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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A./T.A No. 387/01.....

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SECTION OFFICER (Judl.)

FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

APPLICATION NO.

387/2001

Applicant (S) Putu Acharje

Respondant (S) W.O.I. Gano

Advocate for the Applicant: A.K. Inkayatha, S.K. Sinha

Advocate for the Respondant: Railway Counsel

Notes of the Registry

Date

Order of the Tribunal

26.9.01

This application is in form
but not in time. Condonation
Petition is filed vide
V.P.N. X C.F.
for Rs 50/- deposited vide
IPO/BD No 69788383
Dated.... 20.9.2001

By Registrar

Heard counsel for the parties.

The application is admitted. Call for
the records. Returnable by 4 weeks.

Mr. J.L.Sarkar, learned Sr. Rly.
Standing counsel accepts notice on
behalf of respondents.

List on 13/11/01 for further
order.

Member

Vice-Chairman

13.11.01

List the case on 18.12.2001
to enable the respondents to file writ-
ten statement.

Member

Vice-Chairman

bb

18.12.01

List on 15.1.02 to enable the
respondents to file written statement.

Member

Vice-Chairman

mb

DINo 3878 W 3853

Dtd 8/10/01

Steps taken
along with envelopes
and excess fee 5 Rs St.

VTS
25/9/01

Pl. comply order
Dated 26/9/2001

VTS

26/9/01

Excess amount for Rs 5/- not taken
Envelopes were not sealed. Notice
prepared and sent to D/O for
closing the Respondent No 1 to 6
by Regd A.O.

8/10/01

No. Wks has been
biked.

By
14.12.01

15.1.02

List on 5.2.02 to enable the respon-
dents to file written statement.

No. written statement
has been biked.

ICUShan
Member

Vice-Chairman

By
11.1.02.

lm

5.2.02

Four weeks further time is granted to the
respondent to file written statement.

No. written statement
has been biked.

List on 7.3.2002 for order.

By
4.2.02.

ICUShan
Member

Vice-Chairman

mb

7.3.02

List on 8.4.2002 to enable the Respondents
to file written statement.

No. written statement
has been biked.

By
5.4.02.

ICUShan
Member

Vice-Chairman

mb

8.4.2002

List the case on 10.5.2002 to enable
the respondents to file written statement.

No. wks. has been
biked.

By
9.5.02

ICUShan
Member

Vice-Chairman

bb

10.5.02

No written statement is forth coming.
The Respondents are ordered to file written
statement within four weeks from today.

No. written statement
has been biked.

List on 10/6/2002 for orders.

By
7.6.02

ICUShan
Member

Vice-Chairman

mb

10.6.02

List on 11.7.2002 to enable the respond-
ents to file written statement.

ICUShan
Member

Vice-Chairman

mb

Notes of the Registry Date

Order of the Tribunal

11.7.02

The Respondents are yet to file written statement. On the prayer of Mr. J.L. Sarkar, learned counsel for the Respondents further four weeks time is allowed to the respondents to file written statement.

No. 10.7.02 has been filed.

List the case on 14.8.2002 for written statement.

By
13.8.02.

K. C. Sharma
Member

Vice-Chairman

mb

14.8.02

Written statement has been filed. The applicant may file rejoinder, if any, within two weeks from today. The case may now be listed for hearing on 5.9.2002.

16.8.2002

W/s submitted by the Respondents

mb

5.9.2002

None appears for the applicant to press the application today. List the case again on 6.9.2002 for hearing.

K. C. Sharma
Member

Vice-Chairman

No. 12.8.02 has been filed.

bb

6.9.02

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is dismissed. No order as to costs.

K. C. Sharma
Member

Vice-Chairman

27/9/02

Copy of the Judgment has been sent to the office. For issuing is sent to the applicant as well as to the Dy. Standing Counsel.

pg

K. C. Sharma
Member

Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /~~X.X.~~ No... 387 of 2001.

DATE OF DECISION.. 6.2.2002.....

Sri Tutu Acherjee

APPLICANT(S)

Sri A.K. Purkayastha

ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Sri J.L. Sarkar

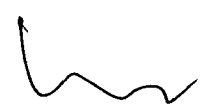
ADVOCATE FOR THE
RESPONDENT(S)

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 ?

Judgment delivered by Hon'ble Vice-Chairman.



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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 387 of 2001.

Date of Order : This the 6th Day of September, 2002.

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

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

Shri Tutu Acherjee,
Son of Sri Jagadish Acharjee,
resident of Brick Field Colony,
Private House,
Lumding Town, P.O. & P.S.Lumding,
Dist. Nagaon.

. . . Applicant

By Advocate Sri A.K.Purkayastha.

- Versus -

1. Union of India,
represented by Secretary to the
Government of India,
Ministry of Railways,
New Delhi.
2. K N.F.Railway,
Headquarter, Maligaon, Guwahati
represented by its General Manager,
Maligaon, Guwahati-11.
2. The Chief personnel Officer,
N.F.Railway, Maligaon,
Guwahati-11.
4. The Divisional Railway Manager(P)
N.F.Railway, Lumding Division,
Lumding.
5. The Divisional Secretary,
N.F.Railway Employees Union (PREM)
Lumding.
6. Shri Ashim Roy,
Stenographer,
Divisional Secretary,
N.F.Railway Employees Union (PREM)
Lumding, Nagaon.

. . . Respondents.

By Sri J.L.Sarkar, Railway standing counsel.

O R D E R

CHOWDHURY J.(V.C)

This is an application under Section 19 of the
Administrative Tribunals Act 1985 assailing the legality
of the order dated 7.9.2001 (Annexure-M) by which the
name of respondent No.6 was included as eligible

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candidate working under the organisation for screening test for appointment to Group D post. The applicant also questioned the order of removal/dismissal of the applicant from service on the alleged charge of unauthorised absence.

2. The respondents contested the claim of the applicant and submitted its written statement. In the written statement the respondents stated that the applicant was not working under the Railways. He was appointed by the respondent No.5, the Divisional Secretary, N.F.Railway Employees Union and from there his service was discontinued since afternoon of 31.12.1999 and the respondent No.6 was engaged in his place. The official respondents also stated that the respondent No.6 was wrongly shown as an eligible candidate to the screening test by communication dated 7.9.2001 and on realising of the mistake by communication dated 24.9.2001 steps were taken for deleting his name and accordingly his name was deleted.

3. Mr A.K.Purkayastha, learned counsel appearing for the applicant stated that as per the policy laid down by the authority that the staff working in quasi departmental office connecting with the Railways were also eligible to be considered for absorption in the Railways and for that purpose he referred to the Railway Board's circular dated 11.6.97. According to the learned counsel the applicant worked from 1993 and therefore as per this circular issued by the Ministry of Railways dated 30.5.2000 those who completed 3 years as on 10.6.1997 and was on roll on 30.5.2000 was entitled for consideration for absorption in Group D category of the Railways.

4. The contention put forwarded by Mr Purkayastha is however liable to be rejected on the own showing of the applicant's pleadings as the applicant worked under the respondent No.5 on and from 1996 as referred to in para 4.3, and 4.8 of the application as well as Memo No. EU/DS/DRM(P)/PREM/96 dated 3.7.1996 appointing the applicant by the Employees Union to work as a Steno vice vacancy with effect from 1.7.1996. Confronted with the situation Mr purkayastha submiteed that he has received documents in support of the plea that the applicant in fact worked from 1993 and therefore he would be eligible for consideration as per the Railway Board Circular. We are afraid to accept such a plea of the learned counsel at the fag end of the proceeding. The application was filed before this Tribunal on 24.9.2001 and the case was listed from time to time. Finally the case was listed for hearing on 5.9.2002. As none was appeared on that day the case was adjourned and ordered for hearing on today.. We feel that it would be abuse of our discretion to allow the applicant to come with new documents at the fag end of the proceeding.

5. Admittedly Mr Purkayastha lastly submitted that the applicant assailed his order of dismissal ^{in the garb of} termination by the respondents without followingg the procedure prescribed by law. The learned counsel submitted that on 24.12.99 the applicant made an application before respondent No.4 for granting him medical leave for 20 days with effect from 25.12.99 on the ground of health. Admittedly, the applicant worked under respondent No.5, we do not understand as to why the applicant filed such application before the D.R.M, respondent No.4. The applicant after

he was medically fit reported for duty and joined duty on 15.1.2000 but at that moment he learnt that the respondent No.6 was appointed taking advantage of his absence. However, the fact remains that the applicant was an employee worked under respondent No.5, office of the Railway Employees Union but not worked under the Railways. It would not be appropriate for us to go into the issues whether the applicant illegally terminated by the Railway Employees Union which will be totally beyond our jurisdiction. As mentioned earlier the respondent No.6 was also not considered by the Railway authority for the screening test in terms of the Railway Board circular. We therefore do not find any infirmity in the action of the Railway authority also. We therefore, dismiss this application.

It is needless to state that since for want of jurisdiction we have not gone into the legality and validity of the order of dismissal/removal of the applicant it would be open for the applicant to agitate his termination issue before the appropriate forum.

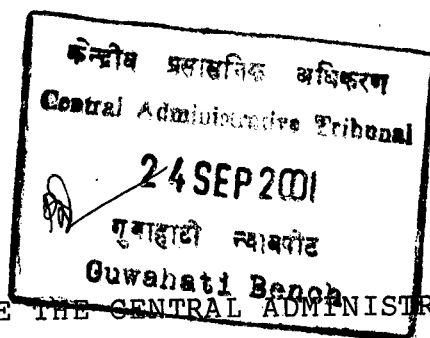
The application stands dismissed. There shall, however, be no order as to costs.



(K.K.SHARMA)
ADMINISTRATIVE MEMBER



(D.N.CHOWDHURY)
VICE CHAIRMAN



Filed by Mr.
Petitioner
through
Shyama Kant Singh
Advocate
24/9/2001
Tutu Acherjee

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GAUHATI BENCH :: GUWAHATI

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

O. A. 387/2001

Shri Tutu Acherjee

..... Applicant.

- Versus -

Union of India and Ors.

..... Respondents.

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Tata Asojani

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For use in the Tribunal Office

Date of filing : 24.9.2001

Date of Registration : 24.9.2001

REGISTRAR


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Tutu Acherjee

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GAUHATI BENCH :: GUWAHATI :

ORIGINAL APPLICATION NO. 387/2001

- BETWEEN -

Shri Tutu Acherjee,
Son of Sri Jagadish Acherjee,
resident of Brick Field Coloney,
Private House,
Lumding Town, P.O. & P.S.- Lumding,
District - Nagaon.

.....APPLICANT

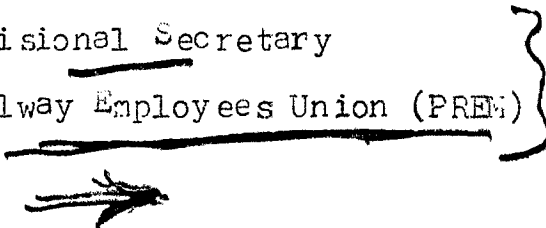
- AND -

1. The Union of India,
represented by Secretary to the
Government of India,
Ministry of Railway,
New Delhi.
2. N. F. Railway,
Head Quarter Maligaon, Guwahati,
represented by its General Manager
N.F. Railway, Maligaon,
guwahati.

contd.....P/2

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Tutu Acharyan

-2-

3. The Chief Personnel Officer,
N.F. Railway, Maligaon
Guwahati-11.
4. The Divisional Railway Manager (P)
N.F. Railway, Lunding Division,
Lunding.
5. The Divisional Secretary
N.F. Railway Employees Union (PREM)
Lunding. 
6. Shri Ashim Roy
Son of not known
Stenographer/
Divisional Secretary
N.F. Railway Employees Union (PREM)
Lunding, Nagaon.

