

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 97/2002
Misc. Petition No.
Contempt Petition No.
Review Application No.

Applicant(s) S. K. Bhattacharya

Respondent(s) H.O. I 90ms

Advocate for Applicant(s) Mr. A. R. Boathakar, Mrs. B. Acharya
Mr. T. N. Srinivasan

Advocate for Respondent(s) Railway Counsel

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
<p>This is application in form C. F. for Rs. 50/- deposited vide IP/AD-76.549306 Dated 18.3.2002</p> <p>Dy. Registrar [Signature]</p>	1.4.02	<p>List again on 4.4.2002 for admission.</p> <p>[Signature] Member</p>
	2.4.02	<p>Mr A.R.Borthakur, learned senior counsel for the applicant makes a request that as he will be out of station on 4.4.2002 this case may be listed for admission on 3.4.02. Prayer is accepted.</p> <p>List on 3.4.02 for admission.</p> <p>Mr Borthakur is requested to inform the Railway standing counsel.</p> <p>[Signature] Member</p>
	pg	

Notice prepared and sent to D/s for filing the Respondent No. 1 to 5 by Regd A.D.

4/4/02

D/N_o 1035 to 1049

Ad 4/4/02

3.4.02

Heard Mr. A.R. Borthakur, learned Sr. counsel for the applicant.

Issue notice of motion.

List on 8.4.2002 for admission.

K. C. Sharma
Member

mb

8.4.2002

Heard Mr. A.R. Borthakur, learned counsel for the applicant.

The application is admitted, call for the records. Any appointment on the basis of promotion of respondent No. 5 shall be subject to the outcome of this application.

The case is listed for order on 9.5.2002.

① Service report are still awaited.

K. C. Sharma
Member

[Signature]
Vice-Chairman

bb

8.5.02 . 9.5.02

Mr. S. Sengupta, learned counsel appearing on behalf of the Respondents prayed for some time to file written statement. Prayer is allowed. Let the Respondents be filed ~~the~~ the written statement within two weeks from today. Post the matter for orders on 28.5.2002 to fix the date of hearing.

K. C. Sharma
Member

[Signature]
Vice-Chairman

mb

28.5.02

List on 17.6.2002 alongwith O.A. No. 155/2002 for orders. In the meantime, respondents may file written statement.

No. written statement has been filed.

[Signature]
14.6.02

[Signature]
Vice-Chairman

mb

3
3
O.A. No. 97/2002.

Notes of the Registry | Date

Order of the Tribunal

17.6.02

No written statement
has been filed.

By
23.7.02

mb

List again on 24.7.2002 to enable
the respondents to file written statement

IC Ushah
Member

[Signature]
Vice-Chairman

24.7.2002

No. wts have been
filed.

By
8.8.02

bb

List the case again on 9.8.2002
enabling the respondents to file written
statement.

[Signature]
Vice-Chairman

9.8.02

Prayer has been made by Mr S.
Sengupta, learned Railway standing
counsel for some more time to file
written statement. Mrs B.Acharjee,
learned counsel for the applicant objec-
ted to it.

List on 10.9.02 for filing written
statement as a last chance.

IC Ushah
Member

[Signature]
Vice-Chairman

pg

10.9.02

12.9.02
W/s submitted
by the Respondent
Nos. 1, 2, 3 and 4.

[Signature]

lm

Heard Mrs. B. Achyara learned counsel
for the applicant and Mr. S. Sengupta
learned Railway Standing counsel.

Mr. S. Sengupta in course of the day
will file the written statement. List
on 24.9.02 for orders.

[Signature]
Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

24.9.02

Heard Mrs. B Achyara learned counsel for the applicant and also Mr. S Sengupta learned Standing Counsel for the Respondents.

Written statement has already been filed. The case may now be listed for hearing on 7.11.02. In the meantime the applicant may file rejoinder if any, within two weeks.

List on 7.11.02 for hearing.

Member

Vice-Chairman

lm

7.12.02

As agreed by the learned counsel for the parties the matter may be posted for hearing on 2.12.02. In the meantime, the applicant may file rejoinder, if any.

Member

Vice-Chairman

lm

27.11.02

Rejoinder to the
if submitted by
the applicant.

PD

2.12.02

Hearing concluded. Judgment reserved.

31.12.2002

Copy of the judgment has been sent to the Office for issuing the rule to the applicant as well as to the L/Adv for the Respondent.

4.12.2002

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

Member

Vice-Chairman

bb

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.97 of 2002

With

Original Application No.155 of 2002

Date of decision: This the 41st day of December 2002

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

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

O.A.No.97/2002

Shri Sushil Kumar Bhattacharyya,
S.S.E.(W)/East/PNU,
N.F. Railway under Section DEN,
Maligaon, Guwahati.

.....Applicant

By Advocates Mr A.R. Barthakur, Mrs B. Acharya
and Mr T.N. Srinivasan.

- versus -

1. The Union of India, represented by the
Secretary,
Ministry of Railway,
Government of India,
New Delhi.

2. The General Manager,
N.F. Railway, Maligaon, Guwahati.

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

4. The Chief Personnel Officer,
N.F. Railway, Maligaon, Guwahati.

5. Shri Narayan Krishna Goswami,
presently serving as SSE/W/FCW,
Maligaon under SEN/ECW/Malligaon,
Guwahati.

.....Respondents

By Advocate Mr S. Sengupta, Railway Counsel.

O.A.No.155/2002

Shri Sushil Kumar Bhattacharyya,
Senior Section Engineer,
N.F. Railway, Maligaon, Guwahati.

.....Applicant

By Advocates Mr A.R. Barthakur, Mrs B. Acharya
and Mr T.N. Srinivasan.

- versus -

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

2. The General Manager,
N.F. Railway, Maligaon, Guwahati.

3. The General Manager (P),
N.F. Railway, Maligaon, Guwahati.
 4. The Chief Personnel Officer,
N.F. Railway, Maligaon, Guwahati.
 5. Shri Ashim Chakraborty,
Asstt. Divisional Engineer,
Office of the Divisional Railway Manager,
N.F. Railway, Alipurduar.
 6. Shri J.K. Sarma,
Asstt. Executive Engineer,
L/R, Office of the Chief Engineer,
N.F. Railway, Maligaon, Guwahati.
 7. Shri T.K. Bhowmik,
Asstt. Executive Engineer/Special,
Office of the Chief Engineer,
N.F. Railway, Maligaon, Guwahati.
 8. Shri T. Nanda,
Asstt. Executive Engineer/Welding,
Office of the Chief Engineer,
N.F. Railway, Maligaon, Guwahati.
 9. Shri S.S. Das,
Asstt. Divisional Engineer/II,
Office of the Divisional Railway Manager,
N.F. Railway, Lumding.
 10. Shri S. S. Sarkar,
Asstt. Divisional Engineer,
Office of the Asstt. Engineer,
N.F. Railway, Dibrugarh.
-Respondents
- By Advocate Mr S. Sengupta, Railway Counsel

.....

O R D E R

CHOWDHURY. J. (V.C.)

O.A.No.97 of 2002 :

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant claimed for the following reliefs:

Quash the list dated 6.12.2001 prepared in accordance with seniority for selection for the post of AEN/Group-B against 70% vacancies in so far as the applicant's seniority vis-a-vis the Respondent No.5 is concerned, which has been fixed and determined unilaterally and incorrectly by the Respondent-authorities in the said list and earlier also.

Direct the Respondent authorities to forthwith correct the seniority of the applicant vis-a-vis that of the Respondent No.5 and restore the applicant's seniority over that of the said Respondent No.5 in terms of the direction contained in the Judgment and order dated 22.4.99 passed by this Hon'ble Tribunal in O.A.No.158/96.

Direct the Respondent authorities to hold an examination similar to the one held by the said authorities in the year 1992 for promotion to the post of Inspector of Works, Grade-I as directed by this Hon'ble Tribunal by its Order dated 22.4.99 in which examination the Respondent No.5 would be required to appear and emerge successful for him to be placed above the applicant for purposes of seniority.

Pass an order restraining the Respondent authorities from acting in any manner whatsoever on the written examination held on 16.2.2002 and 2.3.2002 for promotion to the posts of AEN/Group 'B' against 70% vacancies based on the faulty and incorrect seniority list dated 06.12.2001 and injunct the Respondent authorities from holding the viva-voce test following the Written Examination held as aforesaid on 16.2.2002 and 2.3.2002 and withhold declaration of results for filling up the said post of AEN/Group 'B' till restoration of the inter se seniority of the applicant over that of the Respondent No.5.

2. The applicant earlier moved the Tribunal assailing, amongst others, the order dated 4.12.1995 showing the respondent No.5, Shri Shri N.K. Goswami as senior to the applicant in the inter se seniority list. In O.A.No.158 of 1996 the Tribunal catalogued the facts. In the Judgment and Order of the Tribunal dated 22.4.1999 it was recorded that the applicant was senior to Shri N.K. Goswami (respondent No.5 in the present O.A.) in his initial entry to the service.....

9 In the inter se seniority Grade II of Inspector of Works the applicant was placed above the respondent No.5. For the next promotion, i.e. Inspector of Works Grade I, written test and viva-voce test was held. The applicant appeared in the examination alongwith others that was held on 29.2.1992 and 21.3.1992. However, the applicant could not come out successful. The respondent No.5 was also eligible for the examination, but because of administrative error he was not intimated. As a result the respondent No.5 could not appear in the examination. A representation was submitted by the respondent No.5 before the authority. By order dated 30.7.1993 the respondent No.5 was informed that he would be provided with the benefit of seniority to the extent of his junior only if he passed the test prescribed and declared fit by the Departmental Promotion Committee. No such test was held for him. The case of respondent No.5 was considered in terms of a modified selection procedure in 1994. As per Railway Board's circular dated 27.1.1993 the applicant and the private respondent qualified in the selection and they were promoted. The respondent No.5 was not earlier called for the test due to the mistake on the part of the respondents. The applicant submitted his representation for assigning his seniority over the respondent No.5. His claim was rejected by order dated 4.12.1995 and accordingly the applicant knocked the door of the Tribunal by the aforementioned O.A. Considering the materials on record the Tribunal held that the seniority of the respondent No.5 above the applicant was not in accordance with the provisions of the rule, but for that matter the respondent No.5 was not to suffer. The administration was ordered to hold an examination in the same manner as was done in 1992

giving.....

giving notice to the respondent No.5 and if he qualified in the examination then he was to be placed above the applicant. the relevant observation of the Tribunal are reproduced below:

"On the rival contention of the parties it is now to be seen whether the authority was correct in giving the seniority to respondent No.4 above the applicant after coming to know about the administrative error. We have perused both rules cited by Mr Chanda and Mr Sarkar and also the decision of the Apex Court (Supra). Rule 316 of IREM says that in case of non-receipt of the intimation an employee should be given all the opportunities and if he is qualified on merit then he should be given due promotion. In 1992 when the selection was held the procedure of selection was by written and viva-voce examinations. In the written examination the applicant failed, the respondent No.4 was not called. Definitely respondent No.4 was entitled to be called and when the mistake was detected, he should have been treated in the same way as if examination was held on the date the applicant appeared in the examination but failed. In that examination the respondent No.4 might have come out successful. But in the subsequent year 1994 the procedure had been changed and the promotion was given to the respondent No.4 on the assessment of service records. We agree that there was totally a different type of examination. In order to supersede, the 4th respondent must have passed the examination which was held in 1992 after the detection. Unfortunately, this was not done. Therefore we find sufficient force in the submission of Mr Chanda. There is no dispute about the Rule 228. In the rule it is specifically stated that each case should be dealt with on its merits. The staff who have lost promotion on account of administrative error should on promotion be assigned the correct seniority. In this case also promotion in the year 1992 ought to have been given on the basis of examination but the 4th respondent was not called due to administrative error. He ought to have been called immediately after the mistake was detected. He should have been given same type of test and if he had qualified in that case, definitely he would be deemed to have passed in that year in which the applicant failed and in that case 4th respondent would be placed above the applicant. Decision cited by Mr Sarkar also refers to the same view."

According to the applicant instead of taking action as per the direction of the Tribunal the authority in a most obdurate fashion proceeded to hold the written examination for the post of AEN/Group 'B' against the 70% vacancies in order of merit vide Annexure D dated 6.12.2001. The

legality.....

legality of the action of the respondents is the subject matter of challenge in this proceeding as arbitrary, discriminatory and violative of articles 14 and 16 of the Constitution.

3. The respondents contested the case and denied and disputed the claim of the applicant. In the written statement the respondents stated that the applicant failed to qualify in the 1992 selection and the respondent No.5 could not appear in the 1992 selection due to administrative mistake. The respondent No.5 was selected in the first chance, whereas the applicant failed to qualify in the selection test and as a result a higher seniority position was assigned to the respondent No.5 as per rule. The respondents also stated that as per direction of the Tribunal the administration held the examination in a similar manner as was done in 1992 by giving notice to the respondent No.5. The respondents also stated in the written statement that in terms of the Judgment and Order of the Tribunal, written examination and viva-voce test was held on 8.8.2002 and the viva-voce test was held on 20.8.2002 and the respondent No.5 who appeared in the test as directed by the Tribunal qualified for selection to the post of IOW/Grade I. Accordingly the name of respondent No.5 was interpolated in the earlier panel published under Memo dated 25.8.1992 retaining his seniority position. The copies of the Memo No.E/254/18/Pt-V(E) dated 10.7.2002 and the Memo dated 7.9.2002 were annexed as Annexure 'X-8' and Annexure 'X-9'. The respondents also stated that the applicant as well as respondent No.5 volunteered themselves for appearing in the selection test and accordingly list as mentioned in Annexure D was prepared. The posts were notified.....

notified inviting applications for submission of willingness by the concerned persons as far back as 4.10.2001. Call letters were issued on 6.12.2001 and written test was held on 16.2.2002 and for the absentees the test was held on 2.3.2002. Viva-voce test was held on 3.4.2002 and the panel was also formed on 3.4.2002.

4. We have heard Mr A.R. Barthakur, learned Sr. Counsel for the applicant and Advocate General, Nagaland, assisted by Dr (Mrs) B. Acharya at length and also Mr S. Sengupta, learned Railway Counsel. Mr A.R. Barthakur contended that the respondent authority could not have proceeded with the written examination for selection by the impugned Annexure A communication without fixing the inter se seniority of the applicant vis-a-vis respondent No.5 in terms of the Tribunal's order in O.A.No.158/1996. Admittedly, the written examination and viva-voce test was held after the process of selection was started for the post of AEN/Group 'B' for the 70% vacancies. The materials on record clearly indicated that the name of the respondent No.5 was interpolated in the selection panel published on 25.8.1992 retaining his seniority vide order dated 6.9.2002. But, that by itself will not invalidate the process. The Judgment and Order of the Tribunal did not hold the applicant to be senior to respondent No.5. In fact, the judgment of the Tribunal held that the respondent No.5 was not called for the test though it was incumbent on the part of the authority to call the respondent No.5 for the examination when the mistake was detected to give opportunity for appearing in the selection. As per Rule 228 of the Indian Railway Establishment Manual a member of the staff who had lost promotion on account of administrative error.....

3 error was, on promotion, to be assigned correct seniority vis-a-vis their juniors already promoted irrespective of the date of promotion. Though belatedly, the respondent authority acted upon in terms of the provisions mentioned in the IREM and direction issued by the Tribunal and interpolated his seniority. No infirmity, as such, is discernible in the action of the respondents. The authority its efforts to render justice within the parties. The impugned Annexure D Notification itself indicated the list of candidates willing and eligible to appear in the written examination for selection under 70% vacancies. It was open to the applicant to appear in the examination. It was stated by Mr. S. Sengupta that the respondent No.5 though appeared, failed in the written examination and the applicant did not appear. In the set of circumstances the ^{admission} respondents cannot be faulted for taking steps for holding the selection test.

5. On overall consideration of the facts and circumstances of the case, we do not find any merit in the application. Accordingly the application stands dismissed.

O.A.No.155 of 2002 :

The applicant in this application assailed the Office Order dated 4.4.2002 posting eighteen officers including the respondent Nos.5 to 10 on being empanelled as Assistant Engineer Group 'B' on promotion. The applicant, inter alia, pleaded that the respondents fell into error by hastily proceeding with the promotion by selection process without following the direction of the Judgment and Order of the Tribunal in O.A.No.158 of 1996 dated 22.4.1999 and

without.....

without correctly fixing the seniority of the applicant vis-a-vis the respondent No.5 giving a complete go-by to the directions of the Tribunal. According to the applicant out of the aforesaid eighteen employees promoted, six employees, namely respondent Nos.5 to 10 were obviously junior to the applicant. The applicant also pleaded that the respondents acted with impropriety in proceeding with the selection process when the O.A.No.97 of 2002 was subjudiced before the Tribunal.

