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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 265/95

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

ORIGINAL APPLN.NO. 265 OF 1995 -
 TRANSFER APPLN.NO. OF 1995
 CONTEMPT APPLN.NO. OF 1995 (IN NO.)
 REVIEW APPLN.NO. OF 1995 (IN NO.)
 MISC.PETITION NO. OF 1995 (IN NO.)

..... P. K. Borahakur APPLICANT(S)

..... -vs- H.O. I. Ram RESPONDENT(S)

For the Applicant(s) ... Mr. In person

Mr.
 Mr.
 Mr.

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

OFFICE NOTE	DATE	ORDER
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his application is in
 form and within time
 C. F. of Rs. 50/-
 deposited vide
 IPO/BD No. 309063
 Dated 28.11.95

By Registrar (A)
 12.12.95
 P.R.

6.12.95

Heard the applicant in person.
 O.A. admitted. Issued notice to
 the respondents. 8 weeks for written
 statement. Liberty to apply for fixing
 early date of hearing after the respon-
 dents are served.

Adjourned to 14.2.1996.

Mr S.Ali, Sr.C.G.S.C now seeks
 to appear for the respondents. However,
 notice be issued directly to the
 respondents.


 Vice-Chairman

pg

Requisites are met
 4. issued vide 5315-18
 2. 15/12/95
 14.2.96
 14/12
 14.2.96
 14.2.96
 14.2.96

Applicant is present
 Court set for
 filed. Adjourned to
 20.3.96

1) Service Reports are still
 awaited
 2) w/ statement has not been
 filed
 14/12

OFFICE NOTE

DATE

ORDER

1) Service reports are
still awaited.

2) 21/ statement - his name
is scribbled.

8/19/3

20.3.96

Written statement has not been submitted. Mr S.Ali, learned Sr.C.G.S.C requests for four weeks time to file counter. Applicant Mr Borthakur submits that he is a retired person and the case requires early disposal.

List for hearing on 26.4.96. In the meantime the respondents will submit the written statement with copy to the applicant.

Member

pg

26.4.96

Mr P.K.Borthakur the applicant appears and submits that the office of the Development Commissioner (Handicrafts) Ministry of Textile, Govt. of India had by their letter No.3/3/85-Admn.I/1645/9596 dated 26.3.96 refixed his pay in terms of the aforesaid office order and order for drawing and disbursing the amount had also been issued in that order dated 26.3.96. Therefore the relief sought by him in this O.A. has been granted by the aforesaid order of the respondents. However, learned Sr.C.G.S.C Mr S.Ali is not present today.

List for final order in presence of Mr Ali on 1.5.96.

Let a copy of the order dated 26.3.96 be furnished by the applicant for record.

Member

pg

Order d. 26.4.96

for applicant &
Counsel v. D. &
no. d.

by 30/4.

OA/TA/CP/RA/MP No. of 19

OFFICE NOTE

DATE

ORDER

1.5.96


Mr P. K. Barthakur, the applicant, is present. Mr S. Ali, learned Sr. C.G.S.C. is present for the respondents.

Mr Barthakur has submitted that his prayers in the O.A. stand allowed by virtue of the order No.3/3/85-Admn.I/1645/95 96 dated 26.3.1996 issued by the office of the Development Commissioner (Handicrafts), New Delhi. IN the circumstances the application is disposed of as allowed.

However, Mr Barthakur submits that the respondents may be directed to pay him his dues within the stipulated time. Mr Ali has no objection if reasonable time is granted. Considered. The respondents are directed to pay to the applicant his dues as contained in the ^{aforsaid} order dated 26.3.1996 within 30.6.1996 positively.

The original application is disposed of.
No order as to costs.

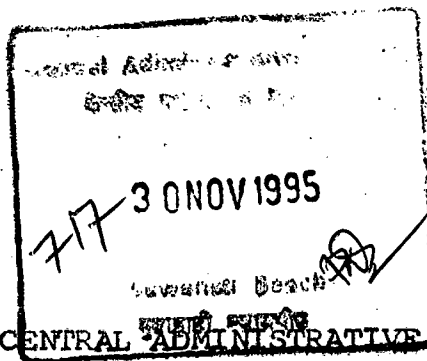
nkm


Member

OFFICE NOTE

DATE

ORDER



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11/12/95
P. S. Borthakur
Secretary

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GAUHATI BENCH,
GUWAHATI

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT, 1985)

Title of the case : ORIGINAL APPLICATION
NO. 265 OF 1995

Shri Prasanna Kumar Borthakur

- Applicant

- Versus -

The Union of India and others

- Respondents

I N D E X

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Received copy

Lab-
Dr. C. S. C.
1/12/95

Prasanna Kumar Borthakur
Signature of the Applicant

For use in Tribunal's office

Date of Filing

Registration No.

Signature of Registrar

X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

C.A.No. 265/95

Prasanna Kumar Borthakur

BETWEEN

Sri Prasanna Kumar Borthakur,
Deputy Director of Industries (Retd)
Govt. of Assam,
Resident of New Guwahati, Guwahati-21.
Dist. Kamrup, Assam.

APPLICANT

AND:

1. The Union of India, represented by
Development Commissioner (Handicrafts)
Ministry of Textiles, Govt. of India,
West Block, No. vii, R. K. Puram, New Delhi-66.
- ✓ 2. The Regional Director/0/0 The Development
Commissioner, (Handicrafts) Govt. of India,
Kalyanpur, Guwahati-6
3. The State of Assam, Represented by The Commissioner
& Secretary, to the Department of Industries,
Govt. of Assam, Dispur, Guwahati-6.
4. The Accountant General (A&E), GB-4, Assam,
Bhangagarh, Guwahati-5.

... Respondents.

Borahar

Prasanna Kumar

DETAIL OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE

In this application under section 19 of the Administrative Tribunal Act, 1985, the applicant has filed the same challenging the:-

- i) Decision of Government of India, Ministry of Textile ~~committed~~ by the Additional Development Commissioner (Handicrafts) o/o the Development Commissioner (Handicrafts) vide communication No. 3/3/85-adm-I/3462 dt. 30.6.93 refusing to pay the arrear salary to the applicant during deputation period.
- II) the action of the Ministry of Textile, Govt. of India in not paying the arrear salary to the applicant who was the Assistant Director of Handicrafts, Guwahati and Gouripur, M&SEC during deputation period as per revision of pay, Government of Assam for the period from 1.1.88 to 1.4.91.

