

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Bali
30.1.98

OA No. 225196

Sri J. S. L. Vohra Applicant(s)

VS-

Union of India & ors Respondent(s)

Mr. B.K. Sarma, B. Mehta Advocates for the applicant(s)
S. Sarma,

~~Mr. A.K. Choudhury, Addl. C.G.S.~~ Advocates for the Respondent(s)
Mr. G. Sarma, A.C.B.C.

Office Notes

Date

Courts' Orders

This application is in form and within time C. F. of Rs. 50/- deposited vide IPO/BD No 4444/81 Dated ... 31/10/96

10.10.96

Learned counsel Mr S.Sarma for the applicant. None for respondent No.1 and 3 and for the State of Assam, respondent No.2.

S. Sarma
By Registrar 7/11/96
by 4/12

Issue notice before admission to show cause as to why this application should not be admitted and reliefs sought should not be granted.

List for show cause and consideration of admission on 19.11.96

Pendency and disposal of show cause shall not be a bar for respondent No.3 to re-consider the question of issuing the pay slip of the applicant.

14.11.96

Notice issued to the respondent and party vide D.No. 15.11.96

By

Member

Service Reports are still awaited.

pg 19.11.96

Learned counsel Mr. B.Mehta for the applicant.

Show cause has not been filed.

Mr. A.K.Choudhury, Addl. C.G.S. for the respondents No. 1 & 3.

8/11

Dr. Y.K.Phukan, Sr. G.A., Ass for respondent No.2.

16.12.96

Service reports are awaited. show cause has been submitted.

Notice duly served in receipt No. 2

List for show cause for consideration of admission 10.12.1996.

By

Member

trd
M
19/11

11.12.96

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

Service report awaited. No show
cause has been submitted.

List for consideration of
admission on 7.1.1997.

lm
Member

pg

to 11/12

7-1-97

Learned counsel Mr.B.K.Sharma for
the applicant. Mr.A.K.Choudhury, Addl.
C.G.S.C. submits that his name may be
deleted from this case. Mr.G.Sharma, Addl.
C.G.S.C. entered appearance on behalf of
respondent Nos. 1 & 3. None for the respon-
dent No.2. Seen the letter dated 31-12-96
the respondent No.2 for seeking extension
of time to submit written statement.

List for consideration of admission
on 5-2-97.

lm
Member

11.12.96

*Memo of appearance
filed by Mr. G. Sharma
on behalf of
Respondent R. No 2.*

lm

*Notice duly served on
P.No 2.*

lm
11/12

5.2.97

Adjourned to 12.2.1997 for consideration
of admission.

lm
Member

SB
Vice-Chairman

31-1-97

*Show cause filed by
the R. no. 3.*

pg

*Notice duly served on
Respondent no. 2 but for
nos 1 & 3 are still awaited.*

12.2.97

On the prayer of learned counsel Mr B.K.
Sharma the case is adjourned to 19.2.1997
for admission.

lm
Member

SB
Vice-Chairman

*Show cause has been
filed.*

pg

to 11/2

(3)

CA. 225/96

1) Show cause and
memo of appearance
has been filed on
behalf of the R-3 by Mr.
G. Sarna, Add. Clk.

19.2.97

On behalf of Mr B.K.Sharma,
learned counsel for the applicant a
mention has been made for adjournmen
With reluctance we adjourn the case
till 21.2.1997.

List on 21.2.1997 for admissio

d) NO. Tice duly served
on R. 2.

3) service reports
are still awaited
to R. 1 and 3.

Member


Vice-Chairman

pg

on
18/2

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21.2.97

Heard Mr B.K.Sharma, learned counsel appearing on behalf of the applicant, Mr G.Sarma, learned Addl.C.G.S.C for respondents No.3 and Dr Y.K.Phukan learned Sr.Govt.Advocate, Assam for respondent No.2. Perused the application and the reliefs sought. The application is admitted.

Mr G.Sarma submits that the cause shown in pursuance to the notice of show cause may be treated as written statement, as he does not want to file any further written statement. Mr B.K.Sharma submits that he also does not want to file any rejoinder.

Let this case be listed for hearing on 20.3.97. Dr Y.K.Phukan submits that he may be allowed to file written statement, if so advised. He may file written statement within 2 weeks from today.

[Signature]
Member

[Signature]
Vice-Chairman

pg
M
2112

20.3.97

Mr G.Sarma, learned Addl.C.G.S.C prays for 10 days time for instructions. Mr B.K.Sharma has no objection. Prayer is allowed.

List on 31.3.97 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

pg
M
2713

1) Notice duly served on Respondt no. 2.
2) Service reports on R. 1 & 3 are still awaited.
3) Show cause / w/ statement has been filed on behalf of ab Respondt no. 3.
4) w/ statement - has not been filed by Dr. Y.K. Phukan So. GA. Assam.

550
09/3

5

31.3.97

4-4-97

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

2/4
4/4

Heard the learned counsel, for the parties in part. Because of certain difficulties, Mr. G.Sarma, Addl.C.G.S.C. prays for short adjournment.

Let this case be listed for hearing on 7.4.97 on the top of the list as part heard.


Member


Vice-Chairman

trd

21/4

7.4.97

Mr G.Sarma, learned Addl.C.G.S.C has not yet received instruction.

Let this case be listed for hearing on 21.4.1997.


Member


Vice-Chairman


pg


21/4

21-4-97

Learned Addl.C.G.S.C. Mr.G.Sarma prays for adjournment for 2 weeks. Learned Sr.Government Advocate Dr.Y.K.Bhukan has no objection in granting time.

List for hearing on 14-5-97.


Member


Vice-Chairman

lm

21-4-97

Learned Addl.C.G.S.C. Mr.G.Sarma pray for adjournment for 2 weeks. Learned Sr.Government Advocate, State of Assam Dr.Y.K.Phukan has no objection in granting time.

Let the case be listed for hearing on 14-5-97.

Member

Vice-Chairman

lm

21-4-97

Learned Addl.C.G.S.C. Mr.G. Sarma prays for adjournment for 2 weeks. Dr.Y.K.Phukan learned Sr.Government Advocate, State of Assam has no objection in granting time.

Let this case be listed for hearing on 14-5-97.


Member


Vice-Chairman

23-4-97

Memo of appearance filed by Dr. Y.K. Phukan, Sr. Govt Adv. Assam.

Y.K.

lm

24-4-97

K
23/4

Show cause on behalf

of R. no. 3. filed. 14.5.97

Mr. G.Sarma, learned Addl. C.G.S.C. appearing on behalf of the respondents prays for short adjournment. Prayer allowed. Hearing is adjourned till 19.5.1997.

List on 19.5.97 for hearing.


Member


Vice-Chairman

Add. Show cause on behalf of R. no. 3 filed.

trd

27-6-97

K
16/5

Memo of appearance filed by Dr. Y.K. Phukan Sr. G.A. Assam. and Mr. M. Dasgupta, G.A.

There is no representation. List on 4-7-97 for hearing.


Member


Vice-Chairman

lm

K
23/5

Show cause on behalf of R. no. 3. filed.

3/7

4.7.97

On the prayer of Mr. G.Sarma, learned Addl. C.G.S.C. for short adjournment on the ground that some development has taken place. Mr. B.K.Sharma, learned counsel appearing on behalf of the applicant and Dr. Y.K.Phukan, learned senior Govt. Advocate, Assam have no objection. Accordingly we adjourn the case till 22.7.97.

List on 22.7.97 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

trd
17/7

22-7-97 There is no representation.
List on 27-8-97.
By order

27.8.97

Due to circuit-sitting at Shillong bench is not available today.

By order
27/8

27-8-97. Bench at Shillong. To be listed on 29-10-97.

By order.

w/s and Addl. w/s has been fixed.

8/10

29-10-97 Adjourned to 13.11.97
By order.

2/11

w/s, & Addl w/s has been fixed.

13-11-97 Adjourned to 28.11.97.
By order

12/11

Case ready for hearing.
12/11

28-11-97 There is no representation.
List on 11.12.97.
By order

9

O.A. 225/96.

W/S and Add w/s has been filed.

1-6-98 There was a reference to 8-6-98

20/5/6

8.6.98 part in heard. Case to be listed for hearing 11.6.98.

By order

w/s and Add. w/s has been filed

20/5/6

11.6.98 Adjourned to 15.6.98

By order

W/S and Add. w/s has been filed.

20/5/6

15.6.98. Adjourned due to reference. Case to be listed on 23.6.98.

By order

23.6.98 Hearing concluded. Judgment reserved.

Member

Vice-Chairman

pg

4.1.99

Parsons for the day.

By order

4.2.99

Copies of the judgment have been issued to the parties vide D. Nos. 278 to 280 through Regd. w/s

5.1.99

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.

Member

Vice-Chairman

nkm

sp. 2/6

11-12-97

Case is adjourned till
15-12-97 for orders.

Vice-Chairman

ms
12/12

15-12-97

Case is adjourned till 6-1-98
for orders.

Member

Vice-Chairman

lm

ms
16/12

6.1.98

List it on 23.1.98 alongwith

M.P.No.281/97.

w/s and Addl. w/s has been
filed -
2/11

Member

Vice-Chairman

nkm

ms
2/11

23-1-98

To be listed alongwith M.P.281/97
and M.P.204/97 on 12-3-98 for hearing.

w/s and Addl. w/s has
been filed -
1/3

Member

Vice-Chairman

lm

ms
3/2

12.3.98

Let this case be listed on
28.5.98 alongwith Misc. Petition
No.204/97.

w/s and Addl. w/s has been
filed -
2/15

Member

Vice-Chairman

nkm

28.5.98 Adjourn to 1.6.98
by order

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

O.A.No. 225 of 1996

And

O.A.No.16 of 1998

DATE OF DECISION: 5.1.1999.....

Shri J.S.L. Vasava, IAS

(PETITIONER(S))

Mr B.K. Sharma and Mr S. Sarma

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

Mr G. Sarma, Addl. C.G.S.C.,
Mr B.S. Basumatary, Addl. C.G.S.C.,
Dr Y.K. Phukan, Sr. Government Advocate, Assam,
and Ms M. Das, Government Advocate, Assam

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 ? *Yes.*
2. To be referred to the Reporter or not ? *Yes*
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.225 of 1996

And

Original Application No.16 of 1998

Date of decision: This the 5th day of January 1999

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

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

I. O.A.No.225/96

Shri J.S.L. Vasava, IAS,
Commissioner & Secretary,
Social Welfare Department,
Government of Assam,
Dispur, Guwahati.

.....Applicant

By Advocates Mr B.K. Sharma and Mr S. Sarma.

-versus-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Personnel, Public Grievances and Pension, Department of Personnel and Training, New Delhi.
2. The State of Assam, represented by the Secretary to the Government of Assam, Department of Personnel, Assam Secretariat (Civil), Dispur, Guwahati.
3. The Accountant General (A&E), Assam, Meghalaya, etc., Shillong.

.....Respondents

By Advocates Mr G. Sarma, Addl. C.G.S.C.,
Mr B.S. Basumatary, Addl. C.G.S.C.,
Dr Y.K. Phukan, Sr. Government Advocate, Assam and
Ms M. Das, Government Advocate, Assam.

II. O.A.No.16/98

Shri J.S.L. Vasava, IAS,
Commissioner of Upper Assam Division, Jorhat
and North Assam Division,
Tezpur.

.....Applicant

By Advocates Mr B.K. Sharma and Mr S. Sarma.

-versus-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Personnel, Public Grievances & Pension, Department of Personnel & Training, New Delhi.
2. The State of Assam, represented by the Secretary to the Government of Assam, Department of Personnel, Assam Secretariat (Civil), Dispur. Guwahati.

J.B.

3. The Director,
Government of India,
Ministry of Personnel, Public Grievances &
Pension,
Department of Personnel and Training,
New Delhi.

.....Respondents

By Advocates Mr G. Sarma, Addl. C.G.S.C.,
Mr B.S. Basumatary, Addl. C.G.S.C.,
Dr Y.K. Phukan, Sr. Government Advocate,
Assam and Ms M. Das, Government Advocate,
Assam.

.....

O R D E R

BARUAH.J. (V.C.)

Both the original applications (O.A.No.225/96 and O.A.No.16/98) involve common questions of law and similar facts; therefore, we propose to dispose of both the applications by a common order. The facts are:

Before filing of original application No.225/96, the applicant was Secretary to the Government of Assam, Agricultural Department. In the month of August, 1995 the applicant was promoted to the supertime scale of Indian Administrative Service (IAS for short) by Annexure 1 Notification dated 22.8.1995. He took over charge of the supertime scale as per Annexure 2 letter dated 23.8.1995. A year thereafter, i.e. on 24.5.1996 the Accountant General (A&E), Meghalaya, etc., Shillong-3rd respondent informed the applicant by Annexure 9 letter enclosing Annexure 10 D.O. letter dated 19.1.1996 that the applicant was promoted before the completion of his sixteen years of service as prescribed. By Annexures 11 and 12 the applicant had been issued pay slips only in respect of Selection Grade even though by that time the applicant was holding supertime scale post. Situated thus, the applicant submitted Annexure 13 letter dated 10.7.1996 urging the Accountant General for issuance of pay slip enabling him to draw salary for the

B

supertime scale. Thereafter the applicant also issued Annexure 14 Legal Notice dated 27.7.1996 to the Accountant General through his Advocate, Shri B. Mehta, demanding the Accountant General to issue pay slips to the applicant for supertime scale, else he informed that proper legal steps would be taken against him. Thereafter, the present application has been filed.

2. In due course the respondents have entered appearance. Respondent No.3- Accountant General submitted a written statement and also an additional written statement. The Union of India- respondent No.1 and the State of Assam- respondent No.2 chose not to file any written statement. The respondent No.1 also decided neither to oppose nor to support the case of the applicant as will appear from Annexure R XI letter dated 30.12.1996 to the Additional written statement. The 3rd respondent's contention before the Tribunal is specifically spelt out in para 4 of the written statement. We quote the said para:

".....that the Govt. of Assam, Department of Personnel (Personnel.A) Dispur, Guwahati vide notification No.AAI.44/88/298, 298.A, 298.B, dated 22.8.95 promoted S/Shri J.S.L. Casava (Sic J.S.L. Vasava), IAS (RR-1982) i.e. the applicant, B.V.P. Rao, IAS(RR-1982) and Dr.R.K. Baruah, IAS (SCS-1982) to officiate in the Supertime scale of IAS. All the three officers belong to the 1982 batch of IAS and have not completed 16 years of service on the date they were promoted to the supertime scale. As these promotions violate the guidelines laid down by the Government of India in its letters No.11030/20/75-AIS(II) dated 27-12-1975 (copy annexed as Annexure R.I), No.11030/4/82-AIS(II) dated March 1983 (copy annexed as Annexure R.II), No.11030/13/92-AIS(II) dated 5.11.92 (copy annexed as Annexure R-III), D.O.letter No.11030/3/96-AIS-II dated 23-2-96 (copy annexed as Annexure R-IV) and D.O.No.11030/3/96-AIS(II) dated 30-7-96(copy annexed as Annexure R-V), this office did not authorise pay in the supertime grade/scale but continued to authorise pay in the selection grade scale. As regard the matter of entitlement of the applicant and others to the supertime scale, this office took up the matter with the Government of India vide D.O.No.MGI/IAS/A/S.T./182 dated 3-9-96, copy of which is annexed herewith as Annexure R-VI, to which reply is awaited."

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3. During the pendency of this application, i.e. original application No.225/96, the Director, Ministry of Personnel, Public Grievances and Pension, Government of India issued an order dated 27.8.1997 setting aside the promotion of the applicant to the supertime scale of IAS by order dated 22.8.1995. According to the applicant this had been done without issuing any notice to the applicant and without following due process of law. Situated thus, the applicant has approached this Tribunal for the second time by filing yet another application (O.A.No.16/98) challenging Annexure 5 order dated 27.8.1997 to the original application No.16/98. In this case no written statement has been filed by any of the respondents.

4. The contention of the respondent No.3 in the original application No.225/96, inter alia, is that since the Central Government laid down certain criteria for promotion to the supertime scale as sixteen years of service, the applicant having not completed sixteen years of service at the time of promotion he was not entitled to draw salary of the promotional post. The contention of the applicant is that from Annexures R III and R IV to the written statement it is clear that the Government of India had extended relaxation in the matter of such promotion and in view of the above the applicant is entitled to receive pay slips for the promotional post of supertime scale. The further contention of the applicant is that the sixteen years criteria has never been adhered to so far IAS officers of Assam-Meghalaya Cadre are concerned. According to the applicant, from the records, in fact, it will appear that many officers without completing the prescribed period of sixteen years had been promoted to the supertime scale in the past. Annexure R IX letter dated 27.12.1996 to the written statement was written by the Accountant General- 3rd respondent (in O.A.No.225/96) to the Chief Secretary to the Government of Assam, wherein it was agreed that many officers similarly

B

placed.....

placed had been promoted to the supertime scale prior to 1982 batch and they were issued pay slips in the promotional post of supertime scale by the office of the Accountant General. The relevant portion of the said letter is extracted below:

".....However, similarly placed officers who have been promoted to the Super Time Scale prior to the 1982 batch have been authorised Pay Slip in the Super Time Scale by this office pending confirmation by the Government of India (list enclosed). I would request you to kindly seek Govt. of India's relaxation of this requirement of 16 years of service specifically for these officers and convey the same to us at an early date. We have also written to the Govt. of India on the matter vide our letter No.MG-I/IAS/(A)/ST/293 dt 27.12.96 addressed to the Jt. Secretary, Dept. of Personnel....."

In Annexure R-8 letter, the Accountant General wrote to the Joint Secretary, Government of India, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pension that the supertime scale had been given to the officers who were promoted to the supertime scale without completing the period of sixteen years. The relevant portion of the said letter is quoted below:

".....However, pay in the Super Time Scale had been authorised to similarly placed officers belonging to earlier batches (i.e. before 1982) subject to confirmation by the Govt. of India which has not been received so far. Thus this differential treatment may be viewed by the Central Administrative Tribunal as tantamounting to discrimination. To avoid this, the only alternative left to us is to recover the pay authorised to such officers for the period between their promotion to the Super Time Scale and completion of 16 years of service, unless the Govt. of India gives specific relaxations in these cases."

5. In para 9 of the written statement the respondent No.3 (in O.A.No.225/96) has stated thus:


".....However, it has already been stated by the respondent vide letter No.MGI/IAS(A)/933(Assam) dated 19.1.96 to the Chief Secretary, Government of Assam that their benefits will have to be withdrawn through revised pay slips....."

R2

slips/recovery slips if the rules are not relaxed by the Govt. of India specifically in their cases, the matter stands referred to the Govt. of India vide letter No.MGI/IAS/A/ST/182 dated 3.9.96. However, action for recovering the excess pay drawn by all such officers have already been initiated vide our letter No.MGI/IAS/(A)/ST/293 dated 27.12.96 to the GOI and letter No.MGI/IAS/(A)/ST/294 and letter No.MGI/IAS/(A)/ST/295 dated 27.12.96 to the Chief Secretary to the Govt. of Assam and Meghalaya....."

In the written statement, however, nothing has been stated as to whether any recovery proceedings has been initiated or not.

6. We have heard Mr B.K. Sharma, learned counsel for the applicant, Mr G. Sarma, who was the Addl. C.G.S.C. at the time of initial hearing of the application and Mr B.S. Basumatary, learned Addl. C.G.S.C. appearing on behalf of the respondent Nos.1 and 3 now and Dr Y.K. Phukan, learned Sr. Government Advocate, Assam for respondent No.2.

7. Mr B.K. Sharma submits that the withholding of the supertime scale by the respondent No.3 is not only illegal, but unfair, unreasonable and unjust. According to him the criteria of sixteen years service was never adhered to at least to the knowledge of the applicant so far as Assam and Meghalaya Joint Cadre is concerned. He further submits that the respondent No.3 has no business to question the appointment when the appointing authority made the appointment. Besides, other officers prior to him had also been promoted to the supertime scale without completing the prescribed period of sixteen years and respondent No.3 issued pay slips for supertime scale in respect of those officers. There had been a violation of the equality clause in treating the applicant differently from those officers. He further submits that there is malice in law in handling the matter of the applicant. Besides this, the learned
 counsel.....

counsel submits that so long the appointment made by the competent appointing authority is not set aside either by the appointing authority or by some other competent authority the respondent No.3 has no power, authority or jurisdiction to question the appointment and refuse pay slips. It is further submitted that the "sixteen years service" is not a requirement under the IAS (Pay) Rules, 1954. The learned counsel has drawn our attention to Rule 3 of the IAS (Pay) Rules, 1954. We quote the relevant portion of Rule 3.

"3. Time scale of pay.-(1) The Scales of pay admissible to a member of the Service and the dates with effect from which the said scales shall be deemed to have come into force, shall be as follows :-

Junior Scale Rs.2200-75-2800-EB-100-4000 with effect from the 1st day of January, 1986.

i) Senior Scale- Time Scale 3200-15th and 26th-100-3700-125-4700 with effect from the 1st day of January, 1986.

ii) Junior Administrative Grade- Rs.3950-125-4700-150-150-1500 (non-functional) with effect from the 1st day of January, 1986;

Provided that a member of the Service shall be appointed to the senior scale on his completing 4 years of service, subject to the provisions of sub-rule (2) of Rule 6-A of the Indian Administrative Service (Recruitment) Rules, 1954 and to the Junior Administrative Grade on completing 9 years of service."

Citing this rule Mr B.K. Sharma has tried to impress upon us that "sixteen years of service" is not a requirement as envisaged under the Rules. Therefore, the Office Memorandum is contrary to the rules and the Office Memoradnum has taken away the right of the persons who have not completed the period of sixteen years. Mr Basumatary very fairly submits that the State Government is empowered to grant supertime scale. He also does not dispute that if an appointment is made by the competent authority so long it is not set aside by that competent authority or any other.....

B

other authority competent to do so the 3rd respondent may not have any say. He also admits that in earlier cases relaxation had been made. Only in the applicant's and some other officers' case objection had been raised by the respondent No.3. Mr Basumatary also agrees that in the year 1996 by Annexure R-IV letter dated 23.2.1996 relaxation was not objected to, however, a note of caution was issued not to do the same in future. Mr G. Sarma, in his submission, has drawn our attention to para 17 of the written statement. In the said para 17 of the written statement the respondents have stated that in the absence of any rule the guidelines issued by the Government is applicable. Dr Y.K. Phukan, on the other hand, submits that the power to give supertime scale rests with the State Government and as was done earlier in case of the applicant and some other officers also promotion to supertime scale had been given without completing sixteen years of service. According to Dr Phukan the power to grant rests with the State Government and the Central Government does not come into the picture in giving promotion to supertime scale or cancel or resile the same. Therefore, according to him the cancellation of the promotion to the supertime scale by the Director, Ministry of Personnel was without jurisdiction. In a sense Dr Phukan supports the submission of Mr B.K. Sharma.

8. So far the subsequent case filed in 1998 (O.A.No.16/98) is concerned Mr B.K. Sharma submits that during the pendency of the original application No.225/96 the Director, Ministry Personnel had cancelled the supertime promotion given by the State of Assam. According to Mr B.K. Sharma the Director, Ministry of Personnel had no jurisdiction or authority to cancel the appointment given

by.....



by the State of Assam. Therefore, this impugned order passed by the Director is liable to be set aside.

