

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. B.O.5/1.2001....

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

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

1. Orders Sheet. O.A. B.O.5/1.2001 Pg. 1 to 2
2. Judgment/Order dtd. 21.12.2001 Pg. 1 to 3 Dismissed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. B.O.5/1.2001 Pg. 1 to 32
5. E.P/M.P. N.I.C. Pg. to
6. R.A/C.P. N.I.C. Pg. to
7. W.S. Submitted by the Respondent Pg. 1 to 5
8. Rejoinder Submitted by the Applicant Pg. 1 to 4
9. Reply Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance
12. Additional Affidavit
13. Written Arguments
14. Amendment Reply by Respondents
15. Amendment Reply filed by the Applicant
16. Counter Reply

SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

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

ORDER SHEET

Original

APPLICATION NO. 305 OF 2001

APPLICANT (s) Champak Roy

RESPONDENT (s) N.O. I Town

ADVOCATE FOR APPLICANT(s) D. Bora, K.K. Biswas, Dilip Bora

ADVOCATE FOR RESPONDENT(s) Case.

Notes of the Registry	dated	Order of the Tribunal
This application is in form but not in time. Condonation Petition is filed not filed vide M.P. No. C.P. for Rs. 50/- deposited vide IPO/BD No. 6A791751. Dated..... 24.7.2001	10.8.01	Issue notice to show cause as to why this application shall not be admitted. Returnable by 4 weeks. List on 10.9.2001 for filing reply to the show cause and admission
Dy. Registrar H.S. 9/8/2001	pg	U.C.Usha Member
Notice prepared and sent to D/S for issuing the respondents No. 1 to 4 by Registered Post vide D/No 3643546 dated 16/8/01	10.9.01	Vice-Chairman List the case on 18.9.2001 to enable the learned Rly. counsel for the respondents either Mr. J.L. Sarkar or Mr. B.K. Sharma to obtain necessary instruction.
14/8/01 Service Report in respect of Respondent No 2384 is completed 28/8/01	bb 18.9.01	U.C.Usha Member Vice-Chairman Adjourned on the prayer of learned counsel for the parties. List on 10/10/01 for hearing.
① Service report are still awaited.	mb	U.C.Usha Member Vice-Chairman

7/9/01

18.9.01

List on 1/10/01 for admission.

In the meantime, the applicant may file rejoinder, if any. Endeavour shall be made to dispose of the matter, at the admission stage.

12-9-2001

W/S on behalf
of Respondent himself
intimated.

I C I Sharmin

Member

Vice-Chairman

mb

1.10.01

List on 4/10/01 for admission
and dispose of the matter.

Service Report in to
S & received & Complied

12

Vice-Chairman

Written Statement
has been filed.

28-9-01

mb

4.10.01

The application is admitted. No further notice need to be issued. Pleadings are exchanged. List the case for hearing on 23/11/01.

I C I Sharmin

Member

Vice-Chairman

mb

28.11.01

List on 18.12.01 for hearing.

1.10.2001.

Rejoinder to W/S
filed by the Respondents.

1m

28

18/12

Hearrd Mr D. Basu Learned Counsel
for the applicant & Mr S. S. Sharma,
(Learned Counsel for the Railways Res.)
Hearing concluded.
Judgment reserved.

P. G.

A. K. Sen

18/12

16.1.2002

Copy of the Judgment
has been draft to the
Office for 18/12/01
Date to the applicant
as well L/Adv. for
the Respondent.

85

mb

21.12.01

Judgment delivered in open court.

kept in separate sheets. The application
is dismissed in terms of the orders.
No order as to costs.

I C I Sharmin

Member

Vice-Chairman

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. **305 of 2001**

Date of Decision..... **21.12.2001**

Shri Champak Roy

----- Petitioner(s)

Mr. D. Bora, Mr. K. K. Biswas, Mr. Dilip Bora.

----- Versus -

Advocate for the
Petitioner(s)

Union of India & Ors.

----- Respondent(s)

Mr. S. Sarma, Railway counsel

----- Advocate for the
Respondent(s)

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

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

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

Judgment delivered by Hon'ble : **VICE-CHAIRMAN**

W. Khan

5

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 305 of 2001

Date of Order: This the 21st Day of December 2001

**HON'BLE MR.JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR.K.K.SHARMA, ADMINISTRATIVE MEMBER**

Shri Champak Roy

**S/O.Late Kumud Bihari Roy,
Resident of Ananda Nagar, Guwahati-12.**

**P.O. Pandu, P.S. Jalukbari
District- Kamrup, Assam. Applicant.**

By Advocate Mr.D.Bora, Mr.K.K.Biswas, Mr.Dilip Bora

-Vs-

1. The Union of India,
Represented by the Secretary,
Railway Board, Rail Bhawan,
Ministry of Railway, New Delhi-1
2. The General Manager(P)
N.F.Railway, Maligaon, Guwahati-11
3. The Chief Personnel Officer,
N.F.Railway, Maligaon, Guwahati-11.
4. The Chief Signal and Telecommunication Engineer,
N.F.Railway, Maligaon, Guwahati-11.

... ... Respondents.

By Advocate Mr.S.Sarma.

O R D E R.

K.K.SHARMA, MEMBER(ADMN) :

**In this application under Section 19 of
the Administrative Tribunals Act, the applicant has
challenged the order dated 19.12.1997(Annexure I to
the Original Application.)**

**The applicant was selected as Apprentice
Signal Inspector, Grade III on 4.7.1988 and was
to
required/undergo training for a period of 2(two)
years. The applicant had undergone training from**

[Signature]

contd/-

13-7-1988 to 31.5.1989. Thereafter, it is stated that the applicant suffered from serious illness and because of serious illness he could not complete the training. The applicant claims that he was under treatment from 4.6.1989 to 23.11.1997. It is claimed that the applicant's brother by a letter dated 12.6.1989 had informed the Respondent No.4 about the illness of the applicant. By a letter dated 24.11.1997(Annexure H to the Original Application)the applicant applied to Respondent No.4 for permission to resume his duties. By Annexure I, being letter dated 19.12.1997 the applicant was issued a show cause notice as to why the applicants' apprenticeship should not be terminated. The applicant made a representation dated 26.12.1997(Annexure J to the Original Application) intimating that his absence was due to sickness and onceagain requested for permission to complete the training, but getting no response from the respondents the applicant has filed this Application on 9th August 2001. The respondents have filed their written statement. The learned counsel for the applicant has been heard as well as Mr.S.Sarma learned counsel for the Respondents.

As seen from the facts the applicant had already abandonned the training on 31.5.1989 and made representation on 26.12.1997. Section 21 of the Administrative Tribunals Act, prescribes time limit for filing of application. Under Section 21(I)(b) the limitation of (one) year after the expiry of six months from the date of filing of representation has been prescribed for filing an application. As the applicant made a representation on 26.12.1997 the period of limitation

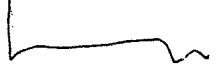
CCGhosh

contd/-

expired on 26th June 1999. It is mentioned in the application that the application is within the period of limitation prescribed under Section 21 of the Administrative Tribunals Act. From the facts stated above the application is not considered within the period of limitation. Without going into merits the application is dismissed as barred by limitation. There shall however, be no order as to costs.


(K.K.SHARMA)

ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)

VICE-CHAIRMAN

LM

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT, 1985.

