

50/600

2

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Sarkis
29.5.18

DA No. 127/96
BP. No. (DA)
RA No. (DA)
CP No. (DA)

Dr. S. C. Ray

APPLICANT(S)

VERSUS

Union of India & Ors

RESPONDENT(S)

Mr. B. K. Sharma Advocate for the applicant.
" Mr. K. Chandrasekhar B. Mehta, S. Sharma,

Mr. G. Sharma Advocate for the Respondents.

Office Notes

22/7

Court's Orders

This application is in
form and within time
C. F. of Rs. 50/-
deposited vide
IPOED No 345233
Dated 23-6-96

Dy. Registrar

19-7-96

Learned counsel Mr. B. K. Sharma
for the applicant. Learned Addl.
C.G.S.C. Mr. G. Sharma 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. Mr.
Written statement within six weeks.
List on 30-8-96 for written state
ment and further orders.

Mr. G. Sharma 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.

1m

Member

22.7.96
Notice prepared and
sent to despatched
Section.

Bm
22/7

22.7.96

Notice issued to the
Respondents vide No.
2268-71/23. 7-96.

Bm
17 Swire Reports are still awaited
27 w/submit - has not been 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.

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

ba
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.

ba
Member

trd

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.

ba
Member

trd

m/
23/10

3.9.96

*Notice duly served
on report No 1.*

trd

stated - has not been

W

5/9

stated - has not been

file

*Notice duly served on
Report no. 1.*

*stated - has not been
filed.*

2/11

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

2.12.96

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

2) written statement
has not been submitted.

List for written statement and further
orders on 1.1.1997.

Member

nkm

27-1-97

1-1-97

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.

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

2/ w/ statement has not
been filed.

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

Member

lm

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.

Member

Vice-Chairman

trd

5.2.97

Let this case be listed on 7.2.97.

Member

Vice-Chairman

nkm

6.2.97

2/5 filed by
1st Respts.

6/2

12.2.97

Let this case be listed for hearing on

10.3.97.

6.3.97

1) Written statement has been filed.

nkm

2) No rejoinder has been filed.

m
16/2

3) Memo. of appearance not yet filed.

10.3.97

m
6/3

[Signature]
Member

[Signature]
Vice-Chairman

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.

[Signature]
Member

[Signature]
Vice-Chairman

nkm

m
11/3

31.3.97

Let the case be listed on 11.4.1997 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

trd

m
11/4

11.4.97

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

[Signature]
Member

[Signature]
Vice-Chairman

16-7-97

nkm

1) w/s has been filed.

m
16/4

2) Memo of appearance

16.5.97.

filed by Mr. G. Sarma

Addl. C.G.S.C.

Left over. List on 17.7.97 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

w/s. has been filed
13.8.97

nkm

Left over. Case to be listed on

(5)

0.4.127/96

The case is ready
for hearing.

nt
20/8/97

15.9.97

Let over. distn 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.

nt
6/2


Member


Vice-Chairman

nkm

nt
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/s.

pg

nt
10/2


Member


Vice-Chairman

19.5.98

Left over. A.S. 6- 27.7.98.

7 and

27.7.98

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


Member


Vice-Chairman

nkm

nt
28/7

6
O.A. 127/969

28x7x98

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

19

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

Member.

Vice-Chairman

pg

25

20/7.

4.8.98

20

Passover on the day.

By order.

5.8.98

21

There was a reference. Adjourned to 10.8.98.

By order.

10.8.98.

22

Passover on the day.

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.

Member

Vice-Chairman

nkm

10.9.98

Copies of the Judgment have been sent to the D/Sec. for filing in the file of the parties through Regd. Mail A/D.

Copies of the Judgment issued vide Des. NO. 2832 to 2636 dt. 11.9.98

21.9.

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.



9

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.....

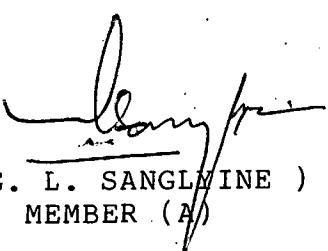
remark. We quote the relevant portion of the said order:


".....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 Mukibur 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."

