

30/100

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 205/2000

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet.....84.....Pg.....1.....to.....4.....
2. Judgment/Order dtd. 28.11.2001.....Pg. 1.....to.....5.....Allowed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....205/2000.....Pg. 1.....to.....14.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
- ✓ 7. W.S.....Pg. 1.....to.....34.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Kalits
19/12/17

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 205/2000 OF 199

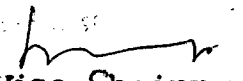

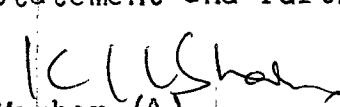
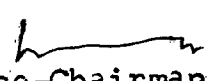
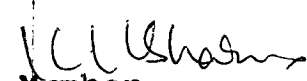
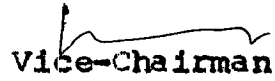
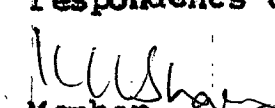
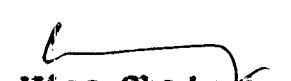

Applicant(s) Smt. Jayasree Deb Roy (Dutta)

Respondent(s) Union of India and ors.

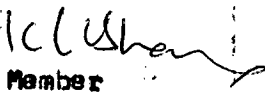

Advocate for Applicant(s) Mr. A. Deb Roy.

Advocate for Respondent(s) C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>For application to be form and within 120 C.F. of Rs. 500 deposited vide IPO BD No. 457/75 Dated 17.5.2000.</p> <p>9/6/00 9/6/2000</p> <p>9-10-2000 The copy of order dt. 12-5-99 is annex in the original application at page - No 14. Ann - III</p> <p>Boo</p>	<p>13.6.00</p> <p>1m</p> <p>17.7.00</p> <p>28.7.00</p> <p>4.9.00</p>	<p>Present: Hon'ble Mr.D.C.Verma, Judicial Member.</p> <p>Heard Mr.A. Deb Roy, learned counsel for the applicant and Mr.B.K.Sharma for the respondents.</p> <p>Mr.A. Deb Roy, counsel for the appli- cant submits that the order by which the applicant was absorbed has not been annexed. The order be annexed to the O.A. by the next date. Mr.B.K. Sharma also seeks time to file written statement. Time is allowed. List on 17.7.00.</p> <p>Member(Judl.)</p> <p>There is no Bench today, Adj. to 28.7.00.</p> <p>There is no Bench Adj. to 4.9.00</p> <p>NO Bench. Adj. 10.11.00</p>

Notes of the Registry	Date	Order of the Tribunal
<p>9-6-2000 Service Copies of requisite not filed 1500 7-12-2000 No written statement has been filed. By 7.12.00</p>	10.11.00	<p>Present: The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman.</p> <p>Four weeks time is granted to the respondents to file written statement on the prayer of Mr S. Sengupta, learned Railway counsel.</p> <p>List on 8.12.2000 for written statement and further orders.</p> <p> Vice-Chairman</p>
<p>No. written statement has been filed. By 8.12.00</p>	8.12.00	<p>List it on 9.1.2001 to enable the respondents to file written statement and for further orders.</p> <p> Vice-Chairman</p>
<p>Steps are not received. By 10/01/01.</p> <p>Steps are not received. By 18/01/01.</p>	<p>mk 9.1.2001</p>	<p>Heard learned counsel for the parties.</p> <p>Application is admitted. Call for the records. Issue usual notices.</p> <p>The respondents are allowed four weeks time to file written statement.</p> <p>List on 7.2.01 for written statement and further orders.</p> <p> Member (A)</p> <p> Vice-Chairman</p>
	7.2.01	<p>List on 12.3.01 to enable the respondents to file written statement.</p> <p> Member</p> <p> Vice-Chairman</p>
	12.3.01	<p>List on 11.4.01 to enable the respondents to file written statement</p> <p> Member</p> <p> Vice-Chairman</p>
	11.4.01	<p>List on 17.5.01 to enable the respondents to file written statement.</p> <p> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
	17.5.01	<p>List for hearing on 14-6-2001. In the meantime the parties may exchange their pleadings. The respondents may file written statement within three weeks from today and the applicant may file rejoinder, if any, within ten days thereafter.</p> <p><i>K.C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	19.6.01	<p>Learned counsel for the applicant, prays for and granted two weeks time to file rejoinder. List on 10-7-2001 for orders.</p> <p><i>K.C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>12.6.2001</p> <p>w/s has been submitted by the Respondents.</p> <p><i>[Signature]</i></p>	10.7.01	<p>List again on 24.7.2001 to enable the applicant to file rejoinder.</p> <p><i>K.C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>No. Rejoinder has been filed.</p> <p><i>[Signature]</i> 18.6.01</p>	24.07.01	<p>Pleadings are completed. List on 5-9-2001 for hearing.</p> <p><i>K.C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>No. Rejoinder has been filed.</p> <p><i>[Signature]</i> 9.7.01</p>	5-9-	<p>There is no division bench today, the case is adjourned to 9.10.2001.</p> <p><i>[Signature]</i> 5.9.</p>
<p>23-7-2001</p> <p>Rejoinder has not been filed.</p> <p><i>[Signature]</i></p> <p>No. rejoinder has been filed.</p> <p><i>[Signature]</i> 8.10.01</p>	9.10.2001	<p>Mr. A. Deb Roy, learned counsel for the applicant is under medical treatment. Accordingly, the matter stands adjourned. List again on 28.11.2001 for hearing.</p> <p><i>K.C. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
<p>23.11.2001</p>	<p>23.11.2001</p>	<p>Heard counsel for the parties. Hearing concluded, judgment delivered in open Court, kept in separate sheets.</p>
<p>28.11.2002</p>	<p></p>	<p>The application is allowed in terms of the order. No order as to costs.</p>
<p>Copy of the Judgment has been sent to the Office for issuing the same to the Appellant as well as L/Adv for the Respondent.</p>	<p>bb</p>	<p>  Member </p> <p>  Vice-Chairman </p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 205 of 2000.

Date of Decision. 23.11.2001

Smt. Jayasri Deb Roy

Petitioner(S)

Mr. A. Deb Roy

Advocate for the
Petitioner(s)

-Versus-

Union of India & Others.

Respondent(s)

Mr. S. Sengupta,

Advocate for the
Respondent(s)

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

THE HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether the Judgment is to be circulated to the other Benches ?
- } No

Judgment delivered by Hon'ble : Vice-Chairman.

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 205 of 2000.

Date of Order : This the 28th Day of November, 2001.

Smt. Jayasri Deb Roy (Dutta)
Assistant Teacher
Railway Primary School
N.F.Railway, Dharmanagar
Tripura.

. . . Applicant.

By Advocate Mr.A.Deb Roy

- Vs -

1. Union of India
(Through General Manager (P)
N.F.Railway, Maligaon
Guwahati-11.

2. Chief Personnel Officer
N.F.Railway, Maligaon
Guwahati-11.

3. Divisional Railway Manager
N.F.Railway, Lumding.

4. Controlling Officer
Railway Primary School
Dharmanagar
North Tripura.

. . . Respondents.

By Mr.S.Sengupta, learned Mly.Advocate.

O R D E R

CHOWDHURY J.(V.C.) :

This application under section 19 of the Administrative Tribunals Act, 1985 has arisen and is directed against the order dated 12.5.1999 passed by the General Manager (P), N.F.Railway rejecting the representation of the applicant in not computing the seniority of the applicant on her appointment vide communication dated 28.12.1998 in the following circumstances :

2. The applicant was appointed as a substitute Asstt. Teacher Grade IV in the Railway H.S. School, Lumding on 2.3.1981. She was granted temporary status w.e.f.13.3.1986. The applicant sought for regularisation and for that purpose knocked at the door of this Tribunal and the Tribunal by its judgment and order dated 31.10.1994 dismissed the application. The applicant thereafter went up to Hon'ble Supreme Court and the Hon'ble Supreme

Court by its judgment and order dated 13.10.1995 set aside the judgment and order of this Tribunal dated 31.10.1994 and directed the respondents to consider the case of the applicant for absorption on regular basis in the post of Asstt. Teacher by the Screening Committee in accordance with para 5.1. of the Master Circular dated 29.1.1991. Pursuant to the judgment and order of the Hon'ble Supreme Court the applicant alongwith others were screened by the Screening Committee and she was appointed as regular Asstt. Teacher on 1.6.1996. By order dated 28.12.1998 the Asstt. Personnel Officer (Welfare) on behalf of the General Manager (Personnel) MIG informed the respective Principals, Head Mistress, Controlling Officer as to the continuity of service on regular absorption of the applicant alongwith like Substitute Teachers. In the said communication it was also mentioned that the seniority of the five teachers including the applicant was taken into account for all purposes except seniority from the date of acquiring temporary status with treating breaks as Dies-non.

3. The applicant submitted a representation before the authority and the authority by its letter dated 12.5.1999 turned down her representation. Hence this application for correct computation of her seniority in the service.

4. The respondents submitted its written statement and stated that the applicant was given all the benefit admissible under the law. The applicant was appointed as substitute Asstt. Teacher, Grade IV in grade Rs.440-750/- (R.S.) w.e.f. 2.3.1981 till such time the regular incumbent resumes in the Railway Higher Secondary School, Lumding in terms of Controlling Officer, Lumding Railway School's letter dated 28.2.1981. It was stated in the written statement that it was incorrect that the applicant was granted temporary status w.e.f. 13.3.1986 as stated in the application. The service of the applicant as substitute Asstt. Teacher was terminated w.e.f. 11.11.1994. After the Screening

Committee declared her to be suitable for appointment, the applicant alongwith six others were appointed as Primary Teacher Grade-IV on the strength of the Screening Test held on 17.2.1998 and 29.3.1996 in the form of Written and Viva- Voce Test, and on being found medically fit. By the communication dated 28.12.1998 it was ordered that the past services rendered by the applicant and four others in different spells would be taken into account for all purpose except seniority from the date of acquiring temporary status with treating breaks as Dies-non. In the written statement, the respondents stated that there was no specific order/direction issued by the Hon'ble Supreme Court pertaining the seniority of the applicant. In issuing the order dated 28.12.1998 the Railway authority took into consideration the Master Circular No.20/91 as well as the order of the Hon'ble Supreme Court. In terms of the Master Circular more particularly, para 4.3 of the Circular, the aforesaid order is passed.

5. We have heard Mr.A.Deb Roy, learned counsel appearing for the applicant and also Mr.S.Sengupta, learned standing counsel, N.F. Railway.

6. Mr.A.Deb Roy submitted that the order of the Hon'ble Supreme Court is clear and specific whereby the respondents were directed to hold Screening Committee. In the event, the applicants were found suitable for appointment on regular basis they should be appointed on regular basis on the post held by them and they would also be entitled to the continuity of service. Mr.Deb Roy referring to the judgment of the Hon'ble Supreme Court submitted that the direction for absorption of the applicant was issued on the basis of the Master Circular. Mr.S.Sengupta, the learned counsel for the Railways referred to para 4.3 of the Master Circular and stated that as per the said para the services of substitute School Teachers was to be treated as continuous for all purpose except seniority on their eventual absorption against regular post. The respondents therefore, while passing the impugned order dated 12.5.1999, took into consideration the professed norms cited in the Master Circular. Mr. S. Sengupta, learned counsel for

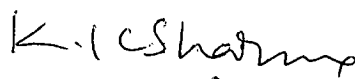
according to
the respondents submitted that para 13 of the appointment letter
dated 15.5.1996 ^{the} applicant's seniority to the post ^{to} was be deter-
mined in accordance with the rules applicable to Railways.

