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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-237/2001 ordered pg-1

allowed leave 08/10/2001

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O.A/T.A No. 263/2000

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SECTION OFFICER (Judl.)

## FORM NO. 4

(See Rule 42)

**In The Central Administrative Tribunal**

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO. 263/2000 OF 199

Applicant(s) Smt. Parbee Neeta Hazarika.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) At. R. Dutta

At. K. Paul.

Advocate for Respondent(s) At. G. Dutta.

Rly. Advocate.

Notes of the Registry	Date	Order of the Tribunal
Application filed within time form and within time of Rs 50/- deposited vide PO/BID No. 004899 Dated 5.8.2000	26.9.00 pg	Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman.  Adjourned to 31.10.2000 for admission on the prayer of Mrs G.Dutta, learned counsel for the applicant.
Slips are received and notice affixed and sent to D/S. for hearing the respondent No 1 to 7. Vide DINo 2593 to 2597 dtd. 14/11/2000	31.10.00 pg	Heard Mr R.Dutta, learned counsel for the applicant and Mr J.L.Sarkar, learned Railway standing counsel for the respondents.  Application is admitted. Issue usual notice. Call for the records.  List on 12.12.2000 for written state- ment and further orders.

Vice-Chairman

31/10/2000

Notes of the Registry	Date	Order of the Tribunal
Notice duly served on RNo-2,3,4,5,8,6.	12.12.00	On the prayer of learned counsel for the respondents four weeks time is allowed for filing of written statement. List on 11.1.00 for filing of written statement and further orders.
<i>By</i> 13/12/00	lm	<i>Mr</i> Member Vice-Chairman
No. written statement has been filed.	11.1.01	Four weeks time is granted for filing of written statement on the prayer of Mr S.Sarma on behalf of Railway standing counsel. List on 12.2.2001 for order.
<i>By</i> 10.1.2001	pg	<i>Ushan</i> Member Vice-Chairman
No. written statement has been filed.	12.2.01	List on 16.3.2001 to enable the respondents to file written statement.
<i>By</i> 15.3.01	pg	<i>Ushan</i> Member Vice-Chairman
	16.3.01	No written statement so far filed by the respondents. There is no representation on behalf of the parties. List on 9.4.01 for order.
	pg	<i>Ushan</i> Member Vice-Chairman
	9.4.2001	Four weeks time allowed to the respondents to file written statement. List it for orders on 10.5.01.
	pg	<i>Ushan</i> Member Vice-Chairman
	11.5.01	List on 8.6.01 to enable the respondents to file written statement.
	lm	<i>Ushan</i> Member Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
	8.6.01	Mr. S. Sarma, learned counsel for the respondents, prays for time to file written statement. List on 2-7-2001 for order.
No written statement has been filed.	2.7.01	Written statement has been filed. Mr. S. Sarma, appearing for the applicant seeks time to file rejoinder. List on 23-7-2001 for orders.
<i>20/7/01</i>	bb	<i>K C Usha</i> Member
No written statement has been filed.	23.7.01	Mr. A. Chakrabarty, appearing on behalf of Mr. J. L. Sarkar, learned counsel for the respondents states that written statement is ready and it will take some time for filling. List again on 10-8-2001 to enable the respondents to file written statement.
<i>9/8/01</i>	bb	<i>K C Usha</i> Member
<u>17.8.2001</u> W/S on behalf of the respondents has been submitted.	10.8.01	NO written statement so far filed despite time granted earlier. Four weeks further time is granted to file written statement as a last chance. List on 10.9.2001 for order.
<i>10/8/01</i>	pg	<i>K C Usha</i> Member
No rejoinder has been filed.	10.9.01	Written statement has been filed. The case may now listed for hearing. The applicant may file rejoinder, if any within 2 weeks from today. List on 15/11/01 for hearing.
<i>13.11.01</i>	mb	<i>K C Usha</i> Member

Notes of the Registry	Date	Order of the Tribunal
	15.11.01	Mr. J. L. Sarkar, learned counsel for the respondents, sought for time to produce records. Prayer is allowed. List on 19/12/01 for hearing.
Wks hrs been bled. 16.1.02.	mb 19.12.01	I C Usha Member Vice-Chairman prayer has been made by learned learned counsels for the parties for adjournment of the case. Prayer is allowed List on 15.1.2002 for hearing.
	mb 17.1.02	I C Usha Member Vice-Chairman Heard at length. On the prayer of learned counsel for the parties case is adjourned to 21.2.02 for hearing.
	1m 21.2.	I C Usha Member Vice-Chairman Heard Mr. R. Dutta, learned Counsel for the applicant & Mr. J. L. Sarkar, learned Counsel for the respondent. Hearing Concluded. Judgment recorded.
8.3.2002 Copy of the Judgment has been sent to the Office of the Registry in case to the applicant and Regd. Office. Judgment delivered in open Court on 6.3.2002.	27.2.02	Pls A. K. T. 2112 Judgment delivered in open Court, kept in separate sheets. The application is dismissed in terms of the order. No order as to costs.
判决书已送达 A. K. T. 2112 for J. L. Sarkar Advocate 6/3/2002.	mb	I C Usha Member Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./R.A. NO. 263/2000 of

DATE OF DECISION 27-2-2002

Smt. Paree Neeta Hazarika

APPLICANT(S)

Mr. R.Dutta.

ADVOCATE FOR THE APPLICANT(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. J.L.Sarkar, Railway Standing Counsel.

ADVOCATE FOR THE  
RESPONDENTS.

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

THE HON'BLE MR. K.K.SHARMA, MEMBER (A).

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 ?

5. Judgment delivered by Hon'ble Vice-Chairman.

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 263 of 2000

Date of decision : This the 27th day of February, 2002.

Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

Hon'ble Mr. K.K.Sharma, Member(A).

Smt. Paree Neeta Hazarika,  
Working as Hd. ECRC in Passenger,  
Reservation Service, Tinsukia Railway  
Station, P.O., & Dist. Tinsukia (Assam)

....Applicant

By Advocate Mr. R. Dutta.

-versus-

1. Union of India represented through  
the General Manager,  
N.F.Railway, Maligaon,  
Guwahati-781011 (Assam).
2. The Divisional Railway Manager,  
N.F. Railway,  
Tinsukia, (Assam).
3. The Divisional Railway Manager (P),  
N.F.Railway,  
Tinsukia (Assam)
4. The Divisional Commercial Manager  
N.F.Railway,  
Dibrugarh (Assam).
5. Sri Gajendra Kakati,  
Assistant Reservation Supervisor,  
Passenger Reservation Service,  
Tinsukia Railway Station,  
N.F.Railway,  
P.O.Tinsukia (Assam)
6. Shri Dambarudhar Saikia  
Assistant Reservation Supervisor,  
Passenger Reservation Service  
Dibrugarh Railway Station,  
N.F.Railway,  
P.O. & Dist. Dibrugarh (Assam).
7. Shri Bydut Kumar Das  
Assistant Reservation Supervisor,  
Passenger Reservation Service  
Jorhat Railway Station,  
P.O. & Dist. Jorhat (Assam).

...Respondents

By Advocate Mr. J.L.Sarkar, Railway Standing Counsel.

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O R D E R

CHOWDHURY J.(v.C.).

The dispute relates to inter se seniority between the applicant and the respondent no.5 that has arisen in the following circumstances :

On 31.12.1992 the applicant was appointed as Enquiry cum Reservation Clerk (ECRC in brief) and was posted at Tinsukia Station of the N.F.Railway. She was promoted to the post of Head Enquiry cum Reservation Clerk (Hd.ECRC in brief) on 20.11.1996. By an order dated 3.2.98 the applicant was assigned to manage the Computer Section at Tinsukia passenger reservation service and she continued to hold the charge till went on maternity leave on 7.2.2000. The respondent no.5 was appointed as Coaching Clerk on 4.8.1982 and he was promoted as ECRC on 22.5.87. Respondent nos. 6 and 7 were appointed as ECRC on 23.11.1989 and 28.06.1991 respectively. The Respondent nos. 2 and 3 took a decision to fill up the 15% direct recruitment quota vacancies of Goods Guard in the scale of Rs. 1200-2040/- by limited departmental competitive examination amongst the serving Railway employees of the operating and Commercial Branches who were graduates and holding the grade of Rs. 950-1400 and above upto grade of 1200-2040. The respondent No.5 applied for the post of Goods Guard in the scale of Rs. 1200-2040 against Direct Quota from the staff after holding the competitive examination in the form of both written and viva-voce tests. The said respondent was found suitable in the open competition and he was appointed to the post of Goods Clerk. He was sent for training and on successful completion of training he was appointed as Goods Guard on 23.5.1996. The respondent no.5 was however declared medically

