

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 84/2005

R.A/C.P No.

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SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 84/2003

Misc. Petition NO. _____

Cobtempt petition No. _____

Review Application No. _____

Applicants. Pandip K. Goswami

Respondents. U.O. 1.2 018...

Advocates for the Applicant. MR. S. Chauhan, R.S. Chauhan and A. Roy

Advocates of the Respondents. Adv Counsel: S. Sengupta

Notes of the Registry	Dated	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPC/BD No. <u>206/116971</u> Dated: <u>21.3.05</u></p> <p><i>[Signature]</i> Dy. Registrar</p> <p>Steps taken on 5/4/05.</p> <p><i>[Signature]</i> 5/4/05.</p>	<p>30.3.2005</p>	<p>Present : The Hon'ble Mr. Justice G. Sivaraman, Vice-Chairman.</p> <p>Heard Mr. S. Chauhan, learned counsel for the applicant and also Mr. S. Sengupta, learned counsel for the Railways.</p> <p>Issue notice to show cause as to why this application shall not be admitted.</p> <p>List on 4.5.2005 for admission.</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>Notice & order sent to D/Section for issuing to resp. Nos. 1 to 5 by regd. A/D post.</p> <p><i>[Signature]</i> 5/4/05.</p> <p>Notice duly served on resp. No-2 <i>[Signature]</i> 19/4</p>	<p>mb</p> <p>84x85x2005 XXXXXX</p> <p>04.05.2005</p>	<p>Mr. S. Chauhan, learned counsel for the applicant is present. Mr. S. Sengupta, learned counsel for the Railways seeks time for filing written statement. Post on 25.5.2005.</p> <p><i>[Signature]</i> Member (A)</p> <p><i>[Signature]</i> Vice-Chairman</p>

N

325-05

S/R - awarded
\$2

25.5.2005

List on 17.6.2005 for filing of written statement.

73-5-05

W. J. [Signature]
Member

② Notice issued to all Residents.
& duly served on R. no. 2, 1

2) Service from other Respsd
awaited.

③ no reply L.W.

17.6.2005

5. Mr. S. Sengupta, learned
Railway counsel for the respondents
is present. Post on 7.7.2005.
Reply in the meantime.

No written statement
has been filed

Member

Vice-Chairman

766.05

mbo

7-7-05

None in parts.
Added to mound 2875

No Reply has been
filed

8.7.2005

Counsel for the applicant and
counsel for the respondents are
absent. Post on 12.7.2005 for
admission.

Member

Vice-Chairman

11. 7. 05

W/s filed by the
Respondent Nos. 1 to 5.

mb
2000

2. 1M 2002

12.7.2005

In spite of the fact that we had adjourned the case on 8.7.2005 to this date due to the absence of learned counsel for the applicant, even today none appears. However, as a last chance the case is posted on 18.7.2005.

Member

Vice-Chairman

bb

18.7.05.

Judgment delivered in open Court.

Kept in separate sheets. Application disposed of at the admission stage itself.

Member

Vice-Chairman

lm

25.7.05

Copy of the Judgment
has been sent to
the office. On
receiving the same
to the applicant
as well as to the
Rly. Standing Counsel.
etc

copy
lead up

57/872005

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

O.A. No. 84 of 2005

DATE OF DECISION: 18.07.05

Shri Pradip Kr.Goswami,

APPLICANT

**Mr.S.Chouhan,Mr.R.S.Chouhan,
Mr.A.Roy,**

**ADVOCATE FOR THE
APPLICANT(S)**

- VERSUS -

U.O.I & Others

RESPONDENT(S)

Mr. S.Sengupta,Railway counsel

**ADVOCATE FOR THE
RESPONDENT(S)**

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR. K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgments?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether the judgment is to be circulated to the other Benches?

Judgment delivered by Hon'ble Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.84 of 2005

Date of Order: This the 18th Day of July, 2005.

HON'BLE MR.JUSTICE G.SIVARAJAN, VICE-CHAIRMAN
HON'BLE MR.K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

Sri Pradip Goswami,
S/O. Late Banamali Goswami,
Resident of Tinsukia Town,
Near old Railway Station,
Tinsukia, P.S.-Tinsukia,
District-Tinsukia

Applicant

By Advocate Mr.S.Chouhan, Mr.R.S.Chouhan
Mr. A.Roy.

-Versus-

1. The Union of India represented by
Its Principal Secretary, Ministry of
Railway cum the Chairman Railway Board,
New Delhi-1.
2. The General Manager,
North East Frontier Railway,
Maligaon, Guwahati-12
3. The Chief Personnel Officer,
(Indian Railway), N.F.Railway,
Head Office Maligaon,
Guwahati-12..
4. The Divisional Railway Manager,
Tinsukia Division,
N.F.Railway at Tinsukia.
5. The Divisional Personnel Officer,
Tinsukia Division,
N.F.Railway at Tinsukia.

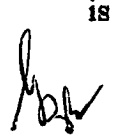
Respondents.

By advocate Mr.S. Sengupta, Railway counsel.

ORDER(ORAL)

SIVARAJAN J(V.C.)

This O.A. is posted on 8.7.05 and 12.7.05. On 8.7.2005 counsel for the parties were absent. On 12.7.05 also there was no representation for the parties. The case is again adjourned to this date on that date. It was specifically mentioned that as a last



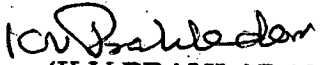
chance the case is posted on 18.7.05. There is no representation for the applicant even to-day. Mr.S.Sengupta, learned counsel for the Railway took us to Annexure R/5 dated 6/7.5.2005 to the written statement and submits that the Respondents are ready to give the appointment to the applicant on compassionate ground but the Date of Birth of the applicant recorded in the School Certificate and other documents produced by the applicant does not tally. Mr.S.Sengupta counsel for the respondents also submitted that if the applicant produces authenticated documents relating to Date of Birth, the Respondents on being satisfied will give appointment to the applicant provided other conditions are satisfied.

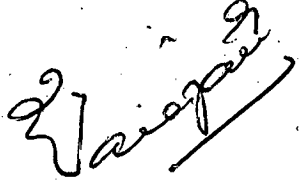
2. We have also perused the Annexure R/5 dated 6/7.5.2005. We find that the main ground stated for not giving appointment on compassionate ground to the applicant at present is want of authenticated record relating the Date of Birth of the applicant. The Annexure R/5 communication itself refers to Annexure R/1 School Register dated 21.4.04 issued by the Headmaster of Ramkrishna Shishu Vidyalaya wherein it is shown that the Date of Birth of the applicant is 15.3.71. However, in the other documents mentioned in the Annexure R/5 the date of birth varies. Ordinarily the Date of Birth given in the School Certificate has to be accepted as authenticated document. The Date of Birth shown in the other documents, for example, Annexure R/4 affidavit shows the age of the applicant as 23.1.68. Now that the Respondents have taken the view that having regard to the difference in the Date of Birth in the documents produced by the applicant, we are of the view that this application can be disposed of by directing the applicant to obtain a Certificate showing the Date of Birth of the applicant from the competent authority namely; Registrar of Birth and Death attached to the Municipal Corporation concerned. Hence the O.A. is disposed of at the Admission stage itself by directing the applicant to apply for and obtain Birth Certificate from the competent authority which is attached to the Municipal Corporation in which the applicant resides and produces the same before the Respondent within a period of two months from today. If the applicant produces the said Certificate the Respondents will act

[Signature]

on the basis of the said Certificate and pass appropriate order in accordance with the law within a period of three months thereafter.

3. The Original Application is disposed of as above.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(G.SIVARAJAN)
VICE-CHAIRMAN

LM

Synapsio of the case

OA No. 84 /2005

Sri Pradip^{kr} Goswami

.....Applicant

- Vs -

The Union of India represented
its Principal Secretary,
Ministry of Railway Cum the
Chairman, Railway Board,
New Delhi. I & 4 others

....Opp.Party.

3.3.1971

: Late Bonomali Goswami, father of
applicant was appointed temporary
as Hamal and posted at Tinsukia
and was regularised w.e.f. 1-9-1971.

para -42
page -3

28-10-1992

: 2 charges are framed against Bonomali (1)
for ~~constructing~~ constructing a kacha Kali-Temple
adjacent to his quarter. (2) Given on rent a
kacha house used as tea stall. ^{The first} Interest was
proved by Inquiry Officer but ^{second} and was not
proved.

para-44
Page-4

26-5-93

: Father of applicant ^{removed} ~~removed~~ from service. A
departmental appeal was preferred but rejected.

para -44
Page-4

30-10-98

: Ministry of Labour, Govt. of India referred
the matter to Industrial Tribunal for decision.

para-45
page-4

26-9-2000

: On contest the Industrial Tribunal by award
dated 26-9-2000 set aside the dismissal order
with direction to reinstate him with 50%
back wages.

para-5.6
Page-5

.....2

W.P.(C) 4385/01 Rly preferred writ Application got interim stay of award.

