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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓ O.A/T.A No..... 30.3.1/2006
R.A/C.P No.....
E.P/M.A No..... 38/07.....

1. Orders Sheet..... Pg..... 1 to.....
2. Judgment/Order dtd..... Pg..... 1 to..... 04.....
3. Judgment & Order dtd. 12-12-2006 Received from H.C/Supreme Court
4. O.A..... Pg..... 01 to..... 26.....
5. E.P/M.P..... Pg..... 1 to..... 04.....
6. R.A/C.P..... Pg..... to.....
7. W.S..... Pg..... to.....
8. Rejoinder..... Pg..... to.....
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

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

1. Original Application No. 303/06
 2. Misc Petition No. /
 3. Contempt Petition No. /
 4. Review Application No. /

Applicant(s) Probedh Lahkar

Respondent(s) W.O. I 90ms

Advocate for the Applicant(s) J. S. Segeri

Mrs. Maya Barak, B. Molita

Advocate for the Respondent(s) Railway Counsel

Notes of the Registry	Date	Order of the Tribunal
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1. Application is in form is filed C. F. for its disposed vice IP ID No. 286932673	12.12.06	Judgment delivered in open Court.
Dated 14.11.06		Kept in separate sheets. Application is disposed of. No costs.

Vice-Chairman

AKM
Dy. Registrar

Steps not taken

AK

Received Copy.

Maya Barak
Advocate
21/12/06

R
Barak
(R.M.S.C.)
21/12/06

3
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CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH. q

(O.A.No.303 of 2006.)

DATE OF DECISION: 12.12.2006.

Shri Probodh Lahkar

APPLICANT

Mr. I.C.Gogoi

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Dr. J.L.Sarkar

ADVOCATE FOR THE
RESPONDENT(S)

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

1. Whether Reporters of local papers may be allowed to see the judgments? *NO*
2. To be referred to the Reporter *NO*?
3. Whether their Lordships wish to see the fair copy of the judgment? *NO*
4. Whether the judgment is to be circulated to the other Benches? *NO*

Judgment delivered by Hon'ble Vice-Chairman

12/12/06

CENTRAL ADMINISTRATIVE TIBUNAL, GUWAHATI BENCH

Original Application No.303 of 2006.

Date of Order: This the 12th Day of December, 2006.

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

1. sri Probodh Lahkar

Son of late Chanaram Lahkar, a permanent resident of Kalita Bhawan, Kumarpura, Rup Nagar, Guwahati-9.
District-Kamrup, Assam.

Servicing in the Office of the Principal Chief Engineer, Maligaon, N.F.Railway as Senior Section Engineer in Track Machine Department, Maligaon, Guwahati-II.

By Advocate Mr.I.C.Gogoi, Mrs. Maya Bora.

Versus-

1. union of India,
Through the Secretary to the Govt. of India,
Ministry of Railways.
2. North East Frontier Railways, Maligaon, Guwahati-II
Through its General Manager
3. General Manager, personnel,
North East Frontier Railways, Maligaon, Guwahati-II
4. Principal Chief Engineer, Track Machine
Department, Maligaon, Guwahati-II.

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

ORDER (ORAL)

K.V.SACHIDANANDAN, V.C.:

The applicant is working as Senior Sec. Engineer. in N.F.Railways. The applicant has been initially appointed on 5.11.1986 as Permanent Way Inspector Grade III. Even after long period of service on 24.12.97 the applicant has been appointed for ex-cadre post in one step promotion in the same scale of pay. However, his other six juniors persons of his same parent Unit were promoted earlier than him because of joining in ex-cadre post. Till his joining on 24.12.97 some of his other juniors persons were promoted even to the post of Junior Engineer Grade-I in ex-cadre post. One of his junior whose date of appointment is more than three years later than him got promoted to Junior Engineer Grade-I alongwith the applicant

which was also confirmed in the parent Unit. The other juniors were promoted to the post of Senior Section Engineer more or less four years earlier to him in ex-cadre department. These promotions being irregular also not confirmed in the parent Unit. The applicant made representation dated 18.2.2005(Annexure-A6) and 08.06.2005 (Annexure- A7), but there are no fruitful results from the respondents. Being aggrieved the applicant has filed this O.A. for seeking reliefs.

I have heard Mr .I. C. Gogoi, learned counsel for the applicant and Dr.J.L.Sarkar learned counsel for the Railways. When the matter came up for hearing the learned counsel for the applicant has submitted that in the Annexure 9 show cause notice issued to the six persons juniors to the applicant. The respondents has stated as follows:-

"4. After formation of cadre in 2002 seniority of the staff was erroneously fixed in their respective grades which they were holding as Ex-cadre basis as per their option."

The said letter also stated as follows:-

"it is proposed to revise the seniority assigned to Sri P. Lahkar by placing him above Sri A.R. Bhowmick. You are hereby advised submit objection, if any, within 30 days regarding revision of seniority. If no representation is received it will be presumed that you have nothing to say in this matter."

The counsel for the applicant has submitted that the respondents issued the show cause notice to the six junior persons but they have not submitted any objection. The counsel for the respondents has submitted that he is not in a position to make such objection, which has not been received at this stage. However, the counsel for the applicant has submitted that he will be satisfied if Court directs the Respondent No.3 to consider the applicant's case

and pass appropriate orders within a time frame. The counsel for the Respondent has submitted that he has no objection.

In the facts and circumstances, Court directs the Respondent No.3 or any other competent authority to consider the case of the applicant as per rules and the objection if any receipt from his juniors to reply to the show cause notice and pass appropriate orders within three months from the date of receipt of this order.

The applicant may be given a personal hearing if he, so desires.

The O.A. is accordingly, disposed of. There will be no order as to costs.



(K.V.SACHIDANANDAN)
VICE-CHAIRMAN

LM

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORIGINAL APPLICATION NO.

