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

1. ORIGINAL APPLICATION No : -----/ 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : -----/2009 in O.A. No.-----
4. Contempt Petition No : -----/2009 in O.A. No.-----
5. Review Application No : -----/2009 in O.A. No.-----
6. Execution Petition No : 2 / 2010 in O.A. No. 92/2009

Applicant (S) : Sri C. Peter Ngahanyul

Respondent (S) : The Union of India & Ors.

Advocate for the : Mr. M. G. Singh
{Applicant (S)} Mr. S. K. Keham, Mr. S. K. Singh &
Mr. N. Bondoloi

Advocate for the : -----
{Respondent (S)}

Notes of the Registry	Date	Order of the Tribunal
<p><u>7.5.2010</u></p> <p>This Execution Petition has been filed by the Applicant through his Advocate with a prayer for issue a direction to the respondents authorities to comply with the order dated 5.2.2010 passed in the O.A. No. 92/2009 and decree ^{copy} not served. and ^{and} before the Hon'ble Court for favor ^{favor} of orders.</p> <p><u>7/5/2010</u> Section Officer(S). <u>HS 7/5/2010.</u></p>	<p>10.05.2010</p> <p>Im</p> <p>20.05.2010</p>	<p>Copy of E.P. is yet to be served on the Respondents' counsel. Learned counsel for Applicant submits that the same will be served during the course of the day.</p> <p>List the matter on 20.5.2010.</p> <p style="text-align: right;">(Madan Kumar Chaturvedi) Member (A)</p> <p>Heard both sides. Reserved for orders.</p> <p>Learned counsel for respondents Mr. Satyen Sarma is directed to supply a copy of the enquiry report dated 24.04.2010, copy of which has been produced before us during the course of hearing.</p> <p style="text-align: right;">(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta) Member (A) Member (J)</p>

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E.P.2 of 2010

in O.A.92 of 2010

Rdcur

31.5.2010

Judgment pronounced in open Court.

Kept in separate sheets. Application is allowed.

No costs.

For. H. K. Main

1-6-2010

For. H. K. Main

1-6-2010

for respondent No. 1, 2 & 3 /Lm/

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Execution Petition No.02 of 2010 (O.A. 211 of 2008)

&

Execution Petition No.03 of 2010 (O.A.92 of 2009)

Date of Decision: This, the 31st Day of May, 2010.

HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

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

...Applicant for both E.P.s

By Advocate: Mr. M. G. 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
Government of India
Ministry of Home Affairs
North Block, New Delhi – 1.



6. Union Public Service Commission
represented by its Chairman
Dholpur House, Shahajhan Road
New Delhi – 69.

...Respondents in both the E.P.s

By Advocates: Mr. Satyen Sarma for Respondent Nos. 1- 3.

ORDER

MUKESH KUMAR GUPTA, MEMBER (J):

We propose to deal with Execution Petition Nos. 02 & 03 of 2010 by present common order as the issue raised is common in nature. Sri C. Peter Ngahanyui by these present cases basically seeks to enforce common order dated 05.02.2010 passed in O.A. No.211/2008 and O.A. No.92/2009 declaring the result of DPC and opening the sealed cover with all consequential benefits.

2. The respondents have filed their reply stating that the direction contained vide aforesaid order with regard to review DPC has already been complied with by holding DPC on 19.03.2010 findings of which, have been kept in sealed cover. With regard to departmental proceedings initiated against the applicant, Enquiry Officer has submitted the report on 24.04.2010, copy of which has been forwarded to him vide letter dated 14.05.2010 requiring to submit representation, if any, within 15 days. There was some delay in processing the enquiry report due to ongoing 4 months old cease work strike of the State Govt. employees. Furthermore, Rule 9 of All India Services (Discipline & Appeal) Rules, 1969 requires that in every case the record of the enquiry shall be forwarded by the disciplinary authority to UPSC for its advice.

3. Mr.Satyen Sarma, learned Standing counsel for the Govt. of Manipur forcefully contended that the ground realities must be taken into consideration. It was also emphasized that no prejudice has been caused to applicant in as much as the findings of review DPC have been kept in sealed cover and enquiry has been concluded by submitting the enquiry report.

4. Aforesaid aspects were seriously contested by Mr.M.G.Singh, learned counsel for applicant. It was contended that order dated 05.02.2010 in unambiguous terms concluded that if no final order is passed on the said disciplinary proceedings within the time limit prescribed, the same "**would stand abate**". It was also emphasized that the term used therein had been "disciplinary proceedings" and not the "enquiry". Furthermore, what was expected from the respondents was to pass "final order", on the said disciplinary proceedings, which has not been done. In any case, on the request of the respondents, time had been extended upto 26.04.2010. No further extension was either applied or granted, emphasized, learned counsel.

5. We have heard learned counsel appearing for the parties at great length, perused the materials placed on record. Before proceeding further, it would be expedient to notice the relevant excerpts of the common order dated 05.02.2010 in O.A.s.211/2008 & 92/2009, which read as under:-

"...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.

...
15. In our considered view, the DPC had committed illegality in not following the sealed cover procedure & thereby such violation cannot be sustained in law. Therefore, we have no hesitation to conclude that such proceeding and said DPC dated 19th July 2007 suffers from material irregularity and illegality, which cannot be cured & sustained in the eye of law, hence are liable to be quashed. We accordingly do so. Consequently recommendation made by it also cannot be operated and hence the promotion of Respondent No. 4 vide order dated 23.07.2007 is also rendered unsustainable in law, set aside and quashed. As the post held by the Respondent No.4 is the highest post in the hierarchy, we will not like to put it in limbo and therefore we require the respondents to convene a review DPC within thirty days from today to consider all eligible officers fairly & justly and accordingly regulate regular appointment/promotion to the said post. Till then Respondent No. 4 is allowed to remain in position."

(emphasis supplied)

After the aforesaid order was passed, the respondents have moved M.A.s 39 & 40 of 2010 seeking extension of time. Vide order dated 05.03.2010, said M.A.s were disposed of, relevant excerpts of which, read as under:-

"We have heard learned counsel for the parties perused and examined the matter. As far as extension of time sought for concluding the departmental proceedings is concerned, we do not find any

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justification as the respondents were granted 60 days time from 12.02.2010 instead of 05.02.2010, the date on which said order was passed. Since there has been certain delay in issuing certified copy of the said order, technically speaking respondents were required to complete the exercise as directed therein irrespective of receipt of certified copy, we grant 15 days time from today to complete the process."

