

8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 220/2009
R.A./CP/NO. 2015
E.P./M.P. NO. 225/2015 2270/2009

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BD 24/7/2015
SECTION OFFICER (JUDL.)

✓ 23.7.2015

FROM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 220/2009

2. Misc Petition No _____

3. Contempt Petition No _____

4. Review Application No _____

Applicant(s) S. P. Ram, IPS (Retd).

Respondent(s) Union of India & Ors.

Advocate for the Applicant(s): Mr. J.L. Sarkar

Mr. S.N. Tamuli

Advocate for the Respondent(s): CGSC

C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
Application is in form is sub/C F. for Rs. 50/- d. posited vide IPO/BD No. 89 G 424/163 Dated.....14.9.09..... <i>J. SARKAR</i> 27.10.09 Dy. Registrar	28.10.2009	Dr J.L.Sarkar, learned counsel appearing for the applicant after arguing some time prays for adjournment to show that he has a continuous cause of action to claim the relief. List on 16.11.2009. <i>✓</i> Madan Kr. Chaturvedi Member (A)
Steps taken for service of Notices to the Respondents along with envelopes, copy served. <i>Deon</i> 27/10/09	16.11.2009 <i>N. SARKAR</i> 27.10.09	M.P. No. 126 of 2009 has been filed seeking condonation of delay. Mrs. M. Das, learned Sr. CGSC accepts notice on behalf of the respondents. Thus service is complete. Respondents are directed to file reply within four weeks time. List this matter on 16.12.2009 <i>✓</i> (Madan Kumar Chaturvedi) (Mukesh Kumar Gupta) Member (A) Member (J)
	/pb/	

O.A. No. 220/2009

16.12.2009 Enabling the respondents to file reply within four weeks time case is adjourned to 19.01.2010.

~~(Madan Kumar Chaturvedi)~~
Member (A)

~~(Mukesh Kumar Gupta)~~
Member (J)

/PB/

13.12.2010
N/S filed by
the Respondents
No. 2 & 3 with
undertaking to
serve a copy to
the L/Advocate for
the Applicant.
13/1/2010.

19.1.2010 Reply has been served on the Applicant in Court, who in turn seeks and allowed four weeks time to file rejoinder.

List the matter on 19.2.2010.

~~Madan Kr. Chaturvedi~~
Member (A)

~~(Mukesh Kumar Gupta)~~
Member (J)

/Am/

N/S filed on
behalf of R. No 2 & 3.

18.1.2010
19.02.2010 Dr. J.L. Sarkar, learned counsel for applicant states that Annexures to the written statement of Respondents No. 2&3 have been supplied only today as the same was filed on 13th January 2010 without Annexures.

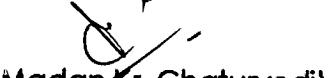
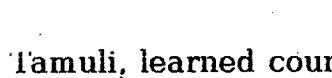
It is further contended that Respondents No.1&4 have not put appearance or filed any affidavit in opposition.

Since none appears for said Respondents & report is awaited after completion of service, Registry to file service report.

List the matter on 23.02.2010.

~~(Madan Kumar Chaturvedi)~~ ~~(Mukesh Kumar Gupta)~~
Member (A) Member (J)

/PB/

Notes of the Registry	Date	Order of the Tribunal
22.02.2010 At the time of filing O.A. 36 of 2010, the Applicant's advocate served copy of O.A. on Mrs. M. Das, Sr. CGSC and Mrs. M. Das has also received the copy in the capacity of Sr. CGSC. The Registry before listing the O.A. for admission on 28.10.2009 has given a note "copy of O.A. has not been served on Respondent No. 4." As per Hon'ble Court's order dated 16.11.2009 Mrs. M. Das, Sr. CGSC has accepted notice on behalf of the respondents and the Hon'ble Court observed that Service is Complete. Mrs. M. Das, Sr. CGSC has filed written statement on behalf of the Respondent Nos. 2&3 on 13.01.2010. As per Hon'ble Court's order dated 16.11.2009, no formal notice has been issued to the Respondents by this Registry. In compliance of the Hon'ble Court's order dated 19.02.2010 the report is submitted before the Hon'ble Court for kind perusal.	23.2.2010 /pb/	Notice has not been issued to the Respondents No.4. Therefore, there is no representation on behalf of the said Respondents. In the circumstances issue notice to Respondent No.4 under Rule 11(1)(i) C.A.T.(Procedure) Rules 1987. Returnable on 25.3.2010.  (Madan Kumar Chaturvedi) Member (A)
	25.03.2010 /pb/	Being Division Bench matter list on 20.04.2010  (Mukesh Kumar Gupta) Member (J)
	25.03.2010 /pb/	20.04.2010  (Madan Kumar Chaturvedi) Member (A)
	28.04.2010 /pb/	Respondent No.4 yet to file written statement. Case is adjourned to 28 th April 2010.  (Madan Kumar Chaturvedi) Member (A)
		Mr. S.N. Tamuli, learned counsel for Applicant and Ms. M. Deka, learned counsel for State of Assam are present. Pleadings are complete. Admit. Subject to legal exception, if any. Keeping the question of limitation open, the O.A. be listed for hearing. M.A. No. 126 of 2009 will be taken up along with said O.A. List for hearing on 26 th May 2010.  (Madan Kumar Chaturvedi) Member (A)
		 (Mukesh Kumar Gupta) Member (J)

Notes of the Registry	Date	Order of the Tribunal
copy of notice along with order dated 23/2/2010 send to D/Secr. for issuing to the resp. No-4 by speed post A.D at the cost of applicant.	21/3/2010 DT= 02-3-2010	order to grant relief in the sum of Rs. 22,000/- in which sum of Rs. 10,000/- in respect of expenses incurred in view of between date 23/2/2010 and 21/3/2010.
① W/S filed by R.No-283.		order to grant relief in the sum of Rs. 22,000/- in which sum of Rs. 10,000/- in respect of expenses incurred in view of between date 23/2/2010 and 21/3/2010.
② Service report awaited from R.No-4.		order to grant relief in the sum of Rs. 22,000/- in which sum of Rs. 10,000/- in respect of expenses incurred in view of between date 23/2/2010 and 21/3/2010.
23/3/2010 Respondee has been filed by the applicant copy served.	23/3/2010	order to grant relief in the sum of Rs. 22,000/- in which sum of Rs. 10,000/- in respect of expenses incurred in view of between date 23/2/2010 and 21/3/2010.
The case is ready for hearing.	27/4/2010	order to grant relief in the sum of Rs. 22,000/- in which sum of Rs. 10,000/- in respect of expenses incurred in view of between date 23/2/2010 and 21/3/2010.
The case is ready for hearing.	25/5/2010	order to grant relief in the sum of Rs. 22,000/- in which sum of Rs. 10,000/- in respect of expenses incurred in view of between date 23/2/2010 and 21/3/2010.

26.05.2010 Dr.J.L.Sarkar, learned counsel for Applicant prays for adjournment which is not opposed by Mrs. M. Das, learned counsel for Respondents.

The case is ready for hearing.

27.6.2010

/Lm/

List the matter on 8th June 2010.


(Madan Kumar Chaturvedi) Member (A)


(Mukesh Kumar Gupta) Member (J)

The case is ready for hearing.

21.6.2010

/PB/

08.06.2010 On the request of Mrs. M. Das, learned Sr. CGSC for Respondents, list the matter on 22nd June 2010.


(Madan Kumar Chaturvedi) Member (A)


(Mukesh Kumar Gupta) Member (J)

The case is ready for hearing.

29.6.2010

/bb/

List on 30.06.2010.


(Mukesh Kumar Gupta) Member (J)

30.06.2010

Proxy counsel for respondents prays for adjournment stating that Mrs.M.Das, learned counsel for respondents is in personal difficulty. List on 02.08.2010.


(Madan Kumar Chaturvedi) Member (A)


(Mukesh Kumar Gupta) Member (J)

/bb/

O.A.220-09

02.08.2010 On the request of both sides,
adjourned to 25.08.2010.

 (Madan Kumar Chaturvedi)  (Mukesh Kumar Gupta)
Member (A) Member (J)

/bb/

25.08.2010 Proxy counsel for applicant states that
Dr J.L.Sarkar is unwell. As a matter of
indulgence adjourned to 2.9.2010.

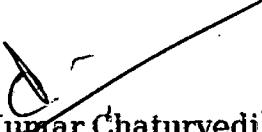
 (Madan Kumar Chaturvedi)  (Mukesh Kumar Gupta)
Member (A) Member (J)

/pg/

02.09.2010 Both sides pray for adjournment. We
note that repeated adjournments had been
granted in this case on the request made by
both sides for sufficient long time. Very
reluctantly we adjourn the matter to 7th
September 2010.

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

List on 7th September 2010.

 (Madan Kumar Chaturvedi)  (Mukesh Kumar Gupta)
Member (A) Member (J)

/pb/

07.09.2010 Present: Dr J.L. Sarkar for applicant and Mrs M. Das for the respondent Nos.2 and 3.

Dr J.L. Sarkar states that he would press relief contained vide para 8.3 namely, applicant's promotion as DGP with effect from 14.03.2005 and consequential fixation including terminal benefits.

Heard Dr J.L. Sarkar, learned counsel for applicant and Ms M. Das, learned counsel for respondent Nos.2 and 3. None for respondent Nos.1 and 4.

Hearing concluded. Reserved for orders.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

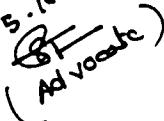
nkm

09.09.2010 Judgment pronounced in open court, kept in separate sheets. O.A. is dismissed.
No costs.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

nkm

R copy
05.10.2010

(Advocate)

CENTRAL ADMINISTRATIVE TRIBUNAL
GÜWAHATI BENCH, GUWAHATI:

O.A. No. 220 of 2009

&

M.P. No. 126 of 2010

Date of Decision: 9.09.2010

Shri Sheo Prasad Ram, IPS (Retd.)

..... Applicant/s

Dr. J.L. Sarkar

..... Advocates for the
Applicant/s

- Versus -

Union of India & Ors.

..... Respondent/s

Mrs. M. Das, for Respondent Nos. 2 & 3

..... Advocate for the
Respondents

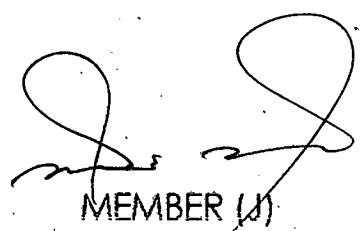
CORAM :

HON'BLE MR.MUKESH KUMAR GUPTA, MEMBER (J)

HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

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

Judgment delivered by


MEMBER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.220 of 2009

&

Misc. Application No.126 of 2010

Date of Decision: This, the 9th day of September, 2010.

HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Shri Sheo Prasad Ram, IPS (Retd.)
S/o Late Ram Guli Ram
A-1, Zone-II, Police Officer's Colony
Ulubari Complex
Guwahati-781 007.

...Applicant

By Advocate: Dr J.L.Sarkar

- versus -

1. Union of India,
Represented by the Secretary
to the Government of India
Ministry of Home Affairs
New Delhi-110 001.
2. State of Assam
Represented by the
Chief Secretary, Govt. of Assam
Dispur, Guwahati-6.
3. The Commissioner, Secretary
to the Government of Assam
Home and Political Department
Dispur, Guwahati-6.
4. State of Meghalaya
Represented by the Chief Secretary
Government of Meghalaya
Shillong, Meghalaya.

... Respondents

By Advocate: Mrs.M.Das for respondent nos.2 & 3.

ORDER

MUKESH KUMAR GUPTA, MEMBER (J):

MA:-

MA has been filed seeking condonation of delay in approaching this Tribunal belatedly. It is stated that applicant's claim is regarding proforma promotion and fixation. Since the respondents had been taking steps to create post of Director General of Police (hereinafter referred to as DGP) for posting him to said post along with other officers and as the cause of action is of continuous nature, there was some delay in approaching this Tribunal, which was bona fide action. Hence delay be condoned.

2. No reply has been filed to MA. On examination of same and upon hearing both sides, delay is condoned. M.A. is allowed.

OA:-

3. Shri Sheo Prasad Ram, IPS, 1974 batch belonging to Joint Cadre of Assam-Meghalaya, in this application, though initially had claimed various reliefs but as per statement made by Dr.J.L.Sarkar, learned counsel for applicant on 07.09.2010 to the effect that he would confine his claim relating to prayer made for promotion as DGP w.e.f. 14.03.2005 with consequential fixation of pay and terminal benefits. Hence, we will not address ourselves on various other reliefs, prayed for.

4. Admittedly, as per Indian Police Service Civil list, as on 01.01.2008 applicant's name is placed at Sl. No.7, while Sri W.R.Marbaniang, IPS 1975 batch is placed at Sl. No.11. Respondent No.4 (State of Meghalaya) vide notification dated 14.03.2005 promoted said

Shri Marbaniang to the post of DGP, Meghalaya in the pay scale of Rs.24,050-650-26000/- w.e.f. the date of taking over charge until further orders. Applicant at that point of time was on deputation to Govt. of India in Ministry of Railways and posted as Chief Security Commissioner-cum-IG/RPF, N.F.Railway, Maligaon w.e.f. 01.08.2000 and he would have completed five years tenure as on 31.07.2005. Vide representation dated 06.06.2005, he requested the respondents to take steps to promote him to said rank at par with W.R.Marbaniang. Respondent Nos.2 & 3 took steps to create vacancy in said grade. Further representation was preferred on 22.06.2006, and in response thereto, vide communication dated 24.08.2006, he was conveyed that matter has been taken up with the Govt. of India, but no relief was granted, and therefore, he preferred further representation on 20.03.2008 and 28.08.2008. Ultimately, vide communication dated 22.05.2008 (Annexure - L) and on creation of post, he was posted as DGP, CID, w.e.f. 23.05.2008 upto 01.10.2008 on personal basis. He attained the age of superannuation on 31.03.2009.

5. His grievance is that since Shri W.R.Marbaniang, his junior, has been promoted to the post of DGP in Joint cadre of Assam Meghalaya, he was entitled to promotion to said post with all consequential benefits.

6. Dr.J.L.Sarkar, learned counsel appearing for applicant has placing reliance in **Block Development Officer's Organization & Another v. State of M.P. & Others, (1996) 7 SCC 266** contended that he had a right of consideration and non-consideration amounted to violation of Articles 14 and 16 of the Constitution of India. Respondents acted arbitrarily, and therefore, he is entitled to relief, as prayed for. Placing reliance in

Manager, Government Branch Press & Another v. D.B. Belliappa, (1979) 1

SCC 477, it was contended that no reason has been assigned for the impugned action.

7. Contesting the claim laid, reply was filed on behalf of respondent nos.2 & 3 stating that Govt. of Meghalaya promoted Shri W.R.Marbaniang "**without adhering to the provisions of Joint Cadre Rules**". B.P.Rao was the immediate junior of the applicant, and therefore, State of Assam allowed him to avail proforma promotion w.e.f. the date his immediate junior was promoted in the Assam segment of Assam Meghalaya Joint Cadre in the next below rule. Shri W.R.Marbaniang was promoted by the Govt. of Meghalaya without considering any official for promotion to said post in the Joint Cadre, namely, S/Shri R.N.Mathur, Shankar Barua, S.P.Ram, B.P.Rao and M. Mohan Raj. Promotion of Shri W.R.Marbaniang was irregular and illegal. As per the rules, State Governments is entitled to one post of DGP and one ex-cadre post in the rank of DGP. As such, Govt. of Assam decided to move Government of India to allow the State Government to create 4 ex-cadre post of DGP, but said proposal was not agreed to. On the contrary Ministry of Home Affairs, Government of India vide communication dated 21.12.2005 (Annexure-R/5) required the Govt. of Meghalaya to revert Shri W.R.Marbaniang to the grade of ADGP and to take further necessary steps to fill up the post of DGPs, as outlined therein.

8. Mrs.M.Das, learned counsel for respondent nos. 2 & 3 contends that promotion of Shri W.R.Marbaniang was ab initio irregular and granting relief to applicant would tantamount to perpetuating the illegality committed by respondent no.4. Our attention was drawn to communication dated 18.08.2009 (Annexure-R/9) whereby Assam

Government was advised to revert 4 additional officers in the DGP grade to ADGP grade. It was further contended that no junior to him was promoted in Assam segment of Joint cadre Assam-Meghalaya.

