

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

(11)

~~O.A. NO.~~ MAST/555/95 in OA/473/89

~~T.A. NO.~~

DATE OF DECISION 28.11.95

Shri Amarsinh Mandu

Petitioner

Mr.G.A.Pandit

Advocate for the Petitioner (s)

Versus

Union of India & Ors.

Respondent

Mr.B.R.Kyada.

Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. K.Ramamoorthy : Member (A)

The Hon'ble Dr.R.K.Saxena : Member (J)

JUDGMENT

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 it needs to be circulated to other Benches of the Tribunal ?

No

: 2 :

Shri Amarsinh Mendu,
G.A.K.C, 191/A, CPWI (N)
Western Railway,
Mehsana

..... Applicant

(Advocate : Mr.G.A.Pandit)

Versus

1) Union of India

- Notice to be served through
General Manager, Western Railway,
Churchgate, Bombay)

2) Divisional Manager (P),
Western Railway,
Rajkot.

..... Respondents

(Advocate : Mr.B.R.Kyada)

J U D G E M E N TDate 28.11.95

In

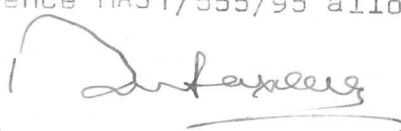
MA ST/ 555/95 in OA/473/89

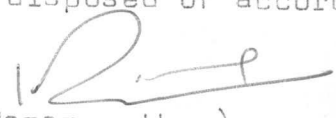
Per : Hon'ble Shri K.Ramamoorthy : Member (A)

This Misc.Application has been filed by way of seeking correction in the earlier order passed on 8th August, 1994, wherein the direction was issued to consider the representation as per rules. However, the word "Present" has been typed before the word "Rules and Regulations". It should have been "Extant ". The applicant is obviously old employee, therefore extant rules would have become applicable to him. This has been caused due to clerical error.

2. It is clarified that "an Extant rules and regulations" may be read in place of "Present rules and regulations" in Para:2 of the oral order dated 8th August, 1994.

Hence MAST/555/95 allowed, and stands disposed of accordingly.


(Dr.R.K.Saxena)
Member (J)


(K.Ramamoorthy)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

(3)

O.A. NO.

473/89

T.A. NO.DATE OF DECISION 8-8-94Mr. Amarsingh Mendu

Petitioner

Mr. G.A. Pandit

Advocate for the Petitioner (s)

Versus

Union of India and Others

Respondent

Mr. E.R. Kyada

Advocate for the Respondent (s)

CORAM

The Hon'ble Mr.

K. Ramamoorthy

Member (A)

The Hon'ble Mr.

Dr. R.K. Saxena

Member (J)

JUDGMENT

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 it needs to be circulated to other Benches of the Tribunal ?

no

(14)

2

Shri Amarsingh Mendu
G.K.L.C. 91/A
CPWI (N)
Western Railway,
Mehsana.

Applicant.

Advocate Mr. G.A. Pandit

Versus

1. Union of India
Notice to be served through
The General Manager,
Western Railway, Churchgate
Bombay.
2. The Divisional Railway Manager (E)
Western Railway, Rajkot.

Advocate Mr. B.R. Kyada

O R A L O R D E R

In

Date: 8-8-94

O.A. 473 of 1989

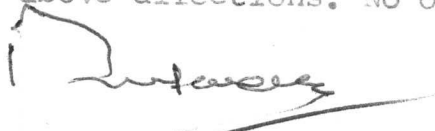
Per Hon'ble Shri K. Ramamoorthy


Member (A)

This application has been filed because the applicant has been left out from both the limited departmental examinations for Permanent Way Inspector as also ^{from} ~~for~~ the post in Commercial Department. So far as the first examination, namely for Permanent Way Inspector is concerned, the respondents have stated that the applicant did not possess the necessary qualification of S.S.C. with Science and Maths subjects. It is the contention of the applicants' counsel that the applicant was an old S.S.C. before the 10 + 2 stream came into existence. In

In fact he has passed the examination with English. The counsel for the applicant, however, states that in the absence of the certificate he is not able to confirm that Science and Maths subjects were also included in his curriculum. The learned counsel for the applicant states that looking to the long service put in by him his case should be considered even within the discretionary powers of the authorities to relax the condition of educational qualification. The learned counsel for the applicant states that the applicant belongs to a family which has served the Railways as his father was also in the employment of the Railways. For this special consideration the applicant has argued that he shall make a special representation to the respondents within the next fifteen days.

2. The fact remains that the applicant has lost considerable time of about six years in pursuing the O.A. before the Tribunal. If therefore, the applicant makes a representation as stated above, the respondents may consider the same in accordance with the present rules and regulations and convey their decision within a period of 10 weeks on receipt of the representation. The petition is disposed of with above directions. No order as to costs.


(Dr. R.K. Saxena)
Member (J)


(K. Panamoorthy)
Member (A)

③ ~~copies~~
~~to Bureau~~
~~10/8/94~~

③ copies
K. B. Lewis
1918
CB
19.8-94
12
74

2 copies
urgent
Bureau
16/9/84

S.O. (J)

03 copies
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K. B. Lewis
22/8/86

S.O. (J)

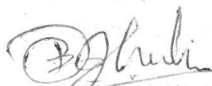
2896

Date	Office Report	ORDER (16)
30.8.95		<p>Mr.G.A.Pandit is reported to be sick. Adjourned to 5th October,1995.</p> <p style="text-align: right;">R (K.Ramamoorthy) Member(A)</p> <p>npm</p>
5.10.95		<p>Mr.G.A.Pandit is reported to be sick. Adjourned to 16.10.95 to enable him to remove office objections.</p> <p style="text-align: right;">R (K.Ramamoorthy) Member (A)</p> <p>npm</p>
16.10.95		<p>Leave note filed by Mr.G.A.Pandit. Adjourned to 9th November,1995.</p> <p style="text-align: right;">R (K.Ramamoorthy) Member(A)</p> <p>npm</p>
5		<p>Leave note filed by Mr.G.A.Pandit. Adjourned to 20th November,1995 to enable him the applicant to remove office objections.</p> <p style="text-align: right;">R (K.Ramamoorthy) Member(A)</p> <p>npm</p>
20.		<p>Adjourned to 24.11.95 to enable the applicant to remove the office objections.</p> <p style="text-align: right;">R (K.Ramamoorthy) Member(A)</p> <p>npm</p>

Date	Office Report	ORDER
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24.11.95.

The Hon'ble
Member(A) is not
available.
Adjourned to
1.12.1995


Court Officer

1-12-1995.

Time is given upto 8-12-1995, to remove
office objections. Call on 11-12-1995.



(K. Ramamoorthy)
Member(A)

ait.

11.12.95

Mr.G.A.Pandit is not present.

Time is given up to 15.12.95 to remove the
office objections.



(K. Ramamoorthy)
Member(A)

npm

15.12.95

Mr.G.A.Pandit is not present.

Time is given up to 22.12.1995 to enable the
applicant to remove the office objections.


(K. Ramamoorthy)
Member(A)

npm

22.12.95






Mr.G.A.Pandit is not present. Adjourned
22nd January, 1996. This will be the last
to enable the applicant to remove office
objections.


(K. Ramamoorthy)
Member(A)

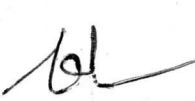




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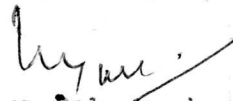

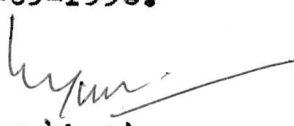

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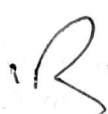

Date	Office Report	ORDER (17)
22.1.96		<p>Mr.G.A.Pandit is not present. Adjourned to 30.1.96 to enable the applicant to remove the office objections.</p> <p style="text-align: right;">(K.Ramamoorthy) Member(A)</p> <p>npm</p>
30.1.96.		<p>Adjourned to 8.2.96 to enable the applicant to remove the office objections.</p> <p style="text-align: right;">(K.Ramamoorthy) Member(A)</p> <p>ait.</p>
8.2.96		<p>Mr.Pandit is reported to be sick. Adjourned to 19.02.1996 to enable the applicant to remove the office objection.</p> <p style="text-align: right;">(K.Ramamoorthy) Member(A)</p> <p>npm</p>
19.2.1996.		<p>Mr.Pandit is reported to be sick. Adjourned to 29.2.96 to enable the applicant's counsel to remove office objections.</p> <p style="text-align: right;">(K.Ramamoorthy) Member(A)</p> <p>ait.</p>
29.2.96		<p>Sick note filed by Mr.G.A.Pandit. Adjourned to 8th March, 1996.</p> <p style="text-align: right;">(K.Ramamoorthy) Member(A)</p> <p>npm</p>

Date	Office Report	ORDER
8.3.96.		<p>Mr. G.A.Pandit is still sick. Hence, adjourned to 22.3.1996.</p> <p style="text-align: right;">  (K. Ramamoorthy) Member(A) </p>
22.3.96		<p>ait.</p> <p>Mr.G.A.Pandit is reported to be sick. Adjourned to 29.03.1996.</p> <p style="text-align: right;">  (K. Ramamoorthy) Member(A) </p> <p>npm</p>
29.3.96		<p>Mr.Pandit is reported to be sick. Adjourned to 4.04.1996.</p> <p style="text-align: right;">  (K. Ramamoorthy) Member(A) </p> <p>npm</p>
4.4.96		<p>Mr.Pandit is reported to be sick. Adjourned to 30.04.1996 to enable the applicant to remove office objections.</p> <p style="text-align: right;">  (K. Ramamoorthy) Member(A) </p> <p>npm</p>
4.4.96	<p>As the learned Member on pm the Bench is not available the matter is adjourned to 3-6-96.</p>	<p>Mr.Raval had appeared before the Tribunal ^{and} earlier he had stated that he will now remove the office objections.</p> <p>One Last chance is given given to remove the office objections.</p> <p>Adjourned to 9.05.1996.</p> <p style="text-align: right;">  (K. Ramamoorthy) Member(A) </p>

Date	Office Report	ORDER (18)
15.7.96		<p>Adjourned to 22.7.96 to enable the applicant to remove the office objection.</p> <p style="text-align: right;">R (K.Ramamoorthy) Member(A)</p> <p>npm</p>
22.7.96.		<p>At the request of Mr.Pawan Kumar, the matter is adjourned to 30.7.1996 for removal of office objections.</p> <p style="text-align: right;">R (K.Ramamoorthy) Member(A)</p> <p>ait.</p>
30.7.96		<p>As regards filing of V.P, objection is over ruled.</p> <p>As regards other remaining office objection Mr.Pavankumar will remove the same within three days.</p> <p>Adjourned to 2nd August,1996.</p> <p style="text-align: right;">R (K.Ramamoorthy) Member(A)</p> <p>npm</p>
2.8.96.		<p>Adjourned to 8.3.1996 for removal of office objections. No further time will be given.</p> <p style="text-align: right;">R (K.Ramamoorthy) Member(A)</p> <p>ait.</p>

Date	Office Report	ORDER
3.6.96		<p>Adjourned to 17.06.1996 to enable the applicant to remove the office objections.</p> <p> (V. Radhakrishnan) Member (A)</p> <p>npm</p>
17.6.96.	<p></p>	<p>Mr. G. A. Pandit is not present. Adjourned to 28.6.96, to enable Mr. G. A. Pandit to remove the office objections.</p> <p> (K. Ramamoorthy) Member (A)</p> <p>ait.</p>
28-6-96		<p>Two weeks time granted for removal of office objections. Adjourned to 5-7-96. If the objections are not removed by that time, registration will be declined.</p> <p> (V. Radhakrishnan) Member (A)</p> <p>*ssh</p>
7.96		<p>Mr. Pavankumar for Mr. G. A. Pandit is present. He has been specially informed that this will be the last adjournment to enable them to remove office objections.</p> <p>Adjourned to 15.07.1996.</p> <p> (K. Ramamoorthy) Member (A)</p> <p>npm</p>

