

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

MP-27/03 ordered to be destroyed

INDEX

allowed 08/08/03

O.A/T.A No. 221/02

R.A/C.P No.

E.P/M.A No. 27/2003

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Office Note - Pg - 1

SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 221/62

Mise Petition No. /

Contempt Petition No. /

Review Application No. /

Applicants. Katchi K. Ch. Karmakar & Ors

-Vs-

Respondent(s) H. O. I. 90ms

Advocate for the Appellant(s) K. K. Biswas

Advocate for the Respondent(s) Mr. S. Sengupta
Railway Counsel

Notes of the Registry	Date	Order of the Tribunal
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This is application in form

C. F. for Rs. 50/- deposited

vide IP No. 76 S. 382

Dated 12-7-02

Dy. Registrar
12

22-7-2002

18.7.2002

Admit, call for the records.

List the case for order on
20.8.2002.

I C Usha
Member

Vice-Chairman

bb
20.8.02

List again on 18.9.2002 to
enable the Respondents to file
written statement as prayed by Mr.
L. Sarkar, learned counsel for the
Respondents.

I C Usha
Member

Vice-Chairman

mb

30
No. 1015 has been filed.

374
18.7.2002

18.9.02

Four weeks time was granted to the respondent on the prayer of Mr.J.L.Sarkar learned Railway Standing counsel. No written statement so far filed. Again prayer has been made on behalf of Mr.S. Sarma for some time to file written statement. Prayer is allowed. List on 5.11.02 for orders.

Vice-Chairman

lm

5.11.02

List on 9.12.02 to enable the respondents to file written statement.

Vice-Chairman

e-Chairman

lm

9.12.02

None appears for the parties. List on 2.1.2003 for orders.

No written statement

has been filed

U.C.U.Sha

mb

8.1.03

2.1.2003 Due to vacation, the case is adjourned to 9.1.2003.

10/10

A.P.Z

9.1.2003

Present:- The Hon'ble Mr.Justice V.S.Agarwal, Chairman

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

to written statement
has been filed

Written statement has not been filed

It is directed to be filed within four weeks

List the case on 7.2.2003 for order.

6.2.03

K.C.Sharma

Member

M Ag.

Chairman.

bb

7.2.2003 Mr. S. Sengupta, learned standing counsel for the Railway stated that he is filing written statement in course of the day. The applicant may file rejoinder, if any, within two weeks from today. List the matter for hearing on 21.3.2003. f/f

Member

Vice-Chairman

mb

7.2.03

21.3.2003

Pleadings are complete. List the matter for hearing on 1.4.2003.

WJS submitted
by the respondents.

WJS 1 to 8.

Vice-Chairman

mb

1.4.2003. Mr. Justice SenGupta did not appear today. The case is adjourned to 12/5/2003.

7.3.03

Rejoinder submitted
by the applicant.

(D)

19.5.03

None present for the applicant when the matter was called for. Mr. S. Sengupta, learned Railway standing counsel is present for the respondents.

List again on 21.5.2003 for hearing.

13.5.03

Reply to the Rejoinder
submitted by the respondents.

(D)

Member

Vice-Chairman

21.5.2003 pg

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

The Hon'ble Mr. S.K. Hogra, Administrative Member.

Since the counsel for the applicant Mr. K.K. Biswas is on accommodation, the case is adjourned and listed for hearing on 12.6.03.

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

The Hon'ble Mr R.K. Upadhyaya
Admn. Member.

The case is ready
for hearing on
Rejoinder.

22.7.03

It has been stated that Mr K.K. Biswas, learned counsel for the applicant is undergoing treatment at Chennai. Accordingly the case is adjourned to 23.7.03.

Member

Vice-Chairman

pg

23.7.2003 List the matter again on 28.7.2003
for hearing.

Member

Vice-Chairman

mb

28/7/2003. Heard at length. ~~10000/-~~
order for adjournment.

28/7/2003. Heard at length. Put up
on 30/7/2003 for orders.

30/7/2003. Put up on 31/7/2003 for
hearing.

Also
A.L. Dinesh

Also
A.R. S.

5

Notes of the Registry

Date

Orders of the Tribunal

31.7.2003

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

Hon'ble Mr N.D. Dayal, Administrative Member

Order dtd. 31/7/03
Communicated to the
Parties Counsel.

7/8/03

Heard the learned counsel for the parties at length. Put up again for further hearing on some other convenient date. At this stage Mr S. Sengupta, learned Railway Counsel, stated that the respondent authority wants to fill up the post of Senior Clerks those that have fallen vacant. It must be stated that no stay order or injunction was issued to the respondents not to fill up the posts. However, it is clarified that it would be open to the respondents to fill up the posts of Senior Clerk as per law.

Member

Vice-Chairman

nkm

5.8.2003

Pass over. Put up again on
7.8.2003 for hearing.

Member

Vice-Chairman

mb

7/8/03.

Hearing Concluded in presence of
Mr. K.K. Biswas, Adv. for Appellant
and Mr. S. Sengupta, Rly. counsel.
Judgment Reserved.

7/8/03.

Notes of the Registry

Date

Orders of the Tribunal

8.8.2003

Judgment pronounced in open
Court, kept in separate sheets.

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

Member

Vice-Chairman

bb

PUC -

Memo No HC. XXI, 1217-25/RM. dt. 27/12/06
from the Ass't- Registrar (J), Gauhati High
Court.

X

The order dated 12/12/06, passed in
WP(C) No 9818 of 2003 may kindly be seen
at the PUC.

The above WP(C) has been filed
by the Union of India before the Hon'ble
Gauhati High Court against the Judgment
dated 8.8.03 passed by this Tribunal in
OA 221/02.

But the Hon'ble High Court has
disposed the WP(C) No. 9818/03 w/modifying
the order of this Tribunal.

HS
5/1/07

Hon'ble

9/1/07

LS
5/1/07
SO(J)

DR
5/1/07

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from W.P.(C)
Civil Rule

No. 9818 2003

Union of India &ors.

Appellant

Petitioner

Versus

Sri Kartik Ch. Karmakar

Respondent

Opposite Party

Appellant Mr. S. Sarma,
For

Petitioner M^r. S.K. Das

Ms. B. Devi - Advocates

Respondent

For _____
Opposite Party

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

W.P.(C) No.9818/2003

BEFORE

**THE HON'BLE MR. JUSTICE D. BISWAS
THE HON'BLE SMT. JUSTICE A. HAZARIKA**

12/12/2006

Heard Mr. S. Sarma, learned counsel for the petitioner. None appears for the respondents despite service of notice.

This petition is directed against the order dated 8th August, 2003 passed by the learned Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A. No.221/2002 directing the writ petitioner to consider the case of the private respondents for promotion to the post of Senior Clerk on the basis of their service records sans the departmental written test w.e.f. 17.4.2000 i.e. the date when their immediate junior Sri Subhas Chandra Sarkar was promoted.

Mr. Sarma submitted that the Departmental Rules provide for written test for selection and appointment to the post of Senior Clerk. The requirement of the Rules could not be dispensed with by the learned Tribunal on the ground that the Junior Clerk Shri Subhas Chandra Sarkar was promoted before the private respondents as because of his performance in the written test examination. The private respondents would be entitled to promotion only when they come out successful in the written test examination.

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Considering above submission, we dispose of this writ petition modifying the order of the learned Tribunal to the effect that the petitioners shall consider the case of the private respondents as well as other similarly situated Junior Clerks for consideration of their case for promotion to the post of Senior Clerk strictly in accordance with the service rules without dispensing with any of its requirements.

No costs.

Sd/- A. Hazarika.
JUDGE.

Sd/- D. Biswas.
JUDGE.

Memo No. HC.XXI.

1217-25

/R.M. Dtd. 27/12/06

Copy forwarded for information and necessary action to:-

1. The Union of India, represented by the General Manager N.F. Railway, Maligaon Guwahati-11.
2. The General Manager(Construction) N.F. Railways, Maligaon, Guwahati-11.
3. The Chief Personal Officer N.F. Railway, Maligaon, Guwahati-11.
4. The Chief Engineer-II(Construction) N.F. Railway, Maligaon, Guwahati-11.
5. The Controller of Stores(Construction) N.F. Railway, Maligaon, Guwahati-11.
6. The Controller of Stores N.F. Railway, Maligaon, Guwahati-11.
7. The Deputy Chief Personnel Officer(Construction) N.F. Railway, Maligaon, Guwahati-11.
8. The District Controller of Stores N.F. Railway, (New Bongaigaon) Dist. Bongaigaon, (Assam).
9. The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati- 781005. He is requested to acknowledge the receipt of the following records. This has a reference to his letter No. CAT/GHY/68/2001/168 Date 01.03.2004.

Enclo:-

1. O.A. 221/02 with
Orginal Judgement Part A.
2. M.P. 27/03 Part A.

Total - 2 files.

By order

Asstt. Registrar (Judl.)
Gauhati High Court, Guwahati.

26/12/06

M. L. M. Soma
25.12.06

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A. No. 111221 of 2002.

DATE OF DECISION 8.8.2003.

Sri. Kartik Ch. Karmakar & Another, APPLICANT(S).

Mr. K. K. Biswas ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

Union of India & Others, RESPONDENT(S)

Mr. S. Sengupta, Railway Standing Counsel ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR. N.D. DAYAL, 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 ~~Maxx~~ Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.221 of 2002.

Date of Order : This the 8th Day of August, 2003.

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

THE HON'BLE MR N.D.DAYAL, ADMINISTRATIVE MEMBER.

1. Sri Kartik Chandra Karmakar

S/o Late Jagadish Karmakar, working as adhoc Senior Clerk under Controller of Stores (Con.)
N.F.Railway, Maligaon
Guwahati- 781 011.

2. Sri Naba Kanta Das

S/o Late Sarbeswar Das
Working as adhoc Senior Clerk under Controller of Stores (Con.)
N.F.Railway, Maligaon
Guwahati-781 011.

..... Applicants.

By Advocate Mr.Kanti Kumar Biswas.

- Versus -

1. Union of India

Representing by the 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-II (Construction)

N.F.Railway, Maligaon
Guwahati-781011.

5. The Controller of Stores (Construction)

N.F.Railway, Maligaon
Guwahati- 781 011.

6. The Controller of Stores

N.F.Railway, Maligaon
Guwahati-781011.

7. The Deputy Chief personnel Officer (Construction)

N.F.Railway, Maligaon, Guwahati-781011.

8. District Controller of Stores, N.F.Railway

New Bongaigaon, P.O: New Bongaigaon
Dist: Bongaigaon, Assam.

9. Sri Sisir Das, (SC) Head Clerk working under

District Controller of Stores, N.F.Railway
P.O: New Bongaigaon, Dist: Bongaigaon
Assam.

10. Sri Subhas Ch.Sarkar, Senior Clerk working under

District Controller of Stores, N.F.Railway
P.O: New Bongaigaon, Dist: Bongaigaon
Assam.

11. Jay Karan, Senior Clerk working under District Controller
of Stores, N.F.Railway, P.O: New Bongaigaon
Dist:Bongaigaon, Assam.

12. Smt. Kiranbala Roy, Senior Clerk working under District Controller of Stores, N.F.Railway, P.O: New Bongaigaon Dist: Bongaigaon, Assam.
13. Sri S.P.Banerjee, Senior Clerk working under District Controller of Stores, N.F.Railway P.O: New Bongaigaon, Dist: Bongaigaon Assam.
14. Sri V.K.Chaudhury, Senior Clerk working under District Controller of Stores, N.F.Railway P.O: New Bongaigaon, Dist: Bongaigaon Assam.
15. Sri Ram Naresh Roy, Senior Clerk Working under District Controller of Stores N.F.Railway, P.O: New Bongaigaon Dist: Bongaigaon, Assam.
16. Sri Subatra Dey, Senior Clerk Working under District Controller of Stores N.F.Railway, P.O: New Bongaigaon Dist: Bongaigaon, Assam.
17. Sri P.R.Bhowmik, Senior Clerk working under District Controller of Stores N.F.Railway, P.O: New Bongaigaon Dist: Bongaigaon, Assam.
18. Sri Ramandra Ch.Wary, Senior Clerk working under District Controller of Stores N.F.Railway, P.O: New Bongaigaon Dist: Bongaigaon, Assam. Respondents.

By Mr.S.Sengupta, Railway Standing Counsel.

O_R_D_E_R_

CHOWDHURY J.(V.C.)

Career advancement by way of promotion is the key issue raised in this O.A. in this circumstances set out below:-

1. The applicants are two in number who are working as adhoc Senior Clerk. The applicant Nos.1 & 2 were appointed as Junior Clerk on 27.12.1990 and 07.01.1991 respectively and posted under Controller of Stores (Construction), N.F.Railway, Maligaon. According to the applicants, though they were appointed in 1990 and 1991, they were not brought in the seniority list although under the norms fixation of paper lien of Ministerial staff of DCS Construction Office were to be made of paper lien in the Open Line. But same was not done and instead persons even juniors to them were promoted. Finally the fixation was made

by order dated 25/28.2.2000 and applicant's No.1 date of appointment was shown as 27.12.1990 and applicant's No2. as 27.1.1991 indicating their paper lien fixed under BCOS/NBQ. There was delay in casting seniority. In the meantime, juniors were promoted. Finally the applicants were asked to sit for the suitability test but they were not considered ^{fit} for promotion instead juniors were allowed to march over. Hence this application assailing the legitimacy of the action of the respondents as arbitrary.

2. The respondents submitted its written statement denying and disputing the claims of the applicants. In the written statement, the respondents stated that the General Manager Personnel, Maligaon fixed the paper lien of the applicants in the Junior Grade Clerk vide order dated 25.28.2.2000. As per the guidelines dated 16.5.1990 they were placed at the bottom of the seniority list of Junior Clerk published on 1.4.2000. On consideration of their appeal and also in accordance with the instruction of General Manager Personnel, Maligaon dated 15/16.10.2001, the seniority list was recast and as per normal rules of seniority they were placed at the appropriate place. In the meantime on 17.4.2000 prior to the issue of the recast seniority list Sarbashri Subhas Chandra Sarkar and some other staff (Sl.Nos.3 to 11 in the recast seniority list of Junior Clerk as on 1.4.2000) were promoted to the post of Senior Clerk whose names figured as junior to the applicants in the Junior Clerks recast seniority list. The Railway authority decided to hold a suitability written test for filling up 7 nos. of post of Senior Clerk and the applicants were advised to attend the suitability test on the date fixed. By the said communication they were also informed that if they qualify themselves in the suitability test, they would get proforma fixation etc. as per rules in respect of their juniors already promoted to the post of Senior Clerk. The applicants remained absent in the said test on 8.7.2002 and appeared in the absentee which was held on 22.7.2002. But in the absentee selection

they could not come out successful and thus found not suitable in the test. In the written statement, the respondents also asserted that the provisional seniority list was dated 26.4.2000 and the next corrected seniority list was published on 22.5.2002 and the temporary promotion order of Junior Clerks (respondent nos.9 to 18) to the post of Senior Clerks was issued on 7.4.2000 on the basis of suitability test. After recasting of seniority list of Junior Clerks, the applicants were clearly shown as senior to respondent nos. 9 to 18 of this application and a suitability test for the applicants was also arranged on 8.7.2002. The respondents reiterated that promotion to the post of Senior Clerk etc. ^{be} could / given only after the staff qualified in the written test held for adjudging suitability of a staff for such post and the applicants could not qualify in such test and as such question of their promotion as Senior Clerk did not arise. ^{In the rejoinder} the applicants also referred to the empanelment of four junior officials for promotion to the post of Senior Clerk on the basis of suitability test. The applicants also referred to their appeal for review of the result of the suitability written test held on 22.7.2002 and expressed grievance that their answer papers were not properly evaluated and marks were allotted to them with preconceived mind. The respondents also submitted their reply to the rejoinder filed by the applicants denying the assertion of any improiety, illegality in holding the suitability test.

3. We have heard Mr.K.K.Biswas, learned counsel for the applicants and also Mr.S.Sengupta, learned Standing counsel appearing on behalf of the Railway authority at length.

4. The seniority of the applicants as Junior Clerk is not disputed. Admittedly, there was obvious delay in fixation of paper lien of Ministerial staff of COS and Construction Office in the Open Line. It was only by order dated 25/28.2.2000 the applicants alongwith two others Senior Clerks

were assigned their paper lien in the Open Line in the Store Department under DCOS/NBQ & DCOS/NJP respectively. The communication also indicated that as per percentage distribution of Construction reserve post distributed Divisionwise in order of seniority for the purpose of their further Advancement in future and to be placed in the seniority list etc. Accordingly, paper lien of these two applicants were fixed and their date of appointments were shown as 27.12.1990 and 27.1.1991 respectively. The concerned authorities were directed to take necessary action and intimate to the Office. In view of the aforesaid order the respondents ought to have recast their seniority right in time. The appointments of the applicants were made against post meant for N.FRailway Zonal Railway system as a whole and not only construction organisation. Their seniority was to be regulated from their date of appointment after successful completion of their training. Instead in the provisional seniority list dated 26.4.2000 the seniority of these applicants were shown in the list of Junior Clerk(G) at Sl.Nos.19 & 20 i.e. at the bottom of the list in which the others above them were junior. Number of representations were made by the applicants for correct fixation of seniority and consequent promotional benefits. In the provisional list as on 1.4.2002 the applicants were shown at the bottom of the list. In this list (Annexure-B) the names of the first nine persons mentioned in the list dated 26.4.2000 did not appear. As alluded, the applicants alongwith five others immediately below them in the list at Annexure-B of this application were asked to appear in the written suitability test for promotion to the post of Senior Clerk(G) fixed on 8.7.2002 vide The syllabus for the test was released on 5.6.2002. letter dated 19.6.2002. The applicants made appeal on 18.6.2002 for correcting their seniority position before holding the suitability test. The rectification of their seniority was to be made over Sri Subhas Chandra Sarkar who was listed at

Sl.No.1 in the provisional seniority list at, Annexure-A. At para 4.21 of the application it was pleaded that the 2nd applicant Sri Naba Kanta Das belonged to the Scheduled Caste (SC) community and he was appointed against SC quota, but he was wrongly shown in the provisional seniority list as UR instead of UR thereby he was ignored from the benefits of reservation in promotion. It is noticed from Annexure-H of the application i.e. letter dated 15.2.2000 asking the applicant No.2 to attend suitability test before appointment that against his name the words SC were written in brackets.

5. From the pleadings as well as the arguments made on behalf of the Railway it was sought to impress us that holding of suitability test was a deliberate decision of the Railway authority and the same was made essential for giving promotion from Junior Clerk to Senior Clerk. A letter from Senior Materials Manager, N.F.Railway, New Bongaigaon dated 2.8.2003 was produced before us by Mr.S.Sengupta, learned Railway Standing counsel who informed that promotion to the post of Senior Clerk from Junior Clerk was always based on departmental written test and not merely on the record of service. The said communication also confirmed that the minimum qualifying marks in suitability test for non-selection post was 50%. The Railway authority in reply to the rejoinder filed by the applicants at Annexure-5 made a summarised statement of the marks secured by the different candidates/staff in the written suitability test for promotion to the post of Senior Clerk(G) under DCOS/NFR/NBQ in different years. The list contained the names of sixteen candidates and save and except the two applicants all were shown to have passed. A written test was said to be held on 16.9.1996 in which Sri Sisir Das(SC) was found suitable. His mark was shown as 72. The respondent Nos.10 to 18/ were also all juniors to the applicants, promoted in April, 2000 were found to be suitable in the suitability

test held on 7.4.2000. The minimum mark 60 was scored by respondent No. 17. The respondent Nos. 10, 13, 15 & 16 all scored 61 marks. The respondent Nos. 11, 12 & 18 each scored 62 marks. The respondent No. 14 was shown to have scored 70 marks. It may also be mentioned that the applicants were deprived from consideration his promotion when the respondent Nos. 10 to 18 were promoted though admittedly, they were juniors to them. Proper assessment of these applicants in the Open Line were made on 25/28.2.2000. No justifiable reason was given as to the delay in the fixation of seniority list assigning the correct seniority position of these applicant. No reasons were also assigned as to why the applicants could not be considered for promotion when the authority considered the case of the respondent Nos. 10 to 18 for promotion in April, 2000. By that time there was recasting of the seniority and the applicants' names were above respondent Nos. 10 to 18. No reason not to speak any good reason was assigned as to why the applicants could not be considered for promotion alongwith the respondent Nos. 10 to 18 admittedly juniors to the applicants. Interestingly all those aforementioned persons cleared and secured from 60 to 70 marks. Fixation of paper lien of Ministerial staff of COS/ Construction's staff in the Open Line of Stores Department vide General Manager (P), N. F. Railway, Maligaon order dated 25/28.2.2000 was seriously resented. The record submitted before us showed that the N. F. Railway Mazdoor Union, New Bongaigaon Branch strongly resented in the induction of the applicants vide communication dated 26.5.2000 to the General Manager (P), N. F. Railway, Maligaon indicating

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the resentments of the staff of the NBQ depot. According to the staff and union at NBQ, these two applicants were appointed on compassionate ground and therefore their seniority was to be merged with the division/HQ of Maligaon not with other division. The District Controller of Stores, N. F. Railway, New Bongaigaon, the concerned authority, instead of acting in consonance of direction of General Manager (P), N. F. Railway, Maligaon indicating as to the reaction of the staff of NBQ Stores depot as it reveals from the communication Nos. ES/26/NBQ dated 29.5.2000, ES/26/NBQ/DCOS dated 9.6.2000 and ES/26/NBQ dated 13.9.2000.

