

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A. No. 510 OF 1989.

~~Ex-A-Part~~

DATE OF DECISION : 30-7-1992.

Nanik Udham Agnani, Petitioner

Mr. P.K. Handa, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. N.S. Shevde, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Vice Chairman.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

Namik Udham Agnani,  
Inspector of Works, Gr.II  
Dabhoi,  
B/27/105, Sant Kanwar  
Colony, Vadodara 390 006.

..... Applicant.

(Advocate: Mr.P.K. Handa)

Versus.

- 1) Union of India,  
Secretary, Ministry of  
Railways, Rail Bhavan,  
New Delhi.
- 2) General Manager,  
Western Railway,  
Churchgate, Bombay-20.
- 3) Chief Engineer,  
Western Railway,  
Churchgate, Bombay.
- 4) Divisional Railway Manager  
Western Railway,  
Pratapnagar, Vadodara.
- 5) Sr.Divisional Engineer(I)  
Western Railway,  
Pratapnagar, Vadodara.
- 6) Brij Mohan Khare  
Inspector of Works,  
Western Railway, Godhra.
- 7) B.D.Morwal, Inspector of Works(F)  
Western Railway, Vadodara.
- 8) Dy.Chief Engineer  
8th floor, Headquarter Office,  
Churchgate, Bombay.
- 9) J.V. Dave,  
Inspector of Works,  
Western Railway, Nadiad.
- 10) D.G.Nishad,  
Inspector of Works (W & D)  
Western Railway, Ahmedabad.
- 11) R.C.Suthar,  
Inspector of Works,  
Western Railway,  
Vadodara.

..... Respondents.

(Advocate: Mr. N.S.Shevde)

J U D G M E N T

O.A.No. 510 OF 1989

Date: 30.7.1992.

: Hon'ble Mr. N.V. Krishnan, Vice Chairman.

The applicant is an Inspector of Works Gr. II



under the control of the respondent No. 4 & 5 namely, the Divisional Railway Manager and the Senior Divisional Vadodara. Engineer. By the order dated 21.3.1988 of the Western Railway Headquarters (Ann. A-2) he was given ad hoc promotion as I.O.W. Grade-II. Yet, he was not promoted. Instead, his juniors have been given ad hoc promotion. The applicant is aggrieved by this order (Annexure A). He has stated that, apparently, he has been overlooked because of certain disciplinary proceedings pending against him. He contends that this cannot be a reason for not giving him ad hoc promotion.

2. He has, therefore, prayed that the impugned Annexure A order dated 28.9.89 be quashed and the respondents be directed to issue a fresh order of ad hoc promotion including his name also.

3. The respondent No. 1 to 5 (Railways, for short) have filed a reply. Though served, other respondents have not filed any reply.

4. The facts mentioned above are generally undisputed. It is also admitted that disciplinary proceedings were initiated on 15.2.1988. The Railway submitted that the applicant was not considered fit for ad hoc promotion as the disciplinary enquiry was pending. According to the applicant, the disciplinary enquiry was dropped by the disciplinary authority as can be seen from the Annexure A-16 communication dated 8.8.91 from the 5th respondents to the Asstt. Engineer, stating that the

proceedings relating to the memorandum charges dated 15.2.88 have been dropped and that the applicant be informed. However, it is admitted by the applicant himself that, subsequently, the ADRM(II) BRC has passed an order on 17.12.91 imposing the penalty of withholding the increments for a period of one year without future effect. The applicant has assailed this ~~letter~~ proceedings in his rejoinder but, apparently, he has not filed any statutory appeal against the Annexure A-15 order. Therefore, that order is in force at present.

5. It is thus clear that when the ad hoc promotion of Respondent No. 6 to 11 was ordered on 28.9.89, disciplinary proceedings initiated in February 1988 were pending, which, ultimately ended in the imposition of penalty.

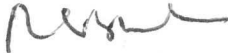
6. During the pendency of a disciplinary proceedings no person can be granted a promotion on a regular though basis, the Departmental Promotion Committee has to consider his name and place its recommendation in a sealed cover which will be opened only if the disciplinary enquiry ends in acquittal and acted upon. For the same reason, even an ad hoc promotion can not be given when such proceedings are pending. There is no need for a closed cover procedure in such a case, because ad hoc promotion is not a right. Had the applicant been acquitted in the departmental enquiry he could have contended - though we do not decide the

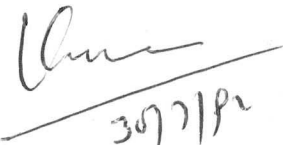
issue - that the non-consideration of his claim for ad hoc promotion should be reconsidered by a Review D.P.C.. In the present case the disciplinary enquiry has ended in imposition of penalty. Hence the respondents could not have given ad hoc promotion to the applicant along with respondents No. 6 to 11.

7. In the circumstances we find no merit in this application.

8. On the date of final hearing the learned counsel for the applicant produced a memo dated 17.6.92 of the 4th respondent promoting him as IOW Grade-I and giving him benefit in the grade from the date his junior Shri M.P. Gupta was promoted as IOW Grade-I.

9. In the result, while we dismiss this application as being devoid of merit, we declare that this will not stand in the way of the applicant from impugning, in accordance with law, the order at Annexure A-15 imposing penalty on him, if so advised and to seek consequential reliefs. No order as to costs.

  
(R.C. Bhatt)  
Member (J)

  
30/7/92  
(N.V. Krishnan)  
Vice Chairman

vtc.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

ORIGINAL APPLICATION NO. 510 OF 1989.

N.U. Aagnani, ..... Applicant.

V/s.

Union of India & Ors. .... Respondents.

I N D E X

| Annex. | Particulars.   | Page No. |
|--------|--|----------|
| -      | Memo of Application.   | 1 to 8   |
| A      | Promotion order of Respondents<br>6 to 11 issued vide letter No.<br>E/E/2319/2/2 Vol.V dt.28.9.89.                                       | 9        |
| A1     | XR Message of Transfer to Dabhai<br>and Transfer order from VG to PRN<br>vide letter No.E/E/839/2/P<br>dt. 12.4.88.                      | 10 & 11  |
| A2     | Recommendation of HQ's office for<br>Adhoc promotion of Engg. Deptt.<br>IOW Gr.I of letter No.E/E/839/5/7<br>VOP.XVII(11) dt. 21.3.1988. | 12       |
| A3     | Representation of Applicant<br>dated 1.5.1989.   | 13       |
| A4     | Recommendation of settle for case<br>of DAR by recognised Trade Union<br>dtd. 2.5.1989.  | 14       |
| A5     | Copy of Rule 9 para 7 of DAR Rule<br>of Railway Model Time Table.  | 15 to 17 |
| A6     | Representation of the applicant<br>dated 20.3.1989.  | 18       |
| A7     | Seniority list of IOW's Engg.Deptt.<br>Class III scale Rs.1600-2600(RP)<br>vide No.E/E/1030/2/4 Vol.I<br>dated 22.11.1988.               | 19 to 26 |
| A8     | Letter of DPO vide No.EP/839/Vol.III<br>dated 9/20.3.1989.   | 27       |

571 556/89  
20/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT AHMEDABAD

○ APPLICATION NO: 510 of 1989,

IN THE MATTER OF ARTICLE 14 AND 16 OF THE  
CONSTITUTION OF INDIA

AND

IN THE MATTER OF RAILWAY MANUAL

AND

IN THE MATTER OF SECTION 19 OF THE TRIBUNAL ACT, 1985.

MATTER BETWEEN.

1. PARTICULARS OF THE APPLICANT:

- |      |  |  |
|------|--|--|
| i)   | Name of applicant                          | Nanik Udhamram Agnani  |
| ii)  | Name of Father                             | Udhamram C   |
| iii) | Designation & office<br>in which employed. | Inspector of Works, Gr.II<br>Dabhoi, in the office of<br>Divisional Engineer(IV) |
| iv)  | Office Address                             | Inspector of Works, Western<br>Railway, Dabhoi.                                  |
| v)   | Address of service of<br>all notices       | B/27/105, Sant Kanwar<br>Colony, Vadodara 390 006.                               |

2. PARTICULARS OF RESPONDENT.

- |      |   |
|------|---|
| i)   | UNION OF INDIA<br>SECRETARY, MINISTRY OF RAILWAYS<br>RAIL BHAVAN NEW DELHI.   |
| ii)  | GENERAL MANAGER, WESTERN RAILWAY<br>CHURCHGATE BOMBAY 400 020                 |
| iii) | CHIEF ENGINEER WESTERN RAILWAY<br>CHURCHGATE BOMBAY 400 020                   |
| iv)  | DIVISIONAL RAILWAY MANAGER<br>WESTERN RAILWAY PRATAPNAGAR VADODARA 390 004    |
| v)   | SR. DIVISIONAL ENGINEER (I) WESTERN RAILWAY<br>PRATAPNAGAR, VADODARA 390 004. |

*M. Deposit  
Rs. 30/-  
Paid with  
Receipt no  
3174 of 30/11/89*

- vi) Brij Mohan Khare  
Inspector of Works, W.Rly. Godhra
- vii) B.B.Morwal, Inspector of Works (F)  
W.Rly. Vadodara
- viii) U.R.Ustoorikar, Inspector of Works,  
C/O Executive Engineer (Construction)  
Western Railway, Vadodara.
- ix) J.V.Dave, Inspector of Works,  
W.Rly. Nadiad
- x) D.G.Nishad, Inspector of Works (W & D )  
Western Railway, Ahmedabad.
- xi) R.C.Suthar, Inspector of Works,  
W.Rly. Vadodara.

fresh address  
supplied by  
pe order  
27/6/96  
clg Dy. chief  
Engineering  
8th floor  
HQ office  
Chandgole  
Bombay  
007  
11/7

3. PARTICULARS OF THE ORDER AGAINST WHICH  
APPLICATION IS MADE.

- i) Order No: E/E/839/2/2 Vol.V Ex.A
- ii) Date 28.9.1989
- iii) Passed by Sr. Divisional Engineer(I)  
Vadodara.

iv) SUBJECT IN BRIEF:

The applicant at present is working as Inspector of Works Grade II scale Rs. 1600-2600(RP) in a downgraded post at Dabhoi in the same grade. The applicant was recommended for promotion to the post of Inspector of Works Grade.I scale Rs. 2000-3200(RP) on adhoc basis vide letter No: E/E/839/5/7 Vol.XVII(II) dated 21.3.1988, inspite of that the authorities have transferred the applicant in the same grade to Dabhoi by downgrading the post at Dabhoi. The applicant had made a representation for promotion on 20.3.1989, not only this the authorities have gone further ahead that they have promoted



respondent No:6 to 11 ignoring the seniormost applicant. As per seniority list the applicant stands at 140 whereas respondent 6 to 11 are at S.No.180 and 18 to 185. It is a clear direct violating of the Fundamental Rules of Railways as well the Fundamental rights of the applicant under Article 14 and 16 of the Constitution by respondent No:5, which indicates the malafide intentions to overlook the senior applicant. As no reply is received of the representation, the applicant has to approach the Hon'ble Tribunal for justice.

4. JURISDICTION.

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 limitations prescribed in section 21 of the Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE.

- i) The applicant submits that at present he is working as Inspector of Works Gr.II scale Rs. 1600-2600(RP). The applicant was transferred to RSG Pratapnagar (Dabhoi) vide divisional office letter No: E/E/839/2/10 dated 12.4.1988 (Ann. A.1) at S.No.2.
- ii) The applicant submits that the name of the applicant was recommended for adhoc promotion to the post of Inspector of works grade.I scale Rs. 2000-3200(RP) vide letter No: E/E/839/5/7 Vol.XV. II (ii) dated 21.3.1988 Ann. A.2 at S.No.6 against the existing vacancy; it means at that time, the posts of Inspector of Works Gr.I were vacant in Vadodara division and inspite of that the respondent No.5 has issued the transfer order as shown in Ann. A.1 of the appli-

cation to Pratapnagar in the same grade, with a malafide intention.

- ~~xxx~~ iii) Applicant submit that in the year 1988 a PIP was issued vide divisional office letter No: E/E 16/7/308/6045/1 dated 8.3.1988.
- iv) The applicant further submit that the defence was submitted vide letter No: A/E/2 of 18.3.1988 as per Discipline and Appeal Rules.
- v) The applicant submit that the applicant has requested the authorities vide letter dated 1.5.1989 Annexure A.3 to Sr. Divisional Engineer (3) Vadodara to finalise the case as more than one year had passed and no action had been taken by the authorities, which means the defence submitted by the applicant. The Divisional Secretary of a Recognised Trade Union has also written a letter No: WRMS/ENGG/PRTN/328 dated 2nd May 1988 Ann. A.4 but no further action has been taken by the authorities even to process the case further.
- vi) The applicant submit that as per Railway Board letter No: E(D&A) 30 RG.6-14 dated 20.11.1971, (NR.6641) Ann. A.5, a model time schedule for finalising departmental proceedings in cases of imposition of major penalties.
- As per time schedule para-5 only maximum period of 30 days has been permitted to authorities to fix up the enquiry after receipt of defence to the charge sheet, but in the said case the defence was submitted within a stipulated period of 10 days i.e. on 18.3.1988 and till 30th Nov. 1989, no decision had been communicated either the proceedings are dropped or pending. As per Discipline and Appeal



rules, the proceedings become null and void ~~after~~ after such a long time of one year and 8 months and no action has been taken, inspite of applicant's request to the authorities directly and through Trade union also to finalise the enquiry.

- vii) The applicant submit that a representation was made to the authorities dated 20.3.1989 Ann. A.6 to consider the applicant's name as per headquarter letter shown in Ann. A.2 but there is no effect of even shouting on the deaf ears of authorities who are sitting therewith the malafide intentions.
- viii) The applicant submit that the respondent No.5 has issued the adhoc promotion order memorandum No. E/E/839/2/2 Vol.V dated 28.9.1989 promoting respondent No.6 to 11 skipping the applicant.
- xi) The applicant submit that as per the seniority list issued by Divisional office vide No: E/E/1030/2/4 Vol.I dated 22.11.1988 Ann. A.7, the applicant is shown at S.No.140. The respondent who are promoted (6 to 11) are shown at S.No,180 to 185. It is an adhoc promotion, the adhoc promotion is also to be given as per seniority. The authorities have violated the Fundamental Rights of the applicant under Article 14 and 16 (1) of the Constitution of India.
- x) The applicant submit that the jurisdiction which may be submitted by authorities that a major D.A.R enquiry is pending, for adhoc promotion, it is not to be considered, for the same, Sr. Divisional ~~Engineer~~ Personnel Officer, Vadodara has issued a letter No: EP.839/0 Vol.III dated 9/20-3-1989 at Ann. A.8 which state "until such decision has been finalised to take major penalty D.A.R action, the

promotion of staff to any post in group 'C' and 'D' is not to be withheld."

