on the part of the Govt. to comply with its own order in the manner it is directed.
6. For that the undersigned have passed the trade test in the cadre of HS-II but the benefit of promotion was granted only with effect from 12.8.1996 vide FTO No. 14 dated 7.4.1997. as such there is no difficulty on the part of the authority for antedating my promotion with seniority at least w.e.f 15.10.1984 with all consequential benefit.
7. For that I have also declared passed for the trade test for HS-I vide order dated 4.12.02/5.12.02 as such entitled further promotion to the cadre at par with my juniors whose names are indicated above with all consequential benefit.
8. For that my case for removal of anomalies in fixation of pay on promotion to the cadre of Electrician HS -II has been forwarded by the local authority

and taken up vide the letter bearing no. 106/1138/E 1 dated 28.02.2001 and also vide letter no 1612/608/EIR dated 27.2.2002 and also vide letter no. 106/423/E1 dated 29.09.2001.

9. For that the undersigned have been granted "COMMENDATION CERTIFICATE" as diligent worker by the G.E. Silchar.
10. For that even the order contained in HQ, Chief Engineer, Shillong Zone letter no. 1223/94/F. IC (2) dated 14.07.95 also not implemented in my favour.
11. For that the assurance given by the CWE in his letter dated 5.4.97 referred in paragraph 4 of the judgment also not implemented in my favour and no action has been taken thereafter for antedating my promotion and seniority, with arrear monetary benefit both in the cadre of HS-II and HS-I.
12. For that even after passing of the Army H.Q letter dated 9.4.2002 whereby an expert committee is constituted following the direction passed by the learned C.A.T, Kolkata Bench in O.A 118 of 1987 for removal of anomalies which are cropped up for implementation of the various Govt. orders in different manner in different places and also for non enforcing the Govt. orders extending the benefit of retrospective promotion in an equal manner as required under the law and as a result govt. order has been implemented in a selective manner which is not permissible under the law but due to implementation of Govt. orders as indicated above. Therefore the anomalies, which cropped up in the instant case are also liable to be removed following the direction contained in the Army HQ letter dated 9.4.2002.

The following documents are enclosed herewith for your ready reference;

- 1) Copy of the order dated 15.10.1984.

- 2) Copy of the order dated 24.06.1987.
- 3) Copy of the promotion order dated 13.1.1997 issued in favour of Sri S.G. Bhattacharjee and R.N. Brahmachary whereby antedating promoting and seniority has been granted with arrear monetary benefit to the cadre of HS-II w.e.f 15.10.1984 in terms of Govt. order 10.02.1995.
- 4) Copy of the Govt. letter dated 21.02.1994.
- 5) Copy of the part II order dated 23.06.2003.
- 6) Copy of the letter dated 24.05.2003.
- 7) Copy of the letter dated 14.07.1995.
- 8) Copy of the Govt. letter dated 9.4.2002.
- 9) Copy of the judgment and order dated 26.7.2001 passed in O.A.No 422/99 in similar facts and circumstances, which was expected and implemented by the department without preferring any appeal.
- 10) Copy of the judgment and order 26.7.2005 passed in O.A.No. 188 of 2003.

In view of the above factual position undersigned is entitled to benefit of antedated promotion and seniority at least w.e.f 15.10.84 at par with his juniors and further entitled to benefit of HS-I at least from the date of juniors promotion to the cadre of HS-I and on the basis of his seniority in the cadre of HS-II with all consequential benefit including arrear monetary benefit.

The undersigned is in the verge of retirement as such the prayer of the applicant may be granted as early as possible.

With regards,

Yours faithfully

N.C. Das Choudhury
(N.C. DAS CHOUDHURY)
Electrician HS-II
MES No. 228330.
GE, Silchar.

Date: 10/12 August 2005

*Attested
Public
Advocate*

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Tele:Mil:2500

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ANNEXURE-23
Office of the GE Silchar Division
Military Engineer Services
PO: Arunachal, Dist: Cachar
Pin - 788025

1021/A/NCDC/127/E1E

29 Apr 06

MES/228330

✓ Shri N C Das Choudhury,
Elect HS II

CONSIDERATION OF PROMOTION WITH RETROSPECTIVE
TO THE CADRE OF HS II AND HS I AT PAR WITH
JUNIORS IN THE LIGHT OF THE GOVT ORDERS

1. Speaking Order received from HQ 137 Wks Engrs letter No 1015/188/03/NCDC/187/E1 Court dt 15 Apr 06 is submitted herewith for your information.

[Signature]

(D R Das)

AE

AGE 'T'

For Garrison Engineer

Encls : 03 Sheets

*Attested
Auth
Advocate*

Tel: 040 (W/L)

1015/188/03/NCDC/ 187 /E1Coul

MES-228330 Shri NC Das Choudhury, Elect HS II
 GE Silchar
 Post Arunachal, Dist- Cachar (ASSAM)

(Through GE Silchar)

HEAD POST / ACK DUE
 Headquarters
 13/ Works Engineers
 C/O 99 APO -
 Apr 06

**CONSIDERATION OF PROMOTION WITH RETROSPECTIVE
 TO THE CADRE OF HS II AND HS I AT PAR WITH JUNIORS
 IN THE LIGHT OF THE GOVT ORDERS**

1. Reference your representation dated 10 Aug 05 regarding consideration of promotion with retrospective to the cadre of HS II and HS I at par with juniors in the light of the Govt orders, with all consequential benefit in the light of the direction contained in the judgment order dated 26 Jul 05.
2. Statement made in Para 1 of page 6 of your application dt 10 Aug 05 with regards to re designation of IR/NPI as Electrician SK is agreed but your contention regarding extend of benefit is not agreed. Your case for promotion to Elect HS-II is to be considered as per seniority against 153 vacancies of HS-I for which passing trade test is mandatory. Since you have not passed trade test, you are not eligible for any consequential service benefit of monetary and seniority.
3. Statement made in Para 2 of page 6 of your application ibid that Govt direction has not been complied with by the auth is not agreed. The individuals holding the post of Elect SK earlier, to be placed enblock seniors to others like you as per Army HQ E-in-C's Branch letter No. 90270/73/86/EIC(3) dt 09 Apr 02. They are not your juniors as you have stated. It is also stated that only eligible individuals are to be considered for promotion as per letter quoted in Para 3. In your case, you were not eligible as you have not passed trade test at that point of time.
4. The allegation made in Para 3 of page 7 of your application is not agreed. The reason for not considering ante date seniority with financial benefit was communicated to you in response to your representation. As regards redressal of grievances, it is stated that your claim for ante date seniority is not tenable under extant rule.
5. The allegation made in Para 4 of page 7 of your application is not agreed. DPC is being conducted for giving promotion to selected persons on the basis of vacancy, area seniority and eligibility for respective CWF. Your comparison with junior employees belongs to other CWF is unwarranted.

