

b

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

B/22/7/2015

✓ 22/7/2015

FROM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GOWAHLI BENCH:

ORDERSHEET

1. Original Application No: 92/2009

2. Misc Petition No _____

3. Contempt Petition No _____

4. Review Application No _____

Applicant(s) Sri C. Peter Ngahanyuu

Respondent(s) U.O.T. & Ors.

Advocate for the Applicant(s): Mr. M. G. Singh,

Mr. S. Khemukcham,

Mr. S. K. Singh on Mr. N. Bordoloi

Advocate for the Respondant(s):

CGSC
Govt. Advocate, Manipur.

Notes of the Registry	Date	Order of the Tribunal
<p>this application is in form is filed C. F. for Rs. 50/- deposited Rs. 50/- No. 39 of 4086/20 Dated..... 21.5.09 Dy. Registrar b/22/5/09</p>	21.05.2009	<p>Mr. M. G. Singh, learned counsel for the Applicant undertakes to give the correct address of the Respondents in the Cause Title page of this O.A., in course of the day.</p> <p>Heard Mr. M. G. Singh learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing Counsel representing Government of India, and perused the materials placed on record.</p>
<p>22.5.09 6 (Six) copies of application with envelope received for issue notice to the Respondents No 1 to 6. Extra charge for Rebs no 6 deposited. A copy of 6 deposited. A copy of application served upon the CGSC with an undertaking to serve upon the Govt. Adv. Manipur.</p>		<p>Contd/-</p>

Contd/-

27.05.2009

This case is to be taken up analogously with O.A.No.211 of 2008, which is posted on 21.07.2009.

Copies of notices along with order dated 27/5/09 send to D/Sec. for issuing to respondents by Speed post, A/D at the cost of applicant.

Cas D/No-2795 to 2800
11/6/09. D/No-6-2009. lm

Issue notice to the Respondents (by Speed Post, at the cost of the Applicant) requiring them to file their written statement by 1st July 2009.

Call this matter on 21.07.2009.

N.D.Dayal
Member(A)

M.R.Mohanty
Vice-Chairman

21.07.2009

① Service report awaited.

20.7.09

Vakalatnama has been filed by Mr. K. Nair for B. Same on Mr. A. Chetry, for the Respondent No. 4.

14/7/09

NO W/F S. b/lell.

Mr. M.G.Singh, learned counsel for the Applicant is present. No written statement has yet been filed in this case by any of the Respondents. Mr.S.K.Deka, representing the State of Manipur undertakes to file written statement within 10 days. Mr. M.K.Nair, Advocate entered appearance for Respondent No.4 also undertakes to file written statement within 10 days.

Call this matter on 07.08.2009 awaiting written statement from the Respondents.

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

(M.K.Chaturvedi)
Member(A)

(M.R.Mohanty)
Vice-Chairman

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

Copies of order of 21/7/09 send to D/Sec. for issuing.

07.08.2009

No W/S filed.

6.8.09

Vakalatnam
for Respondents No
1, 2 & 3 has been
filed by the L/Adv
Mr. Satyen Sarma
Mr. T. Deka Mr. A. Sarma
or Mr. S. Deka and
also filed W/S
w/ty undertaking
to serve a copy to
The L/Advocate for
the Applicant.

6/8/09

7.8.09
W/S filed by the
Respondents No 4.
Copy served.

7/8/09

No rejoinder
filed.

14.8.09.

K-Das

Send copy of this
order to the Applicant
and to the Respondents in
the address given in O.A.

19/8/09

Copies of order of 17/8/09
sent to D/Secy for issuing
to the applicant and
to the resp. by post.
(cc. D/No - 9640 to 9646
20/8/09. D/ 21-8-09.

/bb/

26.08.2009

On the prayer of Mr. M.G. Singh,
learned counsel for the Applicant, call this
matter on 17.08.2009 awaiting rejoinder from
the Applicant.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

17.08.2009

Rejoinder is undertaken to be filed
in course of the day, after serving copies
thereof on the learned counsel appearing
for the other sides. Government of India has
not yet filed any written statement in this
case.

Call this matter on 26.08.2009;
when this matter would be taken up for final
disposal. Government of India shall remain
free to file their written statement, if any, in
the meantime.

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


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

On the prayer of counsel for both
the parties, call this matter on 03.09.2009
when this matter shall be taken up for final
disposal.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

26.8.09

O.A:92-09

Rejoinder filed by
the Applicant through
his L/Advocate on
17.8.09 against the
W/S filed by the
Respondents No 1 to 3
and also Respondent
No.4. Copy served.
18/8/09

03.09.2009

in this case written statement and
rejoinder have already been filed by all
parties; excepting the Govt. of India.

Subject to legal pleas to be
examined at the final hearing, this case is
admitted and set for hearing on 27.10.2009.

The case is ready
for hearing.

25.4.09

/bb/

Call this matter on 27.10.2009 along
with O.A.211/2008. Send Copies to Parties


(M.K.Chaturvedi)
Member (A)


(M.R.Mohanty)
Vice-Chairman

K.Das

Send copies of this
order to both the parties.

No
4/9/09

Copies of order
dated 3/9/2009
sent to D/Sec.
for issuing to
applicant and to
the respondents
by post.

D/No - 1036 to 1042

3/9/09. Dt - 7.9.09

The case is ready
for hearing.

27.10.2009

Mr S. Sarma, learned counsel
appearing for State of Manipur states
that the complete records related to
the applicant's case namely,
disciplinary proceeding as well as the
record relating to promotion to the rank
and scale of DGP in the State of
Manipur are not available. In our
considered opinion it would be
necessary to peruse said records before
adjudicating the matter.

Learned counsel for the
Respondents undertakes to produce all
related records, in the circumstances,
seeks adjournment.

List on 26.11.2009.


(Madan Kr. Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

/pg/

26.10.09

The case is ready
for hearing.

25.11.09

O.A. No. 92 of 2009

26.11.2009

List this matter on 15.12.2009.

The case is ready
for hearing.

BB
14.12.09

/pb/


(Madan Kumar Chaturvedi)
Member (A)

15.12.2009

Proxy counsel for Mr. S. Sarma
appearing on behalf of Respondent No.1 is
on bereavement.

The case is ready
for hearing.

BB
28.1.2010

/PB/

Adjourned to 29.01.2010 for hearing.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

29.01.2010

Mr.S.K.Deka, learned counsel
appearing for Mr.S.Sarma, learned counsel
for Respondent Nos.1 to 3 prays for
adjournment, which has not been opposed
by Mr.M.G.Singh, learned counsel for
Applicant.

The case is ready
for hearing.

BB
4.2.2010

15/3/2010

judgment/Final order
dated 3/2/2010 is prepared
and sent to the D/Section
for issuing the all the
subpoenas by Post
vide No - 6000605
dated 17/3/2010

/bb/


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

05.02.2010

For the reasons recorded
separately this O.A. stands disposed of.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

/PB/

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH:

Original Application Nos. 211 of 2008 and 92 of 2009

Date of Decision: This, the 05th day of February 2010.

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

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

Sri C. Peter Ngahanyui
S/o Late C. Paul
Resident of Ukhru
P.O.- Ukhru, P.S.- Ukhru
District- Ukhru, State- Manipur
Now residing at Iron Villa
Mantripukhri, Lamongei, Imphal
Manipur, Pin Code- 795002.

...Applicant for both O.A.s

By Advocate: Mr. M. Gunedhor Singh

-Versus-

1. The State of Manipur
represented by Chief Secretary
Government of Manipur
Imphal, Manipur - 795001.
2. The Secretary / Commissioner/
Principal Secretary (Home)
Government of Manipur
Imphal, Manipur - 795001.
3. The Secretary / Commissioner/
Principal Secretary (DP)
Government of Manipur
Imphal, Manipur - 795001.
4. Sri Y. Joykumar, IPS (MT - 76)
Director General of Police
Government of Manipur
Imphal, Manipur - 795001.
5. The Union of India
represented by Secretary
Ministry of Home Affairs
Govt. of India, New Delhi - 1.
6. Union Public Service Commission
represented by its Chairman
Dholpur House, Shahajhan Road
New Delhi - 69.

...Respondents in O.A. No. 211/08

1. The State of Manipur
represented by Chief Secretary
Government of Manipur
Imphal, Manipur - 795001.
2. The Secretary
Home Department
Government of Manipur
Imphal, Manipur - 795001.
3. The Secretary
Department of Personnel
Government of Manipur
Imphal, Manipur - 795001.
4. Sri Y. Joykumar, IPS (MT - 76)
Director General of Police
Government of Manipur
Imphal, Manipur - 795001.
5. The Union of India
represented by Secretary
Ministry of Home Affairs
Govt. of India, New Delhi - 1.
6. Union Public Service Commission
represented by its Chairman
Dholpur House, Shahajhan Road
New Delhi - 69.

...Respondents in O.A. No. 92/09

By Advocates: Mr. M.U. Ahmed, Addl. CGSC for U.O.I.
Mr. Satyen Sarma for Respondent Nos. 1-3.
Mr. U.K. Nair for Respondent No.4
Mr. Nilutpal Borua for Respondent No.6
(Advocates in both Respondents).

ORDER (ORAL)

HON'BLE MUKESH KUMAR GUPTA, MEMBER (I):

O.A. No. 211 of 2008 as well as 92 of 2009, based on identical facts, are being decided by present common order.

2. Vide O.A. No. 211 of 2008; the reliefs claimed are that the Respondents be directed to promote him to the grade and scale of Director General of Police in IPS above Supertime scale of Rs. 24,050-

650-26000 or in alternative to set aside memorandum issued on 23rd July, 2007 whereby Respondent No. 4 has been appointed to said grade. Further relief sought is to quash departmental proceeding initiated vide memorandum dated 18th July 2007. Vide O.A. No. 92 of 2009 relief claimed is to quash the impugned Departmental Promotion Committee held on 19th July 2007.

3. Admitted facts are that the applicant being the second Senior most in IPS Manipur cadre was eligible for consideration to the post of Director General of Police, in IPS above Supertime Scale of Rs. 24,050-650-26000/- DPC was convened on 19th July 2007. Just a day prior to it, he was proceeded for major penalty proceeding vide Memorandum dated 18th July 2007 alleging that he made payment of advance money to the tune of Rs. 2,61,45,000/- violating the provisions of CPWA Code and CPWD Manuals. Said memorandum had been issued under Rule 8 of the All India Services (Discipline & Appeal) Rules, 1969. DPC, which was convened on 19th July 2007, recommended promotion of Respondent No.4 and consequently he was appointed to said grade vide notification dated 23rd July 2007.

4. His grievance is of two folds:

i. Charge Memorandum had been issued just a day prior to DPC, which was held on 19.07.2007, which ex-facie smacks malafide exercise of power, which action has been initiated only to deprive him from getting promotion to the post of DGP. No progress has been made in Departmental Proceeding, which also indicate that the Respondents were not interested to prosecute him. The law is well settled that the proceeding initiated against the delinquent has to be concluded at the earliest. It is well settled law that "prosecution" should not become "persecution". By not concluding the said departmental

proceedings, the respondents have violated well settled law on said aspect i.e. the delinquent has fundamental right of expeditious trial.

ii. Perusal of DPC Minutes dated 19th July 2007 would reveal that there is no just & fair consideration. Sealed cover procedure has not been followed, and having not followed said procedure & rather recommending Respondent No.4 for promotion makes it clear that the respondents somehow wanted to exclude him from consideration zone. He had a fundamental right of fair consideration, which law has been grossly violated.

5. Applicant was second senior most official, besides Sri A.B. Mathur, IPS (MT:75). Apart from not considering the applicant and on examination of service records of officers and taking into consideration of all other aspects, which have not been disclosed by the said committee, it recommended Sri Y. Joykumar Singh, IPS (MT:76) (Respondent No.4) to the grade and scale of Director General of Police in the IPS above Supertime Scale of Rs. 24,050-650-26,000/-, but no reasons have been assigned. Assigning of reasons is a condition precedent.

6. In above backdrop, Mr. M. Gunedhor Singh, learned counsel for applicant contended that DPC Proceedings dated 19th July 2007 suffers from illegality and the same being malafide, which further had not applied the procedure in consonance with Rules, is liable to be set aside. As such, it was emphasized that said DPC as well as its consequential action are liable to be quashed and set aside. Consequently, appointment of Respondent No.4 be declared as illegal, arbitrary & unjust.

7. Filing reply, Respondent Nos. 1-3 have not denied that Memorandum dated 18.07.2007 had been issued under the provisions of All India Services (Discipline & Appeal) Rules, 1969 just a day prior to holding DPC on 19.07.2007. It was emphasized that as per the Government of India, Ministry of Home Affairs letter No. 45020/11/97-IPS-II dated 15.01.1999, IPS Officers who have completed 30 years of service are eligible for promotion to DGP. Therefore, 5 officials who had satisfied the said requirement were considered by DPC held on 19.07.2007.

8. Since the applicant alleged to have made certain irregular payment of advanced money to the tune of Rs. 2,61,45,000/- during the period from June, 2004 to January, 2005, while functioning as Managing Director, Manipur Police Housing Corporation Ltd., it was alleged that there were prima facie misconduct committed by him, and consequently the charge Memorandum dated 18.07.2007 under Rule 8 of All India Services (Discipline & Appeal) Rules, 1969, had been issued. At that point of time, he was on deputation as Chief Security Commissioner, Railway Protection Force, North-East Frontier Railway, Maligaon, Guwahati.

9. Since the Departmental Promotion Committee was held on 19.07.2007, he was also considered for promotion to DGP but his case could not be considered due to pendency of departmental enquiry. Vide reply para 11, it was stated that the Inquiring Authority was appointed vide order dated 17.10.2007. On the demise of Shri Saichhuana, IAS on 11.11.2007, another Official, i.e. Shri V. Ramnath, IAS, Director General, State Academy of Training, Manipur was appointed as next Inquiring Authority vide order dated 30.11.2007.

But he expressed his inability to conduct the Enquiry on the plea that he was retiring shortly. Thereafter vide order dated 15th September 2008, Shri D.S Poonia, IAS, Principal Secretary (Home), Government of Manipur was appointed Inquiring Authority to inquire into the matter. Vide order dated 29th June 2009, Shri D.S Poonia, IAS, was appointed as Chief Secretary and thus there was necessity to appoint fresh Inquiring Officer, which exercise had been undertaken vide order dated 27th January, 2010 by appointing Shri A.N. Jha, IAS as Inquiring Authority. Vide order dated 04th February 2010, the date of Enquiry has been fixed i.e. 12.02.2010 and the applicant has been called upon to appear before the said Inquiring Authority.

10. In the above circumstances, learned Govt. Counsel contended that there was no delay in conducting the Enquiry initiated against him on 18th July 2007. Filing reply, the Respondent No.4 stated that there was no illegality committed by DPC in recommending him to the said post. Furthermore, the applicant had indeed been considered but because of initiation of Departmental Proceeding against him, he was not found suitable to said post, rather recommendation was made in favour of Respondent No. 4 which led to passing of promotion order on 23rd July 2007.

11. Sri U.K. Nair, learned Counsel for Respondent No.4 contended that at the best it could be construed as irregularity, which can be cured by convening DPC to consider applicant's case in isolation.

12. We have heard both sides at great length, perused the pleadings and other materials placed on record including the orders passed on 27th January, 2010 and 04th February, 2010 appointing fresh

Inquiring Authority, as well as fixing the date of proceeding, requiring the applicant to appear before him in connection of Memorandum dated 18th July, 2007.

13. We have bestowed our careful consideration to all aspect of the case. At the outset, we may note that Mr. Satyen Sarma, learned counsel for official Respondents No. 1-3 stated that the State Government has undertaken to complete said Departmental Proceeding within a period of two months, which has not been agreed by Mr. M. Gunedhor Singh, learned counsel for applicant stating that in the given circumstance one month is sufficient to conclude said proceeding, which in turn was not agreed by the learned Counsel for State of Manipur.

14. Without going in to the merits and demerits of the case, we may note that allegation against the applicant is that he made certain "irregular" payment of substantial amount, & not the "illegal" payment. We are of the opinion that there is some justification in the contention raised by the applicant that from the details noted herein above, the Respondents have not taken reasonable steps to conclude the Departmental Proceedings initiated against him, rather the same remains inclusive. It had been initiated with a view to exclude him and deny him the promotion to the said post for some ulterior motive. Furthermore, it was emphasized that allegation leveled is "irregular payment" and not "illegal payment". Without recording any finding on this aspect, we are of the view that this Tribunal would not like to act as an Appellate Authority and also would not like to usurp the power & jurisdiction of the Inquiring Authority, rather we would require the State Government to conclude the said proceedings within sixty days.

from 12.02.2010 by passing final order on said Departmental Proceedings. It is expected that the applicant would fully cooperate with the Inquiring Authority. & further would not raise any unnecessary & unwarranted hurdle for concluding the said Inquiry. If the Respondents are not able to finalize the said Departmental Proceedings initiated against him in the time limit prescribed, in the eventuality the said Proceedings would stand abate. As far as validity of DPC dated 19th July 2006 is concerned, we also find justification in the contention raised by applicant that apart from making observations that he was considered by it for promotion and his name found mentioned vide Paragraph 6-7, there was nothing worth consideration. Perusal of meeting minutes dated 19th July 2007 would reveal that there has been no just & fair consideration. Rather said consideration was mere eye-wash. It did not follow the sealed cover procedure, as per law laid by Ho'ble Supreme Court in **Union of India v. K.V. Jankiraman & Ors. (1993) 23 ATC 322**. Though said judgment was rendered in respect of non All India Service but the law laid down therein is squarely applicable in the given circumstances too. When a charge memorandum is issued against delinquent; he is placed under suspension or a decision is taken to initiate such action, DPC held/convened must follow the sealed cover procedure. In the present case, it is true that Proceedings were initiated against the applicant only a day prior to holding DPC but no such sealed cover procedure had been adopted. Further, the reasons for not following such procedure were neither highlighted in the reply nor the minutes of DPC made any reference to it.

15. In our considered view, the DPC had committed illegality in not following the sealed cover procedure & thereby such violation

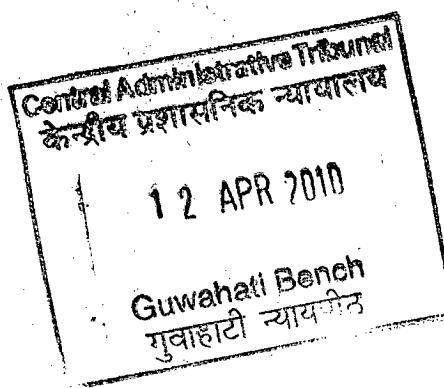
NOTICE

From,
Mr. Satyen Sarma,
S.C. Manipur

Date: 12.04.2010.

To,

1. Advocate for the Regn. No. 1
2. Advocate for the Regn. No. 2
3. Advocate for the Regn. No. 3
4. Advocate for the Regn. No. 4



Sub:

MISC APPLICATION NO. OF 2010

IN O.A. NO.211 /2008

Sir,

Please find enclose herewith a copy of the Misc. Application to be filed before the Hon'ble Tribunal today. Kindly acknowledge the receipt of the same.

Thanking You.

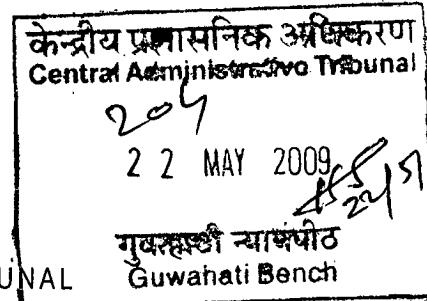
Yours' Faithfully

Satyen Sarma
(ADVOCATE)

Received Copy

Br. 2. submitted
on behalf of
Mr. J. L. Nair
11/04/10.

DISTRICT: IMPHAL
STATE: MANIPUR



IN THE CENTRAL ADMININSTRATIVE TRIBUNAL
GAUHATI BENCH

O.A. NO. 92 OF 2009

BETWEEN

Sri Peter Ngahanyui

..... Applicant

-Versus-

The Union of India & Ors.

..... Respondents

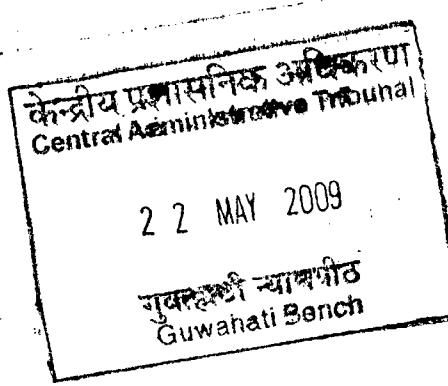
Synopsis

That the petitioner joined in the IPS on 20/07/1975 and was promoted to the rank of Additional DGP on 17/09/1999 and thereafter he was appointed as Managing Director Manipur Police Housing Corporation, Manipur in the year 2004, in the corporation he served from 28/05/2004 to 19/01/2005 thereafter, he was on deputation as Chief Security commissioner in the NEF Railway, while he was on deputation in the Railways, his junior in his parent department was promoted to the Grade and Scale of Director General of Police in the IPS above Supertime Scale of Rs. 24,050-650-26000/- by order dated 23/07/2007. That being aggrieved by the promotion of his junior, the applicant challenged the promotion and appointment of the respondent by filing an Original Application being registered as [OA No. 211/2008.] It is stated that when the respondent authorities filed their written statement in the pending OA No. 211/2008. The applicant came to know that a DPC for promotion to the rank of DGP, Manipur was held on 19/07/2007. The applicant by filing this original application is challenging the DPC dated 19/07/2007 on the ground that the DPC was not done as per the guidelines dated 15/10/1999.

Filed by

S. K. Singh
Advocate 21/05/2009

DISTRICT: IMPHAL
STATE: MANIPUR



IN THE CENTRAL ADMININSTRATIVE TRIBUNAL
GAUHATI BENCH

O.A. NO. 92 OF 2009

SricPeter Ngahanyui

..... Petitioner.

-Versus-

The State of Manipur & others.

..... Respondents

List of dates

20/07/1975 That the applicant joined in the IPS.

15/01/1999 Guidelines issued for promotion of IPS officers in the state cadre.

17/09/1999 the applicant was promoted to the rank of Addl. DGP and thereafter he was appointed as Managing Director, Manipur Police housing Corporation, Manipur in the year 2004 and served from 28/05/2004 to 19/01/2005. Thereafter, he was on deputation as Chief Security Commissioner in the NEF Railway.

-Deputed to Rly. Poot. Force?

18/07/2007 Memorandum of charges enclosing a statement of imputations of misconduct for which inquiry is proposed to hold was served upon the applicant.

*When
Served?*

19/07/2007 DPC was held for promotion to the post of DGP from the eligible IPS officers. *✓*

23/07/ 2007 That while the petitioner was on deputation to the NEF Railway, his junior (the respondent No. 4) in the parent department was given further promotion in the grade and scale of

*✓ he had a right
to be considered
for promotion
no right to get promotion
on the face of the charge-sheet
Part in the present case, DPC proceed to AMRA
as is seen from DPC Proceed to AMRA
he was not considered at
all - (a) for the reason
of charge-sheet no
promotion? That
can't be?*

22 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

Director General of Police in the IPS, Above Supertime Scale of Rs.24,050-650-26000/- whereas the respondent is the in the cadre of MT-76 batch.

01/08/07 Being aggrieved the applicant filed a representation before the authority to extent proforma promotion from the date on which his junior namely, respondent No.4 was appointed in grade and scale of Director General of Police in the IPS, Above Supertime Scale of Rs.24,050-650-26000/-.

7/09/07 The applicant filed his written statement categorically denying the charges levelled against him with a prayer to treat the same as tentative on the ground of non furnishing of the documents and the same is yet to be disposed of by the respondent authorities. 13.

10/10/2007 That the applicant begs to state that the Government of Manipur was pleased to create 2 (two) IPS Ex- Cadre post temporarily namely, a) Officer on Special Duty(Home) in the Rank ADGP in the pay scale of Rs 22,400-525-24,500/- and ?

25/10/2007 That the applicant begs to state that the Government of Manipur by order 25/10/2007 dated bearing Memo. No. 3/1/2002-IPS/DP was pleased to give posting to the applicant as Officer on Special Duty(Home) in the Rank ADGP in the pay scale of Rs 22,400-525-24,500/- while his junior the private respondent IPS of MT-76 is enjoying supertime scale of Rs.24,050-650-26000/-.

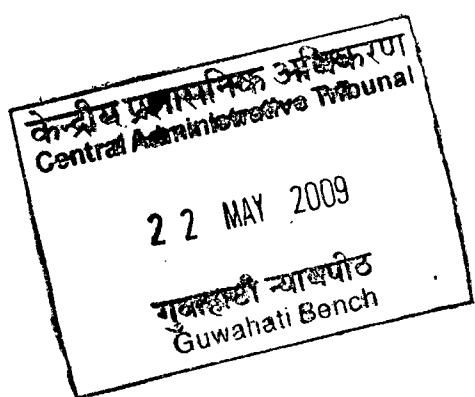
Filed by

SK Singh - 21/05/2009
Advocate

DISTRICT: IMPHAL
STATE: MANIPUR

IN THE CENTRAL ADMININSTRATIVE TRIBUNAL
GAUHATI BENCH

O.A. NO. OF 2009



Sri C Peter Ngahanyui
..... Applicant

-Versus-

The Union of India & Ors.
..... Respondents

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Filed by _

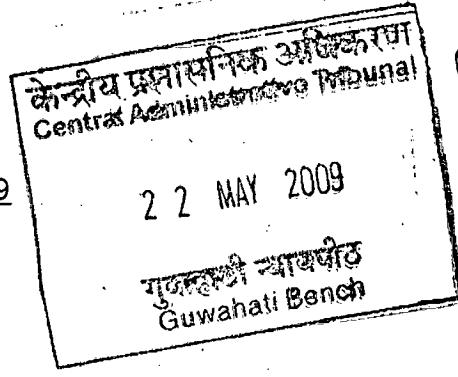
S. K. Ganguli
Advocate 21/05/2009

DISTRICT: IMPHAL
STATE: MANIPUR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH

O.A. NO. 92 OF 2009

BETWEEN



Sri C Peter Ngahanyui
S/o late C. Paul
Resident of Ukhrul
P.O. Ukhrul P.S. Ukhrul
District: Ukhrul State: Manipur
Now residing at Iront Villa,
Mantripukhri, Lamongei, Imphal,
Manipur. Pin Code - 795002+

..... Applicant
-Versus-

1. The State of Manipur represented by Chief Secretary, Government of Manipur. Pin Code - 795001 *Imphal*.
2. The ~~Secretary~~ *Principal Secretary* ~~Home~~ *Department* Government of Manipur, *Imphal*. Pin Code - 795001
3. The ~~Secretary~~ *Principal Secretary* ~~Home~~ *Department of Personnel* Government of Manipur. Pin Code - 795001, *Imphal*.

*WS free
Replies*

Filed by the applicant
through
Sonil Kumar Singh
Advocate

21/05/2009
39

22 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

*W/S
Pew
VKN*

4. Sri Y. Joykumar, IPS (MT-76)
Director General of Police,
Government of Manipur. Pin
Code - 795001, Imphal.

5. The Union of India
represented by Secretary
Government of India, Ministry
of Home Affairs, Government of India,
North Block New Delhi-1

*W/S
Mr. N. Barua*

6. The Union Public Service
Commission represented by
its Chairman, Secretary,
Dolpur House, Sahajan Road,
New Delhi-69.

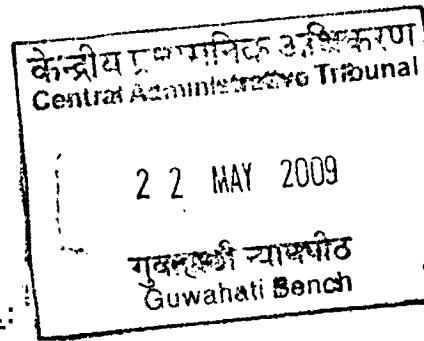
.....Respondents

DETAILS OF THE APPLICATION

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

i) The instant application is made challenging the minutes of the DPC dated 19/07/07 thereby appointing the respondent No.4 to the grade and scale of Director General of Police in the IPS Above Supertime. Scale of Rs.24,050-650-26000/-.

A copy of the minutes of DPC dated 19/07/07 is annexed herewith and marked as **Annexure - A** to this application.