8. There is no doubt that as per para 4.3 read with 4.5 of the Master Circular the services of the Substitute Asstt. Teachers on absorption is treated as continuous for all purposes except seniority and therefore as per the norms such persons are not entitled to count the seniority against regular absorption. But then, the case of the applicant is situated in a different footing. The applicant a substitute Asstt. Teacher was terminated from her service after dismissal of her application by the Central Administrative Tribunal. She was appointed subsequently after being screened by the Screening Committee as directed by the Hon'ble Supreme Court. The judgment and order of the Hon'ble Supreme Court is clear and specific. In the judgment the Hon'ble Supreme Court observed that in case the appellants (including the applicant) were found suitable for absorption by the Screening Committee, they were to be appointed on regular basis on the post held by them and would also be entitled to ^{the} continuity of services. Setting aside the judgment of this Tribunal dated 31.10.1994, the Hon'ble Supreme Court directed that the applicants would be considered for absorption on regular basis on the post of Assistant Teacher by the Screening Committee in accordance with para 5.1. of the Master Circular dated 29.1.1991 and in case the appellants were found suitable for absorption by the Screening Committee, they would be restored to the post held by the Screening Committee. The order also directed that the applicants were to be appointed on the post that they were holding and would also be entitled for continuity of service. The Hon'ble Supreme Court used the word "restore". To restore means the act of restoration, to bring back to a former place, to make good and to re-instate.

9. On the face of the clear and specific directions of the Hon'ble Supreme Court, it was ^{not} appropriate on the part of

the respondents not to take into account their service seniority. On the face of the order of the Hon'ble Supreme Court, the respondents could not have acted on 4.3 and sit over the judgment of the Hon'ble Supreme Court. For the reasons stated above, the impugned order dated 28.12.1998 so far the seniority of the applicant is concerned, is set aside so also the impugned order dated 12.5.1999 rejecting the representation of the applicant. The respondents are directed to act as per the direction of the Hon'ble Supreme Court and take into account the past service of the applicant notionally for the purpose of seniority,

The application is allowed to the extent indicated above. There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. NO. /98

13
 Filed by
 A. Deb Roy
 Advocate
 18/5/2000

1* Smti Jayasri Deb Roy (Dutta)

Applicant is working as Asstt. teacher in the
 Rly. Primary School, N.F.Rly, Dharmanagar, Tripura.

..... Applicant

- AND -

1. Union of India

(Through General Manager(P) N.F.Rly.

Maligaon, Guwahati - 11)

2. Chief Personnel Officer, N.F.Rly.

Maligaon, Guwahati -11.

3. Divisional Railway Manager, N.F.Rly.

Lumding.

4. Controlling Officer, Railway Primary School.

Dharmanagar, North Tripura.

..... Respondents.

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

This application is made against the order NO.F/252/10/

417(W) date 12.5.1999, issued by the General Manager(P) N.F.Rly

Maligaon, Guwahati rejecting the representation of the applicant.

The order was communicated on 14.6.1999 vide DIO-F-1(0)-318/RPS/DIR

2. The applicant declares that the subject matter of the order against

which she wants redressal is within the jurisdiction of the

Tribunal.

3. LIMITATIONS

The applicant further declares that the application is within

the limitation prescribed in section 21 of the ~~jurisdiction of~~

~~the~~ Administrative Tribunal Act 1985.

Jayasri Deb Roy (Dutta)

14

4. FACTS OF THE CASE

- 4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India.
- 4.2. That the applicant is working as Asstt. Teacher Grade IV in the Rly. Primary School, N.F. Rly, Dharmanagar, Tripura.
- 4.3. That the applicant was appointed as substitute Asstt. teacher Grade IV in the Rly. H.S. School, Lunding on 2.3.1981 and the Applicant was granted temporary status w.e.f. 13.3.1986.
- 4.4. That the applicant sought regular absorption but failed. ^{They} She moved the Hon'ble Central Administrative Tribunal, Guwahati Bench for appropriate relief, but the Hon'ble Tribunal by its judgement and order dated 31.10.1994 dismissed the application submitted by the applicant and the services of the applicant was terminated w.e.f. 11.11.1994.
- 4.5. That the ^{applicant} filed appeal in the Hon'ble Supreme Court being civil Appeal NO. 9424 of 1995, against the judgement of the Hon'ble Tribunal. The Hon'ble Supreme Court by its judgement and order dated 13.10.1995 set aside the judgement of the Hon'ble Tribunal dated 31.10.1994, and directed that the applicant shall be restored to the post held by her with continuity of service in case she is found suitable by the Screening Committee.

Copy of judgement and order dated 13.10.1995 is annexed hereto and marked as ANNEXURE - I.

- 4.7. That the consequent upon the aforesaid judgement and order of the Hon'ble Supreme Court Screening Test of the substitute teachers was held on 17.2.96 and 29.3.96 and the applicant was qualified in the Screening Test and was appointed as Primary teacher Grade IV.

Jagadevi Del Ray (Duty)

4.8. That the applicant was appointed as substitute teacher and subsequently she was conferred temporary status and Hon'ble Supreme Court ordered to restore "to the post held by her with continuity of service".

4.9. That the Railway authorities did not give the applicant continuity of service and so she submitted a number of representations through the Controlling Officer, Rly Primary School, Dharmanagar, North Tripura, to the General Manager(P) N.F.Rly, Maligaon, Guwahati, *praying to give her continuity of service.*

~~4.10. Praying to give her continuity of service~~ One such representation dt. 20.4.1999 is annexed hereto and marked as ANNEXURE-II

4.10. That the Controlling Officer Railway Primary School, Dharmanagar, North Tripura informed the applicant under his letter No. F-1(B)/318/RPS/DMR dated 14th June 1999, that the General Manager(P) Maligaon Guwahati-11, rejected her representation vide his order NO. F/252/10/417(W) dated 12.5.1999.

Copy of letter dated 14.6.1999 is annexed hereto and marked as ANNEXURE - III.

4.11. That the applicant further begs to state that after the impugned order dated 31.10.94 passed by the Hon'ble Tribunal in the original application which was filed by the present applicant the services of the applicant was terminated w.e.f. 11.11.94 by the present respondents. As a result the applicant remained out of employment w.e.f. 11.11.94. However the applicant was reappointed again on regular basis after being found suitable in the screening test and allowed to join as regular Asstt. teacher and the applicant joined on 1.6.1996 in the Rly. Primary School, Dharmanagar.

Therefore, the present applicant is also entitled to pay and allowances from the date of termination of her service and till the

Jagadee Del Ray (Duty)

date of reappointment on regular basis i.e, w.e.f. 11.11.94. But surprisingly the respondents did not take any steps for the above mentioned periods. Hon'ble Supreme Court in its order dated ^{13.10.95} ~~13.1.99~~ passed in civil Appeal No.9424 of 1995 specifically held that the applicant is entitled to continuity of her service and also held that the applicant is entitled to be restored to her original position. Therefore, the applicant is entitled to pay and allowances as stated above.

4.13. That the applicant further beg to state that in the light of Hon'ble Supreme Court's order dated 13.10.95 the applicant is entitled to continuity of her service which means that she is entitled to seniority with other consequential service benefits in the light of the Hon'ble Supreme Court's order, but the same have been denied to the applicant.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

5.1. For that the applicant has acquired a valuable and legal right for grant of seniority and pay and allowances along with other consequential service benefits in the light of the Hon'ble Supreme Court's order dated 13.10.95.

5.2. For that the Railway authority did not comply the Hon'ble Supreme Court's order dated 13.10.95.

6. DETAILS OF THE REMEDIES EXHAUSTED.

The applicant declares that she has availed of all the remedies available to her as explained in the application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

The applicant states that she along with other two applicants, filed O.A.NO.305/98, which was withdrawn with a liberty to file again.

The applicant declares that no other application regarding the matter is pending before any court or any other authority or any other Bench of the Tribunal.

8. RELIEFS SOUGHT

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

Prayer is Del Ray (Duty).

- 8.1. That the Hon'ble Tribunal be pleased to direct the respondents to grant seniority of the applicant from the date of her initial appointment along with other consequential service benefits.
- 8.2. That the respondents be directed to grant pay and allowance from the date of termination of services of the applicant till the date of regular appointment of the applicant after screening test in the light of the Hon'ble Supreme Court's order dated 13.10.95.
- 8.3. To pass any other order or orders as deem fit and proper in the facts and circumstance of the case.
- 8.4. Cost of the case.
9. That this application has been filed through Advocate.
10. PARTICULARS OF THE I.P.O.

i) I.P.O. NO.

OG 457175

ii) Date of issue.

17.5.2000

iii) Issued from ~~G.P.O. Guwahati.~~

Secretarial P.O., Ghy. 6

iv) Payable at ~~G.P.O. Guwahati.~~ 6

Secretariat

4

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

I Smti Jayasri Deb Roy (Dutta) wife of Shri Radhagobinda Dutta aged about 46 years working as Asstt. Teacher grade IV in the Railway Primary School, N.F. Railway, Dharmanagar, resident of P.O. & P.S. Dharmanagar Dist North Tripura, in the state of Tripura do hereby solemnly verify that the contents of paras 2, 4.1 to 4.4, 4.7, 4.8, 4.11, 4.12, 6, 7 are true to my personal knowledge and paras 1, 4.5, 4.9, 4.10, 5, 8 believed to be true on legal advice and that I have not suppressed any material fact.

Date 18.5.2000

Place. Guwahati

Jayasri Deb Roy (Dutta).

DECLARANT

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9424 OF 1995
 (arising out of S.L.P. (Civil) No. 1946 of 1995) 326570

Smt. Jayashree Dab Roy (Dutta) ... Appellant

versus

Union of India & Ors. ... Respondents

WITH

CIVIL APPEAL NO. 9425 OF 1995
 (arising out of S.L.P. (Civil) No. 1947 of 1995)

Mrs. Samita Dutta ... Appellant

versus

Union of India & Ors. ... Respondents

WITH

CIVIL APPEAL NO. 9426 OF 1995
 (arising out of S.L.P. (Civil) No. 1948 of 1995)

Mrs. Ratna Roy ... Appellant

versus

Union of India & Ors. ... Respondents

WITH

CIVIL APPEAL NO. 9427 OF 1995
 (arising out of S.L.P. (Civil) No. 1949 of 1995)

Mrs. Mukul Das ... Appellant

versus

Union of India & Ors. ... Respondents

Attested
 1995
 Shw.

8

KLTH

Amey - I

29

CIVIL APPEAL NO. 7428 OF 1995
(arising out of S.L.P. (Civil) No. 1950 of 1995)

Subal Chandra Chakraborty

...Appellant

versus

Union of India & Ors.

