

30/100

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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A./T.A No. 159/2002

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. OA-159/02 Pg. 1 to 4
2. Judgment/Order dtd. 19/05/03 Pg. 1 to 5 *allowed*
3. Judgment & Order dtd. .... Received from H.C/Supreme Court
4. O.A. 159/02 Pg. 1 to 24
5. E.P/M.P. NIL Pg. .... to .....
6. R.A/C.P. NIL Pg. .... to .....
7. W.S. submitted by the respondents Pg. 1 to 33
8. Rejoinder. .... Pg. .... to .....
9. Reply. .... Pg. .... to .....
10. Any other Papers. .... Pg. .... to .....
11. Memo of Appearance. ....
12. Additional Affidavit. ....
13. Written Arguments. ....
14. Amendment Reply by Respondents. ....
15. Amendment Reply filed by the Applicant. ....
16. Counter Reply. ....

SECTION OFFICER (Judl.)

FROM No. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 159/2002  
Misc Petition No. /  
Contempt Petition No. /  
Review Application No. /

Applicants. Nirodh Kr. Das

-Vs-

Respondant(s) U.O.I GOM

Advocate for the Appellant(s) Mr. T. C. Khetry, Mr. A. K. Roy, Mr. I. Gogoi, Mrs. A. Das

Advocate for the Respondant(s) Railway Counsel

Notes of the Registry	Date	Order of the Tribunal
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Application in form  
C. F. for Rs. 50/- deposited  
vide IPO/3/1076574.616  
Dated 15.5.2002

Dy. Registrar

17/5/02

Notices for Respondent No 1 to 3  
received by Mr. T. C. Khetry, Adv. on  
behalf of Mr. S. Sarma, Adv. for Rly.

Received copy  
Alaka Das  
Advocate  
23/5/02

No. reply has been  
filed.

23/5/02

22.5.02

Heard Mr. I. Gogoi, learned  
counsel for the applicant.

Issue notice to show cause as  
to why the application shall not be  
admitted. Returnable by four weeks.

Mr. S. Sarma, learned counsel  
appearing on behalf of Mr. B. K. Sharma,  
learned Sr. Standing counsel for the  
Railway accepts notice for the Respon-  
dents.

List on 24.5.2002 for admission.

I. C. Sharma  
Member

[Signature]  
Vice-Chairman

mb  
24.6.02

List on 19.7.2002 to enable  
the respondents to file reply on the  
prayer made by Mr. S. Sarma, learned  
counsel for the railway.

I. C. Sharma  
Member

[Signature]  
Vice-Chairman

19.7.02

Heard Mr. A.K. Roy, learned counsel for the applicant.

The application is admitted. Call for the records.


Four weeks further time is allowed to the Respondents to file written statement.

List on 23.8.2002 for orders.

No written statement has been filed.

22  
22.9.02.

  
Member

  
Vice-Chairman

mb

23.8.2002

Heard Mr. A.K. Roy, learned counsel for the applicant. The matter may be placed before the Division Bench on 9.9.2002.

  
Member

bb

No written statement has been filed.

20  
1.10.02.

9.9.02

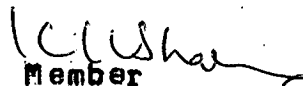
The Respondents are yet to file written statement. List again on 8.10.2002 to enable the Respondents to file written statement.

  
Vice-Chairman

mb

8.10.02

List again on 18-11-2002 alongwith O.A.No. 292/2002 as prayed by Mr. S.Sengupta, learned counsel for the Railway for filing written statement.

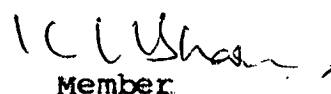
  
Member

  
Vice-Chairman

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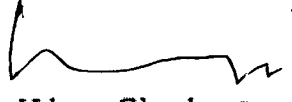

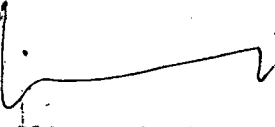
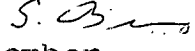
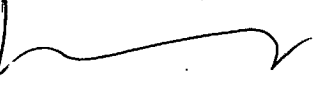
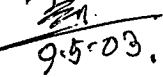

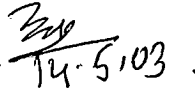

18.11.02

Mr. S.Sengupta, learned counsel for the respondents prayed for four weeks time to file written statement. List on 17.12.2002 for orders.

  
Member

  
Vice-Chairman

mb

Note of the Registry	Date	Order of the Tribunal
<p>20/1/03</p> <p>No W/s has been filed.</p> <p>NB 29/1/03</p>	17.12.2002	<p>No written statement so far filed by the respondents though time granted. List on 21.1.2003 to enable the respondents to file written statement positively.</p> <p> Vice-Chairman</p>
	mb	
	21.1.2003	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Administrative Member.</p> <p>Respondents are yet to file written statement. Further four weeks time is allowed to the respondents to file written statement. as a last chance. List again on 20.1.2003 for written statement.</p> <p> Member</p> <p> Vice-Chairman</p>
	mb	
	20.2.2003	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S. Biswas, Administrative Member.</p> <p>Respondents has not filed any written statement. Post the matter for hearing on 22.4.2003. The respondents may file written statement within three weeks from today.</p> <p> Member</p> <p> Vice-Chairman</p>
<p>No written statement has been filed.</p> <p> 9.5.03.</p>	mb	
	22.4.	<p>Case did not start today. The case is adjourned to 12/5/2003.</p> <p> mb</p>
<p>No W/s has been filed.</p> <p> 14.5.03.</p>	12/5/03	<p>Division Bench is not available. The case is adjourned to 19/5/03.</p> <p> 12/5</p>

Note of the Registry	Date	Order of the Tribunal
<p>W/S looked on 19/5/2003  &amp; kept in the note.  A.A. 10/2/2003</p> <p>27.5.2003</p> <p>Copy of the Judgment  has been sent to the  Office for itself  the same to the applicant  as well as to the L/Adm.  for the Railways.</p> <p>H.P.</p>	<p>19/5</p> <p>19.5.2003</p> <p>bb</p>	<p>Heard learned counsel for the parties  Hearing concluded. Judgment delivered in  open Court, kept in separate sheets.</p> <p>The application is partly allowed in  terms of the order. No order as to costs.</p> <p>Member</p> <p>Vice-Chairman</p>

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. / XXX. No. 159. of 2002

DATE OF DECISION 19.5.2003.....  
PLACE OF DECISION

... Shri Nirod Kumar Das . . . . . APPLICANT(S).

. . . Mr.T.C.Khettry, Mr.A.K.Ray, Mr.I.Gogoi, . . . ADVOCATE FOR THE  
Ms. A. Das & Mrs.S.Ray. APPLICANT(S).

- VERSUS -

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


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

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

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Ho'ble Vice-Chairman.



X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.159 of 2002.

Date of Order : This the 19th Day of May, 2003.

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

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

Shri Nirod Kumar Das  
S/o Late Akhil Chandra Das  
R/o Rly Qr.No.95-D  
Loco Colony, P.O:- Rangapara  
District:- Sonitpur (Assam).

. . . . Applicant.

By Advocates Mr.T.C.Khetry, Mr.A.K.Ray, Mr.I.Gogoi, Miss A. Das & Mrs.S.Ray.

- Versus -

1. Union of India  
Represented by the General Manager  
N.F.Railway, Maligaon  
Guwahati - 781011

2. Divisional Railway Manager (P)  
N.F.Railway, Alipurduar Junction  
District:- Jalpaiguri (W.B.)

3. Divisional Engineer (V)  
N.F.Railway, Alipurduar Junction  
District:- Jalpaiguri (W.B.).

. . . . Respondents.

By Mr.S.Sengupta, Railway Standing Counsel.

O R D E R

CHOWDHURY J.(V.C.):

The followings are the reliefs prayed for in this Original Application:-

"(i) To direct the respondents to correct the date of birth of the applicant in the service book as per the school certificate dated 16.4.1965 (ANNEXURE-A).

(ii) To set aside and quash the Memorandum of charges dated 10.4.2001 (ANNEXURE-E).

(iii) To direct the respondents to allow the applicant to continue his service till the date of superannuation on the basis of the school Certificate dated 16.4.1965.

(iv) To pass any other further order or orders as Your Lordships may deem fit and proper."

1. The applicant was first appointed as Khalasi under the Inspector of Works (I.O.W.), N.F.Railway, Rangapara and the said post on 3.8.1968. In course of time he was promoted to the post of Filter Plant Operator (FPO)

Contd./2

in Grade-II in the year 1986 and thereafter he was promoted to FPO, Grade-I though Mr.A.K.Ray, learned counsel for the applicant, stated that in view of the subsequent punishment, which is also the subject matter of O.A.292/2002, the applicant was not given the benefit of the promotion to the post of FPO, Grade-I. The basic controversy in this application is as to the recording of the age of the applicant. The applicant claimed in this application that his date of birth is 9.6.1949, but instead, the same was wrongly shown as 2.12.1943. According to the applicant, the digit '3' of 43 was over-written in ink embosed over some other figure. The applicant contended that he came to know about the alteration of date of birth when seniority list was published on 13.9.1989. According to him, the seniority list was not communicated to him, nor he was aware of any such seniority list. Only he came to know later on <sup>from</sup> 1 one of his colleague and immediately he submitted objection and prayed for correction of his date of birth vide representation dated 18.9.1999. The applicant, in support of his claim as to the actual date of birth 9.6.49 and not 2.12.43, relied upon a transfer certificate issued by the Head Master, Sudhani High School, district:- Purnia dated 16.4.65. The applicant also referred to one communication dated 14.12.2000 sent to the G.M.(P)/MLG from the office of the Divisional Railway Manager (P), Alipurduar. According to the applicant, instead of taking any step for correction of date of birth, the respondents in a most illegal fashion issued a memorandum No.E/213/30(E)AP-Pt.II dated 11.4.2001 in terms of Rules 11 of Railway Servant (Discipline & Appeal) Rules 1968. The legitimacy of the initiation of proceeding is also assailed in this application.

2. The respondents submitted written statement and contested the claim of the applicant. The respondents in



in the written statement placed before us the records including service book and stated that the age of the applicant was duly recorded in the service book and the appellant duly signed in the service book. That apart, the name of the applicant was reflected in the seniority list published in 14.4.86, 23.9.89 and 14.9.95 and in the seniority lists althroughout the date of birth of the applicant was shown as 2.12.43. The respondents also submitted that at the time of appointment in the Railways the transfer certificate issued by the Head Master, Sudhani High School, District:- Purnia was never produced and the same was only submitted in the year 1999. The respondents also contended that on the face of the professed policy relating to rectification of date of birth, no correction was admissible after completion of the probation period or three years service whichever is earlier.

3. We have heard Mr.A.K.Ray, learned counsel for the applicant and also Mr.S.Sengupta, learned Standing counsel for the Railways at length. On perusal of the service book which was placed before us it was found that the date of birth of the applicant was recorded as 2.12.43 both in figure and words. There was an entry showing 1.1.50 as date of birth both in figure and words but the same was scored off and same was signed accordingly. Against column date of birth it was shown as per medical certificate. In the medical certificate which was also annexed in the records the Medical Officer mentioned the age of the applicant as 25 years approximately. In the said certificate dated 3.12.68 the same was signed by the applicant in his own hand writing so also the service book where the applicant put his signature as well as thumb impression. In the seniority lists published in 14.4.86, 23.9.89 & 14.9.95 consistantly the date of birth of the applicant was as 2.12.43 save and except the applicant for the first time raised his objection as to the date of birth by the represenation dated 18.9.99.