2. JURISDICTION OF THE TRIBUNAL:

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

3. LIMITATION:

The applicant declares that the instant application is filed within the limitation period prescribed under the Section 21 of the Administrative Tribunal Act, 1985 as the applicant has come to of the purported DPC only on 21/04/09 when the respondent authorities have filed their written statement in the Original Application No, 211/08.

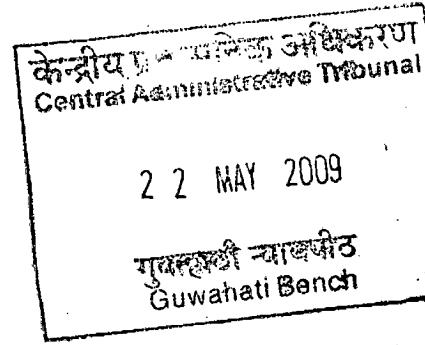
4. FACTS OF THE CASE:

1. That the petitioner is a citizen of India by birth and a permanent resident of the abovementioned locality and he is entitled to all the rights, liberties and protection guaranteed under the Constitution of India and the laws framed there under.

2. That the petitioner joined in the IPS on 20/07/75 and was promoted to the rank of Additional DGP on 17/09/98 and thereafter he was appointed as Managing Director Manipur Police Housing Corporation, Manipur in the year 2004, in the Corporation he served from 28/05/04 to 19/01/2005 thereafter, he was on deputation as Chief Security Commissioner in the NEF Railway.

3. That the applicant begs to state that his entire career in the service the petitioner has served without any blemish and prior to the Disciplinary proceeding in question, he was never been communicated with any adverse remark.

4. That on account of his efficiency, dedication and devotion the applicant was appointed as Managing Director, Police Housing Corporation Government of Manipur, thereafter, the applicant was deputed in the NEF as Chief Security Commissioner,



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গুৱাহাটী বৰ্ষাণ
Guwahati Bench

after serving in the Railways he was repatriated to his parent Department in the year 2007.

5. That while the petitioner was on deputation in the NEF Railway his junior namely the respondent No 4. was given promotion in the grade and scale of Director General of Police in the IPS, Above Supertime Scale of Rs.24,050-650-26000/- with immediate effect.

A copy of the order dated 23/07/07 is annexed herewith and marked as **Annexure – B** to this application.

6. That the applicant begs to state that he is the senior most IPS Officer in the State of Manipur of Manipur Tripura Cadre of 1975 whereas the respondent is the in the cadre of MT -76 .

7. That the applicant begs to state that while he was on deputation in the NEF Railway he was served with a purported Memorandum of charges dated 18th July, 2007 bearing Memo No. 18/33/2005-IPS/DP enclosing a statement of imputations of misconduct for which inquiry is proposed to hold.

A copy of the memorandum dated 18/07/07 is annexed herewith and marked as **Annexure – C** to this application.

8. That the applicant begs to state that he received the Memorandum of charges dated 18th July, 2007 bearing Memo No. 18/33/2005-IPS/DP enclosing a statement of imputations of misconduct for which inquiry is proposed to hold only on 24/07/07.

9. That the applicant begs to state that in the said Memorandum of charges dated 18th July, 2007 the applicant was granted 10(ten) days time to file his written statement of his defence and also to state whether he desires to be heard in person. The applicant on received of the said Memorandum of charges dated 18th July, 2007 sought for some time to file his reply till 7/09/07.

22 MAY 2009

गुवाहाटी न्यायालय
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10. That the applicant begs to state that he has been charged for making payment of advances to the tune of Rs.2,61,45,000/- (Rupees two crores sixty one lakhs and forty five thousands) only during the period from June, 2004 to January, 2005 while functioning as Managing Director, Manipur Police Housing Corporation Ltd. in violating the provisions of CPWA Code and CPWD Manuals in respect of 65 numbers of bills for which tendered amount is Rs.18,71,99,124/- but the same need to be reviewed along with the fact that all such payments stood realized from the contractors thus inflicting no pecuniary loss to the Corporation and further the Corporation could earn revenue to the tune of Rs. 26,41,817/- as interest accrued on the above advances in addition to other charges realized from the contractors.

It is further stated that even the respondent No.4 while working as the Managing Director, Manipur Police Housing Corporation Ltd. as well as other officers who worked as the Managing Directors, Manipur Police Housing Corporation Ltd made advanced payment like that of the applicant. However, only the applicant has been singled out. It is further stated that advanced made by the applicant while working as the Managing Director, Manipur Police Housing Corporation Ltd is not irregular the same was done as per Clause 7(B) of the conditions of contract as laid down in the Agreement Book of the Manipur Police Housing Corporation Ltd. It is provided in the said agreement that the secured Advances and Advances for works completed but not measured may be released on payment of interest @ Rs.9.5% per annum charging from the date such advances are given till the adjustment. It is stated that such advanced stood realized from the contractors thus inflicting no pecuniary loss to the Corporation and further the Corporation could earn revenue to the tune of Rs.26,41,817/- as interest accrued on the above advances in addition to other charges realized from the contractors.

A copy of the chart showing release of advance by Managing Directors is annexed herewith as ANNEXURE – D to this application.

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11. The applicant begs to state that he has been made a victim of the continued biased and discriminatory treatment and prejudiced by some of the higher officials as a matter of fact the entire enquiry proceeding is simply to stall his promotion to the rank and grade of DGP and as such the proposed inquiry is vindictive, arbitrary and liable to be set aside and are not sustainable either in law or in facts. It is stated that the applicant has separately challenged the proposed enquiry by a separate Original Application being registered as O.A. 211/08 and is pending before this Hon'ble Tribunal.

12. That the applicant begs to state that inspite of repeated request the documents listed and relied upon by the respondent authorities were never served upon the applicant at any point of time as a result your applicant was prejudiced and denied to file an effective reply to the memorandum of charges however, inspite of being handicapped the applicant filed his written statement on 7/09/07 categorically denying the charges levelled against him with a prayer to treat the same as tentative on the ground of non furnishing of the documents and the same is yet to be disposed of by the respondent authorities. As such the petitioner has been deprived, prejudiced and denied of his legitimate rights from the beginning to file an effective reply to the memorandum of charges.

A copy of the reply dated 07/09/07 is annexed herewith and marked as **Annexure – E** to this application.

13. The applicant begs to state that after going through the written statement filed by the respondents in OA 211/08 the applicant came to know that on the very next day after the charged memo dated 18/07/07 was served on the applicant a Departmental Promotion Committee (DPC) was held on 19/07/07 for promotion of eligible IPS Officers to the rank and scale of DGP and IPS Officers who have completed 30 years of service were short listed. It is

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stated that Sri Y. Joykumar Singh, IPS (MT:76) have not completed 30 years of service on 19/07/07. It is further stated that Sri Y. Joykumar Singh, IPS (MT:76) respondent No.4 joined in the service of IPS only on 13/12/1977, as such respondent No.4 was not eligible for promotion on the day DPC was held.

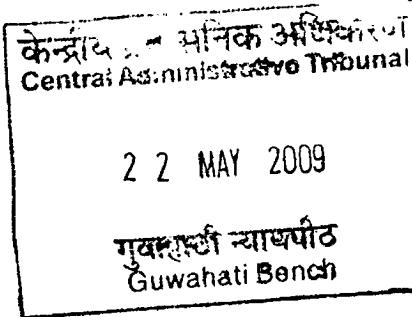
It is further stated that the applicant however, was not aware of the impugned DPC 19/07/07 till the filing of the written statement by the respondents in the Original Application No.211/08 filed by the present applicant. And on coming to know such DPC the applicant somehow managed to get a copy of the proceeding.

It is stated that the purported DPC conducted on 19/07/07 is not as per the guidelines as stated in the written statement. It is stated that as per the guidelines dated 15/01/99 the screening Committee would consist of two Officers in the rank of Chief Secretary where as in the DPC dated 19/07/07 only one Officer of the rank of Chief Secretary was present.

A copy of the guidelines dated 15/01/99 is annexed herewith and annexed as **ANNEXURE – F** to this application.

14. That the applicant begs to state that the Manipur Police Housing Corporation Ltd. is incorporated for execution of works of Government Department/ Institution as "Deposit Work" by following the provisions of CPWA Code and CPWD Manuals with necessary modification, wherever necessary as deemed fit by the Board of Directors of the Corporation. It is pertinent to mention herein that the Board of Directors of the Corporation only adopted CPWD Code for works and accounts. That the Managing Director of the Corporation is empowered to exercise the same powers as the Chief Engineer of CPWD as prescribed in the Code.

15. That the applicant begs to state that the estimated cost of the construction works to be executed by the Manipur Police Housing Corporation Ltd. as "Deposit Work" are transferred from the State Exchequer into the Corporation Fund and payments made to the contractors by the Corporation is regulated by the Rules and Regulation of the Corporation.



16. That the applicant begs to state that as per Clause 7(B) of the conditions of contract as laid down in the Agreement Book of the Manipur Police Housing Corporation Ltd. the secured Advances and Advances for works completed but not measured may be released on payment of interest @ Rs.9.5% per annum charging from the date such advances are given till the adjustment.

17. That the applicant brings it to the notice of this Hon'ble Tribunal that the payment of advance by the Corporation to the contractors allegedly done by the applicant has been in practice since many years back.

18. That the applicant begs to state that on repatriation from the borrowing department the applicant rejoined in the Parent Department on 17/08/07 and thereafter remained without post in the Parent Department.

19. That the applicant begs to state that the Government of Manipur by order dated 25/10/2007 bearing Memo. No. 3/1/2002-IPS/DP was pleased to give posting to the applicant as Officer on Special Duty(Home) in the Rank ADGP in the pay scale of Rs 22,400-525-24,500/- while his junior the private respondent IPS of MT-76 is enjoying supertime scale of Rs.24,050-650-26000/-.

A copy of the order dated 25/10/07 is annexed herewith and marked as **ANNEXURE - 6** to this application.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:-

The applicant has no other alternative efficacious remedy available therefore, approaches before the Hon'ble Tribunal on the following grounds inter-alia.

i) Because the DPC dated 19/07/07 was short/lacked of quorums as the members of the DPC were not constituted as per the guidelines relied on by the respondents the members did consist of the eligible members as required by law.

With law?

22 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

ii) Because Sri Y. Joykumar Singh, IPS (MT:76) have not completed 30 years of service on 19/07/07. That Sri Y. Joykumar Singh, IPS (MT:76) respondent No.4 joined in the service of IPS only on 13/12/1977, as such respondent No.4 was not eligible for promotion on the day DPC was held.

iii) Because the law being well settled that any Officer against whom a vigilance or departmental Enquiry has been initiated shall not be promoted pending the result of the Enquiry. However, in such cases sealed cover procedure is to be followed and the same having not followed the DPC dated 19/07/07 is not sustainable in the eyes of law.

iv) Because the proposed disciplinary proceedings against the applicant is full of irregularities, blatantly biased, without proper application of mind and the same having issued on 18/07/08 and the DPC conducted on 19/07/07 smacks malafide intention of the respondent authorities to oust and install the promotion of the applicant to rank and scale of DGP and hence DPC dated 19/07/07 liable to be set aside.

v) Because the impugned action and impugned DPC dated 19/07/07 has grossly infringed the rights of the petitioner provided under Article 14, 16, 19 and 21 of the Constitution of India. As such being contrary to the mandate of the provision of the Constitution the impugned action and DPC dated 19/07/07 are liable to be set aside and quashed by declaring as illegal and unconstitutional.

vi) Because the impugned action of the respondents suffers from the vices of malice and the same being done malafide is liable to be declared as unconstitutional and illegal.

vii) Because, in absence of finding on negligence, dereliction of duties misbehaviour, illegal conduct etc and excess payment except payment of advance and in view of the fact that the same being already recovered from the Contractor the charges

22 MAY 2009

गुवाहाटी न्यायपाल
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levelled against the applicant is not sustainable in the eye of law and the same is liable to be set aside.

viii) Because the respondent No.4 while working as the Managing Director, Manipur Police Housing Corporation Ltd. as well as other officers who worked as the Managing Directors, Manipur Police Housing Corporation Ltd made advanced payment like that of the applicant. However, only the applicant has been singled out and as such the action of the respondent authorities is liable to be declared unconstitutional, biased, malafide and illegal.

7. MATTERS NOT PENDING WITH ANY OTHER COURT OR TRIBUNAL

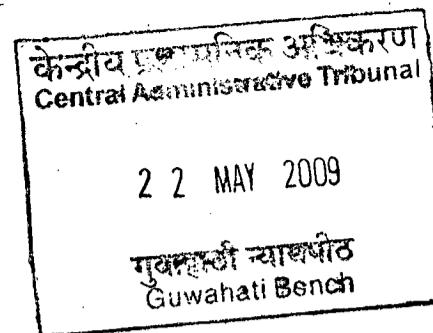
That the applicant further declares that the matter regarding which this application has been made challenging the DPC dated 19/07/07 is not pending before any Court of Law or any other Bench of the Tribunal.

8. That the applicant craves leave of the Hon'ble Tribunal to produce the relevant rules and other documents at the time of hearing of this case.

9. RELIEF SOUGHT FOR:

Under the facts and circumstances as stated above, it is most respectfully prayed that the your Lordships may be pleased to admit this application, call for the records of the case and upon hearing of the parties on cause or causes that may be shown and on perusal of the records be pleased to grant the following relief's to the applicant:-

- i) direct to the respondents to set aside the impugned DPC 19/07/07 as without authority of law.
- iii) To pass such further order or orders as Your Lordships may deem fit and proper.



10. INTERIM RELIEF PRAYED FOR

During the pendency of the application Your Lordships may be pleased to stay the impugned DPC proceeding dated 19/07/07 and further stay the promotion of the respondent No. 4 to the grade and scale of Director General of Police in the IPS, Above Supertime Scale of Rs.24,050-650-26000/- with immediate effect as without the sanction and the authority of law.

11. This application is filed through Advocate.

12. PARTICULARS OF THE POSTAL ORDER:

- i) IPO No. 39 G 408620
- ii) Date: 21/05/2009
- iii) Payable at Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index

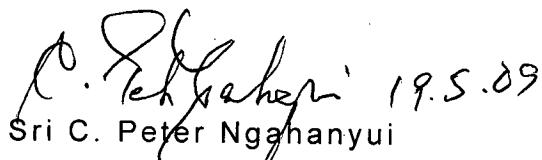
केन्द्रीय प्रशासनिक अधिकार निवारण बोर्ड
Central Administrative Tribunal

22 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

V- E- R- I- F- I- C- A- T- I- O- N

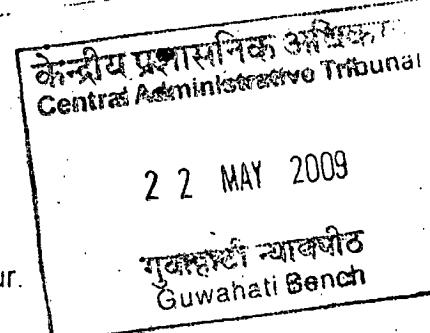
I Sri. Sri C Peter Ngahanyui S/o late C. Paul aged about 56 years Resident of Ukhrul P.O. Ukhrul, P.S. Ukhrul, District: Ukhrul, State: Manipur now residing at Irong Villa, Mantripukhri, Lamongei, Imphal, do hereby verify the contents of the statements made in paragraphs... 1 to 7 of this accompanying rejoinder are true to the best of my knowledge and the rest are my humble submission before this Hon'ble Tribunal. And I sign this verification on this 19th day of May, 2009 here at Imphal.


Sri C. Peter Ngahanyui 19.5.09

PROCEEDINGS OF THE SCREENING COMMITTEE MEETING HELD ON
19th JULY, 2007 AT 3.00 P.M. IN THE OFFICE CHAMBER OF THE CHIEF
SECRETARY, GOVERNMENT OF MANIPUR FOR PROMOTION OF
ELIGIBLE IPS OFFICERS TO THE RANK AND SCALE OF DGP.

1. Members Present:

1. Shri Jarnail Singh, IAS
Chief Secretary, Govt. of Manipur.
2. Shri D. V. Singh, IAS
Principal Secretary(Planning), Government of Manipur.
3. Shri P.B.O. Warjri, IAS
Principal Secretary (Home), Govt. of Manipur.



2. The Committee was informed that there is 1(one) vacant post of Director General of Police in Manipur part of Joint IPS Cadre of Manipur-Tripura.

3. The Committee was informed that In compliance of the Judgment dated 22-09-2006 passed by the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 310 of 1996 [Prakash Singh and Others -vs- Union of India and Others], DP had issued Order's dated 28-12-2006 under which the DGP is to be selected by the State Government from amongst the three senior-most officers of the State Police Department who have been empanelled for promotion to that rank by the UPSC. On 15-03-2007, Shri A.K. Parashar, IPS, DGP, Manipur was placed on compulsory wait and Shri Y. Joykumar Singh, IPS was asked to look after the works of the DGP, Manipur. The State Government had also requested the MHA, GOI to send a panel of $\frac{3}{4}$ names of eligible IPS officers who are willing to serve in the State as DGP. Simultaneously, the UPSC had been informed about the arrangement made by the State Govt. and it was informed that necessary proposal would be sent to the UPSC immediately on receipt of the names of eligible officers from the MHA.

4. MHA had indicated that no eligible officers are on offer with the Ministry. UPSC had also informed that the Commission is not involved in the matter of promotion to the post of DGP by virtue of the UPSC (Exemption from Consultation) Regulations, 1958. The UPSC has also filed an IA before the Hon'ble Supreme Court seeking directions regarding the modalities for holding selection meeting for appointment of DGP, which is pending.

5. The Committee was also informed that, as stated above, the State Government had already taken all possible steps to fill up the post of DGP in accordance with the directions of the Supreme Court of India. However, in view of the position as stated by the UPSC, it may not be possible now to appoint the DGP.

19/7/07

SK Singh
Certified to be True Copy
Advocate

19/7/07

Contd. 2/-

Jarnail Singh
19/7/2007

6. The Committee was informed that under the existing guidelines, IPS Officers who have completed 30 years of service are eligible for promotion to Director General of Police in the IPS Above Supertime Scale of Rs.24,050-650-26,000/- Accordingly, the following IPS of 1975, 1976 and 1977 batches who are eligible for promotion to DGP have been considered :-

(1) Shri A.B. Mathur, IPS(MT:75)	- On deptn. Hardcore of I.B.
(2) Shri C. Peter Ngahanyui, IPS (MT:75)	On deptn.
(3) Shri Y. Joykumar Singh, IPS (MT:76)	- ADGP & i/c. DGP
(4) Shri J. C. Dabas, IPS(MT:77)	- On deptn.
(5) Shri M.K. Das, IPS(MT:77)	- On compulsory wait with Ministry of Steel.

7. The Committee was also informed that the above-mentioned IPS officers are clear from vigilance angle except Shri C. Peter Ngahanyui, IPS. Further, charge memo has been issued to Shri C. Peter Ngahanyui, IPS vide O.M. No.18/33/2005-IPS/DP dated 18-07-2007.

8. The Committee, after examining the service records and ACRs of the above IPS Officers and also taking into consideration of all the facts placed before the Committee, recommends Shri Y. Joykumar Singh, IPS(MT:76) for appointment to the grade and scale of Director General of Police in IPS Above Supertime Scale of Rs.24,050-650-26,000/- with immediate effect.

9. The Committee further recommends the proforma promotion of Shri A. B. Mathur, IPS(MT:75) to the grade and scale of Director General of Police in IPS Above Supertime Scale of Rs.24,050-650-26,000/- with effect from the date his junior Shri Y. Joykumar is appointed to the said grade and scale.

(P. B. O. Warjri)
Pr. Secretary(Home),
Government of Manipur

(D. V. Singh)
Principal Secretary(Plg.)
Government of Manipur

(Jarnail Singh)
Chief Secretary
Government of Manipur

Certified to be True COPY
S. K. Singh
Advocate

केन्द्रीय प्राचारनिक अदायक
Central Administrative Tribunal

22 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)

ORDERS BY THE GOVERNOR:MANIPUR
Imphal, the 23rd July, 2007.

केन्द्रीय प्रशासनिक अदायक बोर्ड
Central Administrative Tribunal

22. MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

No.8/1/2001-IPS/DP(1): The Governor of Manipur is pleased to appoint Shri Y. Joykumar Singh, IPS(MT:76) to the grade and scale of Director General of Police in the IPS Above Superintendence Scale of Rs.24,050-650-26,000/- with immediate effect.

2. Consequent upon his promotion to the grade and scale of Director General of Police, Shri Y. Joykumar Singh, IPS(MT:76) shall continue to look after the works of Director General of Police, Manipur until further orders.

By orders & in the name of the
Governor,

(Seikholeh-Lhangum)
Under Secretary(DP),
Government of Manipur

Copy to:-

1. The Secretary to the Governor of Manipur, Raj Bhawan, Imphal.
2. The Secretary to Chief Minister, Manipur.
3. The Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
4. The P.S. to Chief Secretary, Govt. of Manipur.
5. The Chief Secretary, Government of Tripura, Agartala.
6. The Principal Secretary(Hons), Govt. of Manipur.
7. The Director General of Police, Manipur.
8. The Accountant General, Manipur.
9. The Joint Secretary(ACI), Government of Manipur.
10. The Officer concerned.
11. The Treasury Officer concerned.
12. Personal File concerned.
13. Guard file/ Orders Book.

Certified to be True Copy
S. Singh
Advocate

GOVERNMENT OF MANIPUR
DISPENSATION OF PERSONNEL & ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)

केन्द्रीय प्रशासनिक अधिकारा
Central Administrative Tribunal

M E M O R A N D U M
Imphal, the 18th July, 2007.

22 MAY 2009

No.18/33/2005-IPS/DP: The Governor of Manipur proposes to hold an enquiry against Shri C. Peter Ngahanyui, IPS(MT:75), the then Managing Director, Manipur Police Housing Corporation Ltd., Imphal under Rule 8 of the All India Services (Discipline & Appeal) Rules, 1969. The substance of the imputation of misconduct or misbehaviour in respect of which the inquiry is proposed to hold is set out in the enclosed statement of article of charge (Annexure - I). A statement of imputations of misconduct or misbehaviour in support of each articles of charges is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles are proposed to be sustained are also enclosed (Annexure - III and Annexure - IV respectively).

2. Shri C. Peter Ngahanyui, IPS, the then Managing Director, MPHC Ltd., Manipur is directed to submit within 10 (ten) days of the receipt of this Memorandum a written statement of his defence and also to state whether he desires to be heard in person.

3. Shri C. Peter Ngahanyui, IPS is informed that an enquiry will be held only in respect of those articles of charge are not admitted. He should, therefore, specifically admit or deny each article of charge.

4. Shri C. Peter Ngahanyui, IPS is further informed that if he does not submit his written statement on or before the date specified in Para 2 above or does not appear in person before the inquiry authority or otherwise fails or refuses to comply with under the provisions of Rule 8 of the All India Services (Discipline & Appeal) Rules, 1969, or the orders/directions issued in pursuance of the said rules, the inquiry authority may hold the inquiry against him ex parte.

Certified to be True Copy
S.K. Singh
Advocate

Contd ..2/-

5. Attention of Shri C. Peter Ngahanyui, IPS is invited to Rule 18 of the All India Services (Conduct) Rules, 1968 under which no Government servant shall bring or attempt to bring any political or otherwise influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in any matter dealt with in these proceedings, it will be presumed that Shri C. Peter Ngahanyui, IPS is aware of such a representation and that it has been at his instance and action shall be taken against him for violation of Rule 18 of the All India Services (Conduct) Rules, 1968.

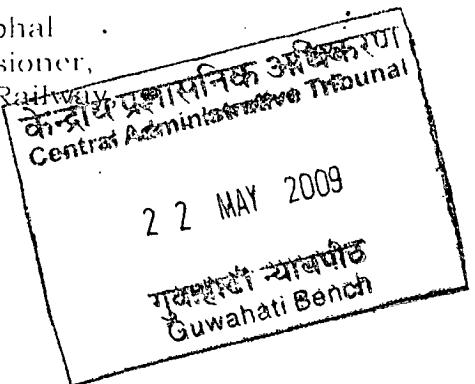
6. The receipt of this Memorandum may be acknowledged.

By orders & in the name of
Governor,

S. Sunderlal Singh
(S. Sunderlal Singh)
Secretary (DP), Government of Manipur.

To

Shri C. Peter Ngahanyui, IPS(MT:75)
the then Managing Director,
Manipur Police Housing Corporation Ltd., Imphal
now on deputation as Chief Security Commissioner,
Railway Protection Force, Northeast Frontier Railway
Maligaon, Guwahati - 7810011.

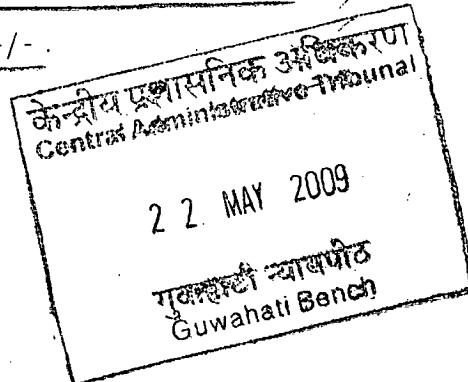


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S. K. Singh
Advocate

ANNEXURE - I

STATEMENT OF ARTICLE OF CHARGE FRAMED AGAINST SHRI C. PETER NGAHANYUI, IPS, THE THEN MANAGING DIRECTOR, MANIPUR POLICE HOUSING CORPORATION, LTD., IMPHAL, MANIPUR.

