

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A. NO. 71/2009
O.A./TA/NO.....2015
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17.7.2015
SECTION OFFICER (JUDL.)

14.8.2015

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 71/2009

2. Miscellaneous Petition No

3. Contempt Petition No

4. Review Application No

Applicant(s) Pradip Ranjan Das

Respondant(s) de-o-I 9025

Advocate for the Applicant(s): R. P. Saomah

M. R. Adhikary

Advocate for the Respondant(s): 6

| Notes of the Registrar | Date | Order of the Tribunal |
|------------------------|------|-----------------------|
|------------------------|------|-----------------------|

This application is in form
is filed/C. F. for Rs. 50/-
deposited vide IPO/BD
No. 36-405069
Dated 31.3.09

Dy. Registrar

20/4/09 D/O/GUWAHATI-5

Petitioner's copies for
issue notices are received
with envelopes copy
served.

20/4/09

lm

Copies of notices along
with order dt. 21/4/09
send to D/Sec. for issuing
to respondents by post.

D/No - 2047 to 2049

22/4/09 Dt 30-4-2009

Heard Mr. R. P. Sharma, learned
Counsel appearing for the Applicant and
Mr. K. K. Das, learned Addl. Standing
Counsel appearing for the Government
of India (to whom a copy of this O.A. has
already been supplied) and perused the
materials placed on record. Subject to
legal pleas, and question of limitation to
be examined on the later date, notices
be issued to the Respondents requiring
them to file their written statement by
11.06.2009.

(M.R. Mohanty)
Vice-Chairman

Notice copy duly
Served on R-No. 1, 3

11.06.2009

Mr. K. D. Singh, learned
counsel for the Applicant is present.
No written statement has yet been
filed by the Respondents. On behalf
of the Respondents has ^{been} prayed for more
time to file written statement. Prayer
is allowed.

Call this matter on
30.07.2009 awaiting written
statement from the Respondents.


(M.R. Mohanty)
Vice-Chairman

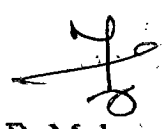
/lm/

30.07.2009

None appears for either of the
parties:

Call on 28.08.2009.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

nkm

28.08.2009

No written statement has yet been
filed by the Respondents in this case.

Call this matter on 09.10.2009.


(M.K. Chaturvedi)
Member(A)


(M.R. Mohanty)
Vice-Chairman

/pb/

→
P.T.O

09.10.2009

Ms.K.Akhtar,

Advocate

representing the Applicant is present. Mr.Kankan Das, learned Addl. Standing counsel representing the Respondents is also present.

Despite 4 adjournments, no written statement has yet been filed by the Respondents in this case.

Subject to legal pleas to be examined at the final hearing, this case is admitted.

On the prayer of Mr.Kankan Das, learned Addl. Standing counsel, time till 30.11.2009 is, hereby, granted to the Respondents to file their written statement.

Call this matter on 30.11.2009.

Send copies of this order to the Respondents in the address given in the O.A.

(M.R.Mohanty)
Vice-Chairman

30.10.2009

It is stated that reply has been filed by the Respondents. Learned counsel for the Applicant seeks four weeks time to file rejoinder and allowed.

Call this matter on 05.01.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm

K.Das

send copy of this order to the Applicant and the Respondents.

14/10/09

Copies of order dated 9/10/2009 send to D/Sec. for issuing to the respondents by post - D/No - 12301 - 12303

Dt: 3-11-2009

25/10/09

27-11-09

no W/S filed

/bb/

(M.R.Mohanty)
Vice-Chairman

No W/S filed


4.01.2010


-4- O.A. No. 71/2009

05.01.2010

It was pointed out to us that reply had been filed on 30.11.2009. On enquiry made, we noticed that year of the O.A. had been wrongly mentioned by the respondents and that was the reason why reply was not annexed to the O.A. Since correction had been made now, the said reply may be taken on record. Rejoinder, if any, may be filed.

List on 02.02.2010.

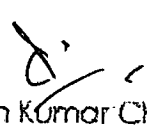

(Madan Kumar Chaturvedi)
Member (A)

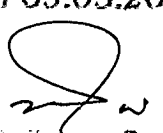

(Mukesh Kumar Gupta)
Member (J)

nkm

02.02.2010

Rejoinder has been filed. Thus pleadings are complete. Since the matter has already been admitted by order dated 09.10.2009, list for hearing on 05.03.2010.


(Madan Kumar Chaturvedi)
Member (A)



(Mukesh Kumar Gupta)
Member (J)


nkm

05.03.2010

Matter was directed to be listed under the category of 'hearing' vide order dated 02.02.2010. Yet it has been shown in the category of 'order'.

Accordingly, list for hearing on 19.03.2010.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

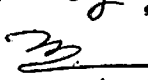
/bb/

19.03.2010

This being a Division Bench matter, adjourned to 07.04.2010.


(Madan Kr. Chaturvedi)
Member (A)

/bb/


06.4.2010

5.1.2010

W/S filed by
the Respondents in
the Court on 30.11.09.
Copy served.
15/1/2010

1.2.09


NO rejoinder filed.

b

2.2.2010

Rejoinder
has been filed in
the Court. Copy
served.
15/2/2010

The case is ready
for hearing.


18.3.2010

19.3.2010

Vakalatnam
has been filed
by Mr. B. Chakraborty
& Mr. B. Das Advocates
for the applicant.
15/3/2010

The case is ready
for hearing.

07.04.2010

Mr.K.K.Das, learned Counsel for the Respondents states that due to his personal problem, he is unable to prepare the case. Request ^{for adjournment} has not been objected.

List the matter on 29th April, 2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/Lm/

29.04.2010

For the reasons recorded separately, O.A. is dismissed. No costs.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

copy receipt
8-5-2010

copy receipt
13-05-10

24-5-2010

Judgment/Trial order
dated 29/4/2010 prepared
and sent to the S/section
for issuing to respondents
by Post
vide No - 1161 to 1163
date - 28-5-2010
copy received L/advocate
for both sides.

10/05/2010

10/05/2010

10/05/2010

10/05/2010

10/05/2010

10/05/2010

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 71 of 2009

DATE OF DECISION: 29.04.2010

Shri P.R.Das

.....Applicant/s.

Shri B.Chakraborty

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

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr. Kankan Das, Addl. C.G.S.C

.....Advocate for the
Respondents

CORAM

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

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

1. Whether Reporters of local newspapers may be allowed to see the Judgment? 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

Hon'ble Member (J)

8

1

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 71 of 2009

Date of Decision: This, the 29th Day of April, 2010.

HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Shri Pradip Ranjan Das
Son of Late Pradyumna Kumar Das
Resident of Sarojini Bhawan
Upper Jail Road, Shillong-793 001
Meghalaya.

...Applicant

By Advocate: Shri B.Chakraborty.

-Versus-

1. The Union of India
Represented by its Secretary
Ministry of Health and Family Welfare
Nirman Bhavan, New Delhi-110108.
2. The Director
National Vector Borne Disease Control Programme
Ministry of Health and Family Welfare
22 Shamnath Marg
Delhi – 110 054.
3. The Regional Director
Health and Family Welfare
Regional Office of Health and
Welfare, Dhankheti, Shillong-793003
Meghalaya.


...Respondents

By Advocate: Mr. Kankan Das, Addl. CGSC.

ORDER (ORAL)

MUKESH KUMAR GUPTA, MEMBER (J):

Pradip Ranjan Das in this O.A. seeks extension/grant of uniform
pay scale to all Laboratory Assistant employed in National Vector Borne



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Diseases Control Programme (hereinafter referred as NVBDGP) including applicant based on the principle of "equal pay for equal work" with all consequential benefits including arrears w.e.f. 01.01.1996, on which date, 34 Junior Technicians in the National Anti Malaria Programme (hereinafter would be referred to as NAMP) were upgraded from the pay scale of Rs.4000-6000/- to Rs.4500-7000/-.

2. Admitted facts are that applicant was recruited as Laboratory Assistant under the research scheme of ICMR attached to Directorate of National Malaria Eradication Programme (NMEP), which was re-designated as National Vector Borne Diseases Control Programme vide communication dated 27.01.1983 (Annexure-R/1). His appointment was in the pay scale of Rs.260-430/-, purely temporary in nature in the project titled as: "To study of monitoring P.falciparum resistant to chloroquine". It was further informed that the staff employed with the scheme will not be employee of the ICMR and he will not have any claim for regular appointment at the time of completion of the scheme. Accepting such conditions applicant joined said post. Vide order dated 29.09.1995 (Annexure-R/2) approval of the President was conveyed for merging of Malaria Operational Field Research Schemes (hereinafter would be referred to as MOFRS) presently being continued under the auspices of ICMR with the NMEP. In total 156 temporary posts were to be merged and created under the 8th Plan period, which included 99 Laboratory Assistants, who were then in the pay scale of Rs.950-1540/-. On implementation of 5th CPC, said scale was revised to Rs.4000-6000/-.

3. His claim is that when 99 posts of Laboratory Assistant were merged with NMEP, the persons holding equivalent posts of Laboratory

Assistants under the then NMEP were allowed the pay scale of Rs.4500-7000/-. Thus, the contention raised is that since he is discharging identical functions and duties to the posts attached to Laboratory Assistants irrespective of whether he is working in MOFRS or NMEP, he is entitled to parity based on "equal pay for equal work".

4. Mr.B.Chakraborty, learned counsel appearing for the applicant strongly relied upon Co-ordinate Bench judgment of Cuttack Bench of this Tribunal dated 12.05.2004 in **Bidyadhar Sahoo & 7 others vs. Union of India & Others** to claim said pay scale of Rs.4500-7000/-. It is further contended that Ministry of Finance, Department of Expenditure (Implementation Cell) had considered all these aspects in detail on 15.12.2003, which took the shape of communication dated 18.12.2003. If benefit of said decision is extended to the applicant, he would become entitled to pay scale of Rs.4500-7000/-.

In the above backdrop, learned counsel claimed that applicant is entitled to reliefs, as prayed for.

5. By filing reply, matter was contested and it was stated that with the approval of the President for merger of MOFRS under ICMR with NMEP, sanction of the President was accorded for creation of 156 temporary posts under 8th Plan. **C.B.Gangadharaiah and Others** filed writ petition before the Hon'ble High Court of Karnataka vide W.P.(C) Nos. 2722 of 2001 and 12391-12396 of 2001, which had been allowed vide order dated 20.04.2001 against which Civil Appeal Nos.444-450 of 2002 had been preferred. Holding that said judgment required no interference, said appeals were disposed of vide order dated 10.09.2003 (Annexure R/III). It was made clear

therein regarding ACP, that the officials would be entitled to get benefit only from the date of absorption. It was further pointed out that no separate notified Recruitment Rules are existing for the ex-MOFRS employees and qualification prescribed under the Recruitment Rules of NVBDCP is applicable to them. Promotional avenues exist for various posts of ex-MOFRS working at Regional Office for Health & Family Welfare, Shillong. Said 156 posts were isolated posts and not included in the main cadre, and therefore, they are not shown in the seniority list. Their past services prior to merger with NVBDCP on 29.09.1995 are not countable for ACP as held by Hon'ble Supreme Court in the case of **C.B.Gangadharaiiah** (supra). It was further urged that they were not entitled to benefit of promotion as they are not covered under Ministry of Finance, Department of Expenditure U.O. No.69/8/2003-IC dated 15.12.2003.

6. We have heard Shri B.Chakraborty, learned counsel for the applicant and Shri Kankan Das, learned counsel for the respondents, perused the pleadings and other material placed on record.

