

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 21/2001

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E.P/M.A No. 240/2001

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO.

21/2001

B. D. Panikar, Deba Applicant.

Versus

Union of India & Ors Respondents.

For the Applicant(s) *Mr. P. K. Tiwari*

M. B. D. Kanwar

For the Respondents. *R. G.*

NOTES OF THE REGISTRAR

DATE

ORDER

22.1.01

This application is for
but
Per
for
IPC
Dated

By Registrar

Present: Hon'ble Mr. D. N. Choudhury,

Vice-Chairman and Hon'ble Mr. K. K. Sharma, Administrative Member.

Heard Mr. M. C. Kanwar learned counsel for the applicant and also Mr. J. L. Sarkar for the respondents.

Application is admitted. Issue notice on the respondents. Call for records. List on 23.2.01 for orders.

Member

Vice-Chairman

27.2.01

List on 27.3.2001 to enable the respondents to file written statement.

Member

Vice-Chairman

23.3.01

List on 30.4.01 to enable the respondents to file written statement.

Member

Vice-Chair

pg

pg

*Notice to copy less
& Encloks are not filed*

24/01/01

22.2.2001

*Service of Notice prepared
issued to the respondent
vide D. No.*

U.A. 21 of 2000

30.4.01

Written statement has not been filed.

No steps have been taken by the respondents.
Further four weeks time is allowed for
filing of written statement. List on 28.5.01

for orders.

Member

Vice-Chairman

lm

28.5.01

No written statement so far been filed.

On the prayer of learned Railway counsel for
the respondents, three weeks time is given
to enable them for filing of written state-

No written statement has been filed.

List on 21-6-2001 for orders.

Vice-Chairman

21.6.01

Mr. J. L. Sarkar, learned Rly. counsel for
the respondents prays for and granted four
weeks and no more time to file written state-
ment. Rejoinder, if any, may be filed within
two weeks thereafter.

No written statement has been filed.

List on 28-8-2001 for orders.

Member

Vice-Chairman

bb

28.8.01

Respondents are granted further 4 weeks
time to file written statement.

List on 27/9/01 for order.

No written statement has been filed.

Vice-Chairman

5.10.2001

27.9.01

The respondents are yet to file written
statement. The respondents are allowed last chance
to file written statement.

List on 18/10/01 for order. The matter,
thereafter, posted for hearing.

Member

Vice-Chairman

Q.A. 21/2001

③

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Notes of the Registry

Date

Order of the Tribunal

10.10.2001

In view of the order passed in M.P.240 of 2001 the case is posted for hearing on 3.12.01 and the applicant may file rejoinder within ten days.

No. rejoinder has been filed.

By
29.11.01

bb

ICU Sharma
Member

Vice-Chairman

3.12.2001

None present for the applicant. List again on 9.1.2002 for hearing.

No. rejoinder has been filed.

By
8.1.02.

bb

b.
Member (J)

ICU Sharma
Member (A)

9.1.2002

Heard Mr P.K. Taware, learned Counsel for the applicant & Mr. A. Chakraborty learned Counsel for the respondent.
Hearing concluded.
Judgment reserved.

OK
A.K. Jey
9.1.

11.1.02

Judgment delivered in open court, kept in separate sheets. The application is allowed. No order as to costs.

ICU Sharma
Member

Vice-Chairman

mb

MS
21/01/02

7.2.2002

Copy of the judgment has been sent to the office for filing the same in the application by post.

HS

Chakraborty
21/02/02.

Notes of the Registry

Date

Order of the Tribunal

(9) 10/10/10

(10) 10/10/10

10/10/10 10/10/10 10/10/10

10/10/10

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10/10/10 10/10/10 10/10/10

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10/10/10

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b

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~XXXX~~ No. 21 of 2001

DATE OF DECISION . . . 11.1.2002

Dipankar Deka

APPLICANT(S)

Mr P.K. Tiwari and Mr B.D. Konwar

ADVOCATE FOR THE APPLICANT(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

Mr J.L. Sarkar, Railway Counsel and

Mr A. Chakraborty

ADVOCATE FOR THE
RESPONDENTS.

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

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

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

5.

Judgment delivered by Hon'ble Vice-Chairman

Yes

h

h

X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.21 of 2001

Date of decision: This the 11th January 2002

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

The Hon'ble Mr K.K. Sharma, Administrative Member

Dipankar Deka,
Village Majarkuri, P.O.- Ramdia,
P.S.- Hazo, District- Kamrup.

.....Applicant

By Advocates Mr P.K. Tiwari and Mr B.D. Konwar.

- versus -

1. The Union of India, through the
Secretary, Ministry of Railways,
Government of India,
New Delhi.
2. The Executive Director, Establishment,
Railway Board,
New Delhi.
3. The General Manager (Personnel),
N.F. Railway, Maligaon,
Guwahati.

.....Respondents

By Advocates Mr J.L. Sarkar, Railway Counsel and
Mr A. Chakraborty.

.....

O R D E R

CHOWDHURY. J. (V.C.)

Admission to the Vocational Course on "Railway Commercial" for the academic session 1996-97 for N.F. Railway was made pursuant to the selection made by the Recruitment Board. Amongst the selected candidates in the list, the name of the applicant appeared. The course was started for the academic year 1996-97 in Faculty Higher Secondary School, North Guwahati. As per the norms the students who pass the vocational course with at least 55% marks (45% marks in case of SC/ST) in the subject of Railway Commercial Working as well as in the aggregate were to be offered appointment in the Railways as Commercial Clerks or Ticket Collectors. The applicant appeared in the examination in the year 1998, but could not come out successful. He again appeared in the next chance through improvement examination in the year 1999 and got

compartment. Subsequently, he cleared the compartment in the same academic year in 1999 with the required percentage. The General Manager (Personnel), N.F. Railway, Maligaon by his communication No.E/252/EDN/18 Pt.II (T) dated 15.12.1999 requested the Board for dispensation for appointment of Vocational Course on "Railway Commercial" (VCRC for short) candidate. The full extract of the communication is reproduced below:

"Shri Dipankar Deka who had joined the Vocational Course for Railway Commercial, appeared in the AISSE examination in the year, 1998 and could not come out successful inasmuch as that his percentage was below the prescribed level.

2. Again, he appeared in the betterment examination in the year 1999, in which he got compartmental. Subsequently, he cleared in the same year i.e. in 1999.

3. Railway Board's letter No.E(W)95EDI-8 fy. 27.10.95 stipulates that a student who had failed or has been placed in compartment or who did not obtain the requisite marks in the first attempt may be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year and not later.

4. In the instant case, Shri Dipankar Deka failed in the first examination in 1998, appeared in the second betterment chance in 1999 and got compartment, which he cleared in the same year.

5. In the instant case, Shri Dipankar Deka, in fact, passed the examination with the prescribed percentage of marks in the second chance, if the compartment is taken as an integral part of the main examination. Otherwise also, it would not be fair to debar him from job on the premise that he could not pass the betterment examination in one stroke because any candidate appearing for betterment will keep on calculating his own perceived percentage with each passing paper and if he feels at the end of the last but one paper that his is a borderline case then in the last paper unless he is sure of scoring very high he will like to drop and earn an intentional compartment so that in the next and last chance he can improve his percentage with more preparation. In other words, the compartment in such cases should not be viewed as a failure. It is a well calculated and intelligent action of the candidate - may be in ignorance of the Railway rules.

6. In the above back-drop, the Railway feels that Shri Deka should not be denied appointment on the ground that he cleared the examination in the second chance with compartment.

7. What is more, it is experienced over the years that the gradual induction of VCRC candidates in the Railway Service, as a front line staff, there has been, in fact, a qualitative improvement in the services rendered to the rail users. And in this context also, it would be desirable not to lose Shri Deka's services as a Railway employee.

8. Board are, therefore, requested to consider the above impact and allow this Railway to absorb Shri Deka in the Railway Service."