9. On the rival contention of the learned counsel for the parties it is now to be seen whether the respondent No.3 is competent to withhold the pay slip of the supertime scale so far as the applicant is concerned. In order to decide the same the following points fall for consideration:

(A) In case of an appointment made by the competent authority whether respondent No.3 has the power, authority and jurisdiction to withhold the payment of salary in the relevant scale of pay.

(B) Whether the Director, Ministry of Personnel can cancel the appointment made by the State Government competent to promote to supertime scale.

(C) Whether Rule 3 of the IAS (Pay) Rules, 1954 having not prescribed the number of years the Central Government can prescribe a period by an office memorandum.

10. Point No.A

From the facts available before us it is evident that the State of Assam promoted the applicant to the supertime scale. It is admitted by all that the State has the power to promote an IAS officer to the supertime scale. After the applicant was promoted he assumed charge, but his pay slip of the supertime scale had been refused by the Accountant General on the ground that the applicant was promoted to the supertime scale before he completed sixteen years of service. The question is whether the Accountant General has any jurisdiction and authority to question the appointment given by a competent authority.

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The Accountant General is an officer under the Comptroller and Auditor General. He shall, under such special and general directions as may be given by the Comptroller and Auditor General from time to time, perform such duties and functions, as are imposed on or undertaken by him under the provisions of the Constitution, or of any law made by Parliament. Mr Basumatary has placed before us a copy of the Comptroller and Auditor General's Manual of Standing Orders (Accounts & Entitlements) Vol.I. In page 3 of the said copy of the Manual the duties of the Indian Audit and Accounts Department has been assigned. It reads as under:

"It is essential that an Accountant General should work in close co-ordination with the Government concerned. He is entitled to seek the help of the Finance Ministry/Department in cases of failure of any authority to maintain the prescribed accounts or submit them on the due dates. He may seek their assistance where necessary to secure a satisfactory settlement of outstanding objections of accounting nature."

As per Section 16 of the General Clauses Act if a power is conferred by any Central Act or Regulation to make any appointment, then unless a different intention appears, the authority having the power to make the appointment shall also have the power to suspend or dismiss any person appointed whether by itself or any other authority in exercise of that power.

This provision of General Clauses Act suggest that the State Government having the power to appoint to supertime scale has also the power to resile or cancel the said order of appointment. Dr Phukan submits that no other authority can exercise this power of appointment. Mr Basumatary has not been able to show that the Accountant General is vested with that power. Therefore, we are of opinion that this power of appointment can be cancelled by

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the.....

the State Government, however, subject to judicial review. Mr Basumatary also could not produce anything to show that the Accountant General is vested with the power of questioning the appointment given by the State. No doubt if an appointment is made by an authority having no power to make such appointment, the Accountant General, surely, has full power to refuse pay slip.

Considering the entire facts and circumstances we hold that the Accountant General has no authority, right or jurisdiction to refuse pay slip. Therefore, that action of the Accountant General cannot sustain in law.

11. Point No.B

In original application No.16/98 the applicant has challenged the impugned Annexure 5 order dated 27.8.1997 passed by the Director, Ministry of Personnel. It is an admitted fact that the promotion was given to the applicant by the State Government, competent authority to do so. The State Government has the power and that power is allocated as such. In a federal system of Government the powers and functions are well demarcated. When the State Government has been given the power to make the appointment and no such power having been conferred to the Central Government or its officer, in our opinion, the Director, Ministry of Personnel does not have any say in that regard. Besides, it is not the Central Government, but the Director, Ministry of Personnel, who passed the impugned order and that too not in the manner prescribed. We are afraid such type of order is not contemplated under Article 77 of the Constitution. Both Mr G. Sarma and Mr Basumatary have not been able to show that the Director, Ministry of Personnel has been empowered to authenticate such order. Accordingly we are of the view that the said order cannot be sustained in law.

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12. Point No.C

We have perused Rule 3 of the IAS (Pay) Rules, 1954. In the first proviso to the said Rule 3 it is specifically mentioned that a member of the Service shall be appointed to the senior scale on his completing four years of service subject to the provisions of Sub-rule (2) of Rule 6A of IAS (Recruitment) Rules, 1954, and to the Junior Administration Grade on completing nine years of service. For selection grade also the number of years has been prescribed. However, for supertime scale no such time is prescribed. From this we feel that the rule making authority was conscious about the number of years required to be served in a particular department to get promotion and consciously has refrained from prescribing any time for supertime scale. Therefore, it can be very safely said that the rule making authority has not insisted on the number of years to get the supertime scale promotion. It is an established principle that there is no presumption that legislature omits to do something. The following passage at page 33 of Maxwell's Interpretation of Statutes, Twelfth Edition may be quoted:

"It is a corollary to the general rule of literal construction that nothing is to be added to or taken from a statute unless there are adequate grounds to justify the inference that the legislature intended something which it omitted to express. Lord Mersey said: "It is a strong thing to read into an Act of Parliament words which are not there, and in the absence of clear necessity it is a wrong thing to do." "We are not entitled," said Lord Loreburn L.C., "to read words into an Act of Parliament unless clear reason for it is to be found within the four corners of the Act itself." A case not provided for in a statute is not to be dealt with merely because there seems no good reason why it should have been omitted, and the omission appears in consequence to have been unintentional."

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This principle is also applicable in case of rules. Moreover, the IAS (Pay) Rules, 1954 has not delegated any power to the Government to add something which is not in the rule. In this connection reference can be made to the Full Bench decision of this Tribunal in Dr Bhupinder Singh, IPS -vs- Union of India and others. In the said case similar questions came up for consideration. The question was whether the instructions override the provisions of Rule 3(2A) of the IPS (Pay) Rules, 1954. The Full Bench observed as follows:

".....The question is whether these instructions override the provisions of Rule 3(2A) of the IPS (Pay) Rules, 1954. The law appears to be quite settled that executive instructions cannot supersede the statutory rules. It has been held by the Supreme Court in the case of Sant Ram Sharma v. State of Rajasthan and others, which has been followed in subsequent cases that Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point, Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed....."

It was further observed as follows:

".....Now, by the administrative instructions issued by the Government of India in 1986 and 1988 an addition has been made within the heading 'zone of consideration' that such persons who would be eligible for promotion to the post of Director General must have put in at least four years service in the rank of Inspector General of Police and must have completed thirty years of service. The question is whether such instructions though given under the heading 'zone of consideration' amend or alter the conditions of service."

After considering various cases of the Apex Court, the Full Bench decided as follows:

"Considering the ratio of the decisions as cited above, we are constrained to hold that by issuing administrative instructions to the effect that only those IPS officers who have held the post of Inspector General of Police at least for a period of four years and who have completed 30 years of service in the Police Force are eligible for promotion to the post of Director


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General of Police, the Government of India have in fact put some restrictions and limitations on the provision of Rule 3(2A) of the IPS (Pay) Rules, 1954. On the basis of Rule 3(2A) of the IPS (Pay) Rules, 1954, an IPS officer who has entered the 14th year of service shall be eligible for being considered for appointment to the post in Selection Grade and promotions after that would be made if he is found suitable by selection on merit with due regard to seniority. On the basis of the administrative instructions in 1986 and 1988 all police officers, in addition to the conditions laid down in the said rule, must have put in 4 years of service in the rank of Inspector General of Police and must have completed 30 years of service for being considered for appointment to the post Director General. We hold that such restrictions and limitations not being consistent with the said rules, these cannot be sustained."

Considering the above we are of the view that Central Government cannot prescribe a period by an office memorandum.

13. In view of the above we allow the applications by setting aside the Annexure 5 order dated 27.8.1997 in Original Application No.16/98 cancelling the appointment by the respondent No.3 and also we hold that respondent No.3 in Original Application No.225/96 had no jurisdiction or authority to refuse issuance of pay slips. Accordingly we direct respondent No.3 in Original Application No.225/96 to issue pay slips as the applicant was eligible on promotion to supertime scale.

14. Both the applications are accordingly disposed of. Considering the facts and circumstances of the cases we make no order as to costs.


(G. L. SANGLYINE)
ADMINISTRATIVE MEMBER


(D. N. BARUAH)
VICE-CHAIRMAN

706
 15/7/1996
 BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH
 GWAHATI BENCH

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

application under Section 19 of the Administrative
 Tribunals Act, 1985)

Title of the Case : O.A. No. 225 of 1996

Shri J.S.L. Vasava ... Applicant

- Versus -

Union of India & Ors. ... Respondents

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Recd.
 AH Choudhary
 Adm. Officer
 3/10/96

For use in Tribunal's Office :
 Date of filing : 4.10.96
 Registration No.: OA 225/96
 REGISTRAR

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

*Filed by
Hidhatin Bora
3-10-96*

O.A. No. 225 of 1996

BETWEEN

Shri J.S.L. Vasava, I.A.S.
Commissioner and Secretary,
Social Welfare Department,
Government of Assam,
Dispur, Guwahati-6.

... Applicant

AND

1. Union of India, represented by
Secretary to the Govt. of India,
Ministry of Personnel, Public Grievances
and Pension,
Department of Personnel and Training,
New Delhi.
2. The State of Assam, represented
by the Secretary to the
Government of Assam,
Department of Personnel,
Assam Secretariat (Civil),
Dispur, Guwahati-6.
3. The Accountant General (A&E),
Assam, Meghalaya, etc.
Shillong.

.... Respondents

DETAILS OF APPLICATION

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

The ~~app~~ instant application is directed against
the letter No. DO. MGI/AIS/(A)/933 (Assam) dated 19.1.96
issued by the Accountant General (A&E), Assam Etc. Meghalaya
to the Chief Secretary to the Govt. of Assam, Dispur,
Guwahati-6 and as conveyed vide letter No. MGI/IAS/A/15
dated 24.5.96 to the applicant by the Senior Accounts Officer

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office of the Accountant General (A&E), Meghalaya etc. Shillong. The application is also directed to issue appropriate direction to the respondent No. 3 to issue the pay slip to the applicant in the Super Time Scale of I.A.S. with effect from 22.8.95 on which date the applicant was promoted to Super Time Scale of I.A.S..

2. JURISDICTION :

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

3. LIMITATION :

The applicant further declares that the instant application has been filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and as such is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant is presently holding the post of Commissioner and Secretary, Social Welfare Department, Govt. of Assam. He was promoted to Super Time Scale of I.A.S by a notification dated 28.2.95. He has assumed the charge of the post of Super Time Scale ; but the respondent No. 3 has refused to issue necessary pay slip and instead he has been issued the pay slip of the inferior grade i.e. Selection Grade

All the requests so far made by the applicant has not yielded any result and hence the instant application making a grievance against the same.

4.3 That the applicant while was functioning as the Secretary to the Govt. of Assam, Agriculture Department was promoted to officiate in the Supertime Scale of I.A.S. and was transferred and posted as Commissioner, Hills and Barak Valley Division, with effect from the date of taking over charge vice one Shri S.C. Das, I.A.S. relieved of the additional charge of Commissioner, Hills and Barak Valley Division. The applicant was so promoted vide notification No. AAI. 44/88/298-A.

A copy of the said notification dated 20.8.95 is annexed hereto as ANNEXURE-1.

4.4 That pursuant to such promotion to Supertime Scale, the applicant assumed charge vide AGT-1/55/353 dated 23.8.95 as provided for under Rule 145 of the Financial Rules.

A copy of the said charge assume report dated 23.8.95 is annexed hereto as ANNEXURE-2.

4.5 That pursuant to assumption of charge, the Govt. of Assam, office of the Commissioner, Hills and Barak Valley Division issued a letter No. ASE. 10/95-96/4 dated 25.8.95 to the Accountant General (A&E), Assam, etc. Shillong intimating such promotion of the applicant to the Supertime Scale of I.A.S. with the request to issue pay slip in his favour immediately.

A copy of the said letter dated 25.8.95 is annexed hereto as ANNEXURE-3.

4.6 That the applicant thereafter was transferred and posted as Development Commissioner for Hill Areas which is an ex-cadre post notified by the Government of Assam, Deptt. of Personnel vide No. AAP. 164/93/7 dated 19.7.94. Initially the post of created ~~by~~ upto 28.2.95 with effect from the date of entertainment. Subsequently, the same was revalidated vide letter dated 31.3.95 issued by the Government of Assam upto 29.2.96 and again the same was revalidated upto February 1997 vide letter No. AAP. 164/93/21 dated 4.7.96.

Copies of the aforesaid letter dated 19.7.94, 31.3.95 and 4.7.96 are annexed hereto as ANNEXURE S-4, 5 and 6, respectively.

4.7 That the applicant states that the Government of Assam also vide its letter No. AAP. 164/93/19 dated 27.11.95 addressed to the Accountant General, Meghalaya, Shillong intimating him in reference to Annexures-4 and 5 letters dated 19.7.94 and 31.3.95 about the sanction of the Governor of Assam to the declaration of the ex-cadre post of Development Commissioner for Hill Areas and Special Secretary to the Govt. of Assam is equivalent to the status and responsibility to that of cadre post of Commissioner and Secretary to the Government of Assam as per provisions of Rule 9(1) of the I.A. S. (Pay) Rules, 1954 with effect from the date of creation of the post.

A copy of the said letter dated 27.11.95 is annexed hereto as ANNEXURE-7.

4.8 That as stated above, the applicant was substantively posted as the Development Commissioner, Hill Areas, Assam,

Guwahati vide letter No. IAS. 52/93s110-A dated 15.11.95.

A copy of the said notification dated 15.11.95 is annexed hereto as ANN EXURE-8.

4.9 That the applicant was transferred and posted as Commissioner & Secretary, Hill Areas, Department, vide notification dated 24.7.96. The applicant continued in the ex-cadre post of Development Commissioner upto 19.8.96. Thereafter he handed over charge. Presently, the applicant is holding the post of Commissioner and Secretary, Social Welfare Department with effect from 23.8.96.

4.10 That the applicant states that all the aforesaid posts he had held pursuant to the promotion to Supertime Scale of I.A.S. vide notification dated 28.2.95 (Annexure-1) are cadre post of I.A.S. except one i.e. Development Commissioner for Hills Areas and Special Secretary to the Govt. of Assam which was ex-cadre post. However as will be evident from the notification referred to above, the said ex-cadre post was created in the Supertime scale of pay of Rs.5900-6700/- and the same was declared to be equivalent in status and responsibility to that of the cadre post of Commissioner and Secretary, Govt. of Assam vide notification at Annexure-7 dated 27.11.95.

4.11 That the applicant states that the pay scale prescribed for Supertime Scale of I.A.S. in the I.A.S. (Pay) Rules, 1954 as amended ~~xxx~~ up to date is Rs.5900-200-6700/- is that of selection grade which is immediately below the Supertime scale which the applicant used to get before his promotion to Supertime scale of I.A.S.

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4.12 That the applicant states that all the posts held by the applicant after his promotion to Supertime Scale of I.A. S. carry pay scale of Rs.5900-200-6700/- and accordingly upon assumption of charge to the said posts mostly after his promotion to Supertime Scale of I.A.S. vide Annexure-1 notification dated 28.2.95, the applicant is entitled to get the pay scale of Supertime scale of pay of Rs.5900-200-6700/-. As pointed out above, the respondent No. 3 was requested to issue necessary pay slip vide letter dated 28.5.95 (Annexure- 3). Same was followed by reminders (i) Estt. 10/95/96 dated 25.10.95, (ii) HPD. 107/95/28 dated 20.12.95, (iii) DO COM/1/96 dated 28.3.96 and (iv) Com/1/96 dated 18.5.96. However till date the applicant has not been issued with the necessary pay slip towards grant of Supertime scale of pay of Rs.5900-200-6700/- by the respondent No. 3.

4.13 That pursuant to his request to issue necessary pay slip towards grant of Supertime Scale of I.A.S., the Senior Accounts Officer of the office of the Accountant General (A&E), Meghalaya etc. Shillong vide his letter No.MB.1/AIS/A dated 15.4.96 addressed to the applicant referred to a D.O. letter No. MG.1/AIS(A)/953 ~~issued~~ dated 19.1.96 addressed to the Chief Secretary to the Govt. of Assam by the respondent No. 3. A copy of the said letter was annexed alongwith the said letter dated 25.4.96.

Copies of the aforesaid letter dated 25.4.96 and D.O. letter dated 19.1.96 are annexed hereto as ANNEXURES-9 and 10 respectively.

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4.14 That as per the contents of the said letter dated 19.1.96, the I.A.S. officers are entitled to promotion to Supertime Scale on completion of 16 years of service. In this connection, the respondent No. 3 has referred to the various letters of the Government of India. It has further been stated in the said D.O. letter that in respect of the officers who have been promoted to Supertime Scale of I.A.S. even before completion of 16 years of service, in their case also, the pay and allowances authorised earlier will have to be withdrawn through revised pay ~~xxx~~ slip/recovery slip. The applicant belongs to 1982 batch of I.A.S. and he has entered into the 14th year of service in July 1995. He is entitled to be promoted to Supertime Scale as per the I.A.S. (Pay) Rules, 1954.

4.15 That the applicant states that the I.A.S. Officers of 1980-81 batch are also getting Supertime scale of pay on their promotion to Supertime Scale of I.A.S. If the contents of the D.O. letter are to be followed then in that case also he would get such Supertime scale only with effect from 1996 and 1997. But in fact they have got the Supertime scale with effect from ~~xxx~~ July 1994. In this connection, the case of Shri Bhaskar Musahary, presently the Commissioner of Upper Assam Division, Jorhat may be referred to. Similarly Shri Subhash Das, Shri Harish Sonowal, I.A.S. similarly situated with that of the applicant have been issued with the pay slip upon their promotion to Supertime scale of I.A.S. They also on the date of their promotion to Supertime Scale of I.A.S. did not complete 16 years of service.

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4.16 That the applicant states that inspite of his promotion to Supertime Scale of I.A.S. and shouldering the responsibility of said posts in the pay scale of Rs.5900-6700/- he has been issued with the pay slip in the scale of selection grade which he used to get before his promotion to ~~xxxxx~~ Supertime Scale. In this connection pay slip dated 13.11.95 and 22.8.96 may be referred to. It will be pertinent to mention her that although by the afor said pay slips, he has been granted selection grade pay scale, but he has been referred to as an officer holding the Supertime post.

Copies of the aforesaid pay slips dated 13.11.95 and 22.8.96 are annexed hereto as ANNEXURES-11 & 12.

4.17 That the applicant in response to the letter dated 25.4.96 (Annexure-9) addressed a letter to the respondent No. 3 vide his letter No. GRM/HAD/1/96 dated 10.7.96 once again requesting him to issue pay slip in the Supertime Scale of I.A.S. with the stipulation that if the same is not done within 15 days, a legal action would be taken against him. This was followed by a legal notice dated 27.7.96.

Copies of the aforesaid letter dated 10.7.96 and Legal Notice dated 27.7.96 are annexed hereto as ANN EXURES-13 and 14 respectively.

4.18 That the applicant states that the aforesaid ~~xxxxx~~ action on the part of the respondent No. 3 is wholly untenable both in facts as well as in law, firstly the applicant having been granted the promotion by the competent authority, it is not within the competence and jurisdiction of the respondent No. 3

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to refuse the necessary pay slip to the applicant, secondly as per provisions of the relevant rules holding the field also the applicant has been rightly promoted to the Supertime Scale of I.A.S. and the respondent No. 3 cannot deny the same to the applicant. It will be pertinent to mention here that a copy of the notification dated 28.2.95 promoting the applicant to the Supertime Scale of I.A.S. was endorsed to the Central Government and till date the Central Govt. has not raised any objection to such promotion. ~~Thereafter~~ So far as the State Government is concerned, it has having granted the promotion to the applicant, it now cannot have any objection to grant the pay slip to the applicant by the respondents in the Supertime scale of pay. In fact, the respondent No. 2 i.e. the State of Assam has made request to the respondent No. 3 to issue necessary pay slip to the applicant in the pay scale of Rs.5900-200-6700/- i.e. in the Supertime Scale of I.A.S. It is the respondent No. 3 who has been creating the hurdle in respect of getting the Supertime scale of I.A.S. There is no denial of the fact that the applicant has been shouldering the responsibility of the post of Supertime scale of I.A.S. and thus the scale admissible to the said post cannot be denied to him.

4.19 That the applicant states that the Government of India's guidelines mentioned in the D.O. letter dated 19.1.96 (Annexure-10) issued by the respondent No. 3 are not in possession of the applicant and accordingly, the respondent may be directed to produce the copies of the said letter/guidelines. Even if such guidelines are there, same cannot ~~override~~ override be provisions of I.A.S.(Pay) Rules, 1954

and all other rules holding the field. Needless to say that a ~~statutory~~ rule cannot be made ineffective by issuing guidelines. If it is held that such wide power is vested on the respondent No. 3 on the basis of the said guidelines, the applicant states that those guidelines are wholly unconstitutional and contrary to the statutory rules and thus liable to be set aside and quashed.

4.20 That the applicant states that had he not been entitled to Supertime Scale of pay, the respondents Nos. 1 and 2 would have reverted him to the selection grade. The respondent No. 3 is not ~~authorised~~ authorised and competent to take the impugned action against the applicant in not granting the necessary pay slips in the Supertime scale of I.A.S. ~~which~~ to which post the applicant was promoted vide Annexure-1, notification dated 28.2.95. The respondent No. 3 has illegally deprived the applicant from getting the Supertime scale of I.A.S. with effect from 28.2.95. The applicant has been put to humiliation by the respondent No. 3 and thus has caused mental agony. Accordingly, the applicant is entitled to 18% interest at Bank's norms to the arrear salary recoverable from the respondent No. 3. He is also entitled to adequate compensation for the humiliation and mental agony and financial hardship to which the applicant has been put to by the respondent No. 3. Same is also recoverable from the respondent No. 3.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the applicant having been promoted to the Supertime scale of I.A.S. with due observation of all the

required formalities and there being no impediment against such promotion, under the relevant rules, the respondent No. 3 is not justified in not issuing the pay slip in the Supertime scale of I.A.S.

5.2 For that the respondent No. 3 has acted both without competence and jurisdiction and issuing the D.O. letter dated 19.1.96 (Annexure-10) inasmuch as even if it is held that the applicant was wrongly promoted to the Supertime Scale of I.A.S, it is not within his competence and jurisdiction to withhold necessary pay slip in the Supertime scale of pay, inasmuch as the applicant upon such promotion has been shouldering the responsibility of the post of Supertime scale of pay.

5.3 For that the applicant after his promotion to Supertime scale ~~pay~~ of pay vide annexure-1 notification dated 28.2.95 has all along been shouldering the responsibility in the post carrying Supertime Scale of pay and accordingly, he is entitled to get the said scale of pay of Rs.5900-200-6700/- and the respondent No. 3 is not entitled to deny the same.

5.4 For that the applicant having been promoted to Supertime scale of pay, the respondent No. 3 acted illegally and arbitrarily in granting him pay scale of selection grade even after describing him as an officer of the Supertim scale in the concerned pay slip.

5.5 For that the execution instructions mentioned in the impugned letter dated 19.1.96 (Annexure-10) are not

sustainable inasmuch as same are even if held to be applicable in the instant case are in direct conflict with the relevant provisions and the rules holding the field and tend to override the said provisions of the rules and accordingly not sustainable in law. Accordingly, the said guidelines and executive instructions are required to be quashed and set aside by this Hon'ble Tribunal.

