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X
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO. 4

(SEE RULE 42)
 CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH

ORDER SHEET

Original Application No. 134/05

Sub. Petition No. _____

Subsequent petition No. _____

View Application No. _____

Applicants. Pradip Kr. Das

Respondents. U. O. S. Tiers

Advocates for the Applicant. M. Chanda, G.N. Chakrabarty, S. Nath

Advocates of the Respondents. Railway Counsel, Mr. S. Sarma

Entries of the Registry	Dated	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide I.P.C/B.B. No. 2005.133.8314 Dated 13.6.05	14.6.2005	<p>Heard Mr. M. Chanda, learned counsel for the applicant and Mr. S. Sarma, learned Railway counsel for the respondents.</p> <p>Admit. Notice to all the respondents, returnable in four weeks. Written statement if any also within that time. Post on 15.7.2005.</p> <p>Pendency of the application may not be a bar for consideration of the applicant's case for promotion etc.</p>
Steps not taken Dy. Registrar S. S. S. B. S. S. S. S. S.		<p><i>[Signature]</i> Member</p>
Steps taken on 21/6/05 21/6.	15.7.05.	<p>Mr. S. Nath learned counsel for the applicant is present. Mr. S. Sarma learned Railway counsel has filed letter of absence.</p> <p>Post the matter on 12.8.05.</p>

Notice & order
sent to D/Section
for issuing to
resp. Nos. 1 to
5 by regd. A/D

Post. $D/HO=943$ to 21/6/05.

947
Dt = 24/6/05.

[Signature]
Member

[Signature]
Vice-Chairman

Notice duly served on resp. No. 1.

30/6.

Notice duly served on resp. No. 1.

11/7.

14/7/05

Notice duly served on R. No. 1 & 5. Others awaited.

No WTS filed.

Notice duly

Served on resp.

No. 1, 2, 3

25/7

① Notice duly served on R. No. 1, 2, 3 & 5

② No. WTS has been filed.

20/8/05

No written statement has been filed.

30
12/9/05

No. WTS has been filed.

20
3.10.05

12.8.2005 Mr. S. Nath, learned counsel for the applicant is present. Mr. S. Sarma, learned counsel for respondents No. 2 to 4 and Md. Abdul Mtilib for the respondent No. 5 seek time for filing written statement. Post on 13.9.2005.

Om Prakash
Member

Q. Jaiswal
Vice-Chairman

mb

13.9.2005

Mr. S. Nath, learned counsel for the applicant and Mr. A. R. Sikdar learned counsel for the 5th respondent are present. Learned counsel for the Railways is absent. No written statement has also filed. Post on 4.10.2005. Written statement, if any, in the meantime.

Q. Jaiswal
Vice-Chairman

bb

4.10.2005

Heard Mr. M. Chanda, learned counsel for the applicant who submits that the applicant wants to file rejoinder. He also submits that this case can be fixed for hearing. Ms. B. Devi, learned counsel appearing on behalf of the respondents has no objection.

Post for hearing on 21.11.2005

P. Devi
Member

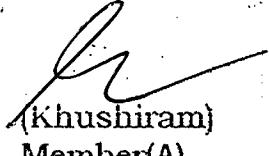
bb

Q. Jaiswal
Vice-Chairman

O.A 134/05

Office Note	Date	Tribunal's Order
6.10.05 WTS filed by the Respondent.	21.11.2005	Post before the next Division Ben- ch. bb
14.11.05 WTS filed by the Respondent No.5.	9.3.2006	Present: Hon'ble Shri B.N. Som, Vice-Chairman (A) Hon'ble Shri K.V. Sachidanandan Vice-Chairman (J) Mr S. Sarma, learned counsel for the applicant is not present. Post before the next Division Bench. Vice-Chairman (J) Vice-Chairman (A)
① WTS has been filed ② No. Respondent filed. 3/3/06	03.08.2006	None for the applicant. Post before the next Division Bench.
28.2.07 Respondent Don't filed by the Applicant, page contains hole, and also against the Respondent.	1.3.07.	Member (A) Vice-Chairman post the matter before the next available Division Bench. Member vice-Chairman
28-2-07 Pleadings Complete b The case is ready for hearing.	1m	
	16.3.07.	

54
SA 134/65

Office Note	Date	Tribunal's Order
<u>26-4-07</u> Wts and rejoinder billed by the parties <u>26</u> <u>26-4-07.</u>	27.4.2007	<p>Present: The Hon'ble Mr. G. Shanthappa Member (J)</p> <p>The Hon'ble Mr. G. Ray, Member (A)</p> <p>We have seen the cause list and found that the name of the counsel for the respondent No.5 has not been shown in the cause list. Mr S. Nath, learned counsel for the applicant is present. Registry is directed to show the name of the counsel for the respondent No.5 in the cause list.</p> <p>Post before the next Division Bench for hearing.</p>
<u>The case is ready for hearing.</u> <u>26</u> <u>5-05-08.</u>	06.05.2008	<p> Member (A)</p> <p> Member (J)</p> <p>/pg/</p> <p>Mr M. Chanda, learned counsel appearing for the Applicant ; and Mr. H. K. Das, learned counsel appearing for the private Respondents are present. None for the Railways.</p> <p>Call this matter on 08.5.2008 for hearing.</p>
	1m	<p> (Khushiram) Member(A)</p> <p> (M.R. Mohanty) Vice-Chairman</p>

08.05.2008

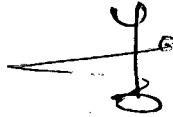
Mr M.Chanda, learned counsel for the Applicant is present. Mr S.Sarma, learned counsel states that he is appearing for Railways in this case along with Mr H.Das. Both of them are present in Court. Mr Sarma undertakes to file Vakalatnama in this case. None present for Respondent No.5.

Call this matter on 19.06.2008 for hearing.

Send copies of this order to the Applicant and all the Respondents in the address given in the O.A; so that they can come ready to participate in the hearing which is fixed to 19.06.2008.



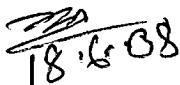
(Khushiram)
Member (A)



(M.R. Mohanty)
Vice-Chairman

pg

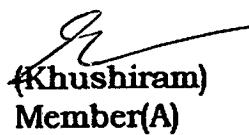
The case is ready
for hearing.



19.06.08

Heard counsel for the parties.

Hearing concluded. For the reasons recorded separately this application is dismissed.



(Khushiram)
Member(A)



(M.R. Mohanty)
Vice-Chairman

pg

16.7.08
Copy of the order
sent to the D/ce
for fixing the date
so the parties.



✓ OA/CP/RA/ME No. 134 /2008

Order dated 25.3.2008

Call the matter for hearing
on 6/5/08.


(M. R. MOHANTY)
Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 134 of 2005.

DATE OF DECISION : 19 -06 -2008

Shri Pradip Kumar Das

.....Applicant/s

Mr M. Chanda

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mr S. Sarma for Respondents 1-4

Mr A.R.Sikdar for Respondent No.5

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No

Vice-Chairman/Member

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 134/2005.

Date of Order : This the 19th Day of June, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

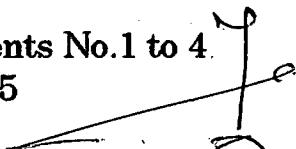
Shri Pradip Kumar Das
S/o Late Sachindra Chandra Das
Air Condition fitter Grade-I
O/o the Sr. Section Engineer (Electrical)
General Electrical Repairing Shop,
N.F.Railway,
Bongaigaon, Assam.Applicant

By Advocate Shri Manik Chanda

-Versus -

1. Union of India,
represented by General Manager,
N.F.Railway,
Maligaon, Guwahati-781011.
2. The Chief Work Manager (Workshop)
N.F.Railway,
New Bongaigaon,
Dist. Bongaigaon, Assam.
3. The Dy. Chief Electrical Engineer (Workshop)
N.F.Railway,
New Bongaigaon,
Dist. Bongaigaon, Assam.
4. The General Manager(P)
N.F.Railway, Maligaon,
Guwahati-11.
5. Sri P.N.Deb,
ACF-1
O/o SSE/GERS/NBQ
N.F.Railway,
New Bongaigaon.Respondents

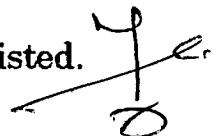
By Advocate Sri S. Sarma, for Respondents No.1 to 4
And Mr A.R.Sikdar, for Respondent No.5



ORDER (ORAL)MANORANJAN MOHANTY (V.C)

In the seniority list of ACF Grade-I for the year 1999 (with effect from 01.04.1999) Applicant was below Respondent No.5. In the said seniority list, Respondent No.5 was shown to be a member of Scheduled Caste (SC) and, there before, another seniority list was issued (during 1991 under Annexure-C to the written statement of Respondent No.5) said Respondent No.5 was also shown as a member of Scheduled Caste. In the service book of the Respondent No.5 (who entered service in the year 1979) he has been described as a SC person. During the year 2004, Applicant submitted a representation claiming promotion to the post of MCM and, in the said representation, he claimed that Respondent No.5 not to be a SC. After successive representations, the Applicant was informed by the Respondents organization that since the Respondent No.5 has been described as SC although (right from his employment in the year 1979) in office departmental records; the claim of the Applicant (to get promotion to the prejudice of Respondent No.5) cannot be entertained. Thereafter the Applicant approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.

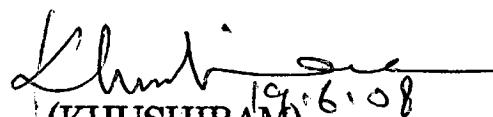
2. In the counters, separately filed by the Railways/Official Respondents and the Private Respondent No.5, the factual aspect of the matter has been admitted; but the claim of the Applicant (that the Respondent No.5 is not a SC candidate) has been resisted.

