

FROM No. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. original Application No. 114/2006
2. Misc Petition No.
- 3- Contempt Petition No.
4. Review Application No.

Applicant(S) N. palan

Respondants NOT 2015

Advocate for the Applicant(S).... Mr. S. Nath

Advocate for the Respondant(S).... Standing Counsel, Railway
Smt. B. Devi

Notes of the Registry	Date	Order of the Tribunal
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This application is a total
is filed in the file No. 269 321059
deposited on 13.3.06
Dated..... 13.3.06.....

N. palan
11c Dy. Registrar

mb

At the request of learned counsel
for the respondents post on 17.05.2006.

Vice-Chairman

17.5.2006

Present: The Hon'ble Shri K.V. Sachidanandan
Vice-Chairman.

In furtherance of the
notification dated 12.6.2004 (Annexure-
1) the applicant has applied for the
post of Electrical Signal Maintainer Gr.
III. According to him, applications were
invited for total 40 posts out of which
posts were reserved for ST candidates.
The applicant appeared in the written
examination, was called for verification
of original testimonials and got
verified the same on 31.8.2005 but he
did not get the appointment order. Being
aggrieved, he approached this Tribunal
by way of O.A. No. 320/2005 and
order dated 23.12.2005 this Tribunal had

Pl. comply order
dated 17.5.06.

N3
18.5.06

Contd.

17.5.2006 directed the respondents to dispose of both the pending representation and the representation to be filed by the applicant which was done as per impugned Annexure-9 order dated 22.2.2006. In the last paragraph of the said order it is stated that if more than one candidate secures equal marks and the marks is within the zone of empanelment and in such cases, if all the candidates cannot be empanelled as per requirements of the advertisement, the candidate having his date of birth earliest is considered to be the highest in merit which has obviously happened in this case. In this present case, 3 nos. of ST candidates secured equal marks and unfortunately the name of the applicant figured junior most amongst them in respect of his date of birth and accordingly he could not be empanelled.

Mr. S. Nath, learned counsel for the applicant has pointed out that even according to the impugned order dated 22.2.2006, two ST candidates were empanelled for appointment, whereas the notification/advertisement showed four vacancies were reserved for ST candidates and even assuming that had there been three candidates empanelled, the applicant would have a chance for getting appointment.

Dr. J.L. Sarkar, learned Standing counsel for the Railways representing the respondents submits that he would like to have time for getting instruction. Let it be done. Post the matter on 12.6.2006.

Vice-Chairman

Received
For DR. J.L. Sarkar

S.

order dt. 17/5/06
is duly served
on learned standing
counsel for the
Railways.

29/5/06.

14.9.06

W/s filed in

Rept. 1 & 2.

Dr.

12.06.2006 Learned counsel for the respondents submits that he would like to have four weeks time to file reply statement.

Post on 19.07.2006.

18-7-06

No reply statement has been filed.

18-7-06

Vice-Chairman

mb

19.7.2006

Mr.K.K.Biswas, learned Railway ~~counsel~~ counsel submits that some more time is required to file reply statement. Let it be done.

Post on 22.8.2006.

21-8-06

No W/s has been filed.

22-8-06

Vice-Chairman

bb

22.08.2006

Mrs. B. Devi, learned Railway Counsel for the Respondents wanted time to file reply statement.

Post on 13.09.2006.

No W/s has been filed.

12-9-06

Vice-Chairman

/mb/

13.9.06

Heard learned counsel for the parties. Application is admitted. Issue notice on the respondents.

Learned counsel for the Respondent has submitted that she has filed the written statement to-day and copy of the same has handed over to the counsel for the applicant. Post the matter on 30.10.06. Liberty is given to the applicant to file rejoinder, if any.

14.9.06

W/s filed by the Respondent Nos. 1 & 2.

Dr. J. L. Sankar

27-10-06

W/s filed. No rejoinder filed.

in

Vice-Chairman

Dr. J. L. Sankar
Received
Muralidhar Rao
for B. Devi
12/3/07

30.10.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Learned Counsel for the Applicant
wanted time to file rejoinder. Post on
01.12.2006.

Vice-Chairman

/mb/

1.12.06.

Counsel for the applicant wanted x
time to file rejoinder as a last chance.
Prayer is granted. Post the matter on
22.12.06.

Vice-Chairman

lm

22.12.2006 Post on 2.2.2007 for filing of
rejoinder as requested by learned
counsel for the applicant.

Vice-Chairman

/bb/

6.3.2007

The respondents are
directed to produce the records on
the next date. Learned counsel for
the applicant submits that rejoinder
has been filed. Let it placed on
record. Post it on 14.3.07. It is
made clear that the respondents
shall file the records within one
week.

Copy of the order may be
furnished to the learned counsel for
the respondents.

Vice-Chairman

qkm

No rejoinder has
been filed.

20
30.11.06.

No rejoinder has
been filed.

20
21.12.06.

No rejoinder has
been filed.

20
5.3.07.

13.3.07.

Rejoinder submitted
by the Applicant page
contains 1405.

Dis.

-5- 0A.114/2006

14.3.2007

Mrs.B.Devi, learned counsel for the Railways has produced the records as directed and submitted that the matter may be fixed for hearing on 22.03.2007.

Post the case on 22.03.2007 for hearing. Registry is directed to keep the records in safe custody.

the case is ready
for hearing.

21.3.07



Member



Vice-Chairman

/bb/

22.03.2007

Heard Mr S. Nath, learned counsel for the applicant and Mrs B. Devi, learned counsel for the Railways.

The crucial point is that the applicant alongwith two other candidates secured the same marks in the examination. Since the applicant was the youngest he was excluded, which according to the applicant is not a reasonable criteria for selection.


The learned counsel for the Railways is specifically directed to find out on what basis the selection has been made and also directed to produce the relevant Rules/Regulations and guidelines on the basis of which such procedure was adopted.

Post on 26.04.07.

Copy of the order may be furnished to the learned Railway Counsel.



Member



Vice-Chairman

nkm

25.4.07

① wk and rejoinder
filed by the parties.

Received copy
on behalf of Mrs. B. Devi, R.A
Asha Das
Advocate
23/3/07


OA.114/2006

6-

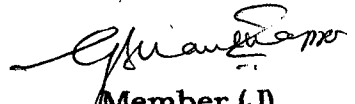
26.4.2007

Heard Mr. S. Nath, learned counsel
for the Applicant and Smti. B. Devi,
learned counsel for the Respondents.

Order is reserved.


Member (A)

/bb/


Member (J)

3.7.2007

Judgment pronounced on behalf of the
Division Bench.

The O.A. is allowed in terms of the order.

No costs.


Vice-Chairman

Received
Mineral Kumar Boro
Advocate. /bb/
for Mr. B. Devi P/A-
07/7/07.

13.7.07
Certified copy
of the judgment has
been collected by
the L/Adv. for Mr.
S. Nath, for the
applicant to-day.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO.114 OF 2006

DATED THIS THE 3rd DAY OF *July*, 2007

HON'BLE MR. G. SHANTHAPPA

MEMBER(J)

HON'BLE MR. GAUTAM RAY

MEMBER(A)

Shri Nilutpal Patar
S/o Shri Gopi Ram POatar,
Vill-Nabheti,
P.O- Morigaon,
Dist-Morigaon,
Assam-782105

Applicant

[Mr. S. Nath Advocate for the applicant]

v.

1. The Union of India,
Represented by General Manager,
N.F. Railway,
Maligaon,
Guwahati-11

2. The Chairman,
Railway Recruitment Board,
Station Road,
Guwahati-11

Respondents

[Mrs. B. Devi Advocate for the respondents]

O R D E R

MR. GAUTAM RAY, MEMBER(A)

This Original Application under Section 19 of the Administrative Tribunals Act, 1985 has been filed assailing the impugned letter bearing No.RRB/E/170/OA/320/2005(NP) dated 22.2.2006 (Annexure-9) whereby the 2nd respondent has rejected the representation of the applicant claiming appointment to the post of

Electrical Signal Maintainer Gr.III against the ST Category Vacancy and also praying for a direction upon the respondents to appoint the applicant to the post of Electrical Signal Maintainer Gr.III against the existing vacancy in N.F. Railway.

2. The case of the applicant briefly stated is as follows:

(a) The Railway Recruitment Board, Guwahati (in short RRB) published an advertisement vide Employment Notice No.01 of 2004 dated 12.6.2004 inviting applications from eligible candidates for recruitment in various categories of posts. In the said advertisement at Sr.No.48, applications were invited for selection to the 50 posts of Electrical Signal Maintainer Gr.III (in short ESM). Out of the said 50 posts, 4 posts were reserved for ST candidates. A copy of the said advertisement is enclosed herewith as Annexure-I.

(b) The applicant submits that he appeared in the written examination on 27.3.2005 as an ST candidate and came out successful. Thereafter he was called for verification of original testimonials on 31.8.2005. Accordingly, he appeared and got his original certificates verified by the RRB. Copies of the call letters dated 27.2.2005 and 8.8.2005 are enclosed herewith as Annexures 3 and 4 respectively.



38

(c) The applicant further states that after lapse of 3 months of verification of the original testimonials of the applicant by the RRB, the applicant did not receive any communication from the respondents about his recruitment to the post of ESM Gr.III. When he went to the office of the RRB he came to know that RRB has sent a selection list of the candidates to the General Manager, N.F. Railway for appointment and the name of the applicant was not included in the said selection list. The applicant submits that when he asked the authorities the reasons for non-inclusion of his name in the said selection list, he was informed that his name was not included in the selection list because he is much younger in age than the other candidates whose names have been included in the selection list. Applicant further submits that he is confident that he has done well in the written examination and he will be selected if the selection procedure is fair and free from all sorts of extraneous consideration. The applicant made a representation to the General Manager, N.F. Railway, Guwahati where he categorically stated that he has learnt that RRB/Guwahati has sent a list to the General Manager(P), Maligaon and, therefore, requested to absorb him in the post of ESM Gr.III in which he has already qualified. A copy of his representation dated 28.11.2005 is enclosed herewith and marked Annexure-6.

38

(d) The applicant states that finding no response to his representation dated 28.11.2005, he approached this Tribunal by filing O.A.No.320 of 2005. The Tribunal disposed of the O.A. vide Order dated 23.12.2005 with the direction to the respondents to dispose of the representation of the applicant dated 28.11.2005 and also with the direction that the applicant may file an additional representation within 1 week from the date of receipt of the Order. The applicant, in compliance with the direction of the Tribunal, made a detailed representation on 2.1.2006 addressed to the General manager, N.F. Railway, Maligaon. In the said representation the applicant inter alia contended that younger than the other ST candidates cannot be a ground for denial of appointment in the Railway. A copy each of the Order of the Tribunal dated 23.12.2005 and the representation dated 2.1.2006 is annexed hereto and marked Annexures 7 and 8 respectively.

(e) The 2nd respondent vide his order dated 22.2.2006 rejected the representation submitted by the applicant. The relevant part of the order of the 2nd respondent dated 22.2.2006 is extracted below:-

"Panel of RRB is formed purely on the basis of merit. Sometimes it may happen that more than one candidate have secured equal marks and that marks is within the zone of empanelment. In such cases if all the candidates securing equal marks cannot be empanelled as per requirements of the advertisement, then the candidate having his

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date of birth earliest is considered to be the highest in merit. In this case 03 Nos. of ST candidates secured equal marks and unfortunately the applicant's name figured junior most amongst the 03 in respect of his date of birth. Accordingly he could not come in the zone of empanelled lists. Further no more reserved post for ST candidate is available to accommodate the applicant. It is pertinent to mention here that while the applicant was called for verification of documents, in the said letter it was categorically mentioned that this call letter does not itself entitle him for selection. Accordingly non-inclusion of the name of the applicant has not violated the principles of natural justice. Thus the non inclusion of his name in the panel stands good and this may be communicated to the applicant."

(f) Being aggrieved by the impugned letter bearing No.RRB/E/170/OA/320/2005(NP) dated 22.2.2006 issued by the 2nd respondent, the applicant has approached this Tribunal seeking for the following reliefs:

"8.1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. RRB/E/170/OA/320/2005(NP) dated 22.2.2006 (Annexure-9).

