

50100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

Common order in
O.A. No. 321/06 & 92/07

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SECTION OFFICER (Judl.)

31/X/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 321/2006
2. Mise Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) A. K. Goswami vs Union of India & Ors
others

Advocate for the Applicant(s) Mr. M. Chanda, S. Nain, Shri U. Datta
2 Mrs. Choudhury,

Advocate for the Respondent(s) Railway Counsel

Notes of the Registry	Date	Order of the Tribunal
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22.12.2006 Present The Hon'ble Shri K.V.Sachidanandan
Vice-Chairman.

This application is in form
is filed/C. F. for Rs 50/-
deposited vide IPC/BD
No. 289 983 223
Dated 10.12.06

gjm
Dy. Registrar

NO steps NE
22/12/06

R
22/12/06

The Applicants are working as Junior
Engineer Grade-I in the office of the Chief
Workshop Manager, Carriage & Wagon
Workshop, New Bongaigaon. Their next
promotion is to the post of Section
Engineer (Workshop) in the pay scale of
Rs.6,500-10,500/- Originally a written
test was conducted by the Respondents on
19.8.2006 and 26.8.2006 as per
Annexure-3 in which all the 17 Applicants
appeared. According to the Applicants,
against the 36 vacancies vide Annexure-4
order dated 4.12.2006, 12 persons have
already been promoted to the post of
Section Engineer who were left out earlier
and were selected through a modified

Contd.

22.12.2006 selection held on 30.11.2006. Mr.M.Chanda learned counsel for the Applicants submits that even though 12 posts have been filled up there are still 24 posts vacant. The Applicants made representation through the Union but yielded no response. Six months time has already elapsed but the results of the selection test has not been published as yet which has caused prejudice to the Applicants.

Heard Mr.M.Chanda, learned counsel for the Applicants. He submitted that his specific instruction is that written test, already conducted, in which the Applicant appeared, is likely to be cancelled by the Respondents in which case the Applicants will be put to greatest hardship as because they had put very hard work in appearing in the said examination. Dr.J.L.Sarkar, Standing counsel for the Railways requests for time to obtain instruction in the matter, Let it be done.

Post the matter on 9.2.2007. By way of interim order it is clarified that no action prejudicial to the interest of the Applicants will be taken by the Respondents till the next date.


Vice-Chairman

/bb/

5.4.2007

Post the matter on 1.5.2007 along with O.A.321/2006.

O.A. No.321/2006

Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
<u>30.3.07</u> <u>Amended Application filed by Applicant</u>	09.02.2007	Dr.J.L.Sarkar, learned Railway Standing counsel is granted further time of six weeks to file reply statement. Post the matter on 26.03.2007.
<u>GN.</u>	/bb/	Vice-Chairman
<u>No Wks has been filed.</u>	26.3.2007	post on 5.4.2007 along with the O.A. In the meantime respondents are at liberty to file reply statement.
<u>30.4.07.</u>	bb	Vice-Chairman
<u>No Wks has been filed.</u>	5.4.2007	Post the matter on 1.5.2007 along with O.A.321/2006.
<u>22.5.07.</u>	/bb/	Vice-Chairman
	1.5.07.	Liberty is given to the counsel for the respondents to file written statement if any. Post the matter on 23.5.07.
lm		Vice-Chairman

23.5.2007

Dr.J.L.Sarkar, learned Railway

Standing counsel submitted that Applicants have filed another O.A. No.92/2007 and in order to file reply statement in both the O.A.s he requires some more time. However, he submits that he has no objection in admitting the O.A.

Accordingly, O.A. is admitted. Three weeks' more time is allowed to the Respondents to file reply statement.

Post on 15.6.2007.

Vice-Chairman

/bb

27.6.07

15.6.07 At the request of learned counsel for the respondents six weeks time is granted to the respondents to file written statement. Post the matter on 31.7.07.

Vice Chairman

lm

Wts billel.

27.7.07
30.7.07

31.7.2007 Reply statement is filed by the Respondents. Four weeks time is granted to the Applicant to file reply statement, as requested.

Post the matter on 30.08.2007. Interim order will continue till such time.

Vice-Chairman

/bb/

29.8.07

No rejoiner filed.

30.8.2007

Mrs.U.Dutta, learned counsel for the Applicant submits, that rejoinder is "almost ready" and same will be filed within a week. Let it be done.

Post on 10.9.2007. Interim order shall continue till the next date.



Vice-Chairman

/bb/

30.8.07.

PL. Comply



order of 30/8/07
issuing to both the
parties.

Pl. Post
7/8/07.

Rejoinder not
filed.

27.9.07.

13.9.07
Rejoinder filed
by the Applicant.
Copy served. page
1 to 6.

10.9.2007

Learned counsel for the parties submitted that pleadings are complete and matter may be fixed for hearing.

Accordingly, post the case for hearing before the next Division Bench.

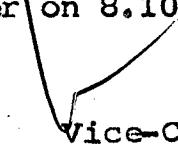


Vice-Chairman

/bb/

21.9.07.

Post the matter on 8.10.07.



Vice-Chairman

1m

26.9.2007

Call this matter on 08.10.2007 for final hearing.




(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

28
25.9.07.
The case is ready.

25
25.9.07.
The case is ready
for hearing.

25
5.10.07.

8.10.07

Heard Mr M.Chanda, learned

counsel appearing for the applicants and Dr. J.L.Sarkar, learned Standing counsel appearing for the Railways. Perused the materials placed on record. In course of hearing Dr. Sarkar produces certain departmental files.

Hearing concluded. Order reserved.



(Khushiram)
Member(A)



(Manoranjan Mohanty)
Vice-Chairman

pg

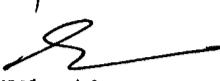
12.11.07

Certified copy
of theandum
has been collected
by the applicant
on 22.10.07
and copy of the
same has been
sent to the office
for issue under
the Regd No. 243
by post.



Received copy
of Judgement for
Dr. J.L. Sarkar, sc
Rly. Asstt. Kir. Doy
CPO's Legal
N.F. Railway
16-11-07

12.10.07. Judgment delivered in Open Court. Kept in separate sheets. Application is allowed. No order as to costs.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

16.11.07
Copy of the Judg
handed over to
the applicant
on 22.10.07

lm

21.11.07
Answer sent
wide D.Nos 1357
& 1358 on 16.11.07



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos.321/2006 & 92/2007.

DATE OF DECISION : 12-10-2007

Shri Arun Krishna Goswami & 16 others

.....Applicant/s

Mr M.Chanda, S.Nath & Mrs U.Dutta

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Dr J.L. Sarkar, Standing Counsel for Railways

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

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.

Khushiram
Vice-Chairman/Mamber(A)

5

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.321 of 2006 & 92/2007.

Date of Order : This the 12th Day of October, 2007.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Sri Arun Krishna Goswami
2. Sri Jyoti Prasad Deori
3. Shri Jiten Saikia
4. Sri Abdur Rashid
5. Sri Ranjit Kumar Brahma
6. Sri Surya Bhan Pal
7. Sri Ranjan Kr. Bayan
8. Sri Ramendra Pal Singh
9. Sri a. Hakim
10. Sri Ikraml Hoque Mollick
11. Sri Subhamoy Das
12. Sri S. Purkayastha
13. Sri Sanjoy Das
14. Sri Akhil Ch. Paul
15. Sri pradip Kumar Choudhury
16. Sri Anirban Ganguly
17. Sri Samir Kumar Sarma

.....Applicants

All the applicants are working as Junior Engineer, Grade-I in the office of the Chief Workshop Manager, Carriage and Wagon workshop, New Bongaigaon, N.F.Railway, Assam.

By Advocate Shri M. Chanda

-Versus-

1. The Union of India,
represented by the General Manager,
N.F.Railway,
Maligaon, Guwahati-781011.
2. General Manager (P)
N.F.Railway,
Maligaon, Guwahati-781011.
3. Chief Workshop Engineer,
N.F.Railway,
Maligaon, Guwahati-781011.

By Dr J.L.Sarkar, Standing Counsel for Railways.

M. Chanda

O R D E RKHUSHIRAM, (MEMBER-A)

Since the issue involved and reliefs sought for in these two Original Application Nos.321/2006 & 92/2007 are of similar nature, these two cases are taken up for disposal by this common order.

2. The Applicants are Junior Engineers in the Scale of pay of Rs. 5500-9000/-under the Chief of Workshop Manager, Carriage and Wagon Workshop of N.F.Railway/New Bongaigaon; whose next promotional avenue is Section Engineer in the scale of Rs. 6500-10500/-. In order to fill up the 36 nos. of vacancies of Section Engineers a notification was issued on 13.01.2006 calling upon 24 Junior Engineers to face a written test, which was to be held on 11.2.2006 and 18.2.2006. The said test was postponed/cancelled on 8.2.2006. The test was rescheduled to be held on 19.8.2006 and 26.8.2006. The Applicants, being called upon, appeared in the said test. As a result of restructuring (for efficient functioning of the Workshop) it was decided to merge various trades and as a result only two cadres (known as Workshop cadre and M&P cadre) remained in the field. The process for selection against those vacancies started with the issuance of notification dated 13.01.2006 and some discrepancies were detected in the calculation of the total number of vacancies available as on 01.11.2003. In view of these discrepancies the selection test (that was held had on 19.08.2006 and 26.08.2006) were cancelled on 20.11.2006. The cancellation was however, not intimated to the Applicants. As a result of restructuring, the vacancies available for modified selection were held on 30.11.2006 and 12 persons/Junior Engineers were selected. In the said premises, the Applicants filed the present O.A. No.321/2006 under Section 19 of the Administrative Tribunals Act 1985 and obtained an ad-interim order on 22.12.2006. It was noted that after selection of 12 persons there are still 24 vacancies available and therefore, Respondents were

Khushiram

directed not to take any action prejudicial to the Applicants. It is admitted that the 12 vacancies were filled up by a modified selection under restructuring scheme by departmental candidates as well as candidates from the open market. O.A. No.92/2007 was filed challenging the cancellation order dated 20.11.2006. The Applicants have sought a direction to the Respondents to declare the results of the selection test cancelled vide order dated 20.11.2006 and, therefore, consider promotion of the Applicants to the post of Section Engineer on the basis of performance in the selection test and to quash the impugned order dated 04.01.2007 notifying 31 fresh vacancies and also to set aside and quash the impugned order dated 04.12.2006 as well as order dated 27.12.2006 so far the promotion of G.C.Nath & Sri K. Mallick are concerned (this point, however, was not pressed by the learned counsel for Applicants during arguments).

2. The Respondents have filed detailed written statement admitting the facts on record regarding holding of selection process and its cancellation and justifying the selection for 12 vacancies against the cadre restructuring to avoid future complication. The allegation regarding unfair method, arbitrariness and mala fide were denied. It has been submitted that out of the total number of vacancies, 80% vacancies of the Section Engineer have to be filled up by departmental eligible staff from immediate lower grade i.e. Junior Engineer Gr.I and remaining 20% vacancies are recruited from the open market by Railway Recruitment Board. It was also been stated that the selected candidates have completed training and they could not have been kept waiting and, accordingly, have been posted. It has been clarified that the modified selection for the 12 vacancies have been made against the restructuring vacancies which were left out inadvertently earlier while notifying the vacancies for selection for departmental staff as some of the departmental staff have also appeared in the normal selection process which had created a peculiar situation resulting in

Khurana

anomaly. The Respondents had given the tabulation showing the assessment of 36 vacancies and the modified new assessment for 24 vacancies after taking into consideration the reservation for SC and ST etc. as under :-

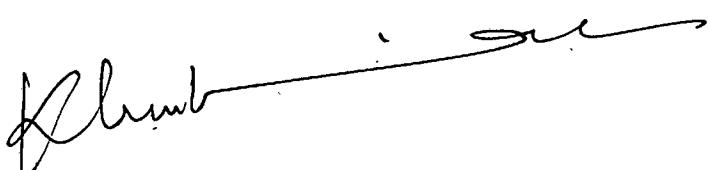
	Existing vacancy	Anticipated vacancy	Total	Community wise break-up
WS cadre	8	19	27	SC- 04 ST- 03 <u>UR- 20</u> Total-27
M&P Cadre	6	3	9	SC- 02 ST- Nil <u>UR- 07</u> Total-09

	Existing vacancy	Anticipated vacancy	Total	Community wise break-up
WS cadre	Nil	19	19	SC- 02 ST- 01 <u>UR- 16</u> Total-19
M&P Cadre	2	3	5	SC- 02 ST- Nil <u>UR- 03</u> Total-05

They have also tried to explain the difficulties for cancellation of the selection process. It has also been stated that 12 candidates selected under modified selection would have failed in normal selection and this would have created complication. The selection for 12 vacancies has not affected the rights of the Applicants. (This fact also stands proved as the learned counsel for the Applicants, while arguing the case, did not challenge the selection and nor were they impleaded as Respondents in these O.As).

