

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

1. Original Application NO. \_\_\_\_\_
2. Miscellaneous 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 .....

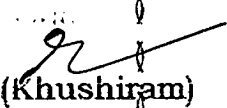
... Dr. J.L. Sarkar, .....


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

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt petition has been filed by the Petitioner viz 17 of the C.A.T. 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.</p>	28.01.2008	<p>Mr. L. Tenzin, learned counsel appearing for the Applicant is present. In the Court he supplied a copy of the C.P. and enclosures to Dr.J.L.Sarkar, learned Standing Counsel appearing for the Railways; who seeks adjournment to obtain instructions from the Respondents/Railways.</p>

Having heard Mr. L. Tenzin, learned counsel appearing for the Applicant, notices <sup>are directed to</sup> ~~are to~~ be issued to the Respondents requiring them to file their show cause by 28<sup>th</sup> February, 2008.

Call this matter on 28.02.2008.

  
(Khushiram)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman

Section Officer

28.2.08

Steps received from Mr. L. Tenzin, ld. counsel for the Applicant today, the 25.2.08 only. Hence pl. issue notice to it self. 25.2.08

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. DI= 26/2/07.

27.2.08

28.02.2008

W/S filed by  
the Respond. No. 4, undertaking  
given for service copy,

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.

Ho,

R

Case

W/S filed by R.No-4

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 <sup>which has</sup> passed  
status quo orders until further orders.

20.3.08

Call this matter on 24.03.2008.

28.3.08

Affidavit in support  
filed by the Respondent  
No. 2 & 3 copy  
served.

/bb/

24.03.2008

Call this matter on 28.03.2008.

(Khushiram)  
Member (A)

(M.R.Mohanty)  
Vice-Chairman

28.03.2008

None appears for the Applicant nor the  
Applicant is present.

Call this matter on 31<sup>st</sup> March, 2008.

lm

(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 supplied 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 A/Adv. for the parties.  
eth.

4

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**GUWAHATI :: BENCH**

**Contempt Petition (Civil) No. 01/2008.**

**In O.A No. 01/2005.**

Mahua Biswas.

**Applicant.**

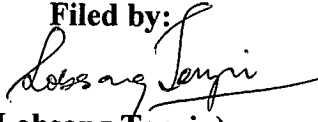
**-Vs-**

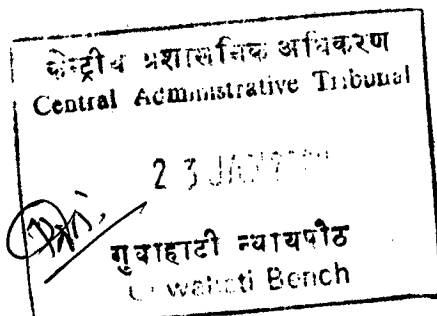
Union of India & Ors.

**Respondent.**

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Filed by:  
  
(Lobsang Tenzin)  
Advocate



Filed by the petitioner  
Mistry  
Lobsang Tenzin  
Guwahati

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.

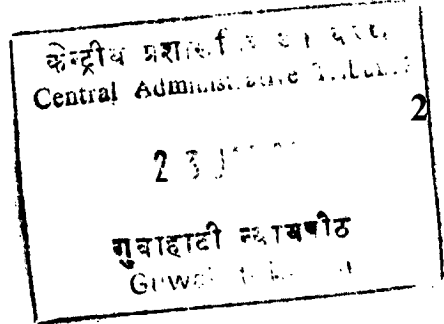
**-AND-**

IN THE MATTER OF:

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

**Petitioner.**

**-Versus-**



6

Future Business

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**

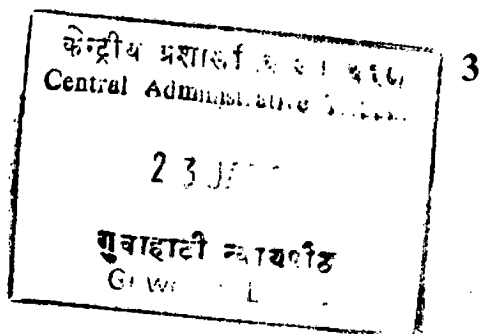
1. That the petitioner had preferred O.A No.01 of 2005, challenging the select list of Post Graduate Teachers of English, circulated vide O.M dated 8.11.04. In the aforementioned O.A, the petitioner prayed for following reliefs:

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 4<sup>th</sup> 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.

