

30/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

3

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

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

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet.....Pg. 1.....to 2.....
2. Judgment/Order dtd 29.1.26.....Pg. 1.....to 8. Allowed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....258/95.....Pg. 1.....to 29.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg. 1.....to 12.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

*Kahla*  
2-2-19

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 258 OF 1995  
 TRANSFER APPLN.NO. OF 1995  
 CONTEMPT APPLN.NO. OF 1995 (IN NO. )  
 REVIEW APPLN.NO. OF 1995 (IN NO. )  
 MISC.PETITION NO. OF 1995 (IN NO. )

S.K. Nondy & Others. APPLICANT(S)

-vs-

L.O. I. Others.. RESPONDENT(S)

For the Applicant(s)

... Mr. B.K.Sharma

Mr. S.Sarma

Mr.

Mr.

For the Respondent(s)

Mr. J. Sarma, Addl. C.G.S.C.

OFFICE NOTE

DATE

ORDER

this application is in  
 form and within time  
 C. F. of Rs. 50/-  
 deposited vide  
 IPO/BD No. 326852  
 Dated 21-9-95

R.I. 22/11/95  
 By Registrar  
 [Signature]

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.

[Signature]  
 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.

[Signature]  
 Member

1) Service Reports are still pg  
 awaited.

2) W/Statement - has not been  
 filed  
 27/11

(contd.to Page No.2)

(2)

OA/TA/CP/PA/MP No. 258 of 19 93

OFFICE NOTE

DATE

ORDER

16-2-96

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 order~~

lm

Member

1-3-96

Counsel of the parties are present. Learned Mr.S.Sarma for the applicant see short adjournment. Adjourned for hearing on 8-3-96.

lm

Member

8.3.96

Counsel of the parties are present and completed their submissions. Hearing concluded. Judgment reserved.

pg

Member

29.3.96

Judgment pronounced. Application is allowed in terms of the order. No order as to costs.

pg

Member

13.3.96

v/s on behalf of the Respondents.

RECORDED

26.6.96

Copy of final order issued to the parties vide n. n. 1921 to 1924

1921 to 1924

dia on 4-7-96.

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.

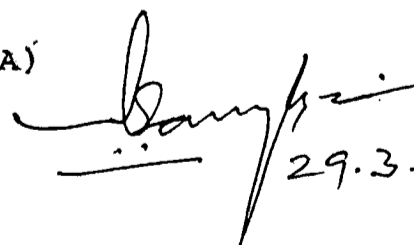
ADVOCATE FOR THE  
RESPONDENT (S)

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 ? NO.
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble MEMBER(A)

  
29.3-96

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.258/95

Date of Order: This the 29<sup>th</sup> 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.Telecom Circle,  
Shillong-1.
3. Sri S.S.Tiwari,  
Accounts Officer,  
Office of the Chief General Manager,  
N.E.Telecom 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(Telecom),  
N.E.Telecom 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

contd/-

1  
29.3.96

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.

- 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,

contd/

3.96

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 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 step up 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 1989 and 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

9.3.96  
contd...


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 undisputably 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 <sup>at CA-12</sup> 23-2-95, (~~Annexure H~~), Letter No.STB/SA-162 dated <sup>at Shillong</sup> 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

contd.

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

619 20 NOV 1995  
ADMINISTRATIVE TRIBUNAL

12

~~SECRET~~

**-Versus-**

## I N D E X

Sl.No	Particulars	Page No.
1.	Application	1 to 9
2.	Verification	10
3.	Annexure A & B	11-12 & 13-17.
4.	Annexure C D & E	18-19, 20 & 21.
5.	Annexure F	22.-23
6.	Annexure G	24-26
7.	Annexure H I & J	27, 28, & 29.

For use in Tribunal's Office:

Registration No.:

REGISTRAR

Re: G. Samuels  
AD/CYIS  
21-9-95

14  
FILED BY: J. K. Nandy  
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.Telecom Circle,  
Shillong-1.
  3. Sri S.S.Tiwari,  
Accounts Officer,  
Office of the Chief General Manager,  
N.E.Telecom Circle,  
Shillong-1.
- J. K. Nandy

..... 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(Telecom),  
N.E.Telecom 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

Contd.....p.3/-

15.  
S. K. Nandy

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

2. JURISDICTION OF THE TRIBUNAL :

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Contd.....p.3/-

15.  
S. K. Nandy

S.K. Nandy

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, Maintenance, 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. Telecom 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. Telecom 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.)

