

30/600

9

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A/T.A No. 57/96  
R.A/C.P No.  
E.P/M.A No.

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SECTION OFFICER (Judl.)

*balis*  
25/1/96

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
GUWAHATI

ORIGINAL APPLN. NO. 57 OF 1995  
 TRANSFER APPLN. NO. OF 1995  
 CONTEMPT APPLN. NO. OF 1995 (IN OA NO. )  
 REVIEW APPLN. NO. OF 1995 (IN OA NO. )  
 MISC. PETN. NO. OF 1995 (IN OA NO. )

..... Harekhan Datta ..... APPLICANT(S)

-vs-

..... Union D. Indira ..... RESPONDENT(S)

FOR THE APPLICANT(S) ... MR. B.K. Sharma  
 MR. S. Sama  
 MR.  
 MR.

FOR THE RESPONDENTS ... MR. S. Ali, Sr. C.G.S.C.

OFFICE NOTE	DATE	ORDER
<p>Application for admission and within case of R. No. 50- deposited vide NO/8/83 No 345073 dated 27.2.96</p> <p>R.P. 10.4.96</p> <p>Dr. Chatterjee</p>	<p>11.4.96</p> <p>pg</p>	<p>None is present for the applicant. List on 18.4.96 for consideration of admission.</p> <p style="text-align: right;"><u>to</u> Member</p>
<p>Requisites are found &amp; found v no. 910-12 dt. 1.5.96</p> <p>by 30/4</p>	<p>18.4.96</p> <p>nkm</p>	<p>Mr B.K. Sharma for the applicant.</p> <p>Mr S. Ali, learned Sr. C.G.S.C., for the respondents.</p> <p>Heard Mr B.K. Sharma for admission. Perused contents of the application and the reliefs sought. The application is admitted. Issue notice on the respondents by registered post. 6 weeks time for written statement as prayed for by the learned Sr. C.G.S.C.</p> <p>List on 31.5.96 for writtens statement and further orders.</p> <p style="text-align: right;"><u>to</u> Member</p>

1) Service Reports are still awaited.  
 2) W/S statement has not been filed.  
 30/5

②

31.

31.5.96 Mr S.Sarma for the applicant.  
Mr S.Ali, Sr.C.G.S.C for the respondents  
Written statement has not been submitted.

List on 2.7.96 for written statement and further orders.

*bo*  
Member (A)

*J*  
Member (J)

pg

2.7.96 Mr S.Ali, Sr.C.G.S.C for the respondents. Written statement has not been submitted.

List on 31.7.96 for written statement and further orders.

*bo*  
Member

pg

31.7.96 Mr S.Sarma for the applicant. Mr S.Ali, Sr.C.G.S.C prays for time to submit written statement.

List on 21.8.96 for written statement and further orders.

*bo*  
Member

pg  
21/8

*Service reports are still awaited.*

*Written statement has not been filed  
20/8*

B

Office Note

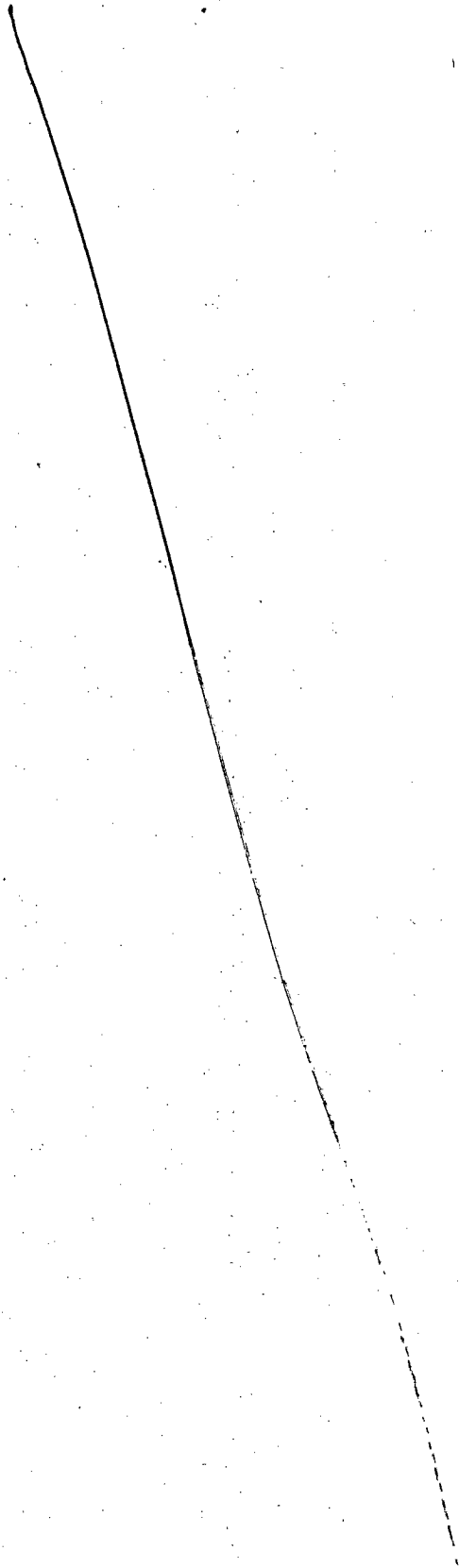
Date

Court order

1) Written statement has been filed on Respt. No - 1, 2, 3, 4 & 5. at page - 23 to 27.

2) Notice duly served on Respt. No - 2.

24  
19.12

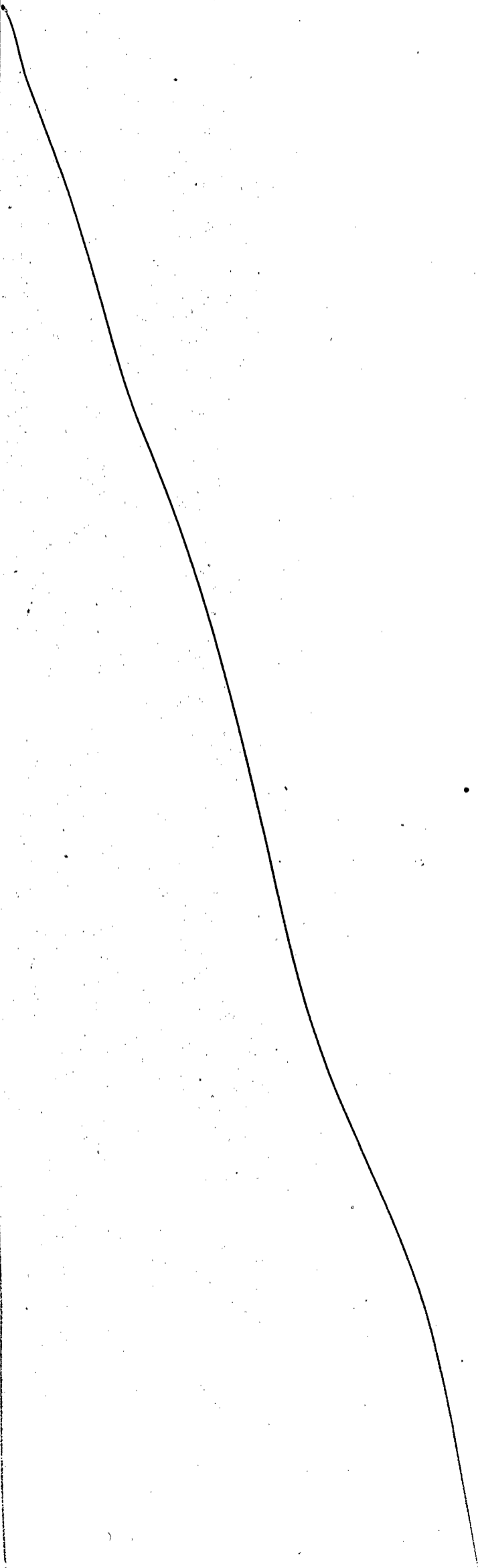


1

1) Notice duly served  
on Respt No-2

2) ~~w/ statement~~  
w/ Statement has  
been filed.

YH



21-8-96

Learned Sr.C.G.S.C. Mr.S.Ali for the respondents, seeks for 6 weeks time for filing written statement.

List for written statement and further order on 27-9-96.

*lm*  
Member

29.8.96

Notice duly served on No. 2.

lm  
m/21/8

*lm*

27.9.96

Mr S. Ali, learned Sr. C.G.S.C. for the respondents. Written statement has been submitted. Copy of the same may be served on the counsel for the applicant.

List for hearing on 17.10.96.

