

3

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 163/2006

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet..... Pg..... 1 ..... to ..... 8 .....  
2. Judgment/Order dtd. 23.6.2006 Pg..... 1 ..... to ..... No. Separate order 9/0  
3. Judgment & Order dtd..... Received from H.C/Supreme Court  
4. O.A..... 163/2006 Pg..... 1 ..... to ..... 12 .....  
5. E.P/M.P..... Pg..... to .....  
6. R.A/C.P..... Pg..... to .....  
7. W.S..... Pg..... to .....  
8. Rejoinder..... Pg..... to .....  
9. Reply..... Pg..... to .....  
10. Any other Papers..... Pg..... to .....  
11. Memo of Appearance.....  
12. Additional Affidavit.....  
13. Written Arguments.....  
14. Amendment Reply by Respondents.....  
15. Amendment Reply filed by the Applicant.....  
16. Counter Reply.....

SECTION OFFICER (Judl.)

Kalter  
24/09/17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No 163/106
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Sri Pradip Debmitra

Respondent(s) U.O.I.2 OVS

Advocate for the Applicant(s) Mr. Usha Das

Advocate for the Respondent(s) Standing Counsel,  
Railway

Notes of the Registry	Date	Order of the Tribunal
	29.6.2006	Present: The Hon'ble Shri K.V. Sachidanandan Vice-Chairman.
Application is filed by the applicant as per the representations made by him in the application dated 05.7.2002 and 03.1.2006. The application is filed under P.W.I/BG/Lumding. The applicant claims that he was engaged as Gang man by the respondents under P.W.I/BG/Lumding. Thereafter, he was transferred. His services were terminated in the year 1997. He preferred various representations and finally on 3.1.2006 (Annexure-4) before the authority for granting temporary status and regularisation which have not been answered as yet. Aggrieved by the said inaction on the part of the respondents applicant has filed this O.A. seeking the following reliefs:-		
		8.1) To direct the respondents to consider the case of the applicant for grant of temporary status as per the Railway Board's Circular.
		8.2) To direct the respondents to consider the representations dated 05.7.2002 and 03.1.2006 filed by the applicant and to pass an appropriate order within a time frame as Your Lordships deem fit and proper.
		8.3) Cost of the application
		8.4) Any other relief/reliefs as Your Lordships deem fit and proper considering the facts and circumstances of the case."

Contd..

- 2 -

Contd.

23.6.2006

Ms.U.Das, learned counsel for the applicant, submits that she will be satisfied if a direction is given to the 4th respondent to consider applicant's case and dispose of his representations within a time frame. Dr.J.L.Sarkar, learned Standing counsel for the Railways submits that he has no objection in adopting such exercise.

Considering the submissions made as above and for the ends of justice this Tribunal directs the 4th respondent or any other competent authority to consider and dispose of the pending representations dated 5.7.2002 and 3.1.2006 within a period of three months from the date of receipt of this order communicating the same to the applicant. Applicant will also forward the copy of the O.A. alongwith the documents to the concerned respondent forthwith.

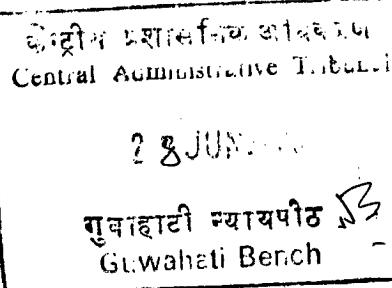
The O.A. is disposed of as above at the admission stage itself. In the circumstances, there is no order as to costs.

18.7.06

Copy of the order  
along with the copy  
of application has  
been sent to the  
D.P.C. for filing  
in file with the Rly.  
Standing counsel.

bb

Vice-Chairman



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

Title of the case : OA No....163....of 2006

BETWEEN

SHRI PRADIP DEBNATH  
.....APPLICANT.