contd.... p.4/-

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 assigned at sl.No. <sup>1131, 1103 and 1145</sup> ~~240, 241 and 254~~ respectively. On the other hand, the seniority position of another incumbent viz R.A.Mohanraj was assigned at Sl No. <sup>1150</sup> ~~259~~. These seniority 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

Contd.....p.5/-

S.K. Nayak

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/-

19  
S.K. Naray

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 <sup>their junior</sup> ~~said Shri R.A.Mohanraj~~. The applicant craves 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

Contd.....p.7/-

S.K. Nigam

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. GROUND 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

Contd.....p.8/-

7  
S. K. Naray

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

Contd.....9/-

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. :

- |      |            |               |
|------|------------|---------------|
| 1)   | 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.....

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>this</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.

# PET A/C & FINANCE

Staff No. Name Sen. No. Date of Birth Date of Entry Date of DPC/FR

81604 PALL NARINDER 1099 040952 240674 050491  
 81605 VIJAYARAGHAVAN J 1100 010653 250972 141091  
 81606 RAJARAM K 1101 190756 081075 180491  
 81608 KRISHNA MURTHY G 1102 070147 221167 190691  
 81609 ROUTH PINAKI 1103 031223 270873 240591  
 81610 PANDA BALARAM 1104 020451 070873  
 81611 TIWARI AKSHYABAR NATH 1105 020651 160673 150991  
 81612 SATYAPATHY DURGA CHARAN 1106 230350 250172 110791  
 81613 PALANISAMY K 1107 240554 150573 220891  
 81614 MOHINUDDIN GULAM 1108 050443 270270 050991  
 81615 BISWAL MAHESWAR 1109 020447 230470 160491  
 81616 KUMARASAMY PILLAI K 1110 060553 280773 100791  
 81618 OJHA BALARAM 1111 160549 081169 240491  
 81619 PATIL S W 1112 250591  
 81620 MAPALLE M T 1113 010750 020773 240591  
 81621 GADSEKAR 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 130591  
 81625 JHA SHIVAJI 1118 020149 160271 170891  
 81626 ATHISAYAMPANI A I 1119 310155 010974 041091  
 81627 SRINIVASAN S 1120 080252 270874 250491  
 81628 SINGH KALI NATH 1121 240641 170960 040891  
 81629 DATTA GUPTA SUBASH CH 1122 030642 240962 300491  
 81630 MUNIRATHNAM NAIDU R 1123 050849 080862 020991

# PET A/C & FINANCE

Staff No. Name Sen. No. Date of Birth Date of Entry Date of DPC/FR

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 WAGHELA J M 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 SOMASUNDRAM P 1136 050251 140675 030491  
 81644 PANDIAN R 1137 150751 051073 270691  
 81645 DAS LAKSHMAN CHAND 1138 201043 290560 300491  
 81646 SANAT KUMAR A 1139 021250 261270 300491  
 81647 HASAN MD NAZEER 1140 030545 010266 080791  
 81648 PRASAD RAJ DAYAL 1141 010146 250966 110691  
 81649 ANANDAKRISHNAIAH S 1142 010151 030773 161291  
 81650 BHASKARA RAO A 1143 230244 180263 110991  
 81651 SINGH BRIJ NATH 1144 010344 020568 080691  
 81652 TIWARI SHEO SHANKAR 1145 040850 190674 250391  
 81653 KALYANA SUNDARAM R 1146 101052 141272 210891  
 81654 MURTHY E S R 1147 100553 080574 100691  
 81655 DE PROUSH KANTI 1148 230236 140158 290491

Blue Book

Latent-1993

ANNEXURE A.

Noted.  
 Advocate

Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/PR
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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	140872	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	KANGASABAPATHI 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	

Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/PR
-----------	------	----------	---------------	---------------	----------------

81683	MALATHI N	1174	190649	040472	271291
81684	GUPTA HARISH CHANDRA	1175	150953	260475	230491
81685	THIRUNGNANA SAMEENDAM D	1176	150953	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 AVTAR	1184	250657	241275	010691
81694	SINGH RAMESHWAR	1185			
81695	VASU K M	1186	220248	261070	
81696	ROY SUBRATA GOPAL	1187	200148	100372	300591
81697	DAYAL VISHWAMBHAR	1188			170591
81698	JAI RAM	1189	220944	081065	160491
81699	YAMUNA M C	1190	160351	260972	250192
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	RAMASUBRAMANINAN	1197	030554	070573	300891
81707	ANGUCHAMY P	1198	200246	090266	131291

- 13 -

ANNEXURE. 13.