Attested by the Advocate

6. The statement made in Para 5 of page 7 of your application is not agreed. The names of individuals named in Para 5 are not seniors to you as you have stated. They were holding the grade of Elect HS-II at that point of time. Moreover, they have also passed trade test for HS-I held on 25 Jan 2000.

7. The contention of Para 6 of page 7 of your application is disagreed. Your promotion as Elect II was rightly considered wef 12 Aug 86 based on the date of passing trade test. It may not be possible to consider your ante date seniority at par with juniors since you were not eligible for promotion at that point of time.

8. The contention of Para 7 of page 7 of your application is disagreed. Financial benefit of promotion is based on date of passing trade test. The individuals holding the post of Elect HS-II earlier are senior to you. Therefore, comparison in this case is not justified.

9. The contention of Para 8 of page 7 of your application is agreed.

10. The contention of Para 9 of page 8 of your application is agreed. The purpose of giving commendation is to boost the morale of individual and it has no link with promotion.

11. The contention of Para 10 of page 8 of your application is disagreed. It is clearly stated in HQ CESZ letter No. 70203/7/3490/EIC(2) dt 19 Apr 95 that eligible IR/MPI be considered for promotion to Elect HS-II since you have not fulfilled the eligibility condition, you were not considered for promotion to Elect HS-II.

12. The statement made in Para 11 of page 8 of your application is agreed. The assurance given by C&E is contrary to existing rule. Therefore, it can't be taken as authority for granting ante date seniority.

13. The contention of Para 12 of page 8 of your application is not agreed. Action has been taken by the deptt rightly in accordance with Para 18 of Army HQ E-in-C's Branch New Delhi letter No. 90270/73/86/EIC(3) dt 09 Apr 02.

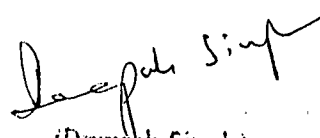
14. In view of the above the representation for consideration of promotion was examined by the competent authority at this Headquarter. Three grade structure facilitating promotional avenue of industrial workers was introduced vide Govt of India, Min of Def letter No. 3310/DS/O5A/Civ-1/84 dt 15 Oct 84. As per the above letter, 15 categories were identified for upgradation as skilled categories and instrument repairer which you were holding at that point of time was not included at that list.

Later on, after a gap of 10 years, instrument repairer was re-designated as Elect (SK) by Govt of India, Min of Def Order No. 91076/EIC/20372/B(W-12) dt 21 Feb 94. The individuals holding the post of Elect (SK) earlier, were to be placed enblock senior to others like instrument repairer. 70% vacancies of Elect HS-II were to be filled up by promoting Elect SK to HS-II as per seniority without fulfilling the requirement of passing trade test. Over and above this figure, Elect SK can also be promoted to HS-II grade against 15% vacancies of HS-I subject to passing of Trade Test in two chances. You have not passed trade test at that point of time which is a mandatory requirement as per records available.

16. Therefore, in view of Govt policies, your contention for notional seniority with monetary benefit wef 15 Oct 84 is not correct.

17. In view of foregoing, Hon'ble CAT Guwahati judgement order dt 26 Jul 05 on Original Application No 188/2003 stand implemented.

18. This order has concurrence of Engineer-in-Chief's Branch, Army HQ.



(Deepak Singh)
Col
CWE

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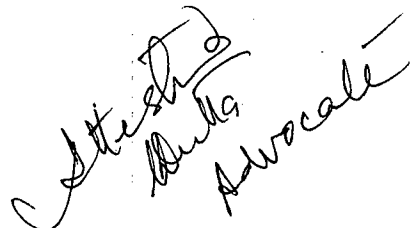
E-in-C's Branch - for info please.

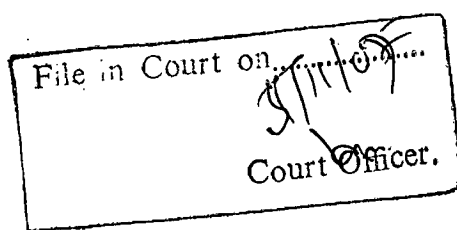
Army HQ
New Delhi- 110 011

HQ Eastern Comd - for info please
Engrs Branch
Fort William
Kolkata

HQ CE Shillong Zone - for info please.
SE Falls Camp
Shillong- 71

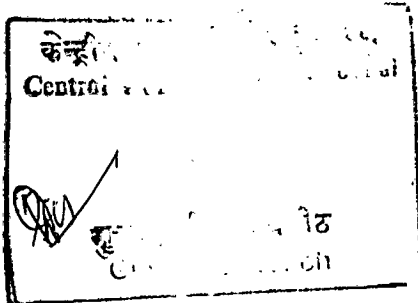
GE Silchar - for info please
Post Arunachal
Assam


Advocate



Filed by 113
The respondents
through
Magistrate
Addl. C.G.S.C.
CAT
2/11/07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



In the matter of:

O.A. no.17/07

Sri N.C.Das Choudhury

...Applicant

-Vs-

Union of India and ors

...Respondents

-AND-

In the matter of:

Written statement on behalf of
the respondents. No. 1 to 5

(Prabhakar Mittal)

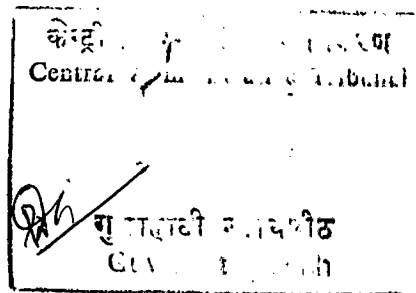
(WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS) No. 1 to 5

I, Sri Prabhakar Mittal son of Sri D.N.Mittal, presently working as Garrison Engineer, Silchar Division, Military Engineering Service do hereby state as follows :-

1. That I am the Garrison Engineer, Silchar Division, Military Engineering Service. In the above case I have been impleaded as party respondent no.5. Accordingly a copy of the aforesaid application has been served upon me. I have gone through the same and being the Garrison Engineer, I have understood the contents thereof. I am acquainted with the facts and circumstances of the case. I have been authorized to file this written statement on behalf of ^{all} the respondents. No. 1 to 5

2. That I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.

3. That the applicant was appointed as the wireman on 03.06.1968. Subsequently at his will he appeared the Trade Test of Electrician on 03.11.1972.



