

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 265/2009-2015
R.A./CP/NO. 2015
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17.7.2015
SECTION OFFICER (JUDL.)

17.7.2015

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :

ORDERSHEET1. ORIGINAL APPLICATION No : 265 / 2009

2. Transfer Application No : / 2009 in O.A. No. -----

3. Misc. Petition No : / 2009 in O.A. No. -----

4. Contempt Petition No : / 2009 in O.A. No. -----

5. Review Application No : / 2009 in O.A. No. -----

6. Execution Petition No : / 2009 in O.A. No. -----

Applicant (S) : Sri Gobinda RabhaRespondent (S) : Chairman of IndisropsAdvocate for the : Mr. S. Sarma
(Applicant (S)) Mr. H.K. DasAdvocate for the : BSNL
(Respondent (S))

Notes of the Registry	Date	Order of the Tribunal
11. An application No. 265 is filed/ C.P. No. 289925493 is deposited on 16/12/09 No. 289925493 Dated..... 4/12/09 J. S. Sarma Dy. Registrar 16/12/09	7.12.2009	<p>Applicant challenges order dated 28th August 2007 (Annexure 11) which was issued revising earlier order dated 27.2.2006. It is contended that by revising order dated 27.2.2006, Respondents committed mistake by granting the benefit of 10% BCR Grade to the Respondent Nos.6 to 18, who came to the Division on transfer under Rule 38 of P&T Manual Vol-IV and therefore, they ought to have been assigned bottom seniority. Unfortunately, they have not been assigned bottom seniority and instead they were intended benefit of promotion under 10% BCR grade Grade-IV. Since the representation made against aforesaid action remained unconsidered, legal notice which was issued on 22.6.2009, and Respondents vide impugned order dated 30.7.2009 rejected their claim, and hence present O.A.</p>

16/12/09
 18 (Eighteen) copies of the application with enclosures received for issue orders to the Respondent No/ to 18, copy served.

16/12/09

Contd/-

O.A.265 of 2009

Contd/-

17.12.2009

K. Das

Issue notice to the
Reps. No. 6 to 18 under
Rule 11 (1) (i) C.A.T (Procedure)
Rule, 1987 urgently

DR
21/1/10
8000

steps taken on
12/01/10

/lm/

12/01/10.

Copies of notices
along with order
dated 17/12/2009
sent to D/Sec. for
issuing to the
Resp. Nos - 6 to 18
by speed post, A/D
at the cost of
L/Counsel by the
applicant.

DR No - 152 to 184

12/01/10. DR - 12-1-2010

Notifs filed.

DR
22/2/2010

Notices received back
not served from R.No. 12, 13, 14, 15, 16
not found R.T.S.

Admit. Mr.B.C.Pathak, learned counsel for BSNL accepts notice on behalf of Respondents 2-5. Proxy counsel for Mrs. M.Das accepts notice on behalf of Respondent No.1. Notice be issued to the Respondents 6 to 18, under Rule 11 (1) (i) C.A.T. (Procedure) Rule 1987. Respondents are directed to file reply within three weeks and rejoinder may be filed by Applicant within two weeks.

List the matter on 3.2.2010.

On consideration of matter, the prayer for interim relief is rejected.

DR
(Madan Kumar Chaturvedi)
Member (A)

JK
(Mukesh Kumar Gupta)
Member (J)

03.02.2010

Notices to Respondent Nos.6 to 18 in terms of order dated 17.12.2009 were dispatched only on 20.01.2010. Thus, service report is awaited.

In the circumstances, adjourned to 08.03.2010.

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

/bb/

08.03.2010

Mr B.C.Pathak states that he is appearing for all the respondents except respondent No.1 which is otherwise a formal party. It is stated that reply has been filed with copy to the applicant but the same is not on case record. Registry is directed to place a copy of the same on the case record.

List on 31.3.2010 for hearing.

JK
(Mukesh Kr. Gupta)
Member (J)

31.03.2010

It is stated that reply has been filed by Respondents today and copy was served on the counsel for Applicant only today. Learned counsel for Applicant therefore, seeks further adjournment.

① w/s filed by R.NO-2-5,

List on 27.04.2010.

② others awaited.

No further adjournment will be allowed.

31/3/2010

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

/pb/

27.4.2010

On the request of Mr.H.K.Das, learned counsel for Applicant, case is adjourned to 12.5.2010.

w/s filed.

26/4/2010

lm

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

12.05.2010

Being Division Bench matter, list the matter on 02.06.2010.

12.5.2010

Rejoinder has
been filed by the
Applicant, copy
served.

KPS 2010

(Madan Kumar Chaturvedi)
Member (A)

/pb/

The case is ready
for hearing.

02.06.2010 Proxy counsel for Respondents prays for adjournment, which request has not been opposed by learned counsel for Applicant.

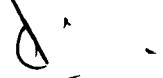
List the matter on 9th June 2010.

4/6/2010

lm

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

28.06.2010 On the written request of Mr H.K. Das, learned counsel for applicant, list on 01.07.2010.


(Madan Kumar Chaturvedi)

Member (A)


(Mukesh Kumar Gupta)

Member (J)

nk

01.07.2010 Mr. H.K. Das, learned counsel for Applicant prays for adjournment.

List on 2nd July 2010.


(Madan Kumar Chaturvedi)

Member (A)


(Mukesh Kumar Gupta)

Member (J)

Mr. H.K. Das, learned counsel for Applicant prays for adjournment.

/pb/

12.07.2010

Proxy counsel for Respondents prays for

adjournment stating that Mr. H.K. Das, learned counsel for Applicant has some personal difficulty.

(Mukesh Kumar Gupta)

(Madan Kumar Chaturvedi)

List on 12th July 2010. It is made clear

that no further adjournment would be allowed.


(Madan Kumar Chaturvedi)

Member (A)


(Mukesh Kumar Gupta)

Member (J)

/pb/

12.07.2010

Proxy counsel for Applicant prays for adjournment stating that Mr. H.K. Das, learned counsel for Applicant has some personal difficulty.

List on 14th July 2010.


(Madan Kumar Chaturvedi)

Member (A)


(Mukesh Kumar Gupta)

Member (J)

/pb/

O.A.265/2009

14.07.2010

At the outset learned counsel for the applicant stated that he will not press para 8.2 of the O.A. *Relief claimed vide h*

Heard Mr.H.K.Das, learned counsel for the applicant; Mrs.M.Das, learned counsel for respondent no.1 and Mr.Mritul Deka, proxy counsel for Mr.B.C.Pathak, learned counsel for respondents 2-18. Reserved for orders.

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

/bb/

06.08.2010

Judgment pronounced, kept in separate sheets. O.A. is dismissed in terms of said order. No costs.

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

/bb/

Received copy at
order dtd 6.8.10 for
Mr. M. Das, Sr. C.W.C
f.k. ramam
17.8.10

17.8.2010
Judgement/ final
order. Sent to M.D.S
for issuing recd.

J. 17.8.2010
A-23-8-2010
Copy received of
M. Deka, Advocate No. 105
for Respondent No.
18/8/10
on

8

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.265 of 2009

With

Misc. Petition No.113 of 2010

DATE OF DECISION: 6.8.2010

Shri Gobinda Rabha

APPLICANT(S)

Mr H.K. Das

ADVOCATE(S) FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

RESPONDENT(S)

Mrs. M. Das, Sr. CGSC for Respondent No.1

ADVOCATE(S) FOR THE
RESPONDENT(S)

Mr. Mritul Deka, proxy counsel for
Respondents No. 2-18

CORAM:

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi Administrative Member

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


Member (J)

A

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.265 of 2009

With

Misc. Petition No.113 of 2010

Date of Order: This the 6/10 day of August 2010

The Hon'ble Sri Mukesh Kumar Gupta, Judicial Member

The Hon'ble Shri Madan Kumar Chaturvedi, Administrative Member

Sri Gobinda Rabha
Sr. TOA (P), O/o the General Manager
Kamrup Telecom District
Panbazar, Guwahati - 1.Applicant

By Advocate Mr. H.K. Das.

-Versus-

1. Union of India, represented by the Secretary, Department of Telecommunications, Ministry of Communications, Government of India, New Delhi - 1.
2. Bharat Sanchar Nigam Limited, represented through the Chairman-cum-Managing Director, Corporate Office, 10th Floor, Statesman House, New Delhi - 1.
3. The Chief General Manager (Telecom) Assam Circle, Administrative Building Panbazar, Guwahati - 1.
4. The General Manager (Telecom) Kamrup Telecom District, Guwahati - 1.
5. The Sub-Divisional Engineer (Legal & Consumer) O/o General Manager, BSNL Kamrup Telecom District, Guwahati - 1.
6. Sri Hem Chandra Saloi
Emp No. 3106,
O/o Telemart Manager,
B.S.N.L.,
Dispur, Guwahati - 6.

7. Sri Tarun Talukdar
Emp. No. 3202,
O/o Sub-Divisional Engineer (OCB II),
B.S.N.L., Panbazar, Guwahati - 1.
8. Mrs. Aruna Das
Emp. No. 3085,
O/o Sub-Divisional Engineer (OCB)
B.S.N.L., Dispur, Guwahati - 6.
9. Sri Bidhan Choudhury
Emp. No. 3016,
O/o Divisional Engineer (Ex-II)
B.S.N.L., Dispur, Guwahati - 6.
10. Sri Shyamalendu Bhatta
Emp. No. 3164,
O/o Sub-Divisional Officer (Phones)
Kalapahar, B.S.N.L., Guwahati.
11. Sri Mahendra Das
Emp. No. 3126,
O/o Divisional Engineer (CTO),
B.S.N.L., Panbazar, Guwahati - 1.
12. Sri Khagendra Nath Das
Emp. No. 3043,
O/o Sub-Divisional Officer (Phones),
B.S.N.L., Ulubari, Guwahati.
13. Sri Trailokya Ch. Das
Emp. No. 3169,
O/o Sub-Divisional Engineer, Mobile,
B.S.N.L., Panbazar, Guwahati - 1.
14. Mrs. Anjali Dutta
Emp. No. 3006,
O/o Sub-Divisional Engineer, (E-10B),
B.S.N.L., Panbazar, Guwahati - 1.
15. Sri Probodh Ch. Patgiri
Emp. No. 3141,
O/o Sub-Divisional Engineer, (M.C.),
B.S.N.L., Panbazar, Guwahati - 1.
16. Sri Amrit Ch. Das
Emp. No. 3100,
O/o Divisional Engineer (Administrative),
B.S.N.L., Panbazar, Guwahati - 1.
17. Mrs. Kamala Das
Emp. No. 3111,
O/o Administrative Officer (T.R)
Kamrup Telecom District, Guwahati.

18. Sri Kiran Chandra Kalita
Emp. No. 3205,
O/o Sub-Divisional Engineer (OPN),
B.S.N.L.,
Barjhar, Guwahati.Respondents

By Advocates Mrs. M. Das, Sr. CGSC for Respondent No.1,
Mr. Mritul Deka, proxy counsel for Respondents No. 2-18.

.....
ORDER

MUKESH KUMAR GUPTA, JUDICIAL MEMBER

Validity of order dated 28.08.2007 (Annexure-11) and communication dated 30.07.2009 (Annexure-16) is questioned in present O.A. Vide para 8.2 of the relief clause though applicant has sought direction to recast seniority list of applicant as well as respondent Nos.6-18 but, on 14.07.2010, at the outset, learned counsel for applicant made a statement that he will not press said relief.

2. Fact as stated by applicant are that: he was appointed as Telephone Operator on 15.06.1978 and presently working as Sr. TOA (P) Grade IV. On completion of sixteen years of service, vide order dated 04.01.1995, he was granted benefit of One Time Bound Promotion (OTBP). In the year 1998 cadre restructuring was carried out in all Group 'C' posts so that employees could work in new technology with requisite training. Option was given to all Group 'C' employees for absorption in the restructure cadre. He had submitted such option and ultimately absorbed in the cadre of Sr. TOA (P). On completion of 26 years of service in the basic grade, in the year 2004, he was further granted Second Time Bound Promotion (STBP).

3. His grievance is that vide order dated 28.08.2007 officials were promoted to 10% BCR Grade-IV in IDA pay scale of Rs.8570-12,245/- . His name appeared at serial No.39 therein. Said promotion was purely temporary and ad hoc, which was granted w.e.f. 01.01.2005. Being aggrieved, he filed a representation on 25.04.2008, followed by reminder dated 26.08.2008, followed by legal notice dated 22.06.2009. In response to said legal notice, respondents issued communication dated 31.07.2009 concluding that no irregularities were found in the promotions made on 28.08.2007.

4. Mr H.K. Das, learned counsel for applicant raised the following contentions:

- a) Smt Jaymati Patowary was the juniormost in the basic grade. He being senior to said Smt Jaymati Patowary was granted regular promotion of 10% BCR Grade-IV vide order dated 27.02.2006. In gross violation of principles of natural justice and without giving any opportunity of hearing, impugned order dated 28.08.2007 was passed converting the regular promotion into ad hoc promotion, which is unsustainable in the eyes of law. Respondent Nos.6-18 were transferred to new Division under Rule 38 of P&T Manual Vol.IV and were thus liable to be assigned bottom seniority.
- b) Communication dated 16.06.1997 (Annexure-8) has clearly directed that the staff working in restructured cadre should not be at a disadvantage position compared to their counterpart in the basic grade and, therefore, it was decided to allow 10% BCR scale of Rs.2000-3200

(Grade IV) to the staff working in the Restructured Cadre. Said benefit would be given to the staff in the Restructured Cadre from the date their juniors in the old cadre have been given this benefit as per seniority in the basic grade. Reliance was also placed on BSNL communication dated 31.05.2007 (Annexure-9) whereby dealing with the subject of promotion from BCR Grade-III to BCR Grade-IV, it was clarified that: "Basic grade seniority is the criterion for promotion from BCR Grade-III to BCR Grade-IV. The basic grade seniority is restricted to a particular Gradation list and not to a group of Gradation lists. An official on his/her transfer from one Division/SSA/Circle to another Division/SSA/Circle shall lose his seniority of the parent Unit and shall be placed junior-most in the new Gradation list of the new Unit. His/Her seniority for the purpose of BCR Grade-IV shall be reckoned from the date of joining in the new place of posting consequent upon his/her transfer under Rule 38 of P&T Manual Vol.IV". It was emphasized that respondent Nos.6-18 had been transferred on their own request to a new Unit/SSA/Circle/Division under Rule 38 (ibid) and, therefore, they were entitled to bottom seniority. Our attention was also drawn to respondents' reply para 3(b) wherein it was stated that applicant was placed at serial No.164 in the District Gradation List of Kamrup SSA (date of joining service being 15.06.1978) whereas respondent No.16 was placed at serial No.212 (date of joining in service 03.03.1975). Said respondent joined Kamrup SSA

on 03.02.1987 on transfer under Rule 38. Learned counsel, on our query raised, further stated that paras 1, 2, 4 and 5 of the impugned communication dated 30.07.2009 are factually correct. However, para 3 stating that no junior official was accommodated under pressure was totally baseless. It was suggested to us that there is no distinction between the optees and non-optees particularly in terms of DOT communication dated 16.06.1997 (Annexure-8).

5. Respondent Nos.2-5 as well as 6-17 have filed their reply. Similarly, respondent No.1 also filed its reply stating that applicant has been absorbed in BSNL and thus there is no employer-employee relationship between him and Department of Telecommunications. He being under the administrative control of BSNL, the Department of Telecommunications has no role in the controversy. Mrs M. Das, learned Sr. C.G.S.C. appeared for said respondent and reiterated the above aspect. Other official respondents as well as private respondents have virtually filed reply on the same lines stating that 10% BCR Grade-IV promotion is calculated from Grade III officials of the SSA in a particular cadre. Respondent No.16 was in the zone of consideration in the year 2001, 2002 and 2003 and accordingly Grade IV promotion was granted to him on 01.07.2003, whereas applicant was not at all within the zone of consideration and he did not get Grade III promotion in aforesaid years and, therefore, question of granting Grade IV promotion at par with the private respondents did not arise and as such there is no illegality on the respondents' action. Reference was made to a judgment of Hon'ble Supreme Court in *Dwijen Chandra Sarkar & anr. v. Union of India & ors.*, (1999) 2 SCC

119, wherein it was held that: "Even if an employee is transferred at his own request, from one place to another on the same post, the period of service rendered by him at the earlier place where he held a permanent post and had acquired permanent status, cannot be excluded from consideration for determining his eligibility for promotion though he may have been placed at the bottom of the seniority list at the transferred place". Further reliance was placed on *Union of India & anr. v. V.N. Bhat*, (2003) 8 SCC 714, wherein it was observed that: "past service will count for eligibility for certain purposes though it may not count for seniority". Thus, it was emphasized that the respondent Nos.6-18 who were transferred to Kamrup SSA under Rule 38 are not comparable. The Third Pay Commission had granted two designations of Group 'C' employees namely, Telephone Operator and Telephone Clerk. In terms of Fourth Pay Commission recommendations, Telephone Operator was redesignated as Telecom Office Assistant (Phones) and Telecom Clerk as Telecom Office Assistant (General). Thereafter, on induction of new Science and Technology, said two categories were restructured and options were called for. Some of the employees exercised their option for restructured cadre while some remained in the original cadre. Optees to the restructured cadre were given induction training and on completion of training they were made a separate category with up gradation of pay scales and they were designated as Sr. TOA Grade I. Those who did not exercise option remained as TOA and redesignated as TOA Grade I. Employees in both cadres who completed 16 years of service were entitled for BCR promotion as OTBP and they were designated Sr. TOA Grade II and TOA Grade II respectively. On completion of 26 years of service, they were given STBP and

redesignated as Sr. TOA Grade III and TOA Grade III. Although Sr. TOA and TOA are said to be in the same grade but the Sr. TOA in restructured category were getting higher pay scales and pay package throughout as the pay scales had been different. Therefore, considering the case of TOA in so far as their benefits of pay scales is concerned, 10% BCR promotion had been provided only to the non optees out of Grade III STBP categories taking into account the total strength of Sr. TOA Grade III and TOA Grade III for promotion to the Grade IV category exclusively for the non-optees. However, provisions had also been made to give financial upgradation benefits to maintain the posts parity, to extend financial upgradation to the optees also and they were given the scale of Grade IV. The upgradation of pay benefit was granted to such Sr. TOA at par with his immediate junior if such junior was promoted to next higher grade thereby giving him pay protection. In the instant case, pay benefit had already been granted to him in Grade IV pay scale w.e.f. 01.01.2005. Initially he was granted Grade IV scale w.e.f. 01.07.2005 but subsequently the method of calculation of Grade IV promotion in respect of all the cadres of Kamrup SSA eligible for granting Grade IV promotion was found to be erroneous. In respect of all eligible cadres method of calculation was required to be revised and accordingly revised order in the cadre of Sr. TOA(P)/TOA(P) was issued vide Memo dated 28.08.2007 and the date of Grade IV scale of pay in respect of applicant was revised as 01.01.2005 instead of 01.07.2005. Said order for promotion was issued on ad hoc basis and it was regularised in due course of time. On adopting correct method of calculation, respondent N.6 was eligible for being granted Grade IV scale consequent upon promotion to Grade IV of his junior Umesh Ch. Das.

(now retired, who was a non-optee) w.e.f. 01.07.2003. Thus, applicant was not in a disadvantageous position. Rather his date of promotion to Grade IV status was advanced by six months.

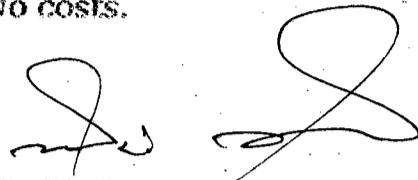
6. We have heard learned counsel for parties, perused the pleadings and other material placed on record. The question which arises for consideration is whether he has made out any case for judicial interference. It is not in dispute that the date of grant of Grade IV BCR had been advanced from 01.07.2005 to 01.01.2005 vide impugned communication dated 28.08.2007. It is further not in dispute that he was an optee while the respondent Nos.6-18 did not belong to said category. Grade IV regular promotion was granted to only non-optees and those who were optees vis-à-vis have entered the restructured cadre, pay alone was upgraded in order to protect their pay at par with their juniors i.e. non-optees. Specific stand of the respondents that he was granted benefit of upgradation in the Grade IV pay scale w.e.f. 01.01.2005 as his non-optee junior Smt Jaymati Patowary was promoted to 10% BCR Grade IV from said date. Specific stand of the respondents as reflected in the impugned communication dated 30.07.2009 is that: "his upgradation has already been regularised with effect from 01.01.2005". On our careful consideration of the matter we noticed that he is basically harping on the fact that respondent Nos.6-18 were juniors and specific instance of respondent No.16 was pointed out who was placed in the District Gradation list of Kamrup SSA at serial No.212, while his position was at serial No.164. What has been conveniently overlooked by him is the eligibility in terms of law laid down in Dwijen Chandra Sarkar and V.N. Bhat (supra). Officials who have been transferred to a new Circle/Division under Rule 38, though may be placed at the bottom of

seniority in terms of said rule, but their past service has to be counted for eligibility purpose for the next promotional post, which cannot be excluded from considering and determining eligibility. Emphasis laid by him on Circular dated 16.06.1997 as well as 31.05.2007 is totally misconceived and misplaced. Said circulars did not take into consideration the law laid down in Dwijen Chandra Sarkar and V.N. Bhat (supra). As applicant has rightly not pressed relief regarding recasting of seniority list of himself vis-à-vis said private respondents, we do not find any infirmity or illegality in the impugned promotion order dated 28.08.2007 as well as communication dated 30.07.2009 rejecting his representation/legal notice. Another aspect which we noticed is that though he has challenged validity of promotion order dated 28.08.2007, vide which forty-nine officials were promoted to 10% BCR Grade IV, all of them were not impleaded by him and arrayed as respondents. Non-impleadment is fatal to his claim. When we pointed out to the learned counsel this material defect and illegality, no suggestion was made to implead them. It is well settled law that an order which has any effect of civil consequence cannot be passed at the back of an official. We may further note the fact that he basically had been beneficiary of order dated 28.08.2007 inasmuch as his date of upgradation in said grade was advanced from 01.07.2005 to 01.01.2005 and his upgradation had already been regularised from same date. Thus, examining the case from either angle, we are of the view that the claim laid in present application is misconceived and baseless.

7. In view of the discussion made hereinabove and finding no merit O.A. is dismissed. M.P.No.113/2010 was filed by applicant seeking direction to respondents to produce certain seniority list in

the cadre of Sr. TOA. As the relief regarding determination of seniority has not been pressed, we do not find any justification in said M.P. Accordingly said M.P. is also rejected. No costs.

