

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./TA/ NO. 242/2009
R.A./CP/NO. 2015
E.P./M.P./NO. 2015

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~~Filed by Mr. K.K. Das Adv.~~

09/07/2015

SECTION OFFICER (JUDL.)

8.7.2015
G.T.

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

ORDERSHEET

1. Original Application No: 242/2009

2. Misc Petition No _____

3. Contempt Petition No _____

4. Review Application No _____

Applicant(s) Shri Dilip Paul

Respondent(s) M. O. I. 9028

Advocate for the Applicant(s): M. Chanda,
S. Nath, Ms. U. Dutta

Advocate for the Respondent(s): Shri C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
This application is in form. is filed/C. F. for Rs. 50/- deposited vide IPO/DO No. 39/6/426484 Dated.....27.10.09.....	20.11.2009	Heard Mr.M.Chanda, learned counsel for Applicant. Mr.Kankan Das, learned Addl. Q.G.S.C. was present on behalf of the Respondents.
Dy. Registrar		Notices be issued to the Respondents requiring them to file their reply to this case by 22.12.2009.
Steps taken alongwith envelope. Extra Rs 20/- has been deposited. Vide receipt dt. 19.11.09 Copies served.		Call this matter on 22.12.2009.
<i>Shri 19/11/09</i>	/bb/	<i>(Madan Kumar Chaturvedi)</i> Member (A)

SO (G)

Copies of notices along with order
dt. 20/11/09 send to D/Sec. Supreme
to the respondents by regd. a/c
post. D/No. 12647-55.

(G/11/09, D/ 26/11/09)

O.A. No. 242/ 2009

No. w/s filed.

21.12.09

22.12.2009

At the request of Mr. K.K. Das, learned Addl. CGSC appearing for Respondents case is adjourned to 19th January, 2010 enabling him to file written statement.

No w/s filed.

18.1.2010

/PB/

(Madan Kumar Chaturvedi)
Member (A)

Notice duly served
on R-1 to 9.

19.1.2010 Time is extended to file reply as prayed for.

List the matter on 18.2.2010.

22.2.2010

/lm/

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

16.3.2010

N/S has been
filed by the Re-
spondents No. 1 to 4.
Copy served.
16/3/2010

18.02.2010 Reply has not been filed despite three opportunities provided to Respondents. Last and final opportunity is granted to the Respondents to file reply, failing which, this matter will proceed based on documents available on record.

List the matter on 19.03.2010.

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

w/s filed.

/lm/

19.03.2010 Written statement has been filed. Mrs. U. Dutta, learned counsel for Applicant made a prayer for four weeks time to file rejoinder.

List the matter on 20.04.2010

(Madan Kumar Chaturvedi)
Member (A)

19.4.2010
Rejoinder has
been filed by the
Applicant, copy
served.

18/4/2010 19-4-10
① W/S & Rejoinder filed. (R 1-4)
② NO. 173 / Appearance from P.W. Report.

/pb/

20.04.2010

There is no report of service in respect of respondents 5-8. Issue fresh notice to the said respondents. It is stated by Mr K.Das, learned Addl.C.G.S.C appearing for the respondents that he is appearing for all the respondents. As the rejoinder has already been filed pleadings are complete.

Admit. On the request of Mr K.Das list for hearing on 11.5.2010.

The case is ready
for hearing.

3
7.5.2010

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

1.6.2010
Reply to the
Rejoinder has
been filed by the
Respondents. Copy
served.
11/6/2010

10.05.2010 This is a Division Bench matter. List the matter on 3rd June 2009.

(Madan Kumar Chaturvedi)
Member (A)

Lm

03.06.2010 Reply to rejoinder has been filed by the respondents without seeking permission of this court nor prayer was made to the said effect prior to filing of the same. Therefore same is not taken into record.

Heard Mr M. Chanda, learned counsel for applicant and Mr K.K. Das, learned Addl. C.G.S.C. for the respondents. Hearing concluded. Orders reserved.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkni

- 4 -

OA. 242/2009

09.06.2010

Judgment pronounced in open court.

Kept in separate sheets.

*Judgment copy
received
14-6-2010*

/bb/

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

*Received copy
Alpanwari
14.06.2010*

22.7.2010

*Judgment/ Final order
Issued to the D/S issuing
Demand to the No 1651-1655
The ruled & — No 23-7-2010*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....
O.A. No. 242 of 2009

DATE OF DECISION: 09-06-2010.

Shri Dilip Paul

.....Applicant/s

Mr M. Chanda

.....Advocates for the
Applicant/s

-Versus -

U.O.I & Ors.

.....Respondent/s

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

.....Advocate for the
Respondent/s

CORAM

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

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

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

Judgment delivered by

Chaturvedi
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 242/2009.

Date of Order : This the 9th Day of June, 2010.

THE HON'BLE MR MUKESH KUMAR GUPTA, JUDICIAL MEMBER

THE HON'BLE MR M.K.CHATURVEDI, ADMINISTRATIVE MEMBER

Shri Dilip Paul

Son of Shri Bhupesh Chandra Paul,
Area Organiser, SSB, Rangia, Assam
Resident of Village, P.O. & P.S. Patharkandi,
District Karimganj, Assam.

.....Applicant

By Advocate Mr M. Chanda.

- Versus -

1. **The Union of India,**
represented by the Secretary to the
Government of India,
Ministry of Home Affairs,
North Block, New Delhi – 110001.
2. **The Director General, SSB**
East Block-V, R.K.Puram,
New Delhi-110066.
3. **Inspector General (Pcrs)**
FHQ, SSB,
East Block-V, R.K.Puram,
New Delhi-66.
4. **Assistant Director (Pcrs)**
East Block-V,
R.K.Puram, New Delhi-110066.
5. **Shri N. Buragohain,**
DIG, Frontier Hqr, SSB,
Nikita Complex,
G.S.Road, Khanapara, Guwahati-22.
6. **Shri S.Karmakar,**
Area Organiser,
Sector Hqr., SSB Ranidanga,
P.O. Matigara, Via-Siliguri,
Dist. Darjeeling, West Bengal.
7. **Shri Subash Kumar,**
Area Organiser,
Frontier Hqr. SSB, Nikita Complex
G.S.Road, Khanapara, Guwahati-22.

8. Shri S.L.Janartha,
Area Organiser,
Training Centre,
Sarahan, P.O. Sarahan Bushar,
Via Rampur, Dist. Simla,
Himachal Pradesh.

9. Sri L.K.Gohain,
Area Organiser, SSB
P.O./Dist. Udaguri, Assam.Respondents

By Advocate Shri K. Das, Addl.C.G.S.C.

ORDER

MADAN KUMAR CHATURVEDI, MEMBER(A)

By this O.A. the applicant makes a request to set aside and quash the Memorandum dated 24.9.2009 and direct the respondents to re-consider promotion of the applicant to the cadre of Area Organiser by holding review DPC with all consequential benefits at least from the date of promotion of his juniors.

2. Adverting to the facts we find that applicant is working as Area Organiser, SSB, Rangia in Kamrup District of Assam. Initially he was appointed as Circle Organiser and thereafter he was promoted as Sub Area Organiser in the year 1987. Again he was promoted to the post of Joint Area Organiser in 1998. Thereafter he was promoted to the post of Area Organiser vide order dated 9.12.2005. That the promotion to the cadre of Joint Area Organiser (JAO) the required Bench Mark is 3 (three) very good entries in his ACR. The next promotional avenue is to the cadre of Deputy Inspector General which requires at least 3 very good entries in ACR.



3. The applicant while working as JAO submitted a representation on 31.1.2003 to the DG, SSB, praying for the grant of promotion to the rank of Area Organiser. In the said representation it was stated that few JAOs were being promoted to the post of Area Organiser and the name of applicant was deleted from the said list. Therefore request was made to convene review DPC to consider the promotion of the applicant to the rank of Area Organiser along with his batch mates.

4. Vide order dated 13.3.2003 six JAOs were promoted to the rank of AO. It was stated that out of six AO two were junior to the applicant. Being aggrieved with the order applicant made a representation to the DG, SSB. Applicant was intimated vide letter dated 23.5.2003 that DPC did not recommend his name for promotion to the rank of AO as because he could not obtain the required bench mark prescribed for promotion. In reply to that applicant further submitted a representation stating that he was never informed about not obtaining required bench mark for promotion to the rank of AO. It was further stated that as against prescribed norms of promotion from CO to AO after completing 16 years in the grade he had completed 25 years of service including 21 years as C.O and SAO combined. On this fact he prayed for promotion to the rank of AO.

5. Being aggrieved applicant preferred O.A.840/2003 before the CAT Patna Bench. In that O.A applicant relied on the decision of the Apex Court rendered in the case of Dev Dutta vs. Union of India &



Ors., 2008(8) SCC 725. Tribunal after hearing the matter held as under:

"We, therefore, direct that the 'Good' entries be communicated to the applicant with a period of two months from the date of receipt of copy of this judgment. On being communicated, the applicant may make representation, if he so chooses, against the said entries within one month thereafter, and the said representation will be decided within two months thereafter. If his entries are upgraded, the applicant shall be considered for promotion retrospectively by the DPC within three months thereafter. If the applicant gets selected for retrospective promotion, he should be given notional promotion, with all consequential benefits except back wages."

On the basis of the aforesaid Tribunal's order applicant make a representation against the down grading of his confidential report for the year 1997-1998, 1998-1999, 1999-2000 and 2000-2001 on 17.6.2009.

6. The aforesaid representation was considered vide memorandum dated 24.9.2009 . The context of which are reproduced as under :

"In compliance with the directions dated 09.02.2009 of the Hon'ble Central Administrative Tribunal, Patna Bench, I have carefully gone thorough the representation dated 17.06.2009 of Shri Dili Paul, Area Organiser, Rangia Area.

2. In his representation, Shri Dilip Paul has requested "to pass necessary order for expunging adverse downgrading ACR for the years 1997-98, 1998-99, 1999-2000 and 2000-2001."

(i) On a perusal of the said ACRs, it is found that in the ACR for the year 1997-98, the Reporting Authority (Shri I. Sharma, Jt. Area Organiser, Shillong) has graded the performance of Shri Dilip Paul as "Good". But Shri N.S.Fonia, Divisional Organiser, Shillong Division, in his capacity as both the Reviewing Authority as well as Accepting Authority, has graded the performance of Shri Dilip Paul as "Average" because he felt that Shri Dilip Paul was "over graded".



(ii) In the ACR for the year 1998-99, the Reporting Authority as well as the Reviewing Authority, as well as the Accepting Authority, have all graded him "Good".

(iii) In the ACR for the year 1999-2000, the Reporting Authority as well as the Reviewing Authority have graded him "Very Good", whereas the Accepting Authority felt "he has been over assessed." He, therefore, graded him as "Good".

3. It will thus be seen that there was no downgrading whatsoever in the ACRs for the years 1998-99 and 2000-2001. The downgrading was done from "Good" to "Average" in the ACR for the year 1997-98, and from "Very Good" to "Good" in the ACR for 1999-2000.

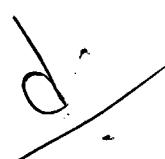
4. After a careful examination of the representation of Shri Dilip Paul and the relevant ACRs, it appears from an objective point of view that the downgrading by the Reviewing Authority in the ACR for 1997-98, and by the Accepting Authority in the ACR for 1999-2000, was done for very valid reasons.

5. I, therefore, find no reason as to why I should interfere with the assessment made by the Reviewing and Accepting Authorities in the ACRs for the year 1997-98 and 1999-2000.

6. The representation dated 17.06.2009 of Shri Dilip Paul, Area Organiser is, therefore, disposed of accordingly.

7. The receipt of this memorandum may be acknowledged by Shri Dilip Paul, Area Organiser."

7. Mr M.Chanda, learned counsel for the applicant vehemently opposed the memorandum dated 24.9.2009. It was contended that the representation made by the applicant was not properly dealt with. Respondent no.2 had passed a very cryptic order. No reason is adduced. For not expunging down grading ACR, respondents simply said that it was done for very valid reason as such there was no reason for interference with the assessment made by the reviewing and accepting authorities in the ACRs for the years 1997-98 and 1999-2000. Mr Chanda relied on the decision of Hon'ble Supreme

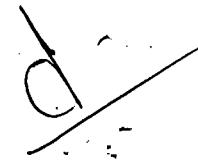


Court rendered in the case of Dev Dutta vs. Union of India & Ors., 2008(8) SCC 725; Alphonse Louis Earayil vs. Secretary to Govt. of India and another, (1992) 19 ATC 210 and in the case of S.K.Venkata Reddy vs. The High Court of Karnataka, by its Registrar General and another, 2008(5) SLR 642.

8. Mr K. Das, learned Addl. C.G.S.C appearing for the respondents submitted that the Patna Bench of the Tribunal has already passed order in conformity with the decision of the Hon'ble Supreme Court rendered in the case of Dev Dutta as such gradation was made after taking into consideration the totality of facts as such gradation was found to be correct and it was not expunged. There is no infirmity in the memorandum dated 24.9.2009.

9. We have heard rival submissions. So far as the requirements for promotion are concerned entries were made in conformity with the decision of the Hon'ble Supreme Court in the case of Dev Dutta which was also duly considered by the Tribunal in O.A.840/2003. In the case of Alphonse Louis Earayil vs. Secretary to Govt. of India and another, (1992) 19 ATC 210 has held as under :

"The principle is well settled that in accordance with the rules of natural justice, an adverse report in a confidential roll cannot be acted upon to deny promotional opportunities unless it is communicated to the person concerned so that he has an opportunity to improve his work and conduct or to explain the circumstances leading to the report. Such an opportunity is not an empty formality, its object partially, being to enable the superior authorities to decide on a consideration of the explanation offered by the person concerned, whether the adverse report is justified."



In the case of S.K.Venkata Reddy vs. The High Court of Karnataka, by its Registrar General and another, 2008(5) SLR 642 it was held that "the competent person to record adverse remarks in the confidential record of a District Judge is the concerned Administrative Judge not the Chief Justice. In this context the Hon'ble Supreme Court observed as under :

"The entry must reflect the result of an objective assessment coupled with an effort at guiding the judicial officers to secure an improvement in his performance, when need be; to admonish him with the object of removing for future, the shortcoming found; and expressing an appreciation with an idea of toning up and maintaining the imitable qualities by affectionately patting on the back of meritorious and deserving."

10. We find that the facts of Venkata Reddy's case are not similar to the facts of the present case. In this case we find that the representation of the applicant was duly considered from an objective point of view and the down grading was done for very valid reasons, accordingly we do no find any infirmity in the memorandum dated 24.9.2009.

In the result O.A stands dismissed. No costs.

~~(MADAN KUMAR CHATURVEDI)~~
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

19 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

O. A. No. 242 /2009

Shri Dilip Paul

-Vs-

Union of India and Others.

SYNOPSIS OF THE APPLICATION

Applicant is presently serving to the post of Area Organiser SSB, Rangia. Respondents vide order dated 13.03.2003, promoted six Joint Area Organiser (JAO) to the post of Area Organiser (AO); two of them are juniors to the applicant. Applicant was not promoted. Respondents vide order dated 23.05.2003 intimated the applicant that the DPC did not recommend name of the applicant for promotion to the rank of AO.

Applicant challenged illegal supersession of the juniors in the matter of promotion from cadre of JAO to AO before the Hon'ble CAT, Patna Bench through O.A. No. 840/2003. In the meantime applicant was promoted to the cadre of AO on 09.12.2005. However, Hon'ble Tribunal, Patna Bench disposed of O.A. No. 840/2003 on 09.02.09 (Annexure- 9) with the direction to the respondents that the 'Good' entries be communicated to the applicant within a period of two months from the date of receipt of copy of the judgment. On being communicated, the applicant may make representation, against the said entries within one month thereafter, and the said representation will be decided within two months thereafter. It was also directed by the Hon'ble Tribunal that if the entries of the applicant are upgraded, the applicant should be considered by the DPC for promotion retrospectively within three months thereafter.

Respondents vide order dated 22.05.2009 communicated the overall grading in the confidential reports of the applicant for the year 1997-1998, 1998-1999, 1999-2000 and 2000-2001 (01-04-2000 to 04.07.2000). Applicant submitted representation on 17.06.2009 against downgrading of his confidential report for the year 1997-1998, 1998-1999, 1999-2000 and 2000-2001. Respondent No. 3 vide impugned order dated 24.09.2009 (Annexure- 12) most mechanically rejected representation of the applicant. Hence this Original Application.

19 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठLIST OF DATES

1978- Applicant was initially appointed as Circle Organiser in the year 1978.

1987- Applicant was promoted as Sub-Area Organiser in the year 1987.

1998- Applicant was promoted to the post of Joint Area Organiser (for short JAO).

01.01.2003- Respondents published seniority list of JAO. Private respondents were shown junior to the applicant in the cadre of JAO.
(Annexure- 2)

31.01.2003- Applicant submitted a representation to the DG, SSB, praying for grant of promotion to the rank of AO.
(Annexure- 1)

13.03.2003- Respondents promoted six JAO to the post of AO; two of them are juniors to the applicant. Applicant was not promoted.
(Annexure- 3)

09.04.2003- Applicant submitted representation to the DG, SSB to know the reason for not promoting him to the cadre of AO.
(Annexure- 4)

23.05.2003- Respondents intimated the applicant that the DPC did not recommend his name for promotion to the rank of AO.
(Annexure- 5)

06.06.2003- Applicant submitted representation for his promotion to the rank of Area Organiser.
(Annexure- 6)

2003- Applicant approached the Hon'ble CAT, Patna Bench through O.A. No. 840/2003 challenging illegal supersession of the juniors in the matter of promotion from cadre of JAO to AO.

09.12.2005- Applicant was promoted to the cadre of AO w.e.f 22.12.2005.
(Annexure- 7)

26.11.2008- Respondent No. 5, Sri N. Buragohain junior to the applicant in the cadre of JAO, was promoted from the cadre of AO to the cadre of Deputy Inspector General.
(Annexure- 8)

09.02.2009- O.A. No. 840/2003 was disposed of by the Hon'ble CAT, Patna Bench.
(Annexure- 9)

22.05.2009- Respondents communicated the overall grading in the confidential reports of the applicant for the year 1997-1998, 1998-1999, 1999-2000 and 2000-2001 (01-04-2000 to 04.07.2000).
(Annexure- 10)

17.06.2009- Applicant submitted representation against downgrading of his confidential report for the year 1997-1998, 1998-1999, 1999-2000 and 2000-2001.
(Annexure- 11)

19 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

01.09.2009- Respondents published seniority list of AO. Respondent No. 6 to 9 were shown senior to the applicant in the cadre of AO.

(Annexure- 13)

24.09.2009- DG, SSB vide his impugned memorandum dated 24.09.09 mechanically rejected representation dated 17.06.09 of the applicant.

(Annexure- 12)

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned memorandum dated 24.09.2009 (Annexure- 12).
2. That the Hon'ble Tribunal be pleased to direct the respondents to reconsider promotion of the applicant to the cadre of AO by holding review DPC and further be pleased to promote the applicant with all consequential benefits at least from the date of promotion of his juniors in the light of the judgment and order dated 09.02.2009 passed in OA No. 840/2003 upgrading the downgraded ACR of the applicant for the year 1997-98, 1998-99, 1999-2000 and 2000-01.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

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

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this Original Application shall not be a bar to the respondents for providing the reliefs as prayed for.

