

30/100

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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. 394/02

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SECTION OFFICER (Judl.)

Balita  
4/12/17

( SEE RULE - 4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

ORDER SHEET

Original Application No : 391/02  
Misc. Petition No. \_\_\_\_\_  
Contempt Petition No. \_\_\_\_\_  
Review Application No. \_\_\_\_\_

Applicant(s): Madam Missite

- Vs. -

Respondent(s): n.v.i. Jany

Advocate for the Applicant(s): R.P. Lall, J.P. Sauma, S. Das

Advocate for the Respondent(s): case

Notes of the Registry	Date	Order of the Tribunal
<p>APPLICATION IS IN but not in time for admission. It is not for or Rs. 5.00 pushed to the H.O. No. 24.606544 Dated: 4.12.02</p> <p><i>Steps taken.</i></p> <p><i>Employment letter.</i></p> <p>Notice prepared and sent to D/S for info the respondents No 1 to 3 by Regd A.D.</p> <p><i>D/No 3370 &amp; 3372 old 16/12/02</i></p> <p>No written statement has been filed.</p> <p><i>17.1.02</i></p>	<p>13.12.2002</p> <p>nkm</p> <p>20.12.02</p>	<p>Heard Mr R.D. Lal, learned counsel for the applicant and Mr B.K. Sharma, learned Railway Counsel. The application is admitted. Call for the records. Issue notice as to why interim order as prayed for shall not be granted, returnable by 20.12.2002. List on 20.12.02 for orders.</p> <p><i>Vice-Chairman</i></p> <p>Heard Mr R.D.Lal, learned counsel for the applicant praying for interim order. Also heard Mr B.K.Sharma, learned Sr.counsel for the responden- -td. Application is already admitted. Considering the facts and cir- cumstances of the case I am not inclined to pass any interim order at this stage.</p> <p>List on 20.1.2003 to enable the respondents to file written statement</p> <p><i>Vice-Chairman</i></p>

20.1.2003

Heard Mr S. Das, learned counsel for the applicant and Mr S. Sarma, learned counsel for the respondents. Prayer has been made on behalf of the respondents for filing of the written statement. List the matter on 14.2.2003 for written statement and orders.

Vice-Chairman

nkm

10.2.03

14.2.2003

W/S submitted by the Respondents.

Pleadings are complete. The case may now be listed for hearing on 28.3.2003. The applicant may file rejoinder, if any, within three weeks from today.

Vice-Chairman

No. Rejoinder has been filed.

mb

27.3.03

28.3.03

The case is listed for hearing today. Mr S.Das, learned counsel for the applicant prayed for time on the ground that he is lead by Mr R.D.Lal, Advocate to represent the applicant who could not appear today on personal ground. This is not a ground for adjournment.

No. Rejoinder has been filed.

2.4.03

On consideration of the facts of the case we adjourn the case today and ordered to be listed for hearing on 3.4.2003. No further adjournment shall be given on this ground.

Vice-Chairman

Rejoinder submitted by the applicant.

pg

Mr. Lal, learned counsel for the applicant produced an identity card & a copy of the transfer order NO-W/FCW/72-VI dt 23-12-72 in the court. Both the documents were sent along with the file for the perusal of Honble V.C.  
A.K. Jha

3.4.2003

Heard Mr. R.D. Lal, learned counsel for the applicant & Mr. S. Sarma, learned counsel for the respondent.  
Hearing concluded.  
Judgment reserved.  
M.P. Jha

110-NFG-  
-346A and transfer  
order no - W/FCW/72 VI  
Date 23-12-72  
in respect of maiden  
Sahadiy Bas name  
9/4/03

9.4.2003

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

23.4.2003

Copy of the Judgment  
has been sent to the  
D/Sec. for issuing  
the fine to the applicant  
as well as to the  
Standing Council for  
the Respondent.

mb

3  


Vice-Chairman

PUC

Memo No. HC.XXI 6412-17/RM. dtd. 21.11.06  
Received from The AssH Registrar (I)  
of The Hon'ble Gauhati High Court.

The Judgt and order dtd 16.11.06  
of The Hon'ble High Court may seen at  
~~the~~ PUC.

WP(c) No. 3978 of 2005 has been  
filed by The Applicant Sri Madam  
Missin The original applint in OA  
391/02 against The Judgt and order  
dtd 9.4.2003 passed in the above  
mentioned OA.

The Hon'ble Gauhati High Court  
upheld the Judgt and order of this  
Tribunal on 16.11.2006 passed in  
WP(c) No. 3978 of 2005.

Submitted for favour of kind ~~approval~~  
perusal.

ss  
22/11

23/11/06  
Hon'ble  
So (I)

OR  
23/11/06

F.R.  
*[Signature]*  
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**IN THE GAUHATI HIGH COURT**

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

**WRIT PETITION (C) NO.3978 OF 2005**

Sri Madan Missir,  
Son of Late Ram Phal Missir,  
Resident of Pandu,  
P.S. Jalukbari, Guwahati – 12,  
District-Kamrup, Assam, at present  
working in the office of  
XEN/FCW/MLG, NF Railway,  
Manigaon, Guwahati – 11.

..... PETITIONER

-Versus-

1. Union of India, Represented by the  
General Manager, NF Railway, Maligaon,  
Guwahati – 11,  
Dist-Kamrup, Assam.

2. The General Manager,  
N.F. Railway, Maligaon, Guwahati-11,  
Dist. Kamrup, Assam.

3. The Chief Engineer, FCW, NF Railway,  
Maligaon, Guwahati – 11, P.S. Jalukbari,  
Dist-Kamrup, Assam.

4. XEN/FCW/MLG, Senior Engineer, FCW,  
NF Railway, Maligaon, Guwahati – 11,  
Dist-Kamrup, Assam.

5. The Central Administrative Tribunal,  
Gauhati Bench, represented by its  
Chairman, Rajgarh, Guwahati Division.

6. Sri Nepal Chakraborty, N.F. Railway,  
Maligaon, Guwahati – 11,  
Dist-Kamrup, Assam.

.....RESPONDENTS

**P R E S E N T**  
**THE HON'BLE MR. JUSTICE D. BISWAS**  
**THE HON'BLE MR. JUSTICE B.D. AGARWAL**

For the Petitioner : Mr. R.L. Yadav,  
Mrs. K. Yadav, Advocates.

For the respondent : Mr. S. Sarma,  
Standing Counsel, Railways

Date of hearing : 16-11-2006

Date of Judgment and : 16-11-2006  
Order

**JUDGMENT AND ORDER**  
(Oral)

By Biswas, J.

This writ petition is filed controverting the legality and validity of the judgment and order dated 9.4.2003 passed by the Central Administrative Tribunal, Guwahati Bench, Guwahati in Original Application No.391/2002. The learned Tribunal dismissed the application filed by the writ petitioner praying for a declaration that he was born on 10.6.1953 and, consequent thereupon, to allow him to continue in service of the Railways.

2. We have heard Mr. RL Yadav, learned counsel for the petitioner and Mr. S. Sarma, learned counsel for the Railways.

3. The writ petitioner joined the services of the Railways as Dak Carrier with effect from 5.8.1971 initially on daily wage basis. He was given authorized pay with effect from 3.6.1972 and was confirmed in the post of Khalashi by the order dated 7.9.1978. In the meantime, his service book was prepared. In the service book, all necessary particulars were entered on 5.6.1974 showing his date of birth as 15.12.1942. The petitioner also put his LTI which were duly attested. That apart, he also put his signature in Hindi. There cannot be any dispute that the petitioner himself had

declared his date of birth as on 15.12.1942 at the time of entry in service.

4. From the averments made in the writ petition, it appears that the petitioner was refused railway pass in the year 1980 due to some mistake in recording his date of birth and therefore, that there was something wrong was within his notice. He did not take any step immediately to know what the defect was and whether any correction was necessary. That apart, in the provisional seniority list dated 4.10.1977, his date of birth was shown as on 15.12.1942. The petitioner did not dispute the above seniority list. The seniority lists prepared as on 1.9.1989 and 1.4.1991 also showed that his date of birth is 15.12.1942. The petitioner did not raise any objection. It was only in the year 2002, he submitted a representation for correction of his date of birth relying upon three documents i.e. the record of service of casual labourers, the transfer order dated 23.12.1972 and a certificate issued by the school in the year 1965. The learned Tribunal observed that no reliance could be placed on the record of service of the casual labourers as it was in the custody of the petitioner and the entries therein not duly verified. It is held that it cannot be treated as a conclusive proof of the date of birth of an employee unless supported by other documents. The transfer order dated 23.12.1972 mentions that the writ petitioner was born on 10.6.1953. Normally, date of birth is not required to be reflected in the order of transfer. The learned Tribunal rejected this document on that ground. We are also of the opinion that this document cannot be treated as a proof of date of birth of the petitioner. The school certificate produced by the petitioner was issued on 5.4.1965. The original is not on record. This certificate has been issued showing the date of birth as on 10.6.1953. The original of this document is also not produced before the learned Tribunal as well as before this Court. It was issued in the year 1965 and, therefore, the date of birth was very much within the knowledge of the petitioner. Despite that, on his instructions, the entries were



made in the service book showing that he was born in the year 1942.

5. In so far the service book is concerned, it may be mentioned here that it has been prepared on the information given by the writ petitioner. The particulars relating to the petitioner have been reflected in the service book. The petitioner has not disputed the correctness of other entries made in the service book except his date of birth. There is no interpolation or manipulation in the date of birth recorded at the instance of the writ petitioner. In such a situation, it would not be permissible for a Writ Court to interfere and order correction of the date of birth that too in the absence of other valid documents. It is not a case that the date of birth as on 10.6.1953 was recorded in the service book as on 15.12.1942 and was subsequently manipulated and interpolated. Even in such a case, the party aggrieved is supposed to knock the door of the higher authorities and the Court without lapse of time. There is long delay in his approach. He had filed his representation for correction of the date of birth only in the year 2002 though the gradation lists issued from time to time reflected the date of birth as recorded in the service book.

6. We have also gone through the judgments in *Moirangthem Irabot Singh -Vs.- State of Manipur and others*, reported in 1998(4) GLT 332, wherein relief was granted because of arithmetical calculation in issuing the notice regarding superannuation relying upon the date of birth recorded in the service book. This decision is of no help in the given situation. The decision in *R. Lianchhawana -Vs.- State of Mizoram and others*, reported in 1991(1) GLT 589 stands on a different factual background. In that case, the date of birth of the incumbent was altered in violation of the principles of natural justice. The incumbent was not heard before correction. In the instant case, there is no alteration of the date of birth in the service book. The petitioner cannot be given any relief on the basis of the said

URGENT

judgment. In Yumnam Sarat Chandra Singh - Vs. - State of Manipur and others, reported in 2001(2) GLT 175, the authority suo-motu altered the date of birth of the incumbent without providing any opportunity of hearing to the incumbent. On that count, the Court had to interfere. The case at hand is completely different. We do not find anything in the aforesaid judgment which can be of any assistance to the writ petitioner.

7. For reasons above, the petition is liable to be dismissed. Order accordingly.

Sd/-B.D.Agarwal.

Sd/- D.Biswas.

JUDGE

JUDGE

Memo No. HC.XXI.

6412-17

/R.M.Dtd.

21-11-06

Copy forwarded for information and necessary action to :-

1. Union of India, -represented by the General Manager, NF Railway, Maligaon, Guwahati-11, Dist.-Kamrup, Assam.
2. The General Manager, N.F.Railway, Maligaon, Guwahati-11, Dist.-Kamrup, Assam.
3. The Chief Engineer, FCW, NF Railway, Maligaon, Guwahati-11, PS-Jaluk-Bari, Dist.- Kamrup, Assam.
4. XEN/FCW/MLG, Senior Engineer, FCW, NF Railway, maligaon, Guwahati-11, Dist.- Kamrup, Assam.
5. The Central Administrative Tribunal Gauhati Bench, represented by its Chairman, Rajgarh, Guwahati Division.
6. The Deputy Registrar, Central Administrative Tribunal, Guwahati-Bench, Rajgarh Road, Bhanagagarh, Guwahati-781005. He is requested to acknowledge the receipt of the following records. This has a reference to his letter No. CAT/GHY/68/01/Judl./473, Dated-28.06.05.

Enclo:

1. O.A. NO. 391/02 Part 'A'

One file.

By order

Asstt. Registrar (Judl.)

Gauhati High Court, Guwahati.

Mr Samra  
NS  
22/11/06

3.9  
21/11/06

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / ~~XXX~~ No. 391 . . . of 2002

DATE OF DECISION 9th of April 2003.

Shri Madan Missir . . . . . APPLICANT(S).

Mr R.D. Lal, Mr J.P. Sarma and  
Mr S. Das . . . . . ADVOCATE FOR THE  
APPLICANT(S).

- VERSUS -

The Union of India and others . . . . . RESPONDENT(S).

Mr B.K. Sharma, Railway Counsel and  
Mr S. Sarma . . . . . ADVOCATE FOR THE  
RESPONDENT(S).

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

THE HON'BLE

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 Vice-Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.391 of 2002

Date of decision : This the 9<sup>th</sup> day of April 2003

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

Sri Madan Missir,  
S/o Late Rampal Missir,  
Resident of Pandu, P.S. Jalukbari,  
Guwahati, and at present working in the  
Office of the XEN/FCW/MLG,  
N.F. Railway, Maligaon,  
Guwahati.

.....Applicant

By Advocates Mr R.D. Lal, Mr J.P. Sarma  
and Mr S. Das.

