

30/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-148/96 ordered Pg-1 to 2 INDEX

Disposed Date-19/2/98

O.A/T.A No. 217/96.....

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

E.P/M.A No. 148/96.....

1. Orders Sheet. O.A-217/96..... Pg..... 1 ..... to ..... 6 .....
2. Judgment/Order dtd. 18/01/99..... Pg..... 1 ..... to ..... 4 ..... Disposed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 217/96..... Pg..... 1 ..... to ..... 37 .....
5. E.P/M.P..... 148/96..... Pg..... 1 ..... to ..... 5 .....
6. R.A/C.P..... 1/1..... Pg..... 1 ..... to .....
7. W.S..... Pg..... 1 ..... to .....
8. Rejoinder..... Pg..... 1 ..... to .....
9. Reply..... Pg..... 1 ..... to .....
10. Any other Papers..... Pg..... 1 ..... to .....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

CA No. 817/96

Shri R. N. Choudhury  
vs

Union of India & ors. Respondent(s)

Mr. J. L. Sarkar, M. Chanda Advocates for the applicant(s)  
" B. Barua,

Mr. S. Ali, for C.G.S.C. Advocates for the Respondent(s)

Office Notes

Date

Courts' Orders

This OA was received in February 1996 and was defective in various grounds. The same was returned to the applicant and again submitted on 12.8.96 through Advocate W/M for delay or condonation.

1.10.96

Learned counsel Mr. J.L.Sarkar for the applicant.

Issue notice on the respondent before admission.

List for consideration of admission and further orders on 20.11.1996.

(29)  
Member

The I.P.O annexed with the OA has become invalid. Page no. 20 - 27 Annexure 7, are handwritten but legible. trd  
These deficiencies have now been removed. The concerned Advocate may perhaps advise to submit a fresh I.P.O.

20.11.96

Learned counsel Mr. J.L. Sarkar for the applicant. Learned Sr. C.G.S.C. Mr. S. Ali for the respondents. Service report on the respondents are awaited.

List for show cause and for consideration of admission on 18.12.96.

(29)  
Member

Fresh I.P.O.  
Submitted vide  
dated 10.9.96. No. 246891.

nkm

W

20/11

DR 1/2 17/11/96

Notice issued  
for hearing and file

(2) OA. 217/96

order reports are still  
waited.

18.12.96

Learned counsel Mr M. Chanda for the applicant. Learned Sr. C.G.S.C. Mr S. Ali for the respondents. Mr Chanda has submitted type written copies of the original application which consists of some hand written annexures.

Heard Mr Chanda for admission and perused the contents of the application and relief sought. The application is admitted subject to the decision on condonation of delay in M.P.No.148/96. Issue notice on the respondents by registered post.

List for written statement and further orders on 24.1.1997.

The matter relates to the Division Bench and to be listed before the Division Bench.

6  
Member

nkm  
m  
19/12

30.1.97. No written statement has been filed. There is no representation on behalf of the respondents. Mr M. Chanda appears on behalf of the applicant. For the ends of justice we allow further two weeks time for written statement.

List on 14.2.97.

6  
Member

Vice-Chairman

trd

m  
1/2

14-2-97

On the prayer of M. S. Ali, Sr. C.G.S.C. further two weeks time is extended from today to submit written statement. If no written statement is filed, this case will be heard without merit.

List for hearing on 28-2-97.

6  
Member

Vice-Chairman

lm

m  
20/2

(3)

OA 217/96

3

27.2.97

28.2.97

- 1) Notice duly served on R. 1.
- 2) No A潔e received from R. 2 to 4.
- 3) No W/S has been submitted.

4) Memo of appearance not yet filed.

or

2/2

nkm

6/2

Vice-Chairman

14.5.97

26.6.97

Learned counsel for both the parties submit that the case is ready for hearing.

List on 21.8.1997 for hearing.

6/2

Vice-Chairman

trd  
24/5  
Case duly served on  
R. No. 1.

17.9.97

Case is ready for hearing.

List for hearing on 14.1.1998.

6/2

Vice-Chairman

pg  
19/11

5.2.98

- 1) Notice duly served on R. No. 1 & 2.
- 2) written statement has not been filed.
- 3) Memo of appearance has not been filed.

Mr M. Chanda, learned counsel for the applicant prays for three days time to take further steps in the matter. Mr S. Ali, learned Sr. C.G.S.C. has no objection. List it on 11.2.98.

6/2

Vice-Chairman

nkm

AS  
6/2

- 1) Memo of appearance has been filed.
- 2) No written statement has been filed.

or  
21/8/97

11.2.98

Mr S. Ali, learned Sr. C.G.S.C.

5-1-98

is not present because of his personal difficulty. List it on 26.5.98.

There is a Bihu Holiday  
on 14.1.98. Therefore, adjourn  
to 5.2.98.

Member

Vice-Chairman

nkm

12/2

26.5.98 Adjourned to 15.6.98.By order  
Vice-Chairman18-2-98

(1) Notices duly served  
on R. No. 1 and 2.  
(2) W/S has not been  
filed.  
Memo of appearance  
has been filed.

15.6.98. There was a release.  
12 Adjourned to 24.6.98.

By order  
Vice-Chairman

24.6.98 On the prayer of Mr. S. Ali, learned Sr. C.G.S.C. case is adjourned to 14.7.98.

By order  
Vice-Chairman

14.7.98

Mr S. Ali, learned Sr.

C.G.S.C. prays for some time to file written statement. Several adjournment had been taken by Mr Ali. However, he assures the Tribunal that no further time will be taken. Accordingly the case is listed on 23.7.98.

Member

Vice-Chairman

nkm

12/2

23.7.98

On the prayer of Mr S. Ali

learned Sr. C.G.S.C., the case is adjourned till 20.8.98.

Member

Vice-Chairman

nkm

12/2

1

Notes of the Registry	Date	Order of the Tribunal
1) Notice duly served on R. Nos 1 & 2. 2) No. W/S has been filed. SD 25/8	20.8.98 16 pg 2A/8	On the prayer of Mr S.Ali, learned Sr. C.G.S.C the case is adjourned to 26.8.98 for hearing. Member Signature Vice-Chairman
1) Notice duly served on R. Nos 1 & 2. 2) No. W/S has been filed. SD 9/9	26.8.98 trd RS 27/8	On the prayer of Mr. S.Ali, learned Sr. C.G.S.C. this case is adjourned till 10.9.98. List on 10.9.98. Member Signature Vice-Chairman
No. W/S has been filed. SD 6/11	10.9.98 trd RS 11/9	Mr. J.L.Sarkar, learned counsel appearing on behalf of the applicant submits that he is indisposed, therefore he is not in a position to argue the case today. Mr. S.Ali, learned Sr. C.G.S.C. also prays for adjournment. Accordingly the case is adjourned till 9.11.98. List on 9.11.98. Member Signature Vice-Chairman
8-12-98 1) Notice duly served on R. Nos 1 & 2. 2) Written statement has not been filed. SD 8/12/98	9.11.98 trd RS 11/9 pg	Division Bench is not available. Case is adjourned to 9.12.98. Signature Vice-Chairman

## Notes of the Registry

## Date

## Order of the Tribunal

28-12-98

1) Notice duly served  
on R.No. 1-2.

2) Written statement has  
not been filed.

S.A.  
28/12/98

9.12.98

Present: Hon'ble Justice Sri B.N. Baruah,  
Vice-Chairman.

Hon'ble Sri G.L. Sanglyine,  
Administrative Member.

Mr A.K. Choudhury, learned Addl.C.G.S.C  
on behalf of Mr S. Ali prays for adjourn-  
ment as Mr Ali is unable to attend the  
Tribunal because of his indisposition.  
Prayer allowed.

List on 29.12.98 for hearing.

6  
MemberS.A.  
Vice-Chairman

pg

RS  
10/12/98

29-12-98

On the prayer of Mr. J.L. Sarkar  
learned counsel for the applicant case  
is adjourned to 7-1-99 for hearing.

6  
MemberS.A.  
Vice-Chairman

lm

RS  
30/12/98

7.1.99

Adjourned to 13.1.99.

by am.  
h

There is no representation. Case  
is adjourned til 18.1.1999.

