

30/600

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

5

(DESTRUCTION OF RECORD RULES, 1990)

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O.A.T.A No. 72/96

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SECTION OFFICER (Judl.)

DA No. 72/96  
MP No. (DA)  
RA No. (DA)  
CP No. (DA)

K. Deshmukhya APPLICANT(S)

VERSUS

UOI & or RESPONDENT(S)

In person Advocate for the applicant.

C.G.S.C.

~~Dr. YK Phulekar~~ Advocate for the Respondents.

Mr. B.K. Dm, PK Raw & R. no. 4  
& N. D. U & BK Dm & R. no. 3

Office Notes Court's Orders

The application is in form and within time.  
C. F. of Rs. 50/- deposited vide IPO/BD No. 345223 dated 10.5.96

RTI  
14/5

~~30.5.96~~

Respondents No. 3, 4  
Address is incomplete,  
so notice is issued  
said two respondents

6-6-96  
Notice issued to the  
all receipt vide No. 1117-24

dt. 30.5.96  
N.G. 96  
Notice served on  
Respond No. 1, 6, 3, 2

15.5.96

Mr K. Deshmukhya the applicant is present in person. Mr S. Ali, Sr. C.G.S.C for respondent No.2. None for the other respondents.

Heard Mr Deshmukhya for admission. In this O.A. the applicant has impugned the order of promotion dated 8.3.96 (Annexure-3) by which he was not promoted and thereby allegedly superseded by the alleged junior officers, respondents No.3 and 4. Perused the contents of the application and the reliefs sought. Application is admitted. Issue notice on the respondents by registered post. Written statement within 6 weeks.

List on 28.6.96 for written statement and further orders.

Heard the applicant on the interim relief prayer that no police officer junior to the applicant should be promoted to the rank of IGP till disposal of this application. The prayer cannot be granted. However, it is made clear that promotion of police officer junior to the applicant hereafter will be subject to the result of this O.A.

Member

(2)

O.A. 72/96

28.6.96 Mr. K. Deshmukhya in person. Mr S. Ali, Sr.C.G.S.C for respondent No.2. None for official respondents 1 & 5 and for private respondents No.3 and 4.

Notice served on respondents 1, 2, 3 and 5. No written statement has been submitted.

In view of the statement made by the applicant that he is retiring by the end of September, 1996 list for hearing on 25.7.96. The respondents may, if they desire, submit written statements with copy to the applicant.

Member

2.6.96

Notice was served Respondent No 4 due to non availability of Respondents

pg.

25-7-96 Mr.K. Deshamukhya applicant in person is present. Mr.S. Ali Sr.C.G.S.C for respondent No.2. Official respondents 1 & 5 and for private respondents 3 & 4 are not present. None of the respondents have submitted written statement.

List for hearing on 19-8-96. Inform the respondents, if they desire they may submit written statement with copy to the applicant.

Member

lm

19.8.96 Mr. K. Deshamukhya the applicant in person.

Dr. Y.K. Phukan, Sr. Govt. Advocate, Govt. of Assam seeks time for filing written statement on behalf of respondent Nos. 1 and 5.

Mr. D.K. Das for respondent No. 3 and Mr. P.K. Roy for respondent No. 4 also seek time for filing of written statement on behalf of the said respondents respectively.

Contd..

w/ statement has not been filed

27/6

urgent. Pl. Comply  
25/7

25.7.96

Copy of order dtd. 25.7.96 issued to the respondents on 7.8.96.

w/ statement has not been seen G.W.

16/8

19.8.96

Mr. S.Ali, Sr. C.G.S.C. is present.

Considering the urgency of the matter as the applicant is due <sup>to</sup> retire on 30.9.96 they are allowed 3 weeks time to submit written statement.

List for written statement and for further orders on 10.9.96.

Respondents are directed to serve copy of the written statement on the opposite party before the date of hearing.

*[Signature]*  
Member

trd

*m*  
19/8

27.8.96

Mr. S.Ali, Sr. C.G.S.C. for the respondent No. 2.

Mr. Deshamukhya, the applicant, has submitted a petition requesting permission to withdraw the O.A. No. 72 of 1996 without any condition and he ~~is~~ <sup>has</sup> also informed that he will not be in a position to appear personally on this matter. However none is present for respondent Nos. 1 and 5 and private respondents.

List for order in presence of Government Advocate, Assam on 30.8.96. Inform Govt. Advocates.

*[Signature]*  
Member

trd

*m*  
27/8

30.8.96

Learned Govt. Advocate of Assam Ms. M.Das and Mr. S.Ali, Sr. C.G.S.C. present.

The applicant has submitted an application dated 22.8.96 seeking permission to withdraw the Original Application No. 72/96 without any condition. He has also intimated that he will be not in a position to appear in person. In view of

Contd....

19.8.96

*Valcaletnama dr R. no. 3 & 4 filed.*

26-8-96

*An application has been received from applicant (go person) for praying for withdrawal in his case.*

*Inform Govt. adv. immediately.*

*m*  
27/8

28-8-96

*Copy of order dtd.*

*27.8.96 issued to the Govt. Advocate of Assam on 28-8-96.*

*[Signature]*

30.8.96 of the prayer of the applicant, he is allowed to withdraw the application.

The application is disposed of on withdrawal.

Copy of the order be furnished to the applicant and counsel of opposite parties.

*Inform to the parties.*

*m*  
*2/9/96.*

*ba*  
Member

2/9/96

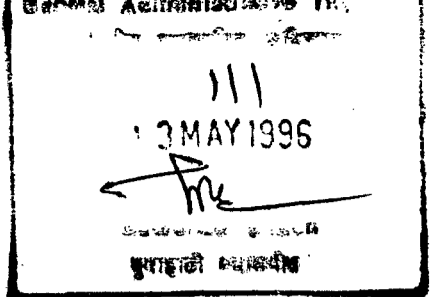
*Copy of order issued to the applicant along with the L/A advocates of the parties vide D.No 3020 to 3024 dt. 5.9.96.*

trd  
*m*  
*2/9*

*sh*  
*2/9*

O.A. 72/96

I N D E X



A

<u>Sl. No</u>	<u>Description of documents</u>	<u>Pages</u>
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2.	Annexure - A1 Govt. of India Notification No. I.15016/3/90 IPS.I dtd. 1.6.92.	9 - 13
3.	Annexure - A2 Fixation of seniority of SPS officers Home(A) Deptt. No. HMA.694/82/Vol-II/488 dtd. 5.6.92.	7 - 8
4.	Annexure - A3 Promotion Order of DIG of Police to IGP Govt. of Assam Notification No. CS(Con).1/96/8-G dtd. 8th March, 1996.	14 - 16
5.	Annexure - A4 Request for intimation of grounds for non-promotion to IGP post. Applicant's letter No. Assam/CID/Des/dtd. 11th March '96.	17
6.	Annexure - A5 Grievance against illegal promotion as IGP to juniors Letter No. Assam/CID/Des/2369 dtd. 6.4.96.	18 - 19
7.	Annexure * A6 Order of promotion of applicant by Govt. of Assam Home(A) Deptt from S.P. to D.I.G. along with the respondent No. 3 and 4.	20 - 22
8.	Annexure - A7 President's Secretariat Notification Dtd. 26th Jan/1992.	23
9.	Annexure - A8 Govt. Notification of acceptance of voluntary retirement No. HMA (IPS) 96/Pt/63 dtd. 22nd Dec/95.	24
10.	Annexure - A9 Copy of judgement by Hon'ble C.A.T. Guwahati bench dtd. 11.1.95.	25 - 35

Signature of  
Registrar, C.A.T.  
Guwahati Bench

Signature of  
the applicant

.....

Recd copy  
11/05/96  
for s/s.

to 7/5/96

Before the Hon'ble Central Administrative Tribunal  
( Guwahati Bench )

Between

1. APPLICANT : SHRI KALYAN DESHAMUKHYA, IPS, DY. INSPECTOR  
GENERAL OF POLICE, C.I.D. SCRB, ULUBARI, GUWAHATI-7.

and

- ✓ 1. CHIEF SECRETARY TO THE GOVT. OF ASSAM, DISPUR, GUWAHATI-6.
- ✓ 2. SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS.
3. SHRI T.P. CHAKRABARTY, IPS, I.G.P.(R), ASSAM, ULUBARI,  
GUWAHATI-7.
4. SHRI ASHIM ROY, IPS, I.G.P.(LAW & ORDER) AND I.G.P.(CWR)  
GUWAHATI.
- ✓ 5. THE DIRECTOR GENERAL OF POLICE, ASSAM, ULUBARI, GUWAHATI-7.