- versus -

1. The Union of India, represented by the  
General Manager,  
N.F. Railway,  
Maligaon, Guwahati.
2. The Chief Engineer,  
FCW, N.F. Railway,  
Maligaon, Guwahati.
3. XEN/FCW/MLG, Senior Engineer,  
FCW, N.F. Railway,  
Maligaon, Guwahati.

.....Respondents

By Advocates Mr B.K. Sharma, Railway Counsel  
and Mr S. Sarma.

.....

O R D E R

CHOWDHURY. J. (V.C.)

Rectification of the date of birth in the Service Book is the subject matter of controversy raised in this application in the following circumstances:

By communication bearing No.E/FCW/29 dated 30.10.2002, the applicant was informed that as per the office records he was to attain his superannuation on 31.12.2002. He was accordingly advised to arrange to

collect booklet containing Pension Form 'A' from the office and duly filled in all respects and to submit the same to the office immediately. By another communication bearing No.E/FCW/29 dated 29.10.2002 the respondent authority communicated its decision declining to correct his date of birth. The full text of the order is reproduced below:

"Sub: Rectification of date of birth as 10.6.1953 instead of 15.12.1942.

Ref: Your application No.Nil dated 20.5.02 and 23.9.02.

---

In response to your appeal under reference for alteration of your date of birth, your P/case and S/sheet has been gone through. It is found that your date of birth as 15.12.42 has been recorded as per declaration submitted by you time to time.

Further, vide Rly. Board's L/No. L/NC/II/70/BR/1 dated 4.8.72 circulated through CPO's letter No. Rectt. 391 dated 4.8.72 OM.C. No.12/90 para 11.2 page - 3), an opportunity was given was given to all those staff who were in service on 3.12.71 to submit petition for alteration of date of birth latest by 31.7.1973 mentioning that no request for alteration in the recorded date of birth will be entertained after 31.7.1973. That opportunity was not availed by you.

Therefore, it is not possible to alter your date of birth, at this stage.

This has the approval of CPO/N.F. Rly./MLG."

2. In this application, the applicant assailed the aforementioned two communications as arbitrary and discriminatory. According to the applicant he was first appointed as Peon on 12.8.1971 and by order dated 23.12.1972 he was transferred and directed to report to Headquarters. The applicant also pleaded that in the transfer order the date of birth of the applicant was recorded as 10.6.1953. The applicant also asserted that he was provided with an identity card by the Railways in

which.....

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which his date of birth was recorded as 10.6.1953. In addition the applicant also stated that he obtained his School Leaving Certificate issued by the Government Primary School, Karmasi which also showed his date of birth as 10.6.1953. His horoscope also supports his claim that his date of birth is 10.6.1953. The applicant was all throughout under the impression that his date of birth was correctly recorded as 10.6.1953. Only in May 2002 when the seniority list of Khalasi was published on 1.9.1989 in which his date of birth was wrongly shown as 15.12.1942 he came to know about the mistake. Thereafter he submitted two representations, one in May 2002 and the other in October 2002 for rectification of his date of birth. The applicant also alleged that his date of birth was wrongly entered into his Service Book by one Clerk of the Railways, namely Shri Nepal Chakraborty who had taken the applicant's signature in one sheet of paper. According to the applicant the said Nepal Chakraborty did the mischief by recording his date of birth as 15.12.1952 instead of 10.6.1953 without considering the fact that the applicant was in possession of some letters and one Identity Card issued by the Railway Authority showing his date of birth as 10.6.1953. The applicant averred that his date of birth was wrongly recorded in the Service Book by some interpolation and also contended that, "If some Clerk in the Headquarters of NF Railways arbitrarily, illegally changes his date of birth that also by a huge margin of 11 years, it is submitted that such a change has not got the sanction or the force of law and therefore it is a fit case in which the change of date of birth of the applicant as now happened to be recorded by the NF Railways, Maligaon ought to be set aside.....

aside and/or quashed and it is also a fit case in which the change of date of birth of the applicant as now happened to be recorded by the NF Railways, Maligaon ought to be set aside and/or quashed and it is also a fit case in which the respondents may be directed to record the applicant's date of birth as 10.6.53 in his service book after deleting his date of birth as wrongly recorded as 15.12.1942."

3. The respondents submitted their written statement and countered the allegations. The respondents in the written statement asserted that the applicant was initially engaged as a casual labourer under IOW/RNY and XEN/Bengdubi Project since 1.10.1961. Thereafter he was engaged as casual labourer under SEN/FCW, Maligaon from 3.12.1971 and from 3.6.1972 after completion of six months continuous service he got the authorised pay scale. After being screened by the committee he got a regular appointment in Class IV category vide order dated 17.8.1972. The applicant submitted one declaration addressed to SEN/FCW on 3.12.1971 stating his date of birth as 15.12.1942 and the said declaration was forwarded by the IOW/FCW, Maligaon and AEN/FCW, Maligaon and on the basis of the said declaration the date of birth was recorded in his Service Book. Seniority lists of Khalasis were published on 4.10.1977, 7.8.1989 and 14.11.1991 showing his date of birth as 15.12.1942. The applicant during submission of attestation form for police verification mentioned his date of birth as 15.12.1942. He also mentioned his age in his family declaration which were submitted by him from time to time showing his date of birth as 15.12.1942. The applicant

thereafter.....

thereafter submitted an application dated 28.5.2002 for correction of his date of birth from 15.12.1942 to 10.6.1953 enclosing a Xerox copy of his School Leaving Certificate, an affidavit and a casual labour card etc which was followed by a reminder dated 23.9.2002. The respondents on receipt of the said application forwarded the same to the concerned authority. After examination of the same the appropriate authority issued the order dated 29.10.2002 rejecting his case. In support of their assertions the respondents annexed documents showing the engagement of the applicant as casual labourer with effect from 10.1.1961 to 31.3.1963 and certificate to the effect that the applicant worked as casual labourer under XEN/Bengdubi Project and that he was engaged as casual labourer under PWI/RNY from 15.7.1963 to 11.9.1966. The respondents also annexed a copy of his application dated 18.11.1971 with his own signature for engaging him as Khalasi. The respondents also annexed the order dated 22.6.1972 giving the applicant the authorised scale of pay of Rs.70-95 from 3.6.1972 showing his date of completion of six months continuous service on 2.6.1972 and date of engagement as 3.12.1971. The communication dated 5.9.1972 annexed to the written statement mentioned the list of nine candidates who were screened and found suitable by the committee for continued employment in Class IV categories in the scale of Rs.70-85. In that communication the name of the applicant appear at serial No.9 showing his date of birth as 15.12.1942 and his date of appointment as 3.12.1971. The respondents also referred to other documents showing to establish that the applicant's date of birth was 15.12.1942 on his own declaration and therefore there is no illegality in the superannuation of the applicant.



4. I have heard Mr R.D. Lal, learned counsel for the applicant at length. Also heard Mr S. Sarma, learned counsel appearing on behalf of the learned Standing Counsel for the Railways. Mr Lal in his usual persuasive manner contended that the applicant who was a lowly paid employee failed to get justice and fair treatment before the respondents and that the applicant was unlawfully retired before he attained the age of superannuation. According to Mr Lal since the applicant's date of birth was 10.6.1953 the respondents committed grave injustice by issuing the purported order of retirement with effect from 31.12.2002. Mr S. Sarma, learned counsel for the respondents, on the other hand, referred to the records annexed to the written statement and submitted that the authority acted lawfully and superannuated the applicant in terms of the Service Book.

5. In the matter of correction of the date of birth it is the employee seeking rectification who is to clearly show and establish that the recorded date of birth was made different due to negligence of some of the persons other than the applicant or that the same was a result of patent and obvious error. Mr Lal, the learned counsel for the applicant, mainly emphasised on two documents to show and establish that the date of birth of the applicant was 10.6.1953 and not 15.12.1942. In support of his contention the learned counsel for the applicant placed before me the record of service as a casual labourer. Seemingly, that is a record of service of a casual labourer and as per the note the safe custody of such a book rested on the applicant. The book was to be invariably produced at the time of every fresh appointment. In normal course, at the time of permanent absorption such book was to be handed over to the authority.....

authority for verification. Even otherwise, the said record of service as casual labourer produced by Mr Lal cannot be relied upon as the sole basis for treating the date of birth of the applicant as 10.6.1953 without any supporting document. How the date of birth was recorded as 10.6.1953 has not been explained. The other document relied by Mr Lal is a transfer order dated 23.12.1972 annexed to the application as Annexure 6. The said order was seemingly issued by A10 W/FCW, Lumding to the applicant sparing him from the Office of the A 10W/FCW, Lumding and directed the applicant to report to the 10 W/FCW/HQ for further duty. One third class transfer pass was enclosed to cover his journey. Mr Lal referred to an entry showing the date of birth as 10.6.1953, It was not explained why a date of birth was mentioned in a mere transfer order. There was no explanation as to why the date of birth was recorded in transferring an employee. NO explanation was forthcoming on what basis the date of birth was recorded as 10.6.1953. The other two materials referred by Mr Lal was the School Leaving Certificate and the horoscope. Pitted with the records submitted by the respondents in the written statement the authenticity of which was never disputed, though Mr Lal in the course of hearing argued that in the absence of the original records the same was not to be relied upon.

6. The documents showing the declaration of age by the applicant as well as the Service Book, Annexure 12, and the attestation form where the date of birth of the applicant was recorded as 15.12.1942 contains the signature of the applicant. In reply, Mr Lal submitted that in the year 1974 one Shri Nepal Chakraborty who was then the Dealing Assistant wrongly entered the date of birth.....

birth of the applicant as 15.12.1942. The said plea of Mr Lal is not acceptable, more so when the said Nepal Chakraborty is not impleaded as a party and is not before the Tribunal. Had Nepal chakraborty been made a party respondent he would have been in a position to assert or deny. The attestation form for the post of Khalasi in the N.F. Railway submitted by the applicant contains the certificate certifying the information to be correct and complete to the best of his knowledge. The applicant put his signature dated 10.12.1976. In the said attestation form the applicant showed his date of birth as 15.12.1942. The aforesaid act was after 1974. Therefore, the imputation given to Shri Nepal Chakraborty cannot be made use of. The provisional seniority list as on 1.1.1973 was dated 4.10.1977. In that provisional seniority list the age of the date of birth of the applicant was also shown as 15.12.1942 the date of grant of temporary status was shown as 3.6.1972. The applicant had the opportunity to dispute the age recorded in the provisional seniority list as on 1.1.1973 in 1977 which he failed to do in time. The other two seniority lists showing as on 1.9.1989 and 1.4.1991 respectfully were published showing the date of birth of the applicant as 15.12.1942.

7. In the application the applicant stated as to his first appointment vide order dated 12.8.1971 as Peon. In the application there is no whisper as to his appointment as casual labourer under IOW/RNY, PWI/RNY and XEN/Bengdubi Project since 1.10.1961. Annexure A/1 to the written statement clearly showed that the applicant Madan Mishra, Son of Ramphal Mishra worked under the IOW concerned from 1.10.1961 to 31.3.1963 and worked as a

Khalasi.....

Khalasi from 15.7.1963 to 11.9.1966. The said documents contains the signature of the applicant. Where the applicant was engaged under the Railway Authority on 1.10.1961 he hardly crossed the age of 8 (eight) years if the claim of the applicant as to his date of birth as 10.6.1953 is accepted. Such situation is not permissible in law. In that event the only inference would be that the applicant had secured an entry into service by citing a higher age for getting employment. The principle of estoppel would come in and defeat such claim.

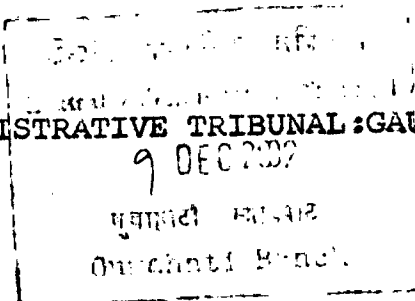
8. As alluded earlier, an employee seeking correction of date of birth must clearly show and establish that the recorded date of birth was made due to inadvertent error and/or error of some of the persons other than the applicant or that the same was the result of an obvious clerical error. Where, an employee fails to do so no relief can be granted. In the instant case, the applicant failed to show and establish that the recording of the date of birth by the respondent authority was made due to any negligence or any clerical error.

9. For all the reasons stated above the application is liable to be dismissed and accordingly the same is dismissed. There shall, however, be no order as to costs.



( D. N. CHOWDHURY )  
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GAUHATI BENCH:GUWAHATI



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

ORIGINAL APPLICATION NO. 391/2002

Madam Missir

.....Applicant

-Versus-

Union of India, represented

by the General Manager, N.F.

Railway, Maligaon, Guwahati-11

.....Respondents.

I N D E X

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13.	Annexure-12	

Filed by:-

Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT GUWAHATI

Filed by  
Sahadeo Das  
Advocate  
22

An application under Section 19  
of the Central Administrative  
Tribunal

Original Application No. 391./2002

BETWEEN

Sri Madan Missir

....Applicant

-vs-

The Union of India ,represented by  
the General Manager, NE Railways,  
Maligaon, Guwahati-11

...Respondents.

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- 2 -

1. Details of the Applicant:-

Sri Madam Missir, Son of Late Ramphal Missir, resident of Pandu, P.S.-Jalukbari, Guwahati-12, and at present working in the Office of the XEN/FCW/MLG, N.F.Railway, Maligaon, Guwahati-11, District-Kamrup (Assam).

2. Details of the Respondents:-

- (1) Union of India, represented by the General Manager, N.F.Railways, Maligaon, Guwahati-11.
- (2) The Chief Engineer, FCW, N.F.Railway, Maligaon, Guwahati-11, District-Kamrup, Assam.
- (3) XEN/FCW/MLG, Senior Engineer, FCW, N.F.Railway, Maligaon, Guwahati-11, District-Kamrup, Assam.