3. Heard Mr M.Chanda, learned counsel appearing for the Applicants and Dr J.L.Sarkar, learned Standing counsel for Railways at length and perused the materials placed on record.

4. Learned counsel for the Applicants has also cited the decision of Munna Roy vs. Union of India & Ors., reported in (2000) 9 SCC 283; wherein the



Hon'ble Supreme Court had held that 'selection process does not get vitiated just because that select list contained the name of a candidate who was over qualified (she was a graduate, as against required minimum qualification of Matriculation).

Similarly, in the case of *Vinod Kumar Sangal vs. Union of India & Ors.*, reported in (1995) 4 SCC 246, it was held that separate selection for vacancies for each year ought to have been made as per the instructions directing the Department to convene a DPC to consider the Appellant for selection against the vacancies occurring in the years preceding the last of such years. Principles for promotion to Selection Posts is that 'in a number of cases the meetings of the DPC are not held annually as required even though there were vacancies resulting in the bunching of vacancies which in turn enlarged the field of choice and upset the relative seniority.' However, this decision is not directly applicable in the instant case.

He also cited the decision rendered in *Union of India & Ors. Vs. Rajesh P.U. Puthuvalnikathu and another*, reported in (2003) 7 SCC 285; wherein it was held that 'recruitment process - selection - cancellation of, enbloc, wherefrom out of the selectees it was possible to weed out the beneficiaries of irregularities or illegalities, there was no justification to deny appointment to those selected candidates whose selection was not vitiated in any manner unless some infirmity could be found with reference to others.

In another decision rendered in *A.P. Public Service Commission vs. P.Chandra Mouleesware Reddy and others*, reported in (2006) 8 SCC 330; wherein "State Govt., by mistake, directed PSC to send recommendations for reduced number of vacancies, it was held that "candidates who had applied in response to such advertisement and appeared in written test and interview cannot be made to suffer for the mistake of the Govt."



4. The learned counsel for the Applicants tried to prove the arbitrariness on the part of the Chief Workshop Manager and other authorities. However, learned counsel for the Respondents vehemently denied these allegations and attracted the attention of this Tribunal to the fact the Applicants have not impleaded the 12 persons selected under the restructuring scheme of vacancies as Respondents. He also cited Rule 219(g) of IREM, which is reproduced as under :-

"Selection should be made primarily on the basis of overall merit, but for the guidance of Selection Board the factors to be taken into account and their relative weight are laid down below :-
E(NG) I-69/PM 1-126 dt. 18-9-69

	Maximum marks	Qualifying marks
(i) Professional ability	50	30
(ii) Personality, address, Leadership and academic Qualification	20	--
(iii) A record of service	15	--
(iv) Seniority	15	--

Note (i) The item 'record of service should also take into consideration the performance of the employee in essential Training Schools/Institutes apart from the examining CRs and other relevant records.

E(NG) 1.72/PM 1/192 dt. 27.6.73

(ii) Candidates must obtain a minimum of 30 marks in professional ability and 60% marks of the aggregate for being placed on the panel. Where both written and oral tests are held for adjudging the professional ability, the written test should not be of less than 35 marks and the candidates must secure 60% marks in written test for the purpose of being called in viva voce test. This procedure is also applicable for filling up of general posts. Provided that 60% of the total of the marks prescribed for written examination and for seniority will also be the basis for calling candidates for viva voce test instead of 60% of the marks for the written examination."

Khurram

On the basis of this selection process the case of the Applicants could be looked into and in case the Tribunal allows the Application, the process of selection will be started from the point where it has been cancelled. On the basis of the selection records he submitted that out of the Applicants, who appeared for written test, 9 have passed and remaining 8 have failed. He apprehended further litigation from those Applicants who have failed if the selection process is taken further.

5. The Respondents also produced the file containing the note sheet which resulted in cancellation of the tests held. The relevant portion of the note sheet dated 17.11.06 as appeared in PP-7 of File No./E/254/51(M)W.S Pt.I is as under :

1. A selection for the posts of SE/WS, both WS cadre and M&P cadre has been conducted and written test held.
2. In the meantime it has been detected that at the time of upgradation, some posts i.e. 15 in number have been left out and not taken into consideration.
3. Accordingly, a review has been made and case file processed for giving effect of restructuring effect against the left out vacancies.
4. Thus, in view of this the assessment of vacancies for the normal selection has been changed.
5. Hence, it is proposed that the above selection may be cancelled assessing the vacancies a new, after giving effect to the left out restructuring vacancies.
6. May kindly approve.

CPO

CWE.

અનુમતિ
(Approved)

Sd/-

17.11.06

Sd/-

17.11.06

SPO/M"

6. As is apparent from the noting from the concerned file that the CWE did not apply his mind to the full implication of the proposal presented to him for approval. The situation noted above, does not make out a case where infirmity is pervasive and widespread enough to render entire selection process illegal and unworkable. Rather, the selection process should be taken to its finality and those who stand in merit, after following the proper procedure, must



get their due. Obviously the process of selection has to begin from the point where it has been stopped.

7. Considering the submissions of the learned counsel of both the parties, the views of the Apex Court of the country in different cases and after going through the records produced by the Respondents, we are led to conclude that these Original Applications should be allowed and accordingly we direct the Respondents to complete the process of selection that was started by them (for selection as against 24 vacancies) after following the procedure prescribed.

8. The O.A. No. 321/2006 and O.A. No. 92/2007 are allowed to the extent indicated.

There will, however, be no order as to costs.



(KHUSHIRAM)
ADMINISTRATIVE MEMBER



(MANORANJAN MOHANTY)
VICE CHAIRMAN

/pg/

30 MAR 2007

गुवाहाटी बायपोर्ट

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

AMENDED ORIGINAL APPLICATION

O. A. No. 321 /2006

Sri Arun Krishna Goswami & Ors.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

All the applicants are working as Junior Engineer, Grade-I, in the office of the Chief Workshop Manager, Carriage and Wagon Workshop, New Bongaigaon, N.F. Railway, Assam. Next avenue of promotion of the applicants are to the cadre of Section Engineer (Workshop).

2003-04 -

17.01.2006- Chief Workshop Manager, N.F. Railway New Bongaigaon, pursuant to General Manager (P), Maligaon dated 13.01.2006 issued a notice for holding selection for 36 Nos. of post of Section Engineer on 11.02.2006 as well as on 18.02.2006. The name of all the applicants figured in the notice dated 17.01.2006. (Annexure- 1)

08.02.2006- General Manager (P) informed that the date of selection for preparing panels for SE/WS in workshop and M & P, which was fixed on 11.02.2006 and on 18.02.2006 has been postponed due to unavoidable circumstances and the next date of written examination would be intimated soon. (Annexure- 2)

03.08.2006- Chief workshop Manager, New Bongaigaon again informed all concerned that the selection for the post of Section Engineer (WS) has been fixed on 19.08.06 and on 26.08.06. Applicants appeared in the selection test held on 19.08.06 and on 26.08.06. (Annexure- 3)

20.11.2006 - 16th Selection

04.12.2006- Respondent No. 1 promoted 12 persons all of a sudden to the cadre of Section Engineer. 5 persons of the memo dated 04.12.06 in fact appeared along with the applicants in the written examination held on 19.08.2006/26.08.2006. (Annexure- 4)

20.11.2006- N. F. Railway, Mazdoor Union, New Bongaigaon Workshop requested Chief Workshop Engineer to expedite publication of result of selection of Section Engineer from Junior Engineer, Grade-

12em Rule 203 (1)
Zone 2 (Ganesh)

I in order to avoid dispute in the matter of seniority between the direct recruits, Section Engineer and promotee Section Engineer.

(Annexure- 5)

Applicants are eagerly waiting for declaration of their results of the selection test held on 19.08.06 and on 26.08.06 and also legitimately expecting their promotion to the cadre of Section Engineer in the remaining 24 vacancies. But the Railway administration without declaring the results of the selection held on 19.08.06/26.08.06 has now decided to cancel the aforesaid selection test in a most arbitrary and unfair manner.

22.12.2006- Applicants have approached this Hon'ble Tribunal through OA No. 321/2006. Hon'ble Tribunal has passed interim order upon the respondents, directing them not to take any action prejudicial to the interest of the applicants till the next date of hearing i.e. till 09.02.2007. (Annexure- 6)

23.12.2006- Lawyer of the applicants communicated the interim order to the respondent No. 2. (Annexure- 7)

27/31.12.06- Applicants submitted representations communicating interim order passed by the Hon'ble Tribunal. (Annexure- 8)

04.01.2007- Respondent No. 2 in total violation of the interim order dated 22.12.06 issued impugned notification dated 04.01.07, deciding to hold another selection forming panel for consideration of promotion from the cadre of J.E.-I to the cadre of SE/workshop and M&P cadre of Mechanical department, which has caused serious prejudice to the applicants. (Annexure- 9)

27.12.2006- Sri Koushik Mallik arbitrarily shown to have been promoted w.e.f 05.06.04, he was not entitled to have been promoted to the cadre of SE on 01.11.03. (Annexure- 10) P45

29/8/7.06.05- GM (P) vide his memo dated 29/8/7.06.05 have merged the different trades into 2 distinct trade namely (A) workshop cadre and (B) workshop/M&P cadre. Thereafter, the Chief Workshop Manager, New Bongaigaon is not entitled to promote the aforesaid 5 persons against the individual trade to give undue benefit of promotion. (Annexure- 11)

05.04.2007 - *Subh OA*
PRAYERS

1. That the Hon'ble Tribunal be pleased to direct the respondents to declare the result of the selection test held on 19.08.06 and on 26.08.06 and

thereafter to consider promotion of the applicants to the cadre of Section Engineer (Workshop) on the basis of performance in the said selection test with immediate effect, in terms of the decision communicated by the General Manager (P), N.F. Railway's letter dated 13.01.2006 and also in terms of letter dated 26.07.2006 as indicated in the Railway's letter dated 17.01.2006 as well as in letter dated 03.08.2006.

2. That the Hon'ble Tribunal be pleased to restrain the respondents in canceling the selection test held on 19.08.06 and on 26.08.06 and in the event of passing any order, canceling the aforesaid selection test, the same may be set aside and quashed.
3. That the Hon'ble Tribunal be pleased to direct the respondents to act upon the selection test held on 19.08.2006 and on 26.08.2006 pursuant to the direction of the General Manager (P), N.F. Railway for consideration of existing 24 vacancies of the Section Engineer (Workshop).
- 3.A That the Hon'ble Tribunal be pleased to set aside and quash the impugned notification bearing letter No. E/254/52(M)/W.S Pt.1 dated 04.01.2007.
- 3.B That the Hon'ble Tribunal be pleased to set aside and quash the impugned Memorandum bearing letter No. E/254/51 (M) WS Pt. I dated 04.12.2006 as well as office order No. 111/2006 dated 27.12.2006 so far promotion of Sri G.C. Nath and Sri Kaushik Mallik are concerned."
4. Costs of the application.
5. Any other relief (s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

During pendency of the application, the applicants pray for the following interim relief:-

1. That the Hon'ble Tribunal be pleased to direct the respondents, not to pass any order in canceling the selection test held on 19.08.2006 and on 26.08.06 and further be pleased to direct the respondents in the event of passing any such order, canceling the selection, the same may be kept in abeyance till disposal of this Original Application.
2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents to provide the relief as prayed for.

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

AMENDED ORIGINAL APPLICATION

Title of the case : O.A. No. _____/2007

Sri Arun Krishna Goswami and others. : Applicants.

-Versus-

Union of India & Ors. : Respondents.