19 NOV 2009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

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

Title of the case : O. A. No. 242 /2009

Shri. Dilip Paul. : Applicant

-Versus -

Union of India & Others : Respondents.

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Filed by

l Dutta

Advocate

Date: 16. 11. 09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 242 /2009

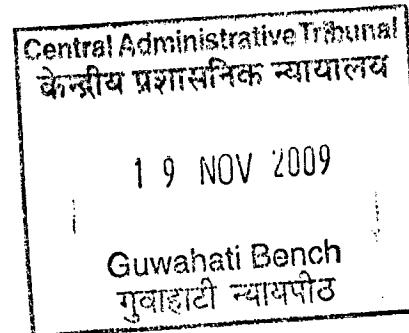
BETWEEN

Sri Dilip Paul,
Son of Shri Bhupesh Chandra Paul,
Area Organiser SSB, Rangia, Assam.
Resident of Village, Post and P.S. Patharkandi,
District- Karimganj, Assam.

... Applicant.

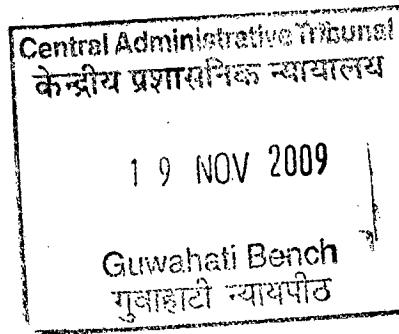
-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Home Affairs,
North Block, New Delhi-110001.
2. The Director General, SSB,
East Block-V, R.K. Puram,
New Delhi-110066.
3. Inspector General (Pers),
FHQ, SSB,
East Block-V, R.K. Puram,
New Delhi- 66.
4. Assistant Director (Pers),
East Block-V, FHQ, SSB,
R.K. Puram, New Delhi-110066.
5. Sri N. Buragohain,
DIC, Frontier Hqr, SSB
Nikita Complex,
G.S. Road, Khanapara, Guwahati- 22.
6. Sri S. Karmakar,
Area Organiser,
Sector Hqr., SSB Ranidanga,
P.O- Matigara, Via- Siliguri.
Dist- Darjeeling, West Bengal.
7. Sri Subash Kumar,
Area Organiser,
Frontier Hqr, SSB
Nikita Complex,
G.S. Road, Khanapara, Guwahati- 22.



Filed by the applicant
through U. Dulla, advocate
on 16/11/09

Dilip Paul



8. Sri S.L. Janartha,
Area Organiser,
Training Centre,
Sarahan, P.O- Sarahan Bushar,
Via- Rampur, Dist- Simla, Himachal Pradesh.

9. Sri L.K. Gohain,
Area Organiser, SSB,
P.O/ Dist- Udaguri, Assam.

.....Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned memorandum dtd. 24.09.2009 (Annexure- 12), whereby the representation against the downgrading of ACR for the year 1997-1998, 1998-1999, 1999-2000 and 2000-2001, which were communicated through memo. dtd. 22.05.2009 have been rejected mechanically by a non speaking and cryptic order without rebutting the grounds assigned by the applicant in his representation dtd. 17.06.2009 and also for a direction upon the respondents to consider the case of the applicant by holding review DPC upgrading the downgrading ACR recorded for the year 1997-1998, 1998-1999, 1999-2000 and also for the year 2000-2001 (01.04.2000-04.07.2000).

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

4. Facts of the Case.

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

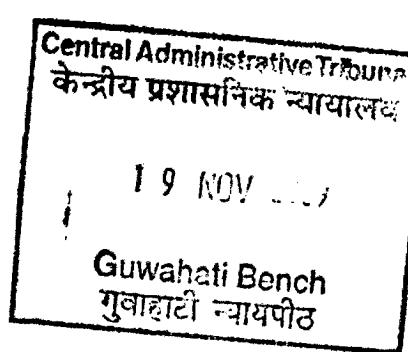
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4.2 That the applicant is presently working as Area Organiser SSB, Rangia in the Kamrup district of Assam. Initially he was appointed as Circle Organiser in the year 1978 and thereafter promoted as Sub-Area Organiser in the year 1987; again he was promoted to the post of Joint Area Organiser (for short JAO) in the year 1998. Thereafter he was promoted to the post of Area Organiser vide order dated 09.12.2005. It is stated that for the promotion to the cadre of JAO to Area Organiser (for short AO) the required bench mark is three "very good" entries in ACR. The next promotional avenue of the applicant is available to the cadre of Deputy Inspector General, wherein it is required to attain at least 3 (three) "very good" entries in ACR.

4.3 That the applicant while working as JAO he submitted a representation on 31.01.2003 to the DG, SSB, praying for grant of promotion to the rank of AO. In the said representation applicant stated that he has learnt that few JAO were being promoted to the post of AO and his name had been deleted from the said list. Therefore he prayed for convening a review DPC to consider his promotion to the rank of AO along with his batch mates.

Copy of the representation dated 31.01.03 is enclosed herewith and marked as Annexure-1.

4.4 That it is stated that the respondents vide order dated 13.03.2003 promoted six JAO to the post of AO, among the six JAO who were promoted to the post of AO two are juniors to the applicant but name of the applicant was not included in the said promotion order. Being aggrieved with the said promotion order dated 13.03.2003 applicant submitted a representation on 09.04.2003 addressed to the DG, SSB and requested to intimate him the reason for dropping his name from the list of successful candidates. The respondents vide memorandum No. 14/SSB/A2/2001 (7).1397 dated 23.05.2003 intimated the applicant that the DPC did not recommend name of the applicant for promotion to the rank of AO as because he could not obtain the required bench mark prescribed for promotion to the rank of Area Organiser.



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Copy of the extract of seniority list of AO as on 01.01.03, order dated 13.03.03, representation dated 09.04.03 and memorandum dated 23.05.03 are enclosed herewith and marked as Annexure- 2, 3, 4 and 5 respectively.

4.5 That the applicant submitted a representation on 06.06.2003 addressed to the DG, SSB for his promotion to the rank of Area Organiser. In the said representation applicant stated that during the March and April, 2003 altogether 9 (nine) Joint Area Organisers have been promoted to the rank of Area Organiser including 5 Joint Area Organisers who are junior to him but he was not promoted to the rank of Area Organiser. He also stated that he was never informed about not obtaining required benchmark for promotion to the rank of Area Organiser. He further stated that as against prescribed norms of promotion of CO to AO after completing 16 years in the grade he had completed 25 years of service including 21 years as C.O and SAO combined. Therefore applicant prayed for promotion to the rank of Area Organiser.

Copy of representation dated 06.06.2003 is enclosed herewith and marked as Annexure- 6.

4.6 That it is stated that 5 (five) numbers of juniors have been superseded the applicant during the year 2002-2003 in the matter of promotion from the cadre of Joint Area Organiser to Area Organiser. Such arbitrary and illegal supersession of the juniors in the matter of promotion from cadre of Joint Area Organiser to Area Organiser challenged by the applicant before the Hon'ble Central Administrative Tribunal, Patna Bench through O.A. No. 840/2003. In the said O.A. No. 840/2003 applicant also challenged the order dated 23.05.2003 (Annexure- 5 hereinabove).

4.7 That during pendency of the O.A. No. 840/2003 before the learned CAT, Patna Bench the subsequent DPC which was held on 20.10.2005 found the applicant fit for promotion to the cadre of Area Organiser since he attained the prescribed bench mark of "very good" and accordingly promoted to the cadre of Area Organiser w.e.f 22.12.2005 vide order letter No. 7/SSB/A2 2004 (2) 5270-5320 dtd. 09.12.2005.



Copy of the promotion order dated 09.12.2005 is enclosed herewith and marked as Annexure- 7.

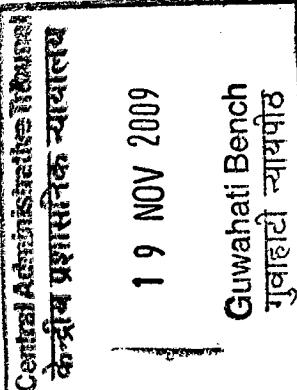
4.8 That it is stated that one Sri N. Buragohain, who is junior to the applicant have been promoted from the cadre of AO to Deputy Inspector General vide order dtd. 26.11.2008 in supersession of the claim of the applicant due to delayed promotion of the applicant in the cadre of JAO to AO on account of downgrading of ACR. Even no warning, memo, show cause notice or deficiency in performance has been pointed out while entries of downgrading of ACR recorded during the year 1997-98, 98-99, 99-2000 and 2000-01. Moreover no counseling was tendered at any point of time by the authorities before downgrading the ACR.

Copy of the promotion order dated 26.11.2008 is enclosed herewith and marked as Annexure- 8.

4.9 That the O.A. No. 840/2003 was finally decided by the Hon'ble CAT, Patna Bench on 09.02.2009 with the following direction. The relevant portion of the judgment and order dtd. 09.02.2009 is given below for the perusal of the Hon'ble Court.

“10. In view of the law laid down by the larger Bench of the Tribunal and the Apex Court, the contention of the applicant must be upheld, i.e. non-communication of entries below the benchmark grade ought to have been communicated because the same have affected his promotion bearing civil consequences.

11. We, therefore, direct that the ‘Good’ entries be communicated to the applicant within a period of two months from the date of receipt of copy of this judgment. On being communicated, the applicant may make representation, if he so chooses, against the said entries within one month thereafter, and the said representation will be decided within two months thereafter. If his entries are upgraded, the applicant shall be considered for promotion retrospectively by the DPC within three months thereafter. If the applicant gets selected



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for retrospective promotion, he should be given notional promotion, with all consequential benefits except back wages.

12. In the result, the OA is disposed of accordingly, without any order as to the costs."

It is quite clear from the above that the direction and observation of the Ld. Tribunal that the DPC did not recommend the name of the applicant for promotion to the cadre of Area Organiser since he attained bench mark below "very good". As a result applicant was declared unfit by the DPC held on 02.09.2002, 28.02.2003 and also on 30.12.2003.

A copy of the judgment and order dtd. 09.02.2009 is enclosed as Annexure- 9.

4.10 That it is stated that pursuant to the judgment and order dtd. 09.02.2009 passed in O.A. No. 840/2003, the respondents vide memorandum no. 3/SSB/AB/2006(9) 713-15 dated 22.05.2009; whereby overall grading from the confidential reports for the year 1997-1998, 1998-1999, 1999-2000 and 2000-2001 (01-04-2000 to 04.07.2000) have been communicated to the applicant. On a mere perusal of the memorandum dated 22.05.2009, it appears that overall grading of the applicant have been down graded without providing any opportunity to the applicant, when the required bench mark are "very good". It is categorically submitted that the applicant came to learn from the reliable source that he had consistently attained grading in ACR "very good" and "outstanding" during the year 1990-1991 to 1996-1997. Hence, down grading ACR all of a sudden during the year 1997-1998, 198-1999, 1999-2000 and 2000-1001 are not sustainable in the eyes of law.

A copy of the memorandum dtd. 22.05.2009 is enclosed and marked as Annexure- 10.

4.11 That your applicant immediately after the receipt of the memorandum dated 22.05.2009, submitted a detailed representation on 17.06.2009 against downgrading of his confidential report for the year 1997-1998, 1998-1999, 1999-2000 and 2000-2001, addressed to the Director General, SSB, New Delhi. In the said representation dtd: 17.06.2009, the applicant specifically

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stated that no reason has been assigned in the memo. dated 22.05.2009 for which the concerned competent authority has arrived to the decision to award overall grading as "average", "good" for the years indicated above. The applicant further stated in the representation that he was never served with any memo, warning or show cause notice by the reporting officer pointing out any act or omission or commission or deficiency short comings in discharging day to day official duties and responsibilities during the relevant years i.e. for the period from 1997-1998, 1998-1999, 1999-2000 and 2000-2001 (01.04.2000-04.07.2000), while downgrading ACR were awarded during the aforesaid period. Moreover it is obligatory on the part of reporting/ reviewing/accepting authority to point out deficiencies and short comings if any while performing the duties and responsibilities to provide reasonable opportunity to the applicant to cope up with the deficiency if any. As such, the overall downgrading of ACR of the relevant years as indicated above without providing any opportunities are not sustainable in the eye of law.

The applicant also pointed out that the over all grading of confidential reports for the year 1997-98, 1998-99, 1999-2000 and 2000-01 have been awarded and communicated in total violation of the professed norms and time limit prescribed by the Govt. of India for communication of the down grading ACR. As such over all grading awarded to the applicant are liable to be expunged.

It is further stated that aforesaid gradings are below the bench mark. As such those grading are adverse for the purpose of promotion hence ought to have been communicated at the relevant point of time but belated communication of those downgraded ACR for the years indicated as above lost its basic object of communication of adverse entries. Since the adverse downgraded ACRs have been communicated to the applicant after lapse of 8-11 years, thereby reasonable opportunities has been denied to the applicant, as such the downgraded ACRs are liable to be expunged/upgraded.

Copy of the representation dated 17.06.2009 is enclosed herewith and marked as Annexure- 11.



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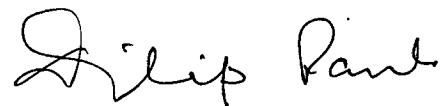
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4.12 That it is stated that on a mere perusal of the memorandum dated 22.05.2009 it appears that same is cryptic, vague and defective and not specific and distinct and also contrary to the instructions issued by the Govt. of India from time to time on the subject. Hence all the downgraded ACRs indicated in the memorandum dated 22.05.2009 are liable to be expunged/upgraded.

It is stated that downgrading of ACRs for the year 1997-98, 1998-99, 1999-2000 and 2000-01 have been recorded in total violation of the instructions issued by the Govt. of India contained in relevant circulars and office memorandum and also in violation of the principle of natural justice, hence liable to be expunged. Moreover, in the absence of any indication of shortcomings in performance, the over all grading recorded in the ACR for the years indicated above are liable to be expunged/upgraded. It may be noted here at this stage that the downgrading of ACRs have been communicated to the applicant after lapse of 8-11 years without specifying the shortcomings, as such the purpose of communication of the downgrading of ACR is meaningless. Therefore the downgrading of ACRs are liable to expunged/upgraded.

It is pertinent to mention here that the applicant has been promoted to the cadre of Joint Area Organiser in the year 1998. Therefore it can rightly be inferred that the applicant had secured or attained prescribed bench mark prior to 1998. Moreover, further promotion of the applicant in the rank of Area Organiser on 22.12.2005 also indicates that the performance of the applicant is more than bench mark level at the relevant point of time. As a result of downgrading of ACR, the applicant has been superseded in the matter of promotion to the cadre of Area Organiser when the DPC held on 02.09.2002, 28.02.2003 and 30.12.2003 declared the applicant unfit by the DPC which has caused irreparable loss and injury to the applicant in the matter of promotion and seniority as because juniors of the applicant i.e. respondent No. 5 to 9 have been promoted to the cadre of Area Organiser in supersession of the claim of the applicant.

4.13 That it is stated that the very object of making entries of downgrading of ACR has in fact lost the force as because the sole purpose of recording downgrading ACR in the service record of an employee, if shortcomings or



deficiency is noticed in his performance and if the same has not been improved in spite of issuance of memo, warning in that case, the downgrading of ACR may be recorded after giving necessary opportunity to the employee concerned. But in the instant case of the applicant respondents have deliberately did not follow the established procedure of law or instructions issued by the Govt. of India from time to time regarding entries of adverse remarks/downgrading of ACR. Moreover belated communication of those downgrading ACR during the year 1997-98, 98-99, 1999-2000, 2000-01 i.e. after a lapse of 8 to 11 years is meaningless.

Moreover, in the communication dated 22.05.2009 only "grading" of the applicant for the aforesaid years have been communicated without furnishing the other detailed entries as required under the law. As such it is difficult on the part of the applicant what are the real cause for downgrading of ACR during the relevant years as indicated above.

It is categorically submitted that ACR of the applicant has been downgraded during the year 1997-98 to 2000-01 without assigning any valid reason. Moreover, no reason has been recorded regarding entries of downgrading of ACR in the aforesaid year.

It is relevant to mention here that it would be evident from the observations recorded at para 7 of the judgment and order dated 09.02.2009 that it appears from the minutes of the DPC that the applicant was granted "very good" entry in 1995-96 and 1996-97. However his entry was downgraded as "good" since 1997-98 onwards and the said "good" grading was never communicated to the applicant. As a result applicant could not obtain the prescribed bench mark of "very good" as a result he was declared unfit by the DPC for promotion. Therefore it can rightly be said that the downgrading entries recorded in the ACR has caused serious prejudice to the applicant and as a result he was eliminated by the DPC after being found unfit. As such those downgrading of ACR amounts to adverse entries and ought to have been communicated at the relevant point of time. Such non-communication of downgraded ACR is highly arbitrary and violative of Article 14 of the constitution. Hence the downgrading of ACR recorded during the year 1997-98, 98-99, 1999-99 and 2000-01 are liable to be expunged/upgraded and the applicant is also liable to be considered



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for promotion from the post of JAO to AO by holding review DPC and further entitled to be promoted with retrospective effect to the cadre of Area Organiser with the benefit of seniority and other consequential benefits.

4.14 That it is stated that no reason has been assigned for making entries of downgrading of ACR for the year 1997-98, 1998-99, 1999-2000 and 2000-01. Moreover, the applicant was neither communicated nor provided with any opportunity while downgrading of ACR were recorded in the aforesaid years thereby violated the principle of natural justice, which also caused civil consequences. Therefore the downgraded entries of ACR as indicated above are liable to be expunged.

4.15 That it is stated that as a result of downgrading of ACR in the year 1997-98 to 2000-01 the applicant has been eliminated from consideration of promotion from the cadre of JAO to AO. Moreover, the respondent No. 5 to 9 also superseded the applicant in the matter of promotion to the cadre of AO during the year 2002-03 whereas the applicant have been promoted to the cadre of AO only w.e.f. 22.12.2005 after being found fit by the DPC. As a result the seniority of the applicant to the cadre of AO and his promotion prospect to the next higher grade of DIG has been adversely affected.

4.16 That it is stated that as a result of delayed promotion in the cadre of AO, the applicant has been further superseded in the matter of promotion to the cadre of Deputy Inspector General. It is pertinent to mention here that one of his junior namely: Shri N. Buragohain has already been promoted to the cadre of DIG vide order dated 26.11.2008, as because the said Sri N. Buragohain, respondent No. 5 was promoted to the cadre of Area Organiser following recommendation of DPC vide order dated 26.04.2003 in supersession of the claim of the applicant in the year 2003 and subsequently promoted to the cadre of DIG in the month of December, 2008. Whereas due to downgrading of ACR of the applicant in the year 1997-98 to 2000-01, the service prospect of the applicant has been adversely affected.

4.17 That it is stated that by the impugned memorandum dated 24.09.2009, the representation of the applicant has been mechanically rejected without



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considering the grounds raised by the applicant in his representation dated 17.06.2009. In para 2 (i) of the impugned memorandum dated 24.09.09 it is stated that the reporting authority has graded the performance of the applicant as 'good' but the reviewing authority as well as accepting authority has graded the performance of the applicant as "average" as because he felt that the applicant was "over graded". The relevant portion of paragraph 2 (i) is quoted below for perusal of the Hon'ble Tribunal:

"On a perusal of the said ACRs, it is found that in the ACR for the year 1997-98, the Reporting Authority (Shri I. Sharma, Jt. Area Organiser, Shillong) has graded the performance of Shri Dilip Paul as "Good". But Shri N.S. Fonia, Divisional Organiser, Shillong Division, in his capacity as both the Reviewing Authority as well as Accepting Authority, has graded the performance of Shri Dilip Paul as "Average" because he felt that Shri Dilip Paul was over graded."

