

30/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A.T.A No. 76/96
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet. O.A-76/96.....Pg.....1.....to.....7.....
2. Judgment/Order dtd. 22/3/99.....Pg.....1.....to.....6..... Disposed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 76/96.....Pg.....1.....to.....23.....
5. E.P/M.P..... Nil.....Pg.....to.....
6. R.A/C.P..... Nil.....Pg.....to.....
7. W.S.....Pg.....1.....to.....12.....
8. Rejoinder..... Nil.....Pg.....to.....
9. Reply..... Nil.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

DA No. 76/96
MP. No. (DA)
RA No. (DA)
CP No. (DA)

Sri M.P. Rajee APPLICANT(S)
VERSUS

CIO 9 & or. RESPONDENT(S)

Mr. B.K. Sarma, Advocate for the applicant.
P.K. Tiwari, S. Sarma,

Mr. G. Sarma, Addl. C.S.C. Advocate for the Respondents.

Office Notes 57 Court's Orders

Applicant's application
form and within time
E. F. of Rs. 50/-
deposited vide
PO/BD No. 345739
dated 20.4.96

respondent
22/5
22/5

24.5.96

Mr P.K.Tiwari for the appli-
cant. Mr G.Sarma, Addl.C.G.S.C for the
respondents No.1, 2 and 3.

Heard Mr Tiwari for admission
Perused the contents of the appli-
cation and the reliefs sought.
Application is admitted. Issue noti-
ce on the respondents by Registered
Post. Six weeks for written state-
ment.

List on 15.7.96 for written
statement and further orders.

[Signature]
Member

pg

15-7-96

Learned counsel Mr.B.K.Sharma
for the applicant. Addl.C.G.S.C.
Mr.G.Sarma for the respondents.
Written statement has not been
submitted. List for written state-
ment and further order on 7-8-96.

[Signature]
Member

lm

6-8-96

Requisite/step yet not
filed by the applicant
Learned Counsel.

D 6/8

W/ statement chs not been filed

12/7

W/ statement chs not been filed

6/8

7.8.96

Mr S.Sarma for the applicant. Mr G.Sarma, Addl.C.G.S.C submits that the respondents have not been served with copy of the application. It is seen steps have not been taken by the applicant Learned counsel for the applicant to take steps within 3 days.

List for written statement and further orders on 17.9.96.

Signature
Member

21.8.96

Notice issued to the concerned parties on 14.8.96.

Bv

pg

6.9.96

Notice duly served on receipt No. 2, 6, 1

17.9.96

Mr S.Sarma for the applicant. Mr G. Sarma, Addl.C.G.S.C seeks further time for filing written statement.

List for written statement and further orders. on 8.10.96.

Signature
Member

Bv

w/ statement - has not been

filed

pg

M/18/9

8.10.96

Mr. S.Sarma for the applicant.

Mr. S.Ali, Sr. C.G.S.C. seeks time to file the written statement.

List for written statement and further order on 19.11.1996.

Signature
Member

w/ statement - has not been

filed

M/7/10

trd

M/9/10

19.11.96

Learned Addl. C.G.S.C. Mr G. Sarma for the respondents. Written statement has not been submitted.

List for written statement and further orders on 11.12.96.

Signature
Member

written statement has not been filed.

M/11/12.96

nkm

M/9/11

3

C.A. 76/96

11.12.96

Mr S.Sarma for the applicant.

Written statement has not been submitted.

List for written statement and further orders on 8.1.97.

Member

16-12-96

Notice duly served on Respond No. 1.

pg

Bm

Wt statement has not been filed.

7/97

8.1.97

Learned counsel Mr B.K. Sharma for the applicant. Learned Addl. C.G.S.C. Mr G. Sarma for the respondents. Written statement has been submitted on behalf of the respondents and served on the counsel for the applicant. The case is ready for hearing.

List for hearing on 29.1.97. However, it is seen that the annexures are enclosed with the written statement. Mr Ali may furnish the annexures to this Tribunal as well as the counsel for the applicant before the date of hearing.

Member

9-1-97

nkm

W/S filed by the

for C.G.S.C on behalf of

R. No. 1, 2 & 3 w/o Annexures. However, in terms of order dt 8-1-97 he has been asked to submit the same.

29.1.97

Mr S. Sarma, learned counsel for the applicant, is present. Mr S. Ali, learned Sr. C.G.S.C., prays that through oversight the annexures could not be enclosed. He prays for time to enclose the annexures. Prayer allowed.

9.1.97

List on 6.2.97.

Copy of order dt 8.1.97 issued to the No. S. Ali, S.C. C. G. S. C.

nkm

Member


Vice-Chairman

Annexures are not submitted till to-day 6.2.97

5-2-97

- 1) Notice Issued on 14.8.96, 6.2.97
- 2) Notice duly served on R-No 226
- 3) w/s has been filed.
- 4) Annexure in terms of order dt. 29-1-97 are yet to be received, w/s was filed in court.

This case be listed on 25.2.1997 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

trd
w/ 10/2

29.2.97

25.2.97

- 1) Written Statement has been filed on behalf of the R-1-3.

This case relates to Shillong. Let the case be taken up at Shillong. The date will be notified later.

[Signature]
Member

[Signature]
Vice-Chairman

- 2) Notice duly served on 1, 2 and 6.

nkm
w/ 10/3

- 3) Memo of appearance already filed.

9.7.97

Counsel for the parties submit that the case is ready for hearing.

List it on 13.8.97 for hearing.

8.8.97

No Bench was constituted at Shillong. Hence the order.

[Signature]
Member

[Signature]
Vice-Chairman

trd
w/ 23/7

w/s - chs have been filed

13.8.97. Adjourned to 3.11.97.

By order

The case is ready for hearing 15.8.97.

w/ 20/8/97

Let the case be listed for hearing on 15.1.98.

By order

[Signature]

5

O.A. 76/96

19-1-98

Case is ready for hearing. List on

the case is ready for hearing.

7-4-98 for hearing.

ba
Member

LB
Vice-Chairman

lm

2/11

7.4.98

List on 10.7.98 for hearing.

the case is ready for hearing

16

ba
Member

LB
Vice-Chairman

pg

13/4

10-7-98

Heard in part. On the prayer of Mr. S. Ali learned Sr. C.G.S.C. case is adjourned till 17-7-98 for hearing.

w/s has been biled.

ba
Member

LB
Vice-Chairman

lm

13/7

17-7-98

On the prayer of Mr. S. Ali learned Sr. C.G.S.C. case is adjourned till 24-7-98 for hearing. Mr. S. Sarma learned counsel has no objection.

w/s has been biled.

List on 24-7-98.

ba
Member

LB
Vice-Chairman

lm

20/7

24.7.98

On behalf of Mr S. Ali Mr A.K. Choudhury, learned Addl. C.G.S.C prays for short adjournment. The other side has no objection.

w/s has been biled.

List on 29.7.98 for hearing.

ba
Member

LB
Vice-Chairman

pg

23/7

6

6

29-7-98

Records have not yet been received.

20

Mr.S.Ali, learned Sr.C.G.S.C. prayst for further 2 weeks time for production of records.

List it on 17-8-98 for hearing.

la
Member

LB
Vice-Chairman

14.8.98
Case is ready for hearing.
Boo

lm

AS
30/8

17.8.98

On the prayer of Mr. S.Ali, learned Sr. C.G.S.C. this case is adjourned for one week. This is a part heard case. No further adjournment will be granted. If the records are not produced on the next date, the case will be heard without records.

List on 24.8.98.

la
Member

LB
Vice-Chairman

The case is ready for hearing as regards service.

AS
21/8

24-2-99

The case is placed for hearing.

trd

AS
19/8

24.8.98

Hearing concluded. Judgment reserved.

la
Member

LB
Vice-Chairman

Written statement has been filed.

24-2-99

pg

AS
24/2/99

25.2.98. Pass over

B/O

Boo

28.2.98. Adjourned to 1-3-99

By order

4-3-99

Adjourned to 8-3-99.

By order

10-3-99

The case is ready for hearing.

8-3-99

There is no objection to adjourn to 11-3-99.

By order

11-3-99

Passover on 11 day.

By order

12-3-99

Adjourn to 22-5-99

B/O

7

2

Notes of the Registry

Date

Order of the Tribunal

22.3.99

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


Member


Vice-Chairman

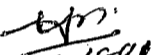
pg

22.4.99

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

U.S.

Issued vide despatch No. 1476 to 1483 dt. 22-4-99


12-5-99

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 76 of 1996.

DATE OF DECISION...22-3-1999:.....

Shri M.P. Rajak (PETITIONER(S))

Shri B.K.Sharma. ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors. RESPONDENT(S)

Shri A.Deb Roy, Sr.C.G.S.C. ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 76 of 1996.

Date of Order : This the 22nd Day of March, 1999.

