

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-80/2001 order sheet pg-1
disposed date-20/03/01

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R.A/C.P No.
E.P/M.A No. 80/2001

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SECTION OFFICER (Judl.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 95/2000 OF 199

Applicant(s) Sri Uday Narain Parody.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. A. B. Choudhury
Mr. J. Abedin

Advocate for Respondent(s) Mr. A. Dhond.
Rt. Advocate.


Notes of the Registry	Date	Order of the Tribunal
<p>This application is to be filed within time limit of Rs. 50/- deposited with IPO BD No. 423804 Dated 2.3.00</p> <p>9/3/00 8/3/2000</p> <p>22-3-2000</p> <p>Service of notices prepared and sent to D-Section for issuing to the same to the respondents through Regd. post with A.D. vide D.Nos. 869 & 874 Dtd. 27-3-2000.</p>	<p>9.3.00</p> <p>trd</p> <p>14.3.00</p>	<p>On the prayer of Mr. J. Abedin on behalf of Mr. A.B.Choudhury, learned counsel for the applicant the case is adjourned till 14.3.00.</p> <p>List on 14.3.00 for consideration of admission.</p> <p>Member(J)</p> <p>Member(A)</p> <p>Mr. A.B.Choudhury, learned counsel for the applicant and Mr. B.K.Sharma, learned counsel for the respondents.</p> <p>Application is admitted. Issue notice on the respondents by registered post. Written statement within four weeks.</p> <p>List on 6.4.2000 for written statement and further orders.</p> <p>Member(J)</p> <p>Member(A)</p>

① Service Report
are still awaited

② No. written statement
has been filed.

6.4.00

Mr. J. L. Sarkar, learned Railway
Standing Counsel prays time for filing of
written statement. Mr. A. Ahmed, learned
counsel for the applicant however,
submits that the O.A. requires urgent
hearing as the applicant is going to be
retired on 30.6.2000. List for hearing
on 16.6.2000. In the meantime written
statement may be submitted.


Member

24
5.4.2000
Notice duly served
on R.No. 5 & 6 and
2 & 3.

trd

14-8-2000.

① Notice duly served
on R.No. 2, 3, 5 & 6.

② No. written statements
has been filed.

16.6.00

There is no D.B. drawn
to 4.9.00.

B/O
L

By

5-1-2000

No. Written state-
ment has been filed
by the respondents.

4.9.00

No Bench drawn to 8.1.01.

B/O
L

8.1.01

Present : Hon'ble Mr. Justice D.N. Chowdhury,
Vice-Chairman.
Hon'ble Mr. K.K. Sharma,
Member (A).

On the prayer of the learned counsel for
the applicant the case is adjourned to
27.4.2001.

List on 27.4.2001 for hearing.


Member


Vice-Chairman

16.3.2001
Written statement
on behalf of respondents
has been filed.

trd

27.4.01

Leftover List on 28-5-01.

B/O
L

M

7

Notes of the Registry

Date

Order of the Tribunal

28.5.01

The case is adjourned to 9-7-2001 for hearing.


 Vice-Chairman

bb

~~28.5.01~~
 30.7.01

Judgment delivered in open Court.

Kept in separate sheets. Application is allowed. No costs.


 Member


 Vice-Chairman

lm

10/8/2001

Copy of the Judgment
 has been sent to the
 office for issuing
 the order to the applicant
 as well as to the
 Director, S.C. for the
 Report.
 HS

Notes of the Registry

Date

Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 95 of 2000

Date of Decision. 30.7.01

Udai Narain Pandey

-----Petitioner(S)

Mr.A.B.Choudhury , Mr.J.Abodin

-----Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors.

-----Respondent(s)

Mr.J.L.Sarkar.

-----Advocate for the
Respondent(s)

THE HON'BLE

Mr.Justice D.N.Choudhury, 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 ?

Judgment delivered by Hon'ble : VICE-CHAIRMAN



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HON'BLE MR. JUSTICE D.N. CHOUDHURY, VICE-CHAIRMAN
HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER

-Vg-


- By Advocate Mr. J. L. Sarkar.

CHOUDHURY, J(V.C.):

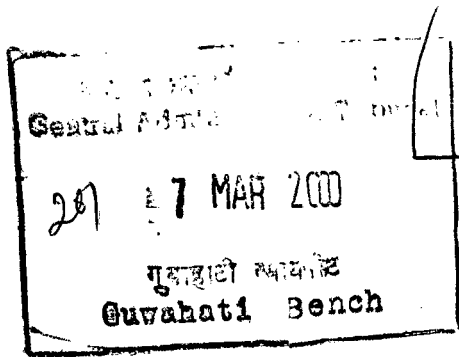
contd/-2

We have heard Mr.A.B.Choudhury learned counsel for the applicant assisted by Mr.J.Abedin learned counsel and also Mr.J.L.Sarkar learned counsel for Railway Administration. Mr.Sarkar referring to the written statement and submitted that the representations referred to by the applicant were not received by the respondents. Be that as it may the applicant grievances require to be considered by the respondents. In the facts and circumstances the ends of justice will be met if the applicant is directed to make a fresh representation before respondent No.2 narrating all his grievances to enable the respondents to consider the same as per law. Accordingly, we ordered the applicant to file representation within 4 weeks from the date of receipt of the order and if such representation is filed ventilating all his grievances within the time prescribed, the respondent No.2 shall consider the same and pass a reasoned order thereon, upon hearing the applicant expeditiously at any rate within three months from the date of receipt of this order. The respondent No.2 is ordered to pass a reasoned order accordingly upon hearing the applicant and communicate the same to the applicant.

