

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 222/2001

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::::: GUWAHATI

ORDER SHEET

Original APPLICATION NO .. 222... OF 2001.

Applicant (s) Mrs Trishna Bora

Respondent (s) Union of India

Advocate for Applicants (s) Mr. B.M. Sarma, Mr. A.D. Chaudhury

Advocate for Respondent (s) C.A.S.L. Mr. San Gupta

Notes of the Registry Date Order of the Tribunal

This application is in form
but not in time. Consideration
Petition is filed not filed vide
M.P. No. X C.F.
for Rs. 50/- deposited vide
IPO/BD No 56424057
Dated 8.6.2001

19.7.01

Heard Mr. B. M. Sarma, learned
counsel for the applicant.
The application is admitted,
call for the records, list on 20.8.01.

I C U Sharan
Member

Vice-Chairman

bb

20.8.01

Await Service Report. List on

4.9.01.

I C U Sharan
Member

Vice-Chairman

Envelope and Excess Rs 5/- not
deposited by the Applicant Adv.
Affidavit Notice prepared and
sent to Adv. for writing the
Petition No 1 to 6 by
Regd A.D. vide D/16/2682 W
26.8.7 add 26/7/01.

1m

4.9.01

Mr. S. Sengupta, learned Rly. counsel
for the respondents states that he has not
received any instructions. 4 weeks time is
allowed to file rejoinder.

List on 10/10/01 for order.

I C U Sharan
Member

① Service report are
still awaited.

mb

Rs 5/- deposited by
the Applicant Adv.

Regd
17.8.01

(2)

10.10.01 List the matter on 24.11.2001

to enable the respondents to file written statement.

(1) Service report are still awaited.

Zy
3.9.01

IC Usha
Member

Vice-Chairman

bb

No written statement has been filed.

Zy
9.10.01

No written statement has been filed.

Zy
21.11.01

No written statement has been filed.

4.1.02

No written statement so far filed by the respondents. Further four weeks time is allowed for filing of written statement as a last chance.

IC Usha
Member

Vice-Chairman

lm

4.2.02

List on 7.3.2002 to enable the respondents to file written statement.

IC Usha
Member

Vice-Chairman

mb

7.3.02

No written statement so far is filed. On the prayer of Mr. S. Sengupta, learned counsel for the Respondents further four weeks time is allowed to file written statement as a last chance.

List on 8.4.2002 for order.

IC Usha
Member

Vice-Chairman

mb

8.4.2002

List the case on 10.5.2002 enabling the respondents to file written statement

IC Usha
Member

Vice-Chairman

bb

No written statement has been filed.

Zy
9.5.02

O.A. No. 222/2001

(3)

Notes of the Registry Date

Order of the Tribunal

10.5.02

No. wts has been filed.
5.6.02

It has been stated by Mr. S. Sen-gupta, learned counsel for the Respondents that like case namely O.A. No. 476 of 2001 is already posted for hearing on 6/6/2002. This case may also be listed for hearing alongwith the said O.A. In the meantime, the parties may exchange pleadings.

List on 6/6/2002 for hearing.

K. C. Sharma
Member

Vice-Chairman

mb

6/6/02

Heard Mr. B. M. Sharma Learned Counsel for the applicant and Mr. S. Sen-gupta Learned Counsel for the Respondents. Hearing concluded.

Judgment reserved.

Member (A)

Vice chairman

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

K. C. Sharma
Member

Vice-Chairman

nkm

Judgment ordered, 14/6/02
Commissioned to the applicant
and parties concerned
24/6/02

Exhibit 3

Notes of the Defendant

order of the Tribunal

3

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 222 of 2001

14th June 2002

Date of Decision.....

Ms Trishna Boruah

Petitioner(s)

Mr B.M. Sarma and Mr A.D. Chaudhury

Advocate for the
Petitioner(s)

-Versus-

The Union of India and others

Respondent(s)

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Mr S. Sengupta, Railway Counsel

Advocate for the
Respondent(s)

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

Date of Decision.....

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

Petitioner(s)

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

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.

Advocate for the
Respondent(s)

(2).....

To the Minister responsible for Town Planning with regard to the proposed
modification?

2. To the reference of this letter on not

3. Whether the party concerned will be given time to file a written

4. Whether the party concerned will be given time to file a written

(3).....

5. To the reference of this letter on not

(3).....

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.222 of 2001

Date of decision: This the 14th day of June 2002

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

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

Ms Trishna Boruah,
D/o Shri Narayan Baruah,
Village- Boraera, P.O.: Titabor, P.S.: Titabor,
District: Jorhat, Assam.Applicant
By Advocates Mr B.M. Sarma and Mr A.D. Chaudhury.

- versus -

1. The Union of India, through the
General Manager,
N.F. Railway,
Maligaon, Guwahati.
2. The Secretary, Establishment,
Railway Board,
New Delhi.
3. The Railway Recruitment Board, Guwahati,
represented by the Chairman,
Railway Recruitment Board,
Guwahati.
4. The Chairman,
Railway Recruitment Board,
Guwahati.
5. The General Manager (P),
N.F. Railway,
Maligaon, Guwahati.
6. The Chief Personnel Officer (Admn),
N.F. Railway,
Maligaon, Guwahati.Respondents
By Advocate Mr S. Sengupta, Railway Counsel.

.....
O R D E R

CHOWDHURY.J. (V.C.)

The issue relates to appointment in the Railway Service on completion of the Vocational Course in Railway Commercial (Two Years) Job Linked Course Full Time) for the academic year 1997-98. The Railway

A

Recruitment Board invited applications in the prescribed form for admission into the Vocational Course in Railway Commercial (2 Years' Job Linked Course Full Time) commencing in the academic year 1997-98 from candidates below 18 years of age and appearing for the first time for 10th class examination in the current academic year from a recognised Board. As per the Notification the last date for submission of applications was 6.12.1996. The Notification also indicated that candidates seeking admission to the Vocational Course would be required to appear in an entrance examination to be held on 9.2.1997. In the advertisement it was also mentioned that those who qualify for admission as per merit list will be admitted to the two-year Vocational Course in Railway Commercial, commencing from the academic year 1997-98, provided they pass the 10th class examination with at least 50% marks (40% in the case of SC/ST/OBC candidates). As per the stipulation mentioned in the Notification, on successful completion of the course, the candidates were to be appointed in the Railway service as Commercial Clerks/Ticket Collector in the scale of pay of Rs.975-1500 with usual allowances as admissible from time to time.

2. In terms of the Notification the applicant submitted her application in appropriate form and after processing of the application she was called for the written examination for admission to the Vocational vide letter dated 20.1.1997, that was to be held on 16.2.1997. By Memo dated 16.2.1997 the respondent No.4 intimated the applicant that she was declared provisionally eligible to appear in the viva-voce test to be held on 30.6.1997. Subsequently, vide letter dated 30.7.1997, the Senior Personnel Officer (W) for General

Manager informed the applicant that she was selected for the Vocational Course in Railway Commercial which was to commence for the academic year 1997-98 in the Faculty H.S. School, North Guwahati and accordingly she was advised to report to the SPO(W)/CPO's office, Maligaon alongwith the required documents in original on or before 8.8.1997. She was also intimated that her candidature would be finally considered subject to her passing the H.S.S.L.C. Examination with requisite percentage of marks fulfilling the other eligibility conditions. The applicant accordingly reported before the concerned authority and the concerned authority by communication dated 8.8.1997 directed the applicant to report to the Principal, Faculty H.S. School, North Guwahati by 12.8.1997 for admission into the Vocational Course for Railway Commercial for the academic year 1997-98 provisionally. She was also directed to submit her HSLC/Equivalent examination original marksheet securing requisite percentage of marks within the period specified. The applicant accordingly reported to the Principal, Faculty H.S. School and she was duly admitted. The applicant successfully completed the course in the year 1999 and the respondent No.5 was accordingly intimated to that effect by the school authority. According to the applicant, save and except her all her batch mates were appointed on successful completion of the Vocational Course ignoring her claim. It may be mentioned herein that the applicant belonged to the Koch-Rajbongshi Caste/Community of the State of Assam. The Koch-Rajbongshi community was declared as Other Backward Class (OBC for short) Community by the Government of Assam vide Notification No.TAD/BC/268/75/37 dated 27.11.1975. The community as a whole was enjoying the benefit of the

Notification.....