On a mere perusal of the ground of rejection contained in para 2 (i), it appears that no reason has been assigned either by the reporting authority or by the reviewing authority or by the accepting authority as to why the grading of "very good" which was attained by the applicant in the year 1995-96 and 1996-97 is brought down to "good" and further the grading of "good" awarded by the reporting authority brought down to "average" during the year 1997-98. The reason assigned in the impugned letter dated 24.09.09 that the reviewing authority as well as the accepting authority felt that the applicant was "over graded" is not at all a valid reason for downgrading the ACR of the applicant from "very good" to "good" and then to the grading of "average" without assigning or recording any valid reason. Mere feeling of the reviewing as well as accepting authority that the applicant is over graded and liable to be brought down to "average" is an arbitrary, unfair and illegal decision. Moreover, no reason is assigned by the reporting authority when grading of "good" is awarded to the applicant during the year 1997-98 whereas grading of "very good" was awarded in the year 1995-96 and 1996-97. Therefore downgrading entries of ACR is recorded in the year 1997-98



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without providing any opportunity to the applicant which lead to serious civil consequences and on that score alone the downgrading of ACR recorded in the year 1997-98 is liable to be expunged or the gradings are liable to be upgraded.

4.18 That it is stated that in the impugned memorandum dated 24.09.2009, more particularly in para 2 (ii) it has been stated as follows:

“2 (ii) In the ACR for the year 1998-99, the Reporting Authority as well as the Reviewing Authority, as well as the Accepting Authority, have all graded him “good”.”

It is quite clear from the above that downgrading of ACR has been recorded in the ACR of the applicant during the year 1998-99 without assigning any reasons by the reporting authority, reviewing authority as well as by the accepting authority in a most mechanical manner, as such said entries are liable to be expunged. Moreover the applicant is entitled to be awarded grading of “very good” in conformity with the earlier grading attained by him as “very good” in the year 1995-96 and 1996-97 and also entitled to be reconsidered for promotion to the cadre of AO by the review DPC with all consequential benefits.

4.19 That it is stated that in the impugned memorandum dated 24.09.2009 following grounds have been assigned in para 2 (iii) for downgrading of ACR of the applicant in the year 1999-2000:

“2 (iii) In the ACR for the year 1999-2000, the Reporting Authority as well as the Reviewing Authority have graded him “Very Good”, whereas the Accepting Authority felt “he has been over assessed”. He, therefore, graded him as “Good”.

It appears that no reason also assigned by the authorities while entries of downgrading ACR recorded in the year 1999-2000, particularly by the accepting authority while reporting as well as by the reviewing authority have graded the applicant as “very good” but the said grading

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was brought down to "good" without providing any opportunity to the applicant. As such the impugned memorandum dated 24.09.2009 is liable to be set aside and quashed and the grading is also liable to be restored to "very good" in conformity with the grading of the years 1995-1996 and 1996-97.

4.20 That it is stated that in the impugned memorandum dated 24.09.2009 following alleged grounds has been assigned in para 3, 4 and 5 while rejecting the representation of the applicant dated 17.06.2009.

"3. It will thus be seen that there was no downgrading whatsoever in the ACRs for the years 1998-99 and 2000-2001. The downgrading was done from "Good" to "Average" in the ACR for the year 1997-98, and from "Very Good" to "Good" in the ACR for 1999-2000.

4. After a careful examination of the representation of Shri Dilip Paul and the relevant ACRs, it appears from an objective point of view that the downgrading by the Reviewing Authority in the ACR for 1997-98, and by the Accepting Authority in the ACR for 1999-2000, was done for very valid reasons.

5. I, therefore, find no reasons as to why I should interfere with the assessment made by the Reviewing and Accepting authorities in the ACRs for the years 1997-98 and 1999-2000."

On a close perusal of the contention raised in para 3, 4 and 5 of the impugned letter dated 24.09.2009, it appears that the authority failed to disclose any valid reason for making entries of downgrading ACR for the year 2000-01 (i.e. from 01.04.2000 to 04.07.2000) as "good" as indicated in the memorandum dated 22.05.2009. Surprisingly, it is alleged that there was no downgrading in the ACRs of the applicant for the year 1998-99 and 2000-01. It is pertinent to mention here that the applicant was not recommended by the DPC on 02.09.2002, 28.02.2003 and 30.12.2003 as because the applicant failed to attain minimum bench mark of "very good" as required under the norms. Therefore it is quite clear that the entries of downgrading ACRs have been recorded in the year 1997-98, 98-99, 99-2000

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and 2000-01 without providing any reasonable opportunity to the applicant.

Further contention of the DG, SSB that the downgrading of ACR for the year 1997-98 made by the reviewing authority and for the year 1999-2000 made by the accepting authority from an objective point of view and further contention is that the same was done for very valid reasons is not sustainable in the eye of law until and unless the said "very valid reasons" are disclosed. As such the impugned memorandum dated 24.09.2009 rejecting the representation of the applicant is liable to be set aside and quashed.

Copy of the impugned memorandum dated 24.09.2009 and seniority list of AO as on 01.09.09 are enclosed herewith and marked as Annexure- 12 and 13.

4.21 That it is stated that the present applicant is due for promotion to the cadre of Deputy Inspector General whereas the junior to the applicant has already superseded him. Moreover, the seniority of the applicant in the cadre of AO is also adversely affected and downgraded due to his delayed promotion on account of downgraded entries in ACR. The promotion in the service career of a govt. employee is very much valuable but due to non promotion of the applicant to the cadre of AO in the year 2003 and also in the year 2004 juniors of the applicant viz. respondent Nos. 5 to 9 have superseded the applicant to the cadre of AO. However due to downgrading of ACR applicant has been promoted to the cadre of AO in the year 2005, as such he has been adversely affected in the matter of seniority to the cadre of AO and promotion to the cadre of DIG.

4.22 That your applicant further begs to say that he has been awarded with DG's Disc with commendation letter in the year 2004 and 2008 and appreciation letters on different occasions on 14.02.07, 16.06.2007, 09.08.07, 05.09.07, 20.01.2008, 26.06.08 and 05.09.08, by the higher authorities appreciating his excellent efforts by displaying high level of efficiency and also due to successful operations against the extremists and ante socials. It is relevant to mention here that applicant was awarded Police (Special Duty) Medal during the year 1990 for his excellent performance.

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Copies of the appreciation letters are enclosed herewith and marked as Annexure- 14 (Series).

4.24 That it is stated that the respondents have failed to assign any valid reason for downgrading of ACR during the year 1997-98, 1998-99, 1999-2000, as such the impugned memorandum dated 24.09.2009 is arbitrary, illegal, unfair and the said memorandum is liable to be set aside and quashed.

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

5. GROUND FOR RELIEF (S) WITH LEGAL PROVISION

5.1 For that, the applicant has been denied promotion to the cadre of Area Organiser on account of entries downgrading ACR during the year 1997-98, 1998-99, 2000-01 and 2000-01 (01.04.2000-04.07.2000) without providing any opportunity.

5.2 For that, since the applicant attained grading of "very good" during the year 1995-96 and 1996-97 in ACR, as such opportunity ought to have been provided to the applicant before making the entries of downgrading ACR i.e. "Good" and "Average" during the subsequent years i.e. 1997-98, 1998-99, 1999-2000 and 2000-01.

5.3 For that, down grading of ACR as "Good" which is below bench mark is in fact an adverse remark for the purpose of promotion, as such it is obligatory to provide opportunity to the applicant before recording such entries. Therefore the downgrade ACR in the aforesaid years are not sustainable in the eyes of law and the entries of "Good" of the aforesaid years are liable to be upgraded as "Very good".

5.4 For that, no reason has been assigned or recorded in the ACR of the applicant while the entries of gradings were brought down from "Very Good" in the years 1997-98, 1998-99, 1999-2000 and 2000-01.

5.5 For that, on account of down grading of ACR from "Very good" to "Good" and "Average" in the year 1997-98, 1998-99, 1999-2000 and 2000-01, the applicant has been declared unfit by the DPC held on 02.09.2002, 28.02.03

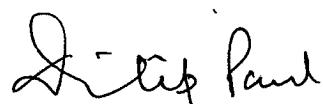
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and 30.12.03 when "Very Good" gradings were awarded in the year 1995-96 and 1996-97. Therefore grading of "Good" or "Average" of the aforesaid years are liable to be upgraded to "Very Good".

- 5.6 For that no warning, show cause notice, memo or reprimand was issued to the applicant pointing out the deficiencies or shortcoming in performance of the duties, responsibilities of the applicant during the relevant period. As such, downgrading of ACR recorded in the years 1997-98, 1998-99, 1999-2000 and 2000-01 are not sustainable in the eye of law.
- 5.7 For that, denial of promotion to the applicant in the cadre of AO on account of downgrading of ACR, caused irreparable loss to the applicant so far his seniority and promotion prospect are concerned.
- 5.8 For that, the impugned order dated 24.09.2009 clearly reveals that grading "Good" and "Average" were awarded in the year 1997-98, 1998-99, 1999-2000 and 2000-01 either at the whims of reporting authority, reviewing authority or accepting authority without assigning any valid reasons. As such the impugned memorandum dated 24.09.2009 is liable to be set aside and quashed.
- 5.9 For that the representation of the applicant dated 17.06.2009 has been rejected without assigning any valid reason. As such, the impugned memorandum dated 24.09.2009 is liable to be set aside and quashed.
- 5.10 For that no valid reason has been assigned by the respondents in the impugned memorandum dated 24.09.2009 in order to sustain the down grading of ACR of the applicant for the years 1997-98, 1998-99, 1999-2000 and 2000-01, therefore the impugned memorandum dated 24.09.09 is arbitrary, illegal and the same is liable to be set aside and quashed.
- 5.11 For that on account of downgrading of ACR the promotion of the applicant to the cadre of AO has been delayed more than two years and as a consequence his seniority to the cadre of AO has been down graded. As a result junior of the applicant Shri N. Buragohain has been promoted to the cadre of DIG in supersession of his claim.



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5.12 For that downgraded entry of "Good" and "Average" have been recorded in the ACR of the applicant during the period 1997-98, 98-99, 99-2000 and 2000-01 without assigning any valid reason. As such entries of those years liable to be restored or upgraded to "Very Good" for the relevant years and thereafter case of the applicant is liable to be considered for promotion to the cadre of AO by holding review DPC with all consequential benefits including seniority.

5.13 For that applicant has received numbers of appreciation letters from the higher authorities for his dedicated service in the department. As such impugned downgrading of ACR of the relevant years communicated through impugned memorandum dated 22.05.09 after a prolonged lapse of 8 to 11 years is not sustainable in the eye of law and as such those downgrading ACRs are liable to be restored as "Very Good" for the relevant years as indicated above and the applicant is also entitled for promotion to the cadre of AO with retrospective effect ignoring the downgrading ACR.

6. DETAILS OF REMEDIES EXHAUSTED.

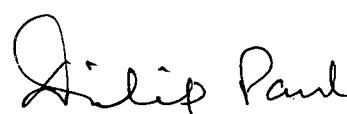
That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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

The applicant further declares that save and except filing of OA No. 840/2003, before the Hon'ble Tribunal (Patna Bench), he had not previously filed any application, Writ petition or suit before any court or any other authority or any other bench of the Tribunal regarding the subject matter of this application nor any such application, writ petition or suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on



19 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

perusal of the records and after hearing the parties on the cause or causes

that may be shown, be pleased to grant the following relief(s):

3.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned memorandum dated 24.09.2009 (Annexure- 12).

3.2 That the Hon'ble Tribunal be pleased to direct the respondents to reconsider promotion of the applicant to the cadre of AO by holding review DPC and further be pleased to promote the applicant with all consequential benefits at least from the date of promotion of his juniors in the light of the judgment and order dated 09.02.2009 passed in OA No. 840/2003 upgrading the downgraded ACR of the applicant for the year 1997-98, 1998-99, 1999-2000 and 2000-01.

3.3 Costs of the application.

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

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this Original Application shall not be a bar to the respondents for providing the reliefs as prayed for.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No. :
 ii) Date of Issue :
 iii) Issued from :
 iv) Payable at :
 12. List of enclosures.

As given in the index.



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Guwahati Bench
গুৱাহাটী ন্যায়পৌঠVERIFICATION

I, Sri Dilip Paul, Son of Shri Bhupesh Chandra Paul, aged about 57 years, serving as Area Organiser SSB, Rangia, Assam, resident of Village, Post and P.S. Patharkandi, District- Karimganj, Assam, applicant in the instant original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 2nd day of November, 2009.



ANNEXURE - 1

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

To

The Director General, SSB
Ministry of Home Affairs
Government of India
Block-V(East), R.K. Puram
New Delhi-110066

19 NOV 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

THROUGH PROPER CHANNEL

Subject:- A humble prayer to grant timely promotion to the rank of Area Organiser.

Ref:- i) SSB Dte. Memo.No.14/SSB/A2/78/(14)2304 dated 21.8.2001.
ii) SSB Dte. Order No.30/SSB/A2/98(22)2950-58 dated 6th Nov., 2001.

Respected Sir,

With due respect and humble submission I lay the following few lines for favour of your kind sympathetic consideration.

That Sir, I have completed three years and eight months in the rank of Jt. Area Organiser. Since my promotion to the rank of Jt. A.O, I have been posted in the Div. Hqr., NAD, Tezpur where I have been serving as A.O(Hqr) to the fullest satisfaction of my superior and controlling officer. Even I have held additional charge of A.O(S) continuously for 11 months as the post of A.O(S) was lying vacant, I have also held additional charge of A.O(S) occasionally during his leave, training, tour etc. My successful completion of probation period has also been approved by the Government vide order quoted under Reference (ii) above (copy enclosed).

Sir, it may not be out of way to mention here that though I have completed 3 years 8 months continuous service in the rank of JAO, my seniority has been placed above the Officer's who have completed 4 years 8 months as JAO.

Earlier I had prayed to your honour for granting me timely promotion to the rank of A.O. The SSB Dte. vide Memo. quoted at Reference (i) above (copy enclosed) had informed me that I would be considered for promotion in my turn along with others as and when vacancies would be available.

Sir, recently I have learnt that a few JAO's are being promoted to the rank of A.O shortly where my name has been deleted. If the information is correct, I would pray to your honour to be sympathetic enough to review the DPC so held and be kind enough to consider me for timely promotion to the rank of A.O along with others in my batch for which act of your kindness I shall remain ever grateful to you.

With regards,

Yours faithfully,

Encl:- As stated.

3/11/03
(DILIP PAUL)
JAO, SSB Div.Hqr., NAD,
Tezpur

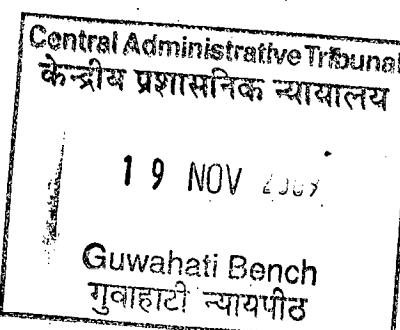
Attested
Dilip Paul
SSB

SENIORITY LIST OF JOINING AREA ORGANISERS AS ON 1/1/2003

S.No.	Name S/Shri	Date of Birth	Educ. Q.F.	Date of joining Govt. service	Date of promo- tion as SAO	Date of pro- motion as JAO
1.	E.D. Bhardwaj	15/1/48	L.A	23/3/76	30/3/87	22/9/93
2.	S.H. Mandal(SC)	31/3/44	MA	13/7/73	22/2/83	14/8/95
3.	J.S. Bahuguna	14/4/44	BA	11/11/61	30/3/87	31/8/95
4.	B.K. Chakraborty	1/3/46	BA	10/9/76	2/3/87	18/8/95
5.	K.R. Verma	20/5/46	MA	7/11/63	25/2/87	31/8/95
6.	L.K. Gohain	13/2/57	BA	19/4/78	4/3/87	21/8/95
7.	B.S. Thakur	23/1/44	BA (Bed)	8/6/73	3/6/84	13/7/98
8.	Dip Paul	11/3/53	B.Com	17/4/78	1/4/87	29/7/98
9.	M.C. Kakati (SC)	31/9/46	BA	23/9/78	1/4/87 (AN)	29/7/98
10.	V. Lalao (ST)	1/3/43	HSLC	1/5/76	17/3/87	21/7/98
11.	A.K. Ghosh	11/10/48	B.Sc.	2/7/76	11/4/88	22/6/98 (AN)
12.	N. Burghohain	1/10/53	B.Sc.	6/8/76	21/3/88	5/8/98
13.	S. Karmakar	30/9/52	B.Com	18/4/78	23/6/88	21/8/98
14.	Subhash Kumar	4/6/56	M.Sc.	22/4/78	4/4/88	24/8/98
15.	S.E. Janartha	6/6/51	B.Com	11/5/73	16/3/88	31/8/98
16.	R.K. Sharma	6/9/52	MA	30/1/81	7/4/88	6/8/98
17.	P.K. Roy (ST)	11/7/47	FA	3/4/81	10/5/88	17/8/98
18.	Gita Chand (SC)	28/6/51	MA	2/9/82	15/12/90	20/7/98
19.	K. Baruah	14/1/51	B.Sc.	4/5/73	12/4/88	30/1/99
20.	Amunda Saikia	1/9/52	BA	28/2/81	15/12/90	15/3/99
21.	M. Jumil Singh	1/3/51	BA	6/3/81	21/7/90 (AN)	22/1/99
22.	N.C. Jhingia	3/10/63	B.A., LLB	2/2/89	23/6/90	24/12/98
23.	Dr. P.S. Thakur	14/4/51	M.A., PhD	1/5/81	28/6/90	24/12/98
24.	K.C. Dobhal	1/6/55	M.A. (P)	16/10/82	21/7/90	30/1/99
25.	P.K. Choudhury	1.7.48	MA	7.6.76	4.4.87	17.7.02
26.	Smt Sushila Sharma	14.10.49	BA	4.2.69	26.10.87	13.8.02

Attested
Benta
Adhikari

After



Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

1 NOV 2009

Guru Nanak Dev Bench
गुरु नानक देव बैठक

ORDER

Pursuant to the approval of MHA vide Dy. No. F/362/Dy. P.M. dated 13/2/2003, the following Joint Area Organisers are appointed to the grade of Area Organiser in the pay scale of Rs. 14300-18300/- in SSB on promotion basis with effect from the date of assumption of charge of the post at the places indicated against each until further orders:

S.No. Name of JAO Present place of posting Fitted on promotion as Area Organiser

1. S.N. Mandal (SC) JAO	SHQ Purnia	Jhanjharpur Area
2. B.K. Chakraborty, JAU	SHQ Muzaffarpur	SHQ Muzaffarpur
3. B.S. Thakur, JAU	Balrampur Area	Balrampur Area
4. M.C. Khatola (SC) JAD	Pipalkoti Area	Pipalkoti Area
5. B.D. Bhardwaj, JAU	Jayanagar Area	FHQ SSB, New Delhi
6. A.K. Ghose, JAU	Kishanganj Area	Kishanganj Area

2. The above officers will be required to exercise their option for fixation of pay within one month in terms of DP&T OM No. 1/2/87-Estt (Pay 1) dated 9/11/1987 as amended from time to time.