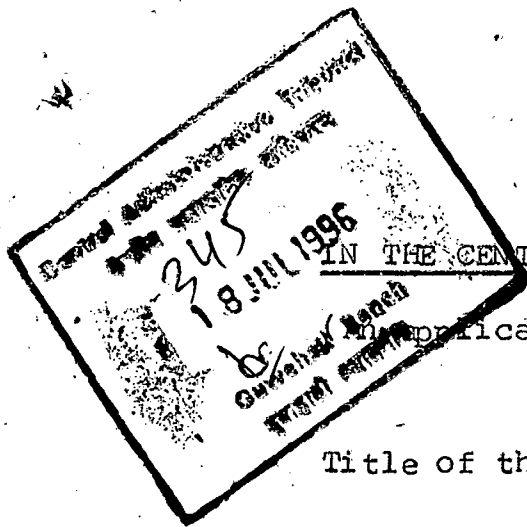
According to Mr B.K. Sharma this order of cancellation of promotion also entails a stigma in it. He further submits that without affording any opportunity the applicant's promotion was cancelled. We fully agree with the submission of Mr B.K. Sharma in this regard. Apart from the violation of the principles 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. SANGLI)
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 Copy
Golap Sarma
122/CHSC
CAT-4/HY
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.

Filed by.
Suhash Chandra Roy, Applicant
Through -
B. N. M. R.

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 ~~with~~ along with others and altogether he was required to appear in three papers as indicated in the programme..

A copy of the said programme along with 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 along with others were promoted only in the year 1996 vide establishment order No. 68/96 dated 26.3.96. In the order of

Contd....P/4.

promotion 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/ACB/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 ~~ix~~ 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

Contd....P/5

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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 ANN EXURE-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

Contd.....P/6.

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 ~~xxxx~~ any further in ~~an~~ 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 ~~xxxx~~ 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 ~~held~~ 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

Contd....P/8.

8

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

Contd....P/8.

Sd/-

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. GROUND 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 ~~months of service~~ 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

Contd....P/11.

Jan

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

Contd.....P/12.



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 ~~fx~~ 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 respect of the subject matter of this application, nor any such application, writ petition of 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

Contd.....P/14.

[Signature]

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 W.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]

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

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
(SUHASH CH. ROY)

PROGRAMME

| 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 | Type writing 300 words in 10 minutes. |

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

Copy Forwarded For Information And Necessary Action To - ?

1. Sri Liladhari Saikia, Sepoy, C & CF, Jorhat
2. Md. Sahabuddin Ahmed, Sepoy, C & CF, Jorhat
3. Sri H. K. Barua, Sepoy, C & CF, Jorhat
4. Sri Bined Changmai, Sepoy, C & CF, Jorhat
5. Sri Narayan Kagyung, Sepoy, C & CF, Jorhat
6. Sri Deben Pathari, Sepoy, C & CF, Bokakhat - Range
7. Sri Pradip Das, Sepoy, C & CF, Sibsagar - I - Range
8. Md. Mukibur Rahman, Sepoy, C & CF, Jorhat
9. Sri S. C. Roy, Sepoy, C & CF, Jorhat
10. Sri Lohit Gogoi, Ad-hoc, L. D. C. C & CF, Jorhat