Notification as members of the OBC community ever since the publication of the above Notification. By an Ordinance dated 27.1.1996 the Koch-Rajbongshi community was included in the list of Scheduled Tribes specified in relation to the State of Assam (excluding autonomous districts) by amending the Constituent (Scheduled Tribes) Order, 1996 and the said Ordinance was to provide for inclusion of the Koch-Rajbongshi in the list of Scheduled Tribes specified in relation to the State of Assam, which was duly notified in Part II- Section I of the Extraordinary Gazette of India dated 27.1.1996. The benefit continued vide the second ordinance dated 27.3.1996. The third ordinance was promulgated on 27.6.1996. On 9.1.1997, the fourth ordinance was issued to continue the benefit to be conferred on those people. However, the last ordinance conferred the benefit only for a period of six weeks. The Parliament referred the matter for being considered by a Joint Select Committee of Parliament. The ordinance was pending before the said committee and thus the Ordinance came to be lapsed by virtue of efflux of time. The above facts were recorded in the Judgment and Order rendered by the High Court on 2.4.1998 in Maitreyee Mahanta and others Vs. State of Assam and others, reported in 1998 (1) GLT 504. It may also be mentioned here that the Government of Assam vide Notification No.TAD/ST/98/92/138 dated 28.1.1996 notified to the effect that consequent upon inclusion of Koch-Rajbongshi Community in the list of Scheduled Tribes of Assam (excluding Autonomous Districts) it was ordered that the Koch-Rajbongshi as appeared against serial No.18 of the Notification dated 27.11.1975 would cease to be a constituent of Other Backward Classes of Assam with immediate effect. In effect the said

Notification.....

Notification deleted the Koch-Rajbongshi Community from the constituent of OBC in the State of Assam in view of the fact that the Koch-Rajbongshi Community was included in the list of Scheduled Tribes of Assam. For the events mentioned above, the applicant was not favoured with the appointment order. Hence this application seeking for a direction on the respondents for appointing her in the Railway service as Commercial Clerk/Ticket Collector as per the advertisement.

3. The respondent authority contested the case and opposed the claim of the applicant. In the written statement the respondent authority stated and contended that the applicant was found to have fulfilled all the conditions of the advertisement dated 9.11.1996 and accordingly she was admitted in the Vocational Course in Railway Commercial (2 years Job Linked Course) commencing in the academic year 1997. In the written statement the respondents also stated that the applicant belonged to the Koch-Rajbongshi community and that she was selected against the Scheduled Tribes quota on 24.7.1997 vide panel dated 24.7.1997. The Ordinance issued vide Gazette Notifiction dated 27.1.1996 became invalid and to that effect it referred to the Railway Board's clarification. The respondents in the written statement specifically mentioned that the Koch-Rajbongshi community was treated as Scheduled Tribes only from 27.1.1996 to 2.4.1997 and after that they were no more Scheduled Tribes and that vide Gazette Notification dated 29.1.1996 they were deleted from the Central List of Backward Classes of Assam and as such they were not OBC also from 29.1.1996. It was stated that on the day of advertisement.....

advertisement/notification the applicant was Scheduled Tribe and since the ordinance lapsed when the question of her appointment in the Railways came against the Scheduled Tribes quota, she ceased to be a member of the Scheduled Tribe community and as such she could not be provided appointment against the Scheduled Tribe quota due to the lapse of the ordinance and the Railway Board's letter and Ministry of Tribal Affairs, Assam's letter dated 8.11.2000 by which it was clarified that Koch-Rajbangshi community was treated as Scheduled Tribes and they were deleted from the list of Backward Classes.

4. We have heard the learned counsel for the parties at length. Mr B.M. Sarma, learned counsel for the applicant, strenuously contended that the applicant was duly selected as per the advertisement and she was adjudged suitable for selection. The applicant had undergone the necessary course and on completion of the training it was incumbent on the authority to fulfil their commitment as per their advertisement. The learned counsel for the applicant contended that on the last day of receipt of applications, the applicant was a Scheduled Tribe since the Koch-Rajbongshi community was listed as Scheduled Tribes by the Ordinance No.9 of 1996. It continued to be Schduled Tribe till the ordinance came to be lapsed by efflux of time. Mr Sarma contended that the date of eligibility was to be determined on the last date of receipt of application and admittedly, the applicant was a Scheduled Tribe as on 6.12.1996. The right she acquired as such was an indefeasible right and could not have come to an end by efflux of time. Alternatively, Mr Sarma submitted that at any rate the applicant indisputably

belonged.....

belonged to the Koch-Rajbongshi community. Admittedly, the Koch-Rajbongshi community by notification dated 27.11.1975 all throughout were treated as OBC in the State of Assam. The same was deleted on 28.1.1996 in view of the inclusion of the community in the list of Scheduled Tribes.

5. As per the advertisement the Scheduled Caste/Scheduled Tribe and Other Backward Classes candidates were provided with similar benefits. The applicant could not have been denied the benefit of OBC in view of the decision rendered by the High Court in M. Mahanta's case (Supra), where the High Court issued a Writ of Mandamus to the respondents to modify the notification dated 28.1.1996 with a view to revive the rights and privileges already accrued to Koch-Rajbongshi community in serial No.18 of the Notification dated 27.11.1975 within a prescribed period. In the aforementioned case also the applicants who were aspirants for admission to the MBBS/BDS course belonged to the Koch-Rajbongshi community were provided the benefit of Scheduled Tribes quota and subsequently the benefit was withdrawn because of the lapse of the Ordinance. The High Court in the said case also directed for providing the benefit of OBC for the purpose of reservation, contended the learned counsel for the applicant.

6. Mr S. Sengupta, learned Railway Counsel, contended that the respondent authority assessed the facts in its entirety and bonafide took the decision in view of the events mentioned in the written statement.

7. We have given our anxious consideration in the matter. Admittedly, on the last date of receipt of the applications, the applicant was a Scheduled Tribe candidate.....

candidate. The Koch-Rajbongshi community, subsequently ceased to be Scheduled Tribes in view of the lapse of the ordinance. But the fact remains that Koch-Rajbongshi community was also one of the OBCs and subsequently, the High Court issued mandamus to the respondents in M. Mahanta's case (Supra) to revive and preserve the rights already accrued to the community which could not be lost sight of. The act of law should prejudice no person - "Nemini facit injuriam" - Law favours public good. It was the act of the respondents which generated the legitimate expectation of the applicant for her absorption and it was the respondents who sent her for the job linked course, which she completed at the cost of the public. Keeping in mind the balance of hardship and inconvenience with consonance of equity we are of the opinion that this is a fit case in which the respondents should reconsider the entire matter in the light of the observations made above for the applicant's appointment in the Railway service as Commercial Clerk/Ticket Collector as per the advertisement in the facts and circumstances of the case. We accordingly direct the respondents to consider the case of the applicant for appointment in the light of the decision of the High Court in Maitreyee Mahanta and others (Supra) bearing in mind our findings and observations made above. We also direct the respondents to complete the above exercise expeditiously, preferably within two months from the date of receipt of the order.

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

K. K. Sharma
(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN

(1) अमृता
Chairman
रेल मर्ती वोर्ड
Railway Board
Filed by
Gurudas Sen (Adv.)
Railway
General Manager
Railway Advisor
Guwahati

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

IN THE MATTER OF :

O.A. No. 222 of 2001

Miss Trishna Baruah ... Applicant

- Vs. -

1. Union of India.
2. The Secretary (Establishment),
Railway Board, New Delhi.
3. The Railway Recruitment Board,
Station Road, Guwahati.
4. The Chairman, Railway Recruitment
Board, Station Road, Guwahati.
5. The General Manager (P),
N. F. Railway, Maligaon.
6. The Chief Personnel Officer
(Adm.), N.F. Railway,
Maligaon. ... Respondents.

- AND -

IN THE MATTER OF :

Written Statement for and on behalf of
the Respondents.

The answering respondents most respectfully beg to
sheweth as under :

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

Chairman
Shri
Ran
Kumar
Sinha
S
Date
12/12/2012

2. That, save and except those statements of the applicant which are borne on records or are specifically admitted hereunder, all other allegations/averments of the applicant as made in the application are denied herewith and the applicant is put to strictest proof of these statements which are not specifically admitted by the respondents.

3. That, for the sake of brevity, the respondents have been advised to confine their reply only on those averments of the applicant which are relevant and material for proper decision in the case and the meticulous denial of each and every averments/allegations have been avoided without admitting the correctness of any such allegations/averments.

4. That, the case suffers for want of valid cause of action.

5. That, the applicant has opt no valid right to file this application.

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

7. That, with regard to averments in paragraphs 4.1 to 4.11 of the application, the respondents admits only those statements which are borne on records and/or are specifically admitted hereunder. -

It is to mention herein that the notification/advertisement of the Railway Recruitment Board is dated 9.11.96, a copy of which has been annexed as Annexure-I to the application and as she was found to have fulfilled all the conditions of the notification/advertisement dated 9.11.96 she was admitted in the vocational course in Railway Commercial (2 years job linked course) commencing in the academic year 1997. 

It is admitted that the applicant belonged to Koch-Rajbongshi Caste/Community as stated at paragraph 4.iii of the application and as also observed from the Annexure-3 to the application, and that the applicant was selected against the Scheduled Tribe quota on 24.7.97 vide Panel dated 24.7.97. But the ordinance issued vide Gazette notification dated 27.1.96 became invalid as is well apparent and 31.10.96 from the Railway Board's letter dated 2.1.98. The Railway Board clarified that the Koch-Rajbongshi community appointed during the period 27.1.96 to 21.8.96 cannot be selected against the S.T. (Scheduled Tribe) quota. Thus, the benefit lapsed on 21.8.96.