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3.	1	Copy of letter dated 17.01.2006	
4.	2	Copy of letter dated 08.02.2006	
5.	3	Copy of notice dated 03.08.2006.	
6.	4	Copy of memorandum dated 04.12.2006	
7.	5	Copy of letter dated 20.11.2006.	
8.	6	Copy of the interim order dated 22.12.2006.	
9.	7	Lawyer notice dated 23.12.2006.	
10.	8	Representation dated 29.12.2006	
11.	9	Copy of the impugned notification dated 04.01.2007	40
12.	10	Copy of the office order dated 27.12.2006	
13.	11	Copy of the memorandum dated 29.06/8.7.2005	
14.	12	Provisional seniority list of JE-1	

Filed By:

Date:-

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

AMENDED ORIGINAL APPLICATION

O.A. No. 2006

BETWEEN:

1. Sri Arun Krishna Goswami.
2. Sri Jyoti Prasad Deori.
3. Shri Jiten Saikia.
4. Sri Abdur Kashid.
5. Sri Ranjit Kr. ^{Prabhunna} Baruah.
6. Sri Surya Bhan Pal.
7. Sri Ranjan Kr. Bayan.
8. Sri Ramendra Pal Singh.
9. Sri A. Hakim.
10. Sri Ikrami Hoque Mollick.
11. Sri Subhamoy Das.
12. Sri S. Purkayastha.
13. Sri Sanjoy Das.
14. Sri Akhil Ch. Paul.
15. Sri ^{Pradip Kumar Choudhury} Arun Krishna Paul.
16. Sri Anirban Ganguly.
17. Sri Samir Kr. Sarma ^{Watta} Applicants.

All the applicants are working as Junior Engineer, Grade-I, in the office of the Chief Workshop Manager, Carriage and Wagon Workshop, New Bongaigaon, N.F. Railway, Assam.

-AND-

1. The Union of India,
Represented by the General Manager,
N. F. Railway,

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filed by the applicants
Bench: S. N. K.
Advocate
29.03.2007.

Maligaon, Guwahati-781011.

2. General Manager (P)
N.F. Railway, Maligaon,
Guwahati- 781011.
3. Chief Workshop Engineer,
N.F. Railway,
Maligaon, Guwahati-781011.

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is made not against any particular order but praying for a direction upon the respondents for declaration of result of the selection test held on 19.08.2006 and on 26.08.06, pursuant to the direction of the General Manager (P), N.F. Railway for consideration of promotion of the applicants to the cadre of Section Engineer (Workshop) and also for restraining the Railway authority from canceling the aforesaid selection test and further for a direction upon the respondents to act upon the selection test held on 19.08.2006 and on 26.08.2006.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

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4.1 That all the applicants are presently working in the cadre of Junior Engineer, Grade-I, in the office of the Chief Workshop Manager, Carriage and Wagon Workshop, New Bongaigaon, N.F. Railway, Assam. The next promotional avenue of the applicants are available in the cadre of Section Engineer in the scale of Rs. 6500-10,500/-, promotion is made on the basis of selection from the feeder cadre of Junior Engineer, Grade-I provided 2 years regular service have been rendered in the feeder cadre of Junior Engineer, Grade-I. Be it stated that all the applicants have rendered 2 years regular service in the cadre of Junior Engineer Grade-I and well within the zone of consideration. Since the post of Section Engineers are selection post, therefore selection posts should be filled up by a positive act of selection, made with the help of selection boards from amongst the staff eligible for selection. The positive act of selection may consist of written test and/or viva voce test.

4.2 That the applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.

4.3 That it is stated that the Chief Workshop Manager, N.F. Railway New Bongaigaon, pursuant to General Manager (P), Maligaon letter No. E/254/51(W)/W.S. Pt. I dated 13.01.2006 issued a notice for holding selection for 36 Nos. of post of Section Engineer on 11.02.2006 as well as on 18.02.2006 and it has been advised to the applicants to keep themselves in readiness to appear in the written test and also directed the concerned authorities to spare the applicants to appear in the said written test. The name of all the applicants figured in the notice bearing letter No. E/M/254/JE-II/Selection/Pt. II dated 17.01.2006.

Immediately after receipt of the letter dated 17.01.2006, many of the applicants taken leave for preparation for the written test, scheduled to be held on 11.02.2006 and undertaken hard labour to get themselves prepared for the written test.

(A Copy of the letter dated 17.01.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-1).

4.4 That your applicants further beg to say that General Manager (P) vide letter No. E/254/51/(M) W.S. Pt. I dated 08.02.2006 informed that the date of selection for preparing panels for SE/WS in workshop and M & P cadre in the scale of Rs. 6500-10,500/-, which was fixed on 11.02.2006 and on 18.02.2006 has been postponed due to unavoidable circumstances and the next date of written examination would be intimated soon. Due to sudden cancellation of the written examination without disclosing any reason whatsoever, the applicants have been put to a great distress as because they have taken tremendous labour to get themselves prepared for the written examination scheduled to be held on 11.02.2006 and some of the applicants have in fact taken leave to prepare for the examination.

(A Copy of the letter dated 08.02.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-2).

4.5 That it is stated that the Chief workshop Manager, New Bongaigaon again vide letter bearing No. E/M/254/JE-II/Pt.II dated 03.08.2006 informed all concerned that the selection for the post of Section Engineer (WS) in the scale of Rs. 6500-10,500/- both for workshop cadre and also M & P cadre of Mechanical workshop has been fixed on 19.08.2006 and on 26.08.2006 pursuant to the direction of the General Manager (P)'s letter bearing No. E/254/51 M) WS. Pt. I dated 26.07.2006. It is to be noted here at this stage that the written examination now proposed to be held on 19.08.2006 after a lapse of more than 6 months from the date of initial notification dated

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13.01.2006. However the present applicants who were very much interested for their carrier building accordingly appeared in the written examination held on 19.08.2006 and on 26.08.2006, many of the applicants again taken leave to get themselves prepared for the written test and taken tremendous labour to appear in the written examination. It is ought to be mention here that there is no viva voce and the selection is made only on the basis of written examination.

(A Copy of the notice dated 03.08.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-3).

4.6 That your applicants when legitimately waiting for declaration of the select list, pursuant to the written examination held on 19.08.2006 and on 26.08.2006, but the Sr. Personnel Officer (Mech.) for and on behalf of the respondent No. 1 have issued a memorandum, promoting 12 persons to the cadre of Section Engineer, workshop in the scale of 6500-10,500/- w.e.f 01.11.2003, in addition to the staff already promoted earlier against restructuring. It is pertinent to mention here that out of the 12 persons who are now promoted, all of a sudden through memorandum bearing letter No. E/254/51 (M) W.S. Pt. I dated 04.12.2006, 5 persons namely Sri S.L. Prasad, K. Mallick, Kumud Das, G.C. Nath and Sri K.N. Pathak i.e Sl. No. 3, 6, 8, 10 and 11 of the memo dated 04.12.2006 in fact appeared alongwith the applicants in the written examination held on 19.08.2006/26.08.2006 and names of these 5 persons also would be evident from the notice dated 17.01.2006/03.08.2006. In the memo dated 04.12.2006 it is stated by the General Manager (P) that all these 12 persons have been left earlier are now found suitable in the modified selection held on 30.11.2006 for promotion to the post of Section Engineer workshop in the scale of Rs. 6500-10,500/- against restructuring w.e.f 01.11.2003 in addition to the staff already promoted earlier.

Therefore it appears that these 12 persons have been left out and therefore a modified selection held on 30.11.2006 and accordingly these 12 persons have been promoted following the modified selection held on 30.11.2006. It is pertinent to mention here that the applicants came to learn from a reliable source that one Sri Kumud Das have preferred an appeal long back during the year 2003 for consideration of his promotion under cadre restructuring and after consideration of his appeal, the respondent railway authority had held the modified selection and promoted the left out 12 persons to the cadre of Section Engineer, workshop. Be it stated that Sri Kumud Das also appeared in the written examination along with the applicants pursuant to the notice dated 03.08.2006, but he was promoted along with 11 others vide memo dated 04.12.2006.

(A copy of the memo-dated 04.12.2006 is enclosed as Annexure-4).

4.7 That it is stated that when the present applicants are eagerly waiting for declaration of result of the selection test, at that moment the respondent railway authority issued the memorandum dated 04.12.2006 promoting 12 persons to the cadre of Section Engineer without publishing any notice/corrigendum to the effect that the vacancies which were notified for selection test vide General Manager's letter dated 13.01.2006 and 26.07.2006, where altogether 36 vacancies position has been shown for filling up by way of selection in the cadre of Section Engineer (workshop), but by promoting 12 persons through memo dated 04.12.2006, 12 vacancies have been filled up by the General Manager (P) out of the 36 vacancies, notified by the General manager (P) for written test and against those 36 vacancies, although written test has been conducted way back in the month of August, 2006, but thereafter promotion of the 12 persons have been made by holding a modified selection on 30.11.2006, without issuing any notice/corrigendum as such action of the respondents authority is highly arbitrary, illegal, unfair and such action of the railway authorities smacks

malafide and it appears that the respondents authority is not transparent at all and deliberately made a departure from the rule of fairness while exercising administrative discretion.

It is well known to the General Manager (P) that he has issued a notification on 13.01.2006 and thereafter on 26.07.2006 proposing to hold selection test for consideration of promotion of the eligible employees including the applicants in the cadre of Section Engineer and more so when the said written test has been conducted by the Railway authority for filling up 36 vacancies in the cadre of Section Engineer and the employees who appeared in the selection are eagerly waiting for declaration of result of the selection test held on 19.08.2006 and on 26.08.2006, a duty cast upon the General manager (P) at least to issue a corrigendum/notice before holding the modified selection test on 30.11.2006 for consideration of promotion of the left out candidates if any against restructuring but in the instant case General Manager (P) even did not feel like to issue a corrigendum/notice before taking the decision of filling up 12 posts of Section Engineer (Workshop) by holding modified selection on 30.11.2006. As such decision of holding notified selection test is also arbitrary and the same is in violation of principle of natural justice and fair play.

4.3 That it is stated that the General Secretary of the N. F. Railway, Mazdoor Union, New Bongaigaon Workshop vide letter No. MU/NBQ/3/06 dated 20.11.06 requested Chief Workshop Engineer to expedite publication of result of selection of Section Engineer from Junior Engineer, Grade-I in order to avoid dispute in the matter of seniority between the direct recruits, Section Engineer and promotee Section Engineer as because some of the direct recruits section engineer are undergoing necessary training and awaiting for final posting in workshop. It is pertinent to mention here that these 36 vacancies for which written test was held in fact occurred during the year 2003, 2004 and 2005 and as such the applicants who are within the

zone of consideration are entitled to be considered for priority basis at least from the date of occurrence of vacancies.

A copy of the letter-dated 20.11.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-5.

4.9 That it is stated that even assuming if some candidates are left out genuinely left out for consideration for promotion under cadre restructuring due to administrative error in that event the railway administration definitely can review those cases of the left out candidates for promotion to the cadre of Section Engineer even after issuance of notification for holding written examination/selection test for filling up the vacancies in the cadre of Section Engineer (Workshop). But the Railway authorities could have conducted the modified selection test by issuing a notice/corrigendum to that effect by reducing 12 vacancies by modifying the General Manager (P)'s letter dated 13.01.2006 and 26.07.2006. But in the instant case the General Manager (P) did not take any corrective steps to that extent.

Even after promotion of the 12 persons through memorandum dated 04.12.2006 the applicants were eagerly waiting for declaration of their results of the selection test held on 19.08.2006 and on 26.08.2006 and also legitimately expecting their promotion to the cadre of section Engineer in the remaining 24 vacancies on the basis of the select list/merit list in terms of the selection conducted by the railway authorities. But to their utter surprise the railway administration without declaring the results of the selection test held on 19.08.2006 and 26.08.2006, has now decided to cancel the aforesaid selection test in a most arbitrary and unfair manner as learned by the applicants from reliable source.

It is pertinent to mention here that, although 12 persons have been promoted as against the 36 vacancies of Section Engineer (workshop), but there was no bar or legal restriction for filling up the remaining 24

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vacancies on the basis of the selection test held on 19.08.2006 and 26.08.2006 strictly on the basis of performance of the remaining candidates who appeared in the written examination conducted by the railway administration, therefore decision of the railway administration proposed to cancel the said selection test held on 19.08.2006 and 26.08.2006 is highly arbitrary, unfair and illegal and opposed to public policy and on that score alone the respondents be restrained to take any such action, prejudicial to the interest of the applicants.