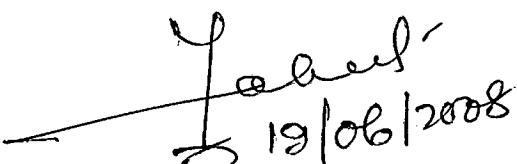


3. During pendency of this case, the Respondent No.5 has obtained a fresh certificate; wherein it has been declared that he (Respondent No.5) to be a member of the SC. Authenticity of the said certificate (a copy of which has been filed as Annexure-B to written statement of the Respondent No.5) is not the subject matter challenge in this case.

4. We have heard Mr M.Chanda, learned counsel appearing for the Applicant, Mr S.Sarma, learned counsel appearing for the Railways and Mr A.R.Sikdar, learned counsel appearing for the Respondent No.5 and perused the materials placed on record.

5. The undisputed documents available in possession of the official Respondents goes to show that Respondent No.5 is known to be a member of the SC and those documents (relates from the period from 1979 till 1999) goes to show that the Respondent No.5 is a member of the SC. Therefore, onus is very heavy on the Applicant to satisfy this Tribunal (and everybody) that said Respondent No.5 is not a member of the SC. He has miserably failed to substantiate his claim. On the other hand, the Respondent No.5 has obtained a recent certificate to strengthen his claim that he is a member of SC. In the aforesaid premises, we find no merit in the claim of the Applicant; which is hereby dismissed. However, there shall be no order as to costs.


 (KHUSHIRAM)
 ADMINISTRATIVE MEMBER


 19/06/2008
 (MANORANJAN MOHANTY)
 VICE CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O. A. No. 134/2005

Shri Pradip Kumar Das
-Vs-
Union of India and Others.

File in Court on 19.5.08

Court Officer.

Filed by the applicant
U. Datta, advocate
on 19.06.08

LIST OF DATES

12.11.1988- Applicant was initially appointed as Khalasi in the Electrical department of N.F. Railway, Bongaigaon.

08.09.1991- Applicant was promoted to the grade of Electrical Air Condition Fitter Grade- III.

24.10.1992- Applicant was further promoted to the post of Air Condition Fitter-II.

02.01.1999- Applicant was promoted to the post of Air Conditioner Fitter-I.

01.04.1999- Applicant is placed at Sl. No. 8 of the seniory list of ACF-I as on 01.04.99.
(Annexure- IV, page-13)

12/13.06.2002- Respondents directed Shri P.N. Deb, ACF-I to appear for selection test for the post of Electrical Supervisor as a SC candidate alongwith others.
(Annexure- I Page- 10)

14.06.2002- Shri P.N. Deb conveyed his unwillingness for the post of Electrical Supervisor.
(Annexure- II, page- 11)

05.06.2004- Applicant submitted one representation for promotion to the post of MCM against vacancy reserved for SC candidate.
(Annexure- III, page- 12)

Aug' 2004- Applicant submitted representation regarding his promotion to the post of MCM in connection with upgradation as a reserve candidate.
(Annexure- V, page- 15)

04/06.10.2004- Respondents directed Shri P.N. Deb (Respondent No. 5) to submit SC certificate.
(Annexure- VI, page- 16)

07.12.2004- Shri P.N. Deb submitted a representation stating that he had submitted his SC certificate in original to the authority earlier and failed to produce the SC certificate.
(Annexure- VII, page-17)

29.12.2004- Respondents vide their impugned letter informed the applicant that Shri P.N. Deb is known by the administration as schedule caste and further informed that the case of the applicant for promotion cannot be considered.
(Annexure- VIII, page-18)

20.01.2005- Applicant submitted one representation ventilating his grievance that he has been deprived of promotion as SC candidate from Nov' 02 onwards since Shri P.N. Deb had been promoted from time to time since Nov' 02 as an SC candidate without any SC certificate in favour of Shri P.N. Deb.

(Annexure- IX, page- 19)

15.07.2005- Respondents asked Shri P.N. Deb to produce the original SC certificate and in reply he sought one months time to find out the same as it is misplaced.

(Para- 10, page- 4 of W.S)

3 JUN 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O.A. No. 134 /2005

Sri Pradip Kumar Das.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

12.11.1988- Applicant was initially appointed as Khalasi in the Electrical department of N.F. Railway, Bongaigaon.

08.09.1991- Applicant was promoted to the grade of Electrical Air Condition Fitter Grade-III.

24.10.1992- Further promoted to the grade of Air Condition Fitter-II.

02.01.1999- Applicant was promoted to the post of Air Condition Fitter- I.

12/13.06.02- Respondents directed Shri P.N. Deb, ACF-I, as a candidate against SC to appear for selection test for the post of Electrical Supervisor alongwith others. (Annexure-I)

14.06.2002- Shri P.N. Deb conveyed his unwillingness, which was duly forwarded vide letter dated 14.06.02. (Annexure-II)

05.06.2004- Applicant submitted one representation praying for consideration of his promotion against the vacant post of SC category. He also submitted that Shri P.N Deb is not a SC candidate. (Annexure-III)

14.11.2000- Respondent department published one seniority list of ACF Gr-I as on 01.04.99, wherein it is shown that the applicant is the senior most SC candidate. (Annexure-IV)

August'04- Applicant submitted another representation with similar prayer. (Annexure-V)

04/06.10.04- Respondents directed Shri P.N. Deb to submit SC certificate. (Annexure-VI)

07.12.2004- Shri P.N. Deb submitted a representation stating that he had submitted his SC certificate in original to the respondents earlier and failed to produce the SC certificate. (Annexure-VII)

29.12.2004- Respondents vide their impugned letter dated 29.12.04 informed the applicant that Shri P.N. Deb is known by the administration as

Pradip Mr Das

5

schedule caste and further informed that the case of the applicant for promotion cannot be considered. (Annexure-VIII)

20.01.2005- Applicant submitted one representation ventilating his grievance that he has been deprived of promotion as SC candidate from Nov' 02. (Annexure-IX).

Hence this application before this Hon'ble Tribunal.

P R A Y E R S

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):

1. That the Hon'ble Tribunal be pleased to declare that the applicant is the senior most SC candidate in the grade of ACF Grade-I.
2. That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant under SC quota to the vacant post of Sr. Technician/ACF (MCM)/Supervisor which is reserved for SC category, w.c.f. the date of vacancy with all consequential benefits.
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 this application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to restrain the respondents from appointing Shri P.N. Deb under SC quota at the cost of the applicant against the reserved vacancy of Sr. Technician/ACF (MCM).

Pradip Kr. Das.

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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 134 /2005

Shri Pradip Kumar Das. : Applicant
- Versus -

Union of India & Others. : Respondents.

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04.	II	Copy of letter dated 14.06.02	-11-
05.	III	Copy of representation dated 05.06.04.	-12-
06.	IV	Copy of seniority list dated 14.11.2000.	13-14
07.	V	Copy of representation dated August' 04.	-15-
08.	VI	Copy of letter dated 04/06.10.04.	-16-
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11.	IX	Copy of representation dated 20.01.05.	19-20

Date: 13 - 6 - 2005

Filed by
Pradip Kumar Das
Advocate

Pradip Kumar Das.

Filed by the
applicant through
Advocate C. N. Chakravarty
on 13-6-2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 134 /2005

BETWEEN

Shri Pradip Kumar Das,
S/o- Late Sachindra Chandra Das.
Air Condition Fitter Grade- I,
O/o- The Sr. Section Engineer (Electrical),
General Electrical Repairing Shop,
N.F Railway,
Bongaigaon, Assam.

...Applicant.

-AND-

1. The Union of India,
Represented by General Manager,
N.F. Railway,
Maligaon,
Guwahati- 781011.
2. The Chief Work Manager (Workshop)
N.F. Railway,
New Bongaigaon.
Dist- Bongaigaon, Assam.
3. The Dy. Chief Electrical Engineer (Workshop)
N.F. Railway,
New Bongaigaon,
Dist- Bongaigaon, Assam.
4. The General Manger (P)
N.F. Railway,
Maligaon
Guwahati- 11.
5. Sri P.N. Deb.
A.C.F-1
O/o- SSE/GERS/NBQ.
N.F Railway.
New Bongaigaon.

... Respondents.

Pradip Kumar Das.

DETAILS OF THE APPLICATION

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

This application is made against the impugned order No. EE/E/40 Q/I/817 dated 29.12.2004 issued by the Respondent No.3 rejecting the appeal dated 05.06.2004 of the applicant for his promotion to the post of Senior Technician/ ACF (MCM).

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 period of 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. Further, he belongs to SC Category.

4.2 That the applicant was initially appointed as Khalashi under the Respondents on 12.11.1988 in the Electrical Department. He was then promoted to the grade of Electrical Air Condition Fitter-III on 08.09.1991 and further promoted as Air Condition Fitter- II on 24.10.1992. Eventually he was promoted to the post of Air Condition Fitter-I w.e.f. 02.01.1999

and now he is entitled to get further promotion to the next higher post of Senior Technician/ACF (MCM)/Electrical Supervisor.

4.3 That it is stated that vide one letter No. EL/E/254/Q/1/481 dated 12/13.06.2002, the respondents directed Shri Pritam Narayan Deb, ACF-I to appear for selection test for the post of Electrical Supervisor alongwith other candidates to be held on 14.06.2002. Shri P.N. Deb was called as a candidate against SC quota.

(Copy of the letter dated 12/13.06.02 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-I.)

4.4 That pursuant to the letter dated 12/13.06.02 aforesaid, Shri P.N. Deb submitted an application conveying his unwillingness for the said post. His application was duly forwarded vide letter No. GER/E-37/182 dated 14.06.02.