...Respondents

KLTH

CIVIL APPEAL NO. 7429 OF 1995
(arising out of S.L.P. (Civil) No. 1951 of 1995)

Mrs. Aparna Das

...Appellant

versus

Union of India & Ors.

...Respondents

O R D E R

Leave granted in all the special leave petitions.

The appellants were appointed as Assistant Teachers in the schools run by the North East Frontier Railway. Originally, they were appointed as substitute teachers but subsequently they were conferred temporary status. They were continued in service with short breaks in between. They sought regular absorption but failed. They moved the Central Administrative Tribunal (hereinafter referred to as 'the Tribunal') for appropriate relief. By

Attested
by 18/5/2000
ASW

9

12

separate judgments dated October 21, 1994, the Tribunal has dismissed the applications submitted by the appellants. The Tribunal has held that the petitioners would have to go through the prescribed procedure of selection by the Railway Recruitment Board for regular appointment on the post of Assistant Teacher.

Shri. Raju Ramachandran, the learned counsel appearing for one of the appellants in these appeals, has invited our attention to the Master Circular R.B. No. 12/91 H.C. No. 20/91 (No. E(NG)/90/SD/Master (Circular) dated January 29, 1991, relating to Substitutes in the Railway. In para 5.1 of the said circular provision is made with regard to absorption of substitutes in regular service in the following terms :-

"5.1 Substitutes, who have acquired temporary status should be screened by a Screening Committee and not by Selection Boards, constituted for this purpose before being absorbed in regular Group 'C' (Class-III) and Group 'D' (Class-IV) posts.

Such a Screening Committee should consist of at least three members, one of whom should belong to the SC/ST communities and another to minority communities."

The submission of the learned counsel is that in view of the said provision in the circular regular absorption of the appellants has to be made through the process of screening by the Screening Committee and they are not

185/2000
Adu

(10)

13-1

22

required to appear before a Selection Board for that purpose. It has been further submitted, the learned counsel that the circular dated January 29, 1991 has been issued in accordance with the provision contained in sub-rule (2) of Rule 216 of the Railway Establishment Code which provides that "direct recruitment to Railway Services Group-C shall be made through the agency of the Railway Recruitment Board unless otherwise specially authorised by the Railway Board." (emphasis supplied). It appears that reliance was placed on this circular before the Tribunal but the Tribunal held that it was not applicable to the case of the appellants on the ground that the appellants are holders of temporary status and are not temporary railway servants. In taking this view, the Tribunal appears to have committed an error because para 5.1 of the circular speaks of substitutes who have acquired temporary status. There is no dispute that the appellants are substitutes and they have acquired temporary status. Moreover, the order whereby temporary status was conferred on Smt. Jayashree Dab Roy [appellant in Civil Appeal No. of 1995 (arising out of S.L.P. (Civil) No. 1946/95)] is on record which states "as such she is entitled to all benefits as admissible to temporary railway staff." The said order indicates that the conferment of temporary status entitles the person who has been conferred that status to all benefits as admissible to temporary railway staff. The appellants were, therefore, entitled to the benefit conferred under para 5.1 of the circular dated

Attested
18/5
D. J.

January 29, 1991, and on that basis the appellants are entitled to absorption on regular basis through the process of screening by the Screening Committee in accordance with the said provision and they are not required to face selection by the Railway Recruitment Board for the purpose of regular absorption. The judgment of the Tribunal holding otherwise cannot, therefore, be upheld and has to be set aside.

After the impugned judgment of the Tribunal, the services of the appellants have been terminated. In case the appellants are found suitable for absorption by the Screening Committee, they should be appointed on regular basis on the post that was held by them and they would also be entitled to continuity of service. The appeals are, therefore, allowed, the judgments of the Tribunal dated October 31, 1994 in the applications filed by the appellants are set aside and the said applications are allowed with the direction that the appellants shall be considered for absorption on regular basis on the post of Assistant Teacher by the Screening Committee in accordance with para 5.1 of the Master Circular dated January 29, 1991, and in case the appellants are found suitable for such absorption, by the Screening Committee, they shall be restored to the post held by them with continuity of service. The process of selection by the Screening Committee as per directions in this Order shall be completed within a period of three months from the receipt of the copy of this Order. A copy of this Order be sent to the Chief Personnel Officer, North East

Restored to his post held

Attested
18/5
D.S.V.

(12)

-15-

Amiya

24

Frontier Railway, Maligaon, Guwahati.

By our order dated March 27, 1995, we had directed that appointment may not be made on six posts of school teachers. The said order shall continue till the Screening Committee completes the process of screening.

No costs.

sdL
.....J.
[S.C. AGRAWAL]

sdL
.....J.
[G.B. PATTANAIK]

17.10.95

New Delhi
October 13, 1995

Attended
at 18/5
Shu

SERIAL NO. 11255/54/1871
No. of Pages 1
Costs including 16
Certification 1
Page 16/7
Kusumabai

Date of application for copy 16-10-75
Date of delivery of request 16-10-75
Date which the copy was ready 16-10-75
Date of delivery of the copy 16-10-75

04/11/75

SEALED IN MY PRESENCE

(13)

ANNEXURE - II

To
The General Manager (P),
N. F. Railway, Maligaon,
Guwahati - 781 011.

(Through proper channel).

Sub : Continuity of service on regular absorption.

Ref. : Your letter No. E/252/239 Pt - III (W),
dated, 28-12-98.

Sir,

In inviting reference to above I have the honour to state, ^{that} the Hon'ble Supreme Court by its order dated, 13-10-95 passed in Civil Appeal No. 9424 of 1995 directed that - "In case the appellants are ~~are~~ found suitable for such absorption by the Screening Committee, they shall be restored to the post held by them with continuity of service".

2. That Sir, I have been reasonably expecting that I shall get continuity of service as per order of the Hon'ble Supreme Court for all purposes.

3. That Sir, it appears from the above referred letter that my continuity of service has been taken into account for all purposes except seniority from the date of acquiring Temporary Status with treating breaks as Dies-non.

4. That Sir, apparently the above referred letter is in violation of the order dated 13-10-95 passed by the Hon'ble Supreme Court.

I would, therefore, fervently request you to reconsider the matter and kindly to give continuity of service for all purposes including seniority and other consequential benefits.

And for the act of your kindness I shall remain ever grateful.

Dated, Dharmanagar,
The 20th April /1999.

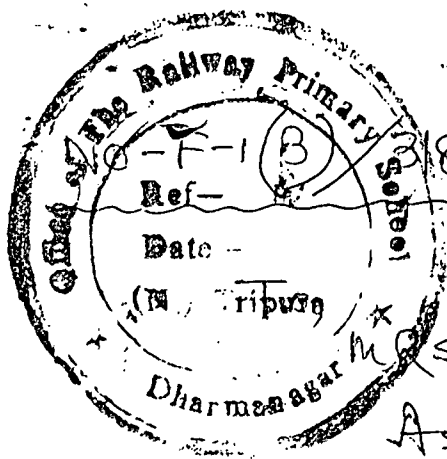
Yours faithfully,

Jayanti Deb Roy (buddy)
Asstt. Teacher,
R.P.S. Dharmanagar.

ForWARDED
28/4/99
Rly. Primary School,
Dharmanagar N. F. Railway

Attended
18/5
AS

Office of the Controlling Officer, ANNEXURE-III
Railway Primary School/Dharmnagar N.F.Rly



18/RPS/DMR

Dated, Dharmnagar
The 14th June/1999

Smt Jayashree Debray (outta)
Asstt. Teacher/RPS/DMR.

Sub: - Continuity of Service on regular absorption.

Ref: - vide G.M.(P)/MTG's Officer order no - E/252/10/
417(W) dt, 12-05-1999.

In response to your letter, The G.M.(P)/MTG/
N.F. Railway has passed the following office
order for your information and guidance.

19/06/99
Controlling Officer,
Railway Primary School,
Dharmnagar N. F. Rly.

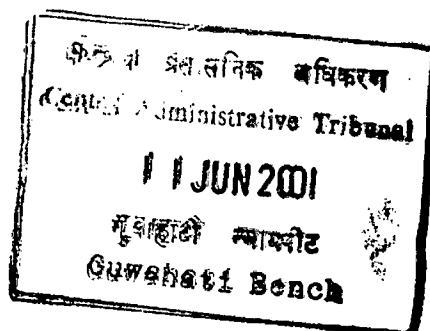
(Copy of The G.M.(P)/MTG's/N.F.Rly letter no - E/252/10,
417(W) dt 12-05-1999.)

"In response to your letter cited above, the
matter has been examined carefully and found
that there is no specific order issued
by the Hon'ble Supreme Court of India, regarding
the Seniority of Smt Jayashree Debray (outta). Hence
the order issued on the strength of Para 4.3
of Master Circular no-20 vide this office letter
of even number dt 28-12-98 will stand.

This may be informed Smt Debray (outta)
accordingly."

Attended
18/5
JW

(J. Rabidas)
APO (W)
for General Manager (P)/MTG



27
Filed by:
Sukomal Banerjee
Railway Advisory
Guwahati
12.6.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

10/6
Chief Personnel Officer
C. E. R. W. / Mahabari
Guwahati-781

IN THE MATTER OF :

O.A. NO. 205 OF 2000

Sati. Jayasri Deb Ray (Dutta)

..... Applicant.
- Vs -

Union of India and Others.

.... Respondents.

- AND -

IN THE MATTER OF :

Written Statement for and on behalf
of the respondents.

The answering respondents most respectfully
beg to sheweth as under :

1. That, the answering respondents have gone through
the copy of the application filed by the applicant and have
understood the contents thereof.

2. That, save and except those statements of the
applicant which are specifically admitted herein below and
are borne on records, all other allegations/averments made
in the application are denied herewith and the applicant is
put to strictest proof thereof.

3. (a) That, the applicant has got no valid cause of action or right for filing this application.

(b) That, the case is premature.

4. That, all the actions taken in the case are quite in consonance to the extent rules and orders in vogue and are quite legal, valid and proper.

5. That, the case is hit under the provision of the limitation Act and under section 21 of the Central Administrative Tribunal Act 1985.

6. That, the case is fit one to be dismissed in limine.

7. That, with regard to averments at paragraphs 4.1, 4.2 and 4.3 of the application it is stated that it is correct that the applicant is working as Primary Teacher, Grade IV in the Railway Primary School, N.F. Railway, Dharma-nagar since her regular absorption in the railway service with effect from 1.6.1996. It is a fact that the applicant was appointed as substitute Assistant Teacher, Grade IV in grade Rs. 440-750/- (R.S.) with effect from 2.3.1981 till such time the regular incumbent resumes in the Railway Higher Secondary School, Lunding in terms of controlling officer, Lunding Railway School's letter No. LS/57/IR-Pt.II, ^{dated 28.2.1981} It is incorrect that she was granted temporary status with effect from 13.3.1986. as mentioned in the application. Temporary status was granted to her with effect from 13.3.88.

29
Chief Executive Officer
C.O. 121, 1st Floor
Guwahati, Assam

Further, her appointment as a substitute Teachers was subject to the condition that this appointment will not confer on her any claim for regular absorption on the Railways and her service might be terminated at any time without notice.