~~Chaturvedi~~
(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

nkm

O.A.NO. 265/2009

28.06.2010 On the written request of Mr. H.K. Das, learned counsel for applicant, list on 01.07.2010.

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

nkm

01.07.2010 Mr. H.K. Das, learned counsel for Applicant prays for adjournment.

List on 2nd July 2010.

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

/pb/

02.07.2010 Proxy counsel for Respondents prays for adjournment.

List on 12th July 2010. It is made clear that no further adjournment would be allowed.

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

/pb/

12.07.2010 Proxy counsel for Applicant prays for adjournment stating that Mr. H.K. Das, learned counsel for Applicant has some personal difficulty.

List on 14th July 2010.

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

/pb/

20
O.A.265/2009

14.07.2010 At the outset learned counsel for the applicant stated that he will not press para 8.2 of the O.A.

Heard Mr.H.K.Das, learned counsel for the applicant; Mrs.M.Das, learned counsel for respondent no.1 and Mr.Mritul Deka, proxy counsel for Mr.B.C.Pathak, learned counsel for respondents 2-18. Reserved for orders.

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

/bb/

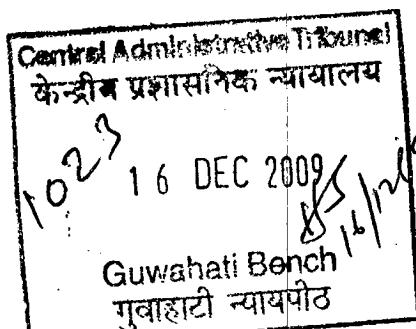
06.08.2010 Judgment pronounced, kept in separate sheets. O.A. is dismissed in terms of said order. No costs.

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

/bb/

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI



OA No. 265 of 2009

Sri Gobinda Rabha ..APPLICANT

- vs -

Union of India & Ors. ..RESPONDENTS

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Received copy
 for Mrs. M. Das,
 As. C.R.S.C, C.A.T.
 C. P. Margarika

Filed by
 Hindu K. Das
 16.12.09.
 Advocate

23. Affidavit —
 24. Reply —

62 - 69
 65 - 71 P/T

Received copy
 for B.L. Pathak
 S.P. Sonakha
 16/12/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

OA No. 265 of 2009

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

16 DEC 2009

Sri Gobinda Rabha - Vs - Union of India & Ors.

Guwahati Bench
গুৱাহাটী ন্যায়পীঠS Y N O P S I S

The applicant was appointed on 15.06.1978 as Telephone Operator in the basic grade in the office of the A.E. Trunk, Guwahati and presently he is working as Sr. TAO (P) Grade- IV under the General Manager, Kamrup Telecom District. The respondents vide order dated 04.01.1995 granted the applicant after completion of 16 years of service the benefit of OTBP (One Time Bound Promotion).

That in the year 1998 cadre restructuring was done in all Group- C posts so that the employees can work in new technology with requisite training. Accordingly options were given to all the Group- C employees for absorption in the restructured cadre. It is noteworthy to mention here that some had given option for absorption in the restructured cadre; however some employees who did not give option for absorption remained in the basic grade. The applicant having the 10+2 was automatically absorbed in the cadre of Sr. TOA (P).

It is stated that the respondents thereafter with a view to provide relief from stagnation in the basic grade circulated a scheme in the name and style "Biennial Cadre Review" [in short BCR] dated 16.10.1990 by conducting cadre review once in two years. As per the BCR at the time of review the number of officials who have completed /would be completing 26 years of service in the basic grades [including time spent in higher scales (OTBP)] will be ascertained, screened and on being found suitable for advancement suitable number of posts will be created by up-gradation on functional justification.

That in the year 2004 the respondents granted the Second Time Bound Promotion [in short STBP] to the applicant after completion of 26 years of service in the basic grade. Therefore, the next promotional post for the applicant in the channel of promotion after STBP is BCR Grade- IV (10% of BCR). It is worthwhile to mention here that 10% BCR Grade- IV promotion is confined only to the non optees in the basic grade and is

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गुवाहाटी स्वायत्तशक्ति

granted to the employees on the basis of the District/Division seniority. The 10% BCR Grade- IV posts are created from amongst total number of STBP i.e. who have completed 26 years of service in the basic grade. However, later on upon consideration of the demand of the officials in the restructured cadre the Government of India, Ministry of Communication, Department of Telecommunication issued an order under Memo No. 27-4/87-TE-II (pt.) dated 16.06.1997 by which the Ministry upon consideration of the prayer made by the staff of the restructured cadre resolved to allow 10% BCR scale of Rs. 2000-3200/- [pre-revised] (Grade- IV) to the staff working in the restructured cadre. However, the Ministry while granting the benefit made it very clear that the benefits will be given to the staff in the Restructured Cadre from the date their juniors in the old cadre have been given this benefit as per seniority in the basic grade. Subsequently, the respondents issued clarification dated 31.02.07 emphasizing the issue of basic grade seniority and stated that official on his/her transfer from one Division/SSA/Circle to another under the Rule 38 of the P & T Manual Vol.-IV shall lose their seniority of the parent unit and shall be placed junior most and seniority of such official for the purpose of BCR Grade- IV shall be reckoned from the date of joining in the new place of posting.

That the 4th respondent as per the order dated 16.09.1997 issued an order under Memo No. GMT/EST-282/Sr. TOA(P)/05-06/204 dated 27.02.06 circulating a list of regular promotion of Sr. TOA(P) granting 10% BCR Grade (Grade- IV) in the IDA Scale of Rs. 8570-245-12,245/- p.m. w.e.f. 01.07.05 according to their seniority in the basic grade wherein the name of the applicant appeared at Sl. No. 32.

It is stated that the respondents thereafter flouting all the guidelines and clarification issued another order dated 28.08.07 by which the order dated 27.02.06 was modified converting regular promotion to ad-hoc promotion and also extending the benefit of promotion under 10% BCR (Grade- IV) to the respondent No. 6 to 18 i.e. Sl. No. 16 to 34 of the order dated 28.08.07. It pertinent to mention here that the respondent No. 6 to 18 are the optees of transfer on Rule 38 of P & T Manual Vol.- IV from other division. Therefore, as per the order dated 16.06.1997 and clarification dated 31.05.07 they are

Guwahati Bench

गुवाहाटी अधिकारी

entitled to the bottom seniority and their seniority has to be fixed down in the seniority list. Therefore, in such an eventuality the respondent No. 6 to 18 are not in the zone for consideration for granting the promotion to 10% BCR (Grade-IV). It is stated that the 4th respondents issued the impugned order dated 28.08.07 only with the sole purpose to accommodate the respondent No. 6 to 18, who were not in the zone of consideration and modified the order of regular promotion to the ad-hoc promotion without giving any opportunity and creating huge seniority dispute. It is further stated that in the basic grade Smt. Jaymati Patowary is the junior most employee and the applicant being senior to the said Smt. Patowary got the benefit of 10% BCR Grade (Grade-IV). It is stated that said Smt Patowary is the cut off person for grant of the benefit of 10% BCR grade. However, in the instant case the respondents causing serious illegality granted the benefit of 10% BCR Grade to the Respondent no. 6 to 18 who came to the Division on transfer under Rule 38 and entitled for bottom seniority.

That being aggrieved the applicant submitted a representation dated 24.04.08 to the Chief General Manager, Assam Telecom Circle ventilating his grievances. However, the CGM, Assam Circle did not give an eye to the grievance of the applicant and sat over the matter. Thereafter, the applicant submitted a reminder dated 26.08.08 to the CGM, Assam Telecom Circle for early redressal of his grievances. Finally, submitted legal notice 22.06.09 through his counsel and the respondents issued the impugned order dated 30.07.09 rejecting the claim of the applicant on surmises. Therefore, being aggrieved by such an illegal and arbitrary action on the part of the respondents the applicant having no other alternative has approached this Hon'ble Tribunal by way of filing the instant original application for redressal of his grievances. Hence the present original application.

Filed by
 Hukip K. D. D.
 14.12.09
 Advocate

16 DEC 2009 ৩০

Guwahati Bench
গুৱাহাটী ন্যায়পৌঠ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

LIST OF DATES

15.06.78 Order by which the applicant was initially appointed as Telephone Operator in the basic grade in the office of the A.E. Trunk, Guwahati.
[Annexure- 1] [Page- 18]

30.12.88 Order by which the service of the applicant was confirmed in the cadre w.e.f. 17.12.1981.
[Annexure- 2] [Page- 20]

16.10.90 A scheme in the name and style "Biennial Cadre Review" was circulated with a view to provide relief from stagnation in the basic grade by conducting cadre review once in two years. As per the Scheme BCR will be applicable for only those cadres in Group- C & D for which scheme of 'One Time Bound Promotion' on completion of 16 years of service in the basic grade is already in existence. Again under the Scheme at the time of review the number of officials who have completed /would be completing 26 years of service in the basic grades [including time spent in higher scales (OTBP)] will be ascertained, screened and on being found suitable for advancement suitable number of posts will be created by up-gradation on functional justification. **[Annexure- 5] [Page- 26]**

04.01.95 Order by which the applicant was granted the benefit of OTBP on completion of 16 years of service in the basic grade. **[Annexure- 3] [Page-22]**

21.03.95 Order issued by the Accounts Officer (cash), O/o the Telecom District Manager fixing the pay of the applicant in the scale of Rs. 1400 - 2300/- as Telephone Supervisor. **[Annexure- 4] [Page- 24]**

16.06.97 Order issued by the Government of India, Ministry of Communication, Department of Telecommunication under Memo No. 27-4/87-TE-II (pt.) dated 16.06.1997 by which the Ministry upon consideration of the prayer made by the staff of the restructured cadre resolved to allow 10% BCR scale of Rs. 2000-3200/-

[pre-revised] (Grade- IV) to the staff working in the restructured cadre. However, the Ministry while granting the benefit made it very clear that the benefits will be given to the staff in the Restructured Cadre from the date their juniors in the old cadre have been given this benefit as per seniority in basic grade. **[Annexure- 8] [Page- 33]**

1998 Cadre restructuring was done in the Group- c posts so that the employees can work in new technology with requisite training. The applicant having 10+2 was automatically absorbed in the cadre of Sr. TOA (P). However, there were employees who did not give option for the re-structured cadre and remained in the basic grade.

20.11.04 Order by which the applicant was granted the Second Time Bound Promotion (STBP) on completion of 26 years of service in the basic grade w.e.f 01.07.04. **[Annexure- 6] [Page- 30]**

10.12.04 Order by which the pay of the applicant was fixed in the scale of Rs. 7800 - 225 - 11,175/- p.m. w.e.f. 01.07.04 after he completed 26 years of service in the basic grade. **[Annexure- 7] [Page- 31]**

27.02.06 Order under Memo No. GMT/EST-282/Sr. TOA(P)/05-06/204 issued by the 4th respondent circulating a list of Sr. TOA(P) granting 10% BCR Grade (Grade- IV) in the IDA Scale of Rs. 8570-245-12,245/- p.m. w.e.f. 01.07.05 according to their seniority in the basic grade. **[Annexure- 10] [Page- 35]**

31.05.07 Clarification issued by the respondents stating that the basic grade seniority is the criterion for promotion from BCR Grade- III to BCR Grade- IV and it is restricted to a particular gradation list. The said clarification also made it clear that an official on his/her transfer from one Division/SSA/Circle to another Division/SSA/Circle under the Rule 38 of the P & T Manual Vol.-IV shall lose their seniority of the parent unit and shall be placed junior most in the new gradation list of the new unit with further clarification that the seniority of such official for the purpose of BCR

Grade- IV shall be reckoned from the date of joining in the new place of posting. [Annexure- 9]

[Page- 34]

28.08.07

Impugned order issued by the respondents convertifng the order of regular promotion to ad-hoc promotion and also illegally extending the benefit of promotion under 10% BCR (Grade- IV) to the respondent No. 6 to 18 i.e. Sl. No. 16 to 34 of the order dated 28.08.07 who are the optees of transfer on Rule 38 of P & T Manual Vol.- IV from other division. It is stated that the respondent No. 6 to 18 are to be placed down in the basic grade seniority list as per Rule 38 of the P & T Manual Vol.- IV and upon such placement they are not within the zone of consideration for grant of 10% BCR Grade (Grade- IV). [Annexure-11] [Page- 37]

25.04.08

Representation submitted by the applicant.

[Annexure- 12] [Page- 43]

26.06.08

Communication issued the Deputy General Manager (Admn.), BSNL to the General Manager, Kamrup Telecom District, BSNL to inquire into the matter of illegalities occurred in the promotion of 10% BCR Grade- IV and submit the inquiry report for consideration of the higher authority. [Annexure- 14] [Page- 46]

26.08.08

Representation submitted by the applicant.

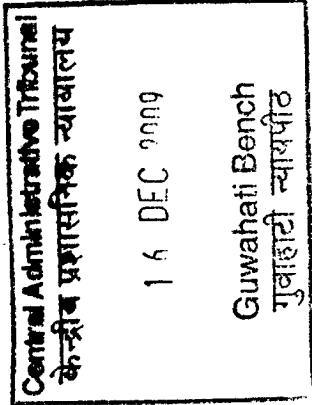
[Annexure- 13] [Page- 45]

26.06.09

Legal notice served by applicant through his counsel making a demand to remove the irregularities and illegalities committed while passing the impugned order dated 28.08.07 and re-caste the seniority of the applicant vis-à-vis the respondent No. 6 to 18 in the basic grade placing them down in the seniority list as per Rules 38 of the P & T Manual Vol. - IV. [Annexure- 15] [Page-47]

30.07.09

Impugned order issued by the 5th respondent rejecting the prayer made by the applicant on flimsy grounds. [Annexure- 16] [Page- 49].





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The Applicant
filed by
through
Hridip Das
Advocate
16.12.09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

OA No. 265 of 2009.

BETWEEN

Sri Gobinda Rabha,

Sr. TOA (P), O/o the General Manager,
Kamrup Telecom District, Panbazar,
Guwahati- 1.

APPLICANT

-Versus-

1. Union of India

Represented by the Secretary, Department
of Telecommunications, Ministry of
Communications, Government of India, New
Delhi-1.

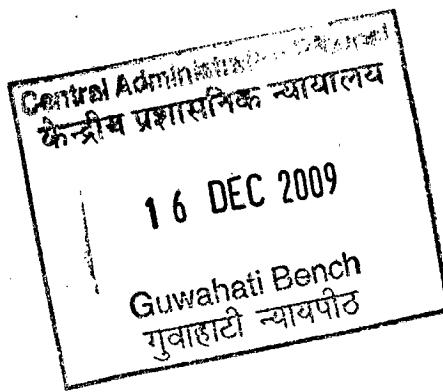
2. Bharat Sanchar Nigam Limited,
Represented through the Chairman-cum -
Managing Director, Corporate Office,
10th Floor, Statesman House, New Delhi-
1.

3. The Chief General Manager
(Telecom), Assam Circle, Administrative
Building, Panbazar, Guwahati - 1.

4. The General Manager (Telecom),
Kamrup Telecom District, Guwahati - 1.

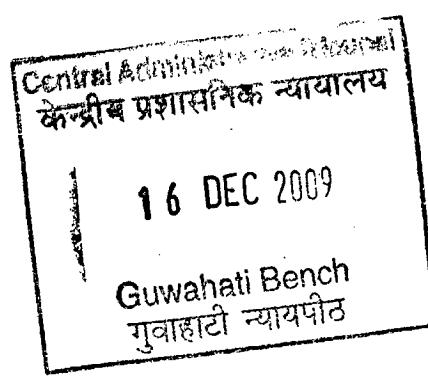
5. The Sub-Divisional Engineer, (Legal
& Consumer), O/o General Manager, BSNL,
Kamrup Telecom District, Guwahati-1.

Gobinda Rabha



6. Sri Hem Chandra Saloi, Emp No. 3106, O/o Telemart Manager, B.S.N.L, Dispur, Guwahati- 6.
7. Sri Tarun Talukdar, Emp. No. 3202, O/o Sub-Divisional Engineer, (OCB II), B.S.N.L., Panbazar, Guwahati- 1.
8. Mrs. Aruna Das, Emp. No. 3085, O/o Sub-Divisional Engineer (OCB), B.S.N.L., Dispur, Guwahati- 6.
9. Sri Bidhan Choudhury, Emp. No. 3016, O/o Divisional Engineer, (Ex- II), B.S.N.L, Dispur, Guwahati- 6.
10. Sri Shyamalendu Bhatta, Emp. No. 3164, O/o Sub-Divisional officer (Phones), Kalapahar, B.S.N.L , Guwahati.
11. Sri Mahendra Das, Emp. No. 3126, O/o Divisional Engineer, (CTO), B.S.N.L , Panbazar, Guwahati- 1.
12. Sri Khagendra Nath Das, Emp. No. 3043, O/o Sub-Divisional Officer (Phones), B.S.N.L , Ulubari, Guwahati.
13. Sri Trailokya Ch. Das, Emp. No. 3169, O/o Sub-Divisional Engineer, Mobile, B.S.N.L , Panbazar, Guwahati- 1.
14. Mrs. Anjali Dutta, Emp. No. 3006, O/o Sub-Divisional Engineer, (E-10B), B.S.N.L , Panbazar, Guwahati- 1.
15. Sri Probodh Ch. Patgiri, Emp. No. 3141, O/o Sub-Divisional Engineer (M.C.), B.S.N.L , Panbazar, Guwahati- 1.

Gobinda Robha



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16. Sri Amrit Ch. Das, Emp. No. 3100, O/o
Divisional Engineer (Administrative),
B.S.N.L , Panbazar, Guwahati- 1.

17. Mrs. Kamala Das, Emp. No. 3111, O/o
administrative officer, (T.R), Kamrup
Telecom District, Guwahati.

18. Sri Kiran Chandra Kalita, Emp. No.
3205, O/o Sub-Divisional Engineer (OPN),
B.S.N.L , Barjhar, Guwahati.

RESPONDENTS

DETAILS OF APPLICATION

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

The present application is directed against the impugned orders under No. GM (K) GH LN/09-10/42 dated 30.07.09 and memo No. GMT/Est-202/Gr. IV/Sr. TOA P) STS (Loose) dated 28.08.07 issued by the respondent No. 4th and 5th respectively. [ANNEXURE- 16 & 11]

2. JURISDICTION OF THE TRIBUNAL:

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

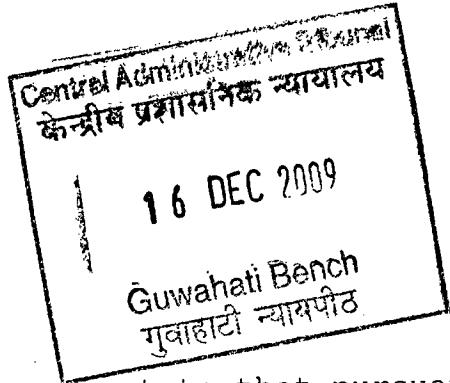
3. LIMITATION:

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE:

4.1 That the applicant is presently working as Sr. TOA (P), Grade- IV under the General Manager, Kamrup Telecom District, Guwahati- 781001.

Gobinda Rabha



4.2 That the applicant begs to state that pursuant to a due selection process the applicant was selected for the post of Telephone Operator and accordingly the respondents issued an order dated 15.06.1978 by which the applicant was initially appointed as Telephone Operator in the basic grade in the office of the A.E. Trunk, Guwahati.

A copy of the order dated 15.06.1978 is annexed herewith and marked as **ANNEXURE- 1.**

4.3 That the applicant begs to state that the respondents being satisfied with the service rendered by the applicant issued an order under Memo No. DMT/EST-45/T.O/88-89/50 dated 30.12.1988 by which the service of the applicant was confirmed in the cadre w.e.f. 17.12.1981.

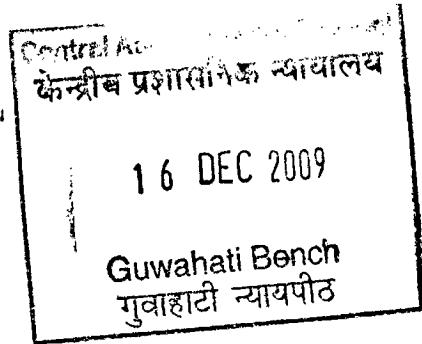
A copy of the order dated 30.12.1988 is annexed herewith and marked as **ANNEXURE- 2.**

4.4 That the applicant begs to state that after completion of 16 years of service the respondents granted the benefits of OTBP i.e. One Time Bound Promotion to the applicant. It is noteworthy to mention here that by the One Time Bound promotion (OTBP) an employee is promoted to the next higher grade after completion of 16 years of service. It has got no nexus with the seniority of the employee while granting the promotion to the next higher grade and it is granted only after completion of 16 years of service in the basic grade. The respondents to that effect issued an order 04.01.1995 by which the applicant was promoted to the pay scale of Rs. 1400-40-1800-EB-50-2300/- P.M. towards granting of OTBP benefits. Thereafter, the Accounts Officer (cash), O/o the Telecom District Manager, in pursuance to the aforesaid order issued another order dated 21.03.1995 by which the pay of the applicant was fixed in the scale of Rs. 1400-2300/- as Telephone Supervisor.

Copies of the order dated 04.01.95 and 21.03.95 are annexed herewith and marked as **ANNEXURE- 3 and 4.**

4.5 That the applicant begs to state that in the year 1998 cadre restructuring was done in all Group- C posts so that the

Gobinda Rabha



employees can work in new technology with requisite training. In the cadre restructuring the respondents gave option to the existing Group- C employees for absorption in the restructured cadre. As per the option provided the Telephone Operators having 10+2 were automatically become Sr. TOA (P), those who did not have 10+2 had to go through qualifying test for becoming Sr. TOA (P) and those who did not give option for absorption in the restructured cadre remained in the basic grade. The applicant having 10+2 was automatically absorbed in the cadre of Sr. TOA (P). However, several employees did not give option for the restructured cadre and remained in the basic grade.

4.6 That the applicant begs to state that the Department of Telecom circulated a scheme in the name and style "Biennial Cadre Review" [in short BCR] dated 16.10.1990 with a view to provide relief from stagnation in the basic grade by conducting cadre review once in two years. As per the Scheme BCR will be applicable for only those cadres in Group- C & D for which scheme of 'One Time Bound Promotion' on completion of 16 years of service in the basic grade is already in existence. Again the BCR will be applicable only to those regular employees who were in service as on 01.01.1990. It is stated that under the BCR at the time of review the number of officials who have completed /would be completing 26 years of service in the basic grades [including time spent in higher scales (OTBP)] will be ascertained, screened and on being found suitable for advancement suitable number of posts will be created by up-gradation on functional justification.

