

ALL INDIA ASSOCIATION OF CENTRAL EXCISE GAZETTED EXECUTIVE OFFICERS

Address for correspondence

13C LALIT MITRA LANE, KOLKATA 700 004.

e-mail : aiacegeo_siddhanta@hotmail.com

(Recognized by G.O.I., Min. of Fin., vide letter F.No.B.12017/10/2006-Ad.IV A dated 21.01.2008)

C.No. ASSCN./ AIACEGEO/06/2008/186-235

Dated 01.07.2009

PRESIDENT

Sri S.Rameshbabu
Guntur
9440878827

VICE PRESIDENTS

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Sri Rathindra Kumar Sarkar
Sri G.K.Gangwani
Sri Patil P.M.
Sri Rajendra Pratap
Sri Rabinder Chabra
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Sri Radheyshyam Sharma
Sri Suresh Kumar
Sri T.Samuel

SECRETARY GENERAL

Sri S.P.Siddhanta
Kolkata.
09831034352

JOINT SECRETARIES

Sri V.N.Jha
Sri Jeetendra Singh
Sri R. K. Nigam
Sri R. L. Sampath Kumar
Sri V.R. Kittur
Sri Vimal Kumar
Sri Anand Kishore
Sri L.N. Mishra
Sri J.P. Nautiyal
Sri P.C.Ajith Kumar

OFFICE SECRETARY

Sri Asoke Sarkar

CIRCULAR NO.04/AIACEGEO/2009

DT.01.07.2009

In the last circular the draft memorandum for submission to the Anomaly Committee was circulated. The suggestions received from different units have been incorporated and memorandum has been sent to the said committee with request to give personal hearing before finalizing its recommendations. The submission made is reproduced herein after.

In spite of several correspondences seeking proper clarification regarding eligibility of grade pay of Rs.5400 in non functional scale with all related documents in support of giving the said grade pay to all Superintendents who completed four years of service on 1.01.2006 and immediately after the clarification issued by the CBDT supporting our contention came to knowledge, the Association has sent another letter enclosing the same to the Board but till date nothing has come out. After the Modified ACP Scheme has come, the Association has written to issue instruction to all formations to fix up pay in the PB-3 to the Superintendents who have been given benefit of Gr. A scale on completion of 24 years of service in the erstwhile ACP Scheme, wherever it has not been done. In the Modified Assured Career Progression Scheme, in Para 6 of Annexure I of the Office Memorandum No. 35034/3/2008-Estt.(D) dated 19th May,2009 it is clearly stated that in case of all the employees granted financial up gradations till 01.01.2006, their revised pay will be fixed with reference to the pay scale granted to them under the ACPS. And in terms of Illustration 28C of the said Annexure I, those who were granted two regular promotions or 2nd financial up gradation under the ACP Scheme of August, 1999 after completion of 24 years of regular service, then only 3rd financial up gradation would be admissible to them under the MACPS on completion of 30 years provided that they have not earned third promotion in the hierarchy. Until and unless the above instruction is not issued the local administration would face problem in granting 3rd ACP under MACP Scheme.

There appears to be no change in attitude of the Board in attending the problems confronted by the members. In every matter the dilatory tactics continue and the members are suffering. A simple clarification which can be issued by the HRD of the CBDT in the month of March cannot be done by the CBE&C even after more that three months and as a result the retiring Superintendents are suffering in getting their pensionary benefits. It is surprising when Chief Commissioner heading the HRD in other Board in the same ministry can clarify a matter then why the same ranking officer in our Board cannot do the same.

The Association has sent letter-seeking appointment of respected Sri Pranab Mukherjee who has been honoured with the post of Cabinet Minister in charge of Finance Ministry. Sri Manish Tewary, Hon'ble Spokes Person of the Indian National Congress and M.P from Ludhiana has been kind enough to write letter to Hon'ble Minister of Finance to solve our problem. The letter is reproduced herein after.

Organisation

In pursuance of request, the Kolkata, Shillong and Madurai units have sent its DDOs' certificates. It is reiterated that the said certificates are required for renewal of recognition of our Association. The Regional Office Bearers are requested to pursue the matter vigorously and also for payment of arrears. The Associate Committee meeting of the Association has been called in New Delhi

Contd. to P/2

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on 18th of July, 2009, and it is hoped that all the Vice-Presidents and Joint Secretaries have received the notice.