*Nepal Maligaon  
not made for*

3. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS FILED/MADE :-

- (1) An order passed by the Respondent No.2 vide No.E/FCW/29 dated 29/10/2002 rejecting the prayer of the petitioner to consider his actual date of birth i.e. 10/06/1953 and not 15/12/1942 and wrongly recorded in the Service Book of the applicant.
- (2) An order vide letter No.E/FCW/29 dated 30/10/2002 and order vide letter No.E/FCW/29 dated 20/22/11/2002 directing the applicant to submit Pension Form for final settlement including family pension.

4. JURISDICTION OF THE TRIBUNAL:-

The applicant declares that the application is within the jurisdiction of this Hon'ble Tribunal.

5. LIMITATION:-

The applicant further declares that this application filed by the applicant before this Hon'ble Tribunal is within the time limit prescribed Under Section 21 of the Central Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE:-

6.1 That the applicant is a citizen of India and at present, he is working as Khalasi under SSE/W/FCW/HQ in NF Railway, Maligaon, Guwahati-11, District-Kamrup, Assam and as such is entitled to all the rights and protections guaranteed under the Constitution of India and the laws framed there-under.

6.2. That your humble applicant was at first appointed as Peon vide Office order No.10/71(New) dated 12.8.1971 and vide Order No.W/FCW/72-6 dated 23.12.1972, the petitioner was transferred and was directed to report to Headquarters and in this very order, the date of birth of the applicant was clearly written as 10.6.53 by the transferring authority. Vide order No.W/FCW/MLG/E-2 dated 22.6.1972 your humble applicant was appointed on casual basis. Your humble applicant was also given an identity card by the Railways in which his date of birth was shown as 10.6.1953. Vide office order W/FCW/MLG/E-23 dated 7.9.1978 the applicant was provisionally confirmed as Khalasi. The applicant has also obtained his School Leaving Certificate issued by the Govt. Primary School, Karmasi where he was a student and read upto Class-V which also showed that his date of birth was 10.6.1953. Moreover, the applicant is also having his horoscope showing his date of birth on 10.6.1953. The applicant also sworn in an affidavit to the effect that his date of birth was 10.6.1953. It is submitted that from all the records available with him, he knew that his date of birth was on 10.6.1953 and during his service career, the Railway Officers never informed him that his date of birth was 15.12.1942.

(A)



(B) Identity Card.

School leaving Certificate

(C)

Horoscope

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6.3. That the applicant only in the year 2002 in the month of May came to know that the seniority list of Khalasi was published on 1.9.89 in which his date of birth was wrongly shown as 15.12.1942 and thereafter he started running from one place to another and he filed a number of petitions and two such petitions were filed on 28.5.2002 and 23.10.2002 for rectification of his date of birth wrongly entered into in his service book by one Clerk of the Railway, namely, Sri Nepal chakraborty who had taken the applicant's signature in one sheet of paper. It is submitted that the aforesaid Nepal Chakraborty has done this mischief by writing his date of birth as 15.12.1942 instead of 10.6.1953 without considering the fact that the applicant had in possession of custody some letters and one Identity Card issued by the Railway authority showing his date of birth as 10.6.1953 and also without caring for the fact that the applicant would become 29 years 5 months and 18 days at the time of joining the service (if his age is written as 15.12.1942 ) rendering him incapable and incompetent to become a Railway employee as because the maximum age for appointment of a Khalasi in Railway was /is 23 years only and the minimum age was 18 years and never 29 years or more . It may be mentioned here that the applicant is a Brahmin by caste and hence does not belong to the SC/ST categories and also he did not suffer in Assam Agitation which had not

contd...

Not a party

21/10/21

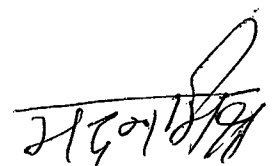
-5-

then that place as the Assam Agitation started only in 1979 i.e. much before the Petitioner joined the services and hence the age relaxation could not have given to the petitioner when he joined the service.

6.4 That it is respectfully submitted that the date of birth of an employee is ascertained from his academic certificates. In the absence of the academic certificates, an affidavit is required to be sworn in by the employee at the time of his getting the employment and/or the certificate of a doctor ascertaining the age of the employee is also considered relevant at the time of his initial appointment in service. It is submitted that the applicant had his School leaving Certificate at the time of his joining services and he has also sworn in an affidavit in this regard. Of course much latter . On submiss on of his School Leaving Certificate , the Railway authority had given him appointment and thereafter on his transfer, the transfer order also bears the date of birth. It is also submitted that as usual the Identity Card issued by the Railway also bears his date of birth and all these documents clearly and unambitiously show that the date of birth of the petitioner was 10.6.1963 and not 15.12.1942.

6.5 That after knowing in the month of May, 2002 that the seniority list of Khalasi was published on 7.7.9.89 and that his date of birth was shown as 15.12.1942 instead of 10.6.52 ,he immeditely made a representation before the General Manager, NF Railways vide his application dated 28.5.2002

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-6-

and thereafter on 23.9.2002 and his <sup>last</sup> /application ~~was~~ on on 23.10.2002. Against all these petitions the applicant received from the office a letter No.E/FCW/89 dated 29.10.2002 rejecting his prayer on the ground that on 4.8.72 an opportunity was given to all to submit petition for alteration of date of birth by 31.7.73. It is submitted that there was absolutely no necessity for the petitioner as his date of birth was recorded when the Identity Card was issued to him showing his date of birth as 10.6.53 and on his transfer on 23.12.72, the transfer order itself bears his date of birth as 10.6.53. It is submitted that at that time his service records was not prepared and therefore his filing petition for correcting his date of birth did not arise at all. Moreover, the applicant was then in Siliguri and if there was any service book of the applicant was there, it must show that his date of birth was 10.6.53. It is further submitted that he was convinced that his date of birth must have been recorded in his service book as 10.6.53 and not 15-12-42.

6.6. That it is respectfully submitted that the first declaration of date of birth and the first recording of the date of birth by the Department of Railways or by any other department is always considered as true and correct and the concerned department as well as the Court of law always gives due credence to such date of birth and your humble petitioner

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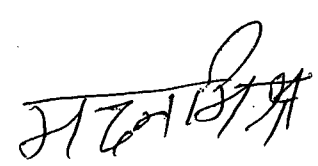
मदन मिश्रा

-7-

has<sup>in</sup> his possession and /or control two such documents issued from the Railways the first being the Identity Card and the second being the order of transfer dated 23.12.73 which clearly show the date of birth of the applicant as 10.6.53 and, therefore, it is submitted that these two documents are true and correct and free from any vice and the later recording of date of birth is false, misleading and brought with malafide intentions. It was also done clandestinely.

6.7 That it is respectfully submitted that that the applicant believes that definitely some <sup>intipulations</sup> ~~interpretations~~ are there in his service book which shows the entry of the wrong date of birth and/or the date of birth recorded in the service book is without any documentary or other evidence such as affidavit, school leaving certificate or doctor's certificate without which the date of birth cannot and should not be written. It is submitted that such a vital document like date of birth cannot be and should not be entered into the service book of an employee without any documentary proof thereof and the applicant sincerely believes that the Identity Card and the order of transfer dated 23.12.72 which bore his date of birth was definitely written after perusal of documents from the applicant i.e. after perusal of his school leaving certificate and/or affidavit sworn in the year 1971 and/or any other document which conclusively proved that the applicant's date of birth was 10.6.1953.

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-8-

6.8 That it is respectfully submitted that there may be difference of age of one person and the record bearing his date of birth by 1 year 2 years or 3 years, but the difference of age cannot be of 11 years which is apparent in the case of the applicant and that also after the respondents had admitted /acknowledged the applicant 's date of birth in many official documents and furthermore had this date of birth been recorded in the initial appointment order of the applicant, right at the time of his employment he could not have got the job because he must have been ,according to official records, ~~now~~, more than 29 years of age and certainly over aged for the job. It is also submitted that there has been many cases where persons have remained under-age and got the jobs but there has not been any case till today ~~that~~ a person ~~has~~ had got the job and that also the job of a lowest strate of the administration and furthermore without condonation of his age limit.

K

6.9 That it is respectfully submitted that the applicant at first was appointed as daily wage earner at the rate of Rs.3/- per day and he started his work at Siliguri in West Bengal and after nearly 1 1/2 years of service, he was transferred to Maligaon in Assam in the- a temporary capacity and that both the officers would give him appointment without considering his fitness with regard to ~~h~~ his health and date of birth is not at all possible and that is why his transfer order

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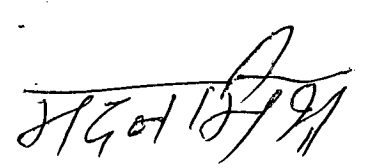
H. K. N. S. S.

bore his date of birth. If some Clerk in the Headquarters of NF Railways arbitrarily, illegally changes his date of birth that also by a huge margin of 11 years, it is submitted that such a change has not got the sanction or the force of law and therefore it is a fit case in which the change of date of birth of the applicant as now happened to be recorded by the NF Railways, Maligaon ought to be set aside and/or quashed and it is also a fit case in which the respondents may be directed to record the applicant's date of birth as 10.6.53 in his service book after deleting his date of birth as wrongly recorded as 15.12.1942.

6.10. That it is respectfully submitted that recorded of correct age in the service book of the applicant is not going to harm anybody in any way as the applicant is still now working as Khalasi the lowest strata of the administration, but if his correct date of birth is not recorded in the service book of the applicant and if he is found to go on retirement on the wrong entry of his date of birth, not only the applicant would suffer irreparable loss and injury but every member of his family who are all dependent on his earning, would also suffer irreparable losses and injuries.

6.11 That your applicant received two letters vide No.E/FCW/29 dated 30.10.2002 and No.E/FCW/29 dated

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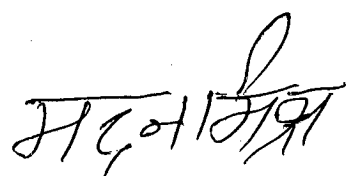


20/22.11.2002 derecting him to fill in the pension form immeditely. It is submitted that had these letters been furnished to him some 6 months ago, he would have approached this Hon'ble Tribunal earlier or had the applicant ~~not~~ been given a duplicate copy of his service book or had the applicant been informed 5 years ago with regard to his date of birth, he would have approached this Hon'ble Tribunal much earlier.

6.12 That copies of the letter No.E|CEW|29 dated 20.10.2002 ,Bo.E/FCW/29 dated 30.10.2002 , NO.E/FCW/29 dated 20/22.11.2002 , office order No. 10/71(new) dated 12.8.71 , Identity Card that is record of service as casual labourer, No.W/FCW/72 dated 23.12.1972, No.W/FCW/MLG/E-2 dated 22.6.78 , office order No.W/FCW/MLG/E-23 dated 7.9.78 , School leaving certificate dated 5.4.65, one affidavit dated 9.1.2001 are annexed hereto and marked as Annexure-1 to 10 respectively.

6.13 That it is respectfully submitted that the applicant has come very late before this Hon'ble Tribunal for invoking the jurisdic~~t~~ on of this Tribunal for invoking the jurisdiction of this Tribunal for saving him from uncalled for and unnecessary harassment caused to him by the Railway authorities only because of his ignorance and also because he was convinced of the fact that the Railway authorities would not ~~be~~ injustice with him by recording a wrong date of birth and when he knew in May, 2002

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that there had been an entry in his service book of a wrong date of birth, he was sure that after receipt of his application, the authorities would rectify their mistakes by correcting his date of birth which was accepted and acknowledged by Railway authorities 30 years ago. It is submitted that documents 30 years old are considered correct by a court of law.

6.14 That the applicant prayed for justice but the same has been denied to him.

6.15 That there is no other alternative or efficacious justice available to the applicant and the justice prayed for is just, proper and adequate.

6.16 That this application is being filed bonafide and in the interest of justice.

6.17 That your humble applicant had filed a Writ petition being No. 7675/2002 in the Hon'ble Gauhati High Court. But the Hon'ble High Court vide its order dated 3.12.2002 directed the applicant to file an application before this Hon'ble Tribunal and hence this application.

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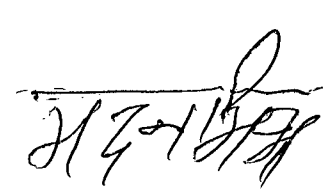
-12-

7.0 GROUND FOR RELIEF WITH LEGAL PROVISION

7.1 For that the Respondents have erred in law as well as in facts in passing orders retiring the applicant from service on and from 31/12/2002 while the applicant has got more than 10 years of service to his credit before his retirement from service.

7.2 For that the Respondents have committed an illegality by writing a wrong date of birth in the service book of the applicant after knowing fully well that the applicant had in his possession & custody documents which were ~~an~~ unimpeachable in nature proving beyond all reasonable doubt that the applicant's date of birth was 10.6.1953 and not 15.12.1942. It may be mentioned here that the applicant has in his possession one Identity Card and one transfer certificate issued by the Railway Authority in 1971 & 1972 respectively clearly showing his date of birth as 10.6.1953. Besides those two documents, the applicant has got in his possession the School leaving Certificate and his Horoscope and these two documents also show that the date of birth of the applicant is 10.6.1953 and not 15.12.1942.

contd..



