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

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judi.)

( RULE - 4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

• • •  
ORDER SHEET

Original Application No. 742/03

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) S. Sarma

- vs. -

Respondent (s) B.O.P. Home

Advocate for the applicant (s) P.K. Tiwari, T. Prakasgopal

Advocate for the respondent (s) C.A.C. Chakraborty, Choudhury

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Condonation Petition is filed / not filed C.P. for Rs. 50/- is filed vide IPO/B/ No 74602/2003 Dated 11.5.03	9.4.2003	Heard Mr. P.K. Tiwari, learned counsel for the applicant. The application is admitted. Call for the records. List on 8.5.2003 for orders.
<i>After Dy. Registrar</i>		<i>Vice-Chairman</i>
Steps taken along with enclosures.	8.5.2003	Mr. S. Sarma, learned counsel for the respondents prays for time for filing written statement. Prayer is allowed. List on 17.6.2003 for orders.
<i>Pr. 11</i> Notice prepared and sent to BOS for giving the respondent No 1 to 6 by Regd. A.D. <i>2/5/03</i>	<i>mb</i>	<i>S. Sarma</i> Member
<i>2/5/03</i> Deno 743/748 dtd 22/4/03		<i>Vice-Chairman</i>
⑤ Service report are still awaited.		<i>3/5/03</i>

(2)

Notice return intdlo  
of respondent No. 5 & 6  
"Not Known" as made  
by petitioner.

St 6.

No. written statement  
not been filed.

23  
16.6.03.

17.6.2003

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

The Hon'ble Mr. R.K.Upadhyaya,  
Member (A).

Put up again on 31.7.2003 to  
enable the respondents to file written  
statement.

C. Bhargava

Member

Vice-Chairman

mb

31.7.2003

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

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

On the prayer of Mr. S. Sengupta,  
learned counsel for the respondents  
four weeks time is allowed to file written  
statement.

List on 27.8.2003 for written  
statement.

Member

Vice-Chairman

mb

27.8.03

On the prayer of Mr. S. Sengupta  
learned counsel for the Railway further  
four weeks time is allowed for filing  
of written statement.

List on 20.10.03 for orders.

Member

Vice-Chairman

1m

20.10.2003

None appears for the parties. List  
the case on 24.11.2003 for further order.

bb

Vice-Chairman

24.12.2003 Present: The Hon'ble Mr. Justice B. Panigrahi, Vice-Chairman.  
The Hon'ble Mr. K.V. Prahladan, Member (A).

Mr. S. Sengupta, learned counsel has entered appearance on behalf of the respondents and prayed time to file written statement. Although on previous occasions several opportunities had been given for filing written statement, as on today no written statement has been filed. In this background we direct the respondents to file written statement positively within two weeks from today failing which no written statement shall thereafter be accepted. Let rejoinder be filed by the applicant after service of copy of the written statement to the applicant's counsel within two weeks thereafter.

The matter shall appear on 29.1.2004.

*KV Prahladan*  
Member

*B*  
Vice-Chairman

bb

24.2.2004 Present: Hon'ble Shri Shanker Raju, Judicial member  
Hon'ble Shri K.V. Prahladan, Administrative Member.

Learned counsel for the respondents seeks two weeks further time as the written statement has already been prepared and is to be signed by the competent authority. Time allowed. List it on 15.3.04.

*KV Prahladan*  
Member (A)

*J*  
Member (J)

nkm

No written statement has been filed.

*BB*  
23.2.04

No W/S has been filed.

*BB*  
23.04

(A)

15.3.2004

On the plea of learned counsel  
the respondents four weeks time is allowed to file written statement.

List on 19.4.2004 for orders.

*KV Prahadan*  
Member (A)

19.4.04

*WJS submitted  
by the Respondents.*

mb

28.4.2004

Written statement has been filed by the respondents. List on 28.5.2004 for hearing. Meanwhile, the applicant may file ~~WJS~~ rejoinder, if any.

*KV Prahadan*  
Member (A)

mb

23.7.04

When the matter came up for orders learned counsel for the respondents submitted that he has already filed the written statement. Learned counsel for applicant submitted that he would like to file rejoinder.

List on 27.8.04 for order.

26.8.04

*WJS - Hon'ble Secy. 87/ed*

*SK*

*KV Prahadan*  
Member (A)

*Member (J)*

pg

27.8.2004 Present: Hon'ble Shri D.C. Verma,  
Vice-Chairman

Hon'ble Shri K.V. Prahadan,  
Administrative Member.

Ms U. Das prays for an adjournment on behalf of Mr P.K. Tiwari, learned counsel for the applicant. Mr S. Sengupta, learned Railway counsel is present. Let the case be listed before the next Division Bench.

*KV Prahadan*  
Member

*A*  
Vice-Chairman

nkm

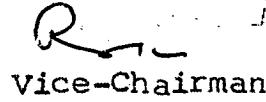
Notes of the Registry Date Order of the Tribunal

14.9.2004

Mr J.Purkayastha, learned counsel for the applicant has placed before us the order of promotion of the applicant dated 28.7.04 vide which the applicant had been promoted with effect from 1.11.2003. The applicant claims promotion with effect from 28.6.02. The matter is fixed for final hearing today but the Railway standing counsel is absent. Mr B.C.Pathak who is also a Standing counsel for Railways states that the matter be fixed on next week and he will inform the Standing counsel dealing with the matter to remain present on the next date.

Stand over to 21.9.2004 for hearing.

  
Member

  
Vice-Chairman

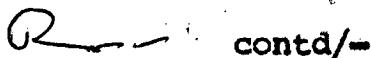
pg

21.9.04

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

Heard learned counsel for the parties.

The learned counsel for the applicant states that the only issue which is required to be decided in this application is the claim of the applicant for promotion with effect from 28.6.02 even though subsequently he was promoted with effect from 1.11.2002. The applicant's contention is that the Respondent Nos.5 & 6 who are junior to the applicant were empanelled for promotion on 28.6.02. The learned counsel for the applicant is not able to state as to when Respondent Nos.5 & 6 were promoted. He seeks time to place promotion orders of Respondent Nos. 5 & 6 on record. The learned

  
contd/-

20.9.04  
Notice not received  
by the Respondent No.5  
2.6.

21.9.04 *Re* counsel for the parties shall be given an opportunity to argue on all points which is left ~~over~~ <sup>open</sup>. Stand over to 6th October, 2004.

Records in sealed cover and written submission filed.

*K.P. Purkayastha*  
Member

*R*  
Vice-Chairman

6.10.2004 Sealed envelope duly sealed containing records of selection proceeding is opened.

Heard Mr. J. Purkayastha, learned counsel for the applicant as well as Mr. S. Sengupta, learned counsel for the Railways.

It is considered necessary that the record which led to the passing of order dated 20.7.2004 be ~~fax~~ placed before this Tribunal. For that purpose learned counsel for the respondents seeks time. Stand over to 2.11.2004.

The records of selection proceeding is resealed.

*K.P. Purkayastha*  
Member (A)

*R*  
Vice-Chairman

bb

1/11/04  
15/R - ~~available~~

2. 15 - has been sealed.

2.11.2004

1. No Rejoinder has been

2/11/04

*AS*

8/11/04

A photo copy of the minutes of the Selection Committee is kept by this Registry in its file.

8/11/04  
Recd copy  
DR/AS/kt)

10.11.04  
10/11 (2004)  
Copy of the order has been sent to the D/ceo for issuing the same to the applicant.

*K.P. Purkayastha*  
Member

*R*  
Vice-Chairman

nkm

8

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. ~~XXXX~~ No. 72 of 2003

DATE OF DECISION 2.11.2004

Sunil Guha ..... APPLICANT(S)

Mr P.K. Tiwari and Mr J. Purkayastha ..... ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS -

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

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

THE HON'BLE MR. JUSTICE R.K. BATTA, VICE-CHAIRMAN

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.72 of 2003

Date of decision: This the 2nd day of November 2004

The Hon'ble Justice Shri R.K. Batta, Vice-Chairman

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

Sunil Guha,  
Assistant Reservation Supervisor,  
Qr. No.126/A, West Maligaon,  
N.F. Railway, Guwahati.  
By Advocates Mr P.K. Tiwari and  
Mr J. Purkayastha.