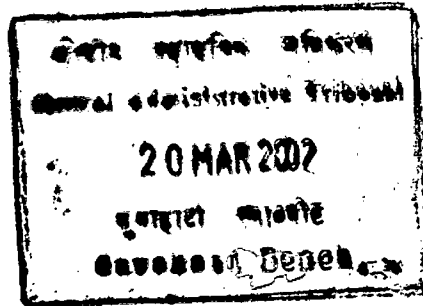
2. We have heard Mr A.R. Barthakur, learned Sr. counsel for the applicant and Advocate General, Nagaland assisted by Dr (Mrs) B. Acharya at length. We have also heard Mr S. Sengupta, learned Railway Counsel. In O.A.No.97/2002 we have already indicated the facts in detail. Admittedly, the applicant gave his consent to appear in the written examination for selection to the post of AEN/Group 'B'. The post in question is a selection post. It was open to the applicant to appear in the written examination for selection. As a matter of fact respondent No.5 in O.A.No.97/2002 appeared and he failed. It was open for the applicant to appear in the examination and take the opportunity for selection. Since it was a selection post, seniority was not the determining factor. At any rate, the applicant who earlier expressed his willingness, for no good reason did not appear in the examination. There is no infirmity in the process of selection calling for interference by the Tribunal.

3. The application accordingly stands dismissed.

In the result both O.A.No.97 of 2002 and O.A.No.155 of 2002 stand dismissed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (ADM)

1.2.2002



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL; GUWAHATI BENCH
GUWAHATI

Title of case : O.A. 97 of 2002

Shri S.K.Bhattacharyya

...Applicant

-Vs-

Union of India and others

... Respondents

I N D E X

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Total pages

Filed by Bandana Acharya
Advocate

Filed by /s/

Shri Sushil Kr Bhattacharyya
through his counsel -
Mr. Bandana Barua
Advocate
20.3.2008

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL; GUWAHATI BENCH
GUWAHATI

BETWEEN

SHRI SUSHIL KUMAR BHATTACHARYYA

presently S.S.E.(W)/East/PNU, N.F.Railway
under Section DEN, N.F.Railway, Maligaon,
Guwahati:-11.

... Applicant

-And-

1. The Union of India,
represented by the Secretary,
Ministry of Railway, Government of India,
New Delhi :- 100 001.

2. The General Manager
N.F.Railway,
Maligaon, Guwahati:-11.

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

4. The Chief Personal Officer,
N.F.Railway,
Maligaon, Guwahati:-11.

Sushil Kr. Bhattacharyya.

5. Shri Narayan Krishna Goswami,
presently serving as SSE/W/FCW,
Maligaon under SEN/ECW/Maligaon,
Guwahati:-11.

... Respondents.

DETAILS OF APPLICATION

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

The application under Section 19 of the
Administrative Tribunals Act, 1985 is directed against;

(i) The arbitrary and illegal action of the Respondent authorities into holding written examination for selection to the posts in the cadre of Assistant Engineer (A.E.N.)/Group 'B' against 70% vacancies without correctly re-fixing the seniority of the applicant vis-a-vis the private Respondent No.5.

(ii) Arbitrary and illegal action smacking of gross arbitrariness on the part of the Respondent authorities in holding the written examination for the posts of AEN/Group 'B' against the 70% vacancies, without in any way complying with the directions contained in Judgement and Order dated 22.4.1999 passed in O.A. No. 158/96 pertaining to the fixa-

Sushil K. Bhattacharya

tion of inter-se-seniority between the applicant and the Respondent No.5.

(iii) Impugned List of candidates prepared by the Respondent-authorities eligible to appear in the written examination for selection to the post of AEN/GROUP 'B' against 70% vacancies in order of seniority wherein the seniority of the applicant has been fixed incorrectly and contrary to the directions of this Hon'ble Court as contained in order dated 22.4.99 passed by this Hon'ble Tribunal in O.A. No. 158/96 in which list the Respondent No.5 has been placed at serial No. 31 while the applicants position has been shown at serial No. 43.

iv) The action of the Respondent authorities in seeking to hold the written examination for the posts of AEN/Group 'B' without deciding or resolving the inter-se-seniority vis-a-vis the Respondent No.5 in terms of the Judgement and Order dated 22.4.99 passed by this Hon'ble Court which form the subject matter of this instant application.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the instant case is within the jurisdiction of this Hon'ble Tribunal.

Sushil K. Bhattacharya

3. LIMITATION:-

The applicant declares that the instant application has been preferred within one year from the date of Respondent- authorities issued letter on 6.12.01 fixing and determining inter-se-seniority and inviting the Respondent No.5 to appear for the said written examination.

4. FACTS OF THE CASE:-

4.1) The applicant in this instant application assails the arbitrary and illegal action of the Respondent - authorities in seeking to fill up posts in the cadre of AEN/Group 'B' against the 70% vacancies earmarked for the purpose to be determined in order of seniority without complying or fulfilling the directions of this Hon'ble Tribunal as contained in Judgement and Order dated 22.4.1999 passed in O.A. No. 158/96 preferred earlier by this applicant.

The applicant also seeks to assail the impugned list of candidates as selected, for the written test purportedly in terms of seniority for the said written examination in which list the private Respondent No. 5 has been yet again shown above the applicant in the impugned list under challenge, contrary to all norms and facts govern-

Sushil K. Bhattacharya

ing this vital issue, not to speak of the total inaction of the Respondent-authorities in continuously remaining inactive and silent since the Judgement and Order dated 22.4.99 passed by this Hon'ble Tribunal and proceeding with the holding of the written examination against 70% vacancies in the cadre of AEN/Group 'B' without addressing or resolving this issue.

4.2) That adverting to the facts of the case, your applicant is a citizen of India and is presently serving in the capacity as Senior Section Engineer (W)/East/Pandu under Sr. DEN/N.F.Rly/MLQ without any blemish whatsoever spanning his entire service career.

4.3) That the applicant had been constrained to approach this Hon'ble Tribunal on an earlier occasion by filing an application numbered as O.A.No. 158/96 seeking inter alia, to correct and refix and determine the seniority of the applicant over that of the Respondent No.5, and to effect appropriate correction in the integrated seniority list of senior supervising staff of Civil Engineering Department dated 29.9.95 and restore the seniority of the applicant vis-a-vis that of the Respondent No.5 and other connected reliefs all related to the incorrect fixation of the seniority of the appli-

Sushil K. Bhattacharya,

cant who had been needlessly land illegally shown to be junior to the private respondent No.5.

4.4) That the application being O.A. No. 158/96 filed by the present applicant was heard by this Hon'ble Tribunal and by a Judgement and Order dated 22.4.99 this Hon'ble Tribunal allowed the application filed by the applicant and directed inter-alia, by observing that "the seniority of the 4th Respondent above the applicant was not in accordance with the provisions of rule" and it was further held that the "administration may hold an examination in the similar manner as was done in 1992 giving sufficient notice to the 4th Respondent and if he qualifies in the examination then his position will be above the applicant".

The operative part of the said Judgement and Order dated 22.4.1999 thus stipulates that a similar test and examination to the one held on 29.2.1992 be held by the authorities after giving sufficient notice to the private Respondent and if the said Respondent qualified in the examination then his seniority would be placed above the present applicant.

Copy of the Judgement and Order dated 22.4.1999 passed by this Hon'ble Tribunal in O.A.

Sushil Kumar Bhattacharyya.

No. 158/96 referred to above is annexed hereto and marked as Annexure:- 'A'.

4.5) That the applicant upon receipt of the aforesaid Judgement and Order dated 22.4.1999, furnished the same to the Respondent No.2 and 3 seeking implementation of the directions contained in the said Judgement and Order dated 22.4.1999 but the authorities failed to pay any heed to the directions of this Hon'ble Tribunal for reasons best known to them, leaving the issue relating to the fixing of inter-se seniority unresolved.

4.6) That in the wake of the indifference and callousness exhibited by the Respondent-authorities following the aforesaid Judgement and Order dated 22.4.1999, the applicant preferred an appeal on 6.2.2002 addressed to the Respondent No.3 detailing therein that the inter-se-seniority had been yet again been incorrectly fixed with the private Respondent No.5 shown at serial No. 31 while the applicant's name figured at serial No. 43, which was contrary to the directions passed and contained in O.A. No. 158/96 and that nothing had been done by the Respondent authorities to even remotely touch upon or address the fixation of inter-se-seniority which had formed the subject matter of litigation in O.A. No. 156/96 filed by the appli-

Sushil K. Bhattacharya

cant and allowed by this Hon'ble Tribunal. The said appeal dated 6..2002 requested the authorities to defer the examination till the directions of this Hon'ble Tribunal was not fully implemented.

Copy of the aforesaid appeal dated 6.2.2002 preferred by the applicant and referred to above is annexed hereto and marked as Annexure:- 'B'.

4.7) That the applicant faced with continued apathy and indifference on the part of the Respondent-authorities and left with no recourse, issued a legal notice on 13.2.2002 addressed to the Respondent No. 2 wherein it was pointed inter alia that:

a) this Hon'ble Tribunal in its Judgement and Order dated 22.4.99 passed in O.A. No. 158/96 preferred by the applicant had clearly held that the seniority of the private Respondent (Respondent No.5 herein) had been incorrectly fixed over the applicant and was therefore not in accordance with law.

b) the seniority of the private Respondent be correctly fixed by holding supplementary exam similar to the one held earlier where the private Respondent could not appear and if he emerged successful in the exam his position be

Sushil K. Bhattacharya

fixed next above his junior one Pyush Kanti Roy which was not done on account of a modified procedure being adopted by the authorities.

c) that this Hon'ble Tribunal held that should the administration hold an examination in the similar manner as was done in 1992 and if the private Respondent qualified in the examination then his position will be above the applicant.

The notice demanded that the authorities refrain from holding the Selection/Examination for promotion to the post of Asstt. A.~~AN~~ against the 70% vacancies till the finalisation of the inter-seniority between the applicant and the private Respondent had not been decided/resolved in terms of the directions contained in the Judgement and Order dated 22.4.99 passed by this Hon'ble Tribunal.

Copy of the legal notice dated 13.2.2002 issued by the applicant and referred to above is annexed hereto and marked as Annexure:- 'C'.

4.8) That inspite of the receipt of the aforesaid legal notice dated 13.2.2002, the Respondent

Sushil K. Bhatta-Charya

-authorities proceeded with the holding of the written examination against the 70% vacancies for promotion to the post of AEN/Group-B, on 16.2.2002 and on 2.3.2002 based on list of candidates determined on seniority where yet again the Respondent No.5 was shown at serial No. 31 above the applicant who was placed at serial No. 43 in the said list as circulated by the Respondent-authorities and under challenge in this application.

Copy of the list of candidates selected for appearing in the written examination against 70% vacancies for promotion to the post of AEN/Group-B and referred to above is annexed hereto and marked as Annexure:- 'D'.

4.9) That it is stated here that the action of the Respondent-authorities in holding the said written examination without correctly determining the seniority of the applicant vis-a-vis the Respondent No.5, clearly betrays the utter callousness and disregard the Respondents authorities have for the directions of this Hon'ble Tribunal contained in Order dated 22.4.1999, and by their illegal inaction have perpetuated the illegality committed by them in showing the Respondent No.5 as senior to the applicant and bestowing undue favour and advantage all along at the expense of the applicant who

Sushil Kumar, B.L. Shastri

has been made to suffer for no fault of his thereby negating a smooth career progression.

4.10) That the applicant states that the seniority of the applicant was correctly maintained vis-a-vis the Respondent No. 5 while they were working as Inspector of Works, Grade II where the applicant was placed at Serial No. 13 and the Respondent No.5 at serial No. 19 (A) in the seniority list prepared for the said cadre which was never disputed by the said Respondent No. 5.

Thereafter the Respondent authorities strangely adopted a modified procedure of selection to fill up the selection post of IOW-I based on scrutiny of service records alone and without holding any written examination or viva-voice as would have been the norm and effected promotion of both the applicant and the Respondent No. 5 by order No.E/283/44/Pt-XXIV(E) dated 29.11.94 issued by the Respondent No.2 to the cadre I.O.W, Gr-I without addressing the fundamental issue regarding the fixation of the inter-se-seniority of the applicant vis-a-vis the Respondent No.5, revealing the total non application of mind by the Respondent authorities. By this order the Respondent-authorities strangely and arbitrarily was placed at serial No.1 in the promotion order dated 28/29.11.94

Sushil K. Bhatnagar

whereas the applicant was placed at serial No. 7 without any basis or assigning any reason whatsoever, and contrary to the order dated 28/29.11.94 passed by the General Manager (P).

On 29.9.95 an integrated seniority list of senior supervising staff of Civil Engineering Department was prepared showing eligible employees for selection of A.E.N./Group 'B' against 70% vacancies. Here again the inter-se-seniority of the applicant was placed below at Sl No. 101 while the Respondent No. 5 was shown at Serial No. 56(A).

4.11) That the applicant being situated thus was constrained to approach this Hon'ble Tribunal by way of an application numbered as O.A. No.158/1996 seeking inter alia for a direction to restore the applicant's seniority over that of Respondent No. 5 and correct the integrated seniority list by making appropriate changes in the applicant's seniority vis-a-vis the private Respondent.

This Hon'ble Tribunal by its order dated 22.4.99 held that the seniority of the private Respondent No. 5 above the applicant was not in accordance with the provisions rule and directed that the Respondent-authorities to hold an examination in the similar manner as was done in 1992

Sushil K. Bhattacharya

which examination was never held but yet the Respondent No. 5 continues to be shown as senior to the applicant.

4.12) That the Respondent-authorities have promoted the Respondent No 5 to the post of Junior Engineer Grade-I now designated as Senior Section Engineer (Chief Inspector of Works) by an order dated 14.3.1996 under No. E/283/44 Pt. XXIV(E) without however refixing the seniority of the applicant vis-a-vis the said Respondent No. 5 and acting on the incorrect seniority. The promotion of the said Respondent No. 5 was apparently at the expense of the applicant who was not promoted at that time but given promotion vide order dated 19.6.97 to the post of Senior S.E. (Works) (corresponding to Chief Inspector of Works).

The arbitrary and illegal action of Respondent-authorities has denied/deprived the applicant of timely promotion for no fault of his due to the failure of the Respondent No 1, 2, 3 in not setting right the faulty fixation of seniority.

4.13) That the Respondent authorities are yet again seeking to fill-up the posts in the AEN/Group 'B' cadre against the 70% vacancies based on the impugned list dated 6.12.2001 wherein the Respondent

S. K. Bhattacharya

No. 5 has been shown at serial No. 31 while the applicant has been shown junior and placed at serial No. 43 in the said list. While the written examination was held on 16.2.2002 and 2.3.2002 the viva-voice is likely to be held anytime in March/April, 2002 for which an interim order is prayed for by the applicant to protect his interests and for upholding the rule of law.

4.14) That being aggrieved by the impugned list dated 6.12.01 (Annexure:-D) incorrectly fixing the seniority of the applicant vis-a-vis that of Respondent No.5, the applicant files this application bonafide and for the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1) That the Respondent-authorities acted illegally and arbitrarily in finalising the list of candidates to appear in the written examination for filling up posts of AEN/Group B by showing the seniority of Respondent No. 5 above that of the applicant.

5.2) That the Respondent-authorities committed grave error of law in holding the selection test for promotion to the post of AEN/Group B against the 70% vacancies based on a faulty and incorrect

S. K. Bhatnagar

fixation of seniority of the applicant vis-a-vis the Respondent No. 5 without resolving the matter of their respective places in the seniority as reflected in the said list dated 6.12.2001 under challenge in terms of the directions contained in the Judgement and Order dated 12.4.99 passed by this Hon'ble Tribunal in O.A. 158/96 which inter alia held that the seniority of the Respondent No. 5 over that of the applicant was not in accordance with rules.

5.3) That the Respondent-authorities by disregarding the directions of this Hon'ble Court contained in the said Judgement and order dated 12.4.99 acted illegal and capriciously in not holding an examination similar to the one held in 1992 by the authorities to determine if the Respondent No. 5 could indeed be placed above the applicant for purposes of seniority in terms of the directions of this Hon'ble Tribunal as reflected in the order dated 12.4.99 and unilaterally showed the Respondent No. 5 to be senior to the applicant in the list dated 6.12.2001.