Ministry of Tribal Affairs in Assam vide their letter dated 8.11.2000 also clarified that :

- (i) Koch-Rajbongshi community was treated as S.T. only from 27.1.96 to 2.4.97 and after that they are no more S.T. and
- (ii) vide Gazette notification dated 29.1.96, they were deleted from the Central list of Backward Class of Assam and as such they are not O.B.C. (Other Backward Community) also from 29.1.96.

-: 4 :-

It is thus a fact that on the day of advertisement/notification she was S.T. ~~and on the day of selection she was ST.~~ and as the ordinance lapsed when the question of her appointment in the Railway came against the S.T. quota, she ceased to be member of the S.T. Community and as such she could not be provided with appointment against the S.T. quota pests, due to lapse of the ordinance and the Railway Board's letter and Ministry of Tribal Affairs, Assam's letter dated 8.11.2000 by which they clarified that Koch-Rajbanshi Community was treated as Scheduled Tribe and from 27.1.96 to 24.7.97.

Photo Copies of Gazette of India dated 27.1.96 showing ordinance No. 9 of 1996 Ministry of Welfare, Government of India letter No. 12025 (11/96 SCD) (R. Cell 3) dated 31.10.96 showing promulgation of 3 ordinances and lapse of 3rd ordinance dated 27.6.96 on 21.8.96 and Clarification sent by Railway Board vide letter dated 12.97 in reference to N.F.R. Order letter dated 5.2.97 are annexed hereto as Annexure A, B and C respectively.

8. That, with regard to averments at paragraphs 4.x, 4.xi, 4.xii, 4.xiii and 4.xiv of the application it is stated that none of her allegations are admitted except those which are borne on records or are specifically admitted hereunder.

In this connection it is to reiterate that the applicant was not appointed in Railway's job on successful completion of the V.C.R.C. Course due to the fact that the ordinance issued in the Gazette notification dated 17.1.96 became invalid vide Railway Board's letter No. 94E(SCT)31/2 dated 2.1.98 as the Railway Board has categorically stated vide Para-VIII that candidate belonging to Koch Rajbanshi community appointed during 27.1.96 to 21.8.96 period cannot be selected against S.T. quota. Since the applicant was selected against the S.T. quota on 24.7.97 (i.e. the panel published by the Chairman, Railway Recruitment Board on 24.7.97), the applicant could not be appointed against the S.T. quota as the benefit extended on 27.1.96 already lapsed from 21.8.96.

It is also to state herein that a reference was also made to the Railway Board vide letter No. E/252/EDN/18 Pt.II(T)/98-99 dated 6/7.1.2000 on the point as to whether the applicant could be offered the appointment since she belongs to Koch Rajbonshi Community and also could be considered against the S.T. quota (as the applicant already completed the V.C.R.C. Course) or the applicant has to be refused appointment to the post for which she has undergone two years training course. But the Railway Board has not considered for her appointment on the Railways as Ticket Collector/ Commercial Clerk against the Scheduled Tribe (S.T.) quota vide Railway Board's letter No. 94 E(SCT)1/31/2 dtd. 19.6.2001 on the ground that on reference of her case to the nodal Ministries i.e. the Ministry of Tribal Affairs and the Ministry of Social Justice and Empowerment. They replied/clarified as under :

(a) The Ministry of Tribal Affairs vide their letter O.M. No. 1206/55/2002/TA(ME) dated 8.11.2000

have clarified that Koch Rajbonshi Community of Assam was specified as Scheduled Tribe from 27.1.96 to 2.4.97 and after that Koch Rajbonshi Community is not treated as Scheduled Tribe in the state of Assam.

(b) The Ministry of Social Justice and Empowerment vide their O.M. No. 12011/65-ECC dated May 2001 have also clarified that according to the Gazette of India notification No. 29 dated 29.1.1996, the Caste/Community "Rajbonshi Koch" has been deleted from the Central list of Backward Classes of Assam.

As such persons belonging to this Caste/Community cannot enjoy the benefit of O.B.C.'s also in the State of Assam from the date of issue of above notification i.e.

~~29.1.96~~ and accordingly, the applicant was intimated vide General Manager (P), N.F. Railways letter No.E/252/EDN/18/Pt.II(T) dated 12.7.2001 that the applicant's case cannot be considered for appointment as Ticket Collector/Coaching Clerk against S.T. quota though the applicant belonged to Koch Rajbongshi Community.

9. That, with regard to grounds as stated at paragraphs 5 and relief sought for at paragraph 8 of the application, it is submitted that in view of what have been submitted in the foregoing paragraphs of this Written Statement, none of the grounds as put forward by the applicant are sustainable. The relief as prayed for by the applicant in paragraph 8 of the application are also not admissible in view of the fact of the case. It is also denied that -

- (i) There has been any arbitrary or discriminatory action on the part of the respondents in dealing with her case. or
- (ii) That the applicant has not been informed or apprised of as to ~~why~~ why she has not been appointed. or
- (iii) That she acquired a right for appointment or a ~~that as~~ right of enduring character and she was termed as S.T. on the day of advertisement/notification and upto the day of her of selection she was enjoying the status of S.T. by virtue of

ordinances in vogue. It is also a fact that at the time of consideration of her appointment, she ceased to belong to S.T. Community due to lapse of the ordinance ~~not~~ followed by an Act and hence she could not be offered employment against the S.T. quota.

10. That, all the actions taken in the case are quite legal, valid and proper.
11. That, the answering respondents crave leave of the Hon'ble Tribunal to permit them to file additional Written Statement in future, in case the same is found to be necessary for the ends of Justice.
12. That, under the facts and circumstances of the case as stated above, the instant application is not maintainable and is also liable to be dismissed.

-: 8 :-

VERIFICATION

I, O.P. AGRAWAL son of
Sh. MIL. Agrawal aged about 44
 years by occupation Railway Service at present working
 as Chairman of the Railway Recruitment Board, do hereby
 solemnly affirm and state that the statements made at
 paragraphs 1, 2 and 3 are true to my knowledge and those
 made at paragraphs 7 and 8 are true to my information as
 gathered from records which I believe to be true and the
 rest are my humble submissions before the Hon'ble Tribunal.

OK
 56/01
 CHAIRMAN
 RAILWAY RECRUITMENT BOARD
 GUWAHATI.
 FOR AND ON BEHALF OF UNION
 OF INDIA.

अध्यक्ष
 Chairman

11-7-00

ANNEXURE - C

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

GROWTH

1/31/2

New Delhi, dated 12.97

at Manager,
East Frontier Railway,
Ligaon, Guwahati.

Sub: Eligibility of Koch-Rajbongshi Community
as Scheduled Tribe in relation to Assam.

Ref.: N.F. Railway's Letter No.E/231/Resv/C.V./P.I
(KR) dated 5.2.97.

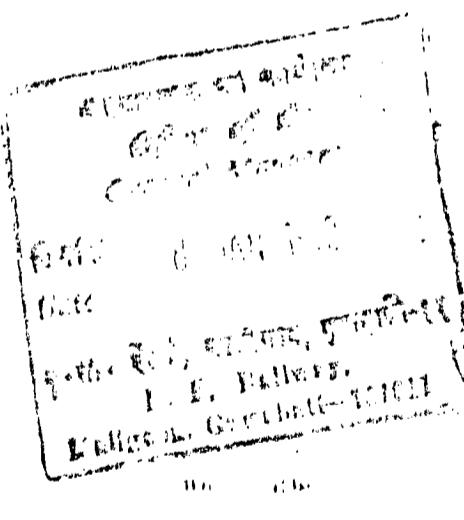
51.1.75 L

• • •

With reference to above, Ministry of Welfare's O.M. No.12016/17/81-SCD(R.Cell) dated 20.10.97 enclosing Department of Legal Affairs' clarification, is enclosed for further necessary action on the above subject.

Encl.; As above.

(Surindar Kumar)
Jt. Director Estt. (Res.) II
Railway Board.



No. 12016/17/Ministry (U.P.)
Government of India
Ministry of Welfare

10

New Delhi, date 20.10.1967.

Office Memorandum

Subject:- Liability of Railways in regard to
as Scholastic in relation to Austria.

The undersigned is directed to refer to Ministry of Railways O.M. No. 94/R/SGT/1/3172 dated 07.10.1967 on the above subject and to say that similar issues were raised earlier. This Ministry had sought advice of the Deptt of Legal Affairs on these issues. An extract of the advice is enclosed for information.

(J. L. Vaidya)
Joint Director

The Ministry of Railways
(Shri Sarvinder Kumar, Joint Director Legal)

Railway Board
Rail Tribunals

SECRET

Exhibit of Legal Affairs

77

W.M. 11

26

To Legal Affairs
Shri C. Achuthan, (S&LA)

मान सरकार
Ministry of Law & Justice
लाल कालीन
(Dept. of Legal Affairs)
मान सरकार
Advice 'A' Section

Ministry of Welfare has posed us certain issues
advice concerning the status and entitlements of
sons belonging to the Kooh-Rajbongshi community which
is specified as Scheduled Tribe of Assam. We may answer
their queries ariatim as under:-

Whether persons belonging to Kooh-Rajbongshi
community who had not obtained Scheduled Tribe certificates
up to 21.8.1996 can apply and obtain scheduled tribe
certificates even after 21.8.1996 ?