Shri C. Peter Ngahanyui, IPS while he was functioning as Managing Director, Manipur Police Housing Corporation Ltd. had made payment of advance money to the tune of Rs.2,61,45,000/- (Rupees two crores sixty-one lakhs forty-five thousand) only during the period from June, 2004 to January, 2005 violating the provisions of CPWA Code and CPWD Manuals in respect of 65 numbers of Bills for which the tendered amount is Rs.18,71,99,124/-



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Sk Singh
Advocate

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ANNEXURE -II

**DISCUSSION ON INTERPRETATION OF MISCONDUCT OR
RECKLESSLY SPENDING THE MONEY OF THE STATE OR THE OTHER
REVENUE OF THE STATE SERVICE IN THE FORM OF ADVANCE TO THE
MANAGING DIRECTOR, MANIPUR POLICE & HOUSING
CORPORATION LTD., IMPHAL, MANIPUR.**

That, Shri C. Peter Ngahanyui, IPS, while functioning as Managing Director, MPHC, Manipur had given advances to the tune of Rs.2,61,45,000/- (Rupees two crores sixty one lakhs forty-five thousands) only during the period from June, 2004 to January, 2005 violating the provisions of CPWA code and CPWD Manuals in respect of the following 65 nos. of bills for which the tendered amount is Rs.18,71,99,124/-

<u>Sl. No</u>	<u>Bill No. & Date</u>	<u>Tendered Amount</u>	<u>Amount of Advance</u>	<u>Remarks</u>
1.	122 dt.02/06/04	Rs.16,28,285/-	Rs.5,00,000/-	Advance without report of Engineer
2.	123 dt.02/06/04	Rs.30,22,404/-	Rs.10,00,000/-	- do -
3.	124 dt.02/06/04	Rs.37,99,008/-	Rs.10,00,000/-	- do -
4.	180 dt.15/06/04	Rs.12,14,782/-	Rs.3,00,000/-	- do -
5.	278 dt.28/07/04	Rs.11,59,668/-	Rs.3,50,000/-	- do -
6.	301 dt.03/08/04	Rs.27,15,482/-	Rs.7,00,000/-	- do -
7.	435 dt.23/09/04	Rs.1,23,55,680/-	Rs.10,00,000/-	Mobilisation advance
8.	500 dt.07/10/04	Rs.7,82,936/-	Rs.2,00,000/-	do -
9.	508 dt.12/10/04	Rs.18,42,244/-	Rs.4,00,000/-	Work executed but not measure.
10.	519 dt.18/10/04	Rs.25,77,455/-	Rs.3,00,000/-	Mobilisation advance
11.	520 dt.18/10/04	Rs.44,72,450/-	Rs.3,00,000/-	- do -
12.	545 dt.29/10/04	Rs.25,77,455/-	Rs.6,00,000/-	- do -
13.	280 dt.30/07/04	Rs.17,98,717/-	Rs.7,00,000/-	- do -
14.	594 dt.09/11/04	Rs.43,48,714/-	Rs.6,00,000/-	Advance without measured.
15.	635 dt.16/11/04	Rs.52,98,452/-	Rs.2,00,000/-	- do -
16.	658 dt.17/11/04	Rs.41,72,424/-	Rs.2,00,000/-	- do -
17.	659 dt.17/11/04	Rs.42,72,012/-	Rs.2,00,000/-	- do -
18.	660 dt.17/11/04	Rs.47,27,981/-	Rs.2,00,000/-	- do -
19.	661 dt.17/11/04	Rs.41,90,688/-	Rs.2,00,000/-	- do -
20.	662 dt.17/11/04	Rs.42,77,383/-	Rs.1,75,000/-	- do -

22 MAY 2009

**गुवाहाटी चाषपाटी
Guwahati Bench**

Contd..2/

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S. K. Singha
Advocate

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribuna

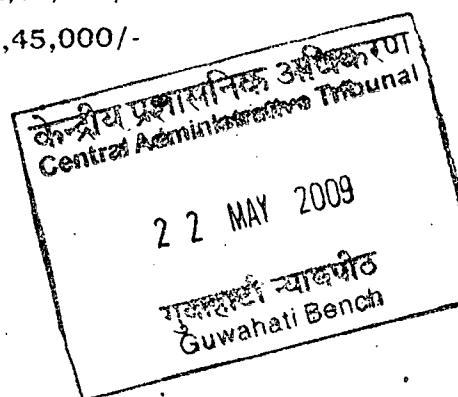
Sl. No	Bill No. & Date	Tendered Amount	Amount of Advance	Remarks	Date
21.	663 dt.17/11/04	Rs.40,96,310/-	Rs.1,75,000/-	do-	22 MAY 2009
22.	664 dt.17/11/04	Rs.41,21,471/-	Rs.3,00,000/-	do-	Guwahati Bench
23.	665 dt.17/11/04	Rs.41,41,425/-	Rs.1,75,000/-	do-	
24.	666 dt.17/11/04	Rs.7,88,252/-	Rs.3,00,000/-	M/ Advance	
25.	703 dt.30/11/04	Rs.27,43,022/-	Rs.1,45,000/-	do-	
26.	705 dt.30/11/04	Rs.33,66,716/-	Rs.1,45,000/-	do-	
27.	749 dt.10/12/04	Rs.31,56,308/-	Rs.8,00,000/-	do-	
28.	755 dt.13/12/04	Rs.25,77,455/-	Rs.3,50,000/-	Advance but not measured.	
29.	778 dt.17/12/04	Rs.27,43,022/-	Rs.6,00,000/-	M/Advance	
30.	779 dt.17/12/04	Rs.33,66,716/-	Rs.6,00,000/-	do-	
31.	797 dt.22/12/04	Rs.43,49,058/-	Rs.5,50,000/-	do-	
32.	856 dt.07/01/05	Rs.25,77,455/-	Rs.5,00,000/-	do-	
33.	857 dt.07/01/05	Rs.12,14,782/-	Rs.6,00,000/-	do-	
34.	858 dt.07/01/05	Rs.44,70,175/-	Rs.10,00,000/-	do-	
35.	862 dt.07/01/05	Rs.18,94,971/-	Rs.4,00,000/-	do-	
36.	863 dt.07/01/05	Rs.13,89,917/-	Rs.2,00,000/-	do-	
37.	865 dt.10/01/05	Rs.8,35,433/-	Rs.3,00,000/-	do-	
38.	878 dt.10/01/05	Rs.11,32,901/-	Rs.3,00,000/-	do-	
39.	903 dt.18/01/05	Rs.14,60,831/-	Rs.2,00,000/-	do-	
40.	904 dt.18/01/05	Rs.16,41,012/-	Rs.6,00,000/-	do-	
41.	905 dt.18/01/05	Rs.13,48,037/-	Rs.1,50,000/-	do-	
42.	906 dt.18/01/05	Rs.10,94,008/-	Rs.4,00,000/-	do-	
43.	907 dt.18/01/05	Rs.7,83,306/-	Rs.1,50,000/-	do-	
44.	908 dt.18/01/05	Rs.2,80,850/-	Rs.1,50,000/-	do-	
45.	909 dt.18/01/05	Rs.99,086/-	Rs.60,000/-	M / Advance on IEI	
46.	910 dt.18/01/05	Rs.2,00,509/-	Rs.1,20,000/-	M / Advance	
47.	911 dt.18/01/05	Rs.31,56,308/-	Rs.15,00,000/-	do-	
48.	912 dt.18/01/05	Rs.9,48,050/-	Rs.50,000/-	do-	
49.	915 dt.19/01/05	Rs.54,80,025/-	Rs.10,00,000/-	do-	
50.	916 dt.19/01/05	Rs.44,70,175/-	Rs.10,00,000/-	do-	
51.	917 dt.19/01/05	Rs.13,58,914/-	Rs.30,000/-	do-	
52.	921 dt.19/01/05	Rs.18,42,244/-	Rs.5,00,000/-	M/Advances but not mentioned	
53.	924 dt.19/01/05	Rs.5,22,866/-	Rs.2,50,000/-	M/Advance.	
54.	925 dt.19/01/05	Rs.15,61,089/-	Rs.1,50,000/-	do-	

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B. K. Bhattacharya
Advocate

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<u>Sl. No</u>	<u>Bill No. & Date</u>	<u>Tendered Amount</u>	<u>Amount of Advance</u>	<u>Remarks</u>
55.	926 dt.19/01/05	Rs.15,80,112/-	Rs.2,75,000/-	do
56.	927 dt.19/01/05	Rs.41,72,424/-	Rs.3,00,000/-	-do-
57.	928 dt.19/01/05	Rs.42,77,383/-	Rs.3,00,000/-	do
58.	929 dt.19/01/05	Rs.41,90,688/-	Rs.3,00,000/-	-do-
59.	931 dt.19/01/05	Rs.40,96,310/-	Rs.3,00,000/-	do
60.	932 dt.19/01/05	Rs.41,41,425/-	Rs.3,00,000/-	-do-
61.	933 dt.19/01/05	Rs.46,72,981/-	Rs.3,00,000/-	-do
62.	934 dt.19/01/05	Rs.42,72,012/-	Rs.3,00,000/-	-do-
63.	935 dt.19/01/05	Rs.41,21,474/-	Rs.3,00,000/-	-do-
64.	936 dt.19/01/05	Rs.52,98,452/-	Rs.10,00,000/-	-do-
65.	937 dt.19/01/05	Rs.7,82,936/-	Rs.2,00,000/-	-do-

Rs.18,71,99,124/- Rs.2,61,45,000/-



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Advocate

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LIST OF DOCUMENTS BY WHICH THE ARTICLES OF CHARGE
FRAMED AGAINST SHRI C. PETER NGAHANYUI, IPS, THE THEN
MANAGING DIRECTOR, MANIPUR POLICE HOUSING
CORPORATION LTD., MANIPUR IS TO BE SUSTAINED.

<u>Sl. No</u>	<u>Bill No. & Date</u>	<u>Tendered Amount</u>	<u>Amount of Advance</u>	<u>Remarks</u>
1.	122 dt.02/06/04	Rs.16,28,285/-	Rs.5,00,000/-	Advance without report of Engineer
2.	123 dt.02/06/04	Rs.30,22,404/-	Rs.10,00,000/-	do
3.	124 dt.02/06/04	Rs.37,99,008/-	Rs.10,00,000/-	Central Administrative Wing
4.	180 dt.15/06/04	Rs.12,14,782/-	Rs.3,00,000/-	do
5.	278 dt.28/07/04	Rs.11,59,668/-	Rs.3,50,000/-	do
6.	301 dt.03/08/04	Rs.27,15,482/-	Rs.7,00,000/-	do
7.	435 dt.23/09/04	Rs.1,23,55,680/-	Rs.10,00,000/-	Mobilisation advance
8.	500 dt.07/10/04	Rs.7,82,936/-	Rs.2,00,000/-	Guwahati Bench
9.	508 dt.12/10/04	Rs.18,42,244/-	Rs.4,00,000/-	do
10.	519 dt.18/10/04	Rs.25,77,455/-	Rs.3,00,000/-	Work executed but not measure.
11.	520 dt.18/10/04	Rs.44,72,450/-	Rs.3,00,000/-	Mobilisation advance
12.	545 dt.29/10/04	Rs.25,77,455/-	Rs.6,00,000/-	do
13.	280 dt.30/07/04	Rs.17,98,717/-	Rs.7,00,000/-	do
14.	594 dt.09/11/04	Rs.43,48,714/-	Rs.6,00,000/-	Advance without measured.
15.	635 dt.16/11/04	Rs.52,98,452/-	Rs.2,00,000/-	do
16.	658 dt.17/11/04	Rs.41,72,424/-	Rs.2,00,000/-	do
17.	659 dt.17/11/04	Rs.42,72,012/-	Rs.2,00,000/-	do
18.	660 dt.17/11/04	Rs.47,27,981/-	Rs.2,00,000/-	do
19.	661 dt.17/11/04	Rs.41,90,688/-	Rs.2,00,000/-	do
20.	662 dt.17/11/04	Rs.42,77,383/-	Rs.1,75,000/-	do
21.	663 dt.17/11/04	Rs.40,96,310/-	Rs.1,75,000/-	do
22.	664 dt.17/11/04	Rs.41,21,474/-	Rs.3,00,000/-	do
23.	665 dt.17/11/04	Rs.41,41,425/-	Rs.1,75,000/-	do
24.	666 dt.17/11/04	Rs.7,88,252/-	Rs.3,00,000/-	M/ Advance
25.	703 dt.30/11/04	Rs.27,43,022/-	Rs.1,45,000/-	do
26.	705 dt.30/11/04	Rs.33,66,716/-	Rs.1,45,000/-	do
27.	749 dt.10/12/04	Rs.31,56,308/-	Rs.8,00,000/-	do

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SK Gangha,
Advocate

Sl. No.	Bill No. & Date	Tendered Amount	Amount of Advance	Remarks
38.	785 dt. 13/12/04	Rs.25,77,195/-	Rs.3,50,000/-	Advance but not measured.
29.	778 dt. 17/12/04	Rs.27,43,022/-	Rs.6,00,000/-	M/Advance
30.	779 dt. 17/12/04	Rs.33,66,716/-	Rs.6,00,000/-	-do-
31.	797 dt. 22/12/04	Rs.43,49,058/-	Rs.5,50,000/-	-do-
32.	856 dt. 07/01/05	Rs.25,77,455/-	Rs.5,00,000/-	-do-
33.	857 dt. 07/01/05	Rs.12,14,782/-	Rs.6,00,000/-	-do-
34.	858 dt. 07/01/05	Rs.44,70,175/-	Rs.10,00,000/-	-do-
35.	862 dt. 07/01/05	Rs.18,94,971/-	Rs.4,00,000/-	-do-
36.	863 dt. 07/01/05	Rs.13,89,917/-	Rs.2,00,000/-	-do-
37.	865 dt. 10/01/05	Rs.8,35,433/-	Rs.3,00,000/-	-do-
38.	878 dt. 10/01/05	Rs.11,32,901/-	Rs.3,00,000/-	-do-
39.	903 dt. 18/01/05	Rs.14,60,831/-	Rs.2,00,000/-	-do-
40.	904 dt. 18/01/05	Rs.16,41,012/-	Rs.6,00,000/-	-do-
41.	905 dt. 18/01/05	Rs.13,48,037/-	Rs.1,50,000/-	-do-
42.	906 dt. 18/01/05	Rs.10,94,008/-	Rs.4,00,000/-	-do-
43.	907 dt. 18/01/05	Rs.7,83,306/-	Rs.1,50,000/-	-do-
44.	908 dt. 18/01/05	Rs.2,80,850/-	Rs.1,50,000/-	-do-
45.	909 dt. 18/01/05	Rs.99,086/-	Rs.60,000/-	M / Advance on IEI
46.	910 dt. 18/01/05	Rs.2,00,509/-	Rs.1,20,000/-	M / Advance
47.	911 dt. 18/01/05	Rs.31,56,308/-	Rs.15,00,000/-	-do-
48.	912 dt. 18/01/05	Rs.9,48,050/-	Rs.50,000/-	-do-
49.	915 dt. 19/01/05	Rs.54,80,025/-	Rs.10,00,000/-	-do-
50.	916 dt. 19/01/05	Rs.44,70,175/-	Rs.10,00,000/-	-do-
51.	917 dt. 19/01/05	Rs.13,58,914/-	Rs.30,000/-	-do-
52.	921 dt. 19/01/05	Rs.18,42,244/-	Rs.5,00,000/-	M/Advances but not mentioned
53.	924 dt. 19/01/05	Rs.5,22,866/-	Rs.2,50,000/-	M/Advance.
54.	925 dt. 19/01/05	Rs.15,61,089/-	Rs.1,50,000/-	-do-
55.	926 dt. 19/01/05	Rs.15,80,112/-	Rs.2,75,000/-	-do-
56.	927 dt. 19/01/05	Rs.41,72,424/-	Rs.3,00,000/-	-do-
57.	928 dt. 19/01/05	Rs.42,77,383/-	Rs.3,00,000/-	-do-
58.	929 dt. 19/01/05	Rs.41,90,688/-	Rs.3,00,000/-	-do-
59.	931 dt. 19/01/05	Rs.40,96,310/-	Rs.3,00,000/-	-do-
60.	932 dt. 19/01/05	Rs.41,41,425/-	Rs.3,00,000/-	-do-
61.	933 dt. 19/01/05	Rs.46,72,981/-	Rs.3,00,000/-	-do-

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 Sk. Sengupta
 Advocate

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Sl. No	BILL No. & Date	Tendered Amount	Amount of Advance	Remarks
62.	934 dt. 19/01/05	Rs.42,72,012/-	Rs.3,00,000/-	do
63.	935 dt. 19/01/05	Rs.41,21,474/-	Rs.3,00,000/-	do
64.	936 dt. 19/01/05	Rs.52,98,432/-	Rs.10,00,000/-	do
65.	937 dt. 19/01/05	Rs.7,82,936/-	Rs.2,00,000/-	do

✓ 66. Observation on the mode of advances given to the Contractors of MPHC by the Managing Director, MPHC during the period from 02-06-2004 to 19-01-2005 yide report of CTE/Vigilance dated 13-12-2005.

✓ 67. Collection Memo dated 03-12-2005 prepared by M. Habanta Singh, Inspector/Vigilance, for the collection of 69 documents in connection with Vigilance Case No.46/SP-V/2005.

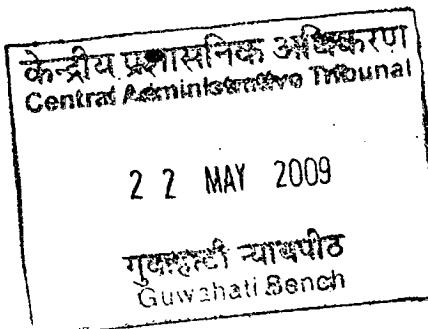
✓ 68. Collection Memo dated 03-12-2005 prepared by M. Habanta Singh, Inspector/Vigilance for the collection of 10 documents in connection with Vigilance Case No 46/SP-V/2005.

✓ 69. Cheque issue Register w.e.f. (01-04-2004) to (21-06-2005) maintained in the Office of MPHC, Imphal.

70. Attested Photocopies of TR-1 regarding handing over / taking over charge of Managing Director, MPHC Ltd. dated 10-09-2003, 28-05-2004, 19-01-2005.

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Shyamla
Advocate



FRAMED AGAINST SHRI C. PETER NGATHANYUI, IPS, THE THEN
MANAGING DIRECTOR, MANIPUR POLICE HOUSING
CORPORATION LTD., MANIPUR IS TO BE SUSTAINED :

1. Khumukcham Bhupendra Singh, Sr. Accountant in the MPHC Ltd., Imphal.
2. C.K. Binoy Bhushan Singh, UDC in the office of MPHC Ltd., Imphal.
3. S.R. Khupsal Koireng, Steno II in the office of MPHC Ltd., Imphal.
4. Ch. Ibobi Singh, Finance Manager / Administrative Officer, MPHC Ltd., Imphal.
5. K. Shanti Singh, U.D.C., BMC.
6. M. Digbijoy Meetei, Sub-Inspector / Vigilance, Manipur.
7. Shri Ph. Yaima Singh, CTE/Vigilance, Manipur.
8. M. Habanta Singh, Inspector of Police (Vigilance), Manipur.

केन्द्रीय प्रशासनिक अदिकारण
Central Administrative Tribunal

22 MAY 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

COPY
S. K. Singh
Advocate

<u>Date</u>	<u>Name of the work</u>	<u>Name of contractor</u>	<u>Amount/advanced</u>	<u>Remarks</u>	<u>Name of M.D/MPHC</u>
10.7.2000	C/o L.S. Qtr. (twin) nos. at Bishnupur P.S. (note: Final bill was passed on 16.6.2000 but all the documents including charge of Rs. 54096/- has been gutted on fire on 16.6.2000)	Kh. Ranjit	Rs. 40000	Adjusted	S. Bimalchandra Singh.
2. 12.7.2000	For purchase of store materials for the the Work "Constrn of class room block at MPTS, Pangei".	L. Shamu	Rs. 209347	Adjusted	S. Bimalchandra Singh.
3. 12.7.2000	C/o Class Room Block at MPTS, Pangei.	L. Shamu	Rs. 200000	Adjusted	S. Bimalchandra Singh.
4. 13.7.2000	C/o 4(four) storied residential Qtr (T-IV) facility (Ph-II) Block A/8 at CMTW area (Sh:1) Finishing of 1 st floor and (ii) Finishing of 2 nd and 3 rd floor.	L. Budhi Singh	Rs. 200000	Adjusted	S. Bimalchandra Singh.
5. 13.7.2000	Constrn. 4(four) storied residential Qtr. (T-IV) facility (Ph-II) Block A/7 at CMTW are (Sh: Finishing of 1 st floor and (2) Finishing of 2 nd and 3 rd floor.	L. Ajaykumar Singh	Rs. 200000	Adjusted	S. Bimalchandra Singh.
6. 17.7.2000	Constrn. 4(four) storied residential Qtr. (T-IV) facility at CMTW Complex Imphal (Sh: Finishing of 1 st floor) (Sh: 2 nd & 3 rd floor) Block-A/1.	T. Romeo Singh	Rs. 200000	Adjusted	S. Bimalchandra Singh.
7. 17.7.2000	Constrn. 4(four) storied residential Qtr (T-IV) facility at CMTW Complex Imphal (Sh: Finishing of 1 st floor) (Sh: 2 nd & 3 rd floor) Block-A/1.	T. Opendro Singh	Rs. 200000	Adjusted	S. Bimalchandra Singh.
8. 28.7.2000	Constrn. L.S. Qtr. at Moirang	H. Nabakumar Singh	Rs. 18000	Adjusted	S. Bimalchandra Singh.
9. 9.8.2000	Constrn. Primary Health Centre i/c Water Supply & Sanitary and IEI etc. under RCHP at Kakching Khunou.	L. Ajaykumar Singh	Rs. 200000	Adjusted	S. Bimalchandra Singh.
10. 2.9.2000	Constrn. Primary Health Centre i/c Water Supply & Sanitary and IEI at Wangoo Laipham.	L. Ajaykumar Singh	Rs. 600000	Adjusted	S. Bimalchandra Singh.
11. 29.9.2000	Constrn. of Police Station at Irilbung.	L. Ajaykumar Singh	Rs. 600000	Adjusted	S. Bimalchandra Singh.
12. 30.10.2000	Constrn of Police Station at Porompat	S. Nimai Singh	Rs. 600000	Adjusted	S. Bimalchandra Singh.
13. 30.4.2004	Constrn of T-III Qtr. 1 No. at Irilbung P.S.	L. Ajaykumar Singh	Rs. 50000	Adjusted	J.B. Negi.
14. 30.4.2004	Installation of internal electrification to D/S storied for JNV Scheme at Kakching Khunou for Block A to J (ten Nos) Rs. 57,000/- per block.	P. Nilakanta Singh	Rs. 570000	Adjusted	J.B. Negi.

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 S. K. Singh
 Advocate

2.6.2004	Installation of internal electrification to D/S CGI sheet roofing dormitory for JNV School at Chandel for Block - C, D, E and F, @ Rs. 57,000/- per block.	P. Nilakanta Singh	Rs. 228000	Adjusted	C. Peter Ngahanyui.
16. 26.2004	Constrn of Sentry Post one No. at Chaoba Ching Thanga Part-I (ii) Sentry Post with gate (two nos) at Haoreng Chingjang, Thanga Part-I (iii) Toilet block (5 nos) at Thanga Part-II and (iv) 20 S.M. Barrack (2 nos) at Champajang.	L. Biren Singh	Rs. 500000	Adjusted	C. Peter Ngahanyui.
17. 26.2004	C/o (i) Sentry Post with gate at Thanga Part-II (2). 20 S.M.B 4 Nos at Thanga Part-II (3) Sentry Post 2 nos at Thanga Part-II (4) Toilet Block at Champanjang and (5) Sentry Post with gate at Champajang.	Asung Muivah	Rs. 1000000	Adjusted	C. Peter Ngahanyui.
18. 26.2004	C/o (1) 20 S.M. Barrack one no. at Chaoba Ching, Thanga Part-I (ii) 30 S.M. Barrack (three numbers) at Haoreng Chingang, Thanga Part-I (iii) Kitchen one no. at Haoreng Chingang, Thanga Part-I (iv) Toilet block two nos at Haoreng Chingang Thanga Part-I (v) Kitchen one no. at Champajang and (vi) Sentry Post (two nos) at Champajang.	Khashim Vashum	Rs. 1000000	Adjusted	C. Peter Ngahanyui.
19. 2.6.2004	Constrn. of (i) Toilet Block at Chaoba Chingang, Thanga Part-I (ii) Sentry Post 2 nos at kHaoreng Chingang, Thanga Part-I (iii) Kitchen 1 no. at Thanga Part-II and (iv) 20 S.M. Barrack 2 klnos. at Champajang.	Shyamchand Leitong	Rs. 500000	Adjusted	C. Peter Ngahanyui.
20. 15.6.2004	Constrn. of Work for renovation of Central Courtyard of the Office-cum-lab bldg of ICAR Research Complex for NEH. Region, Manipur Centre for Central Instrumentating. Laboratory.	N. Chidananda (Bung) Singh.	Rs. 300000	Adjusted	C. Peter Ngahanyui.
21. 26.6.2004	C/o Maternity and Child Health Centre at Thongju, Canchipur (Sh: C/o compound fencing)	L. Shamu Singh	Rs. 500000	Adjusted	C. Peter Ngahanyui.
22. 30.6.2004	C/o 4 storied R/Qtr. (T-IV facility) 2 blocks at CMTW Complex Imphal (i) Sh: C/o underground Reservoir of 50,000 ltrs capacity (ii) (Sh: Land development.	L. Ajaykumar Singh	Rs. 123682	Adjusted	C. Peter Ngahanyui.

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3.7.2004	C/o Chandel Police Station under one time ACA (Sh: i) C/o Toilet Block 8 w.cs i/c S.I. 2 nos (ii) Compound fencing 412 mtrs long with 1 (one) no steel gate i/c R.C.C. Pillar (iii) Sentry Tower 4 (four) nos.	Ginet Monsang	Rs. 500000	Adjusted	C. Peter Ngahanyui. Central Administrative Tribunal
24. 28.7.2004	C/o Prisoner's Barracks for Addl. Jail at Central Jail, Sajiwai (Block -E).	L. Shamu Singh	Rs. 350000	Adjusted	C. Peter Ngahanyui. Guwahati Bench
25. 28.7.2004	C/o Prisoner's Barracks for Addl. Jail at Central Jail, Sajiwai (Block -F)	L. Shamu Singh	Rs. 350000	Adjusted	C. Peter Ngahanyui.
26. 30.7.2004	Fire Sub-Station at DHQ Chandel (Sh: C/o Garrage-cum-Dormitory, Control Recreation, record room-cum store and work shed)	P. Tarunkumar Singh	Rs. 700000	Adjusted	C. Peter Ngahanyui.
27. 3.8.2004	Constrn. of Drill Shed at MPTS, Pangei.	L. Chittaranjan Roy	Rs. 700000	Adjusted	C. Peter Ngahanyui.
28. 24.8.2994	Supply of Electrical Goods	M/S Shongsir & Sons Enterprises, Chandel.	Rs. 1000000	Adjusted	C. Peter Ngahanyui.
29. 24.8.2004	Supply of Different sizes of Hardware items	M/S M. Shongsir @ Sons Enterprises, Chandel	Rs. 900000	Adjusted	C. Peter Ngahanyui.
30. 27.8.2004	Repairing of T.B Qtr 3 nos. (Qtr No. 5,6 and 9) for ICAR Complex Manipur Centre Lamphelpat.	M/S Manipur Hume Pipe & Concrete work	Rs. 100000	Adjusted	C. Peter Ngahanyui.
31. 27.8.2004	Repairing of T.B. Qtr 3 nos. (Qtr. No. 10,13 & 14) for ICAR Complex Manipur Centre Lamphelpat.	M/S Manipur Hume Pipe & Concrete work	Rs. 100000	Adjusted	C. Peter Ngahanyui.
32. 27.8.2004	Repairing of T-C Qtr 3 Nos. (Qtr. No. 4,5 & 6) for ICAR Complex Manipur Centre Lamphelpat.	M/S Manipur Hume Pie & Concrete work	Rs. 100000	Adjusted	C. Peter Ngahanyui.
33. 27.8.2004	Repairing of T-C Qtr 1 no. (Qtr. No. 3) for ICAR Complex Manipur Centre Lamphelpat.	M/S Manipur Hume Pipe & Concrete work.	Rs. 50000	Adjusted	C. Peter Ngahanyui.
34. 27.8.2004	C/o Institute Bldg for DIET at CC pur (Pat-IV)	P. Tarunkumar Singh,	Rs. 300000	Adjusted	C. Peter Ngahanyui.
35. 3.9.2004	C/o Finger Print Bureau Bldg (Ph-II) at Pangei.	L. Shamu	Rs. 300000	Adjusted	C. Peter Ngahanyui.
36. 20.9.2004	C/o Churachandpur Police Station under one time ACA (Sh: Compound fencing 350 mtrs long with 1 no. steel gate i/c RCC Pillar.	Haokhotinlen Vaiphei.	Rs. 284000	Adjusted	C. Peter Ngahanyui.
37. 20.9.2004	C/o 40 S.M. Barrack for security accommodation under NH Security Scheme at New Keiphundai.	Z.K. Diana	Rs. 330000	Adjusted	C. Peter Ngahanyui.
38. 23.9.2004	C/o Mayang Imphal Police Station under one time A.C.A. (Sh: c/o Sentry Tower 4 nos).	I. Chandrasekhar	Rs. 100000	Adjusted	C. Peter Ngahanyui.
39. 23.9.2004	C/o Mayang Imphal Police Station under one time A.C.A. (Sh: c/o Toilet Block & w.c. including septic tank 2 nos).	I. Chandrasekhar	Rs. 100000	Adjusted	C. Peter Ngahanyui.

