

01/00
S
V
**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 162/2004

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

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

1. Orders Sheet..... O.A Pg. 1 to 3
2. Judgment/Order dtd. 31.05.2005 Pg. 1 to 14..... *Department file closed*
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A. O.A 162/2004 Pg. 1 to 25
5. E.P/M.P..... Pg..... to.....
6. R.A/C.P..... Pg..... to.....
7. W.S..... Pg..... to.....
8. Rejoinder..... Pg..... to.....
9. Reply..... Pg..... to.....
10. Any other Papers. Pg. 1 to 32
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Bablis
10.11.17

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

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

162/04

In O.A.

Name of the Applicant(s) D. N. GuptaName of the Respondent(s) U.O. I. FormAdvocate for the Applicant Mrs. U. DasCounsel for the Railway/ C.G.S.C. Mr. S. Sengupta, Rly. Counsel.

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
For application filed in Central Admin. Trib. and deposited on 18/7/04 No. 206/112248.	28.7.2004	Heard Ms. U. Das, learned counsel for the applicant and also Dr. M.C. Sarma, learned counsel for the Railway.
Dated 23.7.04 <i>U.C.D. 27/7/04</i> R.D.		Issue notice to show cause as to why the application shall not be admitted.
		List on 27.8.2004 for admissi on.

Steps taken

K. Prakash
Member (A)

Received for Res. No. 2 Ref CIA 9-8-04 N.F.Rly/M.LG.	mb	30.8.2004	Heard Ms. U. Das, learned counsel for the applicant. The application is admitted, call for the records.
			List on 4.10.2004 for orders.

Notice of order dt. 28/7/04
sent to D/Section for
issuing to resp. No. 1,
by regd. with AID post.

mb

(as
9/8/04)K. Prakash
Member (A)

17.12.2004 Present: The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

Heard Ms.U.Das, learned counsel for the applicant as well as Mr. S. Sengupta, learned counsel for the Railways.

The applicant has filed representation dated 22.7.2002 and appeal dated 12.9.2003, which are said to be pending and have not been disposed of. In my opinion, the matter can be disposed of with directions to the respondents to dispose of the said representation dated 22.7.2002, if not already disposed of, and appeal dated 12.9.2003 within a period of eight weeks from the date of receipt of this order by a reasoned and speaking order.

This application stands disposed of in aforesaid terms with no order as to costs.

The Respondents shall report compliance of the above order and for that purpose the matter be placed on Board on 28.3.2005.

R

Vice-Chairman

bb

28.3.2005 Present: The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

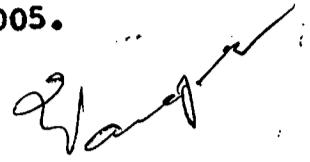
Mr.S.Sengupta, learned counsel for the Railways has placed before the Tribunal a copy of the parawise statement and also the pension fixation. Mr.Sengupta however submits that pension fixation has not been given to the applicant yet and further stated that he is not in a position to state as to whether the amount as directed has been given or not. Post on 13.4.2005 for reporting compliance.

G. Sivarajan
Vice-Chairman

bb

13.4.2005 At the request of Mr. S. Sengupra, learned Standing counsel for the Railways, the case is adjourned to 10.5.2005.


Member


Vice-Chairman

mb

10.05.2005 Ms. U. Das, learned counsel for the applicants is present. Mr. S. Sengupta, learned Railway counsel submits that direction issued in the order dated 17.12.2004 has already been complied with and a report to that effect is being filed today. Post on 31.5.2005.

Service Completed.


9-5-05

Copy of the final order
of 17.12.04 served on
the counsel of respondent
no compliance report
received. So. 3am.


Member

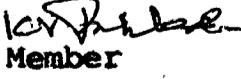
Vice-Chairman

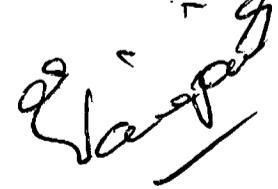
mb

31.5.05

This matter comes up for compliance report. The respondents have filed a detail compliance report. Miss U.Das, learned counsel for the applicant submits that wrong computation is not a proper answer to the implementation of the order. We have perused the direction issued by the Tribunal. We note that the only direction was to dispose of the appeal. If the applicant is not satisfied with the order in appeal passed in compliance of the direction, the applicant is free to take up the matter before the appropriate forum in accordance with the law.

Since the order is complied with this O.A. is closed.

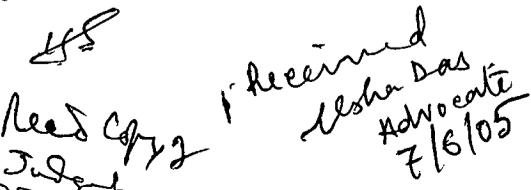

Member

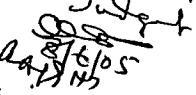

Vice-Chairman

7.6.05

Copy of the order
has been sent to
the Office for issuing
the same to the L/Adv.s
for the parties.

pg


Received
Nisha Das
Advocate
7/6/05


24/6/05

Central Administrative Tribunal

27 JUL 2004

~~Chief
Judge
Guwahati Bench~~

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

D.A. No. 162 DT 2004

BETWEEN

Shri Dush Nath Gupta, Applicant.

AND

Union of India & ors.,..... Respondents.

I N D E X

Sl. No.	Particulars	Page No.
1.	Application	1 to 10
2.	Verification	11
3.	Annexure-1	12
4.	Annexure-2	13
5.	Annexure-3	14
6.	Annexure-4	15-21
7.	Annexure-5	22
8.	Annexure-6	23
9.	Annexure-7	24, 25
10.	Annexure-8	26.

Filed by : Usha Das.

Regn. No. :

File : C:\ws7\dudh

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

D.A. No. 162 of 2004

Shri Dush Nath Gupta

..... Applicant.

AND

Union of India & ors.

..... Respondents.

SYNOPSIS

The applicant entered in the service of the respondents as a casual worker in the year 1959. Subsequently his service was regularised w.e.f. 1.2.69 in the post of Mate. He continued to discharge his duties and responsibilities to the satisfaction of all concerned.

The applicant during his service tenure as Mate, was called for interview in connection with his promotion to the next higher grade. In fact in many occasions he could clear the test and interviews, but surprisingly enough, the respondents did not offer him the benefit of such promotion. The applicant raised his grievances but same was never acted upon.

The applicant was drawing a salary (Basic Pay): Rs.4590/- w.e.f. 31.8.99 and same continued till his date of retirement. However, the respondents at the time of his retirement has calculated his basic pay as Rs.4190/- instead of 4590/-. To that effect, the respondents issued an

X

order dated 16.8.2000 specifying his basic pay as Rs.4190/-, without affording him any opportunity of hearing. In fact, the respondents have refixed his pay after his retirement at a lower level without any prior notice to him.

The applicant preferred representations but while not getting any response from the Respondents he approached Hon'ble Central Administrative Tribunal, ventilating his grievances. The Hon'ble Tribunal after hearing the parties was pleased to allow the OA. Even after the judgment and order dated 15.5.2002 passed in OA No.349/01 the Respondents issued an order dated 28/10/02 whereby his pension has been fixed at Rs.2261/- instead of Rs. 2295/- which is clear violation of this Hon'ble Tribunal's order.

The applicant submitted his composite transfer grant long back i.e. immediate after his retirement but till today no positive result has come out from the respondents.

Hence this application.

6
Filed by
the applicant-known
Mukha Das.
Advocate
26/7/04

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central Administrative
Tribunal Act.1985)

O.A.No. of 2004

BETWEEN

Shri Durdh Nath Gupta
S/o Late Bhagawan,
resident of Bamunimaidan, Guwahati.

..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Ministry of Railways,
Rail Bhawan, New Delhi.
2. The General Manager,
N.F.Railway, Maligaon,
Guwahati.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the action of the Respondents in not fixing the family pension as per direction of this Hon'ble Tribunal passed in OA No.349/01. This application is also directed against the action of the Respondents in not granting the notional benefit of financial up gradation like AEP scheme and also directed against the action of the respondents in not releasing the composite transfer grant as permissible as per law, hence this application.

2. LIMITATION:

The applicant declares that the instant application has

been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and a resident of Guwahati as such he is entitled to all the rights, privileges and protections as guaranteed under the Constitution of India and Laws framed thereunder.

4.2. That the applicant entered in the service of the respondents as a casual worker in the year 1959. Subsequently his service was regularised w.e.f. 1.2.68 in the post of Mate. He continued to discharge his duties and responsibilities to the satisfaction of all concerned.

4.3. That the applicant during his service tenure as Mate, was called for interview in connection with his promotion to the next higher grade. In fact in many occasions he could clear the test and interviews, but surprisingly enough, the respondents did not offer him the benefit of such promotion. The applicant raised his grievances but same was never acted upon.

4.4. That as stated above the inaction on the part of the respondents have compelled the applicant to suffer a lot. Adding insult to his injury, the respondents have made the applicant to

retire as Mate in the pay scale of Rs.3650 to 4590/- . Taking into consideration of his entry in the cadre of Mate and stagnation, the applicant was drawing the highest level of the said pay scale and his basic pay was 4590/- w.e.f. 1.1.99. The said pay scale (Basic pay) continued till his date of retirement i.e. 31.8.2000.

4.5. That the applicant was drawing a salary (Basic Pay) Rs.4590/- w.e.f. 31.8.99 and same continued till his date of retirement. However, the respondents at the time of his retirement has calculated his basic pay as Rs.4190/- instead of 4590/-. To that effect, the respondents issued an order dated 16.8.2000 specifying his basic pay as Rs.4190/-, without affording him any opportunity of hearing. In fact, the respondents have refixed his pay after his retirement at a lower level without any prior notice to him.

A copy of the said order dated 16.8.2000 is annexed herewith and marked as Annexure-1.

4.6. That as stated above the applicant was drawing a basic pay of Rs.4590/- till August 2000 and in his pay slips basic pay has been shown as Rs.4590/-. In any case the applicant can not be made to suffer from the purported refixation that too after his retirement.

A copy of the pay slip of July 2000 is annexed herewith and marked as Annexure-2.

4.7. That the applicant begs to state that after the aforesaid Annexure-1 order dated 16.8.2000 the respondents have issued yet another order dated 29.8.2000 by which the applicant has been communicated regarding the fact of refixation of his pay. The respondents by the said order dated 29.8.2000 fixed the basic pay of the applicant as Rs.4190/- instead of Rs.4590/-. It is further stated that prior to issuance of the aforesaid order

dated 29.8.2000 no prior intimation has been given to the applicant.

A copy of the order dated 29.8.2000 is annexed herewith and marked as Annexure-3.