5.4) That the Respondent-authorities by holding the written examination for promotion to the posts of AEN/Group B against 70% vacancies, have clearly betrayed a total non-application of mind in pro-

S. K. Bhattacharya

ceeding so without determining the seniority of the applicant with that of the Respondent No. 5 by holding a similar examination as was held in 1992 as directed by this Hon'ble Tribunal by its order dated 12.4.99, which the said Respondent No.5 ought to have cleared before being assigned any seniority over that of the applicant.

5.5) That the unilateral fixation of seniority of the Respondent No. 5 over the applicant is not only illegal, arbitrary, but seeks to bestow undue and unfair advantage to the Respondent No. 5 at the expense of the applicant without any legally tenable ground or reason to justify the action of the Respondent-authorities.

5.6) That the authorities by showing the Respondent No. 5 as being senior to the applicant have acted without any rational basis giving a total go-by to the directions of this Hon'ble Tribunal continued in the said order dated 12.4.1999 and this action cannot therefore stand the scrutiny of law and must be interfered with by this Hon'ble Tribunal to ensure the protection of the rights available to the applicant under the rules as well as in the context of the facts detailed above.

S. K. Bhattacharya

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

(i) Appeal preferred on 6.01.2002 addressed to the General Manager (P) was not attended to and remains pending as also the legal notice dated 13.02.2002 addressed to the General Manager, N.F. Railway.

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

The applicant further declares that he has not previously filed any application, Writ Petition or Suit regarding the grievances in respect of which this application is made before any Court or any other Bench of the Tribunal or any other authority nor any such application, Writ Petition or Suit is pending before any of them:-

8. RELIEFS SOUGHT:-

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

8.1) Quash the list dated 6.12.2001 prepared in accordance with seniority for selection for the post of AEN/Group-B against 70% vacancies

S. K. Bhattacharya

in so far as the applicants seniority vis-a-vis the Respondent No. 5 is concerned, which has been fixed and determined unilaterally and incorrectly by the Respondent-authorities in the said list and earlier also. (Annexure;-D).

8.2) Direct the Respondent authorities to forthwith correct the seniority of the applicant vis-a-vis that of the Respondent No. 5 and restore the applicant's seniority over that of the said Respondent No.5 in terms of the direction contained in the Judgement and order dated 22.4.99 passed by this Hon'ble Tribunal in O.A. No. 158/96 (Annexure:- A).

8.3) Direct the Respondent authorities to hold an examination similar to the one held by the said authorities in the year 1992 for promotion to the post of Inspector of Works, Grade:- I as directed by this Hon'ble Tribunal by its Order dated 22.4.99 in which examination the Respondent No. 5 would be required to appear and emerge successful for him to be placed above the applicant for purposes of seniority.

8.4) Pass an order restraining the Respondent - authorities from acting in any manner

S. K. Bhattacharya

whatsoever on the written examination held on 16.2.2002 and 2.3.2002 for promotion to the posts of AEN/Group 'B' against 70% vacancies based on the faulty and incorrect seniority list dated 06.12.2001 and injunct the Respondent-authorities from holding the viva-voce test following the Written Examination held as aforesaid on 16.2.2002 and 2.3.2002 and withhold declaration of results for filling up the said post of AEN/Group 'B' till restoration of the inter-se seniority of the applicant over that of the Respondent No. 5.

8.5) Pass such other or further order/orders as may be deemed fit and proper in the given facts and circumstances of the case.

9. INTERIM ORDER PRAYED:

Pending disposal of this application, be pleased to pass an order in the interim restraining/injuncting the Respondent - authorities from publishing the results of the written examination held on 16.2.2002 and 5.3.2002 and further restrain/prohibit the authorities from holding the proposed viva-voce test based on the written examination held as aforesaid for filling up the posts of AEN/Group 'B' which examination was conducted

S. K. Bhattacharya

on an incorrect and faulty seniority list dated 6.12.2001 showing the applicant junior to the Respondent No. 5 and/or pass any such other order/orders to protect the rights of the applicant.

10.

The instant application is being filed through the advocate of the applicant.

11. PARTICULARS OF THE I.P.O.:-

- | | |
|-------|-------------------------------|
| 11.1) | Rs. 50/- (Rupees Fifty) only |
| 11.2) | I.P.O. No. 7 G 549306 |
| 11.3) | Date 18.03.2002 |
| 11.4) | Payable at: Guwahati |

12. LIST OF ENCLOSURES:-

As detailed in the index.

S. N. Bhattacharyya

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

I, Shri S.K.Bhattacharyya, presently working as S.S.E. (Works) East/PND, under Senior Divisional Engineer, N.F.Railway, Maligaon, Guwahati:- 11, do hereby verify and state that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my knowledge based on legal advice and I have not suppressed any material facts.

And I sign this Verification on this the 20th day of March, 2002.

Sushil K. Bhattacharyya
20-03-2002
(Sushil Kumar Bhattacharyya)

ANN-A 3X
BY HAND
Applicant

22

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: :: :: GUWAHATI

Despatch No. CAT/GHY/JUDL/205

Dated, Guwahati the 20/1/2000

- ORIGINAL APPLICATION NO. : 158/96
MISC. PETITION NO. :
CONTEMPT. PETITION NO. :
REVIEW APPLICATION NO. :
TRANSFER APPLICATION NO. :

S.K. Bhattacharyee APPLICANT(S)
VERSUS
U.O.F. on ms RESPONDENT(S)

To: Shri S.K. Bhattacharyee
ION Grade-I
Of the Senior DEN, N.F. Railway,
Maligaon, Guwahati-II.

Please find herewith a copy of Judgment/Order dated 22.4.99
passed by the Bench of this Hon'ble Tribunal comprising of Hon'ble
Justice Shri D.N. Baruah Vice-Chairman and Hon'ble Shri
G.L. Sarma Member, Administrative in the above
noted case for information and necessary action, if any.

Please acknowledge receipt of the same.

Encl: As stated above.

BY ORDER,
19/1/2000
DEPUTY REGISTRAR.

Certified to be
true copy
Ms B Acharya
Lawyer

23³⁸

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.158 of 1996

Date of decision: This the 22nd day of April 1999

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

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri S.K. Bhattacharjee,
IOW Grade-I under Senior DEN,
N.F. Railway,
Maligaon, Guwahati.

.....Applicant

By Advocates Mr M. Chanda and Mr S. Sarma.

- versus -

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

2. The General Manager,
N.F. Railway, Maligaon,
Guwahati.

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

4. Shri Narayan Krishna Goswami,
IOW Grade-I under Senior DEN,
N.F. Railway, Maligaon,
Guwahati.

5. The Chief Personnel Officer,
N.F. Railway, Maligaon,
Guwahati.

.....Respondents

By Advocates Mr B.K. Sharma and
Mr J.L. Sarkar, Railway Counsel.

.....

O R D E R

BARUAH.J. (V.C.)

In this application the applicant has challenged
Annexure 7 order dated 4.12.1995 putting private
respondent No.4 above the applicant in seniority and also
seeks certain directions.



*Certified to be true copy.
Mr. B. Achary,
Advocate*

2. Facts are:

The applicant was at the relevant time Inspector of Works Grade II. The seniority position of the applicant in Grade II was 13. The private respondent No.4 was also Inspector of Works Grade II and he joined in that grade later than the applicant and his seniority position in that grade was 19(a), that is, in that grade the private respondent No.4 was junior to the applicant. For the next promotion, i.e. Inspector of Works Grade I, written test and viva voce test was held. The applicant appeared in the said examination alongwith other candidates held on 29.2.1992 and 21.3.1992. However the applicant could not come out successful. In that year the private respondent No.4 was also eligible for examination. However because of administrative error he was not intimated. As a result he could not appear in the examination. The 4th respondent thereafter submitted a representation before the authority. As a result of the representation submitted by the 4th respondent he was informed by Annexure 3 order dated 30.7.1993 that he would get the benefit of seniority to the extent of his junior only if he passed the test prescribed and declared fit by the Departmental Promotion Committee. No such test was held for him. His case was considered in terms of a modified selection procedure in 1994. Pursuant to the Railway Board's letter dated 27.1.1993 both the applicant and the private respondent qualified in the selection and they were promoted. Respondent No.4 was not called in the earlier test due to mistake on the part of the respondents. Being aggrieved the applicant submitted representation requesting for assigning his seniority above respondent No.4. The said representation was disposed of rejecting the case of the applicant by Annexure 7 order dated 4.12.1995. Hence the present

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Low Grade

cation.

The contention of the applicant is that it is true that the respondent No.4 was not called to appear in the examination for selection held on 29.2.1992. Grievance of the applicant is that the 4th respondent was unduly given seniority which is contrary to the provision of rule. The applicant submits that the nature of examination in which the applicant failed was quite different from the modified selection. In the earlier selection one had to appear in the written test and the viva-voce test and thereafter his case was considered. But in the modified selection promotion was given only on the basis of service records. The further contention of the applicant is that the private respondent No.4 was not asked to appear in the same type of examination and therefore there is discrimination. It is further contended by the applicant that if similar type of examination was held so far as the private respondent No.4 is concerned, then the result might not have been same.

4. We have heard Mr M. Chanda, learned counsel for the applicant and Mr J.L. Sarkar, learned Railway Counsel. Mr Chanda has drawn our attention to Rule 316 of Indian Railway Establishment Manual, Vol.I (in short IREM) which reads as follows:

"A railway servant who, for ~~reasons beyond his control~~, is unable to appear in the examination/test in his turn along with others, shall be given the examination/test immediately he is available and if he passes the same, he shall be entitled for promotion to the post as if he had passed the examination/test in his turn.

"NOTE. 1. The expression 'reasons beyond his control' appearing above should be interpreted to include the following:

Reasons beyond his
Control

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: 4 :

"(i) Sickness of the railway servant supported by the medical certificate of the authorised medical attendant;

(ii) Sickness of the members of a railway servant's family supported by the medical certificate of the authorised medical attendant, so serious that the railway servant could not be reasonably expected to take the test;

(iii) Proved non-receipt of intimation of the examination/test owing to being on leave or on duty elsewhere than at the headquarters or for any other reasons acceptable to the administration, and

(iv) Administration not relieving the railway servant for such examination or test."

The moment the mistake was detected a similar type of examination ought to have been held. If he had passed same type of examination, definitely he would be treated as candidate for that year. As this was not done in the case of private respondent No.4 seniority given to the private respondent No.4 is illegal, unfair and contrary to the rules. Mr Sarkar on the other hand refers to Rule

228 of the IREM, Vol. I which reads as under:

"Erroneous Promotions.-(I) Sometimes due to administrative errors, staff are overlooked for promotion to higher grades could either be on account of wrong assignment of relative seniority of the eligible staff or full facts not being placed before the competent authority at the time of ordering promotion or some other reasons. Broadly, loss of seniority due to the administrative errors can be of two types :-

"(i) Where a person has not been promoted at all because of administrative error, and
(ii) Where a person has been promoted but not on the date from which he would have been promoted but for the administrative error.

"Each such case should be dealt with on its merits. The staff who have lost promotion on account of administrative error should on promotion be assigned correct seniority vis-a-vis their juniors already promoted, irrespective of the date of promotion."

Mr Sarkar also relies on the decision of the Apex Court in the case of A.K. Chatterjee -vs- Eastern Railway and others.....

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ers, reported in 1985 (1) Labour & Industrial cases.

Para 12 of the said judgment reads as follows:

"We find no justification for the attitude adopted by the Railway Administration in depriving the appellant of his legitimate rights. Loss of seniority of a Government servant with consequent loss of promotional prospects, higher pay and emoluments is a matter of serious consequence to him. When the appellant by his representations drew the attention of the departmental authorities to the injustice done to him, it was their duty to have rectified the mistake and re-fixed the seniority of the appellant. It was precisely to meet a situation of this kind that the Railway Board's Circular dated October 16, 1964 was issued. It provides that if a person has been promoted but not on the date on which he should have been promoted due to some administrative error then the employees should be assigned correct seniority vis-a-vis his juniors already promoted irrespective of the date of promotion. It further provides that the pay of such employee in higher grade on promotion will be fixed proforma at the stage which he would have reached if he had been promoted at the proper time....."

Loss of Seniority
Loss of promotional prospects
Higher pay & emoluments.

5. [On the rival contention of the parties it is now to be seen whether the authority was correct in giving the seniority to respondent No.4 above the applicant after coming to know about the administrative error. We have perused both rules cited by Mr Chanda and Mr Sarkar and also the decision of the Apex Court (Supra). Rule 316 of IREM says that in case of non-receipt of the intimation an employee should be given all the opportunities and if he is qualified on merit then he should be given due promotion. In 1992 when the selection was held the procedure of selection was by written and viva-voce examinations. In the written examination the applicant failed, the respondent No.4 was not called. Definitely respondent No.4 was entitled to be called and when the mistake was detected, he should have been treated in the same way as if examination was held on the date

the.....

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the appliant appeared in the examination but failed. In that examination the respondent No.4 might have come out successful. But in the subsequent year 1994 the procedure had been changed and the promotion was given to the respondent No.4 on the assessment of service records. We agree that there was totally a different type of examination. In order to supersede, the 4th respondent must have passed the examination which was held in 1992 after the detection. Unfortunately, this was not done. Therefore we find sufficient force in the submission of Mr. Chanda. There is no dispute about the Rule 228. In tht rule it is specifically stated that each case should be dealt with on its merits. The staff who have lost promotion on account of administrative error should on promotion be assigned the correct seniority. In this case also promotion in the year 1992 ought to have been given on the basis of examination but the 4th respondent was not called due to administrative error. He ought to have been called immediately after the mistake was detected. He should have been given same type of test and if he had qualified in that case, definitely he would be deemed to have passed in that year in which the applicant failed and in that case 4th respondent would be placed above the applicant. Decision cited by Mr. Sarkar also refers to the same view.

6. We therefore hold that the seniority of the 4th respondent above the applicant was not in accordance with the provisions of rule, but for that matter the 4th respondent should not suffer. The administration may hold an examination in the similar manner as was done in 1992

giving.....

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giving sufficient notice to the 4th respondents and if he qualifies in the examination then his position will be above the applicant.

7. With the above direction the application is disposed of.

8. Considering the facts and circumstances of the case, we however make no order as to costs.

//

Sd/-VICECHAIRMAN
Sd/MEMBER (A)

nkm

TRUE COPY
प्रतिनिधि

Deputy Registrar (J)
Central Administrative Tribunal,
Gwahati Bench

My 28/12/2000
KS 28/1/2000

O/C

ANNEX-B

NO. SEB-S/2002

Dtd. 06-02-2002

30

To

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

(Through proper channel)

- SUB:
- i) An appeal for fixation of Seniority in terms of Hon'ble Central Administrative Tribunal Judgement and order dated 22.4.99 Passed in original application No.158 of 1996.
 - ii) To defer the proposed examination of AEN/ Group-'B' against 70% vacancies till the order of the Hon'ble Tribunal is fully implemented.

Sir,

I have the honour to inform you that I am really surprised to go through the list of candidates eligible to appear in the written examination for selection for the post of AEN/Group 'B' which is in order of Seniority among the willing candidates (Annexure A). In the said list my name has been appeared in SL 43 and whereas the name of Shri N.K. Goswami appears at SL 31 which is contrary and against the Judgement and order passed by Central Administrative Tribunal, Guwahati Branch on 22.4.99 in original application No.158 of 1996. In the said Judgement the Hon'ble Tribunal Categorically stated that "The administration may hold an examination in the similar manner as was done in 1992----" and only thereafter the seniority between me and Shri Goswami should have been fixed provided he had passed the examination. But the authority till today has not complied with the said order passed by the Tribunal and arbitrarily once again fixed the seniority putting me Junior to Shri N.K. Goswami.

That Sir, unless the said Judgement and order of the Tribunal is not implemented and seniority position is refixed, it would be difficult for my part to appear in the proposed examination and the same would run-out to miscarriage of future.

contd. p/2

Attached to letter
No. 64/2002
Adm. Cell

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A copy of the Judgement of the Hon'ble Tribunal and the list (Annexure A) are enclosed herewith for your ready reference.

Under the above circumstances, I appeal before your authority to defer the proposed examination till the order of the Hon'ble Tribunal is fully implemented.

D/A :- As stated.