9. We have heard Dr.J.L.Sarkar, learned counsel appearing for applicant; Mrs.M.Das, learned counsel for respondent nos. 2 & 3, perused the pleadings as well as judgments relied upon. At the outset, we may note that neither any representation was made by Respondent nos. 1 & 4, nor any reply was filed on their behalf. Applicant's basic claim is parity with Shri W.R.Marbaniang. We may further note that Shri Marbaniang has not been impleaded. The legal question which arises for consideration is whether granting relief to applicant at par with Shri Marbaniang's promotion as DGP vide notification dated 14.03.2005 would not tantamount to perpetuate illegality committed by the State of Meghalaya.

10. It is not in dispute that promotion of Shri W.R.Marbaniang to the post of DGP has not been approved by the Central Government, Ministry of Home Affairs. It is also not in dispute that vide communication dated 21.12.2005 (Annexure-R/5), Central Government considered it imperative to strengthen the institution of Joint Cadre Authority and place all the cases for promotion before its consideration. It is also not in dispute that no promotion committee was convened and its recommendation obtained. Further vide said notification Government of Meghalaya was required to revert Shri W.R.Marbaniang to the grade of ADGP. Apart from contending that Shri W.R.Marbaniang was continuing as DGP, Meghalaya and no compliance of direction of Central Government made, we may note that no relief is claimed against Sri Shri W.R.Marbaniang either

positively or negatively. When the Central Government has not approved appointment and promotion of Shri W.R.Marbaniang to the grade of DGP, on what basis, we can require the State of Assam to promote the applicant to the grade of DGP. Post of DGP has to be filled up as per rules, which requires convening of DPC and consideration of all eligible officers. It is not the case of either party that DPC was convened, considering all eligible officers under the rules for promotion to the grade of DGP. Without considering officials and making a positive recommendation in favour of particular officer, no direction can be issued by the Court/Tribunal to promote a particular official with consequent fixation of pay and allowances in the given grade. In our considered view, reliance placed on **Block Development Officer's Organization and D.B. Belliappa** (supra) is totally misplaced and do not advance applicant's claim. In our considered opinion, granting relief in the nature of promotion to the post of DGP would amount to violation of statutory rules in vogue. No promotion can be ordered without consideration for said purpose by the competent authority. Court/Tribunal can only direct consideration to a promotional post. In the facts of present case, it is not his claim that any vacancy was available in the grade of DGP, which necessarily required the respondents to convene DPC to consider all eligible officers.

11. In the light of discussion, made hereinabove, we do not find any merit in the claim laid. Accordingly, OA is dismissed. No costs.

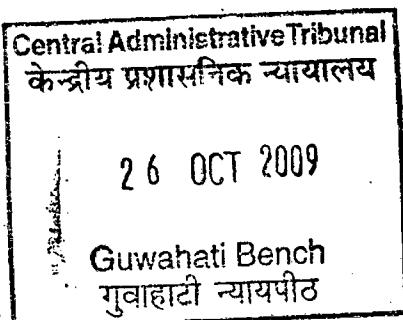
Chaturvedi
(MADAN KUMAR CHATURVEDI)
MEMBER (A)

/BB/

Mukesh
(MUKESH KUMAR GUPTA)
MEMBER (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH :

GUWAHATI.



O. A. No. 220/2009

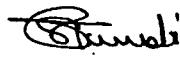
Shri S.P. Ram, IPS(Retd)

- Vs -

Union of India & Ors.

Synopsis.

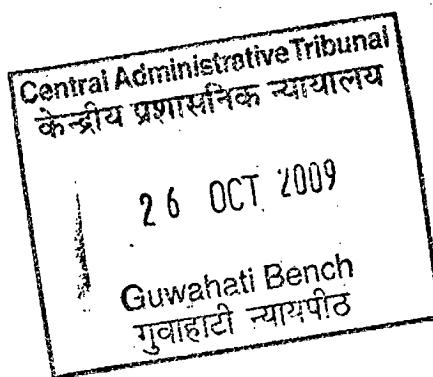
The applicant files the O.A. before this Hon'ble Tribunal praying for fresh calculation of his pay and allowances, and revision of pension, and other retirement benefits. The applicant and other IPS officers were promoted as DGP by notification dated 22.5.2008 (Annexure-L), but by letter dated 26.5.2008 they were asked not to draw salary in the promotional post. The applicant retired from service w.e.f. 31.03.2008(AN), and could not receive correct pay and allowances and retirement benefits. By notification dated 27.5.2009, post of DGP has been sanctioned for the applicant and he would get the differences of pay and allowances. The applicant's junior was promoted before his promotion as Addl. D.G.P and D.G.P, when he was on deputation outside his Assam-Meghalaya Cadre of IPS. Proforma promotion in reference to one junior has been granted, but such promotion with reference to another junior IPS Officer has not yet been ordered. Applicant prays that the promotions be ordered in relation to his junior, when he was on deputation, and his pay fixed upto his date of retirement with instructions in notification dated 27.5.2009, arrears paid, and retiral benefits revised and difference (arrears) paid.


S. N. Tamuli
Advocate.

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH :

GUWAHATI.



O. A. No. 220..../2009.

Shri S.P. Ram, IPS (Retd)

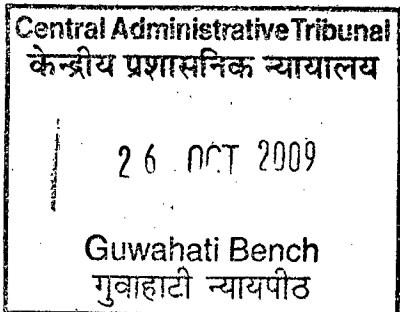
- Vs -

Union of India & Ors.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH :
GUWAHATI.



O. A. No. 220./2009.

Shri Sheo Prasad Ram, IPS (Retd)

S/O Late Ram Guli Ram

A-1, Zone-II, Police

Officer's Colony.

Ulubari Complex

Guwahati-781007.

--- Applicant.

- Vs.-

1. Union of India

Represented by the

Secretary to the Government

of India

Ministry of Home Affairs

New Delhi-110001.

2. State of Assam

Represented by the

Chief Secretary,

Govt. of Assam,

Dispur, Guwahati-6.

3. The Commissioner, Secretary

to the Govt. of Assam

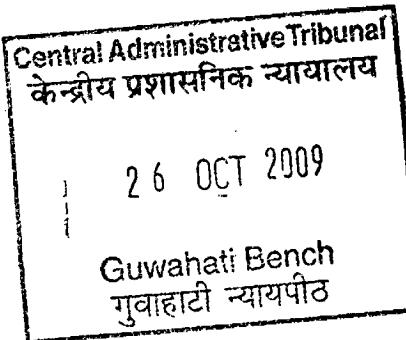
Home and Political Department

Dispur, Guwahati-6.

Contd...2

19/11/09

Filed by the ... *Applicant* 43
Through S. N. Tumuli
Advocate Date--



4. State of Meghalaya

Represented by the

Chief Secretary, Government
of Meghalaya,

Shillong

Meghalaya

----- Respondents.

1. Particulars for which the applications is made.

The application is made for refixation of pensionary and other retiral benefits, payment of differences as per notification dated 27.5.2009 (Annexure-N), fixation of pay on promotion with reference to promotion of junior of the applicant during deputation of Applicant.

2. Jurisdiction : The applicant declares that the application is within jurisdiction of this Hon'ble Tribunal.

3. Limitation : The application is within limitation prescribed by the Section 21 of the Administrative Tribunal Act, 1985, relates to pay and allowances and revision of pension.

26 OCT 2009

-- 3 --

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India.

4.2 That the applicant duly selected by the UPSC (1974 batch) was appointed in Indian Police Service (for short IPS) cadre w.e.f. 10.11.2974 in Joint Cadre of Assam-Meghalaya (year of Allotment 1974). Since his appointment he has an unblemished career and served in various capacities with promotions in promotional hierarchy. He served in different places of Assam and Meghalaya. As this application has nexus with posting of his junior in Meghalaya he narrates below his experience & posting in Meghalaya in particular as under :

(i) Supdt. of Police, East Garo Hills: 12.9.1979 to Williamnagar. 9.1.1980.

(ii) S.P., West Garo Hills, Tura : 16.1.1980 to 12.8.1981.

(iii) Spl. S.P. S.B, Meghalaya, : 18.8.1981 to Shillong. 16.10.1987.

(iv) Dy. IGP (W.R) Meghalaya, Tura : 17.10.1987 to 14.8.1989.

(v) Dy. IGP Cum Director, Civil : 18.8.1989 to Defence & Commandant General, 29.5.1991 Home Guards, Meghalaya, Shillong.

Be it stated that he has also experience of work on deputation and posting in Assam, inter alia, as under :

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The applicant also was on deputation as Dy. I.G. BSF, Kikaner (Indo-Pak Border) from 1.6.1991 to 17.6.1994 and Dy. I.G. BSF, Cooch Behar (Indo-Bangladesh Border) from 29.6.1994 to 31.5.1996. From deputation he was posted back to Assam as IGP (Operations), Assam from 25.6.1996 to 24.4.98, IGP(CID) Assam w.e.f. 24.4.1998 to 31.12.1998, and IGP(Training & Armed Police), Assam from 1.1.1999 to 31.7.2000.

The applicant places the above posting particulars to appraise the Hon'ble Tribunal that he worked in different places, and posting capacities as per orders and discharged his duties as IPS Officer of the Joint Cadre (Assam-Meghalaya), and also on deputation to Government of India i.e. Central Government.

4.3 That the applicant was promoted as I.G.P. w.e.f. 25.6.1996 and after posting as IGP/Operations, IGP(CID) and IGP/Trg. and Armed Police he was posted on deputation to Government of India as I.G. Railway Protection Force (for short R.P.F.) Cum Chief Security Commissioner, ~~IFOR~~ short CSC, N. F. Railway Maligaon, from 1.8.2000 to 31.7.2005. When he was on deputation, his junior Shri W.R. Marbaniang was promoted as Addl. DGP Meghalaya by a notification dated 17.5.2002 issued by Govt. of Meghalaya, Home (Police) department, in scale Rs. 22400/- - 24500/-, the promotion was effective from 17.5.2002. The applicant submitted representation dated 27.5.2002 to the Chief Secretary, Govt. of Assam praying for promotion and pay protection as per executive instructions governing such cases, giving copies to DGP, Assam, DG/RPF, Railway Board.


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Copy of the notification dated
17.5.2002 is enclosed as
Annexure-A.

Copy of the representation
dated 27.5.2002 is enclosed
as Annexure-B.

4.4 That by a notification dated 7.12.2002, issued by the Govt. of Assam, Home(A) Department, another IPS Officer junior to applicant, Shri B.P. Rao, IPS was promoted as Addl. DGP in scale 22400-24500/-, this promotion was effective from 7.12.2002. A notification dated 11.3.2003 (para 2) was issued allowing proforma promotion of the applicant as Addl. DGP w.e.f. the date of promotion of his immediate junior. No date was mentioned. Shri B.P. Rao is his immediate junior and such the said proforma promotion has been given w.e.f. 7.12.2002. There is no reason as to why the said proforma promotion shall not be effective w.e.f. the date of promotion of his other junior, viz. junior to his immediate junior i.e. Shri Marbaniang of allotment year 1935. It is stated such proforma promotion does not affect any person in seniority or pay but adjust the pay and allowances of the person who is given the proforma promotion, as given in notification dated 11.3.2003.

Copy of the notification dated
7.12.2002 and 11.3.2003 are
enclosed as Annexure- C and D
respectively.

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4.5 That during the period of his posting on deputation as I.G., RPF-Cum-CSC, N.F. Railway, Shri W.R. Marbaniang, IPS was further promoted to the post of Director General of Police (for short DGP), Meghalaya in scale Rs. 24,660-26000/- by an order dated 14.3.2005 issued by Govt. of Meghalaya, and the promotion was effective w.e.f. 14.3.2005. It is reiterated that Shri Marbaniang is junior to the applicant in the IPS cadre, and belongs to 1975 allotment year as against 1974 allotment year of the applicant.

In the cadre position as on 1.1.2008 (Assam-Meghalaya) the position of the applicant vis-a-vis Shri Marbaniang is as under :

Allotment year : 1974.

Sl.No. Name of the IPS Officer

.....

7. S.P. Ram

.....

Allotment year : 1975.

.....

11. W.R. Marbaniang

The applicant respectfully states that there was no ground for supersession of the applicant by any junior, and he was neither informed of scope of promotion as Addl. DGP or DGP, Meghalaya nor he was given promotion as DGP, Meghalaya nor administrative order was issued to first

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promote him as Addl. DGP and DGP before promotion of his junior as Addl. DGP and DGP and therefore continue his Deputation in the Railways following laws and procedure of deputation. The applicant begs to state that his working particulars in Meghalaya is a clear index that there is no earthly reason why he could not be posted in Meghalaya on promotion. However, he humbly states that his cause in the present application is not place of posting promotion of his junior Shri Marbaniang, but denial of the promotional benefits when his junior has been promoted, without any reason of supersession. No order as is done as in notification dated 11.3.2003 (Annexure-D), regularising the promotion of the applicant w.e.f. the date of promotion of his junior Shri Marbaniang has yet been issued for Addl. DGP and DGP. Such order shall not affect any body but shall only refix pay & allowances of the applicant.

Copy of the IPS Civil list as on 1.1.2008, pages 35-36 (Assam-Meghalaya, is Enclosed as Annexure-E.

Copies of the notifications dated 14.3.2005 issued by Govt. of Meghalaya, Home (Police) Department is enclosed as Annexure-F.

4.6 That the applicant submitted a representation dated 6.6.2005 to the Chief Secretary to the Government of Assam wherein he has narrated the factual position of completion of deputation tenure and re-patriation to his cadre w.e.f. 1.8.2005. In the said representation he has, inter alia,

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requested for his proforma promotion to the rank of Additional D.G.P. w.e.f. 17.5.2009 i.e. the date of promotion to the said post of his junior Shri Marbaniang, instead of from 7.12.2002 to which his promotion was given effect to with reference to promotion of his immediate junior Shri B.P. Rao, IPS (allotment year 1974).

The applicant prayed for his promotion as DGP, w.e.f. 14.3.2005, when his junior Shri Marbaniang was so promoted, to enable him to join as DGP upon his repatriation from deputation. Copy of the said representation dated 6.6.2005 was given to DGP/Assam and G.M./N.F. Railway, Guwahati-II.

Copy of the representation dated 6.6.2005 is enclosed as Annexure-G.

4.7 That the applicant came back from deputation from Railways and joined as Addl. DGP, CIB, Assam w.e.f. 17.8.2005 and thereafter working in different capacities, including DGP, retired on superannuation w.e.f. 31.3.2009(AN). His grievance for fixation of pay and allowances has remained unresolved and is pending, for which he is suffering recurring loss of retiral benefits in terms of money causing undue hardship. It is stated that before his retirement he submitted representations dated 27.1.2006 to the Commissioner & Secretary Govt. of Assam, dated 29.3.2006 to the Addl. Chief Secretary, Govt. of Assam and dated 22.6.2006 followed by reminder dated 17.2.2007 to the Chief Secretary, Govt. of Assam, praying for his benefits of promotion as DGP w.e.f. 14.3.2005

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when his junior was promoted. He received letter dated 24.8.2006 from Addl. Chief Secretary, Govt. of Assam, informing him that the matter has been taken up with the Government of India.

Copy of the representation dated 22.6.2006 is enclosed as Annexure-H.

Copy of letter dated 24.8.2006 is enclosed as Annexure-I.

4.8 That the applicant's representations for promotion as Addl. DGP (Rs. 22,400 - 24500/-) w.e.f. 17.5.2002 with reference to promotion of Shri Marbaniang IPS, his junior was also pending. As already explained above his promotion as Addl. D.G.P. was given effect to w.e.f. 7.12.2002 with reference to promotion of his immediate junior Shri B.P. Rao, IPS. He submitted further representations dated 16.9.2006 to the Commissioner & Secretary, Govt. of Assam, dated 29.9.2007 to the Principal Secretary to the Govt. of Assam, with copy to Chief Secretary, Govt. of Assam, and submitted reminder dated 28.8.2008.

