

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A.T.A No. 12/2004

R.A/C.P No.

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SECTION OFFICER (Judl.)

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Org. App/ Misc. Petn/ Cont. Petn/ Rev. Appl. 12/04

In O.A. _____

Name of the Applicant(S) Jogendra Roy

Name of the Respondent(S) U. O. I. Jals.

Advocate for the Applicant Abdul Hai

Counsel for the Railway/ C.G.S.C. Railway Counsel

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

but not in time

19.1.2004 Present: The Hon'ble Shri Bharat Bhushan, Member(J).

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

Learned counsel for both the parties were present. Order passed separately.

K. V. Prahladan
Member(A)

[Signature]
Member(J)

bb

sd/-

11/11/04

[Signature]

Pl. compy

[Signature]

21/11/04

17.2.04

Copy of the order has been sent to the office for record. The same is also being sent to the applicant as well as to the Railway Standing Counsel.

45

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./RXX.No. 1111 12 of 2004.

DATE OF DECISION 19.1.2004.

.....Sri Jogendra Roy.....APPLICANT(S).

.....Md.Abdul Hai.....ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

.....General Manager(P) & Others.....RESPONDENT(S)

.....Shri S.Sengupta, Rly.Standing counsel.....ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. BHARAT BHUSHAN, JUDICIAL MEMBER.

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 Member (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.12 of 2004.

Date of Order : This, the 19th Day of January, 2004.

THE HON'BLE SHRI BHARAT BHUSHAN, JUDICIAL MEMBER.

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

Sri Jogendra Roy
S/o Late Kari Roy
Resident of village: Nampur
P.O: Nampur, P.S:Chok Machi
District: Samastipur(Bihar)
Presently working at Laopani
under Chapurmukh
A.D.N., Jagiroad, Lumding.

. . . . Applicant.

By Advocate Md.Abdul Hai.

- Versus -

1. General Manager(P)
N.F.Railway, Maligaon
Guwahati-11.
2. Divisional Engineer-I
N.F.Railway, Lumding-4.
3. Assistant Engineer
N.F.Railway, Jagiroad.
4. Divisional Railway Manager(P)
N.F.Railway, Lumding Division
Lumding.

. . . . Respondents.

By Shri S.Sengupta, Railway Standing counsel.

O R D E R (O R A L)

BHARAT BHUSHAN, MEMBER(J):

Heard Md.Abdul Hai, learned counsel for the applicant and also Mr.S.Sengupta, learned Standing counsel for the Railways.

The applicant states that he was working as Assistant Engineer, N.F.Railway, Jagiroad and subsequently he was transferred from Jagiroad to Laopani under the Divisional Engineer D.E.(1), N.F.Railway. His contention was that he was duly qualified for promotion as Senior G. in Group B and his promotion was due on and from 1988. The applicant further contended that he has passed the suitability test of Mate & K/man conducted by the Divisional Railway Manager(P),




Contd./2

N.F.Railway, but he had not been promoted so far. According to him, on 3.3.2000 the General Secretay, N.F.Railway Mazdoor Union, Pandu issued a communication to the General Manager (P), N.F.Railway, Maligaon, Guwahati on his behalf for finalization of seniority/promotion/increment/arrear salary and release of O.T. which had been stopped. The applicant contents that he submitted several appeals/representations before the authoirties to consider his case, but till today no action has been taken. The copy of the appeal/represenation dated 9.4.2003 filed by the applicant is Annexure-2.

In our view, the O.A. can be disposed of at the admission stage itself by giving directions to the respondents to consider the aforementioned representation of the applicant at Annexure-2 and dispose it of by passing a speaking and reasoned order within a period of two months from the date of receipt of this order.