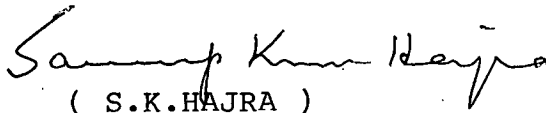
It seems that the applicant althroughout accepted the date of birth as 2.12.43 and woke up only in the year 1999. The materials in support of his claim as to the date of birth as 9.6.49 as well as the communication sent by the DRM(P), Alipurduar to G.M.(P), Maligaon dated 14.12.2000 does not inspire confidence for issuing direction on the respondents for treating date of birth as 9.6.49 in stead of 2.12.43. Neither the norms nor the legal policy support the claim of the applicant therefore we do not find any illegality in the action of the respondents in refusing to correct the date of birth of the applicant. The authority has rightly recorded the age of the applicant as 2.12.43 and hence requires no interference.


4. We have perused the statement of imputation misconduct/misbehaviour against the applicant wherein he was charged for availing undue benefit for becoming a Govt. employee at his minor age by giving false declaration of his date of birth. Admittedly, the applicant accepted the date of birth of the applicant as 2.12.43. There was no materials nor any justification to hold that the applicant availed undue benefit by giving false declaration of his date of birth and as a matter of fact, the age of the applicant was determined by the authority on the basis of medical certificate issued by the Medical Officer. The authority also did not accept the representation submitted by the applicant for correction of his date of birth therefore, question of getting of undue benefit by the applicant did not arise. The transfer certificate dated 16.4.65 produced by the applicant only indicated his date of birth as 9.6.49, even if the same is accepted it cannot be said that the applicant was not eligible for the post. His age as on 3.8.68 was computed as 14 years 8 months and 1 day instead of 24 years 8 months and 1 day. The statement of imputation indicating the applicant on the date of joining was a minor, is patantly purverse. In the facts and circumstances the

impugned Memorandum No.E/213/30(E)AP-Pt.II dated 11.4.2001 (Annexure-E) is thus unsustainable in law and thus the same is liable to quashed.

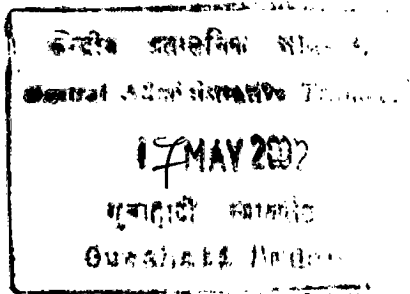
The application is partly allowed. We thus set aside and quash the memorandum dated 10.4.2001/11.4.2001 (Annexure-E). The other prayer of the applicant for correction of date of birth stands rejected.

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

  
( S.K.HAJRA )  
ADMINISTRATIVE MEMBER

  
( D.N.CHOWDHURY )  
VICE CHAIRMAN

bb



DISTRICT : SONITPUR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

O.A. No. 159 /2002

Shri Nirodh Kumar Das

... Applicant

-Vs-

Union of India & Ors.

... Respondents

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Page</u>
1.	Application	1 to 11
2.	Verification	12
3.	Annexure-A	13
4.	Annexure-B	14
5.	Annexure-C	15
6.	Annexure-D	16
7.	Annexure-E	17 & 18
8.	Annexure-F	19 & 20
9.	Annexure-G Series.	21 to 24

For Office Use :-

Signature

Date -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

O.A. No. 159 /2002

BETWEEN

Shri Nirodh Kumar Das

S/o Late Akhil Chandra Das,

R/o Rly Qr.No. & 95-D

Loco Colony,

P.O. Rangapara,

District- Sonitpur (Assam.).

.... Applicant

-Versus-

1. Union of India, represented by  
the General Manager,  
N.F. Railway, Maligaon  
Guwahati. 781011.

2. Divisional Railway Manager (P)  
N.F. Railway,  
Alipurduar Junction  
District-Jalpaiguri (W.B.).

3. Divisional Engineer (V)  
N.F. Railway, Alipurduar Junction,  
Dist. Jalpaiguri (W.B.).

... Respondents

Contd...2

Filed by the applicant  
through  
Guchail Gogoi  
Advocate, 12/5/2002

1. PARTICULARS OF ORDER AGAINST WHICH THIS APPLICATION IS MADE :-

This application is directed against the action of the respondents in overwriting in the service book of the applicant in respect of the qualification and date of birth and against the action of respondents in not correcting the date of birth as per the school certificate and also against irrelevant charge-sheet dated 11.4.2001 given by the respondent regarding the date of birth.

2. JURISDICTION :-

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

3. LIMITATION :-

The application also declares that the application is within the Limitation period as has been prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. FACT OF THE CASE :-

- (i) That the applicant after passing the Class-VII Examination in the year 1963 took admission in Class VIII in the Sudhani High School, Sudhani under Katihar district (Earlier purnia) of Bihar. But after a few months of his admission in Class-VIII, his father expired and hence he

Contd...3

had to left the idea of further study and accordingly left the study and started to search for a job. As he left the study, he obtained a Transfer certificate from the school in the year 1965 as a proof of his date of birth.

One copy of the Transfer certificate dated 16.4.65 is annexed herewith as Annexure-A.

(ii) That, the applicant states that ultimately he was appointed as Khalasi under the then Inspector of Works (I.O.W.) ,N.F.Railway, Rangapara and he joined the said job on 3.8.1968 and since then he continued the said job. Till his promotion to the post of Filter Plant Operator, ( in short FPO ) Grade-III in the month of August, 1985 and he A was further promoted to FPO, Grade-II in the year 1986.

Class III  
FPO

(iii) That, the applicant entered into service at the age of about 19 years. After his appointment, the respondent authority opened his personal service book wherein. The authority obtained his signature. Be it stated that when the service book was opened, he was asked his date of birth and qualification and he stated the same as per the school certificate and the same was made entry correctly.

(iv) That the applicant states that in the year 1999, he got one seniority list as on 1.4.89 from one

Contd...4

Colleagues wherein he found that his date of birth had been entered as 2.12.43. He it stated that the said date of birth was also over-written. Immediately after knowing the same the applicant submitted one representation dated 18.9.99 to the Divisional Railway Manager(P) requesting to correct the date of birth as per the school certificate which he submitted at the time of appointment.

One copy of the seniority list as on 1.4.89 and one copy of the representation dated 18.9.99 are annexed herewith as Annexure-B and C respectively.

- (V) That after the aforesaid representation of the applicant the respondent conducted an enquiry in the x Sudhani High school about the @@ genuine-ness of the school certificate of the applicant and accordingly it was found that the said certificate was genuine one. The Divisional Railway Manager (P) conducted the said enquiry and submitted his report to the General Manager (P) vide his letter dated 14.12.2000. The said letter dated 14.12.2000 also clearly reveals about the genuine-ness of the same. The applicant, also obtained one copy of the said letter dated 14.12.2000 but failed to collect the enquiry report and hence craves the leave of this Hon'ble Court to direct the respondent to produce the copy of the enquiry report.

Contd...5



One copy of the letter dated 14.12.2000  
is annexed herewith as Annexure-D.

- (VI) That inspite of the finding of the said enquiry about the genuineness of the school certificate, the respondent No.3 issued one memorandum of charges dated 10.4.2001 asking the applicant to submit his representation against the memorandum within Ten days. In the said memorandum the ~~xxxxx~~ respondent enclosed one statement of imputation of mis-conduct. In the said statement of mis-conduct one vague and concentrated charge has been implied on the applicant without any basis and/or documents. In the said statement of mis-conduct the authority leveled the charge that the applicant entered in the service by giving a false certificate regarding date of birth. It has also been alleged that as per the school certificate he was attaining the age of 14 years 8 months and 1 day as on 3.8.68.

One copy of the said memorandum of charges  
is annexed herewith as Annexure-E.

- (VII) That after getting the said memorandum charges, the applicant submitted his defence statements dated 27.4.2001 denying the allegation leveled against him. In the said representation the applicant specifically stated that as per school certificate his date of birth was 9.6.49 and accordingly when he entered in the service he

Contd..6

was attaining the age of 19 years 1 months 24 days and as seniority list date of birth was 2.12.43 and in that case his age was 24 years 8 months 1 days. as on 3.8.68 and hence the questions of under age at the time of the date of appointment does not arise. He also requested the authority to make a proper enquiry about the year of his birth.

One copy of the said representation dated 27.4.2001 is Annexed herewith as Annexure-F.

(VIII) That after the said defence statements the respondent remain completely silent about the matter without giving any information to the applicant and hence the applicant gave a number of reminders dated 23.7.2001, 12.9.2001, 19.12.2001, and 29.4.2002. In all the reminders the applicant requested to inform about the decision of the authority so that he may not be in trouble in future.

Copies of the representation dated 23.7.01, 12.9.2001, 19.12.2001 and 29.4.2002 is annexed herewith as Annexure-G series.

(IX) That the applicant states that the said memorandum of charges dated 10.4.2001 has been issued by the respondent in complete violation of the statutory provision of the Railway Servants (Discipline and Appeal) Rules 1968 in as much as the authority did not annexed the list of willness, list of

Contd...7

documents ~~of~~ by which the said memorandum of charges has been prepared. The applicant also states that the said charge has been leveled against the applicant is falseless in as much as the same is not based on the date of birth as shown in the seniority list or as shown in the school certificate.

- (X) That the applicant states that from the statements of mis-conduct as issued by the respondents themselves, it is clear that the ~~the~~ authority has got verified the school certificate dated 16.4.65 and the same has been found genuine and hence the respondents should accept the same and to correct the date of birth in the service book.
- (XI) That the applicant states that as the respondents remain silent inspite of his defence statements, the applicant personally approached the office of the respondent No.2, to make an enquiry into his service book and after going through the service book the applicant came to know that there are some over writing in the date of birth and qualification column.
- (XII) That the applicant states that at the time of his entry in the service his date of birth and qualifications were correctly written in the service book as per the school certificate and hence he was in impression that all things were correct and he will retire in the year 2009. But suddenly when he

got the copy of the said seniority list from his colleague, he detected the wrong entry ~~£~~ in the date of birth. Be it stated that the year of date of birth in the said seniority list has also been over written by ink.

(XIII) That the applicant states that inspite of the fact finding in the enquiry report the respondents are completely silent about the matter and as inspite of his repeated representations and reminders the respondents ~~w~~ neither corrected the date of birth nor give any information to the applicant and hence the applicant, being aggrieved approached this Hon'ble Court by filing this application.

5. GROUND FOR RELIEF :-

- (i) For that the action of the respondents in not correcting the date of birth is illegal in as much as the school certificate has been found genuine which has been produced by the applicant and the same has been got verified by the respondents themselves in the school.
- (ii) For that the respondent action is not justified in as much as there is over writting in the service book of the applicant so far the date of birth and qualification is concerned.
- (iii) For that the action of the respondents in issuing the memorandum of charges is illegal and arbitrary

Contd...9

Ak Des

in as much as the same is not based on any substitutional documents and the same has been issued whimsically.

- (IV) For that as the applicant has produced the genuine school certificate and as the same has been got verified by the respondents, it is the duty to correct the same.
- (V) For that the applicant was not aware about the wrong entry/overwriting on the date of birth in the Service book; he did not initiate to correct the date of birth earlier, but immediately on gating the seniority list, the applicant made representations alongwith the school certificate ~~and~~ and hence the respondents should accept the same after the verification as has been made by the respondents.
- (VI) For that the action of the respondents is not sustainable in the eye of law and is liable to be set-aside and quashed.
- (VII) For that at any rate the action of the respondents is not maintainable.