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unfit as Goods Guard sometime after. He was offered alternative appointment in the post of ECRC in the scale of Rs. 1200-2040 of Commercial Department vide office order dated 19.12.96. The respondent No.5 accepted the said offer on 20.12.1996 and was posted at Tinsukia under DCM/DBRT. It appears that the respondent no.5 was further promoted to the grade of Head ECRC on 29.8.1997. A seniority list of Head ECRC was published on 10.11.1998 (Annexure-3 to the O.A.). In the said list the name of respondent no.5 was mentioned at serial No.1, name of respondent nos. 6 and 7 at serial no. 2 and 3 and the applicant was put immediately below the respondent no.7. The applicant questioned the seniority list and preferred an appeal contending that the respondent no.5 was promoted as Head ECRC only on 29.8.1997 whereas the applicant was promoted to the post of Head ECRC on 20.11.96. The said seniority list dated 10.11.98 was subsequently modified by order dated 9.2.1999 and rearranged the inter se seniority list placing the respondent nos. 6 and 7 as well as the applicant above the respondent no.5. By the aforementioned office order the Railway Authority invited representations if any, against the corrigendum of seniority list of Head ECRC. By Office Order dated 2.11.1999 the concerned parties, namely the applicant and respondent nos. 5,6 and 7 were served with notice indicating its proposal to cancel the office order of corrigendum of seniority list of Head ECRC published on 9.2.1999. The parties were advised to submit representation within 15 days. By the impugned order dated 18.11.1999 the corrigendum of seniority list of Hd. ECRC in the scale of Rs. 5000-8000 published on 9.2.1999 was cancelled and the seniority list dated 10.11.98 was restored keeping the seniority position of respondent no.5 as Head ECRC at serial No. 1. The applicant submitted representation/appeal on 24.11.1999 before the Divisional Railway Manager. The said

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representation/appeal was rejected by order dated 24.2.2000. The result of the suitability test for the three posts of Assistant Reservation Supervisor was announced in the scale of Rs. 5500-9000 from the Head ECRC . The respondent nos. 5,6, and 7 were found suitable vide communication dated 23.3.2000. Consequently the aforementioned three respondents were selected for promotion to the post of Assistant Reservation Supervisor in the scale of Rs. 5500-9000. The applicant being aggrieved by the aforementioned action of the respondents moved this application assailing the legitimacy of the seniority list as well as the promotion of the respondent nos. 5,6, and 7 to the grade of Assistant Reservation Supervisor overlooking her genuine claim.

The applicant also sought for a direction from the Tribunal for consideration of her suitability for promotion to the post of Assistant Reservation Supervisor in the scale of Rs.5500-9000.

2. A written statement was filed on behalf of the respondents, denying and disputing the allegations. The respondents stated and contended that the inter se seniority of the Head ECRC were rightly determined in accordance with the provision of law. It was stated and contended that respondent no.5 was senior to the applicant in ECRC cadre. On absorption in the alternative post as ECRC on 4.1.1997 as per para 9(1) of Master Circular No.25 the respondent no.5 was entitled to get his original seniority on medical decategorisation and as per para 1314 (c) (2) of the Indian Railway Establishment Manual 1989 and therefore the respondents were entitled to get the benefit of seniority. The corrigendum of seniority dated 9.2.1999 was wrongly issued. The same was however cancelled after notifying the concerned parties. The representations of the applicant was considered and rejected. It was also contended that in the suitability

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test for the post of Assistant Reservation Supervisor in the scale of Rs. 5500-9000 could not be considered since she was junior to respondent nos. 5,6 and 7.

3. Mr. R.Dutta, learned counsel appearing on behalf of the applicant in his usual persuasive manner argued the case at length, referring to different provisions of law for determining the inter se seniority between the parties. Mr. R.Dutta submitted that the applicant was junior to the respondent no.5 in the grade of ECRC but then respondent no. 5 switched over the stream and joined in the traffic line as Goods Clerk and returned to the Commercial stream only on 3.1.1997. The applicant in the meantime was promoted to the post of Head ECRC on 20.11.1996 whereas the respondent no.5 on the own showing of the respondents was promoted as Head ECRC on 29.8.1997. The respondents obviously fell into error in determining the inter se seniority of the Head ECRC which also finally affected its decision making process in the matter of promotion. Mr. J.L.Sarkar, learned Railway Standing Counsel for the Railways appearing on behalf of the respondents strenuously urged that the respondents all along acted in conformity with law and refixed the seniority as per law. Mr. R.Dutta learned counsel for the applicant submitted that the inter se seniority of the Head ECRC was properly determined vide order dated 9.2.1999 and the same officer reviewed the seniority list in taking aid of Rule 1310 of Indian Railway Establishment Manual Vol.I. The learned counsel submitted that Rule 1310 mentioned was the rule subsequent to medical decategorisation of respondent no.5. Mr. R. Dutta further assailed the order dated 24.2.2000 rejecting the appeal of the applicant on the ground that the same Railway Divisional Manager passed the order on appeal. Mr. J.L.Sarkar, learned counsel for the Railways on the other hand submitted that the Appellate Order was passed by the

Divisional Railway Manager and not by the Divisional Railway Manager (P).

4. For proper adjudication of this application it would be appropriate to look into the statutory provision which are referred herein below :

**Rule 313 : Mecially UnfitedRailway Servants :**

(a) (i) Medically decategorised staff may, as far as possible, be absorbed in such alterantive posts which should broadly in allied catetories and where their back ground and experience in earlier posts could be utilised. For example, traffic running and operating staff need not necessarily be absorbed in the ticket checking cadre alone but they could also be absorbed in other commercial, station or year categories.

(ii) The medically decategorised staff absorbed in alterantive posts, whether in the same or other cadre, should be allowed seniority in the grade of absorption with reference to the length of service rendered in the equivalent or corresponding grade, irrespective of the rate of payfixed in the grade of absorption under the extant rules. In the case of staff who are in grade higher than th grade of absorption at the time of demical categorisation, total service in the euqivalent and higher grade is to be taken into account.

Provided that if a medically decategorised employee happens to be absorbed in the cadre from which he was origially promoted, he will not be placed above his erstwhile seniors in the grade of absorption.

(iii) While absorbing the medically decategorised Running staff in alternative post, a percentage of basic pay representing the pay element in Running Allowance, as decided by the Government through administrative instructions from time to time, should be added to the minimum as well as maximum of the scale of pay for purposes of identifying "equivalent" posts and their seniority should then be fixed in the equivalent absorbing posts.

(No. E(NG) II/77/RE-3-2 of 2.9.77 and W(NG)I-80-SR-6/83 of 5.3.81).



- (b) .....
- (c) .....
- (i) .....
- (ii) .....
- (d) .....
- (e) .....

**Rule 1310 : Offer of alternative employment to be in writing :** The alternative employment must be offered in writing stating the scale of pay and the rate of pay at which it is proposed to reabsorb him in service. On no account should the Railway servant be posted to an alternative appointment until he has accepted the post. A railway servant is at liberty to refuse an offer of alternative appointment and the leave granted to him will not be terminated pre-maturely merely because of his refusal. The Leave must run its course. He will continue to remain eligible for other alternative offers of appointment till his leave expires and efforts to find such appointments should, therefore, continue throughout the currency of his leave.

**Rule 1314 : (a) Seniority :** - The medically declassified staff absorbed in alternative posts, whether in the same or other cadres, should be allowed seniority in the grade of absorption with reference to the length of service rendered in the equivalent or corresponding grade irrespective of rate of pay fixed in grade of absorption. In the case of staff who are in grade higher than the grade of absorption at the time of medical declassification, total service in the equivalent and higher grade is to be taken into account. This is subject to the proviso that if a medically declassified employee happens to be absorbed in the cadre from which he was originally promoted, he will not be placed above his erstwhile seniors in the grade of absorption.

**(b)** Medically unfit direct recruits offered alternative employment should be placed at the bottom of the existing panel of the new category but should take precedence over candidates who are offered appointment in that category from subsequent panels.

**(c)** The following principles should be followed in absorption in alternative categories after medical declassification :

**(i)** Quite often happens that due to vacancies not being available in equivalent grades a medically declassified employee has

to be offered absorption in a lower grades. In some cases such employees refuse the lower grades in the hope of vacancies in higher grades materialising. It should be open in such cases for an employee to accept a lower grade with a request that if a vacancy in a grade equivalent to what he held before decategorisation occurs in the same cadre he should be considered eligible for the same in preference to a junior medically decategorised employees. While the employee can be expected to put in an application when his contingency happens, it is also necessary for the administration *suo moto*, when considering a subsequently decategorised employee for absorption in a cadre, to look into cases where senior decategorised employees may have been absorbed in lower grades in the same cadre during previous three years and initiate a review. Cases decided before need not be reopened unless there are very exceptional circumstances.