A copy of this appointment letter dated 28.2.81 is annexed hereto as Annexure A for ready perusal.

It is also a fact that her service as substitute teacher was terminated with effect from 11.11.1994 under controlling officer, Railway Higher Secondary School, Lunding's Letter No. LS/37/Pt.VI dated 11.11.94 in pursuance to the Judgement dated 31.10.94 delivered by the Hon'ble Central Administrative Tribunal, Guwahati in O.A. No. 149(G)/1989.

A copy of this letter dated 11.11.94 is annexed hereto as Annexure -B for ready perusal.

8. That, with regard to averments made at paragraphs 4.5, 4.7 and 4.8 of the application it is submitted that the respondents admit only those statements which are borne on records and for the rest the applicant is put to strictest proof thereof. It is a fact that the applicant (Mrs. Jayasri Deb Roy (Dutta) along with 6 others were appointed ^{as} Primary Teacher Grade IV after being found suitable in the screening Test held on 17.2.96 and 29.3.96 in the form of Written and Viva- Voce test, and on being found medically fit in C/2 category, in terms of directive of Hon'ble Supreme Court of India in the case Nos. 1946, 1947, 1948, 1949, 1950 and 1951 of 1995 . The applicant was posted in the Railway Primary School, Dharmanagar.

30
[Handwritten signature and stamp]

In this connection it is to state that while absorbing the applicant as Primary Teacher under General Manager (P)/Maligaon's letter No. E/252/239/Pt.III (W) dated 28.12.98 it was also ordered that the past services rendered by the applicant and 4 other substitute teachers, in different spells, may be taken into account for all purposes except the seniority aspect, from the date of acquiring of temporary status and the breaks would be treated as 'Dies non'.

A copy of the General Manager (P)/N.F. Railway/Maligaon's letter No. E/252/239/Pt.III(W) dated 28.12.98 is annexed hereto as annexure 'C' for ready perusal.

It is to mention herein that there is no specific order/direction issued by the Hon'ble Supreme Court regarding the Seniority of Smt. Jayashri Deb Roy (Dutta) and hence the contentions of the applicant at paragraph 4.9 of the applicant which ^{are} contrary to the Hon'ble Supreme Court's order are not accepted.

9. That, with regard to averments of the applicant at paragraphs 4.10 and 4.11 of the Application it is to state that it is not correct to say that the Railway Administration did not give the applicant the continuity of service.

As has been submitted in foregoing paragraph 8 of the written statement, necessary instructions in this regards were already issued even under General Manager (P)'s letter No. E/252/239/Pt.III(W) dated 28.12.98 for complying with the Hon'ble Supreme Court's order.

31
CHIEF SECRETARY
2.5.99

As regards her representation dated 20.4.1999

it is to state herein that the same had been disposed of vide General Manager (P)/N.F. Railway, Maligaon's letter No. E/252/10/417(W) dated 12.5.99 . A copy of this letter dated 12.5.99 with forwarding letter dated 14.6.99 is annexed hereto as Annexure 'D' for ready perusal, through which it was reiterated that (i) her case was carefully ^{there} examined and (ii) there is no specific order issued by the Hon'ble Supreme Court regarding seniority of Smt. Jayashri Deb Roy (Dutta) and that (iii) the order issued on the strength of para 4.3 of the Master Circular No. 20 vide the above quoted letter dated 28.12.98, would stand.

It is thus quite incorrect to state that her appeal dated 20.4.1999 has been rejected by the Railway Administration through the aforesaid letter of the Railway Administration dated 12.5.99.

In this connection, it is pertinent to mention herein that in course of the argument in the case the appellants side relied on the Master Circular No. 20/91 relating to the substitutes in the Railway and the Hon'ble Supreme Court also observed at pages 10 and 11 of the Judgement dated 13.10.95 as under :

" The appellants" were therefore entitled to all the benefits conferred under para 5.1 of the circular dated January 19, 1991 and on that basis the appellants are entitled to absorption on regular basis through

.....

Thus, it would be quite apparent from the Hon'ble Supreme Court's order that the Hon'ble Supreme Court passed orders taking into consideration the provisions of the Master Circular No.20 on "Appointment of substitutes on Railways"

"4.3 - Substitutes School Teachers may, however, be afforded temporary status after they have put in continuous service of three months, their services to be treated as continuous for all purposes except seniority on their ~~own~~

37
Chief Personnel Officer (A)
C. P. D. No. 12/91 dated 29.11.91

eventual absorption against regular posts after selection."

As such, it is well evident that the continuity in service cannot confer automatic/simultaneous benefit of seniority in a particular cadre of service for purpose of fixation of Seniority /inter-se seniority amongst the incumbents in the ^{particular} cadre and the Hon'ble Supreme Court also mentioned for granting continuity in service and not seniority aspect on eventual absorption of the substitute teachers in the regular post/cadre of the railways. It is also submitted that continuity aspect and seniority aspect are quite different and cannot be mixed one with the other for dealing with the absorption matter of the substitutes i.e. the applicant in this case.

A copy of pages 3 to 6 of the said master circular

No.20 in the compendium published by Bahri Brothers, Delhi, and Railway Board Circular No. 12/91 dated 29.11.91 are annexed hereto as Annexure E ^{Service} for ready perusal.

10. That, as regards averments at paragraphs 4.11 and 4.12 of the Application it is to submit that the contentions of the applicant are not correct and hence denied. It is also to states that after the applicant was screened and found fit for absorption against the regular post, as per Judgement of the Hon'ble Supreme Court, she could be absorbed against the regular post and necessary instructions have also been issued for giving benefit of continuity in service for all purposes except seniority as discussed herein above, taking into

consideration for the different spells of services as substitute. After termination of her service, she could be appointed/absorbed in the regular cadre only after she has been empanelled by the screening committee with reference to the particular vacancies as were available as provided at para 5.5 of the said master circular.

As such the question of payment of pay and allowances for the intervening non-working period, during which the applicant was not in service and also was not screened for absorption against regular cadre/post does not arise. Further, there is no provision or extant rules for payment of any pay and allowances for such intervening period.

It is emphatically denied that the continuity of service means that she is automatically entitled to seniority etc. without confining to those which are permissible under express provision of rules/laws.

11 . That, as regards the grounds for relief as stated at paragraph 5 of the application, it is submitted that these are not valid, legal and proper or tenable under law, rules and fact of the case and hence are not admitted. In this connection, the respondents like to re-state and re-affirm all the relevant submissions in the foregoing paragraphs of this written statement .

However, the following are ^{also} relevant in this connection :

35
Only for use of the Court
Civil Appeal No. 9424 of 1995
Personal File

i) It is submitted that the answer to the present claim of the applicant can well be found from the Hon'ble Supreme Courts order/direction dated 13.10.95 in Civil Appeal No. 9424 of 1995, 9420, 8421 and 9428 of 1995 (copy of which has been annexed as Annexure 1 to the application pages 7 to 12) and calls for no further elaboration or remarks. It has been clearly laid therein that -

" in case the appellants are found suitable for such absorption by the screening Committee, they shall be restored to the post held by them with continuity of service ".

This order is quite in consonance to the extant rules for screening and absorption of the substitute teachers/ Staff in the regular cadre/posts in the Railways as per rules.

ii) The extant rules clearly shows interalia that conferment of temporary status of the substitutes after their continuous service for 3 months does not however entitled them to automatic absorption/appointment to railway service unless they are selected in the appropriate manner for appointment and or absorption against regular posts on the basis of their position in the select list, and their services are to be treated as continuous for all purposes except seniority, on their eventual absorption against regular posts after selection. For holding proper screening test etc on a particular date or after considerable spell, as the case may be, and consequent absorption etc. of substitutes/substitute teachers, it is sine qua non that there should also exist clear vacancies or

anticipated vacancies in the particular cadre of the Division/
Railways. In this connection, a copy of the Railway Board's
letter dated 22.2.1989 is annexed herewith as Annexure F.

(ii) Further, the non-conferment of seniority benefits from the date from which benefit of continuity is granted does not however deprive them/her from other benefits as are admissible to the substitute teachers on attainment of temporary status and on absorption on the railways after due screening/selection as provided under rules and summarised at paragraphs 4 and 5 of the aforesaid Master Circular No.20 in the chapter on Appointment of substitutes on the Railways as contained in Railway Board's Circular letter No. 112/91 dated 27.1.91 and at Volume II of 1995 Edition of the compendium on Establishment matters published by Bahri Brothers Delhi. Some provisions in the aforesaid paras are extracted herein below for ready perusal.

4. Benefits.

4.1

4.2 They should be allowed all rights and privileges as are admissible to temporary Railway employees on completion of _____ months service.

4.3 Substitute school teachers may, however, be afforded temporary status after they have put in continuous service of three months. Their services to be treated as continuous for all purposes except seniority on their eventual absorption against regular posts after selection.

4.4 The Confirmant of temporary status after completion
of three months continuous service in

57
G. P. D. / 1. 10. 95
C. P. D. / 1. 10. 95

in the case of substitute teachers mentioned in paras 4.2 and 3 above, does not entitle them to automatic absorption/appointment to Railway service unless they are selected in the approved manner for appointment or absorption to regular posts.

4.5 Service of substitutes will count for pensionary benefits from the date of , 3 months in the case of teachers continuous service provided it is followed by absorption regular group (class III) service without break."

10) In the appointment offer letter No. E/232/43-8(W) dated 15.5.96 issued to the applicant after screening, it was also clearly stipulated as under against paragraph 13 of the said letter, and, same term was accepted by the applicant under her clear signature.

(Para 13) " Your seniority to the post will be determined in accordance with the rules applicable to railways ".

A Copy of this appointment letter dated 15.5.96 is annexed hereto as Annexure-4.

It is quite wrong and against extant rules and fact that the applicant has acquired a valuable and legal right for grant of seniority and also pay and allowances etc. as stated at paragraph 5.1 of the application. In fact the order and directions dated 13.10.95 of the Hon'ble Supreme Court have been obeyed and complied to by the

respondents to its letters to the best of the knowledge etc. of the respondents.

(51)

It is denied emphatically that the Railway Authority did not comply the Hon'ble Supreme Courts order dated 13.10.95.

12. That, with regard to relief sought and prayed through paragraph 8.1 of the Application it is submitted that the merit of the case does not deserve for grant of any such relief as prayed for by the Applicant and hence her claim cannot be admitted under the fact and the circumstances of the case. Her claim to grant her seniority from the date of her initial appointment and other benefits claimed by her or to grant her the pay and allowances from date of termination of her service till the date of her regular appointment after due selection/screening test are not covered by ^{extant} rules and ^{also} orders of the Hon'ble Supreme Court.

It is also quite a wrong submission by her that in terms of the Supreme Courts Judgement and order dated 13.10.95, she is entitled to get the above said benefits or acquired the so called right as contended by her.

13. That, the respondents crave leave of the Hon'ble Tribunal to permit them to file additional written statements, if found necessary, for ends of justice.

14. That, under the facts and circumstances of the case as stated in foregoing paragraphs, the instant application is not maintainable and is liable to be dismissed.

