

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. _____

2. M/s Petition No. _____

3. Contempt Petition No. 01 /08 (in O.A. 1/05)

4. Review Application No. _____

Applicant(s) Mohua Biswas Asutosh Swami, GM, N.F.Rly and ors
VS Union of India & Ors

Advocate for the Applicants.. Mr. L. Tenzin

... Dr. J. L. Sarkar,

Advocate for the Respondent(s): Rly Counsel

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

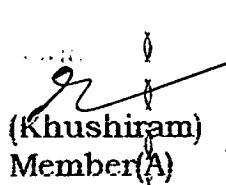
This Contempt petition was filed by the Petitioner u/s 17 of the C.A. Act, 1985 read with Section 11 and 12 of the Contempt of Court Act 1971 and the provision of the Contempt of Court Rules 1992, for wilful disobedience of the order dated 3.4.07 passed in O.A. 1/05 by this Hon'ble Court.

Laid before the Hon'ble Court for further orders.

Section officer.

21.2.08

Notes received from Mr. L. Tenzin, learned counsel for the Applicant today, the 25.2.08 only. Hence no notice to be issued.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

Call this matter on 28.02.2008.

Notice send to D/Section for issuing to R- 1 to 4 by regd. A/D post. D/No-1170 to 1182
26/2/08. D/ 26/2/07.

27.2.08

WJS filed to
 the Report. No. 4, undated
 given for Service copy.

Sh.R.

WJS filed by R. No. 4

27
20.3.08

28.02.2008

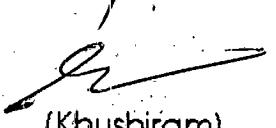
Mr.P.K.Tiwari, learned counsel for the

Applicant and Dr.J.L.Sarkar, learned Railway Standing counsel for the Respondents are present. Dr. Sarkar submitted that reply has been filed by Respondent No.4 and replies on behalf of other Respondents shall be filed shortly.

Respondents filed Writ Petition

No.4756/2007 before the High Court against the order of this Tribunal in O.A.1/2005 and vide order dated 12.09.2007 the High Court ^{which was} passed status quo orders until further orders.

Call this matter on 24.03.2008.


 (Khushiram)
 Member (A)

Affidavit in opposition. /bb/

Filed by the Respondent

No. 2 23, copy
served.

24.03.2008

Call this matter on 28.03.2008.

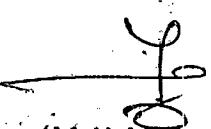

 (M.R. Mohanty)
 Vice-Chairman

28.03.2008

None appears for the Applicant nor the Applicant is present.

Call this matter on 31st March, 2008.

Im


 (M.R. Mohanty)
 Vice-Chairman

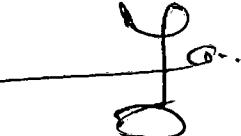
31.3.2008 Non-compliance of the order dated 03.04.2007 of this Tribunal (rendered in O.A.No.01/2005) is the subject matter of this proceeding. By filing show cause, the Respondents have disclosed that the order dated 03.04.2007 of this Tribunal in O.A.No.01/2005 is now the subject matter of challenge before the Hon'ble Gauhati High Court in WP (c) No.4756/2007.

By filing memorandum dated 27.03.2008, the Applicant has sought leave of this Tribunal to withdraw the present C.P.No.01/2008.

Heard Mr L. Tenzin, learned Counsel for the Applicant and Dr J.L. Sarkar, learned Counsel for the Respondents/Railways. For the reason of the memorandum dated 27.03.2008 of the Applicant, this C.P. is permitted to be withdrawn in terms of the prayer made in the said memorandum.

Send copies of this order to the Applicant and to the Respondents and free copies of this order be handed over to the learned Counsel for the parties.

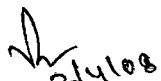

(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

nkm

Dt. 31.3.08

Pl. send copies of this order to the Applicant and to the Respondents
Free copies of this order be handed to the counsel for the parties.


21/4/08

4/4/08
Send copies of the
order dt 31.3.08 to
the parties & sec. for
issuing the same to
the parties and to
the L/Advs. for the
parties
sh.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI :: BENCH

Contempt Petition (Civil) No. 01/2008.

In O.A No. 01/2005.

Mahua Biswas.

Applicant.

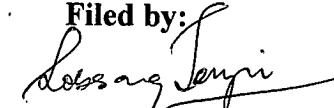
-Vs-

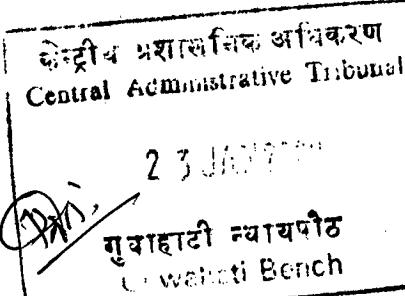
Union of India & Ors.

Respondent.

INDEX

Sl. No.	Particulars	Page Nos.
1.	Contempt Petition	1 - 4
2.	Affidavit	5
3.	Draft Charge	6
4.	Annexure-P/1	7 - 17
	(Order of the Hon'ble Tribunal dated 03.04.07 passed in O.A. No.01/07)	
5.	Annexure-P/2	18 - 21
	(Representation dated 09.04.07 enclosing the order of the Hon'ble Tribunal to the Railway Authorities)	

Filed by:

(Lobsang Tenzin)
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI :: BENCH

Contempt Petition (Civil) No. 1 /2008.
In O.A No. 01/2005.

Mahua Biswas.

Applicant.

-Vs-

Union of India & Ors.

Respondent.

IN THE MATTER OF:

An application under section 17 of the Administrative Tribunal Act, 1985 read with section 11 and 12 of the Contempt of Courts Act, 1971 and the provisions of the Contempt of Courts (CAT) Rules, 1992.

-AND-

IN THE MATTER OF:

Willful disobedience of the order/direction dated 03.04.07 passed in O.A.No.01/05 by the Hon'ble Central Administrative Tribunal, Guwahati Bench.

-AND-

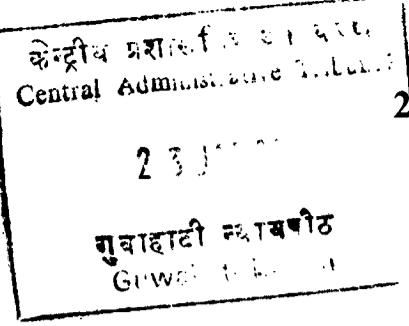
IN THE MATTER OF:

Mrs. Mahua Biswas,
Wife of Dilip Sarma,
Alipurduar Court, District:
Jalpaiguri, West Bengal.

Petitioner.

-Versus-

Filed by the petitioner
by Mrs. Mahua Biswas
versus Union of India &
Ors.



1. Asutosh Swami, General Manager,
North East Frontier Railway,
Maligaon, Guwahati-11.

2. M.Dharmalingam, Chief Personnel Officer, General Manager (Personnel), North East Frontier Railway, Maligaon, Guwahati-11.

3. S.Jha, Chief Personnel Officer (Administration), North East Frontier Railway, Maligaon, Guwahati-11.

4. A.Kirpatta, Deputy Chief Personnel Officer (IR), North East Frontier Railway, Maligaon, Guwahati-11.

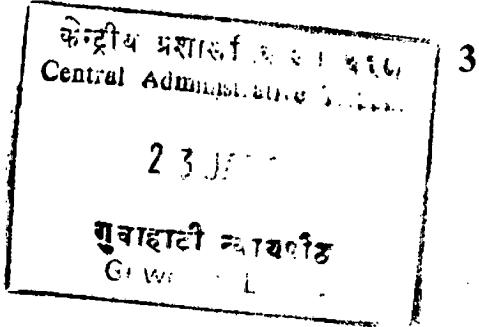
Respondent.