मान सरकार द्वारा
Min. of Law, Ju. & C.

84/12

Where persons belonging to Koch-Rajbongshi community who have not obtained certificates from 27.1.1996 and 21.8.1996 under the Constitution (Scheduled Tribes) orders (Amendment) 3 rd ordinance 1996 had lapsed cannot apply for or obtain Scheduled Tribe certificate after 21.8.96 because that community is no longer a Scheduled Tribe after that date.

whether the members of Koch-Rajbongshi who have obtained ST certificates prior to 21.8.1996 can continue to do so on the basis of such certificates after 21.8.1996?

Answer

Since after 21.8.96 the members of Koch-Rajbongshi did have the right to be Scheduled Tribe community, cannot obtain the Scheduled Tribe certificate.

(iii) Whether the benefits like ST scholarships, appointments against ST reserved seats, etc. already notifications or made available to members of Koch-Rajbongshi between 27.1.96 and 21.8.96 can continue to be availed of after 21.8.96?

Answer

Section 6(c) of the General Clause Act, 1897 provides that where any Central Act or requirement made in repealed them, unless a different intention appears the repeal shall not affect any right privilage, obligation or liability acquired accrued or incurred under any enactment so repealed and as such right, privilage, obligation or liability acquired or accrued shall continue or be enforced. The power of legislation by ordinance is as wide as the power of the legislature in enacting an Act. The mere fact the earlier ordinance has been repealed or has expired by efflux of time, cannot prevent the legal fiction from operating. Consequently, the benefits like Scheduled Tribes scholarships, appointments against reserved seats etc already effected would continue.

(iv) What would be the position of those members of the Legislative Assembly belonging to Koch-Rajbongshi who were elected from the reserved constituency during the period from 27.1.96 to 21.8.96?

Answer

The members of the Legislative Assembly belonging to Koch-Rajbongshi who were elected from the reserved constituency during the period from 27.1.96 to 21.8.96 would continue to sit in Assam during 27.1.96 to 21.8.96 and occupy their seats in the Legislative Assembly. Article 172 (Clause 1) of Constitution provides inter-alia, that every Legislative Assembly elected for a period of five years, shall continue for 1 year. Therefore, these members of the Legislative Assembly elected according to that constituency who were elected from 27.1.96 to 21.8.96 would continue to sit in Assam during 27.1.96 to 21.8.96 and continue till the term is over.

(v) Whether those applicants who have applied before 27.1.96 can be allowed ST status?

Answer

Those applicants who have applied before 27.1.96 but

28. ~~are not entitled to the certificates as they are not members of the Scheduled Tribe Community.~~

83.

13.

28. ~~are not entitled to the certificates as Koch-Kaibongshi is not a Scheduled Tribe Community.~~

~~where other persons belonging to Koch-Kaibongshi can claim their seats for which they had been selected during the period 27.1.96 to 21.8.96, but in respect of which officers of appointment had not been made/issued that period?~~

ANSWER ~~Persons belonging to Koch-Kaibongshi cannot be again selected for reserved seats for which they have been selected during 27.1.96 to 21.8.96. The selection process culminates by issuing of an appointment letter. If they had not been issued before 21.6.96, the Scheduled Tribe members cannot be claimed by them now.~~

Ans-Subj:

19/11/96
(R. S. Bhalerao)
Deputy Legal Advisor

J. S. D. L. A. (R. S. Bhalerao)

Ch. Secy

19/12/96

Welfare

Ministry of Social Welfare
Department of Scheduled Tribes
Dy. No. 5313/16/96
Section 10/12/96

may kindly see

Yours
8.12.96

Yours
8.12.96

No. 12025/11/96-SCD (R/Cell)

New Delhi - 110 011

Date October 31, 1996

OFFICE MEMORANDUM

Subject : Questions affecting the status of Koch Khasi and
as Scheduled Tribe in regard to clarification regarding

The undersigned is directed to refer to Ministry
of Railways (Railway Board) OM No. 94-E (SCT) 1/31/2 dated
13.9.1996.

2. The Koch Khasi community was first specified
as Scheduled Tribe in 1991 (excluding autonomous districts)
by amending the Constitution (Scheduled Tribes) Order, 1991
through a Presidential Ordinance promulgated on 27.1.1996.
The Ordinance was re-promulgated on 27.3.1996 and 27.6.1996.
A Bill seeking to replace the Third Ordinance has been
introduced in the Lok Sabha on 12.7.1996 and is presently
under the consideration of a Select Committee of Lok Sabha.
In terms of Article 123 of the Constitution the Third
Ordinance has lapsed on 21.8.1996, i.e. six weeks after the
last re-assorty of Parliament.

3. Advice of Department of Legal Affairs has been
sought with regard to the matters raised by Ministry of
Railways and related issues. Clarifications on these would
be sent thereafter.

Sd/-
(A. Mukherjee)
Director

Ministry of Railways,
(Railway Board)
Ram Prakash, Exe. Director, Estt.)
Rail Bhawan,
New Delhi.

21.8.96



आरती का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राप्तिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं 17] नई दिल्ली, शनिवार, जनवरी 27, 1996 / माघ 7, 1917

No. 17] NEW DELHI, SATURDAY, JANUARY 27, 1996 / MAGHA 7, 1917.

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
 Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
 (Legislative Department)

New Delhi, the 27th January, 1996/Magha 7, 1917 (Saka)

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

No. 9 of 1996

Promulgated by the President in the Forty-seventh Year of the 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 (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1996.

(2) It shall come into force at once.

Short title and
 commencement.

Amendment of
the Constitution
(Scheduled
Tribes) Order,
1950

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in "Part II.—Assam", under the Heading "II. 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".

SHANKER DAYAL SHARMA,

President.

K.L. MOHANPURIA,

Secy. to the Govt. of India.

28

IN THE
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI.
BENCH: GUWAHATI.

(An application U/S. 19 of the Administrative Tribunals Act 1985)

Title of the Case: 222/2001
Miss Trishna Boruah, ----- APPLICANT,
Vs
Union of India & Ors ----- RESPONDENTS.

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For use in Tribunal's Office:

Date of Filing: 8.6.2001

Registration No.: C-A 222/2001

REGISTRAR

filed by my Pejhim
through Arun Dev Boruah,
Date : 18-6-01.

33

IN THE
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI.

BENCH: GUWAHATI.

(An application U/S. 19 of the Administrative
Tribunals Act 1985)

O.A No. /2001

BETWEEN

Miss Trishna Boruah,
D/o. Shri Narayan Baruah
Vill: Boraera, P.O: Titabar P.S.: Titabar
District: Jorhat, Assam.

----- APPLICANT.

-AND-

1. Union of India, through the General Manager, N.F.Railway, Maligaon, Guwahati -781011.
2. The Secretary, Establishment, Railway Board, New Delhi-110001.
3. The Railway Recruitment Board, Guwahati represented by the Chairman, Railway Recruitment Board, Station Road, Guwahati-781 001.
4. The Chairman, Railway Recruitment Board Guwahati, Station Road, Guwahati-781001
5. The General Manager (P), N.F. Railway, Maligaon, Guwahati-781011.
6. The Chief Personnel Officer (Admn.), N.F. Railway, Maligaon, Guwahati-781011.

-----RESPONDENTS.

1. THE APPLICATION IS AGAINST THE FOLLOWING:

I) Against the non-appointment of the applicant as Commercial Clerk in N.F Railway on her successfully passing the Vocational Course in Railway Commercial (2 years' job linked Course) in 1999 pursuant to the advertisement of the Railway Recruitment Board, Guwahati, dated 9-11-1996.(and published in the Assam Tribune on 9/11/96)

2. JURISDICTION OF THE TRIBUNAL.

That as the advertisement for the vocational course in Railway Commercial (2 years' job linked Course) was made by the Respondent No.3 and the appointment is to be made by the Respondent No.5 whose offices are located in Guwahati, this Central Administrative Tribunal, Guwahati Bench has got jurisdiction to adjudicate the matter for redressal of the grievances of the applicant.

3. LIMITATION.

Trireshna Basuah

That representations have been made to the respondent No. 5 for the appointment of the applicant in service on 20-4-2000, 18-5-2000 and 28-6-2000 and more than 6 months have passed from the respective dates of the representations and this application is preferred within one year from the expiry of the 6 months period from the dates of the representations and thus this application is within the limitation prescribed by Section 21(b) of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE.

I) That the applicant states that the respondent No.3 published an advertisement on 9-11-96 whereby applications were invited for admission into the vocational course in Railway Commercial (2 year's job linked course) commencing

in the academic year 1997-98, from candidates below 18 years of age as on 1/6/97 and appearing for the first time for 10th class examination in the current academic year from a recognized Board, after having studied as a regular student of the school. The applications were to be submitted within 6-12-1996 and the candidates seeking admission to the vocational course would be required to appear for entrance examination to be held on 9-2-1997. It was further stated in the aforesaid advertisement that those who pass the entrance examination and qualify for admission as per merit list will be admitted to the two-year Vocational Course in Railway Commercial, commencing from the academic year 1997-98, provided they pass the 10th class examination with at-least 50% marks (40% in the case of SC/ST/OBC candidates) in the aggregate. After successful completion of the Course, the candidates were to be appointed in Railway service as Commercial Clerks/ Ticket Collector in Scale of Rs.975-1500/- with the usual allowances as admissible from time to time.