The Railway Board by its communication dated 24.1.2000 informed the General Manager in turn that the applicant could not qualify and clear the prescribed percentage of marks at the second attempt, therefore, he was not eligible for appointment in the Railways. The aforesaid information was communicated to the applicant from the office of the respondent No.3 vide communication dated 14/21.2.2000. Hence this application assailing the legality of the order of the Railway Board as arbitrary and discriminatory.

2. The Railway Board delineated its policy as to the number of chances those are to be given to failed candidates in Clause (12) for improving his position to get appointment in the Railways. On the strength of the meeting of the Monitoring Committee in Vocational Course in Railway Commercial held in the Ministry of Railways on 17.10.1995, the Railway Board communicated the same vide letter No.E(W)/95ED1-8 dated 27.10.1995. The relevant part of the said letter reads as follows:

"No. of chances to be given to the failed candidates of Class XII for improving position to get appointment on Railways.

Vocational Course in Railway Commercial is a job-linked course and its main objective is to have recruits with better academic standard, spirit of service, discipline and pride of profession in the public image categories of Commercial Clerks/Ticket Collectors. The aim is to 'Catch them young'. Railways being the employer have every right to fix the minimum standards required by the candidates.

CBSE representatives mentioned that CBSE now provides only one chance for improving the position viz. in the main examination held in March/April of next academic year.

It was decided that a student who has failed or has been placed in compartment or who did not obtain the requisite marks in the first attempt may be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year, and not later."

3. In course of hearing the learned Railway Counsel placed a copy of the communication dated 24.1.2000 sent by the Railway Board to the General Manager (Personnel), N.F. Railway. The said communication indicated that the Board examined the matter in detail. According to the Railway Board the applicant did not qualify and clear the prescribed

percentage.....

percentage of marks in the second attempt and therefore, he was not eligible for appointment in the Railways. The Circular of the Railway Board, undoubtedly, covers the case of those persons who have failed or have been placed in compartment or did not obtain the requisite marks in the first attempt, those person also are to be offered the appointment provided he obtains the required percentage of marks after clearing the compartment for improving the position in the main examination conducted in the next academic year. As would appear from the narrations made, the applicant could not succeed in the first examination that was held in 1998. He appeared in the second betterment chance in 1999 and he got compartment, which he cleared in the same year.

4. Mr P.K. Tiwari, learned counsel for the applicant, contended that the applicant as a matter of fact passed the examination with prescribed marks in the second chance. The compartment is to be treated as an integral part of the main examination. The respondents in a most illegal fashion sought to deny the scope of employment in misinterpreting the provisions of the policy. Mr Tiwari contended that there was no justifiable ground for refusing employment to the applicant despite the fact that he cleared the examination with the prescribed percentage of marks in the second attempt.

5. The learned Railway Counsel, stoutly defending the action of the respondents, stated that the Railway Board acted strictly in conformity with the professed policy and in the circumstances the application is liable to be dismissed.

6. The area of controversy is confined to the interpretation of para 2 of the minutes of the meeting dated 17.10.1995 as a whole. Vocational Course in Railway Commercial is a job-linked course and its main objective is to have recruits with better academic standard, spirit of service, discipline and pride of profession in the public image. The entire aim is to 'catch them young'. As an employer the Railways fixed the minimum standards required by the candidates. As per the policy the Railway Authority decided to provide one chance for improving the position.....

position in the main examination conducted in the next academic year and not later. In the first attempt the applicant could not clear. In the second attempt the applicant passed and improyed the position of the main examination conducted in the next academic year in the compartment.

7. The Railway Board by its communication dated 24.1.2000 held that the applicant did not qualify and secure the prescribed percentage of marks at the second attempt. Therefore, he was not eligible for appointment. The validity of the said order is now under challenge. As mentioned in the communication of the General Manager dated 15.12.1999 addressed to the Railway Board, the applicant did not obtain the requisite marks in the examination held in 1998. He appeared in the main examination conducted in the next academic year (1999) and obtained compartment, which he cleared in the same academic year. As per the guidelines prescribed by the Railway authority a candidate who did not obtain the requisite marks in the first attempt is to be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving the position in the examination conducted in the next academic year and not later. The applicant obtained the required percentage of marks after clearing the compartment in the next academic year. As per the policy a candidate may be provided with the opportunity for improving the position conducted in the next academic year. The applicant obtained the required percentage of marks in the examination held in the next academic year, but in compartment.

8. There is a system of holding compartmental examination in the C.B.S.E. The term compartmental comes from the word 'compartment', a noun. By compartment it means 'a partitioned-off or marked-off division of an enclosed space or area; a division of a railway carriage; a division of anything' (Chambers Dictionary). According to the Webster's Encyclopedic Unabridged Dictionary of the English language, it means 'part or space marked or partitioned off, separate room, section etc'. Compartmental is adjective which means divided into compartments. Compartmental examination is an examination held in segment, piece. It is a portion

of.....

of the main examination. A portion or segment is an essential ingredient/ part of the whole/main examination. The N.F. Railway Authority rightly pointed out in its communication -dated 15.12.1999 that the compartment is an integral part fo the main examination. The Railway Board excluded the result of the compartment examination while holding that the applicant did not qualify and secure the prescribed percentage of marks in the second attempt. It seems the Railway Board fell into error in its cognitive process and missed the true meaning and import of the term 'compartment'. True meaning is to be distinguished from the actual meaning as well as literal meaning. Actual meaning is to be inferred from the language when it is read in a particular context, whereas true meaning is the meaning carried by the language when it is read in the light of its proper context. In constructing the statutory provision one is to be guided by the established norms of interpretation, "Because interpretation", as observed by Reed Dickerson in "The Interpretation and Application of Statutes", "is by definition concerned with the ascertainment of true meaning, and because true meaning often differs from literal meaning or actual meaning or both, reliance on either of the latter without reference to proper context is likely to subvert effective communication."

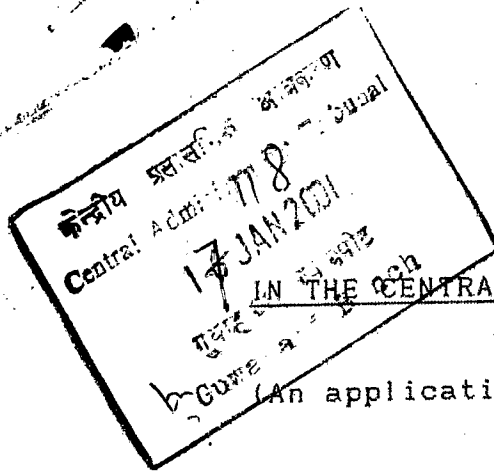
9. Upon reasonable, fair and equitable construction of the provisions mentioned in the policy, we are of the opinion that the applicant passed the examination with prescribed percentage of marks conducted in the examination held in 1999, and therefore, the applicant was eligible for appointment int he Railways.

10. In view of our aforesaid conclusion the order dated 14/21.2.2000 based on the Railway Board's letter No.E(W)99ED1-8 dated 24.1.2000 is unsustainable in law and accordingly the same is set aside and quashed. The respondents are directed to take appropriate action in the light of the decision rendered and pass necessary orders forthwith.

11. The application is allowed to the extent indicated. No order as to costs.

(K. K. SHARMA)
ADMINISTRATIVE MEMBER

(D. N. CHOWDHURY)
VICE-CHAIRMAN



CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the Case : O.A. No. 21 of 2001

Dipankar Deka

Applicant

- Versus -

Union of India & Ors.

Respondents

I N D E X

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For use in Tribunal's Office :

Date of filing :

Registration No.

REGISTRAR

13
Filed by the Applicant -

Dipankar Deka
Advocate
Union of India & Ors.
Guwahati

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

17 JAN 2001

गुवाहाटी न्यायालय

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

Dipankar Deka.

Filed by the Applicant

Through:

Bhaskar Das

Advocate

16/01/2001

O.A. No. 21 of 2001

BETWEEN

Dipankar Deka, Village Majarkuri, P.O.
Ramdia, P.S. Hazo, District Kamrup, PIN-
781102.