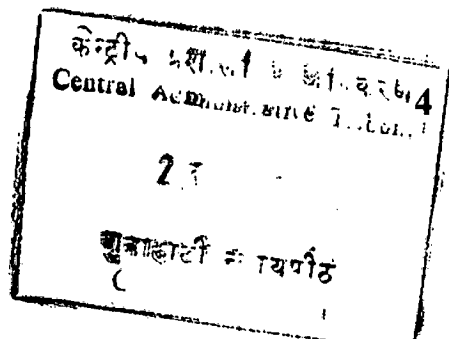
3. That the petitioner submitted the certified copy of the order of this Hon'ble Tribunal alongwith the representation on 9.4.07. The office of the General Manager (Personnel) accepted the copy of the order vide acknowledgment receipt dated 9.4.07.

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 9<sup>th</sup> 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

Suma Bhowmik



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.

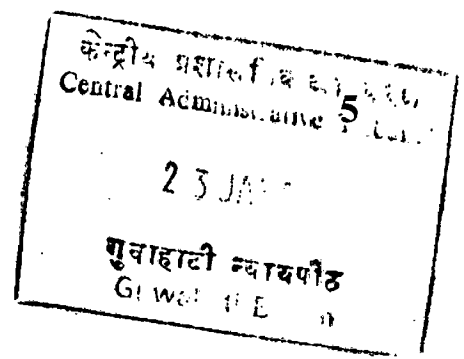
ii) Pass such other order/orders as your Lordships may deem fit in the facts and circumstances of the case, and

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 23<sup>rd</sup> day of January, 2008.

Identified by me

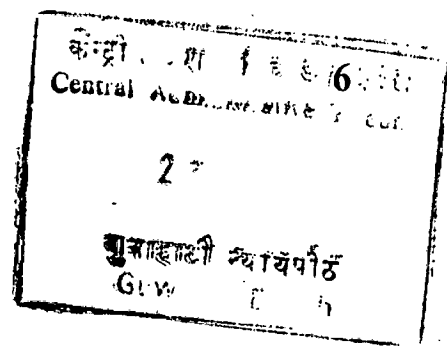
*Lobsang Tenzin*  
(Lobsang Tenzin)

Advocate

*Mahua Biswas*

DEPONENT.

*Mahua Biswas*

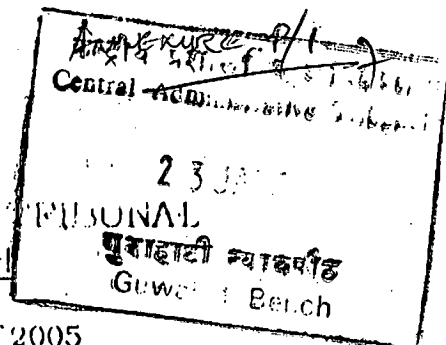


### DRAFT CHARGE

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.

Meine Biswas

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH



Original Application No. 1 of 2005

Date of Order: This the 3<sup>rd</sup> day of <sup>April</sup> ~~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,  
Alipurdhwar 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.Sudipfa Das, Trained Graduate Teacher,  
Landing Railway Higher Secondary School,  
Landing, Assam.

6.Bharat Karjee, Physical Training Instructor,  
Railway Higher Secondary School,  
Alipurdhwar Junction, West Bengal.

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

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

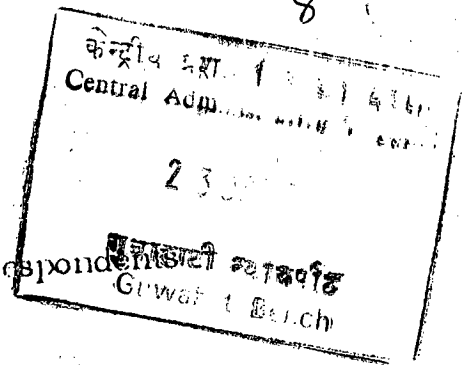


Copy filed to be the  
true copy of the original  
Laxmi Sarma  
Advocate

2

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

By Railway Counsel Sri S. Sengupta.



**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, Alipurdwar 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 became TGT on 13.1.02.