Pritha Baruah A copy of the said advertisement is annexed hereto and marked as ANNEXURE:-1.

ii) That being eligible for the aforesaid vocational course, the applicant submitted the application form duly filled in to the respondent No.3 and pursuant to that the respondent No.3 was pleased to call the applicant for the written examination for the vocational course (1997-98) vide letter No.RRB/G41 dated 20-1-97, to be held on 16-2-97.

A copy of the aforesaid call letter/ admit card issued by the respondent No.3 to the applicant vide letter No.RRB/G41 dtd.20/01/97 is annexed hereto and marked as ANNEXURE:-2

iii) That it is pertinent to mention herein that the applicant belonged to the Koch- Rajbongshi Caste/community, which was declared as Other Backward Class Community by

- 4 - 36

the Government of Assam vide Notification No.TAD/BC/268/75/37 dtd 27/11/75. However, by an ordinance dated 27-1-96, the President of India was pleased to declare the Koch- Rajbongshi Caste/community as Scheduled Tribe and Hills Tribe People. This benefit was continued by a second Ordinance dtd.27/3/96, by a third Ordinance dtd.27/6/96 and then by a fourth Ordinance dtd.2/4/97. The applicant, thus, belonging to Scheduled Tribe (Plain) community at the relevant time, applied for admission for the vocational course in Railway Commercial as a Scheduled Tribe candidate and was accordingly called for the entrance examination by the respondent No.3.

A copy each of the caste certificate dtd.14/8/96 and dtd.27/3/2000 showing the applicant to be a person belonging to ST and OBC respectively are annexed hereto and marked as ANNEXUREs-3, ANNEXURE:-4 respectively.

iv) That the applicant states that pursuant to the written examination conducted by the respondent No.3 on 16-2-97, the respondent No.4 vide letter No.RRB/GHY/41/10 was pleased to inform the applicant that she has been declared provisionally eligible to appear in the viva-voce test to be conducted in the office of the Chairman, Railway Recruitment Board, Guwahati on 30-06-97.

A copy of the call letter for viva-voce test issued by the respondent No.4 vide letter No.RRB/GHY/41/10 dated 16.2.1997 is annexed hereto and marked as ANNEXURE:-5.

v) That thereafter by letter No.E/252/EDN/17(W) Admission dated 30-7-1997, the Sr. Personnel Officer (W) for General Manager (P) was pleased to inform the applicant that she has been selected for the vocational course in Railway Commercial which is to be started for the academic year 1997-98 in Faculty H.S. School/ North Guwahati and hence she was advised to report to SPO(W)/CPO's office/ Maligaon along with the required documents in original on or before 8-8-97 and

Trishna
Baruah

further stated that her candidature will be finally considered subject to her passing the H.S.S.L.C Examination with requisite percentage of marks fulfilling other eligibility conditions.

A copy of the letter No.E/252/EDN/17(W) Admission dated 30-7-1997 is annexed hereto and marked as ANNEXURE:-6.

vi) That the applicant accordingly reported to the SPO(W)/CPO's office/ Maligaon along with the required documents in original on 8-8-97 and the Sr. Personnel Officer (W) for General Manager (P) was pleased to issue letter No. E/252/EDN/17(W) Adm. dated 8-8-1997 whereby the applicant was directed to report to the Principal, Faculty Higher Secondary School, North Guwahati, by 12-8-97 latest for admission into the Vocational Course on " Railway Commercial" for the academic year 1997-98 provisionally. Further, the applicant was directed to submit HSLC/Equivalent original mark-sheet securing requisite percentage of marks within 31-8-97 failing which her admission would be cancelled from the school. The applicant states that she accordingly reported to the Principal, Faculty Higher Secondary School, North Guwahati, and was duly admitted.

A copy of the letter No. E/252/EDN/17(W) Adm. dated 8-8-1997 is annexed hereto and marked as ANNEXURE-7.

vii) That the Ordinance by which Koch-Rajbonshi Community in Assam was conferred the status of ST (Plain) lapsed by virtue of efflux of time and as a result, the applicant who submitted her application for admission into the vocational course in Railway Commercial, as per the advertisement dtd.9/11/96 as an ST (Plain) candidate ceased to be a member of the ST (Plain) Community.

viii) That it is pertinent to state here that the applicant was selected for admission to the vocational course in Railway

7
Jishna
Baruah

Commercial inspite of the fact that at the time of issuance of the letter No.E/252/EDN/17(W) Adm. dated 8-8-1997, the applicant no longer belonged to the scheduled Tribe (P) due to the lapse of the ordinance without enactment.

ix) That having been admitted for the vocational course in Railway commercial at Faculty Higher Secondary School, North Guwahati for the academic year 1997-98, the applicant successfully completed her course in the year 1999. On the successful completion of the vocational course by the applicant, the Vice-principal of the School was pleased to inform the respondent No.5 vide letter No. C/EST/VCI/96-97/P II dated 4-10-99 about the result of the vocational students and further requested the respondent No.5 to do the needful.

A Copy each of the Certificate dated 31.8.99 issued by the Central Board of Secondary Education indicating that the applicant has passed the All India Senior School Certificate Examination'1999 and the letter No. C/EST/VCI/96-97/P II dated 4-10-99 are annexed hereto and marked as ANNEXUREs-8 and ANNEXURE-9 respectively.

ix) That as per the advertisement dated 9-11-96 issued by the Respondent No.3 , after successful completion of the vocational course, the candidates were to be appointed in Railway service as Commercial Clerks/ Ticket Collector in Scale of Rs.975--1500/- with the usual allowances as admissible from time to time. However, even though all her batch mates were appointed on their successful completion of the vocational course, to the utter surprise of the applicant, even after successful completion of the vocational course she was not appointed as per the terms and conditions laid down in the aforesaid advertisement.

xi) That the applicant being aggrieved by the inaction on the part of the respondent authorities in not appointing her on her successful completion of the vocational course in Railway

Prishna
Baruah

- 7 - 39

Commercial made a representation to the Hon'ble Minister for Railways , to do the needful.

A copy of the letter dated 27th January,2000 addressed to the Hon'ble Minister for Railways is annexed hereto and marked as ANNEXURE:-10.

xii) That the applicant having waited for a period of more than 7 months for the appointment order and still not hearing anything about her appointment from the side of the respondents , by letter dated 20-4-2000 requested respondent No.5 to do the needful so that she gets her appointment at the earliest. Similar requests were again made to the respondent No.5 on 18-5-2000 and 28-6-2000.

Copies of the letters dated 20-4-2000,18-5-2000 and 28-6-2000 are annexed hereto and marked as ANNEXURE:-11, ANNEXURE:-12 and ANNEXURE:-13 respectively.

Prishna Baruah
xiii) That the applicant states that the respondent No.6 vide letter No. DO No. E/252/EDN/18P.II (T) 98-99 dated January 12, 2001 requested the Executive Director (Estt.) Railway Board, New Delhi to arrange communication of the Board's decision with regard to the appointment of the applicant, who had passed in the final XII Class Examination,1999 and also the Railway Commercial Course conducted by the CBSE, which was still pending in the Board's office.

A copy of the letter No. DO No. E/252/EDN/18P.II (T) 98-99 dated January 12,2001 is annexed hereto and marked as ANNEXURE: -14.

xiv) That the applicant states that till date she has not been appointed and the silence on the part of the respondents in the matter is deeply regretted and such silence has further aggravated the miseries of the applicant for no fault of her.

Further the applicant states that whenever she approached the office of the respondent No.5 to enquire as to her appointment she has been repeatedly informed that they are seeking clarification on the matter of her appointment from the Railway Board, New Delhi. It is stated herein that the applicant is totally unaware of what clarification is sought for by the respondent No.5.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS.

a) For that, as per the advertisement dated 9-11-96 issued by the Respondent No.3, after successful completion of the vocational course, the candidates were to be appointed in Railway service as Commercial Clerks/ Ticket Collector in Scale of Rs.975-1500/- with the usual allowances as admissible from time to time. Hence the applicant has a legitimate right to be appointed in Railway service as Commercial Clerk / Ticket Collector on her successful completion of the vocational course in Railway Commercial.

b) For that, having successfully completed the vocational course in Railway Commercial, the applicant has a legitimate expectation that she would be appointed in the Railway service as Commercial Clerk / Ticket Collector as stated in the advertisement dated 9-11-96 issued by the Respondent No.3.

c) For that, the respondents acted arbitrarily and in a discriminatory manner by not appointing the applicant whereas all the other candidates who completed the vocational course successfully along with the applicant were appointed promptly and hence the inaction on the part of the respondents is against the principles of natural justice and administrative fair play.

d) For that, as per the advertisement dated 9-11-96 issued by the Respondent No.3 after successful completion of

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Baruah

the vocational course, the candidates were to be appointed in Railway service as Commercial Clerks/ Ticket Collector in Scale of Rs.975--1500/- with the usual allowances as admissible from time to time and on the basis of the aforesaid assurance the applicant completed the vocational course in Railway commercial successfully but having been denied appointment in Railway service as Commercial Clerk / Ticket Collector till date, the applicant is made to lose three valuable academic years for no fault of hers.

e) For that, if the applicant is not appointed in Railway service as a Commercial Clerk / Ticket Collector immediately by the respondents, she would suffer grave injustices and would also stand to lose from the point of service seniority.

f) For that, the respondents have denied the applicant appointment for no fault of hers and moreover has not informed her as to why she has not been appointed till date when all her batch mates are appointed over the course of time and such action on the part of the respondents is totally unwarranted.