... Applicant

AND

1. Union of India through the Secretary,
Ministry of Railways, Government of
India, New Delhi.
2. The Executive Director, Establish-
ment, Railway Board, New Delhi.
3. The General Manager (Personnel), N.F.
Railway, Maligaon, Guwahati-11.

.... Respondents

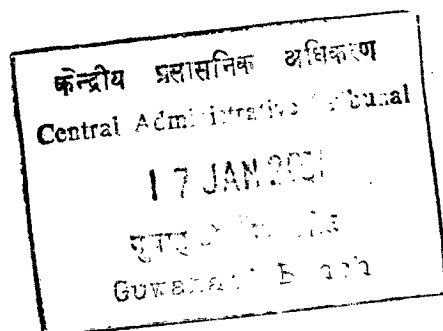
DETAILS OF APPLICATION

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

The present application is directed against the letter No. E/252/Edn/18 Pt.II(T)-98-99 dated 14/21.2.2000 issued by the General Manager (P), N.F. Railway, Maligaon intimating the decision of the Railway Board contained in its letter dated 24.1.2000 to the effect that Applicant could not qualify and secure the prescribed percentage of marks at the second attempt and as such, he is not eligible for appointment in the Railways.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the instant application for which he wants redressal



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is well within the jurisdiction of the Hon'ble Tribunal.

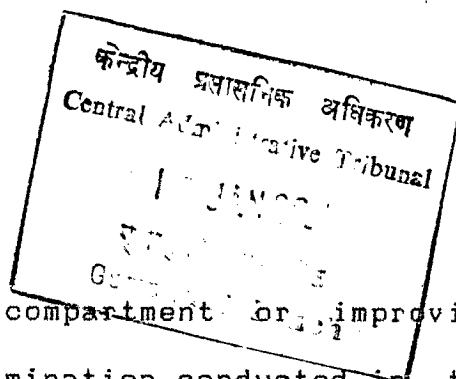
3. LIMITATION :

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

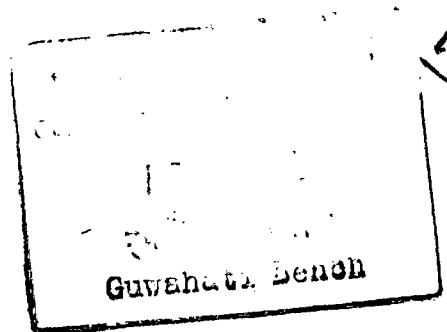
4.1 That the Applicant in the present case had joined the Vocational Course for Railway Commercial (VCRC) after the regular process of selection. The course was started for the academic year 1996-97 in Faculty Higher Secondary School, North Guwahati. The students who pass the vocational course with at least 55% marks (45% marks in case of SC/ST) in the subject of Railway Commercial Working as well as in the aggregate were to be offered appointment on the Railways as Commercial Clerks or Ticket Collectors. The Applicant appeared in the examination in the year 1998 and could not come out successful inasmuch as his percentage was below the prescribed limit. The Applicant appeared again in the betterment examination in the year 1999 in which got compartmental. The Applicant subsequently cleared the compartmental in the same year i.e. in 1999. Railway Board's letter No. E(W)95ED1-8 dated 27.10.95 stipulates that the students who has failed or has been placed in compartment or who did not obtain the requisite marks in the first attempt may be offered appointment only if he obtains the required percentage

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Dipankar Debnath



Dipankar Deka.

of marks after clearing the compartment for improving the position in the main examination conducted in the next academic year and not later. In the present case, Applicant failed in the first examination in 1998, appeared in the second betterment chance in 1999 and got compartment which he cleared with the required percentage in the same year. Since the compartment is taken as an integral part of the main examination, therefore, the Applicant passed the examination with the prescribed percentage of marks in the second chance. The General Manager (Personnel), N.F. Railway, Maligaon in his letter dated 15.12.99 to the Respondent No. 2 stated that it would not be fair to debar the Applicant from job on the premise that he could not pass the betterment examination in one attempt because any candidate appearing for betterment will keep on calculating his own perceived percentage with each passing paper and if he feels at the end of the last but one paper that his is a border line case, then in the last paper, unless he is sure of scoring very high, he will like to draw and earned an intentional compartment so that in the next and last chance, he can improve his percentage with more preparation. It was also stated in the letter that the compartment in such cases should not be viewed as a failure and should be treated to be a well calculated and intelligent action of the candidate. However, despite the aforesaid letter, the Railway Board vide its letter dated 24.1.2000 rejected the case of the Applicant. The contents of the aforesaid letter were communicated to the Applicant by the General Manager (P), N.F. Railway,



Dipankar Debn.

Maligaon vide his letter dated 14/21.2.2000. Hence the present application. In brief, the present application involves the interpretation of the Railway Board's letter dated 27.10.95.

4.2 That pursuant to the notice dated 11.11.95 which was advertised in various prominent dailies, the Railway Recruitment Board invited applications from the eligible candidates for admission to the vocational course on "Railway Commercial" for the academic session 1996-97 for N.F. Railway.

4.3 That pursuant to the aforesaid notice, the Applicant submitted his application and after the regular process of selection which included written examination and the viva voce test, the Applicant was selected against the unreserved vacancy. The select list contained in the notice of the Railway Recruitment Board dated 17.7.96. In the select list, the name of the Applicant was at Sl. No. 18 against the 20 unreserved vacancies.

Copy of the notice dated 17.7.96 is annexed as ANNEXURE-A/1.

4.4 That as a result of the selection of the Applicant, the General Manager (P), N.F. Railway, Maligaon vide letter dated 23.7.96 invited the Applicant to report to the Senior Personnel Officer (W) in Chief Personnel Officer's office, Maligaon along with necessary documents on or before 5.8.96 for the vocational course in the Railway Commercial to be

17 JAN 2001

गुवाहाटी न्यायाधीश
Guwahati Bench

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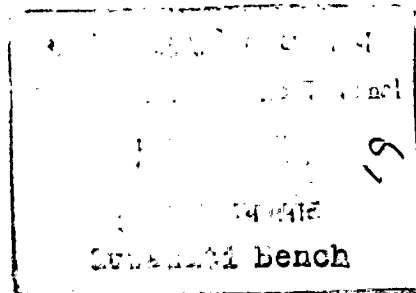
started for the academic year 1996-97 in the Faculty Higher Secondary School, North Guwahati.

Copy of the letter dated 23.7.96 is annexed as ANNEXURE-A/2.

4.5 That the vocational course in Railway Commercial is a job link course and its main objective is to have recruits with better academic standard, spirit of service, discipline and pride of profession in the public image for categories of Commercial Clerks/Ticket Collectors etc. The aim is to "catch them young". As per the norm, the student who has failed or has been placed in compartment or who did not obtain the requisite marks in the first attempt may be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year and not later. It is also provided that the students who passed the vocational course at at least 55% marks (45% marks in case of SC/ST) in "Railway Commercial Working" as well as in the aggregate are to be offered appointment on the Railways as Commercial Clerks or Ticket Collectors.

4.6 That on completion of the course, the Applicant appeared in the AISSE Examination in the year 1998 in March 1998, but could not come out successful inasmuch as his percentage was below the prescribed limit. The Applicant again appeared for next chance through improvement examination during 1999, but he got compartment in Economics. The Applicant subsequently cleared the compartment in the same academic year i.e.

Dipankar Deka



Dipankar Debnath

1999. The Applicant not only secured the required 55% marks in aggregate, but in the subject of Railway Commercial Working also the Applicant secured 61% marks.

The mark sheet of AISCE, 1999 alongwith the result of compartmental examination held in the same year is annexed as ANNEXURE-A/3 colly.

4.7 That the Vice Principal of the Faculty, Higher Secondary School sent his observation dated 4.9.99 alongwith the extract of result sheet of AISCE (HSS) Examination of the Applicant, to the competent authority.

Copy of the observation of the Vice Principal dated 4.9.99 is annexed as ANNEXURE-A/4.

