

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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R.A/C.P No.....

E.P/M.A No... 73/95.....

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 83 of 1995.

Misc. Petn.

C.P. No.

R. Appl:

Smt Madhumita Dey APPLICANT'S
frs.

Union of India & Ors. RESPONDENT'S
Mr J.L. Sarkar & Mr M.Chanda.

..... FOR THE APPLICANTS
.....

Mr G.Sarma, Addl.C.G.S.C
..... FOR THE RESPONDENTS

OFFICE NOTE	DATE	ORDER
		By urgent circulation.
17.4.95 (Creation)		Heard Mr M.Chanda for the applicant. Issue notice to the respondents to show cause as to why the application should not be admitted and interim relief as prayed be granted. Returnable on 25.4.1995. Notice be issued directly to respondents No.3 and 4 and at the notice at this stage be served on Mr G.Sarma, Addl.C.G.S.C for respondent No. 1. The grievance of the applicant seems to be that the respondents have illegally reserved the one available vacancy in the post of Accounts Clerk for Scheduled Caste candidate and that has affected her chance of promotion. She therefore seeks that the said reservation be cancelled and the process for selection on the basis that the post is unreserved be initiated. In aid of that relief she seeks by way of interim relief a direction to the respondents not to act upon the selection proceedings held on 15.4.94 for filling up the post on the basis of apprehension that respondent No.4 who is a Conservancy Safaiwala is likely to be promoted at any moment. Admittedly respon-

..... Maxxx

17.4.95

dent No.4 is Scheduled Caste. It is obvious that till the reservation prevails neither the appointment of respondent No.4 ~~can~~ be stopped ~~nor~~ nor ~~can be~~ respondents are directed not to proceed with the appointment. It is obvious that in the event ~~of~~ the reservation itself would be cancelled and if applicant happens to succeed in getting the notice Annexure-1 dated 24.3.95 cancelled then the appointment of respondent No.4 if it is made during the pendency of this application ~~it~~ will be subject to the decision on that question. In the circumstances no interim relief can be granted at this stage without hearing the respondents on merits. The learned Addl.C.G.S.C Mr G.Sarma opposed any interim relief without hearing the respondents and wants time to obtain instruction.

Show cause reply returnable on 25.4.95. The notice of respondent's No.3 and 4 ~~be~~ is issued by speed post at the cost of the applicant. Liberty to the applicant to seek interim relief after the respondents have appeared.

Adjourned to 25.4.1995.

hsc
17.4.95
Vice-Chairman

Notice sent on pg
R.no. 1.
10.30 a.m.
18/4/95

hsc

25.4.95

Mr M.Chanda/Mr G.Sarma, Addl.C.G.S.C

Mr Sarma seeks time to file show cause reply and states that instructions are being received.

Adjourned to 8.5.1995.

h.c.

Vice-Chairman

60
Member

pg

16.5.95

8-5-95 Leave note of Mr.J.L.Sarkar.

Adjourned to 16-5-95.

*Adjourned to 19.5.95**By order**h.c.*
Vice-Chairman*60*
Member

1m

Tor (a/s)

19.5.95

Mr J.L.Sarkar for the applicant.

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

The respondents have filed written statement cum show cause reply on behalf of the respondents. The contentions raised in the application and those raised in the written statement require detailed consideration. O.A. is admitted. If the respondents wish to file further written statement they are given 8 weeks from today. Liberty to applicant to file rejoinder to the written statement filed now within that time.

Adjourned for orders to 17.7.1995.
Liberty to apply for early date thereafter.

60
Member*Tor (a/s)**h.c.*
Vice-Chairman

23.5.95

17.7.95

W/S / Show cause
has been filed on behalf
of the Respondents.

DRS.

Service Repairs are
still awaited.

*Ans
inf*

Mr M. Chanda for the applicant.

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

The learned Addl. C.G.S.C. submits
that since the question of reservation
is involved the department desires
that the question may be resolved
early and, therefore, an early hearing
may be granted. Mr Chanda does not
have any objection for early hearing,
but wants some time for amendment of
the application as has instructions to
say that the respondent No.4 has now
been promoted, although Mr G. Sarma
has not accepted that statement for
want of instructions. Under the
circumstances the applicant is
directed to submit the application for
amendment, if any, ^{and} for calling records
if so advised, within a period of two
weeks from today. The applicant shall
forward the copies of the said
application to all the respondents
privately and a copy ~~each~~ will be
served on the learned Addl. C.G.S.C.
Subject to these applications being
^{and order issued} filed, the O.A. be listed for hearing
on 7.9.95.

Notice send on
R. m. l.

b/187?

JKS
Vice-Chairman

6a
Member

nkmm

JKS

7-9-95

Mr. M. Chanda for the applicant.

Mr. G. Sharma Addl. C.G.S.C. for the respondents.

As it was stated on 17-7-95 by the learned Addl. C.G.S.C. that the matter may be heard early. It was listed for hearing to-day. To-day however Mr. G. Sharma wants adjournment as the copies directed to be served to the respondents are yet to be served properly. He seeks a date in November. Accordingly adjourned to 20-11-95. We record that in view of the urgency we ^{were} willing to hear the matter to-day.

20.11.95FFA or 22.1.96

lm

lal
Vice-Chairman*60*
Member*By order*

22.1.96 To be listed for hearing on 7.3.96

*By order
Bm*22.11.95As per order dt. 9.8.95
in M.P. 73/95 the

7.3.96

Respondent No. 3. (H.L.)

Shriyan Tuteja) has submitted
promotion order of Respondent No. 4 and
a readable copy of its
recruitment rules to the applicant
on 21.11.95 at page 41-50

Counsel of the parties are present.
Respondent No. 3 has submitted a copy of promotion order of respondent No. 4 Smt Reba Dey and copy of the recruitment rules. Copies may be furnished to the counsel of the applicant by the Registry. Case is ready for hearing.

List for hearing on 7.5.1996.

*Pao*9.1.96

Additional W/S
submitted by the
Official Respondents.
At page No 51-59

pg

60
Member*Pao*

18-3-96
Adv. or Applict.
or
Adv. or Applict.

M.Chanda for the applicant.
G.Sarma, Addl.C.G.S.C for the respondents.

Case ready for hearing.

List for hearing on 17.6.96.

60
Member

pg

17-6-96

Case is ready for hearing.

List on 16-7-96 for hearing.

60
Member

lm

16.7.96

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

List for hearing on 12.8.96.

60
Member

31-7-96

Rejoinder filed by
the applicant. at Pg.
60 — 67

pg

12.8.96

Mr M.Chanda for the applicant.
Mr G.Sarma, Addl.C.G.S.C for the respondents.

List for hearing on 10.9.96.

60
Member

28-8-96

pg

M
28

Reply or Rejoinder
filed by the applicant.
at Pg - 68 —

10-9-96 Vide order of to-day in M.P.

No.108/96 prayer for amendment of the
Original Application has been allowed.steps within two weeks from
to-day.

List for order on 24-9-96.

69
Member

lm

m
10/9

24.9.96

Mr G.Sarma, Addl.C.G.S.C for the
respondents.Amendment application has not
been submitted.

List for order on 1.10.96.

69
Member

pg

m
25/9

1.10.96

Mr M.Chanda for the applicant has
submitted consolidated amendment appli-
cation. Let copy of the same be served
on the respondents.List for written statement and
further orders on 18.11.96.69
Member

9.10.96

Amendment
Consideration, petition
filed by the applicant -
18.11.96.

pg

m
11/11

1) Notice duly served on
OP.10.11
2) Writ Petition filed Addl.W/S
3) Notice given to the Respondent
4) Rejoinder filed by the W/S.

15/11

trd

m
18/11

None present for the applicant.

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

Case ready for hearing.

List for hearing on 16.12.1996.

69
Member

19-6-97 List on 30-7-97 for fixing a date of hearing.

28-7-97

60
Member


Vice-Chairman

Addl. Rejoinder
Filed on behalf
of the applicant
at page 97 to 112.

1m

F
20/b

On the prayer of Mr G. Sarma,
learned Addl. C.G.S.C., the case is
adjourned to 25.8.97.

Ex.

W.S.; Addl. D.P.C. Rejoinder
and Addl. Report to be
summoned :
nkm
31/7

60
Member


Vice-Chairman

28/7/97

10-9-97 List on 17-11-97 for hearing.

By and

1) Memo of appearance
has been filed.

2) The case is ready 17-11-97 adjourned to 15-12-97.
for hearing.

By and

M.S.
21/8/97.

The case is ready
for hearing.

M.S.
12/12

15-12-97 Leftover. Adjourned to
19-1-98.

By and

- 9 -

Office Note Date

Court's Order

Ref:-No.ABAJP/MEGH/dtd.9-12-97.

19.12.97

The above letter (Flag 'A') is received from the General Secretary, All India Organisation of Schedule Cases, Meghalaya Bench, Shillong may kindly be perused.

This letter is received in connection with O.A.No.83/95 regarding promotion of Shri Reba Dey to the Post of L.D.C. on the ground that she belongs to Scheduled caste. It is also stated that Shri Reba Dey is not Scheduled Caste and by fraud managed to obtain an S.C. Certificate, and got her promotion. The enclosed document shows that this matter was raised in the floor of Meghalaya Legislative Assembly during March'97 which is under investigation.

Matter may kindly be placed for kind perusal and necessary orders.

18/12/97 18/12/97
By Registration S.O.(J).

18/12/97
Registrar.

Please convey

29/12
2.1.98

As per Court direction dtd 19.12.97 a letter has been sent to the organisation on 2.1.98.

2.1.98
The case is ready for hearing
BEN
JTB
2/3

Seen the letter issued by the General Secretary of All India Organisation of Scheduled Castes, Meghalaya Branch, Shillong. The Registrar is directed to write to the General Secretary of the aforesaid organisation informing him not to make any communication with the Vice-Chairman or the Member in future.

60
Member

nkm

29/12

Date

JK
Vice-Chairman

3-3-98

19-1-98
There was a reference
against it 3-3-98.

by and

Records have been placed before this Tribunal. Mr.J.L.Sarkar learned counsel for the applicant may inspect the records to-day itself.

List on 12-3-98 for hearing.

60
Member

29
A/3

JK
Vice-Chairman

Office Note

Date

Court's Order

w/s; Addl. w/s; Rejoinder
Addl. Rejoinder & Reply ab
the Rejoinder has been filed

11/3

The case is ready
for hearing as
regards Service &
w/s & Rejoinder.

By
20/4

The case is nearly
for hearing as regards
Service, w/s & Rejoinder.

27/4

The case is nearly
for hearing as
regards Service & w/s.

29/4

30

12.3.98

On the prayer made on
behalf of Mr G. Sarma, learned
Addl. C.G.S.C. the case is
adjourned till 21.4.98.

60
Member

Vice-Chairman

nkm

28
16/3

21.4.98

Records have been
produced in sealed cover as
referred in order dated 3.3.98.
It is opened. Mr J.L. Sarkar,
learned counsel for the
applicant wants to see the said
record before making his
submission. Accordingly he
prays for a short adjournment.
Let the case be listed on
28.4.98. Mr Sarkar may inspect
the record in the court room.
Thereafter office to keep the
record under sealed cover.

60
Member

Vice-Chairman

nkm

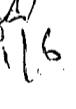
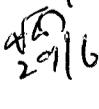
28/4
22/4

28.4.98 Adjudged to 30.4.98.

By order

30th-98 Adjudged to 18.5.98.

By order

Notes of the Registry	Date	Order of the Tribunal
Pl. Compy order dtl 18.5.98 to the respondent no. 4.	18.5.98	Mr G. Sarma, learned Addl. C.G.S.C. is not in a position to explain the hand written portion by which the amended portion was added in the gazette notification. The respondent No.4 is also not present today. A letter was sent to the respondent No.4 by speed post. Let this case be listed on 27.5.98.
MS 26/5		 Member
The case is ready for hearing as regards service, W/S & Repair order.	27.5.98 nkm MS 26/5	On the prayer of Mr G.Sarma, learned Addl.C.G.S.C the case is adjourned till 2.6.98.
 Member		 Vice-Chairman
The case is ready for hearing as regards W/S & Repair order.	2.6.98 pg MS 28/5	Adjourned to 4.6.98. By order.
The case is ready for hearing as regards service W/S and Repair order.	4.6.98	Service. Adjourn to 9.6.98. By order.
 MS 8.6	9.6.98	Defavor. Adjourned to 22.6.98. By order.
The case is ready for hearing as regards service W/S and Repair order.	22.6.98	Adjourn to 30.6.98. By order.
 MS 29/6		

Notes of the Registry	Date	Order of the Tribunal
<p>14.8.98</p> <p>Copies of the judgment have been issued to the parties under D. Nos. 2203 to 2204 and 2146 to 2148 dated 14.8.98 on 11.8.98 through Regd. M/L A/D. H.E.</p>	30.6.98 nkm	<p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.</p> <p>68 Member</p> <p> Vice-Chairman</p>

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

O.A. No. 83 of 1995

30.6.1998
DATE OF DECISION.....

!! Smt Madhumita Dey

(PETITIONER(S))

Mr J.L. Sarkar and Mr M. Chanda

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

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

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.83 of 1995

Date of decision: This the 30th day of June 1998

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

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

Smt Madhumita Dey,
Store Keeper,
Office of the Station Headquarters,
Shillong.Applicant
By Advocates Mr J.L. Sarkar and
Mr M. Chanda.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Defence,
New Delhi.
2. The Headquarters 101 Area
3. The Administrative Commandant,
Station Headquarters, Shillong.
4. Smt Rebha Dey,
C/o Station Headquarters,
Shillong.Respondents
By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....
O R D E R

BARUAH.J. (V.C.)

The applicant in this application has challenged
the Annexure 7 order dated 20.4.1995 appointing the
4th respondent as Accounts Clerk.

2. The applicant, being aggrieved by the said
Annexure 7 order, submits that the authority made the
appointment of the 4th respondent most arbitrarily and
unreasonably, contrary to the provisions of rules.
According to the applicant this post should have been

RJ

given to her instead of the 4th respondent. Hence the present application.

3. In due course the respondent Nos.1, 2 and 3 have entered appearance. However, the 4th respondent has not contested the case though notice was duly served on her. In their written statement respondent Nos.1, 2 and 3 have stated that the appointment of the 4th respondent was made strictly in accordance with the rules and as per the roster system.

4. We have heard Mr J.L. Sarkar, learned counsel for the applicant and Mr G. Sarma, learned Addl. C.G.S.C. Mr Sarkar's first submission is that the 4th respondent does not belong to the Scheduled Caste Community (SC for short). The certificate of SC was furnished later on and she should not get the preference of SC community. The second submission of Mr Sarkar is that even if she belongs to the SC community she was not entitled to get appointment because this appointment relates to the 7th point in the roster. Mr Sarma, on the other hand, supports the Annexure 7 order of appointment of the 4th respondent. Mr Sarma further submits that the 4th respondent belongs to the SC community and therefore she was rightly appointed. He also submits that this is regarding the 10% promotion of Group 'D' to Group 'C' quota and the roster was strictly complied with.

5. The Meghalaya Roster has been placed before us. The case of the respondent Nos.1, 2 and 3 is that the authority maintained the 100 point roster, and therefore, the roster was properly maintained.



6. On the rival contention of the learned counsel for the parties, it is now to be seen whether the Annexure 7 order of appointment of the 4th respondent dated 20.4.1995 can sustain in law. Mr Sarkar submits that in case of 10% quota for appointment no carry forward system is provided to which Mr G. Sarma does not dispute. On going through the roster we find that out of the entire 100 points only the 4th point is for SC. Admittedly, this appointment relates to the 7th point. Point No.1 appointment was made to one Shri B.N. Singh, who is a general category candidate although as per the roster this appointment should have been given to ST candidate. In point No.2 appointment was made to Ms Demogracia Marwein who is an ST candidate though this should have gone to a general candidate. Point No.3 appointment was made to Ms Alasha Thangkhiew who is an ST candidate, but this should have also gone to a general candidate. Point No.4 appointment was made to Ms Phidalyne Jyrwa who is an ST candidate although this should have been given to SC candidate. Therefore, on looking to these we find that though the authority claims that they made the appointment strictly on roster system, but it was not done. In para 19 of the written statement the respondents have stated thus:

".....while carrying out initial appointment in 1985 in Station Headquarters, Shillong, the five posts of Accounts Clerks were filled up by one general category individual and four individuals who happened to belong to Scheduled Tribes. Subsequently, in November 1987 one Scheduled Tribe individual Smt Phidalyne Jyrwa resigned and the vacancy thus created was filled up by general category individual Mrs Kabita Sharma. In August 1994 Miss Felicia Pariat (Scheduled Tribe) resigned. This vacancy has now been filled up by Miss Reba Dey (Scheduled Caste). Non adherence to reservation quota during earlier appointments cannot be allowed to be continued."

[Signature]

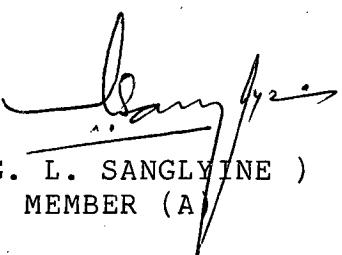
From this paragraph it is very clear that the appointments should be made on the basis of the roster. Therefore, in our view the roster was not strictly maintained. In fact, the appointments had been made contrary to the roster system. Definitely, the 7th point was for a general candidate. The 4th point was for SC candidate out of the 100 points. The appointment of an ST candidate in the 4th point is not in accordance with law. However, at this stage we do not want to disturb the appointment made so far as the 4th point is concerned. We find that the appointment in the 7th point should have been given to a general candidate. Admittedly, the 4th respondent claims to be SC. Therefore, her appointment in the 7th point was not in accordance with the roster system. Therefore, we have no hesitation in setting aside the appointment made to the 4th respondent in the 7th point. But as the 4th point which is the only point for SC was not given to SC candidate, but was given to ST candidate, the 4th respondent should be appointed in the next available ST point so that the SC candidate may not be disturbed. Mr G. Sarma submits that the 9th point is for ST and this can be given to SC candidate in place of the 4th point which is occupied by ST candidate. Accordingly we set aside the impugned Annexure 7 order of promotion of the 4th respondent dated 20.4.1995 and direct the respondents to consider as to who is the fit general category candidate to be appointed in the 7th point and this must be done as early as possible, at any rate within a period of one month from the date of receipt of the order. As submitted by Mr Sarma that there



are.....

are available vacancies, the authority should make all endeavour to appoint the 4th respondent against the 9th point.

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


(G. L. SANGLYINE)

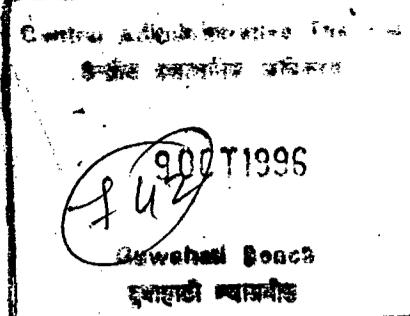
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN

nkm

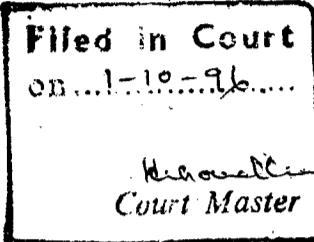
Consolidated Petition

20



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

An Application under Section 19 of the Administrative
Tribunals Act, 1985.



O.A. No. 83 of 1995

Smti Madhumita DeyApplicant

-versus-

Union of India & Ors. ... Respondents

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1	-	Application	1-14 12
2	-	Verification	15 13
3	1	Notification dt. 24.3.95	16 14
4	2	Representation dated 1.9.94	17 15
4	3	Representation dated 22.9.94	16 17
5	4	Letter dated 25.10.94	17
6	5	Representation dated 25.10.94	18-19
7	6	Repredentation dated 20.3.95	20-25
8	7	Promotion Order dated 20.4.95	26

Filed by :

Date 1-10-96

Rehovellie

Advocate

Madhumita Dey

Filed by the applicant
1-10-96 ADV (2)

1. Particulars of the applicant.

Smt. Madhumita Dey
daughter of late Sumesh Ch. Dey,
resident of Dudgron Line, M.E.S. Quarter,
employed as Store Keeper, in the office
of the Station H.Q., Shillong.

2. Particulars of the Respondents.

1. The Union of India,
represented by the Secretary
to the Govt. of India,
Ministry of Defence,
New Delhi

2. The Headquarters 101 Area.

3. The Administrative Commandant,
Station H.Q., Shillong.

4. Smti. Rebha Dey
C/o Station Headquarters,
Shillong.

3. Particulars of the Order against which the
application is made.

1. Letter No. 652/5/Estdt. 26.10.94 (Annexure-4).
2. Notification No. 652/5/Estdt. dated 24.3.95
(Annexure-1)

Contd....P/3

Madhumita Dey

4. Jurisdiction of the Tribunal.

The applicant declares that the subject-matter of the order against which she wants redressal is within the jurisdiction of the Tribunal.

5. Limitation

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

6. Facts of the case

6.1 That the applicant was appointed as a Store Keeper in the Station Head Quarters, Shillong from 25.05.1985 and presently in the scale of Rs. 825-15-90-EB-20-1200/-.

6.2 That the clerical hierarchy in the Estt. including the Group D post in the line are as below :

(a)	Accounts Clerk	- Rs. 950-20-1150-EB-25-1400 Gr.C
(b)	Store Keeper	- Rs. 825-15-900-EB-20-1200 -do-
(c)	Land Supervisor	- Rs. 800-15-1010-EB-20-1150 Gr.D
(d)	Sanitary Mate	- Rs. 775-12-955-EB-14-1025 Gr.D
(e)	Conservancy Safaiwala	- Rs. 750-12-870-EB-14-940 -do-

6.3 That the applicant has been working with all sincerity and devotion and to the entire satisfaction of her superiors.

Contd.. P/4

Modhumita Dey

23

4. That a single vacancy in the post of Accounts Clerk had occurred in May 1994 due to resignation of Smt. Felicia Pariat, a local Scheduled Tribe Personnel.
5. That the applicant is the seniormost Storekeeper, amongst the three Storekeepers now being employed in the Establishment.
6. That the applicant is the next below the cadre of the Accounts Clerk and normally in view of senior position and records of service of applicant should have been promoted to the vacant post of Accounts Clerk aforementioned.
7. That finding that any selection and posting in the post of Accounts Clerk was not being done for a long time the applicant enquired into the matter and came to know that the Administration having considered that there is no Scheduled Caste Personnel holding any of the posts from the channel of promotion so that the post of Accounts Clerk can be filled up. However the single vacancy now arising vice Smt. Felicia Pariat due to resignation treated as a reserved post for Scheduled Caste candidates.
8. That the applicant further learnt that Smt. Rebha Dey, presently holding the post of Conservancy Safaiwala

Contd.. P/4

Modheenila Dey

in the scale of Rs. 750-940/- is being considered to be promoted to this vacant post of Accounts Clerk from leaping two or three grades above her grade of Conservancy Safaiwala being the only scheduled caste employee now being available in the Administrative office.

