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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 178/2000

R.A/C.P No.

E.P/M.A No. 278/2001

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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. 178/2000 OF 199

Applicant(s) Sri Pulak Das and another

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. M. Chanda, Mrs. N.D. Gopinami

Advocate for Respondent(s) Rly. Advocate.

Notes of the Registry	Date	Order of the Tribunal
<p>THIS APPLICATION IS IN FORM AND WITHIN TIME. C.F. of Rs. 50/- deposited vide IPO RD No. 45548/1 Dated 23.6.2000</p> <p>IN 178/2000</p> <p>6-6-2000</p> <p>Notice prepared and sent to D-section for issuing of the same to the respondent through Regd. post with A.D. IN-15056 dtd. 6/6/06 1509.</p>	<p>5.6.00</p> <p>trd. 5/6/2000</p> <p>20.6.00</p>	<p>Mr. M.Chanda, learned counsel for the applicant and Mr. J.L.Sarkar, learned counsel for the Railways.</p> <p>Issue notice to the respondents as to why the application shall not be admitted. & I.R. granted. Notice returnable by two weeks.</p> <p>List on 20.6.2000 for reply and consideration of admission.</p> <p>Member(J)</p> <p>There is no Bench today. Adjourn to 10.7.00.</p>

Notes of the Registry	Date	Order of the Tribunal
<p><u>7-7-00</u></p> <p>No reply has been received.</p> <p>la</p> <p>Notice duly served on Respondent No 183.</p> <p>20/7/00</p>	<p>10.7.00</p>	<p>Present: Hon'ble Mr S. Biswas, Administrative Member</p> <p>Learned counsel Mr M. Chanda for the applicant. None for the respondents.</p> <p>Written statement has not been filed. The case is adjourned and posted on 9.8.2000 when the respondent's counsel shall submit the application of the candidate whose name has not yet been deleted. In the fitness of the case it is necessary to know whether the said candidate whose name has not yet been deleted had actually applied as a ST candidate or as a backward candidate so that the case can be decided early on merits</p> <p>Member(A)</p>
<p><u>15-9-00</u></p> <p>No reply has been submitted so far.</p> <p>nk</p>	<p>9.8.00</p>	<p>Then 5 no been. Adm to 18-9-00.</p>
<p>No reply has been filed.</p> <p>20/10/2000</p> <p>Respondent No 5. Services returned due to incorrect address.</p> <p>21/11/00</p>	<p>18.9.2000</p>	<p>Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>Heard Mr.M. Chanda, learned counsel for the applicants and Mr.J.L. Sarkar, learned counsel for the Railways.</p> <p>Application is admitted. No fresh notice need be issued.</p> <p>List on 23.10.2000 for further orders.</p> <p>Vice-Chairman</p>

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O.A. 178/2000

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Notes of the Registry	Date	Order of the Tribunal
<p>21-11-2000</p> <p>No. Written Statement has been filed.</p> <p><u>321</u> 21.11</p>	<p>23.10.00</p> <p>mk</p>	<p>Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>Heard Mrs. N.D. Goswami, learned counsel for the applicant and Mr. J.L. Sarkar, learned Addl. C.G.S.C. for the respondents.</p> <p>Four weeks time is granted to the respondents to file written statement on the prayer of Mr. Sarkar.</p> <p>List on 22.11.00 for written statement and further orders.</p> <p><u>h</u> Vice-Chairman</p>
<p>21-12-2000</p> <p>① Notice duly served on R. No-1 & 3, respondent No-2 & 4 are still awaited.</p> <p>② Respondent No. 2 Services returned un-served due to incorrect address.</p> <p>③ No. Written Statement has been filed.</p> <p><u>321</u> 21.12.2000</p> <p>No. Written Statement has been filed.</p> <p><u>321</u> 23.11.2001</p>	<p>22.11.00</p> <p>pg</p> <p>to go</p> <p>23.11</p> <p>22.12.00</p> <p>lm</p>	<p>Four weeks further time is granted to the respondents to file written statement on the prayer of Mr J.L. Sarkar learned Railway standing counsel.</p> <p>List on 22.12.2000 for order.</p> <p><u>h</u> Vice-Chairman</p> <p>Mr. A.K. Roy learned counsel has entered appearance on behalf of respondent No. 4 Mr. J.L. Sarkar learned counsel has entered appearance on behalf of the other respondents. On the prayer of learned counsel for the respondents four weeks time is allowed for filing of written statement. List on 24.1.01 for filing of written statement and further orders.</p> <p><u>af</u> Member</p> <p><u>h</u> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
	24.1.01	<p>List on 23.2.01 to enable the respondents to file written statement.</p> <p>ICUShan Member Vice-Chairman</p>
	lm	
7.2.2001	23.2.01	<p>List on 23.3.01 to enable the respondents to file written statement.</p> <p>ICUShan Member Vice-Chairman</p>
Written statement on behalf of Respondent No. 4 has been filed.	lm	
	23.3.01	<p>List on 30.4.01 to enable the respondents to file written statement.</p> <p>ICUShan Member Vice-Chairman</p>
Written statement filed on behalf of The R. No. 4, other respondent not yet filed.	pg	
	30.4.01	<p>The respondent No. 4 has filed written statement. The applicant may file rejoinder if any within two weeks. The other respondents may file written statement within four weeks. List on 29.5.01 for orders.</p> <p>ICUShan Member Vice-Chairman</p>
Written statement filed on behalf of The R. No. 4, respondent No. 1, 2, 3 & 5 not yet filed.	lm	
	29.5.01	<p>The respondents have not filed written statement save and except Respondent No. 4. No steps also has so far been by the respondents.</p> <p>List again on 21-6-2001 to enable the respondents to file written statement.</p> <p>Vice-Chairman</p>
	bb	

Notes of the Registry	Date	Order of the Tribunal
	21.6.01	<p>Mr.J.L.Sarkar, learned Rly. counsel for the respondents prays for and granted four weeks and no more time to file written statement. Applicant will have two weeks thereafter to file rejoinder.</p> <p>List on 27-8-2001 for orders.</p> <p><i>K. Ushara</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>Written statement filed on behalf of R. No. 4, Other respondent not yet filed.</p> <p><i>[Signature]</i> 25.9.01</p>	<p>bb 27.8.01</p>	<p>The respondents nos. 1 to 3 has not filed written statement as though time was given granted List on 26/9/01 to enable the respondents to file written statement.</p> <p><i>[Signature]</i> Vice-Chairman</p>
	<p>mb 26.9.01</p>	<p>List on 15/11/01 to enable the respondents to file written statement as a last chance.</p> <p><i>K. Ushara</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>13.11.2001</p> <p>W/c on behalf of the Respondents has been submitted.</p> <p><i>[Signature]</i></p>	<p>mb 15.11.01</p>	<p>Written statement has been filed. The case may now be listed for hearing. The applicant may file written statement rejoinder, if any.</p> <p>List on 21/12/01 for hearing.</p> <p><i>K. Ushara</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>No. rejoinder has been filed.</p> <p><i>[Signature]</i> 26.12.01</p>	<p>mb 21.12.2001</p>	<p>List the matter for hearing on 2.1.2002 in presence of Mr J.L. Sarkar, learned Railway Counsel. On that day Mr Sarkar is directed to produce the connected records.</p> <p><i>K. Ushara</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>No. Rejoinder has been filed.</p> <p><i>[Signature]</i> 1.1.02</p>	<p>nk m</p>	



Notes of the Registry	Date	Order of the Tribunal
	2.1.02	<p>List again on 4.1.02 for hearing on the prayer of the learned counsel for the app respondents.</p> <p><i>K. C. Shetty</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	pg	
	4.1.02	<p>Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is dismissed. No order as to costs.</p> <p><i>K. C. Shetty</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	pg	

Received from copy 4/1/2002
 & order dated 4/1/2002
Aditya
 Adm. Secy
 16/1/2002

16.1.2002

Copy of the order
 has been sent to the
 office for issue of the
 order to the applicant
 as well as the L/Adm
 to the Reg. Secy.

for

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 178 of 2000.

Date of Decision.....4-1-2002....

----- Sri Pulak Das and another -----

-----Petitioner(S)

----- Sri M.Chanda -----

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

-Versus-

----- Union of India & Ors. -----

-----Respondent(s)

Sri J.L.Sarkar & A.Chakraborty for
respondents No.1 to 3 and Sri A.K. Roy for

-----respondent No. 4----- Advocate for the
Respondent(s)

THE HON'BLE

MREJUSTICE D.N.CHOWDHURY, VICE CHAIRMAN

THE HON'BLE

MR K.K.SHARMA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : Vice Chairman.

Yes
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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 178 of 2000.

Date of Order : This the 4th day of January, 2002.

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

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

1. Sri Pulak Das,
Son of Sri Praneswar Das,
Village-Dhamdhama,
Duist. Nalbari (Assam).
2. Sri Sanjib Kumar Pator,
Son of Sri Mukul Pator,
Village Borghat Lalungaon,
P.O. Tetelisara, P.S. Kampur,
Dist. Nagaon, Assam.

... Applicant

By Advocate Sri M. Chanda.

- Versus -

1. The Union of India,
represented by the Secretary,
Ministry of Railways,
New Delhi.
2. The Chairman,
Railway Recruitment Board,
Guwahati-1.
3. The General Manager,
N.F. Railway, Maligaon,
Guwahati-11.
4. Sri Utpal Talukdar,
Jyotinagar, P.O. Sonapur,
Dist- Kamrup (Assam).

5. Sri Sunirmal Barman.


... Respondents

By Advocate Sri J.L. Sarkar and A. Chakraborty
for respondents No. 1 to 3 and Sri A.K. Roy
for respondent No. 4.