7. Ex-facie applicant's appointment in the year 1993 was not a regular appointment. It was an appointment under the scheme and against the project, as noticed hereinabove. On 29.09.1995, the approval of the President had been conveyed for merger of MOFRS under NMEP and creation of 156 temporary posts. In other words, till 29.09.1995 applicant had not been absorbed as permanent employee of ICMR or any of its institutes spread all over India. It would also be expedient to quote decision taken by the Ministry of Finance, Department of Expenditure dated 15.12.2003, which reads thus:-



"2. Ministry of Health & Family Welfare may kindly refer to their proposal regarding upgradation of pay scale of direct recruits to the posts of Junior Technician/Lab Assistant in the Directorate of National Anti Malaria Programme (NAMP) from existing Rs.4000-6000 to 4500-7000 consequent to judgment dated 2.4.2003 of Lucknow Bench of CAT in O.A. No. 403/2002 wherein the Tribunal had directed that the issue be resolved after obtaining the report of the Anomaly Committee within a period of 6 months. The issue has been considered in this Department and it is observed that the anomaly in the present case is solely on account of wrong implementation of a specific recommendation of Fifth CPC by the administrative ministry. The Fifth CPC recommendation should correctly have been implemented with all the posts of Lab Assistant (whether filled by promotion or by direct recruitment) in NAMP being initially placed in the scale of Rs.4000-6000 w.e.f. 1.1.1996. Thereafter 34 of these posts should have been upgraded to the scale of Rs.4500-7000 and redesignated as Lab Assistant – I to be filled by promotion of the existing Lab Assistants who would then be classified as Lab Assistant-II. Furthermore, all future appointment to the post of Lab Assistant – I should have been made through promotion of Lab Assistants-II with the post of Lab Assistant-II being filled 50% by direct recruitment of graduates and 50% by promotion of Insect Collectors. This course of action being the only correct method would now have to be followed. The administrative ministry is also advised that the existing pay (and not pay scale) of such of those promotee Lab Assistants as had wrongly been extended the higher scale of Rs.4500-7000 would be protected and no recoveries be made from them. This will also remove the glaring anomaly which has been created by wrong implementation of the Fifth CPC recommendation by the administrative ministry. The administrative ministry may also like to fix responsibility for such wrong implementation of the Fifth CPC recommendation."

(emphasis supplied)

Perusal of above, would reveal that Ministry of Health and Family Welfare proposal regarding upgradation of pay scale of direct recruits to the posts of Junior Technician/Laboratory Assistant in the Directorate of NAMP from existing Rs.4000-6000 to Rs.4500-7000/- was considered in detail and based on 5th CPC recommendation, it was observed that there had been wrong implementation of the specific recommendation made by it. As per the

6-

scheme, only 34 of the said posts were to be upgraded to Rs.4500-7000/-, which was re-designated as Laboratory Assistant-I. Said posts were to be filled up by promotion from the existing Laboratory Assistants, who would then be classified as Laboratory Assistant-II. Examining the case from this angle one would come to conclusion that promotion to pay scale of Rs.4500-7000/-, which is re-designated as Laboratory Assistant-I is to be filled from a feeder cadre i.e., Laboratory Assistant-II. Unless and until applicant is part of a regular cadre in the feeder category, he is not entitled to upgradation or promotion to said pay scale of Rs.4500-7000/-. No material has been produced before us or brought to our notice to suggest that applicant as on that date i.e., 01.01.1996 on implementation of 5th CPC recommendation had been regularized as Laboratory Assistant-II. The very nomenclature of Presidential order dated 29.09.1995 reveals creation of "156 temporary posts" under the Directorate of NMEP and Regional Offices of Health and Family Welfare for 8th Plan period, which included only 99 Laboratory Assistants, a post held by applicant on said date. As long as applicant's appointment is not regular but against a project, he cannot seek parity with those who are borne on regular strength of the Ministry/Regional Offices of Health and Family Welfare. Thus, the contention raised that applicant has been discriminated in denying parity in the pay scale of Laboratory Assistant in MNEP as applicant and other regular persons are holding same designation is totally misconceived. Parity can be between similarly situated persons and not like the one of present case. In our considered opinion the Cuttack Bench of this Tribunal had not recorded any finding on parity, rather we may note the relevant portion, which reads as under:-

9

"Be that as it may, we therefore, direct Res. Nos.1, 2 and 3 to issue necessary orders implementing the decision of the Ministry of Expenditure (Implementation Cell) with regard to restructuring of pay scale of Lab. Assistants working in their organization so as to remove any anomaly as well as extinguish if any more litigations are pending elsewhere."

(emphasis supplied)

Said decision by the Ministry of Finance had been taken vide note dated 15.12.2003, which led to communication dated 18.12.2003. In other words, direction of the Cuttack Bench had been only in respect of decision taken by the Implementation Cell, extracted hereinabove. Nothing more can be read in between in said order. Thus, said order is totally distinguishable and not applicable to the applicant in present case. In our considered view said judgment do not advance the case of the applicant, rather it clinches the issue in favour of respondents. Furthermore, it is not the case of the applicant that he falls within those 34 persons, whose pay scale had been upgraded by the Ministry of Finance, Department of Expenditure (Implementation Cell) on 15.12.2003.

8. Thus, we hold that no case has been made out by the applicant for judicial interference. Finding no merits, O.A. is dismissed.


(MADAN KUMAR CHATURVEDI)
MEMBER (A)


(MUKESH KUMAR GUPTA)
MEMBER (J)

/BB/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

O.A. No 71 / 2009

Shri Pradip Ranjan Das

Applicant

-Versus-

Union of India & others

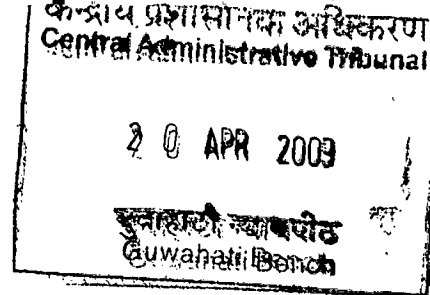
Respondents

SYNOPSIS

The applicant has approached the Hon'ble Tribunal inter alia for implementation of the recommendations of the Fifth Pay Commission and removing anomalies in the pay scale of Junior Technicians / Laboratory Assistants following the merger in September, 1995 of Malaria Operational Field Research Scheme ('MOFRS' for short) with the National Malaria Eradication Programme ('NMEP' for short) now the National Vector Borne Diseases Control Programme (NVBDCP) under the administrative control of the respondent No.1 and the hostile discrimination in not extending uniform pay scales to all Laboratory Assistants on the principles of "equal pay for equal work" in the integrated / amalgamated cadre of the National Vector Borne Diseases Control Programme, all of whom are admittedly discharging similar duties and responsibilities as has been extended to Junior Technicians of NMEP. The applicant by an

Pradip Ranjan Das

Revised copy
of O.A.
Mineral Kumar
21/4/09



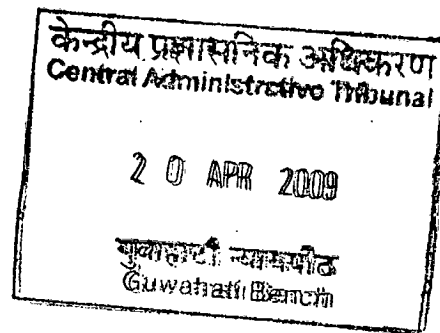
application dated 10-02-2008 sought information under the Right to Information Act, 2005 and a reply dated 21-11-2008 was furnished by the competent authority which inter alia stated that no Laboratory Assistants of ex-MOFRS was promoted to the next higher post and that the existing Laboratory Assistants of ex-MOFRS have not been re-designated as Laboratory Assistant-II. The reply, as furnished, also stated that the letter dated 18-12-2003 regarding uniform pay scales of Laboratory Assistants of ex-MOFRS with Junior Technicians did not pertain to Laboratory Assistants of ex-MOFRS. The action of the respondents in denying parity in pay scale with Junior Technicians of the amalgamated cadre of NMEP is violative of the principles of the doctrine of 'equal pay for equal work'. Hence this application.

Filed by,

[Signature]

Advocate

Pradip Ranjan Das



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

O.A. No. 71 / 2009

Shri Pradip Ranjan Das

Applicant

-Versus-

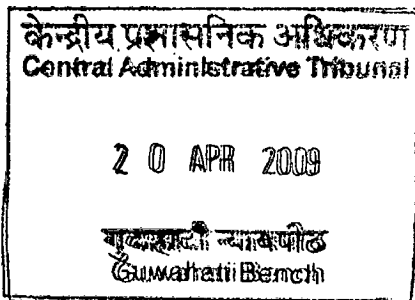
Union of India & others

Respondents

LIST OF DATES

- 01-03-1983: Applicant appointed as Laboratory Assistant under the 'Plasmodium Falciparum Monitoring Scheme' under Respondent No.2.
- 29-09-1995: 'Plasmodium Falciparum Monitoring Scheme' renamed as 'Malaria Operation Field Research Scheme (MOFRS)', amalgamated / merged with National Malaria Eradication Programme.
- 20-01-1999: Letter issued by the respondent No.1 indicating the discrimination and consequent denial of the pay scale of Rs. 4500-125-7000/- drawn by Junior Technicians under NMEP, to the applicant and other Laboratory Assistants of the erstwhile MOFRS.

Pradip Ranjan Das



- 16-01-2004: Letter to the respondent No.3 requesting implementation of the recommendations given by the 5th Pay Commission for removal of anomalies and for giving a uniform pay scale to all Junior Technicians / Laboratory Assistants in the amalgamated cadre of NAMP (now NVBDCP).
- 10-09-2008: Application under the Right to Information Act, 2005 for seeking information regarding the extension of uniform pay to Laboratory Assistants of ex-MOFRS with that of the Junior Technicians in terms of letter dated 18-12-2003 and re-designation of Laboratory Assistants as Laboratory Assistant-II.
- 21-11-2008: Reply by respondent No.2 to the application preferred under the R.T.I Act.

Filed by,

K. D. Sinha

Advocate

20 APR 2009

गुवाहाटी बेंच
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

O.A. No 71 / 2009

Shri Pradip Ranjan Das

... Applicant

-Versus-

Union of India & others

... Respondents

I N D E X

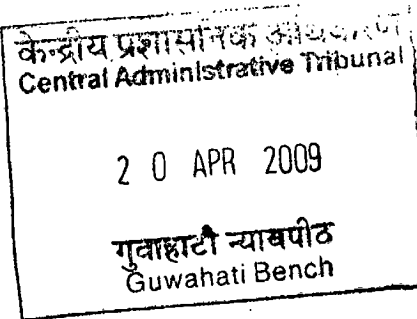
| Sl. No. | Particulars | Page No. |
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| 1. | Synopsis with list of dates | |
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Filed by,

[Signature]

Advocate

Pradip Ranjan Das



Filed by the
Applicant
through
K. Dharendra Singha
Advocate
20-04-09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH:

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

For use in Tribunal's Office

Signature

Date

Original Application No. 71 / 2009

Pradip Ranjan Das

BETWEEN

Shri Pradip Ranjan Das,

Son of Late Pradyumna Kumar Das,

Resident of Sarojini Bhawan,

Upper Jail Road, Shillong - 793001,

Meghalaya.

... Applicant

AND

1. Union of India,

represented by its Secretary,

Ministry of Health and Family Welfare,

Nirman Bhavan, New Delhi - 110108.

20 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

2. The Director,
National Vector Borne Disease Control
Programme, Ministry of Health and
Family Welfare, 22 Shamnath Marg,
Delhi - 110054. ✓

3. The Regional Director,
Health and Family Welfare,
Regional Office of Health and Family
Welfare, Dhankheti, Shillong - 793003,
Meghalaya. ✓

..... Respondents

DETAILS OF APPLICATION

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

- i) Impugned action of the respondent authorities in denying uniform pay scale to Laboratory Assistants including the applicant, presently working in the office of the Respondent No.3 at par with the pay scale of Junior Technicians working in the amalgamated cadre of Laboratory Assistants / Junior Technicians of the present National Vector Borne Disease Control Programme in the office of the Respondent No.3 as is admissible to Laboratory Assistants working with the

Radip Rayan Das

20 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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3

erstwhile National Malaria Operational Field Research Scheme vide order dated 29-09-1995 under the Respondent No.1.