9. That Smti Rebha Dey had not had the scheduled caste certificate at the time she was appointed as Conservancy Safaiwala at the same time when the applicant was also appointed as Store Keeper in 1985.
10. That Smt. Rebha Dey obtained the scheduled caste certificate after her joining the service.
11. That at the very time of Smti. Rebha Dey's appointment she was two/three grade below the applicant.
12. That at the level of Conservancy Safaiwala, the performance is not that regularly observed as in the case of the applicant inasmuch as that in the case of the former there is no system of Annual Confidential Reports as that is maintained in the latter case.

Contd..P/5

Modhumita Dey

6.13. That had Smti. Rebha Dey belonged to the next below cadre of Accounts Clerk i.e. the Store Keeper as the applicant is holding and a preference had to be extended her being a scheduled caste employee the position would have been different but to place some one two/three grades below over the head of the applicant in spite of her good service records only on the ground that the applicant is not a scheduled caste personnel while the other by dint of a certificate obtained later in course of her service do will have a shattering effect on the service career of the humble applicant.

6.14 That in the grade of Accounts Clerk altogether there are five posts of Accounts Clerk and out of that five posts four posts were filled up by scheduled tribe candidates and one post was filled up by general candidate and presently due to resignation of one Miss Relisia Pariot who was a scheduled case and the vacancy for filling up the post of Scheduled caste Accounts Clerk is notified vide notification dated 24.3.95 by the Administrative Commandant. Be it stated that if there are five posts, there cannot be a reservation of 4 posts out of 5 posts. The existing rules of reservation provided by the Central Government there is no scope for reservation of 4 posts

Contd.. P/6

Moelheenila Dey

29

out of 5 posts. Therefore the Hon'ble Tribunal be pleased to direct the Respondents to produce the relevant rules and roster points under which 4 posts can be reserved out of five posts before the Tribunal.

6.15 That the applicant begs to state that in spite of her best effort she could not obtain recruitment rules of Accounts Clerks, Store Keeper, Conservancy Safaiwala, which are very much relevant in the instant case for fair decision of the prayers made by the present applicant. Therefore the Hon'ble Tribunal be pleased to direct the Administrative Commandant to produce relevant Rules mentioned above.

6.16 That the applicant begs to state that if there is a single vacancy in a recruitment year that should be declared as unreserved vacancy moreover the vacancy fallen vacant due to resignation of Miss Pariot also should be declared as unreserved on the ground that 4 cannot be made reserved out of five posts of Accounts Clerk. So the present vacancy should be declared as unreserved and the applicant should be considered for promotion against the said vacancy.

Contd...P/7

Modhunilā Dey

17. That the applicant begs to state that even if the existing vacancy of the Accounts Clerk is considered as reserved vacancy for scheduled caste in that case also the applicant should be considered for promotion as there is no S.C. candidate in the cadre of Store Keeper.

18. That the applicant came to know from a reliable source that one Miss Reba Dey, Conservancy Safaiwala who claims herself to be a scheduled caste candidate also submitted application in response to the advertisement/notification dated 24.3.95 against the post of Accounts Clerk and the same was accepted by the Administration and she is likely to be considered for the post of Accounts Clerk and the same was accepted by the Administration and she is likely to be considered for the post of Accounts Clerk of her being scheduled caste. Be it stated that there is no provision or scope as per the existing and relevant rule of recruitment for consideration of a Conservancy Safaiwala for the post of Accounts Clerk and if the Departmental promotion Committee consider the case of Miss Reba Dey who does not fall under the zone of eligibility, then the entire proceedings of the D.P.C. made in terms of notification/advertisement dated 24.3.95 for filling up the vacancy of accounts clerks is liable to be set aside and quashed. Therefore the Hon'ble Tribunal be pleased to direct the respondent to produce the proceedings of the D.P.C. for perusal of

Modheenita Dey

the Hon'ble Tribunal.

A copy of notification dated 24.3.95 is enclosed as Annexure-1.

19. That the applicant immediately after resignation of Miss Pariot submitted a representation dated 1.9.94 addressed to the Station Headquarter, Shillong whereby she preferred her claim for promotion to the post of Accounts Clerk against the existing vacancy occurred due to the resignation of Miss Pariot, and she also expressed her confusion and apprehension as regard filling up the said vacancy by a reserved candidate. However the Administrative Commandant vide letter dated 26.10.94 violated the rule of reservation quota by selecting a general candidate for the post of Accounts Clerk and the same mistake cannot be allowed to repeat. This decision communicated without consulting or referring the relevant rules of reservation and also without considering the claim of the present applicant who is well within the zone of eligibility. Therefore the letter dated 26.10.94 is liable to be set aside and quashed.

Copies of representation dated 1.9.94, 22.9.94 and 26.10.94 are enclosed as Annexures 2,3 & 4.

Contd.....

Modheurul Haq

20. That the applicant again submitted representation dated 28.10.84 and 20.3.95 whereby the applicant brought to the notice of the Respondents the relevant circular as regard single-vacancy and factual position and also prayed for consideration of her case against the vacancy accrued due to the resignation of Miss Pariot but surprisingly the Administrative Commandant vide his letter dated 26.10.94 informed that the present post belong to S.C. quota. The decision of the Administrative Commandant is also arbitrary as such the same is liable to be set aside and quashed.

Copies of representation dated 28.10.94 and representation dated 20.3.95 are enclosed as Annexure 5 and 6.

21. That the applicant begs to state that the departmental promotion Committee/ on 15.4.95, therefore the present applicant apprehends that if Miss Reba Dey is considered for promotion to the post of Accounts Clerk who is even not within the eligibility zone it will cause irreparable loss to the applicant. Therefore the Hon'ble Tribunal be pleased to direct to the respondents not to publish the selection proceedings till finalisation of the application for the cause of justice and also not to implement the selection proceedings held on 15.4.95.

21(a) That the impugned order issued under letter No. D.O. Part II Order No. 05/CIV/95 dated 20.3.95 and under authority headquarter letter No. 04/CIV/95 dated 15.3.95

Modheruila Dey

which is not in conformity with the recruitment rules for promotion to the post of Accounts Clerk laid down in SR 128/80 is liable to be set aside and quashed. In this connection it may be stated that the respondent No. 4 was arbitrarily considered for promotion to the post of Accounts Clerk without considering the candidature of the applicant in total violation of the departmental rules and regulations. Hence the promotion order of respondent No. 4 is liable to be set aside and quashed and the applicant be considered for promotion to the post of Accounts Clerk from the date of promotion of respondent No. 4 with all consequential service benefits and ~~maximum~~ monetary benefits.

A copy of the impugned promotion order dated 20.4.95 and 15.3.95 are annexed as Annexure 8 and 8(a) respectively.

22. That this application is made bonafide and for the cause of justice.

7. Reliefs sought for :

Under the facts and circumstances stated above the applicant prays for the following reliefs :

1. That the applicant be considered for promotion for the vacant post of Accounts Clerk.
2. That the vacant post of Accounts Clerk should be declared unreserved and fresh D.P.C. should be constituted for filling up the single vacancy of Accounts Clerk.

Contd....

Modhera Dey

3. That the Hon'ble Tribunal be pleased to declare that the post of Accounts Clerk occurred in the year 1994 cannot be filled up from the grade of Conservancy Safaiwala (Group D).

4. That the advertisement/notification dated 24.3.95 (Annexure-I) and letter dated 26.10.94 (Annexure-3) be set aside and quashed.

5. That the impugned order issued under letter No. D.O. Part II Order No. 05/CIV/95 dated 20.4.95 and 15.3.95 be set aside and quashed.

6. That the respondents be directed to promote the applicant to the post of Accounts Clerk with effect from the date when respondent No. 4 was promoted with all consequential service benefits and monetary benefits.

7. To pass any other order or orders as deemed fit and proper under the facts and circumstances stated above.

GROUND FOR RELIEF ~~XXXXXX~~ WITH LEGAL PROVISION

1. That in a single post vacancy the question of reservation does not arise.

2. That even if the post is denied as a reserved post for Scheduled Caste personnel, the prospective promotee must belong to the next below cadre and not two/three cadre below the post which is proposed to be filled up by promotion.

Contd...

Modhemi la Dey

3. That according to the service condition obtaining in Station H.Q. Clerical Establishment or Grade D posts down below the position/length of service required to rise in the ladder is known to as below :

Conservancy Safaiwala

Promotion after 8 yrs. of service.

Sanitary Mate

Land Supervisor

Store Keeper

??

Promoted after 8 yrs. service

Accounts Clerk Promoted after 8 years.

4. That according to the service conditions and the length of service required for stepping up from one post to next higher post, Smt. Reba Dey is nowhere in the range of such promotion.

5. That according to the O.M. No. 1/9/74-Estt (S.T.) dated 29.10.1985 from the Govt. of India in the Ministry of Pers. & A.R., it has been laid down that when a single post comes for filling

Contd....

Modhumita Dey

up in the initial recruitment year the same should be treated as 'Unreserved' -----.

6. In Smt. Chetana Dilip Motghare, petitioner -vs.- Shide Girls Education Society, Nagrem and Others vide AIR 1944 S.C. 1917 the Hon'ble Apex Court has laid down the law concerning filling up single post.

8. Interim reliefs prayed for

During the pendency of the application the applicant prays for the following interim reliefs :

1. That the respondents be directed not to act upon the selection proceedings held on 15.4.95 for filling up the post of Accounts Clerk without leave of this Hon'ble Court.

2. That the Hon'ble Tribunal be pleased to pass any other order/orders as deemed fit and proper.

The above relief/s is prayed on the grounds mentioned in paragraph 7 of this application.

9. The applicant declares that she has exhausted all the remedies, and now approached this Hon'ble Tribunal.

10. Particulars of Bank Draft/Postal Order.

I.P.O. No.	:
Issued from	: G.P.O., Guwahati
Payable at	: G.P.O., Guwahati

11. List of Enclosures

12. As per Index.
That the applicant declare that there is no other application is pending on the above subject in any other court.

Modhumita Dey

VERIFICATION

I, Smti. Madhumita Dey, daughter of late
Sumesh Ch. Dey, aged 30 years, working as Store Keeper
in the office of the Station H.Q., Shillong resident of
Dudgeon Line, MES, Quarter, Shillong do hereby verify
that the contents of paras 1 to 12 and rests are true
to my personal knowledge and rests and are believed
to be true on legal advice and I have not suppressed
any material facts.

Date : 1-10-96

Place : Enclath

Madhumita Dey
SIGNATURE OF THE APPLICANT

Annexure- 1.

652/5/Est.

Station Mukhyalaya

Station Headquarters,

Shillong.

NOTICE BOARD.

24 Mar 95.

One vacancy of Account Clk. reserved for S.C. only is to be filled up by DPC. The test for the same will be held at this HQ. on 31.3.95 at noon. S.C. Candidates min. 3 yrs service and having educational qualification of Matric or equivalent be directed to report for the test on due date.

Sd/-

(S.K.Mehta)

Col.

Adm. Comdt.

*S.K. Mehta
Adm. Comdt.*

To

The Station Commander
Station H.Q. Shillong.

Respected Sir,

With due respect I beg to lay the following facts as regards departmental promotion for your kind perusal and sympathetic consideration.

2. That Sir, it is an established norms of all Government and semi Government organisations that departmental promotions are effected to the higher ranks according to the seniority of the staffs, provided ACR is satisfactory.

3. That Sir, among the present Skt. cadre I am the seniormost encumbent for the next promotion. As a post of an Acct/Clk exists in the department, it is according to the seniority is legitimately due to me. I deserve preference for the post and I should be asked to comply with required formalities in support of my ckaim, of course if I fail, then only selection of candidates from other departments arises.

4. That Sir, when we were recruited to this establishment, it was from general quota and not from SC/ST quota. and now at the time of promotion it is not understood why a separate SC. certificate is asked for.

5. That Sir, if vacant post is to be filled in only by SC. candidates then those who were recruited in general quota are not entitled to apply for it.

6. Hope my prayer will receive your kind consideration and for which act of your kindness I shall remain ever grateful to you.

Yours faithfully,

Sd/-
Modhumita Dey

(Modhumita Dey)

Skt.

Stn. HQ. Shillong.

Dated- 01 Sep 94.

Annexure - 3.

To
The Station Commander,
Station Headquarters,
Shillong.

Respected Sir,

1. Further to my representation dated 01 Sep 94. I beg to lay the following few lines for your kind consideration and sympathetic action.
2. From the records it reveals that promotions are always effected from lower grade to upper grade on the basis of seniority.
3. As I am the ~~xxxxxxxx~~ seniormost in SKT cadre. I am entitled to get the promotion to Account Clerk as a vacancy of Accounts Clerk is arising in the department.
4. For your kind reference I want to mention here that in the year 1988 when a post of Account Clerk was vacated (reserved quota) a General candidate from SKT was promoted to that post on the basis of her seniority/DPC.
5. I appreciate that promotion is always department on the seniority and ACR and I am confused why the post of Accounts Clerks is going to fill up from reserved quota/lower grade.
6. As CR is the basis of assessment of the work and conduct of the employee together with seniority for promotion my claim for promotion is legitimate as I am SKT. since 1985 (10 years of service).
7. On the context, I shall pray you kindly look into the matter so that justice is done to me and take necessary steps for consideration of my prayer.

Yours faithfully,

Dated : 22 Sep 94.

(Modhumita Day)

SKT

Station HQ. Shillong.

*Attested
Attn
Paw*

Annexure- 4.

Tele Mil : 3517.

Station Headquarters
Shillong.

652/5/Est.

26 Oct. 94.

Miss Modhumita Dey,
SKT,
Station HQ. Shillong.

DEPARTMENTAL PROMOTION.

1. Ref your application dated 22 Sep 94.
2. Parawise comments of your application are given below :-
 - (a) Para 2,3,5,& 6 : The points have been explained to you personally by the undersigned on 15 Sep 94.
 - (b) Para 4 : Promotion to A/Clk. in 1988 was also based on the reservation quota though DPC. for reasons best known to them, violated the rule by selecting a candidate belonging to general cadre without following laid down rules for reservation of the post. Therefore office cannot be compelled to repeat the same mistake.
3. The above is for your info please.

Sd/- Illigible.

(S.K.Mehta)
Col
Adm Comdt.
for Stn Cdr.

*Attest ed
S. K. Mehta
Col
Adm Comdt.
for Stn Cdr.*

To
The Administrative Commandant
Station Headquarters,
Shillong.

SUB: DEPARTMENTAL PROMOTION

Respected Sir,

1. Further to my representations dated 22 Sep 94 and your letter No. 652/5/Est dated 26 Oct. 94.
2. In this regard I would like to submit that as per clarification given in seniority and promotion book of Swamy's Compilation on page No.136 and para 5 of Copy of department of personnel & AR, Cabinet Secretariat New Delhi Office Memorandum No. 1/9/74-ESTT'SVT. dated 29 Apr. 75 that a single vacancy in ~~particular year which~~ a particular year which falls on a reserved point in the ~~4~~ roster, it will be treated as unreserved.
3. Here again I would like to mention some rulings is based on decision given by the Supreme Court is as under for your ready reference :-

"Order contained in the Ministry of ~~Home~~ Home Affairs OM No. 1.11.69/Est (SCT) dated 28 Sep 70 are also quite clear. Note under Annexure to the ~~Order~~ ON accordingly to which a single vacancy in a year is to be treated as unreserved is based on a decision given by the Supreme Court".

4. The above rulling is quite correct and I being the seniormost that I deserve the promotion and this is my legitimate claim.

However.....

Annex. 5

5. However if your honour is not satisfied with the Govt. of India rulling regarding the single vacancy created will be filled by general candidate you may like to get the matter clarified by higher auth. Since all relating clarification on this particulars promotion are being sought from higher auth.
6. May also therefore, request you till my application for promotion is set aside the matter may please be kept pending for justice, as the above case has already been fwd. to higher auth without verify the above rule.
7. Thanking you.

Yours faithfully,

(Modhumita Dey).

SKT. Stn. HQ. Shillong.

*After 28 Oct
Modhumita Dey
SKT. Stn. HQ. Shillong*

Annexure - 6.

From :- Modhumita Dey,
Station Head quarters,
Shillong

To : The General Officer Commanding
H.Q. 101 Area
C/O. 99 A.P.O.

(Through Proper Channel).

Respected Sir,

Most humbly and respectfully I beg to submit the following on the question of filling up the post of Account Clerk in the scale of Rs. 950-20-1150-EB-1500/- in the office of the Administrative Commandant, Station Head Quarters, Shillong for your kind consideration and favourable orders :-

That the clerical hierarchy in the establishment upto the rank of Accounts clerk is as hereunder :-

(i) Accounts Clerk - Rs. 950-20-1150-EB-1500/-

(ii) Store Clerk - Rs. 825 -15-900-EB-20-1200/-

(iii) Conservancy

Safaiwalla. - Rs. 725.

2. That I was appointed as Store Clerk and I joined the Service on 25.05.1985 and have been Continuously in service since then.

3. That I have been serving with all sincerity and devotion, to the best of my ability and to the entire satisfaction of my superiors.

*Attended
Modhumita Dey*

-21-

✓

Annexure-6

4. That the post of Accounts Clerk as aforesaid was being held by Smt. Kanita Sharma and fell vacant on 1987 due to resignation of Mrs. Fedalin Hyrwe and since then remained vacant to be filled up.

5. That I am the senior most Store Keeper and in the normal course I would have been promoted to the post of Accounts Clerk as higerto done but for the question of Accounts Clerk being a Reserved post for Scheduled Caste/Scheduled Tribe departmental candidated.

6. That in consideration of the Question of reservation of the post for Scheduled Caste/Scheduled Tribe the post is being left vacant for now about a year and as far as I could know that a proposal to fill up the post of the aforesaid vacant post of Accounts Clerk by Smt. Reba Dey, a schedule caste conservancy safaiwala was being considered.

7. That in view of the post being left vacant for such a long time and having learnt that the main stumbling block against filling up of the post by your petitioner in spite of her most devoted and sincere service was the question of reserved quota post, the petitioner made some representation to the Administrative Commandant Station Headquarters, Shillong.

8. That the Station Head Quarters Shillong vide letter No. 652/5/Estt. dt. 26.10.94 furnished certain

*Amesha
Dilu
D/S*

Contd'...

clarification the main point there in para 2(b) is reproduced below :

"(b) Para 4 : Promotion to Accounts Clerk in 1988 was also based on the reservation quota ~~through~~ through DPC. for reasons best known to them, violated the rule by selecting a candidate belonging to general cadre without following laid down rules for dereservation of the post. Therefore repeat office cannot be compelled to ~~repeat~~ the same mistake% (Copy enclosed as Annexure-1).

9. That in view of the position stated in station Headquarters letter quoted vide foregoing paragraph the main issues to be resolved could be short listed as below :

(i) What is the scope and limitation etc. of Reserved quota post as aforesaid ? and

(ii) Whether it would be fair and reasonable and justified to promote Smti. Reba Dey Conservancy Safaiwala by granting her frog leap promotion jumping over the immediate higher cadre post of the Store Keeper?

Both these issues were discussed at length in my representation dt. 10.11.94 (Copy enclosed for ready reference as Annexure-II).

10. That the General principle of promotion is already laid down by the Apex Govt. ambiguous term. In Balkishan Vs. Delhi Administration ^{AIR} 1990 S.C. 100 the

*affixed
Mukta
P.S.*

Annexure-6

Apex Govt. opened "In service there could only one norm for confirmation or promotion belonging to the same cadre. No junior shall be confirmed or promoted without considering the case of his senior. Any deviation from this principle will have demoralising effect in service apart from being contrary to Article 16(i) of the Constitution."

11. That the Special provision in any rules and regulations though sidelines the General provisions on that respect for which the same is made but it is only to the extent the same is made no more no less. And the special provision for reservation for Scheduled Caste/ Scheduled Tribe in the matter of promotion could not be/ an exception. In other words this has to be strictly enforced as well as restricted both in contents and dimension. From that point of view I beg to differ from the interpretation contained in para 2(b) of the letter No. 652/5/Estt. dated 26.10.94 inasmuch as the Govt. of India in per and AR Office Memorandum No. 1/9/74-Estt (S.T.) dated 29.04.1985 specifically laid down that when a single post comes for filling up in the initial recruitment year the same should be treated as "unreserved" and filled up accordingly and the reservation name forward to subsequent there recruitment years from the initial recruitment year, the reservation will lapse. It would in other words

Affected
Only
P.

Contd.....

men a cycle of 4 years of which the first year is unreserved followed by reservation for three years and the repetition three of as if in a cycle. In review petition disposed of only recently vide AIR 1994 SC 1917 the Hon'ble Supreme Court has re-affirmed the view as stated in the line of Govt. of circular as above, though on a different context but on the same principle as discussed bid. (Copy enclosed as Annexure-III).

12. That be it mentioned that the post of Accounts Clerk filling vacant is a single post and it occurred in 1980 while Smti. Kabita Sharma (Nee Das) was promoted and there had been no violation of rules by the D.P.C. then nor will there be a violation of rules and principles as laid down if the first promotion after this long gap of 8 years was filled up by a person from general list, provided he/she was otherwise eligible and deserving.

13. That I have nothing personally again Smti. Reba Dey and I wish her all prospect, the fact remains that she is one cadre below my position and her frog leap promotion over me to the post of Accounts Clerk is bound to affect me grievously and will be a violation of the principle of natural justice and therefore unfair, unreasonable and unjustified. On the contrary on my promotion as Accounts Clerk she would not be deprived as she could move from the post of Conservancy Safaiwala to the post of Store Keeper on promotion.

*A. H. A. S.
Chh.
P.D.*

- 26 -

- 25 -

Annexure-6 (Contd.)

In the circumstances the two issues listed in paragraph 9 bid being answered in my favour, I fervently hope that the issues ~~sme~~ will receive your benign consideration and favourable orders towards my promotion in the post Accounts Clerk issued at your earliest convenience.

And in the meantime during the pendency of consideration of this petition issuance of any, orders of promotion of Smti. Reba Dey to the Accounts Clerk is stayed.

I remain Sir,

Yours faithfully,

Dated 20.3.95.

(Miss Madhumita Dey)

*Attached
Chlu
adv*

REGISTERED

DO PART -II ORDER CIV STAFF
STATION HEADQUARTERS : SHILLONG

PRESENT DO PART II ORDER NO : 05/Civ/95 Dated : 20.4.95

LAST DO PART II ORDER NO : 04/Civ/95 Dated : 15.3.95

PROMOTION

1. Miss Reba Dey - Promoted to Account Clerk
wef 15 Apr 95 and 10% of the
same date at Account Clerk.

Scale of pay Rs. 950-20-EB-25-1500.

Authority : HQ 101 Area letter No. 10711/18/GE
(SD) dated 13 Mar 95 and DPC dated
15 Apr 95.

