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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 289/02

R.A/C.P No. 41/02

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SECTION OFFICER (Judl.)

File  
29.11.17

FORM NO. 4

( See Rule 42 )

# In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO. 289

OF 1992002

Applicant(s) Md. M. Rahman.

Respondent(s) UOI 2003.

Advocate for Applicant(s) Mr. S. Huda & A. Haï.

Advocate for Respondent(s) Rly Counsel. Mr. B.K. Sharma Sr.

Notes of the Registry	Date	Order of the Tribunal
79 576903 4/9/02 mb mb	5.9.02	Heard Mr. S. Huda, learned counsel for the applicant. The application is admitted. Call for the records. List on 7.10.2002 for orders. mb 10.10.02
Steps has been fixed. NS 4/11/02		Mr. S. Sengupta, learned counsel appearing on behalf of the Mr. B.K. Sharma learned Sr. Counsel for the Railway prays for time for filing written statement. List again on 18.11.2002 for orders.

Notes of the Registry	Date	Order of the Tribunal
<p><u>16.9.02</u></p> <p>Notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A/D.</p> <p>Vide D.No. 2579 to 2582 Dtd. 16.9.02.</p> <p><u>23/9</u> 16.02.</p> <p>No. written statement has been filed.</p> <p><u>23/9</u> 23.10.03</p> <p>W/s has not been filed</p> <p>NS 14/2/03</p> <p><u>18.2.03</u></p> <p>W/s submitted by the Respondents.</p> <p>No. rejoinder has been filed.</p> <p><u>24/303</u></p>	<p>18.11.02</p> <p>mb</p> <p>17.12.02</p> <p>mb.</p> <p>24.1.03</p> <p>mb</p> <p>17.2.2003</p> <p>mb</p>	<p>Mr. S.Sengupta, learned counsel appearing for the respondents prayed for time to file written statement. Prayer is allowed. List again on 17.12.2002 to enable the respondents to file written statement.</p> <p>IC/Usain Member</p> <p>Vice-Chairman</p> <p>List on 24.1.2003 to enable the respondents to file written statement.</p> <p>Vice-Chairman</p> <p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Administrative Member.</p> <p>Mr. S.Sengupta, learned standing counsel for the Railway stated that he is filing written statement within three weeks from today. Accordingly, the case is adjourned and posted for orders on 17.2.2003.</p> <p>Member</p> <p>Vice-Chairman</p> <p>Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S. Biswas, Administrative Member.</p> <p>Written statement has been filed. The case may now be listed for hearing on 25.3.2003. The applicant may file rejoinder, if any, within two weeks from today.</p> <p>Member</p> <p>Vice-Chairman</p>

Notes of the Registry

Date

Order of the Tribunal

25.3.2003

On the prayer of Mr. S. Huda, learned counsel for the applicant the case is adjourned. List on 8.5.2003 for hearing.

No rejoinder has been filed

7.5.03

mb

*S. Bains*  
Member

*[Signature]*  
Vice-Chairman

8.5.2003

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

28.5.2003

Copy of the Judgment has been sent to the Dy. Secy. for issuing the same to the applicant as well as to the learned counsel.

nkm

*S. Bains*  
Member

*[Signature]*  
Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / ~~XXA~~. No. . 289. . . of 2002

DATE OF DECISION .8.5.2003.....  
SILENT OF JUDGE

Md. Majibur Rahman

.....APPLICANT(S).

Mr S. Huda and Mr A. Hai

..... ADVOCATE FOR THE  
APPLICANT(S).

- VERSUS -

The Union of India and others

.....RESPONDENT(S).

Mr S. Sengupta, Railway Counsel

..... ADVOCATE FOR THE  
RESPONDENT(S).

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

THE HON'BLE MR S. BISWAS, 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 ?

- VERSUS -

Judgment delivered by Ho'ble Vice-Chairman

.....RESPONDENT(S).

..... ADVOCATE FOR THE  
RESPONDENT(S).

THE HON'BLE

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.289 of 2002

Date of decision: This the 8th day of May 2003

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

The Hon'ble Mr S. Biswas, Administrative Member

Md. Majibur Rahman

S/o Late Mafiz Ali

Resident of North Jalukbari,

P.O. Jalukbari, District- Kamrup, Assam,

Presently residing at Railways Quarter,

East Maligaon,

Guwahati, Assam.

.....Applicant

By Advocates Mr S. Huda and Mr A. Hai.

- versus -

1. The Union of India, represented by  
The Secretary to the Government of India,  
Railways Communication Ministry,  
Railways Services Board,  
New Delhi.

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

3. The Deputy General Manager/G,  
N.F. Railway,  
Maligaon, Guwahati.

4. The Assistant Deputy General Manager,  
N.F. Railway,  
Maligaon, Guwahati.

.....Respondents

By Advocate Mr S. Sengupta, Railway Counsel.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The following are the reliefs claimed in this application:


i) To set aside and quash the impugned result of the selection test dated 10.5.2002 published by the respondent authority.

ii) To direct the respondent Railway Authority to promote the applicant to the post of O.S.-II in the scale of pay of Rs.5,500/- to Rs.9,000/- per month considering the distinguished service rendered by the applicant to the Railways during his service career

iii) To direct the respondent Railway Authority to expunge the adverse remarks recorded in the A.C.R. of the applicant illegally.

2. Brief Facts :

The applicant was appointed as Senior Clerk on 26.9.1988 and in course of time he was promoted to the post of Head Clerk by order dated 13.3.1997. The respondent authority decided to hold a selection for forming a panel for promotion to eight posts (Unreserved-7 and SC-1) of Office Superintendent Grade II in the scale of pay of Rs.5,500-9000 and accordingly a Notification was issued on 25.2.2002. In the said Notification the name of the applicant also appeared at serial No.8. The Notification indicated the dates for Written test and Viva-Voce test. The applicant appeared in the written test. The result of the written test for the post of Office Superintendent Grade II was published vide Notification dated 3.4.2002 and in the list of successful candidates the name of the applicant appeared at serial No.3. As per the said Notification the date of Viva-Voce test was fixed on 10.4.2002. The applicant, in terms of the aforementioned Notification, accordingly appeared at the Viva-Voce test. The result of the selection was finally published on 10.5.2002 and the applicant was not empanelled. Hence this application assailing the legitimacy of the action of the respondents for not promoting the applicant on the basis of the said selection.



