

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No. 243/2006

R.A/C.P No.

E.P/T.M.A No. 13.G.06 x 14.07

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7
SECTION OFFICER (Judl.)

Baruah
27/10/17

FROM NO. 4
 (SEE RULE 24)
 CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH:

1. Original Application No. 243/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) A. K. Doley & Ors

Respondent(s) U.O.T. Tomy

Advocate for the Applicant(s) S. N. Tamuli.....

R.C. Paul, S. Roy.....

Advocate for the Respondent(s) Railway Counsel...

Notes of the Registry	Date	Order of the Tribunal
1. Application is filed in the Court is dated 12.9.06 and is deposited in the office of the Court on 26/3/2006.	21.9.06.	The applicants were appointed as Assistant Station Master in the Tinsukia Division of N.F.Railway from 1977. In 1990 the applicants were selected for the post of Traffic Inspectors and from then the applicants served continuously under the respondents. The Railway Board issued a Circular dated 08.10.2003 wherein it is stated that the category of Station Masters/Assistant Station Masters/Yard Masters and Traffic Inspectors should be merged into one 'Unified' Cadre of Station Master/Assistant Station Master. It is also mentioned in provision 10.1 of the circular the staff belonging to the erstwhile three categories will be working and enjoying the benefit of the unified cadre of SMs/ASMs and on their posting they will retain their designation as applicable before merger.
2. Steps not taken		
3. Date of hearing		
4. Date of disposal		

contd/

21.9.06

The applicants earlier approached this Tribunal by filing O.A.No.161 of 06 on 29.6.06 which was disposed of on 20.9.06 directing the applicants to make a comprehensive representation before the Respondents and the respondents shall consider the same. In pursuance of the Tribunal's order dated 20.09.2006 the applicants made representation to the authority. But on 5.9.06 the respondents issued an order rejecting their claim for cancellation of the order of transfer and posting. Being aggrieved the applicant has filed this O.A. for seeking the reliefs.

Notice & order sent to D/Section for issuing to resp nos. 1,2 & 3 by regd. A/D post.

~~Cars~~ D/No- 1016 to 1018
27/9/06 Dt= 10/10/06

I have heard R. C. Paul learned counsel for the applicant and Dr.J.L.Sarkar learned counsel for the Railway.

Application is admitted. Issue notice on the respondents. In the interest of justice the court directs that the applicants will not be disturbed and status quo shall be maintained till the next date if not already relieved

Post the matter on 8.11.06.

Notice duly served

on R-3.

~~Cars~~
31/10/06.

① Notice duly served on R.No-3.

lm

8.11.06. Counsel for the respondents wanted to file written statement. Let it be done. Post the matter on 19.12.06.

② Service awaited from R.No-1 & 2.

lm

~~22~~
7.11.06.

Notice duly served on - R - 1.

~~Cars~~ 10/11/06. No W.S has been filed.


Vice-Chairman

~~22~~
18.12.06.

19.12.2006 Present: The Hon'ble Shri K.V.Sachidanandan
Vice-Chairman.

No Wts has been
billed.

Post the matter on 9.1.2007 for filing of
reply statement along with the M.P.

3
8.1.07.

l
Vice-Chairman

/bb/

9.1.2007 Dr.J.L.Sarkar, learned Standing

counsel for the Railways wanted time to
file reply statement. Let it be done within
four weeks finally.

post on 13.2.2007 along with the
M.P.

3
12.2.07.

l
Vice-Chairman

bb

13.2.07 Post the matter on 28.3.07 alongwith O.A.
No.243 of 06.

lm

l
Vice-Chairman

13.2.07 The counsel for the respondents
prays for further time to file written
statement. Counsel for the applicant has
submitted that this may be granted as a
last chance.. Post the matter on 28.3.07.

No Wts has been
billed.

3
27.2.07.

lm

l
Vice-Chairman

OA 243/2007

28.3.2007

No reply filed. Further three weeks time is granted to the Respondents to file reply statement.

Post on 26.4.2007.

No W/S has been filed.

/bb/

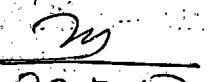
Vice-Chairman

26.4.07. Dr.J.L.Sarkar learned counsel for the respondents prays for time to file written statement. Four weeks time is granted to file written statement. Post the matter on 30.5.07.


Member(A)


Member(J)

No W/B has been filed.


29.5.07.

lm

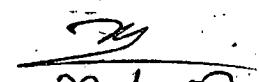
30.5.2007

As a matter of last chance Dr.J.L.Sarkar,

learned counsel for the Respondents is granted three weeks' more time to file reply statement.

Post on 25.06.2007

No W/B filed.

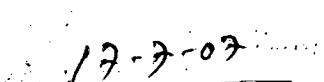

22.6.07.

/bb/

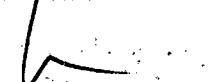
Vice-Chairman

25.6.07.

Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 18.7.07.


17.7.07.
No W/S filed so far.

lm


Vice-Chairman

Notes of the Registry Date Order of the Tribunal

30.7.07 17.7.2007 Two weeks further time is allowed for filing of reply statement.
Wts filed by the respondents. page 1 to 15 Post the case on 2.8.2007.
Copy served.

Vice-Chairman

R/S, /bb/

Wts filed.
2.8.07 2.8.07 Three weeks further time granted for filing rejoinder to the applicant.

Post on 28.8.07 for order.

Vice-Chairman

Rejoinder not filed.
pg

27.8.07 28.8.07 Counsel for the applicant wanted to file rejoinder within two weeks.

Post on 13.9.07 for order.

Vice-Chairman

pg

Rejoinder not filed.
12.9.07

18.9.07 13.9.07 Counsel for the applicant wanted to file rejoinder and prays for some time.

Post on 19.9.07 for rejoinder.

Vice-Chairman

pg

OA 243/06

19.9.2007

The learned counsel for the applicant prays for two weeks further time to file rejoinder. Time allowed. List it on 04.10.07.


Vice-Chairman

Rejoinder not filed.

akm


3.10.07.

04.10.07

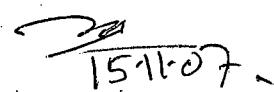
Call this matter on 16.11.07, awaiting rejoinder from the applicant.


(Khushiram)
Member(A)

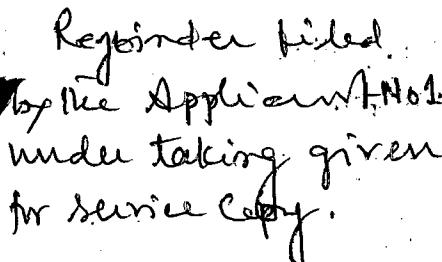

Monoranjan Mahanty
Vice-Chairman

Rejoinder not filed.

lm


15.11.07.

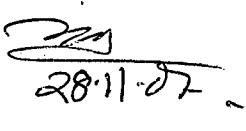
16.11.07 No rejoinder has yet been filed in this case. Call this matter on 29th November, 2007 for final disposal. Rejoinder, if any, may be filed by 26th November, 2007.


Rejoinder filed
by the Applicant No 1
under taking given
for service copy.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman


lm

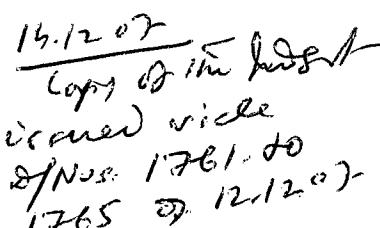

The case is ready
for hearing

28.11.07

Heard learned counsel for the parties. Judgment delivered in open Court. Kept in separate sheets. Application is disposed of as infructuous.


Rejoinder
28.11.07
sc/MSB


(Khushiram)
Member(A)


16.12.07
Copy of the Judgment
is annexed with
S/Nos. 1761, to
1765 of 12.12.07
w/MSB

lm

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 243 of 2006

DATE OF DECISION: 29.11.2007

Mr.A.K.Doley & Ors Applicant/s
.....
Ms. Usha Das Advocate for the
..... Applicant/s.

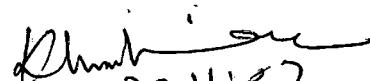
- Versus -

U.O.I. & Ors Respondent/s
.....
Dr.J.L.Sarkar, Railway counsel Advocate for the
..... Respondents

CORAM

THE 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 29.11.07

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.243 of 2006

Date of Order:- This the 29th Day of November, 2007

HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER,

1. Sri Amulya Kumar Doley,
Son of Late Jugen Chandra Doley,
Resident of Chiring Chapari, P.O., P.S.&
Dist.: Dibrugarh, Assam
2. Sri Abhiram Mili,
Son of Late Sonaram Milli,
Resident of Hijuguri Railway Colony,
Quarter No.44 (B),
P.O.,O.S & Dist. Tinsukia, Assam Applicants.

By Advocate Ms.Usha Das,

-Versus-

1. The General Manager(P),
N.F.Railway, Maligaon,
Guwahati, Assam
2. The Divisional Railway Manager (P),
N.F.Railway, Tinsukia, Assam. Respondents

By Advocate Dr.J.L.Sarkar, Railway Standing Counsel

ORDER (ORAL)

KHUSHIRAM, MEMBER(A):

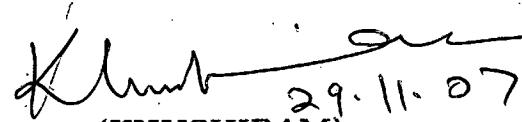
Heard Ms.U.Das, learned counsel for the Applicant and Dr.J.L.Sarkar, learned Railway Standing Counsel for the Respondents.

2. The Applicant had challenged the Merger of post namely; Station Masters/Assistant Station Masters/Yard Masters and Traffic Inspectors into one Unified Cadre of Station Master/Assistant Station Master. Consequently, some persons were transferred including the Applicant, who moved this Tribunal and filed this Original Application. The Tribunal has passed an order dated 29th September 2006 and directed status quo to be maintained. Subsequently Applicant No.2

JK

expired on 01.03.2007 and the Applicant also complied with the orders of Department.

In view of the above fact of the matter the O.A. has become infructuous and accordingly, the O.A. is disposed of.


29.11.07
(KHUSHIRAM)
ADMINISTRATIVE MEMBER

lm

DISTRICT: TINSUKIA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI.

O. A. NO. 243 of 2006

SRI AMULYA KUMAR DOLEY & ANOTHER

-VS-

THE UNION OF INDIA & OTHERS.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH: GUWAHATI.

O.A. No. 243 Of 2006

SRI Amulya Kumar Doley & Another

-VERSUS-

THE UNION OF INDIA & OTHERS

SYNOPSIS & LIST OF DATES

This is an application under Section 19 of the Administrative Tribunal's Act for judicial interference by the Hon'ble Tribunal for the arbitrary action of the Respondents in not allowing the petitioners to continue their service with the designation of Traffic Inspectors as per the Circular dated 08.10.2003 and the letter dated 18.02.2005 issued by the Railway Board.

- ❖ 1977- Applicants were appointed as Assistant Station Master in the Tinsukia Division of N.F. Railway.
- ❖ 1990- Applicants were selected to the post of Traffic Inspectors and from then served continuously to the satisfaction of the Respondent Authorities.
- ❖ 08.10.2003- The Railway Board issued a circular and this circular should merge the category of Station Masters/Assistant Station Masters/ Yard Masters and Traffic Inspectors into one Unified Cadre of Station Master/Assistant Station Master. It is mentioned in the provision 10.1 of the circular that the staff belonging to the erstwhile three categories will be working and enjoying the benefit of the unified cadre of SMs/ASMs and on their posting they will retain their designation as applicable before merger.
- ❖ 13.01.2006 - The Office of the Divisional Railway Manager (P), Tinsukia, in implementation of the circular dated 08.10.2003 transferred and posted the applicants with the designation of Station Superintendent (in short SS).

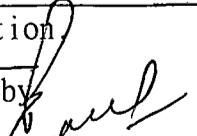
- ❖ 18.01.2006- The applicants made representation to the Respondent No. 3 contending that the post of Traffic Inspectors are in existence and they were selected to that post and prayed for cancellation of the order dated 13.01.2006.
- ❖ 03.03.2006- The applicants again approached the Respondent No. 3 with their grievances against their posting order.
- ❖ 31.03.2006 - The applicants submitted detailed representation to the Chief Operations Manager against their grievances.
- ❖ 10.05.2005- The Chief Operations Manager was pleased to pass an order canceling the order dated 13.01.2006 passed by the respondent No. 3 as it passed in violation of the provision of the circular dated 08.03.2003.
- ❖ 12.06.2006- The applicants informed the Respondent No. 3 about the cancellation of the order dated 13.01.2006.
- ❖ 20.06.2006- The Respondent No. 3 directed the applicants to carry out the order-dated 13.01.2006 immediately.
- ❖ The applicants preferred O.A. No. 161 of 2006 challenging the order- dated 20.06.21006.
- ❖ 20.09.2006- The O. A. No. 161 is disposed of with a direction to the applicants to make a comprehensive representation before the Respondent No. 2 and on receipt of the representation, the authority shall consider the same and take a decision therein. In the interim the status quo as on 20.06.2006 shall be maintained and they will be permitted to continue on the same post till the completion of the above exercise.
- ❖ Contempt petition being no. 12 of 2006 was preferred against the willful disobey of the interim order and the same was disposed of due to subsequent developments.
- ❖ The applicants in pursuance to the order-dated 29.06.2006 of the Hon'ble Tribunal made a detailed representation to the Authority concerned i.e. Respondent No. 2.
- ❖ 05.09.2006- The Respondent No. 3 intimated the applicants that the Competent Authority has reviewed the cancellation order of Transfer and Posting as the same stands justified and do not deserve cancellation or modification.

CONTENTIONS:

- (i) The action of the Respondents in posting the applicants with the designation of SS is in violation of the Circular dated 08.02.2003 and the Railway Board's letter dated 18.02.2005.
- (ii) The administrative shuffling has been implemented neither maintaining the integrity of the duties, responsibilities and functions being performed by the applicants in the respective cadres nor it has done in a phased manner and as such the transfer and posting order concerning the applicants is violation of the provisions of the Circular.
- (iii) Out of the three selected Traffic Inspectors in the Tinsukia Division, only the Applicants were transferred and posted in the categories of the Station Superintendent.
- (iv) The persons who are transferred and posted in place of the applicants were not provided with the necessary training for the post of Traffic Inspectors, which is in violation of the provisions of the Circular and the same is a glaring exercise of the arbitrary exercise of the power vested upon the Authorities.
- (v) The Authority has adopted the pick and chooses policy and the applicants became the victimized of such policy.

RELIEF (S) SOUGHT FOR:

1. The impugned order dated 05.09.2006 and the 13.01.2006 be set aside and quashed.
2. Direction be given to the Respondents to comply with the direction given in the Railway Board's letter dated 18.02.2005.
3. In the interim, suspend the order-dated 05.09.2006 and order dated 13.01.2006 and allow the applicants to continue their service with the designation of Traffic Inspectors till the disposal of the application

Filed by

(Rabindra Ch. Paul)

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:
GUWAHATI.

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

O.A. No 2006 of 2006

1. Sri Amulya Kumar Doley,
Son of Late Jugen Chandra Doley,
Resident of Chiring Chapari, P.O., P.S. & Dist.
Dibrugarh, Assam.

2. Sri Abhiram Mili,
Son of Late Sonaram Milli,
Resident of Hijuguri Railway Coloney, Quarter No. 44
(B), P.O., P.S. & Dist. Tinsukia, Assam.

11/05/2007

.....Applicants.

-Vs-

*1. Union of India

Represented by the Chairman, Railway Board, in the
Department of Railways, Rail Bhawan, Baisina Road,
New Delhi-110001.

1. The General Manager, (P),

N.F. Railway, Maligaon, Guwahati, Assam.

2. The Divisional Railway Manager (P),

N.F.Railway, Tinsukia, Assam.

.....Respondents.

1. PARTICULARS OF THE ORDER/ ACTION AGAINST WHICH THE APPLICATION IS MADE:

(i) Order No. ES/A-223 dated 05.09.2006 issued from the office of the Divisional Railway Manager (P), N.F.Railway, Tinsukia, Assam disposing the representation of the applicants submitted on

Filed by

Amulya Kumar Doley - sole
The son of Jugen Chandra Doley
Railway Board, Assam.

16

04.07.2006 to the General Manager (P), N. F. Railway, Maligaon, Guwahati, Assam and intimated that the Transfer order dated 13.01.2006 stands justified and do not deserve cancellation or modification.

(ii) Transfer and posting order dated 13.01.2006 passed by the Respondent No. 3.

2. JURISDICTION OF THE TRIBUNAL:

The applicants declared that the subject matter against which they want redressal/ relief is within the jurisdiction of the Tribunal.

3. LIMITATION:

The applicants further declared 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 applicants, named in the 'Cause Title' of this application, both are the citizen of India and are working in Tinsukia Division of N.F. Railway as Traffic Inspector under the Management of Union of India and as such they are entitled to all the rights, protections and privileges guaranteed under the Constitution of India.

