

30/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A./T.A No. 67/01

R.A/C.P No. ....

E.P/M.A No. ....

1. Orders Sheet..... OA ..... Pg. 1 ..... to 3  
MP 49/01 order pg 1 pg 2
2. Judgment/Order dtd. 24.1.2002 ..... Pg. 1 ..... to 5 8/10
3. Judgment & Order dtd. .... Received from H.C/Supreme Court
4. O.A. .... 66 ..... Pg. 1 ..... to 33
5. E.P/M.P. 48/01 ..... Pg. 1 ..... to 7
6. R.A/C.P. .... Pg. .... to .....
7. W.S. .... Pg. 1 ..... to 5
8. Rejoinder. .... Pg. 1 ..... to 10
9. Reply. .... Pg. .... to .....
10. Any other Papers. .... Pg. .... to .....
11. Memo of Appearance. ....
12. Additional Affidavit. ....
13. Written Arguments. ....
14. Amendement Reply by Respondents. ....
15. Amendement Reply filed by the Applicant. ....
16. Counter Reply. ....

SECTION OFFICER (Judl.)

Bahita  
5/12/17

FORM NO.4  
(See Rule 42)

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

ORDER SHEET  
Original APPLICATION NO 67 OF 2001

Applicant(s) Balon Chakraborty

Respondent(s) U.O. I Govt

Advocate for Applicant(s) Mr. K. K. Biswas

Advocate for Respondent(s) Railway advocate

Notice of the Registry Date

Order of the Tribunal

This application is in form 19.3.01  
but no  
Petition  
M  
for  
IPC  
Dated 25.1.2001 lm

List on 8.3.01 for Admission.

Member

Vice-Chairman

Request has been made on behalf of Mr.K.K.Biswas, learned counsel for the applicant for adjournment by Mr.M.Chanda on the ground that Mr.Biswas is indisposed. Prayer is allowed. List on 19.3.01 for Admission.

Member

Vice-Chairman

Application is admitted.Call for the records. Keeping open the question of limitation.

List on 24.4.01 for order.

Member

Vice-Chairman

Govt's reply along with envelopes received.

14/2/01

23.9.2001

Service of Notice issued to the issued to the vide D.No.

11/11/2001

24.4.01 List on 15.5.01 to enable the respondents to file written statement.

*ICC Sharma*  
Member

*[Signature]*  
Vice-Chairman

lm

16.5.01 In view of the order passed for the Misc. Case 48 of 2001 the condonation of delay is recorded.

Respondents are granted further four weeks to file the written statement.

List on 13.6.2001 for orders.

*ICC Sharma*  
Member

*[Signature]*  
Vice-Chairman

bb

13.6.01 Mr. J.L.Sarkar, learned Rly. counsel for the respondents, prays for and granted four weeks and no more time for filing of written statement.

List on 17-7-2001 for further orders.

*ICC Sharma*  
Member

*[Signature]*  
Vice-Chairman

bb

17.7.01 No written statement so far filed. The respondents are allowed further four weeks time to file written statement as a last chance.

List on 14.8.2001 for order.

*ICC Sharma*  
Member

*[Signature]*  
Vice-Chairman

bb

14.8.01 List again on 13/9/01 to enable the respondents to file written statement.

*ICC Sharma*  
Member

*[Signature]*  
Vice-Chairman

mb

13.9.01 List on 15/10/01 to enable the respondents to file written statement as a last chance.

*ICC Sharma*  
Member

*[Signature]*  
Vice-Chairman

mb

No. written statement has been filed.

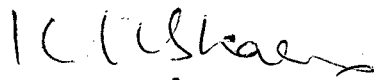
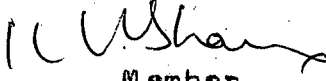

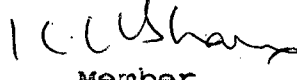


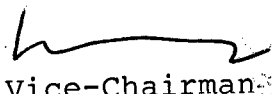
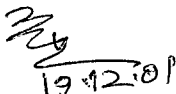
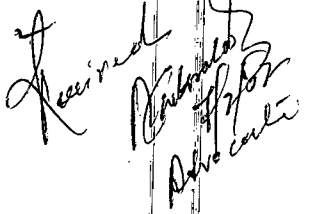
*[Signature]*  
12.6.01

No. written statement has been filed.

*[Signature]*  
13.8.01

No. wts has been filed.

*[Signature]*  
12.9.01

Notes of the Registry	Date	Order of the Tribunal
	15.10.01	On the prayer of learned counsel for the respondents 4 weeks time is allowed for filing of written statement. List on 26.11 for filing of written statement and further orders.   Member
	lm 26.11.01	Pleadings are exchange. The case may now be listed for hearing. The applicant may file rejoinder, if any, within 2 weeks from today.  List on 20/12/01 for hearing.   Member  Vice-Chairman
13.11.2001  W/S on behalf of respondents has been submitted.	mb 20.12.01	Prayer has been made for adjournment by learned counsel for the respondents. Prayer is allowed. List on 24.1.02 for hearing.   Member  Vice-Chairman
22.11.2001  Rejoinder to the W/S has been submitted by the applicant.	mb 24.1.2002	Heard learned counsel for the parties. Hearing concluded. Judgement delivered in open Court, kept in separate sheets.  The application is disposed of in terms of the order. No order as to costs.   Member  Vice-Chairman
The case is ready for hearing.   19.12.01  	bb	

Notes of the Registry

Date

Order of the Tribunal

7.2.2002

Copy of the Budget  
has been sent to  
the Office for issuing  
the form to the  
applicant by POP.  
HS

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 67 of 2001.

Date of Decision. 24.12.2002...

----- Sri Babu Chakraborty -----  
----- Petitioner(S) -----

----- Mr. Kanti Kumar Biswas -----  
----- Advocate for the -----  
----- Petitioner(s) -----

-Versus-

----- General Manager, N.F. Rly. & Others. -----  
----- Respondent(s) -----

----- Mr. J. L. Sarkar & Mr. A. Chakraborty -----  
----- Advocate for the -----  
----- Respondent(s) -----

THE HON'BLE MR JUSTICE 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.

No

7

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.67 of 2001

Date of Order : This the 24th Day of January, 2002.

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

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

Sri Babu Chakraborty  
S/O Sri A.R.Chakraborty  
C/O Sri Bishnu Singh  
Rly.Qr.No.-102-A, Type-I  
Gosala, Guwahati-781011.

. . . Applicant.

By Advocate Mr.Kanti Kumar Biswas

- Versus -

1. General Manager, N.F.Railway  
Maligaon.
2. General Manager (Construction)  
N.F.Railway, Maligaon  
Guwahati-781011.
3. Chief Personnel Officer  
N.F.Railway, Maligaon.
4. Chief Engineer (Construction)  
N.F.Railway, Maligaon.
5. Chief Engineer, N.F.Railway  
Maligaon.
6. Deputy Chief Engineer (Construction)  
N.F.Railway, Maligaon. . . . Respondents.

By Rly. Advocate Mr.J.L.Sarkar & Mr.A.Chakraborty.

O R D E R

CHOWDHURY J.(V.C.) :

The applicant was engaged as Substitute  
Emergency Peon in the scale of Rs.750-940/- w.e.f.  
24.11.1995 against the existing vacancy under Chief  
General Engineer, N.F.Railway, Maligaon as per order  
No.E/227/Substitute/Resv/P.III. dated 1.12.1995. By  
Office order dated 15.3.1996, the applicant, who <sup>was</sup>/ working

under Shri P. Sharan, C.G.E., Maligaon, was transferred from open line to General Manager, Construction Organisation and accordingly he was spared from the office General Manager (W), Maligaon. - On being transferred from open line the applicant was drawing his salary in the Construction Organisation from March, 1996 to February, 1997. While he was <sup>so</sup> serving, option for absorption against Group-D post was asked from the applicant and the applicant offered his consent for absorption in <sup>writing</sup> before the General Manager(P), N.F.Railway, Maligaon on 28.2.1997. While things rested at this stage, the applicant was terminated from service and he was discharged w.e.f. 28.2.1997. The legitimacy of the said order of termination is under challenge.

2. Mr.K.K.Biswas, learned counsel for the applicant assailing the order of termination submitted that the respondents acted in a most illegal fashion in terminating the service of the applicant. Mr.Biswas contended that the order of termination, infact, was issued to him as a punitive measure for his unsatisfactory service without giving him any opportunity of whatsoever manner. The learned counsel contended that the order of termination even otherwise not justified, since the order was passed by an Officer without due approval of the competent authority.

Mr.J.L.Sarkar, learned standing counsel for the N.F.Railway submitted that the termination order was passed strictly in conformity with the terms of appointment. The



applicant was engaged as a Substitute Emergency Peon on the terms specified therein. Such person is not entitled for the benefit of the Railway employees, more so in view of the Central Administrative Tribunal, <sup>Full</sup> (Principal) Bench decision rendered in O.A.896/95 disposed on 12.2.1999. The learned counsel for the respondents, however, fairly submitted that though the applicant as a Substitute Emergency Peon was yet to complete three years period, his name was registrered for further appointment in terms of the Railway scheme. Before the impugned order was passed, it appears that a communication was sent from the Office of the Senior Divisional Engineer, N.F.Railway, Maligaon to the General Manager Personnel, Maligaon indicating the steps for abosorption of the applicant vide communication No.E/57/CL/Pt.II dated 10.3.1997. The full text of the communication is reproduced below :

" In reference to your letter no. quoted above, this is for your information that Shri Babu Chakraborty, E/Peon/CON can be absorbed in this unit against Group-D vacancy (other than Peon) formal transfer order may be issued from your end to absorb him as Khalasi against an existing vacancy of Khalasi in scale Rs.750-940/-.

Your early reply will be highly appreciated."

In the meantime, the applicant was terminated. Dy.CPO/C for General Manager Construction by communication dated 9.4.1997 informed the General Manager Personnel,

Maligaon that the applicant was discharged on 28.2.1997. In the said communication it was mentioned that the applicant was appointed earlier in Open Line as Substitute Emergency Peon on 24.11.1995 in the scale of Rs.750-940/-. Subsequently, he was transferred to Construction Organisation and he was attached to Dy. Chief Engineer, Construction as Emergency Peon. Dy.Chief Engineer, Construction did not want his service and asked to absorb him elsewhere and accordingly he was discharged. As there was no vacancy in that unit his application was forwarded to General Manager Personnel, Maligaon for consideration vide letter dated 5.3.1997. His option for Group-D post in Open Line was forwarded in terms of General Manager Personnel, Maligaon letter dated 23.1.1996.

3. In view of the fairly stand taken by the respondents in the written statement we are not inclined to intervene in the matter at this stage. Instead we feel that justice will be done, if the respondents are allowed to exercise their lawful discretion in the matter of absorption of the applicant as was proposed by its earlier communication dated 10.3.1997 in the light of the contention made in the written statement. The applicant is no longer in service in view of the order of termination 28.2.1997. The respondents in its written statement submitted that the name of

the applicant had already been registered for further appointment.

In the above circumstances, we are of the opinion that the respondents shall undoubtedly give effect to its decision to absorb/appoint the applicant as indicated by them in the written statement as per law. The applicant was terminated as far back as in February, 1997. Considering the hardship, it is expected that the respondents as an ideal employer will act with promptitude.

With this, the application is disposed of.

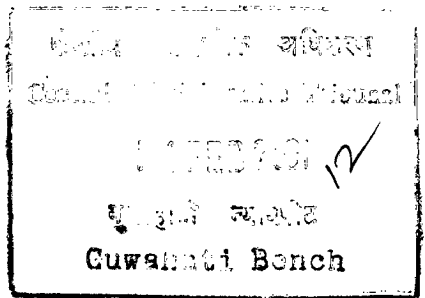
There shall, however, be no order as to costs.



( K.K.SHARMA )  
ADMINISTRATIVE MEMBER



( D.N.CHOWDHURY )  
VICE CHAIRMAN



APPLICATION UNDER SECTION 19 OF THE  
ADMINISTRATIVE TRIBUNAL ACT, 1985

For the use in Tribunal Office

Date of Filing : 13.2.2001

or

Date of Receipt : 13.2.2001

Registration No. : OA 67/2001

\_\_\_\_\_  
Signature of the Registrar.