4.8. That the applicant states that because of his wrong fixation of pay he has been made to suffer from financial losses. The applicant having no other alternative preferred a legal notice through his counsel but same yielded no result in positive.

Situated thus the applicant preferred a representation dated 20.7.2001 to the Respondent No.2 praying for correct fixation of pension of Rs.4590/- instead of Rs.4190/- but while not getting any communication from the Respondent No.2. The applicant approached the Hon'ble Central Administrative Tribunal, Guwahati Bench by way of filing OA No.349/01 seeking appropriate relief. The Hon'ble Tribunal after hearing both the parties and perusal of records, the Hon'ble Central Administrative Tribunal was pleased to allow the said OA setting aside the impugned orders dated 16.8.00 and 29.8.00 (Annexure-1 & 3 to the OA No.349/01) directed the Respondents to fix the pension of the applicant taking into consideration the basic pay at Rs.4590/- with effect from 1.1.99 and pay the difference within four months from the date of receipt of the copy of the order.

A copy of the said judgment and order dated 15.5.02 passed in OA No.349/01 is annexed herewith and marked as Annexure-4.

4.9. That after receiving the aforesaid judgment and order dated 15.5.02 passed in OA No.349/01 the applicant approached the

✓

respondents authority by submitting a representation along with the aforesaid order. After intimation of the order passed by the Hon'ble Central Administrative Tribunal the respondents issued an order dated 28.10.2002 by which pension of the applicant fixed as Rs.2261/-

A copy of the order dated 28.10.2002 is annexed herewith and marked as Annexure-5.

4.10. That the applicant begs to state that as per direction of the Hon'ble Central Administrative Tribunal, the Respondents are to fix his family pension taking into consideration his basic at Rs.4590/- but the Respondents have fixed his family pension at Rs.2261 instead of Rs.2295/- which is clear violation of this Hon'ble Tribunal's order.

4.11. That the applicant begs to state that the applicant entered into the services of the respondents in the year 1959. Thereafter his service was regularised w.e.f. 1.2.68 in the post of Mate. In fact he had to retire from his service without any promotion. No financial up gradation like ACP scheme etc. was extended to the applicant in his 40 years of service career. It is noteworthy to mention here that the applicant was interviewed for his promotion to the next higher grade in 1995 but even after such interview no promotion was effected. The applicant has been pursuing the matter before the concerned authority, When getting no response from the respondents he preferred an appeal on 12.9.03 praying for promotion and grant of benefit of financial up-gradation scheme (ACP). Even after repeated persuasion he had not received any intimation from the Respondents. ^{Even prior to that} the applicant ~~again~~ preferred a Legal Notice through his counsel making a demand to provide the applicant. The benefit

19

of financial upgradation like ACP scheme immediately within a period of 30 days from the date of receipt of the legal notice but till date nothing has been communicated to him.

A copy of the said appeal dated 12.9.03 and a copy of legal notice dated 10.2.03 are annexed herewith and marked as Annexure-6 and 7 respectively.

4.12. That the applicant begs to state that the applicant had retired from Rly Service w.e.f. 31.8.2000 on superannuation and immediately after his superannuation he vacated his Rly. Quarter bearing No.612(A) Type II at NCC w.e.f. 4.9.2000. But after the vacation of the aforesaid quarter the applicant could not submit his composite Transfer Grant in proper time due to anomaly in his pay fixation. After passing of the judgment and order dated 15.5.2002 in OA No.349/01 by this preferred a representation and submitted his composite transfer grant before N.F.Railway, Lumding on 22.7.02. But till date nothing has been received by the applicant.

A copy of the said representation dated 22.7.02 is annexed herewith and marked as Annexure-8.

4.13. That the applicant begs to state that entire exercise of the Respondents in reducing the pension of the applicant by issuing the impugned order dated 28.10.2002 is illegal and arbitrary and same is violation of Article 14 and 16 of the Constitution of India and laws framed thereunder. Admittedly the applicant was drawing a basic pay of Rs.4590/- prior to his retirement and for that he performed his sincere and devoted duties and hence there can not be any reduction retrospectively as has been done in the instant case. In the

service jurisprudence there are instances of enhancement of pay but in the instant case things have happened adversely causing tremendous hardship to the present applicant.

4.14. That this applicant has been filed bonafide and to secure ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action /inaction on the part of respondent are illegal and arbitrary and violative of Article 14 and 16 of the Constitution of India and hence same are liable to be set aside and quashed.

5.2. For that the applicant being a hardworking employee having worked sincerely under the respondents, there can not be any reduction of ~~pay~~ ^{his pension} as has been done in the instant case. On this score alone the action/inaction on the part of the respondents in issuing the impugned order dated 28.10.2002 is liable to be set aside and quashed.

5.3. For that the respondents have acted illegally and arbitrarily in issuing the impugned order dated 28.10.2002 that too without affording him the reasonable opportunity of hearing and hence same is not sustainable in the eye of law.

5.4. For that there being statutory provision meant for reduction of pay and the respondents having not followed the same , acted beyond the jurisdiction and same are hence are not sustainable in the eye of law.

5.5. For that the action of the respondents in not comply with directions the judgment and order dated 15.5.02 passed in OA

No.349/01 passed by this Hon'ble Tribunal is bad in law and liable to be set aside and quash.

5.6. For that the action of the respondents in not granting the composite transfer grant even after vacation of his quarter on 4.9.2000 immediately after his retirement on superannuation.

5.7. For that the discriminative action of the Respondents in not granting any promotion in his service career and not extending the benefit of financial upgradation like ACP scheme etc. and hence same are not sustainable in the eye of law and are liable to be set aside and quash.

5.8. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal and factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned order dated 28.10.2002.

8.2. To direct the respondents to fix the pension and pensionary dues of the applicant taking in to consideration his basic pay as Rs.4590/- and to pay all the dues and arrears with 18% interest p.a forthwith.

8.3. To direct the respondents to comply with the judgment and order dated 15.5.02 passed in OA No.349/01 passed by this Hon'ble Tribunal.

8.4. To direct the Respondents to release the composite transfer grant of the applicant.

8.5. To direct the Respondents to give notional promotion to the applicant and to give financial up-gradation like ACP scheme.

8.6. Cost of the application.

8.7. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order to direct the respondents to dispose of the representation dated 22.7.02 and appeal dated 12.9.03 within a stipulated time limit.

10.

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

1. I.P.O. No. : 20 Gr 11 22 48
2. Date : 23/7/04
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

18

VERIFICATION

I, Shri Duddh Nath Gupta, son of Late Bhagawan, aged about 64 years, residing of Bamunimaidan, Guwahati, do hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, 4, 1, 4, 3, 4, 13, 4, 14 & 5 to 12..... are true to my knowledge and those made in paragraphs 1, 4, 2, 4, 4 to 4, 12..... are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 26th day of July of 2004.

Signature.

Duddh Nath Gupta

N. F. Railway.

No. 1— E/C. Fix/

Office of the
Assistant Engineer,
Matheran, Raigarh.

Dated. 3-2-2.

EXCISE DUTY.

In terms of DRM(P) LMG's No. E/280/3-LM(L) dated 5.7.88, Sri Dush Nath Gupta Rayam is hereby promoted as Mate in Scale of Rs 250-1500/- w.e.f. 7.7.88 with his pay on promotion as Mate is fixed as under.

Pay already drawn.

Pay to be drawn

Rs. 1225/- w.e.f. 1.1.88	✓
Rs. 1250/- w.e.f. 1.1.89	
Rs. 1275/- w.e.f. 1.1.90	
Rs. 1300/- w.e.f. 1.1.91	
Rs. 1325/- w.e.f. 1.1.92	
Rs. 1350/- w.e.f. 1.1.93	
Rs. 1375/- w.e.f. 1.1.94	
Rs. 1400/- w.e.f. 1.1.95	
Rs. 4250/- w.e.f. 1.1.96	
Rs. 4400/- w.e.f. 1.1.97	
Rs. 4610/- w.e.f. 1.1.98	
Rs. 4850/- w.e.f. 1.1.99	✗

Rs. 1040/- as K/Mon.	
Rs. 1070/- w.e.f. 7.7.88 as Mate.	
Rs. 1100/- w.e.f. 1.7.89.	
Rs. 1110/- w.e.f. 1.7.90.	
Rs. 1120/- w.e.f. 1.7.91.	
Rs. 1150/- w.e.f. 1.7.92.	
Rs. 1175/- w.e.f. 1.7.93.	
Rs. 1200/- w.e.f. 1.7.94.	
Rs. 1225/- w.e.f. 1.7.95.	
Rs. 3800/- w.e.f. 1.1.96	
Rs. 3875/- w.e.f. 1.7.96.	
Rs. 3950/- w.e.f. 1.7.97.	
Rs. 4020/- w.e.f. 1.7.98.	
Rs. 4110/- w.e.f. 1.7.99.	
Rs. 4190/- w.e.f. 1.7.2000.	

AIO

Assistant Engineer
Matheran, Raigarh.

Copy forwarded for information and necessary action to :-

(i) DRM(P) LMG (ii) DAo/LMG (iii) S3E(P. Hwy) IIC.

(iv) Staff concerned for information.

Attested
W. D. Rayam
AdvocateAssistant Engineer
Matheran, Raigarh.

13

ANNEXURE— 2

EDP CENTRE/LMG PAY - IN - SLIP JULY 2000 AU/BU/STN/DEPT 42/286/N3C000/ENG0 13
V/NOS: LXLC76C/LX415C 14 03 00 ALLOC:04 0241

DUDNATH GUPTA	PAY.	14590.00 V.P.F.	*	300.00	GROSS PAY** 1529.00
	D.A.	7744.00 RENT.	*	45.00	DEDUCTN* **453.00
DES: MATE	SCA	120.00 GROUP INS.	*	30.00	NET PAY RS* 6076.00
PFNO: 01775911	TRANSPORT ALL*	75.00 AP TAX	*	30.00	CASH PAY* 6076.00
DUTY-DAYS: 31 L-DAYS: 3					

SIGNATURE

Attested
Ranjan
Advocate

14
ANNEXURE - 3

Form No. 30/ Form No. 30

(Rule 1620(11)(o) अर्थात् देखें/See Rule 1620(11))

/Railway

विवरण प्रमाण प्रमाण/Service Certificate

(रियम 1620 अर 0 अर्थात् देखें/See Rule 1620(11))

संख्या/Serial No 2323 DRM(P) Lm ब्रिग्ड नारायण/Issuing Officer

29-8-2000

तिथि/Date of issue

- नाम/Nam: Bhupinder Singh Gupta
- (i) पिता का नाम/Father's Name: Bhagwan
- (ii) जाति/Caste: Hinduism
- जन्म तिथि (महीने) Date of birth (in words): Fifteen Hundred Forty
शिवामुख प्रत्यक्ष (मात्र एक हाथ) one long cut mark on
Identical marks (if any): the stomach
- किस विभाग में नियुक्त हैं?
- Department in which employed: Engineering
- सेवा की अवधि: 21-6-67 To 31-3-2000
- Period of service from: 21-6-67 To 31-3-2000
- Appointments when leaving service: Mate
- रोपा की परवतावाली: S E C P R M A Y S N G C
- Rate of pay on leaving service: Rs. 11.90/-
- रोपा की वेतन स्केल: Rs. 3050-4590/-
- Reason for leaving service: No. Superannuation
- रामयोगी
- Time kept up to: One

संस्कार/Signature

D. K. D. Singh/ D. K. Singh

प्रमाण/Declaratory

D. K. D. Singh/ D. K. D. Singh

Attested
K. D. Singh
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH::::GUWAHATI

DESPATCH NO. CAT/GHY/JUDL.