For the use in Tribunal Office

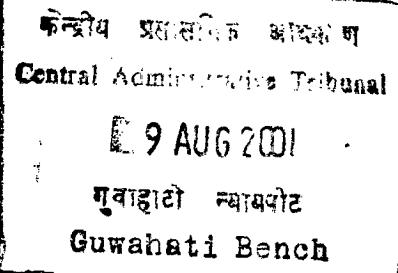
Date of Filing : _____

or

Date of Receipt : _____

Registration No: _____

Signature of the Registrar.



IN THE COURT OF THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Application Under Section 19 of the Administrative
Tribunal Act, 1985.

O.A. No. 305 / 2001

Sri Champak Roy ... Applicant
- Vs -

Union of India & Others Respondents.

I N D E X

<u>Sl. No.</u>	<u>Particulars of documents relied upon</u>	<u>Page Nos.</u>
1.	Petition -----	1 to 18
2.	Annexure-A - Letter for pre-medical Examination.	19
3.	Annexure-B - Letter for depositing Security Fee etc.	20
4.	Annexure-C- Appointment as Apprentice Signal Inspector Grade-III.	21
5.	Annexure-D- Terms and Conditions-	22
6.	Annexure-E- Deputation order for undergoing another two months training at IRISSET.	23
7.	Annexure-El- Completion Certificate of Phase- I & II at IRISSET.	24
8.	Annexure-F- Information regarding petitioner's illness.	25
9.	Annexure-G- Medical fitness Certificate after recovery from prolonged illness.	26
10.	Annexure-H- Application for joining after recovery from illness.	27
11.	Annexure-I- Show cause notice.	28
12.	Annexure-J- Reply to show cause notice.	29
13.	Annexure-K- Reminding petition.	30

File by
New Date
10/08/2001
Advocate

<u>Sl. No.</u>	<u>Particulars of documents relied upon.</u>	<u>Page Nos.</u>
14.	Annexure-L- Letter dt. 14/12/2000 from the Railway Ministry.	31
15.	Annexure-M- Letter dt. 10/1/2001 from the Railway Ministry.	32

Champak Roy

Date of filing: 9/8/2001

Signature of the applicant

Philip Ch. Basak

Filed by Advocate:

Philip Ch. Basak

Date of Receipt by post:

9/8/2001

Registration No. 305/2001

Registrar.

Central	Guwahati Bench
5 AUG 2001	Guwahati Bench

File by
M. B. Roy
Advocate

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A. No. 305 OF 2001

Sri Champak Roy,

S/O Late Kumud Bihari Roy,

Resident of Ananda Nagar, Guwahati-12,
P.O. Pandu, P.S. Jalukbari.

District- Kamrup, Assam.

.....Applicant.

- Versus -

1. The Union of India,

represented by the Secretary

Railway Bd. Rail Bhawan,

Ministry of Railway, New & Delhi-1.

2. The General Manager (P),

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

3. The Chief Personnel Officer,

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

4. The Chief Signal and Telecommu-
nication Engineer,

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

.....Respondents.

1. Details of the application:

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

a) Order No. E/10/21(N) Pt. IV dtd. 19/12/97 passed by the SPO/Engg. on behalf of the General Manager(P), N.F. Railway, Maligaon, a show cause notice was served on the applicant intending to terminate the apprenticeship as SI/III.

b) And also no action what soever on the letter No. E(REP)11-2000/NF/18/65 dtd. 10/1/2001 issued by the Deputy Director Estt.(R) 11. Railway Board, Govt. of India, Ministry of Railway to the General Manager (P) N.F. Railway, Maligaon, Guwahati.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order as mentioned above against which he wants redressal is within the jurisdiction of the Tribunal.

3. Limitation:

The petitioner further declares that the application is within the limitation period as prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case:

The humble petitioner most respectfully sheweth:

Champak Roy
Advocate
Mukherjee

- i) That the applicant is a citizen of India as such he is entitled to all rights privileges and protection as guaranteed by the Constitution of India.
- ii) That the petitioner on being selected for appointment as Apprentice Signal Inspector, Grade-III had been directed to deposit Rs. 12.00 (Rupees twelve) for undergoing Medical Examination in the Railway Hospital, Maligaon for Medical Examination vide Annexure-A.

Annexure-A (letter No. E/227/Pr-Medical/Rectt.

dtd. 4/7/1988)

- iii) That the petitioner thereafter had deposited the aforesaid amount and had undergone Medical examination accordingly.
- iv) That ~~xx~~ since, the petitioner as had been declared medically fit, was directed to deposit an amount of Rupees one hundred as security deposit and also was asked to deposit a Non Judicial Stamp Paper of worth ~~xx~~ Rupees sixteen and paise fifty to execute a deed of agreement vide letter at Annexure-B.

Annexure-B (No.E/10/21(N)Pt-III dt. 11/7/1988)

- v) That the petitioner, on fulfilment of all the above mentioned exercises, had been finally appointed as Apprentice Signal Inspector Gr-III for a period of

Champak Roy

Advocate

two years. The petitioner had been further provided with a unambiguous assurance that on successful completion of the two years training as Apprentice signal Inspector would be appointed as against working post of Temporary Signal Inspector Grade-III vide Annexure-C on the terms and conditions which was intimated to the petitioner vide Annexure-D.

Annexure-C(No. E/10/21(N) Pt-III dt. 13/7/1988)

Annexure-D (No.E/227/137/1(Rectt) dt. 21/6/88)

vi) That after being appointed as Apprentice Signal Inspector Grade-III, the petitioner had undergone training in different establishments under N.F. Railway, Maligaon from 13/7/88 to 14/9/88 and then the petitioner was sent up for training under the Control of the Director, IRISET (Indian Railways Inst. of Signal Engineering & Telecommunication) at Seconderabad, Andhra Pradesh.

vii) That the petitioner could successfully complete the both phase I & Phase II of initial Training under Director, IRISET, Secunderabad, Andhra Pradesh Stretched upto period of 31/5/89 vide Certificate at Annexure-E1 and had been directed to a further training for 2 (two) months in the same Institution vide Annexure-E.

Annexure-E(No. E/10/21/N Pt IV dt. 5/6/89)

Annexure-E19 (Certificate).

Champak Roy

Mr. Dinesh
Advocate

viii) But that due to utter misfortune, the petitioner had to suffer a serious illness alongwith mental disorder. The attack of the illness was in such a degree that the petitioner had completely lost control over his mind and he could not realise what to do and what not to do; on the other hand from the behaviour etc. which the petitioner had shown, it could very well be counted that the petitioner had gone to be a madman. At this state of mind the petitioner was not even in the position to intimate the authority concerned that he could not continue the next programme of training at the IRISET at Secunderabad. And as such the petitioner's brother had intimated the concerned authority on 12/6/89 about the petitioners sudden illness vide letter at Annexure-F.

Annexure-F (Intimation regarding petitioner's illness)

- ix) That since then, the petitioner was under constant medical treatment and surveillance of a registered medical practitioner of Guwahati from 4/6/89 to 23/11/97.
- x) That due to relentless and continuous medical treatment the petitioner completely cured and he had been provided with a medically fitness certificate to that effect vide Annexure-G.