(Copy of letter dated 14.06.02 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-II).

4.5 That having come to know about the intention of the Respondents to fill up the above stated vacant post by appointing Shri P.N. Deb, the applicant submitted one representation on 05.06.04 itself praying for consideration of his case for the said vacant post. In his application, the applicant stated that Shri P.N. Deb was not an SC candidate actually and as such the applicant is the senior most SC candidate as per the seniority list of the ACF Gr. I as on 01.04.1999 which was published on 14.11.2000. It is relevant to mention here that the post stated above is reserved for SC candidate.

(Copy of representation dated 05.06.04 and seniority list dated 14.11.2000 are annexed hereto for perusal of Hon'ble Tribunal as Annexure- III and IV respectively).

4.6 That the applicant submitted another representation in August' 04 reiterating his prayer as stated above and thereafter the Respondents vide letter No. E1/E/40/Q/1/480 dated 04/06.10.2004 directed Shri P.N. Deb to submit the SC certificate within 15 days in support of his SC status. In response to that letter, Shri P.N. Deb submitted a representation on 07.12.04 stating that he had submitted his SC certificate in original to the Respondents earlier and failed to produce the same as directed.

(Copy of representation of applicant dated August' 04, letter dated 04/06.10.04 and representation of Shri P.N. Deb dated 07.12.04 are annexed hereto for perusal of Hon'ble Tribunal as Annexures- V, VI and VII respectively).

4.7 That thereafter, the Respondents vide their impugned letter No. E I/E/40/Q/I/817 dated 29.12.2004 informed the applicant that Shri P.N. Deb is "known by the Administration as Scheduled Caste" and further informed that the case of the applicant as an SC candidate for promotion to the post of Senior Technician/ACF (MCM) cannot be considered. It is not understood as to how a person could be known as a Scheduled Caste by the Respondents without any SC certificate available in records.

(Copy of impugned letter dated 29.12.04 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-VIII).

4.8 That thereafter the applicant submitted one representation on 20.01.2005 ventilating his grievance that he has been deprived of promotion as SC candidate from November' 2002 onwards since the said Shri P.N. Deb had been promoted from time to time since November' 2002 as an SC candidate without any SC certificate in favour of Shri P.N Deb, available with the Respondents which is malafide, illegal and discriminatory.

(Copy of the representation dated 20.01.05 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-IX).

- 4.9 That the applicant most humbly begs to state that the Respondents have been rejecting the case of the applicant for promotion to the Supervisory post as an SC candidate although he is the bonafide senior most SC candidate as per the seniority list, only due to the biased and unfair favour to Shri P.N. Deb who has been treated as an relevant SC candidate on wrong assumptions without any relevant SC certificate which Shri Deb failed to produce even when asked for. The Respondents acting malafide, has sought to promote Shri P.N. Deb in the guise of an SC candidate, at the cost of the applicant.
- 4.10. That having been deprived of his legitimate promotion and having found no other alternative, this applicant is approaching this Hon'ble Tribunal for protection of his rights and interests. As such it is a fit case for the Hon'ble Tribunal to interfere with and to protect the right and interest of the applicant by directing the Respondents to consider the case of the applicant as SC candidate for promotion to the reserved vacant post of Sr. Technician/ ACF (MCM).
- 4.11. 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 is the senior most SC candidate in the seniority list of ACF Grade-I (Annexure-IV).
- 5.2 For that, the vacant post of Sr. Technician/ ACF (MCM) in question is reserved for SC category and as such the applicant being the senior most SC candidate, is the only eligible candidate to be considered for the said post.

5.3 For that, the Respondents has sought to promote Shri P.N. Deb against the said reserved post at the cost of the applicant although Shri P.N. Deb failed to produce SC certificate in support of his candidature as an SC candidate which is discriminatory and violative of Article 14 and 16 of the Constitution of India.

5.4 For that, Shri P.N. Deb communicated his unwillingness vide his representation (Annexure-II) to appear for the selection test for promotion offered by the Respondents and as such there is no impediments for the Respondents for considering the case of the applicant for promotion.

5.5 For that, the applicant submitted representations for consideration of his promotion as SC candidate against the reserved vacancy but not considered.

5.6 For that, the Respondents have assumed of their own imagination that Shri P.N. Deb is an SC candidate even without any supporting SC certificate and giving him undue favour in matters of promotion since November' 2002 at the cost of the applicant who is a bonafide SC candidate.

5.7 For that, the actions of the Respondents are malafide, arbitrary, unfair, illegal, biased and violative of the procedure established by law and so also of the principles of natural justice.

6. **Details of remedies exhausted.**
That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

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

7

The applicant further declares that 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 declare that the applicant is the senior most SC candidate in the grade of ACF Grade-I.
- 8.2** That the Hon'ble Tribunal be pleased to direct the respondents to promote the applicant under SC quota to the vacant post of Sr. Technician/ACF (MCM)/Supervisor which is reserved for SC category, w.e.f. the date of vacancy with all consequential benefits.
- 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 this application, the applicant prays for the following interim relief: -

Pradip Mr Das.

9.1 That the Hon'ble Tribunal be pleased to restrain the respondents from appointing Shri P.N. Deh under SC quota at the cost of the applicant against the reserved vacancy of Sr. Technician/ACF (MCM).

10.

This application is filed through Advocates.

11. Particulars of the L.P.O.

i)	I. P. O. No.	:	20 G 133277
ii)	Date of Issue	:	30. 5. 05
iii)	Issued from	:	G. P. O. Guwahati
iv)	Payable at	:	G. P. O. Guwahati

12. List of enclosures.

As given in the index.

Pradip Nar Das.

VERIFICATION

I, Shri Pradip Kumar Das, S/o Late Sachindra Chandra Das, aged about 38 years, working as Air Condition Fitter Grade- I, O/o- The Sr. Section Engineer (Electrical), General Electrical Repairing Shop, N.F Railway, Bongaigaon, Assam, 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 _____ day of _____, 2005.

Pradip Kumar Das.

Northeast Frontier Railway.

Office of the
SPE/WS/HRD.

No. EL/E/254/9/1/481

Dated, 12/6/02.

To : SSE/ERS, SSE/Power House,
SSE/EMRS, SSE/PLS/HRD.

13

Sub:- Suitability Test for the post of ~~supervisor~~ supervisor & Mechanical supervisor.

Ref:- This office I/No. EL/E/254/9/3/481 dated 30/5/2002.

With reference to this office letter mentioned above, it is to inform you that, the date for suitability test has been refixed to be held on 14.6.2002 at 10.00 AM, in the committee room of SSE/WS/HRD.

You are hereby advised to spare the following eligible candidate in due date and time, please.

Name of the candidate :-
1. sri P. N. Deb (SC) ACI Gr. I under SSE/ERS/HRD.
2. " M. Dasman, MEI Gr. I " SSE/Power House/HRD.
3. " S. K. Bhadra, C/Driver " SSE/EMRS/HRD.
4. " B. R. Kalita, ZDCM Gr. I " SSE/PLS/HRD.

The next senior staff sri M. Dasman, MEI/EMRS/HRD No. 2(Two) and sri B. R. Kalita, ZDCM Gr. I serial no. 2, are called for the suitability test in place of sri P. N. Deb, MEI Gr. I under SSE/Power House/HRD and sri B. C. Chakraborty, MEI Gr. I under SSE/PLS/HRD, who have submitted their resignations respectively.

(2)

ABC/WS/HRD

For District Electrical Inspector (D.E.I.)
H. R. Rly./New Foundation.

Copy to :- Staff concerned for necessary action and information please.

ABC/WS/HRD
for DED/WS/HRD.

Certified to be
true copy.

Adv. date
31.6.02

ANNEXURE-II

9/

Subject: Application for the post of S.V. (S)

Ref: SSB/GER/182/11-5-2002
SSB/GER/NBL, Sdn P.N. Dec -

Ref/Cor I/T-60

Subject: Suitability test for the post of S.V.

Ref: SSB/GER/182/11-5-2002
Ref/Cor I/T-60

12/6-2002

In reference to your
/No above an application submitted
by, Sdn P.N. Ref/Cor I/T-60 stating
his unsuitability mess for the post
of S.V. is sent herewith for
your necessary action please

DA/Ref for application

11/6/2002

Certified to be true
copy
S. V. S. V.
P.D.W. S. V.
16/05

ANNEXURE-III

(Typed)

To,

Dy. CEE/W/NBQ

(For attention of APO/W/NBQ)

(Through proper channel)

Sub: - Prayer for promotion to the post of MCM in connection with upgradation.

Sir,

With due respect humble submission I beg to lay before you the following for favour of your kind necessary order, pl.

That Sir, one post of MCM has been created in the AC cadre against upgradation and according to my knowledge this post is reserved for SC candidate.

That Sir, it came to my knowledge from a reliable source that the post of MCM is going to be filled up by Sri Pritam Narayan Deb, ACF-I showing SC candidate but no where he was a reserved candidate.

That Sir, in A.C cadre I am the senior most SC candidate in the trade of ACF-I and suffering being a regular SC candidate

Therefore I would request you kindly look into the matter so that I may not deprived being a senior most SC candidate and obliged.

Yours faithfully

Date- 5-6-04

Working under SSE/GERS/NBQ
As A.C.F-I T. No. 68

Copy to- 1) Sec/N.F. REQ/WS/NBQ
2) Br. Sec/SC & ST/Association/HQ.

Yours faithfully
Sd/- Illegible
(PRADIP KR. DAS)
ACF-I, T. No. 68.

R/Sd/- Illegible
17/6/04.