Application is allowed to the extent indicated.
There shall however, no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOUDHURY)
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ::: GUWAHATI .

BRANCH ::: GUWAHATI.

O.A. NO. 95 OF 2000

Sri Uday Narain Pandey ...Applicant

-Versus-

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

I N D E X

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Uday Narain Pandey

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BRANCH
GUWAHATI.

Filed by —

Ashiq Ahmed
Advocate
7.3.2000

An application U/S 19 of the Central
Administrative Tribunal Act, 1985.

O.A. NO. 95 OF 2000.

Sri Udai Narain Pandey
Sr. Goods Guard/LMG
N.F. Railway, Lumding
District- Nagaon.

...Applicant..

-Versus-

1. The Union of India
represented by the Secretary ,
Railway Administration.
2. The General Manager (Personnel)
N.F. Railway, Maligaon, Guwahati.
3. The Divisional Railway Manager,
Lumding, District- Nagaon, Assam.
4. The Divisional Railway Manager
(Operation) Lumding, Dist. Nagaon,
Assam.

..contd.2

Udai Narain Pandey

5. The Divisional Railway Manager
(Personal), Lumding
District, Nagaon, Assam.

6. The Divisional Railway Manager
(Commercial), Lumding
District- Nagaon, Assam.

...Respondents.

1. PARTICULARS FOR WHICH THE APPLICATION IS MADE :

(i) This application is made for directing the respondent authority to pay the proper scale of pay as per the Indian Railway Establishment Manual and the Rules.

(ii) Recovery of Monetary Benefits since the date of his promotion to senior Goods Guard. The applicant though was promoted w.e.f. 10.7.95 but monetary benefits were given with effect from

..contd.3

Udai Narain Pandey

27.9.95, which is illegal as the applicant was facing stagnation since 1993 thereby punishment for 2 years stoppage of increment should have been effected from 10.7.95 but effecting the same w.e.f. 27.9.96 is to huge monetary loss suffered by the applicant.

(iii) Payment of arrear and interest on the amount which the applicant was legally entitled and which was deprived most illegally due to their own administrative fault in omitting the name of the applicant while making promotion vide order dated 21.11.95 (Annexure-6).

(iv) To make compensation for mentally torturing the applicant, without any fault of his own.

2. LIMITATION :

The applicant declares that this application is within the limitation period as prescribed by the Administrative Tribunal Act, 1985.

...Contd. 4

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3. JURISDICTION OF THE TRIBUNAL :

(i) That the present applicant further declares that this application is well within the Jurisdiction of this Hon'ble Court.

(ii) That the applicant is the citizen of India as such he is entitled to all the rights , p rivileges as guaranteed under the Constitution of India.

4. FACTS OF THE CASE :

(i) That the applicant begs to state that on 28.5.65 the applicant was appointed as Trainee Assistant Station Master through Railway Service Commission , Guwahati in the pay scale of Rs. 130-240 and was sent to Zonal Training School, Alipurduar Junction for training. After completion of training the applicant joined as an Assistant Station Master on 28.11.65.

(ii) That the applicant begs to state that the applicant was sent for undergoing practical training as Assistant Station Master for a period of 21 days at 4 different stations vide order No.ES/38 U dated 1.12.65 and accordingly the applicant completed the aforesaid training.

A copy of the aforesaid order dtd. 1.12.65 is annexed hereto and marked as Annexure- 1.

..contd.5

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(iii) That as per office order dated 21.10.67 the applicants service was provisionally confirmed with effect from 1.2.67. Applicant's name appear at serial No.126 in Clause -G.

Relevant Extract copy of the order dtd. 21.10.67 is annexed hereto and marked as Annexure- 2.

(iv) That the applicant begs to state that after _____ completion of 5 years service as an Assistant Station Master with above mentioned sclee, the applicant was sent to Zonal Training School, Alipurduar Junction for refresher course in Asstt. Station Master's duty. In this refresher course there are two stages 1st is train passing (Transportation) course and 2nd is Telegraphy course. The First stage i.e., Training passing (Transportation) course, the applicant passed in 1st attempt but the applicant could not pass 2nd stage i.e., Telegraphy refresher course in two consecutive chances and ultimately the applicant was declared failed.

(v) That after being declared failed in Refresher Course examination in ASM's duty at Zonal Training School, Alipurduar Junction in consecutive two chances the applicant was offered alternative employment as RCC/LMG in the

..contd.6

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scale of Rs. 110-200 with immediate effect vide office order No.ES-38U(T) dtd. 24.7.71. In this office order it is also mentioned that the applicant will be booked for refresher course Training in ASM's duty for the 3rd chance after six months and he would be re-promoted as ASM's if the application can qualify himself in the examination of Refresher Course Training in the 3rd chance.

A copy of the aforesaid order No. ES-38U(T) dtd. 24.7.71 is annexed hereto and marked as Annexure- 3.

(vi) That the applicant begs to state that though the authority assured the applicant that he would be booked for 3rd chance after 6 months but most surprisingly the authority did not send the applicant for 3rd chance till date. The applicant also states that in the aforesaid order dated 24.7.71 (Annexure-3) it was clearly within — that the applicant was given an alternative job and therefore the authority ought to have maintained the same grade keeping the same scale of pay. It was shocking that in the event he was given lower pay of scale.

(vii) That the applicant begs to state that the applicant made several representations before the authority to give him the original scale of pay of Rs. 130-240 as per his initial appointment and for alternative job his grade must be maintained and therefore

..contd.7

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in the similar grade and pay scale his service ought to have been sr.CC or any other post which was equivalent to his parent scale (i.e. Rs.130-240) or sent him for Refresher Course Training for 3rd chance as per order dated 24.7.71. But the authority did not take any positive steps.

