

100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-205/97 ordersheet pg-1 to 9

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Disposed date-18/8/97

O.A/T.A No. 279/95

M.P-120/98 ordersheet pg-1

R.A/C.P No.

Disposed date-25/5/98

E.P/M.A No. 205/97

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3. Judgment & Order dtd. Received from H.C/Supreme Court
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SECTION OFFICER (Judl.)

ORIGINAL APPLN. NO. 279 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.)

.....Smt. S. Immichem, Ad. of APPLICANT(S)

-vs-

.....W. G. J. P. W. RESPONDENT(S)

For the Applicant(s)

... Mr. G. K. Bhattacharjee

Mr. G. N. Das

Mr. B. Chakrabarty

Mr. P. Sannan

Mr. A. K. Choudhury, Addl.

For the Respondent(s)

OFFICE NOTE

DATE

ORDER

2-1-96

None for the applicants.

Mr. A. K. Choudhury Addl. C.G.S.C. for the respondents. Adjourned to 4-1-96.

Member

Vice-Chairman

This application is in form and within time.
C. I. of 20. 50.
B. M. 10. 12. 95.

310468
Adj. 21. 12. 95.

1m

9-1-96

Mr. G. K. Bhattacharjee for the applicant. Despite the previous order of Tribunal and the favourable recommendation of the State Government the Central Government has by the impugned order eventually rejected the claim of the applicants. Prima facie case disclosed. The leave to join in single application is granted. O.A. is admitted. Issue notice to the respondents. 8 weeks written statement. Mr. A. K. Choudhury seeks to appear for respondents 1 & 2. However notices be issued directly to the respondents. Adjourned to 25-3-96 for orders.

Member

Vice-Chairman

Requirements are made
on 12-3-96 & issued
vide no. 546-571 & 153-96.

1m

(contd. to Page No

12/3

OFFICE NOTE

DATE

ORDER

Requisite fee of
Rs. 105/- for issuing
notices on me
excess amounts (21 M)
deposited vide
receipt no. 607
dt. 12.3.96.

25.3.96

Mr G.N.Das for the applicant. None
for the respondents.

Written statement has not been
submitted by the respondents. However,
it is seen that the requisites have been
completed only very recently and the
respondents will require time to submit
their written statement. Therefore two
months time is allowed to the respondents
to submit their written statement.

List on 27.5.96 for written statement
and further orders.

60
Member

Flag A is received
from the respondent No. 10
from this application
is requested to
drop his name as
respondent.

placed before me
for the orders.

4/6/96

pg

27.5.96

Mr G.N.Das for the applicant. Mr A.K.
Choudhury, Addl.C.G.S.C for respondents
No.1 and 4. Mr C.T.Zamir for respondents
2 and 3. None for the private respondents.
Private respondent No.10 Shri N.N.Walling
DIG of Police (CID), Nagaland, Kohima submitted
a letter No.PF/NNW/96/269 dated 9.4.
requesting to drop his name as respondent.
The prayer is allowed. Office to delete his
name from the list of respondents and
respondent No.10 may be informed accordingly.

Mr A.K.Choudhury seeks six weeks time
for filing written statement. Mr C.T.Zamir
also seeks time for written statement by
respondents 2 and 3. Prayer allowed.

List on 18.7.96 for written statement
and further orders.

60
Member

W.P.s filed on
behalf of R.No.1
at 7-8-83.

pg

W.P.s on behalf of
R.No.1 filed.

W.P.s on behalf of
R.No.1 filed.

18-7-96

Learned Addl.C.G.S.C. Mr.A.K.Chou
is present for respondent Nos. 1 & 4.
Mr.C.T.Zamir for respondent Nos. 2 &
None for the applicant and for private
respondents. private
respondent Nos. (7) Shri S.A.Jamir,
(9) Shri J.Changkiji and respondent N
(11) Shri N.A.Ao have requested to de
their names from the list of private
respondents. Prayer is allowed.

Registry is directed to delete
their names from this, O.A.

This case is ready for hearing.
Mr.C.T.Zamir has served a copy of writ
statement for respondents No. 2 & 3 on
the counsel of the applicant.

List for hearing on 14-8-96.

60
Member

14-8-96

Learned Addl.C.G.S.C. Mr.A.K.C.
dhury and learned counsel Mr.C.T.Jam
are present. List for hearing on
12-9-96.

60
Member

lm

M
14/8

17.9.96

Mr. A.K.Choudhury, Addl. C.G.S.C. for
the respondents.

List for hearing on 15.10.1996.

60
Member

25.9.96

trd

9/259

D/s filed on behalf
A.M.A. at 82.93.98.

9-1-97
Notice duly served
Respondent No - 1, 2
3, 9, 10, 14, 20, 24.

15.10.96

Mr. A.K. Choudhury, Addl. C. S.C. for the
respondents.

List for hearing on 2.12.1996.

60
Member

3-6-97
W/S has been
filed in R-1, 2, 3 and 4. W/10

Notice duly served

in R-1, 2, 5, 7, 9, 10, 14,
10 and 24.

10.6.97

Yesterday the matter came up for hearing.

There was no representation on behalf of the
applicants. We had directed the office to
inform some of the applicants yesterday
itself. One DSP attended today and informs that
who are posted at Kohima among the applicants
are not interested in this case. Accordingly
the case is dismissed for default.

Member

Vice-Chairman

trd

10.6.97

Yesterday the matter came up for
hearing. There was no representation on behalf of
the applicants. We had directed the office to
inform some of the applicants yesterday itself.
One DSP attends today and informs this Tribunal
that the applicants who are now in Kohima have
already been informed. However, none appears today.
Accordingly we dismiss the case for default.

60
Member

Vice-Chairman

trd

23.7.97

Let the case be listed on 6.8.97
alongwith M.P.205/97 for order.

60
Member

60
Vice-Chairman

18.8.97

In view of the order passed in
Misc. Petition No.205/97 the application
is restored to file and fix
for hearing on 29.9.97.

6
Member


Vice-Chairman

1-10-97

pg
10/8

Memo. of appearance
filed by Mr. A.K. Choudhury
Addl. C.G.S.C.



29.9.97

On the prayer of the counsel for
the parties the case is adjourned
till 2.12.97.

6
Member


Vice-Chairman

pg
30/9

2.12.97

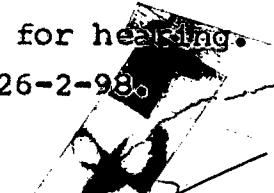
Adjourned to 19.12.97
By order

19.12.97 Adjourned to 29.1.98
By order

4-2-98

Case is ready for hearing.
List for hearing on 26-2-98.

6
Member


Vice-Chairman

1m 26.2.98

On the prayer of Mr. G.K.
Bhattacharya, the case is adjourned
to 2.3.1998.

6
Member


Vice-Chairman

29.1.98

There is a vacation today.
placed before the Hon'ble pg
Court for fixing a date
of hearing.

2-3-98

Xxx Case is adjourned till
10-3-98 for hearing.

Member

Vice-Chairman

2-3-98

Heard Mr.G.K.Bhattacharjee learned counsel appearing on behalf the applicant and also Mr.A.K.Choudhury learned Addl.CGSC in part. Mr.C.T. Jamir learned counsel for Government of Nagaland is not present.

List it on 10-3-98 for further hearing.

6
Member

Vice-Chairman

lm

ns
3/3

10-3-98

On the prayer of Ms. Khor learned counsel on behalf of Mr.C.T. Jamir learned counsel prays for short adjournment on the ground that due to his personal difficulty he could not attend the Court to-day. Mr.G.K.Bhattacharya has no objection.

List on 17-3-98.

6
Member

Vice-Chairman

lm

ns
11/3

17.3.98

We have heard the learned counsel for the parties at some length. We find that the records will be necessary to come to a definite conclusion. Therefore Mr A. Choudhury, learned Addl. C.G.S.C. directed to produce the records. List it for further hearing on 30.3.98.

6
Vice-Chairman

(2)

OA 279/93

Notes of the Registry	Date	Order of the Tribunal
Batched on the 20th Advocate for Plaintiff 20.4.98 : : 20.4.98	1.4.98	passover on the day. 3 and.
24.4.98 Copies of the Judgment have been sent to the D/See. for issuing the same to the parties through Regd. with S.P.	2.4.98 nkm	Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.
l. Issued wide D.N.O. 1153 to 1156 on 29.5.98. S.S.		 Member  Vice-Chairman

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

D.A. NO. 279 of 1995
T.A. NO.

DATE OF DECISION 2.4.1998

Shri Imsumeren Ao and 5 others

(PETITIONER(S))

Mr G.K. Bhattacharyya and Mr G.N. Das

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Mr A.K. Choudhury, Addl. C.G.S.C. and

Mr C.T. Jamir, Government Advocate, Nagaland. ADVOCATE FOR THE
RESPONDENT (S)

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

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

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

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.279 of 1995

Date of decision: This the 2nd day of April 1998

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

1. Shri Imsumeren Ao
2. Shri Vipose Zao
3. Shri Lanumeren Ao
4. Shri M. Yanthan
5. Shri Zanbemo Lotha
6. Shri S.N. Achumi

.....Applicants

By Advocates Mr G.K. Bhattacharyya and
Mr G.N. Das.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Home Affairs,
New Delhi.
2. The State of Nagaland, represented by the
Chief Secretary to the
Government of Nagaland, Kohima.
3. The Home Commissioner,
Government of Nagaland, Kohima.
4. The Union Public Service Commission,
Dholpur House, New Delhi,
and 22 others.

.....Respondents

By Advocates Mr A.K. Choudhury, Addl. C.G.S.C.
and Mr C.T. Jamir, Government Advocate, Nagaland.

.....
O R D E R

BARUAH.J. (V.C.)

The six applicants were in the Nagaland Police Service. They became eligible for promotion to the Indian Police Service (IPS for short) Cadre. A meeting was held by a Selection Committee on 28.12.1988 and twentytwo officers had been selected. However, the names

XBS

✓

of the applicants did not find place in the list of twentytwo selected officers. That was regarding the initial recruitment scheme. Later on, another Selection Committee met for selection of officers for promotion to IPS Cadre under the IPS (Appointment by Promotion) Regulation, 1955 (for short the Regulations) and the applicants were selected. They were, thereafter, appointed by promotion to the IPS Cadre. However, under the Regulations, it will be as per the IPS (Fixation of Seniority) Rules. The present applicants were senior to some of those twentytwo persons who had been appointed on promotion under the initial recruitment scheme. Because of this the present applicants were aggrieved and they approached this Tribunal by filing six separate original applications, namely, Original Application Nos.143, 144, 145, 147, 148 and 161 of 1990. All the aforesaid original applications were disposed of by this Tribunal by a common judgment and order dated 1.8.1994. In para 11 of the said order this Tribunal observed as follows:

".....Considering the facts and circumstances, we also observe that real hardship was caused to the applicants, but the Central Government is the authority to remove their hardship by fixing their year of allotment by applying the same formula adopted for the officers appointed in the initial constitution of the IPS Cadre. The State Government can approach the Central Government for granting the relief to the applicants, because, their hardship will continue so long they are in service. Such relief can only be granted by the Central Government by exercising power under the Rule 3 of the AIS (Condition of Service-Subsidiary Matters) Rules 1960."

From the above observation it is clear that great hardship was caused to the applicants in fixing their seniority. Therefore, the Tribunal gave the following

83

directions.....

direction:

"The applicants are required to submit representations jointly or individually before the Central Government through the Government of Nagaland stating their grievances, grounds and relief sought for. In the event of submission of such representation, the State Government (Nagaland) is directed to forward their representation to the Central Government with recommendation to consider it on ground of hardship, within four weeks from the receipt of the representation. It is directed that the Central Government shall consider their case on the basis of the recommendations of the State Government and shall dispose of the representation with orders within 60(sixty) days from the date of receipt of the representation with recommendation."

Pursuant to this all the applicants submitted separate representations and on receipt of the same the Government of Nagaland issued Annexure XIV letter dated 23.11.1994 through the Deputy Secretary to the Government of Nagaland to the Under Secretary to the Government of India, Ministry of Home Affairs (Police). In the said letter the Government of Nagaland, among others, had stated thus:

".....Induction of the officers in the IPS Cadre and their seniority etc. are considered by the Government of India on the basis of their ACRs/Performance. Now, in view of their representations, the State Government recommends for favourable consideration of their representation."

2. Though by Annexure XIV letter dated 23.11.1994 the Government of Nagaland recommended the representations submitted by the applicants for favourable consideration, however, the Government did not give any reason for consideration in the said letter. The Under Secretary to the Government of India sent Annexure XV Fax Message dated 16.1.1995 in which the Government of India requested to intimate the Government of India on what grounds the recommendation was given. We feel that this query of the Central Government was justified. In

JK

reply.....

reply to this the Government of Nagaland sent Annexure XVI letter. In the said letter the Home Commissioner, Nagaland, stated as follows:

"I am directed to refer to your Fax Message No.1-15016/45/90-IPS-I (Vol.II) dated 16.1.1995 on the subject cited above and to say that the petitioners were not inducted by the intitial selection Committee in view of their poor service records. As a result they became junior and junior officers became senior to them and subsequently some of those junior officers are promoted to the next higher post also. This aspect may have created hardship for them. Since parawise comments have already been submitted vide this department's letter of even number dated 16th Feb. 1994, we cannot recommend otherwise at this stage."

From this letter we find that the Government of Nagaland did not make any recommendations in terms of the judgment and order dated 1.8.1994 passed by this Tribunal in the aforesaid six original applications. At least the Government did not make any recommendation on the ground that hardship had occasioned in fixing the year of allotment. On the basis of Annexure XVI letter the Government of India issued Annexure XVII letter dated 6.6.1995 rejecting the representations of the six applicants. Hence the present application.

3. We have heard Mr G.K. Bhattacharyya, learned counsel for the applicants, Mr A.K. Choudhury, learned Addl. C.G.S.C. and Mr C.T. Jamir, learned Government Advocate, Nagaland.

4. On hearing the learned counsel for the parties and on perusal of the entire matter we find that the Government of Nagaland, in fact, did not make a clear recommendation on the ground of hardship as held by this Tribunal and because of this the Central Government

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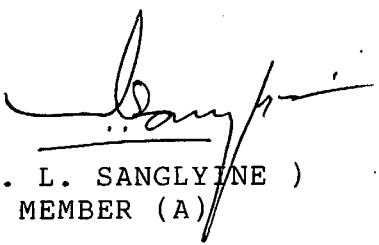
rejected.....

15
rejected the representations. We feel that by this rejection also the applicants had been put to hardship, and therefore, it requires fresh consideration.

5. In view of the above Annexure XVII letter dated 6.6.1995 cannot sustain in law. Accordingly we set aside the same.

6. Considering all the above, we dispose of this application with direction to the Government of Nagaland to send the recommendation answering the queries made by the Central Government. This must be done within one month from the date of receipt of this order. On receipt of the recommendation the Central Government shall take a decision in the manner indicated in the judgment and order dated 1.8.1994 within two months from the date of receipt of the recommendation.

7. The application is accordingly disposed of. However, in the facts and circumstances of the case we make no order as to costs.


(G. L. SANGLYINE)
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN

16
Filing by
Gandhinagar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A. NO. 279/95

Shri S. Imsumeren Ao and five

others . . . Appellants

- Versus -

Union of India and others.

. . . Respondents.

LIST OF DATES

Date

23.11.64 Applicant No.1 - Shri Imsumeren Ao joined Nagaland Police Service as Deputy Superintendent of Police. Subsequently he was promoted to the senior scale of the Nagaland Police Service and served in various capacities as Superintendent of Police /Commandant .

6.2.86 Promoted and posted as Deputy Inspector General of Police (training) He has since retired from his service .

Annexure- I and I(A) at page 29 & 30.

23.11.64 - Applicant No.2 - Shri Vipose Zao . Joined Nagaland Police Service as Asstt. Commandant Subsequently he was promoted to the rank of Superintendent of Police /Commandant .

contd..

7.10.87 Applicant promoted to the rank of Deputy Inspector General of Police , Nagaland .

Annexure- II and II(A) , page 31 and 33.

2.8.72. Applicant No.3 - Shri Lanumeren Ao.

Joined Nagaland Police Service as Deputy Superintendent of Police .

14.8.81. Promoted to the Senior scale and served in various capacities as Superintendent of Police/Commandant .

Annexure-III and III(A) page 35 and 36.

4.11.74. Applicant No.4 - Joined Nagaland Police Service as Deputy Superintendent of Police .

2.8.82. Promoted to the Senior scale and served as Superintendent of Police /Commandant in various places.

Annexure- IV , page -37.

Applicant No.5- Z. Lotha .

4.11.74. Joined Nagaland Police Service as Deputy Superintendent of Police/Commandant and he has since promoted to the rank of Superintendent of Police /Commandant .

Annexure- V , page -38.

Applicant No.6 - Shri S.N. Achumi .

4.11.74. Joined Nagaland Police Service as Deputy Superintendent of Police and in March, 1986 he has been promoted to senior scale in the rank of Superintendent of Police /Commandant .

Annexure-VI , page-39.

Since the date of joining service , the applicants have been carrying out there duties sincerely and to the satisfaction of all concerned and there was no occassion when any adverse remarked was ever communicated to them.

1.3.86. The Indian Police service cadre for the State of Nagaland was constituted.

10.12.87. Govt. of India, Ministry of Home Affair was pleased to approve the scheme for initial Constitution of Indian Police Service cadre of Nagaland.

Paragraph -4 , page -10 and 11
Annexure- VII , page-40.

27.7.88 Indian Police Service (Regulation of seniority) Rules, 1988 framed.

Annexure- VIII , page-47 .

Respondents No. 5 to 26 were all junior to applicant No. 1 and 2 in the State Service.

contd..

Respondents No. 15 to 26 were all junior to applicant No. 3.

Respondent No. 19 to 26 were all junior to applicant No. 4.

Respondent No. 18 to 26 were junior to applicant No. 5.

Respondents No. 21 to 26 were all junior to applicant No. 6.