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant to the post of ESM Gr.III against the existing ST vacancy pursuant to the advertisement dated 12.06.2004.

8.3 Cost of the application.

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper."

3. The respondents have opposed the Original Application by filing a counter-reply. They contend that as per Railway Board's letter No.99/E RRB/25/2



dated 18.3.99 circulated vide General Manager(P), Maligaon's letter No.E/227/O(Rectt)2 dated 25.5.99, the call letter to the candidates equal to 10 (ten) numbers of vacancy/posts is applicable only where second stage of examination is mandatory but not for the posts where single written examination (no interview) followed by verification of original documents. Since in this category of posts selection has been done on the basis of Single Written Examination(no interview) followed by verification of original documents, hence issuance of call letters equal to 10(ten) numbers of vacancies is not maintainable. The respondents further state that since the vacancies had been enhanced by the competent authority, total 6 (six) ST candidates had been empanelled as under:-

Sl. No.	Roll No.	Name of the applicant	Community	Date of Sending Panel
74	34812954	Sashi Kant Ranjan	ST-1	31.8.2005
75	34801059	Ganesh Narzary	ST-2	-do-
76	34800964	Prasaanta Boro	ST-3	-do-
77	34812871	Shiv Prasad Mandal	ST-4	-do-
78	34806256	Abhay Kr. Ranjan	ST-5	-do-
79	34807064	Bhupal Kumar	ST-6	8.11.2005

The respondents further state that as per the procedure followed by the RRBs, the candidates securing equal marks in the Written Examination in a particular position (irrespective of any numbers) have to be called for verification of documents following

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principle of natural justice. In the instant case, 3 Nos. of ST candidates secured equal marks and on the very date of verification of original documents, the applicant was found to be juniormost amongst the 3 in respect of dates of birth who were also called for verification of documents along with the applicant. Accordingly, the applicant could not come in the zone of empanelled list and as a result there is no scope for consideration of appointment of the applicant as all the 6 (six) vacancies had been filled up in order of performance in the written examination as well as laid down procedure for fixing the merit position against the community-wise vacancies. The respondents, therefore, pray that the Application be dismissed with costs.

4. The applicant has filed a rejoinder stating that much younger in age than the other candidates cannot be a ground for selection on the basis of merit. His contention is that in a selection process, merit includes marks secured in the written examination as well as marks obtained in the H.S.L.C./H.S.S.L.C. examination or other examination.

5. We have heard Mr. S. Nath, learned counsel for the applicant and Mrs. B. Devi, learned Railway Counsel appearing for the respondents. We have perused respective pleadings of the parties and also perused the documents produced before us.

28

6. In view of the above, we find that it is not in dispute that the applicant belongs to ST category and secured equal marks as secured by the two other ST candidates in the written examination conducted by the RRB, Guwahati for the post of ESM Gr.III in pursuance of the advertisement issued vide Employment Notice No.01 of 2004 dated 12-6-2004. It is also not in dispute that the respondents have empanelled the candidates including the applicant securing equal marks in the written examination on the basis of their seniority in age. It is also undisputed that the marks obtained by them (those 3 candidates) in the HSLC/HSSLC Examination are not equal.

The specific case of the respondents is that as per procedure, in such situation, when marks obtained by them in written examination are equal and all of them cannot be empanelled, then the candidate having his date of birth earliest is considered to be the highest in merit. Since the applicant was found to be junior most amongst the three in respect of his date of birth, he could not come within the zone of empanelled list whereas the claim of the applicant is everything being equal, the marks obtained in the required examination i.e., HSLC/HSSLC should be the deciding factor for determining merit for empanelment.


7. In view of the above, the question that falls for consideration is as to whether respondents are

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right in considering the seniority in age as deciding factor to decide the merit in such situation when marks obtained by them in the required examination HSLC/HSSLC are different?

8. A plain reading of the advertisement issued by the RRB, Guwahati vide Employment Notice No.01 of 2004 dated 12.6.2004 (Annexure 'I') would show that there is no such prescription that in such eventuality i.e., in case when candidates belonging to same category get equal marks in the written examination will be decided on the basis of their seniority in age. Although the respondents in their counter reply and the impugned orders have made a mention that "in such cases if all the candidates securing equal marks cannot be empanelled as per requirements of the advertisement, then the candidate having his date of birth earliest is considered to be the highest in merit", but they have not mentioned any rule/instruction providing such procedure to be adopted in such eventuality. However, in this context, the learned counsel for the respondents, at the time of hearing, had referred to Rule 304 of the IREM Vol.I (Revised Edition - 1989) and provided a copy of the same in support of the action taken by the respondents. The above Rule 304 is extracted below:-

"304. When two or more candidates are declared to be of equal merit at one and the same examination/selection, their relative seniority is determined by the date of birth the older candidate being the senior."



45

For better appreciation of the applicability of the above rule, Rules 303 and 305 of the IREM Vol.I (Revised Edition - 1989) are also required to be given thought and, therefore, the same are reproduced below:-

"Rule 303. The seniority of candidates recruited through the Railway Recruitment Board or by any other recruiting authority should be determined as under:-

(a) Candidates who are sent for initial training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before being posted against working posts. Those who join the subsequent courses for any reason whatsoever and those who pass the examination in subsequent chances, will rank junior to those who had passed the examination in earlier courses.

(b) In the case of candidate who do not have to undergo any training in training school, the seniority should be determined on the basis of the merit order assigned by the Railway Recruitment Board or other recruiting authority."

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"Rule 305. When, however, a candidate whose seniority is to be determined under paragraphs 303 and 304 above cannot join duty within a responsible time after the receipt of orders of appointment, the appointing authority may determine his seniority by placing him below all the candidates selected at the same examination/selection, who have joined within the period allowed for reporting to duty or even below candidates selected at subsequent examination/selection who have joined before him."

A careful reading of the above rules would show that they are applicable for determining the seniority and

28

not suitability/merit of the candidate to be selected. In our view, the rule referred to by the learned counsel for the respondents is misplaced. It goes without saying that the above rule i.e, Rule 304 has no application in determining the merit in a selection.

9. Therefore, the fact remains that there is neither any prescription in the Notice dated 12.6.2004 (supra) to decide the merit on the basis of seniority in age of the candidates who get equal marks (i.e. in case of the present situation) nor there is any rule/instruction available providing such procedure to be adopted in such eventuality.

10. The Full Bench of the Central Administrative Tribunal in the case of M. Satyaseela Reddy v. Union of India & Ors. (1997-2001 A.T. Full Bench Judgments 66) while explaining the difference between 'reservation and preference' and between 'relaxation and preference' or 'reservation and relaxation' has inter alia said that in rare cases, where two candidates get equal position in the select list in the examination, how selection is to be made is indicated in the relevant rules. As mentioned above, no such rule is mentioned by the respondents in the order impugned in this O.A. nor enclosed with their counter reply. The rule referred to by the learned counsel for the respondents is in regard to determining seniority and is, therefore, not a relevant rule. The Full Bench of the



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Central Administrative Tribunal (supra) has also said that as per rules, inter se merits are required to be determined on the basis of marks list of S.S.C. examination. The relevant part of paragraph '9' of the above Full Bench Judgment is reproduced below for better appreciation of the issue involved in this case:

"9. To begin with, the distinction between 'reservation and preference' or 'relaxation and preference', or 'reservation and relaxation', does not appear to have been streamlined in any of the aforesaid decisions relied on by the learned counsel for the applicant and, therefore, a confusion appears to have been created in explaining or understanding the said cases. We have, therefore, first to see the difference between 'reservation and preference' and between 'relaxation and preference' or 'reservation and relaxation'. According to us, reservation of a post or posts for a particular category of candidates means total exclusion from consideration of other categories of candidates, even if more qualified or better merited. Relaxation on the other hand means certain concession by variation or changes in the eligibility conditions, such as age relaxation to candidates belonging to ST/SC/OBC categories by increasing the upper age limit for any post in their cases. As opposed to reservation and relaxation, when preference is stipulated, all eligible candidates, irrespective of their categories, are simultaneously considered for any post on equal footing, and are subjected to a common and uniform process of selection. If no person belonging to any particular preferential category is available or selected, no question of giving preferential treatment to such a category of persons arises. Where such a person is available or selected and empanelled in the select list, he gets the benefit of preferential appointment irrespective of his position in the select list which is also known as merit list. In rest of rare cases, two candidates get equal position in the select list and in that eventuality, how selection is to be made is indicated in the relevant rules. In some cases, seniority in age is the deciding factor. In some other cases, marks obtained in

Yes

a particular subject any examination is the deciding factor for choosing one between the two. Accordingly, if an SC candidate finds his name at Sl.No.1 of the merit list, no question of giving preferential treatment arises. If his name is below the names of persons not in preferential category, he gets preference over such other candidates not in preferential class in matter of public employment by invoking the provision of preferential treatment in the recruitment rules or in the notified conditions of eligibility. We are of the view that the Calcutta Bench committed an error by equating qualification with merit. Extra qualification or over qualification is meaningless where minimum qualification is prescribed for a post. All persons possessing the minimum required qualification are treated alike, over-looking additional qualifications of any particular candidate. Thus, a person possessing matriculation certificate will get a similar treatment with a graduate for the post of an EDBPM, because the requisite minimum qualification for that post is S.S.C. or matriculation certificate. As per rules, inter se merits are required to be determined on the basis of marks list of S.S.C. examination. As the applicant had secured more marks in the S.S.C. examination, he was ordinarily entitled to be appointed against the post of an EDBPM. However, as preference was notified to be given to a person belonging to ST/SC/OBC categories and the 4th respondent belonged to one of such categories, he was preferred for appointment to the said post. If both of them had secured identical marks, there could have been no occasion for giving any preferential treatment to the 4th respondent. Accordingly, we are of the view that the 4th respondent was correctly given appointment against the post of EDBPM, though less merited as compared to the applicant, by invoking the clause containing provision for giving preferential treatment to a person belonging to ST/SC/OBC categories".

As mentioned above, in the case in hand, there is no such prescription in the Employment Notice (supra) for selecting the candidate who is senior in age in such eventuality. No rule has been mentioned in the impugned order in support of the respondents' stand

48

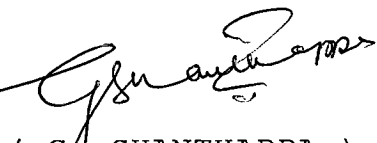
taken in rejecting the representation of the applicant or selecting the candidate on the basis of seniority in age. No such rule is enclosed along with the counter reply filed by the respondents. The rule 304 of IREM Vol.I (Revised Edition - 1989) is misplaced for the reasons discussed above.

11. In view of the above facts and circumstances and the observations of the Full Bench (supra), we are of the view that in the absence of any such prescription in the advertisement in Employment Notice No.01 of 2004 dated 12.6.2004 (supra) that preference will be given to the candidate who is seniormost in age amongst the candidates and belongs to same category and got equal marks in the prescribed Written Examination (conducted by RRB) and in the absence of any rule/instruction to that effect, marks secured by them in the prescribed required examination should be the deciding factor in determining the merit of the candidates, the respondents are, therefore, not justified in determining their merit on the basis of the seniority of the candidates in age. The order impugned in this O.A. is, therefore, liable to be quashed and set aside. We, therefore, quash and set aside the impugned order No.RRB/E/170/OA/320/2005(NP) dated 22.2.2006 enclosed as Annexure 9 at page 25 of this O.A. We direct the respondents to determine the merit of the candidates including the applicant for empanelment on the basis of

the marks obtained by them in the HSLC/HSSLC Examination. The Original Application is allowed to the extent indicated above. No costs.



(GAUTAM RAY)
MEMBER (A)



(G. SHANTHAPPA)
MEMBER (J)

ua.

In the Central Administrative Tribunal
Guwahati Bench.

File in Court on... 09/09/08
Court Officer.

MP NO. 80/2008.

1st.

OA NO. 114/2008.

