

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 380/02

R.A/C.P No.

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SECTION OFFICER (Judl.)

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 380/2002
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s): Smt Nilima Dey

- Vs. -

Respondent(s): UOI & ONS.

Advocate for the Applicant(s): Smt S. Deka, Mr A. Chakrabarty
Mr R. Das

Advocate for the Respondent(s): Dep Counsel
Dr. M.C. Sarma

Notes of the Registry	Date	Order of the Tribunal
<p>CLERK'S ROOM T9 606310 Dated 28/11/02 Dy. Registrar</p> <p>steps taken 28/11/02</p> <p>Encls not received. Notice prepared and sent to Dls for info the Respondent No 1 to 4 by Regd AD. 17/12</p> <p>D/No 3490 to 3493 24/30/12/02</p> <p>No. reply has been taken.</p> <p>3.1.03</p>	<p>29.11.02</p> <p>mb</p> <p>6.1.03</p> <p>pg</p>	<p>Heard <u>Mr. A. Chakrabarty</u>, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks.</p> <p>I allow the applicant to make necessary amendment in the applica- tion.</p> <p>List on 6.1.2003 for admission.</p> <p>Vice-Chairman</p> <p>Learned counsel for the respon- dents states that he will be getting the necessary instruction and would be able to inform this Tribunal about a decision that has been taken pertaining to the screening of the names. In this view of the matter list it on 11.2.03.</p> <p>Member</p> <p>Chairman</p>

11.2.2003

Heard Mr. A. Chakrabarty, learned counsel for the applicant and also Mr. M.C. Sarma, learned counsel for the respondents.

The respondents are yet to file reply. The application is admitted. Call for the records. The respondents may file written statement within four weeks from today.

List the matter on 10.3.2003 for written statement.

Vice-Chairman

mb

10.3.2003

No written statements are forthcoming. List again 8.4.2003 enabling the respondents to file written statement, if any.

Vice-Chairman

bb

8.4.03

Written statement filed. The case may now be listed for hearing on 27.5.03.

The applicant may file rejoinder within two weeks from today.

Vice-Chairman

27.5.03

Adjourned. List again on 29.5.2003 to enable Dr M.C.Sarma, learned Railway standing counsel to produce connected records.

Member

Vice-Chairman

pg

29.5. Heard Mr. A. Chakrabarty, learned Counsel for the applicant & Dr. M.C. Sarma, learned Counsel, Railway. Hearing concluded. Judgment reserved.

Mlo
A.K. Sen

No. reply has been filed.

20
10.2.03

Sent vide L/No 3490 & 3493
dtd 30/12/02

No. wks has been filed.

20
7.3.03

No. wks has been filed.

20
7.4.03

22.4.03

W/S submitted by the Respondents.

pg

No. rejoinder has been filed.

20
26.5.03

8/6/2003

Copy of the Judgment
has been sent to the
Office for issuing
the same to the
applicant.

Copy of the same
has been sent to the
Advocate for
the receipt on
3/6/03.

mb

30.5.2003 Present : The Hon'ble Mr. Justice
D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra,
Member (A).

Judgment delivered in open Court,
kept in separate sheets. The application
is dismissed in terms of the order. No
order as to costs.

Member

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / ~~XXXX~~ No.380 of 2002 &c

DATE OF DECISION 30.5.2003.....
SIGNED BY JUDGE

... Smt. Nilima Dey APPLICANT(S).

... Smt.S.Deka, Mr.A.Chakraborty & Mr.R.Das. ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

... Union of India & Others. RESPONDENT(S).

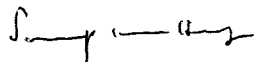
... Dr,M,C,Sarma, Rly.Standing counsel. ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR S.K.HAJRA, 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 Ho'ble Administrative Member.



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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.380 of 2002.

Date of Order : This the 30th Day of May, 2003.

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

THE HON'BLE MR S.K. HAJRA, ADMINISTRATIVE MEMBER.

Smt. Nilima Dey
W/o Sri Biswajit Dey
Rty, Qrs. No.L/262 (B)

Doctors Colony, Badarpur, Assam.

. . . . Applicant.

By Advocates Smt.S.Deka, Mr.A.Chakraborty & Mr.R.Das.

- Versus -

1. Union of India
Through the General Manager
N.F.Railway, Maligaon, Guwahati-11.

2. The General Manager (P)
N.F.Railway, Maligaon
Guwahati - 11.

3. The Chief Personnel Officer (Welfare)
N.F.Railway, Maligaon, Guwahati - 11.

4. The Principal
Railway High School, Badarpur.

. . . . Respondents.

By Dr.M.C.Sarma, Railway Standing counsel.

O R D E R

S.K.HAJRA, MEMBER(ADMN.):

This is an application under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"8.1 The applicant be screened and absorbed as a regular Teacher."

8.2.The letter dated 13.8.2002 (Annexure-L) be set aside and quashed.

8.3 Any other relief or reliefs may be given as the Hon'ble Tribunal deem fit and proper."

1. The contentions advanced by the learned counsel for the applicant Mr.A.Chakraborty are as follows:

The applicant was appointed as a substitute Assistant Teacher in Railway High School, Badarpur for three months. She was discharged on 1.6.1989 and was replaced by a permanent teacher. She was re-engaged as a substitute Teacher w.e.f.19.11.1990 to 31.12.1990. She was again discharged and was replaced by a

permanent Teacher on 20.11.1990. The applicant had been representing for regular appointment time and again. Some substitute Teachers were appointed on regular basis after screening. The respondents failed to prepare a panel for screening of substitute Teachers. The respondents did not screen^{ed} the applicant on a wrong notion that substitute Teachers required three years service for screening. The applicant was deprived of the right to be screened, which is arbitrary.