5.6 For that the purported guidelines issued by the Government of India are not in possession of the applicant recourse to which have been taken by the respondent No. 3 and accordingly, the respondent No. 3 is required to be directed to produce those letters and on perusal of the same & even if it is ~~held~~ found that the same has got such wide discretionary power to the respondent No. 3 enabling him to withhold the requisite pay slip i.e. in the Supertime scale of pay then in that case, the said guidelines are required to be held unconstitutional and ultra vires.

5.7 For that the respondent Nos. 1 and 2 having properly ~~ex~~ promoted the applicant~~tion~~ to the Supertime scale of I.A.S. either with expressed approval or with tacit approval, it is not the business of the respondent No. 3 to withhold the necessary pay slip in the Supertime scale of pay to which the post the applicant was promoted way back on 28.2.95.

5.8 For that the entire action on the part of the respondent No. 3 is illegal and arbitrary and also discriminatory inasmuch as in respect of other similarly

situated persons, pay slips in the Supertime scale of pay have been granted but in case of the applicant, a differential treatment has been adopted which is ~~is~~ in clear violation of the Articles 14 and 16 of the Constitution of India.

5.9 For that the provisions of the I.A.S. (Pay) Rules, 1954 do not prescribe any length of service to be promoted to Supertime scale of ~~pay~~ of IAS. The only prescription provided for under the rules is the requirement of entering into 14 years of service to be entitled to the selection grade. Thereafter the incumbents are entitled to be promoted to Supertime scale of I.A.S. ~~with~~ without any requisite years of service. The purported guidelines as reflected in the D.O. letter dated 19.1.96 (Annexure-10) to curtail the promotion prospect of the applicant and others also tend to override expressed provisions of the relevant rules and others are not sustainable and liable to be set aside and quashed.

5.10 For that in any view of the matter, the impugned action/inaction on the part of the respondent No. 3 is wholly untenable and liable to be set aside and quashed with appropriate direction to release the necessary pay slip to the applicant in the Supertime scale of pay together with interest at Bank's rate. Appropriate direction is also required to be issued towards payment of compensation to the applicant as stated above.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has no other alternative remedy except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING
BEFORE ANY OTHER COURT :

The applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application nor such application, writ petition, or suit is pending before any of the Court, Authority of any other Bench of this Hon'ble Tribunal.

8. RELIEFS SOUGHT :

Under the facts and circumstance stated above, the applicant most respectfully prays that the Hon'ble Tribunal may be pleased to admit this application, call for the records of the case and ~~upon~~ on perusal of the records and upon hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs to the applicant :

- (i) To set aside and quash the Annexure-10 D.O. letter dated 19.1.96 as conveyed by the Annexure-9 letter dated 24.10.96⁵ ~~24~~
- (ii) To direct the respondent No. 3 to issue necessary pay slip to the applicant in the Supertime scale of IAS i.e. Rs. 5900-200-6700/- with effect from 28.2.95 i.e. the date on which the applicant was promoted to Supertime scale of I.A.S. vide Annexure-1 notification.
- (iii) To direct the respondents the payment of 18% interest at Bank's norms in respect of arrear payment of salary recoverable from the respondent No. 3.

Contd.....P/15.

Mr

- (iv) To direct payment of adequate compensation to the applicant for the humiliation, mental agony and financial hardship to which he has been put to by the respondent No. 3 by not issuing the necessary pay slip in the Supertime scale of pay, with the direction to recover the same from the respondent No.3
- (v) Cost of this application
- (vi) Any other relief or reliefs to which the applicant is entitled and as may be deemed fit and proper by this Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

P ending disposal of the application, the applicant prays ~~that~~ for an interim direction to the respondent No. 3 to release the pay slip in supertime scale of pay of IAS with effect from 28.2.95 immediately.

10.....

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- (i) I.P.O. No. : 8, 11, 444481
(ii) Date : 3, 10, 96
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.


Verification...

mn

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

I, Shri J.S.L. Vasava, son of Shri Lalji Bhai, aged about 44 years, at present working as Commissioner and Secretary to the Government of Assam, Social Welfare Department, Dispur, Guwahati-6, the applicant do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1 to 4 and 6 to 12 are true to my knowledge ; those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 15th day of October 1996 at Guwahati.



(J. S. L. Vasava)

ANNEXURE-1

GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL :::A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI- 781006.

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 22nd August, 1995.

- NO. AAI. 44/88/298 : Shri B.V.P.Rao, IAS (RR-1982), Secretary to the Government of Assam, Home, Political etc. Departments (presently on training abroad) is temporarily promoted to officiate in the Super Time Scale of IAS with effect from the date of resumption of duty on return from training.
- NO. AAI. 44/88/298-A : Shri J.S.L.Vasava, IAS (RR-1982), Secretary to the Government of Assam, Agriculture Department, is temporarily promoted to officiate in the Super Time Scale of IAS and is transferred and posted as Commissioner, Hills and Barak Valley Division, Guwahati with effect from the date of taking over charge vice Shri S.C.Das, IAS relieved of the additional charge of Commissioner, Hills & Barak Valley Division.
- NO. AAI. 44/88/298-B : Dr. R.K.Barua, IAS (SCS-1982), Secretary to the Government of Assam, Tourism, Panchayat and Rural Development etc. Departments and Member-Secretary, Assam Staff Selection Board, Guwahati is temporarily promoted to officiate in the Super-Time Scale of IAS and is transferred and posted as Commissioner & Secretary, Agriculture and Tourism Departments with effect from the date of taking over charge. Dr. R.K.Barua, IAS is relieved of the charge of Secretary, Panchayat & Rural Development Department and Member-Secretary, Assam Staff Selection Board with effect from the date of handing over charge.
- NO. AAI. 44/88/298-C : Services of Shri Mohitosh Bhattacharjee, ACS (PR-1977), Director, Food and Civil Supplies, Assam, Guwahati, are placed at the disposal of Personnel (B) Department for his appointment as the Member-Secretary, Assam Staff Selection Board, Guwahati, vice Dr. R.K.Barua, IAS transferred on promotion to the Super-Time Scale of IAS, with effect from the date of handing over charge.

22-8-95

Contd.....

Attested.


Advocate.

No. AAI. 44/88/298-D : Shri Balendra Banumathary, ACS (DR-1987), Joint Secretary to the Government of Assam, W.P.T. & B.C. Department is transferred and posted as Director, Food and Civil Supplies Assam, Guwahati with effect from the date of taking over charge vice Shri Mohitosh Bhattacharjee, ACS, transferred.

Sd/- D. SAIKIA
Joint Secretary to the Govt. of Assam

Memo No. AAI. 44/88/298-E :: Dated Dispur, the 22nd August, 1995
Copy to :-

1. The Accountant General (A&E), Meghalaya, Shillong-793001.
2. The Accountant General (A&E), Assam, Bhangagarh, Guwahati-5.
3. The Establishment Officer & Adl. Secretary to the Govt. of India, Ministry of Personnel, P.G. & Pensions, Department of Personnel & Training, North Block, New Delhi-110001.
4. The Chief Secretary to the Govt. of Meghalaya, Shillong-793001.
5. The Director (Services), Govt. of India, Deptt. of Personnel & Training, North Block, New Delhi-110001.
6. The Chairman, Assam State Electricity Board, Paltanbazar, Ghy-1.
7. The Chairman, Assam Board of Revenue, Guwahati-1.
8. The Chairman, Assam Administrative Tribunal, Guwahati-1.
9. All Principal Secretaries/ Commissioner & Secretaries/ Secretaries to the Govt. of Assam.
10. The Resident Commissioner, Assam Bhawan, Sardar Patel Marg, New Delhi-21.
11. All Commissioners of Divisions, Assam.
12. The Commissioner & Secretary to the Governor of Assam, Dispur.
13. The Under Secretary to the Govt. of India, Deptt. of Personnel & Training, North Block, New Delhi-110001.
14. The Secretary to the Chief Minister, Assam, Dispur.
15. The OSD to the Chief Minister, Assam, Dispur.
16. The Secretary, Assam Public Service Commission, Bhangagarh, Ghy-5.
17. The Director, Assam Administrative Staff College, Manapara, Guwahati-22.
18. The Secretary, State Election Commission, Housefed Complex, Beltola Road, Guwahati-6.
19. The Principal Secretary, Bodoland Autonomous Council, Kokrajhar.
20. The Principal Secretary, Karbi Anglong District Council, Diphu.
21. The Principal Secretary, I.C. Hills District Council, Haflong.
22. All Deputy Commissioners/ Sub-Divisional Officers.
23. All Departments of the Secretariat.
24. The Supdt., Assam Govt. Press, Bamunimaidan, Guwahati-21 for publication in the Assam Gazette.
25. Officers concerned.
26. PS to all Ministers/ Ministers of State, Assam.
27. PS to the Chief Secretary, Assam, Dispur.
28. PS to the Adl. Chief Secretaries, Assam, Dispur.
29. PS to the Adviser to the Chief Minister, Assam, Dispur.
30. PS to the Member, State Planning Board, Dispur.
31. The Secretary-cum-Registrar, Office of the Lokayukta, Nabinagar, Guwahati.

By order etc. Sd/-

(D. SAIKIA)
Joint Secretary to the Govt. of Assam
Personnel (A) Department, Dispur
22/8/95

Attested.
11/10/96
Advocate

ASSAM Schedule III (Sec. I) Form No. 91

CERTIFICATE OF TRANSFER OF CHARGE

NO. **1017.1/55/195** Dated. **23rd August, 1995**

- To
- 1. The **Chief Secretary to the Govt. of Assam**
Dispur.
 - 2. The Accountant General, Assam, and Nagaland, Shillong
 - 3. The Treasury Officer, **Dispur**
 - 4. The Secretary to the Govt. of Assam, G.A.D.
 - 5. Inspector General of Police (S.B.), Kohilipara

Sir,

With reference to Rule 145 of the Assam Financial Rules, I/we the undersigned have the honour to report that I/we have this day of August, 1995 at 6.30 P.M. 23rd 0'clock in the noon received and handed over charge of the office of the **Commissioner, Karimganj & B.S.V. Division** in the **Karimganj** District as per orders issued vide **Personnel** Notification No. **AA1.44/88/298-A** dated. **22nd August 95** by **Govt. of Assam**

I have occupied the official residence allotted to me with effect from day of 19.

Relieving Officer *[Signature]* 23/8/95

Name (in block letter) **I. S. S. Dasgupta, IAS**

I have vacated the official residence allotted to me with effect from day of 19.

Relieved officer

Name (in block letter) **I. S. S. Dasgupta, IAS** 23/8/95

And, with reference to Rules 82 (a) (vii) of the Assam Financial Rules, I (the Relieving Officer) acknowledge to have received Rs. of the permanent advance and that the full amount of such is due from and to be accounted for by me

Relieving Officer/Signature
/Designation

Date District.

*The signature should be legibly written as, when they cannot be deciphered great deal of delay arises in dealing with these certificate.

Attested.

[Signature]
Advocate.

GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF HILLS & BARAK VALLEY DIVISION :
ASSAM : DISPUR.

NO. ESTT. 10/95-96/4

Dated Dispur, the 25th Aug/95.

From : Shri P. K. Buragohain, ACS.
Special Assistant to the
Commissioner of Hills & Barak
Valley Division, Assam, Dispur.

To,

The Accountant General (A & E),
Assam etc., Meghalaya,
Shillong - 1.

Sub : Issue of Pay Slip of Shri J. S. L. Vasava, IAS,
Commissioner of Hills & Barak Valley Division,
Assam, Dispur.

Ref : Govt. Notification No. AAI.44/88/298-A dt. 22.8.95.

Sir,

I am directed to inform you that Shri J. S. L. Vasava, IAS has since been joined in this office on 23rd Aug/95 at 4.30 P.M. as Commissioner of Hills and Barak Valley Division in the Supertime Scale of I. A. S.

You are, therefore, requested kindly to issue the Pay Slip in his favour immediately.

Yours faithfully,

P. K. Buragohain

Special Assistant to the
Commissioner of Hills & Barak Valley
Division, Assam, Dispur.

Encls -

- 1. Govt. Notification.
- 2. Charge Report.

CP

Dispur

Attested.

[Signature]
Advocate.

GE-7
Bhangayshar
Gauhati

JOURNAL - 4

NO. AAP. 164/93/1
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL : : : A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI-781006.

@@@@

Dated Dispur, the 19th July, 1994.

To

- 1) The Accountant General, Meghalaya, Shillong.
- 2) The Accountant General, Assam, Bhangagarh, Guwahati-5.

Sub :- Creation of an Ex-cadre post of Development Commissioner for Hill Areas and Special Secretary to the Govt. of Assam.

Sir,

I am directed to convey the sanction of the Governor of Assam to the creation of an Ex-cadre post of Development Commissioner for Hill Areas and Special Secretary to the Government in the Super-time scale of M.S, i.e. the scale of pay of Rs. ²⁰⁰⁻5900-76700/- P.M. with other allowances as admissible under Rules for the period upto 28.2.1995 with effect from the date of entertainment.

The expenditure is debitable to the Head of Account "3451-Secretariat Economic Services-11-State Plan and non-plan Schemes -091-attached offices- Sixth Schedule (1) salary (Non-plan)" in the Budget for the year 1994-95.

This issues with the concurrence of Finance EC(III) Department vide their U.O. No. Fin.(III)456/94 dated 8.7.1994.

Yours faithfully,

(N.G. BARDOAH)

Joint Secretary to the Govt. of Assam

Memo No. AAP. 164/93/7-A :: Dated Dispur, the 19th July, 1994.

Copy to :-

1. The Commissioner, Hills & Barak Valley Division and Development Commissioner for Hill Areas, Assam, Dispur, Guwahati-6.
2. The Addl. Chief Secretary to the Govt. of Assam, Hills, Dispur.
3. The Secretary to the Govt. of Assam, Hill Areas Department, Dispur.
4. The Secretary to the Govt. of Assam, General Administration Department, Dispur.
5. The Deputy Secretary to the Govt. of Assam, Finance (EC-III) Department, Dispur. This has a reference to their U.O. No. Fin (III) 456/94 dated 8.7.1994
6. The Treasury Officer, Dispur, Guwahati-6.

By order etc.,

(N.G. BARDOAH)

Joint Secretary to the Govt. of Assam

Memo No. AAP. 164/93/7-B :: Dated Dispur, the 19th July, 1994.

Copy to :-

1. The Accountant General, Meghalaya, Shillong.
2. The Accountant General (M&E), Assam, Bhangagarh, Guwahati-5.

By order etc.,

Sr. Financial Adviser,
Personnel (A) Department, Dispur

Attested

Advocate

NO. AAP.164/93/14
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL : A)
ASSAM SECRETARIAT (CIVIL), DISPUR
GUWAHATI-6

Dated Dispur, the 31st March, 1995.

- To
- 1) The Accountant General (A&E),
Assam, Bhangagarh, Guwahati-5.
 - 2) The Accountant General (A&E),
Meghalaya, Shillong-793 001.

Sub : Retention of Temporary post.

Ref : This Department letter No. AAP.164/93/7
dt. 19/7/94.

Sir,

I am directed to convey the sanction of the Governor of Assam to the retention of the marginally noted temporary Ex-Cadre post for a further period upto 29/2/96 with effect from 1/3/95 in the scale of pay indicated plus other allowances as admissible under Rules.

<p>1(One) Ex-Cadre post of Development Commissioner for Hill Areas and Spl. Secretary to the Govt. of Assam.</p>
--

The post was originally created vide this Deptt's letter No. AAP.164/93/7 dtd. 14/7/94.

The expenditure is debitable to the Head of Account " 3451-Secretariat Economic Services-II-State plan and non-plan scheme-091-Attached offices-Sixth schedule (I) salary (non plan)" in the Budget for the year 1995-96.

This issues under the provisions of the D.F.P. Rules, 1960 (amended).

Yours faithfully;

(D. SAIKIA)
Joint Secretary to the Govt. of Assam,
Personnel (A) Department.

etc

Attested.

[Signature]
Advocate.

NO.AAP.164/93/21
 GOVERNMENT OF ASSAM
 DEPARTMENT OF PERSONNEL (PERSONNEL : A
 ASSAM SECRETARIAT(CIVIL) DISPUR
 GUWAHATI :: 781 006
 @@@@

To

Dated Dispur, the 4th July, 1996.

The Accountant General (Accounts), Assam,
Shillong.

Sub

: Retention of Temporary post.

Ref

: This Deptt's letter No.AAP.164/93/14 dt. 31-10-1995.

Sir,

I am directed to convey the sanction of the Governor of Assam to the retention of the marginally noted temporary Ex-Cadre Post for a further period up to 28-2-1997 with effect from 1-3-1996 in the scale of pay indicated plus other allowances as admissible under Rules.

1(one) Ex-Cadre post of Development Commissioner for Hill Areas and Special Secretary to the Govt. of Assam in the Supertime Scale of IAS

The post was originally created under this Department letter No. AAP.164/93/7 dt. 14-7-1994 and last retained in this Deptt's

letter quoted above.

The expenditure is debitable to the Head "3451-5. Lt. Economic Services-11-State Plan & Non Plan Scheme of the Office Sixth Schedule(1)-Salary(Non Plan)" in the budget for the year 1996.

The sanction issues with the concurrence of Fin-EC-III Department vide their U/O No.FIN(III)309/96 dated 28-6-1996.

Yours faithfully,

(D. SAIKIA)

Joint Secretary to the Govt. of Assam
Dated Dispur, the 4th July, 1996.MEMO NO.AAP.164/93/21-A ;
Copy to :-

1. The Commissioner, Hill & Barak Valley Division, Dispur.
2. The Commissioner & Secy. to the Govt. of Assam, Hill Areas Deptt., Dispur.
3. The Development Commissioner for Hill Areas & Spl. Secretary, G.O.A. Dispur.
4. The Deputy Secretary, S.A(A) Department, Dispur.
5. The Treasury Officer, Dispur Treasury.
6. Finance EC-III Department, Dispur.

By Order of,

(D. SAIKIA)

Joint Secretary to the Govt. of Assam
Dated Dispur, the 4th July, 1996.

Copy forwarded to :-

The Accountant General (Accounts), Assam, Shillong.

Senior Financial Adviser,
Personnel (A) Department.

-000-

Attested.

Advocate

NO.AAP.164/93/19
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL : A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI-6.

Dated Dispur, the 27th Nov./1995.

To

1. The Accountant General,
Meghalaya, Shillong.
2. The Accountant General, Assam
Bhangagarh, Guwahati-5.

Sub : Creation of Ex-Cadre post of Devt. Commissioner,
for Hill Areas, and Special Secretary to the Govt.
of Assam,

Sir,

In continuation of this Deptt. Letter No. AAP.164/
93/7 dt. 19/7/94 and NO. AAP.164/93/14 dt. 31/3/95. I am
directed to convey the sanctions of the Governor of Assam
to the declaration of the Ex-Cadre post of Devt. Commissioner
for Hill Areas and Spl. Secretary to the Govt. of Assam as
equivalent in status and responsibility to that of the Cadre
post of Commissioner and Secretary to the Govt. of Assam as
per provision of Rule 9(1) of IAS(pay) Rules, 1954 w.e.f. the
date of creation of the post.

Yours faithfully,

Sd/-

(D. SAIKIA)
Joint Secretary to the Govt. of Assam,
Personnel (A) Department.

||||

Memo No. AAP.164/93/19-A Dated Dispur 27th Nov./1995.

Copy to :

1. The Commissioner & Secretary to the Govt. of Assam,
Hill Areas Deptt.
2. The Devt. Commissioner for Hill Areas,
Basistha Road, Housefed complex,
Dispur, Guwahati-6.

By order of (S)

Sd/-

(D. SAIKIA)
Joint Secretary to the Govt. of Assam,
Personnel (A) Department.

|||

Attested
17/11/95
Advocate

GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL : A)
ASSAM SECRETARIAT (CIVIL) DISPUR
GUWAHATI :: 781 006

@@@
ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 15th November, 1995.

NO.AAA.52/93/110 : On return from training abroad and on expiry of leave, Shri S. Manoharan, IAS (RR-1975) is posted as Commissioner, Hills & Barak Valley Division, Assam, Guwahati with effect from the date of taking over charge vice Shri J.S.L. Vasava, IAS, relieved.

NO.AAA.52/93/110-A : Shri J.S.L. Vasava, IAS (RR-1982), Commissioner, Hills & Barak Valley Division, Assam, Guwahati and Development Commissioner for Hill Areas and Commissioner & Secretary to the Govt. of Assam, Hill Areas Department is substantively posted as Development Commissioner for Hill Areas, Assam, Guwahati.

Shri J.S.L. Vasava, IAS will continue to hold the charge of the post of Commissioner & Secretary to the Govt. of Assam, Hill Areas Department, Dispur in addition to his substantive post of Development Commissioner for Hill Areas, Assam, Guwahati.

Shri J.S.L. Vasava, IAS is relieved of the charge of the post of Commissioner, Hills & Barak Valley Division, Assam, Guwahati.

Sd/- D. SAIKIA
Joint Secretary to the Govt. of Assam

MEMO NO.AAA.52/93/110-B; Dated Dispur, the 15th November, 1995.
Copy to :-

1. The Accountant General (A & E) / (Audit), Meghalaya, Shillong.
2. The Accountant General (A & E), Assam, Bhanagarh, Guwahati-5.
3. The Chairman, Assam Administrative Tribunal, Guwahati.
4. The Chairman, Assam Board of Revenue, Guwahati.
5. The Chairman, Assam State Electricity Board, Guwahati.
6. All Spl. Commissioners & Spl. Secretaries / Commissioners & Secretaries to the Govt. of Assam.
7. The Chief Electoral Officer, Assam, Dispur.
8. The Resident Commissioner, Govt. of Assam, Assam House, Sardar Patel Marg, New Delhi.
9. The Agricultural Production Commissioner, Assam, Dispur.
10. The Commissioners & Secretary to the Governor of Assam, Dispur.
11. All Commissioners of Divisions, Assam, Dispur.
12. The Chief Secretary to the Govt. of Meghalaya, Shillong.

Contd.....2

Attested.

Advocate

13. The Under Secretary to the Govt. of India, Ministry of Personnel, P.G. & Pensions, Department of Personnel & Training, New Delhi.
14. The Under Secretary to the Govt. of India, Ministry of Personnel, P.G. & Pensions, Career Management Division, New Delhi.
15. The Secretary to Chief Minister, Assam, Dispur.
16. The OSD to Chief Minister, Assam, Dispur.
17. The Secretary, State Election Commission, Housefed Complex, Ghy-5.
18. The Principal Secretaries, Bodoland Autonomous Council, Kokrajhar/ Rabha Hasong Autonomous Council, Dudhnoi/Mising Autonomous Council, Gogamukh/Lalung Autonomous Council, Morigaon.
19. The Principal Secretaries, N.C. Hills District Council, Haflong/ Karbi-Anglong District Council, Diphu.
20. All Deputy Commissioners/ & Sub-Divisional Officers.
21. The Spl. Officer to Chief Minister, Assam, Dispur.
22. The Secretary-cum-Registrar, Office of the Lokayukta, Nabin Nagar, Guwahati.
23. All Heads of the Deptts/ All Deptts of Assam Secretariat.
24. The Supdt., Govt. Press, Bamunimaidan, Guwahati-21. for publication of the above Notification in the Assam Gazette.
25. The PS to Chief Secretary, Assam, Dispur.
26. The PS to Addl. Chief Secretaries, Assam, Dispur.
27. The PS to Member, State Planning Board, Assam, Dispur.
28. All PS to Ministers/ Ministers of State.
29. Officer concerned.
30. Department concerned. H A D
31. Personal file of the officers.