3. In this application, the applicant has also assailed the action of the respondents whereby some adverse entries were made in his ACR about which he was intimated vide communication dated 23.7.2001. The applicant submitted his representation against the adverse entries on 17.8.2001, but the same was rejected vide order dated 31.8.2001. The applicant thereafter submitted another representation dated 21.8.2002 before the competent authority and by order dated 23.8.2002 the same was also rejected.

4. The respondents submitted their written statement and contended that the case of the applicant was duly considered. The applicant qualified in the written test, but since in the viva-voce test he could not do well he could not be promoted. As regards the entries in his ACR, the respondents contended that the ACR reflected the service profile of the applicant. The adverse entries were communicated to him and the applicant was given the opportunity to represent. The representation submitted by the applicant was considered and the same was not found acceptable to the authority. No illegality, as such was committed, contended the respondents.

5. We have heard Mr S. Huda, learned counsel for the applicant, and Mr S. Sengupta, learned Railway Counsel at length. Mr Sengupta fairly placed before us the full records. It would first be appropriate to deal with the adverse remarks communicated to the applicant. The full text of the adverse remarks are reproduced below:

"In your confidential report for the year ending 31.03.2001, the following adverse remarks have been recorded:

3. Departmental abilities  
(merits/demerits) to include  
comments on:  
(c) Keeness/Promptness and efficiency : Requires Improvement  
(g) Amenability to discipline : Undisciplined



6. Reliability : Not reliable
7. Relation with others:
- (a) those above )
  - (b) those below )
  - (c) the public (if his duties): Relations are  
entail his coming into ) not cordial  
contact with public/ )  
railway users) )
13. (b) Does he maintain his : No, needs  
office files neatly? improvement
- (c) Does he maintain his : Training is  
books, codes, Diary necessary  
and Reminder memo book  
etc.
- (e) Is his disposal prompt : Requires  
improvement

2. It is not the intention that these remarks should, in any way discourage you, but it is desired that they should enable you to know and rectify your defects.

3. Representation, if any, against the adverse remarks has to be made within one month.

....."

The C.R. is an important input to ascertain the career profile of an employee. The recording of an ACR is a serious matter. It is to be recorded with full responsibility. This is basically to improve the efficiency of the officer. Therefore, they are to be intimated with their defects so that they can improve. In the instant case, only the bare opinion of the Reporting Officer was registered in an abstruse manner, which only reflects the ipso dixit of the officer. The recording of such kind of entries impedes the right of presenting an effective representation by the affected employee. When an officer makes the remark he must eschew of making vague comments besmearing the service career of its subordinate. The representations submitted. They were also not properly attended to. Both the authorities passed cryptic orders stating that they could not accept the representations. There is a procedure prescribed for recording the ACR. The intention behind.....

behind is to make an objective assessment of the service graph of the employee and not a subjective assessment. In the instant case the recording of the ACR is contrary to the procedure prescribed and the very object of recording of ACR. The adverse entries made in the ACR and communicated vide order dated 23.7.2001 are accordingly quashed. Consequently, the cryptic orders dated 31.8.2001 and 23.8.2002 rejecting the representations of the applicant stand quashed.

6. The DPC proceedings were placed before us. The DPC proceedings indicated that out of twentyfour candidates, eight (unreserved) including the applicant secured 60% marks and qualified for interview. Three candidates belonging to the SC community secured more than 20% marks and became eligible to appear in the viva-voce test. The viva-voce test was held on 10.4.2002. Out of a total of eleven candidates ten appeared. One candidate could not appear being on sick list. However, absentee test was held on 6.5.2002. The Committee recommended seven persons. As regards the applicant, it was recorded that the applicant qualified in the written test, but he was not found suitable in the viva-voce test. Moreover, the ACR of the applicant for the year ending 31.3.2001 contained adverse remarks and the adverse remarks were communicated to him vide letter dated 20.3.2001. The appeal of the applicant against the adverse remarks also remained unchanged by the competent authority. The said panel in course of time was approved.

7. From the records it appears that the applicant, an unreserved candidate, obtained 23.45 marks out of 35 marks in the written test, whereas in the viva-voce test

he.....

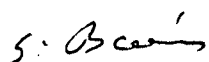
he secured 05 against 15 marks. In the Personality address leadership, the applicant was shown to have obtained 10 marks out of 20 marks and from Record of service he was given 08 marks out of 15 marks and for seniority he was given 12 marks out of 15 marks. The applicant was allotted a total of 58.45 marks and he was shown to have failed. Naturally, while considering the case of the applicant for promotion, the authority acted on the purported ACR which is now set aside. We enquired from the learned Railway Counsel as to how the 20 marks earmarked for Personality address leadership were allotted. In answer, the learned Railway Counsel submitted that this evaluation is made basically by the Committee on the basis of partly from the recordings in the ACRs and partly from the personal interview. This allotment of 15 marks and 20 marks in Personality address leadership in our view is seemingly arbitrary, taking into consideration the situation and condition. No justification was assigned as to how a person who secured 23.45 marks in Professional ability written test could come down to 05 in viva-voce test. This is seemingly arbitrary. In our view the respondents fell into error in not considering the case of the applicant for promotion in the right perspective.

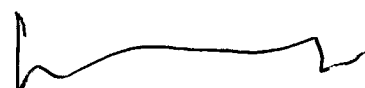
8. Another lacuna that we find in the adverse entries in the ACR for the year ending 31.3.2001 is that the Reviewing Authority was not provided the opportunity to review and that part has been kept blank. The authority before whom the representations were filed failed to take these factors into consideration which caused great injustice to the applicant.

9. On consideration of all the aspects of the matter we direct the respondents to reconsider the matter of promotion.....

promotion of the applicant afresh taking into consideration the fact that the adverse entries dated 23.7.2001 is quashed. The respondents are accordingly directed to review the matter of promotion of the applicant in the light of findings and observations made above and pass appropriate order accordingly for promotion of the applicant within one month from the date of receipt of the order.

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

  
( S. BISWAS )  
ADMINISTRATIVE MEMBER

  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH.

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

ORIGINAL APPLICATION NO. 289 OF 2002  
MD. MAJIBUR RAHMAN ..... APPLICANT.

-VERSUS-

THE UNION OF INDIA & ORS. .... RESPONDENTS.

I N D E X

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FOR THE USE IN THE TRIBUNAL'S OFFICE

DATE OF FILING:

REGISTRATION NO.

REGISTRAR.