Date	Office Report	ORDER (19)
8.8.96	<p>no body has come to comply.</p> <p>adjourn in business on 14.8.96</p> <p>13896</p>	<p>As regards filing of V.P. the objection is already over ruled on 30.7.96.</p> <p>Other remaining office objections will be removed by the counsel for the applicant within seven days.</p> <p>Adjourned to 14.08.1996.</p> <p> (K. Ramamoorthy) Member (A)</p>
14.8.96	<p>one has come to comply office objection.</p> <p>for order file may be put before court on 23-8-96</p> <p>21896</p> <p>PR(J)K</p>	<p>Leave note filed by Mr. G.A. Pandit.</p> <p>Office objections will be removed by the counsel for the applicant within next three days.</p> <p> (T.N. Bhat) Member (J)</p> <p> (K. Ramamoorthy) Member (A)</p>
23.8.96.		<p>Two weeks time is given to remove office objections. No further time will be given. If office objections are not removed by that date, Registration will be declined. Adjourned to 03-09-1996.</p> <p> (T.N. Bhat) Member (J)</p> <p> (V. Radhakrishnan) Member (A)</p> <p>ait.</p>

Date	Office Report	ORDER
3.9.96.		<p style="text-align: right;">advocate</p> <p>On account of sad demise of <u>Shri G.A.Pandit</u> at the request from the Bar^d adjourned.</p> <p>Call on 22 11-9-96.</p> <p style="text-align: right;">  (K. Ramamoorthy) Member (A) </p> <p>ait.</p>
11.9.96	<p><i>One of the objections has been removed. We may wait for a week i.e. up to 23/9/96</i></p>	<p>Mr. Pavankumar on behalf of Mr. G.A. Pandit states that office objections have been removed.</p> <p>In view of removal of office objections registry to give regular number of CA.</p> <p>Fresh notice may be issued to the applicant in view of demise of Mr. G.A. Pandit.</p> <p>Call on 30.9.1996.</p> <p style="text-align: right;">  (K. Ramamoorthy) Member (A) </p>
13.9.96	<p><u>RI Submitted</u></p> <p><i>objections have been cleared today. If all are the matter will be regular.</i></p> <p><i>13/9/96</i></p> <p><i>13.9.96</i></p>	<p>npm</p>

Date	Office Report	ORDER (20)
30.9.96	<p>Notice issued on 4.10.96</p> <p>RPAD awaiting 25/10/96</p> <p>RPAD received from Rep. No. 2</p>	<p>Mr.H.G.Pandit files vakalatnama. His name may be shown in the cause list.</p> <p>Priliminary notice may be issued to the respondents returnable on 28th October,1996.</p> <p style="text-align: right;">(V.Radhakrishnan) Member(A)</p> <p>npm</p>
28-10-96		<p>Adjourned to 5-11-95, to await return of notice.</p> <p style="text-align: right;">(K.Ramamoorthy) Member (A)</p> <p>ssh*</p>
5.11.96		<p>Mr.Kothari files appearance. Adjourned to 26.11.96 to enable him to file reply.</p> <p style="text-align: right;">(K.Ramamoorthy) Member (A)</p> <p>npm</p>
26.11.96.x	<p>Repld filed by Shri A.S.Kothari</p>	<p>Mr.H.G.Pandit is not present. Leave note filed by Mr.A.S.Kothari. Adjourned to 31.12.1996.</p> <p style="text-align: right;">(K.Ramamoorthy) Member(A)</p> <p>ait.</p>
31.12.96		<p>Being a Division Bench matter, adjourned to 10.01.1997.</p> <p style="text-align: right;">(K.Ramamoorthy) Member(A)</p> <p>npm</p>

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

(21)

~~O.A.NO.~~ CA/114/95 in OA/473/89

~~T.A.NO.~~

DATE OF DECISION 10.01.1997

Shri Amarsingh Mendu Petitioner

Mr.H.G.Pandit Advocate for the Petitioner [s]
Versus

Shri Ravindran Respondent

Mr.A.S.Kothari Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Radhakrishnan : Member (A)

The Hon'ble Mr.

JUDGMENT

- 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 it needs to be circulated to other Benches of the Tribunal ?

: 2 :

Shri Amarsingh Mendu
G.K.L.C./91/A
CPWI (N)
Western Railway,
Mehsana

..... Applicant

(Advocate : Mr.H.G.Pandit)

VERSUS

1. Shri M.Ravindran
General Manager,
Western Railway,
Churchgate,
BOMBAY.

2. Shri Agha
Divisional Railway Manager,
Western Railway,
Kothi Compound,
RAJKOT

..... Respondents.

(Advocate : Mr.A.S.Kothari)

O R A L O R D E R

Date : 10.01.1997

In

C.A./114/95 in OA/473/89

Per : Hon'ble Shri V.Radhakrishnan : Member(A)

Heard Mr.Pavankumar Navin proxy counsel for
Mr.H.G.Pandit and Mr.A.S.Kothari, the learned counsel
for the respondents.

The counsel for the respondents have taken
priliminary objection regarding time bar of the application
However, it appears that after clarification given by
the Tribunal vide order dated 28.11.1995, the respondent-
deptt. have examined the representation of the applicant
and replied on 14.6.1996. As the representation of the

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 041473/85 of
Transfer Application No. _____ of

CERTIFICATE

Certified that no further action is required to be taken and
the case is fit for consignment to the Record Room (Decided).

Dated : 30.11.84

Countersign :

24/12/84
Section Officer.

cecelof
Signature of the Dealing
Assistant

INDEX - SHEET

NAME OF THE PARTIES MIR. Amalsingh, M

W. O. I. 2000

[illegible]

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

Submitted;

C.A.T./Judicial Section.

Original Petition No.: 473 of 89.

Miscellaneous Petition No.: of .

Shri Amarsingh Mendu Petitioner(s).

Versus.

Union of India Respondent(s).

This application has been submitted to the Tribunal by
Shri G A Pandit under Section 19
The Administrative Tribunal Act, 1985. It has been scrutinised
with reference to the points mentioned in the check list in
the light of the provisions contained in the Administrative
Tribunals Act, 1985 and Central Administrative Tribunals
(Procedure) Rules, 1985.

The application has been found in order and may be
given to concerned for fixation of date.

The application is not been found in order for the
same reasons indicated in the check list. The applicant
may be advised to rectify the same within 21 days/Draft
letter is placed below for signature.

Date 2/11/89 As do not tally with the Index - Corrected.

2/11/89

Ami

*(m/leave)
DR17*

*We may fix 14th date for
admission as copy served to
other side.*

[Signature]

2/11/89

[Signature] 2/11/89

CENTRAL ADMINISTRATIVE TRIBUNALAHMEDABAD BENCH

APPLICANT (S)

Amarsingh Mendu

RESPONDENT(S)

Union of IndiaPARTICULARS TO BE EXAMINEDENDORSEMENT AS TO
RESULT OF
EXAMINATION.

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Is the application competent ? 2. (A) Is the application in the prescribed form? (B) Is the application in paper book form ? (C) Have prescribed number complete sets of the application been filed ? 3. Is the application in time ? If not, by how many days is it beyond time ? Has sufficient cause for not making the application in time stated ? 4. Has the document of authorisation/ Vakalat Nama been filed.? 5. Is the application accompanied by P.D./I.P.O. for Rs.50/-?. Number of P.D./I.P.O. to be recorded. 6. Has the copy/copies of the order(s) against which the application is made, been filed ? 7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed ? (b) Have the documents referred to in (a) above duly attested and numbered accordingly ? (c) Are the documents referred to in(a) above neatly typed in double space ? 8. Has the index of documents has been filed and has the paging been done properly ? | <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>—</p> <p>—</p> <p>Y</p> <p>DD 23499
6</p> <p>Y (Annex-A P.10)</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> |
|---|---|

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO BE
RESULT OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application ?
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ?
11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with annexures filed.
 - (a) Identical with the original.
 - (b) Defective.
 - (c) Wanting in Annexures
No. _____ Page Nos. . _____ ?
 - (d) Distinctly Typed ?
13. Have full size envelopes bearing full address of the Respondents been filed ?
14. Are the given addressed, the registered addressed ?
15. Do the names of the parties stated in the copies, tally with those indicated in the application ?
16. Are the transactions certified to be true or supported by an affidavit affirming that they are true ?
17. Are the facts for the cases mentioned under item No.6 of the application.
 - (a) Concise ?
 - (b) Under Distinct heads?
 - (c) Numbered consecutively?
 - (d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for, stated with reasons ?

Y

no

Y

Y

no

Y

Y

Y

Y

Y

checked.

7/11/83

slc no 52785 ①
6/11/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

ORIGINAL APPLICATION NO. 473 OF 1989.

Shri Amarsingh Mendu. Applicant.

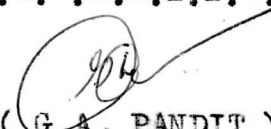
V/s.

Union of India & Ors. Respondents.

I N D E X

Annexures.	Particulars.	Page No.
-	Memo of application.	1 to 9
'A-1'	True copy of circular dated 27.2.1989.	10
'A-2'	True copy of circular dated 21.7.1989.	11-12
'A-3'	True copy of letter dated 27.2.1989.	13
'A-4'	True copy of recommendation letter dated 9.4.1989.	14
'A-5'	True copy of application dated 23.3.1989 & 1.9.89	15-17 18

6AP
252
Copy Sent
Mr. B. R. Ryali
Advocate.
6/11/89


(G.A. PANDIT)
Advocate for the Applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

ORIGINAL APPLICATION NO. 473 OF 1989.

Shri Amarsingh Mendu. Applicant.

Versus.

Union of India & Ors. Respondents.

DETAILS OF APPLICATION :

1. Particulars of the applicant:

- (i) Name of the applicant : Amarsingh Mendu.
- (ii) Name of father : Mendu Gulab.
- (iii) Age of the applicant : 40 years.
- (iv) Designation. : Gate Keeper
LCI 91 A
- (v) Office address : G.K. LC. 91/A
CPWI (N)
Western Railway,
Mehsana.
- (vi) Address for service : As above.
of notices,

2. Particulars of the respondents:

- (1) Union of India,
Notice to be served through
The General Manager,
Western Railway,
Churchgate,
Bombay - 400 020.
- (2) The Divisional Railway Manager (E),
Western Railway
Rajkot.

3. Particulars of the order against which application is made.

The respondents action not to call for limited departmental examination for promotion to Class III post of P. way ~~xxxx~~ Mistry scale Rs. 1400-2300 (RP), Engineering Department, Rajkot dated 27.2.1989.

4. Jurisdiction of the Tribunal;

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation :

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

6. Facts of the case :

The facts of the case are given below:

(1) The applicant is Gateman of Mehsana who has passed old SSC examination, which is a qualification for the post of P. way Mistry.

3

The applicant submits that the promotion to Class III post of P.Way Mistry from the Gatenan was announced by the circular dated 27.2.1989 issued to all Assistant Engineers. The copy of the same is annexed hereto

Ann. A-1.

and marked Annexure A-1. The applicant submits that due to shortage in Commercial Department Group 'C' staff the respondents by their letter dated 21.7.89 again announced 29 vacancies to be filled from the quota of Class IV employees to be promoted to the Class III post, which is annexed hereto and marked

Ann. A-2.

Annexure A-2.

(ii) The applicant submits that Assistant Engineer, Mehsana vide his letter dated 27.2.1989 sent the name of applicant for the selection and promotion to the post of P.Way Mistry which shows the details regarding appointment in the railway age and qualification. The same is annexed hereto

Ann. A-3.

and marked Annexure A-3. The applicant further submits that his name was again recommended by the Assistant Engineer, Mehsana by his letter dated 9.4.1989 which is also annexed hereto and marked

Ann. A-4.