Shri N. Palan

-v-

U.O. I am,

Mandam filed by the Counsel

It is respectfully submitted
that writ petition against the
judgment dated 3.7.2007 in OA NO.
114/2008 has been filed before the
Hon'ble High Court bench NO. WP(C)
NO. 3746/08, filed on 26/8/2008.

Date 10/9/2008
Guwahati.

Signature
S.E. Railways
10/9/2008
(J.L. Sankar)

Dutta
09/09/08

51

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORIGINAL APPLICATION NO. 114/06

1. a) Name of the Applicant:- Sri N. Patan
b) Respondants:- Union of India & Ors
c) No. of Applicant(S) :- one
2. Is the application in the proper form:- Yes/No. No.
3. Whether name & description and address of the all papers been furnished in cause title :- Yes/No. No.
4. Has the application been duly signed and verified :- Yes/No. No.
5. Have the Copies duly signed :- Yes/No. No.
6. Have sufficient number of copies of the application been filed:- Yes/No. No.
7. Whether all the annexure parties are impleaded :- Yes/No. No.
8. Whether English translation of documents in the Language : Yes/No. No.
9. Is the application in time :- Yes/No. No.
10. Has the Vakalatnama/Memo of appearance/Authorisation is filed:- Yes/No. No.
11. Is the application by IFO/ED/For Rs: 5/- 26G 324057 dated 13.3.06.
12. Has the application is maintainable :- Yes/No. No.
13. Has the Impugned order original duly attested been filed : Yes/No. No.
14. Has the legible copies of the annexures duly attested filed:- Yes/No. No.
15. Has the Index of documents been filed all available:- Yes/No. No.
16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes/No. No.
17. Has the declaration as required by item 17 of the form:- Yes/No. No.
18. Whether the relief sought for arises out of the single :- Yes/No. No.
19. Whether the interim relief is prayed for :- Yes/No. No.
20. In case of condonation of delay is filed is it supported :- Yes/No. No.
21. Whether this Case can be heard by ~~Single Bench~~/Division Bench:
22. Any other point:-
23. Result of the Scrutiny with initial of the Scrutiny clerk the application is in order:-

This application is in form.

12.5.06
SECTION OFFICER (J)

DEPUTY REGISTRAR

$$\frac{B_{\text{kurus}}}{B_{\text{total}}} = \frac{264}{600}$$

$$\frac{II}{I} = 46.4\%$$

$$\frac{II}{I} = 57\%$$

$$\frac{Abhay \text{ kr. Raniar}}{59.957} = \frac{256}{63\%}$$

$$\frac{\text{metan ID}}{\text{Inter I}}$$

$$\frac{\text{Niluptal parta}}{\text{Aplicat}} = \frac{508}{6(9)}$$

$$HS \subset \subset \frac{II}{I} \text{ pers.} \rightarrow \frac{461}{900} = 51.2\%$$

$$HS \text{ pers.} \rightarrow \frac{233}{500} = 46.6\%$$

$$\frac{II}{I}$$

$$9) 461(51.2)$$

$$\frac{45}{11}$$

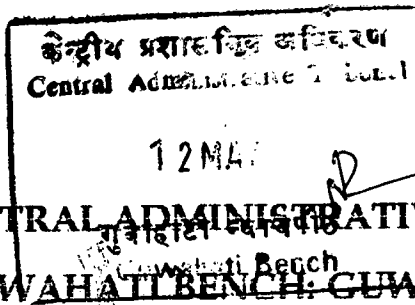
$$\frac{11}{20}$$

$$5) 233(46.6)$$

$$\frac{20}{33}$$

$$\frac{33}{3}$$

$$30.67\%$$



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 114 /2006

Shri Nilutpal Patar

-Vs-

Union of India and Others.

Synopsis and List of dates

- 12.06.2004- Railway Recruitment Board published an advertisement dated 12.06.2004 in the News paper inviting application for various posts. In the said advertisement at Sl. No. 48, applications were invited for selection to the 40 posts of Electrical Signal Maintainer Gr. III, out of the said 40 post 4 posts were reserved for ST candidates.
(Annexure- 1)
- 27.03.2004- Applicant appeared in the written examination on 27.03.04 for recruitment to the post of ESM Gr. III as and ST candidate and came out successful.
- 31.08.2005- Applicant was called for verification of original testimonials on 31.08.05, accordingly he appeared and got his original certificates verified by the RRB.
- 28.11.2005- Applicant submitted a representation on 28.11.05, addressed to the General Manager, N.F. Railway, praying interalia to appoint him to the post of ESM Gr. III but to no result.
- 23.12.2005- Applicant approached this Hon'ble Tribunal by filing an O.A. No. 320/2005, praying for a direction to the respondents to appoint the applicant to the post of ESM Gr. III. The said O.A. was disposed of on 23.12.05 with a direction to the respondents to dispose of representation submitted by the applicant. (Annexure- 7)
- 02.01.2006- Applicant submitted another representation addressed to the Respondent No. 1, enclosing a copy of the order dated 23.12.05.
- 22.02.2006- Respondent No. 2 issued the impugned letter dated 22.02.06, rejecting prayer of the applicant for his appointment to the post of ESM Gr. III on the ground that 03 numbers of ST candidates secured equal marks and unfortunately the applicant's name

Nilutpal Patar

figured junior most amongst the 03 in respect of his date of birth accordingly the applicant could not come in the zone of empanelled list. In the advertisement dated 12.06.04, there were 4 posts reserved for ST category candidates but the respondents have empanelled only 2 ST candidates for appointment, ignoring the applicant, as such there are 2 more ST vacancy still exists in the respondent department and the respondents vide impugned letter dated 22.02.06 has informed that there are no more posts exists for appointment of the applicant as such deprived the applicant.

(Annexure- 9)

Hence this Original Application before this Hon'ble Tribunal.

PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. RRB/E/170/OA/320/2005 (NP) dated 22.02.2006 (Annexure- 9).
2. That the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant to the post of ESM Gr. III against the existing ST vacancy pursuant to the advertisement dated 12.06.2004.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 114/2006

Shri Nilutpal Patar.

: Applicant.

-Versus-

Union of India & Ors.

: Respondents.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Application	1-11
2.	---	Verification	-12-
3.	1	Copy of advertisement dated 12.06.04.	-13-
4.	2 (Series)	Copy of educational certificates and caste certificate.	14-15
5.	3	Copy of letter call dated 27.02.05.	-16-
6.	4	Copy of letter call dated 08.08.2005	-17-
7.	5	Copy of letter dated 25.05.99.	18-19
8.	6	Copy of representation dated 28.11.05.	-20-
9.	7	Copy of the order dated 23.12.2006.	21-22
10.	8	Copy of the representation dated 02.01.06	23-24
11.	9	Copy of the impugned letter dated 22.02.06	25-28

Filed By:

Adv.
Advocate

Date:-/2.05.06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 116/2006

BETWEEN:

Shri Nilutpal Patar,

S/o- Shri Copi Ram Patar,
Vill- Nabheti,
P.O- Morigaon,
Dist- Morigaon,
Assam- 782105.

-----Applicant.

-AND-

1. The Union of India,
Represented by General Manager,
N.F. Railway,
Maligaon, Guwahati- 11.
2. The Chairman,
Railway Recruitment Board,
Station Road,
Guwahati- 11.

..... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

Nilutpal Patar

50
1
Filed by me applicant
through: S. Naiti
Guwahati
12.05.07

5X

This application is made against the impugned letter bearing No. RRB/E/170/OA/320/2005 (NP) dated 22.02.2006 (Annexure-9), whereby Respondent No. 2 has rejected representation of the applicant claiming appointment to the post of Electrical Signal Maintainer (for short ESM) Gr. III against the ST category vacancy and also praying for a direction upon the respondents to appoint the applicant to the post of ESM Gr. III against the existing ST vacancy in N.F Railway.

2. **Jurisdiction of the Tribunal:**

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. **Limitation:**

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act 1985.

4. **Facts of the case:**

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. He belongs to Schedule Tribe Community.

4.2 That the Railway Recruitment Board (for short RRB), Guwahati published an advertisement vide Employment Notice No. 01 of 2004 dated 12.06.2004 inviting applications from eligible candidates for recruitment in various category of posts. In the said advertisement at Sl. No. 48, applications are invited for recruitment to the 50 posts of Electrical Signal Maintainer Gr. III, out of the 50 posts, 4 posts are reserved for ST category and minimum qualifications required for the post is (a) Matriculation (10th class pass) and III certificate in Electrician/Electrical Fitter/Wireman Trade and 1 year experience as casual ESM in S& T Department OR (b) Must be a casual

ESM/ Electrical Fitter for 3 years in S&T Department OR (c) pass in + 2 stage in Higher Secondary with Physics & Mathematics or its equivalent.

Copy of the employment notice dated 12.06.04 is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure- 1.

- 4.3 That it is stated that the applicant has passed Higher Secondary Examination (10+2) with Physics and Mathematics as main subjects, therefore, he possesses the required qualification for the post of ESM Gr. III as per the advertisement dated 12.06.2004. Accordingly, the applicant applied for the post of ESM Gr. III, in response to the advertisement notification No. 01 of 2004 dated 12.06.2004.

Copy of the educational certificate and caste certificate are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2 (Series).

- 4.4 That it is stated that the RRB issued call letter to the applicant to appear in the written examination held on 27.03.2005 for recruitment to the post of ESM Gr. III. Accordingly, the applicant appeared in the written examination and came out successful. Thereafter, RRB issued another call letter bearing No. RRB/G/41/10 dated 08.08.2005 to the applicant for document verification, wherein it advised to the applicant to attend the office of the RRB, Guwahati on 31.08.2005 at 9:30 hours for verification of original certificates, testimonials etc. Be it stated that the applicant appeared before the RRB on 31.08.2005 for verification of original certificate, testimonials etc. at 9.30 hrs and has got verified his certificates, testimonials etc. to the satisfaction of the RRB.

Copy of the call letter dated 27.02.05 and dated 08.08.05 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 3 and 4 respectively.

4.5 That it is stated that General Manager (P), Maligaon vide his letter bearing No. E/227/O/(Recd.) 2 dated 25.05.99, addressed to the GM (Con)/MLG, all PHODs DRMs, DAUs etc. forwarded the Railway Boards letter bearing No. 99/E (RRB)/25/2 dated 18.03.99 for information, guidance and necessary action. In the said letter it has been stated that viva-voce (interview) in RRB recruitments has been eliminated in order to reduce the element of subjectivity to the maximum possible and to expedite the selection process. Thereafter, following the guidelines issued by the RRB, the process of recruitment to the post of ESM Gr. III is confined to single written examination. It is stated that the present applicant has qualified the written examination and he has also appeared for verification of his original certificates etc. before the RRB on 31.08.2005 and completed the requirements for selection to the post of ESM Gr. III. Be it stated that the applicant has come out successful in the written examination and his educational certificates, caste certificates etc. have also been verified by the RRB.

In this connection it is relevant to mention here that the post of ESM Gr. III falls under the category of item No. 20 of Gr. III of the Railway Board's instruction letter date 18.03.99 i.e. Artisans and the RRB for recruitment to the post of "Artisans" follows the 1X formula i.e. the number of candidates called for verification of original documents is equal to the vacancy. Therefore, the RRB asked the applicant to appear for verification of documents knowing fully well that the applicant is selected against the existing vacancy and he will be recruited against the 4 vacancy reserved for ST category candidates. It can rightly be presumed that the respondents were well aware that there are 4 vacancy reserved for ST category candidates and as such the applicant got the call letter for verification of original testimonials so that on finding the original testimonials genuine he will be appointed against the 4 vacancy reserved for ST category candidates as such the action of respondents in denying appointment to the applicant

60

against the ST vacancy is in violation of the Railway Board's letter dated 18.03.1999.

A copy of the letter dated 25.05.99 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5.