Dated, Guwahati, the

ORIGINAL APPLICATION NO: 349/2001

MISC. PETITION NO. :

CONTEMPT PETITION NO. :

REVIEW APPLICATION NO. :

TRANSFER APPLICATION NO. :

Dulh Nath Gupta

APPLICANT(S)

-VERSUS-

Union of India & Ors

RESPONDENT(S)

To

Shri Dulh Nath Gupta,
S/o = Late Bhagwan
Bamuniaidam, Guwahati - 21

15/5/02. Please find herewith a copy of Judgment/Order dated

passed by the Bench of this Hon'ble Tribunal comprising of Hon'ble Justice Shri D. N. Ghoshdihuri

Vice-Chairman and Hon'ble Shri

Member, Administrative in the above noted case for information

and necessary action, if any.

Please acknowledge receipt of the same.

BY ORDER,

Enclo: As stated above

Attested
Ras
Advocate

3/6/02
H/C DEPUTY REGISTRAR.

16
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Annexure 4
23

Original Application No. 349 of 2001.

Date of decision : This the 15th day of May, 2002.

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

Shri Dudd Nath Gupta
Son of Late Bhagawan,
resident of Bamunimaidan,
Guwahati.

...Applicant

By Advocate Mr. U.K.Nair

-versus-

1. Union of India
Represented by the Secretary
to the Government of India,
Ministry of Railways,
Rail Bhawan, New Delhi.

2. The General Manager,
N.F.Railway, Maligaon,
Guwahati.

..Respondents

By Advocate Mr. S.Sengupta, Railway Standing Counsel

ORDER

CHOWDHURY J.(V.C.).

The issue pertains to fixation of pension and pensionary dues for the applicant who attained his superannuation on 31.8.2000. The basic facts relevant for the purpose of adjudication of this proceeding are stated herein below :

The applicant joined the service under the Railway in the year 1959. As per pleading his service was regularised on 1.2.1968. He continued his service as Mate till his retirement. His basic pay was Rs. 4590/- with effect from 1.1.1999. Just on the eve of retirement an office order dated 16.8.2000 was issued stating that he was promoted as Mate in the scale of Rs. 950-1500 with effect from 7.7.1988 and his pay was fixed as under :

Attested
R.D.
Advocate

Date
20th May
2002
Maligaon.

24

" In terms of DRM (P) LMG's No. E/866/3-LM (E) dated 5.7.88 Sri Dudi Nath Gupta Kayman is hereby promoted as Mate in scale of Rs. 950-1500/- w.e.f. 7.7.88 and his pay on promotion as Mate is fixed as under :

<u>Pay already drawn</u>	<u>Pay to be drawn</u>
Rs.1225/- w.e.f. 1.1.88	Rs. 1040/- as K/Man
Rs.1250 w.e.f. 1.1.89	Rs.1070/- w.e.f. 7.7.88 as Mate.
Rs.1275/- w.e.f. 1.1.90	Rs.1090/- w.e.f. 1.7.89
Rs.1300/- w.e.f. 1.1.91	Rs.1110/- w.e.f. 1.7.90
Rs.1325/- w.e.f. 1.1.92	Rs.1130/- w.e.f. 1.7.91
Rs.1350/- w.e.f. 1.1.93	Rs.1150/- w.e.f. 1.7.92
Rs.1375/- w.e.f. 1.1.94	Rs.1175/- w.e.f. 1.7.93
Rs.1400/- w.e.f. 1.1.95	Rs.1200/- w.e.f. 1.7.94
Rs.4350/- w.e.f. 1.1.96	Rs.1225/- w.e.f. 1.7.95
Rs.4430/- w.e.f. 1.1.97	Rs.3800/- w.e.f. 1.1.96
Rs.4510/- w.e.f. 1.1.98	Rs.3875/- w.e.f. 1.7.96
Rs.4590/- w.e.f. 1.1.99	Rs.3950/- w.e.f. 1.7.97
	Rs.4030/- w.e.f. 1.7.98
	Rs.4110/- w.e.f. 1.7.99
	Rs.4190/- w.e.f. 1.7.2000

Sd/- Assistant Engineer
N.F.Railway, Guwahati

As per the applicant he was drawing his salary in basic pay of Rs. 4590 in July 2000. Consequently the respondents issued office order dated 16.8.2000 and the service certificate issued on 29.8.2000 stating his basic pay when leaving service at Rs. 4190/-. The applicant was aggrieved by the aforesaid fixation of pension submitted representation before the authorities. One such representation dated 20.7.2001 has been annexed at Annexure 4 to the application. Failing to get appropriate remedy finally the applicant moved this Tribunal assailing the action of the respondents as arbitrary, illegal and unlawful.

2. The respondents in the written statement stated that the applicant was initially appointed as Casual Labour at Rs.4/- per day on 20.9.1963 and he acquired labour/CPC status on 21.1.1967 and while he was Casual

Contd...

Attested
R.D.S.
Advocate

Labour/CPC he was found suitable for the post of Mate which was created for the maintenance of CMA siding AEN/I/c/PNO's letter No. E/227/2 dated 2.2.1968. The respondents also mentioned about the normal channel of promotion of a Gangman which are namely, Gangman (Rs.775-1025), Gangman to Sr. Gangman (Rs. 800-1150), Senior Gangman to Keyman (Rs. 825-1200) and from Keyman to Mate (Rs. 950-1500). According to the respondents the applicant became eligible for regular Gangman on 1.2.68 after due screening of CLS vide Divisional Railway Manager (P)/Lumding's letter No. E/227/0(LM-E) dated 22.11.85 and his seniority vis-a-vis other selected/screened Gangman were fixed and for regularman promotion to Sr. Gangman the applicant became eligible on 1.8.83 and for Keyman on 20.9.1987 and for Mate on 7.7.1988. It came to light that though the AEN/Guahati and PWI/Guahati were requested to fix the seniority of the applicant as Gangman w.e.f. 1.2.68 and to grant all benefits along with other Gangman appointed on 1.2.1968 but the said order was not complied with by AEN as well as PWI/Guahati. The respondents also stated in their written statement stated that such anomalies were only detected at the time of scrutiny of his service records i.e. Service Book, P/Case, leave account etc. while processing the case of the applicant for the purpose of final settlement prior to his retirement. The respondents also contended that irregularity in fixation of the pay of the applicant or erroneous fixation had only been corrected by refixation of his pay in a correct manner as per rules and law. The respondents also annexed the Office Order No. 16 of 1968. The said Office Order itself indicates that as a result of selection conducted a

Contd...

Attested
N. S. N.
Advocate

Date: 20/12/2018
Signature: N. S. N.
Advocate

number of persons including the applicant was selected on seniority cum suitability basis to fill up the posts where the name of the applicant shown at serial no.1 among the selected person as Mate. By another office Order dated 22.11.85 it was held that the applicant was tested and found suitable and accordingly declared screened as regular Gangaman w.e.f. 1.2.1968. Incidentally, selection of the applicant as Mate also was conducted on 31.1.1968 and 1.2.1968. A communication dated 26.7.2000 was made from the office of DRM (P), N.F.Railway, Lumding addressed to the Assistant Engineer, indicating that at the time of screening of the service etc. it was found that there was some irregularities in the service records of the applicant. It was stated that he was given the benefit of pay of CPC Mate vide his service book and he was declared as regular Gangman with effect from 1.2.1968. It was also mentioned that the AEN/Ghy was requested to fix up the seniority of the applicant as Gangman w.e.f. 1.2.68 and to grant all benefit alongwith other Gangmen appointed on 1.2.68. But on verification of service record and P/case it was found that the said orders was not complied with by the concerned Assistant Engineer/PW1. The applicant was treated as Mate during his entire service.

3. Mr. U.K.Nair, learned counsel appearing on behalf of the applicant stated and contended that the applicant all thoroughout was drawing the scale of Mate from 1.2.1968. The learned counsel for the applicant further submitted that admittedly the applicant was drawing his salary on the basis pay of Rs. 4590 w.e.f. 1.1.1999. The learned counsel for the applicant contended that the pension has to be computed on the last pay drawn by the

Contd..

Attested
H.K.Nair
Advocate

applicant as per rule. The action of the respondents in reducing the pay per se arbitrary and illegal.

4. Contesting the claim of the applicant Mr. S.Sengupta, learned standing counsel for the Railway submitted that there was no illegality committed by the respondents. The learned counsel for the Railway further submitted that the applicant could not claim his promotion as Mate w.e.f. 1.2.1968 without being promoted to the posts of Gangman, Senior Gangman. The benefit given to the applicant was undue and unlawful. Therefore the respondents only remedied the situation. The basic issue relates to fixation of pension. Rule 49 of Railway Services (Pension) Rules 1993 defines the Emoluments and Rule 50 defines the Average emoluments, which reads as follows:

"Emoluments :- The expression - (a) 'emoluments', for the purpose of calculating various retirement and death benefits, means the basic pay as defined in clause (i) of rule 1303 of the Code which a railway servant was receiving immediately before his retirement or on the date of his death :....."

"Average emoluments.- Average emoluments shall be determined with reference to the emoluments drawn by a railway servant during the last ten months of his service."

5. From the materials on record there is no doubt that applicant was drawing the pay of Rs. 4590/- at the time of retirement. Pension is payable to a Government Servant on the basis of service rendered. The applicant actually served as Mate and therefore was drawing the scale of Mate. The relevant consideration for computation of pension is the ten months average pay actually drawn by a Government Servant. Admittedly the applicant was drawing the pay scale of Rs. 4590/- till the date of retirement, therefore his pension was to fix on the basis of the emoluments drawn during the last 10 months. In fact the applicant was drawing Rs. 4590/- and not 4190/-. The average emoluments

Contd..

