

2/100

V

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWALATI BENCH

ORDERSHEET

Original Application : 181/2003

Misc Petition No. : _____

Contempt Petition No : _____

Review Application No: _____

Applicants:- Babul ch. Brahma

Respondents:- Govt & others

Advocate for the Applicants:- Mr A. Chakraborty

Advocate for the Respondents:- Rly counsel

Notes of the Registry	Date	Order of the Tribunal
	14.8.2003	Heard Mr.A.Chakraborty, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted, returnable by four weeks. List the case on 10.9.2003 for admission. Pendency of this application shall not preclude the respondents to consider the case of the applicant. Needless to state that any selection to the post of ACM Group 'B' on the basis of 30% limited departmental competitive examination held pursuant to the notification dated 23.9.2002 shall be subject to the outcome of the application.

96 158632
11/8/03
By Registrar
Steps taken
14/8
Notice preferred & sent to
S/S for mis the respondent
No 1 to 8 by Regd.
ALA
S/N No 1806 to 1813
Sd/- 21/8/03
1918

bb

Vice-Chairman

Service report awaited.

10/11/03

10.9.2003 Present : The Hon'ble Sri K.V. Prahaladan, Member (A).

On the prayer of Dr. M.C. Sarma, learned counsel for the Respondents further four weeks time is allowed to the Respondents to file reply. List again on 27.10.2003 for admission.

5.12.03

W/s submitted by the Respondents.

Dr.

K.V. Prahaladan
Member

mb

27.10.2003 Dr.M.C.Sarma, learned counsel for the respondents, prays for some more time to file reply.

Prayer allowed. List the case on 28.11.2003 for filing of reply.

K.V. Prahaladan
Member

Vice-Chairman

bb

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

No rejoinder has been filed.

26.2.04

Mr.A.Chakraborty, learned counsel appearing for the applicant, has submitted that since he has received the copy of the reply today in the Court, therefore he is not fully prepared and he shall file rejoinder to the said reply within a reasonable time. Let the matter appear before the next available Division Bench for hearing.

No further time for filing rejoinder shall be granted thereafter.

K.V. Prahaladan
Member

Vice-Chairman

bb

27.2.04 Present: Hon'ble Mr. Shanker Raju,
Judicial Member
Hon'ble Mr. K. V. Prahaladan,
Administrative Member.

As the learned counsel for the
applicant is not available to-day.
List the case on 11.3.04 for hearing.

10/3/04
Member(A)

10/3/04
Member(J)

bb

11.3.2004 Heard Mr. A. Chakrabarty,
learned counsel for the applicant
and also Dr. M. C. Sarma, learned
counsel for the respondents.

The application is admitted.
List before the next Division Bench
for hearing.

10/4/04
Member (A)

mb

14.5.04 Judgment pronounced in open
Court. Kept in separate sheets.
Application is dismissed. No order
as to costs.

14/5/04
Member(A)

14/5/04
Member(A)

bb

19.5.04

Copy of the order
has been sent to the
Dy. Sec. for stamp
in case to the
applicant as well
as to the Dy. Sec.
for the reply.
Sd/-

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 178 of 2003.

& O.A. No. 181/2003.

Date of Order : This the 14th Day of May, 2004.

The Hon'ble Shri Mukesh Kumar Gupta, Judicial Member.

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

Shri Alokanda Sarkar, (O.A.178/2003)
Son of Sri Bhabananda Sarkar,
Qty. No. 1798, Arabinda Colony,
P.O. Alipurduar Junction,
Dist. Jalpaiguri,
Pin-736123

Shri Babul Ch. Brahma (O.A.181/2003)
Son of Late Saniram Brahma
C/O Station Superintendent,
P.O. Dikom, Dist. Dibrugarh,
Pin - 786101

. . . Applicants

By Advocate Shri A.Chakraborty.

- Versus -

1. Union of India,
represented by the General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
2. The General Manager(P)
N.F.Railway, Maligaon,
Guwahati-11.
3. The Divisional Railway Manager(P)
N.F.Railway,
Alipurduar Junction.
4. Railway Board through the
Chairman, Railway Bhawan,
New Delhi.
5. The Chief Medical Director,
N.F.Railway, Maligaon,
Guwahati-11.
6. The Chief Medical Superintendent,
N.F.Railway,
Alipurduar Junction.
7. Sri Lakshman Ram,
Assistant Commercial Manager,
(Ticket Checking), N.F.Railway,
Maligaon, Guwahati-11.
8. Sri Khagendra Nath Boro,
Assistant Commercial Manager,
(Claims prevention),
N.F.Railway, Maligaon,
Guwahati-11.
9. Sri Shashi Mohan Basumatary,
CCMI/New Bongaigaon, N.F.Railway.
10. Sri Jogendra Chandra Rabha,
Chief Goods Supervisor/II/TXOT
Tinsukia Division, N.F.Rly.

. . . Respondents

By Dr. M.C.Sarma, Railway Standing Counsel.

O R D E R

K.V.PRAHLADAN, ADMN.MEMBER.

The applicant joined as a Junior Clerk in the N.F.
Railway on 10.7.1974. After that he was promoted as Senior
Clerk, Head Clerk and Office Superintendent. Now the applicant

is working as Instructor Commercial at the Zonal Training Centre, N.F.Railway, Alipurduar Junction. The applicant appeared in the written examination for a Limited Departmental Competitive Examination (LDCE) on 15.2.2003 for the post of Assistant Commercial Manager and he qualified in the written examination and then he was examined for physical fitness before respondent No.6. The respondent No.6 issued a certificate dated 23.5.2003 saying that the applicant was unfit for promotion to Group 'B' service in Technical category (Commercial). The applicant appealed to the respondent No.6 on 16.6.2003 against the Medical Certificate dated 23.5.03/10.6.03. The applicant submitted that he was not given any copy of the Medical Certificate. He was rejected on account of colour blindness, which is an essential requirement for promotion to Assistant Commercial Manager Group 'B' Gazetted. The applicant claims that many employees were given certificates of fitness for Gazetted post under non technical category in the selection to the post of Assistant Commercial Manager. The applicant was not allowed to appear in the viva voce test on the ground of medical unfitness. The applicant claims that commercial service is of non technical nature and the job of Assistant Commercial Manager, Group 'B' Gazetted, has no connection with train running or use of trolley on open line. The applicant has quoted Rule 530(a) of Indian Railway Medical Manual by which transportation and commercial wing have been clubbed together under Traffic department. The applicant claims that Commercial staff has no operational job and their cadres and promotional avenues are different from operational staff. Clause 530(a) of the Indian Railway Medical Manual clubs together commercial and transportation. This has been done without application of mind. There is no nexus between the functions of commercial and transportation department.

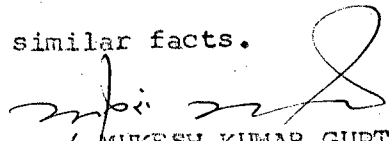
1CND
2. The respondents in their written statement stated that the applicant was declared unfit by Senior Divisional Medical Officer, N.F.Railway, Alipurduar vide his letter No.H/219/1 (PME)

dated 10.6.2003. He was found unfit for promotion to Group 'B' (Technical category, Commercial). The Chief Medical Director, N.F.Railway, Maligaon conducted a Medical Board on 23.6.2003 and confirmed the findings of the Medical report dated 10.6.2003. The respondents further stated that the latest Indian Railway Medical Manual issued in 2000 divides all posts into two categories - (a) all posts in Mechanical, Electrical, Civil and Signal and Telecom Engineering and Traffic (Transportation and Commercial) Departments and (b) all posts in other departments which are not connected with train running or use of trolley in open line. Apart from this para 532 of IRMM prescribes that for category (a) posts colour perception "both ISHIHARA and E.G.L should be normal" i.e. for promotion from non gazetted to Group 'B' gazetted posts in Traffic (Transportation and Commercial) departments the candidates should be free from colour blindness. This is because a Group 'B' gazetted officer may be interchanged between the Transportation and Commercial departments from time to time. So the respondents say that colour vision qualification cannot be relaxed by any means. The applicant was found unfit by medical examination and later on medical Board also found him unfit for the same reason of colour blindness. The respondents also denied the allegations of the applicant that employees given certificate of fitness for gazetted post non technical services were called for viva voce test for selection to the post of Assistant Commercial Manager. For ensuring uniformity in the format for medical examination all the candidates were called for a medical examination in Maligaon Central Hospital. 12 candidates appeared for the LDCE were examined and 11 of them were declared fit. The applicant had failed both at the test conducted at Alipurduar Railway Hospital as well as Maligaon Central Hospital.