26

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)

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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 reallotments are hereby ordered. The other conditions of their promotions in the grade of Accounts Officer remain unchanged.

Names of the AAOs	Circles etc. where working as AAO	Circles in which originally posted	Circles to which now re-allotted as AO
G.T.V.S. Krishnama charyulu	A.P. Telecom.	Bombay Phones	A.P. Telecom.
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 reallotted 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.

-2-

4 The following transfers and postings are ordered in the grade of Accounts Officers with immediate effect:-

Sl. No.	Names of the Officers S/Shri	Circle etc. where working	Circles etc. which transferred.
1.	B. Ananda Rao	Delhi Telephones	Telecom. Dte
2.	Jai Kishan Gupta	--do--	--do--
3.	S.P. Sawhney	--do--	--do--
4.	V. Ganesan	--do--	--do--
5.	Khushiram 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. Ghouse 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. Ghakker	Rajasthan Telecom.	Bangalore 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)*	GMM, 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. E. 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	M.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	M.E. Telecom.	Assam Telecom
44.	B. K. Dey	M.E. Telecom.	Calcutta Phones
45.	Madana Gopal*	M.B. Telecom.	U.P. Telecom.
46.	B. Varahanarasimham	Assam Telecom.	GMM Calcutta at Bhuvaneshwar
47.	C. Satagopan	Bombay Telephones	GMM, Madras.
48.	K. Ramachandran	Madras Telephones	Assam Telecom.
49.	A. Mohd. Ghouse	Madras Telephones	Assam Telecom.
50.	S. P. Sharma	Delhi Telephones	GMM, New Delhi.
51.	Romela Padmini	Delhi at ENK	Delhi Telecom.

Attested.  
Advocate.

(1)	(2)	(3)	(4)
240	Sujit Kumar Nandy	T.F., Guwahati	N.E. Telecom.
241	Ganga Bhushan Hota	Orissa Telecom.	M.P. Telecom.
242	Prema Krishnamachari	Telecom. Dto	Telecom. Dto
243	Arunachalam R.	MH Telecom.	Maharashtra Telecom.
244	Prasad N.	Dep. to C-DOT	Maharashtra Telecom.
245	Somasundaram P.	Dep. to TCIL	Telecom. Dto
246	Pandian R.	T.N. Telecom.	Maharashtra Telecom.
247	Lakshman Ch. Das	U.B. Telecom.	U.B. Telecom.
248	Sanat Kumar A.	U.B. Telecom.	U.B. Telecom.
249	Md. Nazeer Hasan	Bihar Telecom.	U.B. Telecom.
250	Raj Dayal Prasad	M.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	U.B. Telecom.	U.B. Telecom.
258	Deen Dayal	U.P. Telecom.	U.P. Telecom.
259	Mohanraj R.A.	C.M.M. Bombay	Bombay Telephones
260	Karen Chandra Chakraborty	Assam Telecom.	Assam Telecom.
261	Bhimsen Sahoo	Orissa Telecom.	H.P. Telecom.
262	Jeet Bahadur Vishwakarma	U.P. Telecom.	U.P. Telecom.
263	Smt. Bhagwath V.G.	Telecom. Dto	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.H. Telecom.
268	Abdul Sattar Sindhi	Rajasthan Telecom.	Rajasthan Telecom.
269	Tanmoy Bagchi	U.B. Telecom.	U.B. Telecom.
270	Nanjundaswamy S.	KNT Telecom.	Maharashtra Telecom.
271	Abdul Razek	KNT Telecom.	Maharashtra Telecom.
272	Patel B.S.	Gujarat Telecom.	Gujarat Telecom.
273	Manickavachakan T.	G.M.P. Bombay	Bombay Telephones
274	Jayaraj P.	T.N. Telecom.	Maharashtra Telecom.
275	Nimain Charan Mohanty	Orissa Telecom.	Orissa Telecom.
276	Jayanta Banerjee	Calcutta Telephones	U.B. Telecom.
277	Rabindra Kumar Gupta	Bihar Telecom.	U.B. Telecom.
278	Kangasabapathi T.	M.P. Telecom.	M.P. Telecom.
279	Chhabrya B.R.	MH Telecom.	Maharashtra Telecom.
280	Smt. Chanda Thakur	T.F. Jabalpur	M.P. Telecom.
281	Pitchibabu V.	A.P. Telecom.	G.M.P. Bombay
282	Shankar Bellubbi P.	KNT Telecom.	Gujarat Telecom.
283	Mathuria R.S.	Rajasthan Telecom.	Rajasthan Telecom.
284	Smt. Malathi N.	KNT Telecom.	Maharashtra Telecom.
285	Harish Chandra Gupta	Telecom. Dto	H.P. Telecom.
286	Thirungnana Sambandam D.	Dep. to TTI	Maharashtra Telecom.
287	Piara Singh	Punjab Telecom.	Punjab Telecom.
288	Jha A.	Delhi Telephones	H.P. Telecom.
289	Mukut Moltra	H.H. Telecom.	H.H. Telecom.
290	Gopal Lal Baheti	Rajasthan Telecom.	H.P. Telecom.
291	Sumer Singh	U.P. Telecom.	H.P. Telecom.
292	Smt. Sali N.O	Kerala Telecom.	G.M. En at BKA