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4. That mere passing of Trade Test does not confer any right to be promoted to the post of electrician. The promotion can be made subject to the availability of the vacancy of the particular trade.

5. That the applicant at his will also appeared for Trade Test of Instrument Repairer and passed the test on 25.06.1981. Subsequently he was promoted to the Instrument Repairer re-designated as Machine Precision Instrument (in short MPI).

6. That while the Government of India introduced 3 Grade Structures based on Expert Classification Committee excluded Trades of Instrument Repairer alongwith other trades and as such, the case of the applicant was not considered.

7. That Office of the E-in-C's Branch, Army Headquarters vide letter dated 10.02.95 addressed to CEEC instructed all the commands to convene review DPCs for the staff for Instrument Repairer/Machine Precision Instrument who were otherwise eligible for promotion, be considered for promotion to electrician HS II. As per existing norm of the department DPC is being conducted for giving promotion to the Industrial person on the basis of vacancy and seniority of respective CWE only.

8. That the applicant appeared in the Trade Test for the post of Electrician HS II held during July 95 and he was declared passed vide order dated 08.04.96 and accordingly he was promoted to the post of HS II on 12.08.96

9. That the applicant appeared for Trade Test of Electrician HS I at Headquarter on 20/21.01.2000, but he could not succeed. Accordingly his name was not included in the list of successful candidates who passed the Trade Test for promotion to the HS I.

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Charbhatkar Mittal

10. That although the applicant passed the Trade Test of Electrician HS I in December 2002 but he could not be promoted due to want of vacancy. ✓

11. Reply to the facts of the case:-

11.1. That with regards to the statements made in paragraph 4.1 of the application, the humble answering respondent has nothing to make comment on it, however, he does not admit any of the statements which are contrary to records.

11.2. That with regards to the statements made in paragraph 4.2 of the application, the humble answering respondent begs to state that the applicant was initially appointed as wireman on 03.06.1968 and not in the year of 1971.

11.3. That with regards to the statements made in paragraph 4.3 of the application, the humble answering respondent begs to state that the applicant was initially appointed as wireman on 03.06.1968 and at his own will he appeared in the Trade Test and passed the Test of Electrician on 03.11.1972 vide no.GE Silchar PTO no.03/69/73. Further it is stated that passing of Trade Test does not confer any right to be promoted to a higher grade. Promotion can be made subject to the availability of vacancy and eligibility of the candidates. Promotion is not a matter of right. Further, it is stated, that the department infact did not direct or invite the applicant to appear in Trade Test on November 1972 but at his own will he appeared in the test.

11.4. That with regards to the statements made in paragraph 4.4 of the application, the humble answering respondent begs to state that the applicant at his own will appeared for Trade Test of Instrument Repairer and passed the Trade Test on 25.06.1981 vide GE Silchar PTO no 33/28/81. Thereafter he was promoted to Instrument Repairer re-designated as MPI.

114
✓
(Inhabitant Initial)

Further it is stated that the Instrument Repairer Trade was feeder Trade for promotion of change electrician (skilled).

11.5. That with regards to the statements made in paragraph 4.5 of the application, the humble answering respondent begs to state that while the Government of India introduced 3 Grade Structures, based on Expert Classification Committee, excluded Trades of Instrument Repairer alongwith other trades and as such the case of the applicant was not considered. It is to be stated here that the applicant was holding the post of Instrument Repairer and as per Government of India, Ministry of Defense letter no.3310/QS/QSM/CIV-I/84 dated 15.10.84 only 15 categories were identified for upgradation of skilled categories. Instrument Repairer was not included at the point of time. After a gap of 10 years, Instrument Repairer was re-designated as Electrician (skilled) vide Government of India, Ministry of Defense letter no.91026/EIC (34)/672/B(W-12) dated 21.02.94 as appears in Annexure 5 of the Original Application.

11.6. That with regards to the statements made in paragraph 4.6 of the application, the humble answering respondent begs to state that the applicant who was holding the post of Instrument Repairer before the issuance of letter dated 24.06.1987 and as such he is not entitled to get the benefit of his original trade under the said letter.

11.7. That with regards to the statements made in paragraph 4.7 of the application, the humble answering respondent has nothing to make comment on it.

11.8. That with regards to the statements made in paragraph 4.8 of the application, the humble answering respondent has nothing to make comment on it, however, he does not admit any of the statements which are contrary to records of the case.

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[Signature]
(Babbar, Mithal)

✓ 11.9. That with regards to the statements made in paragraph 4.9 of the application, the humble answering respondent begs to state that the review DPC in terms of E-in-C's Branch, Army Headquarter vide letter 90270/89/EC/EIC (3) dated 10.02.95 has not been done in respect of the applicant. In this connection it is to be stated here that as per existing promotion norms of the department DPC is being conducted for giving promotion to industrial person on the basis of vacancy and seniority of the respective CWE.

11.6
(Chabharan 10/11/95)

11.10. That with regards to the statements made in paragraph 4.10 of the application, the humble answering respondent begs to state that the relevant service particulars of Sri S.G.Bhattacharjee and Sri R.N. Bhramachari are not available for examination, thus the humble answering respondent is not in a position to comment on it.

11.11. That with regards to the statements made in paragraph 4.11 of the application, the humble answering respondent begs to state that the applicant infact appeared for the Trade Test for promotion to the post of the Electrician HS II held on July 1995 and he was declared passed vide order dated 08.04.96 and accordingly promoted to the post of HS II vide order dated 12.08.96 as appeared in Annexure 8 of the Original Application. Further it is stated that the applicant could not succeed in Trade Test for promotion to Electrician HS I held on 20/21.01.2000. In this connection the humble answering respondent begs to mention the following letters, wherefrom, it appears that the applicant could not come out successful in the Trade Test:

- (a) The Headquarter no.137 Wks Engineers letter no.1219/02/EIC (2) dated 31.12.99 shows the names for appearing in Trade Test of Electrician HS II to HS I held on 20/21.01.2000. In the said letter the applicant's name appeared in the list contain therein.