4.2 That the applicants were initially appointed as Assistant Station Master in the year 1977 in the Tinsukia Division of N.F. Railway. In the year **1990** they were selected to the post of Traffic Inspector and are continuously working to the said post without any break and with full dedication of their work and satisfaction to the Respondent Authorities till today. The Railway Board on 08.03.2003 issued a circular for merging the categories of Station Masters/Assistant Station Masters/Yard Masters and Traffic Inspectors into one unified Cadre of Station Master/ Assistant Station Master. It is mentioned in the provision 10.1 of the Circular that the staff belonging to the erstwhile three categories will be working and enjoying the benefit of the Unified Cadre of SMs/ASMs and on their posting they will retain their designation as applicable before merger.

Anwesa Kumar
Soley

– A copy of the notification dated 08.03.2003 is annexed and marked as **Annexure-I**

4.3 That the Divisional Railway Manager (P), Tinsukia, on 13.01.2006 in implementation of the Circular dated 08.10.2003 transferred and posted the petitioners with the designation of Station Superintendent (in short SS). On being aggrieved and dissatisfied with the aforesaid implementation, the applicants made representation on 18.01.2006 to the Divisional Railway Manager (P), Tinsukia contending that the post of Traffic Inspectors are in existence and they were selected with due selection procedure to that post and thereby holding the said for the last 17 years and hence the applicants prayed for cancellation of the order dated 13.01.2006. Thereafter, the applicants on 03.03.2006 made a reminder of the representation-dated 18.01.2006. But the applicants did not get any response to their representation and on 31.03.2006 a detailed representation was submitted to the Chief Operations Manager, N.F.Railway, Maligaon, Guwahati.

– A copy of the Transfer and Posting order-dated 13.01.2006 is annexed and marked as **Annexure II**.

4.4 That on consideration of the applicants' representation, the Chief Operations Manager, N.F. Railway, Maligaon, Guwahati on 10.05.2006 passed an order signed by Sr. Personnel Officer (T), for General Manager (P), Maligaon canceling the order dated 13.01.2006 contented as the same was passed in violation of the provision of the circular dated 08.10.2003. The applicants then informed the matter regarding the cancellation of the order dated 13.01.2006 to the Divisional Railway Manager (P), N.F. Railway, Tinsukia vide letter-dated 12.06.2006. But vide order-dated 20.06.2006, the Divisional Personnel Officer, Tinsukia, disagreed with the order-dated 10.05.2006 and asked the applicants to carry out the order dated 13.01.2006 immediately.

– Copies of the order dated 10.05.2006, letter dated 12.06.2006 and the order-dated 20.06.2006 are annexed and marked as **Annexure-III, IV & V respectively**.

4.5 The applicants being aggrieved with the order-dated 20.06.2006, approached this Hon'ble Tribunal by filing an application challenging the order-dated

Anwala Kamal Akley

20.06.2006 in O.A. No. 161 of 2006. The Hon'ble Tribunal upon consideration of the case thereby disposed of the application with the following observations: -

“ Considering the issue involved in this case, the applicant is permitted to submit comprehensive representative before the second respondent within two weeks from today and on receipt of such representation the said authority shall consider the same along with Annexure-VI & VIII orders and harmonize the two orders with safety aspect etc. and take a decision therein keeping in mind the above observations and pass appropriate orders within two months thereafter.

The O.A. is disposed of with the above observations. In the interest of justice, this Tribunal by way of interim measure directs that status quo as on 20.06.2006 shall be maintained so far as the applicants are concerned and they will be permitted to continue on the same post till the completion of above exercise”

-Copy of the order-dated 29.06.2006 is annexed hereto and marked as **Annexure-VI.**

4.6 That, thereafter, the applicants preferred a contempt application being Contempt Petition No. 12 of 2006 against the willful disobey of the interim order dated 29.06.2006 passed by the Hon'ble Tribunal and the same is disposed of .

4.7 That the applicants beg to state that in pursuance to the order of the Hon'ble Tribunal, the Applicants approached the Respondent No. 2 with a detailed representation on 04.7.2006 contending their grievances.

-Copy of the representations dated 04.07.2006 alongwith the postal registration slip is annexed and marked as **Annexure-VII.**

4.8 That the Respondent no. 3 vide order dated 05.09.2006 intimated to the applicants that the Representations submitted on 04.07.2006 was placed before the Competent Authority and the Competent Authority has reviewed the cancellation order of the transfer and posting concerning the applicants and passed an order that the Transfer order stands justified and do not deserve cancellation or modification.

Amulya Kumar Soley

Amulya Kumar
Doley

– A copy of the order-dated 05.09.2006 is annexed and marked as **Annexure-VIII.**

4.9 That the applicants beg to state that the Railway Board vide letter dated 18.02.2005 has clarified that the staff who are performing the duties of Traffic Inspectors, after restructuring, their designations should be remained as Traffic Inspectors (T.I.), but the Respondent Authorities without considering the same, and arbitrarily and in discriminating manner posted and transferred the applicants in the category of **Station Superintendent.**

– A copy of the Railway Board's letter dated 18.02.2005 is annexed and marked as **Annexure- IX.**

4.10 That the applicants beg to state that out of the three selected Traffic Inspectors in the Tinsukia Division of N.F. Railway (Viz. A.K. Doley, A.R. Milli & S. K. Singh), only the Applicants were **Transferred and Posted as in the category of Station Superintendent but the position of S.K. Singh was not interfered with.** The applicants stated that if the authority has adopted the Railway Board's Circular dated 08.03.2003, it should be applicable to all the persons equally **but the Respondent Authorities in its arbitrary and discriminatory exercise of jurisdiction passed the Transfer and Posting order dated 13.01.2006** and the subsequent orders, which is liable to be interfered with by this Hon'ble Tribunal.

4.11 That the applicants beg to state that the persons (Sri Paresh Malakar and Sri C.K. Misra) who are transferred and posted in their place, the Respondents Authority did not provide them with the necessary training for the post of Traffic Inspectors which is must as per the Circular and this is an glaring example of the arbitrary exercise and misuse of the power vested upon them which is liable to be interfered with.

4.12 That the applicants beg to state that as per the provision of 10 of the Circular, the Cadre should **be implemented based on the integrated Seniority list, the duties, responsibilities and functions being performed by the employees of the respective Cadres will be combined in a phased manner.** In

the instant case, the administrative shuffling has been implemented neither maintaining the integrity of the duties, responsibilities and functions being performed by the applicants in the respective cadres nor it has done in a phased manner and as such the transfer and posting order concerning the applicants is violative of the Circular and liable to be set aside.

4.13 That the applicants beg to state that the Transfer and Posting order of them is not as per the requirement of the administrative shuffling as there is no vacancy in the respective post or there is a necessity for enhancing the number of the strength of that post and as such in the instant case, the transfer between the persons and the applicants particularly herein is totally arbitrarily exercise of the power and misinterpretation of the policy of the merger.

4.14 That the applicants beg to state that in the name of restructuring, the Respondents adopted the pick and choose policy and the applicants became victimized of such policy which affected them from all the corners and the applicants prays before this Hon'ble Tribunal to interfere with the power exercise by the Respondents.

4.15 That the applicants beg to state that they have performed the function of Traffic Inspectors for the last 17 years and they are now at the verge of their retirement stage and the Transfer and Posting order in exercise of the arbitrary and misuse of the power vested upon the Respondents, affected them and their family members mentally.

4.16 That the applicants beg to state that the Transfer and Posting order and the order dated 05.09.2006 is an arbitrary exercise of the power vested upon Respondent Authorities and the same is not tenable in the eye of law.

4.17 That the applicants beg to state that the impugned orders are arbitrary, discriminatory and violates the rights guaranteed under Article 14 of the Constitution of India.

4.18 That the applicants beg to state that the subject matter of the application arises out of the same cause of action and hence the applicants herein have preferred this joint petition before this Hon'ble Tribunal.

Amulya Kumar
Soley

4.19 That the applicants have become highly aggrieved and dissatisfied by the inaction/action of the respondents and which illegally and arbitrarily deprived them from their legitimate right and as such they are approaching this Hon'ble Tribunal on the following amongst other grounds.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

- I. For that the Respondents herein are under the legal obligation to give full effect to the circular of the Railway Board to all the persons equally.
- II. For that the **Cadres should be implemented based on the integrated Seniority list, the duties, responsibilities and functions being performed by the employees of the respective Cadres will be combined in a phased manner.** In the instant case, the administrative shuffling has been implemented neither maintaining the integrity of the duties, responsibilities and functions being performed by the applicants in the respective cadres nor it has done in a phased manner and as such the transfer and posting order concerning the applicants is violative of the Circular and liable to be set aside.
- III. For that the Transfer and Posting order of the applicants is not as per the requirement of the administrative shuffling as there is no vacancy in the respective posts nor there is a necessity for enhancing the number of the strength of that post and as such in the instant case, the transfer and posting between the persons and the applicants particularly herein is totally arbitrarily exercise of the power and misinterpretation of the policy of the merger in the name of administrative restructuring and the same is liable to be interfered with.

Amulya Kamlesh Josley

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2

Amulya Kumar Soley

IV. For that amongst the three selected Traffic Inspectors in the Tinsukia Division of N.F. Railway, the applicants were only transferred and posted in the category of Station Superintendent (in short SS) whereas the posting of Sri S.K. Singh, (T. I.) is not interfered with and as such the action of the Respondent Authorities is an arbitrary and irrational exercise of power and is liable to be interfered with.

V. For that the persons who are transferred and posted in the place of the applicants, they are not equipped with the necessary training for the post of the Traffic Inspectors and as such the administrative shuffling is bad in law and not at par the provision of 10 of the Railway Board's circular.

VI. For that the applicants after being selected with due procedure to the post of T.I. and performed the functions in the said post for the last 17 years satisfactorily to the authorities concerned and they are now at the verge of the retirement and as such the Transfer and Posting order affected their work with dignity.

VII. For that the Respondent Authorities prepared the transfer order and posted the applicants as SS without following the Railway Board's letter dated 18.02.2005 and as such the Transfer and Posting order dated 13.01.2006 and the subsequent order dated 05.09.2006 is liable to be set aside.

VIII. For that, the Respondents acted illegally and arbitrarily in passing the impugned order by which the applicants are directed to carry out the Transfer and Posting order dated 13.01.2006, which affected them and as such violates the rights guaranteed to the applicants under Article 21 of the Constitution of India.

IX. For that in any view of the matter the impugned action of the Respondents is illegal and cannot be sustained in law and is liable to be set aside.

6. DETAILS OF REMEDIES EXHAUSTED:

The matter has been taken up with the Respondent No.2 vide representation dated 4.07.2006. But the Representation of the applicants was disposed of on 05.09. 2006 in a most arbitrary and illegal manner.

7. MATTERS NOT PENDING WITH ANY OTHER COURT:

The applicants further declare that no such application is pending in respect of which this application has been made before any court or any other Bench of this Tribunal.

8. RELIEF SOUGHT FOR:

The applicants pray for the following reliefs:

- (a) The impugned orders dated 05.09.2006 vide No. ES/A-223 and Transfer and Posting order-dated 13.01.2006 be set aside and quashed.
- (b) Direction be given to the Respondent Authorities comply with the direction given in the Railway Board's letter dated 18.02.2005 retaining the earlier designation of the Traffic Inspectors after the restructuring.
- (c) Any other relief or relieves as this Hon'ble Tribunal may deem fit and proper.

9. INTERIM ORDER, IF ANY, PRAYED FOR:

The applicants made out a *prima facie* case against the Respondent Authorities and the balance of convenience are in favour of them and hence this Hon'ble Tribunal may pass an interim order suspending the Transfer and Posting order dated 13.01.2006 and the subsequent order dated 05. 09.2006 passed by the Respondent Authorities vide letter no. ES/A-223 and allow the applicants to work in the post of the Traffic Inspector till the disposal of the instant application.

Amulya Kumar Oley

10. In the event of application being sent by registered post, it may be stated whether the applicant desire to have oral hearing at the admission stage and if so, he shall attach a self addressed post card or inland letter, at which intimation regarding the date of hearing could be sent to him:

Not applicable.

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER IN RESPECT OF THE APPLICATION FEE:

- i. I.P.O. NO. 26G - 326665
- ii. DATE: 11-09-2006
- iii. ISSUED BY: GUWAHATI POST OFFICE.
- iv. PAYABLE AT: GUWAHATI.

12. LIST OF ENCLOSURES

STATED in the Index.

VERIFICATION

I, Sri, Amulya Kumar Doley, Son of Late Jugen Chandra Doley, Resident of Chiring Chapari, P.O., P.S. & Dist. Dibrugarh, Assam do hereby state that I am one of the applicant in the instant case and applicant no. 2 also authorize me to sign this verification on his behalf and as such verify that the statements made in paragraph 1, 2, 3, 4, 6, 7, 8 & 9 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 of¹⁹th September,2006 at Guwahati.

19/9/06

*Amulya Kumar Doley -
(Signature)*

TYPE COPY OF THE RELEVANT PORTION OF THE CIRCULAR

N.F. Railway

Office of the Divn. Railway Manager (P),
Tinsukia, Dated: 12.11.2003

Sub: Restructuring of certain Group 'C' & 'D' Cadres

Ref: GM (P) MIG's Letter No. 3/301/0/ Restructuring © dt. 30.10.03. and 31.10.03

A copy of GM (P)/ MLG'S Letter No. 3/304/0/Restructuring dt. 30.10.03 on the above mentioned subject is forwarded herewith for information and necessary action.

Since Cadres of new Zonal Railways are being closed from 31. 10. 2003 the cut off qata for implementation of these orders will be 01.11.2003.Hence further preparatory work for updation of cadres as on 01.11.2003. hence further number of posts in various grades as per new percentages should be intimated immediately.

DA (As above)

SD/-

For, Divl. Railway Manage (P)

N. F. Railway, Tinsukia.

Sub: Restructuring of certain Group 'C' & 'D' Cadres

The Ministry of Railways have had under review cadres of certain Group 'C' & 'D' staff in consultation with the staff side with a view to strengthening and rationalizing the staffing pattern of Railways. As a result of the review undertaken on the basis of functional, operational and administrative requirements, it has been decided with the approval of the President that the Group 'C' & 'D' categories of Staff as indicated in the Annexure to this letter should be restructured in accordance with the revised percentages indicated therein. While implanting these orders the following detailed instructions should be strictly and carefully adhered to:

Date of effect (hereinafter referred as cut-off date)

*Certified to be true copy
Rabindra Ch. Paul
Advocate*

1. This restructuring of cadres will be with reference to the sanctioned cadre strength as on the date following the date on which the cadres in the Head quarters offices of new Zonal Railways/new Divisions are closed. The benefits of restructuring will be restricted to the persons who are working in a particular cadre in the cut-off date.
2. -----

- 2.1 -----

- 2.2 -----

3. -----

4. -----

5. -----

6. -----

7. -----

8. -----

9. While implementing these orders, specific instructions given in the feet notes for the relevant categories in the enclosed annexures should be strictly and carefully adhered to.

Introduction of Multi Skilling merger of (i) SM/ASM+ YM+TI (ii) Personnel/Welfare/.....Inspectors, (iii) ESM & MSM.

10. The concept of Multi-Skilling is to be introduced by merging the different categories as mentioned hereunder. While the revised percentages distribution of posts as indicated in the annexure to this letter should be implemented in the Unified Cadres based as the integrated Seniority list, the duties, responsibilities and functions being performed by the employees of the respective cadres will be combined in a phased manner. Each member of the Cadre will have to be equipped with necessary skills and functions through proper training and development. The categories indicated therein will be merged by integrating in the Seniority of the employees working in respective grades worth reference to

length of non-fortuitous service in the relevant grade keeping the inter-se seniority in the respective group intact.

10.1 The category of Station masters/Assistant Station Masters, Yard Masters and Traffic Inspectors should be merged into one unified cadre of SM/Asm. The recruitment and promotion pattern as prescribed for the category of SMs/ASMs should be followed in the merged cadre. In the initial stage of the merger, efforts should be made to post the employees in the categories in which they have been working. Accordingly, while the staff belonging to the erstwhile three categories will be working and enjoying the benefit of the unified cadre of SMs/ASMs, on their posting in the yard, they will perform the duties of Yard Master retaining their designation as applicable to the category of Yard master. Similarly, while performing the inspectional job they will retain their designation as applicable to Traffic Inspectors. But at a later stage, when they are made fully equipped to discharge all the functions hitherto being discharged by SMs/ASMs, Yms & Tis, administration will have the flexibility to post a person as per the administrative requirement. While redefining the duties and functions, Railway may also review and rationalize the cadre keeping in view the administrative requirements.

10.2 -----

10.3 -----

11. -----

11.1 -----

11.2 -----

11.3 -----

12. -----

13. a) -----

13. b) -----

13.2 The placement of the existing incumbents will be regulated as per the procedure given below:-

(a) -----

(b) -----

13.3 -----

13.4 -----

13.5 -----

14. -----

15. -----

Pin Pointing of posts.

