

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 293/03.....

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet..... *OA* Pg. / to 8
2. Judgment/Order dtd 10/3/2006 Pg. / to 10 *Dismissed*
3. Judgment & Order dtd Received from H.C/Supreme Court
4. O.A. *293/03* Pg. / to 17
5. E.P/M.P. Pg. to
6. R.A/C.P. Pg. to
7. W.S. Pg. / to 5
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.)

Kalita
21.11.17

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 293 /2003.

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Name of the Appellant(s): A.K. Chatterjee & Ors.

Name of the Respondent(s): M.O.I. & Ors.

Advocate for the Appellant: A. Chakraborty.

Advocate for the Respondent: Adv. Counsel, J.L. Sarkar

Notes of the Registry	date	Order of the Tribunal
This application is in form but not in time <u>Condonation Petition is filed / not filed C.R. for the same deposited with I.P.O. No. 11Cr 3875/9</u>	26.12.2003	Present: Hon'ble Mr Justice B. Panigrahi, Vice-Chairman Hon'ble Mr K.V. Prahaladan, Administrative Member.
Dated 23/12/03. <i>Re. 23/12/03 I/c. D. Register.</i>		Heard Mr A. Chakraborty, learned counsel for the applicant in support of the application. Let a copy of the application be served upon each of the respondents within four weeks. Thereafter, the matter shall appear for admission. The respondents also may produce the relevant documents such as the merit list, if prepared at the time of hearing and admission. Any result to be published by the respondents shall abide by the result of the application.
steps taken with envelop <i>24/12/03.</i>		
D/R.		

Notice & order dt. 26/12/03
sent to 01 Section for issuing
to respondent nos - 2 to 6.

Fee: Discont/100 41-45
date 9-1-04.

List on 29.1.2004.

ICV Panigrahi

Member

B

19.1.2004 Present: The Hon'ble Shri Bharat Bhushan
Judicial Member.

The Hon'ble Shri K.V.Prahladan
Administrative Member.

None present for the ~~two~~ parties.

It appears that the case has wrongly
been listed for today because on
perusal of the order dated 26.12.2003
it is seen that the case is already
listed on 29.1.2004. So let it be
taken upon on 29.1.2004 for admission.

I.C. Chakraborty
Member (A)

J
Member (J)

bb

26.2.04

Learned counsel for the respondents
seeks six weeks time to file written
statement.

List on 8.4.04 for order.

I.C. Chakraborty
Member (A)

J
Member (J)

pg

8.4.04

None present for the
parties.

List again on 28.4.04 for
admission.

I.C. Chakraborty
Member

pg

28.4.04

10.5.2004 Present: The Hon'ble Shri Mukesh Kumar
Gupta, Member (A).

The Hon'ble Shri K.V.Prahladan
Member (A).

Mr.A.Chakraborty, learned counsel for
the applicant and also Mr.J.L.Sarkar, lea-
rned Standing counsel for the Railways are
present. Mr.Sarkar submits that he is yet
to receive instructions from the responder
& accordingly seeks time to file reply.
Prayer allowed. List for hearing before the
next Division Bench.

This case as well as O.A.20/04 are
petitions and ~~are~~ to be heard simultaneously
and accordingly list both cases together.

I.C. Chakraborty

J

7-5-04

S/R still awaiting

h.

22.4.04

No reply - has been

(2) (3)

3

O.A. 293 of 03

26.2.04

The learned counsel for the
Respondents seeks six weeks time to
file written statement.

List on 8.4.04 for orders.

22-2-04

No W/S Harseen

87/24

89

LCR Phul
Member(A)

W.
Member(J)

pg

3 4
- 293/03

Notes of the Registry

Date

Orders of the Tribunal

27.9.04

28.9.04

Present: Hon'ble Mr. Justice R.K. Batta, Vice-Chairman Hon'ble Mr. K. V. Prahladan, Administrative Member.

Heard Mr. A. Chakraborty,

learned counsel for the applicant and Mr. J. L. Sarkar, learned Railway counsel for the Respondents.

Service of Respondents is awaited. Awaiting service/Respondents the applicant in case so desired, may file fresh service on the Respondents. In that event fresh notice be issued. The learned counsel for the Respondents seeks four weeks time to file written statement. Stand over to 30.11.04. for hearing.

KV Prahladan
Member

R
Vice-Chairman

lm

30.11.04.

The learned counsel for the applicant has sent sick note. Service of on service for the Respondents is awaited. Applicant to take steps of notice. for service Stand over to 13.1.05 for orders.

KV Prahladan
Member

R
Vice-Chairman

lm

17.1.05

On the request made by learned counsel Sri S. Nath on behalf of Shri A. Chakraborty, learned counsel for the applicant the matter is adjourned to 25.1.05 for hearing. None present for the respondents.

KV Prahladan
Member

R
Vice-Chairman

pg

(A)

Notes of the Registry

Date

Orders of the Tribunal

11/3/05

25.1.2005

No rejoinder has been filed.

N. Siva
11/3/05

List before the next Division Bench.

mb

K. P. Dhasa
Member (A)21/3/05

14.3.2005

No rejoinder has been filed.

K. P. Dhasa
MemberG. Siva
Vice-Chairman

bb

22.3.2005

8.4.05
No rejoinder has been filed.

Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman The Hon'ble Mr. K.V. Prahладан, Member (A).

Heard Mr. A. Chakrabarty, learned counsel for the applicant and also Mr. J.L. Sarkar, learned counsel for the respondents.

List on 11.4.2005 for hearing.

mb

K. P. Dhasa
Member (A)G. Siva
Vice-Chairman

FB

11.4.05. Present: Hon'ble Mr. Justice G. Sivaranjan,
Vice-Chairman.
Hon'ble Mr. K. V. Prahadan, Adminis-
trative Member.

Heard in part.

The learned counsel for the applicant in fact challenging the promotion to the Respondents No. 3, to 5 and 6. It is seen that notices have not been served on all the Respondents. In the circumstances the learned counsel for the applicant will take further steps in all the matters.

Post the matter on 27.4.05.

K. V. Prahadan
Member

Q. V. Sivaranjan
Vice-Chairman

lm

27.4.2005

These two cases i.e. O.A. No. 20/04 and 293/2003 are connected in which two different Standing Counsel ~~were~~ appeared. Written statement has been filed in O.A. No. 293/2003 where Mr. J. L. Sarkar, learned counsel was appeared for the Respondents. Mr. B. C. Pathak, learned counsel appearing in O.A. No. 20/2004 submits that written statement is ready and sent for vetting. Hence these two cases ^{are} adjourned to 25.5.2005.

Q. V. Sivaranjan
Vice-Chairman

W/S has been filed.

mb

25.5.2005

On the plea of ~~now~~ learned counsel for the respondent list the case for hearing on 23.6.2005 alongwith O.A. 20/04.

G. Sivaranjan
Member

bb

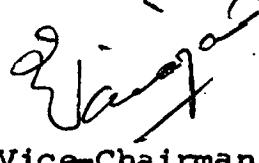
293/2003
O.A. 293/2004

23.6.2005 List on 27.7.2005 for hearing.

WLS has been filed.

By
26.7.05

mb


Vice-Chairman

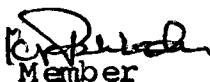
27.7.2005

Adjournment is sought on behalf of Mr. A. Chakrabarty, learned counsel for the applicant on account of his illness. Post on 12.8.2005.

WLS has been filed.

By
11.8.05

mb


Member


Vice-Chairman

12.8.05

Mr S. Nath on behalf of Mr A. Chakraborty, learned counsel for the applicant prays for adjournment. Mr J.L. Sarkar, learned Railway counsel is present.