6. Materials on record clearly indicated that the seniority position of the applicants above the respondents Nos. 9 to 18. The applicants' case for promotion were unattended for long. On the other hand, their juniors were promoted in 1996 and in April, 2000. It was sought to be rectified in the year 2002 and accordingly respondents conducted suitability test. These two applicants could not qualify in the suitability test when they were called for selection in 2002.

7. It is not in dispute that the post of Senior Clerk (G) is a non selection post. Yet a selection is made by a written suitability test. If a senior person secures less than qualifying marks he or she would be liable to forfeit promotion and become junior. The seniority list in grade of Junior Clerk is cast on the basis of length of service in Grade - C. This would appear

to be of no value in the facts of the test based on some questions on General English, General Knowledge and others on the sphere of work. Result of the written test no matter how objectively designed and evaluated cannot be expected to be entirely free of a subjective element which is a natural cocomitant of any examination exercise. That many years of service could be washed out because of a single such test is a matter for the Railway authorities to consider. We feel that such a test operates harshly on the senior employees.

8. Keeping in view all aspects of the case and the facts and circumstances brought out before us we find that the provisional seniority list of Junior Clerk (G) dated 24.6.2000 at Annexure-A of the application had been issued without reliable basis for doing so as also admitted by the respondents. At the same time admittedly promotion to the private respondents was given without recasting the seniority list correctly. In fact the applicants have rightly questioned as to why they could not be called alongwith respondent Nos. 9 to 18 for the suitability test for promotion to the level of Senior Clerk by recasting the seniority list correctly when such a call was issued on 17.6.2000 and for that matter even in 1996. It is difficult to appreciate that the respondents required a specific direction from the General Manager, N. F. Railway for following the prescribed rules in this matter. As a consequence the applicants have missed out on the opportunity at the appropriate time for furthering their promotional prospects in the normal course. Again it is not disputed that the SC status of the second applicant Sri Naba Kanta Das has not been taken into consideration in the matter of promotion and as such benefit that may have been due to him need also to be extended.

We have given our anxious consideration on the matter. Materials clearly indicate that justice was denied to the applicants. Delay in fixation of their seniority in right time seriously prejudiced their case. The prejudice against these applicants in the Open Line is clearly discernible. As alluded, the post of Senior Clerk is a non-selection post. The applicants are holding the said post on adhoc basis. The suitability tests those were held on the basis of the written test are also not very reassuring. We have also taken note of the fact that in the answer scripts the authority did not try to conceal the names of the candidates, instead their names were visible which itself indicated their respective liens/branches. NO effort was made to conceal the identities of the candidates. We have already indicated the resentment shown by the staff and the Union from NBQ against the fixation of paper lien of the applicants. Disclosure of the names of the candidates instead of concealing their identity in our view was abhorrent in the facts situation. At any rate, the assessment exercise is not free from subjectivity. Considering all the aspects of the matter, we therefore hold that the passing over of the applicants and not giving them the regular promotion as Senior Clerk in the facts and circumstances of the case was not justified. The respondents,^{on the facts situations} are accordingly directed to consider their case for promotion to the aforesaid post on the basis of their ^{sans the departmental written test} service record/on or before 17.4.2000 i.e. date on which their immediate junior Sri Subhas Chandra Sarkar was promoted as Senior Clerk and pass appropriate order in the light of the observations made above. The respondents are directed to complete the exercise as expeditiously as possible preferably within a period of two months from the date of receipt of the order.

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


(N.D.DAYAL)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

O.A. NO 221 of 20002

Sri Kartik chandra Karmakar &

Sri Naba Kanta Das

Applicants

-vs-

Union of India & Others

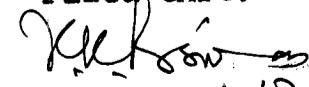
Respondents.

I N D E X

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Filed on: 17-07-2002

Filed thro:


 (K.K.BISWAS) 17.7.2002

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH : AT GUWAHATI

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

O.A. No. 221 of 2002.

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17.7.2002
Advocate

Sri Kartik Chandra Karmakar,
 S/o. Late Jagadish Karmakar, working as adhoc Senior clerk under
 Controller of Stores (Con.), N. F. Railway, Maligaon, Guwahati –
 781 011.

AND

Sri Naba Kanta Das,

S/o. Late Sarbeswar Das, working as Adhoc Senior clerk under
 Controller of Stores (Con.), N. F. Railway, Maligaon, Guwahati –
 781 011.

---Applicants

Vs.

- 1) Union of India - Representing by the 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.- 781 011.
- 4) The Chief Engineer-II (Construction), N.F.Railway, Maligaon, Guwahati.-781011.

Contd...2..5) The Controller....

5) The Controller of Stores (Construction), N.F.Railway, Maligaon, Guwahati.-781 011.

6) The Controller of Stores, N.F.Railway, Maligaon, Guwahati.-781 011.

7) The Deputy Chief Personnel Officer (Construction), N.F.Railway, Maligaon, Guwahati.-781 011.

8) District Controller of Stores, N.F.Railway, New Bongaigaon, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

9) Sri Sisir Das, (SC) Head Clerk working under District Controller of Stores, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

10) Sri Subhas Ch. Sarkar, Senior Clerk working under District Controller of Stores, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

11) Jay Karan, Senior Clerk working under District Controller of Stores, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

12) Smt. Kiranbala Roy, Senior Clerk working under District Controller of Stores, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

13) Sri S.P. Banerjee, Senior Clerk working under District Controller of Store, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

14) Sri V.K. Chaudhury, Senior Clerk working under District Controller of Stores, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

Contd..3...15)Sri Ram---

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17.7.2002
Advocate

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15) Sri Ram Naresh Roy, Senior Clerk working under District Controller of Stoares, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

16) Sri Subrata Dey, Senior Clerk working under District Controller of Stores, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

17) Sri P.R. Bhowmik, Senior Clerk under District Controller of Stores, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

18) Sri Ramandra Ch. Wary, Senior Clerk working under District Controller of Stores, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam.

----- Opposite Parties

Respondents

DETAILS OF APPLICATION:

1. Particulars of the orders against which the application is made :

a) The seniority list published and circulated under the District Controller of Stores, New Bongaigaon's No. ES/26/NBQ dated 26.04.2000 (Annexure A).

b) Seniority list published by District Controller of Stores, New Bongaigaon under No. ES/26/NBQ dated 12.04.2002 (Annexure B).

Contd...4...c) Notice---

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M.L. Chanda
7.7.2002
Advocate

- c) Notice of holding suitability test of Junior Clerk (G)/M/Clerk in scale of Rs. 3050-4590 for promotion to the post of senior clerk (G) in scale of Rs. 4500-7000 issued by District Controller of Stores, New Bongaigaon vide No. ES/1/NBQ dated 05.06.2002 (Annexure-C).
- d) Notification No. ES/1/NBQ dated 19.06.2002 fixing the date of suitability test of Junior Clerk (G)/M/Clerk for promotion to the post of senior clerk(G) scheduled to be held on 08.07.2002 issued by the District Controller of Stores, N.F. Railway, P.O: New Bongaigaon, Dt: Bongaigaon, Assam (Annexure-D).
- e) Letter No.ES/1/NBQ dated 27-06-2002 issued by the District Controller of Stores, N.F. Railway, New Bongaigaon inserting the condition precedent that the Applicants would be eligible for proforma fixation only if they could qualify in the suitability test mentioned above, otherwise they would lose seniority (Annexure-E).

2. Jurisdiction :

The Applicants declare that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :-

The Applicants submit that the application has been filed with the limitation period prescribed under section 21 of the Administrative Tribunal---
Contd...5...ive Tribunal---

tive Tribunal Act 1985.

4. Facts of the case :-

4.1 That the Applicants are the citizens of India and are therefore entitled to the rights and privileges guaranteed to the citizens of India under the Constitution.

4.2 That the Applicants were offered with the appointment by the General Manager (P) N.F. Railway, Maligaon in class III post on compassionate grounds vide No. 586E/81/1(W)/Class-III/3 pt. VI dated 15.02.1990 and E/227/44/41(Recrt.) pt. VII dated 11.12.1990 and after successful suitability test appointed as trainee office clerk in scale of Rs. 950-1500 was offered by the Chief Personnel Officer, N.F. Railway, Maligaon vide No. E/227/44/41/Pt-VII dated 18.12.1990 and 586-E/81/1(w)/Class-III/3 Pt.VI dated 15-02-1990 and E/227/44/41(Recrt.) pt. VII dated 27.12.1990 and 07-01-1991

(Photocopies of the aforementioned letters are annexed as F, F/1, G, H, I, J respectively).

4.3. That after getting the appointment the Applicants were directed by the Chief Personnel Officer, N.F. Railway, Maligaon for reporting to the construction organization and were subsequently posted under the Controller of Stores

Contd...6...(Construction)---

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 Mr. J. S. Mehta
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(Construction), N.F. Railway, Maligaon, without fixing any lien for their service, albeit recruited against the permanent vacancy and against the compassionate grounds posts meant for the N.F. Railway's zonal Railway system as a whole, and not against any construction reserve post meant purely for the construction organization. (Photocopies of The General Manager(Cons)/ N.F. Railway/MLG's Office order No. 284/1990 under No.E/227/Con/2pt.VI dated 27-12-1990 and office order no. 15/1991 under No.E/227/Con/2pt.VII dated 21-01-1991 submitted as Annexures K & L respectively).

4.4. That the Chief Personnel Officer, N.F. Railway, Maligaon vide his letter No. E/163/2© dated 09-05-91 advised all concerned that the seniority of the staff directly recruited in Construction Organisation through RRB and staff appointed and posted on compassionate ground would be determined under normal rules regulating seniority of staff, that is, from the date of their appointment / after completion of successful training where necessary. Photo copy of the letter dated 09-05-1991 is annexed as Annexure-M.

4.5. That after making strenuous efforts with the concerned authorities General Manager (P), N..F. Railway, Maligaon finally fixed the lien of the Applicants in the open line in the concerned department under District Controller of Stores,

Contd..7...New Bongaigaon---

Kanchan Chandra Konar
Advocate
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Mehta & Associates

New Bongaigaon and advised the District Controller of Stores, New Bongaigaon to take necessary action in the matter.

(Photocopy of General Manager (P), N.F. Railway, Maligaon's letter No. E/255/101/7(s)pt-I (loose) dated 25/28/2000 is annexed as Annexure - N respectively).

4.6 That it is really astonishing and grief to note that the District Controller of Stores, New Bongaigaon fixed the seniority of the Applicants in the list published and circulated by him under No. ES/26/NBQ dated 26.04.2000 (Annexure-A) fixing at the bottom of the list of 18 Junior Clerks who were appointed/promoted from group D to group C category much later dates of the Applicants. The Applicants were shown only one month three days length of service in their accounts in the said seniority list of Junior Clerks published by the District Controller of Stores, New Bongaigaon.

4.7. That against such gross injustice, anomalies and unfair means of the District Controller of Stores, New Bongaigaon, the Applicants made several representations and after that District Controller of Stores, N.F. Railway, New Bongaigaon, partially corrected the seniority list but not corrected in toto according to the rules of fixation of seniority and thus put the

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Adv. S. K. Karanjit
Advocate
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private Respondents mentioned under Sl. No. 9 – 18 over the Applicants who were initially appointed in the Group III post, that is Junior Clerk (G) prior to the appointments/ promotions of the above mentioned Private Respondents in Group C categorically shown in the seniority list No. ES/26/ NBQ dated 26.04.2000 (Annexure A).

4.8. That the Private Respondents mentioned under Sl. No. 9 –18, though appointed/promoted to Group C post much later dates than that of the Applicants, nevertheless, enjoying the benefit of promotion in the regular post of Head Clerk in scale of Rs. 5000-8000/= and Senior Clerk (G) in scale of Rs. 4500 – 7000 by way of proforma fixation.

4.9. That against this miscarriage of justice caused to the Applicants, the Applicants made several representations for their redressal and prayed for correct fixation of seniority and giving the promotional benefits, but the District Controller of Stores, New Bongaigaon, under which the lien of the Applicants are rested, turned a deaf ear and thus the grievances of the Applicants remained unsettled for all these years.

4.10. That in addition to the series of representations by the Applicants right from the publication of seniority list as on 26-04-2000 (Annexure-A) made to the concerned authorities.

Contd...9...(Photocopies-----

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Advocate
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(Photocopies of some of which are submitted along with the application under Annexures- P, Q, Q/1, R, R/1, S), the D.O Letter under No.SC/G/218pt.IV dated 01.02.2001 from the level of Controller of Stores (Construction), N.F. Railway, Maligaon to Chief Personnel Officer (Administration), N. F. Railway, Maligaon (Annexure-T), and letters issued by General Manager (P), N. F. Railway, Maligaon to District Controller of Stores, New Bongaigaon, under No. E/255/101/7(S) pt. I dated 16.10.2001 and 28.02.2002 (Annexures - U & O) advising the District Controller of Stores, New Bongaigaon for rendering justice and get the seniority of the Applicants fixed correctly as per rules by giving due importance to the length of service rendered by the Applicants for more than 10 years were also issued at different times.

(Photocopies of D.O. letter and letters are annexed under annexure T, U, & N, O, respectively).

4.11. That the District Controller of Stores, New Bongaigaon, vide his letter No. SS/26/NBQ dated 31.10.2000 assured the Applicants that action was to be taken for correction of provisional seniority list of Junior Clerks (G) as per Instructions received from COS(P) N.F. Railway, Maligaon.

Contd...10...(Photocopy-----

(Photocopy of DCOS/NBQ's letter is enclosed as Annexure-V.)

4.12. That in spite of the categorical and specific instructions by the General Manager (Personnel), N.F. Railway, Maligaon mentioned above for fixation of correct seniority the District Controller of Stores, New Bongaigaon, has not taken the required action for mending the anomalies in regard to assignment of the seniority of the Applicants, rather, issued Notification for holding suitability test of Junior Clerk (G)/M/Clerk in scale of Rs. 3050 – 4590 for promotion to the post of Senior Clerk (G) in scale of Rs. 4500 – 7000 vide his No. ES/1/NBQ dated 05.06.2002 (Annexure-C) and advised the Applicants along with the other candidates for appearing in the said suitability test vide District Controller of Stores, New Bongaigaon's letter No. ES/1/NBQ dated 19.06.2002, the written suitability test of which has been fixed on 08.07.2002 at District Controller of Stores, New Bongaigaon office (Annexure-D).

4.13 That immediately after getting the notification of the District Controller of Stores, New Bongaigaon, for holding suitability test mentioned above, the Applicants submitted a representation requesting District Controller of Stores, New Bongaigaon to take proper action so as to assign the correct seniority list before holding the proposed written examination

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Neelkanth Karmakar
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17.7.2002
Advocate

of suitability test for promotion to the post of Senior Clerk mentioned above.

(Photocopies of representation are submitted as annexure Q, Q/1, R & R/1).

4.14 That even after submitting so much representation by the Applicants and directions of the Administrative level mentioned above for correct fixation of seniority list, the District Controller of Stores, New Bongaigaon, has fixed the date for holding the suitability test for promotion to the post of Senior Clerk, mentioned above.

4.15 That the District Controller of Stores, N.F. Railway, New Bongaigaon has given proforma promotion of Senior Clerks to the private Respondents under sl.nos. 9 to 18 whereas the Applicants in the instant O.A. have been put under the strict condition that their cases of proforma promotion will only be considered in the event of their being qualified in the proposed written examination of the suitability test for the promotion of Senior Clerks as notified vide the impugned notification issued by the District Controller of Stores, New Bongaigaon vide this letter No.ES/1/NBQ dated 27-06-2002 (Annexure-E), only to these two Applicants or the Applicants would lose seniority; but remained silent about correct fixation of seniority as per Rules. This is highly

Contd...12...prejudicial

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 Advocate
 17-7-2002

prejudicial, unfair, unjustified and discriminating policy to the interest of the employees working under the same employee and guided by the same conditions and terms of the Service Rules of the concerned system.

4.16 That it is humbly submitted by the Applicants that the staff shown under Sl. No. 1 and 2 of the office order No.E/210/111/64(s)pt.IV(L) dated 28-12-1992 issued by the General Manager (P), N. F. Railway, Maligaon, and the Private Respondents under Sl. No. 9 – 18, have been given the scale of Sr. Clerk and Head Clerk only through the means of their proforma promotion/seniority.

4.17 That the benefit of proforma promotion/seniority when given to the Private Respondents No. 9 – 18, who are junior to the Applicants in respect of their length of service in the Group C category of Junior Clerk and the proforma promotion for the persons shown in the aforementioned office order issued by the General Manager(P), Maligaon, are considered all right by the administration, then it fails to understand as to how and under what circumstances this had necessitated by the District Controller of Stores, New Bongaigaon for holding the suitability test with the specific condition precedent for the Applicants for their proforma fixation or else to lose seniority. This will create a sheer

Contd...13....discrimination...

discrimination in the administrative policy for arranging correct fixation of seniority and promotion of the employees working under the same administrative ambience of this zonal railway system.

4.18 That a Government employee has a right to know his seniority position in matters of his service benefits and the Government is legally bound to publish the correct seniority list for the benefit and well being of its employees. Unless the correct seniority list is prepared and published the correct position in the seniority list cannot be ascertained to verify as to whether his seniority has been superseded by his juniors or not. In the present case the Applicants are under quite in the dark for the murky publication of the seniority list of junior Clerk and for which the Applicants are being deprived of their rightful claim of seniority, promotion and other consequential service benefits.

4.19 That there may be mistakes in preparing and publishing the seniority list, may be unknowingly or willfully, in preparing the seniority list and may not be found in accordance with the rules, but the mistake must be corrected as soon as it is noticed or represented by the affected persons, according to the Railways own set of rules and the corrected list published.

Contd....14..4.20. That for---

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4.20 That for the erroneous publication of the seniority list the Railway's codal provisions and the Board's categorical directions are very much candid and the violation of which are stringent. Even then it is not known as to why the due seniority and promotion of the Applicants are not given at the proper place of their rightful claim even after lapse of more than a decade's time.

4.21. That the Applicant Sri Naba Kanta Das belongs to the SC quota and got his appointment under the SC quota. Even then the District Controller of Stores, New Bongaigaon has shown him of his publication of seniority list as "UR" instead of putting him to the quota of SC and had he been shown in the right quota of "SC" of his case according to his appointment, he would have been benefited with the promotion of Head Clerk much earlier, it is hoped, why not to speak of the elevation of office Superintendent Grade II.

(Photocopies of the appointment letter as Annexures H, I, J and cast certificate as Annexure-X are submitted for kind perusal of this Hon'ble Tribunal).

4.22. That the Applicants most humbly submit that one Application under no.O.A. 212/2002 followed by one M.P. 88/2002 have since been withdrawn with the kind permission

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Nabajit
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Advocate
17.7.2002

of this Hon'ble Tribunal to re-file vide order dated 16-07-2002 and, hence, this Application.

5. **Grounds for Relief :**

5.1. That the provisional seniority lists (Annexure A & B) do not reflect the correct position of the seniority and length of service of the Applicants in considering their appointment letters (submitted under F, F/1, G, H, I, J) and for which action of the District Controller of Stores, New Bongaigaon, the Applicants are deprived of for getting their correct seniority, promotion and consequential monetary benefits for all these years inspite of their repeated representations and the letters issued by the Administrative Heads in respect of personnel matters mentioned above under paras 4.4, 4.5, 4.10, 4.11 & 4.12.

5.2 That the notification for holding the suitability test for the promotion of Sr. Clerk in scale of Rx. 4500- 7000 mentioned above with the specific conditions precedent under para 4.12 and 4.15 without correcting the seniority position of the Applicants is quite unfair, arbitrary and unilateral decision duly flouting the Railway's own set of rules and violating Railway Board's categorical directions.

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Advocate

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5.3 That when the promotion to the Private Respondents under Sl. No. 9 – 18 and the persons mentioned under paras 4.15 and 4.16 to the posts of Head Clerk and Senior Clerks were given simply by making the proforma promotion, then it is quite unfair and would be derogatory and discriminating policy to hold the suitability test of the Applicants with the conditions precedent as mentioned in the District Controller of Stores, New Bongaigaon letter No. ES/1/NBQ dated 19.06.2002 and 27-06-2002 (Annexures – D & E).