AND

UNION OF INDIA & ORS  
.....RESPONDENTS

I N D E X

Sl No.	Particulars	Page No.
1.	Application	1-5
2.	Verification	6
3.	Annexure-1	7
4.	Annexure-2	8, 9, 10
5.	Annexure-3	11, 12
6.	Annexure-4	13, 14

Filed by : Miss Usha Das  
Advocate

Regn. No.:  
Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH GUWAHATI

(An application under section 19 of the Administrative Tribunal Act, 1985)

OA No. 163 /06

Shri Pradip Debnath

.....applicant

**-versus-**

Union of India & ors

.....respondents

## List of Dates

## DATES

## PARTICULARS

1) 19.4.1994

The Applicant engaged as Gangeman by the  
respondents under P.W.I/BG/Lumding

2) 13.02.1995

The applicant was transferred and posted under P.W.I/LLBR in the Administrative interest.

3) 11.9.1997

The services of the applicant was terminated  
by verbal order

4) 05.7.2002

Applicant proffered representation for grant of temporary status and subsequent regularization.

5) 03.1.2006

Applicant proffered representation before  
the respondents

Kulm & Fadnavis  
Usha Das  
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHTI BENCH GUWAHATI

OA NO 163 /2006

Filed by  
the applicant through  
Lok Chet  
Assam

BETWEEN

Shri Pradip Debnath  
S/o Late Premananda. Debnath  
Resident of Lumding  
Idistrict- Nagaon  
Assam  
.....applicant

AND

- 1) Union of India  
Represented by the General Manager  
N. F. Railway, Maligaon  
Guwahati
- 2) Divisional Railway Manager  
N. F. Railway, Lumding  
District- Nagaon
- 3) Senior Divisional Engineer  
N. F. Railway, Lumding  
District- Nagaon
- 4) Senior Divisional Personal Officer  
N. F. Railway, Lumding  
District-Nagaon

.....Respondents

1. PARTICULARS OF THE ORDERS AGAINST WHICH THIS APPLICATION IS MADE:

This application is made not against any particular order but has been made against the action/inaction on the part of the respondents in not considering the case of the applicant for engagement in any Group-D post considering the past service under the respondents.

## 2. JURISDICTION OF THE TRIBUNAL

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

## 3. LIMITATION

The applicant further declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

## 4. FACTS OF THE CASE

4.1) That the applicant is a resident of Assam as such he is entitled to all rights, privileges and protections under the Constitution of India.

4.2) That the applicant begs to state that he was working as Gang man under the P.W.I/BG/Lumding from 19.4.1994 to 12.2.1995. On 13.02.1995 the respondent No. 3 has issued an order No. WE/OS/Misc/LM/Pt/III dated 13.2.1995 whereby the applicant was transferred and posted under P.W.I/LLBR/in the Administrative interest. The applicant was spared on 16.2.1995 enabling him to join from PWI/BG/LMG to PWI/LLBR.

Copies of the order-dated 13.2.1995 and 16.2.1995 are annexed herewith and marked as Annexure- 1 & 2 respectively.

4.3) That the applicant begs to state that he was working under the respondents till 10.9.1997 without any blemish. The respondents asked the applicant verbally not attend duty on 11.9.1997 without any reason. The applicant has been approaching the respondents to engage him in any group- D post considering his past experience of service.

4.4) That the applicant begs to that after termination of his services he had been approaching the department regularly making a prayer for absorption in the Department in any Group- D post. The applicant made several representations before the respondents for consideration for his case for temporary status and subsequent regularization.

4.4) That the applicant begs to state that in the year 2002 the respondents had taken a move for appointment of 584 post of Group -D staff. The applicant also approached the respondents by way of filing representation-dated 05.7.2002 to consider his case for appointment in any Group- D post. But the respondents did not consider his case without any reason. The applicant one again filed a presentation on 03.1.2006 before the respondents for consideration of his case for any Group- D post.

Copies of the representations dated 05.7.2002 and 03.1.2005 are annexed herewith and marked as Annexure -3 and 4 respectively.

4.5) That the applicant submitted various representations for appointment as Porter under the respondents to consider his case for grant of temporary status and subsequent regularization as per Railway Board's Circular. As per Railway Board's Circular a person is entitled for grant of temporary status on completion of 120 days service in the Railway on casual basis. Since the applicant had already served the respondents more then 120 days he is entitled for grant of temporary status.