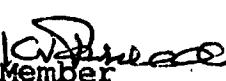
Post before the next Division Bench.

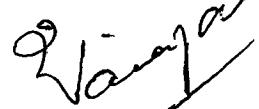
① WLS has been filed.

② No Rejoinder has been filed.

By

pa


Member


Vice-Chairman

5.10.2005

Counsel for the parties seek adjournment. Post on 17.11.2005.

3 - 1 - 06

No Rejoinder has been filed.

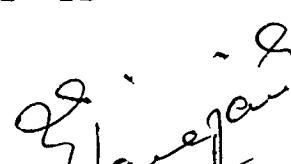
By

mb

17.11.2005

Post before the next Division Bench.


Member


Vice-Chairman

bb


Vice-Chairman

04.01.2006 Present : Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

Hon'ble Mr. N.D. Dayal Administrative Member.

6-3-06

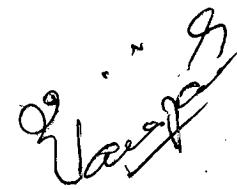
No Rejoinder has been filed.

3y

Mr. M. Chanda, learned counsel for the applicant is present. Mr. S. Nath, learned counsel on behalf of Mr. J.L. Sarkar, learned standing counsel for the railways seeks for short adjournment. Post before the next available Division Bench.



Member



Vice-Chairman

mb

7.3.2006

Heard Mr. A. Chakraborty, learned counsel for the applicants and Dr. J.L. Sarkar, learned Railway Standing counsel for the respondents. Hearing is concluded. Order is reserved.



Vice-Chairman (J)



Vice-Chairman (A)

bb

10.3.2006

Judgment pronounced in open Court, kept in separate sheets. The O.A. is dismissed in terms of the order.

bb

 Vice-Chairman (J)

 Vice-Chairman (A)

24.3.06
Copy of the Judgment
has been sent to
the D/see. for issuing
the judgment as well
as to the Railway
Standing counsel in
the Respsn.

86

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A.No.293 of 2003 & O.A.No.20 of 2004

O.A. No.

10.03.2006

DATE OF DECISION

Shri Arun Kr Chaterjee & Ors (O.A.No.293/2003)

Shri Ashoke Kr Das (O.A.No.20/2004)

Applicant/s

Mr. A. Chakraborty

Advocate for the
applicant/s.

- Versus -

Union of India & Ors.

Respondent/s

Dr J.L. Sarkar, Railway Counsel (O.A.No.293/2003)

Dr M.C. Sarma, Railway Counsel (O.A.No.20/2004)

Advocate for the
respondents

CORAM

THE HON'BLE SRI B.N. SOM, VICE CHAIRMAN (A)

THE HON'BLE SHRI K.V. SACHIDANANDAN, VICE CHAIRMAN (J)

1. Whether reporters of local newspapers may be allowed to see the Judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether to be forwarded for including in the Digest Being complied at Jodhpur Bench ? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment ? Yes/No

Vice-Chairman (J)

(1)

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application Nos. 293 of 2003 & 20 of 2004

Date of decision: This the 10th day of March 2006

Hon'ble Shri B.N. Som, Vice-Chairman (A)

Hon'ble Shri K.V. Sachidanandan, Vice-Chairman (J)

I. O.A.No.293/2003

1. Arun Kr Chaterjee, Chief Controller
2. Nirmalendu Bikash Dutta, Chief Yard Master
3. Dharmeswar Nath, Chief Yard Master
4. Samar Kr Das, Chief Controller
5. Ashok Kr Sur, Chief ControllerApplicants

All the applicants are working under the
Chief Operation Manager, N.F. Railway, Guwahati.

By Advocate Mr A. Chakraborty.

- versus -

1. Union of India, represented by the
General Manager,
N.F. Railway, Maligaon, Guwahati-11.
2. The General Manager (P),
N.F. Railway, Maligaon, Guwahati-11.
3. Shri Digambar Jha, Traffic Inspector/WR,
Office of the Divisional Railway Manager,
N.F. Railway, Katihar.
4. Shri Amar Kumar Das, Station Master,
Old Maita Railway Station,
N.F. Railway, West Bengal.
5. Shri G.S. Biswakarma, Chief Yard Master,
New Jalpaiguri Railway Yard,
N.F. Railway.

L

6. Shri Harindra Prasad Sinha,
Chief Controller,
Office of the Divisional Railway Manager,
N.F. Railway, Katihar. Respondents

By Advocate Dr J.L. Sarkar, Railway Counsel

II. O.A. No. 20/2004

Sri Ashoke Kr. Das, working as
Traffic Inspector in N.F. Rlys., resident of
Kamakhya Colony, Maligaon, Guwahati - 11. Applicant

By Advocate Mr. A. Chakraborty.

- Versus -

1. Union of India, represented by the
General Manager,
N.F. Railway, Maligaon,
Guwahati - 11.
2. The General manager (P)
N.F. Railway, Maligaon,
Guwahati - 11.
3. Shri Digambar Jha
Assistant Operation manager,
Katihar, N.F. Railways.
4. Shri G.S. Biswakarma (SC)
Assistant Operation Manager
Katihar, N.F. Railways.
5. Shri Amar Kr. Das (SC)
Station Superintendent (Gaz)
Katihar, N.F. Railways.
6. Shri P.L. Bhutia (ST)
Assistant Operation Manager/G
Alipurduar Junction, N.F. RLY.
7. Sri A.S. Mallik (SC)
Assistant Operation Manager/G
Lumding, N.F. Railways. Respondents

By Advocate Dr. M.C. Sarma, Railway Counsel.

.....

✓

ORDERSACHIDANANDAN, VICE-CHAIRMAN (I)

There are five applicants in O.A.No.293 of 2003 and one applicant in O.A.No.20 of 2004. The issue involved in these cases are identical and therefore, with the consent of the parties, these are disposed of by a common order.

2. The facts of the cases are that the applicants have appeared in the written test for selection to the post of AOM/ATM Group 'B' against 70% vacancies on 11.10.2003. The list of candidates under the zone of consideration was published which included the names of the applicants amongst others. The applicants on 11.10.2003 appeared in the examination and according to them they did very well. The list of candidates who qualified in the written examination of selection was published on 11.12.2003, which includes the names of 15 (fifteen) candidates amongst which 5 (five) belong to SC and 4 (four) to ST community. The viva voce test of the above selection was announced. The list of candidates for viva voce test was published which includes the names of 16 (sixteen) candidates as against 15 (fifteen) qualified candidates in the written test. The sixteenth candidate in the list of unreserved candidates all along his service career was treated as belonging to SC community. The total vacancies were shown as 13 (thirteen) (UR-10, SC-02 and ST-01). The applicants were not considered and therefore, aggrieved by the said inaction of the respondents they have filed the present O.A.s seeking the following reliefs:

Reliefs sought for in O.A.No.293/2003

"8.1 The selection for the post of AOM/ATM against 70% vacancies held on 11.10.2003 be declared illegal and be quashed.

8.2 The respondents be directed to reassess the correct vacancies of the post of AOM/ATM and prepare select list of eligible candidates according to rules, procedures and law of reservation and thereafter to hold the said selection of AOM/ATM against 70% vacancies afresh."

Reliefs sought for in O.A.No.20/2004

"8.1 The result of the selection against 70% vacancies for the post of AOM/ATM held on 11.10.2003 and 29.12.2003 respectively be modified and applicant's name be included in the select list/panel and consequently in the promotion order dated 12.01.2004.

8.2 The Office Order dated 12.01.2004 (Annexure-E) be modified by deleting the names of the ineligible candidates, both beyond the zone of eligibility and impermissible reservation, and the applicant's name be included in the said order."