.....Applicant

- versus -

1. Union of India, through the  
Secretary to the Government of India,  
Ministry of Railways,  
Railway Board,  
New Delhi.
2. The General Manager,  
N.F. Railway, Maligaon,  
Guwahati.
3. The Divisional Railway Manager (P),  
N.F. Railway, Lumding.
4. The Selection Board for selection of  
candidates to the vacancies in the  
post of Chief Reservation Supervisor  
held on 28.3.2002 through the  
Divisional Railway Manager (P),  
N.F. Railway, Lumding.
5. Ajit Kumar Das,  
Chief Reservation Supervisor,  
through the Divisional Railway Manager(P),  
N.F. Railway, Lumding.
6. Pramode Ch. Sarma, through the  
Divisional Railway Manager (P),  
N.F. Railway, Lumding.

.....Respondents

By Advocate Mr S. Sengupta, Railway Counsel.

.....  
O R D E R (ORAL)

BATTA. J. (VICE-CHAIRMAN)

The applicant seeks quashing and setting aside of  
Memorandum dated 28.6.2002 issued by Divisional Railway  
Manager (P), N.F. Railway, Lumding to the extent it  
relates to the unreserved vacancies in the post of

*R*

Chief Reservation Supervisor (CRS for short). The case of the applicant is that he is the seniormost Assistant Reservation Supervisor (ARS for short). The post of CRS is a selection post and as per existing rules the selection is made purely on basis of viva-voce. According to the applicant, the Selection Committee had acted in violation of the provisions of the Indian Railway Establishment Manual Volume I and carried out the process of selection by awarding marks in a grossly unfair and irregular manner. It is further alleged that awarding of marks was contrary to the detailed guidelines provided by para 219 (g) of the Indian Railway Establishment Manual, 1989 Edition. The applicant further contends that he satisfied the prescribed norms for the post of CRS and was in fact asked to look after the post of CRS with effect from 28.2.2002 vide order dated 7.8.2001 (Annexure-A/3). The applicant further contends that though he was the seniormost ARS he was not selected and two of his juniors, namely respondents 5 and 6 had been selected and promoted against the post of CRS.

2. The respondents in their written statement have stated that the post of CRS is a selection post and is required to be filled on the basis of performance in the viva-voce test. The respondents admit that the applicant was the seniormost ARS, but he failed to qualify in the test and as such was not empanelled.

3. We have heard Mr J. Purkayastha, learned counsel for the applicant and Mr S. Sengupta, learned Railway Counsel.

4. The learned counsel for the applicant has submitted before us that the applicant had secured the highest marks under the heads of personality and

R leadership.....

leadership as also seniority and as a corollary he should also have been awarded highest marks in the professional ability since the applicant had faired very well in the viva-voce test. It is urged by him that the Selection Committee minutes did not reveal the procedure followed for awarding marks and it appears that subjectiveness has creped into the awarding of marks due to which the applicant had to suffer. He drew our attention to the guidelines on the subject for determination of professional ability as also other heads and after placing reliance on the judgment of the Apex Court in Dr J.P. Kulshrestha and others Vs. Chancellor, Allahabad University and others, (1980) 3 SCC 418 urged that the entire selection procedure smacks of extraneous considerations having played an important role due to which the Selection Committee deliberately awarded lower marks to the applicant under the professional ability head.

5. On the other hand, learned counsel for the respondents submits that the prescribed procedure has been duly folowed and the applicant could not be selected since respondents 5 and 6 were found to be more meritorious than the applicant and being a selection post the grievances of the applicant are totally unfounded.

6. We have gone through the records. Para 219 (g) of the Indian Railway Establishment Manual provides for the procedure to be followed by the Selection Committee. The professional ability carries 50 marks. In case there is a written test, for professional ability the marks are 35 and for viva-voce the marks are 15. However, if no written test is held viva-voce test carries 50 marks for

R

professional.....

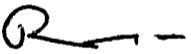
professional ability. There are 20 marks for personality, address, leadership and academic qualifications; 15 marks for record of service and 15 marks for seniority. Para 11.4.2.1 provides that the Selection Committee shall award marks based on performance by the employee in the viva-voce test. Likewise, the para which follow speaks of marks to be awarded on the basis of entries in the relevant columns in the Confidential Reports as also record of service and service register and seniority. Proceedings of the Selection Committee show that the suitability of the candidates was judged on the basis of their working knowledge and commercial rules. They were also assessed about, their general knowledge of Indian Railways and ability to shoulder higher responsibility and ability to handle customer care. The Committee also took special care to judge the candidates as per requirement of the post of CRS especially regarding the ability to handle the passenger queries, communication skills and expression. Based upon the above criteria and on the performance of the candidates the selections were made. The minutes, therefore, show that proper guidelines had been followed for selection of the candidates and marks were awarded to the candidates based upon the said guidelines. Based on the above guidelines, the applicant was granted marks under the heading professional ability. His case is that he performed well in the viva-voce test and he should have <sup>However,</sup> been selected. Others fared better than him and were awarded more marks by the Selection Committee. The applicant alleges that he has reason to believe that the Selection Committee acted on extreneous considerations and deliberately awarded lower marks to the applicant under the heading professional ability. These allegations are

 verified.....

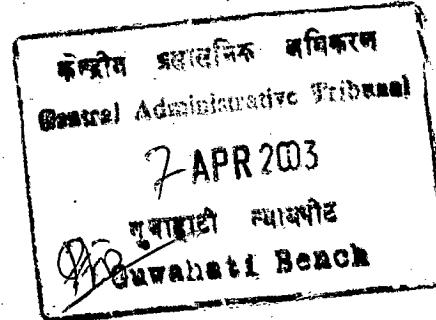
verified by the applicant in his affidavit as true to his knowledge. No material whatsoever in support of his allegations has been placed by the applicant before us and we fail to understand as to how the applicant could verify the said fact as being true to his knowledge. These are bare allegations without any materials whatsoever and in the absence of any material, such allegations cannot be given any weight. After going through the minutes of the Selection Committee, we do not find that there has been either any breach of procedure or guidelines on the subject nor we have any reason to take a different view of the matter. In fact, the applicant was subsequently promoted with effect from 1.11.2003 consequent to availability of some posts on restructuring as one time exemption.

In view of the above, we do not find any merit in this application and the application is hereby rejected with no order as to costs.

  
( K. V. PRAHLADAN )  
ADMINISTRATIVE MEMBER

  
( R. K. BATTA )  
VICE-CHAIRMAN

nkm



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. 72 of 2003

Sunil Guha

...

Applicant

- Versus -

Union of India & 5 Ors. ... Respondents

SYNOPSIS

The present application is directed against the non-selection of the Applicant to the post of Chief Reservation Supervisor and his supersession by the private Respondents who are junior to him. The Applicant is a seniormost Asstt. Reservation Supervisor which is a feeder cadre for the higher post of Chief Reservation Supervisor. The post of Chief Reservation Supervisor is a selection post and as per the extant rules, the selection is made purely on the basis of interview. The case of the Applicant is that the selection committee had acted in violation of the provisions of the Indian Railway Establishment Manual, Vol. I and carried out the process of selection by awarding marks in a grossly unfair and irregular manner in contravention to the detailed guidelines provided by para 219(g) of Indian Railway Establishment Manual, 1989 Edition. Hence the present application.

Filed by :

*J.Purkayastha*  
7/4/03  
( J. Purkayastha )

Advocate

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. of 2003

Sunil Guha ... Applicant

- Versus -

Union of India & Ors. ... Respondents

I N D E X

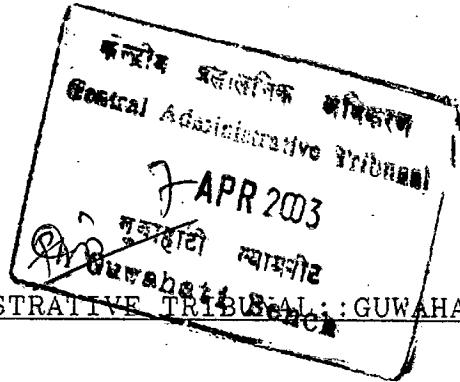
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For use in Tribunal's Office :

Date of filing :

Registration No.