Annexure A-4. The petitioner submits that he gave

an application dated 28.3.1989 to Respondent No.2 through proper channel for being called for interview for the post of P.Way ~~Inspector~~ Mistry scale Rs. 1400-2300 (RP). A copy of the said application dated 28.3.1989 is annexed hereto and marked Annexure A-5.

Ann. A-5.

(iii) The applicant reminded the Respondents through several letters, Registered A.D. about his case for consideration which have fallen on deaf ear. The applicant begs to produce his letter dated 1.9.1989 stating the fact that his claim for promotion to Class III post is ignored by the Respondents-Railway Administration continuously ever since 1975 for which he had made several representations. The applicant submits that he even underwent operation for vasectomy under the family planning scheme benefit given to the employees for the promotional post to Class III promotion. The applicant begs to produce his application dated 15.11.1986 setting out the fact that his father was a Railway employee who has

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retired and the applicant was passed old S.S.C. which is a better and higher qualification held by him as the qualification prescribed for promotion to the post of P.Way Mistry is only 10th standard. The applicant submitted on several occasions through various reminders and applications through proper channel for which has not received any reply so far.

(iv) The applicant therefore begs to approach this Hon'ble Tribunal as the Respondents-Railway Administration has denied him his right of promotion to the Class III post of P.Way Mistry for which the selection was announced as per Annexure A-1 dated 27.2.1989 and 21.7.1989 (Annexure A-2).

(v) Being aggrieved by the indifferent and unjust attitude of the respondents-railway administration denying the opportunity of being considered in the selection for promotion to the post of P. Way Mistry, the applicant begs to approach this Hon'ble Tribunal on the following amongst other grounds inter-alia.

G R O U N D S.

(1) Because the impugned action of the

Respondents-Railway Administration of
not calling the application for selection to
the post of P. Way Mistry for which his name
was sent by Assistant Engineer Mehsana,
Annexure A-4, even then he is not called
for selection which is violative of Article
14 & 16 of the Constitution of India
amounting to denial of the equality
protection to employees in the matter of
employment and therefore the impugned action
of not calling the applicant for selection
requires to be corrected by a direction to
the respondents railway administration
requiring them to treat the applicant
eligible for being considered to the
promotion for Class III post of P. Way
Mistry and select him as the applicant ~~xxx~~
has passed the old SSC examination as well
as undergone an operation for vasectomy
under the family planning scheme benefit
as early as 1955. The applicant has made
several representations to the respondents

ST A

6(iii)(a) :-

The applicant states that he has passed the S.S.C. Examination in the year 1969 when there was no Higher Secondary examination and admission to college for Science stream was direct. The applicant submits that there were no options and the Mathematics and Science were compulsory with English etc. and if the English subject is not offered or passed then in the Leaving certificate it would be stated "without English" which is not there in the School Leaving Certificate produced in this application earlier. The applicant, therefore submits that as he has passed SSC he is eligible for being considered as stated earlier. Besides, biodata submitted by the A.E.M. under whom he is working also states the above stated fact. Xerox copy of the statement showing the biodata submitted by the A.E.M. dated 27.2.89 is annexed hereto and marked Annex."A6".

Ann.A6.

6(iii)(b) :-

The applicant submits that besides he has also passed Hindi Ratha examination which is equivalent to Master's degree in Hindi. He has also done the external course of Homeopathy and he is R.M.P. which is recognised by the State Government. Xerox copy of the R.M.P. certificate in Homeopathy is annexed hereto

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- Ann.A7 :** and marked Annexure "A7". The applicant has also done the course of First Aid to the injured as certified by the St. John Ambulance Association copy whereof is annexed hereto
- Ann.A8:** and marked annexure "Annexure A8". Xerox copy of pass certificate in Hindi Ratna which is equivalent to Master's degree is annexed hereto and marked Annex. "A9". Applicant further submits that he has undergone vasectomy operation which enables him for promotion. Xerox copy of certificate of vasectomy operation - undergone by the applicant is annexed hereto "A40". Applicant submits that he also appeared in the selection for T.C.E. Examination, but unfortunately the result was not declared and he could not clear the promotion to Cl.IV post wherein he had appeared. The applicant submits that in the recent days he was called for Cl.III promotion by selection due to - shortage of commercial department group 'C' staff by order, dated 21.7.89, but as he was overaged by two years he was not allowed to appear in the selection test, Copy of railway pass and call letter for selection for Cl.III Post are annexed hereto and marked Annexure-A11 Collectively. Applicant submits that after - filing the original application there were - selection tests held for the post of P.Way Mistry but he was not called for to the said test -

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Ann.A-12:-

which is illegal and ultravires Arts. 14 & 16 of the Constitution. Copy of the Order, dated 27.2.89 where though the applicant was eligible was not allowed to appear at the selection is annexed hereto and marked Annexure-"A12".

Applicant therefore submits that though he is eligible to appear in the selection for the post of P.Way Mistry and also for the promotion to

Commercial Department Cl.II post of clerk he is not being considered even though he is making representations since from 1975 onwards. Applicant submits that if the Railway Administration had considered his earlier application and allowed him to appear at the selection and pass, he would have got his class-III promotion in his own right as he has passed SSC.

6(iii)(c) :-

The applicant submits that persons similarly situated and working as Gangman belonging to - Rajkot division, i) Shri S.R.Kharedia, ii) Shri Sekhrebhai, iii) Shri Ranchhod Amra and iv) Panna-lal Gula are all promoted to the post of P.Way Mistry even though they are not qualified after passing the selection and the denial of promotion to the applicant even though he has passed - SSC is violative of Arts. 14 & 16 of the constitution being arbitrary. Applicant submits that he

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also deserves equal protection of law and equality amongst equals and deserves to be promoted to the post of P.Way Mistry as the other similarly situated employees as aforesaid. Applicant submits that the Railway Administration on account of saturation has not filled up the promotional posts of Kaman and Mates as they cannot be filled up on account of these posts reserved for SC/ST and illiterate candidates and the applicant though educated could not get promotion as they are reserved for illiterate candidates as aforesaid. Applicant says that the railway administration has arbitrarily introduced age bar of 35 years for the selection to the post of Cl.III in commercial department which is illegal and unconstitutional as in the matters of promotion artificial barrier of age of 35 years deprives the applicant of his getting due promotion and therefore such a bar deserves to be declared illegal and unconstitutional. Applicant submits that when he was within age limit he was not called for and now age bar is introduced which amounts to permanent incapability to get promotion.

6(iii)(d) i-

Applicant submits that the respondent No.2 awarded a merit certificate for good work and also awarded two cash awards of Rs. 25/- one in 1987 and another one on 16.4.1990. Applicant

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submits that he is doing good work and doing his duty diligently and faithfully to the department and he is only working as Gangman since his initiation in the service with the respondent-railway department and he is 39 years old and he is yet to serve the respondent-railway upto 58 years of age and that too - without further promotion.

6(iii)(e) :-

Applicant submits that there is a Refreshers' course for training after passing which the person is promoted to the post of P.Way Mistry. Applicant is eligible for Refreshers' course and can be given further promotion. Applicant submits that what the Railway can minimum do is give Refreshers' course training and then promotion to the post of P.Way Mistry. Applicant - is the son of retired railway employee and no other member from his family, either brother or sister, have been given employment on - compassionate grounds. Applicant submits that he could be given promotion on compassionate - grounds also.

which are not so far replied.

8. Matters not previously filed or pending with any other Court.

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

9. Relief(s) sought :

In view of the facts mentioned in para 6 above the applicant prays for the following relief.

- (a) Your Honour be pleased to direct the respondents-railway administration to call the applicant for interview in response to Annexure A-1 & Annexure A-2 and select him for the post of P.way Mistry.
- (b) This Hon'ble Tribunal may be pleased to allow this application in the interest of justice.
- (c) Any other order or direction may be deemed

fit in the interest of justice may be
passed.

10. Interim order, if any prayed for :

Pending final decision on the application,
the applicant seeks issue of the following interim
order :-

(a) Pending admission and final disposal of
this application Your Honour be pleased
to direct the respondents-railway administ-
ration not to finalise the promotion to the
Class III post of P. way Mistry in response
to circular Annexure A-1 & A-2 and further
be pleased to direct that if any promotions
are given to Class III P. way Mistry post
as a result of selection in response to
circulars Annexure A-1 & Annexure A-2, the
same may not be treated as final and be
made subject to the result of this
application.

(b) Any other order or direction may be deemed
fit in the interest of justice may be passed.

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The following paras may be added in the prayer/
relief para 9(a) as 9(aa) :-

" 9(aa) :-

Your Honour be pleased to declare the
selection of staff due to shortage of Commercial
clerks group "C", dated 21-7-89 illegal, uncons-
titutional being arbitrary and violative of
Arts. 14 & 16 of the Constitution in as much as
by introducing bar of 35 years of age the
petitioner is not allowed to appear in the said
selection even though he was otherwise eligible
and called for the selection in the last moment,
he was informed that he is over-aged and set aside
the same after allowing this application for -
amendment. "

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12. Particulars of Bank Draft/Postal order in respect of the Application Fee:

1. Number of Indian Postal order(s) : $\frac{DA}{6} 234997$
2. Name of the issuing Post office : Gaj. High. P.O
3. Date of Issue of Postal order(s) : 6-11-89
4. Post office at which payable : Albad.

13. List of enclosures : All the enclosures are true copies, the list of enclosures are given in index.

VERIFICATION

I, Amarsingh Mendu, S/o. Mendu Gulab, Age 40 yrs., working as Gate Keeper in the Office of C.P.W.I.(B) Mehsana, do hereby verify that the contents of paras 1 to 6 are true to my personal knowledge and para 8 to 13 believed to be true on legal advice and that I have not suppressed any material fact.

Ahmedabad.

Dt: -11-1989.

X Amarsingh Mendu
Signature of the Applicant.

Identified & verified by me.

(G.A. Pandit)
Advocate for the Applicant.

Filed by Mr. U.A. Pandit
Learned Advocate for Petitioners
with second set & 2 copies
copies copy served/not served to
other side

C.S. Saeer
Dt. 6/11/89 Dy. Registrar C.A.T (J)
Albad Bench

Western railway

No. ER.1025/5(LDE).

Divisional office,
Rajkot.
dt/- 27-2-89.

To,
The AENs-JAM RJT(I) RJT(II) SUNR MSH SBI.
All CPWIs/PWIs I/C-on RJT Division.
The Divl. Secy. WRU/WRMS RJT.

Sub:- Limited Departmental examination for promotion to
Class III post of P.Way Mistry scale Rs.1400-2300(RP)-
Engg. degtt - RJT Division.

It is proposed to conduct a Limited Departmental examination for promotion to the class III(Group-'C') post of Permanent way Mistry scale Rs. 1400-2300(RP), against 25% of the vacancies as laid down in Board's letter No. E(NG)II/86/RC-2/35 dated 19.8.88 circulated vide HQ CCG's No. E(R&T) 118/0 vol.II (PS No.245/88) dt. 22/28.9.88. The number of vacancies to be filled through LDE is 5(Five). of them, ONE vacancy is reserved for SC and NIL for ST.

2) All Gangman and Keymen in scale Rs.775-1025(RP), Rs.800-1150(RP) & Rs.825-1200(RP) of the Engg.degtt. on this Division, who have the necessary qualification of 10 + 2 with science and Mathematics and have put in a minimum of 3 years regular service after regularisation, are eligible to appear for the examination. The examination will consist of :-

- (i) Written Examination.
- (ii) Viva-voce.