2.

JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the instant case is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

That the applicant further declare that this application is filed within the period of limitation prescribed under section 21 of the Administrative Tribunal act.

4. FACTS OF THE CASE

4.1. That the applicant who was the Assistant Director of Industries, Government of Assam had been deputed to the office of the Development Commissioner (Handicrafts), Govt. of India, vide the notification No.C.I.373/77/54 dtd.21.12.88 as Assistant Director (Handicrafts), Guwahati and Gauripur M&SEC. The applicant in terms of the said notification issued by the Industries Department, Govt. of Assam, has joined the deputation post of Assistant Director of Handicrafts on 1.1.1988.

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4.2 That the applicant on deputation elect to draw the payscale in his parent department i.e. of the Government of Assam and not the pay scale of the new post to which he was deputed. The Development Commissioner (Handicrafts), Ministry of Textile, Government of India has also accepted the option exercised by the applicant to draw the pay in his parent department's pay scale plus admissible deputation duty allowance. The Assistant Director (Ad.I), Government of India, Ministry of Textile, office of the Development Commissioner (Handicrafts) vide order dated 31.5.88 allowed the applicant to draw his pay in the pay scale of Rs.1125-50-1375-EB-60-1975 with effect from 1.1.88, i.e. the date on which the applicant joined the deputation post on transfer vide order of deputation dated 21.12.88, plus 20% basic pay as deputation duty allowance subject to maximum of Rs.250/-. The applicant was allowed to draw his pay in the above pay scale consequent upon his option to draw the pay in his parent department's pay scale plus admissible deputation duty allowance though the post of Assistant Director (Handicrafts), office of the Development Commissioner (Handicrafts), Government of India, Ministry of Textile, to which post the applicant was transferred on deputation carries the pay scale of Rs.2000-3500/-.

A copy of the said order No.3/3/85-Admn.I,

dated ...

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dated 31.5.88 issued by the Assistant Director Ad.I, office of the Development Commissioner (Handicrafts), Government of India, Ministry of Textile is annexed herewith and marked as ANNEXURE-A.1. p-21

4.3 That the applicant by virtue of deputation to the post of Assistant Director (Handicrafts), Ministry of Textile, Government of India and in pursuant to the order dated 31.5.88 (AnnxA-1) issued by the Assistant Director (Handicrafts) continued to draw his pay in the pay scale of his parent department during his deputation in the post of Assistant Director (Handicrafts), office of the Development Commissioner (Handicrafts), Government of India, Ministry of Textile.

4.4 That the applicant was on deputation from the Government of Assam to the post of Assistant Director (Handicrafts), office of the Development Commissioner (Handicrafts), Ministry of Textile, Government of India for the period from 1.1.88 to 1.4.91. During his period of deputation to the said post and as per option exercised by him and also in terms of the order dated 31.5.88 issued by the Assistant Director, Respondent No. ^I~~A~~, the applicant was drawing his pay in the pay scale of his parent department i.e. the pay scale existed prior to the Assam Services (Revision of Pay) Rules, 1990 i.e. Rs.1125-50-1375-EB-60-1975.

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4.5 That during the period of deputation of the applicant to the office of the Development Commissioner (Handicrafts), Ministry of Textile, Government of India as Assistant Director of Handicrafts, there was a revision of pay scale with effect from 1.1.89 with the commencement of the Assam Services (Revision of Pay Rules, 1990. The ~~post~~ pay scale of the post of Assistant Director, Industries, Government of Assam which ^{post} the applicant held before his deputation to the office of the Development Commissioner (Handicrafts), Ministry of Textile, Government of India was revised from Rs.1125-50-1375-EB-60-1975 to Rs.2275-60-2375-80-2875-EB-100-3575-125-4450/- with effect from 1.1.89. The applicant states that as he was opted for his pay scale in the parent department i.e. Industries Department, Government of Assam on deputation to the office of the Development Commissioner (Handicrafts), Government of India, Ministry of Textile and as the Development Commissioner, Respondent No. 1 has also accepted option exercised by the applicant of drawing his pay in the pay scale of his parent department, the Government of India, Ministry of Textile is bound under the law to pay the salary including the arrear to the applicant in terms of the revised pay scale as revised by the Government of Assam vide Assam Services (Revision of Pay) Rules, 1990 with effect from 1.1.89.

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4.6 That the applicant after the commencement of the Assam Services (Revision of Pay) Rules, 1990, represented before the Regional Director and also Development Commissioner (Handicrafts), Ministry of Textile, Government of India for paying his arrear salary in the revised pay scale of Rs.2275-4450 attached to the post of Assistant Director (Industries), Government of India with effect from 1.1.89 but, the Development Commissioner and the Regional Director on one pretext or other has not paid the arrear salary in the said pay scale for the period from 1.1.89 to 1.4.91. It may be mentioned here that the Development Commissioner (Handicrafts), Government of India, Ministry of Textile has paid the revised Dearness Allowance from time to time as per revision of pay scale but has not paid the arrear salary in the revised scale of pay.

4.7 That the applicant states that the Accounts Officer, office of the Accountant General (A & E), Assam, Shillong vide communication No.GE.4/IND/1159 dated 28.11.91 intimated the Regional Director, the Respondent No.2 that the applicant is entitled to the revised pay scale with effect from 1.1.89 as revised by the Government of Assam for the period of his deputation upto 1.4.91 as he has opted for pay scale of his parent department on deputation. The Accounts Officer vide the said communication dated 28.11.91 intimated the Regional Director to

pay 2.

pay the revised pay scale in the rate mentioned below for a period of deputation less the amount ~~an~~ already drawn. A copy of the said communication was also forwarded to the applicant by the Accounts Officer.