REGISTRAR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A. No. of 2003

BETWEEN

Sunil, Guha, Assistant Reservation Supervisor, Qr. No. 126/A, West Maligaon, N.F. Railway, Guwahati-11.

... Applicant

AND

1. Union of India through the Secretary to the Government of India, Ministry of Railways, Railway Board, New Delhi.
2. The General Manager, N.F. Railway, Maligaon, Guwahati-11.
3. The Divisional Railway Manager (P), N.F.Railway, Lumding.
4. The Selection Board for selection of candidates to the vacancies in the post of Chief Reservation Supervisor held on 28.3.2002 through the Divisional Railway Manager (P), N.F.Railway, Lumding.
5. Ajit Kumar Das, Chief Reservation Supervisor, through the Divisional Railway Manager (P), N.F.Railway, Lumding.
6. Bramode Ch. Sarma, through the Divisional Railway Manager (P), N.F.Railway, Lumding.

.... Respondents

#### DETAILS OF APPLICATION

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

The present application is directed against the non-selection of the Applicant to the post of Chief Reservation Supervisor and his supersession by the private Respondents who are junior to him. The

File by the Applicant  
through the Advocate  
Jaideep Buragohain  
7/4/03

Applicant therefore is aggrieved by the memorandum dated 28.6.2002 issued by the Divisional Railway Manager (P), N.F. Railway, Lumding recommending the names of the private Respondents for promotion to the post of Chief Reservation Supervisor.

**2. JURISDICTION OF THE TRIBUNAL :**

The applicant declares that the subject matter of the instant application for which he wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

**3. LIMITATION :**

The applicant further declares that vide representation dated 2.7.2002 followed by legal notice dated 20.10.02, he made a grievance against the non-selection to the post of Chief Reservation Supervisor. However, there was no response from the official Respondents. In the present case, there is no statutory remedy available to the Applicant. Rules do not provide for filing of any representation in the facts of the present case. Hence, the present application is within the statutory period of limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985.

**4. FACTS OF THE CASE :**

4.1 That the Applicant in the present case is aggrieved by his non-selection to the post of Chief Reservation Supervisor. The Applicant is the seniormost Asstt. Reservation Supervisor. The post of Chief Reservation Supervisor.

Reservation Supervisor is a selection post. As per the extant rules, the selection is made purely on the basis of viva-voce. The Selection Committee found the Applicant unfit for promotion and he was superseded by his juniors for promotion to the post of Chief Reservation Supervisor. The case of the Applicant is that the Selection Committee had acted in violation of the provisions of the Indian Railway Establishment Manual, Vol. I and carried out the process of selection by awarding marks in a grossly unfair and irregular manner. The awarding of marks was contrary to the detailed guidelines provided by para 219(g) of Indian Railway Establishment Manual, 1989 Edition. The Applicant was superseded by the candidates junior to him and as such, the present O.A. before this Hon'ble Tribunal for redressal of his grievances.

4.2 That the Applicant is presently holding the post of Asstt. Reservation Supervisor in N.F. Railway, Maligaon, Guwahati. He joined the Indian Railway Service as Commercial Clerk on 16.2.75. In 1983, he worked as Enquiry-cum-Reservation Clerk. In December 1996, the Applicant was promoted to the post of Asstt. Reservation Supervisor. As stated earlier, it is this post in which the Applicant is presently working at Guwahati.

4.3 That the post of Asstt. Reservation Supervisor is a feeder cadre for the higher post of Chief Reservation Supervisor. The Asstt. Reservation Supervisor having two years of continuous service are

eligible to appear for selection to the higher post of Chief Reservation Supervisor. The Chief Commercial Manager, N.F. Railway in exercise of his power conferred on him vide para 213 of Indian Railway Establishment Manual, Vol. I, Revised Edition, 1989 and in supersession of earlier instruction with regard to selection/filling up of the post of Chief Reservation Supervisor prescribed certain norms of passing the departmental test vide circular No. E/254/84/Pt.V (T) dated 26.7.95. As per the aforesaid circular, the post of Chief Reservation Supervisor was made a selection post, vacancies to which were to be filled up on the basis of viva-voce alone.

Copy of the circular dated 26.7.95 is annexed hereto as ANNEXURE-A/1.

4.4 That since the Applicant was promoted to the post of Asstt. Reservation Supervisor on 6.12.96, therefore, he completed two years of qualifying service in the said post on 6.12.98. In the cadre of Asstt. Reservation Supervisor, the Applicant was the seniormost Asstt. Reservation Supervisor as is evident from the provisional seniority list of Asstt. Reservation Supervisor as on 1.4.99 issued by the Divisional Railway Manager (P), N.F. Railway, Lumding. In the aforesaid provisional seniority list of Asstt. Reservation Supervisor, the name of the Applicant was shown at Sl. No.1 whereas the names of the private Respondents No. 5 and 6 have been shown at Sl. Nos. 3

and 4 respectively. It is pertinent to mention that the Respondent No. 5 was promoted to the post of Asstt. Reservation Supervisor on 6.12.96 and the Respondent No. 6 was promoted to the said post on 3.7.97. The Applicant is, therefore, the seniormost Asstt. Reservation Supervisor.

Copy of the provisional seniority list of Asstt. Reservation Supervisor as on 1.4.99 is annexed as ANNEXURE-A/2.

4.5 That in view of the seniority, the Applicant was directed to look after the work of the post of Chief Reservation Supervisor on superannuation of the then Chief Reservation Supervisor, Guwahati Shri A.C. Kalita on and from 28.2.2002 by Divisional Commercial Manager, Guwahati vide his order No. E/283/III/GHY/DT/Commercial dated 7.8.2001. As Shri A.C. Kalita was to relinquish the charge six months ahead of his superannuation as per the extant rules, therefore, in compliance with the order of Divisional Commercial Manager dated 7.8.2001, the Applicant took over the charge of the works of Chief Reservation Supervisor from Shri A.C. Kalita on 7.8.2001 and continued to shoulder the higher responsibility of Chief Reservation Supervisor at Guwahati.

Copy of the office order dated 7.8.2001 issued by the Divisional Commercial Manager is annexed as ANNEXURE-A/3.

4.6 That the Divisional Railway Manager (P) vide office order dated 6.3.2002 decided to hold a selection for filling up four vacancies in the post of Chief Reservation Supervisor. As per the office order, the selection was to be on the basis of viva-voce test alone in terms of General Manager (P), Maligaon's letter No. E/254/84/Pt.VI(T) dated 18.6.99. It appears that the earlier circular dated 26.7.95 was replaced by the subsequent instruction dated 18.6.99. However, the same had no effect in regard to the post of Chief Reservation Supervisor because the earlier instruction dated 26.7.95 was reiterated in the subsequent instruction dated 18.6.99. The aforesaid office order dated 6.3.02 fixed the date of viva-voce test on 23.3.02 in the chamber of Senior Divisional Personnel Officer, N.F. Railway, Lumding. In terms of the said office order, total 8 numbers of candidates including the present Applicant were called upon to appear for the viva-voce test for the purpose of selection to the post of Chief Reservation Supervisor. Out of total four numbers of vacancies, 3 were unreserved and 1 was reserved for the Scheduled Tribe. However, subsequently, the number of unreserved vacancies was reduced to 2 and the remaining 2 were reserved for Scheduled Tribes.

Copy of the office order dated 6.3.02 is annexed as ANNEXURE-A/4.

4.7 That though as per office order, the date of viva-voce test was fixed on 23.3.02, but the same was

ultimately held on 28.3.02. The Applicant duly appeared in the selection and to the best of his knowledge, he gave a very good performance. In this connection, it is pertinent to mention that the Applicant has an unblemished service career and till this very date, he has not been communicated with any adverse remarks in his Annual Confidential Report. Since the selection was based purely on viva-voce and as the Applicant had consistently good service and he was also holding higher responsibility of the post of Chief Reservation Supervisor, he had reasons to believe that he would be declared fit to hold the post of Chief Reservation Supervisor by the Selection Committee. Unfortunately, this was not to be.