From the above it would be seen that though his retirement on superannuation was coming close i.e. 31.3.2009, his cause for promotion w.e.f. 17.5.2002 as Addl. DGP, and as DGP w.e.f. 14.3.2005 was not finalised, ^{even after} ~~though~~ communication

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dated 24.8.2006 to the applicant. He submitted further representation dated 20.3.2008, 28.8.2008 to the Principal Secretary to the Govt. of Assam narrating some details in the said representation dated 20.3.2008.

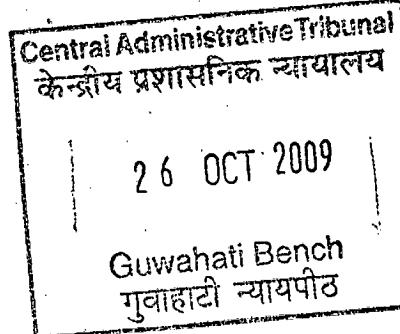
Copies of the representations dated 20.3.2008 without enclosures) and 28.8.2008 are enclosed as Annexures J and K respectively.

4.9 That the Government of Assam, Home (A) Department issued notification dated 22.5.2008 by which 5(five) IPS Officers promoted as DGP in earst while scale of Rs. 24050-26000/-. The applicant was also promoted with immediate effect and until further orders. The promotion has been effective w.e.f. 23.5.2008. It is stated that the said promotion has been given as a result of administrative decision to promote number of IPS Officers including the applicant. Shri Marbaniang has already been continuing as DGP, Meghalaya, (Joint Cadre Assam-Meghalaya). The said promotion notification dated 22.5.2008 did not deal with the matter of proforma promotion of the applicant from the date of promotion of his junior as Addl. DGP and DGP, as explained in preceding paragraphs.

Copy of the notification dated 22.5.2008 is enclosed as Annexure-L.

4.10 That by a letter dated 26.5.2008 issued by the Government of Assam. Home (A) Department, all the Officers

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promoted by notification dated 22.5.2009, including the applicant have been advised to draw pay and allowances for the post of ADGP, The pay and allowances for DGP may be drawn only after upgradation/creation of the posts as notified, as well as on receipt of ex post facto approval of Home Affairs, Govt. of India to the upgradation.

Copy of the letter dated
26.5.2008 is enclosed as
Annexure 'M'.

4.11 That after the aforesaid notification dated 22.5.2008 the applicant was posted as DGP/CID, Assam from 23.5.2008 to 1.10.2008, and as DGP & Director, State Fire Service Organisation (S.F.S.O), Assam from 1.10.2008 to 31.3.2009, and retired w.e.f. 31.3.2009 on superannuation.

Government of Assam, Home (A) Department issued letter dated 27.5.2009, by which two posts have been created to accommodate the applicant as under :

(i) DGP(CID) w.e.f. 23.5.2008 to 1.10.2008, (to be abolished when the applicant relinquished the post)

(ii) Director SFSO w.e.f. 1.10.2008 to 28.2.2009
(Personal to the applicant to be abolished when he relinquised)

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The pay scale of HAG + Scale of pay of : Rs. 75,500/-
(annual increment @ 3%) - 80,000/- grade pay nit.

It is submitted that with the above, the embargo of not drawing pay & allowances by letter datwd 26.5.2008 (Annexure-M) has been put to an end as regards the applicant. It is stated that creation of post of Director, SFSO shall be from 1.10.2008 to 31.3.2009 instead of to 28.2.2009, ^{which has been granted separately.} The applicant relinquished the post w.e.f. 31.3.2009 (AN).

Copy of the order dated
27.5.2009 is enclosed as
Annexure-N.

4.12 That the applicant has not yet been made payments consequent to the notification of dated 27.5.2009, issued after his retirement. His retirement benefits have been given on the basis of pay ~~fixed without correct fixation,~~ that is less pay and as a consequent thereof his retirement benefits viz. pension, commutation of pension, DGRG, leave salary etc. shall undergo upward revision. His pay as ADGP should be revised w.e.f. 17.5.2002, and DGP w.e.f. 14.3.2005 in scale Rs. 24050-26000/-, and consequent upon implementation of the recommendations of the 6th Pay Commission his pay in scale of Rs. 75,500-80,000/- w.e.f. 1.1.2006 should be revised.

4.13 That the applica^t has served the N.E. Region as an IPS Officer (1974 batch) in the circumstances of the region best known to the authorities. He has never hesitated to take

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up any duties with posting in any part of the region, and also on deputation whenever called for. His prayer for fixation of pay and promotion with reference to promotion of his junior in the cadre is a prayer covered by the rules and laws of the land including the popular Rule ~~as~~ called Next below Rule (NBR), part of which has already been sanctioned (with reference to Shri B.P. Rao, IPS - Annexure-D). In his retired life he cherishes the memory of his service career. He feels grateful and expresses the same, for creating the posts by notification dated 27.5.2009, for him. In the same vein he shall be grateful to the authorities if orders for promotion with reference to promotion of his junior are passed for a perpetual happy memory of his service as IPS Officer in the N.E. Region of the Country.

5. Grounds with legal provisions:

5.1 For that the applicant cannot be denied the scope of promotion in his cadre when he was sent on deputation, and when his junior/juniors have been promoted in the cadre during his deputation, he should be promoted with reference to promotion of his junior.

5.2 For that non-promotion of the applicant when junior is promoted, during service in deputation, is violative of law of equality, and offends Articles 14, 16 and 21 of the Constitution of India.

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5.3 For that denying due promotion in the cadre while promoting junior is violative of the procedure established by law during service on deputation.

5.4 For that such denial is violative of due process of law, and principles of natural justice, applicant being deprived of promotion in cadre and junior promoted, without calling for his option, and when applicant has never refused promotion in cadre (he had no occasion to refuse). The denial of promotion has been behind the back of the applicant.

5.5 For that the denial/delay of the promotion of the applicant under the next below rule has been causing continuous loss/wrong to the applicant.

5.6 For that creation of the post of Director SFSO by notification dated 27.5.2009 ~~has been upto 28.2.2009~~ ⁽²⁰⁰⁹⁾ ~~and thereafter upto 31.3.2009~~, and ~~thereafter upto 31.3.2009~~

5.7 For that delay in effecting the promotions in the facts and circumstances of the case and delay in giving pay & allowances of DGP, has been causing loss in the receipt of retiral entitlements.

6. Details of remedies exhausted :

The applicant declares that he has exhausted remedies by submitting representations as explained in the

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application. There is no other remedy under any rule.

7. Matter not pending before any other court :

The applicant declares that he has not filed any other case in any other Court/Tribunal on the subject.

8. Reliefs sought for :

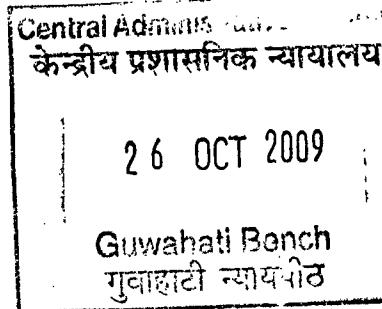
In the circumstances of the case the applicant prays for the following reliefs :

1) The pay of Addl. DGP in scale Rs. 24050-26000/-
2) The additional pay of Addl. DGP (�েষদাস্তি)

1) The difference of pay and allowances consequent upon sanction communicated by notification dated 27.5.2009 be paid without delay with interest.

2) The applicant's pay as Addl. DGP in scale Rs. 22400-24500/- should be fixed w.e.f. 17.5.2002 when his junior was promoted during applicant's deputation out side cadre.

3) The applicant's promotion as DGP may be given w.e.f. 14.3.2005 when his junior was promoted as DGP, in scale Rs. 24050-26000/-.



4) The pay and allowances as DGP/Director SFSO in scale of Rs. 75,500-80,000/- be fixed w.e.f. 1.1.2006 correctly (6th Pay Commission Scales) and arrears paid.

5) The retirement entitlements viz. pension, commutation of pension, D.C.R.G., Leave Salary etc. be revised and difference paid with interest.

6) Any other relief/reliefs the Hon'ble Tribunal considers fit in the circumstances of the case.

The above prayers are made on the grounds in para 5 above.

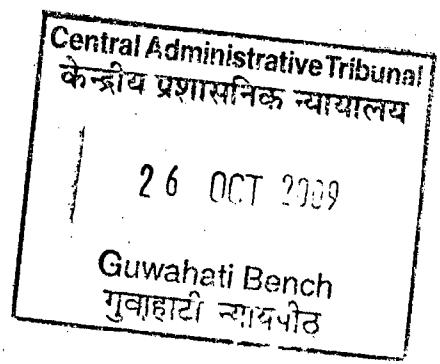
9. Interim relief prayed for :

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

The difference of pay and allowances as per notification dated 27.5.2009 be paid immediately.

10. The application is filed through Advocate.


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:- 17 :-

11. (i) I.P.O. No... 39.6.434163...

(ii) Date of issue .. 14/9/09...

(iii) Issued from G.P.O. Guwahati

(iv) Payable at G.P.O. Guwahati.

12. Enclosures :

As stated in the Index.



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VERIFICATION.

I, Shri Sheo Prasad Ram aged about 61 years son of Late Ram Guli Ram, resident of Ulubari, Guwahati-7, retired Director General of Police/Director (SFSO), Assam do hereby say that I am the applicant of the above application and fully conversant with the facts and circumstances of the case, I verify that the statements made in paras 1, 4, 6 to 12 are true to my knowledge and those made in paras 2, 3 and 5 are true to my knowledge as per legal advice and I have not suppressed any material facts.

I sign this verification this 19th day of October, 2009 at Guwahati.


19/10/09
Signature. (Sheo Prasad Ram)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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GOVERNMENT OF MEGHALAYA
HOME(POLICE) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Shillong, the 17th May, 2002

No.HPL.245/86/91 - Shri L.Sailo, IPS (RR.72) Addl.DGP, Meghalaya is hereby promoted to the post of Director General -cum-Inspector General of Police, Meghalaya in the scale of Rs. 24050-650-26000/- w.e.f. the date of taking over charge until further orders.

No.HPL.245/86/92 - Shri W.R.Marbaniang, IPS (RR.75) Director Civil Defence and Commandant General Home Guards, Meghalaya(IGP rank) is hereby promoted to the post of Addl.Director General of Police, Meghalaya in the scale of Rs.22400-525-24500/- w.e.f. the date of taking over charge . He will however continue to hold the post of Director Civil Defence and Commandant General Home Guards, Meghalaya until further orders.

(G.P.Wahlang)
Commissioner & Secretary to the Govt. of Meghalaya,
Home (Police) etc. Departments.

Memo.NO.HPL.245/86/92-A

Dated Shillong, the 17th May, 2002

Copy forwarded to:-

1. The Principal Secretary to the Governor, Meghalaya, Shillong.
2. The Principal Secretary to the Chief Minister, Meghalaya, Shillong.
3. The Private Secretary to the Deputy Chief Minister, Meghalaya, Shillong.
4. The Private Secretary to the Minister Home(Police), Meghalaya.
5. The Private Secretary to the Chief Secretary, Meghalaya.
6. The Accountant General(A&F), Meghalaya, Shillong.
7. The Under Secy., to the Govt. of India, Ministry of Home Affairs, New Delhi.
8. The Secretary, Joint Cadre Authority, Assam-Meghalaya and Commissioner & Secretary to the Govt. of Meghalaya, Personnel & A.R.(A) Dep't.
9. The Secretary to the Govt. of Assam, Home(A) Dep't, Dispur, Guwahati -781006.
10. The Director General of Police, Meghalaya, Shillong.
11. The Director of Printing & Stationery, Meghalaya for favour of publication in the Gazette.
12. Shri L.Sailo, IPS, DGP-cum-Inspector General of Police, Meghalaya.
13. Shri W.R.Marbaniang, IPS, Director Civil Defence and Commandant General Home Guards, Meghalaya, Shillong.
14. Personal file/Guard file.

By order etc.,

5/11/02
(D.Syiem)

Deputy Secretary to the Govt. of
Meghalaya, Home(Police) Deptt.

Attested

[Signature]

Advocate

Monday, May 27, 2002

No. P/SPR/2000

From:

S. P. RAM, IPS
Chief Security Commissioner – Cum – IGRPF
N. F. Railway, Malignon,
GUWAHATI – 781011

To:

Shri P. K. Bora, IAS,
Chief Secretary to the Govt. of Assam,
DISPUR, GUWAHATI

Central Administrative Tribunal
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Sub: Proforma Promotion of Shri S. P. Ram, IPS, to the rank of
Addl. DGP in the Scale of pay Rs. 22,400 – 525 – 24,500/-

Ref: Govt. of Meghalaya's Notification No. HPL.245/86/92,
dated 17th May, 2002.

Sir,

In inviting your kind attention to the subject mentioned above, I am to inform you that the Govt. of Meghalaya have promoted Shri W. R. Marbaniang, IPS (RR 75), Director Civil Defence & Comdt. General, Home Guards, Meghalaya to the post of Addl. DGP, Meghalaya in the scale of Rs. 22,400 – 525 – 24,500/- vide orders issued by Notification No. HPL.245/86/92, dated 17th May, 2002 and he has joined in the same post in the rank of Addl. DGP w.e.f. 17.05.2002. A copy of the above referred notification is enclosed for your kind perusal and ready reference. Shri W. R. Marbaniang, IPS is clearly one year junior to me as my name figures at No. 2 in the 1974 Batch of Assam Meghalaya Cadre. Thus I have been overlooked for promotion and thereby superceded which has caused much mental anguish to me besides monetary loss.

In view of the above stated facts, I would request you to kindly allow me Proforma Promotion under Next Below Rule (NBR) w.e.f. the date on which my junior in the cadre has been promoted i.e., 17.05.2002, so that, I get pay protection during my central deputation period as allowed by the Govt. of India as per Govt. of India, Ministry of Personnel, P.G. & Pension, Department of Personnel & Training, Memo No. 11030/17/93-AIS(I) dated 17th April, 2002.

An early action in the matter is highly solicited.

Enclos. As stated above.

Attested
Advo

Yours faithfully,

You

27/5/2009

(S. P. RAM)

Chief Security Commissioner – Cum – IGRPF
N. F. Railway, Malignon.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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Copy to:

(i) Shri H. K. Deka, IPS, Director General of Police, Assam, Dibrugarh, Guwahati for favour of kind information and necessary action.

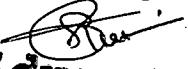
(ii) Dr. A. K. Pandey, IPS, Director General/RPF, Railway Board, New Delhi for favour of kind information.

Ans
27/5/2009

Chief Security Commissioner - Cum - IG/RPF
N. F. Railway, Maitiagan.

07c

Attested


Advocate

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT
ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 7th Dec. 2002.

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No. HMA. 5/93/Pt. III/4 : In the interest of public service, Shri B.P. Rao, IPS (AM-74) is promoted to the rank of Addl. Director General of Police in the pay scale of Rs. 22,400/- 52,24,500/- and transferred and posted as Addl. Director General of Police (B), Assam with effect from the date of taking over charge and until further orders against existing vacancy.

No. HMA. 5/93/Pt. III/4(a) : In the interest of public service Shri A.K. Das, IPS (AM-83) is promoted to the rank of Inspector General of Police in the pay scale of Rs. 18,400-500-22,400/- and transferred and posted as Inspector General of Police (TAP) Assam with effect from the date of taking over charge and until further orders vice Shri B.P. Rao, IPS promoted.

No. HMA. 5/93/Pt. III/4(b) : Shri P.D. Goswami, IPS (AM-85) Deputy Inspector General of Police (B), Assam is allowed to hold the charge of the post of Deputy Inspector General of Police (V. & A.C.) to perform the duties of the post in addition to his own duties until further order.

Sd/- G.C. Patar,
Under Secy. to the Govt. of Assam,
Home (A) Department

Dtd. Dispur, the 7th Dec. 2002.

Memo No. HMA. 5/93/Pt. III/4-4, Dtd. Dispur, the 7th Dec. 2002.

Copy to :-

- 1) The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.
- 2) The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
- 3) The Under Secy. to the Govt. of India, Ministry of Home Affairs, New Delhi.
- 4) The Under Secy. to the Govt. of Meghalaya, Home (P) Deptt., Shillong.
- 5) The Addl. Director General of Police/Inspector General of Police/Deputy Inspector General of Police.....
- 6) The Supdt. of Police/Commandant.....
- 7) Person concerned.....
- 8) The P.P.S. to Chief Minister, Assam, Dispur, Guwahati-6.
- 9) The P.S. to Chief Minister, Assam, Dispur, Guwahati-6.
- 10) The P.S. to Chief Secretary, Assam, Dispur, Guwahati-6.
- 11) The P.S. to Addl. Chief Secretary, Assam, Dispur, Guwahati-6.
- 12) The P.S. to Commissioner & Secy., Home Deptt., Dispur, Guwahati-6.
- 13) The P.S. to Commissioner & Secy., to Chief Minister, Assam, Dispur, Guwahati-6.
- 14) The Supdt. Assam Govt. Press, Bamunimaidan, Guwahati-21.

