

Advocate for the Respondant(S).....

Notes of the Registry	Date	Order of the Tribunal
<p>his contempt petition been filed under section 14 of The A.T. 1985 for deliberate hostile non-compliance Honble Tribunal's order dated 7.3.06 sent by the C.A.T. Kolkata Bench in OA 239/05.</p> <p>Laid before Honble Court for orders.</p> <p>20.6.06 Section Officer</p> <p>Notice &amp; order sent to D/Section for issuing to resp.</p> <p>10-2 by regd. A/D post. and resp-3 received by hand. D/No-659, 660 26/6/06. Dt: 29/6/06</p>	<p>21.6.2006</p> <p>bb</p> <p>25.07.2006</p> <p>mb</p>	<p>Smt. Barnali Bhuyan, learned coun- sel for the applicant is present.</p> <p>Issue simple notice to contem- ners 2 &amp; 3 (respondents 2 &amp; 4 in O.A. No. 239/05) and they will report how far they have complied with the orders of this Tribunal in O.A. No.239/2005. Post on 25.7.2006.</p> <p>Vice-Chairman</p> <p>Dr. J.L. Sarkar, learned standing counsel for the railways submitted that he has already filed reply affidavit stating that the name of the applicant has already empanelled in the list and the copy of the same has already served to the learned counsel for the applic- ant.</p> <p>Post on 31.07.2006.</p> <p>Vice-Chairman</p>

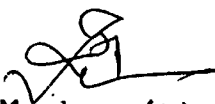
24.7.06

Reply submitted  
by Respondent Nos. 1 & 2.

31.07.2006 Present: Hon'ble Sri K. V.  
Sachidanandan, Vice-Chairman.  
Hon'ble Sri Gautam Ray,  
Administrative Member.

Mr T. Deuri, learned counsel for  
the applicant submitted that he does not  
want to pursue the Contempt Petition,  
since the applicant has already been  
selected. The submission is recorded.  
Also, heard Dr J.L. Sarkar, learned  
standing counsel for the Contemnners.

The Contempt Petition is dismissed  
as not pressed.

  
Member (A)

  
Vice-Chairman

mb

1.8.06  
Copy of the  
order has been  
sent to the D/Sec.  
for issuing the  
notice to the applicant  
as well as to the  
obj. & for dry certified.  
Hb.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

20 JUN 2006

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH AT GUWAHATI

Filed by the Petitioner  
through  
Miss Bonali Bhuyan,  
Advocate.  
20/6/06

CONTEMPT PETITION NO. 16 /2006

IN ORIGINAL APPLICATION NO. 239/2005

IN THE MATTER OF:

An application under Section 17 of the Administrative Tribunals Act, 1985, read with Section 12 of the Contempt of Courts Act for deliberate and willful non-compliance of Hon'ble Tribunal's order dated 7.3.06 passed by the Central Administrative Tribunal, Guwahati Bench in O.A. No. 239/2005.

-AND-

IN THE MATTER OF:

Sri Abhay Kr. Das,  
S/o Late Banti Ram Das,  
Resident of Vill. & P.O. Dihina,  
Dist. Kamrup, Assam.

...Applicant/Petitioner

-Versus-

Contd. P/-

Sri Abhay Kumar Das

1. Jiban Jyoti Borah, Chairman,  
Railway Recruitment Board,  
Station Road, Guwahati-781001.
2. Sri A.K. Sanwanka,  
General Manager,  
N.F.Railway, Maligaon, Guwahati.
3. Sri R.K. Sonowal  
Assistant Secretary,  
Railway Recruitment Board,  
Station Road, Guwahati-781001.

.....Dpp.parties/contemners

The humble petition of the  
petitioner abovenamed-

MOST RESPECTFULLY SHEWETH:

1. That instant applicant is filed for violation of the Hon'ble Tribunal's Order dtd. 7.3.06 passed in original Application No. 239/2005. The applicant states that vide order dtd. 7.3.2006 Hon'ble Tribunal was pleased to direct the respondents to verify the counter signature by the Inspector of Schools and if concerned it was directed that the applicant be granted the benefit of appointment as expeditiously as possible. Although the applicant immediately submitted the certified copy of the order of the Hon'ble Tribunal immediately even after a lapse of 3(three) months the contemners are sitting over the matter and have not complied with the

Contd..P/-

Sri Abhay Kumar Das

said order dtd. 7.3.06 passed in DA No.239/05 till date and hence the present contempt application.

2. FACTS OF THE CASE:

2.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India and the laws of the land.

2.2 That the applicant begs to state that he studied upto Class IX in the Krishna Dev High School and thereafter he could not pursue his studies due to the poor economic condition of his family and is constantly looking for a job in order to mitigate the poor economic condition of his family. After that he registered himself in the District Employment Exchange and registration number allotted to the applicant by the Department of Labour and Employment Exchange is 987/01. The petitioner belong to Schedule Caste Community and the Deputy Commissioner, Kamrup issued a Certificate in that respect on 7.3.95.