303/06

1. a) Name of the Applicat:- P. Lohkar

b) Respondants:- Union of India & Ors

c) No. of Applicant(S) :- (one)

2. Is the application in the proper form:- Yes/No.

3. Whether name & description and address of the all papers been furnished in cause title :- Yes/ No.

4. Has the application been duly signed and verified :- Yes/ No.

5. Have the Copies duly signed :- Yes/ No.

6. Have sufficient number of copies of the application been filed:- Yes/ No.

7. Whether all the annexure parties are impleaded :- Yes/ No.

8. Whether English translation of documents in the Language : Yes/ No.

9. Is the application in time :- Yes/ No.

10. Has the Vakalatnama/Memo of appearance/Authorisation is filed:- Yes/ No.

11. Is the application by IFO/BD/For Rs: 5/- 286932673 D. 14.11.06
N. 58 =

12. Has the application is maintainable :- Yes/ No.

13. Has the Impugned order original duly attested been filed : Yes/ No.

14. Has the legible copies of the annexures duly attested filed:- Yes/ No.

15. Has the Index of documents been filed all available:- Yes/ No.

16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes/ No.

17. Has the declaration as required by item 17 of the form:- Yes/ No.

18. Whether the relief sought for arises out of the single :- Yes/ No.

19. Whether the interim relief is prayed for :- Yes/ No.

20. In case of condonation of delay is filed is it supported :- Yes/ No.

21. Whether this Case can be heard by Single Bench/Division Bench:

22. Any other point:-

23. Result of the Scrutiny with initial of the Scrutiny clerk the application is in order:-

The application is in order.

SECTION OFFICER (J)

Address of R-1 is totally
Incomplete
Annexure A-1 is not
clearly legible
DEPUTY REGISTRAR
11/11/06

केन्द्रीय प्रशासनिक आदानप्रदान
Central Administrative Tribunal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH:

GUWAHATI

गुवाहाटी न्यायपीठ
Guwahati Bench

(AN application u/s 19 of the Administrative
Tribunal Act, 1985)

FILED BY:

O/A No. 803 /2006

Sri Probodh Lahkar- Applicant

-vs-

Union of India
and others- Respondent

SYNOPSIS OF THE CASE

The applicant is Senior Sec. Engineer in North East Frontier Railways. He has been initially appointed on 5.II.1986 as Permanent Way Inspector Grade III. Even after long period of service for nearabout 11 Years when his promotional expectations were not fulfilled on 24.12.97 he opted for ex-cadre posting in one step promotion in the same scale of pay. However, his other six junior colleagues of his same parent Unit ^{were} promoted earlier than him because of joining in ex-cadre post. Till his joining on 24.12.97 some of his other junior colleagues were promoted even to the post of Junior Engineer Grade-I in ex-cadre post. One of his colleagues Mr. Joydeep Das whose date of appointment is more than three years later than him got promoted to Junior Engineer Grade-I alongwith the applicant which was also confirmed in the parent Unit.

....Contd.

(Contd...)

During further promotional benefit two of his colleagues who were nearabout four years junior to him in service were promoted to the post/rank of Senior Section Engineer more or less four years earlier to him in ex-cadre department . These promotions being irregular also not confirmed in the parent Unit .

By this way the applicant is adversely affected from his Promotion and Seniority . The applicant time to time prayed the respondents for computation of his proper seniority and to place him above Sri A. R. Bhowmik which has not been responded.

Because of the inaction of the respondents and having no way the applicant filed this present application before this Hon'ble Tribunal for proper adjudication so that the respondents may clarify their stands regarding the Seniority and Promotional aspects of the applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH:

GUWAHATI

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

ORIGINAL APPLICATION NO 803 /2006

Sri Prabodh Lahkar - Applicant

-vs-

Union Of India & Ors.-Respondents

I N D E X

<u>S1 No</u>	<u>PARTICULARS</u>	<u>PAGE NO</u>
1.	Original Application	I to 8
2.	Verification	9
3.	Annexures A ₁ to A ₉	10 to 27
4.	Vakalatnama	28
5.	Notice	29

Filed by :-

(I.C.Gogoi, Advocate)

Dated 07 /12/2006

Filed by the Applicant: 10

Prabodh Lahkar
Naya Bazaar, Suhkate, 7-12-06
through

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

KAMRUP : : AT GUWAHATI

(An application under Sec.19 of the ADMINISTRATIVE
TRIBUNALS ACT, 1985)

Original Application No. 303 /2006.

Sri Probodh Lahkar - Applicant

-VS-

Union of India & Others- Respondents

I. PARTICULARS OF THE APPLICANT :-

Sri Prabodh Lahkar

Son of Late Chanaram Lahkar, a permanent resident of
Kalita Bhawan, Kumarpara, Rup Nagar, Guwahati- 9,
District - Kamrup, Assam.

Servicing in the Office of the Principal Chief Engineer.
Maligaon, N.F.Railway as Senior Section Engineer in
Track Machine Department , Maligaon, Guwahati- II.

II. PARTICULARS OF THE RESPONDENTS :-

I. Union of India .

Through the Secretary to the Govt. of India,
Ministry of Railways.

2. North East Frontier Railways, Maligaon, Guwahati-II.
Through its General Manager .

3. General Manager, Personnel.

North East Frontier Railways, Maligaon, Guwahati- II.

4. Principal Chief Engineer, Track Machine Department,
Maligaon, Guwahati- II.

III. PARTICULARS OF THE ORDER IN REFERENCE TO WHICH THIS APPLICATION IS MADE :-

a) This application is made in refernce to an order to show cause as to why the seniority of the applicant shouldnot be revised communicated to six employees junior to the applicant vide No.E/ 255/27/Pt-I(E) (Loose) dated 6.IO.2005.

b) Aggrieved by the applicent for in action in any follow up action in refernce to the above order of show cause by the respondents or without any justified cause keeping the question of his Seniority and promotion pending.

c) Failure to receive any justice or communication from the respndents even after submission of his several appeal petitions dated 13.IO.2004, 8.6.2005, 25.7.2005 and so on.

IV. JURISDICTION OF THE TRIBUNAL :-

The applicant declares that the present application and the subject matter containing in it is within the jurisdiction of the Tribunal.

V. LIMITATION :-

The application is within the period of Limitation.