2. Dr.M.C.Sarma, learned Railway Standing counsel argued as follows:

The applicant was appointed as a substitute Teacher till her replacement by regular employee. The applicant worked for ten months. She was not eligible for screening as she had not put in three years of service. Further more, the circular No.1956/2-20 (MS) (C)"B" dated 3.8.1992 on appointment of Substitute on the Railways requires that the name of the Substitutes would be included in the Live Register for regular appointment. The applicant's name was not in the Live Register and she was not entitled to regular appointment.

3. We heard both sides and considered their pleadings and also perused the records. Para 4.4. of the circular No.1956/2-20(MS) (C)"B" dated 3.8.1992 of N.E.F.Railway reads as follows:

"The conferment of temporary status after completion of four months continuous service in the case of others and three months continuous service in the case of substitute teachers mentioned in paras-4.2 and 3 above does not entitle them to automatic absorption/appointment to Railway service unless they are selected in the approved manner for appointment or absorption to regular posts."

Thus the Substitute Teachers like the applicant with the temporary status have no legally enforceable right to automatic regular appointment without fulfilling all conditions for such appointment. This apart, para 5.1A of the aforesaid circular states as follows:

"Screening/empanelment of Casual Labour/Substitutes for purpose of absorption in regular employment be restricted to only those who are in the current casual labour/substitute Registers except such of them as are absent on two occasions when called for such screening. For this

Sc

Purpose the said 'Register' should be maintained in duplicate."

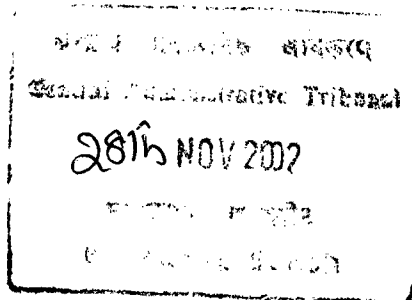
Admittedly, the name of the applicant was not in the current List/Register. The applicant was discharged as far back^{as} on 20.11.1990. This apart, the mere fact that some Substitute Teachers were appointed on regular basis is no ground for screening and absorbing the applicant without fulfilling the conditions for screening/regular appointment. There is no material to show that the applicant's case is identical with the cases of such Substitutes regularly appointed.

Be that as it may, we see no reason for giving reliefs to the applicant. Therefore, the O.A. is liable to be dismissed. Accordingly, the O.A. is dismissed.

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


(S. K. HAJRA)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :GUWAHATI.

O.A. NO. 380 /2002.

Smt. Nilima Dey

....APPLICANT

- Versus -

U.O.I. and Ors.

....RESPONDENTS

I N D E X

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Filed By

Palan Sh Dms

Advocate. 28/11/02

9
Nilima Dey

10

Nilima Dey.

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

ORIGINAL APPLICATION NO. /2002.

Smt. Nilima Dey,
W/o Sri Biswajit Dey,
Rly, Qrs. No. L/262 (B)
Dortors Colony, Badarpur, Assam.

*Filed by the applicant
through Robin ch. Dey.
Guwahati
28/11/2002*

....APPLICANT

- Versus -

1. Union of India,
through the General Manager,
N.F.Rly, Maligaon, Guwahati-11.
2. The General Manager (P)
N.F.Rly, Maligaon,
Guwahati-11.
3. The Chief personnel Officer, (Welfare)
N.F.Rly, Maligaon, Guwahati-11.
4. The Princip^{na},
Rly, H.S.School, Badarpur.

....RESPONDENTS

Nilima Dey

DETAIL OF THE APPLICATION

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

The application is made against the Memo No.E/252/239/pt.iv (w) dated 13.8.2002, and for a direction to the respondent for screening, the applicant for the purpose of regulr absorption.

2. Jurisdiction

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

3. Limitation

The applicant declares that the application is within the period of limitation under section 21 of the Administration Tribunal Act, 1985.

4. Facts of the case

4.1 That the applicant is a citizen of India and as such is entitled to the rights and previleges guaranteed by the Constitution of India.

4.2. That the applicant passed the HSLC Examination in the year 1970, Pre-University Examination in 1971 and B.A. in 1974. While the applicant was taking her Pre-University *studies* she was appointed as a Honourarium Asstt. Teacher in the School. Bani Bidhya Mandir, Lumding w.e.f. 1.3.1971. ~~she~~

She served in the said school as Honourarium Assistant Teacher upto 28.3.1976.

4.3 That the applicant in response to an employment notice dated 9.8.1985 of the respondents applied for appointment as a substitute Teacher under Badarpur group of Rly, Schools. She was called to appear before the selection board, on 8.2.1986 for the selection in the scale of Rs.330-560/- by call letter No. B5/EST/5-C dated 15.1.1986. She appeared before the said selection board and did very well.

Copy of the call letter dated 15.1.1986 is enclosed as Annexure-A.

4.4 That the applicant was found suitable after considering her qualification and previous ^{teaching} leading experience and was appointed as a substitute Assistant Teacher in Rly, H.S. School, Badarpur w.e.f. 18.7.1988 by appointment letter No. B5/EST/5-SUB dated 16.7.1988. Her said appointment was against a short term vacancy for a period of 3 months and was in the scale of Rs.1200-2040/- per months. She joined in Rly H.S. School, Badarpur in the said post w.e.f. 18.7.1988.

Copy of the appointment letter dated 16.7.1988 is enclosed as Annexure-B.

4.5 That the applicant was discharged from duty w.e.f. 8.10.1988 (afternoon) due to puja vacation by a letter dated

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Nilima Day.