*lm*  
Member

12-9-96

W/S filed on behalf of R. no. 1, 2, 3, 4 etc & placed at Pg. 23-27.

nkm  
m/30/9

17.10.96

Mr. Ali, Sr. C.G.S.C is present for the respondents and ready for submission. However, leave note of Mr. B.K.Sharma.

Hearing adjourned to 28.11.96.

*lm*  
Member

1) Notice duly served on op. no. 2.

2) W/S submitted by the respondent.

*lm*  
29/11

trd  
m/17/10

28.11.96

Mr. S.Sarma for the applicant.

Mr. Sarma submits that the written statement submitted by the respondents is not accompanied by Annexures mentioned therein. It is seen that the same is the position with the copy on record. Mr. Ali may be informed to rectify.

Leave note of Mr. Ali, Sr. C.G.S.C.

List for hearing on 20.12.1996.

*lm*  
Member

pl. comply with the order dtd 28-11-96.

m/28/11

29.11.96

Copy of order issued to Mr. S. Ali Sr. C.G.S.C. on 29.11.96

trd  
m/28/11

20.12.96

Learned counsel Mr S. Sarma for the applicant. Learned Sr. C.G.S.C. Mr S. Ali for the respondents. By consent of both sides adjourned for hearing on 2.1.1997.

1) Notice duly served on Respondents no 2.

2) Wt statement has been filed on behalf of Respondents 1-5.

25/1/97

*[Signature]*  
Member

nkm

2.1.97

Learned counsel Mr S. Sarma for the applicants. Learned Sr. C.G.S.C. Mr S. Ali for the respondents. This is a case of stepping up of pay with reference to the pay of the junior.

In relief No.1 the impugned order has been shown as Annexures 4A to 4F which is apparently wrong because according to para 1 of the application the impugned order should have been Annexure-5, namely letter No.STB/Stepping up/Accounts dated 15.3.1996. Mr S. Sarma says that he is handicapped to make submission because the respondents have not annexed copy of the letter No.4-31/92-PAT dated 31.5.1993 on which the rejection of stepping up of pay vide letter dated 15.3.1993 was based. They have not also annexed any annexures to the written statement though a copy of the DOT letter No.50-146/95 Pt. dated nil is claimed in para 2 to have been annexed as Annexure-A to the written statement. It is true that the respondents failed to enclose the annexures as evident from the fact that in the copy of the written statement filed before this Tribunal also no enclosure has been enclosed. The respondents are directed to furnish forthwith to this Tribunal as well as to the counsel for the applicant copies of the aforesaid 2 letters of DOT.

Mr S. Sarma may submit his rejoinder before the next date of hearing.

The order dated 20.11.1996 of the Full Bench of C.A.T., Hyderabad Bench, in O.A.Nos.1412/93, 127/94, 129/94 and 517/94 (Madras Bench) has been perused by the counsels of both sides. They also require time to make their submissions in the light of this Judgment.

In the circumstances the hearing is adjourned to 17.1.97.

*[Signature]*  
2/1

Rejoinder has not been filed.

25/1/97

*[Signature]*  
Member

nkm  
Ali

Mr. S.Sarma for the applicant.  
Mr. S.Ali, Sr. C.G.S.C. for the respondents.

Annexure A to C of the written statement have been furnished by Mr. Ali today. Mr. Sarma submits that in view of the stay order dated 10.11.95 of the Hon'ble Supreme Court in similar cases as shown in Annexure C of the written statement the matter may be kept pending till disposal of the SLP No. 25489/95 before the Hon'ble Supreme Court.

Mr. S. Sarma will inform the outcome of the SLP and thereafter hearing will be taken up.

*[Signature]*  
Member

*he. campen  
order dtd 17-1-97.*

*MP  
17/1*

*1) w/s has been filed  
2) rejoinder has not been filed*

trd  
*MP  
17/1*  
13.5.98

Case is ready for hearing. List for hearing on 3.6.98.

*[Signature]*  
Member

*1) w/s has been filed  
2) rejoinder has not been filed*

pg  
*MP  
14/5*

*3.6.98 There is no Single Bench today. Adjourned to 17-6-98.  
By order*

*1) w/s has been filed  
2) rejoinder has not been filed*

17.6.98

Mr S.Sarma for the applicant and Mr S.Ali, learned Sr.C.G.S.C for the respondents are present. This matter relates to stepping up of pay which is under the jurisdiction of a Division Bench. Place it before the Division Bench on 23.6.98 for fixing a date of hearing.

*[Signature]*  
Member

*w/s has been filed.*

pg  
*MP  
15/6*

*MP  
22/6*

8

Written statement  
has been filed.

23.6.98

List on 8.9.98 for hearing.

  
Member

  
Vice-Chairman

pg

24/6

8.9.98

Heard the learned counsel for the parties. Hearing concluded. Judgment reserved.

  
Member

  
Vice-Chairman

nkm

15.9.98

Judgement delivered in the open court, kept in separate sheets, kept in separate sheets. The application is dismissed. No order as to costs.

  
Member

  
Vice-Chairman

trd

26.10.98

Copies of the Judgment have been sent to the D/Sec. for issuing the same to the parties through Regd. with A/D.

issued under  
D.No. 3099 to 3102

D. 26.10.98



10

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

O.A.No. 57 of 1996

DATE OF DECISION..... 15-9-1998.

Haradhan Dutta  
----- (PETITIONER(S))

Mr.B.K.Sharma, Mr.S.Sarma  
----- ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

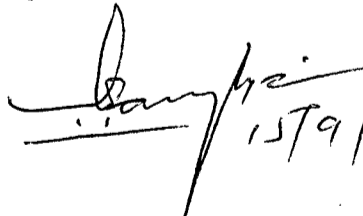
Union of India & Ors.  
----- RESPONDENT(S)

Mr.S.Ali, Sr.C.G.S.C.  
----- ADVOCATE FOR THE  
RESPONDENTS

THE HON'BLE MR. JUSTICE D.N. BARUAH, VICE-CHAIRMAN  
THE HON'BLE MR. G.L. SAGNLYINE, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble G.L. SAGNLYINE, ADMINISTRATIVE MEMBER

  
15/9/98

11

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.57 of 1996.

Date of Order: This the 15 th Day of September 1998

HON'BLE MR.JUSTICE D.N.BARUAH, VICE-CHAIRMAN  
HON'BLE MR.G.L.SANGLYINE, ADMINISTRATIVE MEMBER

Haradhan Dutta, Senior Accounts Officer(SSP)  
Office of the E.C.C.I, Division  
Department of Telecommunication, Silchar.

... .. Applicants.

By Advocate Mr.B.K.Sharma, Mr.S.Sarma.

-Vs-

1. Union of India, represented by the Secretary to the Govt. of India, Ministry of Communication, Sansar Bhavan, New Delhi-110001.
2. The Asst. Director General(TK) Department of Telecommunications, Sansar Bhavan, New Delhi-110001.
3. The Chief General Manager, N.E. Circle, Shillong-788901.

By Advocate Sri S.Ali, Sr.C.G.S.C

... .. Respondents.

O R D E R.

SANGLYINE, ADMINISTRATIVE MEMBER:

The Assistant Director Telecom(HRD) issued a letter No.STB/Stepping up/Accounts dated 15-3-1996 for the Chief General Manager, N.E. Telecom Circle, Shillong, respondent No.3, rejecting the prayer of the applicant for stepping up of his pay on the ground that his case does not constitute anomaly within the purview of the letter No.4-31/92- PAT dated 31-5-93 of the department Telecommunications. Hence this application.

2. The applicant is a Sr.Accounts Officer at the time of submission of this Original Application. He was senior to one Shri K.Sankaranarayan in the cadre of Junior Accounts Officer as well as in the cadre of Assistant Accounts officer. He was promoted to the post of Accounts Officer and joined on 24-10-90 whereas Shri Sankaranarayan was promoted later on and joined as Accounts Officer on 25-4-91. In the fixation of pay in the cadre of Accounts Officer, however, Shri K.Sankaranarayan was granted higher pay than the applicant. The pay of the applicant as on  
contd/-

24-10-90 was 2375/-, as on 1-12-91 was 2450/- and as on 1-4-92 was 2525/- whereas the pay of Sankaranayan was Rs. 2825/- as on 1-12-1991 and as on 1-4-1992. Thus Shri K. Sankaranayan has drawn more pay though he was junior to the applicant. This difference of pay was because of the fact that Shri Sankaranayan was enjoying officiation/adhoc promotion as Accounts Officer on local arrangement and he earned annual increments in the post he was officiating. Due to this fact, on regular promotion as Accounts Officer, Sri Sankaranayan's pay was fixed at a higher stage than that of the applicant. In this application the applicant prays for a direction to the respondents to step up his pay at par with that of K. Sankaranayan who was junior to him with effect from the date on which the alleged anomaly arose and to pay him consequential arrears. The respondents have resisted the prayer of the applicant on the ground that the difference in pay in this case is not an anomaly within the purview of FR-22 and the decision of Government of India thereunder.

