

30/60  
7  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

*Shakti*  
29.1.18

OA No. 127/96

MP. No.

OA

RA No.

OA

CP No.

OA

Dr. S. C. Ray

APPLICANT(S)

versus  
Union of India - 498

RESPONDENT(S)

Mr. B. K. Sharma, Advocate for the applicant.  
Mr. K. Chandum, B. M. K., S. Sarma,

Mr. G. Sarma, Ad. C. Advocate for the Respondents.

Office Notes

Date

Court's Orders

This application is in  
form and within time  
C. F. of Rs. 50/-  
deposited vide  
IFC/2D No 345933  
Dated 23-6-96

8/1  
Dy. Registrar

23/7

19-7-96 Learned counsel Mr. B. K. Sharma  
for the applicant. Learned Addl.  
C.G.S.C. Mr. G. Sarma for the respo  
dents.

Heard Mr. B. K. Sharma for Admi  
ssion. Perused the application and  
reliefs sought. Application is  
Admitted. Issue notice on the res  
pondents by registered post. ~~Not~~.  
Written statement within six weeks.  
List on 30-8-96 for written state  
ment and further orders.

Mr. G. Sarma opposes the interim  
order prayer. Heard counsel of the  
parties on interim relief prayer.  
The operation of Establishment o  
order No. 137/96 dated 11-7-96  
Annexure 6, will remain suspended  
till disposal of this application  
in so far as it relates to the  
applicant.

lm

Member

1) Service reports are still awaited  
2) W/Statute - to be seen b/w.

29/8

✓ (2) O.A. 127 of 1996

30.8.96

Mr. M.K. Choudhury for Mr. B.K.Sharma for the applicant.

Mr. G.Sarma, Addl.C.G.S.C. for the respondents.

Written statement has not be submitted.

3.9.96

List for written statement and further order on 26.9.96 as prayed by Mr. G.Sarma.

Notice duly served  
on respondent No. 1.

69  
Member

trd.

26.9.96

Mr. G.Sarma, Addl.C.G.S.C. for the respondents.

No written statement has been submitted.

List for written statement and further orders on 18.10.1996.

69  
Member

trd

MV  
28/9

18.10.96

None for the applicant.

Mr. G.Sarma, Addl. C.G.S.C., for the respondents.

Mr. Sarma prays for further time to file written statement.

List for written statement and further on on 2.12.1996.

69  
Member

trd

MV  
23/10

3

1) Notice duly served on Respondent No - 1, 4.

2) written statement has not been submitted.

2.12.96

Learned counsel Mr. S. Sarma for the applicant. Written statement has not been submitted by the respondents.

List for written statement and further orders on 1.1.1997.

6/2  
Member

nkm

27-1-97

1-1-97

1) Notice duly served on Respondent No - 1 & 4.

2) w/statement has not been filed.

Learned counsel Mr. S. Sarma for the applicant. Leave note of Mr. G. Sarma Addl.C.G.S.C. Written statement has not been submitted.

List for written statement and further order on 28-1-97.

6/2  
Member

lm  
M  
1/1

28.1.97

Mr. B.K. Sharma, learned counsel for the applicant is present.

Learned Addl.C.G.S.C. Mr. G. Sarma, is present for the respondents.

Mr. G. Sarma prays for further 3 weeks time for filing written statement and he submits that the written statement has already been prepared and it is only to be signed. Several adjournments has been given. We are not inclined to give any further adjournment. For the ends of justice as a last chance one week time is granted.

List for further order on 5.2.1997.

  
Vice-Chairman

Member

trd

5.2.97

Let this case be listed on 7.2.97.

  
Member

  
Vice-Chairman

nkm

  
M  
6/2

6.2.97  
ADS filed by  
in Respondents

12.2.97

Let this case be listed for hearing on  
10.3.97.6.3.97

Vice-Chairman

1) Written statement  
has been filed.

Member

nkm

2) NO rejoinder has  
been filed.  16/2trd  
6/33) Memo. of appearance  
not yet filed.

10.3.97

Mr B.K. Sharma, learned counsel for  
the applicant and Mr G. Sarma, learned Addl.  
C.G.S.C. are present. Three weeks time allowed  
to Mr G. Sarma to receive instruction.

List it on 2.4.97 for hearing.

Member

nkm

 11/3 Vice-Chairman

31.3.97

Let the case be listed on 11.4.1997 for  
hearing.

Member

 Vice-Chairman

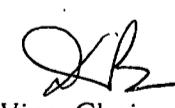
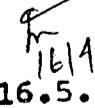
trd

 7/9

11.4.97

On the prayer of the learned counsel for  
the parties this case is adjourned for hearing to  
16.5.97.

Member

 Vice-Chairman1) W/S has been filed.  16/1

nkm

2) Memo of appearance  
filed by Mr. G. Sarma  
Addl. C.G.S.C.

16.5.97.

Left over. List on 17.7.97 for  
hearing.

Member

 Vice-Chairman

nkm

13.8.97

The 1st. of December 2015

Left over. Case to be listed on

(5)

5-4-127/76

The case is ready  
for hearing.

20/8/97

15.9.97. Let over. date for hearing

26.11.97.

by order.

26.11.97

The learned counsel for the parties submit  
that the case is ready for hearing. List it for  
hearing on 9.2.1998.

Ready for hearing.

NS  
6/2

6  
Member

  
Vice-Chairman

nkm

NS  
1/12

9.2.98

Let the case be listed for hearing  
on 19.5.98.

The case is ready  
for hearing as  
regard service &  
W.L.S.

pg  
10/2

6  
Member

  
Vice-Chairman

19.5.98

Leave - Admn C- 27.7.98

7 and -

24/7

27.7.98

On the prayer of Mr G. Sarma  
learned Addl. C.G.S.C., this case is  
adjourned till 29.7.98.

6  
Member

  
Vice-Chairman

nkm

NS  
28/7

(6)

0.A.127/96

28xx98

Mr J.L.Sarkar, learned counsel for the applicant is unable to attend the Tribunal due to his personal difficulty. Mr M.Chanda made a mention on his behalf.

List on 19.8.98

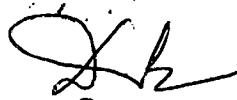
Written statement  
has been filed.

29.7.98

On the prayer of Mr G.Sarma, learned Addl.C.G.S.C the case is adjourned to 4.8.98.

28.8

Member

  
Vice-Chairman

pg

28  
20/7

4.8.98 Passover on the day.

20

By order.

5.8.98

There was a reference. Adjourned to 10.8.98.

By order.

10.8.98

Passover on the day.

22

By order.

11.8.98

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

10.9.98  
Copies of the  
judgment have been  
sent to the D/Secy  
for issue in due  
time. The  
parties may  
get with A.P.

Member

nkm

  
Vice-Chairman

Copies of the judgment  
issued vide Reg. No. 2632 to  
2636 dt. 11.9.98

21.9.

8

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

O.A.No. 127 of 1996

DATE OF DECISION 11.8.1998

Shri S.C. Roy

(PETITIONER(S))

Mr B.K. Sharma and Mr S. Sarma

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

Mr G. Sarma, Addl. C.G.S.C.

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

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

1. Whether Reporters of local papers may be allowed to see the Judgment ?
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



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.127 of 1996

Date of decision: This the 11th day of August 1998

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

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

Shri Subash Chandra Roy,  
Lower Division Clerk,  
Office of the Custom Preventive Division,  
Guwahati. ....Applicant  
By Advocates Mr B.K. Sharma and  
Mr S. Sarma.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Finance, New Delhi.
2. The Commissioner of Customs (Preventive), N.E.R., Shillong.
3. The Asstt. Commissioner (Headquarter), Customs & Central Excise, Shillong.
4. The Assistant Commissioner of Customs, (Preventive Division), Guwahati. ....Respondents

By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....  
O R D E R

BARUAH.J. (V.C.)

In this application the applicant has challenged the Annexure 6 order dated 11.7.1996 issued by the Assistant Commissioner (Headquarter), Customs and Central Excise, Shillong, cancelling the promotion order No.68/1996 dated 26.3.1996 on the ground that the applicant did not complete the tenure of five years in Group 'D' cadre.



2. Facts for the purpose of disposal of this application are:

The applicant, at the material time, was a Group 'D' Sepoy at Jorhat working under the Collector of Customs and Central Excise, Shillong. Prior to that he was in the Army for the period from 28.10.1976 to 14.6.1986 in Corps of Signals. On 23.4.1992 Annexure 1 programme for selection to the post of LDC was issued by the Administrative Officer, Customs and Central Excise, Jorhat. In the said Annexure 1 programme a list of candidates was also enclosed and the applicant's name appeared at serial No.9 in the said list. This promotion was to be given from amongst the Group 'D' Sepoys against the 10% promotional quota. The applicant appeared in the examination. By Annexure 2 order dated 31.8.1992 the result of the examination was declared. In the said Annexure 2 result the applicant was declared passed and his name appeared at serial No.33. Though the result was out as far back as 1992 the applicant and the other persons were promoted only in 1996 by Annexure 3 order No.68/1996 dated 26.3.1996. Accordingly the applicant was posted as LDC at Guwahati. Pursuant to Annexure 3 order of promotion the applicant joined the promotional post by Annexure 4 joining report dated 28.3.1996. Thereafter by Annexure 5 order dated 25.4.1996 his scale of pay was fixed from Rs.950-1500/-. He continued to work as such for about two months till July 1996 when the impugned Annexure 6 order dated 11.7.1996 was passed. On receipt of the said Annexure 6 order the applicant immediately approached this Tribunal by filing the present application. This Tribunal by order dated 19.7.1996 stayed the impugned Annexure 6 order and on the strength of the stay order granted by this Tribunal the applicant is still



working in the promotional post.

3. In due course the respondents have entered appearance and filed written statement. In their written statement the respondents have resisted the claim of the applicant on the ground that his appointment by promotion was irregular as he did not complete five years of regular service in Group 'D' cadre at the time of selection. However, it is not disputed that on the date of appointment the applicant had completed five years service.

4. We have heard Mr B.K. Sharma, learned counsel for the applicant and Mr G. Sarma, learned Addl. C.G.S.C. Mr B.K. Sharma submits that the requirement of five years service in Group 'D' cadre was not a condition for getting promotion. At least Annexure 1 order dated 23.4.1992 does not indicate anything in that regard. Mr G. Sarma also has not been able to show any rule or administrative instruction regarding the requirement of five years service in Group 'D' cadre. However, Mr G. Sarma has very fairly submitted that on the date of appointment the applicant had completed more than five years service in Group 'D' cadre.

5. We have perused Annexure 1 order dated 23.4.1992 and other papers placed before us. We do not find any rule or circulars regarding the requirement of five years service in the Group 'D' cadre and if such requirement was necessary it was the duty of the respondents to point out to the applicant at the time of examination or at the time of selection. This was done after more than four years when the applicant had already been promoted and was serving in the promotional post. The applicant's promotion was cancelled without issuing any notice. Besides the impugned Annexure 6 order also contains a stigmatic

  
remark.....

