

0/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 261/95.....

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO. 261 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. ....)

Hanipada Roy..... APPLICANT(S)

-vs-

W.O.I..... RESPONDENT(S)

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

Mr. S.R. Sen

Mr.

Mr.

For the Respondent(s) ... Mr. S. Ali, Sr. C.A.

OFFICE NOTE	DATE	ORDER
This application is in form and within time. C. F. of Rs. 50/- deposited vide IPO/BD No. 31.54 SJ Dated 24.11.95	29.11.95	Mr. B.K. Das for the applicant.  Heard. The applicant contends that by virtue of the decision dated 2.12.1994 in O.A. No. 80/92 the applicant's promotion is likely to be denied to him to the post which has fallen vacant on 31.10.1995. The learned counsel submits that the said judgement was given per incuriam and needs further reconsideration of the matter. The beneficiary of the other judgement has been joined as respondent No. 5. Prima facie the question needs further consideration. The O.A. is admitted. Issue notice to the respondents to show cause. Six weeks for written statement.
		Issue notice to the respondents to show cause as to why interim relief as prayed may not be granted. Show cause returnable on 15.12.1995. The respondent No. 3 is directed not to fill up the vacancy till 15.12.1995 if not already been filled up. Mr. S.Ali, Sr. C.G.S.C. now appears for

(contd. to Page No. 2)

OFFICE NOTE	DATE	ORDER
	29.11.95	<p>respondents 1,2 and 3. However the notice for the show cause reply should be issued to respondent No. 3.</p> <p>If the applicant so desires and deposits the necessary costs the notices of respondent No. 3 in the O.A. as well as show cause for interim relief may be issued by speed post to respondent No. 3. The direction not to fill up the vacancy has been made without prejudice to the rights and contentions of the respondents. Liberty to respondents to apply for variation of this order if so advised earlier to 15.12.1995 but after giving prior notice to the learned advocate of the applicant on record Mr. S.R.Sen.</p>
<p><u>30.11.95</u></p> <p>Notice issued to the Rept. No. 3 by speed post.</p> <p><del>Parim 30/11</del></p> <p>- Notice issued to R.m. 1, 2, 4 &amp; 5 by legd for ride No. 5182-85-2. 6.1295</p> <p><i>5/12</i></p>		<p>Notices in the O.A. and as regards show cause reply to the interim relief be issued separately. Matter be placed for orders on 15.12.1995 for hearing of interim relief. The O.A. be placed for usual directions on 16.1.1996.</p> <p>A copy of this order may be furnished to Mr. S. Ali, Sr.C.G.S.C.</p> <p><i>60</i> Member</p> <p><i>29.11.95</i> Vice-Chairman</p>

OA/XXXOP/XXXMR No. 261 of 1995

OFFICE NOTE	DATE	ORDER
	15.12.95	<p>Mr S.A. Sen for the applicant.</p> <p>Respondent No.5, A.B. Das, present in person.</p> <p>Mr S. Ali, Sr. C.G.S.C., for respondent Nos.1 and 2.</p> <p>The respondent No.5 feels aggrieved by the interim order dated 29.11.1995 on the ground that he is being deprived of the benefit of the order in O.A.No.80/92 when his promotion is <del>ripe</del> because of promotion of Mr Brahmachari and, therefore, the order should be vacated. Although the grievance is of substantial nature the question will have to be examined from all its angles. Hence the O.A. is adjourned to 8.1.1996 for hearing on the interim relief and directions in the O.A. The interim order dated 29.11.1995 is extended till 9.1.1996 without prejudice to the rights and contentions of respondent No.5. It is made clear that until further orders the post in question may not be filled by any candidate.</p>
comes to all concerned isnd r.m. 5572-17 2.27.12.95 20/12/95		<p><i>hsc</i> Vice-Chairman</p>
	nkm	
Notified to the concerned R.m. 1.24. 20/12/95	8-1-96	<p>Mr.S.R.Sen for the applicant.</p> <p>Mr.S.Ali, Sr.C.G.S.C. for the respondents 1 &amp; 2. Respondent No.5 Mr.A.B.Das present in person.</p> <p>The respondent No.5 prays for vacating the interim order dated 29-11-95. He submits that Shri Brahmachari is due for promotion but has not been promoted owing to interim order and as soon as he is promoted, he himself will be eligible to be immediately promoted as Head Assistant in pursuance of the order in O.A.80/92 dated 2-12-94 and that <del>he has</del> <sup>continuance of the</sup> interim order is likely to <del>be</del> deprive <sup>him</sup> of that benefit and it should be vacated.</p>

contd/-

OA/TA/CP/RA/MP No 261 of 1995

OFFICE NOTE

DATE

ORDER

8-1-96

In our opinion unless the applicant eventually succeeds in the application and is found to have been better claim over the respondent No.5 it would not be correct to state ~~the time filling up of the~~ ~~to fill up of the~~ vacancy of Head Assistant. The interest of the applicant can be protected by making the promotion of respondent No.5 if it takes place subject to the result of the O.A. This position has been made clear to respondent No.5 who is present and also to the learned counsel for the applicant. Hence following order:-

The interim order dated 29-11-95 directing the respondent No.3 not to fill up the vacancy of Head Assistant is hereby vacated and is substituted by direction that the respondent No.3 will be at liberty to promote the respondent No.5 to the post of Head Assistant when vacancy arises on promotion of Mr. Brahma chari but the promotion so given to the respondent No.5 during the pendency of the O.A. will be subject to the result of the O.A.

Only the respondent No.5 states that he will file written statement within 1 week. Mr. S. A. Ali, Sr. C.G.S.C. wants <sup>for</sup> time respondents No.1, 2 and 3 to file written statement. Written statement of respondent No.4 is awaited.

O.A. is directed to be listed for hearing on 26-2-96. In the meanwhile liberty to file written statement and rejoinder if any.

Copy of the order to supply to the respondent No.5.

Member

Vice-Chairman

1m

Copy of an order d. 8/1/96  
sent to all concerned  
v.m-97-102 d. 9/1/96.

26-2-96  
for hearing  
29.4.96

By  
Bom

DATE	ORDER
28.2.96	
Rejoinder to the application in reply to the W/S submitted on behalf of the Rep't. No 5.	25.4.96 Official respondents have been submitted written statement. Learned Sr.C.G.S.C Mr S.Ali seeks time for submission of written statement. List on 5.6.96 for written statement and further orders.
1) Service Ready on Rep't. No 1 & 4 2) W/S statement - has not been submitted 3) W/S statement - ab Rep't. No 5 has not been submitted. (The copy ab W/S is not in the record).	pg 5-6-96 Official respondents have not submitted written statement. Private respondent No.5 has submitted written statement. Private respondent No.4 has not submitted written statement. List for written statement and further order on 4-7-96.
1m	Member (A)
19.6.96	None present for the applicant. Mr S. Ali, learned Sr. C.G.S.C., for the respondents is present. List for hearing on 12.7.96.
Notice served on Rep't. no 1 and 4. 2) W/S statement - ab Pvt. Rep't. no. 5 has not been submitted. (The copy ab W/S is not in the record). 3) The W/S statement - ab Rep't. no. 4 has also not been submitted.	nkm 12.7.96 Leave note of Mr. S.Ali, Sr. C.G.S.C. List for hearing on 9.8.96.
trd	Member

## OFFICE NOTE

## DATE

## ORDER

9.8.96

Mr. S. Ali, learned Sr. C.G.S.C. for the respondents.

List on 9.9.96 for hearing.

69  
Member

nkm

9.9.96

Mr. S. Ali, Sr. C.G.S.C. for the respondents. Leave note of Mr. B.K. Sharma.

Written statement has not been submitted.

List for hearing on 9.10.1996. In the meantime the respondents may submit written statement.

69  
Member

pg

mv  
10/9

9-10-96

None present. Official respondents have not submitted written statement.

List for hearing on 26-11-96. In the meantime respondents may submit written statement.

69  
Member

lm  
mv  
9/11

26.11.96

None for the applicant.

Mr. S. Ali, Sr. C.G.S.C. for the respondents.

Written statement has not been submitted.

List for hearing on 18.12.1996. In the meantime the respondents may submit written statement.

69  
Member

trd  
mv  
26/11

w/ statement - hs not sum  
b/w  
20/10

w/ statement - hs not  
sum b/w  
22/11

(1) Rejoinder has been  
filed on behalf of  
Respondent No-5.  
at page 58 to 66.  
24/11  
17.12

(2) Written statement  
has not been submitted,  
24/11  
17.12

18.12.96

Mr. S.Ali,Sr. C.G.S.C. for the respondents.

Written statement has not been submitted.

List for hearing on 7.1.1997. In the meantime the respondents may submit written statement.

Member

trd

16/12

7-1-97

Mr.S.Ali Sr.C.G.S.C. for the respondents.

Written statement has not been submitted.

List for hearing on 4-2-1997. In the meantime the respondents may submit written statement.

Member

1/2 Statement - has not been filed

2) Service Reports are ready  
on Respsn no. 1 & 4. 1m  
3) Rejoinder has been filed  
on behalf of Respt no. 5. 1/2

3/2

Mr S.R. Sen, learned counsel for the applicant is present. Mr S. Ali, learned Sr. C.G.S.C., appearing on behalf of respondent Nos.1 to 3 prays for time to file written statement

List it on 21.2.97.

Issue notice to respondent No.5 who appears in person. It is informed that the written statement of respondent No.5 was filed. However it is not in record. Office to report.

Meanwhile office to send notice to the applicant intimating that the case will be taken up on the next date fixed and if the

O.A.No.261/95

4.2.97

Mr S.R. Sen, learned counsel for the applicant and Mr S. Ali, learned Sr. C.G.S.C., on behalf of respondent Nos.1 to 3, are present.

List it for hearing on 21.2.97.

Per. completely.

10/2

Issue notice to respondent No.5 who appears in person. It is informed that the written statement of respondent No.5 was filed. However it is not in the record. Office to report.

6  
Member

  
Vice-Chairman

11-2-97

nk m

W  
10/2

An affidavit was received  
in court from the applicant  
21.2.97

10-2-97

Copy of the order  
Dt - 4-2-97 issued  
to the Respondent  
No - 5 vide - D.No -  
Dt -

21  
10/2

Mr S.R. Sen prays for adjournment on the ground of some personal difficulty of the counsel in charge Mr A. Roy. Mr S. Ali, Sr. C.G.S.C informs that this matter relates to Agartala. Therefore, it will be convenient for the parties if the case is taken up Agartala. Mr Sen has no objection. Accordingly the case will be taken up for hearing at Agartala. Date will be notified later.

20-2-97

6  
Member

  
Vice-Chairman

In terms of order dt. 4-2-97,  
it is carefully <sup>checked up</sup> ~~checked~~ the records  
with inward register, but nowhere  
it is in the WTS of Respondent 5  
been traced. Also enquired the <sup>pg</sup> on  
Mr. C.G.S.C. he has a confusion <sup>on</sup> 21/2  
in the matter.

29-6-98

Case is ready for hearing.

16 List for hearing on 7-8-98.

6  
Member

  
Vice-Chairman

25-2-97

lm

16  
30/6

WTS filed on 6th of  
R. no. 1, 2 & 3.

7.8.98

The learned counsel for the applicant is not present. The applicant is also not found on call. The application is dismissed for default. Mr S. Ali, learned Sr. C.G.S.C. is present.

*JB*  
Vice-Chairman

This case is fixed at Agartala since there is no proposal in Circuit Sitting at Agartala as it is an old pending matter, it has been placed before the Hon'ble court for fixing a date of hearing.

Member

nkm

WLS has been filed. *108*

*108*  
WLS has been filed

*108*21.8.98

Copies of the order have been sent to the D/secy. for despatch the same to the L/Advocates of the party's.

Issued vide  
D. No. 2297 to 2298  
Dy. 24.8.98.

Central Administrative Tribunal GAUHATI BENCH	28 NOV 1995
690	Gauhati L.
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GAUHATI BENCH, GAUHATI.	

CASE NO. O.A. 261 OF 1995.

Shri Haripada Roy .....	Petitioner.
-vs-	
Union of India & ors. ....	Respondents.

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Received copy.

E. Sab  
Sr. C.S.C  
28/11/95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GAUHATI BENCH :

CASE NO. O.A. 261 OF 1995.

2  
Filed by  
the appellant  
through  
S. R. Sen  
Advocate  
22.11.95

4.201

Shri Haripada Roy,

(Assistant, under Directorate of  
Operation  
Census ~~Operation~~, Agartala, Tripura),

S/O late Mono Mohan Roy,

Resident of Madhya Badharghat,

P.O.-A. D. Nagar, Agartala, West Tripura.

..... Applicant.

-vs-

1. Union of India, New Delhi, represented  
by the Secretary to the Govt. of India,  
Ministry of Home Affairs, New Delhi.

2. The Registrar General & Census Commi-  
ssioner, Govt. of India, Kotach House, Annex  
2/A, Man Singh Road, New Delhi-110011.

3. The Director of Census Operation,  
Tripura, 14/1, Krishnanagar, PO-Agartala,  
West Tripura District.

4. Shri Pracheta Ranjan Brahmachary,  
Head Asstt. Directorate of Census  
Operation, Tripura, 14/1, Krishnagar,  
P.O. Agartala.

2.

5. Shri Ajit Baran Das, S/o Shri Ananda  
Charan Das of Shivnagar College Road  
Extension, PO Agartala College,  
Agartala, Tripura.

..... Respondents.

DETAILS OF THE APPLICATION.

1. Particulars of the applicant.

i) Name of the applicant : Shri Haripada Roy.

ii) Name of father : Late Monomohan Roy.

iii) Age of the applicant : (Date of birth)  
15-2-1940

iv) Designation and X  
Particulars of office X  
Assistant,  
Directorate of Census  
Operations, Govt. of  
India.

v) Office Address : Directorate of Census  
operation, Tripura West,  
14/1 Krishnanagar, PO  
Agartala, West Tripura.

vi) Address for Service  
of Notice. : Shri Haripada Roy,  
S/O late Monomohan Roy,  
resident of Madhya Badharghat,  
P.O. A.D. Nagar, Agartala,  
West Tripura District,  
PIN- 799003.

contd ..... 3 (P)

3.

2. Particulars of the Respondents.

i) Name of the respondent : 1. Union of India  
2. The Registrar General & Census Commissioner.  
3. The Director of Census Operation, Agartala, Tripura, 14/1 Krishnanagar.  
4. Shri Pracheta Ranjan Brahmachary, Head Asstt. Directorate of Census Operation, Tripura, 14/1, Krishnanagar, PO Agartala.  
5. Shri Ajit Baran Das, S/o Shri <sup>A</sup>nanda Charan Das of Shivnagar College Road Extension, PO Agartala College Agartala, Tripura.

ii) Office Address : 1. Ministry of Home Affairs, New Delhi.  
2. Kotah House Annexe, 2/A Man Singh Road, New Delhi-110011.  
3. Tripura West, 14/1, Krishnanagar, PO Agartala, West Tripura District, PIN-799001.

## iii) Address for Service

of Notice. : -Do-

3. Particulars of order for which application  
is made :-

i) There is a single and isolated post of Head Assistant in the office of Directorate of Census operation, Agartala, created by the Registrar General of India. One unreserved candidate Shri P. R. Brahmachari was promoted to the said post of Head Assistant on 28-2-1992 and he has been promoted to the post of Office Superintendent after superannuation of Shri H. R. Bhowmik, Office Superintendent on 31st October, 1995. Thereafter, the post has fall vacant. But the respondents are making arrangement to fill up the said post now lying vacant by appointing reserved candidate that is respondent No. 5 in terms of the judgment and order dated 2-12-94 passed by this Hon'ble Tribunal in OA 80/92 filed by the said respondent no. 5 as applicant. Though the principle of reservation will not apply in a single and isolated post. The applicant is a senior most General candidate in the Department and he is to be considered for promotion to the said post after promotion of Shri PR Brahmachari to the post of Office Superintendent. Hence, the applicant filed the instant application for a direction to consider him for promotion to the post of Head Assistant.

contd ...

ii) The judgment and order dated 2-12-94 passed in OA 80/92 by this Hon'ble tribunal is a decision per incurium in view of Hon'ble Supreme Court's judgment in Case No. Dr Chakradhar Paswan -vs- State of Bihar and Or (AIR 1988 SC 951) and in Smti Chitara Dilip Hotghare -vs- Bhide Girls' Education Society (AIR 1994 SC 1917).

4. Jurisdiction of Tribunal :

The applicant declares that the subject matter of the case for which <sup>he</sup> wanted redressal is within the jurisdiction of the Tribunal.