5.4. That the holding of the suitability test mentioned above without fixing and assigning the correct position of the seniority of the Applicants and inviting discriminating policy of holding written examination of the proposed suitability test with the conditions precedent instead of the proforma promotion on the strength of service-seniority which the District Controller of Stores, New Bongaigaon and the other units of the N.F. Railway system shown above had done, would be violative of the safeguards of the constitutional provisions in respect of equal protection of laws and Employment Rules guaranteed under Articles 14,16, 39(A) and 309 of the Constitution of India.

5.5. That the holding of the written test of the suitability test by the District Controller of Stores, New Bongaigaon

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Kolkata Branch
Kolkata
Chancery
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of
the
District
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of
Stores
New
Bongaigaon
West
Bengal
India
7.7.2002
Accepted

mentioned above without correcting the seniority positions of the Applicants would be the denial of Principles of Natural Justice to the Applicants and thereby invited both "bias" and "malafide".

5.6. Fairness of the Administrative Justice was not observed and the Railways own set of Rules flouted in issuing the seniority lists, Notifications & letter mentioned under Annexures A, B, C, D & E.

6. Details of Remedy Exhausted :

The Applicants declare that they have availed of all the remedies available to them under relevant service rules mentioned under the above annexures to the best of their capabilities and without getting the proper relief to their grievances they have come to this Hon'ble Tribunal for having Justice.

7. Matters not previously filed or pending with any other Court :-

The Applicants most humbly submit that save and except O.A.No. 212/2002 with M.P.88/2002 which are since withdrawn with kind permission of this Hon'ble Tribunal to

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 17.7.2002
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re-file, they have not filed any other application, writ petition or suit regarding the matter in respect 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, writ petition or suit is pending before any Tribunal or Court in respect of the subject matter of this application.

8. **Relief sought :-**

In the circumstances stated above the Applicants humbly pray that the Lordships of this Hon'ble Tribunal may be pleased by administering justice to issue direction and order –

- a) For quashing the incorrect and discriminatory seniority lists, unfair and unlawful Notifications and letter mentioned under Annexures – A, B, C, D & E in para-1 above issued by District Controller of Stores, N.F. Railway, New Bongaigaon.
- b) For correct assignment of seniority in the Grade of Junior Clerk(G) and in all subsequent grades would be available to them on the basis of their correct fixation of seniority
- c) For consideration of Applicants' suitability for promotion to the posts of Senior Clerks and Head Clerk by making proforma promotion as made in the cases of the Private Respondents under Sl. No. 9 – 18 and the persons mentioned

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Mr. Sanjay K. Karak
 Advocate
 17.7.2002

in the Annexure-W, without making any discriminating condition precedent for fixation of seniority as is mentioned under District Controller of Stores, N.F. Railway, New Bongaigaon's letter No.ES/1/NBQ dated 27-06-2002 (Annexure-E)..

- d) For consequential promotional benefits with back wages from the date of the correct fixation of seniority in the Grade of Junior Clerk and in all subsequent Grades of promotion due as per the proforma promotion to be made to the Applicants like those of the Private Respondents under Sl.Nos. 9 to 18 and two persons mentioned under Annexure-W.
- e) Any other relief(s) as the Hon'ble Tribunal may deem fit and proper.

9. Interim Relief :

Pending finalisation of this Application your Lordships may be pleased to pass such order as deem fit and proper.

10. Particulars of Application Fee :

Indian Postal Order No..... dated amounting to Rs. 50.00 (Fifty only) to be drawn in the Head Post Office, Guwahati is enclosed herewith.

Contd..pg.20..10)Details---

10. Details of Index:-

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

11. List of Annexures :-

A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, Q/1, R, R/1, S, T, U, V, W, X.

VERIFICATION

I, Sri Kartik Chandra Karmakar, S/o: Late Jagadish Karmakar aged about 32 years, working as adhoc Senior clerk under the Controller of Stores (Con), N. F. Railway, Maligaon and being authorised by the other applicant named Sri Naba Kanta Das, S/o: Late Sarbeswar Das aged about 32 years working as adhoc Senior Clerk under the Controller of Stores (Con) , N. F. Railway, Maligaon do hereby solemnly affirm and verify that the contents of paragraphs 4.1 to 4.17 are the facts of the case and true to my knowledge, information and belief and that I have not suppressed any material facts and the paras 4.18 to 4.22 are my humble and respectful submission before this Hon'ble Tribunal.

AND I sign this VERIFICATION on this 17th day of July'2002.

Place: Guwahati. *Kartik Chandra Karmakar.*
Date: 17.7.2002 (KARTIK CHANDRA KARMAKAR)

SIGNATURE OF THE APPLICANT

To
The Deputy Registrar,
Central Administrative Tribunal
Guwahati

21

Annexure - A

N.E. RAILWAY

Depot :- Stores

Category :- Jr.Clerk(G)

Office of the
Distt. Controller of Stores,
New Bongaigaon.
Date :- 26-4-2002

scale of Rs. 3050/-/- (RP) under DCOS/NBQ as on 1-4-2000.

S/NO.	Name.	T/SC/OBC	DOB.	DOA.	DOP.	Length of service.	Remarks.
1.	Sri Subhas Ch. Baruah	SC	21.7.60	16.11.81	1.4.92	8.0.0	
2.	Jaykaran	UR	3.12.62	2.7.86	1.4.92	"	
3.	Smt. Kiran bala Dey	"	19.2.58	27.8.86	1.4.92	"	
4.	Sri S.P. Benerjee	"	13.12.68	27.4.92			
5.	V.K. Chaudhury	"	2.2.74	27.4.92		7.11.4	
6.	Ram Naresh Roy	"	8.6.70	21.12.88	6.1.95	7.11.4	
7.	Subrata Dey	"	28.8.62	11.10.90	6.1.95	5.2.25	
8.	P.R. Bhownick	"	1.3.66	11.10.90	6.1.95	"	
9.	Ranandra Ch. Mary	ST	15.11.71	19.5.90	20.9.95	4.6.11	
10.	Jadav Basumatary	"	1.11.67	6.2.96		4.1.25	
11.	Samar Bikram Seth	UR	20.10.70	5.2.97		3.1.26	
12.	Saroj Kr. Jha	"	15.1.71	4.3.97		3.0.27	
13.	S.P. Balmiki	SC	10.12.66	24.10.89	14.5.97	2.10.17	
14.	Babulch. Das	"	1.9.66	11.10.90	14.5.97	2.10.17	
15.	S. Sen Sharma	UR	1.4.67	11.10.90	14.5.97	2.10.17	
16.	Juleus Basumatary	ST	25.2.72	6.10.98		1.5.23	
17.	J.K. Chakroborty	UR	1.9.75	6.10.98		1.1.5.25	
18.	Miss Tapashi Bhownick	"	12.1.77	23.12.93		1.3.8	
19.	Sri K.C. Karmakar	"	2.10.70	27.12.90		0.1.3 Assigned paper line vide GM/P/	
20.	Naba Kt Das	"	1.9.70	27.1.91		0.1.3 MIG's L/NQ. E/L/25(S) Ft-T(Lungs) dt-25.2.2000	

DCOS/NBQ.

No : ES/25/NBQ/2002-21/2002

Copy for information and action to :- (1) DSK/I/G/NBQ
 (2) OS/DCOS/office (3) Secy NFRMU/NBQ, NFRBU/NBQ, AASC & TREA/NBQ
 (4) Staff concerned. (5) GM/P/MIG/CON.

N.B. : Staff concerned may submit their representation if any within
 one month from the date of receipt of this seniority list.

S/o/CON

S/o/CON

DCOS/NBQ.

AD

M. B.

17-7-2002

22

Annexure - B

17/4/2002

DOS

N.F.RAILWAY

Dept - Stores.

Category - Jr.Clerk(G)/MC/TK.
Total strength - 19.Office of the
Distt. Controller of St.
New Bongaigaon.Provisional seniority list of Jr.clerk(G)/MC/TK in
scale Rs. 3050-4520/- under DCOS/NBQ as on 1.4.2002

UR/SC

S.NO.	Name.	ST	D.O.B.	D.O.A.	D.O.P.	Length of service
1.	Sri K.C. Karmaker.	UR	2.10.70	27.12.90	27.12.90	11.3/4 Working under CUS/CON/MLG
2.	" N.K. Das.	"	1.9.70	27.1.91	27.1.91	11.2.4/ CUS/CON/MLG
3.	" Jadav Basumatary.	ST	1.11.67	6.2.96	6.2.96	6.1.25
4.	" RamNoresh Paswan.	SC	22.2.69	4.3.90	4.3.96	6.0.27 Working under DACOS/APDJ
5.	" S.B. Seth.	UR	20.10.70	5.2.97	5.2.97	5.1.26
6.	" S.K. Jha.	"	15.1.71	4.3.97	4.3.97	5.0.27
7.	" S.P. Balmiki.	SC	10.12.66	24.10.89	14.5.97	4.10.17
8.	" Babul ch. Das.	"	1.9.66	11.10.90	14.5.97	4.10.12
9.	" S.Sen Sharma.	UR	1.4.67	11.10.90	14.5.97	4.10.12
10.	" Juleus Basumatary	ST	25.2.72	6.10.98	6.10.98	3.5.25
11.	" J.K.Chakraborty.	UR	1.9.75	6.10.98	6.10.98	3.5.25
12.	Miss Tapashi Bhowmick.	UR	12.1.77	23.12.98	23.12.98	3.5.02
13.	Sri A.K. Dutta.	UR	12.11.69	11.10.90	22.11.00	1.4.9
14.	" Nimai Kalita.	"	10.7.70	11.10.90	22.11.00	1.4.9
15.	" Ranjit Roy.	SC	22.5.69	1.4.88	22.11.00	1.4.9
					30.9.93	

NO : ES/26/NBQ Dt - 12.4.2002.

DCOS/NBQ 22/5/02

Copy for information and n/action to :-

(1) CDMS/NBQ. (2) Secy.NFRMU/NBQ, NFREU/NBQ, AISC & TREA/NBQ.
(3) GM/P/MLG/Cen. (4) DACOS/APDJ. (5) Staff concerned.

N.B. 1. S/NO 182 Assigned paper lien vide GM/P/MLG'S L/NO.E/1/25(S)Pt-
(Loose) dt - 25.2.2000 Fix up seniority as per GM/P/MLG'S L/NO.E/1/
28.2.2000 (S) dt-9.5.91, E/255/101/7(S) Pt-I dt-15.10.2001 and E/255/101/7(S)
Pt-I dt- 28.2.2002.

N.B. 2. Staff concerned may submit their representation if any within one month from the date of receipt of this seniority list.

DCOS/NBQ 22/5/02

22/5/02 Seniority List

Attested for by

Ranjan Basumatary

13.7.2002 Sanctioned by

for test

(R.K. BISWAS)

Advocate

on 8th July 02

See Annex 112 WSP 61

27/6/02

File No. 100-100/1/2002

Office of the
Distt. Controller of Stores
New Bangalore
Dt. 5-6-2002

To,
✓ COS/CON/MLG.
DA COS/APD.J
CDMS/NBQ

Sub:- Suitability Test of Jr.Clerk/G/M/Clerk in
Scale Rs.3000-4500/- for Promotion to the Post
of Sr.Clerk(G) in Scale Rs.4500-7000/-

.....
It has been decided to hold the suitability test
of Jr.Clerk(G)/M/Clerk in scale Rs.3000-4500/- for promotion to the
post of Sr.Clerk(G) in scale Rs.4500-7000/- in the office of the
(COS/NBQ). The test will be written on per syllabus appended below.
The duration of the examination will be 3 (three) hrs.

Syllabus

Part - A (I) Precis Writing (II) Paragraphing (III) Drafting.
Part - B Written Test in regard to the acquisition of knowledge
of the section in attach to the employee may have work.
Part - C Knowledge of General Rules and procedures in Vague.

The following candidates are eligible to appear
in the said suitability test.

1. Shri K.C.Karmakar (UR) - Working under COS/CON/MLG.
2. M.K.Das (UR)
3. Jodev Basumatary (ST) Working under CDMS/NBQ.
4. Ram Narosh Paswan (SC) Working under DA COS/APD.J.
5. S.B.Beth (UR) Working under CDMS/NBQ.
6. Smt. Jha (Un)
7. S.P. Balmiki (SC)

You are requested to advise the Staff concerned
to keep themselves ready for appearing in the above test with short
notice.

get d
DCOS/NBQ.

M. S. Sonwane
17.7.2002

24

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Annexure - D

N.F.RLY.

Office of the
Distt. Controller of stores,
New Bongaigaon.

NO. ES/1/NBQ.

Dt. 19.6.2002.

To
COS/CON/MLG.
Dacos/APDJ.
CDMS/NBQ.

Sub:- Suitability Test of Jr. Clerk/G/M/Clerk
in scale Rs. 3050-4590/- for promotion to the
post Sr. Clerk(G) in scale Rs. 4500-7000/-.

....

Ref:- This office letter No. ES/1/NBQ dt. 5.6.2002.

....

In reference to above, the date of written
suitability Test for promotion to the post of Sr. Clerk(G) in
scale Rs. 4500-7000/- has been fixed on 08.7.2002(monday) at
14.00 hrs. to be held at DCOS Office/NBQ.

Please direct the staff concerned mentioned below
to appear in the above test. If any candidate is on leave/
Sick list should be informed at his leave address. No absentee
Test will be held.

Name of Candidates.

- 1) Sri K.C. Karmakar(UR) Working under COS/CON/MLG.
- 2) * N.K. Das (UR). -do-
- 3) * Jadav Basumatary(ST) - Working under CDMS/NBQ.
- 4) * Ram Naresh Paswas(SC) Working under Dacos/APDJ.
- 5) * S.B. Seth(UR). Working in DCOS office/NBQ,
- 6) * S.K. Jha(UR) - Working under CDMS/NBQ.
- 7) * S.P. Balmiki(SC). -do-

Attested

28/6/2002
R. K. BISWAS
Advocate

for 1912

DCOS/NBQ

.....

25
N.F.RAILWAY

Annexure - E 48

NO : ES/I/NBQ.

Office of the
Distt. Controller of Stores
New Bongaigaon.
Date : 27.6.2002.

To,

1. Sri K.C. Karmaker, Sr.Clerk(Adhoc) under COS/CON/MLG.
2. " N.K. Das, "

Sub :- Suitability Test for Sr.Clerk(G).

Ref :- Your appeal dt 18.6.2002.

In reference to your appeal dt 18.6.2002 it is intimated that if you qualify yourselves in the suitability Test to be held on 8.7.02, you will be eligible for proforma fixation alongwith your junior, Shri Subhas Ch. Sarker who already promoted to the post of Sr.Clerk(G) as per extent rules.

You are therefore advised to attend the suitability Test to be held on 8.7.2002. Otherwise you will lose your seniority in the grade of Sr.Clerk(G).

Rb.

APO/W/NBQ
for DCOS/NBQ.

Copy forwarded for information & n/action to :-

- (1) GM/P/MLG.
- (2) COS/MLG.
- (3) COS/CON/MLG.

APO/W/NBQ.
for DCOS/NBQ.

Attested

7/7/2002
(R. R. BISWAS)
Advocate

26

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Annexure - F

N.F.RAILWAY.

OFFICE OF THE
GENERAL MANAGER (P).

No.586E/81/1(W)/Class III/3 Pt.VI

Maligaon, dated 15-2-90

To

Sri Karpick Ch. Karmaker (B)

S/o Gauri Jagadish Karmaker

Ex. Fitter/ASTE/MLA.

Q No-193A. East Gastra

Graduate "

St. number (Asa)

Sub:- Suitability test in connection with
appointment in Class III post on
compassionate grounds.

....

You are hereby directed to attend this office at 9-30 hrs.
on 17-3-90 for verification of particulars and also for appearing in
the suitability test (written) on 17-3-90 at 9-30 hrs. followed
by viva-voce on 19-3-90 at 14 hrs. hrs. in connection with
your appointment to a Class III post on compassionate grounds. You should
bring the following documents alongwith you positively.

1. Original certificate in support of your educational qualification,
are and other testimonials.

2. Service and family particulars of the ex. employee in prescribed
proforma (enclosed) duly certified by the Controlling Officer of ex. employee
with his office seal.

3. In the cases of the dependents of the ex. railway employees who
were declared medically incapacitated for further service - original
medical certificate and a certificate has been issued by the Rly.
medical authority certifying that the ex. employee concerned has not been
medically unfit for all post interms of para 512(II) of Rly. medical manual.

4. The ex. employee's son/daughter who applied himself for appointment
on compassionate grounds should also bring an application from his
surviving father/mother requesting employment on compassionate grounds in
his/her favour.

5. Two character certificates from two Gazetted Officers.

6. A declaration indicating that ex. employee concerned died/
medically incapacitated while in service and no other member of his
family was appointed on the Railway on compassionate grounds after the
P.W.D/death/medically incapacitation of the ex. employee, as per proforma enclosed.

Adviced

Mr. K. J. Sen Gupta

Arrested

17-3-2002

NORTHEAST FRONTIER RAILWAY:

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

NO: E/227/44/41 (Rectt.) Pr. 11

Dated, the 11-12-90

TO: Shri/Smt/Md.

Kartik Ch. Karmanah

8/0- Lali - Jagodish Karmanah

W - filter, ASTE | PNO 41M-11

Sub:- Temporary Appointment as Tr. Office Clerk on pay Rs. 950/- per month in scale Rs. 950-1500/- (RP) plus usual Dearness Allowance as admissible from time to time.

The candidate is appointed on
Compromised Wages
under U.M.S. 8/1 DATE OF SELECTION BY RAILWAY RECRUITMENT BOARD/GUWAHATI.

.....

MERIT FIGURE

.....

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

- (a) Matriculation Mar Sheet (b) Matriculation Admit Card
- (b) School Leaving certificate from the Headmaster/ Headmistress.

2. You will have to undergo training for a period of three/four months during which time you will be given the chance to pass the examination. If you fail in the examination within the stipulated period, you will be discharged. During training period you will receive a stipend of Rs. 950/- per month plus usual dearness allowance applicable from time to time.

3. On satisfactory completion of training ~~pass~~ and passing the prescribed examination test you will be eligible for appointment as Temporary Clerk on minimum of the scale Rs. 950-1500/- (RP)

Arrested
M. D. S. (Contd. 2/-)

17/2/90
F. B. I. N. A. S. 1
F. B. I. N. A. S. 1

; 2 ;

plus usual allowance applicable from time to time 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.

4. (i) On completion of your training if you get yourself selected for appointment against working post you will have to serve the Railway administration for minimum of five years if required by the Administration of your training of studies or conduct on discontinuing your studies or being discharge from the course or on refused to continue or any reason not beyond your control or if you do not continue in service an aforesaid you will be liable to pay and refund forthwith to the Government on demand with demur in cash all monies expended on you or on your account in respect of your training course as stated above together with interest on the said monies calculated at the rate in force for Govt. loans.

(ii) Before you start your training you will be required to produce an indemnity Bond binding yourself and one surety jointly and severally to refund in the event of your failing to satisfy the conditions stipulated above the post of training and all money paid to you in the manner detailed above together with interest on the said monies calculated at the rate in force for Govt. loans.

5. It must be clearly understood that the appointment is terminable on 14 days notice on either side except that no such notice is required if the termination of service is due to the expiry of the sanction to the post you held or on return to duty of the absentee in whose place you may be engaged in which case your service will be automatically terminated from the date of expiry of the sanction or from the date of the 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 or physical incapacity or to your removal or dismissal as a disciplinary measure after compliance with the provision of clause 11 Article 311 of the Constitution of India.

Not for service You will not be eligible for any pension or benefit under the state Railway Provident Fund or Gratuity Rules or to any absentee allowance beyond these admissible to temporary employee under the rules in force from time to time temporary service.

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

27/2

: 3 :

9. Your will be required to take an oath of allegiance or made an affirmation the form indicated below:-

" I Shri/Smt. Karlik Chandru Karmakar DO SWEAR/Solemnly affirm that I will be faithful and bear allegiance to India and to the Constitution of India as by law established and that I will carryout the duties of my office layally, honestly and with impartiality."

- SO HELP ME GOD *

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

11. If you intend to take up a poitment on these conditions, please report personnaly to the undersigned on or before but not earlier than failing which, this offer will lapse and will not be renewed. You pay will commence from the date you join duty at the office where you will be posted after have been certified medically fit.

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

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

14. Your appointment is also subject to production of Scheduled Caste/Scheduled Tribe certificate from the authority as advised in the enclosed specimen from (this condition applied only to the Scheduled Caste/Scheduled Tribes candidates.)

15. You shall be liable for Military service in the Railway Engg. Units of the Territorial Army for period of seven years in the Territorial Army Reserve for such period as may be laid down in this behalf from time to time.