.... Respondents

DETAILS OF APPLICATION :

1. Particulars of Order against which this application is made :
 - i) Order No. : Order dated 7-9-2001 and the list enclosed herewith issued by CRM(P),
N.F. Railway, Lunding vide Office
Memo No. E/227/Misc/LM/Rectt(QAO)
(Annexure M)

contd....3

Tukla Acharya

-3-

ii) Date :- 07.09-2001

iii) Passed by :- A.K. Roy, APO/PC for DRM(P), N.F.
Railway, Lumding.

iv) Subject in(a):- By that impugned order the all
brief concerned authorities are requested to
direct the candidates appearing in
the list of the candidates enclosed with the
said order to appear before this Screening
Committee along with the Original
Certificate in support of the Educational
Qualification, Age etc. along with all
other supportive testimonials with
attested copies.

By that Order the concerned
authorities are also informed that
the list of eligible staffs working in
the respective organisation is enclosed
and all the candidates as referred will
be required to fill up the prescribed
application is enclosed herewith and all
those applications would be required to
be forwarded by the controlling autho-
rities to the Screening Committee on or
before the Schedule

con. d...

He
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date for the said Screening Test.

- (b) The illegal and arbitrary removal/ discharge from service on the ground of unauthorised absence without holding any departmental enquiry and/or without affording any opportunity ~~had~~ being heard. And that too without issuing any Order of dismissal or removal in writing.

2. JURISDICTION OF THE TRIBUNAL :

The Applicant declares that the subject matter of instant application for which he wants redressal is well within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The Applicant declares that the present application is within the period of Limitation as ^{under} prescribed [^] Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

- 4.1 That the Applicant states that he is a citizen of India having his permanent residence at

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Tribunal

Lumding Town in the District of Nagaon and as such he is lawfully entitled to all the rights as privileges as guaranteed to a citizen by and under the Constitution of India and all other law framed thereunder.

4.2 That the Applicant states that at present he is out of employment and he was in fact, removed or dismissed from service by the Respondents in a most illegal and arbitrary manner. The Respondents had ousted or removed him from service not only in an unauthorised manner but while removing him from service, they did not even follow the due process of law and also the principles of natural justice by way of not affording any opportunity of being heard. Hence the Applicant has got no other alternative but to approach this Hon'ble Tribunal for redressing his legitimate grievances.

4.3 That the Applicant states that he has the eligible qualification to be appointed against the post in respect of which the proposed selection was sought to be held by the Respondents and it was only on consideration of his illegible qualification, he was earlier appointed against that post and he continued in the said post for a period of more than 5 years but it was only in order to accommodate the Respondent 6, the Official Respondents resorted to the plea of

contd....P/6

✓
Tata Acharyan

unauthorised absence treating it to be a serious misconduct on the part of the Applicant, dis-entitling disqualifying him to continue his service. Those official Respondents although treated the said absence to be mis-conduct but they did not hold any departmental enquiry as required under the disciplinary Rules before imposing such major punishment on the Applicant by way of removing ^{him} from his service. The said Respondents on the other hand, treated the Respondent No. 5 to be in continuous service since 1996 against the post which was held by the Applicant continuously from 1996 to April 2001 just with a view to regularise his service.

4.4 That the Applicant states that he passed the High School Leaving Certificate Examination under the Board of Secondary Education, Assam in the year 1993 but due to extreme economic hardships, he could not prosecute further study and it was for the bare existence of their family, he is starting looking for any suitable employment. On the other hand, in order to enable him to get a suitable employment, the Applicant meanwhile, obtained Diploma in Type-Writing and Shorthand from a recognise Commercial Institute in the year 1996. In addition to that, the Applicant had passed Hindi Probashika examination conducted by the Assam Rastra Bhasa Prachar Parisad. In support of his educational qualification, age etc. the Applicant begs to enclose herewith the relevant certificates.

contd...P/7

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Tale Acharjan

Copies of the various certificates are enclosed herewith as Annexure - 'A' series.

4.5 That the Applicant states that the Applicant had also registered his name with the Sub-Divisional Employment Exchange Office, Hojai as educated unemployed youth and upon such registration certificate, a Registration Certificate vide No. 220/94 dated 22.3.94 ^{was issued} against his name and said Registration certificate issued by the Sub-Divisional Employment Exchange ^{against} his name, is however valid upto 22.3.2003.

A copy of the Registration Certificate is enclosed herewith as Annexure - 'B'.

4.6 That the Applicant states that in course of time, he learnt from a reliable source that a permanent vacancy of Stenographer is likely to be fall ⁱⁿ vacant on account of resignation of ^{its} imcumbant, Shri Sandeep Bhowmik in the Office of the N.F. Railway Employees Union at Lumding. Having learnt about the said vacancy, the Applicant made an application before the DRM(P), Lumding, N.F. Railway ^{with} a prayer for consideration of his case for appointment against that vaancy alongwith other candidates in accordance with law. It may be noted that on account of resignation of

contd....P/8

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Tulsi Hegde

its incumbent, the Respondent sought ^{to} fill up that post on temporary basis subject to regular selection as per the relevant Rules.

4.7 That the Applicant states that since he has got eligible qualification to be appointed against the said post as prescribed under the Rules, the Applicant was duly appointed against that post of Stenographer in pursuance to a selection held by the Official Respondents.

4.8, That the Respondent No. 6 thereafter, issued a letter vide Office Memo No. EU/RS/DRM(P)/OREM/96 dated 3.7.96 informing the Respondent No. 4 that the Applicant was appointed with effect from 1.7.96 as Stenographer against the post which was fallen vacant consequent upon the ^{Resignation} of its last incumbent, Shri Sandeep Bhowmik, by that letter, the Respondent No. 4 was however requested for taking necessary action into the matter.

Copy of the letter dated 3.7.96 is annexed herewith as Annexure - 'C'.

4.9 That the Applicant states that in pursuance to the said aforesaid appointment Order, he submitted his joining report on the same very day and since 1.7.96 he worked in the said post continuously without any short of blamish or adverse remarks being raised

contd....P/9

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T. H. Acharya

against him from dnycounter.

4.9 That the Applicant states that the Respondent No. 4 subsequently issued Memorandum 005/99 (Stenographer) vide Office Memo No. E/283/3C/LM(O)/Pt-III dated 16.3.99 informing all the concerned authorities including the Applicant that necessary sanction was accorded by the General Manager, N.F. Railway against the enhancement of honorarium of Rs.700/- per month to part-time Stenographer attached to DCEG/NFREU and NERMU respectively for a period of 1 year with effect from 3.2.99 to 2.2.2000 as concurred in by FA & CAO/FB dated 1.2.99.

A copy of the letter dated 16.3.89 is annexed herewith as Annexure-'D'.

4.10 That the Applicant states that he was appointed against the post of Stenographer by Order dated 3.7.96 with effect from 1.7.96 and since 1.3.96 he worked in the said post without any break or discontinuation till April 2001.

4.11 That subsequently on 24.12.99 he made an application before the Respondent No. 4 through proper channel with a prayer for granting him leave on medical ground for a period of 20 days with effect from 25.12.99 on consideration of his actual physical condition. In that application the Applicant

contd....P/10

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Tata Ashger

specifically stated that due to severe physical condition, he needs to have immediate medical treatment and for that purpose his prayer for grant of leave on medical ground may be considered by the authority in order to enable him to restore his health. The Applicant undertakes to produce the said application before this Hon'ble Tribunal as and when required.

4.12 That the Applicant states that upon consideration of the aforesaid Application, the Respondent No. 4 duly accorded sanction by granting him leave on medical ground for immediate treatment. Accordingly the Applicant availed leave on medical ground for a period of 20 days with effect from 25.12.99. It is to be noted that he prayed for a medical leave for a period of 20 days with effect from 25.12.99 upto 13.1.2000 and on expiry of the said period, he reported to his office with prior intimation to Respondent No. 4 and 5.

4.13 That the Applicant states that at the time of reporting his duties, he submitted an application along with a fitness certificate duly issued by medical Officer In-charge, Muhuripur P.H.C. dated 25.12.99. It appears from the said Medical Certificate of fitness that the Applicant was under treatment of Dr. B. Das of the said P.H.C. and during the said period of treatment he was examined by the said Doctor. It also appears that the said Doctor issued the said fitness

contd.....P/11

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T. H. A. S. J.

Certificate certifying that the Applicant was suffering from PUO and the said period of absence from duty with effect from 25.12.99 to 13.1.2000, was absolutely necessary for restoration of his health. While issuing his certificate the said Doctor opined that it is not necessary for any Government servant to appear before any Medical Board to prove his fitness if he suffered from any short of disease as referred to the said certificate.

A copy of the medical fitness certificate dated 25.12.99 is annexed herewith as Annexure- 'E'.

4.14 That the Applicant states that on 15.1.2000, at the time of report^{ing} his duties as stated above, he submitted an application before the Respondent No. 4 alongwith the aforesaid medical fitness certificate dated 25.12.99 informing the said Respondent that due to his illness he could not attend the Office and that during that period with effect from 25.12.99 to 13.1.2000, he had undergone medical treatment on Muhuripur P.H.C in the State of Tripura and to that effect the concerned Medical Officer on his recovery, issued the aforesaid certificate certifying that he was suffer^{ing from PUO and was} under continuous treatment in the said P.H.C during the period with effect from 25.12.99 to 13.1.2000.

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Tajinder Arora

In that application the Applicant however prayed for granting sanction against the said leave.

A copy of the application dated 15.1.2000 is annexed herewith as Annexure - 'F'.

4.15 That the Applicant states that after recovery from illness he joined his duties on 15.1.2000 but surprisingly at that point of time, he learnt that the Respondent No. 5 had appointed the Respondent No. 6 against this post taking the advantage of his absence from duties on medical ground. The Applicant having learnt about that illegal and arbitrary appointment of Respondent No. 6, made serious objection before the said Respondent No. 5 with a copy to Respondent No. 4 contending that as per the relevant service Rules he is entitled to leave on medical ground and the authorities are lawfully obliged to grant leave and in that circumstances, there is no any question neither to treat the incumbent to have been removed or dismissed from service or to appoint another person in his post. And any such action will amount to denial of the legal or legitimate right of the employees and the appointment of any other person in his post, would be wholly illegal and arbitrary. In that application the Applicant had however, made a request to those Respondents to allow him to continue his service by way of removing the said Respondent No. 6. In that

25/1/2014
Tribunal

application, it was further contended by the Applicant that even assuming that he was absent from duties unauthorisedly, in that eventuality, the authorities had the option to initiate a departmental proceeding against him to prove the said charge of misconduct and no penalty not to speak of any major penalty. by way of removal or dismissal from service can be imposed on him without initiating any such departmental enquiry. The Applicant however undertakes to produce this application before this Hon'ble Tribunal at the time of final hearing of the application.

