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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. 245/2005

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 245/05

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s): Ananta Bhattacharjee & 20 others

Respondent(s): U.O. I. Govt.

B.C. Pathak, B. Pathak, D. Boruah

Advocate for the Applicant(s): J. Purkayastha

Advocate for the Respondent(s): Railway Counsel

| Notes of the Registry | Date | Order of the Tribunal |
|--|----------------|--|
| File application is in form is filed/C. F. for Rs 50/- deposited vide I.P.C./BB No. 266318172 | 16.9.2005 | Heard Mr. J. Purkayastha, learned counsel for the applicants and Mr. J. L. Sarkar, learned counsel for the Rail- ways. |
| Dated, 13.8.05 | | Issue notice. Post on 29.11.2005. |
| <i>Ans Dy. Registrar R.D.</i> | <i>15.9.05</i> | <i>bb</i> |
| <i>Notice & order sent to D/section for issuing to resp. Nos. 1, 2, 3 by regd. A/D post.</i> | 29.11.2005 | Mr. J. Purkayastha, learned counsel for the applicant and Dr. M. C. Sharma, learned Railway counsel are present. Dr. Sharma submits that the respondents want to file a detailed written state- ment in the matter within within six weeks. |
| <i>(Ans 3/11/05 D/Nos. D/No = 1579 to 1581. Dt. 8/11/05</i> | | <i>Post on 13.1.2006. Written state- ment, if any, in the meantime.</i> |

① Service report ~~are~~
awaited.

*Ans
28/11/05*

16.1.06

The petitioners are Legal Assistants Group B and C of the N.F.Railways and their grievance is that they are stagnated without any promotion to the higher rank and their averment is that there is no prospect of career progression. The expert committee constituted on the subject has made recommendations to the Railway Board which was partly implemented and the O.A is filed with those grievances.

12-1-06

No W/S filed.

bnd.

16-2-06

No W/S has been filed.

My

When the matter came up for hearing Dr M.C.Sarma, learned Railway standing counsel prays for four weeks time to take instruction from the Railways. Four weeks time is granted.

Post on 17.2.06 for order.

Vice-Chairman

pg

17.02.2006

Dr. M. C. Sarma, learned railway counsel for the respondents was present.

Considering the larger issue involve in hierarchy, position and its implementation with reference of the recommendation of Reorganisation of Indian Railways, the O.A. has to be admitted. Admit.

Post on 21.3.2006.

Vice-Chairman

mb

21.3.06

When the matter came up for hearing the learned counsel for the respondents prays for some more time to file written statement. Let it be done. List on 26.4.06.

25-4-06

No W/S has been filed.

My

Em

Vice-Chairman

30-5-06

No Wts has been
filed.

Dy

26.4.2006 Learned counsel for the respondents submitted that he would like to have four weeks time to file reply statement.

Post on 31.05.2006.

Vice-Chairman

mb

31.5.2006

Dr.M.C.Sharma, learned counsel for the Railways submits that reply statement has been filed by the Railway Mr.B.C.Pathak, learned counsel for the applicant requests for time to file rejoinder. Let it be done.

Post on 30.6.2006.

Vice-Chairman

bb

30.06.2006

Learned counsel for the applicant wanted to file rejoinder. Post on 02.08.2006.

Vice-Chairman

mb

2.8.06

Counsel for the applicant wanted to file rejoinder. Three weeks time allowed to file rejoinder.

Post on 28.8.06 for order.

Member

Vice-Chairman

pg

28.08.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Adjourned. Post on 14.09.2006.

No rejoinder has been
filed.

13.9.06.

No rejoinder has
been filed.

6.12.06.

/mb/

Vice-Chairman

4
O.A. 245 of 2005

14.09.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

None present for the parties. Post on
26.10.2006 for filing rejoinder.

26.10.06

No rejoinder filed.

/mb/

6m

Vice-Chairman

26.10.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Let the case be posted on
21.11.2006. In the meantime, the
Applicant is given liberty to file rejoinder,
if any.

No rejoinder has
been filed.

26.11.06

Vice-Chairman

/mb/

12.11.07

Reply to the written
statement submitted
by the Applicant pg
No. 1 to 40.

App

21.11.2006

Mr. B.C. Pathak, learned counsel
for the applicant seeks further time
to file rejoinder. Let it be done.
Post on 7.12.2006 for filing of
rejoinder. Thereafter the matter will
be posted for hearing.

Vice-Chairman

bb

26.12.07

pleadings complete

b.

7.12.2006 List before next available
Division Bench for hearing.

Vice-Chairman

pg

12.3.07

Copy of the brief
handed over to the
Adv. for the Repls.

Revt.

Murt
21/3/07

Repls
Deekshita
Siddappa
12/3/07

27.02.2007

Heard learned counsel for the
parties. Hearing concluded. Judgment
delivered in open Court, kept in separate
sheets.

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

ce

Member (A)

Vice-Chairman

/mb/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No.245 of 2005

DATE OF DECISION:27.02.2007

Ananta Bhattacharjee & 20 Others

.....Applicant/s

Mr.B.C.Pathak

..... Advocate for the
Applicant/s

- Versus -

U.O.I & Others

.....Respondent/s

Dr.M.C.Sharma, Railway Counsel

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN

THE HON'BLE MRS.CHITRA CHOPRA, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether to be forwarded for including in the Digest Being complied at Jodhpur Bench & other Benches ? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice-Chairman/Member (A)

X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 245 of 2005

Date of Order: This, the 27th day of February, 2007.

THE HON'BLE MR. K.V.SACHIDANANDAN, VICE CHAIRMAN.

THE HON'BLE MRS. CHITRA CHOPRA, ADMINISTRATIVE MEMBER.

1. Ananta Bhattacharjee
Chief Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.
2. Samsul Haque
Chief Law Assistant
Office of the General Manager (Law)
N.F.Railway, Maligaon.
3. Tailendra Talukdar
Chief Law Assistant
Office of the General Manager (Law)
N.F.Railway, Maligaon.
4. Arup Kumar Roy
Chief Law Assistant
Office of the General Manager (Law)
N.F.Railway, Maligaon.
5. Sunil Mukherjee
Chief Law Assistant
Office of the General Manager (Law)
N.F.Railway, Maligaon.
6. Harish Chandra Prasad
Chief Law Assistant
Office of the Chief Personnel Officer (Legal Cell)
N.F.Railway, Maligaon.
7. Ashok Kumar Doley
Chief Law Assistant
Office of the Chief Personnel Officer (Legal Cell)
N.F.Railway, Maligaon.

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8. Smt. Dipali Kalita Paine
Chief Law Assistant
Office of the General Manager
N.F.Railway, Maligaon.
9. Anil Kanti Sharma
Chief Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.
10. Miss. Y. Ao
Chief Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.
11. Rajab Ali
Chief Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.
12. Ranu Gopal Nag
Chief Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.
13. Malay Kumar Roy
Chief Law Assistant
Office of the General Manager (Law)
N.F.Railway, Maligaon.
14. J. Daimari
Chief Law Assistant
Office of the General Manager (Law)
N.F.Railway, Maligaon.
15. Manoranjan Sharma
Chief Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.
16. Ashok Sengupta
Chief Law Assistant
Office of the Chief Engineer (Estate)
N.F.Railway, Maligaon.

17. Pankaj Kumar Neog
Chief Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.
18. Mustaque Ahmed
Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.
19. T.S.Mech
~~Chief~~ Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.
20. S.A.Ahmed
~~Chief~~ Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.
21. Tapash Chandra Paul
Law Assistant
Office of the Chief Claims Officer (Court)
N.F.Railway, Maligaon.

.... Applicants.

By Advocates S/Shri B.C.Pathak, B.Pathak & J.Purkayastha.

- Versus -

1. Union of India
through the Secretary, Ministry of Railways
Government of India
New Delhi.
2. The Chairman
Railway Board, Rail Bhawan
New Delhi.
3. The General Manager
N.F.Railway, Maligaon
Guwahati- 781 011.

... Respondents.

By Dr. M. C. Sharma, Railway Counsel.

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O R D E R (ORAL)

SACHIDANANDAN, K.V.(V.C.) :

The Applicants, 21 in number, are presently working in the legal department in the N.F.Railway. Their contention in the O.A. is that the highest ranking officer in the Law Department in a Zonal Railway is a Law Officer, a Group-B Gazetted post, with no further avenue for promotion to any other higher rank. The Chief Law Assistants and Law Assistants in the Railways have no prospects for career progression. Other infrastructural facilities are also lacking. The Applicants further pleaded that the absence of status and power leaves the Law Department at the mercy of the other departments for which even in ensuring the implementation of the orders of the Court and more often the litigants are compelled to file contempt cases. The Government of India subsequently constituted a Committee for revamping and streamlining the legal set up in Indian Railways and the said Committee gave its recommendation. Some of the recommendations can be implemented at the Zonal level whereas other recommendations can only be implemented by the Railway Board. The Railway Board instructed the Zonal Railways to implement those recommendations, which do not require implementation at the level of the Railway Board. However, due to lack of will no effective so far has been taken either at the level of Zonal Railways or at the level of Railway Board. Aggrieved by the

said inaction on the part of the Respondents the Applicants have filed this O.A. seeking the following main reliefs:-

- “8.1 Direct the official respondents to implement the October, 2002 recommendations of the Committee on revamping and streamlining the legal set up on Indian Railways (Annexure-A/2) within a given time frame.
- 8.2 Direct the respondent No.3 to point out the recommendations of the committee which the Zonal Railways is competent to implement the thereafter direct it to implement those recommendations within a given time frame.
- 8.3 Direct the respondent Nos.1 & 2 to point out the recommendations of the committee which the Railway Board is competent and thereafter direct it to implement those recommendations within a given time frame.”

2. The Respondents have submitted their reply statement contending that creation of higher level of posts involves concurrence of the Finance Ministry and the Ministry of Railways, not to speak of Zonal Railway, cannot take a unilateral decision. As regards the question of outdoor monthly allowance to Chief Law Assistant and Law Assistant, it is considered that the high rates of traveling and daily allowances to which they are entitled are adequate for the day-to-day work. It is further submitted that the implementations of the recommendations of the Committee on revamping and streamlining of legal set up of Indian Railways were examined and are under active consideration of the concerned

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directorate of the Railway Board. Most of the recommendations have already been implemented and implementation of other recommendations may take time because they involve consultation with other Ministries such as Finance Ministry. The Applicants also filed rejoinder to the reply statement reiterating the contentions made in the O.A.

3. We have heard Mr. B.C.Pathak, learned counsel for the Applicants and Dr.M.C.Sharma, learned counsel for the Railways.

4. When the matter came up for final hearing today, Mr.Pathak submitted that earlier identical matter came up before the Calcutta Bench of this Tribunal in O.A. No.801 of 1993 and the Tribunal directed the Railways to refer the matter to the 5th Central Pay Commission for consideration. However, according to the Applicants, their representations were not properly considered by the 5th Central Pay Commission and therefore, Applicants will be satisfied if a direction is given to refer the matter to the 6th Central Pay Commission through Railway Board. Dr.M.C.Sharma, learned Railway counsel also welcomed such an exercise as because it is a policy matter and only an expert committee like Central Pay Commission should evaluate the grievances of the Applicants.

5. On going through the facts and circumstances of the case and upon hearing counsel for the parties this Tribunal is of the view

[Signature]

that this Tribunal is not an expert body to look into the presence grievance of the Applicants. We also cannot evaluate the situation whether the grievances highlighted by the Applicants can be adjudicated by this Tribunal in the absence of any materials. For proper determination of these issues it would require in-depth analysis of the relative scenario amongst various wings of the railways for which adequate materials are not available with us. Therefore, we are not in a position to adjudicate the issue. The Government of India has recently formed a new Central Pay Commission i.e., 6th Central Pay Commission which will cover all the Central Government departments including the railways. The Pay Commission is an expert body to consider such contentions and counter-contentions. It appears that the issue involved in this case had not been appropriately considered by any expert body, may be because of lack of proper presentation of the case.

6. In the circumstances, we direct the Applicants to make individual or collective comprehensive representation spelling out their detailed case with a copy of this order to the 3rd Respondent i.e., the General Manager, N. F. Railway, 2nd Respondent i.e. the Chairman, Railway Board and the Secretary, Pay Commission and on receipt of such representation, the 2nd and 3rd Respondents shall forward the same to the Secretary, Pay Commission along with their



comments, if any, for appropriate consideration in due course while finalizing the Pay Commission's own recommendations.

7. The O.A. is disposed of with the above observations and directions. In the circumstances, there shall be no order as to costs.

Chitra Chopra
(CHITRA CHOPRA)
ADMINISTRATIVE MEMBER


(K.V.SACHIDANANDAN)
VICE CHAIRMAN

/BB/

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal
41 15 SEP 2005
Guwahati Bench
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 245 of 2005

Ananta Bhattacharjee & 20 Ors. ...Applicants.

- AND -

Union of India & Ors. ...Respondents

SYNOPSIS

The Law Department of the Railways is the most neglected of all the departments. The legal set up in the Railways is in a shambles. The highest ranking officer in the Law Department in a Zonal Railway is a Law Officer, which is a Group-B gazetted post with no further avenue for promotion to any other higher rank.

The Chief Law Assistant and Law Assistants in the Railways have no prospects for career progression. Other infrastructural facilities are also lacking. The absence of status and power leaves the Law Department at the mercy of the other departments. Due to this there are difficulties even in ensuring the implementation of the orders of the Court and more often the litigants are compelled to take recourse to contempt proceedings.

Realising the sorry state of affairs, the Government of India constituted a committee for revamping and streamlining the legal set up in Indian Railways. The committee gave its recommendations. Some of the recommendations can be implemented at the Zonal level whereas other recommendations can only be

implemented by the Railway Board. The Railway Board has instructed the Zonal Railways to implement those recommendations which do not require implementation at the level of the Railway Board. However, due to lack of will there has been no effective action so far either at the Zonal level or at the level of the Railway Board.

Being aggrieved, many of the Chief Law Assistants and Law Assistants of other Zonal railways approached the Cuttack and Bombay Benches of this Hon'ble Tribunal. Those Benches of this Hon'ble Tribunal discharged their obligation of quick disposal by directing disposal of representations in those cases. The report of the committee's therefore is gathering dust and its recommendations have become the object of administrative indecisiveness, dithering and procrastination. Hence, the present original application for implementation of the recommendations of the committee.

Jaideep Purkayastha
(J. Purkayastha)
Advocate

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Filed by:-
The Applicants
Through:-
Gajesh Parley & Co
Advocates.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 245 of 2005

BETWEEN

1. Ananta Bhattacharjee, Chief Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.
2. Samsul Haque, Chief Law Assistant, office of the General Manager (Law), NF Railway, Maligaon.
3. Tailendra Talukdar, Chief Law Assistant, office of the General Manager (Law), NF Railway, Maligaon.
4. Arup Kumar Roy, Chief Law Assistant, office of the General Manager (Law), NF Railway, Maligaon.
5. Sunil Mukherjee, Chief Law Assistant, office of the General Manager (Law), NF Railway, Maligaon.
6. Harish Chandra Prasad, Chief Law Assistant, office of the Chief Personnel Officer (Legal Cell), NF Railway, Maligaon.

7. Ashok Kumar Doley, Chief Law Assistant, office of the Chief Personnel Officer (Legal Cell), NF Railway, Maligaon.
8. Smt. Dipali Kalita Paine, Chief Law Assistant, office of the General Manager, NF Railway, Maligaon.
9. Anil Kanti Sharma, Chief Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.
10. Miss. Y. Ao, Chief Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.
11. Rajab Ali, Chief Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.
12. Ranu Gopal Nag, Chief Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.
13. Malay Kumar Roy, Chief Law Assistant, office of the General Manager (Law), NF Railway, Maligaon.



14. J. Daimari, Chief Law Assistant, office of the General Manager (Law), NF Railway, Maligaon.

15. Manoranjan Sharma, Chief Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.

16. Ashok Sengupta, Chief Law Assistant, office of the Chief Engineer (Estate), NF Railway, Maligaon.

17. Pankaj Kumar Neog, Chief Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.

18. Mustaque Ahmed, Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.

19. T.S. Mech, Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.

20. S.A. Ahmed, Chief Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.

21. Tapash Chandra Paul, Law Assistant, office of the Chief Claims Officer (Court), NF Railway, Maligaon.

..Applicants

-AND-

Maligaon

1. Union of India, through the Secretary, Ministry of Railways, Government of India, New Delhi.
2. The Chairman, Railway Board, Rail Bhawan, New Delhi.
3. The General Manager, NF Railway, Maligaon Guwahati-781011.

.. Respondents

DETAILS OF APPLICATION

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

The present application is not directed against any order, but the same is for implementation of the recommendations given by the Committee on revamping and stream lining the legal set up in Indian Railways, in its October, 2000 report.

2. JURISDICTION OF THE TRIBUNAL:

The applicants declare that the subject matter of the instant application for which, they want redressal is well within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

That the present application is filed within the statutory period of limitation as prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

4.1 That the applicants are the Chief Law Assistants and Law Assistants working in various departments of

10/01/2024

the NF Railway, Maligaon, Guwahati. All the applicants have common grievances and the reliefs they are seeking are also common. Since, the applicants have a common interest, therefore, they are filing the instant application jointly. Consequently, the Hon'ble Tribunal may be pleased to permit the applicants to join together and file a single application under Rule 4 (5) (a) of the CAT (Procedure) Rules, 1987.

4.2 That the post of Law Assistant and Chief Law Assistant are available in Zonal and Divisional level in the Indian Railways for dealing with court cases filed by and against the railways Administration. Apart from dealing with various legal matters, the Law Assistants and Chief Law Assistants are required to furnish legal opinion, drafting of various petition/applications, affidavits and other legal documents. The Law Assistants and Chief Law Assistants are authorized to appear in various courts and in fact they are required to represent the railway Administration in various judicial and quasi judicial forums. In the Railway Claims Tribunals the Law Assistants and Chief Law Assistants are nominated as Presenting Officers to defend the Railway Administration.

4.3 That despite the above positions, the legal set up in the railways is in a very unorganized state with

little scope of prospect of promotion on account of stagnation as there is one Law officer and one post of Asstt. Law officer available in the Gazetted cadre in the entire Zone. This leaves little scope of promotion from the post of Law Assistants and Chief Law Assistants as the Assistant Law Officer in gazetted cadre has no further channel of promotion because of non-existence of the posts in the higher ranks. It is pertinent to mention here that the post of law officer is also manned by officers deputed from the Commercial Department. Although there are some other posts requiring legal background in Railways viz. Asstt. Registrar, RCT/APO/Legal Cell, Enquiry Officer in Vigilance Departments, Assistant Commercial Manager (Court) etc., these posts are also not filled up from Law Assistants and Chief Law Assistants. As a result the Law Assistants and Chief Law Assistants have to continue in the same posts for many years and they are even compelled to retire in the same post.

4.4 That considering the sorry state of affairs of the legal set up in Indian Railways and for ensuring the career progression of the legal staff of the Railways, the Government of India, Ministry of Railways with a view to revamp and stream line the legal set up in Zonal Railways & Production Units, Ministry of Railways (Railway Board vide order No. ERB-I/2000/23/39 dated 15.1.2001 decided to constitute

a committee consisting of the legal Adviser, Railway Board, Executive Director, Establishment (GC)/railway Board, and Chief Personnel Officer, Northern Railway.

The terms of the committee amongst others were -

- (a) To study and suggest proper legal set up at Divisional, Zonal and ministries level;
- (b) To suggest and frame a proper promotion chart and organization of legal staff and officers;
- (c) To suggest modalities for framing legal cadre in railways;
- (d) To frame recruitment and promotion rules of Law Assistants, Chief Law Assistants, Law Officers etc.

Copy of the order No. ERB-I/2000/23/39 dated 15.1.2001 is annexed herewith and marked as Annexure-A/1.

4.5 That subsequently, the composition of the committee was slightly modified vide Railway Board's Order No. ERB-I/2000/23/39 dated 8.4.2002 and the tenure of the committee was extended for a period up to 31.7.2002.

4.6. That the committee submitted its report to the railway Board on 4.10.2002. The summary of the recommendation of the committee is quoted herein below:

SUMMARY OF RECOMMENDATION

(I) At the divisional level there should be at least one Law Assistant/Chief Law Assistant per 300 cases.

(II) Each Division in Indian railways should have at least one Law officer (Group 'B' level)

(III) In Divisions, the legal organization should be under Additional Divisional Railway Manager through Sr. Divisional Personnel Officer.

