

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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disposed. Date-25/04/2001

O.A/T.A No. 60/2001

R.A/C.P No.

E.P/M.A No. 50/2001

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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWHATI BENCH ::::: GUWAHATI

ORDER SHEET
Original APPLICATION NO 60 OF 2001

Applicant (S) Hams Rajshree

Respondent(s) U.O.I & Co

Advocate for Applicant(s) Mr. R.P. Yadav

Advocate for Respondent(s) Railway Counsel.

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
No. 56422009
Date 3.2.2001

14.2.01

Heard Mr. R.P. Yadav learned
counsel for the applicant and also
Mr. S. De Sarkar learned Railway
counsel for the respondents.
List on 28.2.01 to enable the
applicant to file the rejoinder
if any within 2 weeks. List on
28.2.01 for Admission.

Vice-Chairman

lm

28.2.2001

List it on 21.3.01 alongwith M.P.
No.50/2001.

Vice-Chairman

nk m

21.3.01

Heard learned counsel Mr. R.P. Yadav
for the applicant and Mr. S. Sarma, for
the respondents.

Issue notice on the respondents as
to why the application shall not be
admitted. Returnable by two weeks. List
on 4.4.2001 for further orders.

Vice-Chairman

23-3-2001

Service of notice
issued to the issued
to the respondents
vide D. No 1143 to 1145
dtd 23/3/01

Bar

46m's requisite
received

7/2

Dy. Registrar
14/02/01

1) NO written statement
has been filed.

2) NO Service Stamp in
yallalathama & S.S.D.

3) NO notice served on
no counsel as yet served in
NS
24/4/2001 MP. 50/2001.

4.4.2001

List again on 25.4.01 to enable
the respondents to file the written
statement.

Vice-Chairman

nk m

25.4.2001

Heard Mr R.P. Yadav, learned counsel
for the applicant. The application is admitted.
Call for the records. List it for orders on 8.6.01.

Vice-Chairman

① Notice served by
hand on R. No. 122.

nk m

8.6.01

Mr. S. Sarma, learned counsel for the respon-
dents asked for time to file written statement.
List afkaxx on 5-7-2001 for order.

② No. 14/5 has been
filed.

Member

By
4.7.01

mb

5.7.01

List on 10.8.01 to enable the
respondents to file written statement.

No written statement
has been filed.

By
9.8.01

Vice-Chairman

lm

10.8.01

Mr. S. Sarma, learned counsel for the
respondents prays for three weeks time
to file written statement.

List on 12/9/01 for order.

No written statement
has been filed.

By
11.9.01

Member

mb

12.9.2001

Ms. U. Das appearing on behalf of Mr. S. Sarma,
learned counsel for the applicant requests for four
weeks time to file written statement.

Prayer allowed. List the matter on 12.10.2001
for order.

No written statement
has been filed.

By
11.10.01

bb

Member

3
3
D.A. 60/2001

Notes of the Registry

Date

Order of the Tribunal

12.10.2001

No. written statement
has been filed.

27.11.01

bb

28.11.01

No. written statement
has been filed.

1.1.02

mb

2.1.02

lm

8.2.02

23.1.2002
W/S on
behalf of the
respondents has been
submitted.

lm

15.3.2002

27.3.2002

Copy of the order
sent over to the L/A
for MS parties.
HS

bb

On the prayer made by Mr.S.Sarma, learned
counsel appearing for the respondents four
weeks time is allowed to the respondents to
file written statement.

List the matter on 28.11.2001 for order

ICU Sharma
Member

On the prayer of Mr.S.Sarma, learned
counsel for the respondents 4 weeks time is
allowed to file written statement.

List on 2.1.02 for written statement.

ICU Sharma
Member

not
Written statement has been filed,
though opportunity was given. The case be
listed for hearing on 8.2.02.

ICU Sharma
Member

None is present for the applicant
The Respondents may serve the copy of the
written statement to the applicant within
two days. List on 15.3.02 for hearing.

ICU Sharma
Member

Heard counsel for the parties.
Judgment delivered in open Court, kept in
separate sheets.

The application is disposed of in
terms of the order. No order as to costs.

