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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

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

ORDERSHEET

Original Application No. 90/2005.

Misc. Petition No. _____

Contempt petition No. _____

Review Application No. _____

Applicant(s) R. Hore

Respondents U.O.I. & Ors.

Advocate(s) for the Applicant(s) Mr. A. Dasgupta, Mrs M. Borah

Advocate(s) for the Respondents Railway, S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C.F. for Rs. 20,- deposited vide IPO/BD No. <u>20.02.16.0203</u> Dated <u>28/3/05.</u></p> <p><i>[Signature]</i> Dy. Registrar <u>7/4/05.</u></p> <p>Steps taken <u>7/4/05.</u></p> <p><u>19.4.05</u> Copy of the Judgment has been sent to the Dy. Sec. for issuing the same to the applicant as well as to the Dy. Standing Counsel.</p> <p><u>HS</u></p>	<p>08.04.2005</p> <p>mb</p>	<p>Present : The Hon'ble Mr. Justice G. Sivaraman, Vice-Chairman</p> <p>Heard xxx learned counsel for the parties. The application is disposed of in terms of the order passed in separate sheets.</p> <p><i>[Signature]</i> Vice-Chairman</p>

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No. 90/2005

DATE OF DECISION 8.4.2005

.....**Mr. R. Hore**.....

APPLICANT(S)

.....**Mr. A. Dasgupta, Mrs. M. Borah**.....

ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

.....**U.O.I. & Ors.**.....

RESPONDENT(S)

.....**Mr. J.L. Sarkar**.....

ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the judgment ?
 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.**
- no
lpz

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 90/2005

Date of Order : This the 8th day of April, 2005

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman

Sri Ranjit Hore
S/o Shri Khokan Ch. Hore
C/o - R. Kumar, Qtr. No. 268/B
West Nambari Rly. Colony
Guwahati - 781 011.

... Applicant.

By Advocates Sri A. Dasgupta and Mrs. Maya Borah.

- Versus -

1. The Union of India,
Represented by the Secretary to the
Ministry of Railways.
2. North East Frontier Railway
Maligaon, Guwahati 11.
3. Financial Adviser and
Chief Accounts Officer,
N.F. Railway, at its HQ at Maligaon.
4. Sri Sushanta Mukherjee
Divisional Financial Manager,
Alipurduar Junction, N.F. Railway.
5. Senior Assistant/Maligaon, -
N.F. Railway,
O/o FA & CAO, Maligaon.
6. Chief Personnel Officer,
N.F. Railway, Maligaon.

... Respondents

By Mr. J.L. Sarkar, Railway Standing Counsel.

ORDER (ORAL)

SIVARAJAN. J (V.C.)

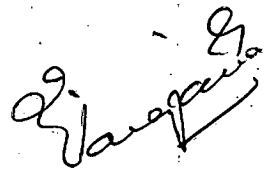
The applicant was appointed as Substitute Emergency Peon in N.F. Railway, Alipurduar Junction as per order dated 08.08.2003 (Annexure - A). The applicant joined the said post on 08.08.2003. The applicant completed 120 days on 05.12.2003. According to the applicant he attained Temporary Status w.e.f. 06.12.2003 in terms of letter of engagement issued by the Controlling Officer. It is stated in the application that the applicant completed 176 days satisfactory continuous service in the said post. However, the applicant was discharged from the said post vide order dated 31.01.2004 (Annexure - C). The applicant being aggrieved by the said order, filed an appeal on 03.06.2004 to the 6th Respondents and thereafter filed an appeal to the Second Respondents on 18.01.2005 (Annexure - E). Thereafter, he submitted reminders (Annexure - E series) dated 03.02.2005, 04.03.2005 and 09.03.2005. But there was no response from the 2nd Respondents till date. In the circumstances, the applicant has filed this application.

2. I have heard Mrs. M. Borah, learned counsel for the applicant and also Mr. J.L. Sarkar, learned standing counsel for the Railways. Since the applicant's appeal (Annexure - E series) is pending before the 2nd Respondent, it will not proper for this Tribunal to go into the merits of the case at present. The only relief ^{by which} can be granted ^{is let} to direct the Appellate Authority or the 2nd Respondent to consider the appeal and pass appropriate order in accordance with law by speaking order. In the circumstances, the 2nd Respondent is directed to dispose of the applicant's appeal dated 18.01.2005 (Annexure - E series) as expeditiously as possible. at any date within a period of two months from the date of receipt of

Int

copy of this order. Needless to say that the order must be speaking one and order so passed must be communicated to the applicant thereafter.

The application is disposed of as above at the admission stage itself. Counsel for the parties will produce copy of the order before the 2nd Respondent for compliance.


(G. SIVARAJAN)
VICE-CHAIRMAN

/mb/

- 7 APR 2005

गुवाहाटी ब्याचपीठ
Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH,
GUWAHATI**

Original Application No.....90...../ 2005

Shri Ranjit Hore

....Applicant

-VS-

Union of India & Ors.

....Respondents

DATE AND SYNOPSIS OF THE CASE IN THIS APPLICATION

Dates

Synopsis of the case

08.08.2003

The applicant was appointed as Substitute Emergency Peon in the North East Frontier Railway Alipurduar Jn. in the scale of Rs. 2500/- to Rs. 3200/- (vide Annexure – A) after he was found medically fit for appointment as per rule.