A copy of the said communication dated 28.11.91 issued by the Accounts Officer, office of the Accountant General (A & E), Assam, is annexed herewith and marked as ANNEXURE-A-2. at page -22-24

4.8 That the Government of Assam, Industries Department also vide communication dated 12.10.92 addressed to the Development Commissioner(Handicrafts), Ministry of Textile, Government of India intimated that the applicant is entitled to revised scale of pay with effect from 1.1.89 in terms of the Assam Services (Revision of Pay) Rules, 1990 and requested the Development Commissioner to pay the arrear salary in the said revised scale to the applicant for the period from 1.1.89 to 1.4.91 i.e. upto the date on which his term of deputation ends. The Additional Development Commissioner (Handicrafts) Government of India, Ministry of Textile, office of the Development Commissioner (Handicrafts), most surprisingly intimated the Deputy Secretary to the Government of Assam, Industries Department vide No.3/3/85-Admn.I/3462 dated 30.6.93 that it has not

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been found possible to accede to the request of the applicant for arrear salary in the revised pay scale during the deputation period. The applicant states that the said order of the Additional Development Commissioner is apparently illegal as the applicant has been denied his legitimate pay in the revised pay scale for the period from 1.1.89 to 1.4.91.

A copy of the said communication dated 30.6.93 issued by the Additional Development Commissioner (Handicrafts), the Respondent ~~has~~ is annexed herewith and marked as ANNEXURE-A-3. at page - 25

4.9 That the applicant states that the Commissioner to the Government of Assam, Industries Department also vide communication No.C.I.343/77/157 dated 12.8.94 requested the Secretary, Textile, Government of India to take necessary action at an early date for release of arrear salary of the applicant in terms of the ~~revised~~ revision of pay with effect from 1.1.89 as refused by the Assam Services (Revision of Pay) Rules, 1990 as the applicant has opted to draw his pay in the pay scale of his parent department i.e. as Assistant Director of Industries Department, Government of Assam and which option was accepted by the Development Commissioner vide order dated 31.5.88.

The ...

The Commissioner, Industries Department, Government of Assam vide the said communication intimated the Secretary that the applicant is entitled to arrear salary in the revised pay scale with effect from 1.1.89 in terms of the revision of pay of the Government of Assam and as such, the same may be paid to the applicant.

A copy of the said communication dated 12.8.94 issued by the Commissioner, Industries Department, Government of Assam to the Secretary, Textile Department, Govt of India is annexed herewith and marked as ANNEXURE-A.4. at page - 26

4.10 That the Senior Accounts Officer, office of the Accountant General (A & E), Assam, Guwahati again vide the communication No.GE.4/IND/20(XII) dated 21.12.94 intimated the Development Commissioner (Handicrafts), Government of India, Ministry of Textile that the applicant is entitled to arrear salary in the revised pay scale as revised by the Government of Assam with effect from 1.1.89 and, therefore, the Senior Accounts Officer requested the Development Commissioner to look into the matter ~~matter~~ in the light of the relevant rules and regulations and to extend the benefit of enhanced pay to the applicant as intimated vide the office letter dated 28.11.91 (Anrx.A-2).

A copy ...

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A copy of the said communication dated 21.12.94 issued by the Senior Accounts Officer to the Development Commissioner (Handicrafts) is annexed herewith and marked as ANNEXURE-A-5. At page - 27 V 28

4.11 That the applicant states that the then Special Commissioner and Special Secretary, Industries, Government of Assam also vide the D.O. Letter dated 24.12.94 requested the Development Commissioner (Handicrafts), Government of India, Ministry of Textile to look into the matter regarding payment of arrear salary in the revised pay scale to the applicant and also forwarded therewith a copy of the letter dated 21.12.94 from the Accountant General (A & E), Assam regarding pay particulars in respect of the applicant who was on deputation to the Ministry of Textile as Assistant Director (Handicrafts) from 1.1.88 to 1.4.91 and posted at Guwahati, *Masked as annexure 8 - at page 32*

4.12 That as the Development Commissioner (handicrafts), Ministry of Textile, Government of India inspite of repeated request made by the applicant and also the communication issued by the Industries Department, Government of Assam as well as by the office of the Accountant General did not pay the arrear salary of the applicant for the period from 1.1.89 to 1.4.91 in the revised

scale...

Prasanna Kumar
Prasanna Kumar

scale of pay of Rs.2275-4450/- as revised by the Government of Assam in terms of the Assam Services (Revision of Pay) Rules, 1990 with effect from 1.1.89, the applicant again vide letter dated 24.1.95 requested the Development Commissioner (Handicrafts), Ministry of Textile, Government of India to release payment of arrear salary as stated above as he is entitled to the same for the period from 1.1.89 to 1.4.91 as he opted to draw his pay in the pay scale of his parent department as Assistant Director, Industries, Government of Assam and which option was accepted by the Development Commissioner vide the communication dated 31.5.88 and as such, is entitled in revision in the said pay scale by the Government of Assam during the period of deputation. The Development Commissioner inspite of entitlement of the applicant to the said arrear of pay has not paid the same till date inspite of repeated requests made by the applicant, the Industries Department, Government of Assam as well as the communication from the Accountant General, Assam.

A copy of the said communication dated 24.1.95 issued by the applicant to the Development Commissioner, Ministry of Textile, Government of India is annexed herewith and marked as ANNEXURE-A-6. at page - 29 - 30.

4.13 That as nothing was done from the side of the Development Commissioner (Handicrafts), the applicant again on 24.3.95 requested the Development Commissioner to expedite the payment of his arrear salary as claimed by him with effect from 1.1.89 in terms of the revision of pay by the Government of Assam with effect from 1.1.89.

A copy of the said communication dated 24.3.95 issued by the applicant to the Development Commissioner (Handicrafts), ^{Govt. of India, New Delhi} is annexed herewith and marked as ANNEXURE-A-7. at page - 31 ,

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

5.1 For that the applicant having exercised his right of option to draw the pay in the pay scale of his parent department i.e. the pay scale of Assistant Director of Industries, Government of Assam during the deputation as Assistant Director (Handicrafts), office of the Development Commissioner (Handicrafts), Ministry of Textile, Government of India and the same option having been accepted by the Development Commissioner (Handicrafts), Government of India, ~~Textile~~ Ministry of Textile vide the communication dated 31.5.88, the applicant is entitled under the law to draw his pay in the revised pay scale as revised by the Govt of Assam i.e.