ICU Sharma
Vice-Chairman

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Isolated and is not a part of the general body of the Tribunal

Notes of the Registry	Date	Order of the Tribunal
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Received 1/2/02
Administrative
1/2/02

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.60 of 2001.

Date of Decision.....15.3.2002

Shri Hans Rajbhar

Petitioner(S)

Mr.R.P.Jadav.

Advocate for the
Petitioner(s)

-Versus-

Union of India & Others.

Respondent(s)

Mr.J.L.Sarkar

Advocate for the
Respondent(s)

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

THE HON'BLE

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.

✓ 4+5
4+5
NO
4+5
T

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.60 of 2001.

Date of Order : This the 15th Day of March, 2002.

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

Shri Hans Rajbhar
C/O : Sudarsan Rajbhar
Qrs. No.246-B, West Gotanagar
Guwahati - 78111.

. . . Applicant. .

By Advocate Mr.R.P.Jadav.

- Versus -

1. Union of India
2. The General Manager
N.F.Railway, Maligaon
Guwahati-11.
3. The Chief Claims Officer
N..F.Railway, Maligaon
Guwahati-11.

. . . Respondents.

By Mr.J.L.Sarkar, Railway Advocate.

O R D E R

CHOWDHURY J.(V.C.) :

By order dated 27.6.94 the applicant was appointed as Emergency Peon on pay of Rs.750/- per month in the scale of Rs.750-940/- w.e.f.27.6.94 against an existing vacancy under CCO, Maligaon. His appointment was conditional. The following conditions were mentioned in the appointment letter :

1. Your appointment will not confer upon any right to claim for further appointment in this Railway and you are liable to be discharged without any notice when your service will not be required by the administration or on the expiry of the currency of the post against which you are engaged or on medical grounds or physical incapacity or in the event of posting of approved

Contd..2

hand.

2. You will be transferred with the Officer for whom you are engaged as substitute Emergency Peon or you will be discharged in the event of the officer for whom you are engaged expresses his unwillingness to take you on transfer along with him.

3. The appointment of emergency peon at the first instance will be for a period of three months only and will be extended further on receipt of a certificate from the Controlling Officer that the service of the emergency peon is satisfactory and he can be continued further."

His appointment was extended and continued as such till the impugned order No.51/97 was passed vide order dated 26.3.97 terminating the service of the applicant. The applicant thereafter moved different authorities ventilating his grievances. Failing to get appropriate remedy from the authorities the applicant approached this Tribunal for redressal of his grievances. There was some delay in filing the application and after due consideration the delay was condoned.

2. The Railway authority justifying the termination of the applicant submitted its written statement. According to the Railway authority, his service was terminated on the basis of the report of the Controlling Officer which indicated his service was unsatisfactory. Moreover, the applicant absconded w.e.f.9.3.97. Hence his service was terminated w.e.f.26.3.97 in terms of Rule 301(1) of IREC Vol.I.

3. Mr.R.P.Jadav, learned counsel for the applicant strenuously argued that the impugned order of termination is unlawful, more so, when the said order

was passed on the ground of unsatisfactory nature of service also on the ground of alleged absconding of the applicant.

3. Mr.J.L.Sarkar, learned counsel for the respondents has referred to the Full Bench decision dated 12.2.99 in Shyam Sundar Vs. U.O.I. & Ors. case being O.A. No.896 of 1995 and also another decision of the said Bench of the Tribunal passed in Manoj Kumar Poddar -Vs- Ministry of Railways & Ors.case in O.A.1589 of 1988 disposed on 21.3.2001.

4. We have given our anxious consideration on the matter. Admittedly, the applicant worked for about thirty three months without any artificial break. As per the existing guidelines a person is entitled for conferment of temporary status after rendering three years service as temporary peon. The applicant served for about three years as temporary peon till the impugned order was passed. The operative part of the termination order also disclosed that the termination order was not a termination simpliciter, but his termination was other than a termination simpliciter. Considering all the aspects of the matter I am of the view that it is a fit case in which the Railway authority as the employer can now provide the healing touch. The applicant at any rate served for about three years as an emergency peon. The impugned order of termination on the eve of the completion of

three years period undoubtedly visited with evil consequence and thereby denying the applicant from receiving a fair deal.