3. The concerned officers may be relieved immediately to join in their respective place of posting on promotion as Area Organiser.

(J.B.S. NEGI)
13/3/03
INSPECTOR GENERAL (PERS)

DISTRIBUTION

1. The Controller of Accounts, SSB, MHA, East Block-IX, K.K.Puram, New Delhi-66.
2. The Inspectors General : -Patna/Lucknow/Tezpur/Mamipur/J&K.
3. The Deputy Inspectors General, SHQ Gorakhpur/Muzaffarpur/Bahraich/Purnia/Ranikhet/Ranidanga.
4. The DIG T.C. Dharmpur/Salonbari/Haflong/Sapru.
5. The Dy. Inspectors General:- (EA)/(EB)/(Ops)/(Int)/(Trg)/(Admin), New Delhi.

ANNEXURE-3

No. //SSB/A2/2001(4) 173

Ministry of Home Affairs,
O/o the Director General, SSB,
East Block-V, R.K.Puram,
New Delhi-110066.

Dated the 13th March 2003.

affacted
Bhutta
DW

ANNEXURE-4

To

The Director General
SSB, MHA, Govt. Of India,
R K Puram, New Delhi

Subject :- Promotion from the rank of JAO to AO

Sir

I have the honour to state that a few JAO's have been promoted to the rank of AO's recently which included a few JAO's junior to me, but my name has not been included in the list of the successful candidates.

I, therefore, request your honour to be kind enough to intimate me the reasons for dropping my name from the list of the successful candidates promoted recently from the rank of JAO's to the rank of AO's bypassing me, for which act of your kindness I shall remain ever grateful to you.

With regards,

Yours faithfully,

 09/4/03

(D. PAUL)
Jt. Area Organiser
SSB, NAD, Tezpur

Attested
Dutta
#dw

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

19 NOV. 2009

Guwahati Bench
सदर न्यायालय

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

19 NOV 2009

Guwahati Bench
गुवाहाटी न्यायालय

No.14/SSB/A2/2001(7) 1397
MINISTRY OF HOME AFFAIRS,
GOVT. OF INDIA,
DIRECTORATE GENERAL, SSB, FHQ,
EAST BLOCK, V, RK PURAM,
NEW DELHI-66.

Dated 23 May 2003.

Do. (cont.)

Ao (S) 22/5

GE

PSecy (S) copy
Psecy (S) 22/5
Shri D. Paul, Ao
Shri D. Paul, Ao

MEMORANDUM

Subject:- Promotion of Shri D. Paul, Joint Area Organiser

18

22/5

22/5/03

2. The DPC to whom the case of Shri D. Paul, Joint Area Organiser was submitted alongwith others did not recommend promotion of Shri D. Paul, Joint Area Organiser, as he could not obtain the required bench mark prescribed for promotion to the rank of Area Organiser.

3. Shri D. Paul, Joint Area Organiser may be informed suitably.

KR
(KAMAL RAM)
ASSISTANT DIRECTOR (EA-II)

To

The Divisional Organiser,
North Assam Division,
Tezpur.

Endst No.1/9(223)PF/2003/ 3046 dt. 29th May 2003.
Copy to :- Sh. D. Paul, Jt. A.O., P.M. Hqrs, D.A.O. for
information please.

Attested
M. D. D.

25
5/6

Attest
M. D. D.

25/5/03
M. D. D.

To

The Director General, SSB
Ministry of Home Affairs,
Government of India
R.K.Puram, New Delhi-66.

Through Proper Channel

Sub:- Promotion to the rank of Area Organiser

Sir,

With due respect and humble submission, I beg to draw your kind notice on the following few lines for favour of you kind sympathetic consideration please.

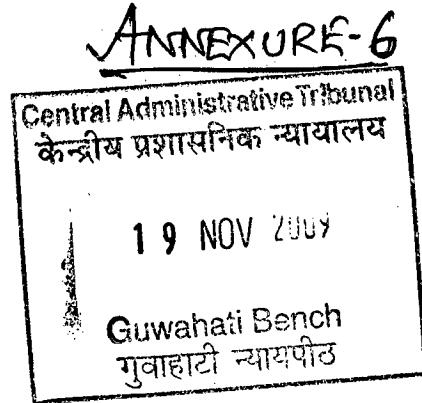
That Sir, during the last March & April-03, 9 (nine) Joint Area Organisers have been promoted to the rank of Area Organiser including 5 Joint Area Organiser's junior to me in the seniority list. But I remained most unfortunate as I have not been considered for promotion to the rank of Area Organiser in that batch.

The force Hqr. SSB vide Memo No. 14/SSB/A2/2001(7) 1397 dated 23 May-03 has intimated me that the D.P.C to whom my case along-with others was submitted did not recommend my promotion due to non-obtaining the required bench mark prescribed for promotion to the rank of Area Organiser.

In this regard, I may kindly be allowed to submit here that during my past service as Joint Area Organiser, I was never informed as per rule about not obtaining required benchmark for promotion to the rank of Area Organiser. Infact, SSB Dte. was kind enough to intimate me that I would be promoted on my turn alongwith others as and when vacancies would be available. So, I remained hopeful that next DPC would consider my case for promotion. But rejection of my case by the DPC has surprised me as I had successfully completed the probation period as per order of the SSB Dte and remained posted in the Div. Hqr. as A.O(Hqr) throughout the period and discharged assigned work and related responsibilities of A.O(Hqr) in the Divisional Hqr. upto the fullest satisfaction to my superior officers i.e. D.I.S.G & Divisional Organiser's. None of my immediate superior officers nor the SSB Dte., during the period under report have ever informed me about any shortcomings if any in my works while discharging my responsibilities as A.O(Hqr) in the Divisional Hqr.

Sir, I may also be allowed to mention here that there is no separate office of the Joint Area Organiser neither the post of Joint Area Organiser is subordinate to the post of Area Organiser. The original 62 posts of Area Organiser have been divided into Area Organiser & Joint Area Organiser with lesser pay to Jt. A.O. I and all Jt. A.O's have been discharging the duties & responsibilities of Area Organiser since joining as Jt. Area Organiser as all 62 posts of Area Organiser have been distributed among A.O's & Jt. A.O's. Thus it is to bring to your kind notice that I have already been holding the post and discharging the duties of Area Organiser since joining as Jt. A.O. Promotion to the rank of A.O is regular posting with the rank & higher pay only. Hence non-recommending my case for promotion by DPC is denial of higher pay and status to me for equal works.

Attested
Maitta
s.d.



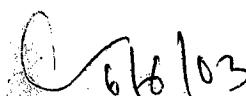
It may further be mentioned here that as against the prescribed norms of promoting SAO's to A.O after completing 16 years in the grade (C.O + SAO), I have already completed 25 years of service including 21 years as C.O & SAO combined.

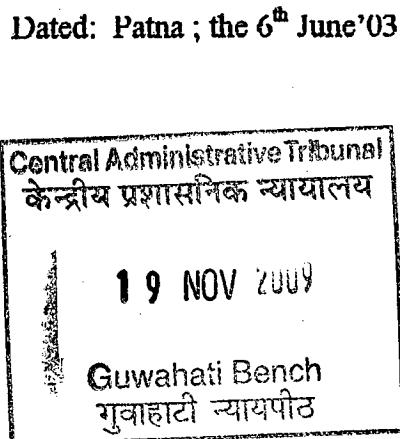
I therefore, request your honour to be kind enough to promote me to the rank of Area Organiser immediately with retrospective effect from the date my junior officers have been promoted, with all consequential benefits of seniority, salary etc. as I have already been holding the post of A.O since last 5 years without having received any adverse communications from my superior officers.

Sir, if my prayer for promoting me to the rank of Area Organiser as stated above is not effected within one month, I will be most unfortunate one to seek relief from the Court of Law in this regard.

With regards,

Yours faithfully


(D. PAUL)
Jt. Area Organiser
SSB, Ftr. Hqr., Patna



GOVERNMENT OF INDIA
 MINISTRY OF HOME AFFAIRS
 SASHASTRA SEEMA BAL
 FORCE HEADQUARTERS
 EAST BLOCK-V, R.K. PURAM
 NEW DELHI - 110066.

ANNEXURE-7

No.7/SSB/A2/2004(2)-5270-5320

Dated: 09.12.2005

ORDER

Pursuant to the approval of MHA vide their ID No. CFN-13600/2005/PERS.III dated 29TH November, 2005, the following Joint Area Organisers are appointed to the grade of Area Organiser in the pay scale of Rs.12,000-375-16,500/-, keeping in abeyance the pay scale of Rs.14,300-400-18,300/-, in SSB on promotion with effect from the date of assumption of charge of the post at the place indicated against each, in public interest :

Sl. No.	Name of JAO S/Shri	Present place of posting	Place of posting on promotion
1.	K.R. Verma	Bagha Area	Bagha Area
2.	Dilip Paul	Birpur Area	SHQ Muzaffarpur
3.	R.K. Sharma	Gwalmi	Gwalmi
4.	P.K. Roy	Bathnaha Area	Bathnaha Area
5.	Gain Chand(SC)	Sidharthnagar Area	Siddharthnagar Area
6.	Anand Saikia	Dirang Area	SHQ Bâraich

2. The above officers will be required to exercise their option for fixation of pay within one month in terms of DOP&T OM No.1/2/87/Estd(Pay.I) dated 09-11-1987 and as amended from time to time.
3. The concerned officers may be relieved immediately to join at their respective place of posting on promotion as Area Organiser (Rs.12,000-375-16,500) and their date of joining on promotion may be intimated on same day through FAX to this Hqr.
4. DG, SSB has also approved transfer/ posting of Shri Shyam Singh, JAO from Bongaigaon Area to SHQ Gorakhpur at his own request i.e. without TA/DA and joining time etc., with immediate effect.

Subhash Kumar
 (Subhash Kumar)
 Assistant-Director (EA-II)

Distribution:-

1. The Controller of Accounts, PAO, SSB[MHA], New Delhi.
2. PS to DG, SSB & PS to ADG, SSB FHQ SSB New Delhi.
3. PS to IG[Pers]/IG[O&I]/IG[T&A]/IG[PA&W]/Director[Medical] /CE, FHQ, SSB New Delhi.
4. The IG, SSB FTR HQ Lucknow / Patna / Guwahati.
5. The Director, SSB Academy, Srinagar – Garhwal.
6. All Deputy Inspectors General at FHQ SSB New Delhi.
7. All DIsG; SHQs, TCs in Sashastra Seema Bal.
8. All Assistant Directors at FHQ SSB New Delhi.
9. Individual Officer concerned
10. Order File.

*Collected
Dated
20/12/05*

28

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
DIRECTORATE GENERAL, SSB
EAST BLOCK-V, R.K. PURAM
NEW DELHI - 110066

केन्द्रीय प्रशासनिक सचिवालय
Guwahati Bench
গুৱাহাটী ন্যায়পৌঁঠ

ANNEXURE 8

No.7/SSB/Pers-I/2007 (5)- 10012-58

Dated 26th Nov. 2008

ORDER

In pursuance of MHA Order No.7/SSB/Pers-I/2007(5)/Pers.III dated 18.02.2008 conveying approval of the Government for promotion of Area Organisers/Commandants to the rank of Deputy Inspector General in the pay scale of Rs.16,400-450-20,000/- (Revised pay band of Rs.37400-67000/- (PB-4) plus Grade pay of Rs.8900/-), Director General, SSB has approved the posting of Shri N. Buragohain, Area Organiser, Force Hqrs. SSB New Delhi, on promotion to the rank of Deputy Inspector General from the date of assuming the charge of Deputy Inspector General at Frontier Hqrs. SSB Guwahati, in public interest, against the vacancy of DIG arising on superannuation of Shri Amarjeet, DIG on 30.11.2008 (Afternoon).

2. The above officer will be required to exercise his option for fixation of pay on promotion, in terms of DOP&T OM No. 1/2/87/Estt(Pay-I) dated 9.11.1987 and as amended from time to time.


(S. K. Gautam)
Deputy Inspector General (Pers)

Distribution :

1. The Controller of Accounts, PAO, SSB, MHA, R.K. Puram, New Delhi.
2. PS to DG/ADG – for kind perusal of DG/ADG, SSB.
3. Shri V.N. Gaur, Joint Secretary (Police), MHA, North Block, New Delhi.
4. PS to IG (P&T)/(O&I)/(P&C)/(Admn)/Director(M)/CE, FHQ New Delhi.
5. The Inspector General, Frontier Hqrs. SSB, Lucknow, Patna, Guwahati and Director, SSB Academy, Srinagar.
6. Shri B.K. Sahu, Director (Pers), MHA, North Block, New Delhi.
7. All DIsG, DD(CC), DD(Tele) at Force Hqrs. New Delhi.
8. ✓ All DIsG, SHQ and TCs in SSB. *7/2/08*
9. Shri N. Buragohain, Area Organiser, Force Hqrs. New Delhi. DG, SSB *conveys his congratulations to the officer on his promotion.*
10. All ADs at Force Hqrs. New Delhi.
11. I/C Control Room, Force Hqrs. New Delhi.
12. Order file.

*Accepted
Affected
M. Datta
Adm*

ANNEXURE-9

OA 840 of 03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

19 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

O.A. No.840 of 03

Date of order : 9.2.2009

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Shri Amit Kushari, Member [A]

Dilip Paul, S/o Shri Bhupesh Chandra Pal, r/o village, post and P.S. Patharkandi, District – Karimganj, Assam, presently resident of Frontier Head Quarters, SSB, Adarsh Colony, Kidwaipuri, Patna.

....Applicant

By Advocate : Shri G. Boso [Sr. Advocate]

Vs.

1. The Union of India through the Secretary, Ministry of Home Affairs, Govt. of India, New Delhi.
2. The Director General [previously Director], SSB, Ministry of Home Affairs, R.K. Puram, New Delhi.
3. The Assistant Director [EA – II] Directorate General, SSB, FHO, East Block, R.K. Puram, New Delhi.
4. M.C. Kakati, posted as Area Organiser, SSB, Piprakoti Area, Champaran, Bihar
5. A.K. Ghosh, posted as Area Organiser [G], SSB, Purnea.
6. N. Burgha, posted as Area Organiser [Senior Instructor], at Training Centre SSB, Haflong, Assam.
7. S. Karmakar, posted as Area Organiser, SSB, Ranidange Area, Darjeeling, West Bengal.
8. Subhash Kumar, posted as Area Organiser, SSB, Bahriach, U.P through Sector HQR SSB Bahriach.
9. The Dy Inspector General [E.A.], SSB, Ministry of Home Affairs, East Block R.K. Puram, New Delhi.
10. S.C. Janarthe, Joint Area Organiser, SSB, New Delhi.

....Respondents

By Advocate : Shri R.K. Choubey.

O R D E R

S. Srivastava, M (J):- By means of this OA the applicant has challenged the order dated 23.05.2003 [Annexure A2] whereby he was informed that the

Attested
Mukta
Adv.

Departmental Promotion Committee [DPC in short] did not recommend his promotion to the rank of Area Organizer as he could not obtain the required benchmark prescribed for promotion to the rank of Area Organizer.

2. The facts, as stated in this OA, are that the applicant joined the Special Service Bureau [SSB in short] in the year 1978 as Circle Organizer [class II Gazetted post] through direct recruitment in civilian cadre, thereafter, he was promoted to the post of Sub Area Organizer in 1987. He was further promoted to the post of Joint Area Organizer. A seniority list of Joint Area Organizer was issued by the respondents wherein the applicant was shown senior over the private respondents. He became due for promotion to the post of Area Organizer which is admittedly a selection post. As per Recruitment Rules, the eligibility conditions for promotion to the rank of Area Organizer in SSB is that the officer should have six years service in the grade of Joint Area Organizer, failing which 16 years of Gazetted service, including two years service in the grade of Joint Area Organizer. He was considered by the DPC held in the year 2003. The DPC found him unfit and granted promotion to his juniors. Aggrieved by the promotion of his juniors, the applicant filed representation before the department which was rejected by order dated 23.5.03 [Annexure A/2]. Hence this OA.

3. The stand taken by the respondents is that the applicant had failed to obtain prescribed benchmark of ' Very Good' required for promotion to the post of Area Organizer. Therefore, he was declared unfit by the DPC held on 02.09.02, 28.02.03 and 30.12.03. However, in the subsequent DPC held on

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20.10.05, the applicant was able to obtain the prescribed benchmark, and he was accordingly promoted as Area Organizer with effect from 22.12.05 [Annexure R/1].

4. The grievance of the applicant is that he was not communicated 'Good' entries made in his ACRs for the period 1997-98, 98-99 and 2000-01 [partly 'Good' and partly 'Very Good'] The applicant has submitted that had he been communicated those entries, he would have got an opportunity to make representation for up-grading ^{those} entries from ' Good' to 'Very Good'. If the representation had been allowed, he would have become eligible for promotion. Therefore, he submits that the rules of principle of natural justice has been violated.

5. The learned counsel for the respondents, on the other hand, argued that ' Good' entry is not an adverse entry, and it is only adverse entry which has to be communicated to the employee. Hence he submitted that there was no illegality committed by the respondents in not communicating the 'Good' entries to the applicant.

6. Heard learned counsel for the parties and perused the pleadings as well as records produced by the respondents i.e., DPC proceedings and ACRs.

7. In the present case the benchmark [i.e the essential requirement] laid down by the authorities for promotion to the post of Area Organizer was that the candidate should have ' Very Good' grading for the last five years. In this situation the 'Good' entry in fact is an adverse entry, because it eliminates the candidate from being considered for promotion. The effect of entry determines



whether it is an adverse or not. Therefore, the effect of entry is an important factor which is to be seen and not phraseology. It appears from minutes of the DPC and ACRs that the applicant was granted 'Very Good' entry in 1995-96 and 1996-97. In 1998-99 his entry was down graded and awarded 'Good' grading, but the same was not communicated to the applicant. However, in subsequent year also he was graded 'Good' and 'Very Good'. The DPC found him unfit, because he did not obtain the prescribed benchmark of 'Very Good'.

8. The legal question in issue is whether the down grading from 'Very Good' to 'Good' amounts to making of an adverse entry. If so, does it require to be communicated? A five Member Bench of Tribunal in OA 24 of 07 vide its judgment dated 07.05.2008 in the case of Ashok Kumar Aneja vs. Union of India & Ors has held as follows:-

" 35.- Resultantly, we approve the view taken by the Ahmedabad bench in OA 673 of 04 holding that downgrading from 'Very Good' to 'Good' and similar downgrading does amount to making of an adverse entry. Mandatorily, these are required to be communicated to the persons who stand to be affected thereby. The reference is answered as above."

9. The Hon'ble Apex Court in Civil Appeal No. 7631 of 02 [Dev Dutt vs. Union of India & Ors] in this very context, has laid down as follows:-

" 45. In our opinion, non-communication of entries in the Annual Confidential Report of a public servant, whether he is in civil, judicial, police or any other service [other than the military], certainly has civil consequential because it may affect his chances for promotion or get other benefits [as already discussed above]. Hence, such non-communication would be arbitrary, and as such

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violative of Article 14 of the Constitution."