-6-

(b) The name of the applicant appears in the letter of Garrison Engineer, Silchar movement order dated 17.01.2000.

(c) Copy of the HQ 137 Wks Engineers Letter no.1218/43/EIC (2) dated 03.03.01 shows the list of the successful candidates who passed the Trade Test during 20/21/01/2000 for promotion to HS I. In the said list the applicant's name did not appeared.

Further it is not correct that Sri M.R.Lasker, Sri. S.C.Nath and Sri Ramapada Das was promoted to Electrician HS I. In fact they are still holding the post of Electrician HS II, although, they passed the Trade Test of Electrician HS I during 20/21.01.2000.

Further it is not correct that the applicant succeed all the Trade Test on the First attempt.

Copies of the aforesaid letters dated 31.12.99, 17.01.2000 and 03.03.01 and the order dated 08.04.96 are annexed herewith and marked as Annexure 1, 2, 3 and 4 respectively.

11.12. That with regards to the statements made in paragraphs 4.12 and 4.13 of the application, the humble answering respondent begs to state that the applicant cleared his Trade Test for promotion to Electrician HS I during December 2002. However he could not be appointed thereafter due to non-availability of vacancy. Further it is stated that as and when the vacancy will arise the case of the applicant will be considered at DPC as per his seniority.

Further the humble answering respondent begs to state that awarding any certificate to a person in a particular year for good performance is only to boost up his morale and to create competitive atmosphere among others to achieve such certificate. That does not meant to get any right for being promoted to a particular grade.

11.13. That with regards to the statements made in paragraphs 4.14 and 4.15 of the application, the humble answering respondent begs to state that the HQ 137 Wrks Engineers vide their letter no.1228/SK/94/EIC/(2) dated 14.07.95 submitted their views before the Headquarter Shillong annexed as annexure 19 to the Original Application, is only views for consideration of the subordinate authority. Whether, those views shall be accepted or rejected that is prerogative of the higher authorities.

1/8

(Chabakun Mitter)

11.14. That with regards to the statements made in paragraph 4.16, 4.17 and 4.18 of the application, the humble answering respondents has nothing to make comment on it as ^{they} being matters of records of the case.

11.15. That with regards to the statements made in paragraph 4.19 to 4.22 of the application, the humble answering respondent begs to state that in compliance of the Hon'ble Tribunal's order dated 26.07.05 the applicant made a representation dated 10.08.05 before the respondent no.4 i.e. the Army Headquarter, Engineer-in-Chief, New Delhi through proper channel with a prayer for promotion and seniority to the cadre of HS II with retrospective effect from 15.10.84 and further to promote him to the grade of HS I from the date of his juniors.

The respondent after proper verification and careful consideration, disposed of the said representation dated 10.08.05 and passed a speaking order dated 15.04.06. In the said order the respondent assigned the reasons for non entitlement of notional seniority with monetary benefit with effect from 19.10.84.

In this context the humble answering respondent begs to state that passing of the Trade Test is a mandatory provision for promotion to Electrician HS II. But at that relevant point of time the applicant was not eligible for being promoted to HS II as he did not passed the Trade Test.

Further the case of the applicant for promotion to the Electrician HS II was rightly considered with effect from 12.08.96 based on date of passing Trade Test. It is not possible to consider the antedate

seniority at par with juniors since at that relevant time the applicant was not eligible for promotion.

Passing of the Trade Test is an eligibility criteria and the applicant could not fulfill the eligibility condition at that relevant time as and when some others fulfilled the criteria and so promoted. Hence he is not entitled to get the retrospective promotion and seniority.

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[Signature]
(Sabbakar P. H. H. H.)

12. Reply to the grounds of the case:

12.1. In response to the ground 5.1 of the application, the humble answering respondents begs to submit that so far the promotion to the cadre of the Electrician HS II as well as HS I from the post of Electrician are concerned, passing of the Trade Test is a mandatory requirement. The applicant passed the Trade Test only on December 2002.

12.2. In response to the ground 5.2 of the application, the humble answering respondents begs to submit that so far the promotion to the HS I is concerned passing of the Trade Test is mandatory requirement and the applicant cleared the same only on December 2002. The promotion is made subject to the availability of vacancy.

12.3. In response to the grounds 5.3 to 5.5 of the application, the humble answering respondents begs to submit that as the applicant was not eligible at that particular time, hence he was not promoted to Electrician II and as such he is not entitled to get the higher pay scale in the higher grade with effect from 15.10.84.

12.4. In response to the ground 5.6 of the application, the humble answering respondent begs to submit that the applicant is not entitled to get the notional antedate seniority or promotion at par with the juniors as the juniors were promoted much earlier on the basis of their Trade Test.

12.5. In response to the grounds 5.7 and 5.8 of the application, the humble answering respondents begs to submit that the representation dated 10.08.05 has already been disposed of vide speaking order dated 15.04.06 and as such nothing to make comment on it.

12.6. In response to the grounds 5.9 to 5.16 of the application, the humble answering respondents begs to submit that so far the promotion to the post of HS I is concerned passing of the Trade Test is necessary. The promotion is made only on the basis of availability of vacancy. The applicant passed the Trade Test only on December 2002 and was unsuccessful in the Trade Test held on 20/21.01.2001. Whether some persons who passed the Trade Test in the year of January 2001 are still in the queue of promotion to the post of HS I from the post of HS II.

12.7. That the applicant could not make out a good case by establishing his eligibility as per norms and procedure and as such the instant application has no merit at all.

12.8. The answering respondent begs to submit that the instant original application has no merit at all and is liable to be dismissed.

(Chabhatan Rithar)

VERIFICATION.