5. On overall consideration of the matter I am of the opinion that it is an appropriate case in which the Railway authority may sympathically consider the matter afresh for accommodating in any grade IV job or in any other suitable post in terms of qualification etc. The applicant may also submit a representation narrating all the facts along with the copy of the judgment within six weeks from the date of the receipt of the order and if such representation is made, the Railway authority is directed to consider the same and sympathically expeditiously / preferably within four months from the date of receipt of the representation.

Subject to the observations made above, the application stands disposed of.

There shall, however, be no order as to costs.



(D.N.CHOWDHURY)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

O.A.No.60/2001.

Shri Hans Rajbhar

- Versus -

Union of India & Others.

In the matter of :

Rejoinder subitted by the applicant to the written statement submitted by respondents :

1. The applicant in the above case most respectfully beg to submit that he has gone through the written statement submitted by the respondents and understood their says in the matter.
2. That, the written statement is full of falsehood and incorrect statement and hence cannot be accepted as correct so far as in the matter regarding terminating the service of the applicant.
3. That, the applicant rendered services from 27.6.94 till he was terminated on 26.3.97 i.e. for about three years continuously, during which period no warning, no explanation and no chargesheet was given to the applicant as to the fact that his services were unsatisfactory.
4. That, after illegally terminating the employee without giving him any opportunity to defend him has now raised the false plea that his services were unsatisfactory.

11

14.3.2002

(R. P. YADAV, ADVOCATE)

2/ R. P. YADAV, ADVOCATE

14.3.02

5. That, the defendants further stated that the applicant absconded w.e.f.9.3.97 and hence he was terminated w.e.f.26.3.97. This plea is quite untrue and this concocted story has been raised by defendants to evade the responsibility of illegal termination.

6. That, the applicant acquired valuable rights of temporary status after rendering continuous service for more than 2 years 8 months and the defendants without giving him any reasonable opportunity to defend him and without observing the formalities as required in Discipline and Appeal Rules, 1968 have abruptly terminated the applicant.

7. That, the defendant has falsely stated that the applicant absconded w.e.f. 9.3.97. However, the applicant was terminated on 26.3.97 i.e. within two weeks without giving him any chance to represent his case he was terminated hastily and this indicates vindictive nature of the defendant.

8. That, the real reason lying behind this termination is the whims of the wife of C.C.O, N.F.Railway, in whose bungalow the applicant was working. As the applicant objected to the abusings falsely hurled upon him the wife of C.C.O., N.F.Railway became furious and said that she will get him terminated from service and the lady having a powerful influence upon the Rly. Admn. got the applicant

terminated. This has been stated in para 4.4. of the Original Application.

9. That, in regard to para 8 of the written statement it is submitted that the Rulings as quoted by the respondents have no application to the instant case and so cannot be accepted.

10. That, in the premises aforesaid the applicant prays to set aside and quash the order of termination and kindly to issue orders to reinstate the applicant in service.

VERIFICATION

I, Shri Hans Rajbhar, Son of Shri Maul Rajbhar aged 26 years do hereby verify that the statement made in para 1 to 10 are true to my knowledge.

Hans Rajbhar
Signature

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT GUWAHATI BENCH,

GUWAHATI.

O.A. NO. 60 of 2001.

Shri Hans Rajbhor -----Applicant.

-Vs-

Union of India & Others ----Respondents.

I N D E X

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4.	Copies of orders dt. 26.3.97 -	B	8
5.	Copies of representations-		9-11, 12, 13, 14-15

Filed by :-

Dated the 7th Feb '2001

Hans Rajbhor

[Signature]
R. K. Gogoi
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH,
GUWAHATI.

1. Particulars of the Applicant

Shri Hans Rajbhar

C/o. Sudarsan Rajbhor

Qrs. No. 246-B, West Gotanagar

Guwahati- 781011.

----- Applicant.

-Vs-

2. Union of India , represented by -

2. The General Manager,

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

3. The Chief Claims Officer,

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

----- Respondents.

1. Particulars of order against which this application
is made.

This application is made against an order issued
Vide letter No. E/227/1/E/Peon dt. 26.3.97 by N.F.Rly
Authorities terminating the service of the applicant.