4.16 That the Applicant states that the Respondent Nos. 4 and 5 although allowed him to continue his service but they refused to issue any Order to that effect. The aforesaid Respondents on the other hand, allowed the Respondent No. 6 to work by treating him to be in service since 1996. The Applicant during that period continuously requested the Official Respondents to issue a Written Order of removal or dismissal from service and also to give reason in justification of said removal or dismissal. The Respondents^{who} refused to pass any written order, ought to give any reason as demanded by the Applicant. But the fact remains that the Applicant continued to work in his post by attending the Office regularly with repeated representations before those Respondents for reviewing their decisions but he failed to evoke any response for any of those Official Respondents.

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H. A. Acharya

4.17 That the Applicant states that, it was only on 2.9.2001 the Applicant was made known by the Respondent No. 5 when the Applicant was served with a copy of letter dated 2.9.2001 which appears to which he seen to have been written by the said Respondent No. 5 to Respondent No. 4. By that letter it was for the first time a specific stand was taken by the Respondent No. 5 informing the Respondent No. 4 that the Applicant was appointed as Stenographer in the year 1996 and he continued his service only upto 1999 and during that period he had drawn his salary regularly from the Office of DAO, Lunding.

A copy of the letter dated 2.9.2001 is annexed herewith as Annexure-'G'.

4.18 That the Applicant states that on 5.9.2001 he made an appeal before Respondent No. 4 with copies to all other Official Respondents contending inter alia that he was appointed as Steno under Respondent No. 5 on 1.7.96 and since then he has been continuously working in the said post and thereby he has completed 5 years of continuous service with all sincerity, honesty, devotion, integrity and also to the fullest satisfaction of the authorities and at no point of time he charged with any short of blamish or adverse more except the said non-existing plea of unauthorised absence.

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It was also contended by the Applicant that he cannot be held to be unauthorised absentee during the period as referred by the Official Respondents in view of the fact that he was allowed to go on leave on medical ground and the Applicant ^{had} in fact, undergone medical treatment during the said period with prior intimation to the concerned authority and at the time of his joining, he submitted necessary medical certificate in support of that leave and the authorities had also assured him to grant that leave. The Applicant also contended that when he reported his duty on 15.12.2000, he was told by the Respondent No. 5 that the Respondent No. 6 was appointed against his post and consequent upon that appointment, there is no occasion for the Applicant to claim salary against his service. The Applicant also contended that the decision of the authority to treat the Respondent No. 6 to be in continuous service since 1996 and to allow him to take part in the screening test for the purpose of regularisation of service, is wholly illegal and arbitrary affecting and jeopardising legal and bonafide rights to be considered for regular appointment on consideration of his continuous service experience and seniority.

It was further contended that even ⁱⁿ view of the circular dated 19.9.2000 [^] as issued by the Department vide Office Memo No. E/216/LM(M)/PREM/Pt-II, the Respondent No. 6 cannot be said to be

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illigible to take part in the screening test and since he was not served with any Order of removal or dismissal, he is lawfully entitled to be covered by the said Circular and the Respondents are lawfully bound to allow him to appear in the said Screening test.

A copy of the Appeal dated 5.9.2001 is annexed herewith as Annexure-'H'.

4.19 That having failed to evoke any response, the Applicant filed a fresh Appeal before the Respondent No. 4 with a prayer for allowing him to take part in the screening test proposed to be held by the department for the purpose of regular selection against the said post of Steno.

In that Appeal the Applicant stated that he performed his duties with fullest satisfaction of the authority during the period with effect from 1996 to April 2001. The Applicant also stated that he was under medical treatment for a period of 20 days with effect from 25.12.99 to 13.1.2000 with prior permission of Respondent No. 5 and at the time of reporting his duties after recovery from illness, he had submitted medical certificate issued by the Doctor who treated him during that period alongwith an application for grant of the leave on medical ground

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and pending final decision, the Official Respondent had allowed him to continue his service of course without any salary or remuneration on the contention that he would not be entitled to any remuneration or salary unless and until leave against the said period is granted by the authorities.

The Applicant further stated in the said appeal that the relevant records would show that he worked in the Office of the Respondent No. 5 since 1.7.96 to April 2001 and he was paid the remuneration regularly for the period upto 24.12.99 and later on although he was allowed to resume duties on 15.1.2000 but he was not paid any remuneration for the said period on the plea that the Respondent No. 6 was given appointment in his post. The Applicant also stated that in recent past his mother met an accident and for the purpose of her treatment he had to stay at Calcutta for more than three months with prior permission of Respondent No. 5 but in spite of his continuous service, the Respondent No. 5 in a most illegal, arbitrary, ^{and} discriminatory manner dropped his name and recommended the Respondent No. 6 in his place for regular selection against the said post of Steno.

A copy of the Appeal dated 10.9.2001 is annexed herewith as Annexure - 'I'.

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4.20 That meanwhile the APO/PC wrote a letter vide Office Memo No. E/126/LM(W)/PREM/Pt-II dated 19.9.2000 informing the Respondent No. 5 that as per the direction of CM(P)/MLG issued under Order dated 08.9.2000, he had furnished the following particulars relating to all existing peons and stenos working under him detailing the length of service, total number of existing persons. By that letter the said Respondent No. 5 was however, requested to forward the said particulars to the competent authority at the earliest. It may be noted that the Applicant was working as Steno in the Office of Respondent No. 5 and the said APO, had furnished the detail particulars recommending his name for regularisation of service.

A copy of the letter dated 19.9.2000 is annexed herewith as Annexure - 'J'.

4.21 That the Applicant states that he was appointed by order dated 03.7.97 with effect from 01.3.97 as Steno in the Office of Respondent No. 5 and since 01.3.97 he worked continuously in the aforesaid capacity without any break. In support of the aforesaid contention, the Applicant begs to refer to and rely on the letter dated 28.11.99 issued by said Respondent No 5. The said letter ~~on 28/11/99 issued by~~ undisputedly shows that the Applicant was in existing service on 28.11.99. It further shows that by that

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letter, the Applicant was directed by said Respondent No. 5 to perform certain specific duties as specified therein.

A copy of the letter dated 28.11.99 is annexed herewith as Annexure-'K'.

4.22 That the Applicant states that upon consideration of his prayer, the Respondent No. 4 asked him to submit formal application stating the material facts and particulars relating to his candidature. Accordingly the Applicant submitted an application before the said Respondent No. 4 with a prayer for allowing him to appear in the proposed 'SCREENING TEST' for the post of Typist/Steno under DS/EV/PREM/LMG. The application was submitted in fact in pursuance to Order No. E/216/LM(W)/PREM?Pt-II dated 19.07.2000.

? A copy of the Application dated is annexed herewith as Annexure-'L'.

4.23 That the Applicant states that APO/PC issued the Order dated 07.9.2001 vide Office Memo No. E/227/Misc/LM/Reett(QAO) directing all the concerned authorities viz (a) the Chairman and Secretary of Railway Co-operative society Ltd, Chaparmukh, Karimganj, Lunding, Dimapur, Lower Haflong and Badarpur

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Tula Acharya

(b) the Chairman/Secretary of Railway Institution, Badarpur, (c) the Railway Recreation Club and (d) the Divisional Secretary, NFREU/Lumding to direct the candidates as appeared in the enclosed list to appear in the Screening test scheduled to be held on 18.9.2001 at 10.00 hrs. in the office of DRM(P), Lumding without fail.

By that Order, all those candidates as appeared in the aforesaid enclosed list ^{were directed} to appear in the Screening test with original certificates to prove their respective educational qualification, age etc. together with all other testimonials.

By that Order, the respective controlling authorities were directed to forward the applications to be filled by the candidates to the Screening Committee on the scheduled date and venue for the purpose of the said test.

A copy of the impugned Order dated 07.9.2001 is annexed herewith as Annexure - 'M'.

4.24 That the Applicant states that while issuing the aforesaid Order, the said Respondent No. 5 forwarded a list of the candidates showing all those candidates eligible to appear ^{in the} screening test for regularisation of their respective service. The said Respondent No. 5 at the behest of Respondent No. 4

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illegally and arbitrarily dropped the name of the Applicant from the said list and in his place, included the Respondent No. 6 recommending his name for selection. It is most pertinent to mention that as per the circular issued by the Respondent-Department, the candidates who were in existing service in 1996 under the Official Respondents, are the only eligible candidates to get their service regularised and admittedly the applicant was in existing service in 1996 and he continued his service upto April, 2001 and from 25.12.99 to 13.1.2000 he was on medical leave with prior permission of Respondent Nos. 4 and 5 with prior intimation but although he was allowed to resume duties on 15.1.2000 but he was not paid any remuneration/salary on the plea that during his absence, those Respondents appointed the Respondent No. 6 in his place. Therefore, in view of the said factual position, the Respondent No. 6 can not be said to be eligible for regular selection nor can he be allowed to take part in the screening test by treating him to be in existing service in 1996 against the post which was held by the applicant.

A copy of the impugned list as enclosed with the aforesaid impugned Order dated 7.9.2001 is annexed herewith as Annexure - N'.

5. GROUND FOR RELIEVE WITH LEGAL PROVISIONS:

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5.1 That it is stated that the Applicant having appointed in 1996 and allowed to continue the service for long period for about four and half years, can not be denied the benefit of regularisation of his service by way of not allowing him to take part in the proposed screening test and any such denial would be wholly illegal, arbitrary, discriminatory and without jurisdiction.

5.2 That it is stated that the manner in which the applicant was denied his bonafide and legitimate right to take part in the selection test is wholly arbitrary and illegal and the same has denied the constitutional and fundamental rights to get equal treatment and equal opportunity in the matter of public employment as guaranteed under Article 14 and 16 of the Constitution of India.

5.3 That it is stated that once the applicant was appointed against any post under any Government Department and he is allowed to continue for some considerable period, a legitimate and lawful right is accrued to him in view of such long continuation^{of} the service to be considered for regularisation of his service like all other similarly situated

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persons and the enforcement of said vested right of consideration does not depend upon any administrative discretion or pleasure of the authority and any such action in denial of that right of consideration, would not only be arbitrary and discreminatory but it would frustrate the rule of fairness and reasonableness.

5.4

That it is stated that even assuming but not conceding that the applicant had committed a serious misconduct on account of his unauthorised leave but the Official Respondents can not remove or dismiss him from service on that ground of unauthorised leave as a measure of punishment without holding any departmental inquiry in order to afford him any reasonable opportunity to defend his right and interest and the impugned action in imposing such punishment is not sustainable in law and same is liable to be struck down.

5.5

That it is stated that even assuming that the applicant had committed a mis-conduct in undertaking medical treatment without permission from competent authority and the Official Respondents had rightly held him guilty for the said charge but the punishment

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by way of removal or dismissal from service as held by the Apex Court in various Judicial pronouncements, would be wholly disproportionate to the said charge of unauthorised absence and the impugned action of the official Respondents in dismissing or removal from service in view of the aforesaid settled position of law, is not therefore sustainable in law and same is accordingly liable to be struck down.

5.6 That it is stated that the impugned removal or dismissal from service having been resorted to by the Official Respondents without following the well-established principles of natural Justice by way of not giving him any prior or pre-decisional opportunity of being heard and/or in not assigning any reason whatsoever in justification of the said action, is not sustainable in law and same is accordingly liable to be struck down.