16. The administration should take steps to pinpoint the additional posts arising out of this restructuring as per administrative recruitment.

Refusal of promotion

17. Such of the staff as had refused promotion before issue of these orders and stand debarred for promotion may be considered for promotion in relaxation of the extent provisions as a one time exception, if they indicate in writing that they are willing to be considered for such promotion against the vacancies existing on the cut-off date arising due to restructuring on that date. The relaxation will not be applicable to the vacancies arising after the cut-off date.

Matching Savings

18. Entire scheme of restructuring is to be a self-financing and expenditure neutral proposition. Financial implications should be worked out taking into account the mid points of the scales of pay of the respective posts (.....of the maximum and minimum of the scale), existing number of posts and revised number of posts in the grade on the basis of the revised percentage distribution of posts. After working out the financial implications, the matching savings should be affected from the category itself. Wherever it is not possible to do so from the category itself, the matching saving should be arranged from the department at the divisional/zonal level. But before restructuring the cadre as per the revised percentage distribution of posts, matching-savings will have to be ensured and if the Department/Railway are not able to provide the matching savings, the particular category/department will not be restructured. While effecting surrender

of posts of equivalent financial value, the existing vacant posts available in the categories on the cut-off date should be considered for the purpose of off-setting the cost of restructuring /financial effects of restructuring. Board desire that the General Managers should ensure that the restructuring is implemented expeditiously with matching savings without any exception and difficulty. There would be no restructuring without matching savings by surrender of posts.

Reorganization of Zonal Railways/ Divisions:

19. Due to reorganization of zonal Railways / Divisions cadres are in a fluid situation. It may, therefore, take some time for the cadres in the Head Quarters offices of New Zonal and New Divisions to stabilize. In the circumstances, New Zonal Railways are required to ensure that the staff transferred to at Head Quarters offices of new Zonal Railways/ new Divisions are not extended the double benefit of restructuring. In case an employee have been given the benefit of restructuring on the old (parent) Railway in terms of those cadres, he will not be allowed the benefit of restructuring again in the Head Quarters office of new Zonal Railways/new Divisions. In their words, no Railway servant will be considered for double promotion. As a result of this restructuring.

20. -----

Kindly acknowledge receipt,.

Sd/- (Shri Prakash)

Director, Pay Commission-ii
Railway board.

New Delhi, dated 08.10.2003.

Call for "Scrib" in 1928 May/June/July

Office of the
S. I. Railway Manager (I),
Tinsukia, Int. rd. 12.11.9 N.S.

Sub: Restructuring of certain Group 'C', 'B' & 'D' Codres.
Ref: CM(P)/MTC's letter No. 3/301/0/Restructuring (C) dt. 30.10.03.
and '31.10.03.
-80,000/-

A copy of GM(P)/MLG's letter No. 3/304/0/Restructuring (d) dated 30.10.03 on the above mentioned subject is forwarded herewith for information and necessary action.

Since cadres of new Zonal Railways are being closed from 31.10.2003 the cut off date for implementation of these Order will be 1.11.2003. Hence further proprietary work for updation of cadres as on 1.11.2003 and working out revised number of posts in various grades as per new percentages should be initiated immediately.

DA: (is above.)

for Mys. Railway Manager (P),
N. E. Railway, Tinsukia. (34)

Sub: Resistance of certain Group 'C' & 'D' cadres.

Sub: Restructuring of certain
Group 'C' & 'D' staff in consultation with the staff side with a view to strengthening and rationalising the staffing pattern of Railways. As a result of the review undertaken on the basis of functional, operational and administrative requirements, it has been decided with the approval of the President that the Group 'C' & 'D' categories of staff as indicated in the Annexure to this letter should be restructured in accordance with the revised percentages indicated therein. While implementing these orders the following detailed instructions should be strictly and carefully adhered to:

be strictly and carefully observed. 1. This restructuring of cadres will be with reference to the sanctioned cadre strength as on the date following the date on which the cadres in the Head quarters offices of new Zonal Railways/new Divisions are closed. The benefit of restructuring will be available to the persons who are working in the

Certified to be true copy
Rabindra Ch. Paul
Advocate

Applicability to
various cadres

2. These orders will be applicable on the regular cadre (excluding surplus & Supernumerary posts) of the Open line establishments including Workshops and Production Units. These orders will, however, not be applicable to staff of BSO for whom separate orders will be issued.

Pay Fixation
(Rule 1313
(FR-22)R-II)

2.1 These orders will not be applicable to ex-cadre & workcharged posts which will continue to be based on worth of charge.
2.2 These instructions will also not be applicable to construction Units and Projects, where posts are generally created on worth of charge basis, though these should broadly be conforming to these percentage distributions.

3. Staff selected and posted against the additional higher grade posts as a result of restructuring will have their pay fixed under Rule 1313 (FR-22)(I)(a)(I)R-II on proforma basis w.e.f. the cut-off date with the usual option for pay fixation as per extant rules. Actual payment based on the pay so fixed should be made from the date of taking over the charge of the higher grade post arising out of these restructuring orders. The benefit under this rule will however, no longer be available in the case of movement from lower grade to higher grade in the non-functional situations where there is no change in duties as in the case of movement from Goods Guards to Sr. Goods Guards and Goods Drivers to Sr. Goods Drivers etc. In the case of such movement, the pay will be fixed under Rule 1313 (FR-22) (I) (a) (2)R-II. However, the benefit of fixation of pay under rule 1313 (FR-22) (I) (a) (I) R-II will, now be admissible in the cases of functional promotions such as promotion from Sr. Goods Guards to Passenger Guards and Sr. Goods Drivers to Passenger Drivers etc. (subject to identical scale of pay).

Though
existing classification, promotion and filling up
of the vacancies.

Minimum years of
service each grade

This existing classification of the posts covered by these orders as 'selection' and 'non-selection', as the case may be, remains unchanged. Action should be taken to position the employees on the basis of selection/non-selection/suitability/Trade Test, as the case may be. However, the instructions contained in Rule-13.2 should be followed in case of placement of Supervisors (erstwhile Mistries) to grade R. 5000-5000.

6. Existing instructions for DA/Vigilance Clearance will be applicable for effecting promotions under these orders with reference to the cut-off date.

6. While implementing the restructuring orders, instructions regarding minimum period of service for promotion issued from time to time should be followed. In other words, residency period prescribed for promotions to various categories should not be relaxed.

7. Since the cadre is determined by the availabilities to the various functional units, the instructions issued by the concerned functional units in respect of the revised cadre will be implemented in accordance with the revised cadres. The revised cadre will include the grades and rank/seniorities of existing posts.

8. Prior to issuance of these instructions, if the number of posts existing in any grade in any particular cadre exceeds the number permissible on the revised percentages, the excess may be reallocated to continue to be passed out progressively with the promotion of the posts by the existing increments.

9. While implementing these orders, specific instructions given in the foot-notes for the relevant categories in the enclosed annexures should be strictly and carefully adhered to.

Introduction of
Multi-skilling-
merger of
I)SM/ASMs+II
II)Personnel/
Welfare/II
Inspectors
III)ESM & MSM.

10. The concept of Multi-skilling is to be introduced by merging the different categories as mentioned hereunder. While the revised percentage distribution of posts as indicated in the annexure to this letter should be implemented in the unified cadre broad as the integrated seniority list, the duties, responsibilities and functions being performed by the employees of the respective cadre will be combined in a phased manner. Each member of the cadre will have to be equipped with necessary skills and functions through proper training and development. The categories indicated therein will be merged by integrating the seniority of the employees working in respective grades with reference to length of non-contiguous service in the relevant grade keeping the inter-se seniority in the respective group intact.

10.1 The category of Station Masters/Assistant Station Masters, Yard Masters and Traffic Inspectors should be merged into one unified cadre of SM/ASMs. The recruitment and promotion pattern as prescribed for the category of GMs/ASMs should be followed in the merged cadre. In the initial stage of the merger, efforts should be made to post the employees in the categories in which they have been working. Accordingly, while the staff belonging to the erstwhile three categories will be working and enjoying the benefit of the unified cadre of SMs/ASMs, on their posting in the Yard, they will perform the duties of Yard Master retaining their designation as applicable to the category of Yard Master. Similarly, while performing the inspectional job they will retain their inspectional designation as applicable to Traffic Inspectors. But at a later stage, when they are made fully equipped to discharge all the functions hitherto being discharged by SMs/ASMs, YMs & TIs, administration will have the flexibility to post a person as per the administrative requirement. While redefining the duties and functions, Railways may also review and rationalise the cadre keeping in view the administrative requirements.

10.2. The Financial, Welfare and HO & I Inspectors should be merged and a unified cadre of Personnel Inspectors introduced. After merger, 50% of the posts in the entry grade of the combined viz. 15000-8000 should be filled from amongst the former Sr. Clerks of Financial Department in Grade Rs.450/-700/- with three years of service in the grade and the remaining 50% of the posts should be filled as per the instructions contained in Board's letter No. 3 (NG) I/2002/HM/1 dated 12.7.92.

10.3. The categories of Electric Signal Maintainers (ESM) and Mechanical Signal Maintainers (MSM) should be merged and a unified cadre of Signal Maintainers introduced. The recruitment and promotion pattern as applicable to the Electric Signal Maintainers will be followed in the unified cadre of Signal Maintainers.

Introduction of
11. Direct recruitment
i)Ministerial Staff
(excluding Accounts
staff).
ii)Personnel Inspectors
iii)Dept Material
Superintendents

The implementation of restructuring scheme in the categories of Ministerial staff, Personnel Inspectors and Depot Material Superintendents is subject to the introduction of direct recruitment in these categories. After implementation of the restructuring in accordance with the revised percentage distribution of posts indicated in the annexure to this letter, the vacancies arising in these categories can be filled after the date should be filled through direct recruitment in the manner indicated hereunder:-

(Contd.... 1/4)

(Annex 4)

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11.1 An element of direct recruitment of graduates with not less than 5.0 marks shall now be introduced at the level of Office Superintendent Gr.II in the pay scale of Rs.5500-10500 in the Ministry of HRD (Establishment & the then established but excluding Accounts) to the extent of 20% of the posts. The remaining 80% of the posts in Grade I-2002/344/1-B dated 12-07-2002 shall continue to be filled by promotion of staff from the lower grade of Rs.5500-9000 as per procedure in force.

11.2 20% of the posts in Grade I-2002/344/1-B dated 12-07-2002 shall be filled by direct recruitment from amongst the candidates possessing Bachelor degree with First Graduate Diploma in Personnel Management, Labour Laws, etc. as mentioned in Board's Letter No. 3 (NG) I-2002/344/1-B dated 12-07-2002. The remaining 80% of the posts, shall continue to be filled by promotion of staff from the lower grade of Rs.5500-9000 as per the procedure in force.

11.3 20% of the posts in Grade I-2002/344/1-B dated 12-07-2002 in the category of Depot Material Superintendent should be filled by direct recruitment from amongst the candidates possessing qualification of degree in Engineering in any discipline. The remaining 80% of the posts shall continue to be filled by promotion of staff from the lower grade of Rs.5500-9000 as per procedure in force.

Category (BGG.)

12. As a result of implementation of this restructuring, more number of additional posts will be available in the highest group of this category. Henceforth, therefore, the posts of Gangan (BGG.) should be operated in Grade I-2750-4400. In order to ensure the full availability of Gangan (BGG.) and retention of the existing staff specially those who are working, as such, for a long period, the Trakarn etc. at the time of their promotion to group I-2750-4400 should be posted as Gangan (BGG.) subject to their fulfilling the requirement of prescribed standard and literacy level etc. as per extant instructions.

Upgrading of the posts of Supervisor (Westhiliya Mistris) 13.a) Subject to provisions of Para-13.2, below all the posts of Supervisor (Westhiliya Mistris) in Grade I-4500-7000 + Rs.100 Special Allowance (excluding Supervisor (P. Way) should enable be upgraded to the posts of Junior Engineer Gr.II in the pay scale of Rs.5500-10500 and merged with the responsibility of Technical Supervisors with its spread effect in higher grades I-5500-11050, 6500-11050 & 7400-11500 as per the revised percentage distribution of posts prescribed for Technical Supervisors in these orders.

13.b) In case of Supervisor (P. Way), the posts being held by the Westhiliya PMS supervising more than one gang upto a maximum of 17.5% of the established cadre of PMS should be upgraded to and merged with the posts of Junior Engineers (P. Way) Gr.II in the pay scale of I-5500-10500 with its spread effect in higher grades of I-5500-11050 & 6500-11050 respectively, as per the revised percentage distribution of Technical Supervisors in these orders.

13.2 The placement of the concerned posts will be regulated as per the procedure mentioned above.

(a) The existing responsibility of the posts of Supervisors (including Supervisors/1. Mistris) w.r.t. of upgradation & financial implications involved in the upgradation covered by (a) & (b) above should be set by survivor of posts of Supervisors of equivalent money value.

(reg/5)

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P.sts) will be placed in Grade Rs.500-8000 without subjecting them to normal selection procedure. Their suitability shall be adjudged by following modified selection procedure according to which the posts will be based on scrutiny of service records and confidential reports only.

(b) The Supervisors (other than P. Way) who do not get promoted to Grade Rs.500-8000 shall continue to hold the post in the existing Grade Rs.450-7000 + Rs.100 SA/H3 package there. To this extent, the posts upgraded to Grade Rs.500-8000 will be promoted in the lower Grade Rs.450-7000 + Rs.100 SA till the existing incumbents vacate the same by way of promotion, retirement etc. On vacation of the posts, the same shall automatically be upgraded in Grade Rs.500-8000.

Specific Br. v-13.3. The remaining posts of Supervisor (P. Way) erstwhile in PMs which are not to be upgraded and shall continue to be operated in the existing scale of pay, should be redesignated as 'Track Supervisor' (P. Way).

13.4. While the existing incumbents of the revised Supervisor (P. Way) redesignated as 'Track Supervisor' shall continue to draw the scale of pay Rs. 450-7000 + Rs.100 SA/H3 package there, the future incumbents of the revised Supervisor will be in the pay scale of Rs.450-7000 without the package allowance of Rs.100/-.

13.5. The upgrading of posts of Supervisor (P. Way) as indicated hereinabove should not result in creation of posts of Tr. Flymn. In other words under no circumstances additional posts of Tr. Flymn would be created.

14. The existing instructions with regard to reservation of SC/ST wherever applicable will remain to apply.

15. Direct recruitment percentage will be applicable to the additional posts arising out of these restructuring orders as on the cut-off date. The direct recruitment percentage will apply for normal vacancies arising on or after the date following the cut-off date. Also the direct recruitment quota as on the date preceding the cut-off date will be maintained.

16. The administration should take steps to pin-point the additional posts arising out of this restructuring for administrative recruitments.

17. Such of the staff as had refused promotion before issue of these orders and stood debarred for promotion may be considered for promotion in relaxation of the existing provisions as one time. The staff so promoted should be willing to serve in the revised posts in the revised pay scale.

18. The revised pay scale of the posts will be implemented from 1st January 1983. In addition to the revised pay scale, increments should be given to the existing posts on the basis of the scales of pay of the respective posts as on 1st January 1983 (maximum of the scale), the revised pay scale and the revised posts in the revised pay scale.

19. The revised pay scale of the posts will be implemented from 1st January 1983. In addition to the revised pay scale, increments should be given to the existing posts on the basis of the revised pay scale.

(Page/6)

be arranged from the department at the divisional/zonal level. But before restructuring the cadre as per the revised percentage distribution of posts, matching savings will have to be ensured and if the Department/Railways are not able to provide the matching savings, the particular category/department will not be restructured. While effecting surrender of posts of equivalent financial value, the existing vacant posts available in the categories on the cut-off date should be considered for the purpose of off-setting the cost of restructuring/financial effects of restructuring. Board desires that the General Managers should ensure that the restructuring is implemented expeditiously with matching savings without any exception and difficulty. There would be no restructuring without matching savings by surrender of posts.

Re-organisation
of Zonal
Railways/
Divisions

19. Due to re-organisation of Zonal Railways/Divisions cadres in a fluid situation, It may, therefore, take some time for the cadres in the headquarter offices of New Zones and New Divisions to stabilise. In these circumstances, New Zonal Railways are required to ensure that the staff transferred to headquarters offices of New Zonal Railways/New Divisions are not awarded the double benefit of restructuring. In so doing, it has been given the benefit of restructuring in the old (parent) railway in terms of these cadre no. will not be allowed the benefit of restructuring again in the headquarter offices of New Zonal Railways/New Divisions. In other words, no railway servant will be considered for double promotion as a result of this restructuring.