2.3 That while the applicant was in search of a suitable job he came across an advertisement published on 10.7.03 in the local English news paper "Assam Tribune" for recruitment of Group-D posts lying vacant in the North East Frontier Railway. The said advertisement was issued by the Chairman, Railway Recruitment Board, Guwahati-1.

Sri Abhay Kumar Das

Contd..F/-

2.4 That pursuant to the advertisement the applicant collected the prescribed application format, filled up the same and submitted the format along with required enclosure to the concerned authorities after fulfilling the required formalities as stipulated in the said advertisement.

2.5 That after receipt of the forms and enclosures the authorities duly verified the same and admit card was issued to the applicant for the recruitment test to be held on 9.11.03 in the centre namely, Sarva-janik Hindi HE School, Lalmati, Noonmati, Guwahati-21. The applicant was allotted with the Roll No. 23002053.

2.6 That thereafter with thorough preparation the applicant appeared in the written test dtd. 9.11.03 and he came out successfully which is evident from the result declared in the news paper Assam Tribune dtd. 27.4.05 where the Roll No. of the applicant appeared.

2.7 That pursuant to his result in the written test the applicant was called upon to appear in the physical efficiency test vide call letter dtd. 10.5.05 to be held on 10.6.05 at Maligaon Railway Stadium at 6.30 AM. The said call letter dtd. 10.5.05 was issued by the Assistant Secretary for Chairman, Railway Recruitment Board, Guwahati.

Sri Abhay Kumar Das

Contd..P/-

2.8 That the applicant participated in the physical efficiency test dtd. 10.6.05 and this time also he came out successfully and as such owing to his success in the physical efficiency test a call letter dtd. 10.6.05 was issued by the Assistant Secretary for Chairman, Railway Recruitment Board by which letter the applicant was advised to attend the office of the Railway Recruitment Board, Station Road, Guwahati-1 on 11.6.05 at 10 AM for verification of original certificates, testimonials etc.

2.9 That as advised in the letter dtd. 10.6.05 the applicant produced the required testimonials in original. The officials present in the office of the Railway Recruitment Board duly certified the certificates, documents etc. submitted by the applicant without raising any objection.

2.10 That while the applicant was waiting for a positive result to come owing to his proficiency and success in the written test as well as the physical efficiency test he was shocked and surprised to see the final result of the Group-D category for the post of Trackman/Khalasi/Helper II published in the news paper Assam Tribune on 13.7.05 where the name of the applicant did not find a place.

Contd..P/-

*Sanjib Kumar Das*

[ 6 ]

2.11 That the applicant being shocked and surprised he enquired the matter in the office of the Chairman, Railway Recruitment Board, Panbazar, Guwahati-1 but the office of the same could not give any satisfactory answer as to the non appearance of the roll number of the applicant in the result sheet.

2.12 That the applicant finding no way out filed a representation dtd. 5.8.2005 before the General Manager, N.F. Railway, Maligaon, Chairman, Railway Recruitment Board, Panbazar, Guwahati-1 etc. praying to review the result of Group-D examination in order to consider the case of the applicant but till date no positive steps have been forthcoming in order to consider the case of the applicant.

2.13 That the applicant states that finally he could gather from the office of the Respondent authorities that his case was rejected on the ground that in the original transfer certificate produced by the applicant the countersign of the Inspector of Schools, Kamrup district Circle was not present. Having come to know the applicant immediately took steps to take the signature of the Inspector of Schools, Kamrup district Circle and produced the same before the Chairman, Railway Recruitment Board, Guwahati but the said Respondent declined to consider the case of the applicant. It is specifically stated that when the original certificate was issued to

Contd..P/-

Sd/- Abhay Kumar Das



[ 7 ]

the applicant it was not the formality that the said certificate should bear the countersign of the Inspector of Schools and as such the applicant was not at all aware of the same.

2.14 The applicant most respectfully states that he was not aware of the fact that the original certificate of the applicant should bear the countersigned of the Inspector of Schools. In fact the competent authorities present at the time of verification did not make a whisper to the applicant that his certificate should bear the countersign of the Inspector of Schools, neither in the advertisement noted nor in the individual call letters issued to the applicant it was mentioned that certificate should bear the countersign.

2.15 That the applicant states that the competent authority at the time of verification gave opportunity to the candidates who had little defects which can be cured and after that cases of those candidates were considered by the authorities but the respondent authorities failed to consider the case of the applicant for the reasons best known to them. Applicant was not given the opportunity to rectify the defect (if any) which could easily be cured. Therefore the applicant has approached this Hon'ble Tribunal for redressal of his grievances.