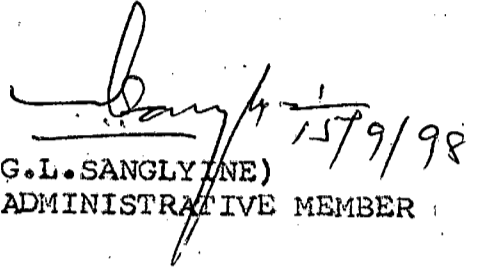
3. We have heard counsel of both sides. Several similar cases of Accounts Officers of the Department of Telecommunications were considered by the Hon'ble Supreme Court in Union of India and another Vs. R. Swaminathan and others reported in (1997) 7 SCC 690. In that judgment dated 12-9-1997 it was held that setting up of pay of the employees concerned was not admissible because the difference in the pay drawn by them and the higher pay drawn by their juniors is not as a result of any anomaly, nor is it a result of the application of Fundamental Rule 22 (I)(a) (1). Since the facts of the case of the present

contd/-

applicant are similar with the facts of the cases covered by the above mentioned judgment of the Hon'ble Supreme Court, we consider that there is no merit in this application. Accordingly, the application is dismissed. No order as to costs.



(D.N. BARUAH)  
VICE-CHAIRMAN



(G.L. SANGLYINE)  
ADMINISTRATIVE MEMBER

LM

Central Administrative Tribunal  
 9 APR 1996  
 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GAHATI BENCH  
 An application under section 19 of the Administrative  
 Tribunal Act 1985.

O.A. No 57 of 1996.

Shri Haradhan Dutta  
 ....Applicant.

Versus

Union of India & ors.  
 ...Respondents.

I N D E X.

Sl No	Particulars	page No
1.	Application .....	1 to
2.	Verification.....	
3.	Annexure 1.	
4.	Annexure 2.	
5.	Annexure 3.	
6.	Annexure 4.	
7.	Annexure 5.	
6.	<i>W) _____</i>	<i>28-27</i>

Filed by :-

S.Sarma  
 Advocate.

\*\*\*\*\*  
 \* Regd No..... \*  
 \* ..... \*  
 \* Date - - -1996 \*  
 \* Registrar \*  
 \* CAT/GHY. \*  
 \*\*\*\*\*

*Received 6/7/96  
 C. Feb. Sr. CYS  
 9/4/96*

15  
G. L. Das  
Secretary  
24/1/86

BETWEEN

Haradhan Dutta, Senior Accounts Officer (SSP)  
Office of the E.C.C. Division,  
Department of Telecommunication, Silchar.

.....Applicants

AND

1. Union of India, represented by the Secretary to the Govt. of India, Ministry of Communications, Sansar Bhavan, New Delhi- 110 001.
2. The Asst. Director General (TK) Department of Telecommunications, Sansar Bhavan, New Delhi. 110 001.
3. The Chief General Manager, NFE. Circle, Shillong- 788 001.

.....Respondents

DETAILS OF APPLICATIONS

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

The instant application is directed against the order communicated to the applicant refusing stepping up in relation to the pay of his junior.

2. JURISDICTION OF THE TRIBUNAL:

The applications declare that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

The applicants further declared that the

application is within the limitation period prescribed under section 21 of the Administrative Tribunals Act, 1965.

4. FACTS OF THE CASE:-

4.1 That the applicant is a citizen of India and as such, he is entitled to all the rights protections and privileges guaranteed by the Constitution of India and the laws framed thereunder.

(a) The applicants has passed J.A.O. Examination of 1978 batch (Revised syllabus First Batch) and promoted as J.A.O. vide D.O.T. Letter No. 18-5/79SEA dated 23.6.79 regular basis.

3. That the aforesaid posts of Junior Accounts Officers, Assistant Accounts Officers and Accounts Officers are borne on All India Cadre that the incumbants being liable to be transferred anywhere within India, On entry into these all India, Cadre, seniority of an incumbant is fixed on the basis of the rank obtained by him in the order of merit in the JMG-III Examination. The seniority was fixed, remains same through out.

4. That on entry into the category of Junior Accounts Officer, in seniority position of the applicants is assigned at Staff No. 81379 on the other hand, the seniority position of another incumbant viz. Shri K. Shankarnarayanan was assigned at Staff No. 81537. These seniority positions are of latest blue list which indicate All India Seniority

of category of Assistant Account Officer and Accounts Officer.

There cannot be any denial of the facts Shri K. Shankarayanan is junior to the applicant in the aforesaid cadres having All India Seniority. As pointed out above the serial No. (staff No.) 81379 in case of the applicants whereas said Shri K. Phakarannayan's is at Staff No. 81537. The applicant's Seniority

Position in A.A.O. Cadre as per Blue Book list on 1.4.89 was 00313 whereas the seniority position of said Shri Sakaranarayanan was at 00470. The applicant was promoted to the post of A.O. on 12.7.90 and his date of joining as A.O. was on 24.10.90 whereas the said Shri Narayanan was promoted as A.O. on 10.3.91 and his date joining is 25.4.91. The pay of the applicant as A.O. on 24.10.90 was ₹ 2375/- pay as A.O. on 1.12.91 was ₹ 2450/- and pay as on 1.4.92 was ₹ 2525/- whereas, the pay as A.O. on 1.12.91 was ₹ 2825/- and pay as on 1.4.92 was ₹ 2825/- The aforesaid anomalies ea-ad-hec basis was due to his for tutions promotions on adhoc basis. It will be pertinent to mention here that since the posts are borne on All India Seniority Cadre, some officers may join the promotional posts earlier, than others depending upon the place of posting and release. However, the same is no way effected the seniority and promotional benefits.

For better appreciation of the factual position a Comparative Statement depicting the aforesaid position is annexed is annexed as Annexure-4.

4.5 That the applicant came to know recently to his shock and dismay that said Shri K. Sankaranarayana was drawing more pay than them inspite of fact that he is junior to him. Upon enquires, he found that pay of Shri Sankaranarayana is more than his pay and this anomaly of junior getting more pay than the seniors occurred in view of the fortuitous adhoc promotion. Said Shri Sankaranarayanan was enjoying officiation/ adhoc promotion against Accounts Officers vacancy and consequently he was granted increment etc. This on his promotion on regular basis, his pay was fixed at ₹ 2750/- with the next date of increment on 1.12.91 with pay to be drawn at ₹ 2825/- Because of this situation, the anomaly of applicant getting lesser pay than his junior said Shri Sankaranarayanan has ~~occurred~~ occurred.

A copy of the Blue list/Book is annexed as ANNEXURE-2.

4.6 That the applicant being aggrieved with his wrong fixation of pay and there being ~~as~~ no stepping ~~as~~ up of his pay is reference to his junior said Shri Sankaranarayan made representations with the request for stepping up of pay at par with that of said Shri Sankaranarayanan with effect from the date on which the aforesaid anomaly arose.

Copies of such representation dated 2.1.96  
20.1.95, 27.1.95, 17.1.95, 17.1.95 and  
10.2.95 is annexed herewith as ANNEXURE.3.

4.7. That the applicant is his aforesaid representation

highlighted as to how the benefit of stepping up of pay has been granted to others under similar circumstances. It will be pertinent to mention here that many others like that of the applicant all over the country have approached the different Benches of the Hon'ble Central Administrative Tribunal with the similar prayer as has been ~~made~~<sup>made</sup> in the instant application i.e., for stepping up of pay in reference to the said Shri Sankaranarayanan as well as said Shri Sankaranarayanan. All the said applicants have allowed with the direction for stepping up of pay with effect from the date of occurrence of the anomaly with all consequential benefits of pay and allowances including arrears on re-fixation of pay in reference to said Shri Sankaranarayanan. The applicants crave leave of the Hon'ble Tribunal as to produce the copies of the said judgements at the time of hearing of the instant application. The respondent/s have implemented the judgement/s confirming the benefits to the applicants therein only.