Date: 23-5-92

Administrative Officer
Customs & Central Excise
JORHAT. AUCS. ed.
Advocate

1.-----2.-----3.-----4.-----5.-----6.-----

| | | | | |
|-----------------------|-----------|------------------------|---------------------------|--|
| Shri D. P. Haokip | SHEX - 15 | Paper I/II/Typewriting | Paper I - 10 | Shri J. P. Goswami, |
| " M. Subol Singh | SHEX - 16 | - do - | Paper II - 10 | Assistant Collector, |
| " Y. Mani Singh | SHEX - 17 | Typewriting | Typewriting-10 | Customs & Central Excise, |
| " S. Ibonai Singh | SHEX - 18 | Paper I/II/Typewriting | | Imphal. |
| " S. Amuchou Singh | SHEX - 19 | Typewriting | | |
| " Monu Gogoi | SHEX - 20 | Typewriting | Paper-5,5, | Shri K.P. Mazumder, |
| | | | Paper II-5, Typewriting-5 | Assistant Collector, Customs and Central Excise, |
| " Kailash Tiwari | SHEX - 21 | Typewriting | Paper I - 8 | Tinsukia. |
| " Shyamal Kumar Das | SHEX - 22 | - do - | Paper II-8 | Shri P. R. Roy Choudhury, |
| " Subhash Chakraborty | SHEX - 23 | - do - | Typewriting-8 | Assistant Collector, |
| " V. Thangzuala | SHEX - 24 | Paper I/II/Typewriting | | Customs & Central Excise, |
| " Liladhar Saikia | SHEX - 25 | Paper I/II/Typewriting | Paper - I - 20 | Silchar. |
| " Sahabuddin Ahmed | SHEX - 26 | - do - | Paper - II - 20 | Shri A. Raha, |
| " Hemakanta Barua | SHEX - 27 | Typewriting | Typewriting-20 | Assistant Collector, |
| " Binod Changmai | SHEX - 28 | - do - | | Customs & Central Excise, |
| " Narayan Kegyung | SHEX - 29 | - do - | | Jorhat. |
| " Deben Pathori | SHEX - 30 | - do - | | |
| " Pradip Das | SHEX - 31 | Paper I/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, |
| " Ramesh Ch. Das | SHEX - 36 | - do - | Paper II-8 | Assistant Collector, |
| " Benamali Das | SHEX - 37 | Typewriting | Typewriting-8 | Customs & Central Excise, |
| | | | | Guwahati. |

Contd.....P/3-.....

Anti

Ans. ed.

Advocate.

Advocate
Arora & Co.

| | | | | | | | | |
|--------------------|-----------|------------------------|--------------------------------|----------------------|---------------------------|---------------------------|----------------|----------------|
| Shri Khagen Baisya | SHEX - 38 | Typewriting | Paper I - 20, Shri Bant Singh, | Assistant Collector, | Customs & Central Excise, | Lazpur. | Typewriting-20 | |
| " | SHEX - 39 | -do- | Paper II - 20 | Assistant Collector, | Customs & Central Excise, | Lazpur. | Typewriting-20 | |
| " | SHEX - 40 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 41 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 42 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 43 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 44 | Typewriting | Paper I/II/Typewriting | -do- | -do- | -do- | -do- | |
| " | SHEX - 45 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 46 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 47 | Paper I/II/Typewriting | Paper I-12, | Assistant Collector, | Customs & Central Excise, | Dubri. | Typewriting-12 | |
| " | SHEX - 48 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 49 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 50 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 51 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 52 | Typewriting | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 53 | Typewriting | Paper I-10 | Shri John Manik, | Assistant Collector, | Customs & Central Excise, | Digboi. | Typewriting-10 |
| " | SHEX - 54 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 55 | -do- | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 56 | Paper I/II/Typewriting | -do- | -do- | -do- | -do- | -do- | |
| " | SHEX - 57 | Typewriting | -do- | -do- | -do- | -do- | -do- | |

Shri Khagen Baisya
Kushal Ch. Saikia
Ajit Ch. Bora
P.K. Daimary
Ranjan K.R. Das
Hiteswar Bora
D. Desumary
Umest Ch. Bora
Kamal Boga
Baharul Islam
Pootra K.R. Nath
Hazrat Ali
Srimanta Ch. Roy
Bongsaidhar Kalita
Numel Ch. Senowal
Sarat Ch. Hazarika
Bijoy Krishna Deb
Tarun Ch. Gogoi
Pulin Dehingia
Bhageswar Dehingia

-----2-----3-----4-----5-----6-----

S/Shri

| | | | | |
|------------------------|---|---|---|------------------------|
| 25. Liladhar Saikia | P | P | P | Passed in all Subjects |
| 26. Sahabuddin Ahmad | 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. Subhash Ch. Roy | P | P | P | -do- |
| 34. Lokit 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. Kunal Ch. Saikia | - | - | F | |
| 40. Ajit Ch. Bora | - | - | F | |
| 41. P.K. Daiman | - | - | F | |
| 42. Ranjan Kr. Das | P | P | F | |
| 43. Hireswar Bora | F | F | F | |
| 44. D. Basumatory | - | - | F | |
| 45. Umesb Ch. Bora | - | - | P | Passed in all subjects |
| 46. Kamal Gogoi | - | - | F | |
| 47. Bahadul Islam | P | P | F | |
| 48. Prabitra Kr. Nath | P | P | P | Passed in all subjects |
| 49. Hazarat 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 |

S.ed.

