

30/100  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 258/95

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SECTION OFFICER (Judl.)

*Ganita*  
2-2-19

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO. 258 OF 1995

TRANSFER APPLN. NO. OF 1995

CONT EMPT. APPLN. NO. OF 1995 (IN NO. )

REVIEW APPLN. NO. OF 1995 (IN NO. )

MISC. PETITION NO. OF 1995 (IN NO. )

S. K. Nandy ... to the APPLICANT(S)

-vs-

U. O. ... to the RESPONDENT(S)

For the Applicant(s) ... Mr. B. K. Sharma

Mr. S. Sarma

Mr.

Mr.

For the Respondent(s) ... Mr. G. Sarma, Addl. C. G. S. C.

OFFICE NOTE

DATE

ORDER

24.11.95

Mr B. K. Sharma for the applicants.

Mr G. Sarma, Addl. C. G. S. C for the respondents.

Perused the statement of grievances and reliefs sought for in the application. Application is admitted. Issue notice on the respondents by Registered Post. Written statement after 6 weeks as requested by learned Addl. C. G. S. C Mr G. Sarma.

List on 12.1.1996 for written statement and further orders.

*6*  
Member

pg

12.1.96

Learned Addl. C. G. S. C ~~prays~~ Mr G. Sarma prays for further time to file written statement. Allowed.

Adjourned to 16.2.96 for written statement and further orders.

*6*  
Member

1) Service Reports are still awaiting pg

(contd. to Page No. 2)

2) W/ statement has not been filed.

2/11

OA/TA/CP/RA/MP No. 258 of 1993

OFFICE NOTE	DATE	ORDER
13.2.96 w/s on behalf of the Respondents.	16-2-96 1m.	Learned Addl.C.G.S.C Mr.G.Sharma is present. Written statement has been submitted. Case is ready for hearing. List for hearing on 1-3-96. for further exx
		<i>BD</i> Member
	1-3-96. 1m	Counsel of the parties are present Learned Mr.S.Sarma for the applicant see short adjournment. Adjourned for hearing on 8-3-96.
	8.3.96 pg	Counsel of the parties are present and completed their submissions. Hearing concluded. Judgment reserved. <i>BD</i> Member
26.6.96 Copy of trial order issued to the parties vide D. No 1921 & 1926 dtg. on 4-7-96. w/s	29.3.96 pg	Judgment pronounced. Application is allowed in terms of the order. No order as to costs. <i>BD</i> Member

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :::: GUWAHATI-5.

O.A. NO. 258/95  
T.A. NO.

DATE OF DECISION 29.3.1996

Sri Sujit Kr.Nandy.

(PETITIONER(S)

Mr.B.K.Sharma and Mr.S.Sarma.

ADVOCATE FOR THE  
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Mr.G.Sarma, Addl.C.G.SC.

ADVOCATE FOR THE  
RESPONDENT (S)

THE HON'BLE SHRI G.L.SANGLYINE MEMBER (A)  
THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ? yes
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 ? NO.

Judgment delivered by Hon'ble MEMBER (A)

Sanglione 29.3.96

5

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 258/95

Date of Order: This the 29 th Day of March, 1996.

SHRI G.L.SANGLYINE, MEMBER(A)

1. Sri Sujit Kr.Nandy,  
S/O.Sri R.C.Nandy,  
at present working as Senior Accounts Officer,  
In the office of the General Manager, Maintenance,  
Eastern Telecom Region, Tex Building,  
Shillong-1.
2. Sri Pinaki Rauth,  
Sr.Accounts Officer,  
Office of the Chief General Manager,  
N.E.Telcom Circle,  
Shillong-1.
3. Sri S.S.Tiwari,  
Accounts Officer,  
Office of the Chief General Manager,  
N.E.Telcom Circle,  
Shillong-1. .... Applicant.

By Advocate Mr.B.K.Sharma and Mr.S.Sarma.

-Vs-

1. Union of India,  
Represented by the Secretary to the Govt. of India,  
Ministry of Communications,  
Sanchar Bhawan, New Delhi-110001.
2. The Chief General Manager(Telcom),  
N.E.Telcom Circle,  
Shillong-1.
3. The Chief General Manager,  
Eastern Telecom Region,  
7,Khetra Das Lane,  
Calcutta-12. ... Respondents.

By Advocate Mr.G.Sarma Addl.C.G.S.C.

O R D E R.

SANGLYINE, MEMBER(A):

The three applicants have joined in one application under Rule 4(5)(a) of the Central Administrative Tribunals (Procedure) Rules 1987. They are allowed to do so.

contd/-

29.3.96

2. In this application the applicants seek for a direction on the respondents to step up their pay at par with the pay of their junior, Shri R.A.Mohanraj, with effect from the date on which the anomaly arose with all consequential benefits. The applicants alongwith Mohanraj were promoted to the post of Accounts Officer on regular basis on 25-3-1991. They have All India Seniority and there is no dispute that Mohanraj was junior to the applicants. He was however drawing more pay than the applicants as Accounts Officers according to the statement of fixation of pay dated 24-4-1991. This anomaly of junior getting more pay than his seniors, the applicants here, in the post of Accounts officer was because of fortuitous adhoc promotion enjoyed by the said Mohanraj due to local adhoc arrangement. Mohanraj continued as Accounts officer under such local adhoc arrangement for a long period and had earned increments and, as a result, after regular promotion his pay as Accounts Officer was fixed at a higher stage in the scale of pay than those of the applicants. The applicants had separately appealed to the competent authority of the respondents for redressal but they were informed by the respondents that there was no anomaly as per letter No.4-31/92-PAT dated 31-5-93 issued by DOT, New Delhi. The respondents also informed that the benefits of judgments of the Central Administrative Tribunal in the case of others cannot be extended to other similarly placed Government servants. In this application the applicants persisted in their contention that when the various Benches of the Central Administrative Tribunal had allowed the prayer for stepping up of pay under similar circumstances there is no justifying reason for the respondents to deprive the applicants the benefits of the principles laid-down in the judgments when the applicants are similarly placed. The respondents however, have contended in this

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X

application "that the relief granted earlier by the judgment of this Hon'ble Tribunal was without following any rule or instruction and without striking down any rule or instruction which is arbitrary." Thus the respondents say in other words that the principles laid down by the Central Administrative Tribunal in this matter are not to be followed by them.

Mr. G. S. Sarma, the learned Addl. C.G.S.C. alongwith Sri S. S. SOM, Assistant Director, appearing for the respondents submitted that stepping up of pay of the applicants is not permissible as (1) the applicants and Mohanraj do not belong to the same circle and the benefits enjoyed by Mohanraj arose as a result of local arrangement demanded by administrative exigencies in his circle and (2) there is no anomaly in fixation of pay under FR 22 when junior gets more pay than senior by virtue of long officiation in a higher post by the junior as a result of local adhoc arrangement. Mr. G. S. Sarma submitted that he placed reliance on the decision of the Central Administrative Tribunal, New Bombay Bench, dated 21-11-89 in M.P. Kulkarni reported in 1989(4) SLJ(CAT)425 in support of his contention. In that case prayer similar to the prayer of the applicants in the instant application had been rejected and he submitted that this instant application is liable to be dismissed.

4. Learned counsel Mr. S. Sarma appearing for the applicants submitted that the majority of the Benches of the Central Administrative Tribunal had allowed the stepping up of pay of seniors at par with the pay of the juniors when compared juniors draw more pay than the relevant seniors due to long officiation of juniors in a higher post as a result of local adhoc arrangements. In particular he refers to and relies on the following decisions -

contd/

3-96

- 1) Order dated 18-8-1994 of the Calcutta Bench in O.A. 1426 of 1993-Swapan Kr.Das and others,
- 2) Order dated 22.11.1995 of the Guwahati Bench in O.A.64 of 1995 - H.C.Chakraborty and others, and
- 3) Order dated 22.11.1995 of the Guwahati Bench in O.A.65 of 1995-Man Mohan Dey and others.

He submitted that all these cases relate to the same issue of stepping upof pay of Accounts Officers of the Department of Telecommunications arising out of juniors drawing more pay than the seniors because of local adhoc arrangements bestowing benefits of long officiation to the juniors under such arrangements. He submitted that these decisions are applicable in the case of the applicants and the instant application deserves to be allowed in full.

5. The cases relied on by the learned counsel for the applicant above relate to the stepping upof pay of the Accounts Officers of the Department of Telecommunications. Similar anomalies had arisen in those cases as in the instant case of the applicants. The applicants and their compared juniors in those cases referred to did not belong to the same Telecommunications Circles. Relief had been granted. Except relying on the written statement there was no information given on behalf of the respondents to the effect that they had contested before the Hon'ble Supreme Court against any of the above mentioned orders of the Tribunal. Further, it may not be out of place to mention herem that in another case relating to the Department of Telecommunications,

3.96  
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Namely, Baidyanath Bandopadhyaya, the Calcutta Bench of the Central Administrative Tribunal had in the order dated 18.8.1994 in O.A.393 of 1994, reported in 1994(3) SLJ (CAT) 378, allowed the benefit of stepping up of pay under similar circumstances and in that case too the applicant and his compared junior belonged to different Telecommunications Circles. The fact that the respondents have kept silent about their contest against these decisions would mean that they had accepted the decisions in the cases mentioned above and the difference in circles of seniors and juniors is no longer a valid contention. At any rate, I am not convinced by the reasons given by the respondents in their written statement in support of their contention that stepping up of pay of seniors of one circle cannot be made with reference to the pay of a junior of another circle who had by virtue of his long officiation in a higher post before regular promotion to the post as a result of local adhoc arrangement earned increments in the scale of pay of that post. Local adhoc appointment by promotion of juniors is understandably meant for a short duration and in such a manner that the officiating junior does not earn increment in the officiating post. But the respondents in this case have recognised and defended prolongation of such local adhoc arrangements in their written statement. The seniority of an Accounts Officer in the Department of Telecommunications is maintained on all India basis. Undoubtedly, this prolongation of local adhoc officiation gives undue benefits to the juniors in a particular place while preventing the deserving seniors in other parts of the country to get their promotion on regular basis in time. Since the respondents have recognised and defended as mentioned above prolongation of local adhoc arrangement and consequential benefits to the fortunate juniors, they have to protect the interest of the seniors also. This they can do by granting

the senior Accounts officers, who were also senior in the lower grade but could not get local adhoc promotion earlier or longer than the juniors, equal pay at par with their compared juniors, who happened to be fortunate to earn higher pay by virtue of their long fortuitous adhoc promotion, though they belong to different circles, for unless it is done so the disparity in pay will persist over a long period of service career which will result in injustice to the seniors who have not been favoured with prolonged local adhoc promotions. This will, to a large extent, remove the evils associated with prolonged local adhoc promotion to a post having all India seniority.