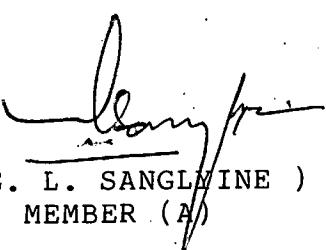
remark. We quote the relevant portion of the said order:

".....However, S/Shri Mukibar Rahaman and Subhas Chandra Roy, Sepoys appeared the examination notwithstanding the fact that they did not complete the tenure of 5 years as mentioned above which amounted to breach of order, discipline and faith. As S/Shri Mukibar Rahaman and Subhas Chandra Roy appeared the said examination illegally, this office order no.249/92 dated 31-08-92 declaring them successful in the said examination is hereby cancelled so far as it relates to these two officers."

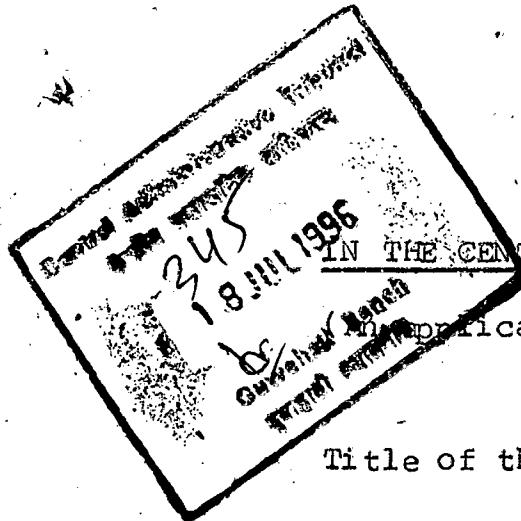
According to Mr B.K. Sharma this order of cancellation of promotion also entails a stigma in it. He further submits that without affording any opportunity the applicant's promotion was cancelled. We fully agree with the submission of Mr B.K. Sharma in this regard. Apart from the violation of the principles of natural justice and also Article 311 of the Constitution it is also inequitable. In the facts and circumstances of the case the cancellation of the promotion of the applicant is illegal, unjust and unfair.

6. In view of the above we are of the opinion that the impugned Annexure 6 order dated 11.7.1996 cannot sustain in law. Accordingly we set aside the said Annexure 6 order and the applicant shall continue to work in the promotional post with all consequential benefits.

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

  
( G. L. SANGLHINE )  
MEMBER (A)

  
( D. N. BARUAH )  
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

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

Title of the Case : O.A. No. 127 of 1996

Shri Suhash Chandra Roy ... Applicant

- Versus -

Union of India & Others ... Respondents

I N D E X

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For use in Tribunal's office :

Date of filing : 18-7-96

Registration No. : OA 127/96

REGISTRAR

Recd (C.P.)  
Sohel Sarma  
18/7/96  
CAT. 4/H  
18/7/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

O.A. NO. 127 of 1996

BETWEEN

Shri Suhash Chandra Roy,  
at present working as L.D.C.  
in the office of the Custom  
Preventive Division,  
Guwahati under the Assistant  
Commissioner

...

APPLICANTS

- AND -

1. Union of India, represented  
by the Secretary to the Govt. of India,  
Ministry of Finance,  
New Delhi.
2. Commissioner of Customs (Preventive),  
N.E. R. Shillong-1.
3. Asstt. Commissioner (Headquarter),  
Customs & Central Excise, Shillong.
4. Assistant Commissioner of Customs,  
(Preventive) Division, Guwahati-7.

... Respondents

DETAILS OF APPLICATION

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

The instant application is directed against  
establishment order No. 137/96 dated 11.7.96 issued  
under Memo No. C.No. II (31)9/Pt-II/94/4142-55 (A) dated  
11.7.96 which is yet to be served on the applicant  
formally purportedly cancelling the promotion of the  
applicant to the post of L.D.C. with direction to the

Contd...P/2.

23  
B.M.A.  
Suhash Chandra Roy Applicant  
Through

concerned officer to revert the applicant immediately on receipt of the order.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and permanent resident of Assam and accordingly, is entitled to all the rights, protections and privileges guaranteed under the Constitution of India.

4.2 That the applicant entered into the services of the Customs and Central Excise with effect from 10.8.89 as Group D Sepoy. Prior to that he was in Army for the period 28.10.76 to 14.6.86 in Corps of Signals. Initial appointment of the applicant in the present Department was at Jorhat. The applicant is fully eligible to hold the post of L.D.C. and he satisfied all the criteria and eligibility to hold the post.

4.3 That on 23.4.92, a copy of the programme pertaining to selection for the post of L.D.C. was sent

to the incumbents (Group D Sepoy including the applicant). In the forwarding letter thereto (copy not available with the applicant) it was stated that the departmental examination of Group D Staff for promotion to the post of LDC under 10% quota would be held as per the programme. Along with the said letter a list of candidates with Roll Nos. was also sent with a copy of the programme. As per the said programme, the date of examination was scheduled to be held on 14.5.92 and 15.5.92. In the enclosed list, the name of the applicant appeared ~~wk~~ alongwith others and altogether he was required to appear in three papers as indicated in the programme..

A copy of the said programme alongwith the list is annexed herewith and marked as ANNEXURE I.

4.4 That the applicant appeared in the said examination and did very well. Results of the said examination was declared vide establishment order No. 249/93 dated 31.8.92. The name of the applicant in the said result sheet appeared at Sl. No. 33 out of a total number of selected candidates numbering 58.

A copy of the said order dated 31.8.92 is annexed herewith and marked as ANNEXURE 2.

4.5 That after the declaration of the result, the applicant was not immediately promoted and he alongwith others were promoted only in the year 1996 vide establishment order No. 68/96 dated 26.3.96. In the order of

promotion in the name of the applicant appeared at Sl. No. 37. Pursuant to such order of promotion, the applicant joined the promotion post of LDC ~~vide~~ vide joining report dated 28.3.96. Consequent upon his joining the promotional post his pay fixation was done as per the order No. C. No. II(24)/1/Accts/ACE/95/1892 dated 25.4.96.

Copies of the promotion order dated 26.3.96 and the joining report dated 28.3.96 and the pay fixation order dated 25.4.96 are annexed hereto as ANNEXURES 3, 4 and 5 respectively.

4.6 That after the said promotion, when the applicant has been continuing till date in the post of LDC to the best of his ability. He was surprised to come across an establishment order No. 137/96 dated 11.7.96 issued by the Assistant Commissioner (Headquarter), Customs & Central Excise, Shillong purportedly cancelling the promotion order No. 68/96 dated 26.3.96 (Annexure-3) of the applicant on the ground that as per the circular letter No. mentioned in the order for holding the departmental examination for promotion of Group D Sepoy to LDC under 10% quota, a Group D official ~~is~~ should have to complete atleast 5 years of service in Group D cadre which the applicant did not complete. The order further says that the applicant did not complete the required five years which amounted to breach of order, discipline and faith and that the applicant alongwith another incumbent appeared in the said examination

illegally. Accordingly, the office order No. 249/92 dated 31.8.92 declaring the applicant to be successful in the examination (Annexure-2) has also been cancelled in respect of the applicant alongwith another incumbent. The applicant is yet to be served with the copy of the said establishment order but he has been able to collect a copy of the same. It is expected that a copy of the said order will be served upon him at any moment consequent upon which as per the direction issued to the Assistant Commissioner of Customs (Prev.), Guwahati, the applicant would be reverted back to the grade of Sepoy immediately on receipt of the order. Hence this application has been filed and moved in an emergent situation.

A copy of the said establishment order No.137/96 dated 11.7.96 is annexed hereto as ANNEXURE-6.

4.7 That the applicant states that the applicant was transferred from Jorhat to Guwahati and he joined at Guwahati on 12.12.94. On 20.12.94, the applicant received a communication under No.C.No. II(31)9/ET/94/974 dated 5.12.94 redirected from Jorhat regarding departmental examination of Group D Sepoy for promotion to grade of LDC under 10% quota. The said letter was a replica of the earlier Annexure-1 programme dated 28.4.92. Be it stated here that such examination against 10% quota is held from time to time and this was yet another examination like that of the earlier one vide Annexure-1. The applicant on receipt of the said communication on 20.12.94 in the office immediately addressed a letter to the

Deputy Collector (P&V), Customs and Central Excise, Shillong pointing out that in view of his selection in the earlier selection, he was not required to appear ~~in~~ any further in ~~in~~ a similar examination. Alongwith the said letter, he ~~was~~ also annexed all the relevant documents including the result sheet. In the said representation, it was urged upon that the applicant was not required to appear any further in the same selection in which he had ~~been~~ already qualified.

The applicant craves leave of this Hon'ble Tribunal to produce a copy of the said letter dated 20.12.94 at the time of hearing of the instant application. Since the present application has been filed urgently, the applicant could not collect a copy of the said letter dated 28.12.94 and did not annex the same in this application.

Copy of the letter dated 5.12.94 alongwith the programme and the list of candidates is annexed herewith as ANN EXURE 7.

4.8 That the applicant states that it will be seen from the Ann exure-7 letter that by time, the applicant was served with the copy of the same on 20.12.94, the examination was ~~been~~ already commenced with effect from 19.12.94 and thus there was no scope even otherwise also for the applicant to appear in the said examination.

4.9 That the applicant states that now the respondents in most arbitrary and illegal manner have sought to revert the applicant to his earlier post of Group D Sepoy

casting aspersion on him such as that the applicant appeared in the examination illegally and that such appearance amounted to breach of order, discipline and faith. Such stigma and aspersion cast on the applicant is totally untenable inasmuch as the applicant never volunteered to appear in the said examination. There was also no occasion on the part of the applicant to do anything to breach the order, discipline and faith. He appeared in the examination as per direction of the officials of the respondents and now while seeking to taking away the said promotion in a most cryptic and illegal manner, the respondents have also sought to cast aspersion on the applicant, without mentioning anything about the role played by the respondents in the entire episode. On this score alone, the Annexure-6 impugned order dated 11.7.96 is liable to be set aside and quashed.

4.10 That the applicant states that the Annexure-6 order dated 11.7.96 cannot stand judicial scrutiny inasmuch as by the time the applicant was promoted to the promotional post of LDC, he had five years of service in Group D cadre. The applicant having appeared in the departmental examination for promotion of Group D Sepoy to LDC under 10% quota, same has got nothing to do regarding the years of service to his credit. Even assuming but not admitting that the circular letter dated 20.11.91 has mentioned in the impugned order lays down a criterion for five years of service in Group D cadre, same does not mean that an incumbent in Group D cadre cannot appear

in a departmental examination even before completion of five years of service in Group D cadre. No such criteria has been laid down in the recruitment rules. Thus by issuance of such circular ~~under~~ no restriction can be imposed on the departmental candidates to compete in a departmental examination. The true purport and intent of such a criteria of five years of service in Group D cadre has been fulfilled in the instant case inasmuch as although the applicant had appeared in the departmental examination way back in 1992, he has been promoted to the L.D.C. cadre only in the year 1996 i.e. much after the completion of five years of service in Group D cadre. In any case, a beneficial construction of the rules and circulars will have to be given to the benefit of the applicant under the facts and circumstances of the case. It is not a case in which the applicant has done something by suppressing any material fact. He solely acted on good faith as per the directive of the respondents and now the respondents cannot resile from their own promise so as to take away the benefit granted to the applicant.