Sd/-

(S.K.MEHTA)
Col
Adm Comdt
for Stn Cdr

Distribution :

1. Area Accounts Office, Shillong
2. LAO (A) Shillong
3. HQ 101 Area (GE/SD) Branch

*Attached
Chh.
Dew.*

58
Monika Chanda
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

83
O.A. No. 88 of 1995

Smti. Madhumita Dey

- Versus -

Union of India & Ors.

List of Dates.

<u>Sl. No.</u>	<u>Dates</u>	<u>Particulars</u>	<u>Para</u>	<u>Page</u>
1.	25.5.85	The applicant was appointed as a Store Keeper in the Station Headquarter, Shilong.	6.1.	2
2.	1994	A post of Accounts Clerk was vacant under the formation Headquarter in May 1994. The applicant is the seniormost storekeeper. The applicant is one grade below the post of Accounts Clerk.	6.4 6.5 6.6	3
3.		Smt. Rebha Dey Respondent No.4 who was holding the post of Conservancy Safaiwala was promoted to the post of Accounts Clerk from two/three grades below .	6.8 6.9 6.10 6.11	4

Contd.....2

Sl. No. Dates Particulars 928 Para Page

Respondent No. 4 did not have the Scheduled Caste certificate at the time of the imitial appointment and she obtained that certificate after her joining, but has been considered as Scheduled Caste

4. There are five posts of Accounts 6.14 5 Clerk and out of those 4 posts were filled up by Scheduled Tribes and one post was filled up by General Candidate.

5. 1.9.94 26.10.94 Applicant submitted a representation 6.19 8 preferring her claim for promotion to the post of Accounts Clerk which had fallen vacant due to the resignation of misperied.

However the administrative commandent informed that the present post belong to Scheduled Caste quota.

Annexure - 2,3 & 4.

Contd....3

<u>Sl. No.</u>	<u>Dates</u>	<u>Particulars</u>	<u>P</u>
6.	24.3.95	Notification was made against the post of Accounts Clerk and respondent No.4 submitted an application in response thereof the same being accepted by the administration it is likely that the same ^{would} be considered.	6.

Annexure - I

7.	<u>28.10.94</u> <u>20.3.95</u>	Applicant again submitted a representation bringing the relevant circular as regard single vacancy and factual position to the notice of the respondent.	6.
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Annexure - 5 & 6.

8.	15.4.95	Departmental promotion Committee was held and respondent No.4 was likely to be considered for promotion to the post of Accounts Clerk ignoring the claim of the applicant although she does not fulfil the illegibility Criteria.	6.
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<u>Dates</u>	<u>Particulars</u>	<u>Para</u>	<u>Page</u>
15.3.95 20.4.95	The promotion order of respondent No.4 was issued purportedly in pursuance to the order dated 15.3.95.	6.21A	10

Annexure - 8 & 8 A.

Submission

The applicant submits that the promotion of the respondent No.4 to the post of Accounts Clerk is Ex-fac*et* illegal in as much as the promotion of the respondent No.4 was made illegally & arbitrarily without following the required procedure/provisions of law. It is also submitted that the respondent No.4 does not fulfil the ~~Eligibility~~ criteria.

However she was promoted illegally ignoring and without considering the bonafide claim of the applicant .

Thus it is submitted that the promotion orders of respondent No. 4 so made are liable to be set aside and quashed.

Background of the Case

There are 5 post of Accounts Clerk duly filled up by the following :-

From 1988

(a) Shri. Bibhuti Narayan Singh	(General)
(b) Smt. Demogratia Marwein	(ST)
(c) Smt. Alasha Thangkhiew	(ST)
(d) Miss. Felicia Pariat	(ST)
(e) Smt. Kabita Sharma	(General)

Subsequently ser 1 (d) above Miss. Felicia Pariat (ST) has resigned wef 10 Aug 94 and thus created a vacancy of one Accounts clerk.

Based on the 100 point Reservation Roster (Regional Basis) 1% SC, 44% ST :-

Out of 5 Post

(a) SC 1%	= 1 post
(b) ST 44%	= 2 posts
(5x44% =2.2)	
(c) General	= 2 posts.

The post No 4 reserved for SC has been carried forward. Since the post No 4 vacated by the reserved candidate (ST), the department has decided with the permission from higher authority vide HQ 101 Area letter No 10711/18/GS(SD) dated 05 Apr 95 to fill-up the existing vacancy by the carry forward SC quota. Hence the same has been filled up by SC Candidate through Departmental examination from Group 'D' employees who fulfilled the requirements such as education, qualification, age and Service criteria as laid down in the Recruitment Rules (SRO -128/80 and 121/88) i.e :-

80 % by transfer - of persons working in similar, analogous or higher posts in lower Formation of defence services.

10 % by promotion - On seniority-cum-fitness basis from Group 'D' employees borne on regular establishment, subject to the following conditions :-

(a) Selection shall be made through Departmental examination confined to such Group 'D' employees who fulfill requirements of minimum educational qualifications namely, matriculation or equivalent.

(b) The maximum age for this examination shall be 45 years (50 years for SC and ST candidates).

(c) At least 5 years service in Group 'D' post is essential.

10 % for Ex-servicemen - by transfer on deputation/re-employment.

Hence the department in this case has adopted 10% by promotion since only one reserved post is existing and the eligible SC candidate is available in the Department itself.

Thereafter, 5 posts of Accounts Clerk are as under :-

(a) ST - 2 (Smt. DW Marwein & Smt. A Thangkhiew)

(b) General - 2 (Shri. BN Singh & Smt. K Sharma)

(c) SC - 1 (Miss. Reba Dey)



R D Dhiman
(R D Dhiman)
Colonel _____
Administrative Commandant
for Station Commander
Shillong

AKHIL BHARAT ANUSUCHIT JATI PARISHAD
ALL INDIA ORGANISATION OF SCHEDULED CASTES

Meghalaya Branch, Shillong.

Regd. No S/11181 of 1980 & Recognised by the Ministry of Home Affairs, Govt. of India.
Income Tax Exemption U/s 80-G & 35 CCA of Income Tax Act, 1961

Ref: No: ABAJP/MEGH/

Date 9.12.97

To,

The Hon'ble
Mr. Justice, D.N.Baruah,
Vice-Chairman.
Central Administrative Tribunal,
Guwahati Bench
Rajgarh Road, Bhangagarh,
Guwahati -5 ASSAM

Respected my Lord,

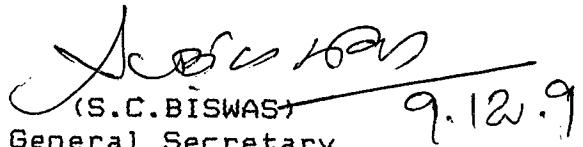
Your Lordship must excuse me for killing your valuable time by this letter.

It is regarding a Case pending in Tribunal, OA NO. 83/95. The case relates to promotion of Smti Reba Dey to L.D.C. (working in O/o the Station Head Quarters, Shillong) from safaiwala. She was promoted on the ground that she belongs to scheduled caste. As people know she is not scheduled caste at all and by fraud she managed to obtain a scheduled caste certificate and got her promotion.

This case along with other was raised in the floor of Meghalaya Legislative Assembly during March'97 and the matter is under investigation. (The relevant document is enclosed).

It is prayed to your Lordship kindly to look into the matter.

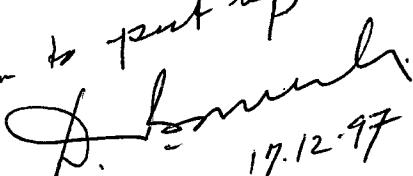
Yours faithfully


(S.C.BISWAS) 9.12.97

General Secretary

All India Organisation of Scheduled Castes,
Meghalaya Branch, Shillong.

S.C.Biswas,
Madhab Kunja,
Bhagyakul, Laitumkhrah,
Shillong -793003
Meghalaya

Registration to put up

17.12.97

C.O.
P.L. for my immediate
17.12.97

34

Issue of Scheduled Caste Certificate

Shri S. NONGRUM

Shri O. N. SHYRMANG

Shri P. G. MARBANIANG

(Minister in-charge, Social Welfare)

51. Will the Minister in-charge, Political be pleased to state :-

(a) Whether it is a fact that a large number of Scheduled Caste Certificates have been issued to Non-Scheduled Castes persons by the Deputy Commissioners, Shillong, Tura and Williamnagar ?

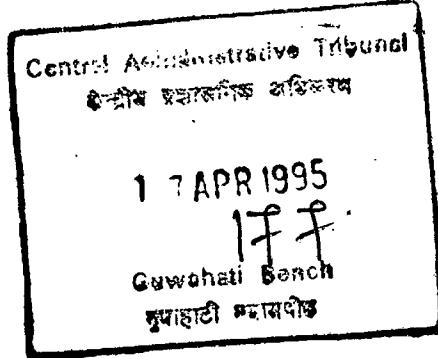
(b) All India Organisation of Scheduled Castes, Meghalaya Branch, Shillong, met our Chief Minister on 16-8-96 and requested him to pass necessary orders so that all the applications for Scheduled Castes certificates are strictly verified through the Organisation, so that issue of Scheduled Castes certificate to Non Scheduled Caste persons in the State is stopped . What decision has been taken by the Government in that respect ?

(e) The steps taken to cancel the Scheduled Caste certificates issued to person who are allegedly Non Scheduled Castes ?

(a) Sir, no such information has been received. Whenever any complaint of irregular issue of such Certificates is received the matter is re-verified and suitable action taken.

(b) The request of the All India Organisation of Scheduled Castes had been examined. It was felt that since the Organisation only has a branch at the State Level in Shillong, there would be delays if the verification of applications are done through them, as applications from all over the State would be coming to them and they may not have the means or the man-power to verify the genuineness of applications from all over the State. In case, they could open their branches in all Districts, the Government could review the procedure. This was communicated to the All India Organisation of Scheduled Castes by a letter dt. 29-8-96.

(c) There is no reason to cancel the Scheduled Castes Certificates, which are only alleged to have been issued to Non-Scheduled Castes persons. The Government has issued instructions to all Deputy Commissioners to re-verify the Castes of persons to whom such certificates have been issued. The certificates of all those persons will be cancelled, who on re-verification are found to belong to Castes other than Scheduled Castes.



Filed by the opponent
through Mr. Chander
Sarkar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

O. A. No. 83 /95.

Smti. Madhumita Dey. Applicant.
-versus-
Union of India & others. Respondents.

I N D E X.

<u>S.I.No.</u>	<u>Annexure.</u>	<u>Particulars.</u>	<u>Page.</u>
1.	1	Notification dated 24.3.95.	14.
2.	2	Representation dated 1.9.94.	15.
3.	3	Representation dated 22.9.94.	16.
4.	4	Letter dated 26.10.94, issued by Respondent No. 3.	17.
5.	5	Representation dated 28.10.94.	18.
6.	6	Representation dt. 20.3.95.	19-24.
7.	7	Letter dated _____ issued by Respondent No. 3.	25.
8.		Writter Statement / Show cause by Writ on behalf of the Respondent = 25-40	

Recd. copy
Mr. Choudhury
Abdul (C.G.C)
17/4/95

78

91

1. Particulars of the applicant.

Smti. Madhumita Dey,
daughter of late Sumesh Ch. Dey,
resident of Dudgron Line, M. E. S. Quarter,
employed as Store Keeper, in the
office of the Station H. Q., Shillong.

2. Particulars of the Respondents.

1. The Union of India,
represented by the Secretary
to the Govt. of India,
Ministry of Defence.
2. The Head Quarters 101 Area.
3. The Administrative Commandant,
Station H. Q., Shillong.
4. Smti. ~~Beba~~ Dey, Rathna Dey
C/O. Station H. Q. Shillong.

3. Particulars of the Order against which
the application is made.

1. Letter No. 652/5/Est. Dt. 26.10.94.

----- Annexure - 4.

2. Notification No. 652/5/Est. dt. 24.3.95.

----- Annexure - 1.

3. Letter No.

do.

----- Annexure - 7.

4.....

4. Jurisdiction of the Tribunal.

The applicant declares that the subject-matter of the order against which she wants redressal is within the jurisdiction of the Tribunal.

5. Limitation.

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

6. Facts of the case.

1. That the applicant was appointed as a store keeper in the Station Head Quarters, Shillong from 25.05.1985 and presently in the scale of Rs. 825-15-90-EB-20-1200/-.

2. That the clerical hierarchy in the Estt. including the Group D post in thek line are as below :-

- (a) Accounts Clerk - Rs. 950-20-1150-EB-25-1400 Group C.
- (b) Store Keeper. - Rs. 825-15-900-EB-20-1200 -do-
- (c) Land Supervisor.- Rs. 800-15-1010-EB-20-1150. -do-
- (d) Sanitary Mate. - Rs. 775-12-955-EB-14-1025 Group-D.
- (e) Conservancy
Safaiwalla. - Rs. 750-12-870-EB-14-940 -do-

3. That the applicant has been working with all sincerity and devotion and to the entire satisfaction of her superiors.

4. That a single vacancy in the post of Accounts Clerk had occurred in May 1994 due to resignation of Smt. Felicia Pariat, a local Scheduled Tribe Personnel.
5. That the applicant is the seniormost Storekeeper, amongst the three Storekeepers now being employed in the Establishment.
6. That the applicant is the next below the cadre of the Accounts Clerk and normally in view of senior position and records of service of applicant should have been promoted to the vacant post of Accounts Clerk aforementioned.
7. That finding that any selection and posting in the post of Accounts Clerk was not being done for a long time the applicant enquired into the matter and came to know that the Administration having considered that there is no Scheduled Caste Personnel holding any of the posts from the channel of promotion so that the post of Accounts Clerk can't be filled up. However the single vacancy now arising vice Smt. Felicia Pariat due to resignation treated as a reserved post for Scheduled Caste candidates.
8. That the applicant further learnt that Smt. Reba Dey, presently holding the post of Conservancy Safaiwala

..... in the

31 10

in the scale of Rs. 750-940/- is being considered to be promoted to this vacant post of Accounts Clerk ~~now~~ leaping two or three grades above her grade of Conservancy Safaiwala being the only Scheduled caste employee now being available in the Administrative Office.

9. That Smti. Reba Dey had not had the Scheduled Caste Certificate at the time she was appointed as Conservancy Safaiwala at the same time as the applicant was appointed as Store Keeper 1985.
10. That Smt. Reba Dey obtained the Schedule Caste Certificate after her joining the service.
11. That at the very time of Smti. Reba Dey's appointment she was two/three ^{grade} scale below the applicant.
12. That at the level of Conservancy Safaiwala, the performance is not that regularly observed as in the case of the applicant inasmuch as that in the case of the former there is no system of Annual Confidential Report as that is maintained in the latter case.

13.....

13. That had Smti. Reba Dey belonged to the next below cadre of Accounts Clerk i.e. the Store Keeper as the applicant is holding and a preference had to be extended her being a scheduled caste employee the position would have been different but to place some one two/three scale below over the head of the applicant in spite of her good service records only on the Ground that the applicant is not a schedule caste personnel while the other by dint of a certificate obtained later in course of her do will have a shattering effect on the service career of the humble applicant.

14. That in the grade of Accounts Clerk altogether there are five posts of Accounts Clerk and out of that five posts 4 posts were filled up ^{by Schedule Tribe.} and one post was filled up by general candidate and presently due to resignation of Miss Felisia Pariot who was a schedule Tribe, a post ^{fall} is now felt vacant from June 1994 and that post of Scheduled Tribe is now declared as scheduled caste and the vacancy for filling ^{up} the post of Scheduled caste Account Clerk is notified vide notification dated 24.3.95 by the Administrative Commandant. Be it stated that if there are five posts, there cannot be a reservation of 4 posts out of 5 posts. The existing rules of reservation provided by the Central Govt.

3, 9, 1, 5, 6, 1, by m

there is

there is no scope for reservation of 4 posts out of 5 posts. Therefore the Hon'ble Court be pleased to direct the Respondents to produce the relevant rules and roaster points under which 4 posts can be reserved out of five posts.

15. That the applicant begs to state that in spite of her best effort she could not obtain recruitment rules of Accounts Clerk, Store Keeper, Conservancy Safaiwala, which are very much relevant in the instant case for fair decision of the prayers made by the present applicant. Therefore the Hon'ble Tribunal be pleased to direct the Administrative Commandant to produce relevant Rules mentioned above.

16. That the applicant begs to state that if there is a single vacancy in a recruitment year that should be declared as unreserved vacancy moreover the vacancy fallen vacant due to resignation of Miss Pariot also should be declared as unreserved on the ground that 4 cannot be made reserved out of five posts of accounts clerk. So the present vacancy should be declared as unreserved and the applicant should be considered for promotion against the said vacancy.

17. That the applicant begs to state that even if the existing vacancy of the accounts clerk is considered as reserved vacancy for scheduled caste in that case also the applicant should be considered for promotion as there is no S.C. candidate in the cadre of store keeper.

18. That the applicant came to know from a reliable source that one Miss. Reba Dey Conservancy Safaiwala who claims herself to be a scheduled caste candidate also submitted application in response to the advertisement notification dated 24.3.95 against the post of Accounts Clerk and the same was accepted by the Administration and she is likely to be considered for the post of accounts clerk of her being scheduled caste. Be it stated there is no provision or scope as per the existing and relevant rule of recruitment for consideration of a Conservancy Safaiwala for the post of Accounts Clerk and if the Departmental promotion Committee consider the case of Miss Reba Dey who does not fall under the zone of eligibility, then the entire proceedings of the D. P. C. made in terms of notification/advertisement dated 24.3.95 for filling up the vacancy of accounts clerks is liable to be set aside and quashed. Therefore the Hon'ble Tribunal be pleased to direct the Respondents to produce the proceedings of the D. P. C. for perusal of the Hon'ble Tribunal.

A copy of notification dated 24.3.95 is annexed as Annexure - 1.

19. That the applicant immediately after resignation of Miss. Pariot submitted a representation dated 1.9.94 addressed to the Station Head Quarter, Shillong whereby she preferred her claim for promotion to the post of Accounts Clerk against the existing occurred due to the resignation of Miss. Pariot, and she also expressed her confusion and apprehension as regard filling up the said vacancy by a reserved candidate. However the Administrative Commandant vide her letter dated 26.10.94 informed the applicant that in the year 1988 D. P. C. violated the rule of reservation quota by selecting a general candidate for the post of Accounts Clerk and the same mistake cannot be allowed to repeat. This decision communicated without consulting or referring the relevant rules of reservation and also without considering the claim of the present applicant who is well within the zone of eligibility. Therefore the letter dated 26.10.94 is liable to be set aside and quashed.

Copies of representation dated 1.9.94, 22.9.94
^{letter dt.}
and 16.10.94 are enclosed as Annexures - 2, 3, & 4.

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20. That the applicant again submitted Representation dated 28.10.94 and 20.3.95 whereby the applicant brought to the notice of the Respondents the relevant circular as regard single vacancy and factual position and also prayed for consideration of her case against the vacancy accrued to the resignation of Miss Pariot but surprisingly the Administrative Commandant vide his letter dated 20.10.94, That the present post belong to S.C. quota. This decision of the Administrative commandant is also arbitrary as such the same is liable to be set aside and quashed.

Copies of representation dated 28.10.94 and Representation dated 20.3.95 and ~~Administrative Commandant reply letter dated~~ are enclosed as Annexure - 5, 6 & 7.

(W.M.
Ad.)

21. That the applicant begs to state that the departmental promotion Committee scheduled to be held on 11.4.95. Therefore the present applicant apprehends that if Miss. Reba Dey is considered for promotion to the post of Accounts Clerk who is even not within the eligibility zone it will cause irreparable loss to the applicant. Therefore the Hon'ble Tribunal be pleased to direct to the Respondents not to publish the selection proceedings till finalisation of this application for the cause of justice and also not to act upon the selection proceedings held on 15.4.95.

22. That this application is made bonafide and for the cause of justice.

7. Reliefs sought for

Under the facts and circumstances stated above the applicant prays for the following reliefs :

1. That the applicant be considered for promotion for the vacant post of Accounts Clerk.
2. That the vacant post of Accounts Clerk should be declared unreserved and fresh D.P.C. should be constituted for filling up the single vacancy of Accounts Clerk.
3. That the Hon'ble Tribunal be pleased to declare that the post of Accounts Clerk occurred in the year 1994 cannot be filled up from the grade of Conservancy Safaiwally (Group D).
4. That the advertisement/notification dated 24.3.95 (Annexure-I) and letter dated 26.10.94 (Annexure-3) be set aside and quashed.

GROUND FOR RELIEF WITH LEGAL PROVISION.

1. That in a single post vacancy the question of reservation does not arise.
2. That even if the post is denied as a reserved post for Scheduled Caste personnel, the prospective promotee must belong to the next below cadre and not two/three cadre below the post which is proposed to be filled up by promotion.
3. That according to the service condition obtaining in Station H.Q. Clerical Establishment or Grade D posts down below the position/length of service required to rise in the ladder is known to as below :

Conservancy Safaiwally

14.6.1995



Conservancy Safaiwala

Promotion after 8 yrs. service.

Sanitary Mate

OM
AV

Land Supervisor,
Storekeeper

WV
WV

Stove Keeper
Land Supervisor

??

Promoted after 8 yrs. service

Accounts Clerk

Promoted after 8 years.

4. That according to the service condition and the length of service required for stepping up from one post to the next higher post, Smt. Reba Dey is nowhere in the range of such promotion.
5. That according to the O.M., No. 1/9/74-Estt (S.T.) dated 29.10.1985 from the Govt. of India in the Ministry of Pers. & A.R., it has been laid down that when a single post comes for filling up in the initial recruitment year the same should be treated as 'Unreserved' ---.
6. In Smt. Chetana Dilip Motghare, petitioner -vs- Shide Girls Education Society, Nagrem and Others vide AIR 1944 S.C. 1917 the Hon'ble Apex Court has laid down the law concerning filling up single post.

8. Interim reliefs prayed for

During the pendency of the application the applicant prays for the following interim reliefs :

1. That the ~~subsequent~~ respondents be directed not to act upon the selection proceedings held on 15.4.95 for filling up the post of Accounts Clerk without leave of this Hon'ble Court.
2. That the Hon'ble Tribunal be pleased to pass any other order/orders as deemed fit and proper.
3. The above relief is prayed on the grounds mentioned in para 7 of this application.
9. The applicant declares that she has exhausted all the remedies, and now approached this Hon'ble Tribunal.

10. Particulars of Bank Draft/Postal Order

I.P.O. No.	:
Issued from	: G.P.O., Guwahati
Payable at	: G.P.O., Guwahati

11. List of Enclosures

As per Index.

12. That the applicant declare that there is no other application is ~~pending~~ pending on the above subject in any other court.

VERIFICATION.

I, Smti. Madhumita Dey, daughter of late Sumesh Ch. Dey, aged 30 years, working as Store Keeper in the office of the Station H. Q. , Shillong, resident of Dudgeon Line, MES, Quarter, Shillong, do hereby verify that the contents of paras 1 to 11 and 12 are true to my personal knowledge and paras 13 to 16 and 17 are believed to be true on legal advice and I have not suppressed any material facts.