By Order Etc.,

7/12/02
Under Secy. to the Govt. of Assam,
Home (A) Department

TD/

Attested
Signature
Advocate

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
गुवाहाटी न्यायालय

Received on 30/4/2003

from Govt. of Assam. in general file

30/4/2003

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

ANNEXURE D

Dated Dispur, the 11th March/2003.

No. HMA. 167/94/Pt. II/55 : Shri S.R. Mehra, IPS (AM-70) now on deputation to Govt. of India is allowed proforma promotion to the rank of Director General & Inspector General of Police in the pay scale of Rs. 24050-650-26000/- with effect from the date his immediate Junior was promoted under Rule 5, note-III, 2(3) of the IPS (Pay) Rules, 1954.

Shri S.R. Mehra, IPS is entitled to his pay in the above scale from the Govt. of Assam only with effect from the date of his reversion from Central deputation with notional fixation of his pay with effect from the date of promotion of his junior to the above scale on the regular line.

No. HMA. 167/94/Pt. II/55 (a) : Shri S.P. Ram, IPS (AM-74), now on deputation to Govt. of India is allowed proforma promotion to the rank of Addl. Director General of Police in the pay scale of Rs. 22400-525-24500/- with effect from the date his immediate junior was promoted to the rank of Addl. Director General of Police under Rule 5, note-III, 2(3) of IPS (Pay) Rule, 1954.

Shri S.P. Ram, IPS is to entitled to his pay in the above scale from the Govt. of Assam only with effect from the date of his reversion from Central deputation with notional fixation of his pay with effect from the date of promotion of his junior to the above scale on the regular line.

Sd/- B.K. Gohain,
Commissioner & Secretary to the Govt. of Assam
Home etc., Department

Memo No. HMA. 167/94/Pt. II/55-A, Dtd. Dispur, the 11th March/2003.
Copy to :-

- 1) The P.P.S. to Chief Minister, Assam, Dispur, Guwahati-6.
- 2) The P.S. to Chief Minister, Assam, Dispur, Guwahati-5.
- 3) The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.
- 4) The Director General & Inspector General of Police, Assam, Uluburi, Guwahati-7.
- 5) The Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi.
- 6) The General Manager, N.F. Rly, Maligaon, Guwahati-6.
- 7) The Addl. Director General of Police/Inspector General of Police/Deputy Inspector General of Police.....

Attested

(Contd.... 2/-P)

Advocate

26 OCT 2004

Guwahati Bench
गुवाहाटी न्यायालय

- 2 -

8) The Superintendent of Police/Commandant.....

9) Shri. S. P. Ravi, IPS, Chief Security IN.F.R.Ly.
Officer, Maligaon, Guwahati, Assam,

10) The P.S. to Chief Secretary, Assam, Dispur, Guwahati-6.

11) The P.S. to Addl. Chief Secretary, Assam, Dispur, Guwahati-6.

12) The P.S. to Commissioner & Secretary, Home, Assam,
Dispur, Guwahati-6.

13) The P.S. to Commissioner & Secretary to Chief Minister,
Assam, Dispur, Guwahati-6.

14) The P.S. to Secretary, Home, Assam, Dispur, Guwahati-6.

15) The Supdt. Assam Govt. Press, Bamunimaidan, Guwahati-21.

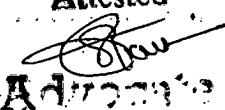
By Order Etc.,

10/10/03

Joint Secy. to the Govt. of Assam,
Joint Secy. to the Govt. of Assam, Home (A) Department

TD/aff no else, specify add. or name, if any, to

Attested


Adi

PL 1646

22/8/08

ANNEXURE

E

CA

In personal file

22/8/08

ASSAM POLICE HEADQUARTERS
ULUBARI :: GUWAHATI

Letter No. FA/XII/9/2001/157 Dated Guwahati, the 16th Aug/08.

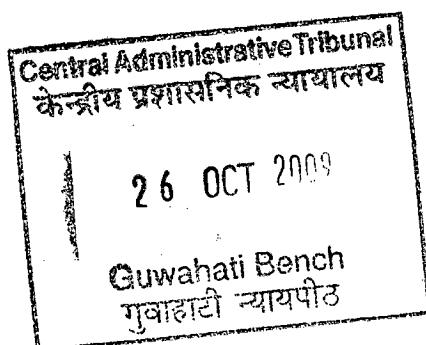
From :: Shri G. Bhuyan, IPS
Inspector General of police (A),
Assam, Guwahati.

To :: Shri... S.P. Ram, IPS : All IPS Officers
D.L.P. (C.I.D.), Assam : of Assam.
L.G.A.

Sub :: CIVIL LIST OF IPS OFFICERS OF ASSAM
AND MEGHALAYA JT. CADRE/ 2008.

Sir,

I am directed to enclose a photostat copy
of Civil list 2008 of IPS Officers of Assam and Meghalaya
Jt. Cadre received from MHA, New Delhi for your information.



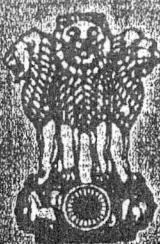
Yours faithfully,

Inspector General of police(A),
Assam, Guwahati.

16/8

Attested

Advocate



सिविल लिस्ट
CIVIL LIST
INDIAN POLICE SERVICE
भारतीय पुलिस सेवा

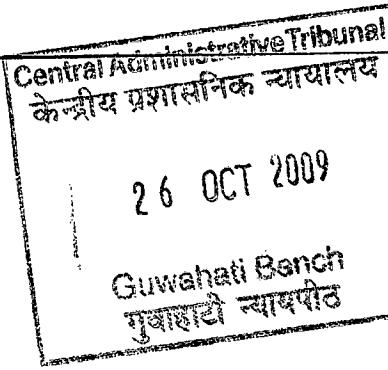
2008

गृह मंत्रालय
भारत सरकार

MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA

Attested
Signature
Advocate

Advocate
Attested



भारतीय पुलिस सेवा सिविल लिस्ट
(1 जनवरी, 2008 की यथार्थिति)

INDIAN POLICE SERVICE CIVIL LIST

(As on 1st January, 2008)

The contents of the list should not be deemed to convey any sanction or authority in the matter of seniority, pay and allowances.

इस सूची की विषय-वस्तु वरिष्ठता, वेतन और भर्तों के मामले में कोई रवीकृति या प्राधिकार देना नहीं समझा जायेगा।

गृह मंत्रालय भारत सरकार

MINISTRY OF HOME AFFAIRS GOVERNMENT OF INDIA

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
गुवाहाटी न्यायालय

असम-मेघालय

ASSAM & MEGHALAYA

भारतीय पुलिस सेवा की अधिकृत संवर्ग संख्या (01/01/2008 की यथारिति)
Authorised Cadre Strength of the Indian Police Service (As on 01/01/2008)

क्र.सं.प	के.प्र.रि.	रा.प्र.रि.	छु.क.प्र.रि.	सी.म.को.	प.को.	कु.अ.सं.	भा.पु.सेवा अधिकारियों की यथारिति संख्या
							सीधी भर्ती (क.वे. व.वे.एवं ऊपर) पदाधिति जोड़ से

SDP	CDR	SDR	LR & JR,TR	DRQ	PQ	TAS	No. of officers in position under		
							DRQ (Jr.S Sr.S & above)	PQ	Total
34	33	21	15	107	46	153	11	85	39 135

अधिकारी का नाम, रीक्षित योग्यता	भर्ती का आवंत, पहचान संख्या और गृह राज्य	जन्म तिथि, भा.पु.से. में नियुक्ति की तारीख	वर्तमान धारित पद, वर्तमान पद पर नियुक्ति की तारीख, वेतन	प्राप्त पुलिस पदक, यदि कोई हो
Name of the IPS Officer/ Educationalqualification,	Source of Recruitment, ID No.,Home State	Date of birth, Date of appointment to IPS	Present Post held, Date of appointment to the Present Post, Pay scale	Police Medals if Any

(1)	(2)	(3)	(4)	(5)	(6)
संदर्भी S/Shrt					
<u>Allotment Year : 1970</u>					
1	श्याम रतन मेहरा Shyam Ratan Mehra M.A.	RR Delhi	19701014 04/03/1948 05/07/1970 01/09/2005 24050-650-26000	Commissioner of S.C.A. New Delhi.	
<u>Allotment Year : 1972</u>					
2	घनश्याम मुरारी श्रीवास्तव Ghanshyam Murari Srivastava M.A.	RR Uttar Pradesh	19721012 15/07/1949 16/07/1972 26/03/2007 24050-650-26000	DG CD & CG HG, Assam PMG - 1984 PM - 1990 PPM - 2001 ASSP - 2002	
<u>Allotment Year : 1973</u>					
3	रविन्द्र नाथ माथुर Ravindra Nath Mathur B.Sc.	RR Rajasthan	19731020 30/04/1949 23/07/1973 31/12/2006 24050-650-26000	DGP, Assam PM - 1991 SDM - 1991	ASSP - 2002
4	शारदा प्रसाद Sharda Prasad M.Sc., LL.B, Dip. in International Transport & Aerial	RR Uttar Pradesh	19731021 12/09/1950 15/07/1973 07/06/2006 22400-525-24500	ADGP (V & AC) Assam PM - 1994 SDM - 2002	
5	बी.के.डे B.K.Dey B.A.(H), MA	RR Meghalaya	19731049 17/03/1951 12/07/1973 21/03/2007 24050-650-26000	DGP, Meghalaya, Shillong IPM - 1998 PPM - 2005	
6	संकर बरुआ Sankar Barua B.A.LL.B.	RR Assam	19741010 03/12/1951 29/07/1974 17/08/2005 22400-525-24500	Chairman, APHC, Assam PM - 1996 SDM - 2000 PPMDS - 2003	

26 OCT 2009

Guwahati Bench

पाहाड़ी न्यायपीठ

ASSAM & MEGHALAYA

असम-मेघालय

(1)	(2)	(3)	(4)	(5)	(6)
सरकारी S/Shri					
7	एस एम राम S.P. Ram M.Sc.	RR Uttar Pradesh	19741044 10/11/1974	15/03/1949 08/06/2007 22400-525-24500	ADGP, (CID) PM - 1996
8	के सी रेडी K.C. Reddy M.Sc.	RR Andhra Pradesh	19741046 21/07/1974	05/12/1948 22400-525-24500	IPM - 1990
9	बीरेन्द्र प्रसाद राव Birendra Prasad Rao M.Sc.	RR Bihar	19741051 14/07/1974	10/06/1949 12/09/2005 22400-525-24500	PSDM - 1999 SDM - 1999 ASSP - 2002
<u>Allotment Year : 1975</u>					
10	एम मोहन राज M. Mohan Raj B.Sc.	RR Karnataka	19751013 21/07/1975	17/09/1948 05/12/2006 22400-525-24500	ADGP, (OSD), Assam
11	डब्ल्यू आर मार्बनिअंग W R Marbaniang B.A.	RR Meghalaya	19751045 30/07/1975	29/08/1951 21/03/2007 24050-650-26000	DG, Civil Defence & HG, Meghalaya Shillong IPM - 1994 PPM - 2003
<u>Allotment Year : 1976</u>					
12	कुलबीर कृष्ण Kulbir Krishan B.Sc.(Hons)	RR Meghalaya	19761002 14/11/1976	19/01/1955 16/07/2007 22400-525-24500	ADG (Prison), Meghalaya, Shillong IPM - 1995
13	सिबब्रेटे ककाति Sibabrate Kakati M.Sc.	RR Meghalaya	19761062 14/11/1976	01/02/1951 08/06/2006 22400-525-24500	ADGP, (TAP), Assam PPM - 2001 ASSP - 2002
<u>Allotment Year : 1977</u>					
14	सुभाष गोस्वामी Subash Goswami M.Sc.	RR Meghalaya	19771015 11/11/1977	05/12/1954 12/02/2006 22400-525-24500	IGP, CRPF, Kolkata IPM - 2001 PPMDS - 2007
15	अनिल प्रधान Anil Pradhan MA	RR Meghalaya	19771021 12/07/1977	03/07/1951 12/07/1977 14/12/2005 22400-525-24500	Addl. DGP (CID/Hqr.), Meghalaya, Shillong IPM - 1997 PPM - 2003
16	प्रेम सिंह Prem Singh B.A., MA, MPA	RR Himachal Pradesh	19771094 02/12/1978	01/04/1955 11/07/2005 22400-525-24500	IPM - 1996 PPM - 2006
<u>Allotment Year : 1978</u>					
17	जयंत नारायण चौधरी Jayanto Narayan Choudhury M. A.	RR Assam	19781010 12/07/1978	05/05/1955 10/03/2003 22400-525-24500	IPM - 1994 PPM - 2003



-29-
-40-

IN EXCERPT

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

GOVERNMENT OF MEGHALAYA
HOME (POLICE) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Shillong the 14th March, 2005

No. HPL.38/99 Pt. IV/2 - Shri W. R. Marbaniang, IPS (RR - 75) Addl. Director General of Police (L & O), Meghalaya is hereby promoted the post of Director General of Police, Meghalaya in the scale of pay Rs. 24050 - 650 - 26000/- with effect from the date of taking over charge until further orders.

sff-

(R. V. Suchiang)

Commissioner & Secretary to the Government of Meghalaya
Home (Police) Department.

Memo No. HDL. 38/99. Pt. IV/ 2 - A

Dated Shillong the 14th March, 2005

Copy forwarded to :-

1. The Commissioner & Secretary to the Governor of Meghalaya, Shillong.
2. The Private Secretary to Chief Minister, Meghalaya, Shillong.
3. The Private Secretary to Deputy Chief Minister, Meghalaya, Shillong.
4. The Private Secretary to Minister Home (Police), Meghalaya, Shillong.
5. The Private Secretary to Chief Secretary, Meghalaya, Shillong.
6. The Under Secretary to the Government of India, Ministry of Home Affairs, New Delhi - 110001.
7. The Secretary, Joint Cadre Authority, Assam - Meghalaya and Principal Secretary to the Government of Meghalaya, Personnel & AR (A) Department, Shillong.
8. The Secretary to the Government of Assam, Home (A) Department, Dispur, Guwahati - 781006.
9. The Director General & Inspector General of Police, Meghalaya, Shillong.
10. The Accountant General (A & E) Meghalaya, Shillong.
11. The Director of Printing & Stationery, Meghalaya, Shillong for favour of publication in the Gazette.
12. Shri W. R. Marbaniang, IPS (RR - 75) Director General of Police, Meghalaya, Shillong.
13. Personal files/Guard file.

Attested

By order etc

sff-


Advocate

Deputy Secretary to the Govt. of Meghalaya
Home (Police) Department.



-44- -30-

ANNEXURE

NORTHEAST FRONTIER RAILWAY



OFFICE OF THE CHIEF SECURITY COMMISSIONER MALIGAON, GUWAHATI-781011

Phone : 2570509 FAX: 0361-2570376

NO.P/SPR/2000/ 40,

To
Shri S. Kabilan, IAS,
Chief Secretary to the Govt. of Assam,
Dispur, Guwahati.

Monday, June 06, 2005 Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
गুৱাহাটী বৰ্ষার্থ

**Sub: Repatriation of S. P. Ram, IPS (AM-74) from the Govt. of India
to own cadre – Assam.**

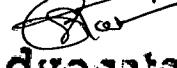
Sir,

I have the honour to inform you that I, Sheo Prasad Ram, IPS (AM-74), presently on deputation to the Govt. of India in the Ministry of Railways and posted as the Chief Security Commissioner-cum-IG/RPF, N. F. Railway, Maligaon, Guwahati-11, Assam, with effect from 01.08.2000 would be completing the five year tenure on 31.07.2005 and upon repatriation, expected to join my duty in the Govt. of Assam with effect from 01.08.2005.