In the said case, the applicant has submitted the defence on 18.3.1988 and no decision has been taken till date to finalise the enquiry, so the question of withholding the adhoc or even regular promotion does not arise.

In the reference the case reported in S.L.I 1988 (1) 513(C.A.T) between B.B.Sakarwala V/S Union of India and others, the citation is "the applicant has not been suspended and no decision on his disciplinary proceedings has been taken up on the date of promotion, there is no alternative except taking him into consideration even if a regular promotions were to be made, the consideration for adhoc promotion cannot be more rigorous.

The inference drawn from the above case is that if no proceedings have started against the applicant, the promotion of the applicant cannot be withheld and as per Ann. A.8, the Railway authorities have also accepted the same version then why the respondent No. 5 has issued the illegal and discriminatory order. The respondent No. 5 has violated all norms of the Railway Establishment rules and trying to do the monopoly.

- xi) The applicant submit that there is no other alternative left with the applicant except to approach the Hon'ble Tribunal for justice.

**7. RELIEF SOUGHT**

in view of the facts mentioned in para-6 above the applicant prays for the following reliefs:-

- i) The Hon'ble Tribunal is requested to quash the orders of promotion issued vide Ann. A dated 28.9.1989 promoting responde t No: 6 to 11 and to issue a fresh promotion order including the name of applicant who is eligible for adhoc promotion as per headquarter letter at Ann. A.2. and as per seniority list also.
- ii) Any other relief which the Hon'ble Tribunal deems fit.
- iii)

8. INTERIM ORDER:

Pending final decision on the application the applicant request the Hon'ble Tribunal to issue the following interim order:-

- i) The Hon'ble Tribunal is requested to quash the orders dated 28.9.1989 shown in Ann. A with immediate effect.

9. DETAILS OF REMEDIES EXHAUSTED.

The applicant declares that he has availed of all the remedies to him under the relevant service rules.

10. MATTER NOT PENDING IN ANY COURT.

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any ~~othe~~ authority or any other Bench of the Tribunal.

11. PARTICULARS OF THE POSTAL ORDER.

- |      |                               |                                     |
|------|-------------------------------|-------------------------------------|
| i)   | No. of Indian Postal Order    | 228120                              |
| ii)  | Name of issuing post office   | Pratapnagar, Vadodara               |
| iii) | Date of issue of postal order | 22.9.1989                           |
| iv)  | Post office at which payable  | Navrangpura Post office, Ahmedabad. |

- 8 -

12. DETAILS OF INDEX.

An index in duplicate containing the details of the document to be relied upon is enclosed.

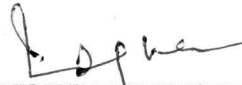
13. LIST OF ENCLOSURES.

As given in index.


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

I, Nanik Udham S/O Udham Agnani aged 52 years working as Inspector of Works Grade.II Dabhoi under Divisional Engineer (4) Vadodara resident of Vadodara do hereby verify, that the contents of para 1 to 13 are true to my personal knowledge and para 1 to 13 believed to be true on legal advice and I have not suppressed any material facts.

Baroda

  
\_\_\_\_\_  
Signature of applicant.

Place 30.11.89.

  
\_\_\_\_\_  
Advocate.

Filed by Mr. P.K. Handa  
Learned Advocate for Petitioner  
with serial & 11  
copies served/not served

  
Dy. Registrar C.A.  
A'bad Bench

No. E/E/839/2/2. Vol. V.  
MEMORANDUM

WESTERN RAILWAY

Divisional Office,  
Baroda, dt. 28-9-89

Sub:-Promotion, Reversion and Transfer of class III Staff Engg. Deptt.  
BRC Divn. IOW Gr. I scale Rs.2000-3200(RP).-

The following adhoc orders are issued to have immediate effect:-

| S.No. | Name<br>S/Shri   | Present position |          |            | Revised position |        |            | Remarks   |             |  |
|-------|------------------|------------------|----------|------------|------------------|--------|------------|-----------|-------------|--|
|       |                  | Desig.           | Station. | Scale      | Pay.             | Desig. | Stn. Scale |           | Pay.        |  |
| 1.    | Brinjardan Khare | IOW              | Gr.      | GDA        | 1600-2660        | 1700/- | IOW        | GDA       | 2000-2000/- | Against existing vacancy.                                  |
| 2.    | B.B. B Morwal    | "                |          | (F) BRC    | 2nd              | 2250/- | "          | (F) BRC   | 2375/-      | Subject to HQ clearance for upgrading the post of (F) BRC. |
| 3.    | U.R. Ustoorikar  | "                |          | XEN(C) BRC | "                | -      | "          | "         | -           | Paper promotion.   |
| 4.    | J.V. Dave        | "                |          | ND         | "                | 2000/- | "          | HVD       | 2060/-      | Against existing vacancy.                                  |
| 5.    | D.G. Nishad      | "                |          | (GNC) SBT  | "                | 2250/- | "          | (W&D) ADI | 2375/-      | -do-   |
| 6.    | R.C. Suthar      | "                |          | (RG) BRC   | "                | -      | "          | "         | -           | Paper promotion.   |

NOTE:- (1). Joining time, TA/DA, Transfer and packing allowance is admissible to item No.4 only.  
(2). Advise the date of changes.  
(3). Rly. Quarter should be vacated before carrying out transfer to new station.

Copy forwarded for information to:-

XEN(C) BRC, CPM(RE) BRC, CE(E) CCG,  
AEN(W) BRC, GDA, (II) ADI, DHG, (W) ADI,  
IOW-GDA, (F) BRC, ND, (GNC) SBT, HVD, (W&D) ADI,  
Sr. DAO-BRC, CC-Paybill (ENGG), Guard file, S/sheet Clerk,  
C/-Divl. secy. WRBU/WRMS-BRC.

SDK/-20.9.

For S.R.DEN-1-(E) BRC

Tel. 2

*File copy*  
*Advise*

PLA

9



WRP. MX. 711071312; 4.36; 5.000 x 25 x 4.

14

①

ANN. 11  
Western Railway

Genl. V.C. ✓  
D.M. Office, Baroda.  
Dated: 12/4/1988.

No. F/3/839/2/10

Memoandum

Sub: Promotion, Reversion and Transfer of Class III Staff - IOWs Ings. Dep'tt. - BRG Division.

The following orders are issued to have immediate effect:

| Sr. No. | Name                | Present Position |           | Revised Position                  |                   | Remarks   |
|---------|---------------------|------------------|-----------|-----------------------------------|-------------------|---|
|         |                     | Design.          | Station   | Design.                           | Station           |   |
| 1.      | G.S. Sharma         | CIO W HVD        | 2375-3500 | IOW (RSC) PRM                     | Under 1400-1400/- | The post of CIO W HVD is transferred back to BRG. Against existing vacancy. |
| 2.      | N.U. Aggarwal       | IOW Gr. II VG    | 1680-2360 | Gr. II (RSC) PRM                  | Under 1400-1400/- |   |
| 3.      | Prakash Joshi       | IOW Gr. III      |           | Gr. III DM O.F.I. (1) BRG         | 2300              |   |
| 4.      | J.G. Singh          |                  |           | Concrete Sr. Saper DM (T) Factory | 1400/-            |   |
| 5.      | R.K. Meena          |                  |           | ADI                               | CIO W             | 1400/-  |
| 6.      | Subhashchandra Negi |                  |           | VG                                | ADI               | 1400/-  |
| 7.      | B.B. Gami           |                  |           | HVD                               |                   | 1400/-  |

No. 1 Joining time, Td/Dd, Passes, Transfer and packing allowance is admissible to Item No. 1 & 2 only.

2. Pay. Gr. should be put vacated before carrying out transfer to new station.

3. Advise date of changes, (4) Passes are admissible to Item No. 4, 5, 6, 7 only.

Copy forwarded for info. and n/a action to: AMN DMG, II BRG, (N) ADI, CC Pay Bill (Ings.) S/Sect Clerk. Guard File.

C/- IOW BRG (RSC) PRM, ADI, VG, HVD, Sr. DM BRG, CC Pay Bill (Ings.) S/Sect Clerk. Guard File.

For Sr. DM-I (R) BRG.

Vice Sr. N.U. Aggarwal Post of IOW Gr. II temporarily downgraded to IOW Gr. III. Vice Sr. G.S. Sharma post of CIO W is transferred back to BRG and the post of IOW Gr. I is temporary downgraded as IOW Gr. III.

File copy  
Advised

A2  
WESTERN RAILWAY

Headquarter office,  
Churchgate, Bombay.

(12)

No.E/E/839/5/7 Vol.XVII(11)

Dated: 21.3.1988.

The DRM(E) BCT/BRC/RTM/KTT/AII/JP/RJT/BVP  
The CE(S&C) CCG/CE(C) ADI/Dy.CE(E/W)SBI.  
Dy.CE(B) BRC, Sr.DEN ADI PA/CE/CE(G)

Sub:- Promotion, reversion and transfer of cl.III staff-  
Engg: Deptt: IOW scale Rs. 2000-3200(RP).

...

The promotion orders of the following IOWs in Gr.  
Rs. 2000-3200(RP) are issued against the existing vacancy shown  
against each purely on adhoc basis subject to the condition that  
there is no Vig/DAR/B&C cases pending against them.

| S.NO. | Name<br>S/shri        | Present place<br>of working | Posted on<br>division | Remarks                      |
|-------|-----------------------|-----------------------------|-----------------------|------------------------------|
| 1.    | K.N.Raghuwan          | AII                         | KTT                   | Against existing<br>vacancy. |
| 2.    | S.L.Gupta             | AII                         | KTT                   | "                            |
| 3.    | C.K.Trivedi           | AII                         | RJT                   | "                            |
| 4.    | Swaran Kumar Jangid   | JP                          | BRC                   | "                            |
| 5.    | J.D.Parwal            | AII                         | BRC                   | "                            |
| 6.    | N.V.Agnani →          | PRTN-BRC                    | BRC                   | "                            |
| 7.    | V.K.Ahuja             | RTM                         | BRC                   | "                            |
| 8.    | N.K.Arora             | RTM                         | SBI                   | "                            |
|       |                       | under Sr.DEN(TR)ADI         |                       |                              |
| 9.    | R.K.Agarwal           | JP                          | Dy.CE "<br>(B)BRC     | "                            |
| 10.   | Ramesh Chandra Khatri | S&C                         | S&C                   | "                            |
| 11.   | Charansingh Sharma    | S&C                         | S&C                   | "                            |
| 12.   | Rajesh Dixit          | S&C                         | S&C                   | "                            |

If any employee is unwilling for promotion, his  
unwillingness should be advised to this office at once.

Date of changes when effected should be advised to this  
office early .

Promotions are issued subject to finalisation of pending  
cases at CAT-Jodhpur and S.C.New Delhi.

This has the approval of CE(G) CCG.

Sd/-  
FOR GM(E) CCG  
*[Handwritten signatures and initials]*

C/- WRMS BCT  
WREU GTR.



From: N. U. Agnani,  
IOW -

A3

Baroda.

13

Date: 1/5/1989.

To:  
Sr.DEN(III)BRC @ ADI.  
C/- Sr.DEN(I)BRC.

Reg: Memorandum issued vide your letter  
No.EE/16/7/308/6045/1 dt. 8.3.88 -

R/Sir,

With due respects, ~~and~~ I have to state that I was served with PIP vide your memorandum dt.8.3.88. I submitted my defence vide my letter No.A/15/2 dt.18.3.88.

More than one year has passed, but no decision has yet been communicated. It is presumed that the administration has considered my defence and filed the issue.

I, therefore, request your honour that I may be promoted as IOW-Gr.(I) for which I am overdue, to avoid further financial loss to me.

An early action will be appreciated.

Thanking you,

Yours faithfully,

*N. U. Agnani*

( N. U. Agnani )

*True copy*  
*Pt. Advocate*

Am

191

WRMS/ Engg/PRTN/398

2nd May, 1989.

To,  
The SR DEN (3)  
ERC

Dear Sir,

Sub : Non-finalisation of DAR of Shri N.U. Agnani  
ICJ PRTN.

Ref : S.F.S No. EE/16/7/308/6045/1 dated 8.3.88.

Although we were promised that this case will be finalised soon, considerable time has elapsed without anything happening. He has already submitted his defence to you.

I hope you will close the case.

Thanking you,

Yours sincerely

*J. C. Mahurkar*

(J. C. MAHURKAR)  
Divisional Secretary

Encl-1

cf. secy. PRTN. B D

True copy  
Pl. Advocate

the delinquent official, by taking prompt action to procure documents from the SPE/Vigilance Organisation determine the relevancy etc. of the additional documents that may be asked for by the delinquent official and to refer promptly requests for additional documents etc. to the Board only when access to such documents is proposed to be refused for good and sufficient reasons.

[Rly. Board's letter No. E (D & A) 69 RG 6-17, dated 8.1.1971 (NR 5235 SC 5/71, ER 7646, SE 21/71, 7266)]

4. In items of the time schedule, the time within which the disciplinary authority is required to take a final decision on the inquiry report and issue the notice of imposition of penalty, is 20 days. While it should be generally possible to adhere to this time-limit, in certain rare cases where it is not found practicable to adhere to this target rigidly, the disciplinary authority should submit a report to the next higher authority indicating the additional period likely to be taken for finalisation of the case together with the reasons therefor.