It is stated that the respondents while granting the benefits of Second Time Bound Promotion (STBP) after 26 years of service circulated a list wherein the name of the applicant appeared in Sl. No. 5. The respondents issued an order under Memo No. GMT/Est 382/STS/CTS(P)/03-04/176 dated 20.11.2004 granting the applicant the IDA scale of Rs. 7800-225-11,175 p.m. w.e.f. 01.07.04 after he completed 26 years of service in the basic grade and by a corresponding order dated 10.12.04 the pay of the applicant was fixed in the said scale. It is noteworthy to mention here that the STBP is a time bound promotion granted after completion of 26 years of service in the basic grade/cadre

16 DEC 2009

Guwahati Bench
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to cover up the stagnation in the regular promotion and it is confined to the time having no nexus with the seniority of an employee. On the other hand BCR Grade- III is the regular promotion granted to employees after completion of 26 years of service in the basic grade.

A copy of the BCR Scheme dated 16.10.1990 and copies of the order dated 20.11.04 & 10.12.04 are annexed herewith and marked as **ANNEXURE- 5, 6 & 7.**

4.7 That the applicant begs to state that the next promotional post of the applicant in the channel of promotion is BCR Grade- IV (10% of BCR). It is worthwhile to mention here that 10% BCR Grade- IV promotion is confined only to the non optees in the basic grade and is granted to the employees on the basis of the District/Division seniority. The 10% BCR Grade- IV posts are created from amongst total number of STBP i.e. who have completed 26 years of service in the basic grade. Hence, 1 (one) post of 10% BCR Gr.-IV is created out of 10 STBP. It is pertinent to mention here that initially the staffs in the restructured cadre were kept out of the purview of the 10% BCR Grade- IV promotion in the pay scale of Rs. 2000-3200/- [pre-revised] because such promotion is confined only to the non optees. Therefore, the staff in the restructured cadre claimed benefit of 10% BCR Grade- IV promotion in the pay scale of Rs. 2000-3200/- [pre-revised] and upon consideration of such claim the Government of India, Ministry of Communication, Department of Telecommunication issued an order under Memo No. 27-4/87-TE-II (pt.) dated 16.06.1997 by which the Ministry upon consideration of the prayer made by the staff of the restructured cadre resolved to allow 10% BCR scale of Rs. 2000-3200/- [pre-revised] (Grade- IV) to the staff working in the restructured cadre. However, the Ministry while granting the benefit made it very clear that the benefits will be given to the staff in the Restructured Cadre from the date their juniors in the old cadre have been given this benefit as per seniority in the basic grade.

A copy of the order dated 16.06.97 is annexed herewith and marked as **ANNEXURE- 8.**

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Guwahati Bench
गुवाहाटी न्यायपीठ

4.8 That the applicant begs to state that as per the order dated 16.06.1997 the benefit of the pay scale of Rs. 2000-3200/- in the BCR Grade- IV has to be extended to the staff of the restructured cadre strictly as per the seniority in the basic grade. The respondents while emphasizing the issue of basic grade seniority issued a clarification dated 31.02.07. As per the said clarification the basic grade seniority is the criterion for promotion from BCR Grade- III to BCR Grade- IV and it is restricted to a particular gradation list. The clarification dated 31.05.07 also made it clear that an official on his/her transfer from one Division/SSA/Circle to another Division/SSA/Circle under the Rule 38 of the P & T Manual Vol.-IV shall lose their seniority of the parent unit and shall be placed junior most in the new gradation list of the new unit with further clarification that the seniority of such official for the purpose of BCR Grade- IV shall be reckoned from the date of joining in the new place of posting.

A copy of the clarification dated 31.05.07 is annexed herewith and marked as **ANNEXURE-9.**

4.9 That the 4th respondent as per the order dated 16.09.1997 issued an order under Memo No. GMT/EST-282/Sr. TOA(P)/05-06/204 dated 27.02.06 circulating a list of Sr. TOA(P) granting 10% BCR Grade (Grade- IV) in the IDA Scale of Rs. 8570-245-12,245/- p.m. w.e.f. 01.07.05 according to their seniority in the basic grade. The name of the applicant appeared at Sl. No. 32 and he was promoted to 10% BCR Grade w.e.f. 01.07.05 i.e. from the date their juniors have been given the benefit as seniority in the basic grade.

A copy of the order dated 27.02.06 is annexed herewith and marked as **ANNEXURE- 10.**

4.10 That the applicant begs to state that 10% BCR (Grade- IV) promotion is granted to the officials on the basis of District/Division seniority in the basic grade. The 10% BCR (Grade- IV) post is created on the basis of total number of STBP i.e. who have completed 26 years of service. Therefore, one post under 10% BCR is created out of 10 posts of STBP which is

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irrespective of the seniority. Moreover, the 10% BCR (Grade-IV) promotion is offered only to the official who has not opted in the restructuring of cadres.

4.11 That the applicant begs to state after the aforesaid regular promotion order the respondents issued another order under Memo No. GMT/EST-382/Gr-IV/Sr. TOA(P)-STS (Loose)/Part-I/2007-08/24 dated 28.08.07 by which the order dated 27.02.06 was modified converting regular promotion to ad-hoc promotion and also extending the benefit of promotion under 10% BCR (Grade- IV) to the respondent No. 6 to 18 i.e. Sl. No. 16 to 34 of the order dated 28.08.07. It pertinent to mention here that the respondent No. 6 to 18 are the optees of transfer on Rule 38 of P & T Manual Vol.- IV from other division. Therefore, as per the order dated 16.06.1997 and clarification dated 31.05.07 they are entitle to the bottom seniority and their seniority has to be fixed down in the seniority list. Hence, the respondent No. 6 to 18 are not in the zone of consideration for grant of the 10% BCR Grade (Grade- IV) in the scale of Rs. 8570-245-12,245/- . It is stated that the 4th respondents issued the impugned order dated 28.08.07 only with the sole purpose to accommodate the respondent No. 6 to 18, who were not in the zone of consideration and modified the order of regular promotion to the ad-hoc promotion.

A copy of the impugned order dated 28.08.07 is annexed herewith and marked as **ANNEXURE-11.**

4.12 That the applicant begs to state that in the basic grade Smt. Jaymati Patowary is the junior most employee and the applicant being senior to the said Smt. Patowary got the benefit of 10% BCR Grade (Grade-IV). It is stated that said Smt Patowary is the cut off person for grant of the benefit of 10% BCR grade. The officials who gave option in the restructuring and are above Smt. Patowary have been extended with the benefit of 10% BCR which is strictly in accordance with the order dated 16.06.1997 issued by the Government of India, Ministry of Communication, Department of Telecommunication. However, in the instant case the respondents causing serious illegality granted the benefit of 10% BCR Grade to the Respondent no. 6 to 18 who came to the Division

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on transfer under Rule 38 and entitled for bottom seniority. It is stated that the respondents only with the sole purpose to accommodate their blue eyed boys are not fixing the seniority of the respondent No. 6 to 18 down in the seniority list of the Division thereby causing huge seniority dispute among the employees in the division. It is further stated that after transfer and posting on Rule 38 the Respondent No. 6 to 18 are to lose their original seniority and they are to be placed down in the seniority in the new gradation list in the division and in such a peculiar fact situation of the matter the respondent no. 6 to 18 are not entitle for the benefit of 10 % BCR Grade (Grade- IV) in the pay scale of Rs. 8570-245-12,245/- because the Government of India, Ministry of Communication vide order dated 16.06.1997 [Annexure- 8] very clearly stated that the 10% BCR Grade (Grade- IV) scale will be granted to the staff of the restructured cadre strictly as per their seniority in the basic grade. However, the official respondents without assigning the bottom seniority to the respondent No. 6 to 18 issued the impugned order dated 28.08.07 granting them the benefit of 10% BCR Grade- IV, which they are not entitle to with their respective seniority position. It is stated that the official respondents by the impugned order dated 28.08.07 placed the respondent no. 6 to 18 above Smt. Patowary by granting the benefit of 10% BCR Grade (Grade- IV) causing serious seniority dispute in the basic grade of the cadre.

4.13 That the applicant begs to state that being aggrieved by the aforesaid illegal and arbitrary action on the part of the respondents the applicant submitted a representation dated 24.04.08 to the Chief General Manager, Assam Telecom Circle ventilating his grievances. However, the CGM, Assam Circle did not give an eye to the grievance of the applicant and sat over the matter. However, having found no response the applicant submitted a reminder dated 26.08.08 to the CGM, Assam Telecom Circle for early redressal of his grievances. The Deputy General Manager (Admn.), BSNL on 26.06.08 issued a communication to the General Manager, Kamrup Telecom District, BSNL to inquire into the matter of illegalities occurred in the promotion of 10% BCR Grade- IV and submit the inquiry report for consideration of the

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higher authority. However, in spite of that the CGM, Assam Telecom circle sat over the matter and failed to attend the grievance of the applicant.

Copies of the representation dated 25.04.08, 26.08.08 and communication dated 26.06.08 is annexed herewith and marked as **ANNEXURE- 12, 13 and 14.**

4.14 That the applicant begs to state that having found no other alternative the applicant served a legal notice dated 22.06.09 through his counsel to the respondents making a demand to remove the irregularities and illegalities committed while passing the impugned order dated 28.08.07 and re-caste the seniority of the applicant vis-à-vis the respondent No. 6 to 18 in the basic grade placing them down in the seniority list as per the Rules 38 of the P & T Manual Vol.- IV.

A copy of the legal notice dated 22.06.09 is annexed herewith and marked as **ANNEXURE- 15.**

4.15 That the applicant begs to state that the Sub-Divisional Engineer (Legal & Consumer), O/o the GM/BSNL/KTD while attending the aforesaid legal notice issued a communication under No. GM(K)/GH LN/09-10/42 dated 30.07.09 to the Counsel of the applicant. The respondents in the said communication in Para 4 have stated that the order dated 27.02.06 was modified due to some administrative reasons. However, the respondents failed in totality to explain the so called administrative reasons. The law is well settled that an employee has to be considered for promotion on his being entered into the zone of consideration after ascertaining his seniority, suitability, merit etc. There is no whisper in the service law making mention of granting promotion in administrative reasons. Moreover, the applicant can not be placed under disadvantageous situation due the administrative reasons of the respondents. The respondents have admitted the fact that the 10% Gr. IV promotion has been granted according to the seniority from amongst officials in Gr. III in the District Gradation List. The respondents further stated in the said Para 4 that the employees who have been transferred from other SSA under Rule- 38 are placed in the District Gradation

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list as per their date of joining in the SSA. It is stated that if the employees under transfer on Rule- 38 are assigned bottom seniority in the District Gradation list, in such a situation such employees are not entitled for grant of the benefit of 10% BCR Grade (Grade- IV) because as per Rule 10% BCR grade is to be granted to the Grade- III employees as per their seniority in the basic grade. Therefore, an employee will lose his basic grade seniority i.e. will be assigned bottom seniority on being transferred under Rule- 38 of the P & T Manual Vol.- IV and thereafter such an employee will automatically be out of the zone of consideration for 10% BCR Grade- IV promotion.

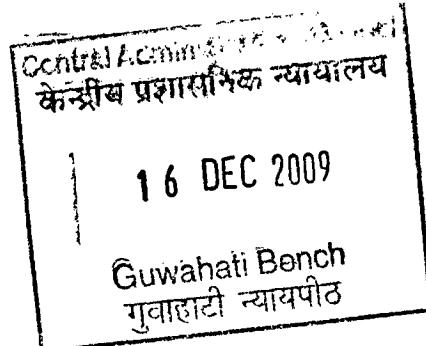
It is stated that the respondents only with the sole purpose to accommodate their blue eyed boys have resorted to such serious illegalities causing serious seniority dispute in the cadre. The respondents vide communication dated 30.07.09 on one hand admitted the fact of granting of bottom seniority to the transferees under Rule- 38, whereas on the other hand illegally granted the benefit of 10% BCR Grade (Grade- IV) which they are not entitled.

The applicant craves leave of the Hon'ble Court to direct the respondents to produce the copy of the gradation list of the District in the basic grade at the time of hearing of the case.

A copy of the impugned communication dated 30.07.09 is annexed herewith and marked as **ANNEXURE- 16.**

4.16 That the applicant begs to state that as per the order of the Ministry of Communication dated 16.06.1997 the Grade- III (those who has got the STBP) employees who opted for the restructuring are entitled for the benefit of 10% BCR Grade (Grade- IV) as per their respective seniority in the basic grade of the Division. However, in the instant case the official respondents causing serious illegality instead of assigning bottom seniority in the District to the respondent No. 6 to 18 who came on transfer under Rule 38 granted the benefit of 10% BCR Grade (Grade- IV) which they are not entitled to as per Rule. The respondents only with the sole purpose of accommodate their blue eyed boys have resorted to such illegalities which resulted in

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huge seniority dispute among the employees.

4.17 That the applicant begs to state that Smt. Jaymati Patowary is the junior most in the basic grade in the District i.e. Smt. Patowary is the cut off for granting 10% BCR Grade. Therefore, applicant being senior to said Smt. Patowary has been granted the regular promotion of 10% BCR Grade (Grade- IV) vide order dated 27.06.07. However, the respondents causing serious prejudice to the applicant and in gross violation of principles of natural justice without giving any opportunity of hearing have issued the order dated 28.08.07 converting the regular promotion to ad-hoc promotion which is not at all sustainable in the eye of law and liable to be set aside and quashed.

4.18 That the applicant is now within the zone of consideration for 5th promotion and the Ministry of Finance has already given approval to it in the year 2009, which is a long pending demand of the BSNLU before the respondents. There is only one clarification regarding pay scale is waiting due to which the promotion has not been granted. The 5th promotion will be granted to the 10% BCR officials as per seniority in the 10% BCR Grade. Therefore, the respondent No. 6 to 18 who are even not within the zone of consideration of 10% BCR Grade (Grade- IV) will be granted the 5th promotion causing serious discrimination to the applicant. The official respondents by not fixing the seniority of the respondent No. 6 to 18 in the bottom of the District seniority list has virtually scattered the seniority position in the basic grade seniority list thereby causing serious seniority dispute in the cadre. The official respondents causing serious illegality could not satisfy themselves by giving high seniority position to the respondent No. 6 to 18 who opted for Rules 38 transfer and moved one step further by granting them the benefit of 10% BCR Grade (Grade- IV) whereas said respondent no. 6 to 18 were not within the zone of consideration for promotion. Hence, the impugned order dated 28.08.07 and 30.07.09 are not at all sustainable in the eye of law and liable to be set aside and quashed.

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4.19 That in view of the aforesaid facts and circumstances of the case the respondents by virtue of the order dated 28.08.07 instead of fixing the seniority of the respondent no. 6 to 18 in the bottom of the seniority list in the District are now making a move to assign high seniority to the respondent no. 6 to 18 causing huge seniority dispute among the employees. Moreover, the 5th promotion is due which will be granted as per the seniority in the cadre of 10% BCR Grade- IV and the respondents are only waiting for some clarification in the pay scale. Hence in such a peculiar fact situation of the matter if the seniority position of the applicant in the 10% BCR Grade- IV is not re-casted the applicant will be deprived from the 5th promotion causing resulting in serious illegality. Hence the present case is a fit case wherein the Hon'ble Tribunal may be pleased to pass an interim order granting liberty to the respondents to re-caste the seniority of the applicant along with the Respondent no. 6 to 18 during the pendency of the present original application. The applicant has made out a *prima facie* case of illegality and arbitrariness on the part of the respondents. The balance of convenience is in favor of the applicant for such an interim order. He would also suffer irreparable loss and injury if the interim order sought for is not passed by the Hon'ble Tribunal.

4.20 That the applicant demanded justice from the respondents which has been denied to him.

4.21 That the applicant has no other alternative or any other efficacious remedy and the remedy sought for, if granted, shall be adequate, just and proper.

4.22 That the applicant files this application bonafide for securing the ends of justice.

5. GROUNDS FOR RELIEF(S) WITH LEGAL PROVISIONS:-

5.1 Because the respondents have issued the impugned orders 28.08.07 is issued in clear violation of natural justice and no opportunity was given to the applicants to place their say in the matter causing serious prejudice. Moreover, the impugned order dated 30.07.09 has been issued in clear violation of the

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directives of the Government of India as well as the Rules holding the field. Hence on this ground alone the impugned orders are liable to be set aside and quashed.

5.2 Because as per the order of the Ministry of Communication dated 16.06.1997 the Grade- III (those who has got the STBP) employees who opted for the restructuring are entitled for the benefit of 10% BCR Grade (Grade- IV) as per their respective seniority in the basic grade of the Division. However, in the instant case the official respondents causing serious illegality promoted the respondents to the 10% BCR Grade (Grade- IV), who came to the Division on transfer under Rule 38 of the P & T Manual Vol. - IV and does not come within the zone of consideration for such promotion. Hence, the impugned order dated 28.08.07 and 30.07.09 are in clear violation of the Article 14 and 16 of the Constitution of India and incurs interference of this Hon'ble Tribunal.

5.3 Because as per the order dated 16.06.1997 the 10% BCR Grade will be given to the staff in the Restructured Cadre from the date their juniors in the old cadre have been given this benefit as per seniority in the basic grade. It is stated that Smt. Jaymati Patowary is the junior most in the Division in the basic grade and the staff senior to said Smt. Jaymati Patowary of the restructured cadre are entitled for the 10% BCR Grade. However, the official respondents granted the benefit of 10% BCR Grade to the respondents who came to the division on transfer under Rule 38 and are entitled for bottom seniority i.e. below the applicant & Smt. Jaymati Patowary. Therefore, the respondent No. 6 to 18 does not come within the zone of consideration for grant of 10 % BCR Grade (Grade- IV). Hence, the respondents in gross violation of the directives issued by the Government of India only with the sole purpose to deprive the applicant and favor their blue eyed boys issued the impugned order dated 28.08.07 and 30.07.09 which are not at all sustainable in the eye of law and liable to be set aside and quashed.

5.4 Because the respondents causing serious prejudice to the applicant, without assigning any valid reason and in gross

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violation of principles of natural justice without giving any opportunity of hearing have issued the order dated 28.08.07 converting the regular promotion to ad-hoc promotion which is not at all sustainable in the eye of law and liable to be set aside and quashed.

5.5 Because the Ministry of Finance already granted approval for the 5th promotion in the year 2009 and it will be granted to the officials of the 10 % BCR Grade as per the seniority in the grade. There is only one clarification regarding pay scale is waiting due to which the promotion has not been granted. Hence, the official respondents by not assigning bottom seniority to the respondent No. 6 to 18 are now making a move to grant them the 5th promotion above the applicant which is in clear violation of the directives of the Government of India and prejudicial to the applicant. Therefore, the impugned order dated 28.08.07 and 30.07.09 are illegal and liable to be set aside and quashed.

5.6 Because from the sequence of events it is clear that the impugned orders were issued illegally fixing the seniority of the respondents in clear violation of Rule 38 of the P & T Manual Vol. - IV and thereby granting them the benefit of 10 % BCR Grade (Grade- IV) according to the erroneous seniority position even when the respondents are not within the zone of consideration. Hence on this ground alone the impugned orders are liable to be quashed.

The applicant craves leave of the Hon'ble Court to advance more grounds both legal and factual at the time of hearing of this case.

6. DETAILS OF THE REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

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The applicant further declares that he has not filed any application, writ petition or suit regarding the grievances in respect of which this application is made, before any other court or any other bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF(S) SOUGHT FOR:

8.1 To Quash and set aside the impugned order under No. GM (K) GH LN/09-10/42 dated 30.07.09 and order under Memo No. GMT/ EST-382/ Gr.-IV/ Sr. TOA (P) - STS (Loose)/ Part-1/ 2007-08/ 24 dated 28.08.07 granting all the consequential service benefits.

8.2 To re-caste the seniority of the applicant as well as the respondent no. 6 to 18 in the basic grade seniority list of the District as well as the in the 10% BCR Grade (Grade- IV).

8.3 Cost of the application.

8.4 pass any such order/orders as Your Lordships may deem fit and proper.

9. INTERIM ORDER PAYED FOR:

Direct the respondents to consider the recasting of the basic grade seniority position as well as in the 10% BCR Grade (Grade- IV) of the applicant as well as the respondent no. 6 to 18 in the District during the pending disposal of the instant original application.

10. The application is filed through Advocates.

11. PARTICULARS OF THE IPO:

(I) IPO No.	:	286 925493
(II) Date of Issue	:	4.12.09
(III) Issued from	:	6.P.
(IV) Payable at	:	Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.

...Verification

Gobinda Rabha

Central Administration Board of Assam
কেন্দ্ৰীয় প্ৰশাসনিক ব্যৱালয়

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VERIFICATION

I, Sri Gobinda Rabha, Son of late Brojeswar Rabha, aged about 55 years, Sr. TOA(P), O/o General Manager, Kamrup Telecom District, Panbazar, Guwahati-1, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 4.1, 4.6 (Partly), 4.10, 4.12, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21 and 4.22 are true to my knowledge, those made in paragraphs 4.2, 4.3, 4.4, 4.5, 4.6 (Partly), 4.7, 4.8, 4.9, 4.11, 4.13, 4.14 & 4.15 and _____ being matters of records are true to my information derived there from and the grounds urged are as per legal advice. I have not suppressed any material fact.

And I sign this verification on this the 15th day of December, 2009 at Guwahati.

Gobinda Rabha

APPLICANT

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.
Office of the Divisional Engineer (Phones), Gauhati- 78001.

Memo No. E-28/Gen1/8

Dated at Gauhati the 15.6.78.

On satisfactory completion of the prescribed course of Training, the following Telephone Operator Trainees are hereby appointed against the temporary post of Telephone Operators in the Scale of Rs. 260-8-300-EB-8-340-10-360-12-420-EB-12-480/- Plus usual allowances admissible to Central Govt. Employees, with effect from the Forenoon of 15.6.78 in the Unit mentioned against each of the official.

Name of the Official. Com. Unit of Posting.