6  
MemberS.A.  
Vice-Chairman

nkm

18.1.99

20.1.99

21.1.99

22.1.99

23.1.99

24.1.99

25.1.99

26.1.99

27.1.99

28.1.99

29.1.99

30.1.99

31.1.99

32.1.99

33.1.99

34.1.99

35.1.99

36.1.99

37.1.99

38.1.99

39.1.99

40.1.99

41.1.99

42.1.99

43.1.99

44.1.99

45.1.99

46.1.99

47.1.99

48.1.99

49.1.99

50.1.99

51.1.99

52.1.99

53.1.99

54.1.99

55.1.99

56.1.99

57.1.99

58.1.99

59.1.99

60.1.99

61.1.99

62.1.99

63.1.99

64.1.99

65.1.99

66.1.99

67.1.99

68.1.99

69.1.99

70.1.99

71.1.99

72.1.99

73.1.99

74.1.99

75.1.99

76.1.99

77.1.99

78.1.99

79.1.99

80.1.99

81.1.99

82.1.99

83.1.99

84.1.99

85.1.99

86.1.99

87.1.99

88.1.99

89.1.99

90.1.99

91.1.99

92.1.99

93.1.99

94.1.99

95.1.99

96.1.99

97.1.99

98.1.99

99.1.99

100.1.99

101.1.99

102.1.99

103.1.99

104.1.99

105.1.99

106.1.99

107.1.99

108.1.99

109.1.99

110.1.99

111.1.99

112.1.99

113.1.99

114.1.99

115.1.99

116.1.99

117.1.99

118.1.99

119.1.99

120.1.99

121.1.99

122.1.99

123.1.99

124.1.99

125.1.99

126.1.99

127.1.99

128.1.99

129.1.99

130.1.99

131.1.99

132.1.99

133.1.99

134.1.99

135.1.99

136.1.99

137.1.99

138.1.99

139.1.99

140.1.99

141.1.99

142.1.99

143.1.99

144.1.99

145.1.99

146.1.99

147.1.99

148.1.99

149.1.99

150.1.99

151.1.99

152.1.99

153.1.99

154.1.99

155.1.99

156.1.99

157.1.99

158.1.99

159.1.99

160.1.99

161.1.99

162.1.99

163.1.99

164.1.99

165.1.99

166.1.99

167.1.99

168.1.99

169.1.99

170.1.99

171.1.99

172.1.99

173.1.99

174.1.99

175.1.99

176.1.99

177.1.99

178.1.99

179.1.99

180.1.99

181.1.99

182.1.99

183.1.99

184.1.99

185.1.99

186.1.99

187.1.99

188.1.99

189.1.99

190.1.99

191.1.99

192.1.99

193.1.99

194.1.99

195.1.99

196.1.99

197.1.99

198.1.99

199.1.99

200.1.99

201.1.99

202.1.99

203.1.99

204.1.99

205.1.99

206.1.99

207.1.99

208.1.99

209.1.99

210.1.99

211.1.99

212.1.99

213.1.99

214.1.99

215.1.99

216.1.99

217.1.99

218.1.99

219.1.99

220.1.99

221.1.99

222.1.99

223.1.99

224.1.99

225.1.99

226.1.99

227.1.99

228.1.99

229.1.99

230.1.99

231.1.99

232.1.99

233.1.99

234.1.99

235.1.99

236.1.99

237.1.99

238.1.99

239.1.99

240.1.99

241.1.99

242.1.99

243.1.99

244.1.99

245.1.99

246.1.99

247.1.99

248.1.99

249.1.99

250.1.99

251.1.99

252.1.99

253.1.99

254.1.99

255.

8

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

O.A.No. 217 of 1996

DATE OF DECISION.....18.1.1999

!! Shri R.N. Chaudhuri (PETITIONER(S))

Mr J.L. Sarkar and Mr M. Chanda

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.

THE HON. 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

a

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.217 of 1996

Date of decision: This the 18th day of January 1999

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

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

Shri Ramendra Narayan Chaudhuri,  
Retd. Pay & Accounts Officer,  
Pay & Accounts Office,  
Geological Survey of India (NER),  
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 Finance,  
New Delhi.

2. The Controller General of Accounts,  
Ministry of Finance,  
Department of Expenditure,  
New Delhi.

3. The Chief Controller of Accounts,  
Principal Accounts Officer,  
Ministry of Home Affairs,  
New Delhi.

4. The Deputy Controller of Accounts,  
Regional Pay & Accounts Office, MHA,  
Shillong.

.....Respondents

By Advocate, Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R

BARUAH.J. (V.C.)

Annexure 3 letter dated 10.10.1980 written by the  
Accounts Officer, Principal Accounts Office, Ministry of  
Home Affairs, New Delhi to the Deputy Controller of  
Accounts, Regional Pay and Accounts Office(1B), Ministry of  
Home Affairs, Shillong was issued for filling up a few  
vacancies of Accounts Officers at Shillong. In the said

82

letter it was stated as follows:

".....a few vacancies of Accounts Officers are to be filled up immediately at Shillong, Dhanbad and Bombay on permanent basis and no request for re-transfer to any other station will be entertained later on. An undertaking is to be taken to that effect from the officers recommended (In duplicate)."

By the said Annexure 3 letter the Deputy Controller of Accounts was requested to recommend the names of suitable and willing Junior Accounts Officers with eight years service in the grade. The applicant fulfilled the conditions for appointment and accordingly he was recommended for the appointment. The applicant also, pursuant to the Annexure 3 letter dated 10.10.1980, submitted Annexure 4 letter dated 12.10.1980 stating inter alia that he was willing to be considered for the post of Accounts Officer in any of the Pay and Accounts Offices at Shillong on permanent basis. Thereafter the applicant was appointed Accounts Officer in March 1981 on ad hoc basis. He did not dispute the appointment with the hope that he would be regularised later on. This way he continued his service for a period of seven years. However, he was not regularised in the post of Accounts Officer. He attained his superannuation on 31.3.1988. Thereafter Annexure 5 Office Memorandum dated 22.9.1992 was issued. This was for a particular period and it was extended by Annexure 6 Office Memorandum dated 21.6.1993 giving the benefit to retired persons also. However, this benefit was not given to the applicant on the ground that the benefit was available only to those employees who had three years of regular service in the grade of Accounts Officer. The applicant was appointed on ad hoc basis and therefore, he was not given the benefit. Being aggrieved, the applicant submitted a representation on 2.8.1993. His representation was disposed of by Annexure 9

letter.....

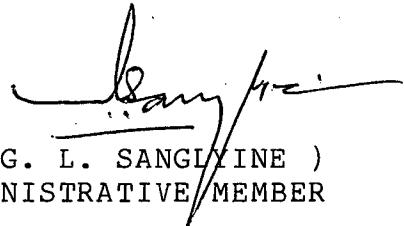
letter dated 23.1.1995 rejecting his prayer. Hence the present application.

2. No written statement has been filed. We have heard Mr M. Chanda, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. Mr Chanda submits that the applicant was working on ad hoc basis for more than seven years and in spite of that, most unreasonably, he was denied regular appointment even though he applied for the job on the understanding that regular appointment would be given to him. Though initially regular appointment was not given to him he continued on ad hoc basis with the hope that he would be regularised in due course, but the authority most unreasonably denied the benefit of regular appointment. According to Mr Chanda the applicant ought to have been given regular appointment in the post of Accounts Officer. Mr Deb Roy, on the other hand, submits that the applicant is not entitled to claim the benefit of Annexure 5 Scheme which was extended by Annexure 6 Office Memorandum on the ground that he did not have three years of regular service as Accounts Officer to his credit. Mr Deb Roy further submits that if the applicant was aggrieved he ought to have agitated earlier and this having not been done he has no remedy.

3. On hearing the learned counsel for the parties it is now to be seen whether the applicant is entitled to get the benefit of the Annexure 5 Scheme. The written statement has not been filed and the records have also not been produced. It is difficult for this Tribunal to come to any decision in this matter. It is true that the applicant applied for the job on the basis of the Annexure 3 letter dated 10.10.1980 and as per the said letter the appointment ought to have been permanent. However, the applicant was not regularised in his service. We do not know why the applicant was kept in

service till his age of supernnuation on ad hoc basis. As the materials are not before us it is not possible for us to come to a definite conclusion. We, therefore, dispose of this application with direction to the respondent No.2 to consider the representation of the applicant after taking into consideration of the entire matter and pass a reasoned order. The applicant may also submit a fresh representation within a period of one month from today and if such representation is filed within the period prescribed the respondents shall consider that representation also and thereafter dispose of the representation within two months from the date of receipt of the representation.

4. The application is accordingly disposed of. No order as to costs.



( G. L. SANGALINE )  
ADMINISTRATIVE MEMBER



( D. N. BARUAH )  
VICE-CHAIRMAN

nkm

13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. NO. 217/96

Ramendra Narayan Choudhury

- Versus -

Union of India & Others.

LIST OF DATES

<u>Sl. No.</u>	<u>Date</u>	<u>Particulars</u>	<u>Paragraphs</u>	<u>Page</u>
1.	10.10.80	The Chief Controller of Accounts, Principal Accounts Officer invited applications from Jr. Accounts Officers for filling up the vacancies of Accounts Officers at Shillong, Dhanbad and Bombay on permanent basis.	4(i)	3

ANNEXURE -3.

2.	Applicant submitted application expressing his willingness for consideration for the post of Accounts Officer in any pay and Accounts Office at Shillong, if he is appointed on permanent basis.	4(ii)	4
----	--	-------	---

ANNEXURE -4

<u>Sl. No.</u>	<u>Date</u>	<u>Particulars</u>	<u>Paragraphs</u>	<u>Page</u>
3.	18.2.81	The applicant was appointed by the Controller of Accounts, Principal Accounts Officer, Ministry of Steel and Mines as Accounts Officer in the Pay and Accounts Office, Geological Survey of India (NER) at Shillong on adhoc basis.	4(iii)	4
4.		Applicants' appointment on adhoc basis was against the policy of appointment as there was a violation of the assurances contained in offer of appointment which was for appointment on permanent basis.	4(iv)	4
5.	3.3.81	Applicant was released by the Deputy Controller of Accounts, Regional Pay & Accounts Office (IB), Shillong to take over the post of Accounts Officer in G.S.I. But the applicant was not supplied with any copy of the appointment letter.	4(v)	5
6.	April, 1981	Applicant came to know about all the conditions imposed in the order of appointment.	4(vi)	5

<u>Sl.No.</u>	<u>Dates</u>	<u>Particulars</u>	<u>Paragraphs</u>	<u>Page</u>
7.		Although the applicant was promoted on adhoc basis he was treated in all respect and manner as a regular employee. It would appear that the 80% post of Jr. A.O.'s were upgraded as Asstt. Accounts Officer (Gr.B) w.e.f. 1.4.87 but the applicant was not included in that list in view of the matter that he was already made an Accounts Officer.	4(ix)	6
8.		Applicant did not make any representation at that time in view of the fact that he was deemed to have been held as regular Accounts Officer.	4(x)	7
9.	22.9.92	Govt. of India, Ministry of Finance, Deptt. of Expenditure provided for promotional grade scale of Rs.2000 - 4000/- comprising 80% of the sanctioned strength of respective Audit & Accounts Officer. Order was made effective from 1.4.92.	4(xi)	7
		<u>ANNEXURE -5</u>		
10.	31.3.88	The applicant retired from the services as Accounts Officer	4(xii)	7

<u>Sl. No.</u>	<u>Dates</u>	<u>Particulars</u>	<u>Paragraphs</u>	<u>Page</u>
		in the Pay & Accounts		
		Office G.S.I (NER), Shillong		
		rendering more than seven years		
		service.		
11.	21.6.93	Govt. of India clarified the O.M. Dated 22.9.92 allowing notional fixation of pay in respect of Audit and Accounts Officer who had retired between 1/4/87 and 31.3.92 vide O.M dated 21-6-93.	4(xiii)	8
		<u>ANNEXURE -6</u>		
12.		Applicant was entitled to have his pension recalculated and refixed on the basis of the notional fixation in the higher scale of Rs. 2200/- 4000/- but no refixation of his pension has so far been done but the same remained as before as made out in the scale of 2375/- - 3500/-.	4(xiv)	8
13.		Applicant was not given the refixation of the pension amount in terms of the O.M. dated 21.6.93 and the applicant having retired from	4(xvi)	9

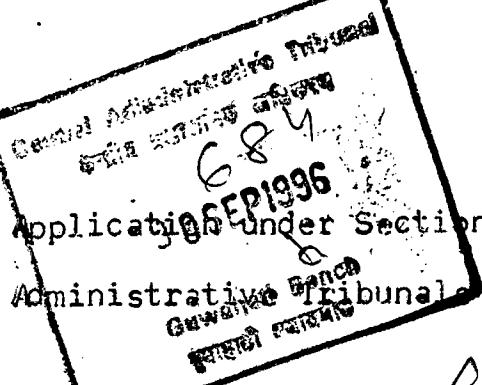
<u>Sl. No.</u>	<u>Dates</u>	<u>Particulars</u>	<u>Paragraphs</u>	<u>Page</u>
service was not aware of the same till July '93. But immediately on knowledge of the same filed representation to the authorities concerned on several occasions.				