16. Your seniority to the post of clerk in scale Rs. 90-1500/- (RP) will be determined on the basis of the merit order assigned by the Railway Recruitment Board.

Attested *17.2.2007* Please submit one copy of your recent passport size photo-graph while you are reporting for duty to this office.

27/3

: 4 :

18. While reporting to this office you are requested to submit one prescribed Railway Service Commission application form duly filled in all respects which can be had from all important Rly. Stations on payment of 2/- for unreserved candidates along with attested copies of certificate in support of your age and qualifications.

19. You will have to produce a certificate in support of your good conduct and character from a State Government Officer not below the rank of Additional Dy. Commissioner, PSP or from an MP/MLA.

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

21. While reporting to this office, you will have to deposit Rs. 12/- (Rupees twelve) only as pre-recruitment Medical Examination on Fee.

Encl: One 2nd Class Pass No. _____

I accept the offer on the terms detailed above and declare that I shall abide by the condition stipulated in para 10 above.

Signature of the candidates

Shri Kasturirao. Ch. Karmarkar.

W.L.D. 65/2
7.7.2002

for CHIEF PERSONNEL OFFICER: RECRUITMENT.

Copy forwarded for information and necessary action to the:—
_____. This has reference to his
endorsement No. _____ dated _____

he will please spare the staff in time so as to enable him/her
to join the new post within the date stipulated in para 11 above.

for CHIEF PERSONNEL OFFICER
NORTHEAST FRONTIER RAILWAY: MALICAO.

28

AM

Annexure G

NORTHEAST FRONTIER RAILWAY.

NOTE/227/44/41 (Recd.) Pt. VI

Office of the
Chief Personnel Officer,
(Recruitment Section),
Malgao: Guwahati-11.
Dated, 18-12-90.

To
Shri/Smt./Mr.

Kenrick Ch. Karimukai
(not at office).

Sub: Temporary appointment as Clerk/Passenger
Tender 1/Gr. II Accounts on Rs. 150/- per month
plus Rs. 100/- (PES) plus wages
allowances as admissible from time to time.

On being found medically fit in category C/2 you are
hereby directed to report to the Guwahati N. F. Railway R.D.
by _____ for your temporary appointment as Clerk
as specified above.

You will be required to produce an Indemnity Bond on
a non-judicial stamp paper with Rs. 16.50 binding yourself and on surety
jointly and severally to refund in the even of your failing to satisfy
the conditions mentioned therein, the cost of training and all monies
paid to you in the manner mentioned in this office letter No. E/227/44/41
(Recd.) Pt. VI dated 11-12-90.

You will be appointed to a working post for atleast a
month to acquire the background of the Railway working before being sent
for training.

You will be required to undergo a training for a
period of two/three months. The period of training after reporting to the
working post will be treated as on duty and same will count towards
increment and you will be eligible for the compensatory allowances, if any.

The other terms and conditions of your service will
be the same as stated in this office letter No. E/227/44/41 (Recd.) Pt. VI
dated 11-12-90.

Please acknowledge receipt.
DA/-1 set (second class pass No. 4)

for CHIEF PERSONNEL OFFICER, M.G.

Copy forwarded for information and necessary action to G.M./C.M./M.G. The
candidates prescribed RRB Form along with the enclosures and medical fit
certificate/certificate is enclosed for record. He will please ensure that
all terms and conditions as specified above and in the offer of appointment
letter (enclosed) are complied with. The date of which the candidate
is appointed should be intimated to this office. The candidate should be
asked to execute an Indemnity Bond on a non-judicial stamp paper in terms
of Rly. Board's Letter No. E/11G/61 AGI/2 dt. 16-8-65 circulated under
C.R.C./G.L.G's No. Recd/31E/227/144-0 IV(C) dt. 13-9-65. The value of non-judicial
stamp paper should be worth Rs. 16.50.

For CHIEF PERSONNEL OFFICER, M.G.

AB/12-6.

W.B. 17.7.2002

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Annexure - H

N.E. RAILWAY

Depot :- Stores

Category : Jr.Clerk(G)

Office of the
Distt. Controller of Stores,
New Bongaigaon.
Date :- 26-4-2000

Provisional seniority list of Jr.Clerk/G M/Clerk in
scale of Rs. 3050-400/- (RP) under DCOS/NBQ as on 1-4-2000.

S/NO.	Name.	T/SC/OBC	DOB.	DOA.	DOP.	Length of service.	Remarks.
1.	Sri Subhas Ch. Baruah.	SC	21.7.60	16.11.81	1.4.92	8.0.0	
2.	" Jaykaran	UR	3.12.62	27.8.86	1.4.92	"	
3.	Smt. Kiran bala Roy.	"	19.2.58	27.8.86	1.4.92	"	
4.	Sri S.P. Banerjee	"	13.12.68	27.4.92		7.11.4	
5.	" V.K. Choudhury	"	2.2.74	27.4.92		7.11.4	
6.	" Ram Narosh Roy	"	8.6.70	21.12.88	6.1.95	5.2.25	
7.	" Subrata Dey.	"	28.8.62	11.10.90	6.1.95	"	
8.	" P.R. Bhowmick	"	1.3.66	11.10.90	6.1.95	"	
9.	" Ranandra Ch. Wary.	ST	15.11.71	19.5.90	20.9.95	4.6.11	
					20.9.95		
10.	" Jadav Basumatary.	"	1.11.57	6.2.96		4.1.25	
11.	" Samar Bikram Seth	UR	20.10.70	5.2.97		3.1.26	
12.	" Saroj Kr. Jha	"	15.1.71	4.3.97		3.0.27	
13.	" S.P. Balmiki	SC	10.12.66	24.10.89	14.5.97	2.10.17	
14.	" Babulch. Das	"	1.9.66	11.10.90	14.5.97	2.10.17	
15.	" S. Sen Sharma	UR	1.4.67	11.10.90	14.5.97	2.10.17	
16.	" Juleus Basumatary	ST	25.2.72	6.10.98		1.5.26	
17.	" J.K. Chakroborty	UR	1.9.75	6.10.98		1.5.25	
18.	Miss Tapashi Bhowmick.	"	12.1.77	23.12.98		1.3.8	
19.	Sri K.C. Karmakar	"	2.10.70	27.12.90		0.1.3	Assigned paper list vide GM/P/ DCOS/NBQ
				28.2.2000			
20.	" Naba Kt Das	"	1.9.70	27.1.91		0.1.3	MIG's L/N. E/I/25(S) Ft-T(Loose) dt-25.2.00 25"
				28.2.2000			

NO : ES/25/NBQ dt - 27/4/2000

DCOS/NBQ.

Copy for information and paction to :- (1) DSK/I/G/NBQ
(2) OS/DCOS/Office (3) Secy NEHMU/NBQ, NFEHU/NBQ, ATSC & TREA/NBQ
(4) Staff concerned. (5) GM/P/MIG/CON.

N.B. : Staff concerned may submit their representation if any within
one month from the date of receipt of this list.

27/4/2000
Dated
27/4/2000

30

40

Annexure - 1

NORTHEAST FRONTIER RAILWAY:

Office of the
Chief Personnel Officer
(Recruitment Section).
Malgao: Guwahati-11.

NO: E/227/44/41 (Recd.) Pr. V1

Dated, the 25-12-90

TO: Shri/Smt./Md

Nabn. Kennlin 25

8/0 - Koti Sanberwan Dora : Po: Dhonaphur
-uk - Repetitor address/NO:

Sub:- Temporary Appointment as Tr. Office Clerk on pay Rs. 950/- per month in scale Rs. 950-1500/- (RP) plus usual Dearness Allowance an admissible from time to time.

DATE OF SELECTION BY RAILWAY RECRUITMENT
BOARD/GUWAHATI.

MERIT FIGURE

?.....

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

10. Application Form Sheet (b) Matriculation Admit Card

(a) Matriculation Mar Sheet (b) Matriculation
(b) School Leaving certificate from the Headmaster/
Headmistress.

2. Your will have to undergo training for a period of three/four months during which time you will be given the chance to pass the examination. If you fail in the examination within the stipulated period, you will be discharged. During training period you will receive a stipend of Rs. 950/- per month plus usual dearness allowance applicable from time to time.

allowance applicable from time to time.

3. On satisfactory completion of training ~~pass~~ and passing the prescribed examination test you will be eligible for appointment as Temporary Clerk on minimum of the scale Rs. 950-1500/- (RP)

(Contd..... 2/-)

DS255 90/-

30/1

; 2 ;

plus usual allowance applicable from time to time 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.

4. (1) On completion of your training if you get yourself selected for appointment against working post you will have to serve the Railway administration for minimum of five years if required by the Administration of your training of studies or conduct on discontinuing your studies or being discharge from the course or on refused to continue or any reason not beyond your control or if you do not continue in service an aforesaid you will be liable to pay and refund forthwith to the Government on demand with demur in cash all monies expended on you or on your account in respect of your training course as stated above together with interest on the said monies calculated at the rate in force for Govt. loans.

(iii) Before you start your training you will be required to produce an indemnity Bond binding yourself and one surety jointly and severally to refund in the event of your failing to satisfy the conditions stipulated above the post of training and all money paid to you in the manner detailed above together with interest on the said monies calculated at the rate in force for Govt. loans.

5. It must be clearly understood that the appointment is terminable on 14 days notice on either side except that no such notice is required if the termination of service is due to the expiry of the sanction to the post you held or on return to duty of the absentee in whose place you may be engaged in which case your service will be automatically terminated from the date of expiry of the sanction or from the date of the 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 or physical incapacity or to your removal or dismissal as a disciplinary measure after compliance with the provision of clause 11 Article 311 of the Constitution of India.

6. You will not be eligible for any pension or benefit under the state Railway Provident Fund or Gratuity Rules or to any absentee allowance beyond these admissible to temporary employee under the rules in force from time to time temporary service.

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

contd..... 3/

10/12/2020

30/2

98

: 4 :

18. While reporting to this office you are requested to submit one prescribed Railway Service Commission application form duly filled in all respects which can be had from all important Rly. Stations on payment of 2/- for unreserved candidates along with attested copies of certificate in support of your age and qualifications.

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

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

21. While reporting to this office, you will have to deposit Rs. 12/- (Rupees twelve) only as pre-recruitment Medical Examination on Fee.

Encl: One 2nd Class Pass No. _____

I accept the offer on the terms detailed above and declare that I shall abide by the condition stipulated in para 10 above.

Signature of the candidates

for CHIEF PERSONNEL OFFICER: RECRUITMENT:

Copy forwarded for information and necessary action to the:-

endorsement No. _____ dated _____

he will please spare the staff in time so as to enable him/her to join the new post within the date stipulated in para 11 above.

for CHIEF PERSONNEL OFFICER
NORTHEAST FRONTIER RAILWAY: MALICAN.

Attested

DS25590/

U. BISWAS
S. BISWAS, 17.7.2002

Attest

: 3 :

9. Your will be required to take an oath of allegiance or made an affirmation the form indicated below:-

" I Shri/Smt.

DO SWEAR/solemnly affirm that I will be faithful and bear allegiance to India and to the Constitution of India as by law established and that I will carryout the duties of my office layally, honestly and with impartiality."

- SO HELP ME GOD -

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

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

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

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

14. Your appointment is also subject to production of Scheduled Caste/Scheduled Tribe certificate from the authority as advised in the enclosed specimen from (this condition applied only to the Scheduled Caste/Scheduled Tribes candidates.)

15. You shall be liable for Military service in the Railway Engg. Units of the Territorial Army for period of seven years in the Territorial Army Reserve for such period as may be laid down in this behalf from time to time.

16. Your seniority to the post of clerk in scale Rs. 950-1500/- (RP) will be determined on the basis of the merit order assigned by the Railway Recruitment Board.

17. Please submit one copy of your recent passport size photograph while you are reporting for duty to this office.

Attested

contd... 4/-

M. K. Biswas
M. K. Biswas
(K. K. BISWAS)
Advocate

NORTHEAST FRONTIER RAILWAY.

NO. E/227/44/41 (Rectt.) Pt. VII

Office of the
Chief Personnel Officer,
(Recruitment Section),
Maligaon: Guwahati-11.
Dated, F-1 5.00.91

To

Shri/Smt./Mr. Nava Komta Das
(now at office).

Sub: Temporary appointment as Clerk/Personnel/
General/Gp. II Account on Rs. 950/- per month
in scale Rs. 950-1500/- (RPS) plus usual
allowances as admissible from time to time.

On being found medically fit in category C/2 you are
hereby directed to report to the Gm/Com N. F. Railway MLG,
as specified above. by _____ for your temporary appointment as clerk

You will be required to produce an Indemnity Bond on
a non-judicial stamp paper with Rs. 16.50 binding yourself and on surety
jointly and severally to refund in the even of your failing to satisfy
the conditions mentioned therein, the cost of training and all monies
paid to you in the manner mentioned in this office letter No. E/227/44/41
(Rectt.) Pt. VII dated 27-12-90.

You will be appointed to a working post for atleast a
month to acquire the background of the Railway working before being sent
for training.

You will be required to undergo a training for a
period of two/three months. The period of training after requirement in
the working post will be treated as on duty and same will count towards
increment and you will be eligible for the compensatory allowances, if any.

The other terms and conditions of your service will
be the same as stated in this office letter No. E/227/44/41 (Rectt.) Pt. VII
dated 27-12-90.

DA:-1 set second class pass No. _____ x

for CHIEF PERSONNEL OFFICER, MLG

Copy forwarded for information and necessary action to Gm/Com/MLG. The
candidates prescribed RRB Form along with the enclosures and medical fit
certificate certificate is enclosed. for record. He will please ensure that
all terms and conditions as specified above and in the offer of appoint-
ment letter (enclosed) are complied with. The date of which the candidate is
appointed should be intimated to this office. The candidate should be
asked to execute an Indemnity Bond on a non-judicial stamp paper in terms
of Rly. Board's letter No. E(NG)61 AGI/2 dt. 16-8-65 circulated under
CPO/MLG's No. Rectt/31E/227/144-0 IV(C) dt. 13-9-65. The value of non-judicial
stamp paper should be worth Rs. 16.50.

for CHIEF PERSONNEL OFFICER, M.G.

Attested

W. B. Das

17.7.2002

32

10

Annexure-K

THE UNIVERSITY OF TORONTO LIBRARIES
UNIVERSITY OF TORONTO LIBRARY

GETTER OPENER NO. 1190.

He/She will undergo training for a period of three months (1st month being in the workshop, 2nd to acquire the background of the railway) during which time he/she will be given the chance to pass the examination.

Or satisfactory completion of training and passing the prescribed test, before he will be appointed as temporary clerk (M) in scale Rs. 50-1500/- (HP) plus usual allowances admissible from time to time.

The other terms and conditions of his/her service will be the same as laid down in CO/Recb/Adm's Letter dated 22/2/61, dated 12/1/61, and other papers dated 12/1/61.

13/12/90

No. E/227/CON/2 Pt. VII Dated 21/12/1990

Copy for information and necessary action to:

1. CPO/Beatt/Molaison with reference to his No. 1111111111 dated 1/1/68
2. FA&CAO/CON/MLG.
3. COS/CON/MLG.
4. DY.CSTE/CON/MLG.
5. DSTE/CON/MLG.
6. OS/G/CON/MLG.
7. OS/BILL/CON/MLG.
8. Staff concerned at office.
9. B/copy for P/camp.

for GENERAL MANAGER (CON) / M.G. 27.12.70

2018-01-01

17.7.2002

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Annexure - L

NORTHEAST FRONTIER RAILWAY.

OFFICE OF THE
GENERAL MANAGER (CON)
GUWAHATI-11

OFFICE ORDER NO. 15/1990.

In terms of CFO/Rectt/MLG's letter No. E/227/44/41 (Rectt) Pt. VI dated 7-1-91 Sri/Smt Nalita Kanta Das son of/ daughter of Shri/Late Sukheswar Das a new recruit on compassionate ground under EM's Special Power/Ex-serviceeman quota who has reported to this office on 7-1-91 is hereby appointed as Trainee Junior Clerk/G on Rs.950/- per month plus usual dearness and other allowances as admissible from time to time and posted under CoS/CON/MLG.

He/She will undergo training for a period of three months (1st month being in the working post to acquire the background of the Railway) during which time he/she will be given the chance to pass the examination.

On satisfactory completion of training and passing the prescribed test, he/she will be appointed as temporary clerk(W) in scale Rs.950-1500/- (RP) plus usual allowance admissible from time to time.

The other terms and conditions of his/her service will be the same as laid down in CFO/Rectt/MLG's letter No. E/227/44/41 (Rectt) Pt. VI dated 27-12-90 and even number dated 7-1-91

SIGNATURE OF THE APPOINTING
AUTHORITY posting Date Officer/Con.
N.E. Railway/Barpeta, Gauhati

21.1.91

Dated

12/1990

No. E/227/CON/2 Pt. VII

Copy for information and necessary action to:-

1. CFO/Rectt/Maligaon with reference to his No. referred above dated _____.
2. FA&CAO/CON/MLG.
3. COS/CON/MLG.
4. DY.CSTE/CON/MLG.
5. DSTE/CON/F/MLG
6. OS/G/CON/MLG.
7. OS/BILL/CON/MLG.
8. Staff concerned at office.
9. S/copy for P/case.

Rehman
for GENERAL MANAGER (CON)/MLG. 18/1/91

18/1/91

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Annexure - M

Annexure - M

N. F. RAILWAY

Office of the
CHIEF PERSONNEL OFFICER
Gauhati-11.

NO. E/163/2(0)

Dated 9 - 5-1991.

To

CM/CON/M.G.,
CE, CME, COS, OM, CEC,
COPS, COS.

All other S.O.s & A.P.s.

Sub : Fixation of lien of construction staff under CM/CON/M.G.

The policy of fixation of lien of staff directly recruited in the Construction Organisation through RRB is also the staff posted on commissionate ground was spelt out in this office circular letter No. E/163/2(0) dt. 22.5.85, → SN/97 (Rever).

It was indicated, liens should be given to the staff, working in a particular category of the department in the Construction Organisation by the same category of the concerned department in the open line. That is, staff working in Civil Engg. department in the Construction Organisation should be given paper lien in the Civil Engg. Department of the open line, and those working in S&T Department in the Construction should have lien in the S & T Department on the open line and so on.

The seniority of the staff would be determined under normal rules regulating seniority of staff.

It may be confirmed that the above procedure is being followed in giving lien to the staff posted in the construction Organisation having been recruited by RRB/Commissionate ground.

Senior Personnel Officer/M.R.
for CHIEF PERSONNEL OFFICER/MALIGAON.

Attested

M.K. Sengar

C.K.

17-7-2002

3/58

9/5/91

M. P. Malhotra

Office of the
General Manager (P)
Bihar Gas Commission

Dated 25-6-2000

No. 5/1/25 (S) M. P. Malhotra

No. 1 1000/2000 &
1000/200025. Fixation of paper line of hierarchical
staff of DCOS/Construction & Works in
the Open Line of General Department.

The following Sr. Clerk (G) and Jr. Clerk (G) who are working
in Construction Organization under DCOS/200 & 212 have been assigned their
paper line in the Open Line in the General Department under DCOS/200 &
DCOS/200 respectively, As per percentage distribution of Construction
reserve post distributed in accordance in order of Seniority for the
purpose of their further advancement in future and to be placed in the
seniority list etc.

Their service particulars are furnished as under indicating
their paper line fix & under DCOS/200 & DCOS/200.

Sl.	Name and designation	Date of birth	Date of appointment	Paper line	Remarks
1.	Sr. Clerk (G)	23-4-91	23-4-91	DCOS/200	Directly recruited against M quota
2.	Jr. Clerk (G)	22-12-90	22-12-90	DCOS/200	Appointed on Open merit ground under DCOS Special Power.
3.	Jr. Clerk (G)	27-1-69	27-1-69	DCOS/200	-
4.	Jr. Clerk (G)	27-1-91	27-1-91	DCOS/200	-

Recovery action may be taken accordingly under intimation to this
office and DCOS/200/212.

This issue with the approval of the Competent Authority

for GENERAL MANAGER (P)

Attested
copy sent

(1) DCOS/200/212. This is in reference to DCOS/200/212's letter
No. DC/2/200 (Pt. III) dated 29-7-92.

(2) K. BISWA
Advocate
Attested
copy sent

for GENERAL MANAGER (P)

cc. 2/2.

36

Annexure - O

44 Alexander - C

W. F. RAILWAY

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

ms. E/255/101/7 (S) p+1.

Date: 28-02-2020

TG : Icos/ Ieq

Subject: Recasting of seniority of K. C. Kainaskar & M. K. Das, Jr.Clerk/G under COS/CON/MLG.

Re: - Your letter No. ES/26/INQ dtdsd:
26-12-2001.

In reference to the above, this is to inform that the matter regarding casting of seniority of the above named Construction staff, has been duly examined by the competent authority.