-13-

- 7.3 For that the Respondents have committed an illegality by illegally taking the Signature of the applicant and asking it as his consent for showing his date of birth as 15.12.1942 and thus the Respondents have committed further illegality by giving two date of births of one and the same applicant i.e. 10.6.1953 at the first place and after so many years of writing the actual date of birth the false date of birth i.e. 15.12.1942.
- 7.4 For that the Respondents have committed a gross illegality by showing the age of the applicant more than 29 years at the time of his appointment as Khalasi after knowing fully well that at the initial appointment of a Khalasi, the maximum aged would be 23 years and minimum 18 years and after 23 years of age, nobody can be appointed as a khalasi in the Railway and it is never possible to give appointment to any person to the post of Khalasi after he has attained more than 29 years of age.
- 7.5 For that the applicant had shown his School Leaving Certificate at the time of his initial

Handwritten signature/initials.

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appointment and on the basis of his A School Leaving Certificate which shows his date of birth as 10.6.1953 and which was accepted and admitted by the Respondents by acknowledgement and admission that the age of the applicant was 10.6.1953, it was never met & proper on the parts of the Respondents to have entered into his service book a new and imaginary date of birth without any support or basis and hence the second date of birth shown by the Respondent which is 15.12.1942 is liable to be set aside and /or quashed.

7.5 For that when the information regarding his new date of birth wrongly entered into the service book came to the notice of the applicant, the applicant immediately filed a number of petitions praying inter alia to change his date of birth to 10.6.1953 from 15.12.1942 and the Respondents by not adhering to the prayer of the applicant has committed a gross illegality.

7.6 For that the applicant bonafide believes that there has been some interpolation in his service book in view of the fact that the Respondents themselves had shown his date of birth as 10.6.1953 that also in the Identity Card and other documents and thereafter they inserted a wrong date of birth in his

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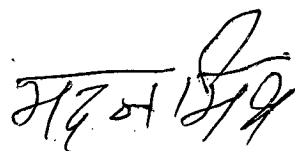
they inserted a wrong date of birth in his service book. It is submitted that when a Class IV employee in the Railway is transferred from one station to another, his date of birth is invariably given in the transfer order to avoid any complications either to the applicant or to the authorities as because service book of the transferee are not being maintained at that time and it is further submitted that service book of a personnal is maintained after his services are regularised by the Railways.

7.7.


For that the authorities ought to have considered that there may be difference of age of 1, 2 or 3 years ~~of age~~ but it cannot be of more than 10 years and that also the appointment of the applicant to the service cannot be shown by the authorities when he had become over aged for the job.

7.8

For that age is entered into the service book on the basis of some report document, certificate and it cannot be entered into on the whims and caprice of the officers and/or without any reason or logic and the applicant has still got in his possession four such documents whose genuiness is unimpeachable while the Respondents have got in their possession none.



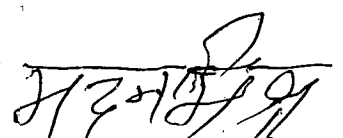
- 7.9 For that the Respondents have committed a gross illegality in furnishing information to the applicant only two months ago of his proposed retirement from service and not before and such an action of the Respondent clearly go to show that the malafide and the bad faith of the Respondents and ~~therefor~~ the applicant cannot be retired from service at this hour of the time when he has got more than 10 years of service left.
- 7.10. For that the directions given by the Respondents to fill up the retirement form is absolutely wrong and illegal.
- 7.11 For that the applicant has come very late before this Hon'ble Tribunal as because he was not given the information of his retirement at least before 3 years.
- 7.12 For that the Respondents ought to have understood and consider the documents usually considered genuine and correct by a court of law and the applicant has got two such documents issued by the Railways Authorities showing his date of birth as 10.6.1953.



7.13 For that there is no other alternative or efficacious remedy available to the applicant and the justice prayed for is just ,proper and adequate.

7.14 For that the copies of the documents such as letters No.E/FCW/29 dated 29.10.02,NO.E/FCW/29 dated 30.10.02, No.E/FCW/29 dated 20/22/11/2002, office order No.10/71 'new)dated 12.8.71 Identity card,that is record of service as casual labourer, No.W/FCW/72 dated 23/12/1972 No.W/ECW/MLG/E-23 dated 7.9.1978,School leaving Certificate dated 5.4.1963.One affidavit dated 9.1.2001 are annexed hereto and marked as Annexure-1 to 10 respectively.

contd...



8.0 DETAILS OF REMEDIES EXHAUSTED

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him, except to approach this Hon'ble Tribunal at this stage.

9.0 MATTERS NOT PREVIOUSLY FILED OR PENDING  
IN ANY COURT OR TRIBUNAL

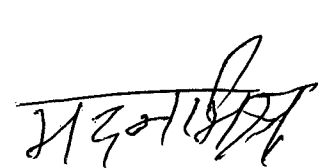
That the applicant declares that no case is now pending before any court or Tribunal regarding the same subject matter.

10.9 RELIEF SOUGHT FOR

Under the above facts and circumstances the applicant prays for the following reliefs.

- (i) The order of retirement of Service passed vide Annexures-1,2 and 3 i.e. vide Nos.E/E/FCW/29 dated 29.10.02, NO.E/FCW/29 dated 30.10.2002 and E/FCW/29 dated 20/22/11/2002 respectively should not be set aside and or quashed.
- (2) That the order of retirement from service may be set aside and/or quashed;

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- (3) That the Respondents may be directed to correct the date of birth of the applicant in the service book as per the date of birth shown in his Identity Card and transfer order or as per his school leaving Certificate i.e. 10.6.1953 and his date of birth wrongly and illegally recorded as his service book as 15.12.1942 may be ordered to be cancelled /deleted,
- (4) Pending final disposal of this applications, the Respondents may be directed not to retire the applicant from service and the order of retirement from service illegally passed by the Respondents may be stayed.
- (5) Any other relief or reliefs, the applicant is entitled to get may kindly be granted to him by this Tribunal.

11.0 PARTICULARS OF THE IPO

IPO NO. 76 606544


Date 4-12-02

Payable at Guwahati.

12.0 LIST OF ENCLOSURES

As stated above.

Verification;





Verification

I, Sri Madan Missir son of late Ram Phal Missir, aged about 49 years, a resident of Pandu P.S. Jalukbari in the district of Kamrup,, Assam do hereby solemnly affirm and state as follows -

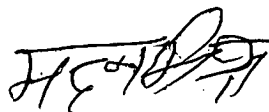
1. That I am the applicant s in the instant case and as such am fully acquainted with the facts and circumstances of the case and am authorized and competent to swear this affidavit.

2. The statement made in paragraphs 6.1, 6.2, 6.3, 6.4, 6.5, 6.9, and 6.17

are true to the best of my knowledge and belief and those made in paragraphs 6.6., 6.7, 6.8 are true to my information which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I sign this verification on this the  
Guwahati.

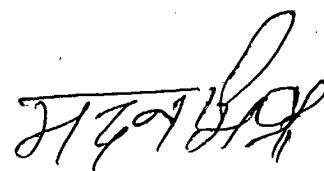
2002 at



DECLARANT

Identified by me

Advocate's clerk



ANNEXURE : 1

E.I. RAILWAY

Office of the  
General Manager (W)  
Maligaon, Coochabati - 11

No. E/FCW/29

Dated : 25.10.02.

To ,

Mr Madan Misir ,  
KHLPS/UNDER SGT/W/FCW/HQ

Sub : Rectification of date of birth as 10.6.1953  
instead of 15.12.42 .

Ref : Your application No. Nil dated 28.5.02 and  
23.9.02.

In response to your appeal under reference for  
alteration of your date of birth , your P/case and 3/sheet  
has been gone through . It is found that your date of birth  
as 15.12.42 has been recorded as per declaration submitted  
by you time to time .

Further , vide Rly. Board's L/No. E/NC/11/70/BR/1  
dated 4.8.72 circulated through CPO's letter No. Rectt. 391  
dated 4.8.72 (M.C. No. 12/90 para 11.2 page -3 ) , an ~~oppor~~  
opportunity was given to all those staff who were in service  
on 2.12.71 to submit petition for alteration of date of  
birth latest by 31.7.1973 mentioning that no request for  
alteration in the recorded date of birth will be entertained  
after 31.7.1973 . That opportunity was not availed by you .

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True copy  
Su had v gam  
Advocate

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~~34~~

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- 2 -

Therefore, it is not possible to alter  
your date of birth at this stage.

This has the approval of CPC/N.F.Rly./MLG.

SA/- Illegible,

XEN/FCW/MLG.

N.F. Railway.

Certified to be  
true copy  
Subadev & M  
Advocate

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ANNEXURE : 2

N.E. RAILWAY.

No. E/ECW/29

Date : 30.10.2002.

To ,

Shri Madan Misra , KILPR

Through : - SEE / W / ECW / HQ

Sub : Final settlement including family |  
pension .

As per office records you will be retired  
from service w.e.f. 31.12.2002 (A.N.)

You are therefore requested to arrange to  
collect Booklet containing Pension form 'A' from  
this Office and duly filled in all respect and submit  
the same to this office immediately .

This should be treated as most urgent .

DA : - 2 Booklet .

sd/- Illegible ,

XWE / ECW / MLC.

Contributed to be  
true copy  
Sahadev Dm  
Advocate

24  
ANNEXURE : 3

N. F. RAILWAY

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

No. B / PCW / 29

Dated : 20/22-11-2002

To ,

Shri Madan Misra , KILDR  
( Through SLE / W / PCW / HQ )

Sub : Return of Filled up Booklet ( F.S. )

Ref : This Office letter of even number  
dated 30.10.2002 .

In terms of this Office letter of even  
number dated 30.10.2002 F.S. Booklet were received by  
you on 30.10.2002 being your date of superannuation is  
31.12.2002 ( A.M. ) . But till date you have not submitted  
the same without which your F.S. dues cannot be process  
in time .

Hence you are once again advised to submit  
the booklet duly filled up within 2 days on receipt of  
this letter , otherwise you will be held responsible  
for delay in clearing your F.S. dues .

This may be treated as most urgent .

Sd/- Illegible,

MEM / PCW / Maligaon,  
N. F. Railway, Maligaon.

certified true  
four copy  
sent to  
adviser

36  
25  
46  
ANNEXURE : 4

NORTHEAST FRONTIER RAILWAY

SILIGURI JN.

OFFICE ORDER NO. 10/71(New) Dated 12.8.71

Owing to the creation of the post of Dak Carrier and Bunglow Peon vide /Maligaon's Memorandum No. /FW(New) of 4.8.71 the following are ordered to take effect immediately.

1. Shri Madan Misir, Peon (CL) will work as Dak Carrier on and from 5/8/71 on his same daily rate of pay. He will proceed JLB on each Monday and Thursday. Before proceeding for JLB he should contact the AOS/Dy. CS/PC/NJP and Accountant /AC/EP/NJP to collect their daks for delivery to J.B.
2. Shri Ganesh Bahadur, Peon (under Dy. CS/PC/NJP is designated as Bunglow Peon on his same daily rate of pay.
3. Shri Amalendu Chakraborty, discharge C.L. of ICW/EP/F&I is appointed as Peon on Rs. 3 per day with effect from 5.8.71 vice the resultant vacancy of item 1.

This issue have got the approval of XEN/EP/SGVJ.

Sd/- Illegible,  
Assistant Engineer (1)  
Project  
Siliguri Jn.  
Date 12/8/71.

No. 8/3/ (New)  
Dy. CS/PC/NJP  
/PC/NJP.  
party concerned.

Copy is forwarded for information and necessary action please.

Sd/- Illegible,  
Asstt. Engineer (1), Siliguri Jn.

11-8-71  
Entered for  
be true copy  
Am -  
Advocate

35

(26)

26

47

Annexure-5

NOTE

1. The person to whom the book is issued is responsible for its safe custody.
2. No duplicate book can be issued under any circumstance.
3. In case of loss, the fact should immediately be reported.
4. This book should invariably be produced at the time of every fresh appointment.
5. No claim for permanent absorption will be entertained without this book.
6. Any other form of evidence in support of this employment will not be taken cognisance of.
7. Any misuse of this book shall render its owner liable for being disqualified from railway service of all kinds.

18xx

N.E. Railway Railway

Office Department

1. Name in full-

2. Father's name

3. Date of birth- 10-6-58

4. Casual employment age at initial 18 yrs.

1.

2.

S/- Illegible

Entered for the  
true copy  
Sahadiv  
Advocate

No. W/FCW/72 - VI.

Date : 23-12-72

From : A DW/FCW/LMG.

To : Sri Madan Misra /Khalasi

Date of Birth : 10-6-53

Sub : Sparring .

As per AEM /FCW /P NO's office order No. W/FCW/MLG/E -2 of 26th 25-11-72 . you are hereby spared from this end on date A.E. and directed to report to 10 W/FCW/HQ for further duty please .

One third class transfer pass of No. 75477 is enclosed to cover your journey ex LMG to JLB .

sd/- Illegible ,

A10 W/FCW/LMG.  
23.12.72

Copy forwarded to : -

AEM /FCW /PHO for his information and necessary action please through 10W/FCW/HQ

sd/- Illegible,

A10/FCW/LMG.

Certified to be  
true copy  
Sahadev Singh  
Advocate



37

28

ANNEXURE 17

49

On completion of six months continuous service as casual labour Shri Madan Misir who was engaged against the temporary vacancy caused due to the promotion of Shri Shyamendu Biswas is granted authorized scale of Rs. 70 - 85/- from the date shown below :-

Name	Designation	Date of engagement	Date of completion of six months continuous service	Date of effecting authorized scale	Pay fixed
Shri Madan Misir	C.L.	3.12.71	2.6.72	3.6.72	79/- P.M.