4.8 That the Divisional Railway Manager (P) vide memorandum dated 26.8.02 circulated the select list of successful candidates who were empanelled for promotion to the post of Chief Reservation Supervisor. In the select list, the private Respondents No. 5 and 6 were shown to have been empanelled against two unreserved vacancies to the post of Chief Reservation Supervisor.

Copy of the memorandum dated 28.6.02 is annexed as  
ANNEXURE-A/5.

4.9 Being aggrieved by his supersession and non-selection to the higher post of Chief Reservation Supervisor, the Applicant submitted a representation dated 2.7.02 which was followed by a legal notice dated 20.10.02. However, there was no response from the official Respondents.

Copies of the representation dated 2.7.02 and the legal notice dated 20.10.02 are annexed as ANNEXURE-A/6 colly.

4.10 That the findings of the Selection Committee and the manner in which it is required to award marks to the candidates in selection for the post of Chief Reservation Supervisor are specified in para 219(g) of the Indian Railway Establishment Manual, 1989 Edition. As per the Manual, the marks are to be awarded by the Selection Committee under the following heads :

(1) Professional ability - 50 marks

To be judged through the process of viva-voce

(2) Personality, address, leadership and academic and technical qualification - 20 marks.

Marks are to be awarded on the basis of entries in the relevant columns in the confidential reports.

(3) Record of service - 15 marks

The record of service to be adjudged on the basis of Annual Confidential Report for the last three years. Marks are to be awarded depending upon the grading. Though the Railway Board has issued mandatory orders, the following marking pattern for assessing the confidential report are to be followed :

- (i) Average - 2 marks
- (ii) Good - 3 marks
- (iii) Very good - 4 marks
- (iv) Outstanding - 5 marks.

In addition to the confidential report, the service register has also to be scrutinised. Marks can be added or deleted for award and the punishment respectively. In any case, the total marks that can be given under this head should not exceed 15. The record of service should also take into consideration the performance of the employee in training institute.

(4) Seniority - 15 marks.

The seniormost candidate called for viva-voce should be awarded the maximum marks of 15 and the juniormost the minimum of 5. Marks for the remaining candidates should be in proportion to the inter se seniority. As per the rule, marks under these headings will be awarded only to those who have been called for viva-voce.

Extract of Para 219 (g) of Indian Railway Establishment Manual is annexed hereto as ANNEXURE-A/7.

4.11 That apart from being the seniormost Asstt. Reservation Supervisor with added qualification of holding the additional responsibility of the post of Chief Reservation Supervisor, the Applicant also has the technical qualification of undergoing the Coaching

26  
& Goods Course of Indian Railways. It is to be noted that the Applicant is a Science Graduate. therefore, the Applicant has the required academic and technical qualification coupled with unblemished service career apart from being the seniormost Asstt. Reservation Supervisor. In view of these factors, there is no reason as to why the Applicant should not have been selected for the post of Chief Reservation Supervisor.

4.12 That in terms of the extant rules, the seniormost candidate should be awarded the marks of 15. Moreover, if the record of service is also taken into consideration, there is a proper methodology which is required to be followed in awarding marks. Same is the case in regard to awarding of marks under the heading "professional ability", "leadership" and "academic and technical qualification". Moreover, marks under the heading "professional ability" cannot be awarded on the mere ipse dixit of the members of the Selection Committee. The assessment of the members of the Selection Committee on the professional ability of the candidates has to be on the basis of his assessment under the heading "Personality/Leadership", "Record of service" and "Seniority". It cannot be expected that the candidate who scored reasonably higher marks in all the three headings, is awarded the very lower marks under the heading "professional ability". The Applicant has reasons to believe that the Selection Committee acted on extraneous consideration and deliberately awarded the lower marks to the Applicant under the

8

?

heading "Professional ability". Moreover. the Applicant has also reasons to believe that while awarding marks to the Applicant under the heading "seniority", "record of service" and "personality/leadership", the Selection Committee did not act in conformity with the guidelines and instructions governing the field. The action of the Selection Committee is, therefore, in contravention of the provisions of Indian Railway Establishment Manual.

4.13 That the supersession of a candidate on the ground of his being unfit by the Selection Committee without stating the reasons has been disapproved by the Hon'ble Supreme Court. In the case of the present Applicant, the Selection Committee has held the Applicant unfit without assigning the reasons for the same. The action of the Selection Committee, therefore, is illegal and arbitrary.

4.14 That in the facts and circumstances of the case, the Hon'ble Tribunal may be pleased to call for the minutes of Selection Committee held on 28.3.2002 to ascertain the legality of the action of the Selection Committee in holding the applicant unfit for the post of Chief Reservation Supervisor and superseding him by the private Respondents who are his juniors.

4.15 That the Applicant files the present application bonafide for securing the ends of justice.

**5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :**

5.1 Because the Selection Committee acted in contravention of the provisions of Indian Railway Establishment Manual while holding the selection for the post of Chief Reservation Supervisor.

5.2 Because the Selection Committee acted illegally and unfairly in awarding marks under different heads to the candidates for the purpose of selection to the post of Chief Reservation Supervisor. The marks are to be awarded in terms of the guidelines and instructions contained in Indian Railway Establishment Manual.

5.3 Because the Selection Committee acted on extraneous considerations and deliberately awarded lower marks to the Applicant under the head "professional ability". The Selection Committee ought to have considered the performance of the Applicant under the remaining three headings in order to judge him under the heading "professional ability". Moreover, the Selection Committee could not have ignored the fact that the Applicant had been looking after the responsibility of the post of Chief Reservation Supervisor for quite some time.

5.4 Because the supersession of a candidate on the ground of being unfit by the Selection Committee without assigning the reasons for the same, has been disapproved by the Hon'ble Supreme Court.

5.5 Because the Selection Committee acted illegally and arbitrarily and in violation of Articles 14 and 16

while holding the selection for the post of Chief Reservation Supervisor and as such the recommendation of the Selection Committee is liable to be quashed and set aside.

5.6 Because the Selection Committee did not take relevant factors into consideration while awarding marks to the candidates. It acted arbitrarily and took into consideration the irrelevant factors.

6. DETAILS OF REMEDIES EXHAUSTED :

That the Applicant states that he has no other alternative efficacious remedy except by way of approaching this Hon'ble Tribunal.

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

The Applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

8.1 Quash and set aside the memorandum dated 28.6.2002 issued by the Divisional Railway Manager (P), N.F. Railway, Lumding to the extent it relates to the unreserved vacancies in the post of Chief Reservation Supervisor.

8.2 Direct the official Respondents to hold a fresh selection for filling up the two unreserved vacancies in the post of Chief Reservation Supervisor, N.F. Railway and in the event of Applicant being selected to the post of Chief Reservation Supervisor, his seniority in the cadre of Chief Reservation Supervisor be fixed in terms of next below rule.

8.3 Pass such other order/orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

In the interim, the Applicant prays that this Hon'ble Tribunal may be pleased to call for the records and the minutes of the Selection Committee held on 28...3.2002 for the purpose of making selection to the post of Chief Reservation Supervisor.

10. ....

The Application is filed through Advocate

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

(i) I.P.O. No. : 7G 607892  
(ii) Date : 04.04.2003  
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

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

I, Sunil Guha, aged about 55 years, son of Late Santosh Guha, the Applicant, do hereby solemnly affirms and verify that the statements made in the accompanying application in paragraphs 4.1, 4.2, 4.7, 4.9, 4.11, 4.12, 4.13, 4.14, 4.15 are true to my knowledge; those made in paragraphs 4.3, 4.4, 4.5, 4.6, 4.8, 4.10 being matters of records are true to my information derived therefrom. The grounds urged are as per legal advice. I have not suppressed any material fact.

And I sign this verification on this the 7<sup>th</sup> day of April March 2003 at Guwahati.

Sunil Guha

ANNEXURE - A/1

N.F. RAILWAY

No. E/254/84/PtV(T).

Office of the  
General Manager(P)  
Maligaon, dated, 26-7-95.