Annual
review

20. As per instructions contained in Shri's Letter No. PG.III/41/PL.2 dt. 08.10.2002, the Annual Reviews for promotion/percentage distribution of posts in each category to be conducted from 01.04.03 taking into account the cadre strength as on 31.03.2003. It has now been decided that the next Annual Review will be undertaken from 01.04.03 taking into account the cadre strength as on 31.03.2003. The Annual Reviews, which were conducted already as per instructions dated 08.10.02 will not be undertaken.

Kindly acknowledge receipt.

Hindi version will follow.

Ans. Annual Review with 4y. (14 sheets)

No. PG.III/2003/CRG/6. New Delhi, dated 08.10.2003.

Sd/- (Shri Prakash)
Director, Pay Commission-II
Railway Board

N.F.Railway.

Office of the
Div.Railway Manager (P)
Tinsukia
Date: - 13-01-2006

OFFICE ORDER

Group -A

The following Dy. SS who were empanelled for promotion to the post of SS in scale Rs. 1450-11500/- are hereby promoted and posted as under

1. Sri S. N. Das, Dy. SS/BLMR in scale Rs.6500-10500/- empanelled for promotion for the post of SS in scale Rs.74500-11500/- is hereby promoted, transferred and posted as SS/JTTN on pay Rs.9025/- on his own request vice Sri S. N. Saikia transferred.
2. Sri D. K. Chowdhury, Dy. SS now working as SC(T)/TSK in scale Rs.6500-10500/- empanelled for promotion for the post of SS in scale Rs.74500-11500/- is hereby promoted and posted as TI/WR/TSK on pay Rs. 8800/- on his own request.
3. Sri Paresh Malakar, Dy. SS/TTB in scale Rs. 5500-10500/- empanelled for promotion for the post of SS in scale Rs.74500-11500/- is hereby promoted, transferred and posted as TI/TSK on pay Rs. 8125/- vice Sri A. K. Doley transferred.
4. Sri Jitendra Sonowal, Dy. SS/TSK in scale Rs.11500-10500/- empanelled for promotion for the post of SS in scale Rs.74500-11500/- is hereby promoted, transferred and posted as YS/NTSK on pay Rs. 8575/- vice Sri C.K. Mishra.

Group -B

The following SASM / YM who were empanelled for promotion to the post of Dy. SS in scale Rs.6500-10500/- are hereby promoted and posted as under

1. Sri Jagannath Saikia, SASM/DBRT in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as LR/Dy. SS under TI/MJN or TSK on pay Rs. 7900/-.
2. Sri M. R. Kalita, YM/NTSK in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as Dy. SS /TSK on pay Rs.8800/-.
3. Sri Rajarshi Bhattacharjee, YM/DBRT in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as Dy. SS /MRG on pay Rs.7800/- vice vacancy.
4. Sri Subhashish Bhattacharjee, SASM/FKG in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as Dy. SS /CMA on pay Rs.8300/- vice vacancy.
5. Sri K. N. Baruah, SASM/DKM in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as RG.Dy. SS /NHK on pay Rs.8100/- vice vacancy.
6. Sri L. N. Handique, SASM/TSK in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted and posted as Dy. SS /TSK on pay Rs.7900/-.
7. Sri Swapani Kr. Saha, SASM/Men's Rail, Kolkata in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as LR/Dy. SS under TI/TSK vice vacancy.
8. Sri R. M. Pathak, SASM/LLO in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as RG.Dy. SS SPK vice Sri D. Phukan transferred. His promotion will be effective after 18.07 i.e. on completion of WIT 2 Years (N.C.)

Certified to be true Copy
Rabinda Ch. Paul
Adrescale

9. Sri D. C. Borgohain, SASM/MJN in scale Rs.5500-9000/- empanelled for promotion for the post of Dy.SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as RG.Dy.SS /TSK on pay Rs. 8300/-
10. Sri Dilip Kr. Das, SASM/NTSK in scale Rs.5500-9000/- empanelled for promotion for the post of Dy.SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as Dy.SS/NTSK On pay Rs. 8300/-
11. Sri A. C. Kakoti, SASM/KXL in scale Rs.5500-9000/- empanelled for promotion for the post of Dy.SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as RG.Dy.SS /TTB on pay Rs. 8100/- vice vacancy on his own request. But his promotion will be effective after 1-2-06 i.e. on completion of WIT 6 months (N.C.)
12. Sri Shyamal Bhattacharjee, SASM/DBRT in scale Rs.5500-9000/- empanelled for promotion for the post of Dy.SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as RG.Dy.SS/PNT vice vacancy on his own request.

Group-C

The following transfer and posting order will take immediate effect

1. Sri A. K. Doley, SS/TSK is transferred and posted as SS/DBRT vice Sri R.C.Dey transferred.
2. Sri R.C.Dey, SS/DBRT is transferred and posted as SS/NMGS vice vacancy on his own request.
3. Sri C.K. Mishra, SS/NTSK is posted as TI/MJN at TSK vice Sri A.R.Mill transferred.
4. Sri A.R.Mill, TI/MJN at TSK is transferred and posted as SS/NAM vice Sri J.L.Basumatary transferred.
5. Sh J.L.Basumatary, SS/NAM is transferred and posted as SS/SLGR vice vacancy.
6. Sri S.N.Saikia, SS/JTN is transferred and posted as TI/MXN vice vacancy
7. Sri D. M. Kalbaria, Dy.SS/NMGS is hereby transferred and posted as Dy.SS/BLMR in his existing pay and scale vice Sri S. N. Das promoted and transferred.
8. Sri Pankaj Ray, Dy.SS/NTSK is hereby deputed to work as SC(T)/TSK in his existing pay and scale vice Sri D.K. Chowdhury promoted and posted as TI/WR.
9. Sri B. R. Nath, Dy.SS/FKG is hereby transferred and posted as Dy.SS/TTB in his existing pay and scale vice Sri Poreish Malaker promoted and transferred.
10. Mathendra Saikia, Dy.SS/TSK in scale Rs.6500-10500/- is deputed to look after the work of SS/TSK in addition to his normal duties.
11. Sri Bipudananda Phukan, Dy.SS/TSK is hereby transferred and posted as Dy.SS/NTSK in his existing pay and scale on his own request.
12. Sri Kamaleswar Sarmah, Dy.SS/TSK is hereby transferred and posted as Dy.SS/NTSK in his existing pay and scale on his own request.
13. Sri D. Phukan, RG Dy.SS/SPK is transferred and posted as Dy.SS/BOJ vice vacancy.
14. Sri Anil Saikia, RG SASM/DBRT is hereby posted as SASM/DBRT in duty cadre.
15. Sri E. Ali, SASM/SLX is hereby transferred and posted as SASM/DKM vice Sri K.N. Baruah promoted and transferred.
16. Sri Naba Kr. Saikia, LRASM under TI/TSK is hereby transferred and posted as ASM/DBRT vice vacancy.
17. Sri B. R. Kutum, LRASM under TI/TSK is hereby transferred and posted as ASM/SLX vice vacancy.
18. Anup Saikia, ASM/NMGS is hereby transferred and posted as ASM/FKG in his existing pay and scale of his own request.
19. Sri P.K.Rava, SASM/SLX is hereby transferred and posted as SASM/LHL vice vacancy.

Sri P. Hazarika, RG.SASM/PNT is hereby transferred and posted as SASM/NAM vice vacancy.

Sri Bhaskar Mukherjee, SASM/MRG is hereby transferred and posted as SASM/DJG vice vacancy.

Sri Babul Ch. Dey, RG ASM/MJN is hereby posted as RG ASM/CGF vice vacancy.

Sri Dipen Ch. Saikia, RG.SASM/CGF is hereby transferred and posted as SASM/LLO vice vacancy.

Sri C. K. Borah, RG ASM/LHL is hereby transferred and posted as ASM/CGF vice vacancy.

Sri R. Dekaburah, ASM/LHL is posted as RG ASM/LHL vice Sri C.K. Borah transferred.

Sri R. Hazarika, SASM/TSK is posted as LR SASM/TSK vice vacancy.

Sri G.K. Saikia, SASM/NTSK is posted as LR SASM/NTSK vice vacancy.

Sri R.D. Das, RG SASM/BOJ is hereby transferred and posted as SASM/SPK vice vacancy on his own request.

Sri S.N. Saikia, SASM/SFR is hereby transferred and posted as SASM/BOJ vice vacancy.

Sri M. Deka, SASM/SFR is hereby transferred and posted as RG SASM/BOJ vice Sri R.D. Das transferred.

Sri S.K. Rabha, RG SASM/AGI is hereby posted as SASM/AGI in duty cadre vice vacancy.

Sri B.P. Borah, LR ASM/AGI is hereby posted as RG ASM/AGI vice Sri S.K. Rabha.

Sri J.A. Sheikh, SASM/CMA is hereby transferred and posted as SASM/MXN vice vacancy on his own request.

Sri R.K. Dey, SCR/TSK under order of transfer as LR SASM under TI/MXN is hereby posted as SASM/MXN vice vacancy on his own request.

Sri A.C. Gogoi, SASM/KXL is hereby transferred and posted as SASM/FKG vice vacancy.

Sri W. Marbanlang, SASM/NCH is hereby transferred and posted as LR SASM under TI/MXN vice vacancy.

Sri J. Hazarika, LR SASM working temporarily as TI/MXN is hereby posted as LR SASM under TI/MXN.

Sri B.C. Saha, SASM/NTSK is hereby posted as LR SASM under TI/TSK vice vacancy.

Sri D.K. Kalita, SASM/TSK is hereby posted as LR SASM under TI/TSK vice vacancy.

Sri A.C. Das, SASM/TSK is hereby posted as LR SASM under TI/TSK vice vacancy.

Sri K.N. Mahato, SASM/TSK is hereby posted as LR SASM under TI/MJN at TSK vice vacancy.

Sri P.C. Gogoi, SASM/NCH is hereby transferred and posted as LR SASM under TI/MJN at TSK vice vacancy.

Sri P. Hazari, ASM/NHK is hereby transferred and posted as RG ASM/MJN vice Sri B.C. Dey transferred.

Sri P.K. Baruah, ASM/DJG is hereby transferred and posted as ASM/MJN vice vacancy.

Sri P. Maity, LR ASM under TI/MJN at TSK is hereby posted as ASM/TSK vice vacancy.

Sri N.K. Sinha, LR ASM under TI/MJN at TSK is hereby posted as ASM/TSK vice vacancy.

Sri P. Kumar, LR ASM under TI/MJN at TSK is hereby posted as ASM/TSK vice vacancy.

Sri B.M. Kachari, ASM/LLO is hereby transferred and posted as ASM/TSK vice vacancy.

Smt Iyolata Baitung, LR ASM under TI/MJN at TSK is hereby posted as RG ASM/NTSK vice vacancy.

50. Sri U.C. Deori, ASM/BQJ is hereby transferred and posted as ASM/SFR vice vacancy.

51. Sri D. Boro, ASM/BFD is hereby transferred and posted as ASM/SFR vice vacancy.

52. Sri M.L.Das, SASM/NMT is hereby transferred and posted as SASM/ BFD vice vacancy.

53. Sri S.R. Patar, ASM/SLGR is hereby transferred and posted as ASM/NMT vice vacancy.

54. Sri Deepak Dey, LR ASM under TI/TSK is hereby transferred and posted as ASM/SLX vice vacancy.

55. Sri B.R. Kutum, LR ASM under TI/TSK is hereby transferred and posted as ASM/SLX vice vacancy.

56. Sri S. Gohain, LR ASM under TI/TSK is hereby transferred and posted as ASM/NCH vice vacancy.

57. Sri K. Deori, LR ASM under TI/TSK is hereby transferred and posted as ASM/NCH vice vacancy.

58. Sri Anupam Gogoi, LR ASM under TI/MXN is hereby transferred and posted as ASM/KXL vice vacancy.

59. Sri K.J. Rajkhowa, LR ASM under TI/MXN is hereby transferred and posted as ASM/KXL vice vacancy.

60. Sri B.P. Kumar, LR ASM under TI/MXN is hereby transferred and posted as ASM/GLGT vice. Sri P.C. Kakoti transferred.

61. Sri B.C. Hazarika, LR ASM under TI/MXN is hereby transferred and posted as ASM/NMGS vice Sri Anup Saikia transferred.

62. Sri P.C. Kakoti, ASM/GLGT is hereby transferred and posted as ASM/JTTN vice vacancy on his own request.

63. Sri D.N. Saikia, ASM/MXN is hereby posted as LR ASM under TI/MXN vice vacancy

(a) Staff of group A & B above may opt for fixation of pay from their next incremental date within one month from the date of issue of this office order.

(b) Staff who have been transferred on their own request they are not entitled to transfer pass, CTG, joining time etc.

2006 NO.6
(U.N. MISHRA)

AO/II/TSK

For Div. Railway Manager (P)
N.F. Railway, Tinsukia

No. E/2006/TFC/Selection (SS) Date:- 13-01-2006

Copy forwarded for information and necessary action to:-

1. Staff Concerned (2) All SS's of TSK Division
2. Sr. DOM/TSK (1) AOM/TSK
3. TI/TSK, MXN, AJN & CMC/TSK
4. Quater section Sr. DOM/TSK's office
5. ACM/DBRT (Quater section)
6. E/Pass at office (9) E/Bill at office (10) EQ at office
7. Div. Secy. NFRMU/TSK (12) Convenor NFRMU/TSK
8. Branch Secy. NFRMU all branches of TSK Division
9. Branch Secy. NFRMU all branches of TSK Division
10. OS (P)/II Union cell at office

For Div. Railway Manager (P)
N.F. Railway, Tinsukia

SS 2006

2006
13-01-2006

N. F. RAILWAY

Office of the
General Manager (P)
Maligaon, Guwahati-78

No.F/283/120 pt V (T) Loose

Dated 10.05.06

To

Mr. DCW/TSK

Sub:- (1) Transfer of Shri A.R.Milli ,TI/MUN & Shri A.K.Doley,TI/TSK
 (2) Promotion & posting of Shri R.Bhattacharjee, YM/DMT

Ref: Your Office order endorsed vide No.B./285/TBC/
 Selection(SS) dated ~~xx/xx/xx~~ 13.01.06 & E/254/I/
 Selection(SS)pt.II dated 21.10.05.

The representations submitted by S/Shri A.R.Milli TI/MUN, Shri A.K. Doley TI/TSK & Shri R.Bhattacharjee, YM/DMT ~~xx/xx/xx~~ have been put up to COM/MLG and he has passed the following orders.

Provision of 10.1 of Board's circular have been violated in these case. The relevant para states that efforts should be made to post the employees in the categories in which they have been working ,in the initial stage of merger. Moreover there is serious safety repercussion.Ayard master/TI is not competent to perform train passing duties without a conversion training and issue of necessary competency certificates.The medical categories of "train passing" and like AM/EM/DY.SS are higher than prescribed for YM/TI's. Keeping in view all these fact the transfer order of Shri A.R. Milli TI Shri A.K.Doley TI and Shri R.Bhattacharjee, YM to the category of Dy.SS are hereby cancelled.They should be given the benefit of cadre re-structuring in the same category in which they are working as per para 10.1 of Board's letter No.PC-III/2003/CRC/6 dated 9.10.05.

This is for your information & necessary action please.

Sd/-

(S.R.Nandy)
 Senior Personnel Officer (T)
 for General Manager (P)/MLG

Copy forwarded for information & necessary action to:-
 1. COM/MLG
 2. DRD(P)/TSK

for General Manager (P) M.L.G.

Certified to be true copy
 Rabindra Ch. Paul
 Addressed

27.12.6.2006

-27-

-29-

Re: Div. Mgr. Manager (P),
S. P. RAILWAY, Tinukia.

SIC.

Sub 1. Idle keeping of TI/TEK & TI/MU
at TSK.

We the undersigned i.e. Shri A.K. Doley, TI/TEK
and A.R. Milli, TI/MU at TSK who have been kept idle since
long through OM(P)/MLG's No. R/203/120/PTC(V) dt. 10/5/06
cancelled the transfer order of OM(D)/PTK No. R/205/PTC/
selection (22) dt. 13/1/2006.

OUR POSTS IS STILL UTILISED THROUGH OTHER PERSONS.
Your early action is solicited.

Yours faithfully,

(Anupchandra Doley)
A.K. Doley, TI/TEK.

Abulizam Milli,
(A.R. Milli/TIAW)
at TSK.

Copy to the Addl. Mgr. OM/TEK for kind information please.

Copy to the OM/TIAW for information and necessary action
please.

Ab

12/12/06

8/c

1. monkeys
2. signed to
merged.

Certified to be true copy

Rabindra Ch. Paul
Adrescale

-28-

-30-

ANNEXURE ✓

(4)

92

NORTHEAST FRONTIER RAILWAY

Office of the
Divisional Railway Manager(P),
Tinsukia.

Dated: June 20, 2006

No.ES/A-119

To

- 1). Shri A.K. Doley, TI/TSK
- 2). Shri A.R. Milli, TI/MJN at TSK

Sub:- Idle keeping of TI/TSK & TI/MJN at TSK.