1. Shri Pratap Ch. Das.	O.C.	A.E.Trunk	Gauhati	Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
2. " Madan Mohan Talukdar	S.C.	-d-		
3. " Swapan Kr. Bhattacharjee	O.C.	-d-		
4. " Debabrata Banik	O.C.	-d-		
5. " Subhash Ranjan Dutta	O.C.	-d-		
6. " Birendra Sarma	O.C.	-d-		
7. " Ajit Bhattacharjee	O.C.	-d-		
8. " Chabin Ch. Das	S.C.	-d-		
9. " Prabin Das	S.C.	-d-		
10. Md. Rafiquddin Ali Ahmed	O.C.	-d-		
11. Shri Bhabesh Ch. Sarma	O.C.	-d-		
12. " Ram Kumar Bhattacharjee	O.C.	-d-		
13. Md. Sirajul Islam	O.C.	-d-		
14. Shri Bhupen Pathak	O.C.	-d-		
15. " Sankar Das	O.C.	-d-		
16. " Sibu Ranjan Nag	O.C.	-d-		
17. " Rajendra Kr. Das	O.C.	-d-		
18. " Gabinda Rava	S.T.	-d-		
20. Miss Shelli Chakraborty	O.C.	-d-		
21. " Aparna Dey	O.C.	-d-		
22. " Kaberi Deb		-d-		
* 19. Shri Taramal Deka	S.T.	A.E.Aut	Gauhati.	
23. Shri Gadadhar Mahanta	O.C.	-d-		

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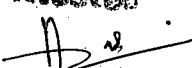
Guwahati Bench
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The terms of appointment are as follows:-

1. The candidate must furnish a security Bond of Rs. 400/- (Rupees Four hundred) Only from the Insurance G.Os Associated pool immediately for the post of T.O. failing which an amount of Rs. 400/- will be recovered from his monthly salary in 5 (Five) Instalments or he will be removed from the service for not fulfilling the service condition.
2. The post is purely temporary but is likely to become permanent. In the event of its becoming permanent, his claim for permanent absorption will be considered in accordance with the Departmental rules in force.
3. The appointment may be terminated at any time by One month's notice given by the appointing authority without assigning any reasons. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.

Contd -2-

Attestor



Advocate

4. The appointment carries with it the liability to serve in any part of the Phones Division and under special circumstances any part of India. The appointee shall be liable for field service within India in the time of War or National Emergency.
5. Other conditions of the service will be governed by the relevant Rules and orders in force from time to time.

(Sd/- S.
Chakraborty)

Divisional Engineer Phones

Phone Gauhati

15/6/78

Copy forwarded to:-

1. The G.M.T.N.B Telecom Circle Shillong-793001. for information w.r.t. his letter No. STB.II/R-1/IQ/Ist half/1977 dt. 7.2.78.
2. The A.E.I/C, C.T.T.C. Dharalumukh Gauhati-781009 for information w.r.t. his No. E-101/73-79/7 dt. 14.6.78.
3. to 5. The A.E.Trunk/Auto/S.D.O. Phones Gauhati for information. They will please obtain necessary declaration from the candidates and kept them with their C.R.files.
6. The H.C.Pay Bill Section Divisional office Gauhati.
7. The J.A. Divisional office Gauhati.
8. to 32. Officials concerned.
33. to 56 P/Files of the officials.
57. Spare.

(Sd/- S.
Chakraborty)

Divisional Engineer Phones
Gauhati.

15/6/78

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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Forwarded by

Guwahati Bench
गुवाहाटी न्यायपीठ

Dy. Divisional Engineer Phones
Gauhati-781 001.

ANNEXURE-2

INDIAN TELECOMMUNICATION DEPARTMENT.
Office of the Telecom District Manager, G.N.B.Road, Ambari,
GUWAHATI-781 001.

Memo No. DMT/EST-45/T.O/88-89/50
Dated, Guwahati the 30-12-88.

The following Telephone Operators are hereby confirmed in the cadre with effect from the dates noted against each.

Sl. No.	Name of the officials	Date of confirmation	Remarks
1	2	3	4
1.	Shri Siddhi Ram Das.	01-03-65	Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
2.	Vacant.	-	16 DEC 2009
3.	Vacant.	-	Guwahati Bench गुवाहाटी न्यायालय
4.	Vacant.	-	
5.	Vacant.	-	
6.	Md. Akbar Ali.	01-03-73	
7.	Shri Amulya Rn. Paul.	04-04-73	Absorption.
8.	" Harendra Ch Deb.	11-05-73	Absorption.
9.	Vacant.	-	
10.	Shri Bhupen Pathak.	01-03-81	
11.	Vacant.	-	
12.	Shri Gobinda Raya.	17-12-81	

Note :- Sl.No.1 Against post sanctioned vide P.M.G. Shillong No.FX-4/Est-B/R-4/69 dated 3-1-69 with effect from 1-3-65.

Sl.No.2 Against the post of Shri S.P. Mitra who confirmed as LSG Monitor on 1-3-76 (As per N/S 25 of old file the date of confirmation will be 3-11-76)

Sl.No.3 Against 13 posts sanctioned vide G.M.T. Shillong No.Est.B-R/4-GH(P)/11 dated 3-6-77 with effect from 1-3-77.

Sl.No.4-9 Against 11 posts sanctioned vide G.M.T. Shillong No.Est.B/R-4/GH(P)/III dated 3-4-79 with effect from 1-3-78.

Attested

H.N.

Advocate.

Rukminder
22/11/2011

Cont'd.....2

- १२४ खंडन -

-(2)-

Sl. No. 10-12 Against posts sanctioned vide D.M.T.GH
No. DMT/Est-357 dated 6-3-32 with effect from
1-3-31.

St/- S.K.Chatterjee,
Divisional Engineer(Ptg)
o/o Telecom District Manager,
GUWAHATI-1.

Copy forwarded for information and necessary action to :-

1. The Chief General Manager, Assam Telecom Circle, Guwahati.
2. The Divisional Engineer Phones(Internal), Guwahati.
3. The Divisional Engineer Phones(External), Guwahati.
4. The A.E. Trunks, Guwahati.
5. The A.E. (Auto), Guwahati.
6. The A.E. (M/C), Guwahati.
7. to 12 Officials concerned.
8. 13 to 18 Personal file of the officials.
19. O/C.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक स्वाक्षरालय

16 DEC 2009

Guwahati Bench
गुवाहाटी न्यायालय

Divisional Engineer (P&A)

o/o Telecom District Manager,
GUWAHATI.

06005-

GOVT. OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM. DISTRICT MANAGER : KAMRUP
TELECOM. DISTRICT: GUWAHATI-781007.

Mem No. TDM/EST-X 349/UTBP/94 Dated at Guwahati the 4th January '95.

In pursuance of the Chief General Manager Telecom, Assam Circle, Guwahati Memo No. STES-Q 9/3/pt-11/3 dtd. 26-12-94. The Telecom. District Manager Guwahati is pleased to promote the following ~~employees~~ TOA (P) ~~employees~~ on completion of 16 years of service in the scale of pay Rs. 1400-40-1800-EB-50-2300/-P.M. plus other usual allowance.

The promotion takes effect from the date shown against the name of ~~the~~ the officials.

SL. No.	Name of the Officials	Community	Working unit	Date of effect
1.	Shri Nandan Mohan Talukdar	SC	SDE, S/C, G.Y.	15-06-94.
2.	Shri Subhash Ranjan Dutta	OC	- - do - -	15-06-94.
3.	Mrs Aparna Das	OC	SDE, E-10-3, Adabari.	15-06-94.
4.	Shri Sibu Ranjan Neog	OC	SDE, F/C, G.Y.	15-06-94.
5.	Shri Govinda Rava	ST	- - do - -	15-06-94.
6.	Shri Sudhir Ch. Das	SC	- - do - -	01-12-94.
7.	Shri Pranciswar Bhattacharjee	OC	SDE, TK, G.Y.	01-12-94.
8.	Shri Prabhat Ch. Dawkha	OC	- - do - -	01-12-94.
9.	Shri Gautam Kanta Parashuram	OC	SDE, F/C, G.Y.	01-12-94.
10.	Shri Ayub Ali	OC	SDE, TK, G.Y.	01-12-94.
11.	Shri Pradip Kr. Bhagabati	OC	- - do - -	01-12-94.
12.	Shri J.N. Dasumetary	ST	S.E., Alap/Bir/Btce/ Bt/V.G.Y.	01-12-94.
13.	Mrs Jaymati Patowary (Saikia)	OC	- - do - -	01-12-94.
14.	Shri Gajendra Bora	ST	- - do - -	30-11-94.

Pay of the officials will be fixed as per ER - 22 (1) (a)

(i)


Divisional Engineer (P&A)

Office of the Telecom District Manager
Guwahati-781007.

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
16 DEC 2000
Guwahati Bench

Attested



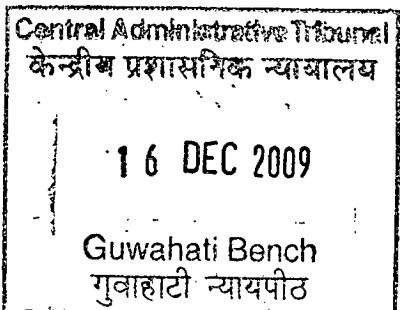
Advocate

(2)

Copy to:-

- 1) The Chief General Manager Telecom, Assam Circle, Guwahati for favour of information w.r. to his letter No. cited above.
- 2) Divisional Engineer E-10-3/ Guwahati.
- 3-6) Sub-Divisional Engineer/FC/Guwahati, SDE Trunk, SDE E-10-3, Adabari, SDE/Admn O/c Director Atcc/STR/EM-3.
- 7-8) Accounts Officer(Cash), Scc, SS Pay Bill O/c T.M./GSM.
- 9-23) Official-Concerned.
- 24-33) Service Book/ Personal File.
- 54) Fixation File.
- 55) Office Copy.
- 56) Spare Copy.

Guwahati
Sub-Divisional Engineer(Admn)
Office of the Telecom District Manager
Guwahati-781007.



Guwahati Branch
गुवाहाटी स्थायी पीठ

ANNEXURE - 4

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM DISTRICT MANAGER : KAMRUP TELECOM DISTRICT : ULUBARI : : GUWAHATI - 781007 .

Memo No. TDM/EST-282/JS, JSO/94-95/77
Dated at Guwahati, the 21-03-95 .

Consequent on promotion as Telephone Supervisor on completion of 16 years of Service vide this office Memo No. TDM/EST-349/UTBP/64 Dated 4-1-95, the Pay of the following T.O.A(P) officials have been fixed in the scale of Pay of Rs.1400-40-1800-EB-50-2300/-, under F.R.22(I)(a)(i), as shown below, if not otherwise affected .

Sl. No.	Name of the T.O.A(P) Officials	Date of promotion as Telephone Supervisor	Pay in the existing scale	Normal date of Incrt. in the existing promotion	Pay fixed in Higher scale on the date of promotion (i.e. in scale Rs.975-25-1150-EB-30-1660/-)	Pay fixed in Higher scale on the date of promotion (i.e. in scale Rs.1400/- to Rs.2300/-)	D. N. I.
1.	Shri Madan Mohan Talukdar	15-06-94	Rs.1420/-	1-6-94	Rs.1480/-	1-6-95	
2.	.. Subhash Ranjan Dutta	- do -	Rs.1420/-	1-6-94	Rs.1480/-	- do -	
3.	Mrs. Aparna Das	- do -	Rs.1420/-	1-6-94	Rs.1480/-	- do -	
4.	Shri Sibu Ranjan Nag	- do -	Rs.1420/-	1-6-94	Rs.1480/-	- do -	
5.	Govinda Rava	- do -	Rs.1420/-	1-6-94	Rs.1480/-	- do -	
6.	Sudhir Ch. Das	01-12-94	Rs.1420/-	1-12-94	Rs.1480/-	1-12-95	
7.	Praneshwar Bhattacharjee	- do -	Rs.1420/-	1-12-94	Rs.1480/-	- do -	
8.	Prabhat Ch. Dawka	- do -	Rs.1420/-	1-12-94	Rs.1480/-	- do -	
9.	Gautam Kanta Baruah	- do -	Rs.1390/-	1-5-94	Rs.1440/-	- do -	
10.	Md. Ayub Ali	- do -	Rs.1390/-	1-12-94	Rs.1440/-	- do -	
11.	Shri Pradip Kr. Bhagabati	- do -	Rs.1420/-	1-12-94	Rs.1480/-	- do -	
12.	J. N. Basumatary	- do -	Rs.1420/-	1-12-94	Rs.1480/-	- do -	
13.	Mrs. Joymati Patowary (Saikia)	- do -	Rs.1420/-	1-12-94	Rs.1480/-	- do -	

Attested

H. Advocate

(Contd. at Page-2)

17/3/95
Accounts Officer (Cash) -
Office of the Telecom District Manager, GUWAHATI-1.

Page - 2

Copy forwarded to :-

- 1) The S.S.S.(Paybill) & O/O the TDM/GH for information and necessary action .
- 2) ~~S.A.O.(Misc.)~~ necessary action .
- 3-15) Officials concerned [Shri Jyobinda Rani, Td. Supr, of the SOE(F/c),
Guwahati]
- 16-28) Service Book of the officials .
- 29-41) Personal file of the officials .
- 42) File : TDM/EST-349/UTBP .
- 43) Office copy .
- 44) Spare .

H. Chaurasia 22/3/55
Accounts Officer (Cash),
Office of the Telecom District Manager,
Kamrup Telecom District,
G U W A H A T I - 781007.

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
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Biennial Cadre Review

DOT No. 27-4/87-TE/II dt. 16-10-90

For some time past the Staff unions have been pressing for acceptance of their demand for Second Time Bound promotion on completion of 26 years of service in the basic grade. After careful consideration, it was decided that this concept is not acceptable.

2. However, with a view to provide relief from stagnation in the grade, Government have accepted the need for a biennial cadre review i.e. (once in two years) under which posts could be upgraded on the basis of functional justification.

Instructons

The following instructions are accordingly issued:—

Eligibility

(i) Biennial cadre reviews will be applicable for only those cadres in Groups C and D for which scheme of 'One Time Bound Promotion' on completion of 16 years of service in the basic grade is already in existence.

(ii) This Scheme of 'Biennial Cadre Review' will be applicable only to those regular employees who were in service as on 1.1.90 and not later entrants.

(iii) Biennial Cadre Reviews will be conducted in respect of the eligible cadres at the level of circles who control these cadres.

Functional Justification

(iv) At the time of Review the number of officials who have completed/will be completing 26 years of service in the basic grades (including time spent in higher scales [OTPB]) will be ascertained. The persons will be screened by the duly constituted Review Committee to assess the performance and determine their suitability for advancement.

(v) In the Biennial Reviews, suitable number of posts will be created by upgradation based on functional justification.

Scales of Pay

(vi) Creation of posts by upgradation will be in the scales indicated below:—

Basic scale of the cadre	Scale after OTBP after 16 years of service in basic grade.	Scale after Biennial cadre Review on completion of 26 years or more
--------------------------	--	---

750-940	800-1150	950-1400
825-1200	950-1400	1200-1800
975-1540	1320-2040	1400-2600
975-1660	1400-2300	1600-2660

[10% of the posts in the pay scales of Rs. 1600-2660 will be in the pay scale of Rs. 2000-3200]

1320-2040	1400-2600
-----------	-----------

1640-2900
[10% of the posts in the pay scales of Rs. 1640-2900 will be in the pay scale of Rs. 2000-3200]

(vii) Pay of the Officials after Biennial Cadre Reviews will be fixed under the provisions of FR 22-C, as amended from time to time.

Promotion

(viii) Necessary posts will be created by upgradation under the powers of CGMs in consultation with their accredited finance.

(ix) The first Biennial Cadre Review for eligible officials may be conducted immediately covering the period upto 30-6-92 to ascertain the eligible officials who have completed/will be completing 26 years of service or more as on the crucial dates namely, the date of the review, 1-1-91, 1-7-91 and 1-1-92. The number of posts needed to provide for the promotion of the eligible persons and be determined and will be sanctioned/activated in 4 instalments, the first immediately, the second on 1-1-91, the third on 1-7-91 and the fourth on 1-1-92. With these posts, it should be possible to provide for promotion of those employees who have completed 26 years of service or more on the above crucial dates, subject to their otherwise being found fit. The criterion for promotion will be seniority, subject to selection.

Orders implementing the first instalment of cadre review should be issued before 30-11-90.

ANNEXURE - 5

Central Administrative T
केन्द्रीय प्रशासनिक व्यवस्था

16. DEC 2000

Guwahati Bench
गुवाहाटी न्यायालय

Arrested

Hab

Advocate

6:

65

Basic scale of the cadre	Scale after OTBP after 16 years of service in basic grade.	Scale after Biennial cadre Review on com- pletion of 26 years or more
-----------------------------	---	---

750-940	800-1150	950-1400
825-1200	950-1400	1200-1800
975-1540	1320-2040	1400-2600
975-1660	1400-2300	1600-2660

[10% of the posts in
the pay scales of
Rs. 1600-2660 will
be in the pay scale
of Rs. 2000-3200]

1320-2040	1400-2600
-----------	-----------

[10% of the posts in
the pay scales of
Rs. 1640-2900 will
be in the pay scale
of Rs. 2000-3200]

(vii) Pay of the Officials after Biennial Cadre Reviews will be fixed under the provisions of FR 22-C, as amended from time to time.

Promotion

(viii) Necessary posts will be created by upgradation under of powers of CGMs in consultation with their accredited finance.

(ix) The first Biennial Cadre Review for eligible officials may be conducted immediately covering the period upto 30-6-92 to ascertain the eligible officials who have completed/will be completing 26 years of service or more as on the crucial dates namely, the date of the review, 1-1-91, 1-7-91 and 1-1-92. The number of posts needed to provide for the promotion of the eligible persons and be determined and will be sanctioned/activated in 4 instalments, the first immediately, the second on 1-1-91, the third on 1-7-91 and the fourth on 1-1-92. With these posts, it should be possible to provide for promotion of those employees who have completed 26 years of service or more on the above crucial dates, subject to their otherwise being found fit. The criterion for promotion will be seniority, subject to selection.

Orders implementing the first instalment of cadre review should be issued before 30-11-90.

• (IV) (Rs. 2000-3200) Against 10%
BCR SC/ST Reservation

2-6/94-TE-II

Dated. 22.08.1997

refer to this office letter of even number dated in the above subject wherein it was clarified that rules of reservation would apply to promotion IV.

the CAT, Ahmedabad, vide its judgement dated in O.A. No. 623/96 with MA/660/96 has passed that reservation roster will not apply in this case. An order is enclosed herewith.

ingly, you are hereby directed to follow these orders for promotion to Grade IV with effect from 11.4.1997, to be however, subject to the outcome of writ petition filed in the Gujarat High Court against CAT orders. This may be treated as Most Urgent.

Grade - IV Not time bound

4-TE-II

Dated : 01.03.1996

referred to in your office letter No. STA-II/16-SS/96/27 dated 25.1.96 on the subject noted points raised therein are clarified as under in

As clearly stated in para 3 of this office letter 4-TE-II dated 13.12.95, promotions to Grade IV given from amongst officials in Gr. III on the basis of seniority in the basic grade subject to fulfilment of other conditions. The point regarding basic cadre/transfer has been clarified vide this office letter No. 22-6/17.1.96.

The seniority order in Gr.I of the respective cadre allowed for the purpose of regulating promotion to Grade IV. Seniority of Rule 38 transferees and those qualifying type test/confirmation test etc. should be determined as per the relevant orders on seniority, whichever cases. If there is any doubt regarding the same to be observed in the matter of seniority fixing the Grade I of the respective basic cadre, the point

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in Grade-III on the basis of their seniority in the basic Grade. The promotions would be subject to fitness determined by the DPC as usual.

The cases of promotion to the said Grade -IV in the scale of Rs. 2000-3200 against 10% posts under the BCR scheme may be reviewed and the same may be regulated accordingly restricting the number of officials thus promoted strictly to 10% of the posts placed in Grade-III (Scale of Rs. 1600-2600) as provided in the BCR Scheme.

Gr.IV - officials Restructured

DOT No. 27-4-/87-TE-II(Pt.) Dated 16-6-1997

I am directed to refer to this office letter of NO. 27-4/87-TE-II(Pt.) dated 22nd October, 1993 under which permission was granted to allow BCR of the basic grade to the officials who have moved to the Restructured Cadre and opted for OTBP of the basic grade. At the time it was clarified that such officials will have no claim for 10% posts in the pay scale of Rs. 2000-3200 in the basic grade.

2. The question of allowing 10% BCR (Grade - IV) of the basic grade to such officials has been under consideration of the Government for quite some time. The basis for such consideration has been that the staff in the Restructured Cadre should not be at a disadvantage compared to their counter-part in the basic grade.

3. The matter has been examined and I am directed to say that it has now been decided to allow 10% BCR scale of Rs. 2000-3200 (Grade-IV) also to the staff working in the Restructured Cadre. The benefit will be given to the staff in the Restructured Cadre from the date their juniors in the old cadre have been given this benefit as per seniority in the basic grade of the old cadre.

4. This issues with the concurrence of Finance Advice vide U.O. No. 1518/FA-I/97 dated 12-6-1997.

Grade (IV) (Rs. 2000-3200) Against 10% BCR SC/ST Reservation

DOT No. 22-6/94-TE-II

Dated. 22.08.1997

Kindly refer to this office letter of even number dated 1.3.1996 on the above subject wherein it was clarified that the normal rules of reservation would apply to promotion in Gr. IV.

Hon'ble CAT, Ahmedabad, vide its judgement dated 11.4.1997 in O.A. No. 623/96 with MA/660/96 has passed and order that reservation roster will not apply in this case. A copy of the order is enclosed herewith.

Accordingly, you are hereby directed to follow these orders for any promotion to Grade IV with effect from 11.4.1997.

This will be however, subject to the outcome of writ petition being filed in the Gujrat High Court against CAT orders.

This may be treated as Most Urgent.

Grade - IV Not time bound

DOT No. 22-6/94-TE-II

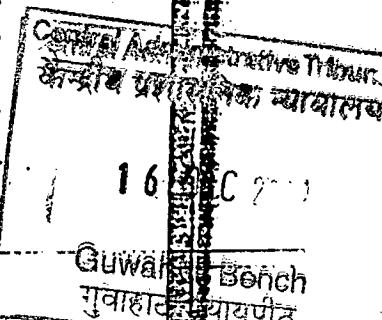
Dated : 01.03.1996

I am directed to refer to your office letter No. STA-II/16-6/Pnun/CSS/96/27 dated 25.1.96 on the subject noted above. The points raised therein are clarified as under in serialism:-

(1) yes.

(2&3) : As clearly stated in para 3 of this office letter No. 22-6/94-TE-II dated 13.12.95, promotions to Grade-IV would be given from amongst officials in Gr. III on the basis of their seniority in the basic grade subject to fulfilment of other conditions. The point regarding basic cadre/ grade has been clarified vide this office letter No. 22-6/94-TE.II dated 17.1.96.