- 4.6 That your applicant begs to state that after lapse of 3 months of verification of his original testimonials by the RRB, he has not received any communication from the end of respondents about his recruitment to the post of ESM Gr. III, situated thus applicant went to the office of the RRB to pursue his candidature and has come to know that RRB has sent a selection list of the candidates to the General Manager, N.F. Railway for appointment and his name is not included in the said selection list. In this connection it is stated that the applicant when asked the authority the reason of non-inclusion of his name in the selection list then he was informed that his name in the selection list is not included as because he is much younger in age than the other candidates whose names have been included in the selection list. It is stated that the applicant surprised to the reply of the employee and the reason for non-inclusion of his name in the list of selected candidates. In this connection it is stated that there are 4 posts reserved for ST category in the advertisement dated 12.06.04 and the applicant has come to know that name of 4 ST candidates have been recommended by the RRB to the General Manager, N.F. Railway but his name has not been included as because other ST candidates are much older than him. Be it stated that applicant is neither a under aged candidate nor an over aged candidate, therefore much younger than the other selected candidates cannot be a ground for non-inclusion of his name in the select list and such action of the respondents is illegal, malafide and opposed to the principle of natural justice. Applicant is very confident that he has done well in the written examination and he will be selected if the selection procedure is fair and free from all sorts of extraneous consideration. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to

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produce the relevant records of selection to the post of ESM Gr. III and after perusal of records the Hon'ble Tribunal will further be pleased to direct the respondents to appoint the applicant to the post of ESM Gr. III if he is found selected for the said post.

- 4.7 That your applicant begs to state that finding no other alternative he submitted a representation on 28.11.2005, addressed to the General Manager, N.F. Railway, Guwahati. In his representation dated 28.11.05, applicant categorically stated that he has learnt that RRB/Guwahati has sent a list to the General Manager (P), Maligaon, therefore the applicant has requested to absorb him in the post of ESM Gr. III in which he has already qualified but to no result. Be it stated that applicant belongs to ST category and he possesses the required qualifications i.e. 10+2 with physics and Mathematics as main subject, therefore after qualifying the written examination held on 27.03.2005, he is now eligible for appointment to the post of ESM Gr. III in the N.F. Railway.

Copy of the representation dated 28.11.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 6.

- 4.8 That it is stated that finding no response to his representation dated 28.11.2005, the applicant approached before this Hon'ble Tribunal by filing an Original Application No. 320/2005. The said O.A. No. 320/2005 came before this Hon'ble Tribunal on 23.12.2005 for admission and the Hon'ble Tribunal after hearing the Counsel of the parties was pleased to dispose of the O.A. No. 320/2005 with the direction to the respondents to dispose of the representation dated 28.11.2005 and also directed that the applicant may file an additional representation within 1 week from the date of receipt of the order. The applicant in compliance with the direction passed by this Hon'ble Tribunal submitted a detailed representation on 02.01.2006 addressed to the General Manager, N.F. Railway, Maligaon. In the said representation applicant prayed for his appointment to the post of ESM Gr.

62

III since he has qualified the written examination and his all original testimonials have been verified by the RRB in order to appoint him to the post of ESM Gr. III. The applicant also stated that younger than the other ST candidates cannot be a ground for denial of appointment in the Railway.

Copy of the order dated 23.12.2006 and representation dated 02.01.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 7 and 8 respectively.

- 4.9 That the Respondent No. 2 after receipt of the order dated 23.12.2005 passed in O.A. No. 320/2005 along with the representation dated 02.01.2006 has issued one impugned letter bearing No. RRB/E/170/OA/320/2005 (NP) dated 22.02.2006 to the applicant. In the said impugned letter dated 22.02.2006 the respondent No. 2 has rejected the prayer of the applicant for his appointment to the post of ESM Gr. III on the ground that 03 numbers of ST candidates secured equal marks and unfortunately the applicant's name figured junior most amongst the 03 in respect of his date of birth accordingly the applicant could not come in the zone of empanelled list. Most surprisingly from the impugned letter dated 22.02.2006 it is clear that 3 ST candidates including the applicant have secured equal marks but being the junior most amongst the 3 ST candidates name of the applicant could not come in the empanelled list as such the RRB has empanelled only 2 ST candidates for appointment whereas in the advertisement dated 12.06.2004 (Annexure-1) application were sought for recruitment of 4 ST vacancy of ESM Gr. III and the respondents have empanelled only 2 ST category candidates for appointment, therefore there are 2 ST vacancy of ESM Gr. III still exists in the N.F. Railway. But the Respondent No. 2 in the impugned letter dated 22.02.2006 has stated that no more reserved post for ST candidate is available to accommodate the applicant which is a false and misleading statement and on that score alone the impugned letter dated 22.02.2006 is liable to be set aside and quashed.

It is further submitted in the advertisement dated 12.06.2004 the respondents have sought application for recruitment of 40 vacancy of ESM Gr. III out of the 40 vacancy 4 vacancy is reserved for ST category candidates, the present applicant being a ST category candidate applied against the 4 reserved ST category vacancy and came out successful in the written examination. Be it stated that for recruitment of ESM Gr. III one single written examination is followed by verification of original testimonials, accordingly the applicant appeared before RRB for verification of original testimonials and as such applicant fulfilled all the required conditions for appointment to the post of ESM Gr. III. But from the impugned letter dated 22.02.2006 it is clear that the applicant has been deprived of appointment on the ground that he is junior most among the 3 ST candidates who have secured equal marks in the written examination, more so when there were 4 vacancy reserved for ST category candidates the applicant could have been accommodated against the existing 2 vacancy for ST candidates but the respondents instead of recruiting the applicant to the post of ESM Gr. III now taking the plea that there is no more ST post is available to accommodate the applicant, such action of the respondents is opposed to the public policy as well as principle of natural justice. Moreover, respondents are not permitted to reduce the ST vacancy from 4 to 2 after the applicant has qualified for selection to the post of ESM Gr. III in order to deprive the applicant. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant in the existing ST vacancy of ESM Gr. III in the N.F. Railway.

Copy of the impugned letter dated 22.02.2006 is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure- 9.

- 4.9 That your applicant begs to state that he belongs to a poor Schedule Tribe Community family and there is no other earning member in his family to look after his aged parents, therefore, finding no other alternative he is

approaching before this Hon'ble Tribunal for setting aside of the impugned letter dated 22.02.2006 and also praying for a direction to the respondents to appoint the applicant against the existing vacancy of ESM Gr. III reserved for ST category candidates in the N.F. Railway

4.10 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

- 5.1 For that, the applicant possesses the required qualification for appointment to the post of ESM Gr. III.
- 5.2 For that, the applicant qualified in the written examination held on 27.03.05 for recruitment to the post of ESM Gr. III.
- 5.3 For that, recruitment to the post of ESM Gr. III consists of single written test examination (no viva-voce) followed by verification of original testimonials like, caste certificate, educational certificate etc.
- 5.4 For that, the applicant appeared before RRB on 31.08.2005 for verification of original certificates.
- 5.5 For that, the applicant fulfilled all the requirements for appointment to the post of ESM Gr. III and deserves to be appointed to the post of ESM Gr. III.
- 5.6 For that, the applicant after qualifying the written test and after verification of original certificates deserves appointment to the post of ESM Gr. III in the N.F. Railway.
- 5.7 For that, applicant is neither under aged nor over aged, therefore recommendation of the names of those candidates who are much older than the applicant cannot be a ground for non-inclusion of his name in the list of selected candidates.

5.8 For that the respondents follows 1 X formula for recruitment to the post of ESM Gr. III i.e. the candidates called for verification of original testimonials is equal to the vacancy exists as such the plea of the respondents that there is no more post reserved for ST candidate is not sustainable.

5.9 For that from the impugned letter dated 22.02.2006 it is made clear there are 2 ST vacancy of ESM Gr. III still exists as per the advertisement dated 12.06.2004, therefore the respondents could have accommodate the applicant against the existing ST vacancy.

5.10 For that the respondents cannot reduce the vacancy reserved for ST candidates after the advertisement dated 12.06.04 in order to deprive the applicant from appointment to the post of ESM Gr. III.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that save and excepts filing O.A. No. 320/2005 before this Hon'ble Tribunal he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to

why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. RRB/E/170/OA/320/2005 (NP) dated 22.02.2006 (Annexure- 9).
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicant to the post of ESM Gr. III against the existing ST vacancy pursuant to the advertisement dated 12.06.2004.
- 8.3 Costs of the application.
- 8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents to provide the reliefs as prayed for.

10.

11. Particulars of the L.P.O

- | | | | |
|------|---------------|---|------------------|
| i) | L.P.O No. | : | 266 321059 |
| ii) | Date of issue | : | 13.05.2006. |
| iii) | Issued from | : | G.P.O, Gurdahat. |
| iv) | Payable at | : | G.P.O, Gurdahat. |

12. List of enclosures:
As given in the index.

89

VERIFICATION

I, **Shri Nilutpal Patar**, S/o- **Shri Gopi Ram Patar**, aged about 21 years, Vill- **Nabheti**, P.O- **Morigaon**, Dist- **Morigaon**, Assam- 782105, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 12th day of May, 2006.

Nilutpal Patar



RAILWAY RECRUITMENT BOARD: GUWAHATI STATION ROAD, GUWAHATI-781 001

Employment Notice No.: 01 of 2004

DATE OF PUBLICATION : 12-03-2004
DATE OF CLOSING : 12-07-2004

This is an Indicative Advertisement. For details terms & conditions etc. please refer to The Employment News dated 12/05/2004 or website: <http://www.railwaysrecruitment.org>

Applications are invited in the prescribed format enclosed (to be neatly typed on good quality A-4 / foolscap size paper using one side only) from eligible Indian citizens for the following Posts, in the North East Frontier Railway. Applications complete in all respects along with required enclosures should be sent to the ASSISTANT SECRETARY, RAILWAY RECRUITMENT BOARD, STATION ROAD, GUWAHATI-781001, ASSAM, by ordinary post only, so as to reach the Board's office on or before 12.07.2004. The applications are also to be dropped in the Application Box kept in the RRB office up to 16:00 hours of 12.07.2004.

- IMPORTANT:** (1) The envelope containing the application should be clearly super-scribed in RED INK "Application for the Post of _____ Category No. _____ & Community, i.e., SC/ST/OBC/UR/ESM".
- (2) Each candidate should send only one application for a Post. If a candidate submits more than one application for the same post, his/her candidature will be cancelled.
- (3) Candidates must fill in the application form in their own handwriting and must sign themselves. Otherwise their candidature will be cancelled if detected at any stage.
- (4) Applications sent by registered post/courier or speed post will not be acknowledged.
- (5) Last date of submission of application for candidates residing in Andaman, Nicobar and Lakshadweep Islands will be 27.07.2004.
- (5) RRB, Guwahati at the discretion may hold written examination for more than one category in a single session. RRB, Guwahati at the discretion may also hold a selection examination for more than one category if considered necessary. RRB may hold additional written examination(s) or second stage written examination, in such cases, the merit secured in subsequent examination alone will be the criteria for further recruitment process.

the merit secured in subsequent examination shall be the basis for further recruitment process.												
Cat. No.	Name of Post	Scale of Pay (RSRP)	Age as on 01.07.04	Medical Standard	No. of Vacancies						Exam. Fees (Rs.)	Minimum Educational / Technical Qualification
					SC	ST	OBC	ESM	UR	TOTAL		
SEPARATE APPLICATIONS TO BE SUBMITTED FOR CATEGORY No. 1 TO 22												
1	Law Assistant	6503 - 10300	18 - 37	C/I	2	1	2	0	2	7	60	A University Degree in Law with 3 years' experience in a pleader at Bar. Serving employee who are law graduates are also eligible to apply provided they have served for at least 3 years in any Branch of the Railway Administration. Railway Magistrate full filling the above-prescribed qualification may also apply.
2	Health & Malaria Inspector Gr. III	5500 - 9000	18 - 33	C/I	0	1	0	0	4	5	60	B. Sc. with Chemistry with 1 year Diploma in Health/Sanitary Inspector from a recognized Institute.
3	Extension Educator	5500 - 9000	22 - 35	C/I	0	0	0	0	1	1	60	Post Graduate in Sociology/ Social Work/ Community Education or allied subject with senior degree holders or Graduation in the above discipline with 2 years' Diploma in Health Education from a recognized University.
4	Laboratory Superintendent Gr. II	5000 - 8000	18 - 33	B/I	0	0	0	0	1	1	60	B.Sc. with Bio-Chemistry/ Micro-Biology/ Life Sciences or equivalent + Diploma in Medical Laboratory Technology (DMLT) from a recognized Institute or equivalent of B.Sc. in Medical Engineering recognized by the Government.