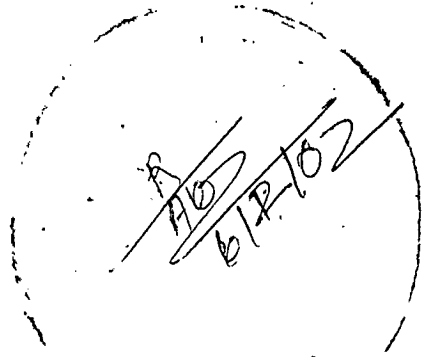
Date : 06.02.2002.

Yours'
faithfully,

S.K. Bhattacharya 06.02
(S.K. BHATTACHARYYA)
Senior Section Engineer
(W)/East/PNO N.F. Railway

Copy send in advance to GM(P)/MLG
N.F. Railway.

S.K. Bhattacharya
(S.K. BHATTACHARYYA) 06.02
Senior Section Engineer
(W)/East/PNO N.F. Railway



6.2.2002

N. Unni Krishnan Nair
Advocate

S. T. A. Kazi Building,
Hedayatpur, Guwahati - 781003
Phone - 520720, 660720

Chamber - Main Branch Road
Santipur,
Guwahati - 781009
Phone : 520397

ANNEX - C

32

Ref:

Date 13-02-2004

WS7/SKB/

To

The General Manager
N.F. Railway
Maligaon.

Sub.: Legal Notice.

Sir,

Upon authority and as per instruction of my client
Shri S.K. Bhattacharya, Sr.S.E. (W)/East under Sr.
DEN/N.F.Rly/MLG, I give you this notice as follows:

That my client aforesaid raising a seniority
dispute with one Shri N.K. Goswami who is now working as
SEN/^{PLW}FCD/NF Rly preferred an Original Application bearing
No.158/96 before the Central Administrative Tribunal,
Guwahati. After hearing the parties to the proceeding the
Hon'ble CAT/GHY held that the seniority of said Shri
N.K. Goswami over my client is not in accordance with Law and
you were directed to rectify the same by holding

Certified to be true
copy
Mug B Acharya
Advocate

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supplementary exam for him. However the judgement and order dated 22.4.99 passed in OA No.158/96 is yet to be complied with. The seniority dispute of my client and Shri N.K.Goswami still in existence. In that view of the matter the proposed selection test scheduled to be held on 16.2.2002 for the post of Asstt. D.E. against 70% vacancy is not at all sustainable, since the said selection will get due weightage.

That since the seniority dispute mentioned above is still undisposed, hence holding of another selection is illegal. That apart same will be in violation of the aforesaid judgement and order dated 22.4.99 wherein there has been clear finding that seniority of Shri N.K.Goswami over my client is not as per Rule and Law. action on your part will be contemptuous in nature and for that you will be directly liable for contempt of court's proceeding.

In that view of the matter, I give this notice making a demand that not to hold the selection/Examination for promotion to the post of Asstt.DE against 70% vacancy before finalisation of seniority dispute between my client and said Shri N.K. Goswami taking into consideration the judgement and order dated 22.4.99 passed in OA No.158/96 failing which instruction of my client is to initiate contempt proceedings against you for willful and deliberate violation of the aforesaid judgement and for that you will be solely responsible for the consequence thereof.

34-19

I hope and trust that there would be no such
occasion for any further litigation.

Thanking you.

Sincerely yours

U. K. Nair
U.K. Nair

Advocate.

Copy to:

1. The G.M. (P)
N.F. Railway MLO.
2. The C.P.O. N.F. Ry MLO.

U. K. Nair
U.K. Nair
Advocate.

ANNEXURE-D

LIST OF THE CANDIDATES WHO HAVE GIVEN WILLINGNESS AND ARE ELIGIBLE TO APPEAR IN THE WRITTEN EXAMINATION FOR SELECTION FOR THE POST OF AEN/GROUP-'B' AGAINST 70% VACANCIES (IN ORDER OF SENIORITY)

SN	NAME OF THE CANDIDATES	SC/ST	DESIGNATION & STATION
01	SHRI N. LASKAR	SC	SSE/PW/SAFETY/LMG
02	SHRI A.C. RISHI	SC	SE(WORKS)/CON/SCL
03	SHRI M. DEORI	ST	SSE(BRIDGE)/LMG
04	SHRI VIR BHAN	SC	SSE/PW/RPAN
05	SHRI K.K. LAKRA	ST	SSE/PW/APDJ
06	SHRI G.C. SAHA	SC	SSE/BRIDGE/SGUJ
07	SHRI K.N. PATIR	ST	SE/WS/CBTS/TSK
08	SHRI B.N. DAS	SC	SSE(WORKS)/KNE
09	SHRI A.C. DAS	ST	SE/DRG./LMG
10	SHRI SUKUMAR DAS	SC	SSE(WORKS)/CON/SCL
11	SHRI C.M. MANDAL	SC	SSE/W/CON/APDJ
12	SHRI NANNU SINGH	SC	SSE/BRIDGE/HQ
13	SHRI UTPAL ROY	-	SSE/PW/KIR
14	SHRI SANDEEP SARKAR	-	SR SE/WORKS/GM(CON)
15	SHRI PRASANNA BHATTA	-	SSE/TM/CE/MLG
16	SHRI K.N. RABIDAS	SC	SSE/USFD/CE/MLG
17	SHRI RAJEEB KUMAR BANIK	-	SR COSLE OPERATOR/CE
18	SHRI H. KALITA	-	SSE(W)/CON/MLG
19	SHRI DAFEDAR SINGH	SC	SE/PW/TSK
20	SHRI S. CHAKRABORTY	-	SR SE/PW/KIR
21	SHRI A.K. DEY	-	SSE/PW/CE/MLG
22	SHRI K.K. SINGH	-	SSE/PW/CE/MLG
23	SHRI D. MUKHOPADHYAY	-	SSE/PW/CE/MLG
24	SHRI T.N. SINGH	-	SSE/PW/LMG
25	SHRI P. RAM	SC	SSE/PW/GHY
26	SHRI SURYABHAN	SC	SSE/PW/KIR
27	SHRI A.A. DEKA	-	SSE/PW/APDJ
28	SHRI S.N. BRAHMA	ST	SSE/PW/TSK
29	SHRI P.K. GHATAK	-	CDM/LMG
30	SHRI U.K. GUHA	-	CDM/GM(CON)
31	SHRI N.K. GOSWAMI	-	SSE/W/FCW/MLG
32	SHRI R.C. MANDAL	SC	SSE(W)/CON/NMZ
33	SHRI GAUTAM DEV	-	SSE(WORKS)/GM(CON)
34	SHRI P.K. GOGOI	-	SSE(P.W)/TSK
35	SHRI DIGANTA PHUKAN	-	CDM/GM(CON)/MLG
36	SHRI D.K. CHANDRA	-	CDM/GM(CON)/MLG
37	SHRI U.C. PAUL	-	CDM/KIR
38	SHRI S.K. NAG	-	CDM/APDJ
39	SHRI R.C. DEBNATH	-	SE/BRIDGE/RPAN
40	SHRI SHYAMAL GHOSH	-	SE/BRIDGE/PNO
41	SHRI DIPANKAR BHATTACHARJEE	-	SSE/PW/LMG

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my Bhacharya
Advocate

42	SHRI KINKAR DAS	SC	SE/DRAWING/KIR
43	SHRI S.K. BHATTACHARJEE ✓	-	SSE/W/SR.DEN/MLG
44	SHRI GOLOK DAS	-	SSE(W)/GM(CON)
45	SHRI DILIP KUMAR DHAR	-	SSE(W)/GM(CON)
46	SHRI BISWAJIT ROY	-	SSE(W)/APDJ
47	SHRI ASHIM CHAKRABORTY	-	SSE(W)/GM(CON)
48	SHRI ASHOK CHAKRABORTY	-	SSE/W/APDJ
49	SHRI KRISHNENDU BHATTACHARJEE	-	SSE(W)/APDJ
50	SHRI KAMALENDU BHATTACHARJEE	-	SSE/PW/LMG
51	SHRI S.S. CHAKRABORTY	-	SSE(P.W)/KIR
52	SHRI M.S. SARKAR	-	SSE(PW)/APDJ
53	SHRI R.N. CHOUDHURY	-	CDM/CE/MLG
54	SHRI DILIP BHATTACHARJEE	-	CDM/APDJ
55	SHRI S. MUKHERJEE	-	CDM/LMG
56	SMT. PALLABI BARTHAHUR	-	CDM/GM(CON)
57	SHRI J. K. SHARMA	-	CDM/KIR
58	SHRI M. SAKIA	-	CDM/CE/MLG
59	SHRI T.K. BHOWMICK	-	CDM/KIR
60	SHRI G. CHAKRABORTY	-	SSE/PW/APDJ
61	SHRI S.K. ACHARJEE	-	SSE/PW/APDJ
62	SHRI S.K. PAUL	-	SSE/PW/LMG
63	SHRI NIRUPAM DAS	SC	SSE/PW/GM(CON)
64	SHRI T. NANDA	-	SSE/PW/LMG
65	SHRI S.K. DAS	SC	SSE/PW/HJO
66	SHRI S.S. DAS	SC	SSE/PW/HILL/LMG
67	SHRI S.K. VERMA	-	SE/PW/KIR
68	SHRI S.K. BASAK	-	CDA/GM(CON)
69	SHRI FARTHA CHAKRABORTY	-	SE/BRIDGE/LMG
70	SHRI A. BANDOPADHYAY	-	SSE/WGRKS/KIR
71	SHRI S. MITRA	-	SSE/GM(CON)
72	SHRI D.K. GHOSH	-	SSE/KIR
73	SHRI P.K. ROUTH	-	SSE/GM(CON)
74	SHRI K.S. LASKAR	-	SSE(W)/SR.DEN/MLG
75	SHRI P.C. KALITA	-	SSE(W)/LMG

Done
06.12.2001
APO/GAZ/MLG

10 Sept
File by
Sukomal Das Gupta
Railway Advisor
Guwahati
10.9.2002

Praded in sign

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

IN THE MATTER OF :

O.A. No. 97 of 2002

Shri S. K. Bhattacharya ... Applicant

Vs.

1. Union of India.

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

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

4. The Chief Personnel Officer,
N.F. Railway, Maligaon,
Guwahati-11.

5. Shri Narayan Krishna Goswami,
Presently serving as SSE/W/FCW,
Maligaon, Guwahati-11.

... Respondents.

- AND -

IN THE MATTER OF :

Written Statement for and on behalf of
respondents (No. 1, 2, 3 and 4)

1. That the answering respondents have gone through the copy of the application filed by the applicant and have understood the contents thereof.

2. That, the application suffers for want of valid cause of action for filing the application.

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

4. That, the case suffers from misconception and misinterpretation of extant rules on the subject and is vexatious one and is not maintainable either on fact or on law.

5. That, for the sake of brevity the respondents have been advised to confine their replies only on those averments in the application which have got direct bearing and are considered relevant for purpose of a proper decision in the case. Save and except those statement of the applicant which are either borne on records or are specifically admitted here-under, all other averments/allegations of the applicant are emphatically denied herewith and the applicant is put to strictest proof of same.

6. That, all actions taken in the case are quite in consonance to the extant rules and procedures on the subject and that were practically viable to be undertaken in the circumstance of the case. All such actions are quite valid, legal and proper and have been taken by the Railway authorities after due application of mind and investigation into the case and also as the merit and fact of the case demanded and there has been no irregularity, illegality, discrepancy and discrimination or arbitrariness in the case, as alleged.

Pradip K. Singh

7. That, the case is also hit on the point of limitation. Even in the year 2001 (i.e. dtd. 11.05.2001), a provisional seniority list of Sr.Section Engineer(Works) in scale Rs.7450 - 11500/- (previously designated as IOW/Grade-I) was issued and circulated for information of all concerned (including the staff concerned) under General Manager(P)/N.F. Railway, Maligaon's No.E/255/24/Pt.IV(E) dated 11.05.2001 and in that seniority list the seniority position of the applicant Shri S.K. Bhatta chargee (the applicant) and that of Shri Narayan Krishna Goswami (Respondent No.5 in this OA) were shown as under :

Sl. No.	Name in Order of Seniority	Comm. unity	Designation & place of posting.	Date of Birth	Date of appointment to Railway	Date of promotion to Grade	Confirmation/Officiating.
10	Shri Narayan Krishna Goswami	UR	SSE(W)/NFR/SEN/FCW/MLG	1.9.56	4.8.80	7.8.96	Officiating
14	S. K. Bhatta chargee	UR	SSE/W/Sr.DEN/MLG.	1.4.53	19.4.80	19.6.97	Officiating.

In the aforesaid seniority list it was also stipulated that the staff who feel aggrieved with the seniority position, may submit representation within one month of date of issue of the seniority list. The following were inserted at the bottom of seniority list, for information and necessary action of all concerned :

"N.B. - Any representation of which staff desired to make regarding their relative position in their seniority list should be submitted to this office within one month from date of issue of seniority list. No action will be taken on any representation if any submitted after expiry of the target."

Pradeep K. Singh

Pradeep vs. Singh

It is submitted that the applicant neither submitted any representation against the latest seniority list nor he agitated over the matter before any forum or before the Hon'ble Tribunal after 22.04.98. As such he is debarred to raise the issue again at this stage after long period when another departmental selection for higher grade (i.e. AEN/Grade-B of Officer rank) was already in process/progress and for appearing in which selection, the applicant also volunteered in writing without any protest.

dated 11.5.2001

A copy of the said seniority list is annexed hereto as Annexure- A for ready perusal. *Surprisingly, the applicant has abstained from mentioning about this seniority list.*

8. That, the present application is the outcome of his after-thought and as such it is not entertainable and is fit to be dismissed.

9. That, all actions taken in the case are quite in consonance to the extent rules and procedures on the subject and also as per guidelines issued by the Railway Board, Ministry of Railways, New Delhi with the approval of the President, for holding modified selection only for 'selection and non-selection post' in 'C' & 'D' cadre as one time exception in respect of vacancies existed on 1.3.93, consequent on re-structuring of cadre Grade-'C' & 'D' in view of the numbers af involved and with objective of expediting the implementations of these Orders as mentioned in Railway Boards letter No. PC-III/91/CPC/I dated 27.01.93. The guidelines of Railway Board clearly stipulated inter-alia that proposed modified selection should be hold only on scrutiny of service records and confidential reports etc. without holding any written and viva-voce test.

It is also to mention here-in that both staff (i.e. Shri S. K. Bhattacharjee, the applicant who failed to qualify in 1992 selection and Shri H. K. Goswami (Respondent No.5 who could not appear in 1992 selection due to administrative mistake/error) were selected for IOW/Grade-I post (now designated as Sr.Section Engineer/Works in scale Rs.7450 - 11500/-) by the same DPC held in 1994. As Shri Goswami was selected in the first chance and as Shri Bhattacharjee, (the applicant), failed to qualify in the 1992 selection, the higher seniority position had to be assigned to Shri Goswami as per rules and there has been no irregularities, illegality, discrepancy or arbitrariness in the case as alleged by the applicant.

10. That the fact of the case, in brief, is submitted here under for proper appreciation of the case :

In the year 1992, a selection for the post of Inspectors of Works of Grade-I in scale of Rs.2000 - 3200/- (revised scale Rs.6500 - 10500/-) was notified under General Manager(P)/Maligaon's notification No.E/254/10/Pt.V(E) dated 06.02.92 and in that both the present applicant (S.K. Bhattacharjee) and the private respondent No.5 (Shri H.K. Goswami) were within the zone of consideration as per their seniority position in the cadre. Shri S. K. Bhattacharjee, the applicant, appeared in that selection but could not come out successful in the test and he was not selected. Though Shri H.K. Goswami (private respondent No.5) was within the list of eligible candidate, he could not appear in the selection as there were typographical mistake from the Railway Administrations side in putting his name correctly in the list (both for main and supplementary list) and he could not be spared for appearing in the said selection. On appeal from Shri Goswami, to the authorities for depriving him from the

Pradeep K. Singh
11/11/2018

said selection the Competent Authority i.e. Dy.CPO(Non Gaz) gave decision as under :

"It is a clear case where Rule 208 of IREM Vol-I should be invoked. Please take action according to the guidelines prescribed. The benefit will only accrue when he gets promotion after being declared fit by the departmental promotion Committee after due test prescribed."