(4&5) : The seniority order in Gr.I of the respective cadre has to be followed for the purpose of regulating promotions to Gr. IV. Seniority of Rule 38 transferees and those failing in qualifying type test/confirmation test etc. should be determined as per the relevant orders on seniority fixation in such cases. If there is any doubt regarding the procedure to be observed in the matter of seniority fixation in the Grade I of the respective basic cadre, the point



(1) (2)

BHARAT SANCHAR NIGAM LIMITED
(A Govt. Of India Enterprise)
OFFICE OF THE GENERAL MANAGER (BSNL)
KAMRUP TELECOM DISTRICT :: GUWAHATI-781007.

Memo No. GMT/Bsl 382/STS/CTS(P)/03-04/176
Dated at Guwahati the 20th Nov. 2009.

In accordance with the DOT/ND No 274/TF (P) Dtd 22-10-93, the General Manager (BSNL) Kamrup Telecom District Guwahati is pleased to grant the STBP grade to the following Sr.TOA(P) under BCR scheme in the IDA scale of Rs. 7800-22S-11175 P.M as per DOT/ND Order No. 1-38/MPP-98 Dtd 20-04-99 on completion of 26 years of service in basic cadre including pre-restructured cadre as per option received for the grade with effect from 01-07-11, if not otherwise affected.

The pay of the officials will be fixed under FR 22 (1)(a)(i). (provisionally)

The officials may exercise option for fixation of pay in the higher scale within one month from the date of issue of this order.

Sl. No.	Names	Design.	Emp. No.	Cast	Present place of posting.
01	Sri Subhash Rn Dura	Sr TOA(P)	3489	OC	SDE F/C
02	Mrs Aparna Das	do-	3099	OC	RLU Adabari
03	Sri Ram Kr Bhattacharyya	do-	3151	OC	RLU Silpukhuri
04	Sri Sibu Rn. Nag	do-	3190	OC	SDE M/C
05	Sri Gobinda Rabha	do-	3073	ST	SDE F/C

Sd/-

(K.K.Das)

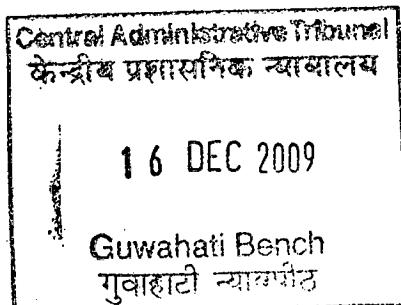
Divisional Engineer (Admin.)

Copy to :-

01. The CGM(BSNL) Assam Circle, GH-7, for favour of information.
 02-05. The SDE (F/C)/RLU Adabari /RLU Silpukhuri / M/C.
 06. The Sr. A.O (Cash), O/o the GM(BSNL), KTD GH-7
 07. The CSS (Pay Bill), O/o the GM(BSNL) KTD GH-7
 ✓ 08-12. The Official Concerned. *Sri Golendra Rabha SDE (F/C)*
 13-22. The service book /Personal file of the officials.
 23. S-7.
 24. Spare.

Attest:

H. Das
Advocate



H. Das
For GM(BSNL), KTD/GH-7.
14.11.09

22

BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)
OFFICE OF THE GENERAL MANAGER (BSNL) :: KAMRUP TELECOM DISTRICT, GUWAHATI-781007

No. GMT/EST282/Sr.TOA(P)/04-05/81
Dated at Guwahati, the 10-12-2004.

Consequent on granting of BCR, OVBP / STBP / Grade on purely temporary and adhoc / regular basis vide this office Memo No GMT/BST-382/STS/CTS (P)/03-04/176
Dtd - 7-11-2004. the pay of the following official / officials has / have been fixed in the scale of Rs. 7800-225-11175/- under FR-22 (1) (a) (1)
Provisionally as shown below, if not otherwise affected.

Sl. No.	Name of the Official & Designation	Date of Appointment / assumption of Charge	Pay in the existing scale on the date of Appointment / assumption of charge	Normal date of increment in the existing scale	Pay fixed in the higher scale Rs. 7800-225-11175/-		DNI
					On the date of Appit / assumption of charge	On option	
1.	Shri Ram Kumar Bhattacherjee, O/O the SDE/RLU-SII Pukhuri, Guwahati.E/No.3151.	1.7.2004	8700	1.5.2004	8925/-Fixed	-	1.7.2005
2.	Shri Sibu Ram Nag, O/O the SDE.M/C.Guwahati.E/No.3190.	1.7.2004	8700	1.5.2004	8925/-Fixed	-	1.7.2005
3.	Mrs. Aparna Das, O/O the SDE. R.U-Adabari.S/No.3099.	1.7.2004	8700	1.5.2004	8925/-Fixed	-	1.7.2005
4.	Shri Subhash Ran.Dutta, O/O the SDE.F/C, Guwahati.E/No.3189	1.7.2004	8700	1.5.2004	8925/-Fixed	-	1.7.2005
5.	Shri Gobinda Rabha, O/O the SDE.F/C.Guwahati.E/No.3073.	1.7.2004	8700	1.5.2004	8925/-Fixed	-	1.7.2005

Sr. Accounts Officer(Cash),
O/O the GMT/KTD.Guwahati-7.

Contd. 2

Attested

H. H.
Advocate

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

16 DEC 2009

-2-

Copy to:- 1. Sr. A.O (Cash) | 0/0 the GMT/KTD.Guahati for information and N/A.

2. CSS. Pay bill.

3-6. Officials concerned.

7-10. Service Books of the officials.

11-14. Personal Files of the officials.

15-16. Spare.

Sr. Accounts Officer (Cash)
0/0 the GMT/KTD.Guahati-7.

-000-

Central Administration Tribun
केन्द्रीय विधायिक न्यायालय

16 DEC 2011

Guwahati Bench
गुवाहाटी न्यायपीठ

Government of India
Ministry of Communication
Department of Telecommunication
Sancha Bhawan, 20, Ashoka Road
New Delhi-110001

10.27-4/87-TE-II (Pt.)

Dated: 16.6.1997.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

16.6.97
All Heads of Telecom Circles/
Metro Districts/Maintenance Regions/
Project Circles and All Heads of
other Administrative Offices.

Subject: Eligibility of the staff working in Restructured Cadre to Grade IV (10% BCR) of the basic cadre.

16 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

I am directed to refer to this office letter of No.27-4/87-TE-II(Pt.) dated 22nd October, 1993 under which permission was granted to allow BCR of the basic grade to the officials who have moved to the Restructured Cadre and opted for OJBR of the basic grade. At that time it was clarified that such officials will have no claim for 10% posts in the pay scale of Rs.2000-3200 in the basic grade.

The question of allowing 10% BCR (Grade IV) of the basic grade to such officials has been under consideration of the Government for quite some time. The basis for such consideration has been that the staff in the Restructured Cadre should not be at a disadvantage compared to their counter-part in the basic grade.

The matter has been examined and I am directed to say that it has now been decided to allow 10% BCR scale of Rs.2000-3200 (Grade IV) ~~10% to~~ to the staff working in the restructured Cadre. This benefit will be given to the staff in the Restructured Cadre from the date their juniors in the old cadre have been given this benefit ~~as per seniority~~ in the basic grade of the old cadre.

This issues with the concurrence of Finance Advice vide U.O. No.1518/FA-I/97 dated 12.6.1997.

(P.S. DHILLON)
DIRECTOR (TE)

Copy to:

All Officers of the rank of DDGs and above.
Dir.(FA.I)/(ST.I)/(ST.II)/(SR).
All recognised Unions/Associations/Federations.
Secretary, Staff Side, Departmental JCM.
Guard File.

(A.K. DAS)
Section Officer (TE-II)

Attester

H.N.

Advocate

(2)
11/11

B.P.M.
11/11

11/11

ADT/9
11/11
12/11

ANNEX - 10

भारत संचार

Bharat Sanchar Nigam Limited

A Government of India Undertaking

No. 252-23/99-ST/NT/EP/11

Dated: 31.5.2007

Central Admin.

केंद्रीय प्रशासन

16

DEO

Guwahati Bench

गुवाहाटी न्यायालय

To
The Chief General Manager,
Bharat Sanchar Nigam Limited,
Assam Telecom Circle,
Guwahati.

(Kind Attn: Shri S.C.Otha, DGM (Admin))

Sub: Promotion from BCR Grade III to BCR Grade IV—Classification
regarding.

I am directed to refer to your office letter No. STES-5/29/PH-IV/148 dated 11.5.2007 on the above mentioned subject and to clarify that "Basic grade seniority is the criterion for promotion from BCR Gr-III to BCR Grade IV. The basic grade seniority is restricted to a particular Gradation list and not to a group of Gradation lists. An official, on his/her transfer from one Division/SSA/Circle to another Division/SSA/Circle shall lose his seniority of the parent unit and shall be placed junior-most in the new Gradation list of the new unit. His/her seniority for the purpose of BCR Grade IV shall be reckoned from the date of joining in the new place of posting consequent upon his/her transfer under Rule 38 of P&T Manual Vol. IV.

P1. escalator
to all SS/BS
and O/o/o
recognition staff

2/6

RATENGER PRASAD
ASSTT. DIRECTOR GENERAL (PERS-10)
TEL: 23310401 FAX: 23723255

Tested

Date

Advocate

Regd. Office : 10th Floor, Statesman House, D-148, Barakhamba Road, New Delhi - 110 001
Corporate Office : Statesman House, D-148, Barakhamba Road, New Delhi - 110 001
Website : www.bsnl

K/5

Amal

Rajesh

2/6

BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)
OFFICE OF THE MANAGER (BSNL)
KAMRUP TELECOM DISTRICT :: GUWAHATI-781007

No. GMT/EST-282/Sr.TOA(P)/05-06/204

Dated at Guwahati, the 27-06-2005

In accordance with DOT/ND letter No. 27-4/87-TE-II (Pt.) dated 16.06.1997 conveyed vide CGMT, Guwahati letter No. STES-35/2Pt.-I/114 dtd. 30.08.1997 the General Manager (BSNL) Kamrup Telecom District, Guwahati is pleased to grant 10% BCR grade (Grade-IV) in the IDA Scale of Rs. 8570-245-12,245/- P.M. to the following Sr. TOA(P) w.e.f. 01-07-2005 i.e. from the date of their juniors have been given this benefit as per seniority in the basic of the old cadre.

Pay of the officials may be fixed under FR-22(1) (a) (1).

SI. No.	Name of Official	Designation	Working Unit	Remarks
1.	Shri Ramesh Ch. Kalita	Sr. TOA (P)	DGM (ETR)	Retiring on 28/02/06
2.	Shri Mahesh Ch. Das	Sr. TOA (P)	DE(OCB) Panbazar	Retiring on 31/03/06
3.	Shri K.P. Choudhury	Sr. TOA (P)	SDE/ Trunk	
4.	Shri Subhash II	Sr. TOA (P)	SDE (OCB) Dispur	
5.	Shri Girish Ch. Kalita	Sr. TOA (P)	SDE(E-10B) Adabari	Retiring on 28/02/06
6.	Md. Siddique Ali	Sr. TOA (P)	SDE M/C Panbazar	
7.	Shri Sasadhar Sarma	Sr. TOA (P)	SDOP-IV Dispur	
8.	Shri Manik Ch. Deka	Sr. TOA (P)	SDE/ Trunk	
9.	Shri Gajendra Ch. Rai Medhi	Sr. TOA (P)	SDOP/ Rangia	
10.	Shri Mahendra Ch. Kalita	Sr. TOA (P)	SDE / Trunk	
11.	Shri Golap Ch. Kalita	Sr. TOA (P)	DE(NS) Panbazar	
12.	Shri K.N. Bhagawali	Sr. TOA (P)	SDE/ Int. Silpukhuri	
13.	Shri Sailendra Ch. Das	Sr. TOA (P)	SDE/ Bijoynagar	
14.	Shri Phanidhar Kalita	Sr. TOA (P)	AO (Cash) GMT/GH	Retired on 31/12/05
15.	Shri Chaya Ram Rava	Sr. TOA (P)	DE(NS) Panbazar	
16.	Shri Bankim Brahma	Sr. TOA (P)	SDE (WLL)	Expired on 09/07/05
17.	Shri Debasish Maitra	Sr. TOA (P)	SDE (M/C) Panbazar	
18.	Shri Dulal Ch. Bora	Sr. TOA (P)	SDE / Mobile	
19.	Shri Bhupen Ch. Palguri	Sr. TOA (P)	SDE (M/C) Panbazar	
20.	Shri Munendra Borgohain	Sr. TOA (P)	SDE (Genl.) GMT/ GH	

Attested

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Advocate

16 DEC 2009

Guwahati
Assam
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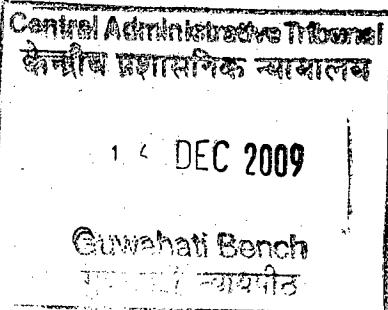
Sl. No.	Name of Official	Designation	Working Unit	Remarks
21.	Shri Sarbeswar Sarina	Sr. TOA (P)	AO (Cash) GMT/ GH-7	
22.	Shri Rupen Kr. Choudhury	Sr. TOA (P)	SDE/ Trunk	
23.	Shri Swapan Kr. Basumatary	Sr. TOA (P)	CAO (Computer) TR	
24.	Mrs. Gita Rani Dey	Sr. TOA (P)	SDE / Trunk	
25.	Shri J.N. Barman	Sr. TOA (P)	SDE (Int.) Panbazar Xgo	
26.	Mrs. Nirmali Basumatary	Sr. TOA (P)	SDE/ Kalapahar RSU	
27.	Shri M.M. Talukdar	Sr. TOA (P)	DE (CTO) Panbazar	
28.	Shri Subhash Rn. Dutta	Sr. TOA (P)	SDE (M/C) Panbazar	
29.	Mrs. Aparna Das	Sr. TOA (P)	SDE (E-10B) Adabari	
30.	Shri Ram Kr. Bhattacharjee	Sr. TOA (P)	SDE (Int.) Silpukhuri	
31.	Shri Sibu Ranjan Nag	Sr. TOA (P)	SDE (M/C) Panbazar	
32.	Shri Gobinda Rava	Sr. TOA (P)	SDE (M/C) Panbazar	

The officials may exercise option for fixation of their pay in the higher scale within a month from the date of issuing this order.

(T. Ahmed)
Sub-Divisional Engineer (Admn.)

Copy to :

1. The CGM (BSNL), Assam Circle, Guwahati-07
2. The DGM (Mice.) ETR, Silpukhuri, Guwahati-03
- 3 - 5. The DE (OCB) Panbazar/ NS, Panbazar/ CTO, Panbazar
6. The CAO (Computer) TR, CTO Bldg. Panbazar
- 7 - 18. The SDE Trk./ OCB Dispur/ E-10B Adabari/ (M/C)/ SDE
Bijoynagar/ Internal Silpukhuri/ WLL Panbazar/ Mobile-I/ Mobile-II/
Genl. O/o the GMT/ GH/ Internal Panbazar/ RSU Kalapahar
SDOP-IV Dispur/ Rangia
- 19 - 20. AO (Cash) O/o the GMT/ GH
21. The CSS (Paybill) O/o the GMT/ GH
22. The official concerned.
- 23 - 54. The Service Book/ Personal File of the official
- 54 - 118. The pension Cell O/o the GMT/GH for review of the pension benefit
etc. in respect of the officials at Sl. (5), (14) & (16).
119. E-3/S-7/Spl. Cell/ Spare.
- 120 - 123. E-3/S-7/Spl. Cell/ Spare.



For GM (BSNL), KTD/ GH

BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)
OFFICE OF THE GENERAL MANAGER
KAMRUP TELECOM DISTRICT PANBAZAR, GUWAHATI-781001

Memo No. GMT/EST-382/Gr-IV/Sr.TOA(P)-STS (Loose)/Part-I/2007-08/24
Dated at Guwahati the 28th August, 2007.

The General Manager (BSNL), Kamrup Telecom District, Guwahati is pleased to revise the effect date of granting 10% BCR Grade (Grade-IV) in partial modification of this office earlier Memo No. as indicated in "remarks" against the officials at Sl. No. 01 to 15 and 35 to 39 and to grant 10% BCR Grade (Grade-IV) to the officials at Sl. No. 16 to 34 and 40 to 49 in the IDA scale of pay of Rs. 8570-245-12,245/- p.m. with effect the date mentioned against them i.e. from the date of their juniors (Sri Akhil Chandra Bhattacharjee, Sri Rajendra Prasad Boro, Sri Umesh Chandra Das and Mrs. Jaymati Patowary) have been given this benefit as per seniority in the basic grade of the old cadre, on-purely temporary and ad-hoc basis until further order.

Pay of the officials will be fixed under F.R. 22 (I) (a) (I).

This granting of 10% BCR Grade (Grade-IV) is purely temporary and ad-hoc and does not bestow upon the officials any claim for regular absorption in the grade. This ad-hoc promotion is liable to terminated at any time without assigning any reason thereof.

Sl. No.	Name, Designation and Emp. No.	W.E.F.	Remarks	Working Unit
1.	Sri K.P. Choudhury, Sr. TOA (P), Emp. No. 3080	01.07.2002	In partial modification of this office earlier Memo No. GMT/EST -382/ STS. CTS(P)/05-06/204, dated 27.02.06 in which his effect date was shown as 01.07.05 is now revised and advanced to 01.07.02.	SDE (Trunk), Panbazar
2.	Sri Subhas Chandra Das (H), Sr. TOA (P), Grade-IV, Emp. No. 3166	01.07.2002	-do-	SDE (OCB), Dispur
3.	Md. Siddique Ali, Sr. TOA (P), Gr-IV, Emp. No. 3055	01.01.2003	In partial modification of this office earlier Memo No. GMT/EST -382/ STS. CTS(P)/05-06/204, dated 27.02.06 in which his effect date was shown as 01.07.05 is now revised and advanced to 01.07.03.	SDE (M/C), Panbazar

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Attested

Advocate

4.	Sri Manik Chandra Deka, Sr. TOA (P), Gr-IV, Emp. No. 3122	01.01.2003	-do-	SDE (Trunk), Panbazar
5.	Sri Chinya Ram Rabha, Sr. TOA (P), Gr-IV, Emp. No. 3057		-do-	DE (NS), Panbazar
6.	Sri Debasish Moltra, Sr. TOA(P), Gr-IV, Emp. No. 3057		-do-	DE (Plg.), KTD/GH
7.	Sri Dulal Chandra Bora, Sr. TOA(P), Gr-IV, Emp. No.3023.		-do-	SDE (Mobile), Panbazar
8.	Sri Bhupen Chandra Patigiri Sr. TOA(P), Gr-IV, Emp. No.3086.		-do-	SDOP (C-II), Ambari
9.	Sri Munindra Borgohain, Sr. TOA(P), Gr-IV, Emp. No.3124.		-do-	A.O. (Cash), KTD, GH-1
10.	Sri Sarbeswar Sarma, Sr. TOA(P), Gr-IV, Emp. No.3114.		-do-	SDE (CSC), Ulubari
11.	Sri Rupen Kumar Choudhury Sr. TOA(P), Gr-IV, Emp. No.3184		-do-	SDE (Trunk), Panbazar
12.	Sri Swapan Kumar Basumatary, Sr. TOA(P), Gr-IV, Emp. No.3184.		-do-	Sr. A.O. (TR Comp.), CTO, Panbazar
13.	Sri J.N. Barman, Sr. TOA(P), Gr-IV, Emp. No.3078.	01.07.2003	In partial modification of this office earlier Memo No: GMT/EST -382/ STS, CTS(P)/05-06/204, dated 27.02.06 in which his effect date was shown as 01.07.05 is now revised and advanced to 01.07.03.	SDE (Int.), Panbazar

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14.	Mrs. Nirmal Basumatary, Sr. TOA(P), Gr-IV, Emp. No. 3179.	01.07.2003	-do-	SDE (RSU), Kalapathar
15.	Sri Madan Mohan Talukdar Sr. TOA(P), Gr-IV, Emp. No.3179.	01.07.2003	-do-	DE (CTO), Panbazar.
16.	Sri Hem Ch. Saikia, Sr. TOA(P), Gr-III, Emp. No.3106.	01.07.2003	Nil	Manager, Telecast, Dispur.
17.	Sri Tarun Talukdar, Sr. TOA(P), Gr-III, Emp. No.3202.	01.07.2003	Nil	SDE (OCB-II), Panbazar
18.	Sri Satya Nath Kakoti Sr. TOA(P), Gr-IV, Emp. No.3163	01.07.2003	Nil	SDE (E-10B), Panbazar
19.	Mrs. Aruna Das, Sr. TOA(P), Gr-III, Emp No.3085.	01.07.2003	Nil	SDE (OCB), Dispur.
20.	Sri Bidhan Choudhury Sr. TOA(P), Gr-III, Emp. No.3016.	01.07.2003	Nil	DE (EXT-II), Dispur.
21.	Sri Pradip Kr. Sarania Sr. TOA(P), Gr-IV, Emp. No.3135.	01.07.2003	Nil	SDOP/Kalapathar
22.	Sri Shyamalendu Bhattacharjee, Sr. TOA(P), Gr-III, Emp. No.3104.	01.07.2003	Nil	SDOP/Kalapathar
23.	Sri Mahendra Das, Sr. TOA(P), Gr-III, Emp. No.3126.	01.07.2003	Nil	DE (CTO), Panbazar
24.	Sri Mahendra Ch. Rabha, Sr. TOA(P), Gr-III, Emp. No.3174.	01.07.2003	Nil	SDE (Trunk), Panbazar
25.	Sri Khagendra Nath Deka, Sr. TOA(P), Gr-III, Emp. No.3013.	01.07.2003	Nil	SDE (Trunk), Panbazar

