

Q.

50/100

O.A/T.A No. 306/03.....

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

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

-

Brasilis
21/11/77

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No:- 306/2003

Misc Petition No: _____/

Contempt Petition No: _____/

Review Application No: _____/

Name of the Applicant(s): Mr. Jalaluddin Akbar

Name of the Respondant(s): Union of India & ors.

Advocate for the Applicant:- Mr. M. Chanda, G. N. Chakraborty
Mr. S. Nair.

Advocate for the Respondant:- Pl. Counsel.

Notes of the Registry	date	Order of the Tribunal
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Application is in
form but not in time

12.1.04

There was a reference
sent to 312-04.

370
6

359387486
29/11/03

17.2.2004

List the case on 8.3.2004
alongwith M.P. 10/2004.

1/12/03
Mr. S. Nair

Member

hb

Notice & order dt. 8/3/04
sent to D/Section for
issuing to respondent
along with M.P. 10/04.

8.3.2004

Heard Mr. M. Chanda, learned
counsel for the applicant.

The O.A. is admitted, issue
notice to the parties, returnable
by four weeks.

List the case on 7.4.2004 for
order.

Member (A)

bb

7.4.2004

Mr.B.C.Pathak, learned
counsel is on accommodation.

Four weeks time is allowed to
the Railways to file reply.

List on 17.5.2004.

K. B. Pathak
Member (A)

bb

17.5.2004

On the plea of counsel for the
respondents four weeks time is given
to the respondents to file written
statement. List on 17.6.2004 for
orders.

K. B. Pathak
Member (A)

Written statement
has not filed.

mb

28.5.2004

List on 28.6.2004 for orders.

K. B. Pathak
Member(A)

mb

17.6.04.

Present: Hon'ble Mrs. Bharati Roy,
Judicial Member.

The Hon'ble Mr. K. V. Prahladan,
Administrative Member.

The learned counsel for the
Respondents prays for adjournment
to file counter reply. On earlier
occasion also opportunities were
granted. We therefore, finally
granted three weeks time to file
counter reply.

Let this case be listed
before the next available Division
Bench. In the meantime, the appli-
cant may file rejoinder if any,
~~within the next date.~~

K. B. Pathak
Member(A)

S. S. Pathak
Member(A)

lm

A/D card return

from resp. No-3,5.

Ces

17/6/04

no W/S has been filed
by two respondents.

S/S
14/9/04

Notes of the Registry	Date	Order of the Tribunal
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15.9.2004

The matter has been already adjourned four times since 7.4.2004. Even though there is no justification for granting any further adjournment in the matter, on the request of Mr B.C. Pathak, learned Addl. C.G.S.C. for the respondents we grant last and final adjournment for filing written statement. In case, the written statement is not filed on the next date and the matter is sought to be adjourned, the officer responsible for filing written statement shall be saddled with costs and the costs shall be recovered from the personal pocket of the concerned officer.

The matter accordingly adjourned to 4.10.2004.

[Signature]
Member

[Signature]
Vice-Chairman

pg

4.10.2004

Written statement has been filed by the respondents. The applicant, if so desires, may file rejoinder within three weeks with advance copy to the learned counsel for the respondents. List the matter for hearing on 30.11.2004.

[Signature]
Member (A)

[Signature]
Vice-Chairman

mb

21.9.04
W/s filed by
the respondents.

[Signature]

1/10/04

- 1) W/s has been filed on behalf of the respondents.
- 2) The case is ready for hearing.

W/S
1/10/04

no rejoinder has been filed.

29/11/04

Case is ready for hearing.

29.11.04

Copy Rejoinder has been filed by the applicant through his learned Advocate at page No 77 to 85.

44

30.11.04. Learned Sr.C.G.S.C. Mr.A.Deb Roy, submits that the matter is being dealt with by Mr.B.C.Pathak who is sick to-day. Stand over to 17th January, 2004.

Relevant selection proceedings be placed before the Tribunal on the next date.

K.P. Datta
Member

R -
Vice-Chairman

13-1-05
Ready for hearing. lm
la.

17.01.2005 Mr.B.C.Pathak, learned Railway counsel states that he requires further three weeks time to place the selection records before this Tribunal.

Accordingly, the matter is adjourned to 9.2.2005.

Case is ready for hearing.

K.P. Datta
Member

R -
Vice-Chairman

bb

9.2.2005 Present: The Hon'ble Mr.M.K.Gupta, Member(J).

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

None appears for the parties. Adjourned to 14.3.2005 as there is a request from Mr.B.C.Pathak, learned counsel for Railways that due to his mother's demise he will not be able to attend the Tribunal till 17.2.2005.

K.P. Datta
Member (A)

mfw
Member (J)

bb

Notes of the Registry

Date

Order of the Tribunal

14.3.05.

Present: Hon'ble Mr. Justice G. Sivarajar
Vice-Chairman.

Hon'ble Mr. K. V. Prahladan,
Member(A)

Mr. B. C. Pathak, learned Railway
counsel submits that some more time
is required for getting records. Post
the case on 23.3.04. No further
adjournment will be granted.

K. V. Prahladan
Member

G. Sivarajar
Vice-Chairman

lm

23.03.2005

At the request of Mr. B. C. Pathak,
learned counsel for the Railways the
case is adjourned to 12.4.2005.

K. V. Prahladan
Member

G. Sivarajar
Vice-Chairman

bb

12.4.05.

At the request of counsel for both
the parties the case is adjourned to
9.5.2005 for hearing.

K. V. Prahladan
Member (A)

G. Sivarajar
Vice-Chairman

mb

9.5.2005

Mr. M. Chanda, learned counsel for
the applicant is ready. Mr. B. C. Pathak
learned counsel for the respondents
also submits that he is ready but the
records relating to the selection pro-
ceeding are not available with him.

Post on 1.6.2005. Learned couns
for the respondents will get the rec-
ords in the meantime.

K. V. Prahladan
Member

G. Sivarajar
Vice-Chairman

bb

Case is ready for hearing.

Suchitra Das Choudhury
Advocate
11/5/05

Reminded for
B. C. Pathak
11/5/05

Notes of the Registry	Date	Order of the Tribunal
<p>The Case is ready for hearing. Mr. regard W/S and Rejoinder.</p> <p>My 16.6.05</p>	01.06.2005	<p>Mr. M. Chanda, learned counsel for the applicant submits that the records of the examination etc. is absolutely necessary for deciding the matter. Mr. B.C. Pathak, learned and counsel for the respondents submits that he has already written to the parties. In the circumstances, the case is adjourned to 17.6.2005.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	mb	
	17.6.2005	<p>Mr. B.C. Pathak, learned counsel for the respondents seeks for adjournment.</p> <p>Post on 6.7.2005.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	mb	
	6.7.2005	<p>Post on 10.8.2005.</p> <p><i>[Signature]</i> Vice-Chairman</p>
	mb	
	10.8.2005	<p>On behalf of Mr. B.C. Pathak, learned counsel for the respondents adjournment is sought. Post on 1.9.2005.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
	mb	
	2.9.05	<p>Post the matter before the next available Division Bench.</p> <p><i>[Signature]</i> Vice-Chairman</p>
	lm	

3.10.05. post the matter on 5.10.05.

[Signature]
Member

[Signature]
Vice-Chairman

lm

5.10.2005 Dr. M.C. Sarma, learned counsel for the railway seeks for short adjournment. Mr. M. Chanda, learned counsel for the applicant has no objection. Post on 18.11.2005.

[Signature]
Member

[Signature]
Vice-Chairman

mb

18.11.05. Post the matter before the next available Division Bench.

lm

[Signature]
Vice-Chairman

04.01.2006 Present : Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.
Hon'ble Mr. N.D. Dayal, Administrative Member.

Mr. M. Chanda, learned counsel for the applicant submits that Dr. M.C. Sarma, learned counsel for the railways had informed that he is unwell. Dr. M. C. Sarma, learned counsel for the railway has also filed an adjournment application. Post on before the next available Division Bench.

[Signature]
Member

[Signature]
Vice-Chairman

mb

6-3-06

Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The O.A. is disposed of in terms of the order. No order as to costs.

[Signature]
Member
Vice-Chairman (J)

[Signature]
Member
Vice-Chairman (A)

3-1-06

The case is ready for hearing.

[Signature]

3-3-06

The case is ready for hearing.

[Signature]

16/3/06

Copy of the judgment has been sent to the office for issuing the same to the applicant by post and a copy of the same handed over to the Shy. Shandy Counsel.

9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

.....

O.A. No. 306 of 2003

DATE OF DECISION 06.03.2006

Md. Jalaluddin Akabar

..... Applicant/s

Mr.M.Chanda

..... Advocate for the
applicant/s.

- Versus -

U.O.I. & Ors.

..... Respondent/s

Mr.M.C.Sarma, Railway counsel.

..... Advocate for the
respondents

CORAM

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

THE HON'BLE MR. 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 (A)/(J)

10

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 306 of 2003.

Date of Order: This the 6th day of March, 2006.

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

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

Md Jalaluddin Akabar,
S/o Late Raj Mohammad,
Office of the Senior Section Engineer,
Loco N.F. Railway,
New Tinsukia.

... Applicant

By Advocate Shri M. Chanda

- Versus -

1. The Union of India,
Represented by General Manager (P)
N.F.Railway, Maligaon,
Guwahati-11.
2. The Chief Personnel Officer,
N.F.Railway, Maligaon,
Guwahati-11.
3. The Divisional Railway Manager (P),
N.F.Railway, Tinsukia,
P.O. Tinsukia, Assam.
4. Sri Om Prakash Singh,
Sr. Clerk,(G)
G.M(P) Hajipur,
East Central Railway,
Hajipur, Bihar.
5. Ram Sundar Das,
Sr. Clerk,
O/O the DRM, Tinsukia,
P.O. Tinsukia,
Dist. Tinsukia, Assam

... Respondents

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

ORDER (ORAL)

K.V.SACHIDANANDAN,V.C(J)

The applicant is working as Senior Clerk. The grievance of the applicant is that while processing for filling up of 12 nos. of posts (6 UR+6 SC) of Senior Clerk (G) in the scale of Rs. 1200-2040/- vide his


L

office letter No.E/90/I (M) Pt.II dated 11.7.1998 he was not called for the interview and viva voce test on the plea that his seniority did not permit maintaining 1:1 formula. Out of 12 candidates, 10 nos. were appeared and finally (6 UR+2 SC) = 8 nos. got promoted and these vacancies were earmarked for SC community. Apart from that no junior staff was promoted as Senior Clerk(G) superseding his substantive seniority which could be stepped up/antedated to the extent of junior one as per extent rule. As the case has no merit/scope for extending the benefit of proforma promotion/fixation and therefore, his appeal was not considered. Aggrieved by the said order of the respondents he has filed this O.A seeking the following reliefs.

(i) That the Hon'ble Tribunal be pleased to declare that the decision/reason assigned by the Railway Administration in the P.N.M Meeting held on 20.08.2002 and 21.08.2002 so far promotion and seniority of the applicant to the effect that applicant does not fall within the zone of consideration is contrary to the records and Railway Rules in force.

(ii) That the Hon'ble Tribunal be pleased to direct the respondents for attending the promotion of the applicant to the cadre of Senior Clerk at least from the date of promotion of Shri Ram Sundar Prasad with all consequential service benefits including arrear monetary benefits and seniority benefits and seniority in the cadre of Senior Clerk.

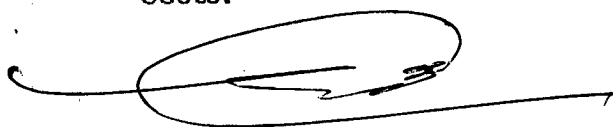
(iii) That the Hon'ble Tribunal be pleased to declare that the applicant is senior to the respondent No.4 and further be pleased to direct the respondent to pass necessary orders for correcting the seniority position of the applicant in the cadre of Junior Clerk/Senior Clerk.



2. The respondents have filed a detailed written statement. The process of selection was undergone through the machinery available with the respondents in consideration with the cause of the Union and therefore it cannot be faulted. However, when the matter came up for hearing Mr M.Chanda, learned counsel for the applicant submitted that applicant may be permitted to submit comprehensive representation narrating his grievances to the second respondent which may be disposed of within a time frame. Dr M.C. Sarma, learned Railway counsel also submitted that the same will suffice the interest of the applicant. Considering the entire aspects of the matter, we are of the view that the respondents have to take an independent decision without the Union's interference and take an independent decision on the grievance of the applicant. The applicant is permitted to make a comprehensive representation narrating his grievances with the relevant documents before the second respondent within the time frame of one month from the date of receipt copy of this order and on receipt of such representation the second respondent or any other competent authority shall consider and dispose of the representation with a speaking order and communicate the same to the applicant within 3 months from the date of receipt of such representation.

O.A. is disposed of at this stage.

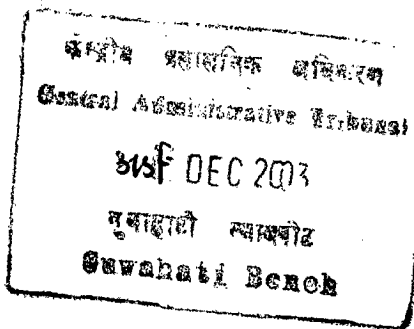
In the circumstances of the case, there will be no order as to costs.



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



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



Filed by the applicant
through: Subrata Naha
Advocate
31.12.03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O. A. NO. 306 / 2003

Md. Jalaluddin Akbar.

... Applicant

-Versus-

Union of India & Others

... Respondents

Lists of dates and synopsis of the case

Date

Synopsis of particulars in the application

- 05.11.1991- The applicant was initially appointed as Junior Clerk on regular basis.
- 11.07.1995- DRM (P) N.F.Rly, Tinsukia issued a notification bearing letter No.E/90/I (M) for holding suitability test of Sr. Clerk 'G' on 20.07.1995 at DRM(P) Tinsukia. (Annexure-1)
- 26.07.1995- Result of the suitability test was declared wherein 8 persons were declared selected out of 12 vacant posts. (Annexure-2)
- 14.03.1996- DRM (P), Tinsukia again hold another suitability test for filling up of remaining vacancies of Sr. Clerk. The applicant being an eligible candidate was restrained to appear in the suitability test.
- 27.03.1996- Result of the suitability test held on 14.03.96 was declared. (Annexure-3)
- 01.04.1997- DRM (P) Tinsukia published seniority list of the Jr. Clerk, wherein name of the respondent no.4 appeared for the first time. (Annexure-6)
- 26.03.1998- The respondents vide notification bearing letter No.E/254/1/Pt.III called 17 Junior Clerks including the present applicant and private respondent no.4 for suitability test which was scheduled to be held on 11.04.1998 for promotion to the post of Senior Clerk. (Annexure-4)

- 14
- 11.04.1998- Selection test for 23 numbers of vacant posts was held at Tinsukia.
- 08.06.1998- 10 candidates were declared selected for promotion to the post of Sr. Clerk (G) vide Office Order bearing No. E/254/1 Pt.III. In the said order respondent no.4 was placed at serial no.1, where as name of the applicant was placed at serial no.2 in the promotional cadre of Sr. Clerk (G), although the respondent no.4 was never appointed or worked as Jr. Clerk under DRM (P), Tinsukia. (Annexure-5)
- 12.06.1998- The respondents issued posting order of Sr. Clerks who came out successful in the selection test held on 11.04.98. In the said order name of the respondent no.4 shown above the name of the applicant in a most arbitrary manner.
- 10/11.03.98- DRM (P) Tinsukia given reply to the representation submitted by the applicant and other junior clerks working in the Mechanical department under DRM (P) Tinsukia against the placement of respondent no.4 at serial no.3 in the seniority list. Wherein it is stated that the respondent no.4 Jr. Clerk of Rajbhasa Cell has been assigned at Sl.no.3 as per directive of the GM (P) Maligaon's letter dated 15.12.97. (Annexure-7)
- 07.05.1999- The applicant submitted a representation to the DRM (P) Tinsukia for redressal of grievances so far promotion and seniority in the cadre of Sr. Clerk. (Annexure-8)
- 11.05.1999, 05.10.1999, 21.02.2000- Applicant submitted representations for redressal of grievances so far promotion and seniority to the cadre of Sr. Clerk is concerned. (Annexure-9 & 10)
- 06.08.1999, 15.11.1999- The DRM (P) Tinsukia vide his reply to the representations informed the applicant that the there is no hard and fast rule that the remaining vacancies should be filled up by calling next senior man and further stated that no juniors were promoted as Sr. Clerk ignoring seniority position of the applicant.
- 01.05.2000- The Railways published the seniority list, wherein the respondent no.4 was placed at serial no.32 and even those employees who were promoted in

- 5
- 1995 selection were placed below the respondent no.4 but the applicant was placed at serial no.57. (Annexure-14)
- 20.09.2001- Position of the applicant was changed from 57 to 52 but actual grievance to place him above the respondent no.4 infect not redressed at all. (Annexure-15)
- 24.01.2001- The matter of promotion and seniority of the applicant was taken up by the Railway Mazdoor Union with the DPO, Tinsukia. (Annexure-11)
- 09.02.2001- DRM (P), Tinsukia informed the applicant that the seniority of the applicant did not permit for consideration of his promotion as per 1:1 formula against the 8 vacancies. In the letter dated 9.2.01 the respondents deliberately suppressed the fact of availability of 4 vacancies after declaring the results of 8 number of vacancies. (Annexure-12)
- 22.11.2001- The applicant being dissatisfied with the reply dated 9.2.01 submitted a representation but to no result. (Annexure-13)
- 27/28.02.02- The Railway Mazdoor Union in their statutory meeting held at Tinsukia discussed the case of the applicant for seniority and promotion and the administration took further time to explain the matter in the next meeting. (Annexure-16)
- 20.08.2002/21.08.2002- The Railways in their 74th PNM meeting explained that the applicant was not considered in the selection held on 1996 as because he was not coming under the zone of consideration. This is altogether a vague statement made by the Railways to debit the legitimate claim of the applicant for antedating his promotion and seniority benefit. (Annexure-17)

P R A Y E R

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records

of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to declare that the decision/reason assigned by the Railway Administration in the P.N.M Meeting held on 20.08.2002 and 21.08.2002 so far promotion and seniority of the applicant to the effect that applicant does not fall within the zone of consideration is contrary to the records and Railway Rules in force.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents for antedating the promotion of the applicant to the cadre of Senior Clerk at least from the date of promotion of Sri Ram Sundar Prasad with all consequential service benefits including arrear monetary benefits and seniority benefits and seniority in the cadre of Senior Clerk.

8.3 That the Hon'ble Tribunal be pleased to declare that the applicant is senior to the respondent no.4 and further be pleased to direct the respondent to pass necessary orders for correcting the seniority position of the applicant in the cadre of Junior Clerk/Senior Clerk.

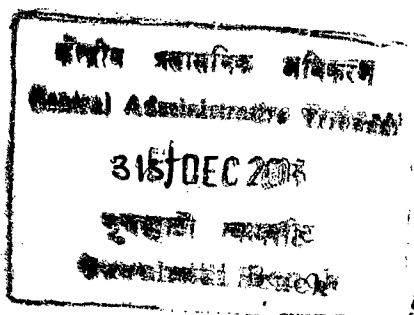
8.3 Costs of the application.

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for considering the case of the applicant.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O. A. No. 306 /2003

Md. Jalaluddin Akbar. : Applicant

- Versus -

Union of India & Others : Respondents.