The applicant could not annexed photocopy of the Railway Board's Circular at the time of filing the case hence craves leave of this Hon'ble Tribunal to produce photocopy of the Railway Board's Circular as and when Your lordships want to perused the same.

4.6) That the applicant begs to state that he has filed two representation before the respondents to consider his case for grant of temporary status as per the Railway Board's Circular and has already done in case of other similarly situated persons but till date he has not received any responses from the respondents.

4.7) That the applicant begs to state that he is left with no option then to file this application before this Hon'ble Tribunal seeking redresses of his grievances. The

Prajip Deb Maiti

Hon'ble Tribunal may be pleased to direct the respondents to consider his case for grant of temporary status considering his past service under the respondents.

4.) That this application has been filed bonafide and to secure ends of justice.

**5. GROUNDS FOR RELIEF WITH LEGAL PROVISION.**

5.1) For that the action of the respondents in not considering the case of the applicant for grant of temporary status even after completion of more then 120 days of service as Porter under the respondents which is violative of their own circular and as such this Hon'ble Tribunal will exercise jurisdiction and grant adequate and just relief

5.2) For that the applicant filed various representations but the respondents have not given any reply to those hence the Hon'ble Tribunal will exercise jurisdiction and grant relief to the applicant.

5.3 ) For that the respondents have granted temporary status to the similarly situated persons but it has not been done in case of the applicant hence the Hon'ble Tribunal will exercise jurisdiction and grant adequate relief.

5.4 For that, in any view of the matter the impugned action of the respondents authorities is bad in law and is liable to be set aside.

**6. DETAILS OF REMADIES EXHAUSTED**

The applicant had filed representations but there has been no response.

**7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT**

The applicant further declares that he has not filed any case before any court of law and no case has been pending before any court seeking same relief as sought for in this Original Application.

**8. RELIEF SOUGHT FOR**

8.1) To direct the respondents to consider the case of the applicant for grant of temporary status as per the Railway Board's Circular.

8.2) To direct the respondents to consider the representations dated 05.7.2002 and 03.1.2006 filed by the applicant and to pass an appropriate order within a timeframe as Your Lordships deem fit and proper.

8.3) Cost of the application

8.4) Any other relief/reliefs as Your Lordships deem fit and proper considering the facts and circumstances of the case.

9. INTERIM ORDER IF ANY PRAYED FOR : NILL

10.

11. PARTICULARS OF I.P.O. IN RESPECT OF THE APPLICATION FEE:

(i) I.P.O. No. : 264 323331  
(ii) Date : 30/3/2006  
(iii) Issued by the G.P.O.  
(iv) Payable at Guwahati

12. LIST OF ENCLOSERS:

As stated in the INDEX

Prafull Debmath

## VERIFICATION

I, Shri Pradip Debnath, son of Late Premanadan Debnath, aged about, 30 year, resident of Lumding, P.O. Lumding, Dist. Nagaon, Assam who is the applicant in the present application hence competent to sign the verification and so hereby solemnly affirm and state that the statement made in paragraph 1,2,3,4,11,4,14,17 to 19, 25 to 12 are true to my knowledge and belief, those made in paragraph 4,2,4,3,4,5,4,6..... are matter of records, are true to my information derived there from and the rest are my submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 27th day of June, 2006 at Guwahati

Pradip Debnath

DEPONENT

*object*

*7* - 7 -

Annexure - 1

N.F. RLY.

To,

P.W.I/LLBR.

OFFICE ORDER  
D.R.M(W)LMG,  
Dt. 13-2-95  
No. WE/OS/Misc/LM/Pt/III  
Dt. 13-2-95

Sri Pradip Debnath, G/man under P.W.I/BG/LMG is hereby transferred and posted under P.W.I/LLBR/in the Administrative interest.

This issue with the approval of G.M./Con/MLG.