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

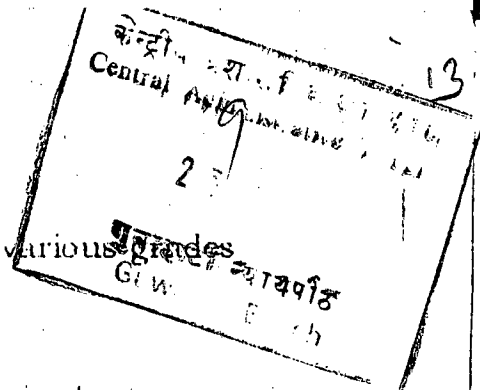
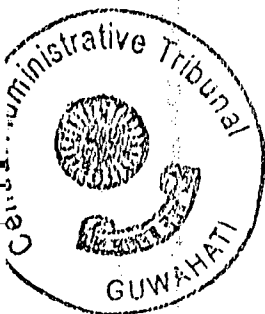


Post Graduate Teacher. The cadres of teachers with various grades are shown below :

<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.F. 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

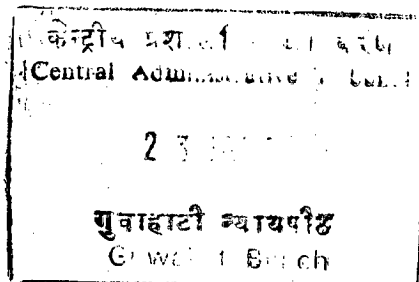
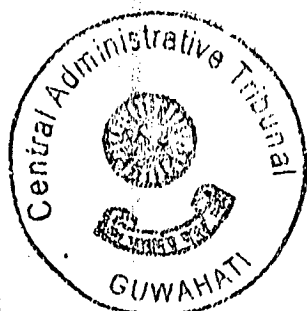


were provided amongst these candidates. The names of the private respondents (5 to 9) were also included. It has been contended by the applicant that only respondent No.9 was eligible as respondent No.5 was working as TGT Arts, respondent No.6 was a Physical Training Instructor, respondent No.7 was a 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 PCT 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, Maligaon, Guwahati. However, she received no response.

7. Her main grievance is that the impugned selection for the private respondents for the post of PCT 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 PCT 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 come 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 reinstate 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

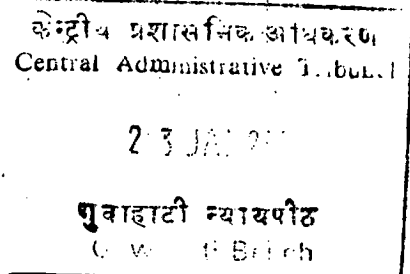
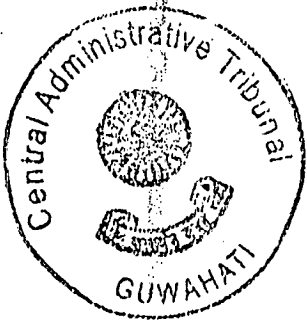


केन्द्रीय प्रशासनिक न्यायालय Central Administrative Tribunal
2
गुवाहाटी न्यायाधीश Guwahati Bench

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





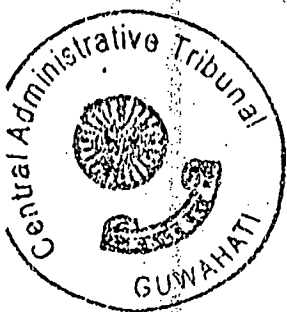
decision in Madan Lal and Others vs. State of J & K & Ors., (1995) 10 SCC 486, wherein it has been held that :

"...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 Madanlal (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 Rajkumar 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 अधिकरण  
Central Administrative Tribunal

23/10/2006

गुवाहाटी न्यायाधीश

"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

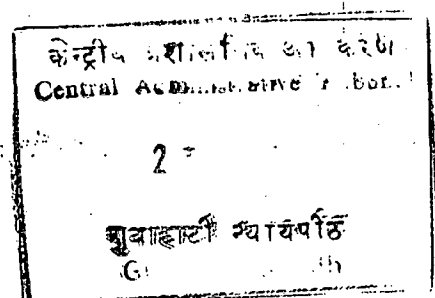
- iii) Integrated two year's Post Graduate course of Regional Colleges of Education of NCERT.
- iii) Competence to teach through the medium/media, as required."