- ii) Impugned action of the respondent authorities in not implementing the recommendations of the Fifth Pay Commission and removing anomalies in the pay scale of Junior Technicians / Laboratory Assistants following the merger in September, 1995 of Malaria Operational Field Research Scheme ('MOFRS' for short) with the National Malaria Eradication Programme ('MMEP' for short) now the National Vector Borne Diseases Control Programme (NVBDGP) under the administrative control of the respondent No.1.

Radip Rayan Bar.

- iii) Hostile discrimination in not extending uniform pay scales to all Junior Technicians / Laboratory Assistants on the principles of "equal pay for equal work" in the integrated / amalgamated cadre of the National Vector Borne Diseases Control Programme, all of whom are admittedly discharging similar duties and responsibilities.

- iv) Application dated 10-02-2008 preferred by the applicant seeking information under the Right to Information Act, 2005 and the reply dated 21-11-2008 furnished by the competent authority.

20 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

4

2. Jurisdiction of the Tribunal :

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

3. Limitation :

The applicant also declares that the present application is within the limitation period as has been prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case :

- i. That the applicant was initially appointed as Laboratory Assistant on 01-03-1983 on a temporary basis, under the 'Plasmodium Falciparum Monitoring Scheme' under the auspices and administrative control of the respondent No.2.
- ii. That the 'All India Plasmodium Falciparum Welfare Association' approached the Hon'ble Supreme Court by way of Writ Petition (C) No. 402/1993 seeking inter alia, the regularisation of the services of the different categories of employees under the said

Radip Ranjan Das

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scheme, including, the posts of Laboratory Assistants, held by the applicant.

- iii. That in the meantime, the 'Plasmodium Falciparum Monitoring Scheme' was renamed as the 'Malaria Operational Field Research Scheme (MOERS for short) and was amalgamated / merged / integrated with the National Malaria Eradication Programme (NMEP), also under the administrative control of Respondent No.1 by an order dated 29-09-1995 being No. I.140411/4/03-MAL, issued by the said respondent No.1.

Pradip Rayan Das

The order dated 29-09-1995 as aforesaid, was accompanied by the creation of 156 different posts, including 99 posts of Laboratory Assistants which had Presidential approval, covering all employees working under the Malaria Operational Field Research Scheme (MOFRS), thereby fully integrating / amalgamating the employees of MOFRS with the 'National Malaria Eradication Programme' (NMEP).

The applicant craves leave to produce a copy of the above order dated 29-09-1995, if so directed or required.

- iv. That, consequent to the integration / amalgamation of the MOFRS with NMEP, the counting of past services of the employees of MOFRS for retirement / pensionary

benefits, defied settlement and after several rounds of litigation before CAT, Bangalore, Hon'ble High Court of Karnataka and finally the Apex Court, the issue was resolved, when the order dated 18-10-2000 passed by CAT, Bangalore in O.A No. 595/1999, allowing the application and extending all service benefits consequent to the transfer and absorption of 156 MOFRS with NMEP on 29-09-1995, was affirmed and upheld by order dated 10-09-2003 passed in Civil Appeal Nos. 444-450 of 2002 by the Apex Court.

Be it stated that the order dated 29-09-1995 clearly spelt out that the 156 posts, including 99 posts of Laboratory Assistants were required to be only filled by transfer of employees of the erstwhile MOFRS upon its merger with NMEP on 29-09-1995.

- v. That it is stated here that the National Anti-Malaria Programme has since been renamed as National Vector Borne Diseases Control Programme (NVBDCP for short), also under the administrative control of Respondent No.1.
- vi. That, in the recommendations of the 5th (Fifth) Central Pay Commission for removal of anomalies in the fixation of pay scales of Laboratory Assistants of MOFRS subsequent to the merger with NMEP / NAMP vide order dated 29-09-1995, the respondent authorities

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have dilly-dallied and taken different stands with regard to the core issue raised herein, which pertains to fixation of uniform pay scales of Laboratory Assistants with the employees of MFORS with employees already employed in the said capacity with NEMP / NAMP (since renamed as National Vector Borne Diseases Control Programme), NVBDCP, after merger / amalgamation vide order dated 29-09-1995 referred to above.

- vii. That in the context of issues raised herein, the applicant states that the Fifth Pay Commission, in its recommendations, specifically with regard to the revision of pay scales of Laboratory Assistants employed in the MFORS scheme, prior to its merger by order dated 29-09-1995, failed to consider the cardinal fact that the posts of Laboratory Assistants employed with the National Anti-Malaria Programme (NAMP), stood on equal footing with employees of MOFRS and NMEP/NAMP vide order dated 29-09-1995 and the refusal to pay parity of such Laboratory Assistants with the co-ordinate and similar posts held by Junior Technicians / Laboratory Assistants consequent to the merger as far back as on 29-09-1995, is arbitrary, discriminatory and the benefits flowing out of the principles of equal pay for equal work stands negated.

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Radip Rajan Sen

20 APR 2009

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Guwahati Bench

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viii. That, in the context of the issues raised herein, the applicant states that, consequent to the recommendations made by the Fifth Central Pay Commission, the pay scales of Laboratory Assistants working under the then National Malaria Eradication Programme (NMEP), now National Vector Borne Diseases Control Programme (NVBDCP). Was upgraded to the scale of Rs. 4500-125-7000 (pre-revised). The upgradation by the 5th Pay Commission covered 34 promotees and 40 direct recruits of the NMEP (later NAMP and now NVBDCP), but the applicant like others employed as Junior Technicians / Laboratory Assistants, under the earlier scheme, namely 'Malaria Operational Field Research Scheme (MOFRS) prior to its merger / amalgamation with NMEP by order dated 29-09-1995 was the same, being fixed at Rs. 4000-100-6000, though the nature of work, duties and responsibilities performed by the applicant and such other Junior Technicians / Laboratory Assistants was similar and identical to the work discharged by the equivalent posts of Junior Technicians / Laboratory Assistants of the NMEP, after the merger vide order dated 29-09-1995.

ix. That, the nature of work, duties of the applicant and such other Junior Technicians / Laboratory Assistants elsewhere are similar and identical is borne out by a letter dated 20-01-1999 issued by the office of the NAMP, under the control of Respondent.

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No.1, and denied the pay scale of Rs. 4500-125-7000, requesting inter alia, the upgradation of pay scales of 99 Laboratory Assistants of MOFRS, after its merger / integration with NMEP vide order dated 29-09-1995 as aforesaid. The correspondence dated 20-01-1999 clearly indicated that the 99 Laboratory Assistants working under the MOFRS were discriminated against vis-à-vis, similarly appointed employees under the NMEP.

A copy of the aforesaid letter dated 20-01-1999 referred to above is annexed herewith and marked as ANNEXURE - A.

- x. That, again, the office of the Directorate General of Health Services, by its letter dated 16-01-2004, under F.No.C.18013/2/2002-PH(CDL)/RDC addressed to the Respondent No.3, while drawing reference to an earlier letter dated 18-12-2003, requested that the implementation of recommendations of the 5th Pay Commission, be given full effect to by the removal of anomalies and giving a uniform pay scale to all Laboratory Assistants working under NAMP, now NVBDCP after the merger vide order dated 29-09-1995.

Copy of the aforesaid order dated 16-01-2004 and the connected documents

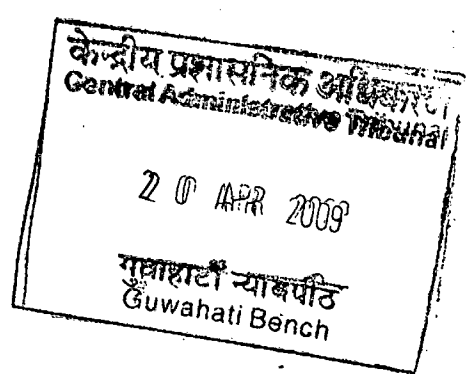
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Ranjana
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are annexed herewith and marked as
ANNEXURE - B series.

xi. That, it is abundantly clear that the respondent authorities have not initiated any steps whatsoever, to restore the equivalent pay scales of Laboratory Assistants employed under the erstwhile MOFRS scheme after its merger / amalgamation with NAMP, now, NVBDCP by order dated 29-09-1995, moreso, after full integration of ex-employees of MOFRS with NAMP in the same capacity upon creation of the 156 posts, including that of 99 posts of Laboratory Assistants.

xii. That by letter No. T-14020/64/2003.Mal dated 18-12-2003 issued by the Respondent No.1, on the subject of removal of anomalies following the recommendations of the 5th Pay Commission, and for extension of a uniform pay scale to Junior Technicians / Laboratory Assistants working under NAMP, the said Respondent No.1 inter alia, requested that necessary action be taken along the lines of the contents, contained in the reference given by the Department of Expenditure on 16-12-2003. The notes, reference was the consequence of an application filed by one Archana Rastogi, a Junior Technician before the CAT, Lucknow Bench, seeking extension of uniform pay scale of Rs. 4500-125-7000 in respect of both direct recruits and promotee Junior Technicians / Laboratory Assistants.

Shadip Ranjan Das



The Department of Expenditure, Ministry of Finance, observed, inter alia, that the recommendations of the 5th Pay Commission should have interpreted to read that all posts of Laboratory Assistants / Junior Technicians, whether filled by promotion or direct recruitment in NAMP ought to have been placed in the pay scale of Rs. 4000-6000/- with effect from 01-01-1996. It was further observed that 34 of these posts should have been upgraded to the scale of Rs. 4500-7000/- and designated as Laboratory Assistant-I, to be filled up by promotion of existing Laboratory Assistants remaining of which would then be classified as Laboratory Assistant-II.

xiii. That pursuant to the aforesaid order dated 16-01-2004, 34 (Thirty four) Junior Technicians which comprised of 50% of the existing Junior Technicians, were given the pay scale of Rs. 4500-125-7000/- with effect from 01-01-1996 and re-designated as Laboratory Assistant -I and the remaining Junior Technicians designated as Laboratory Assistants-II.

But shockingly, all the Laboratory Assistants employed in the said capacity under the (ex) Malaria Operational Field Research Scheme (MOFRS) prior to its merger / amalgamation with the NAMP, were neither given any promotion or given the enhanced pay scale of

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Guwahati Bench

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Rs. 4500-125-7000/- as extended to Junior Technicians / Laboratory Assistants of the NAMP nor re-designated as Laboratory Assistant-I, for reasons best known to the respondents.

xiv. That it is stated that many of the Laboratory Assistants of ex-MOFRS, including the applicant are much senior to Junior Technicians who have been given the benefit of scale up-revision, at the cost of the applicant and such others, betraying the gross discrimination meted out to them, for no fault of theirs.

xv. That the applicant, situated thus in the face of such hostile discrimination filed an application dated 10-09-2008 under the Right to Information Act, 2005, seeking replies, specifically on the question of the re-designation of Laboratory Assistants of ex-MOFRS as Laboratory Assistant-II and the extension of uniform pay scales to Laboratory Assistants of ex-MOFRS with Junior Technicians in terms of letter dated 18-12-2003.

The applicant was furnished with a reply dated 21-11-2008, which inter alia, stated that no Laboratory Assistants of ex-MOFRS was promoted to the next higher post and that the existing Laboratory

Pradip Ranjan Das

Assistants of ex-MOFRS have not been re-designated as Laboratory Assistant-II. The reply, as furnished, also stated that the letter dated 18-12-2003 regarding uniform pay scales of Laboratory Assistants of ex-MOFRS with Junior Technicians did not pertain to Laboratory Assistants of ex-MOFRS.

Copy of the reply dated 21-11-2008 furnished by the respondent No.2 is annexed herewith and marked as ANNEXURE - C.