( ANNEXURE - 7 & 8. )

Submission :- In the facts and circumstances it is submitted that the applicant is entitled to have his adhoc appointment declared as a regular appointment and the consequent refixation of his pension in the scale of Rs.2200 - 4000/- after giving him the notional pay fixation benefit w.e.f. 1.4.87.

163

18



Title of the Case

217/26

Filed by the applicant  
Date of filing n. c. vide  
12.8.95 Adm.

## Index

Sl. No.	Description of the documents relied upon	Annexure No.	Page No.
1.	Application		(12 pages) 1 to 12
2.	OD No. PAO/6(76/79)/457-60 dated 18-2-81	1	13
3.	Pension payment Order No. S&M/CAO(Cal)-88/889-First page	2	14-15
4.	Letter No.10/64/Deputation/ PR-AO/80/3809 dt.10-10-1980	3	16
5.	Acceptance of the offer by the applicant dt.12-10-1980	4	17
6.	OM No.F.6(82)-1C/91 dt.22-9-92	5	18
7.	OM No.6(82)-IC/91 dt.21-6-1993	6	19
8.	Op. of representation dt. 31.8.94 Op. of representation dt. 5/10.94 Op. of letter No 13/2/95- GSI (Pay-1) dt 25.1.95	7 8 9 10	20-31 32-36 37 C.R.N.CHANDHURI) 30/1/1995
			Signature of the Applicant

For use in Tribunal's Office

Date of filing

or

Date of receipt by post

Registration No.

Signature 3/2/95

For Registrar

Copy to Mr. S. Ali  
Sr. C.A. SE  
10.  
6 mer  
in hand  
12.8.95  
Adv.  
12.8.95

In the Central Administrative Tribunal  
Guwahati Bench.

Shri Ramendra Narayan Chaudhuri  
Retd. Pay & Accounts Officer,  
Pay & Accounts Office,  
Geological Survey of India (NER) Applicant  
'Prativalaya' Geraline, Laitumkhrah  
Shillong-793 003

Vs

1. Union of India represented by the  
Secretary to the Govt. of India  
Ministry of Finance, New Delhi.
2. The Controller General of Accounts Respondents  
Ministry of Finance  
Department of Expenditure  
C. Wing, Lok Nayak Bhawan  
Khan Market, New Delhi-110 003
3. The Chief Controller of Accounts  
Principal Accounts Officer  
Ministry of Home Affairs,  
New Delhi
4. The Deputy Controller of Accounts  
Regional Pay & Accounts Office, MHA  
Shillong.

Contd.....

*Abhijit  
M/*

Details of Application

1. Particulars of the Orders (i) PAO/6/76/79/45760  
against which the application is made dt. 18/2/1981 -- Annexure-I  
(ii) Pension Payment  
Order -- Annexure- 2

2. Jurisdiction of the Tribunal: The applicant declares  
that the subject matter of the  
order against which he wants ~~redressal~~  
redressal is within the jurisdiction of the Tribunal.

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

4. Facts of the Case :-

(i) The Chief Controller of Accounts, Principal Accounts  
Officer, Ministry of Home Affairs in its letter No.  
10/64/Deputation/Pr.AO/80/3809 dt. 10-10-80 invited  
petitions from the Jr. Accounts Officers (as the  
applicant was then) indicating their willingness  
for consideration for filling up the vacancies of  
Accounts Officers at Shillong, Dhanbad and Bombay  
on a permanent basis ( A copy of the circular above  
mentioned is enclosed as Annexure-3).

Contd....

*Abul*  
*Abul*  
*Abul*

2

(ii) That in response to that, the applicant expressed his willingness for consideration for the post of Accounts Officers in any pay and Accounts Office at Shillong if he was appointed on a permanent basis. (copy enclosed as Annexure-4).

(iii) That following that the Controller of Accounts, Principal Accounts Office, Ministry of Steel and Mines, Deptt. of Mines, New Delhi vide DO No. PAS/6/(76/79) dt.d. 18-2-1981 appointed you applicant as Accounts Officer in the job of pay of Rs.840-40-1000-EB-40-1200/= in the Pay & Accounts Office, GSI (NER) at Shillong under the Deptt. of Mines, Ministry of Steel & Mines Govt. of India on an adhoc basis.  
(A copy of the DO No.PAS/6(76/79)45760 dt. 18-2-1981 is enclosed as Annexure-I )

(iv) That as stated in sub-part(i) ibid, my option was obtained for consideration against vacancies on a permanent basis and the post of Accounts Officer in the Pay and Accounts Office, GSI(NER) was a regular post and therefore offering an adhoc appointment vide Annexure 2 was against the policy and principles of appointment and continuance thereof was a violation of the assurances contained in offer of appointment vide Annexure 3 and acceptance conveyed by the applicant vide Annexure 4.

Contd.....

*Attested  
M/*

(v) That a copy of the appointment order vide Annexure I was not endorsed to the applicant and before even he had seen a copy of the said order of appointment he was released by the Dy. Controller of Accounts, Regional Pay and Accounts Office (IB), Laitumkhrah, Shillong in the afternoon of 3rd March, 1981 for the applicant to take over the post of Accounts Officer in the Pay & Accounts Office, Geological Survey of India Shillong and the applicant, when released had no knowledge that the appointment against which he had been released was on an adhoc basis.

(vi) That it was only by around the last part of April, 1981 that the Applicant knew all conditionalities imposed in the order of appointment. It was then too late to raise much hue and cry in the matter as sufficient time has elapsed and also because three conditionalities were not there so far as his own appointment as AO was concerned and he was hopeful that the position would be set right in due course.

(vii) Three conditionalities which prompted appointment on an adhoc basis were as follows:-

- (1) Lest there be claims of seniors, who might have to be accommodated.
- (2) Lest there be claims from eligible Scheduled Caste/Scheduled Tribe claimants who might have precedence over him.
- (3) Lest the ~~fixxst~~ final determination of seniority changes the position interse of the applicant.

Contd....

*Abul*  
*Abul*

(viii) That none of these three conditions mentioned in the preceding sub-para was applicable in my case and though it might have necessitated at the initial stage as a matter of abundant caution, the same not being applicable could have been determined soon and fresh order of appointment on regular basis issued by the competent authority within a reasonable period of time of about a year or two but no such orders were issued.

(ix) That notwithstanding the applicant was being treated in all respect and manner as a regular employee and not an adhoc incumbent in the post as could be seen from two instances cited below:

- (a) At the time of promotion/appointment, the applicant was as stated herein before was a Jr. A.O. in substantive capacity in the scale of pay Rs.550-25-750-EB-30-900/=. In this grade while his juniors were given promotion as S.G. Jr.A.O. in the scale of Rs.775-35-880-40-1000/+, the applicant was not brought in the S.G. Jr.AO in consideration of the fact that he had already been appointed/promoted in the higher grade.
- (b) That 80% post of Jr.A.O.s were upgraded as Asstt. Accounts Officers (Gazetted Group B) in the scale of Rs.2000-60-2300-EB-75-3200 w.e.f. 1-4-87 but the applicant was not included in the list of such AAOs in view of the fact that the applicant was already made an A.O.

Contd.....

*Abdul*  
*Mu*

(x) That therefore the applicant did not make any representation at that time in view of the facts stated in the preceding para as it was found that he was deemed to have been held as regular Accounts Officer.

(xi) That the Govt. of India, Ministry of Finance, Deptt. of Expenditure in OM.M.No.F.6(82)-IC/91 dt.22-9-92 provided for a promotional grade scale of Rs.200-75-2800-EB-100-4000/= comprising 80% of the sanctioned strength of respective Audit & Accounts Officers, the order was made effective from 1-4-82 however the benefit of fixation of pay on notional basis in the promotional scale of Rs.200-4000/1 may be allowed w.e.f. 1-4-1987 or from the first of the month following the month in which the Officer completed 3 years regular service in the scale of Rs.2375-75-3200-EB-100-3500/= (A copy of the G.I.'s OM mentioned ibid is enclosed as Annexure 6).

(xii) That the applicant retired from the service as Accounts Officer in the Pay & Accounts Office G.S.I (NER) Shillong on the afternoon of 31st March, 1988 after rendering more than seven years service as Accounts Officer in the afore mentioned Pay & Accounts Office and though he was in the reckoning for the notional fixation as however he had already retired, the order Annexure was of no effect as such.

Contd.....

*Shastri  
J.W.*

(xiii) That however by another O.M.No.6(82)-IC/91 dt. 21-6-93, the Govt. of India clarified the O.M. dt. 22-9-92 Annexure 6 and allowed notional fixation of pay in respect of Audit and Accounts Officer who had retired between 1-4-1987 and 31-3-92 subject to the conditions enumerated in the Ministry's O.M. dt.22-9-92 - Ann - (copy of the O.M. dt.21-6-93 enclosed as Annexure - 6).