Text of the letter of Hon'ble M.P, Sri Manish Tewari and National Spokes Person of INC written to Hon'ble F.M –

“Respected Mukherjee Sahib,

I am herewith forwarding a Representation from the All India Association of Central Excise Gazetted Executive Officers. Superintendents of Customs and Central Excise Department are really feeling depressed and dejected due to discriminatory promotion policies. This has resulted in acute and rotting stagnation in this cadre.

I have been informed that CBEC acknowledged the problem and a study group has been constituted in this regard. But keeping in view the fact that already more than 6000 officers are drawing salary of the Assistant Commissioner under ACP scheme, it will be strongly in the interest of public to fully utilize these officers for the post/responsibility for which they are being paid for. The present underutilization of these officers is detrimental to public interest and also against employee welfare, which occupies paramount position in our administration.

So as an emergency measures in the short run, it is strongly recommended that CBEC should recognize and respond by way of an instant relief by designating these Superintendents as Assistant Commissioners. This expenditure neutral step is a double edged action which will promote employee welfare coupled with administrative efficiency.”

Another letter has been written by Hon'ble M.P., Sri R. Dhruvaranarayan from Karnataka to Hon'ble F.M, which is available in *cengokerala.org*. On behalf of the all India body, I convey my sincere thanks and gratitude to Office bearers of the Chandigarh and Karnataka unit who have taken pain to send above letters for our benefit. Other units may take similar attempts.

Memorandum submitted to the Anomaly Committee –

Forwarding:-

“It has come to the knowledge of the Association that Department of Revenue under the Ministry of Finance has set up an Anomaly Committee to settle the anomalies arising out the implementation of 6th Pay Commission under F.No.7/5/2009-Coord dated 6th February, 2009 but no such information has been communicated to the Association though it is the only recognized Association under the Recognition Rules to represent 11481 number of Superintendents of Central Excise.

In the backdrop of crucial role played by the Revenue Department in garnering adequate resources for developmental purposes can hardly be over-emphasized. The last decade saw a healthy and gradual enlargement of tax base and upsurge in revenue collection. As a result, contribution of tax revenue as a percentage of GDP which was 9% a decade ago has now gone up to 11%, while the cost of tax collection is as low as Rs.0.68 for every Rs.100, one of the lowest in the world. Greater reliance is now placed on (a) moderation in tax rate (b) enlargement of tax net (c) simplification of rules and procedures and in the changed scenario and objectives the existence of an efficient tax administration to fulfil the goals of economic policy is the need of the hour.

But it is distressing to note that officers of the Revenue Deptts. particularly Inspector and Superintendent in the department of Central Excise and Customs who constitute more than 50% of the total workforce of these

Contd. To page 3

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two departments and working in the field level to implement the various policies of the Govt. have been discriminated against the similarly placed officers working in other Deptts. of Central Govt. in the matter of pay-scale and promotional opportunities.

The importance of an efficient workforce is well recognized by different tax reform committees including the committee headed by Dr. Raja Chaliah. The said committee in para 10.2 observed that the Government should recognize the paramount importance of Revenue Department and should spare no efforts in improving their condition of service, technical skill and work environment.

Further in para 10.3, the committee observing that taking into account the vital role that the Revenue Department should play in garnering adequate resources for ensuring the security of the Country as well as substantial economic growth with social justice, recommended that the salary scales and promotional prospect of the officers and staff in the Revenue Department should at least be comparable with the best that Government offers to its employees. In many developed countries, Revenue Officers are treated differently in the matter of pay and other benefits.

The Association likes to take this opportunity to represent its case by submission of the enclosed Memorandum for removal of the anomalies arising out of the implementation of 6th Pay Commission recommendation with the fervent hope that its submission would be considered in their true perspective and be kind enough to recommend strongly redressing the grievances. The Association may be given an opportunity to represent its case in person before your kind honour finalise recommendations. Also another Memorandum is enclosed for not taking action to organize our department into modern, professional and citizen-friendly entities that are dedicated to the service of the people, as suggested by the Pay Commission.”