(emphasis supplied)

Thereafter, undeterred by aforesaid order, the respondents filed further M.A. Nos.67 & 68 of 2010 respectively in aforesaid O.A.s seeking extension of time. Vide order dated 12.04.2010, said M.A.s were disposed of noticing the fact that the inquiring authority had proposed to complete the enquiry and hearing had been completed but one vital statement has to be checked, which was received only on 05.04.2010. Therefore, it was felt that there existed a reasonable cause for delay, and therefore, time was extended upto 26.04.2010, as prayed for.

6. Upon examination of the matter, the clear fact which emerges are that the inquiry authority submitted its report on 24.04.2010, which was endorsed to him only on 14.05.2010 requiring him to make representation, if any, against it. It is undeniable fact that vide order dated 05.02.2010, this Tribunal required the respondents to pass: **"final order on said Departmental Proceedings"** within **"60 days from 12.02.2010"**. It was further observed therein that: **"If the Respondents are not able to finalize said Departmental Proceedings initiated against him in the time limit prescribed, in that (sic) eventuality said Proceedings would stand abate."** Thus, it transpires that what has been concluded so far is the "enquiry" and not the "departmental proceedings". Disciplinary proceedings are concluded only when the final order is passed by the disciplinary authority and not mere

submission of the enquiry report by the inquiring authority. Furthermore, we find justification in the contention raised by the applicant that in any event the time was extended upto 26.04.2010, which period has expired. Thereafter, neither any request was made for extension nor such time was extended beyond 26.04.2010.

7. We may note that virtually identical issue felt for consideration before Principal Bench of this Tribunal in **Bhauri Ram vs. Masih-Uz-Zaman, G.M., 1995 (1) SLJ (CAT) 253**, wherein the penalty of removal order dated 19.11.1991, while deciding O.A. No.997/1986, was quashed and set aside, and it required the respondents to conduct disciplinary proceedings, if any, according to law, which should be completed within a period of 6 months from the date of receipt of said order. One of the issues, which arose for consideration therein had been: "whether in view of the specific direction given by this Tribunal in its judgment dated 19.11.1991 that the disciplinary proceedings shall be completed within a period of six months the respondents had any legal justification to issue an order of deemed suspension on 15.3.1993, which was served upon the applicant on 26.6.1993, long after the expiry of a period of six months from 19.11.1991?" On examination of the matter and with reference to facts and circumstances of the case, this Tribunal concluded vide paras 9 & 10, as under:-

"9. The Tribunal in its order made it mandatory that the inquiry shall be completed within a period of six months. If the respondents did not complete the inquiry within the specified period, they did so at their peril. Whether they should be punished for having committed the contempt of the Tribunal is a different matter. In any view of the matter, it has to be held that the enquiry having not been completed within a period of six

months from 19.11.1991 the same cannot be allowed to be completed now.

10. We are satisfied that the inquiry had been commenced to circumvent the undertaking given to the Tribunal and the direction given by it on that basis. Since an act is contumacious and, therefore, the order passed for holding an inquiry is without jurisdiction. Furthermore, public policy requires that such an act should not be countenanced."

(emphasis supplied)

Almost similar question had been considered by Hon'ble Calcutta High Court in **Sher Singh vs. Union of India and Ors., 2007(3)SLR 817**, which was a writ petition filed at the instance of an unsuccessful applicant before this Tribunal. The petitioner therein was a member of Indian Administrative Service of 1976 batch belonging to West Bengal cadre, who was served with a memorandum of charge dated 02.06.1994 in the proceedings initiated against him, this Tribunal disposed of the proceedings directing the State Government to complete the disciplinary proceedings and submit its report to the competent authority within 3 months and the competent authority was also directed to pass final order within the time limit prescribed therein. In default of compliance of said order, it was observed that the entire proceeding would stand quashed. As there was a delay in completing the proceeding, M.A. was filed seeking extension of time. No order has been passed thereon and after a passage of almost 3 years the penalty was imposed upon the applicant therein. The petitioner therein contended that as the proceedings were finalized and concluded much after the time limit prescribed by the judicial order and the time limit fixed by the Tribunal, continuance of the disciplinary proceedings beyond the time prescribed was without jurisdiction. Accepting said plea vide para 33 of the judgment, it was observed that:

"we are of the opinion that Mr. Mullick (petitioner's counsel) is right in his contention that in view of the judicial order passed against the respondents fixing a time limit for conclusion of the proceedings and undisputedly such time limit not having extended, the respondents could not proceed further with the enquiry and conclude the same by passing an order of dismissal."

(emphasis supplied)

Ultimately, said order was quashed and set aside with all consequential benefits.

Lucknow Bench of this Tribunal in **K. B. Bhardwaj v Union of India [2002 (2) ATJ 477]** was also confronted with similar issue and following order dated 30.04.2001 passed by Hon'ble High Court of Allahabad in C.M. Application No.9786/2001 in WP No.584/2001, decision of the Hon'ble Supreme Court in the case of **Whirlpool Corporation v Registrar of Trade Marks [1999 (17) LCD 219]**, as well as **M.L. Sachdeva v Union of India [(1991) 1 SCC 605]**, it was held that where the Court's directions were issued to finalize the disciplinary proceedings within a stipulated period and the orders in compliance thereof are passed after expiry of the said period, such orders have to be quashed being without jurisdiction. Similar issue was also considered by the Principal Bench of this Tribunal in O.A.2066/2004, which was partly allowed vide order dated 26.08.2005 requiring the General Manager to pass fresh order permitting appointment of another enquiry officer only if the same enquiry officer who had earlier conducted the enquiry was not available for some good reason. In case the enquiry was not completed within the time limit prescribed, it shall stand abate. Review filed by the Union of India (R.A.6/2006) was rejected vide order