(2) It is also not the intention that even after review the junior employee already absorbed and working in a higher grade should be displaced to make room for the senior. The senior may be promoted against the next vacancy arising in the grade and relative seniority in the grade prefixed taking into account the position before medical decategorisation.

(3) Where a junior has already been absorbed in an equivalent grade but a senior gets medically decategorised during the next three year period and has necessarily to be considered for absorption in the same cadre but no vacancy in a similar grade is available, he may be provisionally absorbed in a lower grade with the understanding that the next vacancy occurring in the higher grade would be given to him. On such vacancy occurring and his being posted herein, seniority should be recast as per (2) above."

The respondent authority in fixing the *inter se* seniority list took note of the seniority of the applicant in the grade of ECRC. Mr. R.Dutta no doubt right in his submissions that the applicant was promoted to the post of Head ECRC. Apparently, without anything more, the applicant as well as the respondent nos. 6 and 7 were promoted before the respondent no.5. The applicant as well as the respondent nos. 6 and 7 were promoted to the grade of Head ECRC on 20.11.1996, on that day the respondent no.5 was holding the

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post of Goods Guards. He was declared medically unfit on 2.12.96 and was put to an alternative appointment in the stationery post of ECRC and on his acceptance on 20.12.1996 he was appointed in the post of ECRC in the scale of Rs.1200-2040 in 3.1.1997. The respondent no.5 was promoted to the grade of Head ECRC on 29.8.1997. Medically declassified staff absorbed in the alternative post is entitled for seniority in the grade of absorption with reference to length of service rendered in the equivalent and corresponding grade. In absorbing medically declassified running staff in alternative posts, a percentage of basic pay representing the pay element in running allowance was decided by the Government through administrative instructions from time to time has to be added to the minimum as well as the maximum of the scale of pay for purposes of identifying equivalent posts and seniority is to determine in equivalent absorbing post. Mr. R.Dutta, learned counsel for the applicant submitted that the respondent no.5 was medically unfit from direct recruit quota and he was offered alternative post and therefore he should be placed at the bottom of the panel of the new cadre. In that view of the matter the respondents ought to have been placed the applicant above the respondent no.5.

4. We have given our anxious consideration on the matter in its entirety. Rules are hands made of justice, it is to be read harmoniously not in isolation. Clause (c) of Rule 1314 speaks of necessity of the Rule making authority in absorbing such persons in the alternative category which provides the power on the administration to review the cases of those seniority, declassified employees who had to be absorbed in a lower grade. It further authorised in (2) of (c) of Rule 1314 to promote the senior against the next vacancy arising in the grade and relative seniority in the grade pre fixed taking into account the position before medical declassification. The respondent No. 5 was all throughout

senior to the respondent nos. 6 and 7 in the rank of ECRC. The applicant and the respondent nos. 6 and 7 were promoted when the respondent no. 5 was holding the post of Goods Guard in course of time he was medically decategorised and joined his original post. The respondents in these circumstances took note of his past services which cannot be said to be unlawful.

5. In the facts and circumstances of the case the decision making process of the respondents in preparing the inter se seniority vis-a-vis the promotion of the respondents cannot be said to be unlawful, requiring interference in this application for judicial review. In the circumstances the application is liable to be dismissed. Accordingly the application is dismissed. The dismissal of the application shall not however, preclude the respondents to consider the case of the applicant for promotion to the rank of Assistant Reservation Supervisor in the scale of Rs. 5500-9000 considering her service rendered in the PRS earlier, if not already considered.

6. There shall, however, be no order as to costs.

  
(K.K.SHARMA)

Member (A)

  
(D.N.CHOWDHURY)

Vice-Chairman

trd

केन्द्रीय प्रशासनीक अदायक  
 Central Administrative Tribunal  
*Baru*  
 4 SEP 2000  
 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
 GUWAHATI BENCH GUWAHATI  
 Guwahati Bench

( An application Under Section 19 of the Administrative  
Tribunal Act. 1985 )

O.A. NO. 263 /2000.

Smt. Paree Neeta Hazarika : Applicant

- Versus -

Union of India and Others : Respondents

I N D E X

Sl. No.	Particulars	Annexure No.	Page
01.	Application	-	01 to 13
02.	Office Order dt. 03.02.98	A/1.	14
03.	Notification dt. 23.11.93	A/2.	15 & 16
04.	Seniority List dt. 10.11.98	A/3.	17
05.	Corrigendum to Seniority list dt. 09.02.99	A/4.	18
06.	Notice dated 02.11.99	A/5.	19
07.	Letter dated 18.11.99	A/6.	20
08.	Representation dt. 27.12.99	A/7.	21 to 23
09.	Letter dated 24.02.2000	A/8.	24
10.	Letter dated 23.03.2000	A/9.	25
11.	Letter dated 29.03.2000	A/10.	26

Filed by -

*Paree Neeta Hazarika*

Signature of the Applicant:

R. Dutta, (Astrocar),  
 Mangaldoi, Guwahati-781011  
 29/9/2000



6. Shri Dambarudhar Saikia,  
 Assistant Reservation Supervisor,  
 Passenger Reservation Service  
 Dibrugarh Railway Station,  
 N.F. Railway,  
 P.O. & Dist. Dubrugarh (Assam)

7. Shri Bydut Kumar Das,  
 Assistant Reservation Supervisor,  
 Passenger Reservation Service,  
~~Jorhat~~ Railway Station,  
 N.P.O. & Dist. ~~Jorhat~~ (Assam)

..... Respondents.

1. Particulars of the Orders against which this application is made :-

(A) The seniority list published and circulated under the Divisional Railway Manager(P), N.F. Railway, Tinsukia's No. E/5/Seniority/TTE/TC/Cond./Pt.II. dated 10.11.98 ( Annexure - A/3 )

(B) The Divisional Railway Manager(P), N.F. Railway, Tinsukia's No. E/5/Seniority/TTE/Cond./Pt.II. dated 24.02.2000 ( Annexure - A/8 )

(C) The Office Order No. E/5/ENQ-CUM-RESV/Pt.II. dated 23.03.2000 issued by the Divisional Railway Manager(P), N.F.Railway,Tinsukia.(Annexure - A/9 )

2. Jurisdiction :-

The applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :-

The applicant submits that the application has been filed within the limitation period prescribed under Section 21 of the Administrative Tribunal Act 1985.

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4. Fact of the Case :-

4.1. That, the applicant is a citizen of India and is therefore entitled to rights, privileges guaranteed to the citizen of India under the Constitution.

4.2. That, the applicant was appointed as Enquiry cum Reservation Clerk (in short ECRC) on 31.12.92 and was posted at Tinsukia Station of N.F. Railway. The applicant was promoted to the post of Head Enquiry Cum Reservation Clerk (in short Hd. ECRC) on 20.11.96. 1/8

4.3. That, at Tinsukia Passenger Reservation Service (in short PRS), there was no Assistant Reservation Supervisor earlier and vide Office Order No. CN/ WP/ PRS/ DBRT. dated 03.02.98, the Divisional Commercial Manager, N.F. Railway, Dibrugarh (Respondent No.4) ~~had~~ <sup>The applicant</sup> asked <sup>to take</sup> M/ charge of the PRS/Tinsukia. The applicant took charge of the PRS on 03.02.98 and continued to hold the charge till 07.02.2000 when she went on maternity leave.

A copy of the said Office Order dt. 03.02.98 is annexed herewith as ANNEXURE - A/1.

4.4. That, Shri Gajendra Kakati (Respondent No.5) was appointed as Coaching Clerk in the year 04.08.82 and he was promoted as ECRC on 22.05.87. Shri Dambarudhar Saikia (Respondent No.6) was appointed as ECRC on 23.11.89 and Shri Bydut Kumar Das (Respondent No.7) was appointed as ECRC on 28.06.91.

4.5. That, under the extent rule the post of Goods Guard in scale ~~Rs.~~ Rs. 1200-2040/- (4th Pay Commission scale :: to scale Rs. 5000-8000/-) were filled in by promotion

as well as the direct recruitment. For direct recruitment of Goods Guard minimum qualification is graduation.

4.6. That, it was decided by the Railway Board that 15% of the direct recruitment quota vacancies of Goods Guard shall be filled in by limited departmental examination for serving Railway employees of Operating and Commercial branches who are graduates and holding the grade of Rs. 950-1400/- and Rs. 1200-2040/- (4th Pay Commission Scale)

4.7. That, the Divisional Railway Manager(P), N.F. Railway, Tinsukia under No. E/100/ABC(GD.TNC).dt. 23.11.93 called for applications from graduates Commercial and Operating staff in scale Rs. 950-1400/- and Rs. 1200-2040/- and some intermediate grades between these two grades for filling up of 4 posts of Goods Guard in scale Rs.1200-2040/- against 15% of the direct recruitment quota vacancies to be filled in by limited departmental competitive examination. It was clearly stipulated that the Competitive Examination will be in the form of written and viva-voce test. The seniority of the candidate shall be determined purely on merit of the competition as is done in open competition arranged by the Railway ~~Examination~~ Recruitment Board. It was also stipulated that final seniority position shall however be determined on the merit figure obtained by the candidate in the Guardship examination to be held at Zonal Training school, Alipurduar.