4.10 That it is stated that apparently there is no justifiable ground to cancel the selection test held on 19.08.2006 and on 26.08.2006, but it appears due to promotion of certain left out persons under restructuring in the cadre of Section Engineer, Workshop, 12 posts have been diverted for promoting those 12 left out persons, even then there are 24 clear vacancies are available in the cadre of Section Engineer and these vacancies are liable to be filled up only on the basis of a positive act of selection, since the eligible employees have been directed by the Railway administration to appear in the written examination pursuant to the decision of the General Manager (P), and the eligible employees including the applicants have prepared themselves for the rigorous examination and also appeared in the said examination, therefore there is no valid reason to cancel the selection test held on 19.08.2006 and on 26.08.06, more so in view of the fact that these employees have taken all the troubles and got themselves prepared for the examination even by taking leave, in such circumstances the Railway authorities should declare the result of the selection test and should take necessary steps to fill up the remaining 24 vacancies on the basis of merit list/select list. It is pertinent to mention here that when at least 24 posts of Section Engineer are very much available these posts shall have to be filled up only through selection, therefore justice demand that these posts should be filled up by declaring the result of the selection test. It is not the

case of the Railway administration that there is any allegation of adoption of unfair means, in the written examination by the applicants or any other employees appeared in the written examination and it is also not the case of the Railway administration that there are no more vacancies available in the cadre of Section Engineer, as such it is obligatory on the part of the Railway administration to declare the result of the selection test and on the basis of the recommendation of the selection board these posts should be filled up on the basis of the result of the selection tests.

In the facts and circumstances stated above the decision of the competent authority in cancelling the selection test completely misdirected itself in taking such an extreme and unreasonable decision which is wholly unwarranted and unnecessary even on the factual situation and such decision of the Railway administration is irrational, therefore respondents be restrained in canceling the selection test held on 18.08.06 and on 26.08.06 otherwise it will cause irreparable loss and injury to the promotion prospect of the applicants.

4.11 That it is stated that selection was strictly in accordance with the governing instruction as such decision, if any, of the Railway administration for canceling the entire selection is highly arbitrary, unreasonable and against the public interest and the said decision is not judicious, more so when there is no grievance on the part of the Railway administration in adopting any unfair means by any of the applicants or other in the written examination held on 19.08.06 and on 26.08.06. Therefore decision of the Railway administration proposing to cancel the entire selection likely to cause irreparable loss and injury to the applicants who have appeared in the said examination and fared well in the written examination and legitimately expecting result of the selection test in their favour. The decision of cancellation of the selection, if taken by the Railway administration the same will cause harassment to the applicants for no fault on their part. It is well known to the Railway administration

that there are 24 vacant posts have to be filled up only by way of selection test and a vacancy is liable to be filled up on the day when it occurred. In such circumstances if the Railway administration decides to cancel the selection test already held, then the same will be highly arbitrary, unfair and opposed to public policy. It should be the duty of the model employer like the Railway authority to cause minimum harassment, least inconvenience to its employees but the arbitrary decision of the Railway administration to cancel the entire selection will lead to maximum anxieties and harassment to the applicants.

In the circumstances this Hon'ble Tribunal be pleased to pass an appropriate interim order restraining the Railway authority in cancelling the selection test held on 19.08.06 and 26.08.06 and further be pleased to pass appropriate order directing the Railway administration to declare the result on the basis of performance of the employees and accordingly to fill up all the 24 vacancies of Section Engineer (Workshop) as early as possible.

- 4.12 That it is stated that the applicants have no alternative remedy but to approach the Hon'ble Tribunal for declaration of their results of the selection test for considering promotion from the cadre of Junior Engineer, Grade-I to the cadre of Section Engineer (Workshop) and further be pleased to restrain the respondents Railway authority in canceling the selection test held on 19.08.2006 and on 26.08.2006 and if any such decision is already taken the same be set aside and quashed.
- 4.13 That your applicants are apprehending that the Railway may cancel the selection test held on 19.08.2006 and also on 26.08.2006, at any moment. Moreover, results of the selection test has not yet been published even after a lapse of about 6 months as a result promotion of the applicant are being delayed due to administrative inaction and laches, therefore finding.

no other alternative, applicants are approaching before this Hon'ble Tribunal, for granting adequate reliefs to the applicants.

4.13A That your applicants have approached this Hon'ble Tribunal by filing an O.A which was registered as O.A. No. 321/2006, due to non declaration of results of the selection test held on 19.08.2006 and on 26.08.2006 for consideration of promotion of the applicants from the cadre of J.E.-I to the cadre of SE/workshop and M & P cadre and also, apprehending, cancellation of the selection test held on 19.08.2006 and on 26.08.2006. The said O.A came up for consideration before the learned Tribunal on 22.12.2006. The Hon'ble Tribunal on perusal of the materials on record and also after hearing the arguments of the parties was pleased to pass an interim order upon the respondents, directing them not to take any action prejudicial to the interest of the applicants till the next date of hearing i.e. till 09.02.2007. The said interim order was duly communicated through lawyer's notice dated 23.12.2006 and also through representation dated 27/31.12.2006 by the applicants individually to the respondent No. 2.

(Copy of the interim order dated 22.12.2006, the lawyer notice dated 23.12.2006 and representation dated 29.12.2006 are enclosed as Annexure- 6, 7 and 8 respectively).

4.13 B That your applicants further beg to say that the respondent No. 2 in total violation of the interim order dated 22.12.2006 issued impugned notification bearing letter No. E/254/52(M)/W.S Pt.I dated 04.01.2007, whereby it has been decided to hold another selection forming panel for consideration of promotion from the cadre of J.E.-I to the cadre of SE/workshop and M&P cadre of Mechanical department in the scale of Rs. 6500-10,025/- which has caused serious prejudice to the applicants as because it would be implied that the earlier selection which was held on

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19.08.2006 as well as on 26.08.2006 appears to have been cancelled, although no formal communication is made to the applicants regarding cancellation of the earlier selection test. Moreover when the learned Tribunal is seized with the matter then the respondent No. 2 ought to have taken leave before issuance of the impugned notification dated 04.01.2007 proposing to hold another selection test on 03.02.2007 as well as on 10.02.2007. Therefore the Hon'ble Court be pleased to declare that the impugned notification dated 04.01.2007 is void-ab-initio.

(A copy of the impugned notification dated 04.01.2007 is enclosed as Annexure-9).

4.13 C That it is stated that in the impugned notification dated 04.01.2007 the total vacancy shown against workshop cadre is 25 and 6 vacancies has been shown against M & P cadre, whereas in terms of earlier notification dated 13.01.2006 communicated through N.F. Railway dated 17.01.2006 the total vacancy under workshop cadre has been shown 27 and 9 vacancies are shown against M & P cadre. It is pertinent to mention here at this stage that out of total 36 promotional post of Section Engineer, 12 post were filled up by the GM (P) by holding a modified selection on 30.11.2006, whereby 12 employees working in the cadre of J.E-I were promoted to the cadre of Section Engineer, workshop. Even after holding the selection test on 19.08.2006 and on 26.08.2006, without issuing any notification, communication, notice prior to holding of modified selection on 30.11.2006 and it is also interesting to note here at this stage that all the 12 employees who were promoted vide impugned memorandum dated 04.12.2006 in fact appeared in the selection test along with the applicant on 19.08.2006 and 26.08.2006. But they have been promoted against re-structuring vacancies w.e.f. 01.11.2003 in addition to the staff already promoted earlier against re-structuring. In the memo dated 04.12.2006, it has been ordered that all the 12 persons have been promoted w.e.f.

01.11.2003 in terms of the scheme of re-structuring but surprisingly it would be evident from a subsequent office order No. 111/2006 dated 27.12.2006, wherein it has been stated that Sri S.L. Prasad (SC) and Sri G.C. Nath have been promoted w.e.f. 26.12.2006 instead of 01.11.2003 but no reason has been assigned by the railway authorities for such discrepancies with regard to date of promotion, how Sri S.L. Prasad and Sri G.C. Nath could be promoted w.e.f 26.12.2006 under the re-structuring vacancies. It is categorically submitted that Sri Kaushik Mallik and Sri G.C. Nath were not eligible for promotion to the cadre of SE w.e.f 01.11.2003. Therefore it appears that the competent authority deliberately made some manipulation in the modified selection test held on 30.11.2006 as because neither Sri Kaushik Mallick nor Sri G.C. Nath have completed 2 years service in the cadre of JE-I as on 01.11.2003. Therefore in order to give them undue advantage of promotion to the cadre of SE (Workshop) against re-structuring vacancies, they have been subsequently promoted w.e.f 26.12.2006 in order to rectify the irregularities and illegalities. It is also stated that Sri Koushik Mallik also shown to have been promoted w.e.f 05.06.2004 by the office order No. 111/2006 dated 27.12.2006, therefore he was also not entitled to have been promoted to the cadre of SE on 01.11.2003, but the same has been done by the administration with a malafide intention to give, undue advantage of promotion to certain employees working in the cadre of JE-I on pick and choose basis and surprisingly no corrigendum has been issued for rectification of the memo dated 04.12.2006.

It is pertinent to mention here at this stage that it would be evident from divisional interpolated seniority list of JE-I (Workshop), in Workshop cadre (carriage and others). The date of promotion of Sri S.L. Prasad has been shown on 23.08.1996, Sri G.C. Nath is shown on 01.07.2002 and Sri Kaushik Mallick also appears to have been promoted as JE-I in the year 2002, therefore it appears that Sri G.C. Nath, Sri K. Mallick

were not even eligible for promotion on 01.11.2003 since Sri G.C. Nath and Sri K. Mallick did not complete 2 years regular service on 01.11.2003 but a vested circle in the Railway office in order to give undue advantage of promotion to Sr. G.C. Nath and Sri K. Mallick, shown to have been promoted w.e.f. 01.11.2003.

It is also may be noted here at this stage that by the order dated 27.12.2006, Sri S.L. Prasad, Sri K. Mallick, K. Das, K.N. Pathak and Sri. G.C. Nath shown to have been promoted against different individual trade, whereas the GM (P) vide his memo bearing letter No. E/283/59/(M)/WS dated 29/8/7.06.2005 have merged the different trades into 2 distinct trade namely (A) workshop cadre and (B) workshop/M&P cadre. Thereafter, the Chief Workshop Manager, New Bongaigaon is not entitled to promote the aforesaid 5 persons against the individual trade to give undue benefit of promotion. It is relevant to mention here at this stage that even Sri Kaushik Mallick was promoted to the cadre of JE-I during the year 2002, thereafter Sri Mallick was also not eligible for promotion under restructuring vacancies w.e.f. 01.11.2003 but all this manipulations have been done to defeat the legitimate claim of promotion of the applicants to the cadre of SE (workshop), by way of diversion of vacancies of SE/WS on the pretext of restructuring.

(Copy of the office order dated 27.12.2006, memorandum dated 29.06/8.7.2005 and provisional seniority list of JE-I is enclosed as Annexure 10, 11 and 12).

4.13 D That it is stated that by the impugned notification dated 4.01.2007 the zone of consideration have been extended/enlarged and there are variations in the vacancy position in the cadre of SE (Workshop). As per earlier notification of GM (P) altogether 36 posts have been shown available and 24 persons were declared eligible for appearing in the selection test but by the impugned notification as against 31 posts altogether 47 persons have

been declared within zone of consideration. It is a settled position of law that panel for promotion is required to be prepared year wise and as such zone of consideration cannot be extended/or canceling by canceling the earlier notification dated 13.01.2006. The impugned notification dated 04.01.2007 have been issued in total violation of the relevant railway rules which are in force for consideration of promotion to the cadre of SE (Workshop) and on that score alone the impugned notification dated 04.01.2007 is liable to be set aside and quashed.

4.13E That on a careful reading of various orders, letters issued by the Railway authorities from time to time regarding promotion in the cadre of SE (Workshop), it appears that there are large scale irregularities and manipulations in the matter of promotion and the present applicants who have sincerely appeared in the rigorous selection test are now likely to suffer due to irregularities, illegalities committed by the Railway authorities. There was absolutely no justification of cancellation of selection test held on 19.08.2006 as well as on 26.08.2006. In the circumstances stated above, it is a fit case for interference by the learned Tribunal to protect the rights and interests of the present applicants otherwise it will cause irreparable loss and injury to the applicants. Hence the impugned order dated 04.01.2007 is liable to be set aside and quashed.