To,  
DRM/KIR, APD, LMG, TSK.  
DRM(P)KIR, APD, LMG, TSK.  
CCM(Gen) Mlg.  
Sr. DCM/KIR, APDU.  
DY.CCM(Claims) MLG, SCM(Gen)(Rates)/MIG.  
Sr. ARM, GHY, NJP.  
Area Manager/NGC, BPB.  
APC/NBQ, NJP, GHY, DBRT.  
The GS NFREU & NFRMU/PNO with  
10 spares copies.

Sub : Selection/ Suitability test -filling up of the  
post in the Commercial Department.

CCM/N F.Rly in exercise of his power conferred on him vide Rule No. 213 of IREM/Vol-I(revised edition 1989) and in supersession of earlier instructions hitherto with regard to the selection/filling up of the higher grade post, has prescribed the following norms of passing the departmental test in different categories in Commercial Department at conditions precedents to the Railway servant being considered fit to hold a higher grade post.

(A) Commercial Inspectors Cadre :

i) CI/CMI Gr.IV(rs. 1400-2300/-)

Vacancies to be filled up by selection comprising both written and viva-voce tests.

Non-selection post.

ii) CI/CMI Gr.III(Rs 1600-2660/-)

Vacancies to be filled up base on 4CRS.

iii) CI/CMI Gr.II(Rs. 2000-3200/-)

Vacancies to be filled up by selection based on viva-voce test only.

iv) CI/CMI Gr.I(Rs. 2375-3500/-)

Non-selection to be filled up based on ACRS.

(B) Cadre of Rates Inspectors:

Vacancies in the category of Rates inspectors shall be filled up on the same line as prescribed for filling up of the vacancies in the cadres of Commercial Inspectors(A).

(C) Cadre of CTTI and CTI

i) Md.TTE and HdTC(Rs. 1400-2300/-)

Selection posts. Vacancies in both these categories shall be filled up by holding written test as well as viva-voce test.

ii) CTTI/II and CTI(Rs. 1600-2661/-)

Non-selection posts are to be filled up based on 4 ACRS for last three years.

Certified to be true copy.

Jhulayash  
7/4/03  
Advocate

— 17 —

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iii) CTT/I and CTI(Rs. 2000-3200/-)

These are selection posts and vacancies to be filled up based on viva-voce test only.

**(D) Cadre of Commercial Clerks & Office Clerks:**

The cadre of Commercial Clerks/Office Clerks is completely de-centralised. The mode of selection for promotion to the higher grade posts in the category of Commercial/Office Clerks shall be as under:-

i) Sr. Comm'l. Clerk/Sr. Clerks(Rs 1200-2040/-) Non- selection post.

ii) Rd.Comml. Clerks/Hd.Clerks(rs.1400-2300/-) Non- selection post.

iii) Chief Comm'l. Clerks/OS/II(Rs. 1600-2660/-) Selection post.

(Goods, Coaching & Transhipment) Vacancies to be filled up by both written and viva-voce test.

iv) Comm'l. Supervisors(Rs. 2000-3200/-)

Selection post.

Vacancies to be filled up by viva-voce test only.

iv) (a) Office Supdt./I(Rs. 2000-3200/-)

Non selection

Vacancies to be filled up based on 4 ACRS for last 3 years.

**(E) Catering Cadre:**

The post of Asstt. Catering Manager in scale Rs. 975-1540/- is a selection post and would be filled up based on both written test and viva-voce test and the higher selection post such as Catering Manager in scale Rs. 1200-2040/- and Chief Catering Inspector in scale of Rs. 2000-3200/- would be filled up only through viva-voce test.

**(F) Reservation Cadre:**

i) Hd. ECRC(Rs. 1400-2300/-)

Non selection post and vacancies to be filled up based on ACRS for last 3 years.

ii) 4RS(Rs. 1600-2660/-)

Selection post. Vacancies to be filled up by holding written as well as viva-voce test.

iii) CRS(Rs. 2000-3200/-)

Selection post. Vacancies are to be filled up based on viva-voce test only.

The procedures prescribed as above are subject to alteration/change on the classification of the post if any in future.

For GENERAL MANAGER.(P) MLG.

Certified to be true copy.

Hurlayashtha  
2/4/03  
Advocate

Provisional seniority list as on 1-4-99.

Category :- Asstt. Reservation Supervisor in scale is 5500-9000/-, Deptt. :- Traffic

Unit :- Luming, Classification of the post :- Divisional control post.  
Criterion :- Length of non-fortuitous service in the grade duly maintaining  
inter-se-seniority.

Sl. No.)	Name	Designation	SC/ST.	Date of birth	Date of App't.	Date of promotion	Confd.	Remarks	
								station.	or
1.	Sunil Guha,	ARS/GHY.	UR	2.5.48	16.2.75	6.12.96		Offg.	
2.	J. Prasad,	ARS/GHY.	SC	5.5.50	10.4.75	6.12.96		-do-	
3.	Ajit Kr. Das,	ARS/GHY.	UR	1.1.54	25.11.74	6.12.96		-do-	
4.	P.C. Sarma,	ARS/GHY.	UR	1.12.49	16.2.75	3.7.97		-do-	
5.	M.R. Rabha,	ARS/GHY.	ST	1.11.57	3.7.84	1.1.98		-do-	
6.	B.C. Baro,	ARS/GHY.	ST	1.11.56	1.9.78	7.7.97		-do-	
7.	Miss Prativa Das,	ARS/GHY.	SC	1.4.52	10.9.84	22.4.98		-do-	
8.	B.R. Das,	ARS/LMG.	UR	7.5.49	24.3.75	2.7.97		-do-	

N.B. :- Representation if regarding seniority position in the provisional seniority list should be submitted within one month from the date of issue of this list. Representation received after that date will not be entertained and this seniority list will be treated as final.

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

No. E39-20 (SNY)

Luming, dated 27-7-99

27-7-99.

Copy forwarded for information and / or action to :-

1. Staff concerned through proper channel, 2. SS/GHY, LMG, 3. CRS/GHY, 4. ARS/LMG, 5. S. ARM/GHY, 6. GM(P)/MLG, 7. Divl. Secy., NFRMU/NFRMU with three spare copies each.
8. General Secretary, NFRMU/PNO with three spare copies each.

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

9/5 Certified to be true copy

Jhunayash  
Advocate

dbv/26799

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27/7

## N.E. RAILWAY

OFFICE ORDEROFFICE OF THE  
SR.ARM/GUWALIATI  
DT: 7-8-2001

1. In cancellation of this office previous order N.O.E/283/III/GHY/Pt.III(Comm) dtd. 29.5.2001, Sri Sunil Guha, ARS/GHY being the senior most will take over the charge of computer hardware equipment stock from Shri A.C.Kalita, CR S/GHY who will be retired from Railway Service (w.e.f. from 28.2.2002).

2. Shri J.Prasad, ARS/GHY will look after the allotted works of Shri Sunil Guha, ARS/GHY in addition to his allotted work as Shri Guha ARS/GHY has been given the charge of computer hardware equipment stock.

This order should be implemented with immediate effect.

Divn'l. Comm'l. Manager/GHYNO. E/283/III/GHY/Pt.III(Comm), Dt: 7-8-2001  
Copy to:

1. Sr.ARM/GHY for information please.  
 2. ACI/PRS/GHY  
 3. SM/Gaz/GHY      } for information.  
 4. CGH/GHY  
 5. Shri A.C.Kalita.

Take hand over the charge of computer

Certified to be true copy.

*Jhurliayashtha*  
7/4/03  
Advocate.

ANNEXURE-A/4

N.F. Rly.

Office of the  
Divil. Rly Manager (P)

Office Order

Lumding, dtd : 6.3.2002

Sub. : Selection to the post of CRS in scale  
Rs.6500-10500/-.

It has been decided to hold the selection for the post of CRS in scale Rs.6500-10500/- and to form a panel of selected persons (UR-3, SC-Nil, ST-1).

The selection will be in the shape of viva voce test in terms of GM(P)/MLG's letter No. E/954/84/Pt.VI(T) dtd. 10.1.99.

The date of viva voce test is fixed on 23.3.2002 at 10.00 hrs. in the Sr.DPO/LMG's chamber.