3) Those who fulfil the conditions of eligibility as referred to in Para 2 above as on 1.3.89 and are desirous of appearing for the examination, may submit their applications through their PWIs, not later than 20.3.89. Application submitted after this date will not be entertained. Eligible staff should also keep themselves in readiness to appear for written examination at short notice.

4) PWIs/AENs while forwarding the application of eligible candidates should certify the eligibility of the candidates for appearing for the LDE and also furnish their service particulars in the covering letter. If no one applies for the LDE, this office should be advised accordingly.

5) The above notification be given wide publicity placing it on the Notice Board at important places.

Sd/-
for DEM(E) RJT.

Copy to -

Sr.DENs(I) & (II).
DENs-II./IV.
Supdt/W.

/ True copy /

Western Railway

No. EC.890/17

Divisional Office
Rajkot.
Dt. 21-7-1989.

To,
All Supervisory staff of all departments of RJT divn.
" Supdts/CCs of DRM's office Rajkot.
All A/Ns/ARS/ARO/MSS of RJT division.

Sub :- Selection of staff due to shortage in Comm. depts.-
Group 'C' staff - TCS.

Ref:- HQ office CCG's No. EC.839/4 dt.19.6.89.

Out of the 39 vacancies (existing & anticipated) which occurred in 1988-89, 26 vacancies of TC scale Rs.950-1500 (RP) are to be recruited against the direct recruitment quota.

Since direct recruits are not expected from Railway recruitment Board in near future, it has been decided in terms of H.Q. office CCG's letter ~~is~~ cited above that the above mentioned vacancies may be filled in a departmental competitive examination, as one time exception, from eligible group 'D' staff of all department of Railway who are working on regular basis in Class IV categories (Substitute & Casual labourers are not eligible).

Approximate vacancies of TCS scale Rs.950-1500(RP) are as under :-

Gen.	:SC	:ST	= :Total
20	4	2	26

Condition for eligibility for selection of the candidates in this competitive examination will be as under :-

- Should have passed SSC with 50% marks or its equivalent examination or have higher qualification.
- Should be working in Group 'D' Service (Class IV) on regular basis or in a scale lower than Rs.950-1500(RP) in any of the departments technical or non-technical including extra divil. units and workshops in the geographical jurisdiction of the division.
- Should not be over 35 years of age as on 30.6.89 and.
- Should be fit for the prescribed medical classification for the above post.

NOTE : Substitutes and Casual labourers are not eligible to apply even though they might have attained temp. status.

Those employees who fulfill the above conditions should submit their application in the prescribed proforma to their department concerned through their Supervisory staff showing the service particulars together with attested copy of SSC certificate & School leaving certificate.

The written test may cover proficiency in language, General knowledge, Arithmetic & reasoning.

The selection will consist of written examination followed by Viva-voce test.

The last date of submission of application to this office 18.8.1989. Applications received after this date will not be considered. Those who apply should keep themselves in readiness for the examination.

NOTE:

- i) Applications should be submitted in the prescribed proforma alongwith the attested copies of certificate of SSC & School leaving certificate.
- ii) The Sup. staff should collect all the applications received by them, prepare a statement and send the same in one Bunch through special measanger to be handed over to APO(T) RJT on 8.8.89 without fail. (8th Aug. 89)
The Sup. staff should ensure that applications are not sent in peace-med to this office.
- iii) Proforma of application is enclosed herewith.
- iv) A copy of this notification should be placed on the notice Board.

DA: As stated.

Sd/-
For DPM (E) RJT.

Copy to :

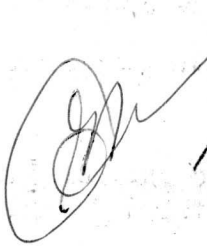
WLIs RJT. to give vide publicity to this notification.

Notice Board, Janitor RJT, CH(S&C) CCG, CH(C) ADI,

XEN(C) RJT, XEN (C) I & II - Jam, DSTH(C) RJT,

DSC-RJT, Sr.DAO RJT,

GM(E) CCG in ref. to their no under reference.

.....
 / True copy /

Ann exure A-3.

STATEMENT SHOWING THE BIO-DATA OF EMPLOYEE OF STAFF WHO APPLY FOR THE POST OF P. WAY
MISTRY SCALE RS. 1400-2300 (RP) IDC DEM(E) RJTS LETTER NO. EE/1025/5 IDE OF 27.2.89

13

Sr. No.	Name of staff	Design.	IL ND	Working under	scale of pay	Rate of pay	Date of birth	Date of apptt.	educational qualification
1.	Amarasingh Mandu,	G.K.	19/A	CPWI (N)MSH	Rs.800-1150 (RP)	Rs.965/-	1.10.49	21.1.71	(1) Passed old SSC Examination. (2) Ratna Hindi Exam. passed. (3) Passed First Aid Exam. (4) Attended safety Camp.

No. A/E/2 Dt. 28-3-89 forwarded to DEM(E) RJT through ARB MSH for information and necessary action in ref. to DEM(E) BRC's No. EE/1025/5 (IDE) of 27.2.89

Sd/-

Chief PWI(N) W.R. MSH.

True copy /

Western Railway.

Annexure A-4.

No. E 1025

Dated 9-4-1989.

From : AEN MSH.

To : DRM(E) RJT.

Application of Shri Amarsingh Mendu, G.K. for post of P. Way Mistry scale Rs. 1320-2040(RP).


Your letter No. EE/1025/5 IDE Dt. 27.2.89

With reference to the above please find herewith an application of Shri Amarsingh Mendu, GK., working under CPWI(N)MSH for favour of further disposal please.

- (1) Name : AMARSINGH MENDU
- (2) Designation : G.K. LC No. 191 A
- (3) Working under : CPWI(N) MSH
- (4) Date of birth : 1.10.1949
- (5) Date of appointment: 21-1-73 screening
- (6) Rate of pay : Rs. 995/- P.M.
- (7) Scale of pay : Rs. 800-1150 (RP)
- (8) Educational qualification : Passed SSC Exam. old.

Sd/-

AEN MSH


/ True copy /

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Ann exure A-5

From :
Amarsingh Mendu,
CK LC No. 91/A,
Under CPWI(N) MSH,
Dt. 28-3-89

To
DHM (E) RJT
Through Proper channel.

Sub : Request for post of P.Way Mistry -
United Departmental Examination for promotion
to class.III Post of P.Way Mistry -
Scale Rs. 1400-2300(RP).

Ref : Your letter No. EE/1025/5 LDE of 27-2-89.

Respected Sir,

I the undersigned most humbly and respectfully beg
to lay the following few lines for your kind and sympathetic
consideration please.

I beg to apply for the post of P.Way Mistry scale
Rs. 1400-2300(RP).

The bio-data are as under :-

1. Name : Amarsingh Mendu
2. Designation : GK LC No. 191
3. Working under : CPWI(N) MSH
4. Date of birth : 1-10-49
5. Date of appointment : 21-1-71
6. Rate of pay : Rs.995/- scale of pay
Rs. 800-1150
7. Educational qualification: Passed old SSC Exam.XI Std.
passed.
 2. Rastra Bhasha Ratna Hindi passed. = B.A.
 3. First aid passed.
 4. Safety camp passed.
 5. ~~Patil~~ Son of Retired PWI Shri
Mendu Gulab.
 6. I was appeared in Test of ASM at Rajkot.

I will produce original certificate at the time of
interview.

Thanking you.

Yours faithfully

Sd/.

(Amarsingh Mendu).

Sd/-
CPWI(N) W.B.MSH.

True copy/

16012

(૧) અરજદાર :- અમરસિંહ એમ.

ગેટ ડિપર ડામલી.

૦૧૦ સી.પી. ડબ્લ્યુ. આઇ. એમ.

મહેસાણા તા. ૧-૬-૮૬.

તા. ૧-૬-૮૬.

પ્રતિ,

સેવામાં સાહેબ શ્રી ડી. પી. ડબ્લ્યુ આઇ/ઉતર/ મહેસાણા,

૦૧૦ એ. એન. સાહેબ મહેસાણા ૦૧૦ વે. રે. એ.

યુનિયન રાજકોટ ડી. આર. એમ. સાહેબ રાજકોટ,

વિષય :- પ્રમોશન માટે ન્યાયની અરજી..

રેફરન્સ :- (૧) પી. વે. પી સ્ત્રી નં. ઇ.ઇ. ૧૦૨૫/એસ(એલ. ડી.ઇ.)

તા. ૨૦-૨-૮૬.

(૨) ટી. સી. સી. N. EC 810/7 * DT તા. ૨૧-૭-૮૭.

REF HQ OFFICE CCE'S No EC 839/4

Date. 13-4-89

તા. ૧૬-૪-૮૬...

સેવામાં નૂતન અરજદાર આપનો ઝોનમેન અને હાલમાં ગેટ ડિપર તરીકે ડામ કરતાં અમરસિંહ એમ. ની અરજ છે કે મને સાચો ન્યાય આપી ને મને પ્રમોશન આપવા મારી વિનંતી કરું છું આપના ડીવીઝનમાં પાછલા (૧૭) સોળ વર્ષથી ડામ કરું છું અને ખાતા મુજબ મેં (૧) જુનિયર કારકુત નો લેખીત ટેસ્ટ આપેલ છે. (૨) આસીસ્ટન્ટ સ્ટેશન માસ્ટર (૩) એસ. ઓ. આર પી સ્ત્રી (૪) પી. વે. પી સ્ત્રી (૫) ટી. સી. ની પરીક્ષા રહેલો સ્પર્ધિત ડીવીઝનથી ૧૯૮૧ માં આપી છે તેનું પરીણામ જાહેર ડસ્તામાં આવ્યું નહીં હાસલ કે સી. બી. આઇ. દ્વારા કેસ થવાથી પરીણામ સ્થગિત થઈ અધુરું આવી રીતે સમય સમય મુજબ મેં ખાતા મારફતે ઘણી અરજીઓ પ્રમોશન માટે કરી છે. છતાં મારું કોઈ સંબંધિત નથી અને મને હલાસ થી નુ -

પ્રમોશન આપવામાં આવેલ નથી મેં ઉપર જણાવ્યા મુજબ અરજી આપી છે અને

17

(૨)

જે. એમ. મહેસાણા ટ્રાફિક ડિપાર્ટમેન્ટ બે વર્ષ સુધી ૧૯૭૦ થી ૧૯૭૨ સુધી કામ કરેલું છે. તે ખાતામાં સજોગો વસાત સરપસ સ્ટાફ વ્યાધી મને બીજા ખાતામાં મુકામાં આવ્યો છે. તેથી મને ટ્રાફિક ખાતામાં નો મુસબ છે. હું ૧૯૭૩ થી કાયમી ~~XXXX~~ કામદાર તરીકે રેલ્વેમાં જોડાયેલ છું મેં ખાતા મારફતે ૧૯૭૩ માં પણ પ્રમોશન માટેની ટ્રેનિંગ માટેની અરજી કરેલી જેથી મને અવિશ્યમાં આગળ વધવાનો ~~XXXX~~ ચાન્સ મળે મે. પી. વે. પી સ્ત્રી માટેની આપના સરકુલર મુજબ સરકુલર નં. ઇ.ઇ./૧૦૨૫/ પ. ~~XXXX~~ વોલ્યુ ૧૧ તા. ૧૪-૨-૧૯૭૫ માં અરજી આપી છે તે સમયે પી. વે. પી સ્ત્રી ની લાયકાત હાઇસ્કુલ - ૧૧ ધોરણનું હતું તે લાયકાત મુજબ જુના અરજદાર ગણી મને આ ચાન્સ આપ્યો જોઈએ તે વખતે સરકારનો અભ્યાસનો નિયમ ૧૧ X ધોરણ પછી લીધો સાયન્સ કોલેજમાં પ્રવેશ મળતો હતો જ્યારે આ નિયમ ૧૯૭૫ થી ધોરણ ૧૨ પુ પાસ કરીને મેડીકલ કોલેજમાં પ્રવેશ મળે છે. માટે હું અભ્યાસ કરતો હતો તે વખતે ~~XXXX~~ બારમું - ધોરણ ગુજરાત રાજ્યમાં હતું નહીં હાલમાં મારા એન્જીનીયરીંગ ખાતામાં પી.વે. પી સ્ત્રીની છે. માટે હું પી.વે. પી સ્ત્રીની અરજી કરેલી છે. તો મને મારું ક્વોલીફિકેશન ~~XXXX~~ જોતાં મને પ્રમોશન ~~XXXX~~ મળવું જોઈએ મારો અભ્યાસ હિન્દી ભાષાથી હિન્દી સ્તન પરીક્ષા હતીજે છે. તે સરકારથી ઇડવલ ટુ બી. એ. માન્ય રાખેલ છે. બીજું કે હું રીટાયર્ડ પી. ડબલ્યુ આઇ. નો પુત્ર છું જેથી મને રેલ્વેમાં એન્જીનીયરીંગ ખાતામાં કામનો જાણ કાર છું અને મેં રેલ્વેમાં રાજકોટ ડી. એમ. ઓ દ્વારા 'Vesectomy Operation'