Justice D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Shri M.P.Rajak,
Superintendent,
Indian Council of Agricultural Research,
Research Complex for Mizoram Centre,
Kolasib, Mizoram. . . . Applicant.

By Advocate Sri B.K.Sharma.

- Versus -

1. Union of India,
represented by the Secretary,
Ministry of Agriculture,
New Delhi.
2. The Director General,
Indian Council of Agricultural Research,
New Delhi.
3. The Director,
ICAR Research Complex for NEH Region,
Umroi Road, Barapani (Gangtok),
Meghalaya-793103.
4. Sri S. Purkayastha,
ICAR Research Complex for NEH Region,
Sikkim Centre, Tadong (Gangtok)
Sikkim,
5. Shri A.C.Deb,
ICAR Research Complex,
Barapani, Meghalaya-793103.
6. Shri S.H.Nongbri,
ICAR Nagaland Centre,
Jharnapani, Nagaland.
7. Shri K.Jangew,
ICAR Research Centre, Manipur Centre,
Imphal. . . . Respondents.

By Advocate Shri A.Deb Roy, Sr.C.G.S.C
for respondents No.1, 2 and 3.

ORDER

BARUAH J.(V.C)

The applicant has challenged the Annexure-2 order dated 17.11.1994 by which he was superseded by his juniors

82

The applicant also states that his claim as a Scheduled Caste (SC for short) was totally ignored. He has also challenged Annexure-5 order dated 30.8.1995 passed by the 3rd respondent rejecting the Annexure-3 representation.

Facts are :-

The applicant was appointed Junior Clerk as SC candidate. Thereafter he was promoted to the post of Senior Clerk. In the year 1982 he was promoted to the grade of Assistant. In March 1991 he was further promoted to the post of Superintendent. His next promotional post was Assistant Administrative Officer. (AAO for short). A Departmental Promotion Committee (DPC for short) met to consider the promotion of the applicant and other candidates to the post of AAO. The DPC after examining the case found the applicant and other candidates suitable for promotion. However respondents No.4 to 7 had been selected and appointed. The applicant was not promoted. The grievance of the applicant is that he being a person belonging to SC community as per roster he ought to have been promoted against the quota for SC candidate. Besides, the applicant also claims that certain vacancies had been carried forward at the material time in respect of this promotion. But ignoring all these certain ST candidates namely, respondents No.4 to 7 had been appointed. Being aggrieved by the decision of the respondents the applicant submitted a representation. The representation was not however disposed of. Situated thus the applicant filed O.A.No.233/94 before this Tribunal. In the said O.A. the respondents had appeared and had filed written statement. At the instance of the applicant the O.A.233/94 has been called for today and the same has been produced before us. We have perused the written



statement in that O.A. In para 6 of the written statement the respondents stated among other as follows :

" the case of the applicant was placed for consideration by the Departmental Promotion Committee but his case has not been recommended by the D.P.C due to non availability of vacancy both reserved and unreserved vide Annexure-C which clearly shows that his seniority position is at Sl.No.7 whereas the promotees who were promoted in the said DPC were all senior to him. It is not correct that his case was not considered."

The aforesaid O.A.233/94 was disposed of by this Tribunal on 29.6.1995 with certain directions. Pursuant to that order the respondents considered the case and passed Annexure-5 order dated 30.8.1995. The relevant portion of the order is quoted below :

" the matter has been carefully examined in relevance to all the points for SC/ST and found that his claim for promotion has no scope for further review since all the promotees are senior to him as per seniority list and since all other norms are followed strictly as per rules and procedures as applicable to ICAR employees."

Being aggrieved by the Annexure-5 order passed by the 3rd respondent the applicant has approached this Tribunal by filing the present application. Notices were returned after service on the respondents No.1, 2, and 3. In respect of other respondents notices were sent by registered post as far back on 14.8.1996. It can therefore be presumed that the said notices had been served on them also. In due course respondents No.1, 2 and 3 have entered appearance by filing written statement. Other respondents have neither filed any written statement nor appeared in the O.A. Mr A. Deb Roy, learned Sr.C.G.S.C has appeared on behalf of respondents No.1, 2 and 3.

2.3 The contention of Mr B.K.Sharma, learned counsel for the applicant is that the applicant's case was not properly

considered. He being a candidate belonging to SC community and certain vacancies having been carried forward as per roster SC candidate ought to have been promoted. In para 4.5 of the application the applicant has categorically stated as hereunder :

"That a roster of the reservation of vacancy is maintained for the purpose of promotion and accordingly one Shri B.K.Das was promoted in 1984-85 against S.C point. Thereafter no person has been promoted to the grade of A.A.O. as there is no S.C candidate. In 1991, one general candidate was promoted against the S.C quota and the roster point for S.C quota was accordingly carried forward."

In reply to this respondents No.1, 2 and 3 have stated in para 5 of their written statement as no comment. By pointing out this Mr Sharma argues that the respondents have admitted the facts that certain post had been ^{carried} ~~carry~~ forward so far the SC candidates are concerned. Even as a roster system one post atleast ought to have been reserved for SC and he being the only SC candidate should have been appointed. Mr Sharma also submits that the respondents have taken different stand at different time which will be evident from the written statement filed by the respondents in O.A.233/94 and the present O.A. In the earlier written statement it was specifically mentioned that the applicant could not be promoted because there was no vacancy both reserved and unreserved. But in para 16 of the present case the respondents have taken different stands by stating that the respondents No.4 to 7 being senior to the applicant and that the applicant having not found suitable (meaning thereby he was not fit) by the DPC could not be appointed. Mr Sharma also submits that different stands have been taken by the respondents just to deprive the applicant. He also submits that the written statement shows the promotion

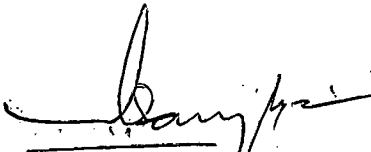
of respondents No.4 to 7 itself is sufficient to indicate that the authority did not take into consideration of the carry forward vacancy and the roster. Mr Deb Roy while supporting the case of the respondents finds it difficult to reconcile it more so in the absence of the Records. We have repeatedly requested the Sr.C.G.S.C. to produce the record. We made it clear by our order dated 17.8.98 that no further adjournment would be granted. It was also made clear that if the records were not produced on the next date, the case would be heard without the records. Hearing was concluded on 24.8.98. The then Sr.C.G.S.C. assured us that the records would be produced pending pronouncement of the judgment. However in spite of waiting for long time the records had not been produced. This compelled us to list the case again for further hearing. Even now we are not shown the records for the reasons best known to the authority. As stated above -the Respondent have taken different stand at different time. Therefore it is not possible for this Tribunal to come to a definite conclusion. Besides, if the roster system was maintained and the vacancy was carry forward as admitted by the respondents in the manner stated in para 5 of the written statement, it is not known why only seniority was taken into consideration. The respondents have taken the plea that for a vacancy reserved for SC community ST candidate could be appointed as per Annexure-B. We have perused clause 5 of the Annexure-B. Which reads :

"While reserved vacancies will continue to be reserved for the respective community only, an SC Officer may also be considered for appointment against a vacancy reserved for ST or vice versa, in the same year itself in which the reservation is made, when the appropriate reserve vacancy could not be filled by an SC or an ST candidate, as the case may be."

Rz

From reading of this clause we find no force in the submission of Mr Deb Roy on the other hand clause 5 clearly indicates that the appointment can be made against a vacancy for SC to ST when SC candidate is not available. The applicant belongs to SC community and it is not certain whether he was found suitable or not in view of the different stand taken. We find it difficult to come to any conclusion as stated herein before in the absence of records. Therefore, we have no alternative then to send back the entire matter to respondent No.1, 2 and 3 to examine the matter afresh and pass a reasoned order as early as possible at any rate within a period of one month from the date of receipt of this order. We are very much pained to send back the matter to the respondents to consider the case of the applicant afresh as the second respondent did not address to the relevant point in a proper manner. Mr Sharma submits that the applicant may be permitted to file yet another representation giving details of his grievance. We feel this prayer is reasonable. The applicant may file a fresh representation within three weeks from today. If such representation is filed within the said period the authority shall consider the said representation also and dispose of the matter by a reasoned order as early as possible at any rate within a period of one month from the date of receipt of such representation.

In the facts and circumstances of the case, we make no order as to costs.


(G.L. SANGLYINE)
ADMINISTRATIVE MEMBER


(D.N. BARUAH)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A. NO. 76 of 1996

M.P. Rajak Vs. Union of India & Ors.

BRIEF FACTS OF THE CASE

Applicant has filed this application firstly against order dated 17.11.94 (Annexure-2) by which he has been superseded by his juniors (Respondents No. 4 to 7) in the next grade of promotion i.e. Assistant Administrative Officer and secondly against the order dated 30.8.95 (Annexure-5) issued by the Respondent No. 3 disposing of his representation (Annexure-3).