4.11 That the applicant states that the impugned order is yet to be served on the applicant by endorsing a copy of the same to him. However, he has come across a copy of the said order with the direction to the Assistant Commissioner of Customs (Preventive) Guwahati to revert him to the grade of Sepoy immediately on receipt of the said order. Thus the applicant waited till a copy of the said order is served on him formally inasmuch as it may so happen that alongwith the said order, he might be

reverted back to the grade of Sepoy. As on date, the applicant is continuing in the post of LDC and the said Annexure-6 impugned order has not affected his promotion and he is still continuing to hold the promotional post of LDC. However, if the said order is not stayed and/or due protection is given to the applicant, he may be reverted to the group D cadre at any moment. Hence it is a fit case for passing an interim order as prayed for.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that on the face of it, the impugned order dated 11.7.96 is not sustainable and liable to be set aside and quashed.

5.2 For that stigma and aspersion cast on the applicant by the impugned order are simply not sustainable under the facts and circumstances of the case and also being violative of the principles of natural justice.

5.3 For that the applicant can ~~be~~ not be reverted to his former post of Group D cadre without affording him any reasonable opportunity of being heard. The impugned order strikes at the very root of principles of natural justice and the same is also violative of Article 311 of the Constitution of India.

5.4 For that the impugned order having been issued as a measure of punishment as will be explicit on the face of it, in view of the aspersion cast on the applicant without any foundation whatsoever, same is

violative of the principles of natural justice as well as Article 311 of the Constitution of India.

5.5 For that the applicant having acted as per promise made by the respondents to him, the respondents cannot now turn around to their own promise so as to revert the applicant to his former Group D post after such a course as is sought to be adopted by the respondents by issuing the impugned order and if the same is allowed to stand, the same will be violative of the principles of promissory estoppel. Even otherwise also, the respondents are precluded from issuing such an order under the principles of waiver and acquiescence.

5.6 For that the applicant by the time of his promotion having completed more than five years of service in Group D cadre, the impugned order is not sustainable and the respondents have given a wrong interpretation of the circular dated 20.11.91 purportedly relied upon by them. The respondents with eyes open allowed the applicant to appear in the departmental examination and even if any such restriction was there, it will have to be deemed that due relaxation was extended to the applicant.

5.7 For that the examination being the same irrespective of ~~monthxxxxxxxxxx~~ length of service in Group D cadre, a beneficial construction is required to be given in the instant case even if it is held that to appear in an examination an incumbent is required to complete five

years of service in Group D cadre more so in view of the facts by the time the applicant was promoted to the cadre of L.D.C. he had already put in more than five years of service in Group D cadre.

5.8 For that the respondents cannot approbate and reprobate and it is in this context, the judicial interference is called for in the matter. The applicant also lost the chance in 1994 due to the apathy shown by the respondents. However, as pointed out above, under the facts and circumstances of the case, he was not required to appear in the said examination, in view of his success in the same selection held in the year 1993. Even if it is held that the applicant was required to appear in the 1994 selection, the respondents having acted in a most arbitrary manner in not informing the applicant well in time enabling him to appear in the examination, the impugned order is not sustainable.

5.9 For that the applicant having apprised the respondents by his letter dated 20.12.94 the circumstances under which he was not required to appear in the 1994 selection, again and the respondents having not replied to the application, in the negative, till date, ~~the~~ a presumption is required to be drawn that there is tacit approval and due relaxation to the case of the applicant even if it is held that the applicant was required to appear in the 1994 selection.

5.10 For that the respondents by their own conduct

cannot now resile from their own promise and if the impugned order at Annexure-6 is allowed to stand, same will strike at the very root of the principles of promissory estoppel and natural justice. In any case, the applicant having not been given any opportunity of being heard before issuance of such an order, the said order cannot stand the judicial scrutiny.

5.11 For that the instant case is one of those cases in which beneficial construction is required to be given even if all odds against the applicant in view of the ~~fix~~ peculiar circumstances of the case.

5.12 For that in any view of the matter, the impugned order is not sustainable and liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED :

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

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

The applicant further declares that he has not filed any application, writ petition or suit before any other authority or any other court and/or any other Bench of this Hon'ble Tribunal ~~in~~ in respect of the subject matter of this application, nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances, it is most respectfully prayed that the Hon'ble Tribunal would be pleased to admit this application, call for the records of the case and upon hearing the counsels on the cause or causes that may be shown and on perusal of the records may be pleased to grant the following reliefs :

- 8.1 To set aside and quash the Annexure-6 order dated 11.7.96 with all consequential benefits to the applicant
- 8.2 To direct the respondents not to revert the applicant to the cadre of Group D Sepoy and to allow him to continue in the promotional post of L.D.C. pursuant to his promotion vide Annexure-2 result and the Annexure-3 promotion order dated 30.1.92 and 26.3.96 orders respectively.
- 8.3 Cost of this application ;
- 8.4. Any other relief or reliefs to which the applicant is entitled and may be deemed fit and proper by this Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, the applicants prays that the impugned order dated 11.7.96 (Annexure-6) may be stayed and/or suspend with further direction to the respondents to allow the applicant to continue in his promotional post of L.D.C. to which post he was promoted

vide Annexure-3 promotion order dated 26.3.96 pursuant to his selection under Annexure-2 order dated 31.8.92.

Applicant states that as pointed out above, he has not been served with the copy of the impugned order formally and till date no copy has been endorsed to him even otherwise also he has not been reverted back to the grade of Sepoy as has been directed under the impugned order and he is still continuing in the cadre of L.D.C. Under the facts and circumstances, it is a fit case for passing an interim order as has been prayed for.

10. ....

The application is filed through Advocate.

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

(i) I.P.O. No. : 09 345933  
(ii) Date : 23.6.96  
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

*[Signature]*

VERIFICATION

I, Shri Suhash Chandra Roy, son of Late S.B. Roy, aged about 40 years, presently working as L.D.C. in the office of the Asstt. Commissioner of Customs (Preventive) Division, Guwahati-7, do hereby solemnly verify and affirm that the statements made in the accompanying application in paragraphs 1 to 4 and 6 to 12 are true to my knowledge ; those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 18th day of July 1996 at Guwahati.

~Suhash Chandra Roy  
(SUHASHI C.H. ROY)

Date	Time	Paper	Subject
14th May, 1992	9 A.M. to 12 Noon	I	General English and short Essay.
-do-	1.00 P.M. to 3 P.M.	II	General Knowledge including Geography of India.
15th May, 1992	9 A.M.	III	Typewriting 300 words in 10 minutes.

CNO II (12) 3/ET/88/ 2169

Copy forwarded for Information and Necessary Action to

1. Sri Lila Chandra Saikia, Sepoy, C & CE, Torkat
2. Md. Sababuddin Ahamed, Sepoy, C & CE, Torkat
3. Sri H. K. Barua, Sepoy, C & CE, Torkat
4. Sri Bimal Changmai, Sepoy, C & CE, Torkat
5. Sri Narayan Kargung, Sepoy, C & CE, Torkat
6. Sri Debendra Pathri, Sepoy, C & CE, Bokakhat - Range
7. Sri Pratul Das, Sepoy, C & CE, Sib Sagar - I - Range
8. Md. Mukibur Rahman, Sepoy, C & CE, Torkat
9. Sri S. C. Roy, Sepoy, C & CE, Torkat
10. Sri Lohit Gogoi, Ad-hoc, L.D.C. C & CE, Torkat

Administrative Unit  
Cantons & Central Office  
JORHAT. B.I.C. & B.I.C. Advocates

STATEMENT SHOWING THE NAMES OF GROUP ID, EXAMINEES WITH ROLL  
NO, AND PAPERS IN WHICH TO APPEAR ETC. EXAMINERS WITH ROLL  
NO, AND PAPERS IN WHICH TO APPEAR ETC. FOR THE GRADE OF LOWER DIVISION  
CLERK TO BE HELD ON 15TH MAY 1952.

1.	2.	3.	4.	5.	6.
Shri D. P. Haokip	SHEX - 15	PaperI/II/Typewriting	Paper I - 10	Shri J. P. Goswami, Assistant Collector,	
" M. Subol Singh	SHEX - 16	- do -	Paper II - 10	Customs & Central Excise,	
" Y. Mani Singh	SHEX - 17	Typewriting	Typewriting - 10	Imphal.	
" S. Ibohal Singh	SHEX - 18	PaperI/II/Typewriting			
" S. Amuchou Singh	SHEX - 19	Typewriting			
" Monu Gogoi	SHEX - 20	Typewriting	Paper - 5,	Shri K. P. Mazumder, Assistant Collector, Cus-	
" Kailash Tiwari	SHEX - 21	Typewriting	PaperII-5, Typewriting - 5	tombs and Central Excise,	
" Shyamel Kumar Das	SHEX - 22	- do -	Paper I - 8	Tinsukia.	
" Subhash Chakraborty	SHEX - 23	- do -	Paper II - 8	Shri P. R. Roy Choudhury, Assistant Collector,	
" V. Thangzials	SHEX - 24	PaperI/II/Typewriting	Typewriting - 8	Customs & Central Excise,	
" Liladhar Saikia	SHEX - 25	PaperI/II/Typewriting	Paper - I - 20	Silchar.	
" Sahabuddin Ahmed	SHEX - 26	- do -	Paper - II - 20	Shri A. Raha, Assistant Collector,	
" Hemakanta Barua	SHEX - 27	Typewriting		Customs & Central Excise,	
" Binod Changmai	SHEX - 28	- do -	Typewriting - 20	Jorhat.	
" Narayan Kegyung	SHEX - 29	- do -			
" Deben Pathori	SHEX - 30	- do -			
" Pradip Das	SHEX - 31	PaperI/II/Typewriting			
" Mukibur Rahaman	SHEX - 32	- do -			
" Subhash Ch. Roy	SHEX - 33	- do -			
" Lohit Gogoi	SHEX - 34	Typewriting			
" Sarat Talukdar	SHEX - 35	Paper I/II/Typewriting	Paper I - 8	Shri S. R. Barua, Assistant Collector,	
" Ramesh Ch. Das	SHEX - 36	- do -	Paper II - 8	Customs & Central Excise,	
" Benamali Das	SHEX - 37	Typewriting	Typewriting - 8	Guwahati.	