VI. FACTS OF THE CASE :-

I. The applicant most humbly and respectfully begs to state that he is a citizen of India by birth and a permanant resident of the locality mentioned herein above in para I and as such he is entitled to all the rights and privileges guarranted under the Constitution of India and various laws framed under it.

2. That, applicant has been appointed in the North east Frontier Railways as Permanent Way Inspector Grade-III on 05.II.1986 and joined on 6.II.1986. While servicing for long period of 11 (eleven) years till the year 1997 he has not been promoted to the next higher rank when he opted for ex-cadre posting in the Track Machine department. During the intervening period some of his juniors of parent cadre already opted for ex-cadre posting in the same Track Machine Department and got one step promotion. However, the applicant though lately at his own will joined the ex-cadre post as CHARGEMAN-B ON 24.I2.1997 in the same scale of pay. 'CHARGEMAN- B' was equivalent to 'JUNIOR ENGINEER GRADE -II' . Therefore, when he joined the ex-cadre post as Chargeman-B there were other persons from his parent cadre who were junior to him in the parent cadre and became senior to him in the ex-cadre .

(Copy of appointment order ,posting order and a copy of ex-cadre posting is enclosed and marked as A₁,A₂ and A₃ respectively)

3. That, the applicant begs to state that on 10.3.99 he was promoted to the rank of JUNIOR ENGINEER GRADE-I in the scale of Rs. 5500-9000/- vide order No.E/283/37/ PtXX(E) (L) dated 10.3.99 whereas other persons of his parent cadre junior in service to him were already promoted to that rank more earlier than him.

(Copy of promotion order is enclosed and marked as annexure A4)

The applicant submits that as per service seniority they were far behind the applicant and their promotions were not confirmed in the parent cadre.

f m a h o o d h a k k e e

In this process his service juniors were received one after another consecutive promotions superceding him.

Relative position is reflected in the list produced below :-

Sl. No.	N A M E	Date of appointment as Gr.III	Date of appointment as J.E.II	Promo- tion as J.E. I	Prom- otion as S.E.	As S.S.E.
1.	A.R.Bhowmick	22.I0.90	I4.2.92	27.7.95	I.2.99	I.II.03.
2.	D.N.Barua	23.I0.90	3.3.92.	31.I.97	I.2.99	I.II.03
3.	B.K.Rao	-	22.I.91	I0.7.95	I.II.03	
4.	B.K.Barua	I4.I2.90	I4.2.92	30.II.97	I.II.03	
5.	H.Mandal	9.7.93	29.7.94	6.3.98	I.II.03	
6.	Joydeep Das	30.5.89	22.I0.97	5.4.99	i.II.03	
7.	P.Lahkar	6.II.86	24.I2.97.	I0.3.99	I.II.03	I8.I0.06.

From the study of the above list it is transparent that the applicant is senior to other persons in service and his seniority was not considered for promotion and superceded .

4. That, the applicant begs to state that Track Machine Department was an ex-cadre department , the employees of which were deputed from other cadre of Railways but the lien of whom were remaining in the respective parent department. Most of the staff had been promoted to Section Engineer or even Senior Section Engineer though their previous ^{promotions} were not confirmed in the parent department as J.E-I or S.E.

5. That, the applicant also begs to state that although the applicant has recently been promoted to the rank of S.S.E /T.M. in the scale of Rs. 7450-II500, his other juniors ^{were} promoted to this rank on I.II.03, approx.three years earlier than him (Shown in the list).

Promotions of these persons are irregular to the fact that these are not confirmed in the parent Unit. They were promoted in the ex-cadre post but not in the parent unit. Since 12.4.2002 when the Track Machine Department has been formed the matter of seniority and promotion has not been properly solved. Therefore, this applicant even after being service senior to other persons became junior in the Ex- Cadre.

6. That, the applicant further begs to state that being aggrieved for his deprivation of promotion and seniority he submitted an appeal petition addressed to the Gl. Manager(personnel), Maligaon on 13.10.2004, on 18.2.2005, followed by a reminder addressed to the Assistant Personnel Officer, Maligaon on dated 8.6.2005 and on 25.7.2005.

(All the copies are annexed herewith as A₅, A₆, A₇ and A₈ respectively)

7. That, on 6.10.2005, the Deputy Chief Personnel Officer (HQR), on behalf of the Gl. Manager(Personnel), Maligaon issued a show cause notice to all the six persons junior to him as to why the applicant should not be placed above Sri A.R.Bhowmik.

The Respondent issuing this notice clearly admits that -

i. Promotions in ex-cadre were effected without referring to the date of their confirmation in the parent grade.

(Para 3 of the notice)

ii. Seniority of the staff was erroneously fixed.

(Para 4)

iii. "Service rendered in higher grade ex-cadre post will not count for seniority as per rules". (Para 6)

iv. If the proper seniority is maintained the applicant will be placed above all the six (A.R.Bhowmik)

(A copy of the memo No. E/255/27/Ot.I(E)(Loose)

dated 6.10.2005 is enclosed and marked A₉)

The applicant however failed to get relief in consequence of this show cause notice and fate and further progress is not known to him.

8. That, the applicant submits that inspite of so many of correspondences made by him with the respondent no outcome resulted and the respondent kept silent.

Therefore, this applicant has no any alternative except to file this petition before your Hon'ble Tribunal to issue necessary directives to respondents as to why the Seniority and promotions should not be considered as claimed by the applicant from retrospective effect.

VII. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :-

consideration of
(a) For that, "the applicant has a vested right for promotion with retrospective effect because of his Seniority over others who were illegally promoted earlier than him."

"R.B.Desai and another

-vs-

S.K.Khanotour and others"

(I997 SCC 54)

(b) For that, after rendering a long service for nearabout twenty years he has a legitimate expectation for promotion alongwith others of his same seniority.

(c) For that, the law is well settled that " in absence of any specific rule for determination of seniority -length of service of the respective Officers in the cadre will be the basis of determination of seniority ".

(G.L.R. 2000 Vol.I 592)

Ashit Kr. Dutta Gupta

-vs-

State of Tripura & Ors.