Advocate.

(D.D. INGT)

ADDITIONAL COLLECTOR(P&V)
CUSTOMS & CENTRAL EXCISE SHILLONG

Contd....P/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, Jorhat
(All). Copy meant for concerned candidates are
enclosed for delivery.
2. B.R.O./ Inspector Hqs., Customs and Central Excise, Shillong.
3. Guard File.

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

C.No. II (12) 3/ET/ EKam/ 92/ 41378

Date: 16.5.92

Copy forwarded for information to :-

Sd/- S. C. Ray, Secy (3)

[Signature]
15/9/92
Administrative Officer,
Customs & Central Excise-
JORHAT.

Sd/-
Advocate.

CUSTOMS AND CENTRAL EXCISE: SHILLONG

ESTABLISHMENT ORDER NO. 68/1996
DATED SHILLONG THE 26TH MAR. '96

Subject : Estt. Promotion, Transfers & Postings of Gr. 'D' Officers' to the grade of L.D.C. - O/R.

PART - IP 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.

| <u>Sl.No.</u> | <u>Name</u> | <u>Present place of posting</u> |
|---------------|-----------------------------|---|
| | <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. |

Antes ed.

Contd...P/2...

advocate

37

-: 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 | : Pallel 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. | Paoltra Kumar Nath | : Guwahati Divl. Office, Guwahati Cus.(P) Divn. |
| 30. | Ratan Sengupta | : Muhurighat L.C.S., Agartala Cus.(P) Divn. |
| 31. | Lilachhar 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., Dimapur Cus.(P) Divn. |
| 37. | Subhas Chandra Roy | : Guwahati Divl. Office, Guwahati Cus.(P) Divn. |
| 38. | Ajit Chandra Boro (ST) | : Darrenja 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. |

Ates ed.

Contd...P/3...

Advocate

| <u>Sl.No.</u> | <u>Name</u> | <u>Present place of posting</u> |
|---------------|----------------------------|---|
| | <u>S/ENRI</u> | |
| 41. | Binsu Changmai (ST) | : Jorhat Divl. Office, Jorhat Cen.Ex. Divn. |
| 42. | B.F. Sohkhlet (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. |

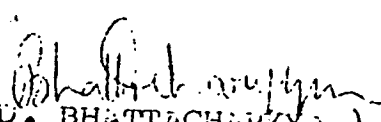
The seniority of the above officers in the grade will be in the order shown above.

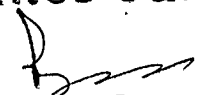
They are hereby asked to exercise option within one month from the date of promotion as to whether their initial pay should be fixed in the higher post on the basis of FR.22(I) (a) (1) straightway without any further review on accrual of increment in the pay scale of the lower post or their pay on promotion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

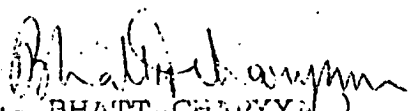
Amended.

Advocate,

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

Dated : 26-3-96

Copy forwarded for information & necessary action to :

1. The Sr. P.A. 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 P.A.O. (Accounts) of Customs and Central Excise, Shillong.
6. The Superintendent(), Hqrs. Office, Shillong. The copy meant for the concerned officer is/are enclosed.
7. The Office Superintendent(Confcl. Branch), Hqrs. Office, Shillong.
8. The P.A.O./C.A.O. of Customs & Central Excise, Shillong.
9. Accounts I & II/ET I & III/Confcl. 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)
 ASSISTANT COMMISSIONER(HQRS.)
CUSTOMS & CENTRAL EXCISE:SHILLONG

* * * * *

Attested.


Advocate

ANNEXURE-4

To,

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

Sir,

Subject:- Joining Report.

In pursuance of the Assistant Commissioner (Hqs.),
Customs and Central Excise, Shillong, Establishment Order
No.68/1996 dated 26.3.96 communicated vide C.No.II(31)9/ET.
II/ 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/Gau/Prev.