8.10.1988 and she was re-engaged as a substitute Teacher w.e.f. 15.11.1988 for a period of 3 months by an office order dated 12-15.11.1988.

Copy of the letter dated 8.10.1988 and Office order dated 12-15.11.1988 are enclosed as Annexure-C & D respectively.

4.6 That the applicant begs to state that as per Rly establishment Rules substitute school Teacher acquired temporary states after a continuous service of 3 months. Accordingly the respondents on completion of 3 months continuous service of the applicant granted her temporary status ^{by letter No.} BS/PC-21/N.D. dated 17.5.1989. It is mentioned that by the said letter respondents also declared her eligible for all benefit admissible to a temporary staff. But most unfortunately she was not ^{screened} ~~severed~~ for absorption.

Copy of the letter dated 17.5.1989 is enclosed as Annexure-C.

4.7 That the applicant begs to state that she was discharged w.e.f. 1.6.1989 (Afternoon) by letter No. B5/PC-21/ND dated 29.6.1989 and she was replaced by a permanent Teacher Sri S.K.Das. She served the school ^{with} ~~full~~ devotion and her ~~service~~ ^{was} ~~way~~ without any blemish and with the satisfaction of all concerned. ^{The} respondents assured her for re-engagement in future as per requirement.

Nilima Day.

Copy of the letter dated 29.6.1989 is enclosed as Annexure-F.

4.8 That the applicant begs to state that she was thereafter re-engaged as a substitute Teacher in the said school w.e.f. 19.11.1990 to 31.12.1990 by office order dated 17.11.1990. She accordingly joined the duties on 19.11.1990. But most unfortunately and surprisingly she was discharged w.e.f. 20.11.1990 (A.N.) and she was replaced by a permanent Teacher. Though she earned Temporary status she was not given the benefits as such nor ^{screening}scrutiny was done for absorption.

Copy of the office order dated 17.11.1990 and discharge letter dated 20.11.1990 are enclosed as Annexure-G & H respectively

4.9 That the applicant begs to state that she served as a substitute Teacher in the said school for a total period of 284 days. The break-up of her service period as substitute Teacher in the Rly, H.S.School, Badarpur, is given in the following tabular form :

<u>Period of service</u>	<u>Year/months/days</u>		
18.7.1988 to 8.10.1988	00	02	22
15.11.1988 to 1.6.1989	00	06	17
19.11.1990 to 20.11.1990	00	00	2

It is stated ^{that} the applicant ^{earned} ~~even~~ temporary status by the operation of law and she is entitled to all the benefit of temporary status including screening for regular absorption. It is worthy to mention here that Rly Board by letter No. E (NG)IT/83/RR-1/7 dated 1.6.1983 made it compulsory to screen substitutes who have acquired temporary status by a screening Committee for regular absorption. It is also mandatory to maintain adequate panel to fill regular vacancies of teachers. The screening of substitute for absorption in regular appointment has to be made in the manner provided in Rly Boards letter No. E(NG)II/18/CL/18 dated 1.11.1988. It requires that screening has to be made by the screening Committee with reference to the vacancies available at present and vacancies likely to ^{arise} ~~aim~~ upto the end of next one year. The number to be called ^{for} such screening shall be the number of vacancies assessed in the said manner plus 25% thereof. This means that for the purpose of screening the ^{panel} has to be made with the number of vacancies plus 25% thereof.

4.10. That the applicant begs to state that she has been representing time again to the respondents for her appointment without any result. By a representative ~~on~~ dated 12.7.2002 the applicant again prayed for her appointment. She mentioned in her this representative that ~~for~~ the other substitute Teachers viz, Smt. Radha Chachraborty, Sri Pijush Kanti Das, Sri Subal Chackraborty and Sri D. Sengupta, were appointed on regular basis after screening.

Copies of the representation are enclosed as Annexure-I, J and K respectively.

4.11 That the applicant most respectfully begs to state ^a ~~tht~~ she has come to know that ~~the~~ said Sri D. Sengupta, ex-Substitute Teacher, was appointed through screening test as a primary Teacher on 26.4.2002. It is also learned that the said screening test was held on 20.3.2002. The applicant respectfully states that the respondents have absorbed ~~the~~ ~~said~~ ~~for~~ substitute Teachers through screening test, and such screening were held without following the norms laid down by the Rly Boards and by violating all such terms of the Rly Board circulars. It is further stated that the respondents had not prepared any panel for screening of substitute Teachers and ~~of~~ all the above substitute Teacher were called for screening as per whims and caprice of the respondents. The applicant though was ~~elig~~ible for such screening but unfortunately she has never been called for the screening test. Such actions of the respondents have deprived the applicant of her rights to screening conferred upon by the Rly Boards letter dated 1.6.83.

4.12 That the applicant begs to state that by a letter no.E/252/239/pt-IV (w) dated 11.9.2002 the respondents rejected the ^{Prayer} ~~proper~~ of applicant for appointment. The respondent have acted on a wrong motion that substitute Teachers required 3 years complited service for screening in regular employment. The respondents have also mentioned the period of total service of the applicant as 5 months 23 days which ^{is} ~~^~~ contrary to the actual days worked i.e. 284 days by

Nilima Dey

the applicant. The prayer of the applicant for regularisation as teacher was turn down by the respondents only on the ground that she has not completed 3 years service which is not the norms as laid down by the Rly Board~~s~~ in letter dated 1.6.1983.

Copy of the letter No.E/252/239/pt-IV (w)
is enclosed as Annexure-L.