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his parent department from time to time and as such, the action on the part of the Development Commissioner (Handicrafts) in not paying the arrear pay to the applicant in terms of the revision of pay of Assistant Director of Industries, Government of Assam revised with effect from 1.1.89 by the Assam Services (Revision of Pay) Rules, 1990, is illegal, arbitrary and without any basis and not sustainable in law.

5.2 For that under the office memorandum and also the Fundamental Rules and Subsidiary Rules applicable in the instant case, the applicant is entitled to exercise his option of drawing the pay in the pay scale of his parent department on deputation. The applicant in the instant case has exercised that option and which was accepted by the Development Commissioner (Handicrafts), Government of India and as such, the applicant is entitled to all revisions effected in the post held by him in his parent department and as such, the action on the part of the Development Commissioner in not paying the arrear salary to the applicant in the revised pay scale for the period from 1.1.89 to 1.4.91 in terms of the revision of pay of Assistant Director of Industries, Government of Assam vide the Assam Services (Revision of Pay) Rules, 1990 is illegal and not sustainable in law.

5.3 For that the Government of Assam as well as the office of the Accountant General from time to time has intimated the Development Commissioner that the applicant is entitled to revised pay scale as revised by the Government of Assam vide Assam Services (Revision of Pay) Rules, 1990 during the period of deputation and for the period from 1.1.89 to 1.4.91 as the applicant exercised the option for drawing his pay in the pay scale of his parent department i.e. the Industries Department, Government of Assam and which was accepted by the Development Commissioner also and as such, the action on the part of the Development Commissioner in not paying the salary as arrear salary to the applicant for the period from 1.1.89 to 1.4.91 in the revised pay scale is illegal and not sustainable in law.

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5.4 For that there being provisions for exercising the option by an employee on deputation to draw either in the scale of pay of new post to which he is deputed or to draw his pay in the scale of pay of his parent department plus personal pay, if any, the department to which the employee is deputed, is duty bound to under the law to pay his salary as revised from time to time if the employee opted for his pay in the pay scale of his parent department and in the instant case, the applicant having opted for pay scale of his parent department, the Development Commissioner cannot under the law refuse to pay the salary of the

applicant...

applicant in the revised pay scale as revised by the Government of Assam from time to time and as such, the action on the part of the Development Commissioner in not paying the arrear pay for the period from 1.1.89 i.e. the date from which the Assam Services (Revision of Pay) Rules, 1990 came into effect upto 1.4.91 i.e. the date on which the period of deputation of the applicant as Assistant Director (Handicrafts), office of the Development Commissioner (Handicrafts), Ministry of Textile, Government of India ended, is illegal and without any authority of law.

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6. DETAILS OF REMEDIES EXHAUSTED

The applicant declares that being aggrieved by the communication issued by the Additional Development Commissioner (Handicrafts) ~~dated~~ dated 30.6.93 and the action on the part of the Development Commissioner (Handicrafts) in not paying the salary as arrear pay in terms of the revision of pay scale to which the applicant opted for during the period of deputation, the applicant sent representations on various dates including 24.1.95 (Annx.A/6) and 24.3.95 (Annx.A/7) before the Development Commissioner (Handicrafts, Government of India, Ministry of Textile, New Delhi but the said representations have not been disposed of till date to the knowledge of the applicant.

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

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

Prorogation

Remer

Signature

8. RELIEFS SOUGHT

In view of the facts and circumstances mentioned above, the applicant prays for the following reliefs -

8.1 The application be admitted, records be called for;

8.2 after hearing the parties and on perusal of the records set aside/quash the impugned order dated 30.6.93 issued by the Additional Development Commissioner (Handicrafts) Annexure-A/3) refusing to pay the salary to the applicant as arrear salary in terms of of the revision of pay of Assistant Director of Industries, Government of Assam

to which ...

to which the applicant opted for during the period from 1.1.89 i.e. the date on which the said revision was come into effect upto 1.4.91 i.e. the date on which the deputation ended;

- 8.3 ~~direct the Secretary, Ministry of Textile, Government of India and the Development Commissioner (Handicrafts), Ministry of Textile, Government of India to pay the salary to the applicant as arrear salary in the revised pay scale of Rs.2275-60-2395-80-2875-EB-100-3375-125-4450/- of the Assistant Director of Industries, Government of Assam, which post the applicant held prior to his deputation as Assistant Director (Handicrafts), office of the Development Commissioner, (Handicrafts), Ministry of Textile, Government of India as the applicant exercised his option of drawing the pay in the pay scale of his parent department i.e. the Industries Department, Government of Assam, for the period from 1.1.89 i.e. the date on which the revised pay scale of Assistant Director, Industries Department, Government of ~~India~~ Assam came into effect vide the Assam Services (Revision of Pay) Rules, 1990 to 1.4.91 i.e. the date on which the deputation of the applicant ends.~~

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- 8.4 grant the cost of the application and/or any such relief or reliefs to which the applicant may be entitled to under the law as well as under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR

The applicant has not prayed for any interim relief in this application before this Hon'ble Tribunal.

10. PARTICULARS OF POSTAL ORDER IN RESPECT OF APPLICATION FEE

- 10.1 No. of Indian Postal Order(s) 1 (one) Rs 50/-
- 10.2 Name of Issuing Post Office Gurnahar mail Post office
- 10.3 Date of issue of Postal Order(s) 28. 11. 95
- 10.4. Post Office at which payable Gurnahar - near Post office

11. LIST OF ENCLOSURES

As stated in the Index.

Verification...