3. The respondents have filed a detailed written statement contending that for calling of candidates as per 3X formula against minimum four number and above vacancies in the case of 70% Group 'B' selection, there is a laid down provision for adding equal number of candidates to the extent of those who had appeared twice and failed in earlier selections, over and above 3X formula, as per Railway Board's letter dated 10.09.1986 (Annexure-R1). The names of the

✓
applicants did not appear as they could not qualify in the written examination. There is no mistake in the assessment of vacancies and calling of eligible and willing candidates was as per the laid down norms of Railways in filling up of Group 'B' posts and also as per existing 40-point Roster. Though a list of fifteen candidates was published by letter dated 11.12.2003, the name of another successful candidate in the written examination was inadvertently omitted and his name disappeared in letter dated 11.12.2003 and the list of total sixteen successful candidates in the written examination was accordingly notified by letter dated 18.12.2003. The excess number of SC/ST candidates were called for the selection as per the integrated seniority of the candidates concerned. The final empanelment of candidates for Group 'B' posts against 70% selection is based on candidate's performance and fitness under different heads of qualifying marks. There is no provision for extending proforma marks for seniority. Though thirty-nine eligible and willing candidates as per 3X formula were supposed to be called for written examination against thirteen posts, an additional nine eligible and willing candidates were also called to the extent of twice appeared and failed candidates (i.e. $39+9=48$ candidates) in the total field of eligibility as per Railway Board's letter dated 10.9.1986. Therefore, there is no irregularity in the procedure adopted in the selection and since the applicants have not come out successful in the examination they cannot agitate against the same.

4. Mr A. Chakraborty, learned counsel for the applicants in both the cases, Mr J.L. Sarkar, learned Railway counsel in O.A.No.293/2003 and Dr M.C. Sarma, learned Railway counsel in O.A.No.20/2004 are present.

h

5. We have heard the learned counsel for the parties. The learned counsel for the applicants argued that the Railway Authorities had committed mistakes in the assessment of vacancies, in calculating the number of eligible candidates, calling of excessive candidates of SC and ST community and thus violated Rule 203.4 and Rule 215 (e) of IREM and also Articles 14 and 16 of the Constitution of India.

6. The learned counsel for the Railways, on the other hand, persuasively argued that adding equal number of candidates from those who had appeared and failed twice in the earlier selection over and above the 3X formula was adopted as per Railway Board's letter dated 10.9.1986 and therefore $39+9$ i.e. 48 candidates were called for the selection which cannot be faulted.

7. We have given due consideration to the arguments advanced by the learned counsel for the parties. Admittedly, the next promotion of the applicants to Group 'B' category of ADM/ATM are to be filled up by two methods - 70% by selection process and 30% by Limited Departmental Competitive Examination. For selection against 70% vacancies the number of vacancies is required to be correctly assessed and in case such number is 4 and above, the number of eligible candidates from the feeder cadre shall be determined by multiplying the said number by 3 which is expressed as 3X formula. This is a statutory compulsion. A list of eligible/willing candidates under the zone of consideration as per Annexure-A1 were called for and fortyeight persons have been listed thereof and thereafter fifteen persons qualified as per Annexure-B dated 11.12.2003. But when Annexure-C letter dated 18.12.2003 was published for viva voce test, the names of sixteen candidates had been included including one H.P.

Sinha. Both parties agreed that it is not Singh but Sinha. The learned counsel for the respondents submitted that though the 16th candidate qualified it was inadvertently omitted in the selection list, which was corrected by Annexure-R2 order dated 17.12.2003. The learned counsel for the respondents submitted that the respondents had every right to correct the mistake. We have no reason to disbelieve the averment of the respondents that it was a mistake and therefore the inclusion of the 16th candidate for viva voce test in the list cannot be said to be a manipulation. We, therefore, accept that Annexure-C letter dated 18.12.2003 which cannot be doubted.

8. The learned counsel for the applicant has taken our attention to Rule 203.4 and Rule 215 (e) of the IREM and contended that according to the 3X formula against a minimum four numbers vacancies three times the number of candidates should only be called. Therefore, the nine candidates who have been called in excess of such formula is a fault on the part of the Railways. The Railways, on the other hand, relied on Railway Board's letter dated 10.9.1986 which is reproduced as under:

"The General Managers
All Indian Railways
including CLW, DLW & ICF.

The General Manager,
Wheel & Axle Plant
Bangalore.

SUB: Selection for appointment to Group 'B' post.

In terms of the instructions contained in Board's letter No. E (GP)81/1/18 dated 9.4.1981, the field of consideration for indicated therein with 3X formula being applied where the vacancies are four or more in number. Based on a recommendation of the CSTEs and CEs who attended a Workshop in April'86, your views have been sought as to the need or desirability of extending the field to six time

8

the number of vacancies as was the practice in force prior to the issue of instructions vide Board's letter dated 9.4.1984 quoted above. D.O. letter No. E (CP)86/2/49 dated 24.7.86 addressed to your Chief Personnel Officer by the Executive Director, Management Services refers in this connection. Pending an examination of the matter in the context of the issue referred to in EDMS's D.O. letter dated 24.7.86, it has been decided by the Board as follows:

- i) The field of consideration for the Group 'B' selection should continue to be determined on a sliding scale as indicated in Board's letter No. E (GP)81/1/18 dated 9.4.81.
- ii) If the field constituted as at (1) above includes employees who had failed twice in the earlier selections, a correspondence number of additional employees should be called for the selection, e.g. if the field consists of 15 employees for selection against five vacancies and it includes, say three employees who had appeared earlier in selections twice and failed, three more eligible employees as per seniority should be included in the field. This will apply in respect of selection initiated after the issue of this letter.

2. Kindly acknowledge receipt of this letter."

The learned counsel for the applicants submitted that the circular of the Railway Board dated 10.9.1986 has no relevance because the IREM came into force subsequently superseding all other circulars/ rules provided in the field. We are in respectful agreement of the said proposition. However, we are not happy with total ignorance that has been shown by the Railways in relying on a circular which has become obsolete and out dated. The Railways should take abundant caution not to commit such fault in future. They should bear in mind and take appropriate legal advice before finalisation of such directions in future.

9. But the very locus standi of the applicants in challenging this is under dispute by the respondents. The applicants have no case

that any of their juniors has been selected nor do they have a case that they have passed the written examination. This is a selection post on the merit of the written examination and viva voce. Admittedly, the applicants have not qualified in the written examination or in the viva voce. Therefore, the application of the formula and that of the reservation point cannot be agitated by persons who miserably failed in the written examination and also in the viva voce.

10. On an overall evaluation of the case we find that the claim of the applicant is on a wide spectrum and in the nature of public interest litigation. When specifically asked to the learned counsel for the applicant, he submitted that in case the excess candidates were deleted or avoided from the list of candidates they may get a better opportunity in the next examination where. This contention cannot be accepted for the reason that even if these nine alleged excess candidates are avoided the applicants cannot have a chance since they have not passed the qualifying examination and therefore they are not in the zone of consideration. Therefore, we are of the view that the contention on the reservation point and that of excessive candidates for vacancy position cannot be agitated by the applicants who are not qualified for the same and the learned counsel for the respondents submitted that any interference by this Tribunal will affect the system and the applicants also will not get any relief and it will be a heart burn to the candidates who have already been promoted by due process of selection.

11. The Hon'ble Supreme Court in Om Prakash Shukla Vs. Akhilesh Kumar Shukla, AIR 1986 SC 1043 has declared that "having

participated in the selection and failed such candidates cannot challenge the legality of the selection." Taking confidence of the said decision and the dictum laid down, we are of the view that the applicants cannot legally challenge the selection and the O.A.s are to be dismissed.