Date - 16.4.95.

Signature of the applicant.

Place - Guwahati.

*Smti
Madhumita Dey*

Annexure - 2.

To

The Station Commander
Station H. Q. Shillong.

Respected Sir,

With due respect I beg to lay the following facts as regards departmental promotion for your kind perusal and sympathetic consideration.

2. That Sir, it is an established norms of all government and semi government organisations that departmental promotions are effected to the higher ranks according to the seniority of the staffs; provided ACR is satisfactory.
3. That Sir, among the present Skt. cadre I am the seniormost encumbent for the next promotion. As a post of an Acct/Clk exists in the department, it is according to the seniority is legitimately due to me. I deserve preference for the post and I should be asked to comply with required formalities in support of my claim, of course if I fail, then only selection of candidates from other departments arises.
4. That Sir, when we were recruited to this establishment, it was from general quota and not from SC/ST. quota. And now at the time of promotion it is not understood why a separate SC. certificate is asked for.
5. That Sir, if vacant post is to be filled in only by SC. candidates then those who were recruited in general quota are not entitled to apply for it.
6. Hope my prayer will receive your kind consideration and for which act of your kindness I shall remain ever grateful to you.

Yours faithfully,

Sd/- Illegible.

(Modhumita Dey)

Skt.

Stn. H.Q. Shillong.

Dated - 01 Sep 94.

Accepted
Wmde
Pev.

Annexure - 3.

To
The Station Commander,
Station Headquarters,
Shillong.

Respected Sir,

1. Further to my representation dated 01 Sep 94, I beg to lay the following few lines for your kind consideration and sympathetic action.
2. From the records it reveals that promotions are always effected from lower grade to upper grade on the basis of seniority.
3. As I am the seniormost in SKT cadre. I am entitled to get the promotion to Accounts Clerk as a vacancy of Accounts Clerk is arising in the department.
4. For your kind reference I want to mention here that in the year 1988 when a post of Account Clerk was vacated (reserved quota) a ~~sexexxx~~ General candidate from SKT was promoted to that post on the basis of her seniority/DPC.
5. I appresiate that promotion is always dependent on the seniorit and ACR and I am confused why the post of Accounts Clerks is going to fill up from reserved quota/lower grade.
6. As CR is the basis of assessment of the work and conduct of the employee together with seniority for promotion my claim for promotion is legitimate as I am SKT. since 1985 (10 years of service).
7. On the context, I shall pray you kindly look into the matter so that justice is done to me and take necessary steps for consideration of my prayer.

Yours faithfully,

Dated : 22 Sep 94.

(Modhumita Dey)
SKT
Station HQ. Shillong.

A. H. T. D.
Modhumita
SKT

Annexure - 4.

Tele Mil : 3517.

Station Headquarters
Shillong.

6225/Est.

26 Oct. 94.

Miss Modhumita Dey,
SKT,
Station HQ. Shillong.

DEPARTMENTAL PROMOTION.

1. Ref your application dated 22 Sep 94.
2. Parawise comments of your application are given below:-
 - (a) Para 2,3,5 & 6 : The points have been explained to you personally by the undersigned on 15 Sep 94.
 - (b) Para 4 : Promotion to A/Clk. in 1988 was also based on the reservation quota though DPC. for reasons best known to them, violated the rule by selecting a candidate belonging to general cadre without following laid down rules for deservation of the post. Therefore office cannot be compelled to repeat the same mistake.
3. The above is for your info please.

Sd/- Illegible.
(SK Mehta)
Col
Adm Comdt.
for Stn Cdr.

*Amended
Chln
Adv.*

Annexure - 5.

To
The Administrative Commandant
Station Headquarters,
Shillong.

SUB: DEPARTMENTAL PROMOTION.

Respected Sir,

1. Further to my representation dated 22 Sep 94 and your letter No. 652/5/Est dated 26 Oct.94.

2. In this regard I would like to submit that as per clarification given in Seniority and Promotion book of Swamy's Compilation on page No.136 and para 5 of Copy of Department of Personnel & AR,Cabinet Secretariat New Delhi Office Memorandum No.1/9/74-ESTT(SVT) dated 29 Apr 75 that a single vacancy in a particular year which falls on a reserved point in the roster, it will be treated as unreserved.

3. Here again I would like to mention some rulings is based on a decision given by the Supreme Court is as under for your ready reference :-

"Order contained in the Ministry of Home Affairs OM No.1.11.69/Est(SCT) dated 28 Sep 70 are also quite clear. Note under Annexure to the above OM accordingly to which a single vacancy in a year is to be treated as unreserved is based on a decision given by the Supreme Court".

4. The above ruling is quite correct and I being the seniormost that I deserve the promotion and this is my legitimate claim.

5. However if your honour is not satisfied with the Govt. of India ruling regarding the single vacancy created will be filled by general candidate you may like to get the matter clarified by higher auth. Since all relating clarification on this particulars promotion are being sought from higher auth.

6. May I also therefore, request you till my application for promotion is set aside the matter may please be kept pending for justice, as the above case has already been fwd. to higher auth without verify the above rule.

7. Thanking you.

Yours faithfully,

Dated : 28 Oct 94.

(Modhumita Dey).
SKT. Stn. HQ. Shillong.

*Modhumita Dey
Shillong*

Annexure - 6.

From :- Modhumita Dey,
Station Head Quarters,
Shillong.

To : The General Officer Commanding
H.Q. 101 Area
C.O. 99 A.P.O.

(Through Proper Channel).

Respected Sir,

Most humbly and respectfully I beg to submit the following on the question of filling up the post of Account Clerk in the scale of Rs. 950-20-1150-EB-1500/- in the office of the Administrative Commandant, Station Head Quarters, Shillong for your kind consideration and favourable orders :-

That the clerical hierarchy in the establishment upto the rank of Accounts clerk is as hereunder :-

- (i) Accounts Clerk - Rs.950-20-1150-EB-1500/-
- (ii) Store Clerk - Rs. 825-15-900-EB-20-1200/-
- (iii) Conservancy
Safaiwalla. - Rs. 725.

2. That I was appointed as Store Clerk and I joined the Service on 25.05.1985 and have been Continuously in service since then.

3. That I have been serving with all sincerity and devotion, to the best of my ability and to the entire satisfaction of my superiors.

4.....

*Modhumita Dey
Shillong
A.P.O.*

Annex. 6.

4. That the post of Accounts Clerk as aforesaid was being held by Smt. Kabita Sharma and fell vacant on 1987 due to resignation of ~~Mrs~~ Mrs. Fedalin Jyrwa and since then remained vacant to be filled up.

5. That I am the senior most Store Keeper and in the normal course I would have been prompted to the post of Accounts Clerk as hitherto done but for the question of Accounts Clerk being a Reserved post for Scheduled Caste/ Schedule Tribe departmental candidates.

6. That in consideration of the question of reservation of the post for Scheduled Caste/Scheduled Tribe the post is being left vacant for now about a year and as far as I could know that a proposal to fill up the post of the aforesaid vacant post of Accounts Clerk by Smt. Reba Dey, a Scheduled Caste Conservancy Safaiwala was being considered.

7. That in view of the post being left vacant for such a long time and having learnt that the main stumbling block against filling up of the post by your petitioner in spite of her most devoted and sincere service was the question of reserved quota post, the petitioner made some representation to the Administrative Commandant Station Head Quarters, Shillong.

8. That the Station Head Quarters Shillong vide letter No. 652/5/Est dt. 26.10.94 furnished certain

clarification.....

Accepted
Wm
P.S.W.

Annx. 6.

clarification the main point there in para 2(b) is reproduced below :-

"(b) Para 4 : Promotion to Accounts Clerk in 1988 was also based on the reservation quota though DPC. for reasons best known to them, violated the rule by selecting a candidate belonging to general cadre without following laid down rules for deservation of the post. Therefore office cannot be compelled to repeat the same mistake" (Copy enclosed as Annexure - 1).

9. That in view of the position stated in Station Head Quarters letter quoted vide foregoing paragraph the main issues to be resolved could be short listed as below :-

- (i) What is the scope and limitation etc. of Reserved quota post as aforesaid ? and
- (ii) Whether it would be fair and reasonable and justified to promote Smti. Reba Dey Conservancy Safaiwala by granting her frog leap promotion jumping over the immediate higher cadre post of the Store Keeper ?

Both these issues were discussed at length in my representation dt. 10.11.94 (Copy enclosed for ready reference as Annexure - II).

10. That the General principle of promotion is already laid down by the Apex Govt. ambiguous term. In Balkishan VS. Delhi Administration AIR 1990 S.C.100 the

Colt
Apex Govt.....

*Accepted
R. Mukherjee
J.W.*

109
Ann. 6.

Court
Apex Govt. opened "In Service there could only one norm for confirmation or promotion belonging to the same cadre. No junior shall be confirmed or promoted without considering the case of his senior. Any deviation from this principle will have demoralising effect in Service apart from being contrary to Article 16(i) of the Constitution".

10. That the special provision in any rules and regulations though sidelines the General provisions on that respect for which the same is made but it is only to the extent the same is made no more no less. And the special provision for reservation for Scheduled Caste/ Scheduled Tribe in the matter of promotion could not be/ an/exception. In other words this has to be strictly enforced as well restricted both in contents and dimention. From that point of view I beg to differ from the interpretation contained in para 2(b) of the letter No. 652/5/Estt. dt. 26.10.94 inasmuch as the Govt. of India in per and AR office memorandum No.1/9/74-Estt (S.T.) dt. 29.04.1985 specifically laid down that when a single post comes for filling up in the initial recruitment year the same should be treated as "unreserved" and filled up accordingly and the reservation same forward to subsequent there recruitment years from the initial recruitment year, the reservation will lapse. It would in other words

mean.....

*A. H. - 1/1
A. H. - 1/1
A. H. - 1/1*

Annx. 6.

mean a cycle of 4 years of which the first year is unreserved followed by reservation for three years and the repetition three of as if in a cycle. In a view petition disposed of only recently vide AIR 1994 SC 1917 the Hon'ble Supreme Court has re-affirmed the view as stated in the line of Govt. of Circular as above, though on a different context but on the same principle as discussed bid. (Copy enclosed as Annexure - III).

11. That be it mentioned that the post of Accounts Clerk, filling vacant is a sinecure post and it occurred in 1988 while Smti. Kabita Sharma (Nee Das) was promoted and there had been no violation of rules by the D.P.C. then nor will there be a violation of rules and principles as laid down if the first promotion after this long gap of 8 years was filled up by a person from general list, provided he/she was otherwise eligible and deserving.

12. That I have nothing personally against Smti. Reba Dey and I wish her all prospect, the fact remains that she is one cadre below my position and her a frog leap promotion over me to the post of Accounts clerk is bound to affect me grievously and will be a violation of the principles of natural justice and therefore unfair, unreasonable and unjustified. On the contrary on my promotion as Accounts Clerk she would not be deprived as she could move from the post of Conservancy Safaiwala to the post of Store Keeper on promotion.

In the.....

Attched
Chhota
pw

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In the circumstances the two issues listed in paragraph 9 bid being answered in my favour, I fervently hope that she issues will receive your benign consideration and favourable orders towards my promotion in the post of Accounts Clerk issued at your earliest convenience.

And in the meantime during the pendency of consideration of this petition issuance of any orders of promotion of Smti. Reba Dey to the Accounts Clerk is stayed.

I remain Sir,

Yours faithfully,

Dated 20.3.95.

(Miss Madhumita Dey).

Attested
@mde
20/3/95

Central Administrative Tribunal
केन्द्रीय प्रशासनिक अदायक

19 MAY 1995

249
Guwahati Bench
গুৱাহাটী প্রদৰ্শনী

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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under
Statutory Rules ~~Index~~ 128/80 (copy enclosed).

2. That with regards to the contents made in paragraph 1 of the application I beg to state that I have no comments
3. That with regard to the contents made in para 2 of the application I beg to state that I have no comments to make.
4. That with regard to the contents made in para 3 of the application I beg to state that I have no comments to make.
5. That with regard to the contents made in para 4 I beg to state I have no comments to made.
6. That with regard to the contents made in para 5 I beg to state that I have no comments to make.
7. That with regard to contents made in para 6 (1) (2) I beg to state that the facts stated are correct.
8. That with regard to contents made in para 6 (3) of the application I beg to state that I have no comments.
9. That with regard to the contents made in para 6 (4) I beg to state that the vacancy occurred in August 1994.
10. That with regard to the contents made in para 6(5) I beg to state that the statement is correct.
11. That with regard to the contents made in para 6 (6) I beg to state that the foremost deciding criteria for laying claim to a vacancy is whether it is a

reserved vacancy or not. Eligibility based on possession of requisite qualification is only the second step.

12. That with regard to the contents made in para 6(7) I beg to state that the contention of the applicant not clear. As such no comments.

13. That with regard to the contents made in para 6(8) I beg to state that the ~~vacancy~~ vacancy being reserved for Scheduled Caste and Miss Reba Dey eligible in terms of ser 2, Coln 11 of Statutory Rules and Orders 128/80, she has been correctly considered for promotion to Accounts Clerk.

14. That with regard to the contents made in para 6(9) I beg to state that as per Employment Exchange Registration Card Miss Reba Dey was an SC, based on which she was recruited as Conservancy safaiwala.

15. That with regard to the contents made in para 6(10) I beg to state that the statement is factually correct.

16. That with regard to the contention made in para 6(11) I beg to state the statement is factually correct.

17. That with regard to the contention made in para 6(12) I beg to state that the performance of each and every employee is regularly observed at the appropriate level of supervision. It is agreed that Annual Confidential reports of conservancy safaiwalas are not written.

18. That with regard to the contention made in para 6(13) I beg to state that ~~the~~ ~~the~~ Miss Reba Dey was a group 'D' employee, prior to her~~e~~ promotion as Account ~~and~~ Clerk. Group 'D' employees, as per SRO 128/80 are eligible for promotion to Accounts Clerk which is Group 'C' post, provided they possess the requisite education qualification, age and service, which Miss Reba Dey does possess.

19. That with regard to the contention ~~is~~ made in para 6(14) I beg to state that while carrying out initial appointment in 1985 in Station Headquarters, Shillong, the five posts of Accounts Clerks were filled up by one general category individual and four individuals who happened to belong to Scheduled Tribes. Subsequently, in November 1987 one Scheduled Tribe individual Smt Phidalyne Jyrwa resigned and the vacancy thus created was filled up by general category individual Mrs Kabita Sharma. In August 1994 Miss Felicia Pariat (Scheduled Tribe) resigned. This vacancy has now been filled up by Miss Reba Dey (Scheduled ~~Caste~~ Caste). Non adherence to reservation quota during ~~earlier~~ earlier ~~Appointments~~ cannot be allowed to be continued.

20. ~~and~~ ~~the~~ ~~the~~ ~~the~~

In accordance with the reservation quota/roster applicable to the State of Meghalaya, one post is reserved for Scheduled Tribe, one post is reserved for Scheduled Caste and three are unreserved.

As per reservation quota/roster applicable to Meghalaya 24 percent is reserved for Scheduled Tribes and 1 percent for Scheduled Caste.

During the initial recruitment of Account Clerks the vacancy of an SC, not having been filled by an SC but in 1986 and by an ~~XX~~ ST, was carried forward. There was no recruitment in 1986 and 1987. The year in which there is no recruitment, that recruitment year is not to be taken into account for carry forward and lapsing. In 1988 one vacancy was filled by general category person. Subsequently from 1989 to 1994 there was no recruitment in the post of Account Clerks. As such 1995 is the third recruitment year. In accordance with MHA, OM No.27/25/68-Est(SCT), dated 25.3.1970, if suitable candidate of the appropriate community is not forthcoming the reservation will be carried forward to three subsequent recruitment years.

20. That with regard to the contention made in para 6(15) I beg to state that the recruitment rules of entire Conservancy Staff which include Accounts Clerk, Store Keeper and Safaiwala, are given in SRO 128/80. This document was available to the applicant.

21. That with regard to the contention made in para 6(16) I beg to state that ~~the~~ out of five posts, two are being reserved and not four as stated by the applicant. Applicant's contention regarding single vacancy is not agreed to. According to Govt. of India Deptt. of Pers. and AR O.M No.1/9/74-Est(SCT) dated 29.4.1975 a single vacancy occurring in a recruitment year which falls on a reserved point is to be treated as unreserved but the

reservation is to be carried forward. In the subsequent years ^{even} if vacancy is single, it is to be treated as reserved.

22. That with regard to the contention made in para 6(17) I beg to state that although there is no Scheduled Caste candidate available amongst Store Keepers, but the Group D employees i.e. Conservance safaiwalas are also entitled to be considered for the post of Account Clerk. It may be please be noted that out of three posts of Store Keepers, one each is reserved for ST and SC respectively whereas at present all three Steore Keepers belong to general category which needs to be rectified at the earliest.

23. That with regard to the contention made in para 6(18) I beg to state that the contention of the applicant is not correct, since conservancy safaiwalas are eligible for consideration for the post of Account Clerk in accordance with SRO 128/80.

24. That with regard to the contention made in para 6(19) I beg to state that ever since the initial appointment of conservancy staff in Station Headquarters, Shillong one post was reserved for Scheduled Caste but was not filled by a Scheduled Caste. As such on occurence of a vacancy, the same has been filled by a Scheduled Caste Candidate.

25. That with regard to the contention made in para 6(20) I beg to state that the decision of the Administrative Commandant is not arbitrary because the decision is based on reservation quota/roster applicable to the State of Meghalaya. Also, to further confirm the decision the

Station HQ sought clarification from their higher HQ vide letters No.650/12/Est dated 16 Aug 1994 and 652/5/Est dated 02 Nov 94 to which the HQ 101 Area vide their letter No.17011/18/GS9SD) dated 13 Mar 95 clarified that the vacancy is to be filled by an SC candidate through Departmental Promotion Committee.'

26. That with regard to the contention made in para 6(21) I beg to state that the departmental promotion committee duly constituted under the provisions and in accordance with SRO 120/80 met on 15.4.95 and completed its assigned task.

27. That with regard to the contention made in para 6(22) I beg to state that the applicant has been repeatedly explained the rule position yet the applicant is claiming that she is not aware of these. The applicant had submitted an application to General Officer Commanding 101 Area vide her application No. nil dated 20 Mar 95. The applicant's plea was rejected and HQ 101 Area vide their letter No.10711/18/GS(SD) dated 05 April 95 instructed Station Headquarters, Shillong to fill the vacancy by a Scheduled Caste candidate through Departmental Promotion Committee.'

28. That with regard to the ~~xxax~~ contention made in para 7⁽¹⁾ I beg to state that the vacant post being reserved the applicant is not entitled to fill the post.

29. That with regard to the contention made in para 7(2) I beg to state that out of five Account Clerk post, one post is reserved for SC. No Scheduled Caste

candidate has been appointed as Account Clerk since the initial recruitment in 1985. As such it will be unjust to deprive a SC candidate of her legitimate right for promotion.

30. That with regard to the contention made in para 7(3) I beg to state that the request of the applicant is not tenable since conservancy safaiwala (Group 'D') is eligible for filling up the post of Accounts Clerk.

31. That with regard to the contention made in para 7(4) I beg to state that the Notification dated 24.3.95 for filling the vacant post of Account Clerk by a SC candidate is cent percent correct.

32. That with regard to the contention made under the heading grounds for relief with legal provision in 1 I beg to state that it is not relevant to the case. In this respect I beg to point out that first single vacancy occurred in 1988 which although on reservation point No.6 was treated and utilised as unreserved. In the subsequent year of 1995 although a single vacancy has occurred it is to be treated as reserved.

33. That with regard to the contents made in 2 under same heading I beg to state as per statutory rules and orders 128/80 a Group 'D' employee is eligible for the post of Account Clerk provided the education qualification, age and service criteria as laid down in the rules are fulfilled.

34. That with regards to the contents made in 3 of grounds for relief I beg to state that it is not agreed. As per SRO (copy enclosed) 128/80 the service for promotion

laid down is as follows :

- (a) From Store Keeper and Account Clerk to 8 years General Supervisor.
- (b) From Group 'D' to Account Clerk - 5 years
- (c) From Conservancy Sanitary Mate/ Land Supervisor to Store Keeper
- (d) From Conservancy Safaiwala to Land Supervisor. - 5 years.
- (e) From Conservancy Safaiwala to Sanitary Mate. - 5 years.

35. That with regard to the contents made in para 4 of ~~xx~~ grounds for relief I beg to state that it is not agreed. Rather I beg to state that according to SRO 128/80 Miss Reba Dey Conservancy Safaiwala (Group 'D') employee, the respondent No.4 is eligible for promotion in the post of Account Clerk.

36. That with regard to the contents made in para 5 of grounds for relief I beg to state that it is irrelevant as the present vacancy does not pertain to initial recruitment year ~~which was~~ being 1985.

37. That with regard to the contents made in para 6 of the same heading I beg to state that it is irrelevant since Smt Chetana Dilip Motghare's case pertains to filling up a single post whereas there are five posts of Accounts Clerk.

38. That with regard to the contents made in 1 and 2 of paragraph 8 I beg to state that the selection proceeding held on 15.4.95 being correct, there is nothing

to interfere in it.

39. That with regard to the contents made in (3 of 8) and those of 9, 10, 11, and 12 of the application I beg to state that I have no comments to make.

40. That the present application is illconceived of law and misconceived of facts.

41. That the present application is without any merit and the same is liable to be dismissed.

42. That the applicant has not exhausted all the remedies available to her and as such on that ground alone the application is liable to be dismissed.

43. That the respondents crave leave to file an additional written statement when this Hon'ble Tribunal demand so.

44. That this written statement is filed bonafide and in the interest of justice.

45. That it is a fit case where summary order of dismissal can be passed.

VERIFICATION

I, Col S.K.Mehta, Colone the Respondent No. 3 do hereby solemnly affirm and declare that the contents made in paragraph 1 of this written statement are true to my knowledge and those made from paragraphs 2 to 39 are derived from records which I believe to be true and ~~nothing~~ rest are humble submission before this Hon'ble Tribunal and I sign this verification at Guwahati on this the 3rd day of May, 1995.

S.K. Mehta
Colonel
Administrative
Commandant
Sikkim

38/62

X to amend the following
SSO (Conservancy Staff & etc. rules)

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New Delhi, the 3rd April, 1980.

S.R.O. (122)—In exercise of the powers conferred by the Article 309 of the Constitution, the President hereby makes the following rules (regulating the method of recruitment to certain Group 'C' and Group 'D' posts in the Formation Headquarters and Station Staff Office under General Headquarters, Branch of the Army Headquarters in the Ministry of Defence, namely:—

1. **Short title and commencement.**—(1) These rules may be called the Formation Headquarters and Station Staff Offices (Conservancy Staff) Recruitment Rules, 1980. (1/22)

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

Past cases will not be re-opened.

Application.—These rules shall apply to the posts specified in column 2 of the Schedule annexed to these rules.