4.8 That when the case of the Applicant was not considered for appointment, the Applicant approached the Respondent No. 3. The Respondent no 3 in turn wrote a letter dated December 15, 1999 to the Respondent No. 2. In his letter, the Respondent No. 3 while stating the case of the Applicant gave a reference of Railway Board's letter dated 27.10.95 enclosing a copy of the minutes of the monitoring committee on vocational course in Railway Commercial held in the Ministry Railways on 17.10.95 wherein it was stipulated that the student who has failed or has been placed in compartment or who did not obtain the requisite marks in the first attempt may be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving

17 JAN 2001

गुवाहाटी न्यायपीठ
Guwahati Bench

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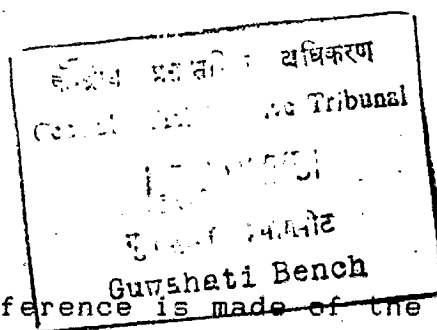
Dipankar Deba.

the position in the main examination conducted in the next academic year and not later.

By placing reliance upon the aforesaid letter of the Railway Board, it was urged by the Respondent No. 3 that since the Applicant passed the examination with the prescribed percentage of marks in the second chance if the compartment is taken as an integral part of the main examination, therefore, it would not be fair to debar the Applicant from job on the premise that he could not pass the betterment examination in one attempt because any candidate appearing for betterment will keep on calculating his own perceived percentage with each passing paper and if he feels at the end of the last but one paper that his is a border line case that in the last paper unless he is sure of scoring very high, he would like to draw and earned and intentional compartment so that in the next and last chance, he can improve his percentage with more preparation.

Copy of the letter dated December 15, 1999 is annexed as ANNEXURE-A5.

Copy of the covering letter of the Railway Board dated 27.10.98 and a copy of the minutes of the monitoring committee on vocational course in Railway Commercial held in the Ministry of Railways on 17.10.95 is annexed as ANNEXURE-A/6 colly.



21
Dipankar Debn.

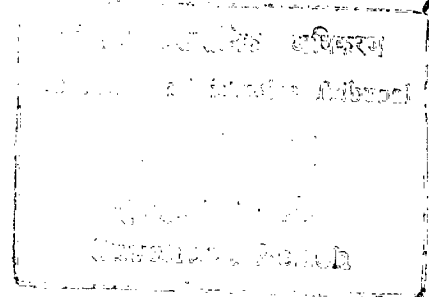
4.9 That in this connection, reference is made of the letter of Ministries of Railway dated 20.5.94 issued by the Desk Officer, Establishment (Welfare), Railway Board reiterating that appointment may be offered to the candidates who were either placed on compartment or who could not secure the prescribed percentage of marks on their clearing the compartment and securing the prescribed percentage in the subsequent chances given by CBSE for taking the examination.

Copy of the letter dated 20.5.94 is annexed as ANNEXURE-A/7.

4.10 That, however, the Applicant was communicated the decision of the Railway Board contained in its letter dated 24.1.2000 by the Respondent No. 3 through his letter dated 14/21.2.2000. In the aforesaid letter, it was stated that "Railway Boards vide their letter No. E(W)99/EDI-8 dated 24.1.2000 have informed that you could not qualify and secure the prescribed percentage of marks at the second attempt and as such, you are not eligible for appointment in the Railways."

Copy of the letter dated 14/21.2.2000 is annexed as ANNEXURE-A/8.

4.11 That the aforesaid communication prima facie is contrary to the instructions contained in the minutes of the monitoring committee on vocational course in Railway Commercials held in the Ministries of Railways on 17.10.95. The same is also contrary to the instructions contained in the Railway Board's letter dated 20.5.94. The instructions contained in the



minutes of the monitoring committee on vocational course in Railway Commercial makes it clear that a student who has failed or has been placed in compartment or who did not obtain the requisite marks in the first attempt may be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year and not later. It is, therefore, submitted that the decision taken by the Railway Board is contrary to its own instructions in this regard.

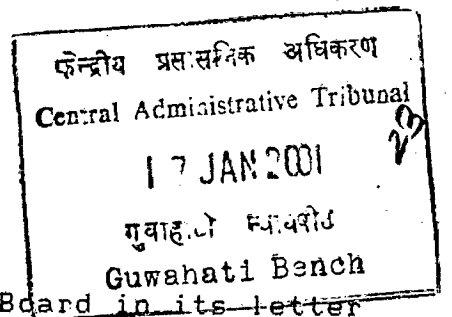
4.12 That the Applicant in the present case passed the compartmental examination with the required percentage. The compartmental examination is always treated to be the integral part of the main examination. The Applicant secured the required 55% marks in aggregate and he also secured the required percentage of marks in the subject of Railway Commercial Working. Hence, there is no just and sufficient reason for denying the job to the Applicant.

4.13 That the Applicant files this application bonafide for securing the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the decision of the Railway Board is contrary to the instructions contained in the minutes of the monitoring committee on vocational course in Railway Commercial held in the Ministry of Railways on 17.10.95 and the same is also contrary to the

Dipankar Debn.



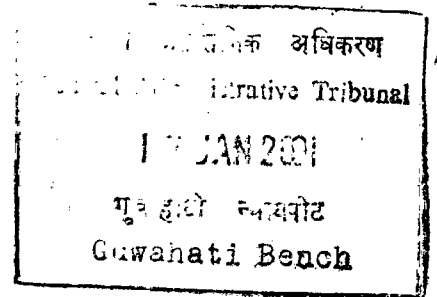
clarification issued by the Railway Board in its letter dated 20.5.94.

5.2 For that the decision of the Railway Board is unreasonable and arbitrary. The Applicant having cleared the compartmental examination with the required percentage is entitled to get the suitable job.

5.3 For that the compartmental examination is treated to be an integral part of the main examination. The Applicant cleared the compartmental examination in the first attempt. Thus he cleared the main examination in second attempt with the required percentage of marks. Therefore, the Applicant fulfills the required norms for being appointed.

5.4 For that the Railway Board failed to appreciate the fact that the Applicant could not pass the betterment examination in one attempt because any candidate appearing for betterment will keep on calculating his own perceived percentage with each passing paper and if he feels at the end of the last but one paper that his is a border line case, then in the last paper unless he is sure of scoring very high, he will like to draw and earn an intentional compartment so that next and the last chance he can improve his percentage with more preparation. It is submitted that the compartment in such cases should not be viewed as a failure as it is a well calculated and intelligent action of the candidate.

Dipankar Debn.



6. DETAILS OF REMEDIES EXHAUSTED :

That the Applicant states that he has no other alternative, efficacious remedy except by way of approaching this Hon'ble Tribunal.

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

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

8.1 Direct the Respondents to give suitable appointment to the Applicant as Commercial Clerk/Ticket Collector in the Railways.

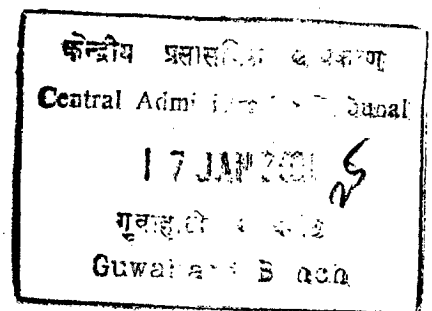
8.2. Pass such other order/orders as may be deemed fit and proper in the facts and circumstances of the case for securing the ends of justice.

9. INTERIM ORDER PRAYED FOR :

In the facts and circumstances of the case, the Applicant does not pray for any interim relief.

10.

The Application is filed through Advocate



11. PARTICULARS OF THE I.P.O. :

- (i) I.P.O. No. : 56 421833
(ii) Date : 16/01/2001
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

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

I, Dipankar Deka, aged about 20 years, son of Shri Umesh Chandra Deka, Village Majarkuri, P.O. Ramdia, P.S. Hazo, District Kamrup, do hereby solemnly affirms and verify that the statements made in the accompanying application in paragraphs 1, 2, 3, 4, 1, 4, 2, 4, 5, 4, 11, 4, 12, 4, 13, 6, 7 & 10 are true to my knowledge ; those made in paragraphs 4, 3, 4, 4, 4, 6, 4, 7, 4, 8, 4, 9 & 10 being matters of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. Annexures are true copies of the originals and I have not suppressed any material fact.