5.7 That it is stated that since the Applicant was appointed by the competent authority and he thereby continued for long continuous period, he had a legitimate and bonafide right accrued thereunder to be considered for selection and since the applicant is

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admittedly within the Zone of consideration, it would be beyond authority on the part of the Official Respondents to deny that right on consideration of the plea that during the period of his absence, considering the urgency of the post, the Respondent No. 6 was given appointment in his place. Such action of the Official Respondents in denying that right of the applicant vis-a-vis the impugned appointment of Respondent No. 6 in place would be wholly illegal, arbitrary and contrary to rule of law rendering the same liable to be struck down.

- 5.7 That it is stated that since the applicant is legally entitled to medical leave under the relevant rules and as he had submitted necessary medical certificates in support of the medical treatment and the need of such a sort leave of about 20 days with effect from 25.12.99 to 13.1.2000, the Official Respondents are duty bound to grant sanction against the leave on consideration of such supportive documents. On the other hand, if the Official Respondents had no satisfaction as to the explanation against the aforesaid leave and/or as to the genuineness of the Medical Certificate, they had their option to suspend the applicant contemplating or

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initiating a department proceeding against him in order to enable the applicant to disprove the charge and to prove his innocence and any such action of the Official Respondents in removing or dismissing the Applicant from service as a measure of punishment on the said ground of unauthorised leave in absence of any such departmental inquiry, is wholly without jurisdiction taking away the legal and constitutional right of defence as guaranteed under Article 311 of the Constitution of India and same is accordingly liable to be struck down.

5.9

That it is stated that once the Applicant is found to have committed the misconduct on account of such unauthorised leave, it is the bounden constitutional and statutory obligation of the department to initiate a departmental inquiry in terms of relevant disciplinary rules to prove the charge of misconduct against him as directed under Article 311 of the Constitution of India. On the other hand, it is not the absolute discretion of the authority to dispense with such departmental inquiry and impose punishment or penalty without holding any such inquiry. If the department wants to dispense with such inquiry as provided under

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Article 311 of the Constitution of India

in that ^{case} it would be the burden obligation of the department to give reason justifying such decision of not holding the inquiry and on that point of view, the impugned action of the Official Respondents in removing or dismissing the Applicant from service without holding any such inquiry on the alleged charge of unauthorised absence is wholly unconstitutional and violative of the legal, statutory and constitutional right of the Applicant rendering the same liable to be struck down.

- 5.10 That it is stated that right to work and employment is a part of fundamental right to livelihood as guaranteed under Article 21 of the Constitution of India and denial of that right is subject to compliance of Article 14 of the Constitution of India. The Official Respondents therefore, are legally obliged to give reasons and to afford reasonable opportunity of hearing before taking any such decision affecting the said right of the applicant to work. Non-assignment of reason or denial of opportunity of hearing is not only against the principles of natural justice and rule of fairness but it would also be hit by Article 14 of the Constitution of India.

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5.11 That it is stated that since the applicant was in continuous service except ^{for} the aforesaid short period of leave on medical ground, he is within the Zone of consideration for regular selection and the Official Respondents can not under any circumstances deny or debar him to take part in the proposed selection test considering him to be in continuous service and exclusion of his name from the list of the eligible candidates as enclosed with the impugned Order dated 7.9.2001, is wholly arbitrary, discriminatory, illegal, unfair and without jurisdiction apart from being a colourable exercise of power and same is accordingly liable to be struck down.

5.12 That it is stated that the action of the Official Respondents more particularly the Respondent No. 4 and 5 in appointing the Respondent No. 6 during the period of his leave on medical ground and thereby recommending the name of said Respondent No. 6 to be eligible for regular selection by showing him to be in existing service in 1996 in place of the applicant is wholly collusive, arbitrary, illegal, unfair and without authority in law and the appointment of said Respondent No. 6 against the post

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held by the applicant in view of the aforesaid factual position, is illegal and contrary to law and same is accordingly liable to be quashed.

5.13 That it is stated that since the Respondent No.6 is found to have been appointed in 1999 positively in between 25.12.99 to 13.1.2000, the said Respondent No. 6 can not be said to be eligible and/or can not be held to be in continuous service since 1996 for the purpose of treating him eligible for selection. The said Respondent No. 6 who is not in existing service during the period in between 1996 to 1999, does not fall within the perview of the notification issued by the concerned authority of the Respondent-department and the inclusion of the said Respondent No. 6 in the impugned list of the candidates (SL. No. 31) by showing him eligible with other candidates, has vitiated the fairness of the action of the Official Respondents and same is on the point of view, liable to be struck down.

5.14 That it is stated that the action of the Official Respondents is not giving any reason or disposing any of the Appeals as submitted

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by the Applicant from time to time and/or in not making any communication to him as to the fate of those Appeals and/or in not giving any reason in justification of the action in excluding the Applicant from the aforesaid list and thereby including the Respondent No. 6 in his place showing him to be in service since 1996 against the post held by the applicant since 1.7.96, is wholly illegal and unjustified. The said action of the Official Respondents in refusing to give any reason or making any communication thereof, has amounted to denial of the legal and constitutional right of the Applicant as guaranteed under Article 19(1)(a) of the Constitution of India.

- 5.15 That it is stated that in view of the action of the Official Respondents in allowing the applicant to continue in service by way of not holding any departmental inquiry against him and/or by way of not issuing any order of dismissal, the applicant had adequate reason to believe and expect that he would be duly considered by the Official Respondents allowing him to take part in the proposed screening test alongwith all other similarly situated persons more particularly when he

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was asked to submit a formal application detailing the necessary particulars in support of his bonafide claim for consideration for regular selection against the post held by him since 1.7.96 and denial of such reasonable and legitimate expectation under the aforesaid circumstances, would amount to denial of his legal right as accrued ^{there} under. Such ^{also} action of the Official Respondents would ^{be} hit by doctrine of promisory estoppel.

5.16 That it is stated that the action of the Official Respondents is a direct infringement of the fundamental and all other legal rights of the Applicant as guaranteed under Articles 14, 16, 19, 21, 41 and 311 of the Constitution of India and also all other law being in force.

6. DETAILS OF REMEDIES EXHAUSTED :

That the Applicant states that there is no any other alternative efficacious remedy under the relevant provisions of law when he made a good number of Representations/ Appeals before the competent authority for redressing his grievances but without any result and the remedy now sought for by him under

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the aforesaid facts and circumstances would be just, proper, adequate and complete.

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

That the applicant declares that he has not filed any application, writ petition or any suit regarding the matter in respect of which the present application has been filed, before any Court or any other authority or any other Bench or Tribunal nor is any application, Writ petition or suit pending in any of those Court, authority or Tribunal.

8. RELIEFS SOUGHT FOR :

On the facts, circumstances and premises aforesaid, the Applicant prays for following reliefs.

8.1 For striking down the impugned Order dated 7.9.2001 (vice Annexure -M) and the enclosed list of the candidates in excluding the Applicant from the said list and including the Respondent No. 6 therein in place of the Applicant, in allowing the said Respondent No. 6 to appear in the screening test Scheduled to be held on 18.9.2001 at 10 A.M. in the Office of Respondent No. 4 and refusing the Applicant to appear in the said Screening test.

8.2 For setting aside or quashing the impugned Order dated 7.9.2001 (vide Annexure -M) and

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connected list of the candidates (vide Annexure-N) so far as the Applicant is concerned.

8.3 For striking down the action of the Official Respondents in removing or dismissing the applicant from service on the alleged charge of unauthorised absence for the period with effect from 25.12.99 to 13.1.2000 as a measure of punishment without holding any department proceeding against him and/or without affording any opportunity of being heard against the imposition of that major penalty and/or against the attribution of said charge.

8.4 For setting aside or quashing the appointment of Respondent No. 6 and also for striking down the action of the Official Respondents in appointing the said Respondent No. 6 in the post of the applicant by resorting to the plea of automatic dismissal or termination from service on the charge unauthorised absence and in including the said Respondent No. 6 in the impugned list showing him to be in service since 1996 and thereby allowing him to appear in the Screening test in place of the applicant on the plea of automatic termination of his service on account of unauthorised leave and also for striking down the action of the Official Respondents in not allowing the applicant to appear in the said Screening test.

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Tulsi Acharya

8.5 For declaring the action of the Respondents in terminating or removing or dismissing the applicant from service on the alleged ground of unauthorised leave without holding any departmental inquiry and refusing the applicant to appear in said Screening test and also in appointing Respondent No. 6 against the post held by the applicant since 1.7.96 and thereby showing the said Respondent No. 6 to be in service against that post since 1996 in order to make him eligible for regular selection and also in allowing the said Respondent No. 6 to appear in the said Screening test by including his name in place of the Applicant, to be illegal, arbitrary, unfair discriminatory, unreasonable, unconstitutional, and without any authority in law apart from being violative of the legal and Constitutional rights of the applicant.

8.6 For directing or commanding the Official Respondent nos. 4 and 5 to withdraw or recall the impugned action and also to modify the impugned list in excluding the name of Respondent No. 6 and including the applicant's name by allowing him to take part in the proposed screening test by holding him eligible on consideration of his long continuous service since 1.7.96.

8.7 For directing or commanding the Respondents to withdraw or cancel or recall the order of

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termination or removal of applicant from service if any and to treat him to be in continuous service by granting sanction against the leave for a period of 20 days with effect from 25.12.99 to 13.1.2000 on consideration of the medical certificate as submitted by the applicant and also to allow him to appear in the said Screening test to be held on 18.9.2001 in pursuance to order dated 7.9.2001 (Vide Annexure - M).

8.8 For directing or commanding the Respondents to implement the circular/notification issued by the Railway Department from time to time and thereby to modify the list by including the applicant in the said list and allowing him to appear in the proposed Screening test along with all other candidates as appeared in the said list by treating him to be eligible by virtue of his continuous service since 1.7.96 and also to consider his case alongwith all other similarly situated persons for selection against the post held by him since 1.7.96.

8.9 Pass any other or further Order or Orders as may be deemed fit and proper by this Hon'ble Tribunal in the facts and circumstances of the present application.

8.10 The cost of the Application.

9. INTERIM ORDER PRAYED FOR :

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Tulsi Acharya

9.1 To stay/suspend the proposed screening test scheduled to be held on 18.9.2001 in pursuance to impugned Order dated 7.9.2001 (Vide Annexure - M).

9.2 To direct the Official Respondents more particularly Respondent No. 4 and 5 not to hold the proposed Screening test and defer the said test to any other convenient date subject to approval by this Hon'ble Tribunal.

9.3 To direct the Official Respondents more particularly the Respondent No. 4 to allow the Applicant to appear in the proposed Screening test.

9.4 To direct the Official Respondents not ^{to} hold any screening test without allowing the Applicant to take part in the said test.

9.5 To direct the Official Respondents more particularly the Respondent No. 4 to reserve the post of Steno as held by the Applicant since 1.7.96 and which is presently held by Respondent No. 6 or any other existing equivalent post against which the said Screening test is scheduled to be held on 18.9.2001 in pursuance to impugned Order dated 7.9.2001 (Vide Annexure - M).

9.6 This Hon'ble Tribunal may be pleased to pass any other or further Order or Orders as to give adequate relief to the Applicant.

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10. PARTICULARS OF IPO :

- (i) IPO No. :
- (ii) Date of Issue :
- (iii) Issued from : G.P.O., Guwahati.
- (iv) Payable at : G.P.O., Guwahati.