(૩)

કરાયેલ છે તે તા. ૧-૧-૧૯૭૭ હતી અને અમારા હપરી બધી કારી બો
ધવારા અમને જાણવેલું કે તમને પ્રમોશન આપીશું અને આજ સુધી મને રેલ્વેમાં
કોઈ ચાન્સ પ્રમોશનનો આપેલ નથી. આજે મને લગભગ ૧૩ વર્ષ સુધી ની
સર્વિસમાં કોઈ આગળ પ્રમોશન મળેલ નથી તે સમયે જે માલસોબે ફોર્મ લી
ઓપરેશન ~~XXXX~~ અપનાવેલ છે તેમાં ઘણા માલસોબે પ્રમોશન મળેલ છે. તો
મને શા માટે વળી ત રાખેલ છે આ બરજી સાથે બરજ કુરુ છે કે મને માનું
ડબોલી ફોર્મ જેમાં જોઈ તપાસી સર્વિસ સીટમાં લીવીંગ સ્ટેન્ડિંગ કેટ પ્રમાણે
મને ટી. સી. અથવા પી. વી. મીસ્ત્રીની પોસ્ટ પર મને લેવા માટે
નમ્ર બરજ કુરુ છે.

આપનો વિશ્વાસુ

ગેટ હાઉસ.

અમરાલિસ. એમ.

True Copy
Advocate.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

O.A. No. 473 of 1989.

Amarsingh Mandu

... Applicant.

Vs

Union of India & Others

... Respondents.

Reply by the Respondents.

At the outset, the Respondents state and submits that in this present case, no cause of action has arisen and there is no breach of any service condition and therefore, on the above grounds, the application of the Applicant deserves to be dismissed. Even other wise before filing this application, the Petitioner had not exhausted the alternative remedies available to him by way of sending representation to the department. But this was not done and on this count also the application deserves to be dismissed limne.

2. With reference to para 6(1), the averments made in the said para are not correct and is denied hereby. So far as the Applicant is concerned, he was working as a Gateman. It was during this time that applications were invited for promotion to the post of PW Mistry - Scale Rs. 1400-2300 (RP) in the Engineering department of Western Railway Rajkot by its notification dt. 27-2-1989, and as per the conditions, staff who were possessing qualifications of 10 + 2, with Science and Maths subjects were eligible to apply. So far as the applicant is concerned, he is only an Old SSC passed candidate and does not fulfil the required educational qualification and therefore the question of calling the applicant for interview does not arise.

21-2-90
Copy served to
Mr. G. A. Parnet.
Adv.
on 30-1-90
ack to Mr. G. R. K. Nay
Adv.

2- 3. Along with the above, applications were also invited to fill up the vacancies of TCs and according to the notification the maximum age limit was fixed at 35 years as on 30-6-1989. The date of birth of the applicant is 1-10-1949 and thus he had completed 39 years on 30-6-1989 and was not considered for selection. Therefore, the department had rightly not called him for the selection of the TCs post, as he did not fulfil the requirements laid down in Annexure A-2.

4. With reference to para 6(2) the allegations are not correct and is denied hereby. It is very clear from the Annexure A-3 that the Petitioner is not fulfilling the conditions laid down i.e. less qualification and over aged. The copy of Annexures A-3 and A-4, are documents which shows that the Petitioner is not in the possession of the required qualifications prescribed above and therefore he was not considered and called.

5. With reference to para 6(3), the allegations in the said para are not correct and is denied hereby. So far the promotion is concerned, no body is entitled only because he underwent the family planning operation or because the father of the Applicant was an employee of the railways. Further the qualification required for the post was not in the possession of the Applicant and therefore the question of considering him does not arise. So far the qualifications prescribed for PW Mistry was not 10th Std. but it was 10 + 2 i.e. Higher Secondary School certificate. The petitioner has not made it clear as to when he had appeared and at what point of time he had obtained 10 + 2 i.e. HSC and therefore he was rightly not considered and without appropriate qualifications was not considered for future promotion.

31 (15)

6. With reference to para 6(4) the averments made are not correct and is denied hereby. The Railway administration had never denied the right of promotion to the Applicant or any body. The petitioner was not in the possession of the requisite qualification as shown earlier in this reply and therefore he was not called for interview.

7. With reference to paras 7 to 12, the advocate of the Respondent will deal with it at the time of hearing this application and therefore, at present it does not require any comments.

8. The respondents states that the Applicant was not found eligible for the posts of PW Mistry or TCs as he was not having the requisite qualification and age and thus the question of calling him for interview for the above posts does not arise and therefore the application of the applicant deserves to be dismissed awarding special costs to the Railway administration ~~and~~ as they had not made any breach of rules or acted discreminatorily with the Petitioner and therefore, this is a fit case in which cost should be ordered.

Ahmedabad.

Dt: 30-1-90

(B.R. Kyada)
Advocate for the
Respondents.

For and on behalf of the
Union of India.

[Signature]
Additional Divisional Railway Manager
Western Railway, Rajkot.

VERIFICATION.

I, C. K. ONAKRANA,
Additional Divisional Railway Manager, Western Railways,

-4-

Rajkot, do hereby solemnly affirm and state that what is stated hereinabove is true to my knowledge information and belief and I believe that the same is true.

Ahmedabad.

Dt. 30-1-90

Deostani
Additional Divisional Railway Manager
Western Railway, Rajkot.

Reply/Rejoinder/written submission
filed by Mr. B. R. K. G. 9
learned advocate for petitioner/
Respondent with second set.
Copy served/not served to other side

Di 30/1/90 Dy. Registrar C.A.T.
A'bad Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH, AHMEDABAD.

RA/MA/GA/TA/

126

1991. in no. 473/89

Amar Singh Mendu

Applicant(s).

G A Pandit

Adv. for the
petitioner(s)

Versus

Union of India & Ors

Respondent (s)

B A Kooda

Adv. for the
Respondent (s)

SR.NO.	DATE	ORDERS
		Amendment (Copy Served)
	5/6/91	F/O.
	5/7/91	Deho None present. Reply not filed as per order M 5.6.91 in no. 126/91. Mark to be placed for appropriate order
	30/8/91	filed on 21/8/91 filed in Bnd. filed in Register. Disposed of 30/8/91

c/-

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

Submitted ;

C.A.T./JUDICIAL SECTION.

Original Petition No.: _____ of _____.

Miscellaneous Petition No.: 126 of 91.

Shri Amar Singh Mendu Petitioner(s).

Versus.

Union of India & Co Respondent(s).

This application has been submitted to the Tribunal by
Shri G A Pandit

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The Applications has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant may be advised to rectify the same within 14 days/draft letter is placed below for signature.

⁸
^{9/14}
Asstt. :

S.O.(J) :

D.R. (J):

^{11/4}
^{9/14}
g. h. c. m.
09/4/91

ms-1 137/91
27/3/91

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

M.A. NO. 126 /91

IN
ORIGINAL APPLICATION NO. 473 of 89

Amarsingh Mendu

.. .. . APPLICANT

Versus

1. Union of India,
Notice to be served through
The General Manager,
Western Railways,
Churchgate,
Bombay-400 020.

2. The Divisional Railway Manager(E),
Western Railways,
Rajkot.

.. .. . RESPONDENTS

Application for amendment

The applicant, abovenamed, most respectfully
begs to submit as under:

1. That the Original Application No.473/89 is
admitted and awaiting final hearing as the other
side has already filed written statement. The applicant
submits that at the time of filing this application
there were certain facts not available and the same
were not stated in the main application which is
necessitated this application for amendment for adding
further facts in the paragraph 6 of the main application.
Hence, after paragraph 6(iii) these following paragraphs
may be added:

..2..

Copy to
Mr. B. R. Singh
Ae
26/3/91

G. A. B. S. S.

//2//

"6(iii)(a)

The applicant states that he has passed the S.S.C. examination in the year 1969 when there was no Higher Secondary examination and admission to college for Science stream was direct. The applicant submits that there were no options and the Mathematics and Science were compulsory with English etc and if the English subject is ^{not} offered or passed then in the Leaving Certificate it would be stated "without English" which is not there in the School Leaving Certificate produced in this application earlier. The applicant, therefore, submits that ^{as} he has passed SSC he is eligible for being considered as stated earlier. Besides, biodata submitted by the A.E.M. under whom he is working also states the above stated fact. Xerox copy of the statement showing the biodata submitted by the A.E.M, dated 27/2/89 is annexed hereto and marked Annex "A3". Annex "A3"

6(iii)(b)

The applicant submits that besides he has also passed Hindi Ratha examination which is equivalent to Master's degree in Hindi. He has also done the external course of Homeopathy and he is R.M.P. which is recognised by the State Government. Xerox copy of the R.M.P. certificate in Homeopathy is annexed hereto and marked Annexure "A7". The applicant has also done Annex "A7" the course of First Aid to the Injured as certified by the St. John Ambulance Association copy whereof is annexed hereto and marked annexure "Annexure A8". Xerox copy of Annex "A8" pass certificate in Hindi Ratna which is equivalent to ~~Annex "A9"~~ Master's degree. ~~is annexed hereto and marked Annex "A9"~~.

//3//

Annex "A10"

Applicant further submits that he has undergone vasectomy operation which enables him for promotion. ~~Verex copy of certificate of vasectomy operation undergone by the applicant is annexed hereto and marked annexure "A10"~~.

Annex "A11"

Applicant submits that he also appeared in the selection for T.C.E. Examination, but unfortunately the result was not declared and he could not clear the promotion to Cl.IV post wherein he had appeared. The applicant submits that in the recent days he was called for Cl.III promotion by selection due to shortage of commercial department group "C".staff by order, ~~dated 26/2/89~~, but as he was over-aged by two years he was not allowed to appear in the selection test. Copy of railway pass and call letter for selection for Cl.III post are annexed hereto and marked annexure "A11" collectively. Applicant submits that after filing the original application there were selection tests held for the post of P.Way Mistry but he was not called for to the said test which is illegal and ultra-vires Arts 14 & 16 of the Constitution. Copy of the order, dated 27/2/89 where though the applicant was eligible was not allowed to appear at the selection.

Annex "A12"

~~annexed hereto and marked annexure "A12"~~

Applicant therefore submits that though he is eligible to appear in the selection for the post of P.Way Mistry and also for the promotion to Commercial Department Cl.III post of Clerk he is not being considered even though he is making representations since from 1975 onwards.

//4//

Applicant submits that if the Railway Administration had considered his earlier application and allowed him to appear at the selection and pass, he would have got his class III promotion in his own right as he has passed SSC.