28.12.88 A meeting of the Selection Committee for initial Selection was held on New Delhi for preparing a list of officers of the Nagaland Police Service for appointment to the I.P.S. of Nagaland cadre. The said Committee considered the records of 35 Nagaland Police Service Officer including the applicants, who had completed six (6) years of service as Deputy Superintendent of Police as on 1.1.86.

18.1.89 22 Officers including Respondents No. 5 to 22 were appointed to the I.P.S. w.e.f. 1.3.86.

Annexure- IX , page-54.

7.11.89 Another meeting of the Selection Committee constituted under Regulation 3 of I.P.S. (Appointment by promotion) Regulations, 1955 for preparing a list of members of Nagaland Police Service, who were suitable to the promotion to the I.P.S. was held at Kohima and 14 Officers were selected.

20

14.3.90 Ministry of Home Affairs appointed 14 Officers including Respondent No. 23 to 26 and the applicants to the I.P.S. w.e.f. the date of the ~~Notification~~ ^{satisfaction}. The names of Respondent No. 23 to 26, who were junior to the applicants were placed above the applicants.

Annexure-X, page-55.

That as an apparent injustice was done to the applicants, they took up the matter with the authority and the Chief Minister of Nagaland, vide his letter date 30.4.90 had personally taken up the matter to the Govt. of India regarding the anomalous situation created by the superannuation ~~creation~~ where by Senior Officers in the rank of Deputy Inspector General ^{Superintendent} of Police would become much Junior to S.P. level officer to the I.P.S. The applicants come to know that the year of allotment of the Officers was being finalised by the Ministry of Home Affairs and that the applicant would be assigned a lower year of allotment ~~than~~ that of the junior in the state service.

The applicants then filed separate application before this Hon'ble Tribunal (O.A. 143/90, 144/90, 145/90, 147/90, 148/90 and 161/90).

contd..

1.8.94 This Hon'ble Tribunal by a common judgement held that real hardship was caused to the applicant but that the Central Govt. was the only authority to remove the hardship by fixing the allotment by applying the same formula adopted ~~by~~ ^{for} the Officers, appointed to the I.P.S. at the initial Constitution

This Hon'ble Tribunal further directed that the applicants were required to submit representations to the Central Govt. through the State Govt. of Nagaland, stating the grievance and relief sought for and ⁱⁿ the event of submission of such representation, the State Govt. was directed to forward the representation to the Central Govt. with recommendation to consider the same on grounds of hardships within a period of 4 weeks.

Annexure- XI, page-56.

23.8.94 Applicant No.1 submitted detail representation in terms order passed by the Hon'ble Tribunal. All the other applicants had also submitted similar representation.

Annexure- XII, page-63.

30.8.94 Representation duly forwarded by the Govt. 9.9.94 of Nagaland.

contd..

7

22
10.11.94 Ministry of Home Affairs requested the Chief Secretary ,Nagaland to furnish the recommendation of the State Govt. with parawise comments .

Annexure- XIII, page-72.

23.11.94 Govt. of Nagaland recommended for favourable consideration of the representations .

Annexure- XIV, page-73.

16.1.95 The Govt. of India by Fax Message again requested the Govt. of Nagaland to furnish ground on which they had recommended for favourable consideration.

Annexure- XV , page -74.

7.3.95 State Govt. of Nagaland informed that since ^{had} parawise comment _n already had been submitted on 16.2.94, the Govt. could not recommended otherwise.

Annexure- XVI, page-75.

6.6.95 Govt. of India rejected the representations filed by the applicants.

Annexure- XVII, Page-76.

23.6.95 Order communicated .

.....

21 DEC 1995

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI GATE : GUWAHATI.

O.A. No. 279 /95.

Shri S. Imsumeren Ao & 5 others .

-Versus-

Union of India and others.

...Applicants.

...Respondents.

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Filed by :-

Reed. w/o
A. K. Choudhury
Adell C. S.C
24. WJS on behalf of R. w. 1

78-83

25 WJS R. w. 2 & 3 -

84-92

26. WJS. R. w. 4 ...

93-98

23
Filed by :
J. S. Choudhury
Advocate

24

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI:

(An application under Section 19 of the
Administrative Tribunal Act, 1985)

O. A. 279/95

Shri S. Imsumeren AO & 5 others

..... Applicants

- versus -

Union of India and others :

..... Respondents

1. PARTICULARS OF THE APPLICANTS:

- 1) (i) Shri S. Imsumeren AO, I.P.S.,
(ii) Son of Late Senka AO,
(iii) Aged about 59 years
(iv) Deputy Inspector General of Police (Training)
Dimapur, Nagaland (since retired)

- 2) (i) Shri Vipose Zao, I.P.S.
(ii) Son of Late Pure Zao,
(iii) Aged about 57 years
(iv) Deputy Inspector General of Police,
Police H.Q., Kohima, Nagaland.

- 3) (i) Shri Lanumeren AO, IPS
(ii) Son of Late Imti AO,
(iii) Aged about 50 years.
(iv) Superintendent of Police, Mon, Nagaland.

4) (i) Shri M. Yanthan, IPS
(ii) Son of Late Nrio Lotha,
(iii) Aged about 48 years.
(iv) Assistant I.G. of Police (Operation)
Kohima, Nagaland.

5) (i) Shri Zanbemo Lotha, IPS,
(ii) Son of Late Kludemo Lotha,
(iii) Aged about 48 years.
(iv) Commandant, Special NAP, Kingsway campus,
Delhi - 9.

6) (i) Shri S.N. Achumi, IPS
(ii) Son of Late Suyiho Sema,
(iii) Aged about 42 years.
(iv) Chief Security Officer,
Nagaland (C), Secretariat, Kohima.

2. PARTICULARS OF THE RESPONDENTS :

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

(2) State of Nagaland, represented by the Chief
Secretary to the Govt of Nagaland, Kohima.

(3) Home Commissioner, Govt of Nagaland, Kohima.

(4) Union Public Service Commission, Dholpur House,
Sahjanan Road, New Delhi.

(5) Shri M. Hesso Mao, IPS,
Inspector General of Police,
Intelligence, Nagaland, Kohima.

(6) Shri A.L. Mehta, IPS,
Inspector General of Police,
Police HQ, Kohima, Nagaland.

(7) Shri S.A. Jamir, IPS,
Inspector General of Police, Police HQ,
Nagaland, Kohima.

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(8) Shri T.M.Wati AO, IPS,
Deputy Inspector General of Police, (R)
Dimapur, Chumukedima.

(9) Shri J. Changkiji, IPS,
Deputy Inspector General of Police, (R)
Police HQ. , Nagaland, Kohima.

(10) Shri N.N. Wailing, IPS,
Deputy Inspector General of Police (CID)
Nagaland, Kohima.

(11) Shri N.A. AO, IPS,
Superintendent of Police,
Zumheboto, Nagaland.

(12) Shri M.B. Kar, IPS,
Deputy Inspector General of Police (since retired)
Nagaland.

(13) Shri C.Kikon, IPS,
Deputy Inspector General of Police (R)
Mokokchang, Nagaland.

(14) Shri Taku Jamir , IPS,
Commandant,
Nagaland Armed Police Training Centre,
Chumukedime, Dimapur, Nagaland.

(15) Shri S.R.Dasgupta, IPS,
Superintendent of Police (Crime)
Nagaland, Kohima.

(16) Shri C.P.Giri, IPS,
Superintendent of Police (Narcotic)
Nagaland, Kohima.

(17) Shri K. Kire, IPS,
Assistant Inspector General of Police (A)
Police HQ. , Kohima, Nagaland.

(18) Shri I. Jamir, IPS,
C/O Director General of Police,
Nagaland, Kohima.

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(19) Shri H. K. Rengma, IPS,
Commandant, 4th Nagaland Armed Police,
Thizama, Nagaland.

(20) Shri M.O. Ao, IPS,
Superintendent of Police,
Kohima, Nagaland.

(21) Shri G. K. Rengma, IPS,
Superintendent of Police, Zunheboto,
Nagaland.

(22) Shri J. B. Ao, IPS,
Superintendent of Police,
Dimapur, Nagaland.

(23) Shri S. Roychaudhury, IPS,
Director of Vigilance, (Since retired)
Kohima, Nagaland.

(24) Shri K. Angami, IPS,
Addl. Superintendent of Police.
Dimapur, Nagaland.

(25) Shri G. Rengma, IPS,
Deputy Commandant, Chumukedime,
Dimapur, Nagaland.

(26) Shri M. V. Chakhesang, IPS,
Deputy Commandant, 5th Nagaland Armed Police,
Phek, Nagaland.

3. THE APPLICATION IS AGAINST THE FOLLOWING ORDERS :

(1) The Govt of India, Ministry of Home Affairs
Notification No. 1-14011/12/88-IPS-1 dated 18.1.89
appointing respondents No. 5 to 22 who are much juniors
to the applicants to the Indian Police Service with
effect from 1.3.86, superseding the just and
legitimate claim of the applicants to be so appointed.

(2) Govt of India, Ministry of Home Affairs
Notification No. 1-14013/2/90-IPS-1 dated 14.3.90
promoting the applicant along with respondents
No. 23 to 26 to the Indian Police Service and
placing the name of the said respondents who
are junior to the applicant above the applicant.

(3) The Govt of India, Ministry of Home Affairs'
order No. 1-15016/45/90-IPS-1 dated 6.6.95 as
conveyed by the Respondent No. 3 in his office
memo No. POL-I/ESTT/54/90 dated 23.6.95 whereby
the representations submitted by the applicants
in pursuance of the common judgment/direction
dated 1.8.94 passed by the Guwahati Bench of the
Hon'ble Central Administrative Tribunal in OA Nos
143 of 1990, 144 of 1990, 145 of 1990, 147 of 1990,
148 of 1990 and 161 of 1990 were summarily rejected
only by a cryptic order although the Hon'ble Tribunal
specifically directed to consider and grant relief
to the applicants by exercising powers under Rule 3
of the A.I.S (Condition of Service Residuary matters)
Rules, 1960 on the basis of the recommendations of
the State Govt of Nagaland within a period of 60 days
from the date of receipt.

§ 4 : The applicants declare that the subject
matter of the orders are within the jurisdiction
of this Tribunal.

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(5): The applicants further declare that the application is within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

6. FACTS OF THE CASE :

(1) That the applicants have a common grievance and the cause of action and the nature of relief are the same and as such they have filed a single joint application and pray that the Hon'ble Tribunal would accept the same.

(2) (i) That the applicant No. 1, Shri S. Imsumeren AO, initially joined the Nagaland Police Service as a Deputy Superintendent of Police vide Govt Notification No. 27/APA/12/64 dated 23.11.64. Thereafter, in appreciation of his good service records, he was promoted to the senior scale of the Nagaland Police Service and served in various capacities as Superintendent of Police/Commandant. While he was serving as the Commandant 2nd Battalion, NAP, he was promoted to the rank of Deputy Inspector General of Police (Border) with HQRS at Dimapur vide Govt Notification No. Pol-1/ESTT/18/82 dated 6.2.86. The applicant was subsequently transferred and posted as the Deputy Inspector General of Police (Training), Dimapur and therefore he has since retired on attaining the age of superannuation.

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Copies of the Notifications dated 23.11.64 and 6.2.86 are annexed herewith and marked as Annexure I and I(A) respectively.

(ii) That the applicant No. 2, Shri Vipoze Zao, joined the Nagaland Police Service as Assistant Commandant vide Govt Notification No. 27/APA/46/64 dated 23.11.64. Thereafter, in appreciation of his good service records, he was promoted to the rank of Superintendent of Police/Commandant. While he was serving as the Superintendent of Police (Narcotic Cell), the applicant was promoted to the rank of Deputy Inspector General of Police and posted as the D.I.G. of Police (Range), Nagaland, Kohima. The applicant is now serving as the Deputy Inspector General of Police, Police HQs, Kohima, Nagaland.

Copies of the Notifications dated 23.11.64
7.10.87
and 6.11.86 are annexed herewith and marked as Annexure II and II(A) respectively.

(iii) That the applicant No. 3, Shri Lanumeren Ap, had joined the Nagaland Police Service as Deputy Superintendent of Police/Assistant Commandant vide Govt Notification No. POL-I.12/IGP/70 dated 2.8.72. The applicant was promoted to the Senior Scale of the Nagaland Police Service in 1981 vide Govt Notification No. PAR-4/1/81/1

dated 14.8.81 and thereafter had served in various capacities as Supdt. of Police/Commandant. He is now working as the Superintendent of Police, Mon, Nagaland. Since the date of his joining in service, the applicant has been discharging his duties sincerely, honestly and to the best of his ability and there was no occasion when any adverse remark or other wise was ever communicated to him.

Copies of the above Notifications dated 2.8.72 and 14.8.81 are annexed herewith and marked as Annexure III and III(A) respectively.

(iv) That the applicant No. 4, Shri M. Yanthan, initially joined the Nagaland Police Service as Deputy Superintendent of Police/Assistant Commandant vide Govt Notification No. POL-1/12/IGP/70 dated 4.11.74. In appreciation of his good service records, he was duly promoted to the Senior Scale of the Nagaland Police Service on 2.8.82 and posted as Superintendent of Police/Commandant in various places. The applicant is now posted as the Assistant Inspector General of Police (Operations), Kohima, Nagaland. Since the date of his joining, the applicant has been discharging his duties sincerely and honestly and to the best of his ability and there was not occasion when any adverse remark was ever communicated to him.

Copies of the Notification dated 4.11.74

is annexed herewith and marked as Annexure - IV.

(v) That the applicant No. 5, Shri Z. Lotha, initially joined the Nagaland Police Service as Deputy Superintendent of Police/~~or~~ Assistant Commandant vide Govt Notification No. POL-1/12/IGP/70 dated 4.11.74. Thereafter, he was promoted to the Senior Scale of Nagaland Police Service and had served in various capacities as Superintendent of Police/Commandant. Since the date of his joining service, the appellant had been discharging his duties sincerely, honestly and to the best of his ability and there was no occasion when any adverse entry or otherwise was ever communicated to him. The appellant is now serving as the Commandant, special Nagaland Armed Police Battalion, Kingsway campus, Delhi- 9.

The above Notification dated 4.11.74 is

annexed herewith and marked as Annexure - V.

(iv) That the applicant No. 6, Shri S.N. Achumi, initially joined the Nagaland Police Service as Deputy Superintendent of Police/Assistant Commandant vide Govt Notification No. POL-1/12/EGP/70 dated 4.11.74. Thereafter, he was promoted to the Senior Scale of the Nagaland Police Service in

in March, 86 and since then he has been serving as such. Since the date of his joining service, the applicant has been discharging his duties honestly, sincerely and to the best of ^{his} ability. The applicant is now serving as the Chief Security Officer, Nagaland(C) Secretariat, Kohima.

Copies of the above Notification dated 4.11.74 is annexed herewith and marked as Annexure - VI.

- 3) That the applicants beg to state that since the date of their joining the Nagaland Police, the applicants have been carrying out their duties sincerely and to the satisfaction of all concerned and there was no occasion when any adverse remark was ever communicated to them. In point of fact, the applicants have all along had a very good service records and as will be evident from what is stated above, the applicants got their promotion in due time.
- 4) That the applicants beg to state that the Indian Police Service cadre for the State of Nagaland was constituted with effect from 1st March, 1986 and the Govt of ~~Na~~ India, Ministry of Home Affairs, by their letter No. 16/69/76-IPS dated 10.12.87 was pleased to approve the Scheme for initial constitution of the India Police Service Cadre of Nagaland which had been finalised after consultation with the Govt of Nagaland.

That Section II of the said Scheme laid down that the initial constitution of the IPS cadre shall be by appointment of the Officers through selection of members of the State Police holding Class-I posts who have been substantively appointed in a post of Deputy Superintendent of police and who had completed not less than six years of service in that post.

The applicants further stated that as per note - I to the said scheme, the cases of all such Officers were to be considered and a list prepared in order of preference of those adjudged suitable by a Selection Committee set up under the Chairmanship of the Chairman of the Union Public Service Commission.

Section IV of the said Scheme lays down that recruitment to the IPS after initial constitution of the cadre shall be in accordance with the Indian Police Service (Recruitment) Rules, 1954.

Section VII of the said Scheme relates to seniority and Section VII(a) of the said Scheme lays down that the year of allotment of the officers selected at the initial constitution would be determined ad-hoc by the Central Govt on the recommendation of the State Govt and in consultation with the U.P.S.C. but under section VII(b)

the seniority of the officers appointed after the initial constitution would be determined in accordance with the provision of the I.P.S. (Regulation of Seniority) Rules, 1954, provided that the year of allotment of an officer so arrived at would be limited to the year to which his senior in the Nagaland State Police Service obtains on being appointed at its initial constitution.

A copy of the scheme for initial constitution along with the forwarding letter is annexed herewith and marked as Annexure ~~VII~~

5) That the Govt of India, vide Notification No. 14014/40/88/AIS(1) dated 27.7.88, made the I.P.S. (Regulation of Seniority) Rules, 1988. Rule 3(3)(ii)(a) provides that a weightage of 4 years shall be given for 12 years of service rendered by a promotee officer in the rank of not below that of Deputy Superintendent of Police and one year for every completed 3 years of service to the maximum weightage of five years for determining the year of allotment of the said officers :

A copy of the Notification is annexed herewith and marked as Annexure - ~~VIII~~

6) That respondents Nos 5 to 26 are all junior to the applicants No. 1 to 2 in service and their

names were all reflected below the two applicants in the seniority list of the State Police Service Officers. Respondents No. 15 to 26 were all junior to the applicant no. 3 and respondents No. 19 to 26 were junior to the applicant no. 4. Similarly respondents no. 18 to 26 and respondents no. 21 to 26 were junior to applicants no. 5 to 6. There is no dispute whatsoever regarding the seniority of the applicants vis-a-vis respondents, as stated, and the applicants crave leave of this Hon'ble Tribunal to produce and rely on the seniority list at the time of hearing.