24.9.77 - He was initially appointed as Junior Clerk under the Respondents as an SC candidate.

24.9.82 - Promoted as Senior Clerk.

17.2.86 - Promoted to the grade of Assistant.

8.3.91 - Promoted to his present post i.e. Superintendent. His next promotional post is Assistant Administrative Officer (AAO).

Rules of Recruitment provide promotion to the post of AAO 100% by promotion, failing which by deputation and eligibility criteria is three years qualifying service in the grade of Superintendent.

His name was at Sl. No. 7 in the seniority list of Administrative staff published on 16.5.90 as on 1.5.89 as Assistant (Annexure-1)

Filed by
B. K. S. S. S.
10.7.98

A roster of reservation is maintained for the purpose of promotion and pursuant to which one Shri B.K. Das was promoted in 1984-85 against SC point. In 1991 one general candidate was promoted against SC roster point as there was no SC candidate and hence the said point (SC) was carried forward.

In 1992 and 1993 no selection was held for the post of AAO. However, in 1994, DPC sat twice but both the DPC were cancelled. Lastly on 5.10.94 DPC sat and it was his reasonable expectation that he would be promoted as he was the only SC candidate.

17.11.94 (Annexure-2) - Order of promotion issued in respect of Respondents No. 4 to 7 to the post of AAO depriving the seniormost SC candidate i.e. the Applicant. Respondents No. 4 and 5 belong to general category whereas Respondents No. 6 and 7 are ST candidates.

19.11.94 (Annexure-3) - Applicant made representation to the authority concerned.

Applicant being aggrieved by the promotion order dated 17.11.94 (Annexure-2) had approached the Hon'ble Tribunal by filing O.A. No. 233/94.

29.6.95 (Annexure-4) - This Hon'ble Tribunal was pleased to direct the Respondents thereto to dispose of the representation filed by the Applicant i.e. Annexure-3.

20.8.95 (Annexure-5) - Pursuant to the aforesaid direction of the Hon'ble Tribunal, the Respondent No. 3 disposed of the representation of the Applicant. In the said Annexure-5 order, it is stated that the claim of the Applicant was carefully examined and there was no scope of further review and since Respondents No. 4 to 7 are senior to him, they have been given their due promotion.

SUBMISSIONS

1. The Applicant belongs to SC community and hence he is entitled to the benefit of reservation in respect of promotion.

2. The Applicant got his promotion to the post of Superintendent on 8.3.91 and as per the relevant rules he was eligible to the post of AAO on completion of three years of qualifying service in the said grade.

The impugned order being a non-speaking one and being mechanical, the same is not sustainable. It depicts total non-application of mind. The authorities failed to consider the most important question involved

D

as to whether the applicant is entitled to reservation
as per roster point. There is also no indication that
the Applicant was unsuitable for promotion. Review DPC
ought to have constituted to consider the case of the
Applicant instead of rejecting his representation
arbitrarily.

##

Central Administrative Tribunal
 GUWAHATI BENCH
 127
 20 MAY 1996
 19

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O.A. No. 76 of 1996
 Shri M.P. Rajak ... Applicant
 - Versus -
 Union of India & Others ... Respondents

I N D E X

Sl.No.	Particulars of the documents	Page Nos.
1.	Application ...	1 to 14
2.	Verification ...	15
3.	Annexure-1 : Seniority list dt.16.5.90.	16 -17
4.	Annexure-2 : Order dt. 17.11.94	18
5.	Annexure-3 : Representation dt. 19.11.94	19
6.	Annexure-4.: Order of the Tribunal dated 29.6.95	20-22
7.	Annexure-5 : Order dated 30.8.95	23

For use in Tribunal's Office :

Date of filing : 20/5/96
 Registration No. : 76/96

REGISTRAR

Recd Copy
 Golap Sarma
 ADJ (452)
 CAT,
 Guwahati
 1/5/96

O.A. No. 76 of 1996

BETWEEN

Shri M.P. Rajak, Superintendent,
Indian Council of Agricultural Research,
Research Complex for Mizoram Centre,
Kolasib, Mizoram.

... Applicant

AND

1. Union of India, represented
by the Secretary,
Ministry of Agriculture,
New Delhi.
2. The Director General,
Indian Council of Agricultural Research,
New Delhi.
3. The Director,
ICAR Research Complex for NEH Region,
Umroi Road, Barapani, Meghalaya, PIN-79 310 3
4. Shri S. Purkayastha
ICAR Research Complex for NEH Region,
Sikkim Centre, Tadong (Gangtok),
Sikkim.
5. Shri A.C. Deb,
ICAR Research Complex,
Barapani, Meghalaya. PIN-79 310 3
6. Shri S.H. Nongbri,
ICAR, Nagaland Centre,
Jharnapani, Nagaland
7. Shri K. Jangew,
ICAR Research Centre, Manipur Centre,
Imphal.

... Respondents

DETAILS OF APPLICATION

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

The application is made against the following
orders :

- (1) The order dated 17.11.94 under No. RC(P.15/94
issued by the respondent No. 3 by which the respondent
Nos. 4 to 7 have been promoted superceding the
applicant.

Contd...P/2.

(ii) The order vide No. RC(G) 8/95 dated 30th August 1995 passed by the Respondent No. 3 disposing of the applicant's representation dated 19.11.94 and holding that the applicant's claim for promotion has no scope for further review since all the promotees are ~~far~~ senior to him as per the Seniority List and since all other norms are followed strictly as per rules and ~~regula~~ procedures.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

That the impugned order dated 30.8.95 is a final order within the meaning of Section 20 of the Administrative Tribunal's Act, 1985. Since the instant application is being filed within the prescribed limited period of one year from the date of passing of the impugned order, therefore, it is stated that the instant application fulfils the legal requirements of limitation as laid down u/S 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and he is entitled to all the rights and protections guaranteed under the Constitution of India, and the various laws framed thereunder. The applicant is a member of the Scheduled Caste community and as such, he is entitled to certain special privileges.

4.2 That the applicant is presently serving as the Superintendent, Indian Council of Agricultural Research (hereinafter referred to as the 'ICAR') Research Complex for Mizoram Centre. His initial appointment to the Department was as Junior Clerk on 24.9.77. Thereafter he was promoted as Senior Clerk on 24.9.82. His next promotion

was to the ~~pa~~ cadre of Assistant which he joined on 17.2.86. Subsequently, the applicant was promoted as Superintendent on 8.3.91. The applicant has an unblemished service career which is evident from the promotions he has received and there has not been any occasion to communicate the applicant with adverse remarks.

4.3 That the next promotion from the grade of Superintendent is to Assistant Administrative Officer which is a selection post. The method of recruitment as laid down under the relevant rules to the post of Assistant Administrative Officer (A.A.O.) is 100% by promotion failing which by deputation from Institute of Head Clerks of the Council. For an incumbent to be eligible for promotion to the grade of A.A.O., he has to have 3 years of service in the grade of Superintendent. As the applicant joined the cadre of Superintendent on 8.3.91 he has become eligible to be promoted as A.A.O.

4.4 That the applicant states that the seniority list of the administrative staff is maintained region-wise and the name of the applicant appears at Sl. No. 7 of the seniority list published by the respondents on 16.5.90 as on 1.5.89 under the category 'Assistant'. The said seniority list is a comprehensive list of officers from the grade of Assistant Administrative Officers down to the grade of Junior Stenographer which gives a clear picture of the seniority cadre-wise.

An extract of the seniority list dated 16.5.90 is annexed herewith as ANNEXURE-1.

4.5 That a roster of the reservation of vacancy is maintained for the purpose of promotion and accordingly one Shri B.K. Das was promoted in 1984-85 against S.C. point. Thereafter no person has been promoted to the grade of A.A.O. as there is no S.C. ~~quota~~ ~~and~~ candidate. In 1991, one general candidate was promoted against the S.C. quota and the roster point for S.C. quota was accordingly carried forward.

4.6 That there was no selection in the year 1992-93 and 1993 for the post of A.A.O. In 1994, the ~~EXE.~~ D.P.C. was constituted twice, but for reasons known to the respondents the D.P.C. was cancelled on both the occasions. Lastly the D.P.C. met on 5.10.94. The applicant states that he being the only S.C. candidate within the zone of consideration it was his reasonable and legitimate expectation that he would be promoted to the grade of A.A.O. more so when there was no adverse remarks against him through out his service career.

4.7 That the applicant was shocked when the respondents published an order dated 17.11.94 by which the respondent Nos. 4, 5, 6 and 7 were allowed to officiate as A.A.O. in deprivation of the applicant. By the said order, no S.C. candidate was promoted. The respondent Nos. 4 and 5 are general category candidate whereas the respondent Nos. 6 and 7 to S.T. community.

A copy of the aforesaid order dated 17.11.94 is annexed herewith as ANNEXURE-2.