25
Rana Kumar

VERIFICATION

I, Shri Prasanna Kumar Borthakur,
son of late Basanta Kumar Borthakur aged
about 62 years, Retired ^{Deputy} Assistant Director
of Industries, Government of Assam, resident
of New Guwahati, Guwahati-21, district
Kamrup, Assam, do hereby verify the contents
of which paragraphs 1, 2, 3, and 4.1 to 4.13, ^{6 and 7} of
this application are true to my personal
knowledge and paragraphs 5.1 to 5.4
believe to be true on legal advice and that
I have not suppressed any material fact.

And I sign this verification on this 30th
day of November, 1995 at Guwahati.

Petition filed in person.

Date 30.11.95

Place Guwahati,

Prasanna Kumar Borthakur
Signature of the
applicant

No. 3/3/85--Admn. I
Government of India
Ministry of Textiles
Office of the Development Commissioner (Handicrafts)

West Block-7, R.K. Puram,
New Delhi-110066

Dt. 31.5.1988

ORDER

Consequent upon his appointment as Assistant Director(H) in the Office of the DC(Handicrafts) M&SEC, Gauripur on transfer on deputation basis in the pay scale of Rs. 2000-3500 & his option to draw pay in his parent pay scale plus admissible deputation duty allowance Shri P.K. Borthakur is allowed to draw his pay in the pay scale of Rs. 1125-50-1375-EB-60-1975 W.E.F. 1/1/88(F/N) plus 20% of the basis pay as deputation duty allowance subject to a maximum of Rs. 250/-.

This issues with the approval of DC(Handicrafts)

S.K. Chakrabarti
(S.K. Chakrabarti)
Assistant Director(Ad.I)

To

1. AO, CPAC, Office of the DC(H), R.K. Puram, New Delhi.
2. Director(Regional) Calcutta.
3. Deputy Director, SRO, Guwahati. Since the parent pay scale of Shri P.K. Barthakur in the Government of Assam is in force w.e.f. 1.1.83 he has been allowed deputation duty allowance @ 20% of the basis pay subject to a maximum of Rs. 250/-.
4. Shri P.K. Barthakur, Asstt. Director, M&SEC, Gauripur.
5. M&SEC, Gauripur.
6. Office order file.
7. Guard file.

Stamp
17/6/88
AD/Secy

25/6/88

OFFICE OF THE ACCOUNTANT GENERAL (AAG): ASSAM: SHILLONG: 7930016

Ref. No. 4/Ind/1159

Dt. 28-11-1991

To

The Regional Director,

C/O. the Development Commissioner (Handicraft)
Govt. of India, Ballyanpur Guwahati - 6.

Subject:- Pay particulars in respect of Shri P.K. Barthakur, Asstt. Director of Industries (H) on deputation to the Ministry of Textile, New Delhi.

Sir,

I am to invite a reference to the Govt. of Assam, Industries Deptt. Notification No. CI. 158/87/41 dt. 15-12-87 on the subject indicated above and to state that on consequent revision of pay scale of Govt. of Assam w.e.f. 1-1-89, Shri P.K. Barthakur, Assistant Director of Industries on deputation to the Ministry of Textile w.e.f. 1-1-88 to 2-4-91 is entitled to his grade pay and D.A. as admissible as indicated below. He may be paid at the following rate from your end for the deputation period less the amount already drawn.

<u>Period:</u>	<u>Pay particulars P.H.</u>
1.1.88 to 31.1.88 -	Pay - 1615.00 D.A. - 1225.00 (75.85%) 2840.00
1.2.88 to 28.2.88 -	Pay - 1615.00 D.A. - 1254.80 (77.67%) 2869.80
1.3.88 to 30.4.88 -	Pay - 1615.00 D.A. - 1284.70 (79.55%) 2899.70
1.5.88 to 31.5.88 -	Pay - 1615.00 D.A. - 1314.60 (81.4%) 2929.60
1.6.88 to 30.6.88 -	Pay - 1615.00 D.A. - 1344.50 (83.25%) 2959.50
1.7.88 to 31.8.88 -	Pay - 1615.00 D.A. - 1374.40 (85.1%) 2989.40
1.9.88 to 30.9.88 -	Pay - 1615.00 D.A. - 1404.20 (86.95%) 3019.20

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Ar/4.

Pay particulars P.M.

1.10.88 to 30.11.88 -	Pay - 1675.00 D.A. - 1440.00 (88.8) max. 3115.00
1.12.88 to 31.12.88 -	Pay - 1675.00 D.A. - 1470.00 (88.65) max. 3145.00
1.1.89 to 30.6.89 -	Pay - 3700.00 D.A. - -- 3700.00
1.7.89 to 30.9.89 -	Pay - 3700.00 D.A. - 150.00 3850.00
1.10.89 to 31.12.89 -	Pay - 3825.00 D.A. - 150.00 3975.00
1.1.90 to 30.6.90 -	Pay - 3825.00 D.A. - 240.00 4065.00
1.7.90 to 30.9.90 -	Pay - 3825.00 D.A. - 360.00 4185.00
1.10.90 to 31.12.90 -	Pay - 3950.00 D.A. - 360.00 4310.00
1.1.91 to 2.4.91 -	Pay - 3950.00 D.A. - 540.00 4490.00

30.4.91 onwards. - NIL -

Dearness Allowance is calculated on basic pay only. Dearness Allowance will not be taken into account for purpose of D.A.

Payment of arrear w.o.f. 1.1.89 to 31.7.90 is subject to instruction issued under Govt. of Assam Finance Deptt. O.M.No. 100/90/20/89 dt. 22-3-91 to all treasuries Payment is also subject to the Annual Statement with the arrear bill.

The L.R.C. of the officer may please be forwarded to this office after payment.

Yours faithfully

Handwritten signature
20/11/95

Handwritten signature
Accounts Officer

Ref: B.4/MA/ 1160-62

Dt. 28.11.1961

Forwarded to :-

- ✓ Shri P.K. Borthakur, Asstt. Director of Industries (Handicrafts)
Directorate of Industries, Assam Guwahati for information
2. The Director of Industries, Assam, Guwahati for information
3. The Development Commissioner (Handicrafts) Govt. of India
Flat 7, West Block, R.K. Puram, New Delhi for information

all to
him
30/11

28/11/61
Accounts Officer

3462
a/7/93
A7CH

31

File No. 3/3/85-Admn. I
Government of India
Ministry of Textiles

Office of the Development Commissioner (Handicrafts)

West Block No. VII, R.K. Puram,
New Delhi - 110066.