5. Limitation :

The applicant further declares that the application is within the period of Limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE :

(a) The applicant was appointed as Clerk vide order No. F.5(11-C)-Co /59 dated 15-1-1962 issued by the Superintendent, Census operation, Tripura and joined in the office of the Superintendent, Agartala on 15-1-1962 A.M. Thereafter, the applicant has been promoted to the post of computer on 30-7-1970 vide order No. F.5(45)-Co/69 dated 27-7-1970 issued by Director of Census Operations, Tripura. Thereafter,

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the applicant has been redesignated in the post of UD Clerk-cum-Cashier as because the pay scale of Computer and UD Clerk-cum-Cashier are same and identical with equal pay scale and joined in the said redesignated post on 22-1-1975. Again by an order No. F.5(91)-Co/70 dated 8-1-1975 the applicant was promoted on the adhoc basis to the post of Accountant and joined in the said post on 1-4-1980. The applicant was regularised in the said post of Accountant on 24-7-1981 by vide order No. A-11015/2179-Estt- dated 30-4-1982 issued by Director of Census Operations.

The copies of the order dated 15-1-1962, order dated 27-7-1970, order dated 8-1-1975 and order dated 30-4-1982 are annexed herewith and marked as Annexures-1, 2, 3 and 4 respectively.

(b) The applicant was promoted to the post of Head Clerk on adhoc basis with effect from 1-3-1981 and regularised in the said post with effect from 12-10-1983 vide order no. A-12025/3/81-Estt dated 13th October, 1983 issued by Director of Census Operation, Tripura. Thereafter, again appointed to the post of Asstt. on adhoc basis vide order No. A. 11011/1/84-Estt dated 29-2-1984 with effect from 1-3-1984 issued by Director of Census Operations,

Tripura. The post of Head Clerk and Assistant are same and identical and carrying the same pay scale and same responsibility. But the petitioner was regularised in the said post of Assistant with effect from 22-3-1990 by order No. A-12020/2/81-Estt dated 2-5-1990 issued by Director of Census Operations, Tripura instead of with effect from 1-3-1984, the date on which adhoc appointment was made. As such the petitioner should be regularised to the post of Assistant with effect from 29-2-1984.

The copy of the order dated 13th October, 1983 order dated 29-2-1984 and order dated 2-5-90 are annexed herewith and marked as Annexures-5, 6 and 7 respectively.

(c) That the applicant submitted representation dated 20-7-1984, 5-12-1984, 8-1-1986 and 14-1-1986 to the respondent for passing a speaking order appointing the applicant to the post of Assistant with effect from 1-3-1984 instead of 22-3-1990. The respondents vide Memo No. A-23020/1/8 -Estt (Part) dated 30-1-1986 withheld the representation dated 14-1-1986.

*gma*  
The copy of the representation dated 20-7-1984, 5-12-1984, 8-1-1986 and 14-1-1986 and reply of respondent dated 30-1-1986 are annexed herewith and

contd ....

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and marked as Annexure-8, 9,10,11 and 12 respectively.

(d) That there is a single and isolated post of Head Assistant in the office of Director of Census Operations, Tripura, created by the Registrar General of India, vide Notification No. 4/41/82-Ad-1 dated 25th August, 1984. The appendix-1 attached to this notification dated 25-8-1984 will show the number of posts of Head Assistant created in different States. In Sl No. 22 of the said Appendix -1, it is clearly stated that there is only one post of Head Assistant created for Tripura. The post has been filled up always by unreserved/general candidates. Of course, one P.C. Das was appointed to Head Assistant on merit, not as a SC candidates. The schedule attached to the said notification dt. 25-8-1984, contains that the eligibility for the post of Head Assistant required is :-

- i) Degree of a recognised University or equivalent.
- ii) 5 years experience in administration, establishment and cash accounts matter in a Govt. office or a Commercial firm of reputed.

The post of "Assistant" is the feeder post for promotion to the post of Head Assistant. Shri PR Brahmachari the incumbent in the post of Head Asstt. has since been promoted to the post of Office Superintendent, after superannuation of Mr HR Bhowmik,

from 31st October, 1995. The applicant is the seniormost Assistant eligible for promotion to the post of "Head Assistant". The seniority list of Assistant of Directorate of Census Operation, Tripura published as on 1-6-1994 will show that the applicant's name is placed in Serial No.1, that he is the seniormost Assistant. Thus, the applicant is entitled to be considered to be promoted in the single and isolated post of "Head Assistant" as he is the only ~~cit~~ eligible and seniormost Assistant in the office in Tripura.

The copy of the notification dated 25-8-1984 together with schedule and appendix-1 is annexed herewith and marked as Annexure-13 and the seniority list of "Assistant" is also annexed herewith as Annexure-14.

e. That in the facts and circumstances the applicant being the senior most Assistant is entitled for promotion to the post of "Head Assistant" now lying vacant. Accordingly, he approached the respondent No.4 and submitted a demand notice dt. 20-9-1995 but however the opposite parties have not responded to the same. The applicant in course of his approaches to the respondent nos. 1-3 regarding his promotion ultimately come to learn that move has been initiated to promote present opposite party No.5 to the post of Head Assistant. Applicant states

TOP SECRET

10.

that the opp. party No.5 is junior to him in the cadre of Asstt. and therefore he is not entitled for promotion in supersession of the applicant to the post of Head Assistant which is an isolated and single post.

¶. That the applicant while making further enquiry about the unjust move of the opposite party No.1-3 to promote opposite party No.5 came to learn that such action on part of the opp. party Nos.1-3 is in term of directions contained in the judgment and order dt. 2-12-94 passed by this Hon'ble Tribunal in O.A. No.80 of 1992 filed by the opposite party No.5. The applicant having learnt this, immediately thereafter with reference to the said O.A. number obtained a copy of the application so filed and the judgment dated 2-12-94 passed therein. From the perusal of the said judgment and application it appeared that the opp. party No.5 filed the application before the Hon'ble Tribunal challenging the order dt. 28-2-1992 promoting one respondent No.4 to the post of Head Assistant. The contention of respondent No.5 before this Hon'ble Tribunal was that for the purpose of promotion to the post of Head Assistant 40 point reservation roster had not been followed and as a result he being an S.C. candidate was illegally deprived of promotion to the reserved post of "Head Assistant". In the application registered

contd ....

22

TOP SECRET

11.

as OA 80/92 the present respondent Nos. 1-4 were impleaded as respondents. In the said application it was contended that the respondents therein erroneously held that post of "Head Assistant" was unreserved as the 1st point of the 40 point roster belonging to the SC candidate had already been consumed by one Shri PC Das, an SC candidate. The respondent no. 5 stated in his application that appointment of Shri PC Das was purely on merit. The Hon'ble Tribunal by its judgment and order dt. 2-12-94 partly allowed the application filed by the respondent no. 5, holding that the promotional roster of reservation was not followed. But in the facts and circumstances without disturbing the promotion of respondent no. 4 directed the respondents that reservation point for schedule caste be carried forward to the ensuing effective recruitment year and consider the promotion of the respondent no. 5 to the post of "Head Asstt.", who would by that time complete 5 years of service as Assistant which is one of the eligibility criteria set out by the rule for the purpose. It was also made clear by the Hon'ble Tribunal in its judgment that on promotion of respondent nos. 4-~~to~~ to the next higher post in October, 1995, the case of the respondent no. 5 shall be considered for filling up the vacant post of Head Assistant. Appellant state that in the said application, he was not made a party though the subject matter involved therein and

contd ...

and the decision of the Hon'ble Tribunal on the same has affected him. It is stated that the applicant being admittedly senior to the respondent No. 5 and is also otherwise eligible for promotion to the post of Head Assistant. The applicant state that he did not have the knowledge of judgment and order dt. 2-12-94 as he was not about a party therein and could come to know/the same only when approached the respondents Nos. 1-3 for his promotion to the post of Head Assistant which fall vacant in the month of October, 1995.

Applicant craves lave of this Hon'ble Tribunal to refer to and rely on the record of OA 80/92 in support of the above contentions.

A copy of the judgment and order dt. 2-12-94 is annexed herewith as Annexure- 14A

¶) That the applicant is at the verge of retirement and the promotion to the post of Head Assistant will be the last avenue of promotion of the applicant in his service period. The post of Head Asstt. which is lying vacant since 31st October, 1995 after superannuation of HR Bhomik and promotion of Shri PR Brahmachari to the post of Office Superintendent, is a single and isolated post and the applicant is the only seniormost eligible candidate for the said post and the principle of reservation will not apply in this case. The applicant submitted Demand Notice dt. 20-9-1995 upon the respondents but

contd ....

207  
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but no reply is received till today from the respondents.

A copy of Demand Notice dt. 20-9-1995 is annexed herewith and marked as Annexure-15.

5) That the applicant states that the post of 'Head Assistant' at present is lying vacant. The applicant being the seniormost in the cadre of Assistant has the right to be considered for promotion to the said post. However, to the knowledge of the applicant the respondent no. 1 to 3 are taking all steps for filling the post of Head Assistant by promoting the respondent no. 5. The applicant states that though the post of Head Assistant is not yet filled up, but the move of the respondent Nos. 1 to 3 to promote respondent no. 5 may be materialised at any point of time. Promotion of the respondent no. 5 at this stage would result in supersession of the applicant in most arbitrary and unjustified manner and would seriously prejudice his interest. Therefore, intervention of this Hon'ble Tribunal at this stage necessary in the way of restraining the respondent Nos. 1-3 from promoting the respondent no. 5 to the post of Head Assistant pending adjudication of the issues involved herein. No relief is claimed against the respondent no. 4, but he is made a party for proper adjudication of the issues involved.

contd ...

7. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS.

i) That the applicant states that the judgment and order dt. 2-12-94 passed in OA 80 of 1992 by the Hon'ble Tribunal is a judgment per incurium in view of the Hon'ble Supreme Court's decision on issue in the case of Dr Chakradhar Paswan -vs- The State of Bihar & Ors (AIR 1988 SC 951) and in the case of Chetana Dilip Hotgbore -vs- Bhidi Girls' Education Society (AIR 1994 SC 1917), hence the same need to be reconsidered and the matter in issue need to be decided afresh.

ii) That the applicant states that the decision of the Hon'ble Supreme Court on issue was not brought to the knowledge of this Hon'ble Tribunal which is otherwise binding on it under Article 141 of the Constitution and therefore the judgment and order dt. 2-12-94 without referring to the decision of the Apex court need to be reconsidered and the issue be adjudicated afresh.

iii) That the applicant begs to submit that the post of 'Head Assistant' being a single and isolated post cannot be reserved and this position is made clear by the Hon'ble Supreme Court in the case of Dr Chakradhar Paswani's -vs- State of Bihar and ors. (AIR 1988 SC 951) wherein it has been held that the principle of reservation will not apply in a single isolated post as it would render the guarantee of

equal opportunity as contained in Articles 16(1) and 16(2) which by meaningless and illusory resulting in 100% reservation and this view has been upheld by the Apex court in its subsequent decision in Case of Smti Dilip Motghare -vs- Bhide Girls' Education Society (AIR 1994 SC 1917).

iv) That the applicant state that reservation roster is applicable with regard to the post and <sup>to the</sup> not, vacancy and therefore the post of 'Head Asstt' being a single isolated post the reservation roster would not apply on the same.

v) That the applicant submit that the post of 'Head Assistant' being a isolated post same cannot be reserved as it would amount to 100% reservation which would be clearly violative of right to equal opportunity.

g) DETAILS OF REMEDIES EXHAUSTED.

The applicant declares he has served Demand notice to the respondents through his learned Advocate.

20. Matter not previously filed or pending with any other court -

The applicant further declares that he had not previously filed any application, writ petition

contd :..

or any suit regarding subject matter of this application.

**10. Particular of Postal Order in respect of application fee :-**

Number of Indian Postal Order : For Rs. 50/-

bearing Postal Order No. B/09/315455

Issuing Post Officials Name - Agantala, Post office

Dated :- 11.11.95

**RELIEF SOUGHT :**

The applicant, therefore, prays that your Lordship would be pleased enough to allow the following reliefs :-

i) The judgment and order dt. 2-12-94 passed in OA 80/92 by the Hon'ble Tribunal being judgment per incuriam needs to be reconsidered and matter in issue need to be decided afresh.

ii) The respondent Nos. 1-3 be directed to consider the applicant for promotion to the post of Head Assistant under Director of Census Operations, Tripura which lying vacant due to superannuation of Shri HR Bhowmik and promotion of Shri PR Brahmachari to the post of Office Superintendent from the said post on 31st October, 1995.

iii) to declare that in the single and isolated post of 'Head Assistant' fell vacant due to promotion

*AM*  
contd ...

of Shri P R B ahmachari, the Principle of reservation will not apply.

(iv) the decision in judgment and order dtd. 2-12-94 passed in OA 80-92 is per incurium and hence respondent No.5 is not entitled for promotion in terms of the same.

(v) to direct the respondent Nos. 1- 3 to regularise the applicant to the post of Asstt. with effect from 1-3-1984, the date on which the applicant was appointed on adhoc basis instead of 22-3-1990 and to count the seniority of that period of Assistant.

(vi) direct the respondents to pay the cost of proceedings.

Prayer for interim order.

Pending disposal of this application be pleased to stay the operation of the judgment and order dt. 2-12-94 passed in OA 80/1992 and further.

Pass an interim order directing the respondent Nos.1-3 not to fill up the post of Head Assistant in any manner by reserved candidate including the respondent No.5.

*Verification....*

18.

VERIFICATION.

I, Shri Haripada Roy, son of late Mono  
Mohan Roy, aged 55 years, serving as Assistant  
under Directorate of Census Operation, Tripura,  
resident of Arundhutinagar, Agartala, West Tripura,  
do hereby verify that the statements made in para  
1-6 are true to my knowledge and I sign this  
verification today the 17<sup>th</sup> day of November, 1995  
in the Chamber of Advocate.

*Haripada Roy*  
Signature of the applicant.

No. F.5(11-C)-CO/59.  
Government of India  
Office of the Superintendent,  
Census Operations,  
Tripura.

Agartala,

Dated, the 15th January, 1962.

O R D E R.

Shri Haripada Roy, is appointed temporarily as a clerk in the office of the undersigned in the scale of Rs. 110-3-131-4-155-EB-4-175-5-180/- plus other allowances as admissible, vice Shri Mihir Kumar Sen Gupta.

2. His services are liable to be terminated on one month's notice from either side or with one month's pay in lieu of notice.

3. The appointment will be further subject to other conditions of services governed by the relevant rules and orders in force from time to time.

4. He should report for duty to the undersigned with immediate effect.

Sd/-

( C. R. Paul )  
Superintendent,  
Census Operations, Tripura.

Copy forwarded to Shri Haripada Roy, C/O. Surjya Kumar Saha, 21/4, Central Road, P.O. Agartala, Tripura.

Superintendent,  
Census Operations, Tripura.

Attn: [Signature]

1/1

20

January - A2

No. F. 5(45)-CO/69  
Government of India  
MINISTRY OF HOME AFFAIRS  
Directorate of Census Operations,  
Tripura.

Agartala, the 25th July, 1970.

27/1

O R D E R

Shri Haripada Roy, Typist is appointed on promotion to officiate as Computer under Sample Registration Scheme in the scale of Rs.150-5-160-8-240-EB-8-280-10-300/- plus usual allowances as admissible to Central Government employees temporarily and until further orders with effect from the date he joins as Computer.

2. His services are liable to be terminated on one month's notice from either side or with one month's pay in lieu thereof.

3. The appointment will be further subject to other conditions of service governed by the relevant rules and orders in force from time to time.

( C. R. PAUL )  
DIRECTOR OF CENSUS OPERATIONS,  
TRIPURA.

Copy to :-

1. Shri Haripada Roy, Typist. He should join ~~in~~ his duties ~~on~~ <sup>immediately</sup> 27th July, 1970 positively in S.R.S. Unit.  
2. Personal File.

My

DIRECTOR OF CENSUS OPERATIONS,  
TRIPURA.

Amrit  
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No. F. 5(91)-10/70 Annexure - A 3

Government of India

Ministry of Home Affairs

Directorate of Census Operations

Tripura

32

Agartala, the 8th January, 1975

O R D E R

Shri Himangshu Ranjan Bhowmick, U.D.Clerk-cum-Cashier of this Directorate, who was appointed to officiate temporarily in the post of Accountant on ad-hoc basis with effect from 12.11.74 is hereby appointed on promotion to officiate in the post of Accountant temporarily and until further orders on the recommendation of the Class III D.P.C. dated 30.12.1974 as on regular basis with effect from the date of his ad-hoc appointment to the post of Accountant, i.e. with retrospective effect from 12.11.1974. Shri Bhowmick will hand over charge of the post of U.D.Clerk-cum-Cashier to Shri H.P.Roy.