(d) For that, the applicant is entitled for computation of seniority with effect from the date of his initial appointment .

(Contd)

Probation
balance

(e) For that, as per rule service in the ex-cadre post is not counted for seniority a Means service rendered in higher grade ex-cadre post does not count for seniority in parent cadre. Applicant's junior's were illegally promoted as section engineers and senior section engineers earlier to the applicant in the ex cadre post without reckoning confirmation of promotion in the parent cadre.

(f) For that, the action of the respondents is mala-fide, prejudicial and discriminatory because of the fact that the applicant's juniors got two consecutive promotions in ex-cadre post prior to him which is against the principle of fairplay and natural justice. As the applicant has been deprived for consideration of promotion while his juniors were promoted in the ex-cadre it is violative of the Article I4 and I6 of the Constitution of India.

(g) For that, the discrimination done to the applicant with the similarly placed persons of the same seniority is arbitrary and violative to the Art.I4 and I6 of the Constitution of India.

(h) For that, Promotion and Seniority of the same category of the employees should have been considered on the basis of the date of appointment in the parent Unit, But not considering the service Seniority while considering the Seniority and Promotion in ex-cadre post the applicant is prejudiced.

(i) For that, for any view of the matter the claim of the applicant is required to be satisfied.

VIII. DETAILS OF REMEDIES EXHUSTED :-

The applicant declares that he has made numerous correspondences with the respondent regarding his Seniority and promotion but the applicant has received no reply. He has demanded justice which is denied. He is still awaiting for some action from the respondents.

IX. MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT :-

The applicant further declares that no other application in the present subject matter is pending in any Court; any other authority or other Bench of the Tribunal.

X. RELIEF SOUGHT :-

Under the above premises the humble applicant most respectfully prays your honour kindly to issue necessary directives to the respondent clarifying the position as to why the Seniority and Promotion of the applicant should not be revised with retrospective effect and/or his seniority should not be placed above all other six persons junior to him in lieu of appointment.

XI. INTERIM ORDER IF ANY PRAYED FOR :

'NIL'

XII. The application is filed by the applicant through his engaged lawyer.

XIII. PARTICULARS OF POSTAL ORDER :-

Indian Postal Order for Rs. 50/- only vide No. 28 G 932673 Dated 14.II.2006 is filed and affixed with this application being the application fee.

XIV. LIST OF ENCLOSURES :-

Total as mentioned in the application.

VERIFICATION

I, Sri Probodh Lahkar, Son of Late Chanaram Lahkar, aged about 45 years, a resident of Kalita Bhawan, Kumarpara, Rupnagar, P.O. Bharalumukh, Guwahati- 9, District- Kamrup, Assam, do hereby solemnly affirm and verify :

I. That, I am the applicant in the instant application and as such I am fully acquainted with the facts and circumstances of the case.

2. That, the statements made in Para No. IV, V, VII, VIII, IX, X, XI, XII and XIV are true to the best of my knowledge and belief and those made in para no. I, II, III, VI and XIII being the matter of records are true to my information and belief and rest are my humble submissions before this Hon'ble Tribunal.

3. That, I have not suppressed any material fact.

And I sign this verification on this 7th day of December 2006, at Guwahati.

Probodh Lahkar
APPLICANT

ANNEXURE- A

NORTHEAST FRONTIER RAILWAY

No. 205-E/508 (E)

Maligaon, dated 5-11-86

To
Shri Prabodh Lakkar
at office.Sub :- Temporary appointment as Apprentice Permanent
Way Inspector-Grade III on stipend of Rs 1400/- 425/-
p.m. plus Dearness Allowance only.

On being found medically fit in category A/3 and having deposited an amount of Rs 100.00 (Rupees one hundred) only as Security money and also having executed an Agreement, you are hereby appointed as Apprentice Permanent Way Inspector Grade III on stipend of Rs 425/- p.m. plus Dearness Allowance only for a period of 12 months with effect from the date you physically commence training under the Sr.DEN/DEN.

For the purpose of training you are attached to Sr.DEN/1/126 and after passing the Final Examination on completion of training you will be posted against working post as temporary PWI/Gr.III in scale Rs 1400-2300/- (IP) subject to availability of vacancy.

The terms and conditions of your service will be the same as stated in the office letter No. E/227/ 662 (Rectt) dt. 15-10-86.

Half set 2nd Class Special Pass is enclosed for your journey from KYQ to 1/126.

Sr. Personnel Officer (E),
N.F.Railway/Maligaon.

No. 205-E/ 508 (E) Maligaon, dated 5-11-86

Copy forwarded for information and necessary action to :-

1. CRM(P)/KIP, APPS, LMG. DEN/DEPT. The candidate is posted under 1/126 against one of the posts of Trainee PWI/III mentioned under this office Memorandum, No. E/227/4 Pt.III(E). He will please impart training for a period of 12 months to the candidate as per syllabus and before completion of training this office may be informed 14 days before for arranging Final Examination and also a statement of itemwise training particulars with results be forwarded to APO/E-I/Maligaon. Agreement in original, Health Certificate, copy of offer letter and syllabus are sent herewith. The date of commencement of training as App.PWI/III by the candidate may please be intimated to this office immediately. He will also submit monthly report of training to CE's office/Maligaon.

RECORDED LA/ 5.

2. CFO/rectt/Maligaon. This has ref. to CFO/PNO's letter No. E/227/ 662 (Rectt) dt. 28-10-86.

3. Knifl C/pas- He will please issue 12 set 2nd class Sp. pass to appointment from KYQ to 1/126 in favour of the above names.

for THREE ENGINEER (P).

(1) Certified to be true copy
Maya Bhattacharya
Advocate

ANNEXURE-A

N.F.RAILWAY.Office Order

The following Appr. PWI/Gr. III on completion of training and passing in the Final examination held on 23.5.87, 25.5.87 and 28.5.87 are hereby appointed as Temporary PWI/Gr. III in scale Rs.1400-2300/- (RP) against working post of PWI/Gr. III, and posted as under.

