

50/100

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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 319/2004

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SECTION OFFICER (Judl.)

Sahib
12/11/07

FORM No.4

(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 319/04

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants:- Monoranjan Chatterjee

Respondents N.O.I. Govt.

Advocates for the Applicant K. Bhattacharjee, Mrs. P.L. Saumya
Mr. J.L. Sarkar,

Advocates of the Respondents Railway Counsel

Notes of the Registry Date _____ Order of the Tribunal _____

This application is in form
is filed/C.F. for Rs. 50/-
d deposited vide P. ED
No. 206/35786
Dated 12.12.04

22.12.2004

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

Heard Mr.K.Bhattacharjee, learned
counsel for the applicant and also
Mr. J.L.Sarkar, learned Railway counsel

This application has been filed
praying for direction upon the respon-
dents to implement the directives to
D.R.M., Alipurduar i.e. respondent no.
4 issued by General Manager (P), N.F.
Railway, Maligaon i.e. respondent no.2
vide letters dated 7.1.2003, 25.5.2003
and 11.3.2004. No action appears to
have been taken on these three letters

Considering the facts and circum-
stances of the case, it would be appro-
priate if the applicant submits a
detailed representation narrating all
his grievances to respondent nos.4,
6 & 7 within two weeks from receipt
of this order. If such representation
is filed, respondents shall pass a
reasoned and speaking order in light
of directives issued vide letters
dated 7.1.2003, 25.5.2003 and 11.3.
2004 within a period of four months

Dy. Registrar

Pan

Steps taken.

Pan

Attested copies of Annexures I
to IV be obtained

507D
15/12/04

No Envelop

19/12/04

KVP

2

Contd.

22.12.2004 from the date of receipt of the representation.

The application is disposed of accordingly at the admission stage itself. The matter be listed on Board for compliance to be filed by the respondents after four months of receipt of representation.

27.12.04

Copy of the order has been sent to the office for issuing the same to the applicant as well as to the Rly. Standing Council.

llc

KV Bhatnagar
Member

bb

11-5-05

12.5.2005

Mr. J.L. Sarkar, learned counsel appearing on behalf of the respondents submits that direction has already been complied with and a report in that effect will file. Post on 31.5.2005.

Copy issued to the both parties on 27-12-04. No comply report read so far.

bnf
11/5/05

KV Bhatnagar
Member (A)

[Signature]
Vice-Chairman

30.5.05

mb

An affidavit regarding submission by the Nspca club 31.5.05 for implementation.

An affidavit regarding implementation of the order is filed, which according to us does not satisfy the direction contained in the order in O.A.319/04. The respondents are directed to file a fresh affidavit alongwith the copy of the relevant order passed for implementation of the O.A..

Post on 8.6.2005.

[Signature]
R
Joint Advocate on behalf of J.L. Sarkar
2/6

KV Bhatnagar
Member

[Signature]
Vice-Chairman

14-6-05

No fresh affidavit by the respondent.

pg

[Signature]

8.6.2005 This case came up for compliance report on 31.5.2005. We found that the affidavit filed did not satisfy the requirement. Today Mr. J.L. Sarkar, learned Railway counsel for the respondents has placed before us Office order No. ES/5372 dated 9.5.2005, Memorandum No. ES/5372 dated 10.5.2005, letter No. T/ES/5372 dated 9.5.2005, APDJ/PEN/T/3616 (S)/(Rev.) dated 9.5.2005 and ES/5372 dated 10.5.2005 issued pursuant to the direction of this Tribunal which would show that direction issued by this Tribunal on 22.12.2004 in the O.A. has been complied with. In the circumstances the direction issued in the order dated 31.5.2005 for filing the affidavit is cancelled. If the applicant is further aggrieved, certainly it is open to him to place the matter before the appropriate forum.

Hence the matter is closed.