11. LIST OF ENCLOSURES :

- a) Application : 1 copy
- b) Verification : 1 copy
- c) Various certificates in support of educational qualification, age etc. 4 copies
- d) Employment Registration Certificate : 1 copy
- e) Appointment Order dated 3.7.96 : 1 copy
- f) Order of approval of appointment : 1 copy
dated 16.3.99.
- g) Medical Fitness certificate : 1 copy
dated 25.12.99
- h) Application dated 15.1.2000 : 1 copy
- i) A copy of the letter dated : 1 copy
2.9.2001
- j) Appeal dated 5.9.2001 : 1 copy
- k) Appeal dated 10.9.2001 : 1 copy
- l) Copy of the letter dated 19.9.2000 : 1 copy
- m) Copy of the Order dated 28.11.99 : 1 copy
- n) Copy of application dated 5.9.2001 : 1 copy

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- o) Copy of impugned order dt. 7.9.2001: 1 copy
- p) Copy of impugned list of the : 1 copy
candidates asking them to
appear in the screening test in
pursuance to order dated
7.9.2001.
- q) Vakalatnama : 1 copy

Total : 20 copies.

For use in the Tribunal Office

Date of filing :

Date of Registration.

R E G I S T R A R

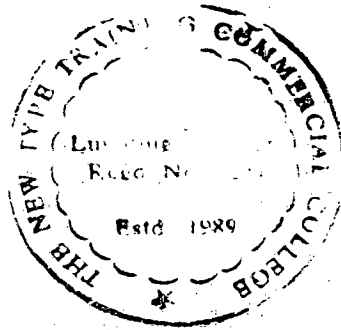
V E R I F I C A T I O N

I, Sri Tutu Acherjee, Son of Sri Jagadish Acharjee, aged about 24 years, resident of Brick Field Colony, Private House, P.O. Lunding, P.S. Lunding in the District of Nagaon, Assam do hereby solemnly verify that the statements made in paragraphs 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.11, 4.12, 4.13, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 6, 7, 10 and 11 are true to my knowledge, those made in paragraphs 4.8, 4.9, 4.23 and 4.24 are true to my information being the matter of records derived therefrom which I believe to be true and I have not suppressed any material facts.

And I sign this Verification on this 24th day of September, 2001 at Guwahati.

Tutu Acharjee.
Signature

No.-2038



The New Type Training Commercial College

ESTD- 1989

Regd. No. - 3251

LUMDING : ASSAM

Final Diploma Certificate

CERTIFIED that Tutu Acharjee son/daughter
of Shri Jagadish Acharjee inhabitant of Lumding has
attended a full course of training in **TYPE-WRITING/SHORTHAND** in English of this
Institute and has successfully passed the Final Diploma Examination, having attained
speed of 100 (One hundred) word _____ per minute, and being
placed in the II Division.

I consider him/her qualified to undertake the duties of a **TYPIST, STENO-TYPIST.**

Date.....23/5/96

[Signature]
23/5/96
INSTRUCTOR
Instructor,

The New Type Training Commercial College

Lumding-782447

[Signature]
23/5/96
PRINCIPAL
Principal

The New Type Training Commercial College

*qualified to be
an Auditor
Advocate*

DAKSHIN LUMDING VIDYANIKETAN
LUMDING

Estd.—1967



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No—DV/HSLC/6/306/93

This is to Certify that Sri Tutu Acharyee

Son/Daughter of Sri Jagadish Acharyee
has Passed the H. L. C. (~~Compartmental~~) Examination of the Board of Secondary Education, Assam in 1993 in 3rd Division from this School as a Regular/Private Candidate.

His/Her Roll No was Roll No 13-318 No 182

His/Her date of birth according of the Admission Register was 25-1-77

He/She Possesses good Conduct and Character.

Dated, Lumding

The—26th July, 93

Headmaster

Dakshin Lumding Vidyaniketan, H. S.
Dakshin Lumding Vidyaniketan H. S.
P.O., Lumding : Nagson, I Assam

Certified to be true copy
Jyoti Chandra
Advocate

42

Office No.

28682



Photograph

Board of Secondary Education : Assam, Guwahati

ADMIT

Tulu Acharjee
 Son/daughter of Jagadeesh Acharjee
 Roll N3 318 No 182
 to the High School Leaving Certificate Examination, 1993
 to commence on Wednesday, the 24th March, 1993.

His/Her Date of Birth is 25-01-77

Subjects for Examination :—

MIL. or its alternative		Elective
B	B7	H&S 4

Note :—Hours of Examination :— { Morning—From 9 a. m. to 12 noon
 Afternoon—From 1-30 p. m. to 4-30 p. m.

N. B.—Any alteration made in the entries on this Admit Card without the authority of the Board, renders the candidate liable to disqualification for sitting at this or any subsequent Examinations

Countersigned

Officer-in-charge,
 H.S.L.C. Examination Centre,
 (Office sec.) LUMDING,

Sd/- K. C. Deka.
 Controller of Examinations,
 Board of Secondary Education, Assam
 Guwahati-21

Certified to be true
 M. Chakraborty
 Advocate

RECOGNISED BY GOVERNMENT

THE LUMDING COMMERCIAL COLLEGE

No.004243

ESTD. 1948

LUMDING : ASSAM

This is to Certify that Shri Tutu Acharjee
 Son of/Daughter of Shri Jagadish Acharjee of
 Lumding in the District, Nagaon (Assam) has passed the Final Examination
 of Type Writing in English/Assamese (Blind Method) from this institution.
 He/She can Type accurately 45 (Forty Five)
 word (5 letters a word) Per minute. He/She is an active and willing worker.
 He/She may be safely engaged in any post of responsibility. His/Her conduct,
 while under training has been Good.

Dated, Lumding
 the 4/12/1993.



R. P. Bhattacharya
 Principal 4/12/93

The Lumding Commercial College
 Govt. Recognised
 Lumding (Assam) - 1948
 P.O. Lumding, Dist. Nagaon, Assam

*Certified to be true copy
 J. A. G. G. G.
 J. A. G. G. G.*

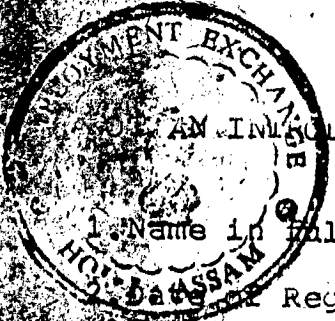
44 57

ANNEXURE- B.

GOVERNMENT OF ASSAM
DEPARTMENT OF LABOUR AND EMPLOYMENT
EMPLOYMENT EXCHANGE :: HOJAI :: ASSAM.

IN LIEU OF X-10B

ASSAM INTRODUCTION CARD FOR INTERVIEW WITH EMPLOYER, CATEGORY-S/C,
EX-SERVICEMEN, PWD-HANDICAPPED.



1. Name in Full.
2. Date of Registration.
3. Registration No.
4. Qualification.
5. N.C.O. NO.
6. Date of Birth.

:- Smt Tulu Acharja
:- 22/3/74
:- 220/74
:- JI. S.L.C. Pass
:- X01-10
:- 25/1/77

Signature of the applicant.

Next renewal due in every three years.
date initial of the renewal clerk.

Smt Tulu Acharja. 22/3/77

22/3/77

22/3/77

22/3/77

Assistant Employment Officer,
Employment Exchange, Hojai.

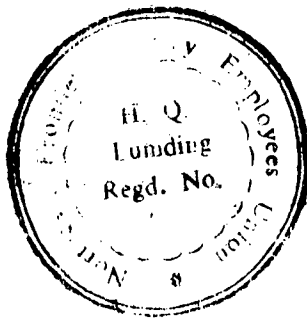
22/3/77

Certified to be true copy
for Chitra
Advocate

ANNEXURE - C

45 80

EU/DS/DRM(P)/PREM/96.



3/07/1996.

To
DRM(P)/LMC.
N. F. Railway.

Dear Sir,

Sub :- Appointment of Steno for
C.E.G. Office.

Consequent on resignation of Shri Sandip Bhowmick,
Ex.Steno, N. F. Rly. Employees Union/Lunding has appointed
Shri Titu Acharjee to work as Steno Vice vacancy with
effect from 01-07-1996.

This is for your information and necessary action
please.

1993

Your's faithfully.

(Divisional Secretary)
N.F. Rly. Employees Union/
Lunding

Certified to be true
In Chk
Advocate

ANNEXURE- D

19
dated 16/3/89

NORTHEAST FRONTIER RAILWAY.

MEMORANDUM NO. 005/99 (STENOGRAPHER)

G.M. has accorded his sanction to the enhancement of Honorarium @ Rs. 700/- p.m. to part time stenographer & Rs. 300/- p.m. to part time Peon attached to DCEG/NFREU & NFRMU respectively for a period of one year w.e.f. 3.2.99 to 2.2.2000 as concurred in by F&CM/PS dated 1.2.99.

S/No.	Name of Post.	Honorarium	Attached to.
1.	Part time Steno.	@ Rs. 700/- p.m.	DCEG/EU.
2.	Part time Peon.	@ Rs. 300/- p.m.	DCEG/EU.
3.	Part time Steno.	@ Rs. 700/- p.m.	DCEG/MU.
4.	Part time Peon.	@ Rs. 300/- p.m.	DCEG/MU.

(Auth: GM's sanction at Pt/26 of case No. E/283/30-CEG(P) Pt. I (Loose).

Sd/-
for General Manager(P)/MLG.

No. E/283/30-CEG(P) Pt. (Loose). Ballygun, Gtd -2-99.

Copy forwarded for information and necessary action to:-

1. General Secretary/NFREU/MLG. In ref. to letter No. EU/NF/2-20th PNM dated 19.11.98.
2. General Secretary/NFRMU/MLG. In ref. to letter No. MU/C/CEG/98 dated 11.3.98.
3. F&CM/PS/MLG. 4. P&M(P)/PS, A&LS, LMG, XIR.
5. LMG/LMG, TSK, A&LS, XIR.
6. SPO/PC/MLG. 7. A.O/N.

for General Manager(P)/MLG.

No. E/283/30/LM(P) Pt. III. Dtd. LMG 16/3/1999.

Copy forwarded for information and necessary action to:-

- 1) DMO/LMG. 2) Branch Secretary, NFREU/LMG.
- 3) Branch Secretary/NFRMU/LMG. 4. E/Bill at office.

Sd/-
for Divisional Railway Manager(P),
N. E. Railway, Lumailai.
cc: Div. Bt, Manager of
N. E. Bt. Assam

'naha'
16399

Confirmed by the
G.N. Limka
Advocate

47 4 ANNEXURE - E

FORM-31

Dated: 25/12/99

(See Rule -18)

MEDICAL CERTIFICATE FOR LEAVE OR EXTENSION OF LEAVE OR COMPUTATION OF LEAVE.

Signature of the Government servant _____

I, Dr. B. DAC MBBS DMCO (ent) after careful personal examination

of the case hereby certify that Shri/Smt/Kumari Tufu Achawjee

8/12/99 whose signature is given above is suffering from

P.U.O. and I consider that a period of absence from

duty of 20 (Twenty) days with effect from 22/12/99

is absolutely necessary for the restoration of his/her health.

In my opinion, it is not necessary for the Government servant to appear before a Medical Board.