Details of application

1. Particulars of the order against which the application is made. The Govt. of Assam, Home(A) Deptt. Notification No. CS(Con).1/96/8 dtd. 8.3.96 promoting respondent No. 3 and 4 to the rank of I.G.P. superseding the applicant.

2. Limitation - Has not arisen as the latest reminder was sent to the Chief Secretary to the Govt, of Assam, on 6.4.96 (Annexure - A5 ).

3. Jurisdiction of the Tribunal - The Central Administrative Tribunal, Guwahati Bench has jurisdiction over this application as it deals with service matters of I.P.S. Assam-Meghalaya cadre.

4. Facts of the case

Shri K. Deshamukhya, IPS S/O Late Kalipada Deshamukhya now posted as D.I.G./CID, Assam, Ulubari, Guwahati-781007 most respectfully submits that -

4.1 The seniority of the applicant was fixed by the Govt. of India, Ministry of Home Affairs in Indian Police Service with the year of allotment as 1980 (IPS from State Police Service) vide No. I. 15016/3/90 IPS. I dtd. 1st June/92 (Annexure - A1). The applicant was above respondent No. 3 and respondent No. 4 in interse seniority both of whom were also given 1980 as year of allotment. This was duly comm(unicated vide Govt. of Assam, Home(A) Deptt. Letter No. HMA. 694/82/Vol-II/488 dtd. 5th June/92. (Annexure-A2).

4.2 The Govt. of Assam promoted respondent No. 3 and 4 to the rank of I.G.P. vide Notification No. CS(Con) 1/96/8 dtd. 8.3.96 (Annexure - A3) while the applicant though senior to the aforesaid two officers was not promoted. Objection to this was raised by the applicant to the Govt. of Assam vide Letter No. Assam/CID/Des/ dtd. 11th March/96 (Annexure-A4) and Letter No. Assam/CID/Des/2369 dtd. 6.4.96 (Annexure-A5).

Nothing has been communicated from the Govt. Apprehending further damage to the applicant's career, this original application is being filed before the Hon'ble Guwahati Bench of the Central Administrative Tribunal.

4.3. The applicant was promoted to the rank of D.I.G. along with respondent No. 3 and 4 by the Govt. of Assam, Home Deptt. Notification No. HMA. 156/87/83(d) dtd. 20.4.93 (Annexure-A6).

The applicant after his promotion to the rank of D.I.G. of Police has been working as the Director of State Crime Records Bureau. The State Crime Records Bureau is now being raised as a Computerised Police Informatics Centre. It has made so far satisfactory progress.

4.4 The applicant was a recipient of Indian Police Medal for meritorious service on 26th January 1992 (Annexure-A7). After this date, the applicant is confident, there has been no deterioration in the level of his functioning. Besides, nothing adverse has been communicated to him during this period. As a matter of fact, the applicant received appreciation from the senior officers concerned with the implementation of Crime Criminal Information System in Assam Police by Assam State Crime Records Bureau.

4.5 The applicant desired to retire voluntarily from service w.e.f. 1.10.96 AM which the Govt. of Assam was pleased to accept vide No. HMA (IPS)96/Pt/63-A dtd. 22nd Dec/95 (Annexure-A8).

The applicant filed original application No. 91 of 94 before this Hon'ble Tribunal praying for higher seniority in Indian Police Service. The unfortunate developments concerning the service of the applicant have been highlighted in the judgement delivered by this Hon'ble Tribunal on 11.1.95 (Annexure-A9). While this Hon'ble Tribunal expressed sympathy to the applicant and requested the Govt. of India, Ministry of Home Affairs to review the matter, nothing has been communicated. No relief is expected to come. The second injustice has now been inflicted on the applicant by the Govt. of Assam by letting him be superseded by respondent No. 3 and 4, thereby, going against the fulfilment of the wish expressed by this Hon'ble Tribunal.

4.6 The applicant is apprehensive due to silence maintained by the Govt. on his applications. There is no way open to the applicant to protect his service interest

against this illegal supersession as well as further future supersession till before his voluntary retirement, except to come before Hon'ble Tribunal for getting justice. The applicant humbly prays that a direction be kindly given to the Govt. of Assam not to promote any of his juniors in the rank of I.G.P. till the disposal of this application.

5. Grounds for relief with legal provision

The relief has been sought on following grounds

5.1 The applicant has been superseded by the impugned order denying promotion of the applicant to the rank of IGP while effecting promotion to the said rank of respondent No. 4 and 5 who were juniors to the applicant in service seniority as made out in the facts of the case above.

5.2 The principle of promoting officers on merit and seniority is a well established law. The efficiency of the applicant has never been held in doubt as is evident from the fact of his receiving I.P.M. for meritorious service and no adverse comments being communicated to the applicant on his service as D.I.G.

5.3 The impugned order of the Govt. is discriminatory towards the applicant and has therefore, violated articles 14 and 16 of the Constitution of India.

6. Details of remedies exhausted

The applicant moved two petitions to the Govt. of Assam represented by the Chief Secretary to the Govt. of Assam which have been mentioned in the facts of the case at para 4.2.

Nothing has been heard from the Govt. Apprehending further damage to the applicant's career, the applicant finds no other alternative open to him than to file this application before the Hon'ble Central

Administrative Tribunal, Guwahati Bench, for relief.

7. Matters not previously filed or pending/court. before

The applicant has not agitated on these matters before any other Court or this Hon'ble Tribunal.

8. Relief sought

The applicant prays before the Hon'ble Tribunal for the following relief

i) By interim order the Hon'ble Tribunal is requested to direct the Govt. of Assam not to promote further to the rank of I.G.P. and police officer who is junior to the applicant till the disposal of this application.

ii) To kindly direct the Govt. of Assam to demote respondent No. 3 and 4 or to promote the applicant in the rank of I.G.P. w.e.f. the date on which respondent No. 3 and 4 joined the post of I.G.P. whichever is earlier As the applicant is voluntarily retiring on 1.10.96, it is prayed that relief sought may kindly be given early.

10. Application is filed by the applicant himself. He may kindly be permitted to appear personally in the case.

11. Particulars of the I.P.O.

i) I.P.O. No. - 8 09 345723  
ii) Date - 10.4.96  
iii) Payable at - G.P.O. Guwahati

12. List of enclosures as stated in the index.

( 6 )

Verification

~~AFFIRMATION~~

to

I Shri Kalyan Deshamukhya aged 57 years S/O  
Late Dr. Kalipada Deshamukhya, a resident of Guwahati  
by profession, a Police Officer hereby swear that the  
materials furnished in the foregoing paras are true to  
the best of my knowledge and belief and the Annexures  
are the true copies of the original.

to 2/5/96  
( K. DESHAMUKHYA )

.....

Annexure - A2

(1)

(7)

GOVERNMENT OF ASSAM  
HOME (A) DEPARTMENT

NO.HMA:694/82/V.1.II/488

Dt.Dispur, the 5th June/92

From : Shri G.C. Chutia,  
Under Secy.to the Govt.of Assam.

Annexure B

To : 1. The Secretary to the Govt.of Meghalaya,  
Home (P) Deptt., Shillong.  
2. The Director General & Inspector General of  
Police, Assam, Ulubari, Guwahati-7  
3. The Director General & Inspector General of  
Police, Meghalaya, Shillong.

Sub : Fixation of seniority of SPS Officers.

Sir,  
I am directed to say that the seniority of the  
following IPS (SPS) officers have been determined by the Ministry  
of Home Affairs vide their letter No.1-15016/3/90-IPS-I dated  
1.6.92 (copy enclosed) as under :-

<u>Name of officer</u>	<u>Year of allotment</u>
1. Shri K. Deshmukhya	1980
2. Shri D.B. Choudhury	1978
3. Shri B. Roy	1980
4. Shri T.P. Chakravarty	1980
5. Shri A.K. Roy	1980
6. Shri B.A. Khongman	1980
7. Shri G.C. Gogoi	1979
8. Shri Ashim Kumar Roy	1980
9. Shri S.P Kar	1980
10. Shri B.D. Dutta	1981
11. Shri S.M.A.B. Khandakar	1981
12. Shri Mathura Nath Kakati	1982
13. Shri Biakhunan	1983
14. Shri P.K. Rabha	1983
15. Shri K.N. Sarma Borooch	1983
16. Shri S.N. Mazindar Baruah	1983
17. Shri A.K. Das	1983
18. Shri K.K. Nath	1983
19. Shri B.K. Barpujari	1983
20. Shri P.C. Yein	1983

This is for favour of your information.