4.14 That this application is made bona fide and for the cause of justice.

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

5.1 For that, the competent authority of the railway administration completely misdirected himself in taking such an extreme and unwarranted decision of canceling the selection, wholly unwarranted and unnecessary even on the factual situation found too therein, and totally in access of the nature and gravity of what was at stake, thereby virtually rendering such decision to be irrational.

- 5.2 For that there is no allegation of irregularities or illegalities or adoption of unfair means in the process of conducting the selection test i.e. written examination held pursuant to the direction of the GM (P) issued on 26.07.06. As such question of cancellation of selection test without any valid reasons when at least 24 post of Section Engineer (Wksp) are available would be arbitrary, illegal and unfair and would be a deliberate attempt to cause harassment to the applicants who have taken all the troubles to appear in the rigorous process of selection test.
- 5.3 For that, respondents railway authorities committed grave error by holding modified selection on 30.11.2006 without issuing any prior notice or corrigendum before diversion and filling up of 12 vacancies out of the 36 vacancies for which selection test held on 19.08.06 and on 26.08.06.
- 5.4 For that, even after promotion of 12 persons from the cadre of J.E Grade-I to the cadre of Section Engineer (Workshop) in the scale of pay of Rs. 6500-10500/-, at least 24 posts of Section Engineers (Wksp) are still remained vacant, as such those vacancies ought to have been filled up after declaring the results of the selection test conducted by the railway administration on 19.08.06 and on 26.08.06 from amongst the J.E Grade-I who appeared in aforesaid selection test.
- 5.5 For that when 24 vacancies are still available in the cadre of Section Engineer (Workshop) the same are liable to be filled up only by an act of positive selection, therefore there is no justification for cancellation of the selection test already held on 19.08.06 and on 26.08.06 and all the eligible candidates including the applicants have already appeared in the rigorous selection test. therefore there is no valid ground not to act upon the aforesaid selection proceeding and on that score alone if there is any cancellation order the same is liable to be set aside and quashed.

5.6 For that applicants cannot be made to suffer at the whims of the Railway administration when there is no fault on the part of the applicants, as such there is no valid ground of cancellation of selection test held on 19.08.06 and on 26.08.06.

5.7 For that non-declaration of result of the selection test held on 19.08.2006 and on 26.08.06 even after lapse of about 6 months will adversely effect the promotion prospect of the applicant who are eligible and within the zone of consideration for promotion to the cadre of Section Engineer (Workshop).

5.8 For that, the result of the selection test held on 19.08.06 and on 26.08.06 has not been published even after a lapse of about 6 months due to inaction, laches and also due to negligence on the part of the Railway administration whereas the result of the modified selection held subsequently on 30.11.06 has been issued within a period of 4 days and selectees have already been promoted to the cadre of Section Engineer (Workshop) within the said period of 4 days as such delay in publishing the result of the selection test held earlier is deliberate on the part of the Railway administration with the view of intention to cause injury to the promotion prospect of the applicants.

5.9 For that, inasmuch as 24 vacancies are still available in the cadre of Section Engineer (Workshop) even after diversion of 12 posts, as such respondents are duty bound to act upon the selection test held on 19.08.06 and on 26.08.06 as per decision of the railway administration, more so when the applicants appeared in the selection test and legitimately expecting their promotion to the cadre of Section Engineer (Workshop).

5.10 For that, delay in publishing the results of the selection test will adversely effect the seniority position of the applicants in the cadre of Section Engineer (Workshop) with other direct recruits who are waiting for

posting in the Railway Workshop at Bongaigaon shortly on completion of their training.

- 5.11 For that, the applicants are apprehending that the respondents Railway authority may cancel the selection test at any moment, as learnt from the reliable source at this belated stage which will cause irreparable loss and injury to their promotion prospect in the event of such cancellation. As such the Hon'ble Court be pleased to restrain the respondent in canceling the selection test held on 19.08.06 and on 26.08.06 and further be pleased to direct the respondents to act upon the aforesaid selection test to consider promotion of the applicants to the cadre of Section Engineer (Workshop).
- 5.12 For that, in the event of cancellation of the selection test held on 19.08.06 and on 26.08.06 for filling up the vacancies in the cadre of Section Engineer (Workshop) shall be arbitrary and such cancellation would be wholly unwarranted in the fact and situation of the case of the applicants and the said decision of cancellation of selection test, if any, of the Railway administration would not be in public interest and opposed to public policy, and as such the Hon'ble Tribunal be pleased to restrain the Railway administration to pass any order of cancellation of the aforesaid selection test.
- 5.13 For that, the impugned notification dated 04.01.2007 has been issued in total violation of the interim order passed by the learned Tribunal in the Original Application and as such the notification proposing holding of further selection test w.e.f. 03.02.07 and on 10.02.07 so far the applicants are concerned is liable to be set aside and quashed.
- 5.14 For that there is no irregularity or illegality in the earlier selection test which was held on 19.08.06 and on 26.08.06 following the notification of the GM (P) himself as such there is no justifiable reason for holding

another selection test regarding the vacancies of SE/WS for which selection test already held.

- 5.15 For that, no communication or notification is issued informing the applicants regarding cancellation of earlier selection test held on 19.08.06 and on 26.08.06, as such respondents are duty bound to declare the select list and to act upon the same as per GM (P)'s notification dated 13.01.2006.
- 5.16 For that no reason has been assigned or communicated to the applicants for holding another selection test by the impugned notification dated 04.01.2007.
- 5.17 For that there are lot of discrepancies and irregularities deliberately committed by the Railway administration by holding modified selection test on 30.11.06 where ineligible persons have been considered and promoted to the cadre of SE/WS against restructuring vacancies, namely; Sri G.C. Nath, Kaushik Mallik along with others to give undue advantage of promotion under restructuring vacancies, while legitimate claim of promotion of the present applicants have been denied and delayed without any justifiable reasons, in spite of appearing in rigorous selection test.
- 5.18 For that, Railway authorities deliberately violating the relevant Railway rules in force in the matter of selection/ modified selection by promoting the ineligible persons and also in violation of GM (P)'s own memorandum dated 29/8/7,06.05 as such the impugned memorandum dated 04.12.06 promoted 12 persons to the cadre of SE/WS is liable to be declared void-ab-initio.
- 5.19 For that, by the impugned notification dated 04.01.07, the Railway authorities have enlarged the zone of consideration in filling up vacancies in the cadre of SE/WS and also without preparing year wise panel as

required under the rule and on that score alone, the impugned notification dated 04.01.07 is liable to be set aside and quashed."

6. Details of remedies exhausted.

That the applicants declare that they have exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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

The applicants further declare that they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

6. Relief (s) sought for.

Under the facts and circumstances stated above, the applicants humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to direct the respondents to declare the result of the selection test held on 19.08.06 and on 26.08.06 and thereafter to consider promotion of the applicants to the cadre of Section Engineer (Workshop) on the basis of performance in the said selection test with immediate effect, in terms of the decision communicated by the General Manager (P), N.E. Railway's letter dated 13.01.2006 and also in terms of letter dated 26.07.2006 as indicated in the Railway's letter dated 17.01.2006 as well as in letter dated 03.08.2006.

8.2 That the Hon'ble Tribunal be pleased to restrain the respondents in canceling the selection test held on 19.08.06 and on 26.08.06 and in the event of passing any order, canceling the aforesaid selection test, the same may be set aside and quashed.

8.3 That the Hon'ble Tribunal be pleased to direct the respondents to act upon the selection test held on 19.08.2006 and on 26.08.2006 pursuant to the direction of the General Manager (P), N.F. Railway for consideration of existing 24 vacancies of the Section Engineer (Workshop).

8.3 A That the Hon'ble Tribunal be pleased to set aside and quash the impugned notification bearing letter No. E/254/52(M)/W.S Pt.1 dated 04.01.2007.

8.3 B That the Hon'ble Tribunal be pleased to set aside and quash the impugned Memorandum bearing letter No. E/254/51 (M) WS Pt. I dated 04.12.2006 as well as office order No. 111/2006 dated 27.12.2006 so far promotion of Sri G.C. Nath and Sri Kaushik Mallik are concerned.

8.4 Costs of the application.

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

9. Interim order prayed for
During pendency of the application, the applicants pray for the following interim relief:-

9.1 That the Hon'ble Tribunal be pleased to direct the respondents, not to pass any order in canceling the selection test held on 19.08.2006 and on 26.08.06 and further be pleased to direct the respondents in the event of passing any such order, canceling the selection, the same may be kept in abeyance till disposal of this Original Application.

*John Nath
31 Vacancies*

not passed?

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

10

11. Particulars of the I.P.O

- i) I.P.O No.
- ii) Date of issue
- iii) Issued from
- iv) Payable at

12. List of enclosures :

As given in the index.

VERIFICATION

I, Smti Arun Krishna Goswami, S/o- Late Prassanna Goswami, aged about 34 years, working as Junior Engineer-I, in the office of Senior Section Engineer, N.F. Railway, Bongaigaon, applicant No. 1 in the instant application, duly authorized by the others to verify statements made in this Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this 28th day of March, 2007.



25

X

N. F. RAILWAY.

4. E/M/25 JE-II/Selection/Pt. II

To

SSEs/WRS, CLS/MG, CBS, PGS
CRS/MG, WPS, CIS, CRS/DG, CIS,
WPS, CIS, CIS/MLG.Office of the
Chief Workshop Manager
N.F.Rly. New Bongaigaon.
Dated: 27/01/2006.

Selection for the post of SE in scale r. 6500-10500/-

Ref:- GM/P/MLG's L/N^o. E/254/51 (W) /W.S.Pt. I dt. 13-1-06.

Written test in connection with the selection of SE in scale

r. 6500-10500/-/as per the programme mentioned below:-

1. Written Test - 11-02-2006
2. Absentee written Test - 13-2-2006
3. Venue - GM's Office/MLG

Time - 10-30 Hrs.

Break of the post :-

Sl.No.	Category	Panel for	UR	SC	ST
1.	WPS	27 posts	20	4	3
2.	MLG	00 posts	7	2	Nil
		36	27	6	3

You are hereby requested to please advise the following staff, working under you to keep themselves in readiness to appear in the above test and also spare and direct them to appear in the said on the above date.

Name	Designation	Working under
1. Sri K. K. Das	JE-I	SSE/WRS
2. " K.N. Pathak,	-do-	SSE/PLG
3. " P.K. Choudhury,	-do-	SSE/CLS/MG
4. " G. Pathak,	-do-	SSE/WRS
5. " S. Mukundayya,	-do-	SSE/CLS/MG
6. " A.Y. Mukundayya,	-do-	SSE/PLG
7. " A.Y. Bhawali,	-do-	SSE/CBS
8. " I. M. Haque Mallik,	-do-	SSE/CLS
9. " S. Bhattacharya,	-do-	SSE/PGS
10. " S.K. Bhattacharya,	-do-	SSE/CBS
11. " R. Bhattacharya,	-do-	SSE/CLS/MG
12. " A. Bhattacharya,	-do-	SSE/CBS
13. " Akhil Ch. Chakraborty	-do-	SSE/CRS/MG

Contd... 2

After
Signature

- : (2) : -

Name	Designation	Working under
14. Sri A. Ganguly,	JE/I	SSE/WELD
15. " J. C. Kar,	-do-	SSE/Insp.
16. " S.L. Prasad,	-do-	SSE/PLG
17. " Ranjay Das,	-do-	-do-
18. " ...S. Brahma,	-do-	SSE/CPS/UG
19. " R.K. Basumatary,	-do-	SSE/CPS
✓ 20. " M. P. Deric,	-do-	SSE/INSP.
21. " M. Saikia,	-do-	SSE/WTS
22. " Suhomoy Das,	-do-	-do-
23. " Md. Abyul Rashid,	-do-	SSE/MS
24. " K. Lalick,	-do-	SSE/MWS

If any candidate expresses unwillingness to appear in the selection, written declaration to that respect may kindly be obtained and sent to this office before the date to enable this office to intimate GM/P/MLG. in time.

Recd 17/11/66

(R. ROY)
APO(W)/NBS
For CWM/NBGS.

~~Copy forwarded to :- GM(P)/MLG- He is informed that Shri N.C. Sarkar, JE/I, Serial No. 1 of M.P Cadre has retired from service w.e.f. 30-11-65.~~

Recd 17/11/66
(R. ROY)
APO(W)/NBS
For CWM/NBGS.