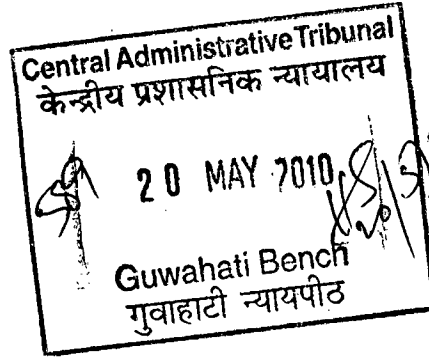
E.P.s.02 & 03 of 2010

were also made prior to his joining MPHC Ltd., and he also brought instances of advances being made even later after he handed over charge. It was further observed that **"It would for the Disciplinary Authority to reach a decision on the defence that there was no misconduct or misbehaviour or loss incurred on part of the Charged Officer."**

10. We would not like to make any further observation except noticing aforesaid aspect. In the result, E.P. Nos.2 & 3 of 2010 are allowed. Since "final order" on the disciplinary proceedings initiated vide memorandum dated 18.07.2007 has not been passed within "60 days of the said order" or in any case by 26.04.2010, time limit as extended vide order dated 12.04.2010, said disciplinary proceedings stand abated. Respondents are accordingly directed to open the sealed cover and give effect to recommendation made by the DPC with all consequential benefits.

Execution petitions are allowed. No costs.

Sd/- M.K. Gupta
Member (J)
Sd/-M.K. Chaturvedi
Member (A)



Filed by,
Respondent No. 1, 2 & 3
Through.

Satyen Sena.

S.C. Manipal
20.05.2010 239

DISTRICT : IMPHAL
STATE : MANIPUR

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH**

Execution Case No. 2/2010
IN O.A.NO. 92/2009

Sri C. Peter Ngahanyui

..... Applicant

-Versus-

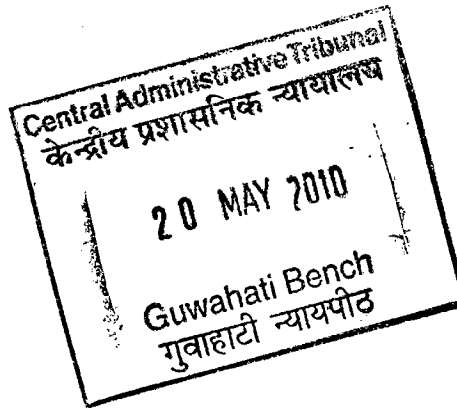
The Union of India & Ors

..... Respondents

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DISTRICT : IMPHAL
STATE : MANIPUR



Filed by

Respondent No. 1, 2 & 3

Through

Satyam Senna.
Seikholet Lhangum S.C. Manipur

20.05.2010 240

Under Secy. (DP)
Govt. of Manipur

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH**

Execution Case No. 2/2010

IN O.A.NO. 92/2009

Sri C. Peter Ngahanyui

..... Applicant

-Versus-

The Union of India & Ors

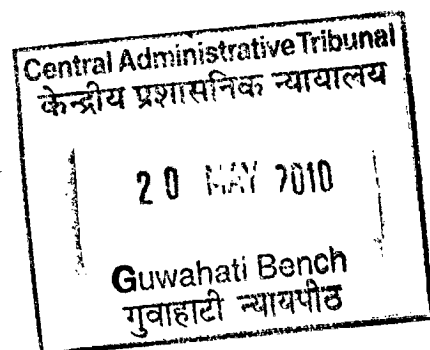
..... Respondents

IN THE MATTER OF

An affidavit-in-opposition filed by and on
behalf of the Respondent Nos 1, 2 & 3 in
the above mention execution case.

AFFIDAVIT-IN-OPPOSITION

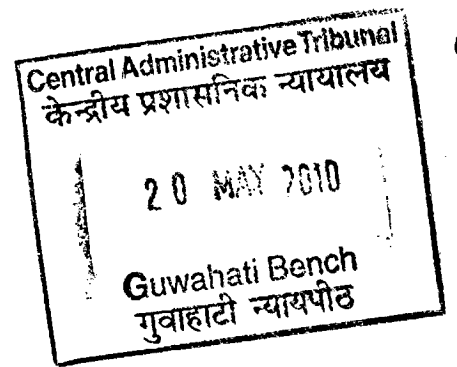
1. I, Sri Seikholet Lhangum, presently holding the post as Under Secretary (DP), Govt. of Manipur. I have gone through the statements made and documents annexed to the aforesaid Execution Case in O.A.92/2009 and understood the contents thereof. Being the Under Secretary (DP), Govt. of Manipur, I am well conversant with the facts and circumstances of the case and being authorized I am competent to



swear this affidavit on behalf of the Respondent No.s 1,2 & 3. Save and except what has been specifically admitted in this affidavit all other averments made by the petitioner in this Execution Case may be taken to have been denied by the answering respondents.

2. That, the deponent begs to state that statements made in the paragraph-1 of the Execution Case are matter of record and the deponent does not admit anything which are borne out of record.

3. That, with regard to paragraph-2 of the Execution Case deponent begs to state that the Hon'ble Tribunal vide order dated 05.02.2010 has directed the State Government to complete the departmental proceeding against the applicant within 60 days counting from 12.02.2010 and to convene the DPC for regular appointment/promotion to the post of DGP Manipur within 30 days from 05.02.2010. It is pertinent to mention herein that the copy of the Judgment and Order dated 05.02.2010 was delivered to the counsel for the Government of Manipur on 05.03.2010. Therefore the Government of Manipur had to file a Misc. case being the Misc. Case No.39/2010 in O.A. 92/2009 for extension of time to comply with the Order dated 05.02.2010. After hearing the Misc. case the Hon'ble Tribunal vide order dated 05.03.2010 was pleased to extend 15 days time to complete the DPC for regular appointment/promotion to the post of DGP, Manipur. However the Tribunal refused to extend the time with regard to the departmental proceeding and directed the State Government to complete the departmental proceeding against the applicant within 60 days counting from 12.02.2010. The Order passed by the Hon'ble Tribunal on 05.03.2010 with regard to Review DPC has already been complied with as the process for Review DPC

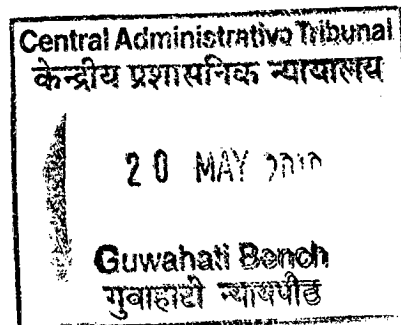


was completed on 19.03.2010 and the findings in respect of Sri C. Peter Ngahanyui, IPS has been kept in sealed cover.