Verification.....

VERIFICATION

I, **Shri A. K. NIGAM**

son of

Late S.P. GAURHA aged about 47 years by occupation, Railway service, working as *Chief Personnel Officer* in *N.E. RAILWAY*

do hereby solemnly affirm and state that the statements made at paragraphs 1 and 2 are true to my knowledge and those made at paragraphs 7, 8, 9, 10 and 11 are matters of records of the case which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal and I sign this verification on this 8th day of June 2001.



for and on behalf of the Union
of India.

Chief Personnel Officer (A)
G. P. O. / ...
...

No - LS/37/LR - PE
dt 28-2-81.

CO. Aly School
Bundling.

To Mrs. Jayasri Dutta,
C/O Mrs. AL Del Roy. Asst teacher
at Aly school, Lona.

Sub: - Appointment as Subs
teacher

You are hereby appointed as Subs teacher
in grade 440-750/- (RS) on Pay Rs 440/- Pm.
against the vacancy caused due to tran-
sferred of Mr. S. Bhattacharya, Asst teacher
at B.P.B. till such time regular incum-
ber resumes.

This appointment will not confer on
you any claim for regular absorption
in the Aly school service will be terminated
at any time without notice.

If you are agreeable on the above
condition please give your written
consent before accepting the appoint-
ment.

Attended
12.6.94
Gopal Chandra Collar

copy to CPO/MCA
DA & Lona
E/Ad at Aly
for n/c place.

Signature of
Secretary to Government

Signature of
Secretary to Government

15-
N. F. Railway

ANNEXURE - B

No.

15/37/1429

To

Mr. Dey, Secy. H.S. School,
Lundin.

Office of the
Controlling Officer
Railway H.S. School
Lundin

Dated, 11-11-1994

Sub:-Termination of service as
Substitute Teacher vis-a-
vis O.A. No. 140/65/89
before the Hon'ble CAT-
Guwahati

The Hon'ble Tribunal/Guwahati Bench heard the
abovementioned case on 31.10.94 and passed orders
vacating the 'stay' granted earlier and the Hon'ble
Tribunal has also dismissed the case filed by you.

In compliance with the judgment delivered on
31.10.94, your services as Substitute Teacher is
terminated from the date of issue of this letter.

Controlling Officer,
Rly. H. S. School
Lundin

16
MILITARY:

NO 252/259/Pt-III(C)

Maligaon, dated: 28-12-90

To
Principal, Railway H.S. School/DEB
Principal, Railway H.S. School/Landing
Principal, Railway H.S. School/Lipon Bazar
Head Mistress, Railway Girls High School/NJP.
Controlling Officer, Railway Primary School/DMR (MO/IR)

Sub: Continuity of Service on regular absorption.

In Compliance with Judgement of Hon'ble Supreme Court of India and U.P./Gurabati Acted 13-10-95, 15-2-96, 2-1-96 and 7-10-96, the following substitute teachers are absorbed as primary teacher (Bengali Medium) and posted in Railway Schools.

1. Smt. Jayashree Deb Roy (Dutta)
2. Smt. Latan Roy.
3. Shri Subal Chandra Chakrabarty.
4. Smt. Anupama Bhattacharya
5. Shri Pijush Lanti Das.
6. Smt. Anurupa Chakrabarty.
7. Shri S. K. Mazumdar.

The past service rendered by (1) Smt. Jayashree Deb Roy (Dutta) DMR, (2) Smt. Latan Roy/MG (3) Shri Subal Chandra Chakrabarty /DMR (4) Smt. Anupama Bhattacharya/NJP and Shri Pijush Lanti Das/DEB as Substitute teacher in different spells may be taken into account for all purpose except Seniority from the date of acquiring of temporary status with treating breaks as lies-non.

However the Hon'ble Court has not directed any specific order regarding Continuity of service in favour of Smt. Anurupa Chakrabarty/DEB and Shri S. K. Mazumdar/AFDJ and as such the date of appointment will be the date of regular appointment after regularisation by Screening Committee.

This has the approval of Competent authority.

(J. Babbar)
28/12/98

Asstt. Personnel Officer (Welfare)
for General Manager (Personnel) MIG.

Copy forwarded for information and necessary action:-

1. DMO/MG, AFDJ & DMR

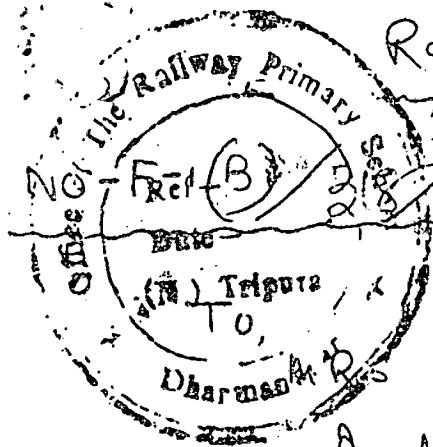
2. DMO/NJP.

DS.

for General Manager (Personnel) MIG.
28/12/98

S.

Office of the Controlling officer, (3) ANNEXURE-1
Railway Primary School/Dharmangan N. F. Rly



RPS/DMR

Dated Dharmangan
The 14th June/1999

Jayashree Debray (Dutta)
Asstt. Teacher/RPS/DMR

Sub: - Continuity of Service on regular absorption.
Ref: - vide G.M.(P)/MLG's. Office order no - E/252/10/
417(W) dt 12-05-1999.

In response to your letter, The G.M.(P)/MLG/
N.F. Railway has passed the following office
order for your information and guidance.

5/6/99
14/6/99

Controlling Officer
Railway Primary School/
Dharmangan N. F. Rly

NORTHEAST FRONTIER RAILWAY.

OFFICE OF THE
GENERAL MANAGER (P),
MALIGAON :: GUWAHATI-11.

No. E/252/10/417 (W)

Dated : 12-05-1999.

To
The Controlling Officer,
Railway Primary School/DMR
(Sr. IMO/DMR)

Sub: Forwarding of an application of
Mrs. Jayashree Debray (Dutta)/A/T/DMR
for Continuity of service.

Ref: Your letter No. F - 16B/283/RPS/DMR
dated 20-4-99.

In response to your letter cited above, the matter
has been examined carefully and found that there is no
specific order issued by the Hon'ble Supreme Court of
India regarding the seniority of Smt. Jayashree Debray
(Dutta). Hence the order issued on the strength of para
4.3 of Master Circular No. 20 vide this office letter of
even number dated 23-12-98 will stand.

This may be informed Smt. Debray (Dutta) accordingly.

15/99

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

NO: E(NG)11-89/PC-3/2

New Delhi, dated 22.2.1989.

Sub : Engagement of Substitute Teachers on ad-hoc basis on Railways.

Instructions have been issued from time to time to the effect that appointment of substitute-teachers on ad-hoc basis on the Railways should normally be avoided and where it becomes incapable it would be for short periods. With this and in view, these instructions contained that substitute teachers should be drawn from an adequately long panel of selected candidates so that the tail end of the panel can be treated as a waiting list from which substitute teachers can be drawn as and when need therefore arises. In spite of clear instructions on the subject, however, it has come to the notice of the Board that the same are not being strictly adhered to on the railways and substitute teachers continue to be engaged on ad-hoc basis for long periods from among candidates, not on the approved panel and without going through proper selection procedure.

2. In this connection particular attention is invited to instruction contained in Board's letter No.E(NG)11-80/RC-1/12 dt. 19.6.80 that there should be no separate panel for substitute teachers. Adequate panel has to be maintained to fill regular vacancies of teachers and adequate waiting list for appointing substitute teachers therefrom so that the tail-end of the panel can be treated as a waiting list for the purpose. In cases where due to any compelling reasons, a waiting list is not available, the post may be temporarily manned by recruiting a substitute who should be selected through a procedure of calling for applications locally and making a selection from out of those applications. Such an arrangement should not, however, be extended beyond six months in any case, within which time a regular panel for anticipated vacancies for appointing substitute teachers should be formed.

3. That instructions, as above, are reiterated and Board would like to stress that contingencies to engage substitutes from out side the regular panel should not normally arise. Posting of teachers on ad-hoc basis should be totally discouraged. Unavoidable cases of ad-hoc posting should be done only with the personal and prior approval of the General Managers.

4. In this connection, it is also reiterated that :
- (a) the conferment of temporary status on substitute when the same is admissible under extent orders does not entitle the incumbent to automatic absorption/appointment to Railway service unless he is in turn, for such appointment on the basis of his position in the select list or in rare cases has been selected as a substitute in a separate selection, he appears in the regular selection and is empanelled in the regular select lists in the approved manner for appointment to regular railway posts; and
 - (b) candidates proposed to be appointed as substitutes are to be clearly warned that their appointment is only as substitute and services will be terminated immediately on return of the persons on leave or regular selected candidates become available.
5. Receipt of this letter may please be acknowledged.

Sd/-
(P.L.N. Sarma)
Dy. Director Establishment (II)
Railway Board.

...

201 2 APPOINTMENT OF SUBSTITUTES ON THE RAILWAYS

Group 'D' (Class IV) staff requiring replacement for which arrangements cannot be made within the existing leave reserve;

- (ii) Against a chain vacancy in the lower category of Group 'D' (Class IV) staff arising out of the incumbent in a higher Group 'D' (Class IV) category being on leave, where it is not possible to fill the post from within the existing leave reserve and when otherwise the Railway service will be affected;
- (iii) Appointment of substitute school teachers on ad-hoc basis on the Railways should normally be avoided and where it becomes inescapable, it should be for short periods and that too with the personal and prior approval of the General Managers.

Adequate panel has to be maintained to fill regular vacancies of teachers and adequate waiting list for appointing substitute teachers therefrom so that the tail end of the panel can be treated as a waiting list for the purpose. Therefore, there should be no separate panel (waiting list) for substitute teachers. In cases where due to any compelling reasons a waiting list is not available or the wait listed candidate is not forthcoming and the post cannot be left unfilled till a regular incumbent is available, the post may be temporarily manned by recruiting a substitute, who should be selected through a procedure of calling for applications locally and making a selection from out of these applications. Such an arrangement should not be extended beyond six months within which time a regular panel for appointing substitute teachers should be formed;

- (iv) Substitutes in the lowest grade may be engaged to fill vacancies arising on account of the Railway Territorial Army Unit personnel called up by the Army for training or for military duty in emergency of 30 days duration or more.
- (v) Against vacancies in other circumstances specified by the Railway Board from time to time.

Notes : 1. The Phrase "as far as possible" occurring at the beginning of this para is not intended to confer unfettered discretion to appoint substitutes from outside. Substitutes should be appointed only from the panel. However, in special circumstances persons not in panel may be appointed but this should be for a very short period and only in urgent cases.

ANNEXURE - E Series

MASTER CIRCULAR NO. 20

3

2. Persons proposed to be appointed as substitutes are to be clearly warned that their appointment is only as substitutes and services will be terminated immediately on return of the persons on leave or regular selected candidates become available.