By Order etc.

15.11.95
(D. SAIKIA)

Joint Secretary to the Govt. of Assam

15/11

-303-

REC

Attested.

[Signature]
Advocate.

26

ANNEXURE-9

OFFICE OF THE ACCOUNTANT GENERAL(A&E)
MEGHALAYA ETC., SHILLONG

No.MG-I/IAS/A/15

Dtd., Shillong the ___/05/1996.

124 MAY 1996

To

Shri J. S. L. Vasava, IAS,
Development Commissioner for Hill Areas
and Commissioner & Secretary to the
Government of Assam, Agriculture Dept.
Hills Areas Deptt., Dispur,
Guwahati - 6,
Assam.

Subject: Issue of payslip in the Supertime Scale of IAS.
Ref: Your letter no. COM/AGRI/1/96 dt 18.5.96

Sir,

In inviting a reference to your D. O. No.Agri/COM/1/96 dated 25.3.96 addressed to the Principal Accountant General (Audit), Shri J. S. Mathur on the subject cited above, I am to request you to kindly refer this office D. O. No. MG-I/IAS (A)933 Assam, dated 19.1.96 (copy enclosed) regarding the promotion to the Supertime Scale of IAS, addressed to the Chief Secretary, Government of Assam, Dispur, Guwahati - 6.

Yours faithfully,

[Handwritten signature]
23/5/96

Senior Accounts Officer.

Attested.

[Handwritten signature]
Advocate

SHRI M.M. ARYA, IAS
Accountant General (A & E).
Assam, etc., Shillong.

283
Approved Post
27

AD-VENTURE-10

of c

My

DD. No. MG 1/IAS (A)/933 (Assam) dt. 19-1-96.

Dear Shri

SUBJECT: PROMOTIONS IN THE COMBINED CADRE OF IAS / IPS
(MEGHALAYA - ASSAM)

Please refer to the Government of Assam, Department of Personnel (Personnel-A) Notification No. AAA.44/88/298-298B dated 22.8.95 and No. AAA.10/94/Pl./22-22A dated 8.3.95 promoting S/Shri. H. Sonowal, S.c. Das, BVP Rao, JSL Vasava, and Dr. RK Barua respectively to officiate in the Super Time Scale of IAS from the date of taking over their charges.

The Government of India, Department of Personnel and Training, in their earlier Office Memorandum and their recent letter No. 11030/13/92-IAS-(III) dated 5.11.92 addressed to A.G., Nagaland, Kohima, has stated that the Government of India is quite clear that the guidelines laying down 16 years service condition for promotion of IAS Officers to the Super Time Scale should be complied with by all states in the interest of uniformity in respect of promotion prospects. Moreover, the first day of July of the relevant year should be reckoned as the crucial date for the purpose of computing the requisite number of years vide Government of India, Ministry of Personnel and Training letter No. 11030/13/92-AIS-II/dated May 1993 except when a relaxation in this regard is authorised by the Central Government. Also, I would like to draw your attention to a letter/clarification from Government of India, Ministry of Home Affairs under No. 16011/73/93-IPS-II dated 6.1.95 (copy enclosed) wherein, it has been clearly held that in the absence of statutory rules to the contrary, guidelines issued by Government of India assumes the nature of statutory rules.

In this connection, please find enclosed herewith a statement of such cases wherein promotions to the Super Time Scale were allowed before completion of the 16 years of service. As you are aware, this office has been authorising pay and allowances to the above officers recognising the notifications shown against each and from the dates they assumed their charges. However, now, in the light of the clear guidelines and conditions issued by the Government of India, the pay and allowances authorised earlier will have to be withdrawn through revised payslips / recovery slips.

In case the Government of India have relaxed the rule in respect of the combined cadre of Assam and Meghalaya, I request you to send me the authorisation at your earliest.

Yours sincerely,

27
17/1/96

A. G.

Shri A Bhattachajee, IAS,
Chief Secretary,
Government of Assam,
Dispur, Guwahati

Received
11/24/1

Attested.

17/1/96
Advocate.

M. S. O. (T)-9
 (See paragraph 162 and 184 (I) M. S. O. (T))

[Handwritten signature]

PAY/LEAVE SALARY SLIP

Office of the A.G. (A & F), Assam Shillong

No. MG/IAS(A)/PS/156 The 8-19-96 22 AUG 1996

J. S. L. Vasava, IAS, Development Commissioner, Hill Areas, Assam,

is informed that under No. 23 (Gazette page...) is entitled to draw pay/leave salary and allowances at the monthly rates shown below from the dates specified less the amount already drawn.

Particulars	From 15-11-95	From 1-7-96	From 3	From 4
Substantive Pay				
Officiating Pay	4800.00	4800.00		
Special Pay	250.00	250.00		
Leave Salary				
Dearness Allowance	4896.00	5328.00		
House Rent Allowance				
City Compensatory Allowance	20.00	20.00		
SDA	600.00	600.00		
GR	580.00	580.00		
Total	11146.00	11578.00		

Noted B.A.P.S. are admissible as per General Authorities.
 P.T.O.

Attested.

[Handwritten signature]
 10/10/96
 Advocate

The scale of pay is.....increment occurs on.....
every year and in the absence of instructions to the contrary, this
may be drawn till the stage.....is reached.

Signature... *[Signature]*
25/2/26
Assistant Accountant General.

Designation.....

Accounts Officer

Roll No. 12
1001 JUA S S DP - 8
Note: It is particular
to the first pay
may be entered
pay bill.

It is particular
that this slip may be attached
drawn at these rates and that No. 12 IAS T
audit number at the top of every
pay bill.

2. Deductions of fund subscriptions and recoveries of
Government dues as noted in the last pay certificate should
be effected, unless otherwise stated.

* Here state the stage at which a pause or efficiency bar operates.

Ry
No. MG/IAS(A)/PS/157

Regd.
Diopur, Guwalati

Copy forwarded to the Treasury Officer..... for information
He should insert the details of pay given above in any last pay
certificates issued by him in favour of this Government servant.

Signature.....
Saf

No. MG/IAS(A)/PS/158
Assistant Account. General.
Designation.....

Accounts Officer.
Assam, Diopur

Copy forwarded to the Executive Engineer (Building)
for information

Signature.....
Sdf

Assistant Account General.
Designation.....

Accounts Officer.

N. B. - 1. In case of leave salary the nature of leave may be specified
in columns 1 to 4 overleaf.

2. Where the leave salary during leave is allocable among
different Governments then allocation should be clearly
indicated.

Attested.
[Signature]
10/10/96
Advocate.

M. S. O. (T)-9

[See paragraph 162 and 164(i) M. S. O. (T)]

13/10/1995

PAY/LEAVE SALARY SLIP

Assistant Commissioner

Office of the A.G. (A & E.) Assam

No. MG-1/AS/A/ps/422 The Shillong
Sub J. S. L. Varadva, I.A.S. (Commissioner of
Hills and Barak Valley Div., Assam. Dated

is informed that under No. (Gazette page)
 he is entitled to draw pay/leave salary and allowances at the monthly
 rates shown below from the dates specified, less the amount already
 drawn.

Particulars	From 1.7.95	From 24.8.95	From 3	From 4
Substantive Pay				
Officiating Pay				
Special Pay	4800/-	4800/-		
Leave Salary	250/-	-		
Dearness Allowance	4512/-	4512/-		
House Rent Allowance				
City Compensatory Allowance	20/-	20/-		
I.R.	580/-	580/-		
S.D.A.	600/-	600/-		
Total	10762/-	10512/-		

N. B. - D.A. & S.R. are admissible as per General Authorities.

Payment is subject to production of
 due and drawn statement.

Attested.

[Signature]
 10/10/95
 Advocate

The scale of pay is.....increment occurs on..... every year and in the absence of instructions to the contrary, this may be drawn till the stage*is reached.

Signature.....

~~Assistant Account General.~~

Designation.....

Accounts Officer ✓

Note :- 1. It is particularly requested that this slip may be attached to the first pay bill drawn at these rates and that No. 120 may be entered as the audit number at the top of every pay bill.

2. Deductions of fund subscriptions and recoveries of Government dues as noted in the last pay certificate should be effected unless otherwise stated.

* Here state the stage at which a pause or efficiency bar operates.

No. MG-1/OAS/A/PS Regd.

Copy forwarded to the Treasury Officer for information. He should insert the details of pay given above in any last pay certificates issued by him in favour of this Government servant.

Signature.....

~~Assistant Account General.~~

Designation.....

Accounts Officer.

No. MG-1/OAS/A/PS/

Estate Officer

Copy forwarded to the Executive Engineer (Building) for information

Signature.....

~~Assistant Account General.~~

Designation.....

Accounts Officer.

M B.- 1. In case of leave salary the nature of leave may be specified in columns 1 to 4 overleaf

2. Where the leave salary, during leave is allocable among different Governments then allocation should be clearly indicated.

Resist
7/10/96

Mr. J. S. L. Vasava, IAS
Commissioner & Secretary
to the Govt. of Assam
Hill Areas Department
Dispur, Guwahati-781 006



Phone : 561815 (O)
; 561428 (O)
; 560063 (R)

NO. No. GOM/HAD/1/96.

Date...10th..JULY,..1996.

To

Shri M.M. Arya, IA & AS,
Accountant General (A&E),
Assam, etc. Shillong,
P.O. : Shillong.

Subject :- Issue of Pay Slip in the Super Time
Scale of IAS.

Ref :- A.G.'s letter' No.MG-I/IAS/A/15,
dated 24th May, 1996.

Sir,

With reference to the A.G.'s letter above and your letter enclosed alongwith the above letter addressed to Chief Secretary, Government of Assam, I would like to inform you that your letter asking State Government certain clarification is not in conformity with the Indian Administrative Service (PAY) Rules 1954.

Your attention is drawn towards Rule 3 (2A) and Rule 8 of the Rules of Indian Administrative Service (PAY) Rules 1954 and it is to inform you that Rules of the Indian Police Service are not applicable to the IAS Cadre.

The Government of Assam has promoted the undersigned in conformity with the above referred Rules and you have no legal right to withhold the issuance of Pay Slip in the Super Time Scale of IAS for the undersigned.

You are, therefore, once again requested to issue the Pay Slip of the undersigned in the Super Time Scale of IAS within 15 days, else legal action will be taken against you for deprivation of legal rights of the undersigned.

Yours faithfully,

(J.S.L VASAVA)

Attested.

Advocate.

32
3. Mehta, C/o Sri B.K. Sharma, Advocate,
Advocate Santipur, Main Branch Road,
Guwahati High Court Guwahati - 9.
And
Central Administrative Tribunal
Guwahati

Durgasabor
(Near Kamakhya Gate)
Narnarayan Path
P. O. Bharalumukh
Guwahati-781009

NOTICE

Ref No: 001 0002 1000 0000

Date 27th. July

To

The Accountant General (A & E),
Assam, Meghalaya Etc.
Shillong.


Sir,

Upon authority and as per instruction of my client
Shri JSL Vasava, IAS, Development Commissioner for Hill Areas
and Commissioner & Secy. to the Government of Assam, Agriculture
Department, Hill Areas Department, Dispur, Guwahati-6, I issue
this notice to you as follows :

1. That my aforesaid client was promoted to Supertim
Scale vide Govt. of Assam's Notification No. AAI. 44/88/298-A
dated 22.8.95 and upon such promotion, he has already assumed
charge of the promotional post and has been discharging his duty
in the promotional post.
2. That most unfortunately, his pay has been held up
due to non-issuance of pay slip from your end. Needless to say
my client has been suffering immensely due to non-receipt of
salary for all these months.
3. That my client has made repeated persuasions for
issuance of pay slip, but such persuasions have not yielded any
fruitful results. In response to one of his representations
my client has been intimated by the Senior Accounts Officer under
you, simply to refer your D.O. No. MG-I/IAS(A)/933 Assam dated
19.1.96 addressed to the Chief Secretary, Govt. of Assam. A bare
perusal of the said D.O. letter reveals that the matter has
been viewed/persued entirely on a wrong notion of the matter

Contd....P/2.

Attested.


Advocate.

(Signature)
Advocate.

by you. The contents of your D.O. letter mentioned above are not at all applicable to IAS(Pay Rules).

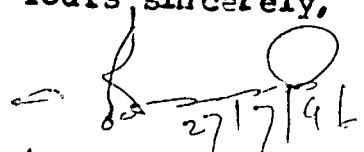
4. That no executive instructions and/or guidelines can override the provisions of IAS (PAY) Rules. It appears that you have exceeded in your jurisdiction in the matter as a consequence of which my client is being illegally deprived of his salary for all these months. In any case after the promotion and discharge of his duties in the promotional post my client cannot be deprived of his salary in the manner as has been done by you. This ~~and xxxxxx~~ is quite arbitrary, illegal and without any authority.

Under the aforesaid circumstances, please take NOTICE that if the pay slip is not issued to my client within one month enabling him to receive his salary, appropriate legal action will be taken against you. In such an eventuality, you will be solely responsible for the consequences thereof including the claim of my client for damage, compensation and interest on the salary due. My client's instructions is to ~~xxxxxx~~ initiate such proceedings as may be deemed fit and proper against you on expiry of one month notice period stipulated herein, on your failure to implement the demand made in this notice in conformity with law.

I hope and trust that there would be no occasion for unnecessary litigation bringing you into the same.

Thanking you,

Yours sincerely,


27/7/96

(B. Mehta)

Advocate.

Attested.


Advocate 11/09/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

25
Filed by Sarma
Accountant General Sec
Standing Officer
Central Administrative Tribunal
31.1.97

In the matter of :

O.A.No.225 of 1996
Shri J.S.L.Vasava ...Applicant.
-Versus-
Union of India & others...Respondents.

-AND-

In the matter of :

Show Cause/Written Statement
on behalf of Respondent No.3.

I, Shri Govinda Bhattacharjee, Sr. Deputy
Accountant General(A&E), Office of the Accountant General,
Meghalaya, Mizoram and Arunachal Pradesh, Shillong do
hereby solemnly affirm and declare as follows :-

1. That a copy of application alongwith an order dated 10.10.96 of the above noted O.A. have been served upon the respondent No.3 and myself being authorised to represent him do hereby show causes/file written statement and say categorically that save and except what is admitted in this written statement/show cause, rest may be treated as total denial by the answering Respondent.

Contd....p2.

R
31.1.97

2. That with regard to the contents made in paragraphs 1,2 and 3 of the application, the Respondent beg to state that he has no comment on them.

3. That with regard to the contents made in paragraph 4(i) of the application the Respondent beg to state that he has no comments on it.

4. That with regard to the contents made in paragraph 4(2) of the application, the Respondent beg to state that the Govt. of Assam, Department of Personnel(Personnel.A Dispur, Guwahati vide notification No.AAI.44/88/298, 298.A, 298.B, dated 22.8.95 promoted S/Shri J.S.L.Casava,IAS (RR-1982) i.e. the applicant, B.V.P.Rao,IAS(RR-1982) and Dr.R.K.Baruah,IAS (SCS-1982) to officiate in the Supertime scale of IAS. All the three officers belong to the 1982 batch of IAS and have not completed 16 years of service on the date they were promoted to the supertime scale. As these promotions violate the guidelines laid down by the Government of India in its letters No.11030/20/75-AIS(II) dated 27-12-1975 (copy annexed as Annexure R.I), No.11030/4/82-AIS(II) dated March 1983 (copy annexed as Annexure R.II), No.11030/13/92-AIS(II) dated 5.11.92 (copy annexed as Annexure R-III), D.O.letter No.11030/3/96-AIS-II dated 23-2-96 (copy annexed as Annexure R-IV) and D.O.No.11030/3/96-AIS(II) dated 30-7-96(copy annexed as Annexure R-V), this office did not authorise pay in the supertime grade/scale but continued to authorise pay in the selection grade scale. As regard the matter of entitlement of the applicant and others to the supertime scale, this office took up the matter with the Government of India vide D.O.No.MGI/IAS/A/S.T./182 dated 3-9-96, copy of which is annexed herewith as Annexure R-VI, to which reply is still awaited.

5. That with regard to the contents made in paragraphs 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10 and 4.11 of the application, the Respondent beg to state that he has no comments on them.

6. That with regard to the contents made in paragraph 4.12 of the application, the respondent beg to state that the applicant is entitled to the pay scale of supertime scale of pay of Rs.5900-200-6700/- only when he is duly promoted to the above pay scale. As the responsibility for issuing pay slips rests with the Accountant General, before issuing pay slips it is the duty of the Accountant General to ensure that the persons have been duly promoted to the post. In terms of para 13.2 of Controller & Auditor General's Manual of Standing Orders (Accounts & Entitlement) Vol-I, the pay, leave salary and other allowances admissible to various classes of Gazzeted Govt. servant are regulated with reference to Rules and Regulation made by the Competent Authority governing the condition of service before issuing a pay slip, it should be ensured that there is a sanction post that the Government Servant has been duly appointed to the post & he was actually in charge of the post during the period. A copy of extract of para 13.2 of Controller & Auditor General's Manual as referred above is annexed herewith and marked as Annexure R-VII.

Also in terms of para 1.4 of the Controller & Auditor General's Manual of Standing Order (Accounts and Entitlement) Vol-I. The Controller & Auditor General is responsible for watching the due compliance of direction issued by the President to a State which are of Financial or Quasi-Financial Character.

The promotion of the applicant was made in violation of the standing guidelines issued by the Govt. of India from time to time as mentioned in para 4 above. The promotion of the applicant in violation of the guidelines is not sustainable in law and therefore the applicant is not entitled to the benefits of the promotion. As the officer belongs to one of the All India Services, then he is bound by the instruction of the Govt. of India in the matter relating to promotions. As the salary is paid out of the Consolidated fund of the State, the respondent will not be acting in public interest to authorise financial benefits where it is not due.

7. That with regard to the contents made in paragraph 4.13 of the application, the respondent beg to state that he has no comments to offer on them.

8. That with regard to the contents made in paragraph 4.14 of the application, the Respondent beg to state that under Proviso below Rule 3 (2-A) of the IAS(Pay) Rules, 1954, the applicant is entitled to be promoted to the Selection Grade scale on entering his 14th year of service but regarding promotion to the Supertime Scale, there is nothing specifically mentioned in the rules.

But as the promotions are made with due consideration of seniority taking into account the experience in public affairs and since this is mentioned specifically in the rules that an officer can be promoted to the selection grade which carries a pay scale of Rs.4800-150-5700, not before completion of 13 years of service, it is automatically implied by the rules that an officer has to gather sufficient.....

sufficient experience in the said pay scale before he is eligible for promotion to the next higher pay scale, viz. the supertime scale of Rs.5900-200-6700/-. All the Govt. of India guidelines' which have been issued in the matter confirm the above assumption and requirements.

9. That with regard to the contents made in paragraph 4.15 of the application, the respondent beg to state that S/Shri Bhaskar Mushahary, Subhash Das and Harish Sonowal who belong to an earlier batch than that of the applicant were promoted to the supertime scale and authorised to draw pay in that scale because the Govt. of India Guidelines were brought to the notice of the respondent only on 2nd August, 1995 while above promotions were taken place on 14-9-94 and 8-3-95 respectively.

However, it has already been stated by the respondent vide letter No.MGI/IAS(A)/933(Assam) dated 19-1-96 to the Chief Secretary, Government of Assam that their benefits will have to be withdrawn through revised pay slips/recovery slips if the rules are not relaxed by the Govt. of India specifically in their cases, the matter stands referred to the Govt. of India vide letter No.MGI/IAS/ST/182 dated 3-9-96. However, action for recovering the excess pay drawn by all such officers has already been initiated vide our letter No.MGI/IAS/(A)/ST/292 dated 27.12.96 to the GOI and letter No.MG-I/IAS/(A)/ST/294 and letter No.MG-I/IAS/(A)/ST/295 dated 27.12.96 to the Chief Secretary to the Govt. of Assam and Meghalaya (copies annexed herewith and marked as Annexure R-VIII and Annexure R-IX). The actual recovery will start from February, 1997 unless the Govt. of India decides to relax the requirements of their guidelines in the matter.

10. That with regard to the contents made in paragraphs 4.16 and 4.17 of the application, the Respondent begs to state that he has no comments to offer.

11. That with regard to the contents made in paragraph 4.18 of the application the Respondent beg to state that the Govt. of India was apprised of the promotions of all the IAS officers including the applicant, who have not completed 16 years of service on the date of their promotion to the Supertime scale ~~vide~~ this office letter No.MGI/IAS(A)/937 dated 1.1.96, copy annexed as Annexure R-X. And D.O. letter No.MG.I/IAS/A/ST/182 dated 3-9-96. The Govt. of India in its D.O.letter No.11030/3/96-AIS II dated 23-2-96 (Annexure R-IV) stated that IAS officers are required to complete 16 years service for becoming eligible for promotion to the supertime scale.

12. That with regard to the contents made in paragraph 4.19 of the application, the Respondent beg to state that the copy of the Govt. of India Guidelines contained in letter No.11030/13/92-AIS(II) dated 5.11.92 is enclosed as Annexure R-III. The Govt. of India in its D.O.letters No.11030/3/96-AIS/(II) dated 30.7.96(Annexure R.V) and D.O. No.11030/3/92-AIS(II) dated 23.2.96(Annexure R-IV) stated that in the absence of statutory rules in this regard, the Guidelines which are in the nature of Administrative Instructions assume the same force as if Rules have been made in this behalf.

This statement is based on judicial pronouncement including Apex Court and respondent craves leave of citing the judgements at the time of argument. Since the IAS (Pay)

Rules.....

Rules do not provide for eligibility requirements including the number of years of service necessary for promotion to the supertime scale, the guidelines issued in this respect by the Govt. of India assume the status of Statutory Rules.

13. That with regard to the contents made in paragraphs 4.20, 5.1 and 5.3 of the application, the Respondent beg to state that he has no comments on them.

14. That with regard to the contents made in paragraphs 5.2 and 5.4 of the application, the Respondent begs to state that the action taken by the A.G.(A&E) is in conformity with the Guidelines issued by the Govt. of India through its various letters enclosed as Annexures. Therefore, it is totally and absolutely incorrect to say that the A.G.(A&E) had acted illegally and arbitrarily and without competence and jurisdiction in the matter of authorising pay in the Selection Grade Scale instead of in the Supertime scale. In fact, in withholding pay slip in the supertime scale, the AG(A&E) has all along been guided by the best interest of expenditure of public money.

15. That with regard to the contents made in paragraphs 5.5, 5.6 and 5.7 of the application, the Respondent beg to state that he has no comments on them over and above what has been stated in the preceding paragraphs and that the executive instructions issued in the matter are very much sustainable in law and are in conformity with the existing rules.