4. That, with regard to the statements made in paragraph-3 of the Execution Case, the deponent states that as we have already mention in Paragraph-3 of this affidavit-in-opposition that the Order passed by the Hon'ble Tribunal on 05.03.2010 relating to Review DPC has already been complied with as the process for Review DPC was completed on 19.03.2010 and the finding in respect of Sri C. Peter Ngahanyui, IPS has been kept in sealed cover.

With regard to the departmental proceedings against Sri C. Peter Ngahanyui, IPS, the Government of Manipur was filed a Misc. case being Misc. Case No. 68/2010 in O.A. No. 92/2009 on 12.04.2010 for extension of 15 days time to complete the departmental proceeding. The Hon'ble Tribunal after hearing this Misc. case extended 15 days time i.e. upto 26.04.2010 to complete the departmental proceeding vide Order dated 12.04.2010. The Inquiring Authority, Shri A.N. Jha, IAS, Principal Secretary (Finance/Forest & Env't.) accordingly completed the Departmental Enquiry and submitted his report on 24.04.2010. The deponent further states that a copy of the Inquiry Report has been forwarded to Shri C. Peter Ngahanyui, IPS ,vide letter No.18/33/2005-IPS/DP(PT-A) dated 14.05.2010 for submitting his written representation or submission, if any, within 15 days for consideration by the Government.

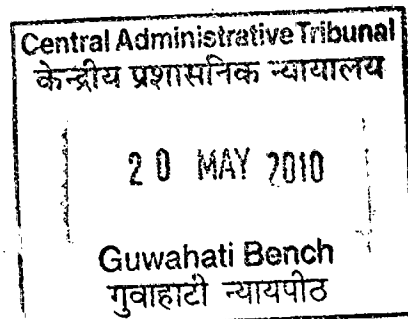
A copy letter dated 14.05.2010 to Shri C. Peter Ngahanyui, IPS is annexed here with as **ANNEXURE- 1**



5. That, with regard to the statements made in paragraph-4 of the Execution Case, the deponent states that as in paragraph-4 of this affidavit-in- opposition, the Government of Manipur was filed a Misc. case being Misc. Case No. 68/2010 in O.A. No. 92/2009 on 12.04.2010 for extension of 15 days time to complete the departmental proceeding. The applicant has not received the copy of the two Misc. Cases only because of that the counsel for the applicant, Mr. M.G.Singh was out of station on 12.04.2010 and his mobile phone was also switched off during that time i.e.11.04.2010 to 12.04.2010. It is pertinent to mention herein that Mr. Sanjeeb Kr. Deka, Advocate, one of the junior to Mr. Satyen Sarma, Standing Counsel, Government of Manipur visited his house three times to serve the copy of the Misc. Case and came to know from the neighbors of Mr. M.G. Singh that he is out of station. The copy of the Misc. Case was served to Mr. M.G. Singh on his return and also informed about the order dated 12.04.2010, through Standing Counsel, Manipur.

6. That, with regard to the statements made in paragraph-5 of the Execution Case, the deponent states that The Inquiring Authority, Shri A.N. Jha, IAS, Principal Secretary (Finance/Forest & Env't.) accordingly completed the Departmental Enquiry and submitted his report on 24.04.2010. The Government of Manipur through its letter dated 17.05.2010 has informed Mr. Satyen Sarma, Standing Counsel, Government of Manipur that there has been some delay in processing the Inquiry Report due to the ongoing 4(four) month old cease work strike launched by the Joint Administrative Council (JAC) of All Manipur Trade Union Council (AMTUC) and All Manipur Government Employees' Organisation(AMGEO) over implementation of the

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recommendations of the 6th pay commission. The Manipur Secretariat Service association (MSSA) also joined the cease work strike with effect from 16.04.2010. MSSA has however, called off the strike on 14.05.2010.

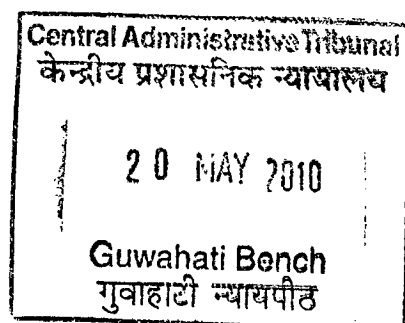
A copy of the letter dated 17.05.2010 to Mr. Satyen Sarma, Standing Counsel, Government of Manipur is annexed herewith as **ANNEXURE-2**

The deponent further states that Rule 9 of the All India Services (Discipline and Appeal) Rules, 1969 requires that in every case the record of the enquiry shall be forwarded by the disciplinary authority to the Union Public Service Commission (UPSC) for it's advice and such advice shall be taken into consideration before making any order imposing any penalty on the member of the service. This procedure needs to be followed if the Government is of the opinion that any of the penalties either minor or major, should be imposed on the member of the service.

A copy of the rule 9 of the All India Services (Discipline and Appeal) Rules, 1969 is annexed herewith as **ANNEXURE-3**

7. That, the deponent crave leave of this Hon'ble Tribunal to file further detail affidavit explaining the subsequent events, if the Hon'ble Tribunal is pleased to grant 2 weeks time to file the said affidavit.

Affidavit....

-AFFIDAVIT-

I, Sri Seikholet Lhangum, son of Late Sehpao Lhangum, aged about 59 years, a resident of Khongsai Veng in the District of Imphal East, Manipur, do hereby solemnly affirm and declare as follows:

1. That, I am the under secretary (DP), Govt. of Manipur. Being the Under Secretary (DP), Govt. of Manipur, I am well conversant with the facts and circumstances of the case and being authorized I am competent to swear this affidavit on behalf of the Respondent No.s 1,2&3 .

2. That, the statements made in this affidavit and in paragraphs 5 of the affidavit-in opposition are true to my knowledge which I believe to be true, those made in paragraphs 1 to 4,6 being matters of record are true to information derived therefrom which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this affidavit on this 20th day of May, 2010 at Guwahati.