s' shirt

25.	Liladhar Saikia	P	P	P	Passed in all Subjects
26.	Sahabuddin Ahmed	P	P	P	-do-
27.	Hemakanta Barua	-	-	P	-do-
28.	Binod Changmai	-	-	F	
29.	Naraiyan Kagyung	-	-	P	Passed in all subjects
30.	Deben Pathori	-	-	F	
31.	Pradip Das	A	A	A	
32.	Mukibur Rahaman	P	P	P	Passed in all subjects
33.	<del>Sukhshash</del> Ch. Roy	P	P	P	-do-
34.	Lohit Gogoi	-	-	F	
35.	Sarat Talukdar	P	P	P	Passed in all subjects
36.	Ramesh Ch. Das	P	P	P	-do-
37.	Banamali Das	-	-	P	Passed in all subjects
38.	Khagen Baishya	-	-	P	-do-
39.	Kuchal Ch. Saikia	-	-	F	
40.	Ajit Ch. Bora	-	-	F	
41.	P.K. Daimani	-	-	F	
42.	Ranjan Kr. Das	P	P	F	
43.	Hireswar Bora	F	F	F	
44.	D. Basumatary	-	-	F	
45.	Umesh Ch. Bora	-	-	P	Passed in all subjects
46.	Kamal Gogoi	-	-	F	
47.	Mahatul Islam	P	P	F	
48.	Pabitra Kr. Nath	P	P	P	Passed in all subjects
49.	Hazarati Ali	P	P	P	-do-
50.	Sitendra Ch. Roy	P	P	F	
52.	Numal Ch. Sonowal	-	-	P	Passed in all subjects
53.	Sarat Ch. Hazarika	-	-	F	
54.	Bijoy Krishna Deb	-	-	F	
55.	Torun Ch. Gogoi	-	-	F	
56.	Pulin Dohingia	P	P	F	
57.	Budheswar Dohingia	-	-	F	
58.	Swapan Kr. Seal	P	P	P	Passed in all subjects

introduced.

Advocate.

( D.D. INGTY )  
ADDITIONAL COLLECTOR (P&V)  
CUSTOMS & CENTRAL EXCISE SHILLONG

Contd... p/3...

-22-

-3-

C.NO.II(31)3/ET.II/91/

Dated :

Copy forwarded for information and necessary action to :

1. The Assistant Collector, Customs and Central Excise, Torhat (All). Copy meant for concerned candidates are enclosed for delivery.
2. R.R.O./ Inspector Hqrs., Customs and Central Excise, Shillong.
3. Guard File.

Highly

( D.D. INGY )  
ADDITIONAL COLLECTOR (P&V)  
CUSTOMS & CENTRAL EXCISE: SHILLONG.

C.NO.II(31)3/ET/2Kam/92/41378

Date : 16.3.92

Copy forwarded for information to : -

*Son Sre. Ray, Sepoy (J)*  
Administrative Officer,  
Customs & Central Excise  
TORHAT.

*Advocate.*

23  
CUSTOMS AND CENTRAL EXCISE: SHILLONGESTABLISHMENT ORDER NO. 68/1996  
DATED: SHILLONG, THE 26TH MAR. '96Subject: Esstt. Promotion, Transfers &  
Postings of Gr. 'D' Officers  
to the grade of L.D.C. - O/R.  
.....

34

## PART - I

## P R O M O T I O N S

The following Gr. 'D' Officers & ad-hoc L.D.Cs. of Customs & Central Excise are hereby promoted to the grade of Lower Division Clerk in the scale of pay of Rs. 950-20-1150-EB-25-1500/- with effect from the date they assume charge of higher post.

Sl.No.	Name	Present place of posting
<u>S/SHRI</u>		
1.	Loknath Deka	Hqrs. Preventive, Shillong.
2.	Ranti Ram Bora	Mongaldoi Range, Tezpur Cen.Ex. Divn.
3.	Debendra Basumatary (ST)	Mongaldoi Range, Tezpur Cen.Ex. Divn.
4.	Pradip Daimary (ST)	Tangla Range, Tezpur Cen.Ex. Divn.
5.	Jogen Moshahari (ST)	Hqrs. Preventive, Shillong.
6.	Kushal Chandra Saikia (ST)	Biswanath Chariali Range, Tezpur Cen.Ex. Divn.
7.	Lohit Gogoi	Jorhat Cen. Ex. Divl. Office.
8.	Tarun Ch. Gogoi	Margharita Range-II, Digboi Cen.Ex. Divn.
9.	Surjya Kanta Das (SC)	Dibrugarh Cen. Ex. Divl. Office.
10.	Padma Kanta Dekabaruah (ST)	Naharkatia Range-II, Dibrugarh Cen.Ex. Divn.
11.	Manu Gogoi	Tinsukia Range-I, Tinsukia Cen.Ex. Divn.
12.	Riazul Hussain	Naharkatia Range-III, Dibrugarh Cen.Ex. Divn.
13.	Anil Kr. Deb	Silchar Range-I, Silchar Cen.Ex. Divn.
14.	S. Ibohal Singh	Imphal Divl. Office, Imphal Cus.(P) Divn.
15.	Bijoy Krishna Deb	Digboi Divl. Office, Digboi Cen.Ex. Divn.
16.	Kailash Tewari	Champai C.P.P., Aizwal Cus.(P) Divn.
17.	Subash Chakraborty	Silchar C.P.F., Karimganj Cus.(P) Divn.

Attest ed.

Advocate

contd... P/2-\*\*

<u>Sl. No.</u>	<u>Name</u>	<u>Present place of posting</u>
	<u>S/SHRI</u>	
18.	Kripamoy Das	: Karimganj Divl. Office, Karimganj Cus.(P) Divn.
19.	Sarat Ch. Hazarika	: Digboi Divl. Office, Digboi Cen.Ex. Divn.
20.	Salam Amuchou Singh	: Imphal Divl. Office, Imphal Cus.(P) Divn.
21.	Banamali Das (SC)	: Borpata Road Range, Guwahati Cen.Ex. Divn.
22.	Khagen Baishya (SC)	: Guwahati Divl. Office, Guwahati Cen.Ex. Divn.
23.	Hema Kanta Baruah	: Jorhat Divl. Office, Jorhat Cen.Ex. Divn.
24.	Narayan Kagyung (ST)	: Jorhat Divl. Office, Jorhat Cen.Ex. Divn.
25.	M. Subal Singh	: Pallei C.P.F., Imphal Cus.(P) Divn.
26.	Sankar Chakraborty	: Librugarh Divl. Office, Librugarh Cen.Ex. Divn.
27.	Debasish Chakraborty	: Ferryghat L.C.S., Karimganj Cus.(P) Divn.
28.	Ramen Kumar Das	: Guwahati Divl. Office, Guwahati Cen.Ex. Divn.
29.	Kuoitra Kumar Nath	: Guwahati Divl. Office, Guwahati Cus.(P) Divn.
30.	Ratan Sengupta	: Muhurighat L.C.S., Agartala Cus.(P) Divn.
31.	Liladhar Saikia	: Jorhat Divl. Office, Jorhat Cen.Ex. Divn.
32.	Sarat Talukdar	: Guwahati Divl. Office, Guwahati Cen.Ex. Divn.
33.	Hazarat Ali	: Dhubri Divl. Office, Dhubri Cen.Ex. Divn.
34.	Shahabuddin Ahmed	: Numaligarh Range, Jorhat Cen.Ex. Divn.
35.	Swapan Kumar Seal	: BRPL Range-I, Dhubri Cen.Ex. Divn.
36.	Md. Mukibur Rehman	: Jorhat C.P.F., Limapur Cus.(P) Divn.
37.	Subhas Chandra Roy	: Guwahati Divl. Office, Guwahati Cus.(P) Divn.
38.	Ajit Chandra Boro (ST)	: Darranja L.C.S., Guwahati Cus.(P) Divn.
39.	Deben Pathory (ST)	: Numaligarh Range, Jorhat Cen.Ex. Divn.
40.	Pradip Kumar Das (SC)	: Sibsagar Range, Jorhat Cen.Ex. Divn.

Aites cd.

Contd...P/3...

Sl. No.	Name	Present place of posting
	<u>S/ CHRI</u>	
41.	Binche Changmai (ST)	: Jorhat Divl. Office, Jorhat Cen.Ex. Divn.
42.	B.F. Sokhlet (ST)	: Hqrs. Office, Shillong.
43.	A.M. Kharbamon (ST)	: Pynursala P.P., Shillong Cus.(P) Divn.
44.	Ranjit Kumar Borguary (ST)	: Bongaigaon Range, Dhubri Cen.Ex. Divn.
45.	Hireswar Bora (ST)	: Rangapara Range, Tezpur Cen.Ex. Divn.
46.	Sabendra Rabha (ST)	: Dhubri Stemarghat L.C.S., Guwahati Cus.(P) Divn.

The seniority of the above officers in the cadre will be in the order shown above.

They are hereby asked to exercise option within one month from the date of promotion as to whether their initial pay should be fixed in the higher post on the basis of FR.22(I)(a)(1) straightway without any further review on accrual of increment in the pay scale of the lower post or their pay on promotion should be fixed initially in the manner as provided under FR.22(I)(i) which may be refixed under the provision of FR.22(I)(a)(1) on the date of accrual of next increment in the scale of pay of lower post. Option once exercised shall be final.

In the event of refusal of promotion, they would be debarred from promotion for a period of one year.

#### Part - II

#### TRANSFER & POSTING

On promotion, all the promotees posted under Central Excise & Customs (Preventive) Divisions are hereby temporarily posted in their respective divisional Hqrs. while the promotees posted in different Branch/Sections/Units of Hqrs. Office, Shillong at their respective Branch/Sections/Units. Final postings in respect of these promotees will be issued soon.

( D. BHATTACHARYA )  
ASSISTANT COMMISSIONER (HQRS.)  
CUSTOMS & CENTRAL EXCISE : SHILLONG

Ans. ed.

  
Advocate,

39

26

- :- :-

C.NO.II(31)9/ET.II/94/

6957-7058

Dated : 26-3-96

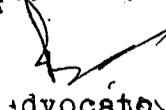
Copy forwarded for information & necessary action to :

1. The Sr. P.A.O., to Commissioner(Cus.Prev.), NER, Shillong.
2. The Additional Commissioner(Cus.Prev.), NER, Imphal.
3. The Additional Commissioner(Audit)/(Tech.), Hqrs. Office, Shillong.
4. The Assistant Commissioner(Cen:Ex./Cus.(Prev.) Division, ~~Shillong~~). The copy meant for the concerned officer's is/are enclosed.
5. The I.C.A.O. (Accounts) of Customs and Central Excise, Shillong.
6. The Superintendent( ~~Shillong~~ ), Hqrs. Office, Shillong. The copy meant for the concerned officer is/are enclosed.
7. The Office Superintendent(Confld. Branch), Hqrs. Office, Shillong.
8. The P.A.O./C.A.O. of Customs & Central Excise, Shillong.
9. Accounts I & II/ET I & III/Confld. Br./CIU-cum-VIG. Br.
10. The General Secretary, (Group 'C' Ministerial/Gr. 'D' Executive) Officers' Association, Customs & Central Excise, Shillong.
11. Shri Sukhank Ch. Roy for compliance.
12. Guard file.