Accordingly Shri Goswami was informed under GM(P)/MLG letter No. E/254/18/Pt.V(E) dated 30.09.93 that as he was deprived of appearing in the selection held on 29.02.1992, he will get benefit of seniority to the extent of juniors only if he is declared fit by the Departmental promotional Committee (DPC) after due test prescribed. Though selection for promotion to the selection grade are normally held annually, the selection for the year 1993 could only be held consequent on restructuring of certain Group- C & D cadres on modified basis in terms of the Railway Board's Circular No. PC/III/91/CRC/1 dated 27.01.93 where in the modified selection procedure were laid as under :

"4. The existing classification of the post covered by these re-structuring orders as selection and non-selection as the case may be remain unchanged. However for the purpose of implementation of these orders, if any individual Railway servants become due for promotion to a post classified as a selection post, the existing selection procedures stand modified in such a case to the extent that the selection will be based only on scrutiny of service records and confidential records without holding any written and or Viva-voce test.

Pradip K. Singh
20/10/93

Similarly, for post classified as non-selection at the time of these restructuring, the same procedure as above will be followed. Naturally under these procedures the categorization as "outstanding" will not figure in the panels.

This modified selection procedure has been decided upon by the Ministry of Railways as a one time exception by special dispensation, in view of the numbers involved, with the object of expediting the implementation of these Orders.

4.1 Vacancies existing on 01.03.93 except direct recruitment quota and those arising on that date from this cadre re-structuring/including chain/result vacancies, should be filled in the following sequences :

(1) From panels approved on or before 01.03.93 and current on that date.

(ii) And the balance in the manner indicated in Para 4 above.

4.2 Such selections, which have not been finalized by 01.03.93 should be cancelled/abandoned.

4.3 All vacancies arising from 02.03.93 will be filled by normal selection procedures."

Thus, for those who were considered for selection to the post of IOW, Grade-I based on the vacancies as on 01.03.93, normal selection procedures could not be applied for them in terms of Railway Boards above instructions. In the subsequent selection held in the year 1994 for the year 1993 vacancies

Pradip K Singh
Minister
Railways

Pradeep K. Singh

both the private respondent No.5 Shri N.K. Goswami and the applicant Shri S. K. Bhattacharjee were selected by DPC for the post of IOW/Gr-I by holding the modified selection as prescribed by the Railway Board, Ministry of Railways, with the approval of President. As the respondent No.5 Shri N.K. Goswami acquired right of seniority to the extent of the junior as per Rule 228 of IREM and also seniority Rule 316 of IREM and as he was selected in the first chance and as the applicant Shri Bhattacharjee failed in the selection for the post of IOW/Gr-I held in 1992, the respondent No.5 Shri N.K. Goswami had to be assigned the higher seniority position then that of Shri Bhattacharjee (the applicant), though the applicant Shri Bhattacharjee was senior to Shri N.K. Goswami in respect of date of appointment on the Railways. Further, the applicant has no right to claim seniority over those who were empanelled in the said selection of 1992 according to Rule 306 of the IREM.

It is pertinent to mention herein that the applicant filed an application No. OA - 158 of 1996 before the Hon'ble CAT/GHY challenging the seniority of Shri Goswami over him. The Hon'ble Tribunal under the Order dated 22.04.98 directed the respondent as under :

"The Administration may hold a examination in similar manner as was done in 1992 giving sufficient notice to the 4th respondent and if he qualifies in the examination then his position will be above the applicant."

Thus, it is well apparent that the Hon'ble Tribunal also did not give automatic seniority to the applicant over Shri Goswami. It was rather stipulated that if Shri Goswami qualified in the selection held in similar manner as was done in 1992, Shri Goswami's position may be put above the applicant.

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Pradyumna Singh

It is pertinent to mention herein that after receiving Railway Board's Order dated 27.1.93 by which selection procedure was changed with the approval of the President of India, there could be no question of holding selection for IOW/Gr-I in the manner held in 1992 against 1993 vacancies, and hence the modified selection process as laid down by the Railway Board had to be adopted.

A Copy of the said order of the Railway Board is annexed hereto as Annexure B for ready perusal.

11(a). That, with regard to averments made at paragraph 4.1 to 4.4 of the application it is submitted that nothing are accepted as correct except those which are either borne on records or are specifically admitted here-under. It is emphatically denied that there had been any illegal or arbitrary action or total in-action etc. on the part of the Railway Administration and also in holding the AEN/Gr-B selection. It is a quite wrong assumption on the part of the applicant to hold that Annexure-D to the application is the seniority list or those staff were selected by the Railway administration as alleged. In fact, both the applicant Shri S.K. Bhattacharjee and the private Respondent Shri N.K. Goswami, volunteered themselves for appearing in the proposed selection for the post of AEN/Gr-B and hence in the list prepared for the purpose of holding written test, the names of all staff including that of the applicant Shri Bhattacharjee and also that of the private respondent Shri Goswami were included in that list of Volunteers for this selection.

(Copy annexed as Annexure-'D' to the application)

The applicant was quite aware of the reason as to why Shri N. K. Goswami (SSE previously IOW/Gr-I) was assigned higher seniority position than that of the applicant in the

seniority list of all the IOW/Gr-I in the Engineering department published earlier and those have already been explained in the foregoing paragraphs of this written statement and submitted herein below for ready perusal.

Though the private respondent Shri N.K.Goswami was within the zone of consideration to appear in the selection of IOW/Gr-I in the year 1992 but he did not get chance to appear in the DPC & due to administrative error. In the subsequent year he was declared fit for the post of IOW/Gr-I by the DPC held in the year 1994 modified selection for the year 1993. So it was reasonably not practicable to compel him to appear for DPC again for the same post in subsequent year.

The selection Rule for the year 1993 had been changed in terms of Board's Circular No.PC-III/91/CRC/1 and the applicant did not challenge the said Circular. As the private respondent was already declared fit for the post of IOW/Gr-I by the DPC held in 1994 (for the year 1993) his claim of seniority to the extent of his junior is sustained as per Rules (Rule 228 of IREM and Rule 310 of IREM).

Moreover, as the applicant could not qualify for promotion to the post of IOW/Gr-I in the selection held in 1992, he cannot claim seniority over those promotees who were already selected by the D.P.C. held in 1992 (as per Rule 306 of IREM).

Handwritten:
Shri N.K. Singh
Chief Personnel Officer

It is submitted that knowing all the developments of the case and keeping him all these long period, the applicant has now come up with the same issue only when the selection process for the AEN/Grade-B post has been started and surprisingly after he volunteered for appearing in this selection and raised no question even when notification for the selection was issued.

Further, AEN selection is a Group-B selection where no marks for seniority are allotted or awarded. The applicant and also the private respondent submitted their willingness to appear in the said selection and accordingly they were called to appear in this selection. But the applicant did not appear in the main written examination and also in the absentee selection called. The private respondent, though appeared but failed. The selection was finalised on 03.04.2002 and the panel has been operated under GM(P)/MLG's Office Order No. E/283/31 Pt.XVIII(I) dated 04.04.2002. by issue of the promotion/posting order to the post of AEN/Gr-B.

A copy of the said order dated 4.4.2002 annexed hereto as Annexure-

Thus, the circumstances under which any written examination for promotion to IOW/Grade-I could not be ^{held} in the similar manner as was done in 1992 and as to why respondent No. 5 who already qualified in the modified selection/D.P.C. for the post of IOW/Grade-I was assigned higher seniority over the applicant in the cadre (as applicant already failed in the selection held in 1992) of IOW/Grade-I and impossibility/inability to hold another selection like those held in 1992 for 1993 vacancies of IOW/Grade-I have already been explained herein above.

However, the said examination has also been completed in terms of the Honble Tribunal's judgement dated 22.4.99 and Sri N.K. has qualified in the said selection and retained his seniority

11(b). That, it is to submit herein that there had been no avoidable delay etc. on the part of the respondents in obeying/compliance of the Hon'ble Tribunal's direction. The respondents offers unqualified apology and beg to be pardoned, in case in the opinion of the Hon'ble Tribunal, there has been any failure or delay/laches on the part of respondents for implementation of the same.

12. That, with regard to averments/allegations as made at paragraphs 4.5, 4.6, 4.7, 4.8 and 4.9 of the application it is to submit that the respondents admit only those statements which are borne on records, and for the rest the applicant is put to strictest proof. As stated herein above, it was reasonably not practicable to hold another subsequent D.P.C. for selection in the same post of IOW/Grade-I in which he was already selected in the modified selection conducted in pursuance to the Railway Board's Orders having President's approval.

However, the said selection as ordered by the Hon'ble Tribunal has been held after connecting the relevant records etc.

It is also to submit herein that the Annexure-D is a list of the candidate who were willing to appear in the selection for the Gazetted post of AEN/Grade-B and as the applicant submitted his willingness to appear in the selection of AEN/Group-B he had to be called for the selection. Again, as no seniority mark is awarded in Group-B selection there was no question of scoring less marks than that of Shri Goswami (Respondent No.5)

in AEN/Group-B selection in respect of seniority, if he would have appeared in this Gazetted Officer's selection (i.e. AEN/Group-B) and could qualify in the written test of AEN/Group-B selection. It is to mention here in that the selection rule for the post of Group-B post from Group-C cadre is quite different from the selection rule within Group-C cadre. In the selection from Group-C to Group-B, under Rule 20.1 of Indian Railways Establishment Manual against 70% vacancies the selection is based on a written test to adjudge professional ability, followed by Viva-voce test and also by assessment of service record ^{and personality, leadership etc.} by the Selection Committee.

The allegations of betrayal or callousness or dis-regarding the Hon'ble Tribunal's Order dated 22.4.1999 or any illegality or illegal action or bestowing undue favour etc. to the respondent No.5 at the expense of the applicant etc. as alleged at paragraph No. 4.9 of the application are emphatically denied herewith as these are not at all correct and nothing but baseless excuse/allegations.

13. That, with regard to averments at paragraphs 4.10 and 4.11 of the application it is submitted that nothing are admitted except those which are borne on records. All allegations regarding non-application of mind or arbitrariness etc. either in holding the D.P.C. as per modified selection procedure laid by the Railway Board consequent on restructuring of the cadre and assignment of seniority position of the applicant vis-a-vis the respondent No.5 (i.e. Shri N.K. Goswami, IOW/Gr-I) are emphatically denied herewith. The cause of assignment of higher seniority position to Shri N.K. Goswami has been explained in detailed in foregoing paragraphs of this written statement and there has not been any irregularity or illegality.

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Pradip M Singh

However, it is to reiterate herein the following aspects of the case which are quite relevant for the purpose :

(1) The applicant failed in the selection held in 1992 and hence he cannot claim seniority upon those who were empanelled in 1992.

(2) Respondent No.5 did not get chance to appear in 1992 selection and the next D.P.C. was held in 1994 for the year 1993 vacancies and the respondent No.5 i.e. Shri Goswami was found fit (modified selection) for the post of IOW/Grade I. This modified selection was held as per guidelines given by the Railway Board for conducting selection (under Rly. Board's letter dated 27.1.93) and as both the respondent No.5 and the applicant qualified/passed in this modified selection held in 1994 they were declared as selected. But as the respondent No.5 (Shri Goswami) who could not appear in 1992 due to administrative error, and passed in 1994 selection for the post of IOW/Grade I in first chance, and, as the applicant Shri Bhattacharya failed in 1992 selection, Shri Goswami (respondent No.5) had a right to claim seniority to the extent of his juniors who were empanelled in 1992 and as such the seniority position of Shri Goswami had to be shown above the applicant.

(3) As Shri Goswami was clearly selected for the same post of IOW/Grade I in 1994 modified selection, he could not be compelled to sit for his selection for same post of IOW/Grade I again till

④ This Seniority aspect has also been confirmed by the Honble Tribunal's order dated 22.4.99, holding selection in the manner of 1992 selection.

14. That, with regard to averments/allegations made by the applicant at paragraph 4.12 of the application it is to submit herein that all the allegations are incorrect and hence denied herewith. It is not correct that the promotion of the respondent No.5 to the post of Sr. Section Engineer with effect from 7.8.96 was at the expenses of the applicant. It is also clear from the seniority list of Sr. Section Engineer (Works) in scale Rs.7450 - 11,500/- as on 1.4.2001 circulated under General Manager (P), N.F. Railway, Maligaon's letter No. E/255/24 Pt.IV(E) dated 11.5.2001 that there were three incumbents between the applicant and the private respondent No.5 (Shri N.K. Goswami) who are senior to the applicant. As such the applicant cannot claim the benefit of promotion to the post of Senior Section Engineer with effect from 7.8.96 superseding the staff senior to the applicant. The allegation of arbitrary and illegal action on the part of the respondents or faulty fixation of seniority etc. of the applicant, are emphatically denied. The applicant has not stated as to how and of what timely promotion he has been deprived of and hence such vague allegations are untenable and cannot be accepted.

Further, it appears that his case is based on 'if/but/presumptions' etc. As appears from the application he mainly based on the presumption that he could gain seniority if the respondents No.5 Shri Goswami would have failed to qualify in the selection in the manner ordered to ^{be} held by the Hon'ble Tribunal (i.e. in the same manner as was held in 1992).

15. That, with regard to averments/allegations made in paragraphs 4.13 and 4.14 of the application it is submitted that nothing are accepted except those which are borne on records.

It is to state herein that in the impugned list dated 6.12.2001 (which is not a seniority list) the names and serial numbers of the applicant were correctly shown and the applicant himself volunteered to appear in the said selection of AEN/Gr-B, and raised no objection whatsoever against the notification/selection. It is only after the written test is over he has been raising the question of seniority, though there in the Group-B selection there is no provision of assigning marks on account of Seniority, and has abstained from appearing in the selection tests (written examination on 16.2.2002 and also examination held on 2.3.2002 for absentees). His allegation that he was aggrieved by the impugned list and that rule of law was violated are quite unfounded and out-come of after-thought and these are denied.

16. That, with regard to grounds as stated at paragraph 5 and relief sought at paragraph 8 of the application it is submitted that in view of what have been submitted in the foregoing paragraphs of this written statement, none of the grounds as put forward by the applicant are sustainable. The relief as prayed for by the applicant in paragraph 8 of the application are also not admissible in view of the fact of the case.

Further, the following aspects are also relevant which will show that the applicants allegations/contentions are not tenable.

(a) In 1992 selection the applicant failed to qualify.

(b) The next D.P.C. was held in 1994 and in that D.P.C. (modified selection) both the applicant and the respondent No.5 (Shri Goswami) qualified and were selected.

(c) In 1992 selection respondent No.5 could not appear (though he was eligible) due to administrative error.

(d) As the applicant failed in 1992 selection and the respondent No.5 qualified in the selection for IOW/ Grade-I post in the first chance, the seniority position of the respondent No.5 had to be fixed/ interpolated in the list of selected candidates of 1992 selection and thus the respondent No.5 ranked higher in seniority in comparison to the applicant.

(e) That, there have been many changes in office set up and officials in the office and various records since 1992 and 1999 period atleast had to be collected for finalisation of the case and proper compliance of the Hon'ble Tribunal's order. The present examination in the manner held in 1992 selection, could be conducted only when all relevant papers could be procured and gone through and there has been no intentional or avoidable delays in the matter of holding the Written examination of Sri Goswami.

The respondents have already tendered unqualified apology before the Hon'ble Tribunal for their inability to hold the examination earlier.

(f) After the judgement of the Hon'ble Tribunal in O.A. No.158/96 dated 12.4.99 the applicant never agitated about the matter of holding of the selection on the basis of rules that were prevalent in 1992 and he has come up with the case in 2002 only when AEN/Grade-I selection has been called and commenced.

(g) That the applicant volunteered for selection of AEN/Group-B by writing and raised to objection till the written examinations were over and selection process were at the last stage.

(h) The applicants contention that the selection of AEN/Group-B (i.e. Gazetted Cadre) should not have been finalised till the outcome of the O.A. No. 97/2002 filed by him or his present contentions are centered around the incorrect fixation of seniority of the applicant are not tenable.

It is submitted that, there are many procedural methods for ventilating the grievances by the employees and the Railway Administration always endeavours to meet the genuine grievances of its employees. But, from the fact of the case it will quite transpire that the applicant never wanted to know as to the steps taken by the Railway Administration to comply with the Hon'ble Tribunal's order. Rather, he kept complete mum even after issue of the seniority list published by the General Manager (P), N.F. Railway, Maligaon on 11.5.2001 and also even after publication of the notification calling for volunteers for filling up the posts of AEN/Group-B or after the circulation of the letter dated 6.12.01 and 7.12.01 through which the date of holding the written tests were intimated i.e. dates 19.1.02 for written examination and 2.2.02 for absentee written examination which were subsequently changed to 16.2.2002 and 2.3.2002. It appears that he filed the O.A. No. 97/2002 after about 5 months from date of issue of notification for the selection and after about 4 months from date of issuing the call letter and after the written examinations for the selection were over i.e. after the selection process commenced and at the end stage.