2. Jurisdiction of the Tribunal :

The subject matter of the application is within
the jurisdiction of the Central Administrative Tribunal
Guwahati.

Hans Rajbhar

Contd.....2/p.

3. Limitation :

The case is within the period of limitation.

4. Facts of the case :

- 4.1. The applicant is a citizen of India and is entitled to the rights and privileges guaranteed under the constitution of India.
- 4.2. The applicant was appointed as Emergency Peon Vide GM/P 15 Letter No. E/2272/Rectt/Peon dated 27.6.94 in ^{Scale} slab of Rs. 700 to 940/- under CCO/Maligaon. Annexure - A.
- 4.3. The applicant rendered continuous service to the satisfaction of Railway Authorities from 27.6.94 to 25.3.97 i.e. for 2 years 8 months 28 days.
- 4.4. That Sir, while working in the Bungalow of CCO/N.F. Rly one day wife of CCO very badly abused him for no fault of him. As he objected to her abusings she became much furious and as a result of this little hitch that took place with wife of CCO, he has been terminated from service.
- 4.5. That during his tenure of service for about three years he was never served any warning nor asked any explanation nor given any punishment.
- 4.6. That his services have been terminated suddenly vide letter No. E/227/1/E/Peon dated 26.3.97 without assigning any reason for termination which is against natural justice.

Harish Chandra

Annexure B.

Contd....3/p.

4.7. That the personal grudge of wife of CCO should not have thrown the applicant out of employment and put him to utter distress along with the members of his family.

4.8. That, if at all he had incurred any displeasure due to this little hitch with wife of CCO, she could have refused to accept him as a peon at her Bungalow and asked him to work elsewhere but not sacked from service.

5. Grounds for relief :

5.1. That he has been terminated from service vide letter No. E/227/1/Peon dated 27.3.97 without assigning any reason for termination which violates natural justice.

5.2. That sacking of a poor class four category (D.Class) employee from service without any fault and depriving him as well as his family members of the means of survival violates the provisions of Article 19 and 311 of the constitution.

5.3. That, by rendering service for about 3 years the applicant has attained temporary status and he can not be removed from service without observing the provisions of Discipline and Appeal Rules.

Contd.....4/p.

Harv. D. S. Bhat

6. Details of remedy exhausted.

The applicant submitted an appeal to the Hon'ble Rly. Minister on 21.12.97 (Annexure 'D') an application to CCO, Maligaon on 5.9.2000 (Annexure 'E') again submitted a Notice through Advocate on 14.11.2000 (Annexure 'F') but to no avail, so, the applicant has no other remedy left except submitting this application to the Hon'ble Tribunal.

7. Particulars of application, if any ,

The applicant submits that he has not filed any application before any Tribunal or any suit or writ before any court or any one of them are pending before any court.

8. Relief sought :

The applicant submits to set aside and quash the order terminating his service and to issue orders to reinstate him in service.

That, applicant is a Class IV (D. Category) employee and he is ready to join any similar post anywhere in Railways, if the particular posts he was employed is no longer lying vacant.

(5)

9. Interim relief :

NIL

10. Particulars of application fee

I.P.O. No. 5G 422009 dated 3-2-2001 amounting to Rs. 50/- (Rupees fifty) only is enclosed herewith.

11. Enclosers :

As in index

Contd- Verification.

Harishbhar

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VERIFICATION

I, Shri Hans Rajbhar Son of Shri Maul Rajbhor
aged 26 years resident of Rly. Qrs. No. 236 B, West
Gotanagar, Guwahati-11 do hereby verify the statements
in paras as true to my
knowledge and those in paras 2, 3, 5 are as per
legal advice. And that I have not suppressed any
matter and facts.

Date :

Place : Guwahati.

Hans Rajbhar
.....
Signature.

Hans Rajbhar

(Annexure - A)

N.F. Railway.

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

No.E/227/2. Reett/Prom(Loose)

Dt: 27-6-94

To
Shri Harn Rajbhar, ,
Emergency Peon.

2-8 ma

Thorough CCO/MLG.

Sub: Appointment of Sub. E/Peon in scale
Rs. 750-940/- attached to CCO/MLG.