The O.A. stands disposed of accordingly.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(BHARAT BHUSHAN)
JUDICIAL MEMBER

bb

IN THE COURT OF THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI-5

O.A. No. 12/2004

Sri Jogendra Roy..... Applicant

-VS-

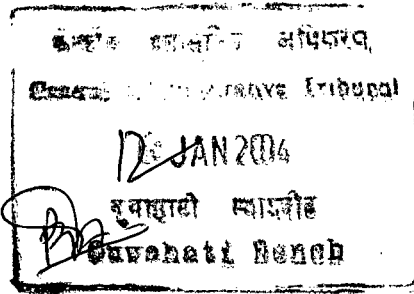
Synopsis

General Manager (P) N. F. Railway & Ors

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	9-4-2003 Representation for Realiging arrear Salaray and Promotion	

Filed by
A. Hai, Advocate
13-1-04



Jogendra Roy

7
Filed by
Sh. J. in Hai
AD vacate
9-1-2004

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

ORIGINAL APPLICATION NO. 12 /2003

IN THE MATTER OF :

Sri Jogendra Roy,
S/o Late Kari Roy,
Resident of village : Nampur
P.O. Nampur.
P.S. Chok Machi,
District : Samastipur (Bihar)
Presently working at Laopani
under Chapurmukh,
A.D.N., Jagiroad,
Lumding.

.....Applicant.

- Versus -

1. General Manager (P),
N.F. Railway,
Maligaon, Guwahati-11.
2. Divisional E. Engineer-I,
N.F. Railway,

Lumding. 4

3. Assistant Engineer,
N.F. Railway, Jagiroad,
4. Divisional Railway Manager(P),
N.F. Railway,
Lumding Division, Lumding.

.....Respondents-Opposite
parties.

The humble petition of the
applicant abovenamed-

DETARILS OF THE CASE :

- (1) PARTICULARS OF THE ORDER ETC. AGAINST
WHICH THE APPLICATION IS MADE :

With holding for promotion , arrear salary , increments on and
from 1988 , O.T. on and from 1995.

This application is directed for promotion, increments and for
arrear salary /O.T. on and from 1988 which were held up by the
Assistant Engineer , N.F. Railway, Jagiroad and for stopping of
frequent transfer of the applicant.
from Jagiroad to other place without any valid reasons.

(2) JURISDICTION :

The applicant declared that the Hon'ble Tribunal is the appropriate forum for judicious adjudication of the grievances of the applicant.

(3) LIMITATION :

The applicant declared that this application is filed within the time limit prescribed for filing such application.

(4) Facts of the case :

(I) That the applicant begs to state that earlier he was working under Assistant Engineer , N.F. Railway, Jagiroad and subsequently he has transferred from Jagiroad to Laopani under the Divisional Engineer D.E.(1), NF Railway.

(II) That the applicant begs to state that he was duly qualified for the promotion as Senior G. in Group B and his promotion is due on and from 1988 . Though he has passed the suitability test and Mate /K man conducted by the Divisional Railway Manager(P), NF Railway, but he has not been promoted.

A copy of the approval letter for promotion dated 7.7.2003 is annexed as Annexure-1.

III. That the applicant begs to state that on 3.3.2000 the General Secretary , NF Railway Mazdoor Union , Pandu issued a communication to the General Manager (P), NF

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Jogendra Roy

Railway, Maligaon, Guwahati for finalization of seniority /promotion/increment/arrear salary and release of O.T. which have been stopped.

IV. That the applicant begs to state that he also submitted several appeals/representations before the authorities to consider the case of the applicant, but till today no action has been taken and as such, this application before your Lordships for promotion and for release of arrear salary /increments and release of O.T.

A copy of the appeal/representation dated 9.4.2003 filed by the applicant is annexed as Annexure-2 to this application.

V. That the applicant begs to state that he is the Seniormost person in the department and is a senior person is not transferred unless there is an exceptional circumstances. In this connection, the applicant begs to state that he is quite senior in the service and is on the verge of retirement. In normal case an employee is transferred where promotion is given. In the case of the applicant, there is no promotion.

VI. That the applicant begs to state that the authority concerned transferred the applicant without any rhyme and reason as some interested agencies have been working behind the back of the applicant for wrongful gain.

VII. That the applicant begs to state that his eldest son is working at Jagiroad in a very low salary and the other one is suffering from serious diseases and as such the applicant went to Madrass for treatment of his son. All the medical certificates shall

be produced at the time of hearing of this application if so advised. It needs to be mentioned here that other children are studying at Jagiroad school and for such study if the applicant is transferred from Jagiroad to other place, there shall be a great hardships and the academic course of the applicant's children would be jeopardized. If at this stage, the applicant is at all required to move, there shall be dislocation of existing set up and there would be a great hardships on the part of the school going children of the applicant.