It is intimated that the fixing up of lien of staff of Construction Organisation is done as per extent instruction and also as per the administrative convenience. It is also mentioned here that the lien of the Construction Organisation staff has been fixed in various other Units also with the benefit of seniority from the date of their appointment.

Therefore, the aforesaid representation is discontinued. The lion of the above named two staff of Construction Organisation may be finally fixed in the Unit of DCOS/MSQ as per the directive issued under this office's letter No. D/163/2(C) dated: 09/05/1991 and D. D/255/101/7(S)Pt. I dated: 15/10/2001.

(P. W. MIDA)
Audit, Personnel Officer/ Head
of General Manager (P).

17.7.2002

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Annexure - P^b

N. F. Railway.

Office of the
Controller of Stores/Cn
Maligaon

No. SC/0/21B/pt.IV

dt. 12.1.2001.

To
Controller of Stores (P),
N.F.Rly/Maligaon.

Sub:- Fixation of seniority of Jr.Clerk (Q)
of NBQ unit.

18/2/01

2(two) appeal submitted by Shri Kartik
Ch.Karmakar & Shri Naba Kt. Das both are working
under COS/CON/Maligaon since 27.12.90. Their appeal
are sent herewith duly forwarded by Dy.COS/CON/MER/MLG
for favour of ~~the~~ necessary action at your end please.

DA: As above.

Attested

for COS/CON/MLG

17.7.2002
(R. K. DASRAO)
Attested

G. I. C.

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6X

Annexeure - P/1

To, The Controller of Stores(P),
N.F.Railway, Maligaon.
Guwahati-781011.

(Through proper channel)

Sub: Irregularities in fixation of
seniority of Jr.Clerk(G).

Ref: DCOS, N.F.Railway, LBQ's Seniority List
published vide letter no.ES/26/LBQ dt.
26-4-2000 & dt.31-10-2000.

Respected Sir,

I the following signatory working under
COS/COI/N.F.Railway, Maligaon, Guwahati-11, beg to approach
your goodself to the facts appended below for favour of yo-
ur kind and legal justification please.

That Sir, I was appointed as Jr.Clerk(G) on comp.ground
under G.M.'s special power vide CFO/MLG's letter no.E/227/44/
41(Recd)Pt.VII dt.18-12-90 and accordingly reported to COS/
COI/N.F.Rly/MLG on 27-12-1990 vide GM/COI/MLG's Office order
no. 284/1990 dt.27-12-90.(copies enclosed).

But I am sorry to inform you that as per DCOS/L.F.Rly/
LBQ's seniority list under reference Sl.no. 4,5,10,11,12,16,
17 & 18 are junior to me in appointment. My Seniority posit-
ion has been shown against Sl.no.19 whereas their names have
been shown as senior to me.

Though they are junior to me, in this connection I have
received a letter dt.31-10-2000 under reference against my
appeal dt. 16-5-2000(copy enclosed) which was submitted to
DCOS/LBQ for correction of seniority list please.

But it is not understood that the letter issued by DCOS/
LBQ, my seniority has been followed as per instruction of
COS(P)/MLG's letter i.o.E/1/25(S)/Pt.I dt.16-5-90, (copy enclosed).

Since, I have been appointed by GM/P/MLG and have been
working under COS/COI/MLG, since 27-12-90 as directed, my lien
was fixed with DCOS/LBQ. I should get my seniority from the
date of my appointment on 27-12-90 and the length of service
should be requested accordingly.

However, it is seen from the provisional list of Jr.Clerk
published by various stores unit for those staff who had
been appointed directly/ comp.ground in COS/COI/MLG's office and
their seniority have been shown as per date of appointment
in that list.(copies enclosed for ready reference please).
And the same staff Miss Dipti Phukan is on comp. ground as
Jr.Clerk(G) in GM/COI/MLG, her lien was fixed under SR.DEL/
MLG, seniority has been shown as per appointment in the
seniority list.(copy enclosed).

I therefore, request your honour kindly to make justic
and review my seniority position for which act of your kind-
ness I shall ever remain grateful to you.

Thanking you.

Date: 12-01-2001.

Yours faithfully,
Kaichik Chandra Karmakar.
(KAMLIK CH. KARMAKAR)
Sr.Clerk(ad-hoc)

37/2

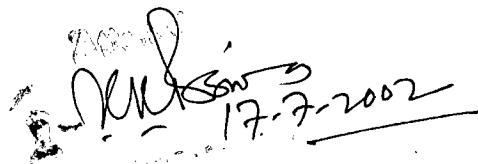
Annexure A/2

(2)

Copy to:-

- 1) COS, I.T.Railway, Itligon- it is stated that inspite of my appeal to DCOS/MLG, no positive response was received, hence he may kindly advise his good office to fixup seniority as per date of appointment as has been done in other staff's case.
- 2) COS/GPI/MLG- for information and necessary action please.
- 3) DCOS/I.T.Railway, MLG- for information and take any action.
- 4) SFO/GPI/MLG- for information and necessary action please.

Kartik Chandrakumar Karmakar.
(KARTIK CH. KARMAKAR)


17.7.2002

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Annexure - Q 69

To : DCOS/NBQ

Dated 16-5-2000.

THROUGH PROPER CHANNEL

Sub: Request for correction of **Provisional Seniority list of Jr.Clerk/G**
in Scale of Rs.3050-4590/- (R.P.)

Ref. i) GM/P/N.F.Rly/MLG's L/No.E/1/25(s) Pt.I (loose) dt.25/28.2.2000.
ii) Your L/No.ES/26/NBQ dt. 26.04.2000.

Sir,

With due respect & humble submission I beg to state the following few lines for favour of your kind justification please :

That Sir, I was appointed as Jr.Clerk/G vide CPO/MLG's L/No.E/227/44/41(Recrt.)Pt.VII dt. 18.12.90 and posted under COS/CON/NLG on 27.12.90 vide GM/P/CON/MLG's office order No.284/1990 circulated under L/No.E/227/CON/2 Pt.VII dt.27.12.90. Since my appointment in COS/CON/MLG my paper lieu was fixed under your kind control vide above referred letter quoted under (i).

Now, in terms of your above quoted letter under (ii), it is found in that list that my seniority position i.e. length of service period has been shown 0.1.3 against Srl.No.19 by levelling down my date of appointment to 28.2.2000 instead of 27.12.90.

In view of above, I would fervently request you to kindly show my date of appointment on **27.12.90** and length of service should be re-casted accordingly.

Hope your honour will issue a corrigendum to the above provisional seniority list early.

Thanking you,

Yours faithfully
Kartik Chaitanya Karmakar,
(K. C. Karmakar)
Sr Clerk(ad-hoc) under
COS/CON/Maligaon

Copy for information to :

- 1) Secretary, NFRMU/Maligaon Branch
- 2) GM/P/N.F.Rly.Maligaon.
- 3) GM/P/CON/Maligaon
- 4) OS/DCOS Office/NBQ

Kartik Chaitanya Karmakar,
(K. C. Karmakar)

Approved
M. Karmakar

17.7.2002

17.7.2002

39

Annexure - Q/1

To

The DCOS/New Bongaigaon,
N.F.Railway.

(Through Proper Channel)

Sub : 1) Suitability Test for Sr. Clerk(G)
2) Fixation of correct Seniority.

Ref : Your Letter No. ES/1/NBQ dt. 5-6-2002 & ES/26/NBQ
dt. 12-4-2002 & ES/26/NBQ dt. 26-4-2000.

Sir,

Most respectfully I beg to state that your provisional Seniority list dt. 12-4-2002 has since been published for holding a suitability test for the promotion of Sr.Clerk mentioned under reference, but the copy of which I has not been docketted go me as yet. It is per chance I have come to know of this publication of the provisional list (Seniority) and holding of suitability test for the promotion of Sr.Clerk(G). In this connection I would like to draw your kind attention to my appeal dtd. 16-5-2000 and 12-1-2001 wherein I had requested to correct my seniority position ^{per} as ~~rules~~ and re-assign it over Sri Subhas Ch. Sarker, mentioned in your letter dated 26-4-2000 under reference. It would be quite unfair, unjust and miscarriage of justice and arbitrary action if the proposed selection is held without rectifying my seniority position to it's correct place as Railway's own set of Rules.

Hope you would kindly take the appropriate action in the matter on it's proper perspective and render justice to this humble employee.

Conveying regards to your good and conscientious action.

Dated : 18/6/2002.

Copy to :-

1. GM/(P)/N.F.Rly/Maligaon
2. GM/CON(P)/N.F.Rly./Maligaon
3. COS/CON/N.F.Rly./Maligaon
4. CE/CON/II/N.F.Rly./Maligaon
5. COS/N.F.Rly/Maligaon
6. APO/N.F.Rly/New Bongaigaon.

Yours faithfully,

Kartik Ch. Karimakar,
Sr. Clerk (Acting) under
COS/CON/N.F.Rly, Maligaon.

Yours faithfully,

Kartik Chandra Karimakar.

Attested
S. M. Son
12-7-2002
(R. R. BISWAS)
Advocate

To
The General Manager (Con)
N. F. Railway,
Maligaon

40
Answre - R

Sir,

Sub: Appeal for correct fixation of seniority and postponement of the proposed suitability test for promotion to the post of senior clerk in Scale Rs. 4500 - 7000/- scheduled to be held on 08-7-2002.

Ref: My representation dt. 18.6.02 & DCOS/NBQ's notification No. ES/ I/ NBQ dt. 19-6-2002 and COS (Con) /N. F. Railway/ Maligaon's sparing Order No SC/G/218/Pr.1V dt. 25-6-2002.

Most respectfully I beg to state that despite series of representations by this applicant and issuance of directions by the various Administrative levels for correct fixation of my seniority in the grade of clerk (G), the DCOS/NBQ under whose control my lien is fixed, has fixed the date of holding written examination for the suitability test for the promotion of senior clerk in scale Rs. 4500 - 7000/- scheduled to be held on 08-7-2002 and caused detrimental effect to the undersigned for getting his correct seniority and proforma promotion at par with the persons shown under SN. 1 to 9 in the seniority list published under DCOS/ NBQ's No. ES/26/NBQ dt. 26-4-2000 (photo copy enclosed) whose date of appointment in Group "C" series, more particularly, in the grade & capacity of Jr. Clerk, are much later than that of this applicant. This is not only unfair and unjust but also miscarriage of justice to this applicant and thereby hits the constitutional provisions in respect of equality and employment.

In the premises mentioned above, it is, therefore, requested that your good conscience and magnanimity would take appropriate steps in the matter and issue directions to DCOS/NBQ so as to assign my correct seniority and give proforma promotion to me and till such time the proposed suitability test mentioned above is postponed.

And for this act of your kindness I shall remain ever grateful

Office of the General Manager
With all humility and regards,

Dated: 01-7-02

Yours faithfully,

दिनांक

Date

1 JUL 2002

Kartik Chandak (Kartmakar)

Ad - hoc senior clerk

Under controller of stores (Con),
N. F. Railway, Maligaon

1. General Manager, N. F. Railway, Maligaon
2. Chief Personnel Officer, N. F. Railway, Maligaon
3. Controller of Stores, N. F. Railway, Maligaon
4. Controller of Stores (Con), N. F. Railway, Maligaon
5. CE/Con/II, N. F. Railway/ Maligaon
6. Dy. CPO/Con/ N. F. Railway, Maligaon
7. DCOS/ N. F. Railway, New Bangaon, for information and with the request to take necessary action please.

DA: As above.

Kartik Chandak (Kartmakar),

..... Signature of the applicant

Brashe

01/07/02

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21

Annexure - R/

To,
DUOS/ New Campaign.
N.F.Railways

(Through proper channel)

Sir, sub: 1) Suitability Test for Sr. Clerk(G).
2) Fixation of correct Seniority.

Ref: Your letter No. RS/1/NBQ dt. 05-6-2002 &
RS/26/NBQ dt. 12-4-2002 & RS/26/NBQ
dt. 26-4-2002.

Most respectfully I beg to state that your provisional seniority list dt. 12-4-2002 has since been published for holding a suitability test for the promotion of Sr. Clerk mentioned under reference but the copy of which I have not been docketted to me as yet. It is per chance I have come to know of this publication of the provisional seniority list and holding of suitability test for the promotion of Sr. Clerk(G). In this connection I would like to draw your kind attention to appeal dt. 16-5-2000 and 12-1-2002 wherein I had requested to correct my seniority position as per rules and re-assign it over Sri Subhas Ch. Sarker, mentioned in your letter dated 26-4-2000 under reference. It would be quite unfair, unjust and miscarriage of Justice and Arbitrary action if the proposed selection is held without rectifying my seniority position to its correct place as per railway's own set of Rules.

Hope you would kindly take the appropriate action in the matter on its proper perspective and render justice to this humble employee.

Conveying regards to your good and conscientious action.

Yours faithfully,

N. Rabekanta Das
(NABA KANTA DAS)

Copy to:

- 1) GM/(P)/N.F.Rly./Malgach.
- 2) GM/CCG/(P)/N.F.Rly./Malgach.
- 3) CCS/CCG/N.F.Rly./Malgach.
- 4) CE/CCG/II/N.F.Rly./Malgach.
- 5) CCS/N.F.Rly./Malgach.
- 6) APO/N.F.Rly./New Campaign.

Attested
S. K. Das
(S. K. Das)
17.7.2002
(S. K. Das)

(NABA KANTA DAS)

To
The General Manager (Con)
N. F. Railway,
Maligaon

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Amrapur - S 13

Sir,

Sub: Appeal for correct fixation of seniority and postponement of the proposed suitability test for promotion to the post of senior clerk in Scale Rs. 4500 - 7000/- scheduled to be held on 08-7-2002.

Ref: My representation dt. 26.6.02 & DCOS/NBQ's notification No. ES/I/NBQ dt. 19-6-2002 and COS (Con) N. F. Railway/ Maligaon's sparing Order No. SC/G/218/ Pt. IV dt. 25-6-2002.

Most respectfully I beg to state that despite series of representations by this applicant and issuance of directions by the various Administrative levels for correct fixation of my seniority in the grade of clerk (G), the DCOS/NBQ under whose control my lien is fixed, has fixed the date of holding written examination for the suitability test for the promotion of senior clerk in scale Rs. 4500 - 7000/- scheduled to be held on 08-7-2002 and caused detrimental effect to the undersigned for getting his correct seniority and proforma promotion at par with the persons shown under SN. 1 to 9 in the seniority list published under DCOS/ NBQ's No. ES/26/NBQ dt. 26-4-2000 (photo-copy enclosed) whose date of appointment in Group "C" series, more particularly, in the grade & capacity of Jr. Clerk, are much later than that of this applicant. This is not only unfair and unjust but also miscarriage of justice to this applicant and thereby hits the constitutional provisions in respect of equality and employment.

In the premises mentioned above, it is, therefore, requested that your good conscience and magnanimity would take appropriate steps in the matter and issue directions to DCOS/NBQ so as to assign my correct seniority and give proforma promotion to me and till such time the proposed suitability test mentioned above is postponed.

And for this act of your kindness I shall remain ever grateful

With all humility and regards,

Office of the
General Manager

Dated: 01-7-2002

Yours faithfully,

1. General Manager, N. F. Railway, Maligaon
2. Chief Personnel Officer, N. F. Railway, Maligaon
3. Controller of Stores, N. F. Railway, Maligaon
4. Controller of Stores (Con), N. F. Railway, Maligaon
5. CE/Con/II, N. F. Railway/ Maligaon
6. Dy. CPO/Con/ N. F. Railway, Maligaon
7. DCOS/ N. F. Railway, New Bongaigaon, for information and with the request to take necessary action please. Regd. A/D

DA: As above

Forwarded.
N. F. Railway / (Signature)
Controller of Stores/
N. F. Railway, Maligaon

Ad - hoc senior clerk
Under Controller of stores (Con),
N. F. Railway, Maligaon

Signature of the applicant

Attested
12-7-2002
EIS



दयाल अर्य

भडार नियंत्रक (निः)

DAYAL ARYA

CONTROLLER OF STORES (CON)

पूर्वोत्तर सीमा रेलवे (निर्माण)

मालीगांव, गुवाहाटी : 781 011, असम

NORTHEAST FRONTIER RAILWAY (CONS)
MALIGAON, GUWAHATI-781 011, ASSAM

TELE : 0361-570102

FAX : 0361-570705

D.O.NO.SC/G/218/Pt.IV.

Dated: 01-02-2001

My dear Nigam,

Reg : Anomaly in Seniority.

I am sending herewith two representations received from S/Shri K.C. Karmakar & N. K. Das, Jr.Clerks(G) {now ad-hoc Sr.Clerk} under COS/CON/MLG for your kind consideration.

On perusal of the representations it appears that there is anomaly in seniority where both the staff are loosing nearly 10 years of service while fixing their paper lien at DCOS/NBQ vide their letter of even number dated 26-4-2000 (photo copy enclosed) showing D.O.A. as 27.12.90 and length of service

28.2.2000

as 0.1.3 and D.A.O. as 27.1.91 and length of service as 0.1.3 respectively

28.2.2000

(seniority assigned through paper lien vide GM/P/MLG's L/No.E/I/25(S)Pt.I(Loose) dated 25/28.2.2000 & No.E/I/25(S)/Pt.I(Loose) dt.19/20.10.2000 copies enclosed) which should have been fixed from the date of joining in service i.e. 27.12.90 and 27.1.91 respectively. In this connection, it is pointed out that while fixing seniority of the staff (high lighted in seniority list) those who have joined earlier to them in the Construction Organisation have got their seniority in Open Line from the date of their joining but in these cases this has not been done. The provisional seniority list of Stores Deptt. as on 1.4.92 & 1.4.99 and Engg. Deptt. as on 01.04.1999 along with all the connected documents are enclosed herewith for your kind perusal.

In view of the above, I , therefore, felt it necessary to bring the matter to your kind notice so that the above staff can get justice and get their seniority fixed correctly.

With best wishes,

Yours sincerely,

(Dayal Arya)

DA: As stated

✓ Shri A.K. Nigam,
CPO/Adm,
N.F.Railway, Maligaon. Guwahati-11.

28.1.2002

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Annexure - U

1/11/2000

U.E.E. 11/11/2000

COS/Com/MG

Office of the
General Manager (P),
N.F.Rly/Kaligandhi

15/10/2000 (S)/Pt-I.

Dated: 15/10/2000

2000
DCOS/NBQ,
N.F.Rly.

Sub:- Recasting of seniority of S/Sri K.C.Karmakar & N.K. Das, Jr.Clark (G) under COS/Com/MG.

Ref:- Your seniority list of Jr.Clark (G) No. ES/26/NBQ dt. 26-4-2000.

The appeal submitted by S/Sri K.C.Karmakar & N.K. Das Jr.Clark (G) under COS/Com/MG for recasting the seniority has been gone through in details.

The seniority list issued under your No. ES/26/NBQ dt. 26-4-2000 has also been examined. It has been observed that while fixing up the seniority of the above staff, GM(P)'s directive issued under No. C/163/2 (C) dt. 9-5-01 (copy enclosed) has not been taken care of.

You are, therefore, advised to recast the seniority of the above staff & let this office know in how the matter stands now. Further before recasting the seniority the affected staff should be given notice to submit their representation if they desire to do so.

DA- One

for General Manager (P),
N.F.Rly/Kaligandhi

Copy to:-

1. COS/Com/MG - for information please.

15/10/2000

for General Manager (P),
N.F.Rly/Kaligandhi

Attested

S. A. D. (S)

R. D. (S)

Accred.

17.7.2002

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Annexure V

N.F.RAILWAY.

NO : 86/16/PP.

Office of the
Distt. Controller of Stores,
New Bongaigaon.

Date :- 31.10.2000.

To,

1. Shri K.C. Karmakar, Clerk under COS/CON/MIG.
2. " N.K. Das,

Sub :- Appeal for correction of provisional
senierty list of Jr.Clerk (G) in scale no.
459/- dt- 26.4.2000.

Ref :- Your appeal dt- 16.5.2000/22.5.2000.

In reference to your appeal dt- 16.5.2000/22.5.2000
it is informed that a classification was sought from GM/P/LG
vide this office L/NO.GS/26/180/DCOS dt-9.6.2000 and GM/P/LG
vide L/V, E/I/25(G)/Pt-I (Leave) dt-19/22.10.2000 has inti-
mated that action is to be taken as per instructions of COS/P/
MLG'S L/V, E/I/25(G)/Pt-I dt-16.5.99 and this has already been
followed.

DCOS/NB.

Copy forwarded for information to :-

(1) COS/CON/MIG.

(2) GM/P/LG.

Store
9.11.2000

(Mf 31/10/2000)
DCOS/NB.

File this
11/11/2000

14/8/1

(Mf 6/11/2002)
17.11.2002

Annexure - C

N. E. RAILWAY

OFFICE ORDER

Smt.

