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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 99/2004

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SECTION OFFICER (Judl.)

*Seal/Seal
07/11/17*

FORM NO. 4
(SEE RULE 12)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Org.App/ Misc.Petn/Cont.Petn/ Rev.Appl. 99/04

In C.A.

Name of the Applicant(S) Sri Jaydeb Das

Name of the Respondent(S) U.O.I. & ORS.

Advocate for the Applicant Mr M.K. Choudhury

Counsel for the Railway/ C.G.S.C. Mr M. Dutta

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

OFFICE NOTE | DATE | ORDER OF THE TRIBUNAL

27.4.2004

Heard Mr. M.K. Choudhury,

learned counsel for the applicant and
also Ms. U. Das, learned counsel on
behalf of the Railway.

The application is admitted,
call for the records. Issue notice to
the parties.

List on 28.5.2004 for orders.

Meanwhile, status quo as on today
shall be maintained.

Sign
Dy. Registrar

27/4/04

K. Prakладен
Member (A)

1) No sgn. has been filed.
2) No MSS.
Synopsis to be obtained.

mb

28.5.2004

On the plea of counsel for
the respondents four weeks time is
given to the respondents to file
written statement. List on
1.7.2004 for orders.

Notice & order H. 27/4/04
Sent to D/Section for
inviting the respondent
Nos 1 to 5, by Regd.
with A/D post.

Sign
14/5/04
D/No = 777 to 780
Dt - 12/5/04. *105* mb

K. Prakладен
Member (A)

posted A/D card

return from
respondent Nos. 2, 3.

6.10.2004

Learned counsel for the Railways
Mr. S. Sarma has stated that written
statement is filed today. The applicant
may file rejoinder, if any,
within four weeks from today. The
matter be listed for final hearing
on 6.12.2004.

DR Pachukan
Member (A)

R
Vice-Chairman

bb

06.01.2005

List on 01.02.2005 for hearing.

DR Pachukan
Member (A)

mb

15.2.2005 Present: Hon'ble Shri M.K. Gupta,
Judicial Member

HOn'ble Shri K.V. Prahlan,
Administrative Member.

After hearing both sides at
length the case is adjourned
enabling the learned counsel for
the respondents to take appropriate
instructions from the respondents.
Adjourned as part heard to 17.2.05.

DR Pachukan
Member (A)

J
Member (J)

nkm

6.5.2005

Judgment pronounced in open Court,
kept in separate sheets.

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

DR Pachukan
Member

bb

19.11.04
A. Consolidated
application has been
filed by the petitioner.

17.2.05 *DR*
CA v/s 17.2.05
for S. Sarma
for S. Sarma
11/5/05

4
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI

ORIGINAL APPLICATION NO.99/2004

DATED THIS THE 6TH DAY OF MAY, 2005

SHRI MUKESH KUMAR GUPTA, MEMBER (J)

SHRI K.V. PRAHLADAN, MEMBER (A)

Shri Jaydeb Das
S/O. Late K.C. Das
Assistant Chemist
N.F. Railway, Alipurduar Junction
Railway Hospital. ... Applicant

(By Mr. M.K. Choudhury, Senior Counsel along with Mr. M.K. Dutta)

vs.

1. The Union of India represented by
General Manager, N.F. Railway
Maligaon.
2. The Divisional Railway Manager
Alipurduar Junction, N.F. Railway
Maligaon, Guwahati-11.
3. The Senior Divisional Medical Officer
N.F. Railway, Alipurduar Junction.
4. The Railway Recruitment Board
N.F. Railway, Guwahati represented by its
Chairman.
5. The Chief Personnel Officer (recruitment)
N.F. Railway, Maligaon, Guwahati-11.
6. The Chief Medical Superintendent
N.F. Railway, Alipurduar Junction
7. The Medical Superintendent
N.F. Railway, Alipurduar Junction
West Bengal. ... Respondents

(By Advocates Mr. S. Sarma and Ms. U. Das)

ORDER
SHRI MUKESH KUMAR GUPTA, MEMBER (J)

The question raised in the present O.A is whether the applicant's appointment as Assistant Chemist, based on Diploma obtained in Medical Laboratory Technology Course from North Bengal Para Medical College, Alipurduar, W. Bengal was justified & regular?

2. The applicant has challenged validity of show cause notice dated 1.3.2004 as well as Order dated 22.4.2004 terminating his services, as upheld vide Order dated 25.5.2004, besides seeking other consequential relief like the order dated 10.6.2004 directing him to vacate the residential accommodation.

3. The facts as stated are: Pursuant to employment Notice No.3/94, category No.10, advertised by Railway Recruitment Board, Guwahati, the applicant, who passed Higher Secondary with Science subject, besides holding Diploma in Medical Laboratory Technology Course from North Bengal Para Medical College, Alipurduar, in First Class, after qualifying written as well as practical test and viva-voce, stood first in the merit list, and after undergoing all the selection formalities like medical test, police verification, etc. was appointed as Assistant Chemist in the N.F. Railway vide communication dated 27th September, 1995. His services were rated as outstanding and were confirmed, which fact was duly taken note of in the provisional Seniority Lists dated 3.10.2000, 7.9.2001 and 4.12.2003. During his services, he was nominated to undergo various training programme. He was shocked and surprised to receive a show cause notice dated 21.3.2002 (Annexure-A8) alleging that as per the employment notice No.3/94, the educational qualification prescribed was: "Matriculation with Science and Diploma in Laboratory Technicians Course, from a recognized institute such as All India Institute of Hygiene and Public health, one year's experience in Pathological or Biochemical



Laboratory Science", which condition was not satisfied. It was detected that the Diploma possessed by him from North Bengal Para Medical Institute, Alipurduar, W. Bengal, which was the basis of his appointment was "neither a Govt. recognized Institute nor of the standing of the institutes like All India Institute of Hygiene and Public Health, as mentioned in the Employment Notice." It was, therefore, stated that as his very selection/empanelment for the post of Asstt. Chemist by the RRB/Guahati, on the strength of an invalid Diploma Certificate had "become irregular" and as such it was proposed to terminate his services. The said allegations were denied by submitting detailed representation stating that he has become overaged and keeping in view the satisfactory services, the said show cause notice deserves to be reconsidered. It was also stated that the applicant had obtained Diploma upto the required standards and he had not suppressed any material about his educational qualifications. One Personnel Branch Officer and Member Secretary, RRB, Guahati had also checked all his original testimonials. Without deciding the said reply, after a gap of almost two years, another show cause notice dated 1.3.2004 was issued, which was nothing but repetition of the earlier show cause. The allegations made therein were denied by submitting reply dated 16th March, 2004.

4. As the respondents contemplated terminating his services, he filed the present O.A . Vide order dated 27th April, 2004, the Tribunal ordered "status quo", which fact was informed to the respondents vide representation dated 30th April, 2004. Despite such fact, the termination order dated 22nd April, 2004, was pasted at his residential premises on 30th April, 2004 at around 3.30 p.m. Being aggrieved, he submitted representation to concerned authorities seeking cancellation of the said termination order. Pursuant to aforesaid representation, Medical



Superintendent, Alipurduar Junction vide communication dated 25th May, 2004 intimated him that since he had already been terminated, the question of allowing him to join duties did not arise. Subsequently, by another order dated 10th June, 2004, he was directed to vacate the Railway quarter immediately.

5. The applicant raised various contentions in support of his claim, namely, that he had submitted necessary certificates in original, which were duly scrutinized and after being satisfied with the same, he was appointed to the said post. Not only this, he was ranked No.1 in the merit list; that he had rendered unblemished eight and half years continuous services; as the Employment noticed All India Institute of Hygiene and Public Health was one of the recognized Institute, and not the sole Institute. In other words; the said Institute was only illustrative in nature. It was further urged that without taking any decision on the reply submitted to the first show cause notice dated 21.3.2002, the respondents issued second show cause notice dated 1.3.2004, which in itself shows non-application of mind and he was justified in presuming that the authorities were satisfied with his reply and therefore the respondents action in passing the impugned termination order dated 22nd April, 2004 is illegal, arbitrary, unjust and violates the principles of Legitimate Expectation; that the applicant was not guilty of any irregularity or illegality.

6. The respondents contested the applicant's claim by filing the reply and stated that at the time of scrutiny of application for employment, the respondents "could not detect as to the certificate submitted by the applicant was of required standard or not through oversight or any other reason." After he was selected and posted and was also transferred on 8.5.1997, it came to their notice that certificate submitted by him was

neither from a Government recognized Institute nor a standard Institute like All India Institute of Hygiene and Public Health. Owing to aforesaid irregularity, a show cause notice was issued to him and after observing the principles of natural justice; his services were terminated on 22nd April, 2004. The applicant was also not confirmed and it was erroneously shown in the seniority list. Therefore, a communication dated 2nd April, 2004 was issued whereby he was informed that he had not been confirmed in the cadre and the word "confirmed" as appearing in the seniority lists issued as on 1.4.1999, 1.4.2001 and 4.12.2003 respectively would stand deleted. The applicant did not submit his experience certificate for at least one year, which was a condition precedent for appointment. At the time of his appointment he had furnished a declaration that in the event of particulars or information given by him are found to be false or incorrect, his candidature was liable to be rejected or cancelled. Since the applicant's selection and appointment was based on non-standard certificate and was irregular and further that he being a temporary staff, decision was taken to issue show cause notice and terminate his service. As the applicant was absenting unauthorisedly, his termination order dated 22nd April, 2004 was sent to his residential address by Registered Post on 23rd April, 2004, which was undelivered with the postal remark "not found - left without address" and therefore, a copy of the said order was pasted on the wall/door of the applicant's residence on 30th April, 2004. Reliance was placed on AISLJ 2001 (2) SC 328, Nazim Begum Laskar & Others vs. State of Assam & Ors., and AISLJ 1997 (2) SC 132, Ashok Kr. Sarma and Ors. Vs. Chandra Sekhar and Ors.

7. The applicant, by submitting his rejoinder, contested respondents averment and stated that he was on sanctioned leave from 8th March,

2004, which was extended from time to time, and therefore respondents allegation that he was on unauthorized leave was not justified, that the order dated 2nd April, 2004 passed behind his back, changing his status of confirmation, was not served upon him. Applicant further stated that he had neither concealed nor misrepresented any fact while applying for job in question, and had produced all originals of the certificates as required vide Annexure-A2 communication dated 9.6.1995.

8. We have heard learned counsel for the parties at length and perused the pleadings carefully.

9. The only question, which needs determination in the present case, is whether the applicant's appointment was justified and it could be terminated after almost 9 years of satisfactory service. It is an undisputed fact that the applicant was appointed vide communication dated 27th September, 1995 and terminated vide order dated 22n^d April, 2004. Applicant contents that he had not committed any fraud and there was no irregularity in the said appointment, as he had produced the relevant necessary documents before the concerned authorities, which were duly checked before appointing him. Reference was made in this regard to call letter dated 9.6.1995 (Annexure-3), particularly para-2(a), which reads as follows:

"You should bring all the original pass certificate, Admit cards and Mark-sheets relating to Matric, Pre-University, Degree/Diploma issued by the Board/Council/University".

We may note that the contention that the applicant had produced the said certificates in original was not disputed by the respondents and the only contention raised is that "as the original certificates had not been checked inadvertently," the said appointment became irregular.

10. Shri M.K. Choudhury, learned Senior Counsel strenuously relied upon 2002 (8) SLR 382, Punjab and Haryana High Court (Division

Bench) judgement in Bidhi Chand vs. Uttar Haryana Bijli Vitran Nigam, Panchkula and Others, to contend that when no fraud was committed by the applicant and he secured the appointment after production of all relevant documents and he was allowed to continue in the said post for long years, recourse to termination could not be taken on the ground that he had committed fraud. It would be expedient at this stage to notice observations made in paragraph-12 in the said judgement, which reads thus:

“It is to be noticed that in the case in hand, we are dealing with the appointment of the petitioner to the post of Meter Reader. The post of Meter Reader does not require the skill and expertise, which may be required for the post of a Principal of ITI. Had there been any fraud, misrepresentation or forgery committed on the part of the petitioner in getting the post, the matter would have been entirely different. It is not the case of the respondents that the petitioner had committed any such act. Besides, it may be noticed that the conclusion arrived at by the respondent is based solely on the letter dated 21.10.1997 issued on 9.12.1997 (Annexure-P8) in which the Director, Secondary Education, Haryana informed the Financial Commissioner & Secretary, Haryana Government, the Superintending Engineer OP Circle Haryana State Electricity Board Jind, the Secretary Subordinate Service Selection Board, Haryana, Secretary (Recruitment), Haryana State Electricity Board Panchkula, and Director Department of Women and Child Development Haryana that Prathama/Madhyama of Hindi Sahitiya Samelan, Allahabad, is not recognized equivalent to matric in Haryana and it is equivalent to matric in Hindi only. The fact that Prathama/Madhyama of Hindi Shitiya Sammelan Allahabad has been recognized to be equivalent to matric in Hindi only is of some significance. The same evidently shows that it was recognized as equivalent to matric in Haryana though may be in Hindi only. In any case, in the present case the post of a Meter Reader is in question. It would have been in the fitness of things if the petitioner at the very threshold of consideration of his appointment would have been informed that he is not eligible for appointment in view of his having matriculation certificate from an institute which is not recognised as equivalent to matriculation in Haryana. After having allowed the petitioner to be appointed and allowing him to continue in service for a period of about seven years till his services were dispensed with, it would in our view be wholly iniquitous to dispense with his services. This is particularly so when the incumbent has been discharging his functions continuously now for a period of about nine years. Besides, there are no satisfactory rules that have been violated. The

infraction, if any, is that on the appointment letter dated 20.9.1993 (Annexure P), which is also in the circumstances of the case not that grave." (emphasis supplied)

Further reliance was placed on 2002 (7) SCC 484, Pratap Singh vs. State of Haryana and Others to contend that the allegations of fraud and false certificate could not be efficacely decided by the Court in its jurisdiction under Article-226 of the Constitution and further fact that the appointments were continued for a long time, High Court was justified in not disturbing the impugned selection and appointment. The petitioner therein had filed writ petition, which was dismissed by the learned Single Judge of the High Court on 2 grounds, i.e., the petitioner was not being one of the contestants for the post in question and secondly the selected candidates were appointed in the year 1981, nearly 16 years prior to the filing of the said petition. The said judgement was maintained by dismissing the appeal and as such the matter reached before the Hon'ble Supreme Court. The Hon'ble Supreme Court considered the matter on merits also and finding that on earlier occasion the selection process was not disturbed by it as held in 1989 (3) SCC 93, Mohinder Singh vs. State of Haryana. Reliance was also placed on 1997 (2) SCC 554, Sodagar Singh vs. State of Punjab and Others. In the said case the petitioner was appointed as direct recruit on adhoc basis after granting relaxation of eligibility, which was not approved by the High Court as well as maintained in the said judgement.

11. Respondents have placed reliance on 2001 (2) SLJ 329 (SC), Nazira Begum Lashkar & Ors. Vs. State of Assam & Ors., to contend that the irregular appointment can be terminated. Similarly, reliance was placed on 1997 (2) SLJ 131 (SC), Ashok Kumar Sharma & Ors vs. Chandrashekhar, to suggest that when appointment is made of the person who did not fulfill the requisite qualification on the cut off date, his

services is liable to be terminated. Further reliance was placed on 2004 (1) GLT 399, Xavier P. Mao vs. North Eastern Hill University, to contend that recruitment in public service should be held strictly in accordance with the terms of advertisement and recruitment rules.

12. As such the whole issue now passes in a narrow compass, i.e. Whether there was a mistake in appointing the applicant or he is guilty of fraud or misrepresentation.

The word "mistake" though has not been precisely defined under any statute but it came for consideration before the Hon'ble Supreme Court in 1989 (1) SCC 399, Ashok Chand Singhvi vs. University of Jodhpur and Others. In the said case, the appellant was admitted by the University and thereafter his admission was put in abeyance on the ground that he was not eligible. The respondents contention that the appellant could not be admitted and his admission was illegal, was overruled by holding that the same was "not made through inadvertence or mistake". In such circumstances, it was also observed that:

"17. It is submitted on behalf of the University that it was through mistake that the appellant was admitted. We are unable to accept the contention. It has been already noticed that both the Dean and the Vice Chancellor considered the objections raised by the Officer-in-charge. Admissions, and thereafter direction for admitting the appellant was made. When after consideration of all facts and circumstances and also the objections by the office to the admission of a candidate, the Vice Chancellor directs the admission of such a candidate such admission could not be said to have been made through mistake. Assuming that the appellant was admitted through mistake, the appellant not being at fault, it is difficult to sustain the order withholding the admission of the appellant. In this connection, we may refer to a decision of this Court in Rajendra Prasad Mathur v. Karnataka University. In that case, the appellants were admitted to certain private engineering colleges for the B.E Degree Course, although they were not eligible for admission. In that case, this Court dismissed the appeals preferred by the students whose admissions were subsequently cancelled and the order of cancellation was upheld by the High Court. At the same time, this Court took the view that the fault lay with the engineering colleges which admitted the appellant

and there was no reason why the appellant should suffer for the sins of the management of these engineering colleges. Accordingly, this Court allowed the appellants to continue their studies in the respective Engineering colleges in which they were granted admission. The same principle, which weighed with this Court, in that case should also be applied in the instant case. The appellant was not at fault and we do not see why he should suffer for the mistake committed by the Vice Chancellor and the Dean of the Faculty of Engineering." (emphasis supplied)

Similarly in 1976 (1) SCC 311, Srikirshnan vs. The Kurukshetra University, Kurukshetra, the same issue was considered by the Hon'ble Supreme Court as to whether the applicant secured admission by taking recourse to misrepresentation. It was held that:

"7.....
Equally it was the duty of the head of the Department of Law before submitting the form to the University to see that the form complied with all the requirements of law. If neither the Head of the Department nor the University authorities took care to scrutinize the admission form, the question of the appellant committing a fraud did not arise. It is well settled that where a person on whom fraud is committed is in a position to discover the truth by due diligence fraud is not proved. It was neither a case of suggestio falsi, or suppressio. The appellant never wrote to the university authority that he had attended the prescribed number of lectures. There was ample time and opportunity for the university authorities to have found out the defect. In these circumstances, therefore, if the university authorities acquiesced in the infirmities which the admission form contained and allowed the appellant to appear in Part I examination in April, 1972, then by force of the university statute the university had no power to withdraw the candidature of the appellant." (emphasis supplied)