- 27 -

39

Northeast Frontier Railway

Office of the
General Manager (P),
N.E. Railway, Morigaon,
Guwahati - 781 011

No.E/254/51(M)W.S Pt.I

Date :- 8.02.2006

To,
CWM/NBQ & DBWS
The PSTC/NBQ
The ADME/TDII

**Sub : Forming the panels of SE/WS in scale Rs.6500-10,500/- in Workshop
cadre and M&P cadre of Mechanical department.**

The date of selection for forming panels for SE/WS in Workshop and M&P cadre in scale Rs.6500-10,500/- which was fixed on 11.02.2006 (written) and 18.02.2006 (absentee written) vide this office notification of even number dated 13.01.2006 is hereby postponed due to unavoidable circumstances. The next date for the written examination will be intimated soon.

Kindly inform the eligible candidates accordingly.

This is for your information please.


(N. Misra)

Sr. Personnel Officer/Mech
For General Manager (P)

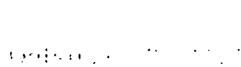
Copy for information to :-

1. CWE/MLG
2. Dy.CME/WS
3. APO/NBQS & DBWS


(N. Misra)

Sr. Personnel Officer/Mech
For General Manager (P)

No.E/M/254/JE/II/Selection/Pt.II


(N. Misra)

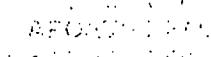
To,
All SSEs of Mechanical department/NBQS.

**Sub : Forming the panels of SE/WS in scale Rs.6500-10,500/- in Workshop
cadre and M&P cadre of Mechanical department.**

Ref : GM(P)/MLG L/No. E/254/51(M)W.S Pt.I Date 8.02.2006

GM(P)/MLG's above letter is forwarded for information and necessary action. Please refer to this office letter of even No. dated 17/1/2006 for sparing of the staff concerned accordingly.


Affected
D.M.C. Reserve


D.P.O. (D.M.C.)
Date 17/2/2006

N. F. RAILWAY.

Office of the
CWM/NBQS

Dated: 03-08-2006.

No. E/M/254/JE-II/Pt.II

TO

PSTC/NBQ, SSE/WRS, PLG, CLS/MG, CDS,
PGS, CRS/MG, WLD, INSP, CRS/DG, CPS,
WTS, MS, MWS/NBQ, WLDSub:- Selection for the post of SE(WS) in scale Rs. 6500-10500/-,
both for Workshop cadre and also M&P cadre of Mech.

Ref:- GM(P)/MLG's L/No. E/254/51(M) WS Pt. I Dated July 26, 2006.

Written test in connection with the selection of SE(WS) in scale
Rs. 6500-10500/- will be held as per the programme mentioned below:-

1. Written examination - On 19-08-2006

2. Absentee written - On 26-08-2006

3. Venue. - CME's Office, Malignon.

4. Time - 10-00 Hrs.

You are hereby requested to please advise the following staff,
working under you to keep themselves in readiness to appear in the said
test and also spare and direct them to appear in the said test on the
above date.

Sl.	Name	Designation	Working under
1.	Sri K.C. Das,	JE/I	SSE/WRS
2.	K.N. Pathak,	-do-	-do-/PLG
3.	P.K. Choudhury,	-do-	-do-/CLS/MG
4.	G. Nath,	-do-	-do-/WRS
5.	S. Purkayastha,	-do-	-do-/CLS/MG
6.	A.K. Chakraborty,	-do-	-do-/PLG
7.	A.K. Goswami,	-do-	-do-/CDS
8.	I. H. Haque Mallik,	-do-	-do-/CDS
9.	Surabhan Paul,	-do-	-do-/PGS
10.	S.K. Sharma,	-do-	-do-/CLS/MG
11.	R. Dajan,	-do-	-do-/CLS/MG
12.	A. Hakim,	-do-	-do-/CDS
13.	Akhil Ch. Paul,	-do-	-do-/CRS/MG
14.	R.P. Singh,	-do-	PSTC/NBQ
15.	S.L. Prasad,	-do-	SSE/PLG
16.	Sanjay Das,-	-do-	-do-
17.	A.S. Bhattacharya,	-do-	SSE/CRS/DG
18.	R.K. Dasgupta,-	-do-	SSE/CPS
19.	J.P. Dori,	-do-	-do-/INSP
20.	J. Saikia,	-do-	-do-/WTS
21.	Subhamoy Das,	-do-	-do-
22.	Abdul Rashid,	-do-	SSE/MS
23.	Sri K. Mallik,	-do-	-do-/MWS
24.	A. Ganguly	-do-	-do-/WLD

M. S. G. S.
Advocate

A copy of the syllabus for the selection of SE(WS) are enclosed herewith, which may kindly be brought to the notice of the candidates.

If any candidate expresses unwillingness to appear in the above selection, written declaration to that respect may kindly be obtained and sent to this office before the date to enable this office to intimate GM(P)/MLG in time.

APD(WS)/NDQ
For CWM/NDQS

Copy forwarded to :- GM(P)/MLG- He is informed that Sri S.C. Kar, JE/I, Serial No. 23 of workshop cadre has retired from service w.e.f. 31-03-06.

Parag. & At.
For CWM/NDQS.

Northeast Frontier Railway

MEMORANDUM

Further to this office memorandum No.E/254/11/PL.III (M) dated 02.05.2005, the following candidates who have been left out earlier are found suitable in the modified selection held on 30.11.2006 for promotion to the post of SE/WS in scale Rs.6500-10,500/- against restructuring w.e.f 01.11.2003 in addition to the staff already promoted earlier against restructuring.

SN	Name	Comm.unity	Designation	Trade	Place of working
1.	Shri N.C. Sarkar	UR	JE/I./WS	Machine	NBQS ✓
2.	Shri K. Sharma	UR	JE/I./WS	Machine	DBWS
3.	Shri S.L. Prasad	SC	JE/I./WS	BSS	NBQS ✓
4.	Shri B. Sonowal	ST	JE/I./WS	BSS	DBWS
5.	Shri Rajib Borah	UR	JE/I./WS	MW	DBWS
6.	Shri Kaushik Mallick	SC	JE/I./WS	MW	NBQS ✓
7.	Shri P. Changloy	ST	JE/I./WS	Welding	DBWS
8.	Shri Kumud Das	UR	JE/I./WS	Wagon	NBQS ✓
9.	Shri Bani Kanta Deka	UR	JE/I./WS	Wagon	HQ now WSI under SDGM/MLG
10.	Shri G.C. Nath	UR	JE/I./WS	Wagon	NBQS ✓
11.	Shri K.N. Pathak	UR	JE/I./WS	Carriage	NBQS ✓
12.	Shri S.N. Chakraborty	UR	JE/I./WS	Carriage	DBWS

The panel has been approved by CWE/MLG.

(J. Rabidas)

Sr. Personnel Officer/Mech
For General Manager (P)
December 4, 2006

No.E/254/51(M) WS Pt.I

Copy forwarded for information and necessary action to :-

1. FA&CAO/MLG
2. CWE/MLG
3. CWM/DBWS & NBQS
4. Dy.CME/NBQS
5. ADME/IDH
6. Sr.DME/Dst/MLDT, SGUJ, NGC & LMG
7. GS/NFRMU & NFREU
8. APO/NBQS & DBWS
9. Copy for P/case.

J. Rabidas
4/12/06
For General Manager (P)

Chas 1B
Pl. hand over
Pl. 2006

Affected
After New
Handover

31-
N. F. RAILWAY MAZDOOR UNION

REGD No: 425 (ASSAM)

Recognised by the N. F. Railway Administration

Affiliated to All India Railwaymen's Federation & Hind Mazdoor Sabha

HEAD OFFICE :- PANDU

Phone :- 23610 (Central Office)

BRANCH OFFICE :- NEW BONGAIGAON

Phone :- 2544 (Rly)

Annexure-5

L/NO MU/NBQ/3106

DATE 20/11/06

10

Chief Workshop Engineer
N.F. Railway/Maligaon

Sub:- Abnormal delay in publication of result of selection of SE in
Scale of Rs.6500/- — 10,000/- from JE-I in workshop cadre.

Ref:- 1. GM/P/MLG's L/No.E/254/51/(M) WS/Pt-I,dtd.26.7.2006
2. CWM/NBQ's L/No.E/MU/254/JE-II/Pt-II,dt.3.8.06.

D/Sir

I am constrained to bring your notice that the above selection has been held on 19.8.06 at Maligaon vide ref. above. Despite of repeated persuasion from this union result of the above selection has not yet been published which has created widespread resentment among the staff.

It is also learnt that some direct recruit SE from RRB is undergoing necessary training and awaiting for final posting in workshop. Their training is likely to be completed on 22nd November '06.

As such, this union urges your active intervention to publish the result of the subject selection without further delay.

You are also requested not to post any SE(Section Engineer) recruited directly from RRB before the posting of SE going to be promoted departmentally from JE-I in workshop to avoid dispute in the matter of seniority and to maintain Industrial peace and harmony.

Thanking you

Yours faithfully

(T.S.RAHA)

Br. Secretary

NFRMU/NBQ(WS) Branch

Copy to :-

1. CWM/NFR/NBQ.... For information and necessary action please.
2. ✓ GS/NFRMU/PNO.... This is in apropos of our discussion over telephone on 16.11.06. Your active intervention is solicited in this regard.

Yours faithfully

(T.S.RAHA)

Br. Secretary

NFRMU/NBQ(WS) Branch

*Affid
Sub
work*

Date of Filing Application No. 321/2006

Original Application No.

Petition No.

Opposite Petition No.

Review Application No.

Applicant(s) A. K. Gouravini vs Union of India & Ors

Advocate for the Applicant(s) Mr. M. Chakraborty, S. Armin, Esq. (1) & Mr. S. C. Choudhury

Advocate for the Respondent(s) Paritosh (TCS)

Notes of the Registry	Date	Order of the Tribunal

22.12.2006 Present: The Hon'ble Shri K.V. Sachidanandan
Vice-Chairman.

The Applicants are working as Junior Engineer Grade-1 in the office of the Chief Workshop Manager, Carriage & Wagon Workshop, New Bongaigaon. Their next promotion is to the post of Section Engineer (Workshop) in the pay scale of Rs.6,600-10,600/- . Originally a written test was conducted by the Respondents on 19.8.2006 and 26.8.2006 as per Annexure-3 in which all the 17 Applicants appeared. According to the Applicants, against the 36 vacancies vide Annexure-4 order dated 4.12.2006, 12 persons have already been promoted to the post of Section Engineer who were left out earlier and were selected through a modified

*A. K. Gouravini
Advocate*

Contd.

22.12.2006

selection held on 30.12.2006. Mr.M.Chanda learned counsel for the Applicants submits that even though 12 posts have been filled up there are still 24 posts vacant. The Applicants made representation through the Union but yielded no response. Six months time has already elapsed but the results of the selection test has not been published as yet which has caused prejudice to the Applicants.

Heard Mr.M.Chanda, learned counsel for the Applicants. He submitted that his specific instruction is that written test, already conducted, in which the Applicant appeared, is likely to be cancelled by the Respondents in which case the Applicants will be put to greatest hardship as because they had put very hard work in appearing in the said examination. Dr.J.L.Sarkar, Standing counsel for the Railways requests for time to obtain instruction in the matter. Let it be done.

Post the matter on 9.2.2007. By way of interim order it is clarified that no action prejudicial to the interest of the Applicants will be taken by the Respondents till the next date.

Date of Application : 22/12/06
Date on which the matter is to be decided : 22/12/06
Date on which the order is to be passed : 22/12/06

Chairman's signature

N. Bhattacharya
22/12/06
Chairman
Central Administrative Tribunal
Guwahati

/bbs/

AK
22/12/06

Vice-Chairman

Manik Chanda

Advocate
Gauhati High Court

-34-

: 2522998
Bye Lane - 7
Lachit Nagar
Guwahati - 781 007

Ref. No.

Date 23/2/2006

To.