The humble petitioner above named

MOST RESPECTFULLY SHEWETH

1. That the petitioner had preferred O.A No.01 of 2005, challenging the select list of Post Graduate Teachers of English, circulated vide O.M dated 8.11.04. In the aforementioned O.A, the petitioner prayed for following reliefs:

- i) Quash and set aside the list of eligible candidates for promotion of PGT English as contained in circular dated 6.10.04;
- ii) Quash and set aside the panel for PGT English as contained in the memorandum dated 8.11.04;
- iii) Quash and set aside the selection/appointment of the Respondent No. 5 to 9 as PGT English, and
- iv) Direct the respondents to reinitiate the selection process for filling up 5 vacancies in the post of PGT English.



2. That the Hon'ble Tribunal by its order dated 3.4.07 allowed the aforesaid O.A holding that since the petitioner had secured 69.85% marks in the order of merit she ought to have figured at sl No.4 of the panel. Since, 5 unreserved vacancies of Post Graduate Teachers (PGT) English were to be filled up by the impugned selection, it was directed by the Hon'ble Tribunal that the petitioner being 4th in the merit list ought to have been considered for promotion to the post of PGT English. Consequently, the Hon'ble Tribunal directed the official respondents to reconsider the matter afresh and pass appropriate orders within a time frame of 3 months from the date of receipt of order of this Hon'ble Tribunal dated 3.4.07 passed in O.A No.01/05.

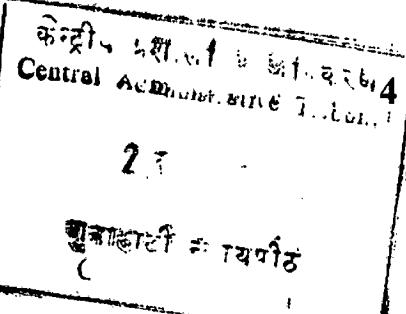
Copy of the order of the Hon'ble Tribunal dated 3.4.07 passed in O.A No.01/05 is annexed hereto and marked as ANNEXURE:P/1.

3. That the petitioner submitted the certified copy of the order of this Hon'ble Tribunal alongwith the representation on 9.4.07. The office of the General Manager (Personnel) accepted the copy of the order vide acknowledgment receipt dated 9.4.07.

Copy of the representation submitted by the petitioner showing the acknowledgment receipt of the offices of the General Manager, North East Frontier Railway, Maligaon and General Manager (Personnel), North East Frontier Railway, Maligaon on 9.4.07 is annexed hereto and marked as ANNEXURE:P/2.

4. That even though since 9.4.07, the stipulated period of 3 months had expired on 9th July 2007, but till date no action has been taken by the respondents towards implementation of order of this Hon'ble Tribunal.

5. That the respondents despite having the knowledge of the orders of this Hon'ble Tribunal have deliberately



chosen not to act upon the same and therefore, they have willfully disobeyed the order of this Hon'ble Tribunal dated 3.4.07 passed in O.A No.01/05. Hence, the respondents have committed Civil Contempt by failing to undertake the exercise in terms of the direction of this Hon'ble Tribunal within a stipulated period of 3 months from 9.4.07 to 9.7.07.

6. That the respondents, therefore, are liable to face proceeding for Civil Contempt within the meaning of section 2(b) of the Contempt of Courts Act, 1971.

7. That the petitioner files this petition bonafide for securing the ends of justice.

P R A Y E R

In the premises aforesaid, it is most respectfully prayed that Your Honours may graciously be pleased to-

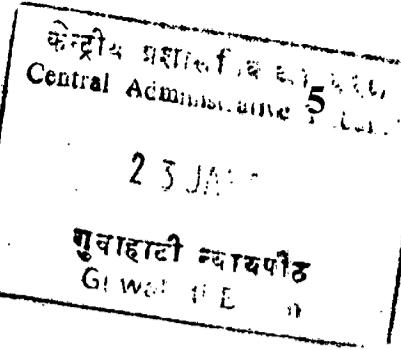
i) Initiate proceeding for Civil Contempt against the respondent No. 1, 2, 3 and 4 and punish them under section 12 of the Contempt of Courts Act, 1971.

ii) Pass such other order/orders as your Lordships may deem fit in the facts and circumstances of the case, and

iii) Award cost in favour of the petitioner.

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

.....affidavit



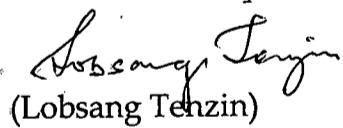
AFFIDAVIT

I, Mahua Biswas, wife of Shri Dilip Sarma, aged about 35 years, resident of Alipurduar Court, District: Jalpaiguri, West Bengal, do hereby solemnly affirm and state as follows:

1. That I am the petitioner in the instant petition. I am conversant with the facts and circumstances of the case and as such I am competent to swear this affidavit.
2. That the statements made in this petition and in the accompanying application in paragraphs 1, 3, 4 and 5 are true to my knowledge and those made in paragraph 2 being matters of record is true to my information derived there from and which I believe to be true. The rest are my humble submissions before this Hon'ble Tribunal.
3. The Annexures are true copies of their originals and I have not suppressed any material facts.

And, I sign this affidavit on this the 23rd day of January, 2008.

Identified by me


(Lobsang Tenzin)


Mahua Biswas

DEPONENT.

Advocate

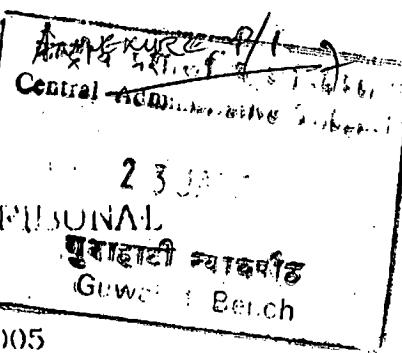
DRAFT CHARGE

Whereas, i) Shri Asutosh Swami, General Manager, North East Frontier Railway, Maligaon, Guwahati-11, ii) Shri M.Dharmalingam, Chief Personnel Officer, General Manager(Personnel), North East Frontier Railway, Maligaon, Guwahati-11, iii) Shri S.Jha, Chief Personnel Officer (Administration), North East Frontier Railway, Maligaon, Guwahati-11, and iv) Shri A.Kirpatta, Deputy Chief Personnel Officer (IR), North East Frontier Railway, Maligaon, Guwahati-11, have willfully and deliberately violated the order dated 03.04.07 passed in O.A No.01/05 by this Hon'ble Tribunal and as such they are liable to be punished severely for committing Civil Contempt of the order of the Hon'ble Tribunal.

Machine Printed

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



Original Application No. 1 of 2005

Date of Order: This the 3rd day of March 2007.

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

THE HON'BLE MRS CHITRA CHOPRA, ADMINISTRATIVE MEMBER

Mahua Biswas, wife of Dilip Sarma,
Alipurduar Court District,
Jalpaiguri, West Bengal.

...Applicant

By Advocate Shri P.K. Tiwari,

-Versus-

1. Union of India, through the
Secretary, Ministry of Railways,
Govt. of India, New Delhi.

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

3. General Manager (Personnel)
N.F. Railway, Maligaon,
Guwahati-11.

4. The Selection Committee for making
selection to the post of Post Graduate
Teacher (English) held on 1.11.04/2.11.04
in Railway Higher Secondary Schools, N.F. Railway,
Represented by its Chairman.

5. Sudip Das, Trained Graduate Teacher,
Lauding Railway Higher Secondary School,
Lauding, Assam.

6. Bhurji Karjee, Physical Training Instructor,
Railway Higher Secondary School,
Alipurduar Junction, West Bengal.

7. Krishna Dutta, TGT
Bani Mandir Railway Higher Secondary School,
Siliguri, West Bengal.

8. Apurnamay Ghosh, TGT
Railway Higher Secondary School,
Alipurduar Junction, West Bengal.

Copy to be
made of the
Lokay Saran
Associate



Subhomay Sen, TGT
Railway Higher Secondary School,
Alipurduar Junction, West Bengal.

By Railway Counsel Sri S. Sengupta.