4.13 That the applicant respectfully submits that the respondents have failed to prepare panel for screening test of substitute Teachers and screening test were held without following the relevants rules and have acted on wrong notion of Rly policies and procedures. It is also submitted that the respondents have not properly verified the service records of the substitute Teachers nor any panel was prepared on the basis of service records before calling them for screening. Such actions of the respondents is against the basic principles of Administrative fair play.

5. GROUND'S FOR RELIEF WITH LEGAL PROVISIONS

5.1 For that the respondents have failed to screen the applicant though she has acquired temporary states.

5.2 For that the respondent have denied screening of the applicant for regular absorption on a wrong notion that substitute teachers required 3 years completed service ^{for} to be screening.

Contd....p/10

Nilima Day.

5.3 For that the respondent have failed to prepared the panel for the screening tests held.

5.4 For that the respondents have failed to call adequate number of substitute Teachers for screening as required by Rly Boards letter dated 1.11.1988 i.e. number of vacancies plus 25% thereof.

5.5 For that the respondents have failed to maintain adequate panel of substitute Teachers with upto date service records.

5.6 For that the applicant has been deprived of her right to screen which is the result of whimsical, capricious and arbitrariness and offends Article 14, 16 and 21 of the Constitution of India.

5.7 For that substitute teachers in the railways after 90 days of working gets ^a right, and status and this right accrues for future absorption.

5.8 For that in any view of the matter the acts of the respondents are pervers and the applicant ^{is} entitled to the relief sought for.

6. DETAILS OF REMEDY EXHAUSTED

The applicant has represented before the respondents authorities but her prayer has been rejected. There is no other remedy under any rule, and Hon'ble Tribunal is the only forum to grand relief.

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Nilima Dey.

7. MATTERS NOT PENDING BEFORE ANY COURT

The applicant ^{declares} ~~deduced~~ that she has not filed any case in any other court or Tribunal on the subject matter.

8. RULES SOUGHT FOR

Under the facts and circumstances stated above the applicant prays for the following reliefs :

8.1 The applicant be screened and ^{absorbed} ~~absorpted~~ as a regular Teacher.

8.2 The Letter dated 13.8.2002 (Annexure 2) be set aside and quashed

8.3 Any other relief or reliefs may be given as the Hon'ble Tribunal deem fit and proper.

The above reliefs are prayed for on the grounds stated in para 5 above.

9. INTERIM RELIEFS

Any relief or reliefs may be given as the Hon'ble Tribunal deem fit and proper.

10. This application has been filed through Advocate.

11. PARTICULARS OF THE POSTAL ORDER.

- i. I.P.O. NO. : 76-606310
ii. Date of issue: 28-11-2002
iii. Issued from :
iv. Payable at : Guwahati.

12. PARTICULARS OF ENCLOSERS

As stated in the Index.

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

I, Smti Nilima Dey, wife of Sri Biswadip Dey, aged about 48 years, resident of Badarpur, Assam do hereby verify that statement made in para 1,4 to 12 are true to my knowledge and those made in para 2,3 and 5 are true to my legal advice and that I have not suppressed any material fact.

And I sign this verification on this 25th day of November, 2002 at Guwahati.

Nilima Dey.

No. BS/EST/5-C

Dt. 5-1-1986.

Office of the
Controlling Officer,
Rly. H.S. School/DIB.

To
Sri/Smt. Nilima Nayak

C/o - B. Kamaladevi Nayak

B & M DS/612(c) (Oldfield Colony)
Badarpur

Sub:- Expansion of Substitute Teacher
under Badarpur Group of Rly. Schools
H.P. Rly.

Ref:- Our Employment Notice of
Date 9-8-1985.

You are requested to appear before the
Selection Board at 10:00 hours on 05/02/86 for the selection
in the scale B.330-560/- (RS) as per above notification with your
original copies of marksheet and certificates etc.

You are further informed to bring one
set of attested copies of marksheet and pass certificates of all
examinations, if not enclosed with your application.

Certificates of experience from the
present employer (if any) are to be produced before the selection
Board.

No. T.A. and D.A. will be given by the
Rly. Administration for attending the Selection Board.

No absentee selection will be made.

The terms and conditions of the service
are stated below for information:-

The selected candidates will be
offered appointment against casualities like leave, sick etc.
as considered necessary by the Administration. The appointment of
substitute teacher is on purely temporary measure and this will
not confer any claim on him/her for regular absorption on the Rly.
and that his/her services may be terminated at any time without any
notice and without assigning any reason.

Place of Selection:-

Rly. H.S. School/Badarpur.

Controlling Officer,
Rly. H.S. School, Badarpur.

Attended

28/1/02

RAILWAY H.S. SCHOOL: BAHAR

No. DS/EST/6-Sub.
Dt. 18-7-1988.

To
Mrs. Nilima Dey,
C/O: --- D/O Shri Kamala Kant Dey
66a Field Colony/BPB

Subj: Appointment as substitute teacher.

You are appointed as a substitute Asst-Teacher against a short term vacancy till your replacement by an approved hand in the scale B.1200-2040/- with effect from 18-7-1988.

Please note that this appointment is purely temporary and this will not confer any claim on you for absorption on the Rly and that your service may be terminated at any time with out any prior information.

If you are agreeable to the above terms and conditions report to the Principal, Rly. H.S. School/DH for duty immediately.

Sd/-
Controlling Officer,
Rly. H.S. School/DH.

Copy to the DAO/LHC, CPO/NLG for information

Controlling Officer,
Rly. H.S. School/DH.

28/11/02

Attended

28/11/02

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Annexure → C 23

RAILWAY H.S. SCHOOL: BADARTUR.

No. AS/EC-21/ND.
Dt. 9-10-1988.