4.8. That the applicants states that some others officer also are similarly circumstand with that of the applicant has already approached this Hon'ble Tribunal Gauhati Bench by filing O.A. being No. GA No. 65 of 1995 and 64 of 1995 and the Hon'ble Tribunal relying upon the other ~~benefits~~ Bench's order was pleased to attend the petitioners in the abovenoted OAs. And very recently this Hon'ble Tribunal has pleased to allow one more application bearing 51 of 1996.

The copies of the said orders passed in OA NO. 64 & 65 of 1995 are annexed herewith and marked as Annexure-4A & 4B.

4.9. That the applicants states that instead of following the principles laid down by the various Benches of the Hon'ble Tribunal and granting the same benefits to the applicants as was granted to the applicants in the said cases, the authority passed a mechanical order rejecting the prayer of the applicants.

Copies of the order communicated to the applicant dated 15.3.96 is annexed herewith as ANNEXURE-4 to P. 5

4.10. That the applicant states that from the aforesaid communication he have come to know that the authorities have communicated their decision.

5. For that prima facie the order/orders rejecting the prayer of the applicants for stepping up of their pay in reference to their junior is arbitrary and illegal and accordingly liable to be set aside and quashed.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that prima facie the order/orders rejecting the prayer of the applicants for stepping up of their pay in reference to their junior is arbitrary and illegal and accordingly liable to be set aside and quashed.

5.2 For that it is a settled position of law that when some principles are laid down in a case, the said principles are required to be followed by the authorities in respect of other cases and incumbants similarly circumsta-  
nced

nced without requiring them to approach the Hon'ble Tribunal again;but in the instant case, the applicants have been illegally deprived of the benefits of the said principles laid down by the different Benches of the Hon'ble Tribunal.

5.3 For that law is well settled with fortuitous adhoc promotion cannot put the seniors at a disadvantageous position in the matter of pay fixation. While doing so, the same benefit cannot be denied to the applicants when the adhoc promotion came to be issued from one post to another within an all India cadre in utter disregard to seniority under fortuitous circumstances.

5.4 For that law is well settled that in view of such anomalies stepping up of pay is required to be done so as to bring parity in the matter of pay fixation among the senior and juniors. In a given case where the juniors are getting more pay than their seniors.

5.5 For that in any view of the matter, the benefit of stepping up of pay cannot be denied to the applicants.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicants declare that they have got no other alternative remedy available.

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

(8)

The applicants further declare that they had not previously filed any application, writ petition or suit regarding the matter in respect of which the application has been made before any Court of law, or any other authority and/or any other Bench of the Tribunal and/or any such application writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT

In view of the facts and circumstance stated above, the instant application be admitted, records be called for an on perusal of the same and upon hearing the parties of the cause or causes that may be shown, be pleased to grant the following reliefs :-

(i) To set aside and quash the impugned orders at ANNEXURES 4A to 4F.

(ii) To direct the respondents to step up the pay of the applicants at par with their junior Shri K. Sankarayanan with effect from the date on which the anomaly arose and to pay all the arrears arising on account of such refixation and grant all consequential benefits and thus render justice.

9. INTERIM ORDER PRAYED FOR :

The applicants do not pray for any interim relief at this stage.

10.....

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O.

(i) I.P.O. NO. 809 345073

(ii) Date \* 27/2/96

(iii) Payable at : Gauhati

12. LIST OF ENCLOSURES :

As detailed in the Index.

VERIFICATION

.....contdd.....



- 11 -

25

COMPARATIVE STATEMENT

ANNEXURE-I

1. Serial No.	H. Dutta 81379	K. Sarkar Narayan 81537
2. Blue book		
2. Seniority in AAO	00313	00470
Cadre as per Blue Book		
List as on 1.4.89		
3. Pay as AAO on 23.10.90	2240/-	2240/-
4. Promotion as A.O.	12.7.90	00.3.91
5. Date of joining as A.O.	24.10.90	25.04.91
6. Pay as A.O. on 24.10.90	2375/-	2750/-
7. Pay as AO 1.12.91	2450/-	2825/-
8. Pay as on 1.4.92	2525/-	2825/-

PAT A/C & FINANCE 532 BLUE BOOK

Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/PR
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81305	PANDEY SANTOSH KUMAR	799	050646	140167	110391
84541	LAKSHMINARASIMHAN S	800	111150	220371	071290
81306	PAL-SUNIL KUMAR	801	120843	120267	
81307	NAGARAJAN V	802	150741	011261	010291
81308	BISMAS SANTOSH KUMAR	803	100442	140765	
81309	PITCHALAH B	804	030248	060768	
81310	DUTTA DILIP KUMAR	805	070642	040765	311090
81311	DANG SEMA RAM	806	010643	160366	170790
81313	RAGHAVAN PODUVAL P	807	020647	230566	261090
81314	PUROHIT VIJAY	808	120553	010373	141190
81315	NAGESWARA RAO CHELIKANI	809	150550	010772	140790
81316	VIJAYAN P V	810	210454	150873	260890
81317	ESWARA RAO K	811	010150	020371	160890
81318	PRABHAKARA RAO D V S	812	060446	230965	080690
81319	BANSAL ATMA RAM	813	201048	040169	170790
81320	CHINNATHAMBI M	814	050351	110172	200890
81321	RAMACHARI T	815	140648	250270	230890
81322	GIRISH BALUR K	816	080652	190773	051190
81324	BANERJEE SADHAN CH	817	100143	090466	051291
81325	KRISHNAMACHARYULU GTVS	818	100452	190672	280191
81326	JAIN SUDERSHAN LAL	819	010447	010166	120790
81328	RAM MOHAN M P	820	110544	100664	191090
81329	SUNDERESAN V	821	150551	141270	
81331	RAVINDRANATHAN K	822	290942	130263	221090
81332	GANGOPADHYAYA SUSANTA	823	010453	051173	040890

PAT A/C & FINANCE 533 BLUE BOOK

Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/PR
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81333	RAMACHANDRAN NAIR M C	824	040442	090273	310890
81334	RAMACHANDRAN R	825	260154	270673	071190
81335	RAMULU B	826	020654	210873	310790
81336	BASLUL HUCK S S	827	280552	181072	201090
81337	NATARAJAN K	828	200649	061168	240990
81338	RAMACHANDRAN K	829	170740	150661	
81339	VIJAYAN NAIR S	830	020252	010873	250890
81340	PRABHAKARAN NAIR A G	831	230945	220469	280890
81341	VERMA HARISH NARAIN PD	832	020943	150567	
81342	VEERARAGHAVALU CH	833	110650	160371	
81343	SHANMUGAM P	834	030650	040870	141190
81344	PARASURAMAN V	835	170547	170870	230591
81346	MALLESWARA RAO L	836	150150	290970	
81347	DIVAKARAN T	837	150547	230366	191090
81348	PAUL GOPAL CH	838	050751	100272	210890
84542	TEWARI JAGADAMBA PD	839	010747	090967	130990
81350	GOPAL JOSEPH S R	840	010650	061271	010292
81351	NAIR GOPALAKRISHNAN	841	041241	010164	151090
84543	SRINIVASA RAO L	842	110541	190861	140291
84544	PARAMASIVAN V	843	071149	230669	301190
81353	SAHA MANJENDRA	844	010344	230167	301090
81354	SASIDHRAN K	845	260551	050672	181090
81355	GUPTA OM CHANDRA	846	010545	280770	241191
81356	SHENBAGARAMAN H	847	080653	151272	311090
81358	RAJENDRAN V	848	061049	031069	141190

*Account Officer (A & P)*  
*The C.G.M. T., Assam, C.I.S.*  
*Guwahati - 7*

**Attested.**  
**Advocate**

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P&T A/C & FINANCE		534		BLUE BOOK	
Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/FR
81359	MEHBOOB BASHA K	849	031154	161073	221290
81360	ALI MJBARK	850	050146	090267	
81361	JHA SHEO NARAIN	851	080745	091068	
81363	VEERABHADRA RAO P	852	010952	130773	161290
81364	JAGANADHA RAO D	853	281140	041261	
81365	SRIVASTAVA SURESH CH	854	120642	200361	250791
81366	GANAPATHI S	855	050650	290978	180591
81368	PRASADA RAO T S R A	856	310349	190971	170191
81369	RAJESHAM S	857			
81370	BASPAL DINESH SHANKAR	858	170743	270169	240191
81371	NAGANATHAN R	859	110951	170773	120190
84545	EANAKAR G S	860			
81372	SAHOO BIRA KISHORE	861	030147	180570	
81373	SHARMA KHAGENDRA NATH	862	010548	020371	251090
81374	CHATTERJEE ARUN KUMAR	863	080146	290466	061090
81375	RAMANAMURTHY T V	864			040193
81376	SAHOO GHANASHYAM	865	180747	160570	
81377	SHATT BAIRAB DATT	866	110141	290758	101090
81378	BEKKINKERI M K	867	110652	230673	231090
81379	DATTA HARADHAN	868	210443	280665	241090
81380	BHAVANARAYANA M	869	010747	201070	160291
81381	YADAV R K	870	051245	130668	010261
81382	AHMED ISLAM	871	300953	230173	291090
81383	BANERJEE ANKHI RANJAN	872	251245	090964	311090
81384	AHMED NISAR	873	150743	050663	310791