Sri Abhay Kumar Das

Contd..P/-

2.16 That the applicant states that the similarly situated persons approached this Hon'ble Tribunal for redressal of the grievance mentioned above by filing an Original Application No.220 of 2005. This Hon'ble Tribunal after hearing the parties has been pleased to pass an order on 24.8.05 directing the applicant to file a fresh representation before the competent authority pointing out all the above circumstances within a period of one week and the same will be duly considered by the competent authority and appropriate orders will be passed in accordance with law within a period of one month thereafter. The Hon'ble Tribunal further directed that if the appointments have not already been made to all the existing vacancies one vacancies one vacancy must be reserved till a decision is taken on the representation to be submitted and communicated to the applicant. The applicant is also on similar footing and therefore he seeks a similar order as given in the aforesaid DA No.220 of 2005.

2.17 That having no other alternative the applicant filed original Application No. 239/05 the Hon'ble Tribunal vide order dtd. 7.3.06 was pleased to dispose of the Original application filed by the applicant with a direction to immediately give appointment to the applicant after verification of the counter signature.

Sd/ Abhay Kumar Day

Contd..P/-

A copy of the order dtd. 7.3.06 passed in DA No.239/05 is annexed herewith as Annexure-A.

2.18 That after receipt of the certified copy of the mater the petitioner immediately submitted the same before the Respondent No.1 and a copy of the same was also submitted to the Respondent No.2 and 3.

2.19 That the applicant states that the office of the respondents duly received the order of this Hon'ble Tribunal dtd. 7.3.06 but even after a lapse of more than 3(three) months the respondents are sitting over the matter and absolutely doing nothing to comply with the Hon'ble Tribunal's order dtd. 7.3.06.

2.20 That having no other alternative the applicant submitted representations before the Respondents one after the other but of no avail. Even after a lapse of more than 3(three) months of which the respondents are fully aware of no steps so far have been taken to comply with the Hon'ble Tribunal's order dtd. 7.3.06 passed in DA No. 239/05 and thereby wilfully violated the Hon'ble Tribunals order dtd. 7.3.06.

2.21 That the petitioner begs to state that the opp.party by not complying with the judgment dtd. 7.3.06 passed by the Hon'ble Gauhati Bench of the CAT in DA No.

Contd..P/-

Sd/ Abhay Kumar Das

239/05 is committing gross contempt of the Hon'ble Guwahati Bench of the CAT making them liable for punishment.

2.22. That the petitioner begs to state that by not taking any steps for issuance of appointment letter in favour of the petitioner inspite of the certificate verified to be genuine the respondents have willfully violated the judgment of the Hon'ble Guwahati Bench of the CAT in as much as the Hon'ble Guwahati Bench of the passed the aforesaid judgment dtd. 7.3.06 by directing the Respondents that if the certificate is found to be genuine the petitioner be given appointment immediately and as such action of the respondents is in total violation of the Hon'ble Tribunal's order dtd. 7.3.06 making them liable for punishment in accordance with the law for contempt of the Hon'ble Tribunal.

2.23. In this the petitioner states that as asked for by the Respondent No. 2 the Headmaster of Krishnadev High School where the petitioner had studied and the Inspector of Schools, Kamrup District Circle gave a report certifying that the certificate <sup>to be genuine</sup> but not steps <sup>to</sup> till date is taken <sup>to</sup> give relief to the petitioner. Kum

2.24. That inspite of the clear decision dtd. 7.3.06 is passed by this Hon'ble Tribunal of which the respondents are quite aware of they have not complied

Sol/ Abhay Kumar Das

Contd..P/-

with the directions of this Hon'ble Tribunal in absolute violation thereof and in wilful disregard to the said directions of this Hon'ble Tribunal. The deliberate and wilful attitude of the opp. parties are also evident from the fact that the respondents are absolutely doing nothing to give appointment to the petitioner.

2.25. That by the said action the opp. parties and each one of them have obstructed and/or interfered with the administration of justice by this Hon'ble Tribunal for which the said opp. party/contemners are jointly and severally liable to be punished for contempt under the provisions of Section 17 of the Administrative Tribunals Act, 1985 read with Section 12 of the Contempt of Courts Act, 1971.

2.26 That it is further stated that respondents are giving appointment to the selected persons and if the Hon'ble Tribunal does not give an immediate positive direction the petitioner will suffer irreparable loss.

2.27. That this application is filed bonafide and for the ends of justice.

In the premises aforesaid, it is respectfully prayed that this Hon'ble Tribunal may be pleased to issue notice upon the respondents to

Contd..P/-

Sol. Abhay Kumar Das

[ 12 ]

show cause as to why they shall not be punished for willful and deliberate non-compliance of order dated 7.3.06 passed in DA No. 239/2005 and on upon such cause or causes being shown and upon hearing the parties pass such order(s) as may be deemed fit and proper punishing the respondents for willful and deliberate non-compliance of order dtd.7.3.06 passed in D.A. No.239/2005.