6. I am not also convinced by the contention of the respondents that it is not permissible to stepup the pay of the seniors with reference to the pay of the junior who had earned higher pay by virtue of his(junior)long officiation on the basis of local adhoc arrangement. It is gathered from (1992)19 ATC 569, N.Lalitha and others, that this issue was considered by the Hyderabad Bench of the Central Administrative Tribunal in V.Vivekananda Vs.Secretary, Ministry of Water Resources in O.A.No.622 of 1989and that in disposing of the SLP No. 13994 of 1991 in that case on 22-8-1991 the decision of the Bench was upheld by the Hon'ble Supreme Court. It is also gathered from the submission of the respondents (Annexure R+1) that the decision dated 15.11.1991 in N.Lalitha and Ors.(Supra) was contested in appeal before the Hon'ble Supreme Court and that the SLP in that case was dismissed. In both these cases on regular promotions the pay of the juniors were fixed at a higher stage in the scale of pay than the pay of the seniors because of the fact that the juniors had earned higher pay due to their long officiation in the post as a result of their adhoc promotion. The Bench had come to the conclusion that the seniors who did not have the benefit of adhoc promotion cannot be put to disadvantage in the matter of fixation of their pay. The appeal against this finding

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had as already mentioned been dismissed by the Hon'ble Supreme Court. In rejecting the representations of the applicants the respondents have stated that Court judgments cannot be extended to other similarly placed Government servants. In other words it is the contention of the respondents that even the above two judgments whose SLPs had been dismissed by the Hon'ble Supreme Court cannot be followed by them in cases of other employees. In fact this was one of their contentions in O.A.No.64 of 1995 of the Guwahati Bench. The contention had met with disapproval in para 7 of the judgment dated 22-11-1995 in that O.A. In the instant application their contention is as quoted in para 3 above and that the decision in N.Lalitha and others (Supra) cannot become a law to be quoted. I am afraid the respondents cannot make such contentions as have been mentioned above in this paragraph and the contentions made by them have to be rejected as unacceptable. They are accordingly rejected.

7. As mentioned earlier on in this order the applicants and R.A.Mohanraj were promoted on regular basis to the post of Accounts Officer on the same date and the applicants are undisputedly senior to Mohanraj. The applicants however draw lesser pay as they could not enjoy fortuitous local adhoc promotion to the post of Accounts Officer while, on the other hand, Mohanraj who had such promotion, draws more pay than the applicants. In the light of the views I have taken above, (Letter No.CGM/ETR/CA-Admn-320/9 dated/23-2-95, at CA-12 Annexure H), letter No.STB/SA-5162 dated at Shillong the 14-3-95 (Annexure I) and letter No.STB/SA-77 Dated at Shillong the 21-3-95 (Annexure J) are quashed and set aside). Consequently, I direct the respondents to allow stepping up of pay of the applicants at par with the pay of their compared

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29.3.96

junior, Sri R.A. Mohanraj with effect from the date on which the anomaly arose. The respondents are further directed to pay arrear and allow other consequential benefits to the applicants as admissible as a result of refixation of pay due to stepping up of their pay. The respondents are directed to fully comply with the above directions within 4(four) months from the date of their receipt of this order.

8. The application is allowed. No order as to costs.

  
(G.L. SANGLYINE)

MEMBER(A)

29.3.96

LM

Central Administrative Tribunal  
Guwahati Bench  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

6/9 20 NOV 1995  
DAN

An application under section 19 of the Administrative Tribunal Act, 1985.

Title of the case : O.A.No. 258 /1995.

Shri Sujit Kr. Mandy & 2 others .....Applicants.

-Versus-

Union of India & others. .....Respondents.

I N D E X

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For use in Tribunal's Office:

Date of filing :

Registration No.:

REGISTRAR

Re? G. Sarmah  
AN/CG/15  
21.9.95

13  
Filed By,  
Senior Account  
Officer  
13/11/95

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A.No. 258 of 1995.

BETWEEN

1. Sri Sujit Kr.Nandy,  
S/o Sri R.C.Nandy,  
at present working as Senior Accounts Officer,  
In the office of the General Manager, Maintenance,  
Eastern Telecom Region, Tex Building,  
Shillong-1.
2. Sri Pinaki Rauth,  
Sr.Accounts Officer,  
Office of the Chief General Manager,  
N.E.Telcom Circle,  
Shillong-1.
3. Sri S.S.Tiwari,  
Accounts Officer,  
Office of the Chief General Manager,  
N.E.Telcom Circle,  
Shillong-1.

..... Applicants.

AND

1. Union of India,  
represented by the Secretary to the Govt. of India,  
Ministry of Communications,  
Sanchar Bhawan, New Delhi-110 001.
2. The Chief General Manager(Telcom),  
N.E.Telcom Circle,  
Shillong-1.
3. The Chief General Manager,  
Eastern Telecom Region,  
7, Khetra Das Lane,  
Calcutta-12.

..... Respondents.

DETAILS OF APPLICATION

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

The instant application is directed against  
the individual orders communicated to each of the applicants  
refusing.....

refusing stepping up of pay in relation to the pay of their junior.

2. JURISDICTION OF THE TRIBUNAL :

That the applicants declares that the subject matter of the application for which he wants redressal is well within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the applicants are all citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed by the Constitution of India and the laws framed thereunder.

4.2 That the above named applicants have come before this Hon'ble Tribunal for redressal of their grievances arising out of respondents' refusal to stepping up of pay. The grievances of the applicants and the cause of action for which the applicants have come before this Hon'ble Tribunal for redressal of the same are similar. Thus the applicants in the instant case humbly submit before this Hon'ble Tribunal and seek indulgence from Your Lordships to permit them to present their grievances in a single petition to avoid litigation as well as cost under Rule-4(5)(a) of Central Administrative

refusing stepping up of pay in relation to the pay of their junior.

**2. JURISDICTION OF THE TRIBUNAL :**

That the applicants declares that the subject matter of the application for which he wants redressal is well within the jurisdiction of this Hon'ble Tribunal.

**3. LIMITATION :**

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

**4. FACTS OF THE CASE :**

4.1 That the applicants are all citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed by the Constitution of India and the laws framed thereunder.

4.2 That the above named applicants have come before this Hon'ble Tribunal for redressal of their grievances arising out of respondents' refusal to stepping up of pay. The grievances of the applicants and the cause of action for which the applicants have come before this Hon'ble Tribunal for redressal of the same are similar. Thus the applicants in the instant case humbly submit before this Hon'ble Tribunal and seek indulgence from Your Lordships to permit them to present their grievances in a single petition to avoid litigation as well as cost under Rule-4(5)(a) of Central Administrative

Tribunal's Procedure Rules, 1987.

4.3 The service particulars of the applicants are given below :-

(a) The applicant No.1 Sri Sujit Kr. Nandy at present working as Sr. Accounts Officer in the office of the General Manager, Maintainance, Eastern Telecom Region, Tex Building, Shillong-1. He was promoted as Accounts Officer by order dated 25.3.91 and his name is in the Sl. No.240. He had passed the J.A.O. Part-II Examination in 1980. His staff No. in latest Blue List for All India seniority position is 81638 and his pay was fixed @ 2375/-.

(b) The applicant No.2 Sri Pinaki Rauth, at present working as Sr. Accounts Officer in the office of the Chief General Manager, N.E.Telcom Circle, Shillong. He was also promoted as Accounts Officer by order dated 25.3.91 and his name is in the Sl.No.211 of Promotion List and he has also passed the J.A.O. Examination. His name is in the Sl.No.81609 (Staff No.) with seniority position at 1103 of the latest Blue List of 1993 and his pay was fixed @ Rs.2375/-.

(c) The applicant No.3 Sri S.S.Tiwari, at present working as an Accounts Officer in the office of the Chief General Manager, N.E.Telcom Circle. He also promoted as Accounts Officer by order dated 25.3.91 and his name is in al.No.254 of the promotion List and he has also passed the J.A.O. Examination. His name is in the sl.81652 (Staff No.)

S.1C. No. 9

With seniority position at 1145  
of the latest Blue List of 1993 and his pay was fixed  
@ Rs.2375/-.

Copy of the extract of Blue List is annexed  
herewith and marked as ANNEXURE-A and copy  
of promotion order dtd.25.3.91 as ANNEXURE-B  
(extract).

4.4. That all the aforesaid posts of Accounts Officers  
are born on All India cadre, that the incumbents being  
liable to be transferred any where within India. On entry  
into these all India cadres, seniority of an incumbent  
is fixed on the basis of rank obtained by him in order  
of merit in the JAO Part-II Examination. The seniority once  
was fixed, remains same throughout.

4.5. That on the entry of the category of Accounts  
Officer, the seniority position of the applicants were  
1131, 1103 and 1145  
assigned at sl.No. 246, 241 and 254 respectively. On the  
other hand, the seniority position of another incumbent  
viz R.A.Mohanraj was assigned at Sl No. 259. These senior-  
ity positions are also confirmed by the latest Blue List  
in these categories of officers. There can not be any  
denial of the fact that Shri R.A.Mohanraj is junior to  
the applicants in the aforesaid cadres having all India  
seniority.

4.6. That as pointed out above, the respective  
date of joining of the applicants as Accounts Officer  
on regular basis is 25.3.91 and said Shri R.A.Mohanraj

was also promoted by the same promotion order dated 25.3.91. On promotion as regular Accounts Officer, the pay of applicants were fixed at Rs.2375/- while the said junior Shri R.A.Mohanraj's pay was fixed at Rs.2600/- vide pay fixation statement dated 24.4.91 and his pay refixed from time to time.