[Rly. Board's letter No. E (D & A) 70 RG 6-14, dated 20.4.1971 (NR 6664)]

**Model time-schedule for finalising departmental proceedings  
in cases of imposition of major penalties**

| Stage in the disciplinary proceedings   | Time laid down in the D & A Rules  | Time limit for stages where no time-limit is laid down in the rules | Remarks |
|---|--|---|---------|
| (1)   | (2)  | (3)   | (4)     |
| 1. Issue of charge-sheet.   | —  | —   | —       |
| 2. Inspection of documents mentioned in the list enclosed with the charge-sheet and taking relevant extracts therefrom, with the help of Assisting Railway servant, if any, and asking for inspection of additional documents not mentioned in the list enclosed with the charge-sheet. | 20 days maximum (sub-rules 5(i) and (iii) of Rule 9 of RS (D & A) Rules, 1968. | —   | —       |

*True copy*  
*P. Adw...*

16

| (1)   | (2)                              | (3)   | (4)   |
|---|----------------------------------|---|---|
| 3. Time by which the employee should submit his written statement of defence to the charge-sheet, submit a list of witnesses to be examined on his behalf and nominate an Assisting Railway servant, if not already done. | ✓ 10 days (sub-rule 4 of Rule 9) | 10 days more.   | No time limit has been laid down in the rules for submitting a list of witnesses and nomination of an Assisting Railway servant. Therefore, 10 more days as mentioned in Column 3 may be given to the employee at the discretion of the disciplinary authority. |
| 4. Time by which the disciplinary authority should take a decision to hold an inquiry after considering the defence to the charge-sheet.  |                                  | 10 days (including two days for receipt of the statement of defence in the office of the disciplinary authority). |   |
| ✓ 5. Time by which the date of inquiry should be fixed after completion of all preliminaries.   | 20 days (sub-rule 10 of Rule 9). | — ✓   | Though in the rule, maximum of 30 days have been allowed for this purpose ;   |
| 6. Time by which the inquiry should   |                                  | — 60 days. —  | yet it is considered that 20 days would be quite sufficient for the employee to prepare himself for defence. This also does not infringes the rule, as the rule is not rigid about this.  |

*T. Z. C. M. J. c.*  
*P. r.*  
*Adviser*



AS

12

| (1)   | (2)     | (3)      | (4)            |
|---|---------|----------|----------------|
| be completed and the enquiry officer should submit his report to the disciplinary authority.                              |         |          |                |
| 7. Time by which the Disciplinary Authority should take the final decision and issue the notice of imposition of penalty. | —       | 20 days. | —              |
|   | 50 days | 100 days | Total 150 days |

**Railway servants involved in criminal misconduct—Departmental proceedings and prosecution**—In Board's letter No. E 54 RG 6-32, dated 23.11.1955, it was, *inter alia*, laid down that as soon as sufficient evidence is available in cases of criminal misconduct by Railway servants, disciplinary proceedings under the Discipline and Appeal Rules should be initiated forthwith and that after the departmental proceedings are concluded and the penalty, if any, imposed as a result thereof, criminal proceedings should be initiated in suitable cases. Later, instructions were issued that in certain types of SPE cases prosecution should precede departmental action, vide Board's letter No. E 59 VGI-30 dated 6/9.3.1959.

2. In modification of the above instructions, the Board have decided that prosecution should be the general rule in all those cases which are found fit to be sent to criminal Court after investigation and in which the offences are of bribery, corruption or other criminal misconduct involving loss of substantial public funds. In such cases, departmental action should not precede prosecution. In other cases involving less serious offences or involving malpractices of a departmental nature, departmental action only should be taken and the question of prosecution should generally not arise. Whenever, however, there is unresolved difference of opinion between the Central Bureau of investigation and the administrative authority concerned as to whether prosecution in a court or departmental action should be resorted to in the first instance, the matter should be referred to the Board who will consult the Central Vigilance Commission for advice.

[Bd. No. E(D & A) 64 RG 6-30 dated 28.10.64 and E(D & A) 81 RG 6-73 dated 22.3.82]

**Prosecution of Railway servants involved in accident cases u/s 101 of Indian Railway Act**—To bring uniformity in practice to be followed by different states in arresting and prosecuting staff u/s 101 I.R.A. following observations are made : (i) Where Railway staff had been exonerated by Departmental inquiry or were given only minor punishments, prosecution was started against them, but they were let off by the courts. This caused harass-

True copy  
Pr  
Advocate.

From.....

N. N. Agnani  
I O W Gr. II  
DABHOI

D ated: 20-3-89

AG

18

To,  
Sr. Divisional Engineer(I)  
Western Railway  
Vadodara.

Sub: Adhoc promotion of Fngg. Deptt. IOW  
Scale Rs. 2000-3200(RP)

Respected Sir,

With due respect, I beg to state that my ~~orders~~ <sup>-name</sup> for promotion has been recommended by HQ's office Churchgate vide letter No.E/E/839/5/7 Vol XV II(ii) dated 21-3-1988. I was also served with a standard Form 5 on dt 8-3-88 and the defence for the same has been submitted by the under signed on 18-3-88 with in a stipulated period of ten days.

Since then one year has passed but no action has been taken by the authorities inspite of my several request, so that I can be considered for regular promotion. As per DAR rules a Model time table is given and according to that the inquiry should have been started with in a period of one month but here one year has passed, no action has been taken by the authorities.

As far as adhoc promotion is concern the question does not arises of DAR case weather it is pending or not.

You are kindly requested to issue my promotion order on adhoc basis at the earliest to avoid the financial loss to me.

Thanking You

Yours faithfully

Sd/-  
(N.U.AGNANI)

True copy  
for  
Advocate.

E/1030

A7

Jow (Rsc) PRM

19

Western Railway

Divisional Office,  
Baroda, Dt: 22/11/83.

No. E/E/1030/2/4 Vol. I

To: All IENs & IOWs on BRC divn.

Sub: Combined seniority list of Class III staff -  
Engg. Deptt. IOW scale Rs. 1600-2660(RP) on all  
Railway basis.

Ref: CE(E) CCGs letter No. E/E/1030/5/1/1 dt. 17.10.83.

---X---

A copy of seniority list of IOW scale Rs. 1600-2660(RP) received from CE(E) CCG is reproduced below for information of the concerned staff.

Representation, if any from the concerned staff should be sent to this office within a month from the date of issue of the letter, after which no representation will be entertained.

Encl: Typed below.

*[Signature]*  
for DM(E)-BRC

C/- Divl. Secy. WREU/WMS-BRC, CE(E) CCG

---X---

Copy of CE(E) CCG's letter No. E/E/1030/5/1/1 dt. 17.10.83 addressed to DM(E) BRC & others.

---X---

Sub: Combined seniority list of Cl. III staff -  
Engg. Deptt. - IOW scale Rs. 1600-2660(RP) on  
all Rly. basis.

---X---

A seniority list of IOWs scale Rs. 1600-2660(RP) is sent herewith for information of all the IOWs, staff may be advised to submit representation if any within a month's time, after which no representation will be entertained.

6 spare copies of Seniority list are enclosed.

Sd/-  
for Chief Engineer(E)

Encl: Seniority list.

*The copy*  
*Adwch*

*File*

# WESTERN RAILWAY

Seniority of IOW Gr. II & scale Rs. 1600-2660 (RT).

| Sr. No. | Name S/Shri    | Station | Date of Birth | Date of Appointment | Date of confirmation | Dt. from which continuously offg. | Remarks  |
|---------|----------------|---------|---------------|---------------------|----------------------|-----------------------------------|--|
| 1       | C. N. N. N. N. | RTM     | 5.6.32        | 30.5.55             | 1.4.82               | 15.11.77                          | Officiating in 700-320 (R)/2000-3200 (RT)        |
| 2       | A. K. Joshi    | RTM     | 8.3.21        | 23.5.56             | 1.4.84               | 1.1.79                            | Officiating in 2375-3500 (RT) as CIOW.           |
| 3       | M. D. Petil    | RTM/RT  | 18.11.34      | 9.7.56              | 31.12.80             | 30.7.79                           | Working as AEN.                                  |
| 4       | S. K. Roy      | RTM/RT  | 31.7.32       | 22.5.56             | 30.4.81              | 12.6.79                           | Officiating as CIOW 840-1040 (R)/2375-3500 (RT). |
| 5       | M. S. Vyas     | RTM     | 23.12.32      | 13.12.56            | 1.11.80              | 12.6.79                           | Working in 2000-3200 (RT).                       |
| 6       | C. S. T. T. T. | BVT     | 24.8.33       | 2.6.56              | 31.10.82             | 12.6.79                           | Officiating in 240-1040 (R)/2375-3500 (RT)       |
| 7       | S. B. U. U. U. | BVT/RTM | 10.7.32       | 27.7.56             | -                    | 17.12.80                          | Officiating in 2375-3500 (RT) as CIOW.           |
| 8       | R. K. R. R. R. | RTM     | 4.3.35        | 26.12.56            | -                    | 12.6.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 9       | P. M. R. R. R. | RTM     | 4.10.34       | 15.1.57             | 1.1.84               | 12.6.79                           | Officiating in 2000-3200 (RT).                   |
| 10      | T. T. T. T. T. | S&C     | 4.7.33        | 26.3.57             | -                    | 26.3.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 11      | G. S. S. S. S. | B&C     | 7.4.33        | 1.4.57              | -                    | 12.6.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 12      | P. F. F. F. F. | RTM     | 11.7.35       | 6.5.57              | -                    | 1.1.80                            | Officiating in 2375-3500 (RT) as CIOW.           |
| 13      | G. J. G. J. G. | RTM     | 3.11.32       | 1.2.57              | 1.1.84               | 4.9.79                            | Officiating in 2375-3500 (RT) as CIOW.           |
| 14      | G. L. G. L. G. | RTM     | 15.9.34       | 10.6.57             | 1.1.84               | 12.6.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 15      | B. V. B. V. B. | RTT     | 5.1.34        | 20.6.57             | -                    | 20.5.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 16      | H. P. H. P. H. | RSC     | 24.3.32       | 13.3.57             | -                    | 24.8.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 17      | M. D. M. D. M. | RTT     | 1.1.32        | 22.8.57             | 1.1.84               | 24.8.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 18      | M. L. M. L. M. | S&C     | 20.7.33       | 9.11.57             | -                    | 24.8.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 19      | M. C. M. C. M. | S&C     | 20.8.33       | 8.11.57             | -                    | 24.8.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 20      | A. P. A. P. A. | B&C     | 1.1.34        | 2.11.57             | -                    | 24.8.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 21      | S. S. S. S. S. | RTM/JP  | 5.6.36        | 8.11.57             | 1.1.84               | 1.4.80                            | Officiating in 2000-3200 (RT).                   |
| 22      | C. T. C. T. C. | RTM/RTT | 26.4.36       | 2.11.57             | -                    | 24.8.79                           | Officiating in 2375-3500 (RT) as CIOW.           |
| 23      | S. V. S. V. S. | BCT     | 20.1.36       | 27.10.56            | 1.1.84               | 24.8.79                           | Officiating in 2375-3500 (RT) as CIOW.           |

20



| 1   | 2                | 3               | 4        | 5        | 6      | 7        | 8                             |
|-----|------------------|-----------------|----------|----------|--------|----------|-------------------------------|
| 21. | M.E. Mathur      | By. ACE(TW) All | 3.1.34   | 10.11.57 |        | 21.8.79  | Officiating in 700.300(R)     |
|     |                  |                 |          |          |        | 6.3.32   | -do-                          |
|     |                  |                 |          |          |        | 24.8.79  | Vol. retirement.              |
| 25. | J.P. Tandon      | By. CE(TW) SBI  | 8.8.34   | 9.11.57  |        | 24.8.79  |                               |
| 26. | C.L. Shah        | BRC             | 21.1.34  | 20.6.56  |        | 5.12.80  |                               |
| 27. | K.H. Baria       | KTT             | 7.10.33  | 20.12.56 |        | 24.8.79  | Officiating in 2000.3200(RP). |
| 28. | T.C. Rajappa     | KTT             | 10.7.36  | 19.5.58  |        | 24.8.79  | -do-                          |
|     |                  |                 |          | 23.5.58  |        | 20.1.87  | -do-                          |
|     |                  |                 |          |          |        | 24.8.79  |                               |
| 29. | T. Gopinath Rao  | S&C             | 27.4.37  | 26.4.53  |        | 20.1.81  | Officiating in 2000.3200(RP)  |
|     |                  |                 |          |          |        | 28.4.81  | Officiating in 2000.3200(RP)  |
| 30. | Chandraprakash   | KTT             | 15.5.31  | 25.5.58  | 1.1.84 | 24.8.79  | -do-                          |
| 31. | A.S. Iyer        | BCT             | 2.9.34   | 10.5.58  |        | 20.1.81  | -do-                          |
| 32. | S.R. Rao         | S&C KTT         | 5.10.37  | 23.5.58  |        | 20.1.81  | Officiating in 2000.3200(RP). |
| 33. | M. Panthuram     | S&C             | 3.11.33  | 3.7.58   |        | 20.1.81  |                               |
| 34. | V. Satyanarayana | RM/KTT          | 12.2.36  | 12.11.57 |        | 20.1.81  |                               |
|     |                  |                 |          | 24.5.58  |        | 17.12.80 | Wheel & Axle Plant Bangalore. |
|     |                  |                 |          | 23.1.58  |        | 17.12.80 | Officiating in 2000-3200 (RP) |
| 35. | T.N. Dhanumathy  | BVP             | 25.4.35  | 10.12.57 |        | 24.8.79  | -do-                          |
| 36. | A.S. Vaidya      | BVP             | 6.5.35   | 10.12.57 |        | 20.1.81  | -do-                          |
| 37. | M.A. Pateli      | BVP             | 7.10.36  | 21.8.58  |        | 21.1.81  | Transferred to DCM Patala     |
| 38. | M. Maheshwari    | KTT/S&C         | 20.4.32  | 25.9.58  |        | 21.1.81  | Officiating in 2000.3200(RP). |
| 39. | A.P. Singh       | RTI             | 5.1.36   | 7.10.58  |        | 20.1.81  | -do-                          |
| 40. | R.P. Kapoor      | BVP             | 18.8.37  | 10.12.58 |        | 24.8.79  | -do-                          |
| 41. | L.M. Khanna      | S&C/RM          | 27.1.36  | 21.3.50  |        | 23.3.81  | -do-                          |
| 42. | V.D. Neng        | RTI             | 16.8.33  | 21.3.50  |        | 24.8.79  | -do-                          |
| 43. | S.B. C. Jain     | S&C             | 1.10.34  | 5.11.57  |        | 20.1.81  | -do-                          |
| 44. | P.M. Manchanda   | KTT/S&C         | 8.11.33  | 0.11.58  |        | 20.1.81  | -do-                          |
| 45. | C.J. Narulla     | BCT/KTT         | 12.4.34  | 8.11.58  |        | 20.1.81  | Officiating in 2000-3200 (RP) |
| 46. | J.R. Bhatia      | CE(N) RT-S&C    | 14.3.33  | 27.3.59  |        | 20.1.81  | -do-                          |
| 47. | J.B. Barwala     | BCT             | 12.12.37 | 18.3.53  |        | 20.1.81  | -do-                          |
| 48. | V.K. Cza         | RM              | 17.3.35  | 0.11.53  |        | 20.1.81  | -do-                          |
| 49. | T.D. Sharma      | BCT             | 6.4.37   | 22.12.53 |        | 20.1.81  | -do-                          |
| 50. | T.D. Anant       | BCT             | 7.5.39   | 7.11.58  |        | 20.1.81  | -do-                          |
|     | Krishna          | S&C CCG         | 19.10.37 | 7.11.58  |        | 20.1.81  | -do-                          |
| 51. | T.R. Gopal       | DVT/W&A         |          |          |        |          |                               |
|     | Krishnan         | Plant.          |          |          |        |          |                               |