*D. Bhattacharyya*  
(D. BHATTACHARYYA)  
ASSISTANT COMMISSIONER (HQRS.)  
CUSTOMS & CENTRAL EXCISE: SHILLONG

\*\*\*\*\*

Attested.

  
Advocate

ANNEXURE-4

To,

- 27 -

The Assistant Commissioner of  
Customs (Preventive) Division,  
Guwahati.

Sir,

Subject:- Joining Report.

In pursuance of the Assistant Commissioner (Hrs.),  
Customs and Central Excise, Shillong, Establishment Order  
No. 68/1006 dated 26.3.96 communicated vide C.No.II(31)9/ET.  
III/ 94/6957-7058 (A) dated 26.3.96, I beg to report myself  
on duty today on 28.3.96 (F/N) as L.D.C. (On Promotion) at  
the Customs (Preventive) Division, Guwahati. ✓

Copy to.

① A.O/Gan/Prer.

② A.P.R.O.

③ Snptt (A/S).

O/C

Yours faithfully,

Suhash Chandra Roy 28/3/96  
( SUHASH CHANDRA ROY )

L.D.C.  
CUSTOMS (PREVENTIVE) DIVISION,  
GUWAHATI.

OFFICE OF THE ASSISTANT COMMISSIONER OF CENTRAL EXCISE,  
GUWAHATI DIVISION, GUWAHATI-3 (AS/96).

ORDER

Dated Guwahati the 10th April 1996.

Shri Suhash Ch. Roy, Sepoy at present posted to Customs Division, Guwahati-7 drawing pay of Rs.899/-p.m. w.e.f. 1.8.93 in the scale of pay Rs.775-12-071-14-935-15-1030-20-1150/-p.m. has been promoted to the grade of L.D.C. In the scale of pay of Rs.930-20-1150-EB-23-1500/- vide Commissionerate order No. 68/96 dated 26.3.96.

consequent upon the promotion his pay has been fixed at Rs. 930/-p.m. w.e.f. 28.3.96 (the date of joining) under the provision of P.R.-22(1)(a)1 straightway in the scale of pay of Rs.930-20-1150-EB-23-1500/-.

This is done as per his option dated 8.4.96. The date of next increment is 1.3.96.

*Sd/-* ( S. R. Baruah )  
Assistant Commissioner,  
Central Excise, Guwahati-3.

G.No.21(24)1/ACCTS/ACB/95/ 1392

Dated: 21.4.96.

Copy forwarded for information & necessary action to:-

1. The Pay & Accounts Officer of Customs & Central Excise, Shillong
2. The Asstt. Chief Accounts Officer of Customs & Central Excise, Shillong.
3. The Bill Section of Central Excise, Guwahati-3.
4. Service Book of Shri Suhash Ch. Roy, L.D.C.
5. Shri Suhash Ch. Roy, L.D.Clerk of C & Central Ex., Guwahati-7.

*Delivered  
10/4/96*

Administrative Officer  
Guwahati, Central Excise  
GUWAHATI

*Sd/-* ( S. R. Baruah )  
Assistant Commissioner  
Central Excise, Guwahati-3.

*Witnessed*

Rs. 000.00

*Advocate*

CUSTOMS AND CENTRAL EXCISES: SHILLONG

ESTABLISHMENT ORDER NO. 137/96.  
DATED, SHILLONG THE 11TH JULY, 1996

As per the prevailing instruction, a circular was issued vide this office letter C.No.II(31)3/ST-II/91/74568-81(A) dated 20-11-91 for holding Departmental Examination for promotion of Gr. 'D' staff to L.D.C. under 10% quota. The circular, inter-alia, mentioned it clearly that in order to be eligible for appearing the examination, a Gr. 'D' Officer would have to complete at least 5 years of service in Gr. 'D' cadre. However, S/Shri Mukibur Rahaman and Subhas Chandra Roy, Sepoys appeared the examination notwithstanding the fact that they did not complete the tenure of 5 years as mentioned above which amounted to breach of order, discipline and faith. As S/Shri Mukibur Rahaman and Subhash Chandra Roy appeared the said examination illegally, this office order no. 249/92 dated 31-08-92 declaring them successful in the said examination is hereby cancelled so far as it relates to these two officers.)

Consequent upon the above, this office promotion order No. 68/96 dated 26-03-96, so far as it relates to S/Shri Mukibur Rahaman and Subhash Chandra Roy, is hereby cancelled and these two officers are reverted back to their parent cadre with immediate effect.

Sd/-

( D. BHATIACHARYYA )  
ASSISTANT COMMISSIONER (HQRS.)  
CUSTOMS AND CENTRAL EXCISES: SHILLONG

C.No.II(31)9/ST-II/94/

Dated :-

11/7/96

Copy forwarded for information & necessary action to :-

1. The Assistant Commissioner of Customs (Prev.), Dimapur. He should ensure that Shri Mukibur Rahaman is reverted back to the grade of Sepoy immediately on receipt of this order.
2. The Assistant Commissioner of Customs (Prev.), Guwahati. He should ensure that Shri Subhas Ch. Roy is reverted back to the grade of Sepoy immediately on receipt of this order.
3. The A.C.A.O. (Accts.), Hqrs. Office, Shillong.
4. The Superintendent (CIV-VIG.), Hqrs. Office, Shillong.
5. The Office Superintendent (Confdl.Br.), Hqrs. Office, Shillong.
6. The P.A.O. of Hqrs. Office, Shillong.
7. Accounts I & II of Hqrs. Office, Shillong.
8. The General Secretary, Group 'C' Ministerial/Group 'D' Officers' Association, Customs & Central Excise, Shillong.
9. Shri M. Rahaman, Shri S.C. Roy for compliance.
10. Guard File.

Autos.ed.

Advocate

by special post

ANNEXURE-7

CUSTOMS AND CENTRAL EXCISE: SHILLONG.

C.No. II(31)9/ET.II/94/974

Dated: - 5.12.94. 37

To,

The Assistant Collector,  
Central Excise, Jorhat.

Subject:- Recruitment for eligible/educationally qualified Group 'D' Staff for promotion as L.D.C. under 10% quota.

The department Examination of Group 'D' staff for promotion to the grade of L.D.C. under 10% quota will be held on 19th & 20th Dec/94 in the respective Divisional Office. A list of candidates with Roll. Nos. and programme of the exam is enclosed for delivery to the concerned candidates.

The following nos. of question paper are also enclosed which may be kept under sealed cover in your personal custody and should be opened five minutes before the Examination commences. If any question is found to leak out stern action will be taken.

The No. of question paper are :-

Paper - I

Paper-II

Paper-III

7 Nos.

7 Nos.

7 Nos.

An attendance sheet is also to be maintained. If the candidates does not turn up absent should be marked against his name and the report sent accordingly.

The Answer papers should be sent to this office at the earliest.

Sd/-

( EVA M.R. HYNIE (TA ),  
DEPUTY COLLECTOR (P&V),

CUSTOMS AND CENTRAL EXCISE, SHILLONG.

C.No. II/12/3/ET/Exam/92/ 5095

Dated: - 13/12/94

Copy forwarded for information to:-

1. Shri Suhash Ch. Roy, Sepoy, Guwahati, Customs Division, Guwahati. He is directed to intimate this to the Asstt. Collector, Guwahati for sitting in the Exam.
2. Shri Pradip Das, Sepoy, Sibsager, Central Excise Range, Sibsager. He is directed to attend at the Jorhat Divisional Office on 19th & 20th Dec/94.
3. Shri Prabhat Gogoi, Golaghat, Central Excise Range. He is directed to attend at the Jorhat divisional office on 19th & 20th Dec/94.
4. Shri Bined Changmai, Sepoy. He is directed to attend at the Jorhat Divisional office for sitting in the Examination.

Alles.eQ.

Advocate.

*W.C. DAS*  
( N.N. DAS ),  
Administrative Officer,  
Central Excise, Jorhat.

PROGRAMME

DATE	TIME	PAPER	SUBJECT
19-12-94	10.00 A.M. to 1.00 A.M.	I	General English and Short Essay.
-do-	2.00 P.M. to 4.00 P.M.	II	General Knowledge including Geography of India.
20-12-94	10.00 A.M.	III	Type Writing 300 Words in 10 Minutes.

\* \* \* \*

Ans. ad.

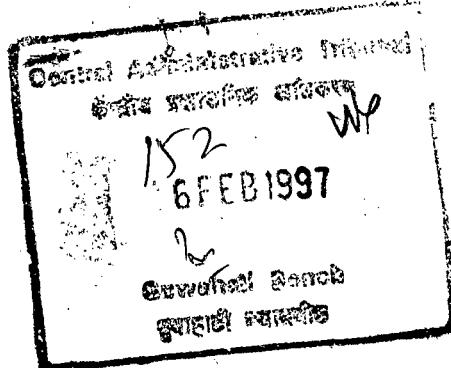
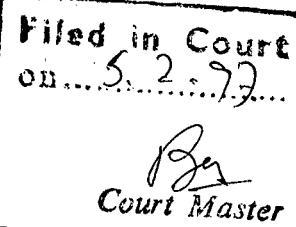
Advocato.

STATEMENT SHOWING THE NAMES OF CROUP 'D' OFFICERS WITH ROLL NO. FOR THE DEPARTMENTAL EXAMINATION FOR PROMOTION TO THE GRADE OF LOWER DIVISION CLERK TO BE HELD ON 19TH & 20TH DECEMBER, 1994.