...contd/-

**Attested.**  
**Advocate**

(1) (2)

(3)

(4)

195 Nareesh Kumar Behl	Punjab Telecom.	Punjab Telecom.
✓ 196 Nagaiiah 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.	U.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 Telephones
209 Md.Zameer Hasan	Bihar Telecom.	Bihar Telecom.
✓ 210 Krishna Murthy G.	A.P. Telecom.	Assam Telecom.
* 211 Pinaki Routh	T.F., Calcutta	Task Force, Guwahati
212 Balaram Panda	Orissa Telecom.	E.E. Telecom.
213 Akshyabar Nath Tiwari	Bihar Telecom.	U.D. Telecom.
214 Durga Charan Sat Pathy	Orissa Telecom.	M.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.W.	MH Telecom.	Maharashtra Telecom.
222 Mahalle M.T.	MH Telecom.	Maharashtra Telecom.
223 Gadekar B.G.	N.P. Telecom.	N.P. Telecom.
224 Basudeo Pd. Singh	G.M.P. Calcutta	GMP, Calcutta
225 Des Raj Sharma	J & K Telecom.	J & K Telecom.
226 Thiyagarajan G.	MH Telecom.	T.N. Telecom.
227 Shivaji Jha	Bihar Telecom.	U.B. Telecom.
228 Athisayamani	T.F. Dhilai	M.P. Telecom.
Asirvatham I.		
229 Srinivasan S.	T.N. Telecom.	Bombay Telephones
230 Kali Nath Singh	G.M.P. Calcutta	GMP, Calcutta
231 Subash Ch. Datta Gupta	Calcutta Telephones	GMP, Calcutta
232 Munirathnam Naidu R.	G.M.P. Madras	
233 Rajendrappa Y.	G.M.P. Madras	
234 Arunachalam A.	G.M.P. Madras	
235 Jagdish Prasad	G.M.P. Delhi	
236 Navin Kumar Diwan	Telecom.Dte	
237 Dalal Singh Hooda	Telecom.Dte	
238 Bijay Kant Jha	Bihar Telecom.	
239 Waghela J.N.	Gujarat Telecom.	

...contd/-

Attended.  
Advocate.

The transfer of the officers at sl.no.10 to 12,14,10,19, 21, 22,23,27,29,31 to 39, 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:-

Sl.Names No.(S/Shri)	Circle/Office where working as A.A.O.	Circle/Office where posted on promotion as A.O.
(1) (2)	(3)	(4)
1 Siddique Himmatt 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 Gourishanker 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	Delhi Telephones
19 Subramanian K.	T.N.Telecom.	Bombay Telephones
20 Selvaraj D.	Telecom.Dte	Delhi Telephones
21 Sada Nand Pai	Bihar Telecom.	Bihar Telecom.
22 Murugesan M.	Kerala Telecom.	Gujarat Telecom.
23 Ramakrishnan K.	T.N.Telecom.	Bombay Telephones
24 Ramachandra Rao M.	T.F., Calcutta	A.P. Telecom.
25 Gandhi Arunugam P.	Kerala Telecom.	Bombay Telephones
26 Barun Chandra Das	Calcutta Telephones	Calcutta Telephones
27 Sudesh Kumar Bhatia	Punjab Telecom.	Punjab Telecom.
28 Nagaraja Rao V.	A.P. Telecom.	Gujarat Telecom.
29 Balakrishnan T.	Madras Telephones	Bombay Telephones
30 Sadhan Chandra Saha	Calcutta Telephones	Calcutta Telephones
31 Upadhyaya N.M.	Telecom.Dte	KNT Telecom.
32 Prakash Chandra Chakraborty	Calcutta Telephones	Calcutta Telephones
33 Anjanath K.	A.P. Telecom.	H.P. Telecom.
34 Sridharan G.	Madras Telephones	H.P. Telecom.
35 Kamalleshwar Yadav	H.P. Telecom.	H.P. Telecom.