Attested
Nar
Advocate

of pension would have been 4590/- and not 4190/- and accordingly pension ought to have been calculated on the basis of emoluments drawn during the last 10 months treating average emoluments for pension as Rs. 4590/- and not 4190. Pension is sanctioned to a civil servant for the services rendered by him. Decisions rendered in the case of Suryanaraya Rao H.R. Vs. State of Karnataka & Ors, reported in (1982) 2 SLR 176 and the decision rendered by the Hon'ble Supreme Court in the case of E. Gopalakrishnan and others Vs. Union of India reported in 1995 Supp (4) SCC support the case of the applicant.

6. For the reasons stated above the impugned orders dated 16.8.2000 and 29.8.2000 (Annexure- 1 and 3) are set aside and quashed. Accordingly the respondents are directed to fix the pension of the applicant taking into consideration his basic pay at Rs. 4590/- with effect from 1.8.1999 and pay the difference with four months from the date of receipt of the copy of this order.

7. The application is accordingly allowed. There will however, no order as to costs.

TRUE COPY
क्रियता

Sd/VICE CHAIRMAN

trd

3/6/02
Section Officer (C),
Central Administrative Tribunal
Chittaranjan Park
New Delhi
Supreme Bench, Guwahati
सदस्याधारी - नियमित

Attested
Kiran
Advocate

25 -

Date - 12/9/03

To,
The General Manager
N.F.Railway
Maligaon

Sub:- Appeal for my promotion and grant of benefit of financial up gradation scheme (ACP).

Dear Sir,

With due respect I beg to lay the following few lines for your kind consideration and necessary action thereof.

I got my initial appointment in the year 1950 as a G.R.D employee and subsequently my service was regularised w.e.f. 1.2.68. in the post of Mate. Till my initial appointment to the date of retirement no promotion was effected although I appeared in the interview held in the year 1995. Surprisingly enough even after interview no promotion was given to me whereas such promotion has given effect to other set of employees. Discrimination meted out to me is without any basis and under no circumstances my case can't be rejected on such ground.

That apart from that I have not also been given the benefit of financial up gradation under ACP scheme which was made applicable prior to my date of retirement (31-8-2000). During my service tenure I had to face total stagnation and even my pension was calculated wrongly for which I had to initiate legal proceeding.

In view of the above I earnestly request your kind intervention to grant me such promotion and the same for financial up gradation scheme and accordingly refix my pension.

I hope that your honour would be kind enough to grant me the aforesaid relieves immediately.

Thanking you,

Yours faithfully

Dudh Nath Gupta
Dudh Nath Gupta

Attested
as
Advocate

~~Of Miss Usha Das~~
Advocate

- 23 -

Annexure 7

Birubari, Gopinath Nagar
Guwahati-781016
Phone - 472699

Date 10/2/03

Ref:

To,
the General Manager (P)
N.F.Railway,
Maliagona.

Sub: Legal Notice.

Sir,

Upon authority and as per instruction of my client Sri Dudi Nath Gupta, Ex-Railway Employee (Mate) (Retired), resident of New Guwahati, Guwahati-781021, Dist. Kamrup, I give you this Notice as follows:

That my client aforesaid entered in the services under the Railways in the year 1959. thereafter his service was regularised w.e.f. 1.2.68 in the post of Mate. In fact he had to retire from his service without any promotion. No financial up gradation like ACP Scheme etc. was never extended to my client aforesaid. It is noteworthy to mention here my client was interviewed for his promotion to the next higher grade in 1995 but even after such interview no promotion was effected.

Usha Das

*Attested
Usha
Advocate*

Miss Usha Das
Advocate

- 26 -

Birubari, Gopinath Nagar
Guwahati-781016
Phone - 472699

Date 10/2/03

Ref:

In that view of the matter I give you this notice, making a demand that my client be promoted to the next higher grade of Mate w.e.f. 1/9/95 with all consequent service benefits and to provide him the benefit of financial up gradation like ACP Scheme immediately, within a period of 30 days from the date of receipt of this notice, failing which instruction of my client is to initiate appropriate legal proceedings against such deprivation.

I hope and trust that there would be a happy ending of the entire episode.

Thanking you,

Sincerely yours,

Usha Das.

(Usha Das)

Attested
Usha
Advocate

No.

The Divisional Railway Engineer (P)
N.F. Railway, Limding

Dated 22nd July, 2002

Subject: Composite Transfer Grant

Res,

With due respect, I like to say few lines before you for your kind consideration.

That Sir, I have retired from the Rly Service v.e.f. 31.8.2000 on Superannuation. That Sir, I have also vacated my Rly Gr. No- 612 (A) Type-II at NCC ref. No. 2001. But Sir I have not submitted composite Transfer Grant in time (i.e. within 1 year) due to anomalous situation in my Pay fixation.

Now the Honorable C.A.T/C.W. has given the judgement dt. 15.5.2002 and passed in O.A No 349/2001. (Dudh Nath Gupta v.s. u.o.i & others). Now my Pay fixation is actual and correct. Therefore, I could not submitted my composite Transfer Grant in Proper time. Hence I have submitted and oblige thereby.

Yours faithfully,

(Dudh Nath Gupta)

(Sri. Dudh Nath Gupta)

Ex. Rale/UGC

under SSE (P.Way)/UGC.

Date: 22/7/02

Attested
R.Das
Advocate

34

Dy. Chief Personnel Officer/HQs
N.F. Railway, Maligaon
Guwahati-11

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

IN THE MATTER OF :

O. A. No. 162 of 2004

Sri Dudi Nath Gupta Applicant

vs.

1. Union of India.

2. The General Manager,

N. F. Railway, Maligaon.

..... Respondents.

- AND -

IN THE MATTER OF :

Implementation of the Order dated 15.5.2002
of this Hon'ble Tribunal passed in O. A. No.
349/2001

- AND -

The reply of the respondents to the allegations brought by the applicant in the O.A. No. 162 of 2004 as regards non-implementation of the Order.

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 :-

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 respondents have been advised to confine their replies only on those points which are relevant for the purpose of a proper decision in the case. The respondents do not admit any other allegations of the applicant except those which are borne on records or admitted here-under and the applicant is put to strictest proof of such averments which are not admitted here-under specifically.
5. That, the application is vexatious one and is the outcome of his after-thought.
6. That, the applicant has failed to properly construe the Hon'ble Tribunals Order dated 15.5.2002 and should have stated that the Hon'ble Tribunals Order was substantially complied with by the respondents.

The allegations of the applicant as made at paragraph 1 of the application are denied herewith.

:- 3 :-

7. That, with regard to statements at paragraphs 4.1, 4.2 and 4.3 of the application, it is submitted that the statements of the applicant do not present the correct picture and hence not admitted.

It is not correct that the service of the applicant was regularised with effect from 1.2.68 in the post of Mate. For absorption in Railway service in Group-'D' post (Class IV Category) one has to pass through Screening test and get himself approved for Class IV Categories whether he gets CL/CPC status or not.

The Avenue of promotion Chart (AVC) lays down clearly the different stages of promotion and one has to pass through the regular selection processes before being approved for regular promotions to each higher posts.

It is to mention here-in that the applicant was initially appointed as Casual Labour on daily rate basis and acquired C.L./C.P.C. status on 21.1.1967. But he was declared screened as a regular Gangman with effect from 1.2.1968 only.

While he was working as C.L./C.P.C. (Class IV category), he was found suitable to work as Mate by AEN (Assistant Engineer) against the post of Mate (Class III) category vide AEN/IC/Pandu's letter No.E/227/2 dated 2.2.1968. But surprisingly he was drawing pay as Mate (Class III post) with effect from 21.1.1967.

B/X
Dy. Chief Personnel Officer/HQ
N.F. Railways, Maligaon
Guwahati-11

-: 4 :-

It is also to mention herein that the applicant became regular -

- (i) Gangnan on 1.2.1968,
- (ii) Senior Gangnan on 1.8.1983,
- (iii) Keyman on 20.9.1987 and
- (iv) Mate (Class III Post) on 7.7.1988 vide DRM(P)/Lundings letter No.E/266/3-LM(E) dated 5.7.88

after he passed/qualified in suitability test/selection etc. and as such he cannot claim to be a Mate from the initial stage of his appointment (which was as C.L. in Class IV category) without his regular promotions to the higher grade posts of Senior Gangnan, Keyman and then as Mate (in Class III category).

In this connection copies of following documents are annexed hereto as Annexure A series.

- (a) Pages 1 and 2 of the applicant's Service Book showing his appointment as Casual Labour and subsequently as C.L./C.P.C, Mate etc.
- (b) Letter No.L/221/0(LM)E dated 22.11.85 showing that he was declared screened as a regular Gangnan with effect from 1.2.68 after being tested.
- (c) Letter No.E/6-Fix dated 16.8.2000 showing that he was promoted as Senior Gangnan w.e.f. 1.8.83 and his pay was fixed as Sr.Gangnan on 1.8.83 at

-: 5 :-

Rs. 250/- in scale Rs. 210 - 270 (Rs. 800 - 1150/-).

(d) Letter dated 16.8.2000 showing that he was promoted as Keyman and his pay was fixed as Keyman at Rs. 1040/- w.e.f. 20.9.87 in scale Rs. 825 - 1200/- as Keyman.

(e) Copy of DRM(P)/Lunding's Memorandum No. E/266/3-LM
 (E) Lunding dated 5.7.88 showing that as per suitability test held in 1988 for the post of Mate in scale Rs. 950 - 1500/- (R.P.) he was approved for the post of Mate.

It is also to mention herein that the matter of irregularities in his posting/promotion/fixation of pay, though was intimated to sub-ordinate offices for correction, was not timely corrected and such irregularity again came to light prior to his retirement while carrying at fixation of pay etc. of the applicant.

It was observed that taking into consideration his due date of promotions etc. to various grades/intermediate grades/posts and also as Mate as discussed above, his pay should have been fixed at Rs. 4190/- with effect from 1.7.2000 instead of the pay of Rs. 4590/- (which he had been drawing), and, this irregularity was also pointed out to him and the applicant was quite aware of the fact of wrong fixation of his pay as Mate ~~etc.~~ at Rs. 4590/-. Under the fact of the case, question of affording him any opportunity for hearing in the matter of fixation of pay etc. did not arise.

-: 6 :-

8. That, the allegations as made at paragraphs 4.4, 4.5, 4.6 and 4.7 of the application are not correct and hence denied herewith. It is not correct that the applicant suffered a lot. Rather, while his other fellow workers in Class IV categories were still to get the approved/screened status and thereafter promotions to higher grades as Senior Gangman, Keyman and Mate etc. the applicant straight away got posting as Mate (Class III category) against CMA Siding's post in terms of AEN/IC/Pendu's letter dated 2.2.68 and he had been drawing the pay as Mate (in Class III category) from 21.1.67.