केन्द्रीय रेल. । । । । । । । । ।
Central Admin. । । । । । । । । ।

23/11/04

... Respondent's set forth
Guwahati Bench

ORDER

CHITRA CHOPRA, MEMBER(A)

The present application is directed against the Memorandum dated 8.11.04 issued by the Respondents publishing select list of the candidates for the vacancies for the post of Graduate Teacher (PGT) English. The subject matter of this O.A involves legality of this O.M dated 8.11.04 by which the respondents No.5 to 9 were empanelled on their selection for the post of PGT English. Applicant's case is that except one all other private respondents are ineligible for such selection as they do not have the requisite qualification, while the applicant, despite being eligible for selection as PGT English, was not empanelled in the impugned select list dated 8.11.04.

2. The facts as set out in the O.A is as under :

The applicant is presently serving as Trained Graduate Teacher (TGT Basic Grade) at Railway Higher Secondary School, Alipurduar Junction, West Bengal. She is Post Graduate in English with qualification B.A. (Major in English). She joined as Primary Teacher on 6.1.2000 and become TGT on 13.1.02.

3. In the Railway Schools there are three different cadres namely, Primary School Teacher, Trained Graduate Teacher and

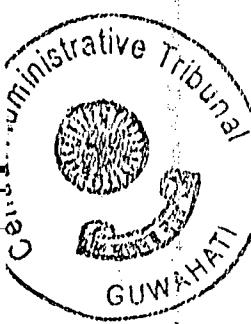


Post Graduate Teacher. The cadres of teachers with various grades are shown below :

<u>Primary School Teacher</u>	<u>Pre-revised Scale</u>	<u>Revised Scale</u>
(i) Basic Grade	1200-2040	4500-7000
(ii) Senior Grade	1400-2600	5500-8000
(iii) Selection/ Non-functional Grade	1640-2900	5500-9000
<u>Trained Graduate Teacher</u>	<u>Pre-revised Scale</u>	<u>Revised Scale</u>
(i) Basic Grade	1400-2600	5500-9000
(ii) Senior Grade	1640-3500	6500-12000
(iii) Selection/ Non-functional Grade	2000-3500	7500-9000
<u>Post Graduate Teacher</u>	<u>Pre-revised Scale</u>	<u>Revised Scale</u>
(i) Basic Grade	1640-2900	6500-10500
(ii) Senior Grade	2000-3500	7500-12000
(iii) Selection/ Non-functional Grade	2200-4000	8000-13500

3. The extant provisions dealing with the recruitment of PGT do not specifically provide for promotion of TGT to the post of PGT but the manner in which the qualification of PGT are provided, it is obvious that the TGT having qualifications of teaching in the concerned subject with requisite academic qualification of the concerned subject are eligible for the post of PGT.

4. The Office of General Manager, Personnel, N.E.Railway, Maligaon, Guwahati issued circular No.E/252/242(W) Pt.IV dated 6.10.04 for selection to the post of PGT, Assamese, English and Bengali. In the present application the grievance of the applicant is only for the post of PGT English. In terms of the aforesaid circular selection for filling up of five unreserved vacancies of PGT English was to be held and names of 10 candidates as eligible candidates





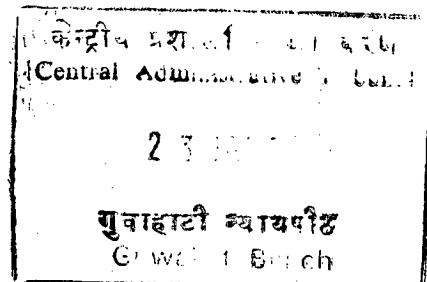
10
14

were provided amongst these candidates. The names of the private respondents (5 to 9) were also included. It has been contended by the applicant that only respondent No.9 was eligible as respondent No.5 was working as TGT Arts, respondent No.6 was a Physical Training Instructor, respondent No.7 was a graduate in Bio-Science and respondent No.8 was a Bachelor of Fishery Science, whereas the qualification required was in the post graduate degree in English.

5. Selection to the post of PGT English was held on 1.11.04. Candidates No.1 to 9 remained absent and remaining 8 candidates including applicant and private respondents participated in the selection. However, in the select list the names of the private respondents No.5 to 9 appeared to the exclusion of the name of the applicant.

6. Being aggrieved by the selection which was issued vide memo dated 8.11.04 she submitted a representation dated 15.10.04 to the Chief Personnel Officer, N.F.Railway, Malignon, Guwahati. However, she received no response.

7. Her main grievance is that the impugned selection for the private respondents for the post of PGT English is incurably vitiated and there are serious irregularities in the preparation of panel as with the exception of one, all the other private respondents do not have the requisite qualification for appointment as PGT English. It has also been submitted in para 4.15 of the O.A. that the circular of the Railways dated 6.10.04 had earlier came under challenge in O.A.1014/2004 before the Calcutta Bench of



the Tribunal. The O.A was filed by one Sambhu Chakraborty who has been working as TGT in Railway Higher Secondary School, Siliguri. His grievance, *inter alia*, was that though he has the requisite qualification for the post of PGT English but he was not invited for the selection/interview. Thus the methodology adopted by the respondents in making selection to the post of PGT English generated discontentment and anguish amongst the section of the eligible candidates. Further the circular dated 6.10.04 while publishing the list of eligible candidates used the expression "for promotion of PGT English" thus giving an impression that the selection in question was in fact for promotion to the post of PGT English. In the above background the following relief has been sought :

- i) Quash and set aside the list of eligible candidates for promotion of PGT English as contained in circular letter dated 6.10.04;
- ii) Quash and set aside the panel for PGT English as contained in the memorandum dated 8.11.04;
- iii) Quash and set aside the selection/appointment of the Respondents No.5 to 9 as PGT English and
- iv) Direct the respondents to reinintiate the selection process for filling up five vacancies in the post of PGT English.

8. In the written statement filed by the respondents, while denying and rebutting the contention of the applicant following averments have been made.

The application suffers on ground of estoppels and acquiescence. The applicant having participated in the selection process without any protest or objection though the name of the eligible candidates has already been circulated and she is now debarred from raising any objection when final selection result has



केन्द्रीय न्यायालय
Central Administrative Court

গুৱাহাটী ন্যায়পাইঠ
Guwahati Bench

been published after finalisation of the selection process. The applicant's contention that the selected candidates did not possess the required qualification is incorrect as all of them have possessed the required qualification for empanelment as prescribed under Railway Board's letter dated 4.10.89. In Railway schools there are two different types of promotion of teachers, one functional promotion and the other is non functional promotion. The later is a three tier time bound promotion which is purely non functional which has 3 grades, namely, Basic Grade, Senior Grade and Selection Grade and there is no change in the status of TGT's placed in senior grade or selection grade.

The Selection has been made strictly in accordance with the provisions laid down in the rules for promotion/recruitment to the post of PGTs and there has been no violation of rules. Selection was for filling up of 5 posts and accordingly panel for 5 senior most suitable candidates who qualified in the selection as per extant rules was published. There was no scope to publish names for more than 5 candidates in the select list as the selection was confined to 5 posts only. Finally it has been submitted that the selection is neither illegal nor in violation of the prescribed rules and as such no injustice or irregularities for the selection process have been committed.

9. We have heard the extensive arguments and submission of the learned counsel of both the parties. Learned counsel for the applicant Mr P.K.Tiwari took us through the various documents filed by the applicant as well as the rules. He has also cited the

केन्द्रीय प्रशासनिक आयोजन
Central Administrative Tribunal

23 JAN 2011

गुवाहाटी न्यायालय
C. v. P. Sircar

decision in *Madan Lal and Others vs. State of J & K & Ors.*, (1995)

13 SCC 486, wherein it has been held that :

"...the doctrine of estoppels will not apply when the selection is incurably vitiated."

He has also cited the decision in *Mumtaj Ali & Ors. vs. State of Assam & Ors.*, 2006 (2) GLT 349, wherein the Hon'ble apex Court had held as under :

"Closely connected with the arguments advanced on the aforesaid issue is the contention of the respondent State, on the basis of the several decisions of the Apex Court as already noticed, that the petitioners having participated in the selection process cannot now be allowed to turn back and call into question the fairness of the same. The law laid down in the case of *Madan Lal* (supra) which forms the basis of the aforesaid contention advanced by the respondent State has subsequently been understood not to be laying down a rules of general application knowing no departures. Ground realities attending a selection process have been responsible for carving out exceptions, one such exception has been recognized to be a situation where there has occurred large scale anomalies in the selection process rendering the same to be a mockery. Authority for the above proposition can be derived from the decision of the Apex Court in the case of *Rajkukar and others vs. Shaktiraj and others* reported in (1997) 9 SCC 527. In such circumstances, the Court is of the view that, in the facts of the present case, it would not be correct to refuse an adjudication of the merits of the dispute raised by the petitioners."