Prishna Baruah
6 DETAILS OF REMEDIES EXAUSTED.

The representations dated 20-4-2000, 18-5-2000 and 28-6-2000 have been preferred requesting the respondent No.5 to do the needful so that the applicant may be appointed at the earliest but even after a period of 10 months no action has been undertaken by the respondents to appoint the applicant in Railway service as a Commercial Clerk / Ticket Collector till date.

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

The applicant further declares that she has not filed any writ application or suit regarding the matter in respect of

which this application has been made before any court of law or any other authority or any other bench of this Hon'ble Tribunal and no such application or suit is pending.

8 RELIEFS SOUGHT FOR:

In the premises aforesaid your applicant prays that your Honour may be pleased to call for the records, calling upon the respondents to show cause as to why the applicant should not be appointed at the earliest having successfully completed the vocational course in Railway commercial pursuant to the advertisement dated 9-11-96 issued by the Respondent No.3 and or pass such further or other order/orders as this Hon'ble Tribunal may deem fit and proper.

And for this the applicant as in duty bound shall ever pray.

9 APPLICATION IS FILED THROUGH ADVOCATE:

10 PARTICULARS OF I.P.O

I.P.O 56-424057

DATE OF ISSUE 08-06-01

ISSUED FROM GPO, Panberzan

PAYABLE AT Guwahati

11 LIST OF ENCLOSURES:

As stated in the Index.

-----Verification.

47

VERIFICATION.

I, Miss Trishna Boruah, D/o Shri Narayan Baruah, aged about 21 years, resident of Vill: Boraera P.O: Titabar P.S.: Titabar District: Jorhat, Assam do hereby solemnly affirm and verify that the statements made in the accompanying application in paras 1,2,3 ,4(vii) ,4(viii) ,4(x), 4(xiv) , 6 7 ,9,10 and 11 are true to my knowledge and those made in paras 4 (1) ,4(ii), 4(iii), 4(iv) ,4(v) ,4(vi) , 4(ix) ,4(xi) ,4 (xii) and 4(xiii) being matters of records are verily believed to be true on the basis of the information derived therefrom and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts

And I sign this affidavit today dated 8th of June'2001 at Guwahati.

Trishna Baruah.

Signature of APPLICANT.

(UNDER CERTIFICATE OF POSITION)

RAILWAY RECRUITMENT BOARD :: GUWAHATI

Station Road
Guwahati - 781001
20-01-77

No RRB G/01

Date

MR. SINGHA BORUAH

NAME OF COMPETITOR : 150001

THE SYNDICATE OF THE RAILWAY BOARD

1. THE WRITTEN EXAMINATION FOR THE POST OF

VIVA-VOCE COURSE (1977-78)

INSTITUTE OF

under Employment

REG. NO. : 1227/76

CATEGORY NO.

on the NORTHEAST FRONTIER RAILWAY.

PROGRAMME OF WRITTEN EXAMINATION IS AS GIVEN BELOW:

DATE	DAY	TIME	VENUE
16-02-77	SUNDAY	13:30 - 16:00 HRS	Guwahati Railway Training Institute R.D. Bhattacharjee Rd., Dighi, Guwahati Guwahati, Assam, India

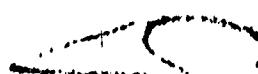
The following terms and conditions must be noted for strict compliance.

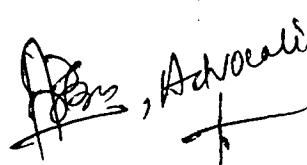
1. You will not be admitted to this written examination without this CALL LETTER/ADMIT CARD and does not itself give any entitlement for selection.
2. Your candidature has been accepted provisionally and is subject to check and fulfillment of all conditions laid down in the said Employment Notice.
3. If you do not fulfill the conditions as laid down in the said Employment Notice, please ignore this CALL LETTER/ADMIT CARD and do not appear.
4. Only the successful candidates in the written examination will be called for the VIVA-VOCE TEST.
5. You are to bear your own travelling expenses (for VIVA-VOCE candidates).
6. Approaching the Chairman, RRB, GUY and other officials of RRB/Guwahati directly or indirectly by a candidate or anybody on his behalf requesting for consideration for the recruitment will render a candidate liable for disqualification.
7. Only the candidates and the persons engaged in conducting the examination will be allowed into the examination premises. Strict discipline and silence must be maintained in the examination/ test rooms. Appropriate action will be taken in case of those adopting unfair means in the examination hall, etc.
8. **FOR SC/ST CANDIDATES ONLY:** ON PRODUCTION OF THIS CARD YOU ARE ENTITLED TO TRAVEL FREE BY RAILWAY IN SECOND CLASS FROM [1116001] (SIN.) TO GUWAHATI (IN) & BACK. THIS PASS IS VALID UPTO [22-02-77]

Rs. 00.00/-

(Authority Rly Bd's L/No. (NC) II-84/RSC122 dt. 23.11.84)

For CHAIRMAN
RAILWAY RECRUITMENT BOARD, GUWAHATI.




Advocate

47923

(Caste Certificate)



ALL ASSAM KOCH RAJBONGSHI SANMILANI
Head office -Guwahati
Estd -1912
Govt. Regd. No -91/1959-60

Certified that Sri/姫mati Krishna . Borukh
Son/daughter/wife of Sri/King Narayan. Borukh
Village / town / Ward. Ruknepore
No Purana - Tetabar P. - Tetabar
Subdivision - Jorhat District - Jorhat
belongs to Scheduled Tribe/ Koch Rajbongshi community in the State
of Assam

President-

Counter Signature.

DC / SDO 15/6/96
(Seal)

General Secretary
All Assam Koch Rajbongshi Sanmilani.

Authorized President - 15/6/96

General Secretary

..... District Sanmilani,
(Seal)


Advocate

GOVERNMENT OF ASSAM

OFFICE OF THE DEPUTY COMMISSIONER, JORHAT DISTRICT, JORHAT

JORHAT

BOOK NO. 24

NO. 5, 161

P.D. 99/161

Date of issue/return 3/7/2000

D.V.T. Letter No D.D/ 10/11/98/22 A Date 27/1/99

STATEMENT that Mr/ M/s Prishna Boruah
 son/daughter/wife of Sri/Smt Late Narayan Boruah
 at village/Town T.E. 13A Jorhat
 under police station Jorhat Sub-division Jorhat
 in the district JORHAT Assam, belongs to Koch
OBC Caste/Community which is recognised as
 Other Backward Class/More other Backward Class by the Government
 of Assam.



- Jorhat

STATEMENT
 DEPUTY COMMISSIONER
 JORHAT
 27/3/2000

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**RAILWAY RECRUITMENT BOARD
GUWAHATI
(Under Certificate of Posting)**

Station Road,
Guwahati (Assam)
PIN - 781 001.

Ref. RRB/GHY/41/0

(CALL LETTER FOR VIVA-VOCE TEST)

To,

Shri/Smt./Kum Trishna Baruah

Roll No.

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SUB. : Recruitment for the post of Vocational Loco. 1997-98

in the pay-scale of Rs. Nil on the N.F.Railway,
under Emp. Notice No. Nil & Catg. No. Nil,

1. With reference to your application for the above-mentioned post, this is to inform you that you have been declared provisionally eligible to appear in the viva-voce test to be conducted in the office of Chairman, RRB/ Guwahati on 30-06-97 at 9-45 A.M. a.m./p.m.
2. Please note that you will not be admitted for the viva-voce test without this call letter. Moreover, this call letter itself does not entitle you for final selection and your eligibility also depends on your fulfilling all the requisite conditions of eligibility as also laid down in the Employment Notice cited above.
3. You must submit all original copies of the certificates and documents regarding proof of age, caste, academic, educational and technical qualifications, working experience, sports and extra-curricular activities.
Caste certificates must be as per prescribed proforma of the Government and issued by a competent authority only.
You will also have to bring with you the photocopies of the certificates/documents mentioned above duly attested by a gazetted officer or head of any recognised school or college.
4. Candidates already in service in a Govt. or Semi-Govt. organisation must submit a "NO OBJECTION" Certificate from their respective Head/Controlling Officers, failing which they will not be allowed to appear in the viva-voce test.
5. For verification of your date of birth, you must invariably submit your original Matriculation Certificate and mark-sheet.
6. Where original certificates/mark-sheets have not been issued by the concerned Board/University/ Council, a provisional certificate/mark-sheet issued by the same Board/University/ Council has to be submitted before the viva-voce.
7. Apart from the date mentioned above, your attendance may be required on more than one day. You are therefore, advised to come prepared accordingly.
8. This RRB will not bear any responsibility towards the boarding or lodging of any candidate. . . . these arrangements will have to be made by the candidate himself/herself.
9. No request for any change in the date of viva-voce test will be entertained and there will be no repeat viva-voce test for absentees.
10. UR and OBC candidates will have to bear their own travelling expenses to and from the test centres.
11. **FOR SC/ST CANDIDATES :-**

**ON PRODUCTION OF THIS CALL LETTER YOU WILL BE ENTITLED
TO FREE TRAVEL BY TRAIN IN SECOND CLASS FROM Guwahati STN. TO GUWAHATI STN. & BACK.**

**THIS PASS IS AVAILABLE UPTO 07-07-97
(Authority : Rly. Bd.'s Letter No. E(NG)II-84/RSC/122 dated 23-11-84)**

[Signature], Advocate

for Chairman,
RRB/Guwahati.