Identified by:

Sarijeeb K. Deke
Advocate
20.05.2010

Seikholet Lhangum
Deponent
Under Secy. (DP)
Govt. of Manipur

-7-

ANNEXURE-1

-66-

= 30 =

**CASE MATTER
URGENT**

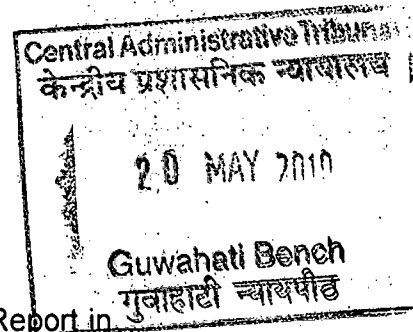
**No. 18/33/2005-IPS/DP(Pt-A)
GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)**

Imphal, the 14th May, 2010.

To

**Shri C. Peter Ngahanyui, IPS,
Officer on Special Duty (Home),
Government of Manipur, Imphal.**

Subject:- Written representation or submission on the Inquiry Report in respect of the DE against Shri C. Peter Ngahanyui, IPS.



Sir,

I am directed to enclose herewith a copy of the report of the inquiry submitted by the Inquiring Authority, Shri A.N. Jha, IAS, Principal Secretary (Finance/Forest & Environment), Government of Manipur in connection with the DE held against you and to request you to submit your written representation or submission, if any, within 15(fifteen) days as required under Rules.

Yours faithfully,

Encl: As above.

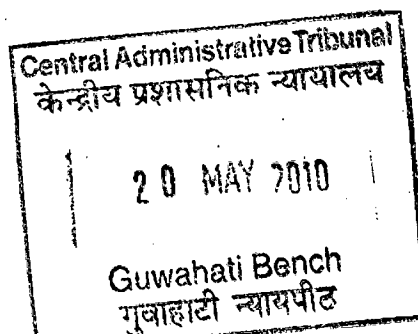
Under Secretary, 14/5/10
(K.C. Laishram)
Under Secretary (DP),
Government of Manipur.

CERTIFIED TO BE TRUE COPY
S. K. DeKa
ADVOCATE
20.05.2010

— 64 —

**COURT CASE
IMMEDIATE****GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)****No.18/33/2005-IPS/DP(Pt.-A)**Imphal, the 17th May, 2010.

To

**Shri Satyen Sarma,
Standing Counsel, Manipur,
Principal Bench,
Gauhati High Court,
Kumarpara (Rupnagar),
Guwahati - 781 009.****Subject:- 1. Execution Case No.2 of 2010(Ref : O.A. No.92 of 2009)****[Shri.C. Peter Ngahanyui -vs- State of Manipur & Ors.]****2. Execution Case No.3 of 2010(Ref : O.A. No.211 of 2008)****[Shri C. Peter Ngahanyui -vs- State of Manipur & Ors.]**

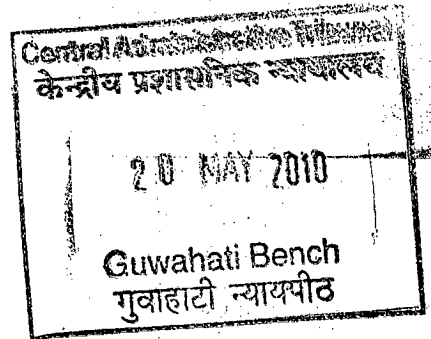
Sir,

I am directed to refer to your letter dated 14-05-2010 regarding the above subject and to say that the Hon'ble CAT, Guwahati Bench has fixed the hearing of the Execution Cases No.2 of 2010 and No.3 of 2010 on 20-05-2010. Copies of the Execution Cases filed by Shri C. Peter Ngahanyui, IPS have been received through Shri Th. Ibohal Singh, Govt. Advocate (HC) on 14-05-2010 and in view of the paucity of time coupled with the ongoing cease work strike launched by the Joint Administrative Council (JAC) of the State Government employees over implementation of the recommendations of the 6th Pay Commission / prevailing law and order situation, the Government has decided to seek time extension of 2(two) weeks for filing counter affidavit. It is proposed to contest the Execution Cases on the following grounds:

- (i) The part of the Order passed by the Hon'ble CAT on 05-03-2010 relating to Review DPC has already been complied with as the process for Review DPC was completed on 19-03-2010 and the finding in respect of Shri C. Peter Ngahanyui, IPS has been kept in sealed cover.
- (ii) In respect of the departmental proceedings against Shri C. Peter Ngahanyui, IPS, the Hon'ble CAT granted time extension upto 26-04-2010 in its Order passed on 12-03-2010 (subsequently corrected as 12-04-2010). The Inquiring Authority, Shri A.N. Jha, IAS, Principal Secretary (Finance/Forest & Env't.) accordingly completed the DE and submitted his report on 24-04-2010.

Contd....2.

CERTIFIED TO BE TRUE COPY**S. k. Deka****ADVOCATE****20.05.2010**

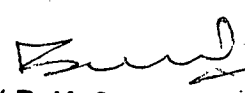


- (iii) There has been delay in processing the Inquiry Report due to the ongoing 4(four) month old cease work strike launched by the Joint Administrative Council (JAC) of All Manipur Trade Union Council(AMTUC) and All Manipur Government Employees' Organisation(AMGEO) over implementation of the recommendations of the 6th Pay Commission. The Manipur Secretariat Service Association (MSSA) also joined the cease work strike with effect from 16-04-2010. MSSA has, however, called off the strike on 14-05-2010.
- (iv) A copy of the Inquiry Report has been forwarded to Shri C. Peter Ngahanyui, IPS, vide letter No.18/33/2005-IPS/DP(Pt.-A) dated 14-05-2010 (enclosed) for submitting his written representation or submission, if any, within 15(fifteen) days for consideration by the Government.
- (v) Rule 9 of the All India Services (Discipline and Appeal) Rules, 1969 (copy enclosed) requires that in every case the record of the inquiry shall be forwarded by the disciplinary authority to the Union Public Service Commission (UPSC) for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the member of the service. This procedure needs to be followed if the Government is of the opinion that any of the penalties either minor or major, should be imposed on the member of the service.

In view of the above, you are requested to move the Hon'ble CAT for extension of 2(two) weeks' time to enable filing of proper counter affidavit in respect of the above Execution Cases.

Yours faithfully,

Enclo: As above.


(P. K. Singh)
Commissioner (DP),
Government of Manipur.