*Certiifed to be
true copy
for
Advocate
13/6/05*

$$\text{Searched strings} = 6 \div 3 \quad (\text{GCR} = 2 \div 1 \text{ TL/20} = 6 \div 2)$$

Classification - Lengths of sentence in the text.

20/12/96

under 55% of the time. The 55% figure is based on 1,479,99

ANNEEXURE - A

OE

5PC/W/MSD

State, Congress, and the people of the United States, from the date of the adoption of the Constitution, have been, and still are, subject to the laws of the United States, and are entitled to the protection of the Federal Government, in the exercise of their rights and franchises, and in the defense of their property and persons, against all foreign and domestic enemies, and against all persons who, by force, fraud, or violence, shall attempt to deprive them of their rights and franchises, or to interfere with their property and persons, or to obstruct their peace and quiet enjoyment of the same.

Copy forwarded to the Information and Privacy Commissioner and received a response to:

20. EL/E/255/2/2

For the first time in history, the world has been given a clear-cut choice between two systems of government, each of which claims to be the only true way of life for all men.

6.	29	Shift 5, L. Chordality.	CCR/AC	5. 9.52	8. 4.77	2. 3.99	7.	40	"	5. 15. 6th.	20. 1.57	8. 4.77	2. 1.99	8.	68	"	E. H. Dacs (SS)	23. 1.63	12. 1.98	2. 3.99	9.	4729	"	Flatware & Utensils.	"	8. 1.54	6.12.77	2. 1.99	10.	4730	"	Alfie's Flea.	TL/AC	5. 7.55	14.11.77	2. 1.99	11.	66	"	E. H. Flea (SS)	CCR/AC	22. 2.59	12. 1.98	2. 1.99	12.	4721	"	A. E. Chordality.	TL/AC	30. 9.60	12.11.98	2. 1.99
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Deputy Chief Electrical Engineer /65
N.E.Railway/Howrah/Bengalpur.

3)

Through proper channel.

Sub:- 2nd reminder regarding upgradation
promotion for the post of MCH against
previous application, dtds: 05th June/04.

Respected Sir,

Most respectfully, I beg to state that the following few lines for your kind attention and take necessary investigation about my 2nd reminder regarding my promotion for the post of MCH in connection with upgradation as a reserve candidate.

That sir, one post of MCH in A/C Section of GERS/NEI has been created as upgradation from SC candidate. It is known that the post of MCH is given to Sri Nitinbar Narayan Das showing SC candidate without having any SC certificate. He is not SC candidate.

That sir, I am the real SC candidate and depriving very badly, I have not called for the post of MCH. In this that post Sri P.N.Das, ACF gr-I has shown as reserve candidate without having any SC certificate. How this happened with me.

Hence, I given my first application to you on 5th June 2004 for your kind investigation and take necessary action about the matter but neither any investigation has been done nor any reply from you end has been received up till now.

So, again I have submitted 2nd reminder to you requesting to look in to the matter sympathetically and are you to give suitable reply why I have deprived being a senior most SC candidate. Hope that this time I shall have received a suitable reply from your end & oblige.

Trusting you with regards

Dated: 18/04

Yours faithfully,

Sankalp Das
(Pradip Kesar Das)
D.L.S.I. ACF, Gr-I
under 147/04/1651

Copy to : 1. Secretary, SCST Association/NEI
2. AEO/65/PRD.

for information
Take Notice on P.L.

Certified to be true copy
Sankalp Das
Advocate
13/6/05

Yours faithfully,

Sankalp Das
(Pradip Kesar Das)
ACF, Gr-I/T, No. 68
under 147/04/1651

N.E. Railway

No. EL/E/40/Q/V/480

Office of the
Dy CEE/WS/NBQ
Dated : 04/10/2004

To,

Sri P. N. Deb,
ACF/I/GERS/NBQ.

Sub:- SC Status.

You were Called for Modified suitability test and selected against SC post treating you as SC, but one Sri P. K. Das (SC), ACF/I/ GERS has appealed against your SC status.

From records available in this office i.e. seen that, there is entry as scheduled cast in the 1st page of S/BOOK but there is no SC Certificate available.

You are therefore, advised to clarify whether you belong to SC community. If you so please submit the SC Certificate within 15 days in support of SC status.

Ph - 16.01
(-R. Roy)
(APO/WS/NBQ)
for Dy.CEE(WS)/NBQ

Certified to be
true copy
Advocate
R. Roy

To,
The Dy. CEE / WS / NBQ
N.F. Railway.

Through – Proper Channel

Sub :- S.C. Status.

Ref:- Your L / No. EL / E / 40 / Q / 1 / 480 dated 4/6-10-04.

Sir,

With reference to the above, I beg to state that I am originally belonged to Scheduled Cast Community and accordingly as demanded I submitted my S/C Certificate in original at APDJ at the time of appointment.

Hence S/C Certificate must be in my service record and the authority is responsible for the same if it is not available.

I have been approved as MCM and I may please be promoted accordingly.

Thanking you.

Yours faithfully,

Pitambar Narayan Deb

ACF/J 7. M² - 60
under SSE / GERS / NBQ

Dated, NBQ
The 27th, Dec./04

To: CEE (C) N A N
Mr. Farvardin for your
deposit of P.
X. Section English
M.F. B.I.C. Most Regardfully

No.EL/E/40/QI/817

To,

✓ Shri P.K.Das, (SC) ACF/GERS

Through SSE/BS/RS/NBQ.

Office of the
Dy.CEE/WS/NBQ
Date 27/12/2004Sub: "SC" Status.

With reference to your letter dated 5-6-2004, this is for your information that, according to entries in service sheet and records available, Shri P.N.Deb, ACF/Gr.I is known by the administration as Scheduled Caste.

1. There is entry in the first page of Service Sheet of Shri Pitambar Narayan Deb showing him as Scheduled Caste.
2. In up gradation promotion Order Issued by DRM (P)/APDJ vide his L/No. E/283/CTB dated 23-6-1992, Shri Deb was shown as Scheduled Caste.
3. In the promotion Order issued from DEE/WS/NBQ vide L/No.EL/E/283/QI/3256 dated 24-9-1992, Shri Deb was shown as Scheduled Caste.

Your appeal that, Shri P.N.Deb is not a SC Candidate and your promotion for the post of Senior technician/ACF (MCM) in Scale ICS. 5000-8000/- against Shri P.N.Deb cannot be considered.

This has got the approval of Dy.CEE/WS/NBQ on 27-12-2004.

(P)
APO/WS/NBQ
For Dy.CEE/WS/NBQ

Copy forwarded for information and necessary action to.

1. SSE/GERS/NBQ
2. P/Case

APO/WS/NBQ
For Dy.CEE/WS/NBQ

*Certified to be true
Satyadev
Advocate
Mumbai*

To,

The Dy. CEE / WS / NBQ
N.F. Rly.

Through the proper channel.

Sub :- Permission to take the shelter of Law in connection of "SC" status against Sri P.N. Deb, ACF-I under SSE/GER'S/NBQ for the post of Supervisor /MCM w.e.f. 1-6-2002, vide Dy. CEE-I/No.- EI/E/254/Q/3/451.

Sir,

Ref :- Your L/No.- (i) EI/E/40/Q/1/817, Dt. 29-12-2004.
(ii) EI/E/40/Q/1/480, Dt. 04-10-2004.
(iii) EI/E/254/Q/1/481, Dt. 12/13-11-2002.

With referred to my above appeal, I beg to state that, I have laid all the facts in my appeal. But nothing has been done so far Ag No.- (i).

As per your Ref. No.- (ii), Sri P.N. Deb, ACF-I failed to submit his "SC" Certificate. The short of point are nothing but to cheated the Administration. The Administration given him time to time promotion as a "SC" status w.e.f.- 13-11-2002 Ref. No.- (iii). As a result original "SC" Certificate deprived for the post of "SC" / Supervisor w.e.f.-12-11-2002. *Candidate*

The matter was not investigate properly long before. Since no action has taken from the Administrative side, I was compelled to refer the case to you, nothing has been done from you and also.

Now, I have decided to take the shelter of Law, Hence, you are requested to accord your permission for the same at the earliest and the promotional benefit for the post of Supervisor given to me w.e.f.- 2002 and the expenditure which would be borne should be carried by the Administration.

With regards,

Yours faithfully,

T. No.- 68, SSE/GER'S/NBQ

Copy to :- (1) APO / WS / NBQ for information please.

Date: 20/1/2005

Yours faithfully,

Padipur Das

T. No.- 68, SSE/GER'S/NBQ

R. Deb (Signature)
R. Deb (Signature)

*Certified to be
true cop.*

*Smt.
Advocate
B. M. Das
B. M. Das*

Mr. S. Rishay - dt. 20/1/05
No. GFR/TPP/12/04
From: S. S. GERS/130

36

To : S. C. O. E. (A) NBO.

Sub: DA appeal Calcutta Submitted by
Shri. Panday K. Das Act. of 1 Working under
for permission to attend at
LAW for 'SC' Status.

The above mentioned appeal Submitted
by Shri. P. K. Das, Act. of 1 Working under
the Chap. This Office is here by sending
to you for your necessary action please.

DA-1 (on) appeal appl Calcutta

Copy to:- 1. C. M. / A. S. / NBO

2. A. P. O. / NBO. For your kind
information &
reference, pl.

Shri. S. Rishay
20/1/05

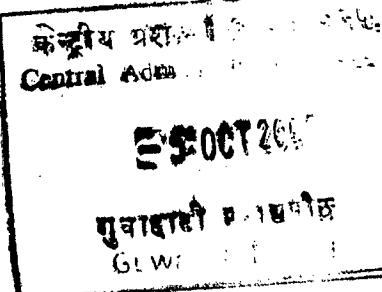
Shri. S. Rishay
20/1/05
Act. of 1 Working under
for permission to attend at
LAW for 'SC' Status.