Contd.....P/5.

4.8 That the applicant states that the official respondents while issuing the aforesaid order of promotion did not follow the roster point which is mandatory. The carried forward posts reserved for S.C. should have gone to the applicant he being the only S.C. candidates within the zone of consideration. As already stated hereinabove, the first point in the roster reserved for S.C. went to one Shri B.K. Das in 1984-85. The next post of S.C. being the 8th point went to a general candidate viz. one Shri G. Sinha in 1991 as there was no S.C. candidate within the zone of consideration and accordingly the said post was carried forward. There was no selection in 1992 and 1993 and the next selection held only in 1994 when the applicant came within the zone of consideration and became eligible. There being no other S.C. candidate eligible to be considered against that post, the applicant ought to have been promoted against that post in the recruitment year 1994, but the respondents has deprived the applicant from the said post illegally and in derogation of the roster point.

4.9 That the applicant states that immediately after receipt of the aforesaid order dated 17.11.94, the applicant made a representation to the respondent No. 3 on 19.11.94 requesting to promote him to the post of A.A.O. However, till date the said representation has not been replied to.

A copy of the said representation dated 19.11.94 is annexed herewith as ANNEXURE-3.

4.10 That the applicant states that the impugned order dated 17.11.94 has been issued illegally in colourable

exercise of power and selection based on which the said order dated 17.11.94 has been issued is not sustainable in law for not following the mandatory roster point. The applicant being a member of the S.C. community is entitled to certain special protections and benefits which the respondents have deprived him of in a most illegal manner and as such, the impugned order dated 17.11.94 is liable to be set aside and quashed.

4.11 That under the relevant rules, the applicant is liable to be promoted to the grade of A.A.O. and he being the only S.C. candidate eligible for such promotion, and being within the zone of consideration, the respondents cannot deprive him from the said promotion and as such, a direction is required to be issued to the respondents to promote the applicant from the date when the respondents Nos. 4 to 7 were so promoted.

4.12 That the applicant states that he claims his promotion on the basis of the model roster against the 8th point reserved for S.C. which has been carried forward. As such, he would rank senior to the private respondents as the private respondents have been selected against the subsequent points. The applicant, therefore, claims that he is entitled to rank senior to the private respondents and accordingly, a suitable direction be issued to the respondents.

4.13 That the applicant states that from the impugned order of promotion it is not clear as to which of the

private respondents has been promoted against the post reserved for S.C. Further when the selection by which the private respondents were promoted was not made in conformity with the relevant provisions the said selections become illegal and not sustainable in law and as such, the selection pursuant to which the impugned order of promotion has been made is required to be set aside and quashed.

4.14 That being thus aggrieved by the Annexure-2 order dated 17.11.94, pursuant to which the applicant was superseded by the respondent No. 3 & 4 to 7, the applicant filed O.A. No. 233/94 before the Hon'ble Central Administrative Tribunal, Guwahati Bench. In the aforesaid O.A., the applicant prayed for the following reliefs :

- (i) to set aside and quash the order dated 17.11.94 under No. RC(R) 15/94 issued by the respondent No. 3 whereby the respondent Nos. 4 to 7 were promoted as the A.A.O.
- (ii) to issue a direction to the respondents to promote the applicant to the grade of A.A.O. when the respondent Nos. 4 to 7 were so promoted.

4.15 That the Hon'ble Tribunal vide order s dated 29.6.95 disposed of the O.A. No. 233/94. The Hon'ble Tribunal in its order took the view that as applicant has filed the representation on 19.11.94 against his supersession and the same has not been disposed of by the respondents, therefore, it will be appropriate to direct the concerned authority of the respondents to deal

with and disposed of the said representation on merit. The Hon'ble Tribunal also expressed the opinion that that if the contention of the applicant that he belongs to S.C. community and according to him the roster of the reservation of vacancy for the promotion required S.C. community member to be appointed, therefore, he is eligible to be promoted, needs to be critically examined. The Hon'ble Tribunal thus disposed of the application leaving it open to the authorities to consider the case of the application for promotion on general merit making it clear that the consideration may not be necessarily confined to the question of reservation. It was also made clear that the authority concern shall examine all the questions irrespective of the contentions raised in the written statement independently. It was also directed that the representation be disposed expeditiously and so far as practicable within a period of two months from the date of receipt of the copy of the order.

A copy of the order dated 29.6.95 ~~is~~ passed in O.A. No. 233/94 is annexed hereto and marked as ANNEXURE-4.

4.16 That pursuant to the Annexure-4 order of the Hon'ble Tribunal, the matter was once again referred to the respondents for appropriate deliberations on the issues involved. Subsequently, ~~by~~ vide order No. RC(G) 8/98 dated 30.8.95, the respondent No. 3 disposed of the representation of the applicant dated 19.11.98 in terms of the order of the Hon'ble Central Administrative Tribunal

Guwahati Bench dated 29.6.95. It was stated in the order dated 30.8.95 that the claim of the applicant was carefully examined and it was found that his claim for promotion has no scope for further review. That since all the promotees are senior to him as per seniority list and since all other norms were followed strictly as per norms and procedure as applicable to IC AR employees.

Copy of the order dated 30.8.95 is annexed herewith and marked as ANNEXURE-5.

4.17 That the order dated 30.8.95 is ~~in fact~~ a non-speaking order and has been passed cryptically in total non-application of mind. Though the order is purported to be passed in compliance of the order of the Hon'ble CAT, Guwahati Bench dated 29.6.95, but in fact it is merely a mechanical order and reflects total non-application of mind on the part of the competent authority to issues involved. It is stated that the Gradation List/Seniority List makes it clear that the applicant is senior to the respondent Nos. 4 to 7 and the statement to the contrary by the respondent No. 3 is not based upon the records. It is stated that in the instant case the ~~re~~ competent authority arbitrarily promoted the respondent Nos. 4 to 7 superseding this applicant. In this connection, the recommendation of the Departmental Promotion Committee held on 5.10.94 requires examination. The instant case is a fit case wherein this Hon'ble Tribunal may be pleased to call for the minutes of the proceeding of the D.P.C. held on 5.10.94 pursuant to which the order dated 17.11.94

was passed allowing the respondent Nos. 4 to 7 to officiate as A.A.O. ignoring the case of this applicant.

The Hon'ble Tribunal may be pleased to call for the records of the ~~xxxx~~ minutes of the proceedings of the D.P.C. held on 5.10.94 pursuant to which the order dated 17.11.94 was passed allowing the respondent Nos. 4 to 7 to officiate as A.A.O. ignoring the case of this applicant.

4.18 . That the applicant has reason to believe that the D.P.C. held on 5.10.94 did not even ~~take~~ consider the case of the applicant for promotion to the post of A.A.O. though he was very much within the zone of consideration. Assuming but not admitting that the applicant's case for promotion was taken into consideration by the D.P.C. then the reason or the ground on which the applicant was ignored for promotion were irrelevant and could not have been taken into consideration while examining the case of the applicant for promotion to the post of A.A.O. Therefore, in the instant case, for the interest of justice, it is necessary that the minutes of the proceeding of the D.P.C. held on 5.10.94 are examined.

4.19 That after disposal of the O.A. No. 233/94 vide order of the Hon'ble Tribunal dated 29.6.95, it was necessary for the competent authority to get the applicant's case examined through Review D.P.C.. It is not known that if there was any sitting of the Review D.P.C. pursuant to ^{which} the order dated 30.8.95 was passed. It appears that

the order dated 30.8.95 has been passed purely in a mechanical exercise of power and the same is not the result of any consideration of the applicant's case for promotion by the Review D.P.C. Therefore, the Annexure 5 order dated 30.8.95 is liable to be quashed on this score alone.

4.20 That since the applicant's grievance could not be redressed despite the order of this Hon'ble Tribunal dated 29.6.95 and the respondents chose to adhere to the earlier stand, therefore, the applicant has come before this Hon'ble Tribunal again for the ends of justice.

4.21 That the applicant files this application bonafide and to secure the ends of justice.

5. GROUND S FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That the impugned Annexure-5 order dated 30.8.95 has been passed cryptically and in ~~mechanical~~ mechanical exercise of power. The same is the result of total non-application of mind and is arbitrary in nature.

5.2 For that there is flagrant violation of the constitutional provisions and the rules governing the service conditions of members belonging to scheduled case community.

5.3 For that the applicant has been discriminated against in violation of the mandatory roster point required to be maintained in the matter of appointment

and promotion wherein reservation of vacancy for S.C. candidate to the grade of A.A.O. ~~arose in 1991~~ which was are incorporated for the vacancy of S.C. candidate to the grade of A.A.O. arose in 1991 which was carried forward and there being no other eligible candidate belonging to S.C. community, the respondents are duty bound to promote the applicant against that carried forward vacancy.