Ref:-Your letter of dated 12.6.2006.

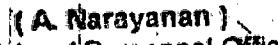
With reference to your letter mentioned above, it is intimated that the transfer orders involving you, issued by this office are technically and administratively proper. Therefore, the competent authority has decided in consultation with the Headquarters that the orders must be carried out.

In this respect, it is pointed out that Shri A.K. Doley has to complete his refresher course before he assumes charge as SM/DBRT and for this purpose he has already been booked for refresher course commencing from 22.6.06 at ZRTI/APDJ vide Sr.DOM/TSK's Office L/No.T/41-Org/MPP Dated 13.6.06. Shri A.R. Milli to assume new charge immediately as he has already completed his refresher course.

Hence, you are advised to carry out your transfer order immediately..


(A. Narayanan)
Divisional Personnel Officer
N. F. Railway, Tinsukia

Copy to:- 1) Sr.DOM/TSK
2) AOM/TSK


(A. Narayanan)
Divisional Personnel Officer
N. F. Railway, Tinsukia

Certified to be true copy
Rabindra Ch. Paul
Advocate

SL No. 159

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Original Application No. 161 of 2006.

Date of Order: This, the 29th Day of June, 2006.

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

1. Sri Amulya Kumar Doley
S/o Late Jyoti Chandra Doley
Resident of Chirang Chapari
P.O., P.S & Dist: Dibrugarh
Assam.
2. Sri Abhiram Milli
Son of Late Sonaram Milli
Resident of Hijuguri Railway Colony
Quarter No. 44(B)
P.O., P.S & Dist: Tinsukia
Assam.

.....Applicants

By Advocates: Mr. R.C. Paul, Ms. S. Roy & Mr. S.N. Tamuli.

• Versus -

1. The Union of India
Represented by the Chairman, Railway Board
In the Department of Railways
Rail Bhawan, Baisiha Road
New Delhi - 110,001.
2. The General Manager (Personal)
N.F. Railway, Maligaon
Guwahati, Assam.
3. The Divisional Railway Manager (P):
N.F. Railway, Tinsukia
Assam.

.....Respondents

By Dr. J.L. Sarkar, Standing counsel for the Railways.

Certified to be true copy

Rabindra Ch. Paul
Advocate

ORDER (ORAL)

SACHIDANANDAN, K.V., (V.C.):

The applicants were initially appointed as Assistant Station Master in the year 1977 in the Tinsukia Division of N.F.Railway. In the year 1990 they were promoted as Traffic Inspector and are continuously working as such. On 8.3.2003, it is averred that the Railway Board issued a circular merging the category of Station Masters/Assistant Station Masters/Yard Masters and Traffic Inspectors into one Unified Cadre of Station Master/Assistant Station Master. With special reference to proviso 10.1 of the circular it was mentioned that staff belonging to erstwhile 3 categories will be working and enjoying the benefit of the unified cadre of SMs/ASMs and their posting they will retain their designation as applicable before merger. Vide order dated 13.1.2006 the DRM (P), Tinsukia has transferred and posted the applicants with the designation of Station Superintendent. The applicant has made representation on 18.1.2006 to the 3rd respondent contending that the post of Traffic Inspectors are in existence and they were selected to that post and prayed for cancellation of order dated 13.1.2006. Reminder was sent and further detailed representation was also submitted on 31.3.2006. On 10.5.2006 the respondent No.2 passed an order cancelling the order dated 13.1.2006 as the same was passed in violation of the provision of the circular dated 8.3.2003. The matter regarding cancellation

of the order dated 13.1.2006 was informed to the 3rd respondent, but vide order dated 20.6.2006 the said respondent is attempting to enforce the order dated 13.1.2006 for which applicants are aggrieved and have filed this O.A. seeking the following reliefs:-

- (a) The impugned order issued by the Respondent No.3 vide letter No.ES/A-119 dated 20.06.2006 be set aside and quashed.
- (b) Direction be given to the Respondents to comply with the provision of 10.1 of the circular dated 08.10.2003 of the Railway Board in retaining the earlier designation of the persons after the merger of their posts in one unified cadre
- (c) Direction be given to the Respondent No.3 to carry out the order dated 10.05.2006 passed by the Respondent No.2 and allow the applicants to retain their earlier designation as Traffic Inspectors.
- (d) Any other relief or relieves as this Hon'ble Tribunal may deem fit and proper."

Heard Smt. S. Roy, learned counsel for the applicant and Dr. J.L. Sarkar, learned Standing counsel for the Railways. When the matter came up for consideration, it is specifically brought my notice to clause 10.1 of the merger circular dated 12.11.2003 whereby restructuring is proposed. The said clause is quoted herein below:-

"The category of Station Masters/Assistant Station Masters, Yard Masters and Traffic Inspectors should be merged into one unified cadre of SM/ASM. The recruitment and promotion pattern as prescribed for the category of SMs/ASMs should be followed in the merged cadre. In the initial stage of the merger, efforts should be made to post the employees in the categories in which they have been working. Accordingly, while the staff belonging to the erstwhile three categories will be working and

enjoying the benefit of the unified cadre of SMs/ASMs, on their posting in the Yard, they will perform the duties of Yard Master retaining their designation as applicable to the category of Yard Master. Similarly, while performing the inspectional job they will retain their designation as applicable to Traffic Inspectors. But at a later stage, when they are made fully equipped to discharge all the functions hitherto being discharged by SMs/ASMs, YMs & TIs, administration will have the flexibility to post a person as per the administrative requirement. While redefining the duties and functions, Railways may also review and rationalise the cadre keeping in view the administrative requirements.

Further, on consideration of the applicants' representations the COM, Maligaon has passed an order cancelling the transfer order of the applicants contained in Annexure-IV letter signed by Sr. Personnel Officer (T) for General Manager (P), Maligaon. But vide impugned order dated 20.6.2006 the Divisional Personnel Officer, Tinsukia disagreed with the said order and decided to implement the order of transfer. It appears that the impugned order at Annexure-VIII is passed by the Divisional Personnel Officer, a lower authority than that of the Chief Operation Manager. The question of jurisdiction of passing an superceding order by lower authority is under challenge in this proceeding.

3. Smt. S. Roy, learned counsel for the applicants submits that the facts of the case being so, she will be satisfied if a direction is given to the higher authority i.e. the second respondent to consider these orders and harmonize the same with safety aspect etc. and the applicant be permitted to make comprehensive representation.

to the said authority which may be considered and disposed of on merit with due application of mind and communicating the same to the applicant. Dr. J. L. Sarkar, learned Railway Standing counsel submits that if that will suffice the ends of justice he has no objection in adopting the same exercise. This Tribunal is also of the view that such recourse will suffice the ends of justice.

4. Considering the issue involved in this case, the applicant is permitted to submit comprehensive representation before the second respondent within two weeks from today and on receipt of such representation the said authority shall consider the same along with Annexure - VI & VIII orders and harmonize these two orders with safety aspect etc. and take a decision therein keeping in mind the above observations and pass appropriate orders within two months thereafter.

The O.A. is disposed of with the above observations. In the circumstances, there is no order as to costs. In the interest of justice this Tribunal by way of interim measure directs that status quo as on 20.6.2006 shall be maintained so far as the applicants are concerned and they will be permitted to continue on the same post till the completion of above exercise.

State of Application: 30.6.06. Sd/VICE CHAIRMAN
Date on which copy is ready: 30.6.06
Date on which copy is received: 30.6.06
Certified to be true copy

Section C.I. (1) (d)
C. A. T. C. Court Bench

To,
The Divisional Railway Manager,
Tinsukia Division, N.F.Railway,

Date: 04/7/2006

Sub: Prayer to allow the undersigned to continue their service in the post of Traffic Inspectors by virtue of the Order dated 29.06.2006 passed in O.A. No. 161 of 2006 by the Hon'ble Vice Chairman, the Central Administrative Tribunal, Guwahati Bench, Guwahati.

Sir,

Please find herewith the copy of the order dated 29.06.2006 passed by the Central Administrative Tribunal, Guwahati Bench, Guwahati, which is self explanatory in nature.

We therefore by virtue of the aforesaid order, request you to allow us to continue our service in the post of Traffic Inspectors.

And for this act of kindness, we are as in duty bound and shall ever pray.

Thanking You.

Your's faithfully,

Amulya Kumar Doley
(Sri Amulya Kumar Doley)
Traffic Inspector at Tinsukia.

Abhiram Milli.
(Sri Abhiram Milli) M.J.N
Traffic Inspector, ~~M.J.N~~ at Tinsukia

Copy to:
The General Manager (P)
N.F.Railway, Maligaon,
Guwahati-11, Assam.

~~10000~~
410706
O/c

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Certified to be true Copy
Rabindra Ch - Paul
Advocate

Date: 04.7.2006

To,
The General Manager (P)
N.F.Railway, Maligaon,
Guwahati-11, Assam.

Sub: - Prayer to consider the Representation in the light of the Provision of 10.1 of the Railway Board's Circular dated 08.03.2003 (12.11.2003), letter No. PC-III/2003/Misc/5 dated 18.02.2005 issued by the Railway Board and the order dated 29.06.2006 passed in O.A. No.161 of 2006 by the Hon'ble Vice Chairman, The Central Administrative Tribunal, Guwahati Bench, Guwahati.

Respected Sir,

We the undersigned beg to state the following few lines for your kind consideration:

1. That Sir, We are appointed as Assistant Station Master in the Tinsukia Division of N.F.Railway. In the year 1990, we were selected and promoted to the post of Traffic Inspectors and are continuously working as such.
2. That Sir, on 08.03.2003, the Railway Board issued a circular merging the category of Station Masters/ Assistant Station Masters/Yard Masters and Traffic Inspectors into one Unified Cadre of Station Master/Assistant Station Master.
3. That Sir, with special reference to proviso 10.1 of the aforesaid Circular, it was mentioned that Staff belonging to erstwhile 3 categories will be working and enjoying the benefit of the Unified Cadre of SMs/ASMs and their posting they will retain their designation as applicable before merger.
4. That Sir, in implementation of the aforesaid Circular, the Divisional Railway Manager (P), Tinsukia vides order-dated 13.01.2006 has transferred and posted the undersigned with the designation of Station Superintendent.
5. That Sir, we on 18.01.2006 made representation to the Divisional Railway Manager (P), Tinsukia, (Annexure-III of the O.A. NO. 161 of 2006), contending that the post of Traffic Inspectors are in existence and they were selected to that post and prayed for cancellation of the order dated 13.01.2006.
6. That Sir, thereafter, on 03.03.2006 reminder was sent (Annexure-IV of the O.A. No. 161 of 2006) and further on 31.03.2006, detailed representation was also made to the Hon'ble Chief Operations Manager, Maligaon (Annexure-V of the O.A. No. 161 of 2006).
7. That Sir, on consideration of our representation the Hon'ble Chief Operations Manager, Maligaon on 10.05.2006, passed an order No. F/283/120 pt V(T) Loose addressing to the SR. DOM/TSK, signed by Sr. Personnel Officer (T) for General Manager (P), Maligaon, canceling the transfer and posting order of us as the order violated the Provision of 10.1 of the Railway Board's circular. It was mentioned in the aforesaid order that for serious safety repercussion, the transfer and posting order involving us

are cancelled and it was further mentioned that we should be given the benefit of Cadre re-structuring in the same category in which we are working as per Para 10.1 of the Board's letter No. PC-III/2003/CRC/6. (Annexure - VI of the O.A. No. 161 of 2006).

8. That Sir, the matter regarding cancellation of the order-dated 13.01.2006 was informed to the Divisional Railway Manager, Tinsukia on 12.06.2006 (Annexure-VII of the O.A. No. 161 of 2006) but vide order No. ES/A-119 dated 20.06.2006 (Annexure-VIII of the O.A. No. 161 of 2006) the said authority in superseding the order-dated 10.05.2006, directed us to carry out the order-dated 13.01.2006 immediately. It is pertinent to mention that no copy of the order was forwarded to the authority of the Head Quarter.

9. That Sir, being aggrieved, we preferred O.A. No. 161 of 2006 challenging the order dated 20.06.2006 before the Central Administrative Tribunal, Guwahati Bench, Guwahati.

10. That Sir, we specifically brought to the notice to Clause 10.1 of the Railway Board's Circular and the order dated 10.05.2005 before the Hon'ble Tribunal and the Hon'ble Tribunal on 29.06.2006, after hearing the counsel of both the parties directed us to make comprehensive representation to you. It was further directed on such representation, our grievance is to be considered in the light of Clause 10.1 of the aforesaid Circular and from the angle of safety aspect. In the interim it is permitted us to continue our service on the same post of Traffic Inspectors. (A copy of the order-dated 29.06.2006 is annexed herewith).

11. That Sir, in the premises aforesaid, it is therefore prayed that Your Honour would be kind enough to consider our case in the light of Clause 10.1 of aforesaid Circular of the Railway Board and from the angle of safety aspect and letter No. PC-III/2003/MISC/5 dated 18.02.2005 issued by the Railway Board, otherwise we would suffer irreparable loss and injury. It is further prayed that in the mean time, allow us to continue our service with the designation of Traffic Inspectors.

12. That Sir, for this act of kindness we are as in duty bound and shall ever prays.

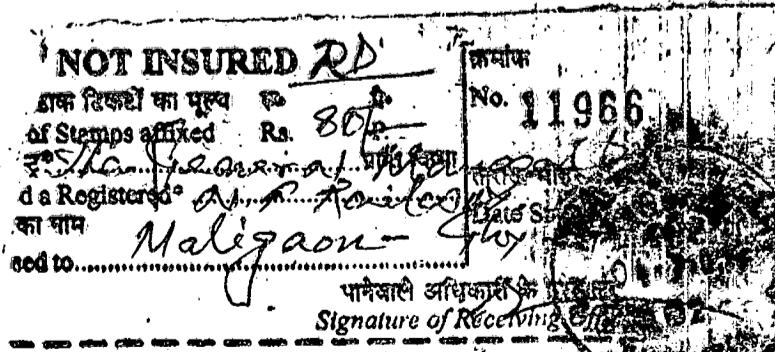
Thanking You

Yours faithfully

Amulya Kumar Doley
(Sri Amulya Kumar Doley)
Traffic Inspector at Tinsukia.

Abhiram Milli
(Sri Abhiram Milli). MJS
Traffic Inspector, ~~Tinsukia~~ at Tinsukia.

Enclo: Copy of the O.A. No. 161 of 2006
Copy of the Order dated 29.06.2006.



ANNEXURE-VIII

N. F. RAILWAY

No. T/Con/Misc/Expln/05

Office of the
Divnl. Rly. Manager(O)
Tinsukia.
Date: 05.9.2006.

To,
Shri A. R. Milli, TI/MJN at TSK
Shri A. K. Doley, TI/TSK

Please find enclosed herewith a copy of DRM(P)/TSK's L/No. ES/A-223 dtd.
5.9.06 for information.

Enclo: As above.

DRM(O)/TSK

05/09/06

Certified to be true copy
Rabindra Ch. Paul
Advocate

N. F. Railway

Office of the
Divl. Rly. Manager(P)
Tinsukia.
Date : 05.09.2006

No.ES/A-223

To.

Shri A. R. Mili, TI/MJN at TSK.
Shri A. K. Dolcy, TI/TSK.

**Sub :- Disposal of Representation dt.10.07.2006 in compliance with Hon'ble CAT/GHY's order
dtd.20.06.06 in OA No.161/06.**

It has been communicated by GM(P)/MLG vide their letter No.E/203/120/Pt.V (loosc) dt.01.09.06, that the representation dated 04.07.06 submitted by you alongwith Annexure-VI and VIII were put up to the competent authority who has passed the following orders on your representation. Verbatim orders passed by the competent authority is as under :

"Undersigned has gone through the Hon'ble CAT/GHY's above order dt.29.06.2006 and also your representation dt.04.07.2006 and examined the whole issue in details.

The Hon'ble Tribunal directed the applicants to submit comprehensive representation before 2nd respondent General Manager(P)/N.F.Rly/MLG, who is directed to consider the same along with annexure-VI & VIII orders and take a decision.

In compliance with Hon'ble Tribunal's above order the undersigned has carefully examined the whole issue in details along with the representation dt.04.07.2006 and annexure- VI & VIII. The fact of the case in nutshell is that, before 01.11.2003 the cadres of SM/ASM, YM and TI were separate cadres. Rly. Bd vide their letter No.PC-III/2003/CRC/6 dt.09.10.2003 had issued restructuring order of certain Gr-'C' & 'D' cadres. Vide above letter the Board had instructed multi-skilling-merger of SM/ASM+YM+TI as one unified cadre of SM/ASM, vide para-10.1 the Board have clearly mentioned that :-

"In the initial stage of the merger, efforts should be made to post the employees in the categories in which they have been working. Accordingly, while the staff belonging to the erstwhile three categories will be working and enjoying the benefit of the unified cadre of SMs/ASMs, on their posting in the yard, they will perform the duties of Yard Master retaining their designation as applicable to the category of Yard Master. Similarly, while performing the inspectorial job they will retain their designation as applicable to TI. But at a later stage, when they are made fully equipped to discharge all the functions hitherto being discharged by SMs/ASMs, YM & TIs, administration will have the flexibility to post a person as per the administrative requirement. While redefining the duties and functions Rlys. may also review and rationalize the cadre keeping in view the administrative requirement."