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S. K. Singh
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23.9.2004	C/o Youth Hostel at Churachandpur.	M/S Manipur Hume Pipe & Concrete work L. Ajaykumar Singh	Rs.1000000	Adjusted	C. Peter Ngahanyui.
41. 27.9.2004	C/o TKD bldg. (D/S) CGI Sheet roof (Dormitory) for JNV at Kakching Khunou (Block-A)	L. Ajaykumar Singh	Rs. 614276	Adjusted	C. Peter Ngahanyui.
42. 27.9.2004	C/o TKD bldg (D/S) CGI Sheet roof(Dormitory) for JNV at Kakching Khunou (Block-C)	L. Ajaykumar Singh	Rs. 680000	Adjusted	C. Peter Ngahanyui.
43. 27.9.2004	C/o TKD bldg (D/S) CGI Sheet roof (Dormitory) for JNV at Kakching Khunou (Block-C)	L. Ajaykumar Singh	Rs. 680000	Adjusted	C. Peter Ngahanyui.
44. 27.9.2004	C/o TKD bldg (D/S) CGI Sheet roof (Dormitory) for JNV at Kakching Khunou (Block-D)	L. Ajaykumar Singh	Rs. 510000	Adjusted	C. Peter Ngahanyui.
45. 27.9.2004	C/o TKD bldg (D/S) CGI Sheet roof (Dormitory) for JNV at Kakching Khunou (Block-F)	L. Ajaykumar Singh	Rs. 500000	Adjusted	C. Peter Ngahanyui.
46. 27.9.2004	C/o TKD bldg.(D/S) CGI Sheet roof.(Dormitory) for JNV at Kakching Khunou (Block-H)	L. Ajaykumar Singh	Rs. 530000	Adjusted	C. Peter Ngahanyui.
47. 27.9.2004	C/o TKD bldg (D/S) CGI Sheet roof (Dormitory) for JNV at Kakching Khunou (Block-I)	L. Ajaykumar Singh	Rs. 530000	Adjusted	C. Peter Ngahanyui.
48. 7.10.2004	C/o Operation Theatre with RCC roofing and marble flooring at District Hospital Senapati.	L. Shamu Singh	Rs. 200000	Adjusted	C. Peter Ngahanyui.
49. 12.10.2004	C/o Multipurpose Hall for Imphal College.	L. Biren Singh	Rs. 400000	Adjusted	C. Peter Ngahanyui.
50. 18.10.2004	Transportation of Steel Rod	M/S Thongam Agency	Rs. 300000	Adjusted	C. Peter Ngahanyui.
51. 18.10.2004	C/o TKD bldg (D/S) CDL CGI Sheet roof (Dormitory) for JNV at Chandel (Block-B).	M/S S.N. Singh & Co.	Rs. 300000	Adjusted	C. Peter Ngahanyui.
52. 18.10.2004	C/o TKD bldg (D/S) CDL CGI Sheet roof (Dormitory) for JNV at Chandel (Block-C)	S. Ingo Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
53. 29.10.2004	Transportation of Steel Material	M/S Thongam Agency	Rs. 600000	Adjusted	C. Peter Ngahanyui.
54. 29.10.2004	C/o Sapermeina Police Station under one time ACA (Sh:-C/o compound fencing & Sentry tower 4 nos.)	L. Shamu Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
55. 9.11.2004	C/o KTD Bldg (D/S)at Kakching Khunou for JNV (Block-G)	L. Ajaykumar Singh	Rs. 600000	Adjusted	C. Peter Ngahanyui.
56. 9.11.2004	C/o District Police Office (SP Office) at Thoubal	Haokhotinlen Vaiphei	Rs. 500000	Adjusted	C. Peter Ngahanyui.
57. 10.11.2004	C/o Fencing for Senapati P.S.	Asung Müivah	Rs. 300000	Adjusted	C. Peter Ngahanyui.
58. 16.11.2004	C/o School bldg Govt. Ideal Blind School, Takyelpat, Imphal.	L. Ajaykumar Singh	Rs. 200000	Adjusted	C. Peter Ngahanyui.

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60.	17.11.2004	C/o TKD bldg (D/S) CGI roof for JNV at Kakching Khunou (Block-A).	L. Ajaykumar Singh	Rs. 200000	Adjusted	C. Peter Ngahanyui.
61.	17.11.2004	C/o TKD bldg (D/S) CGI roof for JNV at Kakching Khunou (Block-B)	L. Ajaykumar Singh	Rs. 200000	Adjusted	C. Peter Ngahanyui.
62.	17.11.2004	C/o TKD bldg (D/S) CGI roof for Kakching Khunou (Block-C)	L. Ajaykumar Singh	Rs. 200000	Adjusted	C. Peter Ngahanyui.
63.	17.11.2004	C/o TKD bldg (D/S) CGI roof for JNV at Kakching Khunou (Block-D).	L. Ajaykumar Singh	Rs. 200000	Adjusted	C. Peter Ngahanyui.
64.	17.11.2004	C/o TKD bldg (D/S) CGI roof for JNV at Kakching Khunou (Block-E).	L. Ajaykumar Singh	Rs. 175000	Adjusted	C. Peter Ngahanyui.
65.	17.11.2004	C/o TKD bldg (D/S) CGI roof for JNV at Kakching Khunou (Block-F).	L. Ajaykumar Singh	Rs. 175000	Adjusted	C. Peter Ngahanyui.
66.	17.11.2004	C/o TKD bldg (D/S) CGI roof for JNV at Kakching Khunou (Block-J).	L. Ajaykumar Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
67.	17.11.2004	C/o Security Barrack at Thanga Part-I & 11 Chaoba Ching (Sh: Providing IEI of 8 nos. S/Barrack, 7 nos of Sentry Post, 4 nos of Toilet block and 2 nos of kitchen.	P. Nilakanta Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
68.	30.11.2004	C/o (1) Sentry Post with gate at Thanga Pt-II (2) 20 S.M.B. 4 nos. at Thanga Part-II (3) Sentry Post at Thanga Pt-II.	Asung Muivah	Rs. 145000	Adjusted	C. Peter Ngahanyui.
69.	30.11.2004	C/o (1) 20 S.M.B. at Chaoba Ching Thanga Pt-I (2) Kitchen at Haorong Ching Thanga Pt-I (3) Kitchen one no. at Haoren Ching Thanga Pt-I & (4) Toilet block 2 nos. at Haoren Chinang Thanga Pt-I.	Khashirm Vashum	Rs. 145000	Adjusted	C. Peter Ngahanyui.
70.	10.12.2004	C/o Maternal & Child Health Centre at Thongju, Canchipur (Sh: C/o Staff Qtr (G+I).	L. Shamu Singh	Rs. 800000	Adjusted	C. Peter Ngahanyui.
71.	13.12.2004	C/o Police Station at Jiribam	S. Deepak Singh	Rs. 49800	Adjusted	C. Peter Ngahanyui.
72.	13.12.2004	Transportation of CGI Sheet 2 Iron Steel.	M/S Thongam Agency	Rs. 350000	Adjusted	C. Peter Ngahanyui.
73.	17.12.2004	C/o (1) 20 S.M. Barrack with Tubular trusses at Chaoba Ching Thanga Part-II, 4 - nos. (2) Sentry Post at Thanga Pt-II, 2-nos and (3) Sentry Post with gate at Thanga Post - II.	Asung Muivah	Rs. 600000	Adjusted	C. Peter Ngahanyui.

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7.12.2004	C/o (1) Toilet block at Haoreng Chingang, Thanga Part-I (2) 20 S.M. Barrack with tubular trusses at Chaoba Ching, Thanga Part-I, (3) Kitchen at Haoreng Chingang Thanga Part-I and (4) 30 S.M. B with tubular trusses at Haoreng Chingang, Thanga Part-I, 3-nos.	Khashim Vashum	Rs. 600000	Adjusted	C. Peter Ngahanyui.
75. 22.12.2004	C/o TKD. bldg (D/S)CGI Sheet roof Dormitory for JNV at Kakching Khunou (Block-F).	L. Ajaykumar Singh	Rs. 550000	Adjusted	C. Peter Ngahanyui.
76. 7.1.2005	Transportation of Steel Materials	M/S Thongam Agency	Rs.500000	Adjusted	C. Peter Ngahanyui.
77. 7.1.2005	Renovation of Central Courtyard of the Office-cum-laboratory bldg for ICAR Research Complex, NEH Region, Manipur Centre for Central Industrialisation	N. Chidananda (Alung)	Rs. 600000	Adjusted	C. Peter Ngahanyui.
78. 7.1.2005	Laboratory, Lamphelpat. Development of Kangla Fort (Sh: C/o Ibdhou Pakhangba Temple).	M. Boudhajit Singh	Rs. 1000000	Adjusted	C. Peter Ngahanyui.
79. 7.1.2005	C/o Garrage-cum-Dormitory, Central Me creation, Record-cum-store Work shed for Fire Services at Thoubal.	L. Shamu Singh	Rs. 400000	Adjusted	C. Peter Ngahanyui.
80. 7.1.2005.	Irlbung P.S. under one time ACA (Sh: Compound fencing, Sentry Post and Toilet Block).	L. Shamu Singh	Rs. 200000	Adjusted	C. Peter Ngahanyui.
81. 7.1.2005	Improvement of existing internal road from MPHC main gate to MT Office and approach road to MD's portico, general Section blocks i/c shingling of stock yard of 9 th Godown of MPHC Complex.	L. Shamu Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
82. 10.1.2005	C/o 40 S.M.B & Toilet Block at Porompat, Imphal.	M. Bachon Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
83. 18.1.2005	C/o Maternal & Child Health Centre at Thongju, Canchipur, Imphal (Sh: Land development).	L. Shamu Singh	Rs. 200000	Adjusted	C. Peter Ngahanyui.
84. 18.1.2005	Installation of Internal Electrification to Double storied CGI roofing Dormitory for JNV School at Kakching Khunou (Block -A to F).	P. Nilakanta Singh	Rs. 600000	Adjusted	C. Peter Ngahanyui.
85. 18.1.2005	C/o Finger Print Bureau Bldg (Ph-II) at Pangei.	L. Shamu Singh	Rs. 150000	Adjusted	C. Peter Ngahanyui.
86. 18.1.2005	Installation of Internal Electrification to Double storied CGI roofing Dormitory for JNV School at Kakching Khunou (Block - G to J).	P. Nilakanta Singh	Rs. 400000	Adjusted	C. Peter Ngahanyui.

34/2009
Central Administrative Tribunal
C. Peter Ngahanyui.

22 MAY 2009

गुवाहाटी न्यायालय
Guwahati Bench

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18.1.2005	C/o compound fencing wall 2 nos of Steel gate of Bishnupur P.S.	P. Nilakanta Singh	Rs. 150000	Adjusted	C. Peter Ngahanyui.
88. 18.1.2005	Providing IEI in Institute bldg for DIET at Tamu.	P. Nilakanta Singh	Rs. 150000	Adjusted	C. Peter Ngahanyui.
89. 18.1.2005	C/o Finger Print dBureau Bldg (Ph-I) at Pangei(Sh: Providing IEI).	P. Nilakanta Singh	Rs.60000	Adjusted	C. Peter Ngahanyui.
90. 18.1.2005	C/o Prisoners barrack for additional block at Central Jail Sajiva (Sh: Providing water supply & sanitary installation for Block – A,B,C & D).	L. Shamu Singh	Rs. 120000	Adjusted	C. Peter Ngahanyui.
91. 18.1.2005	C/o Maternal & Child Health Centre at Thongju, Cachipur (Sh: C/o Staff qtr. G+1 only).	L. Shamu Singh	Rs. 1500000	Adjusted	C. Peter Ngahanyui.
92. 18.1.2005	C/o Finger Print Bureau bldg (Ph-II) (Sh: Water supply & sanitary installation i/c 1-no, 30 users & 1-no, 15 users capacity septic tank).	L. Shamu Singh	50000	Adjusted	C. Peter Ngahanyui.
93. 19.1.2005	C/o Industrial Training Institute at Chandel (Sh: C/o Institutional bldg).	Md. Nashir Shah	Rs. 1000000	Adjusted	C. Peter Ngahanyui.
94. 19.1.2005	Development of Kangla Fort (Sh: Ibudhou Pekhangba Temple).	M. Boudhajit Singh	Rs. 1000000	Adjusted	C. Peter Ngahanyui.
95. 19.1.2005	Modernisation of Prisoners Administration (Sh: C/o outer security wall at Central Jail Imphal(37.50 Rm)	L. Shamu Singh	Rs. 30000	Adjusted	C. Peter Ngahanyui.
96. 19.1.2005	C/o Multipurpose Hall at D.M. College of Arts Imphal.	L. Biren Singh	Rs. 500000	Adjusted	C. Peter Ngahanyui.
97. 19.1.2005	C/o Sapermeina P.S. under one time ACA (Sh: Compound fencing).	L. Shamu Singh	Rs. 400000	Adjusted	C. Peter Ngahanyui.
98. 19.1.2005	Providing IEI of C/o Industrial Training Institute at Chandel (Sh: C/o Institution bldg).	E. Davidkumar	Rs. 250000	Adjusted	C. Peter Ngahanyui.
99. 19.1.2005	C/o (1) Compound fencing at Kakching P.S. for a length of 200 Rm (2) Compound fencing at Kakching P.S. for a length of 143 Rm with steel gate (3) Kakching P.S. bldg Pt-II.	Asung Muivah	Rs. 150000	Adjusted	C. Peter Ngahanyui.
100 19.1.2005	C/o (1) Compound fencing at Thoubal P.S. for a length of 200 Rm (2) Compound fencing of 152 Rm with steel gate (3) Thoubal P.S. bldg Phage-II.	Khashirm Vashum	Rs. 275000	Adjusted	C. Peter Ngahanyui.
101 19.1.2005	C/o TKD bldg (D/S)CGI Sheet roof (Dormitory for JNV at Kakching Khunou (Block – A).	L. Ajaykumar Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.

Adjusted
C. Peter Ngahanyui.
Central Administrative Tribunal

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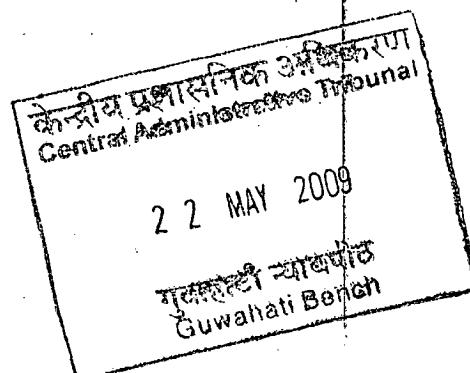
C. Peter Ngahanyui.
Guwahati Bench

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Advocate

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	19.1.2005	C/o TKD bldg (D/S) CGI Sheet roof (Dormitory for JNV at Kakching Khunou (Block - E).	L. Ajaykumar Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
103	19.1.2005	C/o TKD bldg (D/S) CGI Sheet roof (Dormitory for JNV at Kakching Khunou (Block - D).	L. Ajaykumar Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
104	19.1.2005	C/o TKD bldg (D/S) CGI Sheet roof (Dormitory for JNV at Kakching Khunou (Block-H).	L. Ajaykumar Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
105	19.1.2005	C/o TKD bldg (D/S) CGI sheet roof (Dormitory for JNV at Kakching Khunou (Block - I).	L. Ajaykumar Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
106	19.1.2005	C/o TKD bldg (D/S) CGI Sheet roof (Dormitory for NJV at Kakching Khunou (Block-C).	L. Ajaykumar Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
107	19.1.2005	C/o TKD bldg (D/S) CGI Sheet roof (Dormitory for JNV at Kakching Khunou (Block-B).	L. Ajaykumar Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
108	19.1.2005	C/o TKD bldg (D/S) CGI Sheet roof (Dormitory for JNV at Kakching Khunou (Block-J).	L. Ajaykumar Singh	Rs. 300000	Adjusted	C. Peter Ngahanyui.
109	19.1.2005	C/o School bldg. Govt. Ideal Blind School at Takyelpat.	L. Ajaykumar Singh	Rs. 1000000	Adjusted	C. Peter Ngahanyui.
110	19.1.2005	C/o Operation Theatre with R.C.C. roofing and marble flooring at District Hospital, Senapati.	L. Shamu Singh	Rs. 200000	Adjusted	C. Peter Ngahanyui.
111	1.9.2005	Transportation of Steel materials from TISCO Guwahati to MPHc Store Imphal.	M/S ISS Transport Agency	Rs. 500000	Adjusted	Y. Joykumar Singh
112	6.9.2005	Transportation of Steel material from TISCO Guwahati to MPHc	M/S ISS Transport Agency	Rs. 168104	Adjusted	Y. Joykumar Singh
113	27.9.2005	Renovation & Repairing of VIP Rooms of Manipur Police Officer's Club at MR Imphal.	Joy Lairenlakpam	Rs. 300000	Adjusted	Y. Joykumar Singh

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 S. K. Singh
 Advocate



To

The Secretary,
Department of Personnel and
Administrative Reforms
(Personnel Division),
Government of Manipur

केंद्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

Sub: Submission of written statement of
defence - Regarding.

22 MAY 2009

Ref: Memorandum No. 18/33/2005-IPS/DP
dated 18.07.2007 issued by the Department of
Personnel & A.R.(Personnel Division);
Government of Manipur.

गुवाहाटी न्यायालय
Guwahati Bench

Sir,

With reference to Memorandum dated 18.07.2007 cited above, my
tentative reply is furnished in the following paragraphs for kind information
and favour of necessary action.

2. That I received the above referred Memorandum dated 18.07.2007
on 24.07.2007 while I was on deputation with the Railways and stationed
at Guwahati and accordingly, I hereby acknowledge receipt of the same.

2.1. That I was required to submit my written statement of defence within
10 (ten) days of the date of receipt of the above referred Memorandum
dated 18.07.2007. As I was on deputation outside the State when I
received the said Memorandum and also I required some time for
preparation of my reply, the extension of the time for submission of my
written statement was initially sought till the end of August, 2007 and
subsequently, by another 7 (seven) days i.e. upto 07.09.2007.

3. That I have gone through the said Memorandum, and the
Annexures-I to IV enclosed therewith.

4. That with reference to the Articles of charge in Annexures-I and II
to the above mentioned Memorandum, I deny the charges leveled against
me and I state that I had never violated the provisions of the All India

S.K. Ganguly
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Advocate

Services (Conduct) Rules, 1968. It is respectfully submitted that I committed no mischief and misconduct warranting initiation of departmental enquiry/disciplinary proceedings against me. Therefore, I want to be heard in person if the proposed enquiry is to be held at all.

5. That from the perusal of the Annexures-I and II to the Memorandum dated 18.07.2007 now under reference, I have understood that I have been charged with making payment of advances to the tune of Rs. 2,61,45,000/- (Rupees two crores sixty one lakhs and forty five thousand) only during the period from June, 2004 to January, 2005 while functioning as Managing Director, Manipur Police Housing Corporation Ltd., Imphal, Manipur violating the provisions of CPWA Code and CPWD Manuals in respect of 65 numbers of bills for which the tendered amount is Rs. 18,71,99,124/-.

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6. That it is respectfully submitted that as I have not been supplied with copies of the documents mentioned from serial numbers 1 to 66 in the Annexure-III, I am unable to give a complete and effective written statement in the absence of the documents and as such this may kindly be treated as a tentative written statement.

7. That I exercised prudence, care and diligence in granting above mentioned advances to the contractors in the exigencies of work and public interest taking into consideration, inter alia, the following aspects:

(i) As per Clause 7(B) of the "Conditions of Contract" laid down in the "Agreement Book for MPHC Ltd., Imphal" the Secured Advances and Advances for works completed but not measured may be released on payment of interest @ Rs.9.50% per annum charging from the date such advances are given till the date of adjustment.

(ii) The Manipur Police Housing Corporation Ltd., is Incorporated/ set up to embark on execution of construction works of Government Departments/ Institutions as "Deposit Work" by

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S. K. Borthakur
Advocate

Conld 31.

22 MAY 2009

गुवाहाटी बाबापाल
Guwahati Bench

following the provisions of CPWA Code and CPWD Manuals with necessary modifications, wherever necessary, as deemed fit by the Board of Directors of this Corporation. To cite a few instances, because of the variation between the organizational set-up of the PWD and that of this Corporation, the Board of Directors of this Corporation adopted CPWD Code (for works) and accounts. The Managing Director is empowered to exercise the same powers as the Chief Engineer of CPWD prescribed in the Code and full powers in the matter of passing bills, etc. in respect of the works undertaken/executed by the Corporation. I tried my best to adhere to the relevant guidelines and instructions as far as practicable.

(iii) That as per norms and practice of this Corporation, the sanctioned estimated cost of construction works to be executed by this Corporation as "Deposit Works" are transferred from the State exchequer into the Corporation Fund before commencement of executing such works. In other words, the concerned Government Departments have to deposit the estimated cost of the works in advance into the accounts of this Corporation out of their budgetary provisions. Such deposits constitute a part of the "Corporation Fund". Payments made to the contractors, etc. by the Corporation out of its Accounts funded by the Government Department/ Institution in the above manner are regulated by the Corporation rules and regulations.

(iv) It may be mentioned that the engineers of this Corporation were continuously under threat from insurgent outfit. As a result of the above mentioned threat, the engineers of this Corporation could not inspect work sites freely as and when required and attend to their duties at the Corporation office.

*Certified to be true copy
S.K. Singha
Advocate*

particularly during the period between July, 2004 and December, 2004 in respect of the then SE/AddlCE and between June, 2004 and January, 2005 in respect of the 2 (two) Executive Engineers.

(v) It may be pertinent to mention that as per norms and also general instructions of the Government there was need to complete the projects/constructions within the stipulated time to avoid time over-runs resulting in cost-escalation. In this view of the matter, it was my considered view that the above hindrances and stumbling blocks should not be allowed to stand in the way of smooth and speedy progress of the works. Therefore, it would be prudent to release advances to the contractors commensurate with the progress of work with recommendation of the Engineer in-charge or by carrying out spot enquiry by myself where the concerned engineer's could not be involved because of the circumstances stated above.

22

(vi) Further, it may be mentioned that the Corporation could earn a revenue to the tune of Rs. 26,41,817/- as interest accrued on the above advances in addition to other charges realized from the contractors.

(vii) Because of this Corporation's good reputation earned by virtue of execution of works with speed and quality, the Government Departments have chosen the option of entrusting the construction works to this Corporation increasingly. During the absence of the engineers or non-availability of their services beyond their control the functioning of this Corporation cannot be stopped at the cost of its reputation and goodwill. With this end in view sometimes, I inspected work site to see the progress of works and released reasonable amount of advances to the contractors.

22 MAY 2009

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(viii) After completion of the construction of works at hand the concerned Engineers inspected the works and recorded the details of the work done in the Measurement Books and payment of final bills have since been made by realizing the advances given to them. Not a single complaint came up to my notice from the engineers with regard to quality and volume of works done for which advances were made during the above period nor for any pecuniary loss to the Corporation due to excess payment of advances.

8. That it is submitted that I had not the slightest intention to disobey or violate the rules and regulations of the Corporation including the applicable provisions of the CPWA Code and CPWD Manuals in the discharge of my duties as Managing Director. I always tried my best to perform my duties with all sincerity, diligence and unflinching endeavours in the interest of the Corporation.

9. That as submitted in Para 6 above, I am not in a position to furnish my statement of defence in a complete and final form in the absence of the documents mentioned in Para 6 above

10. In view of the above circumstances, it is requested that the above mentioned documents may kindly be supplied to me within 2 (two) weeks from the date of receipt of this tentative written statement to enable me to submit a complete and effective statement of my defence, for the ends of justice.

Imphal,
The 8th September, 2007
7/6

Yours faithfully,
C. Peter Ngahaijyui 7.9.07
(C. Peter Ngahaijyui)IPS

g/e

Certified to be True Copy

SK Singh
Advocate

PRINCIPLES REGARDING PROMOTION OF MEMBER OF IPS IN THE STATE CADRE

I. PROMOTION TO SENIOR TIME SCALE

Director General and Inspector General of police and where no cadre post of DG exists, the Addl. DG of Police may evaluate the performance of those members of the service who have completed 4 years of service, for deciding their suitability for promotion to Senior Time Scale posts, keeping in view the provisions of rule 6A of the I.P.S. (Recruitment) Rules, 1954 and make suitable recommendations to the State Government. This Scale shall be available from or after the 1st January of the relevant year and subject to availability of vacancies in this grade.

II. PROMOTION TO THE JUNIOR ADMINISTRATIVE GRADE

This grade is non-functional and shall be admissible without any screening to all the officers working in the Senior Time Scale who have completed 9 years of service, from 1st January of the relevant years.

22 MAY 2009

III. PROMOTION TO THE SELECTION GRADE

A Committee consisting of the Chief Secretary, the Secretary-in-charge of the Police Department and the Director General and Inspector General of Police (Addl. Director General of Police where there is no cadre post of DG) may screen the cases of those officers in the Junior Administrative Grade who have completed 13 years of service, for promotion to the Selection Grade as per the provisions of the IPS (Pay) Rules, 1954. On the basis of merit with due regard to seniority selection grade will be available from or after 1st January of the relevant year subject to the availability of vacancies in the said grade.

Guwahati Central Administrative Tribunal
Guwahati Bench

IV. PROMOTION TO SUPER-TIME SCALE AND THE ABOVE SUPERTIME SCALE POSTS

(A) Composition of the Screening Committees

(i) for Supertime Scale posts :-

NO.45020/11/97-IPS.II Dated 15-01-99

*Certified to be True Copy
Sik Singh
Advocate*

The Screening Committee for this purpose (for promotion to the grade of DIG and IG) would be the same, as the one constituted for Screening of officers for promotion in the selection grade. Committee for the Union Territories Cadre would comprise the Union Home Secretary as Chairman, with Additional Secretary or the Joint Secretary in the Ministry of Home Affairs who is in charge of UT Police Cadre and Commissioner of Police, Delhi as members.

(ii) for the above Supereme Scale posts -

The Screening Committee for promotion of an officer to the grade of Director General as well as Addl. Director General of Police and /or equivalent post; would consist of (i) Chief Secretary, (ii) one non-IPS officer of the rank of Chief Secretary and working in the State Government (iii) Director General of Police and (iv) an additional member in case there is a senior officer available who is holding independent charge of Home Secretary and is in the rank of Addl. Chief Secretary or Chief Secretary (with rank not less than that of Additional Secretary to Government of India).

(B) Zone of Consideration

The zone of consideration of officers for promotion to various grades, would be as follows, depending upon the availability of posts:

1. For promotion to the Grade of DIG

Officers who have completed 14 years of service

2. For promotion to the Grade of IGP

Officers who have put in 18 years of service

3. For promotion to the Grade of Addl. DGP

Officers who have put in 26 years of service

4. For promotion to the Grade of DGP

Officers who have put in 30 years of service

(C) Method of Selection

i) Selection should be based on merit with due regard to seniority as provided in sub-rule 2A of Rule (3) of the Indian Police Service (Pay) Rules, 1954.

संसदीय दिवानी विभाग
Central Administrative Tribunal

22 MAY 2009

निर्वाचन विभाग
Guwahati Bench

NO.45020/11/97-TPS.II Dated 15-01-99

संसदीय दिवानी
Central Administrative Tribunal

Signature
Advocate

-41-

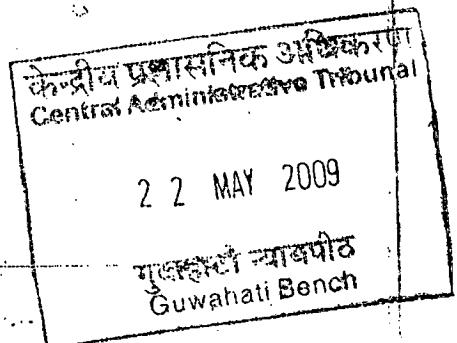
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- ii) Suitability of officers to hold posts of and above the Selection Grade may be adjudged by evaluating their character roll record as a whole and general assessment of their work.
- iii) An officer who has not been included in the panel other than DG in the first instance should be eligible for reconsideration after earning two more annual confidential reports. For DG level, reconsideration could be after earning at least one more ACR.
- iv) Special review may be done in cases where adverse remarks in an officer's annual confidential reports are expunged subsequently as a result of his representation/ memorial.

(D) Period of validity of the panel

- i) A fresh panel should be prepared as soon as all the officers in the earlier panel have been provided for. Empanelment of officers shall be considered batch-wise. Care shall be taken to ensure that officers are suggested/ considered for appointment to various grades in the order of their interview position in the panel. The record of the officers who have been empanelled for promotion but are yet to be promoted despite a lapse of 2 years, may be screened to see if in the last two years, there had been any deterioration in their standard as would warrant their delisting from the panel.
- ii) If a vigilance or departmental inquiry has been started against an officer on the panel after a preliminary enquiry establishing charges prima facie, the said officer shall not be promoted, pending the result of inquiry.

General Principles for promotion would be as given in Annexure.



NO.45020/11/97-IPS.II Dated 15-01-99

Certified

S.K. Singha

GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)

ORDERS BY THE GOVERNOR: MANIPUR

Imphal; the 25th October, 2007

No.3/1/2002-IPS/DP : The Governor of Manipur is pleased to order the transfer and posting of the following IPS Officers as detailed below with immediate effect and until further orders in public interest :-

<u>Sl.No.</u>	<u>Name of Officer</u>	<u>New Place of Posting</u>
(1)	Shri C. Peter Ngahanyui, IPS(MT-75) as <i>(on repatriation from Central Deputation)</i>	OSD(Home) Government of Manipur
(2)	Shri V. Zathang, IPS(MT-83) Director/Fire Service	Inspector General of Police(Law & Order-III)

2. The works of Director/Fire Service shall be looked after by Shri N. Noren Singh, Joint Director/Fire Service till a regular arrangement is made in this regard.