2. Shri H.P.Roy, Computer of this Directorate, who was appointed to officiate as Computer from the post of Typist Clerk(L.D.Clerk) is hereby transferred temporarily to officiate in the post of U.D.Clerk-cum-Cashier in the identical scale of Rs.330-10-380-EB-12-500-NB-15-560/- with immediate effect until further orders. His pay will be fixed according to the normal rules. Shri Roy should take charge of the post of U.D.Clerk-cum-Cashier from Shri Bhowmick, promoted to the post of Accountant.

*A. Bhattacharyya*  
(A.Bhattacharyya)  
Director of Census Operations,  
Tripura.

Copy to:-

1. Shri H.R.Bhowmick, Accountant,
2. Shri H.P.Roy, Computer.
3. Accounts Section
4. Personal Files.

*Amend*  
*AM*

No. A.11015/2/79-Estt.  
No. 14013/1/81-Estt.  
Government of India  
Ministry of Home Affairs  
Directorate of Census Operations  
Tripura.

Dated, Agartala, the

30-4-82

Order

In partial modification of this Directorate order of even number dated the 20th April, 1982 the under mentioned incumbents are appointed on regular basis to the posts ~~as~~ shown against their names with effect from 24-7-1981 instead of 5-4-1982.:-

Sl.	Name	Post to which promoted.	Scale of pay of the post.
1	2	3	4
1.	Shri Pracheta Ranjan Bramhachary	Assistant	Rs. 425-15-500-EB-15- 560-20-700/-
2.	Shri Haripada Roy	Accountant	Rs. 425-15-500-EB-15- 560-20-640/-

(S.R. Chakraborty)  
Director of Census Operations  
Tripura.

Copy to :

1. Shri P.R. Bramhachary & Shri H.P. Roy, Directorate of Census Operations, Tripura.
2. The Pay & Accounts Officer(Census), A.G.C.R. Building, New Delhi.
3. Accounts section/personal file.

*Ap. 1982* *APR*  
Director of Census Operations  
Tripura.

*Amrit*  
*AM*

29 ANN-A5

No.A.12025/3/81-Estt.  
Government of India  
Ministry of Home Affairs  
Directorate of Census Operations  
Tripura.

13 OCT 1983

Dated, Agartala, the 13

Order

On the recommendation of the Departmental Promotion Committee, Shri Haripada Roy, who is officiating as Head Clerk on ad-hoc basis is hereby appointed on promotion to the grade of Head Clerk on regular basis with effect from 12-10-1983 in the scale of Rs.425-15-500-EB-15-580-20-700/- in the Directorate of Census Operations, Tripura. in a temporary capacity until further orders.

2. His Pay will be fixed according to normal rules.

( S.R. CHAKRABORTY )  
Director of Census Operations  
Tripura.

Copy to :

1. Shri Haripada Roy, Directorate of Census Operations, Tripura.
2. The Pay & Accounts Officer (Census), Ministry of Home Affairs, A.G.C.R. Building, New Delhi.
3. Personal file/Accounts Section.

Director of Census Operations  
Tripura.

*Amber*  
AM

- 24 -  
*Annexe - A*  
No. A. 11011/1/84-Estt  
Government of India  
Ministry of Home Affairs  
Directorate of Census Operations  
Tripura

858

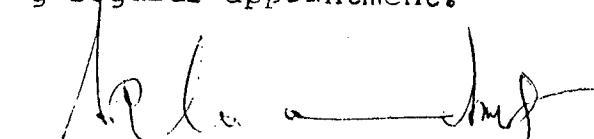
Dated, Agartala, the 29.2.84

O R D E R

Consequent upon the abolition of the post of Head Clerk as communicated vide Registrar General, India's message No. 1/1/84-Ad. I dated 28.2.84 Shri H.P. Roy is hereby appointed against the vacant post of Assistant in the scale of Rs. 425-15-500-EB-15-560-20-700/- by adjustment on temporary and ad-hoc basis as per instruction contained in the aforesaid message with effect from the forenoon of 1st March, 1984.

The ad-hoc promotion will not bestow on ~~them~~ any claim to regular appointment to the respective grade of promotion. The services to be rendered by them on ad-hoc basis will not count for the purpose of seniority in the respective grade of promotion nor for eligibility for promotion to the next higher grade. This ad-hoc promotion may be reversed at any time at the discretion of the undersigned without assigning any reason thereof.

The above ad-hoc promotion will in no way affect the existing seniority in the different grades for consideration at the time of making regular appointment.

  
( S.R. Chakraborty )  
Director of Census Operations  
Tripura

Copy to :-

1. ✓ Shri H.P. Roy, Head Clerk, Directorate of Census Operations, Tripura
2. The Pay & Accounts Officer (Census), A.G.C.R. Building, New Delhi.
3. The Registrar General, India, New Delhi,
4. Accounts Section/ Personal file
5. Respective appointment file.

  
Director of Census Operations  
Tripura.

*Altered*  
*for*

25

No. A.12020/2/81-Estt.  
Government of India  
Ministry of Home Affairs  
Directorate of Census Operations  
Tripura.

Annex - A 73

Dated, Agartala the 8th March 1990

O R D E R

On the recommendation of Departmental Promotion Committee, the following employees in the office of Directorate of Census Operations, Agartala, Tripura are hereby appointed on promotion in the temporary capacity to the post on regular basis shown against their names with effect from 22.3.1990.

Sl. No.	Name & designation	Post to which appointed on regular basis	Scale of pay
1	2	3	4
1.	Shri K.R.Chakraborty, Sr.Artist.	Sr.Artist.	Rs.1600-2660/-
2.	Shri P.K.Ghosh,Artist	Artist	Rs.1400-2300/-
3.	Shri H.P.Roy,Assistant	Assistant	Rs.1400-2300/-
4.	Shri S.Rao Bhattacharjee, U.D.Clerk	U.D.Clerk	Rs.1200-2040/-
5.	Shri K.M.Das, Record Keeper	Record Keeper	Rs.825-1200/-

2. Their pay will be fixed as per normal rules.

P.D.Joshi  
(P.D.Joshi)  
Deputy Director.

Copy to :-

1. Person concerned.
2. Pay & Accounts Officer (Census), Ministry of Home Affairs, New Delhi.
3. Personal file.
4. Accounts Section.
5. Appointment file.

*Altered*  
*by*

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Armenia - Ag  
11

To  
The Deputy Director,  
Census Operations,  
Tripura, Agartala.

Sir,

I would like to draw your kind attention to my representation dated 5th March, 1984 addressed to the Director of Census Operations, Tripura regarding adjustment of appointment from the post of Head Clerk (Regular basis in the identical scale of Rs.425-700/-) to the post of Assistant on ad-hoc basis in the scale of Rs.425-700/- and state that my services to the post of Assistant may kindly be adjusted on regular appointment in lieu of ad-hoc basis.

I would be grateful if you kindly make it convenient to take necessary steps in this respect at your earliest convenience so that I may get the benefit of service.

Dated, Agartala the  
20.7.84.

Yours faithfully,

*HariBada Roy*  
(H.P.Roy)

*Mentioned*  
11

To

The Joint Registrar General, India,  
Kotah House Annex,  
2/A, Mansingh Road,  
New Delhi - 110011.

## THROUGH PROPER CHANNEL

Sir,

I beg to draw your kind attention to the order No.A.11011/1/84-Estt dated 29-2-1984 of the Director of Census Operations, Tripura (copy enclosed) appointing me to the post of Assistant on ad-hoc basis and state that I was holding the post of Head Clerk which has the identical scale of pay with that of Assistant, on regular basis. Due to the abolition of the post of Head Clerk I have been appointed to the post of Assistant. In this regard my representation dated 5-3-84 to a appointment me to the post of Assistant on regular basis addressed to the Director of Census Operations, Tripura followed by subsequent reminder dated 20-7-84 (copies enclosed) may kindly be referred to.

In this connection I beg further to draw your kind attention to the fact that I have been appointed to the post of Assistant on ad-hoc basis, though I was entitled to have regular appointment to the post. The ad-hoc appointment to the post will not allow me service benefit in the post of Assistant. As such I would urge upon your kind self to be gracious enough to consider my regular appointment to the post from the date I was appointed on ad-hoc basis which will allow me the service benefit of the post and for this act of your kindness I shall remain ever grateful.

Dated, Agartala,  
The 5th December, 1984.

Yours, faithfully,

*Haripada Roy*  
( HARIPADA ROY )  
ASSISTANT  
DIRECTORATE OF CENSUS OPERATIONS,  
TRIPURA.

Received the  
books. 10/12/82  
Accepted for

Regd.  
Dinner - A/W

39

To  
The Joint Registrar General, India,  
Kotah House Annexe,  
2/A, Mansingh Road,  
New Delhi - 110011.

THROUGH PROPER CHANNEL.

Sir,

I would like to draw your kind attention to my representation dated the 5th December, 1984 regarding adjustment of appointment from the post of Head Clerk (Regular basis in the identical scale of Rs.425-700/-) to the post of Assistant on ad-hoc basis in the scale of Rs.425-700/- w.e.f. 1-3-1984 and state that my services to the post of Assistant may kindly be adjusted on regular appointment in lieu of ad-hoc basis.

I would be grateful if you kindly make it convenient to take necessary steps in this respect at your earliest convenience so that I may get the benefit of service.

Yours faithfully,

SD/-

Dated, Agartala,  
The 8th January, 1986.

( Haripada Roy ) Asstt.  
Directorate of Census Operation,  
Tripura.

1. Copy to the Jt.R.G. India, New Delhi
2. General Secretary, Census Employees' Association,  
Tripura. Agartala.

*Revised*  
8-1-86

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To  
The Registrar General, India,  
Ketah House Annex, 2/A,  
Mansingh Road,  
NEW DELHI - 110011.

THROUGH PROPER CHANNEL.

Subject:- Representation regarding regular appointment in the post of Assistant under the Director of Census Operation, Tripura, Agartala.

-----  
Sir,

I have the honour to state as follows :-

On the above subject I have submitted representations to my higher authorities and my last representation dated 5-12-1984 was addressed to the Joint Registrar General, India. However, I have not yet been even favoured with a reply.

I was appointed as L.P. Clerk under the Director of Census Operation w.e.f. 15-1-1962 and since then I have been rendering my service quite diligently, efficiently and to the full satisfaction of the authority and my authority, being pleased, had granted my promotion from time to time and in my promotion posts too I have been rendering my service quite diligently, efficiently and to the full satisfaction of the authority.

*Marked*  
I was promoted to the post of Computer w.e.f. 30-7-1970 and then I was transferred to the post of U.P. Clerk-cum-cashier w.e.f. 22-1-1975. Thereafter I was promoted to the post of Accountant w.e.f. 1-4-1980 in which post I have been regularly appointed w.e.f. 24-7-1981

Contd....P/2.

- 2 -

After this I was promoted to the post of Head Clerk w.e.f. 1-3-1931 on ad-hoc basis and thereafter I was regularly appointed to the post of Head Clerk w.e.f. 12-10-1933.

While I was serving in the post of Head Clerk as aforesaid I suddenly received an order dated 29-2-1934 issued by the Director of Census Operation, Tripura. In this order the Director of Census Operations, Tripura has mentioned that consequent upon the abolition of the post of Head Clerk I have <sup>been</sup> appointed against the vacant post of Assistant in the same scale of pay of the Head Clerk. But in this order it has been further added that this appointment to the vacant post of Assistant has been made by adjustment on temporary and ad-hoc basis as per instructions contained in the Message dated 23-2-1934. This appointment was made w.e.f. 1-3-1934. Since then I have been treated to be in the post of Assistant w.e.f. 1-3-1934. In this order it has also been added that the ad-hoc appointment will not count for the purpose of seniority in the respective grade of promotion and it will in no way affect the existing seniority in the different grades for consideration at the time of making regular appointment.

Your goodself may kindly take pains for the sake of rendering justice to me and have a look at the

Contd.... P/3.

- 3 -

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- 31 -

- 3 -

afore-mentioned Message No. 1/1/34-Ad.1 dated 23-2-1934 which recites that I may be adjusted against the vacant post of Assistant and there is not at all anything directing that such adjustment is to be made on temporary and ad-hoc basis. But the Director has mentioned that my appointment has been made against the vacant post of Assistant on temporary and ad-hoc basis as per the instructions contained in the aforesaid Message. In this appointment order the words temporary and ad-hoc basis have been added by the Director on his own. Since my appointment to the post of Assistant has been made by adjustment on the basis of the aforesaid Message dated 23-2-1934 and since the Message clearly shows that the appointment should be made on regular basis, hence the order of my appointment dated 29-2-1934 needs to be read as an order of appointment on regular basis for all practical purposes. This order is neither ~~for~~ <sup>mentions</sup> any specified period nor ~~have~~ <sup>is it for</sup> until further order. There cannot be any order/appointment on ad-hoc basis for unlimited period and in fact I have been continuing in the post since 1-3-1934 as mentioned in that order. Moreover, the words temporary and ad-hoc are again redundant, contradictory and clearly to be read as non-existent. I have been performing all functions and duties ~~of~~ in the post of Assistant which I would have performed if my order of appointment contained a recital that it is an appointment on regular basis. The order of appointment was made in such a situation which required that my appointment to the post of Assistant is a transposition of my regular appointment <sup>from</sup> to the post of Headclerk.

Contd....P/4

- 31 -

- 32 -

- 4 -

and the situation would explain that ~~such situation~~ <sup>such order</sup> cannot be treated but as an order of regular appointment.

I, therefore, humbly pray before your goodself that justice may be done to me by ~~issuing~~ speaking order that my appointment to the post of Assistant w.e.f. 1-3-1984 is a regular appointment and the mentions in the order of appointment dated 29-2-1984 stating that the order of appointment is temporary and ad-hoc or it would not give me any right regarding seniority and other usual rights which accrue consequent upon regular appointment are redundant and have no effect and for this act of kindness I shall be highly obliged.

Yours faithfully,

*Hari Pada Roy*  
( HARI PADA ROY )

Assistant,  
Directorate of Census Operations,  
Tripura, Krishnanagar, Agartala.

Dated, Agartala,  
the 16th January '96.

\*\*\*\*\*

*Roy  
16/1/86*

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22-33  
No. A.23020/1/81-Estt (Part)  
Government of India  
Ministry of Home Affairs  
Directorate of Census Operations  
Tripura.

Chittagong - A12

44

Dated, Agartala the

30 JAN 1986

MEMORANDUM

I am directed to inform that the representation dated 8.1.1986 of Shri Haripada Roy, Assistant addressed to the Joint Registrar General, India for regularisation of his appointment in the post of Assistant was considered by the office of the Registrar General, India, but the same could not be acceded to as the post of Assistant was a temporary post sanctioned for 1981 Census upto 28.2.1986.

The question of filling up the post of Assistant on regular basis will, therefore, arise only after this post is continued on long term basis. It is also to inform him that no further representation on this point may be entertained.

In view of this his representation dated 14.1.1986 addressed to the Registrar General, India may be treated as withheld.

*D. K. Choudhuri*  
30.1.86  
(D. K. Choudhuri)  
Assistant Director of Census  
Operations, Tripura.

To  
Shri Haripada Roy, Assistant  
Directorate of Census Operations,  
Tripura, Agartala.

*Shubha*  
*PM*

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Anmol AB3  
N.

TO BE PUBLISHED IN THE GAZETTE OF INDIA PART -II SECTION 3-  
SUB-SECTION(i)

No. 4/41/82-Ad.I  
Government of India  
Ministry of Home Affairs  
OFFICE OF THE REGISTRAR GENERAL, INDIA.

2-A, Mansingh Road,  
New Delhi.

Dated, the 25 AUG 1984

NOTIFICATION

G.S.R. .... In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the twentythree recruitment rules mentioned in Appendix II to these rules in so far as they relate to the post of Head Assistant except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the said posts of Head Assistant in the various offices of the Registrar General, India, the Language Division of the Office of the Registrar General of India as well as all the offices of the Directors of Census Operations in the States and the Union territories namely :-

1. Short title and commencement(1):- These rules may be called the office of the Registrar General, India, and the office of the Directors of Census Operations, in States and Union territories (Head Assistant) Recruitment Rules, 1984.

(2) They shall come into force on the date of their publication in the official gazette.

2. Application:- These rules shall ..... Appendix I to these rules.

3. Number of posts, classification and scale of pay:-

The number of the said post, its classification, and the scale of pay attached thereto shall .....ules.

4. Method of recruitment, age limit, educational and other qualifications, etc.

The method of recruitment, age limit, ..... on such transfer.

5. Disqualification:- No person

a) who has entered into, or contracted, .....

or

b) who, having ..... of this rules.

6. Power to relax:- Where the Central Government is of the opinion that it is necessary or expedient ..... of this rule.

7. Saving:- Nothing in these rules shall effect reservation, relaxation of age limit, and other concessions required to be provided for the candidates belonging to Scheduled Caste, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

*U. K. Prasad*  
SD/- L.K. Prasad  
Assistant Director.