You are hereby appointed as E/Peon on pay
Rs. 750/- P.M. in scale Rs. 750-940/- w.e.f 27-6-94 against
an existing vacancy under CCO/MLG subject to the following
conditions:-

1. Your appointment will not confer upon any right to claim for further appointment in this Railway and you are liable to be discharged without any notice when your service will not be required by the administration or on the expiry of the currency of the post against which you are engaged or on medical grounds or physical incapacity or in the event of posting of approved hand.
2. You will be transferred with the Officer for whom you are engaged as substitute Emergency Peon or you will be discharged in the event of the officer for whom you are engaged expresses his unwillingness to take you on transfer along with him.
3. The appointment of emergency peon at the first instance will be for a period of three months only and will be extended further on receipt of a certificate from the Controlling Officer that the service of the emergency peon is satisfactory and he can be continued further.

BA to C.P.O.
for General Manager (P)

Copy forwarded for information and necessary action to:

1. PA & CAS/MLG
2. CCO/MLG
3. ~~CCO/MLG~~ APO/Comm/MLG.
4. S/C for P/ease.

BA to CPO
for General Manager (P)

Accepted
Bular

Advocate

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N. F. Railway

ORDER No. 51/97

In terms of Rule 301(1) of Indian Railway Establishment Code Vol- I, the services of Sh. Hans Rajbhor, Sub. Emergency Peon in scale Rs. 750-940/- attached to CCM/N.F. Railway/MIG is hereby terminated from 24-3-97 (Ad) with one month pay in lieu of one months notice. He is also entitled to retraining compensation @ 15 days salary for each completed year of service.

Signature of the Appointing
Authority or Higher
Authority with Office Seal

No. E/227/1/E. Peon

Dated: Malignon 26-3-97

Copy forwarded for information and necessary action to :-

1. PA & CAO/Malignon
2. CCM/N.F.Rly/Malignon in reference to his Office Note No. 0/CCM/Notes/96-97 dated 17-3-97.
3. OS/Commercial: He may obtain acknowledgment from Sh. Hans Rajbhor, Sub. E/Peon in duplicate copy of this order. It is to be returned to the OS/Commercial for record.
4. OS/PA: For payment of one month's wages in lieu of one month's notice.
5. EA to CCM
6. PA to CCM
7. Sh. Hans Rajbhor through CCM/Malignon Sh. Rajbhor may draw the payment of one month's wages in lieu of one month's notice from Cash Office/Malignon

CO.6 - 155 Rs 24.26.3.97

05/34 - Co 7 27.26.3.97

Signature of the Appointing
Authority or Higher
Authority with Office Seal

Hans Rajbhor

Hans Rajbhor

7.2.2001

[Advocate]

A. C. T. 1. C. R.

From :-

Dated the 5th May/97.

To,

The General Manager.
M.P. Railway.
Kaligon, Guwahati-11.

Sir,

Under instructions of my client Sri Hans Rajbhar, Emergency Poon (termination), I beg to serve you the following notice. :

That my above named client was appointed as Emergency Poon vide GM (P) Kaligon's No. B/ 227/2. Recd/ Poon (Loose) Dt. 27-6-94 and was posted under C.O/ Kaligon .

That my client rendered his continuous service in the Railway Dept. . w.o.f. 27-6-94 with full sincerity and devotion and upto the satisfaction of his senior officers concerned .

That to his utter surprise the Railway department terminated the services of my client on 25-3-97 without assigning any reason or reasons thereof. And that interestingly the Railway Deptt. verbally terminated the Service of my client without issuing any previous notice etc. to him which is unjustified and illegal .

contd.....2.

H H - 620

B. K. B. K.

7. 2. 200,

Advocate

- 2 -

That as stated my client rendered his continuous service w.e.f. 27-6-94 to 25-3-97 (that is for a period of almost three years) with full sincerity and devotion and that in view of the above fact and circumstances termination of service of my client is very much irregular .

That my client wrote a number of letters to the authority concerned for his re-installment in the service but your department paid no heed to such prayer made by my clients on several occasions.

That due to termination from service, my client alongwith his family members are facing great financial hardship which cannot be expressed in terms of words.