Annexure-G (Medical fitness certificate)

Mr. Dinesh Champaak Roy
Advocate

xi) That on being completely cured and fit and after having the above mentioned medically fitness certificate, the petitioner had submitted an application on 24/11/97 to the concerned authority i.e. The Chief Signal and Telecommunication Engineer, N.F.Railway, Maligaon, fervently praying that as the petitioner had completely recovered from prolonged illness and mental disorder he may be allowed to complete the remaining period of training as required under Terms and conditions as laid down, as an Apprentice Signal Inspector Grade-III vide application at Annexure-H.

Annexure-H(application for resuming duty as apprentice Signal Inspector).

xii) But the concerned authority suddenly and abruptly had issued the impugned show cause notice on 19/12/97 to the petitioner with direction to show cause why the petitioners apprenticeship will not be terminated vide Annexure-I.

Annexure-I (show cause notice)

xiii) That it is most humbly stated that the concerned authority i.e. the Respondents had never bothered to issue any such kind of notice regarding long absence from duties during this long period which the petitioner presumed that he was fortunate enough that the concerned

Champak Roy
Advocate

authority had kindly taken the note of his sick report. However, though the petitioner was hurt enough of getting the above mentioned show cause notice he (the petitioner) had submitted proper and due reply on 26/12/97 to the above show cause notice vide Annexure-J.

Annexure-J (Reply to show cause notice)

xiv) That inspite of clear and unambiguous reply to show cause notice as mentioned above and even in the event of clear and complete Medical Certificate along with fitness Certificate the authority concerned did not take any action on the matter, rather they pretended deep-sleep and took no interest to dispose of the same, the petitioner had submitted another petition on 31/5/99 narrating the whole story, vide Annexure-K.

Annexure-K(Reminding petition)

xv) That even in the face of all such endeavour and persuasion on the part of the petitioner to have a fair and equitable justice from the authority concerned, he could not hear anything whatsoever from the apparently drowsy authorities i.e. the respondents.

xvi) That the dejected and mortified petitioner, with a last hope of assuaging the injustice caused to him could some how, was successful in bringing the matter

17
Roy

Champak

Advocate
M. K. Roy

to the kind notice of the highest authority in the Railway Ministry, Govt. of India who with the modest gesture of kindness had directed to issue two letters to the respondents with request to furnish a report in toto, so that the petitioner could get the proper and due justice vide Annexure-L & M.

Annexure- L(letter from the Railway Ministry on
14/12/2000)

Annexure-M (Letter from the Railway Ministry
on 10/1/2001)

xvii) That, it is most humbly and respectfully submitted that inspite of such letters from the highest authority in the Railway Ministry, Govt. of India, the respondents No. 2 to 4 did not feel it necessary to submit proper and detailed report as asked for, rather maliciously and with ulterior motive of depriving the petitioner from what is called proper and due justice, had completely overlooked and surreptitiously hushed up the matter.

xviii) That the petitioner most humbly and respectfully beg to submit that the petitioner had been compelled to wait till the outcome of his petition dtd. 24/11/97, which he had submitted after being fully recovered from the prolonged illness, had been disposed of by the concerned authorities i.e. the respondents No. 2 to 4. During the intervening period, the petitioner had been taking all

possible steps with the concerned authorities for early and timely disposal of the matter and in this regard, he had came into contact with certain official in Railway Hd. qr. at N.F. Rly, Maligaon. At the same time, the petitioner was somehow, successful in bringing the matter to the kind notice of the highest authority in the Ministry of Railway, Govt. of India, who was kind enough to take up the matter with concerned officials at the Rly. Head Qr. at Maligaon and accordingly had issued two letters in this regard and the last letter being in the month of January, 2001. And thereafter, the petitioner with a hope of getting certain relief had to wait but, being disgust of waiting for a pretty long time and finding no other effective alternative, the petitioner had been bound to knock the door of this Hon'ble Court. As such, the delay, if any of course not intentional or deliberate may graciously be condoned.

5. Grounds of Relief with legal provision:

The petitioner most respectfully beg to state that the impugned show cause letter issued under memo No. E/10/21(N) Pt. IV dtd. 19/12/97 asking the petitioner to show cause why the apprenticeship of the petitioner be not terminated was issued on a false notion of imaginary and maligned motive just to deprive the petitioner from completing the remaining period of training as an Apprentice Signal Inspector Grade III. This impugned letter was issued

on a very concocted and deliberately false representation of facts and is liable to be quashed on the grounds as under :

- a) The petitioner as an Apprentice Signal Inspector Grade-III had in toto and with outmost sincerity carried out all the orders by which he had been deputed for training in various establishments under N.F. Railway. The petitioner further had duly obeyed the orders of sending him to the IRISET Secunderabad, Andhra Pradesh and had undergone both phase I and Phase-II of Initial training at the same institution from 21/9/88 to 31/8/89 with dedication and came out as successful. Till that period, there was nothing to bother.
- b) But all on a sudden the petitioner had to be victimised and attacked by a serious illness which had practically paralysed him both physically and mentally and during this period the petitioner had completely lost control over his mind and he had to suffer mental disorder for which he had to be under constant and prolonged medical treatment of a registered medical practitioner at Guwahati. This sudden spurt of mental disorder had crippled the petitioner in so much as that he could not write or to realise things well. As such the petitioner was completely unable to carry on the further training, which was to be held immediately after the end of 2nd phase of initial training programme at the above mentioned institution at Secunderabad.

- Champak Roy
- Mr. Bhowmik
- Advocate
- NOMC
- c) As already stated in the above mentioned para that the petitioner's state of mind was so dwindling that he was not in a position to write/read anything and as such his (petitioner's) state of sickness had to be intimated to the authority concerned by his brother on 12/6/89.
- d) After this the petitioner was under vigorous and active medical care and treatment for the ailments he had suffered under a registered medical practitioner at Guwahati.
- e) During this intervening period the concerned authority i.e. the respondents No. 2 to 4 did not even had any opportunity of seizing with the matter and they (the respondents) observed a deep silence which had compelled the petitioner to ponder that the concerned authority had been in total consonance with what the petitioner had suffered.
- f) But on getting the petitioner's petition dtd. 24/11/97 as to the petitioner's total recovery from the ailments which he had suffered since 4/6/89 along with a proper and valid medical certificate from the registered medical practitioner under whose treatment and total surveillance the petitioner had been the concerned authority issued the impugned show cause letter dtd. 19/12/97 basing on a total false and fabricated proposition that the

22

petitioner was absent from training deliberately and without any intimation. This is completely false proposition on ground that owing to petitioner's inability in writing, his (petitioner's) brother had duly and timely intimated the concerned authority regarding his (petitioner) illness . As such, the concerned authority's which had recourse to false notion, letter of impugned show cause notice be set aside as false, fabricated and deliberate attempt to hide the actual reality as to the fact.

- g) Secondly had the concerned authority i.e. the respondents no. 2 to 4 was so conscious about the fact of long wilful and unintimated absence, it is mere surprising why they (the respondents) were sleeping over the matter for such a long period. Had they (the respondents) not been aware of the fact of the petitioner's illness, they (the ~~pet~~ respondents) could have taken such step much earlier which they (the respondents) had taken after receiving the petitioner's petition on 24/11/97.
- h) Further, the petitioner most humbly and respectfully begs to state that the Rly. authority of N.F. Railway, had adopted the application of the Apprentices Act, 1961, and Rules under vide Circular No.E(Trg)75(33)15 dtd. 16/10/75 and E(Trg)80(33) 16 dtd. 12/9/1981 and as such the termination, whatsoever be regarding apprenticeship shall have to under the abovementioned Act & Rules.