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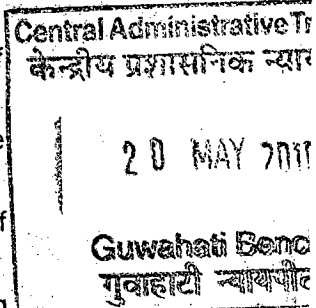
1. The Chief Secretary, Government of Manipur.
2. The Commissioner (Home), Government of Manipur.
3. The Secretary (Law), Government of Manipur.

—67—

= 2A

AIS (DISCIPLINE AND APPEAL) RULES, 1969

- (b) the written statement of defence, if any, submitted by the member of the Service;
- (c) the oral and documentary evidence produced in the course of the inquiry;
- (d) written briefs, if any, filed by the Presenting Officer or the member of the Service or both during the course of the inquiry; and
- (e) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.



9. Action on the inquiry report.—

- 9(1) The disciplinary authority may, for reasons to be recorded by it in writing, remit the case to inquiring authority for further inquiry and report, and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of rule 8 as far as may be.
- 9(2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.
- 9(3) If the disciplinary authority, having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in clause (i) to (iv) of rule 6 should be imposed on the member of the Service, it shall notwithstanding anything contained in rule 10, make an order imposing such penalty:

Provided that, in every case the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making any order imposing any penalty on the member of the Service.

- ³⁵9(4) If the disciplinary authority having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in clause (v) to (ix) of rule 6 should be imposed on the member of the Service, it shall make an order imposing such penalty and it shall not be necessary to give the member of the Service any opportunity of making representation on the penalty proposed to be imposed:

Provided that in every case, the record of the inquiry shall be forwarded by the disciplinary authority to the Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty on the member of the Service.

10. Procedure for imposing minor penalties—

- 10(1) Subject to the provision of sub-rule (3) of Rule 9 no order imposing on a member of the Service any of the penalties specified in clauses (i) to (iv) of rule 6 shall be made except after:—

³⁵ Substituted vide DP&AR Notification No. 11018/15/78-AIS-III dated 13.10.1981 (GSR No. 959 dt. 31.10.1981)

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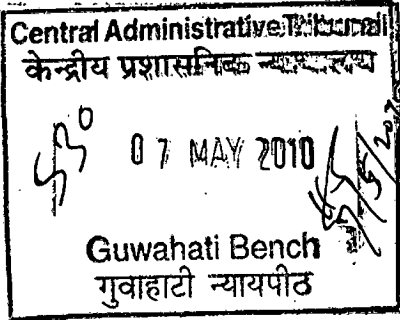
S. K. Deka

ADVOCATE

20.05.2010

DISTRICT: IMPHAL
STATE: MANIPUR

IN THE CENTRAL ADMININSTRATIVE TRIBUNAL, GAUHATI BENCH



Execution Case No. 2/2010
O.A. NO. 92 OF 2002

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 Irong Villa,

Mantripukhri, Lamongei, Imphal,

Manipur. Pin Code - 795002

..... Applicant

-Versus-

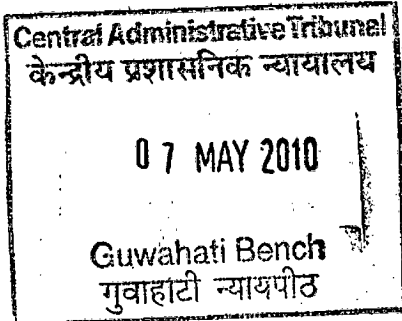
1. The State of Manipur represented by Chief Secretary, Government of Manipur. Pin Code - 795001.
2. The Secretary/ Commissioner/ principal Secretary (Home), Government of Manipur. Pin Code - 795001.
3. The Secretary/ Commissioner/ Principal Secretary(DP), Government of Manipur. Pin Code - 795001
4. Sri Y. Joykumar, IPS (MT-76) Director General of Police, Government of Manipur. Pin Code - 795001

Filed by the applicant
2/5/10
Sanjib Kumar Singh
Advocate

[Handwritten signature]

Rans
10/5/10

Received copy
for Mrs. M. Das
P.K. Rana
10.5.10



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

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

... Respondents

An application under ^{Rule} 24 of the C.A.T. (Procedure) Rules, 1987 to give effect to the order dated 5.2.2010 passed in OA 211/08 & OA 92/09.

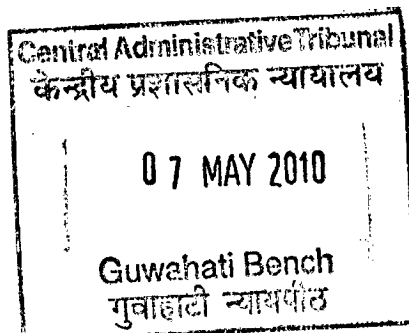
The humble application of the applicant
above named :-

MOST RESPECTFULLY SHEWETH

1. That the applicant herein is the applicant in the Original Application No. 92/2009, in the said application amongst others the applicant challenged the Departmental Proceeding dated 18/07/2007, proceeded against the applicant.

2. That the applicant begs to state that the Hon'ble Tribunal by order dated 05/02/2010 set aside the appointment of Sri. Y. Joykumar Singh IPS of '76 batch and further directed the respondent Government to convene a regular DPC for appointment of DGP Manipur within thirty days by considering the names of all the eligible officers in the DPC, the Hon'ble Tribunal by order dated 05/02/2010 further gave direction to the respondent State authority to complete the Departmental proceeding against the applicant within sixty days with effect from 12/02/2010. That on 05/03/2010 the Hon'ble Tribunal was pleased to extend the date of DPC by another 15 days however, rejected the prayer for extension the time for completion of the Departmental Proceeding.

Copies of the order dated 05/02/2010, enclosed herewith and marked as Annexure -1 & 2.



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3. That the applicant begs to state that as per the direction of the Hon'ble Tribunal, it is reliably learnt that the DPC was convened on 20/03/2010, and the case of the applicant was kept in sealed cover because of the pendency of the Departmental Enquiry. It is stated that till date no final order has been passed in the Departmental Enquiry and as such the result of the DPC is still kept in sealed cover.