MD Majibur Rahman  
Filed by  
A.M. ar  
4-9-2002

4th SEP 2002  
4th SEP 2002  
C. S. S. S. S. S.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH.**

**BETWEEN**

**1. MD. MAJIBUR RAHMAN,**

**son of Late Mafiz Ali**

**resident of North Jalukbari,**

**P.O. Jalukbari,**

**P.S. Jalukbari,**

**District Kamrup, Assam**

**presently residing at Railways Quarter,**

**East Maligaon,**

**Guwhati-11, District Kamrup (Assam)**

**APPLICANT**

**-VERSUS-**

**1. Union of India,**

**represented by the Secretary**

**to the Government of India,**

**Railways Communication Ministry,**

**Railways Services Board,**

**New Delhi - 110 001.**

**2. The General Manager (P),**

**N.F. Railway, Maligaon,**

**Guwahati - 781011.**

**3. Deputy General Manager/G,**

**N.F. Railway,**

**Maligaon, Guwahati-781 011.**

MD Majibur Rahman  
F. R. S. by  
A. H. H. H.  
ADN 4-9-2002

md. Nazim Rahman  
16

(2)

4. Assistant Deputy General Manager,  
N.F.Railways,  
Maligaon, Guwahati – 781 011.

.....RESPONDENTS

**DETAILS OF THE APPLICATION**

1. **PARTICULARS OF THE ORDER AGAINST  
WHICH THE APPLICATION IS MADE :**

The application is directed against the order dated 10<sup>th</sup> May, 2002 containing the result of selection test issued by the authority of the N.F.Railway, Maligaon, Guwahati-11.

2. **JURISDICTION OF THE TRIBUNAL:**

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

3. **LIMITATION :**

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

4. **FACTS OF THE CASE :**

(i) That the applicant was appointed as Senior Clerk on 26.9.1988 and thereafter he was promoted to the post of Head Clerk by the order of the General Manager (P) dated 13.3.1997.

(3)

A copy of the promotion order dated 13.3.1997 is annexed herewith and marked as Annexure-1.

Regarding honesty , sincerity and integrity of the applicant, it may be stated here that the applicant got from the Railway Board to his credit a number of rewards in recognition of his distinguished services rendered to the Railways. The applicant craves indulgence of this Hon'ble Tribunal to produce those letters/orders of recognition of his services at the time of hearing of this application, if so advised.

(ii) That the applicant begs to state that on 25.2.2002 the Railways Board decided to hold a Written test for forming a panel of candidates for promotion to the 8(eight) vacant posts of Office Superintendent Grade-II (OS-II) in the scale of pay Rs.5,500/- to 9000/- of General Branch and such a written test was scheduled to be held on 18.3.2002 to 10.4.2002.

(iii) That the applicant begs to state that the applicant being a senior Head Clerk in the Railway Department got a call letter for appearing in such a written test and accordingly he appeared in the Written Test on 18.3.2002.

A copy of the call letter issued by the Railway Administration is annexed herewith and marked as Annexure-2 to this petition.

(iv) That the applicant begs to state that the Railway Administration by Notification dated 3.4.2002 published the result

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(4)

of the aforesaid Written test wherein the name of the present applicant is found placed at Serial No.3.

A copy of the Notification dated 3.4.2002 published on behalf of the General Manager (P) of the N.F.Railway by the A.P.O.(Admn) is annexed herewith and marked as Annexure-3 to this application.

(v) That the applicant begs to state that pursuant to his selection in the written test, the Railway authority called the applicant to appear in the viva voce test on 10-4-2002 wherein the applicant did well. But yet the applicant has not been promoted to the post of O.S.-II for reasons best known to the authority concerned. In this connection the applicant most respectfully states that during his service career he earned to his credit a number of rewards in recognition of his best service to the Railway Board. The applicant, therefore, confirms that in consideration to his distinguished service rendered to the Railways Board, the A.C.R.in respect of the applicant should not have been adverse. Still then the applicant has not been promoted and those who are less qualified and lower in rank and even who have not even completed two years of service have been promoted ignoring the distinguished service rendered by the applicant. Even if there was any adverse remarks got recorded against the applicant at any point of time, the authority was duty bound to inform the applicant before recording such adverse remarks in his A.C.R. as per Railway Boards Circular No.E(NG)1-81/CR-8 dated 22.9.81 so as to enable him to rectify himself. The applicant further begs to state that when the applicant

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(5)

did well in both the Written Test and Viva Voce Test to be promoted to the post of O.S-II, the applicant has reason to believe that some how adverse remarks got recorded in his A.C.R. and in consideration of which his case for promotion could not be considered.

It needs to be mentioned here that on 23.7.2001 the A.D.G.M., Maligaon passed a communication to the applicant showing the adverse remarks of the applicant in his A.C.R. and thereafter the applicant also filed an appeal on 17.8.2001 for expunging the adverse remarks recorded in his A.C.R. without following the due procedure as per the provisions of the Railways Boards Circular No.E(NG)1-81/CR-8 dated 22.9.81. Thereafter the Assistant General Manager by communication dated 31.8.2001 informed the applicant that adverse remarks recorded in his A.C.R. could not be changed and thereafter he filed an appeal/representation on 21.8.2002 for expunging the adverse remarks recorded illegally in his A.C.R. and on 23.8.2002 the Deputy General Manager/G informed the applicant that the remarks recorded in his A.C.R. for year ending 31.3.2001 would stand.

Copies of the communications dated 23.7.2001, 31.8.2001, copies of the appeal/representations dated 21.8.2002 and copy of the order dated 23.8.2002 are annexed herewith and marked as ANNEXURES-5,6 AND 7 <sup>8 enclosed order dated 10-5-2002</sup> respectively.

5. GROUND FOR RELIEF AND LEGAL PROVISIONS:

(6)

(I) For that the respondents- authority with a malafide intention adopted pick and choose policy in preparing the impugned result of selection test for the promotion to the post of O.S-II dated 10<sup>th</sup> May, 2002 ignoring the departmental rules, guidelines, norms etc. and hence the impugned result of selection test dated 10<sup>th</sup> May, 2002 is liable to be set aside and quashed for the ends of justice and fair play.

(II) For that the adverse remarks recorded in the A.C.R. of the applicant could not have been entered into without giving any reasonable opportunity of his being rectified and improved and non-consideration of the promotion in respect of the applicant basing on such A.C.R. is illegal, bad in law and is arbitrary, discriminatory, unconstitutional, void and ab initio, and as such, the result of selection test dated 10<sup>th</sup> May, 2002 is liable to be set aside and quashed.