6. DETAILS OF REMEDIES AVAILABLE :-

That the applicant declares that he has taken ~~recourse~~ recourse to all the remedies available to him but failed to get justices and hence there is no other alternative efficacious remedy open to him other than to approach this Hon'ble Tribunal.

7. MATTER NOT PREVIOUSLY FILED AND/OR PENDING BEFORE ANY COURT :-

That the applicant further declares that he has not previously filed any application, Writ petition or suit regarding the matter before any court, authority or any other bench of this Hon'ble Tribunal or any such application, Writ petition or Suit is pending before any authority.

8. RELIEF SOUGHT FOR :-

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

- (i) To direct the respondents to correct the date of birth of the applicant in the service book as per the school certificate dated 16.4.1965 (ANNEXURE-A).
- (ii) To set aside and quash the Memorandum of charges dated 10.4.2001 (ANNEXURE-E).
- (iii) To direct the respondents to allow the applicant to continue his service till the date of superannuation on the basis of the school Certificate dated 16.4.1965.
- (iv) To pass any other further order or orders as your Lordships may deem fit and proper.
- (v) Cost of application.

9. INTERIM RELIEF, IF ANY :-

Under the facts and circumstances stated above  
the applicant do not pray pray for any interim relief.

10. . . . .

11. PARTICULARS OF INDIAN POSTAL ORDER :-

(i)	I.P.O. No.	:	7G574616
(ii)	Date of Issue	:	15/05/2002
(iii)	Payable at	:	Guwahati.

Verification...12

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

I, Shri Nirodh Kr.Das, son of Late Akhil Chandra Das, aged about 53 years, resident of Railway Qrt.No.95-D, Loco Colony, P.O. Rangapara, District-Sonitpur (ASSAM), and presently working as Sr.Section Officer (Works)/I.O.W., Rangapara (North), N.F.Railway, do hereby verify that the statements made in paragraphs 1 to 12 are true to my personal knowledge and the submissions made therein, I believe to be true and I have not suppressed any material fact of the case.

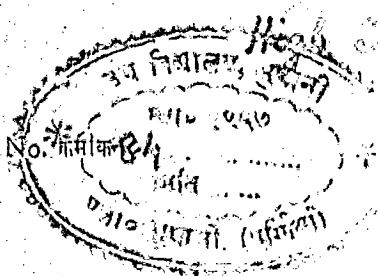
And I sign this verification on this the 17th day of May, 2002.

Date : 17.05.2002

Place : Guwahati-

Nirodh Kr Das





## TRANSFER CERTIFICATE स्थानान्तरण प्रमाण-पत्र

1. Pupil's name छात्र का नाम : Akhil Kumar Das.
2. Father's name पिता का नाम : Akhil Chandra Das.
3. Residence (village, thana and district) निवास-स्थान (ग्राम, थाना और जिला) : Vill. Bultipur P.S. Bahrampur P.O. Sushani Distt. Barmer.
4. Date of admission प्रवेश-तिथि : 1.1.65 5. Adm. No. प्रवेशांक : 34
6. Date of birth as recorded in the admission register (in words) प्रवेश पुस्तिका में अंकित जन्म-तिथि (शब्दों में) : 1.1.1953
7. Date on which he left the school विद्यालय छोड़ने की तिथि : 31.3.65
8. Class in which he was then reading (in words) उस समय वह किस वर्ग में पढ़ता था (शब्दों में) : VIII - eighth
9. (To be filled up when the pupil leaves at the end of the session (सत्र की समाप्ति के बाद छात्र विद्यालय छोड़े तो लिखा जाय) :  
Whether he has passed the Examination for promotion to the next higher class क्या छात्र दूसरे उच्च वर्ग के लिये परीक्षोत्तीर्ण हुआ है?
10. (To be filled up when the pupil leaves during the session सत्र में छात्र विद्यालय छोड़े तो लिखा जाय) :

Attendance during the current session वर्तमान सत्र में उपस्थिति-संख्या

	Date of admission प्रवेश-तिथि	Date of leaving छोड़ने की तिथि	Possible number of attendance संभाव्य उपस्थिति सं.	Actual number of attendance वास्तविक उप. सं.
1. In this school इस विद्यालय में	<u>1.1.65</u>	<u>31.3.65</u>	<u>—</u>	<u>—</u>
2. In.....school .....विद्यालय में				
3. In.....school .....विद्यालय में				

11. Character आचरण : Good
12. Reason for leaving school विद्यालय छोड़ने का कारण : Promotion to Work  
All sums due by him to the school have been paid till March 1965.  
विद्यालय का सभी पावना छात्र से तक प्राप्त है।

Date of issue वितरण-तिथि 16.4.65

Headmaster प्रधानाध्यापक

भयानाध्यापक,

उच्च विद्यालय, सुधानी (पूर्णिमा)

6<sup>th</sup>  
9.6.49

Attested by -

Jendharail Gogoi

Advocate, C.A.T.

17.05.2002

N. F. Railway.

Provisional seniority list of P.F.O. Gr.III in scale Rs.950-1500/-  
under division wise as on 1.4.89./

Department: Engineering. Division: Alipurduar Jn.

Sanction strength:

Perm: Post:-

Temp: Post:-

Total:-

Criterion: Length of service to the grade & post. Classification: Divisional.

Sl. No.	Name.	Father's Name	Working Under.	Date of Birth.	Date of Apptt.	Date of promo-tion.	Confd.	Whe-ther SC/ST	Length of service.
1	2	3	4	5	6	7	8	9	10

S/Shri,

1.	Kamal Saikia	Lt.Kameswar Saikia	IOW/DMC.	13.3.41	13.8.66	21.12.78	Confd.		10-3-10
2.	Samar Kr. Guha	Anil Kr.Guha	"/BNGN	1.11.52	10.11.74	14.9.84	"		4-6-17
3.	Sadhan Ch. Dey	Harendra Ch.Dey	"/BNGN	19.3.49	21.5.78	14.9.84	"		4-6-17
4.	Manoranjan Das		"/FKM	9.1.41	18.12.61	10.11.84	"		4-4-21
5.	Dhajendra Singh		"/FKM	1.7.47	20.3.69	23.8.85	"		3-7-8
6.	Mirodh Kr. Das	Lt.Akhil Ch.Das	"/RPN	2.12.43	3.8.68	27.8.85	"		3-7-4
7.	Jagadish Ch.Sarkar	" Dinesh Sarkar	"/MJPT	2.5.51	16.11.80	31.8.85	"	SC	3-7-0
8.	Faridhan Miah	" Masu Ali	"/NLP	16.9.41	8.5.68	13.9.85	"		3-6-14
9.	Hareswar Roy	" Shib M. Roy	"/NLP	1.1.39	22.8.71	13.9.85	"		3-6-14
10.	Rajendra Prasad	Harihar Prasad	"/NLP	17.2.50	13.10.72	13.9.85	"		3-6-14
11.	Arjun Pradhan	Babulal Pradhan	"/NLP	15.1.50	1.7.78	27.11.85	"		3-4-4

Attested by-

*Indranil Gogoi*

Advocate, C.A.T.

17.05.2002

*Prachin*  
APC/PC/APDT

23-9-89

26

(Contd....P/2.)

1	2	3	4	5	6	7	8	9	10	11
12. Dhanai		Sambhu	IOW/I/ ATDJ.	26.3.38	16.2.65	16.12.87	Conf- d.		1-3-15	

*Received 23-7-89*  
for Divl. Rly. Manager (P),  
Alipurduar Junction.

No. E/255/1(E)AI

Dt. 12/09/89.

Copy forwarded for information and necessary action to :-

- (1) IOWS/DMC, NLT, RRAN, RNY, ENGN, FKM, I/ATDJ.
- (2) AENS/RRAN, NLT, RNY, NBQ, NCB, R/ATDJ.
- (3) Branch Secy./NTRU/NLT, RRAN, RNY, ENGN, NBQ, FKM, NCB, ATDJ.
- (4) Branch Secy./NFRMU/RRAN, RNY, ENGN, NBQ, FKM, NCB, ATDJ.
- (5) Staff concerned & spare copy for 2/case.

Any appeal as regards seniority position should be submitted to this office within one month from the date of receipt of this list.

*Received 23-9-89*  
for Divl. Rly. Manager (P),  
Alipurduar Junction.

(akp/8989)

ANNEXURE - C.

To  
The Divisional Hly. Manager, (P)  
Alipurduar Jn./N.F. Hly.

2. 8. 68  
9 6  
- 1 -

Thro : Proper Channel.

Sub :- Seniority list No.E/  
dated.13/09/89.

3.8.68

Sir,

Please connect above seniority list and service bio-data of mine therein in item No.6.

The date of my birth therein has been mentioned as 02/12/43 and the digit '3' of 43 has been over-written in ink embosed over some other figure.

That Sir, my actual date of birth is on 09/6/49, but not on 02/12/43 in any case, shown vide the above Sl.List. I was not aware of the anomaly as I have not received/seen the seniority list in question. S/list such publishes never reaches to individuals concern nor the same are executed in office notice board. The S/list I received coincidently from a colleague of mine and known about all; hence could not connect/represented in time scheduled therein.

When assigned in the job, I executed and submitted a copy of my school certificate in support of my age, as such root of such anomaly in date of birth could not discerned with.

I shall be highly obliged and gratefull alike if your honour do so good by correcting my date of birth as per copy of my school certificate to avoid future dispute over the issue.

Date : ~~13/09/89~~

Yours faithfully,

Copy to : DM/V/ADP for info  
information and necessary  
action please.

Attested by -  
Jendranil Gogoi  
Advocate, C.A.T.  
17.05.2002

Yours faithfully,

Nirodh Kr. Das  
P.O. Gm. II

N.F. RAILWAY.

Office of the  
Divl. Rly. Manager (P),  
Alipurduar Junction.

Dated. 14/12/2000.

NO : E/213/30(E) AP-Pt.I.

To  
GM(P)/MLG.

Sub:- Alteration of date of birth of Shri Nirodh  
Kr. Das, PPO/Gr. II under IOW/RPAN.

Ref:- Your letter No.E/71/4(E) dt. 2.8.2000.  
.....

As desired vide your letter as referred above, one SLWI  
of this office was directed to Sudhani High School from where Shri  
Das has obtained the School certificate.

Shri S. Ghosh, SLWI attended Sudhani and after verification  
of all records he has submitted a report on this issue. A xerox copy  
of the same is enclosed herewith for taking further necessary action  
at yours. According to the enquiry report, the School certificate No.  
84 dated 16.4.64 issued by the Head Master, Sudhani High School is  
found genuine.

In this connection this office letter No.E/213/30(Loose)  
dated 3.5.2000 may kindly be referred to.

This is for your kind information please.

DA : one.

for Divl. Rly. Manager (P) / APD.

(Id 12)

Attested by -

*Indranil Gogoi*

Advocate, C.A.T.

17.05.2002

13  
12

30

NORTHEAST FRONTIER RAILWAY

STANDARD FORM NO. 11

G/174 L

Standard Form of Memorandum of charge for imposing minor penalties  
(Rules 11 of RS (D&A) Rules, 1968)

No F/213/30(E)AP-Pl. II Dated 11-4-01

\_\_\_\_\_(Name of Railway Administration)

(Place of issue) APD dated 11-4-01

MEMORANDUM

Shri Nirodh Kr. Das (Designation) FPO-Cr. II (Office on which working) IOA/RPAN is hereby informed that the President/Railway Board/undersigned propose (s) to take action against him under Rule 11 of the Railway servants (Discipline and Appeal) Rules, 1968. A statement of the imputations of misconduct or misbehaviour in which action is proposed to be taken as mentioned above, is enclosed.