The applicant has also been separately informed under letter No.E/234/3/LM(E) dated 21.4.2005 clarifying the entire matter and mentioning specifically that his contention that his entry in the Railways was as a Mate, or that he suffered stagnation for which grant of ACP benefit is due to him etc., are quite factually and legally incorrect and inadmissible.

A copy of the above said letter dated 21.4.05 is annexed hereto as Annexure B, for ready perusal.

9. That, the allegations made at paragraphs 4.8, 4.9 and 4.10 of the application are denied herewith. It is emphatically denied that there had been any wrong fixation of his pay as per rules, or, he suffered any financial loss.

-: 7 :-

However, after due consideration of the points raised in his previous application O.A. No.349 of 2001 and the benefit extended under Rules 49 and 50 of Railway Services (Pension) Rules 1993, the Hon'ble Tribunal passed Order/direction vide their Order dated 15.5.2002 in O.A. No. 349 of 2001 as under :

At Page 6 of the Judgement -

"The respondents are directed to fix the pension of the applicant taking into consideration his basic pay as Rs.4590/- with effect from 1.1.1999 and pay the difference with four months from the date of the receipt of the copy of the Order."

It is submitted that, after receipt of the above said Order dated 15.5.2002, immediate actions were taken by the respondents to comply the aforesaid order.

It is quite an incorrect allegation that after receipt of the Hon'ble Tribunal's aforesaid Order/direction the respondents issued order fixing his pension at Rs.2261/- as alleged. In fact, prior to receipt of the Hon'ble Tribunal's Order dated 15th of May'02, his pension and family pension were calculated to be of Rs.2032/- and Rs.1275/- respectively taking his basic pay as Rs.4190/- on the date of his retirement (on the basis of his fixation of pay in different scales of pay as Senior Gangman, Keyman and Mate taking into consideration his regular date of promotions in each of the above said posts).

But, subsequently, in compliance to Hon'ble Tribunal's direction/order, his basic pay on the date of his retirement from service was taken as Rs.4590/- and on this basis his pension and family pension amounts were calculated and Pension Pay Order (P.P.O.) was revised re-fixing his pension at Rs.2261/- and family pension at Rs.1377/- as furnished herein below and Bank Authority (U.B.I./Guwahati-1, Panbazar) were also advised vide Divisional Accounts Officer, N.F. Railway/Lending's letter No.LMG/PW/Engg/3856 dated 28.10.02 accordingly.

	<u>Pension prior to receipt of Hon'ble Tribunal's Order.</u>	<u>Fixation after receipt of Hon'ble Tribunal's Order.</u>
Basic Pay	- Rs. 4,190/-	Rs. 4,590/-
Pension	- Rs. 2,032/-	Rs. 2,261/-
Family Pension	- Rs. 1,275/-	Rs. 1,377/-.

Copies of P.P.O.'s (Pension Payment Order) and Calculation Sheets as annexed hereto as Annexures C and D respectively.

It is also to mention herein that the claim of the applicant for fixing family pension as Rs.2295/- appears to have no basis and the applicant has not furnished the grounds for such claim and he is put to strict proof of such contentions.

:- 9 :-

10. That, with regard to averments at paragraph 9.11 of the application it is submitted that except those statements which are borne on records or are specifically admitted hereunder, all other allegations/averments are not accepted as correct and hence denied herewith. The applicant was appointed as Casual Labour and was approved as Gangman only with effect from 1.2.1968. As discussed in foregoing paragraphs, the avenue of promotion of Gangman is as under -

Gangman (Rs.2610 - 3540/-)
 ↓
 Sr. Gangman (Rs.2650 - 4000/-)
 ↓
 Keyman (Rs.2750 - 4400/-)
 ↓
 Mate (Rs.3050 - 4590/-)

From above, it is evident that the applicant was already given three promotional benefits e.g. as Senior Gangman, Keyman and Mate and as per Railway Board's directive the employee who has already availed of two promotional benefits during his service career, does not come within the scope under the ACP Scheme.

Further, the Hon'ble Tribunal's order dated 15.5.2002 as also reproduced at paragraph 9 of this Written Statement is very clear and there was no mention of granting ACP as claimed by the applicant now.

11. That, with regard to averments at paragraph 4.12 of the application it is submitted that no such application dated 22.7.02 as mentioned by the applicant could be traced out in the office and the applicant is put to strict proof about submission of such application.

-: 10 :-

The applicant has also been informed about some vide letter No.E/34/1 dated 21.4.05.

A copy of said letter dated 21.4.05 is annexed hereto as Annexure E₂ to this reply.

12. That, the allegations made at paragraphs 4.13 and 4.14 of the application are not correct and hence denied here with. There has not been any reduction in his pension etc. and It is denied that there has been any illegal and arbitrary action or any violations of Articles 14 and 16 of the Constitution of India and laws framed there-under.

It is also not correct that the application has been filed bonafide and to secure ends of Justice.

13. That, in view of what have been submitted in foregoing paragraphs of the Written Statement, none of the grounds 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.

In this connection copy of the letter No.E/234/3 LM(E) dated 21.4.2005 has also been issued to the applicant informing him that -

-: 11 :-

(i) it was incorrect that he was appointed in the Railways as Mate. Rather, he was deemed to have been appointed as Trackman and

(ii) he has been given full monetary benefit as per Hon'ble Central Administrative Tribunal, Guwahati's Order dated 15.5.02 passed in O.A. No. 349/01. and

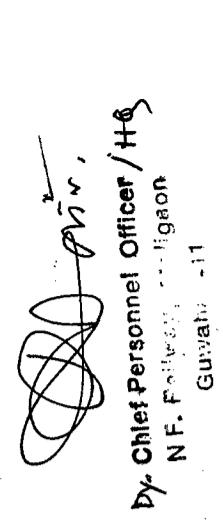
(iii) no benefit under ACP Scheme is admissible to him as per rules in vogue.

A copy of this letter dated 21.4.05 is annexed hereto as Annexure- B, to this reply for ready perusal.

A photo copy of Rly. Board's letter No.PC-V/99/1/1/1 dated 1.10.99 regarding alongwith Rly. Board's Circular letter No.F(E)II/99/FRL/1 dated 27.9.99 regarding Assured Career Progression Scheme is also annexed hereto as Annexure E series for ready perusal.

14. That, from the above submissions of the respondents, it will be evident that the Hon'ble Tribunals Orders/directives were complied with in its letters and spirit and Bank authorities were also advised accordingly re-fixing his pension and family pension etc. and to take further steps in this regard.

:- 12 :-

15

Dy. Chief Personnel Officer / HQ,
N.F. Police, Guwahati
Guwahati - 781

15. That, all actions as have been taken in this case are quite legal, valid and proper and in consonance to rules and procedures in vogue and also after due application of mind.

16. That, the respondents crave leave of the Hon'ble Tribunal to permit them to file additional written statement for ends of Justice, in the event any further informations etc. come to light in course of enquiries.

17. That, the application is fit one to be dismissed with costs.

..... Verification

16

-: 13 :-

VERIFICATION

I, SHRI. R. AIVU

now working

as Dy. CPO/HQ at Maligaon

do hereby declare that whatever stated at paragraphs 1 and 4 above are true to my knowledge and those made at paragraphs 7, 8, 9, 10 and 11 are based on records which I believe to be true and the rest are my submissions before the Hon'ble Tribunal and I sign this verification on this 9th day of May, 2005.



9/5.

NORTHEAST FRONTIER RAILWAY
FOR AND ON BEHALF OF RESPONDENTS.

Dy. Chief Personnel Officer / HQ
N.F. Railway, Maligaon
Guwahati-11

सेवा पुस्तिका/SERVICE BOOK

(आरंभिक पृष्ठ / OPENING PAGE)

1. पूरा नाम (साफ - लाफ अक्षरों में)

Name in full (Block Capitals) SIRI. DUDH NATH GUPTA.

2. पिता का नाम/Father's Name

Bhagabati.

3. राष्ट्रीयता/जाति/धर्म

Nationality/Caste/Religion

Indian (Hindu)

4. अधिकास जो सिद्ध हो चुका है

Domicile as established

Kazorwadi, P.O. Karorwadi, P.S. Deoria

5. निवास का पूरा पता

Residence (in Full) P.O. & village Karorwadi, P.S. Deoria

6. जन्म तिथि/Date of birth

5. 8. 10

7. जन्म स्थान/Place of birth

Kazorwadi (U.P) जिला / District Deoria

8. शिक्षा योग्यता

Educational qualification

P.G. C.L. 177591

Personal mark for identification

10. बायें हाथ के अगुठे और अंगुली का निशान

Left hand thumb and finger impression

कमिलिका/Little finger

अंगुठा/Thumb

मध्यमा/Middle finger

तर्जनी/Fore finger

11. लंबाई/Height

5' 3" फीट/Feet

इच्छा/inches.

12. सरकारी कर्मचारी का हस्ताक्षर/Signature of Government Servant.

Sukh Nath Gupta

13. कार्यालय प्रधान या अन्य साक्षात्कार विधिकारी का हस्ताक्षर और पदनाम

Signature and designation of the Head of the office or other Attesting Officer. M. S. S. D. G.

नोट / Note :- इस पृष्ठ पर दर्ज की गयी जानकारी कम से कम पांच वर्ष वाले नवे से दर्ज हुए जाग्री अंगुलियाँ लिया जाना चाहिए जिसका वर्तमान वर्ष १२ और १३ पंक्ति में किये गये हस्ताक्षरों के साथ तारीख दी जायगी / The entries on this page should be renewed or re-attested at least every five years, and the signature in lines 12 and 13 should be dated.

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

K. S. Suryanarayana

29/11/67

M. S. Suryanarayana, P. S. S. D. G.

1	2	3	4	5	6	7
नियुक्ति पद Name of appointment.	नियुक्ति भूल है या स्थानापन तथा स्थायी है या अस्थायी Whether substantive or officiating; and whether Per- manent or tem- porary.	यदि स्थानापन है तो (i) गृह नियुक्ति या यह चतायें कि (ii) का गंवंधित रोना, नियम 2409 भा. II (३०३) नेत्रीय गोवा (पिण्ड) के अधीन देश के सिंह गवी जायगी If officiating (i) Substantive appointment or (ii) Whether ser- vice counts for pension under rule 2409—R II (371, C.S.R.).	मुल नियुक्ति में वेतन तथा ग्राहन Pay and gra- in, of substantive appointment.	स्थानापन के नियुक्ति अतिरिक्त वेतन Additional pay for officiating	अन्य उपलब्धियां जो वेतन में मिल जाती हैं। Other emolu- ments falling under the term "Pay"	नियुक्ति की तारीख तथा स्थान Date and Place of appointment
cl/mate	sub	nil	4/- p.d	nil	nil	20-9-61
cl/ope mate	sub	nil	80/-	nil	nil	21-1-67
cl pc. grante	sub	11/100/1966 11/1966 P.m. 80/-	11/100/1966 11/1966 11/1966	11/100/1966 11/1966 11/1966	11/100/1966 11/1966 11/1966	21-1-67
Approved as mate						

No. F. 1A. 74/6.