(IV) Each Zonal Railway should have at least one Junior Administrative Grade officer in the Law Department with one senior scale and two assistant level officers with requisite non-gazetted set up.

(V) The legal set up should be under the administrative control of Additional General Manager instead of Senior Divisional General Manager in Zonal railways.

(VI) In railway Board's office the existing legal set up may be reinforced with one Additional Dy. Legal Adviser, one Assistant Legal Adviser and one Supdt. (Legal). There should also be three Chief Law Assistants instead of one Chief law Assistant.

(VII) The post of Dy. Legal Adviser and Assistant Legal Adviser in Board's office as

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recommended above can be encadered for Indian legal Service (ILS).

(VIII) The existing legal set up in Production Units is considered adequate.

(IX) Two or three Zonal railways should have a 'small training center' where there should be continuous exposure of Law Assistants/Chief Law Assistants/Law Officers periodically to share the latest legal rules from time to time.

(X) A fixed 'out-door monthly allowance' should be given to Law Assistants/Chief Law Assistants.

(XI) A 'Court Allowance' should also be given to the Law Assistants/Chief Law Assistants.

(XII) Minimum infrastructure viz. library, computer with necessary software relating to cases, Photostat machine, FAX machine etc. should be provided to the Legal Cells.

(XIII) A suitable 'cash imprest' should be made available with the Law officer to cater to emergencies like buying stamp papers, court papers etc.

(XIV) Instead of two grades at non-gazetted level (viz. Law Assistant Rs. 6500-10500 & CLA Rs. 7550-11500) there should be only one entry grade of Rs. 6500-10500 with the designation Legal Assistant.

(XV) The Chief Law Assistant's post (Rs. 7450-11500) should be merged with group 'B' level

post of Law Officer (Rs. 7500-12000) after following the due selection procedure.

(XVI) 40% of the posts at the level of Legal Assistant (Rs. 6500-10500) should be filled by direct recruitment through RRB from those who have LLB qualification as also the minimum three years bar experience. Remaining 60% posts at this level should be filled by options amongst existing staff with LLB qualification failing which by direct recruitment.

(XVII) Bigger zones can have a Selection Grade Dy. Chief Law officer instead of a JA grade Dy. Chief Law officer.

(XVIII) Posts in other Departments which require intrinsic legal background to deal with should be taken into the fold of legal cadre. Existing incumbents can be given options for lateral change over.

(XIX) Legal Assistant with 3 years of service should be considered for promotion to the post of Legal officer (Group 'B'), (ii) Legal Officer with five years of service in Group 'B' should be considered for the post of Senior Legal officer (Sr. scale) and (iii) Senior Legal officer with 3 years of service as such should be considered for promotion as Deputy Chief Law Officer.

(XX) Legal Department (Zonal railways) should in future open files with their case number and send the case to the Department concerned for preparing draft parawise comments on the petitions. This should be scrutinized by Law



Officer before putting the case to the HOD/PHOD of the concerned Department/DRM.

- (XXI) The over-all responsibility henceforth should lie with Legal Department for monitoring the court cases but the responsibility of the implementation and follow up action on the implementation of the judgment will lie with the concerned department.
- (XXII) As an experiment, for a period of one year to start with, General Manager of the zonal railways should be allowed to engage Senior Advocates from outside the panel of Advocates, wherever required and Railway Board be kept apprised of the number and the frequency of the same.
- (XXIII) A separate section at railway Board's level to deal exclusively with the SLPs may not serve any purpose, as the existing system is considered adequate. The Headquarter of the Zonal Railway should be in touch with central law Agency and other Agencies to chase up the matter/cases.
- (XXIV) Railways should be advised to operate through the NIC system.
- (XXV) The Legal Department should tap fully the powerful tool of IT for purposes of sharing the information on various judgments both for and against the railways through internet etc.
- (XXVI) Opening of a web page to study the monthly progress of the cases in various divisions should also be thought of.

A copy of the report dated 4.10.2002 is annexed herewith and marked as Annexure-A/2.

4.7. That in the summary of recommendations, it is seen that the committee while providing for structural changes in the legal system of the Railways also emphasized upon strengthening of legal set up at the zonal level. In para 8.3 of the report, it was specifically stated that there is a need to have at least one Junior Administrative Grade officer for the law department with one senior scale officer and two assistant level officers with the requisite non-gazetted set up. It was also stated that the bigger zones can have a selection grade Deputy Chief Law Officer instead of Junior Administrative Grade, Deputy Chief Law Officer. The broad hierarchical structure at Head-quarters (zonal) and divisional level was proposed as under:-

| <u>AT HEADQUARTERS LEVEL</u> | <u>AT divisional level</u> |
|---|-------------------------------------|
| Addl. General manager | ADRM |
| Dy. Chief Law officer (Selection Grade) Depending upon size of zone | |
| Dy. Chief Law Officer (JA Grade) | Sr. DPO |
| Sr. legal Officer (Senior Scale) | Legal Officer (Rs. 7500-12000) |
| legal Officer (Group-B/Rs.7500-12000) Legal Assistant (Rs. 6500-10500) | Legal Assistant (Rs. 6500-10500) |

4.8. That the Government of India, Ministry of Railways studied the report of the committee and decided to implement its recommendations. For the purpose of ensuring proper implementation of the recommendation in the report, the Government of India vide letter No. 2000/LC/1/19 dated 31.3.2003 wrote to the senior functionaries of the Railways stating that there are certain recommendations in the report which are to be implemented after taking an appropriate decision by the competent authority at the Zonal Railway level. Consequently, two copies of the report were sent by the Government of India to each of the Zones of the Railways, so that necessary action in regard to implementation of the report wherever zonal Railways are competent may be processed for implementation.

Copy of the letter of Government of India, Ministry of railways dated 31.3.2003 is annexed herewith and marked as Annexure-A/3.

4.9. That the Government of India, Ministry of Railways vide letter No. 2000/LC/MIC/19 dated 10.4.2003 wrote to the General Manager (Law) of the various Zonal Railways bringing to their notice the recommendations of the committee for revamping and stream lining of legal set up in Zonal Railways and Production Units. However, in the letter dated



10.4.2003 selective reference was made to certain recommendations which had nothing to do with the career progression and re-structuring of legal staff of the Railways. The Railway Board while making the selective reference to such recommendations asked the General Manager (Law) of the Zonal Railways to send their comments with regard to implementation of such recommendations. The recommendations to which selective reference was made are as follows:

"(i) Minimum infrastructure viz. library, computer with necessary software relating to cases, photo stat machine, FAX machine etc. should be provided to the Legal Cells.

(ii) Legal Department (Zonal railways) should in future open files with their cases number and send the case to the Deptt. concerned for preparing draft parawise comments on the petitions. This should be scrutinized by Law Officer before putting the case to the HOD/PHOD of the concerned Deptt./DRM.

(iii) The over-all responsibility henceforth should lie with Legal Deptt. for monitoring the court cases but the responsibility of the implementation and follow up action on the implementation of the judgment will lie with the concerned deptt.

Copy of the letter of Government of India dated 10.4.2003 is annexed herewith and marked as Annexure-A/4.



4.10 That subsequently, the Government of India, Ministry of railways, vide letter No. 2000/LC/MISC/19 dated 23.5.2003 wrote to the SDGM (Law) NF railway, Maligaon, wherein it was stated that the committee on revamping and stream lining the legal set up on Indian Railways has submitted its report to the Board (MS) on 14.10.2002 and Member (Staff) directed that each and every recommendation may be examined on file on consultation with the concerned Directorates. Thereafter, vide order dated 13.1.2003 passed by Board Member (Staff), the report was submitted to the Secretary who convened the meeting of the concerned officers dealing with the implementation of the recommendations of the report on 24.2.2003. In the said meeting it was decided that the recommendation of the committee will be processed for implementation by the concerned Directorates and status of the implementation will be send to the Legal Directorate (Railway Board) periodically. In the letter dated 23.5.2003, it was pointed out that the report of the committee has been circulated to all the Zonal Railways with a view to have their comments as well as to implement the recommendations wherever Zonal railways is competent to implement. The SDGM (Law) NF Railway was requested to send his comments with regard to implementation of the recommendations of the committee made in the report under reference.

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Copy of the letter of Government of India, Ministry of Railways dated 23.5.2003 is annexed herewith and marked as Annexure-A/5.

4.11. That the Dy. General Manager (G) of NF Railway in reference to the letters of the Railway Board dated 31.3.2003, 10.4.2003 and 23.5.2003, vide letter dated 17.7.2003 to the Secretary (Legal) Railway Board, New Delhi, gave his comments in regard to implementation of those recommendations of the committee wherever Zonal Railways are competent to implement. The comments of Dy. General Manager (G) on certain recommendations of the committee are quoted hereinbelow:

"3. In Divisions the legal organization is presently under the Sr. DPO who reports to the DRM. It could be under the ADRM through Sr. DPO as recommended.

5. The legal setup is presently under the administrative control of SDGM. Any change in this as recommended is not considered necessary.

10. Whenever LAs/CLAs go outside their headquarters, they are entitled and claim TA and other allowances like other staff. As such any outdoor monthly allowance as recommended is not considered necessary.

12. Some of the facilities i.e. library and photocopier machine as recommended are already available. Proposals for the provision of other items i.e. fax machine, computer, Dot phone with STD facility are under process.

13. The proposal for cash imprest with Law Officer is also under process.

20. This recommendation is already in practice in this railway and will be continued.

25. Once Computers are provided in the legal department, it will be possible to implement this recommendation."

Copy of the letter dated 17.7.2003 is annexed herewith and marked as Annexure-A/6.

4.12 That the comments of Deputy General Manager (G) of NF Railway were primarily aimed at maintaining status-quo in the legal system. The comments were against the spirit of reforms. For example the comment of Deputy General Manager that the legal set-up is presently under the administrative control SDGM and any change in this as recommended is not considered necessary is wholly out of place. The committee in its report explained the rationale behind giving administrative control of the legal set-up at the Headquarter level to the Additional General Manager

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instead of Senior Deputy General Manager by stating that the shift of control would be helpful for better interaction at the PHOD level to seek legal advise and also for controlling and monitoring the various activities of the legal department. If the post of Deputy Chief Law Officer (JA) Grade and/or the post of Deputy Chief Law officer (Selection Grade) is created, the shift of control to the Additional General Manager is highly advisable because in that case the Additional General Manager being immediately next to General Manager would be in a far better position to get the legal decision implemented at the PHOD level.

Similarly, the comment of Deputy General manager that the Law Assistant and Chief Law Assistant should not be given outdoor monthly allowance, because, like other Railway Employee, they are entitled to claim TA and other allowances, is wholly out of place inasmuch as nature of duties of Law Assistants and Chief Law Assistants cannot be compared to that of other railway staff. The Law Assistants are required to go to the chambers of advocates as and when required. They are likely to remain their till late nights. Their frequent visits to court require unexpected expenses. Hence, comparing them with the other Railway staff is neither fair nor proper.

Similarly the comment of Deputy General Manager that library facilities are already available, is

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absolutely incorrect. On the name of library, there is no separate room with sitting arrangement. There are 4/5 almirahs full of outdated and old books. There is only one local law journal which the NF Railway subscribes. The leading national law journals like AIR and SCC are not available. There is no law journal on service matters. Text books on different branches of law which can be of relevance to the Railways, are unavailable. There is only one computer in the Law Department and the same is in the chamber of Law Officer. There is no internet facility and the SCC on-line. The computer is therefore used by the Law officer and his staff only as a type writer.

4.13. That when no effective steps were taken towards implementation of the recommendations of the Committee for revamping and streamlining of legal set-up, the Chief Law Assistant and Law Assistants of various Zonal Railways started agitating. In this connection reference is made to the representation of Chief Law Assistants/Law Assistants of East Coast railways submitted to the Railway Board, New Delhi, wherein demand was made for implementation of the recommendations given in the report in order to boost up the morale of the legal cadre of the Railways.

Copy of the representation of the Chief Law Assistants and Law Assistants of East Coast

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Railways is annexed herewith and marked as
Annexure-A/7.

4.14. That when the representation of the Chief Law Assistants and Law Assistants of the East Coast Railways did not yield any fruit, they approached the Cuttack Bench of this Hon'ble Tribunal by filing 13 numbers of Original Applications. It is learnt that the Cuttack Bench of this Hon'ble Tribunal passed a common order dated 13.12.2004 on all those Original Applications directing the official respondents to dispose of the representations of the applicants in those cases within a period of four months from the date of receipt of the copy of order of the Tribunal. Likewise, the Chief Law Assistants of the Central Railway also approached the Bombay Bench of this Tribunal and the Bombay Bench also passed the same order.

The Applicants crave leave of this Hon'ble Tribunal to produce the copies of the orders passed by the Cuttack Bench and the Bombay Bench of this Hon'ble Tribunal at the time of hearing of this case.

4.15. That even the orders passed by two different Benches of this Hon'ble Tribunal viz. Cuttack and Bombay for disposing of the representations of the Law Assistants & Chief Law Assistants could not yield any



decisive results. It has been learnt by the applicants that the official respondents are only giving ambiguous replies. The matter therefore is getting delayed and the official respondents continue to dither. Hence, the applicants have no other alternative but to approach this Hon'ble Tribunal for an appropriate decision regarding the implementation of the recommendations of the Committee.

4.16 That so far as the present applicants are concerned, they on their part also took up the matter with the competent authority. The Chief Law Assistants and Law Assistants of the NF Railway formed an unregistered association under the name and style of NF Railway Legal Men's Association. On the name of this association the representation dated 14.8.2003 was submitted to the General Manager, NF Railway, Maligaon, Guwahati urging him to implement the report of the Committee. Reference was made in the representation to the reply from SDGM/NF Railway for re-organization of legal machinery in Indian Railways vide SDGM/MLG's letter No.Z/208/35/MG/Pt.VII (Loose) dated 7.8.2000 which was partly in favour of the legal staff.

A copy of the representation dated 14.8.2003 is annexed herewith and marked as Annexure-A/8.

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4.17 That however, the representation dated 14.8.2003 did not yield any result. Subsequently, on 5.5.2005 on the name of NF Railway Legal Men's Association representation was sent to the Railway Minister. Moreover, at the initiative of the law Department employees of NF Railway, Sri Basudev Acharya, Member of Parliament and the Chairman of the Committee on Railways vide his letter dated 25.2.2005 took up the matter with the Railway Minister. There were promises, but no effective action.

4.18 That be that as it may there is a lack of sincerity both on the part of Railway Board and the Zonal Railways towards implementation of the recommendations of the Committee. From the nature of communications it appears that from both the levels there is an effort to shirk the responsibility. Till this very date the applicants do not know as to what exactly is the stand of the official respondents in the matter of implementation of the recommendations of the Committee.

4.19 That the applicants are entitled to know the stand of the official respondents on the recommendations of the Committee. It is obvious that some of the recommendations can be easily implemented at the level of Zonal Railways. Whereas for many other recommendations the approval of Railway Board is

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necessary. Even the Railway Board in its communication to the Zonal Railways has urged for implementation of those recommendations of the Committee which Zonal Railways are competent to implement at their level. The matter is getting unnecessarily delayed and the official respondents continue to dither. Therefore, being left with no other alternative the applicants have come before this Hon'ble Tribunal for the ends of justice.

4.20 That the applicants file this application bonafide for securing the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1 Because the official respondents have been violating the fundamental rights of the applicants under Article 14 and 16 of the Constitution by not implementing the recommendations of the Committee.

5.2 Because when it is an admitted position that there is stagnation amongst the legal staff of the Railways in the matter of career progression and the legal set up of the Railways requires serious structural changes and the Railway Administration while acknowledging the sorry state of affairs of legal set up in the Railways

From

constituted the expert committee, there is no reason as to why the Railway Administration should now drag its feet from implementing the recommendations of the Committee.

5.3 Because the applicants are entitled to know the stand of the Railway Board and the NF Railway in the matter of implementation of the recommendations of the Committee. If the Railway Administration does not intend to implement the recommendations of the Committee, it must give reasons for not doing so.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicants state that in the facts and circumstances of the case, the applicant has no other alternative efficacious remedy except approaching this Hon'ble Tribunal.

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

The applicants further declare that they have not filed any application, writ petition or suit in regard to the matter in respect of which this application has been made, before any 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:

8.1. Direct the official respondents to implement the October, 2002 recommendations of the Committee on revamping and streamlining the legal set up on Indian Railways (Annexure-A/2) within a given time frame.

8.2 Direct the respondent No. 3 to point out the recommendations of the committee which the Zonal Railways is competent to implement and thereafter direct it to implement those recommendations within a given time frame.

8.3 Direct the respondent Nos. 1 and 2 to point out the recommendations of the committee which the Railway Board is competent to implement and thereafter direct it to implement those recommendations within a given time frame.

8.4 Pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

8.5 Award cost of the application.



9. INTERIM ORDER PRAYED FOR:

In the facts and circumstances of the case, the applicants do not have any interim prayer.

10. The application is filed through Advocate.

11. PARTICULARS OF THE IPO:

(I) IPO No. 26G 318172

(II) Date: 13.09.2005,

(III) Payable at : Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.

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S. No.

VERIFICATION

I, Ananta Bhattacharjee, son of Sri Nalini Ranjan Bhattacharjee, aged about 50 years, resident of Railway Quarter No. 29/D, Old Goshala, Maligaon, Guwahati-11, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 4.1, 4.2, 4.3, 4.5, 4.7, 4.12, 4.14, 4.15, 4.17, 4.18, 4.19, 4.20, 6 & 7 are true to my knowledge, those made in paragraphs 4.4, 4.6, 4.8, 4.9, 4.10, 4.11, 4.13 & 4.16 being matters of records are true to my information derived therefrom and the grounds urged are as per legal advice. I have not suppressed any material fact. The annexures are true copies of their original.

And I sign this verification on this the day of September, 2005 at Guwahati.

Ananta Bhattacharjee
Signature of the applicant.

ANNEXURE-A/1

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ANNEXURE 'A'

GOVERNMENT OF INDIA
 MINISTRY OF RAILWAYS
 (RAILWAY BOARD)

No.ERB-I/2000/23/39

New Delhi, dated 15.01.2001

ORDER

With a view to revamping and streamlining the legal set-up on Zonal Railways & Production Units, Ministry of Railways (Railway Board) have decided to constitute a Committee consisting of the following:-

- (i) Legal Adviser/Railway Board.
- (ii) Executive Director Estt. (GC)/Railway Board.
- (iii) Chief Personnel Officer/Northern Railway.

1.1 Shri D.R. Mehra, Deputy Secretary (E), Railway Board, will assist and co-ordinate with the Committee to formulate the proposals for consideration of the Committee/Board.

2. The Committee will assist the Legal Directorate of Railway Board to go into the following aspects and prepare suitable proposals for the Board.

- (a) To study and suggest a proper legal set-up at Divisional, Zonal and Ministry's level (including one to deal with SLPs).
- (b) To suggest and frame a proper promotion chart and organization of legal staff and officers.
- (c) To suggest the modalities for framing a legal cadre on Railways.
- (d) To frame recruitment and promotion rules of Law Assistant, Chief Law Assistant, Law Officers etc.
- (e) To draw duty list of all concerned staff and officers and to define their responsibilities vis-à-vis their counterparts in functional departments.
- (f) To prepare a directory of all the advocates on panel on various Railways and in various courts, so that they can be contacted directly in case of emergency.

3. The Committee should submit its report/recommendations within a period of six (6) months.

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J.P.
 (J. Pukayastha)
 Advocate

4. The Headquarters of the Committee will be at New Delhi.

5. The Members of the Committee will be eligible to draw TA/DA in accordance with the rules applicable to them.

Sd/-

(A.D. RAMACHANDRAN)
Deputy Secretary (E)II,
Railway Board.

Copy to:

1. The General Managers/OSDs, All Indian Railways & Production Units.

2. The Chief Personnel Officers, All Indian Railways.

3. The DG/RDSO, Lucknow.

4. The DG/RSC/Vadodara.

5. PS/MR, PS/MSR(D), PS/MSR(OR).

6. Sr. PPSs/PPSs/PSs to CRB, FC, MT, MS, ME, MM, ML, Secy., OSD(MS), EDCC, L.A., JS(G), JS, JS(C), JS(E), JS(P), DS(G), DS(E), US(A), US(Protocol), Railway Board.