The following staff are hereby advised to appear in the said test on the date and time mentioned above positively :

1) Sri Sunil Guha (UR)	ARS/GHY
2) Sri Ajit Kr. Das(UR)	ARS/GHY
3) Sri P.C. Sarma (UR)	ARS/GHY
4) Sri M.R. Rabha (ST)	ARS/GHY
5) Sri B.C. Boro (ST)	ARS/GHY
6) Miss Prativa Das(SC)	ARS/GHY
7) Sri S.R. Das (UR)	ARS/LMG
8) Sri Ranjit Chakraborty(UR)	ARS/SCL

Sd/- Illegible 6.3.02  
Sr. Divl. Rly. Manager (P)  
N.F. Rly., Lumding.

No. E.39-34(Enquiry).Pt.V(T)Lumding dated 6.3.2002

Copy forwarded for information and n/action to :

1. Staff concerned through proper channel
2. SS/GHY : They are requested to spare and
3. ACM/PRS/GHY : direct the above mentioned staff to
4. SS/LMG, SCL : attend viva-voce test of CRS(6500-  
: 10500/-) fixed to be held on  
: 28.3.2002 at 10.00 hrs. in the  
: Sr.DPO/LMG's chamber positively.
5. DGM/GHY, (6) Illegible, (7) PRS/LMG, (8) AM/BDB,  
ATM (9) Sr.ARM/GHY, (10) Sr.DPO/LMG,  
(11) DRM(C)/LMG is requested to sent ACRs of the above  
staff for last 3 years to Sr.DPO/LMG before the viva-  
voce test is held.
- (12) OS/Commr./LMG (13) CS to Sr.DPO/LMG

Sd/- Illegible 6.3.02  
Sr. Divl. Rly. Manager (P)  
N.F. Rly., Lumding.

• Certified to be true copy.

Jhankayash  
7/4/03

Advocate.

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ANNEXURE-A/5

N.F. Rly.

Office of the  
Divil. Rly Manager (P)

Memorandum

Lumding, dtd : 28.6.02

In the selection of CRS in scale Rs.6500-10500/-, viva voce test held on 2.3.02, the following candidates have come out successful for empanelment for promotion in the post of CRS :

1) Sri Ajit Kr. Das(UR) ARS/GHY  
2) Sri Promode Ch. Sarma(UR) -do-  
3) Sri Mani Ram Rabha (ST) -do-  
4) Sri Bhagirath Ch.Boro (ST) -do-

Sd/- Illegible 28.6.02  
Sr. Divl. Rly. Manager (P)  
N.F. Rly., Lumding.

No. E.39-24(Enquiry).Pt.V(T)Lumding dated 28.06.02

Copy forwarded for information and n/action to :

1. Staff concerned through proper channel
2. CRS/GHY, ACM/PRS/GHY, (3) DGM/LMG, GHY
4. Sr.ARM/GHY, (5) APO/GHY, SS/Comml.at office.
6. S/Copy for P/case.

Sd/- Illegible 28.6.02  
Sr. Divl. Rly. Manager (P)  
N.F. Rly., Lumding.

Certified to be true copy.

*Jhurkayashtha*  
24/03  
Advocate

Date - 02/7/02 3X

To  
DRM/Lumding  
(Through DRM/Lumding)-

(Through proper channel)

Respected Sir,

With due respect, I beg to submit the following for your kind consideration please.

1. That Sir, vide DRM (P)/ LMG letter No. E/39-24(Enquiry) Pt V (T) dated 6.3.2002; I was called to appear in the selection (Viva-voce) of CRS in scale Rs. 6500-10,500/-.
2. I appear in the selection on 28.3.2002 accordingly
3. As per seniority position amongst the candidates called to appear in the selection, I was the senior most.
4. I presume that my ACRs were at least good, as I was not communicated with any adverse remarks during my service career.
5. No vigilance /DAR case was ever been contemplated against me during my service career
6. There was no record of warning etc. for my day-to-day activities during my service career.
7. In the selection mentioned above, I appeared in befitting manner & answered all the questions put to me by the members of the selection committee.
8. But to my utter surprise, I came to know from the result of the selection that I have not been empanelled for the post of CRS in scale Rs. 6500- 10,500/-.
9. This is nothing but a bolt from the blue to me, but I firmly believe that I should have been empanelled.
10. I, therefore request to your kind self to kindly arrange to check up the entire selection procedure de-novo & justice be extended to me for which act of your kindness, I shall remain ever grateful to you.

With regards,

Forwarded for M/S. B.

Guha  
SUNIL GUHA  
ARS/GHY.

Yours faithfully,

Sunil Guha  
(SUNIL GUHA)  
ARS/GHY.

Encloser

Copy to - Ber. Secy. MFR&U/Ghy for information and persuasion please.

Certified to be true copy.

Jhunayashtha  
7/4/02  
Advocate.

MR. TUSHAR KANTI DUTTA ROY  
(Reld. Asstt. Law Officer, N.F.Rly.)  
ADVOCATE

Res.: East Gotanagar Hill side Colony  
Guwahati - II, Kamrup (ASSAM)  
Ph.: (0361) 570912

Ref.:

Date 4-9-02  
20-10-02

To,  
Divisional Railway Manager (P),  
N.E. Railway,  
Lumding.

Sir,

Sub:- Legal Notice on behalf of Sri Sunil  
Guha, ARS/GHY, in the matter of  
selection of CRS.

Under instruction of my client Sri Sunil Guha,  
ARS/GHY, I serve you this legal notice of demand on  
the following issues,

1. That my client had appeared in the selection of CRS held on 28-03-02 but could not be selected though he was senior-most candidate amongst the candidates called for the said selection.
2. That on hearing his adverse result of the aforesaid selection, he preferred an appeal before you on 2-7-02 to check up the entire selection procedure on the following grounds but you did not response on his appeal as yet and alternately, pending disposal of his appeal, you have published the posting order dated 20-08-02 of the selected candidates.

(Contd. ...., P/2)

certified to be true copy.

*Jhunayashtha*  
2/4/03  
Advocate.

Ref. ....

:- 2 :-

Date \_\_\_\_\_

3. That his grounds for appeal were-

- i) He is seniormost candidate amongst the candidates;
- ii) His CR were not adverse;
- iii) No DAR/Vigilance case is pending.
- iv) No warning was imposed on him in service life nor any DAR case is pending against him..
- v) Over and above, his educational qualification is higher than that of other candidates.

4. That when the aforesaid selection is held under "selection-cum-suitability test" and not of positive act of selection, he was due to be selected since the motive and intention of aforesaid selection of seniority-cum-suitability is the protection of senior candidates and not of rigid like positive act of selection.

5. That my client being the seniormost of ARS was ordered to look after, the works of Sri A.C.Kalita, CRS/Guwahati on his retirement from service on and from 28-02-02 under DCM/Ghy. office order No. E/283/III/GHY/DT/Commercial dated:07-08-01. as Shri A.C.Kalita was to relinquish the Charge Six month ahead of his retirement as per commercial rule he being a Commercial staff. Accordingly in compliance with the DCM/GHY'S above order I took over the charge for the works of CRS from A.C.Kalita on 7-08, 62 and continued to shoulder higher responsibility, of CRS.

(Contd.....P/3)

Certified to be true copy.

*Munirajgadh*  
7/4/03  
Advocate

MR. TUSHAR KANTI DUTTA ROY  
(Reld. Asstt. Law Officer, N.F.Rly.)  
ADVOCATE

Res.: East Golenagar Hill side Colony  
Guwahati - II, Kamrup (ASSAM)  
Ph. (0361) 5709121

Ref. No. 5

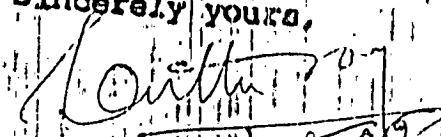
- 25 -

Date

- 3 -

In view of the above, it is demanded  
of you for review his case a fresh without  
any bias within a period of 15(Fifteen)days  
from the date of receipt of this notice,  
failing which I have clear instruction to  
file a suit in the appropriate forum for  
justice against injustice meted to my client  
in the aforesaid selection.