12. In the conspectus of the above facts and circumstances the applicants are legally not entitled to challenge the selection process and the O.A.s are devoid of any merit. Accordingly we dismiss both the O.A.s. In the circumstances no order as to costs.



(K. V. SACHIDANANDAN)
VICE-CHAIRMAN (J)



(B. N. SOM)
VICE-CHAIRMAN (A)

nkm

24/6

21

Filed by
Biju Kr. Chatterjee
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

Title of the case : O.A. No. : 293 /2003

Sri Arun Kr. Chatterjee & Ors.: Applicants

----- versus -----

Union of India & ors. : Respondents

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

9.9.2003 Written examination for selection for the post of ADM/ATM Group "B" against 70% vacancies was announced to be held on 11.10.2003. List of eligible candidates under the zone of consideration was also published which includes the name of the applicants amongst others.

11.10.2003 Written examination for the said selection was held and the applicants appeared in the said examination and did very well.

11.12.2003 List of qualified candidates in the written examination of the above mentioned selection was published which includes the name of 15 (fifteen) candidates amongst which 5 (five) belong

to SC and 4 (four) belong to ST community.

18.12.2003

Date and time of viva voce test of the above selection was announced to be held on 29.12.2003. List of candidates called for to appear in the said viva voce test was also published which includes the name of 16 (sixteen) candidates as against 15 (fifteen) qualified candidates in the written test as explained above. The sixteenth candidate included in the list as UR candidate though all along his service he was treated as belonging to SC community.

After 18.12.2003

The applicants could collect the letter dated 13.08.2003 which mentions the total vacancies as 13 (UR-10, SC-02 and ST-01). This letter was not available to the applicants before written examination as well as on or before 18.12.2003 as the same was not circulated to them.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

24th December 2003
GUWAHATI BENCH : GUWAHATI Bench

Title of the case

: O.A. No.: 293 /2003

Sri Arun Kr. Chatterjee & Ors.:

Applicants

----- versus -----

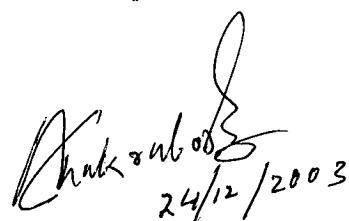
Union of India & ors. :

Respondents

I N D E X

Sl.No.	Annexure	Particulars of Documents	Page No.
1.	-	Application	1 - 10
2.	-	Verification	11
3.	A	Copy of the Letter dt. 9.9.03	12
4.	A1	List of eligible candidates.	13
5.	B	Copy of the Letter dt. 11.12.03.	14
6.	C	Copy of the Letter dt. 18.12.03.	15
7.	D	Copy of the Letter dt. 13.08.03.	16-17

Filed by


Chakraborty
24/12/2003

(Anupam Chakraborty)

Advocate

In The Central Administrative Tribunal

Guwahati Bench :: Guwahati

O.A. No. 293/2003

BETWEEN

1. Arun Kr. Chatterjee, Chief Controller
2. Nirmalendu Bikash Dutta, Chief Yard Master
3. Dharmeswar Nath, Chief Yard Master
4. Samar Kr. Das, Chief Controller
5. Ashok Kr. Sur, Chief Controller

(All the above applicants are working under Chief Operation Manager, N.F. Railways, Guwahati-11.)

.....Applicants

AND

1. Union of India represented by the General Manager, N.F. Railways, Maligaon, Guwahati-11.
2. The General Manager (P)
N.F. Railways, Maligaon, Guwahati-11.
3. Sri Digambar Jha, Traffic Inspector/WR,
Office of the Divisional Rly. Manager,
N.F. Railway, Katihar
4. Sri Amar Kumar Das, Station Master, Old Malda
Rly. Station, N.F. Railways (West Bengal).
5. Sri G.S. Biswakarma, Chief Yard Master,
New Jalpaiguri Rly Yard, N.F. Railways.
6. Sri Harindra Prasad Sinha, Chief Controller,
Office of the Divisional Rly. Manager,
N.F. Railway, Katihar

.....Respondents

Details of the Application:

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

The application is made for a direction to declare the selection for the post of AOM/ATM against 70% vacancies held on 11.10.2003 as illegal and for quashing the said selection and to reassess the vacancies correctly of the

22
Filed by the applicant
Mony G. Chatterjee
Pro se
24/11/2003
A.K. Chatterjee

A. K. Ghatge
28

selection of 70% vacancies for promotion to the posts of Assistant Operation Manager and Assistant Traffic Manager and to hold the selection test afresh after assessment of vacancies correctly and preparing correct List of eligible candidates.

2. Jurisdiction:

The applicants declare that the subject matter of the application is within the jurisdiction of the Hon'ble tribunal.

3. Limitation:

The applicants declare that the application is within the period of limitation under section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case:

4.1 That the applicants are citizens of India and as such are entitled to the rights and privileges guaranteed by the constitution of India.

4.2 That the applicants belong to Group 'C' category in the N.F. Railways. The applicants have a common cause of action and they pray for the permission to file the common application under Rule 4 (5) (B) of the Central Administrative Tribunal Rules, 1987.

4.3 That the applicants are working in the Operating Department in various capacities. The Operating Department is responsible for moving of the wheels of the Railways

i.e., running of the trains. The applicants belong to Group "C" category. The next promotional avenue of the applicants is to Group "B" category post of Assistant Operation Manager (for short AOM)/Assistant Traffic Manager (for short ATM). The posts of AOM/ATM are filled up by two methods. 70% are filled up by selection process and 30% by Limited Departmental Competitive Examination (for short LDCE). It is stated that for selection against 70% vacancies the number of vacancies is required to be correctly assessed and in case such number is 4 and above, the number of eligible candidates from the feeding cadre shall be determined by multiplying the said number by 3 which is expressed as 3X formula. This is a statutory compulsion.

4.4 That in August, 2003 the applicants were asked to give a declaration giving their willingness for appearing in a selection for AOM (70% vacancy) which they gave.

4.5 That by a letter dated 09.09.2003 list of eligible/willing staff under zone of consideration for the above selection was published fixing the date of written examination on 11.10.2003. The applicants were in the list of eligible candidates and they accordingly appeared in the said written test.

Copy of the letter dated 09.09.2003
is enclosed as Annexure "A".

Copy of the List of eligible
candidates in enclosed as
Annexure—"A1".

A. K. Chatterjee

4.6 That the applicants did very well in the written test and were anxiously waiting for the result of the written test. By a letter dated 11.12.2003 list of 15 (fifteen) candidates was published declaring them qualified in the written examination and asking for their physical fitness certificate from medical authorities for holding the Group "B" posts of AOM/ATM.

Copy of the letter dated 11.12.2003
is enclosed as Annexure "B".

4.7 That immediately after publication of the result of the said written test, the applicants heard whispers in office that there ~~have~~ been mistakes in assessment of vacancies, in calculating the number of eligible candidates, calling of excessive candidates of Schedule Caste (for short SC) and Schedule Tribe (for short ST).

4.8 That the applicants were bewildered when letter dated 18.12.2003 was published by which sixteen candidates were called for the viva voce as against fifteen candidates qualified in the written examination. On enquiry the applicants could come to know that there has been various mistakes in the selection process. The SC/ST candidates were called and considered in excess of the quota under the law of reservation. It is stated that the sixteenth person i.e. Sri Harindra Prasad Sinha included in the letter dated 18.12.2003 is a SC candidate and his name appears as such against serial No.25 of the list of eligible candidates (Annexure-A1). The applicants have reasonable apprehension that there are similar other mistakes and qualified candidates have been left over in the list dated 11.12.2003,

or unqualified candidates/candidates not declared qualified may be considered in the selection/viva voce. Such consideration ~~shall~~ highly prejudice the selection process and scope of promotions of the applicants to the aforesaid posts.