- xvi. That, a bare perusal of the said reply clearly reveals that the Respondents have willfully chosen to skirt the issue regarding uniform pay scale of Laboratory Assistants of ex-MOFRS with Laboratory Assistants / Junior Technicians of the then NAMP, now NVBDCP and in effect seeks to bolster the contention of the applicant, that he has been discriminated against in so far as the extension of uniform pay scale of Rs. 4500-7000 is concerned and on the issue of granting upgradation in the pre-revised scale of Rs. 4500-7000 to 34 Laboratory Assistants under NAMP for the said scale of Rs. 4500-7000/-, working earlier as Laboratory Assistants with MOFRS, prior to its merger with NEMP / NAMP on 29-09-1995. The respondents have patently and deliberately sought to mislead the applicant by making false claims regarding the

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Pradip Ranjan Das

implementation of the recommendation of the 5th Pay Commission, in so far as the extension of uniform pay scales to Laboratory Assistants / Junior Technicians of the combined and amalgamated cadre is concerned. The action is therefore arbitrary, illegal, discriminatory and runs counter to the provisions of Articles 14, 21 of the Constitution of India and calls for interference by this Hon'ble Tribunal, to set right the anomaly of different pay scales, for the same set of employees of Laboratory Assistants in the combined and integrated cadre.

xvii. That the applicant states that he has been willfully denied the pay scale of Rs. 4500-7000 as admissible to Laboratory Assistants in the amalgamated cadre with effect from 01-01-1996. The respondents have denied the parity of pay scales, even when admittedly, the nature of work, duties and responsibilities of Laboratory Assistants employed in the erstwhile MOFRS are similar and identical to the nature of employment of Laboratory Assistants / Junior Technicians of the NAMP, consequent to the amalgamation vide order dated 29-09-1995 as aforesaid.

xviii. That the principle of 'equal pay for equal work' as ordained under law, postulates that employees discharging similar duties and responsibilities, in the same cadre, under the same organization, are

Pradip Ranjan Das

20 APR 2009

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Chairman

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entitled to receive identical and same pay / pay-scales, without any discrimination in this regard. This omission / denial by the Respondents militates against the said laid down principle of law of 'equal pay for equal work' and necessarily calls for intervention by this Hon'ble Tribunal, to set right the discrimination meted out to the applicant.

- xix. That the facts detailed above and the accompanying documents, all issued by the respondents have clearly betrayed the shifting stand and divergent / inconsistent decisions in so far as the extension of uniform pay scales to Laboratory Assistants / Junior Technicians in the amalgamated cadre under NVBDCP is concerned.

Given the fact situation, the respondents are legally and duty bound to restore / extend the pay scale of Rs. 4500-7000/- drawn by Junior Technicians / Laboratory Assistants of NAMP (now NVBDCP) to Laboratory Assistants / Junior Technicians of the erstwhile MOFRS, prior to its merger / integration with the then NAMP / NMEP.

- xx. That the applicant states that the respondents have treated the applicant and like Laboratory Assistants employed under the then MOFRS consequent to its amalgamation with the NEMP / NAMP, now NVBDCP, all

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under the respondent No.1, harshly, - discriminatorily by denying the legitimate pay scales due to similarly situated employees, and have in effect sought to needlessly create dissensions, discord and acrimony, amongst the same set of employees, working under the same administrative control of Respondent No.1. The said Respondent No.1 by the impugned action in denying pay-parity has failed in its cardinal duty of acting as a model employer.

xxi. That the impugned action of the respondents in denying parity of pay scales among similarly situated employees discharging identical duties smacks of gross arbitrariness and discriminatory and runs counter to the principles governing the doctrine of 'equal pay for equal work' and the principles governing the doctrine of fairness in administrative action.

xxii. That admittedly the applicant and such other Laboratory Assistants working under the erstwhile MOFRS scheme have been fully integrated / merged with NAMP (now NVBDCP) consequent to the order dated 29-09-1995 and their past service has been counted for fixation of seniority and pensionary benefits and there is no rationale behind the withholding of pay parity with the Laboratory Assistants / Junior Technicians working in the merged cadre of NAMP. The action is violative of Articles 14, 16, 21 of the

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Constitution of India and merits interference by this Hon'ble Court.

xxiii. That the applicant states that this application is filed bonafide and for the ends of justice.

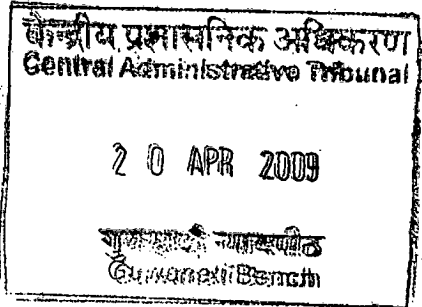
5. Grounds for present application :

- i) For that the action of the Respondent authorities in denying the applicant the pay scale of Rs. 4500-7000/- (Pre-revised) admissible to Laboratory Assistants in the amalgamated cadre of NEMP/NAMP (now NVBDCP) since 29-09-1985 betrays hostile discrimination and runs counter to Articles 14, 16 of the Constitution of India.
- ii) For that the Respondent authorities acted arbitrarily and illegally in not giving effect to the recommendations of the 5th Pay Commission and extending uniform pay scales to the applicant admissible to Laboratory Assistants consequent to the merger / amalgamation with NEMP / NAMP on 29-09-1995, betrays gross discrimination and militates against the provisions of Articles 14, 16 of the Constitution and merits interference by this Hon'ble Court.

Pradeep Ranjan Dm.

- iii) For that the appellant admittedly is discharging similar duties and responsibilities in the amalgamated cadre of NAMP and therefore the denial of parity in pay scale admissible to Laboratory Assistants is violative of the doctrine governing the principle of 'equal pay for equal work' guaranteed under the extant laws of the land.
- iv) For that, it is inconceivable that the Central Government as a model employer, would condone or permit the applicant and other Laboratory Assistants of the erstwhile ex-MOFRS to draw a lower pay scale than is drawn by Junior Technicians of NAMP (now NVBDCP) but admittedly this is being allowed to happen in the case of the applicant and other similarly situated Laboratory Assistants of Ex-MOFRS as the facts clearly show, which betrays the failure of the respondents to act as a model employer and perpetuate the discrimination already meted to the applicant and like others.
- v) For that the denial of parity in pay scales among similarly situated employees discharging identical duties, smacks of gross arbitrariness and discrimination, and besides being violative of Articles 14 and 16 also runs counter to the principles governing the doctrine of fairness in administrative

Pradip Ranjan Das



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action and therefore merits interference by this Hon'ble Tribunal.

- (vi) For that the applicant and other such Laboratory Assistants working under the erstwhile MOFRS scheme have been admittedly integrated with the NAMP (now NVBDCP) consequent to the order dated 29-09-1995, and therefore there exists no legally justifiable reason for denying / withholding identical pay scales drawn by Junior Technicians i.e. pay scale of Rs. 4500-7000/- (pre-revised) to the applicant and like others and the impugned action by the respondents in doing so is clearly violative of Articles 14 and 16 of the Constitution of India.

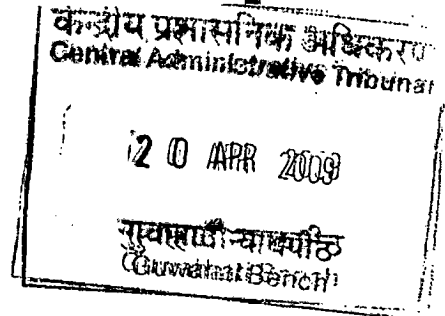
6. Details of remedies exhausted :

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

7. Whether any appeal / suit is pending in any Court with regard to the subject matter in agitation :

The applicant further declares that there is no suit / application pending before any Court or Tribunal with regard to the matter as agitated in the instant application.

Pradip Ranjan Das



8. Details of relief sought for :

In view of the facts detailed in paragraph 4 above, the applicant prays for the following relief(s):-

- i) Extension / grant of uniform pay scale to all Laboratory Assistants employed with the present NVBDCP plan including the applicant, on the principle of 'equal pay for equal work' in terms of the order No. F.No.C.18013/2/2002-PM(CDL)/RDC dated 16-01-2004 issued by the respondent No.1 (Annexure -B series) @
- ii) Grant of all consequential benefits including arrears to be given effect from 01-01-1996 on which date 34 Junior Technicians of the NAMP were given upgradation of pay scales to Rs. 4500-125-7000/-.
- iii) To grant pay parity with the 34 Junior Technicians (i.e. 50% of the existing Junior Technicians) in the pre-revised scale of Rs. 4500-125-7000/- to all Laboratory Assistants of the erstwhile MOFRS including the applicant after its merger / amalgamation with NEMP / NAMP, now NVBDCP vide order dated 29-09-1995, with consequential reliefs including arrears of pay, seniority etc. from the initial date of appointment / entry in to service.

Pradip Anjan Das

20 APR 2009

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9. Interim reliefs if any : No.

10. Particulars of I.P.O:

I.P.O No. 394 405069 dated 31-3-09
for Rs.50 (Rupees fifty) only is enclosed herewith.

VERIFICATION

I, Shri Pradip Ranjan Das, son of Late Pradyumna Kumar Das, aged about 47 years, resident of Sarojini Bhawan, Upper Jail Road, Shillong - 793001, Meghalaya, do hereby verify that the statements made in paragraphs 1 to 3, 4 (i to viii, xi to xiv, xvi to xxiii), 5 to 9 - are true to my knowledge and belief and those made in paragraphs 4 (ix, x, xv) and 10 are matters of information derived from records which I believe to be true and those in paragraph 5 are the grounds taken in the instant application and I have not suppressed any material facts.

I accordingly signed this the 01st day of April, 2009.

Pradip Ranjan Das

S/11 J1

No.12-3/98-NMEP (Admn)
 Government of India
 Dte. National Malaria Eradication Programme,
 22-Sham Nath Marg, Delhi-110054.

Dated 20.1.1999

11 FEB 1999

The Deputy Director, Admn (PH),
 Dte. G.H.S.,
 PH(CD&L) Section,
 Nirman Bhawan,
 New Delhi.

Subject:- Request for upgraded pay scales to the Laboratory Assistant/ Junior Technician of MOFRS under Dte. N.M.E.P.

Sir,

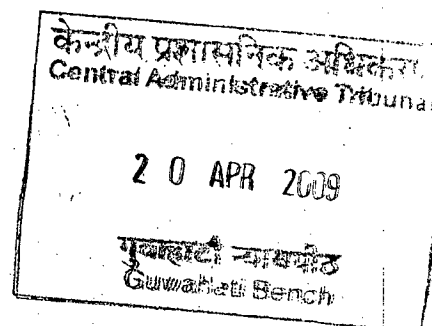
I am directed to refer this Directorate letter No. 3-20/97-NMEP(Admn) dated 18.11.1998 wherein the Directorate have implemented the upgraded pay scales to Junior Technician/Laboratory Assistants of NMEP strength with effect from 1.1.1996 as detailed below:-

| | |
|--|-------------------------|
| Junior Technician/Lab.Assistant (Promoted from Insect Collector) | Rs.975-25-1150-30-1540 |
| | Rs. 4500-125-7000 |
| Junior Technician/Lab.Assistant (Direct appointee) | Rs. 975-25-1150-30-1540 |
| | Rs. 4000-100-6000 |

In this connection it is stated that in response to above several letters/representations from MOFRS Staff are being received in which they are pressing for higher scale, as at present they are drawing Rs. 3200-85-4590. In this context, it may be recalled that MOFRS was started in the year 1978/79 and since then Lab.Asstt. appointed doing same work as being done by Lab. Asstt./Jr.Technician of NMEP. Most of these staff rendered more than 17-18 years of services. All the MOFRS Staff including 99 Lab.Asstts. were subsequently merged with NMEP vide Ministry of Health & Family Welfare order No.T.14011/6/93-Mal dated 29.9.1995.