For better appreciation of the factual position comparative statements depicting the aforesaid position are annexed herewith and marked as ANNEXURE-C, ANNEXURE-D & ANNEXURE-E.

4.7. That the applicants came to know recently to their shock and dismay that said Shri R.A.Mohanraj was drawing more pay than them inspite of the fact that he is junior to them. Upon enquiries, they found out that the pay of Shri R.A.Mohanraj is more than their pay and this anomaly of junior getting more pay than the seniors occurred in view of fortuitous adhoc promotion. Said Shri Mohanraj was enjoying officiating adhoc promotion against Accounts Officers vacancy and consequently he was granted increments etc. Thus on his promotion on regular basis as Accounts Officer his pay was fixed at Rs.2600/- when his pay at the time of Dy.A.O.(AAO) was Rs.2240/- and his pay was fixed at Rs.2600/-, 2675/-, 2750/-, 2825/- & 2900 from time to time upto 1.9.94.

Copy of one of the pay fixation report dtd.24.4.91 is annexed as ANNEXURE-F.

4.8. That being aggrieved with their wrong fixation of pay and there being no stepping up of pay

Contd.....p.6/-

in reference to their junior Sri R.A.Mohanraj, the applicants made representations dtd.21.2.95, 21.2.95 and 24.2.95 respectively with the request for stepping up of pay at par with that of Shri R.A.Mohanraj with effect from the date on which the aforesaid anomaly arose.

Copies of representations dtd.21.2.95, 21.2.95 and 24.2.95 respectively are annexed herewith as ANNEXURE-G.

4.9. That the applicants in their aforesaid representations highlighted as to how the benefit of stepping up of pay has been granted to others under similar circumstances. It will be pertinent to mention here that many others like that of the applicants all over the country have approached different Benches of Hon'ble Tribunal with the similar prayer as has been made in this instant application i.e. for stepping up of pay. All the said applications have been allowed with the direction for stepping up of pay with effect from the date of occurrence of anomaly with all consequential benefits of pay and allowances including arrears on refixation of pay in reference to ~~said~~ <sup>Their junior</sup> ~~Shri R.A.Mohanraj~~. The applicant crave leave of this Hon'ble Tribunal to produce the copies of said judgement at the time of hearing of the instant application. It is pertinent to mention here that the respondents have implemented the judgements confining the benefits to the applicants therein only.

4.10 That the applicants state that instead of following the principles laid down by the various Benches

of the Hon'ble Tribunal and granting the same benefits to the applicants as was granted to the applicants in the said cases, the authority passed a mechanical order rejecting the prayer of the applicants.

Copies of letter dtd. 23.2.95, 14.3.95 & 21.3.95 are annexed herewith and marked as ANNEXURE-H, ANNEXURE-I & ANNEXURE-J.

**5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :**

**5.1** For that prima facie the order/orders rejecting the prayer of the applicants for stepping up of their pay in reference to their junior is arbitrary and illegal and accordingly liable to be set aside and quashed.

**5.2** For that it is a settled position of law that when some principles are laid down in a case, the said principles are required to be followed by the authorities in respect of other cases and incumbents similarly circumstanced without requiring them to approach the Hon'ble Tribunal again, but in the instant case, the applicants have been illegally deprived of the benefits of the said principles laid down by the different Benches of the Hon'ble Tribunal.

**5.3** For that law is well settled with fortuitous adhoc promotion cannot put the senior at a disadvantageous position in the matter of pay fixation. While doing so, the same benefit cannot be denied to the

applicants when the adhoc promotion came to be issued from one post to another within an all India cadre in utter disregard to seniority under fortuitous circumstances.

5.4 For that law is well settled that in view of such anomalies stepping up of pay is required to be done so as to bring parity in the matter of pay fixation among the seniors and juniors. In a given case where the juniors are getting more pay than their seniors.

5.5 For that in any view of the matter, the benefit of stepping up of pay cannot be denied to the applicants.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicants declare that they have got no other alternative remedy available.

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

The applicants further declare that they had not previously filed any application, writ petition or suit regarding the matter in respect of which the application has been made before any Court of law, or any other authority and/or any other Bench of the Tribunal and/or any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

In view of the facts and circumstances stated above, the instant application be admitted, records be

called for and on perusal of the same and upon hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

- (i) To set aside and quash the impugned orders at Annexures - H, I & J dated 25.2.95, 14.3.95 and 21.3.95 respectively.
- (ii) To direct the respondents to step up the pay of the applicants at par with their junior Shri R.A.Mohanraj with effect from the date on which the anomaly arose and to pay all the arrears arising on account of such fixation and grant all consequential benefits and thus render justice.
- (iii) Cost of the application.
- (iv) Any other relief or reliefs to which the applicants are entitled to under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

The applicants do not pray for any interim relief at this stage.

10. .... The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : 8.09.326852
- ii) Date : 21.9.95
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As detailed in the Index.

VERIFICATION

I, Sri Sujit Kr. Nandy, son of Sri R.C.Nandy, aged 49 years, at present working as Senior Accounts Officer, in the office of the General Manager, Maintenance, Eastern Telecom Region, Tex Building, Shillong-1, the applicant No.1 in the instant application do hereby solemnly affirm and verify that the statements made in para 1 to 4 and 6 to 12 are true to my knowledge and those made in para 5 are true to my legal advice and I have not suppressed any material fact. I <sup>am</sup> also duly authorised by other applicants to sign this Verification on <sup>their</sup> behalf ~~of~~ all of us.

I sign this Verification on this 15<sup>th</sup> day of September, 1995 at Guwahati.

Sujit Kumar Nandy.

ANNEXURE A.

Blue Book - Latest - 1993

P&T A/C & FINANCE		544		545		Blue Book	
Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of Birth	Date of Entry	BLUE BOOK
81604	RAJ MARINDER	1099	040952	240574	050491		
81605	VIJAYARAGHAVAN J	1100	010653	250972	141091		
81606	RAJARAM K	1101	190756	061075	180491		
81608	KRISHNA MURTHY G	1102	070147	221167	190691		
81609	ROUTH PINAKI	1103	031253	270873	240591		
81610	PANDA BALARAM	1104	020451	070873			
81611	TIWARI AKSHYABAR NATH	1105	020651	160673	150991		
81612	SATYAPATHY DURGA CHARAN	1106	230350	250101	110791		
81613	PALANISAMY K	1107	240554	150573	220591		
81614	MOHINUDDIN GULAM	1108	050448	270270	050891		
81615	BISWAL MAHESWAR	1109	020447	230470	160491		
81616	KUMARASWAMY PILLAI K	1110	060553	280773	100791		
81618	OJHA BALARAM	1111	160549	081169	240491		
81619	PATIL S W	1112			250391		
81620	MAHALLE M T	1113	010752	020773	240591		
81621	GADEKAR B G	1114	040545	020865	310591		
81622	SINGH BASUDEO PD	1115			050491		
81623	SHARMA DES RAJ	1116	230148	201071	250391		
81624	THIYAGARAJAN G	1117	100144	160169	130391		
81625	JHA SHIVAJI	1118	020149	160271	170591		
81626	ATHISAYAMANI A I	1119	310155	010974	041091		
81627	SRINIVASU N S	1120	050252	270874	290491		
81628	SINGH KALI NATH	1121	240641	170960	040691		
81629	DAFTAGUPTA SUBASH CH	1122	030642	240962	300491		
81630	MUNIRATHNAM NATDU R	1123	050649	080862	020991		
81631	RAJENDRAPPA Y	1124	200350	010671	020991		
81632	ARUNACHALAM A	1125	070355	030974	080891		
81633	PRASAD JAGDISH	1126	090450			270591	
81634	DIWAN NAVIN KUMAR	1127				270591	
81635	HOODA DALAL SINGH	1128	040342	160763	290491		
81636	JHA BIJAY KANT	1129	090146	170869	020891		
81637	WAGHEDA J N	1130	110347	100769	030491		
81638	NANDY SUJIT KUMAR	1131	010747	221176	080791		
81639	HOTA GANGA BHUSHAN	1132	050351	011173	060691		
81640	KRISHNAMACHARI PREMA	1133	020954			270391	
81641	ARUNACHALAM R	1134	050647	110466	240491		
81642	PRASAD N	1135	130854	140874	030491		
81643	SOMASUNDARAM P	1136	050251	140675	030491		
81644	PANDIAN R	1137	150751	051073	270691		
81645	DAS LAKSHMAN CHAND	1138	201043	290566	300491		
81646	SANAT MUMAR A	1139	021250	261270	300491		
81647	HASAN MD NAZEER	1140	030548	010266	080791		
81648	PRASAD RAJ DRYAL	1141	010146	290966	110691		
81649	ANANDAKRISHNIAH S	1142	010151	030773	161291		
81650	BHASKARA RAO A	1143	230244	180263	110991		
81651	SINGH BRIJ MATH	1144	010344	020568	080691		
81652	TIWARI SHOB SHANKAR	1145	040850	190674	250391		
81653	KALYANA SUNDARAM R	1146	101052	141272	210891		
81654	MURTHY E S R	1147	100553	080574	100691		
81655	DE PIJUSH KANTI	1148	230286	140158	290491		

Advocate

P/C A/C & FINANCE		Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/PR
+ 12 -							
81656	DEEN DAYAL	1149	070250	030471	240392		
81657	MOHANRAJ R A	1150	031052	110873	120491		
81658	CHAKRABORTY HARAN CH	1151			260491		
81659	SAHOO BHIMSEN	1152	030450	030374	110691		
81660	VISHWAKARMA JIT BAHADUR	1153	010747	080568	081091		
81661	BHAGWATH V G	1154	160547	270166	200591		
81663	PALANI P	1155	150952	140873	300591		
81664	NATHI LAL	1156	010355	250374			
81665	RAJESWARAN R	1157	021253	071074	260691		
81666	SINDHI ABDUL SATTAR	1158			290491		
81667	BAGCHI TANMOY	1159	030152	140873	240491		
81668	NAIJUNDASWAMY S	1160	100253	200574	290192		
81669	RAZAK ABDUL	1161	050148	161266	250691		
81671	PATEL B S	1162	010649	060669	020491		
81672	MANICKAVACHAKAM T	1163	090554	070475	250391		
81673	JAYARAJ P	1164	150545	231264	301191		
81674	MOHANTY NIMAIN CHARAN	1165	011150	010471	290591		
81675	BANERJEE JAYANTA	1166	020354	020773	300491		
81676	GUPTA RABINDRA KUMAR	1167	090745	060765	290691		
81677	KUNJASABAPATHI T	1168	210547	200566	300591		
81678	CHHABRYA B R	1169	160747	090671	290491		
81679	THAKUR CHANDA	1170	090454	281074	100691		
81680	PITCHIBABU V	1171	050841	170265	300491		
81681	SHANKAR BELLUBBI P	1172	010649	071071			
81682	MATHURIA R S	1173	010945	110856			

