

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI-5.

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O.A.No. 36/94 of 199

DATE OF DECISION....4-2-1998.....

1. Mr.S.S.Srivastava, (PETITIONER(S))  
2. Mr.N.C.Sharma

Mr.B.K.Sharma, Mr.P.K.Tiwari, ADVOCATE FOR THE  
Mr.M.K.Choudhury. PETITIONER(S)

VERSUS

Union of India & Ors. RESPONDENT(S)

Mr.A.K.Choudhury, Addl.C.G.S.C. ADVOCATE FOR THE RESPON  
DENTS.

THE HON'BLE JUSTICE MR.D.N.BARUAH, VICE-CHAIRMAN

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : VICE-CHAIRMAN



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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.36/94

Date of Order: This the 4th Day of February, 1998.

HON'BLE MR.JUSTICE D.N.BARUAH, VICE-CHAIRMAN  
HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. Mr.S.<sup>S</sup>.Srivastava, Geologist(Senior)  
Geological Survey of India,  
NER, Shillong.
  2. Mr.N.<sup>C</sup>.Sharma, Geologist(Senior)  
Geological Survey of India,  
NER, Shillong.
- ... Applicants.

By Advocate Mr.Mr.B.K.Sharma, Mr.P.K.Tiwari,  
Mr.M.K.Choudhury,

-Versus-

1. Union of India,  
represented by the Secretary,  
Ministry of Steel & Mines,  
Department of Mines,  
New Delhi.
2. The Director General,  
Geological Surveyor of India,  
27, Jawaharlal Nehru Road,  
Calcutta-16.
3. The Director(P)  
Geological Survey of India,  
4, Chowranghee Lane,  
Calcutta-16
4. The Dy. Director General, GSI, NER,  
Shillong.3

By Advocate Mr.A.K.Choudhury, Addl.C.G.S.C.

ORDER.

BARUAH J.(VC):

In this application the applicants have challenged the Annexure 1 order sent by Annexure 6 Telex Message dated 22-6-92. By the said order the applicants were reverted from the post of Senior Geologist to the post of Junior Geologist. The applicant were promoted by Annexure order dated 18.2.92.

Facts are :-

At the material time the applicants were employees of Geological Survey of India and they had been holding the post of Junior Geologist. A Departmental Promotion Committee was held on 7th & 8th February 1992 for Promotion of Junior Geologist to the post of Sr.Geologist. At the

time of consideration the applicants were found suitable and accordingly, they had been recommended for promotion to the Senior Geologist. Consequent to such recommendation and a Presidential Notification was issued <sup>and</sup> by Annexure 1 Telex Message dated 22-6-92 the applicants had been informed about it. On the basis of the Presidential approval the applicants were promoted to the same post and pursuant to the said promotion the applicant took over the charge of Senior Geologist. Later on by Annexure 3 notification dated 12-8-92 the respondents had shown the effective date of promotion from 23-6-92 the date when the applicants took over charge. Their pay had also been fixed in their promotional post by annexure 4 and 5 notifications. On 18-2-94 by Annexure 6 Telex Message the applicants were informed that their promotion to the post of Senior Geologist had been cancelled and they were reverted back to the post of Junior Geologist. The respondents also demanded to return of the excess amount which the applicants received in the promotional post. It may also be mentioned here that on the day of the reversion an order was passed for promotion of the applicant to the post of Sr. Geologist giving effect prospectively. The reversion was however with retrospective effect. The respondents demanded the refund of excess amount the applicant received during the period from 23-6-72 to 7.2.94. According to the Respondents the applicant were not entitled to receive the said excess amount. Situated thus the applicants have approached this Tribunal. Notices issued to show cause why the impugned order should not be set aside by the Tribunal. Besides an interim order was also granted and later on the application was admitted and interim order was made absolute.

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We have heard Mr.P.K.Tiwari learned counsel, assisted by Mr.S.Sarma learned counsel appearing on behalf of the applicant and Mr.A.K.Choudhury, learned Addl.C.G.S.C Mr.Tiwari argues before us that the order passed by the respondents cancelling the promotion was arbitrary and illegal. It was also unreasonable and unfair. This order was passed behind the back of the applicants reverting the applicants to the Original post in utter violation of the principle of Natural justice. At the time of reversion no reason was assigned. Mr.Choudhury on the other hand submits that through inadvertence the applicants had been promoted earlier by Annexure I on the wrong assumption that no eligible reserve candidates were available. The mistake was detected subsequently and then a Review D.P.C. held.

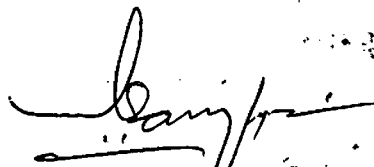
We have perused the records produced before us. We have also heard learned counsel for the parties. We feel that the matter requires further consideration as to whether the applicants deserved promotion. If the applicant were actually eligible for promotion at the point of time the authority no doubt had power to consider the same. But we feel that the applicants ought to be given an opportunity of hearing. Therefore, we dispose of the application directing the respondents to consider the reversion of the applicants in strict compliance of the provisions of the relevant law and the rules. For that purpose the applicants shall be given opportunity of hearing. If the authority is satisfied that the applicants are entitled to get promotion, they shall be promoted. The authority shall make endeavour to consider and

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dispose of the matter at an early date within a period of 4 months from the date of receipt of this order. For the convenience of the respondents the applicants may also file a representation within 10 weeks from to-day. If such representation is filed by the applicants within this period, the respondents shall dispose of the representation. If the applicants are still aggrieved they may approach this Tribunal.

Till the final decision of this case the recovery of amount shall not be made from the applicants.

Considering the entire facts and circumstances of the case we make no order as to costs.



(G.L. SANGLYINE)  
ADMINISTRATIVE MEMBER



(D.N. BARUAH)  
VICE CHAIRMAN

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