[No. E(NG) II/65/LR 1/1 dated 1.9.1965], [No. E(NG) II/68/SB/1 dated 29.6.1968], [No. E(NG) II/69/SB/12 dated 25.11.1969], [No. E(NG) II/68/SB/1 dated 31.3.1970], [No. E(NG) II/68/SB/1 dated 8.7.1970], [No. E(NG) III/75/RC 1/121 dated 9.1.1976], [No. E(NG) III/77/RC-1/43 dated 12.8.1977], [No. E(NG) III/78/RC-1/4 dated 25.7.1978], [No. E(NG) III/78/RC-1/4 dated 24.8.1978], [No. E(NG) II/80/RC-1/42 dated 19.6.1980], [No. E(NG) II/89/RC-3/2 dated 22.2.1989], [Bahri's R.B.O. 1989-I, 61 (RBE 58/89)], [No. E(ML) 69/ML 3/30 A dated 25.9.1969]

4. Benefits:

4.1. Substitutes engaged should be paid regular scales of pay and allowances admissible to the post against which they have been appointed irrespective of the nature or duration of the vacancy.

4.2. They should be allowed all the rights and privileges as are admissible to temporary Railway employees on completion of four months continuous service.

4.3. Substitute school teachers may, however, be afforded temporary status after they have put in continuous service of three months. Their services to be treated as continuous for all purposes except seniority on their eventual absorption against regular posts after selection.

4.4. The confirmation of temporary status after completion of four months continuous service in the case of others and three months continuous service in the case of substitute teachers mentioned in paras 4.2 and 3 above does not entitle them to automatic absorption/appointment to Railway service unless they are selected in the approved manner for appointment or absorption to regular posts.

4.5. Service of substitutes will count for pensionary benefits from the date of completion of four months (3 months in the case of teachers) continuous service provided it is followed by absorption in regular Group 'C' (Class III)/ Group 'D' (Class IV) service without break.

4.6. Age limit for recruitment to Group 'D' (Class IV) service may be relaxed to the extent of their total service rendered as substitute which may be either continuous or in broken periods.

ub

APPOINTMENT OF SUBSTITUTES ON THE RAILWAYS

The above provision of age relaxation apply equally to such cases of regularisation in Group 'C' (Class III) skilled or highly skilled grades also.

4.7. Substitutes as have put in 3 years' service (at a stretch or in broken spells) who are matriculate/Diploma holders and who wish to apply for the posts advertised by the Railway Service Commissions (now Railway Recruitment Boards) may be given relaxation in age to the extent of service put in by them, continuous or in broken spells, subject to age of 35 not being exceeded.

4.8. Festival/Flood advances : The substitutes who have attained temporary status and have put in three years' continuous service should be treated on par with the temporary status Railway servants and granted these advances on the same conditions as are applicable to temporary Railway servants, provided they furnish two surities from the permanent Railway servants.

4.9. Substitutes are eligible for medical facilities for self only in the out-patient Department. The service cards, etc. of the employee may be utilised as identification cards for this purpose.

4.10. When substitutes selected for absorption in regular service and sent for medical examinations, the standard of medical examination should be of a relaxed standard as prescribed for re-employment during service.

[No. E (NG) 65/LR1/1 dated 1.9.1965], [No. E (NG) II/73/SB/14 dated 6.3.1974], [No. F (E) III/69/PM 1/21 dated 22.7.1970], [No. E (NG) 58/RC 1/61 dated 31.1.1961], [No. E (NG) II/74/CL/26 dated 18.6.1974], [No. E (NG) II/74/CL/26 dated 22.11.1978], [No. E (NG) II/78/CL/14 dated 22.11.1978], [No. E (NG) II/79/CL/17 dated 28.4.1979], [No. E (NG) I/73/PM1/315 dated 20.11.1976], [No. E (NG) II/77/CL/2 dated 3.5.1978], [No. E (NG) II/77/CL/2 dated 16.5.1979], [No. E (NG) II/71/CL/84 dated 13.12.1972], [No. E (NG) II/71/CL/84 dated 10.5.1973], [No. E (NG) II/71/CL/84 dated 1.8.1973], [No. E (NG) II/88/CL/34 dated 14.4.1988], [Bahri's R.B.O. 1988-I, 74 (RBE 71/88)]

5. Screening of the substitutes for their absorption in regular service:

5.1A. Substitutes, who have acquired temporary status should be screened by a Screening Committee and not by Selection Boards, constituted for this purpose before being absorbed in regular Group 'C' (Class III) and Group 'D' (Class IV) posts.

MASTER CIRCULAR NO. 20

Such a Screening Committee should consist of at least three members, one of whom should belong to the SC/ST Communities and another to minority communities.

[No. E (NG) III/83/RR-117 dated 1.6.1983]

5.1. A Screening/empanelment of Casual Labour/Substitutes for purpose of absorption in regular employment be restricted to only those who are in the current casual labour/substitutes Registers except such of them as are absent on two occasions when called for such screening. For this purpose the said 'Register' should be maintained in duplicate.

[No. E(NG) III/78/CL/2, dated 21.2.1984]

5.2. Though no roaster is required to be maintained, still the intake of SC/ST while engaging substitutes against each individual category in the various departments should not be below the prescribed percentage of reservation in favour of the two communities.

5.3. The Screening Committee should make good the shortfall, if any, by resorting to direct recruitment from the open market in each Group 'D' (Class IV) category before the panel is published. Ordinarily, the question of shortfall in non-technical categories should not rise.

5.4. So far as technical categories in Group 'D' (Class IV) are concerned, if there is any shortfall the matter should be reported to the Railway Board with the detailed remarks giving reasons for shortfall and also the steps taken by the Railway Administration to make good the shortfall.

5.5. Screening of substitutes for absorption in regular employment may be made by the Screening Committee with reference to the vacancies available at present and the vacancies likely to arise due to normal wastage up to the end of next one year and available for absorption of Casual Labour. The number to be called for screening will continue to the number assessed in the aforesaid manner plus 25% thereof. In other words, the number to be kept in the panel should be the number assessed, although 25% more are called to cater against the absentees in terms of Board's letter No. E(NG) II/79/CL/2, dated 3.3.1982).

[No. E (NG) III/88/CL/18 dated 1.11.1988; Bahri's R.B.O. 1988-I, 305 (RBE 250/88)]

5.6. As long as it is established from records that the substitutes have been enrolled within the age limit, relaxation at the time of actual absorption should be automatic.

5.7. In old cases where the age limit was not observed, relaxation of

age at the time of regular absorption should be considered sympathetically. CPOs/DRMs are empowered to grant such relaxations in hard cases.

5.8. In the case of vacancies in the Elec./Mech. and S&T Departments, substitutes will be eligible for absorption in regular employment only if they have the minimum educational qualifications of ITI or they are course completed Act Apprentices.

5.9 Subject to what is stated at para 5.8 above and with exceptions like compassionate appointments, recruitment to Diesel/Elec. loco sheds and workshops, etc. all Group 'D' (Class IV) vacancies that may become available up to 31.12.1989 or till further instructions in the matter are issued, whichever is earlier, will be filled by the screening and empanelment of substitutes.

5.10 When called for screening, substitutes will be issued passes for their journeys and the period treated as on duty.

5.11. Gaps which may occur in service of Substitutes between two engagements should be ignored for the purpose of temporary status on completion of four months service, and in case of Teachers, on completion of 3 months' service.

[Nos. E(NG) II/82/SB/8 of 6.1.1983 & 12.3.1983]

5.12. The practice of entrusting establishment work to the casual labour/substitute Khalasis in executive offices wherever exists, should be stopped forthwith and they should be utilised only on the work, they are meant for.

[No. E(G) 82/ALI-9 dated 20.8.1985;
Bahri R.B.O. 1985, 229 (RBE 244/85;

[No. E (NG) II/70/CL/28 dated 20.7.1970], [No. E (SCT) /70/CM15/15/2 dated 19.11.1970], [No. E (NG) II/69/RC 1/90 dated 18.12.1970], [No. E (SCT) 74/CM 15/7 dated 27.4.1974], [No. E (NG) II/74/CL/26 dated 18.6.1974], [No. E (SCT) 74/CM 15/7 dated 9.10.1974], [No. E (SCT) 79/151 dated 10.3.1979], [No. E (NG) II/79/CL/16 dated 27.4.1979], [No. E (NG) II/79 CL/5 dated 16.5.1979], [No. E (NG) II/79/CL/5 dated 29.9.1980], [No. E (NG) II/79/CL/5 dated 10.10.1980], [No. E (NG) II/ 82/CL/18 dated 3.3.1982], [No. E (NG) II/ 82/CL/W/5 dated 21.4.1983], [No. E (NG) II/82/CL/W/5 dated 23.7.1983], [No. E (NG) II/84/CL/85 dated 27.12.1984], [No. E (NG) II/84/CL/85 dated 31.7.1985], [No. E (NG) II/84/CL/85 dated 12.9.1985], [No. E (NG) II/84/CL/85 dated 4.9.1986], [No. E (NG) II/84/CL/85 dated 17.6.1988], [No. E (NG) II/88/CL/18 dated 1.10.1988 &

1.11.1988], [No. E (NG) II/84/CL/85 dated 15.12.1988], [No. E (NG) II/84/CL/85 dated 20.1.1989], [No. E (NG) II/88/RR 1/7(1) dated 1.6.1983], [No. E(NG) II/78/CL/2 dated 21.2.1984], [No. E (NG) II/79/CL/2 dated 3.3.1982]

6. Date of appointment :

The date of appointment of a substitute to be recorded in the Service Book against the column "Date of appointment" should be the date on which he/she attains temporary status after a continuous service of four months if the same is followed by his/her regular absorption. Otherwise, it should be the date on which he/she is regularly appointed/absorbed.

This applies to substitute teachers also who attain the temporary status after a continuous service of three months only.

7. Break in service :

The following cases of absence will not be considered as "break in service" for determining the four months continuous service for the purpose of absorption in regular employment :

- the periods of absence of a Substitute who is under medical treatment with injury sustained on duty covered by the provisions of the Workmen's Compensation Act;
- authorised absence not exceeding 20 days during the preceding six months.

Note : (i) The term "authorised absence" for this purpose covers permission granted by the Supervisory Official in charge to be away from the work for the period specified.

(ii) Unauthorised absence or stoppage of work will be treated as a break in continuity of employment.

(iii) Days of rest even under HOER or under the statutory enactments and the days on which the establishment employing the Substitutes remains closed will not be counted against the limit of 20 days authorised absence.

(iv) Period involved in journeys for joining the post on transfer from one station to another or within the same stations itself but not exceeding in any case, normal period of joining time permissible under the Rules.

23
No. 12/91

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

Annexure - E
M.C. NO. 2/214

NO: E (NG) 11/97/SD/Master Circular New Delhi dated 27.1.61

The General Managers,
All Indian Railways,
Production Units & Others.

Sub:- Substitutes.

Instructions on the subject "Substitutes" are contained in Chapter 23-A (ii) of IREM 1968 and also in various letters and circulars issued from time to time from Railway Board. The question of issue of a consolidated instructions has been engaging the attention of the Railway Board for quite some time. It has now been decided by them to issue a consolidated instructions in the form of a Master Circular on the subject "Substitutes" as below for the information and guidance of all concerned.