(viii) That the Third Pay Commission report came into force from 1973 . The applicant's parent pay scale of Rs.130-150-240 was revised as Rs.330-560 and the scale in which alternative employment was given to the applicant of pay scale of Rs.110-200 was revised as Rs.260-430. From this pay revision the applicant was suffering from huge financial losses.

(ix) That the applicant begs to state that from time to time the applicant was performing the duties of senior Coaching Clerk in preparing the returns at LFG (Lower Haflong). The applicant also performed the duties of a Relieving Coaching Clerk.

A typed copies of engagement to prepare returns are annexed hereto and are marked as Annexure- 4 series.

..contd.8

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(x) That the applicant begs to state that the applicant made a representation dated 20.6.80 before the Respondent No.6 through Relieving Arrangement Clerk (RAG) for his promotion as 'Guard' and the said representation was forwarded to Divisional Commercial Superintendent (DCS).

(xi) That the applicant begs to state that the applicant was promoted as Guard/Goods with effect from 19.11.80 in the scale of Rs.330-530, but the applicant ought to have been given the promotion as a passenger guard in the pay scale of Rs.330-560 instead of Goods Guard. Applicant's seniority ought to have been counted from his initial appointment dated 28.11.65 and not from 19.11.80. A provisional seniority list was prepared by the authority dated 9.9.86 and applicant's name appears at Sl.No.51.

A copy of the seniority list dtd. 9.9.86 is annexed hereto and is marked as Annexure- 5.

(xii) That in the fourth pay commission scale of Rs.330-560/- and scale of Rs.330-530/- were merged together and same was revised as Rs.1200-2040. Therefore till the 4th Pay Commission the applicant suffered monetary loss as he was given the pay scale of Rs.330-530

..contd.9

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instead of Rs. 330-560 and as such the applicant received the stagnated pay of Rs. 530/- per month which ought to have been Rs. 560/- per month.

(xiii) That the applicant begs to state that a seniority list was prepared by the authority, the omitting the applicant's name vide order No.E/39-91/1 PV(T) dtd. 4.7.95 , and in terms of the order, the Goods Guards in scale of pay of Rs. 1200-2040/- had been promoted to the post of Senior Goods Guards in the scale of Rs. 1350/- to 2200/- w.e.f. 10.7.95. The applicant's name was omitted in the said promotion list but the person junior to the applicant namely - Sri D.K. Das (at Sl.No.4 of the said promotion list) was promoted w.e.f. 10.7.95, Vide another order dated 26.9.96 the aforesaid promotion list was rectified and the applicant was promoted to the senior Goods Guard w.e.f. 10.7.95. Then vide another order dated 5.12.96 it was stated that the applicant — though promoted w.e.f. 10.7.95, he would only be entitled to receive the monetary benefits with effect from 27.9.96 i.e., from the date of shouldering the higher (promoted) responsibilities. Thereafter, vide another order No. ES/46-U(T) dated 19.3.97 was issued and stated that though the applicant's promotion was effected from 10.7.95 but he would only be entitled to the monetary benefits from 27.9.96. In the meanwhile, due to departmental punishment from stoppage of increments for 2 years (NC), the applicant would be stopped promotional (benefits) increments from 1.7.96 to 30.6.98.

..contd. 10

Md. Masrur Hossain

Copies of the order dated 21.11.95, 26.9.96 and 19.3.97 are annexed hereto and marked as Annexures- 6, 7 & 8 respectively.

(xiv) That the applicant begs to state that the applicant in the meantime was punished and 2 years increments was stopped. The applicant was receiving stagnated pay of Rs.2040/- since 1993. Therefore, the applicant's stoppage of increment should have been effected from the date of his promotion i.e. 10.7.95 and as such the period would have ended on 9.7.97 and after that the applicant would have received his pay as normal with lost increments as the punishment was non-commulative.

It is important to be mentioned here that the applicant suffered monetary loss due to the administrative fault of the authority and providing monetary benefit w.e.f. 27.9.96 instead from the date of promotion i.e. 10.7.95 is arbitrary and illegal.

(xv) That the applicant begs to state that the applicant made representations to the DRM/Lumding N.F. Railway through SS/Lumding dated 26.9.98 and 10.11.98 stating all his grievances since his appointment and seniority which was deprived to the applicant by the authority most illegally and as such the applicant was

..contd.11

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deprived from the monetary benefits which he was legally entitled . The representations were duly received by the authority.

Copies of the representations dtd.
26.9.98 and 10.11.98 are annexed
hereto and marked as Annexures - 9 &
10 respectively.

(xvi) That the applicant begs to state that the authority till date did not dispose of his representations and also the authority did not provide the 3rd chance as per the order dated 24.7.71. The applicant is to retire from his service on 30.6.2000.

5. GROUND OF RELIEF :

- (i) For that your applicant is entitled to all the monetary and other benefits for which he is entitled for correct seniority position as per Indian Railway Establishment Manual & Rules. The applicant's reduction in rank without assigning any reason is illegal , arbitrary and violation of Article 311 of the Constitution of India. In the name of alternative employment the authority ought to have maintained the same grade and pay.