SN	Name	Posted in
1.	Sri S.N.Brahma	APDJ Divn. under Sr.DEN/APDJ.
2.	" A.Dutta	-do-
3.	" H.Talukdar	-do-
4.	" P.Choudhury	-do-
5.	" P.Lahkar	-do-
6.	" S.K.Dey	-do-
7.	" H.Singh	-do-
8.	" A.A.Deka	-do-
9.	" H.Rai	IMG divn. under Sr.DEN/LMG
10.	" D.Chakraborty	-do-
11.	" P.K.Borah	-do-
12.	" U.C.Das	-do-
13.	" B.Laskar	-do-
14.	" N.Das	-do-
15.	" N.Bhatta	-do-
16.	" S.K.Das	-do-
17.	" S.Das	-do-
18.	" S.S.Das	-do-
19.	" B.Dasgupta	TSK Divn. under DEN/DBRT
20.	" B.Kakati,	-do-
21.	" P.K.Sarmah	-do-
22.	" S.Saikia	KIR Divn. under Sr.DEN/KIR.
23.	" P.S.Sinha	GM/Con/MLG.
24.	" P.K.Biswas	-do-
25.	" Surjahan	CE's office/Headqu.
26.	" N.R.Mitra	-do-
27.	" A.Kumar	-do-
28.	" R.Kumar	-do-

Note: 1. This issues with the approval of competent authority.

2. Appointment of the above named in working post of PWI/Gr. III will take effect from the date they take charge of the working posts of PWI/Gr. III.

3. These PWIs should be posted under CPWI/PWI Gr. I, II so that they are properly guided and not to be posted with independent charge.

4. The divisions should issue reposting orders suitably charging them to vacant maintenance posts/work charged posts.

2/6/87
(S.C. Dutta)
KEN/P/Malik/ASD.

Certified to be true Copy

Maya Barak
Advocate

P.T.O.

2/

23

11: 2 11

NO. 561-E/15 Pt. VIII(E)

Maligaon, dt. 2 /6/1987.

Copy forwarded for information and necessary action
to:-

1. FAECAO/MLG
2. DRM(P)/APDJ, LMG, TSK, KIR.
3. DRM(W)/APDJ, LMG, KIR.
4. DEN/DP/IT
5. DAO/APDJ, LMG, KIR.
6. E/Pass of P/Branch to issue second class duty pass
in favour of the above named except those who
are posted at GM/Con in CE's office ex. KYQ to
the station of posting shown against ~~xxxxx~~ each.
7. Staff concerned.
8. Spare copy for P/case.

Salvi
2/6/87

for Chief Engineer(P) /Maligaon.

ANNEXURE- A₃

NORTHEAST FRONTIER RAILWAY

OFFICE ORDER

The following transfer and posting is hereby ordered to take immediate effect:

Shri Prabodhi Lahikar JE Gr. II / P.WAY/TIIHU in scale: Rs. 1400/-2300/-, 5000/- 8000/- under Sr.DEN/APDJ is hereby transferred on his existing pay and scale and posted temporarily as charge man / B in scale 1400/- 2300/-, 5000/- 8000/- (cadre post) under CE / MLG of track machine.

Note

1. The above transfer order is issued as per his own request and purely on temporary basis.
2. He is not entitled for transfer pass grant and allowances etc. as per extant rules.
3. Liens of Sri Lahikar JE / II P. way will be maintained in parent cadre.
4. This has the approval of competent authority.

For General Manager(P)/MLG

No.F/283/217(E)

Dated. - 12-9-77

Copy forwarded for information and necessary action to

1. Sr.DEN/APDJ
2. FA&CAO / MLG
3. DY.CE/TMC/MLG
4. SEN/PP/MLG
5. OS & BILL/MLG
6. DRM(P)APDJ

For General Manager(P)/MLG

24/12/77
Certified to be true Copy

*Maya Barak
Advocate*

N. F. RAILWAY

ANNEXURE-A4

MEMORANDUM

OFFICE OF THE
GENERAL MANAGER/P.
MALIGAON : GUWAHATI-11

The following JE/II (P/Way) in scale
Rs. 5000-8000/- have been found suitable for promotion
to the post of JE Cr.I (P/Way) in scale Rs. 5500-9000/-
against the existing vacancies:-

Sl. No.	Name & Designation	Working under
1.	Sri Radha Govinda Roy, JE/II/P.W-NLP(W)	Sr.DEN/APDJ
2.	Sri S. K. Chakraborty, -do- NJN	"/LMG
3.	Sri P. Lahakar, -do- Now working as Chargeeman 'B'	CE/MLG
4.	Sri B. Kakati, -do- / TSK	Sr.DEN/TSK
5.	" D. C. Paul, -do- NJP(South)	" /KIR
6.	" Sanjay Laha, -do- BPRD	" /APDJ
7.	" P. R. Biswas, -do- KXJ	" /LMG
8.	" Srikanta Pandey, -do- FKM	" /APDJ
9.	" Sunil Sen, -do- /TSK	" /TSK
10.	" Abhijit Das, -do- TKG	" /KIR
11.	" D. K. Kakati, " /CPK	" /LMG
12.	" B. K. Doubay, " / SM	" /KIR
13.	" P. K. Bhuyan, " /TSK	" /TSK
14.	" A. M. Ansari, " / RNY	" /APDJ
15.	" D. K. Saikia, " /TSK	" /TSK
16.	" M. K. Paul, " / NJP(S)	" /KIR
17.	" M. K. Deb, " / KAMG	" /APDJ
18.	" Surajit Sharma, " / HQ	CE/MLG
19.	" Atul Kumar, " / HQ	"
20.	" Gautam Basu, " / HQ	"
21.	" Biplab Ghosh, " / CON	GM/CON/MLG
22.	" A. K. Choubey, " / CON	"
23.	" D. N. Singh, " / CON	"
24.	" B. Abraham, " / TSK	Sr.DEN/TSK
25.	" Ram Bhawan, " / LFG	Sr.DEN/LMG
26.	" Joydeep Das, " / Now working as Chargeeman 'B' / TT	CE/TSK
27.	" D. C. Sharma, " / CON	GM/CON/MLG
28.	" D. K. Rajak (SC) " NCD(BG)	Sr.DEN/MEW

Contd. ... Page 72

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Maya Barak
AdvocateD
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P.T.O.