P/C A/C & FINANCE		Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/PR
51							
81683	MALATHI N	1174		190649	040472	271291	
81684	GUPTA HARISH CHANDRA	1175		150953	260475	230491	
81685	THIRUNGNANA SAMBANDAM D	1176		150853	141174	120491	
81686	SINGH PIARA	1177		081044	010365	120491	
81687	JHA A	1178		151237	051056	250491	
81688	SUPARNA N K	1179		200142	010463	260491	
81689	MOITRA MUKUT	1180		050149	011273	300891	
81690	BAHETI GOPAL LAL	1181				300491	
81691	SINGH SUMER	1182		020145	360769		
81692	SALI N O	1183		300950	280674	190491	
81693	RAM AVATAR	1184		250657	241275	010691	
81694	SINGH RAMESHWAR	1185					
81695	VASU K M	1186		220248	261070		
81696	ROY SUZRATA GOPAL	1187		200148	100372	300591	
81697	DRYAL VISHWAMBHAR	1188				170591	
81698	JAI RAM	1189		220944	081065	160491	
81699	YAMUNA M C	1190		160351	260972	150192	
81700	JAIN JAGDISH CHAND	1191		080152	130172	190791	
81701	NARANG JAI KISHAN	1192		151238	251159	311091	
81702	PRAKASA PAO S S	1193		010744	021264	300491	
81703	RAMACHANDRAN NAIR S	1194		060149	151275		
81704	PRAJAPATI N R	1195		200247	091069	060591	
81705	RAVINDRAN R	1196		280255	120873	300891	
81706	RAMASUBRAMANIAN	1197		030554	070573	300891	
81707	ANGUCHAMY P	1198		200246	090266	131291	

NO. 9-1/91-SEA  
Government of India  
Department of Telecommunications  
(Telecom. Commission)

Sanchar Bhavan, dt. at New Delhi, the 25-03-91.

OFFICE MEMORANDUM

Sub:- Promotions, Transfers and Postings in the grade  
of Accounts Officers (Telecom. Wing)

\*\*. \*\*

Cancellation:-

The orders transferring Shri P.V.S.T. Sai and Shri V.S.R. Sarma A.Os to A.P. Telecom. issued in this office O.M. No. 9-1/90-SEA dt. 12-04-90, and Shri Dhanpal Singh, A.O., Bihar Circle to U. P. Telecom. issued in this office O.M. No. 9-1/90 - SEA dt. 8-10-90 are hereby cancelled. They are retained in M.H. Telecom. Circle and Bihar Telecom. Circle respectively against existing vacancies.

2. Reallotments:-

In partial modification of para 4 of this office Memo. no. 9-1/90-SEA dt. 12-7-90 and of this office Memo. no. 9-1/90- SEA dt. 8-10-90, and of this office memo. no. 9-1/90-SEA dt. 14-9-90, the following allotments are hereby ordered. The other conditions of their promotions in the grade of Accounts Officer remain unchanged.

Names of the AAOs Circle etc. Circles in Circles to where working which originally posted as AAO which now really posted allotted as AO

G.T.V.S. Krishnama	A.P. Telecom.	Bombay Phones	A.P. Telecom.
charyulu			
S.S.N. Murthy	A.P. Telecom.	QA, Bangalore	A.P. Telecom.
R. Gnanasekharan	T.N. Telecom.	Gujarat Telecom.	Assam Telecom.
V.N. Sahu	Bihar Telecom.	W.B. Telecom.	Bihar Telecom.

Shri. S.S.N. Murthy is reallocated to A.P. Telecom. for one year or till the T.R. Computerisation in Vizag. District is completed, whichever is earlier.

Repatriation:-

On repatriation from deputation with T.C.I.L., Shri P. Joseph, Accounts Officer is posted to Bombay Telephones. The officer may be relieved forthwith to join his duties in Bombay Telephones.

... Contd/-

Attested  
Advocate

1. The following Officers and postings are ordered in the  
grade of Account Officers with immediate effect:-

Sl. No. S/ Shri. Names of the Officers Circle etc. Circles etc.  
where working which transferred.

1. B. Ananda Rao	Delhi Telephones	Telecom. Dte
2. Jai Kishan Gupta	--do--	--do--
3. S.P. Sawhney	--do--	--do--
4. V. Ganeshan	--do--	--do--
5. Khushibam Verma	GMM, Delhi	--do--
6. O. Bhaskara Rao	Assam Telecom.	A.P. Telecom.
7. B. Kanakadas (SC)	Gujarat Telecom.	--do--
8. G. Veeralah (SC)	TTC, Jabalpur	--do--
9. T. Sambasiva Rao (ST)	MH Telecom.	--do--
10. Md. Ghousa Mohiuddin*	KNT Telecom.	--do--
11. Ch. V. Subba Rao*	Calcutta Telephones	--do--
12. A. Nagaraj*	Gujarat Telecom.	--do--
13. K. Venkataramana	Orissa Telecom.	--do--
14. G. Muniratnam*	Bombay Telephones	--do--
15. T. Subrahmanyam	Gujarat Telecom.	--do--
16. A.N. Ghakkar	Karnataka Telephones	Haryana Telecom.
17. A.K. Kathpal	--do--	Punjab Telecom.
18. Sardarasingh*	Haryana Telecom.	--do--
19. I.C. Kwatra*	M.P. Telecom.	--do--
20. Jogindersingh	Rajasthan Telecom.	--do--
21. Samir Ch. Singh (SC)*	Calcutta Telephones	Orissa Telecom.
22. N.S. Srinivasan*	GMM Madras	T.N. Telecom.
23. P. Perumal (SC)	Assam Telecom.	--do--
24. B. Rathinavelu	Assam Telecom.	--do--
25. K. Govindan (SC)*	GMP, Bombay	--do--
26. M. Nagarajan	Gujarat Telecom.	--do--
27. S. Sankaran*	Bombay Telephones	--do--
28. A. Subrahmanyachari	Assam Telecom.	G.M.M., Madras.
29. V. Sivaswamy (SC)*	Bombay Telephones	Madras Telephones
30. R. Parthasarathy	--do--	--do--
31. O.P. Saxena*	Calcutta Telephones	UP Telecom.
32. R.B. Gupta*	T & D Jabalpur	--do--
33. Brijraj (SC)*	T & D Jabalpur	--do--
34. Darshanlal*	Delhi Telephones	--do--
35. Parameshwardas*	T & D Jabalpur	--do--
36. Hariram Gupta*	M.P. Telecom.	--do--
37. J.P. Tiwari*	--do--	--do--
38. R.P. Sharma*	--do--	--do--
39. Ramnaresh Harijan (SC)*	Bihar Telecom.	--do--
40. P.K. Kar	U.E. Telecom.	Calcutta Telephones
41. S.P. Lal	Bihar Telecom.	GMM, Calcutta
42. R.A. Viswakarma	MTS, Calcutta	W.B. Telecom.
43. M.M. Dey	U.E. Telecom.	Assam Telecom
44. B.K. Dey	U.E. Telecom.	Calcutta Phones
45. Madana Gopal*	U.B. Telecom.	U.P. Telecom.
46. B. Varahanarasimham	Iissa Telecom.	GMM Calcutta at Bhuvaneshwar
47. C. Satagopan	Babu Telephones	GMP, Bihar.
48. K. Ramachandran	Irras Telephones	Assam Telecom.
49. A. Mohd. Ghousa	Irras Telephones	Assam Telecom.
50. S.P. Sharma	Ihi Telephones	GMM, New Delhi.
51. Romela Padmini	M. B. at ENK	Federal Telecom.

Attested  
by  
Advocate.

(1) (2)

(3)

(4)