(III) For that the authority concerned illegally promoted the junior persons ignoring the case of the applicant who is selected for such promotion at serial No.3 yet the railway authority has not given the promotion to the applicant and those who were junior to the present applicant and who even did not complete two years of service have been promoted, which is in violation of the departmental rules, guidelines and norms and the railway authority has not followed due process in the matter of promotion, and as such, the impugned order dated 10.5.2002 is not tenable in the eye of law and the same is liable to be set aside and quashed.

not necessary to mention 20

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(7)

(IV) For that the respondent-authority should have considered the fact that the applicant has been rewarded for many times in recognition of his distinguished service rendered to the railways board while considering the case of the applicant for promotion but the railway authority failed to do so, and as such, the impugned result of selection test dated 10.5.2002 is liable to be set aside and quashed.

(V) For that the illegal entry of adverse remarks in the A.C.R. of the applicant could very well be expunged as the same was recorded without going through the details of the service record of the applicant and as the same was recorded without even giving opportunity to the applicant of being heard and without giving him reasonable opportunity for his rectification and improvement, which is in violation of the provisions of the Railway Boards Circular No.E(NG)1-81/CR-8 dated 22.9.81, and as such, the respondents may be directed to expunge the adverse remarks recorded in his A.C.R. illegally and to promote the applicant without any further delay.

(VI) For that the procedure followed in the matter of promotion is contrary to law, norms and guidelines of the railway authority, which has resulted in the miscarriage of justice, and as such, the impugned result of the selection test dated 10.5.2002 is liable to be set aside and quashed.

Not verified by Mahan 72

(8)

(VII) For that in any view of the matter, non-consideration of the applicant for promotion is violative of the provisions of the service rules, and as such, the respondents may be directed to promote the applicant without any further delay.

6. DETAILS OF THE REMEDIES EXHAUSTED :

That the applicant declares that there is no other alternative and/or efficacious remedy available to him than to prefer the instant application under the peculiar facts and circumstances of the case.

7. MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT :

The applicant further declares that he has not previously filed any application, writ application or suit regarding the matter in respect of which this application has been made before any Court, or other authority or any other Bench of this Hon'ble Tribunal, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT :

Under the facts and circumstances of the case the applicant prays the following reliefs :-

(9)

(i) To set aside and quash the impugned result of the selection test dated 10<sup>th</sup> May, 2002 published by the respondents-authority;

(ii) The respondents Railways authority may be directed to promote the applicant to the post of O.S-II in the scale of pay Rs.5,500/- to Rs.9,000/- per month considering the distinguished service rendered by the applicant to the Railways during his service career;

(iii) Direction may be given to the Respondents Railways authority to expunge the adverse remarks recorded in the A.C.R. of the applicant illegally.

9. INTERIM ORDER PRAYED FOR :

Pending final disposal of this application, the applicant prays that the impugned selection list dated 10<sup>th</sup> May, 2002 published by the Respondents Railways authority selecting 8(eight) candidates and promoting seven candidates out of eight may be stayed and the Respondents may be directed to keep one post vacant with a further direction to the respondents to expunge the adverse remarks recorded in the A.C.R of the applicant.

10. PARTICULARS OF THE I.P.O.

I.P.O. NO. : 76 576903

Date : 4.9.2002

Payable at : H.P.O.

11. LIST OF ENCLOSURES :

As stated in the Index.

not may be given  
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(10)

VERIFICATION

I, Md. Majibur Rahman, son of Late Mafiz Ali, aged about 40 years, by profession service, resident of North Jalukbari, P.O. Jalukbari, P.S. Jalukbari in the District of Kamrup, Assam, presently residing at Railways Quarter, Maligaon, Guwahati-11 do hereby verify that the statements made in paragraphs 1-4 are true to my knowledge and the statements made in paragraphs 5 are true to my legal advice and that I have not suppressed any material facts.

And I sign this verification on this 12<sup>th</sup> day of September, 2002 at Guwahati.

Md Majibur Rahman  
(Md. Majibur Rahman)

Md Majibur Rahman  
22

-11- 17-1

25

N. F. Railway

No. E/90/9/1 (Q) Pt. III.

Dated : 13/3/97.

Sub : Result of the S/Test held on 07/3/97  
for promotion to the post of Head  
Clerk in scale Rs.1400/- -2300/-.

The following staff of 'G' Branch as a whole  
have been declared qualified for promotion to the post of  
Head Clerk in scale Rs.1400/- -2300/- in the suitability test  
held on 07/3/97.

Sl. No.	Name & Designation	Place of posting.
1.	Sri B.K.Kawah, Sr. Clerk (UR)	CPRD/Maligaon.
2.	Sri D.K.Dey, Sr. Clerk (UR)	CD Cell/Maligaon.
3.	Sri M.Rahaman, Sr. Clerk (UR)	GM/Maligaon.
4.	Sri P.C.Deka, Sr. Clerk (UR)	GM/Maligaon.
5.	Sri G.S.Nath, C.I. (UR)	GM/Maligaon.
6.	Smt. A. Dhalua, Sr. Clerk (SC)	GM/Maligaon.

This issues with the approval of the competent authority.

*[Signature]*  
13/3/97  
for GENERAL MANAGER (P)

Copy forwarded for information and necessary action to:-

1. FA & CAO/Maligaon.
2. DGM(G)/Maligaon,
3. CPRD/Maligaon,
4. L.O./Maligaon,
5. OS(G)/ Maligaon with staff copies,
6. OS/CPRD/ Maligaon with staff copies,
7. P/case & S/sheets,
8. EQ/G/ Bills in duplicate.

*[Signature]*  
13/3/97  
for GENERAL MANAGER (P).

*certified to be  
true  
Shai  
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-12- 414-2

26

N. F. Rly.  
( NOTICE )

NO:E/254/6/1/1pt-VII(Q)

Maligaon, dated: 25-02-02

TO

DGM/G/MLG.  
CPRQ/MLG.  
LO/MLG.  
DY.MRA/MLG.  
DY.CVO/E/MLG.

Sub:- Forming a panel of OS-11 in scale  
Rs. 5500-9000/- of 'G' Branch.

It has been decided to hold a selection for forming  
a panel for 8(eight) posts (JR-7, C-1, JT-NIL) of OS-11 in scale  
Rs. 5500-9000/- of 'G' Branch. The date of selection is scheduled to  
be held as under:

Written test : dated :: 18.3.02.

Absentee Written Test :: 27.3.02

Viva-voce test :: 10.4.02

Therefore, the following H.O. Clerk in scale Rs. 5000-8000/-  
in order of seniority may be advised to keep themselves in ready-  
ness and directed to appear in the said selection on the above  
mentioned date.