And for this act of kindness the petitioner as in duty bound shall ever pray.

Sol. Abhay Kumar Don

DRAFT CHARGE

Whereas the Contemners Sri Jibon Jyoti Borah, Chairman, Railway Recruitment Board, Sri A.K. Sanwanka, General Manager, N.F. Railway and Sri R.K. Sonowal, Assistant Secretary, Railway Recruitment Board has/have wilfully and deliberately violated the Hon'ble Tribunal's order dated 7.3.06 passed in OA No. 239/05 and as such they are liable to be punished under Section 17 of the Administrative Tribunals Act.

Bernali Bhuyan  
Advocate

Sri Abhay Kumar Das

AFFIDAVIT

I, Sri Abhay Kr. Das, S/o Late Banti Ram Das, aged about 24 years, resident of Vill. & P.O. Dihona in the district of Kamrup, Assam, do hereby solemnly affirm and declare as follows:

1. That I am the petitioner in the instant contempt petition and as such I am fully conversant with the facts and circumstances of the case.

2. That the statements made in this affidavit and in paragraphs 1, 2, 16, 21, 27 (part), 28 & 29 are true to my knowledge, those made in paragraphs 2, 17 (part) being matters of record of the case are true to my information derived therefrom which I verily believe to be true and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this 20 th. day of June, 2006 at Guwahati.

Identified by me

*Bernali Bhuiya*

Advocate

*Sri Abhay Kumar Das*

DEPONENT

*Sri Abhay Kumar Das*



CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 239 of 2005.

Date of Order : This the 07th day of March 2006.

The Hon'ble Sri B.N. Som, Vice-Chairman (A).  
The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman (J).

Sri Abhay Kr. Das  
S/o Banti Ram Das  
Vill & P.O. Dihina  
Dist. - Kamrup, Assam

... Applicant

By Advocates Mr. B.K. Mahajan, Mr. D. Ahmed, Mr. N. Haque  
Mr. R. Islam and Mr. H.I. Choudhury.

- Versus -



The Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Railway,  
New Delhi.

The General Manager,  
North East Frontier Railway  
Maligaon, Guwahati - 11.

3. The Chairman,  
Railway Recruitment Board,  
Station Road, Guwahati - 781 001.

4. The Assistant Secretary,  
Railway Recruitment Board,  
Station Road, Guwahati - 781 001.

... Respondents.

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

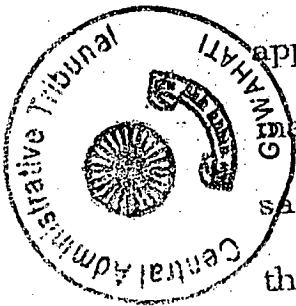
Sri Abhay Kumar Das

*Verified to be true copy.  
Barnali Heng  
Advocate  
20/6/06*

ORDER (ORAL)

K. V. SACHIDANANDAN (V.C.)

Pursuant to an advertisement dated 10.07.2003 for recruitment in Group 'D' category posts lying vacant in the Northeast Frontier Railway, the applicant submitted his application. The applicant appeared in the written test held on 09.11.2003 and the result was also published on 27.04.2005. Thereafter, the applicant appeared in the physical efficiency test held on 10.09.2005. On 10.06.2005, the applicant appeared in the office of the Railway Recruitment Board, Guwahati for verification of the original documents. However, the applicant's name did not appear in the final result published on 13.07.2005. The applicant made representation. But, the respondents did not response to the same. Being aggrieved by the said order, the applicant has filed this application seeking the following reliefs:



- (i) to direct the respondent authorities to immediately select the applicant in the final select list for the recruitment of Group D category for the post of Trackman/Khalasi/Helper - II etc. lying vacant in the North East Frontier Railway.
- (ii) To direct the respondent authorities to immediately appoint the applicant in the Group - D category.
- (iii) To direct the respondents to give an opportunity to the applicant to rectify the defects (if any) in the original certificates and thereafter given appointment to the applicant.
- (iv) Cost of the applicant and/or
- (v) Any other relief to which the applicant is entitled under the facts and circumstances

*Sol Abhay Kumar Das*

of the case and as may be deem fit and proper by this Hon'ble Tribunal.

2. The respondents have filed a reply statement contending that Indian Railways published Employment Notice No. 1/03 (Centralised Group D) dated 13.06.2003 for group D posts in Employment News dated 28.06.2003 stipulating the age and other qualifications. The respondents have annexed the advertisement published in the Assam Tribune, a local dailies as Annexure - R2 which was indicative only with clear indication that the advertisement contains important points only. For more details the Employment News dated 28.06.2003 should be referred to. The respondents also stated that the applicant has not complied with the condition stipulated in para 2.2 of the centralized advertisement. Therefore, this is not a good case for the applicant.