6(iii)(c)

The applicant submits that persons similarly situated and working as Gangman belonging to Rajkot division, i) Shri S.R.Kharedia, ii) Shri Sakhrabhai, iii) Shri Ranchhod Amra and iv) Pannalal Gula are all promoted to the post of P.Way Mistry even though they are not qualified after passing the selection and the denial of promotion to the applicant even though he has passed SSC is violative of Arts. 14 & 16 of the Constitution being arbitrary. Applicant submits that he also deserves equal protection of law and equality amongst equals and deserves to be promoted to the post of P.Way Mistry as the other similarly situated employees as aforesaid. Applicant submits that the Railway Administration on account of saturation has not filled up the promotional posts of Keyman and Mates as they cannot be filled up on account of those posts reserved for SC/ST and illiterate candidates and the applicant though educated could not get promotion as they are reserved for illiterate candidates as aforesaid. Applicant says that the railway administration has arbitrarily introduced age bar of 35 years for the selection to the post of Cl.III in Commercial department which is illegal and unconstitutional as in the matters of promotion artificial barrier of age of 35 years deprives the applicant of his getting due promotion and therefore such a bar deserves to be declared illegal and unconstitutional. Applicant submits that when he was within

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age limit he was not called for and now age bar is introduced which amounts to permanent incapability to get promotion.

6(iii)(d)

Applicant submits that the respondent No.2 awarded a merit certificate for good work and also awarded two cash awards of Rs.25/- one in 1987 and another one on 16-4-1990. Applicant submits that he is doing good work and doing his duty diligently and faithfully to the department and he is only working as Gangman since his initiation in the service with the respondent-railway department and he is 39 years old and he is yet to serve the respondent-railway upto 58 years of age and that too without further promotion.

6(iii)(e)

Applicant submits that there is a Refreshers' course for training after passing which the person is promoted to the post of P.Way Mistry. Applicant is eligible for Refreshers' course and he can be given training in the Refreshers' course and can be given further promotion. Applicant submits that what the Railway can minimum do is to give Refreshers' course training and then promotion to the post of P.Way Mistry. Applicant is the son of retired railway employee and no other member from his family, either brother or sister, have been given employment on compassionate grounds. Applicant submits that he could be given promotion on compassionate grounds also.

//6//

2. The following para may be added in the prayer/relief para 9(a) as 9(aa):

"9(aa)

" Your Honour be pleased to declare the selection of staff due to shortage of Commercial clerks Group "C", dated 21-7-89 illegal, unconstitutional being arbitrary and violative of Arts 14 & 15 of the Constitution in as much as by introducing bar of 35 years of age the petitioner is not allowed to appear in the said selection even though he was otherwise eligible and called for the selection in the last moment he was informed that he is over-aged and set aside the same after allowing this application for amendment"

Ahmedabad,

(G.A. PANDIT),
Advocate for applicant.

Dated: 26-3-91

Verification

I, Amarsingh Mendu, s/o Mendu Gulab, aged 40 years, working as Gate-keeper in the office of C.P.W.I(E), Mehsana, do hereby verify that the contents of the application are true to my personal knowledge, information and belief and I believe the same to be true on legal advice and that I have not suppressed any material fact.

Ahmedabad,

Dated 26-3-91

Amarsingh Mendu
Signature of applicant

Identified by and verified by me

G.A. Pandit,
Advocate for applicant.

Filed by Mr. G.A. Pandit
Learned Advocate for Petitioners
with second set of 2 copies
copies (copy sent) not moved to
other side

Dt. 27/3/91

By Registrar C.A.T.O.
Ahmad Bench

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

M.A. No. 126 of 1991.

IN

O.A. No. 473 of 1989.

Shri Amarsingh Mandu. Applicant.

Vrs.

Union of India & ors. Respondents.

I N D E X .

Annexures	Description	Page No.
-	Reply by the Respondent	7 to 12
Anx R.1	Copy of the Railway Board's letter dt. 19-8-1988.	13

I will serve copy to Mr. Pandit
20/8/91

Received copy
for Advocate
29/8/91

Ahmedabad.

Dt: 30/8/91

(B.R. Kyada)
Advocate for the Respondent.

Tendered in
Court,
on 30/8/91

(21) 7

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

M.A. No. 126 of 1991

IN

O.A. No. 473 of 1989.

Shri Amarsingh Mandu Applicant.

Vrs.

Union of India & Ors. Respondents.

Reply by the Respondents.

1. At the outset the Respondents states and submits that the averments made in this Miscellaneous Application is not correct and is denied hereby. The Respondents states that they have already filed the reply in the Original Application and the same may be considered a part of this reply. Keeping the above the Respondents states that the Applicant is not having the requisite qualification of 10 + 2 with Science and Maths and therefore he was not considered eligible for selection to the post of P.W. Mistry in the Scale of 1400-2300 (RP) against the limited departmental examination. The Applicant has himself admitted in para 6(iii)(a) that he is only SSC passed and therefore the question of not considering him does not arise.

2. With reference to para 6(iii)(a) the averments that are made therein are not correct and is denied hereby. The Respondents state that though the Applicant

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has passed Hindi Ratna and R.M.P. in Homeopathy it has no relevance with the educational qualification required for the post of P.W. Mistry. Similarly his undergoing Family Planning Operation and doing the course in First Aid has no relevance with the case. As such there is no provision under the Rules to consider the above qualifications. The Applicant knows that he was not considered eligible for the post of the Commercial Department as he was overaged, as per the age indicated in the Notification and for want of the required qualifications for the Post of PWM. And therefore the question of not calling the Applicant for selection does not arise. As there was no candidate available against the direct recruitment quota and they were not expected in the near future these vacant posts were filled in by calling applications from the Staff fulfilling the requisite conditions from all the departments as given in the Annexure A.2 of the OA. And only the eligible staff who qualified in the selection was selected against this quota.

3. So far as his allegation regarding eligibility for promotion to Class III posts in the Commercial Dept. is concerned, it is incorrect, because departmental promotion against ranker's quota is given to the eligible candidates of that department only who possess the requisite qualification and on passing the prescribed selection. The Applicant has to seek further advancement as per the rules in force in the Engineering department i.e. the department

in which he is presently working, and therefore the allegation is without substance.

4. With reference to para 6(iii)(C) the averments made in the said para are not correct and is denied hereby. It is further submitted that as per the Railway Boards letter dt. 19-8-1988, Circulated under General Manager (E) Western Railway, Churchgate Bombay's letter dt. 22/28-9-1988, 50 % of the vacancies will be filled by seniority-cum-suitability through a suitability test, 25% of the vacancies will be filled through a limited departmental examination from amongst those Gangmen and Keymen who have the necessary Qualification of 10 + 2 with Science and Maths and have put in a minimum of 3 years regular service after regularisation. In case adequate number of serving eligible employees do not qualify in the Limited Departmental Examination, the Shortfall would be filled by direct recruitment quota through Railway Recruitment Board and 25% posts will be filled by direct recruitment by Railway Recruitment Boards, the prescribed minimum qualification being 10 + 2 pass with Science and Maths. ¹³ The copy of the said Circular is enclosed herewith marked as Annexure ¹³ R.1.

ANX R.1

5. The contention regarding Shri Sakhrabhai, Ranchhod Amra and Pannalal Gula, all Gangmen were promoted to the post of P.Way Mate. It is further submitted that Shri Ranchhod Amra and Sakhrabhai were promoted to the post of P.Way Mistry after passing the suitability test

against 50% quota reserved for rankers and they were working as P.Way mate in the scale of Rs. 950-1500(RP) and at the time of their promotion they were not Gangmen as contented by the Applicant in this application.

Regarding the contention that Shri Khared~~la~~ and Panabl Gula, Gangmen were promoted to the post of P.Way Mistry the same is not correct. I call upon the Applicant to give strict proof regarding the above contention and without strict proof the Respondents are not in a position to reply to the said alegation. So far as violation of any rules or Order, the Respondent states that they have not violated any rules and they have acted as per the Rules and therefore there is no substance in the allegation.

6. The Respondents states and submits that the post of Keyman is filled on the basis of seniority-cum-suitability and so far as Mate is concerned, it is filled in by selection from amongst the keymen on the basis of their seniority on that unit. So far~~a~~ as SC/ST is concerned the same is filled up on the basis of 40 point roster which is now restricted to 15% and 7½% respectively and these posts are not filled up by General Candidates.

7. The Respondents further states that the Selection done in the year 1989 vide Notification dt. 21-7-1989 (Annexure A-2 of O.A.) was against direct recruitment quota as a one time exemption who fulfilled the requisite conditions. And there is nothing illegal, artificial or

(23) 11

arbitrary in it. So far as the Petitioner is concerned, he is ^{not} eligible to seek promotion in the Commercial department earlier, as it is open to only those who are working in that department. The selection in the year 1989 in which the applicant had applied was done as a one time exemption against direct recruitment quota against the recruitment made by the Railway Recruitment Board from the open market and therefore it was made open to all eligible employees of all departments. The Applicant does not have any claim for considering him for promotion in Commercial department against rankers quota which is meant for employees of that department only and he has to seek his promotion in the Engineering department only on the basis of his seniority and passing the necessary suitability/selection as the case may be.

8. With reference to para 6(iii)(d) the allegations made in the said para are not correct and is denied hereby. The Respondent further states that the merit Certificate and cash award of Rs. 25/- does not entitle him for any promotion. Also the fact that he is 39 years of age and that he has to serve upto 58 years also does not make him eligible for promotion. Promotion is given on the basis of eligibility, seniority and passing the suitability/selection as prescribed.

9. Regarding the Applicant's contention that he should be sent for refresher Course, it is submitted that there is no refresher course for Gangmen. It is only

prescribed for the Engineering Supervisors and the P. Way Mistry, SOCR Mistry, Inspector of Works and Permanent Way Inspectors. The contention that the applicant is the son of a retired Railway employee and that his brother or sister is not given appointment on compassionate ground, it is submitted that under the rules there is no such provision for the appointment of sons and daughters of retired Railway employees. There are also no rules to give any promotion on compassionate grounds in this case. There are many unemployed youth with more qualification than the applicant and the cases of unemployment is a National issue.

10. The other allegations are baseless and concocted and are afterthought. Looking to the above, the Respondents states that the application of the Applicant deserves to be dismissed limne.

Ahmedabad.

Dt: 

(B.R. Kyada)
Advocate for Respondents.

For and on behalf of the
Union of India.



Senior Divisional Engineer,
Western Railway, Rajkot.

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

I, I.B.Dave, Senior Divisional Engineer, Western Railway, Rajkot, do hereby verify that the contents of this reply are true on legal advice and that I have not suppressed any material facts.

Ahmedabad.

Dt: 20/1/19


Senior Divisional Engineer,
Western Railway, Rajkot.

MA/81/555/95
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

~~O.A.~~/~~T.A.~~/M.A./~~B.A.~~/~~C.A.~~No. 195 in OA/473/89

MR. Amarasinh, Mendu

APPLICANT (S)

MR. G. A. Pandit

COUNSEL

VERSUS

U.O. 1. & O.O.

RESPONDENT (S)

COUNSEL

DATE	OFFICE REPORT	ORDER
	Modification of order.	

708-555/95

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Misc. Application No. of 1995

in
O.A. No. 473 OF 1989.

Shri Amarsingh Mendu,

G.A.K.C. 191/A, C.P.W.I.(N)

Western Railway, Mehsana Applicant

versus

1) Union of India

(Notice to be served through

General Manager, ~~Chux~~ Western Railway

Churchgate, Bombay)

2) Divisional Manager (P)

Western Railway, Rajkot Opponents.

The Applicant abovenamed most respectfully submit as under:-

1. The applicant had preferred aforesaid O.A.No.473/89 before this Hon'ble Tribunal and the same has been disposed of by this Hon'ble Tribunal on. 8/8/1994 , copy whereof is annexed hereto and

Annex. 'A' marked Annexure 'A', to the present application for kind perusal of this Hon'ble Tribunal.