केन्द्रीय प्रशासनिक अधिकरण  
 Central Administrative Tribunal  
 ! 4 FEB 2001  
 गुवाहाटी न्यायपीठ  
 Guwahati Bench

গুৱাহাটী বেন্ৰো  
Guwahati Bench

67

- VS -

## I N D E X

Sl. No.	Annexure :Particulars	Page No.
1.	- Original Application	1 to 13
2.	A Photocopy of General Manager(P) N.F.Railway/Maligaon's Letter No.E/227/Substitute/Resv.P.III dated 1-12-1995 showing engagement of substitute emergency peon in Scale Rs.750-940/-attached to Chief General Engineer,N.F.Rly.	14
3.	B Photocopy of General Manager(P) N.F.Rly's Officer Order No.E/282/22/Pt.II(E) dtd.15-3-96 showing the applicant's transfer from Openline to GM/Construction.	15
4.	C Photocopy of General Manager(W) N.F.Rly/Maligaon's Letter No.W/PNO/HQ/3/CE/Pt.VI/W-8 dt. 15-3-96 showing sparing order of the Applicant to construction organisation w.e.f.15-3-96A.N.	16

- 14
5. D Photocopy of General Manager/ 17  
CON/N.F.Railway/Maligaon's  
Letter No.E/227/CON/1/Pt.IV  
(EP) dt.2-3-98 showing the  
Applicant's services rendered  
in the Construction organisa-  
tion without any break.
6. E Photocopy of the option sought 18  
for from the Applicant on 28.2.97  
for absorption in Group 'D' post  
under Sr.DEN/Pandu and endorsed  
by Dy.Chief Engineer(CON),N.F.  
Railway/Maligaon.
7. F Photocopy<sup>8</sup> of General Manager(CON) 19  
N.F.Railway/Maligaon's Letter  
No.E/227/Con/I/Pt-IV(EP) dt.  
5-3-97 forwarding my option  
for absorption in Group-'D'  
category.
8. G Photocopy of Termination Notice 20  
Signed, issued & communicated  
by Asstt.Personnel Officer  
(Const)/N.F.Rly.vide his No.  
E/227/CON/I/Pt-IV(EP)dt.24.2.97.
9. H Photocopy of Dy.CE/C/LD/Maligaon's 24  
confidential Note No.E/CON/I/97  
(Conf.) dt.17-2-97 to SPO/C  
Suggesting applicant's perfor-  
mance not satisfactory and reques-  
ting for absorption in any other

category and if not possible  
for absorption, service to <sup>be</sup> termi-  
nated with immediate effect.

10. I Photocopy of Sr.Divisional Engineer 22  
N.F.Railway/Maligaon's Letter No.  
E/57/CL/Pt-II dt.10-3-97 showing  
the Applicant can be absorbed in  
his unit against the existing  
vacancy of Group-'D' Category.
11. J Photocopy of General Manager(CON) 23  
N.F.Railway's Letter No.E/227/CON  
dtd.9-4-97 by Dy.CPO/C showing  
"There was no vacancy" in cons-  
truction unit and so the Appli-  
cant was discharged on 28-2-97  
and yet forwarded the Applicant's  
Option for absorption in Group-D  
Posts in openline.
12. K Photocopy of Chief Engineer(Open , 24  
line) Maligaon's Letter No.W/PNO/  
Hd/CE/Pt-VI/W-6 dt.2-3-98 showing  
my service rendered in openline  
prior to transfer to construction.
13. L Photocopy of General Manager(CON) 25  
N.F.Rly's Letter No.E/227/CON/I/  
Pt-IV(EP) to General Manager(P)  
N.F.Rly stating engagement "in  
any other category which was not  
possible for want of vacancy"  
and hence, discharge from service  
was necessary.

Contd.....

14.	M	Photocopy of General Manager(Personnel)	26 to 26/4
15.	N	Chief Personnel Officer's Circulars No.E/205/D/RP-Emergency Peon PC/CON dated 23-1-96 & 15-3-99 highlighting the status of Emergency Peons' engagement/Retrenchment etc.	27 to 27/5
16.	O	Photocopy of Applicant's representation dt. 5-3-97.	28
17.	P	Photocopy of Applicant's representation dt. 2-3-98.	29
18.	Q	Photocopy of Applicant's representation dt. 7-12-98.	30
19.	R	Photocopy of Applicant's representation dt. 26-2-99.	31
20.	S	Photocopy of Applicant's representation dt. 7-11-2000.	32
21.	T	Photocopy of Applicant's representation dt. 18-1-2001.	33

Bahen Chakraborty  
Signature of the Applicant

Filed by -  
Kantikumar Bhowmik  
13.2.2001  
Advocate



1X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. No.....67.....of 2001

Shri Babu Chakraborty,

-- Applicant

And

In the matter of irregular and unlawful termination of service of Shri Babu Chakraborty from the post of Substitute Emergency Peon with effect from 28-2-1997 by the Assistant Personnel Officer, N.F.Railway/CON/MLG upon Deputy Chief Engineer (Construction), N.F.Railway, Maligaon's confidential Note -

- VS -

- b
1. General Manager, N.F.Railway, Maligaon.
  2. General Manager (Construction), N.F.Railway, Maligaon, Guwahati-781011.
  3. Chief Personnel Officer, N.F.Railway, Maligaon.
  4. Chief Engineer (Construction), N.F.Railway, Maligaon.
  5. Chief Engineer, N.F.Railway, Maligaon.
  6. Deputy Chief Engineer (Const.), N.F.Railway, Maligaon.

-- Respondents

Contd..(2)

Filed by the Applicant Babu Chakraborty  
Writings Advocate  
Sri Kante Kumar Biswas,  
Advocate  
13-2-2001

Details of Application :-

1. Particulars of Applicant :

- (i) Name of the Applicant : Babu Chakraborty  
(ii) Name of Father : Sri A.R.Chakraborty  
(iii) Address of Services  
of all notices : Sri Babu Chakraborty  
C/o Sri Bishnu Singh  
Rly.Qr.No.-102-A, Type-I  
Goshala, Guwahati-781011.

*Babu Chakraborty*

2. Particulars of Respondents :

- (i) Name and/or Designation  
of the Respondents : 1) Union of India repre-  
sented by General  
Manager, N.F.Railway,  
Maligaon, Guwahati-781011.  
2) General Manager (Construc-  
tion), N.F.Railway,  
Maligaon, Guwahati-781011.  
3) Chief Personnel Officer,  
N.F.Railway, Maligaon,  
Guwahati-781011.  
4) Chief Engineer (Construc-  
tion) N.F.Railway,  
Maligaon, Guwahati-781011.  
5) Chief Engineer,  
N.F.Railway, Maligaon  
Guwahati-781011  
6) Dy. Chief Engineer (Con-  
struction), N.F.Railway  
Maligaon,  
Guwahati-781011.

*Handwritten notes 13.2.2001  
Advocate*

Contd...3/-

3. Particulars of the order against which application is made :-

The application is against the following order :

- (i) Order No. : Dy.Chief Engineer/CON/LD/  
Maligaon's Note No.E/CON/1/97  
(Conf'd) dt.17-2-97 to SPO/C  
and Assistant Personnel  
Officer (Const)/N.F.Railway/  
Maligaon's order communicated  
under No.E/227/CON/1/Pt.IV(P)
- (ii) Date : dt. 24-2-97.
- (iii) Passed by : Asstt. Personnel Officer  
(Const)/N.F.Railway, Maligaon.

4. Subject in brief :-

Re-instatement/restoration of service for wrongful termination of service by the N.F.Rly. Administration from the post of Substitute Emergency Peon by causing "Unfair Labour practice".

5. Jurisdiction of the Tribunal :

The Applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

6. Limitation :

The Applicant humbly submits that this Application is within the period of limitation as per Administrative Tribunal Act of 1985. yet a petition for condonation of Delay is submitted herewith for kind consideration of the Hon'ble Tribunal.

Contd...4/-

Babu Chakraborty

Kantilal Chakraborty  
Advocate  
3.2.2001

7. Facts of the Case :

- 7.1. That after having all the rights of my representations and appeals lost to the wanton attitude and inaction of the N.F. Railway Administration for redressal of my longstanding grievances I am filing this original Application before the Hon'ble Central Administrative Tribunal under Sec. 19 of the Administrative Tribunal Act, 1985 for redressal of my grievances.
- 7.2. That with the personal approval of the General Manager, N.F. Railway, Maligaon, I was appointed as Substitute Emergency Peon in scale Rs. 750 - 940/- w.e.f. 24-11-1995 against the existing vacancy under CGE (Chief General Engineer), N.F. Railway, Maligaon vide General Manager(P)/ N.F. Railway, Maligaon's order No. E/227/Substitute/Reserv/Pt.III; dt. 01-12-1995 (Annexure-'A').
- 7.3. That vide General Manager(P)/N.F. Railway/Maligaon's Office order No.- E/283/32/Pt.XI(E) dtd.- 15-3-1996 I was transferred from the Open line to General Manager/Construction Organisation against the vacancy there with the approval of GM/CON/Maligaon (Annexure-'B') and on the same date on being spared, I reported for duty in the Construction Organisation on 15-3-1996 vide General Manager(W)/N.F. Railway, Maligaon's Letter No.- W/PNO/HQ/3/CE/Pt.VI/W-8 dt. 15-3-96 (Annexure-C) and General Manager/CON/N.F. Railway/Maligaon's letter No. E/227/CON/1/Pt.IV (EP) dt.- 2-3-1998 (Annexure-D).

*Babu Chakraborty*

*Kantimukherjee  
13.2.2001  
Advocate*

Contd....5/-

- 7.4. That on 28-02-1997 an option "for absorption against Group 'D' posts in Sr.DEN/Pandu was asked from me by my Deputy Chief Engineer/CON/N.F.Railway/Maligaon and I submitted it to him (vide Annexure-E) which was subsequently forwarded by SPO/CON to GM(P)/N.F.Railway/Malkgaon vide General Manager(CON)/N.F.Railway/Maligaon's letter No.- E/227/CON/1/Pt.IV(EP) dt. 5-3-1997 (Annexure-F).
- 7.5. That a bolt from the blue in the form of an order communicated under No.E/227/CON/1/Pt.IV (EP) dt. 24-2-1997 duly signed by Asstt. Personnel Officer (Const)/N.F.Railway/Maligaon showing termination of my services came to me without assigning any reason of whatsoever nature and/or without giving me any reasonable opportunity for my defence and/or to ascertain the very ground of causing my such termination (Annex.-G).
- 7.6. That on my enquiry I came to know that termination of my service was caused on the basis of a confidential Note made by Dy.CE/C/LD/MLG, under which I was attached, vide his Note No.- E/CON/1/97 (Confdt), dt. 17-2-1997 to SPO/C stating that "his performance is not satisfactory" (Annexure-H).
- 7.7. That in the same Note Dy.CE/C/LD/MLG, i.e., Deputy Chief Engineer/CON/LD/Maligaon, mentioned in the para 7.6 (Annexure-H) above, mentioned "He may be released from this post and absorbed in any other category. In case he cannot be absorbed, his service is to be terminated with immediate effect" and the Asstt.

Contd...6/-

21  
Babu Chakraborty

Nandikumari Sen  
Advocate  
13.2.2001

Personnel Officer/Const./N.F.Railway/Maligaon then and there took the action of causing my termination of service and issued the order mentioned in the Annexure-G under para 7.5 above, albeit the contents of the Dy.CE's above confidential Note does not signify categorically as to for what reasons my performance was not satisfactory.

7.8. That it is equally astonishing that in the aforementioned confidential Note (Annexure-H) Dy.CE/CON simultaneously suggested three things :

- (i) My performance was not satisfactory,
- (ii) I may be absorbed in any other category on being released from the post of substitute Emergency Peon,
- (iii) and in case I am not absorbed, my service is to be terminated.

This signifies that termination of my service, was not though my performance to him as Substitute Emergency/Peon/ satisfactory, was neither imperative nor disirable by Dy.CE/CON, and the fact was that it had happened so.

7.9. That, perhaps, thinking my

- (a) termination of service to be wrongful or not in order and may also apply euphoria to my canker, General Manager (CON) vide his letter No. E/227/CON/1/Pt.IV(EP) dt. 5-3-1997 under the signature of SPO/CON forwarded my "Option for absorption in Group 'D' Category to

Contd...7/-

22

Barhu Chakraborty  
Kantimwar Chowdhury  
13-20-2001  
Advocate

GM(P)/N.F.Railway/Maligaon for taking necessary action at his end, though in my said option, Form Deputy Chief Engineer (CON)/N.F.Railway/Maligaon has endorsed on 13-3-1997 - "He is no longer in service from 28-2-1997 (A.N.)". The above two dates of SPO/C and Dy.CE(CON) signifies the "AFTERTHOUGHT" development.

(b) Even after termination of my service, there were inter-Departmental queries & replies made from both the Construction Organisation and Open Line wings of the N.F.Railway. Those can be revealed from the following documentary evidences:

(i) On 5-3-1997 - SPO/CON forwarded my option Form to Open Line GM(P) for taking necessary action at his end (Annex.-F)

(ii) On 10-3-1997 - Sr. Divisional Engineer, N.F.Railway, Maligaon, vide his letter No.E/57/CL/Pt.II dated 10-3-97 informed GM(P)/Maligaon that "Sri Babu Chakraborty, E/Peon/CON can be absorbed in this Unit against Group 'D' vacancy" as Khalasi against an existing vacancy of Khalasi in scale Rs. 750-940/-". (Annexure-I).

(iii) On 9-4-1997 - General Manager (CON)/N.F. Railway/Maligaon vide letter No. E/227/CON duly signed by Dy.CPO/C informed GM(P)/N.F.Rly/Maligaon that I "was appointed earlier in Open Line as substitute Emergency Peon on 24-11-1995" and "Subsequently transferred to construction Organisation" and since "Dy.CE/CON/LD/MLG did not want his service and asked to absorb him elsewhere and he was discharged on 28-2-1997. As there was no vacancy in this unit his application

Contd...8/-

Babu Chakraborty

Kanikumar  
Advocate 13-2-2001

was forwarded to GM(P)/MLG for consideration (Annexure-J).

(vi) On 26-6-1997 - GM(P)/Maligaon vide his letter No.2/283/33/Pt.XII(Loose) made certain quarries to GM(Construction)/MLG regarding my termination of service (document could not be collected).

(vii) On 23-7-1997 - General Manager(CON/N.F. Railway, Maligaon informed GM(P)/Maligaon vide letter No.E/227/CON/1/Pt.IV(EP) that on the basis of Sri A.C.Bhadra, Dy.CE/CON/MLG's report I "was discharged from service due to non availability of alternative vacancy" (Annexure-L).