Dated : 30.6.1993.

8.52
Date: 12/7/93
National Office (H.C. Project)
Govt. of India, Min. of Textiles
Director, Guwahati - 781 005 (Assam)

To

The Deputy Secretary to the
Government of Assam, Industries
Department, Cottage Industries
Branch, Dispur - ASSAM.

Subject : Non Payment of arrears salary to Shri P.K.
Barthakur, Ex-Assst. Director of Handicrafts
Guwahati and Gowripur M & SEC, during deputa-
tion period - reg.

Sir,

Kindly refer to your letter No. CI. 343/77/88-Admn. I dated
12th October, 1992 on the above noted subject. It is hereby
informed that the matter was taken up with the Ministry of Textiles/
Department of Personnel and Training but it has not been found possi-
ble to accede to the request of Shri Bharthakur as per the existing
rules. Shri Barthakur may be informed accordingly.

Yours faithfully,

(G. SUDHIR)
Additional Development Commissioner
(Handicrafts)

To

1. Shri L. Hatzaw, Dir.(R), NER, Guwahati.
2. Dy. Director (Marketing), O/o the DC(H), R.K. Puram, New Delhi.

also
hence
25/7/93

GOVERNMENT OF ASSAM
INDUSTRIES DEPARTMENT: COTTAGE INDUSTRIES BRANCH.

NO.CI.343/77/157

Dated Dispur, the 12th August '94.

From : Shri A.P. Singh, IAS
Commissioner to the Govt of Assam,
Industries Department.

To : The Secretary, Textiles,
Govt of India, Udyog Bhawan,
New Delhi-

Sub. : RELEASE OF AREAR SALARY IN RESPECT OF SHRI
P.K. BORTHAKUR, ASSTT. DIRECTOR, OFFICE OF THE
DEVELOPMENT COMMISSIONER FOR HANDICRAFTS
GOVT. OF INDIA, GUWAHATI.

Ref. : Letter No. 3/3/85-Admn. I (Pt)/6845 dt. 11-1-94
received from Development Commissioner (Handi-
crafts) New Delhi.

Sir,

With reference to the above correspondence I am to draw your personal attention to the subject and to say that Shri P.K. Borthakur, Asstt. Director of Industries, Govt of Assam has been deputed to the Office of the Development Commissioner (H) Govt of India vide this Deptt. Notification No. CI. 373/77/54 dtd. 21-12-88 and accordingly Shri Borthakur has joined on 1-1-88 at Guwahati. During the period of deputation Shri Borthakur was allowed to draw State Govt salary vide Govt of India's letter No. 3/3/85-Admn. I dtd. 31-5-88 and according during the period of deputation i.e. from 1-1-88 to 1-4-91 he had drawn State Govt's salary.

After the revision of pay scale, the Govt of India paid him the D.A. times to time. But his revised salary has not been paid since revision of pay from State Govt. In this connection the Accountant General, Assam etc. Shillong has informed the Regional Director, Office of the Development Commissioner (H), Govt of India, Ministry of Textile, Guwahati vide letter No. GE.4/Ind/1159 dtd. 28-11-91 to pay the Arrear Salary as admissible with effect from 1-1-88 to 1-4-91 (copy enclosed). But the payment of said salary was regretted on the basis of consultation with the Department of Personnel and Training under Ministry of Textile, Govt of India.

Now after the careful observation the State Finance (Estt. 'A') Deptt. Govt of Assam has confirmed that as per terms and condition already approved by Govt of India vide letter No. 3/3/851 dtd. 31-5-88 Govt of India is liable to pay the Arrear of the difference of pay due to him during the period of deputation has indicated on the Accountant General's letter No. GE.4/Ind/1159 dtd. 28-11-91.

I, therefore, request you kindly to take necessary action at an early date.

Yours faithfully,

Commissioner to the Govt of Assam,
Industries Department.
Dated Dispur, the 12th August '94.

Memo No. CI. 343/77/157-A
Copy to :-

- 1) The Development Commissioner (H) Govt of India, Ministry of Textile, R.K. Puram No. 7 West Block, New Delhi-110066 for information and necessary action, Shri Borthakur is retired as Dy. Director of Industries and prayed for settlement of his Arrear pay.

Contd....P/2....

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OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM: GUWAHATI.

NO. GE-4/Ind/20(XII)/

Date. 21.12.94

To

The Development Commissioner (Handicrafts)
Govt. of India, Ministry of Textiles,
West Block No.7, R.K.Puram,
New Delhi.

Sub. : Pay particulars in respect of Shri P.K. Borthakur,
ADI (H) on deputation to the Ministry of Textiles,
New Delhi.

Sri,

In inviting a reference resting with this office in letter No. GE-4/Ind/1162 Dt. 29.11.91 on the subject noted above, I am to state that the employee during deputation will have an option to draw his grade pay plus deputation allowances @ 10% of the grade pay subject to ceiling of Rs. 250/- P.M without restriction with reference to the maximum of the scale of pay of his post in terms of para 1 read with para 3 of G.I., M.H.A. Deptt. of per & A.R. O.M. No. 1/4/84-Est(P-II) Dt. 26.12.84 (Section V of App. 5 of FRs & SRs pt. I) and Shri P.K. Borthakur on deputation in the scale of pay of Rs. 2000-3500/- was accordingly allowed to draw his pay in the scale of pay of Rs. 1125-1975/- w.e.f. 1.1.88 (F/N) plus deputation allowance vide G.I., M.T.'s order No. 3/3/85 Admn-I Dt. 31.5.88. Consequent on revision of pay in terms of Assam Govt. ROP Rules 1990, Shri Borthakur was entitled to draw the revised pay w.e.f. 1.1.89 in the scale of pay of Rs. 2275-4450/- with DNI on 1.10.89 and the pay particulars as was due from time to time was intimated to the Regl. Director (HC) Govt. of India, Kalyanpur, Guwahati-6 with a copy endorsed to DeC Commissioner (H) Govt. of India, West Block No. 7 R.K. Puram, New Delhi vide this office letter under reference.