16. That with regard to the contents made in paragraph 5.8 of the application, the Respondent beg to state that the Govt. of India guidelines came to the notice of AG(A&E Assam, Shillong only on 2nd of August, 1995 and as the promotion of S/Shri Bhaskar Mushahary, Subhash Das and Harish Sonowal and others took effect from date(s) prior to August, 1995, Pay in the supertime scale was authorised to them. Therefore, the action taken by the A.G.(A&E) Assam to withhold pay in the supertime scale to those IAS officers (including the applicant) who were promoted on or after 2nd August, 1995 cannot be held to be discriminatory. Besides, the higher pay authorised to these officers are also liable to be recovered as already stated vide D.O. letter No.MGI/IAS(A)/933 (Assam) dated 19.1.96 to the Chief Secretary, Govt. of Assam, subject to the respondent's receiving concurrence from the Govt. of India which is still awaited. We have already initiated action for the recovery of excess pay drawn by the officers prior to 1982 batch through our letter No.MG-I/IAS(A)/ST/293 dated 27.10.96 to the Joint Secretary to the Govt. of India, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pension, New Delhi. Actual recovery will start from February 1997 as stated already in paragraph 9 above.

17. That with regard to the contents made in paragraph 5:9 of the application, the Respondent beg to state that the Govt. of India guidelines have specifically laid down the condition that the Indian Administrative Service Officers should complete 16 years of service to be eligible for promotion to the supertime scale. The Respondent No.3

further.....

further beg to state that in the absence of specific provisions in the IAS(Pay) Rules, 1954 or any other statutory Rules with regards to the conditions for promotion to the supertime scale, the guidelines issued by the Govt. of India in this regard assume the status of statutory Rules and are as binding as the promotions of the IAS(Pay) Rules, 1954.

That the statement made by the applicant that the incumbents are entitled to be promoted to supertime scale of IAS without any requisite years of service is wholly untenable in law. When the rules have specifically prescribed that an officer can be promoted to the selection grade only after completing 13 years of service, it is implied automatically that he is to be promoted to the selection grade after 13 years of service and not to the higher supertime scale after the same number of years of service. Interpreting rules in any other manner to suit individual circumstances will defeat the spirit of law and will also discriminate against officers in the same service serving in the other states, thereby acting against their interests.

The applicant was appointed in 1.9.82 and promoted to the supertime scale on 22nd August '95 i.e. even before completing 13 years of service. As such his promotion to the scale is liable to be quashed, unless these conditions are specifically relaxed in this case by the Govt. of India who is the only competent authority in the matter. Since, this relaxation is not yet been given by the Govt. of India, it is not within the jurisdiction of A.G.(A&E) Assam to authorise pay in the higher scale, as in that case he will be violating the principles contained in the GOI guidelines which have already been confirmed by several court judgements and he may be held to work against public interest without application of mind and discretion.

18. That with regard to the contents made in paragraph 5.10 of the application, the respondent beg to state that since the respondent No.3 is duty bound to carry out the Rules and orders etc. framed by the Govt. of India with regard to the regulation of Pay and Allowances of the All India Service Officers including Indian Administrative Service Officers who are serving in the State of Assam and since the Respondent No.3 has dutifully carried out the Rules/Guidelines framed by the Govt. of India both in letter and in spirit, his action/inaction in this case cannot be held to be untenable and is not liable to be set aside and quashed.

19. That with regard to the contents made in paragraph 6 of the application, the respondent beg to state that the applicant could have approached the Govt. of India, Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pension, New Delhi and the Comptroller and Auditor General of India before taking this extreme step.

20. That with regard to the contents made in paragraph 7 of the application, the Respondent beg to state that he has no comments on them.

21. That with regard to the contents made in paragraph 8(i)(ii)(iii)(iv)(v) and (vi) of the application regarding reliefs sought for and the grounds for reliefs, the Respondent beg to state that the applicant is not entitled to any of the reliefs sought for on the basis of the statements made in the aforesaid paragraphs and as such, the application is liable to be dismissed.

22. That with regard to the contents made in paragraph 9 of the application the Respondent beg to state that in view of the facts and circumstances of the case, the prayer for interim order may not be admitted.

23. That with regard to the contents made in paragraph 10, 11 and 12 of the application, the Respondent beg to state that he has no comments to offer on them.

24. That the respondent beg to submit that the present application is ill-conceived of law and mis-conceived of facts.

25. That the present application is devoid of merit and hence liable to be dismissed summarily.

26. That the present application is not at all maintainable in this present form and hence the same is liable to be rejected.

27. That the applicant has not exhausted all the remedies available to him.

28. That the present application is liable to be rejected on the ground of non-joinder of necessary party as Respondent.

29. That the Respondent No.3 craves leave of filing additional show cause/written statement if this Hon'ble Tribunal so directs.

30. That this show cause/written statement is filed bonafide and in the interest of justice.

VERIFICATION

VERIFICATION

I, Shri Govinda Bhattacharjee, Sr. Deputy Accountant General (A&E), Office of the Accountant General (A&E), Meghalaya, Mizoram and Arunachal Pradesh, Shillong on behalf of Respondent No.3 do hereby solemnly affirm and declare that the contents made in paragraph 1 of this show cause/written statement are true to my knowledge and those made from paragraph 2 to 23 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 *24th* day of *January*, 1997 at Shillong.

Govinda Bhattacharjee
DEPONENT

उप महालेखाकार (लेखा व हकदारी)
Deputy Accountant General (A&E)
महालेखाकार का कार्यालय
Office of the Accountant General
मेघालय, मिजोरम और अरुणाचल प्रदेश
Meghalaya, Mizoram & Arunachal Pradesh
दिल्लॉंग- 793001.
Shillong-793001.

Confidential

13

No.11030/20/75-AIS (II)
Government of India/Bharat Sarkar
Cabinet Secretariat/Mantrinandal Sachivalaya
Department of Personnel & Administrative Reforms
(Karmik Aur Prashasnik Sudhar Vibagh)

.....
New Delhi, the 27th December, 1975.

To

Shri
Chief Secretary to the
Government of

Subject:- Indian Administrative Service - promotion to
the senior scale and the super time scale -
guidelines regarding -

.....

Sir,

I am directed to say that the question of setting up of a suitable machinery and formulating guidelines for selecting the members of the Indian Administrative Service for promotion to the Senior Scale, Selection Grade and the Super time scale has been under the consideration of the Central Government for some time now. It has now been decided that Screening Committees should be set up and guidelines, as in the annexure, should be followed by the State Governments in regard to the promotion/selection of members of the Indian Administrative Service to the various grades of the Service. The action taken by the State Government in regard to the setting up of the Screening Committee etc. may be communicated to this Department in due course.

2. These instructions are in super-session of the instructions contained in the D.O. letter No.1/92/65-AIS (II), dated the 19th November, 1966.

Sd/-

(R.L. AGGARWAL)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

No.11031/20/75-AIS (II) New Delhi, dated 27th Dec., 1975

Copy to:-

1. Shri
Secretary to the Government of India
Ministry/Department of

2. The Establishment Officer to the
Government of India, Deptt. of Personnel & A R.
New Delhi.

Sd/- (R.L. AGGARWAL)

UNDER SECRETARY TO THE GOVT. OF INDIA

- 2 -
ANNEXURE TO DEPARTMENT OF PERSONNEL & A.R.
LETTER NO. 11030/20/75-AIS (II), dated 27th
DECEMBER, 1975.

I. PROMOTION TO SENIOR SCALE POSTS.

The Chief Secretary to the State Government may evaluate the performance of the members of the Indian Administrative Service in the junior scale of the Indian Administrative Service for deciding on their suitability for promotion to the senior scale posts.

II. PROMOTION TO THE SELECTION GRADE.

A Committee consisting of the Chief Secretary and two other senior officers of the State Government may screen the members of the Indian Administrative Service in the junior scale of the Indian Administrative Service for promotion to the Selection Grade on the basis of 'merit with due regard to seniority'.

III. PROMOTION TO SUPERTIME SCALE POSTS.

(1) Composition of the Screening Committee.

The Screening Committee may consist of three officers - the Chief Secretary and two officers in the State at the level of Additional Secretary to the Government of India. If there is only one Additional Secretary level Officer, the senior most officer in the super time scale (Rs. 2500-2750) may be included. The Screening Committee for the Joint Cadre of Union Territories should consist of Home Secretary as Chairman and Secretary, Department of Personnel and Administrative Reforms, and a nominee of the Cabinet Secretary, who could nominate either the Additional Secretary, Ministry of Home Affairs dealing with the Union Territories or an officer of the Joint Cadre of the Union Territories, depending on the exigencies of the situation, as Members.

(2) Zone of consideration.

The zone of consideration may consist of all the members of the Indian Administrative Service who have completed 16 years in the service.

(3) Method of selection.

(i) Selection should be based on merit with due regard to seniority as provided in sub-rule 2(A) of Rule 2 of the Indian Administrative Service (Pay) Rules, 1954.

(ii) Suitability of officers to hold super-time scale posts may be judged by evaluating their character roll record as a whole, and general assessment of their work.

contd.....

Official Seal
Bhubaneswar

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CONFIDENTIAL

(iii) An officer against whom a vigilance or departmental inquiry has been started should also be assessed and the assessment placed in a sealed cover. The question of including him in the panel should be considered when the result of the inquiry is known.

(iv) The reasons for supersession may be indicated in the case of officers who are not included in the panel.

(v) An officer who has not been included in the panel in the first instance should be eligible for re-consideration after earning two more reports.

(vi) Special review may be done in cases where adverse remarks in the Officers' annual confidential reports are expunged subsequently as a result of their representations.

(4) Period of validity of the panel.

- (i) A fresh panel may be prepared as soon as all the officers on the previous panel have been provided.
- (ii) If a vigilance or departmental enquiry has been started against an officer on the panel after a preliminary enquiry establishing charges prima facie, the said officer shall not be promoted to the super-time scale and will be deemed to have been excluded from the list, pending the result of the enquiry.
- (iii) Subject to exigencies of service, the appointments to the super-time scale may be made in the order in which names appear in the panel.

.....

Sr. Secretary
Office of the A. G.
Rajhalaya, etc. Shillong

No. 11030/4/82-AIS (II)
 Government of India
 Ministry of Home Affairs
 Department of Personnel and A. R.

ANNEXURE - R-II

New Delhi, the March, 1982

To
 Shri
 Chief Secretary to the
 Government of _____

Subject:- Indian Administrative Service- Promotion/
 Selection to the Super-time Scale-
 Guidelines regarding.

Sir,

I am directed to say that guidelines for promotion/selection of the members of the Indian Administrative Service to the senior scale, selection grade and super-time scale of the Service were laid down by the Government of India and communicated to the State Governments in this Department's letter No. 11030/20/75-AIS (II) dated 27th December, 1975 (copy enclosed). While the guidelines are being strictly followed by most of the State Governments, it has come to the notice of the Government of India that a few State Governments are not following item III (?) of the guidelines viz. that the zone of consideration for promotion to super-time scale posts may consist of all members of the Service who have completed 16 years in the Service. In some States promotions to super-time scale of the Service have been given on completion of 13 to 15 years of Service. Such a situation is bound to create resentment in the other State Cadres, apart from the fact that it is not in accordance with the guidelines laid down by the Government of India.

2. The Government of India, therefore, invite the attention of the State Government to the guidelines referred to above and reiterate that the guidelines should invariably be adhered to by all State Governments.

Yours faithfully,

Chitra Chopra
 (Smt. Chitra Chopra)

Deputy Secretary to the Government of India

Copy forwarded for information/necessary action to MHA (UT3) Section.

Chitra Chopra
 (Smt. Chitra Chopra)
 Deputy Secretary to the Government of India

Accountant General
 Office of the
 Secretary, etc., Shillong

No. 11030/13/92-AIS(II)
Government of India
Department of Personnel & Training

ANNEXURE-R-III

North Block, New Delhi - 110001,
dated 5th November, 1992

To

The Accountant General,
Nagaland,
Kohima. //

Sub: Release of supertime scale to IAS Officers

Ref: Accountant General (A&E) Nagaland No. GA-1/IAS/91-92/79 dated 14.5.92.

.....

Sir,

I am directed to refer to the above mentioned correspondence and to say that in continuation of our earlier letter of even no. dated 17.8.92, the matter has been re-considered in this Ministry and it has been decided that while the Govt. of India are clear that the guidelines laying down '16 years' service condition for promotion to IAS Officers to the supertime scale, should be complied with by all States in the interest of uniformity in respect of promotion prospects.

2. However, looking to the circumstances of the present case, and the fact that the promotion orders have been issued quite sometime back and also that the State Govt. are competent to make appointments under the Cadre Rules, it has been decided that the pay slips in respect of affected officers may be released.

Yours faithfully,

(M.K. Roy)

Director to the Government of India
Tel: 3014398

Handwritten notes:
In. 11030/13/92-AIS(II)
Office of the A.C. Shillong
11/11/92



V. LAKSHMI RATAN

संयुक्त सचिव
JOINT SECRETARY (S&V)
TELE. 3013668

D.O.No.11030/3/96-AIS.

भारत सरकार
कामिक और प्रशिक्षण विभाग
कामिक, लोक शिकायत तथा पेंशन मंत्रालय
नई दिल्ली

GOVERNMENT OF INDIA
DEPARTMENT OF PERSONNEL AND TRAINING
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS
NEW DELHI

February 23 1996
23 FEB 1996

Annexure - R IV

This is regarding grant of promotion in the Supertime Scale to the IAS officers serving under your State Government. They are required to complete 16 years service for becoming eligible for this grade but it has been brought to our notice by the AC(A&E), Assam, Meghalaya etc. that these officers have been getting promotion in the Supertime Scale before completion of 16 years service for the past many years. In some cases, it has been found that promotion has been allowed in as less as 13 years time.

2. Though there are no statutory rules that have been framed by the Government of India in this regard, promotion to the Supertime Scale are regulated by the Guidelines contained in our letter No.11030/20/75-AIS.II dated 27th December, 1975 (copy enclosed). In the absence of any Statutory Rules in this behalf, the Guidelines which are in the nature of Administrative Instructions assume the same force as if Rules have been made in this behalf. These Guidelines have been issued in the public interest to ensure that persons promoted to the Supertime Scale acquire necessary experience in the lower levels by rendering certain minimum years of service at these levels to enable them to be effective in the strategic decision-making levels of the Administration. Promotion of officers to the Supertime Scale without giving the benefit of acquiring necessary experience in the lower levels is counter-productive for Administrative efficiency over a long run.

It is seen that the IAS officers belonging to 1973 batch onwards have been allowed Supertime Scale before completion of 16 years service. Continuous and systematic violation of the Guidelines by your State Government is detrimental to the interests of Cadre Management of the Service at the All India level too.

4. Under the circumstances, it is suggested that the State Government may not violate the Guidelines in future and it may be ensured that the guidelines are strictly followed in all future cases.

5. I would request you to do the needful and send us an urgent reply in the matter.

With regards,

Yours sincerely,

Sd/-

(V. Lakshmi Ratan)

A. Bhattacharya
Secretary Assam, Guwahati
K. K. Sinha
Secretary, Meghalaya, Shillong

Copy for information to the Dy. Accountant General (A & E), SHILLONG, with his letter no. MG-I/IAS(A)/937, dt. 22.12.95

(T.P. DHINGRA)
DUR OFFICE

Shillong, etc. Shillong

Sent

Recd A.J.P.I.
17/8/96

7 MAR 1996

V. Lakshmi Ratan

संयुक्त सचिव
JOINT SECRETARY
Tel: 3013668



सुशासन बालिका परिषद देश का
CARE FOR THE GIRL CHILD

भारत सरकार
कामिक और प्रशिक्षण विभाग
कामिक, लोक शिकायत तथा पेंशन मंत्रालय
नई दिल्ली
GOVERNMENT OF INDIA
DEPARTMENT OF PERSONNEL AND TRAINING
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS
NEW DELHI

ANNEXURE-B-V

No.11030/3/96-AIS(II)

July 25, 1996 3 JUL 1996

Dear Shri

Please refer to your letter No. AAI.44/88 Pt-1/35 dated 4.5.1996 regarding grant of supertime scale to the IAS Officers before completion of 16 years service.

2. The advice tendered in our d.o. letter of even number dated 23.2.1996 is based on several court judgements and the legal position obtaining in this regard. The judgements delivered in the cases of Amarjeet Singh Vs State of Punjab (ATR 1975 SC 984) and Distt Registrar, Palghat Vs M.B. Koyya Kutty (SLJ 1979 SC 2787) are only two of such pronouncements, declaring that the executive instructions - if not contrary to the statutory rules, assume the status of rules if there are no statutory rules to cover any particular aspect.

3. In view of the above explained position, it would not be correct to assume that the guidelines cannot have the force of statutory rules unless they are incorporated in the rules. The State Government would appreciate that it is always not possible nor necessary to frame statutory rules on each and every subject.

4. It is also apparent from the correspondence that promotions have been given without considering the number of vacancies arising in supertime scale and this has not only led to the violation of the instructions but it has also resulted in over utilisation of the State Deputation Reserves (SDR).

5. You are, therefore, requested to follow the rules as well as the guidelines and avoid granting supertime scale to the members of the IAS before completion of 16 years of service and without the availability of vacancies in that scale.

Yours sincerely,
sd/-

(V. Lakshmi Ratan)

Copy to: The Accountant General (A&E),
Meghalaya,
SHILLONG.

A.K. Sarkar
Director (S)



Accounts Officer
Office of the
Meghalaya, etc., SHILLONG

10/10/96
M 26/8

OFFICE OF THE ACCOUNTANT GENERAL (AG) MEGHALAYA ETC. SHILLONG.

D.O. NO. HG. I/IAS/A/S.T/ 182

Dated Shillong the 3rd Sep. 1996.

Dear Shri,

Please refer to your D.O. letter No. 11030/3/96-AIS, II dated 23rd February, 1996 addressed to Shri A. Bhattacharjee, Chief Secretary, Government of Assam and also to Shri K.K. Sinha, Chief Secretary, Government of Meghalaya, a copy of which was also forwarded to us with reference to our earlier letter NO. HG. I/IAS(A)/937 dated 22.12.95 regarding promotion of I.A.S. Officers in the super time Scale of Pay before 16 years of service and fixation of their Pay. It was brought to your notice through our earlier letter that the Government of Assam, and Government of Meghalaya have been promoting the IAS Officers to the Super Time Scale much before completion of 16 years of service as stipulated by the Govt. of India's guidelines. This practice has been going on since the last few years starting with the 1973 batch in flagrant violation of the G.O.I. guidelines issued since 1975. As per the statement forwarded by us along with our earlier letter referred to above, there were altogether 29 such Officers promoted to the Super Time Scale (Annexure - I). Even after your above mentioned letter which clearly instructed the State Government not to violate the guidelines in future, one Officer has been promoted (Shri J.P. Prakash, 1982 batch).

As per Government of India guidelines regarding promotion of IAS Officers, an Officer is to be promoted to the Selection grade only after completion of 13 years of service but seven Officers belonging to the 1982 batch of IAS have been promoted to the Super Time Scale after 13 years of service (Annexure-II). In several cases, Officers have been promoted to the Super time Scale after spending not even an year in the Selection Grade (Annexure -III). From the same annexure, it will be seen that Officers have been promoted to the Super time Scale even without spending 3 years at the Selection Grade, the minimum period stipulated by the G.O.I. guidelines. Repeated violation of the G.O.I. guidelines like this has resulted in an extremely anomalous situation as some of the Officers are promoted to Super Time Scale after completion of 13 years while some are promoted to Selection Grade after the same period of

contd.....

(54)

service. This is causing a great problem for this Office to fix the pay of these Officers. I would therefore, request you to clearly advise us as to the manner in which we should regulate the pay of these Officers. In this regard, I would like to seek your clear instruction on how to fix the pay of (i) The Officers belonging to batches prior to 1982 batch who were promoted after 14 years of service, (ii) the Officers belonging to 1982 batch who were promoted after 13 years of services.

So far, we have not been issuing Pay slips in the Super time scale to the Officers belonging to the 1982 batch who have been promoted to Super Time Scale in violation of C.O.I. guidelines. In my opinion, Assam Government should be instructed to revoke the promotions orders till the completion of 16 years of service. Regarding the earlier cases, however, we have been issuing the regular Pay slips following your instructions given to the Accountant General (A&E) vide your letter NO.11030/13/92-AIS(II) dated 5th November 1992 on similar cases.

I would also like to inform you that one of the Officers Shri Yasava has threatened to go to Court on this issue and has already issued Advocate notice calling upon us to pay the Super Time Scale salary within one month from 27.7.96. Any ambiguity on our part may lead to avoidable litigation. As such, I would request you to kindly give us clear and early instructions on the matter.

The matter may please be treated as most urgent.

Yours Sincerely,

SA/-

Accountant General
(A&E)

Shri V. Lakshmi Ratan,
Joint Secretary, Govt. of India,
Department of Personnel & Training
Ministry of Personnel, Public Grievances
& Pension, New Delhi.

[Handwritten Signature]

Accounts Officer
of the A.G. Meghalaya (Accounts),
Shillong.