Champak Roy

Advocate

M/s. S. S. & Associates

- i) That the concerned authority while issuing the impugned show cause notice had bluntly remarked that "by producing a private Medical certificate" which had totally violated the provision of Rules 2(6) of the Apprenticeship Rule 1991 which reads as follows (6)" Registered Medical Practitioner' means a person whose name is entered in the register maintained under any law for the time being in force in any state regulating the registration of practitioner of medicine".
- j) More the more the concerned authority i.e. the respondents No. 2 to 4, who had issued the said impugned show cause notice, had erred and violated the provision of Rule 7(2) (a) of the above mentioned Rules which reads as follows "2(a) where a trade apprentice is unable to complete the full apprenticeship course within the period prescribed in sub Rule (1) or to take the final test owing to illness or other circumstances beyond his control the establishment concerned shall extend the period of his apprenticeship until he completes . The full apprenticeship course and the next test is held if so required by the Apprenticeship Adviser..... Further more as per provision 4(ii) of the terms and conditions as intimated vide letter No. E/227/137/1 (Rectt) dtd. 21/6/88 at page No. 2 which reads as " That you will not be allowed to withdraw from training except for reasons which are beyond your control".

Thus falling in suddenly illness and thereby losing mental balance is in the hand of God and it is not within the control of the petitioner which otherwise means beyond the control of the petitioner. As such issuing this impugned show cause notice is nothing but complete violation of prescribed provision of Rules under the Apprenticeship Rule 1991 and also the violation of terms and conditions of the apprenticeship. It is therefore bad in law and is liable to be set aside forthwith.

- h) It is mostly humbly stated that as per provision of Sec.7 of the Apprentice Act, 1961, the termination of apprenticeship shall only be done by the Apprenticeship Adviser. As such the issuing of impugned show cause notice to terminate the apprenticeship of the petitioner is not only whimsical but also illegal and in total violation of the provision of the aforesaid Act which shall be liable to be struck down ab initio.
- i) It is further most humbly submitted that the enimical and dubious attitude shown by the respondents No. 2 to 4 just to mitigate the suffering of the petitioner had abundantly been clear from the manner they (the respondents) are handling the two letters issued by the highest authority in the Rly. Ministry, Govt. of India, rather, they (the respondents) were very much scared of

what they (the respondents) had done in this matter in such a way that the petitioner had been subjected to suffer untold miseries for the reasons which were beyond his (petitioner's) control. As such the illegal, inhuman and capriciously issued impugned show cause notice with an aim of terminating the petitioner's apprenticeship shall be set aside.

6. Details of remedies exhausted:

The applicant declares that he had availed all the remedies under the relevant rules and submitted representations etc. to the concerned competent authority who had not only kept them undisposed of but also paid an unsympathetic and defiant attitude.

7. Matters not previously filed or pending with any court:

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application or suit is pending.

8. Relief sought:

In view of the above mentioned facts and circumstances the petitioner most humbly and respectfully prayed that your Lordships be so gracious enough to

admit the application, issue notice calling upon the respondents to show cause as to why the impugned show cause notice with an aim to terminate the apprenticeship of the petitioner issued under letter No. E/10/21(N) Pt-IV dtd. 19/12/97 (at Annexure-I) shall not be quashed and after cause and causes if any shown by the respondents hearing the parties, the following relief may be bestowed upon the petitioner.

- a) The impugned show cause notice No. E/10/21(N) Pt-IV dtd. 19/12/97 be quashed.
-
- b) The petitioner be put back into his original apprenticeship and be allowed to complete the remaining period of his left out training as required and after competition of which, the petitioner shall be appointed to a working post of signal Inspector Grade-III against vacant posts, because of the fact that the petitioner had to starve for want of any livelihood as he would be rather disqualified due to exceeding age which is permissible in attainment of a Govt. Employment.

9. Interim Relief Sought:

Pending final decision on this petition, the petitioner seeks the following interim relief:

As has been stated in the petition that the petitioner had already undergone training as an Apprentice Signal Inspector Grade-III both in various establishments

under N.F. Rly and also both phases of initial programme of training at IRISET at Secunderabad, Andhra Pradesh upto 31/5/89 from the date of joining as apprentice Signal Inspector Grade-III and that he could not attend the next training programme due to reasons which are beyond his control, the petitioner be allowed to complete the remaining period of training.

10. The application is being filed at the office of the Tribunal and the applicant undertakes to take all information from the office.
11. Particulars of Postal order filed in respect of application fee.

Postal order No. 6G 791751 dtd. 24-7-2001 at GPO, Guwahati drawn in favour of Registrar, Central Administrative Tribunal Guwahati Bench.

12. List of documents:

1. Annexure-A: Letter for pre-medical Examination.
2. Annexure-B: Letter for depositing Security fee etc.
3. Annexure-C: Appointment as Apprentice Signal Inspector Grade-III.
4. Annexure-D: Terms and Conditions.

5. Annexure-E: Deputation order for undergoing another two months training at IRISET.
6. Annexure-El: Completion Certificate of Phase I & II at IRISET.
7. Annexure-F: Information regarding petitioner's illness.
8. Annexure-G: Medical fitness Certificate after recovery from prolonged illness.
9. Annexure-H: Application for joining after recovery from illness.
10. Annexure-I: Show cause notice.
11. Annexure-J: Reply to show cause notice.
12. Annexure-K: Reminding petition.
13. Annexure-L: Letter dt. 14/12/2000 from the Railway Ministry.
14. Annexure-M: Letter dt. 10/1/2001 from the Railway Ministry.

Verification:

I, Shri Champak Roy, Son of Late Kumud Bihari Roy, aged about 39 years, a resident of Ananda Nagar, Guwahati-12, do hereby verify that the contents of paras are true to my knowledge and belief and paras are believed to be true on legal advice and I do not have suppressed any material fact.

Date:- 09-08-2001

Place:- Guwahati

Champak Roy

Signature of the Petitioner:

.....

N. F. RAILWAY.

Office of the
Chief Personnel Officer
(Recruitment Section)
Maligaon, Guwahati-11.

No. E/227/Pre-medical/Recrtt.

Dated - 1988.

U - 7

To

Shri/Smt./Mr.

Champaik Roy

(now at office)

Sub:- Medical Examination.

In reference to this office letter No. E/227/137/1

(Recrtt) dated 2-6-88

you were given offer of appointment for the post of

S. & OM - m in scale Rs. 1320 - 1350 (Slips)

You are advised to deposit Rs. 12/- (Rs. twelve) only with the Chief Cashier, N. F. Railway/Maligaon on account of pre-recruitment Medical Fee and submit the receipt to this office so that you may be sent to Railway Hospital, Maligaon for Medical Examination.

W.L.S
for CHIEF PERSONNEL OFFICER.

The Chief Cashier, N. F. Railway, Maligaon. This has reference to Rly. Board's letter No. 76/E/5/20 dated 16.11.76. The amount is to be credited to Railway Revenue (Abstract-7).

✓
for CHIEF PERSONNEL OFFICER.

Advised
M.K. Roy
8/8/2001
Advocate

NORTHEAST FRONTIER RAILWAY:

NO:E/10/21 (N)Pt-III.