12. We have carefully perused the judgements relied by both sides. On consideration of the entire matter vis-à-vis the judgements noticed herein, we are of the view that the reliance placed by the respondents on the aforesaid judgements do not advance their case as the applicant had at no point of time either committed fraud or made any misrepresentation. Nothing was suppressed by the applicant. He was

appointed by the respondents after considering all the documents, certificates produced by him in original. The specific contentions raised by the applicant that pursuant to communication dated 9.6.1995, he produced all relevant original documents, which were duly checked and examined before appointing him, remain uncommented by the respondents. His further contention that he had stood first in the merit as well as discharged his services satisfactorily, also remain uncontroverted and hence stand deemed admitted. In such circumstances, if any sin was committed by the respondents in not checking the same, which has being now termed as "inadvertently", the applicant cannot be made to suffer. He has also acquired sufficient and rich experience of about 9 years, which in itself could be equalized, with the certificate of required standard expected by the respondents, presuming that the certificate possessed by the applicant was not of required standard. Apart from making bald statement, nothing has been produced by the respondents, especially on this aspect. In AIR 1990 SC 371, Bhagawati Prasad vs. Delhi State Mineral Development Corporation, the Hon'ble Supreme Court observed as follows:

"Practical experience would always aid the person to effectively discharge duties and is a sure guide to assess the suitability. The initial minimum educational qualification prescribed for the different posts is undoubtedly a factor to be reckoned with, but it is so that the time of initial entry into the service. Once appointment of petitioners were made as daily rated workers and they were allowed to work for a considerable length of time, it would be hard and harsh to deny the confirmation in the respective posts on the ground that they lack the prescribed educational qualifications. It can be said that three years experience, ignoring artificial break in service for short period/periods created by the Management, in circumstances, would be sufficient for confirmation." (emphasis supplied)

The respondents have neither produced the Recruitment Rules nor explained, during the course of hearing, as to whether the one year

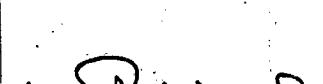
experience required was either essential or desirable qualification. It has also not been explained as to how the certificates verified by the specialised agency i.e., Railway Recruitment Board etc. were doubted by them and how they were of the opinion that the North Bengal Para Medical Institute, Alipurduar, West Bengal was not of the standing of the Institute like All India Institute of Hygiene and Public Health. We may also note that the applicant's selection and appointment made in the year 1995 had not been questioned by any aspirant to the said post. When an expert body like Railway Recruitment Board, Guwahati, who examined the applicant's certificates and found it to be in accordance with the requirement of the Employment Notice No.3/94, how could the respondents take a contrary view, remains unexplained to us. In our considered view, the All India Institute of Hygiene and Public Health, was only an illustrative in nature and was not the only Institute from which the candidates were allowed to participate in the selection process. The said institute is only one amongst various institutes, which conducts such course and issues such certificate. It is not the case of the respondents that the applicant had committed any fraud or misrepresentation in his application or before the specialized body. Moreover, his representations dated 11.4.2002 as well as 16.3.2004 have not been considered and remained unattended to. If any consideration was made, it has not been explained as to what was their outcome. The applicant has now become overage and rendered about 9 years of satisfactory service. Successive seniority lists issued in the years 1999, 2001 and 2003 noticed the applicant as a confirmed official. It is not the case of the respondents that the applicant's performance was not found satisfactory and his probation period was ~~never~~ extended. A perusal of the appointment letter goes to show that a fixed probationary

period of one year was indicated therein, without enabling the respondents to extend the said probationary period. Once a person completes probationary period satisfactorily and the probation period is not extended under the rules, he is entitled to be treated as deemed confirmed. Further, It has not been explained by the respondents as to why they allowed the applicant to continue, particularly when they had issued show cause notice dated 21st March, 2002 and he submitted reply on 11.4.2002, particularly when they were of the opinion that the certificates possessed by the applicant from North Bengal Para Medical Institute, Alipurduar, was not from a recognized institute.

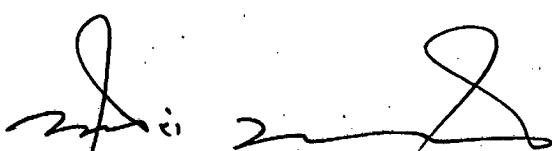
13. On a cumulative reading of the facts and its analysis made herein above, we are of the considered view that the applicant is not guilty of any fraud or misrepresentation and the certificate produced by the applicant indeed goes to show that the concerned institute was registered with the Government of West Bengal. The judgements relied upon by the learned counsel for the applicant, particularly of Bidhi Chand (supra) squarely applies to the facts and circumstances of the present case on all fours. The only ground taken by the respondents in their reply that the applicant's original certificates were "not checked inadvertently" at the time of his appointment to the post in question as well as that the certificate in question was not of the required standard and these aspects could not be detected earlier, through oversight or for any other reason, is untenable and cannot be accepted. He cannot be penalised for the mistake or fault, if any, of the respondents particularly at this belated stage.

14. In the result, we find force in the contentions raised by the applicant and accordingly quash order dated 22nd April, 2004 with

consequential orders i.e. 25th May, 2004 as well as 10th June, 2004 and direct the respondents to reinstate the applicant to the post in question within a period of 3 months from the date of receipt of a copy of this order along with consequential benefits, except arrear of wages/pay and allowance, which are denied particularly in view of the facts and circumstances of the present case. Order accordingly. No costs.



(K.V. PRAHLADAN)
MEMBER (A)



(MUKESH KUMAR GUPTA)
MEMBER (J)

mr

19 NOV 2004

गुवाहाटी बायो बैच
Guwahati Bench

CONSOLIDATED APPLICATION

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 92 OF 2004

Jaydev Das ... Applicant

- Versus -

Union of India & Ors. ... Respondents

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Filed by :

Minimay Deka

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A. No. 99 of 2004

BETWEEN

Shri Jaydeb Das, son of Late K.C.
Das, Assistant Chemist, N.F.
Railway, Alipurduar Junction Railway
Hospital.

...Applicant

AND

1. The Union of India represented by General Manager, N.F. Railway, Maligaon.
2. The Divisional Railway Manager, Alipurduar Junction, N.F. Railway, Maligaon, Guwahati-11.
3. The Senior Divisional Medical Officer, N.F. Railway, Alipurduar Junction.
4. The Railway Recruitment Board, N.F. Railway, Guwahati represented by its Chairman.
5. The Chief Personnel Officer (Recruitment), N.F. Railway, Maligaon, Guwahati-11.

6. The Chief Medical Superintendent,
N.F. Railway, Alipurduar Junction,
Alipurduar, West Bengal.

7. The Medical Superintendent, N.F.
Railway, Alipurduar Junction, West
Bengal.

*** Respondents

DETAILS OF APPLICATION

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

Show Cause notice dated 1.3.2004 issued against the Applicant by the Respondent No.3, whereby after having rendered almost eight and half years of service, the Applicant has been intimated that institution from which the Applicant obtained his Diploma in Medical Laboratory Technology is not an institution which conforms with the requirement prescribed in the Employment Notice pursuant to which the Applicant was appointed and as such selection of the Applicant to the post of Assistant Chemist has become irregular ab initio. The Applicant is also apprehending termination from his service without being given the opportunity to defend himself in a regular proceeding to which he is entitled in law. In fact, the Applicant has reliably learnt that the order of termination is going to be issued to the Applicant very soon.

2. JURISDICTION OF THE TRIBUNAL

Jyoti Deb Sen

That the Applicant is an employee of the N.F. Railway and is currently posted at the Alipurduar Junction. This Hon'ble Tribunal has the jurisdiction to address the redressal of the grievances of the Applicant.

3. LIMITATION :-

That the Applicant humbly submits that the instant application has been filed well within the period of limitation and as such it is not barred by the laws of Limitation.

4. FACTS OF THE CASE :-

4.1 That the Applicant after completing his Higher Secondary Education in the Science Stream, obtained a diploma in Medical Laboratory Technology Course in the year 1993 from North Bengal Para Medical College, Alipurduar. The Applicant was placed in the First Class in the examination held for Diploma Course.

Copies of the marksheets and Diploma Certificate issued to the Applicant are annexed as ANNEXURE-1 and 1A respectively.

4.2 That in the year 1994, an Employment Notice was issued by the Railway Recruitment Board for appointment of Assistant Chemist in the N.F. Railway. Inspite of best efforts, the Applicant could not obtain a copy of the Employment Notice and therefore prays that the respondents may be directed to produce the same as it may be a documents needing consideration of this Hon'ble Tribunal for deciding the real issue in

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controversy between the parties.

4.3 That the Applicant being interested in participating in the selection for the post of Assistant Chemist as advertised in the Employment Notice published in the year 1994, applied for the said post by annexing all the certificates sought for by the Railway Authorities.

4.4 That the authorities on being satisfied with the application submitted by the Applicant, asked the Applicant to appear in the selection for the post of Assistant Chemist by issuing of call letter/admit card for written examination, on 9.4.95.

A copy of the admit card is annexed as ANNEXURE-2.

4.5 That thereafter, the authorities on finding the Applicant to have emerged successful in the written examination asked the Applicant to appear at the practical and thereafter by admit card/call letter dated 9.6.95 asked the Applicant to appear in the viva-voce on 17.7.95.

A copy of the admit card dated 9.6.95 is annexed as ANNEXURE-3.

4.6 That the Applicant participated in the selection and all through i.e. (in the written test, practical and the viva-voce) did exceedingly well. The Applicant was positioned at No.1 in the merit list. Accordingly, the Applicant was offered the post of Assistant Chemist by a communication dated 27.9.95. By the said

Dear Sirs

communication it was intimated that the offer of the post was being made to the Applicant subject to the Applicant passing the prescribed medical examination by an authorised medical officer of any of the Indian Railways and on production of the Applicant's original certificates in support of his qualification and age etc.

A copy of the communication dated 27.9.95 is annexed as ANNEXURE-4

4.7. That thereafter on finding the Applicant medically fit and after perusal of the original certificates of the Applicant, the Applicant was appointed as Assistant Chemist and was posted at Lumding by an order dated 28.11.95. The said order dated 28.11.95 was issued in terms of the order of the General Manager (Personnel) dated 24.11.95.

A copy of the order dated 28.11.95 is annexed as
ANNEXURE-5

4.8 That accordingly the Applicant joined his duties and was performing his duties to the satisfaction of all concerned. The authorities were pleased with the duties performed by the Applicant and to the knowledge of the Applicant his performance was all through rated as outstanding. The service record of the Applicant is ~~without any blemish.~~

4.9 That by an order 2.5.97, the Applicant was transferred to Alipurduar as Assistant Chemist on his

existing pay and scales. The said transfer was made at the request of the Applicant himself.

A copy of the order dated 2.5.97 is annexed as ANNEXURE-6.

4.10 That the Applicant was performing his duties at Alipurduar also to the satisfaction of all concerned and to the knowledge of the Applicant, there was never any complaint from any quarter with regard to the service rendered by the Applicant. To the knowledge of the Applicant, the Applicant's performance was rated as outstanding althrough.

4.11 That in this context, it is pertinent to mention that the Applicant was confirmed in service by the authorities and in due time and to support this contention the Applicant is annexing provisional seniority list dated 3.10.2000.

A copy of the seniority list dated 3.10.2000 is annexed as ANNEXURE-7.

4.12 That during his service career of almost eight and half years, the Applicant was nominated to undergo various training programmes and the Applicant successfully participated in the said training programmes. The Applicant craves the leave of this Hon'ble Court to produce copies of such certificates at the time of hearing if so directed by this Hon'ble Court.

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4.13 That to the utter shock and surprise of the Applicant, the Applicant was issued with a show cause notice on 21.3.2002. By the said show cause, the Applicant was intimated that the institute from which the Applicant obtained his Diploma was not an institute similar to All India Institute of Hygiene and Public Health which was shown as one of the recognised institutes in the Employment Notice No. 3/94, pursuant to which selections were held and the Applicant was selected and as such his employment had become irregular.

A copy of the show cause dated 21.3.2002 is annexed as ANNEXURE-8.

4.14 That the Applicant submitted his reply to the show cause dated 21.3.2002. In the said reply, the Applicant submitted that after going through the Employment Notice, the Applicant applied for the post of Assistant chemist and while submitting his application the relevant documents were furnished. The documents/certificates of the Applicant were checked in original and on being found that the said certificates and documents were satisfactory and authentic, the Applicant was duly selected. The Applicant submitted that it was the responsibility and duty of the authorities to scrutinise the documents and certificates and to assess whether the institution from which the Applicant had received his Diploma measured upto the required standards of the authorities. Under these circumstance, when the

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Applicant was appointed after completion of all the necessary formalities and when the Applicant had rendered almost six and half years of satisfactory service, it was surprising as to how the show cause notice could be issued to the Applicant. The Applicant prayed before the authorities for consideration of his case in the light of the circumstance mentioned in the reply which rendered his service regular and not terminable.

A copy of the reply submitted by the Applicant is annexed as ANNEXURE-9

4.15 That thereafter pursuant to the reply of the Applicant to the show cause dated 21.3.2002, the Applicant did not receive any communication with regard to the said show cause notice dated 21.3.2002. Presumably, the matter was closed by the authorities.

4.16 That after lapse of two more years, again by a communication dated 1.3.2004, the Applicant has been issued with a show cause notice containing the very same allegations that were levelled against the Applicant. The said show cause alleged that the Applicant was continuing as temporary employee and since the institute from which the Applicant has obtained his Diploma in Laboratory Technology was allegedly not an institute of the standing of the institute like All India Institute of Hygiene and Public Health nor a Government recognised institute, the appointment of the Applicant has become irregular.

A copy of the show cause dated 1.3.2004 is annexed

as ANNEXURE-10

4.17 That the Applicant submitted his reply to the show cause and in the said reply the Applicant submitted that the Applicant was appointed by the authorities after scrutiny of all the certificates submitted by the Applicant. The Applicant also obtained the first position in the merit list in the selection held by the authorities. It was further submitted that it was the responsibility of the authorities to assess whether any institution was upto the requirement as sought for by the authorities. The Applicant further submitted that he had rendered almost eight and half years of service without any complaint from any quarter and under these circumstances and also since the services of the Applicant had been confirmed, it was surprising how a show cause was being issued to the Applicant with the allegations that have been sought to be levelled.

A copy of the reply to the show cause dated 1.3.2004 is annexed as ANNEXURE-11

4.18 That the Applicant has further reliably learnt that the authorities are contemplating to issue an order of termination in a day or two. As such also the Applicant is aggrieved inasmuch as the order of termination which is going to be issued to the Applicant is being passed by flouting the mandatory norms for issuing such an order of termination.

4.19 That the Applicant has been constrained to

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approach this Hon'ble Tribunal challenging the show cause notice dated 1.3.2004 which is arbitrary vexatious and highhanded. Further, the Applicant is under the threat of receiving an order of termination in a day or two. In fact, as stated earlier, the Applicant has reliably learnt of such a move being afoot.

4.20. That this Hon'ble Tribunal by order dated 27/04/04 was pleased to direct the authorities to maintain status quo with regard to the services of the petitioner.

4.21. That the petitioner served copies of the order dated 27/4/04, on the respondents to the Original Application.

A copy of the representation dated 30.4.2004 enclosing the copy of the order dated 27.4.2004, the receipt of which was duly acknowledged by the office of the Chief Medical Superintendent on 30.4.2004 at around 10:15 a.m is annexed as ANNEXURE-12.

4.22. That to the shock and surprise of the petitioner, on the evening of 30/04/04, inspite of the knowledge of the order dated 27/04/04 directing status quo with regard to the service of the petitioner, Some persons from office of the Chief Medical Superintendent, namely Smti. Niva Ghose, Head Clerk, Shri P.B. Mazumdar, Office Superintendent, Shri D.R. Choudhury, Ambulance Driver, Shri Kalyan Rao, Ambulance Cleaner and some R.P.E personnel came to the quarter of the Petitioner in the

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Ambulance bearing Registration No.WB-69-0527 at, around 3:30 p.m and hang the said order of termination on the wall of the quarter of the petitioner, whereby it was intimated that the petitioner has been terminated from his service. At the time when the said order of termination was hung in the wall of the petitioner's quarter, the petitioner was not at his home/quarter.

A copy of the order dated 22/4/04 is annexed as Annexure-13

4.23. That it is pertinent to mention here that the petitioner is working under the Senior D.M.O, Dr. Bhaskar Basak. However the order of termination was issued by another Sr. Divisional Medical Officer in exercise of powers beyond his jurisdiction and that too inspite of the order dated 27/04/04 passed by the this Hon'ble Tribunal.

4.24. That being aggrieved by the order of termination, the petitioner submitted a representation before the authorities for cancellation of the order of termination as the same was passed in violation of the order of this Hon'ble Tribunal.

A copy of the representation is annexed as Annexure-14

4.25. That pursuant to the representation submitted by the Petitioner, by an order dated 25.5.2004 issued by the Medical Superintendent, Alipurduar Junction, for the Chief Medical Superintendent, Alipurduar Junction, it was intimated that since the Petitioner's service had been terminated, the question of allowing the

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Petitioner to join his duties did not arise.

A copy of the order dated 25.5.2004 is annexed as
ANNEXURE-15

4.26. That by another order dated 10.6.2004, issued by the Medical Superintendent, Alipurduar Junction, the Petitioner has been directed to vacate the Railway Quarter immediately.

A copy of the order dated 10.6.2004 is annexed as
ANNEXURE-16

4.27. That it is pertinent to mention that the Petitioner is still staying in the said Railway Quarter.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 That the Applicant applied for the post of Assistant Chemist pursuant to a Employment Notice No.3/94. The Applicant submitted the necessary certificates and on being satisfied with the application submitted by the Applicant, the authorities asked the Applicant to sit in the selection process. The Applicant came out of the selection process with flying colours and was ranked No.1 in the merit list. Thereafter, on scrutiny the original certificates of the Applicant by the authorities and after the authorities had satisfied themselves, the Applicant was appointed as Assistant Chemist. Thereafter, the Applicant has rendered almost eight and half years of continuous service without any blemish. Under these

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circumstances, the allegations levelled against the Applicant are without any basis and as such the allegation levelled against the Applicant are liable to be dismissed.

5.2 The Applicant humbly submits that in the show cause the relevant portion of the Employment Notice pursuant to which the Applicant applied for the post of Assistant Chemist has been quoted as follows:

" Matriculation with Science and Diploma in Laboratory Technicians Course such as All India institute of Hygiene and Public Health and 1 year experience in the Pathological or Bio-chemical Laboratory Science".