10. In view of the law laid down by the larger Bench of the Tribunal and the Apex Court, the contention of the applicant must be upheld, i.e., non-communication of entries below the benchmark grade ought to have been communicated because the same have affected his promotion bearing civil consequences.

11. We, therefore, direct that the 'Good' entries be communicated to the applicant within a period of two months from the date of receipt of copy of this judgment. On being communicated, the applicant may make representation, if he so chooses, against the said entries within one month thereafter, and the said representation will be decided within two months thereafter. If his entries are upgraded, the applicant shall be considered for promotion retrospectively by the DPC within three months thereafter. If the applicant gets selected for retrospective promotion, he should be given notional promotion, with all consequential benefits except back wages.

12. In the result, the OA is disposed of accordingly, without any order as to the costs.

[Signature]
[Amit Kushari] M [A]

/cbs/

[Signature]
[Sadhna Srivastava] M [J]

True Copy

Certified that this is a true and accurate copy of the document/order as it stands in the file (OA/RA/TA/CP) MA/PT No. 840/03 and that all the matter appearing therein is legible and faithfully written with due regard to the original.

Ch
11.2.09

[Signature]
11/2/09
Action Officer (JAS),
CENTRAL ADMINISTRATIVE TRIBUNAL

GOVERNMENT OF INDIA
 MINISTRY OF HOME AFFAIRS
 O/O THE DIRECTOR GENERAL: SSB
 EAST BLOCK-V, RK PURAM
 NEW DELHI-110066

ANNEXURE-10

No.3/SSB/A3/2006(9) 7/3-15

Dated: 22/5/09

MEMORANDUM

In compliance to the directions of the Hon'ble CAT Patna Bench dated 09.02.2009 pronounced in OA No.840/03 titled Dilip Paul Vs UOI & Ors, the following overall grading from the Confidential Reports of the officer for the years 1997-98, 1998-99, 1999-2000, 2000-2001 are communicated herewith for information of the individual:-

Year	Overall Grading
1997-98	Average
1998-99	Good.
1999-2000	Good.
2000-2001 (01.04.2000 to 04.07.2000)	Good.

2. Your case was duly considered for promotion to the next higher rank of Area Organiser but as you were not able to achieve the required overall grading of 'Very Good', you could not be promoted.

3. An opportunity in terms of directions of the Hon'ble Court referred to above is accordingly afforded to you to prefer a representation against above quoted overall grading if any. The said representation should be submitted within one-month from the date of receipt of this Memo.

(S.K. GAUTAM)
 DY. INSPECTOR GENERAL (PERS)

To

✓ Sh. Dilip Paul,
 Area Organiser,SSB,
RANGIA AREA

Copy for information:-

1. The Inspector General, Frontier HQ, SSB Guwahati.
2. The Dy. Inspector General, SHQ, SSB Tezpur.

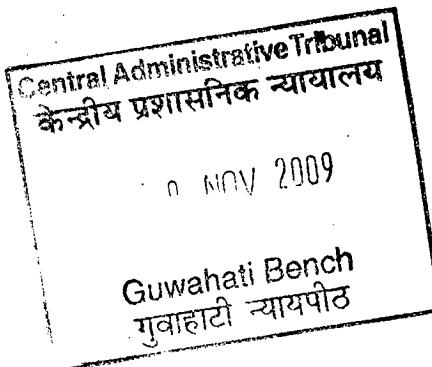
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DY. INSPECTOR GENERAL (PERS)

Attested
 Datta
 Adhikari

To

The Director General,
Sashastra Seem Bal,
East Block -V, R. K. Puram,
New Delhi -110066.



ANNEXURE-11

(Through proper channel)

**Sub:- Representation against downgrading confidential report for the year 1997- 1998,
1998-99, 1999-2000 and 2000-2001.**

Ref.- Your Memorandum bearing No. 3/SSB/A-3/2006 (9)/713-15 dated 22.05.09.

Sir,

I would like to draw your kind attention on the subject cited above and further beg to say that I have duly received your memo dated 22.05.09 and carefully gone through the same and understood the contents made therein.

On a mere reading of the memo. dtd. 22.05.09, it appears that the authority has communicated an overall grading awarded to me for the year 1997-98, 1998-99, 1999-2000 and also for the year 2000-2001 (01.04.2000 -04.07.2000).

At the outset I most humbly and respectfully say that these downgrading confidential reports for the year indicated above are not sustainable in view of the fact that the authority failed to communicate the very reason for awarding the grading of "average" in the year 1997-98 and "good" for the rest of the year 1998-99, 1999-2000 and 2000-2001. It is obligatory on the part of the authority more particularly by the reporting authority to specify the detailed particulars of the confidential reports of the respective years to enable the undersigned, on which front deficiency has come to the notice of the authority in discharging the day to day official duties and responsibilities. But from the memo. dated 22.05.09, it is difficult to understand my shortcomings or deficiencies if any, for which I have been awarded overall grading as "average" and "good" for the year 1997-98 to 2000-2001. No reason has been assigned in the memo. dated 22.05.09 for which concerned competent authority has arrived to the decision to award overall grading as "average", "good" for the years indicated above. Hence awarding overall grading as "average" for 1997-1998 and "good" for the year 1998-99, 1999-2000 and 2000-2001 without specifying any valid reasons, such overall gradings below benchmark are liable to be expunged. Moreover the aforesaid overall grading awarded to the undersigned for the year 1997-98 to 2000-2001 also not sustainable for the following grounds.

1. That the undersigned was never served with any memo, warning or show cause notice reprimand by the reporting officer pointing out any act or omission or commission or deficiency, shortcomings in discharging my day to day official duties

Contd....P/2.

*Attested
Dutta
Adv*

and responsibilities during the relevant years i.e. for the period from 1997-98, 1998-99, 1999-2000 and 2000-2001 (01.04.2000-04.07.2000) while downgrading ACR were awarded during the aforesaid period. It is obligatory on the part of the reporting authority/reviewing authority to point out deficiency and shortcomings to provide reasonable opportunity to the undersigned to enable me to cope up with the deficiency, if any. As such the overall down grading of ACR without providing opportunity are not sustainable in the eye of law. Moreover since no advice or counseling tendered to the undersigned before making down grading adverse entries by the competent authority in the annual confidential report for the year 1997-98, 1998-99, 1999-2000 and for the year 2000-2001 (01.04.2000 to 04.07.2000), therefore downgrading of confidential report is made in total violation of instruction contained in G.I.D.P. and A.R. O.M. No.21011/1/81-Estt (A) dated 05.06.1981. Hence downgrading of overall confidential report awarded to the undersigned are liable to be expunged.

2. That the overall downgrading confidential reports awarded to the undersigned as "average", "good", "good", "good" for the year 1997-98, 1998-99, 1999-2000, 2000-2001 respectively is in total violation of time limit prescribed by the Govt. of India for communication of the downgrading ACR, as such over all grading awarded to the undersigned are liable to expunged.
3. That the overall downgrading ACR for the year 1997-98, 1998-99, 1999-2000, 2000-2001 has been recorded not with the view of the intention to provide opportunity to the undersigned to make improvement in any particular front but the ACR has been down graded in total violation of the basic object of maintaining confidential report, as such downgrading of ACR's are liable to be expunged.
4. That the overall down grading of ACR recorded during the year 1997-98, 1998-99, 1999-2000, 2000-2001. In fact these gradings are below the bench mark as such those gradings are adverse for the purpose of promotion hence ought to have been communicated at the relevant point of time but belated communication of those adverse remarks for the years indicated above lost its basic object of communication of adverse entries. Since the adverse downgrading ACR's have been communicated after a lapse of 8/11 years, as such reasonable opportunities has been denied to the undersigned, hence all those downgrading ACR's are liable to be expunged. Moreover there was no indication in the memorandum dated 25.05.2009 that the undersigned was ever communicated any warning/displeasure/reprimand and there after no improvement has been noticed in discharging of my duties and responsibilities hence downgrading are liable to be expunged.
5. That the mere reading of the memorandum dated 22.05.2009, it appears the same is cryptic, vague and defective and not specific and distinct and also contrary to the instructions issued by the Govt. of India from time to time on the subject, hence all the down grading ACR's are liable to be expunged.

6. That the downgrading ACR's for the year 1997-98, 1998-99, 1999-2000 and 2000-2001 have been recorded in total violation of the instruction of the Govt. of India contained in relevant circulars and office memorandum and also in violation of Principle of natural justice and hence liable to be expunged.
7. On a mere reading of a memorandum dated 22.05.2009 it appears that there is no reflection in the overall grading indicated in the memorandum dated 22.05.2009 regarding quantitative and qualitative assessment of work performed by me while discharging my duties and responsibilities. As such in the absence of any shortcomings the overall grading recorded in the ACR for the years indicated above are liable to be expunged.
8. That the downgrading ACR have been communicated after lapse of 08-11 years without specifying the shortcomings, as such purpose of communication of the downgrading ACR is meaningless and such downgrading ACR are liable to be expunged.
9. That the undersigned have been promoted to the cadre of Joint Area Organiser in the year 1998. Therefore, it can rightly be inferred that the undersigned has obtained prescribed bench mark while promoted as Joint Area Organiser in the year 1998. Moreover, further promotion of the undersigned in the rank of Area Organiser on 22.12.2005 also indicates that the performance of the undersigned is more than bench mark level at the relevant point of time.
10. I have repeatedly prayed to the authority for granting me promotion according to my seniority during (i) July' 2001 (ii) January 2003 (iii) April'03 and (iv) June' 2003. But the authority in the Force Hqr. New Delhi have never informed me about obtaining below bench mark grading on their own nor even in reply to my representations. Since these were not communicated during the period when these should have been communicated to allow me to represent to defend my case before the DPC's was held, there is no purpose left now for communicating after lapse of 08 years to 11 years, of those ACR and specially when I have already been promoted to the said rank of Area Organiser after loosing precious 03 years during which my junior officers were promoted to the rank of Area Organiser and then Dy. Inspector General.
11. It is pertinent to mention here that during my 32 years of service career I have been recommended for Police (Special) Duty Medal and also received DG's Disc and commendation letters on different occasions. The detail particulars of commendations I received are given hereunder :-
 - a) Police (special) Duty Medal during the year 1990.
 - b) DG's Disc with Commendation letter during the year 2004.
 - c) DG's Disc with Commendation letter during the year 2009.
 - d) Numerous appreciation letter's from Director General, Inspector's General and Dy. Inspector's General during the period from the year 2004 to 2009.

It is relevant to mention here that I have also been found suitable and recommended by the competent authority to work as Instructor in Frontier Academy, Gwadom and Training Centre Sarahan during the period from 1983 to 1986.

12. My dedicated service to SSB for the last 32 years has been left to dust for the whimsy of some one in the Divisional Hqr. or Force Hqr. for no fault on my part.
13. That it would be evident that even prior to 1997-98, I have attained grading "very good" on different year and was able to maintain my seniority from the rank of Circle Organiser to Sub-Area Organiser to Jt. Area Organiser at my original place of seniority on the date of joining in SSB. As such down grading of my ACR all of a sudden without providing reasonable opportunity is highly arbitrary, illegal and unfair and as such downgrading ACR for those aforesaid years are liable to be expunged.
14. In the circumstances and grounds as stated above the un-communicated downgrading ACR has caused irreparable loss and injury to the undersigned in the matter of promotion to the cadre of Area Organiser, without any fault on the part of the undersigned. As a result my promotion prospect has been adversely effected. It is needless to mention here that even my junior Sh. N. Buragohain has already been promoted to the rank of Dy. Inspector General w.e.f. 01.12.2008. As such the overall grading awarded in the annual confidential report for the year 1997-98, 1998-99, 1999-2000 and 2000-2001 are liable to be expunged with immediate effect.
15. That it is stated that no details of shortcomings reported in the ACR for the relevant years as indicated in the memorandum dated 22.05.2009, these downgrading of ACR's are not sustainable in accordance with the law of the land.

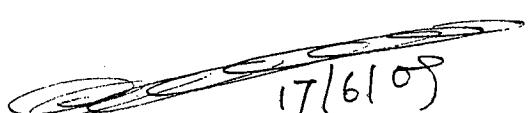
Therefore, your Honour be pleased to pass necessary order for expunging the adverse downgrading ACR for the years indicated above and further be pleased to promote the undersigned to the rank of Area Organiser with retrospective effect i.e. w.e.f. 18.03.2003 with all consequential service benefits including consideration for promotion to the rank of Dy. Inspector General with effect from 01.12.2008 with seniority.

This is for your kind information and necessary action.

With regards.

Yours' faithfully

Date:- 17/6/09


17/6/09

(Dilip Paul)
Area Organiser, SSB,
Rangia Area.

Attested
Dilip Paul

Government of India
Ministry of Home Affairs
Directorate General, Sashastra Seema Bal
East Block-V, R.K. Puram, New Delhi-110066

No. 1/SSB/A3/09(16)- 1363-64

Dated: 24.09.2009

ANNEXURE-12

MEMORANDUM

Subject:-Representation dated 17.06.2009 in respect of Shri Dilip Paul, Area Organiser, Rangia Area against below bench mark grading recorded in the ACRs.

In compliance with the directions dated 09.02.2009 of the Hon'ble Central Administrative Tribunal, Patna Bench, I have carefully gone through the representation dated 17.06.2009 of Shri Dilip Paul, Area Organiser, Rangia Area.

2. In his representation, Shri Dilip Paul has requested "to pass necessary order for expunging adverse downgrading ACR for the years 1997-98, 1998-99, 1999-2000 and 2000-2001".

(i) On a perusal of the said ACRs, it is found that in the ACR for the year 1997-98, the Reporting Authority (Shri I. Sharma, Jt. Area Organiser, Shillong) has graded the performance of Shri Dilip Paul as "Good". But Shri N.S. Fonia, Divisional Organiser, Shillong Division, in his capacity as both the Reviewing Authority as well as Accepting Authority, has graded the performance of Shri Dilip Paul as "Average" because he felt that Shri Dilip Paul was "over graded".

(ii) In the ACR for the year 1998-99, the Reporting Authority as well as the Reviewing Authority, as well as the Accepting Authority, have all graded him "Good".

(iii) In the ACR for the year 1999-2000, the Reporting Authority as well as the Reviewing Authority have graded him "Very Good", whereas the Accepting Authority felt "he has been over assessed". He, therefore, graded him as "Good".

Written by Datta Jadhav

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3. It will thus be seen that there was no downgrading whatsoever in the ACRs for the years 1998-99 and 2000-2001. The downgrading was done from "Good" to "Average" in the ACR for the year 1997-98, and from "Very Good" to "Good" in the ACR for 1999-2000.

4. After a careful examination of the representation of Shri Dilip Paul and the relevant ACRs, it appears from an objective point of view that the downgrading by the Reviewing Authority in the ACR for 1997-98, and by the Accepting Authority in the ACR for 1999-2000, was done for very valid reasons.

5. I, therefore, find no reason as to why I should interfere with the assessment made by the Reviewing and Accepting authorities in the ACRs for the years 1997-98 and 1999-2000.

6. The representation dated 17.06.2009 of Shri Dilip Paul, Area Organiser is, therefore, disposed of accordingly.

7. The receipt of this memorandum may be acknowledged by Shri Dilip Paul, Area Organiser.

DebRao 22.9.09

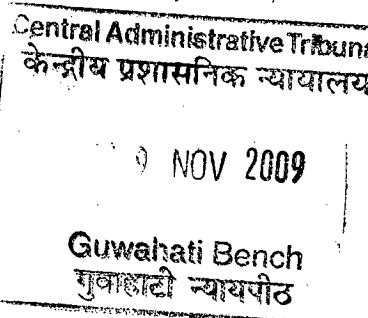
(M.V. Krishna Rao)
Director General, SSB

To

Shri Dilip Paul,
Area Organiser,
SSB, Rangia Area.

Copy to:-

The Inspector General, SSB, Frontier Hqrs., Guwahati with reference to his letter No. 1(196)GE/PF/FTR-IBB/06/-16729-30 dated 29th June, 2009 for information.



Director General, SSB

ANNEXURE-13

SENIORITY LIST OF AREA ORGANISERS AS ON 01.07.2009

Sr. No.	Name.	Date of birth.	Date of Retirement	Educational Qualification	Date of joining Govt. Service.	Date of promotion in the grade.	Place of Posting
1.	Sh. Shri S.C. Verma	16.05.51	31.05.11	BA, B Ed	22.03.76	08.07.98	TC Gwalmam
2.	L.K. Gohain	13.02.57	28.02.17	BA	19.04.78	25.10.04	Udalguri
3.	S. Karmakar	30.09.52	30.09.12	B. Com	18.04.78	29.04.03	SHQ Ranidanga
4.	Subhash Kumar	04.06.54	30.06.14	M.Sc	22.04.78	26.04.03	Ftr.Hq.Guahati
5.	S.L. Janartha	06.06.51	30.06.11	B. Com	11.05.73	05.02.04 [AN]	T.C. Sarhan
6.	Dilip Paul	11.03.53	31.03.13	B. Com	17.04.78	22.12.05	Rangia
7.	R.K. Sharma	06.09.52	30.09.12	MA	30.01.81	12.12.05	FHQ New Delhi
8.	Gian Chand[SC]	28.06.51	30.06.11	MA	02.09.82	15.12.05	Pithoragarh
9.	N.C. Jhingta	03.10.63	31.10.23	BA, LLB	02.02.89	19.01.06[A.N]	PMO, New Delhi
10.	K.C. Dobhal	01.06.55	31.05.15	MA.(English & History)	16.10.82	06.03.06	Ftr Hq. Lucknow
11.	Sushila Sharma	14.10.49	31.10.09	B.A.	04.02.69	18.03.06	Spl.Cell Guahati
12.	Jagdeep Pal Singh	26.06.65	30.06.25	BA, LLB, BJMC	23.01.91	01.10.07 (AN)	Ftr.Hq.Lucknow
13.	Rup Singh [ST]	01.04.56	31.03.16	BA	06.05.82	01.10.07 (AN)	MTC Shimla
14.	R.S. Rana	19.07.54	31.07.14	BA	19.10.82	01.10.07 (AN)	FHQ New Delhi
15.	Rajinder Kumar	03.08.63	31.08.23	BSc, LLB	15.01.91	25.10.07	Bagha Area

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*Attested
Anita
A.W.*

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Sr. No.	Name. Sh.Shri	Date of birth.	Date of Retirement	Edu. Qlf.	Date of joining Govt. Service.	Date of promotion in the grade.	Place of Posting
16	P.S. Mehra	02.03.56	31.03.16	M.Sc	12.10.82	01.10.2007 (AN)	SHQ Ranikhet
17	Chance Keishing (ST)	01.04.63	31.03.23	BA[Hons]	23.03.83	01.11.2007	Ftr.Hq. Guwahati
18	M.Sunil Singh	01.03.51	28.02.11	BA	06.03.81	05.06.2009	SHQ Bongaigaon
19	S.S. Thakur	10.08.56	31.08.16	BA, LLB	30.08.82	01.10.2007 (AN)	FHQ New Delhi
20	Shyam Singh (ST)	15.11.56	30.11.16	BA	02.09.82	30.01.2009 (AN)	Ramgarua Area
21	Sansar Chand	08.05.55	31.05.15	BA	15.02.77	01.10.2007 (AN)	SHQ Muzaffarpur
22	V.K. Sharma	02.06.57	30.06.17	BSc	20.08.82	01.08.2008	ITS Ghitorni
23	A. Brahmin	19.04.52	30.04.12	BA	02.07.83	03.10.2007	SHQ Ranidanga
24	Thomas Chacko	30.01.69	31.01.29	BA	09.10.91	26.09.2008	FHQ New Delhi
25	A.K. Das	31.07.58	31.07.18	MA, LLB	12.10.83	01.10.2007 (AN)	FHQ New Delhi

Note:- (1) Area Organizers at Sl.No. 06 to 11 are in the Pay Scale of of Rs. 12000-16500/- (Pre-revised) w.e.f. the date of promotion as Area Orgnizer upto 12.02.2007 and in the Pay Scale of Rs. 14300-18300/- (Pre-revised) w.e.f. 13.02.2007.