A copy of the said Notification dt.23.11.93  
is annexed herewith as ANNEXURE - A/2.

4.8. That, Shri Gajendra Kakati (Respondent No.5) appeared for the post of Goods Guard in scale Rs.1200-2040/-

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against 15% direct recruitment quota vacancies to be filled in by the departmental competitive examination amongst serving Railway employees of Operating and Commercial department and he was selected for the post of Goods Guard and after being declared medically fit in class A/2, he was sent for training and after successfully completion of the training he was appointed as Guard on 23.05.96.

4.9. That, Shri Gajendra Kakati (Respondent No.5) was subsequently declared medically unfit and was absorbed as ECRC as medically unfit staff on 04.01.97. He was promoted as Hd. ECRC on 29.08.97.

4.10. That, on 10.11.98 the Divisional Railway Manager (P), N.F. Railway, Tinsukia published the Seniority List of Hd. ECRC under No. E/5/Seniority/TTE/TC/Cond./Pt.II showing Shri Gajendra Kakati (Respondent No.5) item No.1, Shri Dambarudhar Saikia (Respondent No.6) item No.2 and Shri Bydut Kumar Das (Respondent No.7) as item No.3 and the applicant as item No.4 in the Seniority List.

A copy of the said Seniority List dt.10.11.98 is annexed herewith as ANNEXURE - A/3.

4.11. That, as Shri Gajendra Kakati (Respondent No.5) was promoted as Hd. ECRC on 29.08.97 much later than that of the applicant, the applicant preferred an appeal to the Divisional Railway Manager (P), N.F. Railway, Tinsukia, Lumding on 17.11.98. On the basis of the appeal a corrigendum was issued vide No. E/5/Seniority/TTE/TC/Cond./Pt .II dated 09.02.99 by reversing the seniority position of Shri Gajendra Kakati from item No. 1 to 4 of the Seniority list

Shri Dambarudhar Saikia (Respondent No.6) was shown as item No.1 in the Seniority list, Shri Bydut Kumar Das (Respondent No.7) as item No.2 of the Seniority list and the applicant item No.3 while Shri Gajendra Kakati was made item No.4 of the Seniority list.

A copy of the said corrigendum dt. 09.02.99 is annexed herewith as ANNEXURE - A/4.

4.12. That, on 02.11.99 a show cause notice was issued to the applicant and Respondent No. 6 & 7 by the Divisional Railway Manager(P), N.F. Railway , Tinsukia under No. E/5/ Seniority/TTE/TC/Cond./Pt.II, proposing cancellation of the Office Order of corrigendum of seniority list of ~~ME~~ Hd. ECRC which was ~~g~~ published on 09.02.99 (Annexure - A/4) without indicating any reason for proposed cancellation. It was indicated in the said notice that representation if any may be submitted within 15 days.

A copy of the said notice dt. 02.11.99 is annexed herewith as ANNEXURE - A/5.

4.13. That, the applicant submitted a representation to the Divisional Railway Manager(P), N.F. Railway,Tinsukia against the proposed cancellation with request for up-holding the seniority published under No. E/5/Seniority/TTE/TC/ Cond./Pt.II dated 09.02.99 and the said representation was forwarded through proper channel on 16.11.99.

4.14. That, on 18.11.99 the Divisional Railway Manager(P), N.F. Railway, Tinsukia under No. E/5/Seniority/TTE(Cond.)/Pt.II informed the applicant as under :-

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" It is for your information that regarding fixation of seniority of disabled/Medically de-categorised staff absorbed in alternative appointment rule 1310 of IREM Vol.I.

The disabled/medically de-categorised staff absorbed in alternative posts should be allowed/seniority in the grade of absorption with reference to the length of service rendered on non-continguous basis in the equivalent or corresponding grade before being declared medically unfit.

Hence, the corrigendum of seniority list of Hd. ECRC in scale Rs. 5000-8000/- (RS/RP) published by this Office vide No. E/5/Seniority/TTE/TC/Cond./ Pt.II. dt. 09.02.99 is hereby cancelled and the seniority list of even No. dt. 10.11.98 keeping the seniority position of Shri G. Kakati, Hd. ECRC/ Tinsukia in No.1 stands valid and final."

A copy of the said letter dated 18.11.99 is annexed herewith as ANNEXURE - A/6.

4.15. That, as rule 1310 of the Indian Railways Establishment Manual Vol.I does not contain the rule as quoted by the Divisional Railway Manager(P), N.F. Railway, Tinsukia and as the rule is also not applicable in ~~the~~ case of Shri Gajendra Kakati (Respondent No.5) the applicant submitted an appeal to the Divisional Railway Manager, N.F. Railway, Tinsukia on 27.12.99.

A copy of the said representation dated 27.12.99 is annexed herewith as ANNEXURE - A/7

4.16. That, on 24.02.2000, the Divisional Railway Manager(P), N.F. Railway, Tinsukia under No. E/5/Seniority/TTE(Cond.)/Pt.II informed the applicant that the Office Order of the corrigendum of seniority list of Hd. ECRC published under No. E/5/Seniority/TTE/TC/Cond./Pt. II.

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dated 09.02.99 (Annexure - A/4) is hereby cancelled and the Seniority list of Hd. ECRC vide Office Order No. E/5/Seniority/TTE/TC/Cond./Pt.II dated 10.11.98 (Annexure - A/3) stands valid and finally the appeal of the applicant dt. 27.12.99 was regretted.

A copy of the said letter dt. 24.02.2000 is annexed herewith as ANNEXURE - A/8.

4.17. That, thereafter in the month of March a suitability test for 3 posts of Assistant Reservation Supervisor in scale Rs. 5500-9000/- (RS/RP) wherein the applicant was not considered and Shri Gajendra Kakati (Respondent No.5), Shri Dambarudhar Saikia (Respondent No.6) and Shri Bydut Kr. Das (Respondent No.7) were considered vide Office Order No. E/5/ENQ-CUM-RESV/Pt.II. dated 23.03.2000.

A copy of the said letter dt. 23.02.2000 is annexed herewith as ANNEXURE - A/9.

4.18. That, on 29.03.2000 Shri Gajendra Kakati (Respondent No.5), Shri Dambarudhar Sakia (Respondent No.6) and Bydut Kr. Das (Respondent No.7) were promoted to the post of Assistant Reservation Supervisor in scale Rs. 5500-9000/- and posted Tinsukia-Dibrugarh and Tinsukia respectively.

A copy of the said letter dt. 29.03.2000 is annexed herewith as ANNEXURE - A/10.

4.19. That, a suitability test was conducted basing on seniority cum suitability and the applicant was not considered as her position was alter to 4th position of the seniority list by illegal cancellation of Seniority List published under No. E/5/Seniority/TTE/TC/Cond./Pt.II. dt. 09.02.99 ( Annexure - A/4 )

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5. Grounds for Relief :-

5.1. That, the show-cause notice dated 02.11.99 (Annexure - A/5) did not indicate any reason ~~expressed~~ for proposed cancellation of the Office Order of corrigendum of seniority list of Hd. ECRC. As such it deprived the applicant to make proper representation against the proposed cancellation because the reason for proposed cancellation was not disclosed. The applicant was thus deprived of for making proper representation against the proposed cancellation.

5.2. That, the representation of the applicant against the proposed cancellation was forwarded from Tinsukia Station on 16.11.99 to the Divisional Railway Manager(P), N.F.Railway, Tinsukia. And the Divisional Railway Manager(P), N.F. Railway, Tinsukia informed the applicant on 18.11.99 that corrigendum of seniority list of Hd. ECRC has been cancelled. The speed at which this decision was taken within a day shows that there were interested persons to get the corrigendum of seniority list cancelled.

5.3. That, in the letter dated 18.11.99 (Annexure - A/6) the Divisional Railway Manager(P), N.F. Railway, Tinsukia has quoted 1310 of the Indian Railway Establishment Manual Vol.I in support of the decision for cancellation. The Rule 1310 of the Indian Railway Establishment Manual Vol.I deals with different matter namely offer of alternative employment to be in writing and does not contain the contents as has been quoted in the said letter of cancellation dated 18.11.99 (Annexure - A/6). This also goes to show that the cancellation has been done without due application of mind.