.....2/-

*Handwritten signature and text:*  
A. S. Vaidya  
A. S. Vaidya


| 1  | 2       | 3        | 4               | 5      | 6      | 7        | 8                              |
|--|---------|----------|-----------------|--------|--------|----------|--------------------------------|
| 31. T.G. Jadhav  | BRC     | 17.7.36  | 24.6.57         | 1.1.53 | 1.1.34 | 80.12.83 | Officiating in 2000-3200 (RT). |
| 32. F.D. Gaudem  | RJT     | 1.1.32   | 13.1.51         | -      | 1.1.34 | -        | -                              |
| 33. G.S. Pottil  | SUC     | 1.12.33  | 10.10.64        | -      | 1.1.34 | -        | -                              |
| 34. S.C. Mahra   | JT      | 23.6.42  | 5.1.65          | -      | 1.1.34 | -        | -                              |
| 35. P.T. Tattar  | DRC     | 2.10.37  | 0.1.53          | -      | 1.1.34 | -        | -                              |
| 36. H.P. Deshmant  | BCT     | 4.11.37  | 13.1.60         | -      | 1.1.34 | -        | -                              |
| 37. R.D. Shrivastava   | BRC     | 13.1.33  | 24.6.57         | -      | 1.1.34 | -        | -                              |
| 38. R.N. Raval   | BRC     | 15.2.36  | 0.1.53          | -      | 1.1.34 | -        | -                              |
| 39. D.T. Vyas  | RJT     | 10.12.31 | 4.6.56          | -      | 1.1.34 | -        | -                              |
| 40. H.G. Mulchandani   | RJM     | 17.1.32  | 22.1.70         | -      | 1.1.34 | -        | -                              |
| 41. G.S. Chembani  | -       | 31.5.33  | 10.6.56         | -      | 1.1.34 | -        | -                              |
| 42. H.S. Patel   | RJT     | 3.3.34   | 21.3.57         | -      | 1.1.34 | -        | -                              |
| 43. D.V. Gokhale   | BCT     | 20.10.31 | 21.2.57         | -      | 1.1.34 | -        | -                              |
| 44. P.G. Rane  | BCT     | 17.10.33 | 25.11.57        | -      | 1.1.34 | -        | -                              |
| 45. R.N. Surve   | BCT     | 12.10.31 | 1.2.53/30.11.57 | -      | 1.1.34 | -        | -                              |
| 46. V.S. Telang  | BCT     | 2.1.34   | 24.6.57/0.1.53  | -      | 1.1.34 | -        | -                              |
| 47. I.+T. Motwani  | BCT     | 15.7.36  | 24.6.57/0.1.53  | -      | 1.1.34 | -        | -                              |
| 48. F.S. Shelokar  | BCT     | 3.12.37  | 24.6.57/0.1.53  | -      | 1.1.34 | -        | -                              |
| 49. R.S. Naidu   | RJM     | 21.12.37 | 1.5.56          | -      | 1.1.34 | -        | -                              |
| 50. D.L. Agarwal   | RJM     | 15.2.33  | 0.1.53          | -      | 1.1.34 | -        | -                              |
| 51. D.N. Kohli   | RJM/suc | 26.12.36 | 12.12.60        | -      | 1.1.34 | -        | -                              |
| 52. A.N. Sapat   | RJT     | 25.1.33  | 4.10.53         | -      | 1.1.34 | -        | -                              |
| 53. K.C. Koushik   | KIT     | 10.7.35  | 15.1.53         | -      | 1.1.34 | -        | -                              |
| 54. S.D. Bhatnagar   | BCT     | 5.6.37   | 3.3.52          | -      | 1.1.34 | -        | -                              |
| 55. D.P. Sharma  | BCT     | 25.6.36  | 3.3.53          | -      | 1.1.34 | -        | -                              |
| 56. R.K. Singhal   | RJT     | 24.12.33 | 1.2.61/6.6.62   | -      | 1.1.34 | -        | -                              |
| ZTS/JT-All   |         |          |                 |        |        |          |                                |
| 107. M.D. Joshi  | DVT     | 0.8.35   | 13.3.52         | -      | 1.1.34 | -        | -                              |
| 108. S.H. Oza  | BCT.BL  | 4.4.33   | 0.1.53          | -      | 1.1.34 | -        | -                              |
| 109. Jhansirkar  | TL BCT  | 21.5.35  | 0.1.53          | -      | 1.1.34 | -        | -                              |
| 110. M.W. Guha   | BCT     | 21.3.35  | 1.2.57          | -      | 1.1.34 | -        | -                              |
| 111. F.L. Arya (SC)  | BCT     | 11.10.55 | 10.11.30        | -      | 1.1.34 | -        | -                              |
| 112. Rajendra Baburama KTT/DCT 10.10.55 10.11.30/27.11.31 (SC) |         |          |                 |        |        |          |                                |
| 1.1.34 Officiating in 2000-3200 (RT)                           |         |          |                 |        |        |          |                                |

*Handwritten:*  
 Pl. Advise.





| 1                  | 2        | 3        | 4       | 5      | 6      | 7      | 8      |
|--------------------|----------|----------|---------|--------|--------|--------|--------|
| 113. Nishant Kumar | 10.5.55  | 17.10.00 | 0.11.01 | 1.1.01 | 1.1.01 | 1.1.01 | 1.1.01 |
| 114. Singh (SC)    | 16.6.51  | 0.11.01  |         |        |        |        |        |
| 115. J. R. Kuntal  | 23.11.56 | 12.7.73  |         |        |        |        |        |
| 116. J. R. Kuntal  | 11.2.32  | 21.2.53  |         |        |        |        |        |
| 117. B. R. Kuntal  | 11.5.37  | 27.10.56 |         |        |        |        |        |
| 118. N. C. Patki   | 30.7.35  | 0.1.53   |         |        |        |        |        |
| 119. N. C. Patki   | 15.2.32  | 13.11.55 |         |        |        |        |        |
| 120. V. D. Kapoor  | 15.8.30  | 13.5.72  |         |        |        |        |        |
| 121. G. R. Chock   | 22.12.46 | 8.5.72   |         |        |        |        |        |
| 122. F. R. Chock   | 1.4.10   | 3.1.73   |         |        |        |        |        |
| 123. T. R. Chock   | 10.10.34 | 3.12.55  |         |        |        |        |        |
| 124. M. C. Naik    | 15.3.35  | 23.11.60 |         |        |        |        |        |
| 125. G. C. Naik    | 31.7.31  | 1.2.57   |         |        |        |        |        |
| 126. V. D. Joshi   | 4.7.34   | 0.1.53   |         |        |        |        |        |
| 127. R. T. Joshi   | 8.3.36   | 0.1.53   |         |        |        |        |        |
| 128. F. R. Naik    | 20.3.37  | 0.1.53   |         |        |        |        |        |
| 129. D. N. Saha    | 30.6.36  | 0.12.60  |         |        |        |        |        |
| 130. F. R. Saha    | 27.0.35  | 0.1.53   |         |        |        |        |        |
| 131. V. K. Sharma  | 10.3.38  | 0.1.53   |         |        |        |        |        |
| 132. Chetan Asnani | 20.3.35  | 1.5.56   |         |        |        |        |        |
| 133. P. M. Joshi   | 1.10.32  | 14.7.56  |         |        |        |        |        |
| 134. K. M. Kashwan | 21.10.32 | 6.6.56   |         |        |        |        |        |
| 135. S. L. Gupta   | 2.10.34  | 11.2.54  |         |        |        |        |        |
| 136. S. R. Kumar   | 5.11.31  | 7.11.55  |         |        |        |        |        |
| 137. T. N. Gupta   | 20.2.36  | 24.6.56  | 0.1.53  |        |        |        |        |
| 138. R. S. Yadav   | 15.1.35  | 27.6.57  | 3.1.53  |        |        |        |        |
| 139. J. R. Patwal  | 11.0.30  | 5.8.57   |         |        |        |        |        |

  
 11/11/55  
 11/11/55

| Sl. No. | Name                  | Post    | 1        | 2                | 3 | 4 | 5 | 6         | 7 | 8 |
|---------|-----------------------|---------|----------|------------------|---|---|---|-----------|---|---|
| 140.    | N.V. Agnani           | JP/Sec  | 24.2.37  | 7.11.53/12.11.53 |   |   |   |           |   |   |
| 141.    | V.K. Kharal           | JP      | 1.9.54   | 1.6.73/19.6.80   |   |   |   | 15.3.85   |   |   |
| 142.    | M.P. Gupta            | JP/Sec  | 3.11.54  | 27.8.79          |   |   |   | 7/15.3.85 |   |   |
| 143.    | Kailash Rajpal        | S&C     | 3.4.53   | 21.8.79          |   |   |   | 7/15.3.85 |   |   |
| 144.    | Munishwar Main        | S&C     | 20.3.59  | 17.3.73          |   |   |   | 7/15.3.85 |   |   |
| 145.    | S.K. Sharma           | S&C     | 21.1.56  | 17.3.79          |   |   |   | 7/15.3.85 |   |   |
| 146.    | Revindra Gularia      | S&C     | 27.7.55  | 1.9.79           |   |   |   | 7/15.3.85 |   |   |
| 147.    | S.C. Maini            | S&C     | 23.6.53  | 23.8.73          |   |   |   | 7/15.3.85 |   |   |
| 148.    | S.K. Verma            | S&C     | 11.5.56  | 27.8.79          |   |   |   | 7/15.3.85 |   |   |
| 149.    | V.K. Ahuja            | RM      | 10.9.51  | 9.9.80           |   |   |   | 7/15.3.85 |   |   |
| 150.    | Rajesh Dwivedi        | Sec     | 11.2.58  | 4.9.73           |   |   |   | 7/15.3.85 |   |   |
| 151.    | Anand Kumar Gupta     | S&C JP  | 1.7.53   | 4.3.79/1.3.80    |   |   |   | 7/15.3.85 |   |   |
| 152.    | H.K. Grore            | RM      | 10.5.53  | 9.9.80           |   |   |   | 7/15.3.85 |   |   |
| 153.    | S.K. Srivastava       | KTT     | 21.8.50  | 1.9.80           |   |   |   | 7/15.3.85 |   |   |
| 154.    | R.K. Agrawal          | JP      | 15.7.56  | 27.8.79/9.9.80   |   |   |   | 7/15.3.85 |   |   |
| 155.    | Khurshid Azam         | III     | 15.7.56  | 4.9.73           |   |   |   | 7/15.3.85 |   |   |
| 156.    | Ramesh Chandra Khatri | JP S&C  | 27.9.56  | 23.8.79/4.9.80   |   |   |   | 7/15.3.85 |   |   |
| 157.    | Vijay Singh Birsan    | III S&C | 3.12.54  | 4.9.79           |   |   |   | 7/15.3.85 |   |   |
| 158.    | Charansing Sharma     | -do-    | 1.11.55  | 4.9.73           |   |   |   | 7/15.3.85 |   |   |
| 159.    | Ranvir Singh Saharan  | S&C     | 4.3.55   | 4.9.79           |   |   |   | 7/15.3.85 |   |   |
| 160.    | Rajesh Dixit          | "       | 13.8.56  | 4.9.79           |   |   |   | 7/15.3.85 |   |   |
| 161.    | H.K. Srivastava       | "       | 26.7.53  | 23.8.79          |   |   |   | 7/15.3.85 |   |   |
| 162.    | G.S. Yadav            | "       | 12.2.55  | 27.8.79          |   |   |   | 7/15.3.85 |   |   |
| 163.    | Grivish Mohan Mathur  | XN(C)JW | 18.11.56 | 23.8.79/4.9.80   |   |   |   | 15.3.85   |   |   |
| 164.    | A.K. Upit             | KTT     | 9.12.57  | 8.9.80           |   |   |   | 15.3.85   |   |   |
| 165.    | A.P. Verma            | S&C     | 18.12.57 | 20.8.79/3.9.80   |   |   |   | 7/15.3.85 |   |   |
| 166.    | M.S. Mehra            | S&C     | 30.12.57 | 6.9.73           |   |   |   | 7/15.3.85 |   |   |
| 167.    | Kailash Kumar         | "       | 4.11.54  | 7.9.79           |   |   |   | 7/15.3.85 |   |   |
| 168.    | V.K. Chaturvedi       | KTT     | 6.4.54   | 30.8.79          |   |   |   | 7/15.3.85 |   |   |
| 169.    | T.P. Mangla           | KTT     | 1.3.51   | 15.9.79/1.8.80   |   |   |   | 7/15.3.85 |   |   |
| 170.    | N.J. Abraham          | RJT     | 15.2.33  | 4.10.57          |   |   |   | 1.5.85    |   |   |