The following Sr. Clerk (O) in scale E 1400-2040/- promoted as Sr. Clerk on 13-06-90 who could not be promoted in due time along with their juniors due to dispute in their seniority position and on being it is finalised are now given the proforma/promotion/seniority w.e.f. 8-9-89 without any arrear of payment etc. i.e. from the date of their juniors Smt. Nani Devi and Shri Avik Roy promoted as such :-

S/N	Name and designation	Working under	Proforma/ promotion/ seniority	Given w.e.f.
1.	Smt. Usha Sengupta, Sr. Clerk.	CDS/CIN/MLG.	8-9-89.	
2.	Smt. Purnima Das, Sr. Clerk.	-do-	8-9-89.	

For GENERAL MANAGER(P)/MLG:

No: E/210/III/64(S) Pt-IV (L). Maligaon, dt. 26-12-92.

Copy forwarded for information and necessary action to :-

1. GM(P)/CIN/MLG.
2. CDS/CIN/MLG.
3. GM/MLG.
4. Staff concerned.
5. P/Case.

For GENERAL MANAGER(P)/MLG:

Attested

26/12/2002
 (K. K. BISWAS)
 Advocate

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Annexure - X

15

Book No. 170

Serial No. 17027

Assam Scheduled Castes Development Council

Bhuban Chandra Road, Uzan Bazar.

GAUHATI-781001

(Regd. No. 217 of 1975-76)

This is to certify that Shri/Shrimati/Kumari Naba Kanta Das..... son/daughter/wife of Sarbeswar Das..... of village/town Dharapur..... in the District Kamrup..... of the State of ASSAM..... belongs to the Kaibarta..... caste which is recognised as a Scheduled Caste under the Constitution (Scheduled Castes) Order, 1950 as amended by the Scheduled Castes and Scheduled Tribes Lists (Modification Order) 1956.

Shri/Shrimati/Kumari Naba Kanta Das..... and/or his/her family ordinary resides in village/town Dharapur..... of Kamrup..... District of the State of ASSAM.....

Place— Gauhati

State— ASSAM

Countersigned.



Signature..... N. KANTA DAS

Designation..... SANITATION

Assam Scheduled Castes Development Council
Scheduled Castes

Development Council, Assam.

Note: The term "ordinarily resides" used here will have the same meaning as in Section 20 of the Representation of the Peoples Act, 1950.

Attested

R. K. BISWAS 7.7.2002
(R. K. BISWAS)
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,

GUWAHATI.

IN THE MATTER OF :

O.A. No. 221 of 2002

Sri Kartik Chandra Karmakar and
Sri Naba Kanta Das.

.. Applicants

VS.

Union of India and others

• • Respondents

- AND -

IN THE MATTER OF :

Written Statement for and on behalf of the
respondent Nos. 1 to 8.

The answering respondents most respectfully beg to sheweth as under :

18. That, the answering respondents have gone through
the copy of the application filed by the applicants ^{and} _^ have
understood the contents thereof.

2. That, the application suffers for want of valid cause of action and/or right for filing the application.

3. That, the application is not maintainable in its present form and is fit one to be dismissed in limine.

-: 2 :-

4. That the application is barred under the law of limitation and under Section 21 of the Central Administrative Tribunal Act, 1985.

The averments at paragraph 3 of the application are not correct and hence not admitted.

5. That, save and except those statements of the applicants which are admitted herein below or are borne on records, all other averments/allegations of the applicants ~~in the~~ ^{Application} are denied herewith and the applicants are put to strictest proof thereof.

6.(a) That, all actions taken in the case are quite in consonance to the rules and procedures in vogue and all actions have been taken after going thoroughly into the merit and facts of the cases and there has been no illegality, irregularity or arbitrariness in the case, as alleged.

(b) That, for the sake of brevity, the meticulous denial of each and every statements in the different paragraphs of the application have been avoided. The answering respondents have been advised to confine their submissions only to the relevant points in the application.

7. That, as it is felt necessary to submit before the Hon'ble Tribunal in brief the fact of the case, the same is submitted herunder for proper appreciation of the case :

-: 3 :-

Sri K. C. Karmakar and Sri N. K. Das were appointed as Junior Clerk on 27.12.90 and 27.1.91 respectively and posted under Controller of Stores, N.F. Railway (Construction), Maligaon, General Manager/Personnel/Maligaon (in short GM(P)/N.F. Railway, Maligaon) under letter No. E/1/25(S) Pt.I(Loose) dated 25/28.2.2000 fixed paper lien of S/Sri K. C. Karmakar and Naba Kanta Das (applicants) in the Junior Clerk grade under District Controller of Stores, New Bongaigaon.

As per guide lines issued by the Controller of Stores/Personnel/Maligaon vide Letter No. E/1/25(S) Part I dated 16.5.90 they were placed at the bottom of the seniority list of Junior Clerk published as on 1.04.2000 issued under No.ES/26/NBQ dated 26.4.2002.

On consideration of their appeal (of the staff concerned) and as per instruction of GM(P)/Maligaon issued under letter No. E/255/101/7(S) Pt.I dated 15/16.10.2001, the seniority list was recasted, and as per normal rules of seniority they have been placed at their appropriate place.

~~C~~ In the meantime on 17.4.2000 prior to the issue of the recasted seniority list Sarbeshri Subhas Chandra Sarker and some other staff (Sl. No. 3 to 11 in the recasted seniority list of Junior Clerk as on 1.4.2000) were promoted to the post of Senior Clerk whose names figure as Junior to the applicants in the Junior Clerks re-casted Seniority list.

It was therefore decided to hold a suitability written test for filling up 7 Nos. of post of Senior Clerk and accordingly the applicants (S/Sri Karmakar and Das) were

:- 4 :-

advised to attend the suitability test, date of which was fixed on 8.7.2002. They were also informed that if they qualify themselves in the suitability test, they would get proforma fixation etc. as per rules in respect of their juniors already promoted to the post of senior clerk. But they remained absent in the test on 8.7.2002 and appeared in the absentee which was held on 22.7.2002. But in the absentee selection they could not come out successful and thus found not suitable in the test.

8. That, with regard to averments made at paragraphs 4.1 to 4.4 of the application it is submitted that nothing are accepted as correct except those which are borne on records or are specifically admitted here-under as correct. For the rest of the statements the applicant is put to strictest proof thereof.

9. That, with regard to averments at paragraph No. 4.5 of the application it is submitted that General Manager (P)/Maligaon fixed paper lien of the applicants S/Sri Karmakar and Das in the junior clerk grade under District Controller of Stores, New Bongaigaon, N.F. Railway vide letter No.E/1/25(s)Pt.I(Loose) dated 25/28.2.2000, copy of the said letter dated 25/28.2.2000 has already been annexed as Annexure- N to the application.

10. That, with regard to averments at paragraph 4.6 of the application it is submitted that this seniority list published at the initial stage under No. ES/26/NBQ dated 26.4.2000 (a copy which has been annexed as Annexure- A to the application) was issued by District Controller of Stores, New Bongaigaon, N.F. Railway as no guide line was

:- 5 :-

received as regards the mode etc. for fixation seniority etc. at the time of receipt of letter giving the applicants, the paper lien.

It is also to mention herein that in the said seniority list dated 26.4.2000 it was clearly mentioned inter-alia as under :

"Provisional seniority of Jr. Clerks
as on 1-4-2000
26.4.2000.
Copy to Staff concerned
.
Staff concerned may submit ^{their} representation, if any
within one month from the date of receipt of this
seniority list."

Thus, it is well apparent that this seniority list was not final and was subject to correction and was issued on provisional basis in absence of required guide lines.

11. That, with regard to averments at paragraphs 4.7 and 4.8 of the application it is submitted that the allegations as made in the application are not correct. It is not correct to say that the private respondent Sl. Nos. 9 to 18 in the application are enjoying the benefit of promotion as senior clerk and Head clerk by way proforma fixation. In fact, the seniority list has already been recast as on 1.4.2000 and, applicants were placed in their appropriate place in the Junior Clerk's cadre on receipt of necessary instructions regarding fixation of seniority etc. from General Manager(P), Maligaon's office as will be well apparent from Annexure- 'B' (dated 22.5.2002) to the application.

12. That, with regard to averments at paragraphs 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16 and 4.17 of application, it is to submit herein that the allegations of the applicants are not correct and hence these are denied herewith. It is quite a wrong imputation that there had been any miscarriage of Justice caused to the applicants or the authorities turned a deaf ear or the grievances of the applicants remained unsettled for all these years as alleged by them, or, there were series of representations from their end.

~~It is to mention herein that from the application itself it is quite apparent that the provisional seniority list was dated 26.4.2000 (Annexure- A to the application) and next corrected seniority list was published on 22.5.2002. (Copy annexed as Annexure- B to the application) and the temporary promotion order of Junior Clerks (respondent Nos. 9 to 18) to the post of Sr. Clerk was issued on 7.4.2000 on basis of suitability test. After re-casting of seniority list of Jr. Clerks, the applicants have clearly been shown as Senior to respondent No. 9 to 18 of the application and a suitability test for the applicants was also arranged on 8.7.2002 with following conditions inter alia as was intimated to the applicant under letter dated 27.6.2002 :~~

"if you will qualify yourselves in the suitability test to be held on 8.7.2002, you will be eligible for preforma fixation alongwith your Junior, Sri Subhas Ch. Sarkar who already promoted to the post of Sr. Clerk (G) as per extant rules."

:- 7 :-

As such, from above, it is quite clear that the Railway Administration had no intention to deprive him of his legitimate position which is quite dependant on their being found suitable for the post of Senior Clerk to be adjudged on the basis of their performance in the examination to be held on 8.7.2002.

A copy of the said promotion Order No. E/NBQ/2000/9 dated 17.4.2000 issued by District Controller of Stores, New Bongaigaon, N.F. Railway ~~letter~~ and the photo copy of District Controller of Stores, New Bongaigaon, N.F. Railway's letters to both the applicants dated 27.6.2002 are annexed hereto as Annexures I and II respectively for ready perusal.

It is also to mention herein that the promotion to the post of Sr. Clerk etc. can be given only after the staff qualifies in the written test held for adjudging suitability of a staff for such post and the applicant could not qualify in such test and as such question of his promotion as Senior Clerk does not arise. As regards restoration of their seniority in Junior Clerks category, the same were already done by issuing the corrected seniority list dated 22.5.2002 and further intimation were also issued on 27.6.2002 to them to the effect that if they qualify in the Senior Clerks suitability test to be held on 8.7.2002 then they would be eligible for proforma fixation with their Junior Sri Subhas Ch. Sarker (respondent No. 10) in this application.

In view of above, it is quite evident that all their allegations are baseless and unfounded and the application suffers from defects of suppression of fact that they were

-: 8 :-

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S.P. Rly. / Malla Sree
Gangayogi
Personnel Office (A)
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already given the assurance that their promotional benefits etc. would be given with retrospective effect provided they qualify for the post of Senior Clerk in the written test held on 8.7.2002 etc.

Since they could not qualify for the post of Sr. Clerk and failed in the suitability test they are to blame themselves for their lot.

Further, due notice was taken to his representation and there has been no prejudicial, unfair, unjust and discriminatory treatment/policy in treating the applicant's case Vis-a-vis other staff working in same establishment/cadre as alleged and there has been no irregularity in asking them to appear in the suitability test for promotion to Senior Clerks post or intimating them that their eligibility for proforma fixation as Senior Clerk above Sri Subhas Ch. Sarkar is dependant on their qualifying in the suitability test for Sr. Clerks post as mentioned in the above said letter dated 27.6.2002.

Seniority of Junior Clerks was re-casted on 28.12.2001 giving full weightage of their service as Junior Clerk from date of appointment as will reveal from the photo copy of the said seniority list dated 13.12.01 (annexed here-to as Annexure II), read with L.M.(P), N.F. Railway's letter no. E/255/101/7(S) Pt I dated 28.2.02 (Copy annexed hereto as Annexure IV).

It is also to mention herein that Sri Sisir Kumar Das and Sri R. Wary were promoted to the post of Head Clerk against S.C. and S.T. quotas from 1.6.02 and 11.5.02 respectively and it is submitted that there has been no irregularity in such promotion.

-: 9 :-

13. That, with regard to averment at paragraph 4.18 and 4.19 of the application it is submitted that there has not been any instance in the case which may exhibit that there has been any deviation from the democratic process of openness of Government or right to know by the employees. The allegations of the applicants that the applicants are quite in dark for the alleged murky publication of the seniority list of Junior Clerk or that the same deprived them of their rightful claim of seniority, promotion and other consequential service benefits are quite baseless, unfound and incorrect and hence denied herewith. It is quite pertinent to mention herein that the seniority list ^{was} already published and the same circulated amongst all concerned and it was recasted also as will be evident from the submissions in the foregoing paragraphs of ~~this~~ this written statement.

14. That, with regard to allegations made at paragraph 4.20 of the application it is submitted that the allegations of the applicant to the effect that seniority and promotion of the applicants were not given at the proper place of their rightful claim even after lapse of more than a decades time are quite incorrect and hence denied herewith. It is reiterated that the applicants were already given due seniority position etc. in the corrected seniority ^{list} published on 13.12.01 as stated herein before. Paper lien for Junior Clerk's post under District Controller of Stores, New Bongaigaon was fixed in February, 2002 and the seniority list published as on 1.4.2000 has already been recasted showing the two applicants as senior most Junior Clerk.

However, their promotion and refixation of seniority position to the post of Senior Clerk depended on their passing the suitability test for the post of Senior Clerk in which they failed to succeed in the examination.

15. That, with regard to the contention/allegations at paragraph 4.21 of the application it is submitted that the allegations are not correct and hence not admitted. There was no paper in the hand of District Controller of Stores, New Bongaigaon which could show that Sri Naba Kanta Das was a Scheduled Caste. Further, Sri Das also never put up his claim or informed the office of District Controller of Stores, New Bongaigaon in this regard. Further, his claim for further promotion etc. was completely dependant on his passing the suitability test for Senior clerk.

16. That, in view of what have been submitted in the above paragraphs of this written statement, none of the grounds for relief as mentioned in paragraph 5 of the application and relief as sought under paragraphs 8 and 9 of the application are sustainable under law and fact of the case and the prayers are liable to be rejected.

It is completely denied that there has been any violations of rules or constitutional provisions like Articles 14, 16, 39(A) and 309 or there were any derogatory and discriminatory policy to hold the suitability test of the applicants or written suitability test was sought to be hold

-:- 11 :-

without correcting their seniority position or ^{that} fairness of Administrative Justice and Natural Justice were not observed as alleged.

17. That, it is submitted that all the actions taken in the case by the respondents are quite legal, valid and proper and have been taken after due application of mind and that the present case is based on wrong premises and suffers from misconception and mis-interpretation of rules and laws on the subject besides ~~mixing~~ basing on surmise only.

18. That, necessary enquiries are still under progress and the answering respondents crave leave of the Hon'ble Tribunal to file additional Written Statement, if found necessary after such enquiries, for the ends of Justice.

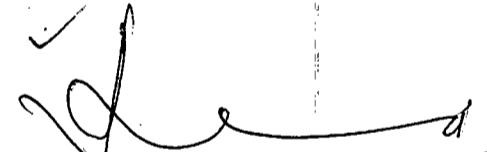
19. That, under the facts and circumstances of the case, as stated in the foregoing paragraphs of the Written Statement, the instant application is not maintainable under law and fact of the case and is liable to be dismissed.

..... Verification.

59
90
-: 12 :-

VERIFICATION

I, A. K. Nigam son of
Late S.P. Gaurha aged about 48 years,
by occupation Railway Service, working as CPO/Admin.
of the N. F. Railway Administration,
Maligaon, Guwahati do hereby solemnly affirm and state that
the statements made in paragraph 1 is true to my
knowledge and those made in paragraphs 7 to 15 are based
on information as gathered from records of the case, which
I believe to be true and the rest are my humble submissions
before the Hon'ble Tribunal and I sign this verification on
this 14th day of December, 2002.



NORTHEAST FRONTIER RAILWAY
MALIGAON : GUWAHATI-11
FOR AND ON BEHALF OF
UNION OF INDIA.

Chief Personnel Office (A)
R. F. Ry, / Maligaon
Guwahati-11

Office order
N.O. E/NBQ/2000/9.Office of the
Controller of Stores,
New Bongaigaon.
Date :- 17.4.2000.

The following Jr.clerk(G) in scale Rs. 3050-4590/- RP/97 who have been empenalised for promotion to the post of Sr.clerk(G) in scale Rs.4500-7000/- RP/97 vide Memorandum N.O. ES/34/NBQ dt- 17.4.2000 are hereby temporarily promoted to officiate as Sr.clerk(G) in scale Rs. 4500-7000/-RP/97 against the existing vacancy and posted as where in basis on pay shown against each to take with immediate effect.

S/NO.	Name.	Present pay.	Pay now fixed in scale Rs.4500-7000/- RP/97.
1.	Sri Subhas ch. Sarker (SC)	3500/-	4500/-
2.	" Jay Karan	3500/-	4500/-
3.	Smt. Kiran Bala Roy.	3500/-	4500/-
4.	Sri S.P. Banarjee.	3500/-	4500/-
5.	" V.K. Choudhury.	3500/-	4500/-
6.	" Ram Naresh Roy.	3500/-	4500/-
7.	" Subrata Dey.	3420/-	4500/-
8.	" P.R. Bhowmick.	3425/-	4500/-
9.	" Ranandra ch. Wary. (ST)	3350/-	4500/-

N.B. Promotion of SL. NO. 9 will take effect from 7-5-2000 vice sri S.Basumatary, who is under order of promotion to the post of Hd. clerk vide this o.o. N.O. E/NBQ/2000/8 dt- 10.3.2000.

N.O. : ES/I/NBQ.

DCOS/NBQ.

Copy forwarded for information & action to :
 (1) GM/P/MLG. (2) SAO/NBQ. (3) DSK/I/G/NBQ.
 (4) Staff concerned (5) P/Case (6) E/Bill.

DCOS/NBQ.

JTB-

REF. NUMBER

AN 1 AP/1/100.

Office of the
Distt. Controller of Stamps
Hnr. Bongaigaon.
Date is 27/6/2002.

To

1. Sri K.C. Karakor, Sr.Clerk(Adhoc) under COB/CON/MLG.
2. " N.K. Das,

Sub 1 - Suitability Test for Sr.Clerk(0).

Ref 1 - Your appeal dt- 19.6.2002.

In reference to your appeal dt- 19.6.2002 it is intimated that if you qualify yourselves in the suitability Test to be held on 8.7.02, you will be eligible for proforma fixation alongwith your junior, Shri Subhas Ch. Parker who already promoted to the post of Sr.Clerk(0) as per extent rules.

You are therefore advised to attend the suitability Test to be held on 8.7.2002. Otherwise you will lose your seniority in the grade of Sr.Clerk(0).

APD/1/100
for COB/CON/MLG.

Copy forwarded for information & action to :-

- (1) COB/P/MLG.
- (2) COB/MLG.
- (3) COB/CON/MLG.

APD/1/100
for COB/CON/MLG.

GRABIN

..... c/d

ANNEXURE - III

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Annexure - I.

Seniority position of Jr.clerk/G/M/Clerk after recasting as on
1.4.2000 under DCOS/NBQ.

S/No.	Name.	ST/SC/ OBC	DOB	DOA	DO.Pas Jr.clerk.	Length of service	Remarks.
1	2	3	4	5	6	7	8
1.	Shri K.C.Karmakar.	UR	2.10.70	27.12.90	27.12.90	9.3.4	
2.	" N.K. Das.	"	1.9.70	27.1.91	27.1.91	9.2.4	
3.	" S.C.Sarkar.	SC	21.7.60	16.11.81	1.4.92	3.0.0	
4.	" Jaykaran.	UR	3.12.62	2.7.86	1.4.92	8.0.0	
5.	Smt. Kiran bala Roy.	"	19.2.58	27.8.86	1.4.92	8.0.0	
6.	Shri S.P.Banerjee.	"	13.12.68	27.4.92	27.4.92	7.11.4	
7.	" V.K.Choudhury.	"	2.2.74	27.4.92	27.4.92	7.11.4	
8.	" Ram Naresh Roy.	"	8.6.70	21.12.83	6.1.95	5.2.25	
9.	" Subrata Dey.	"	28.8.62	11.10.90	6.1.95	5.2.25	
10.	" P.R. Bhowmick.	"	1.3.66	11.10.90	6.1.95	5.2.25	
11.	" R.C. Mary.	ST	15.11.71	19.5.90	20.9.95	4.6.11	
12.	" Jadav Basumatary.	"	1.11.67	6.2.96	6.2.96	4.1.25	
13.	" Ram Naresh Paswan.	SC	22.2.69	4.3.96	4.3.96	4.0.27	Working under DACOS/APDJ.
14.	" Samar Bikram Seth.	UR	20.10.70	5.2.97	5.2.97	3.1.26	
15.	" S.K. Jha.	UR	15.1.71	4.3.97	4.3.97	3.0.27	
16.	" S.P. Balmiki.	SC	10.12.66	24.10.89	14.5.97	2.10.17	
17.	" Babul ch. Das.	"	1.9.66	11.10.90	14.5.97	2.10.17	
18.	" S. Sen Sharma.	UR	1.4.67	11.10.90	14.5.97	2.10.17	

Cont - P-2.