I, Sri Prabhakar Mittal, son of Sri D.N.Mittal presently working as Garrison Engineer, Silchar Division, Military Engineering Service do hereby verify that the statements made in paragraphs 1, 2, 4, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 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988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 1346, 1347, 1348, 1349, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 1566, 1567, 1568, 1569, 1570, 1571, 1572, 1573, 1574, 1575, 1576, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1616, 1617, 1618, 1619, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640, 1641, 1642, 1643, 1644, 1645, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 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1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222

71- ANNEXURE 1

Headquarters
137 Works Engineers
C/O 99 APO

1219/

02

/E1C(2)

31 Dec 99

GE 868 EWS
GE 869 EWS
GE 872 EWS
GE Silchar
AGE (I) K1m

TRED TEST : HS GDE II TO HS - I

1. Seniority list of the following categories shown in the Appces received from HQ CE SZ for conducting Trade Test for promotion from HS - II to HS - I are fwd herewith :-

- | | | |
|-------------------------------|---|----------|
| ✓ (a) Elect HS - II to HS - I | - | Appx 'A' |
| ✓ (b) Reft Mech | - | Appx 'B' |
| ✗ (c) Cable Joiner | - | Appx 'C' |
| (d) Mason | - | Appx 'D' |
| ✓ (e) Carpenter | - | Appx 'E' |
| ✓ (f) Black Smith | - | Appx 'F' |
| ✓ (g) Painter | - | Appx 'G' |
| ✓ (h) Plr pipe | - | Appx 'H' |

2. Trade test will be conducted at GE 868 EWS on 20 & 21 Jan 2000. You are therefore requested to direct the indls of your division to report to this HQ to attend the Trade Test well in advance.

3. Detailed instruction will follow.

Encls : (6 Sheets)

(SG Nair)
Lt Col
Presiding Officer

FR BR
366

certified to be true
21/11/07

Contd...P/5

123 -12-

Ser. No.	MES No, Name and Designation	Date of birth	Present Grade	Date of Seniority in the grade	Educational qualification	Whether SC/ST/OBC/UR	Formation	Remarks
				20.06.96		Gen	GE 872 EWS	
15	MES/228225 Shri MR Dey	01.05.42	Elect HS - II	Elect HS - II 20.06.96		Gen	AGE(I) K'ram	
16	MES/243379 Shri BK Chakraborty	25.03.43	Elect HS - II	Elect HS - II 20.06.96		Gen	GE 872 EWS	
✓ 17	MES/228872 Shri MR Chowdhury	10.12.44	Elect HS - II	Elect HS - II 20.06.96		Gen	GE Silchar	
✓ 18	MES/228419 Shri Sukumar Chandra Nath	08.04.45	Elect HS - II	Elect HS - II 20.06.96		Gen	GE Silchar	
✓ 19	MES/243379 Shri KK Bhowmick	30.06.46	Elect HS - II	Elect HS - II 20.06.96		Gen	AGE(I) (AF) K'ram	
✓ 20	MES/228330 Shri NC Das Chowdhury	01.03.47	Elect HS - II	Elect HS - II 20.06.96		Gen	AGE(I) (AF) K'ram	
21	MES/228632 Shri N Paul	18.04.47	Elect HS - II	Elect HS - II 20.06.96		Gen	AGE(I) (AF) K'ram	
✓ 22	MES/228523 Shri Parimal Mahanta	18.04.48	Elect HS - II	Elect HS - II 20.06.96		Gen	GE 869 EWS	
23	MES/220229 Shri K. Sumran Pillai	01.05.52	Elect HS - II	Elect HS - II 20.06.96		SC	GE Silchar	
✓ 24	MES/243443 Shri Ramapada Das	01.01.56	Elect HS - II	Elect HS - II 20.06.96		SC	GE 872 EWS	
25	MES/243449 Shri Dipak Ranjan Das	20.03.63	Elect HS - II	Elect HS - II 20.06.96				

MES No. Name and designation

- MES 242715 Ranjit KUMAR DEY, Elect-II
- MES 243829 JITEN BISWAS, ELECT-II
- MES 243647 MR LASKAR, ELECT II
- MES 228419 SUKUMAR CH NATH, ELECT II
- MES 243379 K K BHOWMIK, ELECT II
- MES 228330 NC DASCHOLDHURY, ELECT HS I
- MES 228523 PARIMAI MAHANTA, ELECT HS II
- MES 243443 RAMAPADA DAS, ELECT HS II
- MES 233585 JAMANI MOHAN NATH, RLFJ MECH
- MES 228487 KANUCHA DRA DEY, CARPT HS II
- MES 228495 NIRANJAN DAS, CARPT HS II
- MES 223665 KULA SINGH, CARPT HS II
- MES 248826 JAREBAHADUR SONAR, B/SMITH-II
- MES 238231 ALDUL KADAR, F PIPE HS II
- MES 226360 ALIM UDDIN, F PIPE HS II
- MES 228323 CHANDRAMONI DAS, F PIPE HS II
- MES 228313 KRIPENDRA CHANDRA PAUL, F PIPE HS II
- MES 228783 N I KHAN, F PIPE HS II

- 1. MOVE FROM : GARRISON ENGINEER SILCHAR
- 2. TO : HQ 137 WORKS ENGINEERS & BACK
- 3. DATE OF MOVL : 17 JAN 2000 (A/N)
- 4. PURPOSE OF MOVE : TO ATTEND TRADE TEST
- 5. PROBABLE STAY : 03 DAYS (APPROX)
- 6. DATE OF COMPLETION : ON COMPLETION OF DUTY
- 7. ADVANCE OF TA/DA : MAY BE HAD ON APPLICATION
- 8. MODE OF CONVEYANCE : BY RAIL/ROAD
- 9. AUTHORITY : HQ 137 WKS ENGRS LETTER NO. 1219/2/EIC(2) dtd 31 DEC 99

(Signature)
 (R.P. MURYA)
 A.E.
 Officer Garrison Engineer

No. 1008/ 210 /EIC
 Office of the Garrison Engineer
 Silchar Cantt, P.O. Arunachal

17 Jan 2000

DISTRIBUTION

- 1. Individual concern
- 2. H 137 Wks Engrs
- 3. AAO GB SILCHAR
- 4. A.E. E/M SILCHAR
- 5. A.E. B/R SILCHAR
- 6. A.E. B/R VARILGNTLE
- 7. CCO SILCHAR

For information please

Centred to pay time
(Signature)
 21/1/07

-14-

ANNEXURE 3

388

125

Headquarters
497 Works Engineers
C/o D9 APO

03	Mar 2001

1218/ 43 /E1C(2)

CE 868 EWS
CE 869 EWS
CE 872 EWS
CE 811000
AGE (1) Kumbhigra

TRADE TEST RESULT OF INDUSTRIAL PERS FOR PROMOTION
FROM HS-II TO HS-I

1. Result of candidates who have appeared for trade test during Jan 2000 is fwd herewith as per Appx 'A' attached. Other indls were declared as 'not eligible/absent/failed'. The result of the indls may please be published through next PTO.