3. We have heard Mr. N. Haque, learned counsel for the applicant and Dr. M.C. Sarma, learned railway counsel for the Railways.

4. Counsel for the applicant submits that the applicant being eligible for the post of Group 'D' applied for the same and did the necessary formalities as published in the local dailies. Counsel also submits that the applicant was not aware that the original certificate should bear the counter signature of the Inspector of School since it was not in the advertisement published in the local dailies. The applicant had known the condition only when his candidature was rejected on the ground that in the certificate there

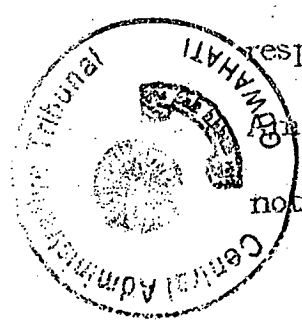
Sd/ Abhay Kumar Das

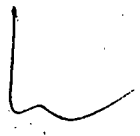
is no counter signature of the Inspector of School. Counsel for the applicant also submits that the defect is technical in nature and it can be removed at any stage. Therefore, the applicant has a good case. Counsel for the respondents, on the other hand, submits that the applicant's contention cannot be accepted that the Employment notice was totally beyond his knowledge and the case of the applicant is devoid of merits since in the notice published in the local dailies it is clearly stated to refer the 'Employment News'.

5. We have given due consideration to the arguments made by the counsel for the parties and materials placed on record. The respondents have also produced the Employment News at Annexure - R1 dated 28.06.2003 and paragraph 2.2 of the said notification reads as follows :-

"PROOF OF AGE : (a) A certificate issued by VIIIth Board or equivalent or (b) Metric certificate issued by Board or (c) School leaving certificate counter signed by Inspector of Schools/District education Officer etc."

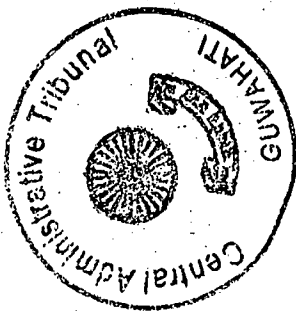
6. Obviously on going through the Employment News this aspect of counter signature of the Inspector of School was omitted in the paper the advertisement. We requested the counsel for the applicant as to the legal position with reference to state education code as to the mandatory nature of the counter signature. However, counsel for the applicant submits that he has got counter signature subsequently in the original certificate. Therefore, there is no such doubt in genuineness of the certificate. The question only to be



  
Sri Abhay Kumar Das

decided by this Court is as to whether the defect is curable or relief can be granted to the applicant.

7. Counsel for the applicant relied on decisions of the Hon'ble Supreme Court in the case of (1) Paddar Steel Corporation Vs. Ganesh Engineering Works & Others, (1991) 3 SCC 273 and (2) B. Bhuyan Chowdhury Vs. Union of India, (2001) GLT 341, wherein Hon'ble High Court observed that "defect in the lowest tender was curable in nature and did not affect the substance of the tender". The High Court observing Article 14 of the Constitution of India in paragraph 10 of the said order observed:



"10 A right to choose one tender from the other can not be said to be arbitrary unless the said power is found to be exercised for any collateral purpose. Article 226 of the Constitution is a form of judicial review to keep the authorities within the bounds of law. The Court is concerned with the legitimacy of the decision making process. The balancing and weighting the situation and thereafter reaching its decision is primarily matter for the public authority and not for the Court. Judicial review is meant for upholding of the rule of law and the Constitution. The Indian Constitution enshrines the rule of law and guaranteed constitutional right to the subjects, it also guaranteed remedy for enforcement of its rights. Article 226 is aimed to secure that the State and its instrumentalities are kept within the limits of the power and Judicial Review is meant to render justice to the individual concerned with the legality of the decision making process and not with the merits of the judgment. The discretion to find out the right persons among the tenderers is entrusted upon the administrative authority. But then the Court is entrusted with the duty of uphold the law and decide what is lawful. A

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Sri Abhay Kumar Das



decision that is absurd or perverse is unreasonable and therefore arbitrary. A judgment arrived at by the lawful authority that is oppressive to the subject is violative of Article 14 of the Constitution of India. A decision may also be arbitrary and discriminatory where it is unduly oppressive and unjustifiably inflict excessive hardship to a citizen by invading his right or interest. No doubt the administrative authority is authorized to have a free play within the joints - a margin of appreciation is to be allowed to the maker of the decision. But the Court is equally charged with the duty to see as to whether the authority acted within the limits set down by law in *R.V. Tower Hamlets London Borough Council, ex p Chentik Developments Ltd.* reported in (1988) 1 All ER 961 the Court summarized the principles in the following passages :