Under these circumstances from the relevant portion of the Employment Notice which has been sought to be reproduced in the show cause, it can be seen that All India Institute of Hygiene and Public Health was shown as one of the recognised institutes. However, what form of recognition and by what authority the said recognition was to be given to an institute rendering diploma course in Laboratory Technology or Technician is not specific. In the paragraph 4 of show cause, it has been alleged that the North Bengal Para Medical College Alipurduar is not a Government Recognised one and as such the appointment of the Applicant was irregular as the Applicant obtained his diploma from North Bengal para Medical College, Alipurduar. From the perusal of the relevant portion of the Employment Notice as has been sought to be reproduced in the show cause, and the paragraph 4 of the show cause it is

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clear that the authorities are arbitrarily trying to build up a case against the Applicant by adding further specification to the educational qualification requirement that was sought for in the Employment Notice. As such also the allegations that have been levelled against the Applicant have no basis whatsoever and makes the show cause notice dated 1.3.2004 liable to be set aside and quashed.

5.3 That the Applicant was also issued with another show cause in the year 2002 and the Applicant submitted his reply to the said show cause. Thereafter no action was initiated by the authorities. However, a new show cause has been issued and as such it has to be presumed that the reply of the Applicant to the earlier show cause had been accepted and the matter had been closed and once the matter has been closed the same matter cannot be reopened again by issuing another show cause with the same allegations.

5.4 That the Applicant is not guilty of having committed any irregularity or illegality. The Applicant submitted an authentic certificate before the authorities and the authorities on being satisfied appointed the Applicant. The Applicant in his reply to the show cause has nowhere admitted that he is guilty. And as such assuming but not admitting that the show cause notice itself is not liable to be set aside and quashed, the Applicant is entitled to a fair proceeding where the Applicant can defend himself. Such a fair proceeding can only satisfy the mandate of law. In the

instant case, the show cause issued against the Applicant does not contain any statement of allegations nor the documents on which the authorities want to rely to substantiate the allegations against the Applicant. Neither any list of witness has been furnished. The Applicant as he has reliably learnt that the authorities are going to issue an order of termination to the Applicant in a day or two states that such an order of termination is arbitrary and violative of all the principles of natural justice and norms of service of jurisprudence. As such the Applicant is entitled to relief from this Hon'ble Court and the authorities may be directed not to issue any order of termination against the Applicant without following the due process laid down by law.

5.5 That the Applicant humbly submits that the Applicant has reliably learnt that an order of termination is going to be issued to the Applicant in a day or two and as such unless, the Applicant is protected by providing interim relief as prayed for it would cause irreparable loss and injury to the Applicant.

5.6. That the Petitioner had approached this Hon'ble Court apprehending termination from his service and this Hon'ble Court was pleased to direct maintenance of status-quo with regard to the service of the Petitioner, by order dated 27.4.2004. But inspite of the service of the said order by the Petitioner personally, the Petitioner's service was terminated.

The Petitioner served a copy of the order dated 27.4.2004 on 30.4.2004 at around 10:15 A.M. and the receipt was duly acknowledged by the office of the Chief Medical Superintendent. However, inspite of the knowledge of the said order dated 27.4.2004 passed by this Hon'ble Tribunal, the Petitioner was terminated from his service by an order allegedly issued on 22.4.2004. In this context, it is most humbly submitted that the order of termination though dated 22.4.2004 was issued by giving an ante date. The order was issued on 30.4.2004 and the same was served on the Petitioner by hanging the said order of termination allegedly dated 22.4.2004 on the wall of the Quarter of the Petitioner, while the Petitioner was not in his Quarter. The said order of termination was hung at around 3:30 P.M. on 30.4.2004. The order of termination issued to the Petitioner is not only illegal but the same is also contemacious inasmuch as the same was passed inspite of the order dated 27.4.2004 passed by this Hon'ble Court and with the knowledge of the said order. Further, the said order has been issued without jurisdiction by one of the Sr. Divisional Medical Officer, N.F. Railway, Alipurduar Junction who does not have any authority to issue the order of termination to the Petitioner. The manner in which the authorities have been dealing with the Petitioner is illegal, arbitrary and highhanded. The Petitioner being aggrieved by the order of termination passed in violation of the order of this Hon'ble Tribunal dated 27.4.2004 had submitted a representation for allowing the Petitioner to join his duties but the authorities

have even refused to do so by order dated 25.5.2004. Further, the authorities have also issued an order directing the Petitioner to vacate the Quarter which is illegal and contemacious of the face of the records inasmuch as the said order was passed on 10.6.2004 inspite of the fact that the authorities were very much aware of the order of this Hon'ble Tribunal directing maintenance of status-quo. The authorities are also as such liable to be prosecuted for contempt of this Hon'ble Tribunal. Under these circumstances, unless, the order dated 22.4.2004, 25.5.2004 and 10.6.2004 are set aside and quashed, it would occasion a travesty of justice.

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6. DETAILS OF REMEDIES EXHAUSTED :

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

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

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

8. RELIEFS SOUGHT FOR :

On the facts, circumstances and premises

aforesaid, the Applicant prays for the following reliefs :

8.1 Set aside and quash the show cause dated 1.3.2004 issued to the Applicant by the Senior Divisional Medical Officer, N.F. Railway, Alipurduar Junction (Annexure-10, page 32).

8.2 Direct the authorities not to terminate the service of the Applicant without following the procedure laid down by law.

8.3 Direct the authorities to allow the Applicant to continue in service in the post of Assistant Chemist.

8.4. Set aside and quash the order dated 22.4.2004 issued by the Sr. Divisional Medical Officer, N.F. Railway, Alipurduar Junction and reinstate the Petitioner to service with all benefits.

8.5. Set aside and quash the order dated 25.5.2004 issued by the office of Chief Medical Superintendent, Alipurduar Junction.

8.6. Set aside and quash the order dated 10.6.2004 issued by the office of Chief Medical Superintendent, Alipurduar Junction.

8.7 Pass such other order/orders as this Hon'ble Tribunal may deem fit and proper.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, Your

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Lordships may be pleased to direct the authorities not to terminate the service of the Applicant and stay further proceeding pursuant to the show cause dated 1.3.2004 (Annexure-10, page 32).

Further, during pendency of the original application, the Petitioner may be allowed to stay in the quarter allotted to him.

10.

The Application is filed through Advocate

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

(i) I.P.O. No. :

(ii) Date :

(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

... Verification

VERIFICATION

I, Shri Jaydeb Das, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1 to 4 including all the sub-paragraphs to the paragraph 4 i.e. 4.1 to 4.27 are true to my knowledge ; those made in paragraph 5 are true to my knowledge as per legal advice and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 14 day of October 2004 at Guwahati.

Jaydeb Das

Sl. No. - 00256

- 20 -

SA Para Med.

ANNEXURE - 1

REGISTERED UNDER GOVERNMENT

OF WEST BENGAL
GOVT. REGD. NO. S/6220B

ALIPURDEAR, JALRAIGURI

NORTHERN ALLI
COLLEGE

JALRAIGURI. 307710

This is to Certify that Shri/

has duly passed the Final Examination of Diploma in Medical
Laboratory Technology Course, held in the month of
May 1993.

His/Her was placed in the First Class.

During the period of training his/her behaviour & conduct was

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H.D.T.
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NORTH BENGAL PARA MEDICAL COLLEGE

REGISTERED UNDER GOVT. OF WEST BENGAL WITH REG. NO. S/62702.

ALIPURDUAR, JALPAIGURI.

FINAL DM LT EXAMINATION

SESSION 1992-93

The following is the statement of marks obtained by Jaydeb Das
 Roll No. MLT No. 010 Regd. No. 0037

SUBJECTS	FULL MARKS	PASS MARKS	MARKS OBTAINED	RESULT
PRACTICAL HAEMATOLOGY	100	50	81	
PRACTICAL MICROBIOLOGY	100	50	71	
PRACTICAL PARASITOLOGY	100	50	70	
PRACTICAL HISTOPATHOLOGY	100	50	73	
PRACTICAL BIO-CHEMISTRY	100	50	75	
THEORETICAL	125	100	125	
VIVA-VOCE	100	50	75	
INTERNAL	100	50	72	
Laboratory Work, Deck	50	25	45	
GRAND TOTAL	1000	475	735	

Alipurduar Minimum Marks required for Pass is 40%, 60%, 100% is considered to be Second Class.

Dr. K. N. Choudhury M.B.B.S., M.D., M.A., D.P.M., D.P.H.,
 (Dental Specialist)
 Director of Studies

Principal

Alipurduar
 M.B.B.S.
 Alipurduar

ANNEXURE 2

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RAILWAY RECRUITMENT BOARD: GUWAHATI
(Under Certificate of Posting)

STATION ROAD,
GUWAHATI-781001
DATE: 5-1-1995

NO.R.B/G/41/10

THIS IS YOUR CALL LETTER/ADMIT CARD FOR WRITTEN EXAMINATION

To, Shri/Smt. Tanjorel Datta

Photograph

Your Roll Number is 842020

You will not be admitted to this written examination Room/Hall without this call Letter/Admit Card and does not itself give any entitlement to selection. Your candidature has been accepted provisionally and is subject to the fulfillment of all conditions as laid down in the application Employment Notice. If you do not fulfill the condition mentioned in this call letter/Admit card and do not appear

RECRUITMENT SELECTION FOR THE POST OF Asstt. Chemist IN SCALE
Rs. 1320-2040/- UNDER EMPLOYMENT NOTICE NO.3/94 CATEGORY NO.10
IN THE NORTH EAST FRONTIER RAILWAY.

1. You are hereby requested to present yourself at the written examination as per programme given below:-

DATE	TIME	PLACE OF THE WRITTEN EXAMINATION
9-4-95	from 13.30 hrs.	ASSAM RAILWAY P.S. SCHOOL, PANIBARI NEAR GUY RLY. STATION, GUWAHATI PIN-781001 ASSAM

Only the successful candidates in the written examination will be called for the viva voce test.

2. You are to defray your own travelling expenses. (for UP candidates)

3. Approaching the Chairman/RRB/Guahati and other officials of RRB/Graduate directly or indirectly by a candidate or any body on his behalf requesting undue consideration for the recruitment will render a candidate liable for disqualification.

4. Only the candidates and the persons engaged in conducting the examination will be allowed into the examination premises. Strict discipline and silence must be maintained in the examination Hall. Appropriate action will be taken in case of those adopting unfair means in the examination, etc.

5. FOR GOVT CANDIDATES ONLY:- ON PRODUCTION OF THIS CARD YOU ARE ENTITLED TO TRAVEL BY RLY. IN SECOND CLASS FROM (STN) TO GUWAHATI (STN) AND BACK. This pass is validable upto 11.4.1995.
(Authority:- RLY. DOB: L/No. E(HG)II-84/RSC/102 dtd. 23-11-84)

for Chairman
Railway Recruitment Board: Guahati.

Attn
M.Datta
S.Datta

RAILWAY RECRUITMENT BOARD: GUWAHATI
(Under Certificate of posting)

RE. R.R.B./1/10

This is a Viva-Voce Admit Card/Call Letter for Viva-Voce test.

Sir/Madam, Jayadev Das.

Admit No. is 840020

You will not be admitted for the viva-voce test without this call letter/admit card. This call letter however does not itself give any entitlement to selection.

EXAMINER & SELECTION FOR THE POST OF ASSISTANT

Chancery, IN SCALE RS. 1320 - 2040/-
C. T. NORTHEAST FRONTIER RAILWAY, UNDER EMPLOYMENT NOTICE NO.

3/31, CATEGORY NO. 10 (TIN)

1. With reference to your application for the post mentioned above, in response to the Employment Notice cited above, you are hereby advised to attend the office of Railway Recruitment Board, Station Road, Guwahati-1, Assam on 17-7-75 at 10-00 A.M. for Viva-Voce test.

2. (a) You should bring all the original pass certificate, admit card and Mark-sheets relating to Matric, Pre-University, Degree/University issued by the Board/Council/University. In absence of original certificates you should bring the provisional pass certificate issued by the above concerning authority. (b) You should also bring originals of mark-sheets of Part-I and part-II of Diploma course in Pharmacy. (2) Diploma Pass certificate from recognised Institute and (3) Upto-dated Registration certificate from state Medical Exam Faculty/Pharmacy council. (c) You should also bring attested copies of all the documents.

3. Your attendance may be required for more than one day (i.e. date as mentioned in para 1 above) and you should come prepared accordingly.

4. Request for postponement of Date of Viva-Voce test will not be considered and no absentee test will be held.

5. If you are in service and have not submitted No objection certificate, you should bring the same now failing which you will not be allowed to appear in the viva-voce test.

6. You are to defray your own travelling expenses (for the candidate) in view of

7. Approaching Chairman, RRB and or his secretary directly or indirectly by a candidate or any body on his behalf requesting undue consideration for the recruitment will render a candidate liable for disqualification.

8. FOR SC/ST CANDIDATES: ON PRODUCTION OF THIS CARD YOU ARE ENTITLED TO TRAVEL FREE-BY RAILWAY IN SECOND CLASS FROM (STN.) TO GUWAHATI (STN.) AND BACK. This pass is available upto 11.1.86.

1. This card is valid for one year from the date of issue.

2. You are not entitled to free travel if you are in service.

3. You are not entitled to free travel if you are in service.

4. You are not entitled to free travel if you are in service.

5. You are not entitled to free travel if you are in service.

Station Road
Guwahati 781001
Date 9/6/75

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Annexure 4

NORTHEAST FRONTIER RAILWAY

Office of the
Chief Personnel Officer,
Maligaon, dated 31.9.95

No. E/22777/Rectt. Pt-I

27

To : Shri Joydeb Ch. Das (OBC),
C/o Shri K.C. Das or No. 639/B,
Office P.O. Alipurduar Junction,
Dist: Jalpaiguri, Pin-736123.

Sub: Temporary appointment as Asstt. Chemist on Rs.
1320/- in grade Rs. 1320-2040/- plus usual
allowances as admissible from time to time.

DATE OF SELECTION BY THE RRB/GHY 20.7.95 MERIT
FIGURE 1 UR/840020.

1. I am prepared to offer you a post in grade of and
rate of pay specified above plus usual allowances
subject to your passing the prescribed Medical
Examination by an authorised Medical Officer of any of
the Indian Railways and production of your original
certificate in support of your qualification and
satisfactory proof in support of your age, such as
Matriculations and/ or its equivalent certificate. In
case of non-availability from the University/Board, the
following certificates (in original) may be accepted
provisionally.

(a) Matriculation Marks sheets,
(b) Matriculation Admit card and
(c) School Leaving certificate from the Headmaster/
Headmistress.

2. All appointments will be made on probation for one
year, for apprentices appointed to working post after
completion of their probationary period commences from
the date of such appointment.

3. It must be clearly understood that the appointment
is terminable by 14 (fourteen) days' notice on either
side except that no such notice is required if the
termination of service is due to the sanction to the
post. You will hold or on return to duty of the
absentee in which place you may be engaged in which
case your service will be automatically terminable from
the date of expiry of the sanction or from the date of
former resumes his duty, as the case may be. Also no
such notice will be required if the termination of
your service is due to your mental physical incapacity
or to your removal or dismissal as a disciplinary
measure after compliance with the provision Clause-II
Article 311 of the Constitution of India.

4. You will not be eligible for any pension or any benefit under the Railway Provident Fund or Gratuity Rules or to any absentee allowances as admissible to temporary employees under the Rules in force from time to time during such temporary service.

5. You will be held responsible for the charges and care of Govt. money, goods, stores and all other properties, they may be entrusted to you.

6. You will be required to take an oath of allegiance or make an affirm for in the form indicated below:-

"I, _____ do swear solemnly affirm that I will be faithful and bear true allegiance to India and to the Constitution of India as by law established and that I will carry out the duties of my office loyally, honestly and with impartiality."

"So help me God".

Note: Conscientious subject to take oath may make a solemn affirmation in the prescribed form indicated above.

7. You will confirm to all rules and regulations applicable to your appointment.

8. In all matters not specifically provided for herein or in the recruitment rules, you will be governed by the provision of the Indian Railway Codes and other instant orders as amended/ issued from time to time.

9. You must be prepared to accept the offer of appointment as any of the Northeast Frontier Railway System. Although you are initially appointed for a particular district/division. You are liable to be transferred to any station on this Railway on the exigencies of service and you would definitely indicated in your acceptance that you will be abide by these conditions.

10. If you intend to take the appointments on these conditions please report to the undersigned personally on or before 15.10.95 but not earlier than failing which this offer letter will lapse and will not be renewed. Your pay will be commended from the date of your join duty at the office where you will be posted after you have been certified physically fit.

11. Quarters will be provided only if available and as guarantee can be ..

12. No traveling allowances will be granted for joining the post. A second class pass is enclosed to cover your journey.

13. Your appointment is also subject to production of SC/ST certificate are the authority be advised in the

- 8 -

enclosed specimen Form (this condition applies only to the Scheduled Caste/Scheduled Tribe candidates.)

14. You shall be liable for Military service in the Railway Engg. side/Territorial Army for a period of Seven years in Territorial Army Service and eight years in Territorial Army Reserves or for such periods as may be laid down in this from time to time.

15. Your seniority to the post will be determined in accordance with the merit petition awarded by the N.F. Railway Recruitment Board.

16. You will have to produce a certificate in support of your good conduct and character from a State Government Officer not below the rank of Dy. Commissioner, DS or MP/MLA.

17. On reporting to this office you are requested to submit the prescribed Railway Recruitment Board application Form duly filled in all respects which can be had from all important Railway Stations on payment of Rs. 2/- (0.50 misc. for SC/ST) and Refugee Certificate along with a copy of your recent passport and photographs and attached copies of certificate in support of your age and qualification.

18. While reporting as to this office you will have to submit proper release Order from your present employer if you are in service.

19. You will be required to deposit Rs. 24/- (Rupees twenty four only) as required recruitment Medical Examination while reporting to this office.

Encls 1/2 (half) act 2nd Class Pass No.

I accept the offer on the terms detailed above and declare that I shall abide by the conditions stipulated in para-7

For Chief Personnel Officer (Recd) /PLG.

Copy forwarded for information and necessary action to:

1. This has reference to his endorsement will please spare the staff in time stipulated in para as above.

Date:

for Chief Personnel Officer (Recd).

Abul
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Annexure-5

NORTHEAST FRONTIER RAILWAY

Office of the
Div. Rly. Manager (P),
Lumding, dated 28.11.95

No. E...../...../Med-Pt-II (Rectt.)

To : Shri Joydeb Ch. Das (as office),

Sub: Appointment as Chemists.

In terms of GM(P)/MLG's L/No. 227/122/7(Med) Pt. II, dated 21.11.95, you are hereby appointed as Asstt. Chemist on Pay Rs. 1320/- p.m. in scale Rs. 1320/- - 2040/- (RP) plus other usual allowances as admissible from time to time and posted under MS/IC/LMG vice Shri Gautam Chakraborty, Lab. Asstt./LMG who is under order or transfer to MG and directed to report the DMO/Pathology/MG for further duty.