26

- 2 -

29. Sri Sushil Kumar, JE (II) P.Way - CON	GM/CON/MLG
30. " U.C (SC) Pegu, (ST) " " "	" " " / KER
31. " S. C. Paul (SC) " " - SGW	" " " / LMG
32. " Jayanta Kr. Das (SC) " " - LGT	GM/CON/MLG
33. " K. K. Bey (ST) " " / CON	Sr.DEN/TSK
34. " K. L. K. Pao, (ST) " " / TSK	GM/CON/MLG
35. " S. C. Saikia (SR) " " / CON	Sr.DEN/LMG
36. " Apurba Kr. Baithya (SC) " " / BASG	Sr.DEN/AEDJ
37. " Pulakananda Dus (SC) " " / NBQ (W/C)	Sr.DEN/AEDJ

The above result has been approved by the
Competent authority.

(A. Sengupta)

Asstt. Personnel Officer/Engg.
For GENERAL MANAGER (PERSONNEL)

NO. E/283/37/Ft. XX(B) (L)

Maligaon, Dated : 10.3.1999

Copy forwarded for information and necessary action :-

1. DMR (F) - KIR, AEDJ, LMG & TSK
2. SR.DENS - KIR, AEDJ, LMG & TSK & MLG
3. DY.CE (ED) MLG
4. GM (CON/MLG)

(A. Sengupta)
Asstt. Personnel Officer/Engg.
For General Manager (P)

Re 10/3/97
P. A. 39

(P-16) A Y E B.

AB
T310.

P Y E B

Certified to be true Copy

11/10/04

Date : 13/10/04

To,
GM(P)/MLG,
N.F.Railway.

ANNEXURE-A₅

GRSP&TURB.

Sub :- Seniority.

Sir,

Most respectfully I beg to state the following few lines before you for your consideration and favourable order please.

That Sir, my date of appointment as PWI Gr-III along with my other colleagues is 06-11-1986. I was working with that post with great satisfaction to the authority for which I had been awarded with 'GM award' in the year 1987. But sorry to say that during restructuring in the year 1995, it was seen that a few employees who are junior to me had been promoted as PWI, Gr-II, a non selection post, by passing my name for the causes best known to the administration. In the letter it was once again seen that some other colleagues who were junior to me had been empanelled for promotion by omitting my name that time also. Find no other way, I had submitted an application to the Chief Engineer(P)/MLG through proper channel seeking my due promotion. But surprisingly I had not received any information regarding my promotion. During this process, I had been awarded a punishment of withholding of increment for a period of 2 years 11 months which ended in the month of Oct/1999.

In the meantime I had been transferred as JE/II/TM under CE/MLG in the month of January 1998. Subsequently I had joined in my service and after completion of my punishment period I had been promoted to JE/I/TM, a non selection post under CE/MLG. Again in the year 2004 I had been promoted to SE/TM/MLG (selection post due to restructuring.)

Contd...2. ✓

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*Maya Barak
Advocate*

- 2 -

Sir, though I had to be promoted in the year 1995 to the non selection post, at the time of which, my juniors had been promoted and I had been left over for the causes best known to the administration as I had not been intimated for any adverse CR for the period countable for the promotion prior to 1995 and not till date.

Due to non effect of promotion in the year 1995 I had to suffer adversely in monitorial as well as in seniority.

Now, Sir please consider my case and assign my seniority position giving promotional benefit as JE/I from the date on which my juniors have been promoted as well as SE/TM, and publish the same at an early date as I feel that my juniors are named above me in the promotional order.

Thanking you,

Yours faithfully,

DA : As above

Pradeep Lahkar
(P. Lahkar)
SE/TM/Maligaon.

ANNEXURE-A₆

To,
GM(P)/MLG,
N.F.Railway.

Date : 18/02/2005

Sub :- Seniority.

Sir,

Most respectfully I beg to state the following few lines before you for your consideration and favourable order please.

That Sir, regarding fixing up of my seniority position in Track Machine Deptt. I had appealed to you and submitted an application vide no. Nil dated 13.10.04. But sorry to say that, though about four months have been passed over, I have not received any information regarding the decision of my appeal till date.

Now, Sir, I am again going to lay before you another few facts which will help you to fix my seniority position in the Track Machine Deptt.

That Sir, as the Track Machine Deptt. was an Ex-cadre deptt., so most of the staff were deputed to TMC Deptt. from other Cadre deptt. of the railway, the lien of whose were remaining in their respective parent deptt. Due to shortage of suitable staff in the TMC Deptt., most of the employees were promoted to their next grade or even more higher in the ex-cadre post to run the deptt. But such promotions were not confirmed in their respective parent deptt. During cadre-sation of the deptt. in the year 2002 (w.e.f. 12-4-2002) most of the staff had been promoted as SE or even SSE though their previous grade of services were not confirmed in the parent deptt. as JE/I or SE.

contd... 2.

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*Maya Barak
Advocate*

- 2 -

Now Sir, I wish to lay the following serially to whom my name should have been considered above.

Sl. No.	Name	D.O.A. in the Rly. as JE-II/ PWI-III	D.O.A. as JE-II/Ch. man-B in TMC Deptt.	D.O.P. as JE-I in TMC Dept.	D.O.P. as SE in TMC Dept.	D.O.P. as SSE in TMC Dept.
1.	A.R.Bhowmick	22.10.90	14.2.92	27.7.95 (Ex-Cadre)	1.2.99 (Ex-Cadre)	1.11.03
2.	D. N. Barua	23.10.90	3.3.92	31.1.97 (Ex-Cadre)	1.2.99 (Ex-Cadre)	1.11.03
3.	B. K. Rao	-	22.1.91	10.7.95 (Ex-Cadre)	1.11.03	-
4.	B. K. Barua	14.12.90	14.2.92	30.11.97 (Ex-Cadre)	1.11.03	-
5.	H. Mandal	9.7.93	29.7.94	6.3.98 (Ex-Cadre)	1.11.03	-
6.	Joydeep Das	30.5.89	22.10.97	5.4.99 (parent Cadre)	1.11.03	-
7.	P. Lakkar	6.11.86	29.1.98	5.4.99 (parent Cadre)	1.11.03	-