In this instant case the applicants Shri A. K. Dolcy and Shri A.R. Mili, TI's have been posted as SM/SS. Subsequently the applicants submitted an appeal to COM for allowing them to continue as TI's in view of Para-10.1 of Rly Bd's letter No.PC-III/2003/CRC/6 dt.09.10.2003 as reproduced above. Accordingly the COM cancelled the transfer order in view of the fact that vide Rly Bd's letter No.PC-III/2003/CRC/6 dt.09.10.2003 YM/TI are not competent to control train passing duties without a conversion training and necessary competency certificate being issued and the stipulated medical examination being held. Later on the issue was re-examined and consulted with the HQ by the Division and it was decided that A.K. Dolcy has to complete his refresher course before he assume charge as SM/DBRT and Shri A.R. Mili should assume new charge as he has already completed refresher course.

5/9/06

After careful and detail examination of the issue, I understand that the basic question involved in this issue is that, whether TI's can be utilized as SM/Dy.SS/SS ? Rly Bd vide Para-10.1 of their order dt.09.10.2003 had clearly mentioned that "In the initial stage of the merger efforts should be made to post the employees in the categories in which they have been working". It was also mentioned in the same order that "at a later stage when they are made fully equipped to discharge all the functions hitherto being discharged by SMs/ASMs, YMs/TIs administration will have the flexibility to post a person as per the administrative requirement".

Incidentally both the applicants belonged to the category of ASM/SM.

In this connection it is stated that the parties have completed the necessary training and/or examination as follows :

- a) Shri A. K. Dolcy, PME on 10.05.05, RC w.e.f. 05.07.06 to 11.07.06.
- b) Shri A. R. Milli, PME on 28.04.05, RC w.e.f. 02.04.06 to 21.04.06.

In view of the above there should be no problem either technically or administratively in posting the applicants as SM/SS. Finally their transfer order stands justified and do not deserve cancellation or modification.

The applicants will be asked to assume their new post only after complying with the orders of Rly Bd's letter No.PC-III/2003/CRC/6 dt.09.10.2003. *merger*

As such there will be no violation of safety norms and the orders of Rly Bd. will be followed strictly.

The applicants may be communicated as above".

This disposes off your representation dtd:04.07.06 to GM(P)/MLG

5/9/06

(N. K. Sutradhar)
APO-II/TSK
For Divl. Rly. Manager(P)
NFRailway, Tinsukia.

Copy for information and necessary action to :-

1. GM(P)/MLG.
2. DRM/TSK.
3. Sr.DOM/TSK - As per order of GM(P)/MLG follow action may please be taken to spare the staff after compliance of observations made in the above order.

5/9/06

(N. K. Sutradhar)
APO-II/TSK
For Divl. Rly. Manager(P)
NFRailway, Tinsukia.

- 31 -

ANNEXURE

64

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD

No. PC/III/2005/Misc/3

Dated 10.02.2005

10.02.2005

The General Secretary,

AIRF,

4, State Entry Road,

Now Dighi-110055.

ElR,

Sub:- Restructuring of ASMs/SMS/TIs/MS

Ref:- Your letter No. AIRF/DC/JC/59/2004 dt. 10.01.2005.

Please connect your letter abd thorein at this pointed out that the N.F.Railway vide his memorandum dated 22.12.2004 has downgraded the post of TI in grade/B.4900-7000 which was never allotted to the cadre of TI. The matter has been examined and it is advised that prior to restructuring posts of TIs were available in three grade structure(viz B. 7450-11,500, B.6500-10500 & B.5000-8000) and after implementation of cadre restructuring those posts are being operated in the same scales. TI post, which was erroneously shown in scale B.4900-7000 in the memorandum issued vide GM(P)/N.F.Railway/2004 letter dated 22.12.2004 has been corrected and corrigendum has been issued in this regard. Therefore, no post of TI who been down graded after cadre restructuring and still who are performing the duties of TI are retaining their designations as TI.

Yours Sincerely

Sd/-

For Secretary, Railway Board.

A.I.R.F

ED AIRF/KC/JC(4)/59/2004 (452)

Dated 10.02.2005

Forwarded to General Secretary, AIRF,

....., Guwahati for information.

Certified to be true copy

Rabindra Ch. Paul

Advocate

30/III/2007

गुवाहाटी न्यायपीठ
Guwahati Bench

5
Diversional Personnel Office
म.सी. रेलवे, विनायकगाँ
Rly. TINSUKIA
Rly. F.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 243/06

Shri AK Doley
-VS-
U.O.I. & ORS.

Written statement on behalf of the respondents.

(1) That, the Respondents have gone through the contents of the above O.A. and understood the contents thereof.

(2) That, in reply to the statements made in para 4.1 to 4.5 the applicant of the O.A. No.243/06, originally filed OA No. 161/06 before the Hon'ble Tribunal, being aggrieved by the office order No.ES/A-119 dated – 20-6-06 issue by the DRM (P)/TSK, N.F. Railway for carry out the transfer order No.E/205/TFC/Selection (SS) dated 13-1-06 issued from the office of the DRM (P)/TSK. The said OA No.161/06 was disposed of on 29-6-06 by this Hon'ble Tribunal with a direction to applicant to submit a comprehensive representation before the 2nd Respondent within two weeks from the date of passing of the judgement/order and on receipt of such representation the said authority shall consider the same alongwith Annexure-VI and VIII orders and harmonize these two orders with safety aspects etc. and take a decision therein keeping in mind the observation made by Hon'ble Tribunal and pass appropriate orders within two months there after. The Hon'ble Tribunal was also by way of interim measure pleased to direct the Respondent that status quo as on 20-6-06 should be maintained so far as the applicants are concerned and they will be permitted to continue on the same post till the completion of final exercise (copy of the order dated 29-6-06 in OA No. 161/06 is enclosed as Annexure A).

(3) That, in reply to statements made in para 4.6 the respondents most respectfully beg to state in the meantime, both the applicants filed one contempt petition before the

Hon'ble Tribunal being numbered as C.P. No.18/06, alleging non-compliance of order dated 29-6-06. The said contempt petition was dismissed on 13-9-06 (copy of the order dated 13-9-06 in CP No.18/06 is enclosed herewith as Annexure B).

Divisional *Passenger* Office
ग्रामीण रेलवे विभाग
S. F. Rly. TINSUKIA

(4) That, in reply to the statements made in para 4.7 respondents most respectfully beg to state that the applicants filed their representation on 04-07-06 before DRM (P)/TSK, with the judgement/order copy of Hon'ble CAT/GHY passed on 29-6-06, and after receiving this the competent authority has permitted the applicants to continue on the same post and paid the salary upto June' 2006, in regular salary bill and for the month of July they were paid their salary by supplementary Regular Salary Bill.

(5) That, in reply to statements made in para 4.8 respondents most respectfully beg to state that as per order dated 29-6-06 in OA No.161/06, the Respondent authority has gone through the representation of the applicants and the same was disposed of on 05-9-06, with the observation that there should be no problem in the technically or administratively in posting the applicants as SM/SS and their transfer order stands justified and does not deserve cancellation or modification (copy of the letter No. ESS/A-223 dated 05-9-06 is enclosed herewith as Annexure C)

(6) That, in reply to statements made in para 4.9 to 4.19 it is stated that there was no violation of the Para-10.1 of the Railway Board's circular No.PC-III/2003/CRC/6 dtd 08-10-03 in respect to transfer order issued to the applicants by the authority as per the speaking order passed and communicated vide letter number ES/A-223 dated 05-09-2006 (copy enclosed). It is also stated that the transferred and posting order No.E/205/TFC/Selection (SS) dtd 13-1-06 was issued against altogether of 4 nos. staff of Group-A, 12 staff of Group-B and and 63 nos. staff of Group-C, where the names of applicants were also included. It is to be noted here that if said transfer order is modified or cancelled the vary administrative and technical purposes of the authority will be jeopardized (copy of the transfer order No. E/205/TFC/Selection (SS) dtd 13-1-06 is enclosed herewith as Annexure D). Under the facts and circumstances explained above the O.A. deserve to be dismissed with cost.

VERIFICATION

I, Shri M. Narayanan ... aged about 36 .. Years, Son of
working as Divisional personnel officer, N.E. Railway, ~~Tinsukia~~ do hereby
verify that the statement made in para to above are true to my knowledge and belief.

And I sign this verification this 21st day of July, 2007 at Guwahati.



Signature

Divisional Personnel Office

मु.सी. रेलवे, तिनसुकिया
M.P. Ray, TINSUKIA

4- Anusum - A. No 796
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

dt 24-7-06

Original Application No. 161 of 2006.

Date of Order: This, the 29th Day of June 2006.

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

1. Sri Amulya Kumar Doley
S/o Late Jugen Chandra Doley
Resident of Chiring Chapari
P.O., P.S & Dist: Dibrugarh
Assam.

2. Sri Abhiram Milli
Son of Late Sonaram Milli
Resident of Hijuguri Railway Colony
Quarter No. 44(B)
P.O., P.S & Dist: Tinsukia
Assam.

.....Applicants.

By Advocates Mr. R.C. Paul, Ms. S. Roy & Mr. S. N. Tamuli.

Versus -

1. The Union of India
Represented by the Chairman, Railway Board
In the Department of Railways
Rail Bhawan, Baisina Road
New Delhi - 110 001.

The General Manager (Personal)
N.F. Railway, Maligaon
Guwahati, Assam.

3. The Divisional Railway Manager (P)
N.F. Railway, Tinsukia
Assam.

..... Respondents

By Dr. J.L. Sarkar, Standing counsel for the Railways.

MR. G. DAS

✓ 6/6/06
3

SACHIDANANDAN, K.V., (V.C.)

The applicants were initially appointed as Assistant Station Master in the year 1977 in the Tinsukia Division of N.F.Railway. In the year 1990 they were promoted as Traffic Inspector and are continuously working as such. On 8.3.2003, it is averred that the Railway Board issued a circular merging the category of Station Masters/Assistant Station Masters/Yard Masters and Traffic Masters/Assistant Station Master. With special reference to proviso 10.1 of the circular it was mentioned that staff belonging to erstwhile 3 categories will be working and enjoying the benefit of the unified cadre of SMs/ASMs and their posting they will retain their designation as applicable before merger. Vide order dated 13.1.2006 the DRM (P), Tinsukia has transferred and posted the applicants with the designation of Station Superintendent. The applicant has made representation on 18.1.2006 to the 3rd respondent contending that the post of Traffic Inspectors are in existence and they were selected to that post and prayed for cancellation of order dated 13.1.2006. Reminder was sent and further detailed representation was also submitted on 31.3.2006. On 10.5.2006 the respondent No.2 passed an order cancelling the order dated 13.1.2006 as the same was passed in violation of the provision of the circular dated 8.3.2003. The matter regarding cancellation

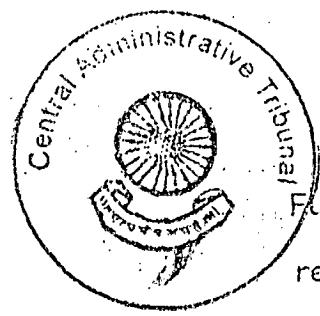
-6-

of the order dated 13.1.2006 was informed to the 3rd respondent, but vide order dated 20.6.2006 the said respondent is attempting to enforce the order dated 13.1.2006 for which applicants are aggrieved and have filed this O.A. seeking the following reliefs:-

- (a) The impugned order issued by the Respondent No.3 vide letter No.ES/A-119 dated 20.06.2006 be set aside and quashed.
- (b) Direction be given to the Respondents to comply with the provision of 10.1 of the circular dated 08.10.2003 of the Railway Board in retaining the earlier designation of the persons after the merger of their posts in one unified cadre
- (c) Direction be given to the Respondent No.3 to carry out the order dated 10.05.2006 passed by the Respondent No.2 and allow the applicants to retain their earlier designation as Traffic Inspectors.
- (d) Any other relief or relieves as this Hon'ble Tribunal may deem fit and proper."

2. Heard Smt. S. Roy, learned counsel for the applicant and Dr.J.L.Sarkar, learned Standing counsel for the Railways. When the matter came up for consideration, it is specifically brought my notice to clause 10.1 of the merger circular dated 12.11.2003 whereby restructuring is proposed. The said clause is quoted herein below:-

"The category of Station Masters/Assistant Station Masters, Yard Masters and Traffic Inspectors should be merged into one unified cadre of SM/ASM. The recruitment and promotion pattern as prescribed for the category of SMs/ASMs should be followed in the merged cadre. In the initial stage of the merger, efforts should be made to post the employees in the categories in which they have been working. Accordingly, while the staff belonging to the erstwhile three categories will be working and



4

enjoying the benefit of the unified cadre of SMs/ASMs, on their posting in the Yard, they will perform the duties of Yard Master retaining their designation as applicable to the category of Yard Master. Similarly, while performing the inspectional job they will retain their designation as applicable to Traffic Inspectors. But at a later stage, when they are made fully equipped to discharge all the functions hitherto being discharged by SMs/ASMs, YM & TIs, administration will have the flexibility to post a person as per the administrative requirement. While redefining the duties and functions, Railways may also review and rationalise the cadre keeping in view the administrative requirements.

Further, on consideration of the applicants' representations, the COM, Maligaon has passed an order cancelling the transfer order of the applicants contained in Annexure-IV letter signed by Sr. Personnel Officer (T) for General Manager (P), Maligaon. But vide impugned order dated 20.6.2006 the Divisional Personnel Officer, Tinsukia disagreed with the said order and decided to implement the order of transfer. It appears that the impugned order at Annexure-VIII is passed by the Divisional Personnel Officer, a lower authority than that of the Chief Operation Manager. The question of jurisdiction of passing an superceding order by lower authority is under challenge in this proceeding.

3. Smt. S. Roy, learned counsel for the applicants submits that the facts of the case being so, she will be satisfied if a direction is given to the higher authority i.e. the second respondent to consider these orders and harmonize the same with safety aspect etc. and the applicant be permitted to make comprehensive representation

to the said authority which may be considered and disposed of on merit with due application of mind and communicating the same to the applicant. Dr. J. L. Sarkar, learned Railway Standing counsel submits that if that will suffice the ends of justice he has no objection in adopting the same exercise. This Tribunal is also of the view that such recourse will suffice the ends of justice.

4. Considering the issue involved in this case, the applicant is permitted to submit comprehensive representation before the second respondent within two weeks from today and on receipt of such representation the said authority shall consider the same along with Annexure VI & VIII orders and harmonize these two orders with safety aspect etc. and take a decision therein keeping in mind the above observations and pass appropriate orders within two months thereafter.

The O.A. is disposed of with the above observations. In the circumstances, there is no order as to costs. In the interest of justice this Tribunal by way of interim measure directs that status quo as on 20.6.2006 shall be maintained so far as the applicants are concerned and they will be permitted to continue on the same post till the completion of above exercise.

TRUE COPY

प्रतिलिपि

W. C. Morris
1976

SD/VICE CHAIRMAN

अनुसूता अधिकारी

Section 6 (Other Jacks)

Central Criminal Court

શાસ્ત્રીય વિજ્ઞાન અને પ્રોત્સાહન

Geographical distribution

EDWARD BENET

શાબદકોચી, ગુજરાતી-અંગ્રેજી

1971-0

11/19/98

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDERS SHEET

1. Original Application No.

2. Misc. Petition No.

18/06 in O.A. 161/06

3. Contempt Petition No.

Review Application No.

Applicant(s) Amulya Kumar Doley Jam

Respondent(s) U.O.P. Sonm. Sri M. Dharmalingam
Ans.

Advocate for the Applicant(s) ... R. C. Paul

Advocate for the Respondent(s) ... Smt. S. Roy

Case Dr. J. L. Sarkar,
Rly. St. Counsel.

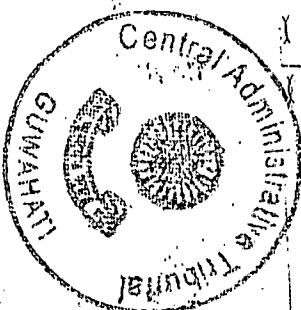
Date

Order of the Tribunal

Notes of the Registry

18.9.06

Learned counsel for the applicant
has submitted that he wants to withdraw
the C.P. since relief has already been granted by the respondents.
Accordingly C.P. is dismissed as
not present.