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15.	14&15	Copy of the seniority list dated 01.05.00 & Corrigendum dated 20.09.01	44-47
16.	16&17	Copy of the PNM meeting 27 th and 28 th February as well as 20.08.02 & 21.08.02.	48-51

Date: 31.12.03

Filed by

Subrata Dasg.
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An Application under Section 19 of the Administrative
Tribunals Act, 1985)

O. A. No. 306 /2003

BETWEEN

Md. Jalaluddin Akabar.
S/O- Late Raj Mohammad.
Office of the Senior Section Engineer.
Loco N.F.Railway.
New Tinsukia.

...Applicant

-AND-

1. The Union of India,
Represented by General Manager (P)
N.F.Railway, Maligaon.
Guwahati- 11.

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

3. Divisional Railway Manager (P)
N.F.Railway, Tinsukia.
P.O- Tinsukia.
Dist-Tinsukia. Assam.

4. Sri Om Prakash Singh.
Sr. Clerk,
O/O The DRM, Tinsukia.
P.O- Tinsukia,
Dist- Tinsukia, Assam.
5. Ram Sundar Das.

4. Sri Om Prakash Singh,
Sr. Clerk (G)
GM (P) Hajipur
East Central Railway
Hajipur, Bihar.

5. Ram Sundar Prasad.

Md. Jalaluddin Akbar

Address changed
vide order
DT. 28.5.04
Passed in
MP. No. 50/04
Name corrected
vide order
DT. 28.5.04
Passed in
MP. No. 50/04.

Sr.Clerk,
O/O The DRM, Tinsukia.
P.O- Tinsukia,
Dist- Tinsukia, Assam.

...Respondents.

It is prayed that notices upon the respondent no.4&5 may kindly be served through the respondent no.3.

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is-made.

This application is made against the decision of the Railways, communicated by the Railway Administration in the PNM Meeting held on 20.08.2002 and on 21.08.2002 rejecting prayer for antedating promotion, refixation of pay and seniority benefit in the cadre of Senior Clerk, at least w.e.f the date of promotion of Sri Ram Sundar Prasad, Sr. Clerk (respondent No.5) and also praying for a direction that the applicant is senior to Sri Om Prakash Singh, Sr. Clerk (respondent No.4), as such entitled to benefit of refixation of pay, antedating promotion and seniority to the cadre of Senior Clerk.

2. Jurisdiction of the Tribunal.

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

mt. Jalehuddin Akbar

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That your applicant is presently serving a senior clerk in the office of the Senior Section Engineer, LOCO, NF Railway, New Tinsukia under DRM, Tinsukia.
- 4.3 That the applicant was initially appointed as Junior Clerk on 05.11.1991 on regular basis. As per the recruitment rule a junior clerk is entitled to be considered for promotion provided he has completed 2 years regular service in the cadre of junior clerk. The next avenue of promotion from the junior clerk to the post of senior clerk in the scale of Rs.4500-7000/- (pre-revised Rs. 1200-2040/-).
- 4.4 That your applicant while working as junior clerk in the year 1995 a notification bearing letter no. E/90/I/(M) dated 11.07.1995 was issued by the DRM (P), N.F.Rly, Tinsukia for holding suitability test of Sr.Clerk 'G' in the pay scale of Rs.1, 200-2,040/- on

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20.07.1995 at DRM (P) office at Tinsukia. It is specifically stated in the said notification that no absentee test would be held. By the notification dated 11.07.1995 only 12 persons were asked to appear in the suitability test on 20.07.1995 at the ratio of 1:1, i.e. for 12 posts of Sr.Clerk in the scale of Rs.1,200-2,040/-(pre-revised).

A copy of the notification dated 11.07.1995 is enclosed as **Annexure-1**.

- 4.5 That the result of the aforesaid suitability test was declared on 26.07.1995 vide letter bearing No.E/90/I (M), wherein 8 persons were declared selected, i.e.5 unreserved, 2 SC, and 1 ST candidate. Be it stated that suitability test was conducted for 12 posts, however only 8 persons were selected out of the 12 posts, therefore 4 posts remain unfilled due to non availability of suitable candidates as per result declared vide letter dated 26.07.1995. As per Rule the remaining 4 vacant posts liable to be carried forwarded in the next selection.

A copy of the letter-dated 26.07.1995 is enclosed as **Annexure-2**.

- 4.6 That it is stated that DRM (P), Tinsukia again hold another suitability test on 14.03.1996 for filling up remaining vacancies of Senior Clerk as stated above. But surprisingly only 2 candidates were asked to appear in the suitability test against 4 unfilled vacancies, as per Rule 4 candidates ought to have been asked to

md. Jaleuddin Akbar

appear in the suitability test as per 1:1 ratio but the respondents made a departure from the said rules for the reasons best known to the authorities. In this connection it may be stated that Sri Ramsundar Prasad and Smti. Dipti Gogoi were asked to appear for the suitability test held on 14.03.1996. It is categorically submitted that the applicant being an eligible candidate fall within the zone of consideration for the subsequent suitability test but not called for which was held on 14.03.1996. The applicant being eligible restrained to appear in the suitability test deliberately which was held on 14.03.1996 by suppressing the actual vacancy position. It is learnt from a reliable source that the concerned dealing Assistant at the relevant time suppressed the actual vacancy position and as a result the applicant lost the opportunity to appear in the said suitability test. However, result of the said suitability test which was held on 14.03.1996 infact published by the DRM (P), N.F.Rly., Tinsukia vide his letter bearing No.E/90/I (M) Pt.II, dated 27.03.1996, wherein Sri Shyamsundar Prasad, Junior clerk was declared passed and Sri Dipti Gogoi declared failed in the suitability test, as a result, only one post had been filled up following the selection test held on 14.03.1996.

A Copy of the letter dated 27.03.1996 is enclosed and marked as Annexure-3.

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4.7 That it is stated that the respondents thereafter a long lapse, vide notification bearing letter No.E/254/1/Pt.III. dated 26.03.1998 called 17 Junior Clerks including the petitioner and Private respondents no.4 in the suitability test which was scheduled to be held on 11.04.1998 for promotion the post of Senior Clerk(G).

A copy of the notification-dated 26.03.1998 is enclosed as **Annexure-4**.

4.7 That it is stated that pursuant to the notification dated 26.03.1998 a selection test for 23 numbers of posts of Senior Clerk held on 11.04.1998 at Tinsukia. In the said notification the 23 vacant post of senior clerk shown with the following break up of posts:

Unreserved- 15, SC- 6, ST- 2, but only 17 candidates were directed appear in the suitability test held on 11.04.1998. The applicant was also asked to appear in the said interview alongwith Sri Om Prakash Singh, respondent no.4, unreserved candidate. The applicant was placed at Sl.no.4 in the said notification dated 26.03.1998 but the name of Sri Om Prakash Singh, respondent no.4 placed at Sl.no.3. Sri Om Prakash Singh shown as Junior Clerk working in the Tinsukia Division under DRM, Tinsukia office. It is categorically submitted that name of the respondent no.4 never appeared in any seniority list published by the DRM (P), Tinsukia in the cadre of Junior Clerk, but surprisingly he was allowed to appear in the

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Suitability test vide notification dated 26.03.1998 and also placed him above the applicant for the reasons best known to the authority.

4.9 That it is stated that by the Office Order bearing memo no. E/254/1 Pt.III, dated 08.06.1998, 10 candidates were declared selected for promotion to the post of Senior Clerk (G) in the pay scale of Rs.4,500-7,000 as per suitability test held on 11.04.1998. It is further stated in the said office order dated 08.06.1998 that the names of the successful candidates have been arranged in order of seniority. Be it stated that in the order dated 08.06.1998 respondent no.4 had been placed at sl.no.1, whereas name of the applicant was placed at sl.no.2 in the promotional cadre of Sr.Clerk (G). It is submitted that the respondent no.4 cannot be placed above the applicant in the cadre of Sr.Clerk (G) as because he was never appointed or worked as Junior Clerk under DRM, Tinsukia. It is for the first time name of the respondent no.4 and appeared in the notification dated 26.03.1998, therefore action of the respondent placing Sri O.P.Singh, respondent no.4 above the applicant in the cadre of Sr.Clerk is highly illegal and arbitrary and the said decision of the respondent is void ab initio.

A copy of the Office Order date 08.06.1998 is enclosed as Annexure-5.

4.10 That the respondent vide notification/order dated 12.06.1998 issued the posting order of Sr.Clerks who

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came out successful in the selection held on 11.04.1998. In the said order also name of the respondent no.4 shown above the name of the present applicant in a most arbitrary manner.

In this connection it may be stated that respondent no.4 was suddenly posted in the Mechanical Section of the Tinsukia Division but infact he belongs to the Office of the DRM (P) Hindi cell (Rajbhasa) Tinsukia, as such respondent no.4 cannot be placed in Mechanical Section that too treating him senior to the present applicant. Moreover, respondent no.4 further allowed to sit in the suitability test for Sr.Clerk held on 11.04.1998 alongwith the applicant and other junior clerks of the Mechanical Branch in a most arbitrary manner.

The applicant immediately after his promotion protested the said action of the respondents submitting series of representations to the competent authorities but to no result.

- 4.11 That it is stated that the respondents further adjusted said Sri Om Prakash Singh, respondent no.4 against the 1995 vacancies of Sr.Clerk (G) immediately after his promotion order in the cadre of senior clerk with the intention to provide undue seniority benefit in the cadre of Sr.Clerk (G). It would be evident from the seniority list of the Junior clerk published as on 01.04.1997 by the DRM (P), Tinsukia, wherein the name of Sri Om Prakash Singh, respondent no.4 for the first

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time appeared in the said seniority list dated 23.01.1998 published as on 01.04.1997, wherein name of respondent no.4 placed at sl.no. 3 with a note in the remark column that said Sri Om Prakash Singh has been appointed following the order of General Manager (P), Maligaon's letter dated 15.12.1997 and also in terms of DRM (P), Tinsukia's memo dated 05.01.1998. It is further stated in the remark column that said Sri Om Prakash Singh, respondent no.4 had been appointed as junior clerk in Mechanical department of Tinsukia Division w.e.f 27.02.1991 and as such he was placed at sl.no.3. Since the correspondence indicated in the remark column i.e. letter dated 15.12.1997 and 05.01.1998 not in the possession of the applicant, as such, it is difficult to make any comment upon those letters. However, it is quite clear from the note indicated in the remark column of the seniority list that said Sri Om Prakash Singh, respondent no.4 has been transferred and posted to Mechanical Division following order dated 15.12.1997 and 05.01.1998, as such, said Sri Singh cannot be appointed in the said Mechanical Division with retrospective effect when the order of the General Manager (P) has been passed on 15.12.1997 and also on 05.01.1998. Sri Om Prajkash Sigh, respondent no.4 is liable to be placed below the name of the present applicant in the seniority list of junior clerk/Senior Clerk.

A copy of the seniority list as on 01.04.1997 is enclosed as Annexure-6.

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4.12 That it is stated that the applicant alongwith other junior clerks working under the Office of the DRM (P) Tinsukia in the Mechanical Department submitted representation against the placement of Sri Om Prakash Singh at serial no.3 in the seniority list, on receipt of such representation/complain the DRM(P), Tinsukia given a reply to all the complainant through letter bearing no.E/255/2 Pt.II/ dated 10/11.03.1998, wherein it is stated that seniority of Sri Om Prakash Singh, respondent no.4 Junior Clerk of Rajbhasa Cell has been assigned at Sl.no.3 as per directive of GM(P)Maligaon's letter dated 15.12.1997 and further stated that said Sri Om Prakash Sigh is redirected to report to the office of the DRM (P) Tinsukia for issue of formal spearing order to NCR, Allahabad. It appears from the aforesaid letter that he was appointed as Junior Clerk under Rajbhasa Cell, Tinsukia and thereafter was sent on deputation at Allahabad with the condition that if Sri Singh returns within 2 years from NCR, Allahabad to N.F.Rly. Tinsukia Division, in that event his seniority would be restored. Be it stated that Sri Singh never appointed as Junior Clerk under Mechanical Department, Tinsukia, therefore question of fixation of seniority above the applicant who was initially appointed as Junior Clerk on 05.11.1991 in the Mechanical department does not arise. However, if said O.P.Singh is required to be accommodated in the Mechanical Department in that event he could be accommodated in the bottom of the

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seniority list of the Junior Clerk at the relevant point of time. It is a settled position of law; therefore by any stretch of imagination said Sri Singh cannot be placed above the present applicant either in the list of Junior Clerk or Senior Clerk. Hence, order of the General Manager issued under letter-dated 15.12.1997 and 05.01.1998 are void ab initio.

In the circumstances stated above the applicant is required to be placed in the seniority list above Sri Singh, Respondent no-4.

Copy of letter dated 10/11.03.1998 is enclosed as Annexure-7.

- 4.13 That it is stated that the applicant came to learn from reliable source that said Sri Om Prakash Singh, respondent no.4 had been accommodated and adjusted to the cadre of Senior Clerk against the vacancies of 1995 recruitment year after selection to the cadre of Senior Clerk, which would be evident from the seniority list published as on 01.05.2000. As stated above, actual position of Senior Clerk were suppressed by the then dealing Asst./Clerk during the recruitment year 1996 and as a result two posts remained vacant which were not disclosed while suitability test for selection of Senior Clerk held on 14.03.1996 and against one of those two vacancies said Sri Om Prakash Singh, respondent no.4 was adjusted by the authorities after his passing the selection test in the cadre of Senior Clerk along with the applicant and the present

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applicant deliberately kept out of consideration in the selection test held on 14.03.1996.

It is submitted that if the actual position of the vacancies were disclosed at the relevant time when the suitability test was held on 14.03.1996 in that event the present applicant being one of the senior most Junior Clerk could have considered and selected to the post of Senior Clerk but the applicant is being deliberately denied such opportunity for consideration for his selection to the post of Senior Clerk in the year 1996. As a result of denial of such opportunity in total violation of the rules the applicant suffered irreparable loss and injury in the matter of promotion to the cadre of Senior Clerk w.e.f 27.03.1996 as because the result of other candidate namely, Sri Ram Sundar Prasad who appeared in the suitability test held on 14.03.1996 infact declared on 27.03.1996 and benefit was given to him w.e.f 27.03.1996.

In such circumstances the present applicant acquired a valuable legal right for antedating his promotion to the post of Senior Clerk at least w.e.f.27.03.1996 or from the date of appointment of Sri Ram sundar Prasad to the cadre of Senior Clerk. But due to non consideration of promotion of the applicant in the selection test held on 14.03.1996 the applicant is also suffering from irreparable financial loss in the higher cadre of Senior Clerk, which is recurring in nature. If the applicant would have been selected in the cadre of Senior Clerk in the year 1996 in that

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event his pay definitely could have been fixed in the higher cadre of Senior Clerk in the year 1996 itself. But due to non-selection in the year 1996 the applicant is also in loss of increment in the scale of Rs.1200-2040/- and seniority in the cadre of Senior Clerk, the cause of action for which arises in every day, every month and every year since it is a recurring loss. Due to non consideration of his promotion on the due date as well as for non-consideration of his seniority in the grade of Senior Clerk at least from the date of promotion of Sri Ram Sundar Prasad. Therefore in the instant case of the present applicant re-fixation in higher cadre of Senior Clerk is involved, which he is suffering since 1996. Hence the application is well within the period of limitation. The applicant is entitled to Refixation of his pay in the scale of Rs 1200-2040/- at least from the date of promotion of Shri Ram Sundar Prasad.

4.14 That it is stated that the applicant was also denied promotion in the suitability test held in pursuant to the notification dated 11.07.1995 wherein 12 persons working as Junior Clerk were called for suitability test as per ratio of 1:1, that is for 12 posts of Senior Clerk in the pay scale of Rs.1200-2040 (pre-revised). Out of the said 12 candidates Sri L.N.Mazumdar submitted written refusal to appear in the suitability test (written) as a result the present applicant fall within the zone of consideration as

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because Sri Tarun Ch. Sharma went on transfer to another division but unfortunately even then the applicant was not called for suitability test held on 20.07.1995 and thereby denied the benefit of promotion to the cadre of Senior Clerk in the year 1995 itself in the similar manner as stated above. The applicant also submitted repeated representations to the DRM (P), N.F.Rly, Tinsukia but to no result. This fact would be evident from the representation dated 07.05.1999.

A copy of the representation dated 07.05.1999 is enclosed as **Annexure-8**.

4.15 That it is stated that the applicant submitted several representations on 11.05.1999, 05.10.1999, 21.02.2000 for redressal of his grievances so far promotion and seniority of the applicant to the cadre of Senior Clerk is concerned. However, the DRM(P), Tinsukia, vide his reply dated 06.08.1999 and 15.11.1999 informed the applicant that there is no hard and fast rule that the remaining vacancies should be filled up by calling next senior man and further stated that no juniors were promoted as Senior Clerk ignoring seniority position of the applicant. This decision of the Railway Authority is quite wrong as because when a person refuses to appear in the suitability test then the next senior most man is required to be called for appearing in the suitability test as per relevant Railway Rules involved in Railways, but the respondents made a sharp departure from the said Rule without any justifiable reasons.

nd. Jaleuddin Akbar

Copy of the representation dated 11.05.1999, representation dated 05.10.1999 are enclosed as Annexure-9 and 10 respectively.

4.16 That it is stated that the matter of promotion and seniority of the applicant in the cadre of Senior Clerk thereafter taken up by the Railway Mazdoor Union, a recognised registered union on 24.01.2001 with the DPO, Tinsukia. However, the DRM (P), N.F.Railway, Tinsukia vide letter bearing No.E/90/I (M) Pt.II dated 09.02.2001 it is informed that the applicant replied vide letter dated 06.08.1999, 15.11.1999 and on 30.05.2000 and it is further stated that the seniority of the applicant did not permit for consideration of his promotion as per 1:1 formula against the 8 vacancies were earmarked for SC community but the Railway Authority surprisingly did not disclose regarding the availability of the 4 vacancies after declaring the results of 8 numbers of vacancies i.e. 6-unreserved and 2 SC and thereby deliberately avoid to disclose details of the vacancy position by the letter dated 09.02.2001. Hence, the reply of the DRM (P) Tinsukia dated 09.02.2001 is cryptic and non speaking and therefore the said letter is liable to be declared as void ab initio.

Copy of the letter dated 24.01.2001 and reply dated 09.02.2001 are enclosed as Annexure-11 & 12 respectively.

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4.17 That it is stated that the applicant being dissatisfied with the reply dated 09.02.2001 again submitted a representation on 22.11.2001 but to no result.

A copy of the representation dated 22.11.2001 is enclosed as **Annexure-13**.

4.18 That it is stated that Railway Authority although given their replies on different occasions addressed to the applicant but the said replies did not disclose as to why the applicant was not considered for selection during the year 1995 and 1996 and further the Authority failed to declare the actual vacancy position more particularly during the selection test held during the year 1996. Mere contention of the Railway Authority that no juniors of the applicant were promoted in the year 1995 selection cannot defeat the claim of the present applicant for consideration of his promotion either in terms of selection held in 1995 or in terms of the selection held in 1996. It is a settled position of law in the Railways that when a senior person informs in writing that he is not willing to sit for suitability test for promotion then the Railway Authority is duty bound to call the next senior most man of the seniority list for consideration of such promotion but in the instant case of the applicant the Railway Authority made a clear departure from the rules in force and as a result the applicant is denied promotion and financial loss in the cadre of Senior Clerk each and every day every month. Therefore, it is

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a fit case for the Hon'ble Tribunal to interfere with the matter and to protect the interest of the applicant by passing appropriate order directing the respondents to promote the applicant at least from the date of promotion of Sri Ram Sundar Prasad with all consequential benefit in the pre revised scale of Rs.1200-2040/- with incremental benefits refixing the pay at least from the date of promotion of Shri Ram Sundar Prasad, the pay of the applicant in the cadre of Senior Clerk and further be pleased to declare that the applicant is senior to Sri Om Prakash Singh, respondent no.4.