7) That the applicants beg to state that a meeting of the Selection Committee for initial selection was held on 28.12.88 in New Delhi for preparing a list of Officers of the Nagaland Police Service for appointment to the Indian Police Service of Nagaland Cadre. The said committee considered the records of 35 Nagaland Police Service Officers who had completed six years of service as Deputy Superintendent of Police as on 1.1.86 and prepared a list of officers. By Ministry of Home Affairs Notification No. 114011/12/88-IPS-1 dated 18.1.89, 22 Officers including the respondents No. 5 to 22 were appointed to the I.P.S. from 1.3.86 under sub-rule (6) of Rule 4 of the Indian Police Service (Recruitment) Rules, 1954 read with Note-1 to Section II

of the Scheme for initial constitution of IPS Cadre of Nagaland. The Officers whose names appeared from serial No. 1 to 4 were all senior to the applicant.

A copy of the said Notification is annexed herewith and marked as Annexure- IX/XII.

8) That, as stated above, the applicants No. 1 and 2 are senior to the respondents No. 5 to 26. The applicants No. 3 is senior to respondents No. 15 to 26 while the applicant No. 4 is senior to respondents No. 19 to 26. The applicants No. 5 and 6 are senior to the respondents No. 21 to 26. The applicants had very good service records and as such they were shocked when their names were not included in the said list. The applicants immediately took up the matter individually with the Respondent No. 2 pointing out that many of their juniors were appointed to the IPS superseding their claim to be so appointed and as such prayed that the matter be looked into and injustice and anomalies removed. It was also pointed out that the applicants No. 1 and 2 were also functioning as Dy. Inspector General of Police before the IPS cadre was introduced in Nagaland. The applicant then came to learn that the Selection Committee adopted a peculiar procedure in which upto date A.C.Rs of the Officers were not taken into account resulting in the selection of

unsuitable officers and consequent rejection of suitable ones. The Committee considered the A.C.Rs of only 5 years prior to 1986 as a result of which some officers with bad A.C.Rs after 1986 were selected and other suitable officers were excluded. However, the committee, instead of making an overall relative assessment of service records of the Officers, decided on the grading of each A.C.R. as a result of which officers with "good" grading for 5 years were not selected whereas officers with 3 "bad" grading and one "very good" grading were selected. The applicants were informed that the matter was being taken up with the Govt of India and that the injustice done to them would be corrected.

9) That another meeting of the Selection Committee constituted under Regulation 3 of the IPS (Appointment by Promotion) Regulation, 1955, for preparation of a list of members of Nagaland Police Service who were suitable for promotion to the IPS was held on 7.11.89 at Kohima and the said Committee selected 14 Officers as being suitable in all respects for promotion to the IPS. In pursuance to the said meeting, the Ministry of Home Affairs, by Notification No. 1-14013/1/90/IPS-1 dated 14.3.90 appointed 14 officers including respondents No. 23 to 26 and the applicants to the Indian Police Service with effect from the date

of Notification. In the said Notification the names of respondents No. 23 to 26 who are junior to the applicants were placed above the applicants.

A copy of the Notification is annexed herewith and marked as Annexure - ~~xx~~ X

10) That, as an apparent injustice was done to the applicants, they took up the matter with the authorities and the applicants were informed that the Chief Minister of Nagaland, by his D.O. No. CMN/18/Home/90 dated 30.4.90, had personally taken up the matter with the Govt of India regarding the anomalous situation created by the Supercession whereby senior officers of the rank of Deputy Inspector General of Police would become much junior to S.P.-level Officers in the I.P.S. The applicants were further informed that they need not worry and that a suitable procedure could be evolved to protect their seniority and year of allotment in the I.P.S.

11) That, as such, the applicants did not take any immediate action as the matter was being taken up by the Govt of Nagaland. However, the applicants came to know that the year of allotment of the Officers was being finalised by the Ministry of Home affairs and that the applicants will be

be assigned a lower year of allotment than that of their juniors which will create great difficulty and might also result in reversion of the applicants.

12) That the applicants beg to state that because of illegal and arbitrary action of the authorities, the applicants had been superseded by officers who were much junior to them and unless the applicants are granted relief and ^{their} ~~his~~ seniority protected, the applicant, will suffer great hardship and irreparable loss.

13) That, being highly aggrieved, the applicants filed applications before the Guwahati Bench of the Central Administrative Tribunal which were registered and admitted as O.A. No. 143/90, 144/90, 145/90, 147/90, 148/90 and 160/90. The Hon'ble Tribunal, after hearing the parties and considering the facts and circumstances of the cases and that similar points were involved, all the cases were heard analogously and disposed of all the six applications (O.A No. 143/90, 144/90, 145/90, 147/90, 148/90 and 161/90) by a common Judgment dated 1.8.94. The Hon'ble Tribunal held that real hardship was caused to the applicants but that the Central Govt was the only authority to remove the hardship by fixing the year of

allotment by applying the same formula adopted for the Officers appointed to the IPS at the initial constitution of the IPS Cadre in Nagaland.

The Hon'ble Tribunal further directed that the applicants were required to submit representations jointly or individually to the Central Govt. through the State Govt of Nagaland stating their grievances, grounds and relief sought for and in the event of submission of such representations, the State Govt was directed to forward the representation/representations to the Central Govt with recommendation to consider the same on the ground of hardship within a period of 4 weeks from the date of receipt of the representations. The Hon'ble Tribunal directed the Central Govt to consider the cases on the basis of the recommendations of the State Govt and to dispose of the representation with orders within 60 days from the date of receipt with recommendations.

A copy of the judgment and order dated 1.8.94 is annexed herewith and marked as Annexure - XXX. XI

14) That, on receipt of the judgment dated 1.8.94 from the Hon'ble Tribunal, the applicant No. 1 submitted a detailed representation in terms of the order passed by the Hon'ble Tribunal to the

Respondent No. 1 individually on 23.8.94. All the other applicants had also submitted similar representations individually.

A copy of the representation dt. 23.8.94 submitted by the applicant No. 1 is annexed herewith and marked as Annexure ~~XX~~ ^{XII}.

(The applicants crave leave of this Hon'ble Tribunal to produce and rely on the representations filed by other applicants at the time of hearing.)

15) That, thereafter, all the representations, including one filed by the applicant, were forwarded by the Govt of Nagaland vide letter No. POL-1/Estt/54/90 dated 30.8.94 and 9.9.94 which were duly received by the Respondent No. 1.

16) That, on 10.11.94, the Under Secretary to the Govt of India, Ministry of Home Affairs, New Delhi requested the Chief Secretary to the Govt of Nagaland (Respondent No. 2) to furnish the recommendation of the state Govt with para-wise comments on each of the aforesaid representations.

On receipt of the above communication, the Deputy Secretary to the Govt of Nagaland Home Department, by his letter No. POL-1/Estt/54/90 dated 23.11.94, intimated the Govt of India that the para-wise comments and the representations of the Officers in original were sent to the Home Ministry and recommended their cases for

favourable considerations and the same was duly received by the Respondent No. 1.

Copies of the letters dated 10.11.94 and 23.11.94 are annexed herewith and marked as Annexure - XIII & XIV respectively.

17) That, the respondent No. 1, instead of disposing of the representations, as directed by the Hon'ble Tribunal, again requested the Govt of Nagaland to furnish grounds on which they had recommended for favourable consideration by Fax message No. 1-15016/45/90-IPS-1 (vol-II) dt. 16.1.95.

On receipt of the Fax message, the Respondent No. 3, by his letter No. POL-1/Estt/54/90 dated 7.3.95, intimated the Respondent No. 1 that since para-wise comments had already been furnished, as stated earlier, the State Govt. could not recommend otherwise at that stage.

Copies of the Fax message dated 16.1.95 and letter dated 7.3.95 are annexed herewith and marked as Annexure XVII XV XVI and XVIII respectively.

18) That, instead of implementing the orders passed by this Hon'ble Tribunal within the stipulated time limit of 60 days, the Respondents No. 1 and 2 were pointing accusing fingers at each

other and consequently no effective steps are being taken to implement the ~~okk~~ orders inspite of the fact that the period stipulated in the ~~okk~~ order had already elapsed.

19) That, surprisingly, the Respondent No. 1, without insisting on the recommendations and para-wise comments of the State Govt., as directed by this Tribunal, summarily rejected the representations of the applicants and others by a cryptic order No. 1-15016/45/90-IPS-I dated 6.6.95 which was communicated to the applicant by the Respondent No. 3 by his letter dated 23.6.95.

Copies of the order dated 6.6.95 and letter dated 23.6.95 are annexed herewith and marked as Annexure ~~XX~~ ^{XVII} and ~~XXI~~ ^{XVIII} respectively.

20) That, being aggrieved by the afore-said order (Annexure ~~XX~~ ^{XVIII}) the petitioners are approaching this Hon'ble Tribunal for proper relief.

7. DETAILS OF REMEDIES EXHAUSTED :-

The applicants do not have any remedy under the Rules :-

8. The applicants declare that they have not previously filed any application/writ petition or suit regarding the matter in respect of which this application has been made before any court or law or any other authority or any other Bench of the Hon'ble Tribunal and no such application/writ petition or suit is pending.

9. RELIEF SOUGHT AND GROUNDS :

(i) for that the impugned Notification by which as many as 22 junior officers had superseded the applicants were issued in a most arbitrarily manner in violation of the Rules and Regulations and as such the impugned Notifications are bad in law and liable to be set aside.

(ii) for that the Selection Committee by adopting a strange and peculiar procedure arbitrarily considered the ACR of only 5 years and that too prior 1986 and as such the findings and impugned Notification dated 18.1.89 (Annexure IX ~~XXI~~) are bad in law and liable to be set aside.

(iii) for that the Selection Committee committed a grave illegality by not making an overall relative assessment of the service records of the officers and, instead, considering the remarks as given in the A.C.R's and as such the

findings of the Committee and Notification appointing respondents No. 5 to 22 are bad in law and liable to be set aside.

(iv) For that the authority committed an illegality by assessing the merits of the officers considered on the number of grading given in the A.C.R's as, at the time of recording the A.C.R.'s, no guidelines were given to the recording officers as to how the ACRs were to be graded and the effect of the grading on the careers of the officers and as such the impugned selection and Notification are bad in law and liable to be set aside.

(v) For that, admittedly, the applicants had good service records and that no adverse remarks were ever communicated to them and there can be no justification in not selecting the applicants when many of their juniors were found suitable and promoted and as such the impugned Notifications superseding the applicants are bad in law and liable to be struck down.

(vi) For that respondents No. 5 to 22 were appointed to the ^{IPS} cadre with retrospective effect from 1.3.86 by impugned Notification dated 18.1.89 (Annexure IX) whereas the applicants who are senior to the said respondents were so appointed by Notification dated 14.3.90 (Annexure X)

from the date of the Notification and as such the applicants have been discriminated against resulting in violation of Article 14 and 16 of the Constitution of India.

(vii) For that because of the arbitrary and illegal action of the authority, an anomalous situation has arisen where the appellant No. 1 and 2 who are of the rank of Deputy I.G.P. will be assigned a lower year of allotment than their Junior S.P.-level officers and as such the Notifications superseding these applicants are liable to be quashed and struck down as being bad in law.

(viii) For that, unless the impugned Notifications superseding the applicants are set aside, as per provisions of the existing rules and regulations, the applicants will be assigned a lower year of allotment than their juniors which will, in turn, cause undue hardship to the applicants considering the facts and circumstances of the case, this is a fit case where powers under Rule 3 of the All India Services (Conditions of Service - Residuary Matters) Rules, 1960 be exercised and the applicants' seniority be protected.

(ix) For that, since the applicants have been appointed to the I.P.S., they cannot get the benefit of Note II of Sec. II of the scheme for

initial constitution and continue in the post of Deputy I.G.P. till they retire and as such it is apparent that undue hardship has been caused to the applicants and that ~~x~~ they are entitled to get relief from this Hon'ble Tribunal.

(x) for that the Respondent No. 1, arbitrarily and in colourable exercise of powers vested in it, committed an illegality by summarily rejecting the representations filed by the applicants whereby the Respondent No. 1 refused to consider and grant relief to the applicants by exercising powers under Rule 3 of the A.I.S. (Condition of Service Residuary matters), 1960 on the basis of recommendations of the State Govt of Nagaland as directed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, while disposing of the application by a common judgment dated 1.8.94, without recording any cogent reasons for not accepting various contentions raised in the representations although the Respondent No. 2 duly recommended the case of the appellants and as such the impugned order dated 6.6.95 passed by the Respondent No. 1 is not sustainable in law and therefore it is liable to be quashed and set aside.

(xi) for that this Hon'ble Tribunal, while disposing of earlier cases, held that real

hardship was caused to the applicants and that the same could be removed by fixing the year of allotment of the applicants by applying the same formula adopted for the officers appointed at the initial constitution by exercising powers under Rule 3 of the A.I.S. (Conditions of Service) Residuary matters) Rules, 1960. The Respondent No. 1, while rejecting the representations, has totally ignored this finding and has not discussed this aspect of the matter and as such the impugned order is bad in law and liable to be set aside.

(xii) For that, in any view of the matter, the impugned action of the authorities in summarily rejecting the prayer of the applicants and that too in flagrant violation of the direction passed by the Hon'ble Tribunal, is bad in law and liable to be quashed and set aside.

It is, therefore, prayed that your Lordships would be pleased to admit this application, call for the entire records of the case, ask the opposite parties to show cause as to why the impugned order dated 6.6.1995 (Annexure- XVII) should not be

be set aside and as to why the year of allotment of the applicants should not be fixed by using the same formula as was done for the private respondents at the initial constitution and after perusing the causes shown, if any, and hearing the parties, set aside the impugned order and direct that the year of allotment of the applicants be fixed as was done for the private respondents and/or pass any other order/orders as your Lordships may deem fit and proper.

10. INTERIM ORDERS:-

Nil.

11. DOES NOT ARISE .

12. POSTAL ORDER NO. 09-310468 Dt. 22.12.95.
issued by the post office at Guwahati is enclosed.

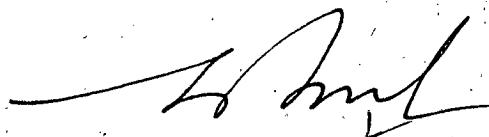
....Verification...

contd....

VERIFICATION

I, Shri S. Imsumeren Ao, IPS, Son of late Senka Ao, aged about 59 years, Deputy Inspector General of Police(Training) Nagaland, Dimapur (since retired), being authorised by other five applicants, do, hereby, verify that the contents in paragraphs 1, 3, 11, 12, 13, 14 & 18 are true to my knowledge and those made in paragraphs 2, 4 to 10, 15, 16, 17 & 19 are believed to be true on legal advice and that I have not suppressed any material fact.

Date: 21.12.95


(S. IMSUMEREN AO)
SIGNATURE

ANNEXURE - I

GOVT OF NAGALAND
 HOME DEPARTMENT
 APPOINTMENT 'A' BRANCH

NOTIFICATION

Dated Kohima, the 23rd November, /64

No. 27/ APA/12/64: The Governor of Nagaland is pleased to appoint the following person as Deputy Superintendent of Police, Nagaland in the scale of pay of Rs. 200- 20- 300- EB- 20- 400- EB- 25- 600/- per month on purely temporary basis, with effect from the date shown against their names, until further orders :-

<u>Name of persons .</u>	<u>Dates of appointment.</u>
i) Shri Shurhlu	12.11.1964 forenoon
ii) Shri S. Imsumeren Ao	17.11.1964 forenoon

Sd/- H. Zopiang, Secretary to the Govt of Nagaland, Home Deptt.

No. 27/ APA/12/64 Dated Kohima, the 23rd November, 1964
 Copy to :-

1. The Accountant General, Assam & Nagaland, Shillong. A copy of each of the charge reports of the two officers are enclosed for necessary action. He is requested to authorised pay and allowances to the Officers at an early date under intimation to this Govt. The appointment has been made against the posts sanctioned vide this Govt's No. 22/ APA/ 16/64, dated 28th September, 1964, about re-organisation of Civil Police in Nagaland.
2. The Secretary to the Governor of Nagaland, Shillong.
3. The Secretary to the Govt of Nagaland, Finance Deptt., Kohima.
4. The Treasury Officer, Kohima, with a copy of each of the charge report of the two officers for necessary action.
5. The Superintendent of Police, Kohima.
6. The Superintendent of Police, Mokokchung.
7. The Commandant, 1st Nagaland Armed Police Battalion, Nichug.
8. Sarvashri Shurhlu/S. Imsumeren Ao, C/O Supdt of Police, Kohima.
9. The Publisher, Nagaland Gazette, Kohima for publication in the next issue of Gazette. He is requested to forward a copy of the gazette to all concerned and to supply to 10 copies to this Deptt.

Sd/- H. Zopiang,
 Secy. to the Govt of Nagaland, Home Deptt.
 Order Book/No. 27/ APA/5/64 /No. 14/6-POL/63 No. 27/ APA/46, No. 5/57
 POL/62/Personal Files of the Officers/10 Spare copies.

Acting
 Secy.
 to the
 Govt of
 Nagaland

ANNEXURE - I (A)

GOVT OF NAGALAND,
HOME DEPARTMENT: POLICE BRANCH

NOTIFICATION

Dated Kohima, the 6th Feb/86.

NO. POL-1/Ett/18/82 : The Governor of Nagaland is pleased to promote Shri Imsumeren AO, Commandant 2nd B.NAP to the grade of Deputy Inspector General of Police (Class I Gazetteed) in the scale of Rs. 1810-80-2370-EB-11-2770/- P.M. plus Inner-line compensatory Allowances @ 25% of basic pay and all other allowances as per admissible under the rules in force from time to time with effect from 1.2.86.

2. The promotion of Shri Imsumeren AO as DIG(Border) is subject to regularisation by the Departmental Promotion Committee.
3. In the interest of Public Service Shri Imsumeren AO is posted as Deputy Inspector General of Police (Border with HQ at Dimapur against the existing vacancy.