2. Definition:

"Substitutes" refer to persons engaged in Indian Railway Establishments on regular scales of pay and allowances applicable to posts falling vacant because of absence on leave or otherwise of permanent or temporary Railway Servant and which cannot be kept vacant.

(No. E (NG) 65/LR 1/1 dated 1.9.65)

3. Circumstances under which "Substitutes" can be appointed:

Ordinarily, there should be no occasion to engage "Substitutes" having regard to the fact that practically in all categories of Railway Servants leave reserve has been provided for. Occasions may, however, arise when owing to an abnormally high rate of absences, the leave reserve may become inadequate or ineffective, e.g., heavy sickness etc. or where leave reserve is available but it is not possible to provide the same, say, at a key station. On such occasions, it may become absolutely necessary to engage substitutes even in vacancies of short duration as otherwise the Railway service may be adversely affected.

3.1 Substitutes should, as far as possible, be drawn from a panel of suitable candidates selected for Group 'C' (Class III) and Group 'D' (Class IV) posts and should be engaged upto the age of 28 years only, subject to the observations made above, only in the following circumstances:-

- 1) Against regular vacancies of unskilled and other categories of Group 'D' (Class IV) staff requiring replacement for which arrangements cannot be made within the existing leave reserve;

.....2

- ii) Against a chain vacancy in the lower category of Group 'D' (Class IV) staff arising out of the incumbent in a higher Group 'D' (Class IV) category being on leave, where it is not possible to fill the post from within the existing leave reserve and when otherwise the Railway service will be affected;
- iii) Appointment of substitute school teachers on ad-hoc basis on the Railways should normally be avoided and where it becomes inescapable, it should be for short periods and that too with the personal and prior approval of the General Managers.

Adequate panel has to be maintained to fill regular vacancies of teachers and adequate waiting list for appointing substitute teachers therefrom so that the tail end of the panel can be treated as a waiting list for the purpose. Therefore, there should be no separate panel (waiting list) for substitute teachers. In cases where due to any compelling reasons a waiting list is not available or the wait listed candidate is not forthcoming and the post cannot be left unfilled till a regular incumbent is available, the post may be temporarily manned by recruiting a substitute, who should be selected through a procedure of calling for applications locally and making a selection from out of these applications. Such an arrangement should not be extended beyond six months within which time a regular panel for appointing substitute teachers should be formed;

- iv) Substitutes in the lowest grade may be engaged to fill vacancies arising on account of the Railway Territorial Army Unit personnel called up by the Army for training or for military duty in emergency of 30 days duration or more.
- v) Against vacancies in other circumstances specified by the Railway Board from time to time.

- III: (1) The Phrase "as far as possible" occurring at the beginning of this para is not intended to confer unfettered discretion to appoint substitutes from outside. Substitutes should be appointed only from the panel. However, in special circumstances persons not in panel may be appointed but this should be for a very short period and only in urgent cases.
- (2) Persons proposed to be appointed as substitutes are to be clearly stated that their appointment is only as substitute and services will be terminated immediately on return of the persons on leave or regular selected candidates become available.

(No.E(NG) 1/65/LR 1/1 dated 1.9.65)
 (No.E(NG) 11/63/SB/1 dated 29.6.68)
 (No.E(NG) 11/69/SB/12 dated 25.11.59)
 (No.E(NG) 11/68/SB/1 dated 31.3.70)
 (No.E(NG) 11/68/SB/1 dated 3.7.70)
 (No.E(NG) 11/68/SB/1 dated 9.1.76)
 (No.E(NG) 11/65/RC 1/121 dated 3.1.76)

.....3/-

(NO.E(NG) III/77/RC-1/43 dated 12.8.77)
 (NO.E(NG) III/78/RC-1/4 dated 25.7.78)
 (NO.E(NG) III/78/RC-1/4 dated 24.8.78)
 (NO.E(NG) II/80/RC-1/42 Dated 19.6.80)
 (No.E(NG) II/89/RC-3/2 dated 22.2.89)
 (No.E(ML) 69/ML 3/30 A dated 25.9.69)

4. Benefits

4.1 Substitutes engaged should be paid regular scales of pay and allowances admissible to the post against which they have been appointed irrespective of the nature or duration of the vacancy.

4.2 They should be allowed all the rights and privileges as are admissible to temporary Railway employees on completion of four months continuous service.

4.3 Substitute school teachers may, however, be afforded temporary status after they have put in continuous service of three months. Their services to be treated as continuous for all purposes except seniority on their eventual absorption against regular posts after selection.

4.4 The conferment of temporary status after completion of four months continuous service in the case of others and three months continuous service in the case of substitute teachers mentioned in paras 4.2 and 3 above does not entitle them to automatic absorption/appointment to Railway service unless they are selected in the approved manner for appointment or absorption to regular posts.

4.5 Service of substitutes will count for pensionary benefits from the date of completion of four months (3 months in the case of teachers) continuous service provided it is followed by absorption in regular Group 'C' (Class III)/Group 'D' (Class IV) service without break.

4.6 Age limit for recruitment to Group 'D' (Class IV) service may be relaxed to the extent of their total service rendered as substitute which may be either continuous or in broken periods.

The above provision of age relaxation apply equally to such cases of regularisation in Group 'C' (Class III) skilled or highly skilled grades also.

4.7 Substitutes as have put in 3 years service (at a stretch or in broken spells) who are matriculate/Diploma holders and who wish to apply for the posts advertised by the Railway Service Commissions (now Railway Recruitment Boards) may be given relaxation in age to the extent of service put in by them, continuous or in broken spells, subject to age of 35 not being exceeded.

4.8 Festival/Flood advances:- The substitutes who have attained temporary status and have put in three years continuous service should be treated on par with the temporary status Railway servants and granted these advances on the same conditions as are applicable to temporary Railway servants, provided they furnish two surities from the permanent Railway servants.

-26-

4.9 Substitutes are eligible for medical facilities for self only in the out-patient Department. The service cards etc. of the employees may be utilised as identification cards for this purpose.

4.10 When substitutes selected for absorption in regular service and sent for medical examinations, the standard of medical examination should be of a relaxed standard as prescribed for re-employment during service.

(NO. E(NG) 65/LR1/1 dated 1.9.65)
(NO. E(NG) II/73/SB/14 dated 6.3.74)

(NO. F(E) III/58/PM1/21 dated 22.7.70)
(NO. E(NG) 56/RC1/61 dated 31.1.61)

(NO. E(NG) 11/71/CL/26 dated 16.6.74)
(NO. E(NG) 11/71/CL/26 dated 25.2.75)

(NO. E(NG) 11/71/CL/85 dated 3.1.75)
(NO. E(NG) 11/71/CL/14 dated 22.11.78)

(NO. E(NG) II/78/CL/14 dated 26.12.78)
(NO. E(NG) II/79/CL/17 dated 28.4.79)

(NO. E(NG) I/73/PA1/315 dated 20.11.76)
(NO. E(NG) II/77/CL/2 dated 3.5.78)

(NO. E(NG) II/77/CL/2 dated 16.5.79)
(NO. E(NG) II/71/CL/84 dated 13.12.72)

(NO. E(NG) II/71/CL/84 dated 10.5.73)
(NO. E(NG) II/71/CL/84 dated 1.6.73)

(NO. E(NG) II/89/CL/34 dated 14.4.88)

✓ 5. Screening of the substitutes for their absorption in regular service:

✓ 5.1 Substitutes, who have acquired temporary status should be screened by a Screening Committee and not by selection Boards, constituted for this purpose before being absorbed in regular Group 'C' (Class III) and Group 'D' (Class IV) posts.

Such a screening Committee should consist of at least three members, one of whom should

.....5/-

belong to the SC/ST Communities and another to minority communities.

(Board's letter No. E(NG)II/83/RR-I/7 dated 1.6.83)

5.1A Screening/employment of Casual Labour/ Substitutes for purpose of absorption in regular employment be restricted to only those who are in the current casual labour/substitutes Registers except such of them as are absent on two occasions when called for such screening. For this purpose the said 'Register' should be maintained in duplicate.

(Board's letter No. E(NG)II/78/CL/2 dated 21.2.84)

5.2 Though no roster is required to be maintained, still the intake of SC/ST while engaging substitutes against each individual category in the various departments should not be below the prescribed percentage of reservation in favour of the two communities.

5.3 The Screening Committee should make good the shortfall, if any, by resorting to direct recruitment from the open market in each Group 'D' (Class IV) category before the panel is published. Ordinarily, the question of shortfall in non-technical categories should not arise.

5.4 So far as technical categories in Group D (Class IV) are concerned, if there is any shortfall the matter should be reported to the Railway Board with the detailed remarks giving reasons for shortfall and also the steps taken by the Railway Administration to make good the shortfall.

5.5 Screening of substitutes for absorption in regular employment may be made by the Screening Committee with reference to the vacancies available at present and the vacancies likely to arise due to normal wastage upto the end of next one year and available for absorption of Casual Labour. The number to be called for screening will continue to be the number assessed in the aforesaid manner plus 25% thereof. In other words, the number to be kept on the panel should be the number assessed, although 25% more are called to cater against the absentees in terms of Board's letter No. E(NG)II/79/CL/2 dated 3.3.82)

(Board's letter No. E(NG)II/88/CL/18 dated 1.11.88 - RBE No. 250/88)

.....5A/-

5.6 As long as it is established from records that the substitutes have been enrolled within the age limit, relaxation at the time of actual absorption should be automatic.

5.7 In old cases where the age limit was not observed, relaxation of age at the time of regular absorption should be considered sympathetically. CPOs/DRMs are empowered to grant such relaxations in hard cases.

5.8 In the case of vacancies in the Elec./Mech. and S&T Departments, substitutes will be eligible for absorption in regular employment only if they have the minimum educational qualifications of III or they are course completed Act Apprentices.

5.9 Subject to what is stated at para 5.8 above and with exceptions like compassionate appointments, recruitment to Diesel/Elec. loco sheds and workshops etc. all Group 'D' (Class IV) vacancies that may become available upto 31.12.89 or till further instructions in the matter are issued, whichever is earlier, will be filled by the screening and empanelment of substitutes.

5.10 When called for screening, substitutes will be issued passes for their journeys and the period treated as on duty.

5.11 Gaps which may occur in service of Substitutes between two engagements should be ignored for the purpose of temporary status on completion of four months service, and in case of Teachers, on completion of 3 months service.

(Board's letters No. E(NG) II/82/SB/8 of 6.1.63 & 12.3.83).

5.12 The practice of entrusting establishment work to the casual labour/substitute Khelasis in executive offices wherever exists, should be stopped forthwith and they should be utilised only on the work, they are meant for.

(Board's letter No. E(G) 82/ALI-9 dated 20.8.85.).