Para - 5.7

Page -5

23-6-2001

- During the pendency of writ petition Bonomali Goswami died, after getting stay did not substituted legal heir for more than 2 years. The applicant, his mother and his unmarried sister got impleaded by filing application

Para - 5.7
Page-5

7-4-2004

- Hon'ble High Court dismissed the writ petition filed by Railway and directed to implement award forthwith.

Para - 5.7
page-5

15-4-2004

- Applicant submitted a representation praying for consideration of his appointment on compassionate ground. The applicant is needy, fit qualified and eligible for appointment. Late Bonomali Goswami left his wife, son the applicant and a unmarried daughter.

Para-5.8
Page-6

✓ A large member of Group 'C' 'D' posts are lying vacant.

The Respondents called the applicant for medical test and the applicant found fit in medical test.

para-5.14
Page-8.

8/9/04

Cont. case No-578/04

- Mother of applicant filed a contempt case against Respondents for not releasing for pensionary benefit in Hon'ble High Court, H.H.C. issued ~~not~~ notice on Respondent No-5 A.K.Chapatia. For filing contempt the Respondent are not considering the case of applicant for appointment on compassionate ground (dire in harness)

para- 5.16

para -9

15/12/04

W.P.(C) No-9216/04

Applicant filed writ application in Hon'ble High Court but Hon'ble Court direct the applicant to approach Hon'ble Tribunal as appropriate Forum.

para-7

page-10

*Filed by.
Sudama Chandra.
Advocate -
29-03-05*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. NO. _____/2005

BETWEEN

Sri Pradip^K Goswami,
S/o Late Banamali Goswami,
Resident of Tinsukia Town,
Near Old Railway Station,
Tinsukia,
P.S.-Tinsukia,
District-Tinsukia.

.....Applicant.

AND

- 1) The Union of India represented by
its Principal Secretary, Ministry of
Railway cum the Chairman Railway Board,
New Delhi -1.
- 2) The General Manager,
North East Frontier Railway,
Maligaon, Guwahati-12. - 11
- 3) The Chief Personnel Officer,
(Indian Railway), N.F. Railway,
Head Officer Maligaon,
Guwahati -12. - 11
- 4) The Divisional Railway Manager,
Tinsukia Division,
N.F. Railway at Tinsukia.

Pradip

Pradip K. Goswami

Through his advocate
Sulma Chandra. 29-03-05

- 5) The Divisional Personnel Officer,
Tinsukia Division,
N.F. Railway at Tinsukia.

.....Respondents.

pradip K. Goswami

DETAILS OF THE APPLICATION

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

By instant application is made for for consideration of petitioner for appointment on compassionate ground as the petitioner is son of a railway employee who died on 23-6-01 while in service. The application is also made for an appropriate direction to the respondents to appoint the petitioner according to the rule and guidelines given by Railway authority.

2. LIMITATION :

The applicant declare that the instant application has been filed within the limitation period described U/e 21 of Administrative Tribunal Act, 1985.

3. JURISDICTION :

The applicant further declare that the subject matter for the instant case is within the jurisdiction of the Hon'ble Tribunal.

4. FACTS OF THE CASE :

- 4.1. That the applicant is a citizen of India and permanent resident of Tinsukia, Assam and as such he is

entitled to all the rights, protection and privileges as guaranteed by the Constitution of India and the laws framed thereunder.

Pradip K. Gogoi

4.2. That the father of the applicant was appointed as Grade-IV employee in the year 1971 by order dated 3.3.1971 and was posted at Tinsukia. The petitioner's father was working in dinning car as Hamal. Although the father of the petitioner was initially was appointed as casual employee by order dated 3.3.71, hñs service was regularised by order dated 1-5-72 w.e.f. 1-9-71 and as such the father of the petitioner was a regular employee for all purposes.

Copy of appointment letter dated 3-3-71
and regularisation order dated 1-5-72
are annexed as Annexure A & B.

4.3. That the applicant states that his father was directed to work as Hamal (Assistant to cook) in dinning car. By effect of coal smoke he suffered from Tuberculosis but somehow he was cured by great effort. Since his attack by disease he became religious minded man and also a devotee of Goddess Kali. For his such disease the petitioner's father was posted as station peon at Tinsukia by order dated 20-11-82 and at Tinsukia he was provided a very small quarter of dilapidated condition. Since the quarter was very small, he erected a small kaccha kali temple for his personal worship.

Copy of transfer order dated 20-11-82
is annexed as Annexure-C.

15
Bridip Kr
Goswami

4.4. That the applicant states that for construction of the Kaccha Kali Temple the respondent framed charge with a view to imposing punishment, by order dated 28-10-92. Thereafter a departmental inquiry was conducted and prior to that applicant's father admitted the said charge. However another charge was also levelled against late Balamali Goswami but that was denied by him and was also not proved by inquiry officer. For such minor fault Banamali Goswami was removed from service by order dated 26-5-1993.

Copy of removal order dated 26-5-93
is annexed as Annexure-D.

4.5. That the applicant states that father of the applicant preferred a departmental appeal but the same was rejected. The father of the applicant brought the matter to the notice of Govt. of India, Ministry of Labour and the Ministry of Labour taking it as an industrial dispute referred the matter before the Industrial Tribunal, Guwahati for adjudication by order dated 30-10-98.

Copy of order dated 30-10-98 is
annexed as Annexure-E.

5.6. That the applicant states that before the Industrial Tribunal, Railway Authority not adduced any evidence. No presenting Officer was appointed to present the case before the Inquiry Officer. Further the Inquiry Officer did not follow procedural rule and the management also did not

provide list of witnesses. In fact the inquiry proceeding was not proved before the Industrial Tribunal and as such the learned Tribunal by award and order dated 26-9-2000 dismissed order of Banamali Goswami was set aside and further order was passed to reinstate him with 50% back wages.

Copy of order dated 26-9-2000 is annexed as Annexure-F.

5.7. That the ^{applicant} ~~petitioner~~ states that the Railway Management preferred a writ petition No-4385/01 before this Hon'ble High Court and got interim stay of the award. However on 23-6-2001 Banamali Goswami died during the pendency of the writ petition. The Railway Management did not substituted the present petitioner, his mother as required under law. However the applicant and his mother filed an application praying for substitute wife Smti. Prabha Rani Goswami, applicant himself and his unmarried sister Miss Bhabani Goswami. The Hon'ble Court allowed the substitution and by order dated 7-4-2004 dismissed the writ petition filed by Railway Management and further directed to implement forthwith the award and order of Industrial Tribunal dated 26-9-2000.

Copy of death certificate and Judgment dated 7-4-2004 are annexed as Annexures - G & H.

5.8. That the applicant states that the applicant's father entered in service in March, 1971. He died on 23-6-2001 while in service. But for technical reason i.e. due to

16
Order by Mr. Goswami

17
Pradip Ka
Goswami

pendency of the W.P.(C) No. 4385/2001, the applicant could not avail of the benefit of the scheme of compassionate ground. However, this Hon'ble by Judgment & order dated 7/4/2004 High Court dismissed the writ petition. Immediately on 15/4/04 the ~~pradip~~ applicant submitted representation requesting them to appoint the petition as per Rule. The Respondents received the representation but after expiry of 8 month the case of the petition has not been considered. The applicant frequently visit and request the respondents mainly the Respondent No-3,4 and 5 but his case is not yet considered for appointment under aforesaid scheme. There is no chance of consideration the case of the applicant, unless and until this Hon'ble Court direct the respondents to consider the case of the applicant within a time bound period.

Copy of representation dated 15-4-04
is annexed as Annexure-I.

5.9. That the applicant states that the applicant is 33 years of age and he read upto class VIII. The applicant is eligible, qualified and suitable for Group-D post and under the scheme, the applicant is entitled for appointment as the dependent of Railway servant who died-in-harness before retirement. It may be mentioned here that the father of the applicant supposed to retire in June, 2008.

The father of the applicant left behind his widow Smti. Prabha Rani Goswami i.e. mother of the applicant, the applicant himself and Miss Bhabani Goswami @ Priti Rani Goswami unmarried daughters which was declared by father of the applicant himself and which is in the record of Respondent No-5.

by Clipped
Goswami

Copy of declaration dated 1-1-88 is
annexed as Annexure-J.

5.10. That the applicant states that father of applicant entered in service in March, 1971. However the service was regularised w.e.f. 1-9-1971 and as such he rendered more than 30 years of service. Although the applicant's father was removed from service on 26-5-98 on a minor charge for erecting kachha Kali temple, the same was set aside by the Industrial Tribunal, Guwahati by order dated 26-9-2000, with order to reinstate him 50% back wage. Although the said order was challenged by the respondents before this Hon'ble High Court but the same was dismissed by Judgment dated 7-4-2004. But during the pendency of the writ petition Banamali Goswami died on 23-6-2001 and as such this is case of die-in-harness for which the applicant is entitled for all benefits of the aforesaid scheme.

5.11. That the applicant states that the Respondent No-3, 4 & 5 passed one order on 8-7-2004 observing that Late Banamali Goswami is entitled to get all benefit as death case was in service.

Copy of order dated 8-7-04 is annexed
as Annexure-K.

5.12. That the applicant states that the mother of the applicant has been provided family pension by the respondents as widow of late Banamali Goswami ex-office-peon and as such the applicant is entitled to get the aforesaid benefit.