Memorandum for removal of the anomalies

1. General anomaly:-

A. Date of increment

Under Rule 10 of the Central Civil Services (Revision of Pay) Rules, 2008, uniform date of annual increment on 1st July of every year has been prescribed. Employees completing 6 months and above in the revised pay structure as on 1st July will be eligible to be granted the increment. Under Rule 5 ibid, an employee can continue to remain in the existing scale till his date of increment. Therefore, any employee whose date of next increment fell from 1st of February to 1st June, opts to remain in the existing scale, his date of increment would be deferred by seventeen to thirteen months, since he would not be completing six months and above on 1st July, 2006. For his option, he would be losing grade pay up to the month of his increment date i.e. one to five months and incremental benefit as stated above. Hence exercising of option to continue in the existing scale does not remain optional since in all cases each and every employee is loser. Normally the annual increment is given to all employees after completion of twelve month period until it is deferred or withheld by dint of imposition of minor penalty under Rule 16 of the CCS (CCA) Conduct Rules. In the revised scale, the normal increment would not be given to the employee who opts for new scale after the date of his increment in the next year since the provision of the Fundamental rules shall not, save as otherwise provided in these rules, apply to cases where pay is regulated under these rules, to the extent they are inconsistent with these rules under Rule 15 ibid. The provision has also been made under Rule 16 ibid that where President is satisfied that the operation of all or any of the provisions of

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these rules cause undue hardship in any particular case, he may, by order, dispense with or relax the requirement of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.

The injustice meted to a section of employees whose date increment was between 1st of February and 1st June, is clearly discriminatory with the employees whose date of increment fell between 1st August and 1st of January, since in their case increment date has been advanced by one to six months. The anomalous situation may be brought to the notice of the Hon'ble President to pass suitable order to remove undue hardship to deal the instant case in equitable manner.

B. Pension gratuity

The 6th CPC in Para 5.1.33 of its Report recommended that linkage of full pension with 33 years of qualifying service should be dispensed with. Once an employee renders the minimum pensionable service of 20 years, pension should be paid at 50% of the average emoluments received during the past 10 months or the pay last drawn, whichever is more beneficial to the retiring employee. Simultaneously, the extant benefit of adding years of qualifying service for purposes of computing pension/related benefits should be withdrawn as it would no longer be relevant Pursuant to the acceptance of the said recommendation of the VI CPC, the Govt. of India vide its O.M. No.7/7/2008-P&PW(F) dated 13.02.2009 has withdrawn the system of adding years of qualifying service for the purpose of computing pension as well as other related benefits such as gratuity. The upper limit of amount of gratuity has also been increased without amending the maximum of sixteen and half times of the emoluments, linked with qualifying service of thirty three years of service. The provision requires amendment for payment of gratuity linked with total number of years of service without limit of sixteen and half times of the emoluments otherwise there is no meaning of reduction of qualifying service for full pension in case of gratuity.

2. Cadre specific anomaly

1. Replacement scale of Rs.8000-13,500/ to the Group 'B' Gazetted Executive Officers under the CBE&C.

The Government has given replacement scale of Rs.7500-12,000/ to the Group 'B' Gazetted Executive Officers under the CBEC. In the memorandum submitted to the VI CPC, the Association demanded replacement pay scale of Rs.8000/ -Rs.13,500/ at par with the Deputy Superintendent of C.B.I. and the said demand was being persistently and continuously pursued since 1995 when the said scale was granted to them. The VI CPC in para 7.15.17 observed that higher scale of Rs.8000-13500 has been sought for the posts of Appraiser /Superintendents/Income Tax Officer/ equivalent in CBEC and CBDT. The higher scale has been demanded on the ground that these posts are comparable with Deputy Superintendents of Police in CBI who are already in the scale of Rs.8000-13500. It is observed that the Fifth Central Pay Commission had specifically noted that no relativity could be established between executive posts in Income Tax and Customs vis-à-vis those existing in CBI. Although the recommendation was made with reference to the post of Inspector, the same cannot but hold true for the next higher posts in the hierarchy of these organizations. Further, the pay scale of Rs.8000-13500 is the entry pay scale for Group A posts of Assistant Commissioner/equivalent.