NAME OF CENTRE	NAME OF CANDIDATES	ROLL NO.	PAPER IN WHICH TO APPEAR.	NAMES OF THE CONTROLLING OFFICERS
<u>I</u>	<u>S/SHRI</u>	<u>3</u>	<u>3</u>	<u>5</u>
Hqrs. Office, Shillong.	G. Biswas Smti. B. Nongrum	SHEX-1 SHEX-2	Paper I/II/III -do-	Smti Eva M.R.Hynniewta, D.C(P&V), Customs & Central Excise, Shillong.
Tinsukia	Manu Gocoi Dilip Kr. Gocoi Amar Bhattacharjee Bhabesh Sonowal Puheśwar Thakuria	SHEX-3 SHEX-4 SHEX-5 SHEX-6 SHEX-7	Paper-III Paper-I/II/III -do- -do- -do-	Assistant Collector, Customs and Central Excise, Tinsukia.
Jorhat	Pradip Das Suhesh Ch. Roy Prabhal Gocoi Binod Chancmai	SHEX-8 SHEX-9 SHEX-10 SHEX-11	Paper I /II/III -do- -do- Paper-III	Assistant Collector, Central Excise, Jorhat.
Aizawl	P. Haokip	SHEX-12	Paper I/II/III	Assistant Collector, Customs, Aizawl.
Imphal	Y. Mani Singh	SHEX-13	Paper-III	Assistant Collector, Customs, Imphal.
Dhubri	Subhas Boro R.K.S. Sharma Banshidhar Kalita Sabendra Rabha G. Ch. Swargiang	SHEX-14 SHEX-15 SHEX-16 SHEX-17 SHEX-18	Paper I/II/III -do- -do- -do- -do-	Assistant Collector, Central Excise, Dhubri.
Karimganj	Subrata Acharjee Bibhash Rn. Majumdar Monoji Kr. Barman Ram Bahadur Gurung	SHEX-19 SHEX-20 SHEX-21 SHEX-22	Paper I/II/III -do- -do- -do-	Assistant Collector, Customs, Karimganj.
Guwahati	N.H. Saikia Canesh Barman	SHEX-23 SHEX-24	Paper I/II/III -do-	Assistant Collector, Customs and Central Excise, Guwahati.
Dibrugarh	T.C. Gocoi P. Dihingia Smti Sadhana Dey D. Sonowal	SHEX-25 SHEX-26 SHEX-27 SHEX-28	Paper-III -do- Paper I/II/III Paper I/II/III	Assistant Collector, Central Excise, Dibrugarh.

contd - P/2

Advocate.



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File No. by  
Central Administrative Tribunal  
Guwahati Bench  
5/1997

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

In the matter of :

O.A.No.127/96  
S.C.Roy ... Applicant.

-Vs-

Union of India & Ors. ... Respondents.

- AND -

In the matter of :

Written Statement on behalf  
of the Respondents.

*Received  
Dated 10/2/97*  
I, Sri Rathindra Kumar Sarkar, Superintendent (Law)  
in the office of the Assistant Commissioner, Central  
Excise, Udyog Vikas Bhawan (6th Floor), G.S.Road, Bhangaghar  
Guwahati-781005 do hereby solemnly affirm and declare  
as follows :-

1. That a copy of application alongwith an order passed by this Hon'ble Tribunal have been served upon the respondents and being called upon by this Hon'ble Tribunal and being authorised by the competent authority I have gone through the application and have understood them thoroughly and I do hereby file this written statement on behalf of all the respondents.

Contd....p2.

I further assert categorically that save and except what is admitted in this written statement, rest may be treated as total denial by the respondents. I also declare that before I make statement on the application parawise, a brief history of the case is incorporated in this written statement and same will constitute part and parcel of this written statement.

Brief History of the case

That in the year 1992, a circular was issued inviting names of Group 'D' staff having among other things, 5 years of regular service in group 'D' cadre for appearing Departmental Examination for promotion to the grade of L.D.C. In response to the same, Shri Suhash Ch.Roy i.e. the applicant, then a Sepoy of Jorhat Division expressed his willingness for appearing the same knowing it fully well that he had not yet put in the required 5 years of service then. The Department on good faith, expected of an educated and responsible govt. officer, allowed him to appear the examination on the basis of which he got promotion to the grade of L.D.C. in the year 1996. Subsequently, when it came to the notice of administration that the applicant appeared the Examination illegally violating Government order, he was reverted back to the grade from which he got promotion. Against the reversion order, the applicant filed the instant application with the contention that the Department cannot revert him after promotion and that the provision of 5 years as mentioned above is not applicable for

appearing .....

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appearing Examination. Department's view on the contentions have been clarified in the para-wise comments and the same is clarified below in brief :-

(a) As the fault was fully of the candidate, the Department has done nothing wrong in not allowing him to take undue advantage of his own wrong doing violating Government's instruction.

(b) The period of 5 years included in the eligibility condition for appearing examination for promotion to the grade of L.D.C. has not been invented by this Commissionerate. The same has been included by the Law making Body i.e. Central Board of Excise and Customs, New Delhi with a view to ensure upholding of principles of promotion and competition among equals.

2. That with regard to the contents made in paragraph 4.1 of the application, the respondents have nothing to comment.

3. That with regard to the contents made in paragraph 4.2, the respondents beg to state that the applicant is not entitled to hold the post of L.D.C. in the context of the case, due to the reasons mentioned vide office order dated 11.07.96, the copy of which is annexed herewith and marked as Annexure R.1.

4. That with regard to the contents made in paragraph 4.3, the respondents begs to state that the process for holding Departmental Examination, 1992

started.....

started with circulation of a letter inviting names of Group 'D' staff who, inter-alia, have put in a minimum of five years regular service in Group 'D' cadres. In response to this, the applicant, inspite of knowing that he did not fulfil eligibility condition mentioned above, expressed his willingness to his controlling officer i.e. Assistant Commissioner, Jorhat, who in turn informed the same to the Headquarter Office, Shillong. Accordingly, the administration, on good faith allowed the applicant to appear the said Examination vide this office letter dated 10.04.92 as mentioned by the applicant (copy of which annexed by the applicant as Annexure I). It is imperative that when an educationally qualified responsible government officer submits his willingness after going through the eligibility conditions, the administration should take the same as true. Hence, the Department was not at fault in allowing the applicant to appear the Examination.

5. That with regard to the contents made in paragraph 4.4 of the application, the respondents begs to state that it is a fact that the applicant passed the Examination mentioned above and he was declared successful. However, as soon as it was detected that the applicant appeared the same Examination illegally, this office Estt. Order No.249/92 dated 13.08.92 (copy annexed as Annexure 2 by the applicant) declaring him successful was cancelled so far as it was related to the applicant vide this office order dated 11.07.96.

6. That with regard to the contents made in paragraph.....

paragraph 4.5, the respondents begs to state that the applicant after passing the examination and declaring successful was given promotion. However, as soon as it was detected that the applicant appeared in the said examination illegally, the same was cancelled vide Office Order dated 11.07.96, a copy of which is annexed herewith and marked as Annexure R.2.

7. That with regard to the contents made in paragraph 4.8 of the application, the respondents begs to state that it is a fact that the applicant passed the Examination mentioned above and he was declared successful. But as soon as it was detected that the applicant appeared in the said examination illegally, the Office Order No.249/92 dated 31-08-92 declaring him successful was cancelled so far as it was related to the applicant vide Order dated 11.07.96(Annexure R.2).

8. That with regard to the contents made in paragraph 4.7, the answering respondents beg to state that as the candidate completed five years of regular service in Group 'D' cadre in 1994 and also had other required qualifications, the administration on its own accord included his name in the list of candidates for appearing the examination to which, as per his own submission, the applicant did not want to appear as he had already qualified. It may be mentioned that it was known to the applicant that he appeared the Examination illegally. The motive behind this was nothing but to take undue

advantage .....

advantage of his own wrong doing. However, with a view to give him an opportunity to be in consideration zone alongwith his batchmates, it is proposed that the applicant is given a special chance to appear Examination and in the event of his coming out successfully, he may be placed in the list of successful candidates of 1994 Examination i.e. the year in which he was supposed to appear Examination had he not appeared Examination in 1992 illegally.

9. That with regard to the contents made in paragraph 4.8, the respondents begs to state that there is nothing to comment in view of the statements made above.

10. That with regard to the contents made in paragraph 4.9, the respondents begs to state that the process for holding Departmental Examination, 1992 started with circulation of a letter inviting names of Group 'D' staff who, inter-alia, have put in a minimum of five years regular service in Group 'D' cadres. In response to this, the applicant, inspite of knowing that he did not fulfil eligibility condition mentioned above, i.e. completion of 5 years service, expressed his willingness to his controlling officer i.e. Assistant Commissioner, Jorhat who in turn informed the same to the Headquarter Office, Shillong. Accordingly, the administration, on good faith allowed the applicant to appear the said examination vide office letter dated 10.04.92 as mentioned by the applicant in his application annexing copy as Annexure-I. It is imperative that when an

educationally.....

educationally qualified responsible government officer submits his willingness after going through the eligibility conditions, the administration should take the same as true. Hence, the Department was not at fault in allowing the applicant to appear the Examination.

11. That with regard to the contents made in paragraph 4.10 of the application, the respondents beg to state that as per the Recruitment Rules, a Sepoy is entitled to promotion to the grade of L.D.C. only after he puts in five years of regular service in the grade and also passes Departmental examinations and the principle followed for promotion, as per instruction being "who qualify in an earlier examination shall be considered for promotion before those qualifying in a later examination". Hence, if a Sepoy who has not put in the required period of five years of service is allowed to take the examination alongwith other candidates, in the event of his coming out successfully in the examination, it will not be possible for the administration to promote him till he completes the required period of service whereas the other candidates who have put in five years of service and passed the examination with the same batch will be entitled to promotion with that of candidates passing out in the subsequent years. As such, the principle of "who qualify in an earlier examination shall be considered for promotion before those qualifying in a later examination" will become inoperative. Had promotion in this grade been given only as per the seniority list, as is the case for other grades, officers with.....

with less than five years of service could have appeared the examination. Again, if the contention of the applicant is upheld, he will simply get promotion unduly superseding his other batch-mates who had appeared and passed their examinations after they had completed five years of service which will mean that these officers will face injustice for no fault of their.

Hence, there is nothing wrong on the part of the administration to allow only those Sepoys to appear the examination, who have put in a minimum of five years of service.

In fact, it would appear from the circular vide F.No.12034/4/77-Cord dated 05-04-77, copy of which is annexed herewith as Annexure R.9, of the Ministry which issues instructions in the service matters for the Commissionerate and also who has the agency for holding such examinations previously, that this provisions of five years was very much there. Again the office of the Chief Controller of Accounts, Central Board of Excise and Customs which is also governed by the same instructions as is followed by this Commissionerate, allows only those candidates who, among other things have put in five years of regular service in Group 'D' Cadre, to appear such examination (copy of such circular issued by the office of Chief Controller of Accounts is annexed herewith as Annexure R.4). Hence, the claim of the applicant that it is immaterial to see as to how many years of service a candidate has put in while appearing the examination i.e. less than five years in his case is not true. There is no department which does not specify a certain period of service for becoming eligible to appear promotional examination otherwise, the competition will not be among equals.

12. That with regard to the contents made in paragraph 5.1, 5.2, 5.3 and 5.4 of the application, the respondents begs to state that as the applicant appeared the competitive examination illegally with a view to derive undue advantage, the Department cannot be blamed.

13. That with regard to the contents made in paragraph 5.5 of the application, the respondents begs to state that by allowing the applicant to appear the examination in good faith expected from an educated and responsible government officer which he has not delivered, the Department was not at fault and there was no promise as such from the Department's side that ~~that~~ corrective measures against wilful violation of discipline, faith and order by the candidates cannot be taken.