(viii) On 2-3-1998 - General Manager/CON/N.F.Rly/Maligaon informed Sr.DEN/N.F.Railway/Maligaon vide his letter No.- E/227/CON/1/Pt.IV(EP) (Annexure-P). that I "had drawn my salary in the Construction Organisation from March/96 Feb/97 without any break" (Annex.-D).

7.10. That the total length of my service as substitute Emergency Peon in the N.F.Railway was 463 days from 24-11-1995 to 28-2-1997 and, that too, it was "uninterrupted" and "without any break".

7.11. That the N.F.Railway Administration and its appendages, Principally Deputy Chief Engineer/LD/CON/Maligaon and Asstt. Personnel Officer (CON)/N.F.Railway/Maligaon, have deliberately and arbitrarily violated the Railways's Codal

Contd....9/-

24

Babu Chakraborty

13-2-2001  
Advocate  
Nandimurari



Provision and its Circular Communicated under No.E/205/O/RP-EMERGENCY PEON/PC/CON Dated - 23-1-1996 reiterated by the circular of even No. dt. 15/16-2-1999 duly signed by the Chief Personnel Officer himself (Annexures-M&N).

In the circular dated 23-1-1996 (Annexure-M)

It is mentioned under Para-E that "Termination of the services of E/Peons is a very sensitive aspect and this is required to be dealt with utmost caution so that relevant provisions of the Establishment Code as well as that of Industrial Dispute Act are not infringed. In view of this, it is felt necessary that the existing procedure for termination of services of E/Peons are reiterated for information and guidance at all concerned. It is clarified that all termination letters have to be issued from P. Branch and not directly by the Executive Branch. and

Payment of Notice pay is a very IMPORTANT aspect and the proper course of action is to prepare the bill beforehand and got it passed from the Accounts when the bill reaches Cash Office, then only the termination order is to be handed over to the concerned E/Peon, whose services are sought to be terminated. In the termination order, it hereto be indicated that the E/Peon concerned should take his notice pay from the concerned Cash Office. It is very important because unless notice pay is given in lieu of notice within 48 hours of termination of service and the person concerned goes to CAT or Regional Labour Commissioner, the entire process of termination of service may be declared null void. This is a very vital issue. It may be mentioned that court cases in regard to termination of services of emergency peons largely

Contd...10/-

25  
Babu Chakraborty

Kantimarek for as  
13.2.2001  
Advocate

originate from this aspect.

Emergency peons will be considered similar to essentially Intermittent employees and will be entitled to rests etc. according to the convenience of the controlling Officers."

- 7.12. That the termination letter itself was defective and irregular in the sense it did not carry any name of the signatory. In the instant case the appointing authority was the Chief General Engineer/N.F.Railway to whom I was recruited for by the personal approval of General Manager/N.F.Railway/Maligaon and on my subsequent transfer to construction Organisation it was the Deputy Chief Engineer/LD(CON)/N.F.Rly./Maligaon himself and the termination notice should have been signed either by any of those designated Officers or for and on behalf of the General Manager(P)/N.F.Railway/Maligaon. Thus the termination notice dated 24-02-1997 was defective de jure and is liable to be set aside.

- 7.13. That the comments of the General Manager (Construction)/N.F.Railway/Maligaon furnished to the General Manager(P)/N.F.Railway/Maligaon that "due to non-availability of vacancies" I could not be absorbed and thus my service was terminated is neither tenable nor acceptable.

The Hon'ble Tribunal may be pleased to direct the General Manager (CON)/N.F.Railway/Maligaon to exhibit the vacancy position of Group 'D' category staff, of both construction Organisation and Open Line, during the material period the 'MCDO position' for which has been sent to Railway Board and then only the whole picture of vacancy position will unveil the truth.

Contd...11/-

Babu Chakraborty

Kantikumar Chakraborty  
13.2.2001  
Advocate

7.14. That as per settled Principles of Labour laws it is desirable that while dealing with an employee the employer should have to rise and act above personal consideration and remain impartial and "just" but in my case it was unfair, unjust, arbitrary, unilateral, violative of Railways own set of norms & rules and, hence, attracts "bias" and "malafide".

7.15. That the termination of my service by the N.F.Railway, Administration for all desirable and lawful purposes enumerated above have caused the infringement of and also ultra vires to the Arts : 14, 16(i), 39(a) and 309, of the constitutionally guaranteed rights.

7.16. That above all the Principles of "Natural Justice" has not been observed and followed in my case by the N.F.Railway Administration.

8. RELIEF SOUGHT :

- (1) Re-instatement in Service with retrospective effect, viz. from the date of 28-2-1997.
- (2) Payment of all back wages including pay, allowances, Bonus and other benefits as admissible from time to time as per Railway Rules.
- (3) Any other relief or reliefs as this Hon'ble Tribunal deem fit and proper.

9. INTERIM IF PRAYED FOR :

Pending finalisation of this Application the Hon'ble Tribunal may order as deem fit and proper.

Contd....12/-

24  
Babu Chakraborty

Kantimurari Ghosh  
13.2.2001  
Advocate

10. Details of Remedies exhausted :

Appeals/representations, both written and oral, preferred before the N.F. Railway Authorities, mentioned under Annexures O, P, Q, R, S, T and without any relief.

11. Matter not pending with other Court etc. :

The Applicant further declares that the matter regarding which this application has been made is not pending before any Court of Law or any other Authority or any other Bench of this Tribunal.

12. Particulars of Postal order in respect of the Application Fee :

- (i) Number of Indian Postal Order : B-15-005784.
- (ii) Name of the Issuing Post Office : Maligaon, N.F. Railway Hd. Qrs. Guwahati-781011.
- (iii) Date of issue of Postal order : 25-01-2001.
- (iv) Post Office at which payable : Guwahati Head Office.

13. Details of Index :

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

14. LIST OF ENCLOSURES :

Annexures :- A, B, C, D, E, F, F, H, I, J, K, L, M, N, O, P, Q, R, S, T.

Contd...13/-

28

Bablu Chakraborty

Kantimukherjee  
Advocate  
13.2.2001

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

I, Sri Babu Chakraborty, son of Sri Atul Ranjan Chakraborty, aged about 23 years, residing at Qrs. No.-- Rly.Qrs.No.-102/A, Type-I, Goshala, Guwahati-781011. do hereby solemnly affirm and verify that contents of the facts mentioned under paras 7.1 to 7.10 are true to the best of my knowledge, information and belief and I have not suppressed any material facts and the paras under 7.11 to 7.16 are my humble submission.

And I sign this VERIFICATION on this 13 the day of February, 2001.

Place :- Maligaon.

Date :- 13<sup>th</sup> February, 2001.

Identified by -  
Nantikumari Das  
13-2-2001  
Advocate.

Babu Chakraborty  
-----  
Signature of the Petitioner.

To  
The Deputy Registrar,  
Central Administrative Tribunal,  
Guwahati.

34 =

Annexure - A

Office of the  
General Manager (P)  
NF Railway, Maligaon,  
Guwahati-781 011.

30

No.E/227/Substitute/Resv/P.III.

December 1, 1995.

To  
Shri Babu Chakraborty,  
Sub.Emergency Peon.

( Through :- CGE/NF Rly., Maligaon ).

Sub:- Engagement of Substitute Emergency Peon  
in scale Rs.750-940/- attached to CGE/NF Rly.

You are hereby engaged as Substitute Emergency Peon  
on pay Rs.750/- p.m. in scale Rs.750-940/- w.e.f. 24.11.1995  
against the existing vacancy under CGE, NF Rly., Maligaon,  
subject to the following terms and conditions.

1. Your engagement will not confer upon you any right to claim for further appointment in this Railway and you are liable to be discharged without any notice when your services 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 engagement 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 services of the Emergency Peon are satisfactory and he can be continued further.
4. This has the approval of the General Manager.

Chk

24/11/95

EA to CPD  
NF Railway, Maligaon.

Copy forwarded for information & necessary action to :-

1. FA&CAD/MLG. 2. CGE/NF Rly. 3. Secy/CE. 4. APD/Engg.
5. DS/CE's Office/MLG. 6. DS/EE Sec/CPD's Office.
7. Bill Sec/EE Sec, CPD's office. 8. Spare copy for P/Case.

EA to CPD  
NF Railway, Maligaon.

Mantam P. Barua  
13-2-2001  
Advocate

=15=

Annexure - B

NORTHEAST FRONTIER RAILWAY.

OFFICE ORDER.

As per GM/CON/MIG's letter NO.E/227/CON/1/Ft.III(EF) dt. 7-3-96, Shri Babu Chakraborty, E/Peon, working under Shri P. Sharan, CGE/MIG has been transferred from open line to GM/Construction Organisation. ~~Subject vacancy filled~~

This issues with the approval of GM/CON/MIG.

*[Signature]*  
AFO/E. 15/3/96  
for GENERAL MANAGER. (P) MIG.

NO.E/283/22/Ft.XI(E).

Maligaon, dated, 15-3-96.

Copy to :- 1) FA&CAO/MIG.

2) FA&CAO/CON/MIG.

3) Secy. to GM/MIG.

4) CGE/M. F.Rly./MIG.

5) COS/CON/MIG.

6) GM/CON/MIG.

7) OS/M/MIG.

8) E/CFO/MIG.

9) Staff concerned through OS/M

10) S/copy for p/case.

*[Signature]*  
AFO/E. 15/3/96  
for GENERAL MANAGER. (P) MIG.

AB/15-3.

*Kantimata Das*  
13.2.2001  
Advocate

*[Signature]*  
15-3-96

=16=

Annexure - C

U.F. Railway.

Office of the  
General Manager (W)  
Maligaon.

No. W/PFO/MQ/3/CE/Pt. VI/W-8

Dated : 15.3.96.

G.M. (CON)/Maligaon.

Sub : Sparring of staff.

Ref : GM(P)/MLG's Office Order No.  
E/283/32/Pt. XI(E) dt. 15.3.96.

Following the transfer of Shri Babu Chakraborty,  
E/Peon under the former C.G.E., Mr. P. Sharan vide GM(P)'s  
Office order cited above to the Construction Organisation,  
he is spared from this office on 15.3.96 (A.M.)

( S.K. Chakraborty )  
Secretary to GM  
for General Manager (W).

Copy for information and necessary action to :-

1. GM(P)/Maligaon.
2. SFO/CON/Maligaon.
3. Shri P. Sharan, COS/CON/Maligaon.
4. C.G.E.
5. RMXS EA to CPO/Maligaon.
6. EA & CAO/CON
7. Shri Babu Chakraborty, E/Peon.

*Manikanta Chatterjee*  
13.2.2001  
Advocate

*[Signature]*  
15/3/96  
for General Manager (W)  
Maligaon.



=17=

Annexure - D

133

N.F. RAILWAY

Office of the  
General Manager/Con,  
Maligaon, Guwahati-11.

NO: E/227/CON/1/Pt. IV (EP)

Dated: 2-03-98.

To,  
Sr.DEN/N.F. Railway, Maligaon.

Sub:- Shri Babu Chakraborty, Ex.E/Peon

Shri Babu Chakraborty, Ex.Emergency/CON/MLG reported for duty in Construction Organisation on 15-03-96 on being transferred from Open Line. He has drawn his salary in the Construction Organisation from March/96 to Feb/97 without any break.

This is for your information please.

*Manjiv Kumar  
13.2.2001  
Advocate*

*for*  
for General Manager/Con,  
N.F. Railway, Maligaon.

.....

u

Annexure - E 34

Sir,

In terms of CPO/MLG's letter No.E/227/Screening/89 dated 29.8.91 and 30.9.91, I do hereby opt for absorption against Group 'D' posts (other than peon) in...~~...~~...D.E.N...Déptt... in.....Division. *Pandu.*

My service particulars are furnished below:-

1. Name. : SRI. BABU CHAKRABORTY.
2. Father's name. : SRI. A. R. CHAKRABORTY.
3. Attached with whom. : MR. A. C. BHADRA, Dy CE/CON/L-D/MLG
4. Qualification. : Passed class VIII ✓
5. Date of birth. : 17.3.77 ✓
6. Date of appointment. : 24.11.95 ✓
7. Date of completion of :  
3 years service. :
8. Particulars of 3 years service.  
(a) From. 24.11.95 to 15.3.96 attached with Subst. Emergency Personnel Dy CE/MLG  
(b) From. 16.3.95 to 25.4.96 under Mr. P. Sharan former Dy CE/MLG  
(c) From. 27.4.96 to 12.5.96 under sec  
(c) From. 13.5.96 to 28.2.97 attached with MR. A. C. BHADRA, Dy. CE/CON/L-D/MLG
9. Whether SC/ST/UR. :

Dated, Maligaon,  
28.2.97.

Yours faithfully,

Babu Chakraborty  
28/2/97  
(Name of the candidate).

Certified that the particulars furnished by the staff is correct. *Copy the 8. 1944 sent to me, copy the 12. 1944*

Signature of the Controlling

3y. Chief Engineer/Conf.

पू. सी. रेलवे मालीगांव.

\* F. Railway, Maligao

गुवाहाटी-781 011

Geiwahati - 781 012

= 19 =

Annexure - F

N.F. Railway

Office of the  
General Manager(Con)  
Maligaon :Guwahati:781011

No.E/227/Con/1/Ft.IV(EP)

Dated, 5-3-97

To  
GM(P)/N.F.Railway  
Maligaon.