3. We have heard Sri A.Chakraborty, learned counsel for the applicant, and Dr.M.C.Sharma, learned Railways Standing Counsel for the respondents at length. At page 63 of the "approved Modules for stagewise training of Group 'C' & 'D' staff of Traffic (Commercial) department" issued by the Ministry of Railways in March, 1998 includes, (a) Kinds of Signals - description & definition, (b) Min.equipment of Signals at each class of stations and (c) Defective Signals and authority to pass. The next promotion of Assistant Commercial Manager is to the Indian Railway Traffic Service Group 'A' which is a technical service concerned with the operations regarding movement of trains. Therefore, from the very junior level in the commercial department to the Indian Railway Traffic Group 'A', there is emphasis on the operation side of the running of trains. Taking all these facts into consideration the Railway Board has insisted on strict visual standard and colour perception for promotion to the post of Assistant Commercial Manager Group 'B' Gazetted. This standard is vital for the safety of running of trains. Therefore, the respondent is within its right to prescribe the medical standard as per para 530 and 532 of the Indian Railway Medical Manual. Therefore, the argument of the applicant that Commercial wing should be delinked from transportation does not take into consideration the vital importance of the smooth running of trains and unrestricted flow of traffic. In fact transportation and commercial aspect of the Railways are closely interlinked and hence they have been clubbed together under Traffic department. Taking all these facts into consideration the application is liable to be dismissed and accordingly the same is dismissed. No order as to costs.

O.A.181/2003 is also dismissed by this order as it involve common questions of law and similar facts.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

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13/5-11

In The Central Administrative Tribunal
Guwahati Bench :: Guwahati.

O.A. No. 181 /2003

Shri Babul Ch. Brahma

----- VS -----

Union of India & Ors

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

9.10.2002	Application invited for Limited departmental competitive examination against 30% vacancies for promotion to the post of ACM Group-B.
16.01.2003	Date of the said LDCE announced to be held on 15.02.2003.
15.2.2003	Applicant appeared in the written test of the LDCE.
2.5.2003	Result of the said written test declared. The applicant qualified in the said examination, and topped the list of ST candidates.
13.5.2003	Applicant was directed to report for medical examination.
31.5.2003	Medical examination report given. Applicant was found fit for Group-b posts which are not connected with train working or use of trolley on open line.
23.06.2003	Applicant was directed to appear in the viva voce test to be held on 25.06.2003.
25.06.2003	Applicant reported to appear in the viva voce test, but his test was not taken.
27.06.2003	Applicant was spared to report his duties at Dikom.

8.7.2003 Applicant filed an appeal for consideration
of his candidature in the said viva voce
test.

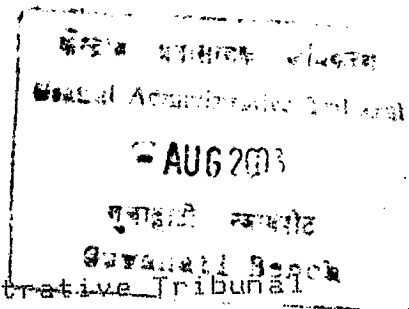
26.7.2003 Applicant was spared and directed to report
for medical re-examination.

28.07.2003 Applicant was medically re-examined. No
report was communicated to the applicant.

30.7.2003 Applicant filed another appeal to consider
him to appear in the viva voce test.

01.08.2003 Applicant was spared to report on duties at
Dikom. His viva voce test was not taken.

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In The Central Administrative Tribunal
Guwahati Bench :: Guwahati.

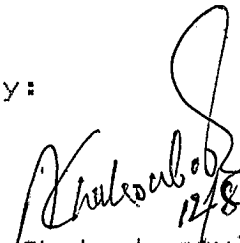
O.A. No. 181 /2003

Shri Babul Ch. Brahma _____ Applicant
----- Versus -----
Union of India & Ors _____ Respondents

I N D E X

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Filed by:


(Anupam Chakraborty)

ADVOCATE

In The Central Administrative Tribunal
Guwahati Bench :: Guwahati.

O.A. No. 181 /2003

Shri Babul Ch. Brahma
son of Late Saniram Brahma
C/O Station Superintendent,
P.O. Dikom, Dist. Dibrugarh,
Pin.- 786101.

_____Applicant

Vs.

1. Union of India represented
by the General Manager, N.F.
Railway, Maligaon, Guwahati-11.
2. The General Manager (P)
N.F. Railway, Maligaon,
Guwahati-781 011.
3. The Divisional Railway
Manager(P), N.F. Railway,
Tinsukia.
4. Railway Board through the
Chairman, Rail Bhawan, New
Delhi.
5. The Chief Medical
Superintendent, N.F. Railway,
Dibrugarh.
6. The Chief Medical Director,
N.F. Railway, Maligaon,
Guwahati-11.

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Filed by the applicant
Babul Ch. Brahma
through P. Chatterjee
12/8/2003

7. Sri Shashi Mohan Basumatary
CCMI/New Bongaigaon, N.F.Rly.

8. Sri Jogendra Chandra Rabha,
Chief Goods Supervisor/II/TXOT
Tinsukia Division, N.F.Rly.

_____ Respondents

Details of the Application :

1. Particulars of the order against which the application is made :

(i) The application is made against non consideration of the candidature of the applicant in the viva voce test and for promotion to the post of Assistant Commercial Manager (Group-B).

(ii) For modification of Rule 530(a) of the IRMM as sought for in the relief.

2. Jurisdiction:

The Applicant declares that the subject matter of the application is within the jurisdiction of the hon'ble tribunal.

3. Limitation:

The applicant declares that the application is within the period of limitation under section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case:

4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the constitution of India. He is a member of Schedule Tribe community.

4.2 That the applicant was appointed as Goods Clerk in N.F.Railway w.e.f. 14.10.1976 and thereafter he was promoted as Senior Goods Clerk, Chief Goods Clerk, Chief Goods Supervisor-II. At present he is working as Chief Goods Supervisor-II (Non-Gazetted post) at Dikom. The next promotional scope of the applicant is to the post of Assistant Commercial Manager (for short ACM) (Group-B) Gazetted post. The selection to the post of ACM Group-B is made by selection for 70% vacancies and through Limited Departmental Competitive Examination (for short LDCE) against 30% vacancies. This LDCE comprises of both written examination and viva-voce test. The candidates who qualify in the written examination become eligible for the viva voce test. The written examination is of rigorous nature.

4.3 That by office letter dated 9.10.2002 the respondent department invited application for limited departmental competitive examination for a panel of 5 post (UR-3, SC-1 and ST-1). The applicant in response to the said office letter dated 9.10.2002 applied for the said examination.

Copy of the Letter dated 9.10.2002
is enclosed as Annexure-'A'.

4.4 That thereafter by letter dated 16.1.2003 the

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respondent department announced the date of the said examination to be held on 15.02.2003. The applicant along with other candidates were informed about the date, time and venue of the written examination by letter dated 21.1.2003.

Copy of the letter dated 16.1.2003 and letter dated 21.1.2003 are enclosed as Annexure - B and C respectively.

4.5 That the applicant appeared in the written examination for LDCE on 15.2.2003 and did very well. It is pertinent to mention that three ST candidates including the applicant have qualified on the relaxed standard as against one ST vacancy, as none of the ST candidates could obtain qualifying marks prescribed for general candidates. The result of the said examination was published by letter dated 2.5.2003, and the applicant topped the list of ST candidates.

Copy of the letter dated 2.5.2003 is enclosed as Annexure - D.

4.6 That by letter dated 13.5.2003 the applicant was directed to report to the respondent No.5 for physical fitness certificate. The applicant accordingly appeared before the said respondent No.5. After the examination the respondent no.5 by his letter dated 31.5.2003 informed the respondent no.4 as under :

"On examination, he is found to have colour blindness, as such he is fit for Group 'B' post which are not connected with train working or use

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of trolley on open line vide IRMM Clause No. 530(b)."

Copy of the letter dated 13.5.2003 and letter dated 31.5.2003 are enclosed as Annexure-'E' and 'F' respectively.

4.7 That in this connection it is stated that in respect of other candidates the certificate of fitness for gazetted railway service was given in a prescribed form and the reports were in different language as "he has been found fit for gazetted post under Technical/Non Technical Service in C/1(Cee/One)." They have been declared fit in class C/1 (CEE ONE) as the work of ACM is a non-technical service being of sedentary nature and also not associated with train running. It is pertinent to mention that E-2, C-1 and C-2 classes do not require colour vision test, and the N.F. Railways also adopted the same and issued year after year C/1 certificates for promotion to the post of ACM Group-B(Gazetted). It is also stated that the applicant was initially appointed after he was found medically fit in C/1 category.

Copy of the letter dated 21.4.1976 is enclosed as Annexure-G.

4.8 That the applicant begs to state that technical services in railway include those which are connected with operational functions of the railways such as mechanical, Electrical, Civil and Signal & Telecom Engineering and movement of trains(Traffic Transportation). Non-technical services in railways include sedentary nature of jobs such

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as personnel services, accounts services, commercial services, general management, stores etc.