2. Shri Nirodh Kr. Das is hereby given an opportunity to make such representation as he may wish to make against the proposal. The representation, if any, should be submitted to the undersigned (through the General Manager DEW/ADP Railway, so as to reach the said General Manager) within ten days of receipt of this Memorandum.

3. If Shri Nirodh Kr. Das fails to submit his representation \_\_\_\_\_ the period specified in para 2, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri Nirodh Kr. Das ex-parte.

4. The receipt of this Memorandum should be acknowledged by Shri Nirodh Kr. Das, FPO-Cr. II under IOA/RPAN.

%(By order and in the name of the President)

10/4/01  
(S. K. Ghosh)  
Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Name and Designation of the Competent Authority Divisional Engineer

Shri Nirodh Kr. Das FPO-Cr. II IOA/RPAN (Name Designation and Office of the Railway Servant)

\*To be retained wherever this Memorandum is issued by the Railway Board/the President  
%Where the President is the disciplinary authority.

Attested by -  
Indranil Gogoi  
Advocate, C.A.T.  
17.05.2002

STATEMENT OF IMPUTATION MISCONDUCT/MISBEHAVIOUR AGAINST  
SHRI NIRODH KR. DAS, FPO/GR.I UNDER SE/WORKS/RANGAPARA.

Shri Nirodh Kr. Das, while working as FPO/Gr.II under JE/Works/RPAN submitted an appeal dated : Nil against seniority list No.E/255/1[E]/AP dated 13.09.89 in which he requested to alter his recorded 'Date of Birth' from 09.06.49 to 02.12.43. In disposing the appeal a fact finding enquiry was conducted and during enquiry it was evident that Shri N.K.Das is a literate person and signed the 1st page of Service Book of his own in English. With his application for alteration of his recorded 'Date of Birth', Shri Das produced a School certificate dated 16.04.65 issued by Head Master, Sudhani High School, Sudhani and the School certificate was also got verified. From the School from its counter-foil and as per this school certificate his 'Date of Birth' is something other. The prayer of Shri N.K.Das was forwarded to Hqrs. for examination by the competent authority who observed that Shri Das was in possession of School certificate at the time of his appointment i.e. 03.08.68 but he entered in the Railway service by giving a false certificate regarding date of birth. As per record of school certificate he was attaining the age of 14 years. 08 months and 01 day as on 03.08.68 when he was not eligible for Railway service and decided that the 'Date of Birth' in the 1st page of Service Book may not be altered and it should be kept in binding. ✓

For false declaration about the 'Date of Birth' Shri Nirodh Kr. Das availed undue benefit for becoming a of Govt. employee at his minor age and after a gap of 33 years he preferred the appeal to have the advantage of serving more which is misconduct and misbehaviour on his part and attracted violation of Rule, 3 (1) (i), (ii) & (iii) of Railway Service Conduct Rule, 1966. ||

*10/6/01*  
Divisional Engineer/V  
N.F.Rly./Alipurduar Jn.

Attested by -

*Jendharil Gogoi*

Advocate, C.A.T.

17.05.2002

*1968  
49  
19*

To  
The Divisional Engineer/V  
N.F. Fly./Alipurduar Jn.

Through : Proper Channel.

Sub : Defence against Memorandum No. E/213/30(E)  
AP-Pt-11 dt. 11/4/01.

Sir,

In reference to Memorandum No. mentioned above I beg to state you that I submitted an appeal against seniority list No. E/255/1(E)/AP dated. 13/09/89 in which I requested for correction of date of birth from 02/12/43 to 09/06/49 not to alter the recorded date of birth from 09/06/49 to 02/12/43 as mentioned.

Secondly regarding School Certificate issued by Headmaster Sudhani High School on 16/04/65 of which copy submitted further is same which can not be something other though mentioned.

Thereafter it has mentioned that myself entered in the Railway service by giving a false certificate regarding date of birth and as per record I was attaining the age of 14 years 08 months and 01 day as on 03/08/68 where from said record arranged is not known which is complete false.

Actually my date of birth was 09/06/49 while entered in Railway service and was attaining the age of 19 years 01 month 24 days. And as per date birth in the seniority list of 13/09/89 mentioned as 02/12/43 was attaining the age of 24 years 08 months 01 day. On which I submitted appeal. (As the digits '3' of 43 also over written in ink, over some other digit).

I astonished to learn that after completion of about 33 years service you are in opinion that "as on 03/08/68 when he was not eligible for Railway service". If I actually entered in service at the minor age as mentioned then the date of birth will be (03/08/68 - 01/08/14) 02-12-53 not 02-12-43 as mentioned in said seniority list which is not correct as accepted by you also.

No question of giving false declaration about the date of birth does not arise as I am sure that my date of birth from the date of entering in service till date is 09/06/49, repeat 09/06/49.

Attested by -

Indranil Gogoi Contd....2.

Advocate, C.A.T.

17.05.2002

22/7/2001



( 2 )

Now on conclusion I would request your honour for proper enquiry and decide out of the year 49, 43 and 53 which is actual and arrange for correction of the said date and year and release me from the allegation for which I would remain ever grateful to you and oblige.

Dated : 27/04/2001.

Yours faithfully,

*Nirodh Kumar Das* FPO Gr II  
( NIRODH KUMAR DAS )

EPO Grd. II

Under SE/Workes/RPAN.

Attested by —

*Sudhansu Gogoi*

Advocate, C.A.T.

17.05.2002

To  
The Divisional Engineer/V,  
H.E. Jy./Alipurduar Jn.

ANNEXURE G<sub>1</sub>

Through : Proper Channel.

Sub :- Pray for decision on the defence against  
Memorandum No. E/213/30(E) AP Pt- II dt. 11/4/01.

Sir,

I beg most respectfully to state you that I have submitted  
defence against said memorandum on 27/4/01 through SE/W/RPAN.  
But no information received within the period.

As the date of retirement is connected with the actual  
date of birth, so I compelled to remind your honour to give  
decision and declare actual date of birth to keep the service  
record correct for future guidance and to avoid any trouble to  
my family in absence of me.

On the above I would request your honour to kindly  
go through the defence and give actual decision by which I  
may may continue in service for actual period.

Dated : 23/07/01.

Yours faithfully,

*Nirodh Kumar Das*

( NIRODH KUMAR DAS )

FFD Crd. II  
Under SE/W/RPAN.

Attested by -

*Joshavil Gogoi*

Advocate, C.A.T.

17.05.2002

To  
The Divisional Railway Manager (P),  
N.F. Rly./Alipurduar Jn.

ANNEXURE - G2

Through : Proper Channel.

Sub :- Correction of date of birth in service record.

Sir,

With due respect I beg most respectfully to state you that I submitted several applications previously for correction of date of birth in the service record. In support of the actual date, school certificate's copy also produced which was issued by Headmaster, Sudhani High School on 16/04/65 in which clearly mentioned the date of birth as 09/06/49. But in record particularly in the seniority list No.E/255 I(E)/AP dt.13/09/89 the date of birth showed 43 instead of 49 being overwritten in ink on the last digit as "3" over some other digit.

On my appeals LW1/APDJ also was directed to verify the school certificate on which without giving decision I have been served with memorandum No.E/213/30(E)AP.Pt-II dt.11/4/01. Deffence against said memorandum submitted on 27/4/01. But no information or decision received within the period.

On the above I would request your honour to finalise the case as early as possible as I am passing the days in much anxiety. If no information received within one month I am to inform the fact to Higher authority to get proper judgement as the date of birth is connected with the date of superannuation.

Hope to be considered with the pray and oblige.

Advance copy send by post for information and early action please.

Date : 12th. Sept/2001.

Yours faithfully,

Nirodh K. Das

( NIRODH KUMAR DAS )  
FPO/ II, SE/Works/RPAN.

Attested by -

Jordharil Gogoi

Advocate, C.A.T.

18.05.2002

Amount of Stamp affixed	No. 24/ P.
Received a Registered	L/24P
Addressed to	Chandrayil C. A. T.
APDJ	
Signature of Receiver Officer	

To  
The Divisional Railway Manager (P),  
H.F. Rly./Alipurdwar Jn.

Through : Proper Channel.

Sub :- Correction of Date of birth.

Sir,

With due respect I beg to state you that inspite of several appeals, for correction of Date of birth I have not been informed with any decision from administration side, and I am passing the days in anxiety.

So, again I would Remind your honour to consider correction of the same as early as possible.

Copy of the appeal submitted lastly on 12th. Sept/2001 enclosed for your disposal and consideration please.

Dated : 19th. Dec/2001.

Yours faithfully,

Nirodh Kr Das  
( Nirodh Kr. Das )  
FPO/II, SE/W/RPAN.

Copy to :

1. DM/V/A&DJ, for favour of information and early action please.
2. The Divisional Secy. NREU, APLJ Division. through the Branch Sec. EU/RPAN Branch II.
3. Branch Secy. EU/RPAN Branch II for information & necessary action please.

NOT INSURED

Stamps affixed Rs. 24 P.  
Registered\* 1/AD  
Date Stamp

प्रमाणित

No.

2719

संस्थान

Date Stamp

Signature of Receiving Officer

Nirodh Kr Das

FPO/II/RPAN

Under F.I./W/RPAN.

Attested by

Jendranil Gogoi

Advocate, C.A.T.

17.05.2002

NOT INSURED

Stamps affixed Rs. 24 P.  
Registered\* 1/AD  
Date Stamp

प्रमाणित

No.

2720

संस्थान

Date Stamp

Signature of Receiving Officer

To  
The Divisional Railway Manager (A),  
H.F. Railway/Alipurduar Jn.

Through : Proper Channel.

Sub :- Correction of date of birth in service Record.

Sir,  
I beg to state you that inspite of several reminders and submission of documents in support of actual date of birth, I have not yet received proper judgement or decision from administration and it is seen that I have to face retirement from service this way without getting proper judgement and correction of the date of birth.

Memorandum issued on the said issue of which deffence also submitted in time. Lastly I submitted appeal on 12/9/2001 which acknowledged on 19/9/01.

But after such a long period no response from administration side.

So as the date of my retirement according to service record is reaching shortly I would take the help of court for final judgement waiting upto 7th. May/02.

Hope to be considered with the pray within 7th. May/02 and oblige.

Yours faithfully,

*Nirodh Kr Das*  
(NIRODH KUMAR DAS)  
FPO/II/RPAN  
Under SE/W/RPAN.

Advance copy send by post for early action please.

Copy to :- (I) Sr. DEN/G/AMJ.  
(II) Divisional Secretary/NFREU/AMJ  
For information and necessary action please.

Date : 29.4.2002

*Nirodh Kr Das*  
Signature :-

Attested by -  
*Indravarit Gogoi*  
Advocate, C.A.T.  
17.05.2002

*2/2/02*

Filed in the Court on 19/5/2003.

24/5

38  
W  
Chief Personnel Officer  
G. P. Rly. / Maligaon  
Guwahati-78

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
GUWAHATI.

O. A. No. 159 of 2002

IN THE MATTER OF :

Sri Nirodh Kumar Das ... Applicant

- Versus -

1. Union of India.

2. Divisional Railway Manager(P),  
N.F. Railway, Alipurduar Jn.

3. Divisional Engineer(V),  
N.F. Railway, Alipurduar  
Junction.

... Respondents.