(Enqg)

Sub : Option for absorption in group 'D' category.

In terms of Para -7 (D) of GM(P)/Maligaon's  
circular No.E/205/O/RP/Emergency Peon/FC/Con dated  
23-1-96 Shri Babu Chakrabarty, E/Peon/Con has submitted  
option for absorption in group 'D' category and the  
same is sent herewith for necessary action from your end.

Shri Babu Chakrabarty has been discharged w.e.f  
28-2-97 (AN) .

DA : One Option form .

*Manikumar Chowdhury*  
13.2.2004  
*Advocate*

*Ans*  
( S.N. Roy )  
SPO/Con  
for General Manager(Con)

= 20 =      Annexure - G      36

N. F. RAILWAY.

Office of the  
General Manager(CON)  
Maligaon.

Form No. 11 (For the termination) of services forthwith of temporary Railway servant under Sub-Rule(1) Apprentices under Sub-Rule(2) Probationary Railway servant under Sub-Rule (3) Rule-301

24-2-97

Under Rule -301 of the Indian Railway Establishment Code Volume-I, the services of Babu Chakraborty, Usual Emergency Peon in scale B.750-940/- (Name and Designation) is hereby terminated with effect from 28-3-97 (RN) with payment of one months' salary for one months' notice period and another 15 days salary for every completed years of service in compensation under Industrial dispute Act.

Place- Maligaon

Date 24-2-97

Signature of appointing Authority  
on higher authority with  
Designation.

सिस्टम ऑफिसर (निर्माण)  
Asstt. Senior Personnel Officer (Const.)

NO. E/227/CON/1/Pt. IV (VP)

Dated 24-2-97

Copy forwarded for information and necessary action to :

1. TA & CAO/CON/MLG. A Salary bill No. NO. E/914/CON/Termination dated 26-2-97 is attached herewith to be paid to the terminated staff within 40 hours of termination.

2. OS/Bill/CON/MLG. He will prepare the one month's salary bill and compensation bill at the rate of 15 days salary for every completed year of service which will be paid to the terminated staff within 40 hours of termination. His date of appointment is 13.5.96. 24-11-95

3. DY. CE/CON/L-D/MLG.

4. Staff concerned

5. S/Copy for P/case

*Kandamare*  
13.2.2001  
Advocate

24.2.97

Signature of appointing authority  
or higher authority with Designation.

सिस्टम ऑफिसर (निर्माण)

Asstt. Senior Personnel Officer (Const.)

प. सा. रेलवे, मालिगान

N. F. Railway, Maligaon.

= 28 =

( Annexure - H )

Confidential

N.F. Railway

Letter No. E/Con/1/97 (Confdl)

Mallapur, Dated: 17-2-97

Shri Babu Chakraborty was attached with the undersigned vide O.No. 69/96 communicated under letter No. E/227/CON/I/Pt. III (EP) dt. 13-5-96 as Emergency Peon w.e.f. 13-5-96. Since then it is observed that his performance is not satisfactory. As such his service is no longer required by the undersigned.

He may be released from this post and absorbed in any other category. In case he cannot be absorbed, his service is to be terminated with immediate effect observing formalities as required in terms of A/C's letter No. E/205/D/RP-Emergency Peon/EC/Con dt. 22-1-96.

( A.C. Bhadra )  
Dy. CE/C/LD/MLG

SRO/C

Copy to CE/C/II for information please.

02/11

Pl. put up today

(18/1)

Kant Kumar P  
13-2-2001  
Advocate

( A.C. Bhadra )  
Dy. CE/C/LD/MLG

=22/-

Annexure-I

38

N.F. Railway.

Office of the  
Sr. Divisional Engineer,  
N. F. Railway, Maligaon.

No. E/57/CL/Pt. II

Dated- 10-3-97.

To: GM(P)/MLG.

Sub: - Absorption of Shri Babu  
Chakraborty, E/P con/CON.

Ref: - Your letter No. E/283/32 Pt. XI(E)  
dated 7.3.97.

In reference to your letter no. quoted above,  
this is for your information that Shri Babu Chakraborty,  
E/P con/CON can be absorbed in this unit against Group 'D'  
vacancy (other than Peon) formal transfer order may be  
issued from your end to absorb him as Khalasi against  
an existing vacancy of Khalasi in scale Rs. 750-940/-.

Your early reply will be highly appreciated.

*Handwritten:*  
13.2.2001  
Advocate

4671

....

Sr. Divisional Engineer,  
N. F. Railway, Maligaon.

-23-

Annexure - 5

39

N.F. Railway

Office of the  
General Manager(Con)  
Maligaon/Guwahati-781 011

No.E/227/Con

Dated: 9-4-97

To  
GM/P/MLG  
N.F. Railway  
Maligaon

Sub: Engagement of substitute  
emergency Peon in scale Rs.750-940/-.

\*\*\*\*  
Sri Babu Chakraborty, Emergency Peon was appointed earlier in Open Line as Substitute Emergency Peon on 24-11-95 on pay Rs.750/- in scale Rs.750/-940/- vide GM/P/MLG's letter No.E/227/Substitute/Resv./P.III dt.1-12-95. Subsequently he was transferred to Constn. Organisation vide GM(P)/MLG's letter No.E/282/22/Pt.XI(E) dt.13-2-96. He was attached to Dy.CE/Con/LB/MLG as E. Peon.

Dy.CE/Con/LB/MLG did not want his service and asked to absorb him elsewhere and he was discharged on 28-2-97. As there was no vacancy in this Unit his application was forwarded to GM(P)/MLG for consideration vide this office letter No.E/227/CON/1/Pt.IV(EF) dt.5-3-97.

His option for Group 'D' post in Open Line was forwarded in terms of General Manager(Personnel)/MLG's letter No.E/205/0/RP-Emergency Peon/PC/Con dt.23-01-1996.

This is for your information and necessary action please.

  
( H. Das )  
Dy.CPO/C  
for General Manager/Con  
N.F. Railway

Kantimaref  
13.2.2001  
Advocate

=24=

Annexure ~~2~~ K

40

N.F. Railway.

Chief Engineer's Office,  
Maligaon.

No. W/PNO/HQ/CE/Pt. VI/W-6

Dated: 2.3.1998

To

OS(P)/CON/Maligaon.

Sub: Working period of Shri Babul Chakraborty  
E/Peon under CGE/Maligaon.

-----

Shri Babu Chakraborty was engaged as substitute  
Emergency Peon on Pay Rs. 750/- P.M. in scale  
Rs. 750- 940/- with effect from 24.11.95 against  
the existing vacancy under CGE/Maligaon vide EA to  
CPO/MLG's letter No. E/227/Substitute/ / Resv/Pt. III  
dated 1.12.95. He had reported for duty on and from  
24.11.95 and was spared from CE's office/Maligaon  
on 15.3.96 (AND) vide GM(W)/ Maligaon's letter No.  
W/PNO/HQ/3/CE/Pt. VI/W-6 dated 15.3.96. His total  
working period in CE's office, Maligaon from  
24.11.95 to 15.3.96 is 114 days.

This is for kind information and necessary  
action please.

*[Signature]*

OS/ W.  
CE's office /Maligaon.

एच. ए. पी. (एच. ए. पी.)  
ए. ए. पी. (एच. ए. पी.)  
Office Supdt (Work)  
N. F. Rly. Maligaon

*Kantikumar Chakraborty*  
13.2.2007  
Advocate



=25=

Annexure - L

NORTHEAST FRONTIER RAILWAY.

OFFICE OF THE  
GENERAL MANAGER (CON)  
MALIGAON.

NO. E/227/CON/1/Pt-IV(EP)

Dated 23/7/1997.

To  
GM/P/MLG.  
N.F.Rly/Maligaon.

Sub:- Engagement of substitute E/Peon  
in scale Rs.750-940/-.

Ref:- GM/P/MLG's L/No. 2/283/32/Pt-XII(LOOSE)  
dated 26-6-97.

In response to your letter under reference, it is intimated that the services of Shri Babu Chakraborty was terminated w.e.d. 28-2-97 due to unsatisfactory performance. Shri Babu Chakraborty was attached to Shri A.C.Bhadra, Dy.CE/CON/MLG. On the basis of his report he was discharged from service due to non-availability of alternative vacancy.

But Dy.CE/CON/LD also suggested to engage the staff in any other category which was not possible for want of vacancy in Construction Organisation during that period.

In this regard the P/Case, S/Book and L/Account of Shri Chakraborty are sent herewith for necessary action please.

Encls:- P/Case containing  
SN 1 & 22 along with  
One service book and  
One Leave Account.

( S. K. BOSE )

APO/CON

FOR GENERAL MANAGER (CON).

*Kanishk Kumar*  
13.2.2009  
Advocate

Office of the  
GENERAL MANAGER (PERSONNEL)  
NF Railway, Maligaon.

January 23, 1996.

No.E/205/D/RP-Emergency Peon/PC/COM...

To  
The GM/COM/MLG.  
All PHDDs,  
DRMs/KIR, APOJ, LMG & TSK,  
ADM/SHY, Sr.AM/NBP, DY.CMEs/NBQS & DOWS,  
Sasy to GM,  
DRM(P)s/KIR, APOJ, LMG & TSK  
NF Railway

Annexure - M

Sub: EMERGENCY PEON - POLICY IN REGARD TO ENGAGEMENT,  
REINFORCEMENT ETC.

The instructions issued from time to time on the subject of engagement, dealing with the cadre, subsequent absorption and termination of Emergency Peon are contained in several letters. It has now been decided to issue a consolidated circular, as below, incorporating all the instructions issued so far on the subject with some new modifications for guidance of all concerned.

(A) ENGAGEMENT OF EMERGENCY PEON.

On this Railway, all the officers upto JAG, under whom the post of Emergency Peon exists, are entitled to have Emergency Peon. The necessity of having Emergency Peon attached to a specified number of Senior Scale Officers has been recognised due to their arduous nature of duties and long hours spent in dealing with official matters, due to which the officers cannot attend to their personal requirements at home.

2. Officers on joining duties on NF Railway will normally continue with the Emergency Peons attached to their predecessors. Any change of Emergency Peon will require approval of CPO.

3. Officers will normally be allowed to exercise their choice once only in the matter of fresh engagement of Emergency Peon.

4. While sending proposal for engagement of such fresh face as Emergency Peon, the officer concerned should declare that he is exercising his option for fresh face to be engaged as his Emergency Peon for the first time on this Railway. Such proposal should also come through DRMs in case of Divisional Officers and PHDDs in case of officers in the HQ.

5. The appointment of Emergency Peon at the first instance will be for a period of 3 months only and will be extended further on receipt of a certificate from the Controlling officer that the services of E/Peon are satisfactory and that he can be continued further.

6. Engagement of fresh face as Emergency Peon will require the personal approval of the General Manager.

7. The minimum educational qualification for all new incumbents of E/Peon will be Class-VIII pass. Age limit for engagement of E/Peon will be similar to that of other G-0 staff.

CE/CTE/CGE/CBE/CPDE

Contd.....2

DYCES/TD/TME/TM/TP/PD/G/co ord

W8

M/2/2

Manikam  
13.2.2001  
Advocate

It has also been decided in partial modification of the existing line that the E/Peons after completion of 3 years of service may opt for Group-D posts in the field units (other than office peons) and their names will be enlisted in the opted unit. The interest position of Sub.E/Peons opted for a particular field unit would be determined from the date they have completed 3 years of service. Sub.E/Peons according to this position, they would be screened along with the existing Gr-D/Peons of that unit. At any time such time they are deemed for screening, they would continue to work with the office concerned. After their approval through the process of screening, they would be released by the officer concerned to join physically in the new unit. Thereafter, the officer concerned would have a choice of taking a fresh face or to reengage a discharged/terminated E/Peon or already working Gr-Substitute (only engaged for the first time with the Gr's approval).

(C) TRANSFER OF EMERGENCY PEONS

1. Transfer of Emergency Peon from one Railway to another Railway is not permissible. In case of officers taking away peons with them on transfer, the services of E/Peon will be deemed to have been terminated automatically and the E/Peon will have to rejoin and absorption back on the basis of his previous service record in this Railway.
2. Transfer from the main line to the branch line organisation, will however, be permitted on basis of the availability of vacancy. E/Peons so transferred will be given the credit for their service on the previous line.
3. Similar will be the case in respect of transfer of E/Peons from Construction Organisation to Uppa line.

(D) ABSORPTION OF SUB-EMERGENCY PEON AGAINST GROUP-D POSTS

1. Substitute Emergency Peons will be eligible for screening only on completion of 3 years service, subject to Para-(C) (3).
2. The screening of Sub.E/Peons will be against vacancies existing in Group-D in various departments/units other than those of Office Peon.
3. As soon as the Sub.E/Peon completes 3 years service, he will have to give option for absorption against Group-D posts of any department, in any Division, other than those of office peon.
4. The officer concerned will have a choice to retain the E/Peon even after the screening in the opted unit and the incumbent could continue to work as Emergency Peon. However, his name would be included in the supplementary list of Group-D staff by the particular unit for which he is screened.
5. As per the existing practice, E/Peon has to work for a minimum period of 3 years before being eligible to opt for Gr-D post in the field units (other than office peon) and he is deputed to that unit as per the vacancies available. In a number of cases it has been experienced that officers with whom E/Peons are working have been transferred out of the Railway or to such posts which do not have a sanction of E/Peon or they supersede before completion of 3 years service of their E/Peon. In such cases, the E/Peon would not be considered eligible for opting for Gr-D posts in the field units if they have worked continuously for a period not less than 1 (one) year subject to the condition that the concerned officer does not opt to retain the same E/Peon with him.