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. Smt Krishna Dutta	63.14
4. Sri Apurnamoy Ghosh	71.71
5. Sri Subhamoy Sen	69.28
6. Smt Mahua Biswas	69.85
7. Smt Sarmistha 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



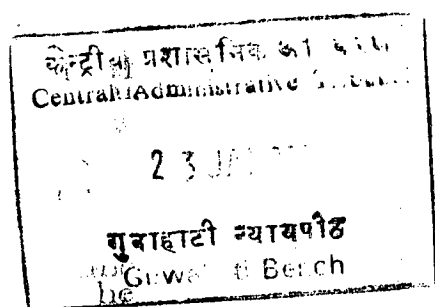
her at Sl.No.4 and 6 have secured 63.14 and 69.28 marks respectively. On enquiry from the Railway counsel as to the reason for placing her below candidates who have secured less marks than her it was explained that this was because she was lower than them in the seniority list of TGTs. While the applicant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

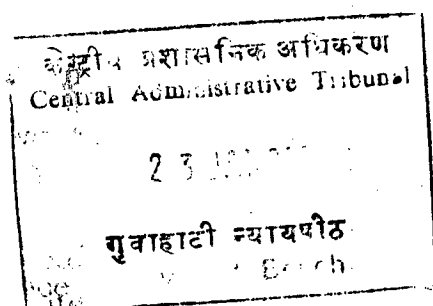


of the marks which they have secured as a result of assessment by the Selection Committee.

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.

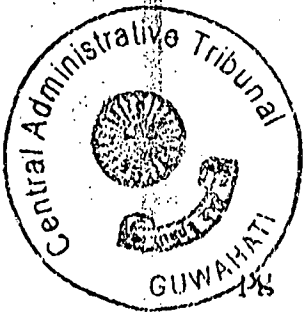
15. Looking to the facts and circumstances of the case we are of the view that since the applicant has come out successful as 4th in the merit list she should have been considered for promotion.



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

प्रतिनिधि

N. J. 3.4.07.

अनुभाग अधिकारी

Section Officer (Judl)

Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायाधीश

Guwahati

Guwahati-5

3/4/07

केन्द्रीय प्रशासनिक न्यायाधीश  
Central Administrative Tribunal

230

गुवाहाटी न्यायाधीश  
Guwahati



To,

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

23 JAN 2007

গুৱাহাটী ন্যায্যীট  
Guwahati Bench

Sub: Order of the Central Administrative Tribunal,  
Guwahati Bench dated 3<sup>rd</sup> 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 unreserved 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

Confirmed to be original  
true copy  
Lossy Jeyi  
Advocate

23

गुवाहाटी न्यायपीठ  
Guwahati Bench

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23  
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 4<sup>th</sup>. In view of 4<sup>th</sup> 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

23 JAN 1977

गुवाहाटी न्यायपीठ  
(W. A. B. Bench)

20 24

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 4<sup>th</sup>.
- III. Since in the select list the position of the undersigned i.e. Mahua Biswas (Applicant) was 4<sup>th</sup> in terms of merit, therefore, the applicant was entitled to be appointed as PGT English against the 5 unreserved vacancies.
- IV. Once the select list is prepared after counting the marks for seniority then there is no 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 PGT English, for the same would amount to giving double benefits.



21  
4  
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

2  
गुवाहाटी न्यायपीठ  
D. Ch

Lastly, in view of the above findings it was specifically held by the Hon'ble Tribunal that since the applicant had come out successfully 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 of Hon'ble Tribunal.

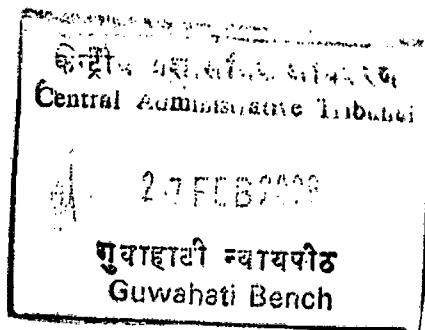
The Photostat of the certified copy of the order of Hon'ble Tribunal dated 3.4.07 passed in O.A No.1/05 is enclosed herewith for the perusal, action and compliance.

Thanking You,

Yours faithfully,

Mahua Biswas.