240 Sujit Kumar Nundy	T.F., Guwahati	N.E. Telecom.
241 Ganga Bhushan Nota	Orissa Telecom.	M.P. Telecom.
242 Prema Krishnamachari	Telecom. Dte	Telecom. Dte
243 Arunachalam R.	MH Telecom.	Maharashtra Telecom.
244 Prasad N.	Dep. to C-DOT	Maharashtra Telecom.
245 Somasundaram P.	Dep. to TCIL	Telecom. Dte
246 Pandian R.	T.N. Telecom.	Maharashtra Telecom.
247 Lakshman Ch. Das	W.B. Telecom.	W.B. Telecom.
248 Sanat Kumar A.	W.B. Telecom.	W.B. Telecom.
249 Md. Nazeer Hasan	Bihar Telecom.	W.B. Telecom.
250 Raj Dayal Prasad	H.P. Telecom.	M.P. Telecom.
251 Anandakrishnaiah S.	T.S., Calcutta	Maharashtra Telecom.
252 Bhaskara Rao A.	A.P. Telecom.	A.P. Telecom.
253 Brij Nath Singh	T & D Jabalpur	T & D, Jabalpur
254 Sheo Shankar Tiwari	N.E. Telecom.	N.E. Telecom.
255 Kalyana Sundram R.	T.N. Telecom.	M.P. Telecom.
256 Murthy E.S.R.	A.P. Telecom.	M.P. Telecom.
257 Pijush Kant De	W.B. Telecom.	W.B. Telecom.
258 Deen Dayal	U.P. Telecom.	U.P. Telecom.
259 Mohanrai R.A.	C.M.M. Bombay	Bombay Telephones
260 Karen Chandra Chakraborty	Assam Telecom.	Assam Telecom.
261 Bhimesen Sahoo	Orissa Telecom.	H.P. Telecom.
262 Jeet Bahadur Vishwakarma	S.P. Telecom.	U.P. Telecom.
263 Smt. Bhagwathi V.G.	Telecom. Dte	KNT Telecom.
264 Deivasigamani V.	Madras Telephones	Maharashtra Telecom.
265 Palani P.	T.N. Telecom.	Gujarat Telecom.
266 Nathi Lal	Delhi Telephones	H.P. Telecom.
267 Rajeswaran R.	CPAO Bangalore	H.P. Telecom.
268 Abdul Sattav Singh	Rajasthan Telecom.	Rajasthan Telecom.
269 Tanmoy Bagchi	U.B. Telecom.	W.B. Telecom.
270 Nanjundaswamy S.	KNT Telecom.	Haryana Telecom.
271 Abdul Razek	KNT Telecom.	Haryana Telecom.
272 Patel B.S.	Gujarat Telecom.	Haryana Telecom.
273 Manickavachakan T.	G.M.P. Bombay	Cajarat Telecom.
274 Jayaraj P.	T.N. Telecom.	Bombay Telephones
275 Nimaan Choran Mohanty	Orissa Telecom.	Haryana Telecom.
276 Jayanta Banerjee	Calcutta Telephones	Orissa Telecom.
277 Rabindra Kumar Gupta	Bihar Telecom.	W.B. Telecom.
278 Kangasabapathi T.	H.P. Telecom.	W.B. Telecom.
279 Chhabria B.R.	MH Telecom.	H.P. Telecom.
280 Smt. Chanda Thakur	T.F. Jabalpur	Maharashtra Telecom.
281 Pitchibabu V.	A.P. Telecom.	H.P. Telecom.
282 Shankar Bellubbi P.	KNT Telecom.	G.M.P. Bombay
283 Mathuria R.S.	Rajasthan Telecom.	Gujarat Telecom.
284 Smt. Malathi N.	KNT Telecom.	Rajasthan Telecom.
285 Harish Chandra Gupta	Telecom. Dte	Haryana Telecom.
286 Thirunungananam Sambandam D.	Dep. to TTI	Haryana Telecom.
287 Piara Singh	Punjab Telecom	Punjab Telecom
288 Jha A.	Delhi Telecom	H.P. Telecom.
289 Mukut Mitra	U.P. Telecom	H.P. Telecom.
290 Gopal Lal Baheti	Rajasthan Telecom	H.P. Telecom.
291 Sumer Singh	U.P. Telecom	G.M. Harat DNA
292 Smt. Sali N.O	Kerala Telecom	

...contd/-

Attested  
Advocate

(1) (2)

(3)

(4)

195 Naresh Kumar Behl	Punjab Telecom.	Punjab Telecom.
196 Nagaiah V.	A.P. Telecom.	Assam Telecom.
197 Chandran N.	T.N. Telecom.	T.N. Telecom.
198 Smt. Prema Bai N.	KNT Telecom.	Maharashtra Telecom.
199 Syamal. Rao M.	Orissa Telecom.	Orissa Telecom.
200 Acharyulu V.S.N.	A.P. Telecom.	A.P. Telecom.
201 Sunil Kumar Chandra	U.B. Telecom.	W.B. Telecom.
202 Mahadev Banerjee	Calcutta Telephones	QA Blore at Calcutta
203 Satya Dev Singh Tomar	Telecom.Dte	H.P. Telecom.
204 Radha Krishan Soni	Rajasthan Telecom.	Rajasthan Telecom.
205 Venugopal P.	Bombay Telephones	Bombay Telephones
206 Narinder Pal	G.M.P. Delhi	GMP, Delhi
207 Vijayaraghavan J.	KNT Telecom.	Gujarat Telecom.
208 Rajaram K.	Telecom.Dte	Madras Telecom.
209 Md.Zameer Hasan	Bihar Telecom.	Bihar Telecom.
210 Krishna Murthy G.	A.P. Telecom.	Andhra Telecom.
211 Pinaki Routh	T.F., Calcutta	Task Force, Guwahati
212 Balaram Panda	Orissa Telecom.	E.P. Telecom.
213 Akshyabab Nath Tiwari	Bihar Telecom.	U.B. Telecom.
214 Durga Charan Sat Pathy	Orissa Telecom.	H.P. Telecom.
215 Palanisamy K.	G.M.P. Bombay	Bombay Telephones
216 Gulam Mohinuddin	Bihar Telecom.	U.B. Telecom.
217 Maheewar Biswal	Orissa Telecom.	Orissa Telecom.
218 Kumaraswamy Pillai K.	Madras Telephones	T.F. Bombay
219 Santok Singh	Punjab Telecom.	Punjab Telecom.
220 Balaram Ojha	Orissa Telecom.	Orissa Telecom.
221 Patil S.U.	MF Telecom.	MF Telecom.
222 Mahalle M.T.	MF Telecom.	Maharashtra Telecom.
223 Gadekar B.G.	M.P. Telecom.	Maharashtra Telecom.
224 Basudao Rd. Singh	G.M.P. Calcutta	H.P. Telecom.
225 Des Raj Sharma	J & K Telecom.	GHP, Calcutta
226 Thiagarajan G.	MR Telecom.	J & K Telecom.
227 Shivaji Jha	Bihar Telecom.	T.M. Telecom.
228 Athisayamani Asirvatham I.	T.F. Dhilai	W.B. Telecom.
229 Srinivasan S.	T.N. Telecom.	M.P. Telecom.
230 Kali Nath Singh	G.M.P. Calcutta	Bombay Telephones
231 Subash Ch. Datta Gupta	Calcutta Telephones	GHP, Calcutta
232 Munirathnam Naidu R.	G.H.H. Madras	H.P. Telecom.
233 Rajendrappa Y.	G.H.H. Madras	H.P. Telecom.
234 Arunachalam A.	G.H.H. Madras	H.P. Telecom.
235 Jagdish Prasad	G.H.H. Delhi	H.P. Telecom.
236 Navin Kumar Diwan	Telecom.Dte	H.P. Telecom.
237 Dalal Singh Hooda	Telecom.Dte	H.P. Telecom.
238 Bijay Kant Jha	Bihar Telecom.	Haryana Telecom.
239 Waghela J.N.	Gujarat Telecom.	W.B. Telecom.
		Gujarat Telecom.

...contd/-

Advocate.

The transfer of the officers at sl.no. 10 to 12, 14, 16, 19, 21, 22, 23, 27, 29, 31 to 34, 45 and 51 are at their own request, and they will not be entitled to any TA/Joining Time etc.

5. Member (Finance) Telecom. Commission is pleased to appoint the following Assistant Accounts Officers of the Indian P&T Accounts and Finance Service, Group "B" (Telecom. Wing) to officiate on a regular basis in the grade of Accounts Officers in the Indian P&T Accounts and Finance Service, Grp. "B" (Telecom. Wing), until further orders and to post them as under:-

Sr. No.	Names	Circle/Office where working as A.A.O.	Circle/Office where posted on promotion as A.O.
(1)	(2)	(3)	(4)
1	Siddique Himmat Ali	Rajasthan Telecom.	Rajasthan Telecom.
2	Gopesh Chandra Sahu	Calcutta Telephones	Calcutta Telephones
3	Sudhakar M.	KNT Telecom.	KNT Telecom.
4	Issac M.I.	Kerala Telecom.	Gujarat Telecom.
5	Vinod Kumar Gopal	Delhi Telephones	Delhi Telephones
6	Dalip Singh Datta	Telecom. Dte	Telecom. Dte
7	Dhananjay Biswas	Calcutta Telephones	Calcutta Telephones
8	Biswanath Mukherjee	Calcutta Telephones	Calcutta Telephones
9	Krishnakant Nilekar	MH Telecom.	Maharashtra Telecom.
10	Krishnan A.D.	T.N. Telecom.	Bombay Telephones
11	Singayachari G.	TTC, Jabalpur	TTC, Jabalpur
12	Nagoo Pujari S.	KNT Telecom.	KNT Telecom.
13	Shankaralingam G.	Telecom. Dte	Telecom. Dte
14	Gurishankar Dass	Orissa Telecom.	Orissa Telecom.
15	Venkataraman S.	Gujarat Telecom.	Gujarat Telecom.
16	Smt. Balambal S.E.	T.N. Telecom.	Gujarat Telecom.
17	Punnose M.I.	Bombay Telephones	Bombay Telephones
18	Kanniyappan P.	Telecom. Dte	Bombay Telephones
19	Subramanian K.	T.N. Telecom.	Bombay Telephones
20	Selvaraj D.	Telecom. Dte	Bombay Telephones
21	Sada Nand Pai	Bihar Telecom.	Delhi Telephones
22	Murugesan M.	Kerala Telecom.	Bihar Telecom.
23	Ramakrishnan K.	T.N. Telecom.	Gujarat Telecom.
24	Ramachandra Rao M.	T.P., Calcutta	Bombay Telephones
25	Gandhi Arumugam P.	Kerala Telecom.	A.P. Telecom.
26	Barun Chandra Das	Calcutta Telephones	Bombay Telephones
27	Sudesh Kumar Bhatia	Punjab Telecom.	Calcutta Telephones
28	Nagaraja Rao V.	A.P. Telecom.	Punjab Telecom.
29	Balakrishnan T.	Madras Telephones	Gujarat Telecom.
30	Sadhan Chandra Saha	Calcutta Telephones	Bombay Telephones
31	Upadhyaya N.M.	Telecom. Dte	Calcutta Telephones
32	Prakash Chandra Chakraborty	Calcutta Telephones	KNT Telecom.
33	Anjali K.	A.P. Telecom.	Calcutta Telephones
34	Sridharan G.	Madras Telephones	
35	Kamaleshwar Yadav	U.P. Telecom.	

U.P. Telecom.  
U.P. Telecom.  
U.P. Telecom.

Attested.  
Advocate.