O R D E R

CHOWDHURY J. (V.C)

Applications were invited for a number of posts



under the N.F.Railway vide Employment Notice No.3/94. By the said Employment Notice the respondents also invited applications for Apprentice Permanent Way Inspector Grade-I and Apprentice Inspector of Works Grade-I. In the said notice the respondents also notified the vacancy position including the unreserved and reserved vacancies earmarked for OBC, SC and ST. These two applicants also applied for the post against the quota earmarked for the Scheduled Tribe. A written test was held on 21.1.96. Thereafter the respondents authority held the viva voce test on 27.6.96 for recruitment of Inspector of Works and Permanent Way Inspector Grade-I under Employment Notice No.3/95, category No.1 and 3. A penal was approved against the ST vacancies and respondents No.4 and 5 were appointed. The present applicants alongwith another candidate assailed the process of selection by way of an Original Application and this Bench by its judgment and order dated 7.4.99 in O.A.176 of 1996 directed the respondents to dispose of the representation submitted by the applicants within the time specified. Pursuant to the judgment rendered the Railway authority modified the result and deleted the name of respondent No.5 Sri Munindra Kumar Das and in his place Sri Sunirmal Barman, one of the applicant in O.A.156/96 was included vide corrigendum published in Assam Tribune dated 11.9.99. The applicants now assailed the legitimacy of the process of selection in this proceeding. One of the basic grievance of the applicants was that the respondent No.4 was selected like that of respondent No.5 who was not eligible

to be recruited as ST candidate, so much so they were not ST as such. It was pleaded that the respondents No.4 and 5 were both OBC since they belonged to Koch Rajbongshi and for a brief period Koch Rajbonshies were declared as Scheduled Tribes by an Ordinance which lapsed in due course.

2. The respondents also submitted their written statement and contested the case. To appreciate the controversy it would be pertinent to mention that the Koch Rajbongshis are a community declared as Other Backward Community in the State of Assam. By Presidential Ordinance made under Article 1, 2 and 3 of the Constitution the Constitution (Scheduled Tribes) Order (Amendment) Ordinance 1996 was promulgated. The ordinance was made to provide for inclusion of Koch Rajbonshis in the list of Scheduled Tribes specified in relation to the State of Assam. It appears that the first ordinance was promulgated on 27.1.96. The second ordinance was promulgated on 27.3.96, third ordinance on 27.6.96 and subsequently the last and fourth ordinance was promulgated on 9.1.97. By virtue of the ordinance the Koch Rajbongshis were declared as Scheduled Tribes during that period.

3. Mr. M.Chanda, learned counsel appearing for the applicants contended that the Koch Rajbonshis came to be included Scheduled Tribes for the first time on 27.1.96 whereas the process of selection started as per Employment

...contd

Notice No.3/95 published on 30.8.1995 and the closing date of the offer was 15.10.95. The written test was held on 21.1.96. Mr Chanda, learned counsel therefore contended that since the process of selection started earlier these persons could not have been considered as Schedule Tribe for their appointment. Mr Chanda also submitted that at any rate the life of the ordinance was for a limited period and it has lost its force by ^{the} passage of time. In the absence of any saving clause the operation of the ordinance could not have been extended beyond the period.

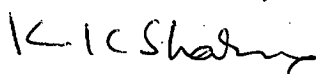
4. Admittedly the process of selection started prior to ~~to inclusion of the Koch Rajbonshis~~ inclusion of the Koch Rajbonshis in the list of ST but then the ordinance created a right on those persons which are of enduring character. Those listed persons were given benefit of ST and in the set of circumstances if the Railway authority gave them the benefit it cannot be said to be unlawful. Mr Chanda, learned counsel appearing for the applicants referred to the decision of the Supreme Court in Ashok Kumar Sharma and others vs. Chander Shekhar and another, reported in (1997) 4 SCC 18. Relying upon the principles laid down in the said decision Mr Chanda submitted that these listed persons could not be given the benefit of the ordinance retrospectively. The learned counsel submitted that the determination of the eligibility of the persons were to be made on the basis of the Employment Notice by which applications were called for prescribing a particular date as last date ^{on} for filing

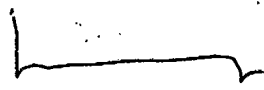
19

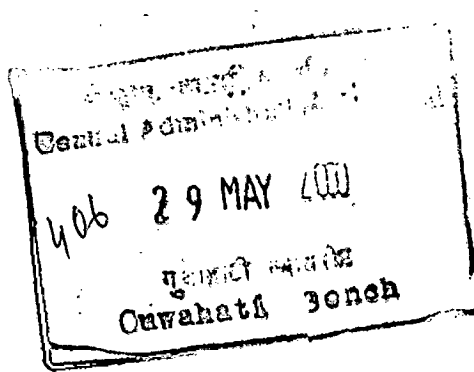
applications. The eligibility of the candidates are to be judged with reference to that date alone and no other date. The said principle no doubt is applicable in the matter of employment, least it is likely to infringe the equality clause of the Constitution but in the instant case the vacancy position were already notified indicating the reserved and unreserved vacancies. The applicants applied against the reserved vacancies. On that date the respondents No.4 and 5 were OBC as being Koch Rajbongshi. By virtue of the ordinance the Koch Rajbongshis were included as a Schedule Tribe by the Constitution (Scheduled Tribes) Order Amendment Ordinance, 1996 with effect from 27.1.96 for a brief period and subsequently the ordinance lapsed. When the penal was prepared on 4.7.96 the Koch Rajbongshis were treated as ST by virtue of the third ordinance. The respondents authority accordingly selected those persons as ST. Subsequently on the representation filed as per order of this Tribunal one of the name was deleted and in his place a ST candidate was brought in. In the set of circumstances we do not find any infirmity in the action of the respondents. The lapse of ordinance did not take away the right created by the ordinance which was an enduring character and vested on those persons only on that statute which were created by long expiry. The contention of Mr Chanda therefore is not acceptable. Mr Chanda further submitted that since Sunirmal Barman, who

was added as a selected candidate by the corrigendum did not join and that ST post is still vacant and therefore one of the applicant may be accomodated against the vacant post. We are not inclined to issue any direction on this matter on the respondents but from our end, leaving it open to the respondents to fill up the vacant post against ST quota as per the merit list. mentioned above.

Subject to the observation made above, the application stands rejected. There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI

O.A. No. 128 / 2000

Shri Pulak Das and another

..Appellant

-Versus-

Union of India & Ors.,

.. Respondent.

I N D E X

Sr. No.	Annexures	Particulars	Page No.
1.	-	Application	1 - 20
2.	-	Verification	21
3.	1.	Employment Notice No.3/95 dtd. 30.8.95	22-23
4.	2	Panel Published vide No.FRB/B/CON/ 155/129 dtd. 17.7.96	24-25
5.	3	Order dated 7.4.99 passed in O.A.No.156/96	26-30
6.	4	Corrigendum publi- shed in Assam Tribune on 11.9.99	31

For use in Tribunal Office

Date of Filing -

Date of Registration-

Registrar-

Filed by one applicant
through N.D. Goswami
Advocate,
Guwahati

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DISTRICT : KAMRUP.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH : GAUHATI.

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

BETWEEN

1. Sri Pulak Das,
Son of Sri Praneswar Das,
Village-Dhamdhama,
P.S. Barama,
Dist. Nalbari, Assam
2. Sri Sanjib Kumar Pator,
Son of Sri Mukul Pator,
Village-Borghat Lalunggaon,
P.O. Tetelisara, P.S. Kampur,
Dist-Nagaon, Assam.

*Sanjib
Ba*

.....APPLICANTS.

-Versus-

1. The Union of India,
Represented by the Secretary,
Ministry of Railways,
New Delhi.

Contd..

Pulak Das

2. The Chairman, Railway
Recruitment Board, Guwahati-1.
3. The General Manager,
N.F. Railway, Maligaon,
Guwahati-11.
4. Sri Utpal Talukdar.
Jyotinagar, P.O. Sonapur,
Dist-Kamrup, Assam.
5. Sri Munindra Kumar Das,
C/o M/s. Milijuli Stores,
A.E.I. Road, Chandmari,
Guwahati-3.

Name deleted

Added the name of Sumit Banerjee

1. DETAILS OF THE APPLICATION :

PARTICULARS FOR WHICH APPLICATION IS MADE :

- (i) Recruitment, Selection of I.O.W/Gr-I/PW9/Gr-I
against employment Notice No.3/95 dated 30.8.95.
Category No.1 & 3.
- (ii) Candidates' Panel recommended to GM/P/N.F.
Railway/MLC in order of Merit vide Memo
No. RRB/G/CON/155/129 dated 17.7.96.

- (iii) Order dated 7.4.99 passed by Hon'ble the Central Administrative Tribunal, Guwahati Bench, in Original Application No. 156 of 1999 directing the Respondents to dispose of the representation dated 22.7.96 within a period of 90 days with an observation that neither the respondents No.4 nor 5 has since occupied the advertised vacancies for Scheduled Tribe.

-AND-

- (iv) A corrigendum published in the Assam Tribune on 11-9-99 in view of the judgement of Hon'ble CAT/GHY in OA No. 156/96 published modifying the result of the category No. 1 & 3 (10W/Gr.1 and PW 1/Gr.1) under E/Notice No. 3/95 as published on 17.7.96 deleting the Roll No. 540114 and adding the Roll No. 530063.
- (v) For endorcement of the Fundamental Rights of the petitioners guaranteed under Article 14 and 16 of the Constitution of India and also rights and privileges granted under the relevant Acts., Rules, Circulars, Order or orders.
- (vi) An application Under section 19 of the Administrative Tribunal Act., 1985 challenging the panel prepared and recommended to the CM/P/N.F./Railway/Maligaon by the Chairman, Railway Recruitment Board, Guwahati vide Memo

Contd...

P. Lakshmi

No. RRE/G/CON/155/129 dated 17.7.96. and challenging the Corrigendum published in the Assam Tribune on 11-9-99 in view of the judgement of Hon'ble CAT/GHY in OA. No. 156/96 partially modifying the result of the category No. 1 & 3 (10W/Gr.1 and PW-1/Gr.1) under E/Notice No.3/95 as published on 17-7-96 deleting the Roll No. 540114 and adding the Roll No. 530063.

2. JURISDICTION OF THE TRIBUNAL:

The applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal.

3. LIMITATION:

The applicants further declare that the application which is within the limitation prescribed in the Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE:

The facts of the case are given below :-

(i) The humble applicants are permanent residents of Nalbari, and Nagaon Districts of Assam respectively in the above mentioned address and are

Contd...