7. The Pay & Accounts Officer, Railway Board.

8. Cash-I, C, G(Pass), G(Acc.), ERB-II, III, IV, S.K, O&M, Parl. Stationery Branches, Railway Board.

9. Members of the Committee.

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JP
(J. Purkayastha)
Advocate

ANNEXURE - A/2

(For Official Use Only)



Government of India
Ministry of Railways
(Railway Board)

**REPORT
OF
THE COMMITTEE
ON REVAMPING AND
STREAMLINING THE LEGAL
SET-UP
ON INDIAN RAILWAYS**

October, 2002

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(J. Pukayastha)
Advocate

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[Signature]
(J. Purkayastha)
Advocate

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[Signature]
(J. Patkayastha)
 Advocate

Constitution of Committee and its terms of reference

Railway Board have constituted a Committee consisting of Legal Adviser, Railway Board, CPO/Northern Railway and Joint Secretary/G, Railway Board for revamping and streamlining of legal set up of zonal Railways and Production Units vide their order dated 15.1.2001. Terms of the Committee are –

- a) To study and suggest proper legal set up at divisional, zonal and ministry's level (including one to deal with SLP);
- b) to suggest and frame a proper promotion chart and organization of legal staff and officers;
- c) to suggest modalities for framing legal cadre on Railways
- d) to frame recruitment and promotion rules of Law Assistants, Chief Law Assistants, Law Officers etc.
- e) to draw out duty list of all concerned staff and officers and to define their responsibilities vis-à-vis their counter-parts in functional departments
- f) to prepare a directory of all the Advocates on panels on various Railways and in various Courts so that they can be contacted directly in case of emergency.

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Advocate

2. A copy of Railway Board's order No.ERB-I/2000/23/39 dated 15.01.2001 is annexed at Annexure 'A'. The composition of the Committee was slightly modified vide Railway Board's order No.ERB-I/2000/23/39 dated 08.04.2002 (Annexure-B).

3. Having regard to the fact that the existing Legal Advisory Cell, Litigation and Defence setup in the Zonal Railways/Production Units is not uniform and adequate in view of the quantum of Advisory and Litigation work which is increasing day by day, the need to revamp and streamline the Legal Setup on the Railways was felt by the Board. As a first step towards this direction the then Member (Staff), Railway Board (Shri K. Balakesari) circulated a questionnaire to all the Zonal Railways/Production Units asking for necessary details in respect of existing/proposed staff position, their channel of promotion, recruitment rules, total number of cases pending before various courts etc. A copy of D.O. letter No.2000/LC/Misc/19 dated 16th June, 2000 is annexed as Annexure-C. Based on the information received from Zonal Railways/Production Units etc. the Committee got the necessary data on legal set up on the Railways compiled on various relevant aspects viz. post-wise/grade-wise strength of such staff, volume of the Court cases being handled, extent of their involvement in giving the necessary local impetus and the inadequacies of this system of defending litigation at Divisional, Headquarters and Railway Board's level.

4. Series of meetings have taken place in this regard on various aspects of the legal set up available and the Committee gathered the general impression that the existing machinery for the disposal of the Court cases is

highly inadequate on account of various reasons including lack of coordination at various levels between the legal cell and the executive and, therefore, there is a urgent need to have a reasonable revamped and strengthened system to cater to the growing needs of time.

5. The Committee observed that the court cases are essentially an un-chartered territory and the degree of awareness about the legal procedure all-round is abysmally low. There is still not much seriousness on the part of all concerned including the legal department to have a systematic and speedy procedure to defend the cases and monitor the progress of the legal cases. Although the legal organization is presently under the administrative control of SDGM who is not directly responsible for contributing towards the legal interpretations or monitoring such cases; his job is mainly of administrative nature to control the staff of the legal department, selection and empanelment of advocates, posting and transfer of legal staff and disciplinary matters relating to legal staff. In the present system the entire responsibility for contesting cases lies with the concerned department only. The legal organization in terms of hierarchy and number, it is seen, also varies from Railway to Railway. At present, the seniormost legal officer on a Railway is in JA grade in some Railways, while generally a senior scale officer is available in other Railways and Production Units. It is seen that there are generally one or two Chief Law Assistants/Law Assistants provided to assist the divisional officers for giving guidance. There is hardly any group 'B' or above legal officer available in a divisional set up to guide and inter-act. The existing staff strength (Post-wise and Grade-wise) of legal set-up on Zonal Railways/Production Units is annexed at Annexure 'D'.

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Advocate

6. It is further seen that there are mainly three types of court cases viz. first relating to commercial compensation claims i.e. claim cases which are contested by commercial department in RCT and other courts, second matters contested by Civil Engineering department and the third service matters contested by Personnel Department. The fourth one now added are the cases in Consumer Courts which are to be contested by Commercial Department.

7. EXISTING SET UP

Divisional set up:

7.1 Chief Law Assistants/Law Assistants are deployed in Personnel/Commercial/Engineering departments. In the existing system at the divisional level it is seen that the number of Chief Law Assistants/Law Assistants available there is very less and they have to deal with large number of cases both at the Central Administrative Tribunal and other levels. A statement showing number of pending cases in various Tribunals, Courts (as on August, 2000) is at Annexure 'E'. They also look after the litigation work which goes on in various Labour Courts, District Courts, Industrial Courts, Motor Accidents claims, RCT, CAT, High Court and Supreme Court. The present system, as in actual practice, is that the parawise remarks are mostly prepared by the Department itself quoting relevant manuals, rules and laws from various Acts. These comments are finalized and put up to competent authority for approval or vetting before these are furnished to Railway Advocates for drafting a written statement reply. The legal department inputs/advice taken or given at this

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Advocate

stage is minimum (except in few important cases). The written statement/reply is drafted and filed by the Railway Advocate after a brief session, in important cases, with the officers/concerned staff of the department to whom case is concerned and Law Assistant/Chief Law Assistant. The legal staff are required to attend various Courts/Tribunals, to watch the progress of such cases. As the number of CLA/LA is very less on the Divisions, in most of the cases this is to be left at the mercy of the concerned department to chase up and interact periodically with the Railway Advocate and get a decision from the Court. The Committee observed that this is happening on account of the limited number of Law Assistants/Chief Law Assistants available on the divisions and the limited knowledge/background which they have, that it is not possible to expect really significant results or the expectations of other departments to provide legal inputs. In divisions these Law Assistants/ Chief Law Assistants are generally administratively controlled either at Sr. DPO level or ADRM level. In the present day circumstances they merely work as an extension to the other ministerial staff chasing/defending cases in the courts.

STRENGTHENING OF LEGAL STAFF STRUCTURE (DIVISIONAL LEVEL)

7.2 With a view to equip the legal staff both in numbers and quality, the Committee recommends that the number of Law Assistants/Chief Law Assistants at divisional level to start with should be at least one for every three hundred cases if not more. Although one Law Assistant/Chief Law Assistant is highly inadequate to deal voluminous number of cases which have since grown on the Railways over a time,

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Advocate

there is also a need to have at least one Assistant Law Officer (to be re-designated as Law Officer) (at group 'B' level) in each Division of the Indian Railways to start with so as to provide the minimum level of hierarchy in a legal set up at the activity center like a Division. Besides, the Legal Organisation in the Divisions should be placed under ADRM through Sr. DPO.

8. SET UP AT HEADQUARTERS LEVEL

8.1 It is seen that at the Headquarter level there is generally a Law Officer who is a senior scale officer who is assisted by one or two Assistant Law Officers and Law Assistants/Chief Law Assistants. In one or two Railways they have JA grade/Selection Grade posts called Dy GM/Law which are generally manned by Group 'A' officers who may have LL.B qualification but may have never worked in the legal field as such. This officer coordinates with other officers by giving legal advice whenever called for and as a link between the executive department and the court. The Law branch is presently being headed by SDGM at Headquarters' level. The work of establishment and non-establishment is distributed. The establishment matters are controlled at CPO/Admn. level assisted by SPO/Legal, ALO, Law Assistants and ministerial staff, and, non-establishment matters by DGM/Law (or Senior Law Officer depending upon the availability of the post) assisted by Law Assistants and ministerial staff. The function and assigned role of Law Branches is to tender legal opinion on vital issues. Most of the Law Assistants/Chief Law Assistants though Law Graduates do not have adequate exposure in legal matters and, therefore, are not able to contribute effectively in providing legal advice. The Committee

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J. Pukayastha
(J. Pukayastha)
Advocate

also gathered that some Chief Law Assistants/Law Assistants who were selected through RRB in the past and had some bar experience had a better confidence level to deal with the legal situations. The general impression gathered by the Committee was that departments handle their court cases directly as far as possible. The Law Officer mostly nominates the Railway Advocate for the cases and then arranges payment of fees to Railway Advocates while the legal assistance in the form of legal advice given is very sporadic.

8.2 Under the present system, the Chief Law Assistants are attached to Personnel/Commercial/Engineering departments and they report to their respective heads i.e. Chief Personnel Officer, Chief Commercial Manager, Chief Engineer, as the case may be. Their ACRs are also written/finalized by officers of department to which they are attached.

STRENGTHING OF LEGAL SET UP (HEADQUARTERS LEVEL)

8.3. With a view to make the system better in terms of quantity, quality and inter-action, there is a need to have at least one JA grade officer for the Law Department (to start with) with one senior scale officer and two assistant level officers in the legal department with the requisite non-gazetted set up. Such an arrangement at headquarters level should provide necessary legal advice in all situations, wherever sought, before and after nominating Railway Advocate to deal with a particular case. The Committee has also gone into the issue of administration of the legal set up both in terms of accountability and the responsibility and the level of inter-

action/decision making provided. The Committee is of the view that the legal set up should be under the administrative control of the Additional General Manager instead of SDGM. This shift of control may be helpful for better inter-action at the PHOD level to seek legal advice as also to control and monitor the various activities of the legal department.

9 SET UP AT RAILWAY BOARD'S LEVEL:

9.1 The legal set up in Board's office is headed by Legal Adviser who is a nominee of the Law Ministry in the Railway Board. He is assisted by one Dy. Legal Adviser who is a JA grade officer as also by Assistant Legal Adviser who is a senior scale officer. The legal set up at Board's level primarily deals with all matters of litigation wherever advice is sought say in respect of service matters, contracts, arbitration in addition to empanelment of Advocates etc. All files going to the Central Agency Section of the Ministry of Law (in SLP cases) are also routed through the legal cell of the Board. As per the system prevalent in the Railway Board, the concerned department/sections are wholly responsible to handle, monitor and examine the judgment for implementation or otherwise in consultation with legal cell of the Railway Board which acts as an advisory body. As per the subject list, the Legal Cell of the Railway Board renders legal advice/opinion and other related matters arising out of the various subjects, namely, service matters including cases arising under D&AR rules, Conduct Rules etc. Pay and Allowances of Railway Servants, Accident and Compensation, Sales Tax cases, Contract cases, Taxation of Railway property, Indian Railway Act, Arbitration cases, Labour Laws etc.

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9.2 The existing system is looked upon as functionally logical to deal with the court cases and can be made very effective with some restructuring/revamping of the Legal Cell. The secretarial set-up at Railway Board's level, make the department/section concerned where the cause of action had arisen, fully conversant with various aspects of the subject matter and are thus in a better position to brief the Railway Advocates and also assist the Advocate at the time of hearing. The legal angle in all such matters are taken care of by Legal Cell of Railway Board. The basic function of any legal set up is to render legal advice to the administration in handling the Court cases rather than to take upon themselves the task of conducting the court cases and the approach adopted in Board's office is consistent with this thinking. The Legal Cell also undertake the formation of panels of Advocates. At lower level the legal cell is assisted by Superintendent Legal in Group 'B', one Chief Law Assistant and two Assistants (belonging to Railway Board Secretarial Service), two UDCs and 1 LDC and one Stenographer. Legal Cell also undertake the verification of the fee/bills, appointment of the Advocates, vetting of draft replies and some agreements like House Building Advance cases etc. The Legal Adviser, Railway Board, belongs to ILS (Indian Law Service) while the persons down below are not belonging to Law Ministry.

STRENGTHENING OF THE LEGAL SET UP IN RAILWAY BOARD.

9.3 Keeping in view the enormous litigation all-round for which legal advice is sought, the Committee is of the view that there is an urgent

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need to strengthen the legal set up in the Board itself also by re-enforcing the existing set up with one additional Dy. Legal Adviser (one can look after the litigation/service matters and other can broadly look after the arbitration/contract) and one additional Assistant Legal Adviser. The number of Chief Law Assistants can be also enhanced to 3 Chief Law Assistants instead of one Chief Law Assistant as at present. Similarly there should be two posts of Superintendent (Legal), one each under respective Dy.L.A. The existing clerical strength should, however, continue.

9.4 The posts of additional Assistant Legal Adviser and Dy. Legal Adviser, mentioned in Para 9.3 should be filled by composite method i.e. by promotion or by transfer on deputation failing which through direct recruitment. The post of Superintendent Legal, which is presently in Group 'B', should be filled by promotion from amongst Legal Assistants, Railway Board, failing which on deputation. With a view to provide flexibility to the filling up of these posts, one post each of Dy. Legal Adviser and Assistant Legal Adviser can be encadred for the ILS as well. There is presently a tremendous pressure to go in for SLPs and keeping in view the present work load conditions, there is a need for appropriate distribution of work between the Dy. Legal Adviser/s and the Legal Adviser.

10 : AT PRODUCTION UNIT LEVEL:

10.1 Various Production Units presently have one/two posts of Chief Law Assistants/Law Assistants with or without Assistant Law Officer's post. All the staff being also concentrated at one place, it is generally dealing with

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limited litigation matters. The interface between legal staff in Production Units and other departments is similar to that available in Board's office. The existing legal set up in Production Units are considered to be adequate.

11. TRAINING OF LEGAL STAFF.

11.1 As the quality of the Law Assistant/Chief Law Assistant in Divisions is not rated high, the Committee consider that training of existing Law Assistants/Chief Law Assistants is a very important factor. For this, therefore, two or three Railways should have a small training centers wherein there is continuous exposure of Law Assistants/Chief Law Assistants/Law Officers periodically to share the latest legal rules from time to time in addition to back up library which they must have. Regular training of the legal staff with a view to up-date their knowledge is thus very essential. It is therefore recommended that a short training course every six months is very important to keep up such legal staff to really contribute to the system.

MONTHLY ALLOWANCE

11.2 As the Law Assistants/Chief Law Assistants have to attend various Courts and for many days they have to be outside their headquarters, it will also be appropriate to consider out-door monthly allowance (a fixed monthly allowance depending upon the average being claimed by such Law Assistants/Chief Law Assistants in the past). As the duty hours of the legal staff do not have much inner/outer limits, it may also be desirable to consider a special allowance under the

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nomenclature of Court's Allo _____ or the type of the duty hours which they have.

MINIMUM INFRASTRUCTURE

11.3 The Committee also recommends that minimum infrastructure viz. library, computer with necessary soft-ware relating to cases, photo stat machine, FAX machine etc. must be provided to the legal cells. Since they also have to buy stamp-papers, court papers when such exigencies arise all of a sudden, a suitable cash imprest should always be available with the Law Officer to cater to such emergencies.

12 NOMENCLATURE - HIERARCHICAL SET UP IN THE LEGAL ORGANIZATION: (ZONAL RAILWAYS)

12.1 The Committee also went into the question of evolving broad norms for creation/additional posts in the cadre keeping in mind that this should be kept to the barest minimum. The question of redesignating the legal functionaries appropriately so as to provide the necessary impact during interaction with outside agency was also dwelt upon by the Committee. Committee noted that the legal set up (non-gazetted) on the entire Indian Railways consists of the following posts:

| | |
|-----------------------|------------------|
| Law Assistants | - Rs. 6500-10500 |
| Chief Law Assistants | - Rs. 7450-11500 |
| Assistant Law Officer | - Rs. 7500-12000 |

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RECRUITMENT IN INITIAL GRADE.

12.2 The Committee felt that there should be only one entry grade at the non-gazetted level in the legal organization which should be given the designation of the Legal Assistant in the grade Rs. 6500-10500 and after that level there should be a 'Law Officer' who should be in Group 'B' (Rs. 7500-12000). As already stated in para 7.2, at the divisional level there should be at least one Assistant Law Officer (Rs. 7500-12000) Group 'B' (to be redesignated as Law Officer) assisted by various 'Legal Assistants' in grade Rs. 6500-10500. Keeping in view the above thinking, the Committee recommends that the Chief Law Assistant's posts should be merged with Group 'B' level post of Law Officer after following the due selection process to be called as Law Officer and the cases where the Chief Law Assistants do not come up to the Law Officer's level after screening they should be allowed to remain as such in the existing pay scale on personal basis. However, all future recruitment should be at the Legal Assistant's level and Law Officer level will be a promotion post to the gazetted status through a selection process.

12.3. It has also been observed that the caliber of the various Law Assistants as also the Chief Law Assistants is not upto the mark and that is one of the reasons that the existing legal set up has not been able to leave its mark on the other departments as the legal assistance in the form of advice or other related matters does not emerge properly which leads to a thinking that there is hardly any assistance being given by the Legal Assistants to the other Departments in the present situation. Keeping in view the problems of number as also the quality of the existing staff working in the legal set up,

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the Committee feel that upto 40% of the posts at the level of Legal Assistants should be filled by direct recruitment to be recruited through RRB from those personnel who have LL.B qualification as also a minimum of three years Bar experience. Remaining 60% posts at this level should be filled by options amongst exiting staff with LL.B qualifications, failing which by direct recruitment. The recruitment rules for Assistant Law Officer (to be redesignated as 'Law Officer') as already in vogue in terms of Board's letter No. 84/E(GR)I/14/1* dated 20.7.92 and IREM, for filling Chief Law Assistants/Law Assistants' posts may require a change accordingly. With a view to equip the legal staff to contribute effectively, it is necessary to sharpen our focus on the 'training aspects' (as mentioned in para 11) of the staff inducted in the legal organization either through direct recruitment or by option amongst staff with LL.B qualification and experience in their department.

13. PROPOSED HIERARCHICAL STRUCTURE.

13.1 The broad hierarchical structure/nomenclature of legal organization (after appointments at Headquarters and Divisional level is proposed as under:

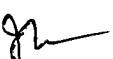
At Headquarters level

Addl. General Manager
Dy. Chief Legal Officer (JA Grade)

At Divisional level

ADRM
St. DPO

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Sr. Legal Officer (Senior Scale)



Legal Officer

(Rs.7500-12000)

Legal Officer (Group 'B'/Rs.7500-12000)



Legal Assistant (Rs. 6500-10500)



Legal Assistant

(Rs.6500-10500)

| At Railway Board level | |
|-------------------------------------|-------------------------------------|
| Legal Adviser | |
| Dy.L.A.(Litigation/Service Matters) | Dy.L.A.(Arbitration/Contract/Misc.) |
| ALA | ALA |
| SUPDT. LEGAL | SUPDT. LEGAL |
| 3 CLA | |
| Existing Clerical Staff | |

13.2 In bigger zones, depending on work-load the Board can consider having selection grade post instead of JA grade with designation of Chief Law Officer. Although the extant rules provide that creation of new posts should be in situation of additional/new assets by providing necessary matching surrender and the legal structure as envisaged may not strictly conform to those guidelines for purposes of upgradation of posts, as recommended by the Committee. It may, therefore, be appropriate if the creation/upgradation in the legal cadre proposed are resorted to through the concerned vacancy bank viz. Divisional/Headquarters/Railway Board vacancy bank as the case may be. It is, however, seen that the financial

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implications of the proposal of creation/upgradation of post will be bare minimal. However, if it may not be possible to give money through the vacancy bank the creation of posts will have to be resorted to through internal adjustment as the Committee is proposing an organised cadre upto Headquarters level.

14. AVENUE OF PROMOTION

14.1 The question of eligibility for movement from one grade to another within the broad hierachal structure proposed was also discussed by the Committee members. The Committee was of the opinion that for promotion from the post of Legal Assistant to the post of Legal Officer, a minimum of three years service in the post of Legal Assistant will be adequate, while five years service as Legal Officer for promotion to senior scale post of Senior Legal Officer may be appropriate. Similarly, a minimum of three years service in the senior scale may be sufficient for movement to the next grade post viz. Dy. Chief Legal Officer (JAG). This may also be in consonance with the existing eligibility criteria for promotion in the legal cadre under Law Ministry. There may also be necessity of taking posts of APO/Legal, SPO/Legal or other posts which require adequate legal background into the fold of legal cadre envisaged. While taking these posts into the legal cadre, the existing incumbents who may be belonging to other Departments could be given option for a lateral change over, but having once opted they should not be allowed to go back to their original department and then should seek promotion in the legal cadre only. The Committee also deliberated on the question of manning such posts either at the initial constitution of legal cadre or later on due to various exigencies confronted in due course. The

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Committee felt that normal standard law of priority viz. by promotion or by deputation failing which by direct recruitment should be adopted in such a situation.