5.4 That pursuant to the order of the Hon'ble Tribunal dated 29.6.95 passed in O.A. No. 233/94 it was necessary that the competent authority got the applicant's case examined by the Review D.P.C. It is not clear that if there was any Review D.P.C. at all and there was due consideration of the applicant's case for promotion. Since the order dated 30.8.95 has not been passed pursuant to the sitting of the Review D.P.C., therefore, it is liable to be quashed and set aside.

5.5 That the impugned Annexure-5 order by stating that the applicant's claim for promotion has no scope for further review gives clear indication that the applicant's case for promotion was not considered/reconsidered at all and the order of the Hon'ble Tribunal dated 29.6.95 was acted upon only mechanically. The Annexure-5 order bears testimony to the fact that the mind of the competent authority was made up and the same was not open for any re-examination of the applicant's case afresh.

5.6 That the Annexure-2 order of applicant's supersession dated 17.11.94 and the Annexure-5 order

dated 30.8.95 are arbitrary and unreasonable and are violative of Article 14 of the Constitution of India.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has no other alternative remedy other than approaching this Hon'ble Tribunal.

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

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which the application has been filed before any other Court of law, or any other authority and/or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

Under the facts and circumstances, the applicant prays that this application be admitted, records be called for and the respondents be directed to show cause as to why the reliefs prayed for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, Your Lordships may be pleased to grant the following reliefs :

- (i) Direct the respondents No. 2 and 3 to produce the records of the minutes of the D.P.C. held on 5.10.94 pursuant to which the order dated 17.11.94 under

No. RC(R) 15/94 was passed promoting the respondents No. 4 to 7 to officiate as A.A.O.

- (ii) Set aside and quash the Annexure-2 order dated 17.11.94 under No. RC(R) 15/94 issued by the Respondent No. 3 whereby the respondent Nos. 4 to 7 have been promoted as the Asstt. Administrative Officer.
- (iii) Quash and set aside the order dated 30.8.95 under No. RC(G) 8/95 issued by the Respondent No. 3 (Annexure-5)
- (iv) Issue a direction to the respondents to promote the applicant with all consequential benefits to the grade of A.A.O. from the date when the respondents Nos. 4 to 7 were so promoted.
- (v) Cost of the application
- (vi) Any other relief or reliefs to which the applicant is entitled under law and equity.

9. INTERIM ORDER PRAYED FOR :

In the facts and circumstances of the case, the applicant does not pray for any interim relief.

10.....

The application is filed through Advocate.

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

- (i) I.P.O. No. : 8. 09. 345793
- (ii) Date : 30.4.96
- (iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification....

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

I, Shri Mahindra Prasad Rajak, aged about 47 years, son of Biswanath Prasad Rajak, presently working as the Superintendent, ICAR Research Complex, Mizoram Centre, do hereby verify and state that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 17th 15
day of ^{May} March 1996. ■

Mahindra Prasad Rajak

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N. E. REGION
UMROI ROAD, BARAPANI, MEGHALAYA.

Dated, Barapani, the 16th May, 1990.

NO. RC(R) 51/84/ Vol. II/60

- 1) All Joint Directors of the ICAR Research COMPLEX CENTRES.
- 2) All Head of the Divisions In-Charge of Sections.
- 3) All Scientists In-Charge of KVK'S/TTC.

Sub:- Inter-se seniority of all Administrative staff of this Institutes.

Ref:- NO. RC(R) 51/84/ Vol. II 3rd May, 1989.

Sir,

The seniority lists of various categories of Administrative staff (Group-A and Group-C) of the Institute has since been finalised with the approval of the Director after taking into account the objections received from the employees concerned. The list indicates the positions as on 1.5.89. I am sending herewith sufficient number of copies of the seniority list for distribution to the concerned staff members of your Centres/Divisions.

The representations of such employees received in response to this Office Memo NO. RC(R) 51/84/ Vol. II dated 3rd May, 1989 are hereby treated as settled in view of the Council's instructions for the purpose of finalising the seniority lists.

This issues with the approval of the Director.
Receipt of this letter may please be acknowledged.

Yours faithfully,

(S. SAHA)
Administrative Officer

Copy forwarded along with seniority list to :-

- 1. All staff members concerned working in SHILLONG/Barapani.
- 2. Finance and Accounts Officer, ICAR, Barapani.
- 3. Asstt. Administrative Officer (S)/Estt/etc. All supdts etc.
- 4. Guardfile.
- 5. Office copy.

Attes.ed.

B. Singh
Advocate

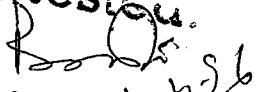
16/5/90

17

FINAL SENIORITY LIST OF ALL ADMINISTRATIVE STAFF OF I. C. A. R. RESEARCH COMPLEX
FOR N. E. H. REGION, BARAPANI, MEGHALAYA

Sl. No.	Name of the Incumbent	Name of Centres	Whether SC/ST	Qualification	Date of birth	Whether permanent/ P.P./ temporary	Whether appointment made by Direct rectt./ promotion/ transfer	Date of regular appointment in the grade	Remarks
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
<u>Asstt. Administrative Officer</u>									
1.	Shri I.K. Sharma	Arunachal	G	P.U.	1-12-41	Permanent	Promotion	7-12-84	
2.	Shri B.I. Chowdhury ✓	Shillong	G	I.A.	1-2-33	Permanent	Promotion	5-12-84	
3.	Shri B.K. Das	Shillong	SC	P.A.	1-5-45	Permanent	Promotion	15-1-85	
4.	Shri A.K. Das ✓	Manipur	G	B.A.	1-4-35	Permanent	Promotion	11-12-84	
5.	Shri B. Lister ✓	Mizoram	ST	P.U.	31-3-44	Permanent	Promotion	29-12-86	
<u>Superintendent</u>									
1.	Shri S.C. Dutta	Arunachal	G	H.S.C.	28-2-36	Permanent	Promotion	29-9-84	
2.	Shri S. Purkayastha	Mizoram	G	B.A.	13-12-50	Permanent	Promotion (Direct)	8-2-85	Limited Deptt. open exam.
3.	Shri H.J. Khamawphlang	Shillong	ST	P.U.	8-9-50	Permanent	Promotion	17-2-86	
4.	Shri K. Bora	Manipur	G	B.A.	1-3-39	Permanent	Promotion (Direct)	17-2-86	Limited Deptt. open exam.
5.	Shri Gautam Sarma	Shillong	G	H.S.S.C.	16-5-51	Permanent	Promotion (Direct)	17-2-86	-do-

16/5/80

Attestation

 Advocate

-12- 38

-2-

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
5.	Shri A.C. Deb ✓	Nagaland	G	B.A.	1-2-46	Permanent	Promotion	1-4-87	
7.	Shri S.H. Mongbri ✓	Shillong	ST	P.U.	3-3-47	Permanent	Promotion	1-4-87	
8.	Shri D.C. Bhuyan ✓	KVK Tura	G	P.U.	11-9-48	Permanent	Promotion	4-4-87	
9.	Shri K. Jangou ✓	Manipur	ST	B.A.	1-3-48	Permanent	Promotion	3-4-87	
10.	Shri Jagnohan Singh Assistant	Sikkim	G	Intermediate	4-10-48	Permanent	Promotion (Direct)	12-8-87	Ltd. Deptt. Gen Examination.
1.	Sari Dilip Kar	Nagaland	G	M.A.	1-7-62	Permanent	Direct (ASB)	10-11-83	
2.	Smt. D.S. Ekhar	Shillong	ST	P.U.	1-9-49	Permanent	Promotion	15-11-83	
3.	Smt. June Ekhar	Shillong	ST	HSLC	13-6-54	Permanent	Promotion	15-11-83	
4.	Shri H.S. Chakraborty	Shillong	G	B.Com	1-5-48	Permanent	Promotion	6-11-84	
5.	Sari S. Das Biswas	Tripura	G	B.A.	2-2-57	Permanent	Promotion	15-11-84	
6.	Shri Davis Joseph ✓	Mizoram	G	HSLC	12-9-57	Permanent	Promotion	27-2-86	
7.	Shri M.P. Rajak	Shillong	SC	P.U.	6-9-49	Permanent	Promotion	17-2-86	
8.	Shri G.A.I. Devi (2) ✓	Manipur	G	B.A.	1-1-56	Permanent	Promotion	3-4-87	
9.	Shri K.K. Das (2) ✓	Shillong	SC HSLC	B.A.	1-5-53	Permanent	Promotion	3-8-87	
10.	Shri Pranab Medhi (4) ✓	Shillong	G	B.A.	1-1-52	Permanent	Promotion	3-8-87	
11.	Shri Hiranjan Maskar	Shillong	SC	B.A.	6-5-59	Temporary	Direct (ASPB)	24-9-87	

16/11/90

-13-18

ANEXURE - 2

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
"BARAPANI" BARAPANI - MEGHALAYA-793103

NO. 15/94

Dt. Barapani, the 17th /Nov. 1994.