② A.P.R.O.

③ Snrdt (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 (ASAM).**

ORDER

Dated Guwahati the 14th April 1996.

Shri Subhash Ch. Roy, Sepoy at present posted to Customs Division, Guwahati-7 drawing pay of Rs.859/-p.m. w.e.f. 1.8.93 in the scale of pay Rs.775-12-871-14-955-15-1030-20-1150/-p.m. has been promoted to the grade of L.D.C. in the scale of pay of Rs.950-20-1150-EB-25-1500/- vide Commissionerate order No. 68/96 dated 26.3.96.

consequent upon the promotion his pay has been fixed at Rs. 950/-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.950-20-1150-EB-25-1500/-.

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.

C.No.XI(24)1/ACCS/ACC/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 Subhash Ch. Roy, L.D.C.
5. Shri Subhash Ch. Roy, L.D. Clerk of C & Central Ex., Guwahati-7.

Administrative Officer
Customs & Central Excise
GUWAHATI

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

Advocate

b..oOo..d

CUSTOMS AND CENTRAL EXCISE::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/ET-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 EXCISE::SHILLONG

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

14142-55 (A)

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 (CLV-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.

Antes ed.

Advocate

CUSTOMS AND CENTRAL EXCISE, SHILLONG.

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

Dated:- 5.12.94.

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 19th and 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 commence.
If any question is found to leak out stern action will be taken.

The No. of question paper are :-

Paper - I

7 Nos.

Paper-II

7 Nos.

Paper-III

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. HYNNEITA),
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, Sibsagar, Central Excise Range, Sibsagar.
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 Binod Changmai, Sepoy. He is directed to attend at the Jorhat
Divisional office for sitting in the Examination.

Attested.

Advocate.

(N.W. DAS),

Administrative Officer,
Central Excise, Jorhat.

PROGRAM

| DATE | TIME | PAPER | SUBJECT |
|----------|-------------------------|-------|---|
| 19-12-94 | 10.00 A.M. to 1.00 A.M. | I | General English and Short Essay. |
| -dc- | 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. |

* * * *

Ames ed.

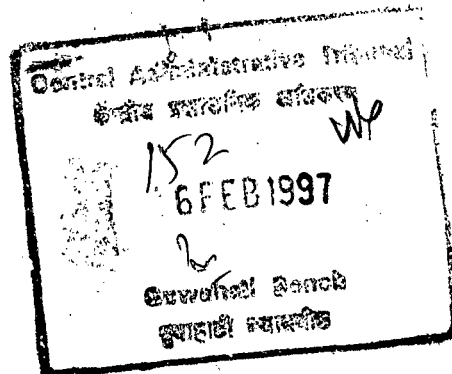
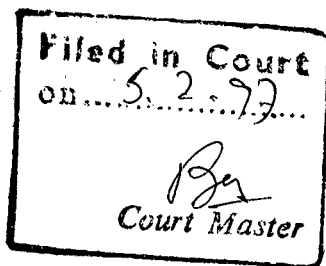
Advocate.

STATEMENT SHOWING THE NAMES OF GROUP '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 |
|-------------------------|---|---|---|--|
| 1 | 2 | 3 | 4 | 5 |
| | S/SHRI | | | |
| 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 Goçoi Dilip Kr. Gogoi Amar Bhattacharjee Bhabesh Sonowal Puheswar 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 Goçoi ✓Binod Chançmai | SHEX-8 SHEX-9 SHEX-10 SHEX-11 | Paper I /II/III -do- -do- Paper-III | Assistant Collector, Central Excise, Jorhat. |
| Aizawl | P. Heokip | 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 Bangshidhar Kalita Sabendra Rabha G. Ch. Swarçiang | SHEX-14 SHEX-15 SHEX-16 SHEX-17 SHEX-18 | Paper I/II/III -do- -do- -do- -do- | Assistant Collector, Central Excise, Dhubri. |
| Karimçanj | 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, Karimçanj. |
| Guwahati | N.H. Saikia Canesh Barman | SHEX-23 SHEX-24 | Paper I/II/III -do- | Assistant Collector, Customs and Central Excise, Guwahati. |
| Disoboi | T.C. Goçoi 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, Disoboi. |

Advocate.