14. That with regard to the contents made in paragraph 5.6 and 5.7 of the application, the respondents beg to state that as per the Recruitment Rules, a Sepoy is entitled to promotion to the grade of L.D.C. only after he puts in five years of regular service in the grade and also passes Departmental Examinations and the principles followed for promotion, as per instruction being "who qualify in an earlier examination shall be considered for promotion before those qualifying in a later examination". Hence, if a Sepoy who has not put in the required period of five years of service is allowed to take the examination alongwith other candidates, in the event of his coming out successfully in the examination, it will not be possible for the administration to promote him till he completes the required.....

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required period of service whereas the other candidates who have put in five years of service and passed the examination with the same batch will be entitled to promotion with that of candidates passing out in the subsequent years. As such, the principle of "who qualify in an earlier examination shall be considered for promotion before those qualifying in a later examination" will become inoperative. Had promotion in this grade been given only as per the seniority list, as is the case for other grades, officers with less than five years of service could have appeared the examination. Again, if the contention of the applicant is upheld, he will simply get promotion unduly superseding his other batch-mates who had appeared and passed their examinations after they had completed five years of service which will mean that these officers will face injustice for no fault of their.

Hence, there is nothing wrong on the part of the administration to allow only those Sepoys to appear the examination, who have put in a minimum of five years of service.

In fact, it would appear from the circular vide F.No.12034/4/77-Cord dated 05-04-77, copy of which is annexed herewith as Annexure R.3, of the Ministry of which issues instructions in the service matters for the Commissionerate and also who has the agency for holding such examinations previously, that this provisions of five years was very much there. Again the office of the Chief Controller of Accounts, Central Board of Excise and Customs which is also governed by the same instructions as is followed by this Commissionerate, allows only those candidates who,

among.....

among other things have put in five years of regular service in Group 'D' Cadre, to appear such examination (copy of such circular issued by the office of Chief Controller of Accounts is annexed herewith as Annexure R.4). Hence, the claim of the applicant that it is immaterial to see as to how many years of service a candidate has put in while appearing the examination i.e. less than five years in his case is not true. There is no department which does not specify a certain period of service for becoming eligible to appear promotional examination otherwise, the competition will not be among equals.

15. That with regard to the contents made in paragraphs 5.8, 5.9 and 5.10 of the application, the respondents begs to state that no such application as mentioned by the applicant appears to have been received by the respondents.

16. That with regard to the contents made in paragraph 5.11, the respondents begs to state that they have nothing to comment except the statements already made in foregoing paragraphs.

17. That with regard to the contents made in paragraph 6.12, the respondents begs to state that as has already explained, the impugned order has been issued with a view to ensure that law and proper justice prevails.

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18. That the present application is not at all maintainable in this present form and as such liable to be dismissed.

19. That there is no any cause of action in this application and hence is liable to be dismissed.

20. That the present application is ill-conceived of law and mis-conceived of fact.

21. That the present application is without any merit and as such liable to be dismissed.

22. That the present application has been filed with a motive to avail undue advantage and as such the applicant does not deserve any sympathy from any quarter specially from this Hon'ble Tribunal.

23. That the respondents crave leave of filing additional written statement if this Hon'ble Tribunal so directs.

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

Verification .....

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VERIFICATION

I, Sri Rathindra Kumar Sarkar, Superintendent (Law),  
Office of the Assistant Commissioner, Central Excise,  
G.S.Road, Bhangagarh, Guwahati-781005 do hereby solemnly  
affirm and declare that the statements made in paragraph  
1 of this Written Statement are true to my knowledge  
and those made from paragraph 2 to 17 including those  
in the 'brief history of the case' are derived from  
records which I believe to be true and rest are humble  
submissions before this Hon'ble Tribunal.

AND I sign this Verification on this 4th day  
of February , 1997 at Guwahati.

Rathindra Kumar Sarker  
D E P O N E T  
Superintendent (Law)  
Central Excise  
Guwahati Division

ANNEXURE 'A' R.1

CUSTOMS AND CENTRAL EXCISES: SHILLONG

ESTABLISHMENT ORDER NO. 137/96.  
DATED, SHILLONG THE 11TH JULY, 1996.

As per the prevailing instruction, a circular was issued vide this office letter C.No.II(31)3/ST-II/91/74568-81 (A) dated 20-11-91 for holding Departmental Examination for promotion of Gr. 'D' staff to L.D.C. under 10% quota. The circular, inter-alia, mentioned it clearly that in order to be eligible for appearing the examination, a Gr. 'D' Officer would have to complete at least 5 years of service in Gr. 'D' cadre. However, S/Shri Mukibur Rahaman and Subhas Chandra Roy, Sepoys appeared the examination notwithstanding the fact that they did not complete the tenure of 5 years as mentioned above which amounted to breach of order, discipline and faith. As S/Shri Mukibur Rahaman and Subhash Chandra Roy appeared the said examination illegally, this office order no. 249/92 dated 31-08-92 declaring them successful in the said examination is hereby cancelled so far as it relates to these two officers.

Consequent upon the above, this office promotion order No.68/96 dated 26-03-96, so far as it relates to S/Shri Mukibur Rahaman and Subhash Chandra Roy, is hereby cancelled and these two officers are reverted back to their parent cadre with immediate effect.

Sd/-

( D. BHATTACHARYYA )  
ASSISTANT COMMISSIONER (HQRS.)  
CUSTOMS AND CENTRAL EXCISES: SHILLONG

C.No.II(31)9/ST-II/94/

Dated :-

Copy forwarded for information & necessary action to :-

1. The Assistant Commissioner of Customs (Prov.), Dimapur. He should ensure that Shri Mukibur Rahaman is reverted back to the grade of Sepoy immediately on receipt of this order.
2. The Assistant Commissioner of Customs (Prov.), Guwahati. He should ensure that Shri Subhas Ch. Roy is reverted back to the grade of Sepoy immediately on receipt of this order.
3. The A.C.A.O. (Accts.), Hqrs. Office, Shillong.
4. The Superintendent (CIV-VG.), Hqrs. Office, Shillong.
5. The Office Superintendent (Confld. Br.), Hqrs. Office, Shillong.
6. The P.A.O. of Hqrs. Office, Shillong.
7. Accounts I & II of Hqrs. Office, Shillong.
8. The General Secretary, Group 'C' Ministerial/Group 'D' Officers' Association, Customs & Central Excise, Shillong.
9. Shri M. Rahaman/Shri S.C. Roy for compliance.
10. Guard File.

Attested

M. Ch. 4/2/97

( M. L. Chakraborty )  
Administrative Officer (Ent)  
Customs & Central Excise  
Shillong

( D. BHATTACHARYYA ) 4/7/97  
ASSISTANT COMMISSIONER (HQRS.)

(4) NND EXIT RE<sub>1</sub> P<sub>1</sub>

R. 2

SW 11

### Immediate

F. No. AY-12345/MR/77-Conn  
Government of India,  
Department of Revenue and Banking  
(Revenue Wings) 1534

Now Delhi, the 5th April, 1977.

A copy of the Subordinate Services Commission's letter No. 13/5/76-E.A. dated 11.3.1977 is forwarded to all Heads of Departments and offices as in list Fo. I for furnishing the requisite information direct so as to reach the Secretary, Subordinate Services Commission, West Block-1, Wing No. 6, R.K. Puram, New Delhi-110022, not later than the 10th May, 1977.

### Internal Distribution :

~~Copy forwarded to S.O.Ad.I-A for similar action in respect of Department Proper (Hars. Estt.).~~

Copy also forwarded for information to the Secy. Subordinate Services Commission, R.K. Puram, New Delhi v.r.t. his letter No. 13/5/76-EA dated 11.3.77. (K)

(Kailash P. D. Tandan)  
Section Officer  
Tele. No. 376395.

Copy of the Subordinate Services Commission's letter  
No. 13/5/76-E.A. dated the 11th March, 1977.

Subject:- Recruitment to the quota of vacancies in the grade of Lower Division Clerks reserved for educationally qualified Group D Staff.

I am directed to invite a reference to the Department of Personnel & A.R. Resolution No. 46/1(S)/74-Ests.B, dated the 18th November, 1975 regarding the setting up of this Commission, and this Commission's letter No. 1/1/76-RS dated 17.7.76 to all Ministries/Departments etc. in which they were requested to furnish information regarding Group 'C' (Class III) posts under them and in their attached and subordinate offices located in Delhi as well as outside Delhi, recruitment to which falls within the purview of this Commission. The information collected shows that in subordinate offices also 10% of the vacancies in the grade of Clerk/Lower Division Clerks are reserved for regularly appointed and educationally qualified Group D (Class IV) Staff who have rendered service of five years or more, as in the case of Ministries and their attached offices.

2. In accordance with the provisions of the above mentioned Resolution, this Commission has taken over recruitment to Group C posts in the subordinate offices of the Government of India situated in Delhi and outside Delhi. The Commission has already decided to make recruitment to vacancies in the posts of Lower

P<sub>2</sub>T<sub>2</sub>O<sub>5</sub>

Attested

Mr. Chas 4/26/7

**P. M. L. Chakraborty**  
Administrator, Office (Estt)  
Customs & Central Excise  
Syllabus

Division Clerks in the subordinate offices also on the basis of the Clerks' Grade Examination to be held by it from the year 1977 onwards.

3. This Commission also holds every year a competitive examination for recruitment to 10% vacancies in the posts of Lower Division Clerks in the Central Secretariat Clerical Service, Armed Forces Headquarters Clerical Service, Grade VI of Indian Foreign Service (B), etc., reserved for regularly appointed Group D Staff. A copy of the Notice, Rules, etc. relating to the examination to be held in 1977 (on 2.9.77) is enclosed for information. The Commission has decided that similar vacancies in the subordinate offices of the Government of India should also be filled on the basis of this examination and eligible Group D employees of the subordinate offices in which there are vacancies reserved for such staff should be allowed to appear in the examination and compete for vacancies in their own (subordinate) office only.

4. The scheme of the examination including its syllabus, (given in the Appendix to the enclosed copy of Rules relating to it) is enclosed herewith. The conditions of eligibility of the employees of subordinate offices to take the examination will be as follows :-

- (i) There are vacancies of Lower Division Clerk reserved for Group D Staff in the subordinate office in which the employee is working;
- (ii) The employee has rendered on 1st January, 1977 not less than 5 years of approved and continuous service as a Group D (Class IV) employee or in any higher grade in the subordinate office in which he is employed, or partly in that office and partly in some other subordinate office/Ministry/Attached office.
- (iii) The employee should not be more than 45 years of age on 1st January, 1977 i.e. he must not have been born earlier than the 2nd January, 1932.

This age limit is relaxable upto a maximum of 5 years if a candidate belongs to a Scheduled Caste or a Scheduled Tribe.

- (iv) He should have passed the Matriculation Examination of a recognised Board/University or an equivalent examination.

5. All the Ministries/Departments of the Government of India are requested to bring the above decision to the notice of the subordinate offices under them and to ask them to send to this Commission directly applications of such of their employees as are eligible for appointment to post of L.D.Cs. in their respective subordinate offices, fulfil the conditions specified in para 4 above and wish to appear in the examination. The applications should be submitted by each candidate

DECLARATION TO BE SIGNED BY THE CANDIDATE

I hereby declare that particulars furnished by me above are true, complete, and correct to the best of my knowledge and belief.