Learned Railway counsel Mr S.Sengupta at the outset drew our attention to the recruitment rules for filling up the post of PGT. He pointed out that the earlier rules have been amended by the Railway Board's letter dated 4.10.89 and the following provisions was substituted.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative T. b/w.

23/10/2011

गुवाहाटी अ.प्रपीड.

"Post Graduate Teachers (Rs. 1640-2900)

i) II Class Master's Degree in any of the teaching subject.

ii) University Degree/Diploma in Education/Teaching.

OR

Integrated two year's Post Graduate course of Regional Colleges of Education of NCERT.

iii) Competence to teach through the medium/media, as required."

In view of the above provisions the private respondents who were included in the eligibility list are in accordance with these rules.

10. Learned Railway counsel, during the course of hearing has submitted the photo copy of the records pertaining to Selection Committee proceeding of PGT English held on 1.11.04 and 2.11.04. The assessment sheet tabulates the details of the 10 candidates who had been listed for selection. Out of 10 against 2 candidates viz. No.1 (R.C.Sarma) and 9 (D.Mukherjee) it is indicated in the remarks column that they are unwilling. As per the assessment sheet, the remaining candidates, secured the following marks out of total 100 marks :

1. Smt Sudipta Das	74
2. Sri Bharat Karjee	73.57
3. Sri Krishna Dutta	63.14
4. Sri Apurmanoy Ghosh	71.71
5. Sri Subhamoy Sen	69.28
6. Smt Mahua Biswas	69.85
7. Smt Sarmista Sarkar	62.43
8. Sri N.B.Baul	61"

It is clear from the above assessment sheet that the first candidate (Sl. No.2) secured 74 marks out of 100. The applicant Smt Mahua Biswas had secured over all marks of 69.85 out of 100. If the total marks out of 100 are to be reckoned, in the order of merit she should have figured at Sl.4 of the panel as the 2 candidates above



केन्द्रीय नियन्त्रित नियंत्रित
Central Administrative Tribunal

2

मुख्याधारी अधिकारी
G

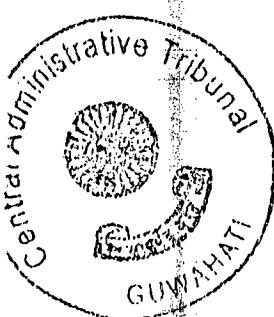
her at Sl.No.4 and 6 have secured 63.14 and 69.28 marks respectively. On enquiry from the Railway counsel as to the reason for placing her below candidates who have secured less marks than her it was explained that this was because she was lower than them in the seniority list of TGTs. While the applicant is at sl.134 of the seniority list Krishna Dutta is at Sl.No.114 and Subhamoy Sen is at sl.No.133.

11. Learned Railway counsel has placed reliance on a decision of Gauhati High Court in Ranjit Kumar Roy & Ors. vs. Tripura Gramin Bank & Ors., 2006(1) GLT 553, wherein the High Court has held as under :

“.....implies that given the minimum merit, the senior would have priority and a comparative assessment of merit is not necessary.”

The case dealt with by the Hon'ble Gauhati High Court was pertaining to promotion on seniority cum merit. In the given case it is fresh selection to the PGT and nowhere in the Recruitment Rules it is stated that it is a promotion. Had it been so, a Physical Education Teacher, who subsequently has acquired Post Graduate can never be considered. Therefore, we are of the view that the said judgment is not squarely applicable in this case.

12. This contention of the learned counsel for the respondents does not appear to be logical and convincing in the face of the fact that in separate column, 15 marks have been separately allocated for seniority. Once a separate marking has been done for seniority than it stands to reason that the candidates should be placed in the select list in the order of merit on the basis



केन्द्रीय प्रशासनिक अ. 41 नं. 2016
Central Administrative Tribunal
23.11.2016

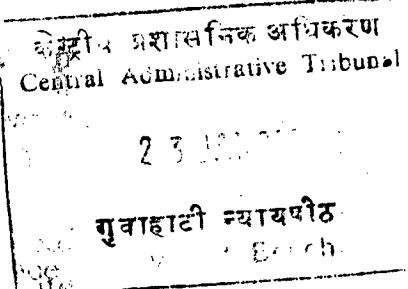
गुवाहाटी न्यायपीठ
Guwahati Bench
be

of the marks which they have secured as a result of assessment by the Selection Committee.

13. It was also submitted by learned Railway counsel that the applicant also appeared for subsequent selection held on 3.10.05, but again she could not be selected, being junior in seniority to Shri Sambhu Chakraborty who, being senior to her was selected.

14. While it is true that laying down criteria for selection is the domain of the expert body/selection committee, at the same time we must observe that such criteria needs to be fair, reasonable and logical. In the instant case we do find that the manner in which the candidates have been placed in the merit list is neither appropriate nor reasonable. It appears unfair that candidates who have secured higher marks should be placed lower than those who have secured lower marks. Once it is a question of inter se merit then position of the candidate in the seniority list should not override the position acquired/secured by candidate in the merit list, specially when seniority has been assigned specific marks in the process of selection. However, we add that once a panel is prepared they are at par in the selection and when the merit is decided giving due marks in seniority a further consideration on seniority cannot be assigned to the candidates. It will be as good as that of giving double benefit to such candidates.

15. Looking to the facts and circumstances of the case we are of the view that since the applicant has come out successful as 4th in the merit list she should have been considered for promotion.



17
21

We would, therefore, direct the respondents to re-consider the matter afresh and pass appropriate orders in accordance with the above observations within a time frame of 3 months from the date of receipt copy of this order. For this purpose we remand the matter back to the Selection Committee for re considering the matter in the light of our observation.

With this direction the O.A stands disposed of. No order as to costs.

sd/VICE CHAIRMAN
sd/MEMBER (A)



TRUE COPY

प्रतिलिपि

N/3/85
3.4.07

अनुभाग अधिकारी
Secretary (Legal & Judg.)
Central Administrative Tribunal
सेंट्रल अडिमिट्रियूटिव ट्रिब्युनल
C.A.T.
गुवाहाटी 781013
মুংবাজু ৭৮১০১৩
Guwahati - 781013
Guwahati - 781013

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative T. Bldg.
235

গুৱাহাটী ৭৮১০১৩
G.W.

16/3/85



To,

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

2. The General Manager (Personnel)
N.F.Railway, Maligaon,
Guwahati-11.

Sub: Order of the Central Administrative Tribunal,
Guwahati Bench dated 3rd April, 2007 passed in O.A No.
1 of 2005 (Mahua Biswas vs Union of India & Ors).

Sir/s,

The undersigned is a Trained Graduate Teacher at
Railway Higher Secondary School, Alipurduar Junction,
West Bengal (N.F.Railway).

The Office of General Manager (Personnel),
N.F.Railway, vide circular dated 6.10.04 informed the
Principals of various Railway Higher Secondary Schools
under N.F.Railway about the selection to be held for
filling up 5 unrescerved vacancies of PGT English. The
Principals of specified Railway schools were called
upon to direct the empanelled eligible Trained
Graduate Teachers to appear in the process of
selection for the aforesaid purpose. A panel of TGTs
consisted of 10 names out of which 5 candidates were
to be selected for appointment as PGT English. In the

Concurred to be in original
true copy of
Loknay Singh
Adviser

गुवाहाटी न्यायपीठ
Guwahati Bench

2

panel of 10 names, the name of the undersigned appeared at serial no. 7.

Subsequently, the selection was held and the final select list consisting of 5 names was issued vide memorandum dated 8.11.04. However, in the final select list the name of the undersigned did not appear.