Sd/- H. Mongumer,
Chief Secretary,

NO. POL-1/Ett/18/82 : Dated Kohima, the 6th Feb/86.

Copy to :-

1. The Accountant General, Nagaland, Kohima.
2. The Commissioner, Nagaland, Kohima.
3. The Inspector General of Police, Nagaland, Kohima.
4. The Special Secy. to the Governor of Nagaland Raj Bhavan, Kohima.
5. The Secretary to the Chief Minister, Nagaland, Kohima.
6. P. S. to all Minister/Minister of State.
7. P. S. to Chief Secretary, Nagaland, Kohima.
8. All Commandants/Supdts. of Police of all the Nagaland.
9. Officer concerned.
10. The Publisher, Nagaland Gazette, Kohima.
11. The personal file of the officer concerned.
12. Guard file.

Sd/- Kerisal,
Dy. Secy. to the Govt of Nagaland.

Attn: (W)
Forver
Recd.

Annexure - II

5

GOVERNMENT OF NAGALAND
 HOME DEPARTMENT
 APPOINTMENT 'A' BRANCH

• • •

NOTIFICATION

Dated Kohima, the 23 the November, 1964.

NO. 27/ APA/ 46/64 : The Governor of Nagaland is pleased to appoint Shri Vipose Zao, as Assistant Commandant, Nagaland Armed Police Battalion in the scale of pay of Rs. 200- 20- 300 - EB- 20- 400- EB- 25- 600/- plus special pay Rs. 75/- per month, on purely temporary basis, with effect from the date shown against his name, until ~~further~~ further orders : -

Name of personDate of appointment

1. Shri Vipose Zao,

16. 11. 1964 forenoon

Sd/- H. Zopiang,

Secretary to the Govt. of Nagal
 Home Department.

• • •

NO. 27/ APA/ 46/64 : Dated Kohima, the 23rd November, 1964.

Copy to :-

1. The Accountant General, Assam & Nagaland, Shillong. A copy of the charge report of the officer is enclosed for necessary action. He is requested to authorise pay and allowances to the Officer at an early date, under intimation to this Government. The appointment has been made against the posts sanctioned vide this Government's No. 3/8- ADM/63, dated 12th June, 1964, about Two Nagaland Armed Police Battalions.
2. The Secretary to the Governor of Nagaland, Shillong.
3. The Secretary to the Government of Nagaland, Finance Department, Kohima.
4. The Treasury Officer, Kohima, with a copy of the charge report of the Officer for necessary action.
5. Shri Vipose Zao, C/O. Commandant, 1st Nagaland Armed Police Battalion, Nichuguard.

*Attested
 for me
 Sd/-*

contd... 2.

6. The Commandant, 1st Nagaland Armed Police Battalion, Nichuguard (Camp Kohim).
7. The Superintendent of Police, Kohima.
8. The Superintendent of Police, Makokchung.
9. The Deputy Commandant, 2nd Nagaland Armed Police Battalion, Makokchung.
10. The Publisher, Nagaland Gazette, Kohima, for publication in the next issue of the Gazette. He is requested to forward a copy to all concerned and to supply 10 copies to this Department.

Sd/-

(H. Zophanga),
Secretary to the Govt. of Nagaland
Home Deptt.

Order Book No. 27/ APA/ 5/ 64/ No. 14/ 6-POL/ 63/ NO. 27 APA/ 12/ 64/
No. 5/ 57-POL/ 62/ Personal file of the Officer/ 10 spare copies.

.....

*Present
Selvi.*

Annexure-II(A)

GOVERNMENT OF NAGALAND,
HOME DEPARTMENT.
Police Branch

....

NOTIFICATION

Dated Kohima, the 7th Oct./87.

No. POL-1/Estt/48/82-83 : The Governor of Nagaland is pleased to promote temporarily Shri V. Zao, a member of the Nagaland Police Service and at present, Superintendent of Police (Narcotic Cell) to Officiate as Deputy Inspector General of Police in the scale of pay of Rs. 1810-80-23-2370-EB-100/₂ - 2770/- P.M. plus Interim Compensatory Allowance @ 25% of basic pay and all other allowances as are admissible under the rules from time to time with immediate effect.

2. The temporary promotion is subject to regularisation by the Departmental Promotion Committee.
3. In the interest of Public Service, Shri V. Zao is posted as DIG (Range), Nagaland, Kohima.

Sd/- T.C.K. Lotha,
Home Commissioner & Special Secretary
to the Govt. of Nagaland.

....

No. POL-1/Estt/48/82-83 :: Dated Kohima, the 7th October/87.

Copy to :-

*Attn: A.P. General
A.C.U.*

1. The Accountant General, Nagaland, Kohima.
2. The Director General of Police, Nagaland, Kohima.
3. The Commissioner, Nagaland, Kohima.
4. The Special Secretary to the Governor of Nagaland, Nagaland, Kohima.
5. The Special Secretary to the Chief Minister, Nagaland, Kohima.
6. All P.S. to Ministers/Ministers of State.
7. P.S. to Chief Secretary.

contd... Annexure-II(A)

- 2 -

8. All the Commandants/Superintendents of Police of the Nagaland ~~Police~~ Police.
9. All the Commissioners/Special Secretaries/Secretaries to the Government of Nagaland.
10. All the Deputy Commissioners.
11. Officer concerned.
12. Shri M. Sitalhou, DIG. He is requested to hand over charge of DIG(Range) to Shri V. Zao as above.
13. The Publisher, Nagaland Gazette, Kohima for publication in the next issue of the Gazette.
14. Personal file of the Officer concerned.
15. The Guard file.

S/-

(T. C. K. Lotha) 7/x

Home Commissioner & Sp. Secret
to the Govt. of NagalandForwarded
Sd/-

ANNEXURE - III

52

GOVERNMENT OF NAGALAND
HOME DEPARMENT: : : : POLICE BEARUENo. Pol- 1/12/ IGP/70
Dated Kohima, the Aug/72.NOTIFICATION

The Governor of Nagaland is pleased to appoint temporarily the undermentioned persons as Deputy Superintendent of Police/Asstt. Commandant in the Nagaland Police Department in the scale of pay of Rs. 330-30-480-EB-30-630-EB-30-780-EB-35-990/- per month plus innerline special pay @ 20% of basic pay subject to a minimum of Rs. 80/- and maximum of Rs. 160/- per month and all other allowances as are admissible under rules from time to time with effect from the date shown against them and to post them as follows :-

<u>Name</u>	<u>Date of joining</u>	<u>Unit where posted</u>
1. Sri Chomome Kikon	15.6.72 (FN)	2nd NAP Bn. Aliche
2. Sri Nawab Imdal Hussain	6.7.72 (FN)	5th NAP, Bn. Wokha
3. Sri vikobinyu Paseyia	3.7.72 (FN)	5th NAP, Bn. Wokha
4. Sri Talu Jamir	12.7.72 (FN)	5 th NAP, Bn. Wokha
5. Sri Lanumeren Ap	19.6.72 (FN)	2nd NAP, Bn. Aliche

2. In the interest of public service, the above senior officers are allowed to assume charge at Kohima.

Sd/- T.C. Lotha,
Joint Secy. to the Govt of Nagaland
Kohima

No. PCI- 1/12/ IGP/70 Dated Kohima, the 2nd Aug/72

Copy to: 1) The Accountant General, Assam & Nagaland, Shillong
2) The Commandant, 2nd NAP Bn. Alichen,
3) The Inspector General of Police, Nagaland, Kohima
4) The Commandant, 5th NAP, BN, Wokha.
5) Officers concerned.
6) The Publisher, Nagaland Gazette
7) Personal file.
8) Specie copies.

Sd/-
Deputy Secy. to the Govt of Nagaland

Acting
Joint
Secy.

Annexure-III(A)

GOVERNMENT OF NAGALAND
 DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
 (PERSONNEL BRANCH).

NOTIFICATION

No.PAR-A/1/81/1 Dated Kohima ,the 14th August,1981.

The Governor of Nagaland is pleased to promote temporarily subject to regularisation by the Departmental Promotion Committee, the under mentioned Deputy Superintendents of Police, Asstt. Commandant to the grade of Addl. Superintendent of Police, Deputy Commandant in the scale of pay of Rs.1100-50-1300-EB-50-1500/- P.M. plus innerline compensatory allowance @ 20% of basic pay subject to a maximum of Rs.400/- and all other allowances as are admissible under rules from time to time, with immediate effect -

1. Shri Taku Jamir.
2. Shri Lanumaren Ao.
3. Shri V.Pasoeie.

Sd/-A.Shanmugam,
 Secretary to the Govt. of Nagaland.

No.PAR-1/1/81/1 . Dated Kohima, the 14th August/81.

Copy to :-

1. The Accountant General ,Nagaland, Kohima.
2. The Addl.Chief Secretary and Development Commissioner, Nagaland, Kohima.
3. The Home Commissioner and Special Secretary to the Govt.of Nagaland, Kohima.
4. The Commissioner,Nagaland, Kohima.
5. The Inspector General of Police, Nagaland, Kohima.
6. All Spl.Secretaries/Secretaries/Addl.Secretaries/Joint Secretaries to the Govt. of Nagaland, Kohima.
7. The Secretary to the Chief Minister.
8. All Deputy Commissioners/Addl.Deputy Commissioners.
9. The P.S. to all Ministers/Ministers of State.
10. The P.S. to the Chief Secretary.
11. The Publisher,Nagaland Gazette, Kohima for publication in the gazette.
12. The Officers concerned.
13. Promotion file.
14. Personal files of the officers.

Sd/-A.Shanmugam,
 Secretary to the Govt.of Nagaland.

14.8.81.

...

ANNEXURE - IV.GOVERNMENT OF NAGALAND
HOME DEPARTMENT :: POLICE BRANCH

No. POL-1/12/IGP/70

Dated Kohima, the NOV. 1974.

NOTIFICATION

On recommendation of the Nagaland Public Service Commission, the Governor of Nagaland is pleased to appoint temporarily the undermentioned persons as Deputy Superintendent of Police/Assistant Commandant in the Nagaland Police Department in the scale of pay of Rs. 330-30-480-EB-30-630-EB-30-780-EB-35-990/- per month plus innerline special pay @ 20% of basic pay subject to a minimum of Rs. 80/- and maximum of Rs. 160/- per month and all other allowances as are admissible under rules from time to time with effect from the date shown against them and to post them as follows :-

<u>Name</u>	<u>Date of joining</u>	<u>Unit where posted</u>
1. Sri H. K. Rengma	1.8.74 (FN)	1st NAP
2. Sri S. Nihoto Achumi	1.8.74 (FN)	1st NAP
3. Sri Narions Yanthen	2.8.74 (FN)	1st NAP
4. Sri Vilhousielic Angami	1.8.74 (FN)	2nd NAP
5. Sri Kethousithie Kire	31.7.74 (FN)	3rd NAP
6. Sri M. Obanglamba Ap	1.8.74 (FN)	3rd NAP
7. Sri Zanbemo Lotha	1.8.74 (FN)	4th NAP
8. Sri D. K. Mitra	10.8.74 (FN)	4th NAP
9. Sri Chandra Prakesh Giri	1.8.74	SP/SB

*Acting
Government
Secy.*
sd/- Z Obed
Secy. to the Govt of Nagaland

Memo No. POL-1/12/IGP-70 Dt. the 4th November, 1974

Copy to:-

1 to 11

sd/- R.L.Jamir,

Dy. Secy. to the Govt of Nagaland.

ANNEXURE - V

Government of Nagaland
Home Department ;; Police Branch

No. POL-1/12/IGP/70 Dated Kohima, the Nov/1974.

NOTIFICATION

On recommendation of the Nagaland Public Service commission, the Governor of Nagaland is pleased to appoint temporarily the undermentioned persons as Deputy Superintendent of Police/Assistant Commandant in the Nagaland ~~and~~ Police Department in the scale of pay of Rs. 330-30-480-EB-30-630-EB-780-EB-30-990/- per month plus interline special pa @ 20% of basic pay subject to a maximum of Rs. 80/- and maximum of Rs. 160/- per month and all other allowances as are admissible under rules from time to time with effect from the date shown against them and to post them as follows :-

<u>Name</u>	<u>Date of joining</u>	<u>Unit where posted</u>
1. Sri H.K.Rengma	1.8.74 (FN)	1st NAP
2. Sri S.Nihoto Achumi	1.8.74 (FN)	1st NAP
3. Sri Narions Yanthen	2.8.74 (FN)	1st NAP
4. Sri Vilhousielic Angami	1.8.74 (FN)	2nd NAP
5. Sri Kethousithie Kire	31.7.74 (FN)	3rd NAP
6. Sri M.Obamglemba AO	1.8.74 (FN)	3rd NAP
7. Sri Zanbemo Lotha	1.8.74 (FN)	4th NAP
8. Sri D.K.Mitra	10.8.74 (FN)	4th NAP
9. Sri Chandra Prakesh Giri	1.8.74	SP/ SB

Sd/- Z. Obed
Secy. to the Govt of Nagaland

Memo No. POL-1/12/IGP-70 Dt. the 4th November, 1974

Copy to:

1 to 11

Sd/- R.L.Jamir,

Dy. Secy. to the Govt of Nagaland

Revised
Document
Recd.

ANNEXURE - VI

GOVERNMENT OF NAGALAND
HOME DEPARTMENT: POLICE BRANCH

NO. POL-1/12/IGP/70 Dated Kohima the Nov/1974

NOTIFICATION

On recommendation of the Nagaland Public Service Commission, the Governor of Nagaland is pleased to appoint temporarily the undermentioned persons as Deputy Superintendent of police/Assistant Commandant in the Nagaland police Department in the scale of pay of Rs. 330-30-480-EB-30-630-EB-30-780-EB-30-990/- per month plus interline special pay @ 20% of basic pay subject to a minimum of Rs. 80/- and maximum of Rs. 160/- per month and all other allowances as are admissible under rules from time to time with effect from the date shown against them and to post them as follows :-

<u>Name</u>	<u>Date of joining</u>	<u>Unit where posted</u>
1. Sri H. K. Rengma	1.8.74 (FN)	1st NAP
2. Sri S. Nihoto Achumi	1.8.74 (FN)	1st NAP
3. Sri Narions Yanthen	2.8.74 (FN)	1st NAP
4. Sri Vilhousielic Angami	1.8.74 (FN)	2nd NAP
5. Sri Kethousithie Kire	31.7.74 (FN)	3rd NAP
6. Sri M. Obamglemba Ao	1.8.74 (FN)	3rd NAP
7. Sri Zanbemo Lotha	1.8.74 (FN)	4th NAP
8. Sri D. K. Mitra	10.8.74 (FN)	4th NAP
9. Sri Chandra Prakesh Giri	1.8.74	SP/SB.

*Accepted
S. Nihoto Achumi
R.D.*
Sd/- Z.Obed
Secy. to the Govt of Nagaland

Memo No. POL-1/12/IGP-70 Dt. the 4th November, 1974

copy to:

1 to 11

Sd/- R.L.Jamir,
Dy. Secy. to the Govt of Nagaland.

No. 16/69/76- IPS
 Government of India/Bharat Sarkar,
 Ministry of Home Affairs/Grih Mantralya

New Delhi, the 10.12.87

To :- The Chief Secretary,
 Government of Nagaland,
 Kohima.

Sub :- Scheme for the initial constitution of the Indian Police Service Cadre of Nagaland.

Sir,

In continuation of this Ministry's Teleprinter Message of even number dated 31.10.85, I am directed to convey the approval of the Central Government to the scheme for the initial constitution of Indian Police Service Cadre of Nagaland (copy enclosed) which has been finalised in consultation with the Government of Nagaland.

2. So far as the process of selection of the eligible officers for consideration for appointment to the IPS at the initial constitution is concerned, it is requested that particulars of all eligible officers and their up-to-date character rolls may please be sent to U.P.S.C under intimation to this Ministry at an early date for necessary action as required under Section II of the scheme.

Yours faithfully,
 (Sd/- N. S. Sharma)
 Under Secretary to the Govt. of India

No. 16/69/76- IPS :: Dated the 10.12.87

Copy with five spare copies of the scheme for the initial constitution of IPS Cadre of Nagaland forwarded for information to the Secretary, UPSC, Dhoopur House, New Delhi

2. Department of Personnel & Training, AIS. I/AIS. II/AIS. III Section alongwith a copy of the scheme.

Sd/- N. S. Sharma,
 Under Secretary to the Govt. of India
 25 spare copies of the enclosure for section.

ACK & SW
 J. S. Sharma
 Delw.

SCHEME FOR THE INITIAL CONSTITUTION OF THE INDIAN POLICE SERVICE CADRE OF NAGALAND

....

SECTION 1 :: INSTODUCTION:

The India Police Service cadre for the State of Nagaland shall be constituted with effect from the 1st March, 1986. The cadre schedule as at Appendix I has been incorporated in the Schedule to the Indian Police Service (Fixation of Cadre Strength) Regulation, 1955.

SECTION II : INITIAL CONSTITUTION OF THE CADRE:

The initial constitution of the Cadre shall be by appointment by the Central Government of Officers of the Cadre through selection of members of the State Police holding Class I posts who are atleast substantive in a post of Dy. S.P. and who have completed not less than 6 years of service (whether officiating or substantive) in a post of Deputy Superintendent of Police.

NOTE I :

The cases of all the Officers mentioned above shall be considered by a Selection Committee set up for the purpose under the Chairmanship of the Chairman or a Member of the Union Public Commission. The committee shall prepare, in order of preference a list of such officers who are adjudged by it suitable for appointment to the Service. The recommendations of the Committee shall be referred to the Union Public Service Commission for approval. Only such of the officers as are finally approved by the Commission shall be appointed by the Central Govt to the Indian Police Service subject to availability of vacancies in the State Cadre.

NOTE: II:

In the event of any of the police officers of the State Police Service Class I not being selected for appointment to the Indian Police Service, the posts held by them on a regular basis which are proposed to be included in the Indian Police Service Cadre shall be deemed to be excluded from the Indian Police Service Cadre of Nagaland no long as the posts are held by them. Such ex-cadre posts will be retained by the Government of Nagaland until their holders waste out.