05.08.2003

He was attached to Divisional Finance Manager Alipurduar Junction North East Frontier Railway as per terms and conditions applicable to substitute Emergency Peons in the Railways (Vide Annexure B).

The applicant accordingly joined his post on 08.08.2003 attached to Sri Sushanta Mukherjee, DFM / APDJ whom he already offered services

prior to his appointment. On 05.11.2003 the applicant completed without break the period of 90 days' service with effect from 08.08.2004 the date of his appointment. A certificate of completion of his satisfactory service during 90 days' period was issued by his controlling officer Sri Sushanta Mukherjee and on the strength of that the applicant's service was further extended.

The applicant completed 120 days' service on 05.12.2003 and attained temporary status w.e.f 06.12.2003 in terms of letter of engagement issued by his controlling officer. After that the applicant completed 176 days' satisfactory continuous service in the said post.

31.01.2004

The applicant was discharged under office order No. APDJ / AD / Gr. D / 80 / Pt VI (Loose) dated 31.01.2004 issued by Divisional Finance Manager, Alipurduar Junction [Annexure: - C].

03.06.2004

He appealed to Chief Personnel Officer N.F. Railway, Maligaon. (Annexure: - D).

18.01.2005

Appeal to General Manager, N.F. Railway,

3.02.05, 4.3.05, 9.3.05

Maligaon. [Annexure: - E (Series)]

Being aggrieved by this arbitrary action and injustice the Applicant has approached before this Hon'ble Tribunal and prays for redressal of his grievances.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH,
GUWAHATI**

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Original Application No...../ 2005

Shri Ranjit Hore

....Applicant

-VS-

Union of India & Ors.

....Respondents

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Filed by

Filed by the Applicant
Ranjit Hore
Through Maya Borah
Advocate
07-04-05

7 APR 2005

गुवाहाटी ब्याचपीठ
Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH,
GUWAHATI**

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Original Application No.....90...../ 2005

Shri Ranjit Hore

....Applicant

-VS-

Union of India & Ors.

....Respondents

I. Particulars of the Applicant:

Shri Ranjit Hore,
S/o Shri Khokan Ch. Hore
C/o R. Kumar, Qtr. No. 268/B
West Nambari Rly Colony
Guwahati - 781011.

II. Particulars of the Respondents:

1. Union of India
Through the Secretary to the
Ministry of Railways.
2. North East Frontier Railway,
Maligaon, Guwahati - 11,
Through its General Manager.
3. Financial Adviser and
Chief Accounts Officer,
N. F. Railway, at its HQ at Maligaon.

Ranjit Hore

4. Sri Sushanta Mukherjee
Divisional Financial Manager,
Alipurduar Junction, N. F. Railway.
5. Senior Assistant Financial Advisor /
Administration / Maligaon, N. F. Railway
O/o FA & CAO / Maligaon
6. Chief Personnel Officer
N.F. Railway, Maligaon.

Ranjit Hoss

III. Particulars of the Order against which the application is made:

1. Letter No. APDJ / AD / Gr. – D / 80 / Pt VI (Loose) dated 31.01.2004 issued by Divisional Finance Manager, N.F. Railway, Alipurduar Junction.

The applicant, a Substitute Emergency Peon was appointed on 08.08.2003. But suddenly after completion of 176 days' service he was discharged from his services by an order under No. APDJ / AD / Gr. – D / 80 / Pt. VI (Loose) dated 31.01.2004 after obtaining temporary status.

IV. Jurisdiction of the Tribunal:

The applicant declares that the subject matter(s) of the application is / are within the jurisdiction of the Hon'ble Tribunal.

V. Limitation:

The applicant further declares that the present application is within the Limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

VI. Facts of the Case:

1. That the applicant, a citizen of India belongs to a poor family and is entitled to all the rights and privileges guaranteed to the citizens of India under the Constitution of India.
2. That the applicant was issued a letter of engagement of substitute emergency peon in scale 2550-3200/- attached to Divisional Finance Manager N.F. Railway, Alipurduar Junction.
3. That the applicant was appointed as substitute emergency peon ("Sub E/ Peon" for short) in the pay scale of Rs. 2550 – 3200/- PM under letter No. APDJ / AD / Gr. D / 80 / Pt VI (Loose) dated 08.08.2003 issued by Divisional Finance Manager, N.F. Railway, Alipurduar Junction ("DFM/AP & J" for short) with immediate effect and was posted in the existing vacancy of E/Peon attached to DFM/APDJ.

A copy of the letter dated 08.08.2003 is annexed hereto and marked as

Annexure: - A.

4. That the aforesaid appointment was in terms of letter No. PNO / AD / 66/ 293 / Pt. XVIII dated 28.07.2003 issued by Senior Assistant Financial Adviser / Administrator / Maligaon N.F. Railway ("Sr AFA / Ad / MLG" for short)

The applicant craves the leave of the court to pray to direct the respondents to furnish a copy of this letter by Sr. AFA / AD / MLG dated 28.07.2003 as it is not with the applicant.