From the above facts it is revealed that Sl.No.1 & 2 though their Date of Appointment as PWI-Gr-III (Now JE-II) is far behind me i.e. 6.11.1986 but they had been given promotion upto SE without confirming their service as JE-I in their parent deptt. and subsequently after caderisation in the year 2002 and restructuring in the year 2003-04, they get another promotion without confirmation of their service as SE in the parent deptt. though the existing rules donot permit more than one promotion the Ex-cadre post. Which is also to be confirmed in the parent deptt. Sl.No.3 to 5, their Date of appointment as JE-II is far behind than that of me i.e. 6.11.86 and their promotion as JE-I have not been confirmed in their parent Department.

Sl.No.6 his date of appointment as JE-II/PWI-III is also behind me i.e. 30.5.89. He had been empanelled for promotion and promoted as JE-I with me vide GM(P)/MLG's

contd...3.

- 3 -

memorandum No.E/283/37/Pt-XX(E) (L) dt. 10.3.99 and office order No.E/283/37/Pt-XX(E) dt. 5.4.99 and subsequently we had resumed duty in our respective post and my promotion as JE-I had been confirmed in my parent deptt. as well as in ex-cadre department.

Now, Sir, if I had been given a promotion in Ex-cadre deptt. definitely my name would have lie above in Sl.No.1 as mentioned earlier.

Now Sir, you are requested to look into the above matters and fix-up my seniority position in the track machine deptt. considering all the facts as mentioned above and counting my entire service period w.e.f. 06.11.86 and for the act of which I shall ever remain grateful to you.

Thanking you,

Yours faithfully,

Prabodh Lahkar
(P. Lahkar) 18/2/05
SE/TM/MLG.

To:
AFO/W/MLG,
N.E.R.R.Y.
(Grievance Adalat)

ANNEXURE - A₇

Dated : 08/06/2005

3✓

Sub :- Promotion and Seniority.

Sir,

Most respectfully, I would like to submit that I had been erroneously passed over for promotion vide GM(P)/MLG's O/O No.E/283/37/Pt-XX(E) dt.19.01.96 in which my juniors have been promoted. In the same year another promotional order had been published vide GM(P)/MLG's O/O No. E/283/37/Pt-XX(E) dt. 1/2.5.96 in which also I had been left over.

Regarding the above fact I had made an appeal to CE(P)/MLG on 10-12-96 through proper channel. But till date, I have not received any information from the concern deptt.

Meanwhile, I had made a second appeal with reference to the previous appeal to GM(P)/MLG vide L/No. N11 dtd. 13.10.04 regarding my seniority position. For this appeal also I had not been communicated till date.

In continuation of my previous appeals, I had made another appeal to GM(P)/MLG vide L/No. N111 dt. 13.2.05 in which I had elaborately described how my juniors had been promoted illegally and placed above me by neglecting my weightage of seniority in my parent deptt. during caderisation of Track Machine Deptt. w.e.f. 12.4.2002. But sorry to say that though morethan three and half months had been passed over, I have not received any reply to my appeal.

Forwarded

Hand

क्रमागामी श्रेणी (स. वा.)
प्र. न. रेल. विभ. 1. सेक्षन इंजिनियर
रेलवे रेलवे, नियन्त्रण सेक्षन
N.T. Railway, नियन्त्रण सेक्षन

In the meantime, it is learnt that combine Seniority list of SSE/SE is going to be prepared by the Deptt. without fixing seniority position.

So you are hereby requested to look into my case right from 1995 and to stop preparation of combine seniority list prior to finalisation of my seniority position considering the weightage of seniority in my parent deptt. during caderisation of Track Machine Deptt. w.e.f. 12.4.2002 and counting my entire service period from the date of appointment.

So Sir, I will be glad enough if you like to finalise my case through your 'Adalat' at an early date and oblige thereby.

Yours faithfully,

Prakash Lahkar
(P. Lahkar)
SE/TM/MLG.

Date : 08/06/05

Certified to be true copy

Mayur Borkh
Advocate

To,

The General Manager,
North East Frontier Railway,
Maligaon, Guwahati-11.

ANNEXURE - A

Dated : 26.7.85

IN THE MATTER OF :

An Application for the redressal of grievances arising out of fixation of wrong seniority in Track Machine Department with reference to date of appointment.

- AND -

IN THE MATTER OF :

An Application for the streamlining of gradation list of Sr. Section Engineer/ Section Engineer in the Track Machine Deptt. with reference to date of formation of the Cadre for the Track Machine Deptt. for awarding the due slot of Seniority among the Sr. Section Engineers.

- AND -

IN THE MATTER OF :

An Application for the reexamination of all promotions made in Track Machine Deptt. with reference to inter Se Seniority of all entrants in the ex-cadre posts of Track Machine work vis-a-vis their cadre posts substantively held and removal of anomaly in the promotions.

- AND -

IN THE MATTER OF :

An Application for effecting proforma promotion of the petitioner above and with reference to erroneous promotion given to his juniors without reckoning their promotional grade in their parent Deptt. where lien was held.

- A N D -

IN THE MATTER OF :

The humble petition of your petitioner undersigned.

Certified to be true Copy

*Maya Barak
Advocate*

contd...2.

Most respectfully Sheweth :

Hon'ble Sir,

That your petitioner has been in the service of this Railways under your kind disposal since his appointment as permanent way Inspector Grade-III on 6-11-1986.

That your petitioner opted for a posting in the Track Machine Deptt. and was posted in the ex-cadre post of JE-II on 29-1-98 the whole TMC Deptt. being on Ex-Cadre.

That at the time of joining of the petitioner the TMC there were other senior entrants on ex-cadre posts of JE-II but they were all juniors in their respective parent deptt. cadre with reference to his date of appointment i.e., 6-11-86.