0/1

OFFICE ORDER.

The following staff who have been tested by AEN/IC/PMO on 31.1.68 and 1.2.68 and found suitable are hereby declared screened as a regular Gangman wef 1.2.68. This has the approval of Dm/LMG, screened as regular G/Man with the benefit of service from 1.2.68.

1. Sri Dugnath, Gangman, S/O Bhagwan.
2. S/o Lal Deo Ray, S/O Kadura Ray.
3. " Sudarshan Gour, S/O Sarnath.
4. " Ram Bhaikur, S/O Van Bhauri.
5. " Nedi Ram Goloi, S/O Langoor B. Muli.

for D.M. (P)/Lumding.

No. 1/227/0(LM)E. dt'd. 11-11-85.

Copy forwarded for information and necessary action to:-

- 1) AEN/GM) They are requested to fix up the seniority of
- 2) Dm/GM) the above named staff as G/Man wef 1.2.68 and should be granted all ~~new~~ benefits along with other G/Man those who were appointed on 1.2.68.
- 3) Staff concerned.
- 4) P/care.
- 5) DFC/Min. of Home Affairs.
- 6) Com. Veracity of Dm/LMG for ^{Recd} D.M. (P) Lumding in ~~front~~ in file.

A Series

18 10

N.E.R.Railway.

Office of the
Assistant Engineer
N.E.R.Railway, Guwahati.

No. E/6-F1/1

Dated, 3-2k.

OFFICE ORDER

Sri Dush Nath Gupta G/Mon is hereby promoted as Sr. Gangman wef. 1.8.83 and his pay is fixed on promotion to the grade of Sr. Gangman in scale of Rs. 210-270/- (Rs. 800-1150/-) wef. 1.8.83.

Pay already drawn

Pay now fixed on promotion
as Sr. Gangman.

Rs. 303/- wef. 1.1.80
Rs. 1150/- wef. 1.1.83
Rs. 1175/- wef. 1.1.86
Rs. 1200/- wef. 1.1.87
Rs. 1225/- wef. 1.1.88

Rs. 242/- wef. 1.2.83 as Gangman.
Rs. 250/- wef. 1.8.83.
Rs. 255/- wef. 1.8.84.
Rs. 260/- wef. 1.8.85.
Rs. 965/- wef. XX. 1.8.86.
Rs. 980/- wef. 1.8.86.
Rs. 995/- wef. 1.8.87.

Assistant Engineer
N.E.R.Railway, Guwahati.

Copy to : (i) DRM(P) LMC : - For information and necessary
(ii) DAO/LMC : action please.
(iii) SSE(P.Way) LMC :

(iv) Staff concerned - for information.

Assistant Engineer
N.E.R.Railway, Guwahati.

H.E.Railway.

No : E/G-Fix/

Office of the
Assistant Engineer, H.E.Rly.
Guwahati.

Dt. 8-2-87.

OFFICE ORDER

In terms of I.RM(P)IMC's No. E/266/3/IM(E) dated 18.9.87, Sri Dush Nath Gupta Sr. G/Man is hereby promoted as Keyman and his pay is fixed on promotion to K/Man in Scale of Rs. 825-1200/- w.e.f. 10.9.87.

Pay already drawn.

Rs. 1200/- w.e.f. 1.1.87

Rs. 1225/- w.e.f. 1.1.88

Pay now to be drawn.

Rs. 995/- w.e.f. 1.8.87 as Sr. G/Man.

Rs. 1040/- w.e.f. 20.9.87.

Assistant Engineer
H.E.Rly. Guwahati.

Copy forwarded for information and necessary action to : -

(i) DRD (P)IMC (ii) DHO/IMC (iii) DSE (P.Way)HCC.

(iv) Staff concerned - for information.

16/10/87
Assistant Engineer
H.E.Rly. Guwahati.

H. F. Railway.

Memorandum.

D.R.M.(P) in office
Lunding, dated 18-9-87.

In cancellation to this office memorandum no. E/266/3/LM(E) dt. 10-7-87 a fresh result of suitability test of K/MAN in scale Rs. 210/-270/- (RS)/Rs. 825/-1200/- (RP) under CPWI/CHY held at CHY on 24-11-86, 5-12-86, 30-12-86, 4-2-87, 23-2-87, 9-3-87, 10-4-87, 3-6-87 is herewith provisionally published as follows:-

SN.	Name	IF/Name	Designation	Station	Whether	Result
1.	Sarbadhri.				SC/ST.	
1.	J. N. Raja,	J. Malachiy,	gr. C/MAN.	CPWI/ CHY.	SC	Passed.
2.	Sufar Ali,	K. Ali	-do-	-do-	UR	-do-
3.	Sital,	Seatile	-do-	-do-	SC	-do-
4.	Hari,	Shri Hunda,	-do-	-do-	UR	-do-
5.	Giridhuri,	Suchit,	-do-	-do-	UR	-do-
6.	Hamid Ali,	Harip Ali,	-do-	-do-	UR	-do-
7.	Joglal,	Ram prasad,	-do-	-do-	UR	-do-
8.	Dudh Nath Gupta,	Bhavabhan,	-do-	-do-	UR	-do-
9.	Laldeo,	K. Roy,	-do-	-do-	UR	-do-
10.	Siddi Ram,	Dhanguria,	-do-	-do-	UR	-do-
11.	Lat Bachan,	Guni Ruj,	-do-	-do-	UR	-do-
12.	Parthialy,	Erkayu,	-do-	-do-	SC	-do-
13.	Sunker prasad,	Ranjan Singh,	-do-	-do-	UR	-do-
14.	Balaji,		-do-	-do-	UR	-do-
15.	Khagan Boro,	Chena Boro,	-do-	-do-	UR	-do-
16.	Subash Kumar				ST	-do-
16.	S. S. Rao Raja,		-do-	-do-	ST	-do-
17.	Daya Ram,		-do-	-do-	SC	-do-
18.	Abod Raj,		-do-	-do-	UR	-do-
19.	Subat Ch. Das,		-do-	-do-	UR	-do-
20.	Gouri,		-do-	-do-	UR	-do-
21.	Kumailul prasad,		-do-	-do-	UR	-do-

This has the approval of gr. DEN/LMG.

No. E/266/3/LM(E) - LMG, dtg. 18-9-87.

D.R.M.(P)/Lunding.

Copy forwarded for information and action to :-

1. CPWI/CHY (2) staff concerned thro' CPWI/CHY.

3. Sr. DEN/LMG (4) AFM/CHY in reference to his statement No. 5/4 (test) 1409, 1470, 1579, 115, 188, 239, 367, 593 dt. 24-11-86, 5-12-86, 30-12-86, 4-2-87, 23-2-87, 9-3-87, 10-4-87, 3/9-6-87.

5. Spare copy for p/cuse for record.

dn/169

2.4/9/5
Chief Permanent Warden for Sector,
H. F. Railway, Gwalior.

D.R.M.(P)/Lunding.

ANNEXURE -

A series

N.F.Railway.

Memorandum.

Office of the
Divil.Rly.Manager (P),
Lumding, dtd: 5 -07-88,

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

This has the approval of DEN/I/Lumding.

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

Group - A

		K/man under CPWI/GHY	UR	Passed.
1.	Shri Laldeo	do	do	UR
2.	" Giridhari	do	do	UR
3.	" DudNath Gupta	do	do	UR
4.	" Siddi Ram	do	do	SC
5.	" Chaturgan	do	do	UR
6.	" Narayan Ch.Das	do	do	UR
7.	" Sampad Prasad	do	do	UR
8.	" S.S.Deo Raja	do	do	ST
9.	" Doya Ram	do	do	SC

G/man for promotion of A/man in scale Rs. 825-1200/- (RP)

Group - B

		G/man under CPWI/GHY	UR	Passed.
1.	Shri Ramanu Singh	do	do	UR
2.	" Karna Santi Lakoti	do	do	UR
3.	" E/Narayan	do	do	UR
4.	" Swajiben	do	do	SC
5.	" Birendra Kr.Das	do	do	SC
6.	" Ram Chark	do	do	SC
7.	" Jatindra Roy	do	do	UR

R J 5/2/88
for Divil.Rly.Manager(P),
N.F.Rly.Lumding.

No. E/266/3-LM(E) Lumding dt: 5 -07-88,

Copy forwarded for information and necessary action to :-

1. CPWI/GHY
- (2) DEN/GHY
- (3) Staff concerned
Thro: - CPWI/GHY
4. (P/Case.) 5) Sr. DEN/LMG.
- 6.

R J 5/2/88
for Divil.Rly.Manager (P),
N.F.Rly.Lumding.

-0000-

4788TAM6;

No-B/234/3 LM(E)

21/4/2005
Office of
Divil. Rly. Manager
Lumding. dtd: 21/4/2005

To
Shri Dudhnath Nath Gupta
S/O Late Bhagawan
Resident of Bamunimaidan
Guwahati.

Sub:- Compliance with the Hon'ble CAT/Guahati's

Interim order dtd: 17.12.2004

Ref:- Your application Dtd: 12.9.03.

In reference to your application dtd: 12.9.03 it is to inform you that

- (i) Your appointment as Mate is not correct.
- (ii) However, if you were appointed as Mate, it was a lapse on the part of the administration, for which you have been given full monetary benefit as per Hon'ble CAT/GHY's order dtd: 15.5.02 passed in OA-349/01
- (iii) You are deemed to have been appointed as Trackman and retired as Mate, availing three promotional benefits. Hence, ACP schemes is not admissible in this case.

21/4/05
for Divil. Rly. Manager (P)
N.F.Railway/ Lumding.

Copy forwarded for information and necessary action please.

1) GM(P)/Maligaon.

2) Shri S. Sengupta, Advocate, BG colony Near Rly Officers' Bunglow No. 297-A, Sarada Nagar, P.O. Maligaon, Guwahati

for Divil. Rly. Manager (P)
N.F.Railway/ Lumding.

By Regd with A/D

N.F.Railway.

Office of the
Divil.Rly.Manager (P)
Lumding. dtd: 21/4/2005

No-E/34/1

To
Shri Dudhnath Nath Gupta
S/O Late Bhagawan
Resident of Bamunimaidan
Guwahati.