(i) That the applicant resorted to the hasty step in filing the cases without exhausting the normal procedure of ventilating the grievances and surprisingly after advancing his willingness to appear in the said selection test.

17. That the chronological development of the case is furnished hereunder for ready perusal :

- | | |
|---|-----------------------------|
| (i) No. of post of AEN/Group-B Gazetted | - 11 posts. |
| (ii) Date of notification for the posts | - <u>4.10.2001</u> ✓ |
| Submission of willingness by the applicant. | - 20.10.2001 ✓ |
| (iii) Call letter issued on | - 6.12.2001 |
| (iv) Written test held on | - <u>16.2.2002</u> |
| " " (absentee) held | - <u>2.3.2002</u> |
| (v) Viva-voce test held | - <u>3.4.2002</u> |
| (vi) Panel formed | - <u>3.4.2002</u> |
| With GM/N.F. Railway's approved (Ref. O.O. dated 4.4.2002) | |
| (vii) Date of filing of O.A. No.97/2002 | - $\frac{22.4.02}{1.4.02}$ |
| (viii) " " " O.A. No.155/2002 | - $\frac{16.5.02}{17.5.02}$ |
| (ix) O.O. No.E/254/21/Conf V dated 4.4.2002 issued by GM(P)/N.F.Rly. posting all selected persons. xxxx | - 4.4.2002 |
| (x)A. All such persons have already joined as AEN/Group-B. | - Panel Operated. |
| (xi) Order of the Hon'ble Tribunal passed in the applications O.A. No. 97/2001 & O.A. No.155/2002 which read as under : | |

17.5.2002

"It is made clear that any promotion made shall be subject to the outcome of this application as ordered in O.A. No. 97/2002."

xii) All the relevant supporting documents are annexed hereto as 'X' Series.

xiii) Applicants prayers (in brief) in OA 155/2002 :

(i) to quash Office Order dated 4.4.2002.

(ii) to promote him as AEN from date of his juniors have been promoted.

(iii) to determine his seniority in IOW/Gr-I in terms of order of the Hon'ble Tribunal dated 22.4.99 in O.A. No. 158/99.

(iv) to stay/suspend operation of order dated 4.4.2002.

18. That, the selection procedure of AEN/Group-B post is over and the persons empanelled have been promoted and they have joined in the new posts and Sri H.K. Gesswani who appeared in the selection could not come out successful in the selection of AEN/Group-B.

19.. That, all actions taken in the case are quite legal, valid and proper and in consonance to the latest guidelines prescribed by the Railway Board.

20. That, the answering respondents crave leave of the Hon'ble Tribunal to permit them to file additional written statement in future, in case the same is found to be necessary for the ends of Justice.

21. That, under the facts and circumstances of the case, as stated above the instant application is not maintainable and is also liable to be dismissed.

VERIFICATION

I, Pradeep Kumar Singh son of
Bhup Lal Singh aged 35 years,
 at present working as Dy CPO/G.
 of N.F. Railway, do hereby solemnly affirm and state that
 the statements made at paragraphs 1 and 5 are true to my
 knowledge and those made at paragraphs 10, 11(a), 12, 13 and
 15 are true to my information as gathered from records which
 I believe to be true and the rest are my humble submissions
 before the Hon'ble Tribunal.

Pradeep Kumar Singh
 FOR AND ON BEHALF OF
 UNION OF INDIA.

Chief Personal Officer (CPO)
 N.F. Railway Station

H. F. ...

PROVISIONAL SENIORITY LIST OF SR. SECTION ENGINEER (WORKS) IN SCALE RS. 7450-11500/- AS ON 1/2/2001 OF CIVIL ENGINEERING
 DEPARTMENT CATEGORY: SR. SECTION ENGINEER (WORKS) SCALE OF PAY: RS. 7450-11500/- CLASSIFICATION: DEPARTMENTAL CRITERIA-
 NON SELECTION

Sr	Name in order of Seniority	Comm-unity	Designation and place of posting	Date of Birth	Date of Apptt. to Rly.	Date of promotion to grade	Confirm Officially	REMARKS
1	2	3	4	5	6	7	8	
1.	Sri Subhendu Sarkar.	SC	SSE(W)/GM/CON/N.F.R	1/7/41	4/5/64	14/2/80	Offg.	
2.	" R.C. Sutarachar.	SC	-do-/APDJ	31/10/46	9/5/77	1/9/91	-do-	
3.	" Baiya Nath Das.	SC	-do-/MIR	2/1/56	27/12/77	1/7/93	-do-	
4.	" Deepak Majumdar.	SC	-do-/LMG	15/2/54	6/8/80	1/3/93	-do-	
5.	" Sukumar Das.	SC	-do-/GM/CON/NFR		2/5/82	3/12/93	-do-	
6.	" C.M. Mandal.	SC	-do-/ -do-	1/1/52	7/9/82	3/12/93	-do-	
7.	" Sandip Sarkar.	UR	-do-/ -do-	4/12/62		3/12/93	-do-	
8.	" Hiranya Kalita.	UR	-do-/ -do-	23/2/64	22/8/91	25/11/94	-do-	
9.	" Pallab Bordoloi.	UR	-do-/ -do-	1/7/65	1/8/91	25/11/94	-do-	
10.	" Narayan Krishna Goswami.	UR	-do-/SEN/POW/MIG	1/9/55	4/5/80	7/8/96	-do-	
11.	" R.C. Mandal.	SC	-do-/GM/CON	5/8/50	29/5/81	2-3/96	-do-	
12.	" Gantan Deb.	UR	-do-/ -do-	9/5/57	20/2/82	10/6/97	-do-	
13.	" Sarajindra Kr. Sinha.	UR	-do-/LMG	5/8/43	20/9/65	12/5/92	-do-	
14.	" S.A. Bhattacharyya.	UR	SSE(W)/Sr. DEM/MIG	1/12/53	19/4/80	12/8/97	-do-	
15.	" Intan Bikash Majumdar.	UR	-do-/LMG	15/8/54	24/1/80	19/6/97	-do-	
16.	" Golok Das.	UR	-do-/ -do- N.F.Rly.	1/7/55	29/2/81	15/10/98	-do-	

Contd...2/

17. SRI W.L. K. R.	UN	SSE/W/CM/CON/LIC	5/1/59	29/1/81	15/10/30	0 FFE
18. SRI W.L. K. R.	UN	-do-/APD	21/7/53	21/7/79	15/10/30	-do-
19. " K. R. K. R.	UN	-do-/FSE	1/3/55	30/1/81	15/10/30	-do-
20. " Arup Chakraborty.	OR	-do-/ZFC/APD	3/1/54	9/5/79	15/10/30	-do-
21. " Ashin Chakraborty.	UN	-do-/KIH	4/1/57	9/5/79	15/10/30	-do-
22. " Tarek M. Al-Hakim.	UN	-do-/Sr. DEN/MIC	1/1/59	15/8/80	15/10/30	-do-
23. " L. S. K. R.	UN	-do-/APD	1/12/56	6/8/80	15/10/30	-do-
24. " Arup Chakraborty.	UN	-do-/KIH	4/1/57	1/8/79	15/10/30	-do-
25. " Arup Chakraborty.	UN	-do-/CM/CON/HR	1/8/55	2/2/81	15/10/30	-do-
26. " S. K. R.	UN	-do-/HR	16/10/56	4/8/80	15/10/30	-do-
27. " S. K. R.	UN	-do-/KIH	3/1/55	4/8/80	15/10/30	-do-
28. " S. K. R.	UN	-do-/CM/CON/HR	1/1/56	12/9/80	15/10/30	-do-
29. " S. K. R.	UN	-do-/KIH	1/1/56	12/9/80	15/10/30	-do-
30. " S. K. R.	UN	-do-/APD	3/3/55	4/8/80	15/10/30	-do-
31. " K. R. K. R.	UN	SSE(W)/Sr. DEN/LIC	25/1/59	31/1/81	15/10/30	-do-
32. " P. R. K. R.	UN	-do-/LIC	1/8/58	5/2/81	15/10/30	-do-
33. " P. R. K. R.	UN	-do-/Sr. DEN/LIC	1/11/41	16/11/60	15/10/30	-do-
34. " P. R. K. R.	UN	-do-/CM/CON/HR	3/3/58	27/2/85	15/10/30	-do-
35. " P. R. K. R.	UN	-do-/CM/CON/HR	1/1/53	22/3/85	15/10/30	-do-
36. " P. R. K. R.	UN	-do-/CM/CON/HR	23/12/57	2/3/85	15/10/30	-do-
37. " P. R. K. R.	UN	-do-/CM/CON/HR	22/2/60	2/9/87	15/10/30	-do-
38. " P. R. K. R.	UN	-do-/CM/CON/HR	1/4/62	16/3/89	15/10/30	-do-
39. " P. R. K. R.	UN	-do-/CM/CON/HR	20/4/89	22/6/2000	15/10/30	-do-

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NO CIVILIAN ASSIGNMENT
IN THE ARMY OF THE UNITED STATES

- 23 -

-3-

for General (P)
11/5/2001

NO.E/255/24/R-IV(E)

Copy forwarded for information and necessary action to:

1. CM/Con/MLG. with- spare copies.
2. DRM(P)/KIR, APDJ, LMG & TSK with- spare copies.
3. Sr. DEN/KIR, APDJ, LMG, TSK & MLG with- spare copies.
4. SEN/PCN/MLG with - spare copies
5. GS/NFREC/HO with- spare copies
6. GS/NHEMU/PNC with__ spare copies

N.B.: Any representation of which the staff desires to make regarding their relative position in the list should be submitted to this office within one month from the date of issue. Seniority list action will be taken on representation if any submit after expiry of the target.

for General (P)
11/5/01

75

(Copy of Railway Board's letter No. PC-III/91/CRC/1 dated 27.1.93.)

Sub:- Restructuring of certain Group C&D cadres.

The Ministry of Railways have had under review Cadres of certain Groups of C&D staff in consultation with the staff side in the Committee of the Departmental Council of the JCM(Rlys) for some time. The Ministry of Railways with the approval of the President have decided that the Group C&D categories of staff as indicated in the Annexure (Department wise) to this letter be restructured in accordance with the revised percentages indicated therein. While implementing these orders the following detailed instructions shall be strictly and carefully adhered to:

1. This restructuring of cadres will be with reference to the sanctioned cadre strength on 1.3.93. The staff who will be placed in higher grades as a result of implementation of these orders will draw pay in higher grade w.e.f. 1.3.93.
2. These orders will be applicable on the regular cadres of the Open Line establishments including Workshops and Production Units and will include Rest Giver & Leave Reserve posts.
- 2.1 These orders will not be applicable to ex-cadre & work-charged posts which will continue to be based on worth of charges.
- 2.2 These instructions will also not be applicable to construction Units and Projects. However, for creation of posts in these Units the percentage distribution may be generally kept in view, taking into account the availability of funds.
3. Staff selected and posted against the additional higher grade posts as a result of restructuring will have their pay fixed under Rule 1316(FR-22-C)RII w.e.f. 1.3.93 with necessary option for pay fixation as per extant instructions.

Applica-
bility to
various
cadre.

Pay
fixation
FR-22-C)

existing classification of posts covered by these restructuring orders as selection and non-selection as the case may be remain unchanged. However for the purpose of implementation of these orders, if any individual Railway servant become due for promotion to a post classified as a selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of services records and Confidential Reports without holding any written and/or viva voce test. Similarly for posts classified as non-selection at the time of this restructuring the same procedure as above will be followed. Naturally under this procedure the categorisation as 'outstanding' will not figure in the panels. This modified selection procedure has been decided upon by the Ministry of Railways as a one time exception by special dispensation, in view of the numbers involved, with the objective of expediting the implementation of these orders.

4. The existing classification of the posts covered by these restructuring orders as selection and non-selection as the case may be remain unchanged. However for the purpose of implementation of these orders, if any individual Railway servant become due for promotion to a post classified as a selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of services records and Confidential Reports without holding any written and/or viva voce test. Similarly for posts classified as non-selection at the time of this restructuring the same procedure as above will be followed. Naturally under this procedure the categorisation as 'outstanding' will not figure in the panels. This modified selection procedure has been decided upon by the Ministry of Railways as a one time exception by special dispensation, in view of the numbers involved, with the objective of expediting the implementation of these orders.

4.1. Vacancies existing on 1.3.93 except direct recruitment posts and those arising on that date from this restructuring including chain/resultant vacancies should be filled in the following sequence:
i) from panels approved on or before 1.3.93 and current on that date; (ii) and the balance in the manner indicated in para 4 above.

4.2 Such selections which have not been finalised by 1.3.93 should be cancelled/abandoned.

4.3 All vacancies arising from 2.3.93 will be filled by normal selection procedure.

4.4. Extant instructions for D&A/Vigilance clearance will be applicable for effecting promotions under these orders with the critical date being 1.3.93.

minimum years service in grade.

5. While implementing the restructuring orders, instructions regarding minimum period of service for promotion with Gr. 'C' issued under Board's letter No. E(NG) I/85/PM-I/12(RRC) dated 19.2.87 and Board's letter No. E(NG) I/75/PM-I/44 dated 26.5.84 will stand modified to the extent that the minimum eligibility period for the first promotion for filling up vacancies covered in Para 4.1 would be reduced to one year as a one time exception. Thereafter the normal minimum eligibility condition of 2 years will apply.

(Contd. ...4/-)

Basic functions, duties and responsibilities.

5. In all categories covered by this letter even though more posts in higher scales may have been introduced as a result of restructuring the basic functions, duties and responsibilities attached to their posts at present will continue, to which may be added such other duties and responsibilities as considered appropriate.

Excess No. of posts.

7. If prior to issue of this letter the number of posts existing in any grade in any particular cadre exceeds the number admissible on the revised percentages, the excess may be allowed to continue to be phased out progressively with the vacation of the posts by the existing incumbent.

Specific Instructions given in the foot-note of Annexure.

8. While implementing these orders specific instructions given in the foot note if any, under each category in the enclosed annexure should be strictly and carefully adhered to.

Annual review.

9. Annual reviews should be suspended till further instructions from this Office.

Provision of reservation.

10. The existing instructions with regard to reservation of SC/ST will continue to apply while filling additional vacancies in the higher grades arising as a result of restructuring.

Retired Employees.

11. Employees who retire/resign in between the period from 1.3.93 i.e. the date of effect of this restructuring to the date of actual implementation of these orders, will be eligible for the fixation benefits and arrears under these orders w.e.f. 1.3.93.

Direct recruitment percentages.

12. Direct recruitment percentages will not be applicable to the additional vacancies arising out of these restructuring orders as on 1.3.93. The percentages will apply for normal vacancies arising on or after 2.3.93. Also the direct recruitment quota as on 28.2.93 will be maintained.

Pin pointing of posts.

13. Excepting the highest grade posts in each category, the promotion should be effected as is where is basis, as a result of this restructuring. However the administrative layer on pin-point these posts as per administrative requirement, as and when the incumbent vacates the post on retirement, promotion transfer etc.

14. The Railway Board should in the Railways
should be made to start in the
convenient to the
administration at any particular location and
need not necessarily be in the same grades
15. Such of the officers who caused promotion
before 1.3.93 in these orders and stand debarred
for promotion will be considered for promotion,
in relaxation of the usual orders as a one
time exception, if they indicate in writing
that they are willing to be considered for
such promotion against the vacancies existing
on 1.3.93 and provided due to restructuring.
This relaxation will not be applicable to
vacancies arising after 1.3.93.
16. Instructions for improvement of productivity,
nationalisation and economy are being issued
separately.
17. The Railways will carefully assess requirement
of funds to meet the restructuring for
the year 1993-94 and include the same in the
revised Budget for 1993-94. Payment due to
staff on account of restructuring should
be made and booked in the Financial Year 1993-94.
The Board assure that the restructuring and
posting of staff into various posts of selection
should be completed expeditiously.

Doc No. 27

Annexure - X
(Series) 60
X-1

PROFORMA (CONTINUED)

1. NAME (in full Block letter) - S K. BHATTACHARYA.
2. DESIGNATION & STATION - Sr. S.E./W/East / P.W.D.
3. WORKING UNDER - Sr. DEN / M.L.G.
4. EDUCATIONAL QUALIFICATION - Passed Part III Final Diploma in Engineering
5. DATE OF BIRTH - 1st Nov. 1953.
6. Date of regular promotion to following grades:-

- (a) Rs. 200-400/- - 27-12-77.
- (b) Rs. 500-500/- - 28-1-88.
- (c) Rs. 550-550/- - 29-11-89.