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26.	Sri Trailokya Ch. Das, Sr. TOA(P), Gr-III, Emp. No. 3169.	01.07.2003	Nil	SDE (Mobile), Panbazar
27.	Sri Ugra Kanta Das, Sr. TOA(P), Gr-III, Emp. No. 3172.	01.07.2003	Nil	SDE (Trunk), Panbazar
28.	Mrs. Anjali Dutta, Sr. TOA(P), Gr-III, Emp. No. 3006.	01.07.2003	Nil	SDE(E-10B), Panbazar
29.	Sri Tarun Ch. Medhi, Sr. TOA(P), Gr-III, Emp. No. 3170.	01.07.2003	Nil	SDE (RSU), Kalapahar
30.	Sri Prabodh Ch. Palgini, Sr. TOA(P), Gr-III, Emp. No. 3141.	01.07.2003	Nil	SDE (MC), Panbazar
31.	Sri Amrit Ch. Das, Sr. TOA(P), Gr-III, Emp. No. 3100.	01.07.2003	Nil	SDE (OPN), Borjhar
32.	Mrs. Kamala Das, Sr. TOA(P), Gr-III, Emp. No. 3111.	01.07.2003	Nil	AO (TR) KTD/GH.
33.	Sri Debendra Nath Pathak, Sr. TOA(P), Gr-III, Emp. No. 3071.	01.07.2003	Nil	SDE (MC) Panbazar
34.	Sri Kiran Ch. Kalita, Sr. TOA(P), Gr-III, Emp. No. 3205.	01.07.2003	Nil	SDE (OPN), Borjhar
35.	Sri Subhash Ranjan Dutta, Sr. TOA(P), Gr-IV, Emp. No. 3189.	01.01.2005	In partial modification of this office earlier Memo No. GMT/EST -382/ STS, CTS(P)/05-06/204, dated 27.02.08 in which his effect date was shown as 01.07.05 is now revised and advanced to 01.01.2005.	SDE (MC) Panbazar
36.	Mrs. Arpana Das, Sr. TOA(P), Gr-IV, Emp. No. 3099.	01.01.2005	-do-	SDE (E-10-B), Adabari

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37.	Sri Ram Kumar Bhattacharjee Sr. TOA(P), Gr-IV, Emp. No.3151.	01.01.2005	-do-	SDE (Int.), Silpukhuri
38.	Sri Sibu Ranjan Nag, Sr. TOA(P), Gr-IV, Emp. No.3190.	01.01.2005	-do-	SDE (MC), Panbazar
39.	Sri Gobinda Rabha, Sr. TOA(P), Gr-IV, Emp. No.3073.	01.01.2005	-do-	SDE (OCB), Dispur
40.	Sri Jogendra Nath Basumatary, Sr. TOA(P), Gr-IV, Emp. No.3223.	01.01.2005	Nil	SDE (E-10-B), Panbazar
41.	Sri Gajendra Boro, Sr. TOA(P), Gr-III, Emp. No.	01.01.2005	Nil	DGM (Mtee)/ETR Silpukhuri
42.	Sri Praneswar Bhattacharjee, Sr. TOA(P), Gr-III, Emp. No. 3137.	01.01.2005	Nil	A.O. (Cash), KTD/GH.
43.	Sri Prabhat Chandra Deka, Sr. TOA(P), Gr-III, Emp. No. 3138.	01.01.2005	Nil	SDE (MC), Panbazar
44.	Sri Gautam Kanta Baruah, Sr. TOA(P), Gr-III, Emp. No. 3074.	01.01.2005	Nil	DE (Mobile), Panbazar
45.	Md. Ayub Ali, Sr. TOA(P), Gr-III, Emp. No. 3005.	01.01.2005	Nil	SDOP (Central-II), Ambari
46.	Sri Pradip Kumar Bhagawali, Sr. TOA(P), Gr-III, Emp. No. 3139.	01.01.2005	Nil	SDE (OCB), Panbazar

Central Administrative Tribunal
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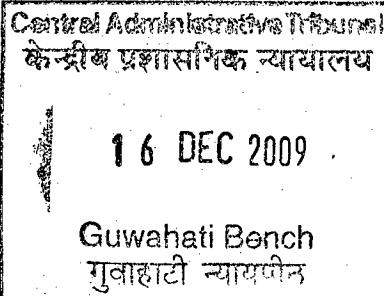
Guwahati Bench
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47.	Sri Rakeswar Boro, Sr. TOA(P), Gr-III, Emp. No. 3153.	01.01.2008	Nil	SDE (OCB), Dispur
48.	Sri Kiran Chandra Rabha, Sr. TOA(P), Gr-III, Emp. No. 3042.	01.01.2008	Nil	SDE (OCB), Panbazar
49.	Sri Ramesh Chandra Deka, Sr. TOA(P), Gr-III, Emp. No. 3154.	01.01.2007	Nil	AMT (U), Panbazar

(C. Dey)
Divisional Engineer (Admn.)

Copy to :-

1. The CGM (BSNL), Assam Telecom Circle, Guwahati-1.
2. The AMT (U), Guwahati-1.
3. The DGM (Mtee), ETR, Silpukhuri, Guwahati-3.
- 4-10. The DE (NS)/Plg/CTO/Extl-II/Mobile/OCB, Panbazar, OCB, Dispur.
- 14-25. The SDE (Trunk)/OCB, Dispur/MC/Mobile/CSC, Ulubari/Int. Panbazar/RSU, Kalapahar/OCB-H, Panbazar/E-10-B, Panbazar/E-10-B, Adaber/Opa. Borjhar/ Int. Silpukhuri.
- 26-38. The A.O. (Cash)/TRC Comp/TRA.
29. The Manager Telemart, Dispur.
30. The CSS (Pay Bill), o/o the GMTD/Kamrup.
- 31-79. Official concern.
- 80-176. Service Book / Personal file of the official.
- 177-180. Spl. Cell/HR Package/S-7/S-4.
181. The District Secretary, BSNL, EU, Kamrup Tele Dist. Panbazar, Guwahati-1.
182. Spare.



For, GM (BSNL), KTD/GH.

Before the Chief General Manager,
Assam Telecom Circle
Panbazar, Guwahati-781001.
Through the Sr A.O.CMTS.
O/o the GM KTD Guwahati 781001
Dated at GH.the... 25/04/08

Sir,

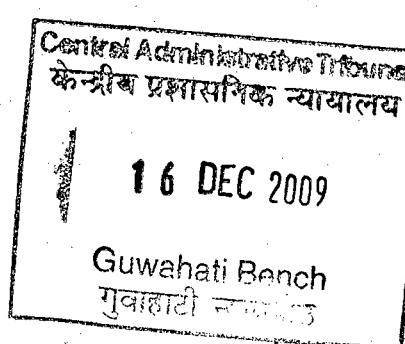
An appeal against the order passed by General Manager KTD promoting the Junior staff who came under Rule 38 from different station vide Memo no GMT/EST-282/gr-iv/Sr TOA (P) STS (Loose) Dtd 28-08-2007. Appellant Gobinda Rabha Sr TOA (P) Gr-iv Emp no 3073.

The appellant most respectfully beg to the following ground against others.

1. That the appellant has been promoted by the General Manager Kamrup Telecom District Guwahati vide his memo no GMT/EST-282/STS, CTS (P)/05-06/204 Dtd 27-02-2006 to 10 % BCR Gr iv in pay scale of Rs 8570-245-12245 along with others considering their seniority in their cadre giving effect to his promotion from 01-07-2005.
2. That subsequently another revised order of promotion was issued vide Memo No GMT/EST-382/Gr-iv Sr TOA (P) STS (Loose) Dtd 28-08-2008 in the scale of Rs 8570-245-12,245 under FR-22 (1) (a) (1) Part 1/2007-08/24 dtd 28 August 2007 granting another 17 nos of junior staff who came to this District under Rule 38 from different station for their own benefit loosing their seniority. In granting the subsequent promotion to the junior staff under Rule 38 the names of senior staff who has been granted promotion considering their seniority of the station has also been included .
3. That the subsequent order of promotion was made purely on temporary Adhog basis which can be terminated at any time without assigning any reason.
4. That in the revised promotion order the salary was reduced and their promotion was made purely temporary.

Attested

Advocate



P. 11.9

5. That the subsequent order of promotion to junior staff in the district counting their seniority from their joining in service is completely inadmissible and void.

6. That the revised order of promotion is completely illegal and the regular promotee cannot suffer for it.

7. That being highly aggrieved with the revised order of promotion the appellant has preferred this appeal before your honour which may kindly be considered for greater interest and for the ends of justice and for this act of your kindness the appellant shall be ever grateful along with others.

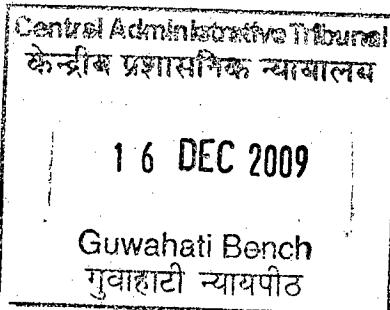
Date 25/04/08

Yours faithfully,

Yogendra Rabha
CTS (P)

Enclosed 5 into copies.

1. Regular promotion letter of Gr. IV
2. Regular promotion's fixation of pay
3. Adhoc promotion's fixation of pay
4. Review appeal to C.M.K.T.D
Guwahati - 1
5. Standing order of Rule 38,



(ii)

-45-

ANNEXURE- 13

To

The Chief General Manager Telecom
Assam Telecom Circle,
Guwahati-7.

Dated at Guwahati the 26th August-2008.

(Through proper channel)

Sub: - Adhoc grade IV promotion.

Sir,

I most respectfully write to you that I had submitted a representation on 25.04.08(Xerox enclosed) to review the Adhoc Grade IV promotion, which has violated the Rule-38 of P&T Manual Volume IV in my case. My cadre juniors are now senior than me to in this division.

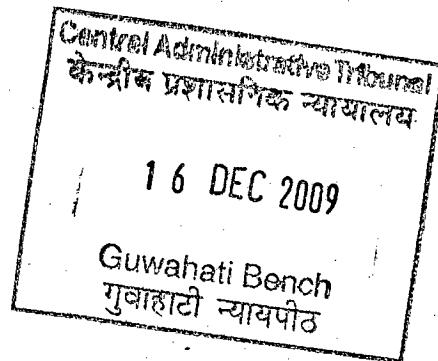
I humbly remind you to take necessary action for the justice .I also request you, not to encourage the officials who received the said Adhoc Promotion through Union pressure. I have not received any written status of my appeal from your good office so far.

Therefore, I am probably compelled to appeal to the Court of Law for the natural justice. In this circumstance, I may kindly be permitted to approach to the Court of Law if proper Justice cannot be decided at your office.

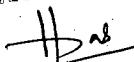
Thanking you.

Yours faithfully

Gobinda Rabha C.T.S.(P)
(G.Rabha)
C.T.S.(P)
C/O The General Manager Telecom
Kamrup SS, Guwahati.



Attested


Advocate

**BHARAT SANCHAR NIGAM LIMITED
(A GOVERNMENT OF INDIA ENTERPRISE)
OFFICE OF THE CHIEF GENERAL MANAGER, ASSAM CIRCLE
PANBAZAR :: GUWAHATI-781001**

No. STES-10/22/Pt-I/143

Dated at Guwahati the 26.06.2008

To

The General Manager
Kamrup Telecom District
BSNL
Guwahati.

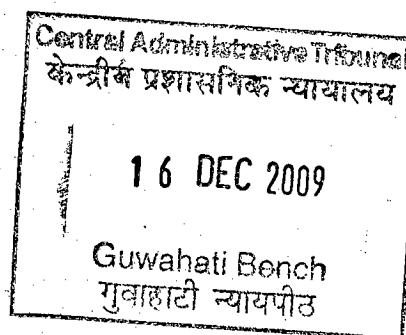
Sub:- BCR Grade-IV- regarding..

Ref:- Your letter No. GMT/EST-382/Gr-IV/G.Rabha/5 dated
21.05.08

Kindly refer to the subject and the letter cited above. This is to state that Sri Gobinda Rabha, Sr. TOA (P) has complained that some irregular orders have been issued relating to granting BCR Grade-IV in your SSA. The matter may kindly be examined thoroughly and the report may kindly be sent to this office for the perusal of higher authority.

Matter may kindly be considered as urgent.

1 B
(P.S. Bhattacharya)
Dy. General Manager (Admn.)

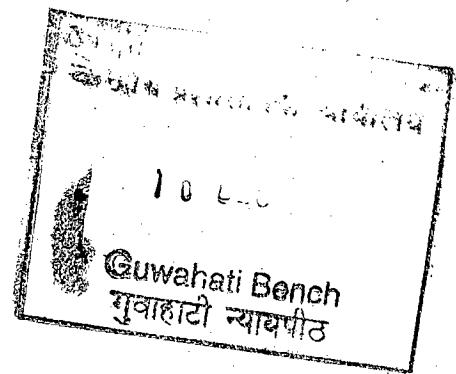


Attested

Han
Advocate

To,

1. The Chief Managing Director, Bharat Sansar Nigam Limited, New Delhi - 1.
2. The Chief General Manager, BSNL, Guwahati 781001, Assam.
3. The General Manager, BSNL, Kamrup Telecom District, Panbazar, Guwahati -1.



Sub: - Legal Notice.

Sir,

Upon authority and as per instruction of my client, Sri Gobinda Rabha, Sr. TOA (P), office of the General Manager, Kamrup Telecom Dist, Panbazar, Guwahati- 1. I give you this notice as follows:

1. That my client aforesaid is presently holding the post of CTS (P) in the office of the Sr. AOC MTS (CSC) under the G.M., Kamrup, Telecom District, Guwahati-1. By an order dated 27.02.06 my client aforesaid was promoted/ granted the promotion under 10% BCR Grade (Grade-IV) in the IDA Scale of pay of Rs. 8570-245-12245/- p.m. w.e.f. 01.07.05.
2. That after the issuance of the aforesaid order dated 27.02.06 another order was issued on 28.08.07 by which in pursuance to the modification of the aforesaid order dated 27.02.06 a revised promotion order was issued vide order dated 28.08.07 extending the benefit of the promotion to some officers junior to my client. Though the order dated 27.02.06 was an order of regular promotion, by the subsequent order dated 28.08.07 it has been stated to be issued on temporary/ ad-hoc basis. Apparently, it is seen that by the order dated 28.08.07 to accommodate some junior officials modification of the earlier order dated 27.02.06 has been made. My client aforesaid agitated the matter by submitting several representations and acting on those representations his pay has been re-fixed.
3. That from the order dated 28.08.07 it is seen that the some officials appearing in the said order are the beneficiary of the transfer orders issued under Rule 38 of P&T Manual Volume- IV and as such they are junior to the officials whose name appeared in the order dated 27.02.06. However, in the name of accommodating them due to pressure exerted by them the revised order dated 28.08.07 has been issued placing them within the purview of promotion under 10 % BCR Scheme (Grade- IV).
4. That my client aforesaid was granted the regular promotion by the order dated 27.02.06 but the said order has been revised by an order granting ad-hoc promotion which is not sustainable in the eye of law. Once having been promoted on regular basis it is not open to modify the said order that to after long lapse of time without assigning any reason and notice to that effect. The order dated 28.08.07 does not indicate any material to show as to why the earlier order dated 27.02.06 has been modified. The ground of issuance of the order dated 28.08.07 though same is silent on the issue but inference can easily be drawn that same has been issued to accommodate some junior officials in granting the aforesaid promotion for which they are not entitled to taking into consideration their seniority vis- a -vis Rule 38 of the P&T Manual Volume- IV.
5. That the order dated 28.08.07 and its legality was questioned by my client but no explanation is forthcoming. The resultant anomaly in issuance of the order dated 28.08.07 without re-fixing the seniority of the existing officers including my client vis-a -vis the seniority of the officers transferred to this division invoking Rule 38 of the P&T Manual Volume-IV would further effect the future promotion of my client wherein the seniority is the sole criterion determining the eligibility/zone of consideration of the promotees.

Having noticed such an illegality matter was once brought to the notice of the concerned authority but same failed to suffice the purpose and as on date it is not known as to why even after noticing such irregularities the concerned authorities are silent on the issue.

Arrested

H.S.

Advocate

Sri Siddhartha Sarma
Advocate
Gauhati High Court, Guwahati.

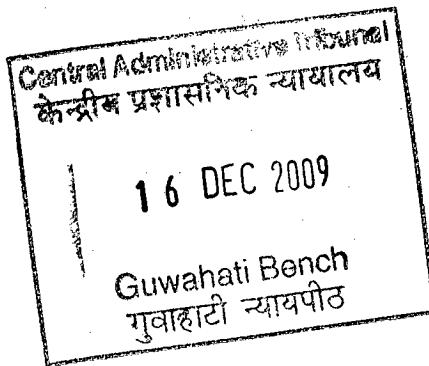
-48-

M.A.Road, Rehabari
Guwahati-781008
Ph: - 98640-92629.

In that view of the matter, I give you this notice making a demand that the irregularities and illegalities committed in issuance of the order dated 28.08.07 be rectified immediately granting my client regular promotion to the 10 % BCR Grade (Grade- IV) w.e.f. 01.01.05 and the seniority of the cadre be re-casted in terms of the provisions contained in the Rule 38 P&T manual Vol- IV and thereafter to act upon the said re-casted seniority list for considering their cases for the next promotion within a period of 30 (thirty) days from the date of receipt of this notice failing which instruction of my client is to initiate appropriate proceeding against you before the Hon'ble Court.

I hope and trust that there would be no occasion for any further litigation dragging you unnecessarily into it.

Thanking you.



Yours faithfully

S. Sarma.


BHARAT SANCHAR NIGAM LIMITED.
(A Government of India Enterprise).
 O/o the General Manager, Kamrup District.
 PANBAZAR:: Guwahati-1.

No. GM(K)/GH LN/09-10/42

Dated at Guwahati the 30/7/09.

To

Sri Siddhartha sarma. Advocate.
 M.A.Road, Rehabari
 Guwahati- 781008.

Sub:- BCR. Gr.- IV. Promotion.

Sir,

The Legal notice dated. 22/6/09 served on behalf of your client [Gobinda Rabha, Sr. TOA(P) Gr. IV] has been received in this office Legal section on 2-7-2009.

The BCR. GrIV promotion as alleged in the notice has been investigated with the records of administration unit and submitted below the Parawise reply.

1. The aforesaid client (Gobinda Rabha) is not CTS(P) as per record but he is Sr. TOA(P) Gr. IV as optee, only grade has been given with pay benefit. Order dated 27/2/06 required to be modified due to administrative reason and the modified ad-hoc order issued on 28/8/07 under the provision of Finndannjantal Rules, which was regularised in due course of time. While revising the order dated 27/2/06 some more officials junior to Sri Gobinda Rabha in District gradation list but senior in the service length and were granted STBP came under the purview of calculation of Gr. IV promotion / upgradation.

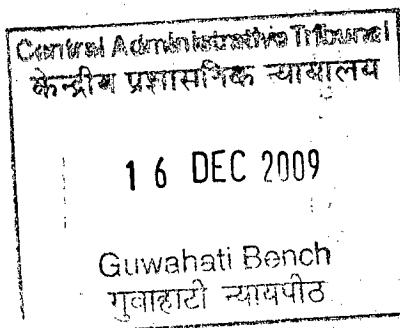
Hence Question of accommodating any junior officials does not arise as they automatically come under the purview of calculation.

And on this modification as his (Sri Govinda Rabha) date of promotion was advanced by 6 (Six)months i.e. instead of 1.7.05 his date of promotion was effected from 1.1.05, his pay was also to be refixed which on the otherhand is beneficial to him. After accepting the financial benefit the reason of being agitated is not understandable.

3. As indicated in point No.2 above , No junior official was accommodated under pressure but the whole calculation was done under the prevailing rules and following all Departmental norms.

4. Clarified in point No.2. Due to administrative reason the order dated 27.02.06 was required to be modified and adhoc order issued on 28.08.07 as there was no candidates in the approved panel as per prevailing method of calculation.

The 10% Gr.IV promotion granted according to the Seniority from amongst official in Gr.III in the District Gradation List , which is maintained as per guidelines. The employees who have been transferred Rule-38 from other SSA are placed in the District Gradation list as Ctd. To page (2).



ARRESTED



Advocate

*✓ Correct
Rejct*

as

per their date of joining in the SSA and are taken into Gr.IV calculation if they are Gr.III officials and covers by the calculation method. Here a Gr.II official (before completion of 26 yrs service i.e. without STBP) is not entitled to enter in calculation process of Gr-IV unless he is in Gr-III status though is senior in District Gradation list.

5. As at 4 above, Gr-IV promotion is the last line of promotion on the basis of seniority cum fitness in Group C cadre till date and hence question of losing seniority / zone of consideration in future promotion does not arise. Moreover Gr-IV promotion is granted to non-optees only and those who are optees i.e. who have entered the re-structured cadre, their pay is only upgraded in order to protect their pay than that of their junior i.e. non-optees. Sri G.Rabha, being optee is not entitled for Gr-IV promotion and therefore not designated as CTS but his pay was upgraded to Gr-IV scale of pay Rs. 8570- 245 -12145 as his non-optee junior Mrs. Joymati patowary was promoted to 10% BCR GR-IV.

And his upgradation has already been regularized with effect from 1-1-2005.

Under the above circumstances, the BCR. Gr.-IV promotion has been issued on the basis of seniority cum fitness as per BSNL headquarter guidelines and found no irregularity. Please convey the above details to your client accordingly.

Thanking you.

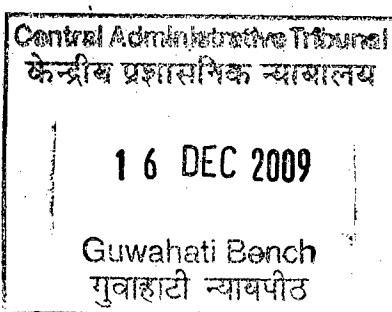
Yours Sincerely.

KD 30/7/09.

Sub- Divisional Engineer(Legal & Consumer).
O/o GM/BSNL/KTD/Guwahati-1.