This issues with the approval of competent authority.

Sr. DMO/Admin./Lumding,
N.F. Rly.

Copy forwarded for information and necessary action to:

- 1) MS/IC/LMG.
- 2) CAD/MLG
- 3) GM(P)/MLG in ref. to his letter cited above.
- 4) DMO/Pathology /LMG
- 5) Matron /IC/LMG.
- 6) DAO/LMG.
- 7) Bill & Estt. Sec. at office.
- 8) S/copy for P/case.

Sr. DMO/Admin./Lumding,
N.F. Rly.

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Annexure 6

NORTHEAST FRONTIER RAILWAY

Office of the
Div. Rly. Manager (P),
Lumding, dated 02.08.97

In terms of GM(P)/MLG's Office Order No.E/283/140/18 (Med.) dt. 17.1.97 communicated by MS/IC/Lumding vide his L.No. M/268/M4-8 Pt. III dtd. 23.4.97 the following promotion, transfer and posting order are issued to take with immediate effect.

1) Shri Jaydeb Das, Asstt. Chemist/LMG in scale Rs. 1320-2040/- under MS/IC/LMG is hereby transferred from Rly. Hospital/Lumding to APDJ and posted as Asstt. Chemist under CMS/APDJ on his existing pay and scale. He will be pleased below all the permanent and temporary staff on the date of his posting in the new unit.

3) Shri Lal Deo singh, Lab. Asstt./LMG in scale Rs. 975-1510/- under MS/IC/LMG is hereby promoted as Asstt. Chemist in scale Rs. 1320-2040/- and posted under MS/IC/LMG vice item No.1.

His pay on promotion is fixed at Rs. 1380/- in scale Rs. 1320-2040/- in reference to his substantive pay of Rs. 1330/- in scale Rs. 975-1540/- from the date of his assumption as Asstt. Chemist.

Since the transfer of item No.1 is arranged at his own request, he is not entitled to get transfer pass, TA allowance etc. as admissible in case of transfer on administrative ground.

This issues to the approval of the competent authority.

For DIP(P)/Lumding.
N.F. Rly.

No.0/2-A/Pt.III (Med.) dtd. 02.8.97.

Copy forwarded for information and necessary action to :-

1) MS/IC/LMG. (2) GM(P)/MLG- in reference to his letter cited above. He is requested to send a copy of the above office order to this office for record. (3) DMD/MLG (4) CMS/APDJ (5) DR/(P)/APDJ, (6) DAO/APDJ, (7) DAO/LMG. (8) DMO/Pathology/LMG. (9) Matron/IC/Lumding, (10) Bill & Estt. Sec. at office. (11) Staff concerned thro:-DMO/Pathology/LMG. (12) S/Copy for P/Cases.

for DIP (P)/Lumding.
N.F. Rly.

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ANNEXURE - 7

Division: 1 seniority list of non fortuitous service in the grade
Sr. No. division as on 1.4.99 (H.C. Controlled posts)
Criterion: Length of non fortuitous service in the grade

	Comm. unity	Stat. tion	Dt. of birth	Dt. of App. ointment	Dt. of pro- motion to the grade	Conf/Offg	Remarks		
	1	2	3	4	5	6	7	8	9
Radiographer Gr. I in scale Rs. 5500-9000/- (RP/97) Sanctioned- 1									
1.	S. P. Dhusia	UR	RPAN	01.01.49	17.10.75	01.03.93	Confd.		
1.	R. C. Dey	UR	APDJ	07.03.56	21.09.80	01.03.93	do		
1.	R. C. Das	UR	NBQ	30.12.45	23.07.65	27.05.82	do		
1.	K. Sonowal	ST	RPN	01.02.54	03.07.79	01.03.93	do		
1.	R. K. Singh	UR	NBQ	02.09.47	20.04.97 (77)	30.11.88	Confd.		
1.	Daydeb Das	UR	APDJ	05.01.70	28.11.95	28.11.95	Confd.		

(Contd:.... 2.)

1. 2. 3. 4. 5. 6. 7. 8. 9.

Lab. Asstt. in scale Rs. 3200 - 4900/- (RP/97) Sanctioned - 1

1. Open Narzary ST APDJ 01.11.74 30.07.97 30.07.97 Offg.

No. E/255/Pt.-II (MED)
Copy forwarded to :-

Dated: 03/10/2000

for Divi. Rly. Manager (P)
Alipurduar Jn.

1. GM(P)/MLG (MED)
2. CMS/APDJ
3. MS/IC/NBQ, RPAN
4. Convener/NFRME/APDJ
5. Secy./NFREU/APDJ
6. Staff concerned through respective subordinates incharges.

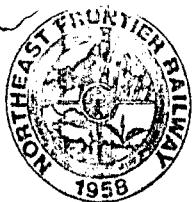
With 10 spare copies each
* They should submit representation if any regarding their position shown in the S/list within one month from the date of receipt of the seniority list, after which no representation will be entertained.

Lk2792k.

Alipur
Mouth
Bengal

for Divi. Railway Manager (P)
N. F. Railway/Alipurduar Jn.

NORTHEAST FRONTIER RAILWAY



Office of the
General Manager(P)
Maligaon, Guwahati - 781 011

No. E/74/CON/1(Med)

March 21, 2002.

To
Shri Jaydev Das,
Asst. Chemist
Under CMS/Alipurduar
NF Railway
Alipurduar.

(Through : Sr.DPO/Alipurduar.)

Sub : Show cause notice for proposed termination of services of
Shri Jaydev Das, Asstt. Chemist under CMS/Alipurduar Jn.

You have been appointed on NF Railway as Asstt Chemist (Medical Department), on being selected/empanelled by the RRB/Guwahati on the basis of your Application in response to the Employment Notice No.3/94, Category No.10, as advertised by the said RRB/Guwahati.

2. In the said Employment Notice No.3/94, issued by the RRB/Guwahati, against the Category No.10, for the post of Asstt. Chemist, educational qualification was laid down as "**Matriculation with Science and Diploma in Laboratory Technicians Course, from a recognized institute such as All India Institute of Hygiene and Public Health, 1 year's experience in Pathological or Biochemical Laboratory Science.**

3. While applying for the post of Asstt Chemist against the Employment Notice No.3/94, Category No.10 as advertised by the RRB/Guwahati, you had produced a Diploma Certificate in Medical Laboratory Technology, which had been issued by an Institute named, North Bengal Para Medical College, Alipurduar, West Bengal.

4. It has now been detected that the said North Bengal Para Medical Institute, Alipurduar, W.Bengal is neither a Govt. recognized institute nor of the standing of the institutes like All India Institute of Hygiene and Public Health, as mentioned in the Employment Notice. The North Bengal Para Medical College, Alipurduar, W.B is solely a private institute registered under the Registrar of Societies Act, Govt.of West Bengal. For Govt recognition of a Diploma, issued by any institute, the institute has to be affiliated with an accredited institution such as All India Institute of Hygiene and Public Health. Merely registration under the societies Act does not automatically mean that the institute is a Govt. recognized one, nor it also confers recognition on any institute.

5. Thus, **your very selection/empanelment for the post of Asstt. Chemist by the RRB/Guwahati, on the strength of a invalid Diploma Certificate which is not in conformity with requirement prescribed and advertised in the said Employment Notice No.3/94, Category No.10, has become irregular.**

(Contd to Page-2)

6. You are, therefore, advised to submit your explanation as to why your services will not be terminated in view of the facts detailed in the foregoing paragraphs. You may submit your explanation within 15 days from the date of issue of this letter.

7. Please acknowledge receipt.

Vug
26/3/02
(Shri PK SINGH)
DY.Chief Personnel Officer (HQ)
NF Railway, Maligaon.

*Allied
mDutts
Policewk*

To

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

(Through ~~proper~~ channel)

Sub : Show cause notice for propose termination of service.

Ref : Your show cause notice dtd. 21/03/2002 received by me on 28/03/2002.

Sir,

In response to the above, I beg to lay the following lines for your kind and sympathetic consideration to explain against the said show cause notice.

That Sir, in terms of employment notice No.3/94 I had applied for the post of Asstt. Chemist having the requisit qualification as per advertisement. The qualification prescribed in the said employment notice was as follows :

"Matriculation with Science and Diploma in Laboratory Technicians Course, from a recognized institute such as All India Institute of Hygiene and Public Health, 1 years experience in Pathological or Biochemical Laboratory science"

The responsibility to assess the recognition of the institution in true sense as per prescribed rule rests with the Railway Recruitment Board whose duty is to scrutinise the application along with the relevtent documents and accept/reject the application. The Railway Recruitment Board have found my application and document in order and as such call letter was issued to appear in the written test held. Being qualified in the written test I was appeared in the practical test and declared successful by the competent authority. on being successful in the practical test appeared before recruitment selection committee for Viva-Voce test where I could also

Contd.....2

: 2 :

came out successful and subsequently empaneled as Asstt. Chemist by the Railway Recruitment Board Guwahati. The Viva-Voce test was conducted by the Committee consisting of one Railway Medical Officer, One Personnel Branch Officer and Member Secretary/RRB/Guwahati have also checked my all original testimonials on the date of test. neither any of my documents were found forged nor were rejected at any stage. I was appointed as Asstt. Chemist under CMS/LMG on 28/11/95 on the strength of the above. I am surprising that how suddenly after a lapse of 6½ years of satisfactory and sincere service in the post the said show cause notice has been issued.

That Sir, I have been confirmed as Asstt. Chemist in Scale Rs.4500 - 7000/- (Present post) by GM/P/MLG on satisfactory completion of 5 years service and as such I have the right to hold the post being qualified in all respect in each stage.

That Sir, I am now 32 years of age and the termination of my service after 6½ years service without any misconduct on my part will effect my future carrier being over aged and thus it will be extreme hardship for me and for my family having wife, one son aged 5 years and widow mother.

I like to draw your kind attention in regard to recruitment of one craft teachers whose required technical qualification as "Diploma in Niddle work certificate from Lady Brabone Calcutta" but the candidate was empanelled on the strength of a certificate issued by a purely Private Institution of Guwahati (Maligaon Chariali). The case was detected by Vigilance even before the appointment. The candidate (Miss Munna Dey) was empenelled against the vacancy of Alipurduar Jn. Railway H.S. School whose panel was cancelled and subsequently she was given alternative appointment/appointment in Rly. H.S. School Siliguri by the N.F.Rly. Administration.

Contd.....3

: 3 :

At the end I request your honour to kindly consider my case in view of the reasons explained in the foregoing paragraphs for which my service is not terminable.

Your kind and sympathetic consideration will help the poor family from the harassing situation. Your favourable order will be highly appreciated if my appointment is considered as regular or considered any alternative appointment.

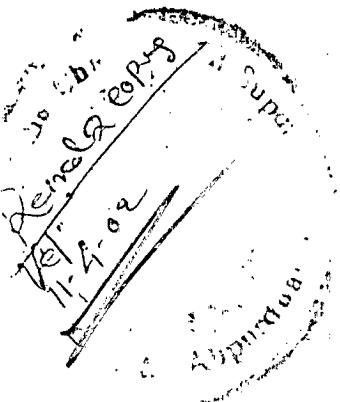
I shall remain ever greatful to you for your favourable order please.

Date :

Yours faithfully,

Jaydeb Das

(JAYDEB DAS)
Asstt. Chemist
Under CMS/APDJ



Refined
Minerals
Petroleum

N. E. RAILWAY

OFFICE OF THE
CHIEF MEDICAL SUPERINTENDENT
ALIPURDUAR JN.

No. H/SS/MED/JD/DAR

Dated: 01-03-04

To
Shri Joydeb Das,
Asstt. Chemist/Rly. Hospital,
Alipurduar Jn.Sub: Show Cause Notice for proposed termination of service of
Shri Joydeb Das, Asstt. Chemist under CMS/APD.J.

You have been appointed on N.E. Railway as Asstt. Chemist (Medical Department) on being selected/empANELLED by RRB/GHY on post of your application in response to the Employment Notice No. 3/94, Category No. 10 as advertised by the said RRB/GHY.

In the said Employment Notice No. 3/94, issued by the RRB/GHY against the category No. 10 for the post of Asstt. Chemist, educational qualification was laid down as "MATRICULATION WITH SCIENCE AND DIPLOMA IN LABORATORY TECHNICIAN COURSE FROM RECOGNISED INSTITUTE SUCH AS ALL INDIA INSTITUTE OF HYGIENE AND PUBLIC HEALTH AND 1 YEAR EXPERIENCE IN THE PATHOLOGICAL OR BIO-CHEMICAL LABORATORY SCIENCE".

3. While applying for the post of Asstt. Chemist against Employment Notice No. 3/94, Category No. 10 as advertised by RRB/GHY, you had produced a diploma certificate in Medical Laboratory Technology which had been issued by an Institute named "North Bengal Para Medical College, Alipurduar, West Bengal".

4. It has now been detected, with the said North Bengal Para Medical Institute/Alipurduar, West Bengal, is neither a Govt. recognized Institute nor of a standing of the Institute like All India Institute of Hygiene and Public Health as mentioned in the Employment Notice. The North Bengal Para Medical College, Alipurduar, West Bengal is solely a private Institute registered under the Registrar of Society Act, Govt. of West Bengal. For Government recognition of a diploma issued by another Institute, the Institute as public affiliated with a accredited such as All India Institute of Hygiene and Public Health, ~~which~~ recognition under the Societies act does not automatically mean that the Institute is a government recognized one, nor it also confers recognition of another Institute.

5. Thus, your selection/empANELMENT for the post of Asstt. Chemist by the RRB/GHY on the strength of a invalid diploma certificate which is not in conformity with requirement prescribed and advertised in the said Employment Notice No. 3/94, Category No. 10 has become irregular ab initio.

6. You are continuing as a temporary employee and your services have not been confirmed by specific order from Railway Administration. Services of temporary employees are to be terminated in terms of Railway Board's letter No. E(D&A)92 GS4-3 dated 20/07/93 in the cases of servants not having the requisite qualifications for appointment.

Page-2.

7. You are, therefore, advised to submit your explanation as to why your service will not be terminated in view of the facts detailed in the foregoing paragraph. You may submit your explanation within 15 days from the date of issue of this letter. If no explanation is received within the stipulated time, it will be presumed you have accepted the Notice.

8. Please acknowledge receipt.

M. B. M.
2/3/61
Sr. Divisional Medical Officer
N.I.Rly. Alipurduar Jn.
g. *प्राची विभागीय*
S. D. M. O.
g. *प्राची विभागीय*

Received on 3/3/61
For date 3/3/61

*Third
print
Power*

1. Date and Month of Birth : 10/01/1961
2. Name : Alipurkaran Jan

Sir,

With reference to the proposed termination notice of my services, I beg to state that I am the holder of the following qualifications:

1. Matriculation with science and Diploma in Laboratory Technician (Chemical) from a recognized institute such as All India Institute of Hygiene and Public Health, 1 year experience in pathological or Biochemical Laboratory science.

In response to the above, I beg to lay the following few lines as my defense again, your how cause notice and for your kind and sympathetic consideration please.

That sir, in terms of employment notice No. 393, category No. 10 I had applied for the post of Asst. Chemist having the requisite qualification as per advertisement. The qualification prescribed in the said employment notice was as follows:

"Matriculation with science and Diploma in Laboratory Technician (Chemical) from a recognized institute such as All India Institute of Hygiene and Public Health, 1 year experience in pathological or Biochemical Laboratory science."

That sir, the responsibility to assess the recognition of the Institution in question & to per-
prescribed rules rests with the RRB. The is to scrutinize the application along with the relevant documents and accept/reject application. The RRB & CRB have found my application & documents in order and hence such call letter was issued in my favor to appear in the written test held at CRB. Being qualified in my practical test, I appeared for the practical test and declared successful. Hereafter I was called for interview. Before one Medical Officer, One Personnel Branch Officer & Member Secretary, RRB CRB. After showing my original certificates, I came out successful in this test too, and was in the number of 10 persons in the final list of RRB.

That sir, in all the above 3 cases of the test, my documents were found to be correct, with desired qualification and hence it was not rejected. I was appointed as Asst. Chemist under RRB/CRB on 28/11/1995 on the strength of the above. I am surprised that how suddenly after a span of 5 years of satisfactory and sincere service in the post of Asst. Chemist I am being shown cause.

That sir, my submission against para 6 of the said termination notice is by this I am only been confirmed in Rly. Service as Asst. Chemist which is evident from the seniority list published under DcM/Pr. MPP's No. 10/95 PII (MHD) dated 03-10-2000 (photo copy enclosed).

That sir, Now my age is about 34 years and hence I may be treated as over aged. The termination of service at this stage after 8 1/2 years continuous services without any misconduct on my part, will ruin me and bring extreme hardship for my family members having wife and a 7 years old son.

Besides, I would like to draw your kind attention in regard to a recruitment of a staff Teacher in this railway whose qualification was "Biplobanu Nanda's Chaitanya Bhawan, Brabourne College Cuttack". But the candidate was appointed on the strength of a certificate issued by a purely private institution of Cuttack (Orissa). The case was detected by the Railway Inspector even before the appointment of the candidate (Miss Munna Dey). The candidate was appointed in the Rly. H.S. School-APDJ as Teacher but subsequently she was appointed in alternative job in the Rly. administration as general school teacher in Rly. H.S. School Sahiarpur by on him, intent, criminal or a natural junction.

At the end I would request your Honor for sympathetic consideration of my case. I am a innocent family. An alternative name of my family please be attached to me if considered fit. We are in the art of 10 years of hardship I shall ever remain grateful to you.

DY. Nanda
Dated 16 March 2004

Y
J. S. Dey
16/3/2004

Asst. Chemist / sens.

16/3/2004

Alipurkaran Jan
16/3/2004

To

The Sr. Divisional Medical Officer,
N.E. Railway, Alipurdur Jn.

Sir,

Subs Show Cause Notice for proposed termination of service of Shri Jaydev Das, Asstt. Chemist under CMS/AFD.

Refa Your L/No. H/SS/Med/JD/DAR DT. 01.03.2004.

In response to the above, I beg to lay the following few lines as my defense against your show cause notice and for your kind and sympathetic consideration please.

That sir, in terms of employment notice No. 3/94 category No. 10, I had applied for the post of Asstt. Chemist having the requisite qualification as per advertisement. The qualification prescribed in the said employment notice was as follows:

"Matriculation with science and Diploma in laboratory Technician Course from a recognised institute such as All India Institute of Hygiene and Public Health, 1 years experience in pathological or Biochemical Laboratory science."