Contd - p/2.



34
Filed by
S. C. Roy
Central Administrative Tribunal
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

5/2/97

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
Dy. Comm. Guwahati
5/2/97

I, Sri Rathindra Kumar Sarkar, Superintendent (Law)
in the office of the Assistant Commissioner, Central
Excise, Udyog Vikas Bhawan (6th Floor), G.S. Road, Bhangagarh
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

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 unduely 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.3). 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 beg 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 beg 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.....

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 unduely 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.2, 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 beg 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 beg 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 beg to state that as has already explained, the impugned order has been issued with a view to ensure that law and proper justice prevails.

Contd.....p12.

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

46
A

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

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 Sarkar

D E P O N E N T

Superintendent (Law)

Central Excise

Guwahati Division

CUSTOMS AND CENTRAL EXCISE: SHILLONGESTABLISHMENT 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/ET-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 EXCISE: SHILLONG

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

Dated :-

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 (CIU-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.

Attested

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

(D. BHATTACHARYYA)
ASSISTANT COMMISSIONER (HQRS.)

ANNEXURE - R.2

Immediate

15/4/77
F.12345677-COOR
Government of India
Department of Revenue and Banking
(Revenue Wing) 12013

New 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 No. 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 (Hqrs. 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.

(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.2. Resolution No. 46/1(S)/74-Ests.B, dated the 4th 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.T.O.

Attested
M. Chakraborty
4/2/77
(M. L. Chakraborty)
Administrative Officer (Estt.)
Customs & Central Excise
Shillong

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

.....3/-.

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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.

No. _____
Date _____

Signature _____
Name _____
Designation _____
Deptt./Office _____

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

-:oOo:-

(Mohindra)

Attested
M. Chandra
24/2/97

M. L. Chakraborty
Administrative Officer (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.

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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. Chandra 24/2/77

(M. L. Chakraborty)
Administrative Officer (Estt)
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.

--oOo:--

Regd.

Immediate

ANNEXURE 'C' R.3

No. Admn.1(16)/84-85/2805
Office of the Chief Controller of Accounts
C.B.S.C.

New Delhi, the

To

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

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 ~~Service~~
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 along with 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 ~~are~~ ^{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

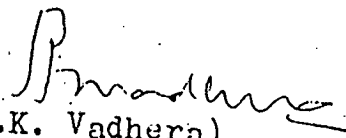
M. L. Chakraborty
Admin. Officer (Estt.)
Customs Central Excise
Shillong

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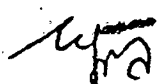
- 2 -

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

Yours faithfully,

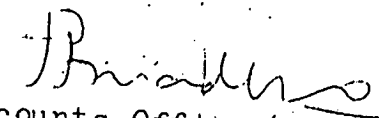

(P.K. Vadhera)
Accounts Officer (Admn)

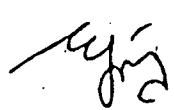
Enc: As above


23/10

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/MF-CGA(E)635-669 dated
11.10.1984. The requisite information will be sent as
soon as it is received from our field units.


Accounts Officer(Admn)



Referred
M. Chandra 4/11/84

(M. T. Chakraborty)
Admini- (E) (E) (E)
Customs Excise
Shillong

(56) 27/68

No. Admn/1(16) /83-84/ 1377
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, 23/8/83

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,

L.V.

(P.K.VADHWA)
Accounts Officer (Admn)

Encl: As above.

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

Accounts Officer (Admn)

Uthay/
20.8.83

Attested

[Signature] 26/8/83

(M. S. Chatterjee)
Admin. Officer (Estt)
Customs, C. B. & E. Excise
Shillong

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Appendix

SYLLABUS FOR THE EXAMINATION

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 | 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. Chandra 26/2/97

M. S. Chandraharthy
Admin. Officer (Estt)
Customs & Excise
Shimoga

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 handwriting.

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

Uthay/
22.8.83

PROFORMA

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 1.4.1955.)

| 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

Short Essay General Knowledge including Geography of India

Remarks

(a) 9 (b)

10

(M. L. Chatterjee)
Adminis. Officer (East)
Customs & Central Excise