Dated 28/12/99

Authorised Medical Attendant.

FORM-4.

(See Rule 23(3))

MEDICAL CERTIFICATE OF FITNESS TO RETURN TO DUTY.

Signature of Government Servant _____

I, _____ Authorised Medical Attendant, of

_____ do hereby certify that I have

carefully examined Shri/Smt/Kumari _____ whose signature is given above, and find that he/she has recovered from his/her illness and is now fit to resume duties in Government service. I also certify that before arriving at this decision, I have examined the original medical certificate(s) and statement(s) of the case (or certified copies thereof on which leave was granted or extended and have taken those into consideration in arriving at my decision.

Dated _____

Authorised Medical Attendant.

D.C.Pal.

4/2/97.

Certified to be true
Dr. Chandra
Advocate

ANNEXURE 'F'

48
Dated: 15/01/2000

To

The Divisional Secretary,
(Sri Shymal Kanti Dey)
N.F. Railway, Employees Union/PREM OFFICE.
Lumding Division.

Respected Sir,

It is inform you that I, Shri Tutu Acharjee, Steno(Parttime) under Divl. Secy./EU/PREM/Lumding since long but ill luck would have it, I could not attend Divl. PREM Office/EU/LMG from 25.12.99 to 13.01.2000 due to I went for Medical Treatment on that very date at Muhuripur in the state of TRIPURA. (Xerox copy M.C)

I, therefore, pray that you will be kind enough to grant me leave of absence for those days only.

Encl-1 (over)

Yours faithfully,

Tutu Acharjee
(Tutu Acharjee)
Stenographer (Parttime)
Under DS/EU/PREM/LMG.

Dated :- 15.01.2000.
Lumding.

Certified to be true copy
M. S. Saha
Adm. Officer

ANNEXURE - H

88
Dated: 5/9/2001

MOST URGENT

To
The Divisional Railway Manager(P).
N.E. Railway, Lumding Division, Lumding.

Sub : Information regarding an illegal Screening
Test of Sri Ashim Roy Pt. Steno under Divisional
Secy./E.U./PREM Office/Lumding.

Ref : Your L/No.E/216/LM(W)/PREM/Pt.11 Dated 19.09.2000
and MLG's L/No.GM(P)MDG's letter No.E/283/30-
CEC(O)/Pt.1(Loose), Dt.07-09-2000.

Respected Sir,

In ref. to your above quoted letter I, Sri Tutu
Acharjee, Parttime Stenographer of DCEG/N.F.R.E.U./Lumding
beg to state the following few lines for your kind consider-
ation and sympathetic order please.

That Sir, I have been appointed as Steno(Parttime)
under Divisional Secy./NFR/Employees Union(PREM OFFICE)Lumding
on 01.07.1996 and accordingly I am continuing till date
(Copy attached). Although I have completed 4 years sincere and
loyal service to the Employees Union (PREM Office)/Lumding
but sorry to inform you that neither I have been called for
Screening Test nor I have been permanently absorbed. I have
been serving under Divisional Secretary/Employees Union/PREM
Office/Lumding as a Steno(Parttime) w.e.f. 01.07.1996 to
20.12.1999. After that, I could not attend Divisional PREM
Office/Lumding from 25.12.99 to 13.01.2000 I went for Medical
Treatment on that very date in Muhuripur(Tipura State) by
this period, I produced my Medical Certificate to Divisional
Secretary/E.U./Lumding for 20(Twenty) days i.e. 25.12.1999
to 13.01.2000. (My Medical Certificate Xerox copy enclosed
herewith for your information).

That Sir, on 15.12.2000 I was duly went to the
said PREM Office/Lumding for joining but very regretful
matter is that Divisional Secretary/E.U./PREM Office/Lumding
without my knowledge he already been appointed a new man
Mr.Ashim Roy ,Parttime Steno instead of me. On 15.01.2000
to 20.01.2000 I have been requested several times to the
authority Divisional Secretary/E.U./PREM Office/Lumding (Mr.
Shymal Kanti Dey, and ADS/EU-Mr.Manik Ch.Dey) to join me but
they turned into a deaf ear, yet I have been neither received
any kind of letter nor any reply from Divisional Secretary/
E.U./Lumding, as per rule. " Sir, Was that would be " ?

That Sir, I have been served as a Steno (Pt.time)
in the year 1996 to 1999 but ill luck of would have it, Mr.
Ashim Roy join in place of me in the month of January/2000 ,
i.e. 15.1.2000. You may please look into this matter and
kindly investigate that my Seniority is much better than
Mr.Ashim Roy. Sir, I could not understand how Mr.Ashim Roy
got for Screening Test illegally as per you Circular No.E/216/
LM(W)/PREM/Pt.11, Dt.19.9.2000. " What is the reason behind
it" ?

Contd.....2?

AM
Covered
Certified to be true
Sd/-
Date

That Sir, my fervently request your goodself you may please look into this matter and kindly investigate the same from 1.7.1996 to 20.12.1999 under Master Roll's Bill Paper and Called attendance from the Bill Clerk.

I hope and solacite my all necessary papers was correct and I belief your hon'ble Pen may consider my case and kindly arrange my Screening Test for my permanent absorption as done for Institute and Co-operative Stores and Recreation Club and Employees Union(PREM OFFICE)as per your Circular , dt.19.09.2000.

Sir, if I could not get the good result from your end then I will done the Court Case against of Mr.Ashim Roy, Parttime Steno/E.U./Lumding under knowledge of DS/E.U./LMG. My service particulars as asked vide above are furnished below & for your necessary action please.

- | | |
|---------------------------------|---|
| 1. Divin. Unit. | :- Lumding. |
| 2. Name of the Organisation. | :- N.F.Rly.E.U.(PREM Office)LMG. |
| 3. Name of Workers, | :- Sri Tutu Acharjee, |
| 4. Date of birth. | :- 25-01-77. |
| 5. Date of initial appointment. | :- 01-07-1996. |
| 6. No. of days of service as on | :- 480 days , |
| 7. Educational Qualification | :- Passed H.S.L.C.Exam. in the year 1993. |
| 8. Remarks if any, | :- I passed the Stenography. |

In view of the above ~~circumstances~~ circumstances I would request you to kindly arrange my Screening Test . Kindly let me have your opinion as early as possible and for this act of your kindness I shall remain ever grateful and oblige.

With regards,

Yours faithfully,

Enclo :- 3(Three)Nos.

Date:-5/09/2001.
Lumding.

Tutu Acharjee
(Tutu Acharjee)
Parttime Stenographer
Under Divisional Secy./
E.U.(PREM Office)Lumding.

Copy to :-

1. The Divisional Rly.Manager/N Rly./Lumding - for information and necessary action please.
2. The Divisional Accounts Officer/NFR/Lumding - for information and necessary action please.
3. The General Manager(P)/NFR/Maligaon - for information and necessary action please.
4. The Chief Personnel Officer/NFR/Maligaon - for information and necessary action please.
5. Divisional Secretary/Employees Union/Lumding - for information.

Tutu Acharjee
(Tutu Acharjee)
Parttime Stenographer under
DS/N.F.R.E.U./PREM Office/LMG.

*Certified to be true copy
of the original
Advocate*

ANNEXURE - I

To,
The Divisional Rly. Manager(P).
N.E. Railway, Lumding.

Copy to :- The Divisional Accounts Officer,
N.E. Railway, Lumding.

Sub :- Prayer to ~~give~~ appear for the
SCREENING TEST post of Steno
Vide your Office Order No. E/
216/LM(W)/PREM/Pt. Dt. 19.9.2000,
AS A GENUINE CANDIDATE.

Respected Sir,

With due respect & humble submission I beg to lay before you the following few lines through which I may offer myself as a legal candidate for the Selection of Steno(P), but unfortunately I have been deprived by your Office to appear the Selection.

For your kind information I have been appointed as Steno for C.E.G./PREM Office in the year 1996 by the then Divisional Secretary/Employees Union/Lumding, Sri C.M. Roy and since then I have performed my Job with the full satisfaction of my Superiors since 1996 to April/2001.

For which I have been awarded by a Lum-Sum Payment through DRM(P)LMG, Bill Section and since 1996 the same payment was drawn by me from DPM/LMG through clear Salary bill prepared by personal branch and paid to me by DPM/Lumding with my clear Signature. (Ready reference if required is available with DPM/LMG), since 1996. Sri C.M. Roy, OS/II/DRM(P)LMG, Sri Barin Das, Ex-CYM/LMG now AO SHY and Sri Ranjit Chakraborty, DYC/LMG have been elected as Divisional Secretary/Employees Union/Lumding as per their Constitution and I had gotten opportunities to work with them continuously.

Very recent past my mother was seriously injure due to an accident for which I have to leave Lumding and stay with my mother for Heart Treatment at Calcutta where I have to stay more than 3(Three) months with prior permission of present Divisional Secretary/Employees Union/Lumding. But sorry to inform you that I have come to know from reliable sources that somebody has been nominated by the present Divisional Secretary/Employees Union/Lumding, Sri Shymal Kanti Dey and you have empanelled his name as a Candidate for the same Selection which I hope irregular and unjustified.

Contd.....2.

Artified to be for G
In Ant
Advocate

Sufficient documents are available at your Office through which I can prove myself as a Genuine candidate. So I hope that considering all Pros and Cons you would be kind enough to consider my candidature as genuine and I hope you will Offer myself for the above selection and deleting the name of the fraud candidate as submitted by the present Divisional Secretary/Employees Union/LMG violating all the rules and depriving myself as a unemployed youth.

I hope that you would be kind enough to consider me for the above selection then I would ever grateful to you.

For your further information if I fail to get justice from you for the same selection naturally to get the Job as a genuine candidate I will take legal justice to save my life, future prospects and oblige.

- N.B :- (1) A Zerox copy of my appointment enclosed herewith.
- (2) A Zerox copy of my Continuous service as Steno of N.F.R.E.U/Lunding division enclosed herewith for ready reference please. (2 Ref.)

Dated : 10-09-2001.
Lunding.

Yours faithfully,

Tutu Acharjee

(Tutu Acharjee)
Stenographer (Parttime) -
Under DS/NFREU/LMG (PREM)

- Copy to :- (1) The Divisional Rly. Manager/N.F.Rly./Lunding for information and necessary action please.
- (2) The C.P.O./MLG, N.F.Railway - for information and necessary action please.

Received:

1.DRM(P) LMG:-
N.F.Rly.

2.DRM/LMG :-
N.F.Rly.

3.DAO/LMG :-
N.F.Rly.

4.

Tutu Acharjee

(Tutu Acharjee)
Stenographer (Parttime)
Under DS/NFREU/PREM/LMG

Address for Commutation:

To
Sri Tutu Acharjee,
C/O. Jagadish Acharjee,
S.S.E(North Office)Lunding,
P.O.Lunding, Dist.Nagaon,
(Assam)782447

*Certified to be true
S.M. Chakrabarti
Advocate*

ANNEXURE-'J'

54

N.F. Railway.

No. E/216/LM(W)/PREM/Pt. 11.

Office of the
Divl. Mly Manager(P),
N.F. Ry, Luding.
Dated. 19.9.2000.

TO
The Divl. Secretary/Convenor,
NERBU/NERMU, Luding.