..contd. 12

Udai Narain Pandey

- (ii) For that, your applicant is entitled to the the full monetary benefit as per promotion w.e.f. 10.7.95, which was denied to the applicant due to the administrative fault of the authority. Giving effect of promotional monetary benefit from 27.9.96 instead from 10.7.95 is most illegal, arbitrary and in violation of Principles of Natural Justice.
- (iii) For that, the applicant was offered alternative employment as RCC/LMG (degrading from his initial post) in the scale of Rs.110-200/- is illegal because the applicant should have been given the same grade, in which the applicant was initially appointed maintaining the pay scale of said grade.
- (iv) For that, the applicant was never sent for the 3rd chance for refresher course for ASM's duty as per provision of order No.ES.38U(T) dated 24.7.71 (Annexure- 3), without providing the 3rd chance the authority ought not to have reduced the rank of the applicant, In the name of alternative employment, the authority reduced the rank of the applicant with lower pay scale which is most illegal, arbitrary and high-handed actions of the respondents.

..contd. 13

Uday Narain Pandey

(v) For that, the applicant was appointed as an Assistant Station Master (ASM) since 28.11.65 and provisionally confirmed on 1.2.67. The applicant had been given the alternative employment since 24.7.71 but with lower pay scale (i.e. Rs. 110-200 which was revised as Rs. 260-430/-) is illegal. The applicant should have been given same cadre with same pay scale, which the applicant had received in the time of appointment. Therefore the applicant has been suffering from monetary loss since 24.7.71.

(vi) For that, the applicant was given the category of Goods Guard in the scale of Rs. 330-530/- w.e.f. 19.11.80, though the applicants parent revised pay scale was Rs. 330-560/-. For this — anomalies lots of junior persons superseded the applicant and for this act the applicant has been suffering financially and — mentally as such giving the scale of pay of Rs. 330-530/- instead of Rs. 330-560 is illegal, arbitrary and unjust.

...contd. 14

Udov Narain Pandey

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- (vii) For that, even assuring that the applicant's service was degraded since 24.7.71, the respondent authority never sent the applicant to the Zonal Training School, Alipurduar for Refresher Course Training for 3rd chance as per order dated 24.7.71 and thus the depriving the applicant's right has caused serious injustice, hardship and irreparable loss and injury to the applicant.
- (viii) For that, in any view of the matter this application is filed before this Hon'ble Tribunal for redressal of his grievances regarding the correct position of his seniority and monetary loss since 24.7.71.

6. DETAILS OF REMEDY EXHAUSTED :

That the applicant declares that he had exhausted all the departmental remedies which are available to him within the department.

...contd.15

Udai Narain Pandey

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT :

The applicant further declares that he had not filed any application , writ suit regarding this matter before any court of law or any other Bench or the Central Administrative Tribunal.

8. RELIEF SOUGHT :

In view of the facts and circumstances mentioned above, the applicant prays for following relief :-

(a) to direct the Respondents to fix the correct seniority position as per the Indian Railways Establishment Manual and the Rules made thereunder and to give the full monetary benefit of promotion since 24.7.71;

(b) to direct the respondents to maintain the same grade and cadre as the applicant was given an alternative job as per order dtd. 24.7.71 (Annexure- 3) and as such in the name of alternative job his rank cannot be reduced.

..contd. 16

Udai Narain Pandey

- (c) to direct the respondents to fix his revised scale of pay at Rs. 330-560/- as per his initial appointment instead of Rs. 260-430/- (in 3rd pay Commission);
- (d) to direct the respondents to fix his promotional monetary benefit w.e.f. 10.7.95 instead 27.9.96, question of shouldering responsibilities does not arise as the illegality caused and which was later rectified was due to the administrative mishap and no fault of the applicant was - involved at all; and
- (e) to direct the respondents to give effect of stoppage of 2 years increments penalty w.e.f. the date of his promotion i.e. 10.7.95 and not w.e.f. 1.7.96 (Annexure-9) as the applicant was facing stagnation since 1.11.93 at Rs. 2040/-.

9. INTERIM RELIEF PRAYED FOR :

X

...contd. 17

Udai Narain Pandey

10. PARTICULARS OF BANK DRAFT :

Indian postal order No.09493804 dated 2/3 of 2000
Rs.50/- (Rupees fifty) only in favour of the Registrar
Central Administrative Tribunal, Guwahati payable
at Guwahati.

11. DETAILS OF INDEX :

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

12. LIST OF ENCLOSERS :PAGE

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Udai Narain Pandey

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

I, Shri Udai Narain Pandey, Son of late Ram Niranjan Pandey, aged about 60 years, permanent resident of village and P.O. Hathounja, P.S. Khejuri, in the district of Ballia, Uttar Pradesh and presently residing at Lumding, P.O. & P.S. Lumding, District- Nagaon, Assam and working as Sr. Goods Guard/LMG, do hereby verify that the contents from 1 to 12 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place :

Udai Narain Pandey

Date :

SIGNATURE.

To
The Registrar,
Central Administrative Tribunal
Guwahati.

19

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ANNEXURE- 1

(Typed copy)

N.F. RAILWAY.

NO.ES/38 U

D.O.S's Office, Lumding
D/ 1.12.65

To

Shri Udai Narain Pandey, T/ASM
Thro' RACSub : Practical training to Assistant
Station Master.

You are hereby booked for undergoing — practical training as ASM for a period of 21 days at the following stations for periods as noted against each.

The first 2 days at each station you should observe the work of the station and during the remaining days, you should work as ASM directed under the supervision of the SME concerned during his duty hours.

<u>Placing of training</u>		<u>Period of training</u>
1. JMK	from	2.12.65 to 6.12.65
2. RXR	From	8.12.65 to 12.12.65
3. CNE	From	14.12.65 to 18.12.65
4. Phiding	From	20.12.65 to 24.12.65

On completion of practical training , you will report to this office for you examination by DOS and if found fit, you will be posted in the regular cadre of ASM provided you deposited cash security money of Rs. 300/- and produce the documentary proof.