In this connection I would like to mention that the Govt. of Assam, vide Notification No: HMA 167/94/Pt.II/55(a), dated 11th March 2003, had allowed me proforma promotion to the rank of the Additional Director General of Police in the pay scale of Rs.22, 400-525-24,500/- with effect from the date my immediate junior (Shri B. P. Rao, IPS) was promoted to the rank of Additional Director General of Police. However, while my immediate junior Shri B. P. Rao, IPS, was promoted to the rank of Additional Director General of Police vide Govt. of Assam Notification No: HMA/5/93/Pt.III/4, dated 07.12.2002, Shri W. R. Marbaniang, IPS (AM-75) had already been promoted to the rank of Additional Director General of Police by the Govt. of Meghalaya vide Notification No: HPL.245/86/92-A, dated 17th May, 2002. I would, therefore, request the Govt. of Assam to kindly allow me the proforma promotion to the rank of Additional Director General of Police with effect from 17.05.2002, the date on which my one year junior cadre-mate was promoted to the rank of Additional Director General of Police.

Contd...2

Attested


Advocate



- 31 -
- 42 -

- 2 -

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
गुवाहाटी न्यायालय

Further, Shri W.R. Marbaniang, IPS, Additional Director General of Police, Meghalaya has been promoted to the post of Director General of Police, Meghalaya in the scale of pay of Rs. 24,050-650-26,000/- by the Govt. of Meghalaya vide Notification No: HPL.38/99/Pt.IV/2, dated 14th March 2005.

✓ In view of the above, I would request that steps may kindly be taken for my promotion to the rank of Director General of Police and posting in the Govt. of Assam, so as to enable me to join my duty in Assam Government with effect from 01.08.2005 upon my repatriation.

Yours faithfully,

S. P. Ram
(S. P. RAM, IPS)
Chief Security Commissioner
N. F. Railway: Maligaon.

Copy for favour of kind information and necessary action to:-

1. Shri P. V. Sumant, IPS, Director General of Police/Assam, Ulubari, Guwahati – 7.
2. Shri A. K. Sanwalka, General Manager, N. F. Railway, Maligaon, Guwahati – 11.

S. P. Ram
(S. P. RAM, IPS)
Chief Security Commissioner
N. F. Railway: Maligaon.

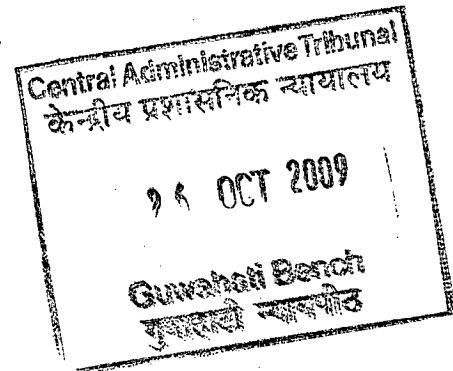
Attested

[Signature]
Advocate

OFFICE OF THE ADDL. DIRECTOR GENERAL OF POLICE :: CID ::
ASSAM :: ULUBARI :: GUWAHATI.

Letter No. CB/CID/40-05/98

Dated, the 22nd June, 2006.



From : Shri S.P. Ram, IPS,
Addl. Director General of Police,
CID, Assam, Ulubari, Guwahati.

To : Shri S. Kabilan, IAS,
Chief Secretary to the Govt. of Assam,
Dispur, Guwahati-6.

Sub:- PROMOTION OF SHRI S.P. RAM, IPS, TO THE RANK OF DIRECTOR
GENERAL OF POLICE – CASE OF SUPERSESSION.

Ref. :- My letter No. CB/CID/40-05/11, dated 27.01.2006 and letter No. CB/CID/40-
05/57, dated 29.03.2006.

Sir,

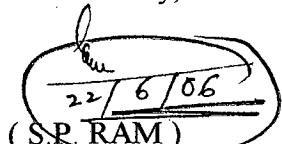
I have the honour to submit that Shri W.R. Marbaniang, IPS (AM : 75) of the Joint Cadre of the Service (IPS) was promoted to the rank of Director General of Police in the Scale of Pay 24050-650-26,000/- and posted as the DGP, Meghalaya vide Meghalaya Government Notification No HPL.38/99/Pt.IV/2, dated 14th March, 2005 (copy enclosed). Since Shri Marbaniang is clearly one year junior to the undersigned I had requested the Government of Assam vide my letter referred to above to take steps to promote me to the rank and post of the Director General of Police and give benefit of the promotion with effect from the date Shri Marbaniang, IPS, was promoted to the DGP rank i.e. with effect from 14th March, 2005, the day I was over looked.

In this connection, I would like to submit that I have submitted two representations requesting the Government of Assam to promote the undersigned to the rank of DGP. However it appears that no action has been taken by the Govt. to promote the undersigned so far.

In view of the above, I would request you to kindly take immediate steps for my promotion which is very much due to the undersigned.

Enclo:- As stated.

Yours faithfully,



Addl. Director General of Police,
CID, Assam, Guwahati.

9c

Attested
Signature
Advocate

CA.

In personal file 27/3/06.

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

NO. HMA 116/2006/28

Dated Dispur, the 24th August, 2006

From : Shri N.K.Das, IAS,
Addl. Chief Secy. to the Govt. of Assam,
Home & Political Department.

To : Shri S.P. Ram, IPS,
Addl. Director General of Police (CID), Assam,
Ulubari, Guwahati-7.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Sub : Regarding Promotion of Shri W.R. Marbaniang, IPS DGP, Meghalaya.

Ref : your letter No. CB/CID/40-50/98 dt. 22-6-06

Sir,

In inviting a reference to your letter on the subject cited above, I am directed to say that the matter has been taken up with the Government of India.

This is for favour of your kind information.

Yours faithfully,

Addl. Chief Secretary to the Govt. of Assam,
Home & Political Department,

Attested
Advocate

OFFICE OF THE ADDL. DIRECTOR GENERAL OF POLICE :: CID ::
ASSAM :: ULUBARI :: GUWAHATI.

Letter No. CB/CID/50-07/100

Dated, the 20th March, 2008.

From : Shri S.P. Ram, IPS,
Addl. Director General of Police,
CID, Assam, Guwahati.

To : Shri S.C. Das, IAS,
Principal Secretary to the Govt. of Assam,
Home (A) Department, Dispur.
Guwahati.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Sub:- **Promotion of Shri S.P. Ram,IPS, (AM-74) to the rank of DGP - Case of Supercession.**

Ref:- My letter Nos. – (i) CB/CID/40-05/11, dated 27th January, 2006,
(ii) CB/CID/40-05/57, dated 29th March, 2006,
(iii) CB/CID/40-05/98, dated 22nd June, 2006, and
(iv) TAP/ADGP/PF/PROM/SPR/111, dated 17th February, 2007.

Sir,

With reference to the subject mentioned above, I have the honour to submit that the undersigned had submitted a number of representations to the Govt. of Assam (copies enclosed) requesting promotion to the rank of DGP in the scale of pay Rs. 24050-650-26,000/- w.e.f. 14th March, 2005, i.e. from the date on which my junior colleague in the Cadre Shri W.R. Marbaniang, IPS, (AM-75) was promoted and posted as DGP, Meghalaya vide Meghalaya Govt. Notification No. HPL-38/99/Pt.IV/2, dated 14.03.2005. However, more than three(3) years have passed and the decision of the Govt. of Assam over the matter is still awaited.

In this connection, I am to submit that the Govt. of India, in response to the order dated 01.08.2006 of the Hon'ble Central Administrative Tribunal, Guwahati Bench in OA No. 215 of 2005 filed by Shri B.P. Rao, IPS (AM-74), in its letter No. I-16013/32/2005-IPS-II, dated 10.10.2006 addressed to the Chief Secretary to the Govt. of Assam, Home (A) Department, Dispur, Guwahati, (copy enclosed) had offered comments on the representation submitted by Shri B.P. Rao, IPS indicating therein various grounds/reasons why no ex-

Contd... 2/-

Attested

Advocate

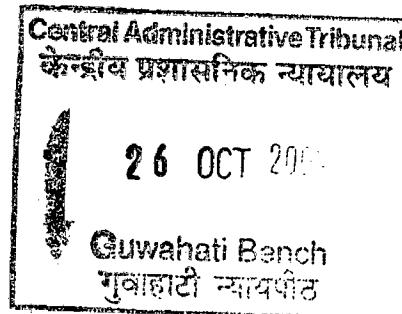
(2)

cadre posts beyond 1:1 ratio can be created in the rank of Director General of Police to accommodate 5 officers senior to Mr. Marbaniang who have been superceded. The real thrust of the argument by the Ministry of Home Affairs (MHA) appears to deny the promotions to all the 5(five) superseded officers mainly, - (1) Shri S. Prasad,IPS(AM-73), (2) Shri S. Barua,IPS (AM-74), (3) S.P. Ram,IPS,(AM-74), (4) Shri B.P. Rao,IPS, (AM-74) and (5) Shri M. Mohan Raj,IPS(AM-75), which is legitimately due.

In this connection, it is very humbly submitted that the denial of promotion to the superseded officers on the grounds/reasons cited in **Paras 2 to 11** of the said Memorandum is unfair, arbitrary and discriminatory in nature particularly in view of the decision of the Govt. of India in the past to create two ex-cadre posts in the rank of the DGP, conveyed to the Govt. of Assam, vide Memo No. I-11012/2/2002-IPS/1, dated 09.04.2003 (copy enclosed). In **Para 4** of the said letter it is clearly mentioned that two posts in the rank of DGP are created beyond 1:1 ratio to regularize the appointment of Shri P.V. Sumant,IPS (AM)-67 and promotion of Shri D.N. Dutt,IPS (AM-71). In the light of the above, how the case of promotion of 5(five) superseded officers differs from the cases of Shri P.V. Sumant and Shri D.N. Dutt is difficult for anyone to understand. There appears to be no valid reason not to follow the precedence created by the Govt. of India.

As regards the promotion of Shri W.R. Marbaniang which is pointed out by the Govt. of India to be not in order and that the matter has been raised with the Govt. of Meghalaya by the Govt. of India (**Para 5**) to revert him (Shri Marbaniang) to the lower grade, the fact remains that Shri Marbaniang continues to serve in the rank of the DGP and drawing his pay accordingly, i.e. **it is a fait accompli**. If the rules regarding functioning of the JCA (Joint Cadre Authority) have not been followed by the Meghalaya wing of the Joint Cadre, the superceded officers cannot be blamed and suffer humiliation.

Further, if the Joint Cadre Authority (JCA) has not been functioning properly and also if Triennial Review of the Cadre has not taken place for the last six(6) years the ball lies in the Court of the Govt. of India. Rule 4(2) of the **Indian Police Service (Cadre) Rules, 1954**, which deals with the strength of the Cadre is quoted below for ready reference:



Contd....3/-

"4. Strength of Cadres. – (1) The strength and composition of each of the cadres constituted under rule 3 shall be as determined by regulations made by the Central Government in consultation with the State Governments in this behalf and until such regulations are made shall be as in force immediately before the commencement of these rules."

"(2) The Central Government shall, at intervals of every three years, re-examine the strength and composition of each such Cadre in consultation with the State Government or the State Governments concerned and may make such alterations therein as it deems fit:

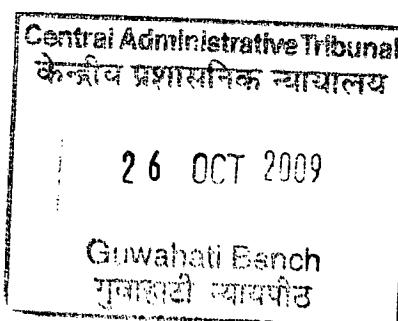
Provided that nothing in this sub-rule shall be deemed to affect the power of the Central Government to alter the strength and composition of any cadre at any other time :

Provided further that **the State Government concerned may add for a period not exceeding one year 1[and with the approval of the Central Government for a further period not exceeding two years,]** to a State or Joint Cadre one or more posts carrying duties or responsibilities of a like nature to cadre posts."

As regards the number of posts in the rank of DGP in Haryana (**Para 11 of the Govt. of India letter referred to above**), it may be mentioned here that as per the Notification No. 11052/5/97-AIS(II), dated 10.04.2001 while the total Cadre strength of Haryana is 125, and the total number of Senior Duty Posts being 68, if the creation of two cadre posts of DGP can be justified for a State having no known terrorist, insurgency and militancy problems, why joint cadre of Assam and Meghalaya having total cadre strength 153 and Senior Duty Posts being 84 should have only one post of DGP in the Assam Wing of the cadre which is facing chronic insurgency, militancy and terrorist activities for the last two decades defies rational reasoning.

Further, the view of the Govt. of India in Para 3 of their letter referred to above that five posts in the rank of DGP will have to be created beyond 1:1 ratio for a period ranging from 3 years to 6 years to accommodate the superseded officers is not factually correct. The factual position is as follows:

(a) The cadre post of DGP, Assam is presently held by Shri R.N. Mathur,IPS (AM-73). (Date of birth : 30.04.1949).



Contd....4/-

(4)

(b) The ex-cadre post of DG Civil Defence and Commandant General Home Guard is held by Shri G.M. Srivastava, IPS(AM-72). (Date of birth : 17.7.1949).

(c) The periods for which the posts in the DGP rank required to be created beyond 1:1 ratio to give promotion to the following officers :

<u>Name of officers.</u>	<u>Dated of birth.</u>	<u>Date of Superannuation.</u>
(1) S. Prasad,IPS (1973)	- 12.09.1950	30.9.2010
(2) S. Barua,IPS (1974)	- 03.12.1951	31.12.2011
(3) S.P. Ram, IPS (1974)	- 15.03.1949	31.3.2009
(4) B.P. Rao,IPS (1974)	- 10.06.1949	30.6.2009
(5) M. Mohanraj, IPS (1975)	- 17.09.1948	30.9.2008

would be as below:

(a) Five Ex-Cadre posts beyond 1:1 ratio would have to be created upto 30.09.2008.

(b) Four Ex-Cadre posts beyond 1:1 ratio would have to be created upto 31.03.2009.

(c) Three Ex-Cadre posts beyond 1:1 ratio would have to be created upto 30.04.2009.

(d) Two Ex-Cadre posts beyond 1:1 ratio would have to be created upto 30.06.2009.

(e) One Ex-Cadre post beyond 1:1 ratio would have to be created upto 31.07.2009.

In view of the above mentioned facts, the Government is once again very humbly requested to kindly consider the case sympathetically and see that justice is not denied to the undersigned by taking steps for the promotion to the rank of Director General of Police with effect from 14th March, 2005 at the earliest.

Enclo: As stated.

Yours faithfully,


20/3/08
(S.P. RAM)

Addl. Director General of Police,
CID, Assam, Guwahati.

Attested

Advocate

OFFICE OF THE DIRECTOR GENERAL OF POLICE :: CID ::
ASSAM :: ULUBARI :: GUWAHATI.

Letter No. CB/CID/50-07/212

Dated, the 28th August, 2008.

From : Shri S.P. Ram, IPS,
Director General of Police,CID,
Assam, Guwahati.

To : Shri S.C. Das, IAS,
Principal Secretary to the Govt. of Assam,
Home & Political Department,
Dispur, Guwahati.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Sub:- **Proforma Promotion of Shri S.P. Ram,IPS, to the rank of Addl.
Director General of Police with effect from 17.05.2002.**

Ref:- (1) Memo No. P/SPR/2000, dated 27th May,2002,
(2) Letter No.CB/CID/40-05/140, dated 16th Sept/2006.

Sir,

In inviting your kind attention to the subject mentioned above, I have the honour to state that I have submitted two representations vide (1) memo No. P/SPR/2000, dated 27th May,2002 and (2) letter No. CB/CID/40-05/140, dated 16th Sept/2006 (Copies enclosed) to the Govt. of Assam to allow me the proforma promotion to the rank of Addl. Director General of Police in the scale of pay Rs. 22,400-525-24,500/- with effect from 17.05.2002 i.e. the date Shri W.R. Marbaniang,IPS, (RR-75) of the joint Assam-Meghalaya cadre was promoted to the rank of Addl.D.G.P. in Meghalaya as Shri Marbaniang is one year junior to me.

In this connection, I would like to submit that the Govt. of Assam was pleased to allow proforma promotion to the undersigned vide Govt. Notification No. HMA.167/94/Pt-II/55(a), dated 11.03.2003 to the rank of Addl.D.G.P. with effect from 7.12.2002, i.e. the date my immediate junior in the Cadre, Shri B.P. Rao, IPS (RR-74) was promoted to the aforesaid rank.