VIII. That the applicant begs to state that his wife is also presently suffering from various diseases and she is undergoing treatment under some specialist at Jagiroad and if the application is at all required to move, there will be dislocation in the treatment of his wife.

IX. That the applicant begs to state that in the facts and circumstances stated above, the applicant is not in a position to move Laopani due to illness of his wife and as such, the applicant filed an appeal /representation before the General Manager (P), NF Railway, Maligaon on 9.4.2003 praying for reconsideration of his case for stay of the transfer order/promotion, for release of the arrear salary /increment, but the same is lying pending before the authority concerned without any action. (Annexure-2).

X That the applicant begs to state that the respondents may be directed not to transfer the applicant from Jagiroad to other place without any rhyme and reason on the ground of academic dislocation and illness of the wife of the applicant.

5. RELIEF SOUGHT FOR ON THE GROUND :

(a) For that the Railway Administration/authority concerned transferring the applicant frequently from Lumding to Jagiroad and thereafter from Jagiroad to Laopani without any rhyme and reason and has not paid the applicant the arrear salary/increment /O.T. and held up promotion of the applicant on and from 1988 and as such your Lordships may be pleased to pass order directing the authority to release the arrear salary /O.T./increment and for promotion of the applicant which is due to the applicant.

(b) For that the respondent authorities should be considered the appeal /representation dated 9.4.2003 ,but the aforesaid appeal/representation has not been disposed of and is lying pending without any action which is in violation of the principles of natural justice and the procedure established by law and in violation of the provisions of Articles 14 and 21 of the Constitution of India and as such, if any transfer order is passed against the applicant, it may be liable to beset aside and quashed for the ends of justice.

6. GROUND OF EXHAUSTION OF REMEDY, IF ANY :

The applicant has already filed appeal/representation dated 9.4.2003 before the authority concerned claiming for release of arrear salary/O.T./increment /promotion of the applicant on and from 1988 and for stay of the transfer order if

any and thus, the applicant has exhausted all the remedies by filing appeal/ representation before the Respondents concerned.

7. MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURTS :

The applicant declares that he has not filed any suit nor any writ petition before any court nor any suit nor writ petition is pending anywhere.

8. INTERIM ORDER PRAYED FOR :

Pending disposal of the Original application, this Hon'ble Tribunal may be pleased to direct the respondents to dispose of the appeal/representation dated 9.4.2003 (Annexure-2)..

9. RELIEF SOUGHT FOR :

It is, therefore, prayed that Your Lordships may be pleased to admit this application, call for the records of the case, issue notice to the Respondents to show cause as to why a direction should not be issued to the respondents directing them to dispose of the appeal/representation dated 9.4.2003 (Annexure-2) and further prayed that the applicant may be allowed to work at Jagiroad in his original place of posting thereby paving the way to complete the academic sessions and examination of the school going children of the applicant and to take proper medical attention of his wife of the applicant for the ends of justice and further prayed to direct the respondents to promote the applicant on and from 1988 and to release his arrear salary /O.T./increment which has been stopped by the authority concerned.

VERIFICATION

I, Sri Jogendra Roy, aged about 56 years, Son of Late Karai Roy, presently working at Jagiroad under Assistant Engineer, NF Railway in the District of Morigaon, Assam by profession as stated herein above, do hereby verify that the statements made in this application are true to my personal knowledge and belief.

I sign this verification on this 9th day of Jan/2004
/2004 at Guwahati.

Jogendra Roy

Shri. Chandra

N.F. Railway.

Memorandum

Office of the
Divil. Rly. Manager (P),

Lumding, dt: 5-07-88,

The result of suitability test of Mate & K/man in scale Rs. 950-1500/- (RP) & Rs. 825-1200/- (RP) under CPWI/JID conducted by, EN/GHY on 25-2-88, 11-3-88 and 28-3-88 are provisionally published as follows.

This has the approval of DEN/I/Lumding.