SECTION:: III

Any post in the Cadre remaining ~~w~~ unfilled after appointment of Officers by the method indicated in Section II shall be filled in accordance with the provision contained in Section IV of this Scheme.

SECTION IV RECRUITMENT AFTER THE INITIAL CONSTITUTION:

Recruitment to the Indian Police Service after the Initial constitution of the Cadre shall be in accordance with the Indian Police Service (Recruitment) Rules, 1954.

SECTION V: TRAINING:

Candidates selected to the Indian Police Service by method indicated in Section II may be required to attend refresher course or they may be attached anywhere for training for a period as may be specified by the Central Government.

SECTION VI : CONDITIONS OF SERVICE:

The Condition of Service of all persons appointed to the Indian Police Service shall be the ~~xx~~ same as specified in the Rules/Regulations framed under the All India Services Act, 1951 as in force from time to time.

SECTION VII:: SENIORITY:

(a) The year of allotment of Officers selected at the initial constitution shall be determined adhoc by the Central Government on the recommendations of the State Govt and in consultation with the Union Public Service Commission having due regard to the length of service and the responsibilities of posts as reflected in pay or nature of duties or both, provided that the year of allotment of an officer so arrived at shall be limited to the year to which his immediate senior in the Nagaland State Police Service, who is selected

*Janardan
Sahu*

selected to the Indian Police Service Cadre of Nagaland, at its initial constitution, obtained.

(b) Officers appointed to the Indian Police Service after the initial constitution in accordance with section IV of this Scheme shall have their seniority determined in accordance with the provisions of the Indian Police Service (Regulation of Seniority) Rules, 1954.

SECTION VIII: PAY:

The pay of the Officers selected at the initial constitution shall be fixed in the junior or senior scale of pay in accordance with such principles as the Central Government, may in consultation with the State Government determined.

SECTION IX: TRANSITIONAL ARRANGEMENTS:

Till such time as the Indian Police Service Cadre of Nagaland is able to provide the suitable Officers, the post of Inspector General of Police and one post of Deputy Inspector General of Police may be filled by deputation of members of the IPS from other Cadres/joint Cadres in terms of Rules 6 of the Indian Police Service (Cadre) Rules, 1954. Other vacancies may be filled by allowing State Police Service Officers to officiate in the cadre posts.

SECTION X : AMENDMENT TO THE INDIAN POLICE SERVICE (RECRUITMENT) RULES 1954 ETC. CONSEQUENT UPON THE CONSTITUTION OF THE CADRE.

Govt. of India
The Indian Police Service (Recruitment) Rules, 1954, the Indian Police Service (Regulation of Seniority) Rules, 1954, and the Indian Police Service (Pay) Rules, 1954, on the constitution of the Indian Police Service Cadre of Nagaland are being amended on the lines indicated in Appendix - II .

AMMENDMENT PROPOSED TO BE MADE TO THE IPS(RECRUITMENT) RULES, 1954, IPS(RECRUITMENT REGULATION OF SENIORITY) RULES, 1954 AND THE IPS (PAY) RULES, 1954, ON THE CONSTITUTION OF THE INDIAN POLICE SERVICE CADRE OF NAGALAND:

INDIAN POLICE SERVICE (RECRUITMENT) RULES, 1954:

After sub-rule(s) of the Rules 4 of the Rules, the following sub-rule shall be added, namely :-

"(6). Notwithstanding anything herein before contained in this Rule in relation to the State of Nagaland, recruitment to the State Cadre on its initial constitution shall be made by such method, as the Central Government may, after consultation with the State Government and the Commission Prescribe.".

INDIAN POLICE SERVICE (REGULATION OF SENIORITY) RULES, 1954:

After Rule 5-D, the following rules shall be added, namely

"5-E seniority of Officers appointed to the service at the initial constitution of the Cadre of Nagaland.

Notwithstanding anything contained in these rules in relation to the State of Nagaland, the year of allotment and the seniority of officers appointed to the Service at the time of the initial constitution of the State Cadre shall be determined by the Central Government in the following manner :-

The year of allotment of officers appointed through selection from amongst the substantive members of the Nagaland State Police Service shall be determined ad-hoc in consultation with the UPSC and the State Government after taking into account the length of service and responsibilities of posts held by the officers as reflected in pay or nature of duties on both, provided

*Parivart
Sect.*

that the year of allotment of an officer so arrived at shall be limited to the year to which his immediate senior in the Nagaland State Police Service, who is selected to the Indian Police Service Cadre of Nagaland, at its initial constitution, obtains.

INDIAN POLICE SERVICE (PAY) RULES, 1954:

After Rule 10-E, the following Rules shall be added namely :-

STATEMENT SHOWING THE PROPOSED STRANCH FOR THE FORMATION OF AN IPS CADRE IN THE STATE OF NAGALAND.

1. Senior posts under the State Government ...	22
Inspector General of Police	1
Deputy Inspector General of Police	4
Assistant Inspector General of Police ..	3
Superintendent of Police (DEF) ..	8
Commandants (ANP Battalions) ...	4
Additional Superintendent of police ...	2
	22
2. Senior posts under the Central Government..	9
3. Posts to be filled by promotion in accordance with rule 9 of the IPS (Recruitment) Rules, 1954 (33% of 1 and 2 above)	10
4. Posts to be filled by direct recruitment (1 and 2 minus 3 above) ..	21
5. Deputation reserve (20% of 4 above) ..	4
6. Leave reserve (5% of 4 above)	1
7. Junior posts (20.5% of 4 above) ..	4
8. Training reserve(10.59% of 4 above) ..	2
Total direct recruitment	32
Promotion posts	10
Total authorised strength	42.

*Janardan
Sohoni*

"10-F) Fixation of pay and scales of pay of Officers appointee to the IPS on the initial constitution in the State of Nagaland .

Notwithstanding anything contained in these Rules in relation to the State of Nagaland, the pay of Officers appointed to the Indian Police Service at the time of initial constitution of the State Cadre shall be fixed in the junior or senior scales of pay in accordance with such principles as the Central Government in consultation with the State Government determine."

....

*forward
polv.*

TO BE PUBLISHED IN THE GAZETTE OF INDIAN EXTRAORDINARY PART II
SECTION 3 SUB-SECTION (i) DATED 27th JULY/80

No. 14014/40/88-AIS(I)
Government of India
Ministry of Personnel,
Public Grievances & Pensions
(Department of personnel & Training)

New Delhi, the 27th July, 1988.

NOTIFICATION

GSE No. B15(E): In exercise of the powers conferred by Sub - Section (i) of section 3 of the All India Service Act, 1951 (61 of 1951), the Central Government, after consultation with the Governments of State concerned, hereby makes the following rules, namely :-

1. Short title and commencement:- (1) These rules may be called Indian Police Service (Regulation of Seniority) Rules, 1988.

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

2. Definitions:- In these rules, unless the context otherwise requires:

(a) 'Cadre' means the Indian Police Service Cadre constituted in accordance with rule 3 of the cadre Rules.

(b) 'Cadre Rules' means the Indian Police Service (Cadre) Rules, 1954.

(c) 'Cadre Schedule' means the Schedule to the Indian Police Service (Fixation of Cadre Strength) Regulation, 1955.

*Attn: Govt. Secy.
Govt. Secy.*

(d) 'Commission' means the Union Public Service Commission.

(e) 'Competitive Examination' means the examination referred to in rule 7 of the Recruitment Rules.

(f) 'direct recruit officer' means an officer appointed to the service through a competitive examination in accordance with rules 7 of the Recruitment Rules.

(g) 'gradation list' means the gradation list prepared under rule 5 of these rules.

(h) 'Officer' means a member of the Service.

(i) 'Promotee officer' means an officer appointed to the service in accordance with the provision of the Indian Police Service (Appointment by promotion) Regulation, 1955.

(j) 'Recruitment Rules' means the Indian Police Service (Recruitment) Rules, 1954.

(k) 'Select list' means the select list prepared in accordance with the Indian Police Service (Appointment by promotion) Regulation, 1955.

(l) 'Service' means the Indian Police Service.

(m) 'State Cadre' and 'Joint Cadre' have the meanings respectively assigned to them in the cadre Rules.

(n) 'State Government concerned' in relation to Joint Cadre, means the Joint Cadre Authority.

3. Assignment of year of allotment:- (i) Every officer shall be assigned a year of allotment in accordance with the provisions hereinafter contained in these rules.

(2) The year of allotment of an officer in service at the commencement of these rules shall be the same as

has been assigned to him or may be assigned to him by the Central Government in accordance with the rules, orders and instructions in force immediately before the commencement of these rules.

(3) The year of allotment of an officer appointed to the service after the commencement of these rules shall be as follows :-

(i) The year of allotment of direct recruit officer shall be the year following the year in which the competitive examination was held.

Provided that, in the case of exempted probationers as defined in clause (e) of rule 2 the I.P.S. (Probation) Rules, 1954, and direct recruit officers, who are permitted to join probationary training under sub-rule(1) of rule 5 of the IPS (Probation) Rules, 1954, with the direct recruit Officers of a subsequent year of allotment they shall be assigned that subsequent year as the year of allotment.

(ii) The year of allotment of a promoted officer shall be determined in the following manner :-

(a) For the service rendered by him in the State police Service upto twelve years, in the rank not below that of a Deputy Superintendent of Police or equivalent, he shall be given a weightage of four years towards fixation of the year of allotment.

~~Annexure~~

x2

(b) he shall also be given a weightage of one year for every completed three years of service beyond the period of twelve years, referred to in sub-clause (a) subject to a maximum weightage of five years. In this calculation fractions are to be ignored.

(c) the weightage mentioned in sub-clause (b), shall be calculated with effect from the year in which the officer is appointed to the service.

Provided that he shall not be assigned a year of allotment earlier than the year of allotment assigned to an officer senior to him in that select list or appointed to the service on the basis of an earlier select list.

4. Inter-se-seniority of the officers :- The inter-se-seniority of the officers who are assigned the same year of allotment shall be in the following order and in each category the inter-se-seniority shall be determined in the following manner :-

(i) direct recruited officers shall be ranked inter-se-in the order of merit as determined in accordance with rule 10 of the Indian Police Service (Probation) Rules, 1954.

(ii) Promotee officers shall be ranked inter-se-in the order of their dates of appointment to the Service.

Provided that if the date of appointment of more than one officer is the same, their inter-se-

*Annexure
Rule*

seniority shall be in the order in which their names are arranged in the Select list on the date of appointment to the Service.

5. Gradation list:- There shall be prepared every year for each State Cadre and Joint Cadre a gradation list consisting of the names of all officers borne on that cadre arranged in order of seniority.

6. Fixation of the seniority of officers transferred to another cadre :

i) If a direct recruit officer is transferred from one cadre to another in Public interest, his year of allotment shall remain unchanged and his inter-se-position among the direct recruit having the same year of allotment in the cadre to which he is transferred shall remain the same as determined in accordance with rules 10, of the Indian Police Service (Probation) Rules, 1954.

2) If a promotee officer is transferred from one cadre to another in public interest, his year of allotment shall remain unchanged and he shall be ranked inter-se-with promotee officers having the same year of allotment in the cadre to which he is transferred with reference to the date on the basis of which he was assigned the year of allotment under these rules.

3) If an officer is transferred from one cadre to another at his request, he shall be assigned a position in the gradation list of the cadre to which he is transferred below all the officers of his category borne on that cadre who have the same year of allotment.

Provided that in the case of a direct recruitment officer transferred from one cadre to another at his request, his seniority in the list prepared under rule 10 of the Indian Police Service (Probation) Rules, 1954 shall remain unaffected for the purpose of the said list.

7. Interpretation:- If any question arises as to the interpretation of these rules it shall be referred to the Central Government for decision.

8. Repeal and Saving:- (1) The Indian Police Service (Regulation of Seniority) Rules, 1954 and all other rules corresponding to the said rules in force immediately before the commencement of these rules are hereby repealed.

(2) The seniority of the officers appointed to the service prior to the coming into force of these rules shall be determined in accordance with the Indian Police Service (Regulation of seniority) Rules, 1954 in force on the date of their appointment to the service.

Provided that any order made or action taken under the service so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

Janardhan
Sd/- O.P. Bagchi,
Joint Secretary to the Govt of India,

TO: The Manager
Govt of India Press,
New Delhi,

~~SECRET~~ ~~Annex~~

- 7 -

F. No. 14014/40/88-AIS(I) New Delhi, the July, 1988

1. The Chief Secretary to the State Govt. and Union Territories.
2. The Secretary, Union Public Service Commission, New Delhi (with 10 spare copies).
3. Lok Sabha Secretariats (Committee Branch).
4. Rajya Sabha Secretariat (Committee Branch).
5. The Comptroller & Auditor General of India (with 5 spare copies).
6. Ministry of Home Affairs (UIS Section) (50 copies).
7. Ministry of Home Affairs (IPS Section) 100 Copies.
8. All the Accountants Generals.
9. Director of Audit, Central Revenue, New Delhi.
10. Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie.
11. Cabinet Secretary, New Delhi.

Sd/- D.P. Bagchi,
Joint Secretary to the Govt of India
200 spare copies.

*General
Sd/-*

TO BE PUBLISHED IN THE GAZETTE OF INDIA: PART-I SECTION 2

No. 1-140-11/12/88-IPS-1
Govt. of India/ Bharat Sarkar
Ministry of Home Affairs/Grih Mantralya

New Delhi, the 18th January, 1989

NOTIFICATION

Under Sub-Rule (6) of Rule 4 of the Indian Police Service(Recruitment) Rules, 1954 read with Note-I to Section II of the Scheme for the initial constitution of the Indian Police Service Cadre of Nagaland, the President is pleased to appoint the following 22 State Police Service Officers to the Indian Police Service from 1st March, 1986.

1. Sri R. S. Jamir
2. Sri Nungshiliba Ao
3. Sri Mangkholen Sitlhu
4. Sri Lukhei Sema
5. Sri H. Hesso Mao
6. Sri Amrit Lal Matha
7. Sri S. ~~and~~ Akanglemba Jamir
8. Sri T. M. Wati
9. Sri Jangtauleng Changkiji
10. Sri N. N. Walling
11. Sri N. Aponochet Ao
12. Sri M. B. Kar
13. Sri Chomomo Kikon
14. Sri Taku Jamir
15. Sri S. R. Dasgupta
16. Sri C. P. Giri
17. Sri Kalhousithia Kire
18. Sri Imkonglemba Jamir
19. Sri H. K. Rangma
20. Sri M. ~~and~~anglemba Ao
21. Sri G. K. Rangma
22. Sri J. Bendangtoshi Ao

Sd/- B. M. Arora
Under Secy. to the Govt of India,

TO: The Manager,
Govt of India Press.

Govt. of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi-110 001, the 14th March/90

NOTIFICATION

In exercise of the powers conferred by sub-rule(1) of rule 9 of the Indian Police Service (Recruitment) Rules, 1954 read with sub-regulation (1) of regulation 9 of the Indian Police Service (Appointment by Promotion) Regulations, 1955, the president is pleased to appoint the following members of Nagaland police Service to the Indian Police Service on probation, and to allocate them to the cadre of Nagaland under sub-Rule (I) of Rule 5 of the ~~make of~~ IPS(Cadre) Rules, 1954. The appoint will take effect from the date of issue of the Notification.

<u>Sl. No.</u>	<u>Name of Officer</u>	<u>Date of birth</u>
1.	S/ Shri S. R. Choudhury	1. 1. 1935
2.	Keviale Angami	1. 4. 1940
3.	G. Rengma	5. 2. 1942
4.	M. V. Chakhesang	1. 12. 1949
5.	S. Imsuremen Ao.	1. 5. 1935
6.	V. Zao	4. 4. 1938
7.	Lanumeren Ao	1. 3. 1944
8.	Zambemo Lotha	1. 3. 1950
9.	M. Yanthan	1. 12. 1946
10.	S. N. Achumi	1. 11. 1951
11.	N. N. Ngullie	1. 3. 1950
12.	L. T. Lotha	21. 2. 1952
13.	S. T. Sangtam	1. 3. 1953
14.	Burkimzuk Ao	1. 8. 1950

Sd/- T. C. Chowdhry
Under Secy to the Govt of India

NO. I-14013/2/90-IPS-I Dated the 14th March, 1990

A copy of each is forwarded to:

1. The Chief Secretary to the Govt of Nagaland, Kohima with reference to their letter No. POL-I/Estdt/10/vol-I dated 7.3.90 with 14 spare copies for officers concerned .
2. The Account General, Nagaland, Kohima
3. The DG & IPS, Nagaland, Kohima
4. The Secretary, UPSC, New Delhi
5. 15 spare copies.

Sd/- T. C. Chowdhry
Under Secy. to the Govt. of India.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUJAHATI BENCH

Date of decision : This the 1st day of August, 1994.

D.A. No. 143 of 1990

Shri Imsumeren Ao Appellant

- Vs -

Union of India & others ... Respondents

D.A. No. 144 of 1990

Shri Vipose Zao ... Appellant

- Vs -

Union of India & others Respondents

D.A. No. 145 of 1990

Shri Lanumeren Ao ... Appellant

- Vs -

Union of India & others Respondents

D.A. No. 147 of 1990

Shri M. Yanthan Applicant

- Vs -

Union of India & others Respondents

D.A. No. 148 of 1990

Shri Zambemo Lotha Applicant

- Vs -

Union of India & others Respondents

D.A. No. 161 of 1990

Shri S.N. Achumi ... Applicant

- Vs -

Union of India & others ... Respondents.

*See also
 General
 List*

- 2 -

Advocate for the applicant : Shri G.K.Bhattacharjee ,
Shri G.N. Das & Shri R.S.Bedi

Advocate for the respondents: Shri P. Khataniar, Sr. Govt
Advocate, Nagaland, Shri C.T.
Jamir, Govt Advocate, Nagaland
and Shri G.Sarma, Addl. C.G.S.C.