To
Mrs. Nilima Dey
Substitute Teacher,
Rly. H.S. School/BPT.

Sub:- Discharge.

~~XXXXXXXXXXXXXXXXXXXX~~

You are discharged from
8-10-1988 (A.N) due to Pujavacation/1988.

for Controlling Officer,
Rly. H.S. School/BPT.

Higher Institute, Badartur.
BADARTUR

5/10/88

Attested

Ran

28/11/82

OFFICE ORDER.

Office of the
Controlling Officer,
Rly. H.S. School/BPH.

Sri/Smt. Nilima Das
who is an Ex. substitute teacher is hereby appointed as a
Substitute Asstt-Teacher with effect from 15-11-1988
for a period of Three months or till
he/she is replaced by approved candidate which ever is earlier
in the scale Rs. 1200-2040 (RP) plus other usual allowance.

This will confer upon no claim for
or his future appointment on this railway.

No. BS/EST/5-Sub
Dt. 12-11-1988

Sd/-
Controlling Officer,
Rly. H.S. School/BPH.

- Copy to:-
- (1) The CPO/MLG for info-
 - (2) The DAO/LMG for information
 - (3) Sri/Smt. Nilima Das
Substitute Asstt-Teacher
for information and guidance

Sd/-
Controlling Officer,
Rly. H.S. School/BPH.

Higher Secondary School
BAPARDA

Attested
Ras
28/11/88

- 17 - Annexure E

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RAILWAY HIGHER SECONDARY SCHOOL: BADARPUR:

No. 08/PC-21/N.O.

Dt. 17-05-1989.

To :-
Shri / Smt. Nilima Dey,
Substitute Assistant Teacher,
Railway Higher Secondary School
Badarpur.

Sub:- Temporary status.

Ref:- CPO/MLG's office letter
No. L/252/239/Pt.II (W)
Dated. 4-2-1988.

DRM(P)/LMG's L/No. L/252/21/LM(W)
Dated. 23-03-1988.

You are granted temporary status w.e.f. 13-2-89
due to completion of three months continuous service. This has
the approval of AOT/N.O. (CO/RS/1544).

You are eligible for all benefits admissible
to temporary staff.

Sankar
Principal 17.5.89
Railway Higher Secondary School
Badarpur.
Railway Higher Secondary School
Badarpur (Kachinad)

Copy to :- 1. DRM(P)/ LMG for information
please.

Principal
Railway Higher Secondary School
Badarpur.

R1513

Attended
28/4/89

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26

RAILWAY H.S. SCHOOL: BADARPUR.

No. BS/PC-21/ND.

Dt. 01-6-1989.

To
Mrs. Nilima Dey,
Substitute Asstt-Teacher
Rly. H.S. School/BPD.

Sub:- Discharge.

In terms of CPO/MLG's Office Order
No. E/252/42-I Pt. VII(W) dated 31-5-1989 Shri Shyamal
Kr. Das, an approved candidate is joined on 02-6-1989(F.N.).

Hence you are discharged on and from
01-6-1989 (A.N.)

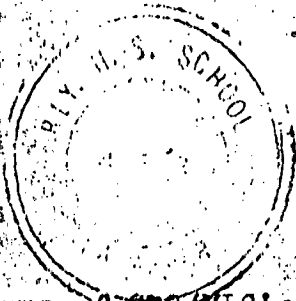
Pls. 29/6/89
Controlling Officer,
Rly. H.S. School Badarpur.

Attched

Das

28/11/82

OFFICE ORDER



19

Annexure

6

Office of the
Principal
Railway Higher Secondary
School/ Badarpur.

In terms of CPO/MLG's wire No. E/252/239/Pt.III/(W) dated 30-10-1990 Sbr/Smt. Nilima who is an Ex. Substitute Teacher is hereby re-engaged as a Substitute, Asstt. Teacher with effect from 19-11-1990 to 31-12-1990 or till He/She is replaced by approved hand which ever is earlier in the scale Rs. 1200/- to 2040/ (RP) plus other usual allowance.

This will confer upon no claim for his/ her further future appointment on this Railway.

No. BS/EST/5-Sub
Dt. 17-11-1990

SC/-

Principal
Railway Higher Secondary School
Badarpur.

Copy to :- The CPO/MLG | for information
(2) The DAO/LMG | Please.

(3) Sbr/Smt. Nilima dcy.
Substitute
Asstt-Teacher for information and
guidance.

Sankar 17.11.90
Principal
Railway Higher Secondary School
Badarpur.

Principal,
RAILWAY H. S. SCHOOL
Badarpur, Karimganj.

Attested
Das
28/11/90

-20- Amended → #

28

RAILWAY HIGHER SECONDARY SCHOOL:: BADARPUR::

No. 35/PC-21/NC
Dt. 20-11-1990

To
Smt. Nilima Dey.
Substitute Teacher,
Railway Higher Secondary School
Badarpur.

Sub:- DISCHARGE

In terms of CPO/MLG's Office order No. W E/252/43-1(H)pt. VIII of 8-11-90 Shri Rabi Lochan Majhi, Assistant Teacher, an approved Candidate joined on 20-11-90 (H)

Hence you are discharged on and from 20-11-1990 (A.N.)

R. Sarkar
Principal 20/11/90
Railway Higher Secondary School
Badarpur.

Principal,
RAILWAY H. S. SCHOOL
Badarpur, Karinganji.

Attended
Pan
28/11/92

To
The Chief Personnel Officer / Welfare

Mailgoan, C-U W A H A T I-781011

N. F. Railway.

Subj :- Prayer for appointment of Nilima Dey, discharged
Substitute teacher being a temporary status holder.