4.19. That it is stated that the respondent no.4 who appeared in the selection for promotion to the post of senior Clerk along with the applicant and on his passing the suitability test promoted to the post of senior clerk along with the applicant vide office order dated 12.06.1998 wherein the respondent no.4 placed at serial no-1 i.e. above the applicant but surprisingly said Sri O.P.Singh, respondent no.4 accommodated and adjusted against the vacancy of Senior Clerk remain unfilled in the year 1995 and also assigned seniority from 1995, against one of the vacancy out of two which were suppressed by the Railways in the 1996 suitability selection.

It would be evident from the seniority list published by the Railways vide letter No.e/225/2 Pt III dated 1.5.2000. Where in the respondent no.4 placed at

me. Jolabuddin Akbar

serial no.32 and even those candidates /employees who selected/promoted in 1995 selection namely Mrs.Pratima Taye, Md.Aktar Hussain, Nakul Borgohain, Promode Ozha were placed below the said respondent no-4 in the Seniority list published as on 01.05.2000 the applicant was placed at serial no-57, however, subsequently position of the applicant changed at serial no. 52 on 20.09.2001 but his actual grievance to place him above the respondent no 4 infect not redressed at all.

It is quite clear from seniority list published as on 01.05.2000 that said sri.O.P.Singh respondent no. 4 who was working under GM (P) Allhabad were given undue benefit of seniority both in the cadre of Junior Clerk and Senior Clerk.

By any stretch of imagination it cannot be said that sri.O.P.Singh is entitled to be adjusted against the 1995 vacancies when there was no absentee test allowed by the railways in the recruitment year 1995-96. Which is crystal clear from the Railways letter dated 11.07.1995 and 26.07.1995. All anomalies in the matter of Seniority in fact cropped up to give undue benefit to respondent no.4 by a vested circle of Railways and with such melafide intention earlier vacancies were suppressed by the concerned dealing clerk. Therefore Hon'ble Tribunal be pleased to declare that applicant is entitle to be placed above the respondent no.4 both in the cadre of Junior/senior Clerk and further be pleased to declare that applicant is entitle to benefit of seniority in the cadre of

md. Jalaluddin Akbar

Senior clerk at least with effect from the date when Sri Ram Sundar Prasad was given promotion to the cadre of senior clerk with all consequential service benefit.

Copy of the seniority list of senior clerk published as on 01.05.2000 and the corrigendum published as on 20.09.2001 are enclosed as **Annexure-14 & 15** respectively.

4.20. That the applicant is a member of the recognized Union of the Railways therefore finding no other alternative taken up his case for seniority and promotion benefit through the recognized union. In the statutory meeting held on 27th and 28th February'2002 held at divisional level at Tinsukia the case of the applicant found placed at serial no.14 where the case of the applicant was discussed and the administration took further time to explain the matter in the next meeting. However, the Railways on 20.08.2002/21.08.2002 explained in their 74th PNM meeting that the applicant was not considered in the subsequent selection i.e. selection held on 1996 as because he was not coming under the zone of consideration. This is altogether a vague statement made by the Railways to debit the legitimate claim of the applicant for antedating his promotion and seniority benefit.

In the facts and circumstances stated above the applicant is entitled to antedated promotion at least with effect from 27.03.1996 in the cadre of senior Clerk with seniority and other consequential benefit.

md. jalaluddin Akbar

Copy of the PNM meeting held on 27th and 28th February, 2002 as well as on 20.08.2002 and 21.08.2002 are enclosed herewith and marked as **Annexure-16 & 17** respectively.

4.21 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, the applicant is kept out of consideration in the selection/suitability test held in the year 1995 and 1996 without any justifiable reasons when he had fall within the zone of consideration as per seniority assigned to the applicant in the cadre of Junior Clerk.

5.2 For that, the applicant is denied promotion during the year 1995/1996, as a result he is incurring irreparable financial loss in the higher post of Senior Clerk as well as loss of promotion prospect in the next higher cadre, which is recurring in nature.

5.3 For that, the applicant is denied consideration for selection to the post of Senior Clerk in the recruitment year 1995 even after written refusal of Sri L.N.Mazumdar to appear in the suitability test held in the year 1995.

5.4 For that, it is a settled position of law that in the event of refusal to appear in the suitability test by a senior person in the cadre then the next senior most

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person is required to call for in the said suitability test but in the instant case the respondents made a departure from the Railway Rules.

5.5 For that, the applicant was further denied consideration for promotion to the post of Senior Clerk by suppressing the actual number of vacancies by the then authorities, as a result the applicant was not allowed to appear in the selection test held on 14.03.1996 along with others which resulted huge financial loss due to non fixation of his pay in the higher cadre of Senior Clerk, on the due date i.e at least from the date of promotion of this Ram Sundar Prasad, Respondent No.5.

5.6 For that, Sri Om Prakash Singh, respondent no.4 have been adjusted in the Mechanical department as junior Clerk by placing him above the applicant in the seniority list following the arbitrary order of the General Manager (p), Maligaon dated 15.12.1997 as well as by the letter dated 05.01.1998.

5.7 For that, said Sri Om Prakash Singh, respondent no.4 never appointed as Junior Clerk in the Mechanical department under DRM(P), Tinsukia, as such, Sri Singh cannot be adjusted and accommodated in the Mechanical department as Junior Clerk that too by placing above the present applicant in the seniority list.

5.8 For that, Sri Singh, respondent no.4 again accommodated and adjusted against the vacancy of 1995-96 recruitment

md. Jolaluddin Akbar

year with the intention to give him undue seniority benefit both in the cadre of Junior Clerk and Senior Clerk after his selection to the post of Senior Clerk during the year 1998.

5.9 For that, due to non consideration of promotion of the applicant in the recruitment year 1995 as well as in the recruitment year 1996 in spite of availability of vacancies. The applicant is suffering financial loss in the matter of fixation of his pay in the higher cadre of Senior Clerk which is recurring in nature and cause of action for which arises every day, every month and every year till the applicant is considered for antedating promotion to the post of Senior Clerk at least w.e.f the date of promotion of Sri Ram Sundar Prasad with all consequential benefits including arrear monetary benefit and seniority.

5.10 For that, the applicant submitted several representations on different dates to the respondents but the same is rejected in a most arbitrary manner without application of mind and also without disclosing the actual vacancy position for the recruitment years 1995 and 1996.

5.11 For that, the matter of promotion and seniority of the applicant was also taken up for and on behalf of the applicant by the recognized Railway Union but to no result.

md. Jaleuddin Akbar

5.12 For that, the case of the applicant involves fixation of higher pay in the cadre of Senior Clerk by way of antedating promotion, as such, the same is well within the limitation prescribed under the 1985 Administrative Tribunal Act.

5.13 For that, non fixation of pay and seniority of the applicant will also cause irreparable loss so far the applicant's next promotion is concerned.

5.14 For that decision/reasons assigned by the Railways in PNM Meeting held on 20.08.2002 and 21.08.2002 are illegal, arbitrary and unfair.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

mt. Jolabuddin Akbar

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to declare that the decision/reason assigned by the Railway Administration in the P.N.M Meeting held on 20.08.2002 and 21.08.2002 so far promotion and seniority of the applicant to the effect that applicant does not fall within the zone of consideration is contrary to the records and Railway Rules in force.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents for antedating the promotion of the applicant to the cadre of Senior Clerk at least from the date of promotion of Sri Ram Sundar Prasad with all consequential service benefits including arrear monetary benefits and seniority benefits and seniority in the cadre of Senior Clerk.
- 8.3 That the Hon'ble Tribunal be pleased to declare that the applicant is senior to the respondent no.4 and further be pleased to direct the respondent to pass

md. Jaleeluddin Akbar

necessary orders for correcting the seniority position of the applicant in the cadre of Junior Clerk/Senior Clerk.

8.3 Costs of the application.

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for considering the case of the applicant.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	:	JJG 387486.
ii)	Date of Issue	:	29.11.03.
iii)	Issued from	:	G.P.O. Guwahati.
iv)	Payable at	:	G.P.O. Guwahati.

12. List of enclosures.

As given in the index.

md. Jalehuddin Akbar.

VERIFICATION

I, Md.Jalaluddin Akbar S/O Late Raj Mohammad, aged about 36 years, resident of Tinsukia, working as Senior Clerk in the Office of the Senior Section Engineer, N.F.Rly, Tinsukia, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 31st day of December, 2003.

Md. Jalaluddin Akbar

NO:E/90/I(M)

N.F.Rly.

DRM(P)'s Office/TSK
Dt. 11.7.95

LFs/TSK & MXN
LF(S) LLO
FI(D) LLO
CS's TSK/MXN/DBRT.

Sub: Suitability test of Sr clerk'G' in
scale Rs. 1200-2040/-

Please direct the following staff to appear in the
suitability test(Written) of Sr Clerk'G' in scale Rs. 1200 -2040/-
which will be held on 18.7.95 at DRM(M) TSK's office. No absentee
test will be held.

SLNO Name design & Stp.

1. Sri L.M. Majumder, M/clerk/CS/DBRT.
2. " P.R. Lahan, -do- MXN(O&W)
3. " Dipti Gogoi, Clerk/G/DME's office/TSK
4. Mrs Bizulli Gupta, Clerk/G DME's Office/TSK
5. " Pratima Tal, " LF/MXN
6. Sri Nikul Borgochain, " LF/MXN
7. " Aktar Hussain, M/clerk/CS/TSK
8. " Ram Sundar Prasad, " LF/MXN
9. " Anjan Chakraborty, " F(D) LLO
10. " Promod Ojha, Clerk'G' DME's Office/TSK.
11. " Kush Ram Das(SC) P.B. Clerk/LF/MXN
12. " Mohendra Nath Das, M/clerk/CS/DBRT.

for. Divl. Rly. Manager(P),
N.F.Rly. Tinsukia.

Copy to: AME/TSK for information.
; CS(G) DME's Office. Ho is
requested to arrange appwar sheet
& nocy. invigilators & peons.
; CS(P) EM for information.

for Divl. Rly. Manager(P),
N.F.Rly. Tinsukia.

Vide SSE(C&W)/DMS endorsemnt
no B/1/95 dt. 19-7. 95

D. P. Gupta
not even called
in 1995.

After
Rev.
Advocate
31.12.95

N. F. Railway.

No.E/90/1 (M).

Office of the
Divl. Railway Manager(P),
Tinsukin, dt. 26.7.96.

To,
IFS/TSK & MXN,
FI(D)/LLO,
CS's/TSK/MXN & DBRT.

Sub. Result of suitability test of M/Clerk,
Clerk'G' & P.B. Clerk in scale Rs.950-1500/-
for promotion to the post of Sr.Clerk'G'
in scale Rs. 1200-2040/-

-0000-

In the suitability test for promotion to the post of
Sr.Clerk'G' in scale Rs. 1200-2040/- held on 20-7-96 the following staff have
come out successful in the test.

Sl.No.	Name	Desig. & stn.
1.	Shri Pramod Kr. Ojha	Clerk'G'/DME's Office.
2.	Mr. Akter Hussain,	M/Clerk/CS/TSK.
3.	Shri Kush Ram Das(SG).	P.B.Clerk/MXN.
4.	Mrs. Bujuli Gupta,	Clerk'G'/DME's Office.
5.	Shri Anjan Chakraborty,	M/Clerk'G'/MXN.
6.	" Nilul Borgohain,	Clerk'G'/MXN.
7.	" Mohendra Nath Das(SG),	M/Clerk/DBRT.
8.	Mrs. Pratima Tayo,(ST)	Clerk'G'/DME's Office.

28/7

for Divl. Railway Manager (P),
N. F. Railway, Tinsukin.

Copy to. Staff concerned.

28/7

for Divl. Railway Manager (P),
N. F. Railway, Tinsukin.

ps.26795.

ELG)

15/8/96

(9) Rom Sunder plst. from

Advocate
31.12.97

H.F. Railway.
DM/P's Office,
Tinsukia.

No.F/254/1/Pt.III. Dated: 26.03.98.

SSE(C&W)/TSK, TSKG, MXII, DEPT,
SSE(Loco)/TSK & MXII,
DACOS/TSK, OS to DME/TSK(at office).

Sub:- SUITABILITY TEST FOR THE POST OF SR. CLERK(G)
IN SCALE RS.4500-125-7000/- (RS/97) IN MECH. DEPTT.

It has been decided to hold a Written Suitability Test for the post of Sr.Clerk(G) in Scale Rs.4500-7000/- (RS/97) for 23 Nos. of posts (UR = 15, SC = 6 & ST = 2) which will be hold on 11.4.98 at 10.00 hrs. (AM) at DME/TSK's Office. Since there is no SC Candidate available at present, hence, the post earmarked for SC Community will be kept reserved.

In view of the above, you are hereby advised to spare and direct the following eligible staff to appear in the said suitability test for the post of Sr.Clerk(G) as per time and venue as mentioned above. If anybody is unwilling to appear in the test, a written declaration should be obtained from them in this respect and the same should be forwarded to this office for necessary action.

S/No.	Name.	Designation.	Working under.
3/Sheet			
1.	P.R.Lahon (UR)	Jr.M.Clerk/MXII	SSE (C&W)/MXII.
2.	Dipti Gogoi (UR)	Jr.Clerk/G/TSK	DME/TSK's Office.
3.	Omprakash Singh(UR)	"	-do-
4.	Md.J.Akbor (UR)	Jr.P.B.Clerk/TSK	SSE/Loco/TSK.
5.	Jogendra Gogoi(UR)	" MXII	SSE/Loco/MXII.
6.	Dilip Changuai(UR)	" TSK	-do- TSK.
7.	Monesh Dahotia(UR)	Jr.M.Clerk/TSKG	-do- TSKG.
8.	Phunu Borah(UR)	" MXII	-do- MXII.
9.	B.N.Saha(UR)	Jr.Clerk/G/TSK	SSE/Loco/TSK.
10.	Atul Dutta (ST)	Jr.M.Clerk/ TSK	-do-
11.	Pradip Paul(UR)	-do-	-do-
12.	Anil Kr. Ghosh(UR)	Jr.M.Clerk/MXII	SSE/Loco/MXII.
13.	Pranab Bhownick(UR)	-do- TSK	SSE/Loco/TSK.
14.	Chitta Nath (UR)	Jr.Clerk/G/TSK	DME/TSK - DACOS/TSK.
15.	Rubul Sonowal(ST)	-do- TSK	DME/TSK
16.	Sarukan Chetia(UR)	-do- TSK	-do-
17.	Swapan Kr. Dey(UR)	Jr.M.Clerk/TSK	SSE (C&W)/TSK.

BD 26.3.98
for: DM/(P)/TSK.

Copy forwarded for information and necessary action to:-

1. OS(P)/TSK/At office.
2. Staff concerned thro.respective Depot I/os.
3. Spare copy -
4. OS to DME/TSK. Please arrange necessary accommodation and Answer Scripts accordingly.

BD 26.3.98
for: DM/(P)/TSK.

C/26.

Handwritten:
M. K. Saha
Sub
Advocate
21.12.97

Handwritten:
Completed
26.3.98

N. F. RAILWAY

Office of the
Divnl. Rly. Manager(P)
Tinsukia.

Date: 08.6.98.

OFFICE ORDER:

In terms of DFO/TSK's Office Note No.E/3-17/S-65/Mech/V/Con/
Pt.II dated 8.6.98, the following candidate have come out successful
in the written suitability test for promotion to the post of Sr.Clerk(G)
in scale Rs.4500-7000/- (RS/97) which was held on 11.4.98 and their names
has been arranged in order of seniority.

<u>Name & designation</u>	<u>Station & working under</u>
1. Shri O.P. Singh(UR) Sr.Clerk(G)/TSK	DME/TSK at office
2. Md. J. Akboor(UR) (Jr.M.Clerk/TSK	SSE/Loco/TSK
3. Shri Monosh Dohotia(UR) -do-/TSKG	SSE(C&W)/TSKG
4. " P. Borah(UR) -do-/MXN	-do- /MXN
5. " B.N. Saha(UR), Jr.Clerk(G)/TSK	SSE(Loco)/TSK
6. " Atul Dutta(ST) Jr.M.Clerk/TSK	-do-
7. " Pradip Paul(UR) -do-	-do-
8. " Pranab Bhownick(UR) -do-	-do-
9. " Rubul Sonowal(ST), Jr.Clerk(G)/TSK	DME/TSK at Office
10. " Swapan Kr.Dey(UR) -do-	SSE(C&W)/TSK

Their final posting order in respect to promotion as Sr.Clerk(G)
will be issued separately.

The following staff have not been ^{found} suitable: (Un-Success)

1. Shri P.R. Lohan(UR) Jr.Clerk(M)/MXN under SSE(C&W)/MXN
2. " Dipti Gogoi(UR) Jr.Clerk(G)/TSK under DME/TSK
3. " Jogendra Gogoi(UR) Jr.P.Clerk/MXN under SSE/Loco/MXN
4. " Dilip Chongmai(UR) -do- /TSK " SSE/Loco/TSK
5. " Anil Kr. Ghosh(UR) Jr.Clerk(M)/MXN " SSE/Loco/MXN
6. " Citta Nath(UR) Jr.Clerk/TSK under DME/TSK now under DACOS/TSK
7. " Sanukan Chetia(UR) Jr.Clerk/TSK under DME/TSK

DRM(P)/Tinsukia. 8.6.98

No.E/254/1 Pt.III Dated. 8.6.98.

Copy forwarded for information and necessary action to:-

1. DME/TSK, AME/TSK, 2) OS to DME/TSK at Office
3. SSE(C&W)/TSK, TSKG, MXN, 4) SSE(Loco)/TSK, 5) Staff concerned
- 6) P/Case & S/Sheet, 7) OS to DFO/TSK at Office
8. Spare copy.

DRM(P)/Tinsukia. 8.6.98

Completed
8/6/98

Effect to
Advocate
31.12.03

A. ctual on Roll:-

M-Clerk -2

G-Clerk -6

P.B.Clerk -3

N.P. RAILWAY-

COMBINED SENIORITY LIST OF JR. CLERK(G), Jr. M.Clerk AND
JR PHONT CUN BOOKING CLERK IN SCALE Rs.3050-4590/- OF
MECHANICAL DEPTT. OF TSK DIVISION AS ON 1.4.97.

Office of the
DRM(P)/TSK.