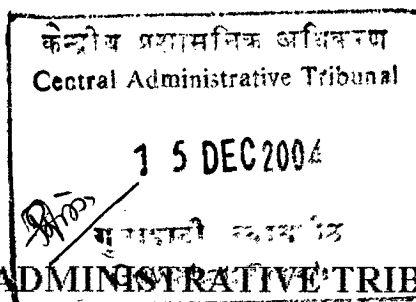
[Signature]
Member

[Signature]
Vice-Chairman

bb

21.8.05

Copy of the order has been sent to the office for issuing the same to the applicant as well as to the Rly, Advocate, for the Respondent.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH - GUWAHATI

Original Application No. 319/2004

Monoranjan Chatterjee

...Appellant

- VS -

Union of India & Ors.

... Respondents

DATE AND SYNOPSIS OF THE CASE IN THIS APPLICATION

DATES

SYNOPSIS OF THE CASE

1962	Join in N.F. Rly and was posted on the Alipur Division as Potter.
29.08.1981	Respondents issued circulate no. E / 283 / 17 (T) Part II dated 19.08.1981 for the post of conductor & TTI. The applicant opt. for conductor.
1984	After cader restructuring the post of TTIS post was abolished and new post of HD. TTE was created.
05.07.1988	Appellant was offered promotion to the post of conductor with effect from 1984 vide order E / 233 / 17/ (T) Part - II dated 05.07.88.
07.01.03/20.05.03/11.03.04	Since some abnormalities were observed in the restructuring of cader in respeu of the appallent, he made an appeal before the competent authority after consolation between the Union and authority the authority vide order No. E / 301 / MU / I (T) dated 07.01.2003 issued by GM(P) MLG, order No. E / 301 / MU/ I (T) dated 20.05.2003 and order No. E / 301 M - I (T) dated 11.03.2004 issued by GM (T) MLG for implementation of the said order and to grant the benefit of proforma promotion to

the appellant. But the respondent No. 4, 6 & 7 fails to comply with the said orders for the best reason known to them.

Hence this application before the Hon'ble Tribunal.

PRAYER

Direction for implementing the order No. E / 301 / MU / I (T) dated 07.01.2003, E / 301 / MU / I (T) dated 20.05.2003 & order No. E / 301 / MU / I (T) dated 11.03.2004 issued by GM (P) MLG within a specified period.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH – GUWAHATI

[An application under section 19 of the Administrative Tribunal Act, 1985]

(For use of Tribunal Office)

Signature: -

Date: -

Original Application No. 319 of 2004

BETWEEN

Monoranjan Chatterjee,
S/o Late Nripenda Ch. Chatterjee,
Ex/ ETTI/II/APDJ at present resided
at Maligaon, Guwahati – 11, District
– Kamrup.

...Appellant

-VS-

1. Union of India represented by
General Manager, N.F.
Railway, Maligaon, Guwahati.
2. The General Manager (P), N.F.
Railway, Maligaon, Guwahati.
3. Chief Personal Officer, N.F.
Railway, Maligaon, Guwahati.
4. Divisional Railway Manager
(P) N.F. Railway Alipurduar
JN. Alipurduar.

Filed by
Monoranjan Chatterjee
through his advocate.
Punya Lata Sarma.

5. The F.A. & E.A.O/ ENGA,
N.F. Railway, Maligaon.
6. Divisional Personal Officer,
N.F. Railway, Alipur.
7. Divisional Finance Manager,
N.F. Railway, Alipur.

... Respondents

PARTICULARS OF THE ORDER (S) AGAINST WHICH APPLICATION
IS MADE: -

1. The applicant through this application wants to implement of the order No. E / 301 / MU / I (T) dated 07.01.2003, order No. E / 301 / MU / I (T) dated 20.05.2003 and order No. E / 301 / MU / I (T) dated 11.03.2004 issued by Deputy CPO HQT on behalf of the GM (P) MLG and by SPO/T for GM(P) MLG respectively.

2. Jurisdiction of the Tribunal: -

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

3. Limitation: -

The applicant also declares that the present application is within the limitation period as has been prescribe under section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case: -

(i) That the applicant is a citizen of India and at present residing at Maligaon, Guwahati in the district of Kamrup (ASSAM). The

Monoranjan Chatterjee

applicant as such is guaranteed under the Constitution of India and the relevant rules framed there under.