Sir,

Most respectfully and humbly, I beg to draw your attention regarding my re-appointment in a following few lines for your sympathetic and kind consideration please.

That Sir, I worked in Rly. H.S.School, Badarpur as a substitute teacher for the period from 18.07.88 to 08.10.88 (2 months 22 days) and from 15.11.88 to 13.02.89. (3 Months) Total 5 months 22 days against the Permanent post of Asstt. Teacher time to time and officially got temporary status Vide AM/BPB/L/No BS/PC-21/ND. dated 17.05.89. (attached herewith)

That Sir, Unluckily I had been discharged by a permanent teacher Mr. S. Das as I was the junior most among the all substitute teachers worked under the Principal/ Rly. H.S.School, Badarpur Further, I came to know that all such substitute teachers of Badarpur Rly.School, Lunding Rly.School, & Alipurduar Rly. School had similarly been discharged.

That Sir, Only 6(six) Nos. of all discharged Substitute Teachers of BPB's, LMG and APDJ Rly.H.S.School (Sri Subal Chakraborty of BPB's Rly. School, Arpana Das of LMG's Rly.School and Sri Sujit Majumder of APDJ's Rly School etc.) could not bear sudden misfortune of un-employment situation in their life and knocked the door of Justice at Guwahati High Court and also of the Supreme Court. Ultimately, those Six Teachers got judgement in their favour and had been called for their re-appointment by your honour.

That Sir, being a poor lady, I have to remain silence since after such obtaining such discharge letter from the Principal, Badarpur Rly.H.S.School and have to depend either on my fate or any favourable decision from your honour.

(Contd. Page.2)

Attested
Ran
28/11/02

Therefore, I pray to your benevolent to kindly look into the matter sympathetically and request to your honour earnestly to consider my re-appointment in Rly. H.S. School, Badarpur as a submissive deserving a female candidate and for this act of kindness I shall remain ever oblige.

Dated Badarpur,
The 6th MAR 196.

Yours Faithfully,

Nilima Dey

(N I L I M A D E Y)

Discharged Asstt. Subs. Teacher.
Of Badarpur Rly. H.S. School.

C/O Sri B.K. Dey.

Rly. Qrs. No. L/263(B), Wireless
Colony, Badarpur. P.O. BADARPUR.
Dist. Karimganj. (Assam)

DA :-

1. A Photostat Copy of Temporary Status Certificate enclosed herewith for your information.

2. A photostat Copy of working certificate received from the Principal, Badarpur Rly. H.S. School which enclosed herewith for your information please.

— 23 — Annou — 8 — J

To
The General Manager
Northeast Frontier Railway
Maligaon, Guwahati- 781011

Subj.: Prayer for appointment of Milima Dey, discharged
Substitute teacher being a temporary status holder.
Ref.: My prayer dated 6.3.96. ^{Sl. No. 283} to the Chief personnel officer
Welfare/Maligaon for appointment & some other
relevant references (all attached herewith for your
ready reference).

Sir,

With profound respect I beg to apprise to your honour for
my re-appointment in the Railway H.S.School, Badarpur as an
Assistant Teacher.

In this connection my previous prayer to the C.P.O./Welfare/MLG
cited above may kindly be seen and I will get proper justice from
honour in this regard.

That Sir, in 1989, Controlling Officer/Badarpur P.W. H.S.School
recruited 6/7 Nos. Asstt. Teachers under his Employment Notice No.
BS/EST/5-C dated 9.8.89. and provided those teachers against sick,
leave etc. of permanent teachers in scale Rs. 350-560/- as per
seniority listed by Controlling Officer/Badarpur, N.F. Railway.
The name of those were Mr. Dhananjoy Sengupta, Mrs. Radha Rani
Chakraborty, Mr. Pijush Kanti Das, Subal Chakraborty, Miss Mira
Chowdhury, and myself (Milima Dey) and one other teacher (name
not known but he left school after some days). All of us got
Temporary Status and myself got the same status in 1989. (Zerox ^{Sl. No. 8}
copy attached herewith). But, Sir, sorry to say that the fate of
this batch had been hit by the discharged letters from the CPO/
Welfare/MLG who discharged all the Substitute Teachers holding
temporary status one after another by sending newly recruited
candidate which was nothing but a wrong decision.

That Sir, on receipt of such discharged letters, 3 substitute
teachers of our batch viz. Mrs. Radha Rani Chakraborty, Mr. Pijush
Kanti Das and Subal Chakraborty went to the High Court/Guwahati &
then to the Supreme Court. Now it is true fact that Mr. Subal
Chakraborty got his appointment letter from N.F. Rly. and is now
serving in the Railway School. It is also heard now that the
appointment letters of Mrs. Radha Rani Chakraborty and Mr. Pijush
Kanti Das will get their appointment letters very soon.

(Contd - 2)

Attended
28/11/92

(2)

That Sir, Simultaneously it is felt with grief that the other 3 Temporary Status holder viz, Mr. Dhananjoy Sengupta, Miss Mira Choudhury and myself who did not go to the court but have to wait for the justice of the Railways became unhappy, ill-luck and ill-fated; henceforth I donot know where my fate and the fate of other 2 teachers are now lying on.

That Sir, Previously it was fact that the Screening of Temporary Status teachers of Rly. school had been taken in Maligaon and got their permanent appointment letters after viva-voice test etc. & thereby the question of going to the court for justice in the past would therefore not arise.

That Sir, in conclualon, it is now hoped that if my fate will play in the favourable direction and if I will receive your justice very cordially then my call letter for screening & thereby my appointment letter is not at far. Further, I feel that the improper decision of the past specially towards the woman is over and the days has come for proper judgement to the ill-fated woman candidate during the year of 50 years of India's Independence.