That at the time of his joining the TMC Deptt. there were also other entrants working in the ex-cadre posts of JE-I who were junior to your petitioner with reference to his date of appointment i.e., 6-11-86.

That, however, after his joining the TMC Deptt. his juniors were given promotion in the TMC deptt. ex-cadre post with the result that presently Sri A.R. Bhownick appointed on 22-10-90 and joining TMC Deptt. on 14-2-92 and Sri D.N. Barua appointed on 23-10-90 and joining TMC Deptt. on 3-3-92 are SSE w.e.f. 1-11-2003 and that Sri B.K. Rao joining the TMC Deptt. on 22-1-91, Sri B.K. Barua appointed on 14-12-90 and joining the TMC Deptt. on 14-2-92, Sri H. Mandal appointed on 9-7-93 and joining the TMC Deptt. on 29-7-94 and Sri Joydeep Das appointed on 30-5-89 and joining TMC Deptt. on 22-10-97 are all now S.E. w.e.f. 1-11-2003.

That the promotion of the above juniors of your petitioner are irregular and beyond the authority of the Ex-cadre deptt. of TMC when their lien was with their parent deptt. held at inferior grade.

contd...3.

That the promotees in the TMC deptt. had not been promoted to the equivalent higher grade in their parent Deptt. before they were promoted in the TMC Deptt. To illustrate present SSE Sri A.R. Bhowmick and Sri D.N. Barua are about 4 years junior to your petitioner in the same P-way unit and they were not confirmed as SE or even JE-I in their parent deptt. before they were promoted to SSE.

That on a different plane Sri Jaydeep Das present SE is about 2½ years junior to your petitioner but he was promoted as JE-I along with your petitioner on 5-4-99.

That on formation of the Cadre for the TMC deptt. w.e.f. 12-4-02 the fixation of seniority in TMC deptt. got again derailed and the seniority of your petitioner instead of being fixed with reference to his seniority in the Rly. Service (date of joining 6-11-86) and with reference to his confirmation as JE-I in his P-Way unit was kept fixed below his junior Sri Joydeep Das and others above him.

That thus the principles of fixation of Seniority in a nascent cadre among the entrants of the same on their inter Se seniority and their confirmed promotion in their parent cadre was violated over and over again; and the date of entry into the ex-cadre post in TMC deptt. before formation of it as a cadre was made basis in effecting the promotion thus depriving rightful seniority position and consequent promotion of your petitioner.

That this has reference to ^{Yr. Petitioner's} previous representation dtd. 13.02.2005 to GM(P)/MLC and his Appeal to Grievance Adalat dtd. 8.6.2005.

The pursuit for Justice through above quoted representation and appeal before the Grievance Adalat and also the Petitioner's personal meeting with C.P.O.(A) on 24-6-05 were of no avail till date.

In the premises above your petitioner most humbly
pray that -

- 1) The Seniority of your petitioner be fixed above Sri A.R. Bhowmick.
- 2) Your petitioner be given his due promotion as SSE at par with his Junior either through correction, of erroneous promotion by removing anomalous seniority or proforma with backwages.
- 3) A correct gradation list of SE and SSE for the TMC deptt. be drawn reflecting the due position of your petitioner.

AND for this act of your justice and kind dispensation
your petitioner is bound to pray.

Yours faithfully,

Prakash Lahkar
(P. Lahkar) *SE/TM/Janec*

ANNEXURE- A₉

N.F.RAILWAY

OFFICE OF THE
GENERAL MANAGER (P)
MALIGAON.

NO. E/255/27/Pt.I(E)(Loose)

Dated : 6 / 10 / 2005

To

Sri A.R.Bhowmick, SSE/TM/MLG.
 " D.N.Barua, SSE/TM/MLG.
 " B.K.Rao, SE/TM/MLG
 " B.K.Barua, SE/TM/MLG.
 " H.Mandal, SE/TM/MLG
 " Joydeep Das, SE/TM/MLG.
 "

(Through XEN/TI/Spl/MLG.)

Sub: Show cause notice to revise the seniority assigned in
favour of Sri Lahikar.

1. Track Machine Organization started functioning on N.F.Rly on Ex. Cadre basis.
2. Option were called from all Engg Staff to fill up the posts of SE/TM, JE/I/RM, JE/II/TM, Tech-III & MTK having requisite qualification.
3. Those who opted for joining in Track Machine Organization were promoted to the next higher grade or even to the further higher-grade post (ex. Cadre) against available vacancies. However these promotions were effected without referring to the date of their confirmation in the parent grade.
4. After formation of cadre in 2002 seniority of the staff was erroneously fixed in their respective grades which they were holding; as ex. Cadre basis as per their option.

P.T.O.

Certified to be true Copy

Maya Barak
Advocate

Certified to be true Copy

Maya Barak
Advocate

Fayyaz Deen

38

5. Now Sri P.Lahkar, SE/TM under Pr.CE/MLG has submitted representation for recasting his seniority over others, stating that his date of appointment is much earlier than the above mentioned staff his date of appointment as PWI being 6.11.86. He has appealed for fixing seniority with reference to seniority kept in parent cadre.
6. Service rendered in higher-grade ex.cadre posts will not count for seniority as per rules. If seniority maintained in parent unit is considered Sri P.Lahkar will be placed above Sri A.R.Bhowmick.
7. You have exercised option to come to regular Track machine cadre only in the year 2002.

It is proposed to revise the seniority assigned to Sri P.Lahkar by placing him above Sri A.R.Bhowmick. You are hereby advised submit objections, if any, within 30 days regarding revision of seniority. If no representation is received it will be presumed that you have nothing to say in this matter.

(R.AAVU)

BY.CPO/HQ

General Manager (P) MLG

Copy for information please:

1. General Secretary/N.F.Rly. Mysore Union - in reference to his letter NO.MU/C/MLG dtd 03.6.05.
2. General Secretary/N.F.Rly. Mysore Union - in reference to his letter NO.EU/SR/MLG/HQ dtd 18.9.05.
3. Sri P.Lahkar, SE/TM/MLG - in reference to his representation dated 18.2.05 & 25.7.05.

For General Manager (P) MLG
6/10