चर मंडल अधिकारी (विधिक)
Sub-Divisional Engineer (Legal)
कार्यालय गुवाहाटी श्री देख एव
O/o the GM, BSNL
कामरुद्दीन सरफराज गुवाहाटी-1
KTD, Guwahati-1

*copy for Sri Gobinda Rabha, Sr. TCA(P). for
information.*



KD. 30/7/09.
चर मंडल अधिकारी (विधिक)
Sub-Divisional Engineer (Legal)
कार्यालय गुवाहाटी श्री देख एव
O/o the GM, BSNL
कामरुद्दीन सरफराज गुवाहाटी-1
KTD, Guwahati-1

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: AT GUWAHATI

File No. 83
H. K. Gogoi
H. K. Gogoi
8/2/2010

O.A.No.265 / 2009

Sri Gobinda Rabha

... Applicant

-vs-

Union of India & others

... Respondents

[WRITTEN STATEMENTS FILED BY THE
RESPONDENT No. 2 to 5]

The written statements of the above-mentioned respondents are as follows:

1. That the copy of the above noted O.A. No. 265/2009 (hereinafter referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of the respondents No.2 to 5 being common and similar, the written statements as filed herewith may kindly be treated as common to all of the respondents No.2 to 5.
2. That the statements made in the application, which are not specifically admitted by the respondents are hereby denied.
3. That before traversing the statements made in various paragraphs in the application, the answering respondents beg to give a brief resume of the facts and circumstances of the case as under:
 - (a) The applicant annexed along with his application a letter DOT No.27-4/87-TE-II dated 16.10.1990 containing instructions for BCR / STBP (Biennial Cadre Review / Second Time Bound Promotion). Here the applicant cited instructions (i) and (ii) on eligibility, but willfully avoided instruction (iii) simply to mislead the Hon'ble Tribunal. The instruction (iii) provides that 'Biennial Cadre Review will be conducted in respect of eligible cadres at the level of the Circle, who control these cadres'. The instruction (iii) implies that BCR promotions are Circle level promotions and based on Circle level seniority, i.e., seniority based on joining a particular cadre in a particular Circle. Therefore, from the above facts, it is crystal clear that so far BCR/STBP promotion is concerned, there is no question of loss of

Kamakhya Ranjan Das

0-708 नामवर्ता (प्रिया)

प्रिय-प्रिया का नामवर्ता (Legal)

प्राप्त संग्रह निवास अधिकारी 19NT

प्राप्ति नामवर्ता का नामवर्ता दरपानाम प्रिया

प्राप्ति नामवर्ता का नामवर्ता दरपानाम प्रिया

प्राप्ति नामवर्ता का नामवर्ता दरपानाम प्रिया

seniority of transferees under Rule 38 of P&T Manual Vol.IV for transfer within the same Circle. The respondents 6 to 18 were transferees under Rule 38 of P&T Manual Vol. IV within Assam Telecom Circle and awarded BCR (STBP) promotion in the new unit, i.e., Kamrup SSA. From instruction (iii), it is clear that seniority of respondents 6 to 18 should not come in question so far as 10% BCR Grade IV promotion is concerned. The applicant's claim that 10% BCR Grade IV promotion is granted on the basis of District / Division seniority is baseless and misleading and there is no documentary evidence in support of the claim.

(b) The respondents 6 to 18 on their transfer under Rule 38 of P&T Manual Vol. IV have been suitably placed in the District Gradation List of Kamrup SSA. One example will elucidate the facts. The applicant was placed in position No.164 (date of joining in service 15.6.1978), whereas respondent No.16 was placed in position No.212 (date of joining in service 3.3.1975). The said respondent joined the Kamrup SSA on 3.2.1987 on transfer under Rule 38 of P&T Manual Vol. IV from Tezpur SSA. Therefore, the claim of the applicant that the said private respondent was placed in bottom seniority position is baseless and misleading.

(c) Now, as Grade III (BCR/STBP) promotion is Time Bound (as the name implies), the respondent No.16 got his BCR promotion on 3.3.2001, i.e., on completion of 26 years of service (including service rendered in the re-structured cadre) from the date of the joining in service whereas the applicant has got his BCR promotion on 15.6.2004. The 10% BCR Grade IV promotion is calculated from Grade III officials of the SSA in a particular cadre. Here in this case the respondent No.16 was in the zone of consideration in the year 2001, 2002 and 2003 and Grade IV promotion was granted to him on 1.7.2003, whereas the applicant was not at all within the zone of consideration as he did not get his Grade III promotion in the aforesaid years. Therefore, question of granting Grade IV promotion to the said private respondents cannot be called in question as illegal or in contravention of the aforesaid instructions. Accordingly the BCR Grade IV promotions have been granted to respondent No.6 to 18 strictly as per the instructions and law and not otherwise in any manner.

(d) The law in this regard is well settled as in "**Dwijen Chandra Sarkar & anr v. Union of India & ors**" reported in (1999) 2 SCC 119. By the said decision, the Hon'ble Supreme Court put reliance to one of its earlier decision and quoted as under: "Even if an employee is transferred at his own request, from one place to another on the same post, the period of service rendered by him at the earlier place where he held a permanent post and had acquired permanent status, cannot be excluded from consideration for determining his eligibility for promotion though he may

Kamalika Ranjan Das
Sub-Divisional Engineer (Legal)

गारु संचार निगम लिमिटेड - BSNL
पर्वतीय महाद्वीप राज्य विभाग द्रविंद्र नगर

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have been placed at the bottom of the seniority list at the transferred place." (Para 15). In another decision as in "**Union of India & another v. V.N. Bhat**" reported in (2003) 8 SCC 714, the Hon'ble Supreme Court following the aforesaid judgment discussed the various aspects of BCR scheme promotion held that "even in cases relating to request transfers, this court has held, as seen above, that the past service will count for eligibility for certain purposes though it may not count for seniority." Under the above law laid down by the Hon'ble Supreme Court, the promotion of the private respondent Nos. 6 to 18 cannot be faulted or be held illegal in any manner whatsoever. Therefore the application is liable to be dismissed as baseless with cost.

PARAWISE REPLY

**Central Administrative Tribunal
नियन्त्रिय प्राधानिक न्यायालय**
Guwahati Bench
ज्योति न्यायालय
08 MAR 2010

That with regard to the statements made in para 1, 2 and 3 of the application, the answering respondents beg to state that the impugned reply dated 30.7.2009 (Annexure 16) is very much clear and speaking one and there is no legal infirmity of any kind. So far as the Annexure 11 order is concerned, this is nothing but correction of errors due to administrative reasons and revision of pay scale; by which the benefit extended to the applicant has been preponed thereby granting him benefit from a prior date as indicative in the said two annexures. In this connection this is to make clear here that the private respondents are optees to the re-structured Scheme like the applicant, who is also an optee to the re-structured scheme by exercising his option that he will not claim against the non-optees. An optee to the re-structured scheme has the scope of promotion from Grade I to II and Grade II to III and they have no right to claim promotion from Grade III to IV, although the total strength of Grade III is taken into account for calculation of 10% promotion to Grade IV out of the non-optees, if available. In the instant case the non-optees were already in Grade III having higher seniority fulfilling the required number of years while the applicant has been in only Grade II. There cannot be promotion from Grade II to Grade III automatically unless such optees are fulfilling the BCR norms.

It is pertinent to state here for better clarity of the fact that in 3rd Pay Commission report, there were 2 designations of Group 'C' employees known as Telephone Operator and Telecom Clerk. In 4th Pay Commission the Telephone Operator was re-designated as TOA (P) (Telecom Office Assistant, Phones) and the Telecom Clerk as TOA (G) (Telecom Office Assistant, General). Thereafter for the induction of new science and technology, the said two categories of posts were re-structured and options were sought for from them. Some of such employees exercised

their options to re-structured cadre, while some remained in the original

Kamakhye Rangan
Sub-Divisional Engineer (Legal)

पारद उच्चार नियम लिफ्टेड / BSND

पर्यालय नहान्द्र एक कामन्द्र दूरदृश्य उपर्यार लिफ्ट

Office of the C. I. D.

पारदारी / Guwahati-781 001

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cadre. The optees to the re-structured cadre were given induction training and on completion of training they were made a separate category with up-gradation of pay scales and they were designated as Sr.TOA - Grade I. Those who did not exercise option remained the TOA and re-designated as TOA - Grade I. Employees in both these categories, who completed 16 years of regular service were entitled for BCR promotion as One Time Bound Promotion (OTBP) and they were designated as Sr.TOA - Grade II and TOA - Grade II respectively. Those employees on completion of 26 years of service were given the BCR promotion Second Time Bound Promotion (STBP) and designated as Sr. TOA - Grade III and TOA - Grade III. Although the Sr. TOA and the TOA are said to be in the same grade, but the Sr.TOA in the re-structured category were getting higher pay scales and pay package throughout as the scale of pay has been different. Therefore, considering the case of TOA in so far as their benefits of pay scale, the 10% BCR promotion has been provided only to the non-optees out of the Grade III STBP categories taking into account the total strength of Sr. TOA - Grade III and TOA - Grade III for promotion to the Grade IV category exclusively for the non-optees. However, provisions have also been made to give the financial up gradation benefits to maintain the posts parity, to extend financial up gradation to the optees also and they are given the scale of Grade IV. These above facts and descriptions are illustrated in the chart prepared for this purpose, which has been annexed to this written statements.

On the other hand the up gradation of pay benefit is granted to such senior TOA at par with his immediate junior if such junior is promoted to the next higher grade thereby giving him pay protection. In the instant case, the pay benefit has already been granted to the applicant in Grade IV pay scale w.e.f. 1.1.2005. Therefore, there is no cause of action to justify filing of this present application and the same is liable to be dismissed.

The said chart is marked as ANNEXURE: R1

5. That with regard to the statements made in para 4.1, 4.2, 4.3, 4.4, 4.5, 4.6 and 4.7 of the application, the answering respondents reiterate the foregoing statements and state that the present applicant as admitted in para 4.5 exercised option for absorption in the re-structured cadre of Group - C, like the private respondents. The respondents state that the averments made in those paragraphs are matter of records and it is for the applicant to substantiate such statements / claims as asserted by him. Nothing is admitted which are not supported by any such records. Moreover, Grade IV promotion is not a time bound promotion.

Amakhyta Ranjan Das.

visional Engineer (Legal)

संचार निगम लिमिटेड / BSNL

प्य मएप्रव एक. जामस्व द्वारपार का.

of the GM / KTD

गोपी / Guwahati-781 00

6. That with regard to the statements made in para 4.8, 4.9, 4.14, 4.15 and 4.16 of the application, the answering respondents beg to state that the memo dated 31.5.2007 has been wrongly interpreted in the application. As per OM dated 16.6.1997 'the benefit of the pay scale Rs.2000/- to Rs.3200/- (now Rs.8570-12245) in the BCR Grade IV has to be extended to the staff of the re-structured cadre as per seniority of the basic Grade'. This spirit has strictly been maintained in Kamrup SSA also. While calculating Grade IV promotion, it is mandatory to take into account all the officials in Grade III of a particular cadre and from among the Grade III officials 10% of them (non-optee) are to be considered for promotion under 10% BCR Grade IV Scheme and position in the gradation list of this Grade III officials has been strictly maintained as per provisions of Rule 38 of P&T Manual Vol. IV. When respondents 6 to 18 were granted Grade IV scale of pay on 1.7.2003, the applicant was in the Grade II. The Grade III status was granted to the applicant w.e.f. 1.7.2004. But the applicant has claimed parity with those, who have already in Grade III status and their promotion to Grade IV should be halted till the applicant gets his promotion to Grade III and then to Grade IV with the private respondents to come within the zone of consideration for Grade IV scale of pay. In this connection, it is also to state that the law has already been settled by the Hon'ble Supreme Court that an employee will not lose his right to be considered for promotion if he has actually completed the required number of years of seniority. His down gradation in the seniority in the gradation list due to P&T Rule 38 transfer, would be only for determining his seniority in the gradation list and not for promotion and other purpose. Therefore, any action done by the respondents in granting the BCR promotion cannot be faulted or said to be illegal.

7. That with regard to the statements made in para 4.10, 4.11, 4.12 and 4.13 of the application, the answering respondents beg to state that the Grade IV scale of pay was granted to the applicant w.e.f. 1.7.2005 vide memo dated 27.2.2006 (as in Annexure 10). But subsequently the method of calculation of Grade IV promotion in respect of all the cadres of Kamrup SSA eligible for granting Grade IV promotion was found to be erroneous. In respect of all eligible cadres was required to be revised and accordingly revised order in the cadre of Sr.TOA (P)/TOA(P) was issued vide Memo No.GMT/EST-382/Sr.TOA(P)-STS (Loose)/Part I/2007-08/24 dated 28.8.2007 and the date of granting Grade IV scale of pay in respect of applicant was revised as 1.1.2005 instead of 1.7.2005. The said order for promotion was issued on ad-hoc basis and it was regularized in due course of time due to some unavoidable reasons. On adopting correct method of calculation, respondents 6 to 18 became eligible for granting Grade IV scale consequent upon promotion to Grade IV of their junior Umesh Ch. Das (now retired, who was a non-optee) w.e.f. 1.7.2003 and

amarkhya Ranjan
Das.

2-200 CRORE (₹)

Sub-Divisional Officer (SDO)

SDO (S) / DSO / DSO

Office: 2-200 CRORE (₹)

Office: 2-200 CRORE (₹)

SDO (S) / DSO / DSO

Central Administrative Tribunal
Case No. 2009/2010
09 MAR 2010
Chanchal Das

the applicant was in the state of Grade II during the period under review. It is now clear from the above fact that by reviewing the order dated 27.2.2006, the applicant was not placed in "disadvantageous position"; rather his date of granting Grade IV status was advanced by 6 (six) months.

Moreover, in his application dated 25.4.2008 (as in Annexure 12) the applicant stated "that subsequently another revised order of promotion was issued vide Memo No.GMT/EST-382/Gr.IV/Sr.TOA(P)/STS (Loose) dated 28.8.2008 in the scale of Rs.8570-245-12245/- under FR 22 (1)(a)(i) Part I/2007-08/24 dated 28th August, 2007 granting another 17 number of junior staff who came to this District under Rule 38 from different station for their own benefit loosing their seniority". Now, from the above statement of the applicant it is clear that not only 13 (respondent 6 to 18), there were 17 officials in his application dated 25.4.2008. The applicant very tacitly and tactfully avoided to mention the other 4 officials with his some ulterior motive in order to create confusion the whole issue. So far as the allegation made in his representation dated 26.8.2008 is concerned, it is not a fact that there has been any such situation as alleged by the applicant. The administration in its routine function carried out the process of promotion in issue and such allegation has no bearing in so far as the BCR Rules is concerned.

8. That with regard to the statements made in para 4.17, 4.18, 4.19, 4.20, 4.21 and 4.22 of the application, the answering respondents reiterate and reassert the foregoing statements and say that there has not been any infirmity or illegality in granting the 10% Grade IV BCR benefits to the private respondents and no illegality has been committed against the applicant under any provisions of law. The applicant is hereby put to strict proof thereof to show to this Hon'ble Tribunal as to what illegality has been committed by the respondents in the matter of his promotion. The application being filed without any basis and substance, the same is liable to be dismissed with cost.
9. That with regard to the statement made in Para 5.1 to 5.6 of the application the respondents respectfully submit that the grounds enumerated and illustrated in the said paragraphs are no ground at all in the eye of law or in fact and therefore the application is liable to be dismissed as futile and groundless.
10. That with regard to the statement made in Para 6, 7, 8.1 to 8.4 and 9 of the application the respondents reiterate and reassert the foregoing statements made in this written statements and say that under the facts and circumstances of the case, provisions of law and the rules, the

Kanakhya Banjan Das.

Sub-Divisional Engineer (Legal)

ग्राम संचार विभाग / BSND

गणराज्य भारतीय राष्ट्रीय विकास वृत्तिकार बिभाग

Office of the C.G.O. K.M.

পাত্রপুরী / Guwahati-781 001

applicant is not entitled to any relief whatsoever as prayed for in his application and the application is liable to dismissed with cost. The answering respondents crave the leave of this Hon'ble Tribunal to allow them to file any additional written statements or rejoinder in due course or at the time of hearing if so warranted.

11. That the written statements are filed bonafide and for the ends of justice.

In the premises aforesaid, it is therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall also be pleased to dismiss the application with cost.



Verification

I, Shri Kamakhy Ranjan Das, Son of Late D.C. Das, aged about 54 years, resident of Athgaon, Guwahati – 1, at present working as the SDE (Legal) in the office of the General Manager (Telecom), Kamrup Telecom District, being competent and duly authorized to sign this verification do hereby solemnly affirm and state that the statements made in para 1 to 3(d) and 5 to 11 are true to my knowledge and belief, those made in para 4 being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 8th day of March, 2010 at Guwahati.

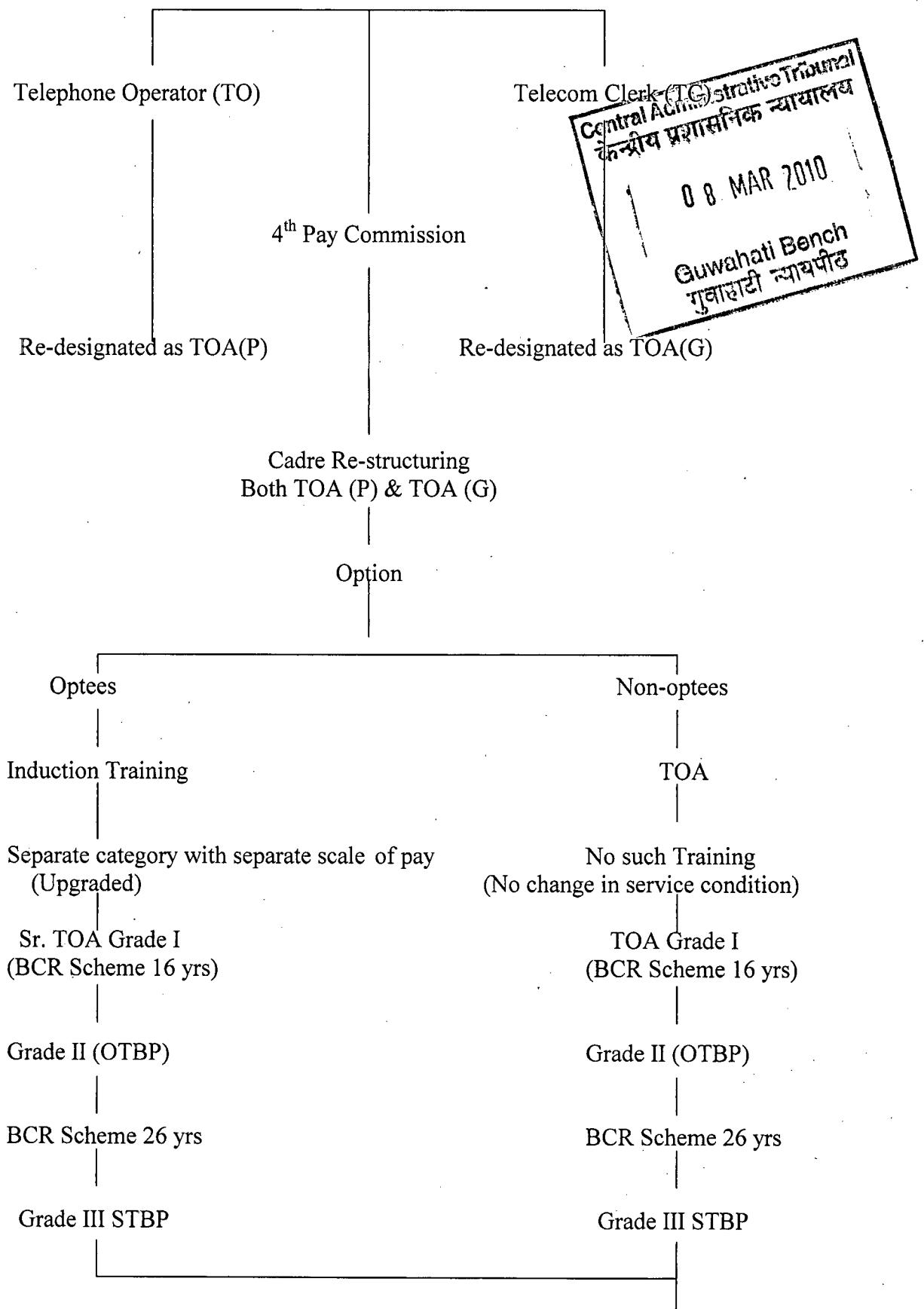
Kamakhy Ranjan Das.
DEONENT

ए-प्रैक्टिस लाइसेन्स (टेली)
Sub-Engineer or Engineer (Legal)
सारल संसार लिमिटेड / BSND
प्रायोलय महापूर्ण धर्म दामात्र दूरध्वंपार लिंक
Office No. 1001, KTI
पानारम्भ 781 000

ANNEXURE: R1

GROUP 'C'

At the time of 3rd Pay Commission



Certified to be true Copy.

H. K. Goga

Advocate

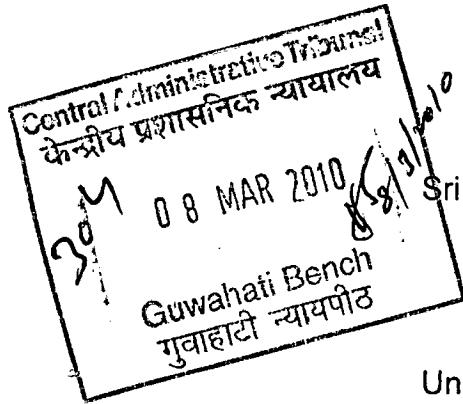
10% of total strength of Grade III STBPs for calculating 10% Grade IV promotion exclusively for non-optees. (However optees are also given the pay parity by up gradation of pay scale of Grade IV)

Kamakhya Ranjan Das
প্রকাশ পত্রিকা (পত্রিকা)
4th Floor, 18th Street, Engineer (Logistics)
পারল সংস্থার নিম্ন প্রিসিটেড / BSNL
পার্সিল পদ্ধতি প্রযোজন কর্তৃপক্ষ
Office : ১৮ম প্রকাশ পত্রিকা, পারল সংস্থা

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: AT GUWAHATI

O.A.No.265 / 2009



Sri Gobinda Rabha

... Applicant

-vs-

Union of India & others

... Respondents

Sri Gobinda Rabha
Advocate
Filed by
S. I. D.
25/3/2010

[WRITTEN STATEMENTS FILED BY THE
RESPONDENT No. 6 to 17]

The written statements of the above-mentioned respondents are as follows:

1. That the copy of the above noted O.A. No. 265/2009 (hereinafter referred to as the "application") has been served on the above noted respondents including respondent No.18. The respondent No.18 is no longer in service as he has retired on attaining the age of superannuation. He has not been represented in this case. The remaining answering respondents have gone through the application and understood the contents thereof. The interest of the respondents No.6 to 17 being common and similar, the written statements as filed herewith may kindly be treated as common to all of the respondents No.6 to 17 and they have authorized Sri.....Anup Chandra Das.....to sign, execute, defend and represent all the private respondents in the above noted application.
2. That the statements made in the application, which are not specifically admitted by the respondents are hereby denied.
3. That the respondent No.2 to 5 have already filed their written statements contesting the case. A copy of the said written statements has also been served on the answering respondents. They have gone through the contents of the said written statements and found the same as the complete answer and reply as defense to the claim made in the aforesaid application. The answering respondents therefore accept the said statements made in the written statements filed by the respondent No.2 to 5 as the defense to be applicable in their case also. The answering respondents therefore through their representative would like to crave the leave of this Hon'ble tribunal to allow them to rely upon and refer to all the

Anup Chandra Das

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statements made in the said written statements as to be their written statements in their reply to the case. The written statements of respondent No.2 to 5 therefore may be treated as the written statements of the private respondents also.