Under the above facts and evidence I again pray and request to your honour for the appropriate justice and felt very sorry for the killing of your valuable time for me and for the other 2 teachers and I earnestly and very sympathetically urge upon your honour to make me happy by your strong decision in this respect by considering my appointment in the Badarpur Rly.H.S. school as a woman candidate and for this act of kindness and sympathy I should ever pray. and oblige.

Dated Badarpur,
The 19th August '97.

ENCLOSURES: Nos.

Yours Faithfully,

Nilima Dey

(Nilima Dey)

Discharged Asstt. Teacher Of
Badarpur Railway H.S. School.

C/O. B.K.DEV, Rly. Qrs. No. L/263(B)

Wireless Colony, Badarpur.

P.O.: BADARPUR; DT.: Karimganj.

ASSAM. Pin. 788806.

Copy to : The Chief Personnel Officer/Welfare/Maligaon.

my copy
Sent on
20.8.97

To
The Chief Personnel Officer (Welfare)
Maligaon, Guwahati - 781011
N.F.Railway.

Subj :- Prayer for Re-appointment of Nilima Dey, discharged
Substitute Teacher of Badarpur Rly.H.S.School.

Ref :- My prayer dated 13.02.96, 6.3.96, 19.8.97, & 17.8.99.

Sir,

Most respectfully, I beg to apprise to your honour that I was given appointment in Rly H.S. School/Badarpur as a Substitute teacher along with 4(Four) other substitute teachers, the name of whose are mentioned below :-

1. Smti. Radha Chakraborty.
2. Sri Pijush Kanti Das.
3. " Subhal Chakraborty.
4. " D. Sengupta.

The above teachers were recruited by the then Asen Manager/Badarpur, Chairman of the Appointment authority through his Employment Notice No.BS/EST/5-C dated 9.8.85. We were then utilised as Asstt. Teacher against permanent Vice- Vacancies of permanent teachers. After requisite period of our service in this school, Temporary Status were issued to us officially by the Rly. Adminn. After few days we had been discharged one by one. I prayed to the Competent Authority time to time for appointment but I was still unfortunate. I then met APO/MLG who gave me some positive hope in this regard.

That Sir, I came to know that the above Sl.No. 1,2, & 3 were given appointment and Sri Subhal Chakraborty has been working at DMR & the other Sl.No. 1&2 were dead after having their appointment in Rly.

That Sir, Sl.No. 4 i.e. Sri D. Sengupta have recently been given a re-appointment & posted at DHARMAKAGAR Rly. School.

I, therefore, pray to your honour to kindly offer me appointment in Rly School and for this act of kindness I shall remain evergratefull and oblige.

Dated Badarpur,
The 12.7.2002.

Yours Sincerely,

Nilima Dey

(Nilima Dey)

Rly Qs No. L/263(B) Doctor's
Colony, Badarpur-788806

Copy To :-

1. The Principal, Rly. H.S.School/BPB. He is requested to send my working particulars to the Competent Authority.
2. The Enquiry Officer / Maligaon. He is requested to investigate the above appointments and very kindly urged to your honour to arrange appointment if I have right to have it.

3.

Attended
28/11/02

26 ————— Annexe ————— 4
N. F. RAILWAY.

34
Office of the
GENERAL MANAGER(P)
Gaubati-11.

NO: E/252/239/Pt.IV (W)

::

Dated 13-3-2002.

To

Smt. Nilima Dey,
Railway Qrs. No.-I/263(B),
Doctor's Colony,
Badarpur-788006, Assam.

Sub: Prayer for re-appointment of Nilima Dey,
Ex. Substitute Teacher of Rly.H.S.School/
BFB.

Ref: Your appeal dated 12.7.02.

The Policy followed in this Railway that those
substitute teachers who have completed 3 yrs. service
are screened for regular absorption.

But it is seen from the records that you have
served as substitute teacher for a period of 5 months
23 days at BFB. Accordingly, considering the length
of service as substitute teacher, your case was not
considered for regularisation as teacher.

This is for your information.

J. Rabidas
17/7/2002
(J. Rabidas)

Asstt. Personnel Officer/W.
for GENERAL MANAGER(P)/MLG.

hb/-

Attached
28/11/02

(22)

7 APR 2003 11:45 P.M.
গুৱাহাটী কেন্দ্রীয়
গুৱাহাটী বেন্চ
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BRANCH, GUWAHATI.

IN THE MATTER OF:

O.A. 380/2002

Smti. Nilima Dey

...Applicant

-Vs-

Union of India,

Represented by General Manager, N.F.Railway

And others.

...Respondents

-AND-

IN THE MATTER OF:

Written statement for and on behalf
of the Respondents.

The answering respondents most respectfully SHEWETH as under:

1. That, the answering respondents have gone through a copy of the application filed by the applicant and have understood the contents thereof. Save and except those statements which are specifically admitted herein below or those which are borne on records all other averments/allegations as made in the application are emphatically hereby denied and the applicant is put to the strictest proof thereof.
2. That for the sake of brevity, meticulous denial of each and every allegation/statement in the application has been avoided. However, the answering respondents have confined their replies on those points/allegations/averments of the applicant which are found relevant for enabling a proper decision of the matter.
3. That the application suffers from want of a valid cause of action. The applicant has no valid cause of action or right to file this application.

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4. That the application suffered from wrong representations and a misconception about the facts and rules.

5. That the application is premature. As a matter of policy it was decided to screen those substitute teachers who have completed 3 (three) years of service as substitute teacher. Therefore the applicant should have completed her service period for qualifying for screening. Since the application is premature there is no merit in the same.