Contd... 3

*Handwritten signature*  
3.2.2001  
Advocate

25/2

Annexure - M/2/1

6. On completion of 3 years or one year of service as the case may be they E/Peon may opt for Group-D posts in the field units (other than office peons) and their names will be enlisted in the opted unit. The date so position of Sub.E/Peons opted for a particular field unit would be determined from the date they have completed 3 years of service as Sub.E/Peon. According to this position, they would be screened along with the existing CL/Substitutes of that unit, if any. Till such time their turn comes for screening, they would continue to work with the officer concerned. After their approval, through the process of screening, they would be released by the officer to join physically in the opted unit.

7. Substitute Emergency Peons will be considered for absorption against the vacancies in the opted category only if they fulfill the eligibility conditions and educational qualifications etc. and subject to the availability of vacancies.

8. The absorption of a Senior Emergency Peon may be considered earlier in case vacancies in the opted unit/category are available.

9. The Administration, however, reserves the right to absorb an E/Peon in any category depending on the exigencies.

#### (E) DISCHARGE/TERMINATION OF SERVICES OF EMERGENCY PEONS.

1. Termination of the services of E/Peons is a very sensitive aspect and this is required to be dealt with utmost caution so that relevant provisions of the Establishment Code as well as that of Industrial Disputes Act are not infringed. In view of this, it is felt necessary that the existing procedure for termination of services of E/Peons are reiterated for information and guidance of all concerned. It is clarified that all termination letters have to be issued from P.Branch and not directly by the Executive Branch. Necessary guidelines for termination of Emergency Peons are detailed below :-

2. Relevant Rules under which : Rule 301 (1) of Indian Railway  
termination of services of Establishment Code Vol : I.  
Emergency Peons is to be  
resorted to.

#### 3. NOTICE FOR TERMINATION OR PAYMENT IN LIEU OF NOTICE

While resorting to termination, due notice or pay in lieu of notice must be given, otherwise it will not be able to stand judicial proceeding, if any.

- |   |  |
|---|--|
| (a) For Emergency Peon who has completed 120 days service.  | : 14 day's notice is to be given for termination of service or 14 day's wage in lieu is to be given. |
| (b) For Emergency peon who has completed 240 days' service. | : One month's notice is to be given or one month's pay in lieu of notice is to be given.             |
| (c) For those who havenot completed even 120 days service.  | : No notice or notice pay in lieu is required to be given.   |

#### 4. PROCEDURE FOR PAYING NOTICE PAY IN LIEU OF NOTICE

Payment of Notice Pay is a very IMPORTANT aspect and the proper course of action is to prepare the bill before hand and get it passed from the Accounts. When the bill reaches Cash Office, then only the termination order is to be handed over to the concerned E/Peon, whose services are sought to be terminated. In the termination order, it should be indicated that the E/Peon concerned should take his notice pay from the concerned Cash Office. It is very important because unless notice pay is given in lieu of notice within 48 hours of termination of service and the person concerned goes to CAT or Regional Labour Commissioner, the entire process of termination of service may be declared null and void. This is a very vital aspect. It may be mentioned that court cases in regard to termination of services of Emergency Peons largely originate from this aspect.

Manish Kumar  
13.2.2001  
Advocate

45 28/3 Annexure - M/3 4

5. RETRENCHMENT COMPENSATION

While termination is done, in addition to Notice or Notice pay in lieu, retrenchment compensation @ 15 days' wage for each completed year of service or a part thereof in excess of six months should also be given under the provision of Para-25F(b) of I.D.Act. As per provisions of I.D.Act, completion of 240 days' service should entitle the employee to one year's service.

6. DISCHARGE OF EMPLOYEES

While DAR enquiry is a must in other cases, in the case of Emergency Peon, on this R. & W. Enquiry is not being held since holding of DAR enquiry against a Peon who is in the personal employ of an officer is against the possibility of being a case where practically no evidence in any form will be available. Therefore, the discharge of E/Peons is being done as a "DISCHARGE SIMPLICITER" with due notice.

F. CLASSIFICATION OF EMPLOYMENT

Emergency Peons will be considered similar to Essentially Intermittent employees and will be entitled to rests etc. according to the convenience of the controlling officers.

G. BENEFITS TO BE ENJOYED BY THE EMERGENCY PEONS

The Emergency Peons will be entitled to medical facilities, travel facilities and other facilities as allowed in Master Circular No.20 on "Appointment of Substitutes on the Railways" and other extant instructions. On attaining temporary status, on completion of 120 days service, they will be allowed all the rights and privileges as are admissible to a temporary railway employee in terms of Para-4.2 of Master Circular No.20.

H. On being discharged from service due to their unsatisfactory working or otherwise, the discharged E/Peons will have no automatic claim for absorption against existing vacancy. The absorption of such discharged E/Peons will only be done if he is chosen by an officer entitled to E/Peon.

I. DEALING WITH THE CADRE OF EMERGENCY PEONS

1. Engagement - Initial (fresh face or otherwise) will be dealt with by EA/CPD.

2. Dealing with the cadre of E/Peons.

Cadre of E/Peons are maintained by the respective cadre APDs/SPDs, e.g. after engagement is done by EA/CPD for an officer of Engg. Deptt., APD/Engg. will draw his salary bill, maintain his leave records and service records. Transfer of EPs also from one officer/deptt. to other will be done by respective cadre APDs/SPDs including their termination.

3. Formalities regarding absorption of E/Peons.

Necessary formalities regarding absorption of E/Peons after completion of 3 years service (or one year service in some cases, vide Para-D(5), such as forwarding the option forms to the opted units and subsequently sending them to that unit would be done by respective cadre SPDs/APDs.

*Handwritten signature*  
13.2.2001

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Annexure - M/G

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- (J) ... will apply with effect from ...
- (K) All the CRMs and ... of the ... work ... to the ... of ...

*[Signature]*

(AK BRAHMA)  
By Chief Personnel Officer (IR)  
for GENERAL MANAGER (PERSONNEL)

Copy forwarded for necessary action to:-

1. All P.Branch Officers/HQ.
2. Sr. CPDs/DPs of the Divisions.
3. SPE/CA/MLG.

*[Signature]*

(AK BRAHMA)  
By Chief Personnel Officer (IR)  
for GENERAL MANAGER (PERSONNEL)

*Handwritten notes:*  
13.2.2001  
Advocate

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Annexure - N

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EA/cro

N. F. RAILWAY

Office of the  
GENERAL MANAGER (P)  
MALIGAON::: :781 011

No.E/205/0/EP-EMERGENCY PEON/TC/CON

Dated 15th February, 1999

To

GM/Con/MLG  
All PHODs  
All DRMs  
Sr.ARM/NJP Dy.CME/DBWS Dy.CME/NBQS  
Secretary to GM,  
Sr.DPOS - KIR APDJ LMG TSK  
N. F. Railway

Sub: EMERGENCY PEON - REVISED POLICY FOR  
ENGAGEMENT/RETRENCHMENT ETC.

Revised consolidated instructions on the above subject incorporating all the instructions issued so far on the subject with new modifications, as approved by the General Manager, are detailed below for guidance of all concerned.

(A) ENGAGEMENT OF EMERGENCY PEON

On this Railway, all the officers upto JAG, under whom the post of Emergency Peon exists, are entitle to have Emergency Peon. The necessity of having Emergency Peon attached to a specified number of Senior Scale Officers has been recognised due to their arduous nature of duties and long hours spent in dealing with official matters, due to which the officers cannot attend to their personal requirements at home.

2. Officers on joining duties on N.F.Railway with eligibility to operate the emergency Peon attached to their posts will normally require to continue the Emergency Peons who were working with their predecessors. However, if the change of the incumbent of Emergency Peon is felt necessary by the Officer newly joining the post, the same can be made only with the approval of the General Manager to be communicated by the Office of the Chief Personnel Officer.

3. Officers who desire to replace the Emergency Peon working with their predecessors can exercise such choice only once in the entire service of N.F.Railway, if it is for fresh face.

4. While sending proposal for engagement of such fresh face as Emergency Peon, the officer concerned should declare that he is exercising his option for fresh face to be engaged as his Emergency Peon for the first time on this Railway. Such proposal should also come through DRMs in case of Divisional Officers and PHODs in case of officers in the HQ.

Confirmed  
13.2.2001  
Advocate

N.F. RAILWAY

5. The appointment of Emergency Peon at the first instance will be for a period of 3 months only and will be extended further on receipt of a certificate from the Controlling officer that the services of E/Peon are satisfactory and that he can continue further.

6. Engagement of fresh face as Emergency Peon will require prior personal approval of the General Manager.

7. The minimum educational qualification for all new incumbents of E/Peons will be Class-VIII pass. Age limit for engagement of E/Peon will be similar to that of other Group-D staff.

(B) **SECOND CHOICE IN REGARD TO  
ENGAGEMENT OF FRESH FACE**

1. Engagement as a fresh face of emergency Peon will be made as a substitute in the open line chargeable to the Group D post with the medical fitness. In case of engagement against work charge post such fresh face will be engaged as a substitute against a Group D vacancy in the said unit and the pay of the E/Peon will be charged against the work charge post.

2. Such Emergency Peons are eligible for regularisation in Group D post on completion of 3 years continuous satisfactory service. Such Substitutes will be eligible for assignment of seniority in Group D post on completion of 3 years service for which a formal screening will be made which will be based on the record of medical fitness, age, qualification and service satisfaction as certified by the Officer under whom posted as Emergency Peon. This should be done automatically so that one gets his seniority on completion of 3 years service.

3. On becoming a regular Group D employee, such person will require to continue to function as Emergency Peon in a regular Group D post under the same Officer. With such change of status neither the Officer nor the E/Peon will have any claim for change of category of the Emergency Peon.

4. When the Officer is transferred from one station to another within N.F. Railway or outside, the E/Peon working under him may be shifted, provided the E/Peon seeks such transfer in writing. If he has attained regular status in Group 'D', his request for transfer will be made with the assignment of bottom seniority in the new unit. In case he has attained temporary status, he will be shifted with the same status with eligibility for reckoning his past service for regularisation in Group D as applicable to E/Peon. He will be, however, assigned bottom seniority in the new unit. In case he is yet to attain the temporary status, he will be shifted as a Substitute, however, with eligibility to reckon his past service for continuity for assignment of temporary status as well as eligibility for regularisation in Group D. He will be assigned only bottom position as Substitute, if any, in the said unit. In case of shifting outside N.F. Railway, such action will be governed by the terms & stipulations as prescribed by the organisation where joining.



5. When Emergency Peon does not seek such transfer or the Officer on transfer has no eligibility to operate E/Peon at the new station where transferred or if the Officer quits N.F. Railway on retirement, death, resignation, transfer to other Railways, deputation etc., his services will be terminated with due notice unless he has rendered one year continuous service. If he has rendered one year service or more, whether continuous or otherwise, he will be retained in the same status against Group-D vacancy in the seniority unit however with eligibility for regularisation in Group-D post only on completion of 3 years service. In case he seeks change of category and change of station, the same can be considered subject to availability of vacancy and in the new unit he will be eligible for regularisation only on completion of 3 years service taking into account the previous service rendered at the old station. If he is a regular Group D employee, such transfer to a new station can be only made on his 'own request' with assignment of bottom seniority.

### (C) TRANSFER OF EMERGENCY PEONS

Transfer of Emergency Peon who is not a regular Group-D employee from one Railway to another Railway is not permissible. In case of officers taking away E/Peons with them on transfer, the services of E/Peon will be deemed to have been terminated automatically and the E/Peon will have no right for absorption back on the basis of his previous service rendered on this Railway.

2. Shifting of a serving Emergency Peon before attaining the Group-D status from open line to Constn. Orgn. may become inevitable with the posting of the Officer under whom he is working. As a person is engaged in open line as a substitute if such a situation arises such E/Peon will cease to be borne in open line and the Officer will engage him if permissible in Construction under the terms & conditions as applicable to Constn. Orgn. in case such Emergency Peon has not attained temporary status. If such Emergency Peon has attained temporary status, there is no bar to continue him against the Group-D post in the open line but he can be charged against the work-charged post of the Constn. Orgn. estimate. He will be eligible for regular Group-D status on completion of 3 years continuous service and after becoming regular Group-D employee he can continue to work in Constn. Orgn. with his service being loaned for the utilisation by the same Officer.

3. When the Officer is transferred from construction organization to open line, the E/Peon engaged by him in construction organisation can be shifted to open line when the Officer is eligible to operate the post of emergency peon attached to his post in open line. If the E/Peon has not attained temporary status then his engagement in open line will have to be made as a fresh substitute however with the eligibility of counting the past services rendered in construction organisation as emergency peon for regularisation in open line on completion of 3 years continuous satisfactory service. If he has attained temporary status then he will continue to retain this temporary status on posting in open line and becomes eligible for regularisation in Group D post in open line with reckoning his past service in construction. If he is regular Group D employee then his service can be taken on loan to the new unit or the open line maintaining his lien in his parent unit. It is open to him to seek transfer on own request to be made with assignment of bottom seniority as applicable for a transfer 'on own request'.