## THE SCHEDULE

Recruitment Rules for the post of Head Assistant in the office of the Registrar General, India, Ministry of Home Affairs.

Name of post	Number of post	Classification	Scale of Pay	Whether Selection post or non-selection post	Whether benefit of added years of service admissible under rules 30 of the CCS(Pension Rules, 1972.	Age limit for direct recruits	Education and other qualification required for direct recruits.
Head Assistant	31	General Central Service Group 'C' Non-Gazetted Ministerial.	Rs. 550-20-650-25-750	Selection	No	30 years (Relaxable upto 35 years for Government servants in accordance with the instructions or orders issued by the Central Government)	Essential (i) Degree of a recognised University or equivalent. (ii) 5 years' experience in administration established, and cash

Detailed break-up shown in Appendix I

\*Subject to variation dependent on workload.

Note: The crucial date for determining the age limit in a Government shall be the closing date for receipt of applications from candidates in India (other than the Andaman & Nicobar Islands, Lakshadweep). In respect of posts, the appointments to which are made through the Employment Exchanges, the crucial date for determining the age limit shall, in each case, be the last date upto which the Employment Exchanges are asked to submit names.

Marked  
L.M.

Whether age and qualifications prescribed for direct recruits will apply in the case of promotees.

9 10

No 2 years

Period of promotion if any.

Method of Recruitment, whether direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods.

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By promotion, failing which by transfer on deputation/transfer, and failing both by direct recruitment.

In case of recruitment by promotion/deputation/transfer, grades from which promotion, deputation, transfer to be made.

12

Promotion: Assistants in the respective offices with 3 years' regular service in the grade (Rs.425-15-500-EB-15-560-20-700)

If a Departmental Promotion Committee exists, what is its composition.

13

Group 'C' Departmental Promotion Committee (for the language Division at Calcutta).

1. Deputy Registrar General (Languages) or Assistant Registrar General (Languages) - Chairman
2. Assistant Registrar General (Language) or Linguist or Research Officer (Language) or Assistant Director - Member
3. A ~~group~~ Group 'A' Officer of another Central Government office, preferable belonging to the Scheduled Castes or the Scheduled Tribes. - Member

\*Transfer on deputation/Transfer:

Officials of Central Government/State Government holding analogous posts or with 3 years regular service in posts in the scale of pay of Rs.425-700 or equivalent and possessing the educational qualification and experience prescribed for direct recruits in column 8. (Period of deputation shall ordinarily not exceed 3 years)

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*in*

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Circumstances in which Union Public Service Commission  
to be consulted in making recruitment.

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Group 'C' Departmental Promotion Committee  
for the respective office of the  
Directors of Census Operations in States/  
Union Territories:

Not applicable

1. Director of Census Operations or Joint Director of Census Operations or Deputy Director of Census Operations or Assistant Director of Census Operations or Assistant Director of Census Operations (Technical)-Chairman
2. Joint Director of Census Operations or Deputy Director of Census Operations or Assistant Director of Census Operations or Assistant Director of Census Operations or Assistant Director of Census Operations (Technical) - Member
3. A Group 'A' Officer of another Central Government Office, preferably belonging to the Scheduled Castes or the Scheduled Tribes. - Member

( V.S. VERMA )  
Registrar General, India.

Marked  
for

APPENDIX - I

Office-wise break-up of the number of posts  
specified in Column 1 of the Schedule

Sl.No.	Name of Office	No. of po
1.	Office of the Registrar General, India (excluding Language Division at Calcutta)	
2.	Language Division at Calcutta	1
3.	Office of the Director of Census Operations,	
4.	-do-	Andhra Pradesh
5.	-do-	Assam
6.	-do-	Bihar
7.	-do-	Gujarat
8.	-do-	Haryana
9.	-do-	Himachal Pradesh
10.	-do-	Jammu & Kashmir
11.	-do-	Karnataka
12.	-do-	Kerala
13.	-do-	Madhya Pradesh
14.	-do-	Maharashtra
15.	-do-	Manipur
16.	-do-	Meghalaya
17.	-do-	Nagaland
18.	-do-	Orissa
19.	-do-	Punjab
20.	-do-	Rajasthan
21.	-do-	Sikkim
22.	-do-	Tamil Nadu
23.	-do-	Tripura
24.	-do-	Uttar Pradesh
25.	-do-	West Bengal
26.	-do-	Andaman & Nicobar Islands
27.	-do-	Arunachal Pradesh
28.	-do-	Chandigarh
29.	-do-	Goa, Daman, Diu
30.	-do-	Lakshadweep
31.	-do-	Goa, Daman & Diu and Dadra & Nagar Haveli
32.	-do-	Kerala
		TOTAL 31

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Provisional Seniority list of Assistant under the Establishment of the  
Directorate of Census Operations, Tripura as on 1.6.94.

Sl.no.	Name & date of birth	Educational & other qualification.	Date of entry into Govt. service.	Date of appointment to a post in graded scale of pay in Central Govt. service.	Date of temporary appointment to the grade in DCC's office.	Date of confirmation in the grade.	Remarks.
1	2	3	4	5	6	7	8
1.	Shri A. P. Roy, 15.2.40	B.A.	15.1.62	22.3.90	22.3.90	-	Confirmed as U.D.C. w.e.f. 4.4.77.
2.	Shri A. R. D.s, 6.1.49 (SC)	B.A.	24.5.74	23.6.90	23.6.90	-	i) Redesignated as Asstt. w.e.f. 23.6.90 ii) Confirmed as L.D.C. w.e.f. 18.1.78.

Subhankar  
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16-5-94  
Provisional Seniority list  
Directorate of Census Operations, Tripura, Assam

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI

(Agartala Circuit Bench)

O.A. No. 8092

Date of Order : 2-12-1994

Shri Ajit Baran Das - Applicant.

-Vs-

Union of India &amp; Ors. - Respondents.

For the applicant : Mr. S. Chakraborty, Advocate and also applicant appeared in person.

For the Respondents: Mr. G. Sarma, Addl. C.G.S.C.

C O R A MJUSTICE SHRI M.G. CHOWDHARI, VICE-CHAIRMAN  
SHRI G.L. SANGLYINE, MEMBER (ADMINISTRATIVE)O R D E R

For the reasons separately recorded we pass the following order :

We direct the respondents that the reservation point for Scheduled Caste be carried forward to the ensuing effective recruitment year and since the applicant will by that time actually complete 5 years of service as Assistant, we further direct the respondents to consider the appointment of the applicant by promotion to the post of Head Assistant in the next vacancy that may arise hereinafter.

We make it clear that the applicant had stated before us that on promotion if given to him in the next vacancy he will not claim seniority over respondent No.4 Sri P.R. Brahmachari nor will object to his further promotion. It is also recorded that the applicant as well as Sri Bhowmick

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- 2 -

and Sri Brahmachary were present before us and stated that the post is likely to fall vacant in October, 1995 on retirement of Shri Bhowmick when Sri Brahmachary is likely to be promoted. We therefore make it clear that unless vacancy arises earlier in any event the applicant shall be considered for appointment to the post in October, 1995 when the vacancy will arise.

The application is partly allowed in terms of the above order. There will be no order as to costs.

(Detailed reasons will follow)

Sd/- M.G. CHAUDHARI  
VICE-CHAIRMAN

Sd/- G.L. SANGLYINE  
MEMBER (ADMN)

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CENTRAL ADMINISTRATIVE TRIBUNEL  
GUWAHATI BENCH

Original Application No.80 of 1992

Date of Order : This the 2nd day of December 1994  
( At. Agartala )

Justice Shri M.G. Chaudhari, Vice-Chairman  
Shri G.L. Sanglyine, Member (Administrative)

Sri Ajit Baran Das, son of Sri Ananda Charan Das of Shiblynagar College Road Extension, P.O. Agartala College, Agartala, Tripura. - Applicant.

-Vs-

1. The Union of India represented by Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi.
2. The Registrar General & Census Commissioner, Govt. of India, Kotah House Annexe, 2/A, Mansingh Road, New Delhi-110 011.
3. The Director of Census Operation, Tripura, 14/1, Krishnanagar, P.O. Agartala.
4. Shri Pracheta Ranjan Brahmachary, Head Asstt. Directorate of Census Operation, Tripura, 14/1 Krishnanagar, P.O. Agartala - Respondents.

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

ORDER (Reasons in support of operative order pronounced on 2-12-94)

C.L. SANGLYINE (MEMBER, A)

*for*  
This application under Section 19 of the Administrative Tribunals Act 1985 has been submitted by Shri Ajit Baran Das, now working as Assistant in the office of the Director of Census Operation, Tripura, Agartala. In this application he has impugned the Order No. F.5(11-E)-80/64 dated 28-2-1992 (Annexure-H) promoting

Contd...2/-

Shri Pracheta Ranjan Brahmachary to the post of Head Assistant in the above mentioned office. The case of the applicant is that the vacancy against which Shri Brahmachary was promoted was erroneously treated as an unreserved vacancy and this action of the respondents had deprived him, a member of scheduled caste community, from being promoted to the post of Head Asstt. His main prayer is that he should be promoted as Head Asstt. immediately against a reserved vacancy. The respondents have contested the application by filing written statements. Their contention is that the claim of the applicant that the vacancy should have been treated as a reserved vacancy for scheduled caste is wrong. According to them the First Point in the 40 point Roster belongs to Scheduled Caste and this point was consumed by Shri P.C. Das on his appointment as Head Assistant. Shri P.C. Das is a member of scheduled caste community and had filled the post on his own merit when he was appointed to the post. The respondents contend that this being a single vacancy "it need not be treated as unreserved and the reservation should not be carried forward". Moreover, the applicant was appointed to the post of Assistant by transfer on 23-6-1990 and, as such, had not possessed the necessary experience of 3 (three years as Assistant on 28-2-1992 and therefore had not qualified for promotion to the post of Head Assistant.

2. We have examined carefully the contentions of both sides. While noticing that the merit of the later contention of the respondents is open to debate, we have no hesitation to hold the view that on the basis of the facts of this

case the contention of the respondents regarding the issue of reservation is untenable. In 1964, after the Office of director of Census Operation, Tripura, Agartala was created an advertisement was issued for filling up the post of Head Asstt. in that office by direct recruitment through a limited open field. There was no Recruitment Rules for Head Asstt. at that time. Sri P.C. Das, a member of scheduled caste community, successfully competed and was on his own merit appointed to the said post of Head Asstt. on 26-4-1965 and he joined the post. He was promoted to a higher post of office Superintendent in 1979. The Recruitment Rules for Head Asstt. came into force with effect from 25-8-1984. On 2-3-1985 Sri H.R. Bhowmick was promoted as Head Assistant on regular basis. Prior to this promotion Shri Bhowmick was officiating in the post on adhoc basis. Shri Bhowmick is not a member of scheduled caste community. On 28-8-1990 Sri Bhowmick was promoted to the higher post of Office Supdt. The Recruitment Rules for Asstt./Head Clerk came into force w.e.f. 23-6-1990. The applicant was appointed as Asstt. with effect from that date. From 28-8-1990 to 28-2-1992 the post of Head Assistant remained vacant according to the applicant. This has not been disputed by the respondents. Sri P.R. Brahmachary was promoted to the post of Head Asstt. on 28-2-1992. Shri Brahmachary is not a member of scheduled caste community. Apparently, the applicant was not considered for promotion on the ground that in February, 1992 he did not possess the requisite qualifications and that, at any rate, even if he was considered and found fit he could not be promoted as there was no vacancy reserved for

for scheduled caste. In that event the promotion was given to Shri Brahmachary who is a general candidate and senior to the applicant and also eligible for the post. We find that there was a gap of about 6 years from 1979 when Shri P.C. Das vacated the post of Head Asstt. to 1985 when Shri H.R. Bhowmick was promoted to the post of Head Assistant. The respondents did not care to clarify in their written statements as to what happened to the post of Head Asstt. during that period. We have therefore sought clarification about this matter during the course of hearing and Shri H.R. Bhowmick Office Supdt. verbally explains to us that the vacancy was filled up by means of deputation before he took over the post. We presume that the clarification given by Shri Bhowmick is correct. As would be seen from the facts narrated above, Shri P.C. Das was recruited to the post of Head Asstt. against Direct Recruitment Roster. Even if the Roster for Direct Recruitment is taken to be the same with the Roster for promotion, as that would seen to be the contention of the Respondents, that Roster had broken because of the fact that for almost six years from 1979 to 1985 the vacancy in the post of Head Assistant had been filled by Deputation. However, in the facts of this case, in our view the promotional Roster started with reference to the vacancy in the post of Head Assistant against which Shri H.R. Bhowmick was promoted. The first point in the Roster belongs to Scheduled Caste but since it was a single vacancy it ceased to be a reserved vacancy. It was filled by Shri Bhowmick who is not a reserved candidate and was otherwise eligible for promotion to the post. This is the correct procedure and even the

applicant has no objection to it. The reservation was thereafter to be carried over to the next effective recruitment year. This was not however done and Shri Brahmachary was promoted to the post of Head Asstt. in 1992 against an unreserved vacancy. In our opinion the reservation for scheduled caste in this case should have been carried forward to 1992 and since, according to the respondents, no eligible scheduled caste candidate was available even then the reservation was to be carried forward further to the next effective recruitment year to be filled by an eligible member of scheduled caste community, If any. This would be in keeping with the instructions issued by the Govt. of India. We are informed verbally that the next vacancy will arise in 1995.

3. The Recruitment Rules for Head Assistant came into force with effect from 25-8-1984. The qualification for promotion to the post of Head Asstt. is that a person should have worked as Assistant in the respective Office with 3 years' regular service in the grade of Rs.425-700/- (Pre-revised) For Direct recruitment to the post, a University Degree with a 5 years experience as prescribed in column 8 of the schedule to the Rules are required. For appointment by Transfer the requisite qualifications are holding an analogous post to Assistant or with 3 years regular service in the grade of Rs.425/- - 700/- (Pre-revised) or equivalent and all the qualifications and experience required for direct recruitment above. The amended recruitment Rules for Assistant/Head Clerk came into force with

with effect from 23-6-1990. The qualification for promotion to the post of Upper Division Clerk with 5 years regular service in the grade 1200-2040/- The qualification for appointment by transfer is holding an analogous post to Upper Division Clerk or with 5 years regular service in the scale of pay of Rs.1200-2080/- and possessing the qualifications required in respect of direct recruitment to the post, namely a University Degree and 3 years experience as prescribed in column 8 of the schedule to the rules. The applicant was an Accountant in the scale of Rs.425-640/- (Pre-revised). With effect from 1-1-1986 the pay scales of Accountants and Assistants became same, namely Rs.1400-2300/- There was a proposal to amend the Recruitment Rules of Assistant so as to provide for appointment of regularly appointed Accountants to the posts of Ass tt. by transfer at the initial constitution. The proposal culminated in the aforesaid amended rules and a Note to the effect was appropriately inserted against column 11 of the relevant Schedule to the recruitment rules. This note reads :

"The regularly appointed Accountants in the scale of pay of Rs.425-640/- (Pre-revised) shall be deemed to have been appointed by transfer as Asssts. in the scale of pay of Rs.1400-2300 (Revised) on regular basis in the respective offices at the initial constitution".

We have stated hereinabove that the question whether the applicant was qualified for promotion to the post of Head Assistant as in February, 1992 was debatable. This is so because in the 'Note' above it has been stated that the regularly appointed Accountants shall be deemed to have been appointed by transfer as Assistants on regular basis

at the initial constitution. The date of this initial constitution is not clear. It could perhaps date back to 1-1-1986 as contended by the applicant. The applicant was appointed as Assistant by ~~the~~ transfer. The qualifications for appointment by promotion to the post of Head Asstt. are set out already above. It is not clear from the Recruitment Rules for Head Assistants whether the 'deemed' appointment of such Accountants under the 'Note' aforesaid would meet the requirements of eligibility prescribed under the rules. If it does and if the initial constitution dates back to 1-1-1986, the applicant had the requisite qualifications in 1992. The respondents, on the other hand, contend that the applicant was to be taken into consideration only with effect from 23-6-1990 on which date the Recruitment Rules for Assistant came into force and from which date the post of Accountant stood abolished. According to them it was with effect from that date only that the Accountants were deemed to have been appointed as Assistants. However, we are not inclined to read anything into the stipulations mentioned in the Schedule to the Recruitment Rules for Head Assistant in regard to promotion to that post apart from what is explicitly provided therein, namely -

"Promotion : Assistants in the respective Offices with 3 years regular service in the grade (Rs.425-15-500-EB-15-560-20-700)".

*SG*  
This scale is now equivalent to the scale of pay of Rs.1400-2300/-.