Shri. S. Rishay
20/1/05
Act. of 1 Working under
for permission to attend at
LAW for 'SC' Status.

Shri. S. Rishay
20/1/05
Act. of 1 Working under
for permission to attend at
LAW for 'SC' Status.

Shri. S. Rishay
20/1/05
Act. of 1 Working under
for permission to attend at
LAW for 'SC' Status.

Shri. S. Rishay
20/1/05
Act. of 1 Working under
for permission to attend at
LAW for 'SC' Status.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Filed by -
The respondent
Through
Bhupinder
Sinha
Advocate
4-10-05

32
2110
✓

Mr. Chief Personnel Officer
N.F. Railway, Maitong
Guwahati-11

O.A. NO 134/05.

Sri. Pradip Kr Das.

-vs-

Union Of India & ors.

IN THE MATTER OF:

Written Statement filed by the
respondents.

1. That a copy of the O.A has been served on the respondents and the respondents have gone through the copy of the O.A filed by the applicant and have understood the contents thereof.
2. That save and except the statements which are specifically admitted hereinbelow, other statements made in the O.A are categorically denied. Further the statements which are borne on records are also denied and the applicant is put to the strictest proof thereof.
3. That before dealing with the various contentions made in the O.A the deponent begs to raise the preliminary objection regarding the maintainability of the O.A. The O.A is bad for non-joinder of necessary parties, waiver, estopped and acquiescence. It is stated that the claim made by the applicant contains disputed questions of facts and the applicant ought to have approached the Civil Court having jurisdiction adjudication of the

matter and as such same is liable to be dismissed with cost.

4 That with regard to the statement made in para 1 to 4
and 4.1 of the O.A the deponent does not admit anything contrary
to the relevant records of the case.

5. That with regard to the statement made in para 4.2 of the O.A the deponent begs to state that the applicant Sri Pradip Kr Das appointed as Khalasi under SSE/GER shop under Dy. CEE/W/New Bongaigaon on 12.1.1988 and promoted to Khalasi Helper/I on 8.2.1990, and further promoted as Skilled ACF Gr.III on 24.10.1992 and GR.II on 2.1.1999 and Technician Gr.I w.e.f. 15.5.2001.

6. That with regard to the statement made in para 4.3. of the O.A the deponent begs to state that one Sri P.N.Deb, ACF/I was called for the suitability for promotion to supervisor against SC quota vide DEE/NBQ's L/No.EL/E/254/Q/1/481 dated 12/13.6.2002.

7. That with regard to the statement made in para 4.4. of the O.A the deponent begs to state that, said Sri P.Deb, ACF/I submitted his unwillingness for the post of Supervisor (Mistry).

8. That with regard to the statement made in para 4.5 of the O.A the deponent begs to state that said Sri P.K.Das, ACF/I vide his application dated 5.6.2004 applied for his promotion to Sr. Tech. (MCM) not for supervisor (Mistry) post. Sri P.N.Deb, ACF/I was called for suitability test for promotion to Sr.Tech. considering him the senior most SC candidate against the

anticipated SC lone vacancy as per seniority list of ACF G/II as on 1.4.99 published on 14.11.2000.

9. That with regard to the statement made in para 4.6. of the O.A the deponent begs to state that on receipt of the appeal of the applicant Sri P.K.Das, ACF/1, the records of Sri P.N.Deb was verified and found as follows:

I) There is entry in the 1st page of the service book of Sri P.N.Deb as SC candidate. The service book was opened by DRM(P)/APDJ at the time of initial appointment.

II) In up-gradation order issued by DRM(P)/APDJ vide L/No.E/283/C/III dated 23.6.1983 Sri P.N.Deb was shown as SC.

III) In promotion order issued from DEE/WS/BNG vide L/No.EL/E/283/Q/1/3296 dated 24.9.1992 Sri P.N.Deb was shown as SC.

But there was no SC certificate available either in the service book or in the P/case of the P.N.Deb. It was therefore, he was advised vide Dy.CEE/NBQ's L/No.EL/E/46/Q/1/480 dated 6.10.2004 to submit the original SC certificate in support of his status but he did not submit the same rather in his reply dated 7.12.2004 stated that he submitted the original certificate at APDJ at the time of his initial appointment and demanded that the certificate should be available in his service book and authority is responsible if the same is not available.

10. That with regard to the statement made in para 4.7. of

the O.A the deponent states that on receipt of this CAT's case said Sri P.N.Deb has been asked vide his office letter No.EL/E/292/Q/1/927 dated 15.7.2005 to produce the original SC certificate and in reply he sought for one months time to find out the same as it is misplaced.

11. That with regard to the statement made in para 4.8 of the O.A the deponent begs to state that said Sri P.N.Deb was last promoted on 25.8.1999 on ACF Gr.I. From then Sri Deb is not being given any promotion. It is therefore the contention of the applicant that he is being deprived of promotion since 2002 for Sri P.N.Deb is not correct.

12. That with regard to the statement made in para 4.9 of the O.A the deponent begs to state that said Sri P.N.Deb was originally appointed as Khalasi/TLS w.e.f. 1.6.79 under DRM (P)/APDJ. Subsequently he was transferred to this workshop on 9.4.1986. In his service book received from DRM(p)/APDJ Sri P.N.Deb has been mentioned as SC with clear signature of the Head of the office. On the basis of the above Sri P.N.Deb is senior to Sri P.K.Das as SC community employee.

13. That with regard to the statement made in para 4.10 of the O.A the deponent begs to state that on receipt of this Hon'ble Tribunal's case, Sri P.N.Deb was advised to submit the original SC certificate to produce in the Hon'ble Court but he sought for one months time stating that he is not finding it as it has been misplaced.

14. That with regard to the statement made in para 5.1 & 5.2. of the O.A the deponent begs to state that if claim of SC

status of Sri P.N.Deb does not stand, then the case of the applicant will be considered as to wheather he becomes the senior most SC candidate in ACF GR.I or not, and wheather he would be declared eligible to be called for S/test for Sr.Tech against SC vacancy or not.

15. That with regard to the statement made in para 5.3 of the O.A the deponent begs to state that said Sri P.N.Deb not yet been promoted to Sr.Tech.

16. That with regard to the statement made in para 5.4. of the O.A the deponent begs to state that said Sri P.N.Deb submitted his un-willingness for the post of supervisor not for Sr.Tech.

17. That with regard to the statement made in para 5.5. of the O.A the deponent begs to state that as the case of SC status of Sri P.N.Deb is not yet finalise, case of promotion of Sri P.K.Das does not arise, and the present OA is therefore premetured and liable to be dismissed.

18. That with regard to the statement made in para 5.6 of the O.A the deponent begs to state that said Sri P.N.Deb, ACF Gr.I has been approved for the post (Sr.Tech/ACF) but he has not yet been promoted as he did not submit the SC certificate.

19. That the deponent begs to state that under the facts and circumstances stated above the OA deserves to be dismissed with cost.

42

VERIFICATION.

I Shri... R. AAIVU aged about 40 years,
at present resident of Maligaon..... in the Dist. ~~Kamrup~~
working as Dy. Chief Personnel Officer in the Office of
the General Manager (r) N.F. Railway Maligaon, do hereby
solemnly affirm and state as follows;

That I am the Dy. Chief Personnel Officer working under
N.F. Railway Maligaon, and well conversant with the facts and
circumstances of the case and also competent to swear this
affidavit.

That the statement made in
paragraphs ...3, 4, 15-17 ... true to my knowledge and those
made in paragraphs ...5-14... are matters of
records which I believed to be true and rests are my humble
submission before the Hon'ble Tribunal.

And I sign this verification on this the 4 th day
of Oct... 2005.



310.

DEPONENT.

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

11 NOV 2005

प्राधानी प्राधानी

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI

BENCH : GUWAHATI.

In the Matter of :-

O.A. No. 134/05

Shri Pradip Kumar Das

... Applicant

-Versus-

Union of India & Ors.

... Respondents

The humble written statement of respondent

no.5 in the above noted case -

MOST RESPECTFULLY SHEWETH : -

1. That the application is not maintainable in its present form and nature and no relief may be granted as prayed for against the respondent no.5.
2. That the application has been filed without any cause of action. More particularly the applicant cannot claim any relief against the respondent no.5. As such the application is bad because ^{of} misjoinder.
3. That the applicant has filed the present case arraying this deponent as respondent no.5 and a copy of the same has been served upon him. The respondent no.5/deponent has gone through it and understood the contents thereof. All

Filed by me
Pitambar Narayan Das Respondent no.5
Abdullah son of
Advocate

44

Pitampura N葛oyeram D/o

the statements made in the application are denied to be true unless specifically admitted.

4. That as regards the statements made in paragraphs 1, 2, 3, 4.1 and 4.2 to the application the deponent/respondent no.5 begs to state that the same are matter of records and the deponent has nothing to comment.
5. That as regards the statement made in paragraphs 4.3 and 4.4 to the application, the deponent begs to state that it is admitted fact that he was directed to appear for selection test for the post of Electrical Supervisor alongwith other candidates in which the deponent appeared but he was not considered for the said post.
6. That as regards the statements made in paragraphs 4.5, 4.6 and 4.7 to the application, the deponent begs to state that a modified suitability test was held on 22.5.04 for the 3 posts of Senior Technician. The deponent was invited for the said test and he was selected at serial no.2 out of the 3 selected candidates considering his "ACRS" for last 3 years and viva-voce test. Because of the present application the said promotion selection communicated vide No.EL/E/40/Q/1/1264 dated 24.5.2004 has not been given effect. It is admitted fact that he submitted his caste Certificate (SC) in original as asked for by the appointing authority/superior officer. As a result this deponent unable to submit the copy of the caste certificate and reported the fact to the authority. However, the deponent has obtained

fresh caste certificate. The petitioner belongs to SC community and his family is ordinary resident of Kalapahar, P.O. Kalapahar, P.S. Ambari, Mouza - Ulubari, Guwahati. He has been presently discharging his duty at Bongaigaon as ACF-1 at New Bongaigaon F.R. Shop.