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:: 7 ::

| 1    | 2                | 3   | 4        | 5               | 6 | 7        | 8 |
|------|------------------|-----|----------|-----------------|---|----------|---|
| 171. | W.R. Wyes        | RJT | 8.2.34   | 7.10.57         |   | 1.5.85   |   |
| 172. | Prasanth Gajwani | 3&C | 9.4.52   | 20.3.79/3.9.80  |   | 11.6.85  |   |
| 173. | A.M. Deshmukh    | RJT | 30.11.36 | 24.6.57         |   | 28.4.86  |   |
| 174. | C.E. Trivedi     | III | 3.9.33   | 7.2.51/3.1.58   |   | 28.5.86  |   |
| 175. | V.K. Sohgani     | III | 16.8.58  | 3.6.33/29.1.84  |   | 27.6.86  |   |
| 176. | S.S. Nigam       | RJT | 17.7.35  | 24.6.57         |   | 20.10.86 |   |
| 177. | R.K. Sukhla      | KTT |          |                 |   | 23.10.86 |   |
| 178. | C.L. Tomar       | KTT | 10.8.58  | 10.9.84         |   | 23.10.86 |   |
| 179. | A.K. Saragwat    | "   | 1.4.53   | 11.9.84         |   | 8.12.86  |   |
| 180. | Erjand Khars     | BRC | 12.12.53 | 10.9.83/13.9.84 |   | 23.7.87  |   |
| 181. | V.R. Usrothkar   | BRC | 7.3.39   | 10.12.60        |   | 23.7.87  |   |
| 182. | J.V. Dave        | "   | 12.11.34 | 22.5.62         |   | 23.7.87  |   |
| 183. | B.J. Morwal      | "   | 13.5.39  | 3.3.58/3.10.58  |   | 29.7.87  |   |
| 183. | D.G. Mishra      | "   | 27.5.41  | 30.1.62         |   | 23.7.87  |   |
| 184. | R.C. Guther      | "   | 26.11.35 | 13.3.61/13.6.62 |   | 31.8.87  |   |
| 185. | Gerpat E.        | "   | 10.2.31  | 11.1.52         |   |          |   |

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*Free copy for Advait*

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WESTERN RAILWAY

No. EP.839/0 Vol.III

27  
DIVISIONAL OFFICE

VADODARA

Dated: 9/20-3-1989

Untill such decision has been finalised  
to take major penalty action DAR action,  
the promotion of staff to any postin group  
'C' and 'D' is not to be withheld.

Sd/-

Sr. D P O--BRC

Copy to all sectio inchages,  
of BRC Division for  
information.

True copy  
Pr. Adv.  
Adm.



Western Railway

No.EE/161/7/308/6045/1

Documents celled  
by Court in MA/219/91 (98)  
on 28/8/91  
AEN(II)DH's Office,  
Dated 25-10-1990.

To:

THE DRM(E)BRC.

Sub:- DAR action against Shri N.U.  
Agnani IOJ-VG at DB.

Ref:- DRM(E)BRC No.EE/161/7/308/6045/1  
dated 13-7-90 and Sr.DEN(II)BRC's  
charge sheet Memorandum No.  
EE/161/7/308/6045/1. dt. 15.2.88.

...ooOoo...

Shri N.U.Agnani, IOJ-VG at DB was served with the  
charge sheet Memorandum vide Sr.DEN(II)BRC's No.EE/161/7/308/  
6045/1 dt. 15.2.88 through AEN-DHG. He had acknowledged  
the receipt of the same on 23.2.88 received under endorsement  
of AEN-DHG No.E/308/1 dt. 29-2-88.

Further, he had submitted the defence for the charges  
levelled against him vide his No.4/15/2 dt. 18.3.88.

The undersigned was nominated as Enquiry Officer  
vide DRM(E)BRC confidential No.EE/161/7/308/6045/1 of 13-7-90  
to enquire into the charges framed against Shri N.U.Agnani,  
IOJ-VG at DB. DAR enquiry was fixed on 13-8-90 vide this office  
letter No.EE/161/7/308/6045/1 dt. 31.7.90 which commenced on  
13.8.90 and completed on 17-9-90. The copies of the day to day  
proceedings have been given to the accused on 13.8.90, 3.9.90  
and 17.9.90 respectively and his acknowledgement to that effect  
obtained.

At the close of the enquiry, the accused was given  
an additional opportunity to submit further  
representation if any, vide question No.17 of statement No.  
1, Page 4.

#### FINDINGS

After careful consideration of evidences adduced,  
I have arrived at the conclusion that he is not guilty of the  
charges levelled against him viz. Misconduct/Misbehaviour for  
the act of while working as IOJ-VG section during the period  
of July 88 to Aug.88 he has misused the Rly material in as  
much as that during Aug.88 he had to repair a door of latrine  
block in loco colony Quarters Virangan and Shri Devji Khalsai  
who knows carpenters work was ordered to carry out the same,  
under his own supervision and guidance, and instead getting  
door frame manufactured, he got manufactured a frame of tack  
cot size 1.90m x 90cm x 4 cum = 2 Nos. and other pieces of size  
2.5 cum x 4.5 cum x 1.40m long and the above six pieces were  
bundled in by a string kept ready for transport.

My reasons for so doing are:-

\*\*\*\*\*

A  
Statement No. 1

N.U.Agnani IOJ

1. In answer to Q.No. 5 he admitted that he had got prepared  
through Shri Devji A. Khalsai the wooden sizes of Tack used  
of size 1.90 mts. x 9 cm. x 4 = 2 Nos. and another 4 Nos.  
of size 2.5 cm. x 4.5 cm x 1.4 m.
2. In answer to Q.No.7 he had stated that the sizes of wood  
he got prepared were for the door frame of loco latrine  
at VG and not for preparation of cot.

Cont. 2.



3. In answer to Q.No.9 he said the wood was issued to Carpenter under issue VR No. 534594 dt. 13.5.86 for the repairs to latrine door of VG loco latrine and it is charged in TB No.8/83 at page 141 which was verified and found correct by me.
4. In answer to Q.No.11 IOJ stated that his store balance was not checked and compared with book balance on the day of the incidence which was verified and found correct by me.  
Even the vigilance authority didnot check issue voucher at that time which was confirmed in IOJ's answer to Q.No.12 and was verified with records.

**B. Statement No.2 Devji A. Khalsai**

1. In answer to Q.No.3,4,9 he admitted that IOJ has asked him to prepare the door frame of loco latrine at VG. But no wood was issued to him and he had not prepared any frame.
2. In answer to Q.No.84 he stated that the statement which he gave on 31.8.87 is not exactly true and being illiterate he could not read, he simply signed it under good faith which means the statement now given has been accepted as correct and it is taken that he had not prepared wooden sizes which were found in IOJ's store on 22.8.86.  
Also he said in answer to Q.No.12 that the wood sizes shown to him on 22.8.86 are for preparation of cot as not he does not know.

**C. Statement No.3 Shri Kishanchand M. SOR**

1. He said the size of wood shown to him on 22.8.86 in IOJ's store at VG are only fit for preparation of cot in answer to Q.No.2, again in answer to Q.No.5 he gave the same size are required to prepare wooden frame for latrine of VG loco.
2. In answer to Q.No.4 he has stated that the wood shown to him on 22.8.86 in IOJ store was of size 6"x4"x1" = 2 Nos. & 3"x2"x1" = 5 Nos. where as actually it was 2 Nos. & 4 Nos. and not 2 Nos. + 5 Nos. which shows that he was not sure of the No. of pieces he saw on 22.8.86. As such his statement cannot be relied upon.
3. He is not aware of the fact that Shri Agnani IOJ having told Shri Devji A to prepare cot which he has answered to Q.No.11.

**D. Statement No.4 Shri Jashing K. Chaiman**

1. In answer to Q.No.3 he has answered that the wooden sizes found in IOJ store on 22.8.86 are for the door frame of VG loco latrine and not for preparation of cot which he confirmed in answer to Q.No.4 by stating that he was present when IOJ ordered Shri Devji A to prepare door frame of VG loco latrine.
2. Statement of Shri Lallu bhai Bapuji CPR could not be taken as it was given to understand that he expired on 2.9.80.

**Engineers:**

1. Statement of Shri M.U. Agnani in 4 pages.
2. Statement of Shri Devji A. in 3 pages.
3. Statement of Shri Kishanchand M. in 2 pages.
4. Statement of Shri Jashing K. in 1 page.  
(Statements are in 5 copies each each)

Proceeding and Findings.

TRUE COPY

Enquiry Officer  
& Asst. Engineer (2) Bharuch

WESTERN RAILWAY

Headquarter Office,  
Churchgate, Bombay.

NO. E/4025/5/89 Vol. I Date: 30 Nov, '89.

The DRG(B) BCT/BRC/RTM/KTT/AII/JP/RJT/BVP  
CE(S&C) CCG/CE(G) ADI, PZTS-UD, DY. CE(E/W) SBI  
Wheel & Axle Plant, Yelahanka, Bangalore-64.  
Director General, RDSO Lucknow, CPM(B) BRC/  
RTM/KTT/MTJ  
XEN(S&C)-I/II KTT-COR, XEN-II-JAM  
XEN(S&C) JP/RTM, XEN(B) BL, CE(S&C) BRC  
PA/CE, OS(W), SWSO-CCG  
OSD-Rail Coach Factory-Kapurthala.

SUB: Selection Board for promotion of  
Class III staff - Engineering Department -  
IOW Grade I scale Rs.2000-3200(RP)

.....

A selection was held to form a panel of 74 employees (including 7 & 5 reserved for SC & ST candidates respectively) suitable for promotion to the post of IOW Grade I scale Rs.2000-3200(RP). After keeping aside 9 vacancies (4 for SC and 5 for ST), the following employees are placed on the provisional panel in the order of merit indicated below, which is subject to change on de-reservation of 9 vacancies reserved for SC & ST candidates by the competent authority.

- 1) Shri K.S.Raju JP
- 2) " K.S.Verma(SC) JP
- 3) " G.S.Matharu S&C
- 4) " Trilok Singh BVP
- 5) " P.N.Raval BRC
- 6) " V.S.Telang BCT
- 7) " I.T.Motwani CPLO-CCG
- 8) " P.C.Solekar BCT
- 9) " R.S.Naidu RTM
- 10) " D.L.Agarwal RTM
- 11) " B.M.Kohali CE(CN) ADI
- 12) " K.C.Kaushik KTT
- 13) " S.D.Barathe BVP
- 14) " D.P.Sharma BVP
- 15) " R.K.Singhal ZTS-UD
- 16) " M.D.Joshi BVP
- 17) " S.K.Oza BCT
- 18) " G.A.Jahagirdar BCT
- 19) " M.M.Gula BRC
- 20) " R.P.Badjatya(SC) RJT
- 21) " S.D.Patki BCT
- 22) " V.D.Bharadwaj AII
- 23) " H.K.Chowk AII
- 24) " G.K.Kapoor AII
- 25) " R.D.Sant BCT
- 26) " V.K.Sharma RTM
- 27) " M.L.Garg JP

....2/-



Copy to: General Secretary - WREU/WRMS.

- 2 -

|     |                       |                    |
|-----|-----------------------|--------------------|
| 28) | Shri K.N.Raghavan     | AIJ                |
| 29) | " S.L.Gupta           | JP(S&C)            |
| 30) | " D.N.Gera            | AIJ(S&C)           |
| 31) | " R.S.Yadav           | AIJ(S&C)           |
| 32) | " N.U.Agnani          | JP(S&C) <i>inc</i> |
| 33) | " M.P.Gupta           | JP(S&C)            |
| 34) | " Kalidas Bajpai      | S&C                |
| 35) | " Murlidhar Nair      | S&C                |
| 36) | " S.K.Sharma          | KTT(S&C)           |
| 37) | " Ravindra Guleria    | S&C                |
| 38) | " S.C.Maini           | S&C                |
| 39) | " S.K.Verma           | RTM(S&C)           |
| 40) | " V.K.Ahuja           | RTM                |
| 41) | " Rajeev Diwedi       | S&C                |
| 42) | " N.K.Arora           | RTM                |
| 43) | " S.K.Srivastava      | KTT ✓              |
| 44) | " R.K.Agarwal         | JP                 |
| 45) | " Kurshid Azam        | AIJ                |
| 46) | " R.C.Khatri          | JP(S&C)            |
| 47) | " Charansingh Sharma  | S&C                |
| 48) | " Ramvirsingh Saharan | S&C                |
| 49) | " G.M.Mathur          | XEN(C)-JAM         |
| 50) | " A.K.Uprit           | KTT                |
| 51) | " A.P.Verma           | CPM(RE)-BRC        |
| 52) | " Kailashkumar Saxena | S&C                |
| 53) | " V.K.Chaturvedi      | KTT                |
| 54) | " T.P.Mangla          | KTT                |
| 55) | " Radhegopal Gar      | KTT(S&C)           |

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All  
DOW ON ✓

(32)

WESTERN RAILWAY

No.E/E/839/2/2 Vol.VI

Divisional Office,  
Baroda.

Date : 23-1-90.

To,  
All AENs, IOWs on BRC Divn.

Sub : Selection Board for Promotion of Class III  
staff Engg. Deptt. IOW Gr.I Scale Rs. 2000-3200 (RP).

Ref : This office letter of ~~even~~ No. dt. 11-12-89  
and OE(E)CCG's letter No.E/E/839/5/7 Vol.XVII (ii)  
dt.1-1-90.

A copy of the above quoted letter is reproduced below for information  
of the staff concerned.

DA : Typed below.

J.P. Tolera  
For DRM(E)BRC

Copy of OE(E)CCG's letter No.E/E/839/5/7 Vol. XVII (ii) dt.28-12-89/1-1-90  
addressed to DRM(E)BRC and others.

Sub : Selection Board for promotion of class III Staff -  
Engg. Deptt. - IOW Gr.I scale Rs.2000-3200 (RP).

Ref : This office letter E/E/1075/5/9, Vol.I dt.30-11-89/  
1-12-89.