Pulak Das

citizens of India and as such they are entitled to all the rights and protections guaranteed under the Constitution of India and the other laws, Acts, Rules, Circulars, Orders passed thereunder and they have come before this Hon'ble Tribunal making a common grievance and prayed for a common relief under Rule 4 (5) (a) CAT (precedence) Rules 1987.

(ii) That all the humble applicants have passed the Degree of Bachelor of Engineering (B.E) from the Gauhati University, in the year 1995. That all the applicants are belong from the downtrodden "Boro-Kachari" and "Lalung" Tribe respectively which are recognised as "Scheduled Tribes" under the Constitution of India (Scheduled Tribes) order 1950 as amended (Modification) Order 1956 and Scheduled Caste/Scheduled Tribes Order (Amended) Act., 1976.

(iii) That after having qualified in the Bachelor of Engineering Examination, the applicants were in need and in search of Job on 30.8.95 the applicants found advertisement in the "Assam Tribune" where the then member Secretary/Chairman Railway Recruitment Board, Guwahati called for application through Employment Notice No.3/95 dated 25.8.95 dated of publication 30.8.95 announcing the last date of submission of applications as on

15.10.95. The break up of vacancies of the posts advertised were as under:-

NAME OF POSTS

VACANCIES

	UR	OBC	SC	ST
✓ 1. Appl. PW. 9 Gr-I.....	4	2	1	1
2. " 10 W Gr- III	18	10	5	3
✓ 3. " 10W Gr-I	3	1	1	1
4. " Asstt. Teacher Gr-I	x	x	1	x
5. Demonstrator	1	x	1	x

A Photostat copy of the advertisement regarding Employment Notice No.3/95 is annexed herewith and marked as ANNEXURE-1.

(iv) That having qualification for the said posts the applicants submitted their applications to the Railway Recruitment Board within the stipulated period of time, before closing date for the posts of PW I Grade-I and 10W Grade-I against the reserved quota for "Scheduled Tribe" and the 'Koch Rajbongshi' candidates also applied for the said posts against the "Quota" for Other Backward Classes (OBC).

Contd...

Pulak Das

(v) That the written examination for the selection of the above posts was held on 21.1.96. The applicants were called for the same. Call letter/Admit Card were issued and sent to them and the applicants have appeared in the Written Examination in the same venue of i.e. Guwahati Madrassa High school, Paltan Bazar, Guwahati-8 under Roll Nos. 530049, 530057. As the applicants belong to S.T. Community so they were allowed to travel Free by Railway in Second Class from their respective home place. The results of the written test were declared on 23.5.96 and published in the Assam Tribune and the applicants came out successful.

(vi) That thereafter the applicants received separate Call letter/Admit Card to appear for the Viva-voice test in the Office of the Railway Recruitment Board, Station Road, Guwahati, Assam on 27.6.96 at 9.00 hours. This time also they were allowed to travel free by train from their respective home place, as the applicants belongs to S.T.

It is pertinent to mention here that the candidates other than SC & ST were not allowed to travel free by Railway. The OBC including Koch, Rajbongshi were also not entitled for the same.

Contd...

Pulak Das

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(vii) That the Final Panel of the above selection was published on 17.7.96 and the same was recommended by the railway Recruitment Board to the Gm/P/N.F.Railway/Maligaon vide Memo No. RRB/a/Con/129 dated 27.7.96.

A copy of the said panel list is annexed herewith and marked as ANNEXURE-2.

(viii) That in the said panel two OBC candidates namely Sri Utpal Talukdar and Sri Munindra Kumar Das under Roll Nos. 540238 and 540114 have been declared passed against the ST quota of 10W Grade-I and PW1 Grade-I and another OBC candidate Sri Sudhir Kumar Ray under Roll No. 340894 has been declared passed against the ST quota of PW 9 Grade-III.

(ix) That the above mentioned two candidate viz. Sri Utpal Talukdar and Munindra Kumar Das have submitted their application forms as OBC candidates and appeared against the OBC quota and accordingly their names were recorded as OBC candidates under Roll Nos. 540238 and 540114. But in the result sheet their name were shown against the ST quota ~~inspected~~ ^{instead} to OBC quota, depriving the original and genuine ST candidates.

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Pulak Das

(x) That it is pertinent to mentioned here that the above three candidates whose names were published against the ST quota all belongs to "Koch-Rajbongshi" community. The Koch-Rajbongshis are one of the caste included in the list of Other Backward Classes (OBC) in Assam.

(xi) That the Hon'ble President of India promulgated an Ordinance which provides for inclusion of "Koch-Rajbongshis" in the list of Scheduled Tribe which is published under Extra-Ordinary Gazette of India dated 27.1.96 advising the implementation of the Ordinance with immediate effect.

(xii) That the Ordinance has been promulgated by the Hon'ble President of India on 27.1.96. In this case the last date for submission of application for the said post was on 15.10.95 and the written examination was held on 21.1.96. The applicants submitted their forms against the ST quota and the aforesaid three Koch-rajbongshi candidates as against OBC quota and appeared in the said quota as OBC. Therefore, legally they (OBC) cannot be considered against the ST quota only in the final panel by giving retrospective effect, the Ordinance itself nowhere mentioned for such a steps.

Pulak Das

(xiii) That it is pertinent to mention here that though this ordinance have granted ST status to the "Koch-Rajbongshis" but no where it has mentioned in the Ordinance regarding the mode of implementation or regarding the facilities and privileges as well as reservation quota in employment to be enjoyed by this community.

(xiv) That the applicants are belong to the Boro Kachari, Barman and Lalung tribes respectively which are included in the list of scheduled tribe in Assam. All total 23 such main tribes were included in the list of scheduled tribe for Assam. The existing reservation quota provided for ST is earmarked for 23 ST sub-castes only of the area under the jurisdiction of N. F. Railway. As such in no case Koch-Rajbongshis candidates can be considered either against the existing reservation quota for Scheduled Tribes.

(xv) That the procedure for inclusion of the Koch-Rajbongshis into ST list is incomplete. The Hon'ble President of India promulgated the Ordinance on 27.1.96 and it has already completed six months but bill in this regard has not yet passed in parliament. Moreover different indigenous Tribal Organisation and political parties have reacted and vehemently opposing the inclusion of the "Koch-Rajbongshis" in the ST list. Different

Organisation are strongly opposing the decision to give scheduled Tribe status to Koch-Rajbongshis.

'Bandh' also observed in the state. So the fate of Koch-Rajbongshis to be included as ST is hanging and in such a state the genuine ST candidate should not be deprived in their due.

(xvi) That the advertisement and written examination for the above parts were done much earlier than the proclamation of the Ordinance in question. The advertisement and the written examination for the selection of the above posts were done much earlier than the proclamation of the Ordinance and the Ordinance has got no retrospective effect, as such, the selection of the above posts cannot be brought within the purview of the Ordinance.

(xvii) That moreover, the so called selected candidate against the ST quota have submitted their application forms with OBC certificate and considering them to ST is without authority of law and illegal.

(xviii) That the imposition of obligation by giving of the retrospective effect to the Ordinance by selecting the non ST candidate as ST candidate by the Railway Recruitment Board, Guwahati by depriving the applicants in their legal due have

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violated the Fundamental Rights guaranteed under the Constitution of India and as such the Hon'ble Court may direct the RRB to cancel the select list published on 17.7.96 forthwith.

(xix) That the applicants have submitted the representation before the Chairman, Railway Recruitment Board, Guwahati on 22.7.96 but the authority is not paying any need to the applicants.

(xx) That thereafter the present applicants along with another approached this Hon'ble Central Administrative Tribunal by filing an application which was numbered as OA No. 156/96 praying for to cancel/and/or modify the impugned paned bearing Memo No. RRB/a/CON/155/129 dated 17.7.96 and deleting the names of the respondent Nos. 4 & 5 and consider the empanelment of ST candidates as per application including these applicants, in the perspective of Employment Notice NO. 3/95 by selecting/appointing them in category 1 and 3.

(xxi) That after that the Hon'ble Court was please to issue Rule and called for the record. The respondents appeared and filed written statements,

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Pulak Das

however, after repeated reminder by this Hon'ble Court the record of the case was not produced before this Hon'ble Court by the respondent authorities to keep this Hon'ble Court in dark. However, this Hon'ble Court after hearing the parties, was pleased to pass an order on 7.4.99 with an observation that "At present, the Koch-Rajbongshis are no longer in the list of Scheduled Tribes in the State of Assam. We also understand that neither the respondent No. 4 nor 5 has since occupied the advertised vacancies for Scheduled Tribe. We are not in a position to know whether the applicants were successful in the examination and are liable to be appointed against the aforesaid Scheduled Tribe vacancies immediately after the Respondents No. 4 and 5 had these respondents been excluded from the panel. In the circumstances we are of the view that the matter may be decided by the competent authorities of the respondents No. 1, 2 and 3. And as a result we direct the respondents to dispose of the representation dated 22.7.96 with in a period of 90 days from the receipt of this order.....".

A copy of the said order dated 7.4.99 passed by this Hon'ble Tribunal is annexed herewith and marked as annexure-3.

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Pulak Das

(xxii) That thereafter these applicants submitted fresh representation individually to the competent authority and waiting with hope that the names of the respondents Nos. 4 and 5 will be deleted and two of the applicants would definitely be included in the Select list modifying the same. But the respondent authorities willfully and deliberately delayed disposal of the matter only to deprive the applicants belongs to Scheduled Tribe Community and published a corrigendum in the Assam Tribune on 11.9.99 in view of the Judgement of Hon'ble CAT/GHY in OA No. 156/96 modifying the result of category No. 1 & 3 (10W/Gr.I and PW-I Gr.I) under E/Notice No. 3/95 as published on 17.7.96 deleting the Roll No. 540114 and adding the Roll No. 530063 i.e. deleting the name of Respondent No. 5 and adding the name of Applicant No.2 in OA 156/99.

A copy of the corrigendum published on 11.9.99 is annexed herewith and marked as annexure-2

(xxii) That the applicants begs to state and submit that the respondent authorities published the aforesaid corrigendum only ^{to} deprive ~~to~~ the genuine claim of the applicants. That the authorities collected the information that the respondent No. 5 and the applicant No. 2 in the OA 156/96 have already joined other service than only

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Pulak Das

published the corrigendum on 11.9.99 deleting and adding their names, with malafide intention on bias as such it is illegal.