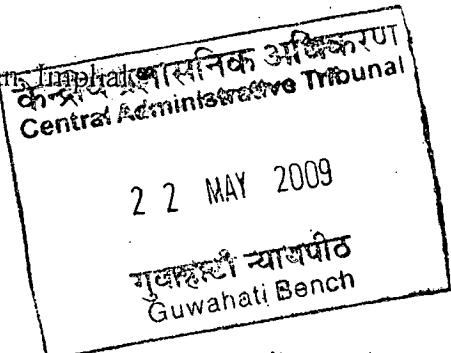
3. The period from 17-08-2007 to the date on which Shri C.Peter Ngahanyui, IPS takes over the charge of OSD(Home) shall be treated as compulsory wait.

By orders & in the name of the
Governor,

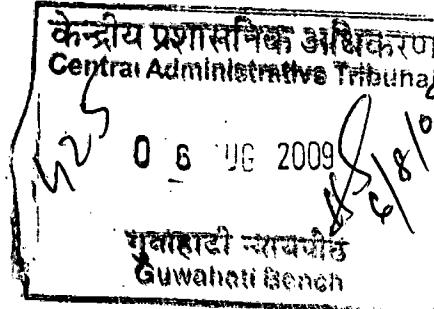
(Signature)
(Seikholet Lhangum)
Under Secretary (DP)
Government of Manipur

Copy to:

1. The Secretary to the Governor of Manipur, Raj Bhavan, Imphal.
2. The Secretary to Chief Minister, Manipur.
3. The P.S. to Chief Secretary, Government of Manipur.
4. The Principal Secretary(Home), Govt. of Manipur.
5. The Director General of Police, Manipur.
6. The Accountant General, Manipur.
7. The Joint Secretary(ACR), Government of Manipur.
8. The Officers concerned.
9. The Treasury Officers concerned.
10. Guard file/Orders Book.



Certified to be True Copy
S. Singh
Advocate



DISTRICT : IMPHAL

STATE : MANIPUR

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Filed by

Debabrata Choudhury

Subroto Choudhury
Under Secretary (D.P.)
Government of Manipur

8,
Sanjeeb Km. Deka
Advocate
6.08.09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GAUHATI BENCH

O.A.NO. 92/2009

Sri C. Peter Ngahanyui

..... Applicant

-Versus-

The Union of India & Ors

..... Respondents

The humble Written Statement of the above named Respondents No. 1, 2 and 3 is as follows:

1. That, the said Original Application filed by the Applicant is not maintainable in law and on facts.
2. That, all the statements and contentions made by the Applicant in the above mentioned Original Application, which are not specifically admitted herein below are deemed to have been denied by the answering Respondents.
3. That, the answering Respondents beg to state that the statements made in paragraph-1 of the Original Application are matters of record and the answering Respondents do not admit anything which are not borne out of record.
4. That, this Hon'ble Tribunal has no jurisdiction to entertain this Original Application and the answering Respondents deny the statements made in paragraph-2 of the Original Application.

06 AUG 2009

Guwahati Bench

- 2 -

5. That, the Original Application is barred by limitation and the answering Respondents deny the statements made in paragraph 3 of the Original Application.

6. That, with regard to the statements made in paragraphs 4.1 to 4.4 of the Original Application, the answering Respondents has no comment to make and does not admit anything which are not borne out of record.

7. That, with regard to the statements made in paragraph 4.5 of the Original Application the answering Respondents beg to state that the Governor of Manipur on 23rd of July 2007 vide Government order No. 3/1/2001-IPS/DP (i) appointed Sri Y.Joykumar Singh, IPS(MT:76)(Respondent No.4) to the grade and scale of Director General of Police in the IPS above Supertime Scale of Rs.24,050-650-26,000/-. It is pertinent to mention herein that as per Government of India, Ministry of Home Affairs guidelines circulated vide MHA's letter No. 45020/11/97-IPS-II dated 15.01.1999, IPS Officers who have completed 30 years of service are eligible for promotion to DGP. In the Departmental Promotion Committee (DPC in short) held on 19.07.2007 the Committee considered the names of 5(five) IPS officers who have completed 30 years of service and eligible for promotion to DGP. The names of IPS officers whose names were considered in the said DPC are as follows:

1. Sri A.B. Mathur, IPS(MT:75)
2. Sri C. Peter Ngahanyui, IPS(MT:75)
3. Sri Y. Joykumar Singh, IPS(MT:76)
4. Sri J.C. Dabas, IPS(MT:77)
5. Sri M.K.Das, IPS(MT:77)

It is further pertinent to mention herein that the State Government initiated a Departmental Enquiry against the Applicant in connection with irregular payment of advance money to the tune of Rs. 2,61,45,000/- during the period from June, 2004 to January, 2005 while he was working as Managing Director, Manipur Police Housing Corporation Ltd., violating provisions of Central Public Works

06/07/2009

Guwahati Branch

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Account Code and Central Public Works Departments Manuals in respect of 65 Nos. of bills for which the tendered amount was Rs.18,71,99,000/- The Memorandum of charges dated 18.07.2007 bearing Memo No. 18/33/2005-IPS/DP (Annexure-C to the Original Application) has been issued to the Applicant while he was on deputation as Chief Security Commissioner, Railway Protection Force, North-East Frontier Railway, Maligaon, Guwahati. The Guidelines circulated by the Government of India, Ministry of Home Affairs vide its letter dated 15.01.99 under heading "Principles Regarding Promotion of Member of IPS in the State Cadre" puts a specific bar on Promotion of the Officers against whom Departmental Enquiry is Pending. The relevant provision is quoted herein below-

"IV. Promotion to Super-Time Scale and the Above Supertime Scale

Posts:

(D) Period of Validity of the panel:

(ii) If a vigilance or departmental enquiry has been started against an officer on the panel after a preliminary enquiry establishing charges prima facie, the said officer shall not be promoted, pending the result of inquiry."

A copy of the said guidelines circulated by the Ministry of Housing Affairs is annexed hereto and marked as **ANNEXURE-A**.

8. That, the statement made in Paragraph 4.6 of the Original Application is matter of record and the respondents do not admit anything which are not borne out of record.

9. That, with regard to the statement made in paragraph 4.7 of the Original Application the answering Respondents beg to state that as stated hereinabove in Paragraph 7 of this Written Statement, the Applicant was served with the Memorandum of charges dated 18.07.2007 bearing Memo No. 18/33/2005-IPS/DP.

06.06.2009

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(4b)

গুৱাহাটী বাহ্যিক
Guwahati Bench

10. That, the statements made in the Paragraphs 4.8 and 4.9 of the Original Application are matters of record and the answering Respondents do not admit anything which are not borne out of record.

11. That, with regard to statements made in paragraph 4.10 of the Original Application, the humble answering Respondents beg to state that to enquire into the Charges framed against the Applicant vide memorandum of charges dated 18.07.2007 an Inquiring Authority was appointed in 17.10.2007. The Departmental Enquiry was initiated only after serious lapses on the part of the Applicant were brought to the notice of the Government. The departmental enquiry had been instituted after full fledged enquiry had been carried out by the State Vigilance Commission. The manner in which advances were granted, the number and frequency of advances as well as the timing of advances raised serious questions necessitating a thorough enquiry into the matter. The deponent begs to state that the Applicant made advances against works that had already been cancelled and rescinded (in respect of the work of Modernisation of Prisoner's Administration) and also granted advances much in excess of the authorized limit (in respect of the work of Maternal and Child Health Center, Thongju). These are illustrative examples of serious lapses on the part of the Applicant and all such cases against the Applicant are being examined in detail in the on going enquiry. The Enquiry Report from the Inquiring Authority is still being awaited.

12. That, with regard to statements made in paragraph 4.11 of the Original Application, it is denied that the Applicant has been made a victim of the continued biased and discriminatory treatment and prejudice of some of the higher officials/authorities. It is also denied that the entire enquiry proceeding vis-à-vis non consideration of Applicant's case to enjoy the status as like his junior in the service are vindictive acts on the part of the Respondent authorities. It is further denied that Departmental proceeding with the charges leveled against the Applicant has no footing and vindictive and arbitrary. As mentioned in paragraph- 11 hereinabove in this Written Statement, the Inquiring Authority has already been constituted and Enquiry is going on. The Applicant has Challenged the said

Departmental Enquiry also vide another Original Application O.A.211/08, which is pending before this Hon'ble Tribunal.

13. That, with regard to the statements made in the paragraph 4.12 of the Original Application, the deponent begs to state that while the representation of the Applicant asking for the documents was under process, the Applicant filed the Written Statement on 07.09.07. After processing the representation the applicant was intimated vide Letter dated 17.10.07 to the effect that the State Government has considered the request and decided to allow him to see the documents listed in Annexure-III of the charge mentioned in the memorandum in the course of the Disciplinary Proceedings. The applicant is at liberty to file Additional Written Statement as per law if desired after going through documents.

A copy of the said Letter dated 17.10.07 is annexed hereto and marked as
ANNEXURE-B.

14. That, with regard to statements made in Paragraph 4.13 of the Original Application, the humble answering Respondents deny that the Respondent No.4 Sri Y. Joykumar Singh ,IPS(MT:76) have not completed 30 years of Service on 19.07.07. It is further denied that Y. Joykumar Singh , IPS(MT:76), Respondent No.4 joined in the service of IPS only on 13.12.1977, as such Respondent No.4 was not eligible for promotion on the day DPC was held. It is stated herein that Respondent No.4 joined IPS on 14.11.1976. It is further stated that the number of years in the service of an IPS officer is calculated from the year of allotment assigned to him. The year of allotment of Respondent No.4 is 1976 and as such he had already completed more than 30 years of service on the day DPC was held i.e 19.07.07. It is pertinent to mention herein that the DPC was held on 19.07.07 and the Promotion order of Respondent No.4 was issued on 23.07.2007 that is after 5 days of issuance of the Charge Memo dated 18.07.07.

The answering respondents begs to state that as per guidelines dated 15.01.1999 Circulated by the Ministry of Home Affairs, Govt. of India, the screening committee should have two officers of the rank of Chief Secretary (the Chief Secretary and also a non IPS officer of the rank of Chief Secretary and

08 2009

Guwahati Bench

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working in the State Government). In the screening committee meeting held on 19.07.2007, the Chief Secretary, Government of Manipur and the Principal Secretary (Planning), Government of Manipur had participated. Shri D.V.Singh, Principal Secretary (Planning), Government of Manipur is an officer of 1976 batch of the IAS and was already eligible to hold the post chief Secretary of the State Government. As per cadre strength of IAS in respect of Manipur, there is only one post of Chief Secretary. As such Shri D.V.Singh, though not working as Chief Secretary, was certainly in the rank of Chief Secretary having completed 30 years of service.

It is pertinent to mention herein that when the petitioner was promoted to the rank of ADGP, the screening committee had the Chief Secretary and a Principal Secretary as members. As per the guidelines then in force the requirement was to have the Chief Secretary and a non- IPS officer in the rank of Chief Secretary as members. At that time also the then Principal Secretary, though not posted as Chief Secretary was considered in the rank of Chief Secretary by virtue of the number of years of service put in.

Photostat copies of IPS Civil List and the Rule 3 of the Indian Police Service (Pay) Rules are annexed herewith and marked as **ANNEXURE-C** and **ANNEXURE-D**.

15. That, with regards to statements made in paragraphs 4.14 to 4.17 of the Original Application, the answering Respondents beg to state that those are matters of record and do not admit anything which are not borne out of record. However, as the Departmental enquiry is pending against the Applicant before the Inquiring Authority this will depend upon report of the Inquiring Authority.

16. That, with regard to the statements made in the paragraph 4.18 of the Original Application, the answering Respondents beg to state that those are matters of record and the answering Respondents do not admit anything which are not borne out of record. However, it is pertinent to mention herein that the

Applicant was posted as Officer on Special Duty (Home), Government of Manipur on 25.10.2007.

17. That, with regard to the statements made in the paragraphs 4.19 of the Original Application, the answering Respondents beg to state that those are matters of record and the answering Respondents do not admit anything which are not borne out of record.

18. That, with regard to grounds of relief with legal provision set forth in paragraphs 5(i) to 5(viii) of the original application are not tenable in view of the facts and circumstances narrated above. The answering Respondents crave leave of the Hon'ble Tribunal to give appropriate submissions against the said grounds at the time of hearing.

19. That, with regard to the statements made in the paragraphs 7 and 8 of the Original Application, the answering Respondents have no comment to make and do not admit anything which are not borne out of record.

20. That, with regard to the statements made in the paragraph 9 of the said application the answering Respondents beg to state that the relief prayed for by the Applicant may not be granted by the Hon'ble Tribunal in view of the facts and circumstances of the case as narrated above.

21. That, with regard to the Interim Reliefs set forth in the paragraph 10 of the original application are not tenable in view of the facts and circumstances narrated above.

22. That, the answering Respondents crave leave of the Hon'ble Tribunal to produce the relevant records at the time of hearing of this case if so necessary.

23. That, in view of the above, none of the grounds as urged by the Applicant are tenable and the applicant is not entitled to any relief as has been claimed by him and as such the said application is liable to be dismissed.

-VERIFICATION-

I, Sri Seikholet Lhangum, son of Late Sehpao Lhangum, aged about 58 years, a resident of Khongsai Veng in the District of Imphal East, Manipur, presently working as under secretary (DP), Govt. of Manipur, do hereby verify that the statements made in paragraphs 1 to 23 of the Written Statement are true to the best of my knowledge, belief and derived from record and being authorized by the respondents No. 1,2 & 3, I sign this verification on 6th day of August, 2009 at Guwahati.

Seikholet Lhangum

Seikholet Lhangum MSS
Under Secretary (DP)
Government of Manipur
(DEPONENT)

06.08.2009

PRINCIPLES REGARDING PROMOTION OF MEMBER OF IPS IN THE STATE CADRE

I. PROMOTION TO SENIOR TIME SCALE

Director General and Inspector General of police and where no cadre post of DG exists, the Addl. DG of Police may evaluate the performance of those members of the service who have completed 4 years of service, for deciding their suitability for promotion to Senior Time Scale posts, keeping in view the provisions of rule 6A of the I.P.S. (Recruitment) Rules, 1954 and make suitable recommendations to the State Government. This Scale shall be available from or after the 1st January of the relevant year and subject to availability of vacancies in this grade.

II. PROMOTION TO THE JUNIOR ADMINISTRATIVE GRADE

This grade is non-functional and shall be admissible without any screening to all the officers working in the Senior Time Scale who have completed 9 years of service, from 1st January of the relevant years.

III. PROMOTION TO THE SELECTION GRADE

A Committee consisting of the Chief Secretary, the Secretary-in-charge of the Police Department and the Director General and Inspector General of Police (Addl. Director General of Police where there is no cadre post of DG) may screen the cases of those officers in the Junior Administrative Grade who have completed 13 years of service, for promotion to the Selection Grade as per the provisions of the I.P.S. (Pay) Rules, 1954. On the basis of merit with due regard to seniority selection grade will be available from or after 1st January of the relevant year subject to the availability of vacancies in the said grade.

IV. PROMOTION TO SUPER-TIME SCALE AND THE ABOVE SUPERTIME SCALE POSTS

(A) Composition of the Screening Committees

(i) for Supertime Scale posts :-

- 10 -

(52)

06 AUG 2009

गुवाहाटी न्यायालय
Guwahati Bench

— 216 —

— 2 —

The Screening Committee for this purpose (for promotion to the grade of DIG and IG) would be the same, as the one constituted for Screening of officers for promotion in the selection grade. Committee for the Union Territories Cadre would comprise the Union Home Secretary as Chairman, with Additional Secretary or the Joint Secretary in the Ministry of Home Affairs who is incharge of UT Police Cadre and Commissioner of Police, Delhi as members.

(ii) for the above Supertime Scale posts -

The Screening Committee for promotion of an officer to the grade of Director General as well as Addl. Director General of Police and /or equivalent post; would consist of (i) Chief Secretary, (ii) one non-IPS officer of the rank of Chief Secretary and working in the State Government (iii) Director General of Police and (iv) an additional member in case there is a senior officer available who is holding independent charge of Home Secretary and is in the rank of Addl. Chief Secretary or Chief Secretary (with rank not less than that of Additional Secretary to Government of India).

(B) Zone of Consideration

The zone of consideration of officers for promotion to various grades, would be as follows, depending upon the availability of posts :

1. For promotion to the Grade of DIG
2. For promotion to the Grade of IGP
3. For promotion to the Grade of Addl. DGP
4. For promotion to the Grade of DGP

Officers who have completed 14 years of service

Officers who have put in 18 years of service

Officers who have put in 26 years of service

Officers who have put in 30 years of service

(C) Method of Selection

- i) Selection should be based on merit with due regard to seniority as provided in sub-rule 2A of Rule (3) of the Indian Police Service (Pay) Rules, 1954.

06 AUG 2009

Guwahati Bench

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(53)

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- ii) Suitability of officers to hold posts of and above the Selection Grade may be adjudged by evaluating their character roll record as a whole and general assessment of their work.
- iii) An officer who has not been included in the panel other than DG, in the first instance should be eligible for reconsideration after earning two more annual confidential reports. For DG level, reconsideration could be after earning at least one more ACR.
- iv) Special review may be done in cases where adverse remarks in an officer's annual confidential reports are expunged subsequently as a result of his representation/ memorial.

(D) Period of validity of the panel

- i) A fresh panel should be prepared as soon as all the officers in the earlier panel have been provided for. Empanelment of officers shall be considered batch-wise. Care shall be taken to ensure that officers are suggested/ considered for appointment to various grades in the order of their interse position in the panel. The record of the officers who have been empanelled for promotion but are yet to be promoted despite a lapse of 2 years, may be screened to see if in the last two years, there had been any deterioration in their standard as would warrant their delisting from the panel.
- ii) If a vigilance or departmental inquiry has been started against an officer on the panel after a preliminary enquiry establishing charges prima facie, the said officer shall not be promoted, pending the result of inquiry.

General Principles for promotion would be as given in Annexure.

(53)
 2. (प्रति 1997)
 AGBIR SINHA
 अन्तर्गत विभागीय
 Section Officer
 गुवाहाटी
 Ministry of Home

06.08.2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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ANNEXURE-B

—257—

Annexure-I

No.18/33/2005-IPS/DP
GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)

Imphal, the 17th October, 2007.

To

Shri C. Peter Ngahanyui, IPS,
C/O, Director General of Police, Manipur.

**Subject:- Submission of written statement of
defence – Regarding**

Sir,

I am directed to refer to your letter No. NIL dated 07.09.2007 on the above subject and to say that State Government has considered your request and decided to allow you to see the documents listed in Annexure-III of the charge mentioned in the memorandum in the course of the Disciplinary Proceedings.

Yours faithfully,


(Seikhalei Lhangum)
Under Secretary(DP),
Government of Manipur.

Copy to:-

1. The P.S. to Chief Secretary, Government of Manipur.
2. Shri Saichhuan, IAS, Additional Chief Secretary, Government of Manipur, *Inquiring Authority*.
3. The Director of Vigilance, Manipur.

6/c

मणिपुर-त्रिपुरा MANIPUR-TRIPURA

भारतीय पुलिस सेवा की अधिकृत संवर्ग रख्या (01/01/2009 की यथारिति) .
 Authorised Cadre Strength of the Indian Police Service (As on 01/01/2009)

द. सो. प. के.प्र.रि. रा.प्र.रि. छु.क.प्र.रि. सी.भ.को. प.को. कु.अ. स. भा.पु.सो.या अधिकारियों की यथांस्थिति।

CDR	SDR	LR & JR. TR	DRQ	PQ	TAS	No. of officers in position under			
66	26	16	13	85	36	121	4	72	25
Sl. No.	Name of the IPS Officer/ Educational qualification	Source of Recruitment, ID No., Home State	Date of birth, Date of appointment to IPS	DRQ (Jr.S Sr.S & above)			PQ		
66	अधिकारी यज नाथ, शैक्षिक योग्यता	भर्ती का स्रोत, पहचान संख्या और गृह राज्य	जन्म तिथि, भा.पु.से. में नियुक्ति की तारीख	वर्तमान पद, वर्तमान पद पर नियुक्ति की तारीख, येतन	प्राप्त पुलिस पदक, पदक, पदक, येतन				
(1)	(2)	(3)	(4)	(5)	(6)				
सदस्यी S/Shri									
<u>Allotment Year: 1974</u>									
1	अनुप कुमार पराशर Anup Kumar Parashar M.A.	RR Delhi	19741040 13/01/1950 14/07/1974	OSD, Home 25/11/2008 HAG + 75500-80000	PMMS PSDM PPMDS 2007				
2	प्रणय सहाय Pranay Sahay M.Sc.(Physics)	RR Rajasthan	19751008 10/07/1953 14/11/1975	DGP, Tripura 15/07/2008 80000 (fixed)	PM IPM				
3	ए बी मथुर A B Mathur M.Sc., MA	RR Manipur	19751036 10/05/1952 16/07/1975	- 31/08/2007 HAG + 75500-80000					
4	सी पीटर नगान्युइ C Peter Ngahanyui B.A.	RR Manipur	19751046 12/02/1952 20/07/1975	OSD (Home), Manipur 29/10/2007 37400-67000, 12000	PSDM				
5	आर के शुक्ला R K Shukla M.Sc.	RR Uttar Pradesh	19761008 15/11/1951 14/07/1976	Jt. Secy. NSCS, New Delhi 26/09/2007 37400-67000, 12000	PPM PM				
<u>Allotment Year: 1976</u>									
6	याह जोयकुमार सिंह Y Joykumar Singh M.Sc.	RR Manipur	19761009 01/09/1953 14/11/1976	DGP, Manipur 16/03/2007 HAG + 75500-80000	PMMS PPM PPMDS 2007				

Ministry of Personnel, Public Grievances and Pensions

THE INDIAN POLICE SERVICE (PAY) RULES, 1954

Annexure - II

04

In exercise of the powers conferred by sub-section (1) of section 3 of the All-India Services Act, 1951 (LXI of 1951), the Central Government, after consultation with the Governments of the States concerned, hereby makes the following rules, namely:-

1. Short title.- These rules may be called the Indian Police Service (Pay) Rules, 1954.

2. Definitions.- In these rules, unless the context otherwise requires-

2 (a) 'Cadre' and 'Cadre Post' shall have the meanings respectively assigned to them in the Indian Police Service (Cadre) Rules, 1954;

2(b) 'Departmental Examination' means such examination as may be prescribed by the State Government from time to time for members of the Service allotted to the cadre of that State or posted to that State for training;

2(c) 'Direct Recruit' means a person appointed to the Indian Police Service in accordance with rule 7 of the Indian Police Service (Recruitment) Rules, 1954;

2(cc) 'Indian Police member of the Indian Police Service' means a person, who was initially appointed to the Police Service of the Crown in India known as the Indian Police and who subsequently became a member of the Indian Police Service;

2(d) 'Member of the Service' means a member of the Indian Police Service;

2(e) 'Promoted Officer' means an officer appointed to the Indian Police Service by promotion from a State Police Service in accordance with rule 9 of the Indian Police Service (Recruitment) Rules, 1954;

2(f) 'Schedule' means a Schedule appended to these rules;

2(g) 'State' means 1 [a State specified in the First Schedule to the Constitution and includes a Union Territory];

2(h) 'State Cadre' and 'Joint Cadre' have the meanings respectively assigned to them in the Indian Police Service (Cadre) Rules, 1954;

2(i) 'State Police Service' shall have the meaning assigned to it in the Indian Police Service (Recruitment) Rules, 1954;

2(j) State Government concerned in relation to a probationer allotted to a Joint cadre, means the Joint Cadre Authority.

3. Scales of pay.-

3(1) The scales of pay admissible to a member of the Service and the dates with effect from which the said scales shall be deemed to have come into force, shall be as follows:-

Junior Scale- Rs.8000-275-13500 (with effect from the 1st day of January, 1996).

Senior Scale -

(i) Time Scale - Rs.10000-325-15200 (with effect from the 1st day of January, 1996).

(ii) Junior Administrative Grade-Rs.12000-375-16500 (non-functional) (with effect from the 1st day of January, 1996).

Provided that a member of the Service shall be appointed to the Senior Time Scale on his completion of four years of service, subject to the provisions of sub-rule (2) of rule 6A of the Indian Police Service (Recruitment) Rules, 1954 and to the Junior Administrative Grade on completion of nine years of service.

(Note : The four years and nine years of service in this rule shall be calculated from the year of allotment assigned to him under rule 3 of the Indian Police Service (Regulation of Seniority) Rules, 1988.

(iii) Selection Grade- Rs.14300-400-18300 (with effect from the 1st day of January, 1996).

Supertime Scales -

(a) Deputy Inspector General -Rs.16400-450-20000 (with effect from the 1st day of January, 1996).

(b) Inspector General - Rs.18400-500-22400 (with effect from the 1st day of January, 1996).

-15- (57)

A. Junior Scale - Rs.8000-275-13500 (with effect from the 1st day of January, 1996).

B. Senior Scale -

- (i) **Time Scale** - Rs.10000-325-15200 (with effect from the 1st day of January, 1996);
- (ii) **Junior Administrative Grade** - Rs.12000-375-16500 (non-functional) (with effect from the 1st day of January, 1996);
- (iii) **Selection Grade** - Rs.14300-400-18300/- (with effect from the 1st day of January, 1996);

C. Super Time Scale - (i) Deputy Inspector General of Police – Rs.16400-450-20000/-
(with effect from 1st day of January, 1996);

(ii) Inspector General of Police – Rs.18400-500-22400/-
(with effect from 1st day of January, 1996)

D. Above Super Time Scale - (i) Additional Director General of Police – Rs.22400-525-24500/-
(with effect from 1st day of January, 1996);
(ii) Director General of Police – Rs.24050-650-26000/- (with effect from 1st day of January, 1996)

Provided that a member of the Service shall be eligible for appointment to the senior time scale on his completion of four years of service, subject to the provisions of sub-rule 2 of rule 6A of the Indian Police Service (Recruitment) Rules, 1954, to the Junior Administrative Grade on completion of nine years of service, to the Selection Grade on completion of thirteen years of service, to the Deputy Inspector General Supertime Scale on completion of fourteen years of service and to the Inspector General Supertime Scale on completion of eighteen years of service.

Note 1: Appointment of a member of the Service to the Time Scale and above shall be regulated as per the provisions in the Guidelines regarding promotion to various grades in the Indian Police Service:

Note 2: The four years, nine years, thirteen years, fourteen years and eighteen years of service in this rule shall be calculated from the year of allotment assigned under rule 3 of the Indian Police Service (Regulation of Seniority) Rules, 1954.

Note 3: The period of extraordinary leave taken otherwise than on medical certificate or considered by the State Government concerned to have been taken for any cause beyond the control of the member of the Service or for prosecuting studies, which are in public interest and for which Study Leave could otherwise be admissible under the All

GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)

ORDERS BY THE GOVERNOR : MANIPUR
Imphal, the 29th April, 2006.

No. 3/24/2005-IAS/DP : Consequent upon the appointment of Shri R.K. Mathur, IAS(MT:77), an officer borne on Tripura segment of IAS Joint Manipur-Tripura Cadre, as Chief Secretary to the Government of Tripura in the pay scale of Rs.26,000/- (Fixed) vide Government of Tripura's Notification No. 14(5)-GA(P&T)/89(Vol-II) dated 20-12-2003 and his assumption of the charge of Chief Secretary, Government of Tripura with effect from 22-12-2003, the Governor of Manipur, under the provisions of FR 9 (23), is pleased to fix the pay of the following IAS officers of Manipur segment of IAS Joint Manipur-Tripura Cadre who are senior to Shri R.K. Mathur, IAS(MT:77) at Rs. 26,000/- (Fixed) as pay personal to the officers with effect from 22-12-2003 in respect of officers available in the cadre and with effect from the date of reporting to the cadre in respect of officers on deputation to ensure their pay protection :-

Sl. No.	Name of Officer & designation	Date of fixation of the officer's pay at Rs. 26,000/- (Fixed) as personal pay
✓ 1.	Shri P.L. Thanga, IAS(MT:74) Chairman, MANIREDA.	w.e.f. 02-05-2005
2.	Shri V. Ramnath, IAS(MT:74) Director General, State Academy of Training.	w.e.f. 12-01-2004
3.	Shri Saichhuana, IAS(MT:75) Addl. Chief Secretary (Forest & Environment / Works) Govt. of Manipur.	w.e.f. 22-12-2003
4.	Shri D.V. Singh, IAS (MT:76) Spl. Resident Commissioner, Manipur Bhavan, New Delhi.	w.e.f. 23-08-2004
5.	Shri A.E. Ahmad, IAS(MT:76) Principal Secretary (Home). Govt. of Manipur.	w.e.f. 19-05-2004

2. The above mentioned officers shall continue to hold their respective posts consequent upon fixation of their pay as above.