9
RMF 87

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19. Shri Juleus Basumatary.	ST	25.2.72	6.10.98	6.10.98	1.5.25
20. * J.K. Chakraborty.	UR	1.9.75	6.10.98	6.10.98	1.5.25
21. Miss Tapashi Bhawmick.	*	12.1.77	23.12.98	23.12.98	1.3.98

You are requested to circulate the above position among the staff concerned and send the representation received from the staff concerned, if any, to this end within 27.12.2001 for further action.

DAV

Copy for Notice Board. (NIBG Dipu) -

13/12/01
DCOS/NBQ
cc

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

No. E/255/101/7(S)Pt-I.

Dated: 28-02-2002.

To :

DGOS/MHQ

Sub:- Recasting of seniority of K. C.
Karmakar & N. K. Das, Jr.Clerk/G
under COS/CON/MLG.

Ref:- Your letter No. ES/26/MHQ dated:
28-12-2001.

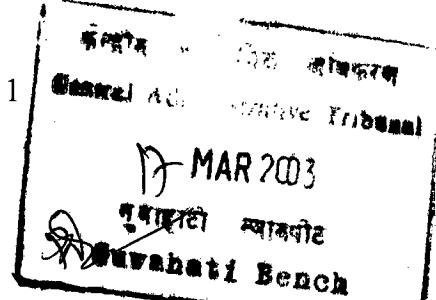
In reference to the above, this is to inform that the matter regarding casting of seniority of the above named Construction staff, has been duly examined by the competent authority.

It is intimated that the fixing up of lien of staff of Construction Organisation is done as per extent instruction and also as per the administrative convenience. It is also mentioned here that the lien of the Construction Organisation staff has been fixed in various other Units also with the benefit of seniority from the date of their appointment.

Therefore, the aforesaid representation is disposed of. The lien of the above named two staff of Construction Organisation may be finally fixed in the Unit of DGOS/MHQ as per the directive issued under this office' letter No. E/163/2(G) dated: 09/05/1991 and No. E/255/101/7(S)Pt.I dated: 15/10/2001.

(R. MISRA)
Asstt. Personnel Officer/ M&B
for General Manager (P).

CC
RMS



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 221 of 2002.

Sri Kartik Chandra Karmakar, S/o. Late Jagadish Karmakar, working as Adhoc Senior clerk under Controller of Stores (Con.), N. F. Railway, Maligaon, Guwahati – 781 011.

AND

Sri Naba Kanta Das, S/o. Late Sarbeswar Das, working as Adhoc Senior clerk under Controller of Stores (Con.), N. F. Railway, Maligaon, Guwahati – 781 011.

-----Applicants

Vs.

Union of India and others ---Respondents/Opp. Parties

IN THE MATTER OF:

Rejoinder to the Written Statement submitted by the Respondents Nos. 1 to 8 .

The petition of the Applicants most respectfully sheweth :

1. That the Applicants in reply to the para – 1 of the Written Statement submitted by the Respondents offer no comments.

(Contd....2: That the)

Filed by
Nupur
14.3.2003
Advocate

Kartik Chandra Karmakar

14-3-2003
Mukesh
Karmakar
Chandru
Karmakar
Karmakar

2. That the Respondents have not offered reasons under paras 2,3 and 4 of their Written Statement for which the Application suffers for want of valid cause of action/right for filing the Application, nor maintainability and the bar of limitation.
3. That the Applicants offer no comments against paragraph 5 of the Written Statement submitted by the Respondents.
4. That it is submitted that the statement made under para 6 (a) and (b) have not been correctly reflected by the Respondents in their Written Statement.
5. That in regard to the statement made by the Respondents under para 7 of their Written Statement it is submitted that the correct picture of the position, claim and the action taken by the administration have not been correctly shown. The fact of the case which was already mentioned in details under paragraphs 4.1 to 4.7 in the O.A. 221 of 2002 and highlighted in the said O.A. with the supportive Annexures are re-iterated here for appraisal of your Lordships. The answers to different sub paras of the statement in the said para are as under:
 - 5.1. The Respondents in their Written Statement have agreed

(Contd....3:that the lien.....)

67

14-3-2009
Advocate
Karmakar
Chanda
Karmakar

that the lien of the Applicants was fixed with DCOS/NBQ vide their letter dated 28.2.2000(Annexure - N of O.A.). The date of appointments of the Applicants were there. Then how the Applicants' names came down at the bottom of DCOS/NBQ's letter dated 26.4.2000 (Annexure-A of O.A.). In fact, this letter of 26.4.2000 is the **basis** of all representations of the Applicants and filing this O.A. before this Hon'ble Tribunal.

- 5.2. Even after getting the "guidelines" on 16.5.90, as stated by the Respondents, why the Applicants were placed at the bottom of the seniority list of Junior Clerk published on 1.4.2000, i.e., *after lapse of 10 years time.*
- 5.3. Moreover, no letter under No. ES/26/NBQ dated 26.4.2000 as stated by the Respondents, was communicated to the Applicants.
- 5.4. The letter issued on 26.4.2000 and the letter signed on 13.12.2001 by DCOS/NBQ (Annexure -A of the O.A. and Annexure-III of the Respondent's Written Statement), wherein by both the seniority lists the seniority of Junior Clerks was shown "as on 1.4.2000" and in *the earlier seniority list the Applicant's names were shown at the top whereas in the latter's*

(Contd....4: *seniority list, published....*)

seniority list, published by the same DCOS/NBQ, the Applicants names were shown at the bottom. This “top” and “bottom”, both cannot be placed at the same time and at the same place. It is the clear proof of fabrication by mal-intention after the institution of this O.A.

5.5. When the “*guidelines*” were *received by 16.5.90* and *seniority of the Applicants were shown as on 1.4.2000*, as stated by the Respondents in their Written Statement, then why and how on *17.4.2000*, excluding the names of the Applicants appearing in the Sl. Nos. 1 and 2 of the said seniority list, “*Sarbashri Subhas Chandra Sarkar and some other staff (Sl. No. 3 to 11) in the recasted seniority list of Junior Clerk as on 1.4.2000*”, as stated by the Respondents, “*were promoted to the post of Senior Clerk*”.

This is, indeed, an unfair play and against all cannons of justice under the sun, which proves deliberate intention to victimize the Applicants for some vested interest.

5.6. The Respondents have not taken any action for the wrong fixation of seniority and flouting of Railway Board's Rules communicated under No. E50/RCI/16/3 dated 23.7.1954 and Railway codal provisions under Rule 228 of IREM Vol.-I, 1989 and Rule 2927.R.II of

(Contd...5:Establishment Court.....)

100
14-3-2003
Advocate

Establishment Code in giving "erroneous promotion" to the juniors of the Applicants shown above and also stated by the Respondents in their Written Statement.

- 5.7. The Questions papers and Answer Scripts of suitability tests for Senior Clerks held on 17.4.2000, 8.7.2002 and 22.7.2002 have been challenged and asked for filing before this Hon'ble Tribunal vide Misc. case No. 27....of 2003.
6. That in respect of para 8 of the Written Statement submitted by the Respondents the Applicants offer no comments as they have already mentioned in the original petition.
7. That in respect of the para-9 of the Written Statement made by the Respondents the Applicants beg to state that if seniority was fixed on 1.4.2000, as stated by the Respondents, then why letter No. ES/26/NBQ dated 31.10.2000 (Annexure -V) was issued by the DCOS/NBQ to Applicants stating that "clarification has been sought from General Manager (P)/Maligaon". Thus, the statement in this para becomes infructuous and "afterthought" plea, which also has become inconsistent.

(Contd...6: That in regard....)

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10
 Mr. Biswas
 14-3-2003
 Advocate
 Karmakar
 Chandramukhi
 Karthik

8. That in regard to the statement made under para 10 of the Written statement it is submitted that the statement was not correctly made by the Respondent, though under VERIFICATION signed by the Chief Personnel Officer (Administration) of the N.F. Railway/Maligaon. It is completely a deviation from the fact. The Respondent's submission in this para are not in conformity with their action taken. If on earlier date i.e., 1.4.2000^{seniority} was correctly fixed, then how it was re-fixed and revised on 26.04.2000 and for which the Applicants submitted series of representations against this incorrect assignment of seniority published on 26.4.2000. The question of "absence of required guidelines" is also futile, as Chief Personnel Officer/N.F. Railway/Maligaon and General Manager(P), N.F. Railway, Maligaon vide their letters Nos...E/163/2(C) dated 9.5.1991 and E/1/25(S)/Pt.-I (Loose) dated 25/28.2.2000 respectively, (Annexures M & N of the O.A.) have categorically and very much candidly instructed all concerned officials and, more particularly the DCOS/N. F. Railway/NBQ, as to how the lien and seniority of the employees appointed on ^{and working in construction organisation} compassionate ground in both group C and D categories to be fixed. Had the guidelines/instructions mentioned therein been followed meticulously, the question of all these anomalies, representations and filing of the O.A. in

(Contd...7: this Hon'ble.....)

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14-3-2002
Advocate

this Hon'ble Tribunal by the Applicants could not have arisen at all. This was completely because of inaction and wrong action of the DCOS/NBQ, Respondent No. 8, and within the very knowledge of all other Respondents under 1 to 7 of the O.A.

9. That in regard to the statement made under para 11 in the Written Statement by the Respondent it is submitted that the seniority list as shown published on 1.4.2000 under annexure-III of the said Written Statement was an "afterthought" action and only made after filing this O.A. in the Hon'ble Tribunal, and that too, without observing any procedures invoke according to the Railway Rules, ***not even the relevant file No. or communication No. is also inserted thereto and no copy was docketed to any of the concerned authorities***, including the Applicants and respective Union Officials, which everyone has to mark, note and agree.

10. That in respect of para 12 of the Written Statement made by the Respondents it is submitted that if the seniority list as enclosed under annexure-III of the said Written Statement and contents made therein were done correctly and honestly then why the Applicants were not called for in the suitability test for promotion to the post of Senior

(Contd...8: Clerk, the order.....)

Chandrika Karanakar.

Kartik

72
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14-3-2003
Advocate

Clerk, the order of which was issued on 17.4.2000, along with the Respondents Nos. 9 to 18, by the DCOS/NBQ, the Respondent No. 8, and why then the said Respondent No. 8, DCOS/NBQ, imposed condition upon the Applicants that "if you will qualify yourself in the suitability test to be held on 8.7.2002, you will be eligible for proforma fixation along with your Junior Sri Subash Chandra Sarkar should also be promoted to the post of Senior Clerk (G)as per extant Rules". ***Under what extant Rules the juniors have shown above were promoted superseding the claim of the seniors i.e., the Applicants, were not explained by the Respondents neither in their Written Statement nor in the aforementioned letter issued by the Respondent No. 8, DCOS/NBQ.*** Why such disparity was inevitable only in the case of the Applicants, making quite inconsistent to the constitutional safeguards in respect of right to equality and right to employment under Articles 14 and 16 of the constitution, were not clarified by the Respondents in their Written Statement.

It is submitted in this connection as to why no reply was given to their representation against the publication of the results (Annexures 4.81.) made to DCOS/NBQ and subsequently to the General Manager to enquire in to

(Contd....9: facts of the case.....)

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 104
 14-3-2003
 Advocate
 Chandrea Karmakar
 Kanchik

facts of the case and unveil the truth. In the letter issued from Controller of Stores, Respondent No. 6 of the O.A., letter signed by Sri J.J. Bora, Deputy Controller of Stores to DCOS/NBQ, to make a reply in response to the representation against the holding of the suitability test of Senior Clerk and the publication of the result, was not communicated to the Applicants so far. The copies of the said letters are enclosed as Annexure Z and Z¹. It is also further submitted that the un-success of the Applicants in the suitability test held on 22.7.2002 was deliberately done at the DCOS/NBQ's end. The attitude of the DCOS/NBQ is very much manifest from the conditional offer of fixation of seniority and given of proforma promotion by the DCOS/NBQ according to his letter dated 27.6.2002 could not be maintained and accepted under any Rules. The Respondents have flouted their own Rules and the prevailing system in fixation of seniority, holding of the suitability test for promotion to the post of Senior Clerk and Head Clerk against a reserved quota and publication of the result of the suitability test as in the case of this humble Applicants. Therefore, the contentions made in this para-12 by the Respondents is brazen lie.

Sri Naba Kanta Das, one of the two Applicants of the

(Contd...10: O.A. No. 221.....)

Nehru

Chandrika Komamakar

Kartik

O.A. No. 221 of 2002 was appointed on compassionate ground against the reservation quota of SC and this was very much known to the Respondents as the appointment letter No. 586E/81/1(W)/Class-III/3. Pt.VI dated 15.2.90 was issued by the General Manager (P), N.F. Railway, Maligaon (Annexure H), the Respondent No. 1 and 3 of the O.A. So why the case of the Applicant Sri Naba Kanta Das was not considered while promoting Sri Sishir K. Das promoted to the post of Head Clerk against SC quota from 1.6.2002 by the Respondent No. 8, DCOS/NBQ. It is a clear violation of the constitutional provisions in respect of employment under articles 16 and 39(d). Even the Railway Board itself have repeatedly instructed to the Zonal Railways that the cases of the employees belonging to the *reserved quota* shall have to be vigorously pursued and maintained meticulously with fullest attention and sincerity and there should not be any lapses on this issue under any circumstances. It fails to understand as to how under such mandatory instructions and guidelines by the apex body of the Railway system, more particularly the Respondent No. 8, have violated to cause infringement in the case of the Applicant Sri Naba Kanta Das belonging to the SC quota.

(Contd....11:That in respect.....)

75
106
Mukherjee
Karmakar
Chandika
Korthik
Advocate
16-3-2003

11. That in respect of the the statement made under para 13 of the Written Statement by the Respondent it is submitted that a false statement has been forwarded there to the making of the seniority list, though in a very peculiar form and quite contrary to the norms of the railways established system, has not been circulated to the Applicants at all, as submitted as Annexure-III of their Written Statement. The Applicants challenged the Respondent to show any kind of receipt of acknowledgement by the Applicants in respect of their seniority list enclosed in the Written Statement as Annexure-III which was shown to be published as on 1.4.2000 and signed by DCOS/NBQ on 13.12.2001.
12. That in respect of the statements under paras 14,15,16,17,18 and 19 made by the Respondent are the repeatations to their earlier submission, and hence, the Applicants beg not to comment further for brevity of the petition, as they have already submitted their submissions in the foregoing paras against such statements. In this connection the Applicants beg to re-iterate further that there have been completely violation of the Rules of constitutional provisions under articles 14, 16, 39 and 309 and all the Rules and procedures of the Railways established system for which the Respondents made the

(Contd...12:Applicants victimized.....)

Jb
107
14-3-2003
Advocate
Karmakar
Kanchik Chandra
Mehalan

Applicants victimized and to suffer loss for more than a decade's time. The contention, therefore, of the Respondent made under para 19 is not at all maintainable on the wrong actions taken by the Respondents, more particularly the Respondent No. 8, DCOS/NBQ, right from the appointment and fixation of the lien of the Applicants mentioned in the foregoing paras. The Applicants reiterates their submission what made under paras 4.1 to 4.17 of O.A. No. 221 of 2002 shown under "FACTS".

The Applicants beg to submit herein that the action of the Respondents, more particularly the Respondent No. 8, DCOS/NBQ, are ultravires to the constitutional safeguards and also infringement of the statutory provisions and the prevailing system and Rules of the Railways were flouted for the following reasons :

- i. The fixation of seniority was not correctly made immediately after fixation of lien of the Applicants, which took about a decade's time.
- ii. The incorrect seniority list published repeatedly on 26.4.2000, 12.4.2000 and as on 1.4.2000 as shown under Annexure-III of their Written Statement in spite of categorical instructions of the Respondent No. 1 and 3 and the representations of the Applicants.

(Contd...13: Holding of)

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108
14-3-2003
A. Advocate
Koramangala, Bangalore
Karthik

- iii. Holding of suitability test without fixing the correct seniority list was irregular and contrary to the prevailing system of the Railway.
- iv. Promotion of the Junior, Respondent Nos. 9 to 18, to the Senior i.e., Applicants, are arbitrary and un-constitutional and, hence unlawful and unfair play.
- v. Holding of the Written Test on 22.7.2002 was not in conformity with the rules of the written test.
- vi. Number of vacancies of the post of Senior Clerks have not been assessed and posts not notified before holding selection/suitability test as per rules.
- vii. As per Railway Rules, holding of the suitability test for promotion to the post of Senior Clerk option for entering either into SVC or Senior Clerk was not obtained prior to holding of the suitability test, as required as per AVC of the Stores department.
- viii. "**Construction-reserved**" posts were not counted before holding the suitability test.
- ix. The Respondent No. 8, DCOS/NBQ, violated Railway Board's circular on "**erroneous promotions**" under No. E50/RCI/16/3 dated 23.7.1954 and Rule 228 of Indian

(Contd....14: Railway Establishment.....)

78
109
N. Chandra Karmakar
Advocate
14-3-2003
Kanik

Railway Establishment Manual, Vol.-I, 1989 revised Edition and Rule 2927-R.II of the codal provision.

- x. Bilingual questions were not there in the written test of the Applicants.
- xi. The "reservation quota" and norms and eligibility criteria for passing in the written examination and qualifying in the suitability test in the case of the Applicant Sri Naba Kanta Das was not maintained.
- xii. The suitability test for the reasons above is therefore liable to the quashed and set aside.

Under the circumstances it is, therefore, prayed that your Lordships may be magnanimous enough to call for the records if necessary by summoning the DCOS/NBQ to swear on Affidavit that the seniority list as annexed under Annexure-III of their Written Statement was made bonafide and the written examination of the Applicants was taken honestly and on good faith, belief and action and the publication of the result was made according to his good conscience, and after examining the whole case on merits, render justice to redress the long standing grievances of these Applicants.

And for this act of your kindness, as in duty bound, the Applicants shall pray and remain ever grateful.

(Contd.....15: V E R I F I C A T I O N.....)

14-3-2003
Adhoc

VERIFICATION

I, Sri Kartik Chandra Karmakar, S/o. Late Jagadish Karmakar aged about 33 years, working as adhoc Senior Clerk under the Controller of Stores (Con.), N.F. Railway, Maligaon and being authorized by the other Applicant named Sri Naba Kanta Das, S/o. Late Sarbeswar Das aged about 33 years, working as adhoc Senior Clerk under the Controller of Stores (Con.), N.F. Railway, Maligaon, do hereby solemnly affirm and verify that the contents of paragraphsto.....are the facts of the case and true to my knowledge, information and belief and that I have not suppressed any material facts and the paras.....toare my humble and respectful submission before this Hon'ble Tribunal.

And I sign this verification on this 14/3 day of March, 2003.

Place: Guwahati

Date: 14-03-2003.

Kartik Chandra Karmakar.

Signature of the Applicant

To

The Deputy Registrar
Central Administrative Tribunal
Guwahati.



16

ANNEXURE - Y

(80)

JUL 2002

N.F.RAILWAY.

MEMORANDUM.

Office of the
Distt. Controller of Stamps,
New Dangaiigaon.
Date :- 23.7.2002.

The following Jr.clerk(G)/M/Clerk in scale Rs. 3050-4590/- have been found suitable for the post of Sr.clerk(G) in scale Rs. 4500-7000/- in the suitability written Test held on 09.07.02 and absentee test held on 22.7.02 and have been provisionally empanelled for promotion the post of Sr.clerk(G) in scale Rs. 4500-7000/-.

<u>S.L.NO.</u>	<u>Name.</u>	<u>Working under.</u>
1.	Shri Jadav Basumatary, (ST)	CDMS/NBQ.
2.	* S.B. Seth, (UR)	OS/II/ Incharge of DCOS/NBQ.
3.	* S.K. Jha, (UR)	CDMS/NBQ.
4.	* S.P. Balmiki, (SC)	CDMS/NBQ.

This has the approval of the competent authority.

NO : ES/I/NBQ.

APO/W/NBQ.
for DCOS/NBQ.

Copy forwarded for information & n/action
to :-

- (1) G/M/P/MG. (2) COS/MG. (3) COS/Cen/MG.
- (4) DACOS/APDJ. (5) DRM/P/APDJ. (6) CDMS/NBQ.
- (7) Staff concerned. (8) P/Case. (9) E/bill.

Recd 23.7.02
APO/W/NBQ.
for DCOS/NBQ.

allied
Advocate
14-7-2003
Advocate

TO

THE DISTRICT CONTROLLER OF STORES,
N.F. RAILWAY, NEW BONGAIGAON.