Pradip Kr
Goswami 29

Copy of pension calculation sheet is
annexed as Annexure-L..

5.13. That the applicant states that under the prevailing Rule for appointment on compassionate ground appointment should be made within 3 months and or as early as possible. In case of such appointment the General Manager personally may exercise the power the also delegate his power to Divisional Railway Manager or Chief Personnel Officer. In case of Group 'D' power to make appointment may be delegated to Divisional Railway Manager under the Rule. At present the applicant is aged of 33 years and under the Rule the upper age limit can be released by the respondents under the Rule.

5.14. That the applicant states that a large number of Group 'D' post are lying vacant in the North East Frontier Railway for which a written test is also going on. The respondent can easily appoint and adjust the applicant in any Group 'C' or 'D' post. The applicant is able bodied man ready and willing to discharge whatever duties and functions will be entrusted to him.

The applicant is unemployed youth he was fully depended on his father. The applicant has unmarried sister and old ailing mother. There is no any source of income of the family and as such the applicant has relative hard-ship for appointment.

5.15. That the applicant states that although the father of the applicant died on 23-6-01 he could not approach

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Goswami

before this Hon'ble Court as he was removed from service which was questioned in Court of law and finally decided only on 7-4-2004 and as such only after 7-4-2004 the applicant is entitled to claim appointment on compassionate ground. There is no delay in the eye of law.

5.16. That the applicant was called for medical test which is done and applicant is found medically fit now the Respondent No-5, against who contempt of Court was filed in the Hon'ble High Court by my/ ^{mother} on 8/9/04 being cont. case No- 578/04, not issuing appointment letter. The Respondent No-5 flatly refused to issue appointment letter only for filing contempt of Court case by mother Prabha Rani Goswami.

5. GROUND WITH LEGAL PROVISION :

5.1. For that action of the respondents are illegal, arbitrary and violative of Railway Establishment Rules.

5.2. For that the respondents have dis-regarded their own guidelines and rules provided for appointment on compassionate ground because dependent of employee who die-in-harness while in service a required for appointment to be made within a period three months. Further the power should be exercised by the General Manager himself.

5.3. For that the respondents did not pay the retirement benefits to the applicants mother. Only after filing contempt of Court case No- 578/04 the respondents paid retirement benefits in part.

Pradip K
Goswami

4.4. For that case of many similarly situated candidates have already been considered but in case of applicant the same is kept pending for the reasons known to the respondents. The action of the respondent is violative the provision of Articles 14 & 16 of the Constitution of India.

5.5. For that the respondents not issuing appointment letter ~~xx~~ although the applicant is entital for consideration for appointment on compassionate scheme and found medically fir only because the mother of applicant Smti. Prabha Rani Goswami filed a Contempt case No-578/04 for not releasing pensionary benefit by Respondent No-5.

5.6. For that in any view of the matter in action of the respondents is bad in law the applicant crave leave of this Hon'ble Tribunal to advance more grounds at the time of hearing.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he submitted representation which is not considered and there is no other alternative remedy available to the applicant.

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

The applicant declare that he previously filed W.P.(C) No. 9216/04 before the Hon'ble High Court. Hon'ble High Court by order dated 15/12/04 directed the applicant to approach this Hon'ble Tribunal as the subject matter of the case is exclusively in the jurisdiction of this Hon'ble Tribunal, hence this application filed.

Under the facts and circumstances stated above the applicant most respectfully prayed that the instant application be admitted, record be called for and after hearing the parties, perusal of record be pleased to grant following relief the applicant.

8.1. To direct the respondents to appoint the petitioner on compassionate ground as per scheme and rule.

The applicant pray for on interim order directing the Respondents to keep post of either Group 'C' or 'D' post vacant for the applicant and also consider the case of applicant for appointment on compassionate ground.

10.

11.1. I.P.O. No. 206 116971
11.2. Date 21-03-05
11.3. Payable at G.P.O. Ghy

As stated above.

VERIFICATION

I Shri Pradip Kr. Goswami, s/o late Banamali Goswami, aged about 33 year, resident of Tinsukia Town, Old Station do hereby solemnly affirm and verify that the statements made in paragraphs 4.1, 4.3, 4.6, 4.7, 4.8 to 4.16 _____ are true to my knowledge and those made in paragraphs 4.2, 4.4 and 4.5, are matter of records which I believe to be true the rest are on humble submission before this Hon'ble Court.

And I sign this Verification on this 29th day of March, 2005 at Guwahati.

Pradip Kr Goswami

APPLICANT

To,

Shri Banamali Goswami
Deptt. Catering,
Tinsukia.

Sub:- Appointment of Casual Labour.

You are appointed as a Casual Labour on the following conditions.

- 1) Your service will be terminated on any day without assigning any reason.
- 2) You will be paid at the local market rate per day with 'No Work no pay' basis.
- 3) Your appointment as a Casual Labour will not confer on you any benefit or claim whatsoever, to be absorbed as a regular Railway Employee nor this will establish you any claim for future employment in the Railway.

Should you agree to work on these condition please report to Assistant Manager-in-Charge, Department catering Unit Tinsukia immediately for duty.

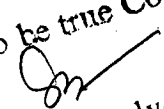
Sd/-Illegible
For General Manager(Comm1)

Copy to : 1) Asstt. Manager-Incharge, Deptt, Catering, Tinsukia for information. Shri Banamali Goswami has been appointed as a Casual Labour from 1-3-91

Before appointment he should be sent to DMC/MLG/NJP for Medical examination.

- 2) FA & CAO/N.F.Rly/Pandu for information.
- 3) DVS/TSK at DBRT
- 4) DS D/LMG/(s) DMO LMG.
- 5) Asstt. Manager/catering at

Sd/-Illegible
For General Manager(Comm1)

Certified to be true Copy

Advocate

N.F. RAILWAY.

TE ORDER. CATERING

0. NMG/49(MISC)

OFFICE OF THE
DIVISIONAL SUPDT. (P)
TINSUKIA. DT. 1.5.72

THE FOLLOWING CASUAL LABOURS OF DEPARTMENTAL CATERING/ TINSUKIA HAVE BEEN BROUGHT INTO AUTHORISED SCALE OF PAY ON RS. 70/- P.M. INSCALERS. 70-85/ PLUS USUAL ALLOWANCES FROM TIME TO TIME WITH EFFECT FROM THE DATE I.E. JUST AFTER COMPLETION OF 6(SIX) MONTHS CONTINUOUS SERVICE AS SHOWN AGAINST EACH.

AUTHORITY COS(P)/MALIGAONS LETTER NO. E/283/111/171/1/PT. 111(T)
DATED 22.4.1972.

SL NO	NAME OF CASUAL LABOUR	DATE OF ENGAGEMENT AS CASUAL LABOUR	DATE FROM WHICH BROUGHT INTO AUTHORISED SCALE 70-85/
-------	-----------------------	-------------------------------------	------------------------------------------------------

2. SRI BANAMALI GOSWAMI (MAMALI) (DEPOSITING) 1.3.1971 1.9.1971

NECESSARY ADJUSTMENT OF PAY WILL BE MADE IN DUE COURSE.

SD/ J.N. BAYAN
DIVISIONAL SUPDT. (P)
TINSUKIA

COPY TO STAFF CONCERNED THROUGH SM/TSK FOR AND GUIDANCE PLEASE.
COPY TO E/BILL SECTION (SHRI N.K. DAS. SR. CLERK (E) AT OFFICE FOR INFORMATION AND NECESSARY ACTION PLEASE.
COPY TO CCS(P)/MALIGAON FOR INFORMATION IN REFERENCE TO HIS LETTER NUMBER E/283/111/171/1/PT. 111(T) DATED 22.4.72.
COPY TO DAO/LMG FOR INFORMATION PLEASE.

DIVISIONAL SUPDT. (P)
TINSUKIA

Certified to be true Copy
Advocate

Date of Birth
1-5-50

26

-15-

Ann exure- C

NO. DC/TSK/Staff 82

Dated TSK on 20/11/82

To,

Sri Banamali Goswami,
Hamal, Deptt, Catering TSK.

Subject:- Sparing from catering unit/TSK.

Ref :- DRM(P)/TSK's office order No. EMG/49/(Catering)
Dated 15/11/82.

With reference to above you are hereby spared from
Tinsukia catering unit from date the 20/11/82(AN) to carry out
the transfer order as a station peon under S.S./TSK.

You are adviced to report to SS/TSK for your further
duties.

Sd/- Illegible

Catering Inspector
Deptt. Carg/TSK.

Copy to :-

- (1) DRM(P) TSK for information & necessary action please.
Shri Goswami resumed on 20/11/82 vide DFC issued by
DMO/TSK. He was in the sick list of DMO/TSK from 7/5/82
to 11/8/82. From 12/8/82 he was found absconded. He has
reported on 20/11/82 with DFC issued by DMO/TSK.
- (2) CCS/G, MLG for information please.
- (3) S.S/TSK for information please.