Sd/- Illegible

D.O.S./Lumding.

30.6.
..contd.2

Copy forwarded to :-

1. SM/JMK, RXR, ONE, Phiding, for information. It is made clear that the SMS concerned should see that staff under training at their station observe the correct procedure as laid down in various rules. On completion of training at one station, staff should be directed for his training to the next station as per programme given above. In no case staff should be detained at station for more than the days as specified above. On completion of training staff should be directed to report to this office for examination. A detailed report regarding the training received at his should also be submitted by the respective SMs in time.
2. Copy to RAC at office for information. He will please direct the staff for training.
3. E/Bill at office for information. During period of training staff will draw pay on his present capacity MR/TI/LMG & SI/LMG for information. They will ~~draw pay on his present capacity~~ please arrange to examine the staff in interlocking jointly at LMG on 26.12.65 and communicate the result to this office for record.

SS.30/11/65

Sd/-
D.O.S./Lumding.

....

Attested
57
AP
Adv.

(An Extract relevant portion)

N.F. RAILWAY

Office order

Office of the
District Optg. Supdt.
Lumding ;
Dt. 21-10-1967

Sub : Confirmation of Staff

- (A) ----
- (B) ----
- (C) ----
- (D) ----
- (E) ----
- (F) ----

(G) The following staff are provisionally confirmed as ASM in scale Rs.130-240/- against the available vacancies with effect from the dates noted against each :-

<u>Name and Designation</u>		<u>Date of confirmation</u>
1. Shri N.L. Datta,	ASM/MPP	9-7-64
2. xxxx		
3. xxxx		
100. xxxx		
126. Shri U.N. Pandey,	RASM/LMG	1-2-67
134. xxxxx		

Sd/-

DOS- Lumding :

No.E/14-P11 Dt.21-10-67

Copy forwarded for information and necessary action to:-

- 1. Staff concerned thro' proper channel.
- 2. xxxx
- 3. xxxx

Sd/- Illegible

D.O.S./Lumding.

27/10/67
61
[Signature]
[Signature]

(Typed copy)

ANNEXURE- 3.

Office of the Divisional
Supdt. (P) Lumdung.

Office order :

Being failed in Refresher Course examination in ASM's duty at ZTS/APDJ in _____ consecutive two chances as intimated under Supdt/ZTS/APDJ under his letter No.Z/TR/9 dated 6.7.71 Shri U.N. Pandey, RG ASM/LMG in scale Rs.130-240/- is offered alternative employment as RCC/LMG in scale Rs.110-200/- on Rs.175/- p.m. with immediate effect.

Shri Pandey being spared by SS/LMG should report to RAC at office on transfer and posting as RCC (110-200). He will be booked for Refresher Course training in AMS duty for the 3rd chance after six months and he will be re-promoted as ASM (130-240) if he can qualify himself in the examination after training in the 3rd chance.

Sd/-

D.O.S./D.C.S.-Lumdung.

No.ES-38U(T) dt. 24.7.71.

...

RTT
by
ALL
B.V.

(Typed copy)

I

ES/II/79/180 of 26/11/79

To Shri U.N. Pandey RCG-LMG - Pl. proceed for
LFG by 204 Dn of 27-11-79 to prepare returns at
LFG.P.O. in 2nd.

Sd/- Illegible

For Divi. Rly. Manager (P)
N.F. Rly. Lunding

....

DT 21/12/79
S-1
[Signature]
[Signature]

(Typed copy)
III

Memo LMG 3.4.80

To Shri U.N. Pandey RCC/LMG
C/SM/LFG

No.ES/4/80 - 36 please proceed to LFG by 204 Dn of
4.4.80 to write there (in connection with the
preparation of returns)

P.O.2nd

Sd/- Illegible
3/4

For Divi. Rly. Manager (P)
N.F.Rly. Lunding.

....

RTT/2/80
by
[Signature]
AM

(Typed copy)
IV

Memo LMG 19/6/80

To U.N. Pandey, RCC

C/ SM/LFG

No.ES/6/80 301 please p-roceed to LFG by 206 Dn
of 20.6.80 to prepare returns .

P.O. 2nd

Arrived by
206 Dn of
22-6-80

Sd/- Illegible
19/6

Sd/- Illegible
22-6-80
Supervising Station Master
Lower Haflong
N.F. Railway.

For Divi.Rly. Manager (P)
N.F. Rly. Luming.

....

RECEIVED
BY
[Signature]

(Typed copy- an extract relevant portion)

N.F. Rly.

Provisional seniority list of Guards (G) is scale Rs.330-530/- as on 1.4.85.

Classification-Division (Seniority). Deptt. Optg. Divn. Lunding.

Criteria length of non-fortuitous service in the grade.

S/N	Name.	D/birth	D/apptt.	Dt. of promotion to the grade.	Sanctioned strength - 92		Remarks.
					P. -	T -	
					Date confirmation		
1	2	3	4	5	6		7
1.	Kajal Krishna Dutta	1.4.43	5.1.63	2.5.77	1.4.81		
XX							
51.	Uday Narain Pandey	1.7.40	28-11-65	19-11-80	1.4.81		
52.	Dipti Kanti Das	1.2.47	1.6.66	23.3.81	1.4.81		
XX							
94.	Sukhamoy Mukherjee	10.1.60	11.9.84	11.9.84	-		

Sd/- Illegible 9/9

For DRM(P)/Lunding.

No.E/39-25-GD(T). Dt. 9/9/86.