3. **Number, classification and scales of pay.**—The number of the said posts, their classification and the scales of pay attached thereto, shall be as specified in columns 3 to 5 of the Schedule annexed.

4. **Method of recruitment, age limit and other qualification.**—The method of recruitment, age limit, qualifications and

other matters relating to the said posts, shall be as specified in columns 6 to 14 of the Schedule aforesaid.

5. Disqualification.—No person—

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

shall be eligible for appointment to any of the said posts.

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

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

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

O.C. 2nd year

SCHEDULE

S. No.	Name of post	No. of posts	Classification	Scale of pay	Whether selection post or Non-Selection post.	Age limit for direct recruits	Educational and other qualifications required for direct recruits
1	2	3	4	5	6	7	8
1. General Supervisor	23	Civilians in Defence Services, Group 'C' Non-Gazetted, Non- Ministerial.	Rs. 330-8-370-10-400-EB-10-480	Non-selection	25 years (relaxable upto 35 yrs. as per rules)	(i) Matriculation or equivalent for Govt. servants. (ii) 3 years experience of supervising conservancy staff.	
Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promotions/transferees	Period of probation if any	Method of rec'tt. whether by direct rec'tt. or by promotion or transfer and percentage of the vacancies to be filled by various methods	In case of rec'tt. promotion/transfer grade from which promotion/transfer to be made	If a DPC exist.	Circumstances in which UPSC is to be consulted in making recruitment		
Age: No: 2 years	Educational qualifications Yes	By promotion failing which by transfer and failing which by direct rec'tt.	Promotion: Store-keepers and Accounts Clerks with 8 years regular service in the grade. Transfer: Persons working in equivalent or analogous or grade in the lower formations of the Defence Service who have the qualifications prescribed under column 8.	Group 'C' Departmental Promotion Committee (also for considering confirmation of the direct recruits) consisting of 1. Chairman : Officers of the rank of Lt. Col/ Major. 2. Members 2 : Officers of the rank of Captain/ Lieutenant.	N.A.		

Signature

2. Accounts Clerk	17	Civilian in D.F. Rs. 260-6-290- ence Services EB-6-320-R 366- Group 'C' Non. FB-8-90-10-100 Gazetted, Non- Ministerial.	Non-select- tion	25 years (relaxable for Govt. servants upto 35 yrs. as per rules).	(i) Matriculation and its equiv- alent. (ii) Typing speed 30 words per minute. (iii) Knowledge of Accounts keep- ing.
18 Inservicey Storekeeper	24	Civilians in Def- ence Services - 290-EB-6-308 Group 'C' Non- Gazetted, Non- Ministerial.	Non-select- tion	25 yrs. (relaxable for Govt. servants upto 35 years as per rules)	Essential : Matriculation and its equiv- alent. Desirable : Experience in Storekeeping

Age: No
Educational qualifications: 2 years
for promotion;
Ex-2nd class
D.C. employed
After promotion
& Direct-recruit

90% by transfer; failing
which by direct recruit-
ment, 10% by promo-
tion of Group 'D' em-
ployees borne on regu-
lar establishment subject
to the following condi-
tions :— 10% for ex-2nd class
(a) Selection shall be
made through De-
partmental examina-
tion confined to such
Group 'D' employees
who fulfil require-
ments of minimum edu-
cational qualifications
namely, Matriculation
or equivalent.
(b) The maximum age for
this examination shall
be 45 years (50 years for
the Scheduled Caste
and the Scheduled Tri-
bes candidates).
(c) At least 5 years service
in Group 'D' posts is
essential.
(d) The maximum number
of recruits by this me-
thod shall be limited to
10% of the vacancies in
the cadre of Ac-
counts Clerks occurring
in a year and unfil-
led vacancies shall not
be carried over.

Age: No.
Educ. Qual. Yes 2 years

By promotion, failing
which by transfer, and fail-
ing both by direct recrt.

Group 'C' D.P.C. (also
for considering confirma-
tion of the direct recruits)
consisting of :—
1. Chairman : Officer of
the rank of Lt. Col/Major.
2. Members 2 : Officer of
the rank of Captain/Lieu-
tenant.

N.A.

Promotion : By conservancy
Sanitary Mate/Land Supri-
sor with 5 years regular ser-
vice in the grade.
Transfer : Persons working in
equivalent or analogous or
higher grades in the
lower formations of the
Defence services who have
the qualifications prescribed
under column 8.

Group 'C' D.P.C. (also
for considering confirma-
tion of the direct recruits.)
consisting of :—

1. Chairman : Officer of the
rank of Lt Col/Major.
2. Members 2 : Officer of
the rank of Captain/Lieu-
tenant.

N.A.

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(2) In the Schedule,

(a) against serial No2 relating to the post of Accounts Clerks in column 3 for the existing entry the following entry shall be substituted, namely :- 103*(1988) subject o variation depending on work load

(b) In column 4, for the existing entry the following entry shall be substituted namely "Central General Central Service , Group 'C' , Non-Gazetted , non ministerial, Non industrial.

(c) In column 5, for the existing entry the following entry shall be substituted. namely " 950-20-1150-EE-1500 "

(d) In column 7, for the existing entry the following entry shall be substituted, namely :- " 25 years (relaxable for Government servant upto 35 years as per orders/instructions issued by the Central Government from time to time)".

(e) In column 10 , for the existing entry the following entry shall be substituted namely " 2 years for promotion, ex-servicemen employed after superannuation and direct recruitment"

(f) in column 11, for the existing entry

i) 80 % by transfer, failing which by direct recruitment through employment exchange

ii) 10 % vacancies shall be filled by promotion on seniority cum fitness basis from group 'D' employees, borne on regular establishment.

iii) 10 % (for ex-servicemen) by transfer on deputation/re-employment. Retired combatant Clerk (Nk) , identified with Accounts Clerk.

BB

Such persons would be given deputation terms upto the date on which they are due for release from the Armed Forces; thereafter they may be re-employed".

4. Against ser No. 5 relating to the post of Sanitary Mate, (a) in column 2, for the existing entry the following entry shall be substituted substituted, namely :-

" 309* "

(L.P.8)

* subject to variation depending on workload".

(b) In column 3, " General Central Services, Group 'D', Non-Gazetted, Non-Ministerial, Non-Industrial.

(c) In column 4, Rs. 775-12-975 -EB-14-1025"

(d) In column 6, for the existing entry the following entry shall be substituted, namely :-

" 35 years (Relaxable for Government servants upto 35 years as per orders/instructions issued by the Central Government from time to time)".

(e) In column 9, " 2 years for promotedees".

(f) In column 10, " By promotion, failing which by transfer and,

28/05/1988

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(b) in column 12, for the existing posts, following :-

(i) Transfer - 80 % by transfer of person working in equivalent, analogous or higher post in lower formation of the same service.

(ii) Promotion 10 % of vacancies to be filled by promotion, subject to the following conditions :-

(a) selection shall be made through departmental examination, confined to such Group 'D' employees who fulfill requirements of minimum educational qualification namely matriculation or equivalent.

(b) the maximum age for thus examination and promotion is 35 years.

(c) a. least 5 years service in G. 'D' post is essential.

(d) The maximum number of recruits by this method shall be 10 % of the vacancies in the cadre of 'Accounts Clerk' occurring in a year and unfilled vacancies shall not be carried over.

(iii) 10 % for ex-servicemen by Transfer on deputation/ re-employment.

The Armed Forces Personnel due to retire or who are to be transferred to reserve with in a period of one year and having the requisite experience and qualification prescribed shall also be considered. Such persons, would be given deputation terms upto the date on which they are due for release from the Armed Forces, thereafter they may be re-employed.

3. Against serial No 3 relating to the post of Gena Cony Store Keeper.

(a) column 3 - 68 post (1988) subject to variation depending on :-

(b) Column 4 - General Central Service Gp A, Non-Industrial, Non-ministerial, Non industrial.

(c) Column 5 - Pay scale 820-15-900-EB-20-1200

(d) column 7 - 25 yrs (Relaxable for Government servant upto 35 yrs as per rule)

(e) Column 10 2 years for promotion, re-employed Ex-Servicemen or the superannuation and for direct recruits.

(i)

(f) in column 11 90 % by promotion, failing which by transfer and failing both by direct recruitment through employment exchange.

(g) (ii) 10 % by transfer on deputation/ re-employment of ex-servicemen.

(g) in column 12 (i) (a) By promotion - From Conservancy, Sanitary and Land Supervisor with 5 years regular service

(b) By transfer - person working in equivalent, analogous or higher grade in the lower formation of the same service who have the qualification given in column 8.

(ii) 10 % for ex-servicemen by Transfer on deputation/ re-employment. The Armed Forces personnel due to retire or who are to be transferred to reserve with in a period of one year and having the requisite qualification shall also be considered.

37/66

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(b) in column 12, for the existing entry the following:

(i) Transfer - 80 % by transfer of person working in similar analogous or higher posted in lower formation of defence Services

(ii) Promotion 10 % of vacancies to be filled by promotion subject to the following conditions :-

(a) selection shall be made through Departmental examination confined to such Group 'D' employees who fulfill requirements of minimum educational qualification namely matriculation or equivalent.

(b) The maximum age for this examination shall be 46 yrs (50 yrs for SC and ST)

(c) at least 5 years service in gp 'D' post is essential.

(d) The maximum number of recruits by this method shall be 10 % of the vacancies in the cadre of "Accounts Clerk occurring in a year and unfilled vacancies shall not be carried over.

(iii) 10 % for ex-servicemen by Transfer on deputation/ re-employment of Armed Forces Personnel due to retire or who are to be transferred to reserve within a period of one year and having the required experience and qualification prescribed shall also be considered. Such persons, would be given deputation terms upto the date on which they are due for release from the Armed Forces, thereafter they may be re-employed.

3. Against serial No 3 relating to the post of Store Cony Store Keeper.

(a) column 3 - C8 post (1988) subject to variation depending on

(b) Column 4 - General Central Service Op., Non Gazetted, Non ministerial, Non industrial.

(c) Column 5 - Pay Scale 82-15-900-EB-20-1200"

(d) column 7 - 26 yrs (relaxable for Government & per rule

(e) column 10 2 years for promotion, re-employment and superannuation and for direct recruits:

(i)

(f) in column 11 90 % by promotion failing both by direct recruits

(g) (ii) 10 % by transfer or

(g) in column 11 (1)

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	2	3	4	5	6	7
4. Land Supervisor	5	Civilians in Defence Services, 234-EB-4-250 Group 'D' Non-Gazetted. Non-Ministerial	Rs. 200-3-206-4- Non-selection		N.A.	N.A.
5. Sanitary Mate	30	Civilians in Defence Services, 234-EB-4-250 Group 'D' Non-Gazetted. Non-Ministerial	Rs. 200-3-206-4- Non-selection		N.A.	N.A.
6. Conservancy Safaiwala	11185	Civilian in Defence Services, EB-3-232. Group 'D' Non-Gazetted. Non-Ministerial	Rs. 196-3-220- Non-selection	25 years (relaxable for Government servants upto 35 years as per rules)	Desirable : 4th standard Pass.	

	8	9	10	11	12	13
	N.A.	2 years	By promotion, failing which by transfer.	Promotion : Conservancy Safaiwala with minimum 5 years service in the grade who is able to write and read Hindi, English or regional language. Transfer : Persons working in similar analogous and higher grades in the lower formations of the Defence Services.	Group 'D' D.P.C. consisting of :— 1. Chairman—Officer of the rank of Lt. Col./ Major, 2. Members—2: Officer of the rank of Captain/ Lieutenant.	N.A.
	N.A.	2 years	By promotion, failing which by transfer	Promotion : Conservancy safaiwala with minimum 5 years service in the grade who is able to write and read Hindi, English or regional language. Transfer : Persons working in similar analogous and higher grades in the lower formations of the Defence services.	Group 'D' D.P.C. consisting of :— 1. Chairman—Officer of the rank of Lt Col/Major 2. Members—2: Officer of the rank of Captain/Lieutenant.	N.A.
	N.A.	2 years	By direct recruitment	N.A.	Group 'D' Departmental Promotion Committee (also for considering confirmation of the direct recruits) consisting of :— 1. Chairman—Officer of the rank of Lt Col/ Major. 2. Members—2: Officer of the rank of Captain/ Lieutenant.	N.A.

Notes : 1. The crucial date for determining age limit for direct recruits shall in each case, be the closing date for the receipt of applications from candidates in India (other than those in the Andaman and Nicobar Islands and Lakshadweep).

2. In respect of posts the appointments to which are made through the Employment Exchange, the crucial date for determining age limit shall in each case, be the last date upto which the Employment Exchanges are asked to submit names.

3. The qualification regarding experience is relaxable at the discretion of the competent authority in the case of candidates belonging to the Scheduled Castes and the Scheduled Tribes, if at any stage of selection, the competent authority is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.

4. The number of posts indicated in column 3 is subjected to variation according to workload.



~~RE-TRICED~~
DO PART II ORDER : CIV STAFF
STATION HQ AT MARITTE SHILLONG

Central Administstration
Army Station HQ
21 NOV 1995
623 623
Sawhney B.C. 4
TEN 1000

PRENT DO PART II ORDER NO : 05/Civ/95 Dated : 20.4.95
LAST DO PART II ORDER NO : 04/Civ/95 Dated : 15.3.95.

PROMOTION

1. Miss. Reba Dey - Promoted to Account Clerk w.e.f.
15 Apr 95 and 109 on the same
date at Account Clerk Est.

Scale of pay Rs. 950- 20 - 1150 - 53 - 25- 1500

Authority : HQ 101 Area letter No 10711/18/GE (SD)
dated 13 Mar 95 and DPC dated 15 Apr 95.


(SK Mehta)
Col
Adm Comdt
for Stn Cdr

Distribution :

1. Area Accounts Office, Shillong
2. LAO(A) Shillong
3. HQ 101 Area (GS/SD) Branch.

~~RE-TRICED~~

42-69

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to amend the first
SSO (Consy Staff Rec)

21 New Delhi, the 3rd April, 1980

S.R.O. 128—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to certain Group 'C' and Group 'D' posts in the Formation Headquarters and Station Staff Office under General Staff, Branch of the Army Headquarters in the Ministry of Defence, namely:

1. Short title and commencement.—(1) These rules may be called the Formation Headquarters and Station Staff Offices (Consy Staff) Recruitment Rules, 1980. (1982)

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

Past cases will not be re-opened.

Application.—These rules shall apply to the posts specified in column 2 of the Schedule annexed to these rules.

3. Number, classification and scales of pay.—The number of the said posts, their classification and the scales of pay attached thereto, shall be as specified in columns 3 to 5 of the Schedule annexed.

4. Method of recruitment, age limit and other qualification.—The method of recruitment, age limit, qualifications and

other matters relating to the said posts, shall be as specified in columns 6 to 14 of the Schedule aforesaid.

5. Disqualification.—No person

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

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

shall be eligible for appointment to any of the said posts:

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

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

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

Ex-Deputy Commissioner

SCHEDULE

S. No.	Name of post	No. of posts	Classification	Scale of pay	Whether selection post or Non-Selection post.	Age limit for direct recruits	Educational and other qualifications required for direct recruits
2	3	4	5	6	7	8	
1	General Supervisor	23	Civilians in Defence Services, Group 'C' Non-Gazetted, Non- Ministerial.	Rs. 330-8-370-10-400-EB-10-480	Non-selection	25 years (relaxable upto 35 yrs. as per rules)	(i) Matriculation or equivalent for Govt. servants. (ii) 3 years experience of supervising conservancy staff.

Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promo-tees/transferees	Period of probation if any	Method of rectt. whether by direct rectt. or by promotion or transfer and percentage of the vacancies to be filled by various methods	In case of rectt. promotion/transfer grade from which promotion/transfer to be made	If a DPC exist.	Circumstances in which CPSC is to be consulted in making recruitment
9	10	11	12	13	14

Age: No; Educational qualifications Yes	2 years	By promotion failing which by transfer and failing which by direct rectt.	Promotion; Store-keepers and Accounts Clerks with 8 years regular service in the Army for considering	Group 'C' Departmental Promotion Committee	N.A.
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1	2	3	4	5	6	7	8
2. Accounts Clerk	17	Civilian in D.F. Services Group 'C' Non-Gazetted, Non- Ministerial.	Rs. 260-6-290- EB-6-326-8-366- EB-8-390-10-400 103 (1988) ✓ Subject to various	Non-select- ion 950-1500	25 years (relaxable for Govt. servants upto 35 yrs. as per rules)	(i) Matriculation and its equivalent. (ii) Typing speed 30 words minute. (iii) Knowledge of accounts keep- ing.	
Conservancy Storekeeper	24	Civilians in Defence Services Group 'C' Non-Gazetted, Non- Ministerial.	Rs. 225-5-260-6- 290-EB-6-308 200	Non-select- ion 25 yrs. (relaxable for Govt. servants upto 35 years as per rules)	Essential : Matriculation and its equivalent. Desirable : Experience in Storekeeping.		

9	10	11	12	13	14
Age: No educational qualifications: Yes.	2 years for promotion ex-2nd class ex-employee after supernumerary ✓ Direct recruit	90% by transfer failing which by direct recruitment, 10% by promotion of Group 'D' employees borne on regular establishment subject to the following conditions :— 10% for ex-2nd class No. 1. Selection shall be made through Departmental examination confined to such Group 'D' employees who fulfil requirements of minimum educational qualifications namely, Matriculation or equivalent.	Notified Combatant clerk (NU).	Group 'C' D.P.C. (also for considering confirmation of the direct recruits) consisting of :— 1. Chairman : Officer of the rank of Lt. Col/Major 2. Members 2 : Officer of the rank of Captain/Lieutenant.	N.A.
Age: No. Educ. Qual. Yes 2 years		(b) The maximum age for this examination shall be 45 years (50 years for the Scheduled Caste and the Scheduled Tribes candidates). (c) At least 5 years service in Group 'D' posts is essential. (d) The maximum number of recruits by this method shall be limited to 10% of the vacancies in the cadre of Accounts Clerks occurring in a year and unfulfilled vacancies shall not be carried over.			

By promotion, failing which by transfer, and failing both by direct recruit.	Promotion : By conservancy Sanitary Mate/Land Supervisor with 5 years regular service in the grade. Transfer : Persons working in equivalent or analogous or higher grades in the lower formations of the Defence services who have the qualifications prescribed under column 8.	Group 'C' D.P.C. (also for considering confirmation of the direct recruits) consisting of :— 1. Chairman : Officer of the rank of Lt. Col/Major. 2. Members 2 : Officer of the rank of Captain/Lieutenant.	N.A.
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2	3	4	5	6	7
4. Land Supervisor	5	Civilians in Defence Services, 234-EB-4-250 Group 'D' Non-Gazetted. Non-Ministerial	Rs. 200-3-206-4- Non-selection	N.A.	N.A.
5. Sanitary Mate	30	Civilians in Defence Services, 234-EB-4-250 Group 'D' Non-Gazetted Non-Ministerial	Rs. 200-3-206-4- Non-selection	N.A.	N.A.
6. Conservancy Safaiwala	11185	Civilian in Defence Services, EB-3-232. Group 'D' Non-Gazetted. Non-Ministerial	Rs. 196-3-220- Non-selection	25 years (relaxable for Government servants upto 35 years as per rules)	Desirable : 4th standard Pass.
8	9	10	11	12	13
N.A.	2 years	By promotion, failing which by transfer	Promotion : Conservancy Safaiwala with minimum 5 years service in the grade who is able to write and read Hindi, English or regional language. Transfer : Persons working in similar analogous and higher grades in the lower formations of the Defence Services.	Group 'D' D.P.C. consisting of :— 1. Chairman—Officer of the rank of Lt. Col./ Major. 2. Members—2; Officer of the rank of Captain/Lieutenant.	N.A.
N.A.	2 years	By promotion, failing which by transfer	Promotion : Conservancy safaiwala with minimum 5 years service in the grade who is able to write and read Hindi, English or regional language. Transfer : Persons working in similar analogous and higher grades in the lower formations of the Defence services.	Group 'D' D.P.C. consisting of :— 1. Chairman—Officer of the rank of Lt Col/Major 2. Members—2; Officer of the rank of Captain/Lieutenant.	N.A.
N.A.	2 years	By direct recruitment	N.A.	Group 'D' Departmental Promotion Committee (also for considering confirmation of the direct recruits) consisting of :— 1. Chairman—Officer of the rank of Lt Col/ Major. 2. Members—2; Officer of the rank of Captain/ Lieutenant.	N.A.

Notes : 1. The crucial date for determining age limit for direct recruits shall in each case, be the closing date for the receipt of applications from candidates in India (other than those in the Andaman and Nicobar Islands and Lakshadweep).

2. In respect of posts the appointments to which are made through the Employment Exchange, the crucial date for determining age limit shall in each case, be the last date upto which the Employment Exchanges are asked to submit names.

3. The qualification regarding experience is relaxable at the discretion of the competent authority in the case of candidates belonging to the Scheduled Castes and the Scheduled Tribes, if at any stage of selection, the competent authority is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.

4. The number of posts indicated in column 3 is subjected to variation according to workload.

48-

✓
✓
✓

27

(2) In the Schedule,

(a) against serial No2 relating to the post of Accounts Clerks in column 3 for the existing entry the following entry shall be substituted, namely :-

103*(1988) subject to variation depending on work load in column 4, for the existing entry the following entry shall be substituted namely "Central General Central Service , Group 'C' , Non-Gazetted , non ministerial, Non industrial.

(c) In column 5, for the existing entry the following entry shall be substituted. namely " 950-20-1150-EK-1500 "

(d) In column 7, for the existing entry the following entry shall be substituted, namely :- " 25 years (relaxable for Government servant upto 35 years as per orders/instructions issued by the Central Government from time to time)".

(e) In column 10 , for the existing entry the following entry shall be substituted namely "2 years for promotion, ex-servicemen employed after supermutation and direct recruitment" .

f) in column 11, for the existing entry

1) 80 % by transfer, failing which by direct recruitment through employment exchange

10 % vacancies shall be filled by promotion on seniority basis cum fitness basis from group 'D' employees, borne on regular establishment.

2) 10 % (for Ex-servicemen) by transfer on duputation/re-employment, or Retired combatant Clerk (NK) , identified with Accounts Clerk.

- 46 - 103
✓ 92

which persons would be given deputation terms upto the date on which they are due for release from the Armed Forces; thereafter they may be re-employed".

Against ser No. 5 relating to the post of Sanitary Mate, in column 2, for the existing entry the following entry shall be substituted, namely :-

309*
988)

Subject to variation depending on workload.

In column 3, " General Central Services, Group 'D', Non-Gazetted, Ministerial, Non-Industrial.

In column 4, Rs. 775-12-975 -EB-14-1025"

In column 6, for the existing entry the following entry shall be substituted, namely :- 5 years (Relaxable for Government servants upto 35 years as per instructions issued by the Central Government from time to time)".

In column 9, " 2 years for promotedees".