Sd/ VICE CHAIRMAN

TRUE COPY

Recd by Mr. B. B. Bhowmik
Central Admin. Tribunal
Guwahati-781013
Date 30/10/06
Smt. S. Roy
Advocate/Guwahati-8

18
30/10

N. F. Railway

No.ES/A-223

To,

Shri A. R. Mili, TI/MJN at TSK.
Shri A. K. Doley, TI/TSK.Office of the
Divl. Rly. Manager(P)
Tinsukia.
Date : 05.09.2006Sub :- Disposal of Representation dt.10.07.2006 in compliance with Hon'ble CAT/GHY's order
dtd.20.06.06 in OA No.161/06.

It has been communicated by GM(P)/MLG vide their letter No.E/203/120/Pt.V (loose) dt.01.09.06, that the representation dated 04.07.06 submitted by you alongwith Annexure-VI and VIII were put up to the competent authority who has passed the following orders on your representation. Verbatim orders passed by the competent authority is as under :

Undersigned has gone through the Hon'ble CAT/GHY's above order dt.29.06.2006 and also your representation dt.04.07.2006 and examined the whole issue in details.

The Hon'ble Tribunal directed the applicants to submit comprehensive representation before 2nd respondent General Manager(P)/N.F.Rly/MLG, who is directed to consider the same along with annexure-VI & VIII orders and take a decision.

In compliance with Hon'ble Tribunal's above order the undersigned has carefully examined the whole issue in details along with the representation dt 04.07.2006 and annexure- VI & VIII. The fact of the case in nutshell is that, before 01.11.2003 the cadres of SM/ASM, YM and TI were separate cadres. Rly. Bd vide their letter No.PC-III/2003/CRC/6 dt.09.10.2003 had issued restructuring order of certain Gr-'C' & 'D' cadres. Vide above letter the Board had instructed multi-skilling-merger of SM/ASM+YM+TI as one unified cadre of SM/ASM, vide para-10.1 the Board have clearly mentioned that :-

"In the initial stage of the merger, efforts should be made to post the employees in the categories in which they have been working. Accordingly, while the staff belonging to the erstwhile three categories will be working and enjoying the benefit of the unified cadre of SMs/ASMs, on their posting in the yard, they will perform the duties of Yard Master retaining their designation as applicable to the category of Yard Master. Similarly, while performing the inspectorial job they will retain their designation as applicable to TI. But at a later stage, when they are made fully equipped to discharge all the functions hitherto being discharged by SMs/ASMs, YM & TIs, administration will have the flexibility to post a person as per the administrative requirement. While redefining the duties and functions Rlys, may also review and rationalize the cadre keeping in view the administrative requirement."

In this instant case the applicants Shri A. K. Doley and Shri A.R. Mili, TI's have been posted as SM/SS. Subsequently the applicants submitted an appeal to COM for allowing them to continue as TIs in view of Para-10.1 of Rly Bd's letter No.PC-III/2003/CRC/6 dt.09.10.2003 as reproduced above. Accordingly the COM cancelled the transfer order in view of the fact that vide Rly Bd's letter No.PC-III/2003/CRC/6 dt.09.10.2003 YM/TI are not competent to control train passing duties without a conversion training and necessary competency certificate being issued and the stipulated medical examination being held. Later on the issue was re-examined and consulted with the HQ by the Division and it was decided that A.K. Doley has to complete his refresher course before he assume charge as SM/DBRT and Shri A.R. Mili should assume new charge as he has already completed refresher course.

After careful and detail examination of the issue, I understand that the basic question involved in this issue is that, whether T1's can be utilized as SM/Dy.SS/SS ? Rly Bd vide Para-10.1 of their order dt.09.10.2003 had clearly mentioned that "In the initial stage of the merger efforts should be made to post the employees in the categories in which they have been working". It was also mentioned in the same order that "at a later stage when they are made fully equipped to discharge all the functions hitherto being discharged by SMs/ASMs, YMs/T1s administration will have the flexibility to post a person as per the administrative requirement".

Incidentally both the applicants belonged to the category of ASM/SM.

In this connection it is stated that the parties have completed the necessary training and/or examination as follows :

- a) Shri A. K. Doley, PME on 10.05.05, RC w.e.f. 05.07.06 to 11.07.06.
- b) Shri A. R. Milli, PME on 28.04.05, RC w.e.f. 02.04.06 to 21.04.06.

In view of the above there should be no problem either technically or administratively in posting the applicants as SM/SS. Finally their transfer order stands justified and do not deserve cancellation or modification.

The applicants will be asked to assume their new post only after complying with the orders of Rly Bd's letter No.PC-III/2003/CRC/6 dt.09.10.2003.

As such there will be no violation of safety norms and the orders of Rly Bd. will be followed strictly.

The applicants may be communicated as above".

This disposes off your representation dt.d:04.07.06 to GM(P)/MLG



57/06

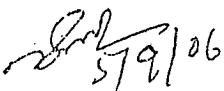
(N. K. Sutradhar)

APO-II/TSK

For Divl. Rly. Manager(P)
Nf Railway, Tinsukia.

Copy for information and necessary action to :-

1. GM(P)/MLG.
2. DRM/TSK.
3. Sr.DOM/TSK - As per order of GM(P)/MLG follow action may please be taken to spare the staff after compliance of observations made in the above order.



57/06

(N. K. Sutradhar)

APO-II/TSK

For Divl. Rly. Manager(P)
Nf Railway, Tinsukia.

N.F. Railway.

Office of the
DM.Railway Manager (P)
Tinsukia
Date: - 13-01-2006

OFFICE ORDER

Group - A

The following Dy. SS who were empanelled for promotion to the post of SS in scale Rs. 7450-11500/-, are hereby promoted and posted as under:

1. Sri S. N. Das, Dy. SS/ELMR in scale Rs.6500-10500/- empanelled for promotion for the post of SS in scale Rs.74500-11500/- is hereby promoted, transferred and posted as SS/JTTN on pay Rs. 7725/- on his own request vice Sri S. N. Salkia transferred.
2. Sri D. K. Chowdhury, Dy. SS now working as SC(T)/TSK in scale Rs.6500-10500/- empanelled for promotion for the post of SS in scale Rs.74500-11500/- is hereby promoted and posted as TI/WR/TSK on pay Rs. 8800/- on his own request.
3. Sri Pernesh Malakar, Dy. SS/TTB in scale Rs. 5500-10500/- empanelled for promotion for the post of SS in scale Rs.74500-11500/- is hereby promoted, transferred and posted as TI/TSK on pay Rs. 8125/- vice Sri A. K. Doley transferred.
4. Sri Jitendra Sonowal, Dy. SS/TSK in scale Rs.11500-10500/- empanelled for promotion for the post of SS in scale Rs.74500-11500/- is hereby promoted, transferred and posted as YS/NTSK on pay Rs. 8575/- vice Sri C.K. Mishra.

Group - B

The following SASM / YM who were empanelled for promotion to the post of Dy. SS in scale Rs.6800-10500/- are hereby promoted and posted as under:

1. Sri Jagendra Salkia, SASM/DBRT in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as LR/Dy. SS under TI/MJN or TSK on pay Rs.7900/-.
2. Sri M. R. Koley, YM/NTSK in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as Dy. SS /TSK on pay Rs.8600/-.
3. Sri Majorshree Bhattacharjee, YM/DBRT in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as Dy. SS /MRG on pay Rs.7800/- vice vacancy.
4. Sri Subhashish Bhattacharjee, SASM/PRK. In scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as Dy. SS /CMA on pay Rs.8300/- vice vacancy.
5. Sri K. N. Baruah, SASM/DKM in scale Rs.6800-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as RG.Dy. SS /NHK on pay Rs.8100/- vice vacancy.
6. Sri L. N. Handique, SASM/TSK in scale Rs.6800-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted and posted as Dy. SS /TSK on pay Rs.7900/-.
7. Sri Swapani K. Saha, SASM/Metro Rail, Kolkata. In scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as LR/Dy. SS under TI/TSK vice vacancy.
8. Sri R. M. Pathak, SASM/LLO in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as RG.Dy. SS /SPK vice Sri D. Phukan transferred. His promotion will be effective after 18.07 i.e. on completion of WIT 2 Years (N.C.)

- 1. Sri D. C. Borgahain, SASM/MJN in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as RG.Dy.SS/TSK on pay Rs. 8300/-
- 2. Sri Dilip.Kr. Das, SASM/NTSK in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as Dy.SS/NTSK. On pay Rs. 8300/-
- 3. Sri A. C. Kakoti, SASM/KXL in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as RG.Dy.SS /TTB on pay Rs. 8100/- vice vacancy on his own request. But his promotion will be effective after 1-2-06 i.e. on completion of WIT 6 months (N.C.)
- 4. Sri Swarnal Bhattacharjee, SASM/DBRT in scale Rs.5500-9000/- empanelled for promotion for the post of Dy. SS in scale Rs.6500-10500/- is hereby promoted, transferred and posted as RG.Dy.SS/PNT vice vacancy on his own request.

Group-C

The following transfer and posting order will take immediate effect

- 1. Sri A.K. Doley, TI/TSK is transferred and posted as SS/DBRT vice Sri R.C.Dey transferred.
- 2. Sri R.C.Dey, SS/DBRT is transferred and posted as SS/NMGS vice vacancy on his own request.
- 3. Sri C.K. Mishra, YS/NTSK is posted as TI/MJN at TSK vice Sri A.R.Milli transferred.
- 4. Sri A.R.Milli, TI/MJN at TSK is transferred and posted as SS/NAM vice Sri J.L.Basumatary transferred.
- 5. Sri J.L.Basumatary, SS/NAM is transferred and posted as SS/SLGR vice vacancy.
- 6. Sri San.Saikia, SS/JTTN is transferred and posted as TI/MKN vice vacancy.
- 7. Sri D. R. Kalbari, Dy.SS/NMGS is hereby transferred and posted as Dy. SS/BLMR in his existing pay and scale vice Sri S. N. Das promoted and transferred.
- 8. Sri Pankaj Roy, Dy.SS/NTSK is hereby deputed to work as SC(T)/TSK in his existing pay and scale vice Sri D.K. Chowdhury promoted and posted as TE/WR.
- 9. Sri B. R. Nath, Dy.SS/PKG is hereby transferred and posted as Dy. SS/TTB in his existing pay and scale vice Sri Paresh Malaker promoted and transferred.
- 10. Mahendra Saikia, Dy.SS/TSK in scale Rs.6500-10500/- is deputed to look after the work of SS/TSK in addition to his normal duties.
- 11. Sri Bipulendro Phukan, Dy.SS/TSK is hereby transferred and posted as Dy. SS/NTSK in his existing pay and scale on his own request.
- 12. Sri Kamalaswar Sarmah, Dy.SS/TSK is hereby transferred and posted as Dy. SS/NTSK in his existing pay and scale on his own request.
- 13. Sri D. Phukan, RG.Dy.SS/SPK is transferred and posted as Dy.SS/BOJ vice vacancy.
- 14. Sri Anil Saikia, RG.SASM/DBRT is hereby posted as SASM/DBRT in duty cadre.
- 15. Sri E. Ali, SASM/SLX is hereby transferred and posted as SASM/DKM vice Sri K.N. Baruah promoted and transferred.
- 16. Sri Naba Kr. Saikia, LR.ASM under TI/TSK is hereby transferred and posted as ASM/DEPT vice vacancy.
- 17. Sri B. R. Kutum, LR.ASM under TI/TSK is hereby transferred and posted as ASM/SLX vice vacancy.
- 18. Anup Saikia, ASM/NMGS is hereby transferred and posted as ASM/PKG in his existing pay and scale of his own request.
- 19. Sri P.K.Rava, SASM/SLX is hereby transferred and posted as SASM/LHL vice vacancy.

1. Sri P. Hazarika, RG.SASM/PNT is hereby transferred and posted as SASM/NAM vice vacancy.

2. Sri Bhaskar Mukherjee, SASM/MRG is hereby transferred and posted as SASM/DJG vice vacancy.

3. Sri Babul Ch. Dey, RGASM/MJN is hereby posted as RGASM/CGF vice vacancy.

4. Sri Dipen Ch. Saikia, RG.SASM/CGF is hereby transferred and posted as SASM/LLO vice vacancy.

5. Sri C. K. Barah, RG ASM/LML is hereby transferred and posted as ASM/CGF vice vacancy.

6. Sri R. DekaBaruah, ASM/LHL is posted as RG ASM/LHL vice Sri C.K. Barah transferred.

7. Sri R. Hazarika, SASM/TSK is posted as LR SASM/TSK vice vacancy.

8. Sri G.K. Saikia, SASM/NTSK is posted as LR SASM/NTSK vice vacancy.

9. Sri R.D. Das, RG SASM/BOJ is hereby transferred and posted as SASM/SPK vice vacancy on his own request.

10. Sri S.N. Saikia, SASM/SFR is hereby transferred and posted as SASM/BOJ vice vacancy.

11. Sri M. Deka, SASM/SFR is hereby transferred and posted as RG SASM/BOJ vice Sri R.D. Das transferred.

12. Sri S.K. Rabha, RG SASM/AGI is hereby posted as SASM/AGI in duty cadre vice vacancy.

13. Sri B.P. Barah, LR ASM/AGI is hereby posted as RG ASM/AGI vice Sri S.K. Rabha.

14. Sri J.A. Sheikh, SASM/CMA is hereby transferred and posted as SASM/MXN vice vacancy on his own request.

15. Sri R.K. Dey, SCR/TSK under order of transfer as LR SASM under TI/MXN is hereby posted as SASM/MXN vice vacancy on his own request.

16. Sri A.C. Gogoi, SASM/KKL is hereby transferred and posted as SASM/FKG vice vacancy.

17. Sri W. Mymensingh, SASM/NCH is hereby transferred and posted as LR SASM under TI/MXN vice vacancy.

18. Sri J. Hazarika, LR SASM working temporarily as TI/MXN is hereby posted as LR SASM under TI/MXN.

19. Sri B.C. Saikia, SASM/NTSK is hereby posted as LR SASM under TI/TSK vice vacancy.

20. Sri D.K. Kalita, SASM/TSK is hereby posted as LR SASM under TI/TSK vice vacancy.

21. Sri A.C. Das, SASM/TSK is hereby posted as LR SASM under TI/TSK vice vacancy.

22. Sri K.N. Mahato, SASM/TSK is hereby posted as LR SASM under TI/MJN at TSK vice vacancy.

23. Sri P.C. Gogoi, SASM/NCH is hereby transferred and posted as LR SASM under TI/MJN at TSK vice vacancy.

24. Sri P. Hazari, ASM/NHK is hereby transferred and posted as RG ASM/MJN vice Sri B.C. Dey transferred.

25. Sri P.K. Baruah, ASM/DJG is hereby transferred and posted as ASM/MJN vice vacancy.

26. Sri P.Malaty, LR ASM under TI/MJN at TSK is hereby posted as ASM/TSK vice vacancy.

27. Sri N.K. Sinha, LR ASM under TI/MJN at TSK is hereby posted as ASM/TSK vice vacancy.

28. Sri P.Kumar, LR ASM under TI/MJN at TSK is hereby posted as ASM/TSK vice vacancy.

29. Sri B.M. Kachari, ASM/LLO is hereby transferred and posted as ASM/TSK vice vacancy.

30. Sri Iyjora Baitung, LR ASM under TI/MJN at TSK is hereby posted as RG ASM/NTSK vice vacancy.

Pray... 11

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50. Sri U.C. Deori, ASM/BOJ is hereby transferred and posted as ASM/SFR vice vacancy.
51. Sri D. Boro, ASM/BFD is hereby transferred and posted as ASM/SFR vice vacancy.
52. Sri M.L.Das, SASM/NMT is hereby transferred and posted as SASM/ BFD vice vacancy.
53. Sri S.R. Patar, ASM/SLGR is hereby transferred and posted as ASM/NMT vice vacancy.
54. Sri Deepak Dey, LR ASM under TI/TSK is hereby transferred and posted as ASM/SLX vice vacancy.
55. Sri B.R. Kutum, LR ASM under TI/TSK is hereby transferred and posted as ASM/SLX vice vacancy.
56. Sri S. Gohain, LR ASM under TI/TSK is hereby transferred and posted as ASM/NCH vice vacancy.
57. Sri K. Deori, LR ASM under TI/TSK is hereby transferred and posted as ASM/NCH vice vacancy.
58. Sri Anupam Gogoi, LR ASM under TI/MXN is hereby transferred and posted as ASM/KXL vice vacancy.
59. Sri K.J. Rajkhowa, LR ASM under TI/MXN is hereby transferred and posted as ASM/KXL vice vacancy.
60. Sri B.P. Kumar, LR ASM under TI/MXN is hereby transferred and posted as ASM/GLGT vice. Sri P.C. Kakoti transferred.
61. Sri B.C. Hazarika, LR ASM under TI/MXN is hereby transferred and posted as ASM/NMGS vice Sri Anup Saikia transferred.
62. Sri P.C. Kakoti, ASM/GLGT is hereby transferred and posted as ASM/JTTN vice vacancy on his own request.
63. Sri D.N. Saikia, ASM/MXN is hereby posted as LR ASM under TI/MXN vice vacancy

(a) Staff of group 'A' & 'B' above may opt for fixation of pay from their next incremental date within one month from the date of issue of this office order.
(b) Staff who have been transferred on their own request they are not entitled to transfer pass, CTG, joining time etc.