That sir, the responsibility to assess the recognition of the Institution in true sense as per prescribed rules rests with the RRB who is to scrutinise the application along with the relevant documents and accept/reject application. The RRB/GHY have found my application & documents in order and as such call letter was issued in my favour to appear in the written test held at GHY. Being qualified in the written test, I appeared for the practical test and declared successful. Thereafter I was called for viva voce test where one Medical Officer, One Personnel Branch Officer & Member Secretary RRB/GHY scrutinised my original certificates. I came out successful in this test too, and was in the number one position in the merit list of RRB.

That sir, in all the above stages of the tests my documents were found in conformity with desired qualification and hence, it was not rejected. I was appointed as Asstt. Chemist under ACMS/LMG on 28.11.1995 on the strength of the above. I am surprised that how suddenly after a lapse of 8 years of satisfactory and sincere service in post of Asstt. Chemist I am being show caused.

That sir, my submission against para 6 of the said termination notice is that I have already been confirmed in Rly. Service as Asstt. Chemist which is evident from

- 12 -

the seniority list published under DRM(P) APDF's No. E/225-Pt.II (MED) Dated 03.10.2000 (Photo copy enclosed).

That sir, now my age is about 34 years and hence I may be treated as over staged. The termination of service at this stage after 8 1/2 years continuous service without any misconduct on my part will ruin me and bring extreme hardship for my family members having wife and a 7 years old son.

Besides, I would like to draw your kind attention in regard to a recruitment of one craft Teacher in this railway whose required qualification was "Diploma in Needle work certificate from Lady Brabone College, Calcutta". But the candidate was empanelled on the strength of a certificate issued by a pulley private institution of Guwahati (Chariali). The case was detected by the vigilance organisation even before the appointment of the candidate (Miss Munna Dey). The candidate was appointed in the Railway H.S. School/APDJ as Teacher but subsequently she was appointed in alternative job by the Rly administration as general school teacher teacher in Rly H.S. School Siliguri purely on humanitarian ground applying natural justice.

At the end I would request your honour for sympathetic consideration of my case because a innocent family. An alternative arrangement may please be arranged for me if considered otherwise for this act of your kindness. I shall be ever remain grateful to you.

Das As above

Dated: 16th March 2004.

Joydeb Das,
Asstt.Chemist/CMS/APDJ.

*Khurshid
Munna
Dewant*

To
The C.M.C.,
P.T. Railway Alipurduar Jr. Ry. Hospital,
Alipurduar Jr.

(~~Entry in Proper Channel~~)

Sir,

Re:- Original Application No. 99/04 before Hon'ble
Administrative Tribunal, Guwahati Bench

With due regards I beg to state that I have been served
a Show cause notice under your NO. H/SS/MED/JD/Par. dt. 01/03/04
as to why my services will not be terminated on the ground that
my Diploma Certificate of Laboratory Certificate is not according
to required qualification for the post of Asstt. Chemist.

Sir, on application of termination of service, I sought
Legal remedies before the Central Administrative Tribunal, Guwahati
Bench on 27-04-04 and the Hon'ble Tribunal vide order dated 27-04-04
admitted my application and issue notice to the parties. List on
28-05-04 for orders. Meanwhile, status quo as on 27-04-04 shall
be maintained. Copy of the said order duly attested is enclosed
for your perusal please.

Sir, I was on sanctioned 5 days LAF on & from 8-3-2004
and thereafter I extended leave by an application due to my
wife's illness. To-day I reported for duty.

Enclo. : One.

Dated : 30-04-2004.

Yours faithfully,

JAYDEB DAS

(JAYDEB DAS)

Received on
30-04-04
At 10/15 AM/04

Shri
Ranu
P. DAS

NORTHEAST FRONTIER RAILWAY.

OFFICE OF THE
CHIEF MEDICAL SUPERINTENDENT,
ALIPURDUAR JN.

NO. H/SS/Med/JD/DAR

Date: 22.04.2004.

To

Shri Joydeb Das,
Asstt. Chemist Rly. Hospital,
Alipurduar Junction.
Rly Qrs.No. 178/B,
Arabinda Colony,
P.O. Alipurduar Jn.
Dist: Jalpaiguri [WB]

Sub: Termination from Railway service.

Ref: Your representation dated 16.03.04 in response to this
Cllce Show Cause Notice of even No. dt., 01.03.04.

Your above cited representation has not been considered satisfactory. You had secured employment in this railway on the strength of a Certificate issued by North Bengal Para -Medical Institut/Alipurduar which is neither a Govt. recognized Institute nor an Institute like All India Institute of Hygiene and Public Health as was required. Your diploma certificate in medical laboratory Technology was not fulfilling the requirements for appointment to the post of Asstt. Chemist against employment Notice No. 3/94 category No.10 advertised by Railway Recruitment Board, Guwahati. Under the circumstances, your service from the post of Assistant Chemist of Northeast Frontier Railway/Alipurduar Junction is TERMINATED with immediate effect for the reasons stated above.

[Dr. M. Khakialary]
Sr. Divl. Medical Officer,
N.F.Railway, Alipurduar Jn.

See notes
P.M.

To

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

2. The Divisional Railway Manager,
N.F. Railway, Alipurduar Junction,

3. The Chief Personnel Officer (Recruitment),
N.F. Railway, Maligaon, Guwahati-11.

4. The Senior Divisional Medical Officer,
N.F. Railway, Alipurduar Junction.

Sub : Termination of my service.

Sir,

Most Respectfully, the undersigned beg to state the following for your kind and sympathetic consideration.

1. That pursuant to my appointment after due selection, I was appointed as an Assistant Chemist by an order dated 28.11.95. I was initially posted at Lumding and thereafter in the year 1997, I was transferred to Alipurduar.

2. That after having rendered almost eight and half years of service, I was shocked to receive a show cause notice dated 1.3.2004 for proposed termination of my service on the allegations that the institution from which I obtained my diploma in Laboratory Technology was neither a Government Recognised institute nor an institute of the standing of institute like All India Institute of Hygiene and Public Health.

3. That I submitted my reply to the abovenoted show cause stating inter alia that my appointment was made after due scrutiny of my certificates in original after I had secured the first position in the merit list of the selection. Further, I had also in the meantime served for eight and half years in the Organisation and as such my service was not terminable.

4. That being aggrieved by the manner in which the show cause notice was issued, I was constrained to approach the Hon'ble Central Administrative Tribunal by filing the original application No. 89/2004 praying inter alia for setting aside the show cause notice dated 1.3.2004.

5. That the Hon'ble Tribunal by an order dated 27.4.2004 was pleased to direct that the status quo with regard to my service shall be maintained. By the said order, my application was admitted and the next date was fixed on 28.5.2004.

6. That pursuant to the order passed by the Hon'ble Tribunal, I went to office of the Chief Medical Officer, N.F. Railway, Alipurduar Junction and submitted a copy of the order passed by the Hon'ble Tribunal alongwith a representation and with the

information that I was reporting back to duty. The said representation alongwith the copy of order passed by the Hon'ble Tribunal were received by the office of Chief Medical Officer on 30.4.2004 at 10:15 A.M.

7. That inspite of the submission of the order of the Hon'ble Tribunal, I was not allowed to join back on duty and I could learn that later in the day i.e. on 30.4.2004 that an order purportedly issued on 22.4.2004 by the Sr. Divisional Medical Officer, N.F. Railway, Alipurduar Junction was hanged in the wall of my residential quarter which was under lock and key during the day. The said order was apparently issued on a back date. In this context, it is pertinent to note that when I left for my office in the morning of 30.4.2004 the said order was not hanging in the wall of my residential quarter. I was also served with a copy of the said order at around 3:30 P.M. on 30.4.2004.

8. That I had also sent copies of the order of the Hon'ble Tribunal through registered post to your Honour.

9. That the order of termination apart from being illegal and arbitrary has been issued in violation of the order passed by the Hon'ble Tribunal whereby a direction was given to maintain status quo with regard to my service. The said order of termination is also contemptuous. The order of termination was served on me on 30.4.2004 and apparently the same was issued on back date to circumvent the order of the Hon'ble Tribunal.

10. That under these circumstances, I have been constrained to approach your Honour by submitting this representation praying that I may be allowed to continue in office in terms of the order of the Hon'ble Tribunal dated 30.4.2004.

It is therefore prayed that Your Honour will be pleased to issue necessary orders within 15 days allowing me to continue in my service of Assistant Chemist in the Railway Hospital, Alipurduar Junction and the order of termination purportedly issued on 22.4.2004 (served on me on 30.4.2004) be cancelled.

Encl: 1. Copy of the order dated 27.4.2004 passed by the Hon'ble Tribunal.
2. Copy of the order of termination served on me 30.4.2004.

Yours faithfully,
Jaydeb Das

(Jaydeb Das)
Asstt. Chemist Rly. Hospital,
Alipurduar Junction.

Information only
Tinu Dasi
1/1/04

Hand
Arun

Q1/1/04
RECEIVED
1/1/04

Regd. with A.D. ৫
ANNEXURE 15

H. F. RATHI.

10.5/2002/Ch/99/04/GM.

Office of the
Chief Medical Supdt.
Alipurduar Junction.

Dated, 25.5.2004.

To
Shri Jaydeb Das,
Asstt. Chemist Rly. Hospital,
Alipurduar Junction,
Rly. Dr. No. 178/B, Arabinda Colony,
Rly. Dr. No. 178/B, Arabinda Colony, Jalpaiguri (West Bengal).
P.O. Alipurduar Junction. Jalpaiguri (West Bengal).

Sub: Joining to duty.

Since your service stands terminated, your appeal for
joining to duty does not arise.

This is for your information please.

B.R.
Medical Supdt/AFD/25.5.04
for C.M.S./AFD/J.

B.R.
Medical Supdt/AFD/25.5.04
for C.M.S./AFD/J.

RECORDED WITH A.D.

54

H. E. RAILWAY.

No. H/MT/Med/II & III

Office of the
Chief Medical Sup't.
Alipunduar Junction.

To
Sri Joydeb Das,
Assistant Chemist,
Railway Hospital, Alipunduar Junction,
Rly. G.R. No. 170/B, Arabinda colony,
P.O. Alipunduar Junction,
Distt. Jalpaiguri,
(West Bengal.)

Dated, 10.6.2004.

Sub: Vacant of Railway Quarter.

Since your service has been terminated w.e.f.
22.4.04, please vacate the railway quarter allotted
to you immediately.

B. B. S.
Medical Sup't (Interim)
Alipunduar Junction.

*Received
Hand
Deliver*

27 APR 2004 12

गुवाहाटी न्यायालय
Guwahati Bench

65

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

O.A. No. 99 of 2004

Jaydeb Das ... Applicant

- Versus -

Union of India & Ors ... Respondents

I N D E X

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Filed by :

Mrinmay Datta
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

D.A. No. 99 of 2004

BETWEEN

Shri Jaydeb Das, son of Late K.C.
Das, Assistant Chemist, N.F.
Railway, Alipurduar Junction Railway
Hospital.

...Applicant

AND

1. The Union of India represented by General Manager, N.F. Railway, Maligaon.
2. The Divisional Railway Manager, Alipurduar Junction, N.F. Railway, Maligaon, Guwahati-11.
3. The Senior Divisional Medical Officer, N.F. Railway, Alipurduar Junction.
4. The Railway Recruitment Board, N.F. Railway, Guwahati represented by its Chairman.
5. The Chief Personnel Officer (Recruitment), N.F. Railway, Maligaon, Guwahati-11.

... Respondents

6
Mimmy Datta
Advocate

Jaydeb Das
Finger Print
T-7

DETAILS OF APPLICATION

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

Show Cause notice dated 1.3.2004 issued against the Applicant by the Respondent No.3, whereby after having rendered almost eight and half years of service, the Applicant has been intimated that institution from which the Applicant obtained his Diploma in Medical Laboratory Technology is not an institution which conforms with the requirement prescribed in the Employment Notice pursuant to which the Applicant was appointed and as such selection of the Applicant to the post of Assistant Chemist has become irregular ab initio. The Applicant is also apprehending termination from his service without being given the opportunity to defend himself in a regular proceeding to which he is entitled in law. In fact, the Applicant has reliably learnt that the order of termination is going to be issued to the Applicant very soon.

2. JURISDICTION OF THE TRIBUNAL :-

That the Applicant is an employee of the N.F. Railway and is currently posted at the Alipurduar Junction. This Hon'ble Tribunal has the jurisdiction to address the redressal of the grievances of the Applicant.

3. LIMITATION :-

That the Applicant humbly submits that the instant application has been filed well within the period of limitation and as such it is not barred by the laws of Limitation.

Jandek
Ses

4. FACTS OF THE CASE :-

4.1 That the Applicant after completing his Higher Secondary Education in the Science Stream, obtained a diploma in Medical Laboratory Technology Course in the year 1993 from North Bengal Para Medical College, Alipurduar. The Applicant was placed in the First Class in the examination held for Diploma Course.

Copies of the marksheets and Diploma Certificate issued to the Applicant are annexed as ANNEXURE-1 and 1A respectively.

4.2 That in the year 1994, an Employment Notice was issued by the Railway Recruitment Board for appointment of Assistant Chemist in the N.F. Railway. Inspite of best efforts, the Applicant could not obtain a copy of the Employment Notice and therefore prays that the respondents may be directed to produce the same as it may be a documents needing consideration of this Hon'ble Tribunal for deciding the real issue in controversy between the parties.

4.3 That the Applicant being interested in participating in the selection for the post of Assistant Chemist as advertised in the Employment Notice published in the year 1994, applied for the said post by annexing all the certificates sought for by the Railway Authorities.

4.4 That the authorities on being satisfied with the application submitted by the Applicant, asked the Applicant to appear in the selection for the post of

Assistant Chemist by issuing of call letter/admit card for written examination, on 9.4.95.

A copy of the admit card is annexed as ANNEXURE-2

4.5 That thereafter, the authorities on finding the Applicant to have emerged successful in the written examination asked the Applicant to appear at the practical and thereafter by admit card/call letter dated 9.6.95 asked the Applicant to appear in the viva-voce on 17.7.95.

A copy of the admit card dated 9.6.95 is annexed as ANNEXURE-3

4.6 That the Applicant participated in the selection and all through i.e. (in the written test, practical and the viva-voce) did exceedingly well. The Applicant was positioned at No.1 in the merit list. Accordingly, the Applicant was offered the post of Assistant Chemist by a communication dated 27.9.95. By the said communication it was intimated that the offer of the post was being made to the Applicant subject to the Applicant passing the prescribed medical examination by an authorised medical officer of any of the Indian Railways and on production of the Applicant's original certificates in support of his qualification and age etc.

A copy of the communication dated 27.9.95 is annexed as ANNEXURE-4

4.7 That thereafter on finding the Applicant

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medically fit and after perusal of the original certificates of the Applicant, the Applicant was appointed as Assistant Chemist and was posted at Lumding by an order dated 28.11.95. The said order dated 28.11.95 was issued in terms of the order of the General Manager (Personnel) dated 24.11.95.

A copy of the order dated 28.11.95 is annexed as ANNEXURE-5.

4.8 That accordingly the Applicant joined his duties and was performing his duties to the satisfaction of all concerned. The authorities were pleased with the duties performed by the Applicant and to the knowledge of the Applicant his performance was all through rated as outstanding. The service record of the Applicant is without any blemish.

4.9 That by an order 2.5.97, the Applicant was transferred to Alipurduar as Assistant Chemist on his existing pay and scales. The said transfer was made at the request of the Applicant himself.

A copy of the order dated 2.5.97 is annexed as ANNEXURE-6.

4.10 That the Applicant was performing his duties at Alipurduar also to the satisfaction of all concerned and to the knowledge of the Applicant, there was never any complaint from any quarter with regard to the service rendered by the Applicant. To the knowledge of

the Applicant, the Applicant's performance was rated as outstanding although.

4.11 That in this context, it is pertinent to mention that the Applicant was confirmed in service by the authorities and in due time and to support his contention, the Applicant is annexing provisional seniority list dated 3.10.2000.

A copy of the seniority list dated 3.10.2000 is annexed as ANNEXURE-2

4.12 That during his service career of almost eight and half years, the Applicant was nominated to undergo various training programmes and the Applicant successfully participated in the said training programmes. The Applicant craves the leave of this Hon'ble Court to produce copies of such certificates at the time of hearing if so directed by this Hon'ble Court.

4.13 That to the utter shock and surprise of the Applicant, the Applicant was issued with a show cause notice on 21.3.2002. By the said show cause, the Applicant was intimated that the institute from which the Applicant obtained his Diploma was not an institute similar to All India Institute of Hygiene and Public Health which was shown as one of the recognised institutes in the Employment Notice No. 3/94, pursuant to which selections were held and the Applicant was selected and as such his employment had become irregular.

A copy of the show cause dated 21.3.2002 is annexed as ANNEXURE-8

4.14 That the Applicant submitted his reply to the show cause dated 21.3.2002. In the said reply, the Applicant submitted that after going through the Employment Notice, the Applicant applied for the post of Assistant chemist and while submitting his application the relevant documents were furnished. The documents/certificates of the Applicant were checked in original and on being found that the said certificates and documents were satisfactory and authentic, the Applicant was duly selected. The Applicant submitted that it was the responsibility and duty of the authorities to scrutinise the documents and certificates and to assess whether the institution from which the Applicant had received his Diploma measured upto the required standards of the authorities. Under these circumstance, when the Applicant was appointed after completion of all the necessary formalities and when the Applicant had rendered almost six and half years of satisfactory service, it was surprising as to how the show cause notice could be issued to the Applicant. The Applicant prayed before the authorities for consideration of his case in the light of the circumstance mentioned in the reply which rendered his service regular and not terminable.

A copy of the reply submitted by the Applicant is annexed as ANNEXURE-9

4.15 That thereafter pursuant to the reply of the Applicant to the show cause dated 21.3.2002, the Applicant did not receive any communication with regard to the said show cause notice dated 21.3.2002. Presumably, the matter was closed by the authorities.

4.16 That after lapse of two more years, again by a communication dated 1.3.2004, the Applicant has been issued with a show cause notice containing the very same allegations that were levelled against the Applicant. The said show cause alleged that the Applicant was continuing as temporary employee and since the institute from which the Applicant has obtained his Diploma in Laboratory Technology was allegedly not an institute of the standing of the institute like All India Institute of Hygiene and Public Health nor a Government recognised institute, the appointment of the Applicant has become irregular.