(xiv) That the applicant was entitled to have his pension recalculated and refixed on the basis of the notional fixation in the higher scale of Rs.2200-4000/= but no refixation of his pension has so far been done. and the same remained as before as made out in the scale of Rs.2375 - 3500/=, which also indicate in clear term that the applicant was construed as a substantive appointee in the scale of Rs.2375 -3500/=.

(xv) That the exact reason as to why the applicant was not given the refixation of the pension amount in terms of the latest OM dt.21-6-1993 - Annexure - 6 is not known to the applicant, though he had a feeling that it might be due to technical ground of the applicant's being termed as an ad-hoc incumbent though in fact and in law he was being treated as a regular even a substantive appointee in the Grade of Accounts Officer.

Contd.....

*Handed  
C.W.*

(xvi) That the applicant having already retired from the service was not aware of the said O.M. dt. 21-6-93 till end of July, 93 and immediately on knowledge of the O.M. ibid made a representation to the Controller General of Accounts, Ministry of Finance, Deptt. of Expenditure, New Delhi on 2-8-93. This was followed by another representation dt. 15-10-93 and yet another on 31-8-1994 and lastly to Hon'ble Smti Margaret Alva, Minister of Personnel, Public Grievances & Pensions,

by the Court of India  
vide letter No 13/2/95-ESII (Pt-1)  
dt 25.1.95 (With enclosed as  
Annexure 9) (Pt-1)

on 5-10-1994 but without any response so far. (Copy of representation dt 31.8.94 and 5.10.94 are enclosed as Ann. 7 and 8 respectively) P.S. the representation dt 5.10.94 has been rejected.

#### 5. Grounds for relief with Legal Provisions

(1) Breach of offer made and acceptance thereof. Appointment on ad-hoc basis in the face of the offer of posting on a permanent basis and acceptance there of that posting be on permanent basis violates the sanctity of offer and acceptance.

(2) Retention of an employee on ad-hoc basis for a period as long as seven years inspite of availability of a regular post and appointment and working against that regular is highly arbitrary and violates the principle of rule of law enunciated under Act 14 of the Constitution.

(3) Reasons for which ad-hoc appointment was given were not there initially nor at anytime during the long seven years of holding the post by the applicant and his service should have been regularised.

Contd.....

*M. A. S.*

(4) Such prolonged ad-hoc employment against a regular vacancy was against the policy and principles laid down.

(5) Such prolonged ad-hoc employment against a regular vacancy with requisite qualification was against the various rulings of the Apex Court as also the C.A.T. in this behalf.

(6) For, reasons already cited his services were already deemed to have been regularised.

6. Details of the remedies exhausted.

(1) Representation made to the Controller General of Accounts, Ministry of Finance, Deptt. of Expenditure, New Delhi, who happens to be the Cadre Controlling Authority of the Departmentalised Accounts set up of the Ministries of the Govt. of India.

(2) To the Hon'ble Minister of Personnel, Public Grievances & Pensions - Deptt. of Pension and Pension Welfare, New Delhi.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other branch of the Tribunal nor any such application, writ petition or suit is pending before any of them.

Contd.....

*Abul*  
*Abul*

8. Relief(s) sought :

In view of the facts mentioned in para -6 above the applicant prays for the following relief(s):

- (1) Declaration of the applicant's ad-hoc appointment as a regular appointment after the expiry of a reasonable period or not exceeding two years from the date of his taking over the post of AO in the P&A.O, GSI(NER) Shillong on 4-3-1981, if that had stood in the way of refixation of his pension in the upgraded scale of Rs 200-75-2800-EB-100-4000/=.
- (2) Refixation ~~as~~ of his pension in the scale of Rs 200-75-2500-EB-100-4000/= after giving him the notional pay fixation benefit w.e.f. 1-4-87.

9. Interim Order, if any, prayed for :- none.

10. In the event of application being sent by Registered post:- the applicant desires to have oral hearing at the admission stage. A self addressed inland letter for facilitating intimation is enclosed.

11. Particulars of Bank Draft/Postal Order filed in respect of the application fee. ~~dt. 30-9-95 for Rs. 50/-~~  
~~INDIAN POSTAL ORDER NO. B-06 - 522619 issued~~  
~~by Ratumkrishna R. Shillong Enclosed m-311290 -~~  
~~dt. 9-1-96. 346891 dt. 10-9-96.~~

Contd.....

*M. M.*

12. List of enclosures:

1. Application 12 (twelve) pages
2. OM No.PAO/6(76/79)/457-60 dt. 13-2-81
3. Pension Payment Order No.S&M/CAO(CAL)/88/889 Firstpage
4. Letter No.10/64/Deputation/PR.AO/80/3809 dt.10-10-1980
5. Acceptance of the offer by the applicant dt.12-10-1980
6. OM No.F.6(82).IC/91 dt. 22-9-92.
7. OM No.6(82)IC/91 dt. 21-6-1993.
8. Representation *dt* 31-8-94
9. Representation *dt* 5.10.94
10. *Law No 13/2/95 Verification*  
*EST- (P21) dt*  
*25/1/95*

I Shri Ramendra Narayan Chaudhuri, son of Late Upendra Narayan Chaudhuri, aged 64 years working as retired Accounts Officer in the P & ~~AO~~, GSI (NER), Shillong, do hereby verify that the contents of paras 1,4,6 and 7 are true to my personal knowledge and para 2,3,5 and 8 are believed to be true on legal advice and that I have not impressed any material facts.

*R. N. Chaudhuri*  
(R. N. CHAUDHURI)  
Applicant

Date: 30-1-1995

Place: Shillong

To

The Registrar  
Central Administrative Tribunal  
Guwahati Bench, Bhangagarh,  
Guwahati-5

*Noted*

PAO/9/1834

GOVERNMENT OF INDIA,  
MINISTRY OF STEEL AND MINES  
(DEPARTMENT OF MINES)  
PRINCIPAL ACCOUNTS OFFICE  
Lok Nayak Bhawan, II FLOOR

No. PAO/ 6(16/79) 457-60 New Delhi, the 18th Feb. 1981

## OFFICE COPY

Shri R.N. Chaudhury, presently working as Jr. Accounts Officer in Ministry of Home Affairs, Shillong is hereby appointed by the Joint Secretary and Financial Advisor, Department of Mines, as Accounts Officer in the Pay & Accounts Office, Geological Survey of India, Shillong and to draw pay in the relevant grade of Rs. 840-40-1000 ED-40-1200 from the date of taking over as Pay & Accounts Officer, Geological Survey of India, Shillong. copies of ~~posting~~ report may be sent to the Controller of Accounts, Geological Survey of India, 16-A Brabourne Road, Calcutta and to this office.

The appointment of Shri R.N. Chaudhury, as Accounts Officer is on a purely ad-hoc basis and without prejudice to the claims of his seniors including claims for reservation of posts of SCs/STs pending determination of interse seniority of JAOs. The ad-hoc service rendered will not bestow on him any claim for regular appointment to the grade of AO nor the ad-hoc service rendered will count for purposes of confirmation, seniority etc.

(V. Vasudevan),  
Controller of Accounts,  
Tel: 37346.

## To:

1. The Controller General of Accounts, Lok Nayak Bhawan, Khan Market, New Delhi w.r.t his order No. A.32/14/1/79/PAO.CII(A)/Shillong/Vol.II dt. 6.1.81 (copy received on 18.2.81).
2. The Chief Controller of Accounts, Ministry of Home Affairs, New Delhi for necessary action. Shri R.N. Chaudhury may please be relieved from his post immediately and be directed to report as Accounts Officer, in Pay & Accounts Office, G.S.I., North Eastern Region, Shillong.
3. Controller of Accounts, Chief Accounts Office, G.S.I., 16-A Brabourne Road, Calcutta-700011.
4. Pay & Accounts Office, Geological Survey of India, Shillong.

W. Vasudevan  
(C.A.T.D. II.III & IV. ACII. II. IV.)

Attached  
11285  
Pay & Accounts Officer  
G.S.I., NER  
Shillong

Abul  
ml

**ANNEXURE - 2**

Commuted value of Pension has been authorized separately for payment through drawing and disbursing officer

**PENSION PAYMENT ORDER**  
**PENSIONER'S PORTION**

Debitable to Central Government  
 Head of Account 2071-Pension and other Retirement  
 Major Head 2271 Benefits etc.  
 Voted/Charged Superannuation Pension/ Minor Head  
Family Pension/ Invalid  
Pension/Retiring Pension,  
 Name of Pensioner, service to which belonged and post last held Shri Ramendra Narayan Choudhury, Central Civil Accounts Office  
 Name of his wife/her husband Smt. Trisha Choudhury

Class of pension and the date of commencement	Date or Approximate date of birth	Religion and Nationality	Residential Address
1	2	3	4
1. Superannuation Pension w.e.f. 1-4-88	1-4-1930	Hinduism Indian	C/o, Shri Ashish Rani, dam Govt. Housing Estate, Block 2, Flat-6, P.C. Sodepur, 24-Parganas W.B.
2. Family Pension			

Indicate class of Pension here. usual relief.

1. Superannuation Pension @ Rs. 995.00/- (Rupees one thousand two hundred and fifty only) p.m. w.e.f. 1-4-88 (Actual Pension @ Rs. 1492.00/- less amt. commuted ab initio Rs. 497/- plus usual relief).

2. Family Pension  
@ Rs. 1200/- (Rupees one thousand two hundred only) p.m. w.e.f. 31-3-95 and thereafter  
@ Rs. 600/- (Rupees six hundred only) p.m. till her remarriage or death whichever earlier.