Yours faithfully,

*[Signature]*

Under Secy.to the Govt.of Assam,  
Home (A) Deptt.

*[Signature]*  
5/6/92 Contd...2

2/5/96  
Deputy Inspector General of Police  
G.I.D. Assam, Gauhati-7.

Memo No.HMA.694/82/Vol.II/488-A, dtd.5.6.92  
Copy with a copy of the Ministry's letter No.1-15016/3/90-IPS-I  
dated 1.6.92 forwarded to :-

1. Shri K.Deshmukhya, IPS, Supdt.of Police, ACB, Sundarpur, Ghy-5.
2. Shri D.B.Choudhury, IPS (Retd), C/o DIGP (Admn), Assam, Ulubari, Ghy.
3. Shri B. Roy, IPS, C/o LGP, Meghalaya, Shillong.
4. Shri T.P.Chakravarty, IPS, Comdt.4th A.P.Bn.Kahilipara, Ghy-19.
5. Shri A.K. Roy, IPS (Retd), C/O DIGP (Admn), Assam, Ulubari, Ghy-7.
6. Shri B.A.Khongman, IPS, C/o D.G. & IGP, Meghalaya, Shillong.
7. Shri G.C. Gogoi, IPS, Comdt, 10th A.P.Bn, Kahilipara, Ghy-19.
8. Shri Ashim Kumar Roy, IPS, Supdt.of Police, Guwahati City, Ghy.
9. Shri S.P.Kar, IPS, Supdt.of Police, Nalbari.
10. Shri B.D.Dutta, IPS, Supdt.of Police, Golaghat.
11. Shri S.M.A.B.Khandakar, IPS, Supdt.of Police, Dibrugarh.
12. Shri M.N.Kakati, IPS, A.I.G.P (Admn), Assam, Ulubari, Ghy-7.
13. Shri Biakhnun, IPS (Retd) C/o DIGP (Admn), Assam, Ulubari, Ghy-7.
14. Shri P.K.Rabha, IPS, Supdt.of Police, Karbianglong, Diphu.
15. Shri K.N.Sarma Baroo, IPS, Supdt.of Police (Border) Khanapara, Ghy.
16. Shri S.N.Mozinder Baroo, IPS, Supdt.of Police-cum-Fire Service Adviser, Assam, Guwahati-6.
17. Shri A.K.Das, IPS, Comdt. BTC, Dergaon.
18. Shri K.K.Nath, IPS., FRRO, Jorhat.
19. Shri B.K.Barpujari, IPS, Comdt.1st A.P.Bn, Ligitripukuri.
20. Shri P.C. Yein, IPS, FRRO, North Lakhimpur.
21. Shri B.Keso, IPS C/o D.G. & IGP, Meghalaya, Shillong.
22. Shri P.J.Hanaman, IPS, C/o D.G. & IGP, Meghalaya, Shillong.
23. Shri R.C.Tayal, IPS, Supdt.of Police, Goalpara.
24. Shri R.Solanki, IPS, C/o D.G. & IGP, Meghalaya, Shillong.
25. Shri D.K.Borah, IPS, Dy. Commissioner (Security), Civil Aviation, New Delhi.
26. Shri J.Mipun, IPS, Comdt.3rd A.P.T.F.Bn. Kajua bill, Darrang.

27. A.G. ASSAM SHILLONG.

By order etc.

Under Secy. to the Govt. of Assam,  
Home (A) Deptt.

Copy to the General of Police  
G.D. Assam Gauhati-2.

Annexure - A1

3

(COPY)

NO.I.15016/3/90IPS.I  
Government of India/Bharat Sarkar  
Ministry of Home Affairs/Grhi Mantralaya

.....

New Delhi 1st June, 1992

To

The Chief Secretary,  
Government of Assam,  
Dispur.

Sub : IPS (Regulation of seniority) Rules, 1954-  
Fixation of seniority of S.P.S. Officers.

Sir,

I am directed to refer to State Government's letter No.HMA.694/82/Vol.II/367 dated the 6th Dec. 1989 on the subject cited above and to say that the seniority of Sh. K. Deshmukhya and 12 other promotee IPS Officers shall be as follows in the IPS Gradation list of Assam Meghalaya cadre.

2. The details of service in respect of Assam-Meghalaya Officers appointed to the Indian Police Service cadre of Assam Meghalaya-re as follow :-

S. No.	Name of the Officers S/Shri	Date from which the officer is continuously in the Select List.	Date of continuous officiation in cadre post.	Date of appointment to IPS
1	K. Deshmukhya	24-3-83	-	21-9-83
2	D.B. Choudhury	24-3-83	21-5-82	21-9-83
3	B. Ray	24-3-83	-	21-9-83
4	T.P.Chakraborty	24-3-83	-	21-9-83
5	A.K. Roy	24-3-83	-	21-9-83
6	B.A. Khongman	24-3-83	-	24-8-84
7	G.C. Gogoi	24-3-83	24-5-83	24-8-84
8	Ashim Kumar Roy	25-2-84	2-5-83	25-9-84
9	S.P. Kar	25-2-84	-	25-9-84
10	B.D. Dutta	25-2-84	1-7-85	7-10-85
11	S.M.A.B.Khan-dakar	6-3-85	-	7-11-85
12	Mathura Nath Kakati	31-3-86	1-5-86	23-7-86
13	Biakhnuna	24-8-87	-	25-4-88

The date of inclusion of name in the select list or the date of continuous officiation in senior post whichever is later in column 3 and 4 shall be the crucial date for determination of seniority in the IPS. If there is no period of continuous officiation to the credit of officer, the date of his appointment to the IPS shall be the crucial date for determination of his seniority.

contd.....2/-

2/5796  
Inspector General of Police  
A.D. Assam (General)

According to the information furnished by the Govt. of Assam, the following direct recruit IPS officers started officiation in senior posts from the dates shown against their names below :-

S. No.	Name & Year of allotment S/Shri	Date of continuous officiation.
1.	N. Ramachandran (RR-78)	1-12-81
2.	B. Kezo (RR-78)	6-1-83
3.	A.K. Mallick (RR-79)	8-4-83
4.	D.K. Pathak (RR-79)	28-6-83
5.	P.J.P. Hanaman (RR-79)	7-4-83
6.	A.K. Mathur (RR-80)	27-4-84
7.	Rajendra Kumar (RR-80)	1-10-83
8.	R.C. Tayal (RR-80)	30-8-83
9.	Rajiv Mehta (RR-81)	29-12-84
10.	G. Bhuyan (RR-81)	10-12-84
11.	Ravi Solanki (RR-81)	6-12-84
12.	Khajen Sarma (RR-82)	3-3-86
13.	D.K. Borah (RR-82)	9-4-86
14.	Watisangba Ao (RR-82)	2-6-86
15.	Rajinder Kumar Sharma (RR-83)	7-1-87
16.	B.B. Mishra (RR-83)	25-8-87
17.	Jatni Mipun (RR-83)	12-8-87
18.	P.P. Singh (RR-84)	30-5-88

4. In accordance with Rule 3(3) (b) of the IPS (Regulation of Seniority) Rules, 1954, these 13 promotee officers shall be assigned the following year of allotment shown against their names below :-

S. No.	Name of the officers S/Shri	Year of allotment
1.	K. Deshmukhya	1980
2.	D.B. Chaudhury	1978
3.	B. Roy	1980
4.	T.P. Chakraborty	1980
5.	A.K. Roy	1980
6.	B.A. Khongman	1980
7.	G.C. Gogoi	1979
8.	Ashim Kumar Roy	1980
9.	S.P. Kar	1980
10.	B.D. Dutta	1981
11.	S.M.A.B. Khandakar	1981
12.	Mathura Nath Kakati	1982
13.	Biakhnuna	1983