Shri Misir is hereby informed that his services will be terminated consequent on the reversion of Shri Biswas or on his being rendering surplus whichever is earlier.

It is also informed that Shri Misir will have no claim for continuation as such unless he is declared approve for the post by the R.F. Railway recruitment Committee / Maligaon.

SEN/FCM/Maligaon

DO. 5/FCM/MLC/E-2

Dated 22-6-1972.

Copy forwarded for information and necessary action to :-

1. PA & CAG / Maligaon (in duplicate)
2. Staff concerned.
3. P/Case.
4. Bill section.
5. IOW / FCM / H.C.

sd/- Illegible,  
SEN / FCM / Maligaon

.....

Confirmed to be  
true copy  
Sahadev Ram  
Advocate

38

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ANNEXURE : 8

NORTHEAST FRONTIER RAILWAY

## OFFICE OF THE

SENICR ENCLEREN/FCW / N.F. Railway

Maligaon, Guwahati - 781011.

OFFICE ORDER

The following Khalsai in scale M. 196-232/- (M.) under SEN /FCW /Maligaon are hereby provisionally confirmed as Khalsai in scale M. 196 -232/- (M.), with effect from 1.4.75 against the 12 existing permanent vacancy out of 44 posts sanctioned vide CE(P)/Maligaon's No. W/261/1/FCW/Pt.11, dated 13.3.75.

<u>S/No.</u>	<u>Name</u>		<u>Designation</u>
1.	Shri Mahesh Prasad	...	Khalsai .
2.	" Binode Ch. Das	...	- do -
3.	" Rajen Sharma	...	- do -
4.	" Phani Bahadur	...	- do -
5.	" Madan Misir	...	- do -

sd/- Illegible

SEN /FCW /Maligaon

No. W/FCW/MLC./E - 23

Dated : 7.9.1978

Copy to :-

1. IA & CAO /Maligaon
2. Staff Concerned
3. S/C, for P/Case.

sd/- Illegible.

SEN /FCW /Maligaon  
N.F. Railway.

39

30

Annexure - 9 : 51

(English Translated Copy)

TAT P ATHANIK SCHOOL, KAMATI

(Trans for Certificate)

## Certificate No-21

1. Name of student - Tri Madan Misra
2. Father's name - Sri Ramphal Mis-hra
3. Residence (Village, Post and District), Vill.- Puraina, P.O. Bakshrpalli, District- Siwan
4. Date of Admission- 02-01-1959
5. Recorded date of birth in the Admission- 10-6-1953 register.
6. Date of leaving the - 31-12-1963 school.
7. In which class a reading- Fifth Class (in words )To be filled at the end of session in School)
8. Whether passed for Admission in in - Yes higher class. (To be filled into before end of session).
9. Attendance during the current year is.

Date of Admission	Signature	Teacher	School Attendance
-------------------	-----------	---------	-------------------

1. Conduct - Good
2. Reason for leaving school - will of the parent
3. Whether fee has been paid in school ?-Yes
4. Date of issuance of Certificate.

By/- Ramayan Prasad  
3-4-65  
Head Master.

Certified to be  
true copy  
Subadar  
Adv.

Annexure 10  
31  
Annexure 10

181  
9-1-2001

A F F I D A V I T

I, Madan Misra, son of Late Ramphal Misra,  
resident of Pura ina, P.S. Badharla, District -SIWAN do hereby  
state as follows on Oath-

1. That the deponent was born at village- Puraina on  
Chaturdishe, Krishna Paksha of Jeotha month of Tumbat  
222 2010 corresponding to 3212 1975 on wednesday.
2. That the date of birth of the deponent 10-6-1953
3. That father and mother of the deponent are dead.
4. That the deponent has been able to recover his  
Jamma kundali on after great difficulties.
5. That the deponent has sworn this affidavit for the purpose  
or using it as and when necessary and hence this affidavit.

Sd/- Madan Mishra  
9-1-2001

I, Madan Misra, deponent do hereby solemnly declare  
that the statement of facts made in this affidavit are true to  
my knowledge and nothing stated is to be or concocted.

Sd/- Madan Misra

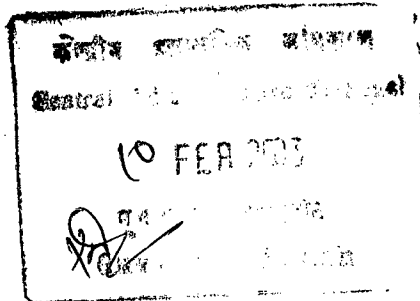
This is to certify that the aforesaid deponent has  
executed and admitted execution of this affidavit before me who  
has been identified by B.L. Tiwari, Advocate, Siwan.

The Deponent has signed  
before me.

Sd/- B.L. Tiwari  
9-1-2001.

Sd/- J.N. Sharma  
Notary, Siwan  
9-1-2001

certified to be  
true copy  
Sahadur Das  
Adv.



Filed by  
the Respondents through  
Lishanika Law.

Advocate  
7/2/03

59

Chief Personnel Officer (A)  
M. P. Riva, (Maligaon)  
Guwahati-1

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

O.A.No. 391/2002

Madan Missir

- Vs -

Union of India & Ors.

Written statement on behalf of the Respondents

1. That the respondents have received the copy of OA and have gone through the same. Same and except the statements which are specifically admitted herein below, rests may be treated as total denial. The statements which are borne on records the applicant is put to the strictest proof thereof.

2. That the Respondents before dealing with the contentions raised by the applicant beg to place the brief history of the case.

The applicant was initially engaged as casual labour under IDW/RNY, FWI/RNY & XEN/Bengdubi Project since 1.10.61. Thereafter he was engaged as casual labour under SEN/FCW, Maligaon from 3.12.1971 and from 3.6.1972 after completion of 6 months continuous service he got authorities pay scale. After screening by the committee he got his regular employment in class IV category vide order dated 17.8.72.

✓

1961  
1953  
8  
Office (A)  
Maligaon  
1961

The applicant submitted one declaration addressing to SEN/FCW on 3.12.71. Stating his dated of birth as 15.12.42 and the said declaration forwarded by the than IOW/FCW, Maligaon and AEN/FCW, Maligaon and on basis of said declaration date of birth was recorded in his service book. Seniority lists of Khalasis were published on 4.10.77, 7.9.89 and 14.11.91, showing his date of birth as 15.12.42. The applicant during submission of attestation form for police verification mentioned his date of birth as 15.12.42. He also mentioned his age in his family declaration which were submitted by him time to time showing his dated of birth as 15.12.72.

The applicant thereafter submitted an application dated 28.5.2002 for correction of his date of birth from 15.12.42 to 10.6.53 enclosing a Xerox copy of his school leaving certificate, and affidavit, casual labour card etc. Which was followed by a reminder dated 23.9.2002.

1961  
1953  
8  
The Respondents on receipt of the said applications forwarded the same to the concerned authority for consideration. After examination of the case the said authority issued the order dated 29.10.2002 rejecting his case. Now the applicant has come, before this Hon'ble Tribunal challenging the said rejection order and filed the above noted OA. The detailed parawise reply by the answering Respondents in the said OA are given below .

3. That with regard to the statement made in para 1,2,3,4,5 & 6.1 of the OA the answering Respondents offer no comment on it.

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

4. That with regard to the statement made in para 6.2 of the DA the answering Respondents while denying the contentious made therein beg to state that as per the record the details of his appointment in Rlys are given below.

(i) He was engaged as casual labour from time to time w.e.f. 10/1/61 to 31.3.63 (Annexure-A/1)

(ii) From 15.7.63 to 11.9.66 he was engaged casual labour under PWI/RNY. (Annexure-A/2).

(iii) Thereafter as per his own record it is seen he worked as casual labour under XEN/Bengdubi Project at different spell (Annexure-A/3)

(iv) Thereafter he was engaged under SEN/FCW/MLG as casual labour from 3.12.71 on being spared from XEN/Bengdubi project and was given authorised pay scale on 3.6.72. A copy of the said order dt. 22/6/72 is annexed herewith as Annexure-A/4.

(v) He was allowed for continued employment in class-iv category in the pay scale of Rs.70-85/- from 3.12.71 vide letter dated 5.9.72 after his screening. In the said order also his date of birth has mentioned as 15.12.42. (Annexure-A/5).

(vi) The identity card submitted by the applicant in the DA is denied and in the office there is no such record available to that effect. The service of the applicant was provisionally confirmed as Khalasi in the scale of Rs.196-232/- w.e.f. 1.4.75 vide letter dated 7.9.78 (Annexure-A/6).

35-  
56  
SEN/FCW/Maligaon  
IDW/FCW/Maligaon  
AEN/FCW/Maligaon  
Guwahati-9

(vii) The applicant during his service tenure submitted declaration addressing to SEN/FCW/Maligaon on 3.12.71 stating that his date of birth is 15.12.42 which was forwarded by the then IDW/FCW/Maligaon and same was countersigned by AEN/FCW/Maligaon on 3.12.71 (Annexure-A/7).

(viii) Thereafter at the fag-end of his service career applicant submitted a representation dated 28.5.2002 praying for his correction of his date of birth from 15.12.42 to 10.6.53.

From Annexure-A/7, it is clear that his date of birth is 15.12.42 as per his own admission. Apart from that the Annexure-A/5 order dated 5.9.72, it is clear that his date of birth is 15.12.42. Taking into consideration the Annexure-A/3 letter written by the applicant, if his date of birth is taken to be 10.6.53 instead of 15.12.42 he would have joined the service under Railways at the age of 8 years . and as such the prayer made by the applicant is without any basis and same depicts suppression of material facts before this Hon'ble Tribunal.

5. That with regard to the statement made in para 6.3 of the DA answering Respondents while denying the contentious made therein and beg to state that seniority lists of Khalasi's were published on 4.10.77, 7.9.89 and 14.11.91 indicating the date of birth of the applicant as 15.12.42. The applicant however, at that point of time never raised the issue for rectification of his date of birth even though he knew the fact.

Copies of the said seniority lists are annexed herewith and marked as Annexure- 9, 9 & 10.



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

The applicant submitted attestation form on 10.12.76 for verification his character and antecedents from Deputy Commissioner, Kamrup, Guwahati, wherein, he himself has mentioned his date of birth as 15.12.42.

A copy of the said attestation form is annexed herewith and marked as Annexure-11. ✓

Apart from that the applicant himself has put his signature on the opening page of the service book showing his date of birth as 15.12.42, the said service book was opened on 5.6.74 and the applicant knew that his date of birth is 15.12.42.

A copy of the opening page of the service book is annexed herewith and marked as Annexure-12.

The medical attendant identity card no.40633 issued on 30.10.86 by the SEN/FCW/Maligaon in favour of the applicant showing his age as 43 years as on 3.10.86.

A copy of the said identity card is annexed herewith and marked as Annexure-13.

Family declaration submitted by the applicant to the office of SEN/FCW/Maligaon wherein he mentioned his age as 45 years as on 11.5.89. A similar declaration was made by him on 31.7.89.

Copies of the declaration dated 11.5.89 and 31.7.89 are annexed herewith and marked as Annexure-14 & 15 respectively.

As per the Railway Employment Rule casual labourers are being appointed on screening as per the basis of their seniority and availability of vacancy. The maximum age limit of appointing casual labour to group-D 40 years as per the Group Boards letter No. E(Mg)/II/91/CL/71 dated 25.7.91

*SB*

The General Office (A)  
M. J. Halligan  
Givahati-12

6. That with regard to the statement made in para 6.4 of the OA the answering Respondents while denying the contentious made therein beg to state that as stated above the applicant himself has given the date of birth as 15.12.42 on 3.12.71 at the time of his engagement as casual labour under SEN/FCW prior to that since 1961 he was in employment on casual basis under IOW/RNY, PWI/RNY and XEN/Bengdubi Project since 1.1.62. If his date of birth is taken to be 10.6.53 then he was 8 years at the time of his initial engagement. The particulars submitted by the applicant along with the application dated 28.5.2002 is baseless and same cannot be accepted and denied.

7. That with regard to the statement made in para 6.5 of the OA the answering Respondents while reiterating and reaffirming the statement made above beg to state that the applicant himself recorded his date of birth as 15.12.42 right from his entry into the service and he was well aware of the fact. However, at no point of time he raised the issue of rectification of his date of birth. Now at the feg-end of his service the applicant through his representations has made a prayer for alteration of his date of birth. On receipt of the said request the concerned authority scrutinized the matter and rejected the prayer of the applicant.

8. That with regard the statement made in para 6.6 of the OA the answering Respondents while reiterating and reaffirming the statement made above beg to state that as per his own declaration made on 3.10.71 his date of birth was recorded as 3.12.71 and as such now at the feg-end of his service career he cannot make any prayer for rectification of his date of birth and as such the OA deserves to be dismissed with cost.

9. That with regard to the statement made in para 6.7 & 6.8 of

39  
 Chief Personnel Officer (A)  
 P. P. H. V. / Malgosa  
 Guwahati. 78

the OA the answering Respondents while denying the contentious made therein beg to state that the certificate produced by the applicant is denied on the basis of his own admission. The recruitment rule guiding the field of appointment of casual worker prescribed the minimum is 18 years and maximum as 40 years. If his date of birth is taken to be 10.6.53 and his initial entry in the service as 1.1.61, the prayer made by the applicant is not sustainable and as such the OA deserves to be dismissed with cost.

10. That with regard to the statement made in para 6.9 to 6.17 of the OA the answering Respondents deny the Correctness of the same on the basis of the statements made above. It is further denied that the documents produced by the applicant have no bearing in this case and same are also denied.