Contd. To page 5

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The post of Assistant Commissioner is a promotion post for Superintendents/Appraisers/ITOs, etc. **Therefore, even otherwise, his scale cannot be granted.** The logic does not stand since the promotional scale given in the PB-3 whereas the scale of Rs.8000-Rs.13,500/ given to the Deputy Superintendent of C.B.I is in PB-2. Denial of parity with the Deputy Superintendent of C.B.I. on the analogy that the scale of Rs.8000-Rs.13,500/ is promotional scale for the Superintendent of Central Excise is illogical since the same logic has not been applied in case of T.A., S.T.A. and Inspector of Central Excise, who have been placed in the same Pay Band with same grade pay of Rs.4200/ though the Inspector of Central Excise is promotional post for the S.T.A, whereas grade pays are different (Rs.4800/ for Superintendent of Central Excise and Rs.5400/ for the Deputy Superintendent of C.B.I.). Is it not a double standard and hostile discrimination to deprive us? Therefore, the anomaly cropped up for the double standard now requires redress.

Moreover, **the VI CPC in para 7.15.24 of its report clearly admitted the traditional parity of the Chief Enforcement Officer with the Superintendent of Central Excise, Superintendent of Customs(Preventive), Appraisers, Income Tax Officers & Superintendent of Narcotics and Assistant Enforcement Officer with the Inspector of Central Excise, Inspector of Income Tax, Inspector(Preventive Officer/Examiner) and recommended for the maintenance of the same in future.** The Chief Enforcement Officers were given the pay scale of Rs.7500-Rs.12,000/ w.e.f.1.01.1996 by the Government pursuant to the recommendation of the V CPC and subsequently revised to Rs.8000/ to Rs.13500/ w.e.f 4.10.2005 vide order issued under F. No.16/26/2004-Ad. 1C dated 4.10.2005.

Therefore, as per recommendation of the Pay Commission for maintenance of parity in future, the above discrimination requires to be removed immediately with retrospective effect.

II. Retrospective effect of revision of pay of Rs.7500 -Rs.12,000/ w.e.f. 1.01.1996 and Rs.8000-Rs.13,500/ from 4.10.2005.

In view of the continuous protest against the anomaly created by the V CPC by granting the scale of Rs.6500-Rs.10,500/, the government granted pay scale of Rs.7500/ - Rs.12,000/ to the Superintendents of Central Excise & Customs, Appraisers of Customs and Income Tax Officers w.e.f 21.04.2004. The Association demanded retrospective effect of the said pay scale from 1.01.1996 at par with the Chief Enforcement Officer who were given the same pay scale w.e.f. 1.01.1996.

The government in case of change of any scale in between the V and VI CPC, gave the following:-

- In case of Superintendent in Narcotics Control Bureau, the scale changed from Rs.6500-Rs.10,500/ to Rs.7500-Rs.13,500/ w.e.f. 1.01.1996 with all consequential benefits vide Office Order under F.No.15/2(38)/2004-Esst. Dated 20.04.2005 issued by NCB, Ministry of Finance & Company Affairs, G.O.I.;
- In case CAG, changes of scale including Rs.6500-Rs.10,500/ to Rs.7500-Rs.13,500/ given effect notionally w.e.f. 1.01.1996 vide O.M. under F.No.6/82/E.III(B)/91 Dated 28.02.2003 issued by Deptt. Of Expenditure, Ministry of Finance & Company Affairs, G.O.I.;
- In case of Ministry of Labour, the change of scale given effect from 1.01.1996 with arrears from 11.02.2003 vide O.M. No.A-32022/1/2002-Adm.I dated 26.04.2004;
- In cases of the Accounts Employees in Railways, Postal , IA & AD, Civil Accounts, Ministry of Coal & Mines, etc, the benefit of notional fixation of

Contd. To page 6

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revised pay with effect from 01.01.1996 has been given with actual payment with effect from the date of the issue of order.