A copy of the show cause dated 1.3.2004 is annexed as ANNEXURE-10

4.17 That the Applicant submitted his reply to the show cause and in the said reply the Applicant submitted that the Applicant was appointed by the authorities after scrutiny of all the certificates submitted by the Applicant. The Applicant also obtained the first position in the merit list in the selection held by the authorities. It was further submitted that it was the responsibility of the authorities to assess whether any institution was upto the requirement as sought for by the authorities. The Applicant further

submitted that he had rendered almost eight and half years of service without any complaint from any quarter and under these circumstances and also since the services of the Applicant had been confirmed, it was surprising how a show cause was being issued to the Applicant with the allegations that have been sought to be levelled.

A copy of the reply to the show cause dated 1.3.2004 is annexed as ANNEXURE-II

4.18 That the Applicant has further reliably learnt that the authorities are contemplating to issue an order of termination in a day or two. As such also the Applicant is aggrieved inasmuch as the order of termination which is going to be issued to the Applicant is being passed by flouting the mandatory norms for issuing such an order of termination.

4.19 That the Applicant has been constrained to approach this Hon'ble Tribunal challenging the show cause notice dated 1.3.2004 which is arbitrary vexatious and highhanded. Further, the Applicant is under the threat of receiving an order of termination in a day or two. In fact, as stated earlier, the Applicant has reliably learnt of such a move being afoot.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :-

5.1 That the Applicant applied for the post of Assistant Chemist pursuant to a Employment Notice No.3/94. The Applicant submitted the necessary

Copy to be sent to
Tatyasaheb

certificates and on being satisfied with the application submitted by the Applicant, the authorities asked the Applicant to sit in the selection process. The Applicant came out of the selection process with flying colours and was ranked No.1 in the merit list. Thereafter, on scrutiny the original certificates of the Applicant by the authorities, and after the authorities had satisfied themselves, the Applicant was appointed as Assistant Chemist. Thereafter, the Applicant has rendered almost eight and half years of continuous service without any blemish. Under these circumstances, the allegations levelled against the Applicant are without any basis and as such the allegation levelled against the Applicant are liable to be dismissed.

5.2 The Applicant humbly submits that in the show cause the relevant portion of the Employment Notice pursuant to which the Applicant applied for the post of Assistant Chemist has been quoted as follows:

" Matriculation with Science and Diploma in Laboratory Technicians Course such as All India Institute of Hygiene and Public Health and 1 year experience in the Pathological or Bio-chemical Laboratory Science".

Under these circumstances from the relevant portion of the Employment Notice which has been sought to be reproduced in the show cause, it can be seen that All India Institute of Hygiene and Public Health was shown as one of the recognised institutes. However, what form of recognition and by what authority the said

recognition was to be given to an institute rendering diploma course in Laboratory Technology or Technician is not specific. In the paragraph 4 of show cause, it has been alleged that the North Bengal Para Medical College Alipurduar is not a Government Recognised one and as such the appointment of the Applicant was irregular as the Applicant obtained his diploma from North Bengal para Medical College, Alipurduar. From the perusal of the relevant portion of the Employment Notice as has been sought to be reproduced in the show cause, and the paragraph 4 of the show cause it is clear that the authorities are arbitrarily trying to build up a case against the Applicant by adding further specification to the educational qualification requirement that was sought for in the Employment Notice. As such also the allegations that have been levelled against the Applicant have no basis whatsoever and makes the show cause notice dated 1.3.2004 liable to be set aside and quashed.

5.3 That the Applicant was also issued with another show cause in the year 2002 and the Applicant submitted his reply to the said show cause. Thereafter no action was initiated by the authorities. However, a new show cause has been issued and as such it has to be presumed that the reply of the Applicant to the earlier show cause had been accepted and the matter had been closed and once the matter has been closed the same matter cannot be reopened again by issuing another show cause with the same allegations.

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5.4 That the Applicant is not guilty of having committed any irregularity or illegality. The Applicant submitted an authentic certificate before the authorities and the authorities on being satisfied appointed the Applicant. The Applicant in his reply to the show cause has nowhere admitted that he is guilty. And as such assuming but not admitting that the show cause notice itself is not liable to be set aside and quashed, the Applicant is entitled to a fair proceeding where the Applicant can defend himself. Such a fair proceeding can only satisfy the mandate of law. In the instant case, the show cause issued against the Applicant does not contain any statement of allegations nor the documents on which the authorities want to rely to substantiate the allegations against the Applicant. Neither any list of witness has been furnished. The Applicant as he has reliably learnt that the authorities are going to issue an order of termination to the Applicant in a day or two states that such an order of termination is arbitrary and violative of all the principles of natural justice and norms of service of jurisprudence. As such the Applicant is entitled to relief from this Hon'ble Court and the authorities may be directed not to issue any order of termination against the Applicant without following the due process laid down by law.

5.5. That the Applicant humbly submits that the Applicant has reliably learnt that an order of termination is going to be issued to the Applicant in a day or two and as such unless, the Applicant is

protected by providing interim relief as prayed for it would cause irreparable loss and injury to the Applicant.

6. DETAILS OF REMEDIES EXHAUSTED :

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

Tribal Court

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

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

8. RELIEFS SOUGHT FOR :

On the facts, circumstances and premises aforesaid, the Applicant prays for the following reliefs :

8.1 Set aside and quash the show cause dated 1.3.2004 issued to the Applicant by the Senior Divisional Medical Officer, N.F. Railway, Alipurduar Junction (Annexure-10, page).

8.2 Direct the authorities not to terminate the service of the Applicant without following the procedure laid down by law.

8.3 Direct the authorities to allow the Applicant to continue in service in the post of Assistant Chemist.

8.4 Pass such other order/orders as this Hon'ble Tribunal may deem fit and proper.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, Your Lordships may be pleased to direct the authorities not to terminate the service of the Applicant and stay further proceeding pursuant to the show cause dated 1.3.2004 (Annexure-10, page).

Order
T.O.

10.

The Application is filed through Advocate

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

- (i) I.P.O. No. : *JG 389082*
- (ii) Date : *21.4.2004*
- (iii) Payable at : *Guwahati*

12. LIST OF ENCLOSURES :

As stated in the Index.

... Verification

VERIFICATION

I, Shri Jaydeb Das, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1 to 4 including all the sub-paragraphs to the paragraph 4 i.e. 4.1 to 4.19 are true to my knowledge ; those made in paragraph 5 are true to my knowledge as per legal advice and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 26th day of April 2004 at Guwahati.

Jaydeb Das

SI. No. 00256

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ANNEXURE - 1

North Bengal Para Medical



REGISTERED UNDER GOVERNMENT

OF WEST BENGAL

GOVT. REGD. NO. S/62708

ALIPURDUAR, JALRAIGURI

NORTH BENGAL

COLLEGE



COLLEGE

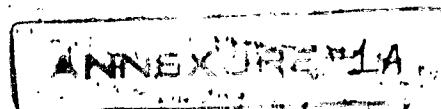
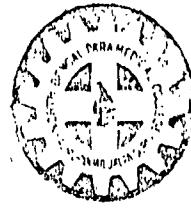
This is to Certify that Shri/Smt Jaydeb Das
has duly Passed the Final Examination of Diploma in Medical
Laboratory Technology Course, held in the month of May 1993
He/She was placed in the First Class.

During the period of training his/her behaviour & conduct was Good.

Hand
written
paper

Director of Studies

Q. Hash
Principal



NORTH BENGAL PARA MEDICAL COLLEGE

REGISTERED UNDER GOVT. OF WEST BENGAL WITH REG. NO. S/62708.

ALIPURDUAR, JALPAIGURI.

FINAL DMLT EXAMINATION

SESSION 1992-93

The following is the statement of marks obtained by Jyoti Das

Holl. MLT No. 010 Regd. No. 0037

SUBJECTS	FULL MARKS	PASS MARKS	MARKS OBTAINED	RESULT
FRACTICAL HAEMATOLOGY	100	50	81	
FRACTICAL MICROBIOLOGY	100	50	71	
FRACTICAL PARASITOLOGY	100	50	70	
FRACTICAL HISTOPATHOLOGY	100	50	73	
FRACTICAL BIO-CHEMISTRY	100	50	75	
THEORETICAL	250	100	175	
VIVA-VOCE	100	50	73	
INTERNAL	100	50	72	
Laboratory Work Book	50	25	43	
GRAND TOTAL	1000	475	733	

Attest. Minimum Marks required for Pass is 40%. 50% to 69% is considered to be Second Class.

70% and above is considered to be First Class.

Dr. K. N. Choudhury
M.D (H.H.M.A.D.P)
(Dental Specialist)
Director of Studies

Principal

Attest.
H. H. M. A. D. P.

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ANNEXURE - 2

RAILWAY RECRUITMENT BOARD: GUWAHATI
(Under Certificate of Posting)

NO. R.R.B/G/41/10

STATION ROAD,
GUWAHATI-78100
DATE: 9 -

THIS IS YOUR CALL LETTER/ADMIT CARD FOR WRITTEN EXAMINATION

To, Shri/Smt. Jayadeb Das.

Photograph

Your Roll Number is 840020



You will not be admitted to this written examination Room/Hall without this call Letter/Admit Card and does not itself give any entitlement to selection. Your candidature has been accepted provisionally and is subject to the fulfillment of all conditions as laid down in the applicable Employment Notice. If you do not fulfill the condition, IGNORE this call letter/Admit card and do not appear.

RECRUITMENT SELECTION FOR THE POST OF Asstt. Chemist IN SCALE
Rs. 1320-2040/- UNDER EMPLOYMENT NOTICE NO.3/94 CATEGORY NO.10
ON THE NORTH EAST FRONTIER RAILWAY.

1. You are hereby requested to present yourself at the written examination as per programme given below:-

DATE	TIME	PLACE OF THE WRITTEN EXAMINATION
9-4-95	from 13.30 hrs.	ASSAM RAILWAY V.S. SCHOOL, PAIDAMAR NEAR GUY RLY. STATION, GUWAHATI PIN-781001 ASSAM

Only the successful candidates in the written examination will be called for the viva voce test.

GBC

2. You are to defray your own travelling expenses. (for UR/candidates)

3. Approaching the Chairman/RRB/Guwaahati and other officials of R.R.B/Guwaahati directly or indirectly by a candidate or any body on his behalf requesting undue consideration for the recruitment will render a candidate liable for disqualification.

4. Only the candidates and the persons engaged in conducting the examination will be allowed into the examination premises. Strict discipline and silence must be maintained in the examination Hall/rooms. Appropriate action will be taken in case of those adopting unfair means in the examination, etc.

5. FOR SC/ST CANDIDATES ONLY:- ON PRODUCTION OF THIS CARD YOU ARE ENTITLED TO TRAVEL FREE BY RLY. IN SECOND CLASS FROM (STN) TO GUWAHATI (CTN) AND BACK. This pass is available upto 13.4.1995.
(Authority:- RLY. DD'S L/No.E(NG)II-84/RSC/122 dtd. 23-11-84)

for Chairman
Railway Recruitment Board: Guwaahati.

Attest
R. D. Bhattacharya

RAILWAY RECRUITMENT BOARD: GUWAHATI
(Under Certificate of posting)

N.C. No. R.R.C.Y. 41/10

Station Road
Guwahati-781001
Date: 9/6/95

This is your Admit Card/Call Letter for you
T.
Sri. M. Jayadeb Das.

Y. No. Regd. No. is

840020



You will not be admitted for the viva-voce test without this call letter/admit card. This call letter however does not itself give any entitlement to selection.

SECTION C T SELECTION FOR THE POST OF Ass'tt.

Chemist, IN SCALE RS. 1320-2040/-
IN THE NORTHEAST FRONTIER RAILWAY, UNDER EMPLOYMENT NOTICE NO.

3/94 CATEGORY NO. 10 (Ten)

1. With reference to your application for the post mentioned above, in response to the Employment Notice cited above, you are hereby advised to attend the office of Railway Recruitment Board, Station Road, Guwahati-1, Assam on 17-7-95 at 10-00 hrs. for Viva-Voce test.

2. (a) You should bring all the original pass certificate, Admit cards and Mark-sheets relating to Matric, Pre-University, Degree/Diploma issued by the Board/Council/University. In absence of original certificates you should bring the provisional pass certificates issued by the above concerning authority. (b) You should also bring originals of mark-sheets of Part-I and part-II of Diploma course in Pharmacy. (3) Diploma Pass certificate from recognised institution and. (3) Upto date Registration certificate from state Medical Exam Faculty/Pharmacy council. (c) You should also bring attested copies of all the documents.

3. Your attendance may be required for more than one day (i.e. date as mentioned in para 1 above) and you should come prepared accordingly.

4. Request for postponement of Date of Viva-Voce test will not be considered and no absentee test will be held.

5. If you are in service and have not submitted No objection certificate, you should bring the same now failing which you will not be allowed to appear in the viva-voce test.

6. You are to defray your own travelling expenses. (for all candidates).

7. Approaching Chairman, RRB and or his secretary directly or indirectly by a candidate or any body on his behalf requesting undue consideration for the recruitment will render a candidate liable for disqualification.

FOR SC/ST CANDIDATES: ON PRODUCTION OF THIS CARD YOU ARE ENTITLED TO TRAVEL FREE BY RAILWAY IN SECOND CLASS FROM (STN.) TO GUWAHATI (STN.) AND BACK. This pass is available upto 1.84.

(Authority: R.R.B. Lt. No. F.A.C. II - P.A.C. 122 dtd. 1.1.84)

Authorised by R.R.B. Lt. No. F.A.C. II - P.A.C. 122 dtd. 1.1.84

Chairman

for CHAIRMAN
RRB/Guwahati

Recd
Recd
Recd

ANNEXURE 4

4 85

NORTHEAST FRONTIER RAILWAY

Office of the
Chief Personnel Officer
Maliagan, dated 27-7-95

N.E/227/F/1 (Rept.H) PT/1

To Shri/mt. Saydeb Das (03C)

C/o Shri K. C. Das or NO 639/3

Officer colony - p.o. Alipurduar junction.

Dist - Jalpaiguri - PIN - 726123

Sub - Temporary appointment as as Asstt. Chemist
on Rs. 1320/- in grade Rs. 1320 - 2040/-
plus usual allowances as admissible from
time to time.

DATE OF SELECTION BY THE RRB/GHY 20-7-95
MERIT FIGURE 1 UR/SC/ST 840020

1. I am prepared to offer you a post in grade of contract of pay specified above plus usual allowances subject to your passing the prescribed Medical Examination by an authorized Medical Officer of any of the Indian Railways and on production of your original certificates in support of your qualifications and satisfactory proof in support of your age, such as Matriculation and/or its equivalent certificate. In case of non-availability from the University/Board, the following certificates (in original) may be accepted provisionally.

- (a) Matriculation Marks sheets.
- (b) Matriculation Admit card and
- (c) School Leaving Certificate from the Headmaster/Headmistress.

2. All appointments will be made on probation for one year, for apprentices appointed to working post after completion of their probationary period commences from the date of such appointment.

3. It must be clearly understood that the appointment is terminable by 14 (fourteen) days' notice on either side except that no such notice is required if the termination of service is due to the sanction to the post not held or on return to duty of the absentee in which place you may be engaged, in which case your service will be automatically terminable from the date of expiry of the sanction or from the date of former resuming his duty, as the case may be. Also no such notice will be required if the termination of your service is due to your mental physical incapacity or to your removal or dismissal as a disciplinary measure after compliance with the provision Clause-II Article 311 of the Constitution of India.

4. You will not be eligible for any pension or any benefit under the Railway Provident Fund or Gratuity Rules or to any absentee allowance or admissible to temporary employees under the Rules in force from time to time during such temporary service.

Contd.....(2)

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-2-

5. You will be held responsible for the charges and care of Govt. money, goods, stores, and all other properties, they may be entrusted to you.
6. You will be required to take an oath of allegiance or make an affirmation in the form indicated below:-

' SO HELP ME GOD '

NOTE :- Conscientious subject to take oath may make a solemn affirmation in the prescribed form indicated above.

7. You will confirm to all rules and regulations applicable to your appointment.

8. In all matters not specifically provided for herein or in the recruitment rules, you will be governed by the provisions of the Indian Railway Codes and other extant orders as amended/issued from time to time.

9. You must be prepared to accept the offer of appointment as any of the Northeast Frontier Railway system. Although you are initially appointed for a particular district/division, you are liable to be transferred to any station on this Railway in the exigencies of service and you would definitely indicate in your acceptance that you will abide by these conditions.

10. If you intend to take the appointment on these conditions please report to the undersigned personally on or before 15-16-01 but not earlier than _____ failing which this offer letter will lapse and will not be renewed. Your pay will be commended from the date of your join duty at the office where you will be posted after you have been certified medically fit.

11. Quarters will be provided only if available and as guarantee can be given.

12. No travelling allowance will be granted for joining the post. A 1st class pass is enclosed to cover your journey.

13. Your appointment is also subject to production of SC/ST certificate from the authority be advised in the enclosed specimen Form (this condition applies only to the Scheduled Caste/Scheduled Tribe candidates.).

14. You shall be liable for Military service in the Railway Engg. units/Territorial Army for a period of Seven years in Territorial Army Service and eight years in Territorial Army Reserves or for such periods as may be laid down in this from time to time.

Cont'd. to ... (3)

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+ Ruth
Scholes

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15. Your seniority to the post will be determined in accordance with the merit position awarded by the N.F.Railway Recruitment Board.

16. You will have to produce a certificate in support of your good conduct and character from a State Government Officer not below the rank of Dy. Commissioner, DS or from MP/MLA.

17. On reporting to this office you are requested to submit the prescribed Railway Recruitment Board application Form duly filled in all respects which can be had from all important Railway Stations on payment of Rs.2/- (0.50 more for SC/ST) and Refugee Certificate along with a copy of your recent passport size photograph and attested copies of certificates in support of your age and qualifications.

18. While reporting to this office you will have to submit proper 'Release Order' from your present employer if you are in service.

19. You will be required to deposit Rs.12/- (Rupees twelve) as pre-emptive recruitment Medical Examination fee while reporting to this office.

Enclos. ½ (half) set 2nd class Pass No. _____

I accept the offer on the terms detailed above and declare that I shall abide by the conditions stipulated in para-7

27/9/75

for CHIEF PERSONNEL OFFICER (RECTT) /MLG

for information and necessary action to-

This has reference to his endorsement

will please spare the staff in time stipulated in para 6 above.

0.30/6/92

for CHIEF PERSONNEL OFFICER (RECTT)

Attn
R. M. P. P.
P. M.

N.F. Rallos.

Mr. Biju P. D. (Recd.)	OFFICE OF THE DIV. MLY. MANAGER (P), DIST. BLDG, 28/11/95,
Mr. S. Joydip Das (Asst. Office.)	

Subject:- Appointment as Chemist.