The Hon'ble Justice Shri S. Haque, Vice Chairman,
The Hon'ble Shri G.L. Sanglyine, Member (Administrative)

HAQUE.J.

The applicants of these six cases are Indian
Police Service (IPS) Cadre Officers of Nagaland. They
have common cause of action and seeking common reliefs
Therefore, these six cases are heard analogously for
disposal by a common judgment.

2. The applicants have filed this case under Section 19
of the Administrative Tribunals Act, 1965 praying for
directions on the respondents No. 1 to 4 to grant
seniority to each of the applicants in the IPS Cadre of
Nagaland over the private respondents of their respective
cases by fixing year of allotment over the private
respondents.

3. The six applicants and the 22 private respondents
were officers of the Nagaland Police Service in the year
1986-87. Admittedly, each of the applicants was senior in
service to the private respondents of their respective
cases. The applicants of O.A. No. 143/90, and C.A. No. 144/90
namely, Shri S. Imsumeren Ao and Shri Vipose Zao were
serving as Deputy Inspector General of Police (D.I.G) in
1986-87 and are still serving in that rank under the orders

~~Exhibit~~

- 3 -

of the Tribunal. The applicants of the other four cases namely, Shri Lanumeren Ao, Shri M. Yanthan, Shri Zanbemo Lotha and Shri S.N. Achumi were serving in the rank of Superintendent of Police (SP) in 1986-87 and are still serving in that rank under the orders of the Tribunal. Admittedly, most of the private respondents were then serving as Deputy Superintendent of Police (SDP) under the applicants.

4. The IPS Cadre for the State of Nagaland was constituted with effect from 1st March 1986 (1.3.1986) and the Government of India, Ministry of Home had approved the scheme for initial constitution of the IPS Cadre of Nagaland in consultation with the Government of Nagaland.

5. The first meeting of the Selection Committee for the initial selection was held in New Delhi on 28.12.1988 for preparing a list of officers of the Nagaland Police Service for appointment to the IPS of Nagaland Cadre. The Selection Committee considered the records of 35 officers who had completed six years of service as DSPs as on 1.1.1986 and prepared the Select list. 22 officers were appointed to IPS including private respondents No. 5 to 22 vide Notification dated 18.1.1989 of the Ministry of Home Affairs. The applicants have alleged that they being senior officers with good service records had not been selected for peculiar procedure adopted by the Selection Committee.

6. The next Selection Committee meeting under Regulation 3 of the IPS (Appointment by promotion) Regulation, 1955 for preparation of Select List was held at

*Janardan
Sarkar*

Kohima on 7.11.1989 and 14 officers including all the six applicants had been selected and they were appointed to IPS vide Notification dated 14.3.1990 of the Ministry of Home Affairs. The private respondents No. 23 to 26 (4 officers) juniors to the applicants were also appointed, but these four junior officers were placed above the applicants.

7. The seniority of the first batch of 22 IPS Cadre officers of Nagaland had been fixed under the provision of Rule 4A of the IPS (Regulation of Seniority) Rules 1983 read with Section VII(a) of the Scheme and they were given year of allotment accordingly. But the seniority of the six applicants had been fixed under the provision of Rule 3 of the IPS (Regulation of Seniority) Rules 1983 as they were appointed after the initial constitution of the cadre and their year of allotment was fixed below the first batch.

8. The grievance of the applicants is that their junior officers became senior to them merely for their selection in the first batch and for the special provision Under Rule 4A of the IPS (Regulation of Seniority) Rules 1983. The applicant stated that it was a hardship on them as their junior officers became senior to them in the IPS Cadre. It was also stated that no suitable provisions was made in the Scheme to protect their seniority after promotion to the IPS and that had caused the hardship.

9. Learned counsel Mr. G.K.Bhattacharjee on behalf of the applicants submitted that the hardship of the applicants can be removed by extending the provision of Rule 4A to them or by relaxing the provision of Rule 3 of the IPS (Regulation of Seniormity) Rules, 1988. Sr. Government Advocate, Nagaland, Mr. P. Khataniar and Addl. C.G.S.C. Mr. G. Sarma submitted that such relief can only be granted by the Central Government if they are satisfied as to the hardship of the applicants. The power to relax the provision of Rules to grant relief to the aggrieved party on ground of hardship rests with the Central Government

10. The private respondents No. 5 to 26 have not contested the case.

11. The applicants had placed their grievances before the Government of Nagaland. The State Government considered their hardship and the Chief Minister, Shri S.C.Jamir took up the cause with the Government of India, Home Minister by his letter O.O.No CMN/10/HOME/90 dated Kohima the 30.4.1990 addressed to the Home Minister, Government of India with a request to fix the year of allotment of the same formula which was adopted in the case of officers appointed at the initial constitution of the Cadre. The next Chief Minister, Shri Vomuzo was also satisfied that hardship was caused to the second batch of officers promoted to IFS and, therefore, pursued the matter by his letter O.O.NO CMN/18/HOME/90 dated Kohima, the 30 July 1990 to the Home Minister, Government of India. It is found that the Government of Nagaland was satisfied

*Learned
P.L.W.*

that hardship was caused to the applicants who were appointed to the IPS in the second batch. Considering the facts and circumstances; we also observe that real hardship was caused to the applicants, but the Central Government is the authority to remove their hardship by fixing their year of allotment by applying the same formula adopted for the officers appointed in the initial constitution of the IPS Cadre. The State Government can approach the Central Government for granting the relief to the applicant, because their hardship will continue so long they are in service. Such relief can only be granted by the Central Government by exercising power under the Rule 3 of the AIS (Condition of Service- Subsidiary Matters) Rules 1960. //

12. We propose to dispose of these case with the following direction :-

Forward

The applicants are required to submit representations jointly or individually before the Central Government through the Government of Nagaland stating their grievance, grounds and relief sought for. In the event of submission of such representation, the state Government (Nagaland) is directed to forward their representation to the Central Government with recommendation to consider it on ground of hardship, within four weeks from the receipt of the representation. It is directed that the Central Government shall consider their case on the basis of the recommendations of the State Government and shall dispose of the

representation with orders within 60(sixty) days from the date of receipt of the representation with recommendation.

13. It is directed that the Government of Nagaland shall not disturb the status and rank of the applicants till a final decision is given by the Central Government in the matter.

This application is disposed of with the above orders and directions.

We make no order as to costs.

Sd/- S. HAQUE
VICE CHAIRMAN.

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

*S. Haque
Sd/-*

TO :-

The Secretary to the Govt. of India,
Ministry of Home Affairs,
New Delhi.

(Through the Chief Secretary to the Government of
Nagaland, Kohima)

Sub :- REPRESENTATION.

Ref :- Order dt. 1/8/94 passed by the Central Administrative
Tribunal, Guwahati Bench, in O.A. 143 of 1990.

Sir,

I would humbly like to place the following before
your goodself for your kind consideration and necessary
action in the matter so that the great injustice done to me
is rectified and I am given an opportunity to serve the
government with zeal and enthusiasm.

1. That, I was initially appointed as a Deputy Supdt. of
Police in Nagaland Police Service vide Government order No.
27/ APA/12/64 dated Kohima, the 23/11/64. Thereafter, in 1971
I was confirmed as a Deputy Supdt. of Police with effect from
1.1.1968 vide Government order No. POL-1/10/IGP/70 dated
November, 1971. I was promoted to the rank of Deputy Commandant
vide Government order No. DEB.6/POL/5/68 dated Kohima
19.8.74 and regularised the service vide Govt. order No. 280
POL-1/IGP/1/76(A) dated Kohima 26.2.1976. Subsequently I was
promoted to the rank of Commandant vide Government order
No. PAR. 4/11/77/PT(II) dated 20.1.78 and also promoted to
the rank of Dy. Inspector General of Police vide Government
order No. POL-1/Estt/18/82 dated Kohima 6.2.1986, and I was
confirmed as a Deputy Commandant with effect from 1.1.1987
vide Government order No. POL-1/Estt/28/82(PT) dated 9.8.1988

*Not as per
dated
order*

2. That the Indian Police Service Cadre for the State of Nagaland was constituted with effect from 1st March, 1986 and the Government of India, Ministry of Home Affairs by their letter No. 16/69/76- IPS dt. 10.12.87, was pleased to approve the scheme for initial constitution of the Indian Police Service Cadre of Nagaland which had been finalised after consultation with the Government of Nagaland.

That Sec-II of the said scheme laid down that the initial constitution of the I.P.S. Cadre would be by appointment of Officers through selection of members of the State Police holding Class-I post who had been substantively appointed in the post of Deputy Supdt. of Police and who had completed not less than 6 years of service in the post.

As per note-1 to the said scheme, the cases of all such officers were to be considered and a list prepared in order of preference of those adjudged suitable by a selection committee set up under the Chairmanship of the Chairman, Union Public Service Commission. Sec-IV of the said scheme laid down that recruitment to the I.P.S. after initial constitution of the cadre would be in accordance with the I.P.S. (Recruitment) Rules, 1954.

General Admin.
Sec-VII of the said scheme relates to seniority and Sec-VII(a) of the said scheme lays down that the year of allotment of the officers selected at the initial constitution would be determined adhoc by the Central Government on the recommendation of the State Government. However, Sec-VII(b) lays down that the Seniority of the officers appointed after the initial constitution would be determined in accordance with the provisions of the I.P.S. (Regulation of Seniority) Rules, 1954, provided that the year of allotment of an officer so arrived at would be

limited to the year to which his senior in the Nagaland State Police Service obtained on being appointed at its initial constitution. A copy of the scheme is annexed herewith and marked as Annexure-I.

3. That the aforesaid provision for fixation of seniority of the officers appointed to the service at the initial constitution of the cadre was inserted ~~in~~ vide DP & T Notification No. 14014/16/86-AIS(I) dt. 27.1.89, as Rule-4 A in the I.P.S. (Regulation of Seniority) Rules, 1988.

Thus, as per the provisions of the Scheme and the Rules, the seniority of the officers appointed to the Service at the initial constitution of the Cadre was to be fixed as per provision of Rule-4 A of the Seniority Rules and the officers appointed after the initial constitution was to be fixed as per Rule-3 of the Rules.

4. That a meeting of the Selection Committee for initial selection was held on 28-12-88 in New Delhi for preparing a list of Officers of the Nagaland Police Service for appointment to the I.P.S. of the Nagaland Cadre. The said Committee considered the records of 35 Nagaland ~~for appoint~~ Senior Police Officers who had completed 6 years' of service as Deputy Supdt. of Police as on 1.1.86 and prepared a list of officers. It will be pertinent to mention here that at that point of time I was holding the post of DIG and my case for selection was considered alongwith

*forverd
forverd*

officers holding the rank of Dy. S.P. and Asstt. Commandant and who were very junior to me.

5. That, by Ministry of Home Affairs' Notification No. 114011/12/88-IPS-1 dt. 18.1.89, 22 officers were appointed to the I.P.S. with effect from 1.3.86 under sub-rule (6) of Rule 4 of the I.P.S. (Recruitment) Rules, 1954 read with Note-I to Sec-II of the Scheme for initial constitution of the I.P.S. cadre of Nagaland. In the said list, only 4 officers from serial 1 to 4 were senior to me but all the other officers were much junior to me and I was not included in the said list. A copy of the said Notification is annexed herewith and marked as Anexure-II.

6. That I respectfully beg to state that I am senior to 18 officers of the said list and since I had a good service record, there could be no justification in my being left out from being appointed in the initial constitution. I, immediately, on 13.2.89, took up the matter with the Nagaland Government pointing out that I was promoted to the rank of Dy. I.G. before the I.P.S. cadre of Nagaland was introduced and that many of my juniors were appointed to the I.P.S. superceding my claim to be so appointed and prayed that the matter be looked into and the injustice and anomalies removed. I was informed that the matter was being taken up with the Government of India and that the injustice done to me would be corrected.

7. That, another meeting of the Selection Committee constituted under Regulation 3 of the I.P.S. (Appointment by Promotion) Regulation, 1955 for preparation of a list of

members of Nagaland Police Service who were suitable for promotion to the I.P.S. was held on 7.11.89 at Kohima and the said committee selected 14 officers as being suitable in all respects for promotion to the I.P.S. In pursuance to the said meeting, the Ministry of Home Affairs, by notification No. 1-14913/2/90-IPS-1 dt. 14.3.90, appointed 14 officers including me to the I.P.S. wef the date of notification. In the said notification, 4 officers who were junior to me were shown above me. A copy of the said Notification is annexed herewith and marked as Annexure-III.

8. That, it will thus be seen that though the Selection committee which met on 28.12.88 did not include my name for being appointed in the initial constitution, the Selection committee which met only 11 months later on 7.11.89, selected me as being suitable in all respects and I was promoted to the I.P.S. but since I was left out in the initial constitution, the same would adversely affect my seniority and an anomalous situation was created. I took up the matter with the State Government and I was informed that the Chief Minister of Nagaland, by his DO No. CMN/18/Home/90 dt. 30.4.90, had personally taken up the matter with the Government of India regarding the anomalous situation whereby a senior officer of the rank of DIG would become much junior to Dy. S.P. level officers in the I.P.S. The subsequent Chief Minister, by his D.O. No. CMN/18/Home/90 dt. 30.7.90, also requested the Govt. of India that the injustice done to me and others could be undone if the year of allotment of the second batch of officers appointed

to the I.P.S. could also be fixed in the same manner as was done in the case of officers appointed at the time of initial constitution. I was also informed that I need not worry and that a suitable procedure would be evolved to protect my seniority and year of allotment in the I.P.S. as the matter had been taken up at the highest level.

9. That, the Government of India, Ministry of Home Affairs, by letter No. 1-15011/4/89-IPS-1 dtd. 2.5.90, to the Chief Secretary, Nagaland informed that the question of fixation of the seniority of the initial recruits of the I.P.S. in accordance with Rule-4 A of the I.P.S. (Regulation of Seniority Rules, 1988 had been examined and that it had been decided that every initial recruit officer would be assigned a year of allotment which was 5 years after the year in which he was appointed to the post of Dy. S.P. and accordingly the year of allotment of 22 officers was fixed. By the said formula, officers who had joined the State Police as late as in 1974 were given 1979 as the year of allotment. It will be pertinent to mention here that I had joined the State Police Service in 1964 and my year of allotment as per Rule-4A would be 1969. A copy of letter dt. 2.5.90 is annexed herewith and marked as Annexure-IV.

Joint Rev

10. That, since the year of allotment under Rule-4 A was to be fixed only to the officers appointed at the initial constitution and though I was appointed immediately thereafter, my seniority would be fixed as per Rule-3 of

the I.P.S. (Regulation of Seniority) Rules and I would be assigned a much lower year of allotment, I filed an application before the Guwahati Bench of the Central Administrative Tribunal challenging the action of the authority and the same was numbered as OA.143/90. In the said application, the Union of India, U.P.S.C. and the State of Nagaland had filed counters. Though all the officers who were appointed at the initial constitution and who were junior to me were impleaded as parties, none of the officers appeared before the tribunal to contest my claim as, admittedly, they were all junior to me.

11. That, during the pendency of the application in the Tribunal, the Government of India, Ministry of Home Affairs, by letter No. 1-15011/4/89-IPS-1 dt. 6.6.91, fixed my year of allotment as 1986 by applying Rule 3 of the Seniority Rules. It will be relevant to mention here that I had completed 25 years' of service on that date and I was holding the rank of Deputy I.G. of Police. The officers who had joined service in 1974 and who were appointed to the I.P.S. in the initial constitution had been assigned 1979 as the year of allotment. A copy of the letter is annexed herewith and marked as Annexure - V.

12. That, 5 other officers who were also effected had also filed applications before the Central Administrative Tribunal, Guwahati Bench and all the six applications were heard together and the Hon'ble Tribunal, by order

dt. 1.8.94, directed us to submit representations jointly or individually before the Central Government through the Government of Nagaland stating our grievance and relief sought for and directed the State Government ~~not~~ to forward our representations to the Central Government with recommendations within 4 weeks. The Hon'ble Tribunal further directed that the Central Government shall consider our cases on the basis of the recommendations of the State Government and to dispose of the representations within 50 days and hence this representation. A copy of the common order dt. 1.8.94 passed by the Hon'ble Tribunal is annexed herewith and marked as Annexure-VI.

13. That, I respectfully beg to submit that I am at present holding the post of Dy. I.G. of Police and I had initially joined the State Police Service on 17.11.64 as Dy. S.P. and though I had rendered more than 25 years' of service, my year of allotment had been fixed as 1986 only whereas officers who had joined service in 1974 and holding lower posts and are junior to me by about 10 years had been allotted 1979 as the year of allotment which had given rise to an anomalous situation and unless the same is rectified, a great prejudice and harm would be done to my career.

14. That, I respectfully submit that the aforesaid situation had caused great hardship to me as if I was not appointed to the I.P.S., I could ~~not~~ have continued to hold the rank in the State Police Service till my retirement. I submit that this is a fit case where the Central Government, by exercising powers under Rule- 3 of the All India

India Service (Conditions of Service- Residuary matters) Rules, 1960 will relax the Rule so as to make Rule 4 A of the I.P.S. (Regulation of Seniority) Rules also applicable to me and other officers appointed in the second batch and fix the seniority as has been done with the officers appointed ~~as~~ at the initial constitution by assigning a year of allotment which was 5 years after the year in which I was appointed as Dy. S.P.

Yours faithfully,

Sd/-

Dated, QMD
the 23rd Aug'94.

(S. IMSUMEREN AO) IPS
Dy. I.G.P. (Retd) Chumukedima,
Dimapur, Nagaland

*Sumeren
Sd/-*

ANNEXURE - XV

NOV. 10-94 THU 13:39 ID: HOME GOVT OF INDIA
TEL No. 91 113015750=880 Pol

MOST IMMEDIATE
BY F A X

NO. I-15016/45/90-IPS-I VOL. II
 Government of India/Bharat Sarkar
 Ministry of Home Affairs/Grih Mantralaya,

New Delhi, the 10th November, 1994.