K/man for promotion of mat. in scale Rs. 950-1500 (RP)

Group - 1

- | | |
|-------------------------|-----------------------------------|
| 1. Shri Amulya Ch. Day. | K/man under CPWI/JID - UR Passed. |
| 2. " Shuleswar | -do- -do- ST Passed. |
| 3. " Harendra Ch. Day | -do- -do- UR Passed. |
| 4. " Sita Das | -do- -do- ST Passed. |

O/man for promotion of K/man in scale Rs. 825-1200 (RP)

Group - 2

- | | |
|---|----------------|
| 1. Shri Dharami Kanta Paul, Sr. T/man under CPWI/JID - UR Passed. | |
| 2. " Kanchhya Barker, Sr. O/man under CPWI/JID - UR Passed. | |
| 3. " Sambhu | -do- -do- UR " |
| 4. " Haradhan Bhowal | -do- -do- ST " |
| 5. " Nathu Ram Boro | -do- -do- ST " |
| 6. " Jogendra Roy | -do- -do- SC " |
| 7. " Bhogali Hira | -do- -do- SC " |

P. S. Singh
for Divil. Rly. Manager (P),
N.F. Railway. Lumding.

No. E/266/3. IM (E)/Lumding. Dt: 5-07-88,

Copy forwarded for information and necessary action Please.

1. CPWI/JID

(2) EN/GHY.

3. Staff concerned.
Thro: - CPWI/JID

4. P/Case

(5) DEN/I/Lumding.

*ent. and file
Hare copy
Shri
D. N.*

P. S. Singh
for Divil. Rly. Manager (P),
N.F. Railway. Lumding.

To,

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

Dated: 9-4-2003.

Sub:- An appeal/representation for release of
arrear salary/O.T./increments and for
promotion on and from 1988.

Sir,

That your applicant respectfully begs to state that he is presently working under the Assistant Engineer of N.F.Railway, Jagiroad and subsequently he has been transferred from Jagiroad to Laopani under the Divisional Engineer, DE(1), NF Railway without any rhyme and reason though he is going to be retired in the year 2008.

2. That the applicant begs to state that he was duly qualified for promotion as Sr.Gangman in Group B and his promotion is due on and from 1988.

3. That the applicant begs to state that he has submitted several appeals/representations not to transfer him to any interior place and prayed for stay at Jagiroad till his retirement as his wife is suffering from ~~xxxx~~ old age ailment and his/younger son is suffering from various diseases and as such he went to Madrass for the treatment of his son. It needs to be mentioned here that the authority concerned without any rhyme and reason and without any basis held up his O.T./incfements/due salary and promotion though the General Secretary, NF Railway

contd..

certified to be
true copy
Shri
ADP.

Mazdoor Union, Pandu issued several communications to the General Manager(P), NF Railway for release of arrear salary of the applicant as well as O.T./increments and promotion, but nothing has been done and the applicant is quite senior in the service and is on the verge of retirement. In normal case an employee is transferred when promotion is given. In the case of the applicant there is no promotion, yet the authority concerned transferred him frequently in the remote areas and as such, your honour may be pleased to pass an order directing the concerned authority to release the due salary of the applicant and also release the O.T./increments and promotion which is due to the applicant, otherwise, there will be irreparable loss and injury to the applicant and his family members will suffer irreparably without any rhyme and reason.

4. That this appeal is filed bonafide and for the interest of justice.

It is, therefore prayed that
Your Honour may be pleased to inquire
into the matter and after enquiry and
due verification, your honour may be
pleased to release the arrear salary/
O.T./increments/promotion which are due
to the applicant.

And for this act of kindness, the application as in duty bound shall ever pray.

Yours faithfully,

(Jogendra Roy)
S/o Late Kari Roy,
Presently working at Laopani
under Chaparmukh A.D.N. Jagiroad
Lumding Division.

contd..

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Copy to :-

- (1) Divisional Engineer(1),
N.F.Railway , Lunding.
- (2) Assistant Engineer, NF Railway,
Jagiroad.
- (3) Divisional Railway Manager(P),
NF Railway, Lunding Division,
Lunding for information and
necessary action.

(Sri Jogendra Roy)

S/o Kari Roy,

Presently working at Laopani
under Chaparmukh, A.D.N.,

Gagiroad,

Lunding Division.