A copy of the Memorandum of Selection vide No. EL/E/40/Q/1/1264 dated 24.5.2004 issued from the office of the Dy. CEE/WS/NBQ is annexed as Annexure-A.

A photocopy of the fresh caste certificate dtd. 19.10.04 is annexed as Annexure-B.

7. That as regards the statement made in paragraphs 4.8, 4.9 and 4.10 to the application the deponent begs to state that he was initially appointed as Khalashi on 1.6.79 by the Asstt. Personnel Officer, N.F. Railway, Alipurduar Junction against SC quota and since the date of his initial appointment he has been discharging his duty with best of his ability, sincerity and to the satisfaction of all concern and because of satisfactory service he has been getting promotional benefit as Khalashi helper, ACF-III, ACF-II, ACF-I and now he has been selected as Senior Technician. The deponent is far more senior than the applicant and belongs to SC category. The date of birth of the deponent is 21.10.54, the date of his appointment is 1.6.1979, the date of promotion to the grade is 7.12.1988 and the date of promotion to as ACF/Grade-I is w.e.f. 25.8.1999 and his name appeared in the Provisional Seniority list of staff in A.C. Cadre showing his position at serial No.2 of A.C.F. Grade-III of list dated 20.6.1991 published by District Electrical Engineer, N.F. Railway, New Bongaigaon, whereas in the said gradation list the name of the applicant does not appear. Annexure-IV to the application it appears that the date of birth of the applicant is 23.1.63, his date of appointment is only 12.1.1988.

A photocopy of gradation list dated 20.6.1991 is annexed as Annexure-C.

8. That as regards the statements made under paragraphs 5.1 to 5.7 to the application, the deponent begs to state and submits that

Wb

Pitambar Narayan D

and submits that he is an SC candidate and has been serving under SC quota and now he is on the fag end of service career. At the time of his initial posting he submitted his original caste certificate and now because of the trouble created by the applicant the deponent is bound to procure fresh caste certificate. The State respondent is the custodian of his original certificate. The deponent read upto Class IX and not knowing about the future complicacies and out of ignorance no copy of the original caste certificate was kept with him. Failure on the part of the respondent Railway in keeping and producing the caste certificate of the deponent in no way be attributed this deponent and he shall not be prejudiced for the fault of the Railway authority. The deponent belongs to SC community and is senior than the applicant and as such no claim of the applicant is maintainable against this deponent as prayed for. Hence, the instant application is liable to be dismissed.

9. That the deponent submits that he was duly selected for the promotional post of senior Technician vide Annexure...A and the same has not been given effect because of the present case. Since the question of seniority is very much evident from the Annexure No. IV to the application and the petitioner belonging to SC community, the benefit of aforesaid promotion cannot be questioned and stopped. The instant case challenging the petitioner's status of caste

and seniority is not justified and hence the same is liable to be dismissed with cost.

10. That this written statement is filed bonafide in the interest of justice.

Under the above facts and circumstances it is therefore prayed that the application filed by the applicant may be dismissed with cost.

VERIFICATION

I, Sri Pitambar Narayan Dev, s/o Sri Manik Narayan Dev, aged about 51 years, permanent resident of Kalapahar, P.O. Kalapahar, P.S. Arnbari, Ulubari, Guwahati and presently residing at Bongaigaon, Assam do hereby verify and state that the statements made in this written statement are true to my knowledge and belief and I sign this verification on this 8th day of November, 2005 at Guwahati.

Signature :-

Pitambar Narayan Dev

Annexure - A

N.F.RAILWAY

OFFICE OF THE
Dy. CEE/WS/NBQ
Dated: 24-5-04

MEMORANDUM

The result of the Modified Suitability test for the 3 posts of Senior Technician in scale Rs. 6000-8000/- which was held on 22-5-04 based on Vi-va-voce test and "ACRS" for last 3 years services vide this notification L/N^o. EL/E/40/Q/V/1245 dated 20-5-2004, is hereby declared as under.

S/N	T/No.	Name of eligible candidate	Design & shop	Remarks
1	542	" S. Chowdhary,	ELF/EMWS	SUITABLE
2		" P.N. Deb (SC)	ACF/IGERS	SUITABLE
3		" Mohendra Barman	ELF/POWER	SUITABLE

This issues with the approval of competent authority.

NO. EL/E/40/Q/V/ *1245*
Copy forwarded for information and necessary action to-

- 1 SSE/GERS/NBQ
- 2 SSE/EMWS/NBQ
- 3 SSE/POWER/NBQ
- 4 Staff Concerned

AB
APOMWS/NBQ
For Dy. CEE/WS/NBQ

AB 24-5-04
APOMWS/NBQ
For Dy. CEE/WS/NBQ

— hinxur —

- 8 -

—Hinxur

ONE
OF THE
KODAK
EFK

Uttar Kamrup Jilla Anusugdha Parishad

President
Senate Chamber (as)

Place : Guwahati, State : Assam
Date : B.E. 1950, Assam District
Note : The head of a family resides in
People Act, 1950.

Countersign

1966, the State of Maharashtra passed the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1968. In 1971, with the Scheduled Castes and Scheduled Tribes Orders

caste-which is recognized as a *Schleswig-Holstein* of Germany.

the 25th of January in the year of our Lord 1852.

॥ श्री राम नाम बाल राम ॥

Scilicet in die 25. Oct. 1848. — N.B. — Apropos de la question de la sécession.

Published by the GOVT. OF ASSAM, ASSAM PUBLISHING BOARD, TATU, G.C. 378001, ASSAM.

ଉତ୍ତାକାମ୍ବନ୍ଦରାଜନାଥ ପାତ୍ର କାମ୍ବନ୍ଦରାଜ

Northeast Frontier

Provisional seniority list of staff in A.C. Cadre showing position as on 1.4.91
under DEE/W/NBQ.

ACF Gr. I Rs. 1320-2040/-

Sanction strength.

GERS = 2
TLS = 2 Total = 4

Sl. No.	Name	Station & Shop.	Date of birth.	Date of appointment.	Date of promotion to grade.	Confirmed or Officiating.	Whether SC/ST	Remarks.
1	2	3	4	5	6	7	8	9
1.	Sri H. C. Chakraborty.	GERS	1. 3. 37	1. 7. 57.	1. 1. 79	Confd.	UR	EC/B Ad-hoc.
2.	" R. K. Das.	"	12. 10. 55	10. 10. 77.	6. 9. 89	"	S/C	
3.	" N. K. Nandi.	TLS	8. 12. 40	20. 3. 62.	6. 9. 89	"	UR	

ACF Gr. II Rs. 1200-1800/-

Sanction strength.

GERS = 3
TLS = 6 Total = 9.

1.	Sri B. Sharma.	GERS	10. 3. 42	14. 3. 65.	1. 1. 79.	Confd.	UR
2.	" H. R. Purkayastha.	TLS	10. 7. 45	26. 4. 65.	1. 6. 79.		UR
3.	" Sankar Prasad.	GERS	22. 12. 44	1. 4. 65.	22. 3. 88.	"	UR
4.	" S. P. Chakraborty.	TLS	1. 4. 41	1. 6. 64.	9. 5. 88.	"	UR
5.	" Md. Gulam.	"	28. 3. 52	22. 1. 74.	6. 9. 89.	"	UR

Contd 2.

CSR 20/6/91

2

3

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ACF Gd. III in scale Rs. 950-1500/-

Sanction strength.

GERS - 2 + 1
 TLS - 4 Total = 7.

1. Sri Upen Ch. Barman.	GERS	1. 3.53.	14. 4.77.	22. 3.88.	Confd.	UR
2. " P. N. Deb.	"	21.10.54.	1. 6.79.	7.12.88.	"	S/C
3. " P. C. Singh.	TLS	9.11.56.	6. 6.79.	7.12.88.	"	UR
4. " U. S. Banerjee.	"	13. 3.50.	1. 6.71.	3. 7.90.	"	UR
5. " P. K. Dhar.	"	11. 4.55.	1.10.77.	3. 7.90.	"	UR

Ch
 District Electrical Engineer(W),
 N. F. Rly./New Bomraigaon.

No. EL/E/255/Q/1/2044

Dated, 20/6/91.

Copy forwarded for information and necessary actions:-

SS/GERS, SS/TLS/NBQ.

P/Cas.

✓ Staff concerned. They are requested to submit their representation of any within 60 days from the date of publication of this seniority list. If no representation is received within the stipulated date it will be presumed that the seniority list as published is correct and will be treated as final.

Secretary/NFRMU(WS)/NBQ Branch. with five copies.
 -do- /NFREU(WS)/NBQ Branch.

Ch
 DEE(W)/NBQ.*Ch*
 20/6/91

..... (3)

Staff may exercise option for fixation of pay to the higher grade under Rule 1313 on accrual of next increment in the lower grade within one month from the date of issue of this order.

This issues with the approval of competent authority.

*110/11
30/8/99*

(APOLW/NB8)
for District Electrical Engineer (W),
N. F. Rly./New Fongaigaon.

No. EL/E/281/Q/III/1050

Dated, 30/8/99.