Copy of the Letter dated 18.12.2003
is enclosed as Annexure-C.

4.9 That the applicants beg to state that they understood that there were sixteen vacancies of AOM/ATM against 70% vacancies for which $16 \times 3 = 48$ candidates were called for. But after the issue of the letter dated 18.12.2003 and the resultant anomaly of inclusion of the sixteenth candidate in the list as explained above it could be learnt that there were actually thirteen (13) vacancies. The applicants tried to find out the correctness of the whispers and with great difficulty could collect the letter dated 13.08.2003 which discloses the number of vacancies as thirteen (13). As such maximum 39(thirty nine) candidates would have been eligible as against 48(forty eight) wrongly called for.

Copy of the Letter dated 13.08.2003
is enclosed as Annexure "D".

4.10 That out of thirteen vacancies 10(ten) vacancies are shown as unreserved(UR), 2(two) SC and 1(one) ST. It is stated that against the promotional post there is no scope of reservation for SC and ST and there is no mandate of such reservation. The respondents Railway Authorities have not formed any opinion that the SCs and STs are not adequately

represented in the cadre of AOM/ATM. It is stated that the cadre of AOM/ATM is adequately represented by SC/ST employees and such employees constitute more than the prescribed percentage of 15 (fifteen) and 7 (seven) respectively. The Hon'ble Tribunal may be pleased to call for the Gradation List of AOM/ATM.

Point discussed

4.11 That the example of sixteenth candidate i.e., Sri Harindra Pd. Sinha in the letter dated 18.12.2003 demonstrates the position that in the matter of SC and ST also the respondent authorities are not acting correctly. It is stated that Sri H.P. Sinha since his appointment has been treated as belonging to SC community. He got his successive promotions against reserved quota. He was also deputed for pre-selection training at Zonal Training Centre, Alipurduar. But he has been treated as UR in the list dated 18.12.2003 ostensibly to minimise the exhibition of number of SC candidates.

4.12 That it is stated that as regards the assessment of vacancies the Railway Authorities have called persons beyond the eligibility zone. The respondents have in addition to 3X formula called equal number of candidates appeared and failed twice in last two occasions. The calling of additional candidates on the ground of failures on last ^{permitted} occasions is not by any rule and is illegal.

4.13 That the applicants beg to state that any rule or direction stipulating calling of additional candidates on account of failing of candidates is unreasonable. Such

A. K. Gattuji 30

candidates have a right to be called for the selection and there is no reason that they should ^{be} presumed to be failures in the third chance also. Moreover, to call additional candidates for their failure in past selections will amount to colourable action in view of the fact that there would presupposition that such candidates will fail in the third chance. The formula is also vague and does not clearly enunciate the stages of appearance and failures.

5. Grounds for reliefs with legal provisions:

5.1 For that the respondent authorities have failed to assess correct vacancy position for selection of the post of AOM/ATM against 70% vacancy.

5.2 For that the respondent authorities have failed to apply 3X formula in the matter of determining and calling eligible candidates.

5.3 For that the respondents have called excess candidates than what is permitted under law and called 48 (forty eight) candidates in the written examination instead of 39 (thirty nine) maximum possible candidates which has adversely affected the scope of promotion of the applicants.

5.4 For that the respondents have called SC/ST candidates in excess of the quota though the cadre of AOM/ATM is adequately represented by SC/ST employees.

5.5 For that the respondents have called in the viva voce the unqualified/not declared qualified candidate of the

written test.

5.6 For that there is no justification in calling candidates who have failed in past selections in addition to the eligible candidates as per 3X formula.

5.7 For that the respondents have acted in a sloth sod manner and such action is the result of arbitrariness, capricious, whimsical and colourable exercise of power and Offends Article 14 and 16 of the Constitution of India.

5.8 For that the respondents have with malafide intention shown the aforesaid sixteenth candidate Sri Harindra Prasad Sinha as unreserved in the letter dated 18.12.2003 although the said Sri Sinha all along his service period has been treated as belonging to SC community.

5.9 For that in any view of the matter the applicants are entitled to the reliefs sought for.

6. Details of remedies exhausted:

There is no remedy under any rule and this Hon'ble Tribunal is the only forum for redressal of the grievance.

7. Matters not previously filed or pending before any other Court:

The applicants declare that they have not filed any other case in any tribunal or Court against on the subject.

8. Reliefs sought for :

Under the facts and circumstances of the case, the applicants pray for the following reliefs :

8.1 The selection for the post of AOM/ATM against 70% vacancies held on 11.10.2003 be declared illegal and be quashed.

8.2 The respondents be directed to reassess the correct vacancies of the post of AOM/ATM and prepare select list of eligible candidates according to rules, procedures and law of reservation and thereafter to hold the said selection of AOM/ATM against 70% vacancies afresh.

8.3 Any other relief/reliefs the Hon'ble tribunal may be pleased to grant.

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

9. Interim relief prayed for :

During the pendency of this application the applicants pray for the following interim order :

9.1 The viva voce test to be held on 29.12.2003 for the said selection of AOM/ATM against 70% vacancies be stayed.

A. K. Chatterjee

9.2 Any other relief/reliefs the Hon'ble tribunal may be pleased to grant.

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

10. This application has been filed through Advocate.

11. Particulars of Postal Order :

i) I.P.O. No. : 11G 387519
ii) Date of issue : 23.12.2003
iii) Issued from : Guwahati.
iv) Payable at : Guwahati.

12. Particulars of Enclosures :

As stated in the index.

Verification.....

64
:: 11 ::

Verification

I, Arun Kr. Chatterjee, working as CHC/CC/HQ in the N.F. Railways on being authorised by other applicants do hereby verify that the statements made in para 1, 4, 6 to 11 are true my personal knowledge and those made in para 2, 3 and 5 are true to my legal advice and that I have not suppressed any material facts.

And I, sign this verification on this 23 rd day of December, 2003.

Guwahati

A. K. Chatterjee

Signature

NORTHEAST FRONTIER RAILWAY

No.E/254/11/Pt.II(O)

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

dated : 09-09-2003.

To.

COM, CSO, CFTM & CPTM/Maligaon,
DRM(P)s/KIR, APDJ, RNY, LMG & TSK;
Sr.DOMs & Sr.DSOs/KIR, APDJ, RNY & LMG;
DY.COM/Coaching/MLG, Dy.COM/Goods/MLG, Dy.COM/PL/HQ,
DY.CVO/T/MLG, DOM & DSO/TSK, DOM/GHY,
AREA MANAGERs/NJP, NBQ, GHY & BPB,
PRINCIPAL, ZONAL TRAINING CENTRE, ALIPURDUAR JN.,
ATM/CENTRAL CONTROL/MALIGAON, SPO/TEST/MLG.

Sub:- Selection for the post of AOM/ATM (Group-'B') against 70% Vacancies.

Ref.: - This office notification of even number dated 13.08.2003.

Reference above, the written examination for selection for the post of AOM/Group-'B' against 70% vacancies will be held on 11.10.2003 as per details given below:-

- i) Date of Written examination : 11.10.2003
- ii) Time : From 10.00 to 13.00 hours.
- iii) Venue : CPO's Office/Maligaon.

The list of eligible/willing staff under zone of consideration for the above selection is enclosed as ANNEXURE-'A'.

All the Controlling officers are requested to circulate the above notice and ensure sparing of the staff concerned (as shown in the enclosed ANNEXURE-'A') to appear in the above written examination on 11.10.2003 from 10.00 hours WITHOUT FAIL.

Please acknowledge receipt.

DA : As above.