The employees who were given certificate of fitness for gazetted post under non-technical service have been called for viva voce test for the above selection. But most unfortunately the fitness certificate of the applicant was communicated by the Medical Department by a different letter not in the form given to others as explained above. The letter dated 31.5.2003 indicated colour blindness of the applicant but in unambiguous term said "as he is fit for Group B post" but made a reference to clause No.530(b) of the IRMM. But in the case of the other standard certificates there is simple indication of fitness for gazetted post under non-technical services.

Copies of the Certificate issued to other candidates are enclosed as Annexure - 'H' and 'I'.

4.9 That the applicant begs to state that by letter dated 23.6.2003 from Station Superintendent, Dikom the applicant was directed to appear before the viva voce test and he reported to appear accordingly on 25.06.2003, but most unfortunately his viva voce test was not taken and he was spared and directed to report for his duty at Dikom by a letter dated 27.6.2003 issued from the Office of The General Manager (P), Maligaon alleging unfitness for the Group 'B' post of Commercial Department.

Copy of the letter dated 23.06.2003

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is enclosed as Annexure - 'J'.

Copy of the letter dated 27.6.2003

is enclosed as Annexure - 'K'.

4.10 That the post of ACM is a sedentary post and supervises the duties of the Commercial staff doing jobs of Goods Clerk, Coaching Clerk, Booking Clerk and works of the same nature relating to the commercial nature of railway services. In other words dealing with selling of railway services to passengers and for transportation of goods and collecting money in exchange. These have no connection with the functional moving of the railway and therefore, these services are of non-technical nature having closeness with the nature of accounts job. The promotional avenue to the post of ACM is also from non-technical staff such as Goods Supervisor like the applicant, and Law Assistants. It is also stated that the post of Law Officer (a gazetted post) is also filled up from ACM/ Senior Commercial Manager. The applicant begs to state these to demonstrate the non-technical nature of the gazetted commercial services.

4.11 That the applicant begs to state that he has been arbitrarily and without application of mind debarred from appearing in the viva voce examination. It is also stated that the job of the ACM has no connection with train working or use of trolley on open line.

4.12 That the Rule 530 of the IRMM reads as under:

"For the purpose of examination of visual acuity of Railway employees promoted from non-gazetted posts

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to gazetted posts, the gazetted posts should be divided into two categories as follows:-

(a) All posts in Mechanical, Electrical, Civil and S&T Engg. and Traffic (Transportation and Commercial) Department,

(b) All posts in other departments which are not connected with train working or use of trolley on open line."

Copy of the page 69 & 70 containing Rule 530 of IRMM is enclosed as Annexure "L".

4.13 That the Rule 530(a) includes posts in Mechanical, Electrical, Civil and Signal & Telecom Engineering and Traffic (transportation & Commercial) Department. It is stated that the Commercial Department has been bracketed with Transportation Department within the Traffic Department in the said Rule without application of mind and without any nexus with the duties and functioning to be achieved by the class of officers in that Group 530 (a). The Mechanical Department involves duties of running the Engines, both Locomotive, Diesel & Electrical and Carriages and Wagons (passenger coaches & goods wagon). The Electrical Engineering Department involves technical works of Electrical installations and maintenance. Civil Engineering is concerned with the works of the Railway tracks, bridges and also construction of buildings. The Signal & Telecom Engineering involves the signaling system for Railway running and telecommunication system. The transportation is the operating wing of the Railway Department and is directly

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involved in the operational job of trains. The Station Masters, ASM, Guards are involved directly for the running of the trains. The Central Control Section is also under the Operation Department. The officers of the Operational Department are within the ambit of technical operational job. The commercial staff have no operational job. Their cadres and promotional avenues are different from operational staff. The cadres of Assistant Commercial Manager & Assistant Operational Manager are different. The inclusion of the words 'Commercial' in Clause 530 (a) is not correct in the context. This word deserves to be deleted from the Rule 530 (a) of IRMM.

4.14 That the respondents also for practical purposes and for purposes of promotion to Gazetted post of Commercial Department consider the cases as Non-technical nature. The Certificates issued as in Annexure 'H' & 'I' would clearly demonstrate the position and also show that the colour perception is not a factor for promotion to such posts. It is further stated that promotion to the post of ACM is made without relevance to colour perception and the medical fitness certificates are generally issued without colour perception.

4.15 That the applicant has been victim of non application of mind and the letter dated 31/05/2003 has been issued by the Respondent No. 5 without application of mind mentioned colour blindness and gave the certificate in a manner is not required or formal and which is different from the standard certificates usually used for which the

applicant has enclosed at least two exemplary certificates (Annexure 'H' & 'I'). This has resulted in differential treatment attracting Article 14 and 16 of the Constitution of India.

4.16 That the applicant filed an appeal dated 8.7.2003 to the respondent No.2 for consideration of his candidature in the viva voce test of the said LDCE. Thereafter, the applicant was by letter dated 26.7.2003 spared and directed to appear before the Chief Medical Director/Maligaon at Central Hospital, Maligaon for medical examination on 28.7.2003. The applicant reported on 28.7.2003 for medical examination. He was medically examined and spared on 01.08.2003.

Copy of the appeal dated 8.7.2003 is enclosed as Annexure-M.

Copy of the letter dated 26.7.2003 is enclosed as Annexure-N.

4.17 That the applicant begs to state that he has filed another appeal dated 30.7.2003 to consider him to appear in the viva-voce test of the said LDCE. He has mentioned in the said appeal that the posts of commercial officers viz., ACM/PRS, ACM/Claims, ACM/Refund, ACM/Catering, ACM/Ticket Checking, ACM/Rates and ACM/General are not directly involved in train passing/running duties. It is stated that the applicant has not received any communication from the respondents against his said appeal, nor he has been called in the viva voce test. It is learnt that the respondents are

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Babul Ch. Brahma

now going to declare the result of the said LDCE without considering the cases of the candidates left out for the reason explained above.

Copy of the appeal dated 30.7.2003
is enclosed as Annexure-0.

4.18 . That the applicant begs to submit that if he is not considered for viva voce test on the alleged ground of colour blindness (which is not required for non-technical services like ACM Group-B) his further promotional avenue to the higher post shall be lost for ever.

5. Ground for reliefs with legal provisions.

5.1 For that respondents have taken different standard in issuing/giving medical certificates to the similarly situated candidates like the applicant.

5.2 For that the non-application of mind in passing the impugned medical certificate dated 31.05.2003 is patent.

5.3 For that the actions of the respondents offends Article 14,16 and 21 of the Constitution of India.

5.4 For that the Rule 530(a) of the IRMM is violative of Article 14 of the Constitution of India.

5.5 For that the Commercial Department has been bracketed with Transportation Department within the Traffic Department in the said Rule without application of mind and without any nexus with the duties and functioning to be

achieved by the class of officers in that Group 530 (a).

5.6 For that the respondents have issued certificate of fitness to the candidates in class C/1 in pasts and also to the other candidates of the LDCE in question but followed a different standard in the case of the applicant including some others.

5.7 For that in view of the matter the applicant is entitled to the reliefs sought for.

6. Details of the remedies exhausted

The applicant declares that he has preferred appeals dated 8.7.2003 and 30.7.2003 without any result and there is no other efficacious remedies under any Rule and this Hon'ble Tribunal is the only forum to adjudicate the subject matter.

7. Matters not previously file or pending with any other court

The applicant declares that he has not filed any case on the subject matter before any court, forum or any other institution. However, he has preferred an appeal before the appellate authority.

8. Reliefs sought for

Under the above facts and circumstances the applicant prays for the following reliefs :

8.1 The letter (Medical Report) dated 31.5.2003 be set aside and quashed.

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Rabul Ch. Brahma

8.2 The Rule 530(a) of the IRMM be modified to the extent the word 'Commercial' may be deleted from "Traffic (transportation & commercial) Department".

8.3 The applicant be called for viva voce test and he may be considered for promotion to the post of ACM Group-B Gazetted.

8.4 Any other relief or reliefs as the Hon'ble Tribunal deem fit and proper.

The above reliefs are prayed for on the ground stated in para 5 above.

9. **Interim Relief**

During the pendency of this application the applicant prays for the following interim reliefs:

9.1 The publication of the result of the LDCE may be stayed.

9.2 The viva voce test of the applicant be taken provisionally by the same Board.

9.3 Any other relief or reliefs as the Hon'ble Tribunal deem fit and proper.

The above reliefs are prayed for on the ground stated in para 5 above.

10. This application is filed through the Advocate.

Babul Ch. Brahma
25

11. Particulars of Postal Order:

- i) IPO No :
- ii) Date of Issue :
- iii) Issued from :
- iv) Payable at :

12. List of Enclosures

As per Index.

Verification

Verification

I, Babul Ch. Brahma, son of Late Saniram Brahma, aged about 46 years, working as Chief Goods Supervisor-II in N.F.Rly, a resident of Dikom. Dist-Dibrugarh, do hereby verify that the statements made in the paragraphs 1,4,6 to 12 are true to my knowledge and statements in para 2,3 and 5 are true to my legal advice and that I have not suppressed any material fact.

And I, sign this verification on this //th day of August, 2003.