5. That in consequence of the said letter of "Sr. AFA/AD/MLG" the office order No. 220 dated 05.08.2003 from the office of the Divisional Finance Manager / N.F. Railway / Alipurduar Junction was issued for appointing him in the post of Sub E / Peon on certain terms and conditions.

A copy of the office order dated 05.08.2003 is annexed hereto and marked as Annexure: - B.

6. That the applicant joined his post of Sub E / Peon attached to DFM/APDJ Sri Sushanta Mukherjee on 08.08.2003 to whom he was offering his services gratis for some months till appointment. That the applicant completed without break the period of 90 days' service on 05.11.2003 counting period from 08.08.2003 to 05.11.2003 to full satisfaction of DFM / APDJ Sri Sushanta Mukherjee respondent No. 4. That the certification of the applicant's satisfactory service during the 90 days' period above was issued by his controlling officer and / or Sri Sushanta Mukherjee. On the strength of that certification applicant's service was further extended.
7. That after completion of 120 days' service from 08.08.2003 to 05.12.2003 the applicant obtained temporary status w.e.f. 05.12.2003 in terms of his appointment and Railway Rules in force for performance of satisfactory services.
8. That all of a sudden the applicant was discharged from the service of Sub E/ Peon attached to DFM / APDJ

w.e.f. 31.01.2004 (AN) through letter No. APDJ / AD / Gr. D / 80 / Pt VI (Loose) dated 31.01.2004 issued by DFM / APDJ Respondent No. 4. As the text of this letter is pertinent to the present application it is reproduced below: -

You were engaged as Sub-E-Peon attached to DFM/APDJ vide letter No. APDJ/AD/Gr.-D/80/Pt.VI dated 08.08.2003. But your service is not satisfactory and up to the mark as stated by DFM/APDJ vide his letter No. Nil dated 05.11.2003 and 31.01.2004 Your service is no longer required; hence you are discharge (d) from the service of Sub-E-Peon attached to DFM/APDJ w.e.f. 31.01.2004 (A/N).

A copy of this letter was endorsed to FCAO / Admn / Maligaon.

A copy of this letter dated 31.1.2004 is annexed hereto and marked as Annexure- C.

9. That it is alleged in the order of discharge from service dated 31.1.2004 (Annexure - C) that the applicant's service was not satisfactory and up to the mark as stated by DFM/APDJ in his letter No. Nil dated 05.11.2003 and 31.01.2004. That it is apparent that the impugned order of discharge is punitive one and it cannot be issued without holding a departmental enquiry. This is not an order of termination simpliciter without causing any stigma.

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10. That the order of discharge from service dated 31.1.2004 was never served on the Applicant. It was collected at the behest of the Applicant by a messenger sent by him to the Office of DFM/APDJ, Respondent No. 4, in December, 2004.

11. That being in the dark the Applicant reported for duty on & after 31.01.2004 the date of issue of the order of discharge. That the Applicant's request to Respondent No.4 written order of discharge went in vain and he had to be contended with verbal intimation by respondent No. 4 that the Applicant needed not to be in service.

12. That sensing foul play and aggrieved by the verbal communication the Applicant represented to Chief Personnel Officer N.F. Railway, for redressal through his Application dated 03.06.2004 with a copy to FA & CAO/NF Railway/ Maligaon.

A copy of this Application is annexed hereto and marked as "Annexure – D".

13. That having no response, the Applicant appealed to General Manager, N.F. Railway through his application dated 18.1.2005 followed by reminders dated 03.02.2005, 04-03-2005 and 09-03-2005 but to no avail.

A copy each of the application dated 18.01.2005 and the reminders dated 03.02.2005, 04.03.2005 and 09.03.05 are annexed hereto and marked as Annexure: – E (Series) respectively.

14. That in the meanwhile the respondent No. 4 was transferred to New Jalpaiguri as Sr. Accounts Officer, N.J.P and is now working as Sr. Assistant Financial Adviser, N.J.P.
15. That Substitute Emergency Peon in the Indian Railway in a distinctive appointment which is neither casual nor permanent. It is a post based on a permanent cadre where in absence of the permanent employee another is employed as it substitute under the terms and conditions offered for the appointment. That the applicant was initially an temporary measure till the period of his attachment of temporary status after successful completion of 120 days' continuous service with full satisfaction to the officer he was attached with.
16. That the Railway Establishment Code Vol. I in Rule 149 provides for the way of termination of service and notice period in case of temporary railway servant under Railway Boards circular No. E (NG) 60 Cl. - 13 of 1305.1963 substitutes attaining temporary status are governed by Railway servants (Discipline and Appeal) Rules, 1968.
17. That the applicant was never issued any letter dated 05.11.2003 and 31.01.2004 by DFM / APDJ as mentioned in the discharge letter (Annexure: - C). That on the other hand the services of the applicant was further extended after 05.11.2003 on which he completed 90 days' continuous service. It is submitted that such

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Ranjit Hora

extension is given only when the officer to which a Sub-E-Peon is attached certifies that the latter's services during the 90 days' period were satisfactory.