The Ministry of Textile, Deptt. of per & Trg. had opined that the request of Shri Borthakur could not be acceded to as per the existing rules as communicated vide F.No. 3/3/85-Admn-I (pt)/6845 Dt. 11.1.94 which is perhaps not in conformity with the provisions as laid down in FRs & SRs.

In this connection it may be mentioned that for similar occasion of reverse nature i.e. where pay scales of C.G. had undergone revision w.e.f. 1.1.73 whereas the pay scales of S.G. etc. remained the same, the deptyn. (duty) allowances as admissible vide para 4.1.1 shall further be so restricted that the pay plus deptyn. (duty) allowance do not exceed the maximum of the parent post or maximum of the deputation post plus DA, BP & IR if any, whichever is higher in terms of para 4.3.2 of

2/12
Sd/-
5/12/95

Contd.1

Sec II of App.5 of RRs & SRs.

It would thus appear that the limit of restriction of depth (duty) allowances have been raised to the extent of DA, DP & IR, if any, in addition to the existing provision of max of deputation post.

As such, the intention of the Govt. was very clear about the extension of benefit of revised scales to those employees who were on deputation to S.G.etc.

Under the above circumstances I would request you to look into the matter in the light of relevant rules and regulation as envisaged in the O.M(S) under reference and extend the benefit of enhanced pay to Shri Borthakur as intimated vide this office letter No.GE-4/Ind/1162 Dt.29.11.91.

Yours faithfully,

sd/

Sr. Accounts Officer

..

Memo No.GE-4/Ind/20(XII)/770

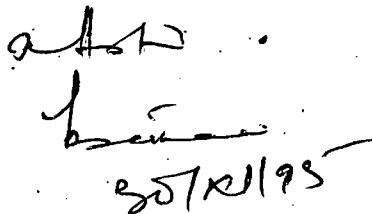
Dt. 21.12.94

Copy to :- (1) Shri P.K. Borthakur, Retd. Dy.
Director of Industries(Handicraft), Shivam Path, Near
Ganesh Mandir New Guwahati, Guwahati-20.



Sr. Accounts Officer

..


30/12/95

AG 198-29
(2)
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P.K. BARTHAUR
RTD. DY. DIRECTOR OF INDUSTRIES
SHIVAM PATH, TRIMURTY HOUSE
NEW GUWAHATI-20.

PHONE (F) 550879 7 542034

Dated..... 1995

To,
The Development Commissioner (Handicraft)
Ministry of Textile, Govt. of India
No. 7 Waste Block, R.K. Puram
New Delhi-66.

Sub: NON PAYMENT OF AREAR SALARY TO P.K. BARTHAUR
EX-ASSISTANT DIRECTOR (H) GUWAHATI AND GAURIPUR
MSEC.

Ref: (1) LETTER FROM A.P. SING , I.A.S SPECIAL MINISTER
INDUSTRIES, GOVT. OF ASSAM, GUWAHATI-6

(2) LETTER FROM ACCOUNTANT GENERAL, SHILLONG
AND GUWAHATI.

Sir,

With reference to above I have the honour to say that my arrear salary (NOT DEPUTATION ALLOWANCE) which is due to me for the Deputation period 1989 to 1991 has not yet been released inspite of number of representation from me.

WHY THE ARREAR SALARY IS PAYABLE BY GOVT. OF INDIA?

- (1) I opted to state Govt. salary while on deputation as per order of D.C (Handicrafts) Govt. of India, New Delhi.
- (2) The Assam govt. pay Commission report was announced in the year 1989 as a result the salaries of State Govt. employees were revised since I opted to state Govt. salary my salary was also revised.
- (3) The Regional Director (Handicrafts) Govt. of India Guwahati had given me the D.A's time to time as per Assam pay commission report when Accountant General had issued a letter to him informing him to release the arrear salary as admissible as per FR&SR, for the period 1989 to 1.4.91 Shri L. Hatrew, Regional Director instructed the Assistant Director MSEC, Guwahati to prepare the bill along with drawned statement. Accordingly the bill was submitted to him by A.D. Gauripur in 1991. Then shri L. Hatrew, Director (H) told me that

contd....2/-

25/11/95

Due to shortage of fund the arrear salary could not be paid to me and advised me to wait till fund comes. I approached in 1991 and 1992 and 1993 and in 1994 I was informed by Shri Kushal Kumar Assistant Director, Admn. of your office that the matter was examined by the Personnel and Training Department, Ministry of Textile, New Delhi and they have not considered my case as special case even, while examining my case Personnel & Training Department have not quoted the rule under which the arrear salary could not be paid.

Thereafter I submitted a representation to special commissioner of Industries, Govt. of Assam who has referred the case to State Finance Department. The State Finance Department after very careful examination found that since Shri Barthakur opted to State Govt. salary with due approval from Govt. of India, the salary due to Barthakur during deputation period should be paid by Govt. of India. On the basis of the finance Department comment the special Commissioner Industry, Govt. of Assam wrote a letter to you in the month of August, 1994 informing you to take necessary action. But no action was taken from your end which has compelled me to approach the Accountant General, Assam to re-examine my case. In 1991 A.G. had given pay particulars etc and requested Regional Director to release the arrear salary. However, A.G. Assam, Guwahati again re-examined my case and found that as per FR and SR and Financial rules the Govt. of India is liable to pay the arrear salary. AG's letter No. G.F. 4/124/20(XII)... may kindly be referred to. 21.12.94

In this connection, I am to say that FR & SR and financial rule applicable to employees of New Delhi is also applicable to State Govt. employees as such I do not find any logic how my arrear salary has been denied.

Yours faithfully,

(P.K. BARTHAKUR)

all to
train
20/11/95

To

Ajoy Sankar, IAS,
Development Commissioner(M)
Govt. of India,
New Delhi.

Cc

From :

P.K. Barthakur
Dy. Director of Industries
(Road.)

Govt. of Assam,
Guwahati.

Dt. 24.3.95.