SINGLE APPLICATIONS TO BE SUBMITTED FOR CATEGORY No. 23 TO 43

48	Electro Signal Maintainer Gr. II	3050 - 4500	16 - 33	B/I	6	4	10	5	25	50	40	(a) Matriculation (10th class pass) and (ii) experience in Electrician/ Electrical fitter/ Wireman Trade and 1 year experience as casual ESM in S & T Department OR (b) Must be a Casual ESM/Electrical fitter for 3 years in S & T Department OR (c) Pass in +2 Stage in Higher Secondary with Physics & Mathematics or its equivalent.
49	Appr. Telecommunication Maintainer Gr. III	3050 - 4500	18 - 33	B/I	6	0	11	5	12	34	40	(a) Pass in +2 stage in Higher Secondary with Mathematics and Physics or equivalent OR (b) Matriculation and (ii) certificate in Electrical Radio Wireless Telecommunication (TRW) Trade and 1 year experience as a casual ESM in S & T Department OR (c) Must be a casual ESM for 3 years in S & T Department.

SINGLE APPLICATIONS TO BE SUBMITTED FOR CATEGORY No. 44 TO 51

50	Traffic Apprentice	5500 - 9000	18 - 33	A/2	3	4	0	4	10	21	60	A University Degree or a 4 year diploma from a recognized University in Rail Transport and Management from the Institute of Rail Transport and Management or its equivalent.
51	Commercial Apprentice	5500 - 9000	18 - 33	C/I	1	3	6	2	9	21	60	Diploma from a recognized University or B.Sc. with Diploma in Rail Transport and Management from the Institute of Rail Transport and Management or its equivalent.

Attested
Signature
Authority

907675

A

Secondary Education

Higher Secondary



Morigaon Circle

2002

Higher Secondary Examination

(TWO YEAR COURSE)

I Certify that

Nibutal Patar

Roll No.

597

Age

500

+

Morigaon

H. S. School College

successfully passed the Higher Secondary

Examination 2002 in

Science

Stream of the Council

and was placed in the

Second

Division

GUWAHATI, ASSAM



Head
Agri. Development Officer
Morigaon Circle
District Agri. Office

SECRETARY

Head
Secy.
Adm.

The 3rd, August 2002

Sl. No.- 349

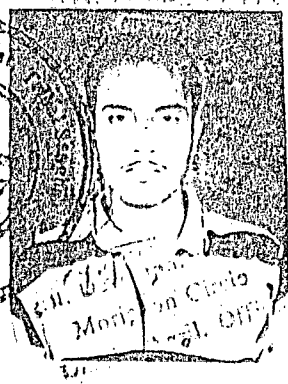
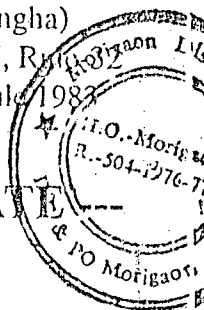
Book No.-

MORIGAON DISTRICT TRIBAL SANGHA

(Affiliated to All Assam Tribal Sangha)

Regd. No. - 504/1976-77, Appendix-I, Rule 1983

Assam S.C. & S.T. (R.V.S. & P.) Rule 1983



1395
5.8.05

CASTE CERTIFICATE

Certify that Shri/Smti Nilutpal Patar
Son/Daughter of Shri/Late Gopi Ram Patar
Vill Na-bheti (Ward No. 5) in the District Morigaon of the State
of Assam Belongs to the Lahung (Tewa) Caste/Tribe which is recognised
as a Scheduled Caste/Scheduled Tribe under the Constitution (Scheduled Caste) Order
1950 the Constitution (Scheduled Tribe) Order 1950 as amended from time to time.

Shri/Smti Nilutpal Patar and his/her family ordinarily
resides Vill/Town Na-bheti P.O. Morigaon
Mouza Morigaon P.S. Morigaon of Morigaon District
the State of Assam.

Countersigned,

Adl Deputy Commissioner,
Addl. Deputy Commissioner
Date Morigaon (Assam).

Attested
for
Advocate

President,
Morigaon Dist. Tribal Sangha,
Morigaon

Date 5/8/05

-16-

Annexure-3

प्रवेश पत्र
ADMIT CARD
RAILWAY RECRUITMENT BOARD GUWAHATI
STATION ROAD, GUWAHATI-1
48 / ELECTRIC SIGNAL MAINTAINER GR. III
Control No. : 44816005
01/2004
रा. र. र. / E.N. No. :
रा. और पत्र / CAT No. & POST :

NAME AND ADDRESS OF THE CANDIDATE
NILUTPAL PATAR
VILL NABHETI
P.O. MORIGAON
ASSAM
ASSAM
PIN - 782105
Signature of the Invigilator



CANDIDATE'S SIGNATURE (In the Presence of Invigilator)

You are required to appear for the written examination at the place, date and time specified below.

ROLL NO.	Date & Time of Reporting	Name and Address of the Exam Centre
34803508	27-03-2005 09:30 Hours	Dispur College Dispur, Guwahati - 781006

To be collected at Exam Centre

Date : 27-02-2005
महोदय / Asslt Secy

Please tear off along this line and retain for your record
RAILWAY RECRUITMENT BOARD, GUWAHATI - 781 001

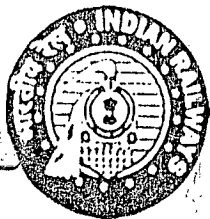
Name of the Candidate & Address	Catg No. & E.N. No.	Roll No.	Date of Examination
NILUTPAL PATAR VILL NABHETI P.O. MORIGAON ASSAM ASSAM PIN - 782105	48 of 1/2004	34803508	27-03-2005
Dispur College / Examination Centre		Dispur, Guwahati - 781006	

Please read and follow the "Instruction" Overleaf.

NOTE : CANDIDATES WHO TICK MARK ANSWERS ON THE QUESTION BOOKLET WILL BE DISQUALIFIED.

FREE RAILWAY PASS
FOR SC/ST CANDIDATES ONLY : On production of this letter you are entitled to free travel by railway in second class only
from JAGIROAD to Guwahati and back
This pass is available upto 05/04/2005
(Authority : Railway Board's letter No. E (NG) II-84 / RSC / 122 dtd. 25-11-84)
महोदय / Asslt Secy

Affected
Law
Advocate



- 17 -

Annexure-4

72

RAILWAY RECRUITMENT BOARD – GUWAHATI
STATION ROAD; GUWAHATI-781 001

CALL LETTER for DOCUMENT VERIFICATION

No. RRB/G/41/10.

Date: 08/08/2005

To,
NILUTPAL PATAR
VILL NABHETI
P.O. MORIGAON
ASSAM
ASSAM Pin - 782105.



Roll No.: **34803508**

Sub.: Document Verification for the post of **ELECTRIC SIGNAL MAINTAI**
under Category No. 48 of Employment Notice No. 1/2004.

With reference to your application for the post mentioned above, in response to the Employment Notice cited, you are hereby advised to attend the office of Railway Recruitment Board, Station Road, Guwahati-781001, Assam, on 31/08/2005 at 09:30 hours for verification of original certificates, testimonials etc.

1. This Call Letter does not in itself entitle you for selection.
2. You should bring your original VIII Standard or above Certificate issued by the competent authority for verification of your date of birth, educational qualification etc. You should also bring all of your original certificates and marks-sheets of Matriculation and onwards issued by the respective Board/Council/University along with experience and other certificates, caste certificate, if any. If the originals of above certificates/marks-sheets have not been received from respective Board/Council/University, then provisional pass certificate and marks-sheets issued by the respective Board/Council/University should be produced.
3. You are also directed to bring the Attested Photostat copies of all original certificates and marks-sheets and other certificates along with the originals.
4. You may be subjected to re-examination during the process of verification of documents etc. and you should come prepared for the same.
5. Your attendance may be required for more than one day (i.e. date as mentioned above) and you should come prepared for that.
6. Request for postponement of the date / venue mentioned above will not be considered and no further chance will be given.
7. If you are in service please bring "No Objection Certificate" from your employer, failing which you will not be considered for the post.
8. Approaching Chairman, RRB and/or his Secretary directly or indirectly by a candidate or anybody on his/her behalf requesting undue consideration for the recruitment will render a candidate liable for disqualification.
9. (For SC/ST candidates only)
On production of this letter you are entitled to travel free by the Railway in Second Class from JAGIROAD Station to GUWAHATI Station and back. This pass will be valid up to 10/09/2005.
(Authority: Railway Board's letter no. E(NG)II-84/RSC/122, dated 23/11/84).

*Attested
For
Advocate*


ASSISTANT SECRETARY
For CHAIRMAN, RRB – GUWAHATI

Northeast Frontier Railway.

Office of the
General Manager(P)
Maligaon Guwahati-11
Dated, 25.5.99.

No.E/227/O/(Rectt)2

To
GM(Con)/MLG
All PHODs, DRMs, DAOs, WAO/NBOS & DBWS
All Controlling officers of the non-divisionalised offices
The GS/NFRMU, NFREU, AISCTREA/MLG

Sub:- Elimination of Viva-voce (Interview) in RRB Recruitments.

A copy of Railway Board's letter No. 99/T(RRB)/25/2 dt.18.3.99 on the above subject is forwarded for information, guidance and necessary action please.

(Signature)
SPO/HQ

for General Manager (P)/MLG

(Copy of the Railway Board's letter No. 99/T(RRB)/25/2 dt.18.3.99)

Sub:- Elimination of Viva-voce (Interview) in RRB Recruitments.

The need for Viva-voce examination in selections held by Railway Recruitment Boards has been reviewed in detail by the Railway Board. In order to reduce the element of subjectivity to the maximum possible and to expedite the selection process, it has been decided to eliminate Viva-voce test (interviews) in RRB recruitments. Accordingly, with immediate effect the following procedure should be followed:-

Group	Categories	Method of Selection
I	Safety category posts, for which psychological test has been prescribed, like ASM, SM, Asst. Driver (Electric/Diesel)	Single written examination followed by Psycho Test (No Interview)
II	Non Technical Popular Categories (NTPC) 1. Under-Graduate categories like Junior Clerk, Accounts Clerk, Ticket Collector, Commercial Clerk. 2. Graduate categories like senior clerk, Junior Accounts Assistant.	Two stage written examination (No Interview)
III	1. Apprentice Mechanic 2. Asstt. Shop Supdt. 3. Jr. Engineer. 4. Section Engineer 5. P.Way Mistries (PWM) 6. Draftsman 7. Chief Draftsman 8. JCMA 9. CMA 10. Staff Nurse 11. Health/Malaria Inspector	Single written examination (No Interview)

*Attested
Sd/-
Adm. Secy*

- 19-
- 24
12. Pharmacists
 13. Radiographer
 14. Lab Asstt./Lab Supdt.
 15. Dictician
 16. Catering Supervisor-III
 17. Catering Supervisor-II
 18. ESK-III
 19. Finger Print Examiner
 20. Artisans.

- IV.
1. Law Assistant
 2. Teacher
 3. Physiotherapist
 4. Telephone Operator.

Single written examination followed by Interview.

- V
1. Hindi Asstt.