18. That the applicant was made to sign his attendance on duty in Loose sheets at the New Jalpaiguri residence of Respondent No. 4 and he was required to work there though under the rules he is required to enter his attendance at Alipurduar Junction and work there attached to Respondent No. 4.
19. That positioned thus the applicant, it is submitted, is entitled to the privileges and protection of the relevant Rules in the matter of his discharge from service. But unfortunately the respondents have failed to act in accordance with the provisions of law in discharging him from his services.
20. That the relevant rule governing the termination of service of Temporary Railway Servant is laid down in the Railway Establishment Code Vol - I which is as follows:
- "Rule 149 - Termination of Service and periods of Notice: -
- (i) Temporary Railway servants. When a person without a lien on a permanent post under Government is appointed to hold a temporary post or to officiate in a permanent post, he is entitled to no notice of the termination of his service if such termination is due to the expiry of the sanction to the post which he holds or

Ranjit Hore

the expiry of the officiating vacancy or is due to mental or physical incapacity or to his removal or dismissal as a disciplinary measure after compliance with the provisions of clause (2) of Article 311 of the Constitution of India. If the termination of his service is due to some other cause, he shall be entitled to one month's notice provided he was engaged on a contract for a definite period and the contract does not provide for any other period of notice and to a notice of 14 days if he was not engaged on a contract.

4. In lieu of the notice prescribed in this rule it shall be permissible on the part of the Railway Administration to terminate the service of a Railway servant by paying him the pay for the period of notice."

Submitted that from a perusal of this Rule 149 above quoted it is understood that the termination of applicant's service was thus due to causes other than the terms of appointment, and that the discharge of the applicant was thus due to causes other than those included in the statutory rule –

That the Railway Boards' circular No. E(NG) 60 CL – 13 of 13.05.1963 has provided that substitutes on completion of four months service when paid regular scale of pay attain temporary status and are as such governed by Railway Servants (Discipline and Appeal) Rules, 1968.

That the applicant is a substitute on regular scale of pay attained temporary status on and it is submitted that a such he is governed by Railway Servants (Discipline & Appeal) Rules, 1968.

Ranjit Hooa

VII. Grounds for Relief with Legal Provision: -

Being highly aggrieved by the impugned order, the applicant prefers this application on the following amongst other -

GROUND S

- (a) For that the impugned order dated 31.04.2004 for discharge of the applicant from service is without any reason and prima facie illegal and therefore liable to be set aside.
- (b) For that the respondents have acted malafide and without application of mind in issuing the impugned order of discharge and therefore have rendered the same liable to be set aside.
- (c) For that respondent No. 4 is not the constituted authority having power to terminate the service of the applicant.
- (d) For that before issuing the order of discharge no Disciplinary Proceeding was initiated against the applicant. The order of termination was for definite misconduct against which the applicant has the protection under Art. 311 (2) of the Constitution. The Railway servants (Discipline and Appeal) Rules 1968 provides for the relevant rules for imposing penalties including termination of services. Railway Board's circular No. E

(NG) 60 CL – 13 of 13.05.1963 provides that Substitute on completion of 4 months' service when paid regular scales of pay attain temporary status and are as such governed by Rly. Servants (Discipline & Appeal) Rules 1968. This violates principles of Natural Justice.

- (e) For that the applicant was never served any show cause notice to explain the charge of misconduct and inaptitude.
- (f) For that after successful completion of 120 days' continuous service the Applicant attained temporary status and was required to be governed by the statutory provisions and the terms and conditions of appointment in the matter of his service.
- (g) For that the impugned discharge order is violative of Article 14 and 16 of the Constitution of India as the power of termination had been exercised arbitrarily. It was not based on the relevant consideration required to be considered. The authority concerned was influenced by extraneous consideration not relevant for this case.
- (h) For that discharge from service of the applicant resulted in deprivation of his livelihood against the procedure established by law which violates Article 21 of the Constitution of India.
- (i) For that the impugned order of discharge was vitiated by issue of two official letters without any official number by DFM / APDJ and bringing these two letters to serve as the basis of assessment of the applicant's eligibility to

continue in the service. These letters were never issued to the applicant.

- (j) For that the discharge order is after thought because it was based on the letter dated 05.11.2003 which found fault with the applicant's service though on 05.11.2003 the applicant completed 90 days' service and his service was extended from the next day on ratification of the same DFM / APDJ respondent No. 4. Thus respondent No. 4 has reprobated and approbated fact of satisfactory service by the applicant at the same time.
- (k) For that the order of discharge was on extraneous consideration and was issued in private interest of respondent No. 4.
- (l) For that the discharge order was beyond the authority of Rule 149 of the Railway Establishment Code Vol - 1.
- (m) For that the applicant was not served the order of discharge for more than 10 months during which time the sanction to his post was still existing and the applicant was to be governed by statutory rules.
- (n) For that against this background the applicant was not given a reasonable opportunity for defending himself against the imputations brought against him.

VIII. Details of the remedies exhausted: -

That the applicant appealed CPO N.F. Railway (Respondent No. 6) on 03.06.2004 with a copy to FA & CAO / N.F. Railway (Respondent No. 3). He also appealed to General Manager / N.F.

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Railway on 18.01.2005 followed by three reminders dated 03.02.2005, 04.03.2005 and 09.03.2005 but to no avail. That a long period has elapsed since his discharge and his 1st representation to CPO, N.F. Railway and the applicant verily believes that no remedy is forthcoming from the respondents.