(P.K. SINGH)
DY.CPO/GAZ.
For GENERAL MANAGER(P)

Parishad
Bhupendra
P. K. Singh

**LIST OF ELIGIBLE WILLING CANDIDATES UNDER ZONE OF CONSIDERATION WHO
ARE APPEARING IN THE WRITTEN EXAMINATION FOR THE SELECTION OF
AOM/ATM (GROUP 'B') AGAINST 70% VACANCIES.**

SN	NAME OF THE STAFF S/SHRI	COMMUNITY	DESIGNATION & STATION
(1)	(2)	(3)	(4)
01	JAYLENDRA NATH BRAHMA	ST	Sr.CYM/GHY
02	NIRMALENDU BIKASH DUTTA	UR	CYM/LMG
03	DHARMESWAR NATH	UR	CYM/LMG
04	DHANANJOY DAS	SC	SM/FKG
05	JADULAL BASUMATARY	ST	SS/NAM
06	HARICHARAN PRASAD	SC	SS/TSK
07	DIPAK DAS	SC	SS/SLGR
08	TULESWAR MEDHI	ST	SS/DMV
09	RAJENDRA PRASAD SHARMA	UR	TI/MXN
10	CHANDRA SEKHAR THAPA	ST	SS/NMZ
11	HARENDRA NATH BORO	ST	SS/RNY
12	PEMBA LAL BHUTIA	ST	TI/NJP
13	DASARATH CHANDRA PATHAK	ST	CHC/LMG
14	SANKAR LAL DAS	SC	CHC/BPB
15	NILANJAN ROY	UR	CHC/APDJ
16	ARVIND HORO	ST	TI/KIR
17	DHIRENDRA KUMAR GABUR	ST	SM/Samsi
18	MANESWAR BRAHMA	ST	SS/NBQ
19	RAM ASHRAYA YADAV	UR	CHC/LMG
20	KRISHNA KANTA BASUMATARY	ST	SS/GOGH
21	SAMAR KUMAR DAS	UR	CHC/APDJ
22	ARUN KUMAR CHATTERJEE	UR	CHC/CC/HQ
23	TENJING HENJEN	ST	CHC/APDJ
24	ASHOK KUMAR SUR	UR	CHC/RNY
25	HARINDRA PRASAD SINGH	SC	CHC/KIR
26	PRAFULLA KUMAR BORO	ST	TI/COM/MLG
27	SAILENDRA NATH SAIKIA	ST	SS/JTN
28	RAMADHAR RAM	SC	CYM/NTSK
29	GAUR GOPAL BISWAS	SC	CHC/APDJ
30	BISWANATH CHOWDHURY	SC	TI/COM/MLG
31	CHANDAN DUTTA	UR	CYM/NJP
32	SUKUMAR CHANDRA ROY	SC	SS/KAMG
33	KHUDI RAM BORO	ST	SS/RPAN
34	BIMAL CHANDRA BRAHMA	ST	Dy.SS/JRBM
35	ABDUSH SALAM MALLIK	UR	SS/TC/MLG
36	KUHIRAM BORO	ST	SS/MPP/LMG
37	JITEN CHANDRA DAS	SC	TI/PLG/COM/MLG
38	SANKAR MUKHURJEE	UR	TI/COM/MLG
39	ASHOK KUMAR DAS	UR	TI/CCM/MLG
40	DIGAMBAR JHA	UR	TI/KIR
41	AJOY RANIK	UR	TI/GHY
42	GOPAL SINGH VISWAKARMA	SC	CYM/NJP
43	AMAR KUMAR DAS	SC	SM/OMLF
44	DANIEL BASUMATARY	ST	SS/HJO
45	NIL RATAN ROY CHOWDHURY	UR	SM/NG/GHY
46	SISIR DEB BARMAN	ST	SS/KYQ
47	BHANU RANJAN DAS	SC	DYC/LMG
48	PAULOUS BASUMATARY	ST	DYC/RNY

Printed by
Chetan
Date: 20/01/2023

9/9/03

NORTHEAST FRONTIER RAILWAY

Office of the
General Manager(P)
Maligaon Guwahati-1

Dated: 11.12.2003.

No. E/254/11/OPTG.-Pt.II(O)

To:

COM, CSO/Maligaon, DRM(P)s/KIR, APDJ, LMG & TSK;
Sr.DOMs/KIR, APDJ, LMG & TSK; Sr.DSO/KIR,

Sub:- Selection for the post of AOM/Group 'B' against 70% vacancies.

Ref.:- This office letter of even number dated 09.09.2003, 14.10.2003 &
19.11.2003

The following staff under your control have qualified in the written
examination of above mentioned selection held on 11.10.03, 01.11.03 & 25.11.03 :-

1. Shri Deepak Das (SC), SM/SLGR
2. Shri Chandan Datta, CYM/NJP
3. Shri Digambar Jha(SC), TI/WR/KIR
4. Shri Amar Kumar Das (SC), SM/OMLF
5. Shri R.P. Sharma, TI/MXN
6. Shri Tuleswar Medhi (ST), SM/DMV
7. Shri Ashoke Kumar Das, TI/HQ
8. Shri G.S. Biswakarma (SC), CYM/NJP
9. Shri Nilanjan Roy, CHC/APDJ
10. Shri Abdus Salam Mallik, SC/TFC/LMG
11. Shri Sankar Mukherjee, TI/HQ
12. Shri Arvind Horo (ST), TI/KIR
13. Shri P.L. Bhutia (ST), TI/NJP
14. Shri Biswanath Choudhury(SC), TI/HQ
15. Shri P.K. Boro (ST), TI/HQ

You are, therefore, requested to direct them to their respective Medical
Authorities to obtain Physical fitness certificates for holding the Group-'B' posts of
AOM/ATM in Technical/Safety category and send the same to Dy.CPO/Gaz./MLG within
22.12.2003. You are also requested to send the departmental DAR clearance in favour of
the staff concerned, so as to reach this office within 7 days from the date of issue of this
letter. Candidates concerned should also be advised to keep themselves in readiness to
appear before Viva-voce test on short notice.

Please acknowledge receipt.

11.12.03
(S.K.CHOWDHURY)
APD/GAZ
For GENERAL MANAGER(P)

*Copy given
earlier
posted
Chowdhury
P.D.W. 2003
Appreciated
Not Merit*

NORTHEAST FRONTIER RAILWAY

No. E/254/11/OPTG.-Pt. II(O)

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

Dated: 18.12.2003.

To,
COM, CSO/Maligaon, DRM(P)s/KIR, APDJ, LMG & TSK;
Sr.DOMs/KIR, APDJ, LMG & TSK; Sr.DSO/KIR

Sub:- Selection for the post of AOM/Group 'B' against 70% Vacancies.

Ref:- This office letter of even number dated 11.12.03 & 17.12.03.

It has been decided with the approval of Competent Authority to hold Viva-voce test of AOM/Group 'B' against 70% vacancies, as per programme detailed below:-

(I) Date of Viva-voce test: 29.12.2003 (Monday)
 (II) Time of Viva-voce test: From 11.00 hours
 (III) Venue of Viva-voce test: COM/Maligaon's chamber

2. The Controlling officers are requested to spare and direct the following staff working under their control, to appear in the viva-voce test on the above mentioned date and time positively:-

1. Shri Deepak Das (SC), SM/SLGR
2. Shri Chandan Dutta, CYM/NJP
3. Shri Digambar Jha, TI/WR/KIR
4. Shri Amar Kumar Das (SC), SM/OMLF
5. Shri R.P. Sharma, TI/MXN
6. Shri Tuleswar Modhi (ST), SM/DMV
7. Shri Ashoke Kumar Das, TI/HQ
8. Shri G.S. Biswakarma (SC), CYM/NJP
9. Shri Nilanjan Roy, CHC/APDJ
10. Shri Abdus Salam Mallik, SC/TFC/LMG
11. Shri Sankar Mukherjee, TI/HQ
12. Shri Arvind Horo (ST), TI/KIR
13. Shri P.L. Bhutia (ST), TI/NJP
14. Shri Biswanath Choudhury(SC), TI/HQ
15. Shri P.K. Boro (ST), TI/HQ
16. Shri Harindra Prasad Sinha, CHC/KIR.