In terms of GM(P)/MLG's L/No. 1/11/2/122/7(Med) Pt.II dated 21/11/95, you are hereby appointed as Asstt. Chemist on salary Rs. 1330/- p.m. in scale Rs. 1330/- to 1440/- (P) plus other usual allowances asmissible from time to time and posted under MS/IC/B4G under Shri Goutam Chatterjee, Lab. Asstt/B4G and in order of transfer to next post directed to report to D/o/Pathology/ B4G for further duty.

This issues with the approval of competent authority.

1/11/95

Sr. D/o/ Admin/ Lending.
N.F. Rly.

Copy forwarded for information and intimation to:-

- 1) MS/IC/B4G
- 2) GM/MLG.
- 3) D/o/MLG in ref. to this letter mentioned above.
- 4) D/o/Pathology/B4G.
- 5) Director/IC/B4G.
- 6) D/o/B4G.
- 7) 111 & ESTL. Sec. at Office.
- 8) 5/copy for P/case.

1/11/95
Sr. D/o/ Admin/ Lending.
N.F. Rly.

Composed 01.11.95

1/11/95.

Revised
1/11/95
Pathology

Office of the
Div. Rly. Manager (P),
Lumding, dtd: 02/5/97,

2A
In terms of GM(P)/MLG's Office order No. E/283/140/18(Med) dt. 07/4/97 communicated by MS/IC/Lumding vide his L/No. H/268/IM-8 dated dt. 23/4/97 the following promotion, transfer and posting orders are issued to take with immediate effect.

1) Shri Jaydeb Das, Asstt/Chemist/IMG in scale Rs. 1320-2040/- under MS/IC/IMG is hereby transferred from Rly. Hospital/Lumding to APDJ and posted as Asstt/Chemist under CMS/APDJ on his existing pay and scale. He will be placed below all the permanent and temporary staff on the date of his posting in the new unit.

2) Shri Lal Deo Singh, Lab. Asstt/IMG in scale Rs. 975-1540/- under MS/IC/IMG is hereby promoted as Asstt. Chemist in scale Rs. 1320-2040/- and posted under MS/IC/IMG vice item No. 1.

His pay on promotion is fixed at Rs. 1380/- in scale Rs. 1320-2040/- in reference to his substantive pay of Rs. 1330/- in scale Rs. 975-1540/- from the date of his assumption as Asstt. Chemist.

Since the transfer of item No. 1 is arranged at his own request, he is not entitled to get transfer pass, TA, transfer allowances etc. as admissible in case of transfer on administrative ground.

This issues with the approval of the competent authority.

for DR(P)/Lumding.
N.F. Rly.

No. 0/2-A/2t.III (Med) dtd: 02/5/97,

Copy forwarded for information and n/action to:-

- ✓ 1) MS/IC/IMG (2) GM(P)/MLG in reference to his letter cited above. He is requested to send a copy of the above Office order to this office for record. (3) CMD/MLG
- 4) CMS/APDJ (5) DR(P)/APDJ (6) DAO/APDJ (7) DAO/IMG
- (8) DMO/Pathology/IMG (9) Matron/IC/Lumding (10) Bill & Estt. Secy. Staff concerned thro:- DMO/Pathology/IMG.
- (11) Copy for P/cases.

for DR(P)/Lumding.
N.F. Rly.

Com. P. 10
2/5/97

Adul
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Baw

1. Divisional seniority list of no. 3
Sr. APDQ division as on 1.4.99 (H.) Controlled posts
Criterion:- Length of non fortuitous service in the grade

	Comm. unity	Stat- tion	Dt. of birth	Dt. of App- ointment	Dt. of pro- motion to the grade	Conf'd/ Offg	Remarks			
	1	2	3	4	5	6	7	8	9	
Radio-grapher & Laboratory staff of all grades in medical department										
1.	S. P. Dhusia	UR	RPAN	01.01.49	17.10.75	01.03.93	Conf'd.			
1.	Radio-grapher Gr. II in scale Rs. 5000-8000/- (RP/97) Sanctioned - 1									
1.	R. N. Dey	UR	APDJ	07.03.56	21.09.80	01.03.93	do			
1.	Radio-grapher Gr. III in scale Rs. 4000-6000/- (RP/97) Sanctioned - 1									
1.	R. C. Das	UR	NBQ	30.12.45	25.07.65	27.05.82	do			
1.	Lab. supdt./Chemist Gr. I in scale Rs. 5500-9000/- (RP/97) Sanctioned - 1									
1.	K. Sonowal	ST	RPAN	01.02.54	03.07.79	01.03.93	do			
1.	Lab. supdt./Chemist Gr. II in scale Rs. 5000-8000/- (RP/97) Sanctioned - 1									
1.	R. K. Singh	UR	NBQ	02.09.47	20.04.97 (7)	30.11.88	Conf'd.			
1.	Lab. supdt./Chemist Gr. III in scale Rs. 4500-7000/- (RP/97) Sanctioned - 1 + 1 Temporary = 02.									
	Daydeb Das	UR	APU	05.01.70	26.11.95	28.11.95	Conf'd.			

(Contd.... 2.)

Attn
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Blunt

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1 2 3 4 5 6 7 8 9

1. Open Narzary ST APDJ 01.11.74 30.07.97 30.07.97 Offg.

No. E/255/Pt.-II (MED)
Copy forwarded to : -

Dated: 03/10/2000

for Div. Rly Manager (P)
Alipurduar Jn.

1. GM(P)/MLG (MED)
2. CMS/APDJ
3. MS/IC/NBQ, RPAN
4. Convenor/NFRME/APDJ
5. Secy./NFREU/APDJ
6. Staff concerned through respective subordinates

with 10 spare copies each

* They should submit no new applications for new or additional subordinate in charges.

should submit representation if any regarding their position shown in the S/list within one month from the date of receipt of the seniority list, after which no representation will be entertained.

1k2792k.

Albert &
H. B. &
P. L. B.

for Divi. Railway Manager (P)
N. F. Railway/AlipurduarJn.

NORTHEAST FRONTIER RAILWAY



Office of the
General Manager(P)
Maligaon, Guwahati - 781 011

No. E/74/CON/1(Med)

March 21, 2002.

To

Shri Jaydev Das,

Asst. Chemist

Under CMS/Alipurduar

NF Railway

Alipurduar.

(Through : Sr.DPO/Alipurduar . . .)

Sub : Show cause notice for proposed termination of services of
Shri Jaydev Das, Asstt. Chemist under CMS/Alipurduar Jn.

You have been appointed on NF Railway as Asstt Chemist (Medical Department), on being selected/empanelled by the RRB/Guwahati on the basis of your Application in response to the Employment Notice No.3/94, Category No.10, as advertised by the said RRB/Guwahati.

2. In the said Employment Notice No.3/94, issued by the RRB/Guwahati, against the Category No.10, for the post of Asstt. Chemist, educational qualification was laid down as "Matriculation with Science and Diploma in Laboratory Technicians Course, from a recognized institute such as All India Institute of Hygiene and Public Health, 1 year's experience in Pathological or Biochemical Laboratory Science.

3. While applying for the post of Asstt Chemist against the Employment Notice No.3/94, Category No.10 as advertised by the RRB/Guwahati, you had produced a Diploma Certificate in Medical Laboratory Technology, which had been issued by an Institute named, North Bengal Para Medical College, Alipurduar, West Bengal.

4. It has now been detected that the said North Bengal Para Medical Institute, Alipurduar, W.Bengal is neither a Govt. recognized institute nor of the standing of the institutes like All India Institute of Hygiene and Public Health, as mentioned in the Employment Notice. The North Bengal Para Medical College, Alipurduar, W.B is solely a private institute registered under the Registrar of Societies Act, Govt.of West Bengal. For Govt recognition of a Diploma, issued by any institute, the institute has to be affiliated with an accredited institution such as All India Institute of Hygiene and Public Health. Mere registration under the societies Act does not automatically mean that the institute is a Govt. recognized one, nor it also confers recognition on any institute.

5. Thus, your very selection/empanelment for the post of Asstt. Chemist by the RRB/Guwahati, on the strength of a invalid Diploma Certificate which is not in conformity with requirement prescribed and advertised in the said Employment Notice No.3/94, Category No.10, has become irregular.

(Contd to Page-2)

Alipurduar
11/4/12
Aruna

6. You are, therefore, advised to submit your explanation as to why your services will not be terminated in view of the facts detailed in the foregoing paragraphs. You may submit your explanation within 15 days from the date of issue of this letter.

7. Please acknowledge receipt.

Vug
26/3/02
(Shri PK SINGH)
DY.Chief Personnel Officer (HQ)
NF Railway, Maligaon.

Below
Minutes
Below

To

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

(Through ~~proper~~ channel)

Sub : Show cause notice for propose termination of service.

Ref : Your show cause notice dtd. 21/03/2002 received by me on 28/03/2002.

Sir,

In response to the above, I beg to lay the following lines for your kind and sympathetic consideration to explain against the said show cause notice.

That Sir, in terms of employment notice No.3/94 I had applied for the post of Asstt. Chemist having the requisit qualification as per advertisement. The qualification prescribed in the said employment notice was as follows :

"Matriculation with Science and Diploma in Laboratory Technicians Course, from a recognized institute such as All India Institute of Hygiene and Public Health, 1 years experience in Pathological or Biochemical Laboratory science"

The responsibility to assess the recognition of the institution in true sense as per prescribed rule rests with the Railway Recruitment Board whose duty is to scrutinise the application along with the relevent documents and accept/reject the application. The Railway Recruitment Board have found my application and document in order and as such call letter was issued to appear in the written test held. Being qualified in the written test I was appeared in the practical test and declared successful by the competent authority. on being successful in the practical test appeared before recruitment selection committee for Viva-Voce test where I could also

Contd.....2

Attn
of Dr. B.
Bhattacharya

: 2 :

came out successful and subsequently empaneled as Asstt. Chemist by the Railway Recruitment Board Guwahati. The Viva-Voce test was conducted by the Committee consisting of one Railway Medical Officer, One Personnel Branch Officer and Member Secretary/RRB/Guwahati have also checked my all original testimonials on the date of test. neither any of my documents were found forged nor were rejected at any stage. I was appointed as Asstt. Chemist under CMS/LMG on 28/11/95 on the strength of the above. I am surprising that how suddenly after a lapse of 6½ years of satisfactory and sincere service in the post the said show cause notice has been issued.

That Sir, I have been confirmed as Asstt. Chemist in Scale Rs.4500 - 7000/- (Present post) by GM/P/MLG on satisfactory completion of 5 years service and as such I have the right to hold the post being qualified in all respect in each stage.

That Sir, I am now 32 years of age and the termination of my service after 6½ years service without any misconduct on my part will effect my future carrier being over aged and thus it will be extreme hardship for me and for my family having wife, one son aged 5 years and widow mother.

I like to draw your kind attention in regard to recruitment of one craft teachers whose required technical qualification as "Diploma in Niddle work certificate from Lady Brabone Calcutta" but the candidate was empanelled on the strength of a certificate issued by a purely Private Institution of Guwahati (Maligaon Chariali). The case was detected by Vigilance even before the appointment. The candidate (Miss Munna Dey) was empenelled against the vacancy of Alipurduar Jn. Railway H.S. School whose panel was cancelled and subsequently she was given alternative appointment/appointment in Rly. H.S. School Siliguri by the N.F.Rly. Administration.

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At the end I request your honour to kindly consider my case in view of the reasons explained in the foregoing paragraphs for which my service is not terminable.

Your kind and sympathetic consideration will help the poor family from the harassing situation. Your favourable order will be highly appreciated if my appointment is considered as regular or considered any alternative appointment.

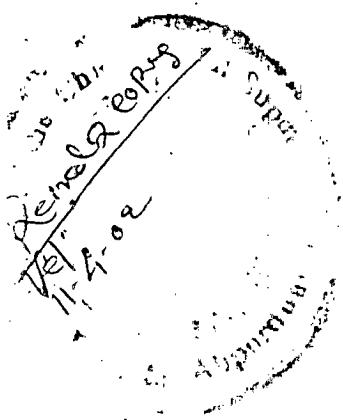
I shall remain ever greatful to you for your favourable order please.

Date :

Yours faithfully,

Jaydeb Das

(JAYDEB DAS)
Asstt. Chemist
Under CMS/APDJ



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P. D.

N. E. RAILWAY

OFFICE OF THE
CHIEF MEDICAL SUPERINTENDENT
ALIPURDUAR JN

No. II/SS/MED/JD/DAR

Dated: 01-03-04

To:
 Shri Joydeb Das,
 Asstt. Chemist/Rly. Hospital,
 Alipurduar Jn.

Sub: Show Cause Notice for proposed termination of service of
 Shri Joydeb Das, Asstt. Chemist under CMS/APD.J.

You have been appointed on N.E. Railway as Asstt. Chemist (Medical Department) on being selected/empANELLED by RRB/GHY on post of your application in response to the Employment Notice No. 3/94, Category No. 10 as advertised by the said RRB/GHY.

In the said Employment Notice No. 3/94, issued by the RRB/GHY against the category No. 10 for the post of Asstt. Chemist, educational qualification was laid down as "MATRICULATION WITH SCIENCE AND DIPLOMA IN LABORATORY TECHNICIAN COURSE FROM RECOGNISED INSTITUTE SUCH AS ALL INDIA INSTITUTE OF HYGIENE AND PUBLIC HEALTH AND 1 YEAR EXPERIENCE IN THE PATHOLOGICAL OR BIO-CHEMICAL LABORATORY SCIENCE".

While applying for the post of Asstt. Chemist against Employment Notice No. 3/94, Category No. 10, as advertised by RRB/GHY, you had produced a diploma certificate in Medical Laboratory Technology which had been issued by an Institute named "North Bengal Para Medical College, Alipurduar, West Bengal".

It has now been detected with the said North Bengal Para Medical Institute/Alipurduar, West Bengal, is neither a Govt. recognized Institute nor of a standing of the Institute like All India Institute of Hygiene and Public Health as mentioned in the Employment Notice. The North Bengal Para Medical College, Alipurduar, West Bengal is solely a private Institute registered under the Registrar of Society Act, Govt. of West Bengal. For Government recognition of a diploma issued by another Institute, the Institute as public affiliated with a accredited such as All India Institute of Hygiene and Public Health, ~~where~~ recognition under the Societies act does not automatically mean that the Institute is a government recognized one, nor it also confers recognition of another Institute.

Thus, your selection/empANELMENT for the post of Asstt. Chemist by the RRB/GHY on the strength of a invalid diploma certificate which is not in consoNtUity with requirement prescribed and advertised in the said Employment Notice No. 3/94, Category No. 10 has become irregular ab initio.

You are continuing as a temporary employee and your services have not been confirmed by specific order from Railway Administration. Services of temporary employees are to be terminated in terms of Railway Board's letter No. E(D&A)92 GS-3 dated 20/07/93 in the cases of servants not having the requisite qualifications for appointment.

(Contd. 2)

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7. You are, therefore, advised to submit your explanation as to why your service will not be terminated in view of the facts detailed in the foregoing paragraph. You may submit your explanation within 15 days from the date of issue of this letter. If no explanation is received within the stipulated time, it will be presumed you have accepted the Notice.

8. Please acknowledge receipt.

Mr. L. M. Mitra
2.3.06
Sr. Divisional Medical Officer,
N.P.Rly. Alipurduar Jn.
• • • • •
G. Div. Medical Officer
• • • • •
• • • • •

Gardab Das
B/3/06/4

Reception

*Received
Handed
Down*

To Sr. Divisional Medical Officer,
N F Railway, Alipurdur Jn.

Sir,

S.O:- Show Cause Notice for proposed termination of service of Dr. Jayanta Dey,
Clerk under CMS APDJ
Ref:- Your L.No. E/255-Pt II (MED) Dated 03-10-2000

In response to the above, I beg to lay the following few lines as my defense against your show cause notice and for your kind and sympathetic consideration please.

That sir, in terms of employment notice No. 394, category No. 10, I had applied for the post of Asst. Chemist having the requisite qualification as per advertisement. The qualification prescribed in the said employment notice was as follows:

"Matriculation with science and Diploma in Laboratory Technicians Course, from a recognized institute such as All India Institute of Hygiene and Public Health. I year's experience in pathological or Biochemical Laboratory science."

That sir, the responsibility to assess the recognition of the Institution in true sense, as per prescribed rules rests with the RRB, who is to scrutinize the application along with the relevant documents and accept/reject application. The RRB/GHY have found my application & documents in order and as such call letter was issued in my favor to appear in the written test held at GHY. Being qualified in the written test, I appeared for the practical test and declared successful. There after I was called for interview before one Medical Officer, One Personnel Branch Officer & Member Secretary RRB-GHY, submitted my original certificates. I came out successful in this test too, and was in the number one position in the merit list of RRB.

That sir, in all the above stages of the tests my documents were found in conformity with desired qualification and hence it was not rejected. I was appointed as Asst. Chemist under CMS LMSI on 28/11/1995 on the strength of the above. I am surprised that how suddenly after a lapse of 8 1/2 years of satisfactory and sincere service in the post of Asst. Chemist I am being show caused.

That sir, my submission against para 6 of the said termination notice is that I have already been confirmed in Rly. Service as Asst. Chemist which is evident from the seniority list published under DRM(P) APDJ's No. E/255-Pt II (MED) Dated 03-10-2000 (Photo-copy enclosed).

That sir, Now my age is about 34 years and hence I may be treated as over aged. The termination of service at this stage after 8 1/2 years continuous services without any misconduct on my part, will ruin me and bring extreme hardship for my family members having wife and a 7 years old son.

Besides, I would like to draw your kind attention in regard to a recruitment of one Craft Teacher in this railway whose required qualification was "Diploma in Needle work certificate from Lady Brabone College Calcutta". But the candidate was empanelled on the strength of a certificate issued by a purely private institution of Guwahati (Charali). The case was detected by the vigilance organization even before the appointment of the candidate (Miss Munna Dey). The candidate was appointed in the Railway H.S. School APDJ as Teacher but subsequently she was appointed in alternative job by the Rly administration as general school teacher in Rly. H.S. School/Siliguri purely on humanitarian ground applying natural justice.

At the end I would request your Honor for sympathetic consideration of my case to save an innocent family. An alternative arrangement may please be arranged for me if considered otherwise. For this act of your kindness I shall ever remain grateful to you.

DA: As above.
Dated: 16th March 2004

Your faithfully
Jayanta Dey
(Signature)
Asst Chemist (cms)
APDJ

Hand
or Post
Delivery

Central Administrative Tribunal

6 OCT 2004

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. NO 99/04

Sri. Joydeb Das.

-vs-

Union Of India & ors.

IN THE MATTER OF:

Written Statement filed by the
respondents.

1. That a copy of the O.A has been served on the respondents and the respondents have gone through the copy of the O.A filed by the applicant and have understood the contents thereof.