IX. Matters not previously filed or pending in any other Court or Tribunal: -

The applicant declares that the subject matter(s) of this application are not pending before any Court of Law, any other authority or any other branch of the Hon'ble Tribunal.

X. Reliefs Sought: -

That in the premises aforesaid the applicant humbly prays that your Lordships may be pleased to call for the records, issue notices on the respondents to show cause as to why the impugned order issued under office order No. APDJ / AD / Gr. D / 80 / Pt VI (Loose) dated 31.01.2004 by the Divisional Finance Manager, N.F. Railway, Alipurduar Junction (Annexure: - C) shall not be set aside and quashed and upon hearing the parties may be pleased to direct the respondent authorities to reinstate the applicant in the original or other equivalent post in identical scale with effect from the date of discharge and pay the back wages from the date of discharge as well or pass such further or other order (s) as your Lordships may deem fit and proper in the facts and circumstances of the case.

XI. Interim order if any, prayed for:

No interim order is prayed for in this application. However the applicant prays for an early hearing of the Original Application.

XII. Particulars of I.P.O.

I.P.O. Number - 206160203
Date of Issue - 28/3/05.
To whom payable - The Registrar, CAT
Payable at - Guwahati

XIII. Documents.

Detailed particulars of the documents are indicated in the Index of this Application.

.....Verification

VERIFICATION

I, Sri Ranjit Hore, Son of Sri Khokan Ch. Hore, aged about 27 years, resident of Railway C/o R. Kumar, Qtr. No. 268/ B, West Nambari Colony, Guwahati – 11, do hereby declare and verify as under: -

1. That I am the applicant of the instant application and as such I am well aware of the facts and circumstances of the case.
2. That the statements made in the accompanying petition at Para 1., 2., 3., 4., 5., 6., 7., 9., 10., 11., 12., 14. and 16., 17., 18. are true to my knowledge and belief and those made in Paras ... 8. ... and ... 20. and being matters of records I verily believe those to be true and the rests are my humble submissions before this Hon'ble Tribunal.

And in verification whereof, I sign this verification today dated
... 07-04-05 ... at Guwahati.

Ranjit Hore
Signature

N.F. RAILWAY

Office of the
Divl. Fin. Manager,
Alipurduar Jn.

No. APDJ/AD/Gr.D/80/Pt.VI(Loose)

Dated: 08-08-2003.

To,

Shri Ranjit Hore
Son of Shri Khokan Ch. Hore,
C/o DFM/APDJ/N.F.Rly.Sub :- Engagement as Substitute Emergency
Peon in Scale Rs. 2550-3200/- .

In term's of Sr.AFA/AD/MLG's L/No.PNO/AD/66/293/
Pt.XVIII dt.28.07.03 & DFM/APDJ's O/O No.220 dt. 05.08.03 and
on being found medically fit in C/2 (two) vide MS/APDJ's
certificate No.63 dt.8/8/03 you are hereby engaged as substitute
Emergency Peon with immediate effect on pay Rs.2550-3200/- and
posted against existing vacancy of E/Peon attached to DFM/APDJ
for a period of 90 days subject to the following conditions :-

1. Your appointment will not confer upon any right to claim for further appointment in this Railway and you are liable to be discharged without notice when your services will not be required by the Administration or any expiry of the currency of the post against which you are employed or on medical ground or physical incapacity or in the event of posting of approved hand.
2. You will be entitled to all benefits as admissible to temporary staff.
3. You will be transferred with the officer for whom you are engaged as Emergency Peon or you will be discharged in the event of the officer for whom you are engaged or express his unwillingness to take you on transfer along with him.

sd/-

DIVL.FINANCE MANAGER
N.F.RLY/ALIPURDUAR JN.

- Copy to :-
- 1) Sr.AFA/AD/MLG. This is in reference to his L/No. PNO/AD/66/293/Pt-XVIII dated 28-07-03.
 - 2) DFM/APDJ. On receipt of a certificate from him after expiry of 90 days period the services of Shri Ranjit Hore, Sub-E-Peon will be extended further as continuity.
 - 3) DFM/APDJ (4) Sr.SO/EN (5) Sr.SO/F (6) SSO/ADMN.

*Certified to be
true copy
Maya Borah
Advocate.*

sd/-

DIVL.FINANCE MANAGER
N.F.RLY/ALIPURDUAR JN.



ab

Office Of The Divisional Finance Manager
N. F. Railway/Alipurduar Junction

मंडल वित्त प्रबंधक का कार्यालय/ पू० सी० रेल /अलीपुरद्वार जंक्शन

Office Order No: 220

Date: August 5, 2003

Ref: - Sr.AFA/AD/Maligaon's L/No: PNO/AD/66/293/Pt.XVIII dt. 28.07.03.