**Attested.**

**Advocate.**

18-

ANNEXURE

Comparison 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 Raj at present A.O. MNL Bombay.	3.10.52	2/80	20.9.80	1.4.87	2000
2. Sri S.K. Nandy, at present A.O. O/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 AO's grade.	Date of next increment	Remarks.
60590 (as A.O.)	81657	12.4.91	yes	2240	2600	1.9.91	Junior to S.K. Nandy as JAO as AAO & as AO.
1150 (as AO)		12.4.91					
00571 (as AAO)	81638	8.7.91	yes	2240	2375	1.10.91	See above remarks.
1131 (as AO)							

Both promoted vide DOTS letter NO. 9-1/91-SEF dt. 25.3.91.

Encl. Advocate.

19-  
Pay fixed as A.O. from time to time

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

12.4.91	-	2600
1.9.91	-	2675
1.9.92	-	2750
1.9.93	-	2825
1.9.94	-	2900

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

8.7.91	-	2375
1.10.91	-	2450
1.10.92	-	2525
1.10.93	-	2600
1.10.94	-	2675

Witnessed.  
Advocate.

STATEMENT OF POSITION / STATE  
 R. A. MCHANRAJ, and PINAKI ROUTH, AG(TA) M/TNL  
 (AG/MTNL/BOMBAY)

33

ARTICULARS.	MR. P. ROUTH AG(TA) & the CGMT NET/Shillong	MR. R. A. Mchanra AG/MTNL/BOMBAY	REMARKS
Date of birth	31-12-53	03-10-1952	
Date of passing JAE(II) Examination	Feb/80	Feb/1980	
Date of joining as 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.O. (SOT/NO order NO. 9-1/91/SEA dt 25-3-91)	20.8.75 25-03-91 date of joining as A.O. 24-05-91	25-03-91-20P 12-04-91 date joining as A.O.	Date of joining as A.O. differs but date is the same & seniority is kept as in JAE/AAG
Pay in the scale of AAO at the time of promotion as A.O.	Rs. 2240/-	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/-	

Attes. ed.  
 Advocate.

CP. Routh  
 24/2/95

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.O.(TR), O/o TDM/Shillong	Shri R.A. Mohanraj, A.O./MTNL, Bombay	Remarks
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	20-9-1980	
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 Deptt. Blue Book	1145	1150	As A.O.
7.	Staff No. as per Deptt. Blue Book	81552	81557	As A.O.
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 in- crement)	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.2500/- 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)

Director.

## PAY FIXATION STATEMENT

1. Name of Official: Mr. R. P. Mulhuroj.
2. Substantive Designation: Asst. Comm. Bombay.
3. Scale of pay substantive: (a) 2000-60-2375-83-75-  
 Post and pay and date of next increment on the date of promotion: (b) 3200.  
(c) 2.1.80/2
4. Officiating grade and officiating pay, if any, on the date of promotion: (b) 4-91 @ Rs. 2240/-
5. Details of officiating appointment now made.
- (a) Designation: Accounts Officer.
- (b) Scale of pay: 42375-75-3200-85-100-3500.
6. Officiating pay now fixed under: PR 122 (a) (1)/(11)  
PR 122 C ✓
- a) Pay fixed at Rs. 2525/-
- b) On 11.6.90 10306-90
- c) With date of next increment 1.7.90 @ Rs. 2600/-  
 on (unless otherwise affected) + 207/90
7. Authority No. and date for officiating appointment: SIE-121/90-91/11 Dt. 19/90
8. Remarks: Noting and awarding bonus with arrears as per rule made in S.B.

Dealing Asst.