P&T A/C & FINANCE		535		BLUE BOOK		
Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/FR	
81385	HARIHARAN V	874	151153	120873	310191	
81386	NANAJI YERRA	875	010750	201070	180391	
81387	KOMATHY NAYAGAM S	876	050247	131270	311090	
81388	AMBUJAN K	877	070147	120169	181090	
81389	PRASAD RAJENDRA	878	010950	060671		
81390	CHINNAPPACHARYA	879	200447	160668	191190	
81391	FRASAD AWADESH	880	010847	250267	281190	
81392	KARASIMHA RAO A M	881	301151	101073	191090	
81393	SANKARANARAYANA BHAT H	882	250950	061071	031190	
81394	DAS RAMESH CHANDRA	883	041050	250772		
81395	SURYANARAYANA MURTY S	884	140849	140873		
81396	GNASEKHARAN R	885	110540	280262	240591	
81397	SINGH BALBIR	886	260249	040771		
84546	JAYAVEERAN S	(SO)	887	170756	050136	281190
84547	PONNUSWAMY A	(SO)	888	250953	210976	141190
84548	MURARI LAL	(SO)	889	020945	050476	241190
84549	SWARGIARY USEN	(OT)	890	141151	190371	011190
84550	MESHRAM B S	(SO)	891	091052	191072	
84551	MUNUSWAMY C	(SO)	892	100645	010564	011190
84552	TULSIRAM	(SO)	893	010149	220771	310190
84553	KANTIVAL T R		894	200551	010572	
84554	NAITAN G M	(OT)	895	010549	061170	
84555	SUNTA RAJENDRA PRASAD	896	050143	101744	2503	
84556	SARU GOPEESH CHANDRA	897	030949	130172	180491	
81398	SUDHAKAR K	898	010851	110870	120491	

Attested  
 J. J. Halamuthu  
 Advocate.

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 PEF A/C & FINANCE 536 BLUE BOOK

Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/PR
81399	ISSAC M I	899	170545	041167	300991
81400	GOPAL VINOD KUMAR	900	280353	211273	270391
81402	BISHAS DHANANJAY	901	301049	011169	150491
81403	MUKHERJEE BISKANATH	902	030145	130965	150491
81404	NILEKAR KRISHNAKANT	903	021243	150967	160491
81405	KRISHNAN A D	904	120545	100766	060591
81406	SINGAYACHARI S	905	060449	161269	100491
81407	NAGOO PUJARI S	906	160851	190773	180491
81408	SHANKARALINGAM G	907	180746	050968	270391
81409	DASS GOURISHANKAR	908	120251	210473	180491
81410	VENKATARAMAN S	909	290345	200665	020491
81411	BALAMBAL S E	910	250949	280269	260491
81412	PUNNOSE M I	911	150247	010771	250391
81413	KANNIYAPPAN P	912	050650	120171	180491
81414	SUBRAMANIAN K	913	100150	251169	110691
81415	SELVARAJ D	914	190147	300468	180491
81416	RAI SADA NAND	915	220544	130583	150791
81417	MURUGESAN M	916	200252	140373	010791
81418	RAMAKRISHNAN K	917	011040	101061	130591
81419	RAMACHANDRA RAO M	918	100552	210473	010591
81420	GANDHI ARUMUGAM P	919	251047	250172	100691
81421	DAS BABUN CHANDRA	920	160447	191166	150491
81422	BHATIA SUDESH KUMAR	921	020146	160465	150491
81423	NAGARAJA RAO V	922	010950	161070	060591
81424	BALAKRISHNAN T	923	030142	121064	010791

PEF A/C & FINANCE 537 BLUE BOOK

Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/PR
81426	SAHA SADRAN CHANDRA	924	010949	210877	180491
81427	UEADHYAYA N M	925	180151	300572	010691
81428	CHAKRABORTY PRANJAY CH	926	010547	171166	210491
81429	ANJAN K	927	170547	250768	270891
81430	SRIDHARAN G	928	150145	150601	240491
81431	YADAV KAMALLESHWAR	929	160748	061009	280391
81432	KARIHARAN G S	930	220240	130569	110791
81433	THANDAVAMURTHY P V	931	210151	050673	280491
81434	ANANTHARAMAN V	932	170845	190865	
81435	KAITRA KALI PRASAD	933	010137	280660	260491
81436	RAJESHENKARA	934	150445	140964	300491
81437	PILLAI V R GOPALA K	935	030846	141068	220891
81438	SUBBA RAO M	936	240646	221167	200891
81439	BHATTACHARJEE BANAMALI	937	010641	240107	260491
81440	PERUMAL ILLAIYA	938	020346	040806	130591
81441	GOSVI M D	939	200242	050173	140491
81442	TIRUPATHI B	940	100848	230567	160491
81443	LEHRI GURMUKH SINGH	941	010646	170255	180491
81444	VENKATKRISHNAN R	942			240491
81445	CHANDRASEKHARA RAO Y	943	010746	160566	121191
81446	VERMA RAJA KUMAR	944	100151	030971	120491
81447	SHANKAR M N	945	150548	080571	120491
81448	EASU P K	946	301246	050866	180791
81449	SINGH SARHAJIT	947	100244	101067	
81450	DORAIPAJ Z	948	040545	060106	100491

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 Account Officer (A & P)  
 O/O The C.G.M.T., Assam Circle  
 Guwahati - 7

Attested  
 Advocate

The date of stepping up of pay has been...

PET A/C & FINANCE		540		BLUE BOOK	
Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/PR
81500	MOHANA KRISHNAN D	999	300952	060374	070591
81501	SRANAGAN F	1000	080523	160672	220591
81502	SURYANARAYANAMURTHY M	1001	010749	250270	110601
81503	MEENAKSHI SUNDARAM S	1002	100354	090573	130601
81504	PRASAD GOPAL	1003	060749	140772	290691
81505	SINHA H P	1004	080750	161073	120491
81506	RAJ KUMAR	1005	090451	030173	010491
81507	CHINAI RAY BHARUSA	1006	200744	260968	110491
81508	CHADHA P C	1007	210740	261068	070391
81509	MAJUMDAR H K	1008	010747	120570	190491
81510	GUPTA U R	1009	171148	020169	130601
81511	ANTONY SWAMY S	1010	101254	110673	260191
81512	SINGH SHIVAPAL	1011	070444	291065	191202
81513	GHOSH ARABINDU	1012	250615	300465	
81514	SUBRAMANIAM R	1013			010591
81515	MALI S J	1014	010345	211167	160491
81516	CHANDHARY H F	1015	120550	200873	160491
81517	JAYARAMI REDDY A	1016			010791
81518	KRISHNASWAMY M	1017	090748	031167	250691
81520	SREENIVASAN B	1018	190653	291172	200591
81521	MIDHARAN UNNI P	1019	190341	190865	090391
81522	SWAMI SUNDAR S V	1020	290249	021269	190491
81523	MATT R V	1021	021054	251173	200591
81524	RAMKRISHNAN S	1022	240154	250773	030291
81525	CHANDRAN	1023	100243	150302	070691

PET A/C & FINANCE		541		BLUE BOOK	
Staff No.	Name	Sen. No.	Date of Birth	Date of Entry	Date of DPC/PR
81526	AWASTHI H L	1024			
81527	RAJAMANI A	1025	151254	101273	150491
81528	KRISHNAMURTHY S SIVARAM	1026	010252	120273	180791
81529	MISHRA G P	1027	010450	020771	200791
81530	RATH G P	1028	211050	010772	290591
81531	SAHU B C	1029	050645	020368	301291
81532	SHAN R M	1030	090646	160265	
81533	GOPARAJU M	1031	150152	191171	270391
81534	YADAV SHRI RAM	1032	170550	230872	200391
81535	RAMA SUBRAMANIAM T	1033			290491
81536	SADH S L	1034			
81537	SANKARA NARAYANAN K	1035	210554	190773	240491
81538	PRAJAPATI R A	1036			161191
81539	SWAMY S MUTHUKUMARA	1037	170650	050472	240491
81540	KARTHIKEYAN S	1038	150654	030974	240491
81541	AHMED SHABBIR	1039	020446	090967	180791
81542	SURYANARAYANAN R	1040	041149	160562	140791
81543	SANGAMAYYA G	1041	101250	140873	210791
81544	DHANAPAL P	1042	120944	170964	190591
81545	RAT BALESWAR	1043	010747	210366	211201
81546	JANARDHANAN K	1044	150452	020773	070601
81547	KRISHNAMACHARYAN Y V	1045	020243	160763	101101
81548	KEHRSAGAR R G	1046	200245	291068	
81549	BALASUBRAMANIAN P	1047	140347	150162	240491
81550	PATEL M L	1048	010643	060669	040491

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*Handwritten signature*  
 Accounts Officer A &  
 O/O The C.G.M. Assam Circle,  
 Guwahati-7

**Attested.**  
 Advocate.

(W)

From:-

Sri Haradhan Datta  
S. Accounts Officer  
O/O the Exedutive Engineer  
Telecom Civil Division  
Silchar.