TO:

The Chief Secretary,
 Government of Nagaland,
 Home Department, Police Branch
 Kohima
 (Attn : Shri B.B. Dey, Deputy Secretary to the
 Government of Nagaland)

Subject :- O.A. Nos 143, 144, 145, 147, 148 and 161 of 1990
 filed by S/ Shri Imsumeren Ap, Vipose Zao
 Lanumeren Ap, M. Yanthan, Zanbemo Lotha and
 S.N. Achumi - forwarding of representation by
 the State Government

*Accepted
 J. Deo
 N.D.*

I am directed to refer to the State Government's letter No. POL-1/ESTT/54/90 dated 30.8.94 and 9.9.94 on the above subject and to say that the Hon'ble Tribunal vide their order dated 1.8.94 have directed the State Government to forward the representations of the petitioners to the Central Government with their recommendations and the letters shall consider the same on the basis of the recommendations of the former i.e. the State Government. The State Government are, therefore, requested to furnish their recommendations and parawise comments on each of the representations of the above mentioned officers at the earliest to enable this Ministry to consider and dispose of the same as per the directions of the Tribunal. This may please be accorded TOP PRIORITY.

Yours faithfully,

(P. S. PILIAIP
 Under Secretary to the Govt of India
 Lele No. 3012932.

GOVERNMENT OF NAGALAND
HOME DEPARTMENT :: POLICE ESTABLISH BRANCHNo. POL-1/ESTT/54/90
Kohima, dated 23rd November, 1994.

TO:

Shri P.S. Pillai
Under Secretary to the
Govt of India,
Ministry of Home Affairs (Police)
New Delhi.

Sub:

O.A.Nos 143, 144, 145, 147, 148 and 161
OF 1990 FILED BY S/SHRI INSUMEREN AO:
VIPOSE ZAO, LANUMEREN AO, M.YANTHAN,
ZANBEMO LOTHAN AND S.N.ACHUMI - FORWARD-
ING OF REPRESENTATION BY THE STATE GOVT.

Sir,

I am directed to refer to your letter
No. I.15016/45/90-IPS-I vol II dated 10.11.94 on
the subject cited above and to say that parawise
comments on each of the writ petition were sent to
the Ministry vide our letter No. POL-1/Estt/54/90
dated 16.2.94 and the representations of the offi-
cers in original were sent to the Ministry vide
letter of even number dated 9.9.94. Induction of
the officers in the IPS Cadre and their seniority
etc. are considered by the Govt of India on the
basis of their ACRs/Performance. Now, in view of
their representations, the State Govt. recommends
for favourable consideration of their representation.

Yours faithfully,

Sd/-

(B.B.Dey)
Deputy Secretary to the Govt
of Nagaland.

FAX MESSAGE

FROM: HOME NEW DELHI

TO : CHIEF SECRETARY TO THE GOVT OF NAGALAND
(ATTENTION OF B.B.DY SECY.HOME DEPTT. POLICE BR.)

NO. 1-15016/45/90/IPS-1 (POL-II) DT. 16/1/95(.) PSE REFER STATE GOVERNMENTS LETTER NO. POL-1/ESTT/54/90 DT. 23.11.94 (RECEIVED IN THIS MINISTRY ON 1/12/94) REGARDING DISPOSAL OF REPRESENTATION OF SHRI IMSUMEREN AND FIVE OTHER OFFICERS PERSUANT TO TIME BOUND DIRECTIONS OF C.A.T. GUWAHATI BRANCH IN A.O. NO. 143, 144, 145, 147, 148 AND 161 OF 1990(.) ATTENTION IS ALSO INVITED TO THIS MINISTRY'S FAX MESSAGE OF EVEN NO. DATED 10/11/94 VIDE WHICH IT WAS REQUESTED TO FORWARD PARAWISE COMMENTS OF EACH OF THE REPRESENTATIONS ALONGWITH STATE GOVERNMENTS RECOMMENDATIONS(.) HOWEVER STATE GOVT. VIDE THEIR LETTER UNDER REFERENCE HAVE STATED THAT THEY HAVE ALREADY FORWARDED PARAWISE COMMENTS ON EACH OF THE WRIT PETITION(.) ATTENTION IS DRAWN TO THE TRIBUNAL'S DIRECTIONS VIDE WHICH THE TRIBUNAL HAD DESIRED THAT THE STATE GOVERNMENT SHOULD FORWARD THEIR RECOMMENDATIONS TO CONSIDER IT ON GROUNDS OF HARSHIP(.) STATE GOVERNMENT ARE THEREFORE REQUESTED TO FURNISH GROUND ON WHICH THEY HAVE RECOMMENDED FOR FAVOURABLE CONSIDERATION OF THE REPRESENTATIONS(.) THIS IS NEEDED PARTICULARLY BECAUSE THE D.A'S FILED BY THESE OFFICERS THE STATE GOVERNMENT WHILE JUSTIFYING ON STAND OF UPSC HAD ALSO REFUTED THE CONTENTIONS/ ALLEGATIONS LEVELLED BY THESE OFFICERS(.) IT IS ALSO PERTINENT TO STATE THAT THE REPRESENTATIONS ARE REQUIRED TO BE DECIDED WITHIN) DAYS AFTER THE SAME ARE RECEIVED ALONGWITH RECOMMENDATIONS OF STATE GOVERNMENT(.) INTEREST ~~MAX~~ OF UNION OF INDIA MAY BE WATCHED IN CASE THE OFFICERS AGAIN MOVE THE TRIBUNAL REGARDING DISPOSAL OF THEIR REPRESENTATIONS(.)

SD/-

K. ANANDA BORISHANAN
UNDER SECRETARY TO THE GOVT.
OF INDIA.

*Attn: P
Janardan
A.O.*

ANNEXURE - XVIIGOVERNMENT OF NAGALAND
HOME DEPARTMENT: POLICE ESTT. BRANCH

NO. POL-1/ESTT/54/90: Dated Kohima, the the March '95

TO:

Shri Ananda Krishnan,
Under Secretary to the
Government of India (Police)
Ministry of Home Affairs,
NEW DELHI.

Sub: OA NOS 143, 144, 145, 147, 148 and 161
of 1990 FILED BY S/SHRI IMSUMEREN AO & ORS.

Sir,

I am directed to refer to your Fax Message No. 1-15016/45/90-IPS-I (vol. II) dated 16.1.1995 on the subject cited above and to say that the petitioners were not inducted by the initial selection committee in view of their poor service records. As a result they became junior and junior officers became senior to them and subsequently some of those junior officers are promoted to the next higher post also. This aspect may have created hardship for them, since parawise comments have already been submitted vide this department's letter of even number dated 16th Feb. 1994, we cannot recommend otherwist at this stage.

yours faithfully,

Sd/-

(P.TAL ITEMJEN AO)
Home Commissioner, Nagaland.

*Selected
Janet
Sd/-*

ANNEXURE - 232

NO. I-15016/45/90-IPS-I
 Government of India/Bharat Sarkar
 Ministry of Home Affairs/ Griti Mantralaya

.....
 New Delhi, the 6th June, 1995.

TO:

The Secretary,
 Government of Nagaland
 Home Department,
 Police Estt. Branch,
 Kohima .

(Atten: Shri P. Talitemjan AO, Home Commissioner)

Subject: O.A. No. 143/90, 144/90, 145/90, 147/90, 148/90
 and 161/90- Insumeren AO etc. Vs. UOI and others

Sir,

I am directed to refer to the correspondance resting with your letter No. POL-1/ESTT/54/90 dated the 7th March, 1990 about the ~~marks~~ of representations of following IPS officers of Nagaland Cadre on the basis of judgment/order dated 1.8.90 from the CAT, Guwahati in O.A. No. Insumeren AO etc. Vs. UOI and others :

1. S/ Shri 1. Insumeren AO, IPS (REDD)

2. V. ZAO, IPS

3. Lanumeren, IPS

4. M. Yanthan, IPS

5. Zambemo Lotha, IPS

6. S.N. Achumi, IPS.

2. The representations of the above officers have been considered carefully in this Ministry but it is regretted that the same have been rejected.

3. The concerned Officers may please be informed accordingly under intimation to this Ministry.

yours faithfully,

Sd/- M.L. Miglani
 Under Secretary to the Govt of India.
 Tele. No. 3011527.

SD/estd
 forward
 sole.

GOVERNMENT OF NAGALAND
HOME DEPARTMENT : POLICE ESTT. BRANCH

.....

NO. POL-1/ESTT/54/90 : Dt. Kohima, the 10th June '95.

TO:

1. Shri Imsumeren AO, IPS (Retd)
C/O DGP, Nagaland
2. Shri V. Zao, IPS,
DIGP (OSD) PHQ, Kohima
3. Shri Lanumeren AO, IPS
S. P. Mon.
4. Shri M. Yanthan, IPS
AIG (Ops) Kohima
5. Shri Zambemo Lotha, IPS
Commandant, Special NAP,
Kingsway Camp, Delhi - 9
6. Shri S. N. Achumi, IPS
C-570, Nagaland(C) Secretariat,
Kohima.

Sub: O.A. No. 143/90, 144/90, 145/90, 147/90, 148/90
and 161/90 - Imsumeren AO etc. Vs UOI and others

Sir,

*See enclosed
forward
Delhi*
I am directed to refer to the subject cited above and to forward herewith a copy of letter No. 1-15015/45/90-IPS-I dated 6th June, 1995 received from the Govt of India Ministry of Home Affairs, New Delhi for your kind information

yours faithfully,
Sd/- Illegible

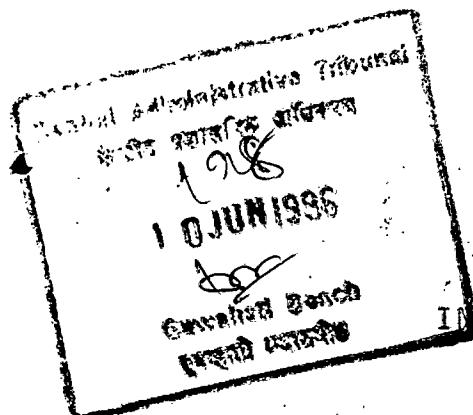
(A. KALKHO)
Under Secretary to the Govt of
Nagaland.

No. POL-1/ESTT/54/90: Dt. Kohima, the 23rd June '95.

Copy to:

The Under Secretary to the Govt of India
Ministry of Home Affairs, New Delhi with
reference to their letter No. 1-15016/45/90
- IPS-I dated 6.6.95.

(A. KAIKHO)
Under Secretary to the Govt of
Nagaland.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI.

Filed by
Adv. Central Govt.
Standing Counsel

In the matter of :-

O.A. No. 279 of 1995

S. Imsumeran Ao, & others

.... Applicant

- Versus -

Union of India & others

... Respondents

Written statement for and on behalf of
respondent No. 1.

I, M.L. Miglani, Under Secretary to the
Government of India, Ministry of Home Affairs
New Delhi do hereby solemnly affirm and say as
follows :-

1) That I am the Under Secretary to the Government of India, Ministry of Home Affairs, New Delhi. I am acquainted with the facts and circumstances of the case. I have gone through a copy of the application and understood the content thereof. Save and except whatever is specifically admitted in this written statement, the other contentions and statements made in the application may be deemed to have been denied. I am competent and authorised to file this written statement on behalf of respondent No. 1.

2) That the respondents No. 1 has no comments to the statement made in paragraphs 1 & 2 of the application.

3) That with reference to paragraph 3(1) & 3(2) of the application, the answering respondent beg to state that the respondents Nos. 5 to 22 as well as 23 to 26 are senior select list officers as compared to the applicants of this petition and as such the said respondents Nos. 5 to 22 were appointed to IPS (w.e.f. 1-3-86) prior to the said applicants vide notification No. 1-14011/12/88-IPS-I dtd. 18-1-89 and the respondent Nos. 23 to 26 have been shown above the said applicants in the notification No. 1-14013/2/90-IPS-I dated 14-3-90. It is clarified that the select lists for appointment to IPS of SPS Officers is prepared by State Govt. and UPSC.

(मुकुन्द भाल मिग्लानी)
(M. L. MIGLANI)
अवर सचिव
Under Secretary
गृह मन्त्रालय
Ministry of Home Affairs

Received copy:
DIL

Contd. p/

Thereafter, on receipt of specific recommendation of concerned State Govt. in respect of specific Select list Officers, the necessary notifications are issued by the Central Govt. giving appointment to such specified Select list Officers to IPS following Rule-9(1) of IPS (Appointment by promotion) Regulation 1955. No doubt the applicants may be senior in the State Police service, but they figured & lower in the select list as compare to respondent Nos. 5 to 22 as well as 23 to 26.

4) That with reference to paragraph 3(3) of the application the answering respondent beg to state that the crux of the judgement dated 1-8-94 delivered in O.A. Nos. 143, 144, 145, 147, 148 & 161 of 1990 is given in paragraph 12 of the said judgement and the same is reproduced below :-

"The applicants are required to submit representations jointly or individually before the Central Government through the Government of Nagaland stating their grievances and relief sought for. In the event of submission of such representation, the State Government (Nagaland) is directed to forward their representation to the Central Government & with recommendation to consider it on ground of hardship, within four weeks from the receipt of representation. It is directed that the Central Govt. shall consider their case on the basis of the recommendation of the State Government and shall dispose of the representation with orders within 60(sixty)days from the date of receipt of the representation with recommendation".

Kind attention of the Hon'ble Tribunal is drawn to State Govt's letter No. POL-1/ESTT./54/90, dated 7-3-95 (Annexure-I). On perusal of this, it becomes crystal clear that the applicants of this petition were not inducted by the initial Selection Committee in view of their poor service records and as a result they became junior and junior Officers became senior to them and this aspect may have created hardship for them.

In accordance with the judgement dated 1-8-94, the representations of the applicants (which were forwarded to this Ministry by the State Govt.) were considered as per recommendation dated 7-3-95 of the State Govt. and since the State Govt. clearly mentioned that because of the poor service records the applicants have become junior, the said representations could not be agreed to and were rejected vide this Ministry's letter No. I-15016/45/IPS-I, dated 6-6-95.

5) That the answering respondent has no comments to the statements made in paragraphs 4, 5 & 6(1) of the application.

6) That the statements made in paragraph 6(2)(i) to (vi) are matters of record.

7) That with reference to paragraph 6(3) of the application the answering respondent state that the same concerned State Government and UPSC.

8) That with reference to paragraph 6(4) of the application the answering respondent beg to state that the formulated scheme has been strictly followed by all the concerned namely State Govt. UPSC and Central Government.

9) That the answering respondent has no comments to the statements made in ~~para~~ paragraph 6(5) of the application.

10) That with reference to paragraph 6(6) of the application the answering respondent beg to state that the applicants may be senior as compared to respondent Nos. 5 to 26 in the State Police Service, but the applicants figure lower in the Select List as compared to the said respondents. It is mentioned that at the time of appointment to IPS, the position in Select List is crucial and not the seniority in State Police Service.

11) That with reference to paragraph 6(7) of the application the answering respondent beg to state that it is submitted that holding of selection committee meeting and preparation of Select List is chiefly the concern of State Govt. and UPSC. The Central Govt. had issued notification dated 18-1-89 in accordance with the specific recommendation of the State Govt. of Nagaland in this regard.

12) That with reference to paragraph 6(8) & 6(9) of the application, the answering respondent beg to state that it is submitted that in the Select Lists drawn by the State Govt. and UPSC, the applicants of this petition have become junior to respondents Nos. 5 to 26.

13) That with reference to paragraph 6(10) of the application the answering respondent states that the same are concern of the State Government.

14) That the answering respondent has no comments to the statements made in paragraph 6(11) of the application.

15) That with reference to paragraph 6(12) of the application, the answering respondent beg to state that the applicants have become junior to respondent Nos. 5 to 26 in the Select Lists drawn by the State Govt. & UPSC and no relief can be granted to them (applicants) since the State Govt. (vide its letter dated 7-3-95) has mentioned that the said applicants have become junior because of their poor service records.

16) That with reference to paragraph 6(13) of the application, the answering respondent, beg to state that the crux of the judgement dated 1-8-94 has been reproduced in para- 4 above.

17) That with reference to the paragraph 6(14) to(19) of the application, the answering respondent beg to state that it is submitted that the representations of the said applicants were rejected vide this Ministry's letter No. I-15016/45/90-IPS-I, dated 6-6-95 because the State Govt. in its letter dated 7-3-95 has stated that the petitioners (applicants of this petition) have become junior in view of their poor service records.

18) That the answering respondent has no comments to the statements made in paragraph 6(20) of the application.

19) That the answering respondent has no comments to the statements made in paragraph 7 & 8 of the application.

20) That with reference to paragraph 9(i) of the application, the answering respondent beg to state that the notification dated 18-1-89 and 14-3-90 have been issued in accordance with select & list drawn by State Govt. and UPSC and on receipt of specific recommendation in this regard of the State Govt.

21) That with reference to paragraph 9(ii) to (v) of the application, the answering respondent state that the same are concern of the State Govt. and UPSC.

22) That with reference to paragraph 9(vi) of the application, the answering respondent beg to state that since the Nagaland cadre of IPS was initially constituted w.e.f. 1-3-86 (as given in section I of scheme for initial constitution of the IPS Cadre of Nagaland), the first batch of promoted IPS officers were given appointment to IPS with effect from 1-3-86.

23) That with reference to paragraph 9(vii) to (xii) of the application, the answering respondent beg to state that the representations of the applicants were rejected in view of the fact that State Govt., vide its letter dated 7-3-95 has mentioned that the petitioners (applicants of this petition) have become junior because of their poor service records.

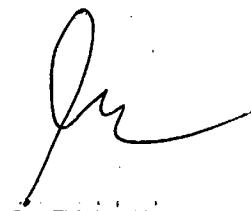
24) That the answering respondent has no comments to the statements made in paragraphs 10, 11 and 12 of the application.

25) That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

VERIFICATION

I, M.L. Miglani, Under Secretary to the Government of India, Ministry of Home Affairs, New Delhi, do hereby solemnly declare and affirm that the statements made in this written statement are true to my knowledge derived from the records of the case.