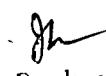
15. INTERFACE WITH OTHER DEPARTMENTS:

15.1 The responsibility of the legal branch under SDGM is advisory in nature wherever sought and given, else it is not playing a pro-active role because of intrinsic constraints of the available facilities and number of the persons who man these positions in the legal set up. This also stems from the lack of confidence generally reposed by the executive in the Law Assistants/Chief Law Assistants. On the other hand the common plea for lack of proactive role adopted is the general inadequacies in terms of Chief Law Assistants/Law Assistants provided. Thus, the main focus towards strengthening of this organization lies in adding few members as also improving the quality of the delivery by the organization thus created to enable significant results being produced. If these two aspects are not taken care of, the Committee felt that the total recommendations will result merely in providing up-gradation to the existing set up, adding few numbers here and there at various levels and present scenario of inactivity/confusion will continue.

16. PROCEDURE FOR DEALING WITH COURT CASES (ZONAL RAILWAYS/PRODUCTION UNITS)

16.1 With a view to provide more involvement, the Committee felt that the legal department should open file with their case/s number and send the

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case to the department concerned for preparing draft parawise comments on the petition which should be scrutinized by the Law Officer before putting up the case to the HOD/PHOD of the concerned department/DRM. The overall responsibility henceforth should lie with legal department for monitoring of the court cases but the responsibility of the implementation and follow up action on implementation of the judgment will lie with the concerned department. Further the responsibility of filing appeals in the higher court will lie with the legal department. There is a need to strengthen the organization mainly at the Divisional level because the existing number is too inadequate and can hardly provide any legal advice with the present strength/numbers. It is seen that with the passage of time, the number of legal cases as also their complicity has increased tremendously. Personal appearance of higher ups is being called for very frequently causing embarrassment particularly in service-matters.

16.2 Law Assistants/Chief Law Assistants/Law Officers whose primary role is to provide the legal advice, in any case, cannot take upon the role of making parawise comments in various cases which has to be best done only by concerned executive department. The legal staff have to provide necessary legal advice either to evolve strategy for pleading a case or legal embellishments which are also required to be kept up while properly projecting the case in lower or higher courts. In nutshell, to make the legal set up more vibrant, the legal organization has to provide a better pro-active role which only will come through training/exposure of the existing staff working in the legal set up, exposure of the persons to legal pronouncements

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taking place, up-dating their knowledge and redefining their role further in providing the necessary assistance/advice to the executive department.

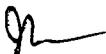
16.3 As per the system prevalent in the Board, the concerned department/sections are wholly responsible to handle/monitor and examining the judgment for implementation or otherwise in consultation with the legal cell of the Board which acts as an advisory body.

16.4 The present system which is functionally logical may continue in Board's office with marginal inputs of legal staff at Dy. Legal Adviser, Legal Assistant, Superintendent (Legal) & CLA levels, as brought out in para 9.3.

17. ENGAGEMENT OF SPECIAL ADVOCATES

17.1 The Railway have very often been asking that the powers to engage special Advocates (who are not on the panel) should be delegated at GM's level and should not be concentrated in Railway Board as certain emergent situation demand taking a speedy action to engage special Advocates for the purpose. The process of approaching Board for engaging senior advocates from outside the approved panels for highly important cases getting prior approval/post facto approval is quite time consuming and the Committee feels that as an experiment for a period of one year to start with, GM should be allowed to give approval for engaging (very sparingly) senior Advocate from outside the panel of Advocates wherever required and Board kept apprised of the number and frequency to assess the financial implications of such decisions taken at GM's level. A view to revert back to

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the present system or not can be taken after an experimental period of one year. It is true that on date sufficient number of panel Railway Advocates and Senior Railway are given to the Headquarters by the Railway Board, but some time the urgency for going in for special senior Advocate outside the approved panel do arise (though sparingly) and, therefore, decision making power should be provided as close as possible to the affected party. In case rules are coming in the way in implementing these recommendations, matter can be taken up with the Ministry of Law & Justice so that proper delegation can be made under the rules.

NOMINATION OF ADVOCATES

17.2 The Committee has also gone into the general demand of the executive department that the nomination of Railway Advocates out of the panel available with them for a particular case should be done in consultation with them. Committee feels that at the time of approaching legal department for nominating an Railway Advocate for the case due consideration should be given if a specific request is made by an executive department that a particular case may be handled by a particular panel advocate.

18. DEALING WITH SLPs:

18.1 The existing legal/mechanism at Railway Board's level to deal with the SLP matters was also discussed by the Committee. In the present system the headquarters of the various zonal Railways make a proposal to the respective sections of Board's office to go in for SLP. These proposals with

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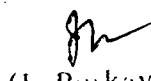

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the comments of concerned directorate are sent to the Legal Adviser for onward transmission to Additional Solicitor General through Central Agency Section of Ministry of Law and a view is taken whether to go in for SLP or not. Committee felt that separate section at the Board to deal exclusively with the SLP may not serve any purpose as the existing system is quite in order. As per extant rules the time for filing SLP is only 90 days and, therefore, with a view to cater to this time frame there is an urgency for speedy decision making as also to chase up the issue. There is, however, a Central Agency Section in the Supreme Court premises wherein all such matters get centralized. In case a separate section at Board's level just to deal with SLPs is carved out, Committee felt that the progress of the present system may get impeded, as it will amount to chasing all SLP cases at Board's level as against headquarters monitoring their own cases. Thus a centralized system of monitoring at Board's level may not produce any results. With the advent of Information Technology all-round and the NIC system of working, the status of the various cases is now available on the Web and thus the headquarters can very easily be in touch with the Central Law Agency as also other Agencies to chase up the matters. Wherever the Railways are not operating through the NIC system they can be advised to subscribe to the same. However, the Committee felt that each Railway Headquarter should have a nodal officer who can monitor such cases under intimation to Board.

19. USE OF INFORMATION TECHNOLOGY (IT)

19.1 With the emergence of powerful tool of IT, the feasibility of sharing the information of the various judgments both for and against Railways

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through internet can be studied. The monthly progress of the disposal of the cases in various divisions should be made available via this media. Opening of a web-page for this purpose can also be thought of.

20. DUTY LIST.

20.1 The Committee also went into the duty lists of the concerned staff and officers in the legal set up which is also one of the terms of reference. The duty lists at various levels viz. Legal Assistants, Legal Officers, Senior Legal Officer and Dy. Chief Legal Officer both at Headquarters as also at the Divisional level have been drawn and are placed at Annexure-F.

21. DIRECTORY OF ADVOCATES.

21.1 The Committee was also required to prepare a directory of all the Advocates on panels in various Railways and in various Courts. The Committee was given to understand that panels of various railway Advocates of High Court/CATs are under revision. Once the panels are approved, the Legal Directorate of Board's office can prepare a directory of the Advocates.

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SUMMARY OF RECOMMENDATIONS:

1. At the divisional level there should be atleast one Law Assistant/Chief Law Assistant per 300 cases. (Para 7.2)
2. Each Division on Indian Railways should have atleast one Law Officer (group 'B' level). (Para 7.2)
3. In Divisions, the Legal Organisation should be under ADRM through Sr.DPO. (Para 7.2/13.1)
4. Each Zonal Railway should have atleast one JA grade officer in the Law Department with one senior scale and two assistant level officers with requisite non-gazetted set up. (Para 8.3)
5. The legal set up should be under the administrative control of AGM instead of SDGM on Zonal Railways. (Para 8.3)
6. In Railway Board's office the existing legal set up may be reinforced with one Additional Dy. Legal Adviser, one Assistant Legal Adviser and one Supdt. (Legal). There should also be three Chief Law Assistants instead of one Chief Law Assistant. (Para 9.3)
7. The post of Dy. Legal Adviser and Assistant Legal Adviser in Board's Office as recommended above can be encadered for Indian Legal Service (ILS). (Para 9.4)
8. The existing legal set up in Production Units is considered adequate. (Para 10)
9. Two or three Zonal Railways should have a 'small training center' where there should be continuous exposure of Law Assistants/Chief Law Assistants/Law Officers periodically to share the latest legal rules from time to time. (Para 11.1)
10. A fixed 'out-door monthly allowance' should be given to Law Assistants/Chief Law Assistants. (Para 11.2)

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✓ 11. A 'Court Allowance' should also be given to the Law Assistants/Chief Law Assistants. (Para 11.2)

12. Minimum infrastructure viz. library, computer with necessary software relating to cases, photo stat machine, FAX machine etc. should be provided to the Legal Cells. (Para 11.3)

✓ 13. A suitable 'cash imprest' should be made available with the Law Officer to cater to emergencies like buying stamp papers, court papers etc. (Para 11.3)

14. Instead of two grades at non-gazetted level (viz. Law Assistant Rs.6500-10500 & CLA Rs.7450-11500) there should be only one entry grade of Rs. 6500-10500 with the designation Legal Assistant. (Para 12.2)

✓ 15. The Chief Law Assistant's post (Rs.7450-11500) should be merged with group 'B' level post of Law Officer (Rs.7500-12000) after following the due selection procedure. (Para 12.2)

✓ 16. 40% of the posts at the level of Legal Assistant (Rs. 6500-10500) should be filled by direct recruitment through RRB from those who have LLB qualification as also the minimum three years bar experience. Remaining 60% posts at this level should be filled by options amongst existing staff with LLB qualification failing which by direct recruitment. (Para 12.3)

✓ 17. Bigger zones can have a Selection Grade Dy. Chief Law Officer instead of a JA grade Dy. Chief Law Officer. (Para 13.1)

✓ 18. Posts in other Departments which require intrinsic legal background to deal with should be taken into the fold of legal cadre. Existing incumbents can be given options for lateral change over. (Para 14.1)

✓ 19. Legal Assistant with 3 years of service should be considered for promotion to the post of Legal Officer (Group 'B'), (ii) Legal officer with five years of service in Group 'B' should be considered for the post of Senior Legal Officer (Sr. Scale) and (iii) Senior Legal Officer with 3 years of service as such should be considered for promotion as Deputy Chief Law Officer. (Para 14.1)

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¶ 20. Legal Department (Zonal Railways) should in future open files with their cases number and send the case to the Department concerned for preparing draft parawise comments on the petitions.. This should be scrutinized by Law Officer before putting the case to the HOD/PHOD of the concerned Department/DRM. (Para 16.1)

¶ 21. The over-all responsibility henceforth should lie with Legal Department for monitoring the court cases but the responsibility of the implementation and follow up action on the implementation of the judgment will lie with the concerned department. (Para 16.1)

¶ 22. As an experiment, for a period of one year to start with, GMs of the zonal Railways should be allowed to engage Senior Advocates from outside the panel of Advocates, wherever required and Railway Board kept apprised of the number and the frequency of the same. (Para 17.1)

¶ 23. A separate section at Railway Board's level to deal exclusively with the SLPs may not serve any purpose, as the existing system is considered adequate. The Headquarter of the Zonal Railway should be in touch with Central Law Agency and other Agencies to chase up the matter/cases. (Para 18)

¶ 24. Railways should be advised to operate through the NIC system. (Para 18)

¶ 25. The Legal Department should tap fully the powerful tool of IT for purposes of sharing the information on various judgments both for and against the Railways through inter-net etc. (Para 19)

¶ 26. Opening of a web page to study the monthly progress of the cases in various divisions should also be thought of. (Para 19)

S.C. Manchanda
3/10/02
(S.C. Manchanda)
CPO
Northern Railway

A.K. Bagchi
3/10/02
(A.K. Bagchi)
JS(G)
Railway Board

P.K. Malhotra
(P.K. Malhotra)
Legal Adviser
Railway Board

D.R. Mehra
(D.R. Mehra)
Deputy Secretary (Estt.)
Railway Board

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(J. Pukayastha)
Advocate

Annexure-A/ 3

GOVERNMENT OF INDIA
 MINISTRY OF RAILWAYS
 (RAILWAY BOARD)

No. 2000/LC/1/19 New Delhi, dt. 31.03.2003

1. The SDGM (Law)
 All Indian Railways including
 CLW, DLW, ICF, RCF, W&AF, CORE & MTP/Calcutta
2. OSDs, East Coast Rly/Bhubaneswar,
 North Central Rly/Allahabad,
 South Western Rly/Bangalore
 West Central Rly/Jabalpur,
 New Railway Zone, Bilaspur.
5. The CAOs/MTP/Delhi, Bombay & Madras
 DCW/Patiala & RCF/Kapurthala
6. DG/RDSO/Lucknow.
7. Chairman/All Railway Recruitment Boards

Sub: Implementation of the report of the committee on revamping and streamlining the legal set-up of Indian Railways.

The railway Board had constituted a departmental committee for revamping and streamlining the legal set up of Zonal railways/production Units. The committee has submitted its report to Board (MS) on 4.10.2002. There are certain recommendations in the report which are to be implemented after taking an appropriate decision by the competent authority at the Zonal Railway level. Therefore, in order to expedite the implementation of the recommendations of the committee, two copies of the report are sent to your railway so that necessary action in regard to the implementation of the report wherever Zonal Railway is competent, may be processed for implementation.

2. Zonal railway may take necessary action in this regard and furnish its report at the earliest.

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 (J. Purkayastha)
 Advocate

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Sd/-Illegible
(A. Khatwani)
For Secretary
Railway Board

No. 2000/LC/19

New Delhi, dt. 31.03.2003

Copy for information and necessary action forwarded to
all Law officers of Zonal Railways and Production
Units.

Sd/-Illegible
(A. Khatwani)
For Secretary
Railway Board

Certified to be true copy
JN
(J. Puriayastha)
Advocate

Annexure-A/4

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 2000/LC/Misc/19

New Delhi, dt. 10.04.03

The General Manager (Law)
All Indian Railways & Production Units.

Sub: Implementation of the report of the committee on revamping and streamlining the legal set-up of Indian Railways.

Ministry of Railways had constituted a Committee for revamping and streamlining of legal set up on Zonal Railways and Production Units. The committee has submitted its report and the Board (MS) has directed that each and every recommendation be examined by the concerned Directorate. The said report has been circulated by this Directorate to various Zonal Railways vide letter of even No. dated 31.3.2003.

2. The committee in its report have inter alia recommended the following:-

(i) Minimum infrastructure viz. library, computer with necessary software relating to cases, pho stat machine, FAX machine etc. should be provided to the Legal Cells.

(ii) Legal Department (Zonal railways) should in future open files with their cases number and send the case to the Deptt. concerned for preparing draft parawise comments on the petitions. This should be scrutinized by Law Officer before putting the case to the HOD/PHOD of the concerned Deptt./DRM.

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J. Purkayastha
(J. Purkayastha)
Advocate

(iii) The over-all responsibility henceforth should lie with Legal Deptt. for monitoring the court cases but the responsibility of the implementation and follow up action on the implementation of the judgment will lie with the concerned deptt.

3. You are requested to send your comments with regard to implementation of the above recommendations. While offering your comments, the practice in vogue in relation to the above matters may also be indicated.

Sd/-Illegible
(A. Khatwani)
For Secretary
Railway Board

No. 2000/LC/Misc./19 New Delhi, dt. 10.04.03

New Delhi, dt. 10.04.03

Copy to DGM(Law), Sr. Law officer and Law Officers of All Indian railways and Production Units.

Sd/-Illegible
(A. Khatwani)
Supdt. (Legal)
Railway Board

Certified to be true copy

Jh
(J. Puk yasitha)

Annexure-A/ 5

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 2000/LC/Misc./19 New Delhi, dt. 23.5.2003

The SDGM (Law)
NE Railway, Gorakhpur

The SDGM (Law)
NF Railway
Maligaon, Guwahati

Sub: Implementation of the report of the committee on revamping and streamlining the legal set-up of Indian Railways/production Units

Ref: Board's letter No. 2000/LC/1/19 dated 31.1.2003 and railway Board's letter No. 2000/LC/Misc/19 dated 31.3.2003 and 10.4.2003.

In reference to your letter under reference it is stated that the committee on revamping and streamlining the legal set up on Indian Railways has submitted its report to the Board (MS) on 14th oct'2002. The MS directed that each and every recommendation may be examined on file in consultation with the concerned Directorates. Thereafter, vide order dated 13th Jan,2003 passed by Board (MS) the report was submitted to Secretary who convened a meeting of the concerned officers dealing with the implementation of the recommendations of the report on 24th Feb,2003. In the said meeting it was implementation by the concerned Directorates and status of the implementation will be sent to the legal Directorate (Railway Board) periodically.

Under the above circumstances a copy of the report has been circulated vide this office letter of even number dated 31.3.2003 to all the Zonal Railways with a view to have their comments as well

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(J. Purkayastha)
Advocate

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as to implement the recommendations wherever Zonal Railways is competent to implement. You are, therefore, requested to send your comments with regard to implementation of the recommendations of the committee made in the report under reference. It is reiterated that while offering your comments, the practice in vogue in relation to the matters mentioned in letter dated 12th April, 2003 may also be indicated.

Sd/-Illegible
a. Khatwani)
For Secretary
Railway Board

No. 2000/LC/Misc/19

New Delhi, dt. 23.5.2003

Copy to Law officer, NE Railway and Law officer NF Railway for information and necessary action.

Sd/-Illegible
(A. Khatwani)
For Secretary
Railway Board

Certified to be true copy

Jh
(J. Pukayastha)
Advocate

Annexure-A/6NORTHEAST FRONTIER RAILWAY

OFFICE OF THE
GENERAL MANAGER
MALIGAON, GUWAHATI-11

No. Z/208/35/NG/Pt.VII (loose)

July 17, 2003

To

The Secretary (Legal),
Railway Board,
New Delhi

Sub: Implementation of recommendations by the committee on revamping and streamlining the legal setup on Indian Railways.

Ref: Your letter No. 2000/LC/1/19 dated 31.3.2002 and Letter No. 2000/LC/Misc/19 dated 10.4.2003 & 23.5.2003.

This is further to our earlier letter of even No.dt. 22.4.2003. railways have been advised for implementing the subject recommendations wherever Zonal railway is competent to implement. In this connection, comments on the following recommendations are furnished:

3. In Divisions the legal organization is presently under the Sr. DPO who reports to the DRM. It could be under the ADRM through Sr. DPO as recommended.

5. The legal setup is presently under the administrative control of SDGM. Any change in this as recommended is not considered necessary.

10. Whenever Las/CLAs go outside their headquarters, they are entitled and claim TA and other allowances like other staff. As such any outdoor monthly allowance as recommended is not considered necessary.

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J.P.
(J. Pukayastha)
Advocate

12. Some of the facilities i.e. library and photocopier machine as recommended are already available. Proposals for the provision of other items i.e. fax machine, computer, Dot phone with STD facility are under process.

13. The proposal for cash imprest with Law Officer is also under process.

20. This recommendation is already in practice on this railway and will be continued.

25. Once Computers are provided in the legal department, it will be possible to implement this recommendation

No comments are furnished on other recommendations of the report. However, the recommendations will be implemented once they are approved by the Board and this office advised for their implementation.

(A.S. Choudhury)
DY. GENERAL MANAGER (G)

Certified to be true copy

J.P.
(J. Purkayastha)
Advocate

Annexure-A/ 7

To

The Chairman,
 Railway Board
 Rail Bhawan, New Delhi

(Through Proper Channel)

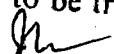
Respected Sir,

Sub: Request for implementation of Report of the Committee of Revamping and Streamlining of Legal set up of Indian Railways.

We, the undersigned Chief Law Assistants/Law Assistants of east Coast Railway would submit the following few lines for your kind consideration and favourable orders on the above subject.

Sir, on administrative interest and on favourable recommendations of all General managers of Indian Railways, the Railway Board has formed a Committee to submit a report on Revamping and Streamlining the legal set up of Indian Railways and accordingly the Committee submitted its report on 04.10.2002 and sent to the Zonal Railway for implementation of the report wherever the Zonal Railway is competent with a copy of report endorsing to the Law officer, East Coast Railway, Bhubaneswar for information and necessary action. Though considerable period has elapsed, no administrative decision at zonal level has been taken till date to take positive action inspite of repeated reminders from the Board.