" O R D E R "

On the recommendation of the Departmental Promotion Committee on 5/10/94 at ICAR Research Complex for N.E.H. Region, Barapani, the following superintendents are allowed to officiate as Asstt. Administrative Officer temporarily in the scale of pay of Rs. 2000-60-2300-EB-75-3200-10-3000/- p.m. with effect from the date of their joining the post subject to reversion without previous notice and assigning any reason thereof.

They will be on probation for a period of two years. Their pay will be fixed as per the existing rules. Their place of posting will be as under until further orders.

S.No.	Name of persons	Place of posting.	Scheme against which promoted.
1.	Shri Jrimanta Purkayastha	Sikkim Centre	6th Plan Main Scheme
2.	Shri A. C. Deb	Arunachal Pradesh Centre.	6th Plan Main Scheme
3.	Shri S. N. Nongbri	Nagaland Centre.	6th Plan Main Scheme
4.	Sari A. Jorgau	Manipur Centre	6th Plan Main Scheme

Their inter-se-seniority in the grade of Superintendents will be retained.

S.No. 2 & 3 are entitled to TPA and joining time as per rule.

Sd/- S. Laskar,
Director.

Dt. Barapani, the 17th /Nov. 1994.

NO. 15/94
Copy to :-

1. The person concerned (By name)
2. The Finance & Accounts Officer, ICAR, Research Complex for N.E.H. Region, Barapani.
3. The Joint Director, ICAR Research Complex for NEH Region, Sikkim Centre/Arunachal Pradesh Centre/Nagaland Centre/Manipur Centre.
4. Assistant Administrative Officer (A).
5. Superintendent (Admn)
6. D.P.C. file.

Attested.

[Handwritten signature]

[Handwritten signature]

To

The Director,
ICAR Research Complex for NEH Region,
Umroi Road, Barapani

Sub: Promotion from Superintendent to AAO - regarding

Ref: No. RC(R) 15/94 dated 17.11.94

Sir, Kindly refer to the above quoted subject and reference and permit me to state as below:-

1. I am a S/C employee and I have been holding the post of Superintendent since 8.3.91 with satisfaction of the authority and eligible for promotion as AAO as per service rules.
2. It is understood that a DPC meeting was held on 29.6.94 for consideration of promotion to the post of AAO. My case was also considered alongwith other eligible candidates. Being a S/C candidate my claim for promotion was due.
3. As per roster point my claim for promotion may not be ignored. Presently there is only one S/C candidate (Viz- Shri B.K. Das) in the grade of AAO whose present strength only 8 (eight). It will thus appear that my case come well within the roster point for promotion. In any case 2 (two) posts of AAO are reserved for S/C candidate.

In view of above, it is humbly prayed that the matter may kindly be reviewed and my promotion to the post of AAO granted for the sake of justice and honouring roster point reserved for S/C candidate.

For this act of kindness I shall remain ever grateful to you.

Yours faithfully,

M. P. Rajak 19/11/94

(M. P. Rajak)
Superintendent
ICAR Mizoram Centre,
Camp-Barapani.

Dated 19.11.94

Copy to:-

The Liaison Officer for S/C & S/T, ICAR Res. Complex for NEH Region, Umroi Road, Barapani for information.

Attested.
R. S. Singh
Advocate.

M. P. Rajak 19/11/94

(M. P. Rajak)
Superintendent
ICAR Mizoram Centre,
Camp-Barapani.

CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

Original Application No. 233 of 1994

Date of Order : This the 29th day of June, 1995

Justice Shri M.G. Chaudhari, Vice-Chairman,

Shri G.L. Sanglyine, Member (Administration)

Shri M.P. Rajak, Superintendent,
Indian Council of Agricultural Research,
Research Complex, for Mizoram Centre,
Kolasib, Mizoram. ... Applicant

By Advocate Shri B.K. Sharma

- Versus -

Union of India & Ors. ... Respondents.

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

O R D E R

CHAUHARI J. (V.C.)

The application is directed against the order passed by respondent No. 3 promoting respondents No. 4 to 7 as Assistant Administrative Officers dated 17.11.94. The applicant prays that respondents may be directed to appoint him on promotion to the Grade of Assistant Administrative Officer from the date when the said respondents were promoted.

2. The applicant had filed a representation to the Director, I.C.AR. Research Complex for N.E.H. Region seeking selfsame relief of promotion. However, without waiting for the decision on the said representation he rushed to this Tribunal on 9.12.94.

3. The respondents have admitted in para 9 of the written statement that the applicant had filed the representation on 19.11.94 but state that before its disposal the applicant had filed the O.A. without waiting for the result of the representation.

Attested.

R. D. S. 86
Advocate.

Contd.....

4. We therefore, think that it will be appropriate to direct the concerned authority of the respondents to deal with and dispose of the said representation on merits

5. It may be noted that it is the contention of the applicant that since he belongs to scheduled caste community and as according to him the roster of the reservation of vacancy for the promotion required scheduled caste community to be appointed he is eligible to be promoted. This question needs to be critically examined.

6. It also appears that the applicant was considered by the DPC on 5.10.94 for selection for promotion but he was not found suitable. Hence the authority which will deal with the representation may also consider in the event of applicant being found eligible against the reserved post whether a review DPC should be constituted to obviate the legal hurdle of selection for the purpose of evaluating relative assessment of the applicant with the candidates who have already been appointed if any of them were belonging to the reserved category.

7. However, it is left open to the authority to consider the case of the applicant for promotion on general merit also and the consideration may not be necessarily confined to the question of reservation. The authority concerned shall examine all the questions irrespective of contention raised in the written statement independently. The representation be disposed

Contd.....

ADVOCATE.
R. C. 1. 196
ADVOCATE.

of expeditiously and as far as practicable within a period of two months from the date of receipt of copy of this order. The decision shall be communicated to the applicant. If the applicant feels aggrieved by the said decision he will be at liberty to adopt remedies in accordance with the law including approaching this Tribunal in which event the contentions urged by both the parties in this O.A. as may be relevant will be open to be agitated.

8. The O.A. is disposed of in terms of the above order. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

Attested.

Advocate

15.4.86

...

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD : BARAPANI

WS

Dt. Barapani the 30th August, 1995

NO. RC(G)8/95

With reference to the representation of Sri M.P.Rajak, Superintendent, Mizoram Centre, Kolasi at. 19.11.94 and also the order of the Hon'ble C.A.T. Guwahati Branch at. 29.6.95 against OA/No.233/94 (certified on 7.8.95 and received on 19.8.95), the matter has been carefully examined in relevance to all the points raised in the aforesaid documents including the roster point for SC/ST and found that his claim for promotion has no scope for further review since all the prerequisites are senior to him as per seniority list and since all other norms are followed strictly as per rules and procedures as applicable to ICAR employees.

Therefore, Sri M.P.Rajak, Superintendent is hereby informed that his request for consideration of promotion could not be acceded to.

(S. LASKAR)
Director

To

Sri M.P.Rajak, Superintendent,
ICAR Research Complex for NEH Region,
Mizoram Centre,
KOLASIB.

Dt. Barapani the 30th Aug. '95

Memo No. RC(G)8/95

Copy to :

- 1) The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Phangagarh, Guwahati-5, for kind information.

Attested.

[Signature]
Advocate.

(S. LASKAR)
Director

4. That with regard to the statement made in para 4.4 of the application, the Respondents have no comments, the same being a matter of records. The Applicant himself admitted that the promotees were senior to him as per seniority list (Annexure- A). *annexed to OA.*

Chair

5. That with regard to the statement made in para 4.5 of the application, the Respondents beg to state that they have no comments and the same being the matter of records.

6. That with regard to the statement made in para 4.6 of the application, the Respondents beg to state that all the promotees were senior to the Applicant and they were accordingly promoted as per recommendation of the Departmental Promotion Committee. Out of the promotees, there were 2 S.T. candidates. It may be further stated that the reserved quota for SC candidates may also be filled up by eligible/suitable ST candidates under the provision of "While Reserved vacancies will continue to be reserved for the respective community only and the SC officer may also be considered for promotion against the vacancy reserved for ST and vice-versa (Annexure-B). *annexed to OA.*

Chair

7. That with regard to the statement made at para 4.7 of the application, the Respondents beg to state that the same is not correct and hence denied. All the promotees were promoted on the recommendation of the Depttl. Promotion Committee constituted for the purpose only.

8. That with regard to the statement made in para 4.8 of the application, the Respondents beg to

state that the same is not correct and hence denied. This has been adequately replied at para 7 above.