(xxiii) That the applicants begs to state and submit that though the authorities trying only to get rid of the proceeding for violation of the Hon'ble Courts order by publishing the corrigendum but infect the authorities failed to follow the order of this Hon'ble Tribunal by not following the same. If the Respondent authorities truly complying with the order of this Hon'ble Tribunal than names of both the private respondents i.e. 4 and 5 who belongs to 'Koch-Rajbongshi' community should be deleted and instead of that any two of the applicants name should be added, but it has not done in this case. The respondents have declared one Koch-Rajbongshi respondent as Scheduled Tribe and deleted the name of another as Koch-Rajbongshi as non-ST, is illegal, both the Koch-Rajbongshi are not Scheduled Tribe, as such the corrigendum published is illegal it has done only to deprive the applicants.

(xxiv) That you applicants begs to state that so far information available to the applicants both the post PW 9 & IV for which the applicant appeared before the Selection are still lying vacant as because even after the corrigendum dated 11.9.99

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Purak Das

issued S/the respondents the applicant No./ of O.A. 156/96 did not join to the post of PW 9 & in pursuance to the after of opportunities issued by the Railway authority, as such the post which is offered to applicant No.2 of O.A. 156/96 is still vacant.

It is further submitted that in pursuance to the judgement and order dated 7.4.99 the respondent deleted the name of only one Non ST bearing Roll No. 540114 but illegally and deliberately retained the name of Respondent No.4 bearing Roll No. i.e. the name of the Utpal Talukdar who is a non ST candidate. It appears that the Railway authority made further discrimination in the matter of policy decision regarding entitlement of ST candidates reserved for them, by deleting the name of only one more ST candidate but retaining other non S.T. candidate against the ST vacancy.

In view of the above factual post on the Hon'ble Tribunal be pleased to direct the respondents to delete the name of other Non ST candidate, the respondent No.4 and further be pleased to direct to consider the appointment of the applicants against the two available vacant post in term of the selection held on

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Pulak Das

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5. GROUND WITH LEGAL PROVISIONS :

- 5.1. For that the Non ST candidate cannot be considered for appointment against the vacancies earmarked for ST candidates ^{as} as per existing rule in force, especially, when, qualified candidates are available for appointment.
- 5.2. For that the Respondent No.4 and 5 belongs to "Koch Raj Bongshi" community, i.e. Other Backward Community (in short OBC) as such they are not entitled for consideration for appointment against the vacancies particularly ear marked for ST categories. For that it is an admitted fact the respondent No.4 and 5 applied for the post as OBC candidates as such they are not entitled for consideration for appointment against the reserve vacancies of ST.
- 5.3. For that deletion of name of respondent No.5 but retention of have of respondent No.4 in the select list is further discriminatory and contrary to the rule, for that as per rule Koch Raj Bongshi candidates cannot consider for appointment

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Pulek Das

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against the post reserve for ST communities.

- 5.4. For that retaintion of name of Respondent No.4 in select list even after the Judgement and order passed by this Hon'ble Tribunal in O.A. No. 156/96 is amount to non-compliance of the aforesaid judgement.
- 5.5. For that non-consideration of appointment of the applicants for the reserve post of ST is amount to hostile discrimination.
- 5.6. For that non-consideration of appointment of the applicants vides their Fundamental rights granted by the constitution of India.

6. DETAILS OF THE REMEDIES EXHAUSTED :

The applicants declare that they have exhausted all the remedies available to them under the relevant Acts and Rule and that they have no other alternative and efficacious remedy available to them except this application.

7. MATTER NOT PENDING WITH ANY COURT :

The applicants further declares that the matter regarding which this applications has been

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Pulek Das

made is not pending before any Court of law or any other authority or any other Bench of the Tribunal.

sought
8. RELIEFS SOUGHT SOCIETY FOR :

In the facts and circumstances stated above the applicant prays for the following Reliefs:-

(i) That the empanelment of Respondent No.4 in pursuance to selection proceeding held on 21.1.96 be set aside and *quashed* *ss.* or alternatively direct the respondents to delete the name of the respondent No.4 from the panel published on 17.7.96.

(ii) That the respondents be directed to consider the appointment of the applicants in pursuance for the Selection Proceeding held on 21.1.96 in terms of Notification No. 3/95 dated 25.8.95.

(iii) To pass any other order or orders as deem fit and proper in the facts and circumstance stated above.

(iv) Cost of the case.

9. INTERIM ORDER IF PRAYED FOR :

It is further prayed that pending disposal of this application Your Lordships may be pleased

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Pulak Das

to pass an order staying the operation of the impugned panel dated 17.7.96 to the extent of the empanelment of respondent No. 4 and 5 restrained and/or to fill up the said vacancies under category 1 and 3 advertised in the employment No. 3/95 dated 30.8.95 in the N. F. Railway.

10. THE APPLICATIONS FILED THROUGH ADVOCATE :

M. Chandra

A. K. Sarkar

11. PARTICULARS OF THE POSTAL ORDER IN RESPECT OF THE APPLICATION FEE :

- (i) Number of Indian Postal Order : 02 455481
- (ii) Name of the issuing P.O. : G.P.O. Guwahati-1.
- (iii) Date of issue of the : 23.12.99
Postal Order
- (iv) Post Office at which payable :

DETAILS OF INDEX :

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

VERIFICATION

I, Sri Pulak Das, Son of Sri Praneswar Das, Resident of Village Dhamdhama, Nalbari, do hereby declare that I have verified the statements made in Para 1 to 11 in this original application, and same are true to my knowledge and belief and I have not suppressed any material fact. I am also authorised by the other applicants to sign this verification.

Place :- 9-5-2000

Dated :- Guwahati

Pulak Das

SIGNATURE

Pulak Das

RAILWAY NOTICE



RAILWAY RECRUITMENT BOARD : GUWAHATI

Station Road, Guwahati — 781001

Date : 25.8.95

EMPLOYMENT NOTICE NO. 3/95

DATE OF PUBLICATION : 30.8.95

CLOSING DATE : 15.10.95

Applications are invited in prescribed application form obtainable from the important Railway Stations OR in a Proforma enclosed herewith (to be neatly typed in a standard size thick paper, only one side) for the following temporary posts likely to be permanent on the Northeast Frontier Railway. Applications complete in all respects along with required enclosures should be sent to the Assistant Secretary, Railway Recruitment Board, Station Road, Guwahati—7810 01, Assam under certificate of posting so as to reach the Board's office on or before 17.30 hrs. of 15.10.95. The applications can also be dropped in the "Application Box" kept in the RRB office before 17.30 hrs of 15.10.95.

EMPLOYMENT NOTICE NO. AND CATEGORY NO. AGAINST WHICH THE CANDIDATE APPLIES MUST CLEARLY BE WRITTEN ON THE TOP OF THE COVER ENVELOPES POSITIVELY.

Category No.	Name of the post	Scale of Pay	Stipend during training	VACANCIES				Sex	Period of Training	Age as on 1.9.95
				UR	OBC	SC	ST			
1)	Appr. permanent Way Inspector/Grade—I	Rs. 2000-3200/-	Rs. 2000/- P.M.	04	02	01	01	Both	12 months	20 to 30 years
2)	Appr. permanent Way Inspector/Grade-III	Rs. 1400-2300/-	Rs. 1400/- P.M.	18	10	05	03	Both	12 months	18 to 28 years
3)	Appr. Inspector of Works/Grade-I	Rs. 2000-3200/-	Rs. 2000/- P.M.	03	01	01	01	Both	12 months	20 to 30 years
4)	Asstt. Teacher Grade—I(Commerce)	Rs. 1640-2800/-	—	—	—	01	—	Both	—	20 to 40 years
5)	Demonstrator (Pure Science)	Rs. 1400-2600/-	—	01	—	01	—	Both	—	20 to 40 years

EDUCATIONAL QUALIFICATION:

Category No. 1 : Degree in Civil Engineering.

Category No. 2 : Diploma in Civil Engineering. NOTE: Candidates having diploma in Mechanical or Electrical Engineering can also apply and their candidature can be considered in case enough candidates with qualification of Diploma Civil Engineering are not available.

Category No. 3 : Degree in Civil Engineering.

Category No. 4 : (i) II Class Master's Degree in Commerce with special paper Banking. (ii) University Degree/Diploma in Education/Teaching. OR Integrated two years Post Graduate course of Regional Colleges of N.C.E.R.T. (iii) Competence to teach through Assamese Medium.

Category No. 5 : (i) IInd class Bachelors Degree with Physics, Chemistry and one subject out of Botany/Zoology. 45% marks can be considered equivalent to IInd Class where there is no demarcation of class in Bachelor's Degree. (ii) University Degree/Diploma in Education/Teaching OR 4 years integrated Degree course in regional colleges of Education of N.C.E.R.T. (iii) Competence to teach through English and Bengali Medium.

(i) A GENERAL RELAXATION IN UPPER AGE LIMIT FOR ALL COMMUNITIES/CATEGORIES OF CANDIDATES HAVE BEEN GIVEN BY 5 YEARS BE SIDES THE AGE RELAXATION GIVEN IN PARA-2. THIS RELAXATION IS APPLICABLE FOR 2 YEARS WITH EFFECT FROM 4.8.95.

(ii) THE CANDIDATES MUST HAVE ACQUIRED THE ESSENTIAL QUALIFICATIONS AS LAID DOWN AT THE TIME OF SUBMISSION OF APPLICATION. CANDIDATES WHO HAVE YET TO APPEAR AT THE EXAMINATION AND WHOSE RESULTS ARE WITHHELD OR NOT DECLARED ARE NOT ELIGIBLE TO APPLY.

1. GENERAL INSTRUCTION

1.1.) ABBREVIATION USED

SC— Scheduled Caste, ST—Scheduled Tribe, UR—Un-reserved, OBC—Other Backward Class, IPO— Indian Postal Order, EXSM— Ex-Serviceman, PH—Physically handicapped.