Copy to :

1. P.W.I./BG-LMG, He should spare the Staff.immediately.
2. AEN/I/BPG/ for information and n/a.
3. P.W.I/LLBR, for information,
4. D.R.M (P)/LMG, for information.
5. Staff Copy.

ATTENDED  
John Sircar  
P.W.I./BG-LMG  
Date: 13-2-95

*Shriji*  
P.W.I./BG-LMG  
Divisional Engineer  
N.C. Railway, Lumding

Attended  
John Sircar  
Advocate



9-  
Ameari - 3 - 1

To

The Divisional Railway Manager,  
LMG Division, N.F.Rly.  
LUMDING.

Subject: An earnest appeal for reconsideration in the matter of his reinstatement in Rlys. service.

Respected Sir,

With profound respect & humble submission in reference to the subject cited above, I the appellant / applicant most respectfully like to pray before your kind self in the form of my an earnest appeal for favour of your kind perusal and deserves sympathetic consideration thereon.

That Sir, I was engaged in Rlys. service and worked sincerely in the capacity of Gangman under the P W I / BG/LMG/N.F.Rly. upto 15/02/1995.

That Sir, thereafter I was ordered for transfer of my service from C.P.W.I./BG/Lumding/N.F.Rly. to P W I / LLBR/N.R.Rly. Vide D R M(P)/LMG's Office Order No. WE/OS/MISC/LM/PT.LI/ dtd. 13/02/1995 in the administrative interest and I being a loyal employee carried out the order.

That Sir, accordingly I was spared for LLBR to work under the P W I / LLBR Vide Order No. E/1/3058 Dtd. 16/2/95 (Copy of which is enclosed herewith) and APWI/BG/LMG also issued a letter to the SS/LMG for issuing a 2nd Class E D pass infavour of me Ex.LMG to LLBR Vide his No. E/2 Dtd. 16/02/95 for my joining at LLBR (Copy is enclosed). Accordingly the SS/LMG issued me a ED Pass.

That Sir, as soon as my joining under P W I / LLBR I was posted at Bhairebabi. Sir, for my all round conveniences on 20/02/95 I preferred an appeal to the APWI/BG with necessary forwarding of the PWI/LLBR wherein I appealed for my posting at Manipur Bagan instead of Bhairebabi, but my appeal was not considered.

That Sir, I was paid my monthly salary under BR No. 79E dated: 23/06/1995 (\*Copy enclosed herewith).

That Sir, again, I was ordered for re-transfer from LLBR to LMG DEN Office Vide Office Order, accordingly I was spared by the authority for joining under DEN/LMG, but it is a matter of regret that, I was not allowed for resumption my duties, besides I was advised to wait for further order, Sir, on good faith I waited for a reasonable period but no order came in the light, reason was best known to them.

That Sir, immediately I personally met with the authority and requested for my resumption, but no effect. Thereafter, again & again I approached the authority for my joining, matter of woe that all of my approached / request have fallen through, caused me disheartened and sitting idle, experiencing endless mental frustration & financial hardship.

Contd.....P/2.

Attested  
R.Das  
Advocate

(Page/2)

That Sir, my service in Rlys. was the only source of my income and was maintaining my family members somehow.

That Sir, since my sparing from LLER I have become jobless and swimming in the ocean of poverty alongwith my innocent family members which may kindly be realised easily please.

That Sir, at length, finding no other alternative & being compelled under the circumstances I would therefore most humbly request your judicious end that kindly look into my this humble petition with clement eye and inconsideration of my sincere effort since 1995 to till date kindly arrange to take necessary initiative in favour of my this & right prayer from your end so that I may kindly be reinstated in Rlys. service and thus kindly help an ex-poor helpless Rly. employee and his family members from hardship and for this act of your kindness I shall remain ever-green in the tablet of my memory and oblige thereby.

Submitted with honour for early favourable consideration and consideration is eagerly awaited.