AO

No. 281/62-30551Dated: 24.11.91

Copy to :-

1. The Official.
2. The Service Book.
3. The pay bill clerk.

Master copy

22.9.91

S. SRINIVAS N

Asst. Comm. (Pay &amp; Pension)

Asst. Comm. (Pay &amp; Pension)

Asst. Comm. (Pay &amp; Pension)

Asst. Comm. (Pay &amp; Pension)

Attested.  
 Advocate.

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.                                                                          | 1150          |
| (b) Staff No.                                                                                | 81637         |
| 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.  
9  
Advocate.

ANNEXURE G  
37

- 26 -

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 order as AO 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 AO was fixed at Rs.2600/- consequent on his officiating as AO 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 AO) 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 )  
Accounts Officer

O/c O/o the General Manager, ETR,  
Shillong-793001.

Enclo :- As above.

Attested.  
Advocate

To The C.G.M.T.  
N.E. Circle,  
Shillong-793001.

Subj: Stopping-up of pay not junior getting more pay.

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

That sir, I have joined as A.O. <sup>at Shillong</sup> on 2-1-05-91, as per 20T/ND order no. 9-1/11/SEA dt 25-03-91. The delay in joining was due to administrative reasons, as I was relieved only on 23-05-91 (7/2), from Silchar. As a result, I could join only on 24-05-91. My pay was fixed at Rs 2350/- with DNI on 1/5/92.

My staff no. is 81609 & seniority nos. as A.O. & A.O. are 542 & 1103, respectively.

That sir, my junior, Sri R.A. Mohanraj, A.O., MTRM, Bombay, staff no. 81657 & seniority no. as A.O. & A.O. being 590 & 1150, respectively, is drawing more pay than me (by virtue of officiation in A.O. cadre before regular promotion) and joined as A.O. on 12-04-91, against the same promotion order & date. His pay was fixed at Rs 2600/- with DNI on 1-02-91. Thus, he is getting more pay than me.

That sir, being a junior to me he cannot get more pay than me and as such, my pay in the grade of A.O. may kindly be re-fixed on 24-05-91 at the same stage of Mr. Mohanraj.

A comparative statement of status & 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 CAT cases on such cases & in all these cases, the verdict had gone in f/o the staff only. I would request for an immediate response.

Thanking you,

Yours faithfully,

Encls:-(one/5)

Date  
22/4/95

Sd/-  
R. A. Mohanraj

Attested,

Advocate.

- 28 -

ANNEXURE 39 G2

To

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

(Sd/- T. S. Tiwari / Sh).

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 81557 and seniority Nos. as AAO and A.O. are 585 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.

(Sd/- S.S. Tiwari) 24/2/95

Accounts Officer (TR)

O/o Telecom. District Manager,  
Meghalaya, Shillong-793001.

Attested.

Advocate

TELECOM DISTRICT  
MANAGER

MEGHALAYA SHILLONG

27 -

Spence

Regd.

(H)

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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  
Swapn 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  
with the pay of Sri R.A. Mohanraj A.C. MTNL Bombay. I <sup>like</sup> ~~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.

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

attested

R. P. Chhajer

27.2.95

Regional Engineer  
(Traffic)  
O/o the GMM, ETR  
Shillong-793001

Full add:-

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

Attested.  
Advocate

R  
16/3/93

-28-

✓ (I)  
ul

Slr 7/Corr. F

Department of Telecommunications

Office of the C.G.M.T./Shillong

No. STB/SA-162  
To

std. at Shillong the 14.3.95

Sri P. Rouh  
AOCTA) C.O. Shillong

Sub:- Stepping up of pay.

Ref:- your repton. 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.

B  
4/3

~~14-3-95~~  
A. D. (HRD)  
O/O C.G.M.T. N.E.C  
Shillong - 793001  
Asstt. Director Telecom (HRD)  
O/O The Chief General Manager  
N. E. Telecom Circle Shillong

Slr 7/Corr. F - 31 Telecom 25 - (CIS-7)/CA 2/93-12-29-42-57 - 10,000 Dns.

attested  
Methon  
21.7.95

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

Attes.ed.  
Advocate.

139 ✓ J  
ANNEXURE Q

दूर संचार विभाग  
DEPARTMENT OF TELECOMMUNICATIONS

प्रेषक  
From

Asst. Director Telecom ( HRD )  
O/o The Chief General Manager  
N. E. Telecom Circle Shillong

प्रति उत्तर देते समय कृपया  
निम्न संदर्भ दें  
In reply  
Please quote

देना है  
To

The T. D. M/ Shillong

दिनांक  
Dated at

Shillong the 21-3-95

संख्या संख्या  
No. STB/SA-7L

विषय  
SUBJECT

Stepping up of pay —  
Case of Sh. S.S. Tiwari, AO(FA)

138

Ref:- your letter no. QT-20/27  
dttd. 24.2.95.