2. The indls who have now declared passed are eligible for consideration for promotion in the next DFC. Their names must be included in the seniority list for DFC alongwith other candidates who have already passed trade test in direct line of promotion.

3 Please ack.

(Devendra Singh)
Maj
Adjt
for CME (ACD)

1086/E1

Encls: (2 sheets)

Noted &
Published vide
PO 27 dt 19/3/2001

BR 366.
FR 389.

Certified to be true
in the establishment
24/10/9

Appendix 'A'

RESULT OF TRADE TEST HELD ON 20 & 21 JAN 2000 : HS-II TO HS-I

Ser No	MES No & Name	Present Trade	Trade Tested	Result	Unit	Remarks
1	243647 Shri MR Lakkar	Elect HS-II	Elect HS-I	Pass	GE ✓ Silchar	
2	238220 Shri AC Kakoti	Elect HS-II	Elect HS-I	Pass	GE 868 EWS	
3	243442 Shri Haron Das	Elect HS-II	Elect HS-I	Pass	GE 868 EWS	
4	243506 Shri Krishna Sinha	Elect HS-II	Elect HS-I	Pass	GE 868 EWS	
5	243580 Shri NK Chakraborty	Elect HS-II	Elect HS-I	Pass	GE 868 EWS	
6	238364 Shri RK Gogoi	Elect HS-II	Elect HS-I	Pass	GE 868 EWS	
7	243744 Shri AL Hashung	Elect HS-II	Elect HS-I	Pass	GE 869 EWS	
8	228419 Shri Sukumar Chandra Nath	Elect HS-II	Elect HS-I	Pass	GE ✓ Silchar	
9	228632 Shri N Paul	Elect HS-II	Elect HS-I	Pass	AGE(I) K'Gram	
10	220229 Shri K Buman Pillai	Elect HS-II	Elect HS-I	Pass	GE 869 EWS	
11	243443 Shri Ramapada Das	Elect HS-II	Elect HS-I	Pass	GE ✓ Silchar	
12	238372 Shri Mahadev Narayan Moon	Refr Mech HS-II	Refr Mech HS-I	Pass	GE 872 EWS	
13	228642 Shri DO Das	C/Jtr HS-II	C/Jtr HS-I	Pass	AGE(I) K'Gram	
14	237917 Shri K Gogoi	Mason HS-II	Mason HS-I	Pass	GE 868 EWS	
15	228495 Shri Niranjan Das	Carpenter HS-II	Carpenter HS-I	Pass	GE ✓ Silchar	
16	220265 Shri Ugam Sharma	Carpenter HS-II	Carpenter HS-I	Pass	GE 869 EWS	
17	243409 Shri Chandia Bahadur Thapa	Carpenter HS-II	Carpenter HS-I	Pass	GE 872 EWS	
18	243782 Shri Robinderson Muvlah	Carpenter HS-II	Carpenter HS-I	Pass	GE 868 EWS	
19	238511 Shri Rabinder Das	Carpenter HS-II	Carpenter HS-I	Pass	GE 869 EWS	
20	243783 Shri Varaykham Ruivah	Carpenter HS-II	Carpenter HS-I	Pass	GE 869 EWS	
21	248826 Shri Jon Bahadur Sonar	B/Smith HS-II	B/Smith HS-I	Pass	GE ✓ Silchar	
22	238016 Shri KP Pillai	F/Pipe HS-II	F/Pipe HS-I	Pass	GE 868 EWS	
23	238221 Shri Abdul Kader	F/Pipe HS-II	F/Pipe HS-I	Pass	GE ✓ Silchar	

Ser No	ME No & Name	Present Trade	Trade Tested	Result	Unit	Remarks
24	228458 Shri H Goswami	F/Pipe HS-II	F/Pipe HS-I	Pass	AGE(I) K'Gram	
25	228323 Shri Chandra Mani Das	F/Pipe HS-II	F/Pipe HS-I	Pass	GE Silchar	✓
26	228318 Shri Kripendra Chandra Pal	F/Pipe HS-II	F/Pipe HS-I	Pass	GE Silchar	✓
27	238015 Shri D Robi	F/Pipe HS-II	F/Pipe HS-I	Pass	GE 868 EWS	
28	220229 Shri Hardeo Bhagat	F/Pipe HS-II	F/Pipe HS-I	Pass	GE 869 EWS	

[Handwritten signature]

PART II ORDER SERIAL NO 15 DATED 08 APR 96 PAGE No 4

PART IV(b)

Trade test result (Contd..)