7. Whether the candidate is eligible for election for election? - Yes.
8. Language of candidate for English? - English.
9. Name of the languages to be used in the examination (Word or English)? - English.
10. Date of the application to the Controlling Officer - 20.10.2000.
11. Signature of the candidate - S. K. Bhattacharya

I hereby declare that the particulars furnished by me are true to the best of my knowledge and belief. I also declare that if my information furnished by me is found incorrect, I shall be liable for cancellation of my candidature.

S. K. Bhattacharya
SIGNATURE OF THE CANDIDATE.

Certificate to be furnished by the Controlling Officer:-

It is certified that, Shri S. K. Bhattacharya, designation Sr. S.E./W/East has submitted the application with service particulars within the target date and the same are found to be correct as per records.

The application is forwarded

SIGNATURE OF THE CONTROLLING OFFICER
(Name of the Controlling Officer)

28
 145
 72
 81

DOCUMENT - No II
 LIST OF THE CANDIDATES WHO HAVE GIVEN WILLINGNESS AND ARE
 ELIGIBLE TO APPEAR IN THE WRITTEN EXAMINATION FOR SELECTION FOR
 THE POST OF AEN/GROUP-B* AGAINST 10% VACANCIES (IN ORDER OF
 SENIORITY)

Sl.	NAME OF THE CANDIDATES	SC/ST	DESIGNATION & STATION
01	SHRI N LASKAR	SC	SSE/PW/SAFETY/LMG
02	SHRI A.C. RISHI	SC	SE(WORKS)/CON/SCL
03	SHRI M. DEORI	ST	SSE(BRIDGE)/LMG
04	SHRI VIR BHAN	SC	SSE/PW/RPAN
05	SHRI K.K. LAKRA	ST	SSE/PW/APDJ
06	SHRI G.C. SAHA	SC	SSE(BRIDGE/SGU)
07	SHRI K.N. PATIR	ST	SE/WS/CBTS/TSK
08	SHRI B.N. DAS	SC	SSE(WORKS)/KNE
09	SHRI A.C. DAS	ST	SE/DRG./LMG
10	SHRI SUKUMAR DAS	SC	SSE(WORKS)/CON/SCL
11	SHRI C.M. MANDAL	SC	SSE/W/CON/APDJ
12	SHRI NANNU SINGH	SC	SSE/BRIDGE/HQ
13	SHRI UTPAL ROY	-	SSE/PW/KIR
14	SHRI SANDEEP SARKAR	-	SR SE/WORKS/GM(CON)
15	SHRI PRASANNA BHATTA	-	SSE/TM/CE/MLG
16	SHRI K.N. RABIDAS	SC	SSE/USFD/CE/MLG
17	SHRI RAJEEB KUMAR BANIK	-	SR COSLE OPERATOR/CE
18	SHRI H. KALITA	-	SSE(W)/CON/MLG
19	SHRI DAFEDAR SINGH	SC	SE/PW/TSK
20	SHRI S. CHAKRABORTY	-	SR SE/PW/KIR
21	SHRI A.K. DEY	-	SSE/PW/CE/MLG
22	SHRI K.K. SINGH	-	SSE/PW/CE/MLG
23	SHRI D. MUKHOPADHYAY	-	SSE/PW/CE/MLG
24	SHRI T.N. SINGH	-	SSE/PW/LMG
25	SHRI P. RAM	SC	SSE/PW/GHY
26	SHRI SURYABHAN	SC	SSE/PW/KIR
27	SHRI A.A. DEKA	-	SSE/PW/APDJ
28	SHRI S.N. BRAHMA	ST	SSE/PW/TSK
29	SHRI P.K. GHATAK	-	CDM/LMG
30	SHRI U.K. GUHA	-	CDM/GM(CON)
31	SHRI N.K. GOSWAMI	-	SSE/W/FCW/MLG
32	SHRI R.C. MANDAL	SC	SSE(W)/CON/NMZ
33	SHRI GAUTAM DEV	-	SSE(WORKS)/GM(CON)
34	SHRI P.K. GOGOI	-	SSE(P.W)/TSK
35	SHRI DIGANTA PHUKAN	-	CDM/GM(CON)/MLG
36	SHRI D.K. CHANDRA	-	CDM/GM(CON)/MLG
37	SHRI U.C. PAUL	-	CDM/KIR
38	SHRI S.K. NAG	-	CDM/APDJ
39	SHRI R.C. DEBNATH	-	SE/BRIDGE/RPAN
40	SHRI SHYAMAL GHOSH	-	SE/BRIDGE/PNO
41	SHRI DIPANKAR BHATTACHARJEE	-	SSE/PW/LMG

Contd. to page 2

06.12.01
 APO/GAZ/MLG

1) DESIGN - RAW/RC, BRIDGE ETC.
 2) Type of Beam, Bending moment and ST

Contd. to page 2

42	SHRI KINKAR DAS	EE/DRAWING/KIR
43	SHRI S K BHATTACHARYA	SSE(W)/SR DE/MLG
44	SHRI GULOK DAS	SSE(W)/GM(CON)
45	SHRI DILIP FUMAR DHAS	SSE(W)/GM(CON)
46	SHRI BISWAJIT ROY	SSE(W)/APDJ
47	SHRI ASHIM CHAKRABORTY	SSE(W)/GM(CON)
48	SHRI ASHOK CHAKRABORTY	SSE(W)/APDJ
49	SHRI KRISHNENDU BHATTACHARJEE	SSE(W)/APDJ
50	SHRI KAMALENDU BHATTACHARJEE	SSE/PW/LMC
51	SHRI S S CHAKRABORTY	SSE(PW)/KIR
52	SHRI M S SARKAR	SSE(PW)/APDJ
53	SHRI R N CHOUDHURY	CDM/CE/MLG
54	SHRI DILIP BHATTACHARYA	CDM/APDJ
55	SHRI S MUKHERJEE	CDM/LMG
56	SMT PALLABI BARTHAKUR	CDM/GM(CON)
57	SHRI J K SHARMA	CDM/KIR
58	SHRI M SAIKI	CDM/CE/MLG
59	SHRI L K BHOWMICK	CDM/KIR
60	SHRI G K BHATTACHARYA	SSE(W)/APDJ
61	SHRI S K ACHARYA	SSE/PW/APDJ
62	SHRI S K PAUL	SSE/PW/LMG
63	SHRI NIRUPAM DAS	SC SSE/PW/GM(CON)
64	SHRI T NANDA	SC SSE/PW/LMG
65	SHRI S K DAS	SC SSE/PW/HQ
66	SHRI S S DAS	SC SSE/PW/HQ LMG
67	SHRI S K VERMA	SSE/PW/KIR
68	SHRI S K BASAK	CDM/KIR(ON)
69	SHRI PARTHA CHAKRABORTY	CDM/DE/MLG
70	SHRI A BANDOPADHYAY	CDM/WORK JER
71	SHRI S MITRA	SC GM(CON)
72	SHRI D K GHOSH	SSE/IF
73	SHRI F K ROY TH	SSE/GM(CON)
74	SHRI S S LASKAR	SSE(W)/SR DE/MLG
75	SHRI P C K	SSE(W)/LMG

6/5/2011
10/01/11/MLG

Office of the
Attorney General
Washington, D.C.

10-11-68

IN WRITING, this is to notify that the date of WRITTEN EXAM. and WRITTEN ORAL (if required) in connection with the selection of B. Sc. (Hons.) has been fixed as under:-

15.01.2002 (3 and 4)

From 10⁰⁰ to 13.00 hours.

CEASE REPLY to Malaponte's Office

The eligible persons under zone of considerations shown in enclosed (iv-A) should be directed to appear in the vision examination accordingly. WITHOUT FAIL on the above date & time. It will be the sole responsibility of the Controlling Officers to ensure timely passing of the concerned staff for the above vision examination, with full liaison to this office.

ABSENTEE WRITTEN EXPLANATION

Date _____ (01.07.2022 Saturday)
Time: 10.00 to 13.00 hour.

Venue Chennai Railway Mall, Chennai

Absentees from examination on the above date will be held only if there is any absentee on the date of first written examination (i.e. on 19.01.2007) provided they were absent on verifiable genuine grounds with proper recommendation by the Controlling Officer. A list of such candidates with reasons given in the main written examination will be furnished by the Officer in Charge Controlling Officers for obtaining reasons thereof, with supporting documents and forwarding to this office immediately. It should be brought to the notice of all eligible staff shown in Annexure-A that no more absentee test other than fixed on 22.02.2007 will be held.

A copy of the BUS is enclosed as Attachment-B for wide circulation amongst the staff concerned.

DALE ELLIOTT

FOR GE. STRAL. MANAGER(P)

10/12/01

NORTH EAST FRONTIER RAILWAY

Attendance sheet for the Written examination for Selection for the post of APN/Group-B' against 70% vacancies to be held on 16.02.2002 at 10.00 hours in CE/Maligaon's office.

(1)	(2)	(3)	(4)	(5)
Name of the Candidates	Designation & Station	Signature of the Candidates	Remarks	
01 Shri J.N. Majumari (ST) ✓	SSE/P.Way/P&G	Absent	Sr. DE/TSK	
02 Shri N. Laskar (SC) ✓	SSE/PW/Safety/MLG	<i>[Signature]</i>	Attended PSC	
03 Shri A.C. Rishi (SC) ✓	SE(Works)/CON/SCL	Absent	Dy. CE(Con)/SCL	
04 Shri M. Deori (ST) ✓	SSE(Bridge)/LMG	Absent	Dy. CE/BL/MLG	
05 Shri Vir Bhan (SC) ✓	SSE(P.Way)/R&P	<i>[Signature]</i>		
06 Shri K.K. Lohra (ST)	SSE(P.Way)/APDJ	<i>[Signature]</i>		
07 Shri G.C. Saha (SC) ✓	SSE/Bridge/SGUJ	<i>[Signature]</i>		
08 Shri K.N. Patir (ST)	SE/WS/CDTS/TSK	<i>[Signature]</i>		
09 Shri B.N. Das (SC) ✓	SSE(Works)/KNE	Absent	Sr. DEN/KIR	
10 Shri A.C. Das (SC) ✓	SE(Div)/LMG	<i>[Signature]</i>	Unavailability PSC	
11 Shri Sukumar Das (SC) ✓	SSE(Works)/CON/SCL	Absent	Dy CE(Con)/SCL	
12 Shri C.M. Maadul (SC) ✓	SSE(Works)/CON/APDJ	Absent	Dy. CE(Con)/APDJ	
13 Shri Nannu Singh (SC) ✓	SSE/Bridge/HQ	<i>[Signature]</i>	Qualified	
14 Shri Upul Roy ✓	SSE(P.Way)/KIR	<i>[Signature]</i>		
15 Shri Sandeep Barter	SSE(Works)/CM(CON)	<i>[Signature]</i>		
16 Shri Prasanna Bhattacharya ✓	SSE/T&CE/MLG	Absent	CE/MLG	
17 Shri N. K. Bhattacharya (SC) ✓	SSE/USFD/CE/MLG	<i>[Signature]</i>	Unavailability PSC	
18 Shri Paje M. K. Braik	Sr. Conductor/CE/MLG	<i>[Signature]</i>		
19 Shri H. Kalita ✓	SSE(W)/CON/MLG	Absent	Dy. CE(Con)/PL/MLG	
20 Shri. Devedar Singh (SC) ✓	SE/PW/TSK	29/16.2.02		
21 Shri S. Chakraborty ✓	Sr. SSE/PW/KIR AFO/MTS	<i>[Signature]</i>		
22 Shri A.K. Dey ✓	SSE/PW/CE/MLG	Absent	CE/MLG	
23 Shri K.K. Singh	SSE/PW/CE/MLG	<i>[Signature]</i>		
24 Shri D. Mahapatray	SSE/PW/CE/MLG	<i>[Signature]</i>		
25 Shri T.M. Singh ✓	SSE/PW/MLG	<i>[Signature]</i>		
26 Shri I. Rana (SC)	SSE/PW/CHV	<i>[Signature]</i>		
27 Shri Suryaborn (SC) ✓	SSE/PW/KIR	<i>[Signature]</i>		
28 Shri A.A. Dolma (ST) ✓	SSE/PW/APDJ	<i>[Signature]</i>		

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29	Shri S.N. Brahma (ST)	SSE/PW/TSK		
30	Shri P.K. Ghatak	DM/LMG	16/02/02	Udy for PSC
31	Shri U.K. Guha	CDM/GM(CON)/MLG	Absent	Sr. DEN/MLG
32	Shri N.K. Goswami	SSE(DRA)/GM/MLG	Udy for	
33	Shri R.C. Mandal (SC)	SSE(W)/CON/NMZ	Absent	Sick on RMC SEN
34	Shri Gautam Dev	SSE(W)/CON/NMZ		
35	Shri P.K. Gogoi	SSE(Works)/GM(CON)	Absent	Sr. CE(CON)/Agenda
36	Shri Diganta Phukan	SSE(PW)/TSK		Dy. CE(CON)/Agenda
37	Shri D.K. Chandra	CDM/GM(CON)/MLG	Absent	Dy. CE(CON)/Agenda
38	Shri U.C. Paul	CDM/GM(CON)/MLG	Absent	Dy. CE(CON)/MLG
39	Shri S.K. Nag	CDM/KIR	Absent	Sr. DEN/KIR
40	Shri R.C. Debnath	CDM/APDJ	Absent	Sr. DEN/APDJ
41	Shri Shyamal Ghosh	SE/Bridge/RPAN	Absent	Dy. CE/AL/MLG
42	Shri Shyamal Ghosh	SE/Bridge/PNO	Absent	-do-
43	Shri Dipankar Bhattacharjee	SSE/PW/MLG		
44	Shri Kinkar Das (SC)	SE/Drawing/KIR	16/2/02	
45	Shri S.K. Bhattacharjee	SSE(W)/Sr. DEN/MLG	Kinkar Das	
46	Shri Golok Das	SSE(W)/GM(CON)	Absent	Sr. DEN/MLG
47	Shri Dilip Kumar Dhar	SSE(W)/GM(CON)	Absent	Dy. CE(CON)/MLG
48	Shri Biswajit Roy	SSE(W)/APDJ	Absent	
49	Shri Ashim Chakraborty	SSE(W)/GM(CON) NMx	Absent	
50	Shri T.C. Thakuria	SSE(W)/GHY		
51	Shri Ashok Chakraborty	SSE(W)/APDJ	16/2/02	
52	Shri Krishnendu Bhattacharjee	SSE(W)/APDJ	Absent	
53	Shri Kamalendu Bhattacharjee	SSE(PW)/LMG	Absent	
54	Shri S.S. Chakraborty	SSE(P.Wy)/KIR	16/2/02	
55	Shri M.S. Sarker	SSE(P.W)/APDJ	Absent	
56	Shri U.C. Das (ST)	SSE(PW)/CSO/MLG	16/2/02	
57	Shri R.N. Choudhury	CDM/CE/MLG	Absent	
58	Shri Dilip Bhattacharjee	CDM/APDJ	Schp Bhattacharjee	
59	Shri S. Mukherjee	CDM/LMG	from 16/2/02	
60	Shri Pallabi Barik	CDM/GM(CON)	P Barik	
61	Shri J.K. Sharma	CDM/KIR	16/2/02	
62	Shri M. Saikia	CDM/CE/MLG	from 16/2/02	
63	Shri T.K. Bhattacharjee	CDM/KIR	Absent	
64	Shri G. Chakraborty	SSE/PW/APDJ	T.K. Bhattacharjee	

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Document No. 32

FOR THE FRONTIER RAILWAY

ATTENDANCE SHEET FOR THE ABSENTEE WRITTEN EXAMINATION FOR SELECTION FOR THE POST OF AEN/GRUP-B AGAINST 70% VACANCIES TO BE HELD ON 02-03-2002