Babul Ch. Brahma
SIGNATURE

16

H. P. RAYCHAUDHARY.

Annexure - A
SS/DMM
A
N

Office of the
Divl. Railway Manager (P),
Tinsukie, Dated. 9.10.2002.

No. 3/254/GAZ/ADVT/Pt.III/TSK.

To,
All CMI/TSK Division,
All CGS/OGC, TSK Division, CLA/TSK, (OGC) Division,
All CTTI/DBRT, TSK, EXN, All DCI/TSK Division,
C/- DCM/TSK, ACM/TSK, DBRT and Comm. Controller/TSK.
Convener/IFRMU, IFREU/TSK Div, & Divl. President of AISCRTA of TSK Div

Sub: Limited Departmental Competitive Examination for
selection for the post of ACM/Group 'B' against
30% vacancies.

Ref: GM(P)/MIG's L.No. 3/254/II/COM-1/Pt.V (O) dt.23.09.2002.

GM(P)/MIG's vide his letter under reference has decided to
hold a Limited Departmental competitive Examination (LDCE) for a panel of
05 (UR=3, SC=1, & ST=1) post is forwarded herewith along with its necessary
instruction and guidance. The application on the above mentioned subject
must reach to this office before 18.10.2002 certain for onwards transmission
to HQ. by the target date.

DA: As above.

for Divl. Railway Manager (P),
H. P. Railway, Tinsukie.

(Copy of GM(P)/MIG's L.No. 3/254/II/COM-1/Pt.V (O) dt.23.9.2002)

Sub: As above.

It has been decided to hold a Limited Departmental Competitive
Examination (LDCE) for forming a panel of 05 (UR - 3, SC-1 & ST - 1) persons
for the post of ACM/Group - 'B' against 30% vacancies.

The LDCE will comprise of both written examination and Viva-voco
tests. The candidates who qualify in the written examination, will only be
eligible for the Viva-voco test. The subjects of written examination and marks
allotted in each paper are given below :-

SUBJECT	MAXIMUM MARKS	QUALIFYING MARKS.
PAPER - I		
Professional subject, General Knowledge & Rajbhasha.	150	80
PAPER-II		
Professional subject, Establishment & Financial Rules.	150	90

The question paper will be bi-lingual i.e. in ENGLISH & HINDI
It will be the candidates choice to write in English or Hindi.

The above LDCE is open to all Group 'C' staff of Commercial
Department of this Railway who are eligible for the promotion to the post of the
following condition :-

(Contd.....)

Pls. send
to
P.W.

(Page/2)

(1) He/she should be regularly selected in the grade, the minimum of which is Rs. 5000/- & higher Group 'C' position, with 5 years non-continuous service in the grade as on 31.07.2001.

(ii) All the volunteers, who fulfill the conditions of eligibility as mentioned vide (i) above, will be allowed to compete in the written examination, without any restriction of the numbers of eligible candidates.

The Controlling Officers and Cadre Officers of Personnel Department should notify this widely amongst the staff of Commercial Department under their and obtain applications from the volunteers in the prescribed PROFORMA enclosed as Annexure. 'A' and forward the applications duly verified and certified that the service particulars are correct, so as to reach this office on or before 22.10.2002 positively. Applications sent to this office after the target date will not be entertained. Cadre Officers of Personnel Branch will take care of those candidates, who are currently out of the cadre on DEPUTATION of other Organisations, to intimate them to apply within the target date. Incomplete application and application forwarded without verification of service records, will summarily be rejected. Advance copy of application and application sent in place mail manner, will not be accepted in any circumstances.

It may be noted that before conducting written examination, mandatory pre-selection coaching classes for SC/ST eligible candidates will be arranged by the Department concerned. They will also intimate the date and venue of the pre-selection coaching in due course. If any SC/ST candidate refuses to undergo pre-selection coaching, a written undertaking should be obtained from him/her and sent the same directly to the In-charge of Pre-selection coaching (to be nominated by CO) for record and finally the In-charge of the Pre-selection coaching will give details of the coaching to D1.CHO/GAZ. The Controlling Officers should ensure that the SC/ST staff under their control is spared without fail by the in charge of Sub-Office to attend such coaching well in time. SC/ST staff are also advised to insist their senior subordinates at their own interest, to spare themselves to undergo said coaching and in the event of non-sparing, they may bring the matter to the notice of their Controlling officer well in advance. No appeal to this effect will be entertained by COM(P)/MG after over of the pre-selection coaching. Candidates should be advised to keep themselves in readiness to appear in the written examination at short notice.

If any one is on leave, training, transfer, deputation etc. he/she should be advised to his/her address of leave, training, new place of working deputation by the controlling officer WITHOUT FAIL. It will be responsibility of the immediate Controlling Officer to inform the candidates at their present place of posting, specifically to the staff, who are on deputation.

The volunteers, who fulfill the conditions of eligibility, may be advised to keep themselves in readiness to appear in the written examination at short notice.

In case of service particulars furnished by the candidates are found to be not in order or if he/she is otherwise not eligible to appear in the said LDC selection, the candidature of the volunteers will liable to be cancelled at any stage during pendency of the selection proceedings. The candidates should also be informed that there will be NO ABSOLUTE SELECTION in any circumstances.

The sample copy of PROFORMA is enclosed as ANNEXURE 'A'.

It is advised that applications of all volunteers duly verified (as stated above), may be sent in a bunch, through Special Messenger, to reach this office within the target date.

The receipt of this notification may please be acknowledged.

DA: As above.

Sd/- (S. A. CHOUHAN), CHO/GAZ
for GENERAL MANAGER (P).

Handwritten signature and initials

Annexure - C
3
C/
30

— 13 —

NO.0/M/no/TSK/2002

Office of the
Divisional Commr. Manager
Tinsukia dt. 21.01.2003

- To
- 1) Shri D.H. Sarkar, CCM/TSK
 - 2) J.K. Bishya, CGS/I/LLO
 - 3) J.C. Robha, CGS/II/TKOT
 - 4) D.C. Brahma, CGS/II/DKM
 - 5) R.C. Bhuyan, CGC/I/AGI

Sub:- Limited departmental Competitive
Examination of AGM/Group 'B' against
30% vacancies.

Ref:- GM(P)/MLG's letter RE.E/254/11/COM-PLIV(0)
dated 15.01.2003

GM(P)/MLG vide his letter under reference has
intimated that limited departmental Competitive examination for
selection of AGM Group 'B' against 30% vacancies will be held on
15.2.2003 as per following programme:-

- 1) Date of written examination 15.02.2003 (Saturday)
- 2) Time of examination:-
 - i) 1st paper from 10.00hrs to 13.00hrs.
 - ii) 2nd paper from 14.30hrs to 17.30hrs.
- 3) Venue:- CGC/MLG's office.

You are, therefore, directed to attend the selection
accordingly. Unwillingness to appear in the written examination
should be sent to this office immediately for onward transmission
to Hqr.

Sub Pass no 588955

Divisional Commr. Manager
Tinsukia

Copy to 1) SSG/LLO, DKM & AGI, CGS/TKOT for information. They will
please spare the above staff well in time to attend the
said selection.

- 2) DRM(P)/TSK for information. He will please arrange to
issue necessary duty passes in favour of the above staff
from their place of working to SXQ and back.
- 3) CCM/G/MLG for information please.

21/1/03
Divisional Commr. Manager
Tinsukia

Attended
18/1/03
adv.

— 20 —

Answer - D
D
B1

N.E. RAILWAY

Office of the
General Manager(P)
Maligaon, Guwahati-11

Dated: 02.05.2003

No.E/254/11/COM-I/PLIV(O)

To,

CCM, CCM(FM), CCO/MLG,
DRM(P)s/KJR, APDJ, RNY & TSK ;
SR.DCMs/KJR, APDJ ;
DY.CCM/Claims/HQ, DY.CCM(FM) & DY.CCM/FM/MLG,
DCMs/RNY & TSK' PRINCIPAL/ZTC/APDJ, Area Manager/NBQ.
Law Officer/MLG, APO/T/MLG

Sub:- Limited Departmental Competitive Examination for the post
of ACM/Group-'B' against 30% vacancies.

Ref:- This office letter of even number dated 13.12.2003.