CONTD.....3/

(11)

5. Under Rule 42(4) of the IPS (Regulation of Seniority) Rules, 1954 those officers shall be placed in the Gradation list of IPS officers of Assam-Meghalaya as follows :-

xx	xx	xx
B. Kezo	(RR-78)	
D.B. Choudhury	(SPS-78)	
xx	xx	
P.J.P. Hanaman	(RR-79)	
G.C. Gogoi	(SPS-79)	
xx	xx	
R.C. Tayal	(RR-80)	
K. Deshmukhya	(SPS-80)	
P.D. Bania	(SPS-80)	
D. Roy	(SPS-80)	
T.P. Chakraborty	(SPS-80)	
A.K. Roy	(SPS-80)	
Ashim Kumar Roy	(SPS-80)	
B.A. Khongman	(SPS-80)	
S.P. Kar	(SPS-80)	
xx	xx	Ravi Solanki (RR-81)
D.K. Borah	(RR-82)	B.D. Dutta (SPS-81)
Mathura Nath Kakati	(SPS-82)	S.M.A.D. Khandekar (SPS-81)
xx	xx	
Jatin Mipun	(RR-83)	
Biakhnuna	(SPS-83)	
xx	xx	

6. The representation of S/Shri T.P. Chakraborty B.D. Dutta, and Ashim Kumar Roy, promotee IPS officers have been considered in this Ministry. It has not been found possible to accede to their requests.

7. All the concerned officers may kindly be informed accordingly.

Yours faithfully,  
Sd/- M.L. MIGLANI  
Dated,

No.I.15016/3/90-IPS.I

- Copy forwarded for information and necessary action to :-
1. The Secretary to the Govt. of Assam, Home (Police) Deptt. Dispur with 20 spare copies.
  2. The Chief Secretary, Govt. of Meghalaya, Shillong.
  3. The Accountant General, Assam, Dispur.
  4. The Accountant General, Meghalaya, Shillong.

Sd/- M.L. MIGLANI  
UNDER SECY. TO THE GOVT. OF INDIA

For internal distribution

Copy each to IPS.II, III and IV  
20 spare copies for use in Section.

7/5/96  
Inspector General of Police  
G.I.D. Assam Gauhati

(12)

(COPY)

(E)

From RESIDENT COMMR ASSAM LLI.

NO.I.15016/3/90-IPS.I  
Govt. of India/Bharat Sarkar  
Ministry of Home Affairs/Grih Mantralaya

New Delhi, the 1st June 1992

To : The Chief Secy.Govt.of Assam,  
Dispur.

Sub : IPS (Regulation of seniority) Rules,1988-Fixation of seniority  
of S.P.S.Officers.

Sir

I am directed to refer State Govt's letter No.HMA694/82/Vol.II/367 dtd.6.12.89 on the subject mentioned above and to say that the seniority of Shri P.K. Rabha, IPS and six others who were appointed to IPS after 27th July, 1988 when the revised IPS (Regulation of seniority) Rules, 1988 were notified shall be as follows in the Gradation list of IPS officers of Assam-Meghalaya cadre.

2. The details of service in respect of the State Police Service Officers appointed to the Indian Police Service by promotion are as follows :-

S. No.	Name of the officer (in the order of their placement in the Select List)	Date from which holding rank not below that of Dy.S.P. or equivalent.	Date of appointment to IPS.	Completed years of service rendered in the rank of not below that of Dy.S.P.or. equivalent.	Total weightage in yrs.in terms of rule 3(3) (ii) of the IPS (Regulations of seniority) Rules 1988.	Yr. of allotment
1	2	3	4	5	6	7
	S/Shri					
1.	P.K.Rabhi	16.11.64	29.12.88	24	8	1983
2.	K.N.Sarma Baruah	5.7.66	29.12.88	22	7	1983
3.	S.N.Mazinder Baruah	20.9.66	7.8.89	22	7	1983
4.	A.K.Das	6.8.69	6.12.89	20	6	1983
5.	K.K.Nath	25.8.70	6.12.89	19	6	1983
6.	B.K.Barpujari	20.8.70	6.12.89	19	6	1983
7.	P.C. Yein	26.8.70	7.12.89	19	6	1983

3. The year of allotment of S/Shri P.K.Rabha, K.N.Sarma Baruah and S.N.Mazinder Baruah, promotee IPS Officers, have been restricted to 1983 in terms of proviso to Rule 3(3) (c) of IPS (Regulation of Seniority) Rules, 1988 as Shri Biakhnu, IPS (SPS-83) who was senior to these officers in the select list and was also appointed to the Indian Police Service prior to these three officers and who has been assigned 1983 as the year of allotment in the Indian Police Service in terms of Rule 3(3) (b) of the IPS (Regulation of Seniority) Rules, 1954. Inter-se-seniority among them will be in the order in which their names are shown in paragraph 2 above. Their names shall however, appear below the name of Shri Biakhnu (SPS-83) in the gradation list of IPS officers of A&M cadre.

Contd....2



.....2.....

4. The concerned officers may be informed accordingly.

Sd/-M.L.Miglani,  
Under Secy.to the Govt.of India.

No.I.15016/3/90-IPS;I,  
Copy forwarded for information & necessary action to :-

- 1. The Secy.to the Govt.of Assam,Home (Police)Deptt.  
Dispur with 10 spare copies.
- 2. The Chief Secy.to the Govt.of Meghalaya,Shillong.
- 3. The Accountant General,Assam,Dispur.

Sd/-M.L.Miglani,  
Under Secy.to the Govt.of India.

For internal Distribution

Copy each to D.O.,IPS (II,III & IV).  
20 Spare copies for section's use.

...  
.....

715796  
Deputy Inspector General of Police  
C.I.D. Assam Gauhati

A-3  
GOVERNMENT OF ASSAM  
HOME (A) DEPARTMENT.  
ORDERS BY THE GOVERNOR

(1A)  
20  
NOTIFICATION

Dated Dispur, the 8th March, 1996.

NO. CS(Con).1/96/8 : Shri A.K. Sahu, IPS (RR-75), Deputy Inspector General of Police (TAP), Dergaon is promoted to the rank of Inspector General of Police in the pay scale of Rs. 5900-200-6700/- P.M. and posted as Director, Prosecution with Hq. at Guwahati with effect from the date of taking over charge.

NO. CS(Con). 1/96/8(a) : Shri Subash Goswami, IPS (RR-77), Deputy Inspector General of Police (B), Assam is promoted to the rank of Inspector General of Police in the pay scale of Rs. 5900-200-6700/-P.M. and posted as Officer-On-Special Duty in the office of the Director General of Police with effect from the date of taking over charge.

NO. CS(Con).1/96/8(b) : Shri D.K. Pathak, IPS (RR-79), Deputy Inspector General of Police (ER), Jorhat is promoted to the rank of Inspector General of Police in the pay scale of Rs. 5900-200-6700/-P.M. and posted as Inspector General of Police Incharge of Eastern Range with Hq. at Jorhat with effect from the date of taking over charge.

NO. CS(Con).1/96/8(c) : Shri R. Kumar, IPS (RR-80), Deputy Inspector General of Police (SR), Silchar is promoted to the rank of Inspector General of Police in the pay scale of Rs. 5900-200-6700/- P.M. and posted as Inspector General of Police In over all charge of the Western Range <sup>and</sup> of the B.A.C. area with Hq. at Kokrajhar with effect from the date of taking over charge.

Contd...2/-

7/5/96  
Deputy Inspector General of Police  
G.I.D., Assam (Guwahati-7)

(15) 761

(Con).1/96/8(d) : Shri T.P. Chakrabarty, IPS (SPS-80), Deputy Inspector General of Police (R), Assam is promoted to the rank of Inspector General of Police in the pay scale of Rs. 5900-200-6700/- P.M. and posted as Inspector General of Police, Incharge of Police Reorganisation with Hq. at Guwahati with effect from the date of taking over charge.

(Con).1/96/8(c) : Shri A.K. Roy, IPS (SPS-80), Deputy Inspector General of Police (CWR), Assam is promoted to the rank of Inspector General of Police in the pay scale of Rs. 5900-200-6700/- P.M. and posted as Inspector General of Police, Law and Order with Hq. at Guwahati with effect from the date of taking over charge. He will also remain in charge of the Central Western Range in addition to his own duties.