Malgach, dated:-

To

Shri Champak Roy

11.17.88

(Now at office)

Subject:-Appointment as Apprentice Signal
Inspector Gr-III.

Since you have been declared medically fit in
Class A/3(three) for appointment as Apprentice S.I/III,
you are hereby directed to report an amount of Rs.100/-
(Rupees one hundred) only as Security deposit with the
Chief Cashiers, N.F.Railway,Malgach before commence-
ment of your training and also to execute an agreement
on Non-Judicial Stamp paper worth of Rs.16.50(Rupees
sixteen and paise fifty)only available at the Court of
Law.

for CHIEF SIGNL.&TELE-COMM.ENGG (P)

Copy to:-

Chief Cashier,N.F.Railway,Malgach.

for CHIEF SIGNL.&TELE-COMM.ENGG (P).

Sekhri
DS.

Atul
Nehru

87892001
Advocate

NORTHEAST FRONTIER RAILWAY.

NO. E/10/21 (II) Pt. III

Maligaon, dated 13-07-1988.

To
Shri Champak Roy

(now at office)

Sub:- Temporary appointment as Apprentice Signal Inspector Gr. III.

1. On being found medically fit in Category A/3(Three) and having deposited an amount of Rs. 100.00 (one hundred) only as security money and also having executed an Agreement, you are hereby appointed as Apprentice Signal Inspector Gr. III on stipend of Rs. 1320/- p.m. in scale Rs. 1320-1350/- (RP) plus dearness allowance only for a period of 2 (two) years with effect from 13.7.88...

2. After passing the final Examinations on completion of two years training, you will be posted against working post as temporary Signal Inspector Gr. III availability of vacancy. The terms and conditions of your service will be the same as stated in the offer of CFO/Recrt's letter No. E/227/1371 (Recrt) dated 21-6-88.

Champak Roy
13-7-88
Senior Signal & Telecom Engineer

N. F. Railway/Maligaon (HQ).
Maligaon, dated 13-07-1988.

Copy forwarded for information and necessary action to:-

1. FA & CAO/Maligaon.
2. SSTE/HQ/Maligaon.
3. SFO/Recrt/Maligaon.
4. EE/BILL-S&T/CFO's Office/Maligaon.

Champak Roy
For CHIEF SIC. & FILE-CM. ENGINEER (P.)

Champak Roy
Rkd4788.

Atul Roy
Advocate
8/8/2001

22

Annexure - D

NORTH EAST FRONTIER RAILWAY

REGISTERED

Office of the
Chief Personnel Officer
(Recruitment Section)
Maligaon, Guwahati-11.

No. E/227/13711 (contd.)

Date: 2-6-88

To

Shri Champak Roy
C/o S. B. Roy
28/A Central Ghatnagar, P.O. Maligaon
Guwahati - 11

Sub:- Temporary appointment as Trainee/Apprentice
S.I. Gr. II on Rs. 138/- per month
in scale Rs. 138/- 138/- plus usual dearness
as admissible from time to time.

DATE OF SELECTION BY THE RRB/CRB. 8-6-88

MERIT FIGURE 19 (UR)

I am prepared to offer you a post in grade of and rate of pay specified above plus usual allowance subject to your passing the prescribed medical examination by an authorised Medical Officer of any of the Indian Railways and on production of your original certificates in support of your qualifications and satisfactory proof in support of your age, such as Matriculation or its equivalent certificate. In case of non-availability of Matriculation or its equivalent certificate from the University/Board, the following certificates (in original) may be accepted provisionally.

- (a) Matriculation Mark Sheet (b) Matriculation Admit Card and
(c) School Leaving Certificate from the Headmaster.

You will have to undergo training for a period of 2 months/ years during which time you will be given one chance to pass the examination. If you fail in the examination in the stipulated period, you will be discharged. During training period you will receive a stipend of Rs. 138/- per month plus usual dearness allowance applicable from time to time.

3. On satisfactory completion of training and passing the prescribed examination/test you will be eligible for appointment as temporary xx on minimum of the scale Rs. 1460 - 230/- plus usual allowance applicable from time to time, but no guarantee of appointment can be given. Appointment will be temporary in the first instance under terms and conditions applicable to Class III temporary railway servants but you may look forward for confirmation in accordance with your seniority on fulfilment of the conditions as per rules.

contd....p/2.

attested

M. K. Doss

8/8/2001

Advocate

(2)

4. (i) On completion of your training, if you get yourself selected for appointment against a working post, you will have to serve the Railway Administration for a minimum period of five years, if required by the Administration.

(ii) That you will not be allowed to withdraw from training except for reasons which are beyond your control. In case, you fail to serve the Administration for a minimum period of five years as stated above or wish to withdraw from training for any reasons which is not beyond your control or try to withdraw by wilfully absenting yourself or adopting any other unfair tactics, you will be liable to refund the whole cost of your training as well as any other money paid to you during the period of training by way of stipend etc. the cost of training being understood to be 125% of the pay and allowances (excluding travelling and running allowances) drawn by you.

(iii) Before you start your training, you will be required to produce an Indemnity Bond binding yourself and co-suspect jointly and severally to refund, in the event of your failing to satisfy the conditions stipulated above, the cost of training and all money paid to you in the manner detailed above.

L. M. Phillips

5. It must be clearly understood that the appointment is terminable on 14 days notice either side except that no such notice is required if the termination of service is due to expiry of the sanction to the post you hold or on return to duty of the absentee in whose place you may be engaged, in which case, your service will be automatically terminable from the date of expiry of the sanction or from the date of former resumes his duty, as the case may be. Also no such notice will be required if the termination of service is due to your mental incapability or to your removal or dismissal as a disciplinary measure after compliance with the provision of Clause II of Article 311 of the Constitution of India.

6. You will not be eligible for any pensionary benefit under the State Railway Profitont Fund or Gratuity Rules or to any absentee allowance beyond those admissible to temporary employees under the rules in force from time to time during such temporary service.

7. You will be held responsible for the charge and care of Govt. money, goods and stores and all other properties that may be entrusted to you.

8. In all matters not specifically provided for herein, or in the Recruitment rules, you will be governed by the provisions of the Indian Railway Codes and other extant orders as amended/issued from time to time.

9. You will be required to take an oath or allegiance or make an affirmation in the form indicated below:

" I, S. Balaji, do swear/solomnly affirm that I will be faithful and bear true allegiance to India and to the Constitution of India as by law established and that I will carry out the duties of office loyally, honestly and with impartiality. SO HELP ME GOD "

contd... p/3.

*Sworn on 09/09/2001
At Bangalore*

22/2
83

(3)

NOTE Conscientious objectors to taking oath may make a solemn affirmation in the prescribed form indicated above.

10. You will conform to all rules and regulations applicable to your appointment. You must be prepared to accept the offer of appointment at any station on the Northeast Frontier Railway system. Although you are initially appointed for a particular District/Division, you are liable to be transferred to any station on this Railway in the exigencies of service and should definitely indicate in your acceptance that you will abide by the these conditions.

11. If you intend to take up appointment on these conditions, please report personally to the undersigned on or before 10-7-88, but not earlier than _____ failing which this offer will be lapsed and will not be renewed. Your pay will commence from the date of you join duty at the office where you will be posted, after you have been certified medically fit.

12. You are required to furnish security deposit amounting to Rs. 100/- only in cash before being appointed as _____.

13. Railway accommodation will be provided only if available and no guarantee can be given.

14. A free 2nd Class Pass is enclosed to cover your journey. No travelling allowance will, however, be granted for joining the post.