Sub:- Compliance with the Hon'ble CAT/Guwahati's
Interim order dtd: 22.7.02

It reveals, from the records that the application for Composite Transfer
Grant was not received by this office.

However, if you have any proofs/documents of acknowledgement, Please give
a copy of the same so that the case may be processed.

for Divil.Rly.Manager (P)
N.F.Railway/ Lumding.

Copy forwarded for information and necessary action please.

1) GM(P)/Maligaon
 2) Shri S.Sengupta, Advocate, BG colony Near Rly Officers'
 Bunglow, No. 297-A, Sarada Nagar P.O. Maligaon. Guwahati

Sub 21/4/05
 for Divil.Rly.Manager (P)
N.F.Railway/ Lumding.

By Regd with A/D

SAL TIG. M.C.T.

(Information under the Right to Information Act)

1. Name of the Officer: Sub Inspector Bosom./Str. 5/102, 1968.
 2. Date of birth: 10/09/1940.
 3. Date of entry in the Govt. service: 21/1/1961.
 4. Date of retirement: 10/09/1990.

5. Length of qualifying service: 12 Years 8 months 29 days.
 (for pension/Gratuity as indicated in 'D'.)

6. Emoluments drawn during the last 10 months: Rs. 15,905.00
 (I) Emoluments during the period of pension: Rs. 15,905.00

(II) Pension Admissible: Rs. 12,261.00

(Calculation to be shown as follows:)

Em. Pm. Rs. 15,905.00 - Qualifying service.
 It completed 6 months $\frac{1}{2}$ X period not

Exceeding 12 months

(III) Gratuity Admissible: 6,483.190

(IV) Gratuity Admissible Rs. 1,05,169.00 - (Rs. 92,931.00) x 6.93% x 60
 Emoluments Rs. 6,483.190 (Qualifying service)

It completed 6 months X period not
 exceeding 60.
 (i) Emoluments for Family pension: 12,261.00
 (ii) Family pension admissible: Rs. 12,261.00 (Calculation to be shown as follows)

(a) Family pension prescribed & not subject to:-

Any 30% drawn X so prescribed after maximum

Rs. 15,905.00 = Rs. 13,244.00

(b) Enhanced family pension Rs. 12,261.00 p.m. Rs. 6,127.00 upto 6,010/-
 family pension as per rate as per rule 54

above (X) 2 x Rs. 13,244.00 p.m. will be subject to prescribed
maximum & minimum as per rule 54.

Ref:- 100, if any overheads be necessary will be met out of the fund available.

Dated: 10/09/2008 Constitution Officer

Counter signed

Accounts Officer

10/09/2008 Constitution Officer

100, if any overheads be necessary will be met out of the fund available.

The competent authority is at Para 325-11/2008

attested
by
10/09/2008

S. D. M. Head Officer, I.C.
New Guwahati Poly Clinic

N. F. railway

25'

~ NFRs ~

Subsequent to the judgement of the Hon'ble CAR GHY 02/01/04,
W.O. 392, of 2001, the pay of Sri Budh Nath Gupta, Ex-a
Male, under 51 ppr Wax, W.C., which was fixed vide
AMU GHY : 21/01/01 16 Fix W.D., 16-08-2000, is modified
and referred as Pensionary benefit, 00/01/05 08-08-00,
00/01/05-08-2000, as Rs. 12,168.34, per Rs. 1322.00 08-08-2000
11-08-00 to 31-08-2000 as 10mths × Rs. 1,4590.00 as Rs. 145900.00

Average increments Rs. 14590.00 as Rs. 2295.00 × 65 as 66
Rs. 2290.00 as Rs. 22,61.00 p.m. - Rs. 12032.00 p.m.
Rs. 229.00

Count 90, 1/ Rs. 2261.00 as Rs. 1881.90 × 91.81 as Rs. 1,06,418.88 as
Rs. 1,06,419.00 as Rs. 98,589.00 Diff. Rs. 10,830.00

Rs. 2261.00 as Rs. 1881.90 × Rs. 6426.90 as 65
Rs. 1,06,418.88 as Rs. 89,260.00 Diff. Rs. 17,158.88
Rs. 1,05,168.34 as Rs. 1,05,169.00 - Rs. 93,961.00
Rs. 11,208.00 p.m.

For Pensions 30% of Rs. 14590.00 as Rs. 1322.00 p.m.

1. Rate Rs. 1322.00 p.m. upto 08-08-2004 as

Thereafter Rs. 1322.00 p.m. Till death
death the 1st occurrence which ever is
earlier.

All Corrections
 are checked.

11-08-00
11-08-00

28/9/02

11-08-00
11-08-00

28/9/02

11-08-00
11-08-00

N.E. RAILWAY.

EPS - 411.
No.E/254/0 Pt- XIII (C)Office of the
General Manager(P)
Maligaon:Guwahati-11
Dated 28-10-99.

To
 GM(CONY)Maligaon,
 All PHODs, DRMs, DAOs,
 WAO/NBQs & DBWS, Dy.CME/NBQS, DBWS.
 All Controlling Officers of the Non-Divisionalised offices.
 The GS/NFREU, NFRMU, AISCTREA & NFROBCEA/MLG.

Sub:- Assured Career Progression Scheme for the Railway Servants.

A copy of Rly. Bd's letter No. PC-V/99/1/1/1 Dated-01.10.99, and RBE No. 233/99 on the above mentioned subject is forwarded for information and necessary action. Bd's earlier letters dated 5.2.92, 8.10.97 & 27.9.99 as referred to in their present letter were circulated as under :-

<u>Board's letter No. & Date.</u>	<u>This office circular No. date.</u>
1. E(NG)I/91/PM1/24 dt.5.2.92	RSRP-86-44F/205/73(PC) Pt. V dt.4.3.92.
2. PC-V/97/1/RSRP/1 dt.8.10.97	Notification Booklet of pay Commission.
3. F(E)II/99/FR/1/1 dt.27.9.99	is enclosed with the present letter.

DA: as above.

for General Manager (P)/M.G.

(Copy of Rly. Board's Letter No. PC-V/99/1/1/1 dated 01.10.99)

Sub:- Assured Career Progression Scheme for the Railway Servants.

The Fifth Central Pay Commission in its Report has made certain recommendations relating to the Assured Career Progression (ACP) Scheme for the Central Government civilian employees in all Ministries/Departments. The ACP Scheme needs to be viewed as a "Safety Net" to deal with the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. Accordingly, after careful consideration it has been decided by the Ministry of Railways to introduce the ACP Scheme recommended by the Fifth Central Pay Commission with certain modifications as indicated hereunder:

2. GROUP 'A' SERVICES

2.1 In respect of Group 'A' Officers belonging to various Organised Services (Technical/Non-Technical) in the Railways, no financial upgradation under the Scheme will be available and promotions in their case must be earned. The Ministry of Railways would, however, continue efforts in the usual manner to improve the promotion prospects in such cadres on functional grounds by way of organisational studies, cadre reviews, etc. as per prescribed norms.

3. GROUP 'B', 'C' AND 'D' SERVICES/POSES AND ISOLATED POSTS IN GROUP 'A', 'B', 'C' AND 'D' CATEGORIES.

3.1 While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt also the ACP Scheme in a modified form to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. Keeping in view all relevant factors, it has, therefore, been decided to grant two financial upgradations [as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated September 11, 1997 (in relation to Group 'C' and 'D' employees) entered into with the Staff Side of the National Council (JCM)] under the ACP Scheme to Group 'B', 'C' and 'D' employees on completion of 12 years and 24 of regular service respectively years (subject to condition No.4 in Annexure-I). Isolated posts in Group 'A', 'B', 'C' and 'D' categories which have no promotional

See 11
EPSSee 11
See 11
See 11
See 11See 11
See 11
See 11
See 11

venues shall also qualify for similar benefits on the pattern indicated above. Certain categories of employees such as casual employees (including those with temporary status), substitutes, ad-hoc and contract employees shall not qualify for benefits under the aforesaid Scheme. Grant of financial upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure-I.

3.2. 'Regular Service' for the purpose of the ACP Scheme shall be interpreted to mean the eligibility service counted for regular promotion in terms of relevant Recruitment/Promotion Rules.

4. Introduction of the ACP Scheme shall, however, in no case affect the normal (regular) promotional avenues available on the basis of vacancies. Attempt needed to improve promotion prospects in organisations/cadres on functional grounds by way of organisational study, cadre reviews, etc as per prescribed norms will not be given up on the ground that the ACP Scheme has been introduced.

5. Vacancy based regular promotions, as distinct from financial upgradation under the ACP Scheme, shall continue to be granted after following the procedure prescribed in such cases, as per relevant rules/guidelines.

6. SCREENING COMMITTEE

6.1. Departmental Screening Committees at appropriate levels shall be constituted for the purpose of processing the cases for grant of benefits under the ACP Scheme.

6.2. The composition of the Screening Committees shall be the same as that of the Departmental Promotional Committee (DPC) prescribed under the relevant Recruitment/Promotion Rules for regular promotion to the higher grade to which financial upgradation is to be granted. However, in cases where DPC as per the prescribed rules is headed by the Chairman/Member of the UPSC, the Screening Committee under the ACP Scheme shall, instead, be headed by the concerned Member of Railway Board. In respect of isolated posts, the composition of the Screening Committee (with modifications as noted above, if required) shall be the same as that of the LTC for promotion to analogous grade in that Department.

6.3. In order to prevent operation of ACP Scheme from resulting into undue strain on the administrative machinery, the Screening Committees shall follow time-schedule and meet twice in a financial year - preferably in the first week of January and July for advance processing of the cases. Accordingly, cases maturing during the first-half (April-September) of a particular financial year for grant of benefits under the ACP Scheme shall be taken up for consideration by the Screening Committees meeting in the first week of January of the previous financial year. Similarly, the Screening Committees meeting in the first week of July of any financial year shall process the cases that would be maturing during the second-half (October-March) of the same financial year. For example, the Screening Committees in the first week of January, 1999 would process the cases that would attain maturity during the period April 1, 1999

28/61
SKW
726/PRB/2
4/10
40
GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)

PCV No. 223/99
RBE No. 244/99

No. F(E)II/99/FR/1/1

New Delhi, dated 27.9.99

The General Manager/OSDs/CAOs etc.
All Indian Railways & Production Units
(as per mailing list)

RA 28/61

Sub : Minimum benefit on promotion-Recommendation of the
Vth Central Pay Commission.

Please refer to the existing provisions regarding initial
fixation of pay on promotion to a post carrying duties and responsi-
bilities of greater importance under FR.22(I)(a)(I) (Rule 1313(I)
(a)(I)-R-II (circulated vide Board's letter No. F(E)II/89/FR/1/1
dated 12.12.91).