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5.4. That, Shri Gajendra Kakati (Respondent No.5) appointed against direct recruitment quota and as such on being medically unfit and offered alternative employment is to be placed at the bottom of existing panel of new category. As Shri Kakati was absorbed a ECRC in scale Rs. 4500-7000/- he is to be placed at the bottom of all the ECRC's working on the date he was absorbed as ECRC under Rule 1314(b) of the Indian Railway Establishment Manual Vol.I.

5.5. That, Shri Gajendra Kakati was absorbed as ECRC in scale Rs. 4500-7000/- on 04.01.97 when the applicant was working as Hd. ECRC in scale Rs. 5000-8000/- as such he cannot claim for seniority over the applicant who was in the higher Grade when respondent No.5 was absorbed as ECRC.

5.6. That, the applicant was promoted as Hd. ECRC on 20.11.96 and was made the in-charge of Passenger Reservation Service, Tinsukia Station on 03.02.98 whereas Shri Gajendra Kakati (Respondent No.5) was promoted as Hd. ECRC on 29.08.97 and as such Respondent No.5 cannot be given seniority over the applicant as he was promoted later on than the applicant.

5.7. That, as the applicant was senior to Shri Gajendra Kakati as ECRC she is on the zone of ~~xxx~~ consideration of suitability for promotion to the post of Assistant Reservation Supervisor before Shri Gajendra Kakati is considered.

5.8. That, as the applicant was not considered in the suitability test for promotion to the post of Assistant Reservation Supervisor she is entitled to be considered and

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if qualified to be interpolated in the panel of suitable candidates for the post of Assistant Reservation Supervisor (ARS).

5.9. That, the applicants appealed to the Divisional Railway Manager, N.F. Railway, Tinsukia, against the decision of the Divisional Railway Manager(P), N.F. Railway, Tinsukia, was disposed of by the Divisional Railway Manager(P), N.F. Railway, Tinsukia and as such letter dated 24.02.2000 was issued by the Divisional Railway Manager(P), N.F. Railway, Tinsukia disposing the applicants appeal dated 27.12.99 (Annexure - A/7) is without jurisdiction and is liable to be set aside and quashed.

6. Details of remedy exhausted :-

The applicant has submitted an appeal to the Divisional Railway Manager, N.F. Railway, Tinsukia on 27.12.99 and the same has been disposed of by the Divisional Railway Manager(P), N.F. Railway, Tinsukia against whose decision she preferred the appeal.

7. Particulars of Previous application if any :-

The applicant submits that she has not filed any application before any Tribunal or any Suit or Writ Petition before any Court and no such application or Suit is pending before any Tribunal or Court in respect of the subject matter of this application.

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8. Relief Sought :-

Under the circumstances stated above the applicant humble prays that the Lordships of this Hon'ble Tribunal may be pleased to :

Set aside the quash the show cause notice No.

E/5/Seniority/TTE/TC/Cond./Pt.II dt. 02.11.99

P19 (Annexure - A/5) and order issued under No.

E/5/Seniority/TTE(Cond.)/Pt.II.dt.18.11.99

P20 (Annexure - A/6) cancelling the corrigendum of seniority and letter No. E/5/Seniority/TTE(Cond.)/

Pt.II. dt. 24.02.2000 (Annexure - A/8) and for issue of direction for consideration of applicant's

suitability for promotion ~~as~~ to the post of

Assistant Reservation Supervisor in scale

Rs. 5500-9000/- and for this act of kindness the applicant as a duty bound shall ever pray.

9. Interim Relief :-

Nil

10. Particulars of Application Fee :-

Indian Postal Order No. 15004899

Dated 5.8.2000 Amounting to Rs. 50.00 (Rupees Fifty only) is enclosed herewith.

11. Enclosures :-

As in I N D E X.

Cont .... 13.

Durgarika.

: VERIFICATION :

I, Smt. Paree Neeta Hazarika, Wife of Sri Kandarpa Gohain, aged about 34 years working as Hd. ECRC in Passenger Reservation Service, Tinsukia Railway Station, P.O. & District - Tinsukia (Assam) do hereby verify that the contents of Paragraphs 4.1 to 4.3, 4.11 to 4.15 of the application are true to my knowledge and those in Paragraphs 4.4 to 4.10 of the application are true to my information which I believe to be true and the rest are my humble submission before the Hon'ble Tribunal and I have not suppressed any material facts.

And I sign this verification on this  
the 10th day of August 2000.

Paree Neeta Hazarika.

Signature of the Applicant

Dated : 10. 8. 2000

Place : Tinsukia

Cont .... 14.

-/A/-

Annexure A/1

N. E. RAILWAY

NO. GM/WP/PRS/BBRT

Office of the  
Divisional Commr. Manager  
Dibrugarh at TSK  
Dt. 3.2.98

To

Smt. P. Hazarika,  
Hd. EORC/TSK  
PRS/TSK

Sub:-Management of Computer section at PRS/TSK

You are hereby advised to take charge of PRS/TSK from  
Shri S. Sangma, CCC/TSK with immediate effect. Sri Sangma will be the incharge  
of Booking office at TSK with assignment of Cash receipt/remittance and  
preparation of returns/Balance sheets, etc.

<sup>have to</sup>  
You will manage the Computer section with existing EORC  
staff and responsible for preparation of connective returns and all sorts  
of correspondence in connection with PRS/Computer.

  
Divisional Commr. Manager  
Dibrugarh

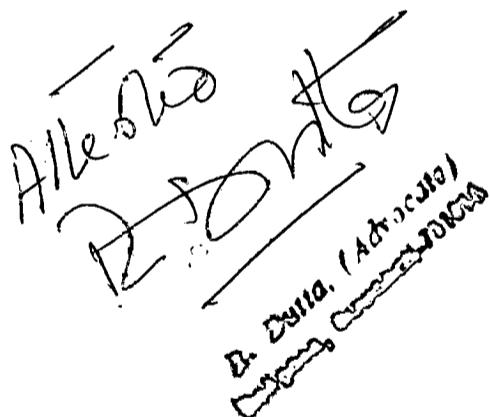
Copy to Shri S. Sangma, CCC/TSK for information and necessary action.

He is advised to handover all documents/equipments of Computer  
section to Mrs. Hazarika.

Copy to : DRM(P) TSK for information please.

Divisional Commr. Manager  
Dibrugarh

.....

  
Alka Deka  
D. Deka  
Dr. Deka, (Advocate)  
D. Deka, Advocate

ANNEXURE - A/2.

OFFICE ORDER

N.F. Rly.

DRM(P)/N.F.RLY/TSK

Dt. 23.11.93.

In terms of Rly. Bd's letter No. E(NG)1/90/PM-2/ 27. dt.01.08.91, it has been decided to fill up the 15% direct recruitment quota vacancies of Goods Guard in scale Rs. 1200-2040/- by limited departmental competitive examination amongst the serving Railway employees of the Operating and Commercial Branches who are graduates and holding the grades of Rs. 950-1400/- and above upto the grade Rs.1200-2040/- in the following categories :

Sr. TNC in scale	Rs. 1200-2040/-
Jr. TNC in scale	Rs. 950-1500/-
Sr. Signaller in scale	Rs. 1200-2040/-
Jr. Signallers in scale	Rs. 975-1540/-
Asstt. Guard in scale	Rs. 950-1400/-
Sr. Asstt. Guard in scale	Rs. 1200-2040/-
P/man 'A' in scale	Rs. 950-1500/-
C/man Gr.(I) in scale	Rs. 950-1500/-
Sr.Comml.Clerk in scale	Rs. 1200-2040/-
Jr.Comml.Clerk in scale	Rs. 975-1540/-

Applicants are therefore, called for in order to fill up 4 (four) posts of Goods Guard in scale Rs. 1200-2040/- against D.R. quota from the staff of above categories to reach this Office on or before 31.12.93. The applicants must be graduates and have put in at least 3 years service. The upper age limit is 40 years in case of general candidates and 45 years in case of SC/ST candidates.

Application must be enclosed with Caste Certificate, age Certificate, graduation Certificate etc.

The competitive examination will be in the form of both written and viva-voce tests. The seniority of the candidates shall be determined purely on merit of the competition as is done in open competition arranged by the RRB. The final inter-se seniority position shall, however be determined on the merit figure obtained by the candidates in the Guardship examination to be held at ZTS/APDJ. The selected candidates will have to qualify themselves in Guardship training. Examination and medical examination in class A/2.

Cont ... 2.

*R. Datta, (Advocate)  
Mallika, Examiner*

All SS/SSM, BCI, CYMs, TIs are to make its wide publicity amongst the staff. No application will be entertained beyond the last date of receipt of the applications stated above.

The decision of the selection Board will be treated as final. The Board can alter decision or dates of test (written or Viva-voce) if required.