Dear Sir,

Sub:-Particulars of Part time Steno & Part time Peon
attached to Divl. PREM Office/LMG.
Ref:-GM(P)/MLG's letter No. E/283/30-CBG(O)/Pt. 1(Loose).
Dt. 07.9.2000.

As desired by GM(P)/MLG vide his letter under reference,
the following particulars of the Part time Steno & Peon
attached to Divl. PREM office are to be sent to GM(P)/MLG
immediately.

1. What is the time the part time Steno & Peon is being
utilised.
2. How many are all in this Division.
3. Whether serving employees or otherwise.

As such, you are requested to furnish the above particu-
lars to GM(P)/MLG at the earliest for further transmission to
GM(P)/MLG.

Thanking you,

Yours faithfully,

A. K. Dey 19/9/00
(A-K-Dey, APO/RC)
For Divl. Mly Manager (P),
N.F. Ry, Luding.

*Certified to be true & correct
for Adv. Secy*

555 63
ANNEXURE - K

Ref : EU/BS/LM/99

Date: 28.11.99

To,

General Secretary

N.F.R.E.U./ PNO

Sri Titu Acharjee, Typist of Employees
Union/ Lumding is being directed to collect type machine
from CEG / MLG which may be handed over to Sri Acherjee

Thanking you,

Branch Secretary

N.F.Railway Employees' Union

*certified to be true
by
M. Anur
Advocate*

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

PHOTO

Sub :- Prayer to appear for the
SCREENING TEST for the post
of Typist/Steno(P.T) under
DS/EU/PREM/LMG vide your
Office Order No.E/216/LM(W)/
PREM/Pt.11 Dt.19.09.2000 as
a Genuine Candidate.

Respected Sir,

With due respect & humble submission I beg to lay before you the following few lines through which I may offer myself as a legal candidate for the Selection of Typist/Steno but unfortunately I have been deprived by your Office to appear the Selection.

That Sir, according to that I will to offer myself for the Screening Test as per my BIO-DATA. Therefore, I send this application with BIO-DATA for above subject to you for your kind perusal.

- | | |
|---------------------------------|--|
| 1. Name of Workers. | :- Sri TUTU ACHARJEE. |
| 2. Father's name. | :- Sri Jagadish Acharjee. |
| 3. Date of Birth, | :- 25-01-1977. |
| 4. Divisional Unit. | :- Lumding, |
| 5. Name of the Organisation | :- N.F.Rly. Employees Union/
PREM Office/Lumding. |
| 6. Date of Initial Appointment. | :- 01-07-1996. |
| 7. No of days of Service as | :- 480 days, |
| 8. Unemployment Exchange No. | :- 220/94. Hojai Exchange. |
| 9. Address for Communication | :- Sri Tutu Acharjee,
C/O. Sri Jagadish Acharjee,
S.S.E(North Office) Lumding,
P.O. Lumding, Dist. Nagaon,
(Assam) 782447. |
| 10. Address for Permanent. | :- -do- -do- |
| 11. Educational Qualification, | :- (1) H.S.L.C. Exam. Passed,
in the year 1993. |
| Others Qualifications | :- (2) Rastra Bhasha Hindi,
'PROBODI B.A.) Exam. Passed. |
| 12. Technical Educations. | :- (1) Type Writing and
present Speed 45 W.P.M.
in English Medium. |
| Others, | :- (2) Shorthand/Stenographer,
present speed 100 W.P.M.
in English medium, |

13. Whether, SC/ST/OBC/Genl. :- General Caste, 14. Sex: - Male,

If you kindly give me a chance, I may call at your Office, for an interview alongwith the all Original Educational Certificates. I do sincerely hope that you will be kind enough to give me the chance of serving you as best as I can.

Enclos:- 9(Nine)

Date: 5.9.2001

Yours faithfully,

Tutu Acharjee
(Tutu Acharjee)

Typist/Steno under PREM/EU.

*Certified to be True Copy
By
Advocate.*

By Regd post with A/D

Dated: 07/09/2001

Office of the
Divil.Rly.Manager (P),

No.E/227/Misc/LM/Rectt(QAO)

Lumding, dtd: 07/09/2001,

To

- 1) The Chairman/ Secy,
Rly. Co-operative Society Ltd.
Chaparmukh, Karimganj, Lumding Dimapur, Lower Haflong &
Badarpur.
- 2) The Chairman/ Secy.
Rly. Institute, Badarpur.
- 3) The Rly. Recreation Club.
S.H. Colony/Lumding.
- 4) The Divil. Secy. NFREU/Lumding.

Sub:- Screening test for Apptt. to Group-D post.

Sir,

Enclosed please find herewith a list of eligible staff working in your organisation received from GM(P)/MIG.

Please direct the candidates to appear in screening test fixed to be held on 18/9/2001 at 10-00 hrs. in DRM(P)/LMG's Office without fail.

The candidates should appear before the screening Committee along with their school certificate in original as proof of educational qualification and age etc. and other testimonials if any (with attested copy).

A FORMAT of application is also attached herewith which should be duly filled in by the candidates and forwarded by the Controlling authorities to the screening committee on the scheduled date and venue fixed for the Screening test.

No absentee test will be held. please treat this as most urgent.

Yours faithfully,

Encl:- As above.

As 7/9/01
(A.K.Dey, APO/PC)
for Divil.Rly. Manager (P),
N.F.Rly. Lumding.

Copy to:- GM(P)/MIG for information in ref. to his letter No. E/41/5/(C) Pt.V-QA dtd. 27/8/2001 & 29/8/2001.

As 7/9/01
(A.K.Dey, APO/PC)
for Divil.Rly. Manager (P),
N.F.Rly. Lumding.

T/Mistry.

*Collection to be made by
Ananta
Advocate*

List of the candidates.

Sl. No. Name

Under whom working.

- | | |
|---------------------------------------|---|
| 1) Shri Rajib Bora, | N.F.Rly.Employee's Co-operative
Consumers Society Ltd.
CPK. |
| 2) " ^{Subrata} Bhattacharjee | -do-/ KXJ. |
| 3) " Manik Ch.Dey, | -do- |
| 4) " Badal Chakraborty | -do- |
| 5) " Subasish Biswas | -do-/ LMG. |
| 6) " Manojit Aich | -do- |
| 7) " Narayan Ch.Dey | -do- |
| 8) " Ashok Karmakar | -do- |
| 9) " Laxman Singh | -do- |
| 10) " Sujit Kr.Dey, | -do- |
| 11) " Kamal Chakraborty, | -do-/DMV |
| 12) " Chandan Sharma | -do- |
| 13) " Babul Ch.Ghosh | -do- |
| 14) " Samar Dutta | -do- |
| 15) " Jiten Ch.Das | -do- |
| 16) " Gopal Ch.Paul | -do- |
| 17) " Shibu Nath Barua | -do- |
| 18) " V.Bhaskar Rao | -do- |
| 19) " Shyamal Kar | -do- |
| 20) " Satendra Kr.Singh | -do- |
| 21) " Babul Dey, | -do- |
| 22) " Bankim Kr.Bhowmick | -do- |
| 23) " Gopal Bhattacharjee | -do-/LFG |
| 24) Sri U.Ghosh | -do-/LFG |
| 25) Shri Kajal Mazumder | Rly.Institute/BPB |
| 26) " Biswajit Bhattacharjee | -do- |
| 27) " Pradip Chakraborty | -do- |
| 28) " Sanjib Kr.Dey, | Rly.Recreation club/LMG. |
| 29) " Sanjib Das | -do-/SCL. |
| 30) " Kajal Das | PREM office/LMG. |
| 31) " Ashim Roy | -do-/LMG. |
| 32) " Swapan Chowdhury (1) | N.F.Rly. Employee's Consumer
Co-operative Society Ltd. BPB. |
| 33) " Gautam Roy | -do- |
| 34) " Umesh Ch.Malakkar | -do- |

-000-

Classified to be for copy
for Linka
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI:

O.A. NO. 3807/2001

Sri Tutu Acherjee

- Versus -

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 statement in paragraph 4.2 it is ^{stated that} ~~at~~ the Rly respondents did not appoint the applicant in Railway. He was appointed by the respondent No. 5 in the PREM Office of N.F. Railway Employees Union. As

contd...P/2

16 AUG 2001
GUWAHATI BENCH
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI:
O.A. NO. 3807/2001
Sri Tutu Acherjee
- Versus -
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 statement in paragraph 4.2 it is ^{stated that} ~~at~~ the Rly respondents did not appoint the applicant in Railway. He was appointed by the respondent No. 5 in the PREM Office of N.F. Railway Employees Union. As
contd...P/2
Filed by the respondents through A. Chakrabarty on 14/8/2002
Superintendent, Staffing, Divisional Personnel Office, N.F. Railway, Lumding

such, the question of removing the applicant from his quasi-Administrative service by the Railway respondents No. 1 to 4 does not arise. From the respondent No. 5's letter No. EU/DS/LMG-PREM dated 24.2.2000 it reveals that the applicant discontinued his service as Stenographer for PREM Office/ N.F. Railway. Employees' Union since afternoon of 31.12.99 and Shri Ashim Roy respondent No.6 was engaged w.e.f. forenoon of 1.1.2000 as stenographer for PREM office, N.F. Railway Employees Union, Lumding.

Copy of the letter dated 24.2.2000 is enclosed as Annexure-I.

4. That in replay to statements in para 4.3 it is stated that the Rly. neither appointed the applicant nor removed him. The NEREU is the Quasi-administrative office of the Rly. and the staff is engaged therein by the NEREU and removes them when not required/desirable, as considered by the Union only. It may further be stated that the recruitment in the Group-D category was held on the basis of some requisite qualifications, prescribed by the Rly Board vide its L/No. E/(NG)/II/99/RR-1/15 dated 30.5.99 circulated under GM(P)/NIG's letter No. E/41/5(C)/Pt.IV dated 19.20.2000 one of the qualification requires that the candidate was on roll continuously for a period of at least 3(three) years as on 10.6.97 and ^{is} ~~are~~ still on roll. The applicant does not possess this qualifications. The submission of Annexure-II to the OA shows that the applicant claims to be

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Sourindranarayana Ray
Divisional Personnel Officer
N.F. Railway
Lumding

संलग्न कार्यवाही
ग. सी. रेवे, लुमदिंग
Divisional Personnel Office
N.F.R.M. Lumding
Sourindra Narayan Ray
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appointed on 1.7.96. Further he was not on roll w.e.f 1.1.2000. This implies that he was not on roll on the date of issuance of the Railway Board's letter dated 30.5.2000 and GM (P)/MLG's letter dated 19.20-06-2000. As regards ~~to the respondent No.6~~ ^{it is stated that} ~~has name was included in the list~~ dated 7.9.2000 (Annexure -M² to the OA), [✓] The name of the respondent No.6 was included in the test so published on the basis of general Manager (Personnel) /Maligaon letter No. E/41/5 (C) Pt. VQ A dated 27.8.2001. But letter on the basis of respondent No.5's letter No. EU/DS/LMG-PREM dated 24.2.2000 it was found that the respondent No.6 does not possess the requisite qualification as he was engaged with effect from 1.1.2000 he does not [✓] come within the zone of consideration. The matter was accordingly intimated by the Divisional Railway Manager (Personnel/Lumding to General Manager (personnel/Maligaon vide its letter No. E/227/Misc/LM/Rectt/QAO dated: 24.09.2001 and his name has been deleted from the selection.