"..... The Court is entitled to investigate the action of the local authority with a view to seeing whether or not they have taken into accounts matters which they ought not to have taken into account, or, conversely have refused to take into account or neglected to take into account matter which they ought to take into account. Once that question is answered in favour of the local authority, it may still be possible to say that, although the local authority had kept within the four corners of the matters which they ought to consider, they have nevertheless come to a conclusion so unreasonable that no reasonable authority could ever have come to it. In such a case, again I think the Court can interfere. The power of the Court to interfere in each case is not as an appellate authority to override a decision of the local authority, but as a judicial authority which is concerned

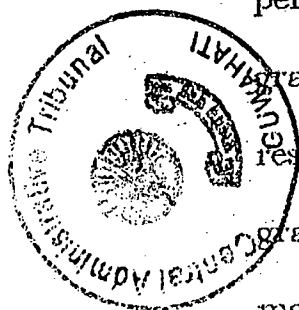
Srl Abhay Kumar Das

and concerned only, to see whether the local authority has contravened the law by acting in excess of the power which parliament has confined in them .....

The High Court further observed that though the earnest money was deposited, but according to the respondents it was in the name of wrong person, which was clarified by the bank itself which stood as the guarantor and Hon'ble High Court declared that the defect is curable in nature which did not affect the substance of the tender.

8. Counsel for the applicant submits that the defect is directory in nature, not mandatory. He also submits that two identical persons, namely Sri Debabrata Roy and Sri Biplab Das had been granted the benefit in the said circumstances. Counsel for the respondents submits that he has not aware of the said benefits granted to such candidates. However, considering the submission made by the learned counsel for the applicant, if the benefits have been granted to such persons, we are of the view that the benefit should also be granted to the applicant as well.

9. In the facts and circumstances of the case, we direct the respondent to send one of the officers to find out whether the counter signature certificate is genuine or not and if convinced, the applicant will be granted the benefit of appointment, if otherwise found fit complying with the other formality, if any, and necessary



Sri Abhay Kumar Das

order passed and communicate the same to the applicant as expeditiously as possible.



The O.A. is allowed. In the circumstances, no order as to costs.

Sd/VICE CHAIRMAN (J)

Sd/VICE CHAIRMAN (A)

Date of Application : 10.3.06  
Date on which copy is ready : 10.3.06  
Date on which copy is delivered : 10.3.06  
Certified to be true copy

/mb/

*[Signature]*  
Section Officer (Jd)  
C. A. T. Guwahati Bench  
Guwahati-5.

*Sri Abhay Kumar Das*



केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

24 JUL 2006

04/

गुवाहाटी न्यायपीठ  
Guwahati Bench

Jiban Jyoti Borah

✓  
CHAIRMAN  
रेल भर्ती बोर्ड

25  
Railway Recruitment Board  
GUWAHATI/GUWAHATI-781001

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**GUWAHATI BENCH**

C.P. No. 16 of 2006

O.A No. 239/05

Sri Abhay Kr. Das

-Vs-

Sri Jiban Jyoti Borah & Ors.

**IN THE MATTER OF**

Show-Caused reply filed by the  
Respondent No. 1

1) That a copy of the C.P. has been served on the respondents and the respondent has gone through the copy of the C.P filed by the applicant and has understood the contents thereof.

2) That save and except the statements which are specifically admitted herein below, other statements made in the C.P are categorically denied. Further the statements which are not borne on records are also denied and the applicant is put to the strictest proof thereof.

3) That with regard to the statement made in para1, and the answering respondents while denying the statement made therein begs to state that the petitioner was not empanelled in the panel of Gr-'D' post in response to Employment Notice No.01/2003 of RRB/Guwahati for the reason that counter signature of the Inspector of School/ District Education Officer was not there in the original transfer certificate issued by Principal/ Head Master of the school.

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20/7/06  
Jiban Jyoti Borah  
CHAIRMAN  
रेल भर्ती बोर्ड

4) Hon'ble Tribunal vide their order dt. 07-03-2006 in OA No.239/2005 has directed the respondent to verify the certificate counter signed by the inspector of school and if convinced the applicant would be granted the benefit of appointment if otherwise found fit complying with the other formalities.

5) The transfer certificates issued by the Principal/Head Master of the school and the counter signature which was made subsequently by inspector of schools were verified. The matter was also discussed with Executive Director, E/RRB, Railway Board, New Delhi and it is decided to empanel Sri Abhay Kr. Das. Accordingly, the name of Sri Abhay Kr. Das is empanelled vide letter No.RRB/G/CON/155 Pt-I dt. 26-7-2006. The panel has been sent to CPO/N.F. Railway/Maligaon for taking necessary action for appointment. A copy of the panel is enclosed herewith for perusal of Hon'ble CAT/GHY.