(2) Shri Shyam Singh (ST) AO promoted to the present grade on ad hoc basis w.e.f. 30.01.2009 (AN) restored his original seniority in pursuance of MHA ID No.CR-47329/08/Pers.III dated 29.01.2009.

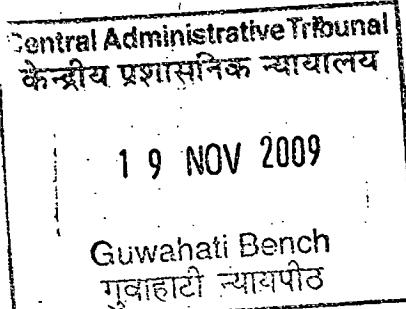
(3) Shri M.Sunil Singh, AO promoted to the present grade on ad hoc basis w.e.f. 05.06.2009 restored his seniority below Shri Chance Keishing (ST) AO and above Shri R.L. Bedi, AO (now retired) and Shri S.S. Thaklur, AO in pursuance of MHA ID No.CR-2870/09/Pers.III dated 19.05.2009.

(4) Area Organizers at Sl. No. 12 to 25 are promoted to the present rank on Ad hoc basis on the folloing terms and conditions:-

- (i) the promotion is made on purely ad hoc basis and the ad hoc promotion will not confer any right for regular promotion and consquential benefits; and
- (ii) the ad hoc promotion shall be "until further orders".
- (iii) the Government reserve the right to cancel at any time the ad hoc promotion and revert the Government servant to the post from which he/she was promoted.

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ANNEXURE-14 (series)

No. E.I/Misc/CCs/SD/ 1/106/2
Directorate General of Security,
O/O the Divisional Organiser, SSB.,
Shillong Division, Shillong.

Dated the 18th Nov 1989

MEMORANDUM

S/SHRI Dilip Paul and Kamal Barua the then Circle Organisers of Dhubri & Udaguri presently posted in S.A.C. Belonia and SAO Div. HQ. Shillong respectively have been awarded the Police (Special Duty) Medal for their work in Indo-Bangladesh Border/ Indo-Bhutan Border, as per DO NAD's Memo. No. 799657 dtd. 16.9.89.

The Medals (one each) are sent herewith to the Officer concerned. The receipt of the same may kindly be acknowledged at an early date.

Enclo: 2 (two) medals.

To

Shri Kamal Barua,
Sub-Area Organiser,
Div. HQ. Shillong.

2. Shri Dilip Paul,
Sub-Area Organiser,
Belonia,
P.O. Belonia, South Tripura.

Area Organiser (Adm),
Shillong Division, Shillong.

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Collected
M. Datta
Adv.



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19 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

विशेष सेवा ब्यूरो महानिदेशालय

प्रशासनिक प्राप्ति पत्र

श्री/श्रीमती/कुमारीडी.पाल,संयुक्तक्षेत्रीय
.....संराठकविशेष सेवा ब्यूरो महानिदेशालय,
गृह मंत्रालय (भारत सरकार) को उनके द्वारा इस संस्था
की निष्ठा व लगन पूर्वक की गई उच्चकोटि की अनुकरणीय
सेवा के लिए मैं यह प्रशस्ति प्रमाण पत्र सहर्ष प्रदान
करता हूँ।

दिनांक: 12-03-2004

महानिदेशक

Attested
Biju
d/w

H.C.Kharkwal
Inspector General



No. D.O. No. N/RG/Apprehension/07 2881-81
Sashastra Seema Bal
Ministry of Home Affairs
Government of India
Office of the Inspector General
Zoo Road, Uday Path
Guwahati - 781024
Ph : 0361-2462114 (O)
Fax: 0361-2462034

Dated 9th August 2007

My dear Paul

Please refer to your Fax Message No. 1883-85 dated 3/8/2007 on Operation Flood.

I am extremely happy and place it on record for the conduct of joint successful operation combining civil police under your command with team of SSB officers and staff on 2nd August 2007 (AN) and had succeeded in apprehending 950 gms Brown Sugar along with the smuggler Anu Rabha. I congratulate you and your team of officers for the excellent work done.

It would have been appreciated had you planned the operation with the help of SSB personnel with police support. Your estimated valuation of the Brown Sugar appears to be very low. It should have been crore plus given the present international market rate of the drugs.

Please send your proposal for suitable reward to your team of staff immediately.

The Officers associated in the operations are also being issued with commendation letter separately.

With *best wishes*

Yours sincerely,

(H.C.Kharkwal)

Shri D Paul
Area Organiser, SSB
Rangia

Copy to :

The Dy. Inspectors General, Sector Headquarters, SSB, Bongaigaon/Tezpur.

*Notified
Dutta
Adv*

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

(H.C.Kharkwal)

11-2/11/07
11-6/10/07

किशोरी लाल
KISHORI LAL
उप महानिरीक्षक
Dy. Inspector General



सशस्त्र सीमा बल
SASHASTRA SEEMA BAL
गृह मंत्रालय,
Ministry of Home Affairs
भारत सरकार
Government of India,
क्षेत्रक मुख्यालय,
Sector Hqrs. (SSB)
तेजपुर (असम)
Tezpur (Assam)



My dear Paul

84, 5.9.07

I am extremely happy and to place it on record for conducting joint successful operation on 2nd August 2007 (AN) under your command combining civil police. It would have not been possible to apprehend 950 grams of Brown Sugar along with the smuggler Anu Rabha had proper initiative and high standard of devotion towards duty not been shown by you.

I congratulate you and the entire team of SSB Officers for this excellent work. Hope you will continue to perform such types of operational works in the days to come.

With good wishes.

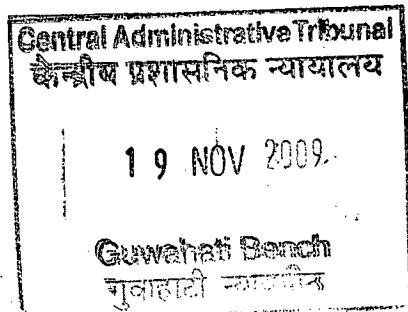
Yours

Lincend

10-2-2
(Kishori Lal) 05/08/11

Shri D. Paul,
Area Organiser, SSB
Rangia.

Attested
Dutta
Adv



Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

9 NOV 2009



Guwahati Bench
गुवाहाटी न्यायपीठ

सशस्त्र सीमा बल, सीमान्त मुख्यालय
गुवाहाटी

प्रशंसा पत्र

संख्या _____ पद _____ द्वितीय संगठक

नाम श्री दिलीप पाल सशस्त्र सीमा बल, गृह मंत्रालय
(भारत सरकार) को उनके द्वारा बहादुरी के साथ तस्करी का सामान पकड़कर एक
प्रशंसनीय कार्य करने के लिए मैं उनके कार्य की प्रशंसा करता हूँ।

मैं आशा करता हूँ कि आप इसी प्रकार भविष्य में भी अपने आपको समर्पित करते हुए
निष्ठा और कर्तव्यपरायणता के साथ अपना कार्य निभाते रहेंगे।

Attested
Dutta
Adm

हेगवंद खक्खाल
महानिरीक्षक
स.सी.ब.
गुवाहाटी

किशोरी लाल
KISHORI LAL
उप महानिरीक्षक
Dy. Inspector General



सशस्त्र सीमा बल
SASHASTRA SEEMA BAL
गृह मंत्रालय,
Ministry of Home Affairs
भारत सरकार
Government of India,
क्षेत्रक मुख्यालय,
Sector Hqrs. (SSB)
तेजपुर (असम)
Tezpur (Assam)

Dear Paul,

Dated : 20/01/2008

I am happy to place my deep appreciation on record for putting in sincere and dedicated efforts for the various duties assigned by working sincerely and even devoting time beyond normal working hours as and when required.

Through your professional competence, initiative and untiring devotion to duty has rendered invaluable assistance in the establishment of Area / Circle Offices. I have found you to be extremely professional, punctual and one who regularly displayed a high level of efficiency in searching out creative solutions to the various difficulties and challenges that he faced while performing his duties.

In recognition of your commendable performance, I present this letter of appreciation for a job well done.

I am sure, you will continue to work with the same zeal and dedication in future also and contribute towards the growth of **Sashastra Seema Bal**.

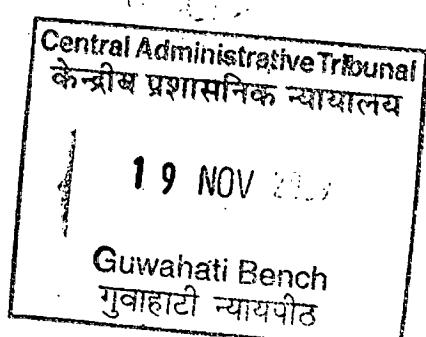
With *good wishes.*

Yours sincerely:
With love
16/01/2008
[KISHORI LAL]

To

Shri Dilip Paul,
Area Organiser, SSB Rangia

*Submitted
Dutta
Adhikari*



गोपाल शर्मा, आ.पु.से.

Gopal Sharma, IPS



महानिदेशक
सशस्त्र सीमा बल
(गृह मन्त्रालय, भारत सरकार)
पूर्वी खंड-V, आर.के.पुरम्,
नई दिल्ली-110066

दूरभाष-26188290, फैक्स-26176417

Director General
Sashastra Seema Bal

Ministry of Home Affairs
Government of India,
Block-V (East), R. K. Puram,

New Delhi-110066

Tel. : 26188290, Fax : 26176417

Dated: 26/6/08

My dear *Paul*,

I am happy to convey my appreciation for providing vital intelligence input leading to successful joint operation by Assam Police and Army against ULFA in which two ULFA cadres were killed and one was arrested.

I am sure you will continue to work with the same zeal and dedication in future. Wishing you a great success in your career.

With regards

Yours sincerely,

(GOPAL SHARMA)

✓Shri D. Paul,
Area Organiser, SSB,
Rangia (Assam)

Copy for information to:-

1. The Inspector General, SSB, Frontier Hqr, Guwahati
2. The Dy. Inspector General, SSB, Sector Hqr, Tezpur

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

9 NOV 2009

Guwahati Bench
गুৱাহাটী ন্যায়পাঠ

(GOPAL SHARMA)

*Attested
Dutta
J.D.W.*

विजय कुमार मौर्य

B. K. Maurya, IPS



उप महानिरीक्षक (आसूचना)

सशस्त्र सीमा बल

(गृह मन्त्रालय, भारत सरकार)

पूर्वी खंड-V, आर.के.पुरम, नई दिल्ली-110066

DY. INSPECTOR GENERAL (INT)

SASHASTRA SEEMA BAL

Ministry of Home Affairs, G.O.I.

Block-V (East), R. K. Puram, N. Delhi-66

Tel. : 26183219, Fax : 26183219

Dated: 5/9/08

My dear Paul

I take this opportunity to appreciate your excellent efforts, in connection with gathering of actionable inputs and subsequently timely sharing the same with the appropriate agencies which resulted in successful conduct of operations by the executing agencies.

I am sure, you would continue to work with the similar enthusiasm and dedication in future as well.

With best compliment and wishes

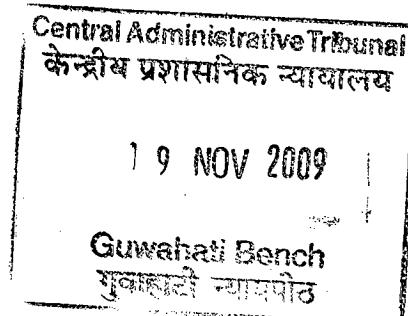
Yours sincerely,


(B.K.MAURYA)

✓Shri Dilip Paul
Area Organiser, SSB
Rangia

Copy to : 1. The Inspector General, SSB, Frontier Hqr, Guwahati.
2. The Dy. Inspector General, SSB, Sector Hqr, Tezpur.


(B.K.MAURYA)





Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

29 NOV 2009

Gurukul Bench
गुरुकुल न्यायपोठ

भारत सरकार

Government of India

गृह मंत्रालय

Ministry of Home Affairs

सशस्त्र सीमा बल, नई दिल्ली

Directorate General Sashastra Seema Bal, New Delhi

प्रशस्ति पत्र

COMMENDATION ROLL

नाम

Name

: SH. DILIP PAUL.....

रैंक/नम्बर व युनिट

Rank/Number & Unit

: AO, RANGIA.....

प्रशस्ति पत्र देने का कारण

Reasons for the grant of Commendation Roll: COMMENDABLE.....

PERFORMANCE IN THE FIELD OF INTELLIGENCE.....

COLLECTION.....

DATE : 29 NOV 2008

OFFICE REFERENCE

*Authored
by
Gopal
Sharma*

(GOPAL SHARMA)

महानिदेशक

DIRECTOR GENERAL

सशस्त्र सीमा बल

SASHAstra SEEMA BAL



Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

19 NOV 2009

Guwahati Bench
গুৱাহাটী ন্যায়পৌঠ

প্রশংসন পত্র

শ্রী দিলীপ পাল (ক্ষেত্রীয় সংগঠক) রংগিয়া ক্ষেত্র কে দ্বারা একত্রিত আসুচনা কে আধার পর বক্ষা পুলিস নে দি০ ১১-০৫-২০০৮ কো লেসেৱা গাঁও, শালবাড়ী, জিলা- বক্ষা (আসাম) সে দো উল্ফা উগ্রবাদিয়ো কো মার গিৱানে কে উপৰান্ত গোলা-বারুদ বৰামদ কৰকে জো সফলতা হাসিল কী হৈ, মৈ ইস প্রশংসনীয় কাৰ্য কী সৱাহনা কৰতা হুঁ।

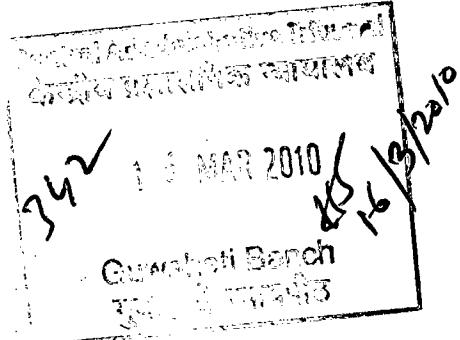
মুঝে আশা হৈ নহীন, অপিতু পূৰ্ণ বিশ্বাস ভী হৈ কি শ্রী দিলীপ পাল ভবিষ্য মেঁ ভী ইসী প্ৰকাৰ অপনী বিবেকশীলতা, কৰ্মঠতা এবং ক্ষমতা কা পৰিচয় দেতে রহেঁগে।


হেমচন্দ্ৰ খক্কৰাল
মহানিরীক্ষক, স০সী০বল
সীমান্ত মুখ্যালয়, গুৱাহাটী
আসাম

শ্রী দিলীপ পাল,
ক্ষেত্রীয় সংগঠক, রংগিয়া ক্ষেত্র,
আসাম

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI BENCH

IN O.A NO. 242/2009



IN THE MATTER OF

Shri Dilip Paul

..... Applicant

-VS-

Union of India and others

..... Respondent

-AND-

IN THE MATTER OF

Written statement submitted on behalf
of Respondents No.1 to 4.

WRITTEN STATEMENT

The humble answering respondents submit their written statement as follows:-

1. (a) That I Shri Nilambar Buragohain son of late Mohan Chandra Buragohain aged about 56 years, working as Deputy Inspector General at Frontier Hqr. SSB Guwahati, resident of A-10, Games village, Guwahati Assam. I have gone through a copy of the application served on me and have understood the contents thereof. Same and except whatever is specifically admitted in the written statements made in the application may be deemed to have been denied. I am competent and authorized to file the statement on behalf of Respondents No.1 to 4.

Received
Mitali
09/03/2010


Dy. Inspector General
Ftr. HQ. SSB, (MHA)
Guwahati.

filled by the respondents
through
Kankam Agas
Addl. C.I.S.C. in CAT
Guwahati Bench
on - 16/3/2010

16 VIII 2009

Guwahati Branch
গুৱাহাটী বাচানি

-2-

2. That with regard to the statement made in para-1 of the O.A the answering Respondent begs to state that for similar cause the applicant had approached Hon'ble CAT Patna Bench Patna vide OA No.840 of 2003. While disposing of the said OA Hon'ble Tribunal vide its order dated 09.02.2009 (Annexure-9 to the OA) has categorically directed that "the Good entries be communicated to the applicant within a period of two months from the date of receipt of copy of the judgment. On being communicated, the applicant may make representation, if he so chooses, against the said entries within one month thereafter and the said representation be decided within two months thereafter. The Hon'ble Tribunal had further held that "**if his entries are upgraded, the applicant shall be considered for promotion retrospectively by the DPC within three months thereafter and that if the applicant gets selected for retrospective promotion he should be given notional promotion, with all consequential benefits except back wages**".

In compliance of the aforesaid directions of the Hon'ble CAT Patna the "below bench mark entries" recorded in his ACR were duly communicated to the applicant vide Memo dated 22.5.2009 (Annexure-10 to the OA). On receipt of the said communication the applicant had submitted his representation dated 17.06.09 addressed to the Director General. The said representation was duly considered and disposed of vide a reasoned and speaking Memorandum dated 24.09.2009. As it was decided not to interfere with the assessments made by the respective authorities under whom the applicant had served during the corresponding period(s), the applicant could not be considered for promotion in terms of the Hon'ble CAT Patna Bench


Dy Inspector General
Ftr. HQ. SSB, (MHA)
Guwahati.

16.11.2010

Guwahati Bench
গুৱাহাটী স্বায়পুর

-3-

directives contained in its order dated 09.02.2009. The allegation that the representation was disposed of without rebutting the grounds assigned is incorrect and denied vehemently.

3. That with regard to the statement made in paragraphs 2 & 3 of the O.A. the answering respondent do not offer any comment being prerogative of the Hon'ble Tribunal, however, it is worthwhile to mention here that the applicant is trying to make out a case in his favour out of the issues already agitated by him in O.A. 840/2003 which after detailed arguments have been decided in totality by the Hon'ble CAT Patna Bench vide its order dated 09.02.2009.
4. That with regard to the statement made in paragraph 4.1 of the O.A. the answering respondent do not offer any comment.
5. That with regard to the statement made in paragraph 4.2 of the O.A. the answering respondent begs to state that the corresponding para need no comments being matter of record. However, it is submitted that as and when the applicant was found fulfilling the requisite criteria he was promoted to the next higher rank in the hierarchy uninterruptedly.
6. That with regard to the statement made in paragraph 4.3 of the O.A. the answering respondent begs to state that revoking of the representation submitted way back in the year 2003 bears no relevance at this particular point of time when applicant, on fulfilling all the requisite criteria has already been promoted to the rank of Area Organiser w.e.f.
22.12.2005 as already contended by him in para 4.7 of the O.A.