Shri. Ranjit More, S/o Shri khokon Ch. More is appointed as Subs E/Peon in scale Rs. 2550- 3200/- (Revised) plus other allowances as admissible under rules with immediate effect against the existing vacancy and attached with DFM/APDJ on the following terms and conditions: -

- 1) Shri Ranjit More is appointed as Subs E/Peon for a period of 3 months only at the first instance and is appointed as Subs E/Peon will be extended further on receiving of a certificate from the controlling officer that his services as Subs E/Peon are satisfactory and his services can be continued further.
- 2) If his work is found unsatisfactory, he will be discharged in terms of Para -301 of R-1 and he will have no further chance of being absorbed as Subs E/Peon in future.
- 3) He will not be entitled to any benefit other than those admissible to Subs E/Peon.
- 4) His appointment as Subs E/Peon will not entitle him to automatic absorption/appointment to Railway service unless he is selected in the approved manner for appointment to regular Railway post as per his turn for such appointment on the basis of his position in the selection list.
- 5) On being discharged from the service due to his unsatisfactory working or otherwise (including transfer of controlling Officer), the discharged Subs E/Peon will have no automatic claim for absorption against the existing vacancy. The absorption of such discharged Subs E/Peon will only be done if he is chosen by one Officer entitled to a Subs E/Peon.

Authority: - GM's approval dt. 23.07.2003 at PP/4 of DFM/APDJ's case file No: APDJ/AD/Gr-D/80/Part.VI(Loose).

[Signature]
For DIVL. FINANCE MANAGER
N. F. RLY/ ALIPURDUAR JN

Date: August 5, 2003

NO: APDJ/AD/Gr-D/80/Part.VI (Loose).

Copy forwarded to: -

- 1) FA & CAO/N.F.Rly/Maligaon
- 2) DRM/N.F.Rly/APDJ
- 3) ADRM/N.F.Rly/APDJ
- 4) Dy.CAO/G/N.F.Rly/Maligaon
- 5) Sr.AFA/AD/N.F.Rly/Maligaon

- 6) DPO/N.F.Rly/APDJ
- 7) Sr.SO/AD/APDJ
- 8) Sr.SO/ENGA/APDJ
- 9) Staff Concerned.

*Certified to be
true copy
Mays Barah
Advocate*

[Signature]
For DIVL. FINANCE MANAGER
N. F. RLY/ ALIPURDUAR JN

Office of The Divisional Finance Manager
N.F.Railway/Alipurduar Junction.

NO.APDJ/AD/Gr-D/80/Pt.VI(Loose)

Dated : 31.04.2004

To,

Shri Ranjit Hore,
Sub-E/Peon,
under DFM/APDJ.

Sub :- Discharge from service of Sub-E-Peon
attached to DFM/APDJ/N.F.Rly.

You were engaged, as Sub-E-Peon attached to DFM/
APDJ vide letter no.APDJ/AD/Gr-D/80/Pt-VI; dated 08-08-2003.
But your service is not satisfactory & upto the mark as stated
by DFM/APDJ vide his letter No.Nil Dated 05.11.2003 and
31.01.2004. Your service is no longer required; hence you
are discharge from the service of Sub-E-Peon attached to DFM/
APDJ w.e.f. 31.01.2004 (A.N.).

Sd/-

Divl.Finance Manager,
N.F.Rly/Alipurduar Jn.

Copy to :- 1) FA&CAO/ADMN for kind information and necessary
action please.
2) DFM/APDJ/Bill for necessary action please.

Sd/-

Divl.Finance Manager,
N.F.Rly/Alipurduar Jn.

Certified to be
true copy.
Maya Borah
Advocate.

To
The Chief Personnel Officer,
N.F.Railway, Maligaon,
Guwahati-11

Sir,

Sub:- Prayer for re-engagement as Substitute Emergency Peon
and justice.

I, Shri Ranjit Hore, Ex. Substitute Emergency Peon beg to submit the
following few lines for favour of your kind consideration and favourable action please.

That Sir, I was engaged as a Substitute Emergency Peon under
Divisional Finance Manager at APDJ in scale Rs 2550-3200/- vide No. APO/AD/Gr.D/80/Pt.VI
(loose) dated 2.3.03 and worked continuously for a period of 90 days with entire
satisfaction of my superiors.

That Sir, sorry to mention that after completion of 90 days I had been
terminated from service neither any termination letter was served to me nor one month
salary was paid. Here it will not be out of place to mention that till date I have not received
any termination letter from the administration. Although decision was that after completion
of 90 days service further extension will be made.

That Sir, in this context I would like to mention further that as per rule
I should had been served termination letter before one earlier from the date of termination
and also one month salary but in my case I have been arbitrarily terminated when I was
served with full satisfaction of my superiors.

That Sir, for your kind information that my family consists of widow old
mother and two young sisters who are totally dependent on me as there is no other earner
in my family. Now a days I am along with my family members are passing days with
starvation. In this stage only your kind hands can survive us.

You are, therefore requested to kindly re-engage me as Substitute
peon so that I can earn my bread for my survival along with my family members.

For this act of kindness I shall remain ever grateful to you and oblige thereby.
Thanking you.

Yours faithfully,

Dated :- 3-6-2004

(Ranjit Hore)

Ex. Substitute Emergency Peon
C/O Sri P.Dey, Qrs No. 268/A
West Nambari/Guwahati-11

✓ Copy to :-

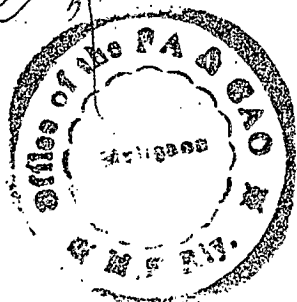
FA & CAO/N.F.Railway/Maligaon for information and necessary action please.