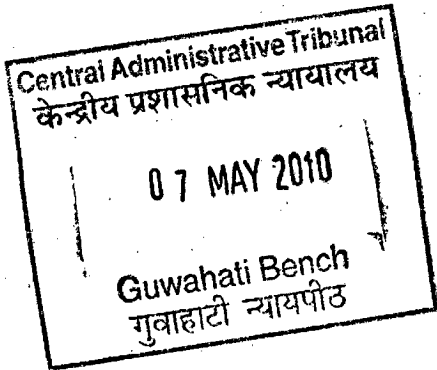
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4. That the applicant begs to state that as no final order has been passed as per the direction of the Hon'ble Tribunal, the applicant enquired about the status of the Departmental Enquiry. It is stated that to his utmost shock and surprise the applicant came to know that without serving any notice to the applicant/ his counsel the respondent Nos. 1, 2 and 3 filed Misc applications on 12/04/2009 for further extension of time to complete the Departmental Enquiry against the applicant, the Hon'ble Administrative Member of the Hon'ble Tribunal while sitting single extended time to complete the Departmental Enquiry till 26/04/2010 without hearing the applicant. It is stated that the Division Bench was very specific and categorical in passing the order dated 15/03/2010. As such the application dated 12/04/2010 should have been rejected outright by the Hon'ble Administrative Member of the Hon'ble Tribunal.

5. That the applicant begs to state that there is already inordinate delay in proceeding/ commencing the Departmental Enquiry and even after a specific direction the same is not completed till date by passing a final order. As such, a direction may be passed by this Hon'ble Tribunal to comply with order dated 05/02/2010 passed in the Original Application and declare the result of the DPC of the applicant.

6. That this application is filed bonafide and for the ends of justice.

In the premises it is most respectfully prayed that Your Lordships

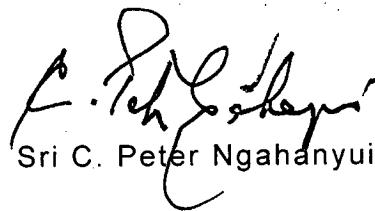


would be graciously pleased to call for the records of the case and after hearing the parties be pleased to direct the respondent authorities to comply with the order dated 05/02/2010 passed in the Original Application and declare the result of the DPC of the applicant by opening the sealed cover result of the applicant for the ends of justice and further be pleased to pass any other further order/ or orders as Your Lordships may deem fit and proper.

And for this act of kindness the applicant as on duty bound shall ever pray.

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 57 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 5 of this accompanying application 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 28th day of April, 2010 here at Imphal.


Sri C. Peter Ngahanyui

-5-

**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)

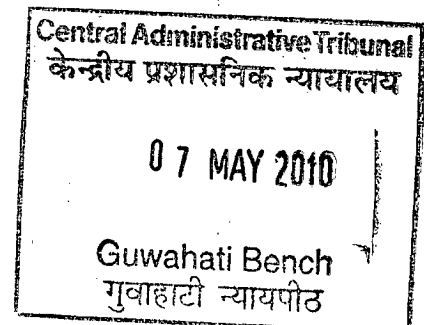
Sri C. Peter Ngahanyui
S/o Late C. Paul
Resident of Ukhrul
P.O.- Ukhrul, P.S.- Ukhrul
District- Ukhrul, State- Manipur
Now residing at Irong Villa
Mantripukhri, Lamongei, Imphal
Manipur, Pin Code- 795002.

...Applicant for both O.A.s

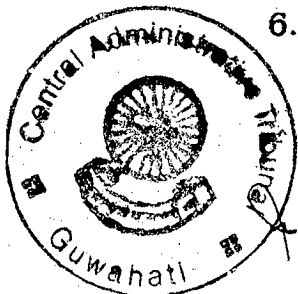
By Advocate: Mr. M. Gunedhor Singh

-Versus-

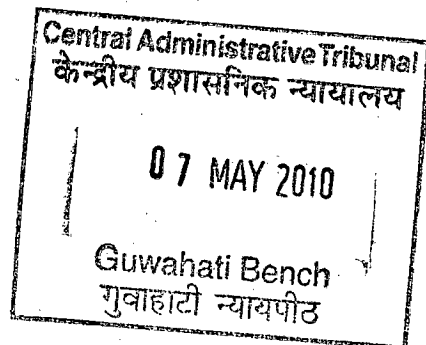
1. The State of Manipur
represented by Chief Secretary
Government of Manipur
Imphal, Manipur - 795001.
2. The Secretary / Commissioner/
Principal Secretary (Home)
Government of Manipur
Imphal, Manipur - 795001.
3. The Secretary / Commissioner/
Principal Secretary (DP)
Government of Manipur
Imphal, Manipur - 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

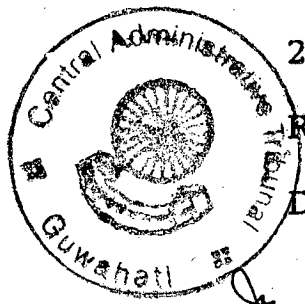
By Advocates: Mr. M.U. Ahmed, Addl. CGSC for U.O.I.
Mr. Satyen Sarma for Respondent Nos. 1- 3.
Mr. U.K. Nair for Respondent No.4
Mr. Nilutpal Borua for Respondent No.6
(Advocates in both Respondents).

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-



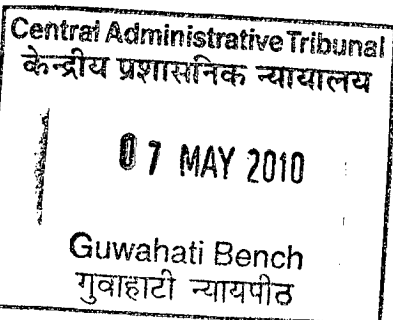
650-26000 or in alternative to set aside memorandum issued on 23rd July, 2007 whereby Respondent No. 4 has been appointed to said grade. Further relief sought is to quash departmental proceeding initiated vide memorandum dated 18th July 2007. Vide O.A. No. 92 of 2009 relief claimed is to quash the impugned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

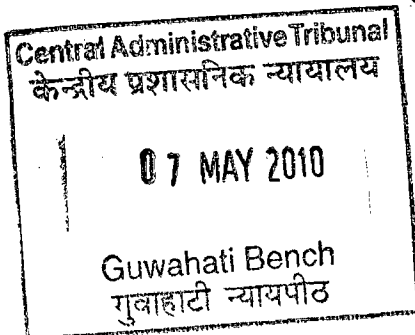
His grievance is of two folds:

- 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 some how 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.