(Con).1/96/8(f) : In the interest of public service, Shri W.Ao, IPS (RR-82), Deputy Inspector General of Police (WR), Kokrajhar is transferred and posted as Deputy Inspector General of Police (SR), Silchar with effect from the date of taking over charge, vice Shri R. Kumar, IPS promoted.

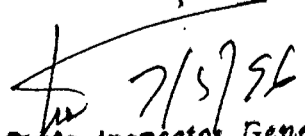
Sd/- B. Sarma,  
Deputy Secretary to the Govt. of Assam,  
Home (A) Department.

Mem. NO. CS (Con).1/96/8-g Dated Dispur, the 8th March, 1996.

Copies to :-

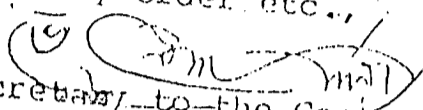
1. The Accountant General, Assam, Shillong.
2. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
3. The Secretary to the Govt. of Meghalaya, Home (P) Deptt., Shillong.
4. The Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi.
5. The Director General & Inspector General of Police, Meghalaya, Shillong.
6. The Inspector General of Police/Deputy Inspector General of Police

Contd.... 3/-

  
Deputy Inspector General of Police  
O.D. Assam Guwahati-7

- 7. The Supdt. of Police/Commandant
- 8. The P.S. to Chief Minister, Assam.
- 9. The P.S. to Adviser to Chief Minister, Assam.
- 10. The P.S. to Chief Secretary/Addl. Chief Secretary, Assam.
- 11. The P.S. to Commissioner/Secretary, Home.
- 12. Shri
- 13. The Superintendent, Assam Govt. Press, Bamunimaidan, Guwahati-21 for publication of the notification.

By order etc.,

||  ||

Deputy Secretary to the Govt. of Assam,  
Home (A) Department. 8/3/96

Deputy Inspector of Police  
G.H.D., Assam. Guwahati

A-4

(17)

No. Assam/CID/Des/

Dated, the 11th March'96.

To

The Chief Secretary to the Govt. of Assam,  
Dispur, Guwahati-781006.

(Through the D.G.P., Assam)

Subject:- REQUEST FOR INTIMATION OF GROUNDS FOR  
NON-PROMOTION TO I.G.P. POST.

Sir,

I have the honour to bring it to your kind notice that from a News Item given in the Assam Tribune of today (9.3.96), I could understand that my juniors S/Shri Teraprasad Chakrabarty and Ashim Roy have been promoted by the Govt. of Assam to the position of Inspector General of Police without my name figuring in the names of promotees given in the News Item. I belong to the 1990 batch of I.P.S. (Assam-Meghalaya Cadre) with my seniority above 1) Shri T.P. Chakrabarty, 2) Shri Ashim Roy. This is, therefore, an instance of supersession with monetary loss.

2. My service as D.I.G., CID, SCRB is relevant to the consideration of my promotion to the next higher rank. I was a recipient of the Indian Police Medal on 26.1.92 and, therefore, I was quite aware of my performance. In the SCRB, I have been almost alone handling the task of the implementation of the Crime Criminal Information System. I have received appreciation for a clear shape that I have given to the task. I did not receive any copy of adverse comments on my ACRs as D.I.G.

3. I am retiring voluntarily from service on 1.10.96 (AM) I may kindly be forwarded with a reply at an early date, removing my doubts as to why I was not promoted along with my juniors.

Yours faithfully,

11/3/96

( K. DEBHAJANTRA )

Deputy Inspector General of Police,  
CID, SCRB, Assam, Guwahati.

Advance copy forwarded to the Chief Secretary to the Govt. of Assam, Dispur, Guwahati-6.

11/3/96

( K. DEBHAJANTRA )

Deputy Inspector General of Police,  
CID, SCRB, Assam, Guwahati.

of/c

7/5/96

Deputy Inspector General of Police  
CID, Assam, Guwahati-6

A-5

(18)

OFFICE OF THE INSPECTOR GENERAL OF POLICE : CID : ASSAM :  
GUWAHATI

No. Assam/CID/Des/ 2369

Dtd. 6.7.96

To

The Chief Secretary to the Govt. of Assam,  
Dispur, Guwahati-6.

( Through the D.G.P. Assam )

Subject :: GRIEVANCE AGAINST ILLEGAL PROMOTION  
AS I.G.P. TO JUNIORS.

Reference :: No. Assam/CID/Des/

Dtd. 11.3.96.

Sir,

I have the honour to refer to my above letter in which my grievance was recorded due to my illegal and unjust supersession by my juniors, (1) Shri T.P. Chakrabarty and (2) Shri Ashim Roy in the matter of promotion from DIG to IGP and to inform that I have not received any communication till date.

2. Whatever I could gather by interacting with knowledgeable officers is that the only ground which came in the way of my getting promotion to IGP rank was my decision to voluntarily retire from service on 1.10.96 AM. I may be permitted to say that the principle of natural justice enjoins that I should not be deprived of promotional or financial benefit due to me till my last day in service.

3. Equal treatment and fairness is expected in any system. The unfortunate developments concerning my career have been dwelt upon by the Hon'ble Central Administrative Tribunal, Guwahati Bench in their judgement delivered on 11.1.95 in my original application No. 91 of 94, copy of which was forwarded to the Secretary to the Govt. of Assam, Home Deptt. and the state of Assam represented by the Chief Secretary, Dispur, Guwahati. I am enclosing a photocopy of the same.

Contd..... 2/-

2/5/96  
Inspector General of Police  
O.D. Assam Guwahati-7

(19)

In consideration of the facts stated above, it is requested that the illegality of promoting my juniors over me without any valid ground may kindly be removed at a very early date so that the principle of dispensing justice without delay is upheld.

Yours faithfully,

*[Handwritten signature]*

( K. DESHAMUKHYA )

Deputy Inspector General of Police  
C.I.D. SCRB, Assam, Guwahati.

*[Handwritten initials]*

.....

Deputy Inspector General of Police  
C.I.D. Assam, Guwahati-7

A-6

( 20 )

GOVERNMENT OF ASSAM  
HOME (A) DEPARTMENT  
\*\*\*

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 20th April, 1983.

NO. HMA. 156/87/83 : In the interest of public service Shri M. Thengal, IPS, Dy. Inspector General of Police(SR), Assam, Silchar is transferred and posted temporarily as Dy. Inspector General of Police(Admn.), Assam with effect from the date of taking over charge and until further orders against existing vacancy.

HMA. 156/87/83(a) : In the interest of Public service Shri S. Goswami, IPS, Dy. Inspector General of Police(CWR), Assam is transferred and posted temporarily as Dy. Inspector General of Police(WR), Assam, Kokrajhar with effect from the date of taking over charge and until further orders against existing vacancy.

NO. HMA. 156/87/83(b) : Shri D.K. Pathak, IPS, Supdt. of Police, Dibrugarh is promoted to the rank of Dy. Inspector General of Police in the pay scale of Rs. 5100 - 6150/- p.m. and transferred and posted as Dy. Inspector General of Police (ER), Jorhat with effect from the date of taking over charge against existing vacancy.

NO. HMA. 156/87/83(c) : Shri Rajendra Kumar, IPS, Commandant of 9th A.P.Bn. , Abhayapuri is promoted to the rank of Dy. Inspector General of Police, in the pay scale of Rs. 5100 - 6150/- p.m. and transferred and posted as Dy. Inspector General of Police (SR), Assam, Silchar with effect from the date of taking over charge vice Shri M. Thengal, IPS transferred.

NO. HMA. 156/87/83(d) : Shri K. Desmukhya, IPS, Supdt. of Police, V & ACB, Assam is promoted to the rank of Dy. Inspector General of Police in the pay scale of Rs. 5100 - 6150/- p.m. and transferred and posted temporarily as Dy. Inspector General of Police (CID), Assam with effect from the date of taking over charge against a newly created post.

NO. HMA. 156/87/83(e) : Shri T.P. Chakraborty, IPS, Co. 4th A.P.Bn. Kahilipara is promoted to the rank of Dy. Inspector General of Police in the pay scale of Rs. 5100 - 6150/- p.m. and transferred and posted as Dy. Inspector General of Police (R), Assam with effect from the date of taking over charge against existing vacancy.