- (ii) That the applicant state that he joined in the N.F. Railway in the year 1962 and was posted under Alipur Division as Poteer.
- (iii) That the applicant state that during the course of his service he was from time to time given promotion. That in the year 1981 the respondent issued a circular No. E / 283 / 17 (T) part II dated 29.08.1981 for the post of conductor and TTI, both are in the scale of 425 – 640. Accordingly the applicant opt for the post of conductor for feature incumbent. Subsequently after cader restructuring since 1984 TTI'S post was abolished and a new post of HD.TTE was created. So the question of fresh option arised. But without offering the option to the applicant the Sr. DPO / APDJ promoted those TTE'S to the conductor who opt for conductor side and to Head TTE were opted for TTE'S which was very much irregular. As per the applicants career option he was offered for promotion to the post of conductor with effect from 1984 vide office order No. E/ 233 / 17 (T) part II dated 05.07.1988. The application on receiving such order made an appeal to give him a chance to change the option due to the creation of new post of Head TTE arrived. But the authority took it as a refusal to accept the promotion as conductor and did not allow him to change the option.
- (iv) That the appellat state that thereafter the appellat raised his grievances before the authority through many representation, seeking clarification on some disputed

Monoranjan Chatterjee

point as noting was coming out fruitfully. The appellant had to approached his union to took up the matter with the authority. Accordingly the respondent vide his order No. E / 301 / MU / I (T) dated 07.01.2003 issued by APO (T) for General Manager (P) / MLG to DRM(P) / APDJ where in it is stated that after discussion with union and CPO it has been decided that the benefit of proforma promotion for the post of conductor with effect from 01.01.1984 and arrear as admissible from the date of shouldering Higher responsibilities as Head HD. TTE due to restructuring of cader on 01.03.1993 may be granted in favour of the applicant CTTI (II) APDJ.

A copy of the letter dated 07.01.2003 was annexed hereto and marked as

Annexure: - I

- (v) That the applicant state that after issue of order dated 07.01.1993 the DRM (P) APDJ vide their letter No. E / S / 5372 dated 29.04.03 has sought some certain clarification from General Manager (P) MLG. In response of the said letter the Deputy CPO / HOT issued a letter No. E / 301 / MU I (T) MLG dated 20.05.2003 where in it is stated that the grant of benefit of proforma promotion in favour of the application be given and request to take necessary action.

A copy of the letter dated 20.05.2003 is annexed hereto and marked as

Annexure: - II

- (vi) That the appellant state as the DRM (P) APDJ was not taking any action in implement the order dated 07.01.2003 and 20.05.2003 the appellant issued a legal

Monoranjan Chatterjee

notice through his advocate upon the respondent on receiving the said legal notice the respondent No. 2 issued another order No. E / 301 / MU / PT 1 (T) dated 27.11.2003 for implementing the order dated 20.05.2003.

A copy of the order dated 27.11.2003 is annexed hereto to and marked as

Annexure: - III.

- (vii) That the appellant state after issue of said letter the DRM (P) / APDJ did not take any steps to grant the benefit of proforma promotion on to the applicant and this was brought to the notice of the General Manager (P) who again on 11.03.2004 issued an order No. E / 301 / MU / 1 (T) to DRM (P) / APDJ directing him to implement the decision taken in this case and communicated vide letter dated 20.05.2003.

A copy of the order dated 11.03.2004 is annexed hereto and marked as

Annexure: -IV.

- (viii) That the appellant states that even after the issue of order dated 11.03.2004 the DRM (P) / APDJ has not given any effect to the letter dated 11.03.2004 till today and as such the appellant has to approached this Tribunal.
- (ix) That the appellants state that while his case was under process he retired from the service on 31.01.03 and at present he drawing the pension.

5. **Grounds for present Application: -**

- (a) For that after the order dated 07.01.2003, 20.05.2003 & 11.03.2004 passed by the GM (P)

Monoranjan Chatterjee

MLG the DRM (P) Alipur APDJ ought to have complied with the said orders, but till date the DRM (P) fail to comply with the said order for the reason best know to them and as such the appellant had to suffer both financially and mentally.