6) That with regard to the statement made in para- 1 to 7 the answering respondents begs to state that in pursuance of the Hon'ble Central Administrative Tribunal's judgement dt. 07-03-2006 in OA No.239/2005 have been complied with honourably and there is no ulterior motive or intension to defeat the right of the petitioner. As per utmost administrative exerciseability the order of the Hon'ble Tribunal have been implemented in its true spirit. This shows that the respondents have got fullest respect to the directions contained in the Judgement/Order passed by the Hon'ble Tribunal/Guwahati. Therefore the present contempt petition filed against the respondents/contemner is liable to be dismissed and hence the notice issued should be discharged.

*Jibin Tyodi Barch*

✓  
CONFIRMED  
BY  
MR. J. J. J.

रेल मंत्री कार्यालय

Ministry of Railways  
New Delhi-110001  
11-781001

27

## AFFIDAVIT

I Shri Jibon Jyoti Borah aged about, 49 years, resident of Maligaon, Guwahati in the Dist. of Kamrup do hereby solemnly affirm and state as follows.

1. That I am the, Chairman, RRB Maligaon, Guwahati, Assam and as such well acquainted with the facts and circumstances with the case and also competent to swear this affidavit.

2. That the statement made in this affidavit and in the accompanying petition in paragraphs 1 and to 6 are true to my knowledge and the statements made in paragraphs 1 to 6 are matters of records which and rests are my humble submissions before the Hon'ble Court.

And I sign the affidavit on this the 21st day of July 2006.

Jibon Jyoti Borah

DEPONENT

101182-11 GUWAHATI-781001  
RAILWAY BOARD  
GUWAHATI  
RAILWAY BOARD  
GUWAHATI-781001

Identified by

[Signature]  
Advocate's clerk.

Sworn in before me  
This 21st day of July/06  
at Guwahati.

Bandana Devi  
Advocate

**Confidential**

**Dated 19/07/2006.**

**Chief Personal Officer,  
N. F. Railway,  
Mallgaon.**

Ref.: (1) This Office letter No. RRB/G/CON/155 dated 22/07/2005.  
(2) This Office letter No. RRB/G/CON/155 /Pt.I dated 18/7/2006.  
(3) This Office letter No. RRB/G/CON/155 /Pt.I dated 19/07/2006

- 1.0 A provisional panel consisting of 2650 candidates was sent to you as per the letter under reference (1)
- 2.0 2<sup>nd</sup> provisional panel consisting of 24 (twenty four) candidates was sent to you as per the letter under reference (2)
- 3.0 3<sup>rd</sup> provisional panel consisting of one candidates was sent to you as per the letter under reference (3)
- 4.0 As per Order of Hon'ble CAT Guwahati, one candidate as mentioned below has been empanelled. Total empanelled is 2676 candidates in four panels.

SLNO	ROLLNO	NAME	DOB	MERIT POSITION	Caste	REMARKS
1	23002053	ABHAY KUMAR DAS	12/02/81	PROVISIONAL	SC	Empanelled as per court order

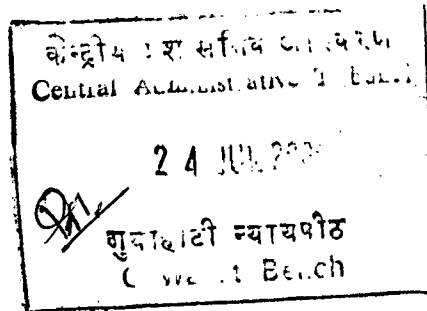
- 5.0 Necessary re-verification of certificates/testimonials of education, academic/ date of birth, caste certificate etc. may please be done at your end before appointment. Verification of their character and antecedents may also be done at your end, as required. Medical examination as per norms may also be done at your end.

The original application form along with copies of testimonials submitted by the successful candidates is sent herewith for further necessary action and record.

DA: As above

**( J. J. BORAH )**  
**Chairman,**  
**RRB/Guwahati**

Arthur  
Dane  
Bureau!



29

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

C.P. No. 16 of 2006

O.A No. 239/05

Sri Abhay Kr. Das

-Vs-

Sri Jiban Jyoti Borah & Ors.

**IN THE MATTER OF**

Show-Caused reply filed by the  
Respondent No. 3

- 1) That a copy of the C.P. has been served on the respondents and the respondent has gone through the copy of the C.P filed by the applicant and has understood the contents thereof.
- 2) That save and except the statements which are specifically admitted herein below, other statements made in the C.P are categorically denied. Further the statements which are not borne on records are also denied and the applicant is put to the strictest proof thereof.
- 3) That with regard to the statement made in para1, and the answering respondents while denying the statement made therein begs to state that the petitioner was not empanelled in the panel of Gr-'D' post in response to Employment Notice No.01/2003 of RRB/Guwahati for the reason that counter signature of the Inspector of School/ District Education Officer was not there in the original transfer certificate issued by Principal/ Head Master of the school.