In case of improved pay scale after 01.01.1996, the CAT has also taken view that the effect of the said scale is to be given not from the date of such order but retrospectively from 01.01.1996 and in support a decision given by the Hon'ble CAT, Ernakulam Bench against petition filed by a section of employees from Thiruvanthpuram from the Department of Railways, in its order (O.A. No.671/2003) dated 30.06.2006 allowed the benefit of an order dated 19.02.2003 (improved pay scale) retrospectively w.e.f. 01.01.1996 with arrears(copy enclosed).

The government avoided our case and referred the matter to the VI CPC. The Pay Commission observed in para 7.15.16 of the report **that the Commission, as a general rule, is not considering demands seeking retrospective application of some or the other order unless a clear cut and manifest anomaly that cannot be corrected other than through such retrospective revision is made out. Such is not the case here. The demand, therefore, cannot be considered.** Such observation from a Commission headed by retired and renowned Judge of Supreme Court is unbelievable and unacceptable since a layman who knows simple arithmetic can understand that without retrospective revision, the loss and discrimination cannot be removed. **A superintendent of 1995, got his pay fixed at Rs.6500/ on 1.01.96 whereas others got at Rs.7500/ due to giving effect of retrospective revision, suffered loss of Rs.1450/ [Rs.1000 + Rs.450/(Incremental difference of Rs.50 for nine years in the two scales)] with applicable D.A up to 1.01.2006 having substantial bearing in fixation on 1.01.2006. Is it not a clear cut and manifest anomaly? Can the anomaly be rectified without retrospective revision?**

The need for retrospective revision w.e.f.1.01.1996 is further established from the observation of the Commission in para 7.15.24 of the report wherein the traditional parity of the Chief Enforcement Officer with the Superintendent of Central Excise and Assistant Enforcement Officer with the Inspector of Central Excise has been admitted and recommended for the maintenance of the same in future. The Chief Enforcement Officer who are borne in the scale of Rs.7500-Rs.12,500/ w.e.f.1.01.1996, admittedly being at par traditionally substantiate the revision in case of Superintendent w.e.f. 1.01.1996.

III. Discrimination in granting of Non Functional Scale

The VI CPC recommended removal of discrimination between the Secretariat and Field level. As a result the benefit granted earlier to the Section Officer placing them in the scale of Rs.8000/-Rs.13,500/ after completion of four years of service in the said grade has also been granted to the Group B officers of Department of Post, Revenue etc. by the resolution no.1/1/2008-I C dated 29.08.2008 which reads in para (X) as follows:-

“Regarding Group B Cadres the Commission’s recommendations will be modified in the following manner:-

(a). After 4 years of regular service in the entry grade of Rs.4800/-in PB-2, Officers belonging to Delhi & Nicobar Islands Civil Service and Delhi & Nicobar Islands Police Service will be granted the non- functional grade of Rs.5400 in PB-3 and not in PB-2;

(b). After 4 years of regular service the section officer/ Private secretary/ equivalent grade of Rs.4800 grade pay in PB-2, officers of Central Secretariat Service Central Secretariat Stenographers Service and other similarly placed HQ services will also be granted the non-functional grade of Rs.5400 in PB-3 and not in PB-2;

Contd. To Page 7

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(c).In the IA&AD and all organized accounts cadres, posts of Section Officers and Assistant Audit/ Accounts officers will be merged and placed in PB-2 with grade pay of Rs.4800 as recommended by the Commission. In modification of Sixth CPC's recommendations, Audit/Accounts Officers (AOs) will be placed in PB-2 with grade pay of Rs.5400 and Senior AOs will be placed in PB-3 with grade pay of Rs.5400;

(d) Group "B" Officers of Ministry of Railways in the pre-revised scale of Rs.8000 -13500 will be granted Grade Pay of Rs.5400 in PB-3 instead of PB-2;

(e) Group B Officers of Posts, Revenue etc. will be granted Grade Pay of Rs.5400 in PB-2 on non- functional basis after 4 years of regular service in the grade pay of Rs. 4800 in PB-2."