UR

1. Smt. Rebati Das, H.O. Clerk of CPRQ's Office.
2. Smt. Maya Rani Dey, H.O. Clerk of GM's Office.
3. Sri D.K. Daimary, H.O. Clerk of GM's Office.
4. Smt. N. Begum, H.O. Clerk of CPRQ's Office.
5. Smt. Binapani Bardoloi, H.O. Clerk of GM's Office.
6. Mr. Halaluddin Ahmee, H.O. Clerk of Dy.MRA's Office.
7. Sri D.K. Dey, H.O. Clerk of GM's Office.
8. Mr. M. Rahman, H.O. Clerk of CVO's Office.
9. Sri P.C. Deka, H.O. Clerk of GM's Office.
10. Sri G.S. Nath, H.O. Clerk of GM's Office.
11. Sri D.C. Kalita, H.O. Clerk of CPRQ's Office.
12. Sri P. Ramchairy, H.O. Clerk of GM's Office.
13. Smt. Eliga Begam, H.O. Clerk of LO's Office.
14. Smt. Sila Roy, H.O. Clerk of GM's Office.
15. Sri B. Bhattacharjee, H.O. Clerk of GM's Office.
16. Smt. Reena Saikia, H.O. Clerk of GM's Office.
17. Smt. Trishna Thakuria, H.O. Clerk of CVO's Office.
18. Mr. Mir Hussain, H.O. Clerk of GM's Office.
19. Sri D.N. Bhuyan, H.O. Clerk of CVO's Office.
20. Smt. Madhumita Roy, H.O. Clerk of LO's Office.
21. Smt. Sikha Neogy, H.O. Clerk of GM's Office.

SC

1. Smt. Sefali Sutrachar, H.O. Clerk of Dy.MRA's Office.
2. Smt. A. Dhalua, H.O. Clerk of GM's Office.
3. Smt. Leopa Das, H.O. Clerk of LO's Office.

If any of the above named is on leave, he/she should be  
called back to appear in the selection list. No reason of absence  
except self sickness on pr. of N.M.O. will be entertained.

contd... 2/-

*sent to 2 by  
Shan  
2/2*

If any one of the above is unwilling to appear in the test he/she should express his/her unwillingness in writing before the selection is held.

The selection will consist of both written and viva-voce test. Candidates comes out successful in the written test will be called for viva-voce test.

The prescribed syllabus is enclosed.

(S. Devi)

Asstt. Personnel Officer (Admn.)  
for General Manager (P) Maligaon.

Copy forwarded for information to:-

1. COS/GM's office with staff concerned copies.
2. COS/CHD's office -cc-
3. OS/CVD's office -cc-
4. OS/LD's office -cc-
5. OS/Dy. MVA's office -cc-

for General Manager (P) Maligaon.

\*\*\*\*\*

LS.

*[Handwritten signature and initials]*

-14-      A-1-x-3

**NORTHEAST FRONTIER RAILWAY**

Office of the  
General Manager(P)/Maligaon

**Sub : Result of the selection (written test) for the post of OS-II  
In Scale Rs. 5500/-9000/- of 'G' Branch as a whole.**

The following candidates of 'G' Branch have been found eligible to  
appear in the viva-voce test for the post of OS-II in Scale Rs.5500/- -9000/-.

1. Smt. Maya Rani Dey, Hd. Clerk of GM's Office,
2. Md. Halaluddin Ahmed, Hd. Clerk of Dy. MRS's Office,  
(MD. Ahmed is found eligible by adding Notional Seniority marks).
- ✓ 3. Md. M. Rahman, Hd. Clerk of CVO's Office,
4. Sri G. S. Nath, Hd. Clerk of GM's Office,
5. Smt. Sila Roy, Hd. Clerk of GM's Office,
6. Smt. Trishna Thakuria, Hd. Clerk of CVO's Office,
7. Sri D. N. Bhuyan, Hd. Clerk of CVO's Office,
8. Smt. Madhumita Roy, Hd. Clerk of LO's Office.

Further, the following Reserve Community candidates who have  
secured 20% and above marks, have been permitted to appear for the viva-voce test to  
decide the candidature as best among the failed candidates :

1. Smt. Sefali Sutradhar (SC), Hd. Clerk of Dy. MRA's Office,
2. Smt. A. Dhalua (SC), Hd. Clerk of GM's Office,
3. Smt. Deepa Das (SC), Hd. Clerk of LO's Office.

The date for viva-voce test fixed to be held on 10/04/2002. Candidates  
may please be directed to appear in the viva-voce test on specific date at DGM(G)'s  
Chamber at 11.00 hrs. If any one is on Sick/Leave, may be informed, accordingly.

( S. Devi )  
APO(Admn).  
**for GENERAL MANAGER (P)**

No. E/254/6/1/1 Pt.VII(Q)

Dated : The 3<sup>rd</sup> April, 2002

Copy forwarded for information and necessary action to :-

1. SDGM/MLG
2. DGM(G)/MLG
3. CPRO/MLG
4. LO/MLG
5. Dy. MRA/MLG
6. Ch. OS/GM & CPRO's Office with a copy to the staff concerned
7. OSs/CVO, LO & Dy. MRA's Office with a copy to the staff concerned.

BOW 3.4.02  
**for GENERAL MANAGER (P)**

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D. N.*

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'Confidential'

NORTHEAST FRONTIER RAILWAY

OFFICE OF THE  
GENERAL MANAGER  
MALIGAON, GUWAHATI-11

No.Z/Con/CR/Staff

July 23, 2001

To  
Shri Muzibur Rahman,  
Hd. Clerk,  
VO's office,  
Maligaon.

Sub: *Communication of adverse remarks.*

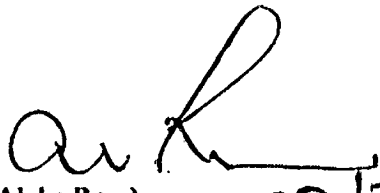
In your confidential report for the year ending 31.03.2001, the following adverse remarks have been recorded:

3. Departmental abilities (merits/demerits)  
to include comments on:
- (c) Keeness/Promptness and efficiency. - Requires improvement.
  - (g) Amenability to discipline - Undisciplined.
6. Reliability. - Not reliable.
7. Relation with others:
- (a) those above
  - (b) those below
  - (c) the public (if his duties entail his coming into contact with public/railway users).
- Relations are not cordial.
13. (b) Does he maintain his office files neatly? - No, needs improvement.
- (c) Does he maintain his rule books, codes, Diary and Reminder memo book etc.? - Training is necessary.
- (e) Is his disposal prompt? - Requires improvement.