Being thus aggrieved by her non selection as PGT English the undersigned preferred O.A. No. 1/05 before the Guwahati Bench of the Central Administrative Tribunal. In the aforesaid case 4 candidates out of 5, whose names figured in the final select list for PGT English were impleaded as party respondents.

In the course of hearing before the Hon'ble Tribunal, the records of selection were produced by the Railway Authority. From the perusal of the records, it was discovered that the undersigned was wrongly deprived of selection as PGT English, though she secured 69.85% out of total 100 marks and her merit position was 4th. In view of 4th position in the merit, the undersigned was entitled to be selected against 5 unreserved vacancies of PGT English.

The Hon'ble Guwahati Bench of Central Administrative Tribunal, vide order dated 3.4.07 allowed the Original Application No. 1 of 2005. The

fs
as
en
R

23 JAN 2000

24

गुवाहाटी न्यायपीठ (Gauhati Bar. Ch.)

3

findings recorded by the Hon'ble Tribunal are outlined herein below for the sake of convenience.

- I. For the purpose of determining merit separate marks for seniority were also counted. Therefore once the final select list was prepared after counting the marks even for seniority, then appointments were required to be made strictly in terms of the merit positions in the final select list.
- II. In the select list in terms of the marks secured, the merit position of the undersigned i.e., Mahua Biswas was 4th.
- III. Since in the select list the position of the undersigned i.e., Mahua Biswas (Applicant) was 4th in terms of merit, therefore, the applicant was entitled to be appointed as IIT English against the 5 unreserved vacancies.
- IV. Once the select list is prepared after counting the marks for seniority then there will be question of giving separate weightage again for seniority for the purpose of determining merit positions in the select list for appointment against 5 unreserved vacancies for IIT English, for the same would amount to giving double benefits.

112

गुरुवारी द्वायपीठ
Punch

21

4

Lastly, in view of the above findings it was specifically held by the Hon'ble Tribunal that since the applicant had come out successfully as 4th in the merit in the final select list, she should have been considered for promotion. Accordingly the Railway Authority was directed to reconsider the case of the applicant for appointment as PGT (English) in terms of the findings of the Hon'ble Tribunal and to pass appropriate order within a time frame of 3 months from the date of receipt of the copy of the Hon'ble Tribunal.

The Photostat of the certified copy of the order of Hon'ble Tribunal dated 3.4.07 passed in P.A. No.1/05 is enclosed herewith for the perusal, action and compliance.

Thanking You,

Yours faithfully,

Mahua Biswas.
(Mahua Biswas)

केन्द्रीय न्यायपीठ
Central Administrative Tribunal

27 FEB 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

DISTRICT: KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

C.P No. 01 OF 2008

IN

OA No. 01 OF 2005

BETWEEN

Smt Mahua BiswasPetitioner

-Versus-

Union Of India & OthersRespondents

I N D E X

<u>SL.No.</u>	<u>Particulars</u>	<u>Page</u>
1.	Affidavit-in-opposition	1-2
2.	Verification	3
3.	Annexure - 'R-1'	4-7

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

C.P No.01/2008

IN

OA No.01/2005

Smt Mahua Biswas
-Vs-
Union Of India & Others

A. K. S. Potty

By Chief Personnel Officer/sir
N F. Railways, Maligaon
Guwahati-11

(Affidavit in opposition by the Respondent No.4)

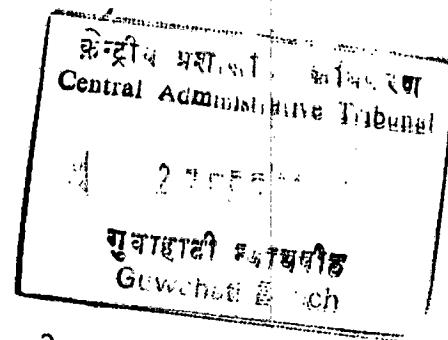
The respondent No.4 most respectfully begs to state as follows:-

1. That the said respondent has gone through the above contempt petition and understood the contents thereof.
2. That, the respondent is a responsible citizen of India and in his personal capacity and in the capacity as Deputy Chief Personnel Officer/IR of the Northeast Frontier Railway has full regards for the process of law and this Hon'ble Tribunal and as such is fully conscious and aware that he is bound to comply with/proceed with according to established procedure of law, and there is no scope of deliberate negligence of the order dated 03.04.07 of this Hon'ble Tribunal in OA No.01/2005, by the respondent.
3. That, on receipt of the information of the contempt petition the respondent has made thorough inquiry in the matter.

The fact of the case is that on receipt of the order dated 03.04.2007 in OA No.01/2005, the matter has been examined by the officers/officials of this Railway, and it has been found that there would be difficulty in implementing the order of Hon'ble Tribunal in terms of the provision in the Indian Railway Establishment Manual. Opinion of the Railway's Standing Counsel of Hon'ble Gauhati High Court was sought for who gave opinion that it would be appropriate to file an application before the Hon'ble Gauhati High Court under Article-226 of the constitution of India and in pursuance to the opinion it was decided to file a writ application before the Hon'ble High Court, and the Railway Advocate was advised to prepare the Application under the letter dt 06.06.2007, which was prepared and sent by the Railway Advocate on 20.08.2007 for final

...contd-P/2

by A. K. S. Potty
J. L. Jaiswal
S. C. Ch. 26/08/2008
File

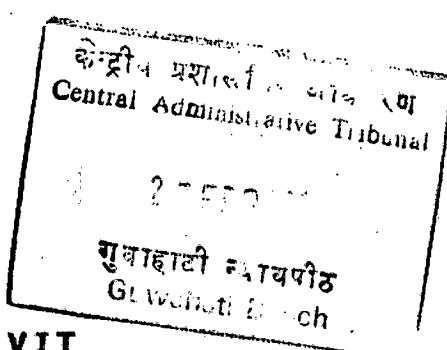


-2-

examination and confirmation. The affidavit was sworn in on 29.08.2007 in Hon'ble Gauhati High Court.

A. Kishoorthi
Asst. Chief Personnel Officer /IR
N F. Railway, Maligaon
Guwahati-11

3. That, the said writ petition was numbered as WP(C) No.4756/2007 and by an order dt 12.09.2007 the Hon'ble High Court (Division Bench) was pleased to admit the case and pass in interim order of status quo as on 12.09.2007. The writ petition is pending with status quo order as explained copy of the order dt 12.09.2007 in WP(C) No. 4756/2007 (UOI & Ors -Vs-Smti Mahua Biswas & Ors) is enclosed as Annexure-R-1.
4. That, the contempt petitioner visited the office of the respondent in January 2008 and when she inquired she was told about the said writ petition. She is a party in the said writ petition.
5. That, in the facts and circumstances of the case the respondent respectfully states and submits that the respondent is not in any way responsible for negligence/deliberate negligence in the matter of the Hon'ble Tribunal's order dt 03.04.2007 in OA No.01/2005, and the matter is pending before the Hon'ble Gauhati High Court being W/P(C) No.4756/07.
6. That, this affidavit in opposition is filed bonafide and for cause of justice.
7. That, in the circumstances explained above the contempt petition deserves to be dismissed with cost.



AFFIDAVIT

I Sri A. Kisporta, Son of late. Andreas Kisporta... aged about59..... years, working as Deputy Chief Personnel Officer/IR, Northeast Frontier Railway, do hereby solemnly affirm and say that I am the respondent No.4....., in the above contempt petition and as such I am conversant with the facts and circumstances of the case, and say that the statements made in Paragraphs 1 to 7 above are true to my knowledge and that I have not suppressed any material facts.

I sign this affidavit on this day 22..... of February' 2008 at Guwahati.

Identified by me.

JL. Dancer
22/2/08.

Advocate

Deponent

A. Kisporta Deputy Chief Personnel Officer/IR
N.F. Railway, Maligaon
Guwahati-11

Solemnly affirmed and sworn
in before me on this day22.2.08
of February' 2008.

Subrata Nain
22/2/08

Advocate

Date of Registration of the copy.	Date Board for certifying the requisite number of copies for filing.	Date of acceptance of the certified copies and filing.	- 4 - Annexure - R-1 SN. 27
17/11/01	17/11/01	17/11/01	

Appeal from Civil Rule

W. P. (S) No. 47356 of 2007

Appellant
Petitioner

Lemnion or India Grass

LÜNGS

Govardhanakumar Biswas 8028.