ANNXURE - I

LIST OF I.A.S OFFICERS OF ASSAM-MEGHALAYA JOINT CADRE PROMOTED TO THE SUPER TIME I.A.S.
IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

Sl. No	Name	State Govt	Date date for promotion to ST scale	Date actually promoted to ST	Govt Notification no. & date
1	Shri C.B. Rajeeb. RR 1973	Asssam	01-07-1989	01-04-1988 Proforma Promotion	AAI. 17/84/102, dtd. 01-02-1992
2.	Shri S.K. Tewari. RR 1973	Assam	01-07-1989	01-04-1988	AAI. 53/88/3, dtd. 30-09-1988
3.	Shri L. Rynjah. RR 1974	Asssam	01-07-1990	05-03-1990	AAI. 17/84/64, dtd. 06-03-1990
4.	Shri P.J Bazeley. RR 1973	Meghalaya	01-07-1989	29-04-1988	PER.37/87/10, dtd. 28-04-1988
5.	Shri S. Monoharan, RR 1975	Asssam	01-07-1991	15-11-1990	AAI. 17/84/72-C, dtd. 12-11-1990
6.	Shri P.C. Sarma. RR 1975	Assam	01-07-1991	12-11-1990	AAI. 17/84/72-A, dtd. 11-11-1990
7.	Shri C.K. Das. RR 1975	Assam	01-07-1991	13-11-1990	AAI. 17/84/72-D, dtd. 12-11-1990
8.	Kumari P.D. Das. RR 1975	Meghalaya	01-07-1991	15-12-1990	PER.37/87/30, dtd. 07-12-1990
9.	Shri Pradip Singh. RR 1978	Assam	01-07-1994	14-07-1993	AAI. 44/88/104-A, dtd. 13-07-1993
10.	Shri P.P. Verma. RR 1978	Assam	01-07-1994	01-07-1993	AAI. 44/88/215, dtd. 08-02-1995
11.	Shri H.M. Cairae. RR 1978	Asssam	01-07-1994	13-07-1993	AAI. 44/88/126, dtd. 26.11.1993
12.	Shri G.P. Wahlang. RR 1978	Meghalaya	01-07-1994	20-09-1993	PER. 5/93/Pt.III/5-E Dtd.18-09-1993

Sr. Secretary
Office of the
Meghalaya, etc, Shillong

27/11/97

ANNXURE - I (Contd)

LIST OF I.A.S OFFICERS OF ASSAM-MEGHALAYA JOINT CADRE PROMOTED TO THE SUPER TIME I.A.S.
— IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

13.	Shri S.K. Srivastava. RR 1978	Meghalaya	01-07-1994	20-09-1993 Proforma Promotion	PER.37/87/87, dtd. 25-07-1995
14.	Shri H.Chinkhentang. RR 1978	Meghalaya	01-07-1994	20-09-1993	PER. 5/93/Pt.III/5-F, dtd. 18-09-1993
15.	Shri A.K.Thakur. RR 1979	Assam	01-07-1995	13-07-1993	AAI. 44/88/104, dtd. 13-07-1993
16.	Shri J.Khosla. RR 1979	Assam	01-07-1995	12-11-1993	AAI. 44/88/124 dtd. 12-11-1993
17.	Smti E. Choudhury. RR 1979	Assam	01-07-1995	13-07-1993	AAI. 44/88/121 dtd. 15-10-1993
18.	Shri B.K.Dev Verma. RR 1979	Meghalaya	01-07-1995	19-09-1993	PER. 5/93/Pt.III/5-G, dtd. 18-09-1993
19.	Shri K. D. Tripaty. RR 1980	Assam	01-07-1996	23-09-1994	AAI. 44/88/196 dtd. 24-10-1994
20.	Shri B.Mushahary. RR 1980	Assam	01-07-1996	23-09-1994	AAI. 44/88/179 dtd. 14-09-1994
21.	Shri S.C..Das. RR 1981	Assam	01-07-1997	28-03-1995	AAI. 10/94/Pt./22 dtd. 08-03-1995
22.	Shri H. Sonowal. RR 1981	Assam	01-07-1997	29-03-1995	AAI. 10/94/Pt./22-A, dtd. 08-03-1995

Sr. Deputy Officer
Office of the
Caghalaya, etc., Shillong

LIST OF I.A.S OFFICERS OF 1982 BATCH OF ASSAM-MEGHALAYA JOIN CADRE PROMOTED TO THE SUPER TIME SCALE IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

23.	Shri S.S. Gupta. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER.7/95/Pt./23-D, dtd. 12-09-1995
24.	Shri K.S. Kropha. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER.7/95/Pt./23-D, dtd. 12-09-1995
25.	Shri H.K.Mazhari. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER.7/95/Pt./23-D, dtd. 12-09-1995
26.	Shri B.V.P.Rao. RR 1982	Assam	01-07-1998	Joined the post on 5-10-95 (Pay Slip not issued)	AAI. 44/88/298, dtd. 22.08.1995
27.	Shri J.S.L. Vasava, RR 1982	Assam	01-07-1998	Joined the Post on 23-8-95 (A/N) (Pay Slip not issued)	AAI. 44/88/298-A, dtd. 22.08.1995
28.	Shri R.K. Baruah, RR 1982	Assam	01-07-1998	Charge Report not yet received. (Pay Slip not issued)	AAI. 44/88/298,-B dtd. 22.08.1995
29.	Shri J.P.Prakash. RR 1982	Assam	01-07-1998	16-03-96 (Pay Slip not issued)	AAI. 44/88/Pt.II/5, dtd. 11.03.1996

Rajm 27/10/97
Sr. Accounts Officer
Office of the A. C.
Meghalaya, etc. Shillong

ANNXURE - II

LIST OF I.A.S OFFICERS OF 1982 BATCH OF ASSAM-MEGHALAYA JOIN CADRE PROMOTED TO THE SUPER TIME SCALE IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

			<i>2nd we date for promotion to SA scale</i>	<i>2nd date actually promoted</i>	<i>Asst. notification no or date</i>
1.	Shri S.S. Gupta. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95	PER.7/95/Pt./23-D, dtd. 12-09-1995
2.	Shri K.S. Kropha. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95	PER.7/95/Pt./23-D, dtd. 12-09-1995
3.	Shri H.K. Mazhari. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95	PER.7/95/Pt./23-D, dtd. 12-09-1995
4.	Shri B.V.P.Rao. RR 1982	Assam	01-07-1998	Joined the post on 05-10-95	AAI. 44/88/298, dtd. 22.08.1995
5.	Shri J.S.L. Vasava, RR 1982	Assam	01-07-1998	Joined the Post on 23-8-95 (A/N)	AAI. 44/88/298-A, dtd. 22.08.1995
6.	Shri R.K. Baruah, RR 1982	Assam	01-07-1998	Charge Report not yet received.	AAI. 44/88/298,-B dtd. 22.08.1995
7.	Shri J.P. Prakash. RR 1982	Assam	01-07-1998	16-03-96	AAI. 44/88/Pt.II/5, dtd. 11.03.1996

Sr. Secretary, Office of the A. & S. Meghalaya, etc., Shillong

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ANNXURE - III

STATEMENT SHOWING I A S OFFICERS PROMOTED TO S.T. SCALE AFTER SPENDING SOME TIMES
IN THE S. G. SCALE.

		<i>date of Promotion to SG scale</i>	<i>date actually promoted to ST scale</i>	<i>Time spent at SG</i>
1	Shri C.B. Rajeeb. RR 1973	1-1-86	01-04-1988	<u>2 Years 3 Months</u>
2..	Shri S.K. Tewari RR 1973	1-1-86	01-04-1988	<u>2 Years 3 Months</u>
3.	Shri L. Rynjah RR 1974	1-7-87	05-03-1990	<u>2 Years 8 Months 4 days.</u>
4..	Shri S. Monoharan, RR 1975	1-7-88	15-11-1990	<u>2 Years 4 Months 14 days</u>
5..	Shri P.C. Sarma. RR 1975	1-7-88	13-11-1990	<u>2 Years 4 Months 12 days</u>
6..	Shri Pradip Singh. RR 1978	1-7-91	14-07-1993	<u>2 Years 13 days</u> (Since Resigned)
7..	Shri P.P.Verma. RR 1978	1-7-91	01-07-1993	<u>2 Years</u>
8..	Shri H.M.Cairae. RR 1978	1-7-91	03-12-1993	<u>2 Years 4 Months 2 days</u>
9..	Shri A.K.Thakur. RR 1979	1-7-92	13-07-1993	<u>1 Year 12 days</u>
10..	Shri J.Khosla. RR 1979	1-7-92	12-11-1993	<u>1 Years 4 Month 11 days</u>
11..	Smti E. Choudhury. RR 1979	1-7-92	13-07-1993	<u>1 Year 12 days</u>

Rajendra Singh
J. Accounts Officer
Office of the A. G.
Bopalaya, etc. Bhitona

ANNEXURE - III

(Contd.)

20

STATEMENT SHOWING I A S OFFICERS PROMOTED TO S.T. SCALE AFTER SPENDING SOME TIMES
IN THE S. G. SCALE.

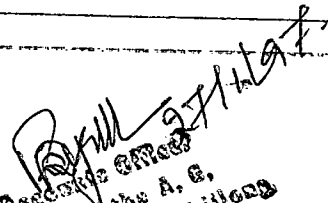
12.	Shri K. D. Tripaty. RR 1980	1-7-93	23-09-1994	<u>1 Years 4 Months</u>
13.	Shri B.Mushahary. RR 1980	1-7-93	23-9-1994	<u>1 Years 2 Months 22 days.</u>
14.	Shri S.C. Das. RR 1981	1-7-94	28-03-1995	<u>8 Months 27 days</u>
15.	Shri H. Sonowal. RR 1981	1-7-94	29-3-1995	<u>8 Months 28 days</u>
16.	Shri P.J Bazeley. RR 1973	1-1-86	29-04-1988	<u>2 Years 3 Months 28 days.</u>
17.	Smti P.D. Das. RR 1975	1-7-88	15-12-1990	<u>2 Years 5 Months 14 days.</u>
18.	Shri G.P. Wahlang. RR 1978	1-7-91	20-09-1993	<u>2 Years 2 Months 19 days.</u>
19.	Shri S.K. Srivastava. RR 1978	1-7-91	20-09-1993 (Proforma Promotion)	<u>2 Years 2 Months 19 days.</u>
20.	Shri H.Chinkhentang, RR 1978	1-7-91	20-09-1993 .	<u>2 Years 2 Months 19 days.</u>
21.	Shri B.K.Dev Verma. 1979	1-7-92	19-09-1993	<u>1 Year 2 Months 18 days.</u>
22.	Shri S.S.Gupta. 1982	1-7-95	12-09-1995	<u>2 Months 11 days</u>

27/11/97
Sr. Deputy Officer
Office of the A. G.
Bhubaneswar, etc. Shillong

ANNXURE - III

STATEMENT SHOWING I A S OFFICERS PROMOTED TO S.T. SCALE AFTER SPENDING SOME TIMES
IN THE S. G. SCALE.

23.	Shri K.S.Kropha. RR 1982		1-7-95	12-09-1995	<u>2 Months 11 Days.</u>
24.	Shri H.K.Mazhari RR 1982		1-7-95	12-09-95	<u>2 Months 11 Days.</u>
25.	Shri B.V.P.Rao. RR 1982	Pay slip issued on 1.7.95	1-1-95	5-10-95	<u>3 Months 5 days.</u>
26.	Shri J.S.L. Vasava. RR 1982	Pay Slip issued on 1.7.95	1-1-95	23-08-95	<u>1 Month 23 days.</u>
27.	Shri R.K.Baruah. RR 1982	Pay Slip issued on 1.7.95	1-1-95	Charge Report Not Received.	-----
28.	Shri J.P.Prakash RR 1982	Pay Slip issued on 1.7.95	1-1-95	16-03-96	<u>8 Months 16 days.</u>


 Sr. Accounts Officer
 Office of the A. G.
 Bhubaneswar, etc, Odisha

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Annexure - R + VII

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA, ETC., SHILLONG.

ABSTRACT OF PARA 13.2 OF CHAPTER 13 OF
" GAZETTED GOVERNMENT SERVANTS ENTITLEMENT"
OF " COMPTROLLER AND AUDITOR GENERAL'S
MANUAL OF STANDING ORDERS (ACCOUNTS &
ENTITLEMENT) VOL - I "

The pay, leave salary and other allowance admissible to various classes of Gazetted Government servants are regulated with reference to the rules and regulations made by competent authority governing the conditions of service. Before issuing a payslip it should be ensured that there is a sanctioned post, that the Government servant has been duly appointed to the post and that he was actually in charge of the post during the period.

No pay should be passed for a Gazetted Officer beyond the date of attaining the age of superannuation or on the expiry of a term of extension of service sanctioned by competent authority.

[Signature] 27/1/97
Sr. Accounting Officer
Office of the A. G.
Meghalaya, etc. Shillong

20

MG-I/IAS/(A)/ST/29

the 26th Dec '96

27 DEC 1996

Dear Shri

P 29^c F/y' ✓
P 79^c F/x' ✓

Kindly refer to this office DO letter No.MG-I/IAS/(A)/37 dated 1.1.96 to the Secretary, M/o Personnel, G/o India and my DO letter No.MG-I/IAS/(A)/ST/¹⁸² dated 3.9.96 on the subject of authorising Pay to the IAS officers belonging to the Assam-Meghalaya cadre who have been promoted to Super Time Scale of IAS before completing 16 years of service, the minimum time required as per your guideline Nos 11030/20/75 AIS(II) dt 27.12.75, 11030/4/82 AIS(II) dt March 1982, 11030/3/96 AIS(II) dated 23.2.96 etc. Alongwith my DO letter dated 3.9.96, I have sent you the list of officers who have been promoted to Super Time Scale before completing 16 years of service, from which it can be seen very clearly that Govt of Assam & Meghalaya have been promoting these officers in ^{flagrant} frequent violation of the Govt. of India guidelines issued since 1975 and despite repeated reminders from you in this ^{regards} respect. As I had informed you through my letter dated 03.09.96 that repeated violations of the Govt. of India guidelines by the State Govts. have resulted in an extremely anomalous situation and any ambiguity on our part is likely to lead to unnecessary litigation and therefore, I had sought your clear instructions in this matter. Now we have received a notice from the Central Administrative Tribunal, Guwahati asking us to file counter affidavit on a petition filed by one officer belonging to the 1982 batch. This has also been communicated to you by our FAX message dated 18.12.96 (Memo No.MG-I/IAS(A)/ST/285).

[Handwritten signature]
Sr. Accounts Officer
Office of the A. G.
Meghalaya, etc. Shillong

P 89^c F/z'

64

As I had earlier informed you, we are not authorising Pay ~~slip~~ in the Super Time Scale to the officers belonging to 1982 batch who have been promoted in violation of Govt. of India guidelines and instructions on the matter. Unless the Govt. of India gives relaxation in the requirement of 16 years of service, specifically in these cases, this office would not be in a position to issue Pay-Slips in the Super Time Scale to these officers. (However, pay in the Super Time Scale had been ^{authorised} issued to similarly placed officers belonging to earlier batches (i.e. before 1982) subject to confirmation by the Govt. of India which has not been received so far. Thus this differential treatment may be viewed by the Central Administrative Tribunal as tantamounting to discrimination. To avoid this, the only alternative left to us is to recover the pay ^{authorised} ~~granted~~ to such officers for the period between their promotion to the Super Time Scale and completion of 16 years of service, unless the Govt. of India gives specific relaxations in these cases.)

Sr. Secretary
Office of the S.S.
Kuchhalaya, etc, Shimla

27/1/97

I would, therefore, request you to kindly issue appropriate orders in these cases ^{at} on an early date and convey the same to us so that necessary action can be taken at this end. As the CAT case is likely to come up for hearing in the month of January 1997, I would like to request you to kindly convey the order of Govt. of India by 31st Jan'97 at the latest. Unless we receive any order ^{from you} in the matter ~~it~~ by 31st Jan'97, it will be treated that the Govt. of India is unwilling to relax the requirement of 16 years of service in these cases and action for recovery of the excess pay drawn by the officers will be initiated at this end.

I would like to reiterate that any ambiguity in the matter will lead to further litigations, especially since this concerns all India Service Officers and therefore any ambiguous stand may have ^{wider} ~~under~~ repercussions.

This matter may please be given Top Priority.

Yours sincerely,

Shri V. Lakshmi Ratan,
Joint Secretary, Govt. of India,
Department of Personnel & Training,
Ministry of Personnel,
Public Grievances & Pension,
New Delhi.

26/11

26/12

[Handwritten Signature]
Sr. Accountant
Office of the A. G.
Gachalaya, etc. Shillong

(28)

(4)

(21)

ANNEXURE - R - IX

MG-I/IAS/(A)/ST/2

the 26th Dec '96

27 DEC 1996

Dear Shri

Please refer to my DO letter No. MG-I/IAS/A/ST/183 dated 30th August 1996 on the subject of authorising Pay to the officers promoted to Super Time Scale before completing 16 years of service in violation of the Govt. of India guidelines issued in the matter from time to time. As you are aware this office has not authorised Super Time Scale Pay to the officers belonging to the 1982 batch and onwards who have been promoted to the Super Time Scale in violation of the Govt. of India guidelines. (However, similarly placed officers who have been promoted to the Super Time Scale prior to the 1982 batch have been authorised Pay Slip in the Super Time Scale by this office pending confirmation by the Govt. of India. ^(Just enclosed) I would request you to kindly seek Govt. of India's relaxation of this requirement of 16 years of service specifically for these officers and convey the same to us at an early date. We have also written to the Govt. of India on the matter vide our letter No. MG-1/IAS/(A)/ST/293 dt 27.12.96 addressed to the Jt. Secretary, Dept. of Personnel. As you are aware, a petition filed by an officer belonging to the 1982 batch is already pending before the Central Administrative Tribunal. If no relaxation is received by 31st Jan '97 we shall be constrained to initiate action for recovery of the excess pay drawn by these officers.

[Handwritten signature]
 Sr. Secretary
 Office of the Jt. Secy.
 Dept. of Personnel, Dispur, Assam

Yours sincerely,


Shri T.K. Kamilla,
 Chief Secretary,
 Govt. of Assam,
 Dispur,
 Guwahati-6.

[Handwritten signature]
 26-12

ANNEXURE - I
LIST OF I.A.S OFFICERS OF ASSAM-MEGHALAYA JOINT CADRE PROMOTED TO THE SUPER TIME I.A.S.
IN VIOLATION OF STATUTORY I.A.S (PAY) RULES AND GOVT. OF INDIA GUIDELINES

64

Sl. No	Name	State <i>State</i>	Date of for promotion <i>ST rule</i>	Date of promotion <i>ST</i>	Govt. Notification no. & date
1	Shri C.B. Rajeeb. RR 1973	Assam	01-07-1989	01-04-1988 Promotional Promotion	AAI 17/84/102, dttd. 01-02-1992
2	Shri S.K. Tewari. RR 1973	Assam	01-07-1989	01-04-1988	AAI 53/88/3, dttd. 30-09-1988
3	Shri L. Rynjah. RR 1974	Assam	01-07-1990	05-03-1990	AAI 17/84/64, dttd. 06-03-1990
4	Shri P.J. Bazeley. RR 1973	Meghalaya	01-07-1989	29-04-1988	PER. 37/87/10, dttd. 28-04-1988
5	Shri S. Monoharan, RR 1975	Assam	01-07-1991	15-11-1990	AAI 17/84/72-C, dttd. 12-11-1990
6	Shri P.C. Sarma. RR 1975	Assam	01-07-1991	12-11-1990	AAI 17/84/72-A, dttd. 11-11-1990
7	Shri C.K. Das. RR 1975	Assam	01-07-1991	13-11-1990	AAI 17/84/72-D, dttd. 12-11-1990
8	Kumari P.D. Das. RR 1975	Meghalaya	01-07-1991	15-12-1990	PER. 37/87/30, dttd. 07-12-1990
9	Shri Pradip Singh. RR 1978	Assam	01-07-1994	14-07-1993	AAI 44/88/104-A, dttd. 13-07-1993
10	Shri P.P. Verma. RR 1978	Assam	01-07-1994	01-07-1993	AAI 44/88/215, dttd. 08-02-1995
11	Shri H.M. Cairae. RR 1978	Assam	01-07-1994	13-07-1993	AAI 44/88/126, dttd. 26.11.1993
12	Shri G.P. Wahlang. RR 1978	Meghalaya	01-07-1994	20-09-1993	PER. 5/93/PI/III/SE Dttd 18-09-1993


 P. S. Mahanta
 Joint Secretary
 Assam Meghalaya Joint Cadre
 Dis. 1993

LIST OF I.A.S OFFICERS OF ASSAM-MEGHALAYA JOINT CADRE PROMOTED TO THE SUPER GRADES
IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

13.	Shri S.K. Srivastava. RR 1978	Meghalaya	01-07-1994	20-09-1993 Proforma Promotion	PER.37/87/87, dtd. 25-07-1995
14.	Shri H.Chinkhentang, RR 1978	Meghalaya	01-07-1994	20-09-1993	PER. 5/93/Pt.III/5-F, dtd. 18-09-1993
15.	Shri A.K.Thakur. RR 1979	Assam	01-07-1995	13-07-1993	AAI. 44/88/104, dtd. 13-07-1993
16.	Shri J.Khosla. RR 1979	Assam	01-07-1995	12-11-1993	AAI. 44/88/12-1 dtd. 12-11-1993
17.	Smti E. Choudhury. RR 1979	Assam	01-07-1995	13-07-1993	AAI. 44/88/121 dtd. 15-10-1993
18.	Shri B.K.Dev Verma. RR 1979	Meghalaya	01-07-1995	19-09-1993	PER. 5/93/Pt.III/5-G, dtd. 18-09-1993
19.	Shri K. D. Tripaty. RR 1980	Assam	01-07-1996	23-09-1994	AAI. 44/88/196 dtd. 24-10-1994
20.	Shri B.Mushahary. RR 1980	Assam	01-07-1996	23-09-1994	AAI. 44/88/179 dtd. 14-09-1994
21.	Shri S.C..Das. RR 1981	Assam	01-07-1997	28-03-1995	AAI. 10/94/Pt./22 dtd. 08-03-1995
22.	Shri H. Sonowal. RR 1981	Assam	01-07-1997	29-03-1995	AAI. 10/94/Pt./22-A, dtd. 08-03-1995

Handwritten signature and stamp:
Sr. Secretary
of the Government of Assam
Dis. No. 1000/1997
10/9/97

LIST OF I.A.S OFFICERS OF 1982 BATCH OF ASSAM-MEGHALAYA JOINT CADRE PROMOTED TO THE SUPER TIME SCALE IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

9

23.	Shri S.S. Gupta. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER.7/95/Pt./23-D, dtd. 12-09-1995
24.	Shri K.S. Kropha. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER.7/95/Pt./23-D, dtd. 12-09-1995
25.	Shri H.K.Mazhari. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER.7/95/Pt./23-D, dtd. 12-09-1995
26.	Shri B.V.P.Rao. RR 1982	Assam	01-07-1998	Joined the post on 5-10-95 (Pay Slip not issued)	AAI. 44/88/298, dtd. 22.08.1995
27.	Shri J.S.L. Vasava, RR 1982	Assam	01-07-1998	Joined the Post on 23-8-95 (AN) (Pay Slip not issued)	AAI. 44/88/298-A, dtd. 22.08.1995
28.	Shri R.K. Baruah, RR 1982	Assam	01-07-1998	Charge Report not yet received. (Pay Slip not issued)	AAI. 44/88/298,-B dtd. 22.08.1995
29.	Shri J.P.Prakash. RR 1982	Assam	01-07-1998	16-03-96 (Pay Slip not issued)	AAI. 44/88/Pt.II/5. dtd. 11.03.1996

32-
OFFICE
352

[Handwritten Signature]

(2) 20 20
IMMEDIATE (22)

OFFICE OF THE ACCOUNTANT GENERAL (A&E)
MEGHALAYA ETC., SHILLONG

No. MG-I/IAS(A)/937

Dated, Shillong the 1-1/96.

To

ANNEXURE - B X

The Secretary to the Government of India,
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel and Training,
North Block, New Delhi.

Subject: Conditions & Guidelines for appointment of Indian
Administrative Services Officers to the Super Time
Scale of I. A. S.

Sir,

I am to invite a reference to the Govt. of India's letters No. 11030/13/92-AIS-(II), dated 5.11.92 & letters No. 11030/13/92-AIS(II) dated 5/*/93 & No. 11030/13/92-AIS(II) dated 10.12.1992 addressed to the A. G (A&E), Nagaland, Kohima on the subject indicated above (copy enclosed for ready reference), and to state that the Indian Administrative Service Officers who belonged to the Assam-Meghalaya Cadres have also been promoted to the Super Time Scale of I. A. S before completion of the 16 years Service condition and not even on the crucial date of first of July of the relevant year. All such cases have been incorporated in a statement enclosed herewith. These include officers of both Assam & Meghalaya side of the Joint-Cadre. This is a matter of great concern for us as these flagrant violations of the G. O. I Orders have been taking place year after year and may in future lead to Court cases as well. Moreover, this office is also unable to fix their pay. In a separate order for I. P. S officers from Government of India, Ministry of Home Affairs No. 16011/73/93-IPS-II dated 6.1.95 (copy enclosed), it has also been held that in the absence of clear statutory rules to the contrary in the Pay rules, guidelines issued by Govt. of India, assume the nature of statutory rules and is, therefore, binding on the State Governments.

Under the circumstances, it may please be clarified whether the promotions of the officers listed in the statement can be accepted in terms of Govt. of India orders on the subject and pay regulated accordingly. In case the Government of India decides on the contrary, a separate set of instructions delineating the clear position may please be issued to both the concerned State Govts. under intimation to this office.