The following IOWs who are working as IOW Gr.I scale Rs.2000-3200 (RP)  
on adhoc basis and placed on the provisional panel of IOW Gr.I vide this office  
letter No.E/E/1025/5/9 Vol.I dt.30-11-89/1-12-89, are now regularly promoted  
as IOW Gr.I scale Rs.2000-3200 (RP) w.e.f. 30-11-89 and retained at their place  
of posting :-

|     |                     |                                     |
|-----|---------------------|-------------------------------------|
| 1)  | Shri K.S.Raji       | JP                                  |
| 2)  | " K.S.Verma (SC)    | JP                                  |
| 3)  | " G.S.Motharu       | S&C                                 |
| 4)  | " Trilok Singh      | BVP                                 |
| 5)  | " P.W.Raval         | BRC                                 |
| 6)  | " V.S.Telang        | BCT                                 |
| 7)  | " I.T.Motwani       | CPLO,CCG (Paper promotion presently |
| 8)  | " P.C.Salekar       | BCT work as works tudy In.)         |
| 9)  | " R.S.Naidu         | RTM                                 |
| 10) | " D.L.Agarwal       | RTM                                 |
| 11) | " B.M.Khalil        | OE(OV)ADI                           |
| 12) | " K.C.Kaushik       | KTT                                 |
| 13) | " S.D.Barathe       | BVP                                 |
| 14) | " D.P.Sharma        | BVP                                 |
| 15) | " R.K.Singhal       | ZTS-UD                              |
| 16) | " M.D.Joshi         | BVP                                 |
| 17) | " S.K.Gza           | BCT                                 |
| 18) | " G.A.Jahagirdhar   | BCT                                 |
| 19) | " M.M.Guha          | BRC                                 |
| 20) | " R.P.Badjatya (SC) | BCT                                 |



|     |                       |  |
|-----|-----------------------|--|
| 21. | Shri S.D.Patki        | BCT  |
| 22. | " V.D.Bharadwaj       | AII  |
| 23. | " H.K.Chowk           | AII  |
| 24. | " G.K.Kapoor          | AII  |
| 25. | " R.D.Sant            | BCT (Promoted & Posted at BCT Divn. against existing vacancy)      |
| 26. | " V.K.Sharma          | RTM  |
| 27. | " K.N.Raghavan        | AII  |
| 28. | " S.L.Gupta           | JP(S&C)  |
| 29. | " D.N.Gora            | AII(S&C)   |
| 30. | " R.S.Yadav           | AII(S&C)   |
| 31. | " M.P.Gupta           | JP(S&C)  |
| 32. | " Kalidas Bajpai      | S&C  |
| 33. | " Murlidhar Nair      | S&C  |
| 34. | " S.K.Sharma          | KTT (S&C)  |
| 35. | " Ravindra Guleria    | S&C  |
| 36. | " S.C.Maini           | S&C  |
| 37. | Shri S.K.Verma        | RTM(S&C)   |
| 38. | " V.K.Ahuja           | RTM  |
| 39. | " Rajeev Diwedi       | S&C  |
| 40. | " N.K.Arora           | RTM  |
| 41. | " S.K.Srivastava      | KTT  |
| 42. | " R.K.Agarwal         | JP   |
| 43. | " Kureshid Izam       | AII  |
| 44. | " R.C.Khattri         | JP(S&C)  |
| 45. | " Charansingh Sharma  | S&C  |
| 46. | " Ramvirsingh Saharan | S&C  |
| 47. | " G.M.Mathur          | XEN(X)-JAM   |
| 48. | " A.K.Uprit           | KTT  |
| 49. | " A.P.Verma           | CPM(RE)BRC   |
| 50. | " Kailashkumar Saxena | S&C  |
| 51. | " V.K.Chaturvedi      | KTT  |
| 52. | " Radhegopal Garg     | KTT (S&C)  |
| 53. | " Prashant Sajwan     | S&C  |
| 54. | " A.N.Deshmukh        | RJT (S&C)  |
| 55. | " Rajeevkumar Sharma  | COR-KTT (Promoted & Posted in S&C Deptt. against existing vacancy) |
| 57) | " V.K.Sachwari        | BVP  |
| 58. | " S.B.Nigam           | RJT (Promoted & Posted on RJT Divn. against existing vacancy)      |
| 59. | " R.K.Shukla          | KTT  |
| 60. | " C.L.Tomar           | KTT  |
| 61. | " A.K.Saraswat        | KTT  |
| 62. | " V.R.Ustoriakar      | BRC(S&C)   |
| 63. | " B.D.Sankhwar (SC)   | RTM  |

The above promotions are subject to no D/R/Vig./SPE cases pending against them.

Divisions may please be issue and necessary orders accordingly by sending a copy to this office.

NOTE : S/Shri M.L.Garg, IOW, Gr.II JP, T.P.Mangla, IOW Gr.I-KTT, and N.U.Agnani, IOW Gr.II-BRC are under going penalty and hence their result of selection of IOW Gr.I has been held up vide this office XR No. E/E/1025/5/9 Vol.I dt.15-12-89 and 14-12-89. Hence their cases for promotion/regularisation will be considered after finalisation of D/R/Vig. cases.

Above employees are entitled to exercise option for fixation of pay in terms of Railway Board's letter No.E(P&A)II 8/PP/4 dt.13-11-81.

The above promotions are subject to the cut come of Court/CAT cases.

54/-

For Chief Engineer (E) CCG

TRUE COPY

2-1-90

WESTERN RAILWAY

No.E/E/1025/15

Divisional Office,  
Baroda.  
Date : 10-4-90.

To,  
All AENs, IOWs on BRC Division  
C/- Divl. Secy. WREL/WMS-BRC

Sub : Selection Board for promotion of class III  
staff Engg. Deptt. IOW Gr.I scale Rs.2000-3200 (RP).  
Ref : This office letter of even No. dt.11-12-89 and  
CE(E)CCG's letter No.E/E/1025/5/9 Vol.I dt.23/26-3-90.

A copy of the above quoted letter received from CE(E)CCG is reproduced below for information of the staff concerned.

DA : As typed below.

For DRM(E)BRC

Copy of CE(E)CCG's letter No.E/E/1025/5/9 Vol.I dt.23/26-3-1990 addressed to  
The DRM(E)BRC and other.

Sub : Selection Board for promotion of Cl. III Staff.  
Engg. Deptt. - IOW Gr.I scale Rs.2000-3200 (RP).  
Ref : This office letter of even No. dt.30-11-89/1-12-1989.

Please refer to this office letter of even No. dt.30-11-89-1/12/89  
under which provisional panel of IOW Gr.I scale Rs.2000-3200 (RP) was published.

GM has approved his sanction for temporary dereeservation of 3 vacancies reserved for SC and 7 vacancies reserved for ST candidates. Though the GM has given his approval for dereeserving 10 number of posts, only 7 qualified employees are available to be placed on the panel. The panel of IOW Gr.I scale Rs.2000-3200 (RP) after dereeservation will be as under :

|     |                     |          |
|-----|---------------------|----------|
| 1.  | Shri K.S.Raju       | JP       |
| 2.  | " K.S.Verma         | JP       |
| 3.  | " G.S.Matharu       | S&C      |
| 4.  | " Trilok Singh      | BVP      |
| 5.  | " P.N.Rawal         | BRC      |
| 6.  | " V.S.Telang        | BCT      |
| 7.  | " I.T.Motwani       | CPLD-CCG |
| 8.  | " P.C.Solekar       | BCT      |
| 9.  | " R.S.Naidu         | RTM      |
| 10. | " D.L.Agarwal       | RTM      |
| 11. | " B.M.Kphali        | CE(OV)AD |
| 12. | " K.C.Kuashik       | KTT      |
| 13. | " S.D.Bayath        | BVP      |
| 14. | " D.P.Sharma        | BVP      |
| 15. | " R.K.Singhal       | ZTS-UD   |
| 16. | " M.D.Joshi         | BVP      |
| 17. | " S.K.Oza           | BCT      |
| 18. | " G.A.Jahugirda     | BCT      |
| 19. | " M.M.Guha          | BRC      |
| 20. | " R.P.Badjatiya(SC) | RJT.     |

|     |                       |            |
|-----|-----------------------|------------|
| 21. | Shri S.D.Patki        | BCT        |
| 22. | Shri V.D.Bharadwaj    | AII        |
| 23. | " H.K.Chowk           | AII        |
| 24. | " G.K.Kapoor          | AII        |
| 25. | " R.D.Sant            | BCT        |
| 26. | " V.K.Sharma          | RTM        |
| 27. | " K.N.Raghwan         | AII        |
| 28. | " S.L.Gupta           | JP(S&C)    |
| 29. | " D.N.Gera            | AII(S&C)   |
| 30. | " R.S.Yadav           | AII(S&C)   |
| 31. | " M.P.Gupta           | JP(S&C)    |
| 32. | " Kalidas Bajpai      | S&C        |
| 33. | " Murlidhar Nair      | S&C        |
| 34. | " S.K.Sharma          | KTT(S&C)   |
| 35. | " Ravindra Gulchra    | S&C        |
| 36. | " S.C.Maini           | S&C        |
| 37. | " S.K.Verma           | RTM(S&C)   |
| 38. | " V.K.Ahuja           | RTM        |
| 39. | " Rajeev Diwedi       | S&C        |
| 40. | " N.K.Arora           | RTM        |
| 41. | " S.K.Srivastava      | KTT        |
| 42. | " R.K.Agarwal         | JP         |
| 43. | " Khurshid Azam       | AII        |
| 44. | " R.C.Khatni          | JP(S&C)    |
| 45. | " Charansing Sharma   | S&C        |
| 46. | " Ramvirsingh Saharan | S&C        |
| 47. | " G.M.Mathur          | XEN(C)JAM  |
| 48. | " A.K.Uprit           | KTT        |
| 49. | " A.P.Verma           | CPM(RE)BRC |
| 50. | " Kailash K.Saxena    | S&C        |
| 51. | " V.K.Chaturvedi      | KTT        |
| 52. | " Radhegopal Gurg     | KTT(S&C)   |
| 53. | " Prashant Sajwan     | S&C        |
| 54. | " S.B.Nigam           | RJT        |
| 55. | " A.N.Dashmukh        | RJT        |
| 56. | " Rajeevkumar Sharma  | COR-KTT    |
| 57. | " V.K.Sachwan         | BVP        |
| 58. | " R.K.Shukla          | RJT        |
| 59. | " C.L.Tomar           | KTT        |
| 60. | " A.K.Saraswat        | KTT        |
| 61. | " B.B.Morwal          | BRC        |
| 62. | " B.D.Sankhwar (SC)   | (S&C)      |
| 63. | " V.R.Vstorikar       | S&C        |
| 64. | " V.Satyanarayan      | CDR-KTT    |
| 65. | " Sardarsingh         | RTM        |
| 66. | " C.M.Pandey          | RTM        |
| 67. | " H.S.Lalchandani     | RTM        |
| 68. | " Deviram Sharma      | CDR-KTT    |
| 69. | " P.K.Vyas            | RTM        |

TRUE COPY

All employees placed on the provisional panel may note that their position on the panel is liable to be altered depending upon the result of the proceedings against the staff against whom DAR/Vigilance cases are in process and also subject to outcome of court cases. 3 vacancies have been kept reserved due to major DAR cases.

The panel is provisional and is effective from 30-11-1989.



Aly.

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R. W. R.

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संख्या No. E/627/1 दिनांक Dated. 16-5-1991

76 From N. U. AGNANI सेवा से To CE (E) CCG

I. O. W. DABHOI (Shramh Krur Channel)

विषय Sub Seniority list of Class III staff Engg. Dept.  
1st Gr. I Scale Rs. 2000-3200 (RP) on allसंदर्भ Ref 12 Seniority list of 1st Gr. I Scale 2000-  
published vide No. E/E/1030/2/3 vol I of 3200  
23-4-91

26-4-91

In connection with the above  
Subject I have to state that my name is not  
appearing in the Seniority list of 1st Gr. I Scale  
Rs. 2000-3200 (RP).

I have already passed the  
Selection for 1st Gr. I and my name was shown  
at Sr. No. 32 of your letter no. E/E/1025/5/9 W. I  
dt. 30-11-89

1-12-89 Even I was not called for the  
Selection of 1st Gr. I Scale Rs. 2000-3200 (RP) which  
was held on 9-3-91.

I, therefore request you to have that  
my name should be interpolated in the above  
Seniority list of 1st Gr. I Scale Rs. 2000-3200 (RP).  
I am obliged.

Thanking you,

Yours faithfully  
N. U. AGNANI  
I. O. W.

TRUE COPY

Ad



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O. A. NO. 510 OF 1989

N.U.Agnani.....

... Applicant

V/s

Union of India & Ors....

... Respondents

WRITTEN STATEMENT ON  
BEHALF OF RESPONDENTS  
NOS. 4 & 5.

The respondents Nos. 4 & 5 humbly beg to file written statement to the application as under:-

1. Contents of paras 1 & 2 need no reply.
2. Contents of para 3(i), (ii), & (iii) need no reply.
3. Contents of para 3(iv) are not fully true and are not admitted. It is not disputed that at the time of filing the Original Application, the applicant was serving as Inspector of Works Grade II in the scale of Rs.1600-2660(RP) at Dabhoi. It is not disputed that the applicant was promoted as IOW Grade I in the scale of Rs.2000-3200(RP) purely on ad hoc basis subject to the condition that there is no Vig/DAR/B&C cases pending against him vide Order No.E/E/839/5/7

Copy sent  
H.H.