2. The applicant further submits that pursuant to the aforesaid order passed by this Hon'ble Tribunal's Bench, the applicant has

be

(LHO)
G.A. from art.

has been directed to submit a representation to the Competent Authority and therefore, a representation has been preferred by him on 26.5.95, which has come to be decided by the Competent Authority i.e. Additional Divisional Railway Manager, Western Railway Rajkot by its order dated 19/7/95, copy of which is hereto annexed and marked Annexure 'B' to the present application, whereby observation made in the order passed by this Hon'ble Tribunal with regard to considering the representation of the Applicant in accordance with the present rules and regulations, which has created a wrong impression to the deciding authority and therefore, so as to get a correct decision from the respondents, the present application is required to be filed for modification in the aforesaid order dated 8.8.94. Annex.'B'

3. The applicant submits that the Rules and Regulations, which can be made applicable to the applicant are old rules & Regulations and therefore, because of the observations made by this Hon'ble Tribunal with regard to considering representation in accordance with the present rules and

3

regulations which can be made applicable to the applicant are old Rules and regulations and therefore, because of the observations made by this Hon'ble Tribunal with regard to considering representation in accordance with the present Rules & Regulations to the Competent Authority, and as such his representation has been wrongly rejected by not considering him eligible for promotion to the post of T. Way Mistry. In fact he is qualified according to old Rules & Regulations as he has passed standard 11th for the post in question, whereby he is required to pass only 10th standard for the consideration to the said post according to old Rules & Regulations.

Under such circumstances, this Hon'ble Tribunal may be pleased to modify or correct the aforesaid observations made in para 2 in its order dated 8.8.94, then his representation can be reconsidered and his grievance can be redressed by the Competent Authority accordingly and therefore, this Application.

4. The Applicant, therefore, prays that:

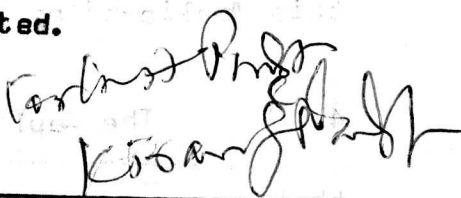
(A) Your Honour be pleased to allow this application by modifying and/or

correcting observations made in the order dated 8/8/94 at Annexure 'A' by deleting the word 'present' in the sentence "the respondents may consider the same in accordance with the present rules and regulations so that applicant can make representation a fresh as stated above and respondents may be directed to consider the same in accordance with the Old Rules and Regulations , as stated above, by modifying and/or correcting the order at Annexure 'A' and directing respondents to consider the same in accordance with the then Rules and regulations in force, in the interest of justice , equity and fair play.

(B) Such other and further reliefs as may be deemed just and expedient in the facts and circumstances of the case , may be granted.

Ahmedabad.

Dt. 14/8/95.


K. S. Anand

5

A F F I D A V I T

I, the abovenamed applicant, do hereby solemnly affirm and state on oath that what is stated hereinabove is true to my knowledge and submissions of law are believed by me to be true.

Solemnly affirmed at)
Ahmedabad on this 14th)
day of August, 1995.) Amarsingh Mendoo

Identified by me.

Clerk to Advocate.

Submitted.

Application has been scrutinized and not found in order.
~~Affidavit is~~ ~~unsigned~~. Annexures not filed. We may notify
this defect.

ccedap
04.09.95

SOCT 04-9-95

DRCT

Resubmitted.

Objections not complied till today. May be placed before
Honble Bench for order.

ccedap
25.09.95

SOCT 22-9-95

DRCT

Before the Central Admn. Tribunal

Ahmedabad Bench

Misc. Appln. No.

of 1995

in

O.A. No.473 OF 1989.

Shri Amarsinh MenduApplicant

v s.

Union of India & anr .. Opponents.

APPLICATION FOR CORRECTION
IN THE ORDER DATED 8/8/94.
PASSED BY THIS HONIBLE TRIBUNAL

M/s. Pandit Associates,
Advocates for the Applicant,
5-A. Sattar Taluka society,
Opp. High court of Gujarat
Ahmedabad.9.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. CA/11486 M. O. 473/89

Transfer Application No. 5

CERTIFICATE

Certified that no further action is required to be taken and
the case is fit for consignment to the Record Room (Decided).

Dated : 29/11/57

Countersign :

R29192

Section Officer.

K. B. G. U. S.
Signature of the Dealing
Assistant

I N D E X - S H E E T

NAME OF THE PARTIES

VERSUS

SR. NO.	DESCRIPTION OF DOCUMENTS	PAGE
①	Application	11
②	Reply	12 to 13
	Judgment dt. 10/11/57	

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

CAT/JUDICIAL SECTION

Submitted:-

Contempt

Original petition No:-

of

Miscellaneous petition No.

of

Shri

Nimarengan Mendu

Petitioner(s)

Versus

UOI 2008

Respondent(s)

This application has been submitted to the Tribunal by

Shri

G A Pandit, Adv

Under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985, and Central Administrative Tribunals (Procedure) Rules, 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. *S.M. 5 (1) to (9), 7 & 8.* The applicant advocate may be asked to rectify the same within 14 days/ draft letter is placed below for signature. *V.P. not filed.*

Asstt. Secy
Asstt. Secy

S.O. *27/7/95*
D.R. (J)

Dis, obj notified. las
27/7/95

Submitted

objections have not been complied with. If approved, one more weeks time will be given to rectify the obj.

las
14/8/95

S.O. (J)
14/8/95

D.R. (J)

*K8/6/95

Submitted

Kindly see above orders. Objections have not been complied with - still date. If approved, the matter will be placed before this Bench for orders.

las
23/8/95

S.O. (J)
23/8/95

23/8/95
D.R. (J)

CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH

Diary No. CA 89/59 1995

C P (Civil/~~Criminal~~) 1995 in OA/473/89

Between

Amaranigh Mendu Petitioner (s)

By

Shri G.A. Dandul
(Name of the Counsel, if any)

And

UOL & anr Respondent (s)

By

(Name of the Counsel, if any)

Subject : Promotion (No.) Department : R145 (No.)

REPORT OF THE SCRUTINY OF CONTEMPT OF COURT PETITION (CIVIL/~~CRIMINAL~~)

1. Whether the name (including as far as possible, the name of father/mother/husband), age, occupation and address of the petitioner (s) and the respondent(s) are given ? yes

Note: Where respondent is an officer, his name, designation, and office address alone are enough.

2. Whether the parties impleaded as petitioner(s) and respondent (s) are proper ? yes

Note : In case of Civil contempt for disobeying the order of the Tribunal, it is the party in whose favour the direction is issued that can be impleaded as petitioner and the party against whom the direction is issued can be impleaded as the respondent.

- (b) In case of criminal contempt, the party who is alleged to have committed contempt, that can be impleaded as respondent.

3. Nature of the Contempt (Civil or Criminal and the provisions of the Act invoked ? Civl

- 4.(a) Date of alleged Contempt ? *N.K*
- (b) Date of filing of the Contempt Petition ? *25-7-95*
- (c) Whether the petition is barred by limitation under Section 20 of the Contempt of Courts Act, 1971 ? *no.*
5. (a) Whether the grounds and material facts constituting the alleged contempt are given ? *yes*
- (b) Whether the grounds and facts alleged in the petition are divided into paragraphs and numbered ? *yes*
- (c) Whether the petition is accompanied by supporting documents or certified/ photostat(attested) copies of the originals thereof ? *no*
- (d) If the petitioner relies upon any other document(s) in his possession, whether copy of such document(s) is/ are filed along with the petition ? *no*
- (e) Whether the petition and its annexures have been filed in a paper-book form and duly indexed and paginated ? *Index not filed.*
- (f) Whether three complete sets of the Paper-books have been filed ? *Two sets only.*
- (g) Whether equal number of extra copies of paper-books have been filed in case there are more respondents than one ? *no.*
6. Whether the nature of the order sought from the Tribunal is stated ? *yes.*
7. Whether the petition is supported by an affidavit sworn to by the petitioner verifying the facts relied upon ? *Affidavit incomplete*
- Note: No affidavit is required if the Motion is by Attorney General/ Solicitor General/Additional Solicitor General.
8. Whether the petitioner or his Advocate have signed the petition indicating the place and dated ? *yes. Place & date not shown.*
9. In case of Civil Contempt whether the petition is accompanied by a certified copy of the judgment/degree/order/writ/ undertaking alleged to have been disobeyed by the alleged contemner ? *no*
10. (a) In case of criminal contempt, not covered by Section 14* of the Contempt of Courts Act, whether the petitioner has produced the consent obtained from the Attorney General/Solicitor General/ Additional Solicitor General ? *no*
- (B) If not, whether the petition contains the reasons thereof ?
- * Contempt committed in the presence of or hearing of the Member (s).

11. Whether the petitioner had previously made a Contempt Petition on the same facts ? If so, have the following been furnished :- no
12. (a) Number of the petition ? / na
- (b) Whether the petition is pending? and
- (c) If disposed of nature/result of the disposal with date ?
12. Whether the draft charges are enclosed in a separate sheet ? yes.

FOR ATTENTION :

Orders on the administrative side have to be obtained from the Chairman/Vice Chairman or Member designated in case of action for criminal contempt, as required by Rule 7(ii) before placing for preliminary hearing.

Section Officer Ans
27/2/95

Deputy Registrar [Signature]

REGISTRAR

C.A. St. No. 59/95 in

OA/473/89.

CA/114/96

Shri Amar Singh Mendu --- Applicant

vs.

1. Shri M. Ravindran
G.m. (Western Railway)
Bombay

2. Shri Agha
D.R. m.
Rajkot --- Respondent

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03.	Anx. A/2 Representation dated 20/09/94	09-10
04.	Anx. A/3 Draft chart	11.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

C.A.No. 112 OF 1995

in

O.A.No. 473 OF 1989

Shri Amarsingh Mendu

G.K.L.C./91/A

CPWI (N)

Western Railway,

Mehsana.

..... Applicant.

Versus

1. Shri M. Ravindran,
General Manager, Western
Railway, Chuchgate,
Bombay.
2. Shri Agha,
Divisional Railway Manager,
Western Railway,
Kothi Compound, Rajkot. Respondents.

1) The applicant begs to approach this Hon'ble Tribunal with this Contempt Application on judgment and order dated 8-8-1994, a copy of the same is annexed hereto and marked as Annexure A/1., whereby the Hon'ble Bench consisting of Hon'ble Dr. R.K. Saxena and Hon'ble Mr. K. Ramamoorthy directed the respondents Railway Administration to consider the representation of the applicant. A copy of the said representation through proper channel and the acknowledgement of the same dated 20th September, 1994 and 4-10-1994 respectively are annexed hereto and marked as Ann.A/1 collectively for the ready reference.

Ann.A

Ann.A/1

2 to
K. Abanindran
Advocate.

2) The applicant submits that though as early as 4-10-1994 the representation has reached through proper channel to respondent No.2 ignoring the stipulated time direction of 10 weeks from the date of the representation , the respondents neither consider the representation nor replied the applicant.

3) The applicant submits that he filed O.A. for being given the post of Permanent Way Mistry. It is submitted that he has passed the SSC examination old course while according to the eligibility it was required to pass 10 plus 2 in the new course. The applicant is working at present as Gatekeeper at Sidhpur. He joined his service as a Class IV employee and he is working since 1970 as Class IV since. The applicant is entitled and eligible for promotion to the post of P.W.Mistry which is a Class III post. The applicant also had appeared in the commercial post of T.C for that post the Railway Administration did not consider him as age barred so he is permanently stagnated in the Class IV post as a Gatekeeper even though he is SSC pass as early as 1969. Under the circumstances this Hon'ble Tribunal directed the Railway Administration to

- 3 -

consider his case for the post of Permanent Way Mistry which can be given to the applicant even by allowing him to do the course prescribed by Railway Administration after training at Udaipur Training School.