Through: Proper Channel

Sir,

Sub: Appeal for review of the result of the suitability written Test held on 22-07-02 for the promotion to the post of Sr: Clerk (G) in Scale Rs. 4500-7000/-.

Ref: Your Memorandum No: ES/1/NBQ dt: 23-07-2002.

Most respectfully I beg to lay the following lines for favour of your sympathetic consideration and favourable orders please:

- 1) That the result of the suitability test for the Senior Clerk (G) published vide your Memorandum under reference is highly astonishing, peculiar grief and great resentment for me, as my name has not been empanelled in the list of suitable candidates, albeit I have answered to the Questions, which were harder than that of the questions put to the candidates on 08-07-2002, perfectly and I do verily believe my answer scripts were not properly evaluated, rather, adjudged with a preconceived idea, as I have been repeatedly filing representations and appeals for correct fixation of my seniority which you are denying me right from my fixation of lien with your unit.
- 2) That in your Notification No: ES/1/NBQ dt: 19-6-2002 you have mentioned – “No absentee Test will be held” In response to my appeal dated 18-06-2002 you have imposed conditions precedent before fixation of my seniority correctly in the Junior Clerk’s grade and before holding the suitability Test for the Sr: Clerk that –

“if you qualify yourself in the suitability test to be held on 08-07-2002, you will be eligible for proforma fixation with your junior, Sri Subhas Chandra Sarkar who already promoted to the post of Sr: Clerk (G) as per extant rules ... Otherwise you will lose your seniority in the grade of Sr: Clerk (G).”

as mentioned in your letter No: ES/1/NBQ dt: 27-06-2002. It is not understood this conditional holding of suitability Test covers by what “Extent rules” when the seniority itself has not been correctly assigned as yet. This indicates a vindictive attitude towards an humble employee to deprive of his rightful claim and thereby attracts “Bias” and “malafides”.

However, I would fervently pray to your good conscience and benign discernment that you would be kind enough to look into the matter with lenient view and sympathetically consider my case for correct fixation of seniority and empanel my name in the list of successful candidates for promotion to the post of senior Clerk by reviewing and re-evaluating my answer script and oblige thereby.

With regards,

Dated Maligaon,
The 1st August/2002.

Your faithfully,

Karshik Chandra Karmankar

affidavit
Chp. 505
14.3.2002
Advocate
Self Copy.

17/1

(82)

(2)

13

Copy forwarded to:

- 1) General Manager (P)/N.F. Railway/Maligaon.
- 2) General Manager (Con)/N.F. Railway/Maligaon.
- 3) Controller of Stores/N.F. Railway/Maligaon.
- 4) Controller of Stores (Con)/N.F. Railway/Maligaon.
- 5) Chief Personnel Officer/N.F. Railway/Maligaon.
- 6) DRM (P)/N.F. Railway/APDJ.
- 7) APO/W/NBQ

For information and taking necessary action please. DCOS/NBQ's Memorandum under reference, Notification, letter and my appeal dated 2002 (all photo copies) are sent herewith for favour of your kind perusal and to see as to how this humble employee is being treated ab initio and thereby depriving his "Just Claim" by the DCOS/NBQ by inviting unfair, unjust and miscarriage of justice at every step and in every action.

Holding of suitability test without fixation of correct seniority is itself contrary to all Rules and derogatory to the terms of employment enshrined under Arts. 14 & 16 of the Constitution of India.

DA: AS above

allied
Advocate
14/3/2003

Kanchik Chandras Karanakar
Ad hoc Senior Clerk under
COS(CON) N.F. Railway/Maligaon.

To
The General Manager (Con)
N. F. Railway,
Maligaon

Sir,

Sub: Appeal for correct fixation of seniority and postponement of the proposed suitability test for promotion to the post of senior clerk in Scale Rs. 4500 – 7000/- scheduled to be held on 08-7-2002.

Ref: My representation dt. 18.6.02 & DCOS/NBQ's notification No. ES/ I/ NBQ dt. 19-6-2002 and COS (Con) /N. F. Railway/
Maligaon's sparing Order No. SC/G/218/Pr.1V dt. 25-6-2002.

Most respectfully I beg to state that despite series of representations by this applicant and issuance of directions by the various Administrative levels for correct fixation of my seniority in the grade of clerk (G), the DCOS/NBQ under whose control my lien is fixed, has fixed the date of holding written examination for the suitability test for the promotion of senior clerk in scale Rs. 4500 – 7000/- scheduled to be held on 08-7-2002 and caused detrimental effect to the undersigned for getting his correct seniority and proforma promotion at par with the persons shown under SN. 1 to 9 in the seniority list published under DCOS/ NBQ's No. ES/26/NBQ dt. 26-4-2000 (photo copy enclosed) whose date of appointment in Group "C" series, more particularly, in the grade & capacity of Jr. Clerk, are much later than that of this applicant. This is not only unfair and unjust but also miscarriage of justice to this applicant and thereby hits the constitutional provisions in respect of equality and employment.

In the premises mentioned above, it is, therefore, requested that your good conscience and magnanimity would take appropriate steps in the matter and issue directions to DCOS/NBQ so as to assign my correct seniority and give proforma promotion to me and till such time the proposed suitability test mentioned above is postponed.

महाप्रबोधक का कार्यलय And for this act of your kindness I shall remain ever grateful

Office of the With all humility and regards,
General Manager

Dated: 01-7-02

दिनांक

Date

1 JUL 2002

३०० रेलवे नालिगांव, ग. बाहुदार
N. F. Railway
Maligaon, New
Copy to:

Yours faithfully,

Karthik Chandra Karmakar.

Ad-hoc senior clerk
Under controller of stores (Con)
N. F. Railway, Maligaon

1. General Manager, N. F. Railway, Maligaon
2. Chief Personnel Officer, N. F. Railway, Maligaon
3. Controller of Stores, N. F. Railway, Maligaon
4. Controller of Stores (Con), N. F. Railway, Maligaon
5. CE/Con/II, N. F. Railway/ Maligaon
6. Dy. CPO/Con/ N. F. Railway, Maligaon
7. DCOS/ N. F. Railway, New Bongaigaon, for information and with the request to take necessary action please.

DA: As above

Received

कार्यालय नियमित: १८.६.०२

Asst. Controller

३०० रेलवे, नालिगांव

N. F. Railway, Maligaon

Karthy Karmakar.

Signature of the applicant

गोदान
कर्त्तव्य
१४.३.२००२
Advocate

TO

THE

992

612
16/8



N. F. RAILWAY

No. S/ET/84/G/03/B.

Office of the
Controller of Stores
Maligaon, Guwahati-11

Dated: 7-8-2002.

To

DCOS/NBQ

Sub:-Appeal for review of the result of the suitability written test held on 22-7-02 for the promotion to the post of Sr.Clerk(G) in scale Rs.4500-7000/-

Ref:-COS/Con's letter No.SC/G/2187/Pt.IV dt.05-8-2002.
addressed to you copy to COS/MLG.

You may please connect the above referred letter of COS/Con/MLG. In the light of the appeal of Shri K.C.Karmakar and Shri N.K.Das, Sr.Clerk(Ad-hoc) under COS/Con, you are requested to examine the case and action taken accordingly with intimation to this office and others. These are unit controlled posts, so the decision to be taken at your level.

(J. J. Borah)
Dy. Controller of Stores/IC
for Controller of Stores

Copy to.

(1) GM(P)/N.F.Rly/MLG. (2) COS/Con/MLG (3) APO/W/NBQ.

Attested
Nelson
14.3.2003
Advocate

for Controller of Stores

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340
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Dy. COS/CON
SO/CON
SO/CON
Dy. COS/CON

13 MAY 2003
1/6
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

GUWAHATI (ASSAM)

O.A NO.221 of 2002

1. Sri Kartick chandra Karmakar Applicants
2. Sri Naba Kanta Das

-VERSUS-

Union of India and others

Respondents

AND

IN THE MATTER OF:-

Reply to the rejoinder filed by the applicants to the
respondent's written statement filed on 27/09/2002

In response to above rejoinder, the following are submitted for and on
behalf of respondents Nos.1 to 8 most respectfully.

- 1) That, the answering respondents have gone through the copy of the aforesaid rejoinder filed by the applicants and have understood the contents thereof.
- 2) That save and except those averments made in the rejoinder, which are admitted hereunder or are borne on records, all other averments as made in the rejoinder are to be regarded as not being admitted by the respondents and the applicants are ~~put to~~ to strictest proof thereof.
- 3) That, for the sake of brevity, the respondents have refrained from repeating all those averments made in the written statement already filed in the case, which also contains the answer to the allegations.

Contd....2

वरिष्ठ सामर्थ्य प्रबंधक - डिपो
प० सी० रेलवे, न्यू बंगालुरु
Sr. Materials Manager - Depot
N F Rly. New Bontia gaon

File by :
Sukumar Panigrahi -
Railway Advocate -
Lokmanya Tilak Road
12/5/2003

4) That, with regard to averments at paragraph 4 of the rejoinder, the respondents beg to restate and re-affirm their previous submissions at paragraphs 2,3,4,6 (a) and 6 (b) of their written statement submitted in the case. It is also to submit here in that:-

a) The applicants have got no valid cause of action especially when they could not qualify in the written selection test held for the purpose of promotion to the senior clerk category.

b) Their application is already time barred as they are raising the issue for grant of seniority as junior clerk from retrospective date of 1990/1991 when so many persons (junior clerks) have been promoted by now and the applicants never approached the Hon'ble High Court or Hon'ble Tribunal so long for redressal of their grievances, if they felt aggrieved at all.

etc.
 It is to mention herein that respondent no.9 after being empanelled was promoted as senior clerk after holding due selection in the year 1996 (on 20/09/96 vide office order no. ES/34/NBQ dt.20/09/96 issued by Dy. Controller of Stores, New Bongaigaon) and respondents nos. 10 to 18 after being empanelled were only promoted temporarily to officiate as senior clerk (G) in scale of Rs.4500-7000/- RP/97 vide DCOS/New Bongaigaon vide office order no. E/NBQ/2000/9 dt.17/04/2000 etc. Thus it is quite incorrect to allege that the ~~submissions~~ suffers for want of offering reasons about want of cause of action or non maintainability or bar of limitations, when same are quite self explanatory and understandable and requires no further elaboration as to make the submissions bulky.

वरिष्ठ सामग्री प्रबन्धक - डिपो।
 प० स० रेलवे, न्यू बंगाइगाँव -
 Sr. Materials Manager - Dep't.
 N. F. Rly. New Bongaigaon.

5) That, as regards averments in paragraph 5 of the rejoinder, it is submitted that the statements made in paragraph 7 of the written statement is restated and re affirmed.

It is to submit here in that this letter dated 28/02/00 was received in DCOS/NBQ's office only on 11/03/00 and prior to connecting all relevant papers the matter regarding the filling up of existing vacancies of senior clerk temporarily were already under process and in the examination held staff who qualified in the selection test were allowed to officiate tempor^{arly} as senior clerks.

It is to mention here that this temporary arrangement had to be done for work interest and also due to some communication gap etc. and it was also clearly intimated to the applicants vide DCOS/New Bongaigaon's letter no 27.6.2002 as under

"..... It is intimated that if you qualify your selves in the suitability test to be held on 08/07/02, you will be eligible for performance fixation along with your junior, Sri Subhas Ch. Sarkar who already promoted to the post of Sr. Clerk (G) as per extent rules.

You are therefore advised to attend the suitability test to be held on 08/07/2002.....
 Photo Copy of letter dated 27.6.2002 annexed as Annexure II to WS.
 In the said selection for promotion to the post of senior clerks held on 08/07/2002 and 22/07/02, six staff (includes the applicants and 4 junior clerks who are junior to the applicants) appeared and though the 4 persons who are junior to the applicants could qualify, the applicants failed to qualify in the written test/selection.

The applicants secured marks in the written test as under: -

Contd.... 4

संग्रहीत दस्तावेज़ - दस्तावेज़ ।
 श्री. सौ. रेखा, न्यू बोंगाइगाँव ।
 Sr. Materials Manager - Depot
 N.F.I.Y. New Bongaigaon

Name	Marks secured out of	Results
Total marks 100		
1. Sri K.C.Karmakar	47	Failed
2. Sri Naba Kanta Das	19	Failed

The necessary answer scripts in the selection and other connected records as called for are being submitted before the Hon'ble Tribunal for perusal.

However for ready perusal a copy of the summarized statement showing individual marks secured by each candidate is also annexed here to as Annexure V to this reply.

It is also submitted herein the guide line of 16/05/90 as mentioned by the applicants, there is no mention of the name of the applicants and the seniority list dated 26/04/2000 (Annexed as annexure A to the application) was not a final seniority list and same was subject to correction. The applicants were all along working in the construction organization of the N.F.Railway and the matter relating to assignment of proper lien ^{to these two applicants} in the open line in the DCOS/New Bongaigaon establishment was mentioned in GM(P)/N.F.Railway's Letter dated 25-28/02/2000 (Annexed as Annexure ^N to the application). The allegation of placing the applicants at the bottom of the provisional seniority list dated 26/04/2000 (as on 01/04/2000) cannot stand. The applicants have not mentioned that even in the provisional seniority list dated 22/05/2002 the applicants names were placed at the top of the list (as on 01/04/2002).

The applicants are also silent on the point that as per rule, no promotion can be granted to the post of senior clerks unless one qualifies in the written

Contd....

बरित तात्परी प्रबंध - द्वितीय
प्र० सी० रेलवे, न्यू बोंगाइगाँ
Sr. Materials Manager - Dept
N. F. Ry. New Bongaigaon.

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वरिष्ठ शासी प्रबन्धक - फॉर्म
मु. सो. रेल. एवं बांग्लादेश
Sr. Materials Manager - Deptt
F. M. New Barracks

test/selection held for promotion to the test of senior clerks, though he may have higher seniority ~~position~~ in the cadre of junior clerks.

It appears, the applicants have deliberately created the question of "top and bottom" only to create a confusion before the Hon'ble Tribunal. It was already clearly stated as to why there existed difference between the two seniority lists i.e. list dated 26/04/2000 and dated 13/12/2001. The subsequent list dated 13/12/01 embodied the correct seniority position of applicants. It was also clearly stated that the seniority list was re-casted on consideration of appeals of the applicants and GM (P)/MLG's instructions issued under letter no E/255/101/7(S) Pt-I dt.15-16/10/2001. The allegations of fabrication and mal-intention are quite unwarranted, intentional and false and hence emphatically denied herewith. The present O.A. has been filed by the applicant on 18/07/2002 ~~or~~ so only. Even though the letter no ES/26/NBQ dt.28/12/01 addressed to GM(P)/MLG the ~~seniority list dated 13.12.01~~ DCOS/NBQ informed GM(P)/MLG about this and COS/MLG and CDMS/NBQ confirmed that recasting of seniority of the applicant giving them the higher seniority position has been in accordance with GM(P)/MLG's instruction dt.15/10/01. The letter of APO/M&S for GM/P/MLG no E/255/101/7(S) Pt-I dt.28/02/2002 addressed to DCOS/NBQ issued in response to DCOS/NBQ's letter dt.28/12/01 also clearly shows that the seniority list (corrected) dt.13/12/01 was issued. The allegations of applicants to the contrary are denied. It is an admitted fact (as revealed from list dated 26.04.2000) that all the persons (respondent nos 9 to 18) were initially appointed in the railway service prior to 19.05.90 in 'D' class category and they were promoted in 'C' class category (jr. clerk) in 1992 and thereafter (i.e. after appointment of the applicants who were appointed on

Contd....6

compassionate grounds in 1990, 1991) and the anomaly regarding assignment of seniority remained for quite sometime till it was corrected subsequently. But this anomaly did not effect the prospect of their passing the selection test and their basic seniority though in the meantime, till seniority position was recasted, some staff as mentioned in the office order dated 17.04.00 (who passed the suitability test for senior clerks) had to be promoted ^{temporarily} for management of office works and the applicants were already assured that they would not loose any seniority or benefit of promotion provided they also qualify themselves for the senior clerk test. But as they could not qualify for the post, they could not be promoted whereas in the written test held in July 2002, their juniors Sri Jadav Basumatary, Sri S B Seth, Sri S K Jha, Sri S P Balmiki have qualified for promotion as sr clerk and they were promoted vide office order dated 23.07.02.

- 6) That with regard to allegations made at paragraph 7 of the rejoinder, it is submitted that it is quite incorrect that the statement in the paragraph of the written statement becomes infelicitous and are afterthought plea and inconsistent. A clear reading of the letter-dated 31.10.00 clearly shows that the letter of 31.10.00 was issued to the applicants informing them about the disposal of their appeal.
- 7) That, the allegations as made at paragraphs 8, 9, 10, 11 and 12 of the rejoinder are hereby denied. All such allegations are baseless and are not tenable under law and the fact of the case. In this connection the answering respondents do hereby reiterate and reaffirm statements made at paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of the written statements.

Contd.... 7

वरिष्ठ सामग्री प्रबन्धक - हिमा
पू. सी. रेलवे, न्यू बंगाइगांव -
Sr. Materials Manager - Depot
N. F. Rly. New Bongaigaon.

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It is also emphatically denied that the action of the respondents are ultravires or there has been infringement of statutory provisions or rules of Railways or that holding of written test on 22.07.2002 was not in conformity with the rules of the written test. It is also submitted that the contentions of the applicants are based on hypothesis and not on reality and the applicant's are put to strictest proof of their contentions.

It is also quite apparent that, for their ill luck they should blame themselves. Seniority list has been corrected and till seniority could be re-casted, some promotions had to be made but this could not affect their future prospect and pay/service benefits etc. provided they could qualify in the selection which was also held for them.

It is a wild allegation that there had been unfair play against all canons of justice under the sun or the applicants were victimized for vested interest.

It is also denied that there had been any violation of the Railway Board rules dt.23/07/54 or codal provisions under rule 228 of IREM Vol. 1989 and rule 2927 R-II in giving erroneous promotion to the juniors of the applicant. or *Senior clerks' vacancies were not properly assessed.*

As stated earlier, work necessarily prompted for arranging promotion of qualified hands and the applicants could get their higher promotion and all benefits with retrospective effect if they could qualify in the selection.

8) That all action taken the case are quite legal, valid and proper and were taken after due application of mind. and *there has been no arbitrary action.*

That it is submitted that under the fact and circumstances of the case, the rejoinder is fit to be dismissed.

Contd....8

महाराष्ट्र राजसभी प्रबन्धक - फैसला ।
पृ. सौ. रेते, यू. वाराहिना ।
Sr. Materials Manager - Deptt.
N. F. Rly. New Bongalgam

VERIFICATION

I Sri Pranab Kumar Paul, son of Sri Lalit Mohan Paul, aged about 33 years, at present serving as St m m l Depot 1 NRC At New Bongaigaon, do hereby solemnly affirm and state that whatever have been stated at paragraphs 1 and 3 of this reply are true to my knowledge and those made in paragraphs 4, 5 and 6 of this reply are based on information as gathered from record of the case which I believe to be true and the rest are my humble submission before the Hon'ble Tribunal and I sign this verification this 31st of March '03.

NORTHEAST FRONTIER RAILWAY

वरिष्ठ सामग्री प्रबंधक - डिपो ।

FOR AND ON BEHALF OF THE RESPONDENT

St. Materials Manager - Depot

N. E. Rly, New Bongaigaon.

Annexure--

Summarised statement of the marks secured in the written suitability test by the different candidates/ staff for promotion of sr. Clerk /G under DCOS/NFR/NBQ in different years.

Names	Respondent No.	Agst. Notification No. & Date	Date & Year	Marks Secured
1. Sri Sisir Das (S.C)	09	ES/34/NBQ of 23/08/96	16/09/96	72
2. " Ranendra ch. Wary	18	ES/34/NBQ of 13/04/2000	07/04/00	62
3. " Subrata Dey	16	-do-	-do-	61
4. " S. P Benarjee	13	/	-do-	61
5. Smt. Kiran Bala Roy	12	-do-	-do-	62
6. Sri Jay Karan	11	-do-	-do-	62
7. " Subhas Ch. Sarkar	10	/	-do-	61
8. " V. K. Chowdhury	14	-do-	-do-	70
9. " Ram Naresh Roy	15	-do-	-do-	61
10. " P.R.Bhowmick	17	-do-	-do-	60
11. " Jadov Basumatary New Candidates Selected		ES/1/NBQ of 05/06/02	08/07/02	73
12. " S.K.Jha	"	-do-	-do-	60
13. " S.B. Seth	"	-do-	-do-	69 1/2
14. " S.P.Balmiki	"	-do-	-do-	65
15. " Nabakanta Das	Applicants	-do-	22/07/02(absenteeSel.)	19
16. " K.C.Karmakar	"	-do-	-do-	47

N.B. Pass Marks 60