1.2.) The number of vacancies shown may be increased or decreased.

1.3.) SC/ST/OBC candidates can apply against UR posts but they will have to compete with UR candidates. SC/ST/OBC candidates need apply strictly against their respective vacancies only.

2. AGE LIMIT

OFFICE OF COMMANDANT

(28)

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Annexure - B

- 5.4.) Attested copy of Mark Sheets and other certificates of educational qualifications.
- 5.5.) Attested copy of documentary evidence of age, i.e. H.S.L.C. Admit card etc.
- 5.6.) Attested copy of No Objection certificate from employer, if already employed.
- 5.7.) Two self addressed envelopes of size 27.5 x 12.5 cms. with Rs. 2/- postage stamps each pasted.
- 6) **FOR SERVING EMPLOYEES:**
Candidates serving in Govt. Quasi-Admin. Office/organisation and Institutes should apply through proper channel or should apply directly to the RRB/GHY. with NO OBJECTION CERTIFICATE from their employer to avoid delay. The last date for application to reach this office will not be extended on account of any delay in transmitting the application by concerned office. No advance copy of application will be entertained. Applications received after the closing date/hours will not be accepted.
- 7) Separate application is required to be sent for each category, contrary to this, if more than one post is applied for in one application, the same will be rejected.
- 8) **INVALID APPLICATION:** The applications which suffer from the following deficiencies/irregularities will be summarily rejected. (i) Incomplete/illigible applications or applications made on news-paper cuttings. (ii) Unsigned application. (iii) Without IPO, IPO without post office seal, or IPO for lesser amounts for unreserved candidates/OBC. (iv) Without complete and proper enclosures. (v) Unattested or self attested copies of documents (vi) Without two self addressed envelopes stamped with Rs. 2.00 postage stamps each. (vii) The applications submitted by the candidates who do not fulfil the eligibility criteria will be rejected.
- 8) a) The certificates, postal order, photograph etc. received separately subsequent to the receipt of the application will not be connected with the application, such incomplete application will be rejected summarily.
- 9) Free second class Railway pass as and when admissible is given by the Board to the candidates, who belong to SC/ST community or who are bonafide displaced persons if and when they are called for written examination and interview test. All other candidates called for are to appear at their own cost.
- 10) The date and venue of the written examination and interview will be fixed by the Board and will be intimated to the eligible candidates in due course. Request for postponement of the examination/Interview and change of centre/venue will not be entertained.
- 11) **CANVASSING IN ANY FORM WILL DISQUALIFY A CANDIDATE.**
- 12) The decision of the Board in all matters, relating to eligibility, acceptance or rejection of the application, issue of free Railway passes, Penalty for false information, mode of selection, conduct of examination, speed practical test, interview, selection, allotment of posts to selected candidates etc. will be final and binding on the candidates and no enquiry or correspondence will be entertained by the Board in this connection.
- 13) **MODE OF SELECTION:** The selection will be made on the basis of written examination, speed test/practical test, interview etc. Merely satisfying the educational qualification and the age prescribed itself will not constitute a right to be called for the written examination unless the candidates fulfil other condition/requirements given in the Employment Notice.
- 14) The syllabus for the written examination will be generally in conformity with the educational standards and technical qualifications prescribed for the various posts. The questions will be of objective-cum-subjective nature on general knowledge, General English, General Arithmetics and the related subjects to the respective categories subject to minor variations. The Written test will consist of one sitting of duration 2 to 3 hours.
- 15) The Railway Recruitment Board, at its discretion may hold addl. Written test(s)/Practical/Speed test(s) and/or interview if considered necessary for all or for admitted number of candidates including absentees as may be deemed fit by the Railway recruitment Board.
- 16) The appointment of candidates would be subject to their being found Medically fit in the appropriate Medical classification.
- 17) The selection of the candidates by the Railway Recruitment Board does not confer any right on the candidate for the post.
- 18) The Railway Recruitment Board is not responsible for any inadvertant errors in printing of the notification.
- 19) The Railway recruitment Board is not responsible for any postal delay or wrong delivery.

(I. HANSDAK)

MEMBER SECRETARY

RAILWAY RECRUITMENT BOARD (GUWAHATI)

RAILWAY RECRUITMENT BOARD : GUWAHATI
APPLICATION FORMAT FOR TECHNICAL AND NON-TECHNICAL CATEGORIES
(To be filled by the candidate in his/her own handwriting)

To
The Chairman

Serial No.

RAILWAY RECRUITMENT BOARD, GUWAHATI

NO. RRB/G/CON/155/129

DATED: 17/07/96

NOTICE

Sub - Recruitment selection for the post of
Inspector of Works/Gr.I & Permanent
Way Inspector/Gr.I in scale Rs. 2000-
3200/- under Employment Notice No.
3/95 Category No. 1 & 3.

Ref :- GM/P/MLG-a Indent. No. E/227/216/RRB/2
(Rectt.) Pt. II Dt. 8.6.95 & 2.8.95.

Date of Written Test : 21-01-96

Date of Viva-Voce Test : 27-06-96

Date of Panel Approved : 04-07-96

The Selection Board held the viva voce test on 27.06.96 for the recruitment of Inspector of Works/Gr.I & Permanent Way Inspector/Gr.I in scale Rs. 2000-3200/- under Employment Notice No. 3/95 Category No. 1 & 3 and has found for P.W.I/Gr. I 8 (UR-4, SC - 1, ST - 1, OBC - 2) and for I.O.W./Gr. I 6 (UR-3, SC-1, ST-1, OBC-1) candidates suitable for the said post and their names are recommended to GM/P/N.F. Railway/MLG in ORDER OF MERIT.

AGAINST U.R. VACANCY

SN.	ROLL NO.	NAME OF CANDIDATE	MERIT POSITION
1.	540030	ABHOK KUMAR	1
2.	540216	SUDHANSHU SHEKHAR	2
3.	510220	JAMALUDDIN KHAN	3
4.	510179	DIPAK CH. SARMA	4
5.	520182	TAPAS BUTRADHAR	5
6.	510197	GOLLAPUDI KALI PRASAD	6
7.	540148	PRANJAL GOGOI	7

AGAINST S.C. VACANCY

SN.	ROLL NO.	NAME OF CANDIDATE	MERIT POSITION
1.	520096	NAOREM KISHOR KUMAR SINGH	1
2.	520110	PRADIP KR. DAS	2

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AGAINST S.T. VACANCY

SN.	ROLL NO.	NAME OF CANDIDATE	MERIT POSITION
1.	540238	UTPAL TAEUKDAR	1
2.	540114	MUNINDRA KUMAR DAS	2

AGAINST O.B.C. VACANCY

SN.	ROLL NO.	NAME OF CANDIDATE	MERIT POSITION
1.	540113	MUNINDRA KALITA	1
2.	540177	RANA PRATAP BOBUI	2
3.	540142	PIJUSH GHOSH	3

CHAIRMAN
RAILWAY RECRUITMENT BOARD, GUWAHATI.

Copy to:

- 1) TUGM/P/MLB
- 2) Panel files
- 3) Notice Boards
- 4) Asstt. Secy. ZRRB/BHY
- 5) Asstt. Secy. ZRRB/BHY

CHAIRMAN
RAILWAY RECRUITMENT BOARD, GUWAHATI.

R. Laksh Das

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.156 of 1996

Date of Order : This the 7th Day of April, 1999.

Justice Shri D. N. Baruah, Vice-Chairman

Shri G. L. Sanglyine, Administrative Member.

1. Shri Pulak Das,

2. Shri Sunirmal Barman & ✓ --- **Applicants.**

3. Shri Sanjib Kumar Pator.

-Versus-

1. Union of India

Represented by the secretary,
Ministry of Railway,
New Delhi.

2. The Chairman,

Railway Recruitment Board,
Guwahati - 1.

3. The General Manager,

N.F. Railway, Maligaon,
Guwahati - 11.

4. Sri Utpal Talukdar,

Jyotinagar, P.O. Sonapur,
Dist. Kamrup (Assam).

5. Sri Munindra Kumar Das, ✓

C/o Milijuli Stores,
A.E.I. Road, Chandmari,
Guwahati - 3.

--- **Respondents.**

By Advocate Sri A. K. Roy for respondents No. 4 &
5.

Pulak Das

Witnessed
by Advocate

Contd...

ORDER**G. L. SANGLYINE, ADMN. MEMBER**

This application has been submitted by 3 applicants with a prayer to allow them to join in this single application under the provisions of Rule 4(5)(a) of the Central Administrative Tribunal (procedure) Rules 1987. Prayer allowed.

2. The three application belong to the Boro-Kachari, Barman and Lalung Tribe respectively which are recognised as Scheduled Tribes under the Constitution of India for the State of Assam. The respondents No.4 and 5 belong to the Other Backward Classes, namely, Koch-Rajbongshi at the time of advertisement for the following posts by the Railway Recruitment Board, Guwahati.

3. In the Employment Notice No. 3/95 which was published on 30.8.1995 stipulating 15.10.1995 as the closing date, the following posts, among others, were advertised:

- 1) Apprentice Permanent Way Inspector Grade-I and
- 2) Apprentice Inspector of Works Grade-I.

One vacancy in each category was reserved for Scheduled Tribes. The applicants submitted their applications to the Railway Recruitment Board within

P. K. Das

Presented
to the
Advocate

Contd...

the stipulated time for the posts of Apprentice Permanent Way Inspector Grade-I and Apprentice Inspector of Works grade-I against the reserved quota for Scheduled tribes. The candidates belonging to Koch-Rajbongshi also applied for the posts against the quota for Other Backward Classes. The written examination for the posts was held on 21.1.1996 and the result was declared on 23.5.1996. The applicants as well as the respondents No.4 and 5 came out successful in the written test. The viva voice test was held on 27.6.1996 and the final result was declared on 17.7.1996 according to Railway Recruitment Board, Guwahati No. RRB/G/155/129 dated 17.7.1996, Annexure-6. The names of the applicants did not appear in the result against the Schedule Tribe vacancies. On the other hand, respondents No.4 and 5 were declared successful and empanelled against the Scheduled Tribe Vacancies occupying position No. 1 and 2 respectively. The applicants submitted representation dated 22.7.1996, Annexure-8 to the Chairman, Railway Recruitment Board, Guwahati for reconsideration and cancellation of names of respondents No.4 and 5 from the panel against the Scheduled Tribe quota. Since no action was taken on the representation they had submitted this original application on 7.8.1996.