Therefore please take notice that you will kindly make necessary arrangements for re-employment of the service

could.....3.

Affected

W. K. Kulkarni

7. 2. 2001

11
72

- 3 -

of my client within a period of
45 (fourty five) days from the
date of receipt of this notice,
failing which my client shall
be constrained to initiate legal
proceedings in the proper court
of law for relief which please
note.

Yours faithfully,

R. L. B. 1

(ECHILI S. M. K. B. B. B.)
Advocate.

Att-Ad

Kulav

7.2.2001

Advocate

To
The Honourable Minister for Railways
New - Delhi.

Sub : Irregular retraction from Railway Service

Sir,

I have the honour to place before you the following few lines for favour of your kind consideration and sympathetic orders.

That Sir, I was appointed as Emergency peon by the N.F. Railway administration vide GM (P) Maligaon's No.E/227/2 Rectt/Peon (Losse) dt.27-06-94 and was posted under CCO/Maligaon.

That Sir, I was performing my duties as and when ordered by CCO/Maligaon and Madam, CCO, with fullest devotion and to the utter satisfaction of them both.

That Sir, as a result of a smallest hitch to the first post of March/1997 with Mrs. CCO, my service have been terminated w.o.f. 26-3-97 vide order No.51/97 commented vide GM (P) Maligaon No.E/227/1 Emergency peon dt. 26.03.97.

That Sir, I assure you that I have done my duties sincerely and left no scope for criticism from any corner and after serving for a long period from 27.6.94 to 26.3.97 my services have been terminated all on sudden for some personal reason which seems to me as a bolt from the blue.

That Sir, your learned self can realise the difficulties. I have been forced to face in these hard days in maintaining my family expenses with virth no source of income and I am the only earning member of the wretched family consisting of half of dozen members.

With the above, I pray to you with folded hands for your intervention into the issue and pass necessary orders for my re-engagement in the same category or in any others class IV category in the vast Railway Administration under your kind control.

With kind Regards

Dated, Pandu
21st December, 1997

Yours faithfully,

Hans Rajbhar

(Hans Rajbhar)

Ex-Emergency peon/
under CCO/N.F. Railway
Maligaon.

Attchd

hshar

7.2.2001

Annexure E Regd with A/D

13

To, *claims*
The Chief Commercial Officer (CCO)
N.F. Railway, Maligaon.
Guwahati - 781011.

Sub :- Appointment of sub. E/Peon in scale
Rs. 750-940 w.e.f. 27.6.94 against an
existing vacancy under CCO/MLG.

Ref :- Your lt. No. E/227/2 Rectt/Peon(Loose)
dtd. 27.6.94.

Sir,

With due respect and humble submission I beg to lay down
the following few lines for kind consideration and order please :-

1. That sir, I was appointed as a E-Peon on 27.6.94 and I
served the administration with entire satisfaction to my superiors.
2. That sir, my service was terminates vide lt. No. E/227/1/E.
Peon dated 26.3.97.
3. That sir, the termination letter in question is itself
self explanatory.
4. That sir, I am enclosing herewith the photo copy of
appointment letter and the termination letter for ready reference.

Under the circumstances stated above. I fervantly request
your honour to be kind enough to consider the case sympathitically
and continue my service and post me any where on this Railway as
I am ready to serve the ~~by~~ administration and for this act of kindness I shall pray.

Dali

2/9/2000

5.9.2000

Attched
Below

7.2.2001

Hans Rajbhar
Yours faithfully,

Hans Rajbhar

(HANS RAJBHAR)

En. E. Peon.

C/O. Sudarshan Rajbhar.

Rly. Qr. No. 236/B

West Gotanagar

Guwahati - 781011.

Sri Ram Prasad Yadav

Date.....

M. A., LL. B
ADVOCATE
Guwahati Highcourt
Regd. 4/92

Ref.....

REGD. WITH A/D.

Date : 13.11.2000

ADVOCATE'S NOTICE

To,

The General Manager,
N.F. Railway, Maligaon
Guwahati-781011.