OFFICE OF THE
GENERAL MANAGER (P.)

Guwahati, dated 30-7-1997.

Ref. No. C.S. (G.)
1166. C.C.

To
 Sri/Sub. Mr. Director, Vocational
 School, Assam Rifles
 Sainik Farms, Dibrugarh (Assam - 786001)
 Director, M.A.R.P.A.C.
 Pineapple - 787112

Subject: Admission to the vocational course on
 N.E.Railway Commercial for the academic
 year 1997-98 for N.E.Railway.

You have been selected for the vocational course in the Railway Commercial which is to be started for academic year 1997-98 in Guwahati N.E.Railway/North Guwahati. You are advised to report to RPO(N.E.Railway)/Guwahati office/Office alongwith the following documents in original on or before 19/7/1997. C.S. 08. 08. 97

1. Mark-sheet of H.S.L.C. Examination or equivalent Examination, 1997.
2. Certificates in proof of age.
3. caste certificate/SC/ST certificate if any.
4. educational transfer certificate.
5. 03 copies passport size photograph of the candidate.
6. 01 copy passport size photograph of the Father.
7. 01 copy passport size photograph of the mother.
8. Migration certificate (may be produced later).

My request will be considered if you fail to report to the office of the RPO/N.E.Railway/Guwahati (Wellcome Building) within the stipulated time as stated above. In case you fail to turn up by the above time, your candidature will be cancelled without assigning any further reason or notice. In the event of any shortfall from the main list, the same will be made good from the waiting list.

Your 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 offer letter by itself does not guarantee your final admission in the Railway Vocational Course.

(A. H. Kapoor)
 Sr. Executive Officer (W)
 for Central Manager (P.)

Abu's Advocate

NO. E/200/ENCL/1/10.111.

Office of the
General Manager (P),
M.G.R. Bldg., Guwahati.To MISS Trishna Baruah (S.I.)S.I. in-chargeState Board of India, Dimapur (N.C. Board)

Pincode 787112

Sub: Admission in the Vocational Course in
Railway Commercial for the academic year
1997-98 for N. E. Railway.

You are hereby directed to report to the Principal, Faculty Higher Secondary School, North Guwahati for admission into the Vocational Course on "Railway Commercial" for the academic year 1997-98 provisionally. You will have to submit HSLC/Equivalent original mark-sheet securing requisite percentage of marks within 31-8-97 failing which your admission will be cancelled from the school.

You are advised to report by 12.8.97 latest failing which your candidature for admission in the Vocational course is liable to be cancelled.

Details regarding admission fee for Class - XI at the beginning of the terms is as follows:-

1. Annual Fee.	Rs. 600.00
2. Admission Fee.	Rs. 500.00
3. Development (Construction of School Building).	Rs. 600.00
4. Security money (Refundable).	Rs. 500.00
5. Transport Fee extra.	Depends on the distance.
6. Tuition Fee (1st & 2nd instalments) (per month Rs. 750/-).	Rs. 1500.00 (approx.)

Course syllabus, admission form and Hostel prospectus may be obtained from the office of the Principal, Faculty Higher Secondary School, North Guwahati.

(A. K. M. A. M. D. S. 97)
S.R. PERSONNEL OFFICER
for GENERAL MANAGER (P)MLG.

Copy to :- Principal, Faculty Higher Secondary School, North Guwahati, G.W.Y.-781031 for information and necessary action please. He is requested to kindly refer to this office letter of even number dated 26-6-92.

for GENERAL MANAGER (P)MLG.

AD/24-7.

(R. Baruah, Advocate)

ANNEXURE - 8

9
Date 09/07/2006 CENTRAL BOARD OF SECONDARY EDUCATION
9th Standard MARKS STATEMENT

ALL INDIA SCHOOL CERTIFICATE EXAMINATION 1996

Name **TRIBHUNA BORUAH** Registration No. **3800170**
Name of Father **NARAYAN BORUAH**
Name of School **5026 FACULTY HR SEC BCH AMINGAON GUWAHATI ASSAM**

Subject Code	Subject	Marks Obtained			Positional Grade
		Max M	Obtained O	Total in Words	
030	ECONOMICS	100	40	FOORTY	D1

आवागे का अपना अभियान **APPEARED FOR FIRST CHANCE COMPARTMENT**

AB विषय में अनुपात पता (Absent in the Subject)

परिणाम Result

EX पार्ट - पास (Complied)

PASS

PP उपोक्तावक्ता में अवागम (Fail in Practical)

PT विषय में अवागम (Fail in Theory)

रिहाई Date

12/06/99

Conductor of Examinations



FACULTY HIGHER SECONDARY SCHOOL

1989/05/26 01/100

$$A = 10^{-40}$$

To
The General Manager (p)
N.I. I.I.W. Multigroove
Uniwahala • 781011

Dear Sir,

Sub : Vocational Course in Railway Commercial Appointment if candidates successful in compartment Examination during same academic year.

Ref: Railway Board's letter No. E (iv) 89 - EIDI - 13 (vol 111) dated 20. 5. 94 and Minutes of the monitoring committee / Rly Board's no. E(iv) 95 - EIDI - 8 dated 27. 10. 95

The result of vocational students who have cleared the compartment Examination in the same academic year given by CBSE as well as Railway Board during 1999 with reference to the above are enclosed duly attested by the Head of the institution. The tabulation sheet of results showing separately for five candidates and one candidate vide annexure I & II respectively apart from copies of Railway Boards letter under reference are enclosed for your reference.

In this regard please connect my earlier letter of even No dated 16 / 21. 6. 99 as well as letter no C/ EST / VCT / 96 - 97 / P II dated 23. 6. 98 and do needful from your end as usual .

Thanking you

Yours faithfully

Mr. Bhadrak - 4.10.99.
Rt Hon. Col. Shullucharyulu
Vice Principal
Ends : us above

✓ Copy to . Chief Commercial manager (Genl) N.E. Railway
for his information and necessary action please

 P. M. Advani

Ans. 2

Extract of result from original marksheet of AISSCE (HSS) Examination
showing against candidas appeared for Compartment Exam in the
same academic year 99 under vocational stream of railway

Sl. No.	Admit Card Roll No.	Year	NAME	Category	Code	Subject	Original marks obtained in the mark Examination '99	Wt. total	Marks secured in the compartment Examination '99	Total	% to total in the compartment Exam '99	Passion as per prescribed % of Roll	Requisites documents if any	REMARKS
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1.	3205170	1999	TRISHNA BORUAH	ST	301 030 054 055 601	English Economics Business Study Accountancy Rly. Com. Work	47 22 F (Compt) 39 37 55		40			Pass	Attached	Qualified for Rly's Job.
						TOTAL	714	42.8		332	46.4			
2.	3205173	1999	PAROMITA DAS	SC	301 030 054 055 601	English Economics Business Study Accountancy Rly. Com. work	73 32 33 34 45 F.T. (COMPT)		59			Pass	Attached	Qualified for Rly's Job.
						TOTAL	722	60.4		260	63.7			
3.	3205181	1999	DOLLY BAISHYA	SC	301 030 054 055 601	English Economics Business Study Accountancy Rly. Com. Work	72 28 F (COMPT) 31 31 43		33			Pass	Attached	Qualified for Rly's Job.
						TOTAL	226	45.2		234	46.8			
4.	3205183	1999	AMITABHA CHAKROBORTY	UR	301 030 054 055 601	English Economics Business Study Accountancy Rly. COM. Working	65 24 F (COMPT) 37 37 70		70			Pass	Attached	Qualified for Rly's Job.
						TOTAL	227	45.4		279	55.8			
5.	3205190	1999	PULAKESH DAS	SC	301 030 054 055 601	English Economics Business Study Accountancy Rly. COM. Working	43 34 32 32 65		53			Pass	Attached	Qualified for Rly's Job.
						TOTAL	223	41.6		234	46.8			

Certified Copy

Mr. D. Bhattacharya
Principal
Tatyasaheb Hr. Sec. School
Gawahati-781 032

Miss Trishna Baruah.

Advocate

D. Bhattacharya
Vice President

Mr. Somnath Chatterjee
Honble Minister for Railway,
Govt of India,
New Delhi.