- (NO. E(NG) II/70/CL/28 dated 20.7.70)
- (NO. E(SCT) 70/CM 15/15/2 dated 19.11.70)
- (NO. E(NG) II/69/RC 1/90 dated 18.12.70)
- (NO. ESET 74/CM 15/7 dated 27.4.74)
- (NO. E(NG) II/74/CL/26 dated 10.6.74)
- (NO. E(SCT) 74/CM 15/7 dated 9.10.74)
- (NO. E(SCT) 79/15/1 dated 10.3.79)
- (NO. E(NG) II/79/CL/16 dated 27.4.79)
- (NO. E(NG) II/79/CL/5 dated 16.5.79)
- (NO. E(NG) II/79/CL/5 dated 29.9.80)
- (NO. E(NG) II/79/CL/5 dated 10.10.80)
- (NO. E(NG) II/82/CL/18 dated 3.3.82)
- (NO. E(NG) II/82/CL/W/5 dated 21.4.83)
- (NO. E(NG) II/82/CL/W/5 dated 23.7.83)
- (NO. E(NG) II/84/CL/85 dated 27.12.88)
- (NO. E(NG) II/84/CL/85 dated 31.7.85)
- (NO. E(NG) II/84/CL/85 dated 12.9.85)
- (NO. E(NG) II/84/CL/85 dated 4.9.86)
- (NO. E(NG) II/84/CL/85 dated 17.6.88)
- (NO. E(NG) II/88/CL/18 dated 1.10.88 & 1.11.88)
- (NO. E(NG) II/84/CL/85 dated 15.12.88)

.....6/-

(NO. E(NG)11/04/CL/85 dated 20.1.89)
 (NO. E(NG)11/88/RR 1/7(1) dated 1.6.83.)
 (NO. E(NG)11/78/CL/2 dated 21.2.84)
 (NO. E(NG)11/79/CL/2 dated 3.3.82)..

6. Date of appointment

The date of appointment of a substitute to be recorded in the service Book against the column "Date of appointment" should be the date on which he/she attains temporary status after a continuous service of four months if the same is followed by his/her regular absorption. Otherwise, it should be the date on which he/she is regularly appointed/absorbed.

This applies to substitute teachers also who attain the temporary status after a continuous service of three months only.

7. Break in service

The following cases of absence will not be considered as "break in service" for determining the four months continuous service for the purpose of absorption in regular employment:-

- (a) the periods of absence of a substitute who is under medical treatment with injury sustained on duty covered by the provisions of workmen's Compensation Act;
- (b) authorised absence not exceeding 20 days during the preceding six months.

NOTE

- (i) The term "authorised absence" for this purpose covers permission granted by the Supervisory Official in-charge to be away from the work for the period specified.
- (ii) Unauthorised absence or stoppage of work will be treated as a break in continuity of employment.
- (c) days of rest even under HOER or under the statutory enactments and the days on which the establishment employing the substitutes remains closed will not be counted against the limit of 20 days authorised absence; and
- (d) period involved in journeys for joining the post on transfer from one station to another or within the same station itself but not exceeding in any case, normal period of joining time permissible under the Rules.
- (e) The recommendations of the Task Force on Vigilance regarding the observance of rules to avoid artificial breaks in service of Casual Labour/Substitutes should be ensured and responsibility in the matter should be fixed

.....7/-

on the concerned Senior Subordinate Officer.

(Board's letter No. E(NG) II/77/CL/2 dt. 31.3.79)

(E(NG) II/65/LR1/1 dated 1.9.65)
(ENG II/77/SB/37 dated 24.10.78).

8. Re-engagement of Substitutes:

8.1 Substitutes who have been discharged during the strike of 1974, and have not been re-employed will be re-engaged against future requirements in the order of priority on the basis of their total period of service prior to their discharge.

8.2 When forming panels, substitutes in question should be allotted seniority by reckoning their previous spells of employment and on the basis of such cumulative aggregate service.

8.3 The substitutes who have not been engaged so far will also be considered based on the length of their employment prior to their discharge.

8.4 The substitutes in question will not be subjected to any additional disability for the purpose of any limit on account of their break in service.

8.5 Substitutes who worked during the 1974 strike and are continuing as such should be given protection at the time of retrenchment. Those who were engaged after the strike was over would not be eligible for any special considerations.

8.6 In the case of retrenchment of substitutes the Rule "last come first to go" may not be applied but the reasons for the same have to be recorded by the Railway.

(NO. E(NG) II/74/CL/9 dated 25.8.75)
(NO. E(NG) II/74/CL/9 dated 10.9.76)
(NO. E(NG) II/74/CL/99 dated 16.10.76)
(NO. E(NG) II/74/CL/99 dated 9.11.76)
(NO. E(LL) 76/ AT/D/1-16 dated 17.2.78).

9. Service Register

9.1 In view of economy measures and ban on recruitment, no fresh force of substitutes should be engaged without the prior personal approval of the General Manager concerned.

9.2 It is not, however, the intention that the services of the existing substitutes should be dispensed with merely because of the Railway Board's orders.

9.3 A register should be maintained for recording the names of all "Substitutes" whenever employed according to the Unit of recruitment, e.g., Divisions, Workshops etc. strictly in the order of their employment at the time of their initial engagement. The names of such of those Casual Labours/Substitutes who were discharged from employment at any time after January, 1981 on completion of work or for want of further productive work, can continue to be borne on the Live Casual Labour Register.

(Board's letter No. E(NG) II/78/CL/2 dated 25.4.86)
..... 8/-

9.4 If a substitute who was earlier discharged from service on completion of work or on return of the person against whose post he/she was engaged as substitute has not booked again in the preceding two complete calendar years, his/her name should be struck off the register.

9.5 If a substitute retrenched on completion of work or return of the person against whose post he/she was working does not accept subsequent offer made on availability of a vacancy, he/she loses the benefit of the previous spell of employment as such.

9.6 The register should be reviewed and up-dated annually. The register should be scrutinised by a senior Gazetted officer preferably both at the beginning and closing of the year and also sign the register in token of the scrutiny.

(NO.E(NG)65/LR1/1 dated 1.9.65.).

(NO.E(NG)11/93/PL/43 dated 7.6.84)

(NO. E(NG)11/SB/8 Pt. dated 21.11.84)

(NO. E(NG)11/78/CL/2 dated 22.11.84)

10. General:

- (a) While referring to this circular, the original letters referred to herein should be read for a proper appreciation. This circular is only a consolidation of the instructions issued so far and should not be treated as a substitution to the originals. In case of doubt, the original circular should be relied upon as authority.
- (b) The instructions contained in the original circulars referred to here only prospective effect from the date of issue unless specifically indicated otherwise in the concerned circular. For dealing with old cases, the instructions in force at the relevant time should be referred to.
- (c) If any circular on the subject, which has not been considered, has not been taken into consideration while preparing this consolidated letter, the said circular, which has been missed through oversight, shall be treated as valid and operative. Such a missing circular, if any, may be brought to the notice of the Rly Board.

K.B. Lall

(K.B. LALL)

JOINT Director Establishment/N
Railway Board.

The consolidation has been made from the following letters:-

1. E(NG)58/RC1/61

dated 31.1.61.

2. E(NG)65/LR1/1

dated 1.9.65.

.....9/-

32
⑦ ③
ANNEXURE-9
5

NORTH EAST FRONTIER RAILWAY.

No.E/252/43-0(1)

Maligaon, dated 15-5-96.

To

Jayasri
Smt. Jayasri Deb Ray (Dutta)

D. H. M. Office
15/5/96

Sub:- Temporary appointment as Primary teacher
(Bengali Medium) grade IV

on Rs. 1200/- P.M.

in scale Rs. 1200-2040/- plus

usual allowances as admissible from time to time.

Consequent on being found suitable in the Screening test in the form of written followed by Viva Voce held on 17.2.96 and 29.3.96 as per Hon'ble Supreme Courts verdict, you are hereby offered a post in grade and rate of pay specified above plus usual allowances subject to your passing prescribed medical examination by an authorised Medical Officer of the Indian Railways. The terms and conditions in connection with this offer of appointment will be as under:

- 1) You will have to produce your original certificates in support of your qualifications and satisfactory proof in support of your age, such as Matriculation/Degree/Master Degree/B.Ed/B.T etc. and its equivalent certificate.
- 2) Your service under the Railway will count for all purposes from the date of your appointment and you will be governed by all the rules and regulations applicable to a temporary Railway Servant from time to time.
- 3) Appointment will be made on Probation for one year.
- 4) It must be clearly understood that the appointment is terminable of a 14 (Fourteen) days Notice on either side except that no such notice is required if the termination of service is in terms of Para 301 of IFEC Vol.1 (1985 Edition) Service.
- 5) You will be held responsible for the charge and care of Govt. money, Goods stores and all other properties that may be entrusted to you.

(Contd.... 2)

6) You will be required to take an oath of allegiance or make an affirmation in the form indicated below:-

I, Jayashree Del Ray (Dulla), do solemnly swear/
solemnly affirm that I will be faithful and
bear true allegiance to India and to the
constitution of India by Law established and
that I will carry out the duties of my office
loyally, honestly and with impartiality.
So Help Me God.

Jayashree Del Ray (Dulla)
(Signature)

Note: Conscientious objector of oath taking may make
a solemn affirmation.

7) You will conform to all rules and regulations applicable
to your appointment.

8) In all matters not specifically provided for herein
or in the recruitment rules, you will be governed by the provisions
of the Indian Railway Codes and other extant orders as amended/
issued from time to time.

9) You must be prepared to accept the offer of appointment
at any of the Northeast Frontier Railway system. Although you are
initially appointed for a particular District/Division. You are
liable to be transferred to any station on this Railway in the
exigencies of Service and you would definitely indicate in your
acceptance that you will be able to comply with these conditions.

10) Quarters will be provided only if available and no
Guarantee can be given.

11) No travelling allowance will be granted for joining the
post. A free 2nd Class Pass is enclosed for cover your journey.

12) You shall be liable for Military Service in the Railway
Engg. Units Territories Army for a period of Seven years in
territorial Army Service and eight year in Territorial Army Reserves
or for such periods as may be laid down from time to time.

13) Your seniority to the post will be determined in
accordance to the Rules applicable in Railways.

14) While reporting to this office you will have to submit
proper 'Release Order' from your present employer, if you are
in service.

15) You will be required to deposit Rs. 24/- (Twenty four) only,
as pre-recruitment Medical Examination fee while reporting to
this office.

34
3
8
17
60

16. You will have to produce your Character Certificate from the Head of the Educational Institution last attended and a similar Certificate from the employer if any duly attested by the competent authority as per proforma enclosed.

17. You will be required to submit attestation form duly filled in affixing recent Pass Port size Photographs in triplicate and attested by the competent authority mentioned therein.

18. If you intend to take appointment on these conditions please report to the undersigned personally on or before 22-5-96 but not later than 24-5-96 failing which this offer will be charged from the date you join duty at the office where you will be posted after you have been certified medically fit. This offer letter is sent herewith in triplicate and two copies of the same will have to be submitted to this office duly signed by you against the space provided below as a mark of acceptance of the terms and conditions mentioned above at the time of reporting to this office for medical examination.

I accept the offer on the terms detailed above and declare that I shall abide by the conditions stipulated in para 7.

Jayasree Deb Ray (Dutta)
Signature of the Candidate.

- Encls: 1) 3 Copies of
Attestation Form.
2) 1 copy of Character
certificate Form.

[Signature]
For General Manager (P)
N.F. Railway, Maligaon.