By orders & in the name of the
Governor.

Guwahati, 29/4/06
(K.C. Laishram)
Under Secretary (DP),
Government of Manipur.

... contd. 2

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Central

06.10.2008

গুৱাহাটী ন্যায়পাঠ
Guwahati Bench

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Copy to :

1. Secretary to the Governor, Rajbhavan, Imphal
2. Secretary to Chief Minister, Manipur.
3. P.S. to all Ministers, Manipur.
4. P.S. to Chief Secretary, Govt. of Manipur.
5. Addl. Chief Secretary / Principal Secretaries / Commissioners / Secretaries, Govt. of Manipur.
6. The Special Resident Commissioner, Manipur Bhavan, New Delhi.
7. The Accountant General, Manipur.
8. Joint Secretary (ACR), Govt. of Manipur.
9. Deputy Secretary (GAD), Govt. of Manipur.
10. Sub-Treasury Officer, Imphal
11. Officer concerned.
12. Guard file / Order Book.

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1/8/09
Guwahati Bench
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH:: GUWAHATI

ORIGINAL APPLICATION NO. 92 of 2009

Sri C. Peter Ngahanyui

....Applicant

-Versus -

The State of Manipur & ors

....Respondents

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Filed By

U. K. Nair
(U. K. Nair)
Advocate

THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI
BENCH GUWAHATI

Original Application. No. : 92 of 2009

Filed by:-

Y. Joy Kumar, IPS
... Respondent no: 4
Through:
Unni Krishnam Naiveg
Advocate

Sri C. Peter Ngahanyui

.....Applicant

- Versus -

The State of Manipur & Ors.

..... Respondents

IN THE MATTER OF :-

Written statement filed by and on behalf of the respondent No. 4, Sri Y Joykumar, IPS, Director General of Police, Manipur, in the above noted Original Application.

WRITTEN STATEMENT FOR AND ON BEHALF OF THE
RESPONDENT NO. 4, SRI Y. JOYKUMAR, IPS.

1. That I have been arrayed as Respondent no. 4 in Original Application No. 92/09. The copy of the Original Application as served on me has been perused by me and I have understood the contents thereof.
2. That save and except the statements that are specifically admitted to herein below, all the averments as made in the Original Application, under reply, are categorically denied by the deponent. The deponent further does not admit any of the statements that are contrary to and/ or inconsistent with the records of the case.



3. That with regard to the statements made in Paragraph 1 of the Original Application, under reply, your deponents states that the Original Application as filed by the applicant is not maintainable in law as well as on facts. None of the service conditions of the applicant has been infringed with, requiring institution of the present proceedings before this Hon'ble Tribunal.
4. That with regard to the statements made in Paragraph 3 of the Original Application, under reply, your deponents states that the Original Application having raised a challenge against the minutes of the Departmental Promotion Committee dated 19.07.07, is not maintainable inasmuch as the Original Application has been filed beyond the period of limitation prescribed in the Administrative Tribunals Act, 1985. As such, the delay occasioning in filling of the Original Application has the effect of rendering the Original Application liable to be dismissed in limine.
5. That with regard to the statements made in Paragraphs 4.1 to 4.5 of the Original Application, under reply, your deponents states that the same are matters of record and denies anything that is contrary to and/or inconsistent with the records of the case. It is stated that the deponent came to be appointed to the Grade and Scale of Pay of Director General of Police in the IPS Above Supertime Scale of Pay only on his case being recommended by a duly constituted selection committee.
6. That with regard to the statements made in Paragraph 4.6 of the Original Application, under reply, your deponents states that the same are matters of record and denies anything that is contrary to and/or inconsistent with the records of the case. The deponent had completed more than 30 years of service as of the 1st day of January 2007 and as such was eligible for being considered for being appointed to the Grade and Scale of Pay of Director General of Police in the IPS Above Supertime Scale of Pay.
7. That with regard to the statements made in Paragraph 4.7, 4.8, 4.9, 4.10, 4.14, 4.15, 4.16 and 4.17 of the Original Application, under reply, your deponent denies the same and states that the applicant was issued with the memorandum of charge dated 18.07.07 after a due enquiry and ascertainment

Hafiz Jumna

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of the veracity of the allegations existing against him, by the Manipur Vigilance Commission. In this connection the deponent begs to submit as follows;

(a) *That the Respondent No. 4 submits that in the 2nd Meeting of the Board of Directors, Manipur Police Housing Corporation Ltd. Imphal held on 20/09/1986 at 1000 hrs in the office of the Corporation, the Board of Directors in its resolution on agenda point No.17 – “Adoption of Code of Works and Accounts” decided that the Corporation should adopt CPWD code for works and accounts. As per the decision arrived at three types of advance payments are authorized. These are -*

- (i) *Advance payments for work done but not measured.*
- (ii) *Secured advance against the security of materials brought to the site.*
- (iii) *Mobilisation advance.*

In the case of advance payment for work done but not measured, the bill in respect of the advance should be checked by the Divisional Office and the advance should not exceed 75% of the net amount of the bill under check. This means that the rough estimate of the value of the work done but not actually measured is to be prepared by the Supervising Engineers i.e. S.O., A.E. and E.E. Similar is the case in respect of secured advances on security of materials. Rough value of the materials stacked at the site has to be prepared by the concerned S.O., A.E. and E.E. Advance permissible in this category of advance is also limited to 75% of the value. Mobilisation advance is permissible for certain specialized and capital intensive works costing not less than Rs.2.00 crores and limited to a maximum of 10% of the estimated cost put to tender or tendered value or Rs. One Crore whichever is less at 10% simple interest. Such advance is also to be given against a Bank Guarantee of a Scheduled Bank for the full amount of advance. The provision under this section under para 31.3(d) stipulates that grant of a second advance before the first one has been recovered should not be permitted. In short, for Advance payment for work done but not measured and that against the security of materials brought to the site, the following are required: -



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- (a) Rough value of the work done but not measured /materials stacked at the site is required to be prepared by the S.O., A.E & E.E. concerned and examined in Divisional Office.
- (b) Advance payment admissible is limited to only 75% of the value worked out.
- (c) No second advance should be permitted before the first one has been recovered.

The applicant in para 10 of his application has stated that the advances given by him while he was working as the Managing Director of MPHCLtd. from June, 2004 to January, 2005 was not irregular but in accordance with clause 7(B) of the conditions of contract laid down in the Agreement Book of Manipur Police Housing Corporation Ltd. which provides that secured advances and advances for works completed but not measured may be released on payment of interest @ Rs. 9.5% per annum charging from the date such advances are given till the adjustment. In other words, the applicant's contention is that the advances sanctioned and given by him fall under secured advance or advances for works completed but not measured. This provision is consistent with those laid down in CPWD Code and Manual except for the interest rate which is 10% per annum in CPWD Code and Manual. He has also contended that practice of payment of such advances has been in practice since many years back. He has also mentioned that Respondent No. 4 has also given similar advances while working as the Managing Director of MPHCLtd. He has also contended that the advances have been realized from the contractors thus inflicting no pecuniary loss to the Corporation and further the Corporation could earn revenue to the tune of Rs. 26,41,817/- as interest accrued. The applicant has also contended that he has been singled out for payment of advances while other officers including Respondent No. 4 have also made payment of similar advances but no action taken against them.

- (b) That the Respondent No. 4 submits that if what the applicant has stated in his application is true, then it is indeed an unfair treatment meted out to him. As pointed out by the applicant, Respondent No. 4 also made payment of 3 advances for work done but not measured. These cases have been cited by the applicant in the 'Annexure - D' to his application. The three cases are cited at



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Sl. No. 111, 112 and 113. Respondent No. 4 submits that payment of advances against work done but not measured and payment limited to 75% of the rough value of the work completed is permissible as provision for the same is provided in the CPWD Code and Manual as well as in clause 7(B) of the Agreement Book of the Corporation which is also based on CPWD Code and Manual. In all these three cases, the procedure laid down was followed by Respondent No.4. In this regard, relevant documents for payment of advance of Rs. 1,68,104 to MIS ISS Transport Agency for transportation of Steel materials from TISCO, Guwahati to MPHC listed at Sl. No.112 of 'Annexure-D' of the Original Application is available with the authorities.

(c) That the Respondent No.4 further submits that contrary to the claim of the applicant, most of the advances given by him do not fall under the category of secured advance or advances for work completed but not measured. That is the reason why a departmental enquiry has been instituted against the applicant for irregularities committed by him in sanctioning these advances. This departmental enquiry has been instituted after a full fledged enquiry carried out by the State Vigilance Commission and the same is based on the basis of the recommendation of the Vigilance Commission. Though the matter of payment of advance by the applicant during his tenure as the Managing Director of MPHC Ltd. is a matter of the Departmental Enquiry instituted against him by the State Government, Respondent No. 4 submits to point out some of the gross irregularities committed by the applicant in sanctioning the advances because of which the Government was compelled to institute a departmental enquiry against the applicant. These are enumerated below: -

(i) Advance of Rs. 30,000/- sanctioned in favour of Shri L. Shamu Singh, Special Contractor for the work - Modernisation of Prisoner's Administration (Station Construction of outer security wall at Central Jail, Imphal @ Rs. 37.50) on 19/01/2005 and figuring at Sl.No. 95 in the list of work given by the applicant in 'Annexure - D' to the Original Application. This advance was sanctioned long after the work has been cancelled and rescinded. This work was cancelled and rescinded on 28/08/2001. Thus sanction of this advance of Rs. 30,000//was against a non existent work. This cannot be accepted as

Abdul Jumma

secured advance or advances against work completed but not measured.

(ii) In going through the list of works against which advance has been sanctioned by the applicant, it will be seen that the applicant has sanctioned more than one advance in a number of cases. For example, more than one advances were sanctioned for 8 numbers of double storied dormitory blocks A, B, C, D, E, H, I, J constructed by Shri L. Ajaykumar for JNV School at Kakching Khunou. Details of these with the dates of sanction and recovery of the advances are given below: -

Block	Advance Bill No. & Date	Amount	Recovery	
			Amount	Date
A	452 dated 27.09.04	6,14,276/-	6,14,276/-	30.10.04
	658 dated 17.11.04	2,00,000/-	2,00,000/-	13.03.06
	927 dated 19.01.05	3,00,000/-	3,00,000/-	13.03.06
B	453 dated 27.09.04	6.8 lacs	6.8 lacs	30.10.04
	659 dated 17.11.04	2.0 lacs	2.0 lacs	13.03.06
	934 dated 19.01.05	3.0 lacs	3.0 lacs	13.03.06
C	454 dated 27.09.04	6.8 lacs	6.8 lacs	30.10.04
	660 dated 17.11.04	2.0 lacs	2.0 lacs	13.03.06
	933 dated 19.01.05	3.0 lacs	3.0 lacs	13.03.06
D	455 dated 27.09.04	5.1 lacs	5.1 lacs	30.10.04
	661 dated 17.11.04	2.0 lacs	2.0 lacs	13.03.06
	925 dated 19.01.05	3.0 lacs	3.0 lacs	13.03.06
E	662 dated 17.11.04	1.75 lacs	1.75 lacs	13.03.06
	928 dated 19.01.05	3.0 lacs	3.0 lacs	13.03.06
H	457 dated 27.09.04	5.3 lacs	5.3 lacs	30.10.04
	663 dated 17.11.04	1.75 lacs	1.75 lacs	13.03.06
	931 dated 19.01.05	3.0 lacs	3.0 lacs	13.03.06
I	458 dated 27.09.04	5.3 lacs	5.3 lacs	30.10.04
	665 dated 17.11.04	1.75 lacs	1.75 lacs	13.03.06
	932 dated 19.01.05	3.0 lacs	3.0 lacs	13.03.06
J	664 dated 17.11.04	3.0 lacs	3.0 lacs	13.03.06
	935 dated 19.01.05	3.0 lacs	3.0 lacs	13.03.06

Subj: Guwahati

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It may be seen from the above statement that the last advance of Rs. 3.0 lacs in each of the above 8 works was sanctioned before the recovery of the previous advance sanctioned on 17/11/04. The above are some illustrative cases where a second or third advance was sanctioned by the applicant before the recovery of the previous advances. This is [✓] against the provision of the CPWD Code and Manual.

(iii) For the work of c/o Maternal & Child Health Centre at Thongju, Canchipur (Sh. c/o. Staff Quarter G+1), the applicant sanctioned two advances, one of Rs. 8.0 lacs on 10/12/2004 and another of Rs. 15 lacs on 18/01/05 to Shri L. Shamu Singh, Special Contractor. These are listed at Sl. no. 70 and 91 in Annexure - 'D' to the application. It is revealed that the calculation carried out by the concerned staff of the Corporation was not for work done. Instead, the calculation was done for the amount the contractor is likely to get after completion of the work in full after deduction of material cost, security deposit, sales tax and Income Tax. This amount comes to Rs. 14,83,177/- 60% of this comes to Rs. 8,89,905/. The staff in his note had requested the Managing Director to decide the quantum of advance payable to the contractor if considered necessary. Against this noting, the applicant sanctioned Rs. 8 lacs as advance. The contractor in his application has stated that he was facing financial problem to implement the work and requested for advance of Rs. 8 lacs against the work. Thereafter, the contractor made another application to the Managing Director for another advance of Rs. 15 lacs against the same work stating that if financially sound, the work could be completed before the rainy season. On the basis of this application and without calling any comments from the engineering staff concerned, the applicant in his capacity as Managing Director of the Corporation sanctioned a second advance of Rs. 15 lacs on 18/01/05. These two advances were recovered from the contractor in 17 installments during a period spanning from 23/09/05 to 31/07/07. It may be seen that against a work in which the contractor was to get an amount of



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Rs. 14,83,177/- (This is so because materials were provided by the Corporation), the applicant sanctioned two advances amounting to Rs. 23 lacs. At the same time, when the second advance of Rs. 15 lacs was given, not a single rupee has been recovered in respect of the first advance of Rs. 8 lacs. These advances by no means can be termed to be falling under the category of secured advance or advance against work completed but not measured.

(iv) Yet another case is the two advances, each of Rs. 10 lacs sanctioned by the applicant to Shri M. Boudhajit Singh, Special Contractor for the work – Development of Kangla Fort (Sh. c/o Ibudhou Pakhangba Temple). These are listed at Sl. no. 78 and 94 in Annexure – 'D' to the application. The first advance was sanctioned on 07/01/2005. This advance was sanctioned on the basis of an application submitted by this contractor stating that excavation work has been completed and casting of the components of the structure is ready for casting and that he can complete the work if an amount of Rs. 15 lacs is sanctioned as advance. Against this letter, the applicant sanctioned an advance of Rs. 10 lacs without calling for any comments from the engineering staffs concerned. The contractor M. Boudhajit made another application for advance to the Managing Director who received the same on 17/01/05. The contractor has stated in this application that the work will be completed within short period if he is financially sound. It was peak working season and hence he would like to get an advance of Rs. 10 lacs. Against this application, Shri C. Peter Ngahanyui, the applicant sanctioned another Rs. 10 lacs as advance and the same was released on 19/01/05. Thus within a short period of 13 days i.e. from 07/01/05 to 19/01/05, the applicant sanctioned two advances each of Rs. 10 lacs to the contractor, Shri M. Boudhajit Singh for the work of construction of Ibudhou Pakhangba Temple without calling for any comments from the engineer concerned supervising this work. Further if one is to go by the reason cited by the contractor for applying for the advance, then these advances have been sanctioned to help



the financial condition of the contractor. These advances were recovered in 8 installments during the period from 27/10/05 to 07/08/07. It may also be mentioned that the net amount the contractor was entitled to get after completion of the work on the basis of the work order issued at that time was less than Rs. 20 lacs. Thus in this case too, the applicant gave advance amounting to an amount which exceeded the amount which the contractor would have got after full completion of the work.

(v) Yet another case is the advances sanctioned by the applicant to *Shri L. Ajaykumar Singh Special Contractor* in respect of the work of construction of School building, *Government Ideal Blind School, Takyelpat*. The applicant sanctioned two advances one of Rs. 2 lacs on 16/11/2004 and another of Rs. 10 lacs on 19/01/05. These are listed at Sl. no. 58 and 109 in Annexure – 'D' to the application. It will be revealed that at the time of sanction of the first advance, the work completed but not measured was valued at Rs. 2.48 lacs. 75% of the same amounts to Rs. 1.86 lacs only. But the applicant sanctioned an advance of Rs. 2 lacs thereby exceeding the permissible amount of advance. Further, the contractor *Shri L. Ajaykumar Singh* applied for a second advance of Rs. 10 lacs to the *Managing Director, MPH*C. This was received on 16/01/05. The applicant who was the-then *Managing Director, MPH*C Ltd. sanctioned an advance of Rs. 10 lacs without calling for any comments from any of the engineering staff. The contractor in his application has cited the reason for his application to be non-availability of some store materials and that he needed the advance of Rs. 10 lacs for purchase of store materials from local market and labour payment. Despite this advance, the contractor drew construction materials from the Corporation. These advances were recovered in three installments during the period from 03/12/05 to 08/03/06. This advance by no means falls under either secured advance or advance for work completed but not measured.

(vi) Another case is the sanction of advance of Rs. 5.5 lacs on 22/12/04 to the contractor *Shri L. Ajaykumar Singh* in respect of the work of construction of double storied dormitory block F at

Subhumu

JNV School at Kakching Khunou. This is listed at Sl. no. 75 in Annexure- 'D' to the application. The value of the work completed but not measured was worked out to be Rs. 5,99,560/- and 75% of this amount would be Rs. 4,49,670/-. Despite all these calculations, the applicant in his capacity as the-then Managing Director of MPH C Ltd. sanctioned Rs. 5.5 lacs thereby exceeding the permissible amount of advance by more than Rs. 1 lac. This sanction by no means can be termed as regular or authorized advance.

(d) That the Respondent No. 4 further submits that the applicant was transferred from the post of Managing Director, MPH C Ltd. to that of ADGP (Trg/HR/HG) vide Government of Manipur's order No. 3/1/2002-IPS/DP dated 06/01/2005 (Annexure - I). As per this order, the applicant Shri C. Peter Ngahanyui was to move first by handing over the charge of Managing Director, MPH C to Shri R. Baral, IPS, Inspector General of Police (L&O - I) who will hold the charge of Managing Director, MPH C till Shri J.C. Dabas, IPS returns from leave. The applicant did not hand over the charge of Managing Director, MPH C immediately and remained there without handing over charge till 19/01/05. He handed over the charge of Managing Director, MPH C only on 19/01/05. During the period from 07/01/05 to 19/01/05 i.e. during the period he remained without handing over the charge of Managing Director, MPH C despite clear cut Government order, he sanctioned 35 advances amounting to Rs. 138.85 lacs. These are listed at Sl. Nos. 76 to 110 in Annexure-D to the application of the applicant. Out of this amount, Rs. 113.1 lacs were given to only 5 persons as per details below :-

(i)	Shri L. Shamu Singh	-	Rs. 35.5 lacs
(ii)	Shri L. Ajaykumar Singh	-	Rs. 34.0 lacs
(iii)	Shri M. Boudhajit Singh	-	Rs. 20.0 lacs
(iv)	Shri P. Nilakanta Singh	-	Rs. 13.6 lacs
(v)	Md. Nashir Shah	-	Rs. 10.0 lacs

In all the 35 advances amounting to Rs. 138.85 lacs sanctioned by the applicant during the period from 07/01/05 to 19/01/05 i.e. the period he continued in the post of the Managing Director, MPH C without handing over

For Jummo

(X)

07 AUG 2009

গুৱাহাটী ন্যায়পুর
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charge after his transfer from there has been issued, the applicant never bothered to get any comment or assessment of works completed in respect of any of the works against which these sanctions of advances have been accorded. Many of these were 2nd or 3rd advances for the same work and sanctioned before recovery of any amount in respect of the previous advances that was outstanding. It is the normal work ethic for officers, much more for a senior officer like the applicant who has put in almost thirty year of service as an Indian Police Officer to restrict to only routine official work once he is under order of transfer. However, the applicant sanctioned 35 advances amounting to Rs. 138.85 lacs after his transfer order has been issued. Not only that, these 35 advances sanctioned was in complete violation of the relevant provision of CPWD Code and Manual and clause 7(8) of the conditions of contract as laid down in the Agreement Book of Manipur Police Housing Corporation Ltd. These advances have been sanctioned by the applicant on his own whims and fancy without following any rules or procedure.

(e) That the Respondent No.4 also submits that the matter of irregular advances sanctioned by the applicant is a subject matter of a Departmental Enquiry ordered by the State Government of Manipur after a thorough enquiry by Manipur Vigilance Commission. As such, Respondent No.4 would not like to deal with the same in complete details. The few specific cases cited above have been dealt with in order to bring out that the claim made by the applicant that the advances sanctioned by him were regular and of the nature of secured advances or advances against work completed but not measured is not correct and the comparison made by him as regards the advance payments made by the applicant.

8. That with regard to the statements made in Paragraph 4.11 of the Original Application, under reply, your deponent denies the same and states that the allegations as raised by the applicant in the paragraph under reply are all baseless and perverse. The said allegations have been so leveled only in view of the present proceedings before this Hon'ble Tribunal. The applicant has leveled wild and vague allegations without bringing on record any material particulars to substantiate his claim. He has also not disclosed the names of the so called "higher officials" of the department nor has he arrayed any such



person as a party respondent. As such the allegations as leveled by the applicant in the paragraph under reply requires to be ignored.

9. That with regard to the statements made in Paragraphs 4.12 of the Original Application under reply, your deponents states that he is in no way responsible for the pendency of the proceeding against the applicant and is not involved in any manner in the conduct of the same. As such your deponent refrains from offering any comment as regards the contentions raised in the paragraph under reply.

10. That with regard to the statements made in Paragraphs 4.13 of the Original Application under reply, your deponent denies the same and states that it is difficult to comprehend that an officer of the stature of the applicant is unaware of the procedures followed for effecting promotions to the rank and scale of Director General of Police. The fact that the applicant had come to know about the holding of a Departmental Promotional Committee on 19/07/07, only from the Written Statement filed by the official respondents in Original Application No. 211/08 is not admitted.

The deponent had appeared in the All India Services Examination held in the year 1975 and was selected therein for appointment to the IPS. The deponent joined the IPS on 14/11/76 and in terms of the provisions governing the assignment of seniority to directly recruited IPS officers, the applicant was given the year of allotment as 1976. The civil list of IPS officers published from time to time with regard to the IPS Manipur-Tripura Joint cadre has indicated the date of appointment of the deponent as 14/11/76. The applicant who is also a direct recruit IPS officer in the knowhow as to the manner in which the seniority and other service condition of IPS officers are fixed, has deliberately tried to mislead this Hon'ble Tribunal by contending that the deponent having joined the IPS only on 13/12/77 and was not eligible for promotion on the date the DPC was held. It is stated that the applicant as of 1st of January, 2006 completed 30 years of service in terms of the method of computation of the number of years of service for the purpose of consideration for promotion for AIS officer as per the guidelines of D.O.P.T., Government of India and as such was eligible for promotion to the rank and scale of Director General of Police.



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Guwahati Bench

The deponent denies the contention of the applicant that the Departmental Promotional Committee in question was not constituted in terms of the guidelines holding the field it is stated that the said guidelines have not laid down any rigid parameters, but are intended to only ensure uniformity in the matter of appointment and promotion to the various grade in the IPS in all the cadres existing in the country. The composition of the Screening Committee as indicated in the said guidelines may not be possible to be adhered to strictly at all times due to non availability of adequate number of posts equivalent to that of Chief Secretary/ Additional Chief Secretary in the state or non availability of adequate number of IAS officers of eligible seniority. In the State of Manipur there is no IAS officer who have been empanelled as the Additional Secretary to the Government of India for posting as Home Secretary or Additional Chief Secretary. The constituents of Screening Committee in question, other than the Chief Secretary were eligible for being promoted to the grade of Chief Secretary/ Additional Chief Secretary but for absence of adequate number of posts they could not be so promoted. As such, the composition of Screening Committee was not against this spirit of the guidelines issued by the Ministry of Home Affairs vide No. 45020/ 11/ 97-IPS-II dated 15.01.99.

The aforesaid guidelines is to be understood having regard to the prescription made in the matter by the Hon'ble Apex Court in the case of Prakash Singh & Ors .Vs. Union of India & Ors [reported in 2006 (8) SCC 1] and the decision of the UPSC in the matter in terms of the UPSC (Exemption from Consultation) Regulations, 1958.

The contentions raised by the applicant as regards the constitution of the Screening Committee for promotion of eligible IPS officers to the rank and scale of Director General of Police is clearly not sustainable and the proceedings of the said Screening Committee does not call for any interference from this Hon'ble Court on this count.

An extract of the civil list published in the year 2009 is annexed as Annexure- A.

07 AUG 2009

শুবাহাটী ন্যায়পীঠ
Guwahati Bench

11. That with regard to the statements made in Paragraphs 4.18 and 4.19 of the Original Application, under reply, your deponents states that the same are matters of record and denies anything that is contrary to and/or inconsistent with the records of the case.

12. That with regard to grounds of relief with legal provisions set forth in paragraphs 5(i) to 5(viii) of the Original Application are not tenable in view of the facts and circumstances narrated above. The Screening Committee as contended herein above was constituted in the manner required and there exists no infirmity as regard the Constitution of the said Screening Committee. The deponent was eligible as on 01/01/06 for being considered for promotion to the rank and scale of Director General of Police. The nature of appointment contemplated in the matter does not make any provision for resorting to seal cover procedure.

The deponent craves leave of this Hon'ble Tribunal
make appropriate submissions against the grounds urged
by the applicant at the time of hearing.

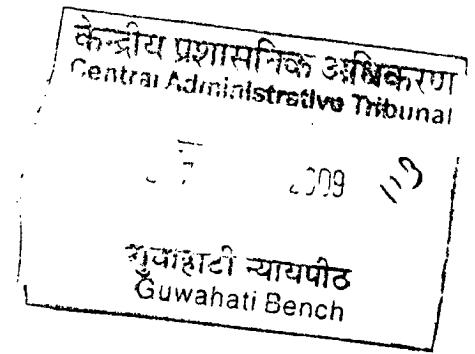
13. That with regard to the reliefs claimed for by the applicant in Paragraph 9 of the Original Application under reply, your deponents states that the same cannot be granted to the applicant in the facts and circumstances narrated herein above. The reliefs claimed for by the applicant are also time barred.

14. That with regard to the interim reliefs claimed for by the applicant in Paragraph 10 of the Original Application under reply, your deponents states that the same are not tenable and the applicant has failed to make out a *prima facie* case requiring any interference in the matter by this Hon'ble Tribunal.

15. That in view of the above, none of the grounds as urged by the applicant are tenable and the applicant is not entitled to any relief as has been claimed by him and as such the said application is liable to be dismissed.

Hafizur Rahman

(75)

--VERIFICATION--

I, Shri Joy Kumar Singh, aged about 56 years, son of Shri Y. Kesho Singh, resident of Uriopok, Naoremthong, in the district of Imphal, Manipur, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraph 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.

& 13 are true to my knowledge; those made in paragraphs _____ are true to my information derived from the records and the rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign this verification on this the 4th day of August 2009, at Imphal.