The following candidates under your control have qualified in the written
examination of above mentioned LDCE held on 15.02.2003 :-

- 1) Shri Dinesh Singh, CLA/KJR
- 2) Shri Nirendra Nath Barman (SC), CRS/HQ ✓
- 3) Shri Pralhad Tiwari, CRJ/HQ ✓
- 4) Shri Birendra Kumar Mishra, CLA/CCO/MLG ✓
- 5) Shri Tapash Chandra Paul, Hd.GC/NBQ at BRPL
- 6) Shri Dilip Kumar Das, CMI now as Comm. Controller/CCO/MLG ✓
- 7) Shri Pawan Kumar (SC), CGS/H/KJR
- 8) Shri Dandesar Thakuria, CLA/GM(Law)/MLG ✓
- 9) Shri Sudhendu Sengupta, CL/HQ under CCM/MLG ✓
- 10) Shri Alokanda Sarkar, Instructor/Comm. ZTC/APDJ

The following ST candidates have qualified on Relaxed standard as against one ST
vacancy, as none of the ST candidates could obtain qualifying marks prescribed for general
candidates:-

1. Shri Babul Chandra Brahma(ST), CGS/ID/KM
2. Shri Jugendra Chandra Rabha (ST), CGS/ITXOT
3. Shri Shashi Mohan Basumatary(ST), CCM/NBQ

You are, therefore, requested to direct the candidates concerned to their respective
Medical Authorities to obtain their Physical Fitness certificates for holding the Group-'B' post in
Commercial Department, before they appear in the Viva-voce test to be held at short notice.
Physical Fitness certificates obtained by them should be submitted to this office on or before
commencement of Viva-voce test when it will be fixed.

Candidate's concerned should be advised to keep themselves in readiness to appear
in the Viva-voce of above LDCE at short notice.

Please acknowledge receipt.

Vug
2/5/03
(P.K.SINGH)
DY.CPO/GAZ.
For GENERAL MANAGER(P)

Pls. feed
18/5/03
P.K.S.

OFFICE OF THE
DEPUTY, RLY. MANAGER (P)
TINSUKIA

No. F/254/GAZ/ ADWT / Pt. III/ TSK.

Date - 13. 5 - 2005.

CIS / ADWT
H. P. Railway.

Sub :- Physical fitness certificate for the post of
ACM (Group-B) against 50 % vacancies.

Ref :- CM(P)/NLO's letter No. F/254 /II/ OCM-I Pt. IV (C)
dt. 11-5-05.

CM(P)/NLO has advised vide his letter cited above to direct the
following staff to appear for physical fitness certificate to appear
for the post of ACM (Group-B) against 50% vacancies
this will be held at Maligaon with short notice.

1. Shri Babul Ch. Brahma (ST) CGS/II/NNM.

2. ^{dra} Shri Jagan Ch. Rabha (ST) CGS/II/TKOT.

For Deputy Rly. Manager (P)
Tinsukia.

Copy for information and necessary action pl. to.

1. S S / NNM. He is advised to direct Shri Babul Ch. Brahma CGS/II/NNM
to appear CGS/ADWT immediately for medical examination
of his physical fitness for the post of ACM (Group-B)

2. C GS / I/TKOT. He is advised to direct Shri Jagan Ch. Rabha
CGS/II/TKOT immediately for medical examination of
physical fitness for the post of ACM (Group-B).

3. Staff concerned.

4. If in at office. He is advised to issue the duty passes
for the above staff accordingly.

5. S S / TSK.

For Deputy Rly. Manager (P)
Tinsukia.

Attached
R. P. W.

FOM

N.F. RAILWAY

Office of the
Chief Medical Supdt (IC)
N.F. Railway, Dibrugarh

NO : H/219/1

Dt : 30.05.2003

To
DRM(P)/TSK
N.F. RLY

Sub : Physical fitness certificate in favour of
Sri. Babul Chandra Brahma, CGS/II/DKM in
post of ACM Group "B".

Ref : Your letter No. E/254/GAZ/ADVT/Pt. III/TSK
dated 13.05.2003.

In reference your above letter, Shri. Babul Chandra
Brahma, CGS/II/DKM was examined for fitness in the post of ACM
(Group "B").

On examination, he is found to have colour blindness,
as such he is fit for group "B" post which are not connected with
train working or use of trolley on open line vide IRMM clause No.
530(b).

Encls : One certificate (Original No. 21 dated 19-05-03)
30-05-03)

Chief Medical Supdt (IC)
N.F. Railway, Dibrugarh

Copy to :- SS/DKM for information.

262
31/5/03
Chief Medical Supdt (IC)
N.F. Railway, Dibrugarh

Pls. send
for
for.

Annexure - 6
G
34

— 23 —

NORTHEAST FRONTIER RAILWAY.

Office of the
Chief Personnel Officer,
Maligaon: Gauhati-11.
Dated, 21 - 4 - 1976.

No. E/227/18/Pt. II (Resv).

To
Sri Babul Ch. Brahma,
Off R. NO. 82/B, East Gosala
Gauhati - 11

Sub:- Temporary appointment as Tr: lower Clerk.
on Rs. 260/- (Rs.) per month in scale
Rs. 260 - 430/- (Rs.) plus usual allowances
as admissible from time to time.

On being found medically fit in Category 9/1
you are hereby directed to report to A.P.O. (T?)
N.F. Railway /M.L.G. immediately for
further orders.

The terms and conditions of your service will
be the same as stated in this office letter No. E/227/18 Pt. II...
(Resv.) dated 1-4-76

Please acknowledge receipt.

Shamby
SENIOR PERSONNEL OFFICER(RP).

Copy forwarded for information and necessary action to:-

- (1) A.P.O. (T)/M.L.G. appointed pending police verification
- (2) SPO(Rectt) Maligaon. The candidate's prescribed Railway Service Commission Forms alongwith its enclosures and Medical Fit Certificate is attached herewith. He will please take necessary action as regards Police Verifications and then send the forms alongwith other papers to the Officers under whom the candidate is directed to report for further orders.

for CHIEF PERSONNEL OFFICER.

....

*Attended
R.P.*

— 24 —

N.F.Rly

Annexure - 11
H
35

Office of the
Medical Supdt.
N.F. Rly., New Bongaigaon
Date:-22.5.03

CERTIFICATE OF FITNESS FOR GAZETTED RLY. SERVICE.

Certified that Sri Shashi Mohan Basumatary Designation CCMI Stn. NBO whose signature is furnished below has been examined by me on date, and he has been found fit for gazetted post under Technical/Non Technical service in C/I (Cec/One).

Shashi Mohan Basumatary

Signature Of The Employee

No. H/219/Gaz/NBO/55 Date:- 22.05.03

Copy to:-

1) DCM/RNY for information and necessary action please.

2) CPO/MLG:-for information please.

Signature Of examining
Medical Authority.

Signature of the Examining Authority

Attested
P. P. P.

N.F. Rly.

Office of the
Medical Supdt.
N.F. Rly., New Bongaigaon
Date:-22.5.03

CERTIFICATE OF FITNESS FOR GAZETTED RLY. SERVICE.

Certified that shri Tapash ch. paul, Design.Hd.GC/NBQ at BRPL sta.BRPL whose signature is furnished below has been examined by me on date and he has been found fit for gazetted post under Technical/Non - Technical service in C1.(Cec/One)

Tapash ch. Paul.

Signature Of the Employee

No.H/219/Gaz/NBQ/55, Did.....

Signature Of the Doctor
S.N.Brahma,22.05.'03

Signature Of the examining
Medical Authority

Copy to:-

1)DCM/RNY for information & necessary action please.

2)CPO/MLG for information please.

Signature Of Examining
Medical Authority

Affected
[Signature]

Annexure-J
26
97

N. F. RAILWAY.

Office of the
Divl. Comm. Manager
Tinsukia

No.C/EG/MPP/2000

Date: 23/06/2003

TO;

- 1) Shri Babul Ch. Brahma
CGS/II/DKM
- 2) Shri Jogendra Ch. Rabha
CGS/II/TXOT

Sub:-Viva-veco for the post of ACM/Group-'B'
against 30% LDCE.

Ref:-GM(P)/MLG's L/No.E/254/11/COM-I/Pt.IV(O)
dated 9.6.2003.

GM(P)/MLG vide his letter under reference has intimated that Viva-veco for the post of ACM/Group'B' against 30% LDCE will be held on 25.6.03(Wednesday) from 10.00hrs in the chamber of CCM/N.F.Railway, Maligaon.

You are, therefore, advised to attend the said Viva-veco on the date and time as mentioned above.

It is also informed that no absentee viva-veco test will be held.

File - 23/6/03
Divisional Comm. Manager
Tinsukia

Copy to DRM(P)/TSK for information. He will please issue necessary duty passes in favour of the above named staff.

Copy to SM/TSK & SS/DKM for information and N/action.

Divisional Comm. Manager
Tinsukia

*Attended
23/6/03*

— 27 —

Annexure-K
7
K 98

N.F. RAILWAY

Office of the
General Manager (P).
Maligaon, Guwahati -11.

No. E/254/11/COM-I/Pt.IV(O)

Dated: 27-06-2003

To
SS/DKM,

Sub: Sparing.

Ref: Your letter No.D/PO/22/2003 (.) Dated 23.06.2003

As directed vide your letter quoted under reference, Shri Babul Chandra Brahma, CGS/II/DKM had reported to this office to appear in Viva-voce test of ACM/Group-'B' selection against 30% LDCE on 25.06.2003(FN).

However, he was not allowed to appear in the said Viva-voce test due to Medical Unfitness for the Group-'B' selection of Commercial Department as per certificate issued by his respective Medical Authority. He is hereby re-directed to report to you for his further duty in the afternoon on 27.06.2003. ^(post)

ds.
27/6/03
(S.K. Chowdhury)
APO/Gaz.