Signature of candidate.

TO BE FILLED BY THE HEAD OF DEPARTMENT OF THE OFFICE WHERE THE CANDIDATE IS SERVING

Certified that :-

- (i) the entries made by the candidate in column (1 to 8) have been verified with reference to his/her service records and are correct.
- (ii) It has been verified from his/her service records that he/she belongs to \_\_\_\_\_ caste/tribe which is recognised as a Scheduled Caste/Tribe in \_\_\_\_\_ State/Union Territory, in which he and/or his family ordinarily resides.
- (iii) that Shri \_\_\_\_\_, a permanent/quasi-permanent regularly appointed \_\_\_\_\_ (Group D/Class IV Employee) of this office, is eligible for being appointed as Lower Division Clerk according to the recruitment rules of this office and for which vacancies exist in this office. There are no circumstances rendering him/her unsuitable for appointment as a Lower Division Clerk in this office.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Designation \_\_\_\_\_

Dept./Office \_\_\_\_\_

No. \_\_\_\_\_  
Date \_\_\_\_\_

(This endorsement should be signed by the Head of Department/Office).

-:00:-

(Mohindra)

*M. L. Chakraborty  
M. L. Chakraborty  
1972*

M. L. Chakraborty  
Administrator (Estt)  
Customs & Central Excise  
Shillong

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APPLICATION FORM TO BE FILLED BY CANDIDATES  
EMPLOYED IN SUBORDINATE OFFICES.

CLERKS' GRADE EXAMINATION (For Group D Staff), 1977

CLOSING DATE: 10th May, 1977

Signed passport size  
photograph of the  
candidate to be posted  
here.

- (1) Name of the candidate  
(in capital letters)
- (2) Postal Address at which the  
communications should be sent  
to the candidate (in capital  
letters)
- (3) Exact date of birth (in  
Christian Era)
- (4) Name and address of Office  
where working.
- (5) Are you a member of  
(i) Scheduled Caste?  
(ii) Scheduled Tribe?  
Answer 'Yes' or 'No'
- (6) (i) Father's name  
(ii) Husband's name (in case  
of a lady candidate).
- (7) Educational qualification
- (8) From what date have you  
been employed continuously  
as a regular appointed  
Group D employee?
- (9) State the language (Hindi or  
English) in which you wish  
to answer the papers on :  
  
(i) Short Essay  
(ii) General knowledge including  
Geography of India.

P.T.O.

in the attached proforma. The candidate should be required to paste one copy of his photograph on his application in the space provided for the purpose and should also attach one more copy of it with the application. The application should be also duly endorsed by the Head of the subordinate office as per the form of endorsement given below the application proforma. If there is no vacancy reserved for Group D Staff in any subordinate office, the Class IV employees of that office will not be eligible to appear in the examination and that office should not forward the application of any of its Group D employees. No fee will be charged for this examination.

6. It is requested that the applications (on plain paper) of the employee of the subordinate offices (as in the attached proforma) may be sent to this Commission as early as possible so as to reach the Commission not later than 10th May, 1977. If no such application is received from any subordinate office by that date, it will be presumed that there are no employees in that subordinate office who are eligible or willing to take the examination. ....4/-

Attested  
M. Chakraborty  
4/2/77

(M. L. Chakraborty)  
Administrative Officer (Expt)  
Customs & Central Excise  
Shillong

7. It is further requested that the subordinate office may also be informed that while forwarding the applications as asked for above, they may also furnish the following information to this Commission:-

Total number of vacancies in the grade of Lower Division Clerks in the subordinate office to be filled on the results of the examination and how many of them are reserved for (a) Scheduled Castes and (b) Scheduled Tribes.

A copy of the communication sent to the subordinate offices in this regard may kindly be forwarded to this Commission.

8. The receipt of this letter may kindly be acknowledged.

-:00:-

Regd. Immediate

ANNEXURE - C) R.3  
No. Admn. 1(16)784-85/2805  
Office of the Chief Controller of Accounts  
C.B.A.C.

To

The Deputy Collector (P&E)  
Central Excise/Customs Collectorate  
Shillong.

Sub.: Departmental examination for promotion  
from Group D to LDCs (Matriculate with  
5 years service) and Group D to LDCs  
(with 7 years service)

Sir,

In continuation of this office letter  
nos. Admn 1(16)83-84/1377 dated 23-8-83 and  
Admn. 1(16)83-84/1364 dated 22-8-83 (copy enclosed)  
in connection with holding of Departmental  
examination mentioned above in terms of Rule 5(1)(a)  
and 5(1)(b) of Central Civil Accounts ~~Services~~  
Group C Recruitment Rules 1978, it has now been  
decided by the Controller General of Accounts to  
hold these examinations sometimes in the month  
of February, 1985. Copies of syllabus of the  
examination for both these categories, although  
already sent alongwith the aforesaid letters, are  
again sent herewith.

It is, therefore, requested that the  
particulars of the eligible Group D candidates  
who have completed 5 years (Matriculates) and  
7 years (others) as on 30.9.84 ~~and~~ are willing  
to appear in the examination may please be  
furnished in the format for both these categories  
enclosed so as to reach this office on latest  
by 1-11-1984. If no candidate is willing to  
appear in the above examination, a nil report  
may please be sent immediately.

---2/-

Attested

M. Chatterjee  
10/12/84

P. M. L. Chatterjee  
Admn. Officer (Estt.)  
Customs, Central Excise  
Shillong

The exact date and venue of examination will be intimated later on.

Yours faithfully,

*P. K. Vadhera*  
(P.K. Vadhera)  
Accounts Officer (Admn)

*23/10.*

Enc: As above

Copy forwarded to Pay & Accounts Officer, Central Excise/Customs Collectorate for information and early necessary action.

The Controller General of Accounts with reference to his letter No. A-34012/643/83/MR-CGA(E)635-669 dated 11.10.1984. The requisite information will be sent as soon as it is received from our field units.

*P. K. Vadhera*  
Accounts Officer (Admn)

*23/10.*

*Altered*  
*M. Chakrabarty*  
*4/11/1982*

(M. Chakrabarty)  
Admin. Officer (Extn)  
Customs Officer (Excise)  
Shillong

(66/37/68)

No. Admn/1(16) /83-84/ 177  
OFFICE OF THE CHIEF CONTROLLER OF ACCOUNTS  
CENTRAL BOARD OF EXCISE & CUSTOMS  
A.G.C.R. BUILDING, NEW DELHI-110002

To

The Assistant Collector (Hqrs),  
Collectorate of Central Excise/Customs,

Sub: Promotion of Group 'D' staff to fill up of 5% vacancies in the grade of L.D.C. - Departmental competitive examination for.

Sir,

It has been decided by the Controller General of Accounts to hold next Departmental Competitive examination in terms of Rule 5(1)(a) of C.C. As (Group C) Recruitment 1983 Rule for promotion as clerks of Matriculate or equivalent Group D employees who were transferred from IA & AD/Ex CP & AO and have completed 5 years service as on 1.4.1983. The syllabus prescribed for the examination is also enclosed.

It is, therefore, requested that the particulars of the eligible Group 'D' candidates of your Pay and Accounts Unit who are willing to appear in the examination may please be furnished in the format enclosed so as to reach this office latest by 25.8.83. If no candidate is willing to appear in the above examination, a nil report may please be sent immediately.

The exact date and venue of examination will be intimated later on.

Yours faithfully,

*S.I.*  
(P.K.VADHERA)  
Accounts Officer(Admn)

Encl: As above.

Copy forwarded to Shri  
Pay and Accounts Officer, Collectorate of Central Excise/  
Customs *Menzel* for information.

Accounts Officer(Admn)

Uthay/  
20.8.83

*Altered*

*M.C. 4/2/92*

(P.K. Chakraborty)  
Admn. C. of. (East)  
Customs C. of. in Excise  
Shillong

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There will be two papers, one on General English and Short essay and the other on General Knowledge.

I. General English and Short Essay

(a) Short Essay - An essay to be written on one of several specific subjects.

(b) General English - Candidates will be tested in the following:-

- (i) Drafting
- (ii) Precis Writing
- (iii) Applied Grammar, and
- (iv) Elementary tabulation (to test candidate's ability in the art of compiling, arranging and representing data in a tabular form).

II. General Knowledge including Geography of India.

Knowledge of current events and of such matters of every day observation and experience in their scientific aspects as may be expected of an educated person who has not made a special study of any scientific subject. The paper will include questions on Geography of India.

III. The time allowed and the maximum marks for each subject will be as follows:-

Paper No.	Subject	Maximum Marks	Time Allowed
I	General English & Short Essay		
	(a) Short Essay	100	200 3 hours
	(b) General English	100	
II	General knowledge including Geography of India	100	2 hours

3. The candidates are allowed the option to answer item (a) of Paper I or Paper II or both either in Hindi (in Devnagri Script) or in English. Item (b) of Paper I must be answered in English by all candidates.

Note : 1. The option for paper II will be for the complete paper and not for different questions in it.

....2/-

Attested

M. Chaturvedi  
26/2/97

Q.M.R. CHATURVEDI  
Admin. (Extn.)  
Customs, Central Excise  
Srinagar

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Note 2: Candidates desirous of exercising the option to answer the aforesaid papers of the examination in Hindi (in Devnagri script) should indicate their intention to do so clearly. Otherwise it should be presumed that they would answer the papers in English.

Note 3: The option once exercised will be final and no request for change of option will ordinarily be entertained.

Note 4: No credit will be given for answer written in a language other than the one opted by the candidate.

4. Candidates must write the papers in their own hand. In no circumstances will they be allowed the help of a scribe to write down answers for them.

5. The Commission has discretion to fix qualifying marks in any or all subjects of the examination.

6. Marks will not be allotted for mere superficial knowledge.

7. Deduction upto 5 per cent of the maximum marks will be made for illegible handwritting.

8. Credit will be given for orderly, effective and exact expressions, combined with due economy of words in all subjects of the examination.

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Uthay/  
22.8.83

PRO FORMA

Ministry/Department of .....

List of Gr. 'D' staff working in the departmentalised Accounts Office (transferred from IA & AD/ ex. CP & AO/ who have passed Matriculation or equivalent examination and completed 5 years of service as on 1.4.1985.)

S. No.	Name	Qualification	Present post & Station where working	Date of Birth	Date of continuous service in the grade	Whether S.C/S.T.	Centre at which the candidate desires to appear in the examination
1	2	3	4	5	6	7	8

Language opted to answer papers in Hindi (in Devnagri Script) or English

Remarks

Short Essay General Knowledge  
including Geography of India

(a) 9 (b)

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*Alferve  
M. Chatterjee  
4/2/97*

(M. L. Chatterjee)  
Admin. Officer (Extr)  
Customs & Central Excise  
Shillong