- AND -

IN THE MATTER OF :

Written Statement for and on behalf of  
the respondents.

The answering respondents most respectfully beg  
to sheweth as under :

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

Contd.....2

Filed by  
Subcomal San Gupta  
Railway Advocate  
Guwahati  
15.5.2003  
19

-: 2 :-

2. That, the applicant has got no valid cause of action and/or right to file this application.

3. That, the application suffers on ground of misrepresentation of facts and mis-interpretation of rules on the subject.

4. That, the application suffers on ground of infirmities on the point of limitation and is barred under Indian Limitation Act and Section 21 of the Central Administrative Tribunal Act. 1985.

5. That, for the sake of brevity, the respondents have been advised to confine their replies only to those averments in the application which are relevant and material for a proper decision in the case. All other allegations to the contrary in the application are denied herewith.

6. That, the case is hit under the principles of estoppel and acquiescence.

7. That, with regard to statements as made at paragraph 4(i) of the case, it is submitted that, it is not within the knowledge of the respondents as to in which class and in which school and for what period and years he studied in different classes prior to 1963 and what age/date of birth were recorded in different institutions and as such the application is quite vague and hence the contentions of the

Contd.....3

-: 3 :-

applicant are not admitted as correct. The copy of the Transfer certificate dated 16.4.65 of Class VIII of Sudhani High School as submitted now cannot be accepted as a valid document for the purpose of change of date of birth at this stage, ~~more~~ so, not only being it barred under limitation but also on ground of applicant being a literate staff and as such prayer for change of date of birth now is quite inadmissible in terms of the various rules, code provisions and instructions issued by the Railway Board from time to time mentioning the norms and procedure for the change of date of birth after entering in Railway service etc.

His assertions at paragraphs 4(iii) and 4(iv) clearly proves that the applicant signed the Service Book after ensuring correctness of the entries in the Service Book and that he preferred the so called representation against the seniority list dated 23.9.89 only in the year 1999, when as per instructions/rules he was required to submit representation, if he felt aggrieved with the seniority list, within a period of one month.

It is also to submit herein that, if he actually submitted any valid certificate in support of his date of birth and qualification at the time of his entering the Government service in the Railways, there could not have been any cause or occasion to put a wrong date of birth

Contd.....4



41  
Chief Personnel Officer  
C. F. Rly. / Maligaon  
Guwahati-42

-: 4 :-

and also false qualification in the Service Book, which certificate/documents bears his own signature also. Besides, his own declaration about his being 25 years of age on the body of the Medical certificate/Examination report dated 2/3.12.68 ~~signaturexxxxxx~~ which documents bears his signature also, bears the testimony of his declaration of age. As such none of this contentions/allegations as made in paragraphs 4(ii), 4(iii) and 4(iv) of the application to the contrary are admitted as correct and hence these are denied herewith.

*Photo Copies of opening page of Service Book and the Medical Examination Report dated 2/3.12.68 are annexed hereto as Annexure I and II respectively.*

Further, the applicant has mentioned only the seniority list dated 23.9.89 and has omitted to mention other seniority lists dated 14.4.86 (Published under Divisional Railway Manager(P)/Alipurduar Junction's No. E/255/3(E) AP dated 14.4.86 of Khalasi helper in scale Rs.210 - 290/- as on 1.4.84, and, No.E/255/1(E) AP dated 14.9.95 showing seniority position of MCM & FPO/Grade I in scale Rs.1400 - 2300/- and Rs.1320 - 2040/- in Alipurduar Junction Division as on 1.4.95 wherein his names appeared with his date of birth as 2.12.1943.

Copies of the above seniority lists dated 14.4.86 <sup>and 23.9.89</sup> 14.9.95 are annexed hereto as Annexures III, IV and IV(a) respectively for ready perusal.

Contd.....5

-: 5 :-

8. That, with regard to averments at paragraph 4(v) of the application it is submitted that the contention of the applicant are not correct and hence denied herewith. It is also to state herein that there is no question of holding any enquiry for the purpose of change of date of birth and that no such enquiry was held for the purpose of change of date of birth especially when such changes are regulated by the rules laid by the Railway Board and instructions issued on the subject and there are clear codal provisions in the Railways on the subject. All the averments to the contrary are denied herewith and the applicant is put to strictest proof of his averments/contentions. Further, the Annexure 'D' to the application also does not show that any enquiry was conducted for the purpose of effecting change of date of birth of the applicant. As the applicant never produced any Transfer certificate etc. and has now come up with divergent new stories after decades, it was considered necessary to probe into the veracity of issuing any Transfer Certificate etc. by the School authorities only, especially when the particulars regarding age and educational qualifications as now contended by the applicant are at variance with his earlier submissions/declarations.

9.(a) That, with regard to averments at paragraphs 4(vi) and 4(vii) of the application it is to submit herein that the respondents do not admit correctness of any of

Contd.....6

-: 6 :-

the averments except those which are borne on records or are specifically admitted hereunder and the applicant is put to strictest proof of the same. It is denied that at the time of his appointment in the Railways he stated his date of birth and qualification as incorporated in the Sudhani High School's Transfer Certificate now produced by him and this fact is well substantiated ~~by the fact~~ ~~is well substantiated by the fact that~~ not only from the entries in the date of birth column in the Service Book and Medical certificate dated 2/3.12.1968 but also from the entry in the Educational qualification column of the opening page of the Service Book wherein the following had been put :

Item - 6 (Date of birth) = 2.12.1943  
~~1-1-1950~~  
 As per Medical Certificate.

Item - 9 = Passed Matriculation Examination from  
 (Educational qualification) Purnea Education Board.

Item - 12 = Sd/- Nirodh Kumar Das.  
 (Signature of Government Servant)

(b) It is also to submit here in that at the time of his appointment his age was 24 years 8 months and 1 day (on 3.12.1968) as per entries in his Service Book

Contd.....7

968  
 25  
 1943

-: 7 :-

and Medical examination report dated 3.12.68 and his retirement date will be December, 2003 (taking this date 2.12.1943 as correct date) and if his present contention that his date of birth should be 9.6.1949 (as mentioned in the Transfer Certificate of the school now produced by him wherein his educational qualification has been mentioned as Matriculation Examination passed) then ~~it~~ it would show that he was 19 years 1 month and 24 days old in 1968 when he entered Railway service and his age of superannuation from Railway service (taking 60 years as superannuation date) will have to be extended upto June, 2009.

(c) It was evident from his representation (undated) submitted in 1999, ~~or~~ so, that he has contradicted his earlier stand/declarations etc. as regards his date of birth and educational qualifications etc. and his present assertions were out of record and mainly aimed at to nullify his earlier declaration/submissions etc. and to derive undue benefit of serving for more years in the Railway beyond the superannuation age as computed on the basis of his declared date of birth i.e. 25 years on 2/3.12.1968 and as recorded in Medical certificate dated 2/3.12.1968 and opening page of his Service Book (which documents also bears his own signature as a token of authentication of entries in these documents). As the applicant has put forward contradictory ~~and~~ conflicting <sup>and</sup> his earlier submissions, just on the eve of his retirement from service, and after more than 3 decades from the date of his appointment on the Railways, which are in the nature of

Contd.....8

Chief Personnel Officer  
A. F. Rly. / Malgaon  
Anwarhat. 11

-: 8 :-

reversing his earlier statements/declarations<sup>made/submitted</sup> before the appointing authorities<sup>etc</sup> at the time of entering the Government job in the year 1968 and mostly aimed ~~at~~ to derive ~~undue~~ personal benefit for extension of service period for more years, his actions were considered to be unbecoming of a Government servant and tantamount to misconduct/misbehaviour within the meaning of the Government servants Conduct Rules etc. and it was thus decided to resort to disciplinary action as required under extant rules for false declaration/misconduct/misbehaviour on his part and issuing the memorandum of charges etc. as mentioned by the applicant. But due to clerical errors, date of birth to be altered was shown as 9.06.49 to 2.12.43 instead of just the opposite i.e. from 2.12.43 to 9.06.49 and also while computing his age as on 3.8.68 (in terms of the date of birth as shown in the Transfer Certificate now produced by the staff in 1999 or so), in-advertently his age as on 3.8.68 was computed as '14 years 8 months and 1 day' instead of '24 years 8 months and 1 day' and this errors continued/cropt in the memorandum of charges also erroneously and in-advertently, which errors are regretted.

(d) It is also to submit herein that the alleged error had little effect on the fact and basis for charges and the main spirit of the allegation of the charges which were based on false declarations by the applicant about the date of birth etc.<sup>as</sup> are quite apparent from the available records, and same has been echoed in the penultimate

Contd.....9

-: 9 :-

para of the article of charges (imputation) and in the speaking order dated 25.6.2002 passed in this case by the disciplinary authority while elaborating the grounds for which the minor penalty of

"Withholding of increment for one year  
non-cumulative."

was passed.

(c) It is denied that the seniority list of 1989 the digit 2.12.43 is due to overwriting. In fact, the digits '43' was already there and figure '3' which was in faded form was clearly put only in the seniority list in the date of birth column. The charge of over-writing is unsustainable and incorrect in such situation and hence denied herewith and same will be well evident from the previous seniority lists published on 14.4.86 and 14.9.95 etc. wherein <sup>his</sup> date of birth was shown <sup>as</sup> 2.12.1943.

For ready perusal the date of birth etc. as were put in the earlier seniority lists dated 14.4.86, ~~and~~ 14.9.95 <sup>and 13/23-9-89</sup> are tabulated herein below :

Particulars	Sl. No.	Name	Working under	Date of birth	Date of appointment
1. Provincial seniority list of Khalsi helper in scale Rs. 210-290/- under DEM/III as on 1.4.84 (circulated under DRM(P)/APDJ's No.E/255/3(E)/AP dtd. 14.6.86.	20	Sri Hirodh Kr. Das.	IOW/RPANI	2.12.43	3.8.68

Contd....10

47  
Chief Personnel Officer (A)  
G. P. Rly. / Maligaon  
Guwahati-78

-: 10 :-

Particulars	Sl. No.	Name	Working under	Date of birth	Date of appointment
2. Provincial seniority list of FPO Grade II in scale Rs. 1200-1800/- under APDJ Division as on 1.4.95 (Circulated under DRM(P)/ APDJ's No.E/ 255/1(E)AP dtd. 14.9.95).	8	Sri Hiredh Kr. Das	IOW/RPAN	2.12.43	3.8.68
3. Provincial seniority list of FPO Grade III in scale Rs. 950-1500/- under Division wise as on 1.4.89 (Circulated under No. E/255/1(E)A dtd. 13.9.89)	6	Sri Hiredh Kr. Das	IOW/RPAN	2.12.43	3.8.68

(f) to  
It is also/submit herein that the alleged clerical mistake/error which lead to putting a wrong figure of 14 years instead of 24 years etc. cannot bring any change in his declared date of birth as recorded in the service sheet.

From his contention to change his date of birth to 9.6.49 it was apparent that he wanted a change in his recorded date of birth in the service records. This request cannot be accepted as the same is quite in violation of extant Rules and orders on the subject. To accede to his request would also mean to extend his period of service and date for retirement besides accepting an unreasonable and acceptable wrong date which is the

Contd.....11

-: 11 :-

outcome of his afterthought. There is no proper and satisfactory explanation from his side as to why date 2.12.43 was entered in his Service Book under his signature and as to why he maintained silence for all those period of more than 30 years and as to why no representation etc. was filed by him for change of date within the target date fixed by the Railway Board as a last chance for same.