And I sign this verification on this the 16th day of January 2001 at Guwahati.

Shri Dipankar Deka.

RAILWAY RECRUITMENT BOARD, GUWAHATI

RRB/G/CON/155/205

DATED : 17-07-96

NOTICE

Sub :- Admission to the Vocational Course on "Railway Commercial" for the Academic Session, 1996-97 for N.F. Railway.

Ref :- Railway Board's L/No.

Date of Written Examination : 11-02-96

Date of Viva-Voce Test : 13-06-96 to 20-06-96

Date of Panel Approved : 04-07-96.



The Recruitment Board, Guwahati has conducted the selection for admission to the Vocational Course in "Railway Commercial" for 40 (forty) vacancies (UR-20, SC-6, ST-3, OBC-11) for the academic year 1996-97. The viva-voce tests were held from 13.6.96 to 20.6.96 and this Recruitment Board has formed a panel of 80 (eighty) candidates i.e. 40 (forty) (UR-20, SC-6, ST-3, OBC-11) enlisted in the MAIN List and 40 (forty) (UR-20, SC-6, ST-3, OBC-11) in the WAITING List.

The following candidates whose Roll Nos. are given below have been recommended to the General Manager (P), N.F. Railway, Guwahati IN ORDER OF MERIT.

MAIN PANEL : 20 CANDIDATES AGAINST U.R. VACANCY

SN.	ROLL NO.	NAME	MERIT POSITION	REMARKS
1.	810451	✓ RAJU GOGOI	1	
2.	810266	✓ TRIBHUBAN SAH	2	
3.	840125	✓ KUMARI NIKITA	3	
4.	840126	✓ HIMANSHU RANJAN	4	
5.	810138	✓ AMIT KUMAR	5	
6.	810261	✓ LAXMI SAH	6	
7.	810187	✓ JAYANTA BARMAN	7	
8.	840154	✓ DIBYAJYOTI HANDIQUE	8	
9.	810450	✓ PRASANJIT BHOWMIK	9	
10.	810171	✓ ANIRBAN BENGUPTA	10	
11.	810121	✓ DEEPAK KHAREL	11	
12.	810448	✓ ARUN KUMAR PANDEY	12	
13.	810092	✓ MISS PANKAJA SEAL	13	
14.	810293	✓ SUJIT KUMAR SEN	14	
15.	810084	✓ MANTOSH KUMAR CHOUDHURY	15	
16.	810252	✓ KUMARI SEEMA	15	
17.	840147	✓ NITYANANDA DAS	15	
18.	810193	✓ DIPANKAR DEKA	16	
19.	810250	✓ MISS GAURI UPADHYAYA	16	
20.	810145	✓ RIYUSH KUMAR SARMAH	17	

contd... 2/-

Certified Copy
 N. Bhada
 Principal,
 Faculty Hr. Sec. School
 Guwahati-781 031.
 28.10.2000

[Signature]
 17/7/96

Placed as true copy
 B. D. Konwar
[Signature]
 Advocate

Dipankar Deba.

PANEL : 6 CANDIDATES AGAINST S.C. VACANCY

ROLL NO.	NAME	MERIT POSITION	REMARKS
820002	AREETO RAJ DAS ✓ VOC	1	
820011	RUMI NAMASUDRA ✓ VOC	2	
820137	LOUMITRA SITHIA ✓ VOC	3	
820029	MITHUN ROY ✓ VOC	4	
820027	KAUSHIK ROY ✓ VOC	5	
820142	MISB. HEMANGI BAIKIA	6	

MAIN PANEL : 3 CANDIDATES AGAINST S.T. VACANCY

SN.	ROLL NO.	NAME	MERIT POSITION	REMARKS
1.	830055	SWADHIN SONOWAL	1	
2.	830061	SHARMILA LAMA ✓ VOC	2	
3.	830034	SURYAPRAVA SARANIA ✓ VOC	3	

MAIN PANEL : 11 CANDIDATES AGAINST OBC VACANCY

SN.	ROLL NO.	NAME	MERIT POSITION	REMARKS
1.	840132	VISHWANATH PRASAD	1	
2.	840137	SNEHLATA KUMARI	2	
3.	840081	BUCHITRA BORGHAIN	3	
4.	840108	HEMANTA BORAH	4	
5.	840157	PAMPI RANI NATH	5	
6.	840008	SAGORIKA PAUL OBC VOC	6	
7.	840107	JITENDRA KUMAR YADAV OBC VOC	7	
8.	840019	PRANAB KR. BISHNU OBC VOC	8	
9.	840140	MD. MONEMUL ISLAM OBC VOC	9	
10.	840022	MAHESH KR. MAHATO OBC VOC	10	
11.	840144	PRATIBHA DAS	11	

contd... 3/-

[Signature]
17/7/96

Copy
N. B. Deka
Principal,
Faculty Hr. Sec. School
Guwahati-781 031.
28.10.2000

Dipankar Deka.

W/List : 20 CANDIDATES AGAINST U.R. VACANCY

ROLL NO.	NAME	MERIT POSITION	REMARKS
810001	JAGRITI DAS ✓ VOC	18	
810277	SUSMITA DUTTA ✓ VOC	19	
810288	MISS ANITA THAKUR	19	
810023	AVIJIT BHOWMIK	20	
810256	MUKUT SARMA	20	
810409	LUNA SAHARIA ✓ VOC	20	
810312	MANISH KUMAR	21	
810396	KYAMELIA DUTTA ✓ VOC	22	
810188	DIGANTA KUMAR BARMAN	23	
810414	ANUPAM PRIYADARSHI ✓ VOC	23	
810140	DULAL MAJUMDER ✓ VOC	24	
810190	KAUSHAL KUMAR PANDEY	24	
810275	CHANDAN BORAH	24	
810340	JAYANT KUMAR	25	
810168	BIPLAB DEY	26	
810257	DIPU BARMAN	27	
810042	BIPLAB DEY	28	
810192	RATAN ACHARJEE	28	
810432	SUBIR SAHA	29	
810201	KANDARPAPRATIM DEV SARMA	30	

TING LIST : 6 CANDIDATES AGAINST S.C. VACANCY

ROLL NO.	NAME	MERIT POSITION	REMARKS
820171	SAHANA SARKAR (SC) ✓ VOC	6	
820134	SRI KRISHNA KANTA BAISHYA	7	
820043	DEEPAK RAM	8	
820072	SRI SATYAJIT KR. BISWAS	8	
820126	SRI RAJU MANDAL	8	
820077	SRI PRANJAL DAS	9	

TING LIST : 3 CANDIDATES AGAINST S.T. VACANCY

ROLL NO.	NAME	MERIT POSITION	REMARKS
830077	UDAY LAMA ✓ VOC	4	
830030	SANJIB KACHARI	5	
830080	MALA LYNDON	5	

contd... 4/-

[Signature]
17/7/96

Certified Copy
N. Bhattacharya
Principal,
Faculty Hr. Sec. School
Guwahati-781 031

Dipankar Deka

WAITING LIST : 1) CANDIDATES AGAINST OBC VACANCY

SN.	ROLL NO.	NAME	MERIT POSITION	REMARKS
1.	840072	KUNTAL NATH ✓ Voc	10	
2.	840116	GAYATI SAIKIA ✓ Voc	10	
3.	840169	BISHNU KUMAR	11	
4.	840176	RANJAN KUMAR CHOUDHURY	12	
5.	840180	BIKASH BORAH	13	
6.	840032	AMIT PRASAD	14	
7.	840009	BISHNU TALUKDAR	15	
8.	840012	BISHNU KUMAR FODDAR	16	
9.	840067	SUKHENDU GHOSE ✓ Voc	16	
10.	840103	KUNAL DUTTA ✓ Voc	17	
11.	840131	BIJOU SANKAR HAZARIEA	17	

(i) These candidates will be given admission to the Vocational course in "Railway Commercial" subject to fulfilment of eligibility criteria as notified in the Employment Notice. (ii) The candidates empanelled in the waiting list will be called for admission to the vocational course in "Railway Commercial" in case of any shortfall of candidates from the Main List.