The Fifth Central Pay Commission upgraded the pay scales of Jr. Tech./Lab Asstt. (34 promotee 40 direct) of NMEP vide their letter No.21/96/97-PCH dated 13.10.1997 but has not indicated about the pay scale of 99 Lab. Asstt. of MOFRS who are subsequently merged with N.M.E.P.

*Certified to be true copy
 of original record
 H.D.B. Advocate*



Further, Lab.Asstt. of MOFRS who were subsequently merged with NMEP drawing same pay scale (pre-revised) at par with the Lab.Asstts./Jr.Technician of N.M.E.P.

Considering the facts mentioned above, it is requested that necessary approval may be given to implement the revised upgraded scale of Rs. 4000-100-6000 to the Lab. Asstt. of MOFRS also, in order to avoid any dissatisfaction and discrimination among the staff of same cadre. At present there are no 98th posts out of 99 Lab. Asstts. merged with NMEP. ✓

Yours faithfully,

V.V. Marar
(V.V. MARAR)

ADMINISTRATIVE OFFICER
NMEP

Copy to:- All Regional Directors, ROH & F.W., Ahmedabad, Calcutta, Chennai, Bhopal, Lucknow, Chandigarh, Trivandrum, Shillong, Imphal, Shimla, Patna, Bhubaneswar, Hyderabad, Ahmedabad, Pune, Patna & Srinagar.
Bangalore. Jm

A.K.S

F.No.C.18013/2/2002-PH(CDL)/RDC
DIRECTORATE GENERAL OF HEALTH SERVICES
(R.D.CELL)

Nirman Bhawan, New Delhi
Dated 16.1.04

To
The Regional Director,
Regional Office for Health and F.W.,

Shillong

Subject:-Implementation of 5th recommendations for Junior Technicians/Labortory Assistants and removal of anomaly - Regarding.

Sir/Madam,

I am directed to forward herewith a copy of letter No.T.14020/64/2003-Mal. dated 18.12.03 alongwith its enclosure for your information and guidance.

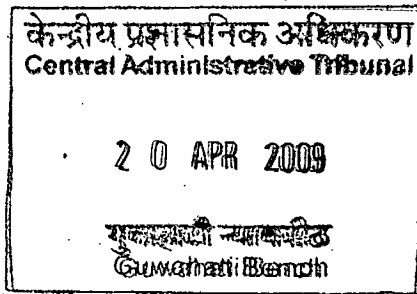
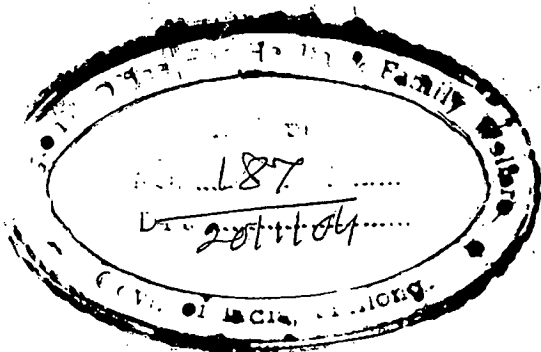
You are requested to take necessary immediate action as per the decision mentioned in the letter refer to above in respect of staff, if any, covered by the decision and posted in your office.

An intimation about action taken in the matter may be submitted to this Directorate at the earliest.

Yours faithfully,

(Signature)
(A.K.BISWAS)

DY. DIRECTOR ADMN. (AKB)



Certified to be true
copy of original xerox
20/1/04
Advocate

- 25 -

Government of India
Ministry of Finance
Department of Expenditure
(Implementation Cell)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20 APR 2009

गुजरात बेंच
Gujarat Bench

Reference preceding notes.

2. Ministry of Health & Family Welfare may kindly refer to their proposal regarding upgradation of pay scale of direct recruits to the posts of Junior Technician/Lab Assistant in the Directorate of National Anti Malaria Programme (NAMP) from existing Rs.4000-6000 to Rs.4500-7000 consequent to judgment dated 2.4.2003 of Lucknow Bench of CAT in OA No.403/2002 wherein the Tribunal had directed that the issue be resolved after obtaining the report of the Anomaly Committee within a period of 6 months. The issue has been considered in this Department and it is observed that the anomaly in the present case is solely on account of wrong implementation of a specific recommendation of Fifth CPC by the administrative ministry. The Fifth CPC recommendation should correctly have been implemented with all the posts of Lab Assistant (whether filled by promotion or by direct recruitment) in NAMP being initially placed in the scale of Rs.4000-6000 w.e.f. 1.1.1996. Thereafter 34 of these posts should have been upgraded to the scale of Rs.4500-7000 and redesignated as Lab Assistant-I to be filled by promotion of the existing Lab Assistants who would then be classified as Lab Assistant-II. Furthermore, all future appointment to the post of Lab Assistant - I should have been made through promotion of Lab Assistants-II with the post of Lab Assistant-II being filled 50% by direct recruitment of graduates and 50% by promotion of Insect Collectors. This course of action being the only correct method would now have to be followed. The administrative ministry is also advised that the existing pay (and not pay scale) of such of those promotee Lab Assistants as had wrongly been extended the higher scale of Rs.4500-7000 would be protected and no recoveries be made from them. This will also remove the glaring anomaly which has been created by wrong implementation of the Fifth CPC recommendation by the administrative ministry. The administrative ministry may also like to fix responsibility for such wrong implementation of the Fifth CPC recommendation.

2718/RAT/C3
16/12/03

Mal
16/12/03
US (Fin Div)

9158

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(MANOJ JOSHI)
Officer on Special Duty (IC)

Director (Finance) M/o Health & Family Welfare, Nirman Bhawan, New Delhi
M/o Finance, D/o Expenditure, UO No.69/8/2003-IC dated 15.12.2003

May kindly see before the file is returned
to Adm Div.

81
16.12.03

AS (FA)

16/12

JS (BPS)

A

CD

Sl No - 22 - 26 -

Central Administrative Tribunal
20 APR 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

Urgent
Contempt Petition

No.T-14020/64/2003-Mal.
Govt. of India
Ministry of Health & Family Welfare
Department of Health

Nirman Bhawan, New Delhi
Dated the 18th December, 2003.

To

Dr Jotna Sokhey
Director, NAMP
22-Sham Nath marg
Delhi- 54.

Subject:- Implementation of 5th recommendations for Junior
Technicians / Laboratory Assistants and removal of
anomaly - regarding.

Madam,

I am directed to refer to the Dte. of NAMP's letter No.3-20/97-NAMP(Admn.) dated 08-11-03 on the above subject and to say that the issue about extending uniform pay scale to the Laboratory Assistants and Junior Technicians working under NAMP has been considered in consultation with the Ministry of Finance, Department of Expenditure. Copy of the U O No.69/8/2003-IC dated 15/12/03 from the Department of Expenditure containing the mode of implementation of the recommendations of 5th Central Pay Commission in this regard is enclosed.

You are requested to take necessary action on the lines of the contents in the said reference from the Department of Expenditure urgently. Necessary steps may be taken to file a reply to the Contempt Petition filed in the C A T, Lucknow before the next date of hearing on 22nd instant.

Yours faithfully,

(P K Chakrabarti)
Under Secretary to the Govt. of India

Copy with a copy of the U O Note from the Deptt. of Expenditure referred to above is sent to Director(A&V), Dte. GHS for similar action. Their file No.C-18013/2/2002-PH(CDL) is returned herewith.

(P K Chakrabarti)
Under Secretary to the Govt. of India

Please take necessary
action as discussed.

DDA (A&V)
19.12.03

Pi. apr
8-12-03

Unish Kumar
23/12/03

5142
19/12/03
Director (A&V)
Ministry of Health & Family Welfare
Department of Health
New Delhi

- 27 -

SPEED POST

TIME BOUND
UNDER RTI ACT

ANNEXURE - 'C'

F.No.1-34/2007/Admn.-II/RTI(47)

भारत सरकार

Government of India

राष्ट्रीय वेक्टर जनित रोग नियंत्रण कार्यक्रम,

National Vector Borne Disease Control Programme,

स्वा.से.म.नि, स्वास्थ्य एवं परिवार कल्याण मंत्रालय,

Dte.G.H.S, Ministry of Health & Family Welfare,

22-शाम नाथ मार्ग, दिल्ली-110 054,

22-Shamnath Marg, Delhi-110 054.

टेलिफोन : -23967780, फैक्स: -23968329

Telephone No. 23967780, Fax No. 23968329

वेबसाइट: - www.namp.gov.in

Website: www.namp.gov.in



Dated:

21 NOV 2008

To,

→ Sh. Pradip Das C/O Sorojinee Bhavan,
Upper Jail Road,
Shillong-793001

Subject:-Information under RTI Act.,2005.

Sir,

With reference to your application No. Nil dated 10.09.2008 on the subject mentioned above. I am directed to forward herewith necessary information requested by your above mentioned application.

Yours faithfully,

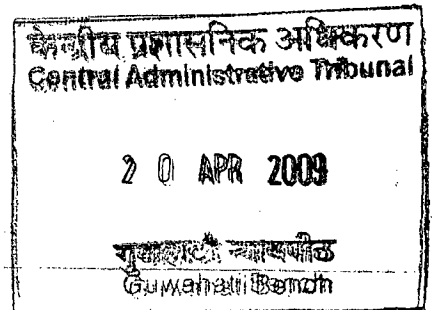
(B.R. THAPAR)
Joint Director, CPIO

Copy to:-

1. The Section Officer (RTI), Dte. General of Health Services, (RTI Section), Nirman Bhawan, New Delhi with reference to his letter Dy.No.998/RTI/2008 -RTi dated 29.09.2008.
2. The Regional Director (HFW), ROH&FW, Dhankheti, Shillong-793003 with reference to his letter No.RHFW/SHG/RTI/2008/1814 dated 10.09.2008.

Appellate Authority :- Dr. G.P.S. Dhillon, Director, NVBDP, 22-Sham Nath Marg, Delhi-110054.

Certified to be true
copy of original as per
B.R. Thapar
Advocate



De. of National Vector Borne Disease Control Programme, Delhi

| Sl. No. | Question | Answer |
|---------|--|---|
| 1. | What is the next higher Post of Lab.Asstt. of Ex-MOFRS ? | (Ans.1 & 2)- They are being granted ACP as per rule after completing requisite numbers of years of service. |
| 2. | What is the rule that governs the promotion of Lab.Asstt. of Ex-MOFRS ? | |
| 3. | Whether any Lab.Asstt. of Ex-MOFRS has been promoted to next higher Post? If any what is their numbers ? | No. |
| 4. | How existing Lab.Asstt. of Ex-MOFRS re-designated to the Lab.Asstt-II ? | The existing Lab.Asstts. of Ex -MOFRS are not re-designated as Lab.Asstt-II. |
| 5. | How uniform pay scale has not been extended to the Lab.Asstt. of Ex-MOFRS with Jr.Technicians vide MOH&FW, No.T14020/64/2003-Mal, dt.18.12.2003. | The letter No.T14020/64/2003-Mal, dt.18.12.2003. does not pertain to Lab.Asstt. of Ex-MOFRS. |

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

20 APR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

File in Court on 30.11.09
Court Officer.