Sir,

On the instructions of my client Shri Hans Rajbhar
~~and on my behalf this~~ I serve this Advocate's Notice ~~which~~
as follows :-

- 1) That my client Shri Hans Rajbhar was appointed as a
E/Peon Vide GM/P/'S letter No. E/227/21 Rectt/Peon loose
dated 27.6.94 in scale Rs. 750-940/- under CCO/MLG.
- 2) That he serves the Rly administration with devotion
and entire satisfaction to his superiors.
- 3) That his service was terminated suddenly Vide Letter
No. E/227/1/E/Peon dated 26.3.97 without any assigning
reasons.
- 4) That my client served the Rly, administration
continuously for about 3 (three) Years and he could
have been absorbed in Class IV category easily.
- 5) That my client is a poor man and he is ready to serve
the Rly, administration in Class IV category (Class 'D')
service of the Railways.

Contd---2/p.

A H C F C D

Kulav

7.2.2001

Advocate

Sri Ram Prasad Yadav

Date.....

30

M. A., LL. B
ADVOCATE
Guwahati Highcourt
Regd. 4/92

Ref.....

-2-

Under the circumstances stated above, it is fervently prayed that your honour would graciously be pleased to consider the case of my client sympathetically and re-appoint him in any Class 'D' service (Class IV) category and post him any where on the Rly's thus help him and his family from hardship 'if not' my client shall be forced to take shelter in the court of Law after expiry of two months notice and the Rly. administration shall be responsible for all these consequences.

Yours faithfully,

R. P. Yadav 12.11.2000
(SRI RAM PRASAD YADAV)
ADVOCATE

Maligaon, Guwahati

Gauhati High Court, Guwahati.

Dated- 13th Nov' 2000.

Residential Address

R. P. YADAV

Advocate
307/D Rainagar (Doshella)
Near Rainagar Upper line
Guwahati - 781011

*H. H. Choudhary**R. P. Yadav*

7.2.2001

Advocate

22 JAN 2002

In The Central Administrative Tribunal
Guwahati Bench :: Guwahati

Regional Office (A)
B. P. Rly. / Maligaon
Guwahati-13

D.A. NO. 60/2001

Shri Hans Rajbhor

Vs.

Union Of India & Ors.

In the matter of :

Written Statement on behalf of
the respondents.

Filed by the respondent
Moores A. Chakravorty
22/01/02

The respondents in the above case most respectfully beg to state as under :

1. That the respondents have gone through the original application and have understood the contents thereof.

2. That the respondents do not admit any statement except those which are specifically admitted in this written statement. Statements not admitted are denied.

3. That before traversing the statements of OA the respondents beg to state the brief history of the case as under:

The applicant was appointed as Substitute Emergency Peon attached to CCO/Maligaon by GM(P)/MLG's letter dated 27.6.1994. According to the report of his controlling officer, the service of the applicant was unsatisfactory. Moreover, the applicant ~~was~~ absconded w.e.f. 9.3.97. Hence, the service of the applicant was terminated w. e. f. 26.3.97 after following the procedures

Warrant
DSSC

mentioned under Rule 301(1) of IREC Vol. I. The applicant was paid one month pay in lieu of notice with retrenchment compensation at the rate of 15 days pay for each completed year of service.

4. That in reply to the statements in para 4.3 it is stated that the applicant absconded w.e.f. 9.3.97.

5. That the respondents deny the statements made in para 4.4 of the OA.

6. That in reply to statements in paragraph 4.5 to 4.7 the respondents reiterate the statement made in para 3 above.

7. That the respondents deny the statements made in para 4.8 of the OA.

8. That the respondents beg to submit that the Hon'ble Central Administrative Tribunal, Principal Bench in its order dated 12.02.99 in OA No. 896/95 (Shyam Sundar Vs. U.O.I & Ors) have ruled that even after acquiring temporary status the services of a Substitute Emergency Peon could be terminated on account of unsatisfactory work without holding a DE. It is also submitted that a similar observation has been made by the Hon'ble Central Administrative Tribunal, Principal Bench in OA No. 1589/98 (Manoj Kumar Poddar Vs. U.O.I & Ors) by an order dated 21.03.2001 and the OA was dismissed.

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

Verification

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

Guwahati

WY
Signature

Chief Personnel Officer (A)
N.F.Rly, Maligaon
Guwahati.