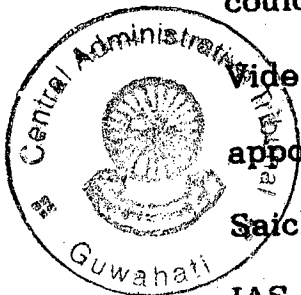


7. Filing reply, Respondent Nos. 1-3 have not denied that Memorandum dated 18.07.2007 had been issued under the provisions of All India Services (Discipline & Appeal) Rules, 1969 just a day prior to holding DPC on 19.07.2007. It was emphasized that as per the Government of India, Ministry of Home Affairs 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.



07 MAY 2010

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

O.A. Nos. 211 of 2008 & 92 of 2009

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.

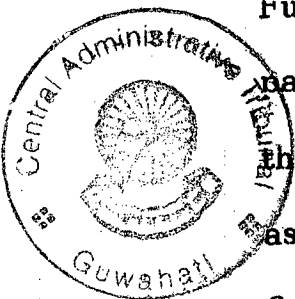
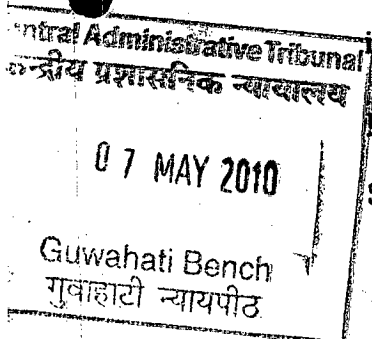
12. We have heard both sides at great length, perused the pleadings and other materials placed on record including the orders passed on 27th January, 2010 and 04th February, 2010 appointing fresh



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

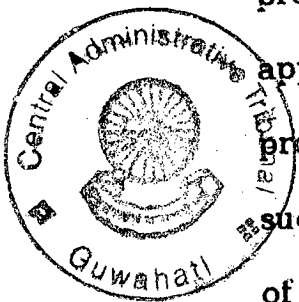


07 MAY 2010

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

O.A. Nos. 211 of 2008 & 92 of 2009

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.



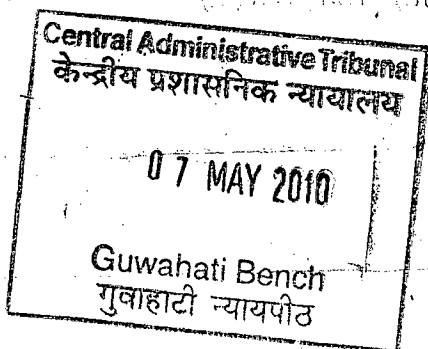
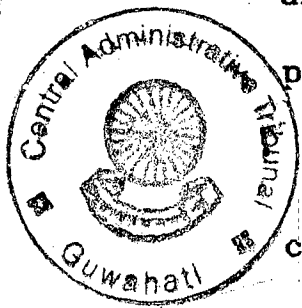
15.

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

cannot be sustained in law. Therefore, we have no hesitation to conclude that such proceeding and said DPC dated 19th July 2007 suffers from material irregularity and illegality, which cannot be cured & sustained in the eye of law, hence are liable to be quashed. We accordingly do so. Consequently recommendation made by it also cannot be operated and hence the promotion of Respondent No. 4 vide order dated 23.07.2007 is also rendered unsustainable in law, set aside and quashed. As the post held by the Respondent No.4 is the highest post in the hierarchy, we will not like to put it in limbo and therefore we require the respondents to convene a review DPC within thirty days from today to consider all eligible officers fairly & justly and accordingly regulate regular appointment/promotion to the said post. Till then Respondent No. 4 is allowed to remain in position.

Consequently O.A.s are disposed of in above terms. No

costs.



Sd/- M.K. Gupta
Member (J)

Sd/-M.K. Chaturvedi
Member (A)

Date of Application : 6.5.2010
Date on which copy is ready : 6.5.2010
Date on which copy is delivered : 6.5.2010
Certified to be true copy

Section Officer (Judl)
C. A. T. Guwahati Bench
Guwahati-5

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
07 MAY 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

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(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:
ORDERSHEET

1. ORIGINAL APPLICATION No : -----/ 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : 39 / 2009 in O.A. No. 92/2009
4. Contempt Petition No : -----/2009 in O.A. No.-----
5. Review Application No : -----/2009 in O.A. No.-----
6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : The State of Manipur & ors

Respondent (S) : C. Peter Ngahangyui

Advocate for the : Mr. M. Ahmed, add case for H.O.F., Mr. S. Sarna for R-1-3
(Applicant (S)) Mr. L. K. Nair for R-4, Mr. N. Bora for R-6

Advocate for the : M. Gureedhar Singh
(Respondent (S))

Notes of the Registry	Date	Order of the Tribunal
ter ys nd in	05.03.2010	<p>M.A. Nos. 39 and 40 of 2010 have been filed by the State of Manipur seeking extension of time to comply with directions contained vide order dated 05.02.2010.</p> <p>Vide aforesaid order dated 05.02.2010, which was a common order passed in open Court, respondents were directed to convene a Review DPC within 30 days from the said date to consider all eligible officials fairly and justly. Respondents were also required to <u>conclude the departmental proceeding</u> initiated against applicant, which remains inconclusive, within 60 days from 12.02.2010. As notice hereinabove, by the aforesaid M.A.s, respondents <u>seek</u> extension of both the time limits.</p> <p>Contd...</p>

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

07 MAY 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

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Contd.
05.03.2010

We have heard learned counsel for the parties perused and examined the matter. As far as extension of time sought for concluding the departmental proceedings is concerned, we do not find any justification as the respondents were granted 60 days time from 12.02.2010, instead of 05.02.2010, the date on which said order was passed. Since there has been certain delay in issuing certified copy of the said order, technically speaking respondents were required to complete the exercise as directed therein irrespective of receipt of certified copy, we grant 15 days time from today to complete the process.

Accordingly, M.A.s are disposed of. It is made clear that no further request for extension of time will be entertained.

Sd/- M.K. Gupta
Member (J)
Sd/- M.K. Chaturvedi
Member (A)

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