Titabar,
Assam.

27 th Jan, 2000

Subs: Non-appointment in Service after Successful Completion of a Vocational Course, As per Advertisement by Railway Recruitment Board, Guwahati.

Refs: Advertisement dt 09.11.96 by RRB, Guwahati.

Madam,

With due respect and humble submission, I would like to pray for your kind attention to the following facts.

That, I have been selected for vocational course 1997-99, as per advertisement by Railway Recruitment Board, Guwahati, dt 09.11.96.

That, I have completed the course as per terms and conditions laid down by the Board and passed the last examination on 02.09.99.

That, according to the terms and conditions of the advertisement, I am to be appointed in Railway Deptt.

But, I am yet to get my appointment letter.

That, I am from a lower middle class family, residing at Titabar(Assam) and my father expended about one lac rupees, for completion of my two years vocational course. It was an economic burden for my family. However, my father did not hesitate to bear the expenses, as there is surety of a job in Railway for me after successful completion of the course.

That, since September, 1999, till date, I have visited the Personnel Deptt, Railway, Maligaon thrice to enquire about my appointment. But, I am very sorry to note that the deptt has expressed their inability to issue no appointment letter on some reasons, not clear to me.

That, I have been passing days for the last four and half months as an trained unemployed, for no fault on my part and it brings frustration to me. Further, due to non-appointment in time, I am being losers economically as well as from the point of service seniority.

Under these circumstances, I see no other way, but to approach your goodself, so that as a trained unemployed as well as a woman I may get justice.

My add: Miss Trishna Baruah,
C/O- Sri Nekyan Baruah,
Villa: Boronam,
P.O- Titabar,
Distt-Jorhat(ASSAM)
Phn- 709 630.

Thanking you,
Yours sincerely,

Miss Trishna Baruah.

Copy to: Mr Somnath Chatterjee, M.P.,
Leader of the CPI(M) Parliamentary Party,
Lok Sabha, New Delhi for information and
necessary action.

Miss Trishna Baruah.

[Signature], Advocate

ANNEXURE - II

- 23 -

The General Manager (P)
N.E. Railway,
Maliagon,
Guwahati.

Platypus
20.04.2000

Subscription appointment in service after successful completion of vocational course, Railway.

size,

With due respect and humble submission, I would like to draw your kind attention to the following facts, on the captioned subject.

That sir, I have been selected for Vocational Course 1997-99 a/a Railway, as per advertisement by DDCB, Guwahati dt 09.11.96.

That, I have successfully completed the course and passed the examination on 02.09.99. As such, I am eligible to get appointed in Railway, as per terms and conditions laid down by the board.

That since Sept/99, I have been repeatedly visiting the Personal Doptt in Railway H.Q., at Maligaon, to enquire about my appointment, but, in vain. The concerning official has told my father (when he visited the doptt in the last part of Feb/2000) that they are seeking some clarifications on my appointment, from Railway Board, New Delhi. I am in complete darkness about the outcome of that correspondence between your office and the Railway Board, New Delhi.

That all my batch mates, who have successfully completed the course, got their appointment in due course of time. But, I am the only trainee of that lot to get appointment.

That, I have been passing days for the last 7 months, as a trained unemployed, for no fault on my part. Due to non appointment in time, I am being loser economically as well as from the point of service seniority.

That, I am too worried about my appointment and above happenings brings frustration to me as well to my parents, who have expended a good amount for study/training of this vocational course. I do not know, how long I will be able to hold my patience, if denial of justice to me continues.

Under these circumstances, I would earnestly request your good self to intervene in the matter, so that, I can get appointment at an early date.

My present add:
C/O- Narayan Baruah,
Vill: Boraera,
P.O- Titabar,
District- Jorhat
Pin- 785 630

Yours faithfully,

MS Trishna Baruah,

Copy to: Honble Minister For Railway,
Govt of India,
New Delhi 110 001.

M3 Tschuna Doruah.

 Advocate

REGISTRED

The General Manager,
N.F. Railways,
Malignon,
Guwahati (Assam).

Titabar

18th May, 2000

Sub: Non Appointment in Service Despite Completing Vocational Course Successfully.

Sir,

Please refer to my letter dt 20.04.2000.

In this regard I would reiterate that despite completing the vocational course successfully and being eligible for appointment, as per the terms and conditions laid down by NIRD, Guwahati, I am yet to be appointed in service, while all my batchmates have been appointed.

In this condition, I am being harassed mentally and economically, for no fault on my part. I am also facing losing seniority due to non appointment.

It may please be advised to me from your end that under what circumstances I am not being appointed in service and how long I have to be deprived of natural justice.

Your immediate action in this matter is solicited.

Hoping for appointment at the earliest.

Yours faithfully,

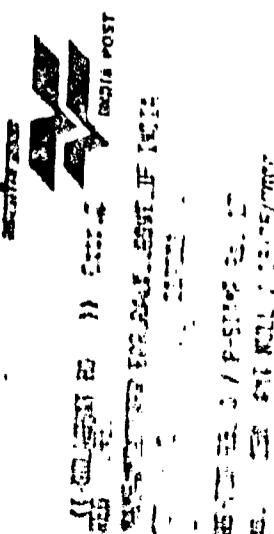
Ms Trishna Baruah,
C/O- Sri Narayan Baruah,
Villa- Boraera,
P.O- Titabar (Assam)
Pin- 7815 630

Copy to: 1) Minister for Railways, New Delhi
Govt of India, New Delhi. For information and necessary action.
2) Chief Minister, Govt of Assam, Dispur, for information and necessary action.

Trishna Baruah.

Ms Trishna Baruah.

Abu, Advocate



The General Manager (P)
N.F. Railway,
Majigaon,
Guwahati.

Titabar,
20.06.2000

Rebillion-appointment in Service after Successful Completion
of Vocational Course 1997-99.

sir,

With due respect and humble submission, I would again invite your kind attention to the following facts, most of which I have highlighted in my letter dt 20.04.2000 and 18.05.2000, addressed to you.

That sir, I have successfully completed the vocational course and I have the right to get appointment as Commercial Clerk/Ticket Collector, as the case may be, as per terms and conditions laid down by the Railway Board.

That, all my batchmates have been appointed long before, except me.

My parents expended a good amount of money for my study of the course and I have already exhausted 3 valuable academic years, till date, including the study period of vocational course.

I have been eagerly waiting to get my appointment letter and repeatedly requesting your dptt to release the same. But, regrettably, I have neither been issued appointment letter nor informed the causes of undue delay in this regard.

That sir, I am a girl of about 20 and belong to backward community. Our government always giving priority and advocating the causes of women and backward classes. Inspite of that, I have been neglected and natural justice denied to me. Further, I have been getting punishment, as I have been passing every day and night in deep anguish a/c of my employment. Frustration grips my mental peace and happiness.

I do not know, what sin I have committed, for which I have been getting this punishment in those early days of life!

However, I again pray your goodself to dispose of my appointment letter, at an early date, so that I may be relieved of my agonies and anxieties.

Yours faithfully,

Miss Trishna Baruah,
Vill- Norgora,
P.O- Titabar,
Distt- Jorhat,
Assam, Pin- 785 630.

Copy to- 1) The Chief General Manager, N.F. Railway, Majigaon, Guwahati.
2) The Railway Minister, Govt of India, New Delhi.
3) The Chief Minister of Assam, Dispur, Guwahati.
4) Sri Bijoy K Handique, M.P. Jorhat Parliamentary Constituency.

Trishna Baruah..

Miss Trishna Baruah,

AB, Advocate

ANNEXURE-14

- 26 -

10.1.2001
DISPATCHED

C.P.O./H.F. NLY.
AK NIGAM A.R./G.H.Y-11

पश्चिम रेलवे
पश्चिम रेल
मालगढ़, गुजरात - 781 011
CHIEF PERSONNEL OFFICER (Admin)
Northwest Frontier Railway
Malgaon, Chiplun - 781 011

DO No. E/252/EDN/18 P.H (T) 98-99.

January 12, 2001. ✓
T.D.

Dear Shri Lal

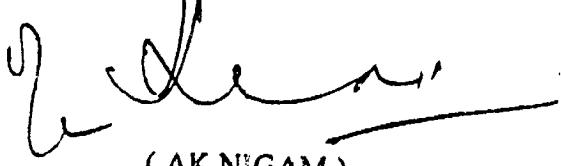
Reg :- Posting of Vocational Course completed candidates.

Your attention is invited to this Railway's letter of even number dated 7.1.2000 and 8.12.2000 (copies enclosed), followed by reminders dated 26.4.2000, 25.5.2000, 2.6.2000, 8.9.2000 and 8.12.2000 in connection with the appointment of Smt. Trishna Barua, who had passed in the final XII Class Examination, 1999 and also in the Railway Commercial Course conducted by the CBSE.

As the matter is still pending in Board's Office, you are requested to arrange communication of Board's decision in the matter.

Enc : As above.

Yours sincerely,


(AK NIGAM)

Shri KB Lal,
Executive Director (Estt.)
Railway Board
New Delhi.


Advocate


JK