To,

The Chief General Manager  
N.E. Telecom Circle  
Shillong :- 788 001.

(Through proper Channel.)

Sub: Prayer for stepping up of Pay at par with the Junior.

Sir,

I have passed J.A.O. Examination of 1978 batch (Revised Syllabus First Batch) and promoted as J.A.O. vide D.O.T. letter No. 18-5/79/SEA, dated 23-06-79.

My serial number in Blue Book as on 01-04-89 is 81379. I assumed the charge of the office of the A.O. on 24-10-90 on promotion vide D.O.T. letter No. 9-1/90-SEA, dated 12-07-90 and 08-10-90.

My initial pay was fixed @ Rs. 2375/= with effect from 24-10-90 and with D.N.I. on 01-04-91 to Rs. 2450/=.

That Shri K.Sankar Narayan who belongs to my subsequent batch and his serial No. in the blue Book as on 01-04-89 is 81537 has been promoted as Accounts Officer on regular basis with effect from 25-04-91 and his pay was fixed at Rs. 2750/= with D.N.I. on 01-12-91.

Shri Sankar Narayan , A.O. is working in the office of the C.G.M.T., Tamilnadu Circle and his pay has been fixed at higher stage in the time scale of Rs. 2375/3500 in view of the fortuitous adhoc promotion i.e. he was enjoying the officiating promotion against the vacancy of the accounts Officer.

I am furnishing hereunder a Comperative Statement of pay drawn by me and Shri K. Sankar Narayan from time to time.

	<u>H. Datta</u>	<u>K. Sankar Narayan</u>
1. Serial Number in Blue Book.	81379	81537
2. Seniority in A.A.O. Cadre as per Blue Book list as on 01-04-89.	00313	00470
3. Pay as A.A.O. on 23-10-90	Rs. 2240/=	Rs. 2240/=

Attes.ed.  
Advocate.

Conted...p/2

	<u>H. Datta</u>	<u>K. Sankar Narayan</u>
4. D.O.T. Letter date promoting as A.O.	12-07-90	10-03-91
5. Date of joining as A.O.	24-10-90	25-04-91
6. Pay as A.O. on 24-10-90	Rs. 2375/=	Rs. 2750/= (w.e.f. 25-04-91)
7. Pay as A.O. on 1-12-91	Rs. 2450/=	Rs. 2825/= (D.N.I. on 1-12-91)
8. Pay as on 1-4-92	Rs. 2550/= 2525	Rs. 2825/=

There was a long standing anomoly about the higher pay drawn by the junior in the same cadre by virtue of fortuitous officiating promotion. This has been challenged by many officials in various C.A.F. and obtained decree in favour of them, but it was challenged by the Department in the Supreme Court.

In the recent judgement of the honourable Supreme Court vide SLP No. 13994 of 1991, dated 28-08-91 (extract of the decision of the judgement is enclosed). The learned judges have struck the anomaly and directed to step up of the pay of the senior officer at par with the junior when the junior earned increments during the fortuitous adhoc promotion on the basis of local promotions leading to fixation of pay of junior at a stage higher than the senior.

I would, therefore, request that my Pay may kindly be stepped up from Rs.2450=00 to Rs. 2750=00 w.e.f. 25-4-91 and to Rs. 2825=00 w.e.f. 01-12-91 w.e.f. D.N.I. on 1-12-92 at par with that of Sri K. Sankar Narayan, Accounts Officer, O/o the C.G.M.T., Tamilnadu Circle, Madras.

Thanking you,

Yours faithfully,

*Haradhan Datta*  
(HARADHAN DATTA)  
Sr. Accounts Officer  
Telecom Civil Division  
Silchar - 788 004.

Date 02-01-96.

Accepted.  
*[Signature]*  
Advocate.

02/01/96  
02/01/96

02/01/96  
02/01/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.64 of 1995

Date of decision: This the 22nd day of November 1995.

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman

1. Shri Haran Chandra Chakraborty
2. Shri Bidur Bhusan Mukherje
3. Shri T.S. Nagarajan
4. Shri J. Chenchaiiah
5. Shri G. Thalamuthu
6. Shri Biswajit Deb
7. Shri K.S. Manoharan
8. Shri V.K. Hariharan
9. Shri S. Seshadri
10. Shri P. Sundera Rajan
11. Shri Balakrishnan
12. Shri C. Rajendran.

All the applicants are working as Accounts Officer in the Department of Telecommunications and are posted at different stations.

.....Applicants


By Advocate Shri B.K. Sharma with Shri B. Mehta.  
- versus -

1. The Union of India,  
Represented by the Secretary to the Government of India,  
Ministry of Communications,  
New Delhi.
2. The Asstt. Director General (TE),  
Department of Telecommunications,  
New Delhi.
3. The Chief General Manager (Telecom),  
Assam Telecom Circle,  
Guwahati.
4. The Chief General Manager, Telecom Task Force,  
Guwahati.
5. The Chief General Manager,  
Eastern Telecom Region,  
Calcutta.

.....Respondents

By Advocate Shri S. All, Sr. C.G.S.C.



Amended.  
  
 Advocate.

O R D E R

CHAUDHARI, V.C.

Mr B.K. Sharma for the applicants.

Mr S. Ali, Sr. C.G.S.C., for the respondents..

This is an application filed by a group of 12 Accounts Officers serving in the Department of Telecommunications. They are posted at different stations. Their common grievance is that the pay of P.C. Chakraborty who is junior to them has been fixed at Rs.2750/- on 27.6.1994, whereas their own pay has been fixed lower than R.C. Chakraborty and thus there arises an anomaly which is required to be removed. They, therefore, pray that the respondents be directed to step up their pay at par with the pay of R.C. Chakraborty with effect from the date on which the anomaly arose and pay to them the arrears.

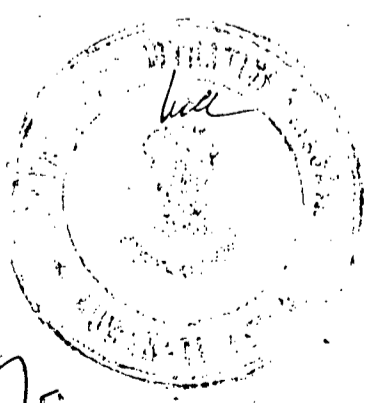
The respondents have not disputed the various dates on which the respective applicants were appointed as Junior Accounts Officers and thereafter as Assistant Accounts Officers and later on as Accounts Officers from the respective dates shown by the applicants. All the applicants were promoted as Accounts Officers on regular basis <sup>and their pay has</sup> ~~been fixed between~~ Rs.2375 and Rs.2600 respectively, whereas the pay of R.C. Chakraborty has been fixed as Rs.2750.

2. The applicants submitted a representation on 6.2.1995 to the Chief General Manager, Assam Telecom Circle to remove the anomaly. The applicants have stated that they got the knowledge that their pay was fixed at a lesser level and after the knowledge was derived they filed the representations from 25.11.1994 onwards to 6.2.1995. The applicants aver that the pay of R.C. Chakraborty has been fixed higher than their pay because of the fortuitous adhoc promotion which he was able to get because of his posting in the West Bengal Telecom Region and they had no opportunity of getting such a promotion in the Assam Telecom Circle and that circumstance should not result in they being deprived of pay equal to his pay on their regular promotion

to the post of Accounts Officers. In the representations the applicants drew attention of the Chief General Manager to the fact that various Benches of the Central Administrative Tribunal have, in cases of similar nature, decided that such an anomaly should be removed and the same course should be followed in respect of them.