Copy forwarded for information and necessary action to :-

1. SSE/TLS, GERS, TL/AC, EMWS & SSE/Power.
2. /SAO/W/NEQ.
3. Staff concerned.
4. P/Case.
5. E/Electrical Bill.

*110/11
30/8/99*

for DEE (W) /NEQ.

देशद्रो असामी अधिकारण
Central Appellate Tribunal, Assam

28 FEB 2007

गुवाहाटी 18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

53

filed by the applicant
Mengher, S. N. M.
Advocate
28/02/2007

O.A.No. 134/2005

Shri Pradip Kumar Das.

-Versus-

Union of India and Others.

-And-

In the matter of:-

Rejoinder submitted by the applicant
against the written statement filed by
the respondents.

The applicant above named most respectfully begs to state as follows:-

1. That in reply to the statements made in para 2 and 3 of the written statement, the applicant denies the preliminary objections and begs to state that the application does not suffer from non-joinder of necessary parties, waiver, estoppel or acquiescence whatsoever, nor violates the jurisdiction of this Hon'ble Tribunal and hence deserves to be allowed with costs.
2. That with regard to the statements made in para 4 and 5 of the written statement, the applicant does not have any comment to offer except relying on records.
3. That in reply to the statements made in para 6,7 ad 8 of the written statement, the applicant begs to state that Shri P.N.Deb was called to appear for selection test for the post of Supervisor vide letter dated

12/13.06.2002 but Shri Deb submitted his unwillingness for the said post vide his application forwarded on 14.06.2002. Though Shri Deb was called for the abovementioned post against SC quota but it is denied that he was a SC candidate at all and not to speak of seniormost SC candidate as stated. Having come to know the motive of the respondents to fill up the above stated vacant post by treating Shri P.N.Deb as a SC candidate in a fake manner, the applicant submitted application on 05.06.2004 praying for consideration of his case for the said vacant post which was reserved for SC category. In his application dated 05.06.2004, the applicant stated that Shri P.N.Deb does not belong to SC category and as such the applicant was a seniormost SC candidate a per the seniority list of A.C.F Gr. I as on 01.04.1999.

4. That the applicant categorically denies the statements made in para 9, 10, 11 and 13 of the written statement and begs to state that when the respondents have fairly admitted in para 9 that no SC certificate of Shri P.N.Deb was available in his service book or in his promotion case, it is mysterious as to how he was shown as SC candidate in the 1st page of his service book, upgradation order dated 23.06.1983 and promotion order dated 24.09.1992 as stated. It is pertinent to mention here that inspite of the respondents having asked Shri Deb on 06.10.2004 to submit his original SC certificate as stated, Shri Deb failed to submit the same and claimed that he had submitted the same at the time of his initial appointment, which the respondents denied to have received. Curiously, when the respondents again asked Shri Deb vide letter dated 15.07.2005 to produce his original SC certificate, then Shri Deb sought for one months time to find out the same as it was misplaced, as stated in para 10 and 13 of the written statement. The statements of Shri Deb are therefore inconsistent and amounts to misrepresentation of facts and as such his entire claim of being a SC candidate is fishy and liable to proper investigation.

5. That the applicant categorically denies the statements made in para 12, 14, 15, 16, 17 and 18 of the written statement and further begs to submit that in absence of relevant caste certificate it is not understood as to how the HOD certified Shri Deb as SC candidate in his service book as stated in para 12. Further, since Shri Deb has not been able to even establish his identity as SC candidate with relevant certificate, it is not understood as to how could he be considered as the seniormost SC candidate and how could his name be approved for the post of Sr. Tech/ ACF which is reserved for SC category as stated in para 18 of the written statement.

It is relevant to mention here that Shri P.N. Deb therewith one caste certificate which also appears to be fake for the reasons stated in the other rejoinder submitted there against by the applicant.

6. That the applicant denies the averment made in para 19 of the written statement and begs to submit that under the facts and circumstances stated above, the O.A deserves to be allowed with costs.

5

VERIFICATION

I, Shri Pradip Kumar Das, S/o Late Sachindra Chandra Das, aged about 40 years, working as Air Condition Fitter Grade- I, O/o- The Sr. Section Engineer (Electrical), General Electrical Repairing Shop, N.F Railway, Bongaigaon, Assam, do hereby verify that the statements made in Paragraph 1 to 6 are true to my knowledge and are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 9th day of February, 2007.

Pradip K. Das.

NOTICE

5X

From
S. Nath
Advocate

To Mr. M. C. Sharma.
Counsel, N.P.Rly.

Sub: Rejoinder in O.A. No. 134/2005

Sir, find please enclosed herewith a copy of the rejoinder in O.A. No. 134/2005. This is for your information and necessary action.
Please acknowledge receipt.

Yours sincerely
S. Nath
Advocate
28/2

Received

(Dr. M. C. Sharma).
Advocate

I undertake to serve a
copy to Dr. M. C. Sharma

S. Nath
Advocate
28/2

केन्द्रीय नियन्त्रण न्यायालय
Central Administrative Tribunal

28 FEB 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
गुवाहाटी बैचन्च गुवाहाटी

O.A. No. 134/2005

58
Filed by the applicant
Mangal S. Acharya
Advocate
28/2/2007

Shri Pradip Kumar Das.

-Versus-

Union of India and Others.

-And-

In the matter of:-

Rejoinder submitted by the applicant
against the written statement filed by
respondent no. 5.

The applicant above named most respectfully begs to state as follows:-

1. That the applicant categorically denies the statements made in para 1, 2 and 3 of the written statement and begs to submit this application has been filed bonafide and in accordance with law and the applicant is entitled to get relief as prayed for. Further, the cause of action arose when the respondents attempted to fill up the vacant post of sr. Technician/ACF which is reserved for SC category, by appointing respondent no. 5 who is not a SC candidate, by ignoring the applicant who is the seniormost SC candidate available for the said post. The application does not suffer from misjoinder of parties whatsoever.
2. That the applicant categorically denies the statements made in para 5, 6, 8 and 9 of the written statement and most respectfully begs to state that statement of the respondent no. 5 that he submitted his original caste certificate to the authorities at the time of his initial appointment is not sustainable since the same is not available in his service book and

promotion records as stated by the official respondents (respondent no. 1 to 4) in their written statement. It is relevant to mention here that when the respondent authorities directed respondent no. 5, Shri Deb on 06.10.2004 to submit his SC certificate in original, Shri Deb made the same plea that he had submitted the same at the time of initial appointment. Subsequently when the respondent authorities again asked Shri Deb on 15.07.2005 to submit his original caste certificate, Shri Deb sought for one month's time to find out the same as it was misplaced, as stated by the respondent authorities in their written statement. This clearly indicates that he did not have the SC certificate at that time which he has subsequently managed to obtain and submit. The respondent no. 5 has averred in para 8 of the written statement that due to ignorance, he did not keep any copy of his SC certificate with him. It is the cardinal principle and this apart, under normal procedure, the applicant is not required to submit his original certificate to the respondents authorities at the time of initial appointment as stated and only a copy of the same is required to be submitted. As such there is no reason of his parting with his original certificate and submit different statements thereafter as stated above which are inconsistent and false.

Further, as regards the fresh SC certificate filed by the respondent no. 5, the applicant begs to submit the following facts before this Hon'ble Tribunal.

- (a) The respondent no. 5 was initially appointed in 1979 when he failed to submit his SC certificate which was mandatory as per law. The fresh certificate which he has managed to submit subsequently on demand, appears to have been issued in 2005 only.
- (b) The respondent no. 5 has stated in para 6 of his written statement that his fairly resides at Kalapahar, P.O. Kalapahar, P.S. Ambari, Guwahati and accordingly he has submitted the fresh SC certificate

issued by Utter Kamrup Jila Anusuchit Jati Parishad, Hajo. But from the voter list, 1997 of 32 No. Bongaigaon LAC, it appears that the respondent no. 5 and his family reside at Bongaigaon and their names appear in sl. no. 524 to 527 of the said voter list. (A copy of the voter list is annexed hereto as Annexure-A).

(C) If the respondent no. 5 is a resident of Kalapahar, Guwahati and had he submitted his original SC certificate at the time of his initial appointment in 1979 as stated by him, the said certificate must have been issued by the same office as mentioned above and in that event, he could obtain the duplicate copy of the said certificate. But instead, he has submitted a fresh certificate issued in 2005 which is not a duplicate copy of the certificate claimed to have been submitted by him in 1979.

From the above facts it is clearly evident that the entire deal is suspicious and the fresh certificate produced by the respondent no. 5 is fake and situation managed.

It is relevant to mention here that Rule 6 under Section III, Chapter-21 on schedule castes and scheduled Tribes as quoted in "Swamy's complete manual on Establishment and administration" provides as under:-

"6. The appointing authorities should verify the caste status of an SC/ST officer at the time of initial appointment and again at the time of promotion against a reserved vacancy for SC/ST. For this purpose, the caste and community to which an SC/ST person belongs, his place of residence and the name of the state, should be pasted on the top of the service book, personnel file....."

It is further provided under Rule 5 of the above stated chapter that-

- 4 -

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“5. (1) It is always open to the appointing authority, if it considers necessary for any reason, to verify the claim of a candidate through the District Magistrate of the place where the candidate and/or his family ordinarily resides.

(2) If after appointment in any particular case, the verification reveals that the candidate's claim was false, his services may be terminated in accordance with the relevant rules/orders.”

In the instant case, the veracity of identity of respondent no. 5 as SC candidate warrants through investigations in the light of the above quoted rules and the Hon'ble Tribunal be pleased to consider the matter in that perspective.