Sd/-

for Divnl. Rly. Manager(P),  
N.F.Rly, Tinsukia.

No. E/100/AVG(Cd. NO) dated - 23.11.93.

Copy for information and necessary action please to :

1. CYM/TSKG. MXN
2. All SSs, SSMs, BCIs of TSK Division
3. TI/TSK, MJN, MXN, RAC/TSK
4. AOM(M)/TSK, DOM/TSK, DCM/DBRT, DAO/TSK, GM(P)/MLG.
5. Dealer of P/man, C/man, Comml/Clerk at Office.
6. Br.Secy. NFREU/MXN, TSK, DBRT.
7. " " NFRMU/MXN, TSK, DBRT.

Sd/-

for Divnl. Rly. Manager(P),  
N.F.Rly, Tinsukia.

*D. Datta*  
A. Datta. (Acting)  
Deputy, Superintendent

-17- A/3

N. F. Railway.

Annexure A/3

Provisional seniority list of Hd. SCRC in scale Rs. 5000-8000/- (RS/RP/97)  
as on 1-4-98. Dept: Commercial under DCM/TSK. Category: Hd. SCRC. Scale : Rs. 5000-8000/-  
Sanctioned strength as per BOS on 1-4-96. Permanent : Hd. SCRC - 2  
Temporary : Hd. SCRC - 3

Total - 5

CRITERIA : Length of service and date of promotion  
to the grade (Divisional)

Office of the  
Divl. Railway Manager (P),  
Tinsukia, dated 10.11.98.

Sl. No.	Name, desig. & station	Date of birth	Date of Apptt.	Date of promotion to the grade	Whether conf. or grade	Community	Remarks
1.	Shri Gajendra Sekaty, Hd. SCRC/TSK	1-2-54	4-9-82(CC) 22-5-87(SCRC)	29-8-97	Officiating	ST	Medically declassified and absorbed as SCRC. Seniority awarded vide I 313 (a) (ii) IRM.
2.	" Dambarudhar Saikia, Hd. SCRC/DBRT	1-4-63	23-11-89	20-11-96	-do-	ST	
3.	" Bidyut kr. Das, Hd. SCRC/DBRT	1-2-58	28-6-91	20-11-96	-do-	SC	
4.	Smt. Parvneeta Hazarika, Hd. SCRC/TSK	2-1-66	31-12-92	20-11-96	-do-	UR	

Representation if any against the seniority mentioned above may be submitted to this office within 30 (Thirty) days from the publication of the seniority list. No representation received after the schedule time will be entertained and this list will be treated as final.

This issues with the approval of the competent authority.

for Divl. Railway Manager (P),  
N. F. Railway, Tinsukia.

No. 3/5/Seniority/TTE/PG/Cond./Pt. II dt. 10.11.98.  
Copy forwarded for information and necessary action to:-  
1. Staff concerned through their respective supervisors.  
2. Branch Secy. NFRM/TSK, DBRT, MNX.  
3. Branch Secy. NFRSU/TSK, DBRT, MNX.  
4. Branch Secy. AISCT Rly. SA /TSK, BBRT, MNX.  
5. DC/DBRT.

for Divl. Railway Manager (P),  
N. F. Railway, Tinsukia.

ps.101198.

ECR (i) = Goods (i) Staff (i)   
cc.   
14/11/98  
SMT/JRK

Alm  
R. Fund. (Act. Scale)  
Circular 10/98

After 18

Annexure A/4

N. W. Railway.

OFFICE ORDER  
CORRIGENDUM

Office of the  
Divl. Railway Manager (P),  
Tinsukia, dated 9.2.99.

In partial modification of the seniority list in the category of Hd. ECRC in scale Rs. 5000-8000/- (RS/RP) published under this office Order No. S/5/Seniority/TTE/TC/COND/PT.II dt. 10-11-98, the seniority of the following staff are revised and reassigned as under placing Shri Gajendra Kakaty, Hd. ECRC at S.I. - 4 below all the existing staff in the cadre considering his date of promotion in the category of Hd. ECRC w.e.f. 29-8-97. Moreover, Shri Gajendra Kakaty was absorbed as ECRC w.e.f. 4-1-97 vide this O.O. No. ES/G-012-dt. 3-1-97 due to medical de-categorisation and was provided seniority in terms of Rule 313 (ii) and 1314(a) I.R.M. (Vol-I) in the category of SCRC in scale Rs. 1200-2040/- as on 4-1-97 and when he resumed in the cadre of SCRC S/ Shri B. K. Das, P. Hazarika and D. D. Saikia - all were working in the next higher grade as Hd. ECRC w.e.f. 20-11-96. As such Shri Kakaty stands junior to above three staff in the cadre of Hd. ECRC.

Sl. No.	Name	Designation	Station	Date of promotion as Hd. SCRC
1.	Shri Dambarudhar Saikia,	Hd. SCRC/DBRT		20-11-96
2.	" Bidyut Kr. Das,	Hd. SCRC/DBRT		20-11-96
3.	Smti. Parvneeta Hazarika,	Hd. SCRC/TSK		20-11-96
4.	Shri Gajendra Kakaty,	Hd. SCRC/TSK		29-8-97

Representation, if any, against this corrigendum of seniority list of Hd. SCRC may be submitted to this office within 30 (Thirty) days from the publication of this office order. Representation received after the schedule date will not be entertained.

This issues with the approval of the competent authority.

For Divl. Railway Manager (P),  
N. W. Railway, Tinsukia.

No. S/5/seniority/TTE/TC/COND/PT.II dt. 9.2.99.

Copy forwarded for information and necessary action to:-

1. Staff concerned through their respective supervisors.
2. SM/TSK, DBRT.
3. DCM/DBRT.
4. Branch Secy. NEREU/TSK, DBRT, MN, FKG, LIO.
5. Branch Secy. NERWIU/TS, DBRT, FKN, TS.G.
6. Branch Secy. AISOTRA/TSK, DBRT, MN.

For Divl. Railway Manager (P),  
N. W. Railway, Tinsukia.

ps. 9299.

After 18  
9.2.99  
N. W. Railway, Tinsukia.

-19-  
A/5

Annexure A/5

N. F. RAILWAY

No. E/5/Seniority/TTE/TC/COND/Pt.II.

Office of the  
Divl. Railway Manager (P),  
Tinsukia, Datdd. 2.11.99.

To,

Shri Dambarudhar Seikia, Hd. ECRC/DBRT under SM/DBRT  
" Bidyut Kr. Das, Hd. ECRC/DBRT. under SM/DBRT  
Mrs. Faroneeta Hazarika, Hd. EXRC/TSK under SM/TSK (O)  
Shri Gajendra Kakaty, Hd. ECRC/TSK under SM/TSK (O)

Sub: Show Causes Notice regarding Corrigendum of seniority list.

Ref: DRM(P)/TSK's Corrigendum of seniority list No. E/5/Seniority/TTE/TC/COND/Pt.II dated 9-2-99.

-0000-

It is proposed to cancell the Office Order of Corrigendum of seniority list of Hd. ECRC in scale Rs. 5000-8000/- (RS/RF) published by this Office on 9.2.99 under reference.

You may submit your representation if any within 15(fifteen) days.

This issues with the order of competent authority.

Rly 2-11-99  
for Divl. Railway Manager (P),  
N. F. Railway, Tinsukia.

Copy for information to:-

1. Staff concerned through respective supervisors.
2. Branch Secy. NFRMU/TSK, DBRT, MXN.
3. Branch Secy. NFREU/TSK, DBRT, MXN.
4. Br. Secy. XENSOA AISCTREA/TSK, DBRT, MXN.
5. DCM/TSK.

Rly 2-11-99  
for Divl. Railway Manager (P),  
N. F. Railway, Tinsukia.  
164

Replies on 12.11.99

DR. B. D. SARKAR

A/6 -20-

Annexure/6  
97

N.F.RAILWAY

No. E/5/Seniority/TTE(Cond)/Pt.II

Office of the  
Divl.Rly.Manager (P)/TSK  
Dt. 18/11/99

To  
Mrs. Pareeneeta Hazarika,  
Hd. ECRC/TSK(O)  
Under SM/TSK(O)

Sub :- Seniority of ECRC in scale Rs. 5000-8000/-  
(RS/RP).

Ref :- 1. Your appeal No. Nil dt. 15.11.99.  
2. DRM/P/TSK's L/No. E/5/Seniority/TTE/TC  
(Cond)/Pt.II dt. 2.11.99.  
.....

It is for your information that regarding fixation  
of seniority of disabled/Medically decategorised staff absorbed  
in alternative appointment rule 1310 of IREM Vol.I para 3a:-

"The disabled/medically decategorised staff absorbed in  
alternative posts should be allowed /seniority in the grade  
of absorption with reference to the length of service ren-  
dered on non-contiguous basis in the equivalent or corre-  
sponding grade before being declared medically unfit."