2. It is not the intention that these remarks should, in any way discourage you, but it is desired that they should enable you to know and rectify your defects.

3. Representation, if any, against the adverse remarks has to be made within one month.

Please acknowledge receipt.

  
(Aloke Roy)  
ADGM/MLG

23/7/01

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true copy  
Shai  
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"CONFIDENTIAL"

N.F. RAILWAY

OFFICE OF THE  
GENERAL MANAGER  
MALIGAON, GUWAHATI - 11

NO - Z/Con/CR/Staff (Loose)

Dated :- 31.08.2001

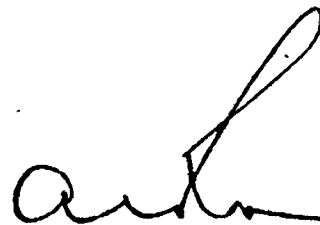
To,  
Sri Muzibur Rahman,  
Hd. Clerk, CVO's office,  
Maligaon.

Sub :- Communication of adverse remarks for the  
year ending 31.03.2001.

Ref :- Your appeal dated 17.08.2001.

The Competent Authority has not agreed with the appeal submitted by you in connection with the above subject. As such the remarks mentioned in your CR will remain unchanged.

This is for your information please.



Asstt. Dy. General Manager

31/8/01

certified to be  
true copy  
Shai  
Adv.

- 17 - 11/1 - 6

31

To  
The Dy. General Manager/Gen  
N.F. Railway, Maligaon

Sub : Injustice in the matter of

- (i) Recording of adverse remarks in the ACR year ending 31.3.2001.
- (ii) Consequential deprivation of empanelment in the selection for promotion to OS/Gr.II (5500-9000/-).

Respected Sir,

With profound respect I beg to state the following few lines as my humble submission and prayer before your magnanimous self for rendering justice. Sir, in my annual confidential report for the year ending 31.3.2001 the following adverse remarks were recorded by the initiating officer, which was in complete violation of Rly Bd's. Extant norms and instruction in the matter and detrimental to the interests of my career progression.

1. Depptl. Ability

(c) Keennes /promptness and efficiency.--- Requires improvement .

(g) Amenability to discipline ---- Undisciplined.

(6) Reliability -----Not reliable.

(7) Relation with others -----Relations are not cordial.

--etc----

( 13)(b) Does he maintain his office files neatly--No,needs improvement.

(c) Does he maintain his rule books codes, -- Training necessary.

(e) Is his disposal prompt ?----- Requires improvement.

Sir, in this connection I beg to mention that during the reporting period from 1.4.2000 to 31.3.2001, I was not at all given any scope by the concerned officer to improve my performance /rectification by way of written warning as is mandatory not to speak of any training in the areas as mentioned in 13( c ) above.

Sir, in such a situation how can my interests be prejudiced like this ex parte action without giving any scope.

Sir, in this connection I would like to draw your attention to Rly. Bd's extant instruction that adverse remarks in the ACR at the end of the year should not be automatic as a matter of routine. The officer/ Subordinates initiating CRs must from time to time during the reporting year, review the working of the staff working under him. And if it is found that his working is not upto the mark and requires improvement in any area, he should invariably be given written warning which must be acknowledged by the staff. If after such warning the performance of the staff improves considerably, the reporting officer may not take cognizance of such warning and can give him a good report. If otherwise then, only adverse can be recorded. In terms of Rly. Bd's letter No. E(NG)I-81/CR-8 dt.22.9.81 such adverse remarks should not suddenly appear in CR at the year end without giving any scope for improvement. Under the circumstances the above CR gradings cannot stand.

*certified to be  
true  
Shari  
Adv.*

32  
Sir in the last selection for OS/Gr-II of G branch notified vide GM(P) /MLG's NO.E254/6/1/1 Pt.VII(Q) dated 25.2.02 for 8 posts (UR-7 & SC-1) I qualified for viva voce in normal standard. My seniority position being 4<sup>th</sup> out of qualified candidate. But finally after viva voce a panel of only 6 UR candidates have been published but my name did not appear in the panel.

Sir, I did well in viva-voce so naturally pointer goes towards the area of record of service i.e ACR which may be the only area I might have been declared unsuccessful.

Under the circumstance I pray your honour to get the issue re-examined in detail keeping in view the infirmities in the grading of my ACR with adverse entries as well as mark allotted there of so that justice is restored.

Sir I belong to minority community and my case may be re-examined sympathetically as per extant policy of Govt. of India to render justice by way of reviewing the result of OS/Gr.II for which one UR post still left for empanelment.

In anticipation of your justice please.

Date : 21/08/2002

nd. Majibare Rahman  
(MD. MAJIBAR RAHMAN.)  
Hd. Clerk/Vig. Office.

certified to be  
true copy  
Ahai  
sir

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Confidential

33

N.E. RAILWAY

OFFICE OF THE  
GENERAL MANAGER  
MALIGAON, GUWAHATI - 11

No :- Z/Con/CR/Staff

Dated : 23.08.2002.


To  
Md. Mujibar Rahman,  
Hd. Clerk, Vigilance Office/MLG

Sub :- Adverse remarks recorded in the ACR  
year ending 31.03.2001.

Ref :- Your representation dated 21.08.2002.

Your representation dated 21.08.2002 submitted after a long gap beyond  
the prescribed time limit has been carefully examined and this is to confirm you that the  
remarks recorded in ACR for the year ending 31.03.2001 will stand.

No further correspondence in this respect will be entertained.

  
( A.S. Chaudhary )  
Dy. General Manager/G

certified to be  
true copy  
Shai  
Dr.



## MEMORANDUM

Sub: Result of the selection, (Written Test held on 18/3/2002 and Viva-voce test held on 10/4/2002 and on 06/5/2002, for the post of OS-II in Scale Rs.5500 - Rs.9000 - of 'G' Branch, as a whole.

In the above selection, the following Head Clerks of 'G' Branch have been declared qualified and provisionally empanelled for promotion to the post of OS-II in Scale Rs.5500/-Rs.9000/-.

Sl. No.	Name & Designation	Place of working	Remarks
1.	Smt. Maya Rani Dey, Hd. Clerk,	GM's Office	
2.	Sri G. S. Nath, Hd. Clerk,	GM's Office	
3.	Smt. Shila Roy, Hd. Clerk,	GM's Office	
4.	Smt. Trishna Thakuria, Hd. Clerk,	CVO's Office	
5.	Sri D. N. Bhuyan, Hd. Clerk,	CVO's Office	
6.	Smt. Madhumita Roy, Hd. Clerk,	LO's Office	
7.	Smt. A. Dhalua, Hd. Clerk,	GM's Office	Selected on relaxed standard

The Panel has been approved by SDGM on 09/5/2002.