Sanction

Jr.Clerk(G)-06

Jr.M.Clerk -14

Jr.P.B.Clerk-02

Sl.No.	Name	Design/Stn.	Working under	Date of birth	Date of apptt.	Date of promotion to the grade	REMARKS, IF ANY
1.	Shri P.R.Lahar(UR)	M.Clerk/MXN	SSE(C&W)MXN	16.10.41	16.3.65	24.1.89	
2.	" Dipti Gogoi(UR)	Clerk(G)	DRM(TSK)	12.08.55	12.8.78	11.4.89	
3.	" G. Prakash Singh(UR)	-do-	-do-	02.1.59	27.2.91	27.2.91	In terms of GM(P)/MLG-5 L/NO.E/41/III/246(Q)Pt.VII(Lowse) dt.15.12.97 and DRM(P)/TSK's Memo. DATE/254/L/ADV/Pt.III dt.5.1.90, He has been appointed as Jr.Clerk (G) in tech. cadre w.e.f.27.2.91.
4.	" J.Akbar(UR)	P.B.Clerk	SSE(L)/TSK	4.6.67	5.11.91	5.11.91	
5.	" Jagannath Gogoi(UR)	-do-	-do-MXN	15.5.72	5.11.91	5.11.91	
6.	" Dilip Chandra(UR)	-do-	-do-TSK	1.3.64	3.12.91	3.12.91	
7.	" Monesh Dohoria(UR)	M.Clerk	SSE(C&W) TSKG	10.7.56	20.8.78	6.1.82	
8.	" Phuru Bora(UR)	-do-	-do-MXN	1.3.63	23.7.85	3.1.82	
9.	" B.N.Saha (UR)	Clerk(G)	SSE/L/TSK	4.8.59	14.2.84	18.2.92	
10.	" Atul Dutta(ST)	M.Clerk/TSK	-	19.1.67	2.7.86	25.2.92	
11.	" Pradip Paul(UR)	-do-	-	1.2.60	14.2.84	6.3.92	
12.	" Anil Kr. Ghosh(UR)	-do-MXN	-	20.7.48	9.10.71	14.7.92	
13.	" Pranab Bhattachick(UR)	-do-TSK	-	01.3.59	15.2.84	11.2.93	
	Nath(UR)	Jr.Clerk(G)	DME/TSK at DA CCS's office	01.2.56	10.8.78	31.5.94	

Contd.....P/2

*Alleged
Sd/-
Advocate
31.12.03*

15.	Shri Rubul Sonowal (ST) Clerk (G)	DMT's office/TSK	31.8.69	1.6.94	1.6.94
16.	" Saruka Chetia (SR)		01.7.53	1.7.83	1.4.95
17.	" Swapan Kr. Doy." M. Clerk	SSE/C&V/TSK	1.3.56	26.3.84	19.7.86

Mutual Family
Dy. 2 ME INBQ

N.B-Representation if any against the Seniority position in the above should be made within one month from the date of issue of this seniority list, otherwise it will be treated as final.

23.1.98

for Divisional Rly. Manager (P)

Tinsukia.

E/255/2 Pt II

NO. 7/255/2 Pt II

Dated 23.1.98

Copy forwarded for information and necessary action to:-

- 1) DME/ESK, OS (M), DME/TSK's office.
- 2) SSE (Loco)/TSK & MYN/SSE (C&V)/TSK, TSK & MYN.
- 3) Staff concerned through respective Shop/office Incharge & OS (P).
- 4) Copy for P/case & S/sheet.
- 5) DA O/TSK
- 6) Br. Secy, N.F.R.M.U./TSK, DBRT, MYN & LLO-
- 7) Br. Secy, N.F.R.E.U./TSK, DBRT, MYN & LLO.
- 8) Dealer - at office.

23.1.98

for Divisional Rly. Manager (P)

Tinsukia.

Copy Paid
23.1.98

NO. 8/255/2Pt. II

Office of the
Divisional Rly. Manager (P)
Tinsukia: dt. 10.3.98

S/Shri Bishwanath Saha, Jr. Clerk (G) under SSE (L)/TSK
 "Pradip Paul, M/Clerk -do-
 "Md. J. Akbar, Jr. Clerk P.B. Clerk -do-
 "Dillip Chongma, -do- -do-
 "Atul Dutta, Jr. Clerk -do-
 "Francis Bhowmick, -do- -do-
 "Monash Ch. Dhotia, Jr. M. Clerk SSE (C&W)/TSK
 "Swarn Kr. Dey, -do- -do-TSK
 "Sarukan Choti, Jr. Clerk (G) DRM (M)/TSK
 "Ratul Sonowal, -do- -do-
 "Chittanath, -do- Now under DACOS/TSK

Sub:-Seniority position of Jr. Clerks of Mech. Deptt.

Ref:-Your representation No. Nil dt. 4.2.98 &
10.2.98 respectively.

In reference to the above and on going through your representation, it is to inform you that the Seniority of Shri O.P. Singh, Jr. Clerk (G) of Rajbhasha Cell/TSK has been assigned at Sl. NO. 3 published from this office. Endorsement NO. 8/255/2/Pt. III dt. 23.1.98 as per directives of GM (P)/MLG's I/NO. 3/41/III/246 (Q) Pt. VII (Loce) dt. 15.12.97 wherein it is clarified that he is redirected to report this office for issue of formal sparing order to NCR/Allahabad from this and keeping his lien at this and suitably for 2yrs. as per his date of appointment. will determine his seniority in the unit to which the division provide lien. Obviously, further action on that seniority will be required only if he is returned within 2yrs. from NCR/ALD to N.F. Railway, TSK Division.

However, there is a correction in the seniority list which may please be read as under:-

Sl. NO. 16 may be read as 15
 Sl. NO. 15 may be read as 16

This has the approval of competent authority.
 This is for your information please.

for Divisional Rly. Manager (P)
 Tinsukia.

Copy forwarded for information to:-

- 1) Divisional Secy, NFRSU/TSK
- 2) Br. Secy, NFRMU/TSK
- 3) SSE (Loco)/TSK, SE (Loco)/LLO.
- 4) OS to DM3/TSK
- 5) OS (EM) at office.

for Divisional Rly. Manager (P)
 Tinsukia.

Accepted
 Advocate
 31.12.98

Completed
 (TSK Rly)
 10/3/98

To
The Divisional Railway Manager(P)
N.F. Railway . Tinsukia.

(Thro:- Proper Channel)

Sub:- Over looking of seniority and promotion
at the time of initiation suitability test
of Sr. Clerk(G) in scale Rs.1200-2040/-(Old)

Respected Sir,

With due respect I beg to bring to your kind
notice the following few lines for your kind and sympathetic
consideration please.

That Sir, At the time of processing the said
selection which has been called vide your office order no. E/90
/I/M dt. 11-07-1995 I being a deserving candidate with my
seniority my name had been left without any reason.

The nos of post in the said selection was 12 when
two was reserved for SC and rest 10 was for UR candidate.

Now with the seniority list published vide your
office order no. E/255/1(M) dt. 07-10-1994 my seniority position
was in serial no 12 amongst the UR candidate and SC candidate
Sri. Kuch Ram Das and Mahendra Nath Das was in the serial no.
20 & 22 respectively.

Further with the Divisional transfer of Sri. Tarun
Ch. Sarmah and with written refusal by Sri L.N. Mazumder, serial
no. 1 not to appear in the said selection my seniority posi-
tion in the said selection has appeared in
serial no. 10.

With the above it is very clear that I was one of
the candidate who was due to call for the said promotion.

Due to my ill-luck so far my name had been left
off and I am suffering badly.

Considering the above I would like to request you
to examine the case to render my benefit of due promotion w.e.f.
1995 for which act of your justice I shall be grateful to you.

Yours faithfully,

Ind. Jalaluddin Akbar
dt. 7/5/99.

(MD. JALALUDDIN AKBAR.)
SR. CLERK (G) LOCC
TINSUKIA.

Copy to Secretary N.F.R.E.U./TSK
for information and necessary
action please.

Yours faithfully,

ACFLS dt. 07/05/99
To DGM (P) for
forwarding for disposal
31/05/99
SECTION ENGINEER (LOCC)
N.F. RAILWAY (LOCC)
TINSUKIA
31/12/07

The Divisional Railway Manager(P),
N.F. Railway,
Tinsukia.

(Through: Proper Channel)

Sub:- Over looking of seniority for promotion at
the time of initiation suitability test of
Sr.Clerk(G) in scale Rs. 1200 - 2040/-(Old Scale).

Respected Sir,

With respect I beg to bring to your kind notice
on the following facts and figures for your kind and sym-
pathetic consideration please.

That Sir, at the time of processing the said sele-
ction which has been called vide your office order No. E/
90/I/M dated 11.7.95, I being a deserving candidate with
my seniority my name had been left without any reason.

The number of posts in the said selection was 12
while 2 posts was reserved for SC and rest for 10 was for
UR candidates.

Now with the seniority list published vide your
Office order No. E/255/I(M) dated 07-10-1995 my seniority
position was in serial No. 12 amongst the UR candidate and
SC candidate Sri Kuch Ram Das and Mahendra Nath Das were in
serial No. 20 & 22 respectively.

Further with the Divisional transfer of Sri Tarun Ch.
Sarmah Sl. No. 8 and with written refusal by Sri L.M. Mazumder,
serial No. 1 not to appear in the said selection my seniority
position for the said promotion has appeared in Sri. No. 10.

With the above facts, it is very clear that I was one
of the candidate who was due to call for the said promotion,
during the year, 1995.

But due to my ill-luck so far my name had been left
off and I am suffering badly.

Considering the above, I would like to request you
to re-examine the case to render my benefit of due promotion
w.e.f. 1995 for which act of your justice I shall be grateful
to you.

Yours Faithfully,
Mahmud Jalaluddin Akbar
(MD. JALALUDDIN AKBAR)
Sr. CLERK(G)/LPCO
TINSUKIA.

Dated: 11-05-99.

Divisional Secretary,
R.E.U./Tinsukia - for
information and necessary action
1000
Section
P. Railway

Forwarded by
disposal please
11-5-99
Dated 11-5-99
Dated 11-5-99
Dated 11-5-99

31.12.93

To,
The Divisional Railway Manager(P),
N.F.Railway, Tinsukia.

Through: Proper Channel.

Respected Sir,

Sub: Prayer for justice with seniority of
Sr.Clerk(G) with entry dated form 96.

With due respect I beg to lay the following
for your kind and sympathetic consideration please.

That Sir, in reply of my appeal I have received
a letter issued vide your No.E/90/1(M) St.II dt.06.08.99 where in
you have mentioned that out of 12 candidate 10 nos. appeared and
finally 8 persons got promoted in the year 95 and also mentioned
that there is no hard and fast rule that remaining vacancies are
to be filled up.

That Sir, I would like to mention that my
submission was not considered as mentioned in my appeal that
I should have been called for suitability test being a next ~~senior~~
senior man against the refusal.

That Sir, since I have not been extended justice
from your end I would like to request your honour once again to
look into the matter and extend your justice giving seniority from
the date the next suitability test conducted in the year 1996 and
oblige thereby.

Dated, Tinsukia,
the 05/10/99

Yours faithfully,

md. Jalaluddin Akbar
(Md. Jalaluddin Akbar.)
Sr.Clerk(G) Under SSE/Loco/
Tinsukia.

✓Copy to: Divl.Secretary/N.F.R.E.U/TSK
Branch Secretary/N.F.R.E.U/NTSK

for kind information & w/a
please.

Yours faithfully,

(Md. Jalaluddin Akbar.)
Sr.Clerk(G) Under SSE/Loco/
Tinsukia.

NO: EL/5
Dt: 5/10/99

To, DRM(P) TSK
Forwarded for
disposal PL
12/10/99

For the Manager (Loco)
Sr. Section Engineer (Loco)
N. F. Railway, Tinsukia.

Akbar
Advocate
31.12.99

N.F. RAILWAY MAZDOOR UNION

TINSUKIA GOODS BRANCH

REGD NO. 425

(Affiliated to ALL INDIA RAILWAY MEN'S FEDERATION
AND HIND MAZDOOR SABHA)

Recognised by THE RAILWAY ADMINISTRATION

Head Office : PANDU

(UNITED WE STAND DIVIDED WE FALL)

Ref. No. MU/TSKG / Prom. 31/01/2001

Date 24.01.2001

To
The D.R.M (PI)
N.F. Rly. Tinsukia.

(Attn. Mr N.N. Thakur. Etc)

Respected Sir,

Subj: PROMOTIONAL BENEFITS WITH DUE
TIME FOR THE POST OF SR CLERK (G)
IN SCALE RS 1500 - 2000

Mr. J. Akbar SR Clerk (G) LOCO TSK under SSE Local
has represented to this union through the preferred
his appeal on the above subject to your honore time to
time yet no favourable action has yet been taken.

That Sir, in Terms of CPO/MIG'S O.C vide NO EPs/68
E/254/3(c) dated 17.3.1968 suitability test for promotion
to non selection posts assessing vacancy / anticipated
vacancy is required to be held annually
in 1:1 ratio. 2 (Two) suitability tests were held on
20.07.95 & 14.3.96 for promotion of Sr Clerk G in
Scale Rs 1500 - 2000 vide your office order NO
E/9012(M) & E/9011(M) Pt II dated 11/7/95 & 3/96 respectively.
In the aforesaid suitability tests all total (8+1) 9
candidates were present successful and promoted. The 2nd
suitability test which was held on 14.3.96 was comprised
of 2 failed candidates. One of the two failed
candidates only (one) came out successful and promoted. The
issue of Sr Clerk G in in subsequent suitability
test held on 14.3.96 gave birth to a vacancy

position as per combined
list vide NO E/255/1 (M) dt. 7.10.94
at SN 12. It is seen that from the
list 9 (nine) persons aforesaid were
shortlisted.

Yours faithfully,
[Signature]
DR. J. C. Dasgupta
N.F. Rly. / Tinsukia

31.12.2000

N.F. RAILWAY MAZDOOR UNION

TINSUKIA GOODS BRANCH

REGD NO. 425

(Affiliated to ALL INDIA RAILWAY MEN'S FEDERATION
AND HIND MAZDOOR SABHA)

Recognised by THE RAILWAY ADMINISTRATION

Head Office : PANDU

(UNITED WE STAND DIVIDED WE FALL)

f. No.....

Date.....

2-2.
promoted (including 2 S/c). In this connection, it is to be noted that there were 2 senior persons named Swi L.M. Majumder and P.R. Lahon and the former gave his unwillingness and the latter was absent in the selection. Another person Swi Tarek Ch. Sharma was already transferred to LMC Division prior to the said promotional test. This position states that there was some possibility of calling Md. J. Akbar for promotional test in the next promotional test (say in March 1977) as a vacancy arisen for failure of Swi Dipti Gogoi after updating Md. J. Akbar's promotional position for subsequent promotional test. But unfortunately no case was taken of to call Md. J. Akbar for promotional test vis-a-vis promotion. There had been a delay for promotion which was given in June 1978 vide O.M. P/178's O.L. NO. F/254/1/Pt III dated 2.6.78. Then Md. J. Akbar was deprived of promotion due to promotional benefit despite vacancy had been lying since March 1976.

As such union urges upon your good Office to give all promotional benefits to Md. J. Akbar with retrospective effect.

Thanking you.

Sincerely,
Sd/-

Copy to: 1) Convenor N.F. R.M.U. Tinsukia for information and n/c PISO.
2) Md. J. Akbar Sr. Clerk (R) under SSE/LOCAL/STK for information PIS O

Sincerely,
Sd/-
Pradeep Kumar

Annex-12
15

-41-

N . F . RAILWAY

NO.E/90/I(M) Pt.II

OFFICE OF THE
DIVISIONAL RLY. MANAGER P.O.
TINSUKIA : DATED : 09.02.2001.

TO :
The Secretary,
N.F.R.MJ/NTSK Branch.

Dear Sir,

Sub:- Promotional benefit to the post of Sr.Clerk(G)
in favour of Md.J.Akbar, now Sr.P.B Clerk
Loco/TSK.

As regards the Promotional benefit of Sr.Clerk(G)
in favour of Md.J.Akbar, now Sr.P.B Clerk of SSE(LOCO)/TSK,
this is to inform you that concerned staff has been replied
earlier vide this Office letter of even no. dated: 06.8.99,
15.11.99 & 30.5.2000 respectively.

However, the details of the case are enumerated as
under:-

That While Processing for filling up of 12 nos. of
posts(GUR+632) of Sr.Clerk(G) in scale W.1200-20,0/- vide
this Office letter no.E/90/I(M)Pt.II dated: 11.7.98, he was
not called for the same as his seniority did not
permit maintaining 1:1 formulae. Out of 12 candidates, 10 nos.
were appeared and finally(GUR+232) = 8 nos. got promoted and
those vacancies were earmarked for SC Community.

Apart from this, no junior staff was promoted as
Sr.Clerk(G) superseding his substantive seniority which
could be stopped up/antedated to the extent of Junior one
as per extent rule.

As the case has no merit/scope for extending the
benefit of Proforma promotion/fixation and therefore, his
appeal was not considered.

Meanwhile, once again the case has been represented
by the staff and accordingly the case was put up to the
Competent authority (DRM) and the Competent authority has
regretted the appeal.

This is for your information please.

Thanking you,

Yours faithfully,

(R. Roy ARO/TSK)
for Divl. Rly. Manager (P.)
N.F.Railway Tinsukia

To
The Chief Personnel Officer,
N.F. Railway,
Maligaon, Gauhati - 11.
(For Personnel attention to Shri P.K. Sharma, C.P.O./MLG)

Through: Proper Channel.

Sub:- Anti dating of my promotion to the post
of Sr. Clerk(G) Mechanical.

Sir,

Justice being denied by the Divisional Authority, Tinsukia on my appeal for anti-dating my promotion to the post of Sr. Clerk(G) Mech. I have been compelled to encroach upon your valuable time with a hope to get proper justice.

Details are appended below:-

- 1) Sir, under DRM(P)/TSK's L/No. E/90/1(M) dtd. 11/7/95, 12 persons (10 UR, 2 SC) were advised to appear in the suitability test (written) for promotion to the post of Sr. Clerk out of the 10 UR Candidates called for S. No. 1). Sri L.M. Mazumdar, M/Clerk/DBRT, submitted written unwillingness well before the written test against which the next Sr. most man as per seniority of Sr. Clerk published under DRM(P)/TSK's No. E/255/1(M) dtd. 7/10/94 should have been called but it was not done despite my repeated appeals and personal interviews to the local administration.
- 2) In the above suitability test only 8(eight) persons come out successful under DRM(P)/TSK's L/No. E/90/1(M) dtd. 26/7/95. As a result 4 posts were kept unfilled. The reason best known to the administration. Against which I could have been given chance to appear in the written test for promotion the post of Sr. Clerk(G) Mech. which could not be considered.
- 3) On my persistent interviews to the local authority further suitability test was conducted on 14/3/96 in which only 2(two) candidates who had failed in the earlier suitability test were called and I was again ignored.

Lastly on 11/4/98 I was called for the suitability test along with 17 others and could qualify for the first chance under DRM(P)/TSK's L/No. E/254/1 part-III dtd. 8/6/98.

Sir, my appeal dtd. 11/5/99 replied by DRM(P)/TSK under L/No. E/90/1(M) Pt-II dtd. 6/8/99 in which it has been stated that the suitability test was processed for (6 UR and 6 SC) posts and as per 1 x 1 formula. I was not in the zone of consideration which is not correct. A xerox copy of the call letter as well as seniority list are enclosed for your kind perusal from which it is crystal clear that (10 UR and 2 SC) were called for and on refusal of one(1) candidate I was the next senior most candidate to be called for.

I submitted my further appeal dt. 5/10/99 which was also replied in a routine manner that decision given under DRM(P)'s L/No. 6/8/99 stand good.

I submitted further appeal to DRM/TSK and solicited interview with him which was also replied in-negative to the Secretary N.F.R.M.U./TSK under DRM(P)/TSK's L/No. E/90/1(M) Pt-II dtd. 9/2/01. In this letter also factual position was not put up to DRM and it has been stated that the suitability test was initiated for 6 UR and 6 SC candidates which is misleading.

contd....P/2.

Handwritten notes:
21/12/03
21/12/03

Chief Personnel Officer - 2 -

Sir, getting no other alternative and for the shake of justice, and humbly pray your honour to be kind enough and called for all the related records and after perusal justice may please be awarded to me. So that my promotion to the post of Sr. Clerk(G)/Mech. may be antedated from August/95.

For this kind act of your, I shall remain ever greatfull, to you Sir.

With regards,

Yours Faithfully,

Dated: 22-11-2001
Encl:-
As above in 15 sheets.