Comparision of the status

Name of Officer	Date of birth	Date of passing Part II Exam.	Date of joining as JAO	Date of promotion as AAO/DO	Pay fixed as A.A.O.
1. Sri. R. A. Mohon Raji at present A.O. MINL	2.	3.10.52	2/80	20.9.80	1.4.87
2. Sri. S. K. Nandy, at present A.O. 0/o G.M. ETR, Shillong.	1.7.1947	2/80	8.8.80	1.4.87	2000
Seniority No.	Staff No.	Date of joining the as A.O.	Whether promotion order as A.O. issued was the same.	Pay in the scale of AAO at the time of promotion as A.O.	Pay fixed in AAO's grade. Date of next increment
7.	8.	9.	10.	11.	12.
66590 (as A.O.) 1150	81657	12.4.91	yes	2240	2600
00571 (as A.O.) 1131	81638	8.7.91	yes	2240	2375
					1.10.91
					Junior to S.K. Nandy as JAO as AAO & as A.O.
					See above remarks.
					Both promoted wide DOT's letter No. 9-1/91-SEA dt. 25.3.91.

LAWYER  
Associate.

Pay fixed as A.O. from time to time

1. R.A. Mohon Roy  
(at present) A.O.,  
MTNL, Bombay.

2. S.R. Nandy  
(at present) A.O.,  
O/o G.M. ETR Shillong.

12.4.91	-	2600	8.7.91	-	2375
1.9.91	-	2675	1.10.91	-	3150
1.9.92	-	2750	1.10.92	-	2525
1.9.93	-	2825	1.10.93	-	2600
1.9.94	-	2900	1.10.94	-	2675

unspecified.

Advocate.

STATEMENT ON POSITION OF STAFF  
R. A. MICHAN RAJ, and P. NAIKI RAJITH, NO(IA)MICHAN  
(AO/M.T.N.L/BOMBAY) 33

ARTICULARS.	MR. P. RAJITH AO(IA) OF THE CGMT NET/ SHILLONG.	MR. R. A. MICHAN AO/M.T.N.L/BOMBAY	REMARKS
Date of birth	31-12-53	03-10-1952	
Date of passing J.A.O. Examination	Feb/80	Feb/1980	
Date of joining J.A.O.	04-07-80	20-07-1980	
Date of promotion as J.A.O. (A.A.O.)	01-04-87	01-04-1987	
Pay fixed as J.A.O. (A.A.O.)	Rs. 2000/-	Rs. 2000/-	
Seniority No. (as per Deptt. blue book)	1103	1150	as do.
Staff No. (as per Deptt. blue book)	81609	81657	as do.
Date of promotion as J.T.C. (D.O.T/ND order No. 9-1/91/SEA dt 25-3-91) Date of joining as A.O. (J.A.O.) 24-05-91	25-03-91-20P 12-04-91 date joining A.O.	25-03-91-20P 12-04-91 date joining A.O.	Date of joining as A.O. differs but date is the same & seniority is kept as in J.A.O./A.A.O.
Pay in the scale of AAO at the time of promotion as A.O.	Rs. 2210/-	Rs. 2240/-	
Pay fixed in A.O. grade.	Rs. 2375/-	Rs. 2600/-	
D.N.I. (Date of next increment)	01-05-92	01-09-91	
Pay fixed as A.O. from time to time	24-5-91 - Rs. 2375/- 01-5-92 - Rs. 2450/- 1-5-93 - Rs. 2525/- 1-5-94 - Rs. 2600/-	12-04-91 - Rs. 2600/- 1-9-91 - Rs. 2675/- 1-9-92 - Rs. 2750/- 1-9-93 - Rs. 2825/- 1-9-94 - Rs. 2900/-	

Encl (P. Rajith)  
24/2/95

Bites Ed.  
Advocate.

Comparative Statement of Position and Status of  
Shri R.A. Mohanraj, A.O./M.T.N.L. and Shri S.S.Tiwari,  
A.O.(TR), O/o TDM/ Shillong.

Sl. No.	Particulars	Shri S.S.Tiwari, A.C.(TR), O/o TDM/Shillong	Shri R.A. Mohanraj, A.C./MTNL, Bombay	Renks
1.	Date of birth	04-8-1950	03-10-1952	
2.	Date of Passing JAO Part-II Examination	Feb. '80	Feb. '80	
3.	Date of Joining as J.A.O.	23-6-1980	20-3-1980	
4.	Date of Promotion as Dy.A.O. (AAO)	1-4-1987	1-4-1987	
5.	Pay Fixed as Dy.A.O. (AAO)	Rs. 2,000/-	Rs. 2,000/-	
6.	Seniority No. as per Dept. Blue Book	1145	1150	As A.C.
7.	Staff No. as per Dept. Blue Book	81552	81557	As A.C.
8.	Date of Promotion as A.O. (DOT/ND order No. 9-1/91/SEA dt. 25.3.91	Date of Promo- tion 25.3.91 Date of joining as A.O. 25.3.91	Date of Promotion 25.3.91 Date of joining as A.O. 12.4.91	
9.	Pay in the Scale of AAO at the time of Promotion as A.O.	Rs. 2240/-	Rs. 2240/-	
10.	Pay fixed in A.O. Grade.	Rs. 2375/-	Rs. 2600/-	
11.	DNI (Date of next increment)	1-12-1991	01-9-1991	
12.	Pay fixed as A.O. from time to time	25.3.91 - Rs. 2375/- 1.12.91 - Rs. 2450/- 1.12.92 - Rs. 2525/- 1.12.93 - Rs. 2600/- 1.12.94 - Rs. 2675/-	12.4.91 - Rs. 2600/- 1.9.91 - Rs. 2675/- 1.9.92 - Rs. 2750/- 1.9.93 - Rs. 2825/- 1.9.94 - Rs. 2900/-	

Shri S.S.Tiwari  
(S.S.Tiwari)

Shri R.A. Mohanraj



DETAIL IN RESPECT OF SHRI R.A. MOHAN RAJ A.O. MTNL, BOMBAY.