Contd....2/-

Attested


Advocate

- 39 -

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(2)

I would, therefore, very humbly request that the Govt. of Assam may kindly allow the proforma promotion to the undersigned to the rank of Addl. D.G.P. w.e.f. 17.05.2002 so that I get the pay protection vis-à-vis my junior in the cadre as per rule.

An early decision into the matter is highly solicited.

Enclo:- As stated.

Yours faithfully,

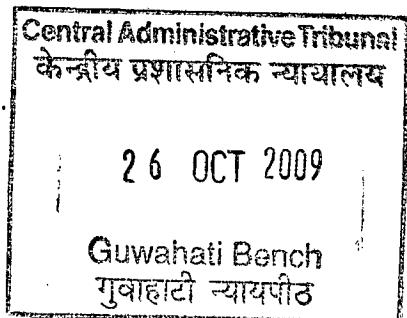


28/8/00

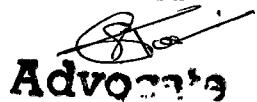
(S.P. RAM)

Director General of Police,
CID, Assam, Guwahati.

7e



Attested



Advocate

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

NO. HMA 201/90/180 : Shri Sharda Prasad, IPS (RR-73) Addl. Director General of Police (V&AC), Assam, is promoted to officiate in the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and posted as Director General of Police (V&AC), an ex-cadre post by way of up gradation of the ex-cadre post of Addl. Director General of Police (V&AC), Assam to the rank of Director General of Police (V&AC), Assam, in the interest of public service, with immediate effect and until further orders.

NO. HMA 201/90/180-A : Shri Shankar Barua, IPS (RR-74) Chairman-cum- Managing Director, APHC, Ltd, Assam is promoted to officiate in the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and allowed to continue in the ex-cadre post of Chairman-cum-Managing Director, APHC, Ltd, Assam, in the interest of public service, with immediate effect and until further orders.

NO. HMA 201/90/180-B : Shri S.P.Ram, IPS, (RR-74) Addl. Director General of Police, (CID) Assam, is promoted to officiate in the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and posted as Director General of Police (CID), an ex-cadre post by way of up gradation of the ex-cadre post of Addl. Director General of Police (CID), Assam, to the rank of Director General of Police (CID), Assam in the interest of public service, with immediate effect and until further orders.

NO. HMA 201/90/180-C : Shri B.P.Rao, IPS, (RR-74) Addl. Director General of Police, (Border) Assam, is promoted to officiate in the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and posted as Director General of Police (Border), by way of up gradation of the cadre post of Addl. Director General of Police (Border), Assam, to the rank of Director General of Police (Border), Assam, in the interest of public service, with immediate effect and until further orders.

NO. HMA 201/90/180-D : Shri M.Mohan Raj, IPS, (RR-75), Addl. Director General of Police (OSD), Assam is promoted to officiate in the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and posted as Director General of Police (OSD) an ex-cadre post in the Assam Police Head Quarters by way of up gradation of the ex-cadre post of Addl. Director General of Police (OSD), Assam, to the rank of Director General of Police (OSD), Assam, in the interest of public service, with immediate effect and until further orders.

Sd/- S.C.Das,
Principal Secretary to the Govt. of Assam,
Home & Political Department.
Dated Dispur, the 22nd May, 2008.

Memo. NO. HMA201/90/180-E
Copy to :-

1. The P.P.S to Chief Minister, Assam, Dispur, Guwahati-6.
2. The P.S to Chief Minister, Assam, Dispur, Guwahati-6.
3. The Accountant General (A&E), Assam, Maidarangaon, Beltola, Guwahati-29
4. The Under Secy. to the Govt. of India, Ministry of Home Affairs, New Delhi.
5. The Under Secy. to the Govt. of Meghalaya, Home (P) Department, Shillong.
6. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
7. The P.S to the Parliamentary Secretary, Home Department, Assam, Dispur, Guwahati-6.
8. The P.S. to Chief Secretary, Assam, Dispur, Guwahati-6.
9. The P.S to Principal Secy. to Chief Minister, Assam, Dispur, Guwahati-6.
10. The P.S to Principal Secretary, Home & Political Deptt. Assam, Dispur, Guwahati-6.
11. The P.S to Commissioner & Secretary, Home & Political Deptt, Dispur, Guwahati.
12. The Addl. Director General of Police, Assam, -----
13. The Inspector General of Police/ Deputy Inspector General of Police-----
14. The Superintendent of Police/ Commandant -----
15. The Director, Assam Govt. Press, Bamunimaidam, Ghy-21 for publication of the above Notification.
16. Officer Concerned. Shri S.P.Ram, IPS (RR-74) Addl. DSP (c/o) Assam

S.M.F

Attested

Advocate

By order etc.

22.5.08
Joint Secretary to the Govt. of Assam,
Home (A) Department.

SA

Pl. keep in personal file

27/5/08

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

NO. HMA201/99/181

Dated Dispur, the 26th May 2008.

From : Shri Anjan Chakravarty, ACS,
Joint Secretary to the Govt. of Assam,
Home (A) Department.

To : 1) Shri Sharda Prasad, IPS DGP, (V&AC)
2) Shri Sankar Baruah, IPS, CMD, APHC, Ltd.
✓ 3) Shri S.P.Ram, IPS, DGP (CID)
4) Shri B.P.Rao, IPS, DGP (Border)
5) Shri M. Mohan Raj, DGP (OSD).

Sub : Regarding promotion and posting as Director General of Police.

Ref : This Deptt's Notification No. HMA 201/90/180, HMA 201/90/180-A,
HMA 201/90/180-B, HMA 201/90/180-C, HMA 201/90/180-D dtd. 22-5-08.

Sir,

I am directed to refer to the Notification no. cited above and to state that although you are promoted to the rank of Director General of Police, however you are requested to continue draw the pay & allowances in the rank of your existing post of ADGP. The pay and allowances in the rank of DGP may be drawn by you only after the sanction for the up-gradation/creation of the posts as notified, as well as on receipt of ex-post facto approval from the Ministry of Home Affairs, Govt. of India to the up-gradation.

Yours faithfully,

Abul
26.5.08

Joint Secretary to the Govt. of Assam,
Home (A) Department.

Dated Dispur, the 26th May 2008.

Memo NO. HMA201/90/191-A

Copy to :

1. The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.
2. The Principal Secretary, Finance (EC-II) Department, Dispur.

By order etc.

S.D.L.

Joint Secretary to the Govt. of Assam,
Home (A) Department.

Attested

[Signature]
Advocate

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

No. HMA 201/90/226

Dated Dispur, the 27th May, 2009

Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायालय

26 OCT 2009

Guwahati Bench
गুৱাহাটী ন্যায়পীঠ

From : Shri A. Chakravarty, ACS,
Joint Secretary to the Govt. of Assam,
Home (A) Department, Dispur,

To : The Accountant General, Assam, Maidamgaon,
Beltola, Guwahati-29.

Sub : Creation of posts in the rank of DGP under 2nd proviso to rule
4 (2) of IPS (Cadre) Rules, 1954

Sir,

In partial modification of this Department's earlier letters No. HMA. 201/90/221, dtd. 26-3-2009 and No. HMA 201/90/219 dtd. 27-2-2009, I am directed to convey the sanction of the Governor of Assam to the Ex-post-facto creation of following two posts by adding temporarily to the IPS cadre of the State in terms of provision contained in the 2nd proviso of Rule, 4 (2) of the IPS cadre Rule, 1954, to accommodate Shri S.P.Ram, IPS for the periods as mentioned below, in the rank of DGP in the pay scale of HAG + scale of pay of : Rs. 75,500/- (annual increment @ 3%)- 80000/- grade pay nil.

(1) A post of DGP (CID) for the period with effect from the date of entertainment i.e. 23-5-2008 and up to 1-10-2008, personal to Shri S. P. Ram, IPS, DGP (CID) which is abolished as soon as the officer relinquished the post.

The expenditure is debitable to the head of accounts "2055-Police-101 Criminal Investigation and Vigilance- 442-CID-01-salary-Non-Plan (General)" in the budget for the current financial year 2009-2010.

(2) A post of Director State Fire Service Organisation for the period with effect from the date of entertainment i.e. 1-10-08 to 28-2-09, personal to Shri S. P. Ram, IPS, Director (SFSO) and is abolished as soon as the officer relinquished the post.

The expenditure is debitable to the head of accounts "2070- other Administrative Service - 108-Fire Protection and Control (General) Non-Plan -527-Direction and Administration -Head Quarter (I) -01-salary" in the budget for the current financial year 2009-2010.

This has been issued with the concurrence of Finance (EC-II) Department vide their U/O No. FEC(II) 58/2009 dtd. 17-1-2009 read with U/O No. FEC (II) 250/2009 dtd. 27-2-2009.

Yours faithfully,

Joint Secretary to the Govt. of Assam,
Home Department.

Dated Dispur, the 27th May, 2009

Memo No. HMA 201/90/226-A

Copy to :-

1. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7
2. The Finance (EC-II) Department, Dispur, Guwahati-6.
3. The Treasury Officer, Kamrup.
4. Person concerned *Sri S.P. Ram IPS, Director, SFSO, Assam, Sh-1 (Retd.)*

By order etc.

Alhant
27.5.09
Joint Secretary to the Govt. of Assam,

Ran, Home Department.

27/5/09

Dated Dispur, the 27th May, 2009

Memo No. HMA 201/90/226-B

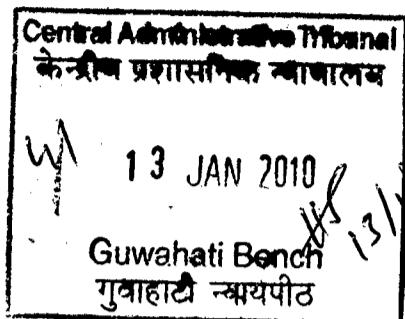
Copy to the Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.

sd/-
Senior Financial Adviser,
Home Department.

Attested

Advocate

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**



IN THE MATTER OF:

In O.A. No. 220/09

Sri S. P. RamApplicant
-Vs-

Union of India & ors.Respondents

-AND-

In the matter of:

Written statement on behalf of the respondent nos. 2 and 3.

(WRITTEN STATEMENT ON BEHALF OF THE RESPONDENT NOS. 2 AND 3)

I, Sri Anjan Chakravarty, aged about 50 years, son of Late Nagendra Nath Chakravarty, presently serving as the Joint Secretary to the Government of Assam, Home Department, Dispur, Guwahati: 781006 do hereby solemnly affirm and state as follows:

1. That I am Joint Secretary to the Government of Assam, Home Department. I have gone through the Original Application and have understood the contents thereof. I am acquainted with the facts and circumstances of the case. I have been authorized the file this written statement by the respondent nos. 2 and 3.
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 regards to the statements made in paragraph 4.1 of the application, the humble answering respondent begs to offer no comment.
4. That with regards to the statements made in paragraph 4.2 of the application, the humble answering respondent begs to offer no comment as they are matters of record of the case. However, he does not agree to any statement contrary to records.
5. That with regards to the statements made in paragraph 4.3 of the application, the humble answering respondent begs to state that the government of Meghalaya promoted Sri W. R. Marbaniang, IPS (RR-75) to the post of Additional Director General of Police ('ADGP' in short) vide notification no. HPL.245/86/92 dated 17.05.02 without adhering to the provisions of the joint cadre rules.

File No:-
The State of Assam and
Respondent no 2 & 3
Thong
Manyam Dass
Advocate, Assam
G.O.M. Advt. ESTT 86
13/1/2010

Anjan Chakravarty

R
22/1/10
19/1/10

13 JAN 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

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Copy of the notification dated 17.05.02 is annexed herewith and marked as **Annexure 1.**

6. That with regards to the statements made in paragraph 4.4 of the application, the humble answering respondent begs to state that Sri B.P. Rao, IPS was promoted to the post of ADGP vide notification no. HMA 5/93/Pt-III/4 dated 07.12.02. As Sri B.P. Rao, IPS was the immediate junior of the applicant, the state government vide notification no. 167/94/Pt.II/55-(a) dated 11.03.03 allowed the applicant to avail pro forma promotion w.e.f. the date his immediate junior in the Assam segment of the Assam Meghalaya Joint Cadre i.e. Sri B.P. Rao, IPS under the next below rule

Copies of the notifications dated 07.12.02 and 11.03.03 are annexed herewith and marked as **Annexure 2 and 3** respectively.

7. That with regards to the statements made in paragraphs 4.5 to 4.7 of the application, the humble answering respondent begs to state that the government of Meghalaya again promoted Sri W.R. Marbaniang, IPS from the post of ADGP to the post of Director General of Police ('DGP' in short) without following the provisions of the Joint Cadre Rules vide Notification no. HPL.38/99/Pt.V/2 dated 14.03.05

Further Sri W.R. Marbaniang, IPS posted in the Meghalaya segment of the Assam Meghalaya joint cadre was promoted by the government of Meghalaya superceding the following officers in the Assam segment of the Assam Meghalaya Joint cadre, without adhering to the provisions of the Joint Cadre Rules. Nor was the matter regarding the promotion of Sri W.R. Marbaniang placed before the Joint Cadre Authority:

- 1) Sri R.N. Mathur, IPS (RR-73),
- 2) Sri Shankar Barua, IPS (RR-74),
- 3) Sri S.P. Ram, IPS (RR-74),
- 4) Sri B.P. Rao, IPS (RR-74),
- 5) Sri M. Mohan Raj, IPS (RR-75).

Further stated that prayer of the applicant for allowing pro forma promotion in the rank of ADGP w.e.f. 17.05.02 i.e. from the date on which Sri W.R. Marbaniang, IPS was promoted to the post of ADGP by the government of Meghalaya was considered by the state government but the same could not be agreed to as the government of Meghalaya promoted Sri W.R. Marbaniang, IPS in the rank of ADGP irregularly and the state government of Assam is to consider the promotion of IPS officer belonging to Assam segment only.

As regards the prayer of the applicant for promotion to the post of DGP w.e.f. the date of promotion of Sri W.R. Marbaniang, IPS, it is submitted that as per Rule, the state government is entitled to one post of DGP and one ex cadre post in the rank of DGP. Therefore, it was decided to move the government of India to

allow the state government to create four ex cadre post in the rank of DGP as Sri Marbaniang, IPS superceded the applicant and other officers senior to him. But, the government of India did not agree to the proposal of the state government and on the contrary, directed the government of Meghalaya to revert Sri Marbaniang, IPS to the grade of ADGP vide letter D.O. No. 1-11012/6/2005-IPS-I dated 21.12.05. However, the officers who were superceded by Sri W.R. Marbaniang, IPS were promoted subsequently to the rank of DGP and also state government created the post vide letter no. HMA 201/90/217-A dated 27.02.09 and no. HMA 201/90/21-A dated 27.04.09 to accommodate them and facilitating drawl of their pay and allowances.

Copies of the notification dated 14.03.05 and letters dated 21.12.05, 27.02.09 and 27.04.09 are annexed herewith and marked as **Annexure 4, 5, 6 and 7** respectively.

Anjan Chakraborty

8. That with regards to the statements made in paragraph 4.8 of the application, the humble answering respondent begs to state that promotion given to Sri W.R. Marbaniang, IPS, was ab initio irregular. However the applicant was given due seniority w.e.f. the date of promotion of his immediate junior in Assam segment. It is submitted that the applicant was allowed to avail Proforma promotion in the rank if ADGP w.e.f. the date his immediate junior Sri B.P. Rao, IPS, was promoted under the next below rule.

Further stated that the prayer of the applicant for allowing pro forma promotion in the rank of Additional Director General of Police w.e.f. 17.05.02 i.e. the date on which Sr. W.R. Marbaniang, IPS was promoted to the post of Addl. DGP by the government of Meghalaya was considered by the state government but the same could not be agreed to as the government of Meghalaya promoted Mr. Mar...in the rank of ADGP irregularly and the state government of Assam is to consider the promotion of IPS officers belonging to Assam segment only.

Further stated that the promotion with retrospective effect to the post of DGP, w.e.f the date promotion of Sri Marbaniang, IPS, it is respectfully submitted that considering the request made by the officers who were senior to Sri W.R. Marbaniang, IPS, the following officers were promoted to the post of DGP vide notification no. HMA 201/90/180 dated 22.05.08:

- 1) Sri Sharda Prasad, IPS (RR-73),
- 2) Sri Shankar Barua, IPS (RR-74),
- 3) Sri S.P. Ram, IPS (RR-74),
- 4) Sri B.P. Rao, IPS (RR-74),
- 5) Sri M. Mohan Raj, IPS (RR-75).