2. That save and except the statements which are specifically admitted hereinbelow, other statements made in the O.A are categorically denied. Further the statements which are not borne on records are also denied and the applicant is put to the strictest proof thereof.

3. That before dealing with the various contentions made in the O.A the deponent begs to place the brief history of the case as follows;

BRIEF HISTORY OF THE CASE:

That in reference to Employment Notice No.3/94 issued

Filed by Akashbora
the Respondents through
Siddhanta Jaiswal
Railway Advocate
G.I.O.O.

Chief Personnel Officer (12)
N.F. Barracks, M.G. Road
Guwahati-781001

A.K. Kishore
(12)

by the R.R.B/Guwahati, applicant sought employment for the Category No.10 in the said employment notice i.e. for the post of Asstt. Chemist. The applicant had sought employment submitting a Diploma Certificate issued from North Bengal Para Medical Institute, Alipurduar, West Bengal, ref; Annexure-1 & 1/A to the O.A. Fortunately, the applicant was selected and posted as Asstt. Chemist under C.M.S/LMG on 28.11.95 and thereafter as per his request he was transferred and posted under C.M.S/APDJ on 08.05.97 and was working as such. On 21.5.2002 (Annexure-8 to the O.A.) . On 1.5.2004 (Annexure-10 to the O.A.) a show cause notice for proposed termination of service of the applicant was issued by Dy.CPO/HQ/N.F.Rly/Maligaon and Sr. DMO/APDJ/N.F.Rly respectively. The applicant submitting reply of the said Show cause Notices on 11.4.2002 and 16.3.2004 respectively (Annexure-9 & 11 to the O.A.) and thereafter approached this Hon'ble Court by way of instant O.A. apprehending termination of his service.

That from the above it reveals that the applicant had sought employment for the post of Asstt. Chemist (Category No.10) as reflected in Employment Notice No.3/94 issued by RRB/GHY submitting Diploma in Medical Laboratory Technology issued by North Bengal Para Medical College/Alipurduar, West Bengal (Annexure-1). But requisite qualification for the post as laid down in the employment notice was Matriculation with Science & Diploma in Laboratory Technician Course from a recognised Institute such as All India Institute of Hygiene & Public Health, one years experience in Pathological in Pathological or Biochemist Laboratory Science. At the time of scrutiny of

application for employment this aspect could not be detected as to "certificate submitted by the applicant was of required standard or not, through oversight or for any other reason." However, the applicant was selected and posted as Asstt. Chemist under C.M.S./LMG on 28.11.95 thereafter as per request the applicant was transferred and posted under C.M.S./APDJ on 8.5.97 and was working as such. In the meantime it came to the notice that the certificate submitted by the applicant at the time of seeking employment issued from North Bengal Para Medical Institute/Alipurduar, West Bengal was neither a Government recognised Institute nor a standard Institute like All India Institute of Hygiene & Public Health as mentioned or as required vide employment notice. Owing to this irregularities the applicant was served a show cause notice vide Annexure-8 & 10 to the O.A., to which he submitted reply vide Annexure-9 and 11 to the O.A. and considering his appeal (against the show-cause) the competent authority terminated his services vide No.H/SS/Med/JD/DAR dated 22.4.04 (Copy of termination enclosed with this reply marked as Annexure-R/1). As the applicant was absenting unauthorisedly, hence termination order dated 22.4.04 (Annexure-R/1) was sent to his address by Regd. Post with A/D and after return by the Postal Authority undelivered with remarks "not found, left without address", the copy of termination order was pasted on the Wall/Door of his residence on 30.4.04.

Respondents crave leave to produce the envelop returned by Postal authority before Court during hearing if advise so.

On the other hand the applicant remained absent

Antispoof
Attn: Personnel Officer (1B)
N.F. Railway, Mumbai
Date: 10/05/2004

unauthorisedly w.e.f. 13.03.04 and approached the Hon'ble Tribunal by way of the instant O.A. The applicant was very much aware of the fact that the order of the termination service has been issued on 22.4.04. The applicant to misguide the Hon'ble Tribunal and obtained an interim order on 27.4.04 as to "status quo as on today shall be maintained." The applicant submitted a representation on 30.4.04 enclosing a copy of the Hon'ble CATs order dated 27.4.04.

4. That with regard to the statement made in para 1,2,3,4.1, 4.2, and 4.3. the answering respondents do not admit anything contrary to the relevant records of the case.

5. That with regard to the statement made in para 4.4 the answering respondents while denying the contentions made therein beg to state that the applicant did not furnish the Certificate of requisite standard but he was called for to appear in written test for the post of Asstt. Chemist by mistake.

6. That with regard to the statement made in paras 4.5, 4.6, of the O.A the answering respondents do not admit anything contrary to the relevant records of the case.

7. That with regard to the statement made in para 4.7 the answering respondents while denying the contentions made therein beg to state that the applicant though found medically fit but his original certificates were not checked inadvertently at the time of his appointment to the post of Asstt. Chemist.

See earlier
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A. K. Kishimoto

8. That with regard to the statement made in para 4.8, 4.9, 4.10, the answering respondents do not admit anything contrary to the relevant records of the case and put the applicant to the strictest proof thereof.

9. That with regard to the statement made in para 4.11. the answering respondents while reiterating and reaffirming the statements made above beg to state that the services of the applicant was not confirmed. But erroneously the applicant was marked/shown to be confirmed in the seniority list published under NO.E/255/ Pt,II(Med) dated 2.4.04 (copy enclosed with this reply marked as Annexure-R/2. Thus, it is denied that the applicant was a confirmed staff.

19. That with regard to the statement made in para
4.12, 4.13, 4.14, 4.15, and 4.16 the answering respondents
begs to rely and refer upon the statement made above and do
not anything contrary to the relevant records of the case.

11. That with regard to the statement made in para 4.17 of the O.A the answering respondents beg to state the requisite qualification for post of Asstt. Chemist as laid down in the Employment Notice was Matriculation with Science and Diploma in Laboratory Technician Course from a recognised Institute such as All India Institute of Hygiene & Public Health, One year experience in Pathological or bio-chemist Laboratory Science. The applicant submitted the certificate from North Bengal Para Medical College was not a recognised Institute. He did not submit his past experience certificate for at least one year. As such he did not

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A. Kishore

Ar. Chittaranjan Bhattacharya (12)
N.R. Nayak, Advocate

furnish the correct information at the time of his application. Accordingly to his declaration at the time of application it is stated as under:

" I hereby declare that the statements made in this application are true, complete and correct to the best of my knowledge and belief. I understand that in the event of my particulars of information given here in being found false or incorrect, any candidature for the examination is liable to be rejected or canceled and in the event of any mis-statement discrepancy in the particulars being detected after my appointment my services are liable to be terminated without notice to me."

under the above circumstances his service is liable to be terminated. On the ground of furnishing improper information.

12. That with regard to the statement made in para 4.18, 4.19, it is submitted that the applicant was a temporary Railway employee. His services has not yet confirmed and on the other hand it come to the notice that the certificates based upon which his candidature for the post was considered, was not a requisite certificate as required. As such his selection/appointment based up on such non-standard certificate was "irregular". Since he was serving as temporary staff to take action after serving a show cause notice is sufficient to decide the issue considering the reply of the said show cause notice. Accordingly, the applicant was issued with a show cause

A. Kispolt

notice (Annexure-10 to the OA) and after taking into consideration the reply to the said show cause dated 16.3.84) Annexure-11 to the OA) his services has been terminated vide order No.E/SS.MedJD/DAR dated 22.4.84 (Annexure-R/1 with this reply).

13. That with regard to the statement made in para 4.20, O.A the answering respondents do not admit anything contrary to the relevant records of the case.

14. That with regard to the statement made in para
4.21 the answering respondents while reiterating and
reaffirming the statement made above beg to state that the
applicant did not meet with the Chief Medical Superintendent
under whom he was working on 30.4.2004 only with a intention
to avoid receipt of his termination order. As it is stated
earlier that since the applicant was absenting
unauthorisedly, his termination order dated 22.4.2004 was
sent to his address (Rly Qtr) by Regd. Post with A/D on
23.4.2004.

15. That with regard to the statement made in para
4.22. O.A the answering respondents do not admit anything
contrary to the relevant records of the case.

16. That with regard to the statement made in para
4.23. the answering respondents beg to state that the Senior
Divisional Medical Officer of APDJ Medical Hospital is a
administrative officer of the said hospital and as such is
the competent authority to issue termination order.

A. K. K. S. O. T. H. A.

17. That with regard to the statement made in para 4.24, the answering respondents while denying the contentions made therein beg to state that the applicant was replied vide MS/APDJ letter No.E/2003/2/DA/99/04/GHY dated 25.5.2004 (Annexure-15 to DA).

18. That with regard to the statement made in para 4.25, 4.26, 4.27, O.A the answering respondents do not admit anything contrary to the relevant records of the case.

In this connection Hon'ble Supreme Court's order dated 7.11.2000 in Civil Appeal No.278/99 with CA-279 to 296/99 Nazima Begum Laskar & others-VS- State of Assam & ors at Page-329 SC of AISLJ 2001(2) may be referred to - wherein the Hon'ble apex Court held that "An irregular appointment creates no vested right"

In an another case No. Review petition No. 600-601
of 93 Civil Appeal No. 5407-5408 of 92, Ashoke Kr. Sarma &
ors -VS-Chandra Sekhar & others, the Hon'ble Supreme Court
vide order dated 10.3.99 held that "those not having
requisite qualification should not be recruited" - AISLJ
1997 (2)-P132 SC.

That the answering respondents beg to reley and refer upon some more relevant case laws at the time of bearing of the case.

The answering respondents beg to state that in view of the aforesaid facts and circumstances prays before the Hon'ble Tribunal that the O.A may be dismissed with cost.

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VERIFICATION

I Shri ... A. Kispolta aged about ... 55 years, son of ... Late ... Andreas ... Kispolta, resident of ... Maligaw presently working as Dy. Chief Personnel Officer (IR) N.F. Railway, do hereby verify and state that the statement made in paragraphs ... 1, 2, 3 to 18 are true to my knowledge and those made in paragraph being matters of records are true to my information derived therefrom, which I believe to be true and the rest of my humble submissions before this Hon'ble Tribunal. I am also authorised and competent to sign this verification on behalf of all the Respondents.

And I sign this verification on this 6th day of Oct., 2004.

A. Kispolta

Deponent

By Chief Personnel Officer (IR)
N.F. Railway, Maligaw
Class 0011

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Anum R. 11.
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NORTHEAST FRONTIER RAILWAY.

OFFICE OF THE
CHIEF MEDICAL SUPERINTENDENT,
ALIPURDUAR JN.

NO. II/SS/Med/JD/DAR

Date: 22.04.2004.

To
Shri Joydeb Das,
Asstt. Chemist Rly. Hospital,
Alipurduar Junction.

Rly. Colony
Arabinda Colony,
P.O. Alipurduar Jn.
Dist: Jalpaiguri [WB]

Sub: Termination from Railway service.

Ref: Your representation dated 16.03.04 in response to this
Office Show Cause Notice of even No. dt., 01.03.04.

Your above cited representation has not been considered satisfactory. You had secured employment in this railway on the strength of a Certificate issued by North Bengal Para Medical Institute/Alipurduar which is neither a Govt. recognized Institute nor an Institute like All India Institute of Hygiene and Public Health as was required. Your diploma certificate in medical laboratory Technology was not fulfilling the requirements for appointment to the post of Asstt. Chemist against employment Notice No. 3/94 category No.10 advertised by Railway Recruitment Board, Guwahati. Under the circumstances, your service from the post of Assistant Chemist of Northeast Frontier Railway/Alipurduar Junction is TERMINATED with immediate effect for the reasons stated above.

(Dr. M. Khanthar)
Sr. Divl. Medical Officer,
N.F. Railway, Alipurduar Jn.

(Signature)
23/6/04

Ass't Manager (P.M.)
N.F. Railway, Alipurduar Jn.

Attested
near
Advocate

Alipurduar 8/2. 45

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N. E. Railway.

Office of the
Divl. Rly. Manager(P),
Alipurduar Junction.

CORRIGENDUM

No. E/255/Pt. II (MED).

Dt. 02-4-2004.

In the seniority list of Asstt. Chemists on 1.4.99, 1.4.01, 1.4.03 published under No. E/255/Pt. II (MED) dated 3.10.2000, 7.9.01 & 4.12.03 respectively, Sri Joydeb Das was shown confirmed against column No. 6 erroneously. Since the staff has not yet been confirmed the word 'confirmed' shown against Sri Joydeb Das is hereby deleted.

for Divl. Rly. Manager(P),
Alipurduar Junction.

Copy forwarded for information and necessary action to :-

- 1) G.A.(P)/MIS.
- 2) CMS/APDJ.
- 3) Staff concerned.
- 4) Divl. Secy./NFRMU/APDJ.
- 5) Convenor/NFRMU/APDJ.
- 6) Divl. Secy./NFRCTREA/APDJ.
- 7) Divl. Secy./NFRBCEA/APDJ.

for Divl. Rly. Manager(P),
Alipurduar Junction.

(ekp/2404)

Attested

23/6/04

স্বাক্ষর কর্তৃক সমিতি
Asstt. Rly. Manager(P),
N.E. Railway/Alipurduar J.

Attested
Kiran
Advocate

Central Administrative Tribunal

14 NOV 2004

Guwahati Bench

Handwritten
Address
H
11/10/04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. 99 of 2004

Shri Jaydeb Das,

.....Applicant.....

- Versus -

The Union of India & Ors.

..... Respondents

IN THE MATTER OF:

Rejoinder filed by the Applicant
against the written statement of the
Respondents.

The humble rejoinder of the applicant, most
respectfully begs to state as follows:

1. That a copy of the written statement filed by the Respondents has been served on my counsel. I have gone through the same and understood the contents thereof.
2. That save and accept what are specifically admitted hereinbelow, all other statements made in the written statement are denied. Further, the statements not borne out of records are also denied and the Respondents are put to strict proof thereof.
3. That the applicant, before replying to the various contentions of the Respondents, would like to categorically reaffirm and reiterate the statements

made in the original application.

4. That with regard to the statements made in paragraphs 1 and 2, the applicant offers no comment.

5. That with regard to the statements made in paragraph 3 of the written statement, the applicant while reaffirming and reiterating the statement made in the original application states that the applicant all along acted in bonafide faith, and belief and the applicant has been performing his responsibilities with utmost sincerity and dedication. Further, so far as the order of termination of the applicant is concerned, the same is absolutely without any jurisdiction and the same is illegal. The order of termination was served on the applicant by pasting the same in the quarter of the

applicant in his absence, that too inspite of the knowledge of the order of this Hon'ble Court dated 27.4.2004 directed maintenace of status quo. The

applicant was on leave since 8.3.2004 initially for a period of 5 days but due to his wife's illness he had to extend his leave and for the said purpose, he initially informed his superior Dr. B.Basak over telephone about the fact that he wanted extension of his leave. Thereafter by an application dated 8.4.2004, he sought extension of his leave. As such, the applicant was not unauthorisedly absent. Under such circumstances, assuming but not admitting that the order of termination was passed on 22.4.2004, since the applicant had sought extension of his leave, the service of the same at his quarter address cannot be

termed as due communication of the order of termination. It is denied that the applicant was aware of the order of termination or for that matter the applicant had tried to dodge the said order inasmuch as the applicant was on leave since 8.3.2004 i.e. much prior to the order of termination dated 22.4.2004. In any case, the order of termination is illegal per se and the same is liable to be set aside and quashed.

Copies of the initial application for leave and the letter dated 8.4.2004 seeking extension of his leave are annexed as Annexure-A & B respectively.

6. That with regard to the statements made in paragraphs 4 to 8, the applicant reiterates the statements made in the original application.

7. That with regard to the statements made in paragraph 9, the applicant states that the so called order dated 2.4.2004 was never communicated to the applicant and the non communication of the said order has severely prejudiced the applicant. The said order is adverse to the interest and rights of the applicant and by merely passing an order and keeping it in the file cannot give legitimacy to the illegal and arbitrary action of the authorities in canceling the confirmation of the applicant. The applicant begs to state that it is a settled proposition of law that on uncommunicated order effecting the civil rights of a person is a nullity and is of no consequence. The order dated 2.4.2004 is a glaring example of the highhanded attitude of the authorities. The authorities in an attempt to dispense

with the service of the applicant without holding any enquiry have purportedly passed the order dated 2.4.2004 behind the back of the applicant so as to facilitate the dispensation of service of the applicant without holding any enquiry and by showing that the applicant was not a confirmed employee. The applicant in this context, states that by virtue of having rendered long eight and a half years of service was entitled to confirmation even otherwise also. The termination of the applicant under any circumstances is illegal and arbitrary and the same is liable to be set aside and quashed.

8. That with regard to the statements made in paragraph 10, the applicant reiterates the statement made in the original application and the preceding paragraphs.

9. That with regard to the statements made in paragraph 11, the applicant while reiterating the statements made in the original application and the preceding paragraphs of this rejoinder states that the declaration quoted in the said paragraph was made bonafide by the applicant and the applicant stands by the said declaration. The applicant had neither concealed nor mis-represented any fact while applying for the job. The applicant had not furnished any false or incorrect statement. The contention of the Respondents in trying to invoke the said declaration to justify the termination of the applicant is misconceived and misleading and cannot justify the arbitrary and illegal order of termination of the applicant.

10. That with regard to the statements made in paragraphs 12 to 17, the applicant reiterates and reaffirms the statements made in the original application and the preceding paragraphs of this rejoinder.

11. That with regard to the statements made in paragraph 18, the applicant while reiterating the statements made in the original application does not offer any comment with regard to the legal arguments sought to be advanced by the Respondents as these matter of law will be argued at the time of hearing.

VERIFICATION

I, Shri Jaydeb Das, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1 to 11 are true to my knowledge and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 14th day of October 2004 at Guwahati.

Jaydeb Das

✓S

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Annexure- B

To,
The Sr. DMO/Path.
Alipurduar Jn. Ry. Hospital,
N.F. Railway.

Sir,

Sub: Extension of leave (LAP).

With due respect and humble submission, I like to state that I was sanctioned 07 days leave w.e.f. 08.03.2004 on account of my wife's severe illness.

Till date her treatment is undergoing and she needs constant care. I have already intimated the matter to you verbally.

In view of the above, I humbly request you to kindly extend my leave (LAP) till I manage to join my duty.

Thanking you.

Dated : 08.04.2004

Yours faithfully,

Sd/-
(Jaydev Das)
Chemist/II/APDJ.

Alipurduar
Jn. Ry. Hospital
N.F. Railway