15. Your appointment is also subject to production of Scheduled Caste/Scheduled Tribe certificate from the authority as advised in the enclosed specimen form (This condition applies only to the SC/ST Candidates).

16. You shall be liable for Military Service in the Railway Engineer Units of the Territorial Army for a period of seven years in the Territorial Army service and eight years in the Territorial Army Reserve or for such period as may be laid down in this behalf from time to time.

17. You will have to produce a certificate in support of your good conduct and character from a State Govt. Officer not below the rank of Addl. Dy. Commissioner, DSP, or an MP/MLA.

18. You will have to submit proper 'Release Order' from your present employer if you are in service.

19. On reporting to this office you are requested to submit one prescribed Railway Recruitment Board Form duly filled in all respect which can be had from all important Railway Stations on payment of Rs. 2/- (0.50) paid for SC/ST along with a copy of your recent passport size photograph and attested copies of certificates in support of your age and qualification.

Contd....p/4/-

attested

M. J. S. S.

8/8/2001

Advocate

22/3
20. While reporting to this office you will have to deposit Rs. 12/- (Rupees twelve) only on account of pre-recruitment medical examination fee.

Enclo: 1 set 2nd Class Pass No. _____

I accept the offer on the terms detailed above and declare that I shall abide by the ~~constitution~~ condition stipulated in para 10 at page -3.

Signature of the candidate and date.

✓ For CHIEF PERSONNEL OFFICER

Copy forwarded for information and necessary action to :-

to his endorsement No. _____ This has reference
Ho will please spare the staff in time so as to enable him to join the
new post within the stipulated time in para 11 above.

✓ For CHIEF PERSONNEL OFFICER

-xxx-

pkb2268.

Alfred
Rehman
Revolvate

23

Annexure - E

N.F.Railway

OFFICE ORDER

~~On completion of initial training (Phase II) from 15-2-2001 to 31-5-01 under Director, NISST, Gourabandhu, the following Apprentices of Signal Department Group II are hereby directed for further training for a period of 2(two) months as mentioned below:-~~

	<u>Name</u>	<u>Training under whom</u>
<u>GROUP A</u>	1) Arup Chatak	Dy.CSTE/MG/Upgradation in CSTE's office/Maligaon.
	2) Tapan Dutta	
	3) Udayan Sengupta	
	4) Shyamal Kr. Paul	
	5) Champak Roy	
<u>GROUP B</u>	1) Sr. B.R.Ghosh Dastidar	Sr.DSTE(W)/APD
	2) Utpal Dutta Talukdar	
	4) Samir Kumar Biswas	
	3) Bhrgu Talukdar	
	5) Samit Paul	
<u>GROUP C</u>	1) Anirban Bandopadhyay	DSTE/CON/KIR
	2) Pradip Kumar	
	3) Krimi Kumar Tyagi	
	4) Subrata Kumar Giri	
	5) J.Rajendra Prasad.	
<u>GROUP D</u>	1) Pratap Kr.Singha	DSTE/W/MG
	2) Dilip Debnath	
	3) Biman Biswas	
	4) Sanjoy Dey	
	5) Kanti Lal Dey	

This issues with the approval of Competent Authority

for CHIEF SIGNAL & TELE-COMM. ENGINEER(P)/MIG

No.E/10/21/II Pt.IV

Maligaon, dated 6-1909

Copy to:- 1) DSTE(C.N)/KIR 2) Sr.DSTE(W)/APD 3) Dy.CSTE/MG/UP/CSTE's
4) DSTE(W)/MG 5) Apprentices concerned. office/Maligaon.

attendance may be sent to this office.
6) CSE/BSU/CRU's office/MIG. He will issue the passes in favour of
Group B (Item 1 to 5) from CHY to APD, Group C (Item No.1 to 5) from CHY to KIR
and Group D (Item No.1 to 5) from CHY to I.M. 7) CSTE(CON)/MIG in CSTE's
office/Maligaon 8) E(SER)/MIG.

CC.2/6.

for G.S.T.E.(P) MALIGAON.

allied
Advocate

29/8/2001
Advocate



Indian Railways Institute of Signal
Engineering & Telecommunications,
Secunderabad.

This is to certify that

SHRI CHAMPAK ROY, APP: SI/III, M.F.R.L.Y.

has successfully completed 52D INITIAL COURSE FOR

APP: SI, II, III

held from 21.9.88
15.2.89

to 11.1.89 (PHASE-I)
31.5.89 (PHASE-II)

Dated 31.5.1989.

A. Viswanathan
(A. VISWANATHAN)
D.E.A.N.

*Illustrd
Advocate
88/2001
Advocate*

Annexure-F

25
31

To,
CSTE
N.F. Rly. Maligaon
Guwahati.

Sub A Sick report.

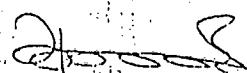
My brother Sri Champak Roy has fallen sick to some mental depression. He is under treatment.

This is for your kind information and necessary action please.

Thanking you.

Yours faithfully,

Dated :
the Maligaon.
12/06/89.



31-3-89

Brother of Sri Champak Roy.

Attest

M. K. Deka

8/8/2001

Advocate

This is to certify Sri Champak Roy who was suffering from various ailments like Epilepsy, Ceezophronia, Neuolepsy, Hypertensions, Gastric ulcer and Myocardial infection was under my treatment from 4.6.89 to 23.11.97.

- He is fit to resume his duties from 24.11.97.

Sd/-
Dr. K. K. Bhuyan.
M.B.B.S.
23.11.97

Attested
Mr. K. K. Bhuyan
8/9/2001
Advocate

(photo copy of the original hand written
N.C. is placed below at page 26)

Dr. K. K. Bhuyan, M.B.B.S.
G. S. Road
Ulubari, Guwahati-781 007

DIPAKA MEDICAL
G. S. ROAD, ULUBARI
Visiting Hours :
8 A.M. to 10 A.M.
5 P.M. to 8 P.M.

This is to certify that
Mr. Chirantan Ray who
was suffering from various
ailments like Epilepsy,
Schizophrenia, Delirium,
Hypertension, Gastric Ulcer
and Myocardial Infarction
was under my treatment
from 1.6.89 to 23.11.97

He is fit to be admitted
in clinics from 24.11.97

23.11.97

Dr. K. K. Bhuyan
M.B.B.S.
REGD. NO. 4093

Attest
M. Bhuyan
9/8/2001
Advocate

To

The Chief Signal and Telecommunication Engineer
N.F. Rly.,
Maligaon,
Guwahati - 11.

Date : 24.11.97

Sub. : Prayer for joining.

Dear Sir,

I lay before you the following few lines to apprise you with a view to that it would meet your favourable and sympathetic consideration.

That Sir, I am an employee of your esteemed organisation and resisted myself from my duties for a long period. The cause of my absence was due to my severe physical / mental troubles and accordingly I was under treatment of a medical practitioner. Although I was cured in the middle of throughout the year, but I was fallen into the same condition as remain as before. That's why I couldnot resume of office duties.

That Sir, after a continuous prolong treatment I have somehow been recovered and according to doctors opinion I can easily resume my office duties henceforth.

Therefore, I fervently request your goodself to provide me with the job and I assure you that no such type of unauthorised leave or late attendence etc. would be done by me. The necessary medical certificate in this regard is enclosed herewith for your doing the needful.