24/9/86
6/9
A/1

(Typed copy)

N.F. RAILWAY

OFFICE OF THE
DIVISIONAL RLY.MANAGER (P)
LUMDING.

OFFICE ORDER :

In terms of this office order No.3/39-9/1PV(T) dtd.4.7.95, the following goods Guard in scale Rs.1200-2040/- have been promoted to the post of Goods Guard in scale Rs.1350-2200/- (20%) w.e.f. 10.7.95. They - pay on promotion have been fixed as under :-

S/No.	Name & designation.	Subpay in scale Rs. 1200-2040/-	Pay fixed as Goods Gd. in scale Rs.1350-2200/- (20%) in terms of Rule 1313-w.e.f. 10.7.95	Pay now fixed as goods Gd.in scale Rs.1350-2200/- (20%) as per their option in terms of Rule 1313(A).
1.	S/Shri P.R. Sarker, Gd(G)/BPB.	1680/-wef 1.12.94 1720/-wef 1.12.95	1720/-wef 10.7.95	1800/-wef 1.12.95
2.	S.P. Chakraborty -do-	1680/-wef 1.11.94 1720/-wef 1.11.95	1720/-wef 10.7.95	1800/-wef 1.11.95
3.	S.K. Das, Gd(G)/LMG	1680/-wef 1.8.94 1720/-wef 1.8.95	1720/-wef 10.7.95	1800/-wef 1.8.95
4.	Dipti Kanti Das Gd(G)/LMG	1840/-wef 1.3.95 1880/-wef 1.3.96	1850/-wef 10.7.95	1950/-wef 1.3.96

Sd/- Illegible
For D.R.M. (P)/LMG

No.E/III/FIXN/GR-I (T) Dtd.LMG 21.11.95

Copy forwarded for information and necessary action to:-

1. Staff concerned

x

4. S/Copy for P/Cases.

Sd/- Illegible

For D.R.M. (P)/LMG.

....

Attested
by
Adv.

ANNEXURE- 7.

(Typed copy)

Thro' SS/LMG

N.F. RAILWAY.

Office of the Divisional
Rly. Manager (P),
Lumding.

OFFICE ORDER :

1) Shri Uday Narayan Pandey, Gds Gd/LMG in scale Rs. 1200-2040/- is hereby shown promoted to the post of Sr. Goods Guard in scale Rs. 1350-2200/- w.e.f. 10.7.95 i.e. to the extent of his immediate junior Shri Dipti Kanti Das, Ex. Goods Gd/LMG (1200-2040/-). Now Sr. Goods Gd/LMG (1350-2200) and posted as LMG with immediate effect.

Shri Pandey will get proforma fixation w.e.f. 10.7.95 and monetary benefit from the date of shouldering higher responsibility.

2) XX

Sd/- Illegible
26/9
For Divisional Rly. Manager (P)
N.F. Railway, Lumding.

No.E/39-9/1-PV(T) (Restructuring) dtd. LMG, 26-9-96.

Copy forwarded for information and necessary action to:-

1. Staff concerned through proper channel.

XX

9. DAO/LMG

Sd/- Illegible
26-9

For Divisional Rly. Manager (P)
N.F. Railway, Lumding.

Attended
by
M/S

....

(Typed copy)

Thro' SS/LMG.

Office of the
Divil.Rly.Manager (P)
Lumding, dtd. 19/3/97.

Office Order :

In modification of this office order No.EB/46-U(T) dtd. 5/12/96, the pay of Shri U.N.Pandey Goods Gd/LMG in scale Rs.1200-2040/- has been promoted to the post of Sr.Goods Gd/LMG in scale Rs.1350/- -2200/- (proforma) vide this office order No.E/89-9/I-IV(T) dtd. 26.9.96 is fixed as under -

<u>subs. pay in scale</u> <u>Rs.1200-2040/-</u>	<u>Pay already fixed is scale</u> <u>Rs.1350-2200/-</u>	<u>pay now refixed in scale Rs.1350-2200/-</u>
Rs.2040/- wef 1/11/93	Rs.2100/- wef. 10/7/95 (proforma)	Rs.2100- wef. 10/7/95 (proforma)
	Rs.2150/- wef. 1/7/96 (promorma)	Rs.2150/- wef. 1/7/96 (not effective due to WIT for 2 years wef. 1/7/96 to 30.6.98)

He will get monetary benefit @ Rs.2100/- wef. 27/9/96 i.e. from the date of shouldering higher responsibilities.

The punishment for 2 years (NC) will be given effect wef. 1/7/96 to 30.6.98.

Sd/-

for DRM(P) Lumding
NF.Rly.

No. ES/46-U(T) dtd. 19/3/97

Copy forwarded for information and N/action to :-

1. Shri U.N.Pandey, S r.Goods/GD/LMG Thro' SS/Lumding
4. S/copy for S/sheet.

Sd/- Illegible
for DRM (P)/Lumding
N.F.Rly.

Dated, Lumding.

The...26.9.1998.

To
The D.R.M./Lumding,
N. F. Railway.

Through : SS/Lumding,
N. F. Rly.

Subject : Seniority.

Sir,

With due respect and humble submission, I beg to draw your kind attention towards following matters for consideration and order please.

That Sir, (a) I was recruited as Trainee ASM Through Railway Service Commission Guwahati, in Scale Rs. 130-150-240 in the May/1965.

(b) After qualifying the Trainee ASM Course comprising Transportation Coaching, Goods and Telegraphy from the ZTS/APDJ myself joined as an ASM on 28.11.1965 in the scale Rs. 130-150-240 at Lumding Division and was posted as ASM/LMG.