*Certified to be
true copy
Maya Borah
Advocate*

Yours faithfully,

Ranjit Hore
(Ranjit Hore)

Ex. Substitute Emergency Peon



To,
The General Manager,
Northeast Frontier Railway,
Maligaon, Guwahati-781011.

Dated Maligaon, the 18 January, 2005.

IN THE MATTER OF :

A prayer for revocation of discharge from service under letter No. APDJ/AD/Gr-D/80/Pt-VI(Loose), Dated 31-01-2004 issued by Divisional Finance Manager/N.F.Rly/APDJ (copy enclosed)

--AND--

IN THE MATTER OF :

Rein-statement in the post of Substitute Emergency Peon without interruption in Service.

--AND--

IN THE MATTER OF :

Payment of back wages for the period of termination of service remaining in force.

--AND--

IN THE MATTER OF :

The petition dated 3-6-2004 to Chief Personnel Officer N.F.Rly, Maligaon (copy enclosed).

--AND--

IN THE MATTER OF :

The humble petition of the petitioner undersigned.

contd...2.

Certified to be
true copy.
Maya Borah
Advocate.

Most respectfully prays that the humble petitioner was attached to Divisional Finance Manager/APDJ N.F.Rly on his engagement as substitute Emergency Peon ("Sub E/Peon" for short) on order of Divisional Finance Manager/N.F.Rly/APDJ under Office order No.APDJ/AD/Gr-D/80/Pt-VI (Loose), dt.8-8-2003 in terms of Sr.AFA/AD/MLG's letter No.PNO/AD/66/293/Pt-XVIII dt.28-7-03 and DFM/APDJ's O/O No.220 dt.5-8-03 (copies of the three enclosed).

That the engagement of the petitioner as sub/E.Peon was under prescribed procedure as established by Law on condition of certain Requirements broadly indicated in the letter of engagement/appointment by Divisional Finance Manager dt.8.8.2003 on his attachment to DFM/APDJ.

That as stipulated, the petitioner's service was rendered in a way satisfactory to the officer to whom he was attached as such and it was certified so as required by rules for continuance of the petitioner in his appointment to the service of the self same officer to whom he was attached.

That the petitioner thus continued in his service with satisfaction of the officer to whom he was attached up to the completion of 120 days period that elapsed by 5/12/2003 completing the period from 8-8-2003 to 5-12-2003 and fulfilled the condition precedent to his attaining the temporary status of service as sub E/Peon in the employment of Indian Railways.

That since 5-12-2003 the petitioner has been entitled to all the rights and privileges in respect of service condition and control of his career as prescribed by instant rules.

contd...3.

That holding a civil post as such the petitioner is entitled to the guarantees offered by the Article 311 of the constitution.

That to his dismay the petitioner found that the respected Divisional Finance Manager/APDJ served him the order of the said discharge being No.APDJ/AD/Gr-D/80/Pt-VI(Loose) dt. 31-1-2004 from service though his service was certified categorically to be satisfactory by him as required for his service to be continued when the petitioner completed 90 days of service on 5-11-2003.

That the petitioner could not know how he incurred the displeasure of the officer to whom he was attached and thus fail to comprehend the imputations very intriguingly made out against the petitioner only on the date of his discharge.

That the humble submission of the petitioner is that the said action of DFM/APDJ to whom the petitioner was attached is arbitrary, without jurisdiction and legal authority.

That the imputations of the petitioner's service being "unsatisfactory and not up to the mark" put into the letter of discharge by DFM/APDJ dated 31-1-04 issued from the office of DFM/N.F.Rly/APDJ under No.APDJ/AD/Gr-D/80/Pt-VI (Loose) dated 31-01-2004 is perverse, mala fide and a matter of after thought. That liberty to point out may be requested of your goodself the facts showing the gross concoction of the imputation of the "unsatisfactory and not up to the mark service" from this order of discharge itself as below.

That the order of discharge refers to the letter of DFM/APDJ dt. 5-11-2003 and 31-1-2004 as having been stated therein that the petitioner's service was "unsatisfactory and

contd...4.

not upto the mark". How came that when the respected officer to whom the petitioner was attached found his service "Unsatisfactory and not up to the mark" on the 90th day of his appointment/attachment to him and yet the deptt. extended his service beyond the period of 90 days up to the 176th day which could be done only on the certification of the self same officer of the petitioner's service as satisfactory and worthy of retention issued by that officer i.e. DFM/APDJ on expiry of the date of completion of 90 day's service?

That further that the DFM/APDJ's letters cited in the discharge order are irregular and planted can be seen from the fact that there is no number given to the letters on issue at his official capacity submitted that the said letters being absurd are put on record to bolster the illegal case of discharge.

That it is clear that the officer colluded with the deptt. and/or acted on his sole authority as the appointing and discharging authority to concoct such imputations to make a valid case of discharge even if the officer (DFM/APDJ) was allowed both to approbate and reprobate his own certification of satisfactory service by the petitioner.