10. That, with regard to averments at paragraphs 4(ix), 4(x), 4(xi), 4(xii) and 4(xiii) of the application it is submitted that none of the allegations of the applicant as made in those paragraphs are admitted as correct except those which are borne on records and/or are specifically admitted hereunder. The applicant is put to strict proof of such of his allegations.

It is emphatically denied that the memorandum of charges dated 10.4.2001 had been issued in complete violation of statutory provisions of the Railway Servants (Discipline and Appeal) Rules 1968 or that the charges were not based on correct records/informations which were disclosed by the applicant while entering in the Government service or that his genuine School Certificate (now produced) has been ignored or the respondents maintained silence as alleged, or that he could know about the date of birth as 2.12.1943 only from the

Contd.....12



seniority list published in 1989 (Annexure B to the application) or that putting the digit '3' in the date of birth column in the seniority list dated 1989 (Annexure B to the application) is not correct as per record of the case or that he could know about this date of birth i.e. 2.12.1943 only from his colleagues etc. or that the present application before the Hon'ble Tribunal for change of date of birth from '2.12.1943 to 9.6.1949' for extending his service period by about 5½ years are tenable. Records clearly reveals that all his above allegations are quite incorrect and suffers from suppression of real facts of the case by him i.e. his own signatures and acceptance of entries in Medical certificate and Service Book, the previous seniority lists published and circulated in 1986, 1995 etc. where his seniority position in the ~~the~~ cadre and his date of birth as 2.12.1943 were clearly shown *exhibited*.

11. That; in view of what have been submitted in the foregoing paragraphs of this written statement none of the grounds for relief as mentioned in paragraph 5 of the application and relief as sought for under paragraphs 8 and 9 of the application are sustainable under law and fact of the case, and his prayers are liable to be rejected. It is submitted that no action has been done in an illegal or whimsical manner and he cannot resile from his earlier statements/submissions made while entering in to the Railway service i.e. 2.12.1943 according to which he will reach the superannuation age of 60 years on 2.12.03.

It is also to mention herein that as the applicant has also filed a separate application No.292 of 2002 in connection with disciplinary proceedings as mentioned by him in this application, necessary remarks/submissions regarding such proceedings have been furnished in the reply submitted in that case by the respondents.

It is to reiterate that so far as change of date of birth is concerned the request of the applicant is unacceptable as it is not covered by rules and laws and goes against reality and fact of the case and more so when such claim is barred under Indian Limitation Act and Section 21 of the Central Administrative Tribunal Act, 1985 besides various circulars/letters/instruction issued by Railway Board, Ministry of Railways on the subject, Rules 145-RI (old) and Rule 225-RI (new).

Rule 145-RI stipulates inter-alia that every person on entering Railway service should declare his date of birth which shall not differ from any declaration, express or implied for any public purpose before entering any Railway service.

Copies of above rules are annexed hereto as Annexure V and VI respectively.

The applicants contention for change of date of birth is not tenable on following grounds also :

- 1) that he himself authenticated by his signatures on the opening page of the Service Book and the

51  
Rail Personnel Om-102  
A. P. Rly. / Mailman  
Bewahat-19

-: 14 :-

Medical examination report where the date of birth was recorded in 1968 as 2.12.1943 and 25 years respectively. If the alleged Transfer certificate was in his possession in 1968 while signing the opening pages of the Service Book as also medical examination report on 3.12.68, there were no cause for not stating the 9.6.49 as date of birth (i.e. date put in the T.C. produced by him now) and the actual educational qualification i.e. read upto Class VIII, instead of declaring himself to be a Matriculate.

(ii) The Railway Administration provided the ample scope to the staff for correction of wrong date of the date of birth in service records, but the applicant did not avail of the opportunity of Railway Board's Circular dated 4.8.72 etc..

2) that his application for change of date of birth is after about 30 years from date of joining the Railway service and after 13 years of his becoming a Group 'C' staff (from 27.8.85) and these cannot be termed as a reasonable period.

3) that his explanations as to how the alleged wrong date came to be entered are not convincing as satisfactory and as per rules as case history reveals.

Contd.....15

-: 15 :-

4) that when Railway administration extended one blanket opportunity to all staff concerned to make representations relating to change of date of birth, if they desired, within the cut-off date fixed i.e. 31.7.1973 as the last chance, vide letters dated 3.12.1971 and 4.8.1972 on the point of alteration in their recorded date of birth, the applicant did not come forward with his case and pointed out nothing, and perhaps he realised that his case did not merit for consideration either under Rule 145-RI (old) i.e. of Indian Railway Establishment Code Volume I, Rule 225-RI (new) and note 5 under FR-56 (i.e. Fundamental Rules) etc.

As the applicant was already in employment on 3.12.1971 he could represent against his recorded date of birth upto 31.7.1973, when as per his own assertions, he was in possession of the said School Leaving Certificate dated 16.4.1965 with him on the date of his appointment on the Railways in the year 1968.

The photo copies of Rule 145-RI, Railway Board's Circulars dated 3.12.1971 and letter dated 4.8.1972 where under it cut off date 31.7.1973 was fixed are annexed hereto as Annexures VII and VIII respectively for ready perusal.

Contd.....16

- 5) that in the previous seniority lists published in 1986 and 1995 etc. also his names appeared in those lists and date of birth as 2.12.1943 was shown against him.

No representation was filed by him against those seniority lists though the staff were permitted to file representations within one month, if they felt aggrieved.

- 6) that holding of any enquiry for the purpose to ascertain as to whether any T. C. as alleged by the employee, was issued by the ~~Smt~~ Sudhani High School, Purnea and the ascertainment of the fact that such Transfer Certificate was actually issued does not ip-so-fact mean that the contention of the Railway employee for change of his recorded date of birth etc. should be accepted. It may atleast confirm about issue of such certificate and cannot dispense with the other requirements of law and rules and procedures etc. laid down for change of recorded date of birth disclosed at the time of initial appointment in service. It is, however not denied that such enquiry was held at Purnea.

54  
Jh  
Chief Personnel Officer (A)  
M. F. Rly. / Maligaon  
Guwahati. 11

-: 17 :-

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

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

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

Contd.....18

VERIFICATION

I, *A. K. Nigam* son of  
*Late S. P. Guarcha* by occupation  
Railway Service, working as *Chief Personnel Officer*  
Alipurduar Division, 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 6 to 9 are based information as gathered  
from records of the case, which are believed by me as  
true and those made at rest of the paragraphs are my  
humble submissions before the Hon'ble Tribunal and  
I sign this verification on this 15<sup>th</sup> day of May, 2003.



NORTHEAST FRONTIER RAILWAY  
~~KILBURN JUNCTION~~  
FOR AND ON BEHALF OF  
UNION OF INDIA.

Chief Personnel Officer (A)  
N. F. Rly. / Maligaon  
Guwahati.

ANNEXURE - I

(01797109)

(i) Date of appointment - 2-8-69  
(ii) P.D. No. - 1797/8  
(iii) Date of joining to P.F. - 2-8-69

सेवा पुस्तिका / SERVICE BOOK

Temporary / Opening Page / 3.8.68 / 1-6-78 / 9 yrs 10 months  
(50%) 4 yrs 11 months

SRI. NIRODH KUMAR DAS

नि. नि. रंगपान नगर  
101/18 PAN

1. पूरा नाम (साफ - साफ अक्षरों में)  
Name in full (Block Capitals)

2. पिता का नाम / Father's Name

L. AKHIL CHANDRA DAS

3. राष्ट्रियता/जाति/धर्म  
Nationality/Caste/Religion

INDIAN / Kshatriya / HINDUISM

4. अधिवास जो सिद्ध हो चुका है  
Domicile as established

INDIAN

5. निवास का पूरा पता  
Residence (in Full)

VELU: LUTIPUR, P.O. SUDHAN, P.S., BALRAMPUR  
Dist. PURNIA, Bihar

6. जन्म तिथि / Date of birth

2.12.1943 (Two - Twelve - Ninety three)  
As per certificate

7. जन्म स्थान / Place of birth

Lutipur, District Purnea

8. शिक्षा योग्यता  
Educational qualification

Second - December 1961 - ten hundred forty three  
passed matriculation examination from Purnea  
education board.

9. शिनाख्त के लिए वैयक्तिक चिह्न  
Personal mark for identification

(1) Two black moles above nose (just middle of forehead)

10. बायें हाथ के अंगूठे और अंगुली का निशान  
Left hand thumb and finger impression

(2) one scar mark about 2 1/2" long over right foot

कनिष्ठिका / Little finger

अनामिका / Ring finger

अंगूठा / Thumb

मध्यमा / Middle finger

तर्जनी / Fore finger

11. लंबाई / Height 5 (feet)

फीट / Feet 8 (inches) इंच / inches.

12. सरकारी कर्मचारी का हस्ताक्षर / Signature of Government Servant. x Nirodh Kumar Das

13. कार्यालय प्रधान या अन्य साक्ष्यक अधिकारी का हस्ताक्षर और पदनाम  
Signature and designation of the Head of the office or other Attesting Officer. Inspector of Works  
V. E. R. Rungtarama Norti

नोट / Note :- इस पृष्ठ पर दर्ज की गयी जानकारी कम से कम पांच वर्ष बाद नये से दर्ज की जायगी, उसे पुनः साक्ष्यक किया जायगा तथा १२ और  
at least every five years, and the signature in lines 12 and 13 should be dated.

इस नियम के अन्तर्गत हर पांच वर्ष के बाद फिर से अंगुलिओं के निशान लेने की आवश्यकता नहीं है / Finger prints need not be  
taken afresh every five years under this rule.



R. 442

W. 3. 37c

1. A. - M.

[illegible]

(Name) John Doe have examined

DECLASSIFIED BY: 6032  
DATE: 10/1/2013

Characteristics of the design

Signature

[illegible]

FOR THE YEAR

Signature of \_\_\_\_\_

1944

52

\_\_\_\_\_

100

...and the fact that the ...

100

1

[illegible]

11/12/15 11:00 - 11:15

Signature \_\_\_\_\_  
Thermal impression of candidate \_\_\_\_\_

Since the above application

\_\_\_\_\_

(6)

2	3	4	5	6	7	8	10
S/Shri							
Bhikho	Dukhi	ICV/MJET	7.8.44	16.4.72	1.8.78	1.1.80 Kha.	5 8 0
53. Rajendra Prasad	Harinarayan Prasad	"/MPT	17.2.50	13.10.72	1.8.78	1.4.76 Kha.	5 8 0
54. Satish Kr. Sarkar	Lt. Satish Kr. Sarkar	"/NLP	9.3.45	25.10.72	1.8.78	1.1.80 Kha.	5 8 0
55. Kishan	Seyan Charan	"/MPT	1.7.50	1.8.75	1.8.78	1.1.80 Kha.	5 8 0
56. Gopendra Ch. Das (SC)	Lt. Karadahan Das	"/NLP	16.1.36	16.7.75	1.8.78		5 8 0
57. Prem Bahadur	Shree Bahadur	"/NLP	31.3.43	12.1.76	1.8.78	1.1.80 Kha.	5 8 0

No. B/255/3(E) LP.

Dated 10 /4/85.

for DIVL. PLY. MANAGE (P),  
ALIPURDUAR JUNCT.

Copy forwarded for information and necessary action to :-

- 1) Divl. Secy., RPSU/APDJ.
- 2) Br. Secy., RPSU/APDJ, 136, HSA, IB, Kharagpur, BHO.
- 3) Br. Secy., RPSU/APDJ, 136, HSA, IB, Kharagpur, BHO.
- 4) IOMs/APDJ, 136, HSA, IB, Kharagpur, BHO.
- 5) IOMs/APDJ, 136, HSA, IB, Kharagpur, BHO.