Sd/- Illegible

Catering Inspector
TSK

Certified to be true Copy
Advocate

27

- 16 -

Annexure - D

NORTHEAST FRONTIER RAILWAY

OFFICE OF THE
DIVISIONAL RAILWAY MANAGER(P)/TINSUKIA
Tinsukia dated : 26th May, 93.

No.EM-B/14 (Loose).

To
Shri Banamali Goswami
Office Peon of DRM(P)/TSK (Now under suspension),
Now at Rly Qtr, No.R/3 near Foot Over Bridge,
Railway Colony, Tinsukia-786 125, Assam.

Sub : Notice of imposition of penalty of
Removal from service.

With reference to your defence dated 16th November, 1992 to the Memorandum No.EM/B-14 (Loose) dated 27.10.92 and in continuation the D.A.R. Enquiry Report sent to you vide DRM(P) PTKS's confidential letter of even number dated 23.2.93 (which was acknowledged by you on 26.2.98) is hereby informed that your explanation has not been considered satisfactory and the undersigned has passed the following orders :-

" I agree with the recommendation of the Disciplinary authority (ARO/IT) and in the light of the facts brought out clearly through the inquiry conducted by CPI/TSK Shri I.N. Hazarika then can be no other suitable penalty except removal from service for causing grave threat to safety and encouraging unauthorised trespassing of railway track by the public who patronise the illegally set up restaurant in the portion of Sri Banamali Goswami's Quarters which he has illegally rented out to one Shri K.S. Madhevan.

Hence, in order the imposition of the above mentioned penalty i.e. removal from service, on Shri Banamali Goswami, Peon under DEM(P)/TSK for this grave misconduct."

In view of the above order you are removed from Railway Service with immediate effect.

An appeal to this lies with DRM/TSK if preferred within 45 days from the date of receipt.

Sd/- Illegible
20/3/83


Divisional Personal Officer,
N.F. Railway, Tinsukia,

1. O.B. (P)/IC for official for necessary action.
2. Head Clerk 'E'/P.S. Section for necessary action.
3. Head Clerk 'E'/pass Section for necessary action.
4. Head Clerk 'E'/pass section for necessary action.
5. Cadre Dealing Asstt. (at office. He will put up in case for regularisation of the suspension period from 13.10.92 to 25.5.93.)
6. Q.S(P) Tfo. Bill (at office for necessary action.

Sd/- Illegible

(DRM /Tro)

Divisional Railway Manager,
Tinsukia.

Certified to be true Copy

Advocate

-17- Annex - E 2A

NO. L-41012/14/98-IR(B.I.)
Government of India/Bharat Sarkar
Ministry of Labour/Shram Mantralaya

Shram Shakti Bhawan,
Rafi Marg,
New Delhi-110 001.
Dated 30/10/1998.

O R D E R

No. L-41012/14/98/IR(B-I) : WHEREAS the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the management of N.F. Railway

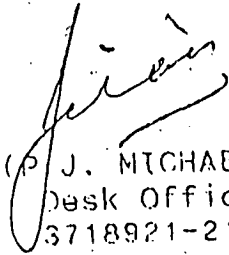
and their workmen in respect of the matters specified in the Schedule hereto annexed ;

AND WHEREAS the Central Government considers it desirable to refer the said dispute for adjudication ;

NOW, THEREFORE, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (13 of 1947) the Central Government hereby refers the said dispute for adjudication to Industrial Tribunal, GUWAHATI. The said Tribunal shall give its award within a period of three months.

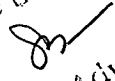
THE SCHEDULE

"Whether the action of the management of DRM, N.F. Rly. Tinsukia in termination the service of Shri Bonomali Goswami Ex-Office peon in legal justified? If not to what relief the workman is entitled?"


(P) J. MICHAEL
Desk Officer
3718921-2149

Copy Forwarded for necessary action to :

- *1. The Presiding Officer,
Industrial Tribunal,
Ambari (bye lane),
Near Jor Pukhuri,
Uzanbazar,
GUWAHATI-781001
- *2. N.F. Railway
The Divisional Railway Manager (P), N.F. Railway,
Tinsukia 786125
- ✓ *3. a. Sri Bonomali Goswami,
Ex-Office Peon, Railway Qr. No.
R/3, Near Foot over Bridge, Railway Colony,
Tinsukia - 786125.

Certified to be true Copy

Advocate

IN THE INDUSTRIAL TRIBUNAL:::GUWAHATI:::ASSAM

REFERENCE NO. 7 (C) OF 1999

Present :- Shri K.Sarmah, LL.B.,

Presiding officer,

Industrial Tribunal, Guwahati.

In the matter of an Industrial Dispute between
The Management of N.F.Railway, Tinsukia.

- Versus -

Shri Bonomali Goswami, Ex-Office Peon,

Railway Qr.No.-R/3, Near Foot Over Bridge,
Tinsukia.

Date of Award :- 26.9.2000

- Award -

The Govt. of India, Ministry of Labour, Vide
Order No.-L41012/14/98/IR(B-I) dated 30.10.98 has made this
reference to this Tribunal to adjudicate the dispute arising
between the Management of N.F.Railways, Tinsukia, and its
workman Shri Bonomali Goswami, Peon out of termination of
his service on the following issue :-

"Whether the action of the Management of DRM
N.F.Railway, Tinsukia in terminating the
service of Shri Bonomali Goswami Ex-Office
Peon is legally justified? If not to what
relief the workman is entitled? "

Certified to be true Copy
Advocate

contd...

19- 30

On receipt of reference, this Tribunal has registered this case and issued notices to both the parties calling upon them to file their written statement/Addl. written statement and to exchange their documents in support of their respective claim, in response to which both the parties have appeared and filed their written statement and documents in support of their respective claims. The workman has adduced his own evidence to substantiate his case as WW 1 and no evidence has been adduced from the side of management.

The fact of the case, as reveals from materials on record is that the workman Dhanomali Goswami was engaged on casual basis as paniala in the year 1971 by the management of N.F. Railway at Tinsukia and thereafter he was posted as cover Peon in 1982 in the same station and thereafter posted as Peon in the year 1987. While he was working as Peon in the office of DRM(P), N.F. Railway at Tinsukia, he was placed under suspension by the management and charges under Rule 9 of the Railway servant (Discipline and Appeal) Rule, 1966 vide Office memorandum No. EM/B-14 (Doose) dated 27.10.92. The first charge was that the workman had erected unauthorized structure around his Railway Quarter No. R/3 type-1 situated Near Foot Over Bridge of Tinsukia Railway station and sublet the same to an outsider named K.S. Madhovan who was running a hotel in the said rented structures endangering public safety as the busy shunting line was passing just near the hotel. The second charge alleged was that the workman erected

Contd...3.

Katch house attached to his quarter in which a sign board entitled "Shri Shri Mahakal Mandir" which erected maintenance problems of the Railway Quarters."

To probe the charges, the disciplinary authority has constituted a domestic enquiry by appointing Shri I.N. Hazarika, CPI/TSK as Enquiry Officer. But no presenting Officer was appointed by the disciplinary authority to present the case before the enquiry officer. The workman was allowed to take the assistance of Shri N.C. Mazumdar, Sr. C.C.TSK to assist him.

In conducting domestic enquiry, the enquiry officer has not examined any witness from the side of management, but has recorded the statement of the workman where workman has been stated to have admitted the charges. The enquiry officer thereafter submitted report holding that the charge levelled against the delinquent workman was proved and on the basis of said report the workman was dismissed from the service w.e.f. 26.5.93 vide order EM-B/14(Loose)

After receiving the order of dismissal, the workman has preferred an appeal before the Divisional Railway Manager at Tinsukia on 4.6.93 which was dismissed by said authority vide order dated 4.6.93. After dismissal of appeal the workman has raised the Industrial Dispute before the concerned labour authority who has tried to settle the matter on conciliation and having failed to settle the matter on conciliation

has referred it to the appropriate Govt. who ultimately made this reference.

Before this Tribunal workman has adduced his own evidence as WW 1, but management has not adduced any evidence from his side.

I have heard the arguments advanced by the learned advocate for the both the parties. The learned advocate for the workman has also submitted written arguments alongwith some documents. In course of arguments, learned advocate for the management has submitted that delinquent workman has admitted the charge levelled against him before the enquiry officer and hence he was rightly dismissed from the service. But learned advocate for the workman has submitted that enquiry officer has not followed the procedural law prescribed in that behalf in conducting the domestic enquiry. He has submitted that the management has not provided the list of witness alongwith the charge-sheet to the workman as per procedure prescribed in Rule 9 of the Railway ~~manpower~~ servants (D & A) Rules, 1968. Secondly, by not appointing Presenting Officer, to present the case, the enquiry officer is put to play the role of both prosecutor and adjudicator. Thirdly, before this Tribunal the management has not proved the enquiry proceeding by adducing evidence of enquiry officer or any other witness. For all these reasons the domestic enquiry conducted by enquiry officer is violative to the principle of natural justice and procedural law.

Contd...5.