Copy to
N. Bhattacharya
Principal, 28.10.2008
Faculty Hr. Sec. School
Guwahati-781 081.

[Signature]
(R. K. BORTHAKUR) 17/7/96

CHAIRMAN
RAILWAY RECRUITMENT BOARD, GUWAHATI.

Copy to :

- 1) The General Manager (P)/MLB
- 2) The panel files
- 3) Notice Boards
- 4) AS/RRB/HR
- 5) Secy. Section RRB/HR

[Signature]
(R. K. BORTHAKUR) 17/7/96

CHAIRMAN
RAILWAY RECRUITMENT BOARD, GUWAHATI.

Dipankar Deka.

Northeast Frontier Railway.

Office of the
General Manager (P)

E/252/ED/17/W (Admission)

Maligaon, dated 23-7-1996.

Shri/Smt. Dipankar Deka
 Vill - Majorkuri, P.O. Pandia
 P. B. Hajo, Kamrup
 Pin - 781102

MF. No. 16
 SN. No. 18

Sub: - Admission in the Vocational Course
 N.F. Railway Commercial for the academic
 year 1996-97 for N.F. Railway.

You have been selected for the vocational course in the
 Railway Commercial which is to be started for the academic year
 1996-97 in Faculty H.S. School/North Guwahati. You are advised to
 report to SPO(W)/CPO's Office/Maligaon along with the following
 documents in original on or before 05.08.96.

1. Mark-sheet of H.S.L.C. Examination or equivalent examination/1996.
2. Certificate in proof of age.
3. Caste certificate/OBC certificate, if any.
4. Original Transfer Certificate.
5. 03 copies of Pass Port size Photographs of the candidate.
6. 01 copy of Pass Port size Photograph of the father.
7. 01 copy of Pass Port size Photograph of the mother.
8. Migration certification.

No request will be considered if you fail to report to
 the office of CPO/N.F. Ry/Maligaon (Welfare Section) within the
 stipulated time mentioned above. In case you fail to turn up by the
 above time, your candidature will not be entertained in any
 circumstances, even non-availability of results would not be
 taken as an excuse and the short fall will be made good from the
 panel of waiting list.

Further candidature will be finally considered subject
 to your passing the H.S.L.C. Examination with requisite percentage
 of marks fulfilling other eligibility conditions. This office letter
 by itself does not guarantee your final admission in the Railway
 vocational course.

(A. Kispotta)
 Sr. Personnel Officer (W)
 For General Manager (P)

nds

Attested as true copy

Dipankar Deka

B. D. Konwar

Advocate

क्रमांक

S.No. 99 090421

केन्द्रीय माध्यमिक शिक्षा बोर्ड
CENTRAL BOARD OF SECONDARY EDUCATION

अंक विवरणिका MARKS STATEMENT

सीनियर स्कूल सर्टिफिकेट परीक्षा, १९९९

ALL INDIA SENIOR SCHOOL CERTIFICATE EXAMINATION, 1999

नाम Name DIPANKAR DEKA

पिता का नाम Father's Name UMESH DEKA

अनुक्रमांक Roll No. 3205200

विद्यालय School 9999 PRIVATE CANDIDATES

कोड CODE	विषय SUBJECT	प्राप्तांक MARKS OBTAINED				स्थितीय ग्रेड POSITIONAL GRADE
		लि. TH	पे. PR	योग TOTAL	योग शब्दों में TOTAL IN WORDS	
VOC	GROUP- RAILWAY COMMERCIAL WORKING					
301	ENGLISH CORE	XX	XX	38	THIRTY EIGHT	D2
030	ECONOMICS	XX	XX	16F	SIXTEEN	E
054	BUSINESS STUDIES	XX	XX	66	SIXTY SIX	B2
055	ACCOUNTANCY	XX	XX	61	SIXTY ONE	B2
601	PLY COMM WORKING	25	36	61	SIXTY ONE	D1

आद्यधरो का अर्थ : Abbreviations

AB : विषय में अनुपस्थित Absent in the Subject

EX : छूट-प्राप्त Exempted

FP : प्रयोगात्मक में अग्रफल Fail in Practical

FT : लिखित में अग्रफल Fail in Theory

दिल्ली Delhi

दिनांक Dated 02-06-99

परिणाम Result

COMPTT

9515

परीक्षा नियंत्रक

Controller of Examinations

Attested as true copy

B.D. Karmar

Advocate

Dipankar Delea.

क्रमांक

Sl.No. 99 279158

केन्द्रीय माध्यमिक शिक्षा बोर्ड
CENTRAL BOARD OF SECONDARY EDUCATION

ANNEXURE-A/3B

अंक विवरणिका MARKS STATEMENT

सीनियर स्कूल सर्टिफिकेट परीक्षा, १९९९

SENIOR SCHOOL CERTIFICATE EXAMINATION, 1999 (3372)

ALL INDIA

नाम Name DIPANKAR DEKA

अनुक्रमांक Roll No. 3205200

पिता का नाम Father's Name UMESH DEKA

विद्यालय School 9999 PRIVATE CANDIDATES

प्रोड CODE	विषय SUBJECT	प्राप्त अंक MARKS OBTAINED				स्थितीय ग्रेड POSITIONAL GRADE
		वि. TH	पे. PH	योग TOTAL	योग शब्दों में TOTAL IN WORDS	
030	ECONOMICS	053	XXX	053	FIFTY THREE	C1

आपक्षरों का अर्थ : Abbreviations

APPEARED FOR FIRST CHANCE COMPARTMENT

AB : विषय में अनुपस्थित Absent in the Subject

परिणाम Result

PASS

EX : छूट - प्राप्त Exempted

FP : प्रयोगात्मक में असफल Fail in Practical

FT : लिखित में असफल Fail in Theory

दिल्ली Delhi

दिनांक Dated

31-08-99

परीक्षा नियंत्रक

Controller of Examinations

Attended as I am copy
B.D. Kaur, Admit

Dipankar Deka.

क्रमांक 98 0086182

केन्द्रीय माध्यमिक शिक्षा बोर्ड
CENTRAL BOARD OF SECONDARY EDUCATION
अंक विवरणिका MARKS STATEMENT
सीनियर स्कूल सर्टिफिकेट परीक्षा, १९९८

ANNEXURE-A/3c

ALL INDIA SENIOR SCHOOL CERTIFICATE EXAMINATION, 1998 SCH-3026

20-

नाम NAME DIPANKAR DEKA

4282

अ.क्रमांक ROLL NO. 3204432

कोड CODE	विषय SUBJECT	प्राप्त अंक MARKS OBTAINED				स्थितीय ग्रेड POSITIONAL GRADE
		लि. TH	प्रा. PR	योग TOTAL	योग शब्दों में TOTAL IN WORDS	
VOC GROUP- RAILWAY COMMERCIAL WORKING						
301 ENGLISH CORE		XX	XX	36	THIRTY SIX	D2
030 ECONOMICS		XX	XX	25F	TWENTY FIVE	E
034 BUSINESS STUDIES		XX	XX	22F	TWENTY TWO	E
053 ACCOUNTANCY		XX	XX	24F	TWENTY FOUR	E
601 RLY COMM WORKING		14	36	50FT	FIFTY	E
502 PHY. & HEALTH EDUCA						B1
501 GEN FOUND COURSE						C1

परिणाम Result FAIL

आक्षेपों का अर्थ : Abbreviations

AB: विषय में अनुपस्थित Absent in the Subject

FP: प्रयोगात्मक में असफल Fail in Practical

केवल उन्हीं विषयों में जिसमें प्रयोगात्मक परीक्षा दी है
Only for Subjects involving practical examination

FT: लिखित में असफल Fail in Theory

* मूल परीक्षा में प्रविष्ट Appeared in compartmental examination

दिल्ली Delhi

09-06-98

दिनांक Dated

LC. Sharma

परीक्षा नियंत्रक

Controller of Examinations

Attested as true copy

B. D. Kumar

Advocate

Dipankar Deka.