Contd....2/-

(2)

NO. HMA.156/87/83(f): Shri A.K. Roy, IPS, Supdt. of Police, City, Guwahati is promoted to the rank of Dy. Inspector General of Police in the pay scale of Rs. 5100 - 6150/- p.m. and transferred and posted as Dy. Inspector General of Police(CWR) Assam, Guwahati with effect from the date of taking over charge vice Shri S. Goswami, IPS transferred.

NO. HMA.156/87/83(g): In the interest of public service Shri B.P. Gupta, APS, Supdt. of Police, Jorhat is transferred and posted temporarily as Supdt. of Police, City, Guwahati with effect from the date of taking over charge vice Shri A.K. Roy, IPS transferred.

NO. HMA. 156/87/83(h): In the interest of public service Shri P.C. Neog, APS, Supdt. of Police, Bongaigaon is transferred and posted temporarily as Supdt. of Police, Jorhat with effect from the date of taking over charge vice Shri B.P. Gupta, APS transferred.

NO.HMA.156/87/83(i): In the interest of public service Shri A. Rajkumar, APS, Supdt. of Police (SB) (S) Assam is transferred and posted temporarily as Supdt. of Police, Dibrugarh with effect from the date of taking over charge vice Shri D.K. Pathak, IPS transferred.

NO.HMA.156/87/83(j): In the interest of public service Shri M. Sahay, IPS, Supdt. of Police, Cachar, Silchar is transferred and posted temporarily as Supdt. of Police, Nagaon with effect from the date of taking over charge vice Shri W. Ao, IPS transferred.

NO. HMA.156/87/83(k): In the interest of public service Shri N.C. Panging, IPS, Supdt. of Police, Kamrup is transferred and posted temporarily as Supdt. of Police, Cachar, Silchar with effect from the date of taking over charge vice Shri M. Sahay, IPS transferred.

NO.HMA.156/87/83(l): In the interest of public service Shri J.H. Ahmed, APS, Supdt. of Police(S) to Chief Minister is transferred and posted as Supdt. of Police, Kamrup with effect from the date of taking over charge vice Shri N.C. Panging, IPS transferred.

NO. HMA.156/87/83(m): In the interest of public service Shri A.P. Rout, IPS, Co. 10th A.P.Bn., Kahilipara Guwahati is transferred and posted temporarily as Supdt. of Police, Goalpara with effect from the date of taking over charge vice Shri J. Mipun, IPS.

NO.HMA.156/87/83(n): In the interest of public service Shri H.L. Deb, IPS, Co. 8th A.P.Bn., Barhampur is transferred and posted temporarily as Co. 10th A.P.Bn., Kahilipara with effect from the date of taking over charge vice Shri A.P. Rout, IPS transferred.

Contd....3/-

Deputy Inspector General of Police  
G.I.D. Assam Guwahati-2

(3)  
NO. HMA. 156/87/83(o): In the interest of public service Shri A.M. Sinha, APS, Supdt. of Police, Dhubri is transferred and posted temporarily as Supdt. of Police, Bongaigaon with effect from the date of taking over charge vice Shri P.C. Neog, APS transferred.

NO. HMA. 156/87/83(p): In the interest of public service Shri W. Ao, IPS, Supdt. of Police, Nagaon is transferred and posted as Co. 12th A.P.Bn., Jamugurihat with effect from the date of taking over charge against existing vacancy.

SI/- B. Sarma,  
Deputy Secy. to the Govt. of Assam,  
Home (A) Department.

Memo.No. HMA.156/87/83-A, Dated Dispur, the 20th April, 1993.  
Copy to :-

1. The Accountant General, Assam, Shillong.
2. The Director General & Inspector General of Police, Assam  
Ulubari, Guwahati- 7.
3. The Commissioner, .....
4. The Director General & Inspector General of Police,  
Meghalaya.
5. The Secretary to the Govt. of Meghalaya, Home (P) Deptt.  
Shillong.
6. The Insp.General of Police/Dy.Insp.General of Police.....
7. The Supdt.of Police/Commandant .....
8. The P.S. to Chief Minister, Assam.
9. The P.S. to Chief Secretary/Addl.Chief Secretary, Assam.
10. The P.S. to Secretary, Home, Assam.
11. The Supdt., Assam Govt. Press, Bamunimaidam, Guwahati-  
781 021 for publication.
12. Shri *Basu Mukherjee, IPS, S.P.O., Vigilance  
& A.C. Assam, Guwahati, Ghy-5* .....
13. Personal file of Shri .....

By order etc.,  
|| *[Signature]* || 20/5/96  
Deputy Secy. to the Govt. of Assam,  
Home (A) Department.

SITAKAK

*[Signature]* 7/5/96  
Deputy Inspector General of Police  
G.D. Assam Guwahati-7

A-7

(23)  
5

TO BE PUBLISHED IN PART I, SECTION 1 OF THE GAZETTE OF INDIA  
DATED SATURDAY, THE 8TH FEBRUARY, 1992.

PRESIDENT'S SECRETARIAT

NOTIFICATION

New Delhi the 26th January, 1992.

NO.8-Press/92: The President is pleased, on the occasion of  
Republic Day, 1992 to award the Police Medal for Meritorious  
Service to the Undermentioned Officers:-

1. Shri Kalyan Dashamukhya,  
Superintendent of Police,  
Vigilance & Anti-Corruption,  
Guwahati,  
Assam.
2. Shri Rashendra Kumar Das,  
Inspector of Police,  
Sonitpur,  
Assam.
3. Shri Yudhisthir Sinha,  
Inspector of Police,  
9th Assam Police Battalion,  
Abhayapuri,  
Assam.
4. Shri Ashutosh Bhattacharjee,  
Inspector of Police,  
Vigilance & Anti-Corruption,  
Silchar,  
Assam.
5. Shri Keshab Chandra Goswami,  
Sub-Inspector of Police,  
Assam Police Radio Organisation,  
Guwahati,  
Assam.
6. Shri Rupen Chandra Das,  
Inspector, Instructor,  
Assam Police Training Centre,  
Assam,  
Assam.

These awards made under rule 4(ii) of the rules  
Governing the grant of the Police Medal. Sd/ A.K. UPADHYA  
DIRECTOR

7/5794  
Deputy Inspector General of Police  
C.I.D. Assam Gauhati-7.

GOVERNMENT OF ASSAM  
HOME (A) DEPARTMENT.

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 22nd December, 1995.

NO.H.A (IPS) 96/Pt/63 : The Governor of Assam is pleased to accept the prayer of Shri Kalyan Deshmukhya, IPS Deputy Inspector General of Police, C.I.D., Assam to go on Voluntary retirement with effect from 1-10-96 (A.N.).

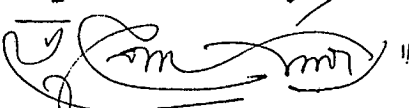
Sd/- B. Sarma,  
Deputy Secretary to the Govt. of Assam,  
Home (A) Department.

Memo NO.H.A (IPS) 96/Pt/63-A Dated Dispur, the 22nd December, 1995.

Copy to :-

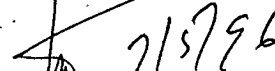
1. The Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi.
2. The Accountant General, Assam etc., Shillong.
3. The Accountant General, Assam etc. Guwahati-5.
4. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati - 7.
5. Shri Kalyan Deshmukhya, IPS, Deputy Inspector General of Police, C.I.D., Assam.

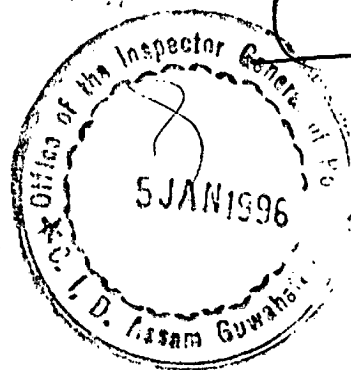
By order etc.,

""

Deputy Secretary to the Govt. of Assam,  
Home (A) Department. 22/12/95

Wels  
22/12

  
Deputy Inspector General of Police  
C.I.D. Assam Guwahati-7.



A-8

At of CID (SIC 13)  
may like to see  
5/1/96

11  
A-9  
(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.91 of 1994

Date of decision: This the 11th day of January 1995.