For General Manager (P).

Copy to:-

Shri Babul Chandra Brahma, CGS/II/DKM for information.

For General Manager (P).

Attested
AB

526. Women candidates who are pregnant. A female candidate who, as a result of tests, is found to be pregnant need not be declared temporarily unfit, unless the nature of her job involves elaborate training or the post carries hazardous nature of duties like in police organisations etc.

(Rly. Bd.'s letter No.96/E(GR)11/9/14 dt. 22/07/1996)

527. Foot plate staff who had suffered Head Injuries:- See Para 511 Sub para(6)

528. Grant of leave to Railway employee who is unlikely to be fit to return to duty:-

When a medical authority has reported that there is no reasonable prospect that a particular Railway employee will ever be fit to return to duty, leave should not necessarily be refused to such a Railway employee. It may be granted, if due, by a competent authority.

Section C:- Medical examination of Railway employees on promotion from non-Gazetted to Gazetted posts

529. Introduction:-

- (1) If an employee at the time of promotion to a Gazetted post falling under category (b) of para 530 below is on sick leave, both general physical examination and vision tests will be required. If, however, the employee, at the time of promotion, is not on sick leave and is on duty, only vision tests will be required.
- (2) Those employees who are being promoted from non-gazetted to gazetted posts falling under category(a) of para 530 below will be subjected to medical examination for evidence of any chronic/acute illness which can interfere with the efficient performance of their duties after promotion, irrespective of the fact whether they were on duty or on sick list prior to their promotion.

(Bd.'s No 92/11/5/4 dt. 21/08/1996)

(3) The details of these examinations are given below:

530. Classification of gazetted posts for the purpose:- For the purpose of examination of visual acuity of Railway employees promoted from non-gazetted to gazetted posts, the gazetted posts should be divided into two categories as follows:-

- (a) All posts in Mechanical, Electrical, Civil and S&T Engg. and Traffic (Transportation and Commercial) Department.
- (b) All posts in other departments which are not connected with train working or use of trolley on open line.

531. General physical examination:- The standards of general physical examination, when done, will be the same as prescribed for the candidates for appointment to gazetted Railway service.

532. Vision tests:- (1) For category (a) mentioned in para 530 above, the following visual acuity standards should apply:-

Distant vision	6/12, 6/18 with or without glasses
Near vision	Sn.0.6, 0.6 with or without glasses
Night vision	should be normal
Colour perception	Both Ishihara and E.G.L. should be normal
Field of vision	Should be normal
Binoocular vision	Should be normal

Note : (i) The difference between the power of lenses in each eye shall not exceed 4.00 D

(ii) The power of lenses shall not exceed 6.00 Diopters.

(iii) Color perception will be tested with E.G.L. at a distance of 4.9 Meters with an aperture diameter of 1.3 mm and time of exposure will be 5 seconds. Ishihara also will be tested.

(iv) Defective Binoocular Vision will be considered a disqualification.

(v) Posterior chamber I.O.L. (Intra ocular lens) is permitted subject to following conditions:

a) In case of freshly operated IOL, of less than 6 weeks duration, employee may be declared fit for Gazetted technical post provided his visual acuity is stable for 2 consecutive check-ups at an interval of 2 weeks.

b) All cases declared fit with IOL, in gazetted technical posts should report to the ophthalmologists for periodical check-up up to one year, at intervals of 6 months, from the date of fitness or at any time whenever they notice diminution of vision or any other problem in the operated eye.

(Railway Bd.'s letters No. 92/11/5/4 dt. 11/08/1992, No. 88/11/5/3 dt. 15/10/1992, No. 92/11/5/4 dt. 09/11/1992 and No.99/11/11/5/3 dt. 21-05-1999)

Approved by
Rly. Bd.

For category (b) mentioned above in para 530, the following standards will be applicable:-

- Distant vision ... 6/18 in one eye regardless of vision in the other eye, with or without glasses
- Near vision ... Sn 0.6 in one eye, regardless of vision in the other eye, with or without glasses

- (i) Total amount of Myopia shall not exceed 8.00 Diopters in the corrected eye.
- (ii) Officers of the Railway Protection Force and the Medical department should, in addition, have normal colour perception and night vision.
- (iii) Any organic disease which is likely to result in lowering of the visual acuity should be considered as a disqualification.

All employees promoted to gazetted cadre from non-gazetted cadre will be examined for visual acuity and colour vision as per standards mentioned above irrespective of their medical category in the non-gazetted cadre.

(Bd.'s No 92/H/5/4 dt. 21/08/1996)

Examiners :- The competent authority to conduct the medical examination of non-gazetted employees for promotion to gazetted posts is the CMS/MS in-charge of the division.

M.O.R.'s letter No.E57/MB1/17 /Medical dt. 26/06/1957 and No.72/H/5/22 dt. 27/10/1972)

II. MEDICAL EXAMINATION OF EX-SERVICEMEN WHO HAVE BEEN RE-APPOINTED IN RAILWAYS AFTER RENDERING SERVICE IN ARMED FORCES

General Physical Examination: On the same standards as applicable to new recruits.

Vision tests: Acuity of vision as per the following table:

Class	Distant vision	Near vision
A-1	6/9, 6/9 or 6/6, 6/12 with or without glasses. Naked eye vision not below 6/60 and power of lens not to exceed 4 D.	The combined near vision with or without glasses should be the ability to read ordinary print. Where reading or close work is required, combined near vision with or without glasses should be Sn. 0.6.
A-2	6/12, 6/12 or 6/9, 6/18 with or without glasses. Naked eye vision not less than 6/60. Power of lens not to exceed 6 D.	As above
A-3	6/12, 6/18 with or without glasses. Naked eye vision not below 6/60 and power of lens not to exceed 8 D.	As above
The candidate should not be colour blind when tested with EGL lamp(1.3mm aperture) and Ishihara plate for A-1, A-2 and A-3 categories.		
B-1	6/12, 6/24 with or without glasses. Power of lens not to exceed 8 D.	As above
The colour vision should be normal with EGL lamp. No Ishihara test.		
B-2	As above Colour vision not required for Bee -two and below	As above
C-1	6/18, Nil or combined 6/18 with or without glasses.	Sn. 0.6 with or without glasses where reading or close work is required.
C-2	6/24, Nil or 6/24 combined with or without glasses.	As above

The difference of power of glasses between two eyes should not be more than + 4D

GAZETTED POSTS: Standards should be the same as prescribed for serving Railway employees promoted to Group 'B' gazetted posts.

- (1) All other parameters as applicable to serving employees in different categories regarding the use of I.O.L, Keratotomy, squint, binocular vision, aphakin, etc. will be applicable as per their categories.
- (2) There will be no relaxation of visual acuity for categories A-1, A-2 & A-3 if the age of the recruitee is below 35 years. They may be examined as per the standards laid down for new recruits.

(Bd.'s No.94/H/5/9 dt. 29/12/1994)

III. MEDICAL EXAMINATION OF MEMBERS OF RAILWAY CLAIMS TRIBUNALS

For members of Railway Claims Tribunals who may be appointed at a very late age, medical examination will have to be conducted primarily with a view that the officer being examined is not suffering from any acute or chronic ailment which

Attentual
PST
PST

— 30 —

Annexure - M ¹²

To
The General Manager,
N.F.Rly/Meligaon,
Guwahati - 11.

Sub : Appeal to appear before the Viva-Voce Test of ACM Group-'B' 30% vacancy and consideration for the post of ACM.

Sir,

With due respect I pray before you that the Medical Certificate of S/Shri Sashi Mohan Basumatary, CCMI/NBQ and Shri Tapash Ch. Paul, Hd. GC/NBQ at BRPL were issued as Non-Technical as per CI(C-One) standard still their Viva-Voce test for the above post have been taken. The exact version copy of the above certificate is attached here with. Moreover it is educated that the medical certificates of all other candidates have issued as Non-Technical if it be examined carefully.

That Sir, the Chief Medical Officer (IC), N.F.Rly. Dibrugarh vide his L/No. H/219/1 dt. 31-5-2003 addressed to DRM(P)/TSK/N.F.Rly. has declared me medically fit for the Group 'B' post which is not connected with train working or use of trolley on open line vide IRMM Clause No.530(b). Moreover the Medical Superintendent/N.F.Rly./NBQ Vide his L/No. H/219/Gaz/NBQ/55 dt. 22.5.03 has issued medically fit certificate for gazetted post under Non-Technical in CI (C-One) in favour of S/Shri Tapash Paul, Design : Hd.GC/NBQ at BRPL Stn. and Shashi Mohan Basumatary, Design : CCMI/NBQ Stn. The justice should have been equally awarded to all candidates in matter of the Vice-Voce test.

So, on the above light you are further prayed to look into the matter and consider my candidature for which act of kindness I shall be ever grateful to your goodself.