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

Sub: - Intimation regarding interim order dated 22.12.2006 passed in O.A. No. 321/2006 (Sri A.K. Goswami and others - Vs. U.C.T and others.) passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

My Clients: -

1. Sri Arun Krishna Goswami.
2. Sri Jyoti Prasad Deori.
3. Shri Jiten Saikia.
4. Sri Abdur Rashid.
5. Sri Ranjit Kr. Baruah.
6. Sri Surya Bhan Pal.
7. Sri Ranjan Kr. Bayan.
8. Sri Ramendra Pal Singh.
9. Sri A. Halcim.
10. Sri Ekrani Hoque Mollick.
11. Sri Subhamoy Das.
12. Sri S. Purkayastha.
13. Sri Sanjoy Das.
14. Sri Ashil Ch. Paul
15. Sri Arun Krishna Paul.
16. Sri Anirban Ganguly.
17. Sri Samir Kumar Sarma.

All are working as Junior Engineer, Grade-I, in the office of the Chief Workshop Manager, Carriage and Wagon Workshop, New Bongaigaon, N.F. Railway, Assam.

Sir.

I like to inform you that being highly aggrieved due to non declaration of the results of the selection test held on 19.08.2006 and on 26.08.2006 for filling up

Attested
Manik Chanda
Advocate

Manik Chanda

Advocate
Gauhati High Court

- 35 -

47
: 2522998
Bye Lane - 7
Lachit Nagar
Guwahati - 781 007

Ref. No.....

Date 23/12/2006

vacancies in the cadre of Section Engineer (WS) and also on the apprehension of cancellation of selection test, my above named clients have approached the learned CAT, Guwahati Bench by filing an Original Application under Section 19 of the Administrative Tribunal Act, 1985. The said Original Application has been registered as O.A. No. 321/2006, which came up for consideration for admission before the learned CAT on 22.12.2006 and the learned Tribunal after hearing the parties was pleased to pass the following interim order: -

"Post the matter on 9.2.2007. By way of interim order it is clarified that no action prejudicial to the interest of the applicants will be taken by the respondents till the next date."

In view of the aforesaid interim order passed by the learned Tribunal, I do hereby request you not to take any action prejudicial to the interest of my above named clients and also request you to kindly comply with the order of the Hon'ble Tribunal. A Copy of the interim order dated 22.12.2006 is enclosed herewith for your ready reference and necessary action thereof.

Enclo: - Copy of the order dated 22.12.2006.


(MANIK CHANDA)

To.

The General Manager (P)
 N.E. Railway
 Maligaon, Guwahati- 11.

(Through Proper Channel)

Sub:- Submission of the interim order dated 22.12.2006 passed in O.A. No. 321/2006 (Sri A.K. Goswami and others -Vs- U.O.I and others.) passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Respected Sir,

I have the honour to inform you that being highly aggrieved due to non declaration of the results of the selection test held on 19.08.2006 and on 26.08.2006 for filling up vacancies in the cadre of Section Engineer (WS) and also on the apprehension of cancellation of selection test, I have approached the learned CAT, Guwahati Bench along with 16 others by filing an Original Application under Section 19 of the Administrative Tribunal Act, 1985. The said Original Application has been registered as O.A. No. 321/2006, which came up for consideration for admission before the learned CAT on 22.12.2006 and the learned Tribunal after hearing the parties was pleased to pass the following interim order:-

"Post the matter on 9.2.2007. By way of interim order it is clarified that no action prejudicial to the interest of the applicants will be taken by the respondents till the next date."

In view of the aforesaid interim order passed by the learned Tribunal, I do hereby request you not to take any action prejudicial to the interest of the undersigned and also request you to kindly comply with the order of the Hon'ble Tribunal. A Copy of the interim order dated 22.12.2006 is enclosed herewith for your ready reference.

Endo:- Copy of the order dated 22.12.2006.

Yours faithfully

Pratiprakash Debnath
 Junior Engineer, Grade-I,
 O/o- Chief Workshop Manager,
 Carriage and Wagon Workshop,
 New Bongaigaon, N.E. Railway

Date:- 29.12.2006.

*Attested
Sud
Private*

Office of the
General Manager (Personnel)
N.F. Railway, Maligaon,
Guwahati - 781 011

- 37 -

ANNEXURE 9

NOTIFICATION

No.E/254/52(M)/W.S.Pt.1

Date :- 4.01.2007

To,
The CWM/NBQS
The CWM/DBWS
The PSTC/NBQ
The ADME/TDH

Sub :- Forming the panel of SE/WS in scale Rs.6500-10,500/- in Workshop cadre and M&P cadre of Mechanical department.

It has been decided to hold a selection forming panels for SE/WS in Workshop cadre and in M&P cadre in scale Rs.6500-10,500/- of Mechanical department. The break-up of the posts are as under :-

SN	Cadre	Panel for	UR	SC	ST
1.	Workshop cadre	25 posts	19	5	1
2.	M&P cadre	6 posts	05	01	Nil

The date of selection as scheduled to be held as under :-

Written test : 03.02.2007

Absentee written test : 10.02.2007

Venue :- CME's office, Maligaon

Time:- At 09.30 hrs.

Therefore the following JE/I in scale Rs.5500-9000/- as available may be advised to keep themselves in readiness and also direct them to appear in the said selection on the above date. Their names are not in order of seniority.

For Workshop cadre

SN	Name	Comn.	Design. and stu.
----	------	-------	---------------------

1 Shri C. Roy UR JE/I/DBWS
2 Shri P.K. Choudhury UR JE/I/NBQS
3 Shri S.B. Yadav UR JE/I/DBWS
4 Shri S.R. Mahate UR JE/I/DBWS

24/01/2007
After
Joint
Secretary

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3	Shri S. Purokayashia	UR	JE/NBQS
6	Shri A.K. Chakraborty	UR	JE/NBQS
7	Shri M.K. Phukan	UR	JE/DBWS
8	Shri A.K. Goswami	UR	JE/NBQS
9	J.H.I Haque Mallick	UR	JE/NBQS
10	Shri Suryanandan Paul	UR	JE/NBQS
11	Shri S.K. Sharma	UR	JE/NBQS
12	Shri R. Bayan	UR	JE/NBQS
13	Shri A. Hakim	UR	JE/NBQS
14	Shri Akhil Ch. Paul	UR	JE/NBQS
15	Shri P.P. Gogoi	UR	JE/NBQS
16	Shri R.K. Basumatary	ST	JE/NBQS
17	Shri S.C. Das	UR	JE/NBQS
18	Shri U.K. Das	UR	JE/DBWS
19	Shri K.R. Doodharia	UR	JE/DBWS
20	Shri Dhiman Gogoi	UR	JE/DDWS
21	Shri D.K. Macumber	UR	JE/DDWS
22	Shri Prabal Kr. Sarma	UR	JE/DDWS
23	Shri D. Chakraborty	UR	JE/DBWS
24	Shri Badal Dasgupta	UR	JE/DBWS
25	Shri K.M. Doro	ST	JE/DBWS
26	Shri Pradip Ch. Sonowal	ST	JE/DDWS
27	Shri M. Kachowra	ST	JE/DDWS
28	Shri Santosh Kr. Chakraborty	UR	JE/DDWS
29	Shri Sanjoy Das	SC	JE/NBQS
30	Shri Pankaj Das	SC	JE/DBWS
31	Shri U.K. Das	SC	JE/DBWS
32	Shri Prabin Sonowal	ST	JE/DBWS
33	Shri A.J. Pegu	ST	JE/DBWS
34	Shri U. C. Chakraborty	ST	JE/DBWS
35.	Shri A. Ganguly	UR	JE/1/NBQS
36.	Shri A. Achyut Bora	ST	JE/1/DBWS
<i>For M&P cadre</i>			

SN	Name	Community	Designation & station
1	Shri D. Muchahari	ST	JE/DDWS
2	Shri J.P. Deori	ST	JE/NBQS
3	Shri B.B. Doodharia	UR	JE/DDWS
4	Shri Kamaljit Singh	UR	JE/DBWS
5	Shri Baldev Singh	UR	JE/DBWS

6.	Shri C.C. Meemang	ST	JE/DBWS
7.	Shri J. Saikia	UR	JE/LNBQS
8.	Shri Subhamay Das	UR	JE/LNBQS
9.	Shri Abdul Rashid	UR	JE/LNBQS
10.	Shri D.K. Sanwar	SC	JE/DBWS
11.	Shri A.K. Mandal	SC	JE/DBWS

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All the above candidates are informed that if anybody is unwilling to appear in the selection should inform the same before the written test. The cases of the staff selected for the post and does not carry out the order will be dealt with as per provision contained at Para 224 of IREM/Vol-1 (Rev. edition 1989).

The candidates will be allowed to appear in the absentee written test due to sickness covered by medical certificate from Railway Doctors, non-intimation/ late intimation of dates of written test, administrative failure to relieve the candidates for the selection. The reasons like attending a wedding ceremony or similar functions over which the candidates have control will not be entertained as per provision at para - 223 of IREM/ Vol-1 (Rev. edition, 1989).

Respective controlling officers should ensure that the staff are advised, spared and directed to attend the selection on the date mentioned above.

Respective controlling officer should also ensure that the SC/ST candidates should be given adequate pre-promotional training for appearing in the selection.

Respective Workshop In charges are requested to kindly send the ACRs of the eligible staff as listed out above pertaining to their Workshop for last three years to the PS to CME immediately.

DA/ Syllabus (2)

(Signature)
(J. Habidas)
Sr. Personnel Officer/Mech
For General Manager (P)

Copy for information and necessary action to :-

- 1) CWE/MLG
- 2) Dy.CME/WS
- 3) Copy to :- PS to CME/MLG - for information and necessary action. He is requested to arrange and obtain ACRs of the above named candidates for last three years well in advance so that selection can be finalized.

For General Manager (P)

Annexure- 9

(Typed true copy)

Office of the
General Manager (Personnel)
N.F. Railway, Maligaon,
Guwahati- 781 011

NOTIFICATION

No. E/254/52 (M)/W.S Pt. I

Date:- 4.01.2007

To,
The CWM/NBQS
The CWM/DBWS
The PSTC/NBQ
The ADME/TDH

Sub: - Forming the panel of SE/WS in scale Rs. 6500-10,500/- in Workshop cadre and M&P cadre of Mechanical department.

It has been decided forming panels for SE/WS in Workshop cadre and in M&P cadre in scale Rs. 6500-10,500/- of Mechanical department. The break-up of the posts are as under:-

SN	Cadre	Panel for	UR	SC	ST
1.	Workshop cadre	25 posts	19	5	1
2.	M&P cadre	6 posts	05	01	Nil

The date of selection as scheduled to be held as under:-

Written test : 03.02.2007

Absentee written test : 10.02.2007

Venue :- CME's office, Maligaon

Time:- At 09.30 hrs.

Therefore the following JE/I in scale Rs. 5500-9000/- as available may be advised to keep themselves I readiness and also direct them to appear in the said selection on the above date. Their names are not in order of seniority.