No.E/E/839/5/7 Vol XVII(ii), dated 21.3.1988

(Annexure A/2 with the application) issued by the headquarter office. However, it is denied that despite the aforesaid order of promotion of the applicant, the authorities have transferred the applicant in the same Grade to Dabhoi by downgrading the post at Dabhoi as alleged. It may be stated that the applicant, who was serving as IOW Grade II at Viramgam was transferred as IOW Grade II at (RSG) Pratapnagar against the existing vacancy as per Memorandum No.E/E/839/2/10, dated 12.4.1988 (Annexure A/1 with the application) issued by the respondent No.5. It may be stated that 7 persons are transferred by the said order dated 12.4.88. It may be stated that the applicant was served with a charge-sheet for major penalty (SF NO.5) vide Memorandum No.E/E/161/7/308/6045/1, dated 15.2.1988 for ~~unbecom~~ misconduct of unbecoming of a railway servant and contravention of rule 3 of Railway Service Conduct Rules, 1966 and as such the applicant could not have been promoted by the Divisional Office when disciplinary case was pending against him for major penalty. It is denied that the respondent Nos.6 to 11 are promoted ignoring the applicant, who is senior-most person as alleged. It is not disputed that

the respondent Nos.6 to 11 are junior to the applicant in the seniority list of IOW Grade II and are placed at serial Nos.180 to 185. It is denied that promoting the respondent Nos. 6 to 11 as IOW Grade I on ad hoc basis is inviolation of the Fundamental Rules of Railways as well as the fundamental rights to the applicant under Articles 14 & 16 of Constitution of India as alleged. It is denied that the action of respondent No.5 promoting respondent Nos.6 to 11 indicates malafide intention to overlook the applicant as alleged. It is stated that the respondent Nos.6 to 11 were ordered to be promoted on ad hoc basis by the ~~Headquarters~~ <sup>Divisional</sup> Office, ~~along with the applicant and 5 other persons~~ Baroda, vide Memorandum No.E/E/839/2/2 Vol V, dated 28.9.89 (Annexure A/ with the application) as per rules. There is no merit in the representation dated 20.3.89 (Annexure A/6 with the application) made by the applicant. The applicant states in the said representation that he has been served with SF No.5 on 8.3.88. There is no illegality in promoting respondent Nos.6 to 11 as IOW Grade I during the pendency of DAR case against the applicant.

4. Contents of paras 4 & 5 need no reply.
5. Contents of para 6(i) are not disputed except that the Grade of IOW Grade II is Rs.1600-2660(RP) and not Rs.1600-2600(RP).

6. Contents of para 6(ii) are not fully true and are not admitted. It is not disputed that the applicant was one of the persons, who was ordered to be promoted as IOW Grade I in the scale of Rs. 2000-3200(RP) against existing vacancy purely on ad hoc basis vide Memorandum dated 21.3.1988(Annexure A/2). The said promotion order was issued by the headquarter office subject to condition that there is no vig/DAR/B&C cases pending against the employees mentioned therein. It is denied that the applicant was transferred from Viramgam to Dabhoi in the same Grade as IOW Grade II with malafide intention. It is stated that the applicant was charge-sheeted for major penalty on 15.2.88 i.e. before the issue of said order dated 21.3.88 and as such he was not promoted by the Divisional Office due to pendency of DAR case/vigilance case. There is no malafide intention of respondent No.5 ~~xx~~ in transferring the applicant from Viramgam to Dabhoi.
7. Regarding para 6(iii) & (iv), it is stated that the applicant was served with charge-sheet vide No.E/E/161/7/308/6045/1, dated 15.2.88 and not 8.3.88. The said charge-sheet has been acknowledged ~~xx~~ by the applicant vide letter No.E/2/15, dated 23.2.88. ~~xxxxxxxxxx~~ Regarding The defence dated 18.3.88 was received by the concerned Section on 21.3.88.
8. Regarding para 6(v), the respondents rely on



the original papers. The letter dated 2.5.88 (Annexure A/4 with the application) has been issued by the Divisional Secretary of WRMS to Senior Divisional Engineer(3), Baroda in reference to charge-sheet dated 8.3.88 served on the applicant. As stated herein above the charge-sheet dated 15.2.88 has been served on the applicant on 23.2.88. The applicant vide his representation dated 1.5.89 (Annexure A/3 with the application) has been made by the applicant in reference to the charge-sheet dated 8.3.88 with a request to promote him as IOW Grade I under the presumption that the administration has considered his defence and filed the issue. There is no merit in the representation of the applicant. It is stated that the disciplinary case was pending against the applicant and was not closed by the disciplinary authority. In fact, the said disciplinary case has resulted in order of penalty with-holding next increment of the applicant whenever due for a period of one year without future effect vide Notice of Imposition of Penalty dated 20.12.91 issued by the Additional Divisional Railway Manager(II), Baroda which has been acknowledged by the applicant on 28.12.91.

9. Regarding para 6(vi), the respondents rely on Railway Board's letter dated 20.11.1979

(Annexure A/5 with the application) for the contents thereof. It is submitted that the said Schedule is not mandatory but is directory. It is submitted that there are several reasons for <sup>not</sup> ~~delay~~ in finalising the departmental inquiries within the model time schedule. It is submitted that the said schedule cannot be adhered to in certain SPE/Vigilance Cases rigidly and steps are required to be taken to minimise the period. The model time schedule produced by the applicant is generally applicable to departmental inquiries other than SPE/Vigilance cases. It appears that the applicant has not produced the instructions regarding finalisation of ~~xxxx~~ SPE/Vigilance cases. It is denied that as per Discipline & Appeal Rules the proceedings become null & void after a long time of one year & eight months. There is no such rule that on expiry of the model time schedule the departmental inquiry becomes null & void. It may be stated that as per Circular of the Railway Board dated 20.4.71 (Annexure A/5) - para 5 maximum period of 30 days is prescribed for considering the case regarding holding of inquiry but in certain SPE/Vigilance cases railway administration does not find it practicable to adhere to the said target ~~xx~~ rigidly. It is submitted that the present case of the applicant is a Vigilance/SPE case and it required some more time for finalisation.

10. Regarding para 6(vii), the respondents rely on the representation dated 20.3.89 for contents thereof. The contents thereof are not fully true and are not admitted. It has been clearly stated in the order dated 21.3.88 issued by the headquarter office that the said orders were subject to the condition that there is no Vig/DAR/B&C cases pending against the employees. As such the applicant could not be promoted as IOW Grade I on ad hoc basis as per the orders of the headquarter office. There is no malafide intention of the Divisional Office in not promoting the applicant as IOW Grade I.

11. Regarding para 6(viii), the respondents rely on the order dated 28.9.89. It is not disputed that the respondent Nos.6 to 11 were promoted as IOW Grade I. It may be stated that the said order was issued for those persons against whom no DAR/B&C case was pending.

12. Regarding para 6(ix) it is stated that the applicant was not eligible to be promoted as IOW Grade I even on a-d hoc basis because of pendency of disciplinary proceedings and the respondent Nos.6 to 11, junior to the applicant have been rightly promoted as IOW Grade I. There is no violation of fundamental rights of the applicant under Articles 14 & 16(1) of the Constitution of India. The said averments of equality are misconceived.

13. Regarding para 6(x), the respondents rely on true and proper interpretation of the letter

NO.EP 839/0 Vol III, dated 9/20.3.1989.~~for its true~~  
~~and proper interpretation~~ (Annexure A/8 with the  
application). It is submitted that the instructions  
issued by the Senior Divisional Personnel Officer,  
Baroda are not applicable to the facts of the present  
case. It is denied that pendency of a major  
disciplinary proceedings is not to be considered for  
ad hoc promotion. It is submitted that the said  
instructions are to the effect that until a decision  
has been taken to take major penalty disciplinary  
action the promotion of staff to any post in Group  
'C' & 'D' is not to be withheld. It is stated that  
in the present case a decision to take major DAR  
action was already taken by the competent authority  
and the applicant was also served with a charge-sheet  
dated 15.2.88 for major penalty, much before the  
issue of promotion order by the headquarter office  
on 21.3.88. The applicant is not interpreting  
properly the instructions of Senior DPO, Baroda.  
The promotion of the applicant has been rightly  
with-held by the Divisional Office.

As regards the judgement reported in  
SIR 1988 (1) 513 (CAT) between B.B.Sakarwala V/s  
Union of India & Others, the respondents rely on  
the ratio of the said judgement as and when  
produced. It is submitted that the said citation  
is not applicable to the facts of the present case.



The inference suggested by the applicant cannot be drawn from the aforesaid citation. It is denied that the order of promotion dated 28.9.89 issued by the respondent No.5 is illegal and discriminatory. It is denied that the respondent No.5 has violated all norms of Railway Establishment Rules and he is trying to do the monopoly as alleged. It is submitted that the order of promotion at Annexure A has been issued in accordance with the rules.

14. Contents of para 6(xi) needs no reply.

15. The applicant is not entitled to any of the reliefs claimed in para 7 of the application.

16. The applicant is not entitled to any interim order as prayed for in para 8 of the application.

17. Regarding para 9, it is stated that the applicant has approached this Hon'ble Tribunal without making any representation against the impugned order dated 28.9.89 and before finalisation of the departmental proceedings. As such the present application is liable to be rejected.

18. Contents of paras 10 to 13 need no reply.

In view of what is stated above, the application may be dismissed with costs.


VERIFICATION.

I, B. N. Meena, age about 34 years, son of Shri R.N.Meena, working as Divisional Personnel Officer, Western Railway, Baroda and residing at Baroda, do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Baroda

Dated: 23 .1.1992

24.1.92

  
Divisional Personnel Officer,  
Western Railway, Baroda.

Reply/Rejoinder/written submissions  
filed by Mr. N. S. Shinde  
learned advocate for petitioner/  
Respondent with second set.  
Copy served/not served & other side

24/1/92 Dy. Registrar G.A.T. (I)  
A'bad Bench

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

ORIGINAL APPLICATION NO. 570 / 1989.

N. U. AGNANI ... APPLICANT

VERSUS

UNION OF INDIA & ORS. ... RESPONDENTS

AFFIDAVIT IN REJOINDER

The applicant through Affidavit in Rejoinder SHEWETH  
as under :

1. Regarding Para - 1 : No remarks.
2. Regarding Para - 2 : No remarks.
3. Regarding Para - 3 : It is admitted by the Respondent that the applicant was serving as Inspector of work Grade II in Scale Rs. 1600 - 2660 (RP). It is also not disputed that the applicant was promoted as IOW Gr. I in Scale Rs. 2000 - 3200 (RP) purely on Ad hoc basis vide Order No. E/E/839/5/7 Vol. XVII (11) dated 21-3-1988 (Annexure A/2) issued by the Head Quarter's Office. However, the Authorities have transferred the applicant to Dabhoi in the same

Cont'd. on .. 2.

Read copy  
+ H.R.  
Adv. for Rmt  
17.2.92

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Grade by down-grading the post. It was alleged that the applicant was not promoted as he was served with Charge Sheet for major penalty vide Memorandum No. E/E/161/7/308/6045/1 dated 15-2-1988, for misconduct of unbecoming of a Railway Servant in contravention to Rule - 3 of Railway Service Conduct Rules, 1966. It is not accepted though the applicant was senior most he was ignored for promotion and his juniors i.e. Respondent Nos. 6 to 11 were promoted, In spite of his representation dated 20-3-1989 (Annexure A/6 with OA).

4. Regarding Para - 4 : Needs no reply.
5. Regarding Para - 5 : It is not disputed that the Grade of Inspector of Works Grade - II is Rs. 1600 - 2660 (RP).
6. Regarding Para - 6 : It is admitted by the Respondent that the applicant was ordered to be promoted in Scale Rs. 2000 - 3200 (RP) against existing vacancy purely on Ad hoc basis vide Memorandum dated 21-3-88 (Annexure A/2 with OA). His promotion is subject to the condition that there is no DAR/BQC/Vig cases pending against him. It is also not disputed that the applicant was charge sheeted for major penalty on 15-2-1988 i.e. before the issue of said order dated 21-3-1988, however, the respondent took undue long



period for finalization of DAR Case. The charge sheet was issued on 15-2-1988 and the penalty for withholding of increment for One Year without future effect was imposed on him vide NIP dated 20-12-1991 which was acknowledged by the applicant on 28-12-1991 shown at Annexure A/15. The delay caused for finalization of DAR Case is to the extent of almost 3 years and 11 months and the prolonged delay is not attributable to the applicant but to the respondent. Had the case been finalised in-time imposing penalty of withholding of increment for One Year without future effect, the applicant would have been promoted at least before two years, as there is no bar for promoting any employee if the penalty imposed is withholding of increments, as in such cases the penalty can be transferred in higher grade promoting the concern employee.

7. Regarding Para - 7 : It is not disputed that the applicant was served with Charge Sheet vide Memorandum No. E/E/161/7/308/6045/1 dated 15-2-1988 and the same was acknowledged by the applicant on 23-2-1988. The defence was submitted and the same was received by the Respondent on 21-3-1988.
8. Regarding Para - 8 : The applicant has submitted the defence and the Divisional Secretary of WRMS vide Annexure - A/4, represented to the respondent to

SM

finalise the case early as considerable period has elapsed. However, the case was finalised after prolonged delay of almost 3 years & 11 months. Thus, the employee was allowed to suffer for want of promotion no fault on his part for delay. Not only this but the charges were not proved and the Disciplinary Authority i.e. Sr. DEM I/BRC vide his letter No. E/E/161/308/7/6045/1 dated 8-8-1991 shown at Annexure - A/6 has dropped the charges and the applicant was exonerated. The applicant has not made any appeal, however, the case was reviewed at the instance of 3rd party and the penalty of withholding of next increment whenever due for a period of one year without future effect has been imposed vide NIP dated 20-12-91 by the Add. Divisional Manager II - Baroda. The penalty imposed is illegal as the review was undertaken at the instance of 3rd party, whose interference is not allowed as per DAR Rules and ADRM II who is the Appellate Authority, is not competent to act as Reviewing Authority under Rule 25 of DAR, 1968.

The applicant relies on 111 (1991) CSJ CAT 88, in that "No power of revision is exercisable by Revising Authority unless it is higher than the Appellate Authority".

In view of this the penalty imposed on the applicant

by Appellate Authority Under Rule 25 is illegal and void. ~~shown at Annexure A-17.~~

The applicant was imposed of penalty of withholding of increment and also withholding of promotion, (not promoted for almost 3 years & 11 months) which is a double jeopardy. Stopping of increment and also not promoting during the currency of penalty means double jeopardy.

9. Regarding para - 9 : The Time Schedule circulated vide Railway Board's letter dated 20-11-1979 (Annexure - A/5 with OA) is stated to be directory and not mandatory by the respondent. As per the Schedule prescribed time limit of 150 days is prescribed inter-alia the respondent has taken almost 2½ years in nominating the E.O. and 3 years and 11 months in all in finalising the inquiry. This is on a very high side, taking into consideration the time prescribed. Prolonged delay in finalising the inquiry, protracted the promotion of the applicant, resulting into heavy monetary loss.
10. Regarding para - 10 : The respondent has taken almost 2½ years to nominate the Enquiry Officer and about 3 years and 11 months in finalising the enquiry as against 150 days time limit prescribed in the

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Time Schedule for finalising the enquiry. Delaying the enquiry inordinately and withholding the promotion during the process of enquiry is nothing but arbitrary and malafide in view of the fact that the delay is attributable purely on account of the respondent and not attributable to the applicant, and for this the applicant relies on SLJ 1992- 78 (PAT).