Original Application No. 71 of 2009

Sri Pradip Ranjan Das

Applicant

-Vs-

Union of India & Others

Respondents

INDEX

[Signature]
Sr Regional Director
ROH & FW, Govt. of India
Shillong

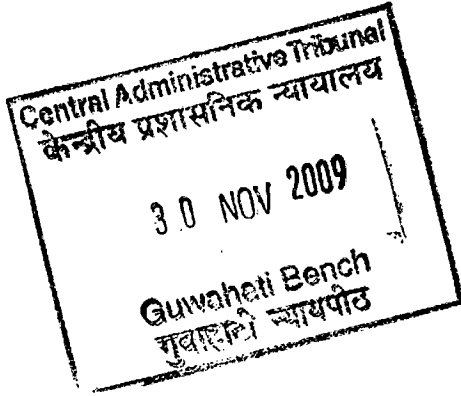
| Sl. No. | Particulars | Annexure | Page No. |
|---------|---|----------|----------|
| 1. | Written Statement | | |
| 2. | Verification | | |
| 3. | Photocopy of the appointment letter vide office letter No.29(11)/83-84/388 dated 27.1.1983 issued by Dr B.N.Barkakaty, Regional Director (HFW), Shillong is annexed herewith as Annexure R-I. | R-1 | |
| 4. | Photo copy of the letter No.T-14011/4/93/MAL dated 29.9.1995 issued by P.K.Chakraborty, Desk Officer (MAL) is annexed herewith as Annexure R-II. | R-II | |
| 5. | Photo copy of the Hon'ble Supreme Court order in Civil Appeal Nos.444-450 of 2002 which was preferred against the judgment and order dated 20.4.2001 filed by Shri C.B.Gangadhariah and others in Writ Petition No(s) 2722/01&12391-12396 of 2001 passed by the High Court of Karnataka at Bangalore is annexed herewith as Annexure R-III. | R-III | |
| 6. | Photo copies of the letter No.ICMR/Admn/Gen/1/96-900 dated 26.3.1996 issued by Regional Director is annexed here as Annexure R-IV. | R-IV | |
| 7. | Photo copy of the letter Nos.T-14020/21/2004 Mal dated 19.8.2004 and letter No.3-68/99-NMEP(Admn)-Pt.III dated 02.09.2004 regarding implementation of the Hon'ble Supreme Court order/judgment dated 10.9.2003 arising in the Civil Appeal No.444-450 of 2002 are annexed herewith as Annexures R-V & R-VI. | R-V & VI | |
| 8. | Photo copy of the reference proceeding Note passed by Manoj Joshi, Officer on Special Duty (I/C) is annexed herewith as Annexure R-VII. | R-VII | |

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
921
30 NOV 2009
Guwahati Bench
गुवाहाटी न्यायापीठ

Received
K.D. Singh
Advocate
30/11/09 at about 10.00 am

Filed by
Kankan Das
30-11-09
Kankan Das
Addl. C.G.S.C
Central Administrative Tribunal
Guwahati Bench.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



IN THE MATTER OF :

Original Application. No. 71/2008

Sri Pradip Ranjan Das.

.....Applicant(s)

- Versus -

Union of India & Ors.

.....Respondents

AND -

IN THE MATTER OF :

Written statement submitted by the Respondents No. 3
on behalf of all the Respondent Nos. 1, 2

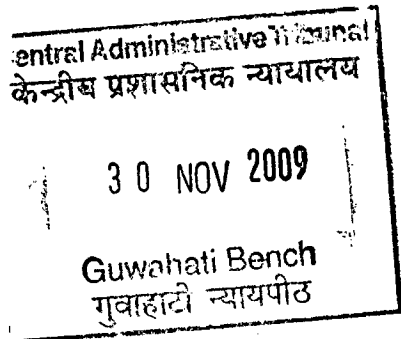
WRITTEN STATEMENT

The humble answering respondents
submit their written statement as
follows :

1. That I Dr Pradip Chandra Bordoloi,
Sr. Regional Director, ROH & FW, Shillong
and Respondents No. 3 in the above case and I have gone through
a copy of the application served on me and have understood the contents
thereof. Save and except whatever is specifically admitted in the written
statement, the contentions and statements made in the application may
be deemed to have been denied. I am competent and authorized to file
the statement on behalf of the respondents No.
2. That with regard to the statements made in paragraphs 1 to,
4 of the Original Application the answering respondents beg to state that

Filed by the
Respondent No. 3
on behalf of all
respondent
59
through
Kamran Das
Sr Regional Director
Govt of India
Addl C-615-C
in CAT Bench
Shillong
ROH & FW

the applicants were recruited under the research scheme of ICMR attached to Directorate of National Malaria Eradication Programme (NMEP) (now National Vector Borne Disease Control Programme (NVBDCP) during the year 1983 with the terms and conditions as appeared in Annexure A1 and A2.



Photocopy of the appointment letter vide office letter No.29(11)/83-84/388 dated 27.1.1983 issued by Dr B.N.Barkakaty, Regional Director (HFW), Shillong is annexed herewith as Annexure R-I.

The appointment of the applicant in fact was purely on temporary basis. In appointment order dated 27.1.1983 the terms and conditions was corporated and as per the said condition amongst other the appointment of the applicant are purely temporary having the transfer liability any where in India and is not eligible for benefits like pension, G.P.F contribution etc. Further their services are not counted as regular employee, either of Central Government or of Indian Council of Medical Research and will not be liability of Central Government of ICMR after termination of the service scheme.

3. That with regard to the statements made in paragraphs 4.1 to 4.XXIII of the Original Application the answering respondents beg to state that in pursuance of the approval of the President of India for merging of Malaria Operational Field Research Scheme (MOFRS) under ICMR with the NMEP and as accorded and sanctioned of the President of India 156 temporary posts were created under the Directorate of NMEP (now NVBDCP) and Regional offices of Health & Family Welfare under 8th Plan which appears in Annexure R-2.

In pursuance of the order dated 29.9.1995 issued by the Government of India, Ministry of Health & Family Welfare transferring the Applicants on the strength of NMEP now NVBDCP.

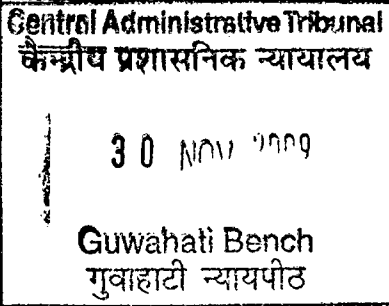


Photo copy of the letter No.T-14011/4/93/MAL dated 29.9.1995 issued by P.K.Chakraborty, Desk Officer (MAL) is annexed herewith as Annexure R-II.

The Union of India vide Civil Appeal No(s)444-450 of 2002 preferred appeal against the judgment and order dated 20.04.2001 filed by Shri C.B. Gangadhariah and Others in Writ Petition no(s) 2722/01&12391-12396 of 2001 passed by the High Court of Karnataka at Bangalore. After hearing the Hon'ble Court was pleased to pass an order dated 10.9.03 Annexure-III by disposing the appeal without interfering the judgment dated 20.4.01 passed by the High Court and the Order dated 26.3.96 issued by the Regional Director absorbing the respondent. However, it was made clear that with regard to Assured Career Progression respondents would be entitled to get benefit only from the date of absorption.

Photo copy of the Hon'ble Supreme Court order in Civil Appeal Nos.444-450 of 2002 which was preferred against the judgment and order dated 20.4.2001 filed by Shri C.B.Gangadhariah and others in Writ Petition No(s) 2722/01&12391-12396 of 2001 passed by the High Court of Karnataka at Bangalore is annexed herewith as Annexure R-III.

Thereafter the Government of India, Ministry of Health & Family Welfare, taking action to implement the judgment dated 10.9.03 passed by the Hon'ble Supreme Court in Civil Appeal No.444-450/02. In the said letter it is stated that it has been decided in consultation with

Regional Director
Govt. of India
Chillong

DOPT, Department of Pension and Pensioners Welfare and Department of Expenditure that the services rendered by the employees under the MOFRS prior to their merger with NMEP on 29.9.95 may be counted for pensionary and other benefits in accordance with CCS (Pension Rules 1972). As regards ACP to the employees, the employees will be entitled to get benefits from the date of absorption i.e. 29.9.95.

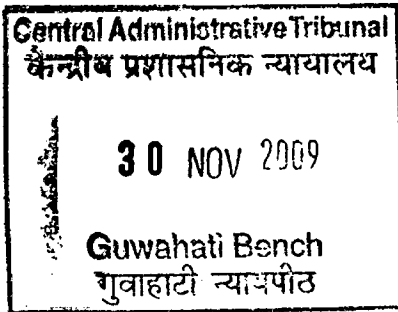


Photo copies of the letter No.ICMR/Admn/Gen/1/96-900 dated 26.3.1996 issued by Regional Director is annexed here as Annexure R-IV.

Photo copy of the letter Nos.T-14020/21/2004 Mal dated 19.8.2004 and letter No.3-68/99-NMEP(Admn)-Pt.III dated 02.09.2004 regarding implementation of the Hon'ble Supreme Court order/judgment dated 10.9.2003 arising in the Civil Appeal No.444-450 of 2002 are annexed herewith as Annexures R-V & R-VI.

There are no separated Notified recruitment rules are existing for the Ex-MOFRS qualification mentioned in the recruitment rules of National Vector Borne Disease Control Programme (NVBDCP) through advertisement. Necessary orders as regards the promotional avenue exist for the various posts of Ex-MOFRS working at ROH&FW, Shillong and various regional offices of Health & Family Welfare under the Directorate of NVBDCP, were the employees of erstwhile MOFRS have been merged with NMEP (now NVBDCP) since 29.9.95 upon creation of 156 posts temporary basis vide MOH&FW, New Delhi letter No.T14011/4/93-MAL dated 29.9.95. Therefore, these employees including the applicants hold isolated posts only.

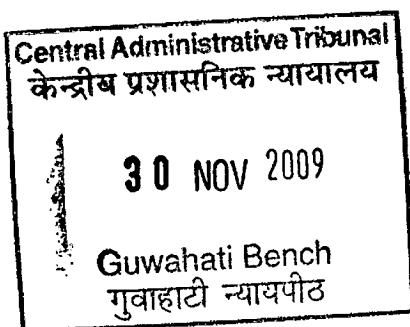
Further, the first ACP was granted to the employees in the light of DOPT O.M.No.35034/1/97-Estt.(D) dated 9.8.99 and Ministry of

Personnel, Public Grievances and Pension (DOPT) O.M.No. 43019/54/97-Estt.(D) dated 15.2.01 after completion of 12 years of regular services and as per 6th CPC recommendation (MACPS) second ACP would be after completion of 20 years regular services w.e.f. 29.9.95 i.e. from the date of their absorption.

Further it is stated that since said 156 posts are isolated posts and are not included in the seniority list as they are being Ex-MOFRS staff and their past services prior to their merger with NVBDCP on 29.9.95 are not countable for the grant of ACP as clarified by the Hon'ble Supreme Court, New Delhi. They are not entitled to get benefits of promotion as they are not covered under the M/o Finance, D/o Expenditure, U.O. No.69/8/2003-IC dated 15.12.2003 quoted by the applicant.

Photo copy of the reference proceeding Note passed by Manoj Joshi, Officer on Special Duty (I/C) is annexed herewith as Annexure R-VII.

5. That the application is devoid of any merit and deserved to be dismissed.
6. That this written statement has been made bona fide and for the ends of justice and equity.



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

VERIFICATION

I, Dr. Pradip Chandra Bardoloi,

Son of At. A.C. Bardoloi aged about 58

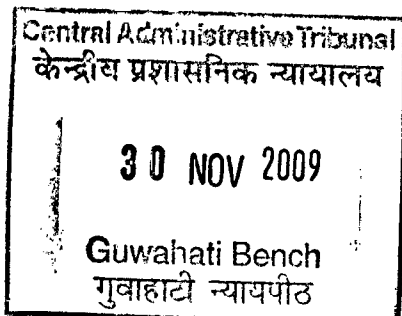
years, resident of Shillong

working as Sr. Regional Director, ROH&FW and

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

And I sign this verification on this 26th day of October, ~~September~~

2009 at Shillong.



Dr. Pradip Chandra Bardoloi
Sr. Regional Director
ROH & FW, Govt. of India
Shillong

REGISTERED. A. D. *Adm*
18/9/09
sh

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- 7 -

Annexure - R/1

No.29(11)/83-84/ 388
Government of India
Regional Office for Health & Family Welfare,
"Feli-Ville", Lumsophoh, Shillong::793014.