Dy. Inspector General
Ftr. HQ. SSB, (MHA)
Guwahati.

15.11.2010

Guwahati Bench
গুৱাহাটী বেংচ

7. That with regard to the statement made in paragraph 4.4 of the O.A. the answering respondent begs to state that the averments made therein have already been adjudicated before the Hon'ble CAT Bench Patna. However, it is submitted that six Joint Area Organisers were promoted to the rank of Area Organiser vide order dated 13.3.2003 which includes two incumbents junior to the applicant. It is worthwhile to mention here that while recommending the six JAOs for promotion to the rank of Area Organiser, candidature of the applicant by virtue of his seniority in the grade of JAO, was also considered, but the DPC did not recommend his case as he could not attain the requisite bench mark. As the applicant could not attain the requisite bench mark, his junior who were found otherwise fit were promoted. His representation dated 9.4.2003 was accordingly disposed vide Memorandum dated 23.5.2003.

8. That with regard to the statement made in paragraph 4.5 of the O.A. the answering respondent begs to state that the representation dated 6.6.2003 was duly considered by the respondents. In this context it is submitted that the DPCs which met on 2.09.2002, 11.12.2002 and 28.02.2003 duly considered the applicant for promotion by virtue of his seniority. However, all the aforesaid DPCs did not recommend promotion of the applicant as he had categorically failed in achieving the requisite bench mark. Reply to the representation dated 6.6.2003 was accordingly conveyed to the applicant vide Memorandum dated 15.7.2003.

9. That with regard to the statement made in paragraph 4.6 of the O.A. the answering respondent begs to state that since the applicant was not


Dy. Inspector General
Ftr. HQ. SSB, (MHA)
Guwahati.

recommended for promotion by the DPC held on 2.09.2002, 11.12.2002 and 28.02.2003 his juniors who were otherwise found fit were promoted as such. The OA 840/2003 has also been disposed of by the Hon'ble CAT Bench Patna vide its order dated 09.02.2009, in compliance of which the Memorandum dated 24.09.2009 was issued by the respondents after careful consideration of the representation of the applicant.

10. That with regard to the statement made in paragraph 4.7 of the O.A. the answering respondent begs to state that candidature of the applicant for promotion to the next higher rank was considered by all the intervening DPCs but due to his failure in attaining the requisite bench mark he could not be recommended for promotion by the preceding DPCs. On availability of vacancies in the rank of Area Organiser, a DPC was held on 20.10.2005. As usual, candidature of the applicant was duly considered by the said DPC which found him fit for promotion and he was accordingly promoted to the rank of Area Organiser vide Order dated 09.12.2005 during pendency of the OA 840/03.

11. That with regard to the statement made in paragraph 4.8 of the O.A. the answering respondent begs to state that Shri N. Buragohain, Area Organiser being senior to the applicant in the rank of A.O. and on being found fit by the DPC, was promoted to the rank of DIG. The matter with regards to the alleged delay in promoting the applicant from JAO to the rank of AO has been categorically adjudicated before the Hon'ble CAT Bench Patna and attained finality by way of compliance made by the respondents to the directions issued thereupon by the Hon'ble Tribunal.


Dy. Inspector General
Ftr. HQ. SSB, (MHA)
Guwahati.

Guwahati Bench

-6-

12. That with regard to the statement made in paragraph 4.9 of the O.A. the answering respondent begs to state that compliance of the order dated 09.02.2009, passed by the Hon'ble CAT Bench Patna in OA 840/03 filed earlier by the applicant, has already been made by the respondents. It is reiterated that after careful consideration of the representation of the applicant, the competent authority has decided against the interference in the grading awarded by the respective authorities under whom the applicant had served at that particular point of time. As the applicant could not achieve the requisite bench mark even after careful consideration and disposal of his representation by the competent authority his case for promotion could not be processed. However, as and when the applicant is found fit he will be promoted to the rank of DIG subject to availability of vacancy in terms of his seniority in the rank of Area Organiser.

13. That with regard to the statement made in paragraph 4.10 of the O.A. the answering respondent begs to state that pursuant to order dated 09.02.2009 in OA 840/03, the grading below the bench mark were duly communicated to the applicant. His representation thereupon was also considered carefully and disposed of vide a reasoned and speaking Memorandum dated 24.05.2009. The averments with regards to his knowledge of having attained the bench mark are merely personal to the applicant which can be put to strict proof. The factual position in this regard has already been communicated to him vide Memorandum dated 22.05.2009.


Dy. Inspector General
Fr. HQ. SSB, (MHA)
Guwahati.

16 MAR 2010

Guwahati Bench

14. That with regard to the statement made in paragraph 4.11 of the O.A. the answering respondent begs to state that the reply furnished in the preceding paras is reiterated for the sake of brevity. However, it is again submitted that the representation dated 17.06.09 was duly examined carefully in consultation with the facts on record and the competent authority did not find it fit to interfere with grading awarded by the respective authorities while the applicant served under them. Accordingly, decision of the competent authority was duly conveyed to the applicant vide a reasoned and speaking Memorandum dated 24.09.09. After having been communicated as such the applicant has no further cause to agitate the issue afresh. However, extract of the Department of Pers & Training O.M. No.21011/1/2006-Estt (A) dated 28th March, 2006 is enclosed for better appreciation of the matter.

(photo state copy of this o.m. No. 21011/1/2006-Estt (A) dated 28-3-2006 is annexed here as annaum - I)

15. That with regard to the statement made in paragraph 4.12 of the O.A. the answering respondent begs to state that it is submitted that the reasoned and speaking Memorandum dated 22.05.2009 was issued after careful consideration of the representation dated 17.06.09 of the applicant. With regards to expunction/ upgrading of the entries DoP&T O.M. dated 28.03.2006 is referred. As regards to non-communication of the adverse entries it is submitted that show cause notice warning or reprimands etc count for adverse entries in the ACR and there being no such adverse entries the same were not communicated to the applicant. It is reiterated that the applicant failed to achieve the required bench mark for promotion to next higher rank at the relevant point of time.


Dy. Inspector General
Ptr. HQ. SSB, (MHA)
Guwahati.

16. That with regard to the statement made in paragraph 4.13 of the O.A. the answering respondent begs to state that the ACR of the applicant never contained the entries that is required to be communicated. In fact the applicant has categorically failed to achieve the required bench mark owing to which he could not be promoted. However, on acquiring the required bench mark he was duly promoted to the rank of Area Organiser and will continue to be promoted to the next higher rank of DIG if he fulfills the required conditions/ bench mark subject to availability of vacancy in the grade of the promotional post.

17. That with regard to the statement made in paragraph 4.14 of the O.A. the answering respondent begs to state that reply to the contents of the corresponding para reply furnished to para 4.13 above is reiterated for the sake of brevity. However, it is further submitted that the contention that his ACR were downgraded is false and fabricated. It is only because he could not attain the required bench mark he could not be promoted to the next higher rank at the relevant point of time.

18. That with regard to the statement made in paragraph 4.15 of the O.A. the answering respondent begs to state that the applicant himself has admitted that only after his being found fit by the DPC he was promoted to the rank of AO which interalia means that the applicant was well acquainted of the fact that he failed to meet the required bench mark and as such could not be recommended for promotion by the preceding DPCs convened for the

purpose. As the applicant could not attain the requisite bench mark his juniors who were found fit in all respect were promoted to the next higher rank. Candidature of the applicant was never left unconsidered by the DPCs convened for promotion.

19. That with regard to the statement made in paragraph 4.16 of the O.A. the answering respondent begs to state that the applicant was considered for promotion by each and every DPC but for his non-attaining the requisite bench mark he could not be recommended for promotion whereas his juniors who were found fit in all respects were recommended by the respective DPCs and promoted over and above his candidature.

20. That with regard to the statement made in paragraph 4.17 of the O.A. the answering respondent begs to state that the Divisional Organiser, Shillong Division in exercise of the powers vested in him in the capacity of Reviewing Authority was at liberty to grade the performance of the applicant as he deemed fit. It is not binding upon the reviewing authority to flatly accept the grading of reporting authority. The grading "Good" by no mean tantamount to adverse as per the existing instruction on communication of adverse remarks.

21. That with regard to the statement made in paragraph 4.18 of the O.A. the answering respondent begs to state that the contents of the corresponding para respondents reiterates their reply given to the preceding paras for sake of brevity. It is not the vested interest of the applicant to claim "Very Good" grading in his ACR.

22. That with regard to the statement made in paragraph 4.19 of the O.A. the answering respondent begs to state that reply furnished to para 4.17 above is reiterated here for the sake of brevity.

23. That with regard to the statement made in paragraph 4.20 of the O.A. the answering respondent begs to state that while examining the representation of the applicant all relevant ACRs were scrutinized and decision of the competent authority was duly conveyed to the applicant vide a reasoned and speaking Memorandum dated 24.09.2009. Moreover the applicant was at liberty to project his grievances before the competent authority at least once for redressal, instead of directly approaching the Hon'ble Tribunal.

24. That with regard to the statement made in paragraph 4.21 of the O.A. the answering respondent begs to state that it is the vested right of every employee for promotion. But at the same time he has to fulfill the laid down conditions/ requirements for claiming the promotion. In the case of the applicant as and when he fulfilled the requisite conditions he was duly promoted to the next higher rank which is undisputed.

25. That with regard to the statement made in paragraph 4.22 of the O.A. the answering respondent begs to state that the applicant has been suitably commended by different authorities for the good work which bears no relevance in the matter of promotion which is governed strictly by the instructions in vogue.

10.10.2010

Guwahati Bench
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26. That with regard to the statement made in paragraph 4.23 of the O.A. the answering respondent begs to state that the issue craved is repetitive in nature and has already been replied upon in the preceding para which is reiterated here for the sake of brevity.

27. That with regard to the statement made in paragraphs 5.1 to 5.13 of the O.A. the answering respondent begs to state that no sustainable grounds have been made out by the applicant for the relief's sought. The averments made in these paras are mere repetition of the averments made under heading Facts of the Case (para-4) of the OA which has been suitably replied by the respondents.

28. That with regard to the statement made in paragraph 6 of the O.A. the answering respondent begs the applicant could have projected his grievances before the competent authority for redressal instead of which he has approached the Hon'ble Tribunal.

In view of the submission made herein above and those to be urged at the time of arguments it is submitted that the applicant is not entitled for any relief as sought in the O.A. The O.A. deserves outright dismissal particularly in the face of the fact that the issue craved therein have already adjudicated before the Hon'ble CAT Bench Patna and decided vide its order dated 09.02.2009.


Dy. Inspector General
Ptr. HQ. SSB, (MHA)
Guwahati.

16/3/2010

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Guwahati Bench
গুৱাহাটী নথ্যপৌঁত

VERIFICATION

I Shri Nilambar Buragohain son of late Mohan Chandra Buragohain aged about 56 years, working as Deputy Inspector General at Frontier Hqr. SSB Guwahati, resident of A-10, Games village, Guwahati Assam duly authorized and competent officer of the answering respondents to sign this verification on.....16/3/2010..... do hereby solemnly affirm and verify that the statements made in paras ..1 to 13 & 15 to 28..... are true to my knowledge and those made in paras.....14..... are true to information derived from the records which I believe to be true and rest are my humble submission before the Hon'ble Court and I have not suppressed any material facts.

AND I sign this verification on the is 16th day of March 2010 at Guwahati.

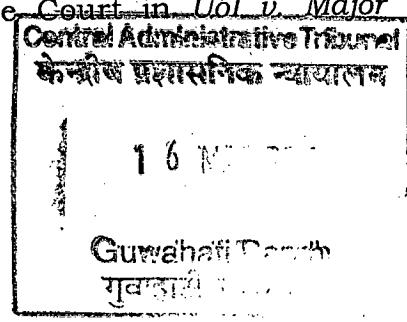

Depoent
Dy. Inspector General
Ftr. HQ. SSB, (MHA)
Guwahati.

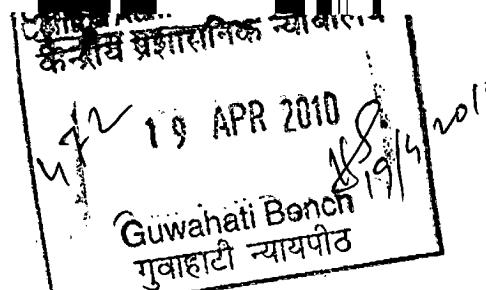
(EXTRACT COPY OF G.I., Dept. of Per & Trg., O.M. No. 21011/1/2006-Estt. (A), dated the 28th March, 2006).

The overall grading recorded in the ACR is also not to be changed in any way even after the expunction of the adverse remarks either fully or partially by the competent authority :- In accordance with the existing instructions of this Department, adverse entries/ remarks recorded in the ACR of the official have to be communicated to him for further improvement in his performance and the official concerned has also an option to make a representation against the adverse remarks within the prescribed time-limit. According to the existing instructions, the overall grading given in the ACR should however, not be communicated even when the grading given is below the benchmark prescribed for promotion to the next higher grade. The overall grading recorded in the ACR has also not to be changed in any way even after the expunction of the adverse remarks, either fully or partially by the competent authority.

The Hon'ble Supreme Court has declared in its judgment, dated 22-11-2005 in *UoI and another, v. Major Bahadur Singh* (Civil Appeal No.4482 of 2003) that the judgment of the court, dated 31-1-1996 in *UP Jal Nigam and others v. Prabhat Chandra Jain and others*, SLP (Civil) No.16988/95 has no universal application and the judgment itself shows that it was intended to be meant only for the employees of UP Jal Nigam.

All Ministries/ Departments are accordingly requested to ensure that any challenge to the existing instructions of this Department in regard to the communication of adverse remarks in any court taking shelter in the Supreme Court judgment in UP Jal Nigam or any other judgment based on UP Jal Nigam judgment is properly defended keeping in view the above declaration of the Supreme Court in *UoI v. Major Bahadur Singh*.





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH: GUWAHATI

In the matter of :-

O.A. No. 242 of 2009

Shri Dilip Paul

..... Applicant.

-Vs-

Union of India and Others.

..... Respondents.

-AND-

In the matter of :-

Rejoinder submitted by the applicant in reply to the written statements submitted by the Respondents.

The humble applicant above named most humbly and respectfully state as under:-

1. That your applicant duly received of the written statement and understood the contents thereof.

The applicant specifically denies all the averments made in the written statement save and except which are born on record.

copy receipt
nankar oas
19/4/2010

So far contentions raised in Para 2, 3, 4, 5 & 6 in the Written Statement, the same are factually not correct as because the representation of the applicant has not been considered, with due application of mind, as required under the law. It is categorically stated that the representation of the applicant has not been considered with due application of mind rather the same has been rejected without assigning any justifiable or valid reason.

(DILIP PAUL)

Filed by the applicant
through C. Duria, advocate
on 19.04.2010

More, so even without due consideration of grounds raised by the applicant in this representation dated 17/06/2009, since, the representation of the applicant has been mechanically rejected vide impugned memorandum dated 24/09/2009, as such in the compelling circumstances the applicant has no other alternative but to approach this Hon'ble Tribunal through the instant O.A., challenging the validity and legality of the impugned memorandum dated 24/09/2009.

It is specifically stated that the contention raised in Para 5 and 6 of the written statement also not factually correct as because the applicant was denied promotion in the year 2003 to the cadre of Area Organizer when his juniors have been promoted to the said cadre of Area Organizer on the alleged ground of downgrading of ACR without providing of any reasonable opportunity to the applicant.

The ACR's for the period from 1997-98, 1998-99, 1999-2000 and 2000-2001 (01.04.2000 – 04.07.2000), which were down graded but not communicated until ordered by the Hon'ble CAT Patna Bench on 09.02.2009. But the Authority justifying the down gradation of ACR's without making any attempt to review and upgrading the ACR for considering for promotion retrospectively, the authority simply decided not to interfere. Therefore, the authority has not responded properly to the direction of the Hon'ble Patna Bench. Therefore, the present O.A. was filed to get relief which is being denied by the authority without any justified reasons thereof.

The authority did not reply to the question directly as to why the representation was not considered in 2003 and has not answered and justified the non responding to the representation as the authority had adopted unlawful action and suppressed the representation at that time and not admitting their fault even now in the context of the present O.A.

The contention of the earlier O.A. No. 840/2003 and present O.A. No. 242/2009 was non communication of down graded ACR's before holding the DPC's for promotions from the rank of Lt. Area Organiser to the

(DILIP PAUL)

19 APR 2000

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

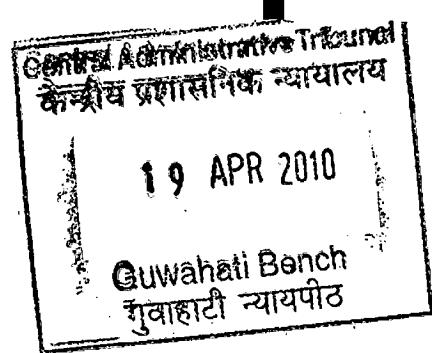
rank of Area Organiser. Had these been communicated before holding the DPC, the applicant could have rectified the defects, if any, at the relevant time.

The ACR of 1997-98 had already been considered by the DPC and promoted him from the rank of Sub-Area Organiser to Jt. Area Organiser. Therefore, quoting below bench mark of 1997-98 ACR for his next promotion from Jt. Area Organiser to Area Organiser does not bear any relevance. During the ACR period of 1998-1999, the applicant though promoted to the rank of Jt. Area Organiser w.e.f. 22.06.98 in a subsequent order, remained posted under his previous supervisory officer due to the pendency of a Disciplinary Proceeding, which ultimately totally exonerated him for all charges. Therefore, the ACR of 1997-98 and 1998-99 were recorded during the course of the Disciplinary Proceeding and were downgraded by the Divisional Organiser (both reviewing and accepting authority) under the impression of the ongoing Disciplinary Proceeding, whereas the applicant was already considered fit for promotion from Sub-Area Organiser to Jt. Area Organiser by the DPC and kept the proceeding in sealed cover during pendency of the said Disciplinary Proceeding, which ultimately exonerated him from all charges. But the ACR recorded under the impression of that ongoing D.E. remained unchanged which affected his timely promotion to the next post of Area Organiser.

During the ACR period 1999-2000, the applicant then a Jt. Area Organiser w.e.f. 22.06.98, remained posted as Staff Officer to the Divisional Organiser, SSB, North Assam Division, Tezpur. His initiating officer, the Dy. I.G. at Div. Hqr. Tezpur and Reviewing Officer, Divisional Organiser (IG) Div. Hqr. Tezpur had both graded him as 'Very Good'. But the accepting authority, the Director SSB, New Delhi who has never seen him personally and was never in touch with his office works, had down graded him from 'Very Good' to 'Good' without assigning any ground whatsoever.

The Part ACR from 01-04-2000-04-07-2000 for 03 months only mentioned as Good whereas the remaining 09 months of the year was up to the bench mark i.e. 'Very Good'. But the authority has projected 03 months

(DILIP PAUL)



ACR of 'Good' grading and has deceptfully suppressed the 'Very Good' grading for 09 months of that period.