Thanking you sir in an anticipation.

Yours faithfully

Champak Roy

CHAMPAK ROY

App. SI - III

Attested
V.K. Roy
8/9/2001
Advocate

SHOW CAUSE NOTICE

N.F.Railway

Office of the
General Manager(P)
NF Railway/Maligaon.

No. E/10/21(N)Pt.IV

To

Sri Champak Roy,
Ex.APP.SI/III.

Dated: 18/12/97.

19

Sub:- Show cause notice for termination.

On being recruited through RRB/GHY, you were appointed as App.SI/III w.e.f. 13/9/88 for a period of 2 years in different phases as under:-

- i. IRISET/SC = 8 months
- ii. Field train- = 16 months
ing

Total = 24 months.

Accordingly you have undergone training for the period upto 3/6/89 only and thereafter left training course without any authority and intimation for the last 8 years 5 months 19 days. Now suddenly you have reported for joining this office on 24/11/97 by producing a private Medical Certificate.

Since you have failed to intimate the reasons for your long absence which can not be covered by any leave as per extant provisions, you are advised to show cause within ten days from the date of receipt of this letter as to why your Apprenticeship as SI/III (with stipend Rs. 1320-1350/-) will not be terminated.

On
18/12/97
SPO/Engg.
for General Manager(P)/Maligaon.

Ansba

M. M. Khan

8/8/2001

Advocate

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

Date-26.12.97

Sir,

Sub : Show cause notice for termination.

Ref : Your L/No. E/10/21(N)Pt.IV dated 18.12.97.

With due respect and humble submission I beg to state that in reference to your letter quoted above that I could attend the training period w.e.f. 3.6.89. due to my prolonged sickness, medical certificate for which have already been submitted to you. I fell sick immediately on my return from Secunderabad training and mentally depressed for which I could not intimate the administration myself. Due to this reason my brother Sri Subhas Roy had intimated the CSTE of my physical and mental depression. In fact, I was not in a position to write personally for which he (my brother) intimated the CSTE vide a letter dated 12.6.89. Since no response from the administration was there in the matter of my absence on medical ground, I thought that my sickness was duly considered by the administration. After getting fit I reported to join to the office on 24.11.97.

In view of the above, I would pray to you to kindly permit me to join to the field training and serve the railways properly.

I shall remain ever grateful for this kind act of yours.

Thanking you.

Yours faithfully

Champak Roy

(Champak Roy)
App. Signal Inspector
Grade - III.

attested

M.K. Deka

8/8/2001

Advocate

Assurance - K

90

To
The Addl. General Manager
N.F.Railway
Maligaon
Guwahati.

13

Sir,

Sub : Prayer for joining.

I beg to lay before you the following few lines for your kind and sympathetic consideration please.

That Sir, I was selected as APP.SI/III through RRB/GHY and thereafter I appointed as APP.SI/III w.e.f. 13.7.88 and the training period was 2 years.

That Sir, I was undergoing field training from 13.7.88 to 17.9.88 and thereafter I attended initial training from 21.9.88 to 31.5.89 at IRISET/Secundrabad and passed. (Result enclosed).

That Sir, after returning from IRISET/SC on 3/6/89, I reported to CSTE/P/MLG for further field training and thereafter due to my prolonged sickness I could not continue my field training. I fell sick mentally and physically and that was informed to the administration on 12.6.89 by my brother.

That Sir, I applied for joining after getting fit on 26/12/97 but I was not allowed to join for further training.

In view of the above kindly permit me to join in the balance field training and for this act of your kindness I shall remain ever grateful to you Sir.

Date : 31-05-99

Yours faithfully,

Champak Roy

(CHAMPAK ROY)

attest

Alv Roy

8/8/200

Advocate

Annexure L

MOST IMMEDIATE
MR's REFERENCE
CA- (III) 'M'

31
✓



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

रेल मंदिर, नई दिल्ली-110001, तिथि
Rail Bhawan, New Delhi-110001, dated

19

No.E(REP)M-2000/NF/18/65

New Delhi, dated 13.12.2000

74

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

Sub : Appointment of Shri Champak Roy on N.F.Railway.

Ref : Your Railway's letter No.468E/18(N)/Pl.II,
dated 26.5.2000.

In this connection please arrange to send a copy of the terms and
conditions of appointment as referred to in Para-1 of your above cited letter.

Since the detailed position of the case is required to be submitted
forthwith for kind perusal of MR, copy of the relevant document be furnished by return
FAX.

This may be treated as MOST URGENT.

Attested
Advocate

For | *14/12/2000*
(J.C.JAIN)
Dy. Director Estt.(R)II,
Railway Board.

8/8/2001
Advocate



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

No. E(REP)II-2000/NF/18/65

रेल मध्यन, नई दिल्ली-110001, तिथि
Rail Bhawan, New Delhi-110001, dated 19
New Delhi, dated 8.1.2001
je

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

Sub : Appointment of Shri Champak Roy on N.F.Railway.

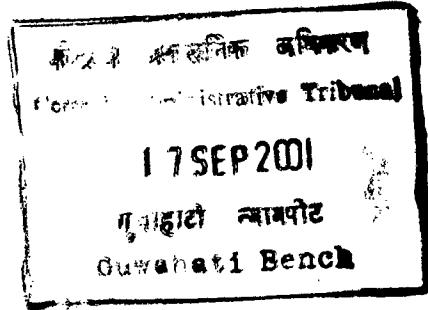
Ref : Your Railway's letter No.468E/18(N)Pt.II, dated 22.12.2000.

A copy of the Agreement referred to in Para 1 and a copy of the letter No. P/E/227/137/1(Recd.), dated 21.6.88 referred to in Para 2 of the letter under reference may also be furnished immediately by return FAX for proper appreciation and submission of case to MR.

Since this is an 'M' category reference, the matter may be given Top Priority.

(J.C.JAIN)
Dy. Director Estt.(R)II
Railway Board.

attested
Mr. J.C. Jain
8/8/2001
Advocate



Filed by
Bisheshwar Baruah, Advocate,
14-9-2001

47
Central Administrative Tribunal
Guwahati Bench
Mr. / Mallikarjun
Baruah, Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A No. 305/2001

Shri Champak Roy

versus

Union of India & Ors.

IN THE MATTER OF

Written statement on behalf of
Respondents.

The answering Respondents beg to state as follows

1. That the answering Respondents have gone through the copy of the OA as served on them and have understood the contents thereof. Save and accept the statements which are specifically admitted herein below, other statements made in the OA are categorically denied.
2. That with regard to the statements made in paragraph 4.i to 4.viii of the OA, the answering Respondents do not admit anything contrary to the relevant records. It is denied that any such intimation has depicted at Annexure-F was ever sent neither the Applicant nor any one had sent any intimating about the illness of the Applicant as alleged in the OA.
3. That the answering Respondents categorically deny the correctness of the statements made in paragraphs 4.ix and x of the OA. The Applicant left the training course with effect from, 4.6.89 without any intimation and authority and it was only 24.11.97 he had submitted

48
S. C. S.
S. C. S.
S. C. S.

an application praying for allowing him to join the training course, which naturally could be granted as not admissible under the Rules.