-22-

In dealing with industrial dispute in case of dismissed employee who has been dismissed after holding domestic enquiry, the tribunal has to see whether domestic enquiry was properly conducted or not. In conducting domestic enquiry, the enquiry officer has to follow the procedural law prescribed in that behalf and also to follow the principle of natural justice by giving the workman a proper and reasonable opportunity of being heard. In the instant case what I find from the materials on record in that constitution of the domestic enquiry is not in accordance with law as no presenting officer was appointed to present the case. In view of this the enquiry officer has to play the role of prosecutor and adjudicator which is violative to procedural law prescribed in that behalf. Furnishment of list of witness to the workman alongwith the charge is a mandatory requirement of Railway Servant(S & A) Rule 1968 which has not been complied with by the enquiry officer and hence enquiry is bad in law. Although, learned Advocate for the management has submitted that the workman has admitted the charge level against him before the enquiry officer, but curiously enough, the enquiry proceeding has not been proved before the Tribunal by adducing any witness from the side of the management. Not only that the evidence of the enquiry officer himself was not adduced before this Tribunal without giving any reason. This being the position, that the workman has admitted the charges before the enquiry officer has not been established.

Contd...6.

For the above reasons, I am of opinion that domestic enquiry conducted against the workman is bad in law for non-compliance of procedural law and hence order of dismissal recorded against the delinquent workman can not be allowed to attain in the eye of law.

In the result the order of dismissal recorded against the delinquent workman is set aside and workman is ordered to be reinstated with 50% of his back wages with immediate effect.

With this order this reference is awarded in favour of the workman. Prepare an award accordingly.

Sd/- Illegible.

Presiding Officer,
Industrial Tribunal, Guwahati.

26/9

cc: [illegible]

24-

Annex-G

Form No. 6

ফর্ম নং - ৬



সত্যম জয়

Sl. No.
ক্রমিক নং 0072668

GOVERNMENT OF ASSAM
(অসম চৰকাৰ)
DIRECTORATE OF HEALTH SERVICES
(স্বাস্থ্য সেবা সঞ্চালকালয়)
CERTIFICATE OF DEATH
(মৃত্যুৰ প্ৰমাণ পত্ৰ)

ISSUED UNDER SECTION 12/17 of the Registration of Births and Deaths Act, 1969.
(জন্ম আৰু মৃত্যুৰ পঞ্জীয়ন আইন ১৯৬৯ নং ১২/১৭ অংশত লিপিবদ্ধ)

This is to Certify that the following information has been taken from the original record of Death which is in the register for Baranali Garami of the Registration unit of Baranali Garami of District Baranali Garami of the State of Assam.

ইয়াৰ দ্বাৰা প্ৰমাণিত কৰা হয় যে নিম্ন লিখিত তথ্য অসম ৰাজ্যৰ ----- জিলাৰ ----- থানা/পৌৰসভাৰ ----- মৌজাৰ অন্তৰ্গত ----- পঞ্জীয়ন গোটেৰ পঞ্জীৰ মূল অভিলেখনৰ পৰা সংগৃহীত কৰা হৈছে।

Name/নাম : Mr. Baranali Garami (55 years)

Sex/লিঙ্গ : Male

Date of Death/মৃত্যুৰ তাৰিখ : 23/6/2021

Place of Death/মৃত্যুৰ স্থান : Ripara, TE.

Registration No./পঞ্জীয়ন নং : 331

Date of Registration/পঞ্জীয়নৰ তাৰিখ : 6/7/2021

Signature of issuing authority/জাৰী কৰা কৰ্তৃপক্ষৰ চহী

Designation/পদ

Date/তাৰিখ

Stamp Sig. of Chief Registrar/মূখ্য পঞ্জীয়কৰ চহীৰ ষ্টাম্প

No disclosure shall be made of particulars regarding the cause of death as entered in the Register. See proviso to Section 17 (1)

Certified to be true Copy
Advocate

for	संख्या सूचित करने की तिथि Date fixed for notifying the requisite number of stamps and folios.	देने की तिथि Date of delivery of the requisite stamps and folios.	प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	तारीख Date of making over the copy to the applicant.
9/4/04	8/4/04	8/4/04	9/4/04	9/4/04

-25-

Annexure H

IN THE GAUHATI HIGH COURT
(The High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram and Arunachal Pradesh)

WRIT PETITION (C) NO. 4385 OF 2001

Union of India, through the
General Manager, North East Frontier
Railway, Maligaon, Guwahati-781011.

..... PETITIONER

-Versus-

1. Bonomali Goswami,
Ex-Office Peon,
Railway Quarter No.R/3 (Type I),
Near Foot Overbridge, Tinsukia.

Gauhati 2. Smti Prabha Rani Goswami
W/o Lt. Bonomali Goswami.

3. Sri Pradip Goswami,
S/O Lt. Bonomali Goswami.

4. Miss. Bhubani Goswami,
D/O Lt. Bonomali Goswami.

.....RESPONDENTS

certified to be true Copy
Advocate

PRESENT
THE HON'BLE MR. JUSTICE D. BISWAS

For the Petitioner

Shri Siddhartha Sarma,
Standing Counsel, Railways.

For the respondent

Mr. A.K. Goswami,
Mr. S. Chouhan,
Mr. R.S. Chouhan, Advocates.

Date of hearing

7.4.2004

Date of Judgment and
Order

7.4.2004

W.A.

26

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JUDGMENT AND ORDER
(Oral)

Heard Mr. S. Sarma, learned Standing Counsel for the Railways and also Mr. A.K. Goswami, learned counsel for the respondents.

2. Without adverting to the technical questions raised, this Court is inclined to dismiss this writ petition since the impugned award rendered by the Industrial Tribunal appears to be in aid of justice.

3. The respondent No. 1, Bonomali Goswami (since deceased) was a Grade-IV employee in the Railways. A charge sheet was served upon him for having allowed construction of a Hotel and for having constructed a Kutcha Mandir inside the residential premises allotted to him by the respondent authority as an incident of service.

4. The Enquiry Officer in his report dated 30.12.1992 exonerated him from the first charge for having allowed an outsider to construct a Hotel, and with regard to the second charge held that the respondent himself admitted to have constructed a Kutcha Temple inside the residential premises. The findings of the Enquiry Officer is quoted hereinbelow :-

"4. FINDINGS.

From the above foregoing chapters, the article of charges framed against the delinquent staff stand established. Since he is intending to have the unauthorized structures (both Hotel and Mahakal Mandir) dismantled by the Administration with allotment of an alternative Rly. Accommodation at the other side of the TSK Colony, it is desired that administrative action to evict both the unauthorized structures under PP Act/1971 be initiated and thus the Engineering Officers be advised of this suggestion, if agreed please.

The statements obtained during the DAR enquiry from the delinquent person are enclosed for perusal of the Disciplinary Authority (APO/II)/TSK and to kindly pass his orders thereof."

W
AC

5. A casual glance of the findings quoted above clearly indicate that the Enquiry Officer did not indict him for having committed any serious offence amounting to misconduct. It appears that the petitioner had constructed a Kutcha Temple in his official residence for the purpose of worshipping and this alone should not have been a ground for his dismissal from service. Neither of the charges levelled against the respondent No.1 was relatable to his office, and therefore, any punishment other than the punishment of dismissal would have sufficed the very purpose of initiation of the departmental proceeding. The learned Tribunal by the impugned award dated 26.9.2000 set aside the order of dismissal on various grounds of which mention may be made of the non-compliance of the mandatory requirements of Railway Servants (S & A) Rules, 1968. The Enquiry Officer has been found to have violated the procedural law as applicable in a departmental proceeding. The learned Tribunal in clear terms observed that a reasonable opportunity of being heard was also denied to the respondent No.1. These observations cannot be reversed by this Court on re-appreciation of evidence in exercise of powers under Article 226. Going by what have been recorded by the learned Tribunal, this Court is left with no option but to conclude that the impugned award which has ensured justice to a Grade-IV employee of the Railways needs no interference by this Court.

6. Hence, this writ petition is dismissed. The appellate authority is directed to implement the award forthwith.

Signature
Signature
Signature

CERTIFIED TO BE TRUE COPY
<i>AK on Barabaris</i>
Date <i>09/11/08</i>
Superintendent (Copying Section)
Gauhati High Court
Authorised U/S 76, Act I, 1872

Signature

PAU 11/10/8
Signature

28-

Annexure I 39

To,

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

Date-15-04-2004.

Sub :-Prayer for appointment on compassionate ground.

Respected Sir,

My father was appointed in March 1971 as Hamal. During 1980 he suffered from T.B. and on request he was allow to work as peon in the office of D.R.M. Tinsukia.

By order dated 26-5-93 he was removed from service for a petty offence for constructing a Kaccha Mahakal Mandir adjacent to his Railway quarter. On appeal the punishment was upheld. A conciliation was initiated but failed uptimately the Govt. of India, Ministry of Labour by order dated 30-10-98 referred the matter to Industrial Tribunal,Guwahati. The learned Tribunal set aside the dismissal order and ordered to reinstate my father with 50% back wages.

Against the award Railway authority preferred W.P.(C) No.-4385/01 before Hon'ble Gauhati High Court. During the tendency of the petition on 23-6-01 my father died at the age of 55 years. However my mother, myself and my unmarried sister impleaded in the case and ultimately Hon'ble High Court by Judgment dated 7-4-04 dismissed the writ petition with direction to implement the award forthwith.