In column 10, * By promotion, failing which by transfer and,

- 47 -
23
104

(g) in column 12, for the existing entry the following

(i) Transfer - 80 % by transfer of person working in similar analogous or higher posted in lower formation of Defence Service.

(ii) Promotion 10 % of vacancies to be filled by promotion subject to the following conditions :-

(a) selection shall be made through Departmental examination confined to such Group 'D' employees who fulfill requirements of minimum educational qualification namely matriculation or equivalent.

(b) The maximum age for thus examination shall be 25 years (S & S)

(c) at least 5 years service in 3P 'D' post is essential.

(d) The maximum number of recruits by this method shall be 10 % of the vacancies in the cadre of Accounts Clerk occurring in a year and unfilled vacancies shall not be carried over.

(iii) 10 % for ex-servicemen by Transfer on deputation/ re-employment. The Armed Forces Personnel due to retire or who are to be transferred to reserve with in a period of one year and having the requisite experience and qualification prescribed shall also be considered. Such persons, would be given deputation terms upto the date on which they are due for release from the Armed Forces, thereafter they may be re-employed

3. Against serial No 3 relating to the post of Senior Cony Store Keeper

(a) column 3 - 68 post (1988) subject to variation depending on ministerial, Non industrial.

(b) Column 4 - General Central Service Gp A, Non Gaset, etc, etc.

(c) Column 5 - Pay scale 825-15-900-EB-20-1200

(d) column 7 - 25 yrs (Relaxable for Government servant upto 35 yrs as per rule)

(e) Column 10 2 years for promotion, re-employed Ex-Servicemen of the superannuation and for direct recruits.

(f) in column 11 90 % by promotion, failing which by transfer and failing both by direct recruitment through employment exchange.

(g) (ii) 10 % by transfer on deputation/ re-employment of ex-servicemen

(g) in column 12 (i) (a) By promotion - from Conservancy Assistant / Land Supervisor with 5 years regular service

(b) By transfer - 10 % of existing 11 P posts in the analogous or higher posts in the same or in another Defence Service to be filled in column 12

Proceedings of a
Assembled at
On the day of
By the order of
For the purpose of

In lieu of IAFD - 931 - 48-
71
24 LOS

- Departmental Promotion Committee
- Station Headquarters, Shillong
- 15 Apr 95
- Station HQ Convening Order No 652/5/Est dated 15 Apr 95.
- Departmental Promotion from Group 'D' to Group 'C' to fill the existing vacancy of Account Clerk reserved for SC (Scheduled Caste).

Presiding Officer - IC - 19458M Col SK Mehta, Adm Comdt
Station HQ, Shillong.

Members 1. - IC - 12189P Col AK Sharma, SSO
Station HQ, Shillong

2. - IC - 29428P Lt Col ML Kar,
ICC Dte, Shillong.

2. The Departmental Promotion Committee having assembled pursuant to order proceed to examine the eligible SC Candidate for promotion to Account Clerk and conduct written test required for promotion from Group 'D' to Group 'C'.

3. The board also checked the service documents of the candidates and HQ 101 Area letter No 10711/16/GS(5D) dated 13 Mar 95.

4. The result of test is att as per Appx.

5. The board has recommended Miss. Reba Dey as the eligible candidate for promotion to Account Clerk and the promotion will be effected from 15 Apr 95.

Presiding Officer - (IC - 19458M Col SK Mehta)

Members 1. - (A. 1. P. no. 60
IC - 12189P Col AK Sharma)

2. - (IC - 29428P Lt Col ML Kar)

COUNTERSIGNED and Apprved.

SK Mehta

Given by
higher HQ

191

106

Mukhyalaya 101 Area-
Headquarters 101 Area
c/o 99 APO

10711/18/95 (SD)

05 Apr 95

Stn HQ filling

DEPARTMENTAL PROMOTION : ACCT CLK

our letter No 652/5/Est dt 31-Mar 95.

as already been clarified vide our letter No 10711/18/95 dt 13 Mar 95 that since the vacant post of acct clk is for SC candidate, ~~no~~ suitable action to fill up the said post should be taken through dept promotion should be taken at your end.

In view of above, you may like to order a bd of offr to be issued to the suitable SC candidate for promotion against the existing vacancy and this HQ be info accordingly.

10711/18/95
(MP Ao)
Lt Col
for Col GS

rc/-

652/5/Est 1194
P 1178

DPIC

6/6
10/7

Annex
(Hof para 4 of DPC for promotion to
A/Cik)

RESULT SHEET

Name of Candidate and appt	Date of Appt	Educational Qualification	Remarks in A/C for promotion	Length of Service	Written test all subjects	General/Professional Knowledge
(b)	(c)	(d)	(e)	(f)	(g)	(h)
1. Miss. Reba Dey, C/Sfwl	14-3-1985	Matriculate	-	9 year 11 months 01 day	(a) Essay -40/100 writing. (b) Letter -30/50 Drafting. (c) Typing -30/50 Total - 100/200	50/100

Overall assessment	Remarks
(j)	(k)

100/200 Recommended.

COUNTERSIGNED and Approved.

Presiding Officer

S. S. S.
(IC - 19460 Col 117 K 12189)

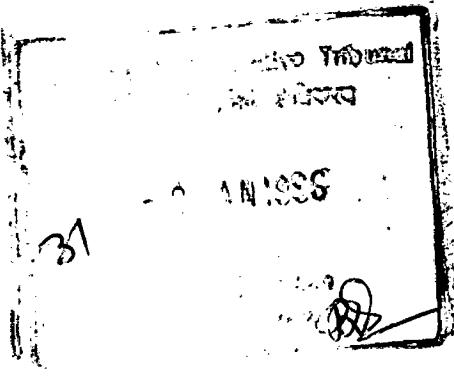
Members

1. *U. G. D. A. R. C.*
(IC - 12189 Col 117 K 12189)

2. *M. A. W. G.*
(IC - 29428 P Lt Col 22 K 12189)

S. S. S.
Brig
Station Commander
Shillong

CHART HILL



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ST 98
411 by 202
holap Sonam
holap Addl CAGC
811/96

In the matter of :

O.A.No.83/95

Miss Modhumita Dey ...Applicant.

-Vs-

Union of India & Ors. ...Respondents.

-AND-

In the matter of :

Additional Written Statement on
behalf of official respondents.

R
S
Ogham
SDV
8-1-96

I, Col. S.K.Mehta, Adm Comdt., Station
Headquarter, Shillong, Respondent No. 3 do hereby
solemnly affirm and declare as follows :-

1. That in view of 100 point roster, necessity
has arisen to file an additional Written Statement
and.....

83 80
109

VERIFICATION

I, Col. S.K.Mehta, Adm Comdt., Station Headquarter, Shillong do hereby solemnly affirm and declare that the statements made in paragraph-1 of this Additional Written Statement are true to my knowledge and those made in paragraphs 2,3 and 4 are derived from records which I believe to be true and the contents of paragraph-5 are humble submission before this Hon'ble Tribunal.

I sign this Verification on this 4th day of December, 1995 at Shillong.



Col.
S.K. Mehta
Colonel
Administrator
Garrison
Shillong

and hence same is filed as follows.

2. That so far the contents of paragraph-1 of sub para 2 of the written statement, I beg to state that in accordance with the reservation quota/roster applicable to the State of Meghalaya, two posts are reserved for Scheduled Tribe, One post is reserved for Scheduled Caste and two are unreserved.

3. That as regard the statement made in para-19 sub para 3 of the written statement filed on behalf of the official respondents, I beg to state that as per reservation quota/roster applicable to Meghalaya 44 percent is reserved for ST, 1 percent for SC and 5 percent for OBC.

4. That with regards to the contents made in paragraph-6(16) of the application, I beg to state that ~~withat~~ out of five posts three are being reserved and not four as stated by the applicant.

A copy of 100 point reservation roster is enclosed herewith and marked as Annexure R.A.1.

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

Verification.....

54 81 P
M
IMMEDIATE

No. 3007/77/1-Deptt.(GCT)
Government of India
Ministry of Personnel, Public Grievances
and Pensions
Department of Personnel & Training
New Delhi

Dated, the 29th Dec. 1993

OFFICE MEMORANDUM

Subject: Reservation for Other Backward Classes in civil
services under the Govt. of India - Re-
vised 40-point roster

1. The undersigned is directed to say that in the light
of the reservation provided to other Backward Classes the
existing reservation roster in respect of direct recruitment on
All India basis by open competition where there is a reservation
for 15% for SC and 7½% for ST was revised to a 200 point roster
value para 2 of this Department's O.M of even number dtd. 22.10.93.

2. In respect of direct recruitment on All India basis
otherwise than by open competition where there is a reservation
of 16½% for SC and 7½% for ST, the existing 40-point roster
has been revised into a 120-point roster as in the model format
indicated at Annexure I. In respect of direct recruitment by
Value '3' & '4' posts i.e. by contracting candidates from
Locality, etc. etc., the 120-point rosters have also
been revised and indicated at Annexure-II.

3. The revised rosters will come into effect immediately.
Vacancies filled on or after 1.1.93 should be shown in the new
rosters. The old rosters shall be deemed to have been closed
from this date and the reservations which had to be carried
forward in the previous rosters shall be carried forward to
the new rosters.

(Hindi version will follow)

Sd/- (M. Venkataraman)

Under Secretary to the Govt. of India.

To

1. All Ministries/Deptts. of the Govt. of India
2. Deptt. of Public Enterprises, New Delhi.
3. Deptt. of Economic Affairs (Banking Division), New Delhi.
4. Deptt. of State in M.L.A. (Insurance Division) New Delhi.

Attested By

16 Copy Ds
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Oscar Ds
Ellong

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ANNEXURE - II

Model rosters of winning points to be reserved for SCs, STs & OBCs in a 100 points roster where recruitment is made on a local or regional basis.

Sl.	Name of State/Union Territory	% of reservation of SC/ST/OBC.	Actual points to be reserved in a 100 points roster for SC/ST/OBC.
1.	2.	3.	4.
1.	Andhra Pradesh 15 SC/6 ST/27 OBC	SC ST OBC	1, 7, 13, 19, 25, 31, 37, 43, 49, 55, 63, 69, 77, 83, 89, (15 points) 3, 23, 39, 59, 79, 95. (6 points) 5, 9, 11, 15, 17, 21, 27, 29, 33, 35, 41, 45, 47, 51, 53, 57, 61, 65, 67, 71, 73, 75, 81, 85, 87, 91, 93. (27 points)
2.	Assam 6 SC/11 ST/27 OBC	SC ST OBC	3, 19, 33, 53, 73, 89. (6 points) 1, 9, 21, 29, 39, 49, 57, 67, 75, 85, 93. (11 points) 5, 7, 11, 15, 17, 23, 27, 31, 35, 47, 41, 43, 47, 51, 53, 55, 59, 61, 65, 69, 71, 77, 79, 81, 83, 87, 91, 95. (27 points)
3.	Bihar 15 SC/9 ST/26 OBC	SC ST OBC	1, 7, 13, 19, 27, 33, 39, 43, 51, 57, 63, 69, 77, 83, 89, (15 points) 3, 15, 25, 37, 47, 59, 67, 79, 93. (9 points) 5, 9, 11, 17, 21, 23, 29, 31, 35, 41, 45, 49, 53, 55, 61, 65, 71, 73, 75, 81, 85, 87, 91, 95, 97, 99. (26 points)
4.	Gujarat 7 SC/14 ST/27 OBC	SC ST OBC	3, 17, 31, 45, 59, 73, 87. (7 points) 1, 7, 15, 21, 29, 35, 43, 49, 57, 63, 71, 77, 85, 91, (14 points) 5, 9, 11, 13, 19, 23, 25, 27, 33, 37, 39, 41, 47, 51, 53, 55, 61, 65, 67, 69, 75, 79, 81, 83, 89, 93, 95, (27 points)
5.	Jharkhand 19 SC/11 ST/27 OBC	SC ST OBC	1, 4, 11, 15, 23, 25, 31, 33, 41, 45, 51, 63, 71, 75, 81, 89, 91. (19 points) 3, 7, 9, 13, 17, 19, 23, 27, 29, 33, 35, 41, 49, 53, 57, 59, 61, 67, 71, 73, 75, 83, 87, 89, 93, (27 points)

Attested By

Z. S. Choudhury
DDG
Comptroller &
Auditor

6. Himachal Pradesh
25. SC/5. ST/20 OBC

SC 1, 5, 9, 13, 17, 21, 25, 29, 33, 37,
41, 45, 49, 53, 57, 61, 65, 69, 73,
77, 81, 85, 89, 93, 97, (25 points)

ST 3, 23, 43, 63, 83, (5 points)
OBC 7, 11, 15, 19, 27, 31, 35, 39, 47, 51,
55, 59, 57, 71, 75, 79, 87, 91, 95,
99 (20 points)

7. Jammu & Kashmir
9. SC/13 ST/27 OBC

SC 3, 15, 27, 37, 47, 59, 69, 83, 93.
(9 points)

ST 1, 9, 17, 25, 33, 41, 49, 57, 65, 73,
81, 89, 97, (13 points)

OBC 5, 7, 11, 13, 19, 21, 23, 29, 31, 35,
39, 43, 45, 51, 53, 55, 61, 63, 67,
71, 75, 79, 85, 87, 91, 95, 99.
(17 points)

8. Karnataka
15. SC/5 ST/27 OBC

SC 1, 7, 13, 19, 27, 33, 39, 45, 51, 57,
63, 69, 77, 83, 89. (15 points)

ST 3, 29, 53, 79, 93. (5 points)

OBC 3, 9, 11, 15, 17, 21, 25, 31, 35,
39, 43, 47, 55, 59, 61, 65, 67, 71,
73, 75, 81, 85, 87, 91, 95, 99.
(27 points)

9. Kerala
10. SC/1 ST/27 OBC

SC 1, 9, 17, 29, 39, 49, 59, 69, 79, 89.
(10 points)

ST 3 (1 point)

OBC 5, 7, 11, 15, 17, 21, 23, 27, 31, 35,
37, 41, 45, 47, 51, 55, 57, 61, 65,
71, 73, 77, 81, 85, 91, 95, 99.
(27 points)

10. Madhya Pradesh
14. SC/23 ST/13 OBC

SC 3, 11, 19, 23, 31, 35, 43, 51, 59, 69,
71, 75, 83, 87. (14 points)

ST 1, 5, 9, 13, 17, 21, 25, 29, 33, 37,
45, 49, 53, 57, 61, 65, 69, 73, 77,
81, 85, 89, (23 points)

OBC 7, 15, 27, 39, 47, 55, 67, 79, 91,
93, 95, 97, 99. (13 points)

11. Maharashtra
7. SC/9 ST/27 OBC

SC 3, 17, 31, 45, 59, 73, 87. (7 points)

ST 3, 11, 23, 33, 43, 55, 67, 79, 91.
(9 points)

OBC 3, 7, 9, 13, 19, 21, 25, 27, 35, 37, 39,
41, 43, 51, 53, 57, 61, 63, 65, 71, 75,
77, 83, 89, 93, 95, 99. (27 points)

Attested By

21/09/2018
000
Dakshin D
Mallappa

12. Manipur
11 SC/27 ST/22 OBC

SC 3 (1 point)
SF 1, 5, 9, 13, 17, 19, 23, 25, 29, 33, 37,
41, 45, 49, 53, 57, 61, 67, 71, 75, 79,
83, 85, 89, 91, 95, 97. (27 points)
OBC 7, 11, 15, 21, 27, 31, 35, 39, 43, 47,
51, 55, 59, 63, 65, 69, 73, 77, 81, 87,
93, 99. (22 points)

CM/ST

13. Meghalaya
11 SC/27 ST/22 OBC

SC 13 (1 point)
SF 1, 5, 9, 11, 13, 15, 17, 19, 21, 23, 27,
29, 31, 33, 35, 37, 39, 41, 45, 47, 49,
51, 53, 55, 59, 61, 63, 65, 67, 69, 71,
73, 75, 77, 79, 81, 83, 85, 87, 89, 91,
93, 95, 97. (44 points)
OBC 7, 25, 43, 57, 99 (5 points)

14. Mizoram
Nil SC/45 ST/5 OBC

SC Nil
ST 1, 3, 7, 9, 11, 13, 15, 17, 19, 21, 23,
25, 27, 29, 31, 33, 35, 37, 39, 41, 43,
49, 47, 49, 51, 53, 59, 61, 63, 65, 67,
69, 71, 73, 75, 77, 79, 81, 83, 85, 87,
89, 93, 95, 99. (45 points)
OBC 5, 13, 57, 71, 97 (1 point)

15. Orissa.
15 SC/23 ST/12 OBC

SC 3, 11, 19, 23, 31, 35, 43, 51, 59, 63,
71, 74, 83, 87, 95. (15 points)
ST 1, 5, 9, 13, 17, 21, 25, 29, 33, 37, 41,
45, 49, 53, 57, 61, 65, 69, 73, 77, 81,
85, 89. (23 points)
OBC 7, 15, 27, 29, 47, 55, 67, 79, 91, 93,
97, 99. (12 points)

16. Punjab
27 SC/Nil ST/23 OBC

SC 1, 5, 9, 13, 17, 19, 23, 25, 29, 33, 37,
41, 45, 49, 53, 57, 61, 67, 71, 75, 79,
83, 85, 89, 91, 95, 97. (27 points)
ST Nil.
OBC 3, 7, 11, 15, 21, 27, 31, 35, 39, 43, 47,
51, 55, 59, 63, 65, 69, 73, 77, 81, 87,
93, 95. (43 points)

17. Rajasthan.
17 SC/13 ST/21 OBC

SC 1, 7, 13, 19, 25, 31, 37, 43, 49, 55, 61,
67, 73, 79, 85, 91, 97. (17 points)
SF 3, 11, 21, 27, 35, 45, 51, 59, 69, 75,
77, 87. (12 points)
OBC 3, 5, 15, 17, 23, 29, 33, 39, 41, 47,
51, 53, 57, 59, 61, 65, 69, 71, 81, 87, 89,
91, 93. (41 points)

18. Sikkim.
6 SC/23 ST/21 OBC

SC 5, 11, 13, 17, 21, 25, 29, 33, 37, 43, 47,
51, 53, 57, 59, 61, 65, 69, 73, 77, 81, 87,
91, 93. (44 points)
ST 1, 5, 9, 13, 17, 21, 25, 29, 33, 37, 43, 47,
51, 53, 57, 59, 61, 65, 69, 73, 77, 81, 87,
91, 93. (44 points)
OBC 7, 15, 25, 27, 33, 35, 37, 43, 47,
51, 53, 57, 59, 61, 65, 69, 73, 77, 81, 85, 89, 97,
99. (44 points)

Attested By:

Sub Inspector

Station No. 116

19. Tamil Nadu
19 SC/1 ST/27 OBC

SC

1, 5, 11, 10, 21, 25, 31, 35, 41, 45,
51, 55, 61, 65, 71, 75, 81, 85, 91,
(19 points)

ST

3. (1 point)

OBC

7, 9, 13, 17, 23, 27, 29, 33, 37, 43, 47,
49, 53, 57, 59, 61, 63, 69, 73, 77, 79,
83, 87, 89, 93, 95, 99. (27 points)

20. Tripura.
15 SC/29 ST/6 OBC

SC

3, 11, 17, 23, 31, 37, 45, 53, 59, 65,
71, 77, 83, 89, 95. (15 points)

ST

1, 5, 9, 13, 15, 19, 21, 27, 29, 33, 35,
39, 41, 47, 49, 51, 55, 61, 63, 67, 69,
73, 75, 79, 81, 85, 87, 91, 93,
(29 points)

OBC

7, 25, 43, 57, 97, 99. (6 points)

21. Uttar Pradesh
21 SC/1 ST/27 OBC

SC

1, 5, 11, 15, 21, 25, 31, 35, 41, 45, 51,
55, 61, 65, 71, 75, 81, 85, 89, 95, 99,
(24 points)

ST

3. (1 point)

OBC

7, 9, 13, 17, 19, 23, 27, 33, 37, 39, 43,
47, 49, 53, 57, 59, 63, 67, 69, 73, 77,
83, 87, 91, 93, 97. (27 points)

22. West Bengal.
22 SC/6 ST/22 OBC

SC

1, 5, 9, 13, 17, 21, 27, 31, 35, 39, 45,
49, 53, 57, 61, 65, 69, 75, 79, 83, 87,
91. (22 points)

ST

3, 23, 43, 63, 85, 97. (6 points)

OBC

7, 11, 15, 19, 25, 29, 33, 37, 41, 47,
51, 55, 59, 67, 71, 73, 77, 81, 85, 89,
93, 95. (22 points)

UNION TERRITORIES

1. Andaman Nicobar
islands.
Nil SC/12 ST/27 OBC

ST

1, 9, 17, 25, 33, 43, 51, 59, 67, 75,
83, 93. (12 points)

OBC

3, 7, 11, 15, 19, 21, 27, 29, 31, 35,
39, 45, 47, 53, 55, 61, 65, 69, 71,
77, 79, 81, 85, 89, 95, 97, 99,
(27 points).

2. Chandigarh.
14 SC/Nil ST/27 OBC

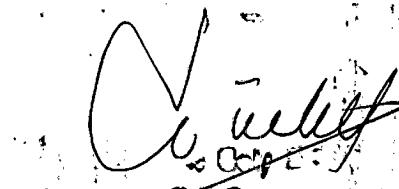
SC

1, 7, 15, 21, 29, 35, 43, 49, 57, 63, 71,
77, 85, 91, (16 points)

ST

3, 7, 11, 15, 19, 23, 27, 31, 33, 37,
41, 47, 51, 53, 59, 61, 67, 73, 79,
81, 87, 91, 93, 97. (27 points)

.....
Attested By


B. B. S.
C. O. O.
C. O. O.
C. O. O.
C. O. O.

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3.	Dadra and Nagar Haveli 2 SC/43 ST/5 OBC	SC	3,5,6.(2 points)
		ST	1,7,9,11,13,15,17,19,21,23,25, 27,29,31,33,35,37,39,41,43,45, 47,51,57,59,61,63,65,67,69,71, 73,75,77,79,81,83,85,87,89,91, 93,97.(45 points)
		OBC	5,49,55,95,99: (5 points)
4.	Daman & Diu 2 SC/1 ST/27 OBC	SC	1,49.(2 points)
		ST	3.(1 point)
		OBC	5,9,11,15,17,21,25,29,35,39, 43,47,53,55,57,51,65,69,71, 73,75,83,87,91,95,99.(27 points)
5.	Pondicherry 15 SC/Nil ST/27 OBC	SC	1,7,11,19,25,31,37,45,51,57, 63,69,75,81,87,93.(16 points)
		ST	5,11
		OBC	5,9,13,15,21,23,27,33,35,39,41, 45,47,49,53,59,61,65,67,73,77, 79,85,89,91,95,99.(27 points)

N.B.

1. In respect of Arunachal Pradesh, Nagaland and Lakshedweep there is no change in the existing reservation rosters.
2. For Goa, the reservation rosters will be the same as is given in respect of the Union Territory of Daman and Diu.
3. For Delhi, the rosters as prescribed for recruitment on All-India basis is to be followed.