3. The candidates concerned should be informed that they will be allowed to appear in the Viva-voce test on 29.12.2003, only on production of Physical fitness certificates (for holding Group 'B' post of AOM) issued by respective Railway Medical Authorities.

4. The Controlling Officers are also requested to send the departmental DAR clearance in favour of staff concerned under their control, so as to reach this office on or before 23.12.2003.

Please acknowledge receipt.

18/12/03
 (S.K. CHOWDHURY
 APO/GAZ.
 For GENERAL MANAGER(P)

Dated
 18/12/03
 Received
 General Manager

NORTHEAST FRONTIER RAILWAY

Office of the
General Manager (P)
Majigaon, Guwahati-11

Dated: 13-08-2003

No.E/254/11/OP(G.-Pt.II)(O)

To,
The General Manager(P)(Construction)/Majigaon, 2
COM, CSO, CPTM & CFIM/Majigaon
DRM(P)/KIR, APD(J), KNY, LMG & TSK;
Sr.DOMs/KIR, APD(J), KNY & LMG, DOM/TSK, All SDOS & DSOS/N.F.Railway,
DY.COM/COACH/MLG, DY.COM(Goods)/MIG, Dy.COM/Planning/HQ & Dy.CVO/T/MLG,
AREA MANAGER/GIY, BPB, RPAN, HUP & NOQ
Principal/ZTC/APD(J), SPO/TEST/MLG, CS/NFRMU & NFRMU/MLG.

Sub: - Selection for the post of AOM/ATM(Group-'B') against
70% vacancies.

It has been decided with the approval of Competent Authority to hold a selection for forming a panel of 13 (UR-10, SC-02 & ST-01) persons for the post of AOM/ATM(Group-'B') against 70% vacancies, as per details given below:-

(I) PRE-SELECTION COACHING FOR SC/ST CANDIDATES.

Date - 21 days from 01.09.2003.
Venue - Zonal Training Centre/APD(J).

(II) WRITTEN EXAMINATION.

Date of written examination - 11.10.2003.
Time - From 10.00 hours.
Venue - Office of the COM/N.F.Railway/MIG.

(2) THE CUT-OFF DATE OF ELIGIBILITY OF LENGTH OF REQUIRED YEARS OF
NON-FORTUITOUS SERVICE OF STAFF OF OPERATING DEPARTMENT IS 20.06.2003
FOR BOTH 70% SELECTION AND 30% EXCE.

(3) The above selection will be based on the candidates' performance both in written examination and viva-voce test. The candidates, who qualify in the written examination, will only be called for viva-voce test. The placement of the candidates in the panel based on their performance in written exam/viva-voce test/Record of service will be as per extant procedure of Railway Board's instructions.

(4) The written examination will consist of only ONE PAPER on the subject, total marks & qualifying marks as indicated below:-

SUBJECT	MAXIMUM MARKS	QUALIFYING MARKS
Professional subject, Establishment, Financial Rules 1/2, Rajbhasha Rules.	150	90

(5) The question paper will be bilingual, i.e. Hindi and English. It will be open to the candidates' choice to write in any one of these languages. The candidates should clearly indicate his choice of language in the space of the application format.

*Appended
Shankar D
Advocate*

*Ch.
13.8.03*

(Contd...2)

(6) The controlling Officers should give wide publicity of this notification amongst the eligible staff of Operating Department as mentioned in **MAIN LIST** and **STAND-BY LIST** (Annexure-'A' & 'B' respectively) under their control and ensure submission of written willingness/unwillingness by the candidates in the prescribed proforma (specimen copy enclosed as Annexure-'C') within the under mentioned stipulated time. If no willingness/unwillingness is received from any eligible staff from the **MAIN LIST** (Annexure-'A') within the stipulated date, it will be presumed that he is unwilling to appear in the said selection and in that case, WILLING staff from **STAND-BY LIST** will be called in his place. The candidates mentioned in the Stand-by list should, therefore, be advised to express their Willingness/Unwillingness. The Controlling officers should ensure that all staff under their control, whose names appear in the **MAIN & STAND-BY LIST**, have expressed their **WILLINGNESS/UNWILLINGNESS** in writing to enable this office to finalize the selection without delay. It may be noted that **WILLINGNESS/UNWILLINGNESS** options received by the Controlling Officers should be sent in a BUNCH with a forwarding letter so as to reach DY.CPO/GAZ/Maligaon, on or before 25.08.2003 positively. Any options received and forwarded after the target date will not be entertained under any circumstances.

(7) In case, any representation is received from any staff against the Integrated seniority position furnished vide Annexure-'A' and Annexure-'B' or any other particulars shown therein are found incorrect, all such representations should be forwarded to this office in a Bunch on or before 25.08.2003 certifying the correct service particulars/records of the staff, as the case may be. No representation against the integrated seniority position etc. will be entertained at a later date.

(8) In case, service particulars furnished by the candidates and also certified to be in order by the concerned authority are found incorrect/false subsequently, the candidature of the staff will liable to be cancelled at any stage during pendency of the above selection proceedings.

(9) Since 02 posts are earmarked for SC & 01 post for ST, pre-selection coaching is mandatory for SC/ST candidates. The list of willing/eligible SC/ST staff who will require to attend pre-selection coaching will be circulated soon after receipt of applications within the above mentioned target date. The Controlling Officers should ensure that the SC/ST staff working under their control and whose names will be notified from this end and, are spared and directed to attend the above pre-selection coaching, without fail. If any SC/ST candidate refuses to undergo pre-selection coaching, a written undertaking in this regard should be obtained from him and sent to Principal/ZTC/APD directly with a copy to Dy.CPO/Gaz. No appeal to this effect will be entertained after completion of pre-selection coaching.

(10) The date of written examination having been fixed on 11.10.2003, the candidates in general should be advised to keep themselves in readiness to appear for the same. However, the list of willing/eligible staff (whose options has been invited within 25.08.2003) will be circulated from this end, to the extent of zone of consideration.

(11) The field of eligibility will be as per 3X formula plus +/- equal number of candidates appeared and failed twice in last two occasions.

Please acknowledge receipt.

LIA: (i) Integrated seniority list
(Annexure-'A' & 'B').
(ii) Proforma of option.

ch
13.8.2003
(S.K.Chowdhury)
APO/Gaz.
For General Manager (P)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
25 NOV 2003
GUWAHATI BENCH : GUWAHATI

- 18 -

O.A. No. 293/2003

SRI A.K. CHATTERJEE & ORS

Vs.

U.O.I. & Ors.

IN THE MATTER OF :

Written Statement on behalf of the
Railway respondents.

The Respondents in the above case

most respectfully beg to state as under :

1. That the respondents have gone through the original application and understood the contents thereof.
2. That the respondents do not admit any statement of the application which are not supported by records and which are not specifically admitted in this written statement. The statements which are not admitted are denied.
3. That in reply to para 4.3 of the OA the respondents beg to state that calling of candidates as per 3X formula against minimum 4(four) number and above vacancies in the case of 70% Group-B selection is concerned, there is a laid down provision for adding equal number of candidates to the extent of those who had appeared twice and failed in earlier selections, over and above 3X formula, as per Railway Board's letter no.E(GP)85/1/78 dated 10.09.86.

Copy of the Rly. Board's letter dated 10.09.86 is
enclosed as Annexure-R1.