Single written examination plus qualifying translation test with minimum of 90% marks. (No Interview)

2. In respect of the categories in Group II, all candidates, whose application are considered valid, shall be called for preliminary examination. Based on the merit positions in the preliminary examination, candidates equal to 10 times the number of vacancies shall be called for final examination. Selection shall be based on the merit position obtained in the final examination alone.
3. Psychological test/skill test/typing test, as applicable, shall continue as hitherto.
4. For the categories in Group IV, which will still have interviews as part of the selection, the allocation of marks shall to be as per as existing procedure, i.e., 85% marks for written examination and 15% marks for interview.
5. The instructions on doing away with the written test if the applicants are less than 6 times the number of vacancies (Ref. Board's letter No.E-NG-III-74/ESC/47/II dated 30.9.1975) shall stand withdrawn.
6. The Chairman/RRBs will ensure that the existing provisions of verification of the original educational, professional and caste certificates and other relevant documents, including Marksheet, where applicable, of the candidates are strictly complied with in every case before the declaration of panels. In the case of examinations for the categories of posts where interviews have been eliminated, the RRBs shall undertake verification of the original educational, professional and caste certificates of the successful candidates before declaring the panels. This may be done at time of publication of the final written examination results, indication the dates, venue and time for verification of their original certificates. The original certificates should again be verified by the Personnel Branch at time of giving appointment letter so as to check the bonafides of the successful candidates at the level of RRB and second time at the level of the appointing Railway/Production Unit etc.
7. These orders shall take effect prospectively and shall be applicable to the selections notified after issue of these orders.

Sd/-
(V.K.Modgal)
Dy. Director, Estt.(RRB)
Railway Board.

20 -

Annexure-6

To,

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

Sub : Prayer for appointment as ESM/Gr-III against Employment Notice No. 01 of 2004 category 48.

Sir,

With due respect I beg to state the following few lines for your kind consideration and necessary action please.

That sir, I Shri Nilutpal Patar, S/o Gopiram Patar, residing at vill. - Nabheti, P.O. - Morigaon, Assam belonging to a poor S.T. Community.

That Sir, as per advertisement published in the leading news paper by RRB/Guwahati, I was applied for the post of ESM/Gr - III against employment notice No. 01 of 2004 category No. 48.

That sir, After consideration of my eligibility by the recruitment authority I was called for appearing in the written examination held on 27-03-05 at the centre Dispur College bearing Roll No. 34803508 as such I was appeared in the written examination (copy enclosed).

That sir, After waiting of 5 (five) months, Railway Recruitment Board Guwahati has published the result in the news paper (Assam Tribune dated 4-8-05) and kept my name in the eligibility list.

That sir, on received of the call letter (copy enclosed) I was appeared in the RRB/ Guwahati office for verification of original certificate, testimonials etc. on 31/8/2005 at 09-30 hrs.

That Sir, It is learned that the RRB/Guwahati sent a list to General Manager (P) Maligaon for appointment. But I have not received any information from your end till date.

I therefore request you kindly arrange to absorbed me in the said post which I have already qualified.

Thanking you.

Date - 28/11/05

Yours faithfully
Nilutpal Patar

Nilutpal Patar
Roll No. 34803508
Category No. 48

Encls :-

- 1) The Chairman, Railway Recruitment, Board,
Station Road, Guwahati - 1.
- 2) National Commission for SC/ST,
Khan Market, New Delhi.

Attest
Lawyer
Advocate

Nilutpal Patar
Nilutpal Patar

-21-

Annexure-7

76

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original application No.320 of 2005.

Date of order: This the 23rd December, 2005.

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

Shri Nilutpal Patar,
S/O. Shri Gopal Ram Patar,
Vill. Nabheti,
P.O. Morigaon,
Dist. Morigaon,
Assam. 782105.

Applicant

By advocate Mr. S. Nath.

-Versus-

1. The Union of India,
Represented by the General Manager,
N.F. Railway,
Maligaon,
Guwahati-11.

2. The Chairman,
Railway Recruitment Board,
Station Road,
Guwahati-11,

Respondents

By Advocate Mr. J. L. Sarkar, Railway counsel

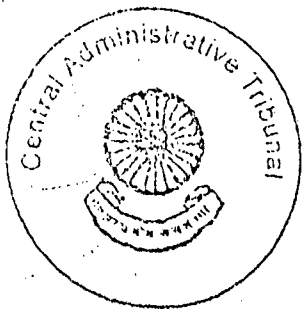
ORDER (ORAL)

SIVARAJAN, J.V.C:

Heard Mr. S. Nath learned counsel appearing for the applicant and Mr. J.L. Sarkar learned Standing counsel for the Railways. The grievance of the applicant is that though he had passed in the written test conducted for selection to the post of Electrical Signal Maintainer, Grade-III and he was called for verification of the documents, even after verification of the same his name did not find a place in the select list published by the Respondents. It is stated that the applicant submitted a representation dated 28.11.05 (Annexure 6)

[Signature]

[Signature]
[Signature]



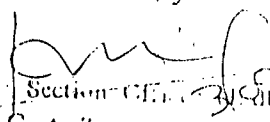
to the 1st Respondent General Manager, N.F.Railway, Maligaon, Guwahati-11 but there is no response from the said authority. The counsel submits that the 1st respondent may be directed to dispose of the said representation. Counsel further submits that the applicant will file a detailed representation also. Mr. J. L. Sarkar, learned Standing counsel for the Railways submits that if any such representation has been received the same will be disposed of by the 1st Respondent in accordance with the law.

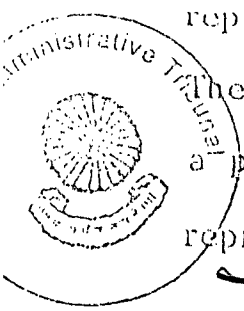
2 As already stated, the applicant has filed representation-dated 28.11.05 (Annexure 6) before the 1st Respondent. He also wants to file detailed representation in the matter. He is free to file detailed representation within one week from the date of receipt of this order. The 1st respondent will dispose of the both the representations within a period of six weeks from the date of receipt of the additional representation and pass a reasoned order.

O.A. is disposed of at the admission stage itself. The applicant will produce this order alongwith the additional representation before the 1st Respondent for compliance.

509- Vice-Chairman

Date of Application : 30.12.05
 Date on which copy is ready : 30.12.05
 Date on which copy is delivered : 30.12.05
 Certified to be true copy


 Section Officer (Adm)
 C.A.T. Guwahati Bench
 Guwahati 5.
 30/12/05



-23-

Annexure - 8

48

To,

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

Sub: - Judgment and order dated 23.12.2005 in O.A. No. 320 of 2005
passed by the Central Administrative Tribunal, Guwahati Bench,
Guwahati.

Ref: - My representation dated 28.11.2005.

Respected Sir,

With due respect and humble submission I beg to submit that I approached before the Hon'ble Central Administrative Tribunal, Guwahati Bench through O.A. No. 320/2005, praying for a direction to the respondents for my appointment to the post of ESM Gr. III in the N.F. Railway. The Hon'ble CAT was pleased to dispose of the O.A. No. 320/2005 on 23.12.2005, with a direction to file a detailed representation before Your honour, the judgment and order dated 23.12.2005 is self-detailed. In compliance with the direction of the Hon'ble CAT, I beg to lay the following few lines for your sympathetic consideration and necessary action.

That Sir, in response to the advertisement No. 01 of 2004, dated 12.06.2004 published in the local Newspaper by the Railway Recruitment Board, the undersigned applied for the post of ESM Gr. III, category No. 48 as an ST candidate.

That Sir, after taking into account my educational qualification, age etc. I was called for appearing in the written examination held on 27.03.2005 at the Dispur College. Accordingly, I appeared in the written examination and came out successful. Thereafter, I was asked to appear before the RRB for verification of my original certificates, testimonials etc. on 31.08.2005, accordingly I appeared before the authority on 31.08.05 and got verified my original certificates etc.

*Attested
J. S. Advocate*

24

2

That Sir, after verification of my original certificates I was not informed anything about my appointment to the post of ESM Gr. III. Situated thus, I went to the Office of the RRB to pursue my candidature and I was told that a list of selected candidates has already been sent to Your Honour for appointment to the post of ESM Gr. III and my name is not included in the said list. I was also informed that, reasons for non inclusion of my name in the list for appointment is that the name of the persons who are older than me have been sent for appointment and my name was not forwarded to Your Office due to my under age. Thereafter, I submitted a representation on 28.11.2005 addressed to your honour, praying for my appointment to the post of ESM Gr. III. In this connection I beg to say that much younger than the other ST candidates who have been recommended for appointment to Your Honour cannot be a ground for denial my appointment.

That Sir, in the facts and circumstances as stated above I pray before Your Honour kindly to consider my appointment to the post of ESM Gr. III sympathetically as because I have qualified in the written test and I am neither under aged nor over aged, moreover, I belong to a poor ST candidate and for this act of kindness I shall remain ever grateful to you.

That Sir, I am enclosing a copy of the order dated 23.12.2005 in O.A. No. 320/2005 for your perusal and necessary action.

Encls:- (1) My representation dated 28.11.05.

(2) Order dated 23.12.05 in O.A. No. 320/05.

Date:- 02/01/2006

Yours faithfully
Nilutpal Patar
(NILUTPAL PATAR)

S/o- Gopal Ram Patar,
Vill- Nabeti,
P.O- Morigaon,
Assam.

Copyd. with A17

25 -

Annexure - 9 80

RAILWAY RECRUITMENT BOARD : GUWAHATI.

No. RRB/E/170/OA/320/2005(NP)

Dt. 22/02/06

Shri Nilutpal Patar,
S/o Shri Gopi Ram Patar,
Vill. Nabheti, P.O. Marigaon,
Distt. Morigaon, Assam
PIN- 782105.

Sub:- Compliance of Hon'ble Central Administrative Tribunal's order dated 23-12-05 in th O/A No. 320/2005.

Ref:- Your representation dated 28/11/05 and 02/01/06.

As per Hon'ble Central Administrative Tribunal's order dated 23/12/05 in OA No. 320/05 your representations were put up to the Competent Authority. The competent authority has disposed of your representations by passing orders which is enclosed herewith for your information please.

DA: as above(One)

(Signature)
22/2/06

(R K Sonowal)
Dy. Secretary
for Chairman/RRB/Guwahati.

Copy to:- APO/Legal Cell for information and necessary action please.

(R K Sonowal)
for Chairman/RRB/GHY

*Reflected
for
Advocate*

81

26

Sub Speaking order on the representation submitted by Sri Nilupal Patar in compliance with the order dtd. 23.12.05 issued by the Hon'ble CAT/GHY Bench.

General Manager, N.F. Railway is not the Competent Authority in this case and therefore the case has been examined and replied by the undersigned.

The Hon'ble CAT/GHY vide their order dt. 23.12.05 in OA No. 320/05 had held that "The applicant has filed representation dt. 28.11.05 (Annexure 6) before the first respondent. He also wants to file detailed representation in the matter. He is free to file detailed representation within one week from the date of receipt of this order. The first respondent will dispose of both the representation within a period of six weeks from the date of receipt of the additional representation and pass a speaking order."

The applicant has submitted his representation dtd. 02.01.06. Undersigned has gone through the details of representation and examined the issue involved there in on merit. The fact of the case reveals that the applicant Shri Nilupal Patar applied for appearing in the selection for the post of ESM/Gr.III in response to the advertisement No. 01/2004 dt. 12.06.04 as a ST candidate. Accordingly the applicant had appeared in the selection and was called for verification of documents. Finally his name did not appear in the panel published by RRB/GHY. Against non-inclusion of his name, he had filed the instant OA with the Hon'ble Central Administrative Tribunal Guwahati.

Panel of RRB is formed purely on the basis of merit. Sometimes it may happen that more than one candidate have secured equal marks and that marks is within the zone of empanelment. In such cases if all the candidates securing equal marks cannot be empanelled as per requirements of the advertisement, then the candidate having his date of birth earliest is considered to be the highest in merit. In this case 03 Nos. of ST candidates secured equal marks and unfortunately the applicant's name figured junior most amongst the 03 in respect of his date of birth. Accordingly he could not come in the zone of empanelled lists. Further no more reserved post for ST candidate is available to accommodate the applicant. It is pertinent to mention here that while the applicant was called for verification of documents, in the said letter it was categorically mentioned that this call letter does not itself entitle him for selection. Accordingly non-inclusion of the name of the applicant has not violated the principles of natural justice. Thus the non inclusion of his name in the panel stands good and this may be communicated to the applicant.