Sir,

Will you kindly refer the following letters pertaining to release of arrear salary to Sri P.K. Barthakur the then Assistant Director (Handicrafts) Govt. of India, Guwahati and Gauripur M.S.E.C. while on deputation for the period 1.1.88 to 1.4.91.

- (1) Regd. letter No.CI.343/77/157 dated 12th August from Sri A.P.Sing, IAS, Special Commissioner & Secretary, Assam.
- (2) Regd. letter No.GE.4/Ind/20(XII) dated 21.12.94 from Accountant General, Govt. of India, Guwahati.
- (3) Regd. D.O. letter from Shri B.K.Misra, IAS, Spl. Commissioner to the Govt. of Assam, Industries Department dated 24th Dec/94.
- (4) My Regd. letter dated 24th January, 1995.
Plus series of letters since 1991.

Hope you will look into the long pending case with your judicious eye.

With kind regards,

Yours faithfully,

(P.K. Barthakur)

25/3/95

A
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GOVERNMENT OF ASSAM

Sri B. K. Misra
Spl. Commissioner & Spl. Secy.
Industries etc.

D.O No.SPL.COM/IND/1/94-95

Date 24.12.1995

Dear Sri Ajay Shankar,

I am forwarding herewith a copy of letter No.GE-4/Ind/20(XII)/ dated 21.12.1994 from the Accountant General (A&E), Assam, regarding the pay particulars in respect of Sri P.K.Borthakur, who was on deputation to the Ministry of Textiles as Assistant Director, Handicrafts from 1.1.1988 to 1.4.1991 and posted at Guwahati.

I would request you to look into the matter concerning his arrear salary, details of which may be seen in the letter of the Accountant General. In this connection, I am also enclosing a copy of a letter from the Commissioner of Industries, Government of Assam to the Secretary, Textiles, Government of India, a copy of which was endorsed to you also.

I shall be grateful if expeditious action is taken in settling the arrear dues of Sri Borthakur.

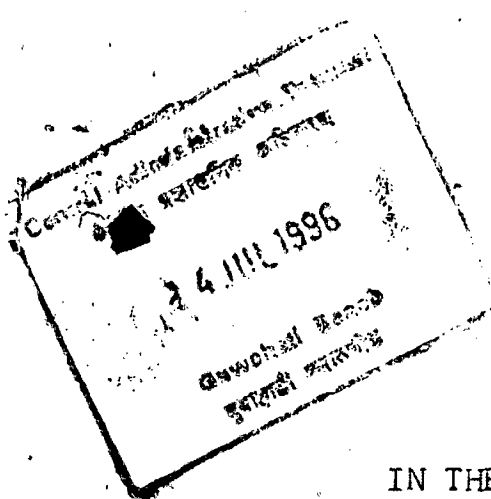
Yours sincerely,

(B. K. Misra)

Sri Ajay Shankar, IAS
Development Commissioner (Handicrafts)
Government of India, Min. of Textiles,
West Block No. 7,
R.K.Puram,
New Delhi.-110 066

a.k. 10

38/12/95



Reg. S. 2 AG / 100d / 189 dt 2/7/96

Filed by
Shri P.K. Borthakur
23/7/96
39

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI:

In the matter of :-

O.A. No.265/95 ✓

Shri P.K. Borthakur

-Vs-

The State of Assam and ors.

-And-

In the matter of :-

Written statements submitted by
the Respondent No.2.

WRITTEN STATEMENTS::

The humble Respondent submits
written statements as follows :-

1. That with regard to statements made in paragraphs 1 to 3 of the application, the Respondent has no comments on them.
2. That with regard to statements made in paragraphs 4.1 to 4.6 of the application, the Respondent has no comments on them, the same being matters of record.
3. That with regard to statements made in paragraph 4.7 of the application, the Respondent begs to state that the applicant was appointed by Govt. of

India, Ministry of Textile on deputation in the pay scale of Rs. 2200-3500/- p.m. The officer was on deputation to Govt. of India, Ministry of Textile with effect from 1-1-88 to 2-4-91. The pay to be drawn during deputation was settled between lending and borrowing Department. The pay of State Govt. was revised with effect from 1-1-89 and pay of the applicant was fixed by this office at Rs. 3700/- p.m. as on 1-1-89 with DNI on 1-10-89 in the scale of pay of Rs. 2275-4450/- p.m. The effect of revised fixation as well as pay that would be admissible in parent Department during deputation from 1-1-88 to 2-4-91 was intimated to Govt. of India vide letter No. GE-4/Indus/1159 dated 28.11.91. (Copy enclosed herewith as Annexure-1).

4. That with regard to statements made in paragraphs 4.8 and 4.9 of the application, the Respondent has no comments on them, the same being matters of record.

5. That with regard to statements made in paragraph 4.10 of the application, the Respondent begs to state that the officer while representing to Govt. of India for payment of arrear pay endorsed a copy of representation with the request to review the position and intimate Govt. of India. This office examined and the result of review was communicated to Govt. of India vide letter No. GE-4/Indus/20/(XII)/769 dated 21-12-94 (Copy enclosed as Annexure-2).

6. That with regard to statements made in paragraph 5 of the application, regarding Grounds for relief with legal provision, the Respondents beg to state that none of grounds is maintainable in law as well as in facts and as such the application is liable to be dismissed.

7. That with regard to statements made in paragraphs 6 & 7 of the application, the Respondent has no comments on them.

8. That with regard to statements made in paragraph 8, regarding Reliefs sought for the Respondent begs to state that the applicant is not entitled to any of the reliefs sought for and as such the same is liable to be dismissed.

9. That with regard to statements made in paragraphs 9 to 11 of the application, the Respondent has no comments on them.

10. That the Respondent submits that the application has no merit and as such the same is liable to be dismissed.

- Verification -

I, Sri E. R. Solomon

Sr, Deputy Accountant General, (A&E), Assam, Guwahati being authorised do hereby solemnly declare that the statements made above are true to my knowledge, belief and information and I sign this verification on this 2nd day of JULY, 1996 at Guwahati.

DECLARENT:

E. R. Solomon