[Signature]
Sr. Accounts Officer
Office of the A. G.
Meghalaya, etc. Shillong

Yours faithfully,

[Signature]
20/12
D. A. G (A & E)

Filed in Court
on 27.3.97

Boa
Court Master

Central Administrative Tribunal
Guwahati Bench
3 APR 1997

(29)

Additional Central Govt.
Standing Counsel
Central Administrative Tribunal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of :

O.A.No.225 of 1996
Shri J.S.L.Vasava ... Applicant.
-Vs-
Union of India & Ors. ... Respondents.

-AND-

In the matter of :

Additional Written Statement on
behalf of Respondent No.3.

I, Shri Govinda Bhattacharjee, Sr.Deputy
Accountant General(A&E), in the office of the Accountant
General, Meghalaya, Mizoram and Arunachal Pradesh,
Shillong-793001 do hereby solemnly affirm and declare
as follows :-

1. That a Written Statement in the above noted
O.A. was filed and a prayer was made in the said written
statement to allow the respondent to file additional
written statement if occasion arises. In view of that
I file the additional written statement as follows:-

Contd.....

Govinda Bhattacharjee

27.3.97

2. That with regard to the contents made in paragraph 4(2) of the application, the Respondent No.3 beg to state that the Govt. of Assam, Department of Personnel (Personnel.A), Dispur, Guwahati vide notification No.AAI.44/88/298, 298A, 298B, dated 22-8-95 promoted S/Shri J.S.L. Vasava, IAS(RR-1982) i.e. the applicant, B.V.P.Rao, IAS(RR-1982) and Dr.R.K.Baruah, IAS(SCS-1982) to officiate in the Supertime scale of IAS. All the three officers belong to the 1982 batch of IAS and have not completed 16 years of service on the date they were promoted to the supertime scale. As these promotions violate the guidelines laid down by the Govt. of India in its letters No.11030/20/75-AIS(I) dated 27.12.1975 (Annexure R.I), No.11030/4/82-AIS(II) dated March 1983 (Annexure R.II), Mp.11030/13/92-AIS(II) dated 5.11.92(Annexure R.III), D.O. letter No.11030/3/96-AIS-II dated 23-2-96 (Annexure R.IV) and D.O.No.11030/3/96-AIS(II) dated 30.7.96 (Annexure R.V), this office did not authorise pay in the supertime scale but continued to authorise pay in the selection grade scale. As regards the matter of entitlement of the applicant and others to the supertime scale, this office took up the matter with the Govt. of India vide D.O. No.MGI/IAS/A/S.T/182 dated 3-9-96 (Annexure R.VI) to which reply is still awaited.

However, the Govt. of India, Ministry of Personnel etc. has in their letter No.22012/30/96-AIS(II)

Dated...

dated 30-12-1996 to the Chief Secretary, Govt. of Assam (copy of which is annexed as Annexure R.XI) on the present has fully supported the action of the Accountant General in this matter. Para 2 of the letter has stated that the promotion of the applicant and some other officers to the supertime scale after completion of just 13 years of service was made in contravention of the Govt. of India instructions contained in their letter No.11030/20/75-AIS (II) dated 27-12-1975 (Annexure R.I) which lays down 16 years service as the condition for an IAS Officer to become eligible for promotion to the super time scale. It has further emphasised that when the Govt. of Meghalaya also wanted to promote their officers on the line followed by the Assam Govt. in this regard, they were requested to follow the rules and the relevant guidelines accordingly.

Para 3 of the said letter further clarifies that the action of the Govt. of Assam to have promoted their IAS officers in the super time scale before completion of 16 years service was itself incorrect and Accountant General, Assam is also technically correct to deny issuing the pay-slips in such cases.

In view of this, the Govt. of India which has been made a respondent in the present case has pleaded that it does not want to make a separate appearance in the matter, as in its view, "The petition cannot be supported because the said action of the Govt. of Assam stands unregularised, and it cannot be opposed because the action of the Accountant General, Assam is technically

correct.....

correct and is in accordance with the guidelines on the subject.

It would thus be obvious that the Accountant General was perfectly justified in refusing to issue pay slip in the super time scale to the applicant. The above letter of the Govt. of India leaves not even the slightest doubt on the matter and fully and clearly supports the action of the Respondent No.3.

3. That with regard to the statements made in paragraph 4.15 of the application, the Respondent beg to state that S/Shri Bhasker Mushahary, Subhash Das and Harish Sonowal who belong to an earlier batch than of the applicant were promoted to the super time scale and authorised to draw pay in that scale because the Govt. of India Guidelines were brought to the notice of the respondent No.3 only on 2nd August, 1995 while the above promotions were took place in 14-9-94 and 8-3-95 respectively.

However, it has already been stated by the Respondent No.3 vide letter No.MGI/IAS(A)/933(Assam) dated 19-1-96 to the Chief Secretary, Government of Assam that their benefits will have to be withdrawn through revised pay slips/recovery slips if the rules are not relaxed by the Govt. of India specifically in their cases, the matter stands referred to the Govt. of India vide letter No.MGI/IAS/A/ST/182 dated 3.9.96. However,
action.....

action for recovering the excess pay drawn by all such officers have already been initiated vide our letter No.MGI/IAS/(A)/ST/293 dated 27.12.96 to the Govt. of India and letter No.MG-I/IAS/(A)/ST/294 and letter No.MG-I/IAS/(A)/ST/295 dated 27.12.96 to the Chief Secretaries to the Govt. of Assam and Meghalaya (Annexure R.VIII & IX). The actual recovery will start from February, 1997 unless the Govt. of India decides to relax the requirements of their guidelines in the matter.

Since the Govt. of India has not relaxed the requirements, the respondent No.3 has already issued the recovery slips in respect of three officers namely S/Shri Harish Sonowal, Shri Subhash Ch. Das and Shri Bhaskar Mushahary vide pay slips No.MGI/IAS(A)/PS/355-57 dated 19.3.97, No.MGI/IAS(A)/PS/358-60 dated 19.3.97 and No.MGI/IAS(A)/PS/361-62 dated 19.3.97 respectively.

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

Verification

26

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

I, Shri Govinda Bhattacharjee, Sr. Deputy Accountant General(A&E), office of the Accountant General(A&E), Meghalaya Etc., Shillong do hereby solemnly affirm and verify that the contents made in paragraph 1 of this Additional Written Statement are true to my knowledge and those made in paragraph 2 & 3 are derived from records which I believe to be true and paragraph 4 is the humble submission before this Hon'ble Tribunal.

AND I sign this Verification on this 26th day of March, 1997 at Shillong.

Govinda Bhattacharjee
DEPONENT

उप महालेखाकार (लेखा व हिसाब)
Sr. Deputy Accountant General (A&E)
महालेखाकार का कार्यालय
Office of the Accountant General,
मेघालय, मिजोरम और अरुणाचल प्रदेश
Shillong, Meghalaya Etc., India
पिन-793001.
793001

No.11030/20/75-AIS(II)
Government of India/Bharat Sarkar
Cabinet Secretariat/Hantrinandal Sachivalaya
Department of Personnel & Administrative Reforms
(Karmik Aur Prashastik Sudhar Vibagh)

Annexure A -

New Delhi, the 27th December, 1975.

To

Shri
Chief Secretary to the
Government of

Subject:- Indian Administrative Service - promotion to
the senior scale and the super time scale -
guidelines regarding -

Sir,

I am directed to say that the question of setting up of a suitable machinery and formulating guidelines for selecting the members of the Indian Administrative Service for promotion to the Senior Scale, Selection Grade and the Super time scale has been under the consideration of the Central Government for some time now. It has now been decided that Screening Committees should be set up and guidelines, as in the annexure, should be followed by the State Governments in regard to the promotion/selection of members of the Indian Administrative Service to the various grades of the Service. The action taken by the State Government in regard to the setting up of the Screening Committee etc. may be communicated to this Department in due course.

These instructions are in super-session of the instructions contained in the D.O. letter No.1/92/65-AIS(II), dated the 19th November, 1966.

Sd/-

(R.L. AGGARWAL)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA

No.11031/20/75-AIS(II)

New Delhi, dated 27th Dec., 1975

Copy to:-

1. Shri
Secretary to the Government of India
Ministry/Department of

2. The Establishment Officer to the
Government of India, Deptt. of Personnel & A.R.
New Delhi.

Sd/- (R.L. AGGARWAL)

UNDER SECRETARY TO THE GOVT. OF INDIA

Attested
APWS
Accountant

ANNEXURE TO DEPARTMENT OF PERSONNEL & A.R.
LETTER NO. 11030/20/75-AIS (II), dated 27th
DECEMBER, 1975.

I. PROMOTION TO SENIOR SCALE POSTS.

The Chief Secretary to the State Government may evaluate the performance of the members of the Indian Administrative Service in the junior scale of the Indian Administrative Service for deciding on their suitability for promotion to the senior scale posts.

II. PROMOTION TO THE SELECTION GRADE.

A Committee consisting of the Chief Secretary and two other senior officers of the State Government may screen the members of the Indian Administrative Service in the junior scale of the Indian Administrative Service for promotion to the Selection Grade on the basis of 'merit with due regard to seniority'.

III. PROMOTION TO SUPERTIME SCALE POSTS.

(1) Composition of the Screening Committee.

The Screening Committee may consist of three officers - the Chief Secretary and two officers in the State at the level of Additional Secretary to the Government of India. If there is only one Additional Secretary level Officer, the senior most officer in the super time scale (Rs. 2500-2750) may be included. The Screening Committee for the Joint Cadre of Union Territories should consist of Home Secretary as Chairman and Secretary, Department of Personnel and Administrative Reforms, and a nominee of the Cabinet Secretary, who could nominate either the Additional Secretary, Ministry of Home Affairs dealing with the Union Territories or an officer of the Joint Cadre of the Union Territories, depending on the exigencies of the situation, as Members.

(2) Zone of consideration.

The zone of consideration may consist of all the members of the Indian Administrative Service who have completed 16 years in the service.

(3) Method of selection.

(i) Selection should be based on merit with due regard to seniority as provided in sub-rule 2(A) of Rule 2 of the Indian Administrative Service (Pay) Rules, 1954.

(ii) Suitability of officers to hold super-time scale posts may be judged by evaluating their character roll record as a whole, and general assessment of their work.

contd.....

(iii) An officer against whom a vigilance or departmental inquiry has been started should also be assessed and the assessment placed in a sealed cover. The question of including him in the panel should be considered when the result of the inquiry is known.

(iv) The reasons for supersession may be indicated in the case of officers who are not included in the panel.

(v) An officer who has not been included in the panel in the first instance should be eligible for re-consideration after earning two more reports.

(vi) Special review may be done in cases where adverse remarks in the Officers' annual confidential reports are expunged subsequently as a result of their representations.

(4) Period of validity of the panel.

- (i) A fresh panel may be prepared as soon as all the officers on the previous panel have been provided.
- (ii) If a vigilance or departmental enquiry has been started against an officer on the panel after a preliminary enquiry establishing charges prima facie, the said officer shall not be promoted to the super-time scale and will be deemed to have been excluded from the list, pending the result of the enquiry.
- (iii) Subject to exigencies of service, the appointments to the super-time scale may be made in the order in which names appear in the panel.

.....

CONFIDENTIAL

ANNEXURE R-II

79

No. 11030/4/82-AIS (II)
Government of India
Ministry of Home Affairs
Department of Personnel and A. R.

.....

New Delhi, the March, 1982

To
Shri
Chief Secretary to the
Government of _____

Subject:- Indian Administrative Service- Promotion/
Selection to the Super-time Scale-
Guidelines regarding.

.....

Sir,

I am directed to say that guidelines for promotion/selection of the members of the Indian Administrative Service to the senior scale, selection grade and super-time scale of the Service were laid down by the Government of India and communicated to the State Governments in this Department's letter No. 11030/20/75-AIS (II) dated 27th December, 1975 (copy enclosed). While the guidelines are being strictly followed by most of the State Governments, it has come to the notice of the Government of India that a few State Governments are not following item III (2) of the guidelines viz. that the zone of consideration for promotion to super-time scale posts may consist of all members of the Service who have completed 16 years in the Service. In some States promotions to super-time scale of the Service have been given on completion of 12 to 15 years of Service. Such a situation is bound to create resentment in the other State Cadres, apart from the fact that it is not in accordance with the guidelines laid down by the Government of India.

2. The Government of India, therefore, invite the attention of the State Government to the guidelines referred to above and reiterate that the guidelines should invariably be adhered to by all State Governments.

Yours faithfully,

Chitra Chopra
(Smt. Chitra Chopra)

Deputy Secretary to the Government of India

Copy forwarded for information/necessary action to MHA (UTS) Section.

Chitra Chopra
(Smt. Chitra Chopra)
Deputy Secretary to the Government of India

Heated
MBW
Account

North Block, New Delhi - 110001,
dated 5th November, 1992

To

The Accountant General,
Nagaland,
Kohima. //

Sub: Release of supertime scale to IAS Officers

Ref: Accountant General (A&E) Nagaland No. GA-1/IAS/91-92/79 dated 14.5.92.

.....

Sir,

I am directed to refer to the above mentioned correspondence and to say that in continuation of our earlier letter of even no. dated 17.8.92, the matter has been re-considered in this Ministry and it has been decided that while the Govt. of India are clear that the guidelines laying down 16 years' service condition for promotion to IAS Officers to the supertime scale, should be complied with by all States in the interest of uniformity in respect of promotion prospects.

2. However, looking to the circumstances of the present case, and the fact that the promotion orders have been issued quite sometime back and also that the State Govt. are competent to make appointments under the Cadre Rules, it has been decided that the pay slips in respect of affected officers may be released.

Yours faithfully,

(M.K. Roy)

Director to the Government of India
Tel: 3014398

Attended
Accountant



V. LAKSHMI RATAN

संयुक्त सचिव
JOINT SECRETARY (S&V)
TELE. 3013660

भारत सरकार *Annexure R-IV*
कामिक और प्रशिक्षण विभाग
कामिक, लोक शिकायत तथा पेंशन मंत्रालय
नई दिल्ली
GOVERNMENT OF INDIA
DEPARTMENT OF PERSONNEL AND TRAINING
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS
NEW DELHI
February 20, 1996
FEB 1996

This is regarding grant of promotion in the Supertime Scale to the IAS officers serving under your State Government. They are required to complete 16 years service for becoming eligible for this grade but it has been brought to our notice by the AC(A&E), Assam, Meghalaya etc. that these officers have been getting promotion in the Supertime Scale before completion of 16 years service for the past many years. In some cases, it has been found that promotion has been allowed in as less as 13 years time.

2. Though there are no statutory rules that have been framed by the Government of India in this regard, promotion to the Supertime Scale are regulated by the Guidelines contained in our letter No.11030/20/75-AIS.11 dated 27th December, 1975 (copy enclosed). In the absence of any Statutory Rules in this behalf, the Guidelines which are in the nature of Administrative Instructions assume the same force as if Rules have been made in this behalf. These Guidelines have been issued in the public interest to ensure that persons promoted to the Supertime Scale acquire necessary experience in the lower levels by rendering certain minimum years of service at these levels to enable them to be effective in the strategic decision-making levels of the Administration. Promotion of officers to the Supertime Scale without giving the benefit of acquiring necessary experience in the lower levels is counter-productive for Administrative efficiency over a long run.

It is seen that the IAS officers belonging to 1973 batch onwards have been allowed Supertime Scale before completion of 16 years service. Continuous and systematic violation of the Guidelines by your State Government is detrimental to the interests of Cadre Management of the Service at the All India level too.

4. Under the circumstances, it is suggested that the State Government may not violate the Guidelines in future and it may be ensured that the guidelines are strictly followed in all future cases.

5. I would request you to do the needful and send us an urgent reply in the matter.

With regards,

Yours sincerely,

sd/-

(V. Lakshmi Ratan)

A. Bhattacharya
Secretary Assam, Guwahati
K. K. Sinha
Secretary Meghalaya, Shillong

Copy for information to the Dy Accountant General (A & E) SHILLONG
with his letter no MG-I/IAS(A)/937, dt. 22.12.95.

(T. P. Dhillon, RA)
DUR Office

Accepted
Accountant

V. Lakshmi Ratan
संयुक्त सचिव
JOINT SECRETARY
Tel: 3013668



कार्यिक और प्रशिक्षण विभाग
कार्यिक, लोक शिकायत तथा पेंशन मंत्रालय
नई दिल्ली
GOVERNMENT OF INDIA
DEPARTMENT OF PERSONNEL AND TRAINING
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS
NEW DELHI

82
R-2

No.11030/3/96-AIS(II)

July 25, 1996 0 JUL 1996

Dear Shri

Please refer to your letter No. AAI.44/88 Pt-1/35 dated 4.5.1996 regarding grant of supertime scale to the IAS Officers before completion of 16 years service.

2. The advice tendered in our d.o. letter of even number dated 23.2.1996 is based on several court judgements and the legal position obtaining in this regard. The judgements delivered in the cases of Amarjeet Singh Vs State of Punjab (ATR 1975 SC 984) and Diest Registrar, Palghat Vs M.B. Koyya Kutty (SLJ 1979 SC 2787) are only two of such pronouncements, declaring that the executive instructions - if not contrary to the statutory rules, assume the status of rules if there are no statutory rules to cover any particular aspect.

3. In view of the above explained position, it would not be correct to assume that the guidelines cannot have the force of statutory rules unless they are incorporated in the rules. The State Government would appreciate that it is always not possible nor necessary to frame statutory rules on each and every subject.

4. It is also apparent from the correspondence that promotions have been given without considering the number of vacancies arising in supertime scale and this has not only led to the violation of the instructions but it has also resulted in over utilisation of the State Deputation Reserves (SDR).

5. You are, therefore, requested to follow the rules as well as the guidelines and avoid granting supertime scale to the members of the IAS before completion of 16 years of service and without the availability of vacancies in that scale.

Yours sincerely,
sd/-

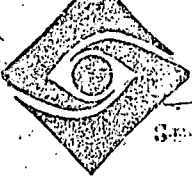
(V. Lakshmi Ratan)

Copy to: The Accountant General (A&E),
Meghalaya,
SHILLONG.

J. K. P. I.
17/7/96

Accountant

(A.K. Sarkar)
Director (S)



Bhattacharjee
Secy-IAS(A&E)

সংলগ্ন পত্রিকা

সংখ্যা ৫০

D.O. No. ~~MG-1/IAS(A)/937~~ 115/A/S.T/182

कायालय, महालखार (ल०न०ह) धरम
मेवालय, अण्णाचल प्रदेश और मिजोरम

ANNIVERSARY - R.VI शिल्लॉंग-७६३००१

12

OFFICE OF
THE ACCOUNTANT GENERAL (A&E) ASSAM
MEGHALAYA, ARUNACHAL PRADESH &
MIZORAM
SHILLONG-793001

शिल्लॉंग दिनांक :

Dated Shillong :

Dear Shri,

Please refer to your D. O. letter no. 11030/3/96-ATS.TT dated 23rd February, 1996 addressed to Shri A. Bhattacharjee, Chief Secretary, Govt. of Assam and also to Shri K. K. Sinha, Chief Secretary, Govt. of Meghalaya, a copy of which was also forwarded to us with reference to our earlier letter No. MG-1/IAS(A)/937 dated 22.12.1995 regarding promotion of I.A.S. Officers in the supertime scale of pay before 16 years of service and fixation of their pay. It was brought to your notice by our earlier letter that the Govt. of Assam and Govt. of Meghalaya have been promoting the IAS Officers to the Super Time Scale much before completion of 16 years of service as stipulated by the Govt. of India's guidelines. ~~They have also been indulging in this kind of promotion since the last few years starting with the 1973 batch of officers in flagrant violation of the G.O.I guidelines issued since 1975. As per the statement forwarded by us alongwith our earlier letter referred to above, there were altogether 29 such officers promoted to the Super Time Scale (Annexure-I). Even after your above mentioned letter which clearly instructed the State Govt. not to violate the guidelines in future, one officer has been promoted (Shri J. P. Prakash, 1982 batch).~~

As per Govt. of India guidelines regarding promotion of IAS officers, an officer is to be promoted to the Selection grade only after completion of 13 years of service but seven officers belonging to the 1982 batch of IAS have been promoted to the Super Time Scale after 13 years of service (Annexure-II). In several case, officers have been promoted to the Super Time Scale after spending not even an year in the Selection Grade (Annexure-III). From the same annexure, it will be seen that officers have been promoted to the Super Time Scale even without spending 3 years at the Selection Grade, the minimum period stipulated by the G.O.I. guidelines. Repeated violation of the G.O.I. guidelines like this has resulted in an extremely anomalous situation as some of the officers are promoted to Super Time Scale after completion of 13 years while some are promoted

Cont...

Attested
ADMS
Accountant

to Selection Grade after the same period of service. This is causing a great problem for this office to fix the pay of these officers. I would therefore, request you to clearly advise us as to the manner in which we should regulate the pay of these officers. In this regard, I would like to seek your clear instructions on how to fix the pay of (i) the officers belonging to batches prior to 1982 batch who were promoted after 14 years of service, (ii) the officers belonging to 1982 batch who were promoted after 13 years of service.

So far, we have not been issuing Pay Slips ^{in the Super Time Scale} to the officers belonging to the 1982 batch who have been promoted to Super Time Scale in violation of G.O.I. guidelines. In my opinion, Assam Govt. should be instructed to revoke the promotion orders till the completion of 16 years of service. Regarding the earlier cases, however, we have been issuing the regular Pay slips following your instructions given to the Accountant General (A&E) vide your letter No. 1103/13/92-AIS(II) dated ^{15/11} November 1992 on similar cases. P/26

I would also like to inform you that one of the officers, Shri Vasava has threatened to go to court on this issue and has already issued us ~~an~~ Advocate notice calling upon us to pay the Super Time Scale salary within a month from 27.7.96. Any ambiguity on our part may lead to unavoidable litigation. As such, I would request you to kindly give us clear and early instructions on the matter.

The matter may please be treated as most urgent.

Yours Sincerely,

Shri V. Lakshmi Ratan,
Joint Secretary, Govt. of India,
Department of Personnel & Training
Ministry of Personnel,
Public Grievances & Pension,
New Delhi.