Alfred  
Daffey  
Trish

Pay & Accounts Officer  
G.S.I., N.R.  
Shillong

Date of Retirement 31-3-88

Date of Commutation ab initio

Reckonable service 34 yrs

(years 34 months 10)

Pay at Retirement:

Rs 30.50/-

Commutated portion of Pension:

Rs 497.00

14


D.P. <u>Min of Mines</u> G.S.I. <u>Shillong</u>

Amount of monthly pension	Relief in pension		Total monthly amount payable
	Date	Amount	
Super. Pen. @ Rs. 995.00/- (Rupees one thousand two hundred and fifty only) p.m. w.e.f. 1-4-88 (Actual Pension @ Rs. 1492.00/- less amt. commuted ab initio Rs. 497/- plus usual relief)	Ref 1-4-88	Rs. 194.00	Rs. 1189.00 (Rupees one thousand two hundred and eighty nine only) p.m. [Subject to revision with revision of relief].

Date of death of the pensioner

Date of remarriage or death of the widow/widower

(To be filled in and attested by the Treasury/designated officer of the paying branch/Pay and Accounts Officer.)

No. 52 M/ CAO (CA2) / 88/889

Dated, the

Sir,

UNTIL FURTHER NOTICE, and on the expiration of every month be pleased to pay to Shri Ramendra Narayan Choudhury the sum of Rupees As stated in pre-page (less Income Tax), being the amount of Superannuation pension plus Relief thereon as Ex-Accounts Officer upon the production of the pensioner's portion of this order taking from the claimant a receipt of the amount according to usual form. The payment should commence from 6-5-88 (Pension for April '85)

2. Arrears of pension/family pension and relief thereon @ Rs ..... X  
(Rs. ..... X P.M.) from ..... X to .....

may also be paid to Shri/Shrimati .....

3. Due to the death of Shri/Smt. ..... X on ..... /  
In the event of the death of Shri/Smt Ramendra Narayan Choudhury Family Pension may be paid at the rates indicated below to Shri Smt. Nisha Choudhury till the date of her/his remarriage or death, whichever is earlier (on the receipt of death certificate and form of application from widow/widower).

1. Rs. 120/- p.m. (Rupees one hundred/- only) P.M. (Rs. ..... ) upto 31-3-95
2. Rs. 60/- p.m. (Rupees hundred/- only) from 1-4-95

\*(for a period of seven years or upto the date on which the deceased would have attained the age of 65 years, had he survived, whichever period is less).

To  
The Treasury Officer/Pay and Accounts Officer  
at P.A.O. G.S.I. Shillong

Accounts Officer,  
CA, CAO, Department of Mines, G.S.I.

Designation  
Chal/1/88

Note (1) No pension shall be liable to seizure, attachment or sequestration by process of any court in India at the instance of creditor for any demand against the pensioner (Sec. II, Act XXIII of 1871).

Note (2) Payment under this order is to be made only to the pensioner in person with the following exceptions :-

Ex. of the Court of  
Department of Mines,  
Central Excise & Customs  
16A, Brabourne Rd.  
Calcutta 700 013

4

15

(a) To persons specially exempted by Government.  
(b) To females unaccustomed to appear in public and to persons unable to appear on account of illness or bodily infirmity.

(Payment in both cases (a) and (b) is made on production of a Life Certificate signed by a responsible Officer of Govt. or other well known and trustworthy person).

(c) To any person sending a Life Certificate signed by some persons exercising of powers of a Magistrate under the Criminal procedure code, or by any Registrar or Sub-Registrar appointed under the Indian Registration Act, 1908, or by any pensioned officer who, before retirement, exercised the powers of a Magistrate or by any gazetted officer, or by a Munsiff or by a Police Officer not below the rank of Sub-Inspector in charge of a Police Station or by a Post Master, a Departmental Sub-Post Master or an Inspector of Post Offices or by Officers of the Reserve Bank of India and Public Sector Banks or by the Head of a Village Panchayat, Gaon Panchayat or Gram Panchayat or by the Head of an Executive Committee of a Village or by a bank included in the second schedule to the Reserve Bank of India Act, 1934 in respect of a pensioner drawing pension through that Bank.

(d) In all cases referred to in clauses (a), (b) and (c) the disbursing officer must at least once a year require proof independent of that furnished by the Life Certificate of the continued existence of the pensioner. The pension shall not be paid on account of period more than a year after the date of Life Certificate last received, and the disbursing officer must be on the watch for authentic information of the decease of such pensioner and on receipt thereof, shall promptly stop further payments.

Note (3): On the decease of the pensioner, this order should be immediately returned by his family to the District Officer with a report of the date of his/her decease if the contributory family pension is not admissible to the widow/widower.

In the event of the death of a pensioner governed by C.C.S. (Pension Rules within a period of five years from the date of retirement, the following benefits are admissible under certain circumstances :-

- (a) Grant of family pension to the nominee, or in absence of nominee, to the person mentioned in Rule 55, and
- (b) Payment of a residuary gratuity under Rule 50(2) ibid to the nominee, or in cases where there is no nomination or where the nominations made do not subsist, to the legal heir of the deceased.

Formal claims for these benefits duly supported by legal authority, where necessary, should be submitted to the Head of Office/Department.

No. 10/64/Deputation/Pr. A.O/80/3809  
 PRINCIPAL ACCOUNTS OFFICE  
 MINISTRY OF HOME AFFAIRS  
 NORTH BLOCK  
 NEW DELHI-110 001

Dated the 10th October, 1980.

To

The Dy. Controller of Accounts  
 Regional Pay & Accounts Office (IB), MHA  
 Near Laitumkhrah Market,  
SHILLONG-793003.

Subject : Filling up of the vacancies of Accounts Officer at  
 Shillong, Dhanbad and Bombay.

.....  
 Sir,

I am to state that it has been intimated by the Controller General of Accounts that a few vacancies of Accounts Officers are to be filled up immediately at Shillong, Dhanbad and Bombay on permanent basis and no request for re-transfer to any other station will be entertained lateron. An undertaking is to be taken to that effect from the officers recommended (In duplicate).

You are requested to recommend the names of ~~available~~ suitable and willing Junior Accounts Officers with 8 years service in the grade. Your recommendation should reach this office by 16th October, 1980 at the latest along with the undertakings. It may please be confirmed that no disciplinary proceedings have been ~~initiated~~ initiated or are likely to be initiated against them and that their conduct is not under investigation.

This may please be treated as urgent.

Yours faithfully,

Sd/

Accounts Officer.

Original not being available with the petitioner in case of change in the same might obtain from Regional Pay & Accounts Office (IB) MHA Shillong or from Chief Controller of Accounts, Principal Accounts Office, M.H.A. New Delhi.

(R. N. CHAUDHURI  
 5.3.95)

Held  
 2011

(Through Proper Channel)

ANEXURE -

To

The Chief Controller of Accounts,  
Principal Accounts Office,  
Ministry of Home Affairs,  
Government of India, North Block,  
New Delhi - 110 001.

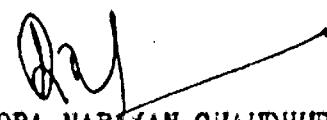
Subject:- Filling up of the vacancies of Accounts Officer at Shillong, etc.

Madam,

In response to letter No. 10/64/Deputation/Pr.AO/80/3809 dated 10.10.1980 on the subject mentioned above, I beg to state that I am willing to be considered for the post of Accounts Officer in any of the Pay & Accounts Offices at Shillong on permanent basis.

In this connection I beg ~~also~~ to state that I will not seek re-transfer to any other station later on.

Yours faithfully,

  
(RAMENDRA NARAYAN CHAUDHURI)  
Junior Accounts Officer

Dated: Shillong the 21 Oct., 1980.

*Ans/ed*  
B. S. Chaudhuri  
Advocate  
Shillong.

No. F.6(82)-IC/91  
 Government of India  
 Ministry of Finance  
 Department of Expenditure

New Delhi, the 22nd Sept., 1992.

OFFICE MEMORANDUM

**Subject:** Creation of a promotional grade of Rs.2200-75-2800-EB-100-4000 for the Audit & Accounts Officers of the Organised Accounts Cadres.

Consequent upon re-structuring of the Indian Audit and Accounts Department, 80% of the posts of Auditors and Section Officers (Audit) were placed in the higher scale of Rs.425-800 and Rs.650-1040 respectively w.e.f. 1.3.84. On the recommendation of the Fourth Central Pay Commission that there should be broad parity in the pay structure of Accounts and Audit staff, the re-structuring Scheme was extended to the Accounts staff w.e.f. 1.4.87. However, the cadres of Audit/ Accounts Officers were not restructured.

2. The matter regarding grant of an appropriate scale of pay to the Audit/Accounts Officers has, therefore, been under consideration of the Govt. for some time past. Keeping in view the duties and responsibilities and the functional needs, it has now been decided to provide a promotional grade in the scale of Rs.2200-75-2800-EB-100-4000 for Audit/Accounts Officers in IA&AD and other Organised Accounts Cadres, except Railway Accounts Cadre. The number of posts in the promotional scale of Rs.2200-75-2800-EB-100-4000 will be 80% of the sanctioned strength of the respective cadres of Audit/accounts Officers.

3. The Audit/Accounts Officers in the scale of Rs.2375-75-3200-EB-100-3500 with a minimum of three years' regular service will be eligible for promotion to the scale of Rs.2200-75-2800-EB-100-4000. The promotions will be made after following the due process of promotion by adopting the principle of seniority-cum-fitness. As the posts in the scale of Rs.2200-75-2800-EB-100-4000 are in the functional promotional grade, benefit of P.R.22-I(a)(1) (old FR.22-C) will be admissible on appointment to this scale.

4. The classification of the posts of Audit and Accounts Officers will, however, remain the same i.e. Group 'B' even after the promotion to the scale of Rs.2200-75-2800-EB-100-4000.

...2/-

Altered.

After  
TBS

Pay & Accounts Officer  
G.S.I., N.I.  
Shillong

5. These orders shall be effective from 1.4.1992. However, the benefit of fixation of pay on notional basis in the promotional scale of Rs.2200-75-2800-EB-100-1000 may be allowed w.e.f. 1.4.1987 or from the first of the month following the month in which the officer completed 3 years regular service as Audit/Accounts Officer in the scale of Rs.2375-75-3200-EB-100-3500, whichever is later, subject to the availability of posts in the promotional grade. No arrears of pay will be admissible for the period prior to 1.4.1992.