That Sir, although my father was dismissed from service on 26-5-93 he was ordered to be reinstated by Industrial Tribunal vide its ~~max~~ award dated 26-9-2000, since the award way under challenge technically my father was not in service but as the

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Advocate

295
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writ petition was dismissed on 7-4-04 with direction to implement the award of Industrial Tribunal. My father would have been reinstated if he would have been ~~ax~~ alive. Although my father was died on 23-6-01 but the Judgment of order of High Court was passed on 7-4-04 i.e. prior to 7-4-04 I could not make a claim. Now I am son of deceased employee late Bonomali Goswami who was a peon in the office of D.R.M., Tinsukia.

That Sir, I passed class-VIII and I am experienced in Electrical works under provision/scheme of appointment on compassionate ground a post under Group-C may be provided to me as I am the only son of deceased employee to meet the financial hardship of my family as I have to maintain my aged mother and unmarried sister.

Therefore Sir, provide me a Group-C job immediately under ~~xxxxxx~~ to the scheme and oblige.

Date - 15/04/2004.

Yours faithfully,

pradip Goswami

(Sri Pradip Goswami) Goswami
S/o Late Bonomali ~~Goswami~~
Resicent of Tinsukia
near Old station.

Particulars

School certificate showing age and qualification,

~~Age ~~xxxxxx~~ ~~xxxxxx~~~~

2) Death Certificate.

Copy enclosed :

1) Copy of award dated 26-9-2000.

2) Copy of Judgment of Hon'ble High Court dated 7-4-04.

FAMILY DECLARATION FORM:

30-
Horseman J
8/2/83

Name of the Employee Sri. Ranamali Goswami
 Name of the section Peon under DRMP TSK.
 3. Pay at present 912/-
 4. Father alive or not N/D

Sl. No. Name of persons for whom passes / Relationship Age on the Jan or date of birth 1/1/88
 No. F.T. Os may be required

1. Mrs. Prabha Rani Goswami wife 33 yrs.
2. Sri. Pradip Kr. Goswami Son. 19 "
3. Smt. Priti Rani Goswami Daughter. 13 "
4. " Sail Rani Goswami w/mother. 60 "
5. Mrs. Sufali Rani Goswami w/m/sister. 25 "
6. Sri. Prifush Goswami N/Brother. 20 "
- 7.
- 8.
- 9.
- 10.

Signature in full:

Designation :

Section/Sub-Section: Boonvadi Goswami

We certify that to the best of our knowledge the parties as shown are residing with and are wholly and are wholly dependent upon the employee.

Witness:

1. Signature Sunil Das 1. Signature Gautam Mohan Nath
 2. Designation Chk. (E) 2. Designation Office peon
 3. Section DRMP TSK 3. Section DRMP TSK

Ghosh:

(SIGNATURE OF IMMEDIATE OFFICER)

89-21
90-13
(34)

Certified to be true Copy
 Advocate

N. F. RAILWAY

Office of the
Divl. Rly. Manager(P),
Rinsukia.

OFFICE ORDER.

With due honour of the Hon'ble High Court/Guwahati's judgement order dated 07.04.2004 in the WP (C) and the Hon'ble Industrial Tribunal's award dated 26.09.2000 in ref. case No. 8 (C)/99, the removal order of late Banamali Goswami, ex- Office Peon under DPO/RSK has been set aside. Late RSK Goswami was removed from Rly. service w.e.f. 26.05.03 vide this office NIP No. EM-(B)/14 (loose) dt. 26.5.93, but as per above order he has been reinstated w.e.f. 26.9.2000 with 50% of his back wages with immediate effect (i.e. the date of award of the industrial tribunal on dt. 26.9.2000).

GM-(P)/MLG has directed to implement the order of the Hon'ble High Court/Guwahati vide his L/No. E/170/RJC/1/2001 dt. 10.6.2004.

Accordingly he is entitled to get 50% of his back wages from the date of his removal from service i.e. w.e.f. 26.5.93 to the date 25.9.2000. From 26.9.2000 i.e. date of award of I. Tribunal he will be reinstated and get full benefit up to 23.6.2001 i.e. up till his death. And he is entitled to get all benefits as death case while in service.

His pay of IV CPC and V th CPC are fixed as under duly vetted by associated finance/TSK.

IVth pay commission w.e.f. 1.1.86 in scale Rs. 750-940/-.

Pay fixed on	Rs. 884/-	w.e.f.	1.1.86.
Pay raised to	Rs. 898/-	"	1.1.86.
Pay raised to	Rs. 912/-	"	1.1.87.
Pay raised to	Rs. 926/-	"	1.1.88.
Pay raised to	Rs. 940/-	"	1.1.89.
Pay raised to	Rs. 940+14/-	1.1.91 (Stg. Pay)	" "
Pay raised to	Rs. 940+14+14/-	1.1.93	" "
Pay raised to	Rs. 940+14+14+14/-	1.1.95	" "

Vth Pay commission w.e.f. 1.1.96 in scale Rs. 2550-3200/-

Pay fixed on	Rs. 3080/-	w.e.f.	1.1.96.
Pay raised to	Rs. 3140/-	"	1.1.96.
Pay raised to	Rs. 3200/-	"	1.1.97.
Pay Raised to	Rs. 3200+60/-	1.1.99 (stg. Pay).	" "

Sign

Contd..... P/2.

Certified to be true Copy
Signature
Advocate

- 5 - - 32 - 43

Granted ACP scheme for monetary benefit in scale Rs. 610-3540/-
w.e.f. 1.10.99.

Pay fixed on Rs. 3410/- w.e.f. 1.10.99.

Pay raised to Rs. 3475/- " 1.10.2000.

This has the approval of competent authority.

[Signature]
8.7.04
(R. L. BHAGAT)
APO/I/FSK.

for Divl. Rly. Manager(P),
N. F. Rly. Tinsukia.

No. EM/B-141 dated 08.07.2004.

Copy forwarded for information and necessary action to:-

1. GM(P)/MLG (for personal attention of Sri B. Sharma, APO/Legal Cell/
MLG in reference to his letter No. E/170/RLC/I/2001
dt. 10.6.2004)
2. IFM/FSK.
3. ET/ Bill (at office).
4. FS section (at office).
5. COS(P)/ET/? COS(P)/EG & CLWI/FSK.

[Signature]
8.7.04
for Divl. Rly. Manager(P),
N. F. Rly. Tinsukia.

N.F. Railway

REVISED PENSION CALCUTATION SHEET

1. Name and Designation of the Retd. staff / Exp. staff *Late Banamali Goswami*
ex. of Peon / DPO's Office / RR
2. Date of Birth ~~07-05-1956~~ *01-5-1950*
3. date of entry in the Govt. Servant *01-09-1971* *Correlation attested*
4. Date of entry in the Govt. *- 20 -*
5. Date of Retirement/Expired *23-06-2001*
6. Length of Qualifying service *29 yrs 01 months and 19 days.*
7. Period of Pension and Gratuity as calculated in the P.P.O. *29 yrs.*

- (a) Emoluments drawn during the 10 months. *4*
- (b) Average emoluments for the Pension (As calculated in the P.P.O) *4*

8. Pension admissible (calculation is to be *L/Pay Rs 3475'00 in scale Rs 2610-3540/-*
(a) Average emoluments:

(b) Emoluments for Gratuity *L/Pay Rs 3475'00 + DA (43%) = Rs. 1974'25*
= Rs 4969'25 x 29 = Rs. 1,44,109'25
Retirement Gratuity admissible *1,44,109'25* *Rs. 1,46,593'00*

9. Retirement Emoluments for family pension *30% of Rs. 3475'00 = Rs. 1042'50*
or Rs. 1275'00 but minimum F/Pension
(a) Family Pension admissible *admissible is Rs. 1275'00*

(b) Enhance Family Pension

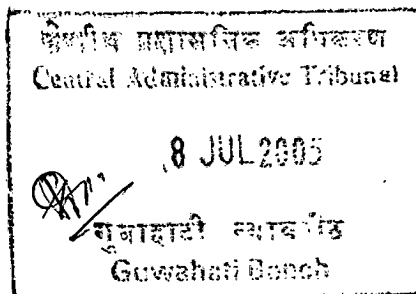
Rs. *1738'00 P.V.* admissible in
this case up to *23-6-2008*
and thereafter
Rs 1275'00 till death or
re-marriage of
the widow which event is earlier.

Commutation of Pension Rs. *- NIL -*

(40% for monthly) Pension Rs. *- NIL -*

Valid
W. S. K. S.
DFM/IR

G. S. S.
for Divisional Manager (P)
N.F. Railway, Tinsukia
M. F. Railway, Tinsukia



5/7
Chief Personnel Officer/HG
N.F. Railway, Maligaon
Guwahati-14

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

IN THE MATTER OF :

O. A. No. 84/2005

Sri Pradip Goswami

... Applicant.

Vs.

1. Union of India.

2. The General Manager,

N.F. Railway, Maligaon.