37.	228330	Shri HC DAS CHODHURY	ELECT (SK)	JUL 95	SI No 37 to 46
38.	228419	SHRI SC NATH	-do-	JUL 95	Appeared in trade test for
39.	238523	SHRI P MONTA	-do-	JUL 95	Electrician HS-II held
40.	243379	SHRI KK BHOSMIK	-do-	JUL 95	during Jul 95 and declared
41.	228338	SHRI KP NAIR	-do-	JUL 95	"PASSED".
42.	243454	SHRI M K RAN	-do-	JUL 95	Auth: HQ 137 Wks Engrs
43.	243445	SHRI RP DAS	-do-	JUL 95	letter No 1219/TT/450/EIC
44.	243420	SHRI MU LASKAR	-do-	JUL 95	(2) dated 23 Mar 95.
45.	243581	SHRI P Phattach	-do-	JUL 95	
46.	243575	SHRI K R	-do-	JUL 95	
47.	243383	SHRI NP NATH	MATE	JUL 95	SI No 47 to 53
48.	235037	SHRI LN RAI	-do-	JUL 95	Appeared in trade test for
49.	243384	SHRI SC GUN	-do-	JUL 95	Electrician (3K) held during
50.	228747	SHRI IM SARKAR	-do-	JUL 95	Jul 95 & declared 'PASSED'.
51.	545609	SHRI M RATHWAN	-do-	JUL 95	
52.	243424	SHRI M LASKAR	-do-	JUL 95	
53.	243432	SHRI UK ROY	-do-	JUL 95	
54.	237488	SHRI KI DEB	FGM (DEM)	JUL 95	For SI No 54 to 67
55.	228302	SHRI RANJIT	-do-	JUL 95	Appeared in trade test
56.	228357	SHRI CH BHATTIA	FGM	JUL 95	for FGM HS-II held during
57.	228638	SHRI AK SAHA	-do-	JUL 95	Jul 95 and declare
58.	228774	SHRI AC PAUL	-do-	JUL 95	'PASSED'.
59.	228633	SHRI FU CHOWHRY	-do-	JUL 95	
60.	228929	SHRI SK DAS	FGM	JUL 95	
61.	228777	SHRI SK NATH	(PHO)	JUL 95	Auth for SI No 47 to 67
62.	228343	SHRI M RABHUYA	-do-	JUL 95	HQ 137 Wks Engineers
63.	228647	SHRI NAMDA	-do-	JUL 95	letter No 1219/TT/450/EIC
64.	228348	SHRI SD ROY	-do-	JUL 95	(2) dated 23 Mar 96.
65.	354346	SHRI SC CHAKRABORTY	FGM	JUL 95	
66.	228900	SHRI RANATH	-do-	JUL 95	
67.	228634	SHRI AK PAUL	-do-	JUL 95	

Contd... P/5

certified to be true
21/11/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

In the matter of:-

O.A. No. 17/2007.

Shri Narendra Chandra Das choudhury.

-Versus-

Union of India and others.

-And-

In the matter of:-

Rejoinder submitted by the applicant
against the written statements submitted
by the respondent.

The applicant above named most respectfully begs to state as follows:-

1. That your applicant categorically denies the statements made in the written statements as a whole, save and except which are borne out of records.
2. That with regard to the statements made in paragraph 4, 5, 6, 7, 8 and 9 of the written statements, it is humbly submitted that there is a specific instruction given by the Army Head Quarter to hold the review DPC after a lapse of 11 years by the Govt. for consideration of promotion to the cadre of Electrician H.S.II, as per direction contained in the Army Head Quarter letter dated 10.02.1995. It is relevant to mention here that the Govt. of India could realize its mistake after a lapse of 11 years, and thereafter issued necessary instruction to the field offices for holding review DPC for the staff who were working as Instrument Repairer, but did not include their names in the letter dtd. 15.10.1984 for upgradation of their cases in the Skilled Categories when juniors have been given retrospective promotion following letter dtd. 10.02.1995, as such there is no justification to deny the same benefit of retrospective promotion when there is a specific instruction given by the Army Head Quarter.

Received
12/6/08

Filed by the applicant
through U. Saha, advocate
on 12.06.08

Narendra Das Choudhury

0 JUN

गुवाहाटी न्यायपीठ

Guwahati Bench

130

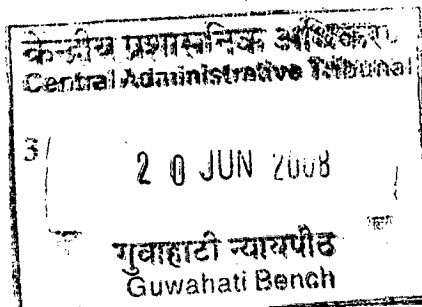
3. That with regard to the statement made in paragraph 10, the question of availability of vacancy does not arise as because junior of the applicant has clearly promoted to the cadre of H.S-I.

4. That with regard to the statements made in paragraph 11.3, 11.4, 11.5, 11.6 and 11.9, it is humbly submitted that the applicant has appeared in the trade test of electrician on 03.11.1972, as per instruction of the authority since there are provisions for appearing such trade test as such respondents themselves provided such opportunity to the applicant. If there was any bar on appearing such trade test the respondents would not allowed the applicant to appear in the said trade test. Therefore respondents be directed to produce the relevant records to justify their stands raised in para 11.3 and 11.4 of the written statements.

It is quite clear from paragraph 11.5 that category of instrument repairer is left out for inclusion in the Ministry's letters dtd. 15.10.1984 for upgradation in skilled category and the said lapses has been rectified by the Govt. of India after a lapse of 10 years vide letter dtd. 21.02.1994, which is fairly admitted by the respondents in their written statement. As such contention raised in para 11.6 is irrelevant and in fact lost in force and the applicant reiterates his statement made in the original application. Moreover, there is no reason is explained for non holding of DPC in terms of Army Head Qtr. Letter dated 10.02.1995 as stated in paragraph 11.9, when such review DPC has already conducted in respect of his juniors working under CWE, Shillong. Therefore, it is clear case of discrimination which attracts Article 14 of the Constitution of India.

5. That with regard to the statements made in paragraph 11.10, 11.11, 11.12, 11.13 and 11.15, the applicant beg to say that CWE, Shillong has been imploded as party respondents, as such the contention raised in paragraph 11.10 is not sustainable in the eye of law. So far the contention raised in paragraph 11.11, it is stated that the benefit of H.S-II has been granted to the applicant w.c.f 12.08.1996, whereas, review DPC has been directed to be convened by the Army Head Qtr. Vide its letter dtd. 10.02.1995 with the sole intention to extend the benefit of highly skilled category w.c.f

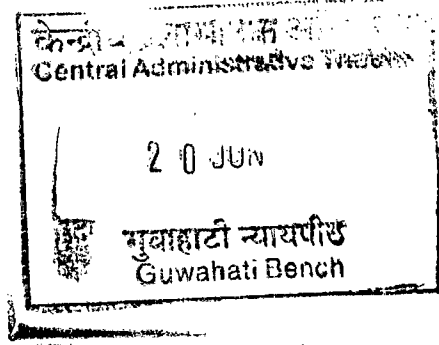
Vijendra Singh Choudhary



15.10.1994 as already granted to the other similarly situated persons like Sri S.C. Bhattacharjee and Sri R.N. Brahmachary, who are junior to the applicant. It is specifically denied that Sri M.R. Laskar, Sri S.C. Nath and Sri Ramapada Das were not promoted in the electrician H.S-I. In fact they has been promoted to the cadre of H.S-I long back, as such the contention of the respondents raised in paragraph 11.11 is not correct. The contention of paragraph 11.12, 11.13 and 11.15 is specifically denied and further beg to say that the speaking order did not deal with the basic contention raised by the applicant. Moreover, when similar benefit is extended to Sri S.C. Bhattacharjee and Sri R.N. Basumataray the same cannot be denied to the applicant.