*Manjunath*  
13-2-2001  
*Advocate*

27/3

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(D)

**ABSORPTION OF SUBS. EMERGENCY PEON  
AGAINST GROUP D POSTS**

1. Emergency Peons engaged initially as a substitute will be regularized in Group D vacancy to become a regular employee as brought hereinabove vide item (B) above.
2. On becoming a regular employee he will continue to serve with the Officer under whom he was initially engaged unless the Officer is transferred from the station within N.F. Railway or outside. On such situation of transfer of the Officer, the E/Peon may also seek transfer on own request from one unit to another or from N.F. Railway to another Railway which can be an applicable under normal rules on 'transfer on own request'.
3. Normally, an E/Peon will continue to serve the Officer who has initially engaged him except when the Officer is transferred out of the station in which case the procedure as laid down in Para (B) 4 & 5 above will be followed. If, however, an Officer desires to change the E/Peon who has rendered not less than 5 years service, he may recommend to the General Manager on the written request of the Emergency Peon for seeking the change of category, along with explanation on the circumstances under which the Officer desires for change. General Manager, as a special case, may permit the change and engagement of another fresh face as E/Peon by the Officer concerned. The previous E/Peon will be absorbed against the Group-D vacancy. However, if he is absorbed in a different unit, the same will be done only on the assignment of bottom seniority.
4. The Officer concerned will have to retain the E/Peon even after regularisation in Group-D post and the incumbent would continue to work as E/Peon. However, his name would be included in the seniority list of Group-D staff by the particular unit in which he is regularised.
5. As per the existing practice, E/Peon has to work for a minimum period of 3 years before being eligible to opt for Group-D post in the field unit (other than Office Peon) and he is deputed to that unit as per the vacancies available. In a number of cases it has been experienced that Officers with whom E/Peons are working have been transferred out of the Railway or to such posts which do not have sanction of E/Peon or they superannuate before completion of 3 years service of the E/Peon. In such cases, the E/Peon would be considered eligible for opting for Gr-D posts in the field units if they have worked continuously for a period not less than 1 (One) year subject to the condition that the succeeding Officer does not opt to retain the same E/Peon with him.
6. Substitute E/Peon will be considered for absorption against the vacancies in the opted category only if they fulfil the eligibility conditions and educational qualifications etc. and subject to the availability of vacancies.
7. The absorption of a junior E/Peon may be considered earlier in case vacancies in the opted unit category are available.
8. The administration, however, reserves the right to absorb an E/Peon in any category depending on the exigencies.

Kanichanwar  
-13-2-2021  
Advocate

N.F. RAI

### (3) DISCHARGE/TERMINATION OF SERVICES OF E/PEONS

1. Termination of the services of E/Peons is a sensitive aspect and this is required to be dealt with utmost caution so that relevant provisions of the Establishment Code as well as that of Industrial Disputes Act are not infringed. In view of this, it is felt necessary that the existing procedures for termination of services of E/Peon are reiterated for information and guidance of all concerned. It is clarified that all termination letters have to be issued from Personnel Branch and not directly by the Executive Branch. Necessary guidelines for termination of E/Peon are detailed below :-

2. Rule 301(1) of Indian Railway Establishment Code, Volume-I, is the relevant rule under which termination of service of Emergency Peon is to be resorted to.

### 3. NOTICE FOR TERMINATION OR PAYMENT IN LIEU OF NOTICE

While resorting to termination, due notice or pay in lieu of notice must be given, otherwise it will not be able to stand judicial proceeding, if any.

- |   |   |
|---|---|
| (a) For Emergency Peon who has completed for 120 days service | : 14 days notice is to be given for termination of service or 14 days' wage in lieu is to be given. |
| (b) For Emergency Peon who has completed 240 days service     | : One month's notice is to be given or One month's pay in lieu of notice is to be given             |
| (c) For those who have not completed even 120 days service    | : No notice or Notice Pay in lieu is required to be given.  |

### 4. PROCEDURE FOR PAYING NOTICE IN LIEU OF NOTICE

Payment of Notice Pay is a very important aspect and the proper course of action is to be ensured to prepare the bill beforehand and get it passed from the Accounts. When the bill reaches Cash Office, then only the termination order is to be handed over to the concerned E/Peon, whose services are sought to be terminated. In the termination order, it should be indicated that the E/Peon concerned should take his Notice Pay from the concerned Cash Office. It is very important because unless Notice Pay is given in lieu of Notice within 48 hours of termination of service and the person concerned goes to the CAT or Regional Labour Commissioner, the entire process of termination of service may be declared null and void. This is a very vital issue. It may be mentioned that court cases in regard to termination of services of E/Peons largely originate from this aspect.

### 5. RETRENCHMENT COMPENSATION

While termination is done, in addition to Notice or Notice Pay in lieu, retrenchment compensation @ 15 days' wage for each completed year of service or a part thereof in excess of six months should also be given under the provision of Para 25(F) (b) of the Industrial Disputes Act. As per provisions of ID Act, completion of 240 days service should be taken as completion of one year.

*Handwritten signature*  
13.2.2001  
Advocate

52 237/5 Annexure N/5

HOLDING OF DAR ENQUIRY BEFORE  
TERMINATION OF SERVICE

While E/Peon who has not attained the temporary status can be terminated it will not be the case when he attains temporary status or becomes a regular Group-D employee as it calls for disciplinary action which requires all the requisite rules and formalities as applicable to regular employees are to be followed. The provisions of Para 304 of Indian Railway Establishment Code, Volume-1 should be borne in mind.

(B) CLASSIFICATION OF EMPLOYMENT

Emergency Peon will be considered similar to Essentially Intermittent employees and will be entitled to rests etc. according to the convenience of the Controlling Officers.

(C) BENEFITS TO BE ENJOYED BY THE EMERGENCY PEONS

The Emergency Peons will be entitled to medical facilities, travel facilities and other facilities as allowed in Master Circular No.20 on "Appointment of Substitute on the Railways" and other extant instructions. On attaining temporary status on completion of 120 days service, they will be allowed all the rights and privileges as are admissible to a temporary Railway employee in terms of Para 4.2 of Master Circular No.20.

(D) ABSORPTION


On being discharged from service due to their unsatisfactory working or otherwise, the discharged Emergency Peons will have no automatic claim for absorption against existing vacancies. The absorption of such discharged E/Peons will only be done if he is chosen by an Officer entitled to E/Peon.

DEALING WITH THE CADRE OF EMERGENCY PEONS

Fresh face engagement which requires General Manager's prior approval will be dealt in the Office of CPO along with request of change of category within the same unit or from one unit to another of regular Group-D B/Peon.

(1) Inter Railway transfer of E/Peon who has not become a regular Group-D employee is not permissible. However, if a written request is made by such E/Peon and if the Railway to which he wishes to join is accepting him, an order of release can be issued and he will take up the appointment in the new Railway as per the terms & conditions prevalent in the said Railway.

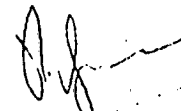
(2) All the DMAs and PHODs are requested to bring this to the notice of the Officers working under them who are entitled to the service of the Emergency Peons.

  
(P. MURUGAN)

C. P. O.

for GENERAL MANAGER (P)

Copy to All 'P' Bt. Officers in HQ & Divisions.

  
for GENERAL MANAGER (P)

*Planned to be done  
13.2.2001  
Advocate*

= 28 =

Annexure - 0

To,  
The General Manager (CON).  
N.F. Railway/Maligaon.  
Guwahati-781011.

Sub :- Irregular retrenchment from service  
re-instatement thereof.

Ref :- Office Order No.99/96 of 13.5.96  
endorsed under No.E/227/CON/1  
pt.III(EP), of 13.5.96.

Respected Sir,

Vide Office order under reference, my service was transferred under Dy.CE/CON/LO/MLG and I served him as Emergency/Peon.

But after some days Vide GM/CON/MLG's notice number E/227/CON/1/Pt.V of 24.2.97 my service was terminated with affect from 28.2.97 (AM).

That sir, my service was terminated as per report of Shri A.C. Bhadra, Dy. CE/C/ID/MLG on the ground that my service was not satisfactory as intimated by him vide his letter No. E/CON/1/97 (Confidential) of 17.2.97 addressed to SPO/CON/MLG.

That sir, I have already completed one year service and attained temporary status and therefore, I am entitled to the rights and privileges as admissible to regular Employees which include the benefit of discipline appeal Rule, 1968.

In the context of above, any allegation against an employee must be dealt under discipline and Appeal Rule, 1968 and not to be kept Confidential.

In view of above, the undersigned would request you to kindly Quash the termination notice and re-instate me in my former service and to set right this irregular retrenchment and protect a poor employee from starvation.

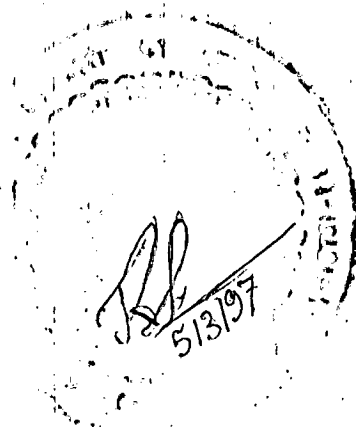
Thanking you,

Dated, Maligaon

Yours faithfully,  
*Bablu Chakraborty*  
EX- E Peon  
(BABU CHAKRABORTY)  
Ex-Emergency Peon.  
Under Dy.CE/CON/LD/MLG's.

1. Copy to GM/P/MLG for information and necessary action please. He is requested to kindly refer his letter No.E/283/32 pt. II(E) of 13.3.97. addressed to GM/CON/MLG for reviewing the case.

*Advocate*  
13-2-2001



- 292

Annexure - P 51

To,  
The General Manager (CON).  
N.F. Railway/Maligaon.  
Guwahati-781011.

Sub :- Irregular retrenchment from service  
re-instatement thereof.

Ref :- Office Order No.99/96 of 13.5.96  
endorsed under No.E/227/CON/1  
pt.III(EP) of 13.5.96.

Respected Sir,

Vide Office order under reference, my service was transferred under Dy.CE/CON/LO/MLG and I served him as Emergency/Peon.

But after some days Vide GM/CON/MLG's notice number E/227/CON/1/Pt.V of 24.2.97 my service was terminated with affect from 28.2.97 (AN).

That sir, my service was terminated as per report of Shri A.C. Bhadra, Dy. CE/C/ID/MLG on the ground that my service was not satisfactory as intimated by him vide his letter No. E/CON/1/97 (Confid) of 17.2.97 addressed to SPO/CON/MLG.

That sir, I have already completed one year service and attained temporary status and therefore, I am entitled to the rights and privileges as admissible to regular Employees which include the benefit of discipline appeal Rule, 1968.

In the context of above, any allegation against an employee must be dealt under discipline and Appeal Rule, 1968 and not to be kept Confidential.

In view of above, the undersigned would request you to kindly Quash the termination notice and re-instate me in my former service and to set right this irregular retrenchment and protect a poor employee from starvation.

Thanking you,

Dated, Maligaon

Yours faithfully,  
Babu Chakraborty  
Ex E Peon  
(BABU CHAKRABORTY)  
Ex-Emergency Peon.  
Under Dy.CE/CON/LO/MLG's.

1. Copy to GM/P/MLG for information and necessary action please. He is requested to kindly refer his letter No.E/283/32 pt. II(E) of 13.3.97. addressed to GM/CON/MLG for reviewing the case.

Non-Financial  
Advocate  
13-2-2001  
2/3/98



To  
The General Manager (GM),  
C.P. Railway/Halligan,  
Bhubaneswar - 751 001

Sub: Request for withdrawal from service  
of Mr. B. Chakraborty.

Ref: Letter No. 2773 of 12.2.97  
dated 12.2.97  
dated 12.2.97

That Mr. B. Chakraborty was employed in the  
C.P. Railway/Halligan and was working as  
a General Manager.

But after some days vide GM/COM/MLG's notice  
number G/227/COM/1/Pt.V of 24.2.97 my service was  
terminated with effect from 28.2.97 (AN).

That Sir, my service was terminated as per report  
of Mr. A.C. Bhadani, Dy. GM/COM/MLG on the ground that  
my service was not satisfactory as intimated by him  
vide his letter No. G/COM/1/PT (Confid) of 17.2.97  
addressed to GM/COM/MLG.

That Sir, I have already completed 14 years  
service and obtained temporary status and therefore, I  
am entitled to the rights and privileges as admissible  
to regular employees and to secure the benefit of  
discipline and appeal rules.

In the context of above, any allegation against  
an employee must be dealt under discipline and appeal  
rules, 1950 and not to be kept Confidential.

In view of above, the undersigned would request  
you to kindly reach the termination notice and re-instate  
me in my former service and to set right this irregular  
retrenchment and protect a poor employee from starvation.

Thanking you.