I  
~~~

|                                                                                              |               |
|----------------------------------------------------------------------------------------------|---------------|
| 1 Date of birth                                                                              | 03.10.1952    |
| 2 JAO Part-II Exam passed                                                                    | February-1980 |
| 3 Date of joining as JAO                                                                     | 20.09.80      |
| 4 Date of Promotion as Dy.A.O.                                                               | 1.4.87        |
| 5 Pay fixed as Dy.A.O. (AAO)<br>as on 1.4.87                                                 | 2000          |
| 6 (a) Seniority No.<br>(b) Staff No.                                                         | 1150<br>81657 |
| 7 Date of Promotion as AO<br>(Regular promotion) vide DOT order<br>No.9-1/91-SEA dt. 25.3.91 | 12.4.91       |
| 8 Pay at the time of Dy.AO(AAO)                                                              | Rs.2240       |
| 9 Pay fixed in A.O. grade                                                                    | Rs.2600       |
| 10 D.N.I.                                                                                    | 1.9.91        |

II Pay fixed as A.O. from time to time

|         |      |
|---------|------|
| 12-4-91 | 2600 |
| 1-9-91  | 2675 |
| 1-9-92  | 2750 |
| 1-9-93  | 2825 |
| 1-9-94  | 2900 |

Attested.  
Advocate

To

The Chief General Manager,  
Eastern Telecom Region  
Calcutta-700001.

(Through Proper Channel)

Sub:- Prayer for stepping-up of pay with effect from 8.7.1991 with reference to the pay of Sri R.A.Mohan Raj, A.O., MTNL, Bombay.

Respected Sir,

With due respect, your goodself is requested kindly to refix the pay of the undersigned with effect from 8.7.1991 (date of joining as regular A.O. with reference to the pay fixed in respect of Sri R.A.Mohan Raj, A.O., MTNL, Bombay, who has passed the JAO Part-II examination in Feb. 1980 along with the undersigned but junior to me in merit list. The date of promotion as AAO was also with effect from 1.4.87 (i.e., along with the undersigned). Pay of both of us was fixed to Rs.2000/- as AAO. Promotion order as AAO was also issued at the same time and he joined the post on 12.4.91 when the undersigned only on 8.7.1991. Staff No. of Sri R.A.Mohan Raj is 81657 when staff No. of the undersigned is 81638. Pay of Sri R.A.Mohan Raj was fixed to Rs.2600/- when my pay was fixed to Rs.2375/-. It will not be out of place to mention here that his initial pay in the cadre of A0 was fixed at Rs.2600/- consequent on his officiating as A0 on different occasions. Since Sri R.A.Mohan Raj, A.O., MTNL, Bombay is junior to me, it is prayed kindly to order to refix (step-up) my pay accordingly from 8.7.1991 (date of my regular joining as A0) for which act of kindness I shall remain grateful.

For facility of your kind reference, particulars in detail is enclosed herewith.

With kind regards,

Yours faithfully,

*S.K.Nandy*

( S.K.Nandy ) 21/4/95  
Accounts Officer  
O/C O/o the General Manager, ETR,  
Shillong-793001.

Enclo :- As above.

Attested.  
S. K. Nandy  
Advocate

To The C.G.M.T.  
N.E. Circle,  
Shillong-793601.

Subject: Stepping-up of pay not junior - getting more  
pay than

Sir, With due respect, I put before you the  
following facts for your kind consideration & necessary  
stepping-up of my pay -

That sis, I have joined as A.O. on 21-05-91, as  
per L.O.T/R.D. order No. 9-1/91/SFA dated 25.03.91. The delay in  
joining was due to administrative reasons, as I was  
recruited only on 23.05.91 (G/R), from Shillong. As a result,  
I joined only on 24.05.91; my pay was fixed at Rs 2335/-  
with D.N.I. 01/5/92.

My stable no. is 81609 & seniority no. is 1102 & 1103.

That sis, my junior, Sri R.A. Mohanraj, A.O., M.T.R.U.  
Shillong, stable no. 81657, seniority no. as A.O. is A.C. defined

590 & 1150, respectively, is drawing more pay than  
me, (by virtue of affiliation in A.C. cadre before regular promotion)  
and joined as A.O. on 12.01.91, against the same promotion  
and cadre. His pay was fixed at Rs 2607/- with D.N.I. on  
1-02-91. Thus, he is getting more pay than me.

That sis, being a junior to me he can not get  
more pay than me and as such, my pay is less

than that of A.O. may kindly be reflected on 21-05-91, in  
the same stage as Mr. Mohanraj.

A comparative statement of seniority & position  
between myself & Mr. Mohanraj is enclosed herewith for

your kind examination -

It will not be out-of-place to mention here that  
there had been so many C.A.T. cases on such cases & in all  
these cases, the verdict had gone in favor of the establishment.  
Thus, I would request for an immediate response.

Attested,  
Advocate.

Thanking you.

Date - (one of)

22/4/95

Yours faithfully,

E. M. H. P. M.

To

The Chief General Manager,  
N.E. Telecom. Circle,  
Shillong-793001.

(Enc. 1. T.D.M. Sir).

SUB:- Stepping-up of Pay with respect to  
junior getting more Pay.

Sir,

With due respect, I put before you the following facts for your kind consideration and necessary stepping-up of my pay.

Sir, I was promoted as A.O. with effect from 25.3.91 vide DOT/ND order No.9-1/91/SEA dated 25.3.91 conveyed under CGMT/Shillong Memo No. 1, my Staff No. is 81552 and seniority Nos. as AAO and A.O. are 555 and 1145 respectively.

That Sir, my junior Shri R.A. Mohanraj, A.O. MTNL, Bombay, Staff No.81557 and seniority No. as AAO & A.O. being 590 and 1150 respectively is drawing more pay than what I draw (by virtue of officiating in A.O. cadre before regular promotion) who joined as A.O. on 12.4.91, against the same promotion order and date, the pay was fixed at Rs.2600/- with DNI on 1-09-91. Thus he is getting more pay than I.

That Sir, being a junior to me he cannot get more pay than me and as such I would request you to kindly refix my pay in A.O. Cadre on 12.4.91 at the same stage as that of Mr. Mohanraj, A.O. MTNL/Bombay with DNI on 1.9.91. A comparative statement of status and position is enclosed herewith for your ready reference.

Therefore, I would request you kindly refix my pay as on 25.3.91 with respect to Shri Mohanraj, A.O.

Thanking you in anticipation of your favourable action, I remain.

Yours faithfully,

Enclo:- As above.

( S.S. Tiwari ) 24/2/95  
Accounts Officer (TR)  
O/o Telecom. District Manager,  
Meghalaya, Shillong-793001.

P/C.

WELCOM DISTRICT  
MANAGER

18/4/95

MEGHALAYA SHILLONG

Attested.  
of  
Advocate

Department of Telecommunications  
Office of the Chief General Manager, Eastern Telecom. Region  
7, Kshetra Das Lane, Calcutta-12.

To : Shri S.K. Nandy,  
Accounts Officer,  
O/o. the General Manager,  
Shillong-793001.

No. CGM/ETR/CA-Admn-320/9 Dated at CA-12, the 23.2.95.

Sub :- Extension of benefit of Judgement by the Central Administrative Tribunal Calcutta Bench in O.A. No.1426/93 (in the matter of Swapan Kr. Das & Ors Vs. Union of India & Ors and Judgement delivered by the CAT Ernakulam Bench in OA 1156/93.

Please refer to your letter dated 21.2.95 in which you have requested to step up your pay to make it at par like with the pay of Sri R.A. Mohanraj A.C. MTNL Bombay. I request to inform you that such request can not be acceded to as per extant rules. In this connection DOT No.4-31/92 PAT dated 31.8.93 may please be referred to. It stipulates that benefit of Court Judgements can not be extended to other similarly placed Govt. Servants.

*Attested*  
( S. P. GHOSH )  
Chief Accounts Officer, E.T.R.  
O/o. the CGM, ETR, Cal-12.

*Attested*  
R. P. Ghoshji  
27.2.95  
Add. Divisional Engineer  
(Traffic)  
O/o the G.M.M. ETR  
Shillong-793001

*Full add.*

S. P. Ghose,  
C.A.O. O/o the C.G.M. (ETR)  
7 Khetra Das Lane  
Calcutta - 12

*Attested*  
Advocate

16/3/93

-28-

1

u1

Encl 7/Cccc 8

श्री रामाराम द्वारा

Department of Telecommunications

कार्यालय अधीक्षा कार्यालय के लिए C. G. M. T / Shillong

No. STB/SA-162

std. at Shillong the 14.3.95

To

Sri P. Routh

AOLTA) C.O. Shillong

Sub:- Stepping up of pay.

Ref:- Your repte. dated 21.2.95.

With reference to above, I am directed to intimate you that the case does not constitute anomaly as per DOT/ND letter no. 4-31/92-PAT dt. 31.5.93 and stepping up of pay it is regretted can not be allowed under the existing rules.

By

16/3/95

A. D. (HRD)

O/o C. G. M. T. N.E.C  
Shillong - 793001

मंत्रालय अधीक्षा कार्यालय - 31 टेलिकॉम - (038-7114615-12-22-42-87) 10,000 रुपये

16/3/95, Director Telecom (HRD),  
O/o The Chief General Manager  
N. B. Telecom Circle Shillong

Attested  
N. B. Telecom  
21.3.95

Sr. Accounts Officer (A&P)  
O/o the Chief General Manager  
N. B. Telecom Circle Shillong

Attested  
Advocate.

439 uV J  
ANNEXURE Q

मुख्य अधिकारी विभाग  
DEPARTMENT OF TELECOMMUNICATIONS

प्रेषक  
From

मुख्य अधिकारी विभाग  
दिनांक दिनांक  
In reply  
Please quote

देवार  
To

Asstt. Director Telecom ( HRD )  
S/o The Chief General Manager

E. B. Telecom Circle Shillong

दिनांक  
Dated at

Shillong the 21-3-95

विषय  
SUBJECT Stepping up or Pay —  
case of S. S. Tiwari, A&P(TA)

(132)

Re:- your letter No. QF-20/27  
dtd. 24.2.95.

With reference to your letter no.  
cited above, kindly inform the official that  
the case is not constitutive anomaly as per D.O.T./ND  
letter no. 4-31/92-PAT dt. 31.5.93 and stepping up  
of pay, it is regretted can not be allowed  
under the existing rules.

22/3/95

A D (HRD)

S/o Chief General Manager  
E. B. Telecom Circle  
Shillong - 793001

Asstt. Director Telecom ( HRD )  
S/o The Chief General Manager  
E. B. Telecom Circle Shillong

Sr. Accounts Officer (A&P)  
S/o the Chief General Manager  
E. B. Telecom Circle Shillong - 1

Advocate

6 FEB 1996

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

30  
H.D. 4  
H.D. 5  
Govt. Standing Committee  
Central Administrative Tribunal  
Guwahati Bench.

5/2/96

In the matter of :

O.A. No. 258/95  
Shri S.K. Nandy & others.  
-Vs-  
Union of India & Others.

-AND-

In the matter of :

Written Statement on behalf  
of the Respondents.

I, Shri P. Trivedi, Vigilance Officer,  
Office of the Chief General Manager, N.E. Telecom  
Circle, Shillong do hereby solemnly affirm and  
declare as follows :-

1. That a copy of application alongwith  
an order passed by this Hon'ble Tribunal on 24.11.95  
have been served upon the respondents and myself  
being.....

being authorised to represent all the three respondents before this Hon'ble Tribunal, I do hereby file this Written Statement as follows. It is also stated categorically that save and except what is specifically admitted in this written statement rest may be treated as total denial by all the respondents.

2. That with regards to the contents made in paragraph 1 to 4.1 of the application, I beg to state that I have nothing to comment.

3. That with regards to the contents made in paragraph-4.2 of the application, I beg to state that stepping up of pay for the case under question is not permitted under the Rules as it is not an anomaly in pay fixation under G.O.I.D.22 under FR 22 as per the departmental stand regarding stepping up of pay of senior ~~at~~ par with juniors vide Directorate letter No.50-146/95-PAT dated NIL.

A copy of the letter is enclosed herewith and same is marked as Annexure R.1.  
The interpretation of G.O.I.D. 22 is that stepping up of pay of Senior Govt. Servant at par with Junior Counterpart cannot be allowed if Senior had no occasion to draw more pay or more increments than the Junior  
prior .....

prior to his promotion to the next grade. In the instant case, Shri S.K.Nandy, Shri Pinaki Routh and Shri S.S.Tiwari, all the three applicants were drawing equal pay as compared to his counterpart Shri R.A.Mahanraj prior to the promotion to the grade of Accounts Officer. Hence the question of stepping up of pay does not arise.

4. That with regards to the contents made in paragraphs 4.3 to 4.5, I beg to state that I have nothing to comment.

5. That with regards to the contents made in paragraph 4.6, I beg to state that the pay of Shri R.A.Mahanraj was fixed at Rs.2600/- on his promotion to the grade of Accounts Officer. For making regular promotion from Group 'C' to Group 'B' in a cadre All India Seniority of Group 'C' is followed. However, the circle offices can fill up vacancies at short term in their circle by making local adhoc arrangement, operating on the circle seniority list. The pay of the officers working in an officiating capacity cannot be restricted if they satisfy all the eligibility conditions for promotion. By local adhoc arrangement Shri R.A.Mahanraj has earned increments under FR-26 which caused fixation of pay at Rs.2600/- at the time of his.....

of his regular promotion to the grade of Accounts Officer than that of senior Shri S.K.Nandy, Shri Pinaki Routh and Shri S.S.Tiwari. The fact that the spell of period spent by an officer by local adhoc arrangement while working on a higher post counts towards increment under FR 26 has been in vogue since long unquestioned has not been challenged by the applicants at any time. This provision results in Juniors getting higher pay at the time of regular promotion, if they have a longer spell of adhoc service at their credit in the feeder cadre than the senior.