That the imputations are not cognisable as are made by an interested party and on the face of that party's duplicity and thus without legal authority, and void and can't be the basis of the petitioner's discharge from service.

That the respected DFM/APDJ failed to act in accordance with law and his action is in violation of Departmental authority in as much as a substitute employee attaining temporary status having already been in employment on General Manager's sanction is regulated by standard procedure including

contd...5.

Railway servants (Discipline and Appeal) Rules 1968 and Rule 1704 and Rule 1708 of Railway Establishment code.

That further the imputations are beyond the period of 120 days past and as such do not devolve on his personal satisfaction of the services rendered but on prescribed authorities.

That your goodself may permit to point out that the order of discharge is not in accordance with the terms and conditions of the appointment of the petitioner because on 31-01-04 the post of substitute E/Peon was vacant/current, the services through the post was required by the Administration, the petitioner had no medical or physical disqualification/in-capacity nor any approved hand was posted in his place nor the officer to whom he was attached was transferred.

That the petitioner did n't receive the discharge letter till Dec'2004 when he received it through another employee of the N.F.Rly/HQ at Maligaon and the Petitioner's request for a written order to DFM/APDJ went in vain even though he reported for duty after 31/1/04.

That sensing misfortune and foul play the petitioner represented before CPO/N.F.Rly/MLG vide his application dated 3-6-2003 (copy enclosed) but nothing has been heard from that end or from FA & CAO/N.F.Rly/MLG till today.

That finding no alternative the humble petitioner has approached your goodself now with the instant prayer with high expectation of your justice.

contd...6

That on the above premises it is submitted that your humble petitioner had been subjected to petitioner has been subjected to illegal administrative action depriving him of his livelihood and it is the humble prayer -

- (i) That the order of discharge from service under letter above cited be revoked forthwith,
- (ii) That your petitioner be reinstated in his post of Sub E/Peon without interruption in service ; and
- (iii) That the back wages for the period the said order of discharge from service remains in force be paid to your petitioner immediately.

And for which act of your kind justice the humble petitioner would ever pray.

Yours faithfully,

Ranjit Hore

(Ranjit Hore)
Ex-Sub E/Peon on Discharge,
under DFM/APDJ/NFR,
C/o R. Kumar
Qrs.No.268/E, West Nambari,
Guwahati - 781011.

The General Manager
North East Frontier Railway
Guwahati-781011.

Dated the 3rd Feby/2005

Hon'ble Sir,

Sub:- Prayer for revocation of order of discharge from service under letter No. APDJ/AD/Gr-D/80/Pt.VI (loose) Dated 31.01.2004 issued by Divisional Financial Manager/N.F.Railway/APDJ etc.

.....

Kindly refer to my application dated 18.1.2005 on the subject on which I have not been given any favour of consideration at your end upto now.

I therefore beg again to take necessary action in my favour on my prayer so as to enable me to get back the only source of livelihood and thus oblige.

With regards,

Yours faithfully,

Ranjit Hore

(Ranjit Hore)
Ex:Sub. E/peon on
discharge under
DFM/APDJ/N.F.Rly
C/O R. Kumar
Qrs. No. 268/B,
West Nambari
Guwahati-781011.

Read
Rmm
13/2/05

To,
The General Manager,
North East Frontier Railway.
Maligaon, Guwahati- 781011.

Dated the 4 March'2005.

Hon'ble Sir,

Sub :- Prayer for revocation of order of
discharge from service under letter
No. APDJ/AD/Gr-D//80/Pt.VI(loose)
Dated 31.01.2004 issued by Divisi-
onal Financial Manager/N.F.Railway/
APDJ etc.

Kindly refer to my application dated 3.2.2005
on the subject on which I have not been given any
favour of consideration at your end upto now.

I therefore beg again to take necessary action
on my favour on my prayer so as to enable me to get back
the only source of my livelihood and thus oblige.

With regards,

Yours faithfully,
Ranjit Hore
(Ranjit Hore)
Ex. Sub.E/Peon on
discharge under
DFM/APDJ/N.F.Rly
C/o.R.Kumar
Qr.No.263/B,
West Nambari
Guwahati- 781011.

Recd.
Rmy
4/3/05

To,
The General Manager,
North East Frontier Railway
Maligaon, Guwahati-781011.

Dated the 9th March'05.

Hon'ble Sir,

Sub :- Prayer for revocation of order of
discharge from service under letter
No. APDJ/AD/Gr-D/30/Pt.VI(loose)
Dated 31.01.2004 issued by Divisi-
onal Financial Manager/N.F.Railway.

Kindly refer to my application dated 3rd
February & 4th March'2005 on the subject on which I
have not been given any favour of consideration at
your end upto now.

I therefore, beg again to take necessary
action in my favour on my prayer so as to enable me
to get back the only source of my livelihood and thus
oblige.

With regards,

Yours faithfully

Ranjit Hore

(Ranjit Hore)

Wx.Sub.E/Peon on
discharge under
DEM/APDJ/N.F.Rly.
C/o. R.Kumar
Gr.No.268/B,
West Nambari
Guwahati- 781001.

ple
Recd
10/3/05