Md. Jalaluddin Akbar
(MD. JALAL UDDIN AKBAR),
Sr. Clerk(G)
under SSE(L)/TSK/N.F. Rly/TSK
26/7/95

NO. EL/5
Dt. 22/11/2001

To: DPO/TSK
Forwarded for
disposal please
24/11/01
प्रो. सुभाष चंद्र बोस (कोक.)
प्रो. सुभाष चंद्र बोस (कोक.)
प्रो. सुभाष चंद्र बोस (कोक.)

दिनांक को प्राप्त किया
Received on 22/11/01
श.रे.प्र. (का.सि.क) का कार्यालय
DR. (P)'s Office
पू. सा. रे.क. विनसुकिया (P) /
N.F. Rly. / Tinsukia

submitted by ...
In ...
0/10/99 which ...
TSK and ...
to the Secretary
0/10/99 ...
up to ...

Affected
Advocate
31.12.03

SSE (LOCO) TSK

N . F. RAILWAY

NO.E/255/2 Pt.III

OFFICE OF THE
DIVISIONAL RAILWAY MANAGER (P),
TINSUKIA : DATED: 01.5.2000.TO
3/3hr1:

- (1) Tapan Kr. Pushilal (UR), now Hd. Clerk (G) under SSE (LOCO) / TSK,
- (2) J.K. Roy (UR), now Hd. Clerk (G) under SSE (LOCO) / LLO,
- (3) J.K. Son (UR), now Hd. Clerk (G) under SSE (LOCO) / MXN,
- (4) Anup Rajkhowa (UR), Sr. Clerk (G) / DBRT / C&W / under SSE (C&W) / DBRT,
- (5) Deba Ram. Bordoloi (UR), Hd. Clerk (G) under SSE (LOCO) / MXN,
- (6) Basanta Brahma (ST) Hd. Clerk (G) under DME / TSK (AT OFFICE)
- (7) Kajal Sarkar (UR), Hd. Clerk (G) under DY CME / DBWS,
- (8) R.A. Prasad (UR) Hd. Clerk (G) under SSE (C&W) / TSK,
- (9) Pradip Megh (ST), Hd. Clerk (G) under DY CME / DBWS,
- (10) Pradip Bharali, Sr. M. Clerk under SSE (LOCO) / MXN,
- (11) Harendra Prasad, (UR), Sr. M. Clerk under SSE (LOCO) / TSK
- (12) Beba brata Sarkar (UR), Sr. M. Clerk under SE (LOCO) / LLO,
- (13) M.K. Sarkar (UR), Sr. Clerk (G) under DY CME / DBWS,
- (14) D.K. Dey (UR), Sr. Clerk (G) under DY CME / DBWS,
- (15) J.B. Sarmah (UR), Sr. Clerk (G) under DY CME / DBWS,
- (16) M. Bora (ST), Sr. Clerk (G) under DY CME / DBWS,
- (17) S.R. Chakraborty (UR), Sr. Clerk (G) under DY CME / DBWS,
- (18) B.N. Chakraborty (UR), Sr. Clerk (G) under DY CME / DBWS,
- (19) Dhana pati Sen (UR), Sr. Clerk (G) under SSE (LOCO) / MXN,
- (20) Pradip Kr. Borah (UR), Sr. Clerk (G) under DY CME / DBWS,
- (21) Rana Aich (UR), Sr. Clerk (G), Under DY CME / DBWS,
- (22) Anil Paul (UR), Sr. Clerk (G) under SSE (LOCO) / TSK now working under
DAGOS / TSK (AT OFFICE)
- (23) Md. Abidur Rahman (UR), Sr. M. Clerk under DME / TSK (AT OFFICE),
- (24) Shri Sujit Roy (UR), Sr. M. Clerk under SSE (C&W) / TSK,
- (25) Mahendra Nath Das (SC), Sr. Clerk (G) under SSE (C&W) / DBRT,
- (26) D.R. Chetri (UR), Sr. Clerk (G) under DY CME / DBWS,
- (27) Narayan Ch. Dey (UR), Sr. Clerk (G) under DY CME / DBWS,
- (28) Durlav Ch. Bhuyan (UR), Sr. Clerk (G) under DY CME / DBWS,
- (29) S.R. Downajee (UR), Sr. Clerk (G) under DY CME / DBWS,
- (30) Rana. Kr. Das (SC) Sr. Clerk (G) under DY CME / DBWS,
- (31) Mrs. Bijuli Chatterjee (UR), Sr. Clerk (G) under DME / TSK (AT OFFICE)
- (32) Om Prakash Singh (UR) Sr. Clerk (G) now under GM (P) / Allahabad,
Central Organisation for Railway Electrification, (CORE),
NORTHERN RAILWAY ;
- (33) Mrs. Pratima Taya (ST), Sr. Clerk (G) under DME / TSK (AT OFFICE)
- (34) Md. Aktar Hussain (UR), Sr. Clerk (G) under SSE (LOCO) / TSK,
- (35) Nikul Borogohain (UR), Sr. Clerk (G) under SSE (LOCO) / MXN,
- (36) Anjan Chakraborty (UR), Sr. Clerk (G) under SSE (LOCO) / TSK,
- (37) Promode Kr. Ojha (UR), Sr. Clerk (G) under DME / TSK (AT OFFICE),
- (38) Hiren Saikia (ST), Sr. Clerk (G) under DY CME / DBWS,
- (39) Pradip Saikia (ST), Sr. Clerk (G) under DY CME / DBWS,
- (40) Subhas M. Zunder (UR) Sr. Clerk (G) under DY CME / DBWS,
- (41) Mrs. Shilpa Paul (UR) Sr. Clerk (G) under DY CME / DBWS,
- (42) Swapan Chakraborty (UR), Sr. Clerk (G) under DY CME / DBWS,
- (42a) Mrs. Dipti Kalita (UR), Sr. Clerk (G) under DY CME / DBWS,
- (43) Ritul Das (SC) Sr. Clerk (G) Sr. Clerk (G) under DY CME / DBWS,
- (44) Ram Sundar Prasad (UR), Sr. Clerk (G) under DME / TSK (AT OFFICE),
- (45) Govan Ganguly (UR) Sr. Clerk (G) under DY CME / DBWS,
- (46) M.K. Deb (UR), Sr. Clerk (G) under DY CME / DBWS,
- (47) Bijyot Saikia (ST), Sr. Clerk (G) under DY CME / DBWS,
- (48) Mileswar Nimalia (ST), Sr. Clerk (G) under DY CME / DBWS,
- (49) Kanu Ch. Dey (UR), Sr. Clerk (G) under DY CME / DBWS,
- (50) M.B. Chowdhury (UR), Sr. Clerk (G) under DY CME / DBWS,

Continued to page 2.....

Handwritten signature
Date: 31.12.09

// 2 //

- 51) Mrs. Suwala Borah (ST), Sr. Clerk (G) under DY CME/DBWS,
- 52) Shri Phunu Borah (UR), Sr. Clerk (G) under SSE (C&W)/MXN,
- 53) M.S. Dabotia (UR), Sr. Clerk (G) under SSE (C&W)/TSKG,
- 54) Shri Pradip Paul (UR), Sr. Clerk (G) do-
- 55) " Pranab Bhowmick (UR), Sr. Clerk (G) C&W/TSK CONTROL OFFICE,
- 56) " Abul Sonowal (ST), Sr. Clerk (G) under DME/TSK (AT OFFICE),
- 57) Md. J. Akbar (UR), Sr. Clerk (G)/TSK under SSE (LOCO)/TSK,
- 58) Shri Atul Putta (ST), Sr. Clerk (G)/TSK under SSE (C&W)/TSK,
- 59) " Biswanath Saha (UR), Sr. Clerk (G)/TSK under SSE (LOCO)/TSK,
- 60) " Swapan Kr. Dey (UR), Sr. Clerk/TSK under SSE (C&W)/TSK,
- 61) " Ratan Kr. Chakraborty (UR), Sr. Clerk (G) under DY CME/DBWS,
- 62) " Kailash Hazarika (ST), Sr. Clerk (G) under DY CME/DBWS,
- 63) " Raj Kumar Harijan (SC), Sr. Clerk (G) under DY CME/DBWS,

SUB: ASSIGNMENT OF SENIORITY POSITION OF
Sr. Clerk (G) IN SCALE Rs. 4500-125-7000/-
(As/97) OF MECHANICAL DEPTT. IN TSK
DIVISION.

REF - This Office endorsement of even no.
dated 21.1.2000.

The name of Shri Krishna Dhan Dev Chowdhury (UR),
Sr. Clerk (G) of Mechanical Deptt. working under SSE (C&W)/TSKG did not
appear in the seniority list of Sr. Clerk (G) of Mechanical Deptt. in
scale Rs. 4500-125-7000/- (As/97) of TSK Division as on 11.4.1999 pub-
lished under this Office endorsement of even no. dated 21.01.2000
due to administrative error. His name is to be incorporated in the
above seniority list.

On scrutiny of this Office records and other
relied upon documents, it is seen that he has been absorbed as
Sr. Clerk (G) in Mechanical Deptt. on medical decategorisation
from the post of Sr. TNC. In terms of Rule 1310 Correction Slip no. 77
of IFEM Volume No. I (1989 Edition) and as per instructions issued by
the Railway Board under their letter No. E(NG)1/96/RE3/9(2)
dated: 29.04.1999 circulated under GM(P)/MLG's letter No.
496E/33(C) M Pt. III. Dated: 23.6.99, a medically decategorised
staff is entitled to get full seniority of the grade if he is absor-
bed in identical grade on medical decategorisation. Shri Krishna dhan
Dev chowdhury (UR), though joined as Sr. Clerk (G)/Mech. Deptt. on
24.10.97, he is entitled to get full seniority of Sr. TNC on his
absorption in the present post of Sr. Clerk (G). He was promoted to
the post of Sr. TNC w.e.f 15.5.89. as such, his date of absorption
as Sr. Clerk (G) Mech. for the purpose of assigning his seniority is
to be reckoned/treated as 15.5.89.

It is proposed to include his name at the top, i.e.
above Shri Tapan Kr. Pushilal (UR), in the seniority list of Sr. Clerk
(G)/Mech. Deptt. published under this Office endorsement referred
to above.

contd 3.....

// 3 //

You are therefore, requested to submit your representation if any against the above proposal within 3 (thirty) days time from the date of issue of this letter with relied documents if any to this office for consideration. If no representation is received within 30 (thirty) days time, it will be deemed that it is acceptable to all and necessary corrigendum will be issued assigning seniority of Shri KD Dechowdhary (U-), Sr. Clerk (C/Mech. of SSE (221) TSKG.

for Divl. Secy. Manager (F),
V.P. Railway, Tinsukia.

Copy to:-

- 1) Convener/TFMU/TSK (2) Sr. Secy: TFMU/TSK
- 3) Convener/TFEU/TSK (4) Divl. Secy: TFEU/TSK
- 5) Divl. Secy: APBSE/TSK (6) DME/TSK.
- 8) COS (G) TO DME/TSK (AT OFFICE)

for Divl. Secy. Manager (F),
N.P. Railway, Tinsukia.

(51) 2000

N. F. RAILWAY

CORRIGENDUM:
NO.E/255/2 Pt.III.

OFFICE OF THE
 DIVISIONAL RLY: MANAGER(P),
 TINSUKIA :: DATED: 20.9.2001.

On receipt of representations from the staff side regarding anomaly in the Seniority TSK position of Sr.Clerk(G) in scale Rs.4500-125-7000/- of Mechanical Department(Combined with DME/TSK Unit & DY:CME/DBWS Unit) as published vide this Office letter No.E/255/2 Pt.III dated: 21.01.2000, the matter has been examined carefully and their seniority position has now been reassigned correctly as under:

Appeared earlier Serial No.	Name of staff	Category	Correct assignment of Seniority.
57	Md.J.Akbar	Sr.P.B.Clerk under SSE (LOCO)/TSK	52
53	Monesh Ch.Dahotia	Sr.M.Clerk under SSE (C&W)/TSKG	53
52	Phunu Borah,	Sr.P.B.Clerk under SSE(C&W) MXN	54
59	Biswanath Saha,	Sr.Clerk(G) under SSE(LOCO) TSK	55
58	Atul Dutta(ST)	Sr.M.Clerk under SSE(C&W) TSK	56
54	Pradip Paul,	-do-/TSKG under SE(C&W)/TSKG	57
55	Prangh Bhowmik,	-do-/TSK under CPKC/TSK(CONTROL)	58(58)
56	Rubul Sonowal(ST)	Sr.Clerk(G) under DME/TSK (AT OFFICE)	59

As such, the affected staff if wants to represent against the above seniority position(anomalies, if any) may prefer their representations within one month time limit and if no representations received within the stipulated time target, the Original seniority list with the above corrigendum will be taken as final and no representation thereafter will be entertained by this Office.

This has the approval of the Competent authority.

for Divnl. Rly. Manager(P),
 N.F.Railway, Tinsukia.

Copy forwarded for information and n / action to:-

- 1) DME/TSK, ADME(C&W)/TSK, AD E(P)/TSK
- 2) COS(G) to DME/TSK (AT OFFICE)
- 3) SSE(LOCO)/TSK, MXN (4) SSE(C&W)/TSK, TSKG, DBRT, MXN
- 5) SE(LOCO)/LLO, SE(C&W)/LLO
- 6) Staff Concerned through respective Depot I/Cs.
- 7) DY:CME/DBWS with 20 spare copies.
- 8) Br. Secy./NFRMU/TSK, TSKG, DBRT, MXN, LLO & FRG
- 9) Br.Secy/NFRMU/TSK, TSKG, DBRT, MXN, LLO
- 10) Spare copy.

for Divnl. Rly. Manager(P),
 N.F.Railway, Tinsukia.

Affected
 Staff Advocate
 21.12.01

MU/TSK

REMARKS ON THE ITEM OF 73rd PNM MEETING TO BE HELD WITH NFRMU ON 27th & 28th FEBRUARY 2002 AT DIVISIONAL LEVEL TINSUKIA:

IMPLEMENTATION OF GOVT. DECISION ON THE RECOMMENDATION OF THE VII CPC REVISION ROTATING TO PENSION COMMUTATION OF PENSION, JC/DC ITEM 26/2001 BOARDS NO. E(P&A)/II 2001/RS-4 DATED 30.7.2001.

DPO

In this regard clarification given by the board in respect of running staff who retired from 1.1.96 to 30.9.96.

In the regard illustrative examples also annexed. This union desires immediate implementation of the above.

Remarks:

As per Railway Bds. I/No. E(P&A)/II-2001/RS-4 dt. 30.7.2001 cases occurred with effect from 1.1.96 to 30.09.96 (running staff) have been revised after adding the allowance mentioned in the Bds. circular.

The total running cases involved is 15 and all the cases finalized and revised. PPO issued for payment of difference of monthly pension, commutation and family pension with intimation to the party.

Other than running staff 95 cases have also been finalized as per bds. letter and revised PPO's issued with intimation to party and Bank.

2. MINIMUM BENEFIT ON PROMOTION - RECOMMENDATION OF VII CPC:

DPO

AFO-I, AFO-II

In terms of Bds. No. E(E)/II 2001/Misc/POP dt. 17.8.2001. In some cases the benefit was not granted. Examples also shown. In this division in fixation mode of Rs. 25/-.

Remarks:

This benefit is being given to all staff as per VII CPC recommendation at the time of promotion. In some cases in Electrical department where it has not been done was reviewed and due benefits have been given. Any further cases where this benefit has not been given at the time may be brought out for review and consideration.

RULES REGARDING CONFIRMATION OF NON-GAZETTED STAFF ISSUE ORDER OF CONFIRMATION

DPO

AFO-I, AFO-II

In terms of Bds. No. E(NG)/I-2001/CNSA dated 23.8.2001. In terms of Bds. letter dated 23.8.2001 on completion of 2 years service staff should be confirmed by issuing confirmation letter to the staff concerned.

Since few years no confirmation letter issued in this division. The copy of compliances should be docketed to the union.

Attested
for
Adm. Cdr.
31.12.03

GM(P)/MLG have circulated vide his No.DAC/587, 15/14/0/(T.X.71 C) dt 8.8.2001 furnishing the model time schedule for finalization of DAR proceedings.

The same are not followed in this division.

Remarks: To follow the model time schedule for finalization of DAR proceedings P/Branch is making an effort to centralize all the departmental cases in a department wise register so that it can be put up to the executive once in a month and where schedule is burst it can be brought to the notice of ADM and DPM Register in this connection already made out for Mechanical department and Engg. department. Other departments will also do similar exercise expected to be completed within 31st March 2002.

14. THE ISSUE OF SRI J. AKBAR, JR. CLERK/OCO/TSK :

APO-I

Introductory item No. 19 of 69th PNM may please be referred. Sri Akbar, prepared appeal for regularization of his seniority promotion etc mentioning GM(P)/MLG's No. EPS/68 dt. 17.3.68.

The details as follows :-

12 staff were called for the post of Sr. Clerk(G)/Mech vide No. E/901/I(M) dt. 11.7.95 against 12 posts. Sri L. M. mazumder, D. R. Lahan submitted written declaration for their unwillingness. 10 appear and passed 8 vide No. E/901/I(M) dt. 21.7.95.

Sri Akbar's position was 11 as one staff senior to him transferred to MLG (Tarun Ch. Samal).

Here, while there were 12 post Sri Akbar should be called, but deprive of 2 staff were called against the failed candidate vide No.E/99/I/Pl.II(M) dt. 29.3.96 but against unwilling candidate none were called though Akbar's seniority permits.

Now in terms of CPO's No. EPS/68 dt. 17.3.68 the seniority onwards and benefit to be given

Remarks: In this connection a detailed letter is written and sent to the convenor, NFRMU vide this office letter E/99/I(M) pt.II dt.01.02.02. Position will be explained in the meeting.

15. PRESENT POSITION OF BOS/SURPLUS MEMORANDUM OF ALL DEPTT. INCLUDING RUNNING STAFF :

DPO

This union desires to furnish month wise position of staff submitted to HQ and the memorandum issued by different department declaring surplus.

The current DOS after review and before review to be furnished to the union

Remarks: Copies of surrenders / creation memorandums issued after 31.3.2001 have already been given to the unions. The DOS reviewed after taking in to consideration surrenders / creation duly vetted by accounts will be available only after 31.3.2002 and the same can be seen by the union

110/TSK

6

REMARKS ON THE ITEMS OF 74 TH P.N.M. MEETING TO BE HELD WITH N.F.RLY.
MAZDOOR UNION AT DIVISIONAL LEVEL INSURJA

Date: 20/8/02 and 21/8/02-

REMARKS ON FRESH AGENDA ITEMS.

1. AMBULANCE AND ITS DRIVER AT MARIANI

CMS

For non-availability of some spare parts in the area of the ambulance van placed in an open place as unserviceable. This union have collected information that spare parts are available in Guwahati area costing about Rs.2500/- . Driver could easily be directed to get the spare from Guwahati.

There is no driver for Pick-up van also.
Hence, this union to request you to please, to take special initiative so that the Ambulance Van can be made serviceable.

5. DERT

For want of Technician the X-Ray machine are not utilized and it will be out of order. Requested immediate step so that it is utilized.

Remarks:

(a) Ambulance van attached to MXN Health unit has been repaired and it is now in running condition.

(b) Demand, for filling up of vacancy of Ambulance Van driver for MXN Health unit, has already been placed on DRMP(TSK). Proposal has been sent to H.Qrs. for approval, being a diminishing category. A reminder has also been issued.

(c) X-Ray unit at MXN is a functional one. Radiographer of DERT Hospital has been attending the MXN Health Unit for X-Ray work once in a week.