Respondent
Opposite Party

Appellant Mr. S. Sarma
For

Petitioner Miss. B. Devi.

Mr. H. K. Das. Rly. Adv.

Respondent

For—

Opposite Party

Noting by Officer or Advocate	Serial No	Date	Office notes, reports orders or proceedings with signature
	2	3	

Attested
A. C. M. 25/2

सेंट्रल एडमिनिस्ट्रेटिव ट्रिब्यूनल
Central Administrative Tribunal

गुवाहाटी अधिकारी
Guwahati Bench

AND -

IN THE MATTER OF

1. The Government of India represented by the
Secretary, Govt. of India, Ministry of
Railways.

2. The General Manager, N.E.Railway,
Naligaon, Guwahati, Assam.

3. The General Manager, (Personnel),
N.E.Railway, Naligaon, Guwahati.

... Petitioners

- Versus -

THE STATE OF

1. Smt. Mahua Biswas,
W/o Dilip Barma,
Alipueduar Court District:
Jalpaiguri, West Bengal.

... Respondent

2. Sri Sudipta Das
Trained Graduate Teacher
Lumding Railway Higher Secondary School
Lumding, Assam.

Attested
At
25/2

Mr. Atul Kumar (रामेश्वर)
Mobile Person
Mobile: 783777-70161
P.O. Box: 101, Mahanta, Lumding, Assam-783001

Case No. 498
Date: 10/10/1988

3. Sri Bhupat Karjee

Physical Training Instructor

Railway Higher Secondary School

Alipurduar Junction, West Bengal,

4. Sri Krishna Dutta

Trained Graduate Teacher

Bani Nangir Railway Higher Secondary School

Niliguri, West Bengal.

5. Sri Apurnamay Bhosh

Trained Graduate Teacher

Railway Higher Secondary School

Alipurduar Junction, West Bengal.

6. Sri Subhasay Ban

Trained Graduate Teacher

Railway Higher Secondary School

Alipurduar Junction, West Bengal.

... Proforma Respondent

Attested

25/2

Ex-27
Case No. 498
Date: 10/10/1988
Place: Alipurduar
Tribunal: Central Administrative Tribunal
Case No. 498
Date: 10/10/1988
Place: Alipurduar

Noting by Officer or Advocate		Serial No.	Date	Office notes, reports, orders & proceeding with signature
1		3	3	4/12/07 = 74978 G. B. Burch

W.P.O. NO. 4756/07

BEFORE
HON'BLE THE CHIEF JUSTICE MR. J. CHELAMESWAR
HON'BLE JUSTICE SMTI A. HAZARIKA

12.01.2007

(CHIEF JAMESWAR, CJ)

Heard Mr. S. Sarma, learned Standing
Court for Railways for the petitioner.

Admit.

Issue notice.

Steps for service on respondents by
registered post shall be taken within three days.

Status quo obtaining as on today shall be
maintained until further orders.

Smti J. Chelameswar
Chief Justice

Smti A. Hazarika
Judge

26.312

20/11/07

Temp. Court of Mr. Justice
A. Hazarika

Date ... 20/11/07

Superintend. of Copying
Gauhati High Court

Law Hall

8d. No.
20/11/07

RECORDED TO BE SERVED

Reference No. 20/11/07

Date 20/11/07

Superintendent (Copying Section)

Gauhati High Court

Authorised U/S 76, Act 5, 1877

8d. No.

20/11/07

Affixed

Smti. Personnel Officer (Temp. G.S.)
Smti. Personnel Officer (Legal Cell)
R. S. 2002, A. Hazarika, 20/11/07-78/07
R. S. 2002, A. Hazarika, 20/11/07-78/07
R. S. 2002, A. Hazarika, 20/11/07-78/07

File in Court on.....
Court Officer.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
24 MAR 2008
गुवाहाटी न्यायपोष
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

C.P No.01/2008

IN

OA No.01/2005

Smt Mahua Biswas
-Vs-
Union Of India & Others

(Affidavit in opposition by the Respondent No.2)

The respondent No.2 most respectfully begs to state as follows:-

1. That the said respondent has gone through the above contempt petition and understood the contents thereof.
2. That, the respondent is a responsible citizen of India and in his personal capacity and in the capacity as Chief Personnel Officer of the Northeast Frontier Railway has full regards for the process of law and this Hon'ble Tribunal and as such is fully conscious and aware that he is bound to comply with/proceed with according to established procedure of law, and there is no scope of deliberate negligence of the order dated 03.04.07 of this Hon'ble Tribunal in OA No.01/2005, by the respondent.
3. That, on receipt of the information of the contempt petition the respondent has made thorough inquiry in the matter.

The fact of the case is that on receipt of the order dated 03.04.2007 in OA No.01/2005, the matter has been examined by the officers/officials of this Railway, and it has been found that there would be difficulty in implementing the order of Hon'ble Tribunal in terms of the provision in the Indian Railway Establishment Manual. Opinion of the Railway's Standing Counsel of Hon'ble Gauhati High Court was sought for who gave opinion that it would be appropriate to file an application before the Hon'ble Gauhati High Court under Article-226 of the constitution of India and in pursuance to the opinion it was decided to file a writ application before the Hon'ble High Court, and the Railway Advocate was advised to prepare the Application under the letter dt 06.06.2007, which was prepared and sent by the Railway Advocate on 20.08.2007 for final

...contd-P/2

Received,
Lokman Tengir
20/10/08

File

Court Officer.

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
91
24 MAR 2008
गुवाहाटी न्यायालय
Guwahati Bench

-2-

examination and confirmation. The affidavit was sworn in on 29.08.2007 in Hon'ble Gauhati High Court.

3. That, the said writ petition was numbered as WP(C) No.4756/2007 and by an order dt 12.09.2007 the Hon'ble High Court (Division Bench) was pleased to admit the case and pass in interim order of status quo as on 12.09.2007. The writ petition is pending with status quo order as explained copy of the order dt 12.09.2007 in WP(C) No. 4756/2007 (UOI & Ors -Vs-Smti Mahua Biswas & Ors) is enclosed as Annexure-R-1.

4. That, the contempt petitioner visited the office of the respondent in January' 2008 and when she inquired she was told about the said writ petition. She is a party in the said writ petition.

5. That, in the facts and circumstances of the case the respondent respectfully states and submits that the respondent is not in any way responsible for negligence/deliberate negligence in the matter of the Hon'ble Tribunal's order dt 03.04.2007 in OA No.01/2005, and the matter is pending before the Hon'ble Gauhati High Court being W/P(C) No.4756/07.

6. That, this affidavit in opposition is filed bonafide and for cause of justice.

7. That, in the circumstances explained above the contempt petition deserves to be dismissed with cost.

M. Dhamalingam
Chief Executive Officer
R.P. Railway, Malignor
Guwanati-11

File in Court on.....

Court Officer.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

24 MAR 2008

AFFIDAVIT

गुवाहाटी न्यायपीठ
Guwahati Bench

I Sri M. Dharmalingam, Son of Late P. Raja..... aged about
✓ 53..... years, working as Chief Personnel Officer, Northeast Frontier Railway, do
hereby solemnly affirm and say that I am the respondent No. 2....., in the above
contempt petition and as such I am conversant with the facts and circumstances of the
case, and say that the statements made in Paragraphs 1 to 7 above are true to my
knowledge and that I have not suppressed any material facts.

I sign this affidavit on this day 24..... of February 2008 at Guwahati.

Identified by me.

Advocate

M. Dharmalingam
24/3/08

M. Dharmalingam

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

Solemnly affirmed and sworn
in before me on this day 24th..
of February 2008.

March.

Advocate
24/3/08

Advocate

Date of application for
the copy.

Date Recd for application
(to indicate number of
copies given below)

Date of filing of the
original stamp and
tally.

Ang exel the
Applicant.

17/3/08

14/3/08

17/3/08

83

83

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

File No. 107.....
Court Officer.