(S.Devi)

Asstt. Personnel Officer (Admn.)  
for General Manager (P)

No. E/254/6/1/1 Pt. VII(Q).

Dated: The 10<sup>th</sup> May, 2002.

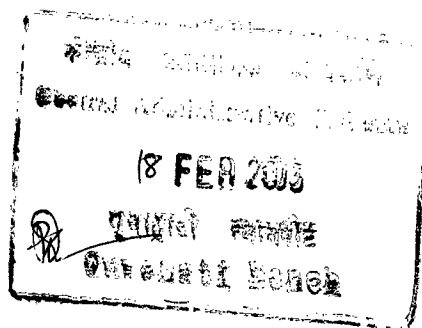
Copy forwarded for information and necessary action to :-

1. FA&CAO/ MLG.
2. SDGM/MLG,
3. DGM(G)/DGM(G)/MLG,
4. CPRO/MLG,
5. Law Officer/ MLG
6. Dy. MRA/ MLG
7. OSs/ GM, CVO, LO, Dy.CVO(E), with copy to the staff concerned.
8. P/ Case & S.Book.

(S.Devi)

Asstt. Personnel Officer (Admn.)  
for General Manager (P)

certified to be  
true copy  
Shan  
ADP



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
GUWAHATI.

IN THE MATTER OF :

O. A. No. 289 of 2002

Md. Majibur Rahman .... Applicant

- Versus -

1. The Union of India.
2. The General Manager(P),  
N.F. Railway, Maligaon,  
Guwahati-11.
3. Deputy General Manager(G),  
N. F. Railway, Maligaon,  
Guwahati-11.
4. Assistant Deputy General  
Manager, N. F. Railway,  
Maligaon, Guwahati-11.

.... Respondents .

- AND -

IN THE MATTER OF :

Written Statement for and on behalf of  
the respondents.

Contd.....2

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du

Chief Personnel Officer (A)  
G. P. Rly. / Malgasee  
Gawabed-11

-: 2 :-

The answering respondents most respectfully beg to sheweth as under :

1. That, the answering respondents have gone through the copy of the application filed by the applicant 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.
4. That, for the sake of brevity, the meticulous denial of each and every statement has been avoided, without admitting the correctness of such averments. The respondents do not admit any of the allegations/statements of the applicant except those which are ~~borne~~ borne on records and or are specifically admitted hereunder and the applicant is put to strictest proof of those statements which are either not borne on records or are <sup>not</sup> specifically admitted by the respondents.
5. That, the case is vexatious one without any substance and is the outcome of the after-thought of the applicant.
6. That, the selection of Office Superintendent, Grade-II for General Branch of General Manager's Office of N.F. Railway was properly conducted after observing all the required rules

Contd.....3

- 223 -

32  
Chief Personnel Officer (A)  
N. F. Rly. / Maligaon  
Gauhati-781 001

-: 3 :-

rules and laws. The working report (i.e. ACR) for the year ending 31.03.2001 was recorded after observing all the required formalities as required under rules and laws and after due application of mind and on consideration of the performance in the discharge of official duties/work and there has been no illegality or irregularity in these regard and same was communicated to the applicant in time.

7. That, with regard to averments at paragraph 4(i) of the application it is submitted that except those statements which are borne on records or are specifically admitted here under, nothing are accepted as correct and the applicant is put to strictest proof of all other statements.

It is a fact that the applicant was appointed as a Senior Clerk on 26.9.88 and subsequently promoted as Head Clerk on 13.3.1997.

8. That, with regard to averments at paragraph 4(ii) of the application it is submitted that for forming a panel of 8 posts of Office Superintendent Grade-II (in short OS-Gr-II) in scale Rs.5500 - 9000/- of General Branch (in short 'G' Branch), the selection was held/scheduled on different dates as under:-

- i) Written test on 18.3.2002
- ii) Viva-voce test on 10.4.2002
- iii) Absentee Viva-voce test on 6.5.2002

and the selection test have already been completed with the completion of the absentee selections etc. It is also to mention herein that the selection was conducted by the N.F. Railway Administration (Zonal Railway) and not by the

Contd.....4

-: 4 :-

Railway Board as asserted in the application.

9. That, with regard to averments at paragraphs 4(iii) and 4(iv) of the application, it is submitted that it is a fact that the applicant being a Senior Head Clerk was also within the eligible group to appear in the proposed selection for the post of OS-Grade II in General Branch and his name was placed at Serial No. 8 amongst U.R. (i.e. Un Reserved) candidates called alongwith others for appearing in the Written test which was scheduled to be held on 18.3.2002 vide General Manager(P)'s call letter No.E/254/6/1/1(Pt.VII(a) dated 25.2.02, a copy of which notification has been annexed as Annexure-2 to the application.

It is also a fact that the applicant qualified in the Written test held on 18.3.2002 and he was found eligible to appear in the Viva-voce test for OS-II and his name appeared at Serial No.3 (amongst U.R. candidates) in the result published on 3.4.2002 vide notification No.E/254/6/1/1/Pt.VII (Q) dated 3.4.2002, a copy of which notification has already been annexed as Annexure-3 to the application. Vide this notification the applicant along with other eligible candidates who qualified in the Written test were also advised to appear before the scheduled Viva-voce test of OS-II selection on 10.4.2002.

10. That, with regard to averments at paragraph No.4(v) of the application it is submitted that except all those averments which are either borne on records or which are

Contd.....5

-: 5 :-

specifically admitted hereunder, all other averments/allegations/contentions of the applicant are not admitted and the applicant is put to strictest proof of such averments.

A. It is fact that -

- (i) the applicant qualified in the Written test of the OS-II selection and thus he qualified himself to appear in the Viva-voce test of the said selection which was scheduled to be held on 10.4.2002.
- (ii) the applicant though appeared in the Viva-voce test held on 10.4.2002 could not qualify for empanelment as OS-II in scale Rs.5500 - 9000/- which is a selection post and where the criterion/method of selection is quite different from that of the non-selection posts.

The result of the selection of OS-II post has already been published on 10.5.2002 and name of 7 staff were declared and provisionally empanelled for the post of OS-II in General Branch (including Smt. Trishna Thakuria, Sri D.N. Bhuyan and Smt. Madhumita Roy). A copy of the notification dtd. 10.5.2002 has been annexed as Annexure-8 to the application.