3. That the applicant categorically denies the statements made in para 7 of the written statement and begs to submit that the respondent no. 5 having failed to establish his identity as Sc candidate, the applicant becomes the seniormost SC candidate as per his seniority in the seniority list of the ACF GrI as on 01.04.1999 published on 14.11.2000 (Annexure-IV for the OA). As such the applicant is the legitimate expectant for the vacant post of Sr. Technician/ACF which is reserved for SC category.

(Copy of page no. 177-178 i.e Rule 6 and Rule 5 of Swamy's book, chapter 21 are annexed hereto as Annexure-B).

4. That the applicant denies that averment made in para 10 of the written statement and further begs to submit that under the facts and circumstances stated above, the OA deserves to be allowed with costs.

VERIFICATION

I, Shri Pradip Kumar Das, S/o Late Sachindra Chandra Das, aged about 40 years, working as Air Condition Filter Grade- I, O/o- The Sr. Section Engineer (Electrical), General Electrical Repairing Shop, N.F Railway, Bongaigaon, Assam, do hereby verify that the statements made in Paragraph 1 to 6 are true to my knowledge and are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 27 day of February, 2007.

Pradip Kumar Das.

— ਖਿਲਾ — ਰਖਾਉਂਗਾ।

ଶ୍ରୋଟି ଯେହନ କେତ୍ରନ ନେ—୧୯
ଗାଁତେବ ନାମ— ୮୩ କ୍ଷାଟିଗାସ

ଶାନ୍ତିର ନାମ — ୮୩ କ୍ଲାଟିଗାଉ

୧୯୮୫ ବର୍ଷରେ ବିଧାନ ସଭା ମମତା
ମହିଳାମଧ୍ୟେ—ବ୍ୟାଙ୍ଗିଟାର

କୁମ୍ବ—ରାଜିତିଗାନ

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SECTION III
CONCESSIONS IN APPOINTMENTS
CHAPTER 21

SCHEDULED CASTES AND SCHEDULED TRIBES

1. VERIFICATION OF CLAIMS OF SCHEDULED CASTES
AND SCHEDULED TRIBES

1. Constitutional provisions and safeguards

The Constitution of India has provided, among other various protections and safeguards, safeguards for Public employment to the persons belonging to the Scheduled Castes and Scheduled Tribes, keeping in view the discrimination and disabilities suffered by these classes to catch up and compete successfully with their more fortunate brethren and sisters in the matter of securing public employment. Specific provisions for reservations in services in favour of the members of Scheduled Castes and Scheduled Tribes have been made in Articles 16 (4), 335, 341 and 342 of the Constitution of India.

2. Definition of S.C. and S.T.

(1) A person shall be held to be a member of a Scheduled Caste or Scheduled Tribe, as the case may be, if he belongs to a Caste or a Tribe which has been declared, under any of the following orders, to be a Scheduled Caste or a Scheduled Tribe for the area of which he/she is a resident.

(i) Constitution (Scheduled Castes) Order, 1950; the Constitution (Scheduled Tribes) Order, 1950; the Constitution (Scheduled Castes) (Union Territories) Order, 1951; The Constitution (Scheduled Tribes) (Union Territories) Order, 1951 [as amended by the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956. The Bombay Reorganisation Act, 1960; the Punjab Reorganisation Act, 1966; the State of Himachal Pradesh Act, 1970; the North-Eastern Areas (Reorganisation) Act, 1971; the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 and the Constitution (Scheduled Tribes) Order (Amendment) Act, 1987.

(ii) The Constitution (Jammu and Kashmir) Scheduled Castes Order, 1956.

(iii) The Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959, as amended by the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976.

(iv) The Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962.

(v) The Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962.

(vi) The Constitution (Pondicherry) Scheduled Castes Order, 1964.

(vii) The Constitution (Scheduled Tribes) Uttar Pradesh Order, 1967.

(viii) The Constitution (Goa, Daman and Diu) Scheduled Castes Order, 1968.

(ix) The Constitution (Goa, Daman and Diu) Scheduled Tribes Order, 1968.

(x) The Constitution (Nagaland) Scheduled Tribes Order, 1970.

(xi) Constitution (Sikkim) Scheduled Castes Order, 1978.

(xii) Constitution (Sikkim) Scheduled Tribes Order, 1978.

3. Certificate to be produced in support of claim

(1) Every person who claims to belong to a Scheduled Caste or Scheduled Tribe has to produce a certificate to the appointing authority as sufficient proof in support of the claim.

(2) Any of the following certificates may be accepted as sufficient proof for the purpose:—

(a) Matriculation or School Leaving Certificate or the birth certificate giving the caste or community and place of residence.

(b) Certificate in the form prescribed issued by one of the authorities listed (*Annexures I and II*).

[G.I., M.H.A., O.M. No. 13/2/57-SCT (I), dated the 25th May, 1960.]

4. Provisional appointment subject to verification

Where a candidate belonging to an S.C. or S.T. is unable to produce a certificate from any of the prescribed authorities, he may be appointed provisionally on the basis of whatever *prima facie* proof he is able to produce in support of his claim subject to his furnishing the prescribed certificate within a reasonable time. If there is genuine difficulty in his obtaining a certificate, the appointing authority should itself verify his claim through the District Magistrate concerned. Appointment of an S.C. or S.T. candidate should not be withheld/delayed pending verification of caste status.

[G.I., Dept. of Per. & Trg., O.M. No. 36011/5/88-Estt. (SCT), dated Nil, April, 1988.]

5. Further verification and action thereon

(1) It is always open to the appointing authority, if it considers necessary for any reason, to verify the claim of a candidate through the

District Magistrate of the place where the candidate and/or his family ordinarily resides.

(2) If after appointment in any particular case, the verification reveals that the candidate's claim was false, his services may be terminated in accordance with the relevant rules/orders.

[G.I., M.H.A., O.M. No. 42/34/52-NGS, dated the 17th April, 1953.]

6. Caste status to be verified again at the time of promotion against reserved vacancy

The appointing authorities should verify the caste status of an S.C./S.T. officer at the time of initial appointment and again at the time of promotion against a reserved vacancy for S.C./S.T. For this purpose, the caste and the community to which an S.C./S.T. person belongs, his place of residence and the name of the State, should be pasted on the top of the service book, personal file or any other relevant document covering its employee to facilitate such verification. It may be mentioned that a Scheduled Caste person, whose caste has been descheduled after his initial appointment as a Scheduled Caste, is no longer entitled to enjoy the benefit of reservation in promotions.

[G.I., Dept. of Per. & A.R., O.M. No. 36011/16/80-Estt. (SCT), dated the 27th February, 1981 and G.I., Dept. of Per. & Trg., O.M. No. 42012/8/87-Estt. (SCT), dated the 14th October, 1987.]

7. S.C. candidate to intimate change of religion

(1) A member of the Scheduled Castes should profess Hindu or Sikh religion. No member professing any other religion can be deemed to be a member of Scheduled Castes.

(2) In view of this, the appointing authorities should stipulate in the letter of appointment issued to Scheduled Caste candidates that they should inform about the change, if any, of their religion to their appointing/administrative authorities immediately after such a change.

[G.I., Dept. of Personnel, O.M. No. 13/3/71-Estt. (SCT), dated the 10th September, 1971.]

2. SCOPE AND APPLICATION OF THE SCHEME OF RESERVATION

1. Scope

Reservations at the prescribed percentages for Scheduled Castes and Scheduled Tribes should invariably be made to the extent stipulated in all the posts filled by direct recruitment and in posts filled by promotion unless any posts are exempted by special or general instructions issued by the Department of Personnel and Training.

2. Application

(1) The reservation scheme applies to—

- (a) *All Posts/Grades*.—The Scheme covers all the posts/grades belonging to Groups 'A', 'B', 'C' and 'D' under the Central Government.
- (b) *Posts of Industrial workers in Industrial Establishment of the Government*.—The Industrial establishments of the Government of India and the posts and grades in such establishments, whether they have been classified as Groups 'A', 'B', 'C' and 'D' or not, are also covered by this Scheme.
- (c) *Work-charged posts*.—Reservation should generally be suitably applied to the extent possible, to work-charged posts also except those required for emergencies like flood relief work, accident restoration and relief, etc. The percentages of reservation in such appointments may correspond to what is applicable to Group 'C' and Group 'D' posts.

[G.I., Dept. of Per. & A.R., O.M. No. 8/7/74-Estt. (SCT), dated the 22nd August, 1975 and O.M. No. 36021/9/76-Estt. (SCT), dated the 10th February, 1977.]

- (d) *Daily rated staff*.—It may not be practicable to apply the reservation orders *in toto* in respect of daily rated staff. However it should be ensured that persons belonging to Scheduled Castes and Scheduled Tribes are recruited in such a manner as their overall representation does not go below the prescribed percentages for Scheduled Castes and Scheduled Tribes respectively. There are no vacancies for daily wages as such but the number is determined depending upon the exigencies of work to be executed. For example, if a particular organisation, engages about 100 daily wagers, it should be ensured that Scheduled Castes and Scheduled Tribes are employed in accordance with percentages fixed for them at the Centre or for local and regional recruitments. No roster is required to be maintained.

[G.I., Dept. of Per. & A.R., O.M. No. 36011/18/81-Estt. (SCT), dated the 16th July, 1981.]

(2) The reservation scheme is not applicable to—

(a) Vacancies filled by transfer or deputation:

- (i) Reservations do not apply to posts filled by deputation, but whenever officers are deputed in public interest to another Ministry/Department, etc., the Scheduled Castes/Scheduled Tribes employees who are eligible to be sent on deputation should also be considered along with other eligible employees for such deputation.

- (ii) The Ministries/Departments under whose control the posts to be filled by deputation or transfer arise should