The year wise details of ACR is as below :-

Year	Grading			Remarks
	Reporting Officer	Reviewing Officer	Accepting Officer	
1995-96	Very Good	Very Good	Very Good	
1996-97	Very Good	Very Good	Very Good	
1997-98	Good	Average	Average	Both Reviewing and Accepting Officer was one and same. ACR was written during the pendency of a D.E.
1998-99	Good	Good	Good	Already promoted to the rank of Jt. Area Organiser w.e.f. 22.06.98 by a subsequent order. But the DPC proceeding was kept in sealed cover due to on going D.E. The ACR was written under the impression of the ongoing D.E.
1999-2000	Very Good	Very Good	Good	Reporting authority, Dy. I.C. and Reviewing authority the I.C. (Divisional Organiser) under whom the applicant worked as Staff Officer graded him as 'Very Good'. Whereas the Director SSB, the accepting authority sitting at New Delhi has down graded to 'Good' grading without any ground thereof.
2000-2001 (01.04.2000 -04.07.2000 03 months only)	-	-	-	Overall grading is 'Good' for 03 months. No detailed provided by the authority. Apparently the remaining 09 months of that year was 'Very Good'.

As there has been no mention of grading of following years of concern, these were naturally up to the bench mark for which those have not been mentioned. These 'Very Good' gradings were counted for promotion from Jt. Area Organiser to the rank of Area Organiser in Dec'2001, which are :-

(DILIP RAUL)

19 APR 2010

Guwahati Bench
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2000-2001 (05.07.2000-31.03.2001, 09 months)	-	Very Good.
2001-2002	-	Very Good.
2002-2003	-	Very Good.
2003-2004	-	Very Good.
2004-2005	-	Very Good.

The DPC met 03 (three) times on 02.09.2002, 11.12.2002 and 28.02.2003 within a period of 06 months and have considered the ACR's from the period from 1997-98, 1998-99, 1999-2000, 2000-2001, 2001-2002.

As may be seen from the above statement, the applicant was adjudged 'Very Good' during the year 1999-2000, 2000-2001 and 2001-2002 except when down graded by the accepting authority during the year 1999-2000 without assigning any reason thereof. Besides, the applicant was also adjudged 'Very Good' during the year 1995-96 and 1996-97 on the basis of which he was promoted from the rank of Sub-Area Organiser to JL. Area Organiser on 22.06.1998. Therefore, basically the applicant had acquired 'Very Good' grading for 03 years within the spell of 05 years considered by the DPC and had acquired required bench mark for promotion from JL. Area Organiser to Area Organiser.

Further, it is also to mention that the applicant had been given his original seniority as per DPC as JL. Area Organiser from 22.06.1998. But he was not released due to on going D.E. and ultimately exonerated and he joined as JL. Area Organiser on 07.06.1999 with retrospective seniority from 22.06.1998 as per original DPC. Had the applicant been released on promotion during June'1998, his ACR for that year would have been otherwise. But though promoted as JL. Area Organiser from 22.06.1998, his ACR for 1997-98 was recorded as Sub-Area Organiser by his old supervising officers.

The SSB authority did not communicate on their own, below bench mark entries amounting to adverse ACR for the purpose of promotion and thereby had acted against the established rules and regulation themselves.

(DILIP PAUL)

19 APR 2010

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গুৱাহাটী ন্যায়পৌঠ

But when the applicant represented to consider his promotion along with his batch mate, the authority did not even care either to communicate the adverse entries or reply to his representation at that time or even for long 10-12 years thereafter. But they not stated in their reply that revoking representation of 2003 bears no relevance at this particular time. This is ridiculous and an effort made by the authority to by pass the issue to cover up their wrong doings.

2. That your applicant with regard to the contention raised in Para 7, 8, 9, 10, 11 and 12 in the written statement, while denying the said contention further beg to say that the actual reason for non recommendation of the case of the applicant for promotion by the DPC to the cadre of Area organizer due to alleged down grading of ACR, without communicating the same to the applicant as such in view of the law laid down by the Hon'ble Supreme Court such arbitrary decision by the DPC during the year 2003 is not sustainable in the eye of Law, hence the original application has been preferred before the learned Tribunal. It is specifically admitted by the respondents U.O.I. in Para-8 and 9 of the written statement that the applicant was not recommended by the DPC held on 02.09.2002, 11.12.2002 and on 28.02.2003 due to non-attaining of required bench mark.

It is abundantly clear from the Judgment and order dated 09-02-2009 of O.A. 840/2003 that the applicant had attained very good grading in the year 1995-96 and 1996-97, whereas during the year 1997-98, 1998-99 and also in 2000-2001 grading of the applicant has been down graded as partly good and partly very good without providing any reasonable opportunity and also without pointing out any deficiency or short coming in his performance, during the course of discharge of official duties and responsibilities at the relevant point of time as required under the rule for making entries below bench mark as such the impugned memorandum dated 24.09.2009 which has been issued mechanically without considering the grounds raised by the applicant in his representation dated 17.06.2009, moreover on a mere reading of the impugned memorandum dated 24.09.2009 it would be evident that not a single point raised by the

(DILIP PAUL)

19 APR 2010

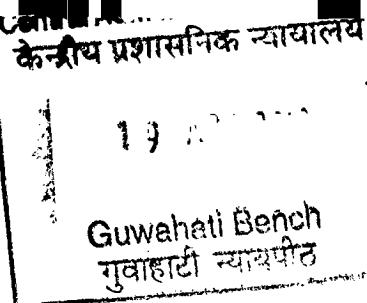
Guwahati Bench
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applicant has been discussed by the authority in the said impugned memorandum as such same is not sustainable in the eye of law.

So far contention raised by the respondents in Para-10,11 and 12 of the written statement it is specifically stated that Sri N. Buragohain respondent No. 5 in the instant O.A. was junior to the applicant in all the Feeder Cadre up to the level of Joint Area Organizer but due to arbitrary denial of promotion to the applicant during the year 2003, Shri N. Buragohain superseded the applicant in the rank of Area Organizer. It is specifically denied that there was any careful consideration of the representation of the applicant dated 17.06.2009 as alleged in Para-12 of the written statement.

3. That with regard to the statements made in paragraphs-13, 14, 15, 16 and 17 of the written statement the petitioner specifically deny the correctness of the said statements to the extent that the memorandum dated 24.9.2009 is not a reasoned and speaking one, since the representation of the applicant dated 17.06.2009 has been decided mechanically without considering any of the grounds raised in the said representation such as non-recording of reasons for down grading of confidential reports for the year 1997-98, 1998-99, 1999-2000, 2000-2001 without specifying any valid reasons, moreover no memo, warning or show cause notice issued to the applicant pointing out any such act or omission or deficiency or short coming as such without specifying any valid reasons, entries of overall gradings below Bench Mark and communication of the same, after a lapse of 8/11 years is not sustainable in the eye of law and as such the down grading ACRs of the aforesaid years are liable to be upgraded. It is also relevant to mention here that there is no discussion about the grounds raised by the applicant through representation dated 17.6.2009 in the impugn memorandum dated 22.05.2009. So far contention raised in Para-15, it is specifically stated that gradings below bench mark, as such said adverse entries liable to be communicated, the in order to provide reasonable opportunity to the applicant but the same is denied, moreover, contention raised in Para-17 is specifically denied, with regard to the statement made in Para-18, it is

(DILIP PAUL)

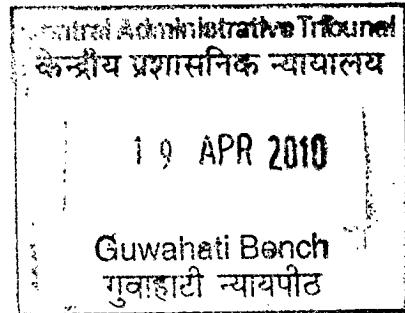


stated that down grading of ACR without opportunity is not permissible under the law of the land.

4. That, with regard to the statements made in Para 20, 21, 22, 23, 24, 25, 26, 27 and 28, the applicant while denying the correctness of the same further beg to say that the reviewing authority is also required to work within the parameter of law and has no absolute discretion or Authority in the matter of granting grading to a Govt. Servant. It is a settle position of law after the Apex Court decision in the case of Dev Dutt that a grading below bench mark liable to be communicated providing reasonable opportunity to the govt. employee but in the instant case no norms, rules or principle of law were followed, so far down grading entries are concerned as required under the rule.

In the facts and circumstances O.A. deserves to be allowed with cost.


(DILIP PATEL)



VERIFICATION

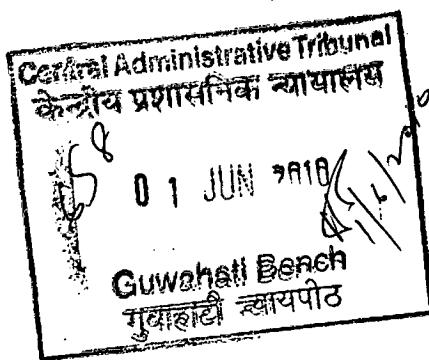
I, Dilip Paul, Son of Shri Bhupesh Chandra Paul, age about 57 years, serving as Area Organiser SSB, Rangia, Assam resident of Village, Post and P.S. Patharkandi, District- Karimganj, Assam, applicant in the instant rejoinder, do hereby verify that the statements made in Paragraph 1 to 4 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 18th day of April, 2010.


(DILIP PAUL)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH:

GUWAHATI



In OA No. 242/2009

Sri Dilip Paul

.....applicant

-versus-

Union of India & others

.....Respondents

IN THE MATTER OF

Reply of the rejoinder submitted by the
respondents No. 1 to 4

The humble answering respondents submit their reply of the rejoinder as follows:-

1. That I Shri Nilambar Buragohain son of late Mohan Chandra Buragohain aged about 56 years, presently working as Deputy Inspector General at Frontier Hqr. SSB Guwahati, resident of A-10, Games village, Guwahati Assam and respondents No. in the above case and I have gone through a copy of the rejoinder served on me and have understood the contents thereof. Save and except whatever is specifically admitted in the written statement, the contentions and statements made in the rejoinder may be deemed to have been denied. I am competent and authorized to file the statement on behalf of respondents No 1 to 4


Dy. Inspector General
Ftr. HQ SSB, (MHA)
Guwahati.

Filed by the respondent no. 1
through
Konkona
Addl. C. J. & C. S. in
Guwahati Bench on 1-6-2010
CAT

01 JUN 2010

Guwahati Bench
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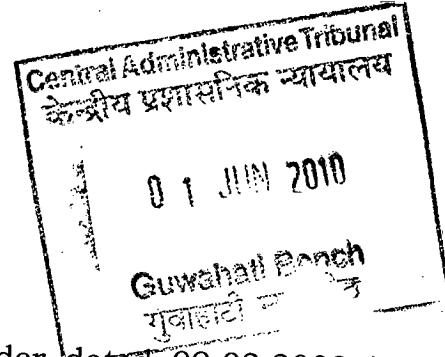
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2. That the respondent before giving the para wise reply of the rejoinder would like to give the preliminary submission of the case which may be treated as a part of the reply of the rejoinder.

PRELIMINARY SUBMISSION:

It is humbly submitted that the rejoinder filed by the Applicant is mere repetition of the averments made by him in the Original Application, a comprehensive reply of which has already been filed by the respondents. Through the instant rejoinder the Applicant has categorically failed to make out any sustainable grounds in adjudication the contents of the reply of the respondents, in fact he is repeatedly insisting on his averments made in the OA. The Applicant is virtually attempting to seek review of the Hon'ble CAT Patna order dated 09-02-09 in OA 840/03 earlier filed by the Applicant for similar cause. The Hon'ble CAT Bench Patna after perusing the facts and on hearing the parties had finalized the issue by directing the respondents to communicate the below bench mark entries recorded in his ACR to the Applicant who in turn was given the liberty to represent against the said below bench mark entries if he so chooses. The representation of the Applicant on this count was duly examined in light of the instruction in vogue and the directions of the Hon'ble CAT Bench Patna by the competent authority and disposed of by way of a reasoned and speaking order dated 24.09.2009. With the disposal of the representation of the Applicant the issue has virtually attained finality but the Applicant is repeatedly attempting to unsettle the issue which has already been settled judiciously

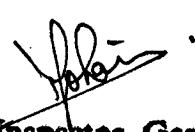

Dy. Inspector General
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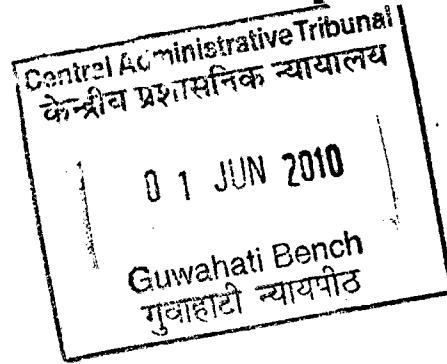


by the Hon'ble CAT Bench Patna vide its order dated 09.02.2009 in OA 840/03 followed by the reasoned and speaking Memorandum dated 24.09.2009 of the competent authority issued in reply to the representation of the Applicant. Under the prevailing facts and circumstances the OA deserves outright dismissal being devoid of merit. No injustice has ever been meted towards the Applicants. It is emphatically reiterated that the Applicant by virtue of his seniority in the rank of Joint Area Organiser, has been continuously considered for promotion to the rank of Area Organiser by the earlier DPCs held on 02.09.2002, 11.12.2002, 28.02.2003 and 30.12.2003 which did not recommend his case as he categorically failed to attain the requisite bench mark. Finally on acquiring the bench mark he was duly promoted to the rank of Area Organiser with effect from 22.12.2005 and has been functioning in the capacity of Area Organiser since then. His promotion to the rank of Deputy Inspector General will be considered on his attaining the requisite seniority, fulfilling the eligibility conditions and subject to availability of vacancy.

PARAWISE COMMENTS:

3. That with regard to the statement made in paragraph 1 of the rejoinder and answering respondent beg to state that in reply to contents of this para the respondents reiterate their reply given against the corresponding paras of the O.A. It is humbly submitted that in compliance of CAT Patna judgment dated 09.02.2009 in OA NO. 840/2003, the ACR grading below bench mark have been communicated to the applicant and his representation dated 17.06.2009 has been disposed of judiciously by the


Dy. Inspector General
Ftr. HQ. SSB, (MHA)
Guwahati.



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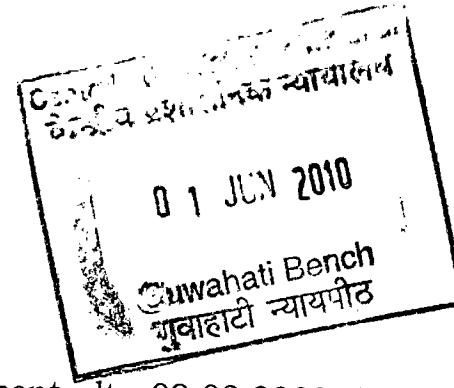
competent authority vide Memorandum dated 24.09.2009. It is reiterated that while arriving at the decision the competent authority has carefully examined the case in light of the facts of the case, instructions in vogue thereof and the directions of the Hon'ble Tribunal. The allegation of disposal of the representation without application of mind is in fact incorrect and denied vehemently.

On fulfilling the requisite conditions i.e. acquiring the requisite bench mark the applicant was duly promoted to the rank of Area Organizer w.e.f. 22.12.2005 on the recommendations of DPC held on 20.10.2005.

It is further reiterated that the applicant, prior to his promotion to the rank of Area Organizer w.e.f 22.12.2005, by virtue of his seniority in the rank of Joint Area Organiser also considered with other eligible officers for promotion of the rank of Area Organiser by the DPCs held on 02.09.2002, 11.12.2002, 28.02.2003 and 30.12.2003 but could not be recommended for promotion as he failed to attain the required bench mark.

4. That with regard to the statement made in paragraph 2 of the rejoinder and answering respondent beg to state that Shri Dilip Paul, JAO was considered with his juniors for promotion by the DPCs at all times by virtue of his seniority. He could not make the prescribed bench mark for promotion. His juniors who were found fit for promotion, were promoted as per the recommendation of the DPCs.

[Signature]
Dy Inspector General
Ftr. HQ. SSB, (MHA),
Guwahati.



The Hon'ble CAT Patna judgment dt. 09.02.2009 has been complied with by conveying the below bench mark ACR grading to the applicant. His representation in this regard has also be considered and disposed of by the competent authority.

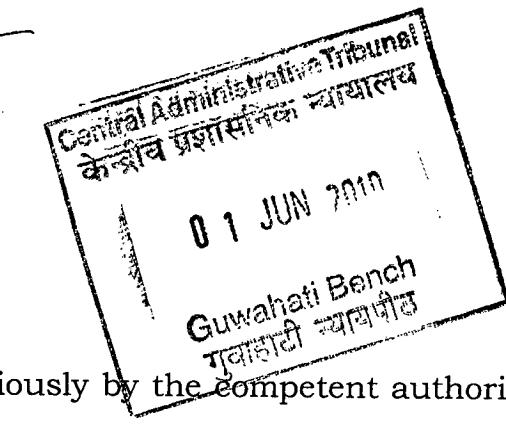
Shri N. Buragohain, DIG was undoubtedly senior to the Applicant in the rank of Area Organiser. Therefore Shri Buragohain, has been promoted to the rank of DIG appropriately on the basis of his seniority in the rank of Area Organiser and on fulfillment of other prescribed conditions.

5. That with regard to the statement made in paragraph 3 of the rejoinder and answering respondent beg to state that in compliance of Hon'ble CAT Patna judgment order dated 09.02.2009, the below benchmark ACR grading have been communicated to the applicant and his representation has been disposed of by competent authority. There is no further scope left to reconsider the same issue time and again.

The applicant was considered for promotion by the DPCs held on 02.09.2002, 11.12.2002, 28.02.2003 and 30.12.2003 but was not recommended for promotion. The DPC held on 20.10.2005 recommended him for promotion and he was promoted accordingly.

6. That with regard to the statement made in paragraph 4 of the rejoinder and answering respondent beg to state that in compliance of CAT Patna judgment dated 09.02.2009 in OA No. 840/2003, the ACR grading below bench mark have already been communicated to the applicant and his


Dy. Inspector General
Ptr. HQ. SSB, (MHA)
Guwahati.



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representation has been disposed of judiciously by the competent authority.

Had his ACr entries been upgraded by the competent authority, the case of applicant might have been reconsidered for promotion.

In view of the submissions made herein above and those averred in the main reply, the OA deserves outright dismissal being devoid of merit.

7. That the rejoinder is devoid of any merit and deserved to be dismissed.
8. That the reply of the rejoinder has been made bonafide and for the ends of justice and equity.

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


Dy. Inspector General
Fr. HQ. SSB, (MH 1)
Guwahati.

VERIFICATION

I, Shri Nilambar Buragohain son of late Mohan Chandra Buragohain aged about 56 years, presently working as Deputy Inspector General at Frontier Hqr. SSB Guwahati do hereby verify that the statements made in paragraphs 1 to 8 are true to my knowledge and belief, those made in paragraphs _____ being matters of records of the case are true to my information derived there from which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact before this Hon'ble Tribunal.

And I sign this affidavit on this the 31-5-2010 day of May 2010 at Guwahati.


Deponent
Dy Inspector General
Frontier HQ SSB, (MHA)
Guwahati.