✓  
21/07/06  
Railway Recruitment Board  
Guwahati  
J. B. Das  
S. J. B. & Ors.

2

4) Hon'ble Tribunal vide their order dt. 07-03-2006 in OA No.239/2005 has directed the respondent to verify the certificate counter signed by the inspector of school and if convinced the applicant would be granted the benefit of appointment if otherwise found fit complying with the other formalities.

5) The transfer certificates issued by the Principal/Head Master of the school and the counter signature which was made subsequently by inspector of schools were verified. The matter was also discussed with Executive Director, E/RRB, Railway Board, New Delhi and it is decided to empanel Sri Abhay Kr. Das. Accordingly, the name of Sri Abhay Kr. Das is empanelled vide letter No.RRB/G/CON/155 Pt-I dt. 20-7-2006. The panel has been sent to CPO/N.F. Railway/Maligaon for taking necessary action for appointment. A copy of the panel is enclosed herewith for perusal of Hon'ble CAT/GHY.

6) That with regard to the statement made in para- 1 to 7 the answering respondents begs to state that in pursuance of the Hon'ble Central Administrative Tribunal's judgement dt. 07-03-2006 in OA No.239/2005 have been complied with honourably and there is no ulterior motive or intension to defeat the right of the petitioner. As per utmost administrative exerciseability the order of the Hon'ble Tribunal have been implemented in its true spirit. This shows that the respondents have got fullest respect to the directions contained in the Judgement/Order passed by the Hon'ble Tribunal/Guwahati. Therefore the present contempt petition filed against the respondents/contemner is liable to be dismissed and hence the notice issued should be discharged.

- 3 -

31

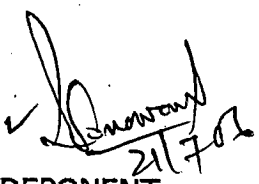
## AFFIDAVIT

I Shri Leba Kanta Sonowal aged about, 57 years, resident of Maligaon, Guwahati - 11 in the Dist. of Kamrup do hereby solemnly affirm and state as follows.

1. That I am the, Secretary (RRB) Guwahati, under N.F. Railway, Maligaon, Guwahati, Assam and as such well acquainted with the facts and circumstances with the case and also competent to swear this affidavit.

2. That the statement made in this affidavit and in the accompanying petition in paragraphs \_\_\_\_\_ and \_\_\_\_\_ are true to my knowledge and the statements made in paragraphs \_\_\_\_\_ are matters of records which and rests are my humble submissions before the Hon'ble Court.

And I sign the affidavit on this the \_\_\_\_\_ day of \_\_\_\_\_ 2006.

  
21/7/06  
DEPONENT  
Secretary  
Railway Recruitment Board  
Guwahati

Identified by

Advocate's clerk.

-4-

32

**RAILWAY RECRUITMENT BOARD::GUWAHATI**

**Confidential**

No. RRB/G/CON/155/Pt. I

Dated 19/07/2006.  
20

To,

**Chief Personal Officer,  
N. F. Railway,  
Maligaon.**

Sub: Recruitment for the post of Group "D" Category of Centralized Employment.  
Notice No. 1/2003.

Ref.: (1) This Office letter No. RRB/G/CON/155 dated 22/07/2005.  
(2) This Office letter No. RRB/G/CON/155 /Pt.I dated 18/7/2006.  
(3) This Office letter No. RRB/G/CON/155 /Pt.I dated 19/07/2006

- 1.0 A provisional panel consisting of 2650 candidates was sent to you as per the letter under reference (1)
- 2.0 2<sup>nd</sup> provisional panel consisting of 24 (twenty four) candidates was sent to you as per the letter under reference (2)
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- 4.0 As per Order of Hon'ble CAT Guwahati, one candidate as mentioned below has been empanelled. Total empanelled is 2676 candidates in four panels.

SLNO	ROLLNO	NAME	DOB	MERIT POSITION	Caste	REMARKS
1	23002053	ABHAY KUMAR DAS	12/02/81	PROVISIONAL	SC	Empanelled as per court order

- 5.0 Necessary re-verification of certificates/testimonials of education, academic/ date of birth, caste certificate etc. may please be done at your end before appointment. Verification of their character and antecedents may also be done at your end, as required. Medical examination as per norms may also be done at your end.

The original application form along with copies of testimonials submitted by the successful candidates is sent herewith for further necessary action and record.

DA: As above

  
( J. J. BORAH )  
Chairman,  
RRB/Guwahati