21/1/06
22/1/06
Secretary

Railway Recruitment Board
Guwahati

Chairman
Railway Recruitment Board Guwahati

Railway Recruitment Board

Guwahati

001

Sub: Speaking order on the representation submitted by Sri Nilutpal Patar in compliance with the order dtd. 23.12.05 issued by the Hon'ble CAT/GHY Bench.

General Manager, N.E. Railway is not the Competent Authority in this case and therefore the case has been examined and replied by the undersigned.

The Hon'ble CAT/GHY vide their order dt. 23.12.05 in OA No. 320/05 had held that. "The applicant has filed representation dt. 28.11.05 (Annexure-6) before the first respondent. He also wants to file detailed representation in the matter. He is free to file detailed representation within one week from the date of receipt of this order. The first respondent will dispose of both the representation within a period of six weeks from the date of receipt of the additional representation and pass a speaking order.

The applicant has submitted his representation dtd. 02.01.06. Undersigned has gone through the details of representation and examined the issue involved there is on merit. The fact of the case reveals that the applicant Shri Nilutpal Patar applied for appearing in the selection for appearing in the selection for the post of ESM/Gr. III in response to the advertisement No. 01/2004 dt. 12.06.04 as a ST candidate. Accordingly the applicant had appeared in the selection and was called for verification of documents. Finally his name did not appear in the panel published by RRB/GHY. Against non-inclusion of his name he had filed the instant OA in the Hon'ble Central Administrative Tribunal Guwahati.

Panel of RRB is formed purely on the basis of merit. Sometimes it may happen that more than one candidate have secured equal marks and that marks is within the zone of empanelment. In such cases if all the candidates securing equal marks cannot be empanelled as per requirements of the advertisement, then the candidate having his date of birth earliest is considered to be the highest in merit. In this case 03 Nos. of ST candidates secured equal marks and unfortunately the applicant's name figured junior most amongst the 03 in respect of his date of birth. Accordingly he could not come in the zone of empanelled

*Attested
for
signature*

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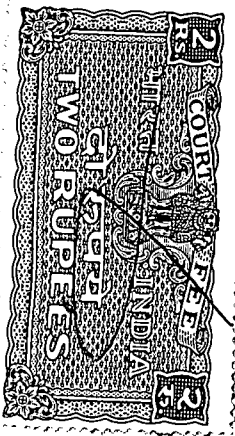
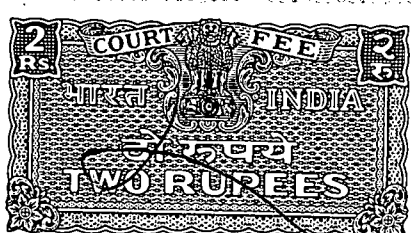
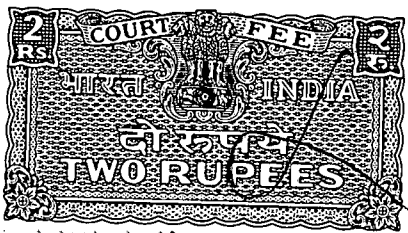
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lists. Further no more reserved post for ST candidate is available to accommodate the applicant. It is pertinent to mention here that while the applicant was called for verification of documents in the said letter it was categorically mentioned that this call letter does not itself entitle him for selection. Accordingly non-inclusion of the name of the applicant has not violated the principles of natural justice. Thus the non inclusion of his name in the panel stands good and this may be communicated to the applicant.

Sd/- Illegible. 22/02/2006

Chairman

Railway Recruitment Board/Guwahati



VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O. A. No. 114 /2006

...Applicant(s)

Sri Nitul Pal Patra

-Vs-

Union of India & Ors.

...Respondent(s)

Know all men by these presents that the above named Applicant do hereby appoint, nominate and constitute Sri Subrata Nath Sri _____ and _____, Advocate(s) and such of below mentioned Advocate(s) as shall accept this VAKALATNAMA to be my/our true and lawful Advocate(s) to appear and act for me/us in the above noted case and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/We agree to ratify and confirm all such acts to be mine/our for all intends and purposes. In case of non-payment of the stipulated fee in full, no Advocate(s) shall be bound to appear and/or act on my/our behalf.

In witness whereof, I/We hereunto set my/our hand on this the 12th day of March 2006.

Received from the Executant, Mr. _____ And accepted
satisfied and accepted.

Senior Advocate will lead me/us in the case.

Subrata Nath

Advocate

Advocate

Advocate

DISTRICT:

84

Nitul Pal Patra

5

VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH.

OA No. 114/06

Sri Nilutpal Patar

Versus

U.O.I.& Ors

I/We Sri J.J. Borah, Chairman Railway Recruitment Board, Guwahati of the Northeast Frontier Railway Administration, who is also ex-officio authorised to act for and on behalf of the Union of India as representing the Northeast Frontier Railway Administration do hereby appoint and authorised Shri/Smt. B. Devi, Railway Advocate, Guwahati to appear, act, apply, plead in and prosecute the above described suit/appeal/proceedings on behalf of the Union of India to file and take back document, to accept processes of the court to appoint and instruct counsel, Advocate or pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal proceedings and to do all things incidental to such appearing, acting, applying, pleading and presenting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate officer of the Govt. of India, the said Counsel/Advocate/Pleader or any counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defense/proceedings against all or any defendants/respondents/ appellants/ plaintiffs/opposite parties or enter into agreement, settlement or compromise hereby the suit/appeal/proceedings is/are wholly or partly adjusted or refer all or any matter or matters arising out in dispute therein to arbitration PROVIDED THAT IN exceptional circumstances when there is not sufficient time to consult such appropriate officer of the Govt. of India and on omission to settle or compromise would be definitely prejudicial to the interest of the Govt. of India the said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/ appeal proceedings is/are wholly or partly adjusted and in every such case the said counsel/advocate/pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

I hereby agree to ratify all acts done by the aforesaid Shri/Smt B. Devi, Railway Advocate, Guwahati in pursuance of the authority.

IN WITNESS WHERE OF THOSE presents are duly executed for and on behalf of the Union of India this Twenty first day of June 2006.

Bharati Devi
11/8/06
Mr. Nilutpal Patar

[Signature]
Borah

FOR AND ON BEHALF OF UNION OF INDIA

DIST. - MORIGAON

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH AT GUWAHATI

O.A. No. 114 of 2006

Nilutpal Patar.....Applicant

-Vs-

Union of India & others..... respondents.

WRITTEN STATEMENTS ON BEHALF OF THE
RESPONDENT NO. 1 & 2

The Written statements of the Respondents are as follows :-

1. That a copy of the Original Application No. 114/06(herein after referred to as the " application" has been served upon the respondents . The respondents have gone through the same and understood the contents thereof.
2. That save and except the statements which are specifically admitted by the respondents , the rest of the statements made in the application may be treated as denied.
3. That the statements made in paragraph 4.1 of the application the answering respondent has no comment.
4. That in regard to the statements made in paragraph 4.2 of the application the answering respondent begs to state that as per Notification of Employment Notice No. 1 of 2004 vide category No. 40 for the post of Electric Signal Maintainer (in short ESM) Grade III in the scale of Rs.3050-4590/- , the community wise break up is as under :-
Cat No.-40, ESM-III, Sc-06, ST-04, OBC-10, ESM-05, UR-25, Total-50.
5. That it is brought to the notice of the Hon'ble Tribunal that the aforementioned post has been enhanced by the competent authority vide notification published in the Assam Tribune dated 11.03.05 i.e. prior to holding the Written Examination for the above mentioned posts which are given below :-

Cat No.-48, ESM-III, SC-11, ST-06, OBC-18, ESM-05, UR-40, Total-80

Filed by
(Charakdim)
H/A, N.F. Pk.
13/9/06

88
Jibon Jyoti Borth
CHURMAN.
to staff etc
Railway Recruitment Board
Guwahati

The written examination for the above posts was held on 27.3.05 as per Examination Schedule published in the Assam Tribune dated 06.03.05

Copies of Notifications published in Assam Tribune are enclosed herewith and marked as Annexure-1 & 2 respectively.

6. That in regard to the statements made in paragraph 4.3 & 4.4 of the application the answering respondent has no comment unless contrary to the records.

7. That in regard to the averments made in 1st part of the paragraph 4.5 to the application the deponent has nothing to comment.

The averments made in the 2nd part of the paragraph 4.5 to the application are not correct and the same are not admitted by the answering respondent. As per the Railway Board's letter No. 99/E RRB/25/2 dated 18.03/99 circulated vide GM (P) MLG's letter No. E/227/0(Rectt)2 dated 25.5.99, the call letter to the candidates equal to 10 (ten) numbers of vacancy/posts is applicable only where second stage of examination is mandatory but not for the posts where Single written examination (no interview) followed by verification of documents. Since in this category of posts selection has done on the basis of Single Written examination (no interview) followed by verification of original documents, hence issuance of call letters equal to 10 (ten) numbers of vacancies is not maintainable. And as such the allegation set forth are baseless and not tenable at all.

8. That in this connection it is stated that since the vacancies had been enhanced by the competent authority as mentioned in paragraph 4 herein above, total 6(Six) ST candidates had been empanelled as under :-

Sl. No.	Roll No.	Name of the candidate	Community	Date of sending/Panel
74	- 34812954-	Shashi Kant Ranjan	- ST-1-	31/08/05
75	- 34801059 -	Ganesh Narzary	- ST-2 -	-do-
76	- 34800964 -	Prasaanta Boro	- ST-3 -	-do-
77	- 34812871-	Shiv Prasad Mandal-	ST-4-	-do-
78	- 34806256-	Abhay Kr. Ranjan -	ST-5	-do-
79	- 34807064-	Bhupal Kumar	- ST-6	08/11/05

not made entry

CHAIRMAN,
 Railway Recruitment Board
 Guwahati-781005

In view of the above facts, it is clear that six candidates belonging to ST community had been empanelled for notification. And as such the allegation of the applicant cannot be accepted.

9. That as regards the statements made in paragraphs 4.6, 4.7, 4.8 and 4.9 the answering respondent begs to state that as per procedure followed by the Railway Recruitment Boards, the candidates securing equal marks in the Written Examination in a particular position (irrespective of any numbers) have to be called for the verification of documents following the principle of natural justice. In this case 03 Nos. of ST candidates secured equal marks and on the very date of verification of original documents the applicant, Sri Nilutpal Patar, was unfortunately found to be junior most amongst the 03 in respect of his date of birth who were also called for verification of documents along with the applicant. Accordingly the applicant could not come in the zone of empanelled list and in view of the above context there is no scope for consideration of appointment of the applicant as all the 6(Six) vacancies had been filled up in order of performance in the written Examination as well as laid down procedure for fixing the merit position against the community wise vacancies. Hence the applicant could not be empanelled which was intimated to him vide Chairman/RRB/Guwahati letter No. RRB/E/170/OA/320/2005 (NP) dated 22.02.06 in compliance to the Hon'ble Tribunal's order dated 23.12.05 in OA No. 320/05. As such the question of absorbing the applicant on N.F. Railway does not arise.

10. That the submissions made in the ground portion of the application are not acceptable at all.

11. That it is pertinent to mention herein that while the applicant was called for verification of documents, in the said letter it was categorically mentioned that the call letter does not itself entitle him for selection. In view of the aforesaid facts and circumstances non-inclusion of the name of the applicant can't be said to be in violation of the principle of natural justice.

12. That the application filed by the applicant is devoid of merit and as such not tenable in the eye of law and liable to be dismissed.

13. That the applicant is not entitled to any relief as claimed by him..

14. That the respondent has rightly passed the order and there is no impediment, infirmity and illegality to interfere by the Hon'ble Tribunal.

15. That in any view of the matter raised in the application and the reasons set forth thereon, there cannot be any cause of action against the respondents at all and the application is liable to be dismissed with cost.

In the premises aforesaid, it is, therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall be pleased to dismiss the application with cost. And pass such other orders/orders as to the Hon'ble Court may deem fit and proper considering the facts and circumstances of the case and for the ends of justice.