It is not out of place to mention that even though the Committee recommendations have not been implemented in toto, the Board has been issuing letter

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(J. Purkayastha)
 Advocate

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implementing some of the recommendations in piece meal such as:

- i) Imprest for Law Office
- ii) Training for LA/CLA
- iii) 300 cases for one Chief Law Assistant/Law Assistant.

Further, vide Railway Board's letter No. PC-V/2004/PS/2(RB) dated 27.2.2001 (RBE No. 42/2004) the Board has revised the scale of pay of Superintendent (Legal) Railway Board from Rs. 7450-Rs.11500/- to Rs. 7500/- - Rs. 12000/-. The Vth Pay Commission in its report recommended to redesignate the LA/CLA to Superintendent (Legal). The change of designation of LA/CLA as Superintendent (Legal) has been effected at the Railway Board level as a part of implementation of Vth P.C. recommendation. Whereas, the said change of designation has not been effected in some of the zonal Railways including East Coast Railway. However, the designation of LA/CLAs of Eastern Railway has been redesignated as Legal Superintendents. The orders contained in the Board's letter No. PC-V/2004/PS/2(RB) dated 27.2.2004 (RBE No. 42/2004) revising the scale of pay of Superintendent (Legal) at Railway Board from Rs. 7450-Rs. 11,500/- to Rs. 7500 - Rs. 12,000/- has to be made applicable equally to the LA/CLAs of All Zonal Railways. Non-applicability of revising scale of pay Rs. 7500-Rs. 12000/- to LA/CLAs in the Zonal Railways is violation of Article 14 and 16 of the Constitution of India and it is also arbitrary, illegal and discriminatory in not extending the same benefit to the LA/CLAs of Zonal Railways.

As the recommendations of the Committee are having vide range of implications on the future prospects of the Law cadre including LA/CLAs and Law Officers, the incumbents are eagerly waiting for the

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(J. Purkayastha)
Advocate

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implementation of the recommendations of the Committee.

We therefore, earnestly request your good self to kindly intervene in the matter and take appropriate action for implementation of the report and boost up the morale of legal cadre at an early date.

Thanking you.

Yours faithfully

Sd/- Illegible

Copy to GM/East Coast Railway for kind information & necessary action pl.

Copy to Legal Adviser, Railway Board, Rail Bhawan, New Delhi for information & necessary action please.

Copy to Chairman, Railway Board in advance to save delay and for kind information & necessary action please.

Certified to be true copy


(J. Purkayastha)
Advocate

ANNEXURE - A/8

Ph. No. 22056

*S/PM
PL. Executive and
Jewellers
14/8/03*

N.F. RAILWAY LEGALMEN'S ASSOCIATION
OFFICE: N.F. RAILWAY, HEAD QUARTER
GM's LAW BRANCH,
MALIGAON, GUWAHATI-781011 (Assam)

No.:

Ref: NFRLLMA / MLG / 1 / 2003

Date: 14-8-2003

*Discussed with GM on 3/8/03. No
further action for the present.*

Kanti Mohan Sinha

President

Samud Hague

Vice-President

Ananta Bhattacharjee

General Secretary

Tailendra Talukdar

Organizing SecretaryAnup Kr. Roy,
Ashok Sengupta,
Anil Kr. Sarma,
Mukul Basumatary,Joint SecretaryS.A. Ahmed
Rajab Ali,
Malay Kr. Roy,
Office SecretaryAshok Kr. Doley,
Treasurer

To

The General Manager,
N.F.Railway, Maligaon
Guwahati - 11.*DGM 14/8/03**1/1*

21/8/03

Sub : Memorandum on the report of the Committee on
revamping and stream lining the legal set up
on Indian Railways, by N.F.Railway, Legal
Men's Association, Maligaon, H.Q.

Hon'ble Sir,

With profound respect and humble sub-
mission we on behalf of Legal Men's Associa-
tion do hereby put forward the following few
burning greivances with a view to earning your
favourable orders and consideration please.

1. That Sir, the Committee Constituted by
Railway Board (MS) on 4.10.2002 has since
submitted their report and on going through
the report it transpires that all the posts of
Chief Law Assistant have been recommended to
be upgraded us Group "B". The Committee has
submitted its report to the Board (MS) on
4.10.2002 embodying some other recommendations
to be implemented after taking an appropriate
decision by the competent authority.

2. That Sir, Legal Organisation in the
Division should be placed under ADRM through
Sr. DPO.

*way be discussed alongwith
relevant papers -*

Contd....2

14/8/03

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J. Purkayastha
(J. Purkayastha)
Advocate

Ph. No. 22056

N.F. RAILWAY LEGALMEN'S ASSOCIATION
OFFICE: N.F. RAILWAY, HEAD QUARTER
GM's LAW BRANCH,
MALIGAON, GUWAHATI-781011 (Assam)

No.:

Ref: NFRLM/MLH/1/2003

Date: 14-8-2003

Kanti Mohan Sinha,

President

Samson Hague,

Vice President

Ananta Bhattacharjee,

General Secretary

Tailendra Talukder,

Organizing SecretaryArup Kr. Roy,
Ashok Sengupta,
Anil Kr. Sarma,
Mukul Basumatary,Joint SecretaryS.A. Ahmed
Rajab Ali,
Malay Kr. Roy,
Office Secretary,Ashok Kr. Doley,
Treasurer.

: 2 :

3. That Sir, the Legal setup should be under the Administrative control of the AGM instead of SDGM. This shift of control may be helpful for better inter-action at the PHOD level to seek legal advice with a separate Law cadre.

4. That Sir, a short training course in every six months is very important to keep up such legal staff to really contribute the system.

5. That Sir, as the LA/CLAS have to attend various courts and for many days they have to be remained outside their head quarters, it will also be appropriate to consider out door monthly allowance (a fixed monthly allowance depending upon the average being claimed by such LA/CLAs in the past). As the duty hours of the legal staff do not have much inner/outer limits, it may also be desirable to consider a special allowance under the nomen-clature of court's allowance for the type of the duty hours.

6. That Sir, minimum infrastructure viz. library, computer with necessary soft-ware relating to cases, photostat machines, FAX machine etc. must be provided to the legal

Contd....3

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(J. Pukayastha)
Advocate

Ph. No.22056

N.F. RAILWAY LEGALMEN'S ASSOCIATION
OFFICE: N.F. RAILWAY, HEAD QUARTER
GM's LAW BRANCH,
MALIGAON, GUWAHATI-781011 (Assam)

No.:

Ref. NFRALMA / MLL/11/2003

Date: 14-8-2003

Kanti Mohan Sinha,

President

Samson Hague,

Vice President

Aranta Bhattacharjee,

General Secretary

Tailendra Talukdar,

Organizing SecretaryArup Kr. Roy,
Ashok Sengupta,
Anil Kr. Sarma,
Mukul Basumatary,Joint SecretaryS.A. Ahmed
Rajab Ali,
Malay Kr. Roy,
Office SecretaryAshok Kr. Doley,
Treasurer

: 3 :

cells. A suitable cash imprest should always be available with the Law offices to cater emergencies.

7. That, it would not be out of place to mention that the legal department from its inception has been serving in a much unorganised way for which the legal staff have been feeling a sense of alienations, as a result the dealing cases are being done superficially as felt by Zonal Railway.

On the point of view, this recommendation if considered in its perspective, would help the legal staff to spruce up their legal acumen and it will also help the Zonal Railway in a recurring improvement to cope up with the increasing court cases. Naturally it appears to be an increasing need to implement the committee report in its true perspective.

In the premises, comments of Zonal Railway in regard to implementation of the committee report is, to implement the report in totality as desired by Rly. Board create a situation conducive to strengthen the legal cell by designating the Chief Law Assistant as Legal Officer.

Contd....4

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J.P.
(J. Purkayastha)
Advocate

Ph. No. 22056

N.E. RAILWAY LEGALMEN'S ASSOCIATION
OFFICE: N.E. RAILWAY, HEAD QUARTER
GM's LAW BRANCH,
MALIGAON, GUWAHATI-781011 (Assam)

No.:

Ref: NFR LMA/MLG/1/2003

Date: 14-8-2003

: 4:

Kanti Mohan Sinha,

President

Samson Hague,

Vice-President

Ananta Bhattacharjee,

General Secretary

Tailendra Talukdar,

Organizing Secretary

Arup Kr. Roy,

Ashok Sengupta,

Anil Kr. Sarma,

Mukul Basumatary,

Joint Secretary

S.A. Ahmed

Rajab Ali,

Malay Kr. Roy,

Office Secretary

Ashok Kr. Doley,

Treasurer

It is worth mentioning here that, itemwise reply from SDGM/N.F.Railway, Maligaon for Re-organisation of legal machinery in Indian Railways under Reg. MS/Rly. Bd's D.O. No. 2000/LC/MISC/19 dt. 16.6.2000 vide SDGM/MLG's Letter No. Z/208/35/NG/Pt.VII (Loose) dt. 7.8.2000.

Item No. 8(a), (b), (c), (e), (f), Item No. 9, Item No. 18 of questionnaire. Speak infavour of Legal staff (copy enclosed).

We hope it is your who can set up your kind intervention to make all possible efforts to implement the Committee's recommendation report has already been processed for approved by the Railway Board.

In view of the duties and functions performed by Railway legal men, it would be proper and justified to offer them a gazetted status with separate cadre.

Yours faithfully,

(KANTI MOHAN SINHA,
PRESIDENT)(ANANTA BHATTACHARJEE,
GENERAL SECRETARY)(TAILENDRA TALUKDAR,
ORGANISING SECRETARY)

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(J. Purkayastha)
Advocate

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Ph. No. 22066

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N.E. RAILWAY LEGALMEN'S ASSOCIATION
OFFICE: N.E. RAILWAY, HEAD QUARTER.
GM's LAW BRANCH,
MALIGAON, GUWAHATI-781011 (Assam)

No.:

Ref: NFRM/MLA/1/2003

Date: 14.8.2003

: 5 :

Copy to :-

Kanti Mohan Sinha,

President

Samson Hague,

Vice President

Ananta Bhattacharjee,

General Secretary

Tailendra Talukdar

Organizing Secretary

Arup Kr. Roy,
Ashok Sengupta,
Anil Kr. Sarma,
Mukul Basumatary,
Joint SecretaryS.A. Ahmed
Rajib Ali,
Malay Kr. Roy,
Office SecretaryAshok Kr. Doley,
Treasurer

1. General Secretary, Mazdoor Union, N.E. Railway, Central Office, Pandu. He is requested to connect the matter with the President/AIRF, New Delhi and pursue the same with General Secretary AIRF, 4, State entry road, New Delhi-55 in reference to his reference letter MU/C/FD/dt. 24.4.2003.
2. Secretary to Railway Board for necessary action.
3. Legal Adviser, Railway Board, New Delhi, for information.

Yours faithfully,

(KANTI MOHAN SINHA,
PRESIDENT)(Ananta Bhattacharjee,
GENERAL SECRETARY)(Tailendra Talukdar,
ORGANISING SECRETARY)(Ashok Sengupta
JOINT SECRETARY)

Certified to be true copy

(J. Purkayastha)
Advocate

- 1 JUN 2006

गुवाहाटी न्यायालय
Guwahati Bench

Filed by
Dr. M. C. Samir
Advocate
Riy

31/5/06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

O.A.245/2005

Ananta Bhattacharjee & Others

Applicants

Versus

Union of India & Others

Respondents

AND

IN THE MATTER OF

Written Statement on behalf of respondents

The answering respondents respectfully SHEWETH : .

1. That the answering respondent has gone through a copy of the application filed and have understood the contents thereof. Save and except the statements which have been specifically admitted hereinbelow or those which are borne on records all other averments/allegations as made in the application are hereby emphatically denied and the applicants are 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 respondent has confined his replies to those points/allegations/averments of the applicants which are found relevant for enabling a proper decision on the matter.

3. That the application suffers from want of a valid cause of action, warranting its dismissal. The subject matter of the application is such that decisions on some matters take time, involving as it does not only the Ministry of Railways, Govt. of India, but also other Ministries of the Govt. of India, including the Finance Ministry whose policy decisions prevail. Therefore, wherever possible part of the recommendations of the Committee as mentioned in the O.A. have been implemented. Where however, higher policy decisions are involved directives of appropriate authorities are awaited before implementation.

4. That the application suffers from a wrong understanding of the process of decision making in the Railways as far as major policy matters concerning financial justification is concerned.

Parawise comments

5.1. That as regards paragraphs 1 to 4.7 of the O.A., the answering respondent begs to state that the contents of these paragraphs are a matter of records and hence no specific comments are offered on them.

5.2. That as regards paragraphs 4.8, 4.9 and 4.10, the answering respondent begs to state that Railway Board's letter No.2000/LC/1/19 dated 31.03.2003 circulating copies of the committee's report was duly received. Subsequently, the Railway Board also advised that the recommendations made by the committee in paragraph No.11.3 and 16.1 of the report regarding provision for minimum infrastructure in legal cells, opening of files by the zonal railway's legal department and proper monitoring of the court cases should be implemented.

It is submitted that on receipt of the Railway Board's various communications, the zonal railway examined the matters in so far as they lay within the zonal Railway's purview and implemented the recommendations and suitably advised the Railway Board.

5.3. That as regards paragraph 4.11, the answering respondent begs to state that the zonal Railway's comments as referred to in this paragraph were arrived at after duly considering the full report of the committee in depth. The comments made in the zonal Railway's letter dated 17.7.2003 as quoted in para 4.11 were based on a conscious decision taken by the zonal railway after duly taking various aspects of the matter into consideration.

5.4. That in regard to paragraph 4.12 the answering respondent begs to deny that the comments of the zonal Railway was against the spirit of reform. It is submitted that in the zonal Railway's opinion it is best to keep the overall set up of the legal department in the headquarter level unaltered as there is no change in the set-up itself. Creation of higher level of posts involves concurrence of the Finance Ministry and the Ministry of Railway is unable to take unilateral decision; the question of these decisions being taken by the zonal railway does not arise at all. As regards the question of outdoor monthly allowance to Chief Law Assistance and law assistants, the zonal Railway considers that the high rates of travelling and daily allowances to which they are entitled is adequate for the day to day work. As regards the library facilities, it

is submitted that adequate improvement can be brought about in the existing facilities with the co-operation of the legal fraternity of the zonal Railway.

5.5. That as regards paragraphs 4.13 and 4.14, the answering respondent begs to state these are matters of records and hence no comments are submitted.

5.6. That as regards paragraph 4.15 the answering respondent begs to submit that the representations submitted from time to time by individuals as well as by various associations regarding implementation of the recommendations of the Committee on Ravamping and Streamlining of Legal Set up of Indian Railways have been examined and are under active consideration of the concerned directorates of the Railway Board. Most of the ~~xx~~ recommendations of the Committee have already been implemented. The implementation of other recommendations may take time because they involve consultation with other Ministries such as Finance Ministry. Meanwhile, regarding the recommendation No.15 for merger of Group 'C' posts of Chief Law Assistants with that of Group 'B' posts of Assistant Law Officers it has been decided to continue with the existing set up. A decision has also been taken to create/upgrade posts in Junior Administrative grade, Senior scale and Group 'B' with matching savings. A proposal on these lines has been prepared and is under submission to the Ministry of Finance for their concurrence.

5.7. That as regards paragraph 4.16 the answering respondent begs to state that the representations of the Association mentioned in the O.A. were examined in detail and reply sent as mentioned in the representation dated 14.08.2003 (Annexure A/8 of the O.A.). As mentioned in para 5.4 above, it is the opinion of the zonal Railway that the present overall set up of the legal department does not warrant any change. Creation of higher level of posts is a matter of higher policy involving not only the Ministry of Railways but also the Ministry of Finance, Govt. of India. As regards out-door monthly allowance to Law Assistants/ Chief Law Assistants, it is stated that whenever they go outside their headquarters, they are entitled and claim liberal rates of TA and other allowances like other staff. Therefore, payment of outdoor monthly allowance as recommended is not considered necessary.

As regards other suggested improvements, it is submitted that the facilities in library will be improved with a view to upgrading the knowledge of Law Assistants/ Chief Law Assistants by way of purchasing updated books and journals etc. Items such as Fax machines, computers etc. can be acquired as an ongoing process as per extant procedures extensively followed in all departments of the zonal Railways.

5.8. As regards paragraph 4.17 the answering respondent considers that no comment is necessary as the contents of this paragraph are matter of records.

5.9. That as regards paragraphs 4.18 and 4.19, the answering respondent begs to state that the representations submitted from time to time by individuals as well as associations regarding implementation of the recommendations made in the Report of the Committee on Revamping of and Streamlining of Legal Set up of Indian Railways have been examined and are under active consideration of the concerned directorates of Railway Board. Most of the recommendations of the Committee have already been implemented. The implementation of other recommendations may take some time because they involve consultation with other Ministries, such as Ministry of Finance. Meanwhile, as regards the recommendation No.15 for merger of Group 'C' posts of CLAs with that of Group 'B' posts of ALOs, it has been decided to continue with the existing set up. A decision has also been taken to create/upgrade posts in JAG, Sr.Scale and Group 'B' with matching savings. A proposal on these lines has been prepared and is under submission to the Ministry of Finance, Govt. of India, for their concurrence.

In the circumstances explained in detail above, it is submitted that the respondents have taken all steps to implement the recommendations of the Committee referred to in the O.A. to the extent possible under the existing dispensation. Certain matters concerning policy matters have necessarily to wait for decision by Railway Ministry who have initiated action.

It is therefore urged that the O.A. be considered in the overall perspective stated above and disposed of as the Hon'ble Tribunal deems fit.

And for this act of kindness the respondents shall ever pray.

(5)

VERIFICATION

I, Shri M.K. Sinha, son of S.N. Sinha, aged about 37 years, at present working as D.G.M.(G), N.F.Railway, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 5.9 are true to the best of my knowledge and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the _____ day of May, 2006.

✓ 
Designation (मान्यता प्राप्ति)
(• ए. ए. रेलवे) कार्यालय
GENERAL MANAGER (G)
Designation (मान्यता प्राप्ति)
Date: 2006-05-05

9/2/07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

देशीय प्रशासनिक अदायकरण
Central Admin. App. Tribunal

9-2-07

গুৱাহাটী রাষ্ট্ৰীয় বৰ্ষাৰণ
Guwahati Bench

GUWAHATI BENCH

O.A. No. 245/2005

File No.:

B. C. Palkar
Advocate

9/2/07

In the matter of:

Ananta Bhattacharjee and others

...Applicant

-Versus-

Union of India and others

...Respondents

In the matter of:

Affidavit-in-reply to the Written Statements submitted
by the respondents.

I, Sri Ananta Bhattacharjee, Son of Sri Nalini Ranjan Bhattacharjee, aged about 51 years, resident of Railway Quarter No.29/D, Old Goshala, Maligaon, Guwahati - 11, District – Kamrup, Assam do hereby solemnly affirm and state as follows:

1. That I am one of the applicants in the above noted case and I have been duly authorized by the other applicants to represent them and to take

Ananta Bhattacharjee

steps in the above noted case. Hence, I am fully acquainted with the facts and circumstances of the case.

2. That a copy of the written statement filed by the respondents has been served on me through our advocate. I have gone through the same and understood the contents thereof.
3. That save and except those statements which are specifically admitted by me, all other statements made in the Written Statements are hereby denied by me.
4. That with regard to the statements made in para 1,2,3 and 4 of the written statements I say that Railway is a statutory authority having its own statutory power including its all budgetary provisions to the exclusion of other Departments of Government of India. Moreover, the need of streamlining and revamping of the legal Departments of the Ministry of Railway is admitted by the authority themselves and the authority constituted the committee to go into detail and to submit report with recommendation. The committee having submitted their report and recommendation, the matter was placed before the competent authorities for implementation. But surprisingly nothing has been spelled out as to what are those recommendations that have been approved and what are those recommendations that have been rejected and what are those pending consideration. In absence of such specific averments and list the statements made in para 3 cannot sustain in law as these are nothing but general opinion without any specific commitment. In this connection I also say that the Railway Board is the highest and absolute authority to take any policy decision including financial matters.
5. That with regard to the statements made in para 5.1 to 5.7 including the prayer portion of the written statement I say that in the list of recommendation made by the committee there were as many as 26 Nos.