Dated : 8/7/2003

Yours faithfully,

Copy to :-

1. CPO/N.F.Rly/MLG. for kind information & favourable action please.
2. CCM/N.F.Rly/MLG, for kind information & favourable action please.
3. Zonal President/Secretary, SC/ST Rly. Employees Association N.F.Rly/MLG Hd.qr.

Sd/ Babul Ch. Brahma
(BABUL CH. BRAHMA)
CCS/II/DKM
TSK/N.F.Rly. at MLG.

*Admitted
P.T. Adv. Real. En copy
18/7/03*

DKM

To

26/7/2003

N 42

No D/40/24/20030

Sr B. P. Brankar

Cy 11/2 KM

You are hereby ordered and directed to appear before CMD/MLC at Central Hospital/MLG for your Medical Examination for the purpose of A.C.M. Group B" at 10.45 of 28/7/2003. (Continued) 11 R. No. C/E/24/5104/1/11 P.E. (in L. 100) of 24/7/2003. Please report to CMD/MLC for your Medical Examination. Please.

The, will pass you in when I do by 9.45 up/3960DN. If late it - DKM/15 KYD and back.

The above name staff are reported on 26/7/03 for medical exam and Spared on 01-08-03. Chief Office Supdt. **DIKOM** 1/2 KM N.E. 1/8/03 Hospital / 100 P. 1000

Best copy
Adv.

To
The General Manager,
N. F. Railway/Maligaon,
Post Maligaon, Guwahati - 11.

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Respected Sir,

Sub: Prayer for special consideration to appear in the viva-voce test for the post of ACM (Group B) in the N. F. Railway against 30% LDCE.

Ref: Divisional Commercial Manager/TSK's letter No. C/EG/MPP/2000 Dt. 23.06.2003.

Most respectfully and humbly I beg to lay the following before your honour for sympathetic consideration.

That Sir, I was directed by Divisional Commercial Manager/TSK vide his letter under reference to appear in the viva-voce test for the post of ACM (Group B) against 30% LDCE; and accordingly I attended the viva-voce test Board on 25.06.2003, but unfortunately I was not allowed to appear in the viva-voce test on the plea that I was medically unfit to appear in the viva-voce test whereas the Chief Medical Superintendent (IC), N. F. Rly/Dibrugarh vide his letter No. 11/219/1. Dt. 31.05.2003 has issued medically fit certificate on my favour for ACM (Group B) post, which are not connected with train working, or use of trolley on open line vide IRMM clause No. 530 (b).

That Sir, the SC/ST Rly. Employees Association vide their representation letter No. AISCTREA/NFZ/MLG/Repr/03, Dt. 27.06.2003 have indicated that Commercial Officers viz. ACM/PRS, ACM/Claim, ACM/Refund, ACM/Catering, ACM/T-Checking, ACM/Rates & ACM/General all are not directly involved in train passing duties and as such requested your honour to allow me to appear in the viva-voce test for the ACM (Group B) post.

That Sir, I was declared first among the ST candidate in the written examination for the above post. I have come from a very poor tribal family of the state of Assam. Practically, I have not been feeling any problem of my eyesight up till now in my day-to-day life even to ride two wheelers at night hours. More over being a tribal employee, I have been rendering Government duties in various capacities up till now with sincere devotion to Government duties. I have a great zeal to serve the nation deeply if I have the chance to be promoted to the post of ACM (Group B) after having been successful in the viva-voce test.

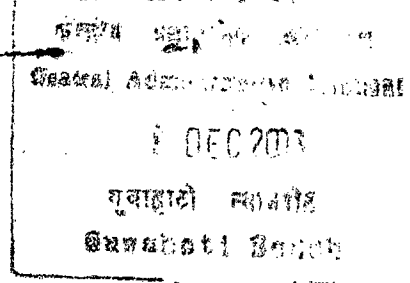
In view of above, I do fervently request your good offices to be so kind to consider me sympathetically to appear in the viva-voce test for the above-mentioned post; and oblige.

Dated: 30/07/2003

Yours faithfully

Sree Babul Ch. Brahma
(BABUL CHANDRA BRAHMA)
CGS/II/Dikom
Tinsukia Division, N. F. Railway.

Ref: 30/07/2003
P.W.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL;
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF: -

O. A. 181/2003

Shri BABUL CH. BRAHMA.

... Applicant.

-Versus-

Union of India, represented by
the General Manager,
N.F. Railway & others.

.... Respondents

-AND-

IN THE MATTER OF: -

Written Statement for and on behalf of the
Respondents.

THE ANSWERING RESPONDENTS MOST RESPECTFULLY SHEWETH
AS UNDER:-

1. That, the answering respondents have gone through a copy of the application filed and have understood the contents thereof. Save and except those statements which are specifically admitted herein below or those which are borne on records all other averments/allegations as made in the application are emphatically hereby denied and the applicant is put to the strictest proof thereof.
2. That, for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering respondents have confined their replies to those points/

allegations/averments of the applicant which are found relevant for enabling a proper decision on the matter.

3. That, the application suffers for want of a valid cause of action as will be clear from the submissions made at relevant paragraphs below.

4. That, the application suffers from wrong representation and lack of understanding of the circumstances and facts relating to the matter on hand as will be clear from the submissions made.

Parawise Submissions:

5. 5.1. That as regards para 4.1, the answering respondents have no comments except to state that the applicant is put to strict proof from records.

5.2. That, as regards para 4.2, the answering respondents state that the procedure for selection of ACM (Group-B) both against 70% vacancies as well as for 30% limited departmental examination is laid down on all-India basis by the Railway Board. The examination is no doubt competitive and all candidates are given fair opportunity.

5.3. That, in regards to para 4.3, 4.4 and 4.5, the answering respondents submit that the statement made therein reflect the various stages through which the selection was processed and how the applicant qualified in the written examination for the promotion from Group - C post to that in Group - B. It is, however, stated here that for final selection the applicant is to be cleared by the medical authorities as regards his physical and visual acuity standard test before being allowed to appear in the viva-voice test for promotion from Group-C post to Group-B as per the Indian Railway Medical Manual.

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Pradeep Kumar Singh
By Order Personnel Officer (S)
Dy. Secy. Rly. / M. 11888

5.4. That, as regards to para 4.6, the answering respondents submit that as per procedure laid down as an all-India basis by the Railway Board vide their letter No.E(GP)80/2/8 dated 31-10-91 only those candidates who qualify in the medical examination of prescribed standard should be called for viva-voice test for promotion Group - C to Group - B posts. It is therefore, mandatory that every candidate who qualifies in the written test be called for viva-voice test only if they pass the prescribed medical test.

A copy of the Railway Board's letter No.E(GP)80/2/8 dated 31-10-91 is enclosed herewith and marked as ANNEXURE - 'A'.

5.5. That, in regard to para 4.7, it is stated here that the standard of medical fitness of non-gazetted staff of different departments of Railways (including that of the commercial department) is different from that for Gazetted Officers. According to the provisions of the Indian Railways Medical Manual for promotion of non-Gazetted staff of commercial department to Gazetted (Group-B) Officer's cadre the medical tests prescribed in paras 530 and 532 have to be followed. Therefore, the fact that at the time of entry into non-Gazetted service the applicant had no visual acuity test as revealed by the letter submitted by him has no relevance to the matter at hand here.

5.6. That as regards para 4.8, it is submitted that in conducting medical examination of the applicant the guidelines indicated in the Indian Railways Medical Manual (2000 Edition) were followed.

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85-46
Pradeep Kumar Singh (52)
Dy. Secy. to Govt. of India
Ministry of Railways

According to para 530 of this manual visual acuity of Railway employees promoted from non-Gazetted to Gazetted posts of Traffic (Transportation and Commercial) Department should be in category (a). Para 532 of this manual provides that colour perception of such non-Gazetted staff aspiring for promotion to Gazetted posts should be normal. In other words colour blindness is a disqualification for such promotion. The mention of para 530 in the Medical Report therefore, is proper and justified. The applicant's objection in this regard is not acceptable.

5.7. As regards para 4.9, the answering respondents state that the applicant was not allowed to appear in the viva-voice test as he was found colour blind and was thus medically disqualified. While doing so, the Railway Board's instructions issued vide their letter No.E(GP)80/2/8 dated 31-10-91 as indicated in Annexure - 'A' of this Written Statement were carefully followed. The objection of the applicant in this regard therefore, appears to be misplaced.

5.8. That as regards para 4.10, the answering respondents beg to state that the contention of the applicant that the post of ACM (Group-B) is of non-technical nature is not correct and is, therefore, not acceptable. Gazetted Officers of both Transportation and Commercial Departments of Railways have been clubbed with departments such as Mechanical, Civil Engineering, Electrical and Signal Departments as per classification of paras 530 and 532 of the IRMM and in all these departments the colour perception of Group-B Officers should be normal (i.e., free from colour blindness).