Any appeal in regard to seniority position should be submitted on this list within one month from the date of receipt of this list.

for DIVL. PLY. MANAGE (P),  
ALIPURDUAR JUNCT.

(u.c./9485.)

22

ANNEXURE - IV. P/any

N. F. RAILWAY.

Provisional seniority list of MCM & F.P.O./Gr.I in scale Rs.1400-2300/- and Rs.1320-2040/- under APDJ Division as on 1.4.95.

Deptt:- Engineering. Divn:- APDJ.

Criterion:- Length of service to the grade & post. Classification:- Divisional.

S. No.	Name.	Father's name.	Working under.	Date of birth.	Date of Apptt.	Date of promotion.	Confid./Offg.	Whether SC/ST.	Remarks.
1	2	3	4	5	6	7	8	9	10
	S/Shri								
1.	Subodh Kr.Das	Akhil Ch. Das	IOW/RFAN	26.7.42	1.10.65	26.12.78	Confid.		MCM
2.	Pravash Ch. Barman	Panchanan Barman	"/I/APDJ	28.5.42	27.11.60	5.7.84	"	SC	Ad-hoc FPI
3.	Kanupriya Roy	Indra Kr.Roy	"/I/APDJ	25.3.42	21.12.62	5.7.94	"		MCM
4.	Sudhir Kr. Das	Lt.Benode Behari Das	"/II/NBQ	31.10.47	1.10.65	16.1.85	"	SC	MCM
5.	Birendralal Das	Lt.Rajmohan Das	"/II/NBQ	2.2.45	16.9.65	16.7.85	"		
6.	Harihar Prasad	Lt.Raghunath	"/II/NBQ	5.7.47	28.8.68	5.12.88	"		
7.	Gabiram Boro	Lt.Mohiram Boro	"/DMC	1.11.44	13.8.66	11.12.88	"	ST	
8.	Kameswar Gogoi	Padmeswar Gogoi	"/DMC	11.2.46	13.8.66	10.10.91	"		
9.	Amarendra Chakraborty	Lt.Jitendra Chakraborty	"/RNY	3.1.39	7.8.63	10.10.91	"		
10.	Hakim Ali.	Md. Nabirasul	"/RFAN	8.7.47	28.8.68	10.10.91	"		
11.	Raja Ram	Sahadeo Bhagat	"/RFAN	8.5.46	8.5.68	1.3.93	"		
12.	Amal Kr. Chowdhury	Lt.A.N.Chowdhury	"/MJBT	5.1.49	1.8.71	1.3.93	"		
13.	P.R.Bhattacharjee	Lt.Panchanan Bhattacharjee	"/COB	7.7.43	2.4.63	1.3.93	"		
14.	Biyan Kr. Mitra	Jitendra Nath Mitra	"/I/APDJ	12.2.42	26.12.62	1.3.93	"		
15.	Jagadish Kr. Sarkar	Dinesh Sarkar	"/MJBT	2.5.51	16.11.80	1.3.93	"	SC	
16.	Motilal Das	Surendra Nath Das	"/I/APDJ	25.9.43	26.12.62	15.6.94	"		

(Contd. 2)

24  
-::( 2 )::-

1. 2. 3. 4. 5. 6. 7. 8. 12.

Provisional seniority list of F.P.O./Gr.II in scale Rs.1200-1800/- under APDJ Divn.as, bn 1.

1. Shri	Milmohan Adhikary	IOW/I/APDJ	14.8.40	14.11.63	1.1.84	Confid.
2. Sun Kr. Sen	Nagendra Ch.Sen	"/BNGN	11.3.39	22.5.63	1.1.84	"
3. Klip Chakraborty	Sudhir Chakraborty	"/BNGN	21.2.48	21.10.70	26.2.88	"
4. Sripatha Datta	Butai Ch. Datta	"/BNGN	26.5.48	22.6.72	26.2.88	"
5. Amar Kr. Guha	Anil Kr. Guha	"/BNGN	1.11.52	10.11.74	4.11.89	"
6. Sidhan Ch. Dey	Harandra Ch.Dey	IOW/BNGN	19.3.39	21.5.89	1.12.89	"
7. Ranor ngan Das	Harandra Das	"/BNGN	9.1.41	18.12.61	1.12.89	"
8. Ananda Kr. Das	Lt.Akhil Ch.Das	"/RPN	2.12.43	3.8.68	1.6.90	"
9. Samal Saikia	Lt. Kameswar Saikia	"/DNC	13.3.41	13.8.66		"
10. Manal	Sambhu	"/I/APDJ	26.3.38	16.2.65	1.3.93	SC
11. Mohan Das	Surajballi Das	"/NLP	3.2.54	3.12.79	1.3.93	SC

Divn.

Provisional seniority list of F.P.O./Gr.III in scale Rs.950-1500/-under APDJ/as on 1.4.95.

1. ... Roy	Shib Pd. Roy	IOW/NLP	1.1.39	22.8.71	13.9.85	Confid.
2. ... Pradhan	Babulal Pradhan	"/RPN	15.1.50	1.7.78	27.11.85	"
3. ...	Jagat Ch. Sil	"/I/APDJ	8.3.44	20.8.71	7.6.89	"
4. ...	Sachindra Ch.Karmakar	"/I/APDJ	27.2.58	17.6.77	31.8.89	"
5. ...	Bipin Bose	"/I/APDJ	6.2.56	21.1.80	7.6.89	"
6. Dipankar Sen	Jogeswar Sen	"/I/APDJ	18.10.56	21.1.80	4.4.91	"
7. Birendralal Saha Chowdhury	Lt.Digambar Saha Chowdhury	"/II/NBQ	19.9.45	20.3.69	28.8.89	Confid.
8. Paramananda Jha	G. Jha	"/NLP	1.10.50	18.10.72	28.8.89	"

(Contd...3...)

-::( 3 )::-

1-----2-----3-----4-----5-----6-----7-----8-----9-----10

(Contd.....FPO/Gr.III.)

9. S/Shri Basanta Das	Rajballi	IOW/BNGN	10.1.51	21.6.80	16.9.89	Conf. SC
10. Mohan	Lt.Jitendra	"/NLP	15.7.51	16.2.79	10.2.90	"
11. Ranjan Mukherjee	Lt.Surajit Mukherjee	"/RPAN	1.7.56	23.7.81	14.3.90	"
12. Shib Sankar Roy	Lt. Sitaram Roy	"/II/NBQ	1.1.45	20.3.69	28.8.91	"

for DIVL. RLY. MANAGER(P),  
ALIFURDUR JUNCTION.

No.E/255/1(E)AF. Dated 14/9/95.

Copy forwarded for information and necessary action to :-

- 1) IOWS/DMC, NLP, ALET, RPAN, RNY, II/NBQ, BNGN, NMX, I/APDJ.
- 2) AEN/NLP, RPAN, RNY, BNGN, NBQ, NCB, APDJ.
- 3) Branch Secy/AFREU/NLP, RPAN, RNY, BNGN, NBQ, FKM, NOQ, NCB, APDJ.
- 4) Branch Secy/AFREU/NLP, RPAN, RNY, BNGN, NBQ, FKM, NCB, APDJ.
- 5) Divl. Secy/AFREU/APDJ.
- 6) Staff concerned & spare copy for P/case.

Any appeal as regards seniority position should be submitted to this office within one month from the date of receipt of this list.

(us/13995.)

for DIVL. RLY. MANAGER(P)/APDJ.

M. F. Railway.

Provisional Seniority list of P.F.C. Gr. III in scale Rs. 950-1500/-  
under division wise as on 1.4.89.

Department: Engineering. Division: Aligarh Jn.

Experience: Length of service to the grade &amp; post. Classification: Divisional.

Sanction strength:

Perm: Post:-

Temp: Post:-

Total:-

S. No.	Sl. No.	Father's Name	Working Under.	Date of Birth.	Date of Appt.	Date of Promo- tion.	Cond.	Whe- ther other SC/ST	Length of service.
1	2	3	4	5	6	7	8	9	10

1. Hiral Singh	10. Hiral Singh	IOW/ DNC.	13.3.41	13.8.66	21.12.78	Con- fd.			10-8-10
2. Ashok K. Das	Ashok K. Das	"/ENGN	1.11.32	10.11.74	14.9.84	"			4-1-17
3. Ramesh K. Das	Ramesh K. Das	"/ENGN	19.3.49	21.5.75	14.9.84	"			4-1-17
4. Mahendra Singh		"/FKM	9.1.41	18.12.61	10.11.84	"			4-1-21
5. Mahendra Singh		"/FKM	1.7.47	20.3.69	23.8.85	"			3-1-8
6. Ashok K. Das	10. Ashok K. Das	"/RPN	2.12.43	3.8.68	27.8.85	"			3-7-1
7. Ramesh K. Das	" Ramesh K. Das	"/NFT	2.5.51	16.11.80	31.8.85	"	SC		3-7-0
8. Ramesh K. Das	" Ramesh K. Das	"/FLP	16.9.41	8.5.68	13.9.85	"			3-6-14
9. Ramesh K. Das	" Ramesh K. Das	"/FLP	1.1.39	22.8.71	13.9.85	"			2-6-14
10. Ramesh K. Das	" Ramesh K. Das	"/NLT	17.2.50	13.10.72	13.9.85	"			3-6-14
11. Ramesh K. Das	" Ramesh K. Das	"/NLT	15.1.50	1.7.78	27.11.85	"			3-4-4

(Contd....P/2.)

13-8-89

← 14 (ANNX-B)

13. Dhanai

Sabbhu

10W/I/  
11EJ.

26.3.33

10.2.65

16.12.87

Cont-  
d.

1-3-15

Received 23 7 87  
for Divl. Rly. Manager (C),  
Alipurduar Division.

12/09/89.

No. E/255/1(5)41

Copy forwarded for information and necessary action to:-

- (1) IOWS/DNC, NLP, BPN, BNY, BNGN, FOM, I/ADDS.
- (2) AENS/ADAN, NLP, BNY, NSE, NCB, R/IDS.
- (3) Branch Secy./ADHE/NLP, NLP, BNY, BNGN, NSE, FOM, NCB, ADJ.
- (4) Branch Secy./ADENS/ADAN, BNY, BNGN, NSE, FOM, NCB, ADJ.
- (5) Staff concerned & spare copy for I/case.

Any appeal as regards seniority position should be submitted to this office within one month from the date of receipt of this list.

(ak-7-8989)

Received 23-9-89  
for Divl. Rly. Manager (C),  
Alipurduar Division.

13/9/89

*Government of India's decisions.*—1. The proceedings of a medical examination conducted by a Medical Officer or a Medical Board constituted to examine a railway servant, or a candidate for railway service, should be treated as confidential. Candidates recommended to be disqualified by a Medical Board or Medical Officer should not be informed of the reasons which led the Board or Officer to recommend disqualification. This procedure should be carefully observed.

2. In cases, however, where a Medical Officer or a Medical Board considers that a minor disability disqualifying a candidate for railway service can be cured by treatment (Medical or Surgical) a statement to that effect is recorded by the Medical Officer or the Medical Board, as the case may be. There is no objection to a candidate being informed of the Medical opinion to this effect by the Administration and when a cure has been effected it will be open to the Administration to ask for another medical examination.

143. First aid.—The railway servants in categories which the General Manager may prescribe, will, in addition, be required to acquire an approved certificate of competency in First Aid. They will keep their knowledge in First Aid alive during the entire period of their service through refresher courses at intervals that may be prescribed from time to time.