Appeal from
Civil Rule

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

W.P.(C)No. 4736 of 2007

21 MAR 2008

गूवाहाटी न्यायपीठ
Guwahati Bench

Appellant
Petitioner

Version of India Govt

Versus

Sonali Nahula Biswas 8028.

Respondent
Opposite Party

Appellant Mrs. S. Sharma
For Petitioner Mrs. B. Devi
Mrs. H. K. Das. RLY. Adv.

Respondent

For
Opposite Party

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports orders or proceedings with signature
	2	3	

Arrested
Army
5/3/08
APOL Legal Cell Maligaon

File in Court on.....

Court Officer.

AND

इन्द्रांश प्रशासनिक अदिकरण
Central Administrative Tribunal

21 MAR 2008

गुवाहाटी न्यायपीठ
Gauhati Bench

IN THE MATTER OF

1. Union of India represented by the
Secretary, Govt. of India, Ministry of
Railways.

2. The General Manager, N.E.Railway,
Naligaon, Guwahati, Assam.

3. The General Manager, (Personnel),
N.E.Railway, Naligaon, Guwahati.

Petitioners

Versus

IN THE MATTER OF

1. Shri, Mahua Biswas,
W/o Dilip Barma,
Alipueduar Court District,
Jasparguri, West Bengal.

Respondent

2. Sri Sudipta Das
Trained Graduate Teacher
Lumding Railway Higher Secondary School
Lumding, Assam.

APC, GEA
CIV. A. 1090
5/3/08

File in Court on.....

35 SR 25

Court Officer.

3. Sri Bharat Karjee
Physical Training Instructor
Railway Higher Secondary School
Alipurduar Junction, West Bengal,

केंद्रीय प्रशासनिक अधियरण
Central Administrative Tribunal

24 MAR 2008

गुवाहाटी न्यायपीठ
Gauhati Bench

4. Sri Krishna Dutta
Trained Graduate Teacher
Bant Mandir Railway Higher Secondary School
Biliguri, West Bengal.

5. Sri Apurnanay Ghosh
Trained Graduate Teacher
Railway Higher Secondary School
Alipurduar Junction, West Bengal.

6. Sri Subhroday Banerjee
Trained Graduate Teacher
Bansby Higher Secondary School
Alipurduar Junction, West Bengal.

... Proforma Respondents

A. West
5/3/08
APO/Legal/Central/2008

Serial No.	Date	Office notes, Report, draft of proceeding with reference
1	3	W.P.O NO. 47557/07

3

X

36

BEFORE
HON'BLE THE CHIEF JUSTICE MR. J. CHELAMESWAR
HON'BLE JUSTICE SMTI A. HAZARIKA

File in Court on.....
12.01.2007

Court Officer. (CHIEF JUDGE, CJ)

Heard Mr. S. Sarma, learned Standing Counsel for Railways for the petitioner.

Admit.

Issue notice.

Steps for service on respondents by registered post shall be taken within three days.

Status quo obtaining as on today shall be maintained until further orders.

3/1 J. Chelameswar
Chief Justice

Smti A Hazarika
Judge

86312
20.11.07

Issue Cop. if 11.
Ket. 11/12
Date 20.11.07
Superintendent of
Gauhati H. C
Gauhati
20.11.07
20.11.07

केंद्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

21 MA 9222
पुस्तकालय
FILED TO BE KEPT
Kening Lam Deka
Date 20/11/07
Superintendent (Copying Section)
Gauhati High Court
Authorised U/S 76, Act 5, 1871

8/1/H
20.11.07

Attended
AFC/Lev
5/08
C. 11/11/07

File in Court on..... 21/3/08

Court Officer.

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

24 MAR 2008

गुवाहाटी न्यायपाल
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

C.P No.01/2008

IN

OA No.01/2005

Smt Mahua Biswas

-Vs-

Union Of India & Others

(Affidavit in opposition by the Respondent No.3)

The respondent No.3 most respectfully begs to state as follows:-

1. That the said respondent has gone through the above contempt petition and understood the contents thereof.
2. That, the respondent is a responsible citizen of India and in his personal capacity and in the capacity as Chief Personnel Officer/Administration of the Northeast Frontier Railway has full regards for the process of law and this Hon'ble Tribunal and as such is fully conscious and aware that he is bound to comply with/proceed with according to established procedure of law, and there is no scope of deliberate negligence of the order dated 03.04.07 of this Hon'ble Tribunal in OA No.01/2005, by the respondent.
3. That, on receipt of the information of the contempt petition the respondent has made thorough inquiry in the matter.

The fact of the case is that on receipt of the order dated 03.04.2007 in OA No.01/2005, the matter has been examined by the officers/officials of this Railway, and it has been found that there would be difficulty in implementing the order of Hon'ble Tribunal in terms of the provision in the Indian Railway Establishment Manual. Opinion of the Railway's Standing Counsel of Hon'ble Gauhati High Court was sought for who gave opinion that it would be appropriate to file an application before the Hon'ble Gauhati High Court under Article-226 of the constitution of India and in pursuance to the opinion it was decided to file a writ application before the Hon'ble High Court, and the Railway Advocate was advised to prepare the Application under the letter dt 06.06.2007, which was prepared and sent by the Railway Advocate on 20.08.2007 for final

...contd-P/2

Received, *[Signature]* 21/3/08
Solicitor

File in Court on.....	Central Administrative Tribunal Court Officer.
24 MAR 2008	
गुवाहाटी न्यायपीठ Guwahati Bench	

-2-

examination and confirmation. The affidavit was sworn in on 29.08.2007 in Hon'ble Gauhati High Court.

Subhankar
Chief Personnel Officer
N F. Railway, Morigaon
Guwahati-11

3. That, the said writ petition was numbered as WP(C) No.4756/2007 and by an order dt 12.09.2007 the Hon'ble High Court (Division Bench) was pleased to admit the case and pass in interim order of status quo as on 12.09.2007. The writ petition is pending with status quo order as explained copy of the order dt 12.09.2007 in WP(C) No. 4756/2007 (UOI & Ors –Vs-Smti Mahua Biswas & Ors) is enclosed as Annexure-R-1.
4. That, the contempt petitioner visited the office of the respondent in January' 2008 and when she inquired she was told about the said writ petition. She is a party in the said writ petition.
5. That, in the facts and circumstances of the case the respondent respectfully states and submits that the respondent is not in any way responsible for negligence/deliberate negligence in the matter of the Hon'ble Tribunal's order dt 03.04.2007 in OA No.01/2005, and the matter is pending before the Hon'ble Gauhati High Court being W/P(C) No.4756/07.
6. That, this affidavit in opposition is filed bonafide and for cause of justice.
7. That, in the circumstances explained above the contempt petition deserves to be dismissed with cost.

File No. C.A.T. 03.....

Court Officer

কেন্দ্ৰীয় প্রাদেশীক পৰিবেশ
Central Administrative Tribunal

24 MAR 2008

AFFIDAVIT

গুৱাহাটী ন্যায়পৌঁছ
Guwahati Bench

I Sri S. Jha, Son of Lalit BRAJENDRA NATH JHA aged about 47 years, working as Chief Personnel Officer/Administration, Northeast Frontier Railway, do hereby solemnly affirm and say that I am the respondent No. 3, in the above contempt petition and as such I am conversant with the facts and circumstances of the case, and say that the statements made in Paragraphs 1 to 7 above are true to my knowledge and that I have not suppressed any material facts.

I sign this affidavit on this day 24th of March 2008 at Guwahati.

Identified by me.

Advocate

Dutta
24/03/08

Subash Jha

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

Solemnly affirmed and sworn
in before me on this day 24th
of February 2008.

March.

Dutta
24/3/08

Advocate

Date of Registration of
the copy.

Date Regd for Registering
the requisite number of
SACPS FORM 10/2003

Date of issue of the
canceling stamp and
sticker.

Any other info
of Applicant.

17/1/2008

17/1/2008

17/1/2008

41
no

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,

Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Court Officer.