4. The respondents No.1, 2 and 3 have submitted their written statement. Respondents No.4 and 5 have

also submitted their written statement. Final hearing was concluded on 25.2.1999. Mr. M. Chanda, learned counsel appeared for the applicants. Mr. A. K. Roy, learned counsel appeared for respondents No.4 and 5. There was no representation on behalf of the respondents No.1, 2 and 3.

5. After the written examination was held on 21.1.1996 for the above posts of Apprentice Permanent Way Inspector Grade-I and Apprentice Inspector of Works Grade-I the President of India promulgated an ordinance on 27.1.1996 which provides for inclusion of Koch-Rajbongshis in the list of Scheduled Tribes in relation to the State of Assam. On 27.3.1996 another ordinance was promulgated as the Bill could not be passed in Parliament. The third ordinance was promulgated by the President of India on 27.6.1996 which ceased to operate on 21.8.1996 as the Bill could not be passed in the Parliament. On 9.1.1997 another Ordinance was promulgated. This Ordinance also ceased to operate on 30.5.1997 as the Bill could not be passed in the parliament.

6. We have perused the application and the written statements and heard learned counsel. At present, the Koch-Rajbongshis are no longer in the list of Scheduled Tribes in the State of Assam. We also understand that neither the respondent No.4 nor No.5 has since occupied the advertised vacancies for

Pulak Das

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scheduled Tribes. We are not in a position to know whether the applicants were successful in the examination and are liable to be appointed against the aforesaid Scheduled Tribe vacancies immediately after the Respondents been excluded from the panel.

In the circumstances we are of the view that the matter may be decided by the competent authorities of the respondents No.1, 2 and 3. As a result, we direct the respondents to dispose of the representation dated 22.7.1996 within a period of 90 days from the date of receipt of this order. The applicants may also submit fresh representation individually to the competent authorities of the respondents, if so advised, within 30 days from today and, if such representation is received, the competent authority of the respondents shall dispose of the same within the period of 90 days mentioned above. The respondents No.4 and 5 as well as the applicant may be heard by the competent authority before the order is issued, if necessary.

Application is disposed of with the above directions. No order as to costs.

*Attested
Sd/-
Advocate*
Sd/- Vice Chairman

Sd/- Member (A).

Pulak Das

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ANNEXURE-4

46

RAILWAY NOTICE

RRB Guwahati

RAILWAY RECRUITMENT BOARD : GUWAHATI

CORRIGENDUM

In view of judgement of Hon'ble CAT/GHY in QA No. 156/96, following modifications are made in the result of Cat. No. 1 & 3 (IOW/Gr.I and PWI/Gr.I) under E/Notice No. 3/95 as published on 17.7.96.

Roll No. deleted	Roll No. added
540114	530063

(S.S. Singh)
Chairman,
RRB/Guwahati

RN/3071/1

Sumirina
Bar

Who regd

530049

530052

Re

540238

540114

The post is
Vacant

Pulak Das

82-

Filed, by the Respondent NO. 4
through -
Ashok Kumar Ray
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

U.A NO. 178 /2000

IN THE MATTER OF :

Shri Pulak Das and another

- VS -

Union of India and others

-- AND -

IN THE MATTER OF :

Written - statement on behalf
of Respondent NO. 4

The answering respondent begs to state as follows :-

1. That the answering respondent has been served with a copy of the aforesaid original ~~application~~ application and after going through the same has understood the contents thereof and hence save and accept those statements which are specifically admitted herein below, all aother statements made in the Original Application may be deemed to be denied and also those statements which are not borne on the records are also denied .
2. That before going in a parawise manner against the original application ,the answering respondent begs state that the President of India passed "The Constitution (Schedule Tribes)) Order Amendment Ordinance 1996" i.e. Ordinance NO. 9 of 1996 on ~~27.1.96~~ 27.1.96 declaring the 'Koch Rajbangshi' as Schedule Tribe with specific instruction that the Ordinance shall cone into force at once. Accordingly
the

Utpal Talukdar

the Govt. of Assam issued the Notification on 14.2.96 to that effect .As the said Ordinance could not be passed in the parliament within the period of six month ,the President of India issued another Ordinance NO.30 of 1996 on 27.6.96 to extend the benefit to the 'Koch Rajbangshi' of Assam as Schedule Tribes and accordingly the Govt. of Assam issued a letter under NO. TAD/ST/98/92/Pt.-V/11 dated 2.7.96 directing all Deputy Commissioners to act accordingly.

After the first Ordinance ,the Govt. of Assam vide letter NO. TAD/S_t/95/92/144 dated 15.2.96 directed all the Deputy Commissioners and Sub-Divisional Officers to issue necessary certificates to the Koch Rajbangshi people and hence the answering respondent obtained the Schedule Tribes certificate.

As the Ordinance came into force at once , the Railway Board considered all the Koch Rajbangshi candidate s as Schedule Tribe candidates against a ST vacancy ,though the selection process started much earlier and ultimately the present answering respondent was declared as ~~selected~~ selected .

Copies of the notification dated 14.2.96, letter dated 15.2.96 and letter dated 2.7.96 are annexed herewith as Annexures -A,B and C respective

3. That as the answering respondent was selected finally he was offered appointment subject to passing of the medical examination, production of original certificates regarding qualification and age proof and with condition that the appointment would be subject to the out come of O.A NO 156/96 which was pending at that time before this Hon'ble Tribunal. Though he was offered appointment with the above condition,

Utpal Talukdar

but the Railway authority did not conducted the medical examination inspite of his repeated persuation and hence he approached this Hon'ble Tribunal by filing Original Application NO. 276/ 1997 with a prayer for a direction to the Railway authority to appoint him in the post of IOW/PWI Grade -I and this Hon'ble Tribunal was pleased to dispose of the said application by an order dated 7.4.99 with direction to the respondent of the said application to dispose of his representation dated 11.4.97 with a speaking order within a period of 90 days alongwith other observation.

A copy of the said order dated 7.4.99 is annexed herewith as Annexure - D

4. That after the said order dated 7.4.99, the Railway authority considered his representation and appointed him vide letter dated 23.6.99 to undergo Apprentenship for one year . After completion of the said apprenticeship period ,he has been posted against the parmanent working post vide office order NO. 561-E/15.Pt-XI(E) dated 8.9.2000 and he joined in the said post on the same day.

Copies of the letter dated 23.6.99 and Office order dated 5.9.2000 are Annexed herewith as Annexures - E and F respectively.

5. That with regard to the statements made in paragraphs 4(i) ,4(ii),4(iii),4(iv),4(v),4(vi) and 4(vii) of the original application ,the answering respondent do to have any comments ,however ,he deny all the statements which are contrary to relevent records.

6. That with regard to the statements made in

Upal Jalukdar

35-

paragraphs 4(viii), 4(ix) and 4(x) of the original application, the answering respondent begs to state that though he submitted his application against the employment notice as other back wards classes, but latter ^{as} ~~on~~ the ordinance came into force at once, he was considered as ST candidate on production of the ST certificate. After promulgation of the ordinance, the Railway authority i.e., the Railway Board extended the benefit of ST to all the 'Koch Rajbangshi' candidate and brought them under ST category. Hence the answering respondent is legally entitled to the benefit of ST candidate in as much as he is not supposed to miss the both category. The applicants ~~a~~ were also aware about fact of promulgation of the ordinance and extension of ST benefit to the Koach Rajbanghsi ~~in the~~ during the time of selection, but they did not challenged the same at that time. But when they failed to come out successful in the final selection, they approached this Hon'ble Tribunal with motivated intention.

7. That, with regard to the statements made in paragraphs 4(xi), 4(xii) ~~4(xiii)~~ and 4(xiv) of the original application the answering respondent reiterate that the President of India has the power under Article 342 of the Constitution of India to specify any tribes or tribal community or parts of or groups as Schedule Tribes and hence in the present case also the President of India issued the Ordinance on 27.1.96 declaring the 'Koch Rajbangshi' of Assam as Schedule Tribes and included the said community in the Schedule Tribe List. Hence, immediately after the issuance of the said ordinance, all persons belonging to 'Koch Rajbangshi' of Assam have the right to claim the benefit of the same as a Schedule Tribe community.

Utpal Jankar

8. That, with respect to the statements made in paragraphs 4(xv), 4(xvi), 4(xvii) and 4 (xviii) of the original application, the answering respondent begs to state that as the said Ordinance NO.9 of 1996 dated 27.1.96 could not be passed in Parliament within the stipulated period the President of India issued another Ordinance NO. 30 of 1996 on 27.6.96 so that the benefit of ST may be extended to the 'Koch Rajbangshi' as it is evident from the letter dated 2.7.96 issued by the Deputy Secretary, Govt. of Assam, WPT & BC Department. Hence the question of incompleteness of the Ordinance does not arise.

The answering respondent also reiterates that as the process was not completed and as the ordinance came into force from the date of issuance, it can not be said that the ordinance has been given the retrospective effect.

9. That, with regard to the statements made in paragraphs 4(xix) and (xx) of the original application, the answering respondents beg to state that though the applicants submitted representations to the authority, but they did not wait for the statutory period and filed the O.A NO. 156/96.

10. That, with regard to the statements made in paragraphs 4(xxi) of the original application, the answering respondent does not have any comment in as much as it is a matter of record.

11. That with regards to the statements made in paragraphs 4(xxii) and 4(xxiii) of the original application the answering respondent begs to state that it is clear from the publication of the corrigendum that the present

applicants failed to come within the range to get appoint-
~~XX~~
ment even after the order of this Hon'ble Tribunal . The
answering respondent also begs to state that if the Railw ay
authority has not follow the order /direction of this
Hon'ble Tribunal , the applicant should take shelter of
other provision of law ,but this original application is
not attracted at all under the present circumstance of fact.