9. That with regard to the statement made in para 4.9 of the application, the Respondents beg to state that it is a fact that the Applicant submitted representation and before disposal of his representation by the Respondent, the Applicant approached the Hon'ble CAT without awaiting the decision on his representation. However, his representation as per direction of the Hon'ble Tribunal as asked on 29.6.1995 under O.A.No.233/94, his representation has been disposed of after careful examination vide order No.RC(G)8/95 dated 30th Aug., '1995(Annexure-C) *annexed to OA.*

10. That with regard to the statement made in Para 4.10 of the application, the Respondents beg to state that same is not correct and hence denied. As stated earlier, the order dated 17.11.1994 issued by the Respondent is valid and correct and as such, the question of setting aside the same could not so far been considered.

11. That with regard to the statement made in para 4.11 of the application, the Respondents beg to state that the same is repeatation of the earlier already replied in the foregoing paragraphs.

12. That with regard to the statement made in para 4.22 of the application, the Respondents beg to state that the same has been adequately replied against the para 4.6 of the application.

13. That with regard to the statement made in para 4.13 of the application, the Respondents beg

state that the present Respondents No.6 & 7 of the application are the S.T.candidates promoted vide order dated 17.11.1994.

14. That with regard to the statement made in para 4.14,4.15,& 4.16 of the application, the Respondents have no comments,the same being the matter of records.

15. That with regard to statement made in para 4.17 of the application,the Respondents beg to state that the same is not correct. The Applicant is not senior to the Respondents No. 4 to 7 and his statement is not correct vide seniority list at Annexure-A. The order of disposal of the Applicant's representation is neither mechanical nor arbitrary and with non-speaking order.

16. That with regard to the statement made in para 4.18 of the application, the Respondents beg to state that the Applicant's belief is based on conjecture and surmises. In fact his case was duly considered by the Depttl. Promotion Committee and he was not found suitable for recommendation.

D.P.C.

17. That with regard to the statement made in para 4.19 of the application, the Respondents beg to state that the claim of review DFC has no relevancy in his case. The rest of his contention is mere repetition only.

18. That with regard to the statement made in para 4.20 and 4.21 of the application,the Respondents have no comments.

19. That with regard to the statement made in para 5 of the application regarding grounds of relief sought for, the Respondents beg to state that none of

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the grounds of the Applicant is maintainable under law as well as in facts and as such, the application is liable to be dismissed with costs.

20. That with regard to the statement made in para 6 & 7 of the application, the Respondents have no comments.

21. That with regard to the statement made in para 8 of the application regarding relief sought for, the Respondents beg to state that the Applicant is not entitled to any-one of the relief sought for in this application and as such the application is liable to be dismissed.

22. That with regard to the statement made in para 9, 11 & 12 of the application, the Respondents have no comments.

23. That the Respondents submit that the application has no merit and as such, the same is liable to be dismissed.

Statement

I, Dr. S. S. Srinivasan, Director of Late Shri Kishore Awasthi

Director, ICR Research Complex for NEH Region, Barapani residing
at Barapani, Meghalaya, P.O. Poon, District Siang, do hereby
certify that the contents made above are true to the best of my personal
knowledge and belief and I have not suppressed any material facts.

S. S. Srinivasan

Signature
Director
ICR Research Complex
NEH Region,
Barapani Road, Barapani

Place : Barapani
Date : 28.9.96

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Annexure - A

FINAL SENIORITY LIST OF ALL ADMINISTRATIVE STAFF OF I. C. A. R. RESEARCH COMPLEX
FOR N. E. H. REGION, BARAPANI, MEGHALAYA

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
Name of the Incumbent	Name of Centres	Whether SC/ST	Qualification	Date of birth	Whether permanent/ P.P./ temporary	Whether appointment made by Direct rectt./ promotion/ transfer	Date of regular appointment in the grade	Remarks.	
<u>Deptt. Administrative Officer</u>									
1. Shri I.K. Sharma	Arunachal	G	P.U.	1-12-41	Permanent	Promotion	7-12-84		
2. Shri B.I. Chowdhury ✓	Shillong	G	I.A.	1-2-33	Permanent	Promotion	5-12-84		
3. Shri B.K. Das	Shillong	SC	P.A.	1-5-45	Permanent	Promotion	15-1-85		
4. Shri A.K. Das ✓	Manipur	G	B.A.	1-4-35	Permanent	Promotion	11-12-84		
5. Shri B. Lister ✓	Mizoram	ST	P.U.	31-3-44	Permanent	Promotion	29-12-86		
<u>Superintendent</u>									
1. Shri S.C. Dutta	Arunachal	G	H.S.C.	28-2-36	Permanent	Promotion	29-9-84		
2. Shri S. Purkayastha	Mizoram	G	B.A.	13-12-50	Permanent	Promotion (Direct)	8-2-85	Limited Deptt. open exam.	
3. Shri H.J. Khamawphlang	Shillong	ST	P.U.	8-9-50	Permanent	Promotion	17-2-86		
Shri M. Bora	Manipur	G	B.A.	1-3-39	Permanent	Promotion (Direct)	17-2-86	Limited Deptt. open exam.	
Gautam Saha	Shillong	G	H.S.S.C.	15-5-51	Permanent	Promotion (Direct)	17-2-86		

16/5/90

FINAL SENIORITY LIST OF ALL ADMINISTRATIVE STAFF OF I.C.A.R. RESEARCH COMPLEX
FOR N.E.E. REGION, BARAPANI, MEGHALAYA

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
Name of the Incumbent	Name of Centres	Whether SC/ST	Qualification	Date of birth	Whether permanent/ P.P./ temporary	Whether appointment made by Direct relect./ promotion/ transfer	Date of regular appointment in the grade	Remarks	
<u>Asstt. Administrative Officer</u>									
1. Shri I.K. Sharma	Arunachal	G	P.U.	1-12-41	Permanent	Promotion	7-12-84		
2. Shri B.I. Chowdhury	Shillong	G	I.A.	1-2-33	Permanent	Promotion	5-12-84		
3. Shri B.R. Das	Shillong	SC	P.A.	1-5-45	Permanent	Promotion	15-1-85		
4. Shri A.K. Das	Manipur	G	B.A.	1-4-35	Permanent	Promotion	11-12-84		
5. Shri B. Lister	Mizoram	ST	P.U.	31-3-44	Permanent	Promotion	29-12-86		
<u>Superintendent</u>									
1. Shri S.C. Dutta	Arunachal	G	H.S.C.	28-2-36	Permanent	Promotion	29-9-84		
2. Shri S. Purkayastha	Mizoram	G	B.A.	13-12-50	Permanent	Promotion (Direct)	8-2-85	Limited Dept. open exam.	
3. Shri H.J. Kharmawphlang	Shillong	ST	P.U.	8-9-50	Permanent	Promotion	17-2-86		
4. Shri H. Bora	Manipur	G	B.A.	1-3-39	Permanent	Promotion (Direct)	17-2-86	Limited Dept. open exam.	
5. Shri Gautam Sarma	Shillong	G	H.S.S.C.	16-5-51	Permanent	Promotion (Direct)	17-2-86		

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2.	3.	4.	5.	6.	7.	8.	9.	10.
6. Shri A.C. Deb ✓	Nagaland	G	B.A.	1-2-46	Permanent	Promotion	1-4-87	
7. Shri S.H. Nongbri ✓	Shillong	ST	P.U.	3-3-47	Permanent	Promotion	1-4-87	
8. Shri D.C. Bhuyan	KVK Tura	G	P.U.	11-9-48	Permanent	Promotion	4-4-87	
9. Shri K. Jangou ✓	Manipur	ST	B.A.	1-3-48	Permanent	Promotion	3-4-87	
10. Shri Jagnohan Singh Assistant	Sikkim	G	Intermediate	4-10-48	Permanent	Promotion (Direct)	12-8-87	Ltd. Deptt. Gen Examination.
11. Shri Dilip Kar	Nagaland	G	M.A.	1-7-62	Permanent	Direct (ASB)	10-11-83	
2. Smt. D.S. Dkhar	Shillong	ST	P.U.	1-9-49	Permanent	Promotion	15-11-83	
3. Smt. June Dkhar	Shillong	ST	HSLC	13-6-54	Permanent	Promotion	15-11-83	
4. Shri H.S. Chakraborty	Shillong	G	B.Com	1-5-48	Permanent	Promotion	6-11-84	
5. Shri S. Das Biswas	Tripura	G	B.A.	2-2-57	Permanent	Promotion	15-11-84	
6. Shri Davis Joseph	Mizoram	G	HSLC	12-9-57	Permanent	Promotion	27-2-86	
7. Shri M.P. Rajak	Shillong	SC	P.U.	6-9-49	Permanent	Promotion	17-2-86	
8. Shri G.A.I. Devi	Manipur	G	B.A.	1-1-56	Permanent	Promotion	3-4-87	
9. Shri K.K. Das	Shillong	SC	HSLC	1-5-53	Permanent	Promotion	3-8-87	
10. Shri Pranab Medhi	Shillong	G	B.A.	1-1-52	Permanent	Promotion	3-8-87	
11. Shri Niranjan Naskar	Shillong	SC	B.A.	6-5-59	Temporary	Direct (ASB)	24-9-87	

16/1/90

Signature - B

SCs and STs in the last year to which reserved vacancies are carried forward of reservation from year to year in the event of an adequate number of SC/ST candidates not being available in any particular year.