(Mahua Biswas)



**DISTRICT: KAMRUP**

**IN THE CENTRAL ADMINSTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI**

**C.P No. 01 OF 2008**

**IN**

**OA No. 01 OF 2005**

**BETWEEN**

**Smt Mahua Biswas** .....Petitioner

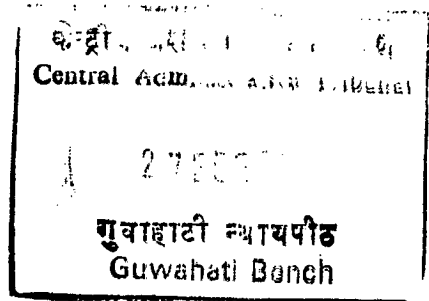
**-Versus-**

**Union Of India & Others** .....Respondents

**I N D E X**

<b><u>SL.No.</u></b>	<b><u>Particulars</u></b>	<b><u>Page</u></b>
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. Kishor*  
By Chief Personnel Officer/IR  
N.F. Railway, Maligaon  
Guwahati-781001

(Affidavit in opposition by the Respondent No.4)

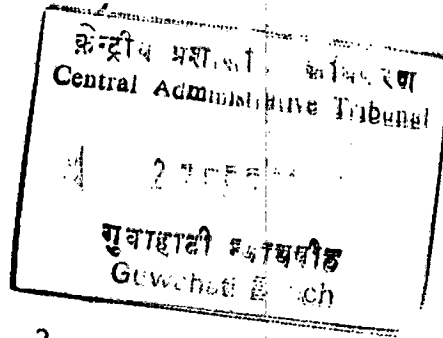
The respondent No.4 most respectfully begs to state as follows:-

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

filed by the respondent  
J. J. Sarker  
Advocate  
28.08.2008



-2-

*A. Kisipotta*

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

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

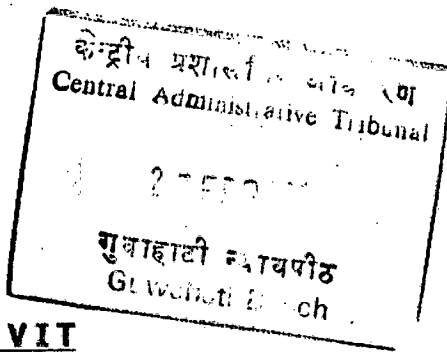
3. That, the said writ petition was numbered as WP(C) No.4756/2007 and by an order dt 12.09.2007 the Hon'ble High Court (Division Bench) was pleased to admit the case and pass in interim order of status quo as on 12.09.2007. The writ petition is pending with status quo order as explained copy of the order dt 12.09.200 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. Kispotta, Son of Late Andreas Kispotta... aged about 59... 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 22-2 of February' 2008 at Guwahati.

Identified by me.

J. Sarker  
22/2/08

Advocate

Deponent

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

Solemnly affirmed and sworn  
in before me on this day 22.2.08  
of February' 2008.

Subrata Nath  
22/02/08

Advocate

Date of Application for the copy.	Date paid for obtaining the requisite number of stamps for copies.	Date of receipt of the requisite stamp and fee.	And over the application.
17/11/07	17/11/07	17/11/07	Annexure - R-1

केंद्रीय प्रशासनिक बोर्ड  
 Central Administrative Tribunal  
 (High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)  
 गुवाहाटी न्यायापीठ  
 Guwahati Bench

IN THE GAUHATI HIGH COURT

CIVIL APPELLATE SIDE

Appeal from  
Civil Rule

W.P.(C) No. 4756 of 2007

Appellant  
Petitioner

Union of India & Ors.

Versus

Smt. Mahua Biswas & Ors.

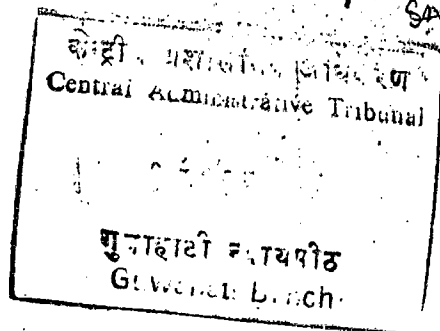
Respondent  
Opposite Party

Appellant Mr. S. Barma.  
 For 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  
 [Signature]  
 25/12  
 Mr. Ananta Kumar (विधि अधिकारी)  
 Asstt. Personal Officer (Legal Cell)  
 पता: न्यायाधीश, न्यायालय, गुवाहाटी-781001  
 95 841005 8018005. 0908000-0908000



AND

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,  
Maligaon, Guwahati, Assam.