4. For the reasons recorded above we pass the following order :

We direct the respondents that the reservation point for Schedule Caste be carried forward to the ensuing effective recruitment year and since the applicant will by that time actually complete 5 years of service as Assistant we further direct the respondents to consider the appointment of the applicant by promotion to the post of Head Assistant in the next vacancy that may arise hereinafter.

5. We make it clear that the applicant has stated before us that on promotion if given to him in the next vacancy he will not claim seniority over respondent No.4 Sri P.R. Brahmachary nor will object to his further promotion. It is also recorded that the applicant as well as Sri Bhowmick and Sri Brahmachary were present before us and stated that the post is likely to fall vacant in October, 1995 on retirement of Sri Bhowmick when Sri Brahmachary is likely to be promoted. We therefore make it clear that unless a vacancy arises earlier in any event the applicant shall be considered for appointment to the post in October, 1995 when the vacancy will arise.

6. The application is partly allowed in terms of the above order. There will be no order as to costs.

(Operative Order in terms of paras 4,5 and 6 pronounced on 2-12-94)

Sd/- M.G. Chaudhari  
Vice-Chairman

Sd/- G.L. Sanglyine  
Member (Admn.)

Dr. Hirendra Kumar Bhattacharya  
M. Sc. Ph. D. (Appl. Maths) LL. B.  
ADVOCATE  
Gauhati High Court, Agartala Bench  
High Court Bar Association

Ansren - 415  
- 39 -  
- 50 -  
Phone : 4862  
Residence :  
5. Ramnagar  
P. O. Ramnagar  
Agartala-799002  
Tripura (West)

Date..... 20/9/75

DEMAND NOTICE

To

- 1) The Secretary to the Government of India,  
Ministry of Home Affairs, New Delhi.
- 2) The Registrar General & Census, Commissioner,  
Government of India,  
Kotah House Annex, 2/A, Hans Singh Road,  
New Delhi - 110 011.
- 3) The Director of Census Operation,  
Tripura, 14/1, Krishnanaagar,  
P.O. Agartala, West Tripura District.

.....Notice Receivers.

For and on behalf of :-

Shri Heripada Roy, Assistant,

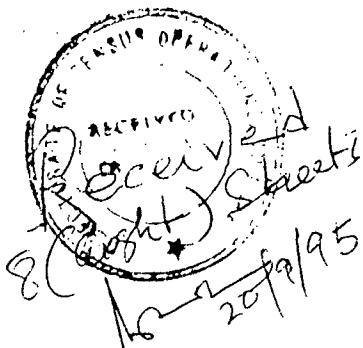
S/O Late Mono Mohen Roy,

Resident of Madhya Badherghat,

P.O. - A/D Nagar, West Tripura District.

.....Notice Giver.

Contd.. p/2.



Dear Sir,

Under instruction and for and on behalf of my aforesaid client Shri Manipada Roy, Assistant, Ekam under Directorate of Census Operation Agartala, Tripura I serve this Notice upon you the Notice Receivers, stating the facts, claiming reliefs as hereunder :-

2) That my aforesaid client was appointed as Clerk vide Order No.F.5(11-C)-Co/59 dated 15-1-1962 issued by Superintendent, Census Operation, Tripura and joined in the office of the Superintendent on 15-1-1962AD. Thereafter, he has been promoted to the post of Computer on 30-7-1970 vide Order No.F.5(45)-Co/69 dated 27-7-1970 issued by Director of Census Operation, Tripura. Thereafter, my client has transferred / redesignated in the post of U.O. Clerk-cum-Cashier as because the pay scale of Computer and U.O. Clerk-cum-Cashier are same and identical and joined in the said post on 22-1-1975. Again, by an order No. F.

5(91)-CO/70 dated 8-1-1975 my client was promoted on adhoc basis to the post of Accountant and joined in the said post on 1-4-1980. My client was regularised in the said post of Accountant on 24-7-1981 by vide Order No.A.11015/2/79-Estt dated 30-4-1982 issued by Director of Census Operation, Tripura.

2) That, thereafter my client was promoted to the post of Head Clerk on adhoc basis with effect from 1-3-1981 and regularised in the said post with effect from 12-10-1983 vide Order No.A.12025/3/81-Estt dated 13th October, 1983 issued by Director of Census Operation, Tripura. Thereafter, again appointed to the post of Assistant on adhoc basis vide Order No.A.11011/1/84-Estt dated 29-2-1984 issued by Director of Census Operation, Tripura and my client was regularised in the said post of Assistant with effect from 22-3-1990 vide Order No.A.12020/2/81-Estt dated 2-5-1990 issued by Director of Census Operation, Tripura. My client at present also has been

performing duties in the said post of Assistant.

3) That there is a single and isolated post of Head Assistant in the office of Directorate of Census Operations, Agartala created by the Registrar General of India. This post is a single isolated post. One P.R. Brahmachary was promoted in the said post on 28-2-1992 of Head Assistant and said P.R. Brahmachary is not a member of Scheduled Caste Community. Said Shri P.R. Brahmachari will <sup>be</sup> on promotion to the post of office superintendent in the month of October, 1995. My client is the seniormost eligible candidate as per recruitment Rules framed for the said post of Head Assistant. The seniority list of Assistant published as on 1-6-1994 will show that the name of my client is placed in Sl. No. 1. As such my client is the only eligible seniormost candidate for the post of Head Assistant and after promotion of said P.R. Brahmachari, my client is entitled to be promoted in the said

Contd...p/5.

post of Head Assistant. There is another Assistant in the office whose name is below the name of him my client in the said seniority list of Assistant published as on 1-6-1994.

4) That it is learned from reliable sources that you the Notice Receivers are making all arrangements to fill up the said single isolated post of Head Assistant which will be vacant in the month of October, 1995 after promotion of Shri P.R. Brahmachari by reserved candidates denying the legitimate right of my client. But the single isolated post of Head Assistant was never filled up by any reserved candidate since the creation of the post in the Directorate of Census Operation, Tripura and always it was filled by merit. Hon'ble Supreme Court of India in the case of Dr. Chakradhar Paswan vs. The State of Bihar and Others (AIR 1988 SC 959) held that the principle of reservation do not apply in a single isolated post and no reservation

Contd.. p/6.

could be made under Article 16(4) of the Constitution of India so as to create monopoly and otherwise, it would render the guarantees of equal opportunity contained in Article 16(1) and 16(2) wholly meaningless, illusory. If there is only one post in the cadre, there can be no reservation with reference to that post either for recruitment at the initial stage or for filling up a future vacancy in respect of that post. If the principle of reservation apply in a single isolated post then it will amounts to 100% reservation. The Hon'ble Supreme Court, thereafter, also in another case Smti Chetana Dilip Motghare Vs. Nhive Girls Education Society (AIR 1994 SC 1917) relying upon the views of Dr. Chakradhar Paswan's case held that the principle of reservation would not apply in the case of a single and isolated post and thereof single promotional post cannot be reserved and as such reservation is impermissible.

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The Division Bench of Hon'ble Gauhati High Court also in Civil Rule No.70 of 1989 (Shri Mrinal Kanti Ghosh Vs. State of Tripura and Others) Hon'ble Gauhati High Court held that the principle of reservation will not apply in the case of single and isolated post and it will amounts to 100% reservation.

5) That my client is also at the verge of retirement and the promotion to the post of Head Assistant will be the last avenue of promotion of my client in his service life. The post of Head Assistant which will be vacant in the month of October, 1996 after <sup>Supersession</sup> promotion of Shri P. R. Brahmachari is a single and isolated post and my client is only the seniormost eligible candidate for the said post and the principle of reservation will not apply in this case.

Under the above facts and circumstances, I therefore, serve this Notice upon you the Notice Receivers, requesting you to consider the

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promotion of my client to the single and isolated post of Head Assistant to be fill vacant after promotion of Shrik P. R. Bhattachari from the said post in October, 1998 in default of which my client will file an application/ case in a Court of competent jurisdiction for the said reliefs and in this case you the Notice Receivers will be liable for all costs involved therein.

Yours faithfully,

L.K.M.C. S  
25/9/95  
(Dr. M. K. Bhattacharjee)

Advocate  
Gauhati High Court  
Agartala Bench.

Encl  
for

22 FEB 1996

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Filed by

Shri Haripada Roy  
Name

Mr. Anirup Roy, Advocate  
23/2/96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH AT GUWAHATI.

In the matter of:

A re-joinder to the application  
filed in OA No. 261/95 in reply  
to the written statement submitted  
on behalf of the respondent No. 5.

-And-

In the matter of:

OA No. 261/95

Shri Haripada Roy. Applicant.

-Versus-

Union of India & Ors. Respondents.

The above named appellant-

MOST RESPECTFULLY SHEWETH:

1. That the statements made in the written statement of the respondent No. 5 as are contrary to those made in the application are incorrect and are denied by the applicant and the applicant reiterates and reaffirm the statements made in the application.
2. That with regard to the statements made in paragraph 1, 1(a), 1(b) and 1(c), the applicant denies that the post of Head Assistant would be

accounted department wise and not directorate-wise. It is also denied that the post of Head Assistant in the Directorate of Census Operation, Tripura is not a single isolated post to a single vacancy and that no particular post is created for a particular directorate. The applicant states and contends that the respondent No. 5 has totally misconstrued and misinterpreted the recruitment rule referred to in the paragraphs under reply. The instances of any division of the Office of the Registrar General of India and the transfer of one post of Office Superintendent (temporary post) from Maharashtra to Tripura and that of another permanent post of Office Superintendent from Haryana to Karnataka, do not in any way support the contention of the respondent No. 5 and are also wholly irrelevant and insignificant for the purpose of adjudicating the issues involved in the instant proceedings.

3. The applicant states that the Registrar General and Ex-Officio Census Organization and of the Group (b), (c) and (d) posts are created by the Secretary, Ministry of Home. The 31 posts of Head Assistants were created and distributed in 31 Directorate of Census Operation in the States and Union Territory

of India . . .

of India as enumerated in the Appendix to Annexure-3 of the application. It is apparent from the Office-wise break up of the number of posts as reflected in the said document that there is one post of Head Assistant in the Office of the Directorate of Census Operation, Tripura, it may be relevant to state here that all promotional posts in the Group (b)(c) and (d) are filled up as per the seniority of the incumbents in the feeder posts in all respective directorates. The seniority of the incumbents are maintained in the Directorate and not at the national level. The incumbents holding the post in the Directorate are also not transferable from one Directorate to the other. As stated in the application, the post of Head Assistant is to be filled up by the seniormost Assistant in the respective directorate. It would be further apparent from the statements showing the staff pattern in the Directorate of Census Operation, Tripura as on 30.9.95 that there is one post of Head Assistant in the said Directorate. It is therefore evidently clear that the post of Head Assistant in the Directorate of Census Operation, Tripura is a single isolated post and therefore the question of reservation of that post for Scheduled Cast and Scheduled Tribe candidates does not arise. As a matter of fact, in view of the law settled by the Apex Court such reservation is not

permissible in law. The contentions raised by the respondent No. 5 in his statement in this regard are therefore wholly untenable and are liable to be rejected in limine.

A copy of the statement showing the staff position of the Directorate of Census Operation, Tripura as referred to above has been annexed to the re-joinder marked as Annexure-6.

4. That with regard to the statements made in paragraph 2, 2(a) and 2(b) of the Written statement, the applicant reiterates and reaffirm the statements made in the application. The reference to Rule 7 of the Recruitment Rules with regard to reservation, relaxation, etc. as made by the respondent No. 5 in para graphs under reply is wholly uncalled for and is irrelevant in the facts and circumstances of the case. The post in question being a single isolated post, question of reservation does not arise and the provisions of the rules with that regard is clearly not applicable to such post. The contention of the respondent No. 5 with reference to that rules of the Recruitment Rules is misconceived. The applicant denies that the post of Head Assistant is not a single isolated post and that it is a single vacancy in the subordinate Office of the

Registrar General of India. The respondent No. 5 has also misled the Recruitment Rules in contending that the post of Head Assistant in the Directorate of Census Operation is not a single isolated post.

5. That with regard to the statements made in paragraph 3 and 4, the applicant states that those are not at all relevant for the purpose of the instant case, inasmuch as, the issue of seniority in the post of Assistant in the Directorate of Census Operation, Tripura has become final between the parties and the same was not challenged at any point of time by the respondent No. 5. As a matter of fact, the said issue was also not raised by the respondent No. 5 in OA 80/92. The respondent No. 5 cannot thus be permitted to agitate the said issue in the instant proceeding. In any view of the matter, bearing the service particulars of the applicant and the respondent No. 5, it would be clear that the applicant is senior to the respondent No. 5 in the post of Assistant. As a matter of fact, the respondent No. 5 is junior to the applicant in service by 12 years. The applicant denies that the post of Assistant against which he was serving was a reserved point vacancy for scheduled cast candidate and

that the ..

that the Deputy Director of Census Operation, Tripura suppressed the fact with regard to availability of scheduled cast candidate in the feeder @@@@ grade as alleged by the respondent No. 5. It is denied that the said authority misused the power delegated by the Registrar General of India and that he @@@@ sent the proposal for dereservation concealing the facts. It is denied that as per the recruitment rules, the respondent No. 5 was eligible for regular promotion to the post of Assistant on 3.1.86 and that he was intentionally deprived of his constitutional rights in violation of the reservation policy.

6. That with regard to the statements made in paragraph 5 and 6, the applicant denies that the post of Assistant to which he was promoted was a reserve point vacancy for scheduled cast. In any case, the said issue cannot be permitted to be agitated in the instant proceeding. The applicant states that the respondent No. 5 deliberately did not implead him as a party in OA 80/92 @@@@ though he was fully aware that any decision therein would have a vital bearing on his right to be considered for promotion to the post of Head Assistant. It was only when the respondent No. 1 to 3 had taken steps in connection with the promotion of the

respondent No. 5 to the post of Head Assistant purportedly in terms of the judgment and order dated 2.12.94 of this Hon'ble Tribunal in OA 80/92, that the applicant came to know the same. He therefore represented before the authorities and when the same did not evoke any response he approached this Hon'ble Tribunal with the instant petition. The applicant states and contends that the respondent No. 5 cannot claim promotion in law in the facts and circumstances of the case, and in the interest of justice it is necessary that the judgment and order dated 2.12.94 be reconsidered and reviewed and appropriate direction be issued for considering the applicant for promotion to the post of Head Assistant in the Directorate of Census Operation, Tripura with all consequential benefits.

That the applicant craves leave of this Hon'ble Tribunal to file necessary documents and submit further re-joinder if necessary in support of the statements made hereinabove.

VERIFICATION

I, Shri Haripada Roy, son of Late  
Manmohan Roy, Assistant in the Directorate of  
Census Operation, Tripura, Agartala, residing  
at Madhya Badarhat, Post Office A.D.Nagar,  
Agartala, West Tripura, the applicant above  
named, do hereby solemnly affirm that the  
statements made hereinabove, are true to my  
knowledge, information and belief and I sign  
this verification on this the 23rd day of  
February, 1996 at Guwahati.

Haripada Roy  
(HARIKADA ROY)

Schedule 6

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Statement showing the staffing position as on 30.7.95  
 in respect of Core, 1981-Census post & Departmental Canteen.

Sl.No.	Name of the post	Sanctioned strength	Working strength	Vacancy position	Remarks
1	2	3	4	5	6
1.	Deputy Director	1	1	-	
2.	Assistant Director	1	-	1	
3.	Office Superintendent	1	1	-	
4.	Head Assistant	1	1	-	
5.	Senior Stenographer	1	-	1	
6.	Assistant	3	3	-	
7.	Hindi Translator	1	1	-	
8.	U.D. Clerk	6	4	2	
9.	L.D. Clerk	5	5	-	
10.	Driver	1	1	-	
11.	Jr. Gestetner Operator	1	1	-	
12.	Record Keeper	1	1	-	
13.	Duty	1	1	-	
14.	Peon	6	6	-	
15.	Chowkider	3	3	-	
16.	Parash	1	1	-	
17.	Librarian	-	-	-	Kept in abeyance due to creation of UDC for Library work.
18.	Investigator	5	4	1	
19.	Statistical Assistant	9	9	-	
20.	Computer	14	10	4	
21.	Assistant Compiler	4	2	2	
22.	Cartographer	1	1	-	
23.	Senior Artist	1	-	1	
24.	Artist	1	1	-	
25.	Draftsman	2	2	-	
26.	Hand Press Machine Operator	1	-	1	
<b>DEPARTMENTAL CANTEEN</b>		<b>72</b>	<b>59</b>	<b>13</b>	
1.	Counter Clerk	1	-	1	
2.	Tea/Coffee Maker	1	1	-	
3.	Wash/Dish Boy Cleaner	1	-	1	
		<b>3</b>	<b>1</b>	<b>2</b>	

Filed in Court  
on 4.2.1996  
By  
Court Master



Before,

The Central Administrative Tribunal,

Gauhati Bench, Gauhati, Assam.