12. That with regard to the statements made in paragr-
aphs 4(xxiv) of the original application ,the answering
respondent begs to state that against one post ,the present
deponent has already been appointed on 23.6.99 as per
order dated 7.4.99 passed by this Hon'ble Tribunal in
O.A.NO- 276 /97 and after observing the order dated 7.4.99
in O.A.NO. 156/96 . Be it stated that both the above cases
were heard analogously and this Hon'ble Tribunal disposed
of the same by separate orders. After the order of this
Tribunala as one of the applicant of O.A. 156/96 came
within the range , his name has been added .

13. That the answering respondent begs to state ,
under the fact and circumstances stated above, that there
is no valid ground for which the present applicant can
get relief and hence the original application may be dismiss
in limine .

Utpar Jaiswal

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

I, Shri Utpal Talukdar ,son of Shri Khagendra Nath Talukdar ,aged about 31 years ,resident of Village - Baushban, P.O- Sonapur, Dist- Kamrup , Assam do hereby verify the statements made in the above paragraphs of this written-statement and affirm that the same are true to the best of my knowledge and ~~ixs~~

And ⁺~~I~~ sign this verification on this the 6th day of February 2001 at Guwahati .

Utpal Talukdar

- 8 -

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Annexure - A

GOVERNMENT OF ASSAM
DEPTT. FOR WELFARE OF PLAINS TRIBES & BACKWARD CLASSES

ORDERS BY THE GOVERNOR
NOTIFICATION
DATED DISPUR, THE 14 - 02 - 1996.

NO. TAL/ST/28/22/142 :- The following Ordinance, namely: The Constitution (Scheduled Tribes) order (Amendment) Ordinance, 1996 No. 9 of 1996 - promulgated by the President of India on 27th January 1996 is republished for general information.

" MINISTRY OF LAW JUSTICE AND COMPANY AFFAIRS "
- (Legislative Department)

New Delhi the 27th January 1996/Magha 7. 1947(Saka).

THE CONSTITUTION (SCHEDULED TRIBES) ORDER
AMENDMENT ORDINANCE, 1996.

No 9 of 1996.

Promulgated by the President in the Forty Seventh year of Republic of India.

An Ordinance to provide for the inclusion of Koch-Rajbongshi in the list of Scheduled Tribes specified in relation to the State of Assam.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action.

Now, therefore in exercise of the powers conferred by Clause (I) of article 123 of the Constitution the President is pleased to promulgate the following Ordinance :-

1. (//) This Ordinance may be called the Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1996. Short title & Commencement
2. It shall come into force at once.

Amendment
of the Con-
stitution
(Scheduled
Tribes)
order 1950.

2. THE GAZETTE OF INDIA EXTRAORDINARY (PART-II-SEC.1)

In the Scheduled to the Constitution (Scheduled Tribes) Order 1950, in " part-II-Assam", under the Heading "11. In the state of Assam excluding the autonomous districts", after item 9 and the entry relating thereto the following item and entry shall be added namely.

"10 Koch Rajbongshi".

Sd/- CHANKER DNYAL BHARMA
(President).

Sd/- K.L. MOHANPURIA, Secy. to the
Govt. of India.

Sd/- P. T. VERMA,
Comar. and Secy. to the Govt. of Assam.

Attested by
AK Ray
Advocate
6/2/97

Memo No. TAD/ST/98/92/142-A, Dated Dispur, the 14th Feb/ 1996.

Copy to:-

1. The Director, Assam Government Press Namuimaidan, Guwahati-21, He is requested to publish the above notification in an Extra Ordinary Assam Gazettee on 14-12-76, and send 500 (Five hundred) copies thereof positively to the Department.
2. The P/S to Chief Minister, Assam.
3. The P/S to Chief Secy. Assam.
4. The P/S to Advr. to Chief Minister, Assam.
5. All Administrative Department/ All Heads of Department.
6. All Commissioner of Divisions.
7. All Deputy Commissioner and S.D.-Divisional Officer, Assam.
8. All Principal Secy. Autonomous Council, Assam.
9. The Director, Information and Public Relation, Dispur.

By Order etc.,

Deputy Secy. to the Govt. of Assam,
W.P.T. & B.C. Deptt.

A Handled by
OK Ray
Advocate 6/2/01

GOVERNMENT OF ASSAM
DEPARTMENT FOR WELFARE OF PLAINS TRIBES AND BACKWARD CLASSES
DISPUR.

NO.TAD/ST/98/92/144

Dated Dispur, the 15th February/1996.

From : Shri A.R.Laskar, A.C.S.
Deputy Secy. to the Govt. of Assam,
W.P.T. & B.C. Department.

To : All Deputy Commissioner/ Sub-divisional Officer
in plain Districts of Assam.

Sub : CASTE CERTIFICATE.

Sir,

In inviting a reference to the above, I am directed to inform you that consequent upon enlistment of Koch-Rajbongshi community in the list of Scheduled Tribes of Assam (excluding Autonomous Districts) vide the Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1996, the people belonging to said community are entitled to Scheduled Tribes Certificates from the competent authority as per provisions of rules framed under the Assam Scheduled Castes and Scheduled Tribes (Reservation of vacancies in services and posts) Act, 1978.

You are accordingly requested to issue Caste Certificate to applicants from the said Community in respect of applicants who and his/her family or invariably resides within your jurisdiction, while issuing such certificates you may obtain necessary assistance of President of local units, All Assam Koch-Rajbongshi Sammilani.

Yours faithfully,

Deputy Secy. to the Govt. of
Assam, W.P.T. & B.C. Department.

Memo No. TAD/ST/98/92/144-A, Dated Dispur, the 15th February/1996.

Copy to:-

1. The P/S to Chief Minister, Assam, Dispur.
2. The P/S to Adviser to Chief Minister, Assam.
3. The P/S to Chief Secy. Assam, Dispur.
4. Commissioner of Divisions, Assam.

By Order etc.,

Attested by
A.R. Laskar
Advocate 6/2/97

Deputy Secy. to the Govt. of
Assam, W.P.T. & B.C. Deptt.

JAY. MESSAGE

GOVERNMENT OF ASSAM
DEPTT. FOR WELFARE OF PLAINS TRIBES & BACKWARD CLASSES
XXXXX

No. TAD/ST/98/92/pt-V/11 Dated Dispur, the 02-07-96.

From :- Shri A.R. Laskar, ACS
Deputy Secy. to the Govt. of Assam.

To

All Deputy Commissioners,

All Sub-Divisional Officers(C)

Sub :- Promulgation of the Constitution (Scheduled Tribes) Order (Amendment) third Ordinance 1996 regarding inclusion of Koch Rajbangshi Community in the S.T. list of Assam.

Sir,

I am directed to say that the President has promulgated the Constitution (Scheduled Tribes) Order (Amendment) Third Ordinance 1996 (No.30 of 1996) on 27-06-96 so as to ensure that persons belonging to Koch Rajbangshi Community continue to get the benefits and privileges meant for Scheduled Tribes even after the lapse of the Constitution (Scheduled Tribes) Order (Amendment) Second Ordinance 1996 on 3rd July 1996. A copy of the Ordinance when received from the Ministry of Law Justice and Company Affairs would be furnished to you in due course.

Yours faithfully,

Deputy Secy. to the Govt. of Assam,
W.P.T & B.C. Department.

MemoNo. TAD/ST/98/92/pt-V/11-A, Dated Dispur, the 02-07-96.
Copy to :-

1. All Administrative Department, _____
2. All Heads of Department, _____
3. P.B.T. Comm. & B.C. Department, _____

By order etc.,

Deputy Secy. to the Govt. of Assam,
W.P.T. & B.C. Department.

Attested by
C. L. B. Singh
Admn. Secy.
6/2/01

Encd.

::::

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 276 of 1997.

Date of Order : This the 7th Day of April, 1999.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Shri Utpal Talukdar,
son of Shri K.N.Talukdar,
Vill - Baruabari,
P.O. Sonapur, P.S.Sonapur,
Dist. Kamrup (Assam).

. . . Applicant.

By Advocate Shri A.K.Roy.

- Versus -

1. Union of India,
represented by the General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
2. The General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
3. The Chief Personnel Officer (Recruitment Section)
N.F.Railway, Maligaon,
Guwahati-11.
4. The Medical Director,
Central Hospital, N.F.Railway,
Maligaon, Guwahati-11.

. . . Respondents.

None present for the respondents.

ORDER

G.L.SANGLYINE, ADMN.MEMBER.



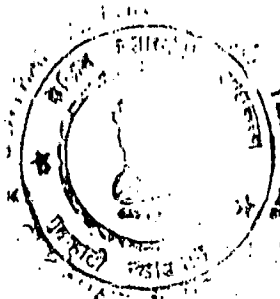
The Railway Recruitment Board, Guwahati published advertisement Notice No.3/95 on 30.8.1995 calling for candidates for the posts, among others, Apprentice Permanent Way Inspector Grade-I. The last date for submission of the application was 15.10.1995. There were reserved vacancies for the Scheduled Tribes and also for the Other Backward Classes. The applicant is a member of Koch Rajbongshi community which at the time of submission of the application was recognised as Other Backward Class in the State of Assam. The applicant applied for the

contd..2

Attested by
[Signature]
Advocate
6/24/99

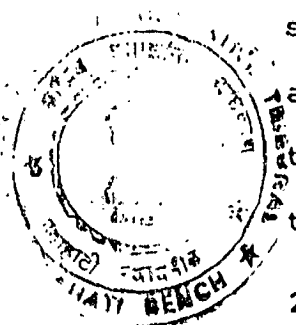
81

post. Written examination was held on 21.1.1996 and the result was declared on 23.5.1996. The applicant was successful in the written examination and he was called for the viva voce on 27.6.1996. The final result of the examination was declared on 17.7.1996 and the applicant was empanelled against the vacancies for Scheduled Tribes and he was placed at serial No.1 according to the merit. Mr A.K.Roy, learned counsel for the applicant clarified that though the applicant originally belongs to Other Backward Classeshe was placed in the panel against the Scheduled Tribe vacancies as a result of the Ordinance promulgated by the President of India on 27.1.1996 and subsequent Ordinances bringing the Koch Rajbongshi community in the list of Scheduled Tribes relating to the State of Assam. (After his selection the respondent No.3, the Chief Personnel Officer (Recruitment Section), N.F.Railway, Maligaon, Guwahati issued a letter No.E/227/66/2/(Rectt)Pt.1 dated 31.3.1997, Annexure-A stating that he was prepared to offer the applicant a post as mentioned therein (not legible) subject to (i) passing of the prescribed Medical examination conducted by an authorised Medical Officer of the Indian Railways, (ii) production of original certificates in support of qualification and (iii) proof of age and the appointment will be subject to the outcome of the C.A.No. 156/96 pending before the Central Administrative Tribunal, Guwahati Bench. According to the applicant he deposited a sum of Rs.24/- on account of pre-recruitment medical examination fee on 2.4.1997 and thereafter he was directed to appear on 4.4.1997 for necessary medical examination. On 4.4.1997 he appeared before the medical authority but the