(c) I was confirmed in the above scale 130-150-240 w.e. from 01.2.67 vide Office order NO. E/14-P II Dt. 21.10.1967 of DOS/LMG.

(d) After completion of 5 years service as an ASM in the Scale Rs. 130-150-240. I was sent to ZTS/APDJ for refresher course in ASM's duty. I was passed in (Train Passing) Transportation course 1st time. But for not use in practical service of Telegraphy in the ASM duty I could not succeeded twice consecutively in the Telegraphy refresher course and was declared failed in refresher course.

(e) For this, I was given an alternate employment as RCC/LMG in Scale Rs. 110-200 vide DS(P)/LMG's Office order NO. ES-38U(T) dt. 24.7.71, for six months only and I was to be sent ZTS/APDJ for third chance for ASM's refresher course.

(f) After Six months I could not be sent for third chance by DS(P)/LMG to ZTS/APDJ for refresher course for ASM's duty as per provision of order NO. ES-38U(T) Dt. 24.7.71.

(g) After that inspite of my several appeals neither I was given the scale of Rs. 150-240 as Sr. CC, Sr. GC, or any other post like TTE, Guard, etc. which was equivalent or nearest to my parent scale Rs. 130-240 nor I was sent to my previous category by sending to ZTS/APDJ.

(h) During this, third pay commission report came in force from 1973 and ASM, Sr. CC, Sr. GC, Guard, TTE Scale Rs. 130-150-240) was revised as Rs. 330-560 but my scale in which alternate employment was given Rs. 110-200 was revised as Rs. 260-430.

Contd.....2.

W

(i) Inspite of my several appeals of which no one was conceded and I was degraded from Scale Rs. 330-560 to scale Rs. 260-430 disregarding my accademical qualification of graduation and departmental qualification in Transportation Coaching and goods. Without any Charge Sheet and Punishment I was degraded from the scale Rs. 330-560 in which I was confirmed from 1-2-67 more over third chance was in hand, Vide Office order NO. ES-38U(T)dt. 24.7.71 which was not given up till now.

(j) During this long period from 24.7.71 to 18.11.80 of 9 years I was given in Scale Rs. 260-430 of Junior CC and work was taken of Sr. CC of Scale Rs. 330-560 as I was generally booked to prepare the returns and Balance sheet of several stations of the division even to shillong O/A also.

(k) During this period I was in Junior scale of Rs. 260-430 and faced stagnation of the Pay.

(l) Any how after my several appeals I was given as Guard/Goods in Scale Rs. 330-530 w.e.from 19.11.80.

(m) Without any conceding of my appeals my seniority is being Counted from 19.11.80 in the Scale Rs. 330-530. While my parent scale was Rs. 330-560 w.e.from 28.11.1965 and was confirmed w.e.from 1-2-67.

Before 3rd Pay Commission my ASM's initial scale was Rs. 130-240 while Goods/Gd. Scale was Rs. 110-230. After third Pay Commission the Scale of Rs. 130-240 was revised as Rs.330-560 while goods /Gds scale of Rs.110-230 was revised as Scale as 330-530.

The Forth Pay Commission revised the scale Rs.330-560/ Rs. 330-530/-as in ^{one} Scale Rs. 1200/- - 2040/-.

(n) As per statement of Para (m) above of the appli- cation now it is seen that my parent scale was higher upto third Pay Commission and both scale was merged in same by the Forth Pay Commission as Scale of Rs. 1200-2040.

(o) For these anomalies I have been facing stagnation since 1.11.93. During this my present seniority is also disturbed vide omitting my name from the office order NO. E/39-9/1 PV(T) Dt. 04.7.95 while promotion list of Sr. Gds/Gd. in scale Rs.1350-2200 was out. For this punishment for 2 years stoppage next ~~fr~~ increment (NC) was blocked by stagnation was delayed, office order NO. E/39-9/1 PV (T) (Restructuring)Dt. LMG-26.9.96, NO. ES/46-U(T) Dt.LMG 5.12.96 and NO. ES/46-U(T)Dt.19.3.97 are also disregarded by the preceding office orders.

(p) Along with these matters Now it is seen that in general quota (UR) my under staffs while I was working as an ASM in C, Group and those who were working in Group 'D' at that time, now many of them are more senior than me. in the category.

(q) In above circumstances being faded for non conceding of my any appeals myself under-stood my ill fate and became despaired. For maintenance of my family I had to do my job and still myself working as goods guard and was waiting for retirement w.e.from 01.7.98.

Contd.....3.

(r) Now, the retirement age is extended from 58 years to 60 years so I have to perform my duties upto 30th June 2000.

In this situation my self has been lost a huge amount for this, and worked in a depressed mental status, In present also myself working as goods/guard, while at a time my under staffs are now working as Pass/Mail Exp. Guard and they are more senior than me, in the category.

In this circumstances, I request your honour to arrange, an intensive scrutiny of my service file and records.

Further I request you to consider the case grievously to avoid the further damage of my service life as well as monetary loss.

With hope of an early order for counting my seniority in the Scale Rs. 1200-2040 (as per Fourth Pay Commission) w.e. from 28.11.1965 on which date I joined in the Scale, and for payment of the loss occurred during this period.

Thanking your honour please.

Yours faithfully,

Udai Narain Pandey
26/9/98

(U. N. PANDEY)
Sr. Goods Guard / LMG

Enclo : - NIL

C/- SS/Impf

Refused by
Adv.

43

To
The DRM/LMG,
N.F.Rly.