Appeal from

Civil Rule

केन्द्रीय प्रशासन विधायिका
Central Administrative Tribunal

24 MAR 2008

গুৱাহাটী ন্যায়পাঠ
Guwahati Bench

W.P.(C) No. 47356 of 2007

Appellant
Petitioner

Union of India Govt

Versus

Smt. Makula Biswas Bora,

Respondent
Opposite Party

Appellant M/s. S. Karma,

For Petitioner M/s. B. Devi

M/s. H.K. Das. Rly. Adv.

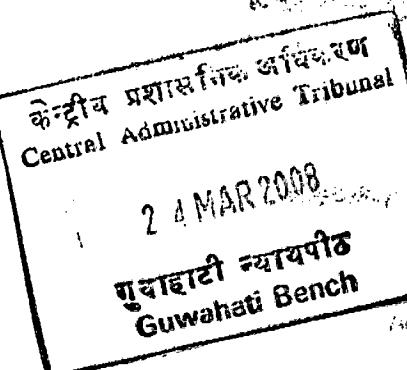
Respondent

For

Opposite Party

Noting by Officer or Advocate	Serial No	Date	Office notes, reports orders or proceedings with signature
	2	3	

Entered
5/3/08
AFO/ Legal Cell/Maligaon



File in Court on.....
Court Officer.

5

41

24 MAR 2008

मानव अधिकारों के लिए विशेष न्यायपीठ
गुवाहाटी न्यायपीठ
गुवाहाटी न्यायपीठ

मानव अधिकारों के लिए विशेष न्यायपीठ
गुवाहाटी न्यायपीठ
गुवाहाटी न्यायपीठ

मानव अधिकारों के लिए विशेष न्यायपीठ
गुवाहाटी न्यायपीठ
गुवाहाटी न्यायपीठ

मानव अधिकारों के लिए विशेष न्यायपीठ

Attest
3/3/08
Anil Kumar Chakravorty
Signature

मानव अधिकारों के लिए विशेष न्यायपीठ

गुवाहाटी न्यायपीठ
गुवाहाटी न्यायपीठ

Signature - Jayanta Bhattacharya, Secondary School

Signature - Name

File in Court on.....

SN 25
✓

Court Officer.

3. Sri Bhupat Karjee

Physical Training Instructor

Railway Higher Secondary School

Alipurduar Junction, West Bengal.

4. Sri Krishna Dutta

Trained Graduate Teacher

Rani Mandir Railway Higher Secondary School

Siliguri, West Bengal.

5. Sri Apurnamay Bhattacharya

Trained Graduate Teacher

Railway Higher Secondary School

Alipurduar Junction, West Bengal.

24 MAR 2008

গুৱাহাটী ন্যায়পাঠ
GUWAHATI Bench

4. Sri Subhroday Sen

Trained Graduate Teacher

Astley Higher Secondary School

Alipurduar Junction, West Bengal.

... Proforma Respondents

Attested
3/3/08
RPU/Legal Cell/Maligaon

File in Court on.....

Sp. 24

Court Officer.

Noting by Officer or Advocate	1
	2

Serial No.	Date	Office notes, reports, etc. of proceeding with signature
3	3	4

W.P.O NO. 6756/07

BEFORE
HON'BLE THE CHIEF JUSTICE MR. J. CHELAMESWAR
HON'BLE JUSTICE SMTI A. HAZARIKA

12.01.2007

(CHLAMESWAR, CJ)

Heard Mr. S. Sarma, learned Standing
Counsel for Railways for the petitioner.

Admit.

Issue notice.

Steps for service on respondents by
registered post shall be taken within three days.

Status quo obtaining as on today shall be
maintained until further orders.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

24 MAR 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

est/ J. Chelameswar
Chief Justice

sd/- A. Hazari
gur/9c

86312

20.11.07

Issued Copy of the
Order No. 1
Date 20.11.07
Superintendent (Copying Section)
Gauhati High Court
Law Hall
8/11/07
20.11.07

CLASSIFIED TO BE KEPT SECRET

Date 20/11/07

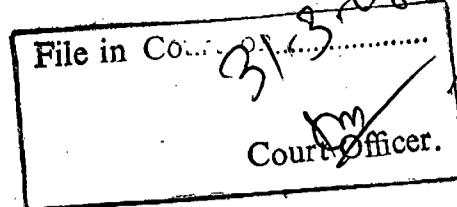
Superintendent (Copying Section)

Gauhati High Court

Authorised UAS 76, Act 5, 1971

8/1/07
20.11.07

Attested
5/11/07
A. Hazari
Court Seal
Finalized



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI :: BENCH

Contempt Petition (Civil) No. 01 /2008.

In O.A No. 01/2005.

Mahua Biswas.

Applicant.

-Vs-

Union of India & Ors.

Respondent.

54
Filed by the applicant
Writ Petition
dossing Tengin
Aruna Biswas

MEMO OF WITHDRAWAL OF CONTEMPT PETITION No.01/2008

The humble petitioner above named

MOST RESPECTFULLY SHEWETH

1. That the applicant herein has preferred a contempt petition No.01/2008 against non compliance of the order of this Hon'ble Tribunal dated 03.04.2007 passed in O.A No.01/2005. (Mahua Biswas -vs- U.O.I & Ors).
2. That the applicant submitted the certified copy of the aforementioned order of this Hon'ble Tribunal alongwith the representation on 9.4.07. The office of the General Manager (Personnel) accepted the copy of the order vide acknowledgment receipt dated 9.4.07.
3. That on 23rd/24th of December, 2007 the petitioner along with her husband went to the A.P.O Welfare Office, Head Office, NEF Railway, Maligaon to enquire about the fate of her representation dated 09.04.07. However, the A.P.O Welfare Office directed the petitioner to approach the Legal Cell. Thereafter the Legal Cell informed the petitioner that the Railway Authorities are contemplating to file a writ petition before the Hon'ble Gauhati High Court against the order of the this Hon'ble Tribunal dated

03.04.07 and that the petitioner would receive notice of the same in the first week of January²⁰⁰⁸ as the Hon'ble High Court is not in session due to winter vacation. The officials of the Legal Cell did not serve copy of any writ petition or any of its interim order. They did not even disclose to the petitioner the order of status quo passed against the order of the Hon'ble Tribunal.

4. That even after waiting for nearly a month after visiting the Legal Cell, Head Office, Maligaon the petitioner did not receive any notice of the Hon'ble High Court of any writ petition filed against the aforementioned order of the Hon'ble Tribunal or any notice/particulars from the Head Office, NF Railway, Maligaon. Therefore, the petitioner preferred a Contempt Petition No.01/2008 against the Railway Authorities for Civil Contempt within the meaning of section 2(b) of the Contempt of Courts Act, 1971.

5. That it is pertinent to mention herein that till today the petitioner has not received any notice of the Hon'ble Gauhati High Court of entertaining a writ petition against the order of the Hon'ble Tribunal passed in O.A.No.01/2005 dated 03.04.2007.

6. That the petitioner came to know about pendency of a writ petition No.4756/2007 (U.O.I & Ors -vs- Smti Mahua Biswas) and its interim order of status quo dated 12.09.2007 only when the Railway Authorities had filed their written statement in C.P.No.01/08 on 24.03.2008.

7. That in the facts and circumstances mentioned herein above it is most respectfully prayed that Your Honours may graciously be pleased to grant leave to the petitioner to withdraw the contempt petition No.01/2005 with the liberty to approach the Hon'ble Tribunal afresh as and when situation arises in the interest of justice.

Court Officer.

AFFIDAVIT

I, Mahua Biswas, wife of Shri Dilip Sarma, aged about 35 years, resident of Alipurduar Court, District: Jalpaiguri, West Bengal, do hereby solemnly affirm and state as follows:

1. That I am the applicant in the instant petition. I am conversant with the facts and circumstances of the case and as such I am competent to swear this affidavit.
2. That the statements made in this petition are true to my knowledge. The rest are my humble submissions before this Hon'ble Tribunal.

And, I sign this affidavit on this the 27th day of March, 2008.

Identified by me

Lobsang Tenzin
(Lobsang Tenzin)

Advocate.

Mahua Biswas

DEPONENT.