6. That In regard to the statement made in para 4.1 the records available with the applicant will speak for themselves.

7. That in regards to the statement made in para 4.2 it is submitted that the school, BANI BIDYA MANDIR, Lumding is, NOT a Railway School and as such the statement does not appear to have any relevance on the matter.

8. That as regards the claim made in para 4.3, the answering respondents beg to state that the applicant be put to strict proof of her claim by production of relevant records as no records are available with respondents to prove that she did very well in the alleged selection process as claimed.

9. That in regard to statement made in para 4.4 the answering respondents would like to draw attention to the contents of the letter No.BS/EST/5-SUB dated 16.7.1988 (Annexure B of the application) which clearly stated that

- a) The applicant was appointed as a substitute Assistant Teacher against a short-term vacancy till her replacement by an approved hand.
- b) It was clearly stated that the appointment was purely temporary and that this will not confer any claim for absorption in Railways and that her service may be terminated at any time without any prior intimation.

:3:

c) It was made clear that she could join the post in question if the terms were acceptable to her.

d) As the applicant joined as substitute Assistant Teacher it can be concluded that she had accepted the above mentioned terms stated in the terms of appointment.

10. That in regard to the statement made in para 4.5 the answering respondents deny that the applicant was re-engaged as substitute teacher for a period of three months vide letter dated 15/11/88 (annexure D of the application). The offer of appointment clearly stated that the offer of appointment was for three months or till the replacement by an approved hand whichever was earlier. Therefore, when an approved hand joined the applicant had to be discharged as per terms of the appointment letter issued to her.

11. That as regards the averment made in para 4.6 4.7 and 4.8 of the application the answering respondents beg to state that regularization of substitute teachers in Railways schools is governed by a number of factors, such as qualifying service, success of the candidate in screening test of those who have the qualifying service and availability of vacancy etc.

12. In view of the prevailing situation having a large number of substitute teachers with more than three years of qualifying service the administration decided at the relevant time that those substitute teachers who had completed three years or more of service as substitute teacher, be screened for purpose of regularization of service. Since the applicant did not have three years or more of service as substitute teacher, she was not screened for regular absorption.

(30)

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1/2/88

Chief Personnel Officer (12)
D. P. R. N. / (12)
Goverment of India

13. That with regard to the statement made in para 4.9 it is submitted that by her own admission the applicant did not have the qualifying services for a call up for screening and therefore there was no question of her being called for screening and regularization. The Applicant was no doubt engaged as substitute teacher from time to time with intermittent break in service during the period 1/7/88 to 20/11/90. However her qualifying service was far below the minimum of three years fixed for screening and hence she could not have a valid claim for regularization by screening etc.

14. That with regard to para 4.10 the respondents beg to state that the services of Smti. Radha Chakraborty, Shri Pijush Kanti Das and Shri Subal Chakraborty were regularized through screening test as per directive of the Hon'ble Supreme Court while the service of Shri D. Sen Gupta was regularized for rendering three years service as substitute teacher through screening test. The action of the respondents in this matter was therefore legitimate and cannot be called into question.

15. That with regard to para 4.11 the respondents beg to state that Shri D. Sen Gupta was called for the screening test as he served for more than three years as a substitute teacher, which was the minimum qualifying period followed in calling for screening test. It is not the case of the applicant that anyone having worked for less than three years as substitute teacher was called for screening. As the applicant's service as substitute teacher, according to her own statement given in para 4.9 of her O.A. was less than ten months her case was not considered matured for a call for screening. It is submitted on behalf of the respondents that in calling for screening test norms and instructions laid down by the administration was carefully followed.

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16. That as regards para 4.12 the respondents beg deny the accuracy of the applicant's record of service. However, by her own admission, the total service of the applicant as substitute teacher was less than ten months against the norm of three years fixed by the administration after taking all factors and circumstances into account. It is therefore clear that the respondents could not call the applicant for screening as that would amount to violation of the norms fixed for the purpose of screening. The respondents could not be expected to make an exception to the norm only in favour of the applicant by calling her for the screening where the norm fixed was three years of service as substitute teacher whereas the applicant had only less than ten months of such qualifying service.

17. That as regards para 4.13 the respondents beg to state that norms and procedures established by the administration were carefully followed in the matter of screening test. The allegation that service records of the substitute teachers were not properly verified is denied. The very fact that the norms of three years of qualifying service as substitute teacher was strictly followed proves beyond doubt that the screening was fair and just and that the action of the respondents in the screening process cannot be called to question.

18. That as regards para 5.1 the respondents beg to state that the applicant could not be called for screening as she did not possess the minimum qualifying service.

19. That as regards para 5.2 the respondents deny that there was anything wrong in their fixing three years qualifying service as substitute teacher as the same was the result of a conscious decision made taking various factors into consideration in the prevailing circumstances.

(32)

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Chief Personnel Officer (IR)
M. P. S. / Maligaon
Gwahati-89

20. That as regards paras 5.3, to 5.8 the respondents beg to deny the allegations made. Screening was done by calling substitute teachers. As no exception was made the allegation of arbitrariness and caprice etc. cannot stand judicial scrutiny.

VERIFICATION

I, Shri J. S. P. Singh, aged about 46 years, son of Shri Raghubansh Narayan Singh, at present working as CPO/IR N.F. Railway

,do hereby solemnly affirm and state that the statements made in paragraphs 1 to 5 are true to my knowledge and those made in paragraphs 6 to 19 being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification as this the _____ day of

, 2003

WJR

Chief Personnel Officer (IR)
M. P. S. / Maligaon
Gwahati-89