Dated Shillong, the 27th January'1983.

To

Shri Pradip Ranjan Das,
P.O. Sarabazar,
C/O German Watch Co., Shillong.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

30 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Sub:- Selection for appointment as Laboratory
Assistant- Scale of pay Rs.260-8-300-EB-8-
340-10-380-EB-10-430/- plus other allowances
as per Central Government rules.

With reference to the interview held in the
office of the undersigned on 4th January'1983 I am to
inform you that you have been selected for the post of
Laboratory Assistant in ICMR project entitled "To study
of monitoring P.falciparum resistant to chloroquine".

It is further informed that the post is purely
temporary and the staff employed in the scheme will not
be employed to the ICMR and the employee will not have
any claim for regular employment at the time of comple-
tion of the scheme.

In case you agree to abide by the terms and
conditions you are requested to join in your duty in
the office of the undersigned on 1st March'1983(FN).

2345
18/9/2009

Attested
18/9/1983

Regional Office for Health
and Family Welfare
Shillong

B. N. Barkakaty
(DR. B. N. BARKAKATY)
REGIONAL DIRECTOR (HF)

attested

18/9/09
Sr Regional Director
ROH & FW, Govt. of India
Shillong

Co.T.14011/4/93-MAL
Govt. of India
Ministry of Health & Family Welfare

Annexure R/2

Hirman Bhawan, New Delhi
Dated the 29th Sept, 1996

To

The Director General Health Services
Hirman Bhawan,
New Delhi.

Subject:- NMEP - Integration of the Malaria Operational Field Research Scheme (MOFRS) with the National Malaria Eradication Programme (NMEP).

Sir,

I am directed to refer to the correspondence resting with the Dtg. of NMEP's U.O.No.40-4/08-NMEP(R)/R.P. dated 13th June, 1991 on the above subject and to convey the approval of the President for merging of Malaria Operational Field Research Schemes (MOFRS) presently being continued under the auspices of Indian Council of Medical Research with the National Malaria Eradication Programme (NMEP).

I am also directed to convey the sanction of the President to the creation of the following 156 temporary posts under the Directorate of National Malaria Eradication Programme and Regional Offices of Health and Family Welfare for 8th Plan period:-

| S.No. & Designation | No. of Posts | Scale of Pay |
|--|-----------------|--------------------|
| 1. Senior Research Officer (Non-Medical) | 1(One) | Rs.3000-4500 |
| 2. Research Officer (Medical) | 11(Eleven) | Rs.2200-4000 + NPA |
| 3. Asstt.Resdarch Officer (Non-Medical) | 1(One) | Rs.2000-3200 |
| 4. UOC-Cum-Computer | 2(Two) | Rs.1200-2040 |
| 5. Junior Stenographer | 14(Fourteen) | Rs.1200-2040 |
| 6. Laboratory Assistant | 99(Ninety nine) | Rs.950-1540 |
| 7. Driver | 15(Fifteen) | Rs.950-1500 |
| 8. Category 'D' | 13(Thirteen) | Rs.750-940 |
| | 156 | |

The above posts will be filled up by transfer of the existing incumbents working under the Malaria Operational Field Research Schemes.

....2/-

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
30 NOV 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

attested

Sr Regional Director
ROH & FW, Govt. of India
Shillong

Ms. 383231

4. This is subject to the conditions that:-
- (i) the present number of posts of the MERS will be fixed;
 - (ii) no new recruitment would be made against any of these posts being created under MNER falling vacant due to any reason including death, retirement, resignation, dismissal etc;
 - (iii) the states would be encouraged to carry out operational research activities from the existing staff; and
 - (iv) the Dte. of MNER would collect data from state governments and would develop mechanism to take appropriate strategy from the existing staff.
5. The expenditure involved will be met from the sanctioned budget of National Malaria Eradication Programme under Demand No. 38 Department of Health (Plan).
6. This issues with the approval of the Ministry of Finance (Dept. Expenditure) vide their U.O.No.3771/E.Coord/95 dated 15.9.95.

Yours faithful

P.K.

(P.K.CHAKRABARTI)
DESK OFFICER(M)

Copy to:-

- 1. Pay & Accounts Officer, M/o Health & F.W., Nirman Bhawan, New Delhi.
- 2. Pay & Accounts Officer, M/o Health & F.W., 22-Sham Nath Marg, Delhi-54.
- 3. Director General, Indian Council of Medical Research, Ansari Marg, New Delhi.
- 4. Director, MNER, 22-Sham Nath Marg, Delhi-54.
- 5. Regional Director, Regional Offices for Health & F.W., Ahmedabad.
- 6. Regional Director, Regional Offices for Health & F.W., Bangalore.
- 7. Regional Director, Regional Offices for Health & F.W., Lucknow.
- 8. Regional Director, Regional Offices for Health & F.W., Hyderabad.
- 9. Regional Director, Regional Offices for Health & F.W., Bhubaneswar.
- 10. Regional Director, Regional Offices for Health & F.W., Chandigarh.
- 11. Regional Director, Regional Offices for Health & F.W., Patna.
- 12. Regional Director, Regional Offices for Health & F.W., Bhopal.
- 13. Regional Director, Regional Offices for Health & F.W., Calcutta.
- 14. Regional Director, Regional Offices for Health & F.W., Shillong.
- 15. Regional Director, Regional Offices for Health & F.W., Durgam.
- 16. Finance Division (Fin. IF Desk).
- 17. Budget Section (Deptt. of Health).
- 18. Estt. III Section, M/o Health & F.W.
- 19. Sanction Folder.
- 20. Regional Director Regional office for Health & F.W., Shillong.

P.K.

(P.K.CHAKRABARTI)
DESK OFFICER(MAL)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
30 NOV 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

attested
[Signature]
Sr. Regional Director
ROH & FW, Govt. of India
Shillong

Annexure - III

Centre
 केन्द्रीय प्रशासनिक न्यायालय
 30 NOV 2009
 Guwahati Bench
 गुवाहाटी न्यायपीठ

5/7

5/63

710731

IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION
 CIVIL APPEAL NOS. 444-450 OF 2002

UNION OF INDIA & ORS.

VERSUS

APPELLANT (S)

C.B.GANGADHARAIAH & ORS.

RESPONDENT (S)

ORDER

Controlled by the Court
 V. Gangadhariah
 Assistant
 17/11/2009
 Court of India

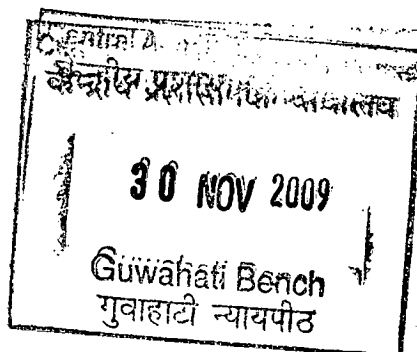
We have heard the learned counsel for the parties.

These appeals arise out of the judgment and order dated 20th
 April, 2001 in W.P. Nos. 2722/2001 and 12391-12396/2001 passed by the
 High Court of Karnataka at Bangalore.

We have considered the reasons recorded by the High Court as
 well as the order dated 12th March, 1996 passed by the Regional Director
 absorbing the respondents which reads as follows:-

attested -

[Signature]
 11/10/09
 Sr Regional Director
 ROH & F&W Govt of India
 Shillong



"Consequent upon the merger of the Malaria Operational Field Research Scheme (MOFRS), known as P.falciparum Monitoring Scheme as per Govt. of India, Ministry of Health & F.W. Letter No. T. 14011/4/93-MAL dated 29th September, 1995, Shri P. EKANTHAM Designation LABORATORY ASSISTANT in the MOFRS attached to this office is transferred on the strength of NMEP, which is presently approved upto the end of 8th Five Year Plan period w.e.f. 29.09.1995 (F.N.) in the same pay scale of Rs. 975-25-1150-EB-30-1540/- in a temporary capacity at the same duty station. He will draw the same pay and allowances as admissible prior to his transfer on the strength of NMEP.

The above transfer of Shri P. EKANTHAM to the post of Laboratory Assistant is subject to the Medical Examination Certificate of Fitness as well as the character and antecedents verification certificate from the appropriate authority, if not done already.

He will be entitled for other benefits as applicable to other employees of Govt. of India as per the locality of his posting. Other conditions regarding the counting of past service and other retirement benefits and carry forward of leave is under consideration."

26/10/07

Sr. Regional Director
ROH & PM, Govt. of India
Shillong

attested -

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Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

30 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

We see no reason to interfere with the judgment impugned herein.
The appeal is disposed of accordingly. There shall be no order as to costs.

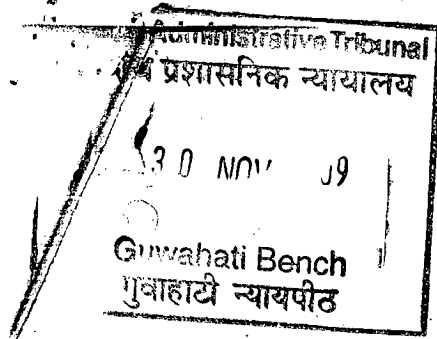
However, it is made clear that with regard to Assured Career Progression respondents would be entitled to get benefit only from the date of absorption.

Sd/-
..... J
(M.B. SHAR)

Sd/-
..... J
(DR. AR. LAKSHMANAN)

NEW DELHI;
SEPTEMBER 10, 2003.

attested, *[Signature]*
26/10/09
Sr Regional Director
ROH & P Govt. of India
Dissong



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Annexure - IV

NO. 2 PCMR/ADMN/GENL/1/9A- 900
Government of India.
Regional Director
Regional Office For Health & Family Welfare
Shillong.

Dated: Shillong the... 26.10.95.....

OFFICE ORDER:

Consequent upon the merger of the Malaria Operational Field Research Scheme (MOFRS), known as p.falciparum Monitoring Scheme, as per Govt. of India, Ministry of Health and F.W. Letter No. T.14011/4/3-MAL dated 29th September, 1995, Shri./Smt./Km. Pradip Ranjan Das

Designation Lab. Asstt. in the MOFRS attached to this office is transferred on the strength of NMEP, which is presently approved upto the end of 8th Five Year Plan period i.e.f.29.9.1995(F.N.), in the same pay scale of Rs 975-25-1150-EB-36-1540/-

in a temporary capacity at the same duty station. He/She will draw the same pay and allowances as admissible prior to his/her transfer on the strength of NMEP.

The above transfer of Shri./Smt./Km. Pradip Ranjan Das

- Asstt. to the post of Lab-

is subject to the Medical Examination Certificate of Fitness as well as the Character and antecedents Verification Certificate from the appropriate authority, if not done already.

He/She will be entitled for other benefits as applicable to other employees of Govt. Of India as per the locality of his/her posting. Other conditions regarding the counting of past service and other retirement benefits and carry-forward of leave is under consideration.

(DR. B. K. BORGOHAIN)
REGIONAL DIRECTOR

Copy to:

1. Sh./Smt./Km. Pradip Ranjan Das
2. Office order File.
3. Recruitment file.
4. Increment file.
5. Superintendents file.
6. Personal File.
7. Accounts section with two spare copies.
8. Pay & Accounts Officer, Pay & Accounts Office, MOH&FW,
Calcutta

9. Service Book..

10. The Director, NMEP, Delhi for information and record.

-43- -14-

12

Annexure - IV

5/78

No. T.14020/21/2004-Mal
Govt. of India
Ministry of Health and F.W.
Deptt. of Health

Nirman Bhawan, New Delhi.
Dated the 19th August, 2004.

To

The Director
NVBDCP
22-Sham Nath Marg
Delhi-110054.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

30 NOV 2009

Guwahati Bench
गुवाहाटी न्यायालय

Subject: Regarding implementation of the order / judgement dated 10.9.2003 passed by the Hon'ble Supreme Court of India in the Civil Appeal Nos. 444-450 of 2002 - filed by Union of India and others against Shri C.B. Gangadhariah and others regarding counting of past service of the employees of erstwhile MOFRS.