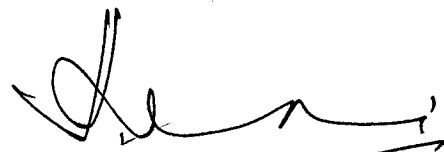
11. That in view of the above the grounds placed by the applicant in the OA is not sustainable and under this circumstances no relief can be granted to the present applicant as prayer for in the OA and the OA deserves to be dismissed with cost.

12. That apart from the above the CA is liable to be dismissed as it is hit by the principles of waiver and estopped and same is also hit by law of limitation and as such same is liable to be dismissed with cost.

VERIFICATION

I Shri A. K. Nigam aged about 47 years, son of Late S. P. Gaurha, resident of Maligaon, Guwahati-11, presently working as C.P.O/A, N.F. Railway do hereby verify and state that the statement made in paragraphs 1, 3 & 6 to 12 are true to my knowledge and those made in paragraphs & 2, 4 & 5 being matters of records are true to my information derived therefrom, which I believe to be true and the rest of my humble submissions before this Hon'ble Tribunal:

And I sign this verification on this 2nd day of Feb ~~November~~ 2002.

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

Annexure - A/1

Contract No. 1561 - Shri. Madan Mishra S/o. Ram Chai Mishra worked under me from 1.4.63 to 31.3.63 and discharged with effect from 1.4.63 due to temporary promotion.

मिशन

CDU

74

15.6.53

84

Attested  
Advocate.

a



- 11 -

To

The Senior Engineer  
Flood Control Works, N.F. Ry.  
Maligaon.

Through XEN/Bengaluru Project.

Sub - Recruitment of Camal Khalashi.

Sir,

Understanding that you are recruiting some Khalashi under your kind control I would humbly request you to give me a chance to serve under you.

As regards my experience in Railway works I have worked under ISV/Rangiya from 1-1-'61 to 31-3-'63 and was discharged on expiry of sanction. From 15-7-'63 to 11-9-'66 I have worked under PWD/Rangiya from time to time as per availability of sanction. From 16-10-'68 I am working under XEN/Bengaluru Project and still continuing.

As my near and dear ones and relatives are at Gauhati, my posting at Maligaon will help me to put on with one establishment in place of present two establishments for which I shall remain ever grateful.

Hope that you will please consider my experience in Ry service as also the hardship that I am undergoing now in maintaining two establishments with the poor pay, and give me a chance.

Yours obediently

Sd/- Siliguri  
The 18.11.71

(MADAN MISIR) Gh. Khalashi  
Son of - RAMFAL MISIR B/P.  
27.11.71

OFFICE - BANGALORE

5/8

64

On completion of six months continuous service as casual labour Shri Madan Misir who was engaged against the temporary vacancy <sup>caused</sup> casual due to the promotion of Shri Shyamalendu Biswas is granted authorized scale of Rs. 70-95/- from the date shown below:-

Name	Designation	Date of engagement	Date of completion of six months continuous service.	Date of effecting authorized scale.	Pay fixed.
1. Shri Madan Misir	C.L.	3.12.71	2.6.72	3.6.72	70/-P.M.

Shri Misir is hereby informed that his services will be terminated consequent on the reversion of Shri Biswas, or on his being rendering surplus whichever is earlier.

It is also informed that Shri Misir will have no claim for continuation as such unless he is declared approved for the post by the N. F. Railway recruitment Committee/Maligaon.

SEN/FCs/Maligaon.

No.W/FCW/PLR/H-2.

Dated 22-6-1972.

Copy forwarded for information and necessary action to :-

- 1) FA & CAO/Maligaon ( in duplicate).
- 2) Staff concerned.
- 3) P/Case.
- 4) Mill Section.
- 5) FCW/FCW/H.Q.

*[Signature]*  
SEN/FCW/Maligaon.

Attested  
*[Signature]*  
Advocate.



Northeast Frontier Railway.CONFIDENTIAL./r Sub: Schoning Test.Ref: APO(E)'s No.E/227/Adhoc/Con. dated  
17.8.72.

APO(E)/MLG' vide his letter number quoted above intimated that the following candidates after screening have been found suitable by the Committee for continued employment in Class IV categories in scale Rs. 70-85/-.

Sr. No.	Name	Designation	Date of birth.	Date of appointment.
1.	Shri Barindra Kr. Singh	Khalasi	23.2.38	19.6.62
2.	" Toj Bahadur.	"	1.2.36	26.10.61
3.	" Binode Ch. Das.	"	1.2.31	27.11.61
4.	" Laldob Shahani.	"	1.3.36	25.6.61
5.	" Chulai.	"	15.1.38	15.6.61
6.	" Rakhal Ch.Chakraborty.	"	22.11.45	13.12.70
7.	" Bal Kumer Singh.	"	4.7.42	15.2.64 1.4.71
8.	" Raghunath Goala.	"	6.9.40	18.9.71
9.	✓ <u>Nadan Missir.</u>	"	<u>15.12.42</u>	<u>3.12.71</u> =

This is for your further necessary action please.

See  
Part 7 P13

Shri D.Mahanta, Sr.Clerk(E).

Sd/- H.P.Soul.  
Confdl. Steno.

No.W/FCW/MLG/E-2

Dated 5.9.72.

Copy to all P. cases of staff concerned.

Amfai

AEN/FCW/MLG.

Northeast Frontier Railway

Office of the  
Senior Engineer/FCW.  
N.F. Railway/Maligaon  
Gauhati-781011.

\*\*\*

OFFICE-ORDER

The following Khalasi in scale Rs.196-232/-(Rs), under SEN/FCW/Maligaon are hereby provisionally confirmed as Khalasi in scale Rs. 196-232/-(Rs), with effect from 1-4-75 against the 12 existing permanent vacancy out of 44 posts sanctioned vide CE(P)/Maligaon's No.W/201/1/FCW/Pt.II, dated 13-3-75.

S/No.	Name	Designation.
1.	Shri Mahesh Prosad,	Khalasi.
2.	" Binode Ch. Das,	-do-.
3.	" Rajen Sharma,	-do-.
4.	" Pran Bahadur,	-do-.
5.	" Madan Misir.	-do-.

Kan 7-9-78  
( K. Bangarayya ),  
SEN/FCW/Maligaon.

No.W/FCW/MLG/E-23.

Dated 7-9-1978.

Copy to :- (1) FA & CAO/Maligaon.  
(2) Staff concerned.  
(3) S/C. for P/Case.

Kan 7-9-78  
SEN/FCW/Maligaon,  
N. F. Railway.

- 15 -

Answer -

5/11

7

(46)

6

To

SEN/ECW/MES.

(Thro: Proper channel)

Subj: Date of Birth.

I do hereby declare that my  
date of birth is 15.12.42.

This is for your kind information.  
Please

Yours faithfully

14/12/71

Forwaded

13/12/71

90

3/12/71

Attended

f

Advocate

29 - 16 -

Annexure - 8

## NORTHEAST FRONTIER RAILWAY

PROVISIONALLY SENIORITY LIST OF KHALASI IN SCALE RS.196-232/-(2S)  
UNDER SEN/FCM/MALIGAN AS ON 1-1-73.

S/No.	Name	Designation	Date of Birth	Date of appointment & granting Temp. Status	Date from which Sen-iority will be counted	Confir- Temp.	REMARKS
1.	Sri Sakat Ali.	Khalasi	1-1-43	5-8-63	5-8-63	Temp.	
2.	" Baji Ram. (SC)	"	5-11-39	9-3-63	9-3-63	-do-	
3.	" Anandi Ram	"	7-11-40	9-8-63	9-8-63	-do-	
4.	" Lalochan Ram. (SC)	"	1-11-39	30-8-63	20-8-63	-do-	
5.	" Mahesh Prasad.	"	1-7-27	16-11-50	16-11-50	Perm.	S/No.5 - Transferred
6.	" Bhuben Ch. Das.	"	20-3-40	4-7-64	4-7-64	Temp.	from DEN/BNGN. accep-
7.	" Dhiren Ch. Das.	"	8-2-44	25-7-64	25-7-64	-do-	ted bottom Seniority.
8.	" Arun Kr. Koch.	"	10-4-42	9-4-65	9-3-66	-do-	
9.	" Anil Ch. Dey.	"	15-3-44	20-7-63	6-5-70	-do-	
10.	" Mahesh Jha.	"	27-6-33	16-4-61	10-6-70	-do-	
11.	" Ananta Ram.	"	1-1-33	16-7-61	10-6-70	-do-	
12.	" Md. Kalim Khan.	"	13-3-33	16-7-61	10-6-70	-do-	
13.	Sri Phan Bahadur.	"	16-7-40	16-7-61	10-6-70	-do-	
14.	" Phanindra Nath Dey.	"	1-9-41	16-7-61	10-6-70	-do-	
15.	" Hari Narayan Prasad.	"	11-6-42	16-7-61	10-6-70	-do-	
16.	" Sukomal Ch. Dey.	"	18-3-43	16-7-61	10-6-70	-do-	
17.	" Sani Mondal.	"	1-6-42	3-11-61	10-6-70	-do-	
18.	" Shyamalendu Biswas.	"	15-6-33	16-12-61	10-6-70	-do-	
19.	" Makhanlal Das.	"	15-7-40	17-12-61	10-6-70	-do-	
20.	" Jogeswar.	"	5-1-36	16-1-62	10-6-70	-do-	
21.	" Bhagawan Prasad.	"	12-6-39	16-1-62	10-6-70	-do-	
22.	" Gyan Bahadur.	"	16-7-40	16-1-62	10-6-70	-do-	
23.	" Dhaneswar Adhikary.	"	16-6-40	16-2-63	10-6-70	-do-	
24.	" Indramoni.	"	1-7-41	16-3-63	7-5-71	-do-	
25.	" Pravati Kr. Dutta.	"	5-7-38	17-6-57	7-5-71	-do-	
26.	" Ram Naresh.	"	1-7-34	20-5-60	7-5-71	-do-	

(Contd.2)

G. S. Joshi  
4.10.77

Advocate

Contd.2.

- 47 -

S/No.	Name	Desig- nation.	Date of birth.	Date of appoint- ment & granting Temp. Status.	Date from which Seni- ority will be counted.	Conf./ Temp.	REMARKS.
1	2	3	4	5	6	7	8
27	Manilal Dosad.	Khalasi	1-2-41	25-6-61	7-5-71	Temp.	
38	Sri Debendra Ch. Roy.	"	1-2-38	22-11-61	7-5-71	"	
29	" Rajen Sharma.	"	1-7-43	4-12-62	20-1-72	"	
30	" Laideb Sahani.	"	1-3-36	25-6-61	17-8-72	"	
31	" Tej Bahadur.	"	1-2-38	26-10-61	17-8-72	"	
32	" Binode Ch. Das.	"	1-3-31	27-11-61	17-8-72	"	
33	" Chulai.	"	12-1-33	15-12-61	17-8-72	"	
34	" Bariendra Kr. Singh.	"	13-2-38	19-3-62	17-8-72	"	
35	" Bakhal Ch. Chatterborty.	"	22-11-45	13-12-70	17-8-72	"	
36	" Bal Kumar Singh.	"	4-7-42	1-1-71	17-8-72	"	
37	" Raghunath Goala.	"	6-9-40	12-9-71	17-8-72	"	
38	" Madan Misir.	"	15-12-42	3-6-72	17-8-72	"	

No. W/FCW/MLG/E-22.II.

Copy forwarded for information

Dated 9-1977.

- to :-
- (1) General Secretary N.F. Railway, Mazdoor Union with 15 spare copy.
  - (2) " " " Employees Union with 15 spare copy.
  - (3) IOM/FCW-SGUJ, BNGN, RNY, HQ, LMG. They are requested to check up the list and if there is any omission of any name, those should be intimated to this Office with particulars of interpolation in seniority list.
  - (4) Any representation with the staff may desire to make regarding their position in the seniority should be submitted to this Office, with in one month from the date of issue of this list otherwise this will be treated as final.

Amended

Advocate

SEN/FCW/Maligaon,  
N. F. Railway.

~~to~~ IOW/FCW/MLG.

N. F. RAILWAY.

Provisional seniority list of Khalasis in scale Rs.750-840(RPS) under DEN/I & Sr. DEN/MLG as on 1.3.83.

Sr.	T.
CIOW/N/IMG - 4+5 12+2 = 11	-
ICOW/S/IMG - 1+4 3 12 = 14	-
ICOW/WS/IMG - 9+3 22+1 = 32	-
ICOW/I/IMG - 1+2 12+3 = 11	-
ICOW/JIS - 2+2 12+7 = 11	-
ICOW/QE - 2+2 12+1 = 9	-
ICOW/RT - 7+2 12+3 = 12	-

Total: - 104 -

N.B. - 13 P.S. Khalasis under SEN/FCW/MLG are included in this seniority list as per SEN/MLG's letter No.E/301/74(E) Pt.III dated 26.8.83.

Sl. No.	Name	Design.	Station.	Date of birth.	Date of appt.	Place of birth	Confid or present Offg.	Whether SC/ST/E	Remarks.
1									

S/Sr.

1.	Amresh B. S/O	Khal	IOW/FCW/MLG.	7.11.40.	9.8.63.	9.8.63	1.4.75.	UR	-
	Date Birth					1.8.82			
2.	Driver of Bus S/O	-do-	-do-	8.2.44.	25.7.64.	25.7.64	1.4.75.	UR	-
	Plate Car					1.8.82.			
3.	Bhawan Prasad S/O	-do-	IOW/FCW/MLG.	12.6.39.	10.6.70.	10.6.70	1.4.75.	UR	-
	Date Birth					12.1.83.			
4.	Ram Harsh S/O	-do-	-do-	1.7.34.	7.5.71.	7.5.71.	1.4.75.	UR	-
	Jay Nagar.								
5.	Prasad K. Dutta	-do-	-do-	5.7.38.	7.5.71.	7.5.71	1.4.75.	UR	-
	S/O Sd Basanti					12.11.83			
	Kr. Dutta								

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NORTHEAST FRONTIER RAILWAY

PROVISIONAL SENIORITY LIST OF KHALASIS IN SCALE 750-940/- (R.P.) UNDER  
SEN/FCW/MALIGAON AS ON 1-4-91.