6. That with regards to the contents made in paragraphs 4.7 to 4.8, I beg to state that stepping up of pay can be done only with a person belonging to the same lower cadre recruiting unit whenever gradation list is maintained locally in the lower grade and for higher post, the same is maintained on All India Basis. Comparison for stepping up cannot be made with a person of different circle since adhoc local arrangements in the said case has been made locally only due to exigencies of administration.

7. That with regards to the contents made in paragraph 4.9 of the application, I beg to state that.....

that the relief granted earlier by the judgement of this Hon'ble Tribunal was without following any rule or instruction and without striking down any rule or instruction which is arbitrary. This was evident from the fact that when the applicants who have not resented the promotion of their Junior in preference to them can resent the consequential benefit of increments of pay to such Junior and counting of period during which applicants were not working on adhoc basis in promoted post for drawal of increment in that grade at par with the Junior who had actually worked on adhoc basis in the promoted grade does not amount to equal treatment of unequal.

8. That with regards to the contents made in paragraphs 4.10 and 5.1 of the application, I beg to state that the rejection of the prayer of the applicants by the Department is in order in view of the position explained in the above paragraphs since it is not an anomaly under the Rules.

9. That with regards to the contents made in paragraphs 5.2 to 5.5 of the application, I beg to state that in a similar case of M.P.Kulkarni -Vs-

UOI .....

UOI 1989(4) SLJ(CAT)423 1990(i) AJ 455(New Bombay) and Iqbal Mohammad Khan Vs Govt of India CAT Division Bench New Bombay which are in favour of the Department.

10. That this present application is ill-conceived of law and mis-conceived of fact.

11. That this present application is not tenable and as such, the same is liable to be dismissed.

12. That there being no any *prima facie* case at all it is a fit case where summary rejection order may kindly be passed.

13. That the respondents crave leave of this Hon'ble Tribunal of filing written statement in addition if this Hon'ble Tribunal so desires.

14. That this Written Statement is filed bonafide and in the interest of justice.

Verification.....

36/9

VERIFICATION

I, Shri P.Trivedi, Vigilance Officer,  
in the office of the Chief General Manager, N.E.  
Telecom Circle, Shillong do hereby solemnly affirm  
and declare that the statements made in paragraph-1  
of this written statement are true to my knowledge  
and those made from paragraphs 2 to 9 are derived  
from records which I believe to be true and rest  
are humble submissions before this Hon'ble Tribunal.

And I sign this Verification on this 3<sup>rd</sup> day  
of January ,1996 at Shillong .

*Parshuram Trivedi*  
30.1.96

DEPONENT

मनकर्ता अधिकारी  
मूल्य महा प्रबन्धक का द्वारा दिया  
रिलांग  
Vigilance Officer  
O/o. C.G.M.T., Shillong

1 JUL 1995

1449-7-8

GPO, DELHI

Ministry of Communications  
Department of Telecommunications  
PAT Section

No.: 50-146/95-PAT

Date:

To:

All Heads of Telecom Circles/Maintenance Regions, Project Circles/Metro Districts/All Other Administrative Units/MTNL, Delhi, Bombay/VSNL, Delhi, Bombay.

Subject: Views of D.O/T in all the Court cases regarding stepping up of pay of seniors at par with juniors who ~~earned increments on account of~~ ad-hoc promotions before their regular promotion in the grade.

Sir,

I am directed to say that a large number of cases of the type indicated above are pending before various Tribunals where decision is yet to come. Besides, there are cases where Judgements have been delivered in favour of the applicants. Out of these some have been implemented, some have not been implemented.

In all the cases where adverse Judgements have been delivered, department has gone in either for filing SLP or for implementing the judgement provisionally subject to outcome of SLP to avoid contempt of Court. Thus the stand of the department is clear to the extent that government is not in favour of stepping up of pay in this type of cases. In support of the stance taken by the department our views for filing counter affidavit in pending OAs or otherwise may be taken as under:

1. The issue involved in all this type of cases is whether after obtaining regular promotion a senior employee can demand 'stepping up' of his pay equal to that of his junior who is getting higher pay due to availing ad-hoc promotion while working in different circles/zones than the seniors. The matter of fixation of pay on promotion to higher post is governed by FR22 (formerly Fr 22(C)). In accordance with the provision as contained in FR 26 and Government of India decision/instructions there under, the spell of period spent by an officer while working on a higher post on adhoc basis also counts towards increment. The provision results in juniors getting a higher pay at the time of regular promotions, if they have a longer spell of adhoc service at their credit in the feeder cadre than their senior. The scheme has been in vogue unquestioned since long. This provision under

• C. N. S. (S. S.)  
• G. M. (S. S.)

FR 26, was neither challenged by the applicants nor considered by the Hon'ble Tribunal.

2. Formaking regular promotions from Group 'A' to Group 'B' in cadre All India Seniority of Grade 'C' is followed. However, if there is short term vacancy in any circle, the circle officers can fillup such vacancies by making local adhoc arrangement, operating on the circle seniority list. The position relating to short term vacancies differs from circle to circle, depending on the chance factor of officers proceeding on leave, training or deputation. It is not always possible that the first vacancy occurs only in the circle where the senior most officer in the feeder grade is posted at that point of time. It is in the circumstances that Junior posted in one circle got ad-hoc promotion earlier than the Senior posted in other circles. The scheme of such local arrangement where Juniors are promoted prior to promotion of seniors has never been challenged by any of the seniors. Besides, seniors have remained content with their posting in a particular circle convenient to them and never raised any objection against the accelerated promotion of juniors under local arrangements in other circles for several years. One of the grounds for not raising any objection could be that a junior officer who is working in a remote area and accepts the adhoc promotion has to work under different types of constraints as compared to his senior counterpart working in cities where special allowances like House Rent Allowance, City Compensatory Allowance etc are available.

3. Stepping up of pay in such cases is not permitted under the rules, as it is not an anomaly in pay fixation. G.O.I.D. 22 under FR 22 lays down various office memorandums listing out various cases which are to be treated as anomaly and where pay of a senior drawing pay less than the junior can be stepped up. CAT cases of the type under consideration are not covered under any of the Office Memorandums laid under G.O.I.D. 22 (under FR 22). Instead interpretation of G.O.I.D. 22 is, that stepping up of pay of a senior Government servant at par with junior counterpart cannot be allowed if senior had no occasion to draw more pay or more increments than the junior prior to his promotion to the next grade. Stepping up is allowed in such cases will amount to treating at par a junior who has worked on adhoc basis and drawn increments under FR 26 with a senior, who has either not worked or worked for a lesser period on adhoc basis, prior to regular promotion. Thus this will amount to giving the benefit of drawl of increments to a senior person who has actually not earned those increments. This is tantamount to equal treatment of unequal violating the principles of equality enshrined in Article 14 & 16 of the Constitution of India. In fact there are instances where appli-

4. "Judgements" which have been passed in cases already decided by various tribunals, the view that has been taken is that senior in no circumstances can draw pay less than the junior. This is however, not true in all cases as has been clarified vide para 2 of clarificatory Office Memorandum of DOP&T no 14/7/92-Estt(Pay/I) dated 4-11-93. Besides, stepping up of pay wherever allowed can be done only with person belonging to same lower cadre recruiting unit wherever gradation list is maintained locally in the lower grade and for higher post the same is maintained on All India basis as has been clarified in Ministry of Finance Office Memorandum no. F(2)(10)-E.III(A)/62 dated 20-7-65. In the current cases of this type two things are to be noted. First is that stepping up in these cases may not at all be permitted since it is not an anomaly for reasons already explained. Second, comparison for stepping up cannot be made with a person of different circle since adhoc arrangements in all these cases have been made locally only due to exigencies of Administration. Locally, such stepping up can be made if a senior person is wrongfully denied the claim to adhoc promotion i.e. if lapse in local adhoc promotion is attributed to Department and not to the official. In the present cases lapse is not attributed to the Department.

5. In the cases under litigation, juniors had availed facilitates adhoc promotions when seniors in their circles got those adhoc promotions later than juniors or in some cases seniors might not have availed the chance at all.

In cases of appeal that we have so far been filing before Supreme Court the following substantial questions of Law of general public importance have been raised by Department for considerations.

i. Whether the applicants who have not resented the promotion of their junior in preference to them can resent the consequential benefit of increments of pay to such junior.

2. Whether counting of period during which applicants were not working on adhoc basis in promoted post for drawing of increment in that grade, at par with the Junior who had actually worked on adhoc basis in the promoted grade does not amount to equal treatment of unequal.

3. It should also be clearly brought before the Tribunals that in all these cases anomaly has not been caused due to fixation of pay by application of FR 22. O.O.1.D 22 under FR 22 gives out the cases where anomaly has been caused due to pay fixation under FR 22. These cases of anomaly broadly have resulted when either (i) some new benefits are given like recommendations of pay commissions are applied or (ii) where there are junior departmental promotees drawing more pay by virtue of putting in more years of service in a grade as compared to Direct Recruits in that grade who are senior as per the gradation list but who joined the department at a later point of time. Cases under consideration are not of type (i) and (ii) mentioned above and there is no anomaly in such cases.

4. In case we go by the stand taken of earlier judgements in other cases, too, the consequences would be that the application of FR 22 would be modified and we would be going beyond the scope envisaged under the provisions therein. Besides, these cases are not in isolation, but are in very large nos. Implementing these cases to avoid contempt petition is not free from its wide repercussions and it has a strain on government exchequer. Nonetheless, implementation at this late stage is replete with other various complications because genuineness of each case cannot be gauged at this late point of time.

5. It may also be brought to the notice of Tribunals that reliefs earlier granted by Tribunals through their Judgements have been granted without following any rule or instruction and without striking down any rule or instruction which is arbitrary.

6. Judgements have generally been given relying upon Judgements either by same tribunal or by some different tribunal. Some of these Judgements having been provisionally implemented to petitioners by the Department only out of compulsion to avoid contempt of court and not as a matter of principle or policy. Relying upon these judgements in similar O.Os is therefore not proper.

7. Case of N. Lalitha Vs Department of Mines has been cited everywhere but cases of M.P. Kulkarni Vs UOI, 1989(4)SLJ(CAT)423:1990(1)OJ435 (New Bombay) and Iqbal Mohammed Khan Vs Govt of India, CCI Division Bench, New Bombay which are in our favour have not been cited which may

also be produced as citations before the Court (Copies as per enclosures).

Case of N.Lalitha has been cited because SLP No.13994/91 In this case was rejected. But it has to be brought into the notice that this was rejected in limine without giving any reasons. Therefore, it cannot become a law to be quoted in all cases.

Yours faithfully,



(Budh Prakash)  
Asstt Director General (TE)

DA:One