Dated, Halligan  
12.12.1990

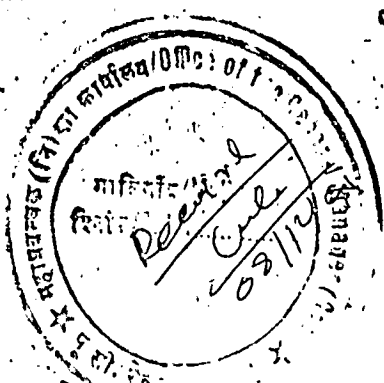
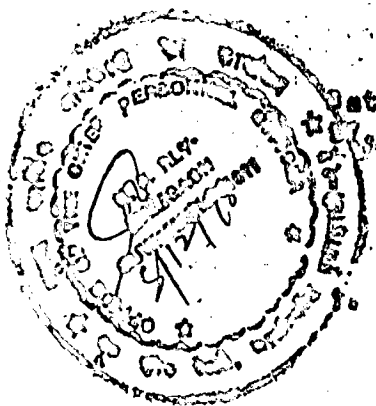
Yours faithfully,

Babu Chakraborty

( BABU CHAKRABORTY )  
Ex.-Emergency Peon  
under Dy. GM/COM/MLG

Copy to : GM/COM/MLG for information & necessary action.  
please. He is requested to kindly refer his  
letter No. G/203/32 Pt. II (2) of 12.2.97  
addressed to GM/COM/MLG for reviewing the  
case.

Manjunda Chakraborty  
13.2.2001  
Advocate





= 2P =

Annexure - R

To  
The General Manager (CON),  
N.F. Railway/Maligaon,  
Guwahati - 781 011.

Sub : Irregular retrenchment from service-  
re-instatement thereof.

Ref : Office Order No. 99/96 of 13.5.96  
Endorsed under No. E/227/CON/1/  
Pt. III (EP) of 13.5.96.

Respected Sir,

Vide office order under reference, my service was transferred under Dy. CE/CON/LO/MLG and I served him as Emergency/Poon.

But after some days vide GM/CON/MLG's notice number E/227/CON/1/Pt. IV of 24.2.97 my service was terminated with effect from 28.2.97 (AN).

That Sir, my service was terminated as per report of Shri A.C. Bhadra, Dy. CE/C/LO/MLG on the ground that my service was not satisfactory as intimated by him vide his letter No. E/CON/1/97 (Confid) of 17.2.97 addressed to SPO/CON/MLG.

That Sir, I have already completed one year service and attained temporary status and therefore, I am entitled to the rights and privileges on-par with those to regular employees which include the benefit of Discipline and Appeal Rule 1968.

In the context of above, any allegation against an employee must be dealt under discipline and Appeal Rule, 1968 and not to be kept Confidential.

In view of above, the undersigned would request you to kindly Quash the termination notice and re-instate me in my former service and to set right this irregular retrenchment and protect a poor employee from starvation.

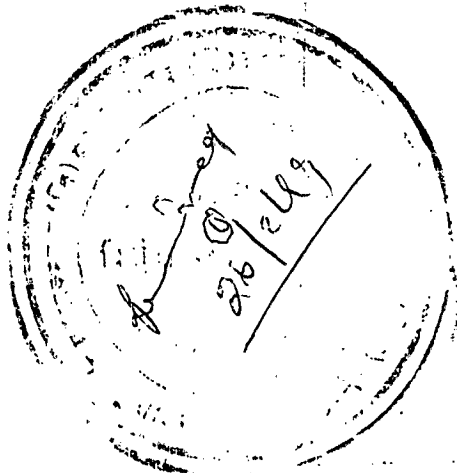
Thanking you,

Dated, Maligaon  
07.02.1999  
26-2-1999

Yours faithfully,

*Suba Chakraborty*  
(Suba Chakraborty)  
Ex.-Emergency Poon  
under Dy. CE/CON/LO/MLG

1. Copy to : GM/P/MLG for information & necessary action please. He is requested to kindly refer his letter No. E/263/32 Pt. II (E) of 13.3.97 addressed to GM/CON/MLG for reviewing the case.



*Nandamurti*  
13-2-2001  
Advocate



To  
The General Manager,  
N. F. Railway, Maligaon.

The General Manager(CON),  
N.F.Railway, Maligaon,  
Guwahati 781 011.

Sir,

Sub:- Irregular retrenchment from service-  
reinstatement thereof.

Most respectfully I beg to state that immediately after my retirement from service by the arbitrary and malafide action by DY.CEE/LD/Maligaon under whom I had been working as an Emergency Peon, I have been persistently running after your offices and approaching all the concerned officer for my re-engagement/absorption in the rly.employment, but it is really painful for me that inspite of my repeated appeals/representation neither I have given any employment nor given a line in reply so far. Sir, I with my family members including my age-old father are virtually passing days almost in starvation.

I would, therefore, fervently pray that you would be kind enough to consider my case sympathetically and accord necessary orders for my re-engagement in ~~my~~ any category of the D-Group of the Railway's establishment.

In this connection I beg to further state that excepting me all other Emergency Peon, substitutes and construction casual labourers whose services were terminated/retrenchment/discharged, have already been provided with the suitable jobs in the Railway.

With regards,

Yours faithfully,

Babu Chakraborty  
EX/ E Peon

(Babu Chakraborty)  
C/O Bishnu Singh  
Rly.Qr.No.102-A-Type I  
Goshala, Guwahati 781011.

Dated: 7-11-2000



Kantimurali Bhowmik  
13-2-2001  
Advocate

To,  
The General Manager (CON).  
N.F. Railway/Maligaon.  
Guwahati-781011.

Sub :- Irregular retrenchment from service  
re-instatement thereof.

Ref :- Office Order No.99/96 of 13.5.96  
endorsed under No.E/227/CON/1  
pt.III(EP) of 13.5.96.

Respected Sir,

Vide Office order under reference, my service was transferred under Dy.CE/CON/LO/MLG and I served him as Emergency/Peon.

But after some days Vide GM/CON/MLG's notice number E/227/CON/1/Pt.V of 24.2.97 my service was terminated with affect from 28.2.97 (AN).

That sir, my service was terminated as per report of Shri A.C. Bhadra, Dy. CE/C/LD/MLG on the ground that my service was not satisfactory as intimated by him vide his letter No. E/CON/1/97 (Confdl) of 17.2.97 addressed to SPO/CON/MLG.

That sir, I have already completed one year service and attained temporary status and therefore, I am entitled to the rights and privileges as admissible to regular Employees which include the benefit of discipline appeal Rule, 1968.

In the context of above, any allegation against an employee must be dealt under discipline and Appeal Rule, 1968 and not to be kept Confidential.

In view of above, the undersigned would request you to kindly Quash the termination notice and re-instate me in my former service and to set right this irregular retrenchment and protect a poor employee from starvation.

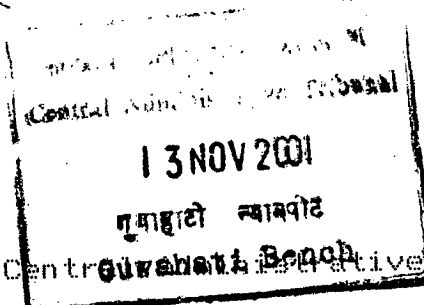
Thanking you,

Dated, Maligaon  
18-1-2001

Yours faithfully,  
Bablu Chakraborty  
(BABU CHAKRABORTY)  
Ex-Emergency Peon.  
Under Dy.CE/CON/LD/MLG's.

1. Copy to GM/P/MLG for information and necessary action please. He is requested to kindly refer his letter No.E/283/32 pt. II(E) of 13.3.97. addressed to GM/CON/MLG for reviewing the case.

*Noted*  
13.2.2001  
Advocate



-34-

In The Central Administrative Tribunal  
Guwahati Bench :: Guwahati.

Filed by the respondent  
through A. Chakrabarty  
Advocate  
12/11/2001

O.A. NO. 67/2001

Sri Babu Chakraborty

- Vs. -

Union Of India & Ors.

In the matter of :

Written Statement on behalf of  
the respondents.

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

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

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

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

The applicant was initially engaged as substitute emergency peon in scale Rs.750-940/- on 24.11.95 attached to CGE, N.F.Rly, Maligaon in open line by GM(P)/MLG's letter No.E/227/Substitute/Resv/Pt.III dated 1.12.95. Subsequently in terms of GM(P)/MLG's letter No.E/282/22/Pt.XI(E) dated 13.2.1996 he was transferred to

construction organisation on sparing from CE/MLG's office on 15.3.1996(A/N) by GM(W)/MLG's letter No.W/PNO/HQ/3/CE/Pt.VI/W-6 dated 15.3.1996. He reported for duty in construction on 15.3.1996 and joined as Emergency Peon attached to DY.CE/CON/LD/MLG. Sri A.C.Bhadra, Dy.CE/CON/LD/MLG by his letter No.E/CON/1/97(Confdl) dated 17.2.97 has informed that the service of the applicant is not required further by Dy.CE/Con./LD/MLG due to applicant's unsatisfactory performance. Accordingly the applicant was discharged from service w.e.f. 28.2.97 by letter No.E/227/Con/1/Pt.IV(EP) dated 24.2.97 following existing procedure for termination of service of emergency peon.

4. That in reply to the statements in para 7.1 it is stated that the applicant was terminated under the terms and condition of his appointment letter. (However his appeal dated 7.11.2000 was considered and his name has been registered for further appointment. |||

5. That in reply to the statements in para 7.4 it is stated that time to time options are asked for emergency peons who have completed 3 years continuous service for their absorption in any Gr.'D' category other than peon. But at the time of exercising option the applicant rendered only 463 days services. Therefore there was no use of such option. The administration also did not ask any option from the applicant. However, on receipt of such option from the applicant the same was forwarded to the appropriate authority. ✓

6. That in reply to the statements in para 7.5 to 7.8 it is stated that as per terms and condition of the appointment the applicant was discharged from service duly following the rules as laid in 'E' of GM/MLG's Circular No.E/205/O/RP/Emergency Peon/PC/Con dated 23.1.96. One month's pay in lieu of notice was given to the applicant. It is also stated that as per the provisions of Industrial Disputes Act, 25(F)(b), the retrenchment compensation to the extent of 15 days wages was paid for each employed year of service. The Controlling Officer submitted a confidential report that performance of the applicant was not satisfactory. Submission of such report is a routine matter about the employees and appropriate action was taken after receipt of the said report. It is worthy mentioned that in terms of the provisions circulated by letter No.E/205/O/RP-EP/PC/Con dated 23.1.96, any emergency peon who has completed 3 years of temporary service as substitute emergency peon, can be considered for regularisation. The substitute employees who have not completed 3 years are dealt with as per para 'E' of the circular. As per this para the services such employees are to be terminated with immediate effect duly giving them a notice of one month's pay in lieu notice and paying compensation under the Industrial Dispute Act.

7. That in reply to the statements in para 7.9 it is stated that there is no relation between the termination of service and exercising option. Both are different process and these can not be amalgamated.

8. That in reply to the statements in para 7.11 it is denied that the applicant was terminated violating the GM(P)/MLG's instruction vide No.E/205/D/RP/EP/PC/Con dated 23.1.96. It is clearly mentioned in the said letter that emergency peon has to work for a minimum period of 3 year of service before being eligible to opt for Gr.'D' post. It is also mentioned that in case of transfer of an officer from N.F.Rly to other Rly. or to such post which does not have a sanction of emergency peon or they superannuate before completion of 3 years service of their emergency peon, in such cases the emergency peon will not be considered eligible for opting for Gr.'D' post in the field unit if they have worked continuously for a period not less than one year subject to the condition that the succeeding officer does not opt to retain the same emergency peon for him. It is thus stated that the applicant does not come under the above rule of transfer, retirement of the officer.

9. That in reply to the statements in para 7.12 it is stated that the facts submitted by the applicant are not correct. As per SOP issued by the Rly. Board (No.F(X)II/86/FW/6 dated 5.5.87) Junior scale officer have been delegated full power to make 1st appointment to NG Gr.'D' staff. Therefore as per rule a termination letter can also be signed by a junior scale officer.

10. That in reply to the statements in para 7.14 to 7.16 it is stated that in the appointment letter of the applicant it was mentioned that his service is liable to be terminated if his service is found unsatisfactory and as

such the allegation brought against the administration for not observing the principles of natural justice is not correct. It is also stated that as per circular dated 23.1.96 a discharged emergency peon will have no automatic claim for absorption. Absorption of such discharged emergency peon will only be done if he is chosen by an officer entitled to emergency peon. It is worthy mentioned that the name of the applicant has been registered for further appointment.

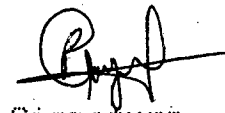
11. That in the facts and circumstances of the case the application deserves to be dismissed with cost.

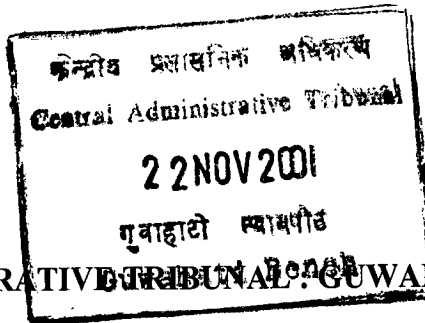
Verification

I, RAJEEV KUMAR GOYAL....., working as By CHIEF PERSONNEL OFFICER....., N.F.Rly, Maligaon, do hereby verify that, the statements made in the paragraphs 1 to 11 are true to my knowledge.

Guwahati

/2001

  
Signature



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
AT GUWAHATI

O.A. No. 67 OF 2001

Sri Babu Chakraborty, Son of Sri Atul Ranjan Chakrabarti, residing at  
Qrs.No.102/A, Type-I, Goshala, Guwahati – 781 011.