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

The Hon'ble Shri G.L. Sanglyine, Member (Administrative).

Shri Kalyan Deshamukhya, IPS  
Deputy Inspector General of Police  
CID, Ulubari, Guwahati.

.... Appoicant

The applicant appears in person

-versus-

1. Union of India  
represented by the Secretary,  
Ministry of Home Affairs,  
New Delhi.
2. Shri Daba Brota Choudhury, IPS(Rtd)  
Panzabari, Guwahati
3. State of Assam represented by  
the Chief Secretary,  
Dispur, Guwahati
4. The Secretary to the Government of Assam,  
Home Department,  
Dispur, Guwahati. .... Respondents.

By Advocate Shri S. Ali, Sr. C.G.S.C. for respondent No.1,  
Mr Y.K. Phukan, Sr. Government Advocate for the State  
of Assam, and Mrs M. Das, Government Advocate, Assam,  
for respondents No. 3 and 4.

....

ORDER

CHAUDHARI.J. V.C.

This is an unfortunate case in which the applicant who is now posted as Deputy Inspector General of Police, CID, Assam, Ulubari, Guwahati, had to suffer in the prospects of seniority and promotion for no fault on his part. The applicant has a grievance in respect of assignment of year of allotment to him in the Indian Police Service (IPS for short).



2. The applicant was appointed to the IPS by Notification dated 21.9.1983 issued by the Ministry of Home Affairs, Government of India. He was given the year 1980 as the year of allotment. He submitted a representation to the Government of Assam to which State he was allocated which was forwarded to the Government of India claiming that he was entitled to be assigned the year 1978 as the year of allotment. The Government of India, however, rejected the representation as can be seen from the Notification dated 24.6.1994 addressed to the Chief Secretary, Government of Assam, which was conveyed to the applicant. Hence the applicant filed the instant application initially on 11.5.1994. That was amended on 20.10.1994. The applicant prays that a direction may be given to the Government of India, Ministry of Home Affairs to rectify his year of allotment as 1978 and in the context he states that that should be done to maintain parity with respondent No.2 placing him (applicant) just above respondent No.2.

3. The grievance of the applicant has to be examined into two parts. Firstly, his right to be assigned the year 1978 as the year of allotment, and secondly, his grievance against the year of allotment given to respondent No.2. It is necessary to set out some more facts in order to appreciate the nature of this grievance. The applicant was appointed to the IPS, Assam - Meghalaya Cadre on 21.9.1983. The respondent No.2 was also appointed by the same order to IPS and placed at serial No.3. The applicant, however, was placed at serial No.1 and above respondent No.2. Both of them were appointed from the common seniority list which became operative from 24.3.1983 and on the same date. The two steps of selection and appointment were taken in accordance....

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accordance with the IPS (Appointment by Promotion) Regulations 1955. The interse seniority of the officers appointed to IPS is regulated by IPS (Regulation of Seniority) Rules 1954. Assignment of the year of allotment to the IPS was at the material time regulated by the aforesaid seniority rules. It is the contention of the applicant that the Government of India have acted arbitrarily in assigning him the year 1980 as the year of allotment although in comparison with respondent No.2 who had been allotted the year 1978 was junior to him and thus grave injustice has been caused to him.

4. None of the respondents have chosen to file any written statement. Hence we have to proceed on the basis of annexures to the application on which reliance is placed by the applicant. It appears therefrom that the applicant was differently treated than the respondent No.2 <sup>on the basis</sup> ~~owing to~~ eligibility for weightage to be taken into account while assigning the year of allotment. It further appears that the applicant did not qualify to get full weightage as he happened to officiate in non-cadre posts for different spells whereas the respondent No.2 had officiated in cadre posts to earn the weightage. The applicant has narrated that he served in the post of Superintendent of Police (BIEO) with effect from 25.4.1979 to 9.12.1982, and contends that, that post was equivalent in pay and responsibility to IPS senior post. Thereafter, he served in the post of Superintendent of Police, S.B.(Zonal), Guwahati from 9.12.1982 to 31.8.1983. The applicant believes that, that was also a cadre post equivalent to the IPS post and tries to fortify that belief by pointing out that the post was held by an IPS officer whom he had relieved. After the aforesaid tenure was over

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 O.D. Assam Gauhati

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the applicant was posted as Vigilance and Chief Security Officer in the Cachar Paper Project, Panchgram, Hindustan Paper Corporation from 1.9.1983 (actually joined on 10.9.1983). During that deputation period he was appointed to the IPS from 21.9.1983. He continued to hold that post till 10.4.1985 when he was posted as Superintendent of Police, CID. The applicant believes that his posting on deputation to the Cachar Paper Project was to a post equivalent to IPS post. It is contended by the applicant that his officiation in all the aforesaid posts should have been construed as officiation in a cadre post equivalent to IPS post and if weightage were given for that period he was legitimately entitled to be assigned the year 1978 as the year of allotment. In any event the applicant submits that it was for the Government of Assam to have protected him by not sending him on deputation to the posts which were non-cadre posts and since the Government of Assam have not protected him in that respect he ought not to be made to suffer on that account and be deprived of the benefit of the assignment of the year of allotment as 1978. It is seen from the letter of the Government of Assam addressed to the Joint Secretary (Police), Ministry of Home Affairs, New Delhi dated 17.4.1993 (Annexure-L) that the applicant had not been allowed to officiate to the cadre post of IPS although some officers junior to him were so allowed and that as a result thereof some officers junior to the applicant had been given earlier years of allotment whereas the applicant had been given a later year and that anomaly required to be removed. That goes to show that the post in which the applicant had officiated during the period between 21.5.1982 and 21.9.1983 was not considered as officiation in cadre posts of IPS or equivalent posts to earn the weightage for getting the

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appropriate year of allotment. Whether the Government of Assam should have taken particular steps to protect the interest of the applicant or the applicant should have been more watchful are questions no longer open to be deliberated. The applicant cannot run away from the fact that there arose a serious difficulty in his way by reason of the aforesaid circumstance.

5. In this connection Explanation 4 to the Regulation 3(3) of the IPS (Regulation of Seniority) Rules 1954 (which were applicable at the material time) provided as follows:

"Explanation 4.- An officer appointed to the Service in accordance with sub-rule(1) of the rule 9 of the Recruitment Rules shall be treated as having officiated in a senior post during any period of appointment to a non-cadre post if the State Government has certified within three months of his appointment to the non-cadre post that he would have so officiated but for his appointment for a period not exceeding one year, and, with the approval of the Central Government, for a further period not exceeding two years, to a non-cadre post under a State Government or the Central Government in a time-scale identical to the time-scale of a senior post:

- Proviso .....
- Proviso .....
- Proviso ....."

Regulation 3 of the IPS (Regulation of Seniority) Rules 1954 provided that every officer shall be assigned a year of allotment in accordance with the provisions contained thereafter in the said rule. That has to be read alongwith Explanation 1 to Regulation 3(3) which provided as follows:

"Explanation 1.- In respect of an officer appointed to the Service by promotion in accordance with sub-rule(1) of rule 9 of the Recruitment Rules, the period of his continuous officiation in a senior post shall, for the purposes of determination of his seniority, count only from the date of the inclusion of his name in the Select List, or from the date of his officiating appointment to such senior post whichever is later;

- Proviso ....."



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Special Inspector General of Police  
G.D. Assam Guwahati-7.

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Explanation 3.....

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Explanation 3 also is material to be extracted here. It reads:

"Explanation 3.- An officer shall be treated as having officiated in a senior post during any period in respect of which the State Government concerned certifies that he would have so officiated but for his absence on leave or training."

Combined effect of the provisions of Regulation 3 and the relevant explanations thereunder as set out above is that the length of service in cadre post of IPS or equivalent post is an important criteria in the matter of assigning year of allotment. Since the applicant lacked in that requirement he was allotted a subsequent year than respondent No.2.

6. The Government of Assam realised the injustice caused to the applicant owing to he having been deputed to officiate in non-cadre post, during the requisite period and recommended to the Government of India by the letter dated 17.4.1993 (Annexure-L) already mentioned earlier, in the following manner:

"..... Shri K. Deshmukhya is senior to Shri D.B. Choudhury as per select list 1983. S/Shri G.C. Gogoi and D.B. Choudhury were allowed to officiate in the cadre post of IPS while their senior (Select List) S/Shri T.P. Chakraborty and K. Deshmukhya were not allowed to officiate the cadre post of IPS."