Yours faithfully,

Dated: L.U.M.D.I.N.G

The 3 ~~1~~ / ~~2006~~ / 2006

PrayiPO-LbMath

SHRI PRADIP DEBNATH

Son of Late Premananda Debnath,  
C.O. Shri Promode Debnath,

Mistripay, Bunding,

P.O.: L.U.M.D.I.N.G (782447)

Dist: Nagaon (A S S A M)

.....

&&&

Attested  
H. Das  
Advocate

Amean-24-1

-11-

To

The General Manager,  
N.F.Rly., Maligaon,  
Guwahati-11 (ASSAM).

Subject: An earnest appeal for reconsideration in the matter  
of his reinstatement in Rlys. service.

Respected Sir,

With profound respect & humble submission, in reference to the subject cited above, I the appellant / applicant most respectfully like to pray before your kind self in the form of my an earnest appeal for favour of your kind perusal and deserves sympathetic consideration thereof.

That Sir, I was engaged in Rlys. service and worked sincerely in the capacity of Gangman under the P W I / EG/LMG/N.F.Rly. upto 15/02/1995.

That Sir, thereafter I was ordered for transfer of my service from C.P.W.I./EG/Lumding/N.F.Rly. to P W I / LLER/N.R.Rly. Vide D R M(P)/LMG's Office Order No. WE/OS/MISC/LM/PT-II dtd. 13/02/1995 in the administrative interest and I being a loyal employee carried out the order.

That Sir, accordingly I was spared for LLER to work under the P W I / LLER Vide Order No. E/1/3058 Dtd. 16/2/95 (Copy of which is enclosed herewith) and APWI/EG/LMG also issued a letter to the SS/LMG for issuing a 2nd Class E D pass infavour of me Ex.LMG to LLER Vide his No.E/2 Dtd. 16/02/95 for my joining at LLER (Copy is enclosed). Accordingly the SS/LMG issued me a ED Pass.

That Sir, as soon as my joining under P W I / LLER I was posted at Bhairabi. Sir, for my all round conveniences on 20/02/95 I preferred an appeal to the AEN/RPG with necessary forwarding of the P W I / LLER wherein I appealed for my posting at Manipur Bagan instead of Bhairabi, but my appeal was not considered.

That Sir, I was paid my monthly salary under BR No. 179E dated: 23/06/1995 (Copy enclosed herewith).

That Sir, again, I was ordered for re-transfer from LLER to LMG DEN Office Vide Office Order, accordingly I was spared by the authority for joining under DEN/LMG, but it is a matter of regret that, I was not allowed for resumption my duties, besides I was advised to wait for further order, Sir, on good faith I waited for a reasonable period but no order came in the light, reason was best known to them.

That Sir, immediately I personally met with the authority and requested for my resumption, but no effect. Thereafter, again & again I approached the authority for my joining, matter of woe that all of my approached / request have fallen through, caused me disheartened and sitting idle, experiencing endless mental frustration & financial hardship.

Attested  
Nar  
Advocate

Contd.....P/2.

12

(page/2)

That Sir, my service in Rlys. was the only source of my income and was maintaining my family members somehow.

That Sir, since my sparing from LLBR I have become jobless and swimming in the ocean of poverty alongwith my innocent family members which may kindly be realised easily please.

That Sir, at length, finding no other alternative & being compelled under the circumstances I would therefore most humbly request your judicious end that kindly look into my this humble petition with clement eye and inconsideration of my sincere effort since 1995 to till date kindly arrange to take necessary initiative in favour of my this & right prayer from your end so that I may kindly be reinstated in Rlys. service and thus kindly help an ex.poor helpless Rly. employee and his family members from hardship and for this act of your kindness I shall remain ever-green in the tablet of my memory and oblige thereby.

Submitted with honour for early favourable consideration and consideration is eagerly awaited.

Yours Faithfully,

Dated: L U M D I N G

The 5/7/2008

PratipDebnath

(SHRI PRADIP DEBNATH)

Son of Late Premananda Debnath,  
C/O. Shri Promode Debnath,  
Mistripatty, Luming,  
P.O.: L U M D I N G (782447)  
Dist: Nagaon (A S S A M )  
.....

656

Attested  
User  
Advocate