And for this the humble respondent as in duty bound shall ever pray.

VERIFICATION

I, Shri Jibon Jyoti Borah ^{Son of late B.C. Borah} resident of Maligaon at present working as the ^{Chairman} Railway Recruitment Board, Guwahati being competent and duly authorised to sign this verification do hereby solemnly affirm and state that the statements made in paragraph 1,2,3,4,5,6,7,8& 9 are true to my knowledge and belief, and the rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 12th day of Sept., 2006 at Guwahati.

Jibon Jyoti Borah

DEPONENT

অধ্যক্ষ

CHAIRMAN.

ৰেল ৱৰ্কী বোর্ড

Railway Recruitment Board
Guwahati



RAILWAY RECRUITMENT BOARD : GUWAHATI

STATION ROAD, GUWAHATI-781001

NOTICE

The number of the posts of the following categories of Employment Notice No.1 of 2004 published in Employment News on 12-18th June, 2004, posts have been increased against the categories mentioned below. As such the overall posts of the under mentioned Categories of the Employment Notice of 1 of 2004 may please be read as under. However all other terms and conditions will remain the same.

Cat. No.	Name of the Post	Scale of Pay(RSRP)	SC	ST	OBC	ESM	UR	TOTAL
40	JE/III (C & W)	5000-8000	10	05	17	07	33	72
28	JE-II/Elect.	5000-8000	04	04	04	02	12	26
22	ESM-II	4000-6000	01	02	03	01	03	10
42	App. Mechanic. Diesel/Elect.	5000-8000	03	01	04	03	05	16
43	ESM-III	3050-4950	11	06	18	05	40	80
01	Lab. Supdt-III	5000-8000	00	00	01	00	01	02
05	Radiographer	4500-7000	00	00	00	00	02	02
35	JE-II, P/Way	5000-8000	09	05	15	06	23	58
21	Supervisor, P/Way	4500-7000	03	02	06	03	09	23

BEWARE
DON'T BE DUPED
BY PROMISES FOR RAILWAY JOBS

(J.J. BORAH)
CHAIRMAN
RRB/GUWAHATI

Propo-
sition-
Assam Tribune
March-11/2005

authentic use for copy
2/19/05



RAILWAY RECRUITMENT BOARD: GUWAHATI

STATION ROAD, GUWAHATI - 78100

Assam Railway
6th March/2005

NOTICE SCHEDULE OF EXAMINATION

Category No.	Employment Notice No.	Name of the post	Date of Exam
26	1/2004	Junior Engineer-II/TM	20.03.2005
29	1/2004	Junior Engineer-II/Bridge	20.03.2005
28	1/2004	Junior Engineer-II/Electrical	20.03.2005
34	1/2004	Junior Engineer-II/Works	20.03.2005
35	1/2004	Junior Engineer-II/Drawing	20.03.2005
36	1/2004	Junior Engineer-II/P.Way	20.03.2005
40	1/2004	Junior Engineer-II/C & W	20.03.2005
41	1/2004	App. Mechanic/Diesel/Mechanical	20.03.2005
42	1/2004	App. Mechanic/Diesel/Elect.	20.03.2005
43	1/2004	Junior Engineer-II/Workshop	20.03.2005
46	1/2004	Junior Engineer-II/Telecom	20.03.2005
47	1/2004	Junior Engineer-II/Signal	20.03.2005
25	1/2004	Supervisor - P.Way	20.03.2005
48	1/2004	Electrical Signal Maintainer Gr.III	27.03.2005
49	1/2004	App. Telecom Maintainer Gr.III	27.03.2005
52	1/2004	TGT -Drawing (Bengali Medium)	03.04.2005
17	1/2004	TGT-Hindi/Bengali Medium	03.04.2005
15	1/2004	TGT-Pure Science (Assamese Medium)	03.04.2005
11	1/2004	Primary Teacher (Assamese Medium)	03.04.2005
54	1/2004	PTI-English Medium	03.04.2005
53	1/2004	PGT-Drawing (Eng. Medium)	03.04.2005
16	1/2004	PGT-MIL (Bengali Medium)	03.04.2005
14	1/2004	TGT-Pure Science (Eng. Medium)	03.04.2005
13	1/2004	TGT-Bio-Science (Eng. Medium)	03.04.2005
16	1/2004	TGT-Pure Science (Beng. Medium)	03.04.2005
22	1/2004	Electric Sig. Maintainer, Gr-II	03.04.2005
55	1/2004	PTI-Bengali Medium	03.04.2005
10	1/2004	Primary Teacher (Eng. Medium)	03.04.2005
08	1/2004	Primary Teacher (Hindi Medium)	03.04.2005
09	1/2004	Primary Teacher (Telgu Medium)	03.04.2005
07	1/2004	Primary Teacher (Bengali Medium)	03.04.2005
12	1/2004	PGT/Education	10.04.2005
24	1/2004	App. Draftsman Mechanical	10.04.2005
23	1/2004	CMAGr-I	10.04.2005
02	1/2004	H&M Gr.-III	10.04.2005
03	1/2004	Extension Educator	10.04.2005
04	1/2004	Lab. Supdt. Gr.III	10.04.2005
05	1/2004	Radiographer, Gr.III	10.04.2005
50	1/2004	Radio Apprentice	08.05.2005
51	1/2004	Commercial Apprentice	08.05.2005
20	1/2004	E.C.R.C.	08.05.2005
19	1/2004	Asst. Station Master	29.05.2005
21	1/2004	Diesel Asst. Driver	05.06.2005

Call letters will be dispatched to eligible applicants. The eligible candidates, who do not received call letter, may contact RRB/ Guwahati along with one copy of recent passport size photograph and other relevant documents between 10.00 hrs to 17.00 hours to collect the duplicate call letter from the undersigned as per following programme:

Date of Examination	Date of issuing duplicate call letters
20.03.2005	18.03.2005
27.03.2005	25.03.2005
03.04.2005	01.04.2005
10.04.2005	08.04.2005
03.05.2005	05.05.2005 & 06.05.2005
29.05.2005	26.05.2005 & 27.05.2005
05.06.2005	03.06.2005

The general public are hereby forewarned not to be tempted by way of irregular offers of appointments, in lieu of monetary considerations by unscrupulous elements, which may also attract penal consequences.

**BEWARE
DON'T BE DUPED
BY PROMISES FOR RAILWAY JOBS**

**CHAIRMAN
RRB/GUWAHATI**

*Submanoj Bose
17/9/05*

7 MAR 2007

गुवाहाटी बेंच
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

Filed by me applicant
through: S. N. 9
Advocate 2
06/03/2007

In the matter of: -

O.A. No. 114 of 2006

Shri Nilutpal Patar.

..... Applicant.

-Versus-

Union of India & Ors.

..... Respondents.

-And-

In the matter of: -

Rejoinder submitted by the applicant in reply to the written statements submitted by the respondents.

The applicant above named most humbly and respectfully begs to state as under: -

1. That with regard to the statements made in paragraphs 1, 2, 3, 4, 5, 6 and 7 of the written statement, the applicant categorically denies statements save and except those are matters of records and further begs to say that applicant appeared in the examination for appointment to the post of Electrical Signal Maintainer (for short ESM) Gr. III, against the 6 posts reserved for ST category and came out successful in the examination. It is pertinent to mention here that selection to the post of ESM Gr. III has been done on the basis of Single written examination and those candidates who

92

came out successful in the written examination are called for verification of the documents. Applicant in the instant case came out successful in the written examination and he was called for verification of documents, as such question of calling more candidates for verification of documents than the actual vacancies does not arise. But in the instant case after qualifying in the written examination and after verification of original documents RRB did not recommend name of applicant for appointment most arbitrarily on the vague ground that applicant's name figured junior most amongst the 03 in respect of his date of birth accordingly the applicant could not come in the zone of empanelled list and thereby deprived the applicant from appointment. Therefore action of the respondents is illegal, arbitrary, unreasonable and liable to be set aside by the Hon'ble Tribunal.

2. That with regard to the statements made in paragraph 8 and 9 of the written statement the applicant denies the same save and except which are borne out of record and further begs to state that, from the written statement it reflects that out of 6 selected candidates date of sending panel of 5 candidates was on 31.08.2005 and 1 candidate's date of sending panel was on 08.11.2005 as such sending name of panels of 6 candidates on two different dates was not explained in the written statement by the respondents. Moreover, the basic cause of depriving the applicant from appointment is due to the reason that the applicant's name figured junior most amongst the 03 in respect of his date of birth, as such he is deprived from recommendation by the RRB for appointment to the post of ESM Cr. III, but the respondents in the written statement nowhere stated the date of birth of the 6 selected candidates from which it can be presumed that the applicant is junior most among the 3 candidates who secured equal marks, therefore the action of the respondents are arbitrary in rejecting the claim of the applicant. Moreover, no rule has been relied upon by the respondents in support of their contention that the junior most candidates

who came out successful in the written examination shall be deprived from the appointment or otherwise the junior most candidate in spite of his eligibility in the selection process shall be deprived from appointment arbitrarily on the ground of being junior amongst the candidates who got equal marks. It is also stated that if the question of selecting amongst the 3 candidates secured equal marks arise then the respondents should have given preference to the candidate who secured better academic record, that is who secured higher marks in the H.S.L.C/H.S.S.L.C examination but the RRB in spite of doing such evaluation on the basis of merit most arbitrarily rejected the candidature of the applicant on the ground of being junior most among the 3 candidates, as such the criteria of evaluation on the basis of age is arbitrary, illegal, unreasonable, unfair and the same is liable to be interfered by the Hon'ble Tribunal. Most surprisingly the respondents on the one hand stated that applicant has been deprived due to his age but on the other hand the respondents have stated that all the 6 vacancies had been filled up in order of performance in the written examination as well as laid down procedure for fixing the merit position against the community wise vacancies, preference on the basis of age cannot be ground of selection for fixing merit position and such selection is arbitrary, illegal, unfair, unreasonable and the same is liable to be set aside. It is further stated that in the instant case the RRB is required to evolve the relative merit of the 3 candidates who secured equal marks in the written examination on the basis of their academic record but the expert body like RRB has chosen the criteria of age for giving preference to the other candidates who secured equal marks with the applicant such action on the part of RRB not warranted. Be it stated that in a selection process merit should be the only criteria for selection and the applicant is neither over age nor he is below the prescribed age, therefore non-selection of the applicant to the post of ESM Gr. III in the N.F. Railway suffers from arbitrariness, illegality, unreasonableness and the same warrants interference of this Hon'ble Court. It is categorically stated that

as

the applicant has secured better marks in the H.S.L.C/H.S.S.L.C examination than the other 2 candidates. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to produce selection record of the ESM Gr. III held under Employment notice No. 1 dated 12.06.2004 and after perusal of the records be pleased to declare that the selection method adopted by the KRB is arbitrary, illegal, unreasonable, unfair and further be pleased to direct the respondents to appoint the applicant to the post of ESM Gr. III on the basis of marks secured in the H.S.L.C/H.S.S.L.C examination.

3. That with regard to the statements made in paragraph 10, 11, 12, 13 and 14 the applicant deny the correctness of the same and further begs to state that when a selection process is arbitrary, unfair, unreasonable as it has been done in the instant case, the same can be interfered by the Hon'ble Tribunal. It is further stated that much younger in age than the other candidates cannot be a ground for selection on the basis of merit. In a selection process merit includes marks secured in the written examination as well as marks obtained in the H.S.L.C/H.S.S.L.C examination or other examination and selection on the basis of age is arbitrary, unfair, unreasonable, unfair and the said selection is liable to be set aside and quashed by the Hon'ble Tribunal.
4. That in the facts and circumstances the Original Application deserves to be allowed with cost.

96

VERIFICATION

I. Shri Nilutpal Patar, S/o- Shri Gopi Ram Patar, aged about 22 years, Vill- Nabheti, P.O- Morigaon, Dist- Morigaon, Assam- 782105, applicant in the instant original application, do hereby verify that the statements made in Paragraph 1 to 3 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 28th day of February 2007.

Nilutpal Patar