SC - Scheduled Castes.

ST - Scheduled Tribes.

OBC - Other Backward Classes.

Attested By

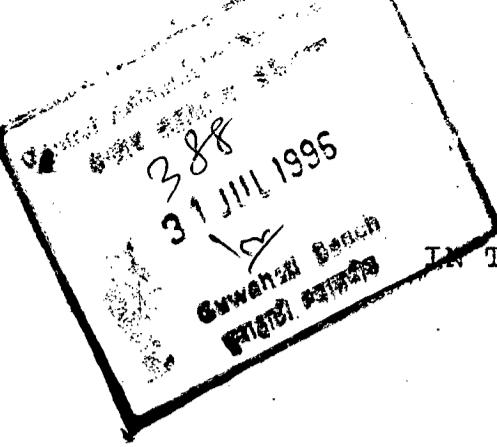
SSO

Scamoo

Shillong

115
-60-
Filed by applicant
through M.C. Advocate
31.7.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



O.A. No. 83/95

Miss Madhumita Dey

-versus-

Union of India & Ors. 1

-And-

In the matter of :

Rejoinder filed by the
applicant.

Recd (copy) 31.7.96 (31st of July)
The applicant above named most humbly and
respectfully begs to state as under :

1. That with regard to the statement made in
paragraphs 11, 12, and 13 of the written statement by
the respondents the applicant begs to deny the correctness
of the same and further begs to state that the applicant
at the relevant time was quite eligible for promotion to
the post of Accounts Clerk as she had requisite qualifica-
tion and eligibility for the said post. The applicant
categorically denies the statement made in paragraph 13
that respondent No. 4 is eligible for promotion in terms
of S.O.R.O Col. 11 of statutory rules and orders 128/80.
In this connection the applicant begs to state that the
respondents have overlooked the requirements laid down under
S.R.O 1980 in Col. 8 and 12 of the recruitment rules of 1980.
The authorities ought to have considered the requirement

Madhumita Dey

laid down harmoniously in Col 8, 11 and 12. A mere perusal of the Col. 8, 11 and 12 makes it clear that promotion to the cadre of Accounts Clerk to the extent of 10% shall be considered only from the cadre of Conservancy Sanitary Mate/Land Supervisor with five years of regular service in the grade. Therefore a Conservancy Safaiwala like respondent No. 4 is not at all eligible in terms of the recruitment rules 1980 whereas the reliance has placed by the respondents in the said recruitment rules which speaks something different and in the provision of the rule made therein clearly makes eligible the applicant for consideration of promotion to the post of Accounts Clerk. Therefore the applicant cannot be suffered for wrong interpretation of the recruitment rules by the authorities and therefore the promotion order of respondent No. 4 to the post of Accounts Clerk is liable to be set aside and quashed. The relevant portion of the formation headquarter and station staff office (Conservancy staff) recruitment rules 1980 of Col. 8, 11, and 12 are quoted below :

8	11	12
1. Matriculation	By promotion	Group C Departmental
or equivalent	failing which	promotion committee
ii. 3 years experience/by transfer	(for failing which by	considering con-
of supervising	conservancy staff which by	utation of their
and failing	direct rectt.	direct recruits) consisting
		of
		1. Chairman, Officer of the
		rank of L. Col., Major.
		2. Members 2 : Officers of
		the rank of Captain
		Lieutenant.

Modumudi
Contd... P/3

From above it is quite clear that as per provision laid down in the Recruitment Rules 1980 the respondent No. 4 is not eligible for promotion to the post of Accounts Clerk from the cadre of Conservancy Safaiwala. Hence the promotion order dated issued under D.O. Part II Order No. 05/CIB/95 dated 20.4.95 and D.O. Part II order No. 04/CIB/95 dt. 15.3.95 are liable to be set aside and quashed. Moreover the respondent No. 4 does not have the requisite qualification as prescribed under Col 8 of SRO 128/80 namely of accounts keeping.

2. That with regard to the statement made in paragraphs 14 and 15 of the written statement the applicant further begs to state that the same is contradictory itself. In one hand it is stated that the Employment Exchange Registration Card she has marked as SC candidate and based on which the respondent No. 4 was recruited as Conservancy Safaiwala on the other hand in paragraph 15 it is confirmed that she had obtained the Scheduled Caste Certificate after her joining the service. Therefore Hon'ble Tribunal be pleased to direct the respondents to produce the service records and Employment Exchange Card of respondent No. 4 for ~~assess~~ ascertaining asserting the truth.

3. That with regard to the statement made in paragraphs 17, 18, 19 and 20 of the written statement the applicant denies the correctness of the same and further begs to state that the promotion of respondent No. 4 is wrongly considered and promoted to the post of Accounts Clerk due

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to mis-interpretation of the S.R.O. 128/80 where there is no provision for straightway recruitment from the lowest formation of Conservancy Safaiwala to the post of Accounts Clerk even it is confirmed in paragraph 17 of the written statement that the Annual Confidential Report also not maintaining for Group D staff. It is further confirmed in paragraph 19 of the written statement that reservation policy was not at all followed by the respondents perhaps due to ignorance of the system of reservation and it is also confirmed by the respondents in paragraph 20 that there are altogether 5 vacancies out of which ¹vacancy is meant for ST, one vacancy is meant for SC and 3 others are meant for general category. Therefore the present vacancy which occurred in August 1994 ought to have been filled by the general candidate and moreover when the present applicant is eligible with all requisite qualification. Be it stated that in Col. 11 (d) of S.R.O 128/80 it is specifically stated that no vacancy shall be carry forwarded if the same is not filled up during the recruitment year in which the same is occurred therefore the 1994 vacancies of SC should not have been carried forward to the recruitment year 1995-96. The respondents have committed further mistake by carrying forward the SC vacancy for the recruitment year 1995-96 in violation of the recruitment rules. Therefore the promotion of respondent No. 4 is liable to be set aside and quashed and the case of the applicant shall be considered for promotion to the post of Accounts Clerk against the existing ~~vacancy~~ vacant post of Accounts Clerk.

Modemwala Dey

Moreover a restriction has also made by the recruitment rules that not more than 10% of the post to the cadre of Accounts Clerk be filled up by promotion from Group D cadre. Hence since there only one post occurred during the year 1995-96 the same should ^{not} have been filled up by promotion from Conservancy Safaiwala who are clearly excluded for promotion to the cadre of Accounts Clerk in terms of recruitment rules.

4. That with regard to the statement made in paragraphs 20, 21, 22, 23 and 24 of the written statement the applicant denies the correctness of the same and further begs to state that out of five posts two posts are meant for reserved category and three posts are meant for general category therefore the applicant is entitled to be considered for promotion in the vacancy which is wrongly filled up by the respondent No. 4 in total violation of the recruitment rules even if the post is meant for reserved category and due to non-availability of reserved candidate ~~xxxxxx~~ as per recruitment rule SRO 128/80 the case of the applicant ought to have been considered for promotion to the post of Accounts Clerk. The respondents have totally misinterpreted the provision laid down in SRO 128/80. Therefore promotion order of respondent No. 4 is liable to be set aside and quashed and the applicant is entitled to be considered for promotion to the post of Accounts Clerk.

5. That with regard to the statement made in paragraphs 25, 26, 27, 28 and 29 of the written statement the applicant

Moelremil Dey

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denies the correctness of the same and further reiterates the contention made in the original application and begs to state that the roster policy neither followed correctly in the initial recruitment year nor the same is followed even today and the same has been admitted in the written statement by the respondents and it is also surprising that the other provision of recruitment rules such as provision 8 and 12 also ignored by the respondents and thereby committed a gross injustice to the present applicant therefore the Hon'ble Tribunal be pleased to direct the respondents to consider the promotion of the applicant from the date of promotion of respondents No. 4 to the post of Accounts Clerk and also further be pleased to set aside the promotion order of respondent No. 4.

6. That the applicant categorically denies the statement made in paragraphs 30, 31, 32, 33, 34, 35, 36, and 37 of the written statement and further begs to state that as per statement made by the respondents in this written statement there are altogether five vacancies, three vacancies goes to general category and the applicant also belongs to general category. Presently as per statement made by the respondents there are two general candidates therefore there is no difficulty on the part of the respondents to accommodate the applicant in the vacancy which occurred in 1994 which was wrongly filled by the respondent No. 4 in total violation of recruitment rules SRO 128/80. Even if the vacancy is treated as vacancy reserved for scheduled caste in that event also the respondent No. 4 is not eligible for promotion in terms of the recruitment rules

Modhuinita Dey

which relied by the respondents as they have ignored the provision of Col. 8 and 12 of the said recruitment rules and therefore in absence of scheduled caste candidate the applicant is entitled to be considered for promotion in the said post where respondent is promoted and accommodated in violation of the departmental recruitment rules. The provision mentioned by the respondents in paragraph 34 of the written statement should have been harmoniously read with other provision of SRO 128/80 such as provision No. 8 - 12 of the said recruitment rules. Therefore contention of the respondents is incorrect and the same is misleading and the promotion order of respondent No. 4 is not in conformity with the departmental recruitment rules relied by the respondents.

7. That the applicant categorically denies the statement made in paragraphs 38, 40, 41, 42, 44, 45 of the written statement and further begs to state that under the circumstances stated above the application is deserves to be allowed with costs.

8.

Modhu Dey

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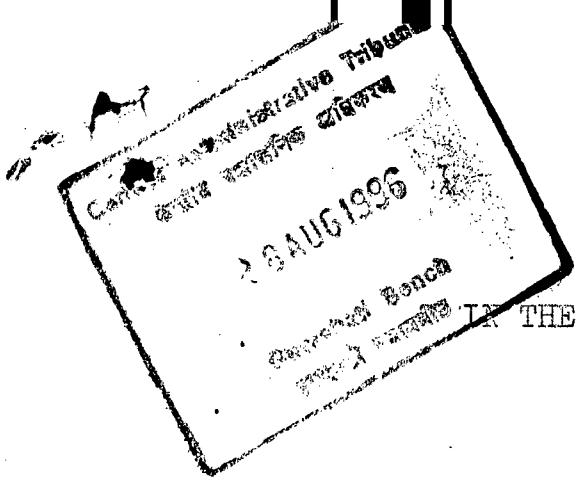
✓ 122

VERIFICATION

I, Smti. Madhumita Dey, daughter of late Sumesh Ch. Dey, aged 30 years, working as Store Keeper in the office of the Station H.Q., Shillong, resident of Dudgeon Line, MES, Quarter, Shillong, do hereby verify that the statements made in this rejoinder are true to my knowledge and belief and I have not suppressed any material facts.

I, sign this verification on this the 31st day of July, 1996.

Madhumita Dey
SIGNATURE



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File No.
holc [unclear]
Additional General Gov.
Standing Counsel
Central Administrative Tribunal
Guwahati Bench

28/8/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of :

O.A.No.83/95

Mis Madhumita Dey ... Applicant

-Vs-

Union of India & Ors. ... Respondents.

-AND-

In the matter of :

Reply of the rejoinder filed
by the applicant.

I, At Col G K Gosoi, officially

Administrative Commandant, Station Headquarter,

Shillong do hereby solemnly affirm and declare as
follows :-

1. That a copy of rejoinder filed by the applicant in the above noted case served upon the C.G.S.C. has been received by me and same being read over, I have understood the contents thereof and hence I make the reply as follows :-
2. That with regard to the contents made in paragraph 1 of the rejoinder, I beg to state that these are not agreed to. The case was taken up with the Higher.....

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Higher Headquarters and clarification obtained.

Accordingly DPC was ordered as per existing Rules.

The DPC recommended the promotion of Miss Reba Dey (Respondent No.4) as only SC candidate eligible as per 100 point roster.

3. That with regard to the contents made in paragraph 2 of the rejoinder, I beg to state that the contents are factually correct.

4. That with regard to the contents made in paragraph 3, I beg to state that these are not agreed to. As per our amendment two posts are reserved for ST, one post is reserved for SC and two are unreserved. The vacancy occurred in August '94 could only be filled up in 1995 by promotion after getting clarification from Higher HQs and after holding of DPC.

5. That with regard to the contents made in paragraph 4, I beg to state that these are not agreed to.

6. That with regard to the contents made in paragraph 5, I beg to state that these are not agreed to, as 100 point roster policy was followed.

7. That with regard to the contents made in paragraph 6, I beg to state that these are not agreed to. Amendment to our para 1(2) of our earlier

Counter.....

Counter Affidavit has already been placed, there are only two posts for General Cadre.

8. That with regard to the contents made in paragraph 7 of the rejoinder, I beg to state that these are not agreed to.

9. That in the rejoinder the applicant has failed to make out any fresh cause of action and it is replica of the original application.

10. That the respondents have acted as per the existing rules and 100 point roster and there being no illegality at all the rejoinder of the applicant is not tenable in any count, legal and factual.

11. That this reply to the rejoinder is filed bonafide and in the interest of justice.

Verification

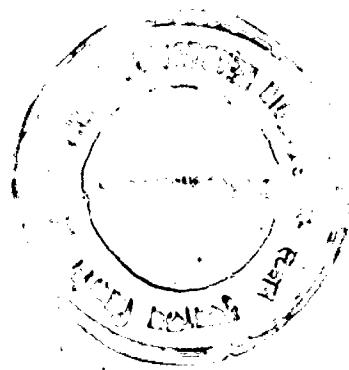
8/6/96

VERIFICATION

I, Lt Col G. E. Gogoi, officiating
Administrative Commandant, Station Headquarter,
Shillong do hereby solemnly affirm and declare
that the contents made in paragraph 1 of this reply
to the rejoinder is true to my knowledge and those
made from paragraph 2 to 8 are derived from records
which I believe to be true and rest are humble
submissions before this Hon'ble Tribunal.

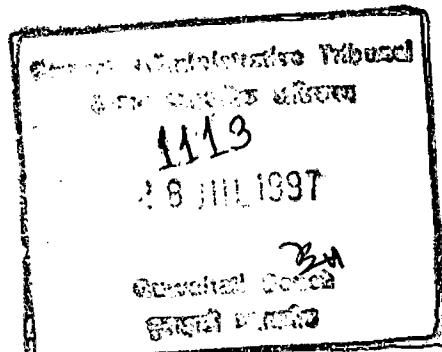
AND I sign this Verification on this 28 day
of August, 1996 at Shillong.

DEPONENT.



[Handwritten signature]

[Handwritten signature]
M. M. M.
M. M. M.
M. M. M.



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

GUWAHATI.

Filed by the applicant—
Theologal N. D. Grossman
Selvoal C. Chaudhury
B. S. J. Sonken M. Chaudhury
Advocate

In the matter of -

O. A. 83/95.

Miss Madhumita Dey.

-Versus-

Union of India & Ors.

-AND-

In the matter of -

An Additional Rejoinder submitted by
the applicant.

The applicant above-named most humbly and
respectfully begs to state as under :-

1. That your applicant being agreed for denial of
promotion/appointment to the post of Accounts Clerk which
occurred in the month of Aug., 1994 in the establishment of
station Headquarter, Shillong and also being ^{agreed} for
appointment of Respondent No. 4 to the post of Accounts
Clerk from 3 Grade below and in violation of existing
relevant recruitment rule that the applicant approached the
Hon'ble Tribunal through the O. A. 83/95.

2.

B. S. J. Sonken
27.5.97

2. That your applicant categorically begs to state that the respondent No. 4 in fact belongs to general category and obtained the Scheduled caste certificate from the local district authority by misleading and misrepresenting her actual status. In this connection it may be stated that the father of ~~and~~ the Respondent No. 4 was a Class IV retired employee of the Establishment of Accountant General, Govt. of India, Shillong. And the father of the Respondent No. 4 namely Late Nibaran Ch. Dey as declared himself as General Category employee and the other brothers and sisters of the Respondent No. 4 namely Sri Nikhil Ch. Dey Miss Ratna Dey and Mrs. Dipali Dey (Sarma) who are presently serving in the same establishment of the office of Accountant General, Govt. of India, Shillong also declared ~~themselves~~ as General Category employees which would be evident from the extract of the Gradation list published as on 1.3.95. The name of sister of Respondent No. 4 Smti. Ratna Dey serving as Accountant appeared in serial No. 83 of the Gradation List published as on 1.3.95. Similarly another sister Smti. Dipali Dey (Sarma) (ii) also appeared in serial no. 402 of the said gradation list and serving as Accountant. And the brother of Respondent No. 4 Sri Nikhil Ch. Dey whose name appeared in serial No. 30 also declared himself as general category employee, therefore it is crystal clear that the Respondent No. 4 is also belongs to General Category as her own brothers and sisters declared themselves as general category.

(Copies.....)

(Copies of the extract of the gradation list of the brother and sister of Respondent No. 4 who are serving in the Establishment of Accountant General, Govt. of India, Shillong, are enclosed herewith and marked as Annexures - 8

3. That your applicant further begs to state that the Respondent No.1, 2 and 3 submitted their written statement wherein contradictory statements are being made in paragraphs 14 and 15 of the written statement, in para 14 it is stated by the Respondent that as per Employment Exchange Registration Card the Respondent No. 4 belongs to Scheduled Caste Category, based on which the respondent No. 4 is recruited as conservancy Safaiwalla whereas in para 15 of the written statement it is admitted by the respondent that the Respondent No. 4 has obtained the Scheduled Caste certificate after her joining in the service.

In this connection it may be stated that as per Govt. of India, Department of Personnel and Training Office Memo. No. 36012/6/88-Estt. (SCT) (SRD.III) dated 24th April, 1990 wherein it is categorically stated that the Caste Certificate in support of claim of a candidate in the prescribed form by the Judicial/Revenue Authority only should be accepted at the time of initial appointment. But in the instant case as admitted in para 15 of the written statement now it appears that the Scheduled caste Certificate ^{of} in the

Respondent No.

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Respondent No. 4 has been obtained by her after her joining in the service in the Station Headquarter which is not permissible as per O.M. dated 24.4.90, issued by the Govt. of India. Moreover, no verification of the Scheduled Caste Certificate of the Respondent No. 4 was made by the Respondent as per provision laid down in the O.M. dated 24.4.90, in terms of O.M. No. 36012/36-(22)/89-Ext(SCT) dated the 16th June, 1989. The relevant portion of concessions in appointment of Scheduled Caste and Scheduled Tribe are quoted hereunder from Section (iii) of Chapter 25 of the Swami's Complete Manual of Establishment and Administration for Central Government is given below :

"3. Certificate to be produced in support of claim.

(1) Every person who claims to belong to a Scheduled Caste or Scheduled Tribe has to produce a certificate to the appointing authority as sufficient proof in support of the claim.

(2) Caste Certificates issued in the prescribed form (Annexure -I) by the Judicial/Revenue authorities (Annexure -) only should be accepted at the time of initial appointment.

G.I., Dept. of Per. & Trg., O.M. No. 36012/6/88-Estt. (SCT) (SRD.III), dated the 24th April, 1990.

4. Provisional appointment subject to verification of caste status.

The appointing authorities should, in the offer of appointment to the candidates claiming to be belonging to SC/ST, include a clause to the effect that the appointment is provisional and is subject to verification of the caste/tribe certificate through proper channel and that if the claim to belong to SC/ST is found to be false, the services will be terminated forthwith without assigning any reason and without prejudice to such further action that may be taken under the Indian Penal Code for production of false certificate.

G.I., Dept. of Per & Trg., O.M. No. 36012/6/88-Estt. (SCT) (SRD.III), dated the 24th April, 1990.

5. Further verification and action thereon.

(1) It is always open to the appointing authority, if it considers necessary for any reason, to verify the claims of a candidate through the District Magistrate of the place where the candidate and/or his family ordinarily resides.

(2) If after appointment in any particular case, the verification reveals that the candidate's claim was false, his services may be terminated in accordance with the relevant rules/orders.

G.I., M.H.A., O.M. No. 42/34/52-NGS, dated the 17th April, 1953.

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6. Provisional appointment when prescribed certificates not produced.

Where a candidate belonging to an SC or ST is unable to produce a certificate from any of the prescribed authorities, he may be appointed provisionally on the basis of whatever *prima facie* proof he is able to produce in support of his claim, subject to his furnishing the prescribed certificate within a reasonable time. If there is genuine difficulty in his obtaining a certificate, the appointing authority should itself verify his claim through the District Magistrate concerned. Appointment of an SC or ST candidate should not be withheld/delayed pending verification of caste status.

G.I., D.P. & Trg., O.M. No. 36011/5/88-Est. (SCT),
dated April, 1988.

7. Caste status to be verified again at the time of promotion against reserved vacancy.

The appointing authorities should verify the caste status of an SC/ST officer at the time of initial appointment and again at the time of promotion against a reserved vacancy for SC/ST. For this purpose, the caste and the community to which an SC/ST person belongs, his place of residence and the name of the State, should be pasted on the top of the service book, personal file or any other relevant

document.....

document covering the employee to facilitate such verification. It may be mentioned that a Scheduled Caste person, whose caste has been descheduled after his initial appointment as a Scheduled Caste, is no longer entitled to enjoy the benefit of reservation in promotions.

L.G.I., Dept. of Per. & A.R., O.M. No. 36011/16/80-Estt. 'SCT), dated the 27th February, 1981; Dept. of Per. & Trg., O.M. No. 42012/8/87-Estt. (SCT), dated the 14th October, 1987 and O.M. No. 36012/36(22)/89-Est. (SCT), dated the 16th June, 1989. "

From above, it is quite clear that in the instant case of appointment/promotion so far Respondent No. 4 is concerned the Respondent have deliberately violated the provision laid down by Govt. of India for verification of Caste Certificate with the view of intention to show undue favour to respondent No. 4 in total violation of rules and regulation. Hence, the appointment/promotion of Respondent No. 4 to the post of Accounts Clerk issued under impugned Part (ii) order dated 24.4.95 and part (ii) order dated 15.3.95 (Annexure - 7) liable to be set aside and quashed.

4. That the Hon'ble Tribunal be pleased to direct the respondent to produce the Schedule Caste Certificate submitted by the respondent No. 4 in connection with the appointment as well as promotion before the ^{Hon'ble Tribunal} ~~departmental~~ authorities.....

5. That your applicant further begs to state that the proceedings of the departmental promotion committee held on 15.4.1995 is required to be approved by the General Office Commanding (GOC), 101 Area, Shillong before issuing the promotion/appointment order to any Group 'C' post, GOC is the appointing authority for the post of Accounts Clerk under the Station Headquarter, Shillong but in the instant case the approval of GOC, 101 Area of Shillong is not obtained before issuing the impugned promotion/appointment order issued under D.O. Part (II) ^{and} Order No. 05/CID/95 dated 20.4.95-15.3.95 hence the appointment of Respondent No. 4 is made in total violation of the procedure prescribed in Part (v) order of C.P.R.O. The relevant portion of C.P.R.O. published in Dec 1990 are quoted ~~below~~ for perusal of the Hon'ble Tribunal.