contd..3

medical authority refused to arrange the medical examination for the applicant without assigning any reason. On 7.4.1997 the applicant appeared before the Medical Director, Central Hospital, N.F.Railway, Maligaon and submitted representation praying for medical examination on that day. However, the authority did not make any arrangement for medical examination of the applicant and no reason was assigned to such failure. Thereafter, the applicant submitted representation to the Chief Personnel Officer, N.F.Railway, Maligaon requesting him to issue necessary direction for medical examination of the applicant for his appointment in the post he was selected. He did not find any response there also and on 11.4.1997 he submitted representation to the General Manager, N.F.Railway, Maligaon for necessary direction to arrange for medical examination of the applicant. The General Manager also did not response to the prayer of the applicant. Finally the applicant sent a legal notice on 11.8.1997 to the General Manager, N.F.Railway, Maligaon and the Chief Personnel Officer (Recruitment Section), Since there was no response from the authorities the applicant submitted this Original Application on 16.12.1997. In this application he has prayed for a direction on the respondents to appoint him in the post he was selected after conducting the medical examination.



2. We have perused the application and heard Mr A.K.Roy, learned counsel for the applicant. No written statement has been submitted by the respondents. There was also no representation on their behalf at the time of hearing on 25.2.1999. In the absence of written statement or any submission for the respondents, there is no sufficient materials for this

contd.. 4

Tribunal to decide the matter on merit. Therefore, we direct the respondent No.2, the General Manager, N.F.Railway, Maligaon, Guwahati to dispose of the representation dated 11.4.1997 (Annexure-D), submitted by the applicant before him with a speaking order within a period of 90 days from the date of receipt of this order. The applicant may be heard in person before disposal of the representation. With this direction the application is disposed of.

The application is disposed of as indicated above.
No order as to costs.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER (AUMN)



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Certified to be true Copy
प्रमाणित प्रतिलिपि

[Signature]
13/4/99

Section Officer (J)

प्रमुख अधिकारी (अ) (व्यापक शाखा)
National Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati
गुवाहाटी बेंच, गुवाहाटी

13/4/99

Attested by
[Signature]
Advocate 6/2/01

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ANNEXURE - E ⁴⁷⁻

N.F. Railway

Office of the
General Manager (P)
Maligaon, Guwahati-11.

Dated: 23.6.99.

No. E/227/223/RECTT/Pt.I/98

To

Shri Utpal Talukder
(at office)

Subj:- Temporary appointment as apprentice
SE/P.Way.

On being declared Medically fit in class A/3 and having been executed an Agreement you are hereby appointed as apprentice SE/P.Way on stipend Rs. 6500/- P.M. plus usual Dearness allowance for a period of one year with effect from the date you physically report for training as APP. SE/P.Way. For the purpose of the training you are attached to Sr. DEN/LMG. After passing the final examination on completion of one year training you will be posted against working post SE/P.Way in scale Rs. 6500/- to 10500/- in availability of vacancy. The terms and conditions of your appointment and service will be same as stated in GM(P)'s letter No. E/227/223/Rectt/Pt.I dated ~~XXXXXX~~ 17.6.99.

Half set 1st class pass enclosed for your journey from Guwahati to Lumding.

[Signature] 23/6/99

Dy. CE/TD

for GENERAL MANAGER (P)/MALIGAON.

Copy forwarded to:

1. DRM(P)/IMG-necessary arrangement may be made to impart training for a period of 12 months as per syllabus. Agreement in original. Health Certificate, offer letter, RRB application form, Character Certificate and syllabus are enclosed.
2. Sr. DEN/LMG- He is requested to take necessary ^{arrangement} agreement to impart training as per the syllabus enclosed.
- A) For APP. SE/P.Way (Rs. 6500/- to 10500/-)
 - i) Item No. (a), (c), (d), (f), (g) and (i) of syllabus in IMG Division.
 - ii) Item No. (b) of syllabus with ZTC/APDJ
 - iii) Item No. (e) of syllabus with Dy. CE/Br. Line/MIG.
 - iv) Item No. (h) of syllabus under Dy. CE/TMO/MIG.
 - v) Item No. (j) with SPO/E/MIG.
3. Principal ZTC/APDJ.
4. Dy. CE/TMO/MIG.
5. E/Pass to issue 1/2 set 1st class pass Ex. GHY to IMG in favour of the above named person.
6. Dy. CE/Br. Line/MIG.
7. SPO/HQ/Maligaon.

Attested by

[Signature]
6/2/01

for GENERAL MANAGER (P)/MALIGAON.

N. E. RAILWAY
OFFICE ORDER

On completion of training and passing in the final examination held on 11/8/2000 in CE's office/Maligaon. Shri Utpal Talukdar, Appr. SE/P.Way is hereby posted as SE/P.Way under CE/Maligaon in scale Rs. 6500-10500/- against the working post of SE/P.Way.

- Note: 1. This issues with the approval of competent authority.
2. Appointment of above named Appr. SE/P.Way against the working post of SE/P.Way will take effect from the date he takes over the charges of the working post of SE/P.Way.

(S.R. NANDY)

APO/E

for GENERAL MANAGER (P)/MLG

NO. 561-E/15 Pt-XI(E)

date: 5/9/2000

Copy forwarded for information and necessary action to:

1. FA & CAO/MLG.
2. CTE/MLG.
3. Dy. CE/TD/MLG
4. SEN/TD/MLG.
5. SPO/MLG/MLG.
6. Staff concerned at office.
7. S/Copy for P/Case.

for GENERAL MANAGER (P)
MALIGAON

Attended by

ARay

Advocate
21/2/01

13 NOV 2001
 गुवाहाटी न्यायपीठ
 In The Central Administrative Tribunal
 Guwahati Bench :: Guwahati.

O.A. NO. 178/2000

Sri Pulak Das & Ors

- 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 before traversing the parawise statement of the original application the respondents beg to state the brief history of the case as under:

That a similar case was filed before this Hon'ble tribunal which was registered and numbered as OA No.156/96. The Hon'ble tribunal was pleased to dispose of the said OA with the direction to dispose of the representation of the applicants within a period of 90 days from the date of receipt of the order dated 7.4.99. In the

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अध्यक्ष

Chairman

रेल मंत्री कोडे

Railway M.C.O.

गुवाहाटी

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Filed by the respondents
 Moush A. Chakrabarti
 12/11/2001

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अध्यक्ष
रेल मंत्री का
Railway R.
गुड

said OA No.156/96 there were three applicants. It is worthy mentioned that in the panel of IOW and FWI Gr.I Cat. No. 1 and 3 of the Employment Notice NO.3/95 two candidates belonging to Koch Rajbongshi community were included on the basis of the Govt. ordinance. Out of the two candidates one was appointed from Koch Rajbongshi community and the another was appointed from the applicants of OA No.156/96. It is further stated that the applicants submitted fresh representation in accordance with the Judgment of Hon'ble Tribunal dated 7.4.99 in OA No.156/96. The representations were considered in the light of the aforesaid judgment of the Hon'ble Tribunal and candidates came under the zone of consideration were empanelled. The present application has been filed by the rest two applicants of OA No.156/96.

4. That in reply to the statements in para 4(i) to 4(vi) it is stated that the employment notice No.3/95 comprising of five categories of posts was published on 30.8.95. The last date for submission of applications was 15.10.95. It is also stated that as per extant rules, candidates belonging to SC/ST community were issued free Railway pass for journey from their home station to the place of examination and back for appearing in written examination/viva-voce.

5. That in reply to the statements in para 4(vii) to 4(xii) it is stated that the candidates with roll no. 540238 and 540114, who were included in the panel against ST quota of IOW Gr.I and FWI Gr.I, belonged to Koch Rajbongshi community and had applied against OBC posts. But in view of Railway Board's letter no.94-E(SCT)1/31/3 dated

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 रेल मंत्री बोर्ड
 गुवाहाटी
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 Rail

8.3.96 in connection with the constitution (Schedule Tribes orders amendment) ordinance 1996 for inclusion of Koch Rajbongshi community in the ST list for Assam, they were treated as ST and included in the ST panel on the basis of their merit. The panel was published on 17.7.96 and the ST status of Koch Rajbongshi was lapsed on 21.8.96.

Copy

6. That in reply to the statements in para 4(xiii) to 4(xviii) it is stated that the candidates of Koch Rajbongshi community were given the benefit of ST on the basis of ⁸ Presidential Ordinance. The ordinance regarding the Koch Rajbongshi community lapsed on 21.8.96. It is accepted that the notification and written test were done prior to issue of ordinance. But as the ordinance promulgated thereafter, the candidates of Koch Ranbongshi community were given the benefit of ST status and included in the panel on the basis of their merit.

7. That in reply to the statements in para 4(xxii) it is stated that the applicants submitted fresh representation in accordance with the Judgment of Hon'ble Tribunal dated 7.4.99 in OA No.156/96. The representations were considered in the light of the aforesaid judgment of the Hon'ble Tribunal and ^{there} candidates ^{who} came under the zone of consideration were empanelled.

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

== 4 ==

Verification

I, O. P. Agnewal working
as Chairman (R.R.) Guwahati do
hereby verify that, the statements made in the paragraphs 1
to 8 are true to my knowledge.

Guwahati

/2001

Signature

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Railway Recruitment

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Guwahati 781