(b) For that the order dated 11.03.2004 would show that there was a specific direction to implement the decision taken in the case and communicated vide letter of even number dated 20.05.2003 addressing to DRM (P) APDJ and thereafter noncompliance of the said order has caused great pre-judice to the appellant.

(c) For that non-implementation of the orders passed by the higher authority for grant of benefit of proforma promotion in favour of the appellant would show that the subordinate officer of APDJ particularly DRM(P) has malafide intention in non implementing the order passed in favour of appellant and as such the action of the DRM(P) APDJ is condonable and called for stricture from this Hon'ble Tribunal.

6. Details of Remedies Exhausted: -

That the applicant declares that there is no other alternative efficacious remedy other than to approached this Hon'ble Tribunal for getting redress. The applicant being a retired person also deserve an order from this tribunal to protect himself from the irreparable loss and injury.

Monoranjan Chatterjee

7. Whether any appeal or suit is pending before any Court with regard to the subject of Agitation: -

That the appellant declares that there is no suit, application or writ petition is pending or filed any such proceeding before any court or tribunal with regard to the subject as against in the suit application.

8. Details of the Relief Sought for: -

Under the facts and circumstances as narrated above, the applicant humbly prays that this Hon'ble Tribunal be pleased to admit this application and called for records and after hearing the parties be pleased to pass an order directing the authority particularly respondent No. 4, 6 & 7 to implement the order dated 07.01.2003, 20.05.2003 and 11.03.2004 (Annexure: - I, II & IV) within a stipulated / fix period and be pleased to pass order / orders or any other further orders as your Lordships may deem fit and proper.

9. Interim Relief if any: -

No.

10. Particulars of the IPO: -

- a. IPO No. *206J35736* Date. *09-12-04* For Rs.50/-
- b. Envelopes with acknowledgment
- c. Vakalat *nama* .
- d. Material papers as per index.

Monoranjan Chatterjee

VERIFICATION

I, Sri Monoranjan Chatterjee, S/o Late Nripanda Ch. Chatterjee, aged about 62 yrs, presently resided at Maligaon, P.S. Jalukbari in the city of Guwahati, Dist: - Kamrup, Assam the applicant of this application do hereby verify that the statement made in this applications from paragraphs 1, 2, 3, 4 (i), (ii), (iii) (viii) & (ix) are true to my knowledge and those are made in paragraphs 4 (iv), (v), (vi) & (vii) are matter of records and rest are my humble submission before this Hon'ble Tribunal.

I signed this verification on this day of.....December 2004 at Guwahati.

Monoranjan Chatterjee

Signature

NORTHEAST FRONTIER RAILWAY.

OFFICE OF THE
GENERAL MANAGER (P),
MADIGACHON : GUWAHATI - 11.

No. E/301/MU/1 (T)

Dated : 07-01-2003.

To
DRM (P)/APDJ

Sub: Grant of benefit of proforma promotion
in favour of Sri M.R. Chatterjee, CTTI/
II/APDJ.

The above issue was discussed with NFRMU by CPO and CPO/IR and it has been decided that the benefit of proforma promotion to the post of Conductor w.e.f. 1-1-84 and arrears as admissible from the date of shouldering higher responsibility as Hd. TTE due to restructuring of cadre on 1-3-93 may be granted in favour of Sri M.R. Chatterjee, CTTI (II) APDJ.

You are, therefore, requested to take necessary action immediately under intimation to this office.

Please treat this as Most Urgent.

(L.D. Singh)
APO/T
for GENERAL MANAGER (P)/MLG.

Copy forwarded for information to :-

- 1) General Secretary, N.F. Railway Mazdoor Union, Pandu, Guwahati - 12.
- ✓ 2) CPO/IR/MLG.
- 3) A.P. Union

*Attended
P. Samy
15/1/03
advised*

SPD
15/1/03
for GENERAL MANAGER (P)/MLG.

.....

20/5/03
C.P.O. (P) MLG
C.P.O. (P) MLG

N. F. Railway.

No.E/301/MU/1(T)Maligaonj,

Dated 20-5-2003

To: DRM(P)/APDJ.