Ananta Bhattacharjee

of specific recommendation on different issues which are explicit from the "Summery of the Recommendation" at Sl. No. 23, 24 and 25 of the said Report of the Committee and at page 56, 57 and 58 of the instant O.A. The respondents in their written statement has spelled out nothing specific and categorical as to which of those specific items have been fully implemented, those which have been under active consideration and pending at what stage and those which have been rejected by the authorities both at Zonal as well as Railway Board levels. There is no proof to show, which are those items of recommendation that has been implemented. On a bare reading of the various paragraphs of the written statements it would be clear that not a single item of recommendation has yet been implemented rather it would be clear to know that the authorities have this way or that way rejected the recommendation and hushed up the entire report of recommendation. Hence, I deny the correctness of these statements made in those paragraphs of the written statements.

6. That instead of implementation of the recommendations of the said committee on revamping and streamlining the legal set up on Indian Railways vide October 2002 Report, and also the 5th Pay Commission recommendation, the respondents are indulging in certain tactics and techniques to accommodate their own people of choice by pick and choose manner in the tacit way of implementation of the said 5th Pay Commission recommendation. For example, the 5th Pay Commission recommendation in its recommendation re-designated the post of Chief Law Assistant as Superintendent (Law) without any further classification. Whereas the respondent authority has classified the said re-designated post of Chief Law Assistant as Superintendent (Law) as applicable in case of Railway Boards Headquarter only leaving all other Chief Law Assistant as before in the Headquarter, Zonal and Division level. In view of the aforesaid inaction or illegal action, the various associations of law department have submitted their Charter of Demands to the Railway

Ananta Bhattacharjee

authorities for placing their grievance as detailed therein before the 6th Pay Commission, which has already been constituted by the Govt. of India.

The copies of the said representation showing the basis of the Charter of Demands is annexed as Annexure A8 (Colly).

7. That the 5th Pay Commission had an in-depth study of the problems of legal branch staff of the Railways and recommended for revamping and streamlining including the pay structure in its recommendation. This was done as per direction issued by the Hon'ble CAT, Cuttack Bench in OA 801/93.

The relevant portion of the 5th Pay Commission recommendation and also the order passed by the CAT Cuttack Bench are annexed as Annexure 9 & 10 respectively.

8. That inspite of the specific recommendation and emphasis added to the urgent need of revamping and streamlining the legal department by restructuring and upgrading the status, pay-pocket and other service benefits and working condition of the staff of the legal department of the Railways, nothing has been done so far to implement the said recommendation either of the Pay Commission or the recommendation of the committee report as stated hereinabove.
9. That barring certain areas the demands of the staff of the legal department still require further consideration by an independent, expert body like the Pay Commission (here the 6th Pay Commission is concerned) with regard to the restructure and re-designation of the hierarchy of posts and the pay structure of the staff of the legal department of Railways. Therefore it is also a fit case in which this Hon'ble Tribunal may refer the matter with

Ananta Bhattacharya

specific direction to the Railway authorities to refer and put up the matter before the ensuing 6th Pay Commission within a stipulated period of time. However, it may further be observed that such reference made to the 6th Pay Commission may not be a bar in considering and implementing the recommendation of the 5th Pay Commission and also the October 2002 recommendation of the Committee Report.

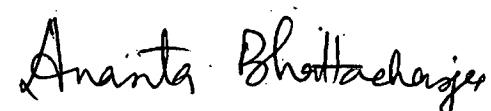
10. That in any view of the matter and also the provision of law it is a fit case in which this Hon'ble Tribunal may be pleased to issue necessary directions to the respondents to initiation positive action, as they are duty bound to do so.
11. That the statements made in para 1 to 5 and 8 to 10 of this affidavit are true to my information and belief, those made in para 6 and 7 being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Court. I have not suppressed any material fact.

And I sign this affidavit on this 9th ^{February} day of January 2007 at Guwahati.

Identified by me

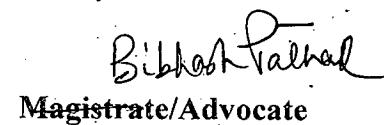


Advocate



Deponent

Solemnly affirmed and signed before me by the deponent who is identified by Sri B.C. Pathak, Advocate on this 9th day of February, 2007 at Guwahati.



Magistrate/Advocate

N. F. RAILWAY LEGAL MEN'S ASSOCIATION

Office : N. F. Railway, Head Quarter,
Malligaon, Guwahati- 781011 (Assam)
Phone : 22056 and 22036 (Railway)

To
The General Secretary,
AIRF, New Delhi.

Date : 18.12.2006

Representation before All India Railwaymen's Federation

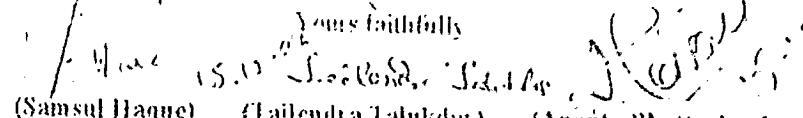
Demands of Legal Cadre of Railways

Representations from N.F. Railway.

1. There should be a separate Legal department similar to the that of Commercial, Operating etc. in Railways
2. Law Assistant/ Chief Law Assistants should have Class- I Gazetted Status.
3. Law Assistant/ Chief Law Assistants should get non-practising allowance.
4. Legal Staff of Railways should have power and authority to plead before all courts of justice.

Justifications :

- (a) Law Assistants and Chief Law Assistants have to perform the duties of same nature of an Advocate of Judicial Court of Justice.
- (b) In representing as well as contesting huge number of cases before several Tribunals, Civil Courts, High Courts and Supreme Court the LAs/CLAs should be equipped with executive and decision making powers to interpret the legal position.
- (c) All the legal persons of all other Central Government Departments are possessing Gazetted Status except Railway Department. To make parity within all the central Government departments the legal cadre of Railways should be in Gazetted status.
- (d) As per protocol all the advocates of different courts are having the status of Class I Gazetted Officer. In contrary the legal Staff of Railways with same professional qualifications are at present being treated as Ministerial Staff.
- (e) The academic years required to obtain Degree of Law is similar to that of the Doctors and Engineers. The doctors and engineers are having the status of Class- I Gazetted officer. In contrary the legal staff of Railways are treated as Ministerial Staff.

Yours faithfully

(Samul Haque) (Lailendra Talukdar) (Ananta Bhattacharjee)
Acting President Organising Secretary General Secretary

Certified to be true Copy

Hemanta Kr. Gogoi
Advocate

I N D E X

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(2)

MEMORANDUM ON THE GRIEVANCES OF THE LEGAL CADRE
SUBMITTED BY LEGAL STAFF OF EAST COAST RAILWAY,
BHUBANESWAR TO A.I.R.F FOR PLACING IT BEFORE THE VI
PAY COMMISSION

CHANGING LEGAL SCENARIO - NEEDS OF THE DAY:

The Economic Reforms initiated by the Government has given fillip to trade and industry and also protection to the ultimate consumer. A business friendly atmosphere even in Government departments is the order of the day. Consumer awareness, New Arbitration and Conciliation Act 1996 have of late generated more court cases on the Zonal Railways. Various Tribunal such as CAT, RCT, DRT, Land Grabbing (Prevention) Tribunals have been instituted for quick and effective redressal of the grievances. Obviously Railways are not immune to these developments. The changed scenario requires a fresh out look at the legal work done in Railways.

The legal cadre has been putting all its efforts vigorously for defending and protecting the interest of Railways by exertion of all their energies physical as well as mental. But all along since several years, the cadre has been neglected by the Railway Administration without giving any benefit either in monetary terms or status when compared to other general categories. The Pay Commissions right from the 1st to 5th so far constituted have recommended several measures to alleviate the grievances of the legal staff. The recommendations have not seen the light of the day. Very recently in the year 2002 the Railway Board also constituted the Committee in order to ameliorate the long standing grievances of improvement of career prospectus of legal cadre taking into account their functions and duties.

-9-

(b)

and also to Revamp and strengthen the existing legal set up. The said committee after making an in depth study of the legal cadre grievances and also the existing set up made the following important recommendations: (Annexure-A).

- i) The Chief Law Assistant post (Rs. 7450-11500) should be merged with Group 'B' post of Law Officer;
- ii) Each division on Indian Railway should have at least one Law Officer, Group "B" level;
- iii) Court allowance should also be given to the Law Assistants and Chief Law Assistants;
- iv) Law Assistant with 3 years of service for promotion to the post of Legal Officer Group 'B', to Legal Officer with 5 years service in Group 'B' should be considered for the post of Sr. Legal Officer (Sr. Scale), Senior Legal Officer with 3 years of service as such should be considered for promotion as Dy. Chief Legal Officer;
- v) Minimum infrastructure i.e., library, computer with necessary software relating to cases, photo state and fax machines etc., should be provided to the Legal cells and also suitable cash imprest is to be provided to the Law Officers for meeting the emergency expenditure towards expenses incurred into the courts for litigation.

Out of the aforesaid recommendations the Railway Board has implemented with regard to the proviso of minimum infrastructure facilities to the legal staff such as computers and library and also provided meager cash imprest to the Law Officer ignoring the implementation of important recommendations of (i) to (iv) as are for which

Assistants who have come from Bar have been frustrated due to lack of motivating factors for retaining their skills constantly.

The demand of up-gradation of Chief Law Assistant post to Group 'B' Gazetted cadre is a long standing pending demand of the Legal cadre of Law Assistants and Chief Law Assistants in view of their professional and administrative experience in dealing with the court cases of Railways. Vth Pay Commission has also recommended in their recommendations that the posts of Chief Law Assistant should be given a status of Gazetted by according the scale of Rs.2375 -3750/7500-12000. The Committee constituted by the Railway Board also recommended the merger of Chief Law Assistant to Group 'B' Gazetted carrying the pay scale of Rs.7500-12000. This recommendation has been negated by the Railway administration without any justification. On the other hand, the Railway Board, vide its Order RBE No. 42/2004 dated 27-02-2004, as a part of implementation of the Vth Pay Commission has conferred the benefit of revision of Pay Scale and change of designation with Gazetted status to the post of Chief Law Assistant working in the Board with the scale of Rs.7500 - 12000 from scale Rs.7450-1151 by changing the designation, to that of "Superintendent (Legal)", whereas the similar change in the case of Chief Law Assistants working at Zonal i.e. /Divisional level has not been implemented showing unfair, unreasonable, irrational and discriminatory treatment shown towards them (i.e., Chief /Law Assistants working in Zones as well as Divisions) A copy of the order No. RBE 42/2004 is Annexed as - B. As such the injustice done to the Chief Law Assistants of Zonal/Divisional has to be put

Medied/rectified by way of demanding similar conferment of Gazetted status with the changed designation from Chief Law Assistants to Superintendent (Legal)! This may also be taken up as a demand.

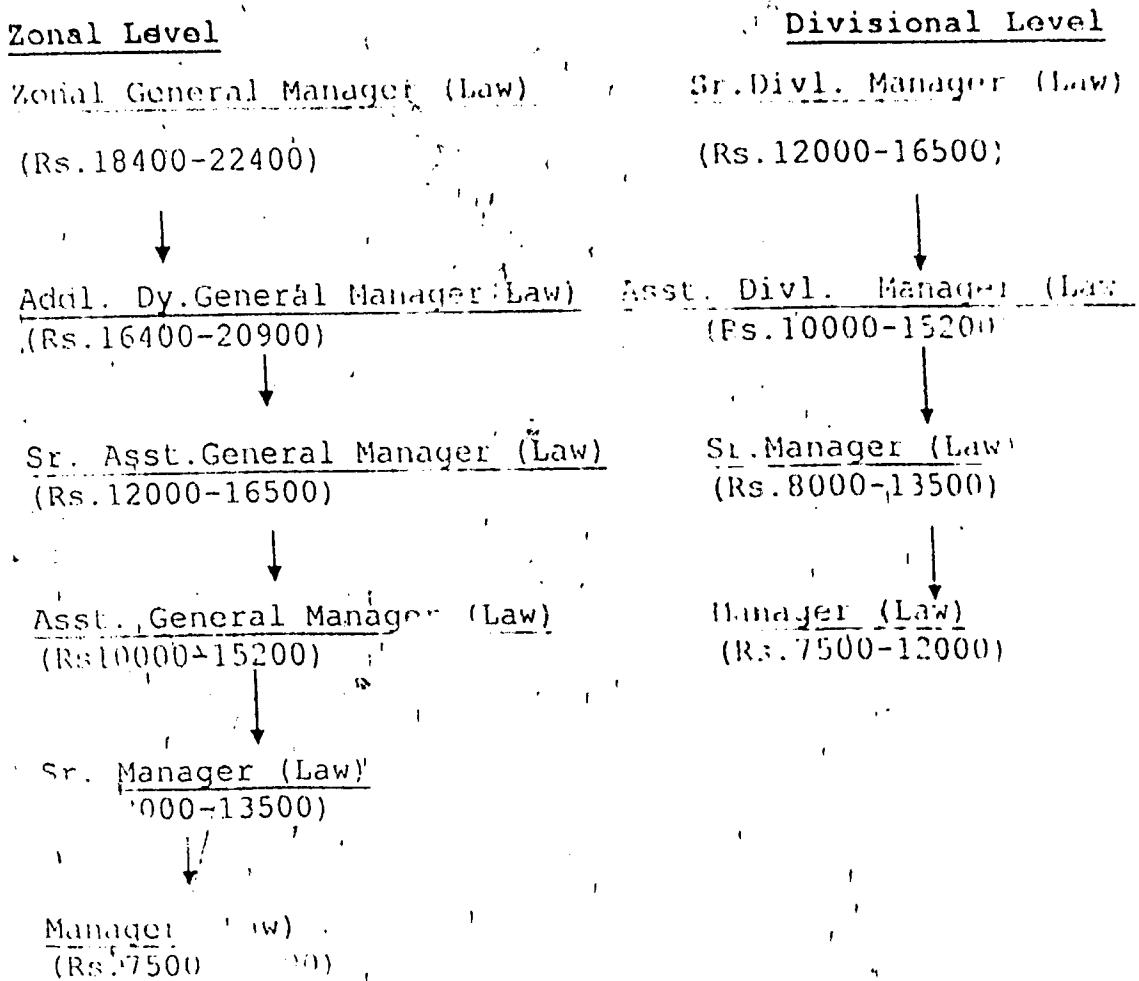
It is to state further that recently in a meeting held on 24.11.2006 with both the Federations the Chairman, Railway Board in principle has agreed to upgrade the posts of grade Rs.7450-11500 to Group 'B' Gazetted post in grade Rs.7500-12000 in response to a demand of the Federations to that effect. CRB has also agreed 80% of such upgraded posts in placing in Grade Rs.8000-13500. Chief Law Assistants being in Grade 7450-11500 are also equally entitled to get the benefit of up-gradation to the post of Group 'B' Gazetted in grade Rs.7500-12000 along with the other general category personnel carrying the grade of Rs.7450-11500. The position of Chief Law Assistant's also may be kept in view while agitating for implementation of the commitment given to the Federations by the CRB on 24-11-2006 and in this context it is stated that the up-gradation of Chief Law Assistant in toto not only boost the morale of Chief Law Assistants but also increase the efficiency in dealing with the court cases on much enthusiasm. Up-gradation of the post of Chief Law Assistant to the Gazetted cadre (Chief Law Assistant) gives benefit to the administration in monetary terms having no financial burden as some of the Chief Law Assistants having bar experience can be designated as Presenting Officers in CAT/RCTs/District and Subordinate Courts. Their services can also be utilized as authorized officers to present the cases and to serve summonses and orders of interim and urgent nature on behalf of the Railway Administration. Unnecessary litigation and

penditure of these type which are being incurred as retainer Fee can be avoided and reduced to the barest minimum. It will also be a cost saving effective measure to the Railway administration.

2) Channel of promotion and Pay scales:

(a) Channel of Promotion: The legal cadre personnel in spite of having double graduation/Post graduation in Law with professional experience in bar as well as in the administrative side, the avenue of promotion is least at present and their services have been exploited without creating minimum proper channel of promotion by the administration. The Vth Pay Commission had also recommended to create an avenue of promotion to the cadre of Law Assistants and Chief Law Assistants by way of recommending Law Oriented posts wherever they are in operation are to be identified and to be brought into the fold of Legal Set up. (Vth, P.C. recommendations i.e., Annexure-B) Even the Committee constituted by the Railway Board in the year 2002 also recommended in consonance with the Vth Pay Commission recommendations in this regard indicating that all the Legal Oriented posts such as APO(Court), SPO(Court), ACM(Commr), Enquiry Officers/Presenting Officers, Asst. Secretary(Arb), and Dy. Secretary(Arb), Asst./^{Addl.} Registrars of RCT etc., have to be brought into the legal department for the purposes of creating sufficient avenue of promotion in order to mitigate the stagnation and frustration caused to the Law Assistants and Chief Law Assistants. The Committee of Railway Board also recommended to create at least one Law Officer in Group 'B' cadre in each division to meet the onslaught of litigation i.e., arising against the Railway Administration, from different corners. Even the Railway

ard also vide its letter No.E(LR)1/2006/NM1-5 dated 14th July 2006 communicated to the General Secretary/AIRF in its status report for implementation of Committee's recommendations in principle, it is agreed to create at least one Law Officer in Group 'B' for each division (Annexure - C). But either the Railway Board or the Zonal Railways have not evinced much interest in implementing effectively the said recommendations. The hierarchical status for creating a legal set up at the Zonal and Divisional level in order to satisfy the demands of the legal staff for creating an avenue of promotion should be as under:

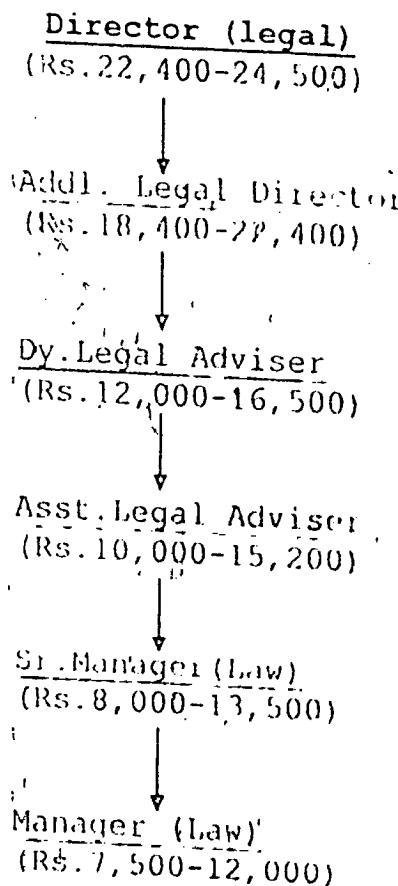


3rd Level

Legal directorate is to be constituted to monitor the entire department of law as an apex body at the Railway Board level in the following hierarchical set up:

Legal Director, Asst. Legal Director/SG Level, Dy. Legal Advisers in JA Grade scale Rs.12000-and Legal Advisers, (Senior Scale), Sr. Manager (Law), Group "B" (Gazetted), Manager (Law), Group "B" (Non-Gazetted).

Railway Board level



It is desirable to have the legal set up in the hierarchical form as suggested above at Railway Board level, Zonal level and Divisional level for smooth and efficient dealing of the court cases/Matters and also to

desired optimum satisfaction to the persons holding the posts.