Photo copy of the Railway Board circular dated 30.5.2000; GM(P)/MLG's ^{Letter dated 19/20-6-2000} and DRM(P)/LMG's latter dated 24.9.2001 are enclosed as Annexure-II, III and IV respectively.

5. That in reply to statement in para 4.6 it is stated that the post of Stanographer in the NFREU is not filled up by the DRM(P)/LMG. It is filled up only by the NFREU/ Lumding. As such question of submitting

Contd..p/4.

ग. सी. रेलवे, जामशेदपुर
Divisional Personnel Officer
N. B. Rly., Lumding
Sourintha Neryan Ray 23

application before the DRM(P)/LMG for the post of stenographer of the NEREU does not arise. Moreover, the applicant did not even submit any application before the DRM (P)/LMG for the post of stenographer.

6. That in reply to statement in para 4.7 it is stated that DRM(P)/LMG did not hold any selection for the post of stenographer. As such, the applicant was not appointed by DRM(P)/LMG. Hence the averments of the applicant are denied.

7. That in reply to statement in para 4.8 to 4.9 it is stated that the applicant does not possess the requisite qualification as per Railway Bd's circular dated 30.5.2000 wherein it is provided that the candidate should have completed 3(three) years continuous service in the quasi- administrative offices (NEREU etc) as on 10.6.97.

8. That the statement in para 4.10 are denied being contradictory. On the one hand he states that he was appointed w,e,f. 1.7.96 on the other hand he claims to have worked w.e.f. 1.3.96.

9. That in reply to statement in para 4.11 to 4.12 it is stated that the applicant never submitted any leave application before the respondent No.4. As such question of granting leave by the respondent No.4 does not arise. Moreover the respondent No.5 is the sanctioning

उत्तर कांमिक अधिकारी
१. सी. रेल्वे, लामदिन
Divisional Personnel Officer
Mr. B. R. Narayana
Soniandra Narayana

authority not the respondent No.4. Hence the statement of the applicant are baseless and thus denied.

10. That in reply to statement in para 4.13 to 4.16 it is stated that the Medical certificate (Annexure-E to the OA) meant only for the Govt. servant. The applicant is not a Govt. Servent, hence the certificate is not sustainable. The Respondent No.4 never allow him to continue his service as it has no authority to do so.

11. That in reply to statement in para 4.18 it is stated that Respondent No.6's name was included in the list dated 7.9.2000 (Annexure M to the OA) on the basis of GM(P)/MLG's L/No. E/41/5(C) Pt.V OA dated 27.8.2001. But latter on the basis of respondent No.5's letter No. EU/DS/LMG-PREM dated 24.2.2000 it was found that the respondent No.6 does not possess the requisite qualification, as he was engaged W.E.F. 1.1.2000 he does not come within the the zone of consideration. The matter was accordingly intimated by the DRM(P) LMG to GM(P) MLG vide its L/No. E/227/Misc/LM/RECTT/QAO dated 24.9.2001 and his name has been deleted from the selection.

Photo copies of the Rly. Bd;s circular dated 30.5.2000, GM(P)/MLG's letter dated 19.20-6-2000 and DRM(P)/LMG letter dated 24.9.2001 are enclosed as Annexure-V, VI, and VII respectively.

12. That in reply to para 4.20 it is denied that the APO/PC had furnished the detail particulars recommending the name of the applicant for regularisation of service. Annexure - J shows that Respondent No.4 sought some particulars from the respondent No.5 simply.

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

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

I, Sri. Sourindra Narayan Roy working as Divisional Personnel Officer..... N.F. Rly, Lumding, do hereby verify that, the statements made in the paragraphs 1 to 13 are true to my knowledge.

And I sign this verification on this 24th day of July, 2002 at ~~Guwahati~~ Lumding.

Sourindra Narayan Roy.
মহল ডাউন অফিসার
পূ. সী. রেল, লামডিং
Divisional Personnel Officer
N. F. Rly., Lumding

Annexure - I

7

RAILWAY EMPLOYEES' UNION

REGISTERED UNDER TRADE UNION ACT, 1926

Recognised By The Railway Administration

Affiliated to National Federation of INDIAN RAILWAY MEN & I.N.T.U.C. (61)

LUMDING DIVISION

Ref. EU/DS/LUMG-PREM

Date 24-2-2000

To,

The DRM(P)/Lumding,
N.F. Railway.

Sub : Appointment of Stenographer for PREM Office/
N.F. Railway Employees Union, Lumding, Assam.

Dear Sir,

Shri Titu Acharjee who had been working as Stenographer in the PREM Office has now been discontinued since afternoon of 31st December, 1999. To pull on day to day work of PREM Office, Shri Ashim Roy have been engaged w.e.f. forenoon of 01.01.2000 considering his qualification and eligibility.

His Bio-data are furnished below :-

1. Name : ASHIM ROY,
2. Father's Name : Shri L.K. Roy,
3. Date of birth : 05.04.74,
4. Educational Qualification : H.S. Pass in 1994,
5. Shorthand/Type Speed : Shorthand Speed 105 Per Minute,
Typing 45 word per minute.
6. Experience : Two years Office working Experience in Lumding Commercial School.

Cont.....P/2

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Page : 2/-

As Shri Roy was under trial of suitability, the information could not be communicated in time. As such his name may please be recorded for drawing monthly honorarium as per extent rule.

His bio data etc. (attested photo copy) and attendance sheet for the month of January 2000 replacing the name previous incumbent Shri Titu Acharjee are enclosed herewith for further necessary action from your end.

Dated, Lumding,

The 24-2-2000

Yours faithfully,

(Shyamal Dey)
Divisional Secretary,
N.F. Railway Employees Union,
Lumding Division.

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Annexure - II

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

NO.E(NG)II/99/RR-1/15

RBE No. 103/2000
SC No. 29 to MC No.32

New Delhi, dt. 30.5.2000

The General Manager(P)/ OSD, All Zonal Railways/ PUs,
RE/ Allahabad, MTP/Calcutta, Mumbai, Chennai,
CAO(R), DCW/ Patiala, COFMOW/ New Delhi,
DG, RDSO/ Lucknow, Director, IRISST/ Secunderabad,
IRICEN/ Pune, IRIEN/ Nasik, IRIM&EE/ Jamalpur,
Principal, RSC/ Vadodara, Chairmen/RRBs

Sub : Recruitment in Group 'D' category on the Railways of the staff working in quasi-administrative offices/ organizations connected with Railways.

Attention is invited to Board's letter No. E(NG)II/95/RR-1/40 dated 11.6.97, wherein it was laid down that the staff working in the quasi-administrative offices or organizations connected with the Railways, will henceforth have to compete along with other eligible candidates for recruitment to the Railway service, as and when notifications for recruitment to Group 'D' posts etc. are issued by the Railways/RRBs.

2. A demand had been raised by both the recognized Staff Federations that those staff of quasi-administrative offices/ organizations who were working in these offices as on 10.6.97 should be considered for absorption in Railway service, as was being done earlier in terms of Board's letter No. E(NG)II/77/RR-1/5 dated 26.8.77.

3. The matter has been considered by the Board. It has now been decided that, as a one time relaxation, the Railways may consider absorption of only those staff of quasi-administrative offices/ organizations who were on roll continuously for a period of at least three years as on 10.6.97, and are still on roll, subject to fulfilment of prescribed educational qualification required for recruitment to Group 'D' posts. Such staff should have been engaged within the prescribed age limit. Such absorption should be resorted to only after exhausting the list of ex-Casual Labour borne on the Live Casual Labour Registers/Supplementary Live Casual Labour Registers. The Units/Bodies whose staff are proposed to be absorbed in this manner and their total number should however be first intimated to the Board and the process should be undertaken only after Board's clearance. Proposals sent to the Board for such clearance should have the personal approval of the General Manager.

4. Please acknowledge receipt.
(Hindi version will follow)

(Signature)
(Devika Chhikara)
Director Establishment (N)
Railway Board.

(Copy of Railway Board's letter No. E(NG)II/95/RR-1/40 dated 11.6.97)

Attention is invited to the instructions contained in Board's letter No.E(NG)II/77/RR-1/5 dated 26.8.77, providing for absorption, by screening, of staff of Quasi-administrative Offices or Organisations connected with the Railways, in Railway service.

The matter has been reviewed by the Board and it has been decided that in supersession of the letter dated 26.8.77 referred to above, the staff working in the quasi-administrative offices or organisation connected with the Railways, will henceforth have to compete along with other eligible candidates for recruitment to the Railway services as and when notifications for recruitment to posts suiting their qualification, etc. are issued by the Railways or RRB's.

Such staff will, however, continue to be entitled to the age concession in such recruitments to the extents of 5 (five) years or service rendered in such organisations whichever is less, as contained in Board's letter Dated 30.10.73.

APD/1/1M4

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Annexure - III

NF Railway

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

RECTT- 900.
No.E/41/5(C) Pt.IV.

Dated. 19.06.2000.
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All Concerned as per Mailing list including
All Rly. Co-opty Society and Rly. Institutes.

Sub :- Recruitment in Gr. 'D' category on the Railways of the staff working in
quasi-administrative offices/organizations connected with Railways.

A copy of Railway Board's letter No.E(NG)II/99/RR-1/15 dated 30.05.2000 on
the above mentioned subject is forwarded herewith for information and necessary action
please Board's earlier letter No.E(NG)II/77/RR-1/5 dated 26.08.77, as referred to in
their present letters was circulated vide GM(P)'s circular No.RECT-560/E/41/5(C)
dated.29.09.77.

Copy of the Rly Board's letter No.E(NG)II/95/RR-1/40 dated 11.06.97, is
enclosed herewith for ready reference.

In view of the above, it is requested to re-check the list of staff working in
quasi-administrative organization, whether they are fit for absorption in Gr. 'D' posts
according to fulfillment of prescribed educational qualification and within the prescribed
age limit, and may be dealt in the light of Railway Board's guidelines in this regard.

Your immediate compliance to the matter is requested.

DA :- As above.


for General Manager (P) 16.6.2000

(Copy of Rly. Board's letter No.E(NG)II/99/RR-1/15 dt.30.05.2000)

N.F. Railway.

Office of the
Divil. Rly. Manager (P),

No. E/227/Misc/LM/Rectt(QAO)

Lumding, dtd: 24/09/2001.

To
General Manager (P)/Maligaon
(For personnel attention of Shri J. Rabi Das , APO/Welfare/MLG)

Sub:-Screening test of the staff working in Quasi-administrative offices to Group-D Post on the Railways.

Ref:-Your L/No. E/41/5(C) Pt. V -QA dt. 27/8/2001.

In connection with the screening test of the above mentioned staff, the following informations are furnished for your information and necessary action please.

- 1) As per report, the RRC/SCL is not functioning properly and there is no approved committee since 1994. Hence the name of Shri Sanjib Das, as appeared at SL No. 210 of your list, does not come under the purview of eligibility for screening list as per instructions.
- 2) Shri A. Roy of PREM office/ NEREU/IMG as listed at SL No. 177 of your list was engaged wef 1/1/2000. As per instructions he does not come within the zone of consideration.

Deviation if any, on the subject mentioned above may please be intimated to this office.

(S.N. Roy, DPO/Lumding)
for Divil. Rly. Manager (P),
N.F. Rly. Lumding.