Joy Kumar
D E P O N E N T

मणिपुर-त्रिपुरा
MANIPUR-TRIPURA

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भारतीय पुलिस सेवा की अधिकृत संवर्ग रख्या (01/01/2009 की दर्थारिति)
Authorised Cadre Strength of the Indian Police Service (As on 01/01/2009)

क. श. द. के. प्र. रि. रा. प्र. रि. छु. क. प्र. रि. सी. भ. को. प. को. कु. अ. स. भा. पु. सेवा अधिकारियों की दर्थारिति
सीधी भर्ती (क.वे. व.वे. एवं ऊपर) पदोन्नति

	SIPK	LR & MTR	DRQ	PQ	TAS	No. of officers in position under DRQ (Jr.S Sr.S & above)	PQ		
	25	16	13	85	36	121	4	72	25

पर्दि कारी का नाम, रौद्रिक योग्यता और युह राज्य	भर्ती का स्रोत, पहचान संख्या और युह राज्य	जन्म तिथि, भा.पु.से. मे नियुक्ति की तारीख	वर्तमान प्रारंभित पद, वर्तमान पद पर नियुक्ति की तारीख, वेतन	प्राप्त पुलिस पदक, यदि हो
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No.	Name of the IPS Officer/ Educationalqualification, Recruitm. ID No.,Home State	Date of birth, Date of appoint-ment to IPS	Present Post held, Date of appointment to the Present Post, Pay scale	Police Medals Any
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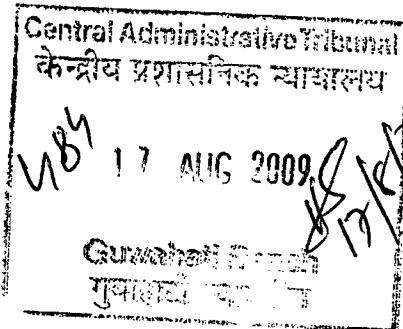
(1)	(2)	(3)	(4)	(5)	(6)
सर्वश्री S/Shri					
<u>Allotment Year : 1974</u>					
1	अनूप कुमार पराशर Anup Kumar Parashar M.A.	RR Delhi	19741040 14/07/1974	13/01/1950 14/07/1974	OSD, Home 25/11/2008 HAG + 75500-80000
2	प्रणय सहाय Pranay Sahay M.Sc.(Physics)	RR Rajasthan	19751008	10/07/1953 14/11/1975	DGP, Tripura 15/07/2008 80000 (fixed)
3	ए बी माथूर A B Mathur M.Sc., MA	RR Manipur	19751036	10/05/1952 16/07/1975	10/05/1952 16/07/1975 31/08/2007 HAG + 75500-80000
4	सी पीटर नाहान्युइ C Peter Ngahanyui B.A.	RR Manipur	19751046	12/02/1952 20/07/1975	OSD (Home), Manipur 29/10/2007 37400-67000, 12000
5	आर के शुक्ला R K Shukla M.Sc.	RR Uttar Pradesh	19761008	15/11/1951 14/07/1976	Jt. Secy. NSCS, New Delhi 26/09/2007 37400-67000, 12000
6	याइ जॉयकुमार सिंह Y Joykumar Singh M.Sc.	RR Manipur	19761009	01/09/1953 14/11/1976	DGP, Manipur 16/03/2007 HAG + 75500-80000
<u>Allotment Year : 1975</u>					
<u>Allotment Year : 1976</u>					
PMMS PSDM PPMDS 2007					
PM IPM					
PPM PM					
PPM PPM					
PPMD 2007					

भारतीय प्रशासनिक अधिकारी न्यायालय
Central Administrative Tribunal

गुवाहाटी न्यायालय
Guwahati Bench

Certify to be true copy

Ami booz
Advocate.



DISTRICT: IMPHAL
STATE: MANIPUR

**IN THE CENTRAL ADMININSTRATIVE TRIBUNAL
GAUHATI BENCH**

O.A. NO. 92 OF 2009

BETWEEN

Sri C. Peter Ngahanyui

..... Applicant

-Versus-

The State of Manipur & Ors.

..... Respondents

In the matter of:-

Rejoinder filed by the applicant
to the written statement filed by
the Respondents No1,2 and 3
in the above-mentioned case.

**Humble rejoinder of the
applicant above named.**

1. That I am the applicant in the instant Original Application and I have been served a copy of the written statement filed by the Respondents No.1, 2 and 3 through my counsel. On receiving, I have gone through the same and have understood the contents and meaning thereof.

2. That save and except those statements made in the written statement which are specifically admitted herein below by the applicant, the rest are construed to be denied by the

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Mr. Gundecha Singh
Advocate
17/08/09

(78) 17 AUG 2009

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answering applicant, the applicant also does not admit any of the statements which are contrary to and inconsistent with the records of the case.

3. That the statements made in paragraph 1 of the written statement filed by the respondents are categorically denied by the answering applicant. It is denied that the Application is not maintainable in law as well as in facts.

4. That the statements made in paragraph 4 of the written statement filed by the respondents are categorically denied by the answering applicant. It is denied that this Hon'ble Tribunal has no jurisdiction to try this case.

5. That the statements made in paragraph 5 of the written statement filed by the respondents are categorically denied by the answering applicant. It is categorically denied that the original application is barred by limitation

6. That the answering applicant does not offer any comment to the statements made in paragraph 6 of the written statement.

7. That the statements made in paragraph 7 of the written statement filed by the respondents are categorically denied by the answering applicant. It is categorically denied that in the Departmental Promotion Committee (DPC) held on 19/07/07 the name of the applicant was considered for promotion.

It is further stated that the proposed Departmental Enquiry against the applicant was in connection with payment of advance money. It is denied that the applicant made any irregular and illegal advance to the tune of Rs.2, 61, 45,000/- during the period from June 2004 to January, 2005 while he

was working as the Managing Director, Manipur Police Housing Corporation Ltd. It is further stated that even the respondent No.4 while working as the Managing Director, Manipur Police Housing Corporation Ltd. as well as other officers who worked as the Managing Directors, Manipur Police Housing Corporation Ltd made advanced payment like that of the applicant. However, only the applicant has been singled out. It is further stated that advanced made by the applicant while working as the Managing Director, Manipur Police Housing Corporation Ltd is not irregular the same was done as per Clause 7(B) of the conditions of contract as laid down in the Agreement Book of the Manipur Police Housing Corporation Ltd. It is provided in the said agreement that the secured Advances and Advances for works completed but not measured may be released on payment of interest @ Rs.9.5% per annum charging from the date such advances are given till the adjustment. It is stated that such advanced stood realized from the contractors thus inflicting no pecuniary loss to the Corporation and further the Corporation could earn revenue to the tune of Rs.26,41,817/- as interest accrued on the above advances in addition to other charges realized from the contractors.

It is also pertinent to mention herein in the latest guidelines issued by the Government of India, Ministry of Personnel P.G. & Pensions, Department of Personnel and Training on 28/03/2000. MHA, Police Division have been requested to bring changes in the Promotion Guidelines issued in respect of the Indian Police Service.

A copy of the latest guideline is annexed herewith and marked as **ANNEXURE-R/1** to this rejoinder.

8. That applicant does not offer any comment to the statements made in paragraphs 8, 9 and 10 of the written statements filed by the respondents.

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9. That the deponent categorically and vehemently denies the statement made in paragraph 11 of the written statement filed by the respondent. It is denied that there was a serious lapses on the part of the applicant. It is stated that the applicant while serving as Managing Director MPHc gave advance following the due process permitted under the relevant rules and guidelines. It is also stated that the applicant released advances in the interest of the Corporation so that the works could be completed in the stipulated time. It is pertinent to mention herein that all the advances released by the applicant are recovered with interest thereby bringing pecuniary benefit to the Corporation.

Assuming but not admitting that the advances released by the applicant in an irregular manner then the question of realizing the advances from the contractor would have been impossible. It is stated that the action of the applicant was bonafide and cannot be faulted with. As such the Departmental Proceeding against the applicant being malafide is liable to set and quashed.

That the applicant denies that he had given advances against the works already cancelled. While deying such allegation the applicant begs to state the venue of the proposed project from Imphal (in respect of Modernisation of Prisoner's Administration) had to be changed to Sajiva Jail and the Contractor had already mobilized his resources in the earlier site and the applicant after duly considering the works and progress done by the contractor in the earlier proposed site and also for shifting the materials, machineries at the new site released an amount of Rs.30,000/- as mobilization advance.

That in respect of the allegation leveled against the applicant that advances much in excess were granted in respect of the work of Maternal and Child Health Center, Thongju, the applicant begs to state that the estimated cost of

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Central Administrative Tribunal
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the work was arrived at Rs. 1,08,25,364/- and the Government had already deposited the money with the Corporation and as such the allegation of granting excess advance is baseless and the same is false and fabricated.

A copy of the estimation and deposit of money is annexed herewith and marked as **ANNEXURE-R/2** to this rejoinder.

10. That as regard to the statement made in paragraphs 12 and 13 of the written statement. The applicant reiterates the statements made in paragraphs 4.11 and 4.12 of the Original Application.

11. That as regard to the statement made in paragraph 14 of the written statement. The applicant begs to state that the applicant has relied and counted the service of the respondent as per the publication of civil list of 2002. The applicant craves leave to produce the list at the time of hearing of the case.

That the applicant begs to state that in the composition of DPC to consider the promotion of such high officials such as DGP the Government cannot resort presumption and assumption method by assuming that an IAS officer being served for 30 years is equivalent to the rank of Chief Secretary.

12. That as regard to the statements made in paragraphs 15, 16 and 17 of the written statement filed by the respondents the applicant reiterates the statements made in paragraphs 4.14 to 4.19. However it is stated the inaction of the authorities in not initiating the disciplinary proceeding is with vested interest and also for the reason that the allegation in all respect of the allegation are baseless and cannot be proved. It is stated the malicious proceeding is only to jeopardize the

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Central Administrative Tribunal
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17 AUG 2009

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career of the applicant in order to accommodate the respondent no.4.

13. That as regard to the statements made in paragraph 18 of the written statement filed by the respondents the applicant reiterates the statements made in paragraphs 5(i) to 5(viii) of the Original Application.

14. That as regard to the statements made in paragraph 19 of the written statement filed by the respondents the applicant reiterates the statements made in paragraphs 7 and 8 of the Original Application.

15. That as regard to the statements made in paragraphs 20, 21 and 23 of the written statement filed by the respondents the applicant reiterates the statements made in the Original Application.

It is stated that after issuance of the charge Memo the respondent authorities have intentionally delayed the matter in order to deprive the promotional avenue of the applicant. It is stated that the said DPC was in violation of the guidelines dated 15/01/99.

It is denied that the instant case is not tenable in law. While denying the statement made in these paragraphs the applicant begs to state that the purported charge memo issued on 18/07/07 to the applicant for the alleged payment of advance while working as the Managing Director, Manipur Police Housing Corporation Ltd. is malafide and for oblique consideration, because the Respondent No.4 while working as the Managing Director, Manipur Police Housing Corporation Ltd. as well as other officers who worked as the Managing Director, Manipur Police Housing Corporation Ltd made advanced payment like that of applicant however, only the applicant has been singled out and the authorities have

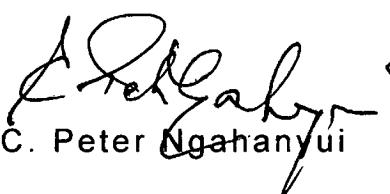
(83)

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initiated Departmental Proceeding. As such the Disciplinary Proceeding being coupled with bias and malafide is not sustainable in the eye of law. And moreover, the case of the applicant having not considered in the DPC, the DPC dated 19/07/07 is liable to set aside as not tenable in the eye of law as well as without authority of law. And in view of the facts and circumstances the order dated 23/07/07 is also not sustainable in the eye of law.

V- E- R- I- F- I- C- A- T- I- O- N

I Sri. Sri C Peter Ngahanyui S/o late C. Paul aged about 56 years Resident of Ukhrul P.O. Ukhrul, P.S. Ukhrul, District: Ukhrul, State: Manipur now residing at Iront Villa, Mantripukhri, Lamongei, Imphal, do hereby verify the contents of the statements made in paragraphs.....3 to 15..... of this accompanying rejoinder are true to the best of my knowledge and the rest are my humble submission before this Hon'ble Tribunal. And I sign this verification on this 12th day of August, 2009 here at Imphal.


Sri C. Peter Ngahanyui

No. 20011/4/92-AIS-II
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training

New Delhi, dated 28th March, 2000.

To

The Chief Secretaries of all the State Governments
and Union Territories.

Subject: Indian Administrative Service – promotion to various grades – guidelines
regarding.

Sir,

I am directed to say that Central Government has issued detailed guidelines for functioning of Departmental Promotion Committees (DPCs) and for promotion of members of the Indian Administrative Service to the Senior Scale and Supertime Scale from time to time. These instructions, inter alia, lay down guidelines for determining the eligible officers' suitability for different grades in the service, crucial dates of promotion in these grades, composition and working of the DPCs, procedures to be adopted in cases of officers against whom disciplinary/court proceedings are pending or whose conduct is under investigation etc.

2. In view of the multiplicity of these instructions, it has been decided to consolidate the same at one place and also modify them to take care of the changes which have since taken place in the structure of the Service. Accordingly, the relevant instructions for the Indian Administrative Service as contained in Annexures I and II are being issued for guidance of all concerned. The relevant rules/instructions have been indicated as footnotes.

3. It is requested that in the interest of uniformity and objectivity, these instructions may be followed strictly, while granting promotion to the members of the Indian Administrative Service in different grades. Members of the DPCs may also be suitably briefed on these instructions at the time their meetings are held. Should any deviation from any of these guidelines is required to be made in exceptional circumstances, prior approval of the Central Government must be sought.

Yours faithfully

(A.K. Sarkar)
Director

Copies forwarded to all Ministries and
Departments of the Government of India.

Separate copies with 10 spare copies each to:-

1. MHA, Police Division, with the request that they may consider bringing suitable changes in the Promotion Guidelines issued in respect of the Indian Police Service, vide their letter No.45020/11/97-IPS.II dated 15.1.99.
2. MHA, UTS

Central Administrative Services
केन्द्रीय प्रशासनिक सेवा

17 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

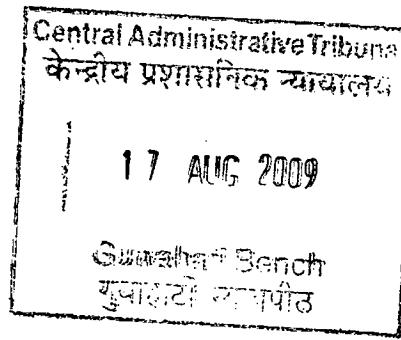
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3. Ministry of Environment & Forests, Forests Division, with the request that similar instructions may be considered for issue in respect of the Indian Forest Service, early.

(A.K. Sarkar)
Director



PRINCIPLES REGARDING PROMOTION OF MEMBERS OF THE INDIAN ADMINISTRATIVE SERVICE AND COMPOSITION OF DEPARTMENTAL PROMOTION COMMITTEES

I. APPOINTMENT TO SENIOR TIME SCALE

An officer is eligible for appointment to the Senior Time Scale on completion of 4 years' service, subject to the provisions of rule 6A of the IAS (Recrt.) Rules, 1954¹. A Committee consisting of the Chief Secretary and two officers of atleast Supertime Scale level of the State Government concerned shall evaluate the performance of the eligible officers for deciding their suitability for promotion to posts in the Senior Time Scale². Subject to availability of posts, this scale can be allowed from or after 1st January during the relevant year in which officers become eligible for this scale³.

II. APPOINTMENT TO THE JUNIOR ADMINISTRATIVE GRADE

An officer is eligible for appointment in the Junior Administrative Grade on completing 9 years of service¹. This grade is non-functional and shall be admissible without any screening, as a matter of course, to all the officers of the Senior Time Scale from 1st January of the relevant year⁴, except in cases where any disciplinary/criminal proceedings are pending against the officer.

III. APPOINTMENT TO THE SELECTION GRADE

An officer of the Junior Administrative Grade shall be eligible for appointment to the Selection Grade on completion of 13 years of service as per the proviso to rule 3(2A) of the IAS (Pay) Rules, 1954. A Committee consisting of the Chief Secretary and two officers of the concerned State Government, in the Supertime Scale or above, shall screen the eligible members of the Service for promotion in this grade². This grade will be available from or after 1st January of the relevant year subject to availability of vacancies in this grade³.

1.Rule 3, IAS (Pay) Rules, 1975.

2.DP&T's Letter No. 11030/20/75-AIS(II),dt. 27.12.75

3.DP&T's Letter No. 11030/15/97-AIS(II),dt. 15.10.97

4.DP&T's Letter No. 11030/22/91-AIS(II),dt. 16.3.93

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11 AUG 2009

IV. PROMOTION IN THE SUPERTIME SCALE

The members of the Service who are working in the Selection Grade and have completed 16 years of service² shall be eligible for appointment in the Supertime Scale *at any time during the year* of their eligibility, subject to availability of vacancies in this grade. The Screening Committee to consider officers for promotion in this scale would consist of the Chief Secretary as Chairman and 2 officers working in the grade of Principal Secretary within the State Government concerned, as members.

If, however, there is only one officer working in the grade of Principal Secretary to the Government available in the cadre, the senior-most Supertime Scale officer available in the cadre may be included in the Committee.

V. PROMOTION IN THE FIRST ABOVE SUPERTIME SCALE i.e PRINCIPAL SECRETARY TO THE STATE GOVERNMENT.

The zone of consideration for promotion in this grade may consist of the Supertime Scale level officers who have completed 25 years' service. Promotion of officers thus cleared could be made *at any time during the relevant year*, provided vacancies in this grade are available. The Screening Committee to consider officers for promotion in this scale will consist of the Chief Secretary as Chairman and one senior-most officer each working in the grades of Chief Secretary to the Government and Principal Secretary to the Govt. respectively in the cadre, as members. If an officer of the grade of Principal Secretary to the Government is not available in the cadre, the senior-most officer of the same level of the cadre working in the government of India may be taken as a member.

VI. PROMOTION IN THE GRADE OF CHIEF SECRETARY

The zone of consideration for promotion in this grade would consist of all the members of the Service who have completed 30 years of service. Appointment in this grade would be made from amongst the officers thus cleared, *at any time during the relevant year* and subject to the provisions of rule 9(7) of the I.A.S. (Pay) Rules, 1954. The Screening Committee for this purpose shall consist of the Chief Secretary concerned, one officer working in this grade in the cadre and another officer of the cadre serving in Government of India in the same grade.

ANNEXURE II

GENERAL GUIDELINES FOR PROMOTION ETC. AND FUNCTIONING OF SCREENING COMMITTEES

Central Administrative Trib
केन्द्रीय प्रशासनिक न्याय

17 AUG 2009

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1. FUNCTIONS OF SCREENING COMMITTEES

It should be ensured while making promotions that suitability of candidates for promotion is considered in an objective and impartial manner. For this purpose, Screening Committees (hereafter referred to as Committees) as mentioned in Annexure I should be formed for different grades whenever an occasion arises for making promotions/confirmations etc. The Committees so constituted shall adjudge the suitability of officers for:-

- (a) Promotions in various grades, including ad-hoc promotions in cases where disciplinary proceedings/criminal prosecutions are prolonged;
- (b) Confirmation; and
- (c) Assessment of the work and conduct of probationers for the purpose of determining the suitability for retention in service or their discharge from service or extending their probation.

The Committee shall also undertake the three-monthly review cases which have been placed in the Sealed Cover, as prescribed in para 19 supra.

2. FREQUENCY AT WHICH COMMITTEES SHOULD MEET

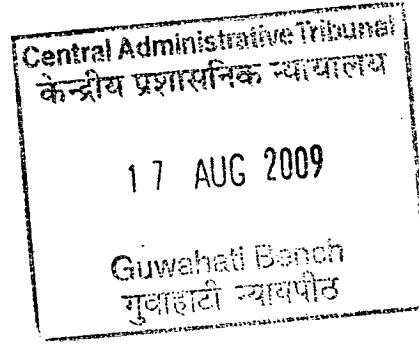
Meetings of the Committees should be convened at regular intervals to draw panels for filling up vacancies arising during the course of a year. For this purpose, it is essential for the concerned State Government to initiate action to fill up the existing as well as anticipated vacancies well in advance of the expiry of the previous panel by collecting relevant documents like ACRs, integrity certificates, seniority list etc. for placing before the Committees. Meetings of the Committees may be convened every year on a predetermined date e.g. 1st of May or June. All the cadres should lay down a time schedule for holding the Committee meetings and the Secretary-in-charge of the Personnel Department of the State Government shall ensure that they are held regularly. Holding of these meetings should not be delayed or postponed on one or the other administrative ground or on the ground that the necessary material for placement before the Committees is not

ready. The requirement of convening regular meetings of the Committees can be dispensed with only after a certificate has been issued by the Secretary-in-charge of the Personnel Deptt. to the effect that there are no vacancies to be filled by promotion or no officers are due for promotion/confirmation during the year in question.

3. DETERMINATION OF VACANCIES

It is essential that the number of vacancies in respect of which a panel is to be prepared should be estimated as accurately as possible. For this purpose, the vacancies to be taken into account should be the clear vacancies arising in a grade due to death, retirement, resignation, promotions and deputation. As regards *vacancies arising due to deputation, only those cases of deputation for periods exceeding one year* should be taken into account, taking due note of the number of deputationists likely to return to the cadre. Purely short term vacancies arising as a result of the officers proceeding on leave, training or on deputation for a short-term period or as a result of *overutilisation of the sanctioned State Deputation Reserve not approved by the Central Government, should not be taken into account* for the purpose of preparation of a panel. In cases where there has been delay in holding the Committee meetings for a year or more, vacancies should be indicated year-wise separately, by also including the names of officers in the zone of consideration who would have been eligible and available for consideration had the meeting(s) of the DPC taken place in time6 but have since retired or expired.

6DP&T's OM No. 22011/4/98-Estt.(D), dt. 12.10.98.



4. PAPERS TO BE PUT UP FOR CONSIDERATION BY COMMITTEES

4.1 The proposals should be completed and submitted to the Committee well in time. No proposal for holding a Committee meeting should be sent until and unless at least 90% of the up-to-date and complete ACRs are available. Every effort should be made to keep the ACR dossiers up-to-date lest this aspect is advanced as the reason for not holding the Committee meetings in time. The officer referred in para 2 above would be responsible for monitoring and the completion of the ACR dossiers as per the extant instruction in this regard. In respect of cases relating to confirmation and assessment of the work and conduct of probationers, he would ensure the timely submission of the Assessment Reports etc.

4.2 The folder of ACRs/Assessment Reports should be checked to verify whether the ACRs for individual years/relevant periods are available. If the ACR for a particular year/particular period is not available and for valid/justifiable reasons it cannot be made available, a certificate should be recorded to that effect and placed in the folder.

4.3 The integrity certificate on the lines indicated below should be furnished to the Committees constituted to consider cases for promotion or confirmation :-

"The records of service of the following officers who are to be considered for promotion/confirmation in the grade have been carefully scrutinized and it is certified that there is no doubt about their integrity."

If there are names of persons in the list of eligible candidates, whose integrity is suspect or has been held in doubt at one stage or the other, the fact should specifically be recorded by the officer-in-charge of the Personnel Department and brought to the notice of the Committee. The integrity certificate would be withheld only in cases where one or the other contingencies as indicated in para 11.1 supra has arisen. It should be ensured that the information thus furnished is factually correct and complete in all respects. Cases where incorrect information has been furnished should be investigated and suitable action taken against the person responsible for it.

5. CONSIDERATION OF OFFICERS ON DEPUTATION ETC.

The names of officers who are on deputation for a period exceeding one year shall also be included in the list submitted to the Committee for consideration for promotion/confirmation in case they fulfil the prescribed eligibility conditions. In cases where a certain number of years of service in the lower grade is prescribed as a condition for becoming eligible for consideration for promotion to the higher grade and/or for confirmation, the period of service rendered by an officer on deputation should be treated as comparable service in his cadre for the purposes of promotion as well as confirmation. This is subject to the condition that the deputation is with the approval of the competent authority and it is certified that but for deputation, the officer would have continued to be in the relevant grade in his cadre. The same would apply in cases of officers who are on leave/study leave duly sanctioned by the competent authority or training under the various training schemes which are treated as duty for all purposes.

6. PROCEDURE TO BE OBSERVED BY COMMITTEES

Each Committee should decide its own method and procedure for objective assessment of the suitability of the candidates. While merit has to be recognized and rewarded, advancement in an officer's career should not be

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regarded as a matter of course. It should be earned by dint of hard work, good conduct and result oriented performance as reflected in the annual confidential report and based on strict and rigorous selection process. The misconception about "Average" performance also requires to be cleared. While "Average" may not be taken as adverse remark in respect of an officer, it cannot also be regarded as complimentary to the officer. Such performance should be regarded as routine and undistinguished. Nothing short of above-average and noteworthy performance should entitle an officer to recognition and suitable rewards in terms of career progression.

7. CONFIDENTIAL REPORTS

7.1 The Annual Confidential Reports are the basic inputs on the basis of which assessment is to be made by each Committee. The evaluation of ACRs should be fair, just and non-discriminatory. The Committee should consider ACRs for equal number of years in respect of all officers falling within the zone of consideration for assessing their suitability for promotion. Where one or more ACRs have not been written for any reason, the Committee should consider the available ACRs. If the Reviewing Authority or the Accepting Authority as the case may be, has overruled the Reporting Officer or the Reviewing Authority respectively, the remarks of the Accepting Authority should be taken as the final remarks for the purposes of assessment. While making the assessment, the Committee should not be guided merely by the overall grading that may be recorded in the ACRs but should make its own assessment on the basis of the overall entries made in the ACRs.

7.2 In the case of each officer, an *overall grading* should be given which will be *either "Fit" or "Unfit"*. There will be *no benchmark* for assessing suitability of officers for promotions.

7.3 Before making the overall grading, the Committee should take into account whether the officer has been awarded any major or minor penalty or whether any displeasure of any higher authority has been conveyed to him. Similarly, the Committee would also take note of the commendations received by the officer during his service career. The Committee would also give due regard to the remarks indicated against the column of integrity.

The list of candidates considered by the Committee and the overall grading thus assigned to each candidate would form the basis for preparation of the panel for promotion.

8. PREPARATION OF YEAR-WISE PANELS WHERE THE COMMITTEE HAVE NOT MET FOR A NUMBER OF YEARS

8.1 Where for any reasons beyond control, the Committee has not met in a year(s) even though vacancies arose during the year(s), the first Committee that meets thereafter should follow the procedures indicated below :

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

(b) Consider in respect of each of the years only those officers including the officers who have retired/died in the meanwhile, who would be within the zone of consideration with reference to the vacancies of each year starting with the earliest year onwards.

(c) Prepare a panel by placing the panel of the earlier year above the one for the next year and so on.

8.2 Where a Committee has already met in a year and further vacancies arise during the same year, the following procedure should be followed :-

(a) For vacancies due to death, voluntary retirement, new creations etc. belonging to the category which could not be foreseen at the time of placing the facts and the matter before the Committee, another meeting of the Committee should be held for drawing up a panel for the vacancies thus arising. If for any reason, the Committee cannot meet for the second time, the procedure of drawing up of yearwise panel, as indicated above, may be followed when it meets next for preparing panels in respect of vacancies that arise in the subsequent year.

(b) In cases of non-reporting of vacancies due to error or omission, since the wrong whereby such an error artificially restricted the zone of consideration cannot be undone, a Review DPC should be held taking into consideration the total vacancies in the year.

(c) For the purpose of evaluating the merit of the officers while preparing yearwise panels, the scrutiny of the record of the service of the officer should be limited to the records that would have been available had the Committee met at the appropriate time. However, if on the date of such meeting, departmental proceedings against an officer are in progress and the sealed cover procedure is to be followed, such procedure should be observed even if departmental proceedings were not in existence in the year to which the vacancy related. The officer's name should be kept in the sealed cover till the proceedings are finalized.

(d) While promotions will be made in the order of the consolidated panel, such promotions will have only prospective effect if it is in functional grade, involving higher duties and responsibilities, even in cases where the vacancies relate to earlier years. In cases of promotions in non-functional grades, not involving higher duties and responsibilities, promotions may be allowed from the due dates retrospectively.

9. CONFIRMATION

In the cases of confirmation, which is now a one-time affair during one's entire service, the Committee should not determine the relative merit of officers but it should assess the officers as "Fit" or "Not Yet Fit" for confirmation in their turn on the basis of their performances as assessed with reference to their records of service. In case the Committee finds a probationer 'Not Yet Fit', it shall record reasons for the same.

10. PROBATION

In the case of probation, the Committee should not determine the relative grading of officers but only decide whether they should be declared to have completed the probation satisfactorily within the meaning of the IAS (Probation) Rules, 1954. If the performance of any probationer is not satisfactory, the Committee may advise whether the period of probation should be extended or whether he should be discharged from service, within the meaning of these Rules.

11. PROCEDURE TO BE FOLLOWED IN RESPECT OF OFFICERS AGAINST WHOM DISCIPLINARY/COURT PROCEEDINGS ARE PENDING OR WHOSE CONDUCT IS UNDER INVESTIGATION

11.1 At the time of consideration of the cases of officers for promotion, details of such officers in the zone of consideration falling under the following categories should be specifically brought to the notice of the concerned Screening Committees:-

(a) Officers under suspension; (b) Officers in respect of whom a chargesheet has been issued and disciplinary proceedings are pending ; (c) Officers in respect of whom prosecution for criminal charge is pending.