3. The Chief Personnel Officer,

N.F. Railway, Maligaon.

4. The Divisional Railway Manager,

N.F. Railway, Tinsukia Division.

5. The Divisional Personnel Officer,

N.F. Railway, Tinsukia Division.

... Respondents.

- AND -

IN THE MATTER OF :

Written Statement for and on behalf of
the respondents 1 to 5 above.

The answering respondents most respectfully beg to
sheweth as under :

Contd.....2

Filed by:
Sankar San Gupta
Railway Advocate
Guwahati
8.7.2005

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Chief Personnel Officer / Hg
N.F. Railway, Maligaon
Guwahati-78

1. That, the answering respondents have gone through the copy of the application filed by the applicant and have understood the contents thereof.
2. That, the application suffers for want of valid cause of action and or right for filing the application. The applicant has no right to file this application. As per extant rules such application could be filed by the widow of the deceased employee i.e. Smt. Prabharani Goswami, widow of Late Benanali Goswami and that if widow expired then first dependant i.e. Sri Pradip Goswami could file the O.A.
3. That, the application is not maintainable in its present form and is fit one to be dismissed in limine.
4. That, for the sake of brevity, the meticulous denial of each and every statements made by the applicant in the application has been avoided, without admitting the correctness of such averments. The respondents do not admit any of the allegations/statements of the applicant except those which are either borne on records ~~as~~ are specifically admitted hereunder as correct and the applicant is put to strictest proof of those statements which are either ^{not} borne on records or admitted as correct hereunder.
5. That, the case is vexatious one without any substance and is the out-come of after-thought of the applicant.

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

6. That, the application is based on wrong premises and suffers from mis-conception and mis-interpretation of rules and laws on the subject besides being based on Surmise only.

7. That, the application is ~~based~~ barred by limitation as provided under Section 21 of the Administrative Tribunal Act 1985.

8. That, with regard to averments at paragraphs 4.1 to 4.5, 5.6 to 5.16 of the application it is submitted that only those averments which are borne on records are admitted and for the rest the applicant is put to strict proof of same. There appears to be some mistake in putting the paragraph Nos. as 5.6, 5.7, 5.8, 5.9, 5.10, 5.11, 5.12, 5.13, 5.14, 5.15, 5.16 instead of 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16. The allegations of the applicant that the applicant submitted representation for appointment or his petition was not considered or he visited frequently the office of the respondents or there is no chance for consideration of the applicant's appointment etc. as alleged at paragraph 5.9 are not admitted as correct. It is however to submit here-in that as applied by Smt. Prabharani Goswami widow of Late Benanali Goswami, the Railway administration took steps and processed the case for appointment of her son Sri Pradip Kumar Goswami in the Railways on compassionate

-: 4 :-

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

ground and due to some anomalies in case records etc. as detailed at paragraph 2 of the written statement and also in following paragraph 9 the case could not be processed further.

9. That, There are anomalies as regard date of birth of the applicant as observed from the records submitted by the applicant's mother Smt. Prapha rani Goswami :

A) The date of birth of Sri Pradip Kumar Goswami (present applicant) as recorded in School certificate (copy of which is annexed hereto as Annexure-R/1, which has been submitted as Annexure for appointment on compassionate ground) does not tally with other documents like :

- i) Family declaration given by Late Bananali Goswami while he was in service (copy of which is annexed hereto as Annexure R/2 for ready perusal).
- ii) Nomination submitted by Late Bananali Goswami during his life time (copy of which is annexed hereto as Annexure R3).
- iii) Affidavit submitted by Smt. Prapha rani Goswami widow of Late Bananali Goswami at the time of claiming the Final Settlement dues (copy of which is annexed hereto as Annexure R/4).

Contd....5

-: 5 :-

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

B) Following discrepancies regarding date of birth of Sri Pradip Kumar Goswami (in brief D.O.B.) are observed :

- i) As per family declaration, where the date of birth has been recorded as 19 yrs. as on 1.1.1988, the date of birth comes as on 1.1.1969.
- ii) As per nomination where age has been recorded as 19 years as on 12.1.1989, date of birth comes as 12.1.1970.
- iii) In the School Certificate the date of birth has been recorded as 15.3.1971.
- iv) In the Affidavit submitted by Smt. Prapharani Goswami, widow of Late Bananali Goswami, the date of birth has been shown as 23.1.1968.

10. That, due to discrepancies as mentioned at paragraph 9 above of this written statement the widow of the Late Bananali Goswami has been asked to submit the real fact regarding the date of birth of her son Pradip Kr. Goswami (applicant in the present case) so that the case can be processed further in respect of appointment of her son on compassionate ground and also to submit documentary clarification to support her statement. (A copy of the letter dated 6/9.5.2005 addressed to her is annexed here-to as Annexure R/5 for ready perusal).

Contd.....6

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Dy. Chief Personnel Officer / 48
N.F. Railway, Maligaon
Guwahati-11

11. That, in view of what have been submitted in the above paragraphs of this written statement, none of grounds for relief as mentioned at paragraph 5 of the application and relief as sought for under paragraphs 8 and 9 of the application, are sustainable under law and fact of the case and thus the prayers of the applicant are liable to be rejected.

It is emphetically denied that :

- a) the action of the respondents are illegal, arbitrary and violative of Railway Establishment Rules;
- b) the respondents have disregarded their own guidelines and rules or such appointment should have been given within 3 months etc. as alleged or that retirement benefits could be realised after filing Contempt Case etc. as alleged, or,
- c) there has been any discrimination in the case or any violation of Articles 14 and 16 of the Constitution of India, or,
- d) the action of the respondents are bad in law etc. as alleged.

12. That, it is submitted that all the actions taken in the case by the respondents are quite legal, valid and proper and in consonance to the provisions of extant Rules on the subject and have been taken after due application of mind and

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Chief Personnel Officer / 49
N.E. Railway, Maligaon
Guwahati-17

that the present case is based on wrong premises and suffers from mis-conception and mis-interpretation of rules and laws on the subject besides being on surmise only.

13. That, necessary enquiries are still under process to ascertain further information etc. if there be any, and the answering respondents crave leave of the Hon'ble Tribunal to ^{permit them} file additional written statement, if found necessary after such enquiries, for ends of Justice.

14. That, under the facts and circumstances of the case, as stated in the foregoing paragraphs of the written statement, the instant application is not maintainable under law and fact of the case and is liable to be dismissed.


.....Verification

VERIFICATION

I, R. ARIVU

son of

Late S. Ramasamy aged about 41 years by
occupation, Railway Service, working as Dy. CPO / Hg
of N.F. Railway Administration, Maligaon do hereby
solemnly affirm and state that the statements made in
paragraphs 1 and 4 are true to my knowledge and those
made at paragraphs 8, 9 and 10 are based on information
as gathered from records of the case which I believe to
be true and the rest are my humble submissions before the
Hon'ble Tribunal and I sign this verification on this
5th day of July, 2005.


Dy Chief Personnel Officer / Hg
N.F. Railway, Maligaon

NORTHEAST FRONTIER RAILWAY
FOR AND ON BEHALF OF UNION OF INDIA.

Transfer Certificate
RAMKRISHNA SHISHU VIDYALAYA
Govt. Aided High School
(Tinsukia), Dist : Tinsukia (Assam)

No.

Date 21.4.04

Certified that Pradip Kr. Goswami

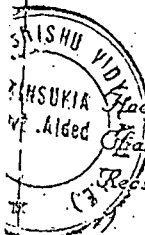
Son / Daughter of Late Banamali Goswami inhabitant of

Tinsukia left Ramkrishna Shishu Vidyalaya on 31-12-88

His / Her Date of birth according to Admission Register is 15.3.71

He / She was reading in Class VIII and had / had
not passed the examination for promotion to Class IX. All sums
due by him / her have been paid, viz, fees and fines upto 31.12.88 (date)

Countersig. 100



Facts :- NIL

Character :- Good

Reason of leaving :-

- i) Unavoidable change of residence
- ii) Ill Health
- iii) Completion of the School course
- iv) Minor Reason

Pradip 22/4/04
Asst. Inspector of S. School
TINSUKIA

B. K. B. B. 21.4.04
Headmaster

27/6/04
Ramkrishna Shishu Vidyalaya
Headmaster
RAMKRISHNA SHISHU VIDYALAYA (HIGH)
Govt. Aided, Tinsukia

H. F. Railway

FAMILY DECLARATION FORM

Name of the Employee Sri. Ramanath Goswami
Name of the Section Peon under DMMO TSK
Pay at present 912/-
Father alive or not NOT

No.	Name of persons for whom passes / Not T.G. may be required	Relationship	Age on the Jan 1 date of birth
1.	Mrs. Pratha Rani Goswami	wife	33 years
2.	Sri. Pradip Kr. Goswami	Son	19 "
3.	Sri. Priti Rani Goswami	Daughter	13 "
4.	" Sail Rani Goswami	w/omate	60 "
5.	Mrs. Sufali Rani Goswami	Wife/Sister	25 "
6.	Sri. Prifush Goswami	N/Brother	20 "
7.			
8.			
9.			
10.			