4. That in reply to statements in para 4.6 of the OA it is stated that the statement of the applicants are baseless. It is stated that the name of the applicant did not appear in the letter dated 11.12.2003 because they could not qualify in the written examination.
5. That in reply to statements in para 4.7 of the OA it is stated that the statements in this para are totally baseless, as there was no mistake in the

Proceeds Kumar Singh
of Chief Personnel Officer
N.F. Railway, Maligaon
Guwahati-11

in regard with
the present matter
File No. 1
Dated 11.12.2003
M. P.

assessment of vacancies and calling of eligible and willing candidates, as per the laid down norms of Railways in filling up of Group-B posts and also as per existing 40-point Roster.

6. That in reply to the statements in para 4.8 of the OA it is stated that though a list of 15 candidates was published by letter dated 11.12.2003, the name of another successful candidate in the written examination was inadvertently omitted and his name disappeared in this office letter dated 12.12.2003 and the list of total 16 successful candidates in the written examination was accordingly notified by letter dated 18.12.2003. It is also stated that excess number of SC/ST candidates were called for the selection, as alleged by the applicants, is totally denied, because calling of eligible and willing candidates was in order as per laid down procedure for Group-B selection and as per the integrated seniority of the candidates concerned. The final empanelment of candidates for Group-B posts against 70% selection is based on candidate's performance and fitness under different heads of qualifying marks. There is no provision for extending proforma marks for seniority, as alleged by the applicants.

Copy of the letter dated 17.12.2003 is enclosed as
Annexure-R2.

7. That in reply to the statements in para 4.9 of the OA it is mentioned that this Railway Administration had notified for total 13 posts for the above Group-B selection by letter dated 13.8.2003. As stated above, it is further stated that though total 39 number of eligible and willing candidates as per 3X formula were supposed to be called for written examination against 13 posts, an additional 9 eligible and willing candidates were also called to the extent of twice appeared and failed candidates (i.e 39+9=48 candidates) in the total field of eligibility as per Rly Board's letter dated 10.09.86.

8. That in reply to the statements in para 4.10 it is reiterated that the willing and eligible candidates were called as per existing 40-point Roaster meant for Gazetted Group-B selection and purely on the basis of integrated seniority of the eligible and willing staff of Transportation (Traffic) department. The UR, SC and ST eligible and willing candidates who were in the field of total 48 eligible and willing candidates were as per their integrated seniority position.

9. That in reply to the statements in para 4.11 of the OA it is mentioned that Sri H.P. Sinha, who was included in this Railway's letter dated 18.12.2003 was also from SC community and he was directed to attend pre-selection coaching for SC/ST candidates in the ZTC/APDJ along with other SC/ST candidates by letter dated 27.8.2003. Indication of his community as SC in letter dated 18.12.2003

✓ Phadeep Kumar Singh
Dy. Chief Personnel Officer / Cray
N.F. Railway, Morigaon
Guwahati-11

by tele. dated
17.12.2003

was an in-advertent omission. However, Sri H.P. Sinha could not qualify for empanelment for promotion to the post of AOM/ATM (Group-B) against 70% vacancies.

10. That in reply to the statements in para 4.12 and 4.13 of the OA it is reiterated that calling of additional candidates over and above 3X formula was in accordance with Railway Board's letter dated 10.09.86.

11. That in the facts and circumstances stated above the OA deserves to be dismissed with costs.

Verification

I, Pradeep Kumar Singh, working as Dy. CPO/Gaz, N.F. Railway, do hereby verify that the statements made in para 1 to 11 above are true to my knowledge.

And I, sign this verification on this day of , 2004.

Signature.

Pradeep Kumar Singh
 ✓ *Dy. Chief Personnel Officer / Gaz*
 N.F. Railway, Maligaon
 Guwahati-11

3:X agm
1988 ~~R1~~

list Credited

1. Leo Senior
not junior failed ones
ambidextrous and sole one different

V.R.SUBRAHMAMAN

R 10/10/86
 Copy of Railway Board's letter No. E(GP)85/1/70 dated 10-9-86 from N.Anantaraman, Lt.Director, Estt. (Gaz) addressed to the CMs/All Indian Railways and others.

10/10/86
 SN 26

Sub:- Selection for appointment to Group 'B' post.
 -000-

In terms of the instructions contained in Board's letter No. E(GP)81/1/10 dated 9-4-1981, the field of consideration for Group 'B' selection is determined on the basis of a ~~xxx~~ sliding scale indicated therein with 3X formula being applied where the ~~xxx~~ in the formula is number. Based on a recommendation of the CSTEs at the 11th Workshop in April/86, your views have been sought as to the need or desirability of extending the field to six times the number of vacancies as was the practice in once prior to the issue of instructions vide Board's letter dated 9-1-1984 quoted above. D.O. letter No. E(GP)86/2/49 dated 24-7-86 addressed to you, Chief Personnel Officer by the Executive Director, Management Services refers in this connection. Pending an examination of the matter in the context of the issue referred to in EDMS's D.O. letter dated 24-7-86, it has been decided by the Board as follows:-

- i) The field of consideration for the Group 'B' selection should continue to be determined on a sliding scale as indicated in Board's letter No. E(GP)81/1/10 dated 9-4-81.
- ii) If the field constituted as at (i) above includes employees who had failed twice in the earlier selections, a corresponding number of additional employees should be called for the selection, e.g., if the field consists of 15 employees for selection against five vacancies and it includes, say three employees who had appeared earlier in selections twice and failed, three more eligible employees as per seniority should be included in the field. This will apply in respect of selections initiated after the issue of this letter.

Kindly acknowledge receipt of this letter.

-000-

No. E/254/90/1/Pt. II (O)

Malgao, dated 10-10-86

Copy forwarded for information and necessary action to:-

COPS, CCS, CCO, CFO, CE, CTE, CBU, CSO, CSTE, CEE,
 & CME, CRSE, FA & CAO, CMO, CME, COS.

SC. 1/10/86

K
 for GENERAL MANAGER (P)

48

~~IREM~~ Roll

1989

~~Roll~~ 2034

Annexure - R - 2
File No. 103
Fax id on 17/12/03 4X
at 17.35 hours for
to DPO/KIR

NORTHEAST FRONTIER RAILWAY

Office of the
General Manager(P)
Mangaon, Guwahati-11

No.E/254/11/OPTG.-Pt.II(O)

Dated: 17.12.2003

To,
DRM(P)/KIR
SR.DOM/KIR;

Sub:- Selection for the post of AOM/Group-'B' against 70% vacancies.

Ref:- This office letter of even number dated 11.12.2003.

In continuation to this office letter quoted under reference, it is intimated that **Shri Harindra Prasad Sinha, CHC/KIR** has also qualified in the written examination of above mentioned selection held on 11.10.2003, 01.11.2003 & 25.11.2003. His name was inadvertently omitted from the list of qualified candidates, in this office letter of even number dated 11-12-2003, by oversight.

You are, therefore, requested to direct Shri Sinha to his respective Medical Authority to obtain Physical fitness certificate for holding the Group-'B' post of AOM/ATM in Technical/Safety category and send the same to DR.CHO/GAZ immediately. The DAK clearance in favour of Shri Sinha should also be sent to PS to COM/MLG immediately. Candidate concerned should also be advised to keep himself in readiness to appear before the Viva Voce, likely to be fixed very soon.

Please acknowledge receipt

(S. K. Chowdhury)
Asstt. Personnel Officer(Gaz)
For General Manager(P)

Copy to:-

PS to COM/MLG, to please collect the CR of Shri Harindra Prasad Sinha, CHC/KIR, for last 5 years including the current one(s.e. for the year ending 31-3-2003).

For General Manager(P)

On
17.12.03