Copy of the notification dated 22.05.08 is annexed herewith and marked as **Annexure 8**.

13 JAN 2010

Guwahati Bench
গুৱাহাটী চৰকাৰী

9. That with regards to the statements made in paragraphs 4.9 to 4.11 of the application, the humble answering respondent begs to offer no comment as they are matters of record of the case. However, he does not agree to any statement contrary to records.

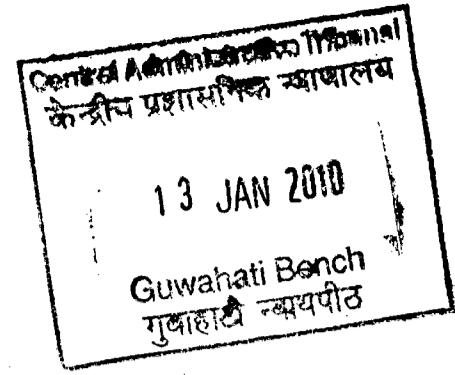
10. That with regards to the statements made in paragraph 4.12 of the application, the humble answering respondent begs to state that the government of India vide letter no. I-110112/13/2003-IPS.I dated 18.08.09 advised the government of Assm to revert the four officers who were promoted to the post of DGP back to ADGP.

Copy of the notification dated 18.08.09 is annexed herewith and marked as **Annexure 9.**

11. That with regards to the statements made in paragraph 4.13 of the application, the humble answering respondent begs to state that the state government allowed the applicant to avail pro forma promotion to the rank of ADGP w.e.f the date his immediate junior in the Assam segment was promoted vide notification dated 11.03.03. Thereafter in considering the request made by the officers senior to W.R. Marbaniang, the state government promoted the five officers including the applicant to the post of DGP vide order dated 22.05.08. However, subsequently, the government of India vide order dated 18.08.09 advised the state government to immediately revert the four additional officers in DG grade to ADGP grade.

12. That the original application filed by the applicant has no merit at all and is liable to the dismissed.

Anjan Chakraborty



VERIFICATION

I, Sri Anjan Chakraborty, aged about 50 years, son of Late Nagendra Nath Chakraborty, presently serving as the Joint Secretary to the Government of Assam, Home Department, Dispur, Guwahati: 781006 do hereby solemnly verify as follows:

That the statements made in paragraphs 1 to 4 are true to my knowledge and belief, those made in paragraphs 5 to 11 being matters of record are true to my information derived therefrom and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material fact before the Hon'ble Tribunal.

And I sign this verification on the 13th day of January 2010 at Guwahati.

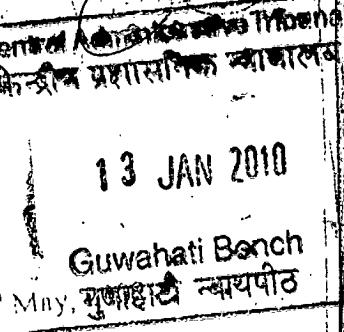
Anjan Chakraborty

SIGNATURE

GOVERNMENT OF MEGHALAYA
HOME(POLICE) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Shillong, the 17th May, 2010

No. HPL. 245/86/91. Shri L.Sailo, IPS (RR 72) Addl DGP, Meghalaya is hereby promoted to the post of Director General-cum-Inspector General of Police, Meghalaya in the scale of Rs. 24050-650-26000/- w.e.f the date of taking over charge until further orders.

~~NOTICE 245/86/92. Shri W.R. Marbaniang, IPS (RR 75) Director Civil Defence and Commandant General Home Guards, Meghalaya (IGP rank) is hereby promoted to the post of Addl Director General of Police, Meghalaya in the scale of Rs. 22400-525-24500/- w.e.f. the date of taking over charge. He will however continue to hold the post of Director Civil Defence and Commandant General Home Guards, Meghalaya until further orders.~~

(G.P.Wahlang)
Commissioner & Secretary to the Govt. of Meghalaya,
Home (Police) etc. Departments.

Dated Shillong, the 17th May, 2002

Memo. NO. HPL. 245/86/92-A

Copy forwarded to:-

1. The Principal Secretary to the Governor, Meghalaya, Shillong.
2. The Principal Secretary to the Chief Minister, Meghalaya, Shillong.
3. The Private Secretary to the Deputy Chief Minister, Meghalaya, Shillong.
4. The Private Secretary to the Minister Home(Police), Meghalaya.
5. The Private Secretary to the Chief Secretary, Meghalaya.
6. The Accountant General(A&E), Meghalaya, Shillong.
7. The Under Secy., to the Govt. of India, Ministry of Home Affairs, New Delhi.
8. The Secretary, Joint Cadre Authority, Assam Meghalaya and Commission.
9. The Secretary to the Govt. of Meghalaya Personnel & A.R (A) Deptt.
10. The Secretary to the Govt. of Assam, Home(A) Deptt. Dispur, Guwahati.
11. The Director General of Police, Meghalaya, Shillong.
12. The Director of Printing & Stationery, Meghalaya for layout of publication of Gazette.
13. Shri L.Sailo, IPS, DGP-cum-Inspector General of Police, Meghalaya.
14. Shri W.R. Marbaniang, IPS, Director Civil Defence and Commandant Home Guards, Meghalaya, Shillong.

Personal file/Guard file

By order etc.

R.S./JW

(D.Syiem)

Deputy Secretary to the G.
Meghalaya, Home(Police)

Certified to be true copy

13.1.2010

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT
ORDERS BY THE GOVERNOR

-49-

Advertisement No. 3

92

NOTIFICATION

Dated Dispur, the 7th Dec. 2002.

NOT.HMA. 5/93/Pt.III/4(a) : In the interest of public service, Shri A.K. Das, IPS (AM-83) is promoted to the rank of Inspector General of Police in the pay scale of Rs. 22,400/- 52% 24,500/- and transferred and posted as Addl. Director General of Police (B), Assam with effect from the date of taking over charge and until further orders against existing vacancy.

No. HMA. 5/93/Pt.III/4(a) : In the interest of public service Shri A.K. Das, IPS (AM-83) is promoted to the rank of Inspector General of Police in the pay scale of Rs. 18,400-500-22,400/- and transferred and posted as Inspector General of Police (TAP) Assam with effect from the date of taking over charge and until further orders vice Shri B.P. Rao, IPS promoted.

No. HMA. 5/93/Pt.III/4(b) : Shri P.D. Goswami, IPS (AM-85) Deputy Inspector General of Police (B), Assam is allowed to hold the charge of the post of Deputy Inspector General of Police (V. & A.C.) to perform the duties of the post in addition to his own duties until further order.

Sd/- G.C. Patar,
Under Secy. to the Govt. of Assam,
Home (A) Department

Memo No. HMA. 5/93/Pt.III/4-A, Dtd. Dispur, the 7th Dec. 2002.

Copy to :-

- 1) The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.
- 2) The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
- 3) The Under Secy. to the Govt. of India, Ministry of Home Affairs, New Delhi.
- 4) The Under Secy. to the Govt. of Meghalaya, Home (P) Deptt., Shillong.
- 5) The Addl. Director General of Police/Inspector General of Police/Deputy Inspector General of Police.....
- 6) The Supdt. of Police/Commandant.....
- 7) Person concerned.....
- 8) The P.P.S. to Chief Minister, Assam, Dispur, Guwahati-6.
- 9) The P.S. to Chief Minister, Assam, Dispur, Guwahati-6.
- 10) The P.S. to Chief Secretary, Assam, Dispur, Guwahati-6.
- 11) The P.S. to Adml. Chief Secretary, Assam, Dispur, Guwahati-6.
- 12) The P.S. to Commissioner & Secy., Home Deptt., Dispur, Guwahati-6.
- 13) The P.S. to Commissioner & Secy., to Chief Minister, Assam, Dispur, Guwahati-6.
- 14) The Supdt. Assam Govt. Press, Bamunimaidan, Guwahati-21.

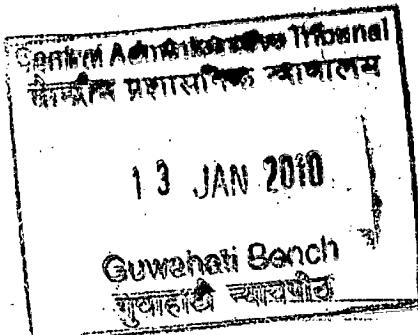
By Order Etc.,

Under Secy. to the Govt. of Assam,
Home (A) Department

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11/3/88

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR
NOTIFICATION

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

13 JAN 2010

Guwahati Bench
गुवाहाटी न्यायालय

Dated Dispur, the 11th March/2013.

No.HMA. 167/94/Pt.II/55 : Shri S.R. Mehra, IPS (AM-70) now on deputation to Govt. of India is allowed proforma promotion to the rank of Director General & Inspector General of Police in the pay scale of Rs. 24050-650-26000/- with effect from the date his immediate Junior was promoted under Rule 5, III, 2(3) of the IPS (Pay) Rules, 1954.

Shri S.R. Mehra, IPS is entitled to his pay in the above scale from the Govt. of Assam only with effect from the date of his reversion from Central Deputation with notional fixation of his pay with effect from the date of promotion of his junior to the above scale on the regular time line.

No:HMA. 167/94/Pt.II/55(2) : Shri S.P. Ram, IPS (AM-74), now on deputation to Govt. of India is allowed proforma promotion to the rank of Addl. Director General of Police in the pay scale of Rs. 22400-525-24500/- with effect from the date his immediate junior was promoted to the rank of Addl. Director General of Police under Rule 5, note-II(3) of IPS (Pay) Rules, 1954.

Shri S.P. Ram, IPS is allowed to his pay in the above scale from the Govt. of Assam on deputation with effect from the date of his reversion from Central Deputation with notional fixation of his pay with effect from the date of promotion of his junior to the above scale on the regular time line.

Annexure - 3

Mr. ~~Joint~~ Secy. to the Govt. of Assam,
Home (A) Department

Memo No.HMA. 167/94/Pt.II/55-A, Dtd. Dispur, the 11th March/2013.
Copy to :-

1) The P.P.S. to C.M., Assam, Dispur, Guwahati-6.

Certified to be true copy

Abul
13.1.2010

GOVERNMENT OF MEGHALAYA
HOME (POLICE) DEPARTMENT

ORDERS BY THE GOVERNOR

Annexure - 4

NOTIFICATION

Dated Shillong, the 14th March, 2005.

No.HPL.38/99/PT.IV/2 – Shri W.R. Marbamang, IPS (RR-75), Addl. Director General of Police (I&O), Meghalaya is hereby promoted to the post of Director General of Police, Meghalaya, in the scale of pay Rs. 24050-650-26000/- with effect from the date of taking over charge until further orders.

(R. V. Suchiang)
Commissioner & Secretary to the Government of Meghalaya
Home (Police) Department.

Memo No.HPL.38/99/PT.IV/2-A
Copy forwarded to:-

Dated Shillong, the 14th March, 2005.

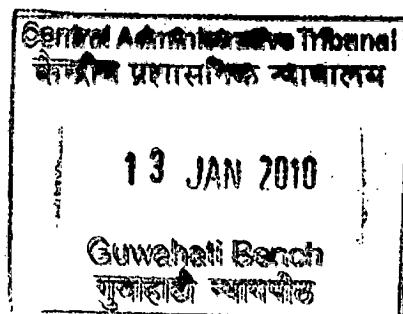
1. The Commissioner & Secretary to the Governor of Meghalaya, Shillong.
2. The Private Secretary to Chief Minister, Meghalaya, Shillong.
3. The Private Secretary to Deputy Chief Minister, Meghalaya, Shillong.
4. The Private Secretary to Minister Home (Police), Meghalaya, Shillong.
5. The Private Secretary to Chief Secretary, Meghalaya, Shillong.
6. The Under Secretary to the Government of India, Ministry of Home Affairs, New Delhi – 110001.
7. The Secretary, Joint Cadre Authority, Assam-Meghalaya and Principal Secretary to the Government of Meghalaya, Personnel & AR(A) Department, Shillong.
8. The Secretary to the Government of Assam, Home (A) Department, Dibrup, Guwahati – 781006.
9. The Director General & Inspector General of Police, Meghalaya, Shillong.
10. The Accountant General (A&E), Meghalaya, Shillong.
11. The Director of Printing & Stationery, Meghalaya, Shillong for favour of publication in the Gazette.
12. Shri W.R. Marbamang, IPS (RR-75), Director General of Police, Meghalaya, Shillong.
13. Personal file/Guard file.

By order etc.,

SD-Srin
Deputy Secretary to the Govt. of Meghalaya,
Home (Police) Department.

Certified to be true copy

Allan
13.1.2010



(OK)
 V.N. Gaur,
 राज्यपाल राज्यपाल
 JOINT SECRETARY (Police)
 Telefax No. 23004927

राज्यपाल राज्यपाल D.O. NO. I-11012/8/2006
 राज्यपाल राज्यपाल
 GOVERNMENT OF INDIA
 राज्यपाल राज्यपाल
 MINISTRY OF HOME AFFAIRS
 North Block, New Delhi

Dated, the 21st December, 2006

Dear Shri Bazeley,

The States of Assam and Meghalaya form a joint cadre of the All India Services. It is learned that the State Government of Meghalaya has promoted Shri W.R. Marbanlang, IPS (AM:75) as DGP of Meghalaya. Hence the State Government of Assam has requested this Ministry for its approval for creation of 4 ex-cadre posts at the apex level for 4 officers who are senior to Shri W.R. Marbanlang. However, It is not justifiable to create 4 ex-cadre posts at the apex level against the sanctioned strength of one cadre post.

2. The proper course of action in these circumstances is that the AIS officers in both the segments of joint cadre, may be considered together for promotion as per their combined seniority by the Joint Cadre Authority comprising of the Chief Secretaries of both the segments and other representatives. Such promotions can be allowed by the JCA on the basis of total vacancies existing in the particular grades on both the sides. After the officers concerned in the order of seniority, are so found fit for promotion, they could be posted to either side and adjustments in their postings could be made, wherever necessary. As both Assam and Meghalaya form a joint cadre of All India Services, posting of officers from one segment to another should not pose any difficulty.

3. In view of the above position, it is considered imperative to strengthen the institution of the Joint Cadre Authority and place all cases of promotion before it for its consideration. The Government of Meghalaya may like to revert Shri W.R. Marbanlang to the grade of ADGP and then take further necessary action for filling up the post of DGPs as outlined.

With regards,

Yours sincerely,

(V.N. GAUR)

13 JAN 2010

Guwahati Bench
 गुवाहाटी न्यायालय

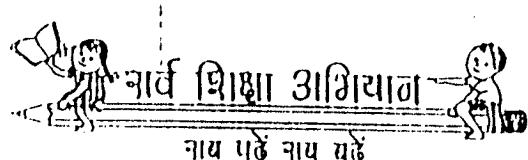
Shri P.J. Bazeley,
 Chief Secretary,
 Government of Meghalaya
 Shillong.

Copy to the Chief Secretary, Government of Assam, Guwahati.

Certified to be true

Copy

Albeit
 13.1.2010



नार्त पाठे नार्त पाठे

(V.N. GAUR)

o/c

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

No. HMA 201/90/217

Dated Dispur, the 27th February, 2009From : Shri A. Chakravarty, ACS,
Joint Secretary to the Govt. of Assam,
Home (A) Department, Dispur.To : The Accountant General, Assam, Maidamgaon,
Beltola, Guwahati-29.Sub : Ex-post facto sanction for creation of 3 (three) posts of
Director General of Police (DGP) rank.

Sir,

I am directed to convey the sanction of the Governor of Assam, to the ex-post facto creation of the following 3 (three) ex-cadre posts of IPS in the rank of Director General of Police & in the HAG + scale of pay of Rs. 75,500 (annual increment @ 3%)- 80,000/- grade pay nil.

(1) one post of DGP (V&AC), personal to Shri Sharda Prasad, IPS, with effect from the date of entertainment up to 28-2-2009.

(2) one post of DGP (Border), personal to Shri B.P.Rao, IPS, with effect from the date of entertainment up to 28-2-2009.