S/No.	Name	Designation	Date of birth.	Date of Appointment & granting Temp. Status.	Date from which seniority will be counted.	Conf./Temp.	Remarks
1	2	3	4	5	6	7	8
1.	Shri Ram Naresh.	Khalasi	1-7-34	20-5-60	7-5-71	Conf.	
2.	" Monilal Dosad.	"	1-2-41	25-6-61	7-5-71	"	
3.	" Debendra Ch. Roy. (S.C.)	"	1-2-38	22-11-61	7-5-71	"	
4.	" Rajen Sharma.	"	1-7-43	4-12-62	20-1-72	"	
5.	" Lal dev Sahani.	"	1-3-36	25-6-61	17-8-72	"	
6.	" Tej Bahadur Singh.	"	1-2-36	26-10-61	17-8-72	"	
7.	" Chulai (S.C.)	"	15-1-38	16-12-61	17-3-72	Temp.	
8.	" Barindra Kr. Singha.	"	23-2-38	19-6-62	17-3-72	Conf.	
9.	" Bal Kr. Singh.	"	4-7-42	1-4-71	17-3-72	"	
10.	" Raghunath Goala.	"	6-9-40	18-9-71	17-3-72	"	
11.	" Madan Missir.	"	15-12-42	3-6-72	17-3-72	"	
12.	" V. Rama Rao.	"	25-12-41	16-10-63	2-6-79	Temp.	Item No. 12 to 17
13.	" Benoy Bhasan Acharjee.	"	4-1-47	25-9-71	2-6-79	"	Their screening has been regularised by CE(P)MLG's No. 5/21 (B) dt. 25-2-85.
14.	" Ram Ch. Prosad.	"	1-4-44	26-10-71	2-6-79	"	

(Contd...2)

Atty  
/s  
Advocate.



-21-

= 2 =

	1	2	3	4	5	6	7
15. Ram Saran Pandey.	Khalasi	10-4-53	24-2-73	2-6-79	Temp.	(ii) S/Shri P. Dey & Son chakraborty have been referred & com med in other Deptt. their name has been deteted from the seniority list.	
16. Shri Bablu Roy (S.C.)	"	11-2-56	22-8-76	2-6-79	"		
17. " Chandrika Mahato.	"	23-6-50	3-4-77	2-6-79	"		

SEN/FCW/Maligaon,  
N. E. Railway.

No.W/FCW/MLG/B-2 Pt.II.

Dated 14-11-1991.

Copy forwarded for information to :-

- (1) General Secretary, N. E. Railway, Mazdoor Union with 15 spare copy.
- (2) General Secretary, N. E. Railway Employees Union with 15 spare copy.
- (3) IOW/FCW/SGNJ., ENGE., HQ., Lunding. They are requested to check up the list and if there is any omission of any name these should be intimated to this Office with particulars of intropolution in Seniority list.
- (4) Any representation with the staff may desire to make regarding their position in the Seniority should be submitted to this Office with in one Month from the date of issue of this list. Otherwise this will be treated as final.

SEN/FCW/Maligaon,  
N. E. Railway.

IDENTITY CARD  
(Certificate to be signed by any of  
(i) Gazetted Officers of Central or State  
(ii) Members of Parliament or State  
(iii) where the candidate or his  
(iv) Sub-Divisional Magistrate  
(v) Tehsildars or  
(vi) Powers.

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# 4 22 IDENTITY CERTIFICATES

(Certificate to be signed by any one of the following

- (i) Gazetted Officers of Central or State Government;
- (ii) Members of Parliament or State Legislature belonging to the constituency where the candidate or his parent/guardian is ordinarily resident;
- (iii) Sub-Divisional Magistrates, Officers;
- (iv) Tehsildars or Naib / Deputy Tehsildars authorised to exercise magisterial powers;
- (v) Principal/Head Master of the recognised School/College, institution where the candidate studied last;
- (vi) Block Development Officer;
- (vii) Post-Master;
- (viii) Panchayat Inspectors

CERTIFIED that I have known Shri/Shrimati/Kumari Madan Missir  
son/daughter of Shri Shri Missir  
for the last 6 years 6 months 6 days and that to the  
best of my knowledge and belief the particulars furnished by him/her are correct.

Place N. F. Rly. Station  
Date 31.1.78

Signature [Signature]  
Designation Senior Engineer F.C.W.  
or status and N. F. Rly. Station  
address N. F. Rly. Station

(TO BE FILLED BY THE OFFICE)

- (i) Name, designation and full address of the appointing authority. Senior Engineer F.C.W.  
N. F. Rly. Station
- (ii) Post for which the candidate is being considered. Khalasi

N. F. Rly. Press-5/7310/39-Oct. 73-50,800 Copies

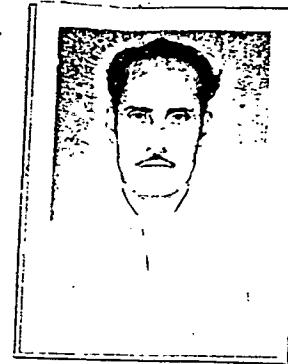
Attest

Advocate

## 31 ATTESTATION FORM

For the post of Senior Engineer F.C.W.

**WARNING:** The furnishing of false information or suppression of any factual information in the Attestation Form would be a disqualification, and is likely to render the candidate unfit for employment under the Government.



2. If detained, convicted, debarred etc. subsequent to the completion and submission of this form, the details should be communicated immediately to the Union Public Service Commission or the Railway Service Commission or the authority to whom the Attestation form has been sent earlier, as the case may be, failing which it will be deemed to be a suppression of factual information.

3. If the fact that false information has been furnished or that there has been suppression of any factual information in the attestation form comes to notice at any time during the service of a person, his services would be liable to be terminated.

1. Name in full (in block capitals) with aliases, if any. (Please indicate if you have added or dropped in any stage, any part of your name or surname)	Surname <u>MISSIR</u>	Name <u>MADAN</u>
2. Present address in full (i.e. Village, Thana and District, or House Number, Lane/Street Road and Town)	<u>C/O N.R. Bhatnagar, 15/1, N.F. Rly. Station, N. F. Rly. Station, N. F. Rly. Station.</u>	
3. (a) Home address in full (i.e. Village, Thana and District, or House Number, Lane/Street/Road and Town and name of District Headquarters)	<u>C/O N.R. Bhatnagar, 15/1, N.F. Rly. Station, N. F. Rly. Station.</u>	
(b) If originally a resident of Pakistan, the address in that country and the date of Migration to Indian Union	<u>NIL</u>	

4. Particulars of places (with periods of residences) where you have resided for more than one year at a time during the preceding five years. In case of stay abroad (including Pakistan) particulars of all places where you have resided for more than one year after attaining the age of 21 years should be given.

From	To	Residential address in full (i.e. Village, Thana and Dist. or House No. Lane/Street, Road and Town)	Name of the District Headquarters of the place mentioned in the preceding column
1970	1975	C/O N.R. Bhatnagar, 15/1, N.F. Rly. Station, N. F. Rly. Station.	Senior Engineer F.C.W.
		Khalasi, N. F. Rly. Station.	

74

	Name	Nationality (by birth and/ or by domicile)	Place of birth	Occupation (if employed give designation & official address)	Present postal address (if dead give last address)	Permanent home address
(i) Father (Name in full aliases, if any)	Ramfal Messer.	Indian by birth.	W. Purnora P.O. Kadiapatti P.S. Kadiapatti	W. Purnora P.O. Kadiapatti P.S. Kadiapatti	W. Purnora P.O. Kadiapatti P.S. Kadiapatti	W. Purnora P.O. Kadiapatti P.S. Kadiapatti
(ii) Mother						
(iii) Wife/Husband						
(iv) Brother(s)						
(v) Sister(s)						

S/ra) Information to be furnished with

5(a) Information to be furnished with regard to son(s) and/or daughter(s) in case they are studying living in a foreign country.

Name	Nationality (by birth and/or by domicile)	Place of birth	Country in which studying/ living with full address	Date from which studying/living in the country mentioned in previous column

6. Nationality

6. Nationality	Indian.	
7. (a) Date of Birth	(a)	15.12.1922
(b) Present Age	(b)	34 years
(c) Age at Matriculation	(c)	14
8. (a) Place of Birth, District and State in which situated	(a)	Vith. Pargana, P.O. Kulepali, Dist. Cochin
(b) District and State to which you belong	(b)	Dist. Kanyakumari, Tamil Nadu
(c) District and State to which your Father originally belong	(c)	Dist. Sengur, Bihar
9. (a) Your Religion	(a)	Hindu
(b) Are you a member of a Scheduled Caste. <u>Trin 2</u> . Answer "Yes" or "No" and if the Answer is "Yes" state the name thereof	(b)	No

Name of School College with full address	Date of entering	Date of leaving	Examination Passed

11. (a) Are you holding or have any time held an appointment under the Central or State Government or a semi-government or a quasi-government body, or an autonomous body, of a public undertaking, or a private firm or institution? If so, give full particulars with dates of employment, up-to-date.

Period	Designation

Period		Designation, emoluments, and nature of employment	Full name and address of employer	Reasons for leaving previous service
From	To			
12-71	1-1-72	Student, St. Paul's School, Bangalore	St. Paul's School, Bangalore	Completed school
		Student, St. Paul's School, Bangalore	St. Paul's School, Bangalore	Completed school
		Student, St. Paul's School, Bangalore	St. Paul's School, Bangalore	Completed school
		Student, St. Paul's School, Bangalore	St. Paul's School, Bangalore	Completed school
		Student, St. Paul's School, Bangalore	St. Paul's School, Bangalore	Completed school

(b) If the previous employment was under the Government of India or a public undertaking, or a quasi-government body, or an undertaking owned or controlled by the Government of India or a public undertaking, or a private firm or institution? If so, give full particulars with dates of employment, up-to-date.

(b) If the previous employment was under the Government of India, a State Government/an undertaking owned or controlled by the Government of India or a State Government/an autonomous body/University/Local body. If you had left service on giving a month's notice under Rule 5 of the Central Civil Service (Temporary Service) Rules, 1965, a notice for the prescribed period under Rule 149 of the Indian Railway Establishment Code, Volume I, or any similar corresponding rules, were any disciplinary proceedings framed against you, or had you been called upon to explain your conduct in any matter at the time you gave notice of termination of service, or at a subsequent date, before your services actually terminated. ?

12(i) (a) Have you ever been arrested ? Yes/No.  
(b) Have you ever been prosecuted ? Yes/No.  
(c) Have you ever been kept under detention ? Yes/No.  
(d) Have you ever been bound down ? Yes/No.  
(e) Have you ever been fined by a Court of Law ? Yes/No.  
(f) Have you ever been convicted by a Court of Law for any offence ? Yes/No.  
(g) Have you ever been debarred from any examination or rusticated by any University or any other educational authority/institution ? Yes/No.  
(h) Have you ever been debarred/disqualified by any Railway or Public Service Commission from appearing at its examination/selection ? Yes/No.  
(i) Is any case pending against you in any Court of Law at the time of filling up this Attestation Form ? Yes/No.  
(j) Is any case pending against you in any University or any other educational authority/institution at the time of filling up this Attestation Form ? Yes/No.  
(ii) If the answer to any of the above mentioned question is "YES", give full particulars of the case/arrest/detention/fine/conviction/sentence/punishment etc., and/or the nature of the case pending in the Court/University/Educational Authority etc., at the time of filling up this Form. Yes/No.

Note.—(i) Please also see the "WARNING" at the top of this Attestation Form.  
(ii) Specific answers to each of the questions should be given by striking out "YES" or "NO" as the case may be.

13. Names of two responsible persons of your locality or two referees to whom you are known.

(1) N.R. Banerjee, B.A. Survey N.F. II.  
Naiyoon, Fambh. II.

(2) M.C. Chakraborty, Clerk, C.E. S. Office, N.F. II.  
Naiyoon.

I certify that the foregoing information is correct and true to my knowledge and belief. I am not aware of any other person who is not mentioned above.

I certify that the foregoing information is correct and complete to the best of my knowledge and belief. I am not aware of any circumstances which might impair my fitness for employment under Government.

Signature of candidate मदनकिशोर


Date... 10-12-76

Place 1152220 301611

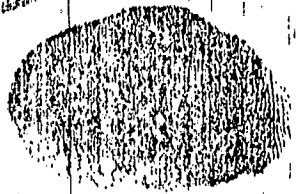
SERVICE BOOK  
(OPENING PAGE)

1. Name in full (Block Capitals) *Sri MADAN MISHRA*
2. Father's Name *Sri Ramfal Mishra*
3. Nationality/Caste/Religion *Indian/Hindusma/Brahmin*
4. Domicile as established
5. Residence (in full) *Vill- Puraina, P.O. Rachopali, Dist. Siwan (Bihar)*  
*P.S. Barharia*
6. Date of birth *15-12-42 (SN-1)* See Ann 7 p 46.
7. Place of birth *Puraina* District *Siwan (Bihar)*
8. Educational qualification *X*
9. Personal mark for identification (1) *One cut mark above right eye brow*  
(2) *One cut mark on left leg 10x1/2" 1/2" x 1/4"*
10. Left hand thumb and finger impression  


Little finger




Thumb



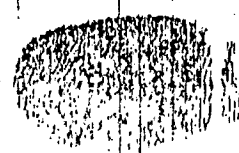
Middle finger



Ring finger



Fore finger


11. Height *5 feet 4 inches* L.T.'s attested  
*6/1/54*
12. Signature of the Government Servant *M. Mishra* *10/6/74*  
*10/6/74*
13. Signature and designation of the Head of the office or other Attesting Officer. *attested*  
*6/1/54*

Note - The entries on this page should be renewed or re-attested at least every five years, and the signature in lines 12 and 13 should be dated.  
Finger prints need not be taken afresh every five years under this rule.