(b) Time bound Promotion: The legal cadre has been suffocating and languishing for want of time bound promotion as they have no other avenue of promotion in practical terms in spite of their physical and mental exertion by putting all energies, professional skills for the best use of Railway Administration without any time limits. To relieve and to give solace to the Legal cadre, time bound promotion has been recommended by VBB Pay Commission and also duly constituted Committee. But no materialized action has been taken so far in this regard even though some scant interest has been evinced by the Railway Board. As suggested by the constituted Committee, the time bound promotions of Law Assistants with 3 years of service for promotion to the post of Legal Officer Group 'B'; Legal Officer with 5 years service in Group 'B' to Senior Legal Officer; and Sr. Legal Officer (Sr. Scale) with 3 years service to Dy. Chief Law Officer Group 'A' should be considered for promotion as by. Chief Legal Officer;

(c) Pay Scales: The Present pay scales of legal cadre personnel are far inferior and non-commensurate with their functions carried out by them when it is viewed, with reference to quantitative and qualitative professional work rendered by the legal staff which deserves better grades and status for long standing sustenance of the working spirit to be kept with them. As an incentive to withstand the rigorousness of professional life the following pay scale structure is to be formulated: In regard to the

Change of designation, the suggestions are made to change the designation to be a status symbol in tune with the modern day working style like corporate offices.

| Present Designation | Present Scale/Status | Proposed Designation | Proposed scale/Status |
|-----------------------|--------------------------|-------------------------------|---------------------------------|
| Law Asst. | 6500-10500 Group 'C' | Manager (Law) | 7500-10500 Group 'C' |
| Chief Law Asst. | 7450=11500 Group 'C' | SE Manager (Law) | 8000=13500 Group 'B' |
| Asst. Law Officer | 7500-1200 Group 'B' | Asst. Genl. Manager (Law) | 10000-15200 Group 'B' GAZ |
| Law Officer | 10000-15200 Group 'B' | Sr. Asst. Genl. Manager (Law) | 12000-16500 Group 'A' |
| By: Chief Law Officer | 12000=16500 Group 'A' | By: Genl. Manager (Law) | 14300=18300 Group 'A' |
| Chief Law Officer | 14300-18300 Group 'A' | Zonal General Manager (Law) | 16400-20700 |

3. Allowances etc:

(a) Non-practice Allowance:

Legal staff are professionally qualified like Doctor by virtue of their professional qualification, ability and experience they are entitled to be placed in the specialist and professional group along with doctors. They are capable of doing chamber practice and able to run a legal consultancy. But, they are not doing private work, since the conduct rules prohibit such practice. Hence, they may be suitably compensated by paying non-practice allowance on the analogy of Railway Doctors.

Allowance for legal Journals:

Journals will be the best source for the legal cadre to keep their knowledge upto date changes taken place in the delivery of various judgments pronounced by various High Courts and the Supreme Court and to equip with the latest case laws in the legal cadre. The legal knowledge can be utilized in their better functioning. In such, it is indispensable for a legal professional to have current journals for which a suitable amount has to be spent incurred. In this behalf, a monthly allowance of at least Rs. 100/- is granted it will meet the requirement of legal cadre personnel to keep themselves with latest developments of law. Even the 1971 Pay Commission and the Committee constituted by it recommended for giving such allowance. This demand has to be taken up.

(c) Accommodation:

The legal staff by virtue of their duties, they have to spend much time outside their headquarters either for contacting the Railway Advocates or for attending the courts on important matters at various levels (Subordinate and District Courts, High Court, CAs and Supreme Court) and carry important documents with them indispensably. The legal staff must have separate earmarked accommodation for their stay in all the places where which will be not only for protection of files but also for maintaining peaceful and qualitative mental state when they discuss/resent the cases with the advocates or before the courts as the case may be. This demand should be taken up and the members to the Legal cadre for temporary arrangement.

Entrustment of court cases:

The Committee constituted by Railway Board has recommended in its recommendations that there should be at least 1 Law Assistant / Chief Law Assistant per 300 cases at the Divisional level. The Railway Board as a part of implementation of this recommendation of the Committee has issued letter No.2000/LC/Misc/19(Para 7.2) New Delhi dt. 23.5.2003 calling for information from the Zonal Railways with an idea that 300 cases are to be entrusted to a Law Assistant / Chief Law Assistant at the Divisional level. In this context it is submitted that it is highly impracticable to deal with 300 cases by a single Law Assistant / Chief Law Assistant in view of the duties and functions entrusted to them. It is only viable to entrust 100 to 150 cases to each Law Assistant / Chief Law Assistant at the Divisional level for effective and efficient dealing with the court cases at Divisional level while assessing the work load of Law Assistant/Chief Law Assistants. On the said basis only the work load and the requirement of number of Law Assistants / Chief Law Assistants is to be done. In this regard a work study of job analysis has thoroughly to be taken place and a reasonable decision has to be arrived after making such job analysis. This aspect may kindly be brought to the Board as well as Pay Commission.

4. Creation of All India Railway Legal Services:

The Indian Railways, being one of the largest public carrier organization rendering services to a large number of passengers and freight owners, spread over the Asian continent, having millions of employees, is facing the

Services has to deal with multiple litigations in different forums at different levels. In India, increased awareness and consciousness of the rights by the public, the litigation arising out of multifaceted multidimensional activities and functions of Railways, has increased only by way of creation of an independent Office of Railway Legal Services at all India level, is imperative. If all India Primary Legal Services are created, the entire legal set up can be put under the control of one independent legal entity which can effectively meet the requirements of all types of litigations. The young, dynamic, talented, energetic cream of the professional degree holders can be attracted and they can effectively and efficiently represent the cases before the Courts by imparting proper training to them from time to time, from eminent legal experts. They should be provided with all modern software facilities and with attractive/lucrative pay scales at par with other Corporate Offices in Public/Private Sectors.

Nanikale

R. K. Nanikale, CLA/OLI Northern Reg. B. Guly LAF/OLI/EP. S. E. C. Ely. B. Balcaran CLA/NDRH. Ananta P. Hakkereyage A. K. Bhatnagar. CLA. 11.1.99. T. V. Ram CLA/Executive N. Railway Tailendra Talukdar S. D. Singh CLA-L. N. I. C. S. (2nd Board) CLA/GM/Law N. F. Rly. (A) (B) (C) (D) (E) (F) (G) (H) (I) (J) (K) (L) (M) (N) (O) (P) (Q) (R) (S) (T) (U) (V) (W) (X) (Y) (Z)

Recommendation of 5th Pay Commission for legal cadre:

Law Assistant and Officers in Railways function as Advisors and Solicitors in office. They give legal opinion and guidance to all the departments in Railways, draft, scrutinize and vet complaints, written statements, memoranda of appeals, cross appeals etc. Of late, their work load has increased due to setting up of Railway Claims Tribunals, Central Administrative Tribunals and Consumer Dispute Redressal Forums. We have examined the cadre profile of the staff which is given as under:

| Designation | Scale of Pay | Percentage | Mode of Recruitment |
|----------------------|--------------|------------|--|
| Law Assts. | 1600-2860/- | 30 | 1/3rd by DR (Graduate with 1 year experience as Pleader at Bar) |
| Ch. Law Assts | 2000-3200/- | 70 | 2/3rd by promotion (Selection) from employees with LLB & 5 years service |
| Asst. Law Officer | 2375-3750/- | | Promotion |
| Asst. Commr. Officer | | | Promotion (Selection). |

Problems in filling posts

The Ministry of Railways has experienced difficulties in filling the promotion grade posts of Ch. Law Assts. by suitable candidates. The Ministry has suggested that direct recruitment to the extent of 33-1/3% with qualifications of LLB and 5 years experience at bar may be introduced for the post of Ch. Law Assistants and a further promotion grade of Rs.2375-3500/- be granted to this category to bring them at par with the technical staff in Railways. The Ministry has also informed us that in case find by some employees of the legal cadre seeking avenue of promotion to Group-A posts, the Central Administrative Tribunal, Calcutta has directed that the matter be referred to the 5th CRC. The Ministry has accordingly proposed introduction of selection grades of the concept of time bound promotions to resolve the problem of stagnation. The present status of Group-B & Group-A posts in the legal cadre is as under:

| Level | Pay Scale |
|-----------------|-----------------|
| Group-B | Rs. 2375-3750/- |
| Sr. Scale | Rs. 3000-4500/- |
| Jr. Admn. Grade | Rs. 3700-5500/- |

Our Recommendations:

We have considered the issue of adequate remuneration of law professionals in Government as a general problem. We are of the opinion that it is highly unrealistic and unjustified to expect that Law graduates with experience at par would be attracted to posts with very low pay scales. We have, therefore, as a general proposition, suggested upgradation of the pay scales of such posts. In accordance with this general approach we recommend the following pay structure and revised designations for these posts:

| Designation | Pay Scale(Rs) | | Revised Designation | Remarks |
|--------------------|---------------------|---------------------|---------------------|--|
| | Existing | Proposed | | |
| Law Asstt. | 1500 2660 2070 3500 | 1500 2660 2070 3500 | Dy. Secydt. (Law) | Upgradation due to 10% increase in LEB of 10% at the time. |
| Ch. Law Asstt. | 2000 3200 2225 3750 | 2000 3200 2225 3750 | Supdt. (Law) | Due to 10% increase in LEB of 10% at the time. |
| Asstt. Law Officer | 2500 3500 2875 4500 | 2500 3500 2875 4500 | Asstt. Law Officer | No change |
| Law Officer | 3000 4500 3000 4500 | 3000 4500 3000 4500 | Law Officer | No change |
| 1A Grade | 3700 5500 3700 5500 | 3700 5500 3700 5500 | St. Law Officer | No change |

In view of the pay structure recommended by the panel, there is no need to make direct recruitment at the 1A level as proposed by the panel.

Other Demands:

The Law Branch staff have made demands for earmarking law oriented posts such as Estates Officer, Enquiry Officer in disciplinary cases, Presenting Officer and Assistant Registrar in Railway Claims Tribunal, etc for them, reduction in eligibility period from eight to three years for promotion to senior time scale post of Law Officer; non-practising allowance and advance increments for acquiring higher qualifications.

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Our Recommendations:

We are of the opinion that the channel of promotion and/or deputation to law oriented posts may be opened to the legal cadre but the question of exclusive earmarking of these posts for them may be considered by the Railway Administration on merits. Further, the provisions of All India Career Progression Scheme recommended by us will relieve the stagnation to some extent. We suggest that residence period for regular promotion between the posts of Assistant Law Officer, Law Officer and Senior Law Officer, be prescribed as four years each.

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We do not find the demand for Non-practicing Allowance as justified, but other perquisites like official library at home, being proposed by us in general for law professionals in Government should be available to Law Branch Officers in Railways. Similarly, the scheme of 'one-time' lump incentive for acquiring higher qualifications recommended for Central Government employees including Group "A" officers will be applicable to staff and officers in Railways as well.

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GOVERNMENT OF INDIA/भारत सरकार
 MINISTRY OF RAILWAYS/रेल मंत्रालय
 (RAILWAY BOARD)/रेलवे बोर्ड

2004/PS/2(RB)

RBE No. 42/2004
 New Delhi, dated 27.02.2004

ORDER

Sub: Grant of pay scale of Rs.7500-12000 to the post of Supdt.(Legal), Railway Board

Consequent to the implementation of recommendation of the V CPC relating to the post of Legal) in the Ministry of Law, the matter of grant of pay scale of Rs.7500-12000 to the post of Legal), Railway Board has been under consideration of the Ministry of Railways. It has now decided to revise the pay scale of the post of Supdt.(Legal), Railway Board from Rs.7450-115(R) to 7500-12000.

These orders will take effect from the date of issue.

It has also been decided to increase the residency period of Chief Law Assistant for function of post of Supdt (Legal) from 3 years to 5 years.

The revised Recruitment and Promotion Rules for the post of Supdt. (Legal) will be issued

issues with the concurrence of the Finance Directorate of the Ministry of Railways and has the approval of the President.

One copy is enclosed.

P.K. GOEL
 Director, Pay Commission
 Railway Board

Accounts Officer
 Railways

2004/PS/2(RB)

5 copies forwarded to Deputy Comptroller and Auditor General of India (Railways), New Delhi

New Delhi, dated 27.2.2004

For Financial Commissioner, Railways

Final Drafts.

Second hr

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(For Official Use Only)



Government of India
Ministry of Railways
(Railway Board)

REPORT
OF
THE COMMITTEE
ON REVAMPING AND
STREAMLINING THE LEGAL
SET-UP
ON INDIAN RAILWAYS

October, 2002

SUMMARY OF RECOMMENDATIONS:

1. At the divisional level there should be atleast one Law Assistant/Chief Law Assistant per 300 cases. (Para 7.2)
2. Each Division of Indian Railways should have atleast one Law Officer (group 'B' level). (Para 7.2)
3. In Divisions, the Legal Organisation should be under ADRM through Sr DPO (Para 7.2/13.1)
4. Each Zonal Railway should have atleast one JA grade officer in the Law Department with one senior scale and two assistant level officers with requisite non-gazetted set up (Para 8.3)
5. The legal set up should be under the administrative control of AGM instead of SDGM on Zonal Railways (Para 8.3)
6. In Railway Board's office the existing legal set up may be reinforced with one Additional Dy. Legal Adviser, one Assistant Legal Adviser and one Supdt. (Legal). There should also be three Chief Law Assistants instead of one Chief Law Assistant. (Para 9.3)
7. The post of Dy. Legal Adviser and Assistant Legal Adviser in Board's Office as recommended above can be encadred for Indian Legal Service (ILS) (Para 9.4)
8. The existing legal set up in Production Units is considered adequate (Para 10)
9. Two or three Zonal Railways should have a 'small training center' where there should be continuous exposure of Law Assistants/Chief Law Assistants/Law Officers periodically to share the latest legal rules from time to time. (Para 11.1)
10. A fixed 'out-door monthly allowance' should be given to Law Assistants/Chief Law Assistants (Para 11.2)

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Chief
11/1

~~RECOMMENDATION~~

A 'Court Allowance' should also be given to the Law Assistants/Chief Law Assistants. (Para 11.2)

12. Minimum infrastructure viz., library, computer with necessary software relating to cases, photo stat machine, FAX machine etc. should be provided to the Legal Cells. (Para 11.3)
13. A suitable 'cash imprest' should be made available with the Law Officer to cater to emergencies like buying stamp papers, court papers etc. (Para 11.3)
14. Instead of two grades at non-gazetted level (viz. Law Assistant Rs 6500-10500 & CLA Rs 7450-11500) there should be only one entry grade of Rs. 6500-10500 with the designation Legal Assistant (Para 12.2)
15. The Chief Law Assistant's post (Rs. 7450-11500) should be merged with group 'B' level post of Law Officer (Rs. 7500-12000) after following the due selection procedure. (Para 12.2)
16. 40% of the posts at the level of Legal Assistant (Rs. 6500-10500) should be filled by direct recruitment through RRB from those who have LLB qualification as also the minimum three years bar experience. Remaining 60% posts at this level should be filled by options amongst existing staff with LLB qualification failing which by direct recruitment. (Para 12.3)
17. Bigger zones can have a Selection Grade Dy. Chief Law Officer instead of a JA grade Dy. Chief Law Officer. (Para 13.1)
18. Posts in other Departments which require intrinsic legal background to deal with should be taken into the fold of legal cadre. Existing incumbents can be given options for lateral change over. (Para 14.1)
19. Legal Assistant with 3 years of service should be considered for promotion to the post of Legal Officer (Group 'B'), (ii) Legal officer with five years of service in Group 'B' should be considered for the post of Senior Legal Officer (Sr. Scale) and (iii) Senior Legal Officer with 3 years of service as such should be considered for promotion as Deputy Chief Law Officer. (Para 14.1)

20. Legal Department (Zonal Railways) should in future open files with their cases number and send the case to the Department concerned for preparing draft parawise comments on the petitions. This should be scrutinized by Law Officer before putting the case to the HOD/PHOD of the concerned Department/DRM (Para 15.1)

21. The over-all responsibility henceforth should lie with Legal Department for monitoring the court cases but the responsibility of the implementation and follow up action on the implementation of the judgment will lie with the concerned department. (Para 16.1)

22. As an experiment, for a period of one year to start with; GMs of the zonal Railways should be allowed to engage Senior Advocates from outside the panel of Advocates, wherever required and Railway Board kept apprised of the number and the frequency of the same. (Para 17.1)

23. A separate section at Railway Board's level to deal exclusively with the SLPs may not serve any purpose, as the existing system is considered adequate. The Headquarter of the Zonal Railway should be in touch with Central Law Agency and other Agencies to chase up the matter/cases. (Para 18)

24. Railways should be advised to operate through the NIC system (Para 18)

25. The Legal Department should tap fully the powerful tool of IT for purposes of sharing the information on various judgments both for and against the Railways through inter-net etc. (Para 19)

26. Opening of a web page to study the monthly progress of the cases in various divisions should also be thought of (Para 19)

S. C. Manchanda
3/10/02
(S.C. Manchanda)

CPO
Northern Railway

A. K. Bagchi
JS(G)
Railway Board

P. K. Malhotra
Legal Adviser
Railway Board

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
RAILWAY BOARD

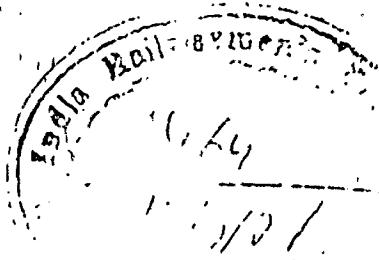
-28-

(LR)/2006/NM1-5

New Delhi, dated: 14th July, 2006

General Secretary,
AIRF.

4, State Entry Road,
New Delhi -110055.



Dear Sir,

Subject: PNM/AIRF Item No. 31/2003 - Implementation of the Report of the Committee on Revamping and Streamlining the Legal set up on Indian Railways' Production Units.

Ref: AIRF's letter No. AIRF/PNM/31/2003(333) dt. 12th July, 2006

As desired, 34 more copies of Status Report on the recommendations on Revamping and Streamlining the Legal set up on Indian Railways are sent herewith.

Yours truly,

(Madr. T.A.
Dy Dir Est. IR)

of the recommendations on Revamping and Streamlining the Legal set up on
Indian Railways.

| No. | Recommendations | Concerned dte. | Status |
|-----|--|--|---|
| 1. | At the Divisional level there should be at least one Chief Law Assistant per 300 cases (Para 7.2) | EDE(GC) 2003/E(GC)12-14 | Decided vide Bd's letter no. 2003/E(GC)12-14 Pt.(06) dt 9-3-00 for new Zones & Divisions. For existing zones, matter is under consideration |
| 2. | Each Division on Indian Rlys should have at least one Law Officer (Gr B) level (Para 7.2) | EDE(GC) 2003/E(GC)12-14 | do |
| 3. | In Divisions the legal organization should be under ADRM through Sr DPO (Para 7.2/13.1) | EDF(GC) 2003/F(GC)12-14 | do |
| 4. | Each Zonal Railway should have at least one JA grade officer in the law deptt. with one senior scale and two Asstt. level officers with requisite non-gazetted set up. (Para 8.3) | EDF(GC) 2003/F(GC)12-14 | do |
| 5. | The legal set up should be under the administrative control of AGM instead of SDGM on Zonal Rlys (Para 8.3) | EDF(GC) 2003/F(GC)12-14 | do |
| 6. | In Rly. Bd's office the existing legal set up may be restructured with one Addl. Dy. Legal Adviser, one Asstt. Legal Adviser and one Supdt. (Legal). There should also be three Chief Law Assistants instead of one Chief Law Assistant (Para 9.1) | JS/5/EDF(GC) ERB-1/2003/16 2003/E(GC)12-14 | Work charge of 750 hours per month for 12 months vide order ERB-1/2003/37 issued 25.8.2003. The papers for creation of 3 of CLA are being referred to MR. |
| 7. | The post of Dy. Legal Adviser and Asstt. Legal Adviser in the Board's office as recommended above can be encadred for Indian Legal Service (Para 9.4) | JS/5/EDF(GC) ERB-1/2003/16 2003/E(GC)12-14 | Dependence creation of 2 posts in the office |
| 8. | The existing legal set up in Production Units is as follows (Para 9.5) | EDE(GC) | No action required |
| 9. | Two or three Zonal Rlys should have a 'small training centre' Legal Cell where there should be continuous exposure of law | EDF(Trg)/EDF(N) Legal Cell | Implemented by letter N-1/ERB/G/2003/16 dtc 12-3-2003 |

Assistants/Chief Law

Assistants/Law Officers'

periodically to share the latest legal rules from time to time (Para 11.1)

10. A fixed 'out-door monthly allowance' should be given to the Law Assistants (Para 11.2)

11. A 'Court Allowance' should also be given to LAS/CLAs (Para 11.2)

12. Minimum infrastructure viz library, computer with necessary software relating to cases, Photostat machine, FAX machine etc. should be provided to the Legal Cells (Para 11.3)

13. A suitable 'cash imprest' should be made available with the Law Officer to cater to emergencies like buying stamp papers, court papers etc. (Para 11.3)

14. Instead of two grades at non-gazetted level (viz. Law Assit. Rs.6500-10500 & CLA Rs.7450-11500) there should be only one entry grade of Rs.6500-10500 with the designation Legal Assit. (Para 12.2)

15. The Chief Law Assit's post (Rs.7450-11500) should be merged with group 'B' level post of Law Officer (Rs.7500-12900) after following the due selection procedure (para 12.2)

16. 40% of the posts at the level of Legal Assit (Rs.6500-10500) should be filled by direct recruitment through RRB from those who have LLB qualification as also the minimum of 3 years bar

EDPC
E(P&A)-2003/SP-1/Misc.2

EDPC
E(P&A)-2003/SP-1/Misc.2

Legal Cell

Legal Cell & IDEX

IDEX

IDEX
2003 I(GC)12-14

2003 I(GC)12-14

Not agreed to by M/o Law & Justice

-do-

Zonal Blys. have been asked to implement the recommendation if it is within the competence of GM vide letter No 2000 I C Misc/19 dt. 10-4-03

Instructions have been issued

Dependent upon implementation of Rec 15 by I(GC).