6. These orders issue in consultation with the Comptroller and Auditor General of India in so far as these relate to Indian Audit & Accounts Department.

Hindi version is attached.

( D. SHARUP )  
JOINT SECRETARY TO THE GOVT. OF INDIA

To

1. The Comptroller & Auditor General of India (with usual number of spare copies)
2. Financial Adviser (Defence Services)
3. Controller General of Defence Accounts
4. Controller General of Accounts, Ministry of Finance.
5. Member (Finance), Department of Telecommunications.
6. Member (Finance), Department of Posts.

# ANNEXURE - 6

19

No. 6(62)-13/91  
Government of India  
Ministry of Finance  
Department of Expenditure

New Delhi, the 21st June, 1993.

## OFFICE MEMORANDUM

Subject: Creation of a promotional grade of Rs. 2200-  
75-2800-EB-100-4000 for the Audit & Accounts  
Officers of the Organised Accounts Cadres.

The undersigned is directed to refer to this Ministry's O.M. of even number dated 22.9.92 on the subject mentioned above and to say that the question of allowing notional fixation of pay in respect of those Audit/Accounts Officers who had retired between 1.4.87 and 31.3.92 for the purpose of recalculation of their pension has been under consideration of the Government for sometime.

2. It has now been decided to allow notional fixation of pay in respect of Audit/Accounts Officers who had retired between 1.4.87 and 31.3.92 subject to the conditions enumerated in this Ministry's O.M. dated 22.9.92. The pay so fixed on notional basis shall count for pension only in calculation of Rule 83 of Central Civil Services (Pension) Rules, 1972. No arrears of pay or pension on account such notional fixation of pay shall however, be payable. The enhanced pension will be payable only from 1.4.92 onwards.

3. These orders issue in consultation with the Comptroller and Auditor General of India in so far as these relate to Indian Audit and Accounts Department.

4. This issues in consultation with Department of Pension and Pensioners Welfare vide their O.O. No. 38/71/89-P&PW(A) dated 19.5.93.

Hindi version is attached.

*W.M./PA/613*  
(A.K. Mui)  
Director

To

1. The Comptroller & Auditor General of India (with usual number of copies)
2. Financial Adviser (Defence Services).
3. Controller General of Accounts, Ministry of Finance.
4. Controller General of Defence Accounts.
5. Member (Finance), Department of Telecommunications.
6. Member (Finance), Department of Posts.
7. Department of Pension & Pensioners Welfare.

*Attached*  
*Sharma*  
*T.B.S.*  
Pay & Accounts Officer  
G.S.I., B.A.R.  
Sharma

Shillong 31.8.94

autamkhorh pg.  
Regd Receipt no.  
H 350 dt. 31.8.94

Shri Ravi Kaltpalia  
The Controller General of Accounts,  
Ministry of Finance, Deptt of Expenditure,  
LOK Nayak Bhawan, Room No. 714 e-Wing  
Khan Market, New Delhi - 110003

Subject: Creation of a promotional grade  
of Rs 2200-75-2800-EB-100-4000/- for the  
audit and accounts officers of the GAD and  
other Organised Accounts Cadres.

Respected Sir,

I have the honour to lay before you the  
following ~~few~~ representation for favore of your  
kind perusal and necessary orders.

That, Sir, I submitted two representati-  
ons on 2-8-93 and 15-10-93 for allowing me the  
notional fixation of pay in the promotional grade  
as above for the purpose of my pensionary benefits  
after regularisation of my service as pay and  
Accounts officer on adhoc basis in PAO, GSI (NER)  
Shillong, but as ill luck would have it till  
date, I have not received any reply from  
your end.

That, Sir, although I was appointed  
as Accounts officer against a regular post  
I was given appointment on adhoc basis and  
continued as such upto the date of my retire-  
ment without any break or interruption  
from 4-3-1981 to 31.3.88.

That, Sir, I have been denied the  
benefit of notional fixation of pay in the  
promotional grade Scale of Accounts officer of  
Rs. 2200-75-2800-EB-100-4000/- as I have

Amul  
O/W  
S/W

not been made regular in the Accounts office grade.

That, Sir, while I was Jr. A.O in the Regional Pay and Accounts office (13) M.H.A, Shillong a circular was issued by the Chief Controller of Accounts, Principal Accounts office, M.H.A, New Delhi at the instance of the Controller General of Accounts under letter No. 10/ 64/ Deputation/ Prc. A/80/3809 dt 10.10.1980 for filling the vacancies in the grade of Accounts office at Shillong, Dhanbad and Bombay on PERMANENT BASIS.

That, Sir, since the offer was for filling up the vacant post of Accounts office at Shillong on permanent basis I accepted the offer and submitted my candidature specifically stating that I am willing to be considered for the post of Accounts office in any of the pay and Accounts offices at Shillong if I am appointed on permanent basis. Consequently on the approval of my candidature by the C.G.A, Controller of Accounts, Principal Accounts office, Deptt. of Mines, New Delhi appointed me as Accounts office in pay and Accounts office, G.S.I., (NER) Shillong on adhoc basis instead of on permanent basis in deference to the terms of the circular.

That, Sir, the Administrative Reforms and Training in Order to discourage appointment on adhoc basis issued instructions and guidelines from time to time for the guidance of the Various Ministries/ and Departments

(G.I. DPAR. OM NO. 28036/2/77 (EST) (X)  
dt. 7-10-77)

In order to discourage appointment / promotion on adhoc basis, the Department of personnel and Admin. Reforms set some criteria for giving adhoc appointments / promotions

#### CRITERIA FOR APPOINTMENT / PROMOTION ON ADHOC BASIS

That, Sir, according to guidelines the Ministries / Departments of the Govt of India may resort to appointment / promotion on adhoc basis where a situation like this arises ie where an office cannot function and the post needs to be filled up immediately as a measure of stop gap arrangement.

- (i) Recruitment Rules in respect of the grade in question has not been finalised.
- (ii) When amendment to the Recruitment Rules are under consideration but not finalised.
- (iii) When there is an injunction by a court or Tribunal barring filling up of the posts on regular basis.
- (iv) When direct recruitment quota is not filled
- (v) When there is a short term Vacancy due to regular incumbent being on leave or on deputation.
- (vi) When the seniority list in the feeder grade is disputed.

That, Sir, the appointment / promotion of junior Accounts officer to the next grade of promotion as Accounts officer in the Departmentalised Accounts set up do not come under above category as none of the points stated above do not stand in the way of giving regular appointment /

promotion since (i) the recruitment Rules of Central Civil Accounts Service (pay and Accounts officers) Recruitment Rules were already finalised and came into force from April 1977 and there was no proposal or suggestion to amend the said Rules at the time of my appointment or afterwards.

(ii) No Court Case or injunction was there which barred regular appointment.

(iii) There was/is no system or quota for direct recruitment in the grade of Accounts officer in the departmentalised Accounts set up and all promotions/Appointments in the level of JAO/AAO and Accounts Officers were/are being controlled by the Controller General of Accounts on the basis of Seniority cum merit as per all India Seniority list prepared and maintained by him and through the circulation of Vacancy on all India level.

That, Sir, in the instant case I was appointed as Accounts officer against a regular Vacancy. Since none of the criteria regarding appointing me as Accounts officer on adhoc basis were present, I was irregularly appointed as such by the Controller of Accounts, Deptt of Mines, New Delhi. According to instructions issued by the Deptt. of personnel and Training to all period for which appointment / promotion on adhoc basis may be made should in no case exceed one year.

Attested  
Chh  
DDW

8/ in any case the appointment is extended beyond one year approval for the continuance of such appointment has to be obtained from the Department of personnel and Training but that was not done in my case and as such it is assumed that my adhoc appointment stood ceased automatically on the expiry of one year i.e.f 4-3-82 my service as Accounts officer has become regular automatically.

JUDICIAL DECISIONS ON PROMOTIONS/APPOINTMENTS  
ON ADHOC BASIS

That, Sir there have been many court cases by the aggrieved Govt employees against adhoc appointments in the recent past. In support of my claim for regularisation of my adhoc appointment w.e.f 4.3.1982 I furnish below excerpts of two judgements passed by the learned judges of the Supreme Court of India and Central Administrative Tribunal on adhoc appointments.

ADHOC PROMOTE ALLOWED TO OFFICIATE FOR LONG  
ENTITLED TO REGULARISATION.

Learned judges of the Supreme Court in the case between Tima Shankar Prasad Vs Union of India & Others 1992 (2) ATJ 298 (Calcutta) Date of judgement 2-6-1992 held that the question that now arises for consideration is whether when a person after being promoted on adhoc basis measure is allowed to officiate for more than a decade is he entitled to claim regularisation.

Handed  
Over  
A.W

In this regard apart from the decision of the Supreme Court in Narindra Chadda's case (ATR 1986 (1) SC 49) in a very recent decision in the Case of M.S.K. Naik Vs Union of India and others [1991 (2) Scale 248] 1992 (1) ATJ 393 (1992) 21-ATC 695 it was held that when a person officiates in a particular post / Scale for more than 10-15 years he holds the post regularly and it cannot be said that he merely held the charge of the post. The decision would apply to the facts of the present case because even assuming that the promotion was ad hoc if some body was allowed to officiate for a long time he should be held to have regularly held the post.

In the facts and circumstances of the case, applicant is entitled to relief he has claimed ie he is entitled to be regularised against the post of Vice Principal of System ~~Technology~~ Technical School, Kharagpur, in which post he had officiated for more than a decade. The Respondents are directed to issue orders of regularisation of the applicant in the said post with effect from the date of his promotion.

Attested  
Orbha  
pdr

## ADMINISTRATIVE TRIBUNAL'S CASE

### ADHOC PROMOTION TO BE TREATED AS REGULAR AFTER TWO YEARS.

Central Administrative Tribunal, New Delhi  
CA No. 111/3 of 1987 decided on May 27/29, 1991  
Sant Prakash Vs Union of India and others.