I sign this Verification on this 3rd Day of May, 1996



DEPONENT

मान्य साल मिग्लानी
(M. L. MIGLANI)

अवर गविह
Under Secretary

-000- मान्य सन्धालम्
Ministry of Home Affairs

STNO. 7(B) 6 83
REGISTERED (1-1)

GOVERNMENT OF NAGALAND
HOME DEPARTMENT : POLICE ESTT. BRANCH

NO.POL-1/ESTT/54/90 : Dt.Kohima, the 7th March '95

To

✓ Shri Ananda Krishnan,
Under Secretary to the
Government of India (Police)
Ministry of Home Affairs,
NEW DELHI.

Sub:

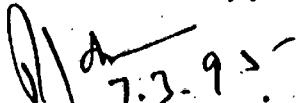
OA NOS 143, 144, 145, 147, 148 AND 161
of 1990 FILED BY S/SHRI IMSUMEREN AO
& ORS.

Sir,

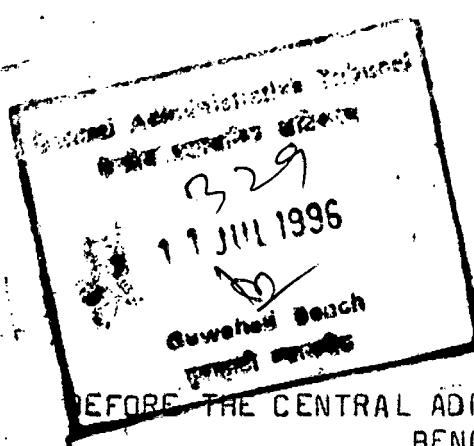
I am directed to refer to your
Fax Message No. 1-15016/45/90-IPS-I (Vol. II)
dated 16.1.1995 on the subject cited above
and to say that the petitioners were not
inducted by the initial Selection Committee
in view of their poor service records. As a
result they became junior and junior officers
became senior to them and subsequently some
of those junior officers are promoted to the
next higher post also. This aspect may have
created hardship for them. Since para-wise
comments have already been submitted vide
this department's letter of even number
dated 16th Feb. 1994, we cannot recommend
otherwise at this stage.

✓ F/B
15016/4/95

Yours faithfully,


7.3.95
(P. TALITEMJEN AO)
Home Commissioner, Nagaland.

Attended
A. K. Chaudhury
Chairman
Standing Committee
Central Govt.



Filed by
C. P. Jamia
10-7-96

102

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI
BENCH : GUWAHATI.

IN THE MATTER OF :

O.A. No. 279/95:

Shri Imeumoren Ao ' ors.

.... APPLICANTS.

- Versus -

Union of India & ors.

... RESPONDENTS.

- AND -

IN THE MATTER OF :-

Written statement on behalf of
Respondent Nos. 2 and 3 in the
aforesaid case.

The written statement on
behalf of the Respondents 2 and

MOST RESPECTFULLY BEGS TO STATE :

1. At the outset this deponent beg to state that the applicants file six (6) separate applications before this Hon'ble Tribunal which was registered and numbered as O.A. Nos. 143/90, 144/90, 145/90, 147/90, 148/90 and

160/90.....

160/90. In the aforesaid application the applicants pray for setting aside the impugned notification dated 18.1.89 and the notification dated 14.3.90 which is also impugned in the instant case. In the earlier application, by an order dated 1.8.94 this Hon'ble Tribunal was pleased to pass an order directing the applicants to submit representation jointly or individually before the Central Government through the Government of Nagaland stating their grievances, grounds and relief sought for. It was further directed that the Central Government shall consider their case on the basis of the recommendation of the State Government and shall dispose of the representation with orders within 60 (sixty) days from the date of receipt of the representation with recommendation. Accordingly, the State Government has forwarded the representations filed by the applicants to the Central Government with recommendation to consider the case of the applicants, vide letter dated 9th September, 1994, and 23rd November, 1994. The Government of India has intimated that the representations submitted by the applicants have been considered carefully by the Ministry but conveyed their inability to accept their representations and rejected the same vide their letter No. 1-15 45/90-IPS-1 dated 6th June, 1995. In view of the above the application filed by the applicants has no merits and liable to be dismissed on that count.

2. That save and except what have been specifically

admitted...

admitted in this application by the respondent, the
rest of the statements are denied to have been denied
by the respondents.

3. That the statements made in paragraph 6(1) of
this deponent has no comment which relates to the
prayer of the applicant before the Hon'ble Tribunal.

4. That the statements made in paragraphs 6(2)(i),
6(2)(ii), 6(2)(iii), 6(2)(iv), 6(2)(v) and 6(2)(vi)
are with regard to the appointments of the applicants
in the Police Department and subsequent promotions to
the higher grades which were statements of facts, this
deponent does not admit anything which were beyond
record.

5. That the statements made in paragraph 6(3) of
the application to the effect that the applicants had
all along a very good service records were denied by the
respondent as the averments were on the his own assumption.
The ACRs were secret and confidential documents and the
applicants have no access to it and he does not have
any knowledge of the contents of the ACRs. It is also
stated that the applicants had not earned 'very good'
grading due to which they were rejected by the Selection
Committee for induction in the initial constitution of
the Indian Police Service Cadre of Nagaland.

6. That the statements made in paragraphs 6(4) and
6(5) being the different provisions of the scheme for

- 4 -

initial constitution of IPS in cadre in Nagaland
calls for no comments.

7. That with regard to the statements made in paragraphs 6(6), 6(7) and 6(8) of the application the respondent beg to state that as per Rule 1 to the Scheme for initial constitution of Indian Police Service cadre of Nagaland, the cases of officers of State Police, holding Class I post who has been substantially appointed in a post of Deputy Superintendent of Police and who had completed not less than six years of service in the post, were to be considered and the list prepared in order of reference of those adjudged suitable by Selection Committee set up under the Chairmanship of the Chairman of the Union Public Service Commission. The Government of Nagaland made a ~~pannected~~ proposal in August/September, 1988 for selection of officers at the initial constitution. The selection committee which met at New Delhi on 28.12.88, considered the service record of 35 eligible officers and on an overall assessment, the Selection Committee recommended 22 officers as suitable for appointment to the IPS cadre of Nagaland at its initial constitution. The Selection Committee considered the service records of officers up to 1.3.86 as the IPS cadre was constituted from that date. The case of the applicant was also duly considered by the Selection Committee, but they were not found suitable and they did not have the requisite gradings in the ACRs to qualify for selection for induction

induction

- 5 -

induction to IPS at the initial Constitution. The 22 officers who were selected by the Selection Committee were appointed to the IPS vide Ministry of Home Affairs Notification dated 18.1.91. This deponent denies that the Selection Committee adopted a peculiar procedure. It is pertinent to mention herein that when the selection is made on merit alone for promotion to higher post, selection of an officer through junior in service in preference to his senior does not amount to supersession. In other words, when the promotion is made on the basis of seniority the seniority has preferential right to promotion against his junior, but where promotion is made on merit alone senior officers have no legal right to promotion except that he has only right to be considered along with others.

It is also denied that the applicants took up the matter with the Government of Nagaland and that they were informed that the matter was being taken up with the Government of India and that the injustice done to the applicants would be corrected. It is stated that the Government of Nagaland has nothing to do with the selection and as such, there is no question of correcting the alleged injustice done to the applicants at the instance of Government of Nagaland.

8. That with regard to the statements made in paragraph 6(9) of the application, the respondent bets to

state

state that after initial constitution, the First Selection Committee to consider the cases of the State Police Service officers of Nagaland for promotion to IPS in terms of the provisions of the IPS (Appointment by Promotion) Regulations 1965, was held on 7.11.89. This selection committee considered the service records of 22 eligible officers as on 1.4.89. The Selection Committee on an over all assessment of the service records of the eligible officers as available on the date of the meeting, assigned each officer regarding viz., 'outstanding', 'very good' or 'good' as provided in the promotion Regulation. On the basis of the grading assigned to the applicants their names were included in the select list consisting of 14 names who were recommended as suitable for promotion to IPS. The names of the applicants were included in this list. The names of the officers who were junior to the applicants were included in the list i.e. above the names of the applicants.

9. That with regard to the statements made in paragraphs 6(10 and 6(11) of the application, the deponent denies that any injustice was done to the applicants as it is also denied that the applicant was informed that he need not worry and a suitable procedure could be evolved to protect their seniority and year of allibitment. It is further stated that the Government

of

of Nagaland has nothing to do and/or no hand with the selection procedure adopted by the Union Public Service Commission and as such, the applicant should not have acted on the alleged assurance, if any.

10. That the statements made in paragraph 6(12) of the application are not admitted and denied by the respondent. It is stated that the notification dated 18.1.89 was issued and given effect to long back and the applicants are not entitled to any relief, as sought for.

11. That the statements made in paragraph 6(13) of the application relates to the filing of original applications by the applicants and the order passed by the Hon'ble Tribunal, this deponent do not admit anything born which are not backed out by records.

12. That with regard to the statements made in paragraphs 6(14 and 6(15) of the application this deponent begs to state that all the representations submitted by the applicants in respect of O.A. No. 143/90, 144/90, 143/90, 147/90, 148/90 and 161/90 have been forwarded to the Under Secretary to the Government of India, Ministry of Home Affairs (Police) , New Delhi by the Deputy Secretary to the Government of Nagaland vide his letter No. POL-1/ESTT/54/90 dated Kohima, the 8th September, 1994.

13. That the statements made in paragraphs 6(16), 6(17), 6(18) and 6(19) being matters of record, this deponent does not admit anything which are not borne out by records. It is worthwhile to mention ~~in~~ herein that the State of Nagaland vide their letters dated 23.11.94 and 7.3.95 recommended for favourable consideration of the representation of the applicants along with the grounds for non-inducting the applicant by the initial selection committee in view of their poor service records, as a result of which the applicants became juniors and the junior officers became senior.

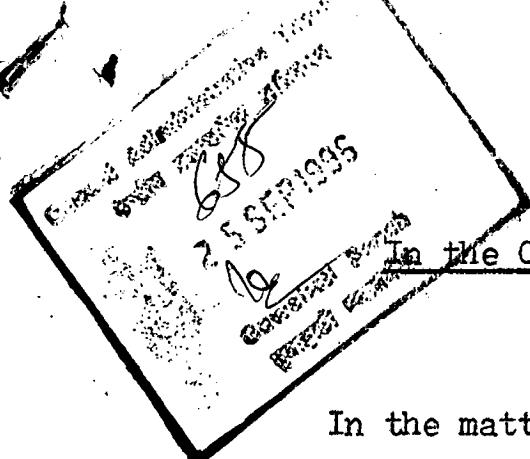
14. That the statements made in paragraphs 7 and 8 are not admitted by this deponent.

15. That the grounds and reliefs set-forth in paragraph 9 are not tenable either in law or in facts and the application is liable to be rejected.

VERIFICATION

I, Shri B.B.Dey, son of Late S.B.Dey, Department of Home, Government of Nagaland do hereby verify that the contents of paragraphs 1, 2, 3, 7, 9, 10, 14 and 15 are true to my knowledge and the contents of paragraphs 4, 5, 6, 8, 11, 12 and 13 are true to my information derived from records which I believe to be true.

B.B.Dey
(B.B.Dey)
DEPONENT.



93

In the Central Administrative Tribunal

Guwahati Bench

In the matter of :

OA No. 279/95

Shri S. Imsumeren Ao and 5 others - Applicants

- versus -

Union of India and others

- Respondents

Written statement on behalf of Union Public Service Commission, Respondent No.4.

I, Ashok Pai, S/o Shri Madhav Pai, aged about 39 years holding office as Deputy Secretary, Union Public Service Commission do hereby solemnly affirm and sincerely state as follows:

1. I am the Deputy Secretary in the office of the Respondent above named herein and I am well acquainted with the facts of the case gathered from the records.
2. I have perused the application of the applicants herein and traverse the same as hereunder and save those that are specifically admitted hereinafter, the other allegations are denied and the applicant is put to strict proof of the same.
3. At the outset, it is submitted that the Union Public Service Commission being a constitutional body set up under Article 315 of the Constitution have to discharge the duties and functions assigned to them under Article 320 of the Constitution. Further, by virtue of the provisions made in the All India Service Act 1951 various Recruitment Rules have been made for IAS/IPS/IFS. In pursuance of these rules

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Filed by
M. Chaudhury
Addl. Central Govt.
Standing Counsel
25 SEP 1995

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IPS (Appointment by Promotion Regulations, 1955, have been made. In accordance with the provisions of the said Regulations, the Selection Committee presided over by the Member or Chairman of the Union Public Service Commission makes selection of SPS Officers for promotion to IPS. It is also submitted the scheme for the initial constitution of the IPS Cadre of Nagaland was finalised by the Central Govt. in consultation with the Govt. of Nagaland on 10.12.87. According to the provision of this scheme the IPS Cadre of Nagaland was constituted with effect from 1.3.86. Section-II of the scheme reads as under :-

Section-II : Initial Constitution of the Cadre

The initial constitution of the Cadre shall be by appointment by the Central Government of officers of the Cadre through selection of members of the State Police holding Class I posts who are atleast substantive in a post of Dy.S.P. and who have completed not less than 6 years of service (whether officiating or substantive) in a post of Deputy Superintendent of Police.

Note-I

The cases of all the officers mentioned above shall be considered by a Selection Committee set up for the purpose under the Chairmanship of the Chairman or a Member of the Union Public Service Commission. The Committee shall prepare, in order of preference a list of such officers who are adjudged by it suitable for appointment to the service. The recommendations of the Committee shall be referred to the Union Public Service Commission for approval. Only such of the officers as are finally approved by the Commission shall be appointed by the Central Government, to the Indian Police Service, subject to availability of vacancies in the State Cadre.

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Note-II :

In the event of any of the Police Officers of the State Police Service Class-I not being selected for appointment to the Indian Police Service, the posts held by them on a regular basis which are proposed to be included in the Indian Police Service Cadre shall be deemed to be excluded from the Indian Police Service Cadre of Nagaland so long as the posts are held by them. Such ex-cadre posts will be retained by the Government of Nagaland until their holders waste out.

4. That with regard to the contentions made in para 6(8) and para 9 of the application, it is humbly submitted that Selection Committee which met at New Delhi on 28.12.88 for selection of SPS officers for promotion to IPS Cadre of Nagaland at its initial constitution had considered the cases of the applicants at Sl.Nos. 5, 6, 20, 29, 27 & 33 respectively in the eligibility list alongwith 29 other State Police Service Officers who were eligible as on 1.3.86. The Committee examined the service records of all the 35 eligible officers and on overall assessment of their service records recommended 22 officers for appointment to the IPS Cadre of Nagaland at its initial constitution. On an overall assessment of the service records of the applicants the Committee did not find them as suitable for appointment to the IPS Cadre of Nagaland at its initial constitution. Therefore the names of the applicants could not be included in the Select List. As regards the contention of the applicants that they have been superseded by their juniors it is submitted that when selection is made on the basis of merit

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selection of junior officers in preference to senior officers does not amount to supersession. Hon'ble Supreme Court in the case of R.S. Das Vs. Union of India and others (AIR 1987 SC 593) have held as under :-

"Where selection is made on merit alone for ~~officer~~ promotion to a higher service, selection of an officer, though junior in service, in preference to his seniors does not strictly amount to supersession.

5. Thereafter, a meeting of the Selection Committee for preparation of the Select List of 1989-90 for promotion of SPS Officers to IPS Cadre of Nagaland was held on 7.11.89 in accordance with the provision of IPS (Appointment by Promotion) Regulations, 1955. The applicants were considered at Sl.No. 1,2,5,9,10 & 12 in the eligibility list of 22 officers. On an overall assessment of their service records the applicants earned a lower grading than that of the grading earned by the Respondent No.23 to 26. Accordingly, in accordance with the provisions of Regulation 5(5), the names of Respondent No.23 to 26 were included in the Select List above the applicants. The selections have been made strictly in accordance with the provisions of Promotion Regulations which have been upheld by the Hon'ble Supreme Court. The Apex Court in the case of R.S. Das Vs. Union of India and others AIR 1987 SC 593 have held as under :-

"The amended provisions of Regulation 5 have curtailed and restricted the role of seniority in the process of selection as it has given priority to merit. Now the Committee is required to categorise the eligible officers in four different categories viz. 'Outstanding', 'Very Good', 'Good', 'Unfit' on overall relative

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assessment of their service records. After categorisation is made the Committee has to arrange the names of the officers in the Select List in accordance with the procedure laid down in Regulation 5(5). In arranging the names in the Select List the Committee has to follow the inter-se seniority of officers within each category. If there are five officers who fall within 'Outstanding' category their names shall be arranged in the order of their inter-se seniority in the State Civil Service. The same principle is followed in arranging the list from amongst the officers falling in the category of 'Very Good' and 'Good'. Similarly if a junior officer's name finds place in the category of 'Outstanding' he would be placed higher in the Select List in preference to a senior officer finding place in the 'Very Good' or 'Good' category. In this process a junior officer having higher grading would supersede his seniors. This cannot be helped."

6. The Hon'ble Supreme Court has further held in the case of H.L. Dev Vs. U.P.S.C. (Air 1988 SC 1069) that as to how the records of the eligible officers would be assessed is the concern of the Selection Committee and the Tribunal cannot take upon itself this function. In view of the above, the contention of the applicants that they have been superseded by the juniors is untenable. The selections have been made in accordance with the prescribed procedure and cannot be termed as arbitrary. The cases of the applicants have duly been considered by the Selection Committee without any discrimination.

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7. In view of the submissions made in the preceding paragraphs, it is submitted that application lacks merit and is liable to be dismissed with costs as far as this answering respondent is concerned.

VERIFICATION :

I, Ashok Pai, Son of Shri Madhav Pai, working as Deputy Secretary do hereby verify that the contents of the preceding paras are true and correct and that no material fact has been suppressed.

Shri MM

D E P O N E N T.