SN	Name of the Candidates	Designation & Station	Signature of the Candidates	Remarks
1	Shri J.N. Daimari (ST)	SSE/P.Way/FKG	22/03/02	
2	Shri A.C. Rishi (SC)	SE(Works)/CON/SCL	Absent	
3	Shri M. Deon (ST)	SSE(Bridge)/LMG	22/03/02	
4	Shri B.N. Das (SC)	SSE(Works)/KNE	22/03/02	
5	Shri Sukumar Das (SC)	SSE(Works)/CON/SCL	22/03/02	
6	Shri C.M. Mandal (SC)	SSE(Works)/CON/APDJ	22/03/02	
7	Shri Prasanna Bhatta	SSE/TM/CE/MLG	Absent	
8	Shri H. Kalita	SSE(W)/CON/MLG	UN-WILLING	
9	Shri A.K. Dey	SSE/PW/CE/MLG	Absent	
10	Shri P.K. Ghatak	CDM/BRIDGE/ARDO	22/03/02	
11	Shri N.K. Goswami	SSE(W)/CON/NMZ	22/03/02	
12	Shri Gautam Dev	SSE(Works)/GM(CON)	Absent	
13	Shri Digantha Phukan	CDM/GM(CON)/MLG	Absent	
14	Shri D.K. Chandra	CDM/GM(CON)/MLG	EXPIRED	
15	Shri U.C. Paul	CDM/KIR	22/03/02	
16	Shri S.K. Nag	CDM/APDJ	UN-WILLING	
17	Shri R.C. Deb Nath	SE/Bridge/PAW	Absent	
18	Shri Shyamal Ghosh	SE/Bridge/PNO	22/03/02	
19	Shri S.K. Bhattacharjee	SSE/W/Gr.DEN/MLG	Absent	
20	Shri Golok Das	SSE(W)/GM(CON)	22/03/02	
21	Shri Dilip Kumar Dhar	SSE(W)/GM(CON)	Absent	
22	Shri Biswajit Roy	SSE(W)/APDJ	22/03/02	
23	Shri Ashim Chakraborty	SSE(W)/GM(CON)	22/03/02	
24	Shri Ashok Chakraborty	SSE(W)/APDJ	22/03/02	
25	Shri Krishnendu Bhattacharjee	SSE(W)/APDJ	22/03/02	
26	Shri Kamalendu Bhattacharjee	SSE/PW/MLG	22/03/02	
27	Shri M.S. Sarkar	SSE(P.W)/APDJ	22/03/02	
28	Shri R.N. Choudhury	CDM/CE/MLG	22/03/02	
29	Shri M. Saikia	CDM/CE/MLG	22/03/02	
30	Shri S.K. Acharjee	SSE/PW/APDJ	Absent	
31	Shri Khokan Ch. Roy (SC)	SSE/PW/APDJ	22/03/02	
32	Shri T. Nanda	SSE/PW/MLG	22/03/02	
33	Shri S.K. Verma	SE/PW/KIR	22/03/02	
34	Shri Partha Chakraborty	SE/Br./LMG	UN-WILLING	
35	Shri A. Bondopadhyay	SSE/Works/KIR	22/03/02	
36	Shri S. Mitra	SSE/GM(CON)	22/03/02	
37	Shri P.K. Rouih	SSE/GM(CON)	22/03/02	

PRESENT : 24
ABSENT : 09
UN-WILLING : 03
EXPIRED : 01

37

2/3
02.03.02
22/03/02

CLASSIFIED

Confidential

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NORTHEAST FRONTIER RAILWAYNOTE:

No. E/254/21/CON Pt. V

Malignon, dtd. 04.04.2002

Reg: Provisional panel of AEN/Gr-B
against 70% vacancies.

The following candidates have been empanelled
for promotion to AEN/Gr-B against 70% vacancies :-

1. Shri Nannu Singh (SC), SSE/Br./HQ. (12)
2. Shri Ntpal Roy (UR), SSE/PW/KIR. (13)
3. Shri Sekhar Chakraborty (UR), SSE/PW/MTS/APDJ. (20)
4. Shri T.N. Singh (UR), SSE/PW/LFG. (24)
5. Shri Antu Anjan Deka (ST), SSE/PW/MG/RNY. (27)
6. Shri Asim Chakraborty (UR), SSE/W/NMX. (47)
7. Shri Jayanta Kr. Sharma (UR), SE/W/KIR. (51)
8. Shri T.K. Bhowmick (UR), SE/DRG/KIR. (59)
9. Shri T. Nanda (UR), SSE/PW/LMG. (64)
10. Shri Sambhu Sekhar Das (SC), SSE/PW/Hill/LMG. (65)
11. Shri Shib Sankar Sarkar (UR), SE/PW/NLP.

The above panel is PROVISIONAL.

The provisional panel has been approved by M.
on 03-04-2002.

Necessary action may be processed for posting
of the staff concerned.

King
4/4/02
Dy. CPO/Gaz.

03/PO

N.E. RAILWAYOFFICE ORDER No. 10/2002(ENGG.)Sub : Transfer/posting of officers.

The following transfer/posting orders are issued with immediate effect :-

- (1) Shri Nannu Singh, SSE/Bt/IQ/Maligaon, on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted under GM(Con).
- (2) Shri Utpal Roy, SSE(P.Way)/Safety/KIR, on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted under GM(Con).
- (3) Shri Sekhar Chakraborty, SSE/P.Way(MTS)/APDJ, on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted under GM(Con).
- (4) Shri T.N.Singh, SSE/P.Way/LFG, on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted as ADEN/NLP vice Shri K.Banerjee, under orders of transfer to Eastern Railway.
- (5) Shri K.Banerjee, on relief, is spared from NF Railway in terms of Rly. Board's order No. E(O)III-2001/AE/556(O), dt.03-01-2002.
- (6) Shri A.A.Deka, SSE/P.Way/MG/RNY, on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted as AXEN/TT/Special/Maligaon against the existing vacancy.
- (7) Shri Ashim Chakraborty, SSE/Works/NMX, on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted as ADEN/Spl/APDJ vice Shri J.Chakraborty.
- (8) Shri Jnendra Chakraborty, ADEN/Spl/APDJ, is transferred and posted as ADEN/MBZ vice Shri M.B.Dekate.
- (9) Shri M.B.Dekate, ADEN/MBZ, is transferred and posted as ADEN/BG/BOE vice Shri B.Mishra.
- (10) Shri B.Mishra (Item-8 above), who was temporarily posted as ADEN/BG/BOE, is now posted back as ADEN/HQ/KIR.
- (11) Shri J.K.Sharma, SSE/Drawing/KIR, on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted as AXEN/LR/Maligaon against the existing vacancy.
- (12) Shri T.K.Bhowmick, SSE/Drawing/KIR, on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted as AXEN/Spl/Maligaon against the vacant workcharged post.
- (13) Shri T.Nanda, SSE/P.Way/JID, on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted as AXEN/Welding/Maligaon vice Shri Jai Prakash.
- (14) Shri Jai Prakash, AXEN/Welding/Maligaon, is transferred and posted as ADEN/RPAN vice Shri S.L.Majumdar.

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- (14) Shri Jai Prakash, AXEN/Welding/Maligaon, is transferred and posted as ADEN/RPAN vice Shri S.L.Majumdar.
- (15) Shri S.L.Majumdar (Item-13 above), who was temporarily posted as ADEN/RPAN, is now posted back as AXEN/Planning/Maligaon.
- (16) Shri S.S.Das, SSE/P.Way/Hill/Lumding, on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted as ADEN/II/Lumding vice Shri S.K.Basak.
- (17) Shri S.K.Basak, (Item-16 above), who was temporarily posted as ADEN/II/LMG, is now posted back as AXEN/WS/Maligaon.
- (18) Shri S.S.Sarkar, SE/P.Way/NLP(West), on being empanelled as AEN Group-B in the provisional panel of AEN(Group-B) against 70% selection, is promoted as AEN and posted as ADEN/DBRT against an existing vacancy.

This issues with the approval of competent authority.

(P.K. Singh)
DY.CPO(G)
For GENERAL MANAGER(P)

Date. 04-04-2002

No.E/283/31 Pt. XVIII(O).

Copy for information and necessary action to :-

1. Secretary/Rly. Board/New Delhi
2. GM(P), CE, FA&CAO(EGA,PF)/E.Rly/Fairly Place /Kolkata
3. CE,CTE,CBE,CGE,CPDE,CVO, FA&CAO(EGA,PF)/MLG
4. DRM,DRM(P)/KIR,APDJ,LMG,TSK
5. Sr.DENs, DAOs/KIR,APDJ,LMG,TSK.
6. PS to GM/AGM, PA to CE/MLG
7. OS/EO- Bill.
8. Officers concerned.

(P.K. Singh)
DY.CPO(G)
For GENERAL MANAGER(P)

-35- 0 X-8

H. F. RAILWAY

OFFICE OF THE
GENERAL MANAGER (P)
RAILWAY
dated: 12/07/02

NO. E/25/18/Pt-V(E)

To
SRM/PO/MLG

Sub: Selection for the post of ICW/Gr-I/
SE(Works) in scale B: 2000-3200/- /
6500-10500/- in favour of Sri Narayan
Krishna Gowni.

In the O.A. No. 198/95 filed by Sri S.K.
Bhattacharjee, ICW/Gr-I under Sr. DN/MLG against U.O.I.
and others including Sri H.K. Gowni ICW/Gr-I under Sr.
DN/MLG as the 4th respondent, the honourable CAT/Duwahati
passed the following order:-

" We therefore held that the seniority of the
4th respondent above the applicant was not in accordance
with the provisions of rule, but for that matter the 4th
respondent should not suffer. The administration may hold
an examination in the similar manner as was done in 1992
giving sufficient notice to the 4th respondents and if he
qualifies in the examination then his position will be above
the applicant."

In view of the above, it is decided to hold
a post facto selection of ICW/Gr-I new SE(Works) in scale
B: 2000-3200/-, B: 6500-10500/- in favour of Sri Narayan
Krishna Gowni in the similar manner as was done in 1992.

It is mentioned that Sri H.K. Gowni has
to appear in this selection to be held as per following
programme to qualify himself for the post of ICW/Gr-I new
SE(Works) and to retain his seniority above Sri S.K.
Bhattacharyya, SSE(W) thereby.

If Sri Gowni fails to appear in the
selection he will lose his seniority in terms of honourable
CAT/CHY's judgment dated 22/11/99.

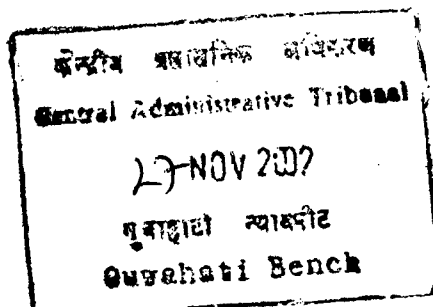
Time Schedule of Selection

- | | | |
|----|---------------------|-------------|
| 1. | Written Examination | : 8/8/2002 |
| 2. | Viva-Voce test | : 20/8/2002 |

(H. NARAYAN)
SPO/EDS.
for GENERAL MANAGER(P)/MLG

- Copy forwarded to: 1. GDM/MLG
2. Dy. DE/ED/MLG
3. PA to GM: He is requested to get the
ACR's ready for the last 3 yrs. of the
above candidates.
4. Ch. CB/M/CE/MLG
5. Staff concerned.

for GENERAL MANAGER(P)
RAILWAY



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI.

22
Filed by Mrs Bandana
Acharya, Advocate on behalf
of the
S.K. Bhattacharyya,
petitioner. 26.11.08

OA No. 97/02

Shri S.K.Bhattacharyya

-Vs-

U.O.I. and Others

REJOINDER TO THE W.S. FILED BY THE RESPONDENTS

1. That the present applicant has been served with a copy of the W/S filed by the respondents, and have gone through the same. Save and except the statement which are not specifically admitted herein below, rests may be treated as total denial. The Statement which are not born out of records are also denied, and the respondents are put to the strictest proof thereof.

2. That the applicant instead of placing the parawise reply begs to place a consolidated reply taking into consideration repetitions for the sake a brevity which are as follows.

2(a). The modified selection held for promotion to the post of IOW-Gr.I in 1994 for the vacancies surfaced in the year 1993. Both the applicant as well as the private Respondent Nos. 5 Shri N.K. Goswami were selected for the said post of IOW-Gr.I. Presently the post of IOW-Gr.I has been redesignated as Section Engineer (Work). Since

-2-

the said modified selection was based on scrutinee of service records, Seniority and confidential reports, hence it does not carry any meaning whether some one passed it in 1st chance or not. Therefore, the contention of the respondents in this regard is totally vague, and an attempt to mislead the Hon'ble Tribunal. Since the direction of the Hon'ble Tribunal was very clear regarding holding of examination, the respondents cannot shirk their responsibility over the same. Had it been a written test as were held in 1992, the question of passing in 1st chance would have been a logical conclusion. In fact in the modified selection the private Respondent got more marks in the seniority column, which he was not at all entitled to. It is therefore, crystal clear that the respondents have not acted in accordance with the provisions contained in IREM as well as the direction of the Hon'ble Tribunal.

2(b) That the applicant in fact never claimed any seniority benefit over the selected employees who were selected pursuant to the selection test held on 1992. The basic grievance of the applicant was regarding the manner and method adopted by the respondents (Official) to favour the private respondent No. 5. It is worth mentioning that without sitting in the examination, that was held in the year 1992, the benefit of passing the examination (securing minimum 60% marks) were given in favour of the respondent No. 5 and the seniority has been fixed above

contd..3

the applicant without any further reference to the Rule holding the field. It is also denied that the seniority list published in the Cadre of SSE/W as on 1.4.2001 was never supplied to the present applicant. As such preferred any representation/appeal against the said seniority list by the applicant does not arise at all.

2(c) The contention regarding the selection procedure for the post of AEN/Gr.B and IOW/Gr.I, it is stated that both the posts belong to Engineering Section and there is no intellegible difference between them. It is pertinent to mention here that in Group-B Selection seniority is one of the essential criteria, but due to incorrect fixation of seniority the respondent No.5 all along is getting/enjoying an undue favour. The official respondents inspite of repeated requests have not been recasted the Seniority of the applicant vis-a-vis the private respondent. It was even after the Judgement and Order dated 22.4.99 passed in OA No.158/96 the respondents did not take any initiative to recast the seniority of the applicant vis-a-vis the private Respondent No.5. It is therefore, the applicant apart from his prayers, made in the OA also prays before this Hon'ble Tribunal for the drawal of appropriate contempt proceedings against the official Respondents and to puhish them accordingly.

2(d) The applicant begs to state that the contention of the respondents regarding filing of appeals after

the settlement of the matter (i.e. Group B Selection) is not correct. In fact appeals were made much before the selection tests were held. Apart from that as per Rules in Case of Group-B Selection, appeals are to be disposed of first before holding any such selection. However, in the present case selection has been held even though there were interim direction from this Hon'ble Tribunal.

In view of the aforementioned facts and circumstances, the applicant prays for an appropriate direction towards the respondents to recast the seniority list of the applicant, making necessary correction in the Seniority list and to comply with direction contained in the Judgement and Order dated 22.4.99 in OA No.158/96.

It is further stated that the respondents all along have been violating the Judgement and Order passed by the Hon'ble Tribunal. Had the respondents held the similar type of examination in time, the seniority dispute would have been ended and in fact due to the aforesaid fact, the applicant did not appear in the Group-B Selection held in the year 2002 (Written test 16.2.2002 etc.) . The respondents now to save their skin, initiated a take selection process for Respondent No.5 of which written test held on 8.8.02 and viva-voce on 20.8.02 and he has been declared as a successful candidate to overcome the crisis arising out of the

situation. The respondents are very much silent about the constitution of the Committee as well as the yard stick applied in the selection process. Definitely it was a selection in isolation which is impermissible in the eye of law. As per the directive of the Hon'ble Tribunal the said selection should have been a short or review selection, adopting the same yard stick and thereafter to compare it with the others who were selected/appeared in the earlier selection. However the respondents with an ulterior motive held the selection by adopting a method in conformity with the Rule holding the field. In that eventuality entire selection process is liable to be set aside or alternatively, to consider the case of the applicant for promotion to the said Group-B post of which examination held on 2002 (16.02.2002) in a like manner as has been done in case of private Respondent No.5 relaxing the normal Rules of Selection procedure.

3. That the applicant begs to state that the other averments made in the W/S has got no bearing in the present case. Again the basic contention raised in OA No.155/02 filed by the applicant would cover-up the entire facts of the case, and the applicant prays that this rejoinder may also be taken as a part of OA 155/02 filed by the applicant.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

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

I, Shri S.K. Bhattacharyya, son of late Ratnadar Bhattacharyya, presently working as Senior Section Engineer (W)/East/Pandu, under Senior Divisional Engineer, N.F. Railway, Maligaon, Guwahati-11, do hereby verify and state that the statement made in paragraphs 1,2 and 2(b) and those in paragraphs 2(a), 2(c) & 2(d) are true to my information derived from the records which, I believe to be true and the rest are respectful submission to this learned Tribunal. I have not suppressed any material facts of the case.

And I sign this Verification on this the 26th November, 2002.

S. K. Bhattacharyya.
(Sushil Kr. Bhattacharyya)