Sincerely yours,

  
(Tushar Kanti Dutta Roy.)

20/10/02

Certified to be true copy.

  
Jitnayaksha  
2/4/03  
Advocate.

11.4.2 Marks are to be awarded by the selection Board under the following heads:

• **PROFESSIONAL ABILITY:**

Written -35

Viva-voce -15

In the case of no written test and only viva-voce-50

• Personality, address, leadership: -20  
and academic qualifications.

• Record of service: -15

• Seniority: -15

**11.4.2.1 PROFESSIONAL ABILITY**

11.4.2.1.1 Professional ability will carry a total of 50 marks. If there is written test, written exam will have a weight-age of 35 marks (i.e. percentage of marks obtained in the written exam is reduced to 35). For example-an employee obtaining 60% marks in written exam will get 21 marks in the professional ability ( $60 \times 35 / 100 = 21$ ) balance 15 marks are to be awarded by the selection Committee based on the performance of the employee in the viva-voce,

(PARA219(g) of IREM)

**11.4.2.2 PERSONALITY, LEADERSHIP, ADDRESS,  
ACADEMIC, AND TECHNICAL  
QUALIFICATIONS.**

11.4.2.2.1 This head carries 20 marks. Marks are to be awarded on the basis of entries in the relevant columns in the Confidential reports, wherever maintained.

(Note (i) below PARA219(g) IREM)

*Certified to be true copy.*

*Shrikant Shrivastava*  
24 7/4/03  
Advocate

**11.4.2.3 RECORD OF SERVICE**

11.4.2.3.1 Confidential reports for the last three years are to be considered. Marks are to be awarded depending upon the grading. Though the Railway Board have issued mandatory orders, the following marking pattern for assessing the CR can be followed.

Average -2 marks:

Goods -3 marks.

Very Good -4 marks.

Outstanding -5 marks.

11.4.2.3.2 In addition to the confidential reports, the Service register has also to be scrutinized. Marks can be added or deleted for awards and punishments respectively. In any case the total marks that can be given under this head should not exceed 15. The record of service should also take into consideration performance of the employee in training institutes.

**11.4.2.4 SENIORITY**

11.4.2.4.1 The senior most candidate called for viva-voce should be awarded the maximum marks of 15 and the junior most the minimum of 5. Marks for the remaining candidates should be proportion to following this pattern.

Note: The minimum marks to be awarded to the junior most candidate may vary from Railway to Railway as per the local instructions. It is not the intention to disturb the same.

11.4.2.4.2 Marks under this heading will be awarded only to those who have been called for the viva-voce. Marks for seniority will be awarded afresh and the notional marks awarded earlier for calling candidates for viva-voce will not be taken cognizance of.

19 APR 2004

गुवाहाटी बेंच पर  
Guwahati Bench

Fixed by Subroto  
Parbat Baruah  
Ourselves  
16.4

J. Kishorita

Divisional Personnel Officer  
G. R. Railways, Dibrugarh  
Senior 2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
GUWAHATI.

IN THE MATTER OF :

C.A. No. 72 of 2003

Suril Guha

.... Applicant

vs.

1. Union of India.
2. The General Manager,  
N. F. Railway,  
Majlisganj,  
Guwahati-11.
3. The Divisional Railway Manager (P),  
N. F. Railway, Laxaldoing.
4. The Selection Board,  
for selection of candidates for  
the post of Chief Reservation  
Supervisor held on 26.3.2002.
5. Sri Ajit Kumar Das,  
Chief Reservation Supervisor,
6. Sri Pramode Ch. Sarmah.

.... Respondents.

- A.D. -

IN THE MATTER OF :

Written Statement for and on behalf of the  
respondents.



13  
A. Kishor  
S. D. Po. [N. F. Railway  
S. I. demanding

-: 2 :-

The answering respondents most respectfully beg to sheweth as under :

1. That, the answering respondents have gone through the copy of the application filed by the applicant and have understood the contents thereof.
2. That, the application suffers for want of valid cause of action and/or right for filing the application.
3. That, the application is not maintainable in its present form and is fit one to be dismissed in limine.
4. That, for the sake of brevity, the meticulous denial of each and every statements of the applicant has been avoided, without admitting the correctness of such averments. The respondents do not admit any of the allegations/statements of the applicant except those which are either borne on records or are specifically admitted hereunder and the applicant is put to strictest proof of those statements which are either not borne on records or are not specifically admitted by the respondents.
5. That, the case is vexatious one without any substance and is the outcome of the after-thought of the applicant.

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A. Kishott  
S. J.

D. P. O. N. F. R. R. and  
Lumding

- 3 :-

6. That, with regard to averments made at paragraphs 4.1, 4.2, 4.3 and 4.4 of the application it is stated that the selection to the post of Chief Reservation Supervisor was properly conducted after observing all the required rules and laws and there has been no illegality, infirmity or irregularity in this regard, not to speak of violation of the Part 219 (G) of the Indian Establishment Manual, 1989 edition or any provisions of said Manual or Railway Establishment Code or the General Manager (P), N.F. Railway, Maligaon's Circular No. E/254/84/Pt-V(T) dated 26.7.95 (copy of which has been annexed as Annexure-A/a to the application) as alleged.

As averred by the applicant, the post of Chief Reservation Supervisor post is a selection post and filled up on the basis of performance in the Viva-Voce test etc. It is to state that those candidates who could exhibit better performance in the selection had to be selected.

It is admitted that the applicant is the senior most Assistant Reservation Supervisor. It is also a fact that the post of Assistant Reservation Supervisor is a feeder cadre for the higher post of Chief Reservation Supervisor.

7. That, with regard to averments at Paragraph 4.5 of the application it is submitted that nothing are admitted except those which are borne on records.

- 30 -  
A. K. S. P. O.  
D. P. O.  
S. I.  
L. M. D. I.

- 4 -

8. That, with regard to averments at paragraphs 4.6, 4.8 and 4.9 of the application it is submitted that except those averments which are borne on records or are admitted as correct hereunder nothing are admitted as correct and the applicant is put to strictest proof of such statements. It is also to state herein that against the U.R. (Unreserved) quota only S/Sri A. K. Das and P. C. Samia (Serial Nos. 2 and 3 of the Office Order No. E/39-24 (Inquiry) Pt-V(T) dated 28.6.2002) were empanelled for promotion to the post of Chief Reservation Supervisor against the U.R. vacancies as they were successful in the Viva-Voce test in the selection.

9. That, with regard to the averments at Paragraphs 4.10, 4.11, 4.12 and 4.13 of the application it is submitted that there has been no irregularity or illegality etc. as alleged in holding/conducting the selection and all the allegations of the applicant to the contrary are denied herewith.

It is to submit herein that so far the selection procedure is concerned, a candidate is required to be successful in the prescribed selection (Viva-Voce test) also. As the applicant failed to qualify in the selection, he could not be empanelled and selected for promotion to the post of Chief Reservation Supervisor in scale Rs.6500 - 10500/-.

- 31 -  
A. Kisbatta  
D.P.O. N.F.Railway  
Sri. Duming

- 5 -

The selection was held quite in conformity with the extant rules and procedures in vogue.

10. That, with regard to averments made at paragraph 4.15 of the application it is denied that the application was filed bonafide for securing the ends of Justice.

11. That, in view of what have been submitted in the above paragraphs of this Written Statement, none of the ground for relief as mentioned at paragraph 5 of the application and relief as sought for under paragraphs 8 and 9 of the application, are sustainable under law and fact of the case, and, thus the prayers of the applicant are liable to be rejected.

It is emphatically denied that :

(a) the selection Committee acted in contravention of the provisions of the Indian Railway Establishment Manual or acted illegally and unfairly in awarding marks under different heads to the candidates or there has been any violations in following the guidelines and instructions for holding the selection/ awarding marks, or

32  
47  
A. K. K. H.  
S. P. O., N. P. R. A. G. C.  
S. S.  
Lending.