However, when a vacancy in respect of items (ii) to (iv) above falling on a reserved point in the roster is treated as unreserved due to its being carried forward to subsequent three recruitment years.

(5) While reserved vacancies will continue to be reserved for the respective community only, an SC officer may also be considered for appointment against a vacancy reserved for ST or vice versa, in the same year itself in which the reservation is made, when the appropriate reserve vacancy could not be filled by an SC or an ST candidate, as the case may be.

A reservation carried forward as per sub-paragraph in respect of items (ii) to (iv) above and vacancy in a subsequent year is actually treated as reserved against a carry forward reservation, the provision relating to exchange of reservation would apply for such reservation.

[G.I., M.H.A., O.M. No. 1/12/67-Est. (C), dated the 11th July, 1968; Resolution No. 27/25/68-Est. (SCT), dated the 25th March, 1970; O.M. No. 36021/7/75-Est. (SCT), dated the 25th February, 1976; O.M. No. 27/25/68-Est. (SCT), dated the 25th March, 1970; Dept. of Per. & Trg., O.M. No. 8/12/69-Est. (SCT), dated the 23rd December, 1970; O.M. No. 22011/5/86-Est. (D), dated the 10th April, 1989 and O.M. No. 22011/1/90-Est. (D), dated the 22nd April, 1992.]

(6) If owing to non-availability of suitable candidates belonging to SCs or STs, as the case may be, it becomes necessary to deservise a reserved vacancy, a reference should be made to the Department of Personnel and Training indicating that claims of SC/ST candidates eligible for promotion in reserved vacancies have been duly considered as laid down above. On deservisation being agreed to, the reserved vacancies can be filled by other candidates.

[G.I., D.P. & A.R., O.M. No. 10/41/73-Est. (SCT), dated the 20th July, 1974, as amended by O.M. No. 36021/7/75-Est. (SCT), dated the 25th February, 1976.]

C. Seniority subject to fitness

The principle of zone of consideration is not applicable. There is no need for a comparative evaluation of the individual officer's respective merits. Only a decision has to be taken on the suitability of each individual officer or the unfitness of an officer for promotion. The following procedure has to be adopted to give effect to the reservation with reference to a separate 40-point roster:—

(1) If according to the roster in the roster there are vacancies reserved for SCs and STs, separate lists should be drawn up of the eligible SC or ST Officers, as the case may be, arranged in order of their *inter se* seniority in the main list.

(2) The Departmental Promotion Committee should adjudge the SC and ST officers separately in regard to their fitness.

(3) The select lists of officers in the general category and those belonging to SCs and STs prepared by the DPC should be merged into a combined select list, wherein the names of all officers are arranged in the order of their *inter se* seniority in the original seniority list of the category/grade from which the promotion is made.

This combined select list, which is normally operative for a period of one year should be followed for making promotions in vacancies as and when they arise during the year.

(4) If the number of eligible candidates belonging to SCs and STs found fit for promotion falls short of the number of vacancies reserved for them during the year, action for deservisation should be taken, subject to carry forward of reservation to three subsequent recruitment years and exchange of vacancies between SCs and STs in the final year of carry forward.

[G.I., Dept. of Per. & Trg., O.M. No. 27/21/71-Est. (SCT), dated the 27th November, 1972, as amended by O.M. No. 36021/7/76-Est. (SCT), dated the 25th February, 1976.]

D. Within Group 'A'

In promotions by selection to posts within Group 'A' which carry an ultimate salary of Rs. 5,700 or less p.m. where there is no reservation, SC/ST officers who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be drawn up, would be included in that list provided they are not considered unfit for promotion. Their position in the select list would, however, be the same as assigned to them by the Departmental Promotion Committee on the basis of their record of service.

[G.I., D.P. & A.R., O.M. No. 1/10/74-Est. (SCT), dated the 23rd December, 1974; G.I., Dept. of Per. & Trg., O.M. No. 36012/12/88-Est. (SCT), dated the 21st September, 1988 and O.M. No. 36012/6/85-Est. (SCT), dated the 1st November, 1990.]

E. Appointment to Non-functional Selection Grade in Group 'A'

SC/ST officers considered for being appointed in their turn to posts in the Non-functional Selection Grade in Group 'A' services against available vacancies may be included in the select list even if they do not fulfill the criteria laid down therefor provided they are not considered unfit by the Selection Committee.

F. Ad hoc Promotions

See Order (3) in Chapter 5 for guidelines laid down in this regard.

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Annexure 4 C1

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SENIORITY LIST OF SUPERINTENDENTS

Sl.No.	Name of the staff	Dt. of birth	Dt. of joining	RELATIONS
1	2	3	4	5
1.	Sh. S. Purkayastha	13.12.50	03.02.85(G)	(G)
2.	Sh. A. C. Deb	01.12.46	01.04.87	(G)
3.	Sh. S. C. Nongeri	03.03.47	01.04.87	(ST)
4.	Sh. D. C. Shuyan	11.09.48	04-04.87	(G)
5.	Sh. N. Jangou	01.03.48	03.04.87	(ST)
6.	Smt. D. S. Dikhar	01-09.49	07.03.91	(ST)
7.	Sh. N. P. Rajak	06.09.49	08.03.91	(SC)
8.	Sh. Dillip kar	01.07.62	29.03.91	(G)
9.				

Total sanctioned posts 15
 Filled 11
 Vacant 4

Certified that there is no vigilance case initiated or contemplated against the post of Superintendent from Sl.No. 1 to Sl.No. 8.

[Signature]
 5/10/94
 A.O.

5-10-94

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INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD : BARAPANI

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NO. RC(G)8/95

Dt. Barapani the 30th August, 1995

With reference to the representation of Sri M.P.Rajak, Superintendent, Mizoram Centre, Kolasib dt. 19.11.94 and also the order of the Hon'ble C.A.T. Guwahati Branch dt. 29.6.95 against OA/No.233/94 (certified on 7.8.95 and received on 19.8.95), the matter has been carefully examined in relavance to all the points raised in the aforesaid documents including the roster point for SC/ST and found that his claim for promotion has no scope for further review since all the promotees are senior to him as per seniority list and since all other norms are followed strictly as per rules and procedures as applicable to ICAR employees.

Therefore, Sri M.P.Rajak, Superintendent is hereby informed that his request for consideration of promotion could not be acceded to.

(S. LASKAR)
Director

To

Sri M.P.Rajak, Superintendent,
ICAR Research Complex for NEH Region,
Mizoram Centre,
KOLASIB.

Memo No. RC(G)8/95

Dt. Barapani the 30th Aug. '95

Copy to :

- 1) The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Bhangagarh, Guwahati-5, for kind information.

(S. LASKAR)
Director

ofc

36

ANNEXURE-D

28

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UNRAI ROAD, BARAPANI - MEGHALAYA-793103

15/94

Dt. Barapani, the 17/11 /Nov. 1994.

" O R D E R "

On the recommendation of the Departmental Promotion Committee
dated 10/10/94 at ICAR Research Complex for N.E.H. region, Barapani, the
following Superintendents are allowed to officiate as Asstt. Administra-
tive Officer temporarily in the scale of pay of Rs. 2000-60-2300-EB-75-3200-
1000/- p.m. with effect from the date of their joining the post sub-
ject to reversion without previous notice and assigning any reason thereof.

They will be on probation for a period of two years. Their pay
will be fixed as per the existing rules. Their place of posting will be
subject to further orders.

Name of persons	Place of posting.	Scheme against which promoted.
Shri Srimanta Purkayastha	Sikkim Centre	6th Plan Main Scheme
Shri A. C. Deb	Arunachal Pradesh Centre.	6th Plan Main Scheme
Shri S. N. Nongbri	Nagaland Centre.	6th Plan Main Scheme
Sri K. Jongau	Manipur Centre	6th Plan Main Scheme

Their inter-se-seniority in the grade of Superintendents will
be maintained.

Sl. No. 2 & 3 are entitled to TTA and joining time as per rule.

Sd/- S. Laskar,
Director.

Dt. Barapani, the 17/11 /Nov. 1994.

15/94

- The person concerned (By name)
- The Finance & Accounts Officer, ICAR, Research Complex for N.E.H. Region, Barapani.
- The Joint Director, ICAR Research Complex for NEH Region, Sikkim Centre/Arunachal Pradesh Centre/Nagaland Centre/Manipur Centre.
- Assistant Administrative Officer (E).
- Superintendent (Admn)
- D.P.C. file,

(J. K. SHARMA)
ADMINISTRATIVE OFFICER