Signature in full:

Designation :

Section/Sub-Section: Peon under DMMO TSK

We certify that to the best of our knowledge the parties as shown are residing with and are wholly and are wholly dependant upon the employee.

Witness:

1. Signature <u>Bimal Das</u>	1. Signature <u>Pradip Goswami</u> (in full)
2. Designation <u>clerk (E)</u>	2. Designation <u>Office peon</u>
3. Section <u>DMMO TSK</u>	3. Section <u>DMMO TSK</u>

Ghosh:

(SIGNATURE OF IMMEDIATE OFFICER)

47-21
70-12
(34)

Tinsukia Division.

N.E. RAILWAY
See Rule 1334 (2) R.I.

Deposit No. 402620 PROVIDENT FUND NOMINATION Serial

I Sri Banamali Goswami hereby direct that the amount at my credit in my account No. 402620 of the State Railway Provident Fund at the time of my death not including the special contribution admissible under Rule 1334 of the State Railway Provident Fund rules shall be paid to the following person/persons in the manner shown against their name(s):

Name & Address of the nominee or nominees.	Nominee's relation-ship of any with the subscriber.	Age of nominee	Amount or share of accumulation in the Fund to be paid to the nominee.	Contingencies on the happening of which the nomination shall be deemed to become invalid.	How address and relation of the person in whom the right of the nominee is conferred in the event of his pre-deceasing the subscriber.
--------------------------------------------	-----------------------------------------------------	----------------	------------------------------------------------------------------------	-------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------

1. Prabha Rani Goswami - wife - 33 yrs Equal share to each. X X
8/10 R/3K behind Tinsukia Ry. High School (TSK)

2. Pradip Kr. Goswami - Son - 19
8/10 R/3K behind Tinsukia Ry. High School (TSK)

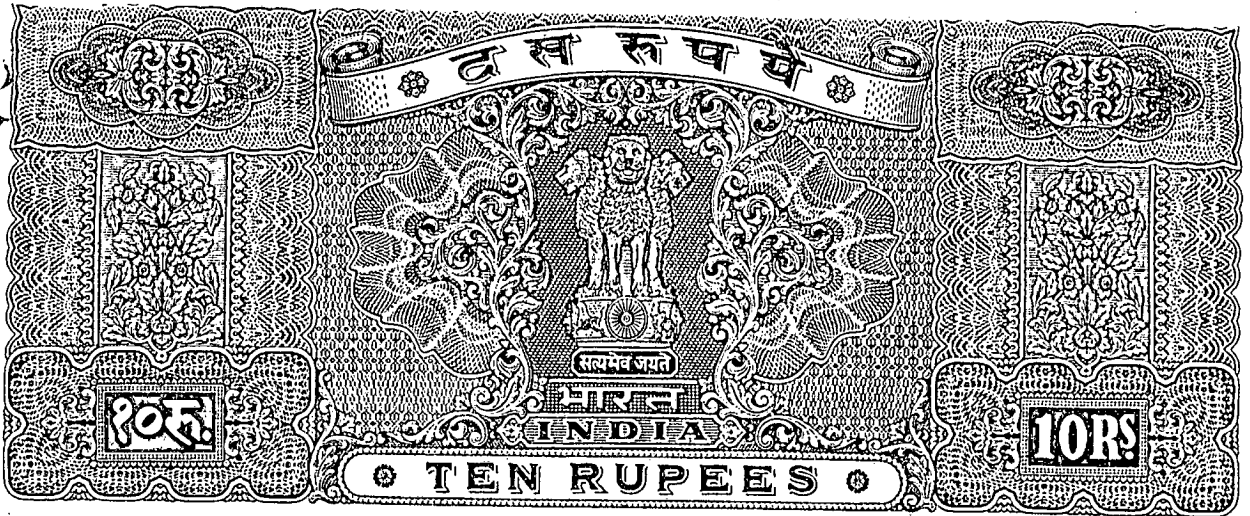
3. Priya Rani Goswami - Daughter - 13
8/10 R/3K behind Tinsukia Ry. High School (TSK)

(1) Witness Sunil Chandra Das
Address Chok - (E) DRMP's Office TSK Signature Banamali Goswami
(Subscribed)

(2) Witness Jatga Mohan Nath posted hold
Address OPPO
Station _____

Date 12-1-1989

Note: 1. Column should be filled on so as to cover the whole amount at credit.
2. The words 'pension' and the words in brackets shall be struck off if only one person is nominated.
3. Where a subscriber is not 'Hindu' Mohammedan, Buddhist or any other person exempted from the operation of the India Succession Act, 1925 (XXXIX) of 1925 this nomination shall notwithstanding stand cancelled in its entirety on his marriage or re-marriage.



IN THE COURT OF THE MAGISTRATE, TINSUKIA.

Date : 18-6-2004.

A F F I D A V I T

I, SMTI. PRABHA RANI GOSWAMI, wife of Late Banamali Goswami, aged about 51 years, by faith Hindu, by occupation - house-wife, resident of Tinsukia Railway Colony, Or.No.R-3, Tinsukia, P.O. & P.S. - Tinsukia in the district of Tinsukia, Assam, do hereby solemnly affirm and declare on oath as follows:-

1. ___ That my said husband Late Banamali Goswami was working as Peon under DRM(P), Tinsukia Division of N.E.Railway.

2. ___ That the said Late Banamali Goswami expired on 23-6-2001.

3. ___ That Late Banamali Goswami died leaving the following heirs and that they are alive this day :-

<u>Sl.No.</u>	<u>Name</u>	<u>Relationship</u>	<u>Date of Birth</u>
1.	Smti Prabha Rani Goswami	(wife)	- 22-4-53
2.	Sri Pradip Kumar Goswami	(Son)	- 23-1-68
3.	Smti. Bhabani Goswami	(daughter)	- 15-3-76

4. ___ That there is no other heir or near relative of Late Banamali Goswami.

5. ___ That the above named viz (i) Smti. Prabha Rani Goswami (wife), (ii) Sri Pradip Kr. Goswami and (iii) Smti. Bhabani Goswami are the minor children of the said deceased are living under care and guardianship of their mother, the natural guardian.

6. ___ That I have got no interest adverse to that of the aforesaid minors.

(Contd. ----- P/2.)

(Page-2)

7. ____ That I on my behalf as well as on behalf of the aforesaid minors son and daughter are entitled to the Pensionary benefits due to my husband Late Banamali Goswami.

8. ____ That there is no other surviving widow or children of my husband Late Banamali Goswami.

That I fully understand that any false information given or declaration made by me in this connection as above will render me liable to legal action.

I, Smti. Prabha Rani Goswami (wife) of late Banamali Goswami, Peon under DRM(P), Tinsukia Division, N.F.Railway, do hereby solemnly affirm that the statements made in the Affidavit are true to the best of my knowledge, belief and information. Nothing has been concealed. May god help me in taking oath whereof I on the date 18-6-04 set my hands hereinto.

Identified by :-

(S. Lahkar)
Advocate.

DEPONENT

Solemnly affirmed and declared on oath before me by the above-named deponent on being identified by Sri S. Lahkar, Advocate, Tinsukia.



MAGISTRATE

For Divisional Railway Manager (P)
N. F. Railway, Tinsukia



Regd as in AFD

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ANNEXURE - R/5

9938529

4

ANNEXURE - R/5

N.E. RAILWAY

Office of the
Divisional Railway Manager (P)
Tinsukia

No: EM/B-14 (Loose)

DI 06/05 2005

To,
Smt. Prabha Rani Goswami,
W/O Late Banamali Goswami, Ex-Office Peon/TSK
Qtr. No: Q/3 (near foot over bridge)
Railway Colony, Tinsukia.

**Sub: For appointment of your son in Group 'D'
on Compassionate Ground.**

Ref: Your application dated 29.07.2004

In reference to your application dated 29.07.2004, it is to inform you that Railway Administration is ready to offer for appointment on Compassionate Ground to Sri Pradip Kr. Goswami, S/O/ Late Banamali Goswami, Ex-O/Peon of TSK, but, date of birth of Sri Pradip Kr. Goswami as recorded in school certificate does not tally with the other documents i.e. (1) Family declaration given by Late Banamali Goswami while in service, (2) nomination submitted by Late Banamali Goswami during his live time and (3) affidavit submitted by Smt. Prabha Rani Goswami, W/O Late Banamali Goswami at the time of claiming FS dues. Detail regarding date of birth of Sri P.K. Goswami as per record submitted by you or Late Banamali Goswami are given below:-

1. In Family declaration, date of birth recorded as 19 yrs. as on 01.01.1928
2. Nomination as recorded 19 yrs. as on 12.01.1989
3. School certificate as submitted with date of birth 15.03.1971
4. As Affidavit, date of birth shown as 23.01.1968

You are therefore, hereby advised to produce the real fact regarding date of birth of Sri Pradip Kr. Goswami, son of Late Banamali Goswami, then only Compassionate appointment may be considered.

[Signature]
09/05

(A.K. Chhapolia)

Sr. Divisional Personnel Officer
for Divisional Railway Manager (P)
N.E. Railway, Tinsukia.