To implement the above resolution, the government has made the Central Civil Services(Revised Pay) Rules, 2008. In part C, Section II against Ministry of Finance the following provision has been made-

Department of Revenue

9	Income Tax Officers/ Superintendent, Appraisers etc. (Customs & Central Excise)	7500-12000	7500-12000	PB-2	4800
			8000-13500 (after 4 years)	PB-2	5400

The above provision has created an anomaly if compared with the resolution. In the resolution, the **Group B** officers after 4 years of regular service in the grade pay of Rs.4800 have been granted grade pay of Rs.5400 but the provision of the above rule has prescribed the benefit to the Income Tax Officers/ Superintendent, Appraisers etc. (Customs & Central Excise) without extending the benefit to all Gr. B officers. It is evident that the rule is not in conformity with the resolution and requires amendment. The granting of non functional scale is to remove the discrimination between the Secretariat and Field level, but rule making authority chooses otherwise and so the discrimination is allowed to continue.

Moreover, in all cases the grade pay of Rs.5400 in PB-3 on non functional basis after 4 years of regular service has been granted but in some cases including our case, it has been given in PB-2. **The granting of grade pay on non functional basis in the Group B cadre, to an officer who is already functioning as Group B cadre is anomalous and requires rectification.**

In addition to the above, the non granting scale in PB-3 has taken a toll in the Modified Assured Progression Scheme granted under O.M. No.35034/3/2008-Estt. (D) dated 19.05.2009 wherein in para 8.1 of the Annexure-I of the said O.M., it has been provided that the grade pay of Rs.5400/ of PB-2 and PB-3 shall be treated as separate grade pays for the purpose of up gradation under MACP Scheme, which is unbelievable and totally against the recommendation of the Pay Commission which is unbelievable and totally against the recommendation of the Pay Commission which **recommended change of grade pay under the Scheme.** Resultantly all the Gr.B officers other than Revenue and Post department, would get grade pays of Rs.6600/ and Rs.7600/ on completion of twenty and thirty years of

Contd. To Page 8

ALL INDIA ASSOCIATION OF CENTRAL EXCISE GAZETTED EXECUTIVE OFFICERS

Address for correspondence

13C LALIT MITRA LANE, KOLKATA 700 004.

e-mail : aiacegeo_siddhanta@hotmail.com

(Recognized by G.O.I., Min. of Fin., vide letter F.No.B.12017/10/2006-Ad.IV A dated 21.01.2008)

PRESIDENT

Sri S.Rameshbabu
Guntur
9440878827

VICE PRESIDENTS

Sri Anindya Sundar Roy
Sri Rathindra Kumar Sarkar
Sri G.K.Gangwani
Sri Patil P.M.
Sri Rajendra Pratap
Sri Rabinder Chabra
Sri B.C.Barthwal
Sri Radheyshyam Sharma
Sri Suresh Kumar
Sri T.Samuel

SECRETARY GENERAL

Sri S.P.Siddhanta
Kolkata.
09831034352

JOINT SECRETARIES

Sri V.N.Jha
Sri Jeetendra Singh
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Sri V.R. Kittur
Sri Vimal Kumar
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Sri P.C.Ajith Kumar

OFFICE SECRETARY

Sri Asoke Sarkar

service respectively whereas we would be getting the same grade pay of Rs.5400/ on completion of twenty years of service and Rs.6600/ on completion of thirty years of service. Is it not discrimination particularly when the fate of the Superintendents is known to the Government, who are getting only one promotion in their entire service career? Therefore, we may be given scale in PB-3 with grade pay of Rs.5400/ on completion of four years of service.

Encl:- As above.”

The other Memorandum would be published in the next Circular.

Our Board is reluctant to solve the problems and defer action on the pretext of one or the other. But local administration headed by Chief Commissioner/ Commissioner is very much active so far as violation of transfer policies and taking disciplinary measures are concerned. Even the chief office bearers of the unit have not been spared from inter unit transfer in spite of the clear policy of the government. In one case the General Secretary has been suspended for initiating action for realization of arrears. No action from the Board is seen though those issues have been taken up immediately. Our members should be told by all the office bearers, local and national, to prepare themselves for strengthening our organization so that they can force the change of the indifferent attitude of the Board.

Long live our association.

(S.P.Siddhanta)
Secretary General