Extract of result Sheet of AISCE (H.S.S.) Examination showing against one candidate appeared for improvement Exam. in the next academic year 1999 but cleared through compartment in the same academic year - 1999

ANNEXURE - A/4

(21)

Sl. No.	Admit Card Roll No. 1) 1998 2) 1999 Improvement	N A M E	Category	Year of admission (Academic year)	CODE	Subjects	Original Marks of 1998	% to total of 1998	Position	Marks obtain in next improve ment Exam '99 (For all subject)	% to total	Marks secured in the comptt Exam'99 1999	Total	% to total in the comptt Exam 1999	Position as per prescrib % Of Rly's	Requisite documents if any	REMARKS
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
6.	320-332 (1998) 320-332 (1999)	DIPANKAR DEKA	UR	1996-1998	301 030 054 055 621	English Economics Business Study Accountancy Rly. Com. Working	36 *25 F *22 F *24 F *50 FT		FAIL	38 *16 F (COMPT) 66 61 61		53			Pass	Attached	Dipankar Deka's case is to some extent an isolation one than that of five candidates who cleared their compartment in the same academic year against main stream of examination to qualify their railways job. My observation in regard to appointment of Dipankar in railway may please be perused in bottom.
					TOTAL		157	31.4		242	48.4	279	55.8				

Observation:

Calified Copy

Re Appointment of candidate on vocational course in Railway commercial

N. Bhalla
Vice Principal, 4-9-94
Faculty of Education
Guwahati-781 001.

Dipankar Deka under vocational stream was a candidate of 1996-98 batch and he appeared for Board's Examination in March 1998 but Failed. Again he appeared for next chance through improvement Examination during 1999 but got compartment. And subsequently he cleared the compartment in the same academic year i.e, 1999 as it would speak from his marksheets (copy enclosed). Though the candidate got academical qualification for pursuing the degree course but qualification for railways job under vocational stream is to be considered by the administration of railways under certain norms. What I believe from the available papers that the compartment Examination is not being taken into account as next chance, but a part of main stream of examination in the same academic year according to directives from Railway Board. Enclosed, please find the copies of Railway Board's letter No. E(W) 89 EDI - 13 (Vol III) dated 20.5.94 from Sri K. Shankar Desk Officer Estt. (welfare) and para 2.3 of Minutes of the Monitoring committee under Railways Board's Reference No. E(w) 95 EDI - 8 dated 27.10.95 from Sri A. VAI katty, Jr Director Estt. (welfare) as well as letter No. E(w) 97 EDI - 8 dated 22.4.98 from Sri P.N. Kumaran, Dy. Director Estt. (welfare) to GM (P) N.E Rly in the light of appointment for vocational candidates in railways.

Attested as true copy
B.D. Konwar, Advocate

N. Bhalla, 4.10.94
Vice-Principal

Dipankar Deka.

34

ANNEXURE- A/5



महानगर (कर्मिक) ११-१२-१९९९
पुनर्विचार समिति
महानगर, गुवागरी - ७८१ ०११
GENERAL MANAGER (PERSONNEL)
Northeast Frontier Railway
Maligaon, Guwahati - 781 011

22

No. B/2524/DN/18 P.U. (T).

December 15, 1999.

To
Mr. K.B. Lal,
Executive Director/Estt
Railway Board
New Delhi.

Reg :- Request for Board's dispensation for appointment of VCRC candidate.

1. Shri Dipankar Deka, who had joined the Vocational Course for Railway Commercial, appeared in the AISSB examination in the year, 1998 and could not come out successful in as much as that his percentage was below the prescribed level.

2. Again, he appeared in the betterment examination in the year 1999, in which he got compartmental. Subsequently, he cleared it in the same year i.e. in 1999.

3. Railway Board's letter No. EW/95131-8 dt. 27.10.95 stipulates that a student who has failed or has been placed in compartment or who did not obtain the requisite marks in the first attempt may be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year and not later.

4. In the instant case, Shri Dipankar Deka failed in the first examination in 1998, appeared in the second betterment chance in 1999 and got compartment, which he cleared in the same year.

5. In the instant case, Shri Dipankar Deka, in fact, passed the examination with the prescribed percentage of marks in the second chance, if the compartment is taken as an integral part of the main examination. Otherwise also, it would not be fair to debar him from job on the premise that he could not pass the betterment examination in one stroke because any candidate appearing for betterment will keep on calculating his own perceived percentage with each passing paper and if he feels at the end of the last but one paper that his is a borderline case, then in the last paper unless he is sure of scoring very high he will like to drop and earn an intentional compartment so that in the next and last chance he can improve his percentage with more preparation. In other words, the compartment in such cases should not be viewed as a failure. It is a well calculated and intelligent action of the candidate - may be in ignorance of the Railway rules.

6. In the above back-drop, this Railway feels that Shri Deka should not be denied appointment on the ground that he cleared the examination in the second chance with compartment.

7. What is more, it is experienced over the years that the gradual induction of VCRC candidates in the Railway Service, as a front line staff, there has been, in fact, a qualitative improvement in the services rendered to the rail users. And in this context also, it would be desirable not to lose Shri Deka's services as a Railway employee.

8. Board are, therefore, requested to consider the above aspect and allow this Railway to absorb Shri Deka in the Railway Service.

9. An early reply is requested.

[Signature]
For General Manager (Personnel)
NF Railway, Maligaon.

Attended as true copy

B.D. Konwar

Advocate

Dipankar Deka

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD)

ANNEXURE-A/6A
SN-61

36 (23)

No. E(4)/95ED1-3

रेल बोर्ड, नई दिल्ली-110001, दिनांक
नई दिल्ली, New Delhi-110001, dated

27.10.95 19

श्री B.P. Ebenezer,
Joint Secy, CBSE, New Delhi

श्री R.R. Gupta,
Joint Secretary (Acad)/
C.B.S.E./New Delhi.

Prof. A.K. Mishra,
Director/Vocational Training
Bhopal.

श्री H.R. Sharma,
Director(Academic)
CBSE /New Delhi.

श्री C.D. Sharma,
Educational Officer/V,
CBSE/New Delhi.

Dear Sirs,

Subj:- Vocational Course in Railway Commercial -
Minutes of the Meeting of the Monitoring
Committee held on 17.10.95.

Kindly find enclosed herewith a copy of the minutes of
the Monitoring Committee on Vocational Course in Railway Commercial
held in the Ministry of Railways on 17.10.95.

Yours faithfully,

(A.V.M. Kuttu)

Joint Director, Estt. (Welfare)

Copy for information and
necessary action to:

- 1) All Chief Personnel Officers of
Zonal Railways.
- 2) All Principals of Schools where
VCRC is conducted.
- 3) All Chairmen/Railway Recruitment
Boards who conduct Entrance Test
for VCRC.

Attested as true copy

B.D. Kumar
Advocate

Dipankar Deka.

MINUTES OF THE MEETING OF THE MONITORING COMMITTEE IN THE VOCATIONAL COURSE IN RAILWAY COMMERCIAL HELD IN THE MINISTRY OF RAILWAYS, Room No. 208 ON 17.10.95.

Present

1. Shri G. Ramakrishnan, Adviser (Staff), Railway Board.
 2. Prof. B.P. Khandelwal, Chairman/CBSE.
 3. Shri R.D. Lakhanpal, Executive Director Estt./Railway Board.
 4. Shri H.R. Gupta, Joint Secretary(Acad.)/CBSE.
 5. Shri A.V.M. Kutty, Joint Director Estt.(Welfare) Railway Board.
 6. Shri C.D. Sharma, Education Officer(V)/CBSE.
 7. Shri P.N. Kumaran, Desk Officer Estt.(Welfare), Railway Board
- Prof. A.K. Misra, Director/ Vocational Training, Bhopal and Shri H.R. Sharma, Director(Academic)/CBSE could not attend the Meeting.