4. That it is pertinent to state here that the private respondent No.18 has already retired on attaining the age of superannuation from service and he is no longer in service of the official respondents.
5. That the private respondents beg to state that all of them are optees to the re-structured cadre of Sr.TOA and they have got their BCR promotions with up gradation of pay only and they have been given the scale of Grade IV depending upon their eligibility and seniority for such up gradation under the BCR scheme. Their up gradation of pay scale at par with Grade IV is not a promotion given to them, only the financial benefits has been given to them. The similar benefit had also been given to the applicant in this case considering his seniority position and his claim for promotion to the Grade IV is a misnomer.

*Central Administrative Tribunal
संघ प्राधानिक न्यायालय*
08 MAR 2010
Guwahati Bench
Case No. 16/2008

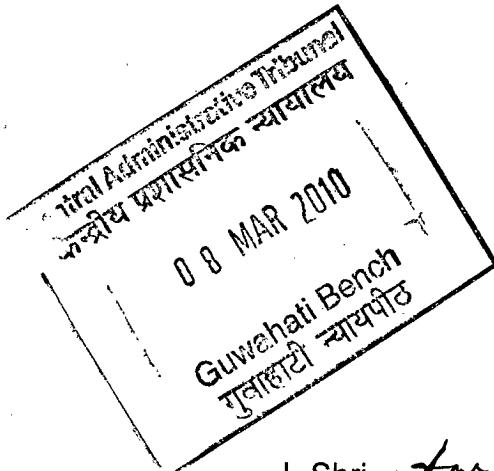
That the private respondents are impleaded as party respondents by the applicant without any cause of action. The financial benefits of up gradation at par with the Grade IV scale of BCR has also been granted to the applicant at the appropriate time as and when the same became due to the applicant. The similar benefits are also extended to the answering private respondents as it became due to them. Hence, the application filed by the applicant has no cause of action or merit and the same is liable to be dismissed. The impleadment of the private respondents is made only to harass them personally for the reasons best known to the applicant.

7. The law in this regard is well settled as in "**Dwijen Chandra Sarkar & anr v. Union of India & ors**" reported in (1999) 2 SCC 119. By the said decision, the Hon'ble Supreme Court put reliance to one of its earlier decision and quoted as under: "Even if an employee is transferred at his own request, from one place to another on the same post, the period of service rendered by him at the earlier place where he held a permanent post and had acquired permanent status, cannot be excluded from consideration for determining his eligibility for promotion though he may have been placed at the bottom of the seniority list at the transferred place." (Para 15). In another decision as in "**Union of India & another v. V.N. Bhat**" reported in (2003) 8 SCC 714 the Hon'ble Supreme Court following the aforesaid judgment discussed the various aspects of BCR scheme promotion held that "even in cases relating to request transfers, this court has held, as seen above, that the past service will count for eligibility for certain purposes though it may not count for seniority." Under

Dwijen Chandra Das

the above law laid down by the Hon'ble Supreme Court, the promotion of the private respondent Nos. 6 to 18 cannot be faulted or be held illegal in any manner whatsoever. Therefore the application is liable to be dismissed as baseless with cost.

8. That the written statements are filed bonafide and for the ends of justice.



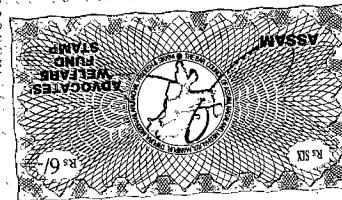
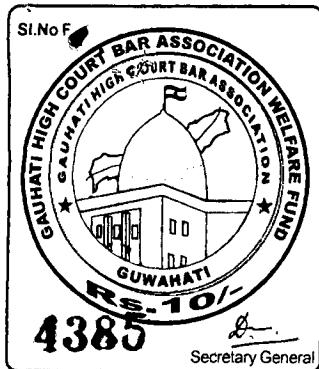
In the premises aforesaid, it is therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall also be pleased to dismiss the application with cost.

Verification

I, Shri Harshit Chandra Das, Son of Shri Haneswar Das aged about 55 years, resident of Viz. Magurbari, at present working as the Sr. TPA (M) being duly authorized to sign this verification by the other private respondents do hereby solemnly affirm and state that the statements made in para 1 to 8 are true to my knowledge and belief and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 8th day of March, 2010 at Guwahati.

Harshit Chandra Das
DEPONENT



FORM NO.12

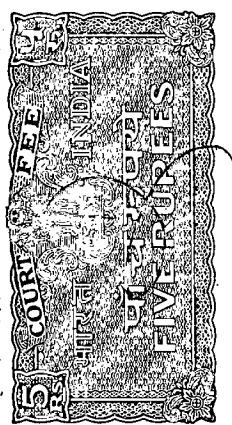
08 MAR 2010

(See Rule 67)

Guwahati Bench
Guwahati Bench

FORM OF VAKALATHNAMA
CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

OA/RA/CP/PT/MA No. 265 of 2009



Shri. Gobinda Rabha Applicant (s)

-Versus-

VOI & Others Respondents.

I, We Applicant No. /Respondent No. 6 to 17 in the above application /petition do hereby appoint and retain Shri. B.C. Pathak.

Advocate/s to appear, plead and act for me /us in the above application /petition and to conduct and prosecute all proceedings that may be taken in respect thereof including Contempt of Court Petitions and Review Application arising therefrom and applications for return of documents, enter into compromise and to draw any money payable to me /us in the said proceeding.

(8) Anima Das

(9) Bidhan Choudhury

(10) Shyamalendu B. Hallocknayak

(11) Mahendran Das

(12) Khagendra Nath Sukan

(13) Shailendra Ch. Das

(14) Ajali Datta

(15) Babul Ch. Patgiri

Signature of the Party

"Accepted"

(16) Mritu Ch. Deka

(17) Mrs. Kamala Das

Place Guwahati

Date 5/3/2010

Executed in my presence

Mritu Deka, Advocate

8.3.2010

*Signature with date

(Name and Designation)

Name and address of the
Advocate for Service

Signature with date
(Name of the Advocate)

Assisted by:

H.K. Gogoi, Advocate

8.3.2010

* The following certification to be given when the party is unacquainted with the language of the Vakalath or is blind or illiterate:

The contents of the Vakalath were truly and audibly read over/translated into language known to the party executing the Vakalath and he seems to have understood the same

Signature with date
(Name and Designation)

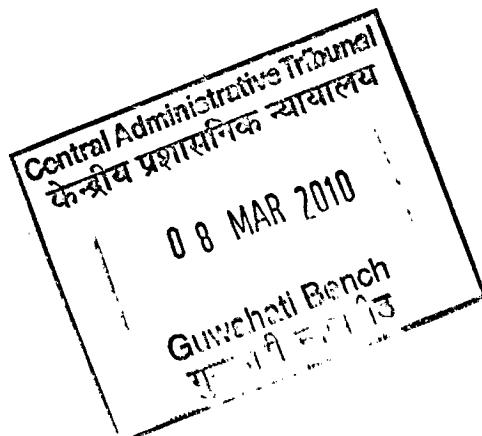
NOTICE

From:
B. C. Pathak
Advocate,
Guwahati

Date: 8.3.10

To
Advocate
Guwahati

Subject: Written Statement filed by the Respondent
Nos. 6 to 17 in OA No. 265/09.



Sir,

Please find enclosed herewith a copy of the
WS filed by the abovenamed Respondents
in OA No. 265/09 in the Hon'ble CAT
Guwahati Bench on 8.3.2010

Please acknowledge the receipt of the same

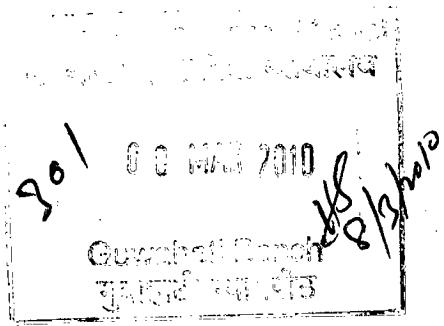
Copy received

Yours sincerely
H. K. Gosoi, Advocate
for B. C. Pathak
Advocate
8.3.10

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

File No. -
The Respondent
M. S. I.
Magistrate
S. C. E. B. S. C.
Court Date
8/9/2010



IN THE MATTER OF:

O.A. No. 265/09

Sri Gobinda Rabha

.....Applicant

-vs-

Union of India and Ors.

.....Respondents

-AND-

IN THE MATTER OF:

An affidavit filed by the respondent no. 1, Union of India represented by the Secretary to the Government India, Ministry of Telecommunications and Information Technology, Department of Telecommunications in O.A. No. 265/09

(AN AFFIDAVIT ON BEHALF OF RESPONDENTS NO.1)

I, D. V. PADUBIDRI S/o Late Sri. V. S. PADUBIDRI
aged about 58 years, presently working as the Dy. C.A. of C.A. Assam
Telecom Circle Guwahati do hereby solemnly affirm and state as
follows:-

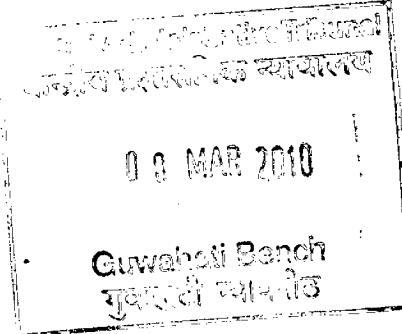
1. That the humble deponent begs to state that in the said O.A., the applicant, Sri Gobinda Rabha, has sought a direction from the Hon'ble Tribunal praying for quashing and setting aside of the impugned order under No. GM (K) GH LN/09-10/42 dated 30.07.09 and order under Memo No. GMT/EST-382/Gr.-IV/Sr. TOA (P)-STS (Loose)/Part-1/2007-08/24 dated 28.08.07. The applicant has further prayed to re-cast the seniority of the applicant as well as the respondent nos. 6 to 18 of the O.A. in the basic grade seniority list of the Kamrup Telecom District as well as in the 10% BCR Grade. (Grade IV).

2. That the deponent begs to state that that at present the applicant is an absorbed employee of BSNL and thus there is no employee-employer relationship between the applicant and the Department of Telecommunications. The Personnel and Establishment matter of the applicant is under the administrative control of

BSNL only and no role of Department of Telecommunications is involved in such matter.

3. That the deponent begs to state that this affidavit has been filed for affirming that the Department of Telecommunications has no role in the present case, the applicant, Sri Gobinda Rabha, being already under the administrative control of BSNL. The issues raised by the applicant pertain to BSNL only. The relief too sought by the applicant i.e. Sri Gobinda Rabha cannot be granted by the Department of Telecommunications, as the relief sought for is not under the purview of Department of Telecommunications.

4. That this Affidavit is made bona fide and for the ends of justice.



80 MARCH 2010

Guwahati Bench
ગુવાહાતી બેંચAFFIDAVIT

I, D.V.PADUBIDRU S/o Late Sri V.S.PADUBIDRU aged about 58 years, presently working as the Dy.GCA. of C.C.A. Assam Telecom Circle, Guwahati, do hereby solemnly affirm and state as follows:-

1. That I am well conversant with the facts and circumstances of the case, thus competent to swear this affidavit. I have been authorized to file this affidavit on behalf of petitioner (Respondent No. 1 of the O.A. No. 265/09).
2. That the statements made in this affidavit and in paragraphs..... 2, 3 and 4..... are true to my knowledge and those made in paragraphs 1 are being matters of records of the case derived therefrom which I believed to be true and the rest are my humble submissions before this Hon'ble Tribunal.

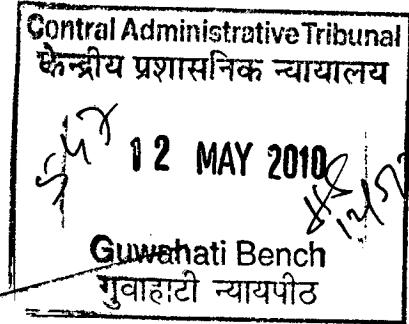
And I sign this affidavit on this 8th day of March, 2010 at Guwahati.

Identified by:-

CS Margarika

Advocate.

CS Margarika
DEPONENT
By: C.R.S.
मार्गरिका, CS
Dy.GCA
Assam Telecom Circle
गुवाहाटी-৭৮১০০৯
Guwahati-781009



1
Filed by:
The Applicant
Through
Dipu Das
Advocate
12/5/2010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

OA No. 265 of 2009

Sri Gobinda Rabha.

Applicant

- versus -

Union of India & ors.

Respondents

REJOINDER TO THE WRITTEN STATEMENT FILED BY RESPONDENTS NO.

2 TO 5.

1. That the copy of the written statement filed by the respondent No. 2 to 5 has been served upon our counsel. I have gone through the statements made therein and have understood the contents thereof. Save and expect the statements which are admitted herein below, other statements made in the written statement may be treated as total denial by the deponent. The statements which are not borne on records are also treated to be denied by the deponent, and the respondents No 2 to 5 are put to the strictest proof thereof.

2. That with regard to the statement made in Para 3 (a) of the written statement the deponent while denying the contentions made therein and reiterating and reaffirming the statements made in the written statement begs to state that the STBP/BCR is granted on the basis of length of service not on the basis of circle or district seniority. Whenever one employee will complete 26 years of service he will get the benefit of BCR Grade- III promotion. However,

Gobinda Rabha

12 MAY 2010

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10% BCR Grade- IV promotion is granted on the basis of District/Division seniority in the basic grade. The post of 10% BCR Grade- IV is created on the basis of BCR promotees i.e. if 100 officials get the BCR promotion, in such an eventuality 10 posts of BCR Grade- IV will be created and promotion will be given to the senior BCR promotee as per the District gradation list/District seniority. As per the order dated 16.06.97 [Annexure- 8 of the O.A.] the benefit of 10% BCR Grade- IV scale will be granted to the officials of the restructured cadre from the date their junior most employee in the basic grade got the 10% BCR Grade- IV promotion. The official respondents have admitted that private respondent i.e. respondent No. 6 to 18 are transferee under Rule 38 of P & T Manual Vol. - IV in the Kamrup SSA. Therefore as per the provisions of Rule 38 they should have to be assigned bottom seniority position in the seniority list of basic grade of the Kamrup SSA/District and 10% BCR Grade- IV promotion is granted only on the basis of basic grade seniority to the senior most in BCR- Grade- III. It is stated that the basic grade seniority is restricted to a particular gradation list and not to a group of gradation list. In the instant case Smt. Joymati Patowary (non-optee) is the junior most in the basic grade and she got her 10% BCR Grade- IV promotion on 01.07.05. Therefore, as per the admission of official respondents with regard to their transfer under Rule 38 of the P & T Manual Vol- IV to the Kamrup SSA, the respondent No. 6 to 18 are not entitled for 10% BCR Grade- IV promotion w.e.f. 2003 because they are in the bottom of the seniority list of the SSA below Smt. Patowary. Moreover, the clarification order dated 31.05.07 [Annexure- 9 of the O.A.] clearly depicts that the 10% BCR Grade- IV promotion is granted on the basis of District/Division seniority from amongst BCR Grade- III promotees.

3. That with regard to the statements made in Para 3(b) of the written statement the deponent begs to state that

Gobinda Rabha

12 MAY 2010

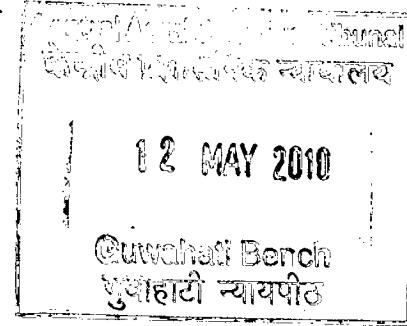
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

grievance of the applicant primarily is that the seniority in the SSA level in the basic grade is not considered while granting the benefit of 10% BCR Grade- IV to the staff of the restructured cadre. It is stated that 10% BCR Grade- IV promotion is to be granted as per the seniority in the basic grade. Basic grade seniority is the only criterion for promotion from BCR Grade- III to 10% BCR Grade- IV. The basic grade seniority is restricted to a particular gradation list and not to a group of gradation list. An official on his/her transfer from one division/SSA/circle to another division/SSA/circle shall loose his seniority of the parent unit and shall be placed junior most in the new gradation list of the new unit and his seniority for the purpose of 10% BCR Grade- IV shall be reckoned from the date of joining in the new place of posting.

It is stated that respondent No. 16 had admittedly joined the Kamrup SSA on 03.02.1987 on transfer under Rule 38 of the P & T Manual Vol. - IV and placed in the bottom of the seniority list below Smt. Patowary. It is pertinent to mention here that 10% BCR Grade- IV promotion is granted to the senior most BCR Grade- III employee. Therefore, in such an eventuality the said respondent No. 16 is not entitled for the benefit of 10 % BCR Grade- IV scale w.e.f. 2003.

4. That with regard to the statements made in Para 3(C) of the written statement the deponent begs to state that the respondent No. 16 after his transfer under Rule 38 of the P & T Manual Vol.- IV on 03.02.1987 has been placed in the bottom of the seniority list of the SSA. Since BCR is a time bound promotion and seniority is not the criterion, he has got the BCR Grade- III promotion on 03.03.01. However, 10% BCR Grade- IV promotion is not a time bound and is granted on the basis of seniority of the basic grade for an employee in a particular division/district/SSA. Therefore, separate seniority list prepared for different division/district/SSA and 10% BCR Grade- IV promotion will

Govinda Rabha



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be granted to the senior most BCR Grade- III promotees. Hence, seniority of the basic grade in the SSA is the sole criterion for getting 10% BCR grade- IV promotion.

It is state that had the respondent no. 16 would have continued his service in Tezpur SSA by not taking transfer under Rule 38 to Kamrup SSA, in such an eventuality he would not have lost his seniority position in the district/division/SSA which is the sole criterion for getting 10% BCR Grade- IV promotion. Hence, taking into consideration the seniority position of respondent No. 6 to 18, they are not entitled for grant of 10% BCR Grade- IV promotion because 10% BCR has to be granted to the senior most BCR Grade- III promotees.

5. That with regard to the statements made in Para 3 (d) of the written statement the deponent begs to state that the said judgment of the Hon'ble Apex Court is not at all applicable in the facts of the case because here the applicant is not disputing the counting of past service for promotion. The applicant grievance is the wrong seniority position basing on which 10% BCR Grade- IV promotion has been granted to the respondents resulting in placement of the respondent No. 6 to 18 above in the senior position than the applicant.

6. That with regard to the statements made in Para 4 of the written statements the deponent begs to state that as per the order dated 16.06.1997 [Annexure- 8 of the O.A.] the benefit of the 10% BCR Grade- IV promotion will be given to the staff of the restructured cadre from the date their junior in the old cadre have been given their benefit as per their seniority in the basic grade. In the instant case Smt. Jaymati Patowary is the junior most employee as well as cut off and the applicant being senior to said Smt Patowary got the benefit of 10% BCR Grade- IV scale. However, the official respondents causing serious illegality have granted the benefit of 10% BCR Grade- IV

Govinda Rabha -

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scale to the respondent No. 6 to 18 vide order dated 28.08.07, who are much junior to the said Smt. Patowary bacaude of their transfer under Rule 38 under Rule 3 of the P & T Manual Vol.- IV. Hence, now the respondents basing on the seniority position of the said erroneous order dated 28.08.07 are making attempt to regulate the future promotions.

7. That with regard to the statements made in Para 5 of the written statement the deponent begs to state that the respondents have admitted that Grade- IV promotion is a regular promotion and the benefit of grade- IV promotion has to be given to the staff of restructured cadre from the date their junior in the old cadre have been given his benefit as per his seniority in the basic grade. In the present facts of the case Smt. J. Patowary is the junior most and cut off towards grant of the benefit of 10% BCR Grade- IV pay and the respondent No. 6 to 18 being junior to said Smt. Patowary due to their transfer under Rule 38 are not entitled for 10% BCR Grade- IV pay. Therefore, for the aforesaid erroneous action on the part of the respondents not only the future promotional avenues of the applicant is going to be jeopardized but also the BSNL is also bearing huge amount of money in the name of paying higher salary to the respondent No. 6 to 8 which they are not entitled to.

8. That with regard to the statements made in Para 6 of the written statement the deponent while denying the contentions made therein and reiterating and reaffirming the statements made in the O.A as well as the above paras begs to state that order dated 31.05.07 is crystal clear and there is no scope for any interpretation or wrong interpretation. It is stated that as per the order dated 16.06.97 decision was taken to grant 10% BCR Grade- IV scale to the staff of restructured cadre. The criterion for grant of such promotion is that it will be granted to the

Gobind Rabha

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officials in the restructured cadre from the date on which his immediate junior in the basic grade of the old cadre has been promoted to the 10% BCR Grade- IV. Therefore, from the aforesaid it is clear that the officials who will be getting 10% BCR Grade- IV scale must have to be senior than the junior most person in the basic grade of the old cadre. In the instant case Smt. J. Patowary is the junior most (non-optee) in the basic grade and the applicant being senior to said Smt. Patowary has been granted the benefit of 10% BCR Grade- IV scale. However, in the case of the private respondents they came to the Kamrup SSA on transfer under Rule 38 from other SSA. Accordingly their position in the basic grade seniority list in the Kamrup, SSA has to be below the Smt. Jaymati Patowary which disentitles them from the benefit of 10% BCR pay scale. Therefore, if the respondent no. 6 to 18 have been assigned bottom seniority position as has been stated by the official respondents in Para 3 (b), in such an eventuality the grant of benefit of 10% BCR Grade- IV scale w.e.f. 2003 is erroneous on the face of it and in defiance with the order dated 16.06.97 because the junior most person in the basic grade Smt. Jaymati Patowary (non-optee) got the 10% BCR Grade- IV promotion on 01.07.05. Therefore, on this score alone the impugned order is liable to be set aside and quashed.

9. That in view of the facts and circumstances stated above the OA deserves to be allowed with cost.

Gobinda Robha

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

12 MAY 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

VERIFICATION

I, Sri Gobinda Rabha, Son of late Brojeswar Rabha, aged about 55 years, Sr. TOA(P), O/o General Manager, Kamrup Telecom District, Panbazar, Guwahati-1, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1, 2 (Partly), 3, 4, 5, 6 (Partly), 7, 8 (Partly), and 2 (Partly), 6 (Partly), 8 (Partly), _____ and _____ being matters of records are true to my knowledge, those made in paragraphs _____ and _____ being matters of records are true to my information derived there from and the grounds urged are as per legal advice. I have not suppressed any material fact.

And I sign this verification on this the 12th day of May, 2010 at Guwahati.

Gobinda Rabha

APPLICANT