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

... Petitioners

- Versus -

IN THE MATTER OF

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

..... Respondent

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

Attested

15/2

श्री. प्रदीप बिसवा (विधि हंकी)  
अध्यक्ष, प्रशासनिक न्यायिक निकाय  
ए. टी. न्याय, मालिगाँ, गुवाहाटी-781001  
Assam, Maligaon, Guwahati-781001





7-  
3

केन्द्रीय प्रशासनिक अदालत  
Central Administrative Tribunal  
गौहाटी - तयपरीठ  
Gauhati Bench

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

W.P. NO. 4756/07

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.

sd/- A Hazarika  
Judge

sd/- J. Chelameswar  
Chief Justice

20.312  
20.11.07

Time	Objection
Date	
Signature	
Gauhati Bench Court	
Gauhati	

sd/-  
20.11.07

FILED TO BE SUB

Kerengbam Dora

Date 20/11/07

Superintendent (Copying Section)

Gauhati High Court

Authorized U/S 76, Act I. 1977

sd/-  
20.11.07

A Hester

25/12

Asst. Personnel Officer (Legal Cell)  
Asst. Secy. M. P. Singh, Guwahati-781001  
e-mail: Malisana Guwahati.assam

File in Court on... 24/3/08

Court Officer.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

24 MAR 2008

गुवाहाटी न्यायापीठ  
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,  
Laxman Tengri  
24/03/08

Chief Justice  
24/3/08  
Filed by Respondent no-2  
Through Dr. J.L. Sankar  
Railway Sec.  
24/3/08

File : .....  
Court Officer.

केन्द्रीय प्रशासनिक अपिचरण  
Central Administrative Tribunal  
91  
24 MAR 2008  
गुवाहाटी न्यायपीठ  
Guwahati Bench

-2-

*N. S. Mahalingam*  
Chief Executive Officer  
R.F. Railway, Maligaon  
Guwahati-11

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 12.09.200 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 in Court on.....

Court Officer.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

24 MAR 2008

गुवाहाटी न्यायपीठ  
Guwahati Bench

**AFFIDAVIT**

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 <sup>March</sup> of February 2008 at Guwahati.

Identified by me.

Advocate

Ante  
24/03/08

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

Ante  
24/3/08

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

5/3/08  
Legal Cell Maligaon

Attested  
Army

5/2/08

APOL Legal Cell, Maligaon

2

File in Court on.....

Court Officer.

SN-26

34

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

21 MAR 2008

गुवाहाटी न्यायपीठ  
Guwahati Bench

- AND -

IN THE MATTER OF :

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

1. The General Manager N.E. Railway,  
Maligaon, Guwahati, Assam.

2. The General Manager, (Personnel),  
N.E. Railway, Maligaon, Guwahati.

... Petitioners

- Versus -

IN THE MATTER OF :

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

.....Respondent

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

5/8/08  
APU: CBA/CC/11/16/08

File in Court on.....

Court Officer.

35 SR 25

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

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

24 MAR 2008

गुप्तहाटी न्यायपीठ  
Guvhati Bench

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

5. Sri Apurnamay Ghosh  
Trained Graduate Teacher  
Railway Higher Secondary School  
Alipuduar Junction, West Bengal.

4. Sri Subhoday Sen  
Trained Graduate Teacher  
Railway Higher Secondary School  
Alipuduar Junction, West Bengal.

... Proforma Respondents

Attested  
[Signature]

5/3/08

AFO/Legal Central Board





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

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
24 MAR 2008  
गुवाहाटी न्यायपीठ  
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,  
Smt Mahua Biswas  
24/04/08

Submitted by  
Chief Personnel Officer  
N.F. Railway, Maligaon  
Guwahati-781005  
Through Dr. J.L. Sankar  
Railway SC.  
24/04/08

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

কেন্দ্রীয় প্রশাসনিক আধিকারণ  
Central Administrative Tribunal  
24 MAR 2008  
গুৱাহাটী ন্যায্যপীঠ  
Guwahati Bench

-2-

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

*Sushant*  
Chief Personnel Officer  
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 12.09.200 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 in Court on.....

Court Officer.....