Madam,

In pursuance of the judgment dated 10.9.2003 by the Hon'ble Supreme Court of India in the Civil Appeal No. 444-450 of 2002- Union of India and others Vs C.B. Gangadhariah and others and with reference to your letter No. 3-68/99-⁸ NAM.P(Adinn.) Pt.III dated 16.1.2004 on the above subject, I am directed to say that it has been decided in consultation with Deptt. of Personnel and Training, Deptt. of Pension & Pensioner's Welfare and Deptt. of Expenditure that the services rendered by the employees under the Malaria Operational Field Research Scheme (MOFRS) prior to their merger with NIEP (presently NVBDCP) on 29.9.95, may be counted for pensionary and other benefits in accordance with CCS(Pension) Rules, 1972 and instructions issued there under from time to time.

As regards Assured Career Progression (ACP) to the employees, the employees will be entitled to get the benefits from the date of their absorption i.e. 29.9.95 as clarified by the Hon'ble Supreme Court vide their judgement referred to herein. The benefits shall be extended to all 156 posts created vide this Ministry's letter no. T.14011/4/93-Mal dated 29.9.95.

Yours faithfully,

(P.K.Chakrabarti)

Under Secretary to the Govt. of India

Copy to :-

1. Pay & Accounts Officer, MOH&FW, NICD, 22-Sham Nath Marg, Delhi-54.
2. PH(CDL) Section, Dte.GHS.
3. Finance Desk-II.
4. Sanction Folder

Sr Regional Director
MOH & FW, Govt. of India
Shillong

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Annexure - VI

No.3-68/99-NMEP(Admin)-PL.III
Government of India
National Vector Borne Diseases Control Programme
22-Sham Nath Marg, Delhi-110054.

Dated the:-

The Regional Director,
ROH&FW, AHMEDABAD/BHUBANESWAR/
BHOPAL/BANGALORE/CALCUTTA/
CHANDIGARH/LUCKNOW/HYDERABAD/
JAIPUR/SHILLONG/PATNA.

02 SEP 2004

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायापीठ

30 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Subject:- Regarding implementation of judgment dated 10.09.2003 passed by the Hon'ble Supreme Court of India in the Civil Appeal Nos.444-450 of 2002 filed by U.O.I. against Sh. C.B. Gangadhariah and others regarding counting of past service of the employees of erstwhile MOFRS.

Sir,

Kindly find enclosed herewith a copy of the letter No.T.14020/21/2004-Mal dated 19.08.2004 received from MOH&FW, Nirman Bhawan, New Delhi, on the subject cited above, conveying therein "that it has been decided in consultation with Dept. of Personnel and Training, Deptt. Of Pension & Pensioner's Welfare and Deptt. of Expenditure that the services rendered by the employees under the Malaria Operational Field Research Scheme (MOFRS) prior to their merger with NMEP (Presently NVBDCP) on 29.09.1995, may be counted for pensionary and other benefits in accordance with CCS(Pension) Rules, 1972 and instructions issued there under from time to time. As regards Assured Career Progression (ACP) to the employees, the employees will be entitled to get the benefits from the date of their absorption i.e. 29.09.1995 as clarified by the Hon'ble Supreme Court vide their judgment referred to herein. The benefits shall be extended to all 156 posts created vide Ministry's letter No.T.14011/4/93-Mal. dated 29.09.1995."

Therefore, it is requested that necessary action may be taken in accordance with the instructions contained there, in the letter of MOH&FW referred above, dated 19/8/2004 in respect of the staff stationed at your regional office and to release death /retirement benefits to those who have retired/expired after 29.09.1995, while counting their services rendered by them under MOFRS prior to their merger with NMEP(now NVBDCP) on 29.09.1995.

Action taken in the matter may please be intimated to this Directorate.

Yours faithfully,

Encl: As above.

Copy to :-

1. Accounts Section(Local)
2. Pay & Accounts Officer, MOH&FW, NICD, 22-Sham Nath Marg, Delhi-54.

3. S.O. (Recd)

(P.L. Joshi)
Additional Director

attested -
Sr Regional Director
ROH & FW, Govt. of India
Shillong

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Government of India
Ministry of Finance
Department of Expenditure
(Implementation Cell)

Annexure - VII
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

30 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Reference preceding notes.

2. Ministry of Health & Family Welfare may kindly refer to their proposal regarding upgradation of pay scale of direct recruits to the posts of Junior Technician/Lab Assistant in the Directorate of National Anti Malaria Programme (NAMP) from existing Rs.4000-6000 to Rs.4500-7000 consequent to judgment dated 2.4.2003 of Lucknow Bench of CAT in OA No.403/2002 wherein the Tribunal had directed that the issue be resolved after obtaining the report of the Anomaly Committee within a period of 6 months. The issue has been considered in this Department and it is observed that the anomaly in the present case is solely on account of wrong implementation of a specific recommendation of Fifth CPC by the administrative ministry. The Fifth CPC recommendation should correctly have been implemented with all the posts of Lab Assistant (whether filled by promotion or by direct recruitment) in NAMP being initially placed in the scale of Rs.4000-6000 w.e.f. 1.1.1996. Thereafter 34 of these posts should have been upgraded to the scale of Rs.4500-7000 and redesignated as Lab Assistant-I to be filled by promotion of the existing Lab Assistants who would then be classified as Lab Assistant-II. Furthermore, all future appointment to the post of Lab Assistant - I should have been made through promotion of Lab Assistants-II with the post of Lab Assistant-II being filled 50% by direct recruitment of graduates and 50% by promotion of Insect Collectors. This course of action being the only correct method would now have to be followed. The administrative ministry is also advised that the existing pay (and not pay scale) of such of those promotee Lab Assistants as had wrongly been extended the higher scale of Rs.4500-7000 would be protected and no recoveries be made from them. This will also remove the glaring anomaly which has been created by wrong implementation of the Fifth CPC recommendation by the administrative ministry. The administrative ministry may also like to fix responsibility for such wrong implementation of the Fifth CPC recommendation.

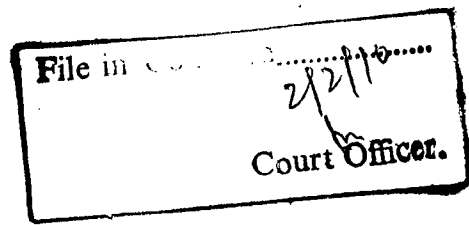
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(MANOJ JOSHI)
Officer on Special Duty (IC)

Director (Finance) M/o Health & Family Welfare, Nirman Bhawan, New Delhi
M/o Finance, D/o Expenditure, UO No.69/8/2003-IC dated 15.12.2003

May kindly see before the file is returned
to Adm Div.

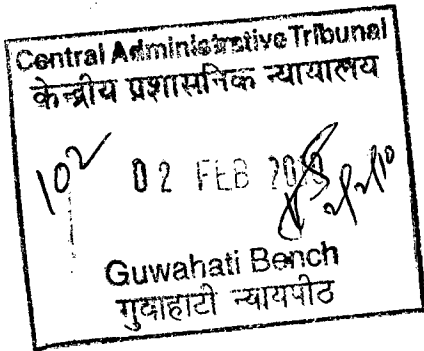
AS (FA)

attested
Sr. Regional Director
RCH & FW, Govt. of India
Shriang
16.12.09



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IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL: GUWAHATI BENCH



In the matter of :

O.A. No.71/2009

Sri Pradip Ranjan Das

... .. Applicant

-Versus-

Union of India & others

... .. Respondents

-And-

In the matter of :

Rejoinder to the written statement
filed by and on behalf of the
Applicant.

REJOINDER

I Sri Pradip Ranjan Das, aged about 48 years,
son of Late Pradyumna Kumar Das, resident of Sarojini
Bhawan, Upper Jail Road, Shillong-793001, Meghalaya do
hereby state as follows:-

1. That, I am the applicant of the above mentioned
Original Application No.71/2009 and I have gone through
the copy of the written statement served on me, being filed

copy received
2-2-2010

Filed by the Applicant

Sri Pradip Ranjan Das
through K. Divindra Advocate
12-02-2010

11 FEB 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

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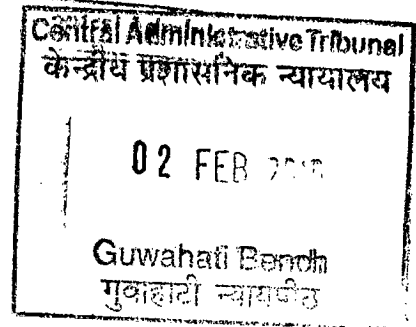
by the respondents in the above case and have under stood the contents thereof and as such I am competent to file rejoinder.

2. That, save and except whatever is specifically admitted in the rejoinder the contentions and statements made in the written statement may be deemed to have been denied

3. That, with regard to the statement made in paragraphs 1 and part of para 2 of the written statement being the matter of records, the answering deponent has no comment to offer but the statement to the effect that "the appointment of the applicant being purely temporarily having the transfer liability any where in India and is not eligible for benefits like pension, GPF contribution etc." the answering deponent strongly refutes the same and begs to state that the GPF was deducted from the applicant with effect from 01.01.1986 along with Central Government Employees Group Insurance Scheme (C.G.E.G.I.S.).

4. That, with regard to the statement made in paragraph 3 of the written statement to the effect that "further it is stated that since said 156 posts are isolated post and are not included in the seniority list as they are being EX-MOFRS staffs and their past services prior to

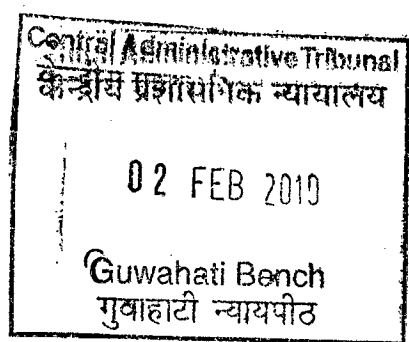
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their merger with NVBDCP on 29.09.1995 are not countable for the grant of ACP as clarified by the Hon'ble Supreme Court, New Delhi. They are not entitled to get benefits of promotion as they are not covered under the M/O Finance, D/O Expenditure, Uo. No.69/8/2003-IC dated 15.12.2003 quoted by the applicant", the answering deponent begs to state that the Central Administrative Tribunal, Bangalore Bench in a similar case filed by similarly situated persons which was registered and numbered as Original Application No.595/1999 (C.V. Gangadharaiah and 6 (six) others was pleased to direct the respondents to count the past services of the applicants from the date of their initial appointment and to give them all other benefits to which they are entitled as per the law because of the absorption and as such the applicant is also entitled for promotion according to his seniority.

Pertinent to mention herein that against the said order dated 18.10.2000 passed by Hon'ble Central Administrative Tribunal, Bangalore Bench, a writ petition was filed before the Hon'ble Karnataka High Court with a prayer to quash the said order dated 18.10.2000 but the Hon'ble High Court refused to interfere with the order of the Tribunal and as such the order passed by the learned Central Administration, Bangalore still holds the field and as such, the applicant is also entitled to receive all service benefits from the initial date of his appointment.

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5. That, the applicant reaffirms and reiterates statements made in the Original Application and this rejoinder is filed bonafide and for the ends of justice.

VERIFICATION

I Sri Pradip Ranjan Das, aged about 48 years, son of Late Pradyumna Kumar Das, resident of Sarojini Bhawan, Upper Jail Road, Shillong-793001, Meghalaya do hereby verify that the statements made in paragraphs 1 to 5 are true to my knowledge.

I have not suppressed any material facts.

And I sign this verification on 2nd day of February..... 2010 at Guwahati.

Pradip Ranjan Das