Office

INDEX CARD

NFR

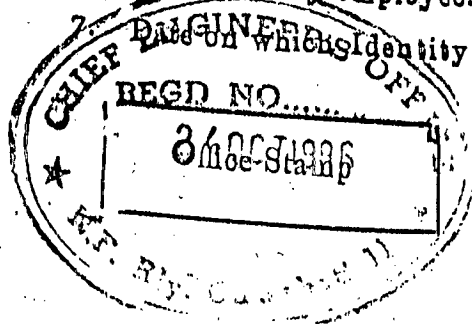
40633

SN/84

N. F. RAILWAY

RAILWAY MEDICAL ATTENDANCE IDENTITY CARD

1. Name of Railway employee and designation MRADAN MISSIR KHALASI  
(In full and block letters)
2. Department/Office in which employed ENGG. CE'S (SEN/FCW) OFFICE
3. Residential address Q. NO. 10, FC/59/D NO. 4 Colony, Pandu, Gau-12
4. Place of work Maligaon Rly. Hqs
5. Health Unit for treatment Adabari Rly Hospital
6. Signature/thumb impression of the railway employee. } [Signature]



[ P. T. O. ]

Signature & Designation of the  
Issuing Authority  
[Signature]  
30/10/86  
CHIEF ENGINEER  
N. F. Rly. Maligaon

Attorney

Advocate.

OLD. RLY. HQS

**Details of Family Members Dependents :-**

"Family" includes only wife (or husband), children or step children and dependents as are also other relations covered under pass rules.

Name	Age	Relationship & clear marks of Identification <sup>70</sup>
1. Sri Madan Missin	43 yrs	Self, One cut mark on right eye brow
2. Smt. Indu Debi	26 yrs	Wife, One cut mark on left hand
3. Uma Debi	56 yrs	W/mother, One cut mark on left leg.
4. Nitam Missin	12 yrs	D/sister, One cut mark on left leg.
5. Sri Sanjay Missin	6 yrs	Son, One cut mark on right leg.
6. Smt. Pankaj Missin	3 yrs	Daughter. NIL (child).
7		
8		
9		
10		
11		
12		

R. T. Co. O. No. 2/83/75/0201/1/04700 dt. 14.11.75 - 50000

86

32

44

86 - 43

203 - 17  
60

Approved  
/s/ Advoca.

PARTIAL DEPENDENCY CERTIFICATE

1. Name of the employee (Full) :- Sri Madan Missir.
2. Name of the section :- SEN/FCW/HQ.
3. Date of appointment :- 3.6.72.
4. Present Pay :- Rs. 940/- p.m.
5. Father alive or not :- Not Alive.

Sl. No.	Name of the person for whom passes/PTOs may be required.	Relationship	Age on the 1st January, 80 or date of birth.
1.	Sri Madan Missir.	Self.	45 yrs.
2.	Mrs. Indu Devi.	Wife.	30 yrs.
3.	Mrs. Umapati Devi.	M/Mother.	54 yrs.
4.	Sri Sanjib Missir	Son.	8 yrs.
5.	" Ramesh "	Son.	3 yrs.
6.	Miss Putul	Daughter.	5 yrs.
7.			
8.			
9.			
10.			

Signature of the employee in Full.

Designation Khalasi Under

Section/Sub-section 10W/FCW/HQ  
N.F. Rly. Maligaon

We certify to the best of our knowledge the parties as shown above are residing with the are wholly dependent upon the employee.

WITNESS.

1. Signature <u>[Signature]</u>	2. Signature <u>[Signature]</u>
Designation <u>[Designation]</u>	Designation <u>[Designation]</u>
Section <u>[Section]</u>	Section <u>[Section]</u>

11/5/87  
N.F. Rly. Maligaon

FAMILY DECLARATION FOR PASSES & PTOS.

1. Name of the Employee (in Block letters) MADAN MISHRA
2. Name of the Office & Section SEN/FCW/Maligaon
3. Date of appointment 3-6-72
4. Pay at present & Scale of pay Rs 940/-
5. Father alive or not Not alive

SN.	Name of the Persons	Relationship	Age on the 1st January 89 or Date of Birth.
1.	Madan Mishra	Self	45 yrs
2.	Mrs Indu Devi	Wife	30 yrs
3.	Mrs Umapati Devi	W/mother	64 yrs
4.	Shri Sanjay Mishra	Son	8 yrs
5.	Shri Ramesh Mishra	Son	3 yrs
6.	Mrs Putul Mishra	Daughter	5 yrs
7.			
8.			
9.			
10.			

Signature full

Designation Khala, Khatola, Deo/FCW/Maligaon  
Office SEN/FCW/Maligaon Section SEN/FCW/Maligaon  
Date

We certify that the best of our knowledge the parties as shown above are residing with and are wholly dependent upon the employee.

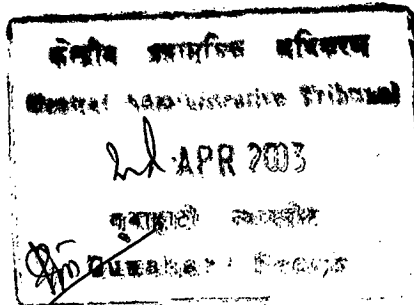
1. Signature [Signature] 1. Signature [Signature]
2. Designation R/S 2. Designation [Signature]
3. Section/Office EE's office 3. Section/Office [Signature]

Specimen Signature of the employee

Date 31/7/89

Signature of the immediate Officer with Designation and Office Seal.





(53)

Applicant  
Madan Missir  
Filed by  
Sahadev Singh  
Advocate  
2-4-03  
16/4/2003

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

Q.A. No. 391/2002

Madan Missir ..... Applicant.

- Vs -

Union of India and others. .... Respondents.

A reply to the written statement of the Respondents  
by the applicant :

1. That the applicant has received a copy of the written statement and the contents thereof have been explained to him and after understanding the contents of the written statement your humble applicant begs to file this reply to the written statement of the Respondents.
2. That there is no merit in the written statement of the Respondents and it has been made on flimsy grounds having no base and truthfulness and as such the written statement is liable to be not admitted at all. Save and except the statements which are specifically admitted herein below, rests may be treated as totally denied.
3. That with regard to the statements made in para 1 of the written statement your humble applicant has got nothing to comment as these are the personal opinion of the Respondents.

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4. That with regard to the statements made in para 2 of the written statement it is totally denied that the applicant worked as a casual labour on and from 1.10.1961. It is stated that the applicant had never filed any application for his transfer. It is also stated here that the applicant had never stated that his date of birth was 15.12.1942. It is worth mentioning here that the applicant is an illiterate person who can hardly put his signature in Hindi. It is in the year 1974 that one Sri Nepal Chakraborty who was then a dealing assistant in Railway took his signature on various papers and it is the Nepal Chakraborty who wrongly and illegally wrote the date of birth of the applicant as 15.12.1942. As a matter of fact, the date of birth of your humble applicant is 10.06.1953 and not 15.12.1942.

5. That with regard to the statements made in paras 3 and 4 of the written statement your humble applicant begs to state that it is matter of astonishment that Annexure A/1 which deals with the work done by the applicant in the year 1961 to March 1963, Annexure A/2 deals with the work performed by the applicant from 15.7.63 to 11.9.66 and an application i.e. Annexure A/3 which was allegedly filed by the applicant on 18.11.1971 has found no place in his service book which was prepared on 05.06.1974. It is worth mentioning here that the documents can find place in the service book only after the preparation of the service book and not before that. But in the instant case it is seen that the service book was prepared in 1974 but the work was already done by the applicant in 1971, the applicant have put his signature thereon and these documents have found a

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place in the service book of the applicant. It is submitted that Annexures A/1, A/2 and A/3 are manufactured documents - manufactured by some interested persons and taking advantage of the ignorance of the English language of your humble applicant all the documents have been kept in the service book. The varacity and genuineness of all the documents are totally denied by your humble applicant.

That when the service book was prepared your humble applicant gave information as to his date of birth and his date of birth was 10.06.1953 but the dealing assistant by taking the thumb impression of your humble applicant as also in the evil intention wrote the date of birth of your humble applicant as 15.12.1942 in the service book.

It is submitted that your humble applicant had got his service in the year 1971 and if his date of birth is 15.12.1942 in the service book it means to say that he had got his service at over age of service which is absolutely not possible for the appointment of a khalasi as because the minimum age for the appointment of a khalasi is 18 years and the maximum age is 23 years and as such this vital part of the applicant's service career is clearly indicative of the fact that the date of birth of your humble applicant written in the service book as 15.12.1942 is absolutely false and baseless. As a matter of fact his date of birth was and still is 10.06.1953 and it is clear from his School Leaving Certificate also which has been annexed in the petition as Annexure -9.

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It is also submitted that it is a matter of great astonishment that Annexures A/1 and A/2 are the official records dealt by the dealing assistant or its concerned authority only have borne the signature of your humble applicant which is itself an enigma.

6. That it is most respectfully submitted that the statements made in para 5 of the written statement are not correct and the same is denied, It is stated that Annexures 4, 5 and 6 of the petition are the documents issued by the Railway authorities and these documents have been issued prior to the maintenance of the service book by the head quarter and therefore these documents are more important in dealing with the date of birth of your humble applicant than the documents prepared by the Railway authority in 1974.

7. That with regard to para 6 of the written statement it is stated that it is stoutly denied that the applicant has given his date of birth as 15.12.1942 on 3.12.1971 as alleged by the Respondents. It is also denied that the applicant had worked in the year 1961 as casual labour under the Respondents' project. All these are the manipulation of the official records.

8. That with regard to para 7 of the written statement it is denied that the applicant had given his date of birth as 15.12.1942 right from the time of his joining his service. Annexures 5 and 6 of the petition are the documents issued by the Railway authorities which clearly indicate that the applicant had given his date of birth as 10.06.1953 when he joined his service at Siliguri

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and when he was transferred to Maligaon. It is submitted that the petition for the rectification of the date of birth in the year 1971 and 1973 does not arise at all as because the service book of the petitioner/applicant was not prepared prior to 1974 and the applicant was in firm belief that the date of birth of the applicant would be all correct as stated by him at the time of his joining of his service at Siliguri as also when he was transferred from Siliguri to Maligaon. It is also denied that at the fag-end of the service career the applicant has prayed for the alteration of his date of birth. As a matter of fact when the seniority list of khalasi was published on 1.9.89 in which his date of birth was wrongly shown as 15.12.1942 the applicant approached the concerned authorities time and again for the correction of the same but his prayer was rejected on the ground that on 4.8.1972 an opportunity was given to all to submit petition for alteration of date of birth by 31.7.73. It is submitted that there was absolutely no necessity for the applicant as his date of birth was recorded when the identity card was issued to him showing his date of birth as 10.06.1953 and on his transfer on 23.12.72, the transfer order itself bears his date of birth as 10.06.1953. Moreover at that time his service record was not prepared and he was convinced that his date of birth would be recorded in his service book as 10.06.1953 and not as 15.12.1942.

9. That with regard to the statements made in paras 8,9 and 10 it is submitted that the applicant has never declared that his date of birth is 15.12.1942. Actually his date of birth is 10.06.1953 as per his identity card

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document of his transfer as also his School Leaving Certificate which were in fact issued at the initial stage of his service career and hence they cannot be said as false and fabricated. It is also vehemently denied that the applicant had never worked in the year 1961 under the Respondents' project as alleged by the Respondents. The applicant had joined his service as a peon in the year 1971 and since then he has been working in the Railway.

10. That with regard to the statements made in para 11 of the written statement it is submitted that from any point of view the grounds placed by the applicant in the O.A. do ~~not~~ hold water. There is ample merit in the case and as such the applicant is entitled to the reliefs as prayed for

11. That with regard to the statements made in para 12 of the written statement it is denied that the O.A. is hit by the principles of waiver and estoppel. It is also denied that the O.A. is barred by limitation. If any principle of law is hit in filing the O.A. the Respondents are put to strict proof thereof.

12. That the grounds raised by the Respondents in the written statement are nothing but a fag-end of facts, fabricated to save their skin and to deny the legitimate and ~~an~~ genuine claim of the applicant which is not within the four corners of law and as such your humble applicant is entitled to all the reliefs sought for.

Contd. Verification.

VERIFICATION

I, Sri Madan Missir, son of Late Ram Phal Missir, aged about 50 years, by caste Hindu, by profession service a resident of Pandu, P.S. Jalukbari in the district of Kamrup do hereby verify and state that the statements made in paragraphs 1, 4 and 7 are true to my knowledge which I believe to be true; those made in paragraphs 2, 3, 5, 6, 8, 9, 10, 11, and 12 being matters of records are true to my information derived therefrom which I believe to be true and the rest are my humble submissions and prayers before this Hon'ble court.

And I sign this verification on this           th  
day of April, 2003 at Guwahati.

Signature of the applicant