6. That with regard to the reply given in paragraph 12, 12.1, 12.2, 12.3, 12.4, 12.6, 12.7 and 12.8 is categorically denied.
7. In the facts and circumstances stated above, the applicant most humbly and respectfully prays that the application be allowed with costs.

Narendra Das Choudhary



VERIFICATION

I, Shri Narendra Chandra Das Choudhury, Son of Late Nagendra Chandra Das Choudhury, aged about 59 years, working as Electrician HS-II, office of the Garrison Engineer, Silchar, Assam, do hereby verify that the statements made in Paragraph 1 to 7 are believe to be true and to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 8th day of June, 2008.

Narendra Das Choudhury

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of:

O.A.no.17/07

Sri N.C.Das Choudhury

...Applicant.

-Vs-

Union of India and ors.

...Respondents.

In the matter of:

Reply statement on behalf of the
respondents to the rejoinder filed
by the applicant.

(REPLY STATEMENT ON BEHALF OF THE RESPONDENTS)

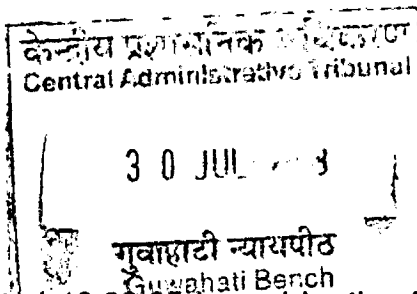
I, Sri Prabhakar Mittal, son of D.N.Mittal, presently working as Garrison Engineer, Silchar Division, Military Engineering Services, do hereby solemnly affirm and state as follows:-

1. That I am the Garrison Engineer, Silchar Division, Military Engineering Services, Silchar. The copies of the rejoinder have been served upon the counsel representing the respondents. I have gone through the same and have understood the contents thereof.
2. That I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.
3. That with regard to the statements made in paragraph 1 of the rejoinder the humble answering respondent begs to reply that the respondents are not agreed to and reiterate and reaffirm the statements made in written statement.
4. That with regard to the statements made in paragraph 2 of the rejoinder the humble answering respondent begs to reply that the applicant who is the industrial person in the relevant point of time was not eligible for being promoted to the post of Electrician H.S. II. The applicant appeared in the Trade Test for the post of Electrician H.S.II held during July 95 and accordingly was promoted to the

Filed by:-
The Respondents
Thorough...
133 Maninder Das
SG, Panel Counsel
U.O.I
CAT, Guwahati
30/7/08

(Signature)
PRABHAKAR MITTAL, 1952
(Prabhakar Mittal, 1952)
Executive Engineer (SG)
Garrison Engineer, Silchar

Received
Mittal
30/07/08



post of H.S.II on 12.08.96. The letter dated 10.02.95 issued by the Army Head Quarter, New Delhi, says that the Instrument Repairer/ Machine Precision Instrument who were otherwise eligible for promotion be considered for promotion to Electrician H.S II.

Further as per existing norm of the Department, DPC is being conducted for giving promotion to the Industrial Person on the basis of vacancies and seniority of respective CWE area wherein the individual was serving at that point of time. The applicant who is the Industrial Person will be considered for his seniority in locality within the CWE area where he is serving.

4. That with regard to the statements made in paragraph 3 of the rejoinder the humble answering respondent begs to reply that the applicant appeared for Trade Test for Electrician H.S.II at H.Q on 20/21.01.01 but he could not succeed. Accordingly his name was not included in the list of successful candidates who passed the Trade Test for promotion to H.S.I. It is categorically stated that promotion to Trade Test is a mandatory one and the order dated 10.02.95 also says that eligible individuals are to be considered for promotion to Electrician H.S.II.

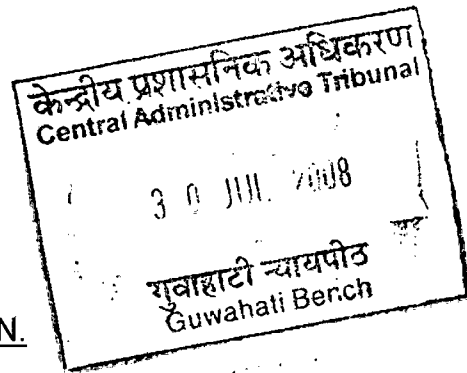
Further as per policy for promotion of Industrial Staff, the promotion to Higher Grade is subject to availability of vacancy.

5. That with regard to the statements made in paragraphs 4 and 5 of the rejoinder the humble answering respondent begs to reply that the promotion to the post of higher grade as per the Departmental Rules, first one should be eligible for being promoted to the post and should clear the Trade Test. The person first should have fulfilled the eligibility criteria, In the instant case the applicant is trying to confuse by misrepresenting the criteria for promotion. As per Departmental Policy the promotion is subjected to availability of vacancy in respective CWE area under which the individual was serving. It is also clarified that seniority of Industrial Staff is being maintained with respective CWE area under whose jurisdiction the individual serves.

Further Sri S.G.Bhattacharjee and R.N Basumatary are promoted under Commander Works Engineer, Shillong area and not under area at CWE, HQ 137, Wks Engineers.

6. Thus, the humble answering respondent begs to state that this application has no merit at all and is liable to be dismissed.

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DEBASHAKAR MITTAL, HSE
(Deputy Engineer (SG))
Assistant Engineer, Shillong

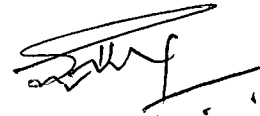


VERIFICATION.

I, Sri Prabhakar Mittal, son of D.N.Mittal, presently working as Garrison Engineer, Silchar Division, Military Engineering Services, aged about 42 years do hereby solemnly verify and state that the statements made in paragraphs 1, 2, 3, 5 are true to my knowledge; those made in paragraphs 4 are being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

I have not suppressed any material facts.

And I sign this verification on this 30th July '08 at Guwahati.



SIGNATURE
(PRABHAKAR MITTAL, IES)

Executive Engineer (SG)

Garrison Engineer, Silchar