-: 6 :-

(b) the selection Committee acted on extraneous

considerations, irrelevant factors/matter

and deliberately awarded lower marks to the

applicant, or, his professional ability was

not judged properly, or, any mark was awarded

on the mere ipse dixit of the members of

the selection Committee as alleged, or

(c) the selection Committee acted illegally and

arbitrarily or there has been any violations

of Articles 14 and 16 of the Constitution

etc. as alleged, or

(d) the recommendation of the selection Committee

is liable to be quashed and set aside.

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

-: 7 :-

13. That, necessary enquiries are still under process to ascertain further information etc. if there be any, and the answering respondents crave leave of the Hon'ble Tribunal to file additional Written Statement, if found necessary after such enquiries, for ends of Justice.

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

..... Verification

-: 8 :-

VERIFICATION

I, Sri Abraham Kisbotta son of  
Late Andreas Kisbotta aged about 52 years,  
by occupation, Railway Service, working as Junior Drafts-  
man personnel officer, Lumding of N.F. Railway Administra-  
tion, do hereby solemnly affirm and state  
that the statements made in paragraphs 1 and 4 are true  
to my knowledge and those made in paragraphs 6, 8, and  
9 are based on information as gathered from records of  
the case which I believe to be true and the rest are my  
humble submissions before the Hon'ble Tribunal and I sign  
this verification on this 31st day of March, 2004.

*A. Kisbotta*  
Sr.DPO/N.F.Railway/Lumding.

NORTHEAST FRONTIER RAILWAY

FOR AND ON BEHALF OF  
UNION OF INDIA.

Revd 6/7/2004  
Revd 6/7/2004

17-2004/148

File No. 17-2004/148  
Recd 6/7/2004  
Recd 6/7/2004

IN THE COURT OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH,  
GUWAHATI.

IN THE MATTER OF :

O. A. No. 72 of 2003

Filed by  
Sukhomal  
Roy  
Advocate  
23.7.2004

Sri Sunil Guha ... Applicant  
- Versus -  
Union of India & Ors. ... Respondents.

- A H D -

IN THE MATTER OF :

Submission of Original records in the  
above noted case for and on behalf of  
the respondents.

The humble respondents most respectfully submits  
as under :

1. That, the Written Statements in the above case has already been filed and the case is now fixed for hearing on 23.07.2004.
2. That, the papers regarding selection proceedings have been received and the same is being submitted before the Hon'ble Tribunal in a sealed cover.
3. That, a selection for the post of Chief Reservation Supervisor in Scale Rs. 6,500 - 10,500/- was called vide letter No. E/9-24(Enquiry)Pt-V(T) Lounding dated 6.3.02 to form a panel of 4 posts of Chief Reservation Supervisor as under :

U.R. (Unreserved)	-	3
S.C. (Scheduled Caste)	-	Nil.
S.T. (Scheduled Tribe)	-	1

and it was stipulated that the selection will be in the shape of Viva-voce test. The applicant and also other 7 eligible candidates were advised to appear in the said Viva-voce test on 28.3.2002 at 10.00 hrs.

4. That, in the said selection all the following eligible candidates appeared :

1. Sri Sunil Guha, ARS/Guahati.
2. Sri Ajit Kr. Das, ARS/Guahati.
3. Sri Pradom Ch. Sarma, ARS/Guahati.
4. Sri Manjren Rapha, ARS/Guahati.
5. Sri Bhagirath Ch. Boro, ARS/Guahati.
6. Miss Prativa Das, ARS/Guahati.
7. Sri Bijoy Ranjan Das, ARS/Guahati.
8. Sri Ranjit Chakraborty, ARS/Guahati.

In the above selection, the applicant could secure the following marks under the following heads :

Heads.

Professional ability - 20 out of 50 marks, qualifying marks being 60% i.e. 30 marks.

Personality, Address, Leadership, Academic Tech. - 13 out of 20 marks.

Seniority - 15 out of 15 marks.

Service Record - 9.5 out of 15 marks.

Total marks - 57.5 out of 100 marks.

Remarks - Failed.

A copy of the Mark Sheet/Result Sheet showing marks secured by each of the above said candidates is annexed hereto and marked as Annexure-'A' for ready perusal.

A photo copy of the mark sheet obtained by the applicant and other candidates has already been handed over to the Counsel of the applicant on 19.7.2004.

5. That, it is to submit herein that in order to qualify in Viva-voce test one has to secure 60% marks in the Professional ability and also 60% marks in the aggregate. But in the instant case, Sri Sunil Guha, applicant could not get the qualifying marks of 30 in the professional ability and also 60 marks in the grand total marks column (aggregate) and as such he could not be selected for the post of Chief Reservation Supervisor. Out of 8 candidates only 4 could secure qualifying marks and thus 2 U.R. candidates (i.e. Serial Nos. 2 and 3 above) and 2 S.T. candidates (i.e. Serial Nos. 4 and 5 above) who secured the qualifying marks could be selected, as one vacancy of U.R. being filled up by one S.T. candidate by virtue of merit position as he secured the highest marks.

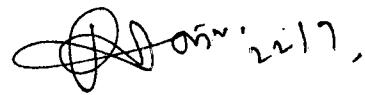
Thus, there is no ground of discrepancy or unfairness and the eligible candidates were only empanelled after due observance of all extant rules and laws on the subject.

..... Verification.

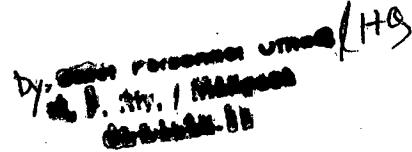
-: 4 :-

VERIFICATION

I, R. AAIWU son of  
late. Shri S. RamaGanay aged about 39 years  
hereby solemnly affirm that what have been stated in  
paragraph 1 and 2 above are true to my knowledge and  
those at paragraphs 3 and 4 are based on information  
gathered from records which I believe to be true and  
the rest are my humble submissions before the Hon'ble  
Tribunal.



FOR AND ON BEHALF OF  
UNION OF INDIA.

  
By: Shri P. M. / M.A. / M.Sc. / B.Sc. / B.Ed. (H.O.)  
1980-81

SELECTION (viva voce only) for CRS (6500-10500) under DCM/LMG. Total No. of posts = 4 (UR=3, SC=0, ST=1) held on 28th March 2002.

SN	NAME	DESIGN	COMM	DOB	DOA	DOP	EDN. QUAL	PROF. ABIL (50)	PERSNLTY ADD LEADSHP ACAD TECH QUAL (20)	SEN. (15)	SERV REC (15)	TOTAL (100)	REMARKS
1	SUNIL GUHA	ARS/GHY	UR	2-May-48	16-Feb-75	6-Dec-96	BSc	20	13	15	9.5	57.5	FAILED
2	AJIT KR DAS	ARS/GHY	UR	1-Jan-54	25-Nov-74	6-Dec-96	BA	30	11	13.57	10	64.57	Passed
3	PRAMODE CH SARMA	ARS/GHY	UR	1-Dec-49	16-Feb-75	3-Jul-97	BSc	33	12	12.14	10	67.14	Passed
4	MANI RAM RABHA	ARS/GHY	ST	1-Nov-57	3-Jul-84	1-Jan-98	BA	30	13	10.71	10	63.71	Passed
5	BAGIRATH CH BARO	ARS/GHY	ST	1-Nov-56	1-Sep-78	7-Jul-97	HSLC	30	11	9.28	10	60.28	Passed
6	PRATIBHA DAS	ARS/GHY	SC	1-Apr-52	10-Sep-84	22-Apr-98	BA	24	12	7.85	10	53.85	FAILED
7	BIJOY RANJAN DAS	ARS/LMG	UR	7-May-49	24-Mar-75	2-Jul-97	BA	24	13	6.42	11.5	54.92	FAILED
8	RANJIT CHAKRABORTY	ARS/SCL	UR	31-Aug-50	13-Dec-74	17-Dec-01	B Com	25	12	5	9	51	FAILED

28/3/02  
(J.JAMIR)  
DCM/LMG

28/3/02  
(L.SAIKIA)  
SrDOM/LMG

28/3/02  
(S.B.NAGBHIDKAR)  
SrDEN/Line/LMG

28/3/02  
(T.RABHA)  
SrDPO/LMG

28/3/02  
(A.SWAMI)  
DRM  
Ranjan Rabha