~~RECOMMENDATION~~

"PROCESSING AND IMPLEMENTATION OF THE RECOMMENDATIONS
OF DEPARTMENTAL PROMOTION COMMITTEE.

Processing of recommendations of D.P.C.

16.1 The recommendations of the DPC are advisory in nature and should be duly approved by the appointing authority. Before the recommendations are so approved the appointing authority shall consult all concerned as indicated below without undue delay.

From above, it is quite clear that the respondent in the instant case has violated ^{all} ~~existing~~ on the existing ~~existing~~ rules and regulations just to show undue favour to Respondent No. 4.

Therefore, in the circumstances stated above, this application is deserves to be allowed with costs.

A copy of extract of C.P.R.O Dec 1990 Part (V) is enclosed herewith and marked as Annexure- 9

V E R I F I C A T I O N

I, Miss. Madhumita Dey, daughter of Late Somesh Ch. Dey, Resident of Shillong, applicant in the above case working as Storekeeper in the office of the ~~State~~ Station Headquarter, Shillong, do hereby declare and verify that the statement made in the para 1 to 5 are true to my knowledge and belief and I have not suppressed any material fact.

And I sign this verification on this the 22nd day of May, 1997.

Madhumita Dey
Signature

Date: 21 May 97

Place: Guwahati

Encl No. 3A 8

-: 49 :-

ACCOUNTANTS AS ON 1.3.95

SCALE OF PAY :- Rs.1200-30-1560-FB-40-2040/-P.M.

SL. No.	Full Name & Educational Qualification	Whether belongs to S.C. or S.T. If not, say neither	Date of birth	Date of commen- cement of con- tinuous Govt. Service	Date of Contin- uous apptt./ promo- tion to the cadre	Date of Succes- sful comple- tion of proba- tion	Year of passing S.O.G.E.	Post in which confir- med and date of confirmation	Pay and date of last incre- ment	Remarks
1	2	3	4	5	6	7	8	9	10	
1	SHRI BISWAJIT DAS B.A.	NEITHER	01/10/46 31/07/67	31/07/67		/ /		ACCTT. 01/03/72	0.00 / /	RELEASED ON APPTT. AS ASSTT. REGR. OF CO-OP SOCIETIES UNDER THE GOVT. OF ASSAM W.E.F. 4/10/76
2	SHRI BIRENDRA KR DOLEY B.A.	S.T.	01/03/43 24/06/70	24/06/70		/ /		ACCTT. 01/03/73	0.00 / /	RELIEVED TO JOIN ASSAM PUBLIC SERVICE W.E.P. 31/01/76
3	SHRI C. LALCHUAMA B.A.	S.T.	01/01/49 26/06/70	26/06/70		/ /		ACCTT. 01/03/73	0.00 / /	RELIEVED TO JOIN THE GOVT. OF MIZORAM W.E.F. 31/08/77
4	SHRI HARENDRRA KUMAR MACHARY B.A.	S.T.	01/03/45 21/09/70	21/09/70		/ /		ACCTT. 01/03/74	0.00 / /	RELEASED ON 3/10/77 TO JOIN AS TO/FAO UNDER THE GOVT. OF ASSAM.
5	SHRI SWELLINGTON LYNGDOH	S.T.	01/01/42 14/08/62	22/12/70* 14/08/62		/ /		ACCTT. 01/03/73	0.00 / /	RELEASED ON APPTT. AS JR. PHYSICIAN UNDER THE GOVT. OF INDIA.
6	SHRI PHILIP RYMBAI B.A.	S.T.	01/11/45 28/10/72	28/10/72		/ /		ACCTT. 01/03/76	0.00 / /	RELEASED TO JOIN MEGH. TRANSPORT CORPN: W.E.F. 20/05/86(AN).
7	SHRI NIRODE CHAKRAVORTY B.A.	NEITHER	01/11/50 23/04/73	23/04/73		/ /		ACCTT. 01/03/79	0.00 / /	TRANSFERRED PERMANENT TO A.G. TRIPURA, AGARTALA W.E.F. 15/01/84
8	SHRI C. LALBIAKTLUANGA B.A.	S.T.	01/03/45 21/09/67	05/11/73* 21/09/67		/ /		ACCTT. 01/03/78	0.00 / /	RELEASED W.E.F. 02/03/82

Attest
S. D. S.
S. D. S.

1	2	3	4	5	6	7	8	9	10
77	SHRI SARAT CH. DEKA B.A.	NEITHER	01/12/61 23/07/87	16/12/92* 15/12/92*	16/12/94 15/12/94		PEON	1260.00 01/07/91	
78	SMTI MISTILIAN SYNREM	S.T.	22/05/58 25/02/86	15/12/92*	15/12/94		C/T.	1260.00 01/08/91	01/12/94
79	SHRI KAUSHIK BN. ACHARJEE	NEITHER	10/11/56 14/07/81	15/12/92*	15/12/94		PEON	1260.00 29/02/84	01/12/94
80	SHRI NIRANJAN KR. ROY	NEITHER	02/02/62 22/04/87	17/12/92*	17/12/94		C/T.	1260.00 01/08/91	01/12/94
81	SHRI BIDHAN CHAKRAVORTY	NEITHER	22/01/68 23/10/86	15/12/92*	15/12/94		C/T.	1260.00 01/08/91	01/12/94
82	SHRI KANISTHA RABHA	S.T.	23/04/61 22/12/86 (AN)	15/12/92*	15/12/94		C/T.	1260.00 01/08/91	01/12/94
83	SMTI RATNA DEY	NEITHER	23/11/60 05/05/87	15/12/92*	15/12/94		C/T.	1260.00 01/08/91	01/12/94
84	SHRI ANUP KR. SINGHA	NEITHER	16/12/59 09/12/87	15/12/92*	15/12/94		C/T.	1260.00 01/08/91	01/12/94
85	SHRI DEEPAK RAJ RAWANI	NEITHER	04/03/61 24/06/81	15/12/92*	15/12/94		C/T.	1260.00 01/08/91	01/12/94
86	SHRI MRINMOY BHATTACHARJEE	NEITHER	28/01/65 03/11/87	15/12/92*	15/12/94		PEON	1260.00 01/04/88	01/12/94
87	SHRI GURU PRASAD DUTTA	NEITHER	28/09/58 02/11/87	15/12/92*	15/12/94		C/T.	1260.00 01/08/91	01/12/94
88	SHRI SITESH CH. DAS	S.C.	01/06/61 21/03/89	15/12/92*	15/12/94		C/T.	1260.00 01/07/93	01/12/94
89	SMTI UTPALA DAS	S.C.	28/01/61 11/07/89	15/12/92*	15/12/94		C/T.	1260.00 01/07/93	01/12/94
90	SHRI SWAPAN KR. DEY SARKAR	NEITHER	01/03/62 09/12/87	01/01/93*	01/01/95		C/T.	1290.00 01/07/93	01/12/94
91	SHRI BANLUMLANG MYLLIEMNGAP	S.T.	26/11/66 09/11/87	01/01/93*	01/01/95		C/T.	1260.00 01/08/91	01/01/95
92	SMTI CICILIA MAUNIUH	S.T.	10/10/66 16/09/87	01/01/93*	01/01/95		C/T.	1260.00 01/08/91	01/01/95
93	SMTI SUDIPTA KUNDU	NEITHER	10/01/50 08/12/76	12/06/92*	12/06/94		AUDITOR	1840.00 01/11/82	01/12/94
94	SHRI ARABINDA CHAKRABORTY B.SC.	NEITHER	01/03/51 04/05/93	04/05/93	ON PROB.		TEMPORARY	1230.00 / /	04/05/94
95	SHRI DEBENDRA CHETRI	NEITHER	08/02/72 14/09/93	14/09/93	ON PROB.		TEMPORARY	1230.00 / /	01/09/94
96	SHRI SUBRATA KR. BENERJEE	NEITHER	04/01/61 01/08/86	04/01/94*	ON PROB.		C/T	1230.00 03/01/94	01/01/95
97	SHRI SANKAR HALDAR	NEITHER	01/06/60 02/09/87	03/01/94*	ON PROB.		C/T.	1260.00 01/08/91	01/09/94

REVERTED FROM THE
POST OF SUPERVISOR
TO THE POST OF
ACCOUNTANT.

PAST SERVICE RENDERED
IN THE DIR. OF FIE
LD PUBLICITY, GHY (MIN
OF INFR. & BROADCASTING
WEF 21/9/82 (AN)
TO 1/9/87 (AN) SHALL
COUNT TOWARDS QUALIFYING
SERVICE FOR
PENSION.

Encls No. 8. 108
30/03/95

SENIOR ACCOUNTANTS AS ON 01/03/95
SCALE OF PAY :- RS. 1400-40-1600-50-2300-EB-60-2600/-P.M.

SL. No.	Full Name & Educational Qualification	Whether belongs to S.C. or S.T.	Date of birth	Date of Continous commen- cement (say neither	apptt./ promoto- tion of con- tinuous Govt. Service	Date of Success- ful comple- tion of proba- tion	Year of passing S.O.G.E.	Post in which confir- med and date of confir- mation	Pay and date of last incre- ment	Remarks
1	SHRI RANJIT DUTTA (II) B.A.	NEITHER	01/06/38	08/01/74		NOT REQUID.		ACCTT.	2600.00	
2	SMTI ANJALI BHATTACHARJEE (I) B.A.	NEITHER	06/05/61			NOT REQUID.		ACCTT.	2600.00	
3	SMTI PRIYATAMA DHAR CHOWDHURY B.A.	NEITHER	13/11/37	10/10/75		NOT REQUID.		ACCTT.	2600.00	
4	SMTI GITA GUPTA B.A.	NEITHER	03/07/61			NOT REQUID.		ACCTT.	2600.00	
5	SMTI SNOWDA ILLOYALL SAWKMEI B.A.	S.T.	18/01/39	10/10/75*		NOT REQUID.		ACCTT.	2510.00	
6			14/08/61			NOT REQUID.		ACCTT.	2600.00	
7			09/11/41	04/06/76*		NOT REQUID.		ACCTT.	2600.00	
8			06/01/62(AN)			NOT REQUID.		ACCTT.	2600.00	
9			16/04/37	04/05/77*		NOT REQUID.		ACCTT.	2600.00	
10			28/11/59			NOT REQUID.		ACCTT.	2600.00	
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Encls No 8 209

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380	SMTI TILOTTAMA (MALAKIR) SHARMA	S.C.	23/12/52	07/02/89*	NOT REQUID.															
381	SMTI ANITA BHUIYA	S.C.	01/09/57	13/02/89*	NOT REQUID.															
382	SMTI BIJOY LAKSHMI DAS	NEITHER	09/12/76	20/02/89*	NOT REQUID.															
383	SHRI RANDOLF SINGH LINGDON	S.T.	01/12/56	07/02/89*	NOT REQUID.															
384	SHRI MALINI RANJAN MEDHI	NEITHER	10/12/76	07/02/89*	NOT REQUID.															
385	SMTI STEANI SARKAR	S.C.	01/12/51	07/02/89*	NOT REQUID.															
386	SHRI ORACLETON GATPHOH	S.T.	25/01/77	07/02/89*	NOT REQUID.															
387	SHRI KASHINATH PRASAD	NEITHER	02/05/77	07/02/89*	NOT REQUID.															
388	SHRI DIPAK KR. DHAR	NEITHER	20/02/42	07/02/89*	NOT REQUID.															
389	SHRI RAJESHWAR MEDHI	S.C.	26/11/65	07/02/89*	NOT REQUID.															
390	SMTI ARCHANA BHATTACHARJEE	NEITHER	08/01/61	07/02/89*	NOT REQUID.															
391	SMTI PUSPALATA BARMKI	NEITHER	19/05/72	07/02/89*	NOT REQUID.															
392	SHRI PAISINCH NONGRUM	S.T.	01/03/55	07/02/89*	NOT REQUID.															
393	SMTI SWISSIBOY KHARNUJON	S.T.	03/10/75	07/02/89*	NOT REQUID.															
394	SMTI H. BACANCY NONGERI	S.T.	03/10/53	03/01/90*	NOT REQUID.															
395	SHRI GOPAL CH. CHANDA	NEITHER	02/06/76	03/01/90*	NOT REQUID.															
396	SHRI BISWAJIT DEY	NEITHER	01/05/43	03/01/90*	NOT REQUID.															
397	SHRI KALYAN KR. SUKLABAIDYA	S.C.	06/12/63	10/01/90*	NOT REQUID.															
398	SMTI SHIPRA BHATTACHARJEE	NEITHER	25/02/53	03/01/90*	NOT REQUID.															
399	SHRI JAHARLAL DAS	S.C.	06/12/76	11/11/75	NOT REQUID.															
400	SMTI SHELLEY BHATTACHARJEE	NEITHER	08/01/50	03/01/90*	NOT REQUID.															
401	SHRI NAY KUNAR SARMA	NEITHER	11/11/75	03/01/90*	NOT REQUID.															
402	SMTI DIPALI (DEY (II)) SHARMA	NEITHER	23/12/54	03/01/90*	NOT REQUID.															
403	SMTI GENEVIEVE HER	S.T.	02/07/50	03/01/90*	NOT REQUID.															
404	SHRI DWIJENDRA LAL DAS	NEITHER	05/10/77	05/01/90*	NOT REQUID.															
405	SMTI KERLINDA KHARCHANDY	S.T.	01/03/52	03/01/90*	NOT REQUID.															
			30/09/75	08/01/90*	NOT REQUID.															
			01/11/55	08/01/90*	NOT REQUID.															
			16/11/77	03/01/90*	NOT REQUID.															
			09/04/60	03/01/90*	NOT REQUID.															
			21/05/79	03/01/90*	NOT REQUID.															
			01/05/47	03/01/90*	NOT REQUID.															
			10/11/75	03/01/90*	NOT REQUID.															
			22/02/61	03/01/90*	NOT REQUID.															
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Detested
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Attested
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11	SHRI L. B. SC.	BOYAIMA SINGH	NEITHER	01/03/61 04/01/83	26/05/92* 26/05/92*	26/5/91 26/5/91	NOV91	ACCIT. 01/03/87	1320.00 31/03/87	31/03/87
12	SHRI RAM	NI MOHON DAS GUPTA	NEITHER	26/12/56 06/07/77	28/05/92* 01/05/91	28/5/91 28/5/91	NOV91	C/T 02/07/83	1320.00 31/03/87	31/03/87
13	SHRI RAM	N DEHARI DEB	NEITHER	01/05/51 01/10/83	28/05/92* 25/10/83	28/5/91 28/5/91	NOV91	ACCIT. 01/03/88	1320.00 01/03/88	1320.00
14	SHRI RAM	B. A. DAS	NEITHER	17/01/51 25/10/83	28/05/92* 28/05/92*	28/5/91 28/5/91	NOV91	ACCIT. 01/03/88	1320.00 01/03/88	1320.00
15	SHRI SAT	BRATA DEB	NEITHER	30/11/64 29/03/85	29/07/92* 12/01/86	29/7/91 13/8/91	NOV91	ACCIT. 01/03/88	1320.00 31/03/87	31/03/87
16	SHRI SATESH B. COM	IB. AR. K. R.	J.C.	05/02/57 08/08/86	12/01/82* 17/01/92	13/8/91 13/8/91	NOV91	C/T 05/08/88	1320.00 01/08/88	1320.00
17	SHRI TAPASH B. A.	CHAKRABORTY	NEITHER	06/01/62 31/08/76	17/01/82* 17/01/82*	13/8/91 13/8/91	NOV91	C/T 01/08/88	1320.00 1320.00	1320.00
18	SHRI RAMANUJ B. A.	CHAKRABORTY	NEITHER	01/08/61 17/11/81	28/07/92* 28/07/92*	28/5/91 28/5/91	NOV91	C/T 01/08/88	1320.00 31/03/87	31/03/87
19	SHRI PH. B. A.	JUGINERA SINGH	NEITHER	01/07/61 05/03/87	31/07/92* 21/03/87	31/7/91 21/7/91	NOV91	C/T 01/04/87	1320.00 01/04/87	1320.00
20	SHRI K. B. A.	IBOTHAM SINGH	NEITHER	01/01/63 15/03/87	21/09/92* 21/09/92*	21/9/91 21/9/91	NOV91	C/T 01/04/89	1320.00 01/04/89	1320.00
21	SHRI GITESH B. U.	CH. NANDI	NEITHER	21/07/66 11/03/85	22/07/93* 21/08/85	ON PROB. ON PROB.	NOV93 NOV92	ACCIT. 01/03/87	1320.00 01/03/87	1320.00
22	SMTI B. A.	VERONICA LYNGDON	J.F.	01/07/71 03/06/71	21/08/93* 23/08/88	ON PROB. ON PROB.	NOV92 NOV92	ACCIT. 01/03/87	1320.00 01/03/87	1320.00
23	MD. B. ABDUL B. SC (DISTN)	JALIL	LEADER	04/01/63 07/03/87	23/08/93* 23/08/93*	ON PROB. ON PROB.	NOV92 NOV92	C/T 01/01/87	1320.00 01/01/87	1320.00
24	SHRI B. A.	SANTOSH KR. CHAKRA	LEADER	17/01/61 27/11/87	23/08/93* 23/08/93*	ON PROB. ON PROB.	NOV92 NOV92	C/T 01/01/87	1320.00 01/01/87	1320.00
25	SHRI TAPAN B. COM	CH. DHURY	J.F.	15/11/67 30/06/82	23/08/93* 23/08/82	ON PROB. ON PROB.	NOV92 NOV92	ACCIT. 01/03/87	1320.00 01/03/87	1320.00
26	SMTI B. A.	KALPANA MAZUMDIR	NEITHER	01/01/61 05/01/81	23/08/93* 23/08/93*	ON PROB. ON PROB.	NOV92 NOV92	ACCIT. 01/03/87	1320.00 01/03/87	1320.00
27	SHRI L. B. SC, LLB	BIDYA CHANDRA SINGH	NEITHER	01/12/67 07/06/81	23/08/93* 23/08/93*	ON PROB. ON PROB.	NOV92 NOV92	ACCIT. 01/03/87	1320.00 01/03/87	1320.00
28	SHRI PRATAP B. A.	CH. RASNA	J.F.	01/03/57 17/11/83	21/06/93* 21/06/93*	ON PROB. ON PROB.	NOV92 NOV92	ACCIT. 01/01/83	1320.00 01/00/83	1320.00
29	SHRI RAM B. A.	AYODHYA PRASAD	J.F.	15/01/56 12/07/82	21/06/93* 21/06/93*	ON PROB. ON PROB.	NOV92 NOV92	C/T 01/04/83	1320.00 01/01/95	1320.00
30	SHRI NIKHIL B. A.	CH. DEY	NEITHER	01/01/53 15/12/75	21/06/93* 21/06/93*	ON PROB. ON PROB.	NOV92 NOV92	REGN 01/07/79	1320.00 01/06/84	1320.00
31	SHRI AJOY B. COM	KR. DEB	NEITHER	01/01/52 20/01/86	21/06/93* 21/06/93*	ON PROB. ON PROB.	NOV92 NOV92	C/T 23/09/89	1320.00 01/06/84	1320.00
32	SHRI DILIP M. COM.	CH. DUTTA	NEITHER	21/11/63 13/08/86(AN)	21/06/93* 13/08/86(AN)	ON PROB. ON PROB.	NOV92 NOV92	C/T 17/08/88	1320.00 01/06/84	1320.00
33	SHRI DEBASHISH B. COM.	DEB PURKAYASTHA	NEITHER	21/10/62 27/10/86	21/06/93* 21/06/93*	ON PROB. ON PROB.	NOV92 NOV92	C/T 01/08/91	1320.00 01/06/84	1320.00
34	SHRI PROMOTH B. COM	DAS	NEITHER	20/07/64 05/11/86	30/07/93* 30/07/93*	ON PROB. ON PROB.	NOV92 NOV92	C/T 01/03/91	1320.00 01/07/94	1320.00
35	SHRI KAMAL B. COM	CH. NAG	NEITHER	20/10/64 12/08/87	30/07/93* 30/07/93*	ON PROB. ON PROB.	NOV92 NOV92	C/T 13/08/89	1320.00 01/07/94	1320.00

Attest
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Model NO 8

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allowed for submission of representation is not over, the DPC may in their discretion defer the consideration of the case until a decision on the representation.

13. An officer whose increments have been withheld or who has been reduced to a lower stage in the time scale, cannot be considered on that account to be ineligible for promotion to the higher grade as the specific penalty of withholding promotion has been imposed on him. The suitability of the officer for promotion should be assessed by the DPC as and when occasions arise for such assessment. In assessing the suitability, the DPC will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of the general service record of the officer and the fact of the imposition of the penalty he should be considered suitable for promotion. However, even when the DPC considers that despite the penalty the officer is suitable for promotion, the officer should not be actually promoted during the currency of the penalty.

14. The DPC should record in their minutes a certificate that the Department/Ministry/Office concerned has rendered the requisite integrity certificate in respect of those recommended by the DPC for promotion/confirmation.

Validity of the proceedings of DPCs when one member is absent

15. The proceedings of the Departmental Promotion Committee shall be legally valid and can be act upon notwithstanding the absence of any of its members other than the Chairman provided that the member was duly invited but he absented himself for the reason or the other and others was no deliberate attempt to exclude him from the deliberation of the DPC and provided further that the majority of the members constituting the Departmental Promotion Committee are present in the meeting.

PART-V

PROCESSING AND IMPLEMENTATION OF THE RECOMMENDATIONS OF DEPARTMENTAL PROMOTION COMMITTEE

Processing of recommendations of DPC

16.1 The recommendations of the DPC are advisory in nature and should be duly approved by the appointing authority. Before

*After
Approval*

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the recommendations are so approved the appointing authority shall consult all concerned as indicated below, without undue delay.

Consultation with UPSC

16.2 The recommendations of the DPC whether it includes a Member of the UPSC or not should be referred to the Commission for approval, if—

- (i) Consultation with the Commission is mandatory under Article 320(3) of the Constitution, read with UPSC (Exemption from Consultation) Regulations, 1958. However, a reference may be made to the Regulations, as and when necessary.
- (ii) The Member of the Commission who presides over the DPC specifically desires that the Commission should be consulted.

Approval of ACC

16.3 Where the posts fall within the purview of the Appointments Committee of the Cabinet, the approval of ACC should also be obtained.

Procedure to be followed when the Appointing Authority does not agree with Recommendations of DPC

16.4.1 There may be certain occasions when the appointing authority may find it necessary to disagree with the recommendations of the DPC. The procedure to be followed in such cases is indicated below:

16.4.2 Where UPSC is associated with the DPC the recommendations of the DPC should be treated as recommendations of UPSC. If it is so considered necessary by the appointing authority to vary or disagree with the recommendations of the DPC the prescribed procedure for over-riding the recommendations of UPSC (not incorporated in these guidelines) should be followed.

16.4.3 The recommendations of the DPC on which UPSC is not represented should be dealt with as under:—

- (a) Where the appointing authority, being lower than the President of India, does not agree with the recommendations of the DPC, such appointing authority