U.M. MISHRA
ATO/II/TSK

For Divl. Railway Manager (P)
N.F. Railway, Tinsukia

No. E/200/TEC/Selection (SS) Date:- 13-01-2006

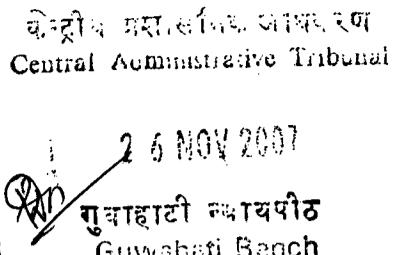
Copy forwarded for information and necessary action to:-

1. Staff Concerned (2) All SGs of TSK Division
2. Sr. DOM/TSK (4) AOM/TSK
3. TI/TSK, MAM, AMN & CMOTSK
4. Quarter section Sr.DOM/TSK's office
5. ACM/DBAT (Quarter section)
6. E/Pass at office (9) E/Bill at office (10) EQ at office
7. DIV Secy.NFREU/TSK (12) Convener NFRMU/TSK
8. Branch Secy.NFREU all branches of TSK Division
9. Branch Secy.NFR/AM all branches of TSK Division
10. OS (P) II Union cell at office

For Divl. Railway Manager (P)
N.F. Railway, Tinsukia

68-8011

2/1/11/16
D. P. T.



1

70
Filed by
the applicant through
Amulya Kumar Doley
Advocate
26/11/07

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

OA NO 243/2006

Shri Amulya Kumar Doley & anr

.....Applicants

-Versus-

Union of India & Others

...Respondents

IN THE MATTER OF

Rejoinder filed by the applicant No.1

- 1) That at the very outset the applicant No. 1, Shri Amulya Kumar Doley begs to submit that the applicant No. 2, Abhiram Mili has expired on 01.3.2007, hence the rejoinder has been filed by the applicant No.1 only.
- 2) The applicant has received a copy of Written statement through his advocate and gone through the same and has understood the contentions made therein. Save and except, the statements, which are specifically admitted herein below, rests, may be treated as total denial. The statements, which are not borne on records, are also denied and the respondents are put to the strictest proof thereof.
- 3) That with regard to the statement made in paragraphs 1 and 2 of the Written Statement the applicant does not make any reply.

Amulya Kumar Doley

26 NOV 2007

गुवाहाटी ब्याधी
Guwahati Bench

2

- 4) That with regard to the statement made in paragraph 3 of the Written Statement the applicant begs to submit that the C.P. No. 18/06 was dismissed the Hon'ble Tribunal as not pressed since the order the Hon'ble Tribunal was complied with by the respondents.
- 5) That with regard to the statement made in paragraph 4 of the Written Statement the applicant begs to offer no comment.
- 6) That with regard to the statement made in paragraph 5 of the Written Statement the applicant begs to submit that the applicant has approached the Hon'ble Tribunal challenging the order 05.09.2006 by way of filing the instant application. But the applicant has already carried out transfer order to avoid further complication.
- 7) That with regard to the statement made in paragraph 6 of the Written Statement the applicant begs to submit that the applicant has already carried out the transfer order to avoid further complications. But the respondents authorities has started disciplinary proceeding under Rule 9(2) of RS (D&A) Rules 1968 for non-compliance of the transfer order dated 05.9.2006. It is also submitted that since the applicant has approached the Hon'ble Tribunal challenging the order dated 05.9.2006 by way of filing the instant application the applicant did not carried out the transfer order. The respondent authorities have already started the disciplinary proceeding and enquiry report has already been communicated to the applicant. The applicant has also submitted his reply against the enquiry report.

Copies of the enquiry report and the reply are annexed herewith and marked as Annexure- A1 and A2 respectively.

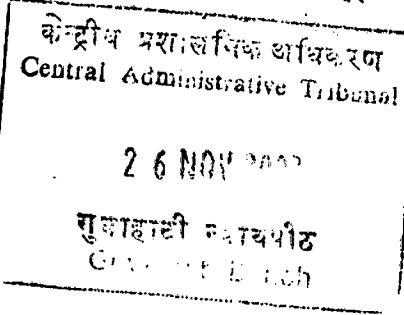
Ananya Kumar Doley

Central Administrative Tribunal
26 NOV 2006
Guwahati Bench

3

- 8) That the humble applicant begs to submit that since the applicant has already carried out the transfer order the respondent authorities ought not take any disciplinary action against the applicant. The Hon'ble Tribunal may be pleased to set aside the disciplinary proceeding as the same is the consequence of the transfer order dated 05.9.2006 which is the subject matter of the instant Original Application.
- 9) That the applicant begs to submit that the Hon'ble Tribunal may be pleased to set aside the disciplinary proceeding stared against the applicant and pass appropriate order/orders as Lordships deed fit and proper.

Jitendra Kumar Soley



VERIFICATION

I, A. K. Doley, Son of Late Jogen Ch Doley, aged about, 54 year, presently working as Station Manager, Mariani JN, Assam, who applicant in the present application hence competent to sign the verification and so hereby solemnly affirm and state that the statement made in paragraph.....1,2,3,8,9.....are true to my knowledge and belief, those made in paragraph.....4,5,6,7.....are matter of records, are true to my information derived there from and the rests are my submission before this Hon'ble Tribunal. I have not suppressed any material fact before the Hon'ble Tribunal.

And I sign this verification on this 25th day of November 2007 at Guwahati.



DEPONENT

**REPORT OF THE DAR ENQUIRY INTO THE CHARGES LEVELLED AGAINST
SHRI A. K. DOLEY, TI/TSK NOW WORKING AS SS/MXN.**

INTRODUCTORY:

Sr. DOM/TSK in exercise to the power of disciplinary authority nominated Shri Deepak Das, SM(G)/NTSK under rule 9(2) of RS(D&A) Rules 1968 to act as an Enquiry Officer for the charge framed against Shri A. K. Doley vide Sr. DOM/TSK's L/No.T/41-Org/MPP(Confd)/AKD/06 dtd. 14.12.06.

CHARGES OF ALLEGATION:

Shri A. K. Doley while working as TI/TSK was spared w.e.f. 7.9.06 vide DRM(O)/TSK's L/No.T/41-Org/MPP dtd. 6.9.06 to carry out his transfer and posting order as SS/DBRT as per DRM(P)/TSK's Office Order No.E/205/Tfc/Selection(SS) dtd. 13.01.06. But Shri Doley refused in writing vide his L/No.Nil dtd. 8.9.06 to carry out the transfer order and abstained from joining as SS/DBRT which act of insubordination by Shri A. K. Doley and tantamounts to violation of Rule No.3.1(ii) & (iii) of Railway Servants Service Conduct Rules 1966.

HISTORY OF THE CASE:

Shri A. K. Doley, while working as TI/TSK was transferred and posted as SS/DBRT vide DRM(P)/TSK's Office Order No.E/205/Tfc/Selection(SS) dtd.13.1.06. Shri Doley did not carry out his transfer order and approached Hon'ble CAT/GHY for redressal. The Hon'ble tribunal directed Shri Doley to submit comprehensive representation before GM(P)/N.F.Rly/MLG for consideration and decision. The representation was further disposed off by the competent authority stating that the order of posting of Shri Doley as SS is technically and administratively correct. Accordingly, Shri Doley was spared and directed to report to his new place of posting vide DRM(O)/TSK's L/No.T/41-Org/MPP dtd. 6.9.06. But Shri Doley refused to carry out the order vide his letter No. Nil dtd. 8.9.06 quoting a case pending with Hon'ble CAT/GHY regarding the question of correctness of his transfer order and only a contempt petition No.18/06 in OA No.161/06/777 was pending with CAT/GHY and that was also dismissed on 13.9.06.

PROCEEDING OF THE CASE:

Undersigned, the Enquiry Officer vide letter No.DD/DAR/07 dtd. 6.2.07 informed Shri A. K. Doley to intimate the name of defence counsel with the name of witness and administrative help if so desires within 15 days to fix up the date of enquiry. But non receipt of reply from Shri Doley reminded vide L/No.DD/DAR/07 dtd. 19.3.07 and again reminded vide L/No. DD/DAR/07 dtd. 13.4.07. Inspite of issuing three letters to Shri Doley to intimate the name of defence counsel with his consent letter etc., when Shri Doley did not reply of it, the Enquiry officer issued a letter vide DD/DAR/07 dtd. 7.5.07 advising Shri Doley to attend DAR enquiry which fixed on 22.5.07 at 10.00 hrs in the Chamber of SS(G)/NTSK. As Shri Doley did not attend on 22.5.07. The undersigned (E.O.) refixed the date of Enquiry on 9.6.07.

Enquiry started on 9.6.07 and completed on 28.6.07 and Shri Doley stated in his statement that no defence counsel is required to defend his case.

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6-

REASONS FOR FINDINGS:

As per question and answer and related documents it is seen that Shri Doley did not carry out the transfer order with the idea that he would get the disposal order directly from CAT though he was intimated by the administration that the posting and transfer order as SS was technically and administratively correct and later on Shri Doley directly or indirectly accepted the charge with request to consider the case sympathetically as whatever was done only due to unknowingly misunderstanding.

FINDINGS:

On going through the evidence statement and cross examination E.O. is of opinion that charge levelled against Shri A. K. Doley substantiated beyond doubt that he did not follow the administrative order thus violated Service Conduct Rule No.3.1(ii) & (iii) of 1966.

21/8/07
(DEEPAK DAS)
SM(G)/NTSK
Enquiry Officer

N. F. RAILWAY

"CONFIDENTIAL"

No. T/41-Org/MPP(CONFD)/AKD/06

Office of the
Divisional Railway Manager (O)
Tinsukia
Dated. 21.9.2007

To,
Shri A. K. Doley, SM/MXN

Sub: DAR Enquiry report against Shri A.K. Doley, SM/MXN.

A copy of inquiry report submitted by Sri Deepak Das, SM(G)/NTSK, Enquiry Officer in connection with the above is sent herewith for your information. If you have got anything to say against this inquiry report, please submit the same within 15 (fifteen) days after receipt of this letter.

Enclo: As above.

21.9.07
S. DOM/TSK

Enquiry report in connection of DAR enquiry of Sri A.K. Doley (delinquent employee) SS/MXN under Sr. DOM/TSK against the major charge sheet No. T/41-Org/MPP/CONF.D. dated 20.11.06.

Official present -

- 1) Sri D. Das, SM(G)/NTSK as Ex Enquiry officer
- 2) Sri A.K. Doley, SS/MXN delinquent employee.

I, Sri D. Das, SM(G)/NTSK was nominated as Enquiry officer vide Sr. DOM/TSK's L/No. T/41-Org/MPP(ConfD)/AKD/06 dated 14.12.06 to conduct DAR enquiry of Sri A.K. Doley delinquent employee SS/MXN under Sr. DOM/TSK against major penalty charge sheet No. T/41-Org/MPP/CONF.D dtd. 20.11.06.

Sri A.K. Doley (D.E., SS/MXN) has declared that no defence council will be nominated by him rather he will defend himself by his own.

The following were the dates fixed to conduct the DAR enquiry -

- 1) 09-06-07
- 2) 28-06-07
- 3)

Enquiry started as on schedule date on 09/06/07 Sri A.K. Doley, TI/TSK under order of SS/DBRT now posted as SS/MXN. All the charges levelled on him was readout and explained the contents and confirmed that he (Sri A.K. Doley) understood the subject clearly and following are the questions put to him in the ~~enquiry~~ enquiry.

Q: 1) : Have you read the charge-sheet?

Ans: Yes, I read the charge-sheet thoroughly.

Q: 2) : Have you read the nomination order of Enquiry Officer vide DRM(O)/TSK's L/No. T/41-Org/MPP(ConfD)/AKD/06 dated 14.12.06 ?

Ans: Yes.

contd...p/2.

Amita Kumar Doley
SM/MXN

09-06-07

Q. No. 3: Have you nominated your defence council? If yes, state in detail.

Ans: I have already stated that I have not nominated any defence council rather I will defend on my own.

Q. No. 4: Have you ^{checked} ~~inspected~~ the documents related to DAR?

Ans: Yes, I have already read it and understood as I replied earlier.

Q. No. 5: Have you replied the charge memorandum?

Ans: I replied memorandum's answer on 04/12/06 (Xerox copy enclosed).

Q. No. 6: Have you understood the charge of memorandum?

Ans: Yes, I am understood

Q. No. 7: Have you ask for any additional documents?

Ans: No.

Q. No. 8: Do you want to call any defence witness?

Ans: No.

Pranay Kumar Doley
SMP (M)

09-06-07

Q. 9: Do you like to say anything more related to this case?

Ans: Since I have been working for 18 years as TI/TSK through selection Board. Suddenly transferred from TI category to SM has hurt me too much for which I had to approached to Honourable CAT/Gauhati for redressal.

Q.10: Do you agree with the charge?

Ans: No Sir, because as per article No. 1 annexure-I though I have been charge as insubordination to the authority as per railway service conduct rule but, I think this insubordination is not intentional because by submitting a written refusal, we were just trying to means that as the contempt petition is already in the court and is in function that is it was not withdrawn till 08.09.06. Which was withdrawal from the court 13.09.06 only. The validity of the original application is also exist. Moreover we believed that when the contempt petition is exist linking to a particular original application than the original application is also exist till that day. Since it is related to the original application.

In the annexure-II of the same article though I have been charge as gross indiscipline and violation of railway service conduct 1966, 3.1(II & III) I can not agree with the charge leveled on me because when ever we approached to the CAT/Guahati for redressal we thought that the disposal order will also come through CAT/Guahati. There was no any intention to mislead the authority in our mind. For example in subsequent days we followed the order of the authority without any objection. Hence it is proved that not intentional indiscipline rather a misunderstanding between the administration and us.

Q. 11: From the above answer of the questions it is seen that you have done the entire activity in a innocent state. But it is not cleared as to why you did not carry out the order immediately after you came to know that Honourable CAT/GHY has released the case on 13.09.06.

Ans: Sir, I do agree that some delay was happened to me but this all were due to my daughter's marriage and as per prevailing system of the society and tradition.

So, later on after completional works I carried out my transfer order at MXN as SS and performing my duty with utmost care and respect to my Honourable Sr. DOM/TSK also hope I am able to success in my duties at MXN as directed by my Honourable Sr. DOM/TSK. Moreover I want to request to Honourable Sr. DOM/TSK that I am obeying his order as per his direction. I hope Honourable,Sir, will consider me in sympathycal manner and exonerate the

Om Prakash Doley
SM/MD 09-06-07

contd...p/2.

charge levelled on me. This is my utmost request to my Sr. DOM/TSK.

Q. No. 12: Do you satisfied with this enquiry and do you consider anything more to be added to give you a better preference for submitting your defence?

Ans: Yes, I am fully satisfied with this enquiry as administration given me to express my views by which I could able to express what is happened during the period clearly. Through this enquiry I would like to say that the situation has already reached to its picked of this time is due to misunderstanding unknowingly in between me and the administration. Actualy I thought the disposal order will come through the CAT/Gauhati where I appealed for redressal. So finally I would like to request to Honourable Sr. DOM/TSK to consider my case sympathetcally and on humanity ground as I have accepted all directives of the administration later on by carried out the order of my Honourable Sr. DOM/TSK's as desired and i have nothing to add any more in this connection please.

Amulya Kumar Doley

sm/mxf

28-06-07

To

SIR DON/TSK

N.F.Rh.

Sub:- DAR Enquiry against SIR A.K. Doley SM/MXN.

Recd:- T/41-0791MP (COND) AX-5/06 of DRM(O)/TSK dt. 21.9.07.

Hon'ble Sir,

I beg to lay the following few lines in connection with above cited subject and sending my last request for reconsideration of the disciplinary my honorable Sir, SIR DON/TSK who is the disciplinary Authority.

1. I cannot agree with the finding at all as it is neither proved nor justified.

2. Sir, through our letter dated 03.9.06 we were trying to informed the Rh. authority that we did not received disposal letter from/through CAT/Ghy where we approached for redressal on the subject. More over a Contempt Case (Petition) NO 18/06 was enforced till 13.9.06. [THIS IS BEING SUBMITTED, SEVERAL TIMES IN MY REPLIES]

At - Question and Answers Nos 10, 11 & 12 of the Enquiry Proceedings on 28.6.07, also in my defense letter dt. 1.12.2006.

Myself again again request Hon'ble Sir to exonerate the charged levelled on me as not intentional indiscipline rather a misunderstanding only.

Thank with regards and hope,

Yours faithfully

A.K. Doley
SM/MXN

Dated - 8th Oct/2007