Dt. 10.11.98
Lumding

(Through SS/LMG, N.F.Rly.) ✓

Sub : Seniority

Ref : My application dt. 26.9.98

Sir,

With highly respect your honour I beg to inform you that I had submitted an application dt. 26.9.98, through SS/LMG with full details of my service career since 28.11.65 to uptill now and had pointed out the anomalies occurred there in. I had requested and expected an early consideration and decision please.

After waiting for about one and half month, I again request your honour to consider and decide the case as early as possible.

In this reference I beg to inform you that I have been requesting the authority for last 27 years for consideration and decision please. But unfortunately I could not receive any response of my applications during this long period of 24.7.71 to up till now.

In this reference I beg to state that being appointed as an ASM in the scale Rs. 130-150-240/- since 28.11.65 and confirmed from the date 1.2.67 in the scale which was revised as Rs. 330-560/- by the third pay commission I had been given alternate employment on a minor technical ground ~~xxxxxx~~ since 24.7.71 for six month. In scale Rs. 110-200/- as RCC which was revised by the third ^{pay} commission as Rs. 260-430/-. After my several request neither my scale was changed nor I was sent to my previous category. For this I faced stagnation in the scale.

However I was given in the category of Guards/Goods in scale Rs. 330-530/- w.e. 19-11-1980., though my parent scale was Rs. 330-560/- w.e. 28.11.1965. and was confirmed since 1.2.67. For this anomalies my many under staffs are now more senior than me.

For this myself has been working my duties with mentality of inferiority since the order of alternate employment on 24.7.71/19.11.80 as RCC/Guard — Goods.

Contd.....2/-

orig p 01
44

-2-

In this circumstances I am feeling mental inferiority. I have lost a huge amount during this long period from 24.7.71 to uptill now.

Without any chargesheet and punishment my whole service career has been ruined.

Further I request your honour to concede the case as soon as possible to avoid the further damage of my service career as well as financial condition.

Further I request your honor to inform that if I shall not get any consideration of the case within fifteen days I shall be compelled to shelter the judiciary by writ petition in the judicature iether honourable Supreme Court or High Court for which administrative authority will be responsible please.

Thanking your honour please.

Yours faithfully

Udai Narain Pandey

(U. N. Pandey)

Sr. Goods/Guard/LMG
N.F.Rly.

- - - - -

attested by
[Signature]
A.N.

36- 25

16 MAR 2001

In The Central Administrative Tribunal
Guwahati Bench :: Guwahati

O.A. NO. 95/2000

Sri U. N. Pandey

- Vs. -

Union Of India & Ors.

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 any statement except those which are specifically admitted in this written statement. Statements not admitted are denied..
3. That in reply to the statements in paragraphs 4(i) and 4(viii) it is stated that the applicant was given an alternative appointment subsequent to his failure in the refresher course examination for ASM in consecutive two chances. Accordingly he was appointed as RCC on Rs.175/- in the scale of Rs.110-200/-. Thereafter, he was provisionally confirmed as Jr. Coaching Clerk in the scale of Rs.260-430/- w.e.f. 1.4.72 vide DRM(P)'s/LMG Office Order dated 17.3.79. Then in the year 1980 the applicant opted for promotion to

the post of Goods Guard and accordingly he was promoted as Goods Guard w.e.f. 19.11.80.

4. That in reply to the statements in para 4(ix) the respondents denied the statements which are not supported by records.

5. That in reply to the statements in para 4(x) and 4(xii) it is reiterated that the applicant opted for the promotion to the post of goods guard and accordingly he was promoted. It is stated that no direct promotion can be given to the post of passenger guard.

With regards to the seniority of the applicant it is stated that the cadre of ASM and goods guard are the two different cadres and for each cadre individual cadrewise seniority is maintained. An ASM cadre cant not carry forward his seniority while availing the promotion to the post of goods guard. The seniority in Guards Cadre will count only from the date of his joining as goods guard. It is denied that the applicant suffered monetary loss. The pay scale was prescribed by the Rly. Board and accordingly the pay of the applicant was fixed.

6. That in reply to the statements in para 4(xiii) it is stated that though the name of the applicant was omitted from the promotional list of goods guard but subsequently it was rectified and he was given the promotion to the extent of his junior (proforma) and monetary benefit was extended to him from the date of his shouldering higher responsibility physically as per rule 228 of Indian Railway Establishment Manual (Vol-I).

:: 3 ::

7. That in reply to the statements in para 4(xiv) it is stated that the applicant's pay was stagnated at Rs.2040/- w.e.f. 1.11.93 and on completion of 2 years i.e. on 1.11.95 he should have been sanctioned one stagnation increment but prior to 1.11.95 he was promoted to the higher scale i.e. Rs.1350-2200/- w.e.f. 10.7.95 as Senior Goods Guard and hence the question of stagnation increment does not arise.

8. That in reply to the statements in para 4(xv) and 4(xvi) it is stated that no such representations has been received by the respondents. The applicant has raised first time these issues at the verge of his retirement on 30.6.2000 which are baseless and barred by the law of estoppel.

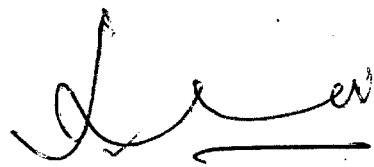
9. That the application is bad as well as non est in law and as such deserves to be dismissed with cost.

Verification

I,.....A.K...NIGAM.....,working as Chief Personnel Officer (Admin), N.F.Rly, Maligaon, do hereby verify that, the statements made in the paragraphs 1 to 9 are true to my knowledge.

Guwahati

07/3 /2001



Signature

(A)