With reference to your letter no.  
cited above, kindly inform the official that  
the case is 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.

Attested

21.7.95

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

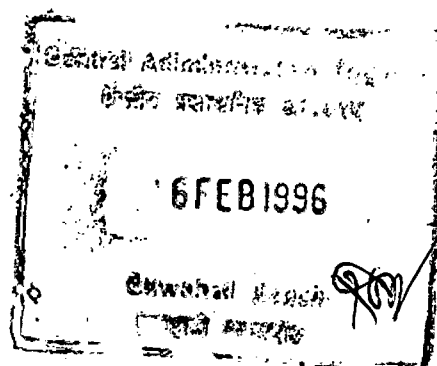
22/3/95

A D (HRD)

O/o Chief General Manager  
N. E. Telecom Circle  
Shillong - 793001

Asst. Director Telecom ( HRD )  
O/o The Chief General Manager  
N. E. Telecom Circle Shillong

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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.....

30  
by  
40-1-1996  
Additional Control  
Govt. Standing Committee  
Central Administrative Tribunal  
Guwahati Bench.

5/2/96

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 unequals.

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 .....

33  
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UOI 1989(4) SLJ(CAT)423 1990(1) AIJ 455(New Bombay)  
and Iqbal Mahammad Khan Vs Govt of India CAT Divi-  
sion 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.....

34 u9

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 30<sup>th</sup> day  
of January, 1996 at Shillong.

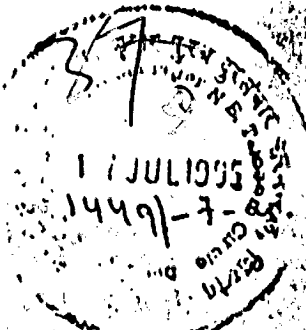
*Poreshankar Trivedi*

30-1-96  
DEPONENT

सनकता अधिकारी  
मुख्य महा प्रबन्धक का कार्यालय  
शिलांग  
Vigilance Officer  
O/o. C.G.M.T., Shillong

ANNEXURE-R.I

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 ~~factious~~ ad-hoc promo-  
tions 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

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78  
FR 26, was neither challenged by the applicants nor considered by the Hon'ble Tribunal.

2. For making regular promotions from Group 'C' to Group 'B' in a cadre All India Seniority of Gr. 'C' is followed. However, if there is short term vacancy in any circle, the circle officers can fill up 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 if 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 unequals violating the principles of equality enshrined in Article 14 & 16 of the Constitution of India. In fact there are instances where appli-

\*page 68 to page 73 of Swamy's compilation of FR/SR part I (1992 Edition)

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39

applicants have drawn benefit of FR 26 counting their adhoc service for increment and they cannot question the benefit for a longer spell. Rule 35 can also be cited in support. Under Rule 35, Department of Personnel & Training Office Memorandum dated 22-10-90, pay of official working in officiating capacity cannot be restricted if the officials satisfy all the eligibility conditions for regular promotions as prescribed in Recruitment Rules i.e. like educational qualifications etc. These provisions of FR 26 & FR 35 have not been pointedly brought before any of the Tribunals.

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 DOR&T no. 4/7/92-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. Secondly, 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.

For the file

5. In the cases under litigation, juniors had availed 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 consideration:

1. 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.

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2. Whether counting of period during which applicants were not working on adhoc basis in promoted posts 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 unequals.
6. 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. G.O. 1.0 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.
7. 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 the 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.
8. 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.
9. 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.As. is therefore not proper.

10. Case of N. Lalitha Vs Department of Mines has been cited everywhere but cases of M.P. Kulkarni Vs UOI, 1987(4) SLJ (CAT) 423; 1990(1) AIJ 455 (New Bombay) and Iqbal Mohammed Khan Vs Govt of India, CAT Division Bench, New Bombay which are in our favour have not been cited which may

41  
59  
also be produced as citations before the Court (Copies as per enclosures).

Case of N. Lalitha has been cited because SLP No. 13794/91 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,



(Hrudh Prakash)  
Asstt Director General (TE)

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