4) The applicant submits that the Railway Administration has not applied mind at all to the direction of this Hon'ble Tribunal and thereby committed contempt of court by not replying within this stipulated time.

5) The applicant therefore, prays that;

(A) Your Honour be pleased to allow this application and issue notice to the respondents Railway Administration and further be pleased to direct them to allow his representation and give him the post of Permanent Way Mistry as early as nearly seven years has passed he is approaching this Hon'ble Tribunal for redressing his grievance.

(B) Your Honour be pleased to allow this application with costs in the facts and circumstances of the case.

(C) Any other order or direction as may be deemed fit in the interest of justice may kindly be passed.

A F F I D A V I T

I, Amarsingh Mendu, Age: adult,
working as G.E.L.C. under C.P.W.I.(N),
Western Railway, Mehsana, Rajkot division,
do hereby solemnly affirm and state on oath
that what is stated hereinabove is true to
the best of my knowledge, information and
belief and I believe the same to be true
and I have not suppressed any material fact.

Ahmedabad.

DL: 4-7-1995.

Amarsingh Mendu
Signature of the Applicant

Identified by me:

(G.A. Pandit)
Advocate for the Applicant.

Solemnly affirm before me

P. G. Pandit
28/08/96 Advocate
for
G. A. Pandit

(5)

Annexure - A/1

CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

30

O.A. NO.

473/89

T.A. NO.

DATE OF DECISION 8-8-94

Mr. Amarsingh Mendu

Petitioner

Mr. G.A. Pandit

Advocate for the Petitioner (s)

Versus

Union of India and Others

Respondent

Mr. E.R. KyaGa

Advocate for the Respondent (s)

CORAM

The Hon'ble Mr.

K. Ramamoorthy

Member (A)

The Hon'ble Mr.

Dr. R.K. Saxena

Member (J)

आदेश की संज्ञा में प्रेषित की गई है।
Application, 145

Ms. A. Pandit

25-5732-81-
322369 & 322379
2298298 27-8-94

27-8-94
27-8-94

(7)

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2

Shri Amarsingh Mendu
G.K.L.C. 91/A
CPWI (N)
Western Railway,
Mehsana.

Applicant.

Advocate Mr. G.A. Pandit

Versus

1. Union of India
Notice to be served through
The General Manager,
Western Railway, Churchgate
Bombay.
2. The Divisional Railway Manager (E)
Western Railway, Rajkot.

Advocate Mr. B.R. Kyada

O R A L O R D E R

In

Date: 8-8-94

O.A. 473 of 1989

Per Hon'ble Shri K. Ramamoorthy

Member (A)

This application has been filed because the applicant has been left out from both the limited departmental examinations for Permanent Way Inspector as also ^{from} ~~for~~ the post in Commercial Department. So far as the first examination, namely for Permanent Way Inspector is concerned, the respondents have stated that the applicant did not possess the necessary qualification of S.S.C. with Science and Maths subjects. It is the contention of the applicants' counsel that the applicant was an old S.S.C. before the 10 + 2 stream came into existence. In

...3...

2

In fact he has passed the examination with English. The counsel for the applicant, however, states that in the absence of the certificate he is not able to confirm that Science and Maths subjects were also included in his curriculum. The learned counsel for the applicant states that looking to the long service put in by him his case should be considered even within the discretionary powers of the authorities to relax the condition of educational qualification. The learned counsel for the applicant states that the applicant belongs to a family which has served the Railways as his father was also in the employment of the Railways. For this special consideration the applicant has argued that he shall make a special representation to the respondents within the next fifteen days.

2. The fact remains that the applicant has lost considerable time of about six years in pursuing the C.A. before the Tribunal. If therefore, the applicant makes a representation as stated above, the respondents may consider the same in accordance with the present rules and regulations and convey their decision within a period of 10 weeks on receipt of the representation. The petition is disposed of with above directions. No order as to costs.

Sd/-
(Dr. R.K. Saxena)
Member (J)

Prepared by: K 2918

Checked by: 2918

True Copy

Sd/-
(K. Ramamoorthy)
Member (A)

*AS.

True copy
P. B. M.

Central Board of Secondary Education

(9)

Amarsingh A/2

32

From ;

Amarsingh Mendu,
CKLC No. 191 A,
Under CPWI(N)MSH,

Date ; 19.3. 1989

Date ; 20.9.1994

To

DRM(E), Rajkot

Through Proper channel.

Subject ; Request for post of P.Way Mistry-
United Departmental Examination for
Promotion to class III post of P.Way Mistry-
scale Rs. 1400-2300 (FP).

Ref ; Your letter No.EE/1025/5 LDE of 27-2-89.

Ref ; In the central Administrative Tribunal Ahmedabad
bench date of Decision 8.8.94.

Respected Sir,

I the undersigned most humbly and respectfully
beg to lay the following few lines for your kind and
sympathetic consideration please.

I beg to apply for the post of P.Way Mistry
Scale Rs. 1400-2300 (RP).

The bio-data are as under ;-

1. Name ; Amarsingh mendu
2. Designation ; GKLC No. 191A
3. Working under ; CPWI (N)MSH
4. Date of birth ; 1.10.1949
5. Date of appointment ; 21.1.1971
6. Rate of pay ; 825-1200
7. Education qualification ; old SSC exa,XI Std. Passed.

(10)

: 2 :

8. Son of Retired P.W.I. Shri Mendu Gulab

ubnem dnizarn

A 191

Please ~~ix~~ kindly consideration my

case early.

8.01 : 9760

0001.0.08 : 911

yours faithfully

Amarsingh Mendu
Amarsingh Mendu,

True copy

Pom

(Gatekeeper;)

For notification Examination for
Provision to class III post of P.W.I. Ministry
.. (91) 0000-2300 (191)

08-8-78 to 101 0000-2300 (191)

.. (91) 0000-2300 (191)

.. (91) 0000-2300 (191)

.. (91) 0000-2300 (191)

.. (91) 0000-2300 (191)

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.. (91) 0000-2300 (191)

.. (91) 0000-2300 (191)

.. (91) 0000-2300 (191)

(11)

Amur. A/3

33

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

C.A.No. 1/2 OF 1995

in

O.A.No. 473 OF 1989

Shri Amarsingh Mendu.

..... Applicant

v/s

Union of India & Ors.


..... Respondents

DRAFT CHARGE

The respondents Railway Administration very particularly Shri Agha, Divisional Railway Manager, Western Railway, Rajkot has committed contempt by ignoring the direction of this Hon'ble Tribunal to decide the representation within 10 weeks from the date of judgment, the representation was made on 20-9-1994 and reached through proper channel to the department on 4-10-94, nothing is done so far and thereby the respondents have committed contempt of the court deserving suitable action by this Hon'ble Tribunal.

Ahmedabad.

Dt. 25/7/95


(G.A. Pandit)
Advocate for the Applicant.

C-II
31-12-96

Reply/Response/Written Submissions
Filed by Mr. Askoth
Learned Advocate for Petitioner
Independent with second set. H.7
Copy served/not served & other

(12)
34

29-11-96

By Registrar C.A. 112
Ahmedabad

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

C.A. NO. 114 OF 1996

IN

O.A. No. 473 OF 1989

Amarsingh Mendu

Applicant

V/S.

Union of India & Others.....

Respondents

I, R.N. Aga, Divisional Railway Manager, Western
Railway, Rajkot submit as under:

1. The averments made in the application are denied unless specifically admitted hereinafter in this reply. I say that this application is time barred and even otherwise the same is not maintainable as there is no willful disregard or disobedience of the orders passed by this Hon'ble Tribunal. Thus, this application is not maintainable and the same be dismissed.

2. As regards averments in para 1 to 3, the same are denied. The applicant had filed OA No. 473/89 to call him and allow to appear in the LDCE Examination for promotion to the post of P.Way Mistry scale Rs.1400-2300 (RP) will be filled as under:

- (i) 50% direct recruitment through RRB
- (ii) 25% by rankers quota by seniority-cum-suitability.
- (iii) 25% L.D.C.E.

(ii) Against the 25% vacancies to be filled by rankers quota by seniority cum suitability, only regular P.Way Mate scale Rs.950-1500 (RP) are eligible to be called

have served
by Mr. Shri Pandit
Askoth
29-11-96

for the suitability test for the post of P.Way Mistry, since the applicant has been working as G. keeper scale Rs.825-1200 (RP) and therefore he is not eligible to call for eligibility test for promotion to the post of P.Way Mistry scale Rs.1400-2300 (RP). Since, the applicant working as G. Keeper his next avenue of promotion is for the post of Keyman and further as P.Way Mate scale Rs.950-1500 (RP)

(iii) Against the 25% vacancies to be filled up through LDCE exam from amongst G'Man/G'Keeper and K'Man who have passed 10+2 with Science and Mathematics and have put in minimum 3 years regular service and those who have passed old SSC with Science and Maths prior to 1979, are eligible to appear in the LDCE Exam, and this condition was clearly mentioned in this office Notification No.EE/1025/5 (LDCE) dated 27/2/1989. As the applicant was only old SSC passed, as stated by him but no certificate or mark sheet to prove that he has passed old SSC with Science and maths and therefore he was not considered eligible to appear in the examination. As per Hon'ble Tribunal order dated 8/8/94, in O.A. No. 473/89, the applicants representation was examined and replied correctly vide this office letter No. E/649/6/71 (CAT) (Temp) dated 19/7/95. Again applicant has filed M.A. S.T. 555/95 in O.A. No. 473/89 for seeking correction in earlier order dated 8/8/94. The Hon'ble Tribunal vide it's order dated 28/11/95 in MA ST No.555/95 has clarified that "An extant rules and regulations" may be read in place of "Present rules and regulations" in para-2 of the order dated 8/8/94 again in reference to Tribunal's order dated 28/11/95 in MA/ST/555/95 applicant representation was examined and replied accordingly vide this office letter No. E/649/6/71 (CAT) (T) dated 14/6/1996.

3. As regards para 4, it is submitted that the applicant has correctly been replied as per extant rules and regulation and Tribunal's orders has been implemented and therefore there is no contempt of court.

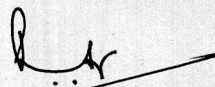
4. As regards para 5,A,B,C, it is submitted that as already explained in preceeding paras, the applicant is not having certificate or mark sheet to prove that he has passed old SSC with Science and Maths and therefore he was not considered eligible to appear n LDCE Exam, for promotion to the post of P.Way Mistry scale Rs.1400-2300 (RP) and therefore, there is no contempt of Court. Hon'ble Tribunal may please be requested to discharge the contempt notice as Tribunal's order has correctly been implemented.

In view of the above reply, the notice issued against the respondents deserves to be discharged and proceedings be dropped to meet the ends of justice as there is no violation of the orders of the Hon'ble Tribunals in any manner.

Under the circumstances this application has no merits and the same be dismissed and proceedings be dropped and notice discharged.

Rajkot

Date : 22-10-1996

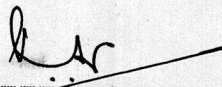

For and on behalf
of Union of India

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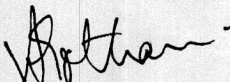
I, R.N. Aga, , Divisional Railway Manager, Western Railway, Rajkot, do hereby on solemn affirmation and on oath state that I am conversant with the facts of the case and as such I say that whatever stated herein para 1 to 4 are true to the best of my knowledge, information, legal advice and I believe the same to be true.

Place : Rajkot

Date : 22-10-1996


R.N. Aga
Divisional Railway Manager,
Western Railway, Rajkot

Identified by me.


(Anil S. Kothari)
Advocate