3. The respondents inter alia contend that the pay of R.C. Chakraborty has been fixed on the basis of his pay in the earlier cadre before promotion correctly applying the rule in FR 22(i)(a)(i) and there does not arise any anomaly. They have further stated that R.C. Chakraborty was drawing more pay than the applicants when all of them were working together in the previous cadre and on promotion everybody's pay was fixed taking their existing pay on the previous cadre as the basis under FR 22(i)(a)(i) and that R.C. Chakraborty's pay was fixed at a higher level than that of the applicants' pay by virtue of his pay in the previous cadre. The respondents further contend that the decisions of the various Benches of the Central Administrative Tribunal cannot be applied to the applicants in view of the observations of the Department of Personnel and Training vide letter No.4-31/92-PAT dated 31.5.1993.

4. Having regard to the fact that all the applicants and R.C. Chakraborty were Assistant Accounts Officers before regular promotion as Accounts Officers and that R.C. Chakraborty was junior to the applicants in accordance with their inter se seniority the mere circumstance that R.C. Chakraborty could get the benefit of fortuitous adhoc promotion as Accounts Officer from time to time cannot deprive the applicants of getting the pay equal to his pay on their promotion as Accounts Officers merely because R.C. Chakraborty may have drawn higher pay by virtue of his adhoc promotion. The pay earned by him during his adhoc promotion benefit of which is given to him cannot thus be a ground to deny the applicants the benefit of equal pay merely because they had no opportunity to gain fortuitous adhoc promotion prior to him or like him.



Advocate  
B. S. R. S.  
Advocate

5. The position has been settled by the decision of the Ernakulam Bench of the Central Administrative Tribunal in the case of C.M. Jacob, Accounts Officer and others relating to Kerala Telecom Circle, wherein the applicants had claimed that there was an anomaly arising owing to one of their juniors, K. Sankaranarayanan, (O.A.No.1156/93 dated 20.10.1993) having gained fortuitous adhoc promotion on the basis of which his pay was fixed at a higher level than that of them. The Bench noted that by virtue of FR 22-C and DG P&T's instruction, Ministry of Finance O.M.No.F2(10)-E.III(A)/62 dated 20.6.1965 it was contemplated that the pay of a senior shall be stepped up to the level of the pay of his junior, drawing a higher pay and that is intended to obviate an anomaly that may not be wholesome in service. It was held that in all cases (except case of disciplinary proceedings) where the senior draws a lesser pay, he is entitled to have his pay stepped up to the level of the pay of his junior subject to the condition that the senior and junior are in the same scale, same cadre and same unit. The claim of the applicants in that application for stepping up of pay was allowed.

6. In the decision in (O.A.816/89) N. Lalitha (Smt) and others -vs- Union of India and others, (1992) ATC 569 (Hyderabad), similar view was expressed after noticing the decision of the same Bench in the case of V. Vivekananda -vs- Secretary, Ministry of Water Resources, O.A.No.622/89, and the decision of the Calcutta Bench of the Tribunal in Anil Chandra Das -vs- Union of India, (1988) 7 ATC 234 (Cal). It was held that not having had the benefit of fortuitous adhoc promotions the senior should not be placed at a disadvantage in pay fixation. The respondents were directed to step up the pay of the applicant therein on par with his juniors. It was noticed that the earlier matter was carried to the Supreme Court in SLP No.13994 of 1991 which was dismissed on 22.8.1991 and the decision stood upheld. The case accordingly was decided in favour of the applicants. Similarly in O.A.No.1156/93 decided by the Ernakulam Bench of the Tribunal on 29.10.1993 (in the case C.M. Jacob, Accounts Officer and others) <sup>referred above</sup> the view taken in above decisions

was.....

was followed. I do not see any good reason to take any different view than taken in the above cases and, with respect, follow them. It may be mentioned that I have discussed these decisions in my order on O.A.No.100 of 1991 dated 8.8.1995.

7. It is extremely unfortunate that the respondents did not want to respect the decisions of the various Benches of the Tribunal although they are bound by the law enunciated therein. The respondents took recourse to merely referring to the letter of the Ministry of Communications, Department of Telecommunications dated 31.5.1993 which is annexed to the written statement. In the aforesaid letter of the Telecom Department it is purported to be clarified that the benefit of the judgment of the Hyderabad Bench of the Central Administrative Tribunal in O.A. No.816/89 in Smt N. Lalitha's case cannot be extended to other similarly placed Government servants as these cases do not constitute an anomaly and stepping up of pay cannot be allowed under the existing orders. The defiance to the decisions of the Tribunal reflected in this letter need not be commented further except stating that such an attitude and policy of the Telecommunications Department cannot be <sup>appreciated</sup> accepted. The dispute raised by the applicants being identical and the case of the Ernakulam Bench since had related to their own department to which the applicants had made reference in their representations, this clarification has no force to override the principle laid down by the Tribunal.

8. The contention of the respondents that the pay of R.C. Chakraborty was fixed by virtue of his pay in the previous cadre is misleading in the sense that although the higher pay earned by him during fortuitous adhoc promotion appears to have been taken into account. That fact is tried to be glossed over by making a statement of general nature. Hence I reject that contention.

9. I am convinced that an anomaly arises in the pay of the applicants vis-a-vis R.C. Chakraborty as pointed out by the applicants

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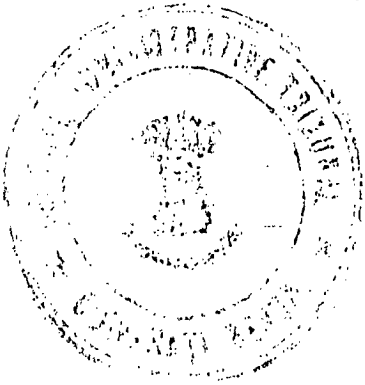
on their promotion as Accounts Officers and the applicants are, therefore, entitled to be granted the relief as prayed.

10. In the result the respondents are directed to step up the pay of the applicants at par with R.C. Chakraborty with effect from the date on which the anomaly arose and ~~farther direct~~ <sup>not further directed</sup> the respondents to pay to the respective applicants the arrears as may be found payable to them arising on account of refixation of their pay after removal of the anomaly.

The above exercise to be completed within a period of three months from the date of communication of this order to the respondents.

11. The original application is accordingly allowed. No order as to costs.

Sd/- VICE CHAIRMAN



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*[Handwritten signature]*

Section Officer (J)

अनुपाल अधिकारी (न्यायिक शाखा)  
Central Administrative Tribunal

केन्द्रीय प्रशासनिक उच्च न्यायालय  
Guwahati Bench, Guwahati-5  
गुवाहाटी न्यायपीठ, गुवाहाटी-5

*[Handwritten signature]*  
20/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.65 of 1995

Date of decision : This the 22nd day of November 1995

The Hon'ble Justice Shri M.G. Chaudhari, Vice-Chairman

- 1. Shri Monomohan Dey
- 2. Shri Babul Kumar Das
- 3. Shri Manabendra Saha
- 4. Shri Khagendra Nath Sarma
- 5. Shri Islam Ahmed
- 6. Shri B. Tirupataiah

All the applicants are working as Accounts Officer in the Department of Telecommunications and are posted at different stations under the Chief General Manager, Telecom, Guwahati. ....Applicants

By Advocate Shri B.K. Sharma with Shri B. Mehta.

- versus -

- 1. Union of India, represented by the Secretary to the Government of India, Ministry of Communications, New Delhi.
- 2. The Assistant Director General (TE), Department of Telecommunications, New Delhi.
- 3. The Chief General Manager (Telecom), Assam Telecom Circle, Guwahati.

.....Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

.....

ORDER

CHAUDHARI, J. V.C.

Mr B.K. Sharma for the applicants.

Mr S. Ali, Sr. C.G.S.C., for the respondents.

The six applicants are working as Accounts Officers in the Department of Telecommunications and are posted at different stations under the Chief General Manager, Telecom, Guwahati. Their grievance is that on their promotion as Accounts Officers they have realised that the pay of K. Sankaranarayanan, who is junior to them and has been promoted as Accounts Officer on regular basis after the applicants were promoted

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to that cadre, has been fixed higher than that of the applicants taking into account his pay during his fortuitous adhoc promotion as Accounts Officer which opportunity was not available to them and thus there arose an anomaly in the fixation of pay. The pay of the applicants has been fixed between Rs.2375 and Rs.2450 respectively, whereas the pay of Sankaranarayanan has been fixed as Rs.2750 with effect from 25.4.1991.