2. INTRODUCTION OF REVISED PAY SCALE CORRESPONDING TO THE PRE-REVISED MARGED PAY SCALE Rs. 775-12-871-995-15-1050-20-1150/-

DPO

Re-fixation of pay w.e.f. 1.1.96 in the S-2A scale of pay to group 'D' staff drawing pay up to stage of Rs. 1030/- in the pre-revised scale and beyond Rs. 1030/- shall be fixed in S-3 of pay. This is reference to CPO's No. HXN-487 (E/205/O/PLXII (C)) dated 22.11.2001.

The same to be implemented.

Remarks:
Reply:

Introduction of the revised pay scale indicated against this item only pertains to the group 'D' staff of Rly. Bd. Secretariat and not to do any thing with zonal Rly. group 'D' staff. This may be dropped.

3.

DME

TRANSFER OF UNION OFFICIAL

This union raised in several occasion, to post the Branch Secretary at LLO. Sri H.S. Tripathi, JE-II/MXN. Now the train movement is going to be increased.

Remarks:

As per BOS there is sanction of 1 (one) SE(C&W) at LLO. The current work load does not justify more supervisor. Further there is shortage of supervisor (C&W) in TSK Division which may be seen from the position (as on 19.01.02) shown below.

830497

Handwritten signature and date:
Advocate
31.12.03



37. 11/73. FILING UP OF THE VACANCIES OF RUNNING STAFF AT MXN:

DME, DCM

Minutes: The vacancies and additional posts of Drivers where required are created in various grades so that new DADs can be posted against resultant vacancies. Training of the existing Goods Drivers will also be expedited. As many staff as possible will be booked for diesel engine course so as to speed up the selections.

Remarks: As per earlier BOS the sanction post of all Drivers category at MXN was as under:-

Category	Sanction	On roll (as on 1.5.02)
Driver M/Exp	06	05
Driver Passenger	08	05
Driver Goods	29	22

2 Pass. Driver of MXN have been cleared for promotion to Mail Driver. However, promotion of Sri Tufani Ram could not be effected as he is under going punishment.

Selection for 6 Nos. Pass. Drivers are in progress.

Selection for 28 Nos. of Goods Driver is under progress.

38. 12/73. LOOKING OF RETIRING ROOM IN ADVANCE:

DPO,

DCM.

Minutes: Copy of the letter written to the ASM/CTIs will be given to the union by DCM.

Remarks: Noted for compliance.

39. 13/73. MODEL TIME SCHEDULE FOR FINALIZATION OF DAR PROCEEDINGS:

All BOS.

Minutes: All the Branch officers have been advised to submit the details of pending SF-5 cases to DPO before 7th of every month giving details of the progress of cases at various stages as per proforma. These will be posted in the register of DPO's office and will be put up to DRM before 15th of every month. All the Branch officers have been advised to route the SF-5 cases through the APO concerned, during important stages of the proceedings.

Remarks: Executives are invariably routing the SF-5 cases through Personnel Branch as per decision taken in the PNM to avoid further complication. Up dated position of SF-5 cases are assured to be regularly sent by the executives. These will be up dated in the P Branch register & will be put up to ADRM/DRM.

40. 14/73. THE ISSUE OF SRI J. AKBAR, JR. CLERK/LOCO/TSE

DPO.

Minutes: Whether he has been considered in the subsequent selection will be checked up by DPO.

Remarks: The case has been checked up and it is seen that Md. J. Akbar has not been considered in the subsequent selection as he was not coming under the zone of consideration.

41. 16/73. RESERVATION OF BERTH FOR TTE'S CONDUCTOR IN AMENITIES

115058



20 SEP 2004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO. 306/2003

Md. Jalaluddin Akbar

...Applicant

-versus-

Union of India & Others

...Respondents

(Written statements filed by the respondents)

The written statements of the respondents are as follows:

1. That a copy of the O.A No. 306/2003 (hereinafter referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the respondents being similar and common, the respondents have filed their written statements as common for all of them.
2. That the statements made in the application, which are not specifically admitted by the respondents, are hereby denied.
3. That with regard to the statements made in para 1 of the application, the answering respondents state that there is no cause of action to justify the grounds for filing the application, hence the application is liable to be dismissed.
4. That with regard to the statements made in para 2, 3, 4.1, 4.2 and 4.3 and 4.4 of the application, the answering respondents have no comments to offer as the said statements pertain to records and nothing is admitted which is not supported by such records. The

Filed by:-

20/9/04

Puleheria Lada
Dy. Chief Personnel Officer (RP)
N.F. Railway, Maligaon
Guwahati-11

(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

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application is barred by limitation and the same is liable to be dismissed.

5. That with regard to the statements made in **Para 4.5** of the application, the answering respondents state that against the notification Dt. 11.07.95, 8 (eight) Jr. Clerk were found suitable for promotion as Sr. Clerk. Out of the eight, six Jr. Clerk were against UR (un reserved) post and two Jr. Clerk were against SC post. Although there was vacancy for six post of UR and six post of SC in the grade Sr. Clerk, but due to non availability of sufficient numbers of SC candidates in the lower grade (Jr. Clerk) i.e. only two SC Jr. Clerk were considered keeping backlog of four Nos. SC post in the cadre of Sr. Clerk. Accordingly 10 UR Jr. Clerk and two SC Jr. Clerk were called for the suitability test.

As per seniority list of Jr. Clerk vide DRM(P)/TSK's No. E/255/2/Part II dt. 23/01/98 it is clear that all UR Jr. Clerk (10 Nos.) just above the applicant were within the zone of consideration and hence called for the suitability test. As per the seniority list there were no SC Jr. Clerk above the seniority of the applicant and only 2 SC Jr. Clerk were available below the seniority of the applicant i.e. only 2 SC Jr. Clerk were available in the whole seniority group of Jr. Clerk and hence they were called for suitability test for promotion as Sr. Clerk.

After declaration of the result of the suitability test vide this office order Dt. 26.07.95 the remaining vacant post of Sr. Clerk 4 Nos. reserved for SC was carried forward for next suitability test. While assessing the remaining vacant post in the next suitability test it was observed that the previous calculation of vacancies of 12 posts (6 UR + 6 SC) of Sr. Clerk (i.e. notification dt. 11.07.95) one post was assessed excess wrongly i.e. there suitability should be

Dr. Chittaranjan Prasad
N.F. Railway, Maligaon
Guwahati-781001

conducted for 11 post instead of 12 posts having community break up SC- 5 and UR-6 as per the following observations.

BOS of Sr. Clerk as on 1.4.95 =44.....But showing BOS of Sr. Clerk as on
1.4.95=95

Actual on roll as on 11.7.95 = 33Actual on Roll as on 11.07.95 =33

Total Nos. of vacant post =11.....Total Vacant post arrived =12

However, due to letter of unwillingness submitted by one Jr. Clerk (Sr. Most) Sri L.M. Mazumdar (without showing any date in his application of unwillingness) which was forwarded by LF/TSK on 20.07.95, the excess assessed post i.e. excess calling of one Jr. Clerk, who was also senior to the applicant had been adjusted. While assessing the vacancy of Sr. Clerk for the next suitability test another one point noticed that one post of Sr. Clerk was to be reserved for DR quota representation was 70% against which incumbent position may be seen in the seniority list of Sr. Clerk as in the Annexure-R1. Thus as per above observations it was decided to fill up only two posts of Sr. Clerk instead of 4 posts i.e. one post reduced due to excess assessment of vacancy in the suitability test notification dt. 11.7.95 and further one post reduced due to reservation against DR quota percentage.

Copy of the list dated 23.1.1998 and order dated 26.7.95 are annexed hereto as **Annexure R1 and R2** respectively.

6. That with regard to the statements made in **Para 4.6** of the application, the respondents state that the next suitability test of Jr. Clerk for two posts instead of four posts as clarified above was conducted on 14.03.96 in which only the failed candidates of the notification dt. 11.7.95 i.e. Sri Dipti Gogoi and Ramsundar Prased

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Pulcheria Lakshmi
District Personnel Officer (RP)
N.F. Railway, Maligaon
Guwahati-781001

Jr. Clerk, were called for the selection. They were also senior to the applicant. Although the two candidates were declared failed in the selection, they were also senior to the applicant. The two candidates were declared failed in the suitability test held on 20.7.95 but they became eligible to be called for a suitability test in the next suitability test after completion of six months from the date of approval/result of last panel which was declared on 26.07.95 (Annexure – R2). From the position as clarified in Para 4.5 above it is clear that vacancy of the post of Sr. Clerk was not suppressed or underestimated during notification on 11.7.95.

7. That with regard to the statements made in **Para 4.7** of the application, the respondents state that during the year 1997 there was process for re-deployment of Mechanical surplus staff due to closer of steam loco shed at Mariani, Tinsukia and Ledo in Tinsukia Division. At that time there was uncertainty regarding surrendering/not surrendering of posts of Clerical Categories due to closer of loco sheds. The suitability/promotion in questions was pertaining to mechanical (Loco) department. Hence during the year 1997 suitability test of Jr. Clerk was not conducted for promotion as Sr. Clerk.
8. That with regard to the statements made in **Para 4.8** of the application, the respondents state that the answer for the question arised in the para is best known to applicant the applicant also. The seniority of Sri Om Prakash Singh Jr. Clerk was assigned above the applicant by adopting the formula of inter-se-seniority vide seniority list dt. 23.01.98 (Annexure-R1) in terms of GM(P)/MLG's L/No: E/41/III/246(Q) Part- VII (Loose dt. 15.12.97 and DRM(P)/TSK's L/No: E/254/II/Adv/Part-III dt 5.1.98. In the seniority list it was given chance to all the incumbents for their representation against their seniority position in seniority list if desired so within one month and the applicant was also one of them. Accordingly 11 (Eleven) Nos. of Jr. Clerk including the

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Rajendra Kumar
Chief Personnel Officer (R.P.)
N.F. Railway, Maligaon
Guwahati-78

applicant below Sri Om Prakash had submitted representation against the seniority position vide DRM(P)/TSK's L/No: E/255/2 Part- II dt. 10.03.98. In response to their representation clarification was expressed to all the below Jr. Clerk including the applicant showing the cause of assigning seniority of Sri Om Prakash above the applicant by this office letter dt. 11.03.98. Hence it is stated that assignment of seniority above the applicant was admissible /permissible as per Railway Rules. This was not challenged by the applicant and he accepted the same. Hence, the applicant is estopped from raising this issue by the doctrine of estoppel, waiver and acquiescence.

Copy of the letter dated 5.1.98 and letter dated 10.3.98 are annexed hereto as **Annexure R3** and **R4** respectively.

9. That with regard to the statements made in **Para 4.9** of the application, the respondents state that it is fact that name of Om Prakash Jr. Clerk (Redeployment No.4) did not appear in the seniority list published before 23.1.98 but his name was appeared just above the applicant in the seniority list dt. 23.01.98 in terms of orders/instructions issued vide GM(P)/MLG's L/No.: E/41/III/246 (Q) Part VII (Loose) dt. 15.12.97 and DRM(P)/TSK's letter dt. 5.1.98 (Copy enclosed as Annexure-C). Hence name of Om Prakash was shown above the applicant in the seniority list.
10. That with regard to the statements made in **Para 4.10** of the application, the respondents state that the Respondent No.4 Sri Om Prakash Singh Jr. Clerk of Raj Bhasa Cell/TSK was appointed on 27.2.91. In the Raj Bhasa Cell/TSK his seniority position was isolated and not combined with any other seniority unit till Dec/97 for his better promotion prospect. This lapse was however corrected and the GM(P) / MLG had directed to assigned his

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Dr. P. S. Chatterjee
Chief Personnel Officer (R.R.)
N.E. Railway, Maligaon
Guwahati-781001

seniority in any unit of this division considering his date of appointment vide his L/No: E/41/III/246(Q) Pt. VII/Loose dt.15.12.97. Accordingly his seniority was assigned in mechanical department after approval of DME/TSK (competent authority) vide this office memorandum No: E/254/1/Adv./Pt. III/TSK dt. 5.1.98 (copy enclosed as Annexure- R3). Before promotion of Om Prakash Singh (respondent No. 4), as Sr. Clerk his seniority was assigned vide this office order No. E/255/2/Pt. II Dt. 23.1.98 where in all staff including the applicant were invited for their representation for objection on it, if any, within 30 days. Accordingly 11 (eleven) Jr. staff i.e. below Om Prakash Singh as published in the seniority list, had submitted their representation against the seniority position of Sri O.P. Singh. And they had been replied vide this office letter No: E/255/2/Pt II Dt. 10/11.03.98 (copy enclosed as Annexure - R4). The seniority position is now settled and cannot be unsettled.

However the seniority of Sri O.P. Singh in the seniority list was valid for the period from 2301.98 only since he was transferred to EC Railway, Allahabad. He would enjoy the seniority position in case he returns back to his parent division (Tinsukia Division) within two years. But he has not returned to this division till date and hence he has forgone his earlier seniority position in mechanical department. After issue of the seniority list in the category of Jr. Clerk by including the name of Sri O.P. Singh and finalization of appeal/ representation against the seniority list, suitability test of Jr. Clerk (including respondent No. 4) was conducted on 11.4.98, result was published on 8.6.98 and then promotion order was issued on 12.6.98.

Copy of the letter dated 15.12.97 and order dated 12.6.98 are annexed hereto as **Annexure R5 and R6** respectively.

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Pulcheria Laskar
Dy. Chief Personnel Officer (R.P.)
N.F. Railway, Maligaon
Guwahati-78

11. That with regard to the statements made in **Para 4.11** of the application, the respondents reassert and reiterate the statement made in the forgoing paragraphs of this written statements.
12. That with regard to the statements made in **Para 4.12** of the application, the respondents state that as per directives of GM(P)/MLG's vide L/No: E/41/III/246 (Q) Pt.VII (Loose) dt. 15.12.97 Sri O.P. Singh was included in the seniority unit of Jr. Clerk in mechanical department and in this regard this office memorandum No: E/254/1/Adv/Pt/ III/TSK Dt. 5.1.98 (Annexure-R3) was issued.
13. That with regard to the statements made in **Para 4.13** of the application, the respondents reassert and reiterate the statement made in the foregoing paragraph of this written statements and also beg to state that since only two posts were required to be filled up so seniority of the applicant was not permitted at that time for calling the suitability test for promotion as Sr. Clerk.
14. That with regard to the statements made in **Para 4.14** of the application, the respondents state that as mentioned in the Para Sri Tarun Ch. Sharma, Jr. Clerk was senior than the applicant as per seniority list published on 7.10.94. Due to transfer of Sri Sharma his name was not included in the suitability test of Sr. Clerk issued vide this office letter dt. 11.07.95. And 10 (ten) Jr. Clerk above the applicant and 2 SC candidate Junior to the applicant were called for filling up of 2 SC posts. Hence no junior UR person then the applicant were called for suitability test and promotion as Sr. Clerk.

Copy of the list dated 7.10.1994 and letter dated 11.7.95 are annexed hereto as **Annexure R7 and R8** respectively.

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Dy. Chief Personnel Officer (RP)
N F. Railway, Mailgaon
Gwalior-11

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15. That with regard to the statements made in **Para 4.15** of the application, the respondents state that in reference to the appeals of the applicant dt. 11.05.99 reply was given to him vide this Office letter No: E/90/1/M/Pt. II dt. 06.08.99. Again he had appealed dt. 05.10.99 for which reply was given to him vide this office letter dt. 15.11.99. His third appeal dt. 5.5.2000 was replied vide this office letter dt. 30.5.2000 after approval of DRM/TSK. Again his case was represented by NERMU/TSK on 24.1.2001 which was also replied vide this office Letter dt. 9.2.2001. The matter was also discussed in the informal meeting with NFRMU on 25.01.2002 and it was replied in written vide this office letter dt. 1.2.2002.

As pointed out in the para Sri L.M. Mazumder Jr. Clerk was called for the suitability test of Sr. Clerk on 20.7.95 but he had submitted his unwillingness on 19.07.95 and received by this office on 20.7.95 i.e. on the day of the suitability test so calling of next junior man for the suitability test on 20.07.95 was not possible. Again another one Jr. Clerk Sri P.R. Lahon remained absent for the suitability test on 20.7.95. He had also submitted his unwillingness for the test on 19.7.95 which was received by this office on 10.09.95. The above facts proves that the unwillingness of the staff concerned were not submitted by them well in advanced.

Copy of the letter-dated 9.2.2001 and 19.7.95 are annexed hereto as **Annexure R9 and R10** respectively.

16. That with regard to the statements made in **Para 4.16** of the application, the respondents reassert and reiterate the statement made in the foregoing paragraphs of this written statements.
17. That with regard to the statements made in **Para 4.17** of the application, the respondents state that the appeal of the applicant

Dr. Chandra Kumar
N.F. Railway, Maligaon
Guwahati-78

dt. 22.11.2001 had no merit. A reply was given to Secy. NFRMU/NTSK vide this office letter Dt. 9.2.2001 (Annexure-R9). And before this a reply was given to the applicant vide this letter Dt. 30.5.2000 regretting the appeal with the approval of DRM/TSK. Since the appeal dt. 22.11.2001 by the applicant containing same matter, it had no merit in the case for forwarding the same to HQ/MLG.

Copy of the order dated 30.5.2000 is annexed hereto as **Annexure R11**.

18. That with regard to the statements made in **Para 4.18** of the application, the respondents state that as enquired from the staff concerned, the applicant in his appeal, the concerning facts have been narrated to him in several occasion in reply of the appeal. Regarding calling against the absentee/unwilling candidate in the suitability test, the matter had been clarified in the above paragraphs of the written statements.
19. That with regard to the statements made in **Para 4.19** of the application, the respondents state that the matter of the para has been clarified above in the foregoing statements made in this written statement. It is further mentioned that for filling up of the vacancies of Senior Clerk its higher grade vacancies are also accounted and the vacancies may vary/ differ year to year due to reasons other than normal retirement, such as voluntary retirement, death, medically unfit case, due to transfer in another unit etc. Accordingly, again in the year 1998 for 23 vacancies of Sr. Clerk suitability test was conducted by calling 17 incumbents in the grade of Jr. Clerk vide this office letter dated 26.3.98. In the said list of 17 candidates, the applicant is also included.

Copy of the letter-dated 26.3.98 is annexed hereto as **Annexure R12**.

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Pulcheria Lada
Dy. Chief Personnel Officer (RP)
N.F. Railway, Mailgaon
Guwahati-11

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Dr. Palchandra Laha
Chief Personnel Officer (RP)
N.F. Railway, Naligonda
Guwahati-78

20. That with regard to the statements made in **Para 4.20** of the application, the respondents state that the subject matter of the applicant was also discussed in the 73rd PNM Meeting with NFRNU on 17-18th February 2002 and 74th PNM Meeting in August 2002 at Tinisukia at Divisional Level where the representative were satisfied with the reply of administration. It is further mentioned that ante dating of promotion arises only when any junior gets promotion earlier than his senior if the senior is not facing any punishment. In this case no unreserved junior of the applicant has been promoted earlier than him so the question of ante dating promotions of the applicant does not arise.
21. That with regard to the statements made in **Para 4.21** of the application, the respondents state that the claim of the applicant is not a bonafide claim and it is not admissible as per rules. Therefore the OA is liable to be dismissed as being devoid of any merit.
22. That with regard to the statements made in **para 5.1 to 5.14** of the application, the respondents state that in view of the facts and circumstances of the case as stated hereinabove and the provisions of law the grounds shown by the applicant are no grounds at all to support the claim of the applicant and the application is liable to be dismissed as being devoid of any merit.
23. That with regard to the statements made in **para 6 and 7** of the application, the respondents state that the application is barred by limitation and no petition has been filed for condonation of such delay, hence the application cannot be heard on merit and is liable to be dismissed with costs.
24. That with regard to the statements made in **para 8.1 to 8.4** of the application, the respondents state that from the facts and circumstances of the case and the provisions of law, the applicant

is not entitled to any relief whatsoever as prayed for. The application being filed without any legal right, the same is liable to be dismissed with cost.