अधीनस्थ न्यायाधीश  
Central Administrative Tribunal

24 MAR 2008

गुवाहाटी न्यायपीठ  
Guwahati Bench

### AFFIDAVIT

I Sri S. Jha, Son of Lal- BRAJENDRA NATH OJHA 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

Adutta  
24/03/08

Sushant 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.

Advocate

Ramesh  
24/3/08

Date of registration of the copy.	Date Recd for entering the requisite number of stamps etc.	Date of receipt of the remaining stamp and fees.	Amo over the Applicant.
17/11/07	17/11/07	17/11/07	40

# IN THE GAUHATI HIGH COURT

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

File in Court on

CIVIL APPELLATE SIDE

Court Officer.

Appeal from

Civil Rule

W.P.(C) No. 4756 of 2007

केन्द्रीय प्रशासनिक न्यायाधीश  
Central Administrative Tribunal

24 MAR 2008

गुवाहाटी न्यायापीठ  
Guwahati Bench

Appellant  
Petitioner

Union of India & Ors

Versus

Joint: Mahua Biswas & Ors.

Respondent  
Opposite Party

Appellant

Mr. S. Barma.

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  
5/3/08  
AFOL Legal Cell, Maligaon

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

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

ORDER OF

of the Government of India, Ministry of  
Education, Government of India, New Delhi.  
The undersigned, being the Secretary to the  
Government of India, Ministry of Education,  
New Delhi, do hereby certify that the  
above mentioned person is a member of the  
Central Board of Secondary Education, New Delhi.

For the Secretary to the Government of India,  
Ministry of Education, New Delhi.

Signature

For the Secretary to the Government of India,

Ministry of Education, New Delhi.

For the Secretary to the Government of India,

Ministry of Education, New Delhi.

For the Secretary to the Government of India,

Ministry of Education, New Delhi.

Attested by  
3/3/08

Attested by (Signature)

For the Secretary to the Government of India,

Ministry of Education, New Delhi.

For the Secretary to the Government of India,

Ministry of Education, New Delhi.

File in Court on.....

Court Officer.

SN-25

3. Sri Bharat Karjee

Physical Training Instructor

Railway Higher Secondary School

Alipurdwar Junction, West Bengal.

4. Sri Krishna Dutta

Trained Graduate Teacher

Dani Mandir Railway Higher Secondary School

Biliguri, West Bengal.

5. Sri Apurnamay Ghosh

Trained Graduate Teacher

Railway Higher Secondary School

Alipurdwar Junction, West Bengal.

4. Sri Subhoday Sen

Trained Graduate Teacher

Railway Higher Secondary School

Alipurdwar Junction, West Bengal.

গুৱাহাটী প্ৰশাসনিক আদালত  
Guwahati Administrative Tribunal

23 MAR 2008

গুৱাহাটী বেঞ্চ  
Guwahati Bench

Proforma Respondents

Arunesh  
5/8/08  
APO/ Legal Cell: Maligaon

File in Court on.....

Court Officer

SP-24

3

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceeding with signature
	2	3	4

W.P. NO. 3756/07

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

12.01.2007

(CHELAMESWAR, 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 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

sd/- A Hazarika  
Judge

sd/- J. Chelameswar  
Chief Justice

86312

20.11.07

Issue Copy of	Objection
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

sd/-  
20.11.07

NOTIFIED TO BE A RUM

.....

Date

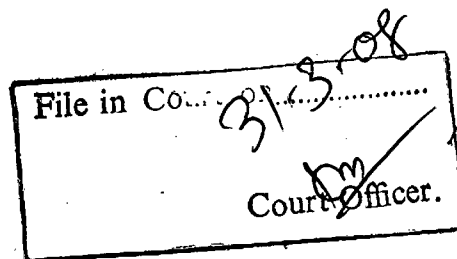
Superintendent (Copying Section)

Gauhati High Court

Authorised U/S 76, Act I. 1871

sd/-  
20.11.07

sd/-  
5/12/08  
At-Original Certification



Filed by the applicant  
through  
Dossang Tanyin  
Advocate

**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.**

**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 23<sup>rd</sup>/24<sup>th</sup> 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 January<sup>2008</sup> 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.

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 27<sup>th</sup> day of March, 2008.

Identified by me

*Lobsang Tenzin*  
(Lobsang Tenzin)

Advocate.

*Mahua Biswas*

DEPONENT.