Withholding of promotion and withholding of increment are ~~two~~ two different minor penalties as shown as under DAR Rules, 1968.

- (i) Censure.
- (ii) Withholding of his promotion for a specified period.
- (iii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Government or Railway Administration by negligence or breach of order.
- (iii) (a) Withholding of the privilege of passes or Privilege Ticket Orders or both.
- (iv) Withholding of increments of pay for a specified period with further directions as to whether on the expiry of such period this will or will not have the effect of postponing the future increments of his pay.

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Imposition of the penalties in one DAR Case is illegal and unconstitutional. Further the punishment awarded by ADRM II as Appellate Authority is for the charges, which have not been mentioned in the said Charge Sheet, which is against the principle of natural justice as the applicant has not been informed of the charges nor have been given reasonable opportunity to defend himself violating Art. 311 of the Constitution of India.

11. Regarding Para - 11 : It is not disputed that the respondent Nos. 6 to 11, though junior to the applicant, were promoted as IOW Gr. I. The applicant also appeared in selection for promotion to the post of IOW Gr. I, Scale Rs. 2000 - 3200 (RP) and the panel was declared vide No. E/E/1025/5/9 Vol. I dated  $\frac{30}{1}/\frac{11}{12}/1989$  wherein the applicant is placed at Sr. No. 32. The empanelled employees were promoted vide CE (E)/CCG's letter No. E/E/839/5/7 Vol. VXII (ii) dated 28-12-89/1-1-90, circulated vide DRM (E) BRC's letter No. E/E/839/2/2 Vol. VI dated 23-1-1990 wherein it has been mentioned that the applicant Shri N.U. Agnani, IOW Gr. II is undergoing penalty and his case for promotion/Regularisation will be considered after finalisation of DA/R/Vig. Case. The DAR case has since been finalised and the penalty imposed is withholding of increment of one year without future effect; which is

a minor penalty. Since there is no bar for promotion in case of imposition of minor penalty (withholding of increment without future effect, transferring the the penalty in higher grade), the applicant is required to be promoted from the date his juniors were promoted. The Hon'ble Tribunal is requested to direct the respondent to issue regular promotion order, interpolating the name of the applicant at proper place.

12. Regarding Para - 12 : Since the SF - 5 issued to the applicant for major penalty has ended for imposition of minor penalty and there is no bar to promote the Railway Employee in case of imposition of minor penalty. The applicant has been given unequal treatment, in violation of Articles 14 and 16th of the Constitution of India.
13. Regarding Para - 13 : The true interpretation of the letter shown at Annexure A/8. The applicant relies on the Judgement SLJ 1992 Vol. I 46 (MADRAS) between V. Ramabhadran V/S Union of India. Since the respondent has taken more than two years in nominating the Enquiry Officer.
14. Regarding Para - 14 : No remarks.
15. Regarding Para - 15 : The applicant is entitled to all the reliefs claimed in Para - 7 of the application.

- In view of what is stated above, the applicant prays to allow the application.

I, Nanik Udham S/o Udham Agnani, Aged 52 years,  
working as Inspector of Works Grade II, Dabhoi Under  
Divisional Engineer (4) Vadodara, resident of Vadodara,  
do hereby verify that the contents of Para 1 to 18 of  
the Affidavit in Rejoinder are true to my personal know-  
ledge and Para 1 to 18 believed to be true on legal advice  
and I have not suppressed any material facts.

DATED : 18/7/1992.

ADVOCATE FOR THE APPLICANT

Di. / / Dy. Registrar C.A.T (I)  
A'bad Panch.

By Registrar C.A.T. (J)  
Aided Bench

0116

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W. H.

भा 29 भा 6 25 13

क्रमांक No. FF/101/308/7/6045/ दिनांक Dated 8-8-1971

प्राप्त From Dr. D. N. (19) P. C. तथा व To Shri N. H. Singh

10-2/83

विषय Sub : Dr. D. N. (19) P. C.

संदर्भ Ref : -X-

The charges listed against you  
in this office memorandum of even  
no. dated 15/2/88 are hereby dropped.  
Please acknowledge.

*[Signature]*

*[Signature]*

*[AEN-i-1012:- He may hand over the  
enclosed letter to the  
applicant and send this  
back early.]*

*[Handwritten note:]*  
Recd.  
14-8-81

*[Handwritten mark]*

*[Handwritten:]* True Copy

*[Handwritten signature]*



Notice of Imposition of a penalty (N, I, P.) Under 6 of The Railway Servants  
(Discipline and Appeal) Rules, 1968

No. 1308/11/16/308/17/6045/1Office Divisional/BRC.Dated 20.12.91.To, Shri N. U. Agnani,IOW DB.(Through ADN (I) BRC)

1. You are hereby informed that the following penalty has been awarded to you :-

Next increment whenever due is withheld for a period of one year without future effect. This has reference to this office memo. of even no. dtd. 15.2.88; and your defence dtd. 11.11.91 on show-cause notice of even no. dated. 29.10.91.

Speaking order on reverse side.

Designation ADRM (II) BRCSignature [Signature]2. You are required to acknowledge receipt of this Notice on the form subjoined.

ADN (I) BRC. He may please handover the enclosed NIP to the a/named and send his ack. early. **Instruction**

(a) You will be relieved of your duties on \_\_\_\_\_

(b) Settlement of your dues will be made at \_\_\_\_\_

(c) Under Rule 18 of the Railway Servants (Discipline and Appeal) Rules, 1968 an appeal against these orders lies to CE CCG provided :-

(i) The appeal is preferred within forty-five days of the date of receipt of this notice, and

(ii) The appeal contains no disrespectful or improper language

## Acknowledgement

To \_\_\_\_\_

I hereby acknowledge receipt of N. I. P. Notice No. \_\_\_\_\_

Dated \_\_\_\_\_ conveying the orders of imposition of penalty of \_\_\_\_\_ on me.

Station/Place \_\_\_\_\_

Signature or left hand thumb impression of employee \_\_\_\_\_

Name and Father's Name  
(In Block letter)

Dated \_\_\_\_\_ 19

with Designation &amp; Station \_\_\_\_\_

Speaking Order :

I have gone through all the relevant case papers. The employee has also been given a personal hearing on 17.12.91. On scrutinising the evidence tendered by the witnesses examined in this case, it is observed that 6 pieces teak wood cuttings of size 1.9 m. and 1.4 m. in length, were seized by RSO/VI/ADI from the Stores of IOW VG. The contention of Shri N.U. Agnani, IOW VG is that these were meant for making door frames for a latrine in the loco shed at VG. But the size of the frame required for the purpose of the latrine door of the loco shed were 1.8" x 0.91 m. Since the size of the teak wood pieces does not correspond to those of the frame of the latrine door of loco shed, these pieces were obviously meant for some other purpose.

It has also been brought out in the enquiry that the issue voucher No. 534694 dt. 13.5.86 was for 40 R.M. of timber and this had been subsequently corrected to 10 R.M. The correction was made in ink of different colour and in a different hand-writing. The name of the work for which the material had been issued i.e. repairs to the ~~locomotive~~ loco shed latrine door had also been added subsequently. These corrections in the issue voucher which is a basic record have not been initialled to authenticate the same.

The evidence summarised above establishes that Shri N.U. Agnani has been guilty of negligence and misconduct in the performance of his duties in that he had permitted wood cuttings from his stores to be used for a purpose other than that for which it was intended and, he made corrections in the issue voucher without authenticating these by putting his initials. It has however not been substantiated that Shri N.U. Agnani, intended to use the teak wood cuttings for his personal use and, therefore, the charge of mala fide intention has not been substantiated.

On careful consideration of the facts as emerging from the evidence of the witnesses examined and other documentary evidence it is proved that Shri N.U. Agnani, IOW is found guilty of the charge of negligence and misconduct in performance of his duties. The penalty of withholding of increment for a period of one year (N.C.) is imposed him.

ADAM(II)  
17.12.91

Acknowledgement sent to ADAM(II) BAC

Through AE N(II) BAC on 28-12-91

True copy  
fr

Name and address of the person to whom the copy is to be sent  
(in block letters)  
with date and signature

Signature  
12-12-91

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WESTERN RAILWAY.

No. E/E/839/2/2 Vol.VI

Divisional Office,  
Vadodara-4.

Dt: 17-6-92.

MEMORANDUM :

Sub: Promotion, Reversion and \*Transfer of  
Class III staff Engg. Dep<sup>tt</sup>. BRC Divn.

Ref: CE (E)-CCG's letter No.E/E/839/5/7  
Vol. XVII(i) dt. 10-12-91.

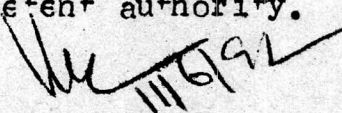
.....

In terms of above quoted letter Shri N.U.Agnani  
IOW Gr.II scale Rs.1600/2660(RP) at DB is promoted as  
IOW Gr.I scale Rs.2000/3200(RP) and retained at DB by  
upgrading the post of IOW Gr.II.

\*Shri Agnani is entitled to exercise the  
option of fixation of pay in terms of Rly. Bd's letter  
No. E(P&A)IL-81/PP/4 dt. 13-11-81.

He is entitled for proforma fixation with his  
junior i.e Shri M.P.Gupta who has been promoted as IOW -Gr.I.

This has the approval of competent authority.

  
for DRM (E) -BRC.

Copy forwarded for information and necessary action to:

AEN(N)-BRC, DEN(Eas<sup>+</sup>), IOW -DB, CE(E)-CCG., Sr.DAO-BRC.  
OS/Paybill(Engg.), S/Sheet Clerk.  
C/- Divisional Secretary WREU/WRMS - BRC.

mem 18/92

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

M. A. NO. 71 OF 1992

IN

O. A. NO. 510 OF 1989

Union of India & Ors....

V/s

...Applicants  
(Original  
respondents)

N. U. Agnani.....

...Opponent  
(Original  
applicant)

APPLICATION FOR TAKING  
WRITTEN STATEMENT ON  
RECORD ON BEHALF OF  
ORIGINAL RESPONDENT  
NOS. 4 & 5.

The applicants - original respondents Nos.

4 & 5 humbly beg to submit as under:-

1. That the original applicant - opponent herein has filed O.A. NO. 510/89 for quashing the order of promotion dated 28.9.89 promoting original respondent Nos. 6 to 11 and for issuing a fresh promotion order including the name of the original applicant as per headquarter letter dated 21.3.88 as well as seniority list. The said application was admitted by the Hon'ble Tribunal on 4.12.89.

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Copy saved

hll



2. It is submitted that the matter was then placed before the Registrar for filing written statement. However, W.S. could not be filed at the time.

3. Thereafter the original applicant filed M.A.NO.95/91 praying for ex parte hearing. ~~and~~ It is submitted that one of the original respondents was not served then. The original applicant was directed to serve the said respondent by direct service. Thereafter the said M.A.NO.95/91 was again notified on Board for orders on some dates and finally Hon'ble Tribunal passed order on the said M.A. on 1.1.92 to the effect that the reply has not been filed by the original respondents and two weeks time was allowed to file a reply, failing which the matter was liable to be heard ex-parte.

4. The applicants herein submit that the original applicant was charge-sheet ~~for~~ in February, 1988 and departmental proceedings for major penalty were pending against him. The original respondent Nos. 4 & 5 were required to ~~be~~ connect the inquiry papers also with the present application. The disciplinary authority had dropped the charges levelled against the original applicant vide letter dated 8.8.91. Thereafter, the next higher authority examined the case and

issued show-cause notice under rule 25 of the Railway Servants(D&A) Rules, 1968 for enhanced penalty of reversion giving an opportunity to the original applicant of showing cause against the action proposed to be taken vide Memorandum dated 29.10.1991. The original applicant submitted his explanation dated 11.11.91 with letter dated 12.11.91, which was received by the concerned Section on 20.11.91. Thereafter the reviewing authority gave personal hearing to the original applicant on 17.12.91 along with his defence Assistant as requested by him. Thereafter the said authority viz. <sup>Rm</sup>ADMF(II), Baroda, issued Notice of Imposition of penalty dated 20.12.91 with-holding next increment whenever due for a period of one year with future effect and also gave a speaking order. The said NIP has been acknowledged on 28.12.91.

5. The applicants herein submit that the departmental proceedings were in progress and the ~~confidential~~ file/ of <sup>A</sup>DR case was connected by the Confidential Cell and the remarks were also supplied to the concerned Section, which were supplied to the Advocate for drafting reply on 16.1.92. The advocate drafted a reply on the same day and returned the papers for signatures of the competent authority on 17.1.92.

6. The applicants herein submit that Hon'ble Tribunal had allowed 15 days time to file a reply which expired on 16.1.92. The ~~xxx~~ reply has been

drafted by the advocate immediately and sent for signatures. The O.A. has not been listed for final hearing so far. The delay is very short and the reply filed herewith is required to be taken on record in the interest of justice. Hence this application.

7. The applicants- original respondents Nos.4 and 5, therefore pray that:-

(A) Hon'ble Tribunal will be pleased to condone delay and order to take on record W.S. filed herewith.

(B) Any other order may be passed that the Hon'ble Tribunal deems fit and proper.


VERIFICATION.

I, B.N. Meena, age about 34 years, son of Shri R.N. Meena working as Divisional Personnel Officer, Western Railway, Baroda and ~~residing~~ residing at Baroda do hereby state that what is stated above is true to my knowledge and information received from the record of the case and I believe the same to be true. I have not suppressed any material facts.

Baroda

Dated: 23.1.1992

24/1-92

  
Divisional Personnel Officer,  
Western Railway, Baroda.

Filed by Mr. N S Shrivastava  
Learned Advocate for Petitioners  
with second set of ~~the~~ spares  
copies copy served/not served to  
other side

By Dr. L. V. 176 Registrar C.A.T.O.  
A'bad Bench