Sub:- Grant of benefit of proforma promotion in favour of Sri M.R. Chatterjee, CTTI/II/APDJ.

Ref:- Your letter No.ES/5572 dated 29.4.2003.

....

In reference to your above letter, it is informed that the issue was discussed with Mazdoor Union by CPO, CPO/IR & Dy.CPO/HQ on 26.11.2002.

It was decided to extend the benefit of proforma promotion to him w.e.f. 1.1.84 on the following grounds:-

No formal refusal of promotion was given by the applicant.

No formal acceptance of refusal was issued by the Division.

No proper action was taken to get implemented the office order by the Division.

Juniors of Sri Chatterjee were given promotion w.e.f. 1.1.84.

The offer of promotion to Conductor in favour of Sri Chatterjee was kept open up to 14.1.92.

The action of Sri Chatterjee for the benefit of proforma promotion w.e.f. 1.1.84 and arrears as admissible from the date of shouldering higher responsibility of Hd.TTE due to restructuring of cadre w.e.f. 1.1.93(Sri Chatterjee was promoted to Hd.TTE on 1.3.93 due to restructuring of cadre as Conductor on 9.2.95 and as CTTI on 4.11.97.)

You are therefore, requested to take necessary action on above and intimate the action taken on this at an early date in order to apprise the position to CPO.

(C. Saikia)
Dy.CPO/HQ
for General Manager(P):MLG.

Attended
As per
15/5/03
advocate

ad/-15.5.2003

OFFICE OF THE
GENERAL MANAGER (P),
MALIGAON :: GUWAHATI-11.

No. E/301/MU/Pt. I (T) Maligaon, dated : - *27*-11-2003.

To
DRM (P)/APDJ

Sub: Grant of proforma promotion in favour of
Shri M.R. Chatterjee, Ex. CTTI/II/APDJ.

Ref: GM (P)/MLG's letter No. E/301/MU/1 (T)
dated 20-5-2003.

Instruction on the above issue has already been
communicated vide this office letter under reference
wherein you were requested to take necessary action at
the earliest so that position may be apprised to CPO.

In the mean time a notice from advocate Shri Shyam
Kamal Paul, GHY/High Court has received (copy enclosed for
information).

You are, therefore ~~once~~ again requested to take
action on the subject under intimation to this office.

DA : AS above.

MLG
27-11-03
(N.N. Thakur)
SPO/TEST
for GENERAL MANAGER (P)/MLG.

R
Ray *30/12/03*
30/12/03

*Attended
Shyam
19/12/03
advocate*

N.F RAILWAY

OFFICE OF THE
GENERAL MANAGER(P)
MALIGAON, GUWAHATI-11

NO.E/301/MU/(T)

Dated, 11.03.04

To
DRM(P)/APDJ

Sub:- Grant of benefit of proforma promotion in favour of Shri M.R. Chatterjee,
Ex TTI/APDJ.

Ref:- FA & CAO/ENR/MLG's letter No. PNO/EWR/FIXN/93(Loose) dtd,
03.02.04.

The above is a long outstanding case and raised by the union several times in the meetings with Administration at PNM levels. After prolonged deliberations, it was decided, in the meeting between CPO, CPO/IR & NFRMU, to grant Shri M.R. Chatterjee the benefit of proforma promotion w.e.f. 01.01.84 and arrears as admissible from the date of shouldering higher responsibility of Hd. TTE consequent on restructuring of cadre as on 01.03.93. According to provision of Industrial Dispute Act., measures taken on reconciliation with the recognized labour has a statutory force. As such the decision taken as above on reconciliation with the union stands. It is therefore, advised to implement the decision taken in this case & communicated vide letter of even number dtd, 20.05.03.

[Signature]
5.3.04
(S. Chakraborty)
SPO/T
for GENERAL MANAGER(P)/MLG.

Copy to:-
FA & CAO/ENR/NFR for information please.

[Signature]
5.3.04
for GENERAL MANAGER(P)/MLG.

*Attested
P. Samanta
17/3
Advocate*