2. The applicants had preferred representations, but they were rejected on the ground that there was no anomaly. The contentions urged by the applicants in the instant case are the same as are urged by the applicants in companion O.A.No.64 of 1995, which has been separately decided today. The contention of the respondents in the instant case are the same as urged by them in that case. The rival contentions have been examined and for the reasons recorded in the order in the companion O.A., I have held that the applicants in that case are entitled to be given the relief as prayed. The same reasons are adopted in support of this order and it is not necessary to repeat them. For the same reasons following order is passed:

The respondents are directed to step up the pay of the applicants at par with K. Sankaranarayanan with effect from the date on which the anomaly arose and the respondents are further directed to pay to the respective applicants the arrears as may be found payable to them arising on account of re-fixation of their pay after removal of the anomaly.

The above exercise to be completed within a period of three months from the date of communication of this order to the respondents.

3. The original application is accordingly allowed. No order as to costs.

4. A copy of the order passed in O.A.No.64/95 may be placed in the record of this case.

**TRUE COPY**

प्रतिलिपि

*John 20/12/95*

Sd/- VICE CHAIRMAN.

Section Officer (J)

उत्पन्न प्रतिलिपि (न्यायिक शाखा)  
Central Administrative Tribunal

केन्द्रिय प्रशासनिक उपाययन  
Guwahati Bench, Guwahati-5  
गुवाहाटी न्यायशाला, गुवाहाटी-5

*20/12*

DEPARTMENT OF TELECOMMUNICATION  
OFFICE OF THE CHIEF GENERAL MANAGER N.E. TELECOM CIRCLE  
SHILLONG

No. STB/Stepping up/Accounts Dtd. at Shillong the 15-3-96

To

The Executive Engineer  
Telecom Civil Dvn  
Silchar.

Sub:- Stepping up of pay- case of Sri H. Dutta, Sr. A.O.

Ref:- Your letter No. 21(7) TCD/SC/28 dtd 3.1.96

With reference to your letter No. cited above it is intimated that the case does constitute anomaly as per DOT/ND letter No. 4-31/92-PAT dt. 31.5.93 on stepping up of pay. It is regretted that the same can not be allowed under the existing rules. Kindly inform the official accordingly.

*U. Lajpat*  
Asstt. Director Telecom (HRD)  
For Chief General Manager  
N.E. Telecom Circle Shillong

*EE/TCD-2/SC  
Spent  
19.3.96*

E.E.	<i>[Signature]</i>
A.O.	
A.A.O.	
H/c	<i>kw</i>
Section	<i>Patl</i>
D/Nos	<i>642</i>
Date	<i>22/3/96</i>

DEPARTMENT OF TELECOM.

OFFICE OF THE EXECUTIVE ENGINEER:TELECOM. CIVIL DIVISION SILCHAR

No. 21(7) TCD/SC/474

Dated 22/3/96.

Copy to:- The Sr. Accounts Officer, Telecom Civil Division, Silchar  
for information please.

*[Signature]*  
Executive Engineer,  
Telecom Civil Division,  
Silchar.

\* \* \* \*

*[Signature]*  
19.3.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

*Lead list  
to "Anwarul"*  
Central Administrative Tribunal

In the matter of :

O.A. No. 57/96

Sri H. Dutta & Ors.

-versus-

U.O.I. & ors.

-And-

In the matter of :

Written statement submitted by the  
respondent Nos. 1, 2, 3, 4, 5 and

WRITTEN STATEMENT

The humble respondents submit the written  
statement as follows :

1. That with regard to the statement made in paragraphs 1, 2 and 3 of the application the respondents have no comments.
2. That with regard to the statement made in paragraph 4 of the application the respondents beg to state that the stepping up of pay of the applicant under question is not permitted under the rules as it is not an anomaly in pay fixation under Government of India Decision under FR 22 as per the departmental stand regarding stepping up of pay of senior at par with juniors vide DOT letter No. 50-146/95 PAT dated

*Forwarded to  
Asst. Secy  
28/11/96*

Nil (Enclosed). The interpretation of Government of India Decision 22 is that stepping up of pay of Senior government servants at par with juniors cannot be allowed if senior had no occasion to draw more pay or more increments than the junior prior to his promotion to the next grade. In the instant case, Sri H. Dutta was drawing equal pay as compared to his counterpart Sri K. Sankaranarayanan prior to the promotion to the grade of Accounts Officer. Hence the question of stepping up of pay does not arise.

A copy of the DOT letter no. 50-146/95 PAT dated Nil is Annexed herewith and the same is marked as Annexure A.

3. That with regard to the statement made in paragraph 4.5 of the application the respondents beg to state that the pay of Sri K. Sankaranarayanan was fixed at Rs. 2750/- on promotion to the grade of Accounts Officer. For making regular promotion from Group 'C' to Group 'B' in a cadre, All India Seniority of Group C is followed. However the circle offices can fill up vacancies at short term in their circles by making local adhoc arrangement, operating on the circle seniority list. The pay of the officers working in an officiating capacity cannot be restricted if they satisfy all the eligibility conditions for promotion. By local adhoc arrangement Sri K. Sankaranarayanan has earned increments under FR 26 which caused fixation of pay at Rs. 2750/- at the time of his regular promotion to the grade of Accounts Officer, than that his senior Sri H. Dutta. The fact that the spell of period spent by an officer by local adhoc arrangement while working on a higher posts counts towards increment under FR 26 has been in vogue since long and unquestioned and has

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not been challenged by the applicant at any time. This provision results in junior getting higher pay at the time of regular promotion if they have a longer spell of adhoc service at their credit in the feeder cadre than the senior.

4. That with regard to the statements made in paragraphs ~~4.7 and~~ 4.8 of the application the respondents beg to state that stepping up of pay can be done only with a person belonging to the same lower cadre recruiting unit wherever gradation list is maintained locally in the lower grade and for higher post, the same is maintained on All India Basis. Comparison for stepping up cannot be made with a person of different circle since adhoc local arrangements in the said case has been made locally only due to exigencies of administration.

5. That with regard to the statements made in paragraphs 4-7 and 4.8 of the application the respondents beg to state that the relief granted earlier by the Judgement of the Tribunal was without following any rules or instructions and without striking down any rules or instructions which is arbitrary. This was evident from the fact that when the applicants who have not resented the promotion of their juniors in preference to them can resent the consequential benefit of increments of pay to such junior and counting of period during which applicant was not working on adhoc basis in promoted post for drawal of increment in that grade at par with the junior who had actually worked on adhoc basis in the promoted grade does not amount to equal treatment of unequals.

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Incidentally it was pointed out that Madras Bench of CAT in their judgement dated 22/11/95 in O.A. Nos. 1823, 1824, 1825, 1826, 1830, 1861, 1895, 1896, 1898 and 1899 of 1993 found that these applications for stepping up are devoid of merit and accordingly dismissed the O.As.

A copy of the judgement is enclosed and the same is marked as Annexure-B.

The Supreme Court has granted stay in a similar case in which the SLP was filed on 10.11.95 in O.A. Nos. 1523 of 1993, 43 of 1994, 1078 of 1994, 1193 of 1994 and 1226 of 1994.

A copy of the Stay Order passed by the Hon'ble Supreme Court is annexed hereto and the same is marked as Annexure-C.

6. That with regard to statement made in paragraph 5 of the application the respondents beg to state that none of the grounds mentioned in paragraph 5 is maintainable in law as well as in facts as such the same is liable to be dismissed.

7. That with regard to the statement made in paragraph 8 of the application regarding relief sought for the respondents beg to state that the applicant is not entitled to any of the reliefs sought for as such the application is liable to be dismissed.

8. That with regard to the statements made in paragraphs 10, 11, 12 of the application the respondents beg to state that they have not comments on them.

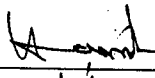
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9. The respondents submit that the application has no merit and as such the same is liable to be dismissed.

VERIFICATION

I, Sri C. Murmu, Vigilance Officer, Office of the Chief General, Manager, N.E. Telecom Circle, Shillong do hereby solemnly affirm and declare that the statements made in this Written Statement are true to my knowledge, belief and information.

And I sign this verification on this the day of 9th Sept. 1996.

  
9/9/96  
समरकान्त मुखर्जी  
मुख्य महा प्रयत्न का कार्यालय  
शिलांग  
Vigilance Officer  
O/o. C.G.M.T., Shillong

DECLARANT