----- Applicant/Petitioner

Vs

- 1) Union of India, Representing per General Manager, N.F. Railway,  
Maligaon, Guwahati – 781 011.
- 2) The General Manager (Construction), N.F. Railway, Maligaon,  
Guwahati – 781 011.
- 3) The Chief Personnel Officer, N.F. Railway, Maligaon, Guwahati –  
781011.
- 4) The Chief Engineer, N.F. Railway, Maligaon, Guwahati – 781 011.
- 5) The Chief Engineer (Construction), N.F. Railway, Maligaon, Guwahati  
– 781 011
- 6) The Deputy Chief Engineer (Construction), N.F. Railway, Maligaon,  
Guwahati – 781 011.

----- Respondents / Opposite Parties

IN THE MATTER OF:

Rejoinder to the written statement submitted by the answering  
Respondents, herein the Railway Administration in the instant Application;

contd... Page 2... The humble...

Babu Chakraborty

K. S. S. S.  
22.11.2001  
Advocate



The humble Applicant most respectfully sheweth:

- 1) That with regard to the paragraph-1 of the Written Statement of the Respondent, the Applicant offers no comments.
- 2) That with regard to the paragraph-2 of the Written Statement of the Respondents, the Applicant offers no comments.
- 3) That with regard to the paragraph-3 of the Written Statement the Applicant submits that there had been no unsatisfactory performance by the Applicant, as stated in the Written Statement by the Respondent and there were no reprimands either written or oral communicated by Sri A.C. Bhadra, Deputy CE/CON/LD/Maligaon to this Applicant and had there been any unsatisfactory services definitely the Applicant could not have been allowed by the Administration to render 463 days of services continuously. As a matter of practice in vogue a confidential report is forwarded by the Officer with whom a substitute peon is attached on completion of three months to Chief Personnel Officer stating the nature of his services discharged duly indicating his integrity and upon which further continuation of service of the emergency peon is continued and after attaining the temporary status the termination of services, if necessary, can be made following the procedures laid down as per Article-311(2) giving a reasonable opportunity to the alleged delinquency of the substitute Emergency Peon. But in the instant case no such procedures were followed by the Administration neither any reasonable opportunity was given to the Applicant for his defence. It was immediately after taking the "Option" in the morning for appointment in the Group-D employment of the N.F.

Bader Chakraborty

K. B. S. 22.11.2001  
Advocate

Contd.....3 : Railway the -----

Railway the Administration handed over the termination letter in the evening on the same date of 28-02-97 which would be evidentially proved from the Annexure submitted in my original Application under Annexure- 'G' at page-20 in a most arbitrary and illegal and unjust way violating the norms enunciated under Rule-301 of the Indian Railway Establishment Code, Volume-1. The Rule-301, Volume-1 of the Indian Railway Establishment Code <sup>defines</sup> "the notice of termination of service or order of forthwith termination of service, as the case may be, under this Rule should be given *by the Authority not lower than the Appointing Authority*", "but the reason justifying their action should be recorded". The Assistant Personnel Officer who signed the aforementioned termination letter was neither the Appointing Authority nor the higher Authority as mentioned in Rule-301 of the Indian Railway Establishment Code, Volume-1. Moreover, the reasons for retrenchment in the said termination notice was also not indicated. Section 25F Subsection (a) of the Industrial Dispute Act, 1947 defines "*the workman has been given one month's notice in writing indicating the reasons for retrench and period of notice has expired, or the workman has been paid in lieu of such notice the wages for the period of notice*". It is also mentioned that before handing over of the termination order no wages and no retrenchment compensation was paid to this Applicant. As such *the termination order itself was highly irregular, unjust, unfair, malafide and unlawful and violation of the Railway's own set Rules*.

- 4) That with regard to the statement made in para-4 of the Written Statement by the Respondents <sup>it</sup> is denied by the Applicant and humbly reiterates his

Contd.....4 : submission mention-----

Balbir Chakraborty

22.11.2001  
Advocate

submission mentioned under para-3 above.

- 5) That with regard to the statement made by the Respondents under para-5 of the written statement the Applicant denies the contents thereof. Had it known to the Respondents that “options” are asked for from Emergency Peons only after completion of 3 (three) years continuous service for their absorption in any Group-D category other than the Peon, then in the instant case why such option for absorption in the Group-D employment was called for from the Applicant on the day of the issuance of the termination notice itself and accepted by his Controlling Officer, i.e. Deputy Chief Engineer(Con), N.F. railway, Maligaon. The date put under the signature of the Controlling Officer in the option form (Annexure-‘E’ at page-18 of the O.A.) i.e. 13-03-97 is not corroborating with the date of the forwarding letter duly signed by SPO (Con) for the General Manager (Con) to GM(P), Maligaon (Annexure-‘F’ at page-19 of the O.A.). The dates of the signatures of the Option Form and the forwarding letter as mentioned above are either an afterthought development or with certain motivation from the Administration side to deprive of this humble Applicant. The Applicant, even after termination of his service, had been given the assurance of the induction in Group-D employment every time of his representation or seeking for the redress by all the officials as mentioned in my Miscellaneous Petition no.48 of 2001 under paras 6,7,8 and 9.

- 6) That with regard to the statement under para-6 made by the Respondents in their written statement, it is stated by this Applicant that the provisions of the General Manager, Maligaon’s circular no. EE/205/O/RP/Emergency Peon/P.C./Con dated 23-08-96 as quoted by the Respondents have been

Contd...5 : violated by the -----

Bablu Chakraborty

22-11-2001  
Advocate

violated by the Respondents as mentioned under para-7.II at pages 8,9,10 of the O.A. The chunk of the said circular is reproduced once again for kind reference to this Hon'ble Tribunal: "The termination of the service of Emergency Peon is a very sensitive aspect and this is required to be dealt with utmost caution so that relevant provisions of the Establishment Code as well as that of the Industrial Dispute Act are not infringed". The Applicant humbly submits to reiterate in this connection the statement made under para-3 above also.

- 7) That with regard to the statement under para-7 of the Respondent's written statement, I would like to cling to my submission and reiterate what was dealt under para 7.9 in the O.A. at pages-6 to 8.
- 8) That with regard to the statement made under para-8 of the written statement, the contents made thereof are not accepted by this Applicant on the plea that the following substitute Emergency Peons who were appointed subsequent to this Applicant were allowed to continue and or get their transfer order with their respective officer with whom they were attached:

NAMES OF SUBSTITUTE EMERGENCY/PEONS OF CHIEF

ENGINEER'S OFFICE

<u>Sl.No.</u>	<u>Name &amp; Designation</u>	<u>Remarks</u>
01	Sri R. Romesh, S/E Peon under Chief Engineer.	Joined on 20-04-96 who came on transferred from SE, Rly vide No.E/227/Res'/P.VI dated 6-5-96
		Contd...6 : 02) Sri K.P.-----

*Prabhu Chakraborty*

*M. K. G. 22-11-2001 Advocate*

02	Sri K.P. Khunal under Chief Track Engineer	Appointed on 12-06-95 vide No.E/227/111/114(nc)Pt-II dated 19-06-95.
03	Sri Uttam Chowdhury under Chief General Engineer	Appointed on 14-02-94 vide order No. E/227/2(Rectt)/ Peon(Loose) dated 18-02-94.
04	Sri Ramesh Jha under Chief Bridge Engineer	Appointed on 16-08-94 vide order No.E/227/Subs/Resv/II dated 18/19-08-94.
05	Sri Sashi Kr. Acharya (Dy.CE/TD)	Appointed on 04-08-94 vide no. E/227/2/Rectt(Loose) dated 04- 08-94.
06	Sri Sanjay Rajak (Dy. CE/TMC)	Appointed on 12-03-96 vide No. E/227/Subs/Resv/P-III dated 18- 03-96.
07	Sri Bhajan Das (Dy. CE/PD)	Appointed on 01-09-94 vide No. E/Emergency Peon/Loose/1 dated 1/12-09-94.
08	Sri Iswar Chand Sahani Chief Planning & Design Engineer	Appointed on 06-12-96 vide no.E/227/Subs/Resv/P-III dated 16-12-96.
		Contd...7 : 09-Sri Dharmendra --

Babu Chakraborty

22.11.2001  
Advocate

09	Sri Dharmendra Pandit (Dy. CE/TM)	Appointed on 06-12-96 vide No.E/227/Subs/Resv/P-II dated 12-12-96.
----	--------------------------------------	--

The most specific and vital case is of Sri R. Ramesh who came on transfer along with Chief Engineer, Sri V. Ramaswami and subsequently transferred to Southern Railway from N.F. Railway vide General Manager (P), N.F. Railway, Maligaon's office order No. 201E/470(E) dated 2/3-04-97. Hence, the submission of the Respondents under para-8 does not sustain at all.

- 9) That with regard to the statement made under para-9 of the written statement by the Respondents, it is submitted that the Appointing Authority of Zonal Railway is the General Manager and all appointments of all substitute Emergency Peons are made only with the personal approval of the General Manager himself and as such the termination letter is also to be signed by the General Manager and in case the power of the General manager is delegated to the Subordinate Officer, herein mentioned Junior Scale Officer in the written statement of the Respondents, the prior personal approval of the General Manager shall have to be obtained. The Codal provision of the Railway's Establishment Code, Volume-1 under Rule-301 is very much clear and, therefore, remains no scope for further clarification of the SOP issued on 05-05-87 by Railway Board as mentioned by the Respondents in their written statement. Moreover, the decision of the CAT, Allahabad Bench in Sri

Chakraborty  
Babu  
22-11-2001  
Advocate

Contd.....8 : S.K. Sisodia-----

S.K. Sisodia Vs. Union of India and Others decided on 20-04-88 and reported in Full Bench Judgment of Central Administrative Tribunal (1986-1989, page - 63) is superseded by the Board's said circular and it is categorically mentioned therein that a workmen under Industrial Dispute Act can not be terminated without following Section-25F. The Hon'ble Tribunal emphasized the Application of Rule-301 of the Indian Railway Establishment Code, Volume-1 mentioned above and quoted that - "the notice of termination of service or order of forthwith termination of service, as a case may be, under this Rule should be given by an Authority not lower than the Appointing Authority".

Hence, the contention of the Respondents Railway in this para-6 does not sustain at all and, hence, the termination notice issued to this Applicant is arbitrary and unlawful.

- 10) That with regard to the paragraph-10 of the written statement by the Respondents it is submitted by this Applicant reiterates that the principles of Natural Justice was not maintained and totally denied in the case of termination of service of this Applicant. The Applicant without assigning any reasons of whatsoever nature for his termination and without giving any reasonable opportunity for his defence for the cause of termination the Administration has in a most arbitrary and malicious way terminated his service in the afternoon of 28-02-97, that too, asking option from him for his Group-D employment in the forenoon on the same date. The Applicant may be permitted to rely upon the decision and judgment of the Hon'ble Supreme Court in Kumaon Nigam Vikas Ltd. Vs. Girja Sankar Pant and Other, reported in (2001) SCC-182, wherein

*Baldev Chakraborty*  
*22-11-2001*  
*Advocate*

Contd...9 : their Lordship----

their Lordships observed that "*fairness in the concept of justice not shown, Malice Intention proved*". Thus, it is humbly submitted that the Natural Justice has not been complied with in the case of this humble Applicant before terminating his service. The retrenchment, therefore, which was made without following the provisions of Law, stands dismissed. The Applicant submits his gratefulness to the Administration for enrolment of his name for further appointment, but at the same time mentions regret for terminating his service of substitute Emergency Peon without following the Principles of Law, norms of Railway's own set of Rules, Principles of Natural Justice mentioned in the Original Application as well as in the forgoing paras of the Rejoinder.

11. That in reiterating the submission made in the Original Application, Rejoinder to the Respondent No.-6 and in the instant Rejoinder this Applicant still reiterates here also that the Applicant has been victimised of the arbitrary decision, wanton attitude, malafide and denial of the reasonable opportunity and Natural Justice by the N.F. Railway Administration and, therefore, most placidly submits before this Hon'ble Tribunal to examine the case on merits and pronounce a judicial verdict for the ends of justice so as to redress the long standing grievances of this Applicant and get his rightful claim settled with all consequential benefits as deem fit and proper by the benign discernment of this Hon'ble Tribunal.

Babu Chakraborty  
Advocate  
22-11-2001

Contd....10 : Verification



VERIFICATION

I, Sri Babu Chakaraborty, son of Sri Atul Ranjan Chakaraborty, aged about 23 years, resident of Qr.No: 102/A, Type-I at Goshala, Guwahati-781011, do hereby solemnly affirm and verify that the contents of the paragraphs shown above are the facts of the case and true to my knowledge, information and belief and that I have not suppressed any material facts in my humble and respectful submission before this Hon'ble Tribunal.

Advocate  
22-11-2001  
Advocate

AND I sign this verification on this day of 22nd  
November, 2001.

Place – Maligaon

Date 22.11.2001

Babu Chakaraborty

Signature of the Applicant.

From:

Sri K.K. Biswas,

Advocate.

Central Administration Tribunal,

Guwahati.

To:

Sri

Railway Advocate,

CAT/Guwahati.

Dear Sir,

Sub: O.A. No. 67 of 2001

Sri

Babu Chakraborty Applicant/Ptitioner

VS.

Union of India and Qrs. -----

Respondents/Opposite Parties.

Kindly acknowledge receipt of the enclosed "Service Copy" for the Advocate of the Respondents/Opposite Parties.

With thanks,

Yours faithfully,

( K.K. Biswas ) 21.11.2001

Advocate,

CAT/Guwahati.

Dated 21.11 2001