O.A. No. 261 of 1995.

Shri Haripada Roy.

.....Appellant.

Versus

Union of India and Others.

.....Respondents.

### A F F I D A V I T

I, Shri Haripada Roy, Son of Late Monomohan Roy resident of Amtali, P.S. Amtali, Agartala, West Tripura District, by caste Hindu, by profession - Government service, age 56 years, do hereby declare and affirm on oath as follows :-

1) That I am the applicant of the aforesaid O.A. No. 261 of 1995 and well conversant with the facts and circumstances of the case.

This is true to my knowledge.

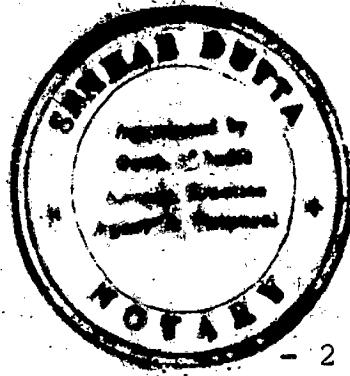
Received  
Clerk  
S. C. S.  
4/2/96

3DAR  
16.12.96

Contd...p/2.

67  
By  
Court Master  
Haripada Roy  
16/12/96

190/December/96



- 2 -

Shreepada Ray

By  
A9

Information  
Aptive  
16/12/96

2) That Shri P.R. Brahmachari, Head Assistant in the office of the Director of Census Operation, Tripura has been promoted to the post of Office Superintendent in the pay scale of Rs.1640-2900/- vide Order No.11/12/94-AD.4 dated 18-10-96 issued by ~~Director~~ Deputy Director of the Office of the Registrar General of India, Ministry of Home Affairs, New Delhi. The copy of the order dated 18-10-1996 is enclosed herewith and marked as Annexure.

This is true to my knowledge.

3) That as a result of the promotion of Shri P.R. Brahmachari from the post of Head Assistant to the post of Office Superintendent with effect from 23-10-1996, the post of Head Assistant has fallen ~~xxx~~ vacant.

This is true to my knowledge.

4) That aforesaid post of Head Assistant has been filled up on adhoc appointment by Shri Ajit Das, Assistant with effect from 15-11-1996.

This is true to my knowledge.

Contd...p/3.



- 3 -

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Haripada Roy  
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16/12/96

5) That the instant affidavit swear before the Ld Notary Public at Agartala since there is no Branch of Central Administrative Tribunal of Gauhati at Agartala.

This is true to my knowledge.

Signed this affidavit today  
the 16<sup>th</sup> day of December,  
1996 before the Notary Public,  
Agartala in the Court Premises.

Haripada Roy  
Deponent.

The Deponent is  
known to me.

K. Chatterjee  
Advocate.

(Dr. H. K. Bhattacharya)  
Advocate.

**AFFIDAVIT**

**SOLEMNLY AFFIRMED BEFORE ME**

By Haripada Roy.....

of Arinachali, P.S. Hornbeam

Identified by Dr. H. K. Bhattacharya, Advocate.

On the 16<sup>th</sup> day of Dec. 1996

At Agartala, A.M. / P.M. / 2 P.M.

300/2

NOTARY

16.12.96

Appointed by the Govt. of India

BY SPEED POST

Tele: "REGGENLIND"

Sl. No. 11/12/94-Ad.IV

मार्ग संकाय  
GOVERNMENT OF INDIA

मार्ग संकाय  
MINISTRY OF HOME AFFAIRS/GRH MANTRALAY  
भारत के मार्ग राजस्व का कार्यालय  
OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, विनाय 2/A, Mansingh Road,  
New Delhi, the 16th October, 1996

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ORDER

On the recommendation of the Departmental Promotion Committee, the Registrar General, India is pleased to appoint the following Head Assistant in the office of the Director of Census Operations, Tripura as Office Superintendent in the pay scale of Rs.1640-60-2600-EB-75-2900 by promotion in the same office in a temporary capacity with effect from 23.10.96 or the date of his taking charge of the post, whichever is later and until further orders:

1. Shri P.R. Brahmachary
2. He will be on probation for a period of two years.
3. He should exercise his option for pay fixation under FR 22  
(a) (1) within one month from the date of promotion.

(K. VIVEKANAND)  
DEPUTY DIRECTOR

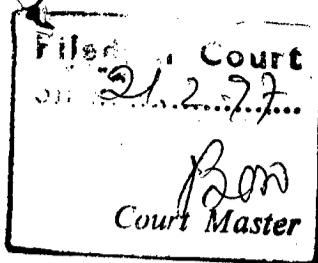
New Delhi, the 16th Oct

No.11/1/96-Ad.IV

Copy to:

1. Director of Census Operations, Tripura, Agartala (with one spare copy for the individual concerned).
2. Pay & Accounts Officer (Census), MHA, AGCW&M Building New Delhi.
3. Records Assistant, RG's Office.
4. Order file.

(K. VIVEKANAND)  
DEPUTY DIRECTOR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :  
GUWAHATI BENCH AT GUWAHATI.

O.A. NO.261/95

Haripada Roy

- V3 -

Union of India & Others.

- AND -

IN THE MATTER OF:

Written Statements submitted by the  
Respondents No.1,2 & 3.

( **WRITTEN STATEMENTS** )

The humble Respondents submit their  
Written Statements as follows :

- 1) That with regard to the statements made in paragraphs 1, and 2 the Respondents state that those are matters for the Hon'ble Tribunal.
- 2) That with regard to the statements made in paragraph 34 of the application the Respondents beg to state that it is a fact that there are 31 posts of Head Assistant in the Department as mentioned in the Recruitment Rules, out of which, one post was provided in the Directorate of Census Operations, Tripura and as such the post of Head Assistant is not a single and isolated post as per provisions of Recruitment Rules(Copy enclosed) (vide Annexure-I). The applicant also stated that Shri P.R. Brahmachary, who was promoted to the said post of Head Assistant on 28.2.92, had already been promoted to the post of

(Contd.)

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Sarvjeet Borkhati

Office Superintendent which is not correct. Shri Brahmachary was not promoted to the post of Office Superintendent till that date. Proposal for promotion in respect of Shri Brahmachary to the said post was sent to the Registrar General, India and the case was under consideration. However, Shri Brahmachary has since been promoted w.e.f. 23.10.96 vide Registrar General, India's letter No.11/12/94-Ad.IV dated 16/18th October, 1996(Copy enclosed-Annexure-I-A) . As per directive on O.A. No.80/92 dated 2.12.94 issued by the Hon'ble CAT, Guwahati Bench, Shri A.B. Das, Assistant(Respondent No.5) would be considered for promotion to the post of Head Assistant as and when vacancy would arise to the resultant vacancy to be caused by the promotion of Shri P.R. Brahmachary to the post of Office Superintendent. As such Shri A.B. Das, Assistant has also since been promoted to the post of Head Assistant on Ad-hoc basis w.e.f. 15.11.1996 (Annexure-I-B) . As per order of the Department of Personnel's O.M. No.1/9/74-Estt.(SC) dated 29.4.75 the roster point is being followed up as single vacancy as per judgement of Apex Court dated 11.10.1973(vide Annexure-2) . Keeping that in view Hon'ble CAT, Guwahati Bench had passed the order against O.A. No.80/92 dated 2.12.94 filed by Shri A.B. Das(Respondent No.5) Annexure-3) . Beside this, this Directorate is the subordinate to the Registrar General, India, Govt. of India, Ministry of Home Affairs, New Delhi. All other allegations contrary hereto are denied and disputed.

(Contd.)

3) That with regard to the statements made in para 3(ii), 4 & 5 of the application the Respondents state that same and except what appears from record nothing else is admitted.

4) That with regard to the statements made in paragraphs 6(a) & 6(b) of the application the Respondents state that those are matter of record. The statements which are contrary thereto are denied and disputed.

5) That with regard to the statements made in paragraph 6(c) of the application the Respondents beg to state that the representation of the applicant dated 14.1.86 addressed to the Registrar General, India, New Delhi for regularisation of the applicants temporary appointment in the post of Assistant could not be accceeded to as the post of Assistant was a temporary post sanctioned for 1981 Census post(vide Annexure-4). Hence, the representation dated 14.1.1986 was treated as rejected(vide Annexure-5) and Shri H.P. Roy was informed accordingly.

6) That with regard to the statements made in paragraph 6(d) of the application the statements made hereinabove are reiterated. The statements made in paragraph 6(d) which are contrary to those are denied and disputed.

7) That with regard to the statements made in paragraph 6(e) of the application the Respondents beg to state that, in view of the Hon'ble Tribunal's decision given vide 41 judgement & order dated 2.12.94

passed in O.A. No.80/92 which has been annexed as Annexure-3 to this Written Statement, the point raised by the applicant in this para is of no avail and as such the application is liable to be dismissed.

8) That with regard to the statements made in para 6(f) of the application the Respondents beg to state that it is not tenable that 40 point Register in case of promotion has not been followed in toto as the first point is SC, 2nd and 3rd points are UR, 4th point is ST. While Shri P.C. Das was appointed direct to the post of Head Assistant in the year 1965 on merit basis as no eligible candidate was available in the feeder grade. In that case Shri Das though being a SC candidate did not consume the 1st point of Scheduled Caste for which 100 point roster was maintained being direct appointment as per the reservation policy framed by the Govt. of India. It is also stated that in case of direct recruitment which is made locally 100 point roster is to be maintained and as such on the lines Shri P.C. Das being a directly recruited candidate has found place in 100 point 'Reservation Roster'. Since the post of Head Assistant is to be filled by promotion according to Recruitment Rules 40 point roster is also to be maintained. Accordingly as advised by the office of the Registrar General, India, Head of the Department, vide their letter No.12/20-C/90-Ad.IV dated 7-10-91 and subsequently approved vide their letter No.12/20-C/90-Ad.IV dated 31-10-91(Copies enclosed) vide Annexure-6)

(Contd.)

respondent, that is, this Directorate, is maintaining 40 point roster also under the circumstances in both the Rosters i.e. 100 point and 40 point. The name of ~~Shri~~ Shri P.C. Das appears on first point. The extract of both the rosters is presented(vide Annexure-7) to clarify the point. The first post was held by Shri H.R. Bhowmik(UR) on promotion and Shri P.R. Brahmachary (UR) who was promoted subsequent to the promotion of Shri Bhowmik to the post of Office Superintendent, since promoted to the post of Office Superintendent w.e.f. 23.10.96. Naturally, the post would be filled up by Scheduled Caste candidate when vacancy would arise consequent upon promotion of Shri P.R. Brahmachary to the post of Office Superintendent. Accordingly the roster also has been maintained in this Directorate. As per the Hon'ble Tribunal Judgement dated 2.12.94 in O.A. No.80/92 Shri A.B. Das -Vs- Govt. of India the case of Shri A.B. Das(Respondent No.5) would come under the zone of consideration to the post of Head Assistant by promotion when the vacancy in the grade would be available.

9) That with regard to the statements made in paragraph 6(g) of the application the Respondents beg to state that it is not true that the post of Head Assistant is fallen vacant as Shri P.R. Brahmachary has been promoted to the post of Office Superintendent in the resultant vacancy due to retirement of Shri H.R. Bhowmik, Office Superintendent in October, 1995. Shri Brahmachary's promotion was still in process at the level of the Registrar General, India at that time.

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Lalitpur Court  
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- 10) That with regard to the statements made in paragraph 6(h) of the application the Respondents beg to state that it is not true that the post of Head Assistant has fallen vacant due to promotion of Shri P.R. Brahmachary to the post of Office Superintendent by that time who was still working in the said post of Head Assistant.
- 11) That with regard to the statements made in paragraph 7 of the application regarding the grounds for reliefs under legal provision the Respondents beg to state that none of the grounds is maintainable in law as well as facts and as such the application is liable to be dismissed.
- 12) That with regard the statements made in paragraphs 8, 9 & 10 of the application the Respondents have no comments.
- 13) That with regard to the statements made in para 11 of the application regarding relief sought for the Respondents ~~is~~ beg to state that the applicant is not entitled to any relief sought for and the application is liable to be dismissed.
- 14) That regarding interim prayer the same is liable to be rejected in view of the facts and circumstances of the case narrated above.

(Contd.)

15) That the Respondents submit that the application has no merit and as such the same is liable to be dismissed.

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SS  
Samiran Chakraborty  
31/1/97  
Agartala

- Verification-

I, Shri Samiran Chakraborty, Investigator, Directorate of Census Operations, Tripura being competent do hereby solemnly declare that the statements made above are true to my knowledge, belief and information.

And I sign this Application today on 20 th day of January, 1997 at Agartala.

Samiran

Declarant.

TO BE PUBLISHED IN THE GAZETTE OF INDIA PART-II SECTION 3-  
SUB-SECTION(i))

RECEIVED

15 SER 1984

No.

REPUBLIC OF INDIA

No. 4/41/82-Ad.I  
Government of India  
Ministry of Home Affairs  
OFFICE OF THE REGISTRAR GENERAL, INDIA  
\*\*\*

2-A, Mansingh Road,  
New Delhi.

Dated, the

NOTIFICATION 25 AUG 1984

G.S.R. .... In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the twenty-three recruitment rules mentioned in Appendix II to these rules in so far as they relate to the post of Head Assistant except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the said posts of Head Assistant in the various offices of the Registrar General, India, the Language Division of the office of the Registrar General Of India as well as all the offices of the Directors of Census Operations in the States and the Union territories namely :-

1. Short title and commencement :- These rules may be called the office of the Registrar General, India, and the offices of the Directors of Census Operations in States and Union territories (Head Assistant) Recruitment Rules, 1984.

(2) They shall come into force on the date of their publication in the official Gazette.

2. Application :- These rules shall apply to the posts of Head Assistant in the Language Division of the Office of the Registrar General, India, located at Calcutta, and each of the offices of the Directors of Census Operations in the States and Union territories, separately, as specified in the Appendix I to these rules.

3. Number of posts, classification and scale of pay :-

The number of the said post, its classification, and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule, annexed to these rules.

① No. 173 of 84-85  
17-9-84

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S. C. S.  
21/2/87

4. Method of recruitment, age limit, educational and other qualifications, etc. :-

20 The method of recruitment, age limit, educational and other qualifications, and other matters relating to the said post shall be as specified in columns 5 to 14 of the Schedule aforesaid.

Provided that the appointing authority concerned may, if it considers necessary or expedient so to do, having regard to the circumstances of the case and for reasons to be recorded in writing, order any vacancy in the said posts in any of the offices to which these rules apply and in relation to which he is the appointing authority to be filled by the transfer of a person holding the same post in any of the other offices to which these rules apply, when the person to be transferred has made a request in writing for such transfer to the said appointing authority.

Provided further that the persons so transferred shall be placed below all persons already appointed on regular basis to the grade to which he is appointed on such transfer.

5. Disqualification :- No person, -

(a) who has entered into, or contracted, a marriage with a person having a spouse living, or

(b) who, having a spouse living, has entered into, or contracted, a marriage with any person, shall be eligible for appointment to the said post :

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage, and there are other grounds for so doing, exempt any person from the operation of this rule.

6. Power to relax :- Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

7. Saving :- Nothing in these rules shall affect reservations, relaxation of age limit, and other concessions required to be provided for the candidates belonging to Scheduled Castes, Schedules Tribes, and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

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THE SCHEDULE

Recruitment Rules for the post of Head Assistant in the Office of the Registrar General, India, Ministry of Home Affairs.

Name of post	Number of post	Classification	Scale of pay	Whether Selection post or non-selection post	Whether benefit of added years of service admissible under rules 30 of the CCS (Pension) Rules, 1972.	Age limit for direct recruits	Education and other qualifications required for direct recruits.
1	2	3	4	5	6	7	8
Head Assistant	31*	General Detailed Central break-up Service shown in Group 'C' Appendix I Non-Gazetted Ministerial	Rs.550- 20-650- 25-750	Selection	No (Relaxable upto 35 years for Government servants in accordance with the instruc- tions or orders issued by the Central Government)	30 years	<u>Essential :</u> (i) Degree o of a recog- nised Uni- versity or equivalant. (ii) 5 years' experience in administration establishment, and cash and accounts matters in a Government Office or a commercial firm of repute

\*Subject to variation dependent on workload.

Note: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than Andaman & Nicobar Islands, and Lakshadweep). In respect of posts, the appointments to which are made through the Employment Exchanges, the crucial date for determining the age limit shall, in each case, be the last date upto which the Employment Exchanges are asked to submit names.