At this stage it is also submitted that in the Traffic Department of Railways, the seniority of Group-B Officers of the Transportation and

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Shri. Kumar Singh
By: [Signature]
At: B. M. 1, Madras
[Signature]

Commercial Departments is combined. Officers are in interchangeable from one posting to the other. Thus, an Assistant Commercial Manager may at certain times be required to perform the duties of an Assistant Transportation Officer and vice-versa. Similarly, in the next higher grade (senior scale posting) an ACM may get promoted as Senior Transportation Officer and an ATM may be promoted as Senior Commercial Officer in the interest of work and of the Officers of the cadre.

5.9. That as regards para 4.11, it is submitted that there was no arbitrariness and lack of application of mind in the decision not to allow the applicant to appear in the viva-voice test. On the other hand, if the applicant were allowed to appear in the viva-voice test in spite of the medical report clearly stating that he is colour blind, the Railway Administration would have open to the blame of discrimination of other candidates similarly disqualified. In debarring the applicant the administration strictly followed the codal provisions of the IRMM and the Railway Board's instructions on the subject.

5.10. That as regards para 4.12, it is submitted that the applicant has only iterated the provision for medical examination of non-gazetted staff for promotion to gazetted cadre in Railways as per Indian Railway Medical Manual (2000 Edition). The answering respondents have no remarks to offer.

5.11. That as regards para 4.13, answering respondents do not consider it justified and prudent that Rule 530 of the Indian Railways Medical Manual be modified on the lines suggested. It is stated here that there is justification in the interest of public safety to include Traffic

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48.
Pradeep Kumar Singh
Joint Secretary
Ministry of Railways
New Delhi
110001

38-49
Pradeep Kumar Singh (S)
Dr.

(Transportation and Commercial) Department in Rule 530(a) alongwith departments such as Mechanical, Civil Engineering and other Departments involved in safety in train running as gazetted officer of the Commercial Department in Railways are required to do footplate and Trolley inspections in course of their duty specially when such officers of the commercial department are assigned Transportation duty as these two departments have a common cadre. It is to be noted that the seniority of Transportation and Commercial Group-B Officers is COMBINED and officers are interchangeable from one posting to the other. Then an Assistant Commercial Manager may at certain time be required to perform the duties of an Assistant Transportation Officer and vice-versa. Similarly, in the next higher grade (senior scale posting) an ACM may be promoted as Senior Transportation Officer and an ATM may get promoted as Senior Commercial Officer in the interest of work and of the Officers of the cadre.

In view of ~~the~~ what has been stated above, it is very essential that a ~~non~~-gazetted staff of the Commercial Department should have correct colour perception, i.e., he should be able to clearly identify the red, green and yellow signals while travelling in an engine, Trolley or Brake van of a train. Without fitness in colour perception an officer will be a serious safety hazard not only to himself but also to the travelling public.

There can, therefore, be no question of any relaxation in the visual acuity standard prescribed for medical examination of non-gazetted commercial staff for promotion to the gazetted cadre as embodied in the IRMM.

5.12. That in regard to para 4.14, it is submitted that when at a later date it was found that medical examination reports on all candidates

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have not in a uniform format all candidates were called for a special medical examination vide letter No.E/254/II/COM-I Pt-IV (o) dated 25-07-2003 at Maligaon Central Hospital. Out of 12 candidates thus called 11 were found fit for promotion to ACM (Group-B) in technical category as per guidelines of IRMM and only one, namely, the applicant was found unfit due to colour blindness vide Medical Director, Central Hospital, Maligaon's letter No.H/37/5/ (ME) dated 01-08-2003.

It is also incidentally mentioned here that the so called medical certificates annexed by the applicant do not appear to bear anyone's signature and therefore, these annexures have no bearing on the result of the case in hand.

5.13. That as regards para 4.15, it stated that the applicant's contention that the medical certificate issued on him was the result of non-application of mind is totally denied by the answering respondents. The issue of the certificate was the result of a conscious decision taken in compliance of the codal provisions of the Indian Railway Medical Manual and there is no question of any discrimination against the applicant. There was, therefore, no violation of the provisions of the Constitution of India.

5.14. That as regards para 4.16, it is submitted that the applicant was medically re-examined at the Maligaon Central Hospital of N.F. Railway alongwith 11 other candidates who appeared for the LDCE examination for promotion to Group-B posts as indicated in para 5.12 of this Written Statement above. This examination also confirmed the earlier finding that the applicant was colour blind and was, therefore, not eligible to appear in the viva-voice test.

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Pradeep Kumar Singh
By: [Signature]
A. P. Singh, J. Maligaon
Maligaon, 9.

5.15. That in regard to para 4.17, the answering respondents state that a reply to the appeal submitted by the applicant was sent vide letter No.E/254/11/COM-I Pt-IV(O) dated 19-08-2003.

A copy of this letter dated 19-08-2003 is attached herewith and marked as ANNEXURE - 'B'.

In view of the foregoing submissions the answering respondents pray that the submissions made above be accepted and the Hon'ble Tribunal be pleased to dismiss the petition with costs.

VERIFICATION

I, Sri Pradeep Kumar Singh, aged about 36 years, son of Bhup Lal Singh, at present working as Dy. S.O. / G. N. F. Railway do hereby solemnly affirm that the statements made in paragraphs are true to my knowledge and those made in paragraphs being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the day of November, 2003.

✓
Pradeep Kumar Singh

Designation.

By Pradeep Kumar Singh : Control Officer (S)
Guwahat-31

215 132
ANNEXURE-A
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.E(GP)80/2/8

New Delhi, dt. 31-10-91

The General Managers,
All Indian Railways including
Production Units/Projects.

Sub: Appointment to Group 'B' post - Medical
Examination - relaxation in prescribed
standard.

Ref: This office letter of even number
dated 16.12.1983.

The Board have been according approval to the ad hoc promotion of Group 'C' employees empanelled for Group 'B' posts who do not pass prescribed medical examination, in a few cases recommended by the GMs, in terms of the instructions/procedure contained in their letter referred to above. The matter has been reconsidered in the light of the need to maintain a high standard of efficiency and fitness of the officers at gazetted levels. In supersession of the instructions contained in their letter dated 16.12.1983, the Board have decided that the Group 'C' employees qualifying in the selections for promotion to Group 'B' posts but not passing the prescribed medical standard should not be promoted to Group 'B' even on ad hoc basis. Accordingly, the proposals for such ad hoc promotions need not be sent to this office henceforth.

2. It has also been decided that the names of the candidates who do not pass the prescribed medical standard should not be included in the panel. Accordingly, only those who qualify in the medical examination of prescribed standard should be called for viva-voce.

Please acknowledge receipt.

(R.R.Kohli)
Director, Establishment (Gen.P.)
Railway Board.

Copy to: The General Secretary, AIRF, 4, State Entry Road,
New Delhi (with 35 copies).
The General Secretary, NFIR, 3-Chelmsford Road,
New Delhi (with 35 spares).

Shri K.Hasan, General Secretary, Indian Railway
Class.II Promotee Officers Federation, 715-A,
Railway Stadium Colony, Gorakhpur. 273 012.

ANNEXURE B
N.F. RAILWAY

Office of the
General Manager (P),
Maligaon, Guwahati -11.

Dated: 14.08.2003
19

No. E/254/11/COM-I Pt.IV(O)

To
Shri Babul Chandra Brahma,
CGS/II/DKM,
TSK Division.

(Through :DCM/TSK)

Sub: Viva-voce test for ACM (Group-'B') against 30% LDCE.

Ref: Your appeal dated 26.06.2003.

In the viva-voce test for the post of ACM (Group-'B') against 30% LDCE held on 25.06.2003, all the 13 candidates were advised to attend for the same, with clear advice that they will be allowed to appear in the viva-voce test, subject to submission of their Physical Fitness certificate.

2. Since you were found to have **Colour Blindness** vide CMS/IC/N.F.Railway/ DBRT's letter No. 8/219/1 dated 31.05.2003, you were not allowed to appear in the viva-voce test held on 25.06.2003, in terms of Railway Board's instructions contained in their letter No. E(GP)80/2/8 dated 31.10.91.

3. However, in reference to your representation dated 26.06.2003, it was decided with the approval of Competent Authority, to hold a Special Medical Examination by a Medical Board at Central Hospital, Maligaon for all those candidates who appeared in the viva-voce test held on 25.06.2003, including you vide this office letter of even number dated 25.07.2003. In the Special Medical Examination conducted by the Medical Board at Central Hospital, Maligaon on 31.07.2003 you have once again been declared 'UNFIT' for promotion to the post of ACM (Group-'B') in Technical category due to **Colour Blindness**.

4. As you have failed to qualify in the Medical Examination of prescribed standard, as mentioned above, the administrative action of NOT ALLOWING you to appear in the viva-voce test held on 25.06.2003 in terms of Railway Board's letter dated 31.10.91 is in order.

5. This disposes your appeal dated 26.06.2003.

V.K.
(P.K.SINGH)
Dy.CPO/Gaz.
For General Manager (P).