Hence, the corrigendum/seniority list of Hd. ECRC  
in scale Rs. 5000-8000/- (RS/RP) published by this office vide  
E/5/Seniority/TTE/TC/Cond/Pt.II dt. 9.2.99 is hereby cancelled  
and the seniority list of even No. dt. 10.11.98 keeping the  
seniority position of Shri G. Kakaty, Hd. ECRC/TSK in No.1  
stands valid and final.

This issues with the order of Competent Authority.

1314

Copy for information and necessary action to :-  
1. Shri D. Saikia, Hd. ECRC/DBRT under SM/DBRT.  
2. " B. K. Das, Hd. ECRC/DBRT -do-  
3. " G. Kakaty, Hd. ECRC/TSK under SM/TSK(O).  
4. Branch Secy/NFRMU/TSK, DBRT, MXN.  
5. " /NFREU/TSK, DBRT, MXN.  
6. " /AISCTREA/TSK, DBRT, MXN.  
7. DCM/DBRT.

Divl.Rly.Manager (P)  
Tinsukia.

Divl.Rly. Manager (P)  
N.F.Rly/Tinsukia.

R 310

1313

R 306

1314(a)

To  
The Divisional Rly. Manager,  
N.F. Rly. Tinsukia

Dt. 27th Dec'99

Sub : SENIORITY OF HD/ECRC IN SCALE Rs. 5000 - 8000/-.

Ref : 1) My Appeal dated - 15-11-99.  
2) DRM(P) TSK'S L/No. E/5/Seniority/TTE/TC(Cond) PT II  
Dt. 02-11-1999.  
3) DRM(P) TSK'S L/No E/5/Seniority/TTE (Cond) PT-II  
Dtd. 18-11-1999.

Sir,

I have the honour to draw your kind attention to the following few lines and request for your prompt intervention in this subject and request for your justice.

That sir, I am working as a Hd. ECRC at PRS/TSK since my promotion vide order No.-E/5/ENQ-CUM-Resv. PT-II dtd. 20-11-96 (in scale Rs. 5000/- - 8000/- and I have been performing the duties and taking all responsibility of CRS and ARS as in charge of PRS/TSK since 03-02-98 vide O/O No.-CM/WP/PRS/DBRT dt. 03-02-98.

That sir, a seniority list of Hd. ECRC was published (No-E/5/Seniority/TTE/TC/Cond/PT II) on 10-11-98 showing my position at No. 4 although I have been working as Hd. ECRC vide promotion dtd. 20-11-96 much earlier than Sri G. Kakati whose name was shown as No. 1 position despite promoted later on 29-08-97. After my appeal, the order was partially modified (O/O No.-E/5/Seniority/TTE/TC/Cond/PT-II dt. 09-02-99) and I got the seniority position of No. 3 above than Sri G. Kakati who has been placed at No. 4 position.

In this corrigendum it was clearly mentioned that "The seniority of the following staff are refixed and reassigned as under placing Shri Gajendra Kakati Hd. ECRC at S1-4 below all the existing staff in the cadre considering his date of promotion in the category of Hd. ECRC w.e.f. 29-08-97. Moreover Shri Gajendra Kakati was

Contd...2

*[Signature]*  
B. Datta, (Advocate)  
C. S. C. S. (U.P.)

Annexure No  
contd

absorbed as ECRC w.e.f. 04-01-97 vide this O.O. No. ES/G-012 dt. 03-01-97 to Medical de-Categorisation and was provided seniority in terms of Rule 313 (ii) and 1314. (a) IREM (vol-I) in the category of ECRC in scale Rs. 1200-2040/- as on 04-01-97 and when he resumed in the cadre of ECRC S/Shri B.K. Das, P. Hazarika and D.D. Saikia all were working in the next grade as Hd. ECRC w.e.f. 20-11-96. As such Shri Kakoty stands junior to above three staff in the cadre of Hd. ECRC."

But surprisingly enough after lapse of 8(eight) months period after the time of limitation period a show cause notice was issued on 02-11-99 (No. E/5/Seniority/TTE/TC/Cond/Pt.II) regarding corrigendum of seniority list. After my written objection/representation on 15-11-99 in respect of this show cause Notice, a letter/order was passed on 18-11-99 (No.E/5/Seniority/TTE (Cond)/Pt II) cancelling the corrigendum of seniority list of Hd. ECRC in scale Rs. 5000-8000/- (RS/RP) Published on 09-02-99 quoting Rule 1310 of IREM vol. I and as such keeping the seniority position of Sri G. Kakati Hd. ECRC/TSK in No. 1.

That Sir, this order (No. E/5/Seniority/TTE (Cond) PT. II dt. 18-11-99) is not only defective, it is also partial and misleading. There is wrong interpretation of rule in this order. Because the rule 1310 of IREM, Vol - I does not contained the Rule as mentioned in the inverted commas (" " ") and the rule 1310 of IREM Vol-I contained about the "offer of alternative employment to be in writing".

That sir, the above said office order has been issued in a hectic manner with wrong quotation of Rules in vague, unclear and misleading manner on the one hand and has been issued with the intention of depriving the undersigned of the opportunity to plead for this case more effectively as the order has been declared to be final one, thereby trying to block and seal the future prospect of promotion in service carrier and thus has raised some doubt in my mind. That all that has been done in with a definite and distinct

Contd...3

*A. Kakoty*  
R. Datta (Advocate)  
Regd. No. 10008

Annexure A/7  
Contd. <sup>10</sup>

purpose of favouring Shri Kakati unduly and undeservingly which snacks some ulterior purpose and motive.

That sir, it is this feeling which has compelled me to appear before your goodself seeking justice and fare deal on the basis of correct interpretation of rules in this regard. So that the essence of impartiality and fare deal is upheld in the administrative hierarchy and undersigned gets what is justifiably and legally due to me.

I shall be ever grateful to you for your immediate intervention and prompt action in this regard.

Yours faithfully,

"Paree Neeta Hazarika  
( PAREE NEETA HAZARIKA ) 27.12.79.  
In-charge/PRS/TSK

Enclosed documents - 8 copies  
- for your ready reference.

Copy To -

- 1) GM (P) MLG (Advanced copy) for detailed information
- 2) DCM/DBRT
- 3) DPO/TSK
- 4) Branch Secy./NFREU/TSK.

*A. Datta*  
A. Datta, (Advocate)  
Deputy Commissioner of Court of Session

~~AB-24-~~

Annexure A

N. F. Railway.

No. E/5/Seniority/TTE (Cond.)/Pt.II.

Office of the  
Divl. Railway Manager (P),  
Tinsukia, Dated. 24.2.2000.

To,  
Mrs. Parvazeta Hazarika,  
Hd. FCRC/TSK (O).

Through: SM/TSK (O).

Sub: Seniority of Hd. FCRC in scale Rs.5000-8000/-

Ref: Your appeal dt.27-11-99.

Ref: DRM(P)/TSK's L.No. E/5/Seniority/TTE/Cond/Pt.II  
dated 2.11.99 and 18.11.99.

.....

In reference to your appeal mentioned above, it is to inform you that the Office Order of the Corrigendum of seniority list of Hd. FCRC in scale Rs. 5000-8000/- published vide this O.O. No. E/5/Seniority/TTE/Cond/Pt.II dt. 9.2.99 is hereby cancelled. The seniority list of Hd. FCRC published vide this office Order of even No. dt. 10.11.98 stands valid and final.

Hence your appeal under reference regretted.

This issues with the order of the competent authority.

(Rb- 24/2100)

for Divl. Railway Manager (P),  
N. F. Railway, Tinsukia.

Copy to: 1. Staff concerned through respective supervisors.  
2. Branch Secy./NFRMU/TSK, DBRT, MXN.  
3. Branch Secy./NFRMU/TSK, DBRT, MXN.  
4. Branch Secy./AISCTREA/TSK, DBRT, MXN.  
5. DCM/TSK.

(Rb- 24/2100)

for Divl. Railway Manager (P),  
N. F. Railway, Tinsukia.

*A. Datta*  
A. Datta, (Advocate)  
Muz. No. 100170018

~~A/A~~

File

Annexure A/9

23/3/2000  
Smt/TSK

42

N. F. Railway.

OFFICE ORDER

Office of the  
Divl. Railway Manager (P),  
Tinsukia, Dated. 23.3.2000.

Sub: Result of the suitability test for the 3 posts of  
ARS in scale Rs.5500-9000/- (RS/RP).