In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall be pleased to dismiss the application with cost.

Verification

I, Smt. Pulcheria Lakra....., at present working as Dy. CPO/RP..... in the office of the C.P.O. (B.P.) N.F. Railway Maligaon Guwahati-11....., being competent and duly authorized to sign this verification do hereby solemnly affirm and state that the statements made in para 1, 2, 3, 4, 6, 7, 9, 11, 12, 13, 16, 18 to 22 & 23 are true to my knowledge and belief, those made in para 5, 8, 10, 14, 15, 17 and 19..... being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 20 th day of September, 2004 at Guwahati.

Pulcheria Lakra

DEPONENT

Dy. Chief Personnel Officer (RP)
N.F. Railway, Maligaon
Guwahati-11

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Annexure 'A' R1
ANNEXURE: R1

Actual on Roll:-
M.Clerk -8
C.Clerk -6
P.B.Clerk -3

N.P. RAILWAY

COMBINED SENIORITY LIST OF JR. CLERK(G), Jr. M.Clerk AND
JR. PHONT CUM BOOKING CLERK IN SCALE Rs.3050-4590/- OF
MECHANICAL DEPT. OF TSK DIVISION AS ON 1.4.97.

Office of the

DRM(P)/TSK.
Substation

Jr.Clerk(G)-06
Jr.M.Clerk -14
Jr.P.B.Clerk-02

Sl-NO.	Name	Design/Stn.	Working under	Date of birth	Date of appnt.	Date of promotion to the grade	REMARKS, IF ANY
1.	Shri P.R.Lahan(UR)	M.Clerk/MXN	SSE(C&W)MXN	16.10.41	16.3.65	24.1.85	
2.	" Dipti Gogoi(UR)	Clerk(G)	DME TSK	12.02.55	12.8.79	11.4.89	
3.	" Q. Prakash Singh(UR)	-do-	-do-	02.1.59	27.2.91	27.2.91	In terms of CM(P)/MLG-5 L/NO.E/41/III/246(Q)Pt.VII(Locse) dt.15.12.97 and DRM(P)/TSK's v. s. 142700. NOTE/254/T/ADV/Pt.III dt.5.1.90. He has been appointed as Jr.Clerk (G) in mech. cadre w.s.f.27.2.91.
4.	" J.Akbar(UR)	P.B.Clerk	SSE(L)/TSK	4.6.67	5.11.91	5.11.91	
5.	" Jogenzra Gogoi(UR)	-do-	-do-MXN	15.5.72	5.11.91	5.11.91	
6.	" Dilip Chandrai(UR)	-do-	-do-TSK	1.3.64	3.12.91	3.12.91	
7.	" Manosh Daboria(UR)	M.Clerk	SSE(C&W) TSKG	10.7.55	23.8.78	6.1.82	
8.	" Phenu Dora(UR)	-do-	-do-MXN	1.3.63	23.7.85	3.5.91	6.1.92
9.	" B.N.Saha (UR)	Clerk(G)	SSE/L/TSK	4.8.52	14.2.84	18.2.92	
10.	" Atul Dutta(ST)	M.Clerk/TSK	-	19.1.67	2.7.86	29.2.92	
11.	" Pradip Paul(UR)	-do-	-	1.2.60	14.2.84	6.3.92	
12.	" Anil Kr. Ghosh(UR)	-do-MXN	-	20.7.48	9.10.71	14.7.92	
13.	" Pranab Bhowmick(UR)	-do-TSK	-	01.3.59	15.2.84	11.2.93	
14.	" Chitta Nath(UR)	Jr.Clerk(G)	DME/TSK	-	-	-	at DA CCS's office 01.2.56 10.8.79 31.5.94

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SST (C) 2000

1.	2.	3.	4.	5.	6.	7.
15.	Shri Rubul Sonowal(ST) Clerk(G)	DBT's office/TSK	31.8.69	1.6.94	1.6.94	Mutual Training Program
16.	" Sarukal Chetia(WR)	-12-	01.7.58	29.9.95 1.7.83	29.9.95 1.4.95	By: ME INBQ
17.	" Swapna Kr. Doy," M.Clerk	SSE/C&A/TSK	1.3.58	28.3.84	19.7.96	

N.B-Representation if any against the Seniority position in the above should be made within one month from the date of issue of this seniority list, otherwise it will be treated as final.

23.1.98

for Divisional Rly. Manager(P)

Tinsukia.

Dated 23.1.98

E/2002 P4. H

NO. 2002/2002

Copy forwarded for information and necessary action to:-

- 1) DDE/ESK, OS(M), DDE/TSK's office.
- 2) SSE(Lccc)/TSK & MN/SSE(CAW)/TSK, TSKG & MN, -
- 3) Staff concerned through Respective Shop/office Incharge & OS(P).
- 4) Copy for P/case & S/sheet.
- 5) DA O/TSK
- 6) Br. Secy, N.F.R.E.U./TSK, DBRT, MN & LLO-
- 7) Br. Secy, N.F.R.E.U./TSK, DBRT, MN & LLO.
- 8) Dealer - at office.

23.1.98

for Divisional Rly. Manager(P)

Tinsukia.

Compared
23.1.98

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Annexure - 'B' R2
ANNEXURE : R2

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N. F. Railway.

No. E/50/1 (M).

Office of the
Divl. Railway Manager (P),
Tinsukin, dt. 26.7.95.To,
IFS/TSK & MXN,
FI(D)/LLO,
CS's/TSK/MXN & DBRT.Sub. Result of suitability of test of M/Clerk,
Clerk'G' & P.B. Clerk in scale Rs. 950-1500/-
for promotion to the post of Sr. Clerk'G'
in scale Rs. 1200-2040/-

-ooo-

In the suitability test for promotion to the post of
Sr. Clerk'G' in scale Rs. 1200-2040/- held on 20-7-95 the following staff have
come out successful in the test.

Sl. No.	Name	Desig. & stn.
1.	Shri Pramod kr. Ojha,	Clerk'G' / DME's Office.
2.	Mr. Akhtar Hussain,	M/Clerk/CS/TSK.
3.	Shri Kush Ram Das (SC),	P.B. Clerk/MXN.
4.	Mrs. Bujuli Gupta,	Clerk'G' / DME's Office.
5.	Sri Anjan Chakraborty,	M/Clerk'G' / MXN.
6.	" Nikul Borgohain,	Clerk'G' / MXN.
7.	" Mohendra Nath Das (SC),	M/Clerk/DBRT.
8.	Mrs. Pratima Tayo, (ST)	Clerk'G' / DME's Office.

28/7

for Divl. Railway Manager (P),
N. F. Railway, Tinsukin.

Copy to. Staff concerned.

28/7

for Divl. Railway Manager (P),
N. F. Railway, Tinsukin.

ps. 26795.

E(G)

15/8/95

(2) Ram Sunder) filed. Promoted.

15-66 ANNEXURE - C R3
ANNEXURE: R3
83
137
89
N. F. Railway.

MEMORANDUM:

Office of the
Divl. Railway Manager (P),
Tinsukia, dt. 5.1.98.

As advised by GM(P)/MIA vide his letter No. E/41/III/246 (Q) Pt. VII. (Loco) dt. 15.12.97 considering single post of Jr. Clerk in Raj Bhasha Coll of Tinsukia division, the list of Shri Om Prakash Singh, Jr. Clerk, Raj Bhasha Coll/TSK who was appointed as Jr. Clerk on 27-02-91. On compassionate Ground is fixed in the cadre of Jr. Clerk in scale 950-1500/- of Mechanical Deptt. of Tinsukia Division for a period of two years after his plying to NCR/Allahabad.

This issues with the approval of competent authority.

[Signature] 5.1.98
For Divl. Railway Manager (P),
N. F. Railway, Tinsukia.

No. E/254/1/ADV / Pt. III/TSK dt. 5.1.98.

Copy to: All Senior Subordinates of Mechanical Deptt.

- : DM/TSK please hold a suitability test of Sri O. P. Singh, Jr. Clerk for promotion to the post of Sr. Clerk/G and declare the result.
- : AME/TSK
- : Convener/N.F.R.M.U./TSK and M.M.
- : Convener N.F.R.S.U./TSK
- : Shri Om Prakash Singh, Jr. Clerk/G.
- : Divisional secretary, AISCRTSI/TSK
- : Raj Bhasha Adhikari/TSK

[Signature] OS Mechanical.

[Signature] 5.1.98
For Divl. Railway Manager (P),
N. F. Railway, Tinsukia.

[Signature]
5.1.98

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-67-
160A
ANNEXURE - D
ANNEXURE: R4
87
N. F. RAILWAY

NO. E/255/2Pt. III

Office of the
Divisional Rly. Manager(P)
Tinsukia:dt.10.3.98

To

S/Shri Bishwanath Saha, Jr. Clerk(G) under SS3(L)/TSK
" Pradip Paul, M/Clerk -do-
" Md. J. Akbar Jr. Clerk P.D. Clerk -do-
" Dilip Chandrai, -do- -do-
" Atul Dutta, Jr. M. Clerk -do-
" Pranab Bhowmick, -do- -do-
" Monash Ch. Dhotia, Jr. M. Clerk SS3(C&W)/TSKG
" Swapen Kr. Dey, -do- -do-TSK
" Sarukan Chotia, Jr. Clerk(G) DRM(M)/TSK
" Rubul Sonowal -do- -do-
" Chittanath -do- Now under DACOS/TSK

Subj:-Seniority position of Jr. Clerks of Mech. Deptt.

Ref:-Your representation No. Nil dt.4.2.98 &
10.2.98 respectively.

In reference to the above and on going through your representation, it is to inform you that the Seniority of Shri O. P. Singh, Jr. Clerk(G) of Rajbhasha Cell/TSK has been assigned at Sl.NO.3 published from this office endorsement NO. 3/255/2/Pt. III dt.23.1.98 as per directives of GM(P)/MLG's L/NO. 3/41/III/246(Q) Pt. VII(Loco)dt.15.12.97 wherein it is clarified that he is redirected to report this office for issue of formal sparing order to NCR/Allahabad from this and keeping his list at this and suitably for 2yrs. as his date of appointment will determine his seniority in the unit to which the division provides list. Obviously, further action on that seniority will be required only if he is returned within 2yrs. from NCR/ALD to N.F. Railway, TSK Division.

However, there is a correction in the seniority list which may please be read as under:-

Sl.NO.16 may be read as 15.
Sl.NO.15 may be read as 16

This has the approval of competent authority.
This is for your information please.

for Divisional Rly. Manager(P)
Tinsukia.

Copy forwarded for information to:-

- 1) Divisional Secy, NFR/TSK
- 2) Br. Secy, NFRMU/TSK
- 3) SS3(Loco)/TSK, SE(Loco)/LLO.
- 4) OS to DM3/TSK
- 5) OS(EM) at office.

for Divisional Rly. Manager(P)
Tinsukia.

25
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TO
DEPT(P)TSM.
H. P. RLY.

Ref: Your letter No.E/254/1/ADVT/
Pt.III/TSK dt.08-12-97..

This issues with the approval of CPO.

AG/15-120

OFFICE ORDER.

The following Jr. Clerk(G), Jr. M/Clerk, Jr. P.B.Clerk in Scale Rs. 3050-4590 (RS/97) respectively who have passed in the suitability test of Sr. Clerk(G) (Combined) in scale Rs. 4500-7000/- (RS/97) are hereby temporarily promoted to officiate as Sr. Clerk (E) in scale Rs. 4500-7000/- (RS/97) as such their new posting station are shown against each. *immediate effect except the item no. 10. (below).*

Sr. No.	Name	Design. & Station.	Present Pay (RS/97)	Promoted as	Pay fixed on promotion (RS/97)	Posted under.
1.	S/Shri O.P. Singh, (UR)	Jr. Clerk/G DME/TSK	Rs. 3425/-	Sr. Clerk/G	Rs. 4500/- P.M. Minimum of the scale.	DME/TSK's Office.
2.	J. Akbar, (UR)	Jr. P.B. Clerk SSE/L/TSK	Rs. 3350/-	-do-	Rs. 4500/-	SSE/L/TSK
3.	Moneesh Bohotin (UR), SSE/C&W/TSK	Jr. M/Clerk	Rs. 3425/-	-do-	Rs. 4500/-	SSE/C&W/TSK
4.	Phunu Borah, SSE/L/MXN	-do-	Rs. 3350/-	-do-	Rs. 4500/-	SSE/C&W/MXN
5.	B.N. Saha (UR) SSE/L/TSK	Jr. Clerk/G SSE/L/TSK	Rs. 3350/-	-do-	Rs. 4500/-	SSE/L/TSK
6.	Atul Dutta/ST	Jr. M/Clerk SSE/L/TSK	Rs. 3350/-	-do-	Rs. 4500/-	SSE/C&W/TSK against the vacancy of SSE/L/MXN.
7.	Pradip Paul (UR)	-do-	Rs. 3350/-	-do-	Rs. 4500/-	SSE/C&W/TSK against the vacancy of SSE/L/MXN.
8.	Pranab Bhowmick (UR)	Jr. Clerk(M) SSE/LACO/TSK	Rs. 3350/-	-do-	Rs. 4500/- (Minimum of the scale).	CPRC/TSK agst. the vacancy of DME's office
9.	Rubul Sonowal (ST).	Jr. Clerk/G DME/TSK	Rs. 3275/-	-do-	Rs. 4500/-	DME/TSK's office.
10.	Swapan Kr. Dey (UR).	Jr. M/Clerk SSE/C&W/TSK	Rs. 3125/-	-do-	Rs. 4500/-	SSE/C&W/TSK agst. the higher grade vacancy.

(*) Will get the benefit of promotion as Sr. Clerk/G w.o.f. 20.7.98 i.e. on completion of 2 years service in the present grade

The above promotion is provisional subject to the result of the writ petition pending before the Hon'ble Supreme Court of India, in terms of Rly. Board's L.No. R/210/RESV/4/i dt. 5.1.1980.

for SRM(P)/TSK.

Contn-2....

Compared.

12-6-98

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=2=

This has the approval of DMF(P)/TSK.

[Signature]
for DMF(P)/TSK. 12.6.98
N. F. Railway.

No. B/254/1 Pt.III.

12
Dt. 12/6/1998.

Copy forwarded for information and necessary action to:-

- 1) DMF/TSK, AMR/C&W/TSK, OS to DMF/TSK at office., DAD/TSK
- 2) SSE/C&W/TSK, TSKG, MXN., OSC(EM)/Binu at office
- 3) SSE/Loco/TSK
- 4) Staff concerned.
- 5) P/Caso and S/Shoot.
- 6) OS to DPO/TSK at office.
- 7) Spare copy.

[Signature]
for Divl. Rly. Manager(P)
N.F.Railway/Tinsukia. 12.6.98

Compared
[Signature]
12.6.98.

Combined seniority list of Jr. Clerk(G), Jr. M/Clerk,
and Jr. Phone Cum Booking Clerk in scale Rs 950-1500/- of TSK Mach.
Division as on 1-4-94.

Criteria :- Date of promotion to the grade.

SL.NO	Name	Design. & Stn.	Date of Birth	Date of apptt.	Date of Prom. to the grade	Remarks
1.	Sri L.N. Mazunder	M/Clerk/TSK at	25-7-38	16-9-58	24-2-71	24.1.96
2.	" P.R. Lahari	M/Clerk/TSK	13-10-41	16-3-65	24-1-89	
3.	" Dipati Gogoi	Clerk(G)/DME's	12-8-55	12-8-79	11-4-89	
4.	Miss Bijuli Gupta	Office	6-5-58	19-7-89	19-7-89	
5.	" Pratima Rai (Sr)	-do-	1-7-64	5-3-91	5-3-91	
6.	Sri Nikul Borgohain	EX/Clerk(G)/TSK	15-3-69	5-3-91	5-3-91	
7.	" Aktar Hussain	M/Clerk/TSK	1-12-63	6-3-91	6-3-91	
8.	" Karun Ch. Sarmah	-do-	1-2-62	7-3-91	7-3-91	
9.	" Ram Sunder Prasad	-do-/M/N	2-7-72	7-3-91	7-3-91	
10.	" Anjan Chakraborty	-do-/LLO	28-3-64	8-3-91	8-3-91	
11.	" Promod Ojha	Clerk(G)/DME's	21-4-65	20-3-91	20-3-91	
12.	" J. Akbar	Office	4-6-67	5-11-91	5-11-91	
13.	" Jogen Gogoi	P.D. Clerk/TSK	15-5-72	5-11-91	5-11-91	
14.	" Dilip Changmai	-do-/M/N	1-3-64	3-12-91	3-12-91	
15.	" Mohesh Debnatia	-do-/TSK	10-7-56	28-8-78	6-1-92	
16.	" Phunu Borah	M/Clerk/TSK	1-3-63	23-7-85	6-1-92	
17.	" B.N. Saha	-do-/M/N	4-8-59	14-2-84	18-2-92	
18.	" Atul Dutta (Sr)	Clerk(G)/TSK	19-1-67	2-7-85	29-2-92	
19.	" Pradip Paul	M/Clerk/TSK	1-2-60	14-2-84	6-3-92	
20.	" Kush Ram Das (SC)	-do-	1-4-62	24-4-84	1-4-92	
21.	" Anil Kr. Ghose	P.B. Clerk/M/N	20-7-48	9-10-71	14-7-92	
22.	" Mohendra Nath Das	M/Clerk/M/N	10-6-62	18-2-84	17-12-92	
23.	" Pranob Bhomick (SC)	M/Clerk/DME	1-3-59	15-2-84	11-2-92	
24.	" Chitta Nath	-do-/TSK	1-2-56	10-8-78	31-5-94	

No. E/255/1(F) dt. 7-10-94

For Divisional Railway Manager
N.F. Railway, Tinsukia.

Copy to LF's/TSK & LLO
LF(S)/LLO, P.O./LLO
CSOs, TSK/M/N/DME
MS/TSK,
Staff Concerned :-

They will hand over the copy of
staff concerned with clear signature.

They may submit their representation if
any regarding their seniority with in
one month from the issue of this list.
Convenor, Employees Union/TSK
Mazdoor Union/M/N

For Divisional Railway Manager
N.F. Railway, Tinsukia.

Copy to
7/11/94

ANNEXURE - 6

-21-

Annexure - 'G'

ANNEXURE: R8

NO:E/90/I(M)

N.F.Rly.

DRM(P)'s Office/TSK
Dt: 11.7.95

LFs/TSK & MXN
LF(S)LLO
FI(D) LLO
CS's TSK/MXN/DBRT.

Sub: Suitability test of Sr clerk 'G' in
scale Rs. 1200-2040/-.

Please direct the following staff to appear in the
suitability test (Written) of Sr Clerk 'G' in scale Rs. 1200 -2040/-
which will be held on ~~18-7-95~~ ²⁰⁻⁷⁻⁹⁵ at DRM(M) TSK's office. No absentee
test will be held.

SLNO Name Design & Stn.