The facts of the case is that while he was holding the post of Head Clerk Substantively he was promoted as Office Superintendent on adhoc basis which post he held continuously from 22-8-78 to 3-11-85. In between he was promoted as Assistant on regular basis vide order dt 11-10-85. His pay as Assistant was fixed at Rs. 725/- where as he was drawing Rs. 750/- as Office Superintendent. The applicant retired on 30.4.87. The contention of the applicant was that after rendering 8 years service as Office Supdt. he should be deemed to have been regularised in the post of Office Supdt.

In their judgement the learned judges of the Central Administrative Tribunal, New Delhi held that "the purpose of making adhoc promotions is to tide over immediate needs of the administration by making short term stop gap arrangement. Any arrangement on adhoc basis for over for one or maximum two years loses its character of adhoc or stop gap arrangement. It will therefore be against the spirit of Natural Justice to treat the service of the applicant of over 8 years as adhoc. The applicant was in fact working against a regular post. It would be unfair to ignore his service by linking it with inglorious uncertainty of regularisation particularly when he has proved his capability to hold the post for more than

Attested  
R. K. Jha

8 years. The denial of confirmation as office Supdt. and consequent promotion to the post of Section Officer is in fraction of the principles of Natural justice. (13)

The applicant should be deemed to have officiated on regular basis as office Supdt. ....<sup>13</sup>

In view of the above judgements I beg to submit that I am entitled to be regularised in the post of "Accounts Officer" with effect from 4-3-1982. which post I held continuously w.e.f 4-3-1981 to 31-3-1988. (ie the day I was Super-annuated )

PRAYER:

I therefore fervently request the respected Controller General of Accounts, kindly to look into my case in the light of the administrative instructions issued by the department of personnel / Training & Administrative Reforms on adhoc appointments/ promotions from time to time as well as the judgements of the Supreme Court and EAT, New Delhi on adhoc promotions/Appointments and very kindly pass necessary orders for regularisation of my adhoc appointment w.e.f. 4-3-1982 ~~in next~~ ie one year after the date of appointment and also extend to me the benefit of National Fixation of pay in the promotional grade of pay of Accounts officer of Rs. 2200 - 4000/- for the purpose of my pensionary benefits, My date of retirement being 31-3-88

A.N.

Soliciting the favour of an early reply

Yours faithfully,

Ramendra Narayan Chandhuri  
(Prativalaya) Gocoline,  
LAITUMKHRAH P.O: SHILLONG-3  
PIN 793003

Incl:  
Representation dt 2-8-93 2)  
Representation dt 15-10-93.

dt. 16.8.1994.

Signature  
Advocate

Attned  
A. P. B.

REGISTERED A/D.

Dated 15-10-93

28  
SPT

To  
The Controller General of Accounts  
Ministry of Finance, Department of Expenditure,  
Lok Nayak Bhawan, Room No 714, C- Wing.  
New Delhi-110 003.

Lajpat Khursh P.O  
Regn. No. 4659 dt  
15-10-93

Subject:- Creation of promotional grade of Rs 2200-75-2900-EB-100-4000/- for the Audit and Accounts Officers of the IA & AD and other organised Accounts Cadres.

Respected Sir,

I beg to invite a reference to my representation dated 2.8.93 (Copy enclosed for ready reference) on the subject cited above, requesting your goodself kindly to favour me with the benefit of notional fixation of pay in the scale of Rs 2200-4000/- for the purpose of my pensionary benefits after regularisation of the period of my adhoc service in the grade of Pay and Accounts Officer. Until now I have not yet been favoured with any reply.

In this connection, I may mention that I happen to come across the D.G. letter bearing No. A 32014/2/93/ME-CAG(A)/Gr-B/1081 dated 30-8-93 issued by Sri S.N. Kumar, Dy controller General of Accounts, New Delhi to all the chief Controller of Accounts/ Controller of Accounts/Dy Controller of Accounts of the various Ministries, allowing notional fixation of Pay in r/o Accounts Officers who had retired between 1.4.87 and 31.3.92 in the promotional grade of Rs 2200-4000/- . But to my letter dismay, I find that my name has not been included therein. \*

I may mention that I joined as Pay and Accounts Officer in the office of PAO, CSI(NER), Shillong under the Ministry of Mines on 4.3.81 and retired w.e.f 31.3.83 (AM) on superannuation without any interruption thus rendering a period of more than 7 years of service to the total satisfaction of my superiors.

I am confident, sir, that although my name is not there in the 1st list of ~~others~~ in the promotional grade of Office in the grade of 2200-4000/-, my case has not been lost in oblivion as your goodself is always sympathetic to the <sup>members</sup> of the staff and officers of the departmentalised Accounts system.

Attentd.

29

I would, therefore, once again pray to your goodself kindly to look into the matter and issue orders allowing me the benefits of notional fixation of pay in the promotional grade of Rs 2200-4000/- to this poor pensioner at a early date and for this act of your extreme kindness of I shall ever remain grateful to you.

Yours Faithfully,

Ramendra Narayan Chaudhuri  
(RAMENDRA NARAYAN CHAUDHURI) 15/10/93.

Prativalaya, Geraline, Laitumkrah,

Snilleng-793003

Attested  
R. D.  
Adv

REGD A-D

Shillong

Dated July 1993. 28.93

30

To

The Controller General of Accounts  
Ministry of Finance,  
Department of Expenditure,  
Loknayak Bhawan, KHAN MARKET,  
Room No. 714, C Wing  
New Delhi- 110003

Loknayak Bhawan  
P.O. Regd. No 4929  
dt. 21/8/93

Subject:- Creation of Promoted grade of Rs 2200-75-2800 EB 100-4000/- for the Audit and Accounts Officers of IA&AD and other organised Accounts Cadre.

Respected Sir,

I am to invite a reference to the Govt. of India, Ministry of Finance, Deptt of Expenditure OM.No. F6(82).10/91 dated 22-9-92 regarding creation of a Promotional Grade of Rs 2200-75-2800 EB100-4000 for the Audit & Accounts Officers of IA & AD and other organised Accounts Cadres as well as G.E. Ministry of Finance, Deptt. Of Expenditure OM.No. 6(82) 10/91 dt 21-6-93 on the subject mentioned above and to state that Govt. of India has now allowed notional fixation of pay in respect of Audit and Accounts Officers who have retired between 1.4.87 and 31-3-92 subject to conditions laid down in the OM. dated 22-9-92. As such pay so fixed on national basis will count for pension also.

#### Submission

That, sir, while I was a Junior Accounts Officer in Regional Pay and Accounts Office (I.P.) M.H.A. Shillong a circular for filling the vacancy of Shillong, Dhanbad and Bombay on permanent basis was issued by the Principal Accounts Office, Ministry of Home Affairs, New Delhi at the instance of Controller General of Accounts under letter No. 10/64/Deputation/Pr.AO/80/3809 dt 10-10-80 (Copy enclosed). Since The offer was for filling up the vacant post of Accounts Officer at Shillong on permanent basis I accepted the offer and submitted my candidature specifically stating that I am willing to be considered for the post of Accounts officer in any of the Pay & Accounts Offices at Shillong on permanent basis. (Copy of my letter of acceptance enclosed) Accordingly I was appointed as Accounts Officer in the Pay & Accounts Office, Geological Survey of India, (North Eastern Region) under Deptt. of Mines, at Shillong on Adhoc Basis and I discharged my duties in this Office as P.A.O. cum D.D.O. as well as Head of Office for the Staff of P.A.O. from 4.3.1981 to 31.3.1988 AN. for long 7 years 27 days with best of my ability and sincerity.

ANand  
John  
P.D.

But it is very very unfortunate that though there was no let off on my part in the discharge of my duties and obligations as P.A.O. cum D.D.O. as well as Head of Office no action was taken in the C.G.A's office to regularise my service which I accepted on Permanent basis, till the date I retired from service (ie 31.3.1983).<sup>46</sup>

As regards regularization of ad-hoc promotion/ appointment I would invite attention of the respected Comptroller General of Accounts to Central Administrative Tribunals Delhi's judgement in the case No. 1118 of 1987 decided on 27/29th May 1991 respecting Sant Parkash Vs Union of India & others. While pronouncing the judgement the learned Judges of the Tribunal held that "the purpose of making adhoc promotion is to tide over the immediate needs of the Administration by making short term stop-gap arrangement. Any arrangement on adhoc basis for over one or maximum two years loses its character of adhoc or stop-gap arrangement. It will therefore, be against the spirit of principles of natural justice to treat the service of the applicant for over 8 years as adhoc..... It would be unfair to ignore his service by linking it with inglorious uncertainty or regularization particularly when he has proved his capability to hold the post for 8 years". In the instant case I worked as Pay and Accounts Officer & as Drawing & Disbursing officer as well as Head of Office for P.A.O. Staffs for long 7 years and above from 4-3-81 to 31-3-1983. On which date I retired from service on super annuation to the best satisfaction of the superiors. I may mention that in pursuance of the judgement of the honourable Central Administrative Tribunal, New Delhi I should be deemed to have been regularised as Accounts Officer on 4-3-1983 at least (ie after two years of my adhoc promotion).

In view of my above submission of facts I would request the respected Comptroller General Of Accounts kindly to look into the case of the poor pensioner sympathetically and issue orders for the regularization of my adhoc position in the post of Accounts Officer from a date so as to enable me to get the benefit of national fixation of pay in the scale of Rs 2300- 4000/- for the purpose of pensionary benefits, regard being had to my long period of more than 7 years service as Accounts Officer and for this act of extreme kindness I shall remain ever grateful to you.

Yours faithfully,

Ramendra Narayan Choudhuri  
 Ramendra Narayan Choudhuri  
 'PRATIVALAYA' GORALIYA ROAD;  
 LAITUMGRAN, SHILLONG 793003  
 (MEGHALAYA)  
 21/8/93.

Attn: T.C.  
 Shri  
 G.S.

Regd A&D

Dt. 5-10-94

(32)

(21)

u7

To

Her Excellency  
Sarpanchi Margaret Alva  
Minister of personnel, public grievances and pensions  
Dept. of pension and pension Welfare  
Ashok Road, 'Nirvachan Sadan'  
New Delhi - 110001.