In view of the above this State Government feel that they should be allotted the years of allotment which have been allotted to their juniors. Under the circumstances, this State Government has given two certificates at Annexure I and II in respect of these two officers as required under explanation 4 of Rule 3 of the Indian Police Service (Regulation of Seniority) Rules, 1954."

The certificate issued in respect of the applicant by the Government of Assam which was forwarded to the Government of India alongwith the aforesaid letter was in following

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terms:

" Certified that the post of Superintendent of Police, BI(EO) (Ex-Cadre) etc., post held by Shri K. Deshmukhya, APS during the period from 21.5.82 to 21.9.83 may be treated as officiating in a senior post in accordance with sub-rule (I) of the Rule 9 of the Recruitment Rules."

7. If the certificate is taken into account the position would be that between 25.4.1979 to 9.12.1982 the applicant will be assumed to have held the cadre post while he was serving as Superintendent of Police (BIEO), between 9.12.1982 to 31.8.1983 he would be assumed to have held cadre post of Superintendent of Police, S.B., and from 1.9.1983 to 21.9.1983 he will again be deemed to have held a cadre post or a post equivalent to IPS cadre post.

8. In the absence of written statement filed by the Government of India we assume that the factor of the applicant not having officiated in cadre posts of IPS or equivalent posts during the period between 21.5.1982 and 21.9.1983 he was assigned the year 1980 as a year of allotment consistently with the provisions of IPS (Regulation of Seniority) Rules 1954 construed above. The difficulty in the way of the applicant, however, is that the certificate issued by the Government of Assam for the purpose of Explanation 3 to Regulation 3(3) of the aforesaid seniority regulations had not been issued within the time stipulated, namely, within three months of the appointment of the applicant to a non-cadre post. That time has been stipulated in the explanation and there is no scope for enlarging that time. although it is contended by the applicant that the said time limit may not be strictly applied in every case. In the face of the provisions of the Regulation we do not think that it is possible to extend that period to 10 years as the certificate has been

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issued by the Government of Assam nearly after 10 years from the time when it ought to have been issued in favour of the applicant. That clearly was a lapse on the part of the Government of Assam and the applicant cannot be held responsible for the same. Nevertheless, whether to accept that certificate or not even though it may have been issued beyond the period of three months and taken into consideration for re-examining the question of year of allotment was within the discretion of the Government of India. Unfortunately for the applicant the Government of India did not accept the recommendation of the Government of Assam contained in their letter dated 17.4.1983. In that connection it has been stated in the communication dated 24.6.1994 (Annexure-L) as follows:

"The case of Shri Deshmukhya has been carefully considered. However, it has not been found possible to accede to his request for assignment of higher seniority in the IPS. Shri K. Deshmukhya may please be informed accordingly, under intimation to this Ministry."

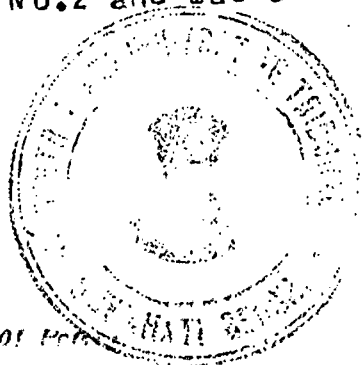
It is not possible, therefore, to give any direction to the Government of India to set aside this decision of the ~~Government of India~~ by way of giving relief to the applicant. Whether to accept the certificate which was issued by the Government of Assam ~~and~~ even assuming that it was sufficient within the meaning of the explanation to the Regulation 3(3) aforesaid <sup>(though</sup> ~~since~~ we find that the wording of the certificate is not <sup>heavy</sup> ~~heavy~~ <sup>or not was a</sup> matter within the discretion of the Government of India. The applicant has not been able to show that the Government of India have failed to abide by any legal requirement or any obligation cast on them by law in taking the view which they have taken. Unless the deficiency in the requirement for assignment of the year of allotment as

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1978 could be legally removed the applicant cannot claim the allotment of that year as a matter of right. With the decision of the Government of India despite the recommendation of the Government of Assam the position that remains is that the deficiency has not stood legally removed. It is not, therefore, possible to give any direction to the Government of India to refix the year of allotment of the applicant as 1978.

9. Since the applicant is not entitled to relief on the merits of his own case the question as to whether respondent No.2 was wrongly given the year of allotment as 1978 as alleged by the applicant need not be pursued as that would be of no avail to the applicant in proving his case. The applicant has pointed out in this connection that whereas he joined Assam Police Service in 1962, the respondent No.2 had joined in 1964 and in the Select List his position was above respondent No.2. However, even so, since the respondent No.2 did not appear to have suffered any deficiency in the requirement to be taken into account for the purpose of assigning the year of allotment and the Government of India were pleased to allot him the year 1978 that can make no difference to the case of the applicant. Even assuming for the sake of argument that something was wrongly done in giving the year 1978 to the respondent No.2 that can only lead to affecting his <sup>position</sup> ~~year of 1978~~, but that would not automatically result in the applicant being given the same year which he is otherwise not entitled to be given. The application must therefore fail. However, there are a few circumstances which disturb us. It is clear that the applicant was a senior officer and in any event senior to respondent No.2 and was at a higher place in the Select

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Deputy Inspector General of Police  
G.D. Assam Gauha

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List. The posts in which he officiated were all of important posts involving heavy responsibility and even the Government of Assam were of the view that the posts in which he officiated ought to be deemed equivalent to IPS Cadre post. Nothing adverse about the applicant has been pointed out by the respondents. His career appears to have been unblemished. Even presently he is occupying a responsible post. He has stated in the application that he was confirmed in the IPS within one year of his appointment. He was a recipient of Indian Police Medal for meritorious service in 1992. Such medal according to him is awarded as a Presidential Honour considering seven years Confidential Reports and a citation is also given. Such an officer merely because the Government of Assam had not issued the certificate in time and had sought to rectify that mistake much late should not ~~result in causing~~ <sup>be less to suffer</sup> frustration ~~to such officers~~. That would be detrimental to the service and interest of the State. Such are the matters where very strict and literal compliance with the letter of the rules may not be always desirable to be ~~adopted~~ <sup>insisted</sup>. The Government of India have wide powers and a very wide discretion to remedy such situations. A better treatment given to a junior always is an irritating factor for a <sup>conscientious,</sup> ~~conscientious~~ sincere and honest officer who is deprived of <sup>the</sup> legitimate scope of rising further up the ladder of promotion. The applicant stated that he was the seniormost promotee IPS officer from Assam - Meghalaya Joint Cadre. He stated that even if his year of allotment were to be changed to 1978 that would not affect any officer who were appointed to the service. According to him if the year of allotment is given as 1978 he may stand to gain monetarily and it would leave open avenue for future promotion as

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Inspector General of Police which should legitimately come his way before he voluntarily retires from service from 1.10.1996. His cherished desire is to reach the status of IGP. These are circumstances which although we believe must have been taken into account by the Government of India when the order dated 24.6.1994 was passed, but even then having regard to the view of the Government of Assam that was expressed in its letter dated 17.4.1993 and the circumstances stated above we feel that if the Government of India could persuade themselves to apply their mind afresh to these questions and do the needful that would be in the interest of the service apart from removing the feeling in the mind of the applicant that injustice has been <sup>caused</sup> done to him. The matter however, rests entirely within the discretion of the Government of India. We <sup>are</sup> embolden<sup>-ed</sup> to make the above observations knowing fully well that we cannot make such a judicial direction to the Government of India <sup>in the facts of this case</sup>. We have no reason to doubt that the matter may not receive earnest reconsideration by the Government of India.

10. In the result subject to the observations made <sup>above in</sup> the judgment the application is dismissed. There will be no order as to costs.



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30/6/95

Section Officer (J)  
आसाम प्रशासिक ( न्यायिक शाखा )  
Central Administrative Tribunal  
कोच प्रशासिक न्यायालय  
Guwahati Bench, Guwahati-5  
काशी बाजार, काशी-5

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

*[Handwritten signature]*  
7/5/96  
Deputy Inspector General of Police  
C.I.D. Assam Guwahati-7.

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30/6/95