It is also to submit herein that the 3 (three) staff Smt. T. Thakuria, Sri D.N. Bhuyan and Smt. Madhumita Roy although junior to the applicant and not completed 2 years

-26-

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Chief Personnel Officer (A)  
S. P. Rly. / Maligaon  
Guwahati-78

-: 6 :-

service in the grade also appeared in the said selection of OS-II and their names were already in the list of candidates called for selection for OS-II against Serial Nos. 17, 19 and 20 of the notification for selection dated 25.02.2002, (a copy which has already been annexed as Annexure-2 to the application).

The applicants contention that he did well in the Viva-voce test or that his service was all along distinguished one or that no adverse Confidential Report (i.e. A.C.R.) could be issued against him or that such A.C.R. was issued in contravention to Railway Board's circulars/instructions as quoted by him or that by selection/promotion of personnel who are junior to him or who even did not complete two years service, his distinguished service has been ignored etc., are not admitted and hence denied.

In this connection, it is pertinent to mention herein that Smt. T. Thakuria, Sri D.N. Bhuyan and Smt. Madhura Roy's name were already in the ~~list~~ notification dated 25.02.2002 in which list his name was also included at Serial No. 8 and he never raised any objection against inclusion of their names in the call letter and not even on any date prior to his appearance in the Viva-voce test on 10.4.2002. It is therefore submitted that the present allegations about these personnels are the outcome of his after-thought and he is debarred/estopped to contest on this point now, after participating in the said selection process.

Contd.....7

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It is also to mention herein that though the above 3 staff have been empanelled in the selection for OS-II, their promotion will be considered only on completion of 2 years service in the lower grade of Head Clerk.

B. That, as regards the adverse remarks as recorded in the A.C.R.'s of the applicant, it is submitted that -

- (a) from Annexures-4, 5 and 7 of the application it is well apparent that his over-all working report/performance for the year ending 31.3.2001 were already exhibited/recorded clearly in the said A.C.R. and same was communicated to him on 23.7.2001 and vide letter dated 31.8.2001 and it was already intimated to him to the effect that his contentions in the appeal were not agreed to by the appellate authority and that the C.R. (Confidential Report) will remain unchanged and vide Deputy General Manager (G), N.F. Railway, Maligaon's letter No.4/Con/CR/Staff dated 23.8.2002, it was clearly informed to him that his representation dated 21.8.2002 against the A.C.R. for year ending 31.03.2001 (which was submitted beyond the prescribed time limit) was carefully examined and that the remarks recorded in A.C.R. for the year ending 31.3.2001 is confirmed and will stand.

It is emphatically denied that there had been any lacunae left behind in communicating/issuing/recording the adverse remarks from the Railway Administration's side.



-: 8 :-

11. That, in view of what have been submitted in the above paragraphs of this Written Statement, none of the grounds of relief as mentioned at paragraphs 5 of the application and relief as sought for under paragraphs 8 and 9 of the application are sustainable under law and fact of the case and thus the prayers of the applicant are liable to be rejected.

It is completely denied that there has been any pick and choose policy in preparing the impugned result of selection tests for promotion to the post of OS-II dated 10.5.2002 or that there had been any violation etc. of the departmental rules, guidelines, norms etc. or that there has been any irregularity in recording remarks in the A.C.R. or that his non-selection was quite arbitrary, discriminatory, unconstitutional, void ab-initio or the result of the selection test is liable to be set aside and quashed or that there has been any illegality or violation of departmental rules etc. in promoting the ~~selected~~ selected candidates who are junior to the applicant, or that awarding of any reward to any staff for some commendable particular job entitles such staff to claim promotion for the higher posts where suitability/judgement criterion are quite different and involves various other considerations etc. as well or that there has been any miscarriage of Justice or that there had been any non-consideration of his promotion matter by the Railway Administration etc. as alleged or that the remarks as recorded in A.C.R. are liable to be quashed.

It is also to mention herein that the notification for holding the selection along with the names of the candidates who have been called for the selection (including his alleged juniors etc.) to be held on 18.3.2002, 27.3.2002, 10.4.2002 etc. were notified to all concerned including the applicant, on much earlier date i.e. on 25.2.2002 (vide Annexure-2 to the application), and that the applicant raised no objection or filed no representation. Rather he participated in the selection process and has been raising the objection after the result of the Viva-voce test is out only. Further the adverse remarks in his Confidential Report (A.C.R.) was communicated to him on 23.7.2001 and <sup>as</sup> considered decision of competent authorities for rejection of his prayer for setting aside the A.C.R. were also communicated to the applicant on much earlier date i.e. 31.8.2001 (vide Annexure-5 to the application) irrespective of the latest decision dated 23.8.2002 (vide Annexure-7 to the application).

It is submitted that the applicant could ascertain from development of the case that he had no sufficient grounds for raising any objection and his present application is nothing but out-come of his after-thought.

12. That, it is submitted that all the actions taken in the case by the respondents are quite legal, valid and proper and in consonance to the provision of extant laws and rules on the subject and have been taken after due application

-30-

44

Chief Personnel Officer (A)  
A. P. Rly., / Maligaon  
Guwahati. 86

-: 10 :-

mind and <sup>the</sup> the present case is based on wrong premises and suffers from misconception and mis-interpretation of rules and laws on the subject besides basing on surmise only.

13. 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 ends of Justice.

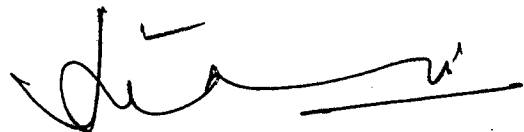
14. That, under the facts and circumstances of the case, as stated in the foregoing paragraphs of the written statement, the instant application is not maintainable under law and fact of the case and is liable to be dismissed.

..... Verification

-: 11 :-

VERIFICATION

I, A. K. Nigam son of  
late S. P. Gaurha aged about 47 years  
by occupation Railway service, working as Chief  
Personnel Officer / A of the N.F. Railway Administra-  
tion, Maligaon, Guwahati do hereby solemnly affirm and  
state that the statements made in paragraphs 1 and  
4 are true to my knowledge and those made  
in paragraphs 6, 7, 8, 9 and 10 are based  
on information as gathered from records of the case,  
which I believe to be true and the rests are my humble  
submissions before the Hon'ble Tribunal and I sign this  
verification on this 14<sup>th</sup> day of February, 2003.



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

Chief Personnel Officer (A)  
N. F. Ry. / Maligaon  
Guwahati-11