29/11

29/11

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ANNEXURE - I

LIST OF I.A.S OFFICERS OF ASSAM-MEGHALAYA JOINT CADRE PROMOTED TO THE SUPER TIME I.A.S. IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

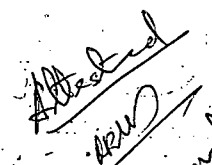
Sl. No	Name	State Govt	Due date for promotion to ST scale	Date actually promoted to ST	Cr. A. Notification no. & date
1	Shri C.B. Rajeeb. RR 1973	Asssam	01-07-1989	01-04-1988 Proforma Promotion	AAI. 17/84/102, dtd. 01-02-1992
2	Shri S.K. Tewari. RR 1973	Assam	01-07-1989	01-04-1988	AAI. 53/88/3, dtd. 30-09-1988
3	Shri L. Rynjah. RR 1974	Asssam	01-07-1990	05-03-1990	AAI. 17/84/64, dtd. 06-03-1990
4	Shri P.J Bazeley. RR 1973	Meghalaya	01-07-1989	29-04-1988	PER.37/87/10, dtd. 28-04-1988
5	Shri S. Monoharan, RR 1975	Asssam	01-07-1991	15-11-1990	AAI. 17/84/72-C, dtd. 12-11-1990
6	Shri P.C. Sarma. RR 1975	Assam	01-07-1991	12-11-1990	AAI. 17/84/72-A, dtd. 11-11-1990
7	Shri C.K. Das. RR 1975	Assam	01-07-1991	13-11-1990	AAI. 17/84/72-D, dtd. 12-11-1990
8	Kumari P.D. Das. RR 1975	Meghalaya	01-07-1991	15-12-1990	PER.37/87/30, dtd. 07-12-1990
9	Shri Pradip Singh. RR 1978	Assam	01-07-1994	14-07-1993	AAI. 44/88/104-A, dtd. 13-07-1993
10	Shri P.P. Verma. RR 1978	Assam	01-07-1994	01-07-1993	AAI. 44/88/215, dtd. 08-02-1995
11	Shri H.M. Cairae. RR 1978	Asssam	01-07-1994	13-07-1993	AAI. 44/88/126, dtd. 26.11.1993
12	Shri G.P. Wahlang. RR 1978	Meghalaya	01-07-1994	20-09-1993	PER. 5/93/Pl.III/5-E Dtd.18-09-1993

Attended
Accountant

ANNEXURE - I

LIST OF I.A.S OFFICERS OF ASSAM-MEGHALAYA JOINT CADRE PROMOTED TO THE SUPER TIME I.A.S.
IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

13.	Shri S.K. Srivastava. RR 1978	Meghalaya	01-07-1994	20-09-1993 Proforma Promotion	PER. 37/87/87, dtd. 25-07-1995
14.	Shri H.Chinkhentang, RR 1978	Meghalaya	01-07-1994	20-09-1993	PER. 5/93/Pl.III/5-F, dtd. 18-09-1993
15.	Shri A.K.Thakur. RR 1979	Assam	01-07-1995	13-07-1993	AAI. 44/88/104, dtd. 13-07-1993
16.	Shri J.Khosla. RR 1979	Assam	01-07-1995	12-11-1993	AAI. 44/88/124 dtd. 12-11-1993
17.	Smti E. Choudhury. RR 1979	Assam	01-07-1995	13-07-1993	AAI. 44/88/121 dtd. 15-10-1993
18.	Shri B.K.Dev Verma. RR 1979	Meghalaya	01-07-1995	19-09-1993	PER. 5/93/Pl.III/5-G, dtd. 18-09-1993
19.	Shri K. D. Tripaty. RR 1980	Assam	01-07-1996	23-09-1994	AAI. 44/88/196 dtd. 24-10-1994
20.	Shri B.Mushahary. RR 1980	Assam	01-07-1996	23-09-1994	AAI. 44/88/179 dtd. 11-09-1994
21.	Shri S.C.Das. RR 1981	Assam	01-07-1997	28-03-1995	AAI. 10/94/Pl/22 dtd. 08-03-1995
22.	Shri H. Sonowal. RR 1981	Assam	01-07-1997	29-03-1995	AAI. 10/94/Pl/22-A, dtd. 08-03-1995


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ANNEXURE - 1 (Contd)

LIST OF I.A.S OFFICERS OF 1982 BATCH OF ASSAM-MEGHALAYA NON-CADRE PROMOTED TO THE SUPER TIME SCALE IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

23.	Shri S.S. Gupta. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER. 7/95/Pt./23-D, dtd. 12-09-1995
24.	Shri K.S. Kropha. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER. 7/95/Pt./23-D, dtd. 12-09-1995
25.	Shri H.K. Mazhari. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER. 7/95/Pt./23-D, dtd. 12-09-1995
26.	Shri B.V.P. Rao. RR 1982	Assam	01-07-1998	Joined the post on 5-10-95 (Pay Slip not issued)	AAI. 44/88/298, dtd. 22.08.1995
27.	Shri J.S.L. Vasava, RR 1982	Assam	01-07-1998	Joined the Post on 23-8-95 (A/N) (Pay Slip not issued)	AAI. 44/88/298-A, dtd. 22.08.1995
28.	Shri R.K. Baruah, RR 1982	Assam	01-07-1998	Charge Report not yet received. (Pay Slip not issued)	AAI. 44/88/298,-B dtd. 22.08.1995
29.	Shri J.P. Prakash. RR 1982	Assam	01-07-1998	16-03-96 (Pay Slip not issued)	AAI. 44/88/Pt. II/5. dtd. 11.03.1996

*Attest of
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ANNEXURE - II

LIST OF I.A.S OFFICERS OF 1982 BATCH OF ASSAM-MEGHALAYA JOIN CADRE PROMOTED TO THE SUPER TIME SCALE IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

			<i>2nd date for promotion to SA scale</i>	<i>Date actually promoted</i>	<i>Govt. notification no & date</i>
1.	Shri S.S. Gupta. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95	PER. 7/95/Pt./23-D, dtd. 12-09-1995
2.	Shri K.S. Kropha. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95	PER. 7/95/Pt./23-D, dtd. 12-09-1995
3.	Shri H.K. Mazhari. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95	PER. 7/95/Pt./23-D, dtd. 12-09-1995
4.	Shri B.V.P. Rao. RR 1982	Assam	01-07-1998	Joined the post on 05-10-95	AAI. 44/88/298, dtd. 22.08.1995
5.	Shri J.S.L. Vasava, RR 1982	Assam	01-07-1998	Joined the Post on 23-8-95 (A/N)	AAI. 44/88/298-A, dtd. 22.08.1995
6.	Shri R.K. Baruah, RR 1982	Assam	01-07-1998	Charge Report not yet received.	AAI. 44/88/298-B dtd. 22.08.1995
7.	Shri J.P. Prakash. RR 1982	Assam	01-07-1998	16-03-96	AAI. 44/88/Pt.II/5, dtd. 11.03.1996

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ANNEXURE - III
STATEMENT SHOWING I A S OFFICERS PROMOTED TO S.T. SCALE AFTER SPENDING SOME TIMES
IN THE S. G. SCALE.

		<i>Date of Promotion to SG scale</i>	<i>Date actually promoted to ST scale</i>	<i>Time spent at SG</i>
1	Shri C.B. Rajeeb. RR 1973	1-1-86	01-04-1988	<u>2 Years 3 Months</u>
2..	Shri S.K. Tewari RR 1973	1-1-86	01-04-1988	<u>2 Years 3 Months</u>
3.	Shri L. Rynjah RR 1974	1-7-87	05-03-1990	<u>2 Years 8 Months 4 days.</u>
4..	Shri S. Monoharan, RR 1975	1-7-88	15-11-1990	<u>2 Years 4 Months 14 days</u>
5..	Shri P.C. Sarma. RR 1975	1-7-88	13-11-1990	<u>2 Years 4 Months 12 days</u>
6..	Shri Pradip Singh. RR 1978	1-7-91	14-07-1993	<u>2 Years 13 days</u> (Since Resigned)
7..	Shri P.P. Verma. RR 1978	1-7-91	01-07-1993	<u>2 Years</u>
8..	Shri H.M. Cairae. RR 1978	1-7-91	03-12-1993	<u>2 Years 4 Months 2 days</u>
9..	Shri A.K. Thakur. RR 1979	1-7-92	13-07-1993	<u>1 Year 12 days</u>
10..	Shri J. Khosla. RR 1979	1-7-92	12-11-1993	<u>1 Years 4 Month 11 days</u>
11..	Smti E. Choudhury. RR 1979	1-7-92	13-07-1993	<u>1 Year 12 days</u>

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ANNEXURE - III (Contd.)

STATEMENT SHOWING I A S OFFICERS PROMOTED TO S.T. SCALE AFTER SPENDING SOME TIMES IN THE S. G. SCALE.

11	Sri K. D. Tripathy. RR 1980	1-7-93	23-09-1994	<u>1 Years 4 Months</u>
13	Sri B. Mushahary RR 1980	1-7-93	23-9-1994	<u>1 Years 2 Months 22 days.</u>
14	Sri S.C. Das. RR 1981	1-7-94	28-03-1995	<u>8 Months 27 days</u>
15	Sri H. Sonowal. RR 1981	1-7-94	29-3-1995	<u>8 Months 28 days</u>
16	Sri P.J Bazeley. RR 1975	1-1-86	29-04-1988	<u>2 Years 3 Months 28 days.</u>
17	Sri P.D. Das. RR 1975	1-7-88	15-12-1990	<u>2 Years 5 Months 14 days.</u>
18	Sri G.P. Wahlang. RR 1978	1-7-91	20-09-1993	<u>2 Years 2 Months 19 days.</u>
19	Sri S.K. Srivastava. RR 1978	1-7-91	20-09-1993 (Proforma Promotion)	<u>2 Years 2 Months 19 days.</u>
20	Sri H. Chindientang. RR 1978	1-7-91	20-09-1993	<u>2 Years 2 Months 19 days.</u>
21	Sri B.K. Dev Verma. 1979	1-7-92	19-09-1993	<u>1 Year 2 Months 18 days.</u>
22	Sri S.S. Gupta. 1982	1-7-95	12-09-1995	<u>2 Months 11 days</u>

Attended by
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ANNEXURE - III
STATEMENT SHOWING I.A.S. OFFICERS PROMOTED TO S.T. SCALE AFTER SPENDING SOME TIMES
IN THE S. G. SCALE.

23.	Shri K.S. Kropha. RR 1982		1-7-95	12-09-1995	<u>2 Months 11 Days.</u>
24.	Shri H.K. Mazhari RR 1982		1-7-95	12-09-95	<u>2 Months 11 Days.</u>
25.	Shri B.V.P. Rao. RR 1982	Pay slip issued on 1.7.95	1-1-95	5-10-95	<u>3 Months 5 days.</u>
26.	Shri J.S.L. Masava. RR 1982	Pay Slip issued on 1.7.95	1-1-95	23-08-95	<u>1 Month 23 days.</u>
27.	Shri R.K. Baruah. RR 1982	Pay Slip issued on 1.7.95	1-1-95	Charge Report Not Received.	-----
28.	Shri J.P. Patilash RR 1982	Pay Slip issued on 1.7.95	1-1-95	16-03-96	<u>8 Months 16 days.</u>

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ANNEXURE-~~II~~ VIII

MG-I/IAS/(A)/ST/293

the 26th Dec '96

27 DEC 1996

Dear Shri

Kindly refer to this office DO letter No.MG-I/IAS/(A)/37 dated 1.1.96 to the Secretary, M/o Personnel, G/o India and my DO letter No.MG-I/IAS/(A)/ST/¹⁸² dated 3.9.96 on the subject of authorising Pay to the IAS officers belonging to the Assam-Meghalaya cadre who have been promoted to Super Time Scale of IAS before completing 16 years of service, the minimum time required as per your guideline Nos 11030/20/75 AIS(II) dt 27.12.75, 11030/4/82 AIS(II) dt March 1982, 11030/3/96 AIS(II) dated 23.2.96 etc. Alongwith my DO letter dated 3.9.96, I have sent you the list of officers who have been promoted to Super Time Scale before completing 16 years of service, from which it can be seen very clearly that Govt of Assam & Meghalaya have been promoting these officers in ~~frequent~~ ^{flagrant} violation of the Govt. of India guidelines issued since 1975 and despite repeated reminders from you in this ~~respect~~ ^{regards}. As I had informed you through my letter dated 03.09.96 that repeated violations of the Govt. of India guidelines by the State Govts. have resulted in an extremely anomalous situation and any ambiguity on our part is likely to lead to unnecessary litigation and therefore, I had sought your clear instructions in this matter. Now we have received a notice from the Central Administrative Tribunal, Guwahati asking us to file counter affidavit on a petition filed by one officer belonging to the 1982 batch. This has also been communicated to you by our FAX message dated 18.12.96 (Memo No.MG-I/IAS(A)/ST/285). *

No.MG-I/IAS(A)/ST/285). *

Attended
28/12/96
Accountant

93

As I had earlier informed you, we are not authorising Pay ~~slip~~ in the Super Time Scale to the officers belonging to 1982 batch who have been promoted in violation of Govt. of India guidelines and instructions on the matter. Unless the Govt. of India gives relaxation in the requirement of 16 years of service, specifically in these cases, this office would not be in a position to issue Pay-Slips in the Super Time Scale to these officers. However, pay in the Super Time Scale had been ~~issued~~^{authorised} to similarly placed officers belonging to earlier batches (i.e. before 1982) subject to confirmation by the Govt. of India which has not been received so far. Thus this differential treatment may be viewed by the Central Administrative Tribunal as tantamounting to discrimination. To avoid this, the only alternative left to us is to recover the pay ~~granted~~^{authorised} to such officers for the period between their promotion to the Super Time Scale and completion of 16 years of service, unless the Govt. of India gives specific relaxations in these cases.

I would, therefore, request you to kindly issue appropriate orders in these cases ~~on~~^{at} an early date and convey the same to us so that necessary action can be taken at this end. As the CAT case is likely to come up for hearing in the month of January 1997, I would like to request you to kindly convey the order of Govt. of India by 31st Jan '97 at the latest. Unless we receive any order ^{from you} in the matter ~~it~~ by 31st Jan '97, it will be treated that the Govt. of India is unwilling to relax the requirement of 16 years of service in these cases and action for recovery of the excess pay drawn by the officers will be initiated at this end.

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I would like to reiterate that any ambiguity in the matter will lead to further litigations, especially since this concerns all India Service Officers and therefore any ambiguous stand may have ^{wider} ~~under~~ repercussions.

~~This~~ matter may please be given Top Priority.

Yours sincerely,

Shri V. Lakshmi Ratan,
Joint Secretary, Govt. of India,
Department of Personnel & Training,
Ministry of Personnel,
Public Grievances & Pension,
New Delhi.

26/11

26.12.

By Speed Post.

(14)

ANNEXURE - R - IX

MG-I/IAS/(A)/ST/294

the 26th Dec '96

27 DEC 1996

Dear Shri

Please refer to my DO letter No. MG-I/IAS/A/ST/183 dated 30th August 1996 on the subject of authorising Pay to the officers promoted to Super Time Scale before completing 16 years of service in violation of the Govt. of India guidelines issued in the matter from time to time. As you are aware this office has not authorised Super Time Scale Pay to the officers belonging to the 1982 batch and onwards who have been promoted to the Super Time Scale in violation of the Govt. of India guidelines. However, similarly placed officers who have been promoted to the Super Time Scale prior to the 1982 batch have been authorised Pay Slip in the Super Time Scale by this office pending confirmation by the Govt. of India. ^(list enclosed) I would request you to kindly seek Govt. of India's relaxation of this requirement of 16 years of service specifically for these officers and convey the same to us at an early date. We have also written to the Govt. of India on the matter vide our letter No. MG-1/IAS/(A)/ST/293 dt 27.12.96 addressed to the Jt. Secretary, Dept. of Personnel. As you are aware, a petition filed by an officer belonging to the 1982 batch is already pending before the Central Administrative Tribunal. If no relaxation is received by 31st Jan '97 we shall be constrained to initiate action for recovery of the excess pay drawn by these officers.

Yours sincerely,

Shri T.K. Kamilla,
Chief Secretary,
Govt. of Assam,
Dispur,
Guwahati-6.

Shri D. K. Gogopadhyay, Chief Secy, Govt of Meghalaya. MG-1/IAS/(A)/ST/295
dt. 27.12.96

Attended
1/2/97

ANNEXURE - I

LIST OF I.A.S OFFICERS OF ASSAM-MEGHALAYA JOINT CADRE PROMOTED TO THE SUPER TIME I.A.S.
IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

Sr. No	Name	State Govt.	Due date for promotion to ST scale.	Date actually promoted to ST	Govt. Notification no. & date
1	Shri C.B. Rajeeb. RR 1973	Assam	01-07-1989	01-04-1988 Proforma Promotion	AAI. 17/84/102, dtd. 01-02-1992
2.	Shri S.K. Tewari. RR 1973	Assam	01-07-1989	01-04-1988	AAI. 53/88/3, dtd. 30-09-1988
3.	Shri L. Rynjah. RR 1974	Assam	01-07-1990	05-03-1990	AAI. 17/84/64, dtd. 06-03-1990
4.	Shri P.J Bazeley. RR 1973	Meghalaya	01-07-1989	29-04-1988	PER.37/87/10, dtd. 28-04-1988
5.	Shri S. Monoharan, RR 1975	Assam	01-07-1991	15-11-1990	AAI. 17/84/72-C, dtd. 12-11-1990
6.	Shri P.C. Sarma. RR 1975	Assam	01-07-1991	12-11-1990	AAI. 17/84/72-A, dtd. 11-11-1990
7.	Shri C.K. Das. RR 1975	Assam	01-07-1991	13-11-1990	AAI. 17/84/72-D, dtd. 12-11-1990
8.	Kumari P.D. Das. RR 1975	Meghalaya	01-07-1991	15-12-1990	PER.37/87/30, dtd. 07-12-1990
9.	Shri Pradip Singh. RR 1978	Assam	01-07-1994	14-07-1993	AAI. 44/88/104-A, dtd. 13-07-1993
10.	Shri P.P. Verma. RR 1978	Assam	01-07-1994	01-07-1993	AAI. 44/88/215, dtd. 08-02-1995
11.	Shri H.M. Cairae. RR 1978	Assam	01-07-1994	13-07-1993	AAI. 44/88/126, dtd. 26.11.1993
12.	Shri G.P. Wahlang. RR 1978	Meghalaya	01-07-1994	20-09-1993	PER. 5/93/PI.III/5-E Dtd.18-09-1993

Attended
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in accordance

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ANNEXURE - I (Contd)

LIST OF I.A.S OFFICERS OF ASSAM-MEGHALAYA JOINT CADRE PROMOTED TO THE SUPER TIME I.A.S.
IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

13.	Shri S.K. Srivastava. RR 1978	Meghalaya	01-07-1994	20-09-1993 Proforma Promotion	PER. 37/87/87, dtd. 25-07-1995
14.	Shri H.Chinkhentang, RR 1978	Meghalaya	01-07-1994	20-09-1993	PER. 5/93/Pl.III/5-F, dtd. 18-09-1993
15.	Shri A.K.Thakur. RR 1979	Assam	01-07-1995	13-07-1993	AAI. 44/88/104, dtd. 13-07-1993
16.	Shri J.Khosla. RR 1979	Assam	01-07-1995	12-11-1993	AAI. 44/88/124 dtd. 12-11-1993
17.	Smti E. Choudhury. RR 1979	Assam	01-07-1995	13-07-1993	AAI. 44/88/121 dtd. 15-10-1993
18.	Shri B.K.Dev Verma. RR 1979	Meghalaya	01-07-1995	19-09-1993	PER. 5/93/Pl.III/5-G, dtd. 18-09-1993
19.	Shri K. D. Tripaty. RR 1980	Assam	01-07-1996	23-09-1994	AAI. 44/88/196 dtd. 24-10-1994
20.	Shri B.Mushahary. RR 1980	Assam	01-07-1996	23-09-1994	AAI. 44/88/179 dtd. 14-09-1994
21.	Shri S.C..Das. RR 1981	Assam	01-07-1997	28-03-1995	AAI. 10/94/Pl/22 dtd. 08-03-1995
22.	Shri H. Sonowal. RR 1981	Assam	01-07-1997	29-03-1995	AAI. 10/94/Pl/22-A, dtd. 08-03-1995

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ANNEXURE - I (Contd.)

LIST OF I.A.S OFFICERS OF 1982 BATCH OF ASSAM-MEGHALAYA JON CADRE PROMOTED TO THE SUPER TIME SCALE IN VIOLATION OF STATUTORY IAS (PAY) RULES AND GOVT. OF INDIA GUIDLINES

23.	Shri S.S. Gupta. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER. 7/95/Pl./23-D, dtd. 12-09-1995
24.	Shri K.S. Kropha. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER. 7/95/Pl./23-D, dtd. 12-09-1995
25.	Shri H.K. Mazhari. RR 1982	Meghalaya	01-07-1998	Joined the Post on 12-9-95 (Pay Slip not issued)	PER. 7/95/Pl./23-D, dtd. 12-09-1995
26.	Shri B.V.P. Rao. RR 1982	Assam	01-07-1998	Joined the post on 5-10-95 (Pay Slip not issued)	AAI. 44/88/298, dtd. 22.08.1995
27.	Shri J.S.L. Vasava, RR 1982	Assam	01-07-1998	Joined the Post on 23-8-95 (A/N) (Pay Slip not issued)	AAI. 44/88/298-A, dtd. 22.08.1995
28.	Shri R.K. Baruah, RR 1982	Assam	01-07-1998	Charge Report not yet received. (Pay Slip not issued)	AAI. 44/88/298-B dtd. 22.08.1995
29.	Shri J.P. Prakash. RR 1982	Assam	01-07-1998	16-03-96 (Pay Slip not issued)	AAI. 44/88/Pl.11/5, dtd. 11.03.1996

Attended
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MOST IMMEDIATE
CAT CASE

No. 22012/30/96-AIS(II)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, dated 30th December, 1996

To

The Chief Secretary,
Government of Assam,
Deptt. of Personnel(A)
GUWAHATI

Subject : O.A. No. 2251 of 1996 filed by Shri J.S.L. Vasava, IAS (AM-82) in the CAT, Guwahati Bench for payment in the Supertime Scale on appointment in the said scale.

Sir,

I am directed to say that we have received a notice in the above case from the CAT, Guwahati Bench whereby Shri J.S.L. Vasava, IAS(AM;82) has gone to the Tribunal with the request to issue directions to the AG, Assam for issuance of pay slip in his favour in the Supertime Scale from the date he assume charge of the post in this scale subsequent to his promotion to this effect by the Government of Assam vide their Notification dated 22nd August, 1995. Secretary (Personnel) has been named as a respondent in the case, besides Secretary (Personnel, Government of Assam and A.G., Assam).

2. It is seen that the Government of Assam had allowed promotion to Shri Vasava in the Supertime Scale alongwith some other officers of 1982 batch vide their Notification dated 22.8.95 when he had completed just 13 years' service. This itself was in contravention of our instructions contained in the letter No. 11030/20/75-AIS(II) dated 27th December, 1975 which lays 16 years' service as the condition for an IAS officers to become eligible for promotion in the Supertime Scale. On many occasions in the past, when the matter was taken up with us by the Government of Assam for regularisation of promotions in Supertime Scale granted to their IAS officers before completion of 16 years' service, we have been advising them to avoid its recurrence and to stop all such promotions before completion of 16 years' service. On the last occasion when the Government of Meghalaya also wanted to promote their officers in the Supertime Scale before completion of 16 years' service on the lines of the action taken by the Government of Assam in this regard, the latter were requested to follow the rules as well as the relevant guidelines scrupulously.

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3. The action of the Government of Assam to have promoted their IAS officers in the Supertime Scale before completion of 16 years' service was itself incorrect and AG, Assam is also technically correct to deny issuing pay slips in such cases, it is considered that it would not be proper for the Government of India to make a separate appearance - whether the petition is supported or opposed. The petition cannot be supported because the said action of the Government of Assam will stand unregularised and it cannot be opposed because the action of the AG, Assam is technically correct and is in accordance with the guidelines on the subject.

4. In the circumstances, therefore, it has been decided that the matter be left to be defended by the Government of Assam and the AG concerned themselves and the Union of India would not make a separate appearance in the matter - especially as the relevant instructions have not been challenged. As we will only be a proforma party, you are requested to do the needful and keep us informed of the position obtaining from time to time.

Yours faithfully,

(A.K. Sarkar)
Director

Copy to A.G.(A&E), Assam etc. Shillong

Sd/-
24.12.96
(A.K. Sarkar)
Director