4. That with regard to the statements made in paragraphs 4.xi to 4.xv of the OA, while the contention raised therein, the answering Respondents reiterate and reaffirm the statements made hereinabove. The Annexure-I, show cause notice dated 18/19.12.97 was redundant in the view of the fact that the Applicant had already abandoned the training course on successful completion of which only he could have expected to be considered for a suitable Railway job.

5. That with regard to the statements made in paragraphs 4.xvi to 4.xviii of the OA, it is stated that the Applicant made representations to the higher authorities in response to which information were furnished highlighting as to how the case of the Applicant is beyond consideration since he did not complete the training. In this connection the terms and conditions as reflected at Annexure-D to the OA may be referred to.

6. That the4 answering Respondents state that the Applicant was selected for training as Apprentice Signal Inspector/Grade-III with effect from 13.9.88 and was deputed for training for a period of two years consisting of 8 months at IRISET/SC and field training of 16 months. As per terms and conditions of the apprenticeship, after passing in the final examination

on completion of the training, he would have been posted as SI/III against working post subject to availability of vacancy. However, the Applicant did not complete the training and left the training on 4.6.89 without any authority and intimation. He submitted an application after 11 years on 24.11.97 with a private medical certificate making a request therein to allow him to resume training. He could be allowed to do so since the period of training was already over long back. It will be pertinent to mention here that as per the Railway service rules, not to speak of a trainee like that of the Applicant, even a regular Railway employee absenting from duty for more than 5 years, his services automatically stands terminated. In the instant case, the Applicant was not a Railway employee, but was a apprentice trainee.

7. That the answering Respondents submit that on failure of the Applicant to complete the training and leaving the training without any intimation and authority, his apprenticeship automatically stood terminated and there is no question of reviving the same. It is categorically denied that the Applicant was under medical incapacity. No such proof has been given in the OA. The Annexure-H certificate dated 23.11.97 obtain from a medical practitioner does not depict anything entitling/forcing the Applicant to remain absent from the training without any authority and/or intimation. It is the bonafide belief of the Respondents that the Applicant was not interested in the Railway job and went elsewhere in search of other

job or avocation and having failed there has now come before this Hon'ble Tribunal taking a chance for favourable consideration.

8. That the answering Respondents submit that the instant OA is barred by limitation and also hit by the principles of waiver, estoppel and acquiescence and accordingly liable to be dismissed on these scores alone.

9. That the answering Respondents submit under the facts and circumstances stated above, the OA is not maintainable and liable to be dismissed with costs.

Verification

VERIFICATION

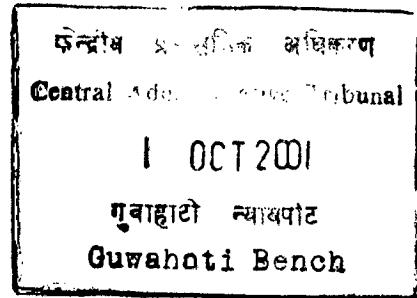
I Shri A.K. NIGAM, aged about 47 years, son of Lal S.P. GAURHA, resident of Maligaon, Guwahati-11, presently working as Chief Personnel Officer/Admn, N.F. Railway do hereby verify and state that the statement made in paragraphs _____ are true to my knowledge and those made in paragraph _____ being matters of records are true to my information derived therefrom, which I believe to be true and the rest of my humble submissions before this Hon'ble Tribunal. I am also authorised to competent to sign this verification on behalf of all the Respondents.

And I sign this verification on this ____th day of September 2001.



Deponent

Subscribed and sworn to before me on the 10th day of September 2001.



THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI

BENCH:: GUWAHATI

Rejoinder to W.S. filed by the respondents in O.A. NO. 305/2001

CHAMPAK ROY Applicant / Petitioner

- VS -

UNION OF INDIA & OTHERS..... Respondents /Opposite party

In the matter of reply to WS.

The answering petitioner begs to state follows ----

Point No. 3. The averment that the applicant remained absent without intimation is not correct as, due to badly attacked by illness effecting the mental condition of the petitioner for which he could not write, his brother had intimated his falling illness on 12.6.89 vide Annexure 'F' at page No. 25.

Point No. 4. It is not correct that the petitioner had abandoned the apprenticeship training in full but he could not proceed further due to his severe illness. That the show cause notice is said to be redundant as averred, has not been intimated the petitioner earlier, it is quite clear from this that the respondents had accepted rather got the illness report earlier for which, they had not intimated the petitioner about his termination but had issued a show cause notice prelude to termination. From this it is

Champak Roy

Champak Roy
Advocate
1.10.2001

53

quite obvious that the respondent had taken due cognizance of the illness report filed by the petitioner's brother.

Point No. 5. The averment is not based on record, As it is quite clear that from the terms & conditions of Annexure 'D' at page 22/1 at column. II which reads "you will not be allowed to withdraw from training except for reasons which are beyond your control." Falling suddenly ill and thereby crippling the both mental and physical illness for a long time is not within the control of the petitioner.

Point No. 6. As for the private Medical practitioner it had been clearly with legal provision had been elaborately stated at Para 'I' of page 13 of the petitioner. It is further very much strange that nowhere and under any provision of any service rules of any category of employees under any establishment automatic termination is possible. There must follow certain procedure as per relevant Rules, to terminate an employee for long absence without ~~termination~~ ^{intimation}. But this is not the case with the petitioner, on the contrary it had duly been intimated that the Petitioner was totally crippled due to his prolonged illness. Moreover the respondents all along had slept over the matter, they had ever been any correspondences with the petitioner about his so – called absence without any intimation during this long 8(eight) years till date the applicant had submitted a application dt. 24/11/97 Annexure 'H' at page 27.

Champak Ray

Advocate
1.10.2001

Interestingly, the petitioner although had furnished reply to the so – called show cause notice at Annexure I at page 28, vide his letter dt. 26/12/97 vide annexure 'J' at page 29, the respondents had kept silent and did not make any further communication for which the petitioner had reminded again dt. 31.5.99 vide Annexure 'K' at page 30 and this even could not awake the respondents from so - called pretended sleep.

Point No. 7. It is totally incorrect that in the medical certificate no specific diseases had been specified, rather clearly had mentioned the names of that diseases for which the petitioner had to suffer a long nearly 8 years.

Point No. 8. Averment that limitation etc. had hit the petitioner's claim is not sustainable at all – as Law of limitation shall not apply to this petitioner's case at the Hon'ble CAT. As per sec. 21 of the Administrative tribunal Act provides certain limitation only after final order when passed. But in the instant case no final order had yet been made. Rather under Art. 311(3) of the constitution of India in head of Administrative tribunal (at page 1028 of Durga Das's constitution of India) at No. 2. In original petition under section 19 of the Administrative Tribunal, the Administrative Tribunal can exercise ^{powers} of a High Court under Art. 226. and under Art. 226 of the constitution of India "Delay is not an absolute bar" (At page 536 at J. of the said book).

Champak Ray
Advocate
Mehboob
1.10.2001

VERIFICATION

I, Sri Champak Roy, Son of Late Kumud Behari Roy, aged about 39 years, a Resident of Ananda Nagar, Guwahati – 12 do hereby verify that the contents of the foregoing paras are true to my knowledge and believed to be true on legal advice and I have not suppressed any material fact.

And I sign this verification on this day of 1st October 2001.

Date : 01-10-2001

Place : Guwahati

Signature of the Petitioner

Champak Roy

1-10-2001
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