11.2 The Screening Committee shall assess the suitability of the officers coming within the purview of the circumstances mentioned above, alongwith other eligible candidates, without taking into consideration the disciplinary case/criminal prosecution which is pending. The assessment of the Committee including "Unfit for Promotion" and the grading awarded by it will be kept in a sealed cover. The cover will be superscribed "FINDINGS REGARDING THE SUITABILITY FOR PROMOTION TO THE SCALE OF.....IN RESPECT OF SHRI.....NOT TO BE OPENED TILL THE TERMINATION OF THE DISCIPLINARY CASE/CRIMINAL PROSECUTION AGAINST SHRI....." The proceedings of the Committee need only contain the note " THE FINDINGS ARE CONTAINED IN THE ATTACHED SEALED COVER". The same procedure will be adopted by the subsequent Screening Committees till the disciplinary case/criminal prosecution against the officer concerned is concluded.

12. ADVERSE REMARKS

12.1 Where adverse remarks in the Confidential Report of the officer concerned have not been communicated to him, this fact should be taken note of by the Committee while assessing the suitability of the officer for promotion/confirmation. In a case where a decision on the representation of an officer against adverse remarks has not been taken or the time allowed for submission of representation is not over, the Committee may defer the consideration of the case until a decision on the representation is arrived at.

12.2 An officer whose increments have been withheld or who has been reduced to a lower stage in the time-scale, cannot be considered on that account to be ineligible for promotion as the specific penalty of withholding promotion has not been imposed on him. The suitability of the officer for promotion should be assessed by the Committee as and when occasions arise. They will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of overall service records of the officer and the fact of the imposition of the penalty, he should be considered for promotion or not. Even where the Committee considers that despite the penalty

the officer is suitable for promotion, the officer may be promoted only after the currency of the penalty.

13. VALIDITY OF THE COMMITTEE PROCEEDINGS WHEN ONE MEMBER IS ABSENT

In such cases and provided that the Chairman was not absent, the proceedings of the Committee shall be legally followed and can be acted upon. It should, however, be ensured that the member was duly invited but he absented himself for one reason or the other and there was no deliberate attempt to exclude him from the Committee's deliberations and provided further that the majority of the members constituting the Committee are present in the meeting.

14. PROCESSING OF RECOMMENDATIONS OF THE COMMITTEES

14.1 The recommendations of the Committee are advisory in nature and should be duly placed before the State Government for approval. There may, however, be occasions when the State Government may find it necessary to disagree with the recommendations. In any case, however, the decision to agree or disagree with the recommendations should be taken within a period of 3 months from the date the Committee forwards its recommendations.

14.2 Where the State Government proposes to disagree with the recommendations of the Committee, it may refer the matter again to the Committee for reconsideration of their earlier recommendations. If the Committee reiterates its earlier recommendations giving also the reasons in support thereof, the State Government shall take a decision either to accept or to vary the recommendations of the Committee, by giving reasons to be recorded in writing, and such a decision shall be final.

15. VIGILANCE CLEARANCE WHILE IMPLEMENTING THE COMMITTEE RECOMMENDATIONS

A clearance from vigilance angle should be available before making actual promotion or confirmation of officers approved by the Committee to ensure that no disciplinary proceedings are pending against the officer concerned.

16. ORDER IN WHICH PROMOTIONS TO BE MADE

The officers placed in the approved panels for promotion are to be considered for appointment to higher grades in the order of their inter-se position in the respective panels, except in cases where disciplinary/court proceedings are pending against an officer. The procedure to be adopted in cases of officers against whom disciplinary/court proceedings are pending has been laid down in the succeeding paragraphs.

17. PROMOTION OF OFFICERS ON DEPUTATION

If a panel contains the name of an officer who is away from the cadre and is on deputation in public interest for a period exceeding one year including an officer who has gone on study leave/training, the officer shall be eligible for his regaining the temporarily-lost promotion in the higher grade on his return to the cadre. It has to be borne in mind that seniority of members of India Administrative Service which is initially fixed, is not to undergo any change throughout their career and early or late promotion of an officer vis-à-vis other officer(s) in a particular grade is to have no impact on their seniority. Therefore, such an officer need not be reconsidered by a fresh Committee, if subsequently held, while he continues to be on deputation/study leave/training. This would be irrespective of the fact whether or not he has got the benefit of proforma promotion under the 'Next-Below Rule'.

18. SEALED COVER CASES - ACTION AFTER COMPLETION OF DISCIPLINARY/CRIMINAL PROSECUTION⁷

18.1 If the proceedings of the Committee for promotion contain findings in a sealed cover, on conclusion of the disciplinary case/criminal prosecution, the sealed cover or covers shall be opened. In case the officer is completely exonerated, the due date of his promotion will be determined with reference to the findings of the Screening Committee kept in sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such findings. The officer shall be promoted even if it requires to revert the junior-most officiating person. Such promotion would be with reference to the date of promotion of his junior and in these cases, the officer will be paid arrears of salary and allowances.

18.2 If a penalty is imposed on the officer as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover/covers shall not be acted upon. His case for promotion may be considered by the next Screening Committee in the normal course, having regard to the penalty imposed on him. In such cases, the question of arrears may be decided by taking into account all the facts and circumstances of the disciplinary/criminal proceedings. Where arrears of salary or a part thereof are denied, the reasons for doing so shall be recorded.

19. THREE MONTHLY REVIEW OF SEALED COVER CASES

It is necessary to ensure that the disciplinary case/criminal prosecution instituted against an officer is not unduly prolonged and all efforts to expeditiously finalise the proceedings are taken so that the need for keeping the cases of officers in sealed cover/covers is limited to the barest minimum. The concerned State Governments shall comprehensively review such cases on the expiry of three months from the date of convening of the first Screening Committee which had

adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also after every three months. The review shall, inter alia, cover the progress made in the disciplinary proceedings/criminal prosecution and further measures required to be taken to expedite their completion. The material/evidence collected in the investigations would also be scrutinized to determine in cases involving suspensions whether there is a prima-facie case for initiating disciplinary action or sanctioning prosecution against the officer. If as a result of such a review, the State Govt. comes to a conclusion that there is prima facie no case, the sealed cover would be opened and the officer concerned would be given his due promotion with reference to the position assigned to him by the DPC.

Same procedure is to be followed in considering the cases of confirmation.

20. AD HOC PROMOTIONS IN CASES WHERE DISCIPLINARY PROCEEDINGS/CRIMINAL PROSECUTIONS ARE PROLONGED.

As appointment of the members of the Indian Administrative Service to various grades is made on regular basis and the provision of one-time confirmation exists in their cases, the concept of grant of ad hoc promotion is alien to them. Unlike Central Government servants, ad hoc promotions are not to be allowed in their cases even if the disciplinary cases/criminal prosecutions instituted against them are found to have been prolonged. In their cases, only three-monthly review of their disciplinary/criminal cases is to be undertaken and efforts are to be made to expedite their completion.

21. SEALED COVER PROCEDURE APPLICABLE TO OFFICERS IN WHOSE CASES CONTINGENCIES OF PARA 11.1 SUPRA ARISE BEFORE ACTUAL PROMOTION⁷

In the case of an officer recommended for promotion by the Screening Committee where any of the circumstances mentioned in para 11 above arise before actual promotion, sealed cover procedure would be followed. The subsequent Committee shall assess the suitability of such officers along with other eligible candidates and place their assessment in sealed cover. The sealed cover/covers will be opened on conclusion of the disciplinary case/criminal prosecution. In case the officer is completely exonerated, he would be promoted as per the procedure outlined in para 18 above and the question of grant of arrears would also be decided accordingly. If any penalty is imposed upon him as a result of the disciplinary proceedings or if he is found guilty in the criminal prosecution against him, the findings of the sealed cover shall not be acted upon, as outlined in para 18.2 above.

22. VALIDITY OF THE PANEL²

A panel for promotion recommended by the Committee and approved by the State Governments shall be valid till all the officers placed in the panel have been promoted. This will, of course,

exclude officers who are away on deputation but they do not opt to rejoin the cadre in the higher post or are on study leave or training.

23. REVIEW COMMITTEE MEETING

23.1 The proceedings of any Committee may be reviewed only if the Committee had not taken all the material facts into consideration or if material facts were not brought to their notice or if there were grave errors in the procedure followed by them. Special review may also be done in cases where adverse remarks in an officer's ACRs are expunged or modified. The Review Committee would consider only those officers who were eligible as on the date of meeting of the Original Committee. They would also restrict their scrutiny of the ACRs for the period relevant to the first Committee meeting. If any adverse remarks relating to the relevant period were toned down or expunged, the modified ACRs should be considered as if the original adverse remarks did not exist at all. Before

doing so, the appointment authority would scrutinize the relevant cases with a view to decide whether or not a review by the Committee is justified, keeping in mind the nature of the adverse remarks toned down or expunged. While considering a deferred case or review of the case of a superseded officer, if the Committee finds the officer fit for promotion/confirmation, it would place him at the appropriate place in the relevant panel after taking into account the toned-down remarks or expunged remarks, as the case may be.

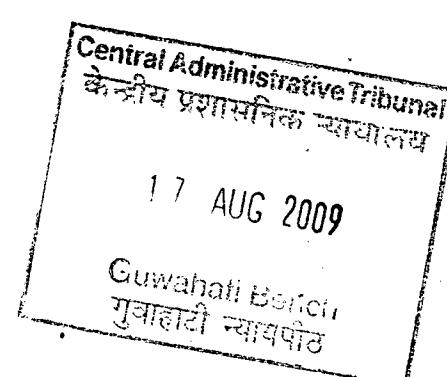
23.2 If the officers placed junior to the above-said officer have been promoted, the latter should be promoted immediately and if there is no vacancy, the junior-most person officiating in the higher grade should be reverted to accommodate him. On promotion, his pay should be fixed at the stage it would have reached had he been promoted from the date the officer immediately below him was so promoted, but no arrears for the past periods would be admissible. In the case of confirmation, if the officer concerned is recommended for confirmation on the basis of a review, he should be confirmed from the due date.

24. AVAILABILITY OF VACANCIES

Whenever promotions are vacancy based, while computing the available vacancies for filling up the same by promoting officers placed in the panel, care should be taken to ensure that the *total ex-cadre posts created in various grades for the purpose do not exceed in sum the permissible quota of State Deputation Reserves* indicated in the respective Cadre Schedules. *Provisions of rule 9(7) of the IAS (Pay) Rules, 1954 would also require to be followed while making promotions in the highest grade of the Service.*

25. SUPERSESSION OF OFFICERS

If an officer has not been included in the panel for promotion to any of grades, the detailed reasons for his supersession may be recorded in writing. Such officers would be eligible for reconsideration after earning two more reports, except in the case of promotion *in the grade of Chief Secretary*, in which case *an officer would be eligible for reconsideration after earning only one more report.*



No. 3/2/2002-FW
GOVERNMENT OF MANIPUR
DIRECTORATE OF FAMILY WELFARE SERVICES

To

Imphal, the 28th January, 2004

The Managing Director
Manipur Police Housing Corporation, Imphal

Central Administrative
केन्द्रीय प्रशासनिक

138

Subject: Renovation/construction of health infrastructures under
Family Welfare Department -- deposit work thereof.

17 AUG

Sir

Guwahati E
गुवाहाटी E

In pursuance of Secretariat Family Welfare Department Orders No. 13/3/2000-M (FW)/Pt. III dated 17th December, 2003 the Renovation/construction works of the following health institutions are entrusted to your agency/corporation as deposit works:

Name of the works	Estimated cost
-------------------	----------------

1 Construction of Rural Maternity & Child Health Centre at Thongju	Rs. 1,08,25,364/-
--	-------------------

Rs. 1,08,25,364/-

(Rupees one crore eight lacs twenty-five thousand three hundred and sixty-four) only

It is, therefore, requested that you may kindly send your acceptance if agreed to the proposal for taking up further necessary formalities. Agreement copies in stamped papers are attached herewith which may please be returned after signing. A cheque bearing No 644932 dt. 30/1/2004 for an amount of Rs. 1,08,20,000/- is also enclosed herewith.

Kindly acknowledge receipt of the same

Yours faithfully,

(Dr. S. Rabel Singh)

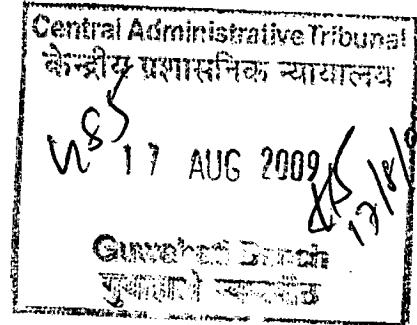
Director

Family Welfare Services, Manipur

o/c

Copy to:

1. The PS to Minister (FW) for kind information of the Hon'ble Minister
2. The Secretary (FW) for kind information
3. Addl. Director (FW)
4. CMO concerned
5. DDO/HQ
6. DFWO/DIO concerned
7. Office copy
8. Guard file



132
File by:-
M. Gundam Singh
Advocate
n/108/09

DISTRICT: IMPHAL
STATE: MANIPUR

**IN THE CENTRAL ADMININSTRATIVE TRIBUNAL
GAUHATI BENCH**

O.A. NO. 92 OF 2009

BETWEEN

Sri C. Peter Ngahanyui

..... Applicant

-Versus-

The State of Manipur & Ors.

..... Respondents

In the matter of:-

Rejoinder filed by the applicant
to the written statement filed by
the Respondent No 4 in the
above-mentioned case.

**Humble rejoinder of the
applicant above named.**

Received copy
or 17.08.09
by bdkg
(Advocate)

Received
B. Sharma
Advocate
17/08/09

F. Shakti

1. That I am the applicant in the instant Original Application and I have been served a copy of the written statement filed by the Respondent No.4 through my counsel. On receiving, I have gone through the same and have understood the contents and meaning thereof.

2. That save and except those statements made in the written statement which are specifically admitted herein below by the applicant , the rest are construed to be denied by the

answering applicant, the applicant also does not admit any of the statements which are contrary to and inconsistent with the records of the case.

3. That the statements made in paragraph 3 of the written statement filed by the respondent is categorically denied by the answering applicant. It is denied that no service conditions of the applicant has been infringed with in this context the applicant begs to state that the right for consideration for promotion being a fundamental right and his case not being considered by the DPC dated 19/07/07 taking into consideration of purported the charge memo 18/07/07 issued to the applicant has compelled the applicant to approach this Hon'ble Tribunal for appropriate redresses.

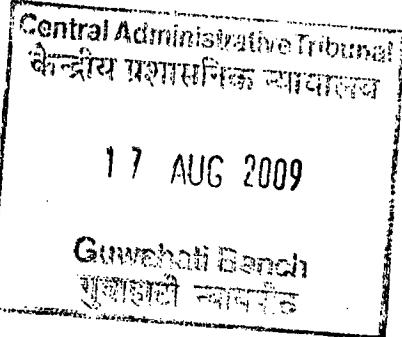
4. That the statements made in paragraph 4 of the written statement filed by the respondent no.4 are categorically denied by the answering applicant. It is categorically denied that the original application is barred by limitation. In this context the applicant reiterates the statements made in the paragraph 3 of the original application.

5. That the statements made in paragraphs 5 and 6 of the written statement filed by the respondent no.4 is categorically denied by the answering applicant. It is categorically denied that the screening committee dated 19/07/07 was duly constituted. The applicant states that the screening committee was not as per the guidelines relied on by the Government of Manipur.

The applicant begs to state that the applicant has relied and counted the service of the respondent as per the publication of civil list of 2002. The applicant craves leave to produce the list at the time of hearing of the case.

*Ans. filed along
with A.*

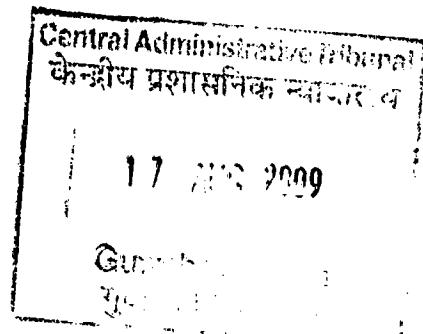
(101)



6. That the statements made in paragraph 7 of the written statement filed by the respondent No.4 are categorically denied by the answering applicant. While denying the statement made therein the deponent reiterates his statements made in paragraphs 4.7, 4.8, 4.9, 4.10, 4.14, 4.15, 4.16, & 4.17 of the original application. It is denied that the applicant was issued with a memorandum of charge dated 18/07/07 after due enquiry and ascertainment of the veracity of the allegation existing against him by the Manipur Vigilance Commission.

It is stated that the proposed Departmental Enquiry against the applicant was in connection with payment of advance money. It is denied that the applicant made any irregular and illegal advance to the tune of Rs.2,61,45,000/- during the period from June 2004 to January, 2005 while he was working as the Managing Director, Manipur Police Housing Corporation Ltd. It is further stated that even the respondent No.4 while working as the Managing Director, Manipur Police Housing Corporation Ltd. as well as other officers who worked as the Managing Directors, Manipur Police Housing Corporation Ltd made advanced payment like that of the applicant. However, only the applicant has been singled out. It is further stated that advanced made by the applicant while working as the Managing Director, Manipur Police Housing Corporation Ltd is not irregular the same was done as per Clause 7(B) of the conditions of contract as laid down in the Agreement Book of the Manipur Police Housing Corporation Ltd. It is provided in the said agreement that the secured Advances and Advances for works completed but not measured may be released on payment of interest @ Rs.9.5% per annum charging from the date such advances are given till the adjustment. It is stated that such advanced stood realized from the contractors thus inflicting no pecuniary loss to the Corporation and further the Corporation could earn revenue to the tune of Rs.26,41,817/-

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as interest accrued on the above advances in addition to other charges realized from the contractors.

It is stated that the applicant while granting advances followed all the procedure as laid down in the agreement book. And all the advances granted by the applicant stands recovered and no pecuniary loss has been caused to the Corporation or to the Government. And the applicant being the Managing Director during the relevant point time had the same power as of the Chief Engineer and was empowered to take decision accordingly in order to implement works in the most effective manner.

That to the statement made in the paragraph 7(b) of the written statement the applicant begs to state that the applicant also followed all the procedure while giving advances and as such he cannot be made liable.

That applicant denies the statement made in the paragraph 7(c) of the written statement. It is denied that the advances given by the applicant do not fall under the category of secured advances or advances for work completed but not measured.

That applicant denies the statement made in the paragraph 7(c)(i) of the written statement. That the applicant denies that he had given advances against the works already cancelled. While denying such allegation the applicant begs to state the venue of the proposed project from Imphal (in respect of Modernisation of Prisoner's Administration) had to be changed to Sajiva Jail and the Contractor had already mobilized his resources in the earlier site and the applicant after duly considering the works and progress done by the contractor in the earlier proposed site and also for shifting the materials, machineries at the new site released an amount of Rs.30,000/ as mobilization advance.

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Central Administration	केन्द्रीय प्रशासनिक सेवा
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(103)

That to the statements made in paragraphs 7(c) (ii) the applicant begs to state that such advances were to be released by the applicant when he was the Managing Director to implement the work in time in the interest of the Corporation. That the applicant while granting the advances applied his mind and in order to earn revenue by releasing advances to the contractor and as well as to complete the works in time by making the funds available to the contractor granted the advances to the contractor on their request. The applicant begs to state that there is no allegation against the applicant that he had released advances and no works had been implemented / completed by the contractor bringing loss to the Corporation/ Government. It is stated that all the advances granted by the applicant stand realized. It is stated that the State of Manipur being subjected frequent bandhs/ blockades call by civil organizations, insurgent problems the applicant while working as Managing Director made the funds available to the contractor so that there is no delay in implementing works and with the availability of adequate funds to the contractors the works could be completed in war footing.

Abul

That to the statements made in paragraphs 7(c) (iii) the applicant begs to state that the estimated cost of the work of Maternal and Child Health Center, Thongju, was arrived at Rs. 1,08,25,364/- and the Government had already deposited the money with the Corporation and as such the allegation of granting excess advance is baseless and illfounded.

A copy of the estimation and deposit of money is annexed herewith and marked as **ANNEXURE-R/1** to this rejoinder.

That to the statements made in paragraphs 7(c) (iv) the applicant begs to state the Kangla is sacred place for the people of Manipur and after the Assam Rifle has left this sacred place on the pressure from the citizen of Manipur lots of

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17 AUG 2009

General Court
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development works for Kangla Fort were undertaken. And in order to meet the sentiment and attachment of the people of Manipur, funds were made available to the contractor, however, in accordance with the prescribed procedure. It is stated that after the funds were made available to the contractor the development works could be completed in time gaining the confidence of the people in implementing the Government project. It is stated for such bonafide act in the interest of the public as well as the Corporation/ Government, how the applicant could be made a scapegoat. It is further stated that the advances granted by the applicant stands realized from the contractor bringing financial gain to the Corporation/ Government.

That to the statements made in paragraphs 7(c) (v) and 7(c) (vi) the applicant begs to state that seeing the importance of the works the applicant released the advance. However, the applicant states that he followed the procedure while releasing the advance and in the instant cases also the advance released has already been released.

That to the statements made in paragraphs 7(d) the applicant begs to state that till handing over of the charge the applicant was the Managing Director of the Manipur Police Housing Corporation as such he had all the powers to exercise as the Managing Director and as such he exercised the discretionary power as the Managing Director in the interest of the Corporation. It is stated no loss has been caused to the Corporation by the applicant. It is categorically denied that the advances have been sanctioned by the applicant on his own whims and fancy without following any rules and procedure.

That to the statements made in paragraphs 9(e) the applicant begs to state that the purported enquiry is coupled with malicious intention only to jeopardize the career of the

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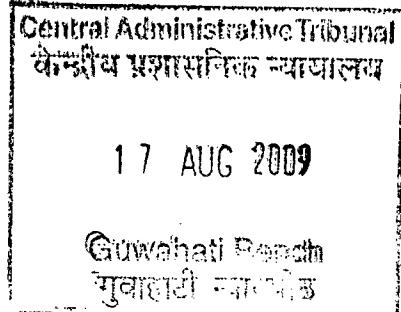
applicant in the circumstances mentioned above the purported enquiry is not sustainable in the eye of law

8. That as regard to the statement made in paragraph 8 of the written statement. The applicant begs to state that the initiation of the departmental proceeding against the applicant in all respect are baseless and cannot be proved as the same have been done with malicious intention only to jeopardize the career of the applicant and also from the background of the case narrated in the original application it is crystal clear that the initiation of the departmental proceeding is malicious, the date of the issuance charge memo and subsequently holding the DPC as well as the outright rejection of the applicant without considering his case for promotion proves beyond reasonable doubt that the action of the respondents are arbitrary, malafide and bias.

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9. That as regard to the statement made in paragraph 9 of the written statement. The applicant reiterates the statements made in paragraph 4.12 of the Original Application. It is further stated the manner in which the respondent no.4 comments on the alleged departmental proceeding like as that of the Government respondent proves the nexus of the malafide and the collusion with state authority.

10. That as regard to the statement made in paragraph 10 of the written statement. The applicant begs to state that the applicant was not aware of the said DPC even in the order dated 23/07/07 no whisper was made about the DPC. It is stated that during the relevant point of time the applicant was on deputation with the Railway. It is only when the Government respondent has filed their written statement that the applicant has come to know about impugned DPC dated 19/07/07.



The applicant begs to state that the applicant has relied and counted the service of the respondent as per the publication of civil list of 2002. The applicant craves leave to produce the list at the time of hearing of the case.

It is further stated that the guidelines issued if adopted is mandatory on the part of the authority and as such no deviation can be made from the provisions of the guidelines the DPC dated 19/07/07 having been done in violation of the guidelines issued by the Central Government is liable to set aside and quashed.

11. That as regard to the statements made in paragraph 12 of the written statement filed by the respondent the applicant reiterates the statements made paragraphs 5(i) to 5 (vii) of the Original Application.

12. That as regard to the statements made in paragraphs 13, 14, and 15 of the written statement filed by the respondents the applicant reiterates the statements made in the Original Application.

It is stated that after issuance of the charge Memo the respondent authorities have intentionally delayed the matter in order to deprive the promotional avenue of the applicant. It is stated that the said DPC was in violation of the guidelines dated 15/01/99.

It is denied that the instant case is not tenable in law. While denying the statement made in these paragraphs the applicant begs to state that the purported charge memo issued on 18/07/07 to the applicant for the alleged payment of advance while working as the Managing Director, Manipur Police Housing Corporation Ltd. is malafide and for oblique consideration, because the Respondent No.4 while working as the Managing Director, Manipur Police Housing Corporation

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Ltd. as well as other officers who worked as the Managing Director, Manipur Police Housing Corporation Ltd made advanced payment like that of applicant however, only the applicant has been singled out and the authorities have initiated Departmental Proceeding. As such the Disciplinary Proceeding being coupled with bias and malafide is not sustainable in the eye of law. And moreover, the case of the applicant having not considered in the DPC, the DPC dated 19/07/07 is liable to set aside as not tenable in the eye of law as well as without authority of law. And in view of the facts and circumstances the DPC dated 19/07/07 is not sustainable in the eye of law and liable to be set aside and quashed.

V- E- R- I- F- I- C- A- T- I- O- N

I Sri. Sri C Peter Ngahanyui S/o late C. Paul aged about 56 years Resident of Ukhrul P.O. Ukhrul, P.S. Ukhrul, District: Ukhrul, State: Manipur now residing at Iront Villa, Mantripukhri, Lamongei, Imphal, do hereby verify the contents of the statements made in paragraphs.....3 & 12..... of this accompanying rejoinder are true to the best of my knowledge and the rest are my humble submission before this Hon'ble Tribunal. And I sign this verification on this 12th day of August, 2009 here at Imphal.



Sri C. Peter Ngahanyui

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No. 3/2/2002-FW
GOVERNMENT OF MANIPUR
DIRECTORATE OF FAMILY WELFARE SERVICES

To

Imphal, the 28th January, 2004

The Managing Director
Manipur Police Housing Corporation, Imphal

Subject: Renovation/construction of health infrastructures under
Family Welfare Department -- deposit work thereof.

Sir,

In pursuance of Secretariat: Family Welfare Department Orders No. 13/3/2000-M (FW)/Pt. III dated 17th December, 2003 the Renovation/construction works of the following health institutions are entrusted to your agency/corporation as deposit works:

<u>Name of the works</u>	<u>Estimated cost</u>
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1. Construction of Rural Maternity & Child Health Centre at Thongju	Rs. 1,08,25,364/-
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Rs. 1,08,25,364/-

(Rupees one crore eight lacs twenty-five thousand three hundred and sixty-four) only

It is, therefore, requested that you may kindly send your acceptance if agreed to the proposal for taking up further necessary formalities. Agreement copies in stamped papers are attached herewith which may please be returned after signing. A ~~dated~~ cheque bearing No 644932 ~~dt. 30/11/2004~~ for an amount of Rs. 1,08,20,000/- is also enclosed herewith.

Kindly acknowledge receipt of the same.

Yours faithfully,


(Dr. S. Rabei Singh)

Director

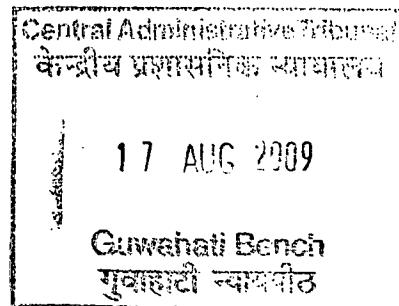
Family Welfare Services, Manipur

Encl: a. a. plus TOR

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Copy to:

1. The PS to Minister (FW) for kind information of the Hon'ble Minister
2. The Secretary (FW) for kind information
3. Addl. Director (FW)
4. CMO concerned
5. DDO/HQ
6. DFWO/DIO concerned
7. Office copy
8. Guard file



Central Administrative Tribunal
प्रौद्योगिकीय प्रशासनिक न्यायालय

04 MAR 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

NOTICE

From,
Mr. Satyen Sarma,
S.C. Manipur

Date: 04.03.2010.

To,

1. Mr. M. L. Singh, Advocate for respondent No. 1
2. Mr. U. K. Nair, Advocate for respondent No. 2
3. Mr. M. U. Ahmed, Advocate for respondent No. 3
4. Mr. Nilupal Barua, Advocate for respondent No. 4

Sub:

MISC APPLICATION NO. OF 2010

IN O.A. NO. 92 /2009

Sir,

Please find enclose herewith a copy of the Misc. Application to be filed before the Hon'ble Tribunal today. Kindly acknowledge the receipt of the same.

Thanking You.

Received Copy

Yours' Faithfully
Satyen Sarma
(ADVOCATE)

*Sk Singh
Advocate
Rao. No. 1
04/03/2010*