(3) one post of DGP (OSD), personal to Shri M. Mohan Raj, IPS, with effect from the date of entertainment up to 28-2-2009. Subject to the condition that the 3 (three) posts will be personal to the officers mentioned above.

The expenditure in respect of the post of DGP(V & AC) is debit able to the Head of Account "2055-Police-101- Criminal Investigation & Vigilance (C) -Anticorruption- 01- Salary-Non-plan (General)" in the budget for the current financial year 2008-09.

The expenditure in respect of the post of DGP (Border) is debit able to the Head of Account "2055-Police-1092-District Police- 901- Checking of Bangladeshi infiltration-101-Salary-Non-plan (General)" in the budget for the current financial year 2008-09.

The expenditure in respect of the post of DGP(OSD) is debit able to the Head of Account "2055-Police-101, direction & Administration -172- Head Quarter Establishment-101-Salary-Non-plan-(General)" in the budget for the current financial year 2008-09.

This issues with the concurrence of Finance (EC-II) Deptt's U/O No. FEC (II)250/2009 dtd. 27-2-2009.

Yours faithfully,

sdy -

Joint Secretary to the Govt. of Assam,
Home (A) Department.Dated Dispur, the 27th February, 2009

Memo. No. HMA201/90/217 -A

Copy to:-

1. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7
2. The Director General of Police Assam, (V&AC)/ (Border)/ SFSO, Guwahati- for information and necessary action.
3. The Inspector General of Police (SOU) Assam, Kahilipara, Guwahati-19.
4. The Deputy Secretary Finance (EC-II) Department, Dispur, Guwahati-6 for information.
5. Persons concerned.....

Certified to be true copy
Abul *13-1-2010*

By order etc.,

Joint Secretary to the Govt. of Assam,
Home (A) Department.

Memo. No. HMA201/90/217 -B

Dated Dispur, the 27th February, 2009

Copy forwarded to the Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.

sdy -
Senior Financial Adviser,
Home (A) Department.

Central Administrative Tribunal
সেন্ট্রাল প্রশাসনিক আদালত
Guwahati Bench
গুৱাহাটী বেঞ্চ

13 JAN 2010

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

No. HMA.201/90/21

Date: 13 JAN 2010

From : Shri A. Chakravarty, ACS,
Joint Secretary to the Govt. of Assam,
Home (A) Department, Dispur.To : The Accountant General, Assam, Maidamgaon,
Beltola, Guwahati-29.Sub : Retrospective sanction for temporary addition of 3 (three) posts of
Director General of Police (DGP) rank.

Sir,

In partial modification of this Department's sanction issued vide No. HMA.210/90/217 dt. 27.2.2009, I am directed to convey the sanction of the Governor of Assam, to the temporary addition of the following 3 (three) posts of IPS in the rank of Director General of Police & in the IIAG + scale of pay of Rs. 75,500 (Annual increment @ 3%)- 80,000/- grade pay nil ; under Second Proviso to rule 4 (2) of the IP (Cadre) Rules, 1954 for a period not exceeding one year.

- (1) one post of DGP (V&AC), personal to Shri Sharda Prasad, IPS, with effect from the date of entertainment up to 28-2-2009.
- (2) one post of DGP (Border), personal to Shri B.P. Rao, IPS, with effect from the date of entertainment up to 28-2-2009.
- (3) one post of DGP (OSD), personal to Shri M. Mohan Raj, IPS, with effect from the date of entertainment up to 28-2-2009. Subject to the condition that the 3 (three) posts will be personal to the officers mentioned above.

The expenditure in respect of the post of DGP (V&AC) is debitible to the Head of Account "2055-Police-101- Criminal Investigation & Vigilance (C) -Anticorruption- 01- Salary-Non-plan (General)" in the budget for the current financial year 2009-2010.

The expenditure in respect of the post of DGP (Border) is debitible to the Head of Account "2055-Police-1092-District Police- 901- Checking of Bangladeshi infiltration-101-Salary-Non-plan (General)" in the budget for the current financial year 2009-2010.

The expenditure in respect of the post of DGP(OSD) is debitible to the Head of Account "2055-Police-101, direction & Administration -172- Head Quarter Establishment-101-Salary-Non-plan (General)" in the budget for the current financial year 2009-2010..

This issues with the concurrence of Finance (EC-II) Department's U/O No. FEC (II)250/200
dtd. 27-2-2009.

Yours faithfully,

sdy -

Joint Secretary to the Govt. of Assam,
Home (A) Department.Dated Dispur, the 27th April, 2009Memo. No. HMA.201/90/21 -A
Copy to:-

1. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7
2. The Director General of Police Assam, (V&AC)/ (Border)/ (OSD), for information and necessary action.
3. The Deputy Secretary Finance (EC-II) Department, Dispur, Guwahati-6 for information.
5. Persons concerned.....

By order etc.,

sdy -

Joint Secretary to the Govt. of Assam,
Home (A) Department.Dated Dispur, the 27th April, 2009

Memo. No. HMA.201/90/21 -B

Copy forwarded to the Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.

sdy -
Senior Financial Adviser,
Home (A) Department.

-13-

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 22nd May, 2008

13 JAN 2010

NO. HMA 201/90/180 : Shri Sharda Prasad, IPS (RR-73) Addl. Director General of Police (V&AC), Assam, is promoted to officiate in the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and posted as Director General of Police (V&AC), an ex-cadre post by way of up gradation of the ex-cadre post of Addl. Director General of Police (V&AC), Assam, to the rank of Director General of Police (V&AC), Assam, in the interest of public service, with immediate effect and until further orders.

NO. HMA 201/90/180-A : Shri Shankar Barua, IPS (RR-74) Chairman-cum- Managing Director, APHC, Ltd, Assam is promoted to officiate in the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and allowed to continue in the ex-cadre post of Chairman-cum-Managing Director, APHC, Ltd, Assam, in the interest of public service, with immediate effect and until further orders.

NO. HMA 201/90/180-B : Shri S.P.Ram, IPS, (RR-74) Addl. Director General of Police, (CID) Assam, is promoted to officiate in the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and posted as Director General of Police (CID), an ex-cadre post by way of up gradation of the ex-cadre post of Addl. Director General of Police (CID), Assam, to the rank of Director General of Police (CID), Assam in the interest of public service, with immediate effect and until further orders.

NO. HMA 201/90/180-C : Shri B.P.Rao, IPS, (RR-74) Addl. Director General of Police, (Border) Assam, is promoted to officiate in the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and posted as Director General of Police (Border), by way of up gradation of the cadre post of Addl. Director General of Police (Border), Assam, to the rank of Director General of Police (Border), Assam, in the interest of public service, with immediate effect and until further orders.

NO. HMA 201/90/180-D : Shri M.Mohan Raj, IPS, (RR-75), Addl. Director General of Police (OSD), Assam is promoted to officiate in the rank of Director General of Police, in the scale of pay Rs. 24,050-650-26,000/- and posted as Director General of Police (OSD) an ex-cadre post in the Assam Police Head Quarters by way of up gradation of the ex-cadre post of Addl. Director General of Police (OSD), Assam, to the rank of Director General of Police (OSD), Assam, in the interest of public service, with immediate effect and until further orders.

Sd/- S.C.Das,
Principal Secretary to the Govt. of Assam,
Home & Political Department.

Dated Dispur, the 22nd May, 2008.

Memo. NO. HMA201/90/180-E

Copy to :-

1. The P.P.S to Chief Minister, Assam, Dispur, Guwahati-6.
2. The P.S to Chief Minister, Assam, Dispur, Guwahati-6.
3. The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29
4. The Under Secy. to the Govt. of India, Ministry of Home Affairs, New Delhi.
5. The Under Secy. to the Govt. of Meghalaya, Home (P) Department, Shillong.
6. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
7. The P.S to the Parliamentary Secretary, Home Department, Assam, Dispur, Guwahati-6.
8. The P.S. to Chief Secretary, Assam, Dispur, Guwahati-6.
9. The P.S to Principal Secy. to Chief Minister, Assam, Dispur, Guwahati-6.
10. The P.S to Principal Secretary, Home & Political Deptt. Assam, Dispur, Guwahati-6.
11. The P.S to Commissioner & Secrtyary, Home & Political Deptt. Dispur, Guwahati.
12. The Addl. Director General of Police, Assam, -----
13. The Inspector General of Police/ Deputy Inspector General of Police-----
14. The Superintendent of Police/ Commandant -----
15. The Director, Assam Govt. Press, Bamunimaidam, Ghy-21 for publication of the above Notification.
16. Officer Concerned. *S.P.Ram, IPS (RR-74), Addl. DGP (C 10), Assam*

S.M.-f

By order etc.

Abhijit
22.5.08
Joint Secretary to the Govt. of Assam,
Home (A) Department.

Certified to be true copy

Abhijit
13-1-2010

For Secy. Home

No.I.11012/13/2009-IPS.I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

प्रधान प्रियंत्री द्वारा
BY SPEED POST
New Delhi, the

To
The Chief Secretary,
Government of Assam,
Guwahati

(Kind Attn. Shri A. Chakravarty, Joint Secretary)

U.T.
Pl. put up
immediately
Albert
25.8.09

Sub:-Concurrence of the Central Government on the number of vacancies for promotion in Selection Grade and Above of IPS under Rule 3(2)(ii) and (iii) of IPS (Pay) Rules, 2007 in respect of Assam Segment of IPS of Joint Cadre of Assam-Meghalaya.

Sir,
I am directed to refer to State Government's letter No.HMA.193/2009/12 dated 16th July, 2009 on the subject cited above and to convey the concurrence of the Central Government to the number of vacancies as required under Rule 3(2)(ii) of IPS (Pay) Rules, 2007 to the following extent:-

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SI.No.	Promotion in the Grade	Concurrence of Number of Vacancies	Resultant vacancies	Total number of vacancies
1.	DGP	00	-	00
2.	ADGP	04	-	04
3.	IGP	06	04	10
4.	DIGP	-	03	03 (Restricted as per State Government's Proposal)
5.	Selection Grade (SP)	-	03	03 (Restricted as per State Government's Proposal)

2. It is seen from the information sent by the State Government that against the sanctioned strength of two posts (one cadre plus one ex-cadre) at DGP level, the State Government is operating with six posts in that grade. Attention of the State Government in this connection is invited to the provisions of Rule 11(7) of IPS (Pay) Rules, 2007 and this Ministry's letter NO.11012/7/2009-IPS.I dated 10th July, 2009 vide which the State Government was intimated that its request to concur two additional posts at DGP level cannot be acceded to.

3. In view of the above the State Government is advised to immediately revert the four additional officers in DG grade to ADGP grade.

4. The concurrence of the Central Government on the number of vacancies as indicated above is subject to the action to be taken by the State Government, as advised in the preceding para.

Certified to be true copy

Albert
13.1.2010

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Guwahati Bench
High Court of Assam

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D.D.
D.D. No. 22320
Date 24/8/09

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5. It is clarified that the above promotions will be done only after getting the approval of the Joint Cadre Authority (JCA) and will be made strictly in accordance with the guidelines issued by the Government of India for promotion within IPS. Further, a copy of the promotion notification may be forwarded to this Ministry for record.

Yours faithfully,

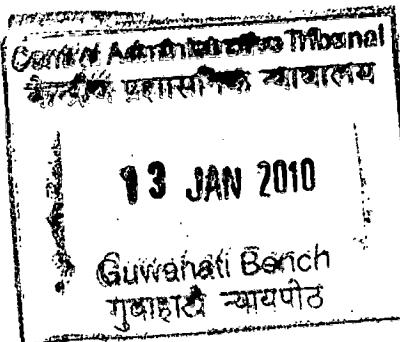
(O.S.Ashok)

Under Secretary to the Government of India
Tel. 23092527.

Copy to: The Chief Secretary, Government of Meghalaya, Shilong for information.

(O.S.Ashok)

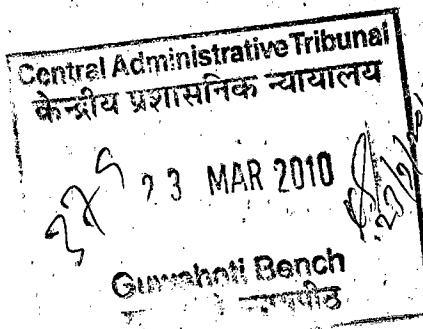
Under Secretary to the Government of India



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13.1.2010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATI.



C. A. No. 220/2009

Shri S. P. Ram

Vs.

Union of India & Ors.

File No. C.A. 220/2009
Dated 25.3.10.
J. N. Gaurav
C. A. 220/2009
25.3.10.

Rejoinder by the applicant to written
statement of Respondent Nos. 2 and 3.

The applicant respectfully begs to state as
under :

1. That the applicant has gone through the W.S. of respondent Nos. 2 and 3 and understood the contents thereof.
2. That in reply to statements in paras 5, 6, 7 and 8 it is submitted it has been an administrative error/ irregularity to promote applicant's junior superseding applicant, as Addl. D.G.P. and D.G.P. The applicant is entitled to proforma promotion with reference to the date of promotion of his junior.

As stated in para 8 of the W.S. X considering the request made by the officers who were senior to W.R.

^{Senior} Marbaniang, IFS the following officers were promoted to the post of DGP vide notification No. HMA-201/90/180 dated 22.06.2008. The applicant is one of the officers

Contd....2

23 MAY 1977

- 2 -

Guwahati Bench
গুৱাহাটী ন্যায়পৰ্বত

(against Sl. No. 3) of the 5 (five) officers mentioned in the said para. The applicant submitte that the promotion has to be given effect from the date of promotion of his junior, on proforma basis.

It is stated that the Government of Assam gave proforma promotion with reference to Shri B.P. Rao IPS only considering that Shri Rao was posted in Assam Segment. The applicant is grateful to the Government of Assam for the same. The humble prayer of the applicant is that Assam and Meghalay form a jointcadre, proforma promotion in the joint cadre (not segments), for administrative justice should not pose any difficulty. As stated above request for promotion of junior has been accepted (para 8 of W.S.), the promotion on 'proforma' basis, from the date of promotion of junior in Joint Cadre should be given as has been given with reference to Shri B.P. Rao; promotion to maintain sanctity of joint cadre promotion.

It is stated that the State Government of Assam, and Meghalaya has power to create posts for promotion of supereded officers, and Govt. of Assam, has exercised the power as stated in para 7 of the W.S., by exercise of same power post for applicant's promotion could be created. It is respectfully submitted that proforma promotion with reference to promotion of junior should be given to the applicant.

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23 May 1993

Guwahati Bench
गुवाहाटी न्यायपीठ

- 3 :-

3. That it is stated that in para 7 of the W.S. it has been stated that Government of India "directed the Government of Meghalaya to revert Sri Marbaniang" (underlines added). In para 10 of the W.S.

It is stated that after the above direction of the Government of India also, the State of Meghalay did not take any action to revert his junior, and hold D.P.C. under Joint Cadre Rules, as such the administrative error/irregularity continued and junior of the applicant continued in promotional post (supergession of the applicant continued). This is arbitrary and violative of the Articles 14, 16 and 21 of the Constitution of India.

The applicant humbly states that Articles 256 and 257 (Administrative Relations between the Centre and States) provide for directions by the Government of India to States. Such directions are Constitutional directions, and failure to comply with such directions would mean failure of Constitutional machinery of state. The humble submission of the applicant is that for such failure the law abiding citizen as the applicant ^{is} need not suffer. The adverse affect deserves to be rectified by ~~pre~~forma promotions of the applicant with effect from the date of promotions of the junior.

4. That in reply to statements in para 10 of the W.S. it is stated that the statements are not for the applicant's case. The applicant's case has been dealt with separately

Contd....4

23 MAR 2010

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Guwahati Bench
গুৱাহাটী ন্যায়পৌঁঁত

by creation of posts by the Governor, under circular dated 27.5.2009 (Annexure-N^o 4 to the O.A.). The applicant has retired w.e.f. 3.3.2009.

5. That in reply to statements in para 12 it is stated that the O.A. deserves to be allowed with cost.

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23 MAR 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

VERIFICATION.

I, Shri Sheo Prasad Ram, aged about 61 years, son of late Ram Guli Ram, resident of Ulubari, Guwahati-7, applicant in the above O.A., do hereby verify that the statement made in para 1 to 5 and that I have not suppressed any material facts.

I sign this verification this ..19th day of March, 2010 at ~~Guwahati~~ Varanasi.


(S P Ram)
Signature.