As per existing provisions of the aforesaid Rule, on
promotion to a post carrying duties and responsibilities of greater
importance the initial pay of a Government servant in the time scale
of the higher post is fixed at stage next above the notional pay
arrived at by increasing his pay in the lower post held by him
one regularly, at the stage on which such pay is accrued or Rs 25/-
only, whichever is more.

Consequent upon revision of the pay scales of the Government
servants on the recommendations of the Pay Commission, the quantum
of Rs 25/- referred to in FR.22(I)(a)(I) (Rule 1313(I)(a)-R-II)
has been reviewed and the President is pleased to decide to raise
the amount to Rs 100/- so as to ensure that every employee is assured
of a minimum raise in Pay of Rs 100/- on promotion.

These orders take effect from 5.7.1999.) 1-96

Formal amendment to FR.22(I)(a)(I) (Rule 1313(I)(a)-R-II)
being carried out separately.

643
R.P. Singh
(R.P. SINGH)
By. Director Finance (Estt.)
Railway Board.

20
Baruah
09/10

10/10/99
M/21
8/10

29
S.No.PC-V/3/12
No.PC-V/99/I/1/1

RBE No.233/99
New Delhi, Dated.01-10-1999

(i) September 30, 1999 and the Screening committees meeting in the first week of July, 1999 would process the cases that would mature during the period October 1, 1999 to March 31, 2000.

6.4. To make the Scheme operational, the Cadre Controlling Authorities shall constitute the initial lot of Screening Committees of the current financial year within a month from the date of issue of these instructions to consider the cases that have already matured or would be maturing upto March 31, 2000 for grant of benefits under the ACP Scheme. The next Screening Committees shall be constituted as per the time-schedule suggested above.

7. General Managers etc. are advised to explore the possibility of effecting savings so as to minimize the additional financial commitment that introduction of the ACP Scheme may entail.

8. The ACP Scheme shall become operational from the date of issue of this letter.

9. The Fifth Central Pay Commission in paragraph 52.15 of its Report has also separately recommended a "Dynamic Assured Career Progression Mechanism" for different streams of doctors. The said recommendations are being considered separately by the Government and necessary orders will be issued after Government decision in the matter. Accordingly, the instructions contained in this letter shall not apply to officers belonging to Indian Railway Medical Service.

10. All zonal Railways etc. may give wide circulation to these instructions for guidance of all concerned and also take immediate steps to implement the Scheme keeping in view the ground situation obtaining in services/cadres/posis within their administrative jurisdiction.

11. Hindi version is enclosed.

DA-TWO

Neera Khurana
(Neera Khurana)
Director, Pay Commission
Railway Board

No. PC-V/99/I/1/1

New Delhi, Dated.01-10-1999

Copy (with 40 spares) forwarded to ADAT (Railways), New Delhi

R. Kast
R. Kast
For Financial Commissioner, Rail

30
69
Annexure-I

**Conditions for grant of benefits
under the ACP Scheme**

1. The ACP Scheme envisages merely placement in the higher pay-scale/grant of financial benefits (through financial upgradation) only to the Railway servant concerned on personal basis and shall, therefore, neither amount to functional/regular promotion nor would require creation of new posts for the purpose.
2. The highest pay-scale upto which the financial upgradation under the Scheme shall be available to those falling in the entitled categories will be Rs.14,300-18,300. Beyond this level, there shall be no financial upgradation and higher posts shall be filled strictly on vacancy based promotions.
3. The financial benefits under the ACP Scheme shall be granted from the date of completion of the eligibility period prescribed under the ACP Scheme or from the date of issue of these instructions whichever is later.
4. The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfilment of prescribed conditions. In other words, if the first upgradation gets postponed on account of employee not found fit or due to departmental proceedings, etc. this would have consequential effect on the second upgradation which would also get deferred accordingly.
- 5.1 Two financial upgradations under the ACP Scheme in the entire Railway service career of an employee shall be counted against regular promotions (including in-situ promotion and/or any other promotion including fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employee, no benefit under the ACP Scheme shall accrue to him.
- 5.2 Residency periods (regular service) for grant of benefits under the ACP Scheme shall be counted from the grade in which an employee was appointed as a direct recruit.
6. The following shall be ensured while granting benefits under the ACP Scheme:-
 - a) Fulfilment of normal promotion norms prescribed, such as bench-mark, trade-

test, departmental examination, seniority-cum-fitness (in case of Group 'D' employees) etc. for grant of financial upgradations;

- b) Performance of such duties as are entrusted to the employees together with retention of old designations;
- c) Financial upgradations as personal to the incumbents for the stated purposes and restriction of the ACP Scheme for financial and certain other benefits such as sanction of advances, including House Building Advance, allotment of Government accommodation, issue of privilege and other passes etc only, without conferring any privileges related to higher status (e.g. invitation to ceremonial functions, deputation to higher posts, etc).

7. Financial upgradation under the Scheme shall be given to the next higher grade in accordance with the existing hierarchy in a cadre/category of posts without creating new posts for the purpose. However, in case of isolated posts, in the absence of defined hierarchical grades, financial upgradation shall be given in the immediately next higher (standard/common) pay scales as indicated in Annexure-II which is in keeping with Part-A of the First Schedule annexed to the Ministry of Railway's Notification No.PC-V/97/1/RSRP/1 dated 8-10-97(RBE NO-133/97,PC-V/1). For instance, incumbents of isolated posts in the pay-scale S-4, as indicated in Annexure-II, will be eligible for the proposed two financial upgradations only to the pay-scales S-5 and S-6.

8. The financial upgradation under the ACP Scheme shall be purely personal to the employee and shall have no relevance to his/her seniority position. As such, there shall be no additional financial upgradation for the senior employee on the ground that the junior employee in the grade has got higher pay-scale under the ACP Scheme.

9. On upgradation under the ACP Scheme, pay of an employee shall be fixed under the provisions of amended Rule 1313(I)(a)(i) of Indian Railway Establishment Code Volume II(1987 Edition)(FR 22(Ia1)) subject to a minimum financial benefits of Rs.100/- as per Board's letter No.1/1/09/FR/1/1 dated 27.9.99 (S.No:PC-V/223, RBE No.244/99). The financial benefit allowed under the ACP Scheme shall be final and no pay-fixation benefit shall accrue at the time of regular promotion i.e. posting against a functional post in the higher grade.

10. Grant of higher pay-scale under the ACP Scheme shall be conditional to the fact that an employee while accepting the said benefit, shall be deemed to have given his unqualified acceptance for regular promotion on occurrence of vacancy subsequently. In case he refuses to accept the higher post on regular promotion subsequently, he shall be subject to normal debarment for regular promotion as prescribed in the general instructions in this regard. However, as and when he accepts regular promotion thereafter, he shall become eligible for the second upgradation under the ACP Scheme only after he complete the required eligibility service/period under the ACP Scheme in that higher grade subject to the condition that the period for which he was debarred for regular promotion shall not count for the purpose. For example:- if a person has got one financial upgradation after rendering 12 years of regular service and after 2 years therefrom if he refuses regular promotion and is consequently debarred for one year and

subsequently he is promoted to the higher grade on regular basis after completion of 15 years (12+2+1) of regular service, he shall be eligible for consideration for the second upgradation under the ACP Scheme only after rendering ten more years in addition to two years of service already rendered by him after the first financial upgradation (2+10) in that higher grade i.e. after 25 years (12+2+1+10) of regular service because the debarment period of one year cannot be taken into account towards the required 12 years of regular service in that higher grade.

11. In cases where disciplinary/penalty proceedings etc. are pending against the concerned employees, grant of benefits under the ACP Scheme shall be subject to rules governing normal promotion. Such cases shall, therefore, be regulated under the provisions of relevant Railway Servants (D&A) Rules, 1968 and instructions thereunder;
12. The proposed ACP Scheme contemplates merely placement on personal basis in the higher pay-scale/grant of financial benefits only and shall not amount to actual/functional promotions of the employees concerned. Since orders regarding reservation in promotion are applicable only in the case of regular promotion, reservation orders/roster shall not apply to the ACP Scheme which shall extend its benefits uniformly to all eligible SC/ST employees also. However, at the time of regular/functional(actual) promotion, the Cadre Controlling Authorities shall ensure that all reservation orders are applied strictly.
13. The existing time-bound promotion scheme, i.e. the in-situ promotion scheme, notified through Railway Board letter No.11(NC)/91/PM1/24 dated 5.2.92 shall cease to exist and shall not run concurrently with the ACP Scheme.
14. In case of an employee declared surplus in his/her cadre and in case of transfer on request, the regular service rendered by him/her in the previous organisation shall be counted along with his/her regular service in his/her organisation for the purpose of giving financial upgradation under the Scheme, and
15. Subject to the Condition No.4 above, in cases where the employees have a completed 24 years of regular service with or without a promotion, the financial upgradation under the scheme shall be granted directly. Further, in order to rationalise unequal level of stagnation, benefit of surplus regular service (not taken into account for the first upgradation under the scheme) shall be given at the subsequent stage (second) of financial upgradation under the ACP Scheme as a one time measure. In other words, in respect of employees who have already rendered more than 12 years but less than 24 years of regular service, while the first financial upgradation shall be granted immediately, the surplus regular service beyond the first 12 years shall also be counted towards the next 12 years of regular service required for grant of the second financial upgradation and, consequently, they shall be considered for the second financial upgradation also as and when they complete 24 years of regular service, without waiting for completion of 12 more years of regular service after the first financial upgradation already granted under the Scheme.

8/33
SAC/PC-V/212
No. PC-1/99.0/1

RBE No. 233/99
New Delhi, Dated. 01-10-1999

ANNEXURE II

STANDARD/COMMON PAY SCALES

As per Part-A of the First Schedule Annexed to the Ministry of Railways Notification
Dated 8.10.1997

(REFERENCE PARA 7 OF ANNEXURE I TO THIS LETTER)

S.No.	Revised pay scales (Rs.)
1.	S-I 2550-55-2660-60-3200
2.	S-2 2610-60-3150-65-3540
3.	S-3 2650-65-3300-70-4000
4.	S-4 2750-70-3800-75-4400
5.	S-5 3050-75-3950-80-4590
6.	S-6 3200-85-4100
7.	S-7 4000-100-6100-80-6800
8.	S-8 4500-125-7000
9.	S-9 5000-150-8000
10.	S-10 5500-175-9000
11.	S-12 6500-200-10500
12.	S-13 7450-225-11500
13.	S-14 7500-250-12000
14.	S-15 8000-275-13500
15.	S-19 10000-325-15200
16.	S-21 12000-375-16500
17.	S-23 12000-375-18000
18.	S-24 14300-400-18300