Not agreed to by I(GC). It has been decided to continue with the existing set-up. Instructions issued vide Bd's letter no 2003 I(GC)12-14 Pt (5) dt 9-3-03 for new Zones & Divs. for creation upgradation of posts in LAGs, Scale and Gr. 'B' with matching sayings.

Implemented vide letter date 21-01-04.

| | | | |
|-----|--|-----------------------------|--|
| | experience. Remaining 60% posts at this level should be filled by options amongst existing staff with LLB qualification failing which by direct recruitment (Para 12.3) | | |
| 17. | Bigger zones can have a Selection Grade Dy Chief Law Officer instead of a JA grade Dy Chief Law Officer (para 13.1) | EDF(GC) 2003-1(GC) 12-14 | Same as for 2 and 4 |
| 18. | Posts in other dep'ts. Which require intrinsic legal background to deal with should be taken into the fold of legal cadre. Existing incumbents can be given options for lateral change over.(Para 14.4) | EDF(GC) 2003-1(GC) 12-14 | Being dealt by EDF(GC) which |
| 19. | (i) Legal Ass't. with 3 yrs. of service should be considered to the post of Legal Officer (Gr.B). (ii) Legal Officer with 5 yrs. of service in Gr. B should be considered for the post of Legal Officer with 3 yrs. of service as such should be considered for promotion as Dy Chief Law Officer (Para 14.1) | EDF(GC) 2003-1(GC) 12-14 | Referred: EDF(GP) |
| 20. | Legal Dep't. (Zonal Rly.) should in future open files with their cases number and send the case to the Dep't. concerned for preparing draft paragraphs comments on the petitions. These should be scrutinized by Law Officer before putting the case to the HOD/PHOD of the concerned Dep't. DRM (Para 16.1) | Legal Dep't. (Zonal Rly.) | Zonal Rlys. have been asked to implement the recommendations if it is within the competence of C.M. vide L.R. No. 2000-1-1-Misc-19-4. Implementation by B.D. vide L.R. No. 37-1(GC) 12-14 Pt. 10a for new Zones & Divisions. |

| Designation | Pay Scale (Rs.) | | Remarks |
|----------------|-----------------|-----------|--|
| | Existing | Proposed | |
| Assistant Cook | 800-1150 | 800-1150 | No change |
| Cook | 950-1500 | 950-1500 | No change |
| Senior Cook | 1200-1800 | | |
| Head Cook | 1320-2040 | 1320-2040 | By merger of the two skilled grades |
| Master Cook | | 1400-2300 | New grade on the pattern of Master Craftsman |

11 Law Branch Staff

83.116 Law Assistants and Officers in Railways function as Advisors and Solicitors in office. They give legal opinion and guidance to all the departments in Railways, draft, scrutinize and vet complaints, written statements, memoranda of appeals, cross appeals etc. Of late, their work load has increased due to setting up of Railway Claims Tribunals, Central Administrative Tribunals and Consumer Dispute Redressal Forums. We have examined the cadre profile of the staff which is given as under :-

| Designation | Scale of Pay (Rs.) | Percentage | Mode of recruitment |
|---------------------------|--------------------|------------|--|
| Law Assistant | 1600-2660 | 30% | 1/3rd by I.R (Graduate with 3 yrs experience as a pleader at Bar) 2/3rd by promotion (selection) from employees with J.I.B and 5 years service |
| Chief Law Assistant | 2000-3200 | 70% | Promotion |
| Assistant Law Officer | 2375-3750 | | Promotion (selection) |
| Asstt. Commercial Officer | | | |

Problems in filling posts

83.117 The Ministry of Railways has expressed difficulties in filling the promotion grade posts of Chief Law Assistants by suitable candidates. The ministry has suggested that direct recruitment to the extent of 33-1/3% with qualifications of J.I.B and 5 years experience at Bar may be introduced for the posts of Chief Law Assistants and a further promotion grade of Rs.2375-3500 be granted to this category to bring them at par with the technical staff in Railways. The ministry has also informed us that in a case filed by some employees of the legal cadre seeking avenue of promotion to Group 'A' posts, the Central Administrative Tribunal, Calcutta has directed that the matter be referred to the Fifth C.P.C. The Ministry has accordingly proposed introduction of selection grades or the concept of time bound promotions to resolve the problem of stagnation. The present status of Group 'B' and Group 'A' posts in the legal cadre is as under :-

| Level | Pay Scale (Rs.) |
|-----------------------------|-----------------|
| Group 'B' | 2375-3750 |
| Senior Scale | 3000-4500 |
| Junior Administrative Grade | 3700-5000 |

Our recommendations

89.118 We have considered the issue of adequate remuneration for Law professionals in Government as a general problem. We are of the opinion that it is highly unrealistic and unjustified to expect that Law graduates with experience at Bar would be attracted to posts with very low pay scales. We have, therefore, as a general proposition, suggested upgradation of the pay scales of such posts. In

- 53 -

accordance with this general approach we recommend the following pay structure and revised designations for these posts:

| Designation | Pay Scale (Rs.) | | | Remarks |
|---------------------|-----------------|-----------|--------------------------|--|
| | Existing | Proposed | Revised Designation | |
| Law Assistant | 1600-2660 | 2000-3500 | Dy. Superintendent (Law) | Upgradation due to qualification of LL.B. 3 yrs' experience at the Bar |
| Chief Law Assistant | 2000-3200 | 2375-3750 | Superintendent (Law) | Due to upgradation of feeder post |
| Asst. Law Officer | 2000-3500 | 2500-4000 | Assistant Law Officer | Due to upgradation of feeder post |
| Law Officer | 3000-4500 | 3000-4500 | Law Officer | No change |
| JA Grade | 3700-5000 | 3700-5000 | Senior Law Officer | No change |

In view of the pay structure recommended by us above, there is no need to make direct recruitment at the second level as proposed by the Ministry.

Other demands

83.119. The Law Branch staff have made demands for earmarking law oriented posts such as Estate Officer, Enquiry Officer in disciplinary cases, Presenting Officer and Assistant Registrar in Railway Claims Tribunal, etc. for them; reduction in eligibility period from eight to three years for promotion to senior unit scale post of Law Officer; non-practising allowance and advance incentives for acquiring higher qualifications.

Our recommendations

83.120. We are of the opinion that the channel of promotion and/or deputation to law-oriented posts may be opened to the legal cadre but the question of exclusive earmarking of some of these posts for them may be considered by the Railway Administration on merits. Further, the provisions of Assured Career Progression Scheme recommended by us will relieve the stagnation to some extent. We suggest that residency period for regular promotion between the posts of Assistant Law Officer, Law Officer and Senior Law Officer, be prescribed as four years each.

83.121. We do not find the demand for Non-Practicing Allowance as justified, but other perquisites like official library at home being proposed by us in general for law professionals in Government should be available to Law Branch Officers in Railways. Similarly, the scheme of one-time lumpsum incentive for acquiring higher qualifications recommended for Central Government employees including Group 'A' officers will be applicable to staff and officers in Railways as well.

TRANSPORTATION(TRAFFIC) DEPARTMENT

Functions

83.122. The Transportation Department of the Railways is responsible for the movement of the trains. The Department has to ensure optimum utilization of the rolling stock with safety of movement and punctuality of trains. The Federations of Railwaymen have claimed that the duties and responsibilities of all categories of transportation staff working in Stations, Cabins, Yards, etc., have increased manifold with the introduction of super fast, Rajdhani, Shatabdi Express

trains, additional number of bogies and double headers, increase in trailing load of goods trains, introduction of heavier trains and shunting in the yards with the help of diesel and electric locomotives with a minimum speed of 10 to 15 kilometers per hour.

Categories of staff

83.123 The Department is headed by a Chief Operating Manager who is an Officer of Indian Railway Traffic Service. The important Group 'C' and Group 'D' categories of staff excluding common clerical categories and Peons, etc., are as follows:-

- Assistant Station Masters/Station Masters and Station Superintendents
- Traffic Signallers
- Traffic Control Staff
- Train Clerks
- Transportation and Movement Inspectors
- Traffic Apprentices
- Yard Staff
- Shunting Staff
- Group 'D' cabin, yard and station staff

Assistant Station Masters/Station Masters

83.124 The post of Station Master is a popular icon most often associated with the Railway system. This important category is responsible for receipt and despatch of trains on the stations, overall supervision and coordination of work between the staff of different departments on the station. Station Masters perform duties in two or three shifts in a cycle of twenty four hours.

The mode of recruitment at the level of Assistant Station Masters is as under:-

- (i) 50% by direct recruitment of Graduates.
- (ii) 25% by promotion through selection from amongst signallers.
- (iii) 25% by promotion through selection from amongst switchmen, failing which by Levermen/Cabinmen against the first 10% of the vacancies; shortfall, if any; against the remaining 15% vacancies to be added to direct recruitment vacancies.

The pay-scales for the combined and separate cadre is shown below:-

| Designation | Pay Scale(Rs.) | % age Share | Mode of Recruitment |
|-------------------------------|----------------|-------------|---|
| Combined Cadre | | | |
| Assistant Station Masters | 1200-2010 | 10 | 50% DR, 25% Promotion (from Signallers) 25% Promotion (from Switchmen, failing which Levermen, Cabinmen) |
| Assistant Station Master | 1400-2300 | 47 | Promotion (non-selection) |
| Station Master | 1600-2660 | 25 | 75% Promotion (non-selection) 25% DR of Traffic Apprentices |
| Deputy Station Superintendent | 2000-3200 | 15 | Promotion by selection |
| Station Superintendent | 2375-3500 | 3 | Promotion by selection |
| Separate Cadre | | | |
| Assistant Station Masters | 1200-2010 | 11 | |
| | 1400-2300 | 61 | |
| | 1600-2660 | 26 | |
| Station Masters | 1600-2660 | 22 | |

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
O.A. 801 of 1993

ANNEXURE : 10
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Present : Hon'ble Mr. Justice M.R.Mallick, Vice Chairman
Hon'ble Mr. M.S.Mukherjee, Administrative Member



B.P.ROY & ORS
VS
UNION OF INDIA & ORS

For the applicants : Mr. P.K.Mallick, counsel
Mr. S.K.Dutta, counsel

For S.E.Rly. : Mr. T.N.Bandyopadhyay, counsel
Mrs. B.Roy, counsel

For Metro Rly. : Mrs. Kanika Banerjee, counsel

For Rly. Board : Mr. M.M.Mallick, counsel

Heard on : 20.4.94 : Order on 23.5.94

O R D E R

M.S.Mukherjee, A.M. :

This is a joint application from 59 railway employees of Eastern Railway, South Eastern Railway and Metro Railway. Some of the applicants are still serving and some have since retired but all belong or did earlier belong to Legal Organisation of the particular railways.

2. The application has been made against the claim of the respondent authorities that by creating through upgradation eight Group B posts for all the zonal railways through the Railway Board's letter dated 2.7.91, they have implemented the judgement and order dated 15.1.89 passed by this Tribunal in O.A. 493/88, CA 263/89 and CCP 64/90. The applicants by filing this application seek for full implementation of the aforesaid judgement of this Tribunal dated 15.1.89.

3. Briefly speaking this Tribunal's aforesaid order dated 15.1.89 related to the prayers of the applicants for getting a treatment from the respondent-railways that the Law Assistants, the Chief Law Assistants

Certified to be true Copy.
Hemanta Kr. Gogoi
Advocate

and the Law Superintendents be granted at par with other professionals
qualification holders of the Railways like doctors, engineers etc. both
in respect of rank and scale of pay, that all the applicants be granted
Group B gazetted status and relevant pay scale with effect from 1.1.88
that adequate further avenue of promotion from Group B to Group A
should be created for them and also non-promoting allowance should
be granted to them.

The case has experienced long history of chain of litigations.
The respondent- railways to implement the said order of the Tribunal
dated 15.1.89 issued an order making some new provisions to improve
the service conditions of the applicants and this was conveyed through
the Railway Board's order dated 4.7.91 which is at Annexure-A1 to the
present application. It was mentioned therein that due to grave economic
crisis and tight financial position, it had not been found possible to
augment the gazetted cadre of Legal Cells involving additional expenditure
on a large scale. However, in obedience to the judgement of the Tribunal,
the Ministry of Railways had explored the possibility of allotting Group
B upgradation element from within existing sanctions to the Legal Cells
of the Railways and had decided to allot 8 Group B elements to the
Legal Cells of the Railways namely one each to the Legal Cells of eight
zonal Railways. No upgradation was done for Metro Railway because
all the posts in the Legal Cell of that Railways were being manned by
drafting persons from other Railways on deputation.

5. The applicants were not satisfied with this order of the
Railway Board which was considered to be too little and inadequate
and illusory not covering other reliefs perceived to have been granted
by the Tribunal through its order dated 15.1.89. The applicants then
moved a contempt petition before this Tribunal which was dismissed on
29.4.92. Meanwhile, the applicants also went before the Supreme Court
through an SLP against the Tribunal's order on the contempt petition
dated 29.4.92 which was subsequently withdrawn. Thereafter, the applicants
moved a Misc. Petition before this Tribunal being MP 15/93 seeking

certification of this Tribunal's order dated 15.1.89 passed in O.A.493/88. This Tribunal by its order dated 17.5.93 dismissed the said Misc. Petition on the ground that the said Misc. Petition was of the nature of review and also in view of the past dismissal of the contempt petition filed by the applicants. However, while dismissing the said Misc. Petition, this Tribunal granted liberty to the applicants to file a fresh original application before this Tribunal challenging the order of the Railway Board creating 8 posts in Group B for 8 zonal railways if they still feel that the promotional avenue lately created for them was too inadequate. The present application is in terms of this liberty given by this Tribunal.

6. In the reply the respondents have contested all the claims of the applicants by citing prolonged litigations in the form of court decisions in contempt of court petition and the fate of the SLP before the Supreme Court etc. The respondents have also taken a preliminary objection that the application is barred by limitation. We do not, however, accept this objection of the respondents on the ground that this application has been filed in terms of the permission granted by this Tribunal in its order dated 17.5.93. In the said order it was clearly laid down that the period spent in previous litigation shall be excluded for the purpose of considering the question of limitation. If an original application was filed by the applicants. So, the question of limitation does not arise in the instant case.

7. The other contention of the respondents is that they have faithfully complied with the orders of the Tribunal dated 15.1.91 and this has been done through the order of the Railway Board dated 4.7.91.

8. We have heard the learned counsel for the parties at length and have gone through the records produced. Primarily we have to see whether the Railway Board's letter dated 4.7.91 means full compliance of the order passed by this Tribunal on 15.1.91. To judge this, it would be useful to re-produce the operative portion of the order dated 15.1.91 which is as under:

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"As a result of our findings made above, the application succeeds. We allow this application holding, however, no order as to costs. The respondents, special respondent No. 1, are directed to find out ways and means and create promotional channel for the applicants, who are the legal staff of the Eastern Railway, South Eastern Railway and Metro Railway to Group B posts and thereafter to Group A posts within 6 months from this date."

9. Out of the aforesaid text of the order, the applicants have stressed on the following portion viz. "As a result of our findings made above, the application succeeds. We allow this application" The applicants' case is that by this, the Tribunal had allowed all the reliefs prayed for by them in O.A. 493/88, yet there is no compliance of the reliefs prayed for in the instant application. Moreover, by upgrading only 8 posts from Group C to Group B (gazetted level) by corresponding ^{The officials have been appointed} order of 8 posts in lower category, the respondents have created only an illusory picture of implementing the order of the Tribunal dated 15.1.89. We are, however, unable to accept the contention of the applicants. It is true that in the opening portion of the operational part of the order, this Tribunal had indicated that the application succeeds. But in the subsequent portion of the same operational part, the nature of relief granted had been specifically spelt out. The specific direction of the Tribunal in this regard was that respondent No. 1 shall find out ways and means and create promotional channel for the applicants to Group B posts and thereafter to Group A posts within six months from the date of the order. The first portion of the order is general proposition and the latter part is specific orders. Where a general proposition is immediately followed by specific proposition, the latter has to be treated as particularising the extent of general proposition and the latter has to hold ways. We, therefore, accept the contention of the respondents that the direction in the order dated 15.1.89 was specifically spelt out by the Tribunal to find ways and means and create promotional channel for the applicants within six months. There is no grievance that the Railway Board's order dated 27.91 has not been passed within six months time frame. The said letter also makes it clear that the Railway Board

had applied its mind to find ways and means to create promotional avenue as directed by the Tribunal. As a result, despite financial constraints, they decided to upgrade 8 posts into Group B gazetted position by internal adjustment of overall sanctioned strength of the legal organisation. We feel that this contention of the respondents cannot be found fault with.

10. The applicants have, however, contested the claim of the respondents that for creating further promotional avenues financial constraint is the main hurdle. It is the contention of the applicants that for creating promotional channel for them by upgrading Group C posts to Group B posts, additional financial burden will be negligible. We are, however, not in a position to adjudge this issue as long as the respondents have explored the ways and means to give fullest possible relief to the applicants. It may be noted that the Tribunal through its order dated 15.1.91 did not specifically grant any relief in favour of the applicants that every applicant must be granted gazetted in higher group posts.

11. In view of the above and in the context of history of past litigation and that the contempt petition filed by the applicants had been dismissed by this Tribunal, we hold that the applicants' other reliefs like gazetted status to all of them, non-practising allowances etc. had not been granted by this Tribunal in its previous order dated 15.1.91.

12. The applicants' claims in this application are mere reiteration of their claims made in the earlier applications. We cannot go into the same at this stage.

13. The Tribunal is not an expert body to look into the present grievance of the applicants. We cannot evaluate the situation whether

the promotional channels created are adequate or commensurate with the need of the respective railways. For proper determination of these issues, would require in-depth analysis of the relative scenario amongst various wings of the railways for which adequate materials are not available with us. Therefore, we are not in a position to adjudge this issue.

14. On the other hand, it has come to our notice that Govt. of India have recently formed a new Pay Commission which will cover all the Central Government departments including the railways. The Pay Commission is the appropriate expert body to look into such contentions and counter-contentions. We have noted that in the past, the case of the legal cell staff of the railways had not been appropriately considered by the last Pay Commission, may be for lack of proper presentation of the case. Under the circumstances, we direct that the applicants individually or collectively may make a detailed representation in this regard addressed to the concerned General Managers of the respective railways as well as to the Chairman, Railway Board and Secretary, Pay Commission. Through the said representation the applicants may spell out their detailed case and they should annex a copy of this order. We further direct that within a month of the receipt of such representation, the Chairman, Railway Board and the concerned General Manager shall cause to forward the same to the Secretary, Pay Commission along with the Railway authorities comments, if any, for appropriate consideration in due course while finalising the Pay Commission's own recommendations.

15. ~~Subject to the above directions as contained in para 14 above, the application is dismissed. There will be no order as to costs.~~

Sd/-
(M.S.MUKHERJEE)
MEMBER(A)
15-5-94

Sd/-
(M.R.MALICK)
VICE CHAIRMAN
-5-94

| | |
|--|---------------------|
| (a) Sl. No. of the Application..... | 2082 |
| (b) Name of the applicant..... | N.R. S. R. D. M. A. |
| (c) Dt. of presentation of application for copy..... | 13-5-94 |
| (d) No. of pages..... | 16 |
| (e) Copying fee charged/ urgent or ordinary..... | Free |
| (f) Dt. of preparation of copy..... | 15-5-94 |
| (g) Dt. of delivery of the copy to the applicant..... | 16-5-94 |

CERTIFIED TO BE TRUE COPY

M. Mukherjee 16-5-94
COURT OFFICER
Central Administrative Tribunal
Calcutta Bench, Calcutta

J. M. Ray