ANNEXURE - 8

Subject: Creation of a promotional Grade Scale of Rs. 2200-75-2800-EB-4000 for the Audit and Accounts Officer of IA&AD and other Organised Accounts Cadres-Denial of benefit to a Section of Retired Accounts Officers of the Departmentalised Accounts Setup.

Respected Madam,

I have the honour to submit this representation to your gracious self for favour of your kind perusal and sympathetic action.

That, Madam, Govt. of India, Ministry of Finance, Deptt. of Expenditure in their O.M. No. 6(82)-IC/91 dt. 22-9-92 accorded sanction to the creation of a promotional grade scale of Rs.2200-75-2800-EB-100-4000 for the Audit and Accounts Officers of the IA&AD and other Organised Accounts Cadres. Subsequently the Finance Ministry in their O.M. NO. 6(82)-IC/91 dt. 21-6-93 extended the benefit of National Fixation of pay for the purpose of pension to those of the Accounts Officers who retired between 1.4.87 and 31.3.92.

That, Madam, I may kindly be permitted to mention here that I joined as Pay and Accounts Officer in the Pay and Accounts Office, GSI(NER), Shillong under the Ministry of Mines, on 4-3-81 and superannuated on 31.3.88 after rendering a period of more than 7 years service without break or interruption.

That, Madam, in terms of G.I. OM. Dt. 21-6-93 I am entitled to the benefit of National Fixation of pay in the promotional grade scale. As such I had submitted three representations to the Controller General of Accounts, Ministry of Finance, Deptt. of Expenditure, New Delhi on 2-8-93, 15-10-93 and 31-8-94 requesting him kindly to favour me with the benefit of National Fixation of pay in the scale of Rs. 2200-75-2800-EB-100-4000 for the purpose of my pensionary benefits after regularisation of the period of my

33

33

Adhoc Service in the grade of pay as Accounts Officer. But upto now I have not been favoured with a reply. That, Madam, inspite of the fact that Govt. of India, Deptt. of Personnel and Training issued instructions from time to time vide OM NO. 28036/2/77 Estt(D) dt. 7.10.77 and OM No. 39021/5/83 Estt(B) dt. 9.7.85 discouraging appointment/promotion on adhoc basis, I was irregularly appointed as Accounts Officer on Adhoc-basis as PAO, GSI(NER), Shimla instead of on permanent basis even though the post was a regular one, in-deference to the terms of the Circular issued by the Chief Controller of Accounts, Principal Accounts Office, Ministry of Home Affairs, New Delhi under letter No. 10/64/deputation/Pr.A.O./80/3809 dt. 10.10.80.

That, Madam, Govt. of India, Deptt. of personnel and Training set some criteria for appointment of officers on adhoc basis such as

- (i) Recruitment Rules in respect of the grade in question has not been finalised.
- (ii) Amendment to the recruitment Rules are under Consideration but not finalised.
- (iii) When there is an injunction by a Court or Tribunal barring filling up of the post on regular basis.
- (iv) When direct recruitment quota is not filled up.
- (v) When there is a short term vacancy due to regular incumbent being on leave or on deputation.
- (vi) When the seniority list of the feeder grade is disputed.

That, Madam, Appointment/promotion of Junior Accounts Officers/Assistant Accounts Officers to the next grade of promotion as Accounts Officer in the departmentalised Accounts set up do not come under any of the constraints stated above and there was not bar in giving regular promotion/appointment as Accounts Officer. Since the recruitment Rules of Central Accounts Service(Pay and Accounts Officers) Recruitment Rules, 1977 had already been finalised and came into force with effect from April 1977 and no amendment to the Recruitment Rules was under Consideration during the period of my service.

- (i) That, Madam, there was no injunction by a Court or a Tribunal which barred my promotion/or Appointment on regular basis to the post of Accounts

34

20/3

Officer of PAO, GSI(NER), Shillong.

(iii) In the departmentalised Accounts set up there was no quota for Direct Recruitment in the grade of Accounts Officer.

(iv) The post of Accounts Officer, PAO, GSI(NER) Shillong fell vacant consequent on the retirement of regular incumbent of the post as such it was a regular vacancy.

(iv) All promotions/Appointments in the grade of Accounts Officers are made from the level of Junior Accounts Officers/or from Asstt. Accounts Officers by C.G.A. strictly on the basis of Seniority cum fitness and through wide circulation of vacancies.

That, Madam, in the instant case I was appointed as Accounts Officer on adhoc basis against a regular vacancy. Since none of the criteria regarding appointing me as Accounts Officer on adhoc basis was present, I was irregularly appointed as such by the Controller of Accounts, Principal Accounts Office, Deptt. of Mines as a result of which I am now going to loose my pensionary benefits, which is the only source to fall back upon after retirement.

That, Madam, instructions issued by the Deptt. of personnel and Training total period for which appointment/promotion on adhoc basis may be made should in no case exceed one year. If in any case appointment is extended beyond one year approval for the continuance of appointment has to be obtained from the Deptt. of personnel and Training. But that was not done in my case at any time during my service period as such it may be assumed that my appointment on adhoc basis stood automatically ceased after the expiry of one year from the date of appointment and I have become regular in the Service automatically (vide Deptt. of personnel & AR OM. No. 36011/14/83 Estt. (SCT) dt. 30.4.83 and 30.9.83 and G.I. Deptt. of Per & Try OM No. 28036/8/87 EsH(D) dt. 30.3.88.

Judgements on adhoc appointments/promotions

That, Madam there have been many Court cases on ADHOC APPOINTMENTS/

PROMOTIONS in the recent past by the aggrieved Govt. employees. I cite two very recent judgements in support of my claim for regularisation in the post of A.O., PAO, GSI(NER) Shillong which will speak for itself and justify my case for regular appointment. (i) In the case between Una Shankar Prasad Vs Union of India & others (Case No. 1992(2)ATJ 298 (Calcutta) dt. of judgement 2.6.1992)

"In this case question now arises for consideration is whether when a person after being promoted even on adhoc measure; is allowed to officiate for more than a decade is he entitled to claim regularisation ? It was held that when a person officiates in a particular scale for 10-15 years, he hold the post regularly and it cannot be said that he merely held the charge of the post. This decision would apply to the facts of the present case because even assuming that the promotion was adhoc if some body was allowed to officiate for a long time he should be held to have regularly held the post."

Learned Judges of the Supreme Court directed the respondents to issue Orders of regularisation w.e.f. the date of his promotion (Copy enclosed).

In another significant judgement the Central Administrative Tribunal/in case No. OA.111-B of 1987 decided on May 27/29 1991 in the case between Sant Prakas Vs Union of India and others held that the purpose of making adhoc promotions is to tide over immediate needs of the administration by making short term step-gap arrangement. Any arrangement on adhoc basis for over or maximum two years loses its character of adhoc or Step-gap arrangement. It will therefore be against the spirit of the applicant natural justice to treat the service of the applicant for over 8 years as adhoc. It will be unfair to ignore his service by linking it with inglorious uncertainty or regularisation particularly when he has proved his capability to hold the post for 8 years".

" The applicant should be deemed to have officiated on regular basis as office Supdt. and should therefore be considered for promotion as Section Officer....."

Prayer :

In view of the administrative instructions & guidelines and judgments of Supreme Court and Central Administrative Tribunal, New Delhi, I beg to state that I am entitled to be declared as a regular Accounts Officer either from the date of my promotion/Appointment or at best after the expiry of 1 (one) year from the date of appointment w.e.f. 4.3.1982 but till date despite my repeated representations to the respected Comptroller General of Accounts, New Delhi Orders regularising my service as Accounts Officer has not as yet been issued as a result of which I now stand to lose my pensionary benefits.

In the circumstances, may I therefore request the favour of your benign self kindly to do the needful for restoration of justice in my case.

Yours faithfully,

Nehandhuri 4/10/94  
RAMENDRA NARAYAN CHAUDHARI  
'PRATIVALAYA'  
GORA LINE, LAITUMKHRAH  
P.O. SHILLONG (PIN - 793003)  
(Meghalaya)

Attest:  
B. Seem  
Advocate  
Shillong.

(37)

ANNEXURE - 9

No. 13/2/95-Estt. (Pay-I)

भारत सरकार

GOVERNMENT OF INDIA

कार्मिक, लोक शिकायत तथा पेन्शन मंत्रालय

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

कार्मिक और प्रविक्षण विभाग

DEPARTMENT OF PERSONNEL & TRAINING

नई दिल्ली

NEW DELHI

Dated the 23.1.1995

To

Shri Ramendra Narayan Chaudhari,  
Prativalaya,  
Gora Line, Laitumkhrah,  
P.O. Shillong-3 (PIN-793003).  
MEGHALAYA.

23 JAN 1995

Subject:- Creation of a promotional Grade scale of Rs. 2200-4000 for the Audit and Accounts Officer of IA&AD and other Organised Accounts Cadres-Denial of benefit to a Section of Retired Accounts Officers of the Departmentalised Accounts Set-up.

Sir,

I am directed to refer to your letter dated 4.10.1994 addressed to Hon'ble Minister of State (PP) on the above cited subject and to say that the matter has been examined in consultation with the Office of CGA, Ministry of Finance. It is found that you were working as PAO on ad-hoc basis before your retirement. Ministry of Finance OM No. 6(82)-IC/91 dated 22.9.92 stipulates three years regular service in the grade of PAO for eligibility for promotion or even for notional fixation for those who retired from service between 1.4.87 and 31.3.1992. Since your turn for regular promotion could not come during your service tenure and ~~was~~ not found eligible for regular promotion to the post of PAO the benefits asked for therein cannot be granted to you. It is, therefore, not possible to accede to your request.

Alfred

Recd (W)  
3/2/1995

Alfred  
& Accounts Officer  
G.S.I., NER  
Shillong

Yours faithfully,

(T.O. THOMAS)

UNDER SECRETARY TO THE GOVT. OF INDIA