No	2 Years By Promotions, failing Promotions: Assists in the Group IC, Departmental which by transfer on respecctive offices deputation/transfer, with 3 years, regular and failing batch by service in the grade at Calcutta).	1. Deputy Registrar General (Languages) or Assistant Registrar (Languages) or Assistant Hegistrar (Languages) or Assistant Registrar (Languages)	2. Assistant Registrar General (Languages) or Linguist or Research Officer (Languages)	3. A Group IC Officer of another Central Government of Census Operations (Technical)	3. Scheduled Tribes Member
9	10	11	12	13	

Service Commission is

Circumstances in which Union Public  
to be consulted in making  
recruitment.

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Group 'C' Departmental Promotion Committee  
(for the respective office of the  
Directors of Census Operations in States/  
Union territories) :

Not applicable

1. Director of Census Operations or Joint Director of Census Operations  
or Deputy Director of Census Operations  
or Assistant Director of Census  
Operations or Assistant Director of  
Census Operations (Technical) - Chairman
2. Joint Director of Census Operations  
or Deputy Director of Census  
Operations or Assistant Director of  
Census Operations or Assistant Director  
of Census Operations (Technical) - Member
3. A Group 'A' Officer of another Central  
Government Office, preferably belonging  
to the Scheduled Castes or the  
Scheduled Tribes. - Member

( V.S. VERMA )  
Registrar General, India

To,

The Manager,  
Government of India Press,  
Mayapuri (Ring Road),  
New Delhi.

6/1/92  
6/1/92  
27/2/92

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APPENDIX - I

Office-wise break-up of the number of posts  
specified in Column 2 of the Schedule

<u>S.I.No.</u>	<u>Name of Office</u>	<u>No. of post</u>
1.	Office of the Registrar General, India (excluding Language Division at Calcutta)	-
2.	Language Division at Calcutta	1
3.	Office of the Director of Census Operations,	1
4.	-do-	1
5.	-do-	1
6.	-do-	1
7.	-do-	1
8.	-do-	1
9.	-do-	1
10.	-do-	1
11.	-do-	1
12.	-do-	1
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28.	-do-	1
29.	-do-	1
30.	-do-	1
31.	-do-	1
32.	-do-	1
	T. O. T. A. L.	31

*Official*  
*Copy to Mr. S. C. S. C.*  
*21/2/97*

Sl. No. Short title of the Recruitment Rules superseded by these rules.

1. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Andhra Pradesh, (Class III and Class IV posts) Recruitment Rules, 1973.
2. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Assam, (Class III & Class IV posts) Recruitment Rules, 1973.
3. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Bihar, (Class III & Class IV posts) Recruitment Rules, 1973.
4. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Gujarat, (Class III & Class IV posts) Recruitment Rules, 1973.
5. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Haryana, (Class III & Class IV posts) Recruitment Rules, 1973.
6. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Himachal Pradesh (Class III and Class IV posts) Recruitment Rules, 1973.
7. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Jammu & Kashmir (Class III and Class IV posts) Recruitment Rules, 1974.
8. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Karnataka (Class III & Class IV posts) Recruitment Rules, 1974.
9. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Kerala (Class III & Class IV posts) Recruitment Rules, 1973.
10. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Madhya Pradesh (Class III & Class IV posts), Recruitment Rules, 1973.
11. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Maharashtra (Class III & Class IV posts) Recruitment Rules, 1973.
12. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Meghalaya (Class III & Class IV posts) Recruitment Rules, 1973.

तर : "ब्रह्मण्डन"  
Teleg : "REGGENLIND"



रा/No. 11/12/94-Ad.IV

BY SPEED POST

Annexure 1-A

96

44

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महा रजिस्ट्रार का कार्यालय

OFFICE OF THE REGISTRAR GENERAL, INDIA

महिना, विनाम: 2/A, Mansingh Road,  
New Delhi, the 16th October, 1996

T8

ORDER

On the recommendation of the Departmental Promotion Committee, the Registrar General, India is pleased to appoint the following Head Assistant in the office of the Director of Census Operations, Tripura as Office Superintendent in the pay scale of Rs.1640-60-2600-EB-75-2900 by promotion in the same office in a temporary capacity with effect from 23.10.96 or the date of his taking charge of the post, whichever is later and until further orders:

1. Shri P.R. Brahmachary
2. He will be on probation for a period of two years.
3. He should exercise his option for pay fixation under FR 22 (a) (1) within one month from the date of promotion.

(K. VIVEKANAND)  
DEPUTY DIRECTOR

New Delhi, the 16th Oct 96

No.11/1/96-Ad.IV  
Copy to:

1. Director of Census Operations, Tripura, Agartala (with one spare copy for the individual concerned).
2. Pay & Accounts Officer (Census), MHA, AGCW&M Building New Delhi.
3. Records Assistant, RG's Office.
4. Order file.

(K. VIVEKANAND)  
DEPUTY DIRECTOR

Officed  
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S. C. S.  
21/2/97

21/10/96

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83  
Annexure-1-B  
1/2

No.F.5(11-E)-CO/64  
Government of India  
Ministry of Home Affairs  
Directorate of Census Operations,  
Tripura.

Dated, Agartala, the 15th Nov. '96.

O R D E R

Shri Ajit Baren Das, Assistant is hereby appointed on promotion to the post of Head Assistant on a purely temporary and ad-hoc basis in the Directorate of Census Operations, Tripura in the scale of Rs.1600-50-2300-EB-60-2660/- w.e.f. the date of issue of this order or the joining date of the incumbent till 28.2.97 or till further order whichever is earlier.

The order issues as per the interim order in O.A.No.261/95 - Shri H.P. Roy Vs. Union of India & Others dated 8.1.96 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench. The promotion so given is subject to the final verdict of the Hon'ble Court in the O.A.No.261/95 as above.

The above ad-hoc promotion to the grade of Head Assistant shall not bestow upon the official any claim for regular promotion to the grade and services rendered by him on ad-hoc basis shall not count for the purpose of seniority in the grade nor for eligibility for promotion to the next higher grade unless the final verdict of the Hon'ble Court in O.A.No.261/95 directs so.

His pay will be fixed as per normal rules.

*Baranwal*  
15/11/96  
( J.P. BARANWAL )

ASSISTANT DIRECTOR

Copy for information and necessary action to the followings :-

1. Shri Ajit Baren Das, Assistant, Directorate of Census Operations, Tripura.
2. The Accounts Section/Personal file/Guard file.
3. Shri K. Vivekanand, Deputy Director, Office of the Registrar General, India, 2/A, Mensingh Road, New Delhi-110 011 with reference to his letter No.27/55/95-Ad.IV dated 17/25.5.96.
4. The Pay & Accounts Officer(Census), Ministry of Home Affairs, A.G.C.R.W & M Building, New Delhi-110 002.
5. Shri Md. Saikat Ali, M.A.,L.L.B., Central Government Standing Counsel, Iclampur, Iclampur Road, Dist.- Kamrup, Guwahati-781007 with reference to O.A.No.261/95 - Shri H.P. Roy Vs. Union of India & Others.

*Baranwal*  
15/11/96  
( J.P. BARANWAL )

ASSISTANT DIRECTOR

*Baranwal*  
15/11/96  
O/C O/C  
15/11/96

*Officer  
Sale  
S.C. 8/2/97*

Department of Personnel & A.R. O.M. No. 1/9/74-Estt.(SCT), dated 29th April, 1975  
to all Ministries etc.

**Subject:**—Reservation for Scheduled Castes and Scheduled Tribes in services—  
Single vacancy arising in a recruitment year.

Attention of the Ministry of Finance, etc. is invited to Ministry of Home Affairs O.M. No. 2/24/63-Estt.(D), dated the 4th December, 1963 read with O.M. No. 1/4/64-SCT(I), dated 2nd September, 1964, which provide *inter alia* that, if there be only one vacancy in any recruitment year, it should be treated as unreserved, irrespective of its falling at a reserved point. (This provision results in a situation where by in small cadres, where recruitment is occasional and generally not more than one vacancy arises at a time, the Scheduled Castes and Scheduled Tribes are unable to get any benefit out of the orders providing reservations for them.)

2. The matter has been considered in the light of the judgement of the Supreme Court dated the 11th October, 1973 in the case of *Arati Ray Choudhury vs. Union of India (Railway Ministry)* and others, and it has now been decided that in partial modification of the O.M., dated 4th December, 1963, and 2nd September, 1964, referred to in para 1 above, while in cases where only one vacancy occurs in the initial recruitment year and the corresponding roster point happens to be for a Scheduled Caste or Scheduled Tribe, it should be treated as unreserved and filled accordingly and the reservation carried forward to subsequent three recruitment years as hitherto, in the subsequent year(s), even if there is only one vacancy, it should be treated as "Reserved" against the carried-forward reservation from the initial recruitment year and a Scheduled Caste/Scheduled Tribe candidate, if available, should be appointed in that vacancy, although it may happen to be the only vacancy in that recruitment year(s). For instance, if a single vacancy arises in the initial recruitment year 1975, and it falls at a reserved point in the roster, it will be treated as 'unreserved' and filled accordingly in that year but the reservation would be carried forward to subsequent recruitment year(s). In the first subsequent year, i.e., 1976, if, again, a single vacancy occurs, then it should be treated as reserved against the reservation carried forward from 1975, and a Scheduled Caste/Scheduled Tribe candidate, as the case may be, should be appointed against that vacancy, in spite of the fact that the vacancy happens to be the only vacancy in that recruitment year. In the event of a Scheduled Caste/Scheduled Tribe candidate not being available to fill the reserved vacancy in 1976, the reservation would be further carried forward to 1977 and 1978, when also a single vacancy, if any, arising in those years should be treated as "reserved" against the carried-forward reservation, whereafter, the reservation will lapse.

3. In this Department's O.M. No. 16/5/74-Estt.(SCT), dated 11-6-1974, it was clarified that a recruitment year during which only a single vacancy arises and hence gets treated as unreserved need not be counted as an effective year towards the period for which the reserved vacancy is to be carried forward. Since a single vacancy arising in a year will now also be treated as reserved in the manner indicated in para 2 above, the orders contained in this Department's O.M., dated 11-6-1974 are hereby cancelled: The year in which no vacancy arises will, however, continue to be ignored, as at present, for purposes of counting the effective years towards the period of carry-forward.

4. In this Department's O.M. No. 10/37/74-Estt.(SCT), dated 3rd February, 1975, it has been clarified that, although in the case of promotions by selection from Class III to Class II, within Class II and from Class II to the lowest rung or category in Class I there is no carry-forward of reservation from year to year, when a vacancy falling on a reserved point in the roster is treated as unreserved due to its being the only vacancy during the year of promotion, the reservation so due against the reserved point should be carried forward to the subsequent three recruitment years. These orders would continue to apply to the promotions to the posts mentioned therein, and in conjunction with the instructions contained in para 2 of this O.M. the single vacancy occurring in the year, subsequent to the initial year of recruitment should be treated as reserved even though it may be a single vacancy in that year. In other words, the reservation carried-forward on account of there being only one vacancy during the initial year of promotion, should be adjusted by treating the vacancy arising in the subsequent year(s) as reserved, even though there might be only a single vacancy in that subsequent year(s).

Officed  
Sale S.C.S.C  
21/2/97

5. The note below the roster in Annexure I and note (2) below the roster in Annexure II to Ministry of Home Affairs O.M. No. 1/11/69-Estt.(SCT), dated 22-4-70 and note (1) below the roster prescribed in Department of Personnel and Administrative Reforms O.M. No. 1/3/72-Estt.(SCT), dated 12-3-1973 may be amended as follows:—

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"If there are only two vacancies to be filled in a particular year, not more than one may be treated as reserved. If there be only one vacancy, in a particular year which falls on a reserved point in the roster, it will be treated as unreserved in the first instance and filled accordingly but the reservation should be carried forward to subsequent year(s). In the subsequent year(s) of recruitment, the reservation should be applied by treating the vacancy arising in that year as reserved even though there might be only a single vacancy in that subsequent year(s)."

6. The instructions contained in this O.M. relate only to the reservations and "carry-forward" in respect of a single vacancy. In cases other than those relating to a single vacancy, instructions relating to reservation and "carry-forward" as contained in MHA OMs, dated 4-12-1963 and 2-9-1964 read with O.M. No. 27/25/68-Estt.(SCT), dated 25-3-1970 and O.M. No. 1/4/70-Estt.(SCT), dated 11-11-1971 will continue to apply.

7. Ministry of Finance etc. are requested to bring the above instructions to the notice of all the concerned authorities under their control.

Ministry of Home Affairs letter No. U. 13019/1/75-AP dated 28-9-1977 to the Chief Secretaries to the Government of Arunachal Pradesh and Mizoram.

..... notice in appointments made by

20

Annex-1A

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI**

(Agartala Circuit Bench)

O.A. No. 80992

Date of Order : 2-12-1994

Shri Ajit Baran Das - Applicant.

-Vs-

Union of India & Ors. - Respondents.

For the applicant : Mr. S. Chakraborty, Advocate and also applicant appeared in person.

For the Respondents : Mr. G. Sarma, Addl. C.G.S.C.

C O R A M

JUSTICE SHRI M.C. CHOWDHURI, VICE-CHAIRMAN

SHRI G.L. SANGLYINE, MEMBER (ADMINISTRATIVE)

O R D E R

For the reasons separately recorded we pass the following order :

We direct the respondents that the reservation point for Scheduled Caste be carried forward to the ensuing effective recruitment year and since the applicant will by that time actually complete 5 years of service as Assistant, we further direct the respondents to consider the appointment of the applicant by promotion to the post of Head Assistant in the next vacancy that may arise hereinafter.

We make it clear that the applicant had stated before us that on promotion if given to him in the next vacancy he will not claim seniority over respondent No.4 Sri P.R. Brahmachari nor will object to his further promotion. It is also recorded that the applicant as well as Sri Bhuyanick

- 2 -

and Sri Brahmachary were present before us and stated that the post is likely to fall vacant in October, 1995 on retirement of Shri Bhownick when Sri Brahmachary is likely to be promoted. We therefore make it clear that unless vacancy arises earlier in any event the applicant shall be considered for appointment to the post in October, 1995 when the vacancy will arise.

The application is partly allowed in terms of the above order. There will be no order as to costs.

(Detailed reasons will follow)

Sd/- M.G. CHAUDHARI  
VICE-CHAIRMAN

Sd/- G.L. SANGLYING  
MEMBER (ADMN)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.80 of 1992

Date of Order : This the 2nd day of December 1992

( At. Agartala )

Justice Shri M.G. Choudhury, Vice-Chairman

Shri G.L. Sanglyine, Member (Administrative)

Sri Ajit Baran Das, son of Sri Ananda Charan  
Das of Shilnagar College Road Extension,  
P.O. Agartala College, Agartala, Tripura. = Applicant

-Vs-

1. The Union of India represented by  
Secretary to the Govt. of India, Ministry  
of Home Affairs, New Delhi.
2. The Registrar General & Census Commissioner,  
Govt. of India, Kotah House Annexo, 2/A,  
Mansingh Road, New Delhi-110 011.
3. The Director of Census Operation, Tripura,  
14/1, Krishnanagar, P.O. Agartala.
4. Shri Pracheta Ranjan Brahmachary, Head Asstt.  
Directorate of Census Operation, Tripura, 14/1  
Krishnanagar, P.O. Agartala = Respondents.

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

ORDER (Reasons in support of operative  
order pronounced on 2-12-92)

C.L. SANGLYINE (MEMBER, A)

This application under Section 19 of the  
Administrative Tribunals Act 1985 has been submitted by  
Shri Ajit Baran Das, now working as Assistant in the office  
of the Director of Census Operation, Tripura, Agartala.  
In this application he has impugned the Order No.  
F.5(11-E)-80/64 dated 28-2-1992 (Annexure-II) promoting

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- 2 -

Shri Pracheta Ranjan Brahmachary to the post of Head Assistant in the above mentioned office. The case of the applicant is that the vacancy against which Shri Brahmachary was promoted was erroneously treated as an unreserved vacancy and this action of the respondents had deprived him, a member of scheduled caste community, from being promoted to the post of Head Asstt. His main prayer is that he should be promoted as Head Asstt. immediately against a reserved vacancy. The respondents have contested the application by filing written statements. Their contention is that the claim of the applicant that the vacancy should have been treated as a reserved vacancy for scheduled caste is wrong. According to them the First point in the 40 point Roster belongs to Scheduled Caste and this point was consumed by Shri P.C. Das on his appointment as Head Assistant.

Shri P.C. Das is a member of scheduled caste community and had filled the post on his own merit when he was appointed to the post. The respondents contend that this being a single vacancy "it need not be treated as unreserved and the reservation should not be carried forward". Moreover, the applicant was appointed to the post of Assistant by transfer on 23-6-1990 and, as such, had not possessed the necessary experience of 3 (three years as Assistant on 28-2-1992 and therefore had not qualified for promotion to the post of Head Assistant.