-0000-

As a result of suitability test based on ACRs for the post  
of ARS in scale Rs.5500-9000/- the following Hd. FCRCs in scale 5000-8000/-  
are found suitable for the post of ARS in scale Rs.5500-9000/-

1. Shri Gajendra Kakaty, Hd. FCRC/TSK (ST).
2. " Dambarudhar Saikia, Hd. FCRC/DBRT (ST).
3. " Bidyut Kr. Das, Hd. FCRC/DBRT (SC).

This issues with the approval of DRM/TSK.

*(Signature)* 23/3/2000  
for Divl. Railway Manager (P),

N. F. Railway, Tinsukia.

No. E/5/SNO-CUM-RESV/Pt.II dt. 23.3.2000.

Copy forwarded for information and necessary action to:-

1. Staff concerned through their respective supervisors.
2. SM/TSK, DBRT.
3. DCM/TSK.
4. Branch Socy. NFRMU/TSK, DBRT, MXN.
5. Branch Socy. NFRSU/TSK, DBRT, MXN.
6. Branch Socy, AISCTRE/TSK, DBRT, MXN.

*(Signature)* 23/3/2000  
for Divl. Railway Manager (P),

N. F. Railway, Tinsukia.

*(Signature)*  
K. Datta. (Advocate)  
23/3/2000

N. F. RAILWAY.

OFFICE ORDER

Office of the  
Divl. Railway Manager (P),  
Tinsukia, Dated. 29.03.2000.

The following Hd. SCRC in scale Rs.5000-8000/- who have been selected for promotion to the post of ARS in scale 5500-9000/- are hereby promoted, transferred and posted as ARS as shown against each as follows.

Name, Designation, station	Present scale of pay.	Promoted as ARS in scale.	Posted at station.
1. Shri G. Kakaty, Hd. SCRC/TSK	5000-8000/-	5500-9000/-	TSK
2. " D. D. Saikia, -do-/DBRT	-do-	-do-	DBRT
3. " B. K. Das, -do-/DBRT	-do-	-do-	TSK

The following SCRC in scale 4500-7000/- are hereby promoted, transferred as Hd. SCRC in scale 5000-8000/- as shown against each as follows.

Name, Designation, station	Present scale of pay.	Promoted as Hd. SCRC in scale.	Posted at station.
1. Shri Lakhya Hazarika, SCRC/TSK	4500-7000/-	5000-8000/-	TSK
2. " S. Dostidar, -do-/DBRT	-do-	-do-	DBRT
3. " D. D. Saikia, -do-/DBRT	-do-	-do-	DBRT
4. " B. K. Das, -do-/TSK	-do-	-do-	TSK

Promotion order of Hd. SCRC item No.2,3,4 will be effective from the date of effect of promotion of ARS item No.1, 2 & 3 in order of seniority.

1. S/o ... The above staff may exercise option for fixation of pay on promotion from the date of their next increment date of sub. scale of pay.

The fixation of pay of the above staff will be fixed on receipt of joining date on promotion.

This issues with the approval of competent authority.

Name, Designation, station, Present scale, Promoted as  
Hd. SCRC in scale, Posted at station.

for Divl. Railway Manager (P),  
29/3/2000.

2. S/o D. D. Saikia, -do-/DBRT, N. F. Railway, Tinsukia.

3. " S. Dostidar, -do-/DBRT, N. F. Railway, Tinsukia.

No. 3/5/2000 Cum Resv. Pt. II dated 29.03.2000.

Copy forwarded to:

1. Staff concerned for information, through SSs/TSK & DBRT.

2. E/Bill at office, SSs/DBRT & TSK for information.

3. DAO/TSK, DCW/TSK for information.

29/3/2000.

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... a better name for the town, and the name of the town is to be changed to "Vancouver".

OFFICES OF THE DEPARTMENT OF STATE, WASHINGTON, D. C., DECEMBER 10, 1917.

not yet been established for the first century. Yet this is the case, and the author of the book is not yet known.

~~Specimen Number 2 ed. 11 in. Made exclusive 30 May 1900 by H. M. Palmer~~

186. *Leucosia* (Leucosia) *leucostoma* (Fabricius) *leucostoma* (Fabricius) *leucostoma* (Fabricius)

وَالْمُؤْمِنُونَ الْمُؤْمِنَاتُ وَالْمُؤْمِنُونَ الْمُؤْمِنَاتُ

卷之三十一

O.A. No. 263/2000

Smt Pareeneeta Hazarika

- Vs -

U. O. I & Others

In the matter of :

Written statement on behalf of  
the respondents.

The respondents in the above case most respectfully beg  
to state as under:

1. That the respondents have gone through the original application and have understood the contents thereof.
2. That the respondents do not admit statement except those which are specifically admitted in this written statement. Statements not admitted are denied.
3. That in reply to the statements in para 4.2 it is stated that the applicant was appointed as ECRC on 31.12.92 i.e. after the appointment of respondent No. 5 who was appointed on promotion in 22.5.87. The applicant was promoted as Hd. ECRC in the scale of Rs. 5,000 - 8,000 on 20-11-96 earlier than the respondent No. 5.
4. That in reply to the statements in para 4.3 it is stated that the applicant has been made the Incharge of PRS/TSK by DCM/TSK for her (applicants) working experience on computer and reservation. It was the local arrangement of the administration.

54  
File No. 54442  
Guwahati Bench  
Divisional Public Prosecutor  
through P. Chakraborty  
SAC/Office

5. That in reply to the statements in para 4.4. it is stated that the applicant was appointed as ECRC on 31-12-92 i.e. later than the respondents No. 5.6 and 7. It is here to mention that the respondent No. 5 was selected as Goods Guard w.e.f. 24-5-96 but subsequently he was medically decategorised and re-absorbed in the post of ECRC w.e.f. 4.1.97 without granting the benefit of basic pay and running allowance and thereafter he got promotion as Hd. ECRC w.e.f. 29.8.97.

6. That in reply to the statements in para 4.5 and 4.6 it is stated that the respondent No. 5 was selected for the post of Goods Guard in the scale of Rs. 1200-2040/- on option. The respondent No. 5 is a graduate. His initial appointment was in the post LR CC AND subsequently he got promotion as ECRC w.e.f. 22.5.87. The respondent No. 5 was selected as Goods Guard in the scale of Rs. 1200-2040/- as per the norms and procedure.

7. That in reply to the statements in para 4.7 it is stated that the respondent No. 5 was selected as Goods Guard. But he was medically decategorised and re-absorbed the post of ECRC w.e.f. 4-1-97 without granting the benefit of basic pay and running allowance. So his seniority in the cadre will be determined from the date of original absorbtion in the cadre of ECRC.

8. That in reply to the statements in para 4.8 to 4.9 the respondents reiterate the foregoing statements.

9. That in reply to the statements in para 4.10 it is stated that the respondent No. 5 is senior to the applicant in the cadre of ECRC. The applicant was appointed to the post of ECRC on 31.12.92 while the respondent No. 5 was promoted to the post of ECRC w.e.f. 22.5.87. It is also stated that as per Rule 313 (a) III and Rule 1314 (a) of IREM Vol I 1989 the respondent No. 5 was placed in the serial No. 1 of the seniority list published on 10.11.98 giving the benefit of his past service on the cadre.

10. That in reply to the statements in paras 4.11 to 4.16 it is stated that the respondent No. 5 was senior to the applicant in the ECRC category. On absorption in alternative post as ECRC on 4.1.97 as per the para 9(1) of master circular No. 25 the respondent No. 5 was entitled to get his original seniority on medical decategorisation and as per para 1314(e) (2) on page 163 of IREM 1989 the respondent No. 5 is entitled to get benefit of seniority. The corrigendum of seniority dated 9-2-99 was issued erroneously. So in the interest of justice it was cancelled after issuing show cause notice to the applicant and respondent No. 5, 6 and 7. It is stated that the representation of the applicant was rejected after due consideration. It is also stated that the corrigendum dated 9.2.99

was cancelled as per Advance Correction Slip No. 77. item No. 1310 of IREM Vol. I vide Rly Board's Letter No. E(NG)/I/96/RE 3/9(2) dated 29-4-99.

11. That in reply to the statements in paras 4.17 to 4.19, it is stated that the applicant was appeared in the suitability test for the post of Assistant Reservation Supervisor in the scale of Rs. 5500 - 9000/- but she could not be considered as she was junior to the respondent No. 5, 6 and 7.

12. That in the facts and circumstances of the case the application deserves to be dismissed with cost.

Verification

I, K. Sankaran working  
as D. P. O in N.F.  
Railway do hereby verify that the statements made in para 1 to 12 are true to my knowledge.

Tinsukia  
Guwahati

07/ 8 / 2001.

*Q. S. S.*  
Signature  
of the undersigned  
Divisional Engineer  
B. B. Railways  
Office  
Guwahati