144. Service Agreements.—Every railway Servant, except one in Class IV service, shall be required to execute a service agreement with the President at the time of his substantive appointment or if he belongs to the category of workshop or shed staff, after the completion of 3 years' continuous service. Railway servants appointed for a limited period may also be required to execute an agreement. All agreements shall be stamped, the cost being borne by the railway servant concerned.

145. Date of birth.—(1) Every person, on entering railway service, shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering railway service. In the case of literate staff, the date of birth shall be entered in the record of service in the railway servant's own handwriting. In the case of illiterate staff, the declared date of birth shall be recorded by a senior Class III railway servant and witnessed by another railway servant.

(2) (a) When the year or year and month of birth are known but not the exact date, the 1st July or 16th of that month, respectively, shall be treated as the date of birth.

(b) When a person entering service is unable to give his date of birth but gives his age, he should be assumed to have completed the stated age on the date of attestation, e.g., if a person enters service on 1st January, 1938, and if on that date his age was stated to be 18, his date of birth should be taken as 1st January, 1920.

(c) Where the person concerned is unable to state his age, it should be assessed by a Railway Medical Officer and the age so assessed entered in his record of service in the manner prescribed above, the railway servant being informed of the age so recorded and his confirmation obtained thereto.



P-I

ANNEXURE

- VI

29

67

should not be informed of the reasons which led the Board or Officer to recommend disqualification. This procedure should be carefully observed.

2. In cases, however, where a Medical Officer or a Medical Board considers that minor disability disqualifying a candidate for railway service can be cured by treatment (Medical or Surgical) a statement to that effect is recorded by the Medical Officer or the Medical Board, as the case may be. There is no objection to a candidate being informed of the Medical opinion to this effect by the Administration and when a cure has been effected it will be open to the Administration to ask for another medical examination.

**223. First-aid.**—The railway servants in categories which the General Manager may prescribe will, in addition, be required to acquire an approved certificate of competency in First Aid. They will keep their knowledge in First Aid alive during the entire period of their service through refresher courses at intervals that may be prescribed from time to time.

**224. Service Agreements.**—Special Class Apprentices on Railways shall be required to execute a service agreement with the President at the time of his appointment as a Probationer in IRSME. Railway servants appointed for a limited period may also be required to execute an agreement. All agreements shall be stamped, the cost being borne by the railway servant concerned.

**Note.**—In the case of all railway servants the offers of appointment should stipulate inter alia that in all matters not specifically provided herein, or in the recruitment rules, they will be governed by the provisions of the Indian Railway Codes and other extant orders as amended/issued from time to time.

**225. Date of birth.**—(1) Every person, on entering railway service, shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering railway service. In the case of literate staff, the date of birth shall be entered in the record of service in the railway servant's own handwriting. In the case of illiterate staff, the declared date of birth shall be recorded by a senior railway servant and witnessed by another railway servant.

(2) A person who is not able to declare his age should not be appointed to railway service.

(3) (a) When a person entering service is unable to give his date of birth but gives his age, he should be assumed to have completed the stated age on the date of attestation, e.g. if a person enters service on 1st January, 1980 and if on that date his age was stated to be 18, his date of birth should be taken as 1st January, 1962.

(b) When the year or year and month of birth are known but not the exact date, the 1st July or 16th of that month, respectively, shall be treated as the date of birth.

Rect/370

N.

RAILWAY.

No.E/71/0(C).

Pandu, dated 18-1-72.

All Heads of Departments,  
 DSS/RIR, APDJ, LMG & DVS/TSK,  
 DAC, ASO, Asstt. Audit Officer/RIR,  
 DEN/MLDT, DME(D), XEN/BC, Batt. Commander No. 4,  
 Controlling Officer, Rly. School, ACOS(D/SCUJ,  
 Dy. CE, Area Officer, DCOS(MB), SAO(IC), AO/JJP,  
 AME/IDH, APS/KGN, WM, DEE(W), CMT, PTS, ACOS/NLQ,  
 Controlling Officer, Rly. School, ASO(TC)/DOI,  
 DAO, Supdt./ZTS, Controlling Officer, Rly. School,  
 Asstt. Audit Officer, APDJ, TS, DAC/RPAN,  
 XEN(WS Cell), ABE(WS), DSTE(CTC)/PAGN, DCOS/BLST,  
 Medical Supdt., XEN(M), SOR(AW), DSTE(M), DCOS,  
 Controlling Officer, Rly. School, AEN(IC), ASO,  
 SMO(Health), ASO(Fire), Marine Supdt., ABE(WS)/PAGN,  
 Area Officer/NGC, Batt. Commander No. 5 & 8/MKX,  
 Controlling Officer, Rly. School, Batt. Commander No. 7,  
 DAO, Asstt. Audit Officer/LMG, AEN(STP)/RIR,  
 Controlling Officer, Rly. School, TS, DAMO/BMB,  
 DMO, AEE, ACOS/DBRT, WM, Sr. Asstt./DBWS, DEN/ICG at DEWS.  
 General Secretary, DML/PNO  
 General Secretary, NREU/PNO with 25 spare copies.

Sub: Procedure for recording date of birth  
 on entering Railway service and its  
 alteration.

A copy of Rly. Board's letter No.E(NG)II7OBR/1 dated  
 3.12.71 on the above subject together with copies of advance  
 correction slips No.302RI and 303-RI to Rule 145 of the Indian  
 Rly. Establishment Code, Volume I is forwarded for information  
 and guidance.

for CHIEF PERSONNEL OFFICER.

(Copy of Rly. Board's letter No.E(NG)II7OBR/1 dt. 3.12.71)

Sub: Procedure for recording date of birth  
 on entering Railway service and its  
 alteration.

Rule 145-RI lays down that every person, on entering  
 Railway service, should declare his date of birth which shall  
 not differ from any declaration, expressed or implied, for any  
 public purpose before entering Railway service. The rule is  
 not specific on the point whether the mere declaration given  
 by the person should be accepted or it should be accepted only  
 on production of a confirmatory documentary evidence. The Rule  
 is also silent as to what confirmatory documentary evidence  
 should be accepted for this purpose. As regards alteration of  
 recorded date of birth, Rule 145(3)(iii) RI lays down that  
 where a satisfactory explanation (which should ordinarily be  
 submitted within a reasonable time after joining service) of  
 the circumstances in which the wrong date came to be entered  
 is furnished by the Railway servant concerned together with

Contd.....

the statement of any previous attempt made to have the record amended, it is open to the competent authority to effect an alteration. No time limit has been given for alteration.

2. The Board have reviewed the existing provisions of Rule 145RI in the light of experience and have decided as under :-

(i) WHEN A CANDIDATE IS ABLE TO STATE HIS AGE.

(a) When a candidate declares his date of birth in accordance with paragraph 145-RI, he should be asked to produce confirmatory documentary evidence such as a Matriculation Certificate or a Municipal Birth Certificate. (If he is not able to produce such an evidence he should be asked to produce any other authenticated documentary evidence to the satisfaction of the appointing authority.) Such authenticated documentary evidence could be the School Leaving Certificate, a Baptismal certificate in original or some other reliable document. However, horoscope should not be accepted as an evidence in support of the declaration of age;

(b) When a candidate is not able to produce a confirmatory documentary evidence or any other authenticated proof to the satisfaction of the appointing authority in accordance with (a) above, he should be asked to produce an affidavit in support of the declaration of his age;

(c) In the case of Class IV employee care should be taken to see that the date of birth as declared on entering regular Class IV service is not different from any declaration expressed or implied, given earlier at the time of employment as a casual labour or as a substitute.

(ii) WHEN A CANDIDATE IS NOT ABLE TO STATE HIS AGE.

Rule 145(2)(c) provides that when a person is unable to state his age, it should be assessed by a Railway Medical Officer and the age so assessed entered in his record of service. The Board have now decided that this provision need not be retained and a person who is not able to declare his age, should not be appointed to Railway service.

(iii) PERIOD FOR ALTERATION OF RECORDED DATE OF BIRTH.

Rule 145(3) (iii) RI lays down that where a satisfactory explanation (which should ordinarily be submitted within a reasonable time after joining service) is submitted, it is open to the competent authority to alter the recorded date of birth. The Board have had under consideration the period of time that should normally be accepted as a reasonable time for the purpose of Rule 145(3)(iii)-RI. They have decided that no alteration in date of birth should be allowed after completion of the probation period or three years service, whichever is earlier.

3. In view of the above decisions, the President in exercise of the powers conferred on him by the proviso to article 309 of the Constitution hereby directs that Rule 145RI of the Indian Railway Establishment Code Volume I (Revised Edition) shall be amended as in the enclosed advance correction slips No. 302 and No. 303-RI.

4. Receipt of this letter may please be acknowledged.

32

1070

ADVANCE CORRECTION SLIP NO. 302-RI.

RULE 145-RI

Delete clause (c) of Sub-Rule (2) of this rule..

(Railway Board's letter No. E(NC)1170BP/1  
dated 3.12.71)

.....

ADVANCE CORRECTION SLIP NO. 303-RI.

RULE 145-RI

The following may be substituted for the existing  
bracketted provision occurring in clause (iii) of sub-rule  
(5) of this Rule.

"(which should not be entertained after completion of  
the probation period or three years' service,  
whichever is earlier)."

(Railway Board's letter No. E(NC)1170-BP/1  
dated 3.12.71).

24/11

24/11/72

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24/11

E/Recd M.....

M/Recd M

E/Recd M

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CPC  
DPC  
CC

DPC(E)

SPQA

AS/MS

AS/MS

AS/MS

AS/MS

AS/MS

AS/MS

E/7110(c)  
314 313  
ANNEAURE - VIII

GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MENTRAIYA)  
(RAILWAY BOARD)

No.E(NG)II-7OBR/1

New Delhi, dt. 4-8-1972.

N.F.  
The General Managers, all  
Indian Railways including  
C.L.W., D.L.W. & I.C.F.

The Director General,  
R.D.S.O.,  
Lucknow.

OFFICE OF THE  
GENERAL MANAGER  
N.F. RAILWAY, NALANDA

Recd. on

Serial No. ....

Subject:- Procedure for recording date of birth  
on entering Railway service and its  
alteration.

Attention is invited to advance correction  
slip No.303 to the Indian Railway Establishment Code  
Volume I forwarded with Railway Board's letter of  
even number dated 3.12.1971 which requires that  
requests for alteration of date of birth should not  
be entertained after completion of the probation  
period or three years service whichever is earlier.

2. It has been represented that the above amendment  
would cause hardship to the railway servants who  
were already in employment on 3.12.1971 and who did  
not take advantage of the provision of the rule  
regarding alteration of date of birth as it stood  
before the above amendment.

3. The Board have considered the matter and have  
decided that such employees may be given an oppor-  
tunity to represent against their recorded date of  
birth upto 31.7.1973. Such requests should be  
examined in terms of the rules as they stood before  
the amendment.

4. The Board desire that wide publicity should  
be given to these orders through railway gazettes  
to enable aggrieved staff to ask for rectification of  
any mistake in their recorded date of birth. No  
second opportunity will be given after 31.7.1973 and  
all requests for alteration of date of birth there-  
after should be disposed off strictly in accordance  
with the amendment referred to above.

(This disposes of General Manager, Central  
Railway's letter No.HPB/302/R dated  
10.4.1972.)

DA:Nil

(Dwarka Dass)  
Assistant Director Estt.,  
Railway Board.