At the outset Adviser(Staff) welcomed the members to the Meeting. He mentioned that during the course of conduct of Vocational Course in Railway Commercial certain issues have cropped up which needed immediate solution. This Meeting was accordingly convened for discussion of these issues. The points discussed and the decisions arrived at in the Meeting are as under:-

1. Admission of Students who have not studied English upto Class X.

1.1 Shri Suresh Kumar Dubey who qualified the entrance examination held by RRB/ Allahabad for admission to Class XI of the Vocational Course in Railway Commercial was not given admission by the Govt. Composite(Model) Co-Edn Sr. Sec. School/ Delhi on the grounds that he had not studied English as a subject in Class X. English is not a compulsory subject in class X examination conducted by the UP Board, but it is a compulsory subject for Vocational Course.

1.2 The Committee felt that in view of policy of the Government to make the official language more popular, it will not be appropriate to deny Shri Dubey

Attested as true copy

B.D. Kumar

Advocate

Dipankar Deka

68/2 ✓
1 2
admission to the Vocational Course. It was noted that Shri Dubey has qualified in the Entrance Examination which included a paper in General English.

1.3 CBSE representatives explained that there was no rule which prohibited the students from studying English at plus two stage even though one may not have offered English in Class X. Shri Dubey may be admitted in the school since he is prepared to study English. It was, therefore, decided that CBSE will settle the issue of Shri Suresh Kumar Dubey's admission in Class XI in consultation with the Principal of the school.

2 No. of Chances to be given to the failed candidates of Class XII for improving position to get appointment on Railways.

2.1 Vocational Course in Railway Commercial is a job-linked course and its main objective is to have recruits with better academic standard, spirit of service, discipline and pride of profession in the public in the categories of Commercial Clerks/ Ticket Collectors. The aim is to 'Catch them young'. Railways being the employer have every right to fix the minimum standards required by the candidates.

2.2 CBSE representatives mentioned that CBSE now provides only one chance for improving the position viz, in the main examination held in March/April of next academic year.

2.3 It was decided that a student who has failed or has been placed in compartment or who did not obtain the requisite marks in the first attempt may be offered appointment only if he obtains the required percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year, and not later.

3 Admission of students with higher educational qualification or who have appeared more than once in Class Xth.

3.1 As per the notifications issued by RRBs, students who would be appearing for the Xth class examination of a recognised Board during the current academic year may apply for the Vocational Course in Railway Commercial. It is implied that the students are appearing in the Xth class for the first time. Ms Anamika had passed Xth class examination of UP Board in 1989 and Intermediate from UP Board in 1991. She appeared for Class X of the Bihar Board in 1991. She qualified in the entrance examination for Vocational

Dipankar Deka.

GOVERNMENT OF INDIA (MINISTRY OF RAILWAYS)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)

ANNEXURE - A/7

G.E(W) 89ED1-13 (Vol. III)

New Delhi, dated 20.5.1994.

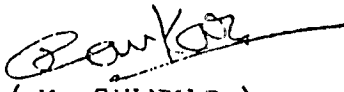
The General Managers
All Indian Railways

Sub: Vocational Course in Railway Commercial -
Appointment on Railways of candidates
successful in Supplementary examinations.

Students who pass the Vocational Course with at least 55% marks (45% in case of SC/ST) in "Railway Commercial Working" as well as in the aggregate are to be offered appointment on the Railways as Commercial Clerks or Ticket Collectors. A question has been raised in this connection whether students who clear the Course through Supplementary examinations may be offered appointment. It is clarified that appointment may be offered to the candidates who were either placed under Compartment or who could not secure the prescribed percentage of marks, on their clearing the Compartment and securing the prescribed percentage in the subsequent chances given by CBSE for taking the examination.

(This disposes of Northern Railway's letter No. 220E/1878/Pt. III dated September, 1993).


2. Hindi version will follow.


(K. SHANKAR)
Desk Officer, Estt. (Welfare)
Railway Board.

No. E(W) 89ED1-13 (Vol. III)

New Delhi, dated 20.5.1994.

1. Copy for information to Principals of all 9 schools where the Vocational Course is being conducted.
2. Copy for information to the Railway Recruitment Boards Allahabad, Bhopal, Bombay, Calcutta, Guwahati, Gorakhpur, Madras, Patna, Secunderabad.
3. Copy to CPOs of all Zonal Railways for information.
4. Shri H.R. Gupta, Jt. Secretary (Acad.), CBSE, IP Estate, New Delhi.


(K. SHANKAR)
Desk Officer, (re)

Attested as true copy
B.D. Kousar, Advocate

Dipankar Datta

N. F. RAILWAY

ANNEXURE- A/8.

(27)

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

NO.E/252/EDN/18 Pt.II(T)-98-99 Dated:14-02-2000

To
Shri Dipankar Deka,
C/o Shri Umesh Ch. Deka,
Vill. Majarkuri,
P.O. Randia,
P.S. Hajo, Kamrup,
PIN- 781 102

Sub: Appointment of VCRC candidate.

Railway Board's vide their letter No.E(W)99/
~~xxxxxx~~ ED1-8 dtd.24-1-2000 have informed that you
could not qualify and secure the prescribed percentage
of marks at the 2nd attempt and as such you are not eli-
gible for appointment in the Railways.

This is for your information please.

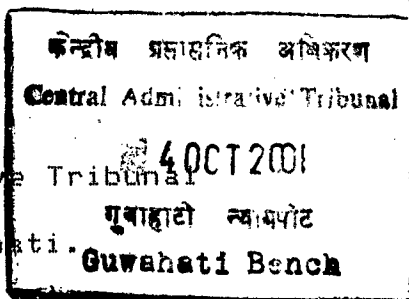
(S. Chakraborty)
APO/T
for General Manager (P)/MIG

Attested as true copy

B. D. Konwar

X Shroate

Dipankar Deka



In The Central Administrative Tribunal

Guwahati Bench :: Guwahati.

O.A. NO. 21/2001

Sri Dipankar Deka

- 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 paragraph
4.1 it is stated that the applicant joined the VCRC course
in the year 1996-97. He appeared in the AISSCE main
examination in the year 1998 but could not come out
successful in the said examination. He secured only 31.4%
marks whereas minimum pass mark prescribed by the Railway
Board is 55% (45% in case of SC/ST). Thereafter the
applicant appeared in the betterment examination in the year
1999, in which he got compartment. Subsequently he cleared
the compartment in the same academic year i.e. 1999 with
total 55.8% of marks. Railway Board by letter dated 27.10.95
stipulated that a student who has failed or has been placed
in compartment or who did not obtain requisite marks in the
first attempt may be offered appointment only if he obtains

(0 with out merit is
beant as an
integral Exn.

Filed by the respondents
through R. Chakraborty
24/10/2001

the required percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year, and not later. Since the applicant could not clear the examination in the second attempt in the year 1999 (in which he got compartment) he was not appointed in the Railways. It is also stated that the case of the applicant was referred to the Railway Board by GM(P)/Maligaon's letter No. E/252/EDN/18/Pt.II(T) dated 15.12.1999. They, after careful examination of the case communicated by letter No. E(W) 99 ED1-8 dated 24.01.2000 that the applicant is not eligible for appointment on the Railways since he could not qualify and secure the prescribed percentage of marks at the second attempt. Accordingly the same was communicated to the applicant by letter No. E/252/EDN/18/Pt.II(T)98-99 dated 14.2.2000.

4. That in reply to the statements in para 4.11 to 4.12 the respondents reiterate the statements made in para 3 above.

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

Verification

I, ... J.S.P. Singh ..., working as CPo/A ..., N.F.Rly, Maligaon, do hereby verify that, the statements made in the paragraphs 1 to 9 are true to my knowledge.

Guwahati

/2001

usl
Signature

OMD