1. Sri L.M. Majumder,, M/clerk/CS/DBRT.
2. " P.R. Lahan, -do- MXN (C&W)
3. " Dipti Gogoi, Clerk/G/DME's office/TSK
4. Mrs Bizulli Gupta, Clerk/G DME's Office/TSK
5. " Pratima Tai, " ~~LF/MXN~~
6. Sri Nikul Borgohain, " LF/MXN.
7. " Aktar Hussain, M/clerk/CS/TSK
8. " Ram Sundar Prasad, " LF/MXN
9. " Anjan Chakraborty, " F'(D)LLO
10. " Promod Ojha, Clerk 'G' DME's Office/TSK.
11. " Kush Ram Das (SC) P.B. Clerk/LF/MXN
12. " Mohendra Nath Das, M/clerk/CS/DBRT.

for Divl:Rly. Manager (P),
N.F.Rly. Tinsukia.

Copy to: AME/TSK for information.
: OS(G) DME's Office. He is
requested to arrange appwar sheet
& necy. invigilators & pecons.
: OS(P) Etl for information.

for Divl:Rly. Manager (P),
N.F.Rly. Tinsukia.

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Annexure - H.N.
ANNEXURE - JANNEXURE: R9
90

N . F. RAILWAY

NO.E/90/I(M) Pt.II

OFFICE OF THE
DIVISIONAL RLY. MANAGER (P),
TINSUKIA : DATED : 09.02.2001.TO :
The Secretary,
N.F.R.M.U./NTSK Branch.

Dear Sir,

Sub:- Promotional benefit to the post of Sr.Clerk(G)
in favour of Md.J.Akbar, now Sr.P.B.Clerk
Loco/TSK.As regards the Promotional benefit of Sr.Clerk(G)
in favour of Md.J.Akbar, now Sr.P.B.Clerk of SSE (LOCO)/TSK,
this is to inform you that concerned staff has been replied
earlier vide this Office letter of even no. dated: 06.8.99,
15.11.99 & 30.5.2000 respectively.However, the details of the case are enumerated as
under:-That while Processing for filling up of 12 nos. of
posts (6UR+632) of Sr.Clerk(G) in scale Rs.1200-2040/- vide
this Office letter no.E/90/I(M)Pt.II dated: 11.7.98, he was
not called for the ~~same~~ same as his seniority did not
permit maintaining 1:1 formulae. Out of 12 candidates, 10 nos.
were appeared and finally (6UR+257) = 8 nos. got promoted and
these vacancies were earmarked for SC Community.Apart from this, no junior staff was promoted as
Sr.Clerk(G) superseding his substantive seniority which
could be stepped up/antedated to the extent of Junior one
as per extent rule.As the case has no merit/scope for extending the
benefit of Proforma promotion/fixation and therefore, his
appeal was not ~~considered~~ considered.Meanwhile, once again the case has been represented
by the staff and accordingly the case was put up to the
Competent authority (DRM) and the Competent authority has
regretted the appeal.

This is for your information please.

Thanking you,

Yours faithfully,

Rm 9/210

(R . ROY, APO/I/TSK)

for Divnl. Rly. Manager (P),
N.F.Railway, Tinsukia.

23

-74-

Ann - I

R10

ANNEXURE: R10

AK

ANNEXURE - I

NO. EL/195

90

N.F.R.L.

122
C/SDBRTS/office

Dt. 19th July/95

DRM(P)/TSB.

SUB: ~~28~~ Unwillingness to appear
before the suitability test for
Sa. Clerk's

Ref: Your Ltr No L/30/1(m) of 11.7.95

Sri D. M. Majumdar, m/clerk of this
depot has expressed his unwillingness
to appear before the Suitability Test
of Sa. Clerk's which will be held
on 20.7.95 at DRM(m) TSB's above
office.

The unwillingness application
submitted by Sri D. M. Majumdar, m/clerk
is enclosed herewith in Original for
your information and action please.

Encl. One letter as above
in Original

19/7/95

Signature
Date

24-75-
N.F. Railway

ANNEXURE-5

ANNEXURE: RII

RII
92

No. E/90/1 (m) Pt. II

(196)

Office of the
DRM (D)/TSK

Dt. 30.5.2000

/10:

Md. J. Akbar,

Sr. clerk (g) / Hoco / TSK

Working under SSE (Loco) / TSK

Subj: Anti-dating of Promotion as
Sr. clerk (g) wef 1995.

Ref: your appeal No. EL/5
dt: 05.5.2000

In reference to the above,
this is to inform you that your
appeal was put up to the Competent
Authority i.e. DRM / TSK for granting
of benefit as Sr. clerk (g) wef 1995
who has passed the following
order:

"We may advise the staff
regretting his appeal."

This is for your information
please.

Rhm 30/5/00

25

N.F. Railway.
DRM/P's Office,
Tinsukia.

No. F/254/1/Ft.III. Dated: 26.03.98.

SSE (32W)/TSK, TSKG, MXI, DMT,
SSE (Loco)/TSK & MXI,
DACOS/TSK, OS to DMT/TSK (at office).

Sub:- SUITABILITY TEST FOR THE POST OF SR. CLERK (G)
IN SCALE RS.4500-7000/- (RS/97) IN MESH. DEPTT.

It has been decided to hold a Written Suitability Test for the post of Sr. Clerk (G) in Scale RS.4500-7000/- (RS/97) for 23 Nos. of posts (UR = 15, SC = 6 & ST = 2) which will be held on 11.4.98 at 10:00 hrs. (AM) at DMT/TSK's Office. Since there is no SC Candidate available at present, hence, the post earmarked for SC Community will be kept reserved.

In view of the above, you are hereby advised to spare and direct the following eligible staff to appear in the said suitability test for the post of Sr. Clerk (G) as per time and venue as mentioned above. If anybody is unwilling to appear in the test, a written declaration should be obtained from them in this respect and the same should be forwarded to this office for necessary action.

S/No.	Name.	Designation.	Working under.
S/Shri :			
1.	P.R. Lahon (UR) A	Jr. M. Clerk/MXI	SSE (32W)/MXI.
2.	Dipti Gogoi (UR)	Jr. Clerk/G/TSK	DMT/TSK's Office.
3.	Omprakash Singh (UR)	"	-do-
4.	Md. J. Akbar (UR)	Jr. P.B. Clerk/TSK	SSE/Loco/TSK.
5.	Jogendra Gogoi (UR)	"	SSE/Loco/MXI.
6.	Dilip Chandrai (UR)	"	TSK.
7.	Monesh Dahotia (UR)	Jr. M. Clerk/TSKG	-do- TSKG.
8.	Elunnu Borah (UR)	"	-do- MXI.
9.	B.M. Saha (UR)	Jr. Clerk/G/TSK	SSE/Loco/TSK.
10.	Atul Dutta (ST)	Jr. M. Clerk/TSK	-do-
11.	Padip Paul (UR)	-do-	-do-
12.	Anil Kr. Ghosh (UR)	Jr. M. Clerk/MXI	SSE/Loco/MXI.
13.	Pranab Bhownick (UR)	-do- TSK	SSE/Loco/TSK.
14.	Chitta Nath (UR)	Jr. Clerk/G/TSK	DMT/TSK - DACOS/TSK.
15.	Rubul Sonowal (ST)	-do- TSK	DMT/TSK
16.	Sankar Chetia (UR)	-do- TSK	-do-
17.	Swapan Kr. Dey (UR)	Jr. M. Clerk/TSK	SSE (32W)/TSK.

BD 26.3.98.
for: DRM/(P)/TSK.

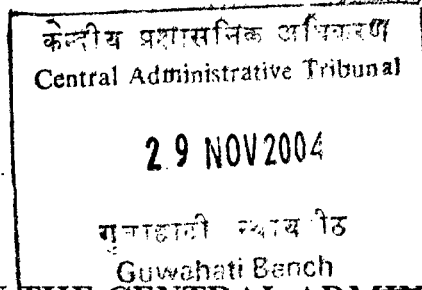
Copy forwarded for information and necessary action to:-

- OS(P)/TSK/at office.
- Staff concerned thro. respective Depot I/c's.
- Spare copy -
- OS to DMT/TSK. Please arrange necessary accommodation and Answer Scripts accordingly.

6/26.

BD 26.3.98.
for: DRM/(P)/TSK.

Completed
J. Singh
26.3.98



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

Filed by me applicant
through: Subrata Nath
Advocate
29.11.04

In the matter of:

O.A. No. 306 /2003

Md. Jalaluddin Akbar.

-Vs-

Union of India & Ors.

-AND-

In the matter of :

Rejoinder submitted by the applicants in
reply to the written statement submitted by
the respondents.

The humble applicant above named most humbly and respectfully state as under: -

1. That with regard to the statements made in paragraph 3,5,6 and 7 of the written statements. The applicant categorically denies the correctness of the same and specifically admit only the statements which are born on record, it is further state that so far cause of action arises for filing of the instant original application due to communication of the arbitrary decision of the respondents vide impugned letter dated 9.2.2001 (Annexure in O.A No.12) where it is alleged that the applicant did not fall within the zone of consideration against the 12 (twelve) vacancies of senior Clerk for which suitability test was held on- 20.7.1995 at Tinsukia following the notification dated 11.7.1995 issued by the DRM(P) Tinsukia, when respondent No.4 Sri Om Prakash Singh an outsider belongs to Rajbhasa Cell of railways was declared promoted and adjusted even above the senior clerk who

were promoted pursuant to DRM (P)'s letter dated 26.07.1996 (Annexure-2 in O.A). where as the said respondent No-4 was promoted only in the year 1998 following order dated 08.06.1998 (Annexure-5 of the O.A), on a close perusal of the records/documents of the Railway administration annexed with the original application as well as annexed with the written statement it would be evident that the respondents union of India in deliberate violation of railway rules assigned seniority of respondent no.4 above the present applicant and also above the senior clerks who were promoted during the year 1995-96, therefore it appears that post of senior clerk was available in the selection held on 20.07.1995 and the respondent no.4 was subsequently adjusted and accommodated against a available vacant post of senior clerk of the recruitment year 1995-96, therefore respondent No.4 was assigned seniority even above the senior clerks, promoted during the year 1996 which is evident from DRM (P) Tinsukia's letter dated 01.05.2000 (Annexure-14 of O.A), wherein respondent no 4 got his seniority at Serial No. 32 and thereby acquired higher seniority over, Mrs Pratima Thai, Aftar Hussain, Nikul Borgohain, Anjan chakraborty, Pramod Krishna Ojha, whereas said respondent No.4 was promoted as senior clerk only in the month of June 1998.

Further cause of action arises when the grievance of seniority of the applicant was partly redressed vide DRM (P)'s letter dated 20.9.2001 but applicants grievance for antedating his promotion and seniority over the respondent no.4 has not yet been redressed as such further cause of action arises thereafter.

The contention of the respondents that there were 6 (six) posts belongs to reserved category and another 6 (six) posts of senior clerk belongs to S.C category is also denied. In this connection it may be stated that when there is only 15%

reservation specified for S.C Community, there cannot be any reservation of 6 (six) posts of senior clerk out of 12 (twelve) posts of senior clerk during the year 1995-96 recruitment year in the mechanical department. The applicant further denies the contention of the respondents that they have summoned only 10 (ten) junior clerk for consideration for promotion against 6 (six) unreserved vacancies of senior clerk, as per 1:1 formula of railway administration, authority is entitled to consider only 6 (six) persons from amongst the seniormost junior clerks as per rules, since the post of senior clerk is a non-selection post, where seniority gets priority. But surprisingly in the instant case of selection which held on 20.7.1995 pursuant to the notification dated 11.7.1995, the railways administration called for 10(ten) junior clerks as per seniority, in violation of rule as contended earlier by the railway administration by issuing the impugned letter dated 9.2.2001, wherein it is stated as follows: -

“ That while processing for filing up of 12 nos. of posts (6 UR+6 SC) of Sr. clerk (G) in the scale of Rs. 1200-2040/- vide this office letter no. E/90/I (M) Pt. II dated 11.07.1998, he was not called for the same as his seniority did not permit maintaining 1:1 formula. Out of 12 candidates, 10 Nos. were appeared and finally (6 UR+2 SC) = 8 Nos. got promoted and these vacancies were earmarked for SC community. ”

From above it clears that railway administration has followed 1:1 formula for consideration of filing up the vacancies of six unreserved post of sr. clerk, if the railway administration had followed 1:1 in that event only six junior clerks are liable to be considered for promotion but it appears from para5 that they have called for interview of 10(ten) seniormost juniors clerks for 6(six) unreserved posts. If the railway authorities have followed candidates twice the number of

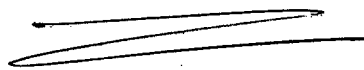
vacancies should be called for in that event applicant had a fair chance of consideration and promotion to the post of senior Clerk in the year 1996 itself but the applicant has been deprived the benefit of promotion.

There is a provision in a railway rule particularly in the Indian Railway administration manual (II nd edition). Wherein, in chapter II, section b rules governing the promotion of subordinate staff where rule 212 reads as follows:-

212. Non-selection posts:-

- (a) Non-selection posts will be filled by promotion of the seniormost suitable railway servant, suitability, whether of an individual or a group of railway servants, being determined by the authority competent to fill the post on the basis of the record of service and/or departmental tests, if necessary. A senior employee may be passed over only if he/she has been declared unfit for holding the post in question. A declaration of unfitness should ordinarily have been made sometime previous to the time when the promotion of the Railway servant is being considered.
- (b) When, in filling a non-selection post, a senior railway servant is passed over, the authority making the promotion shall record briefly the reason for such supersession.
- (c) In respect of non-selection posts, filled from different categories of staff, the following principles should be followed: -
 - (i) The number of eligible candidates to be considered at a suitability test should be twice the number of vacancies.

In view of the above specific provisions of the railway rules the railway administration ought to have been called atleast 12 candidates for selection of



6(six) unreserved post of senior clerk pursuant to the notification dated 11.7.1995 and if the railway administration has called 12 (twelve) candidates then also applicant would have fallen well within the zone of consideration. But railway administration deliberately neither followed the aforesaid rule indicated in para © (i) nor they have followed the rule 1:1 as stated in the impugned order dated 9.2.2001 to deny the legitimate benefit of promotion to the applicant to the cadre of Sr. Clerk during the year 1995-96 as such action of the respondents attracts violation of article 14 of the constitution.

The further contention of the respondents that two posts were wrongly assessed and there were 4 (four) posts of Sr. Clerk reserved for S.C. community was carried forward for next suitability test and accordingly carried forward for the next year it is also contended that unwillingness letter of Sri I.M. Mazumdar, Junior clerk was received late and against the said post of one senior of the applicant was adjusted. It is further contended by the respondents that on 14.3.1996 again another suitability test was conducted for filling up 2 (two) unreserved vacancies of Sr. Clerk where Shri Dipti Gogoi and Ramsundar Prasad failed candidate of the earlier selection on 14.3.1996 and in the said selection test Sri Ram Sundar Prasad came out successfully and therefore only one post could be filled up. Hence it appears that altogether 8 (eight) posts of Sr. clerks were available during 1995-96 and in the later selection i.e. on 14.03.1996 the respondents have adopted 1:1 formula and accordingly only 2 candidates were called for selection out of which Sri. Ram Sundar, respondent no.5 was selected and promoted to the post of Sr. clerk.

Therefore it appears that respondents did not call for interview the present applicant in the selection which were held on 14.3.1996 by adopting 1:1

formula. Whereas the said 1:1 formula was not adopted in the earlier selection which has held 20.7.1995. So, it appears that always there was an attempt to deprive the present applicant and he was restrained from appearing in the selection during 1995 as well as in 1996 by adopting unfair method of selection.

In this connection it may be stated that applicant could have been called for selection in the selection held on 14.03.96 by adopting the similar selection formula as adopted by the respondents on 20.07.95.

It further appears that vacancy position is also contradictory as per their own statements made in the written statements, in 1996 one post of Sr. Clerk belongs to unreserved category was available since Sri Dipti Gogoi was not selected which was held on 14.03.96 but even then case of the present applicant was not considered although said post was available.

The respondent never disclosed the wrong assessment of the post of Sr. Clerk in any earlier correspondences, this for the first time they have come up with such plea which is also contradictory.

Non-consideration of promotion of the applicant during 1996-97 when vacancy was available as per their own admission further gives a valuable right to the applicant for antedating his promotion at least from the date of promotion of the respondent No. 5 with all consequential benefit.

2. That your applicant categorically denies the correctness of the statement made in para 8, 9, 10, 12, 13 and further state that contention of the respondents that the applicant is estopped from raising the question of granting seniority over Respondent No. 4 following the doctrine of estoppel, waiver and acquiescence are categorically denied. Assigning higher seniority to Respondent No.4 is highly

illegal, arbitrary, contrary to the railway Rule and the said order is void ab-initio. In view of the Full Bench Judgment of the CAT in the case of Dhiru Mohan Vs. Union of India and ors., reported in Full Bench Vol. II CAT (1989-91), the instant application is well within the period of limitation and jurisdiction. It appears that Respondent No. 4 is brought from the Rajbhasa Cell to the Mechanical Department of the Railway with the deliberate intention to give him undue benefit of seniority and promotion over the present applicant and as a result the promotion prospect of the applicant has been adversely affected. The similar issue has already been dealt with this Hon'ble Tribunal in series of cases and the Hon'ble Tribunal held that one employee cannot be given seniority while transferred from one division to another division or cadre. It appears that the Respondent No. 4 approached the authority for granting better promotion prospect and following the request of Respondent No.4 the G.M (P), N.F. Railway in violation of rules, passed the order dated 05.01.98 as well as order dated 21.03.98 in total violation of the Railway Rules, mere submission of the reply on 10.03.98/11.03.98 cannot take away the valuable and legal right of seniority of the present applicant. There is no Railway Rule for assigning higher seniority while railway employee is transferred and posted from one department to another department of the Railways that too on his own request. In this connection the applicant is pleased to refer "Chapter III- Rules Regulating Seniority of Non-gazetted Railway servants of Indian Railway Establishment Manual (Second Edition)", wherein the Rules 311 and 312 says as follows:-

311. Transfer in the interest of administration- Seniority of railway servants on transfer from one cadre to another in the interest of the administration

is regulated by the date of promotion/date of appointment to the grade as the case may be.

312. **Transfer on request-** The seniority of railway servants transferred at their own request from one railway to another should be allotted below that of the existing confirmed and officiating railway servants in the relevant grade in the promotion group in the new establishment irrespective of the date of confirmation or length of officiating service of the transferred railway servants.

In view of the specific provision laid down by the Railway Board regarding rule of seniority the posting of the applicant on the advice of G.M (P) N.F. Railway cannot assign higher seniority over the present applicant. Therefore the Hon'ble Tribunal be pleased to declare that the applicant is entitled to seniority over the private respondent No. 4 as well as the promotion to the cadre of Senior Clerk at least with effect from the date of promotion of Respondent No.5 with all consequential service benefit including seniority and monetary benefit.

3. That your applicant categorically denies the correctness of the statement made in para 14, 15, 17, 18, 19, 20, 21, 22, 23 and 24 and further reiterate the contentions made in Original Application, as regards statements made in para 23 it is categorically submitted that an application for condonation of delay has been filed before this Hon'ble Tribunal and the Hon'ble Tribunal was pleased to condoned the delay, hence the statement is not correct.

In the facts and circumstances stated above the original application deserves to be allowed with cost.

VERIFICATION

I, Md.Jalaluddin Akbar S/O Late Raj Mohammad, aged about 36 years, resident of Tinsukia, working as Senior Clerk in the Office of the Senior Section Engineer, N.F.Rly, Tinsukia, do hereby verify that the statements made in rejoinder in Paragraph 1 to 3 are true to my knowledge and the rest are my humble submission before the Hon'ble Tribunal and I have not suppressed any material fact.

And I sign this verification on this the 29/11 day of November' 2004.

Md. Jalaluddin Akbar