2. We have examined carefully the contentions of both sides. While noticing that the merit of the later contention of the respondents is open to debate, we have no hesitation to hold the view that on the basis of the facts of this

case the contention of the respondents regarding the issue  
 of reservation is untenable. In 1964, after the Office of  
 Director of Census Operation, Tiruura, Agartala was created  
 an advertisement was issued for filling up the post of Head  
 Asstt. in that office by direct recruitment through a  
 limited open field. There were no Recruitment Rules for Head  
 Asstt. at that time. Sri P.C. Das, a member of scheduled  
 caste community, successfully competed and was on his own  
 merit appointed to the said post of Head Asstt. on 26-4-1968  
 and he joined the post. He was promoted to a higher post of  
 Office Superintendent in 1979. The Recruitment Rules for  
 Head Asstt. came into force with effect from 25-8-1984. On  
 2-3-1985 Sri H.R. Bhowmick was promoted as Head Assistant  
 on regular basis. Prior to this promotion Shri Bhowmick was  
 officiating in the post on adhoc basis. Shri Bhowmick is  
 not a member of scheduled caste community. On 28-8-1990 Sri  
 Bhowmick was promoted to the higher post of Office Supdt.  
 The Recruitment Rules for Asstt./Head Clerk came into force  
 w.e.f. 23-6-1990. The applicant was appointed as Asstt.  
 with effect from that date. From 28-8-1990 to 28-2-1992  
 the post of Head Assistant remained vacant according  
 to the applicant. This has not been disputed by the respondent.  
 Sri P.R. Brahmachary was promoted to the post of Head Asstt.  
 on 28-2-1992. Shri Brahmachary is not a member of scheduled  
 caste community. Apparently, the applicant was not consid-  
 ered for promotion on the ground that in February, 1992 he  
 did not possess the requisite qualifications and that, at  
 any rate, even if he was considered and found fit he could  
 not be promoted as there was no vacancy reserved for

- 4 -

for scheduled caste. In that event the promotion was given to Shri Brahmachary who is a general candidate and senior to the applicant and also eligible for the post. We find that there was a gap of about 6 years from 1979 when Shri P.C. Das vacated the post of Head Asstt. to 1985 when Shri H.R. Bhowmick was promoted to the post of Head Assistant. The respondents did not care to clarify in their written statements as to what happened to the post of Head Asstt. during that period. We have therefore sought clarification about this matter during the course of hearing and Shri H.R. Bhowmick Office Supdt. verbally explains to us that the vacancy was filled up by means of deputation before he took over the post. We presume that the clarification given by Shri Bhowmick is correct. As would be seen from the facts narrated above, Shri P.C. Das was recruited to the post of Head Asstt. against Direct Recruitment Roster. Even if the Roster for Direct Recruitment is taken to be the same with the Roster for promotion, as that would seen to be the contention of the Respondents, that Roster had broken because of the fact that for almost six years from 1979 to 1985 the vacancy in the post of Head Assistant had been filled by Deputations. However, in the facts of this case, in our view the promotional Roster started with reference to the vacancy in the post of Head Assistant against which Shri H.R. Bhowmick was promoted. The first point in the Roster belongs to Scheduled Caste but since it was a single vacancy it ceased to be a reserved vacancy. It was filled by Shri Bhowmick who is not a reserved candidate and was otherwise eligible for promotion to the post. This is the correct procedure and even the

applicant has no objection to it. The reservation was therefore to be carried over to the next effective recruitment year. This was not however done and Shri Brahmachary was promoted to the post of Head Asstt. in 1992 against an unreserved vacancy. In our opinion the reservation for scheduled caste in this case should have been carried forward to 1992 and since, according to the respondents, no eligible scheduled caste candidate was available even then the reservation was to be carried forward further to the next effective recruitment year to be filled by an eligible member of scheduled caste community, if any. This would be in keeping with the instructions issued by the Govt. of India. We are informed verbally that the next vacancy will arise in 1995.

3. The Recruitment Rules for Head Assistant came into force with effect from 25-8-1984. The qualification for promotion to the post of Head Asstt. is that a person should have worked as Assistant in the respective Office with 3 years' regular service in the grade of Rs.425/-700/- (Pre-revised) For direct recruitment to the post, a University Degree with a 3 years experience as prescribed in column 8 of the schedule to the Rules are required. For appointment by Transfer the requisite qualifications are holding an analogous post to Assistant or with 3 years regular service in the grade of Rs.425/- - 700/- (Pre-revised) or equivalent and all the qualifications and experience required for direct recruitment above. The amended recruitment Rules for Assistant/Head Clerk came into force with

with effect from 23-6-1990. The qualification for promotion to the post of Upper Division Clerk with 5 years regular service in the grade 1200-2040/- The qualification for appointment by transfer is holding an analogous post to Upper Division Clerk or with 5 years regular service in the scale of pay of Rs.1200-2080/- and possessing the qualifications required in respect of direct recruitment to the post, namely a University Degree and 3 years experience as prescribed in column 8 of the schedule to the rules. The applicant was an Accountant in the scale of Rs.425-640/- (Pre-revised). With effect from 1-1-1986 the pay scales of Accountants and Assistants became same, namely Rs.1400-2300/- There was a proposal to amend the Recruitment Rules of Assistant so as to provide for appointment of regularly appointed Accountants to the posts of Ass tt. by transfer at the initial constitution. The proposal culminated in the aforesaid amended rules and a Note to the effect was appropriately inserted against column 11 of the relevant Schedule to the recruitment rules. This note reads :

"The regularly appointed Accountants in the scale of pay of Rs.425-640/- (Pre-revised) shall be deemed to have been appointed by transfer as Ass'ts. in the scale of pay of Rs.1400-2300 (Revised) on regular basis in the respective offices at the initial constitution".

We have stated hereinabove that the question whether the applicant was qualified for promotion to the post of Head Assistant as in February, 1992 was debatable. This is so because in the 'Note' above it has been stated that the regularly appointed Accountants shall be deemed to have been appointed by transfer as Assistants on regular basis

at the initial constitution. The date of this initial constitution is not clear. It could perhaps date back to 1-1-1986 as contended by the applicant. The applicant was appointed as Assistant by ~~to~~ transfer. The qualifications for appointment by promotion to the post of Head Asstt. are set out already above. It is not clear from the Recruitment Rules for Head Assistants whether the 'deemed' appointment of such Accountants under the 'Note' aforesaid would meet the requirements of eligibility prescribed under the rules. If it does and if the initial constitution dates back to 1-1-1986, the applicant had the requisite qualifications in 1992. The respondents, on the other hand, contend that the applicant was to be taken into consideration only with effect from 23-6-1990 on which date the Recruitment Rules for Assistant came into force and from which date the post of Accountant stood abolished. According to them it was with effect from that date only that the Accountants were deemed to have been appointed as Assistants. However, we are not inclined to read anything into the stipulations mentioned in the Schedule to the Recruitment Rules for Head Assistant in regard to promotion to that post apart from what is explicitly provided therein, namely -

"Promotion : Assistants in the respective Offices with 3 years regular service in the grade (Rs. 425-15-500-EB-15-560-20-700)".

This scale is now equivalent to the scale of pay of Rs. 1400-2300/-.

4. For the reasons recorded above we pass the following order :

- 8 -

We direct the respondents that the reservation point for Schedule Caste be carried forward to the ensuing effective recruitment year and since the applicant will by that time actually complete 5 years of service as Assistant we further direct the respondents to consider the appointment of the applicant by promotion to the post of Head Assistant in the next vacancy that may arise hereinafter.

5. We make it clear that the applicant has stated before us that on promotion if given to him in the next vacancy he will not claim seniority over respondent No.4 Sri P.R. Brahmachary nor will object to his further promotion. It is also recorded that the applicant as well as Sri Bhownick and Sri Brahmachary were present before us and stated that the post is likely to fall vacant in October, 1995 on retirement of Sri Bhownick when Sri Brahmachary is likely to be promoted. We therefore make it clear that unless a vacancy arises earlier in any event the applicant shall be considered for appointment to the post in October, 1995 when the vacancy will arise.

6. The application is partly allowed in terms of the above order. There will be no order as to costs.

(Operative Order in terms of paras 4,5 and 6 pronounced on 2-12-94)

Sd/- M.G. Chaudhuri  
Vice-Chairman

Sd/- G.L. Sanglyine  
Member (Admn.)

"अनगणना"  
"REGGENLIND"

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S./No.12/20-C/84-Ad.I

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महा रजिस्ट्रार का कार्यालय

OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, दिनांक

New Delhi, the 2/A, Mansingh Road,

22 JAN 1986

To

The Assistant Director,  
Director of Census Operations,  
Tripura,  
AGARTALA

Subject:- Regularisation of one Shri Haripada Roy in the post  
of Assistant.

Sir,

I am directed to refer to your letter No.A.23020/1/81-  
Estt.(Part) dated 14-1-1986 on the above mentioned subject  
and invite to draw your attention to this office letter of  
even number dated 20-5-1985. It is clear that the post of  
Assistant is a temporary post sanctioned for 1981 Census upto  
28-2-1986.

The question of filling up the post of Assistant on  
regular basis will therefore, arise only after this post is  
continued on long term basis. Shri Haripada Roy, Assistant  
may be informed accordingly. No further representation on  
this point from Shri Haripada Roy may be entertained.

Yours faithfully,

(R.C. SACHDEVA)  
Assistant Director

SM

9. Feb. 1986  
S. C. 21/2/86

Encl: 2938/85.8b  
27.1.86

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Annexure-5 96  
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तार जनरेन्न  
Telegram "REGGENLIND"

सं./No. 12/20-C/84-Ad.I

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महा रजिस्ट्रार का कार्यालय

OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, दिल्ली 2-A, Man Singh Road,  
New Delhi, the

20 MAY 1985

To

The Deputy Director  
of Census Operations,  
Tripura,  
Agartala.

Sub: Regularisation of one Shri Haripada Roy  
in the post of Assistant in this  
Directorate.

...

11/03

Sir,

I am directed to refer to your letter No. A.23020/1/81-Estt. (Part) dated 9th May, 1985 on the above subject and to say that since the posts of Assistants have been created for 1981 Census and are presently sanctioned up to 31st August, 1985, the same should not be filled up on long term basis by making regular appointment of Shri Haripada Roy. There is also no question of appointment of Shri A.B.Das as Assistant on regular basis since he has not put in the minimum service required for promotion to the grade of Assistant. The question of filling up the post of Assistant on regular basis will therefore arise only after these posts are continued on long term basis.

Yours faithfully,

R. C. Sachdeva

(R.C.SACHDEVA)  
Assistant Director

Official  
Copy to S. C. S.  
2/2/85

\*S.Gopalan\*

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जनरेण्टल  
Telegram : "REGGENLIND"

27 28 27

Annexure-b

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सं/No.12/20.C/90.ADIV

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महा रजिस्ट्रार का कार्यालय

OFFICE OF THE REGISTRAR GENERAL, INDIA



नई दिल्ली, दिनांक  
New Delhi, the

2/A, Mansingh Road,

31.10.91.

To

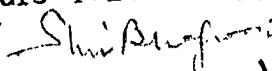
The Director of Census Operations,  
Tripura,  
Agartala.

Sub: Inspection of Roaster for SC/ST in service (For  
the post of Head Assistant.

Sir,

I have the honour to refer to your letter No. A.14011/1/90.Estt. dated 15.10.1991 on the above mentioned subject and to state that the roaster prepared by you for the post of Head Assistant is in order. Since the point No.3 in the roaster is meant for U.R. category this may be filled up by the Senior most Assistant in accordance with the provisions of the Recruitment Rules after placing the proposal before the Departmental Promotion Committee.

Yours faithfully,

  
(Shiv Bhagwan)  
Assistant Director.

Offered  
C. S. S.  
Sr. C. S. S.  
21/12/92

28

40 Point Roster

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VACANCIES RESERVED FOR SCHEDULED CASTES & SCHEDULED TRIBES  
IN RESPECT OF THE DIRECTORATE OF CENSUS OPERATIONS, TRIPURA

Observation B.F. from previous year		Particulars of recruitment made				
Schedules Castes	Scheduled Tribes	Recruitment year	Cycle No. and point No.	Unreserved or reserved for Scheduled Castes/Schedules Tribes according to the roster applicable	Name of person appointed.	Date appointment
1	2	3	4	5.	6(a)	6(b)

Annexure-7

4/

HEAD ASSISTANT

1.	-	1965	1/1	SC	P. C. Das	10.5.65
2.	-	1985	1/2	UR	H. R. Bhattacharya	1.3.85
3.	-	1992	1/3	UR	P. R. Bhattacharya	28.2.92

1/4 ST

1/5 15.12.92

H. C. DATTA  
Deputy Director of Census  
Operations, Tripura, Agartala

Observe  
C. Teller  
for CS 8  
21/12/92

14

VACANCIES RESERVED FOR SCHEDULED CASTES & SCHEDULED TRIBES  
IN RESPECT OF THE DIRECTORATE OF CRIMINAL OPERATIONS, TRIPURA

Reservation B.F. from previous year		Particulars of recruitment made				Date of appointment
Schedules Castes	Scheduled Tribes	Recruitment year	Cycle No. and point No.	Unreserved or reserved for Scheduled Castes/Schedules Tribes according to the roster applicable	Name of person appointed.	
1	2	3	4	5.	6(a)	6(b)

HEAD ASSISTANT

1.	-	1965	1/1	SC	P. C. Das	10.5.65
2.	-	1985	1/2	CR	H. R. Bhattacharya	1.3.85
3.	-	1992	1/3	UR	P. R. Bhattacharya	28.2.92
			1/4	ST	C. S. D.	10.5.92

P. C. DAS  
Deputy Director of Criminal  
Operations, Tripura, Agartala.

29-30

29

69

40 point Roster

Annexure-7

Whether he/She is SC/ST if not say Neither	Reservation carried forward		Signature of appointing authority or other authorised officer	REMARKS
	Schedule Castes	Scheduled Tribes		
7	8	9	10	29-30

N.K. (A.P. 1991) T.M. (1991)

Remarks

SC

UR

VR

Rosters prepared  
as per R.G.'s  
letter No. 12/20-  
C/90-Ad. Tr  
dated 7.10.91  
and it has got  
the approval of  
R.G. via letter  
No. 12/20-C/90-  
Ad. Tr dated  
31.10.91.

SL no. 1. (Shri P.C. Das) was appointed directly  
and SL no. 2 & 3. (Shri H.R. Bhowmik and Shri

Shri P.R. Biswas) were appointed  
by promotion from the feeder Grade to the post) (M.C. Datta)

Mathur  
15.12.91  
General Director of Census  
Operations, Trivubhavan  
Deputy Director of  
Census Operations, Taipura

8.11.91

A. N. S.

C. S. S.  
8.12.91


30 31 30

100 Point Roster

VACANCIES RESERVED FOR SCHEDULED CASTES & SCHEDULED TRIBES  
IN RESPECT OF THE DIRECTORATE OF CENSUS OPERATIONS, TRIPURA

Reservation B.F. from previous year		Particulars of recruitment made				
Schedules Castes	Scheduled Tribes	Recruitment year	Cycle No. and point No.	Unreserved or reserved for Scheduled Castes/Schedules Tribes according to the roster applicable	Name of person appointed.	Date of appointment
1	2	3	4	5	6(a)	6(b)

Annexure - 7

4 Head Assistant

1	2	3	4	5	6(a)	6(b)
		1959 to 1964	—	—	—	—
		1965	—	—	—	—
		1965	111	S.T.	Shri P.C. Das	10.5.65
	1(1965)	1966	—	—	—	—
	1	1967	—	—	—	—
	1	1968	—	—	—	—
	1	1969	—	—	—	—
	1	1970	—	—	—	—
	1	1971	—	—	—	—
	1	1972	—	—	—	—
	1	1973	—	—	—	—
	1	1974	—	—	—	—
	1(1965)	1975	—	—	—	—

As the post of Head Assistant has got feeder post for promotion to this grade, henceforth this post need not find place in the Direct recruitment register and prepared roster point of 40 point (for promotion) in the light of instructions communicated in your letter No. 12/20 (M.C. Datta) dated 1-9-90. Ad. IV date 1-9-90.

## Annexure - 7

## 100 Point Roster

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Whether he/she is SC/ST if not say Neither	Reservation carried forward		Signature of appointing authority or other authorised officer	REMARKS
	Schedule Castes	Scheduled Tribes		
7	8	9	10	11

5

Officer  
Sale Sr. Cb 8  
26/2/97

Sd/-  
P. D. Joshi  
22.3.88  
Deputy Director of census  
operations, Tripura, Apartala.