For Workshop cadre

SN	Name	Comm.	Design and stn.
1.	Shri C. Roy	UR	JE/I/DBWS
2.	Shri P.K. Choudhury	UR	JE/I/NBQS
3.	Shri S.B. Yadav	UR	JE/I/DBWS
4.	Shri S.R. Mahato	UR	JE/I/DBWS

*Notified
Smt.
Advocate*

5.	Shri S. Purkayastha	UR	JE/I/NRQS
6.	Shri A.K. Chakraborty	UR	JE/I/NBQS
7.	Shri A.K. Phukan	UR	JE/I/DBWS
8.	Shri A.K. Goswami	UR	JE/I/NBQS
9.	J.H. I Haque Mallick	UR	JE/I/NBQS
10.	Shri Suryanbhan Paul	UR	JE/I/NBQS
11.	Shri S.K. Sharma	UR	JE/I/NBQS
12.	Shri R. Bayan	UR	JE/I/NBQS
13.	Shri A. Hakim	UR	JE/I/NBQS
14.	Shri Akhil Ch. Paul	UR	JE/I/NBQS
15.	Shri R. P. Singh	UR	JE/I/NBQS
16.	Shri R.K. Basumatary	ST	JE/I/NBQS
17.	Shri S.C. Kar	UR	JE/I/NBQS
18.	Shri U.K. Das	UR	JE/I/DBWS
19.	Shri K.R. Borman	UR	JE/I/DBWS
20.	Shri Dhirman Gogoi	UR	JE/I/DBWS
21.	Shri D.K. Mazumdar	UR	JE/I/DBWS
22.	Shri Prabal Kr. Sarma	UR	JE/I/DBWS
23.	Shri D. Chakraborty	UR	JE/I/DBWS
24.	Shri Badal Dasgupta	UR	JE/I/DBWS
25.	Shri N.S. Boro	ST	JE/I/DBWS
26.	Shri Pradip Ch. Sonowal	UR	JE/I/DBWS
27.	Shri M. Kachowa	ST	JE/I/DBWS
28.	Shri Santosh Kr. Chakraborty	UR	JE/I/DBWS
29.	Shri Sanjoy Das	SC	JE/I/NBQS
30.	Shri Pankaj Das	SC	JE/I/NBQS
31.	Shri K.K. Das	SC	JE/I/DBWS
32.	Shri Prabin Sonwai	ST	JE/I/DBWS
33.	Shri A. J. Pegu	ST	JE/I/DBWS
34.	Shri Bipin Ch. Mech	ST	JE/I/DBWS
35.	Shri A. Ganguly	UR	JE/I/NBQS
36.	Shri Achut Borah	ST	JE/I/DBWS

For M&P cadre

SN	Name	Comm.	Design and stn.
----	------	-------	-----------------

1.	Shri D. Muchahari	ST	JE/I/DBWS
2.	Shri J. P. Deori	ST	JE/I/NBQS
3.	Shri B.B. Sarkar	UR	JE/I/DBWS
4.	Shri Kamaljit Singh	UR	JE/I/DBWS
5.	Shri Baldev Singh	UR	JE/I/DBWS
6.	Shri C.C. Thoumang	ST	JE/I/DBWS
7.	Shri J. Saikia	UR	JE/I/NBQS
8.	Shri Subhamay Das	UR	JE/I/NBQS
9.	Md. Abdul Rashid	UR	JE/I/NBQS
10.	Shri D.K. Sanwar	SC	JE/I/DBWS
12.	Shri A. K. Madal	SC	JE/I/DBWS

All the above candidates are informed that if anybody is unwilling to appear in the selection he should inform the same before the written test. The cases of the staff selected for the post and does not carry out the order will be dealt with as per provision contained at Para 224 of IREM/Vol-I (Rev. edition 1989).

The candidates will be allowed to appear in the absentee written test due to sickness covered by medical certificate from Railway Doctors, non-intimation /late intimation of dates of written test, administrative failure to relieve the candidates for the selection. The reasons like attending a wedding ceremony or similar functions over which the candidates have control will not be entertained as per provision at para - 223 of IREM/Vol-I (Rev. edition, 1989).

Respective controlling officers should ensure that the staff are advised, spared and directed to attend the selection on the date mentioned above.

Respective controlling officer should also ensure that the SC/ST candidates should be given adequate pre-promotional training for appearing in the selection.

Respective Workshop In charges are requested to kindly send the ACRs of the eligible staff as listed out above pertaining to their Workshop for last three years to the PS to CME immediately.

DA/Syllabus (2)

Sd/- Illegible
(J. Rabidas)
Sr. Personnel Officer/Mech
For General Manager (P)

Copy for information and necessary action to:-

- 1) CWE/MLG
- 2) Dy. CME/WS
- 3) Copy to :- PS to CME/MLG for information and necessary action. He is requested to arrange and obtain ACRs of the above named candidates for last three years well in advance so that selection can be finalized.

For General Manager (P)

Syllabus for SE (Mechanical) Workshop Selection

Common for WS & M&P Cadre:

1. Mathematics: Area, Volume, Percentage, Equations and Mensuration.
2. General Science: Definitions- Heat, Energy, Work & Electricity and its relation to Railway System of Working.
3. Railway Working: PCO-Planning, Progress & Inspection its function, Man Power Planning, Work Orders- Repair & Manufacturing Procedure, Costing, Material Assessment, Material Management System.
4. Incentive: Chittaranjan pattern Incentive-in Railways & Function, Time Study; Job Card, Route Card, Merits & Demerits of Incentive Scheme
5. Store: Procurement of Stock and Non stock items, Preparation of Stocking Application, Local Purchase, EAR, Condemnation Process of Rolling Stock/ Machines.
6. Establishment: Leave Rules, Pass Rules, D&AR Rules, Factory Act, HOER, Conduct of Enquiry.
7. Rajbhasha (Hindi): Optional question upto 10% marks.

WS Cadre:

1. Layout of Shop and its Activities.
2. Repair Procedure of Coach-Body, Under frame, and Trolley during POH in shop.
3. Underside and Trolley Safety items of Coach, Roller Bearing and Air brake Maintenance Procedure.
4. Painting Schedule, Screen Printing, Colour Scheme.
5. Latest Alteration and Modifications.
6. Wagon Maintenance, Maintenance of Draw Gear, Types of different Trolleys and their Repair Procedure in details.
7. Sketch/ Diagrams of Safety items, Definition on Fits, Tolerances, Clearances, IS & ISO, IRS Specification, Manufacturing Limits etc. Standard of Engineering Drawing and needs of Material Specifications.
8. Welding of Similar and Dis-similar Metals, Types of Welding, Pre-requisites of Welding.
9. Definition & Procedure for Corrosion Repair in Condemn- body, Underframe, Trough, Floor etc.
10. Heat treatment of Springs & Load testing. Definitions- Annealing Normalizing Case Hardening, Ductility, Malleability.
11. Procedure for condemnation of rolling stock.

24/7/06
(अनिल कुमार अधिकारी)
मुख्य कार्यशाला इन्जीनियर

Accepted
for
reference

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Syllabus for SE (Mechanical) Workshop Selection

Common for WS & M&P Cadre:

1. Mathematics: Area, Volume, Percentage, Equations and Mensuration
2. General Science: Definitions- Heat, Energy, Work & Electricity and its relation to Railway System of Working.
3. Railway Working: PCO-Planning, Progress & Inspection its function, Man Power Planning, Work Orders- Repair & Manufacturing Procedure, Costing, Material Assessment, Material Management System, Chittaranjan pattern Incentive-in Railways & Function, Time Study; Job Card, Route Card, Merits & Demerits of Incentive Scheme
4. Incentive: Procurement of Stock and Non stock items, Preparation of Stocking Application, Local Purchase, EAR, Condemnation, Process of Rolling Stock/ Machines.
5. Store: Leave Rules, Pass Rules, D&AR Rules, Factory Act, HOER, Conduct of Enquiry.
6. Establishment: Optional question upto 10% marks.
7. Rajbhasha (Hindi):

M&P Cadre:

1. Details of Machines & their Operation wise use, High Productive Machines and use in Railways.
2. Planning, Procurement and Commissioning of M&P.
3. Details about various type of Tools used in various Machine and its Process of Procurement.
4. Standard Life of Machine, Preventive schedule of Maintenance of Machine under Warranty & after Warranty.
5. Details about Lubricant that used for various Machines.
6. Break down Maintenance, Monitoring of Spares, AMCs, OEMs, Trouble Shooting of Compressor.
7. Hydraulics, Pneumatics, Electrical and Electronics Circuitries.
8. Safety of Maintenance staff, Protective aids, Precaution while dealing with heavy electrical power machinery. Dos & DO Nots, Fire Fighting & First Aid.
9. Standards for Engineering drawing of Components, ISO, IS & IRS, needs of Material Specification.
10. Preparation of financial justification for repairing of machines.

(प्राचीन चतुपारा अगवाल)
प्राचीन कार्यशाला इंजीनियर

ANNEXURE-10

OFFICE ORDER NO. 111/06

In terms of GM/M/MLG'S office order issued under endorsement No. E/254/51(M) WS Pt. I dt. 12.12.06 who are found suitable for promotion to the post of SE/WS in scale Rs. 6500 - 10500/- vide GM/P/MLG'S memorandum of even number dt. 04.12.2006 are hereby promoted to the post of SE/WS against restructuring vacancies w.e.f 01.11.2003 and posted in the same shop where they are presently working.

Name	Design	Trade	Working under	Promoted as	Date of effect	Pay fixed
Sri N.C.Sarkar	Ex JE-I	Machine	SSE/Machi ne	SE/Machine	01.11.03	Rs. 7300/- Rs. 7500/- on 01.11.04 (annual increment) Rs. 7700/- on 01.11.05 (annual increment)
Sri S.L.Prasad (SC)	JE-I	B/Smith	SSE/PEG	SE/B/Smith	26.12.06	Rs. 7700/-
Sri Kaushik Mallick (SC)	- do -	Mill wright	SSE/MWS	SE/MWS	05.06.04	Rs. 6500/-
Sri Kumud Das	- do -	Wagon	SSE/WRS	SE/Wagon	01.11.03	Rs. 7100/-
Sri K.N.Pathak	- do -	Carriage	SSE/PLG	SE/Carr.	01.11.03	Rs. 7100/-
Sri G.C.Nath	- do -	Wagon	SSE/WRS	SE/Wagon	26.12.06	Rs. 6900/-

Staff concerned may opt to have their pay fixed in the higher grade from the date of accrual of next increment in the lower grade within one month.

This issues with the approval of the competent authority.

No.E/M/2S3/3/Pt.XI

(R.Roy)
APO/W
For CWM/NBQS
Dated-27.12.2006

Contd-2

Rd on
28.12.06
R.Roy

After
Int
Issue

(C)

ANNEXURE

Copy forwarded for information and necessary action to :-

- (1) GMP/MLG
- (2) Dy CME/NBQS
- (3) WM/NBQS
- (4) AWM/APE/NBQS
- (5) WAO/NBQS
- (6) SSE/WRS
- (7) SSE/MWS
- (8) SSE/PLG
- (9) SSE/WRS
- (10) OS/Time office
- (11) E/bill
- (12) P/Case
- (13) Staff concerned
- (14) FS

RR
(R.Roy)
APOW
For CWM/NBQS

Northeast Frontier Railway

MEMORANDUM

The competent authority has accorded his approval towards merger of various trades of Technical supervisors of this Railway in to two distinct trades as under :-

Group - A Workshop cadre

Workshop cadre (comprising trades of)

- i. Carriage
- ii. Foundry
- iii. Wagon
- iv. Boiler }
v. Painting
- vi. Black-smith
- vii. Erecting
- viii. Any trade
- ix. Welding

Group - B Workshop/M&P

Workshop/M&P cadre (comprising trades of)

- i. Machine
- ii. Mill-Wright }
iii. Welding

(N. Misra)

Sr. Personnel Officer/Mech
For General Manager (P)

Dated :- 29.06.2005

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Copy forwarded for information and necessary action to :-

1. CME/MLG
2. F&CAO/MLG
3. CWE, CPO/A/MLG
4. Dy.CPO/IR, CWMs/NBQS & DBWS
5. WN/NBQS & DBWS
6. APOs/NBQS & DBWS
7. GS/NFRMU & GS/NFREU

(N. Misra)

Sr. Personnel Officer/Mech
For General Manager (P)

Sakthi NRD-WS

Atul Jaiswal Advocate

Final Interrogated statement, etc of

A/B, in scale Rs.5500-9000, Workshop cadre (Carriage & others) in terms of GM(P)/MLG's
Memorandum No.E/283/59(M) dated 22.06.2006.

JE/WS (Carriage & others)

b

Name	Community	Designation	Original trade	DOB	DOA	Date of promotion to JE1	Remarks
1 Shri K.C. Das	CR	JE/WS/CS	Wagon	01.03.63	06.04.87	19.02.96	
2 Shri B. Sonowal	ST	JE/WS/CS	B/Smith	10.04.58	10.05.78	30.07.96	
3 Shri S. L. Prasad	SC	JE/WS/CS	B/Smith	26.02.60	21.05.81	23.08.96	2
4 Shri Bani Kanta Deka	UR	JE/WS/CS	Carriage	17.01.62	11.10.80	11.11.97	①
5 Shri Satish Ch. Das	UR	JE/WS/CS	Wagon	23.02.63	01.10.63	17.02.98	②
6 Shri K.N. Pathak	UR	JE/WS/CS	Carriage	15.12.54	07.01.80	06.11.99	③
7 Shri S.N. Chakraborty	UR	JE/WS/CS	Carriage	01.01.55	27.03.80	26.04.01	④
8 Shri Prabin Sonowal	ST	JE/WS/CS	Carriage	01.09.53	27.03.80	26.04.01	④
9 Shri P. Changlo	ST	JE/WS/CS	Welding	25.01.65	11.11.91	26.04.01	
10 Shri C. Roy	UR	JE/WS/CS	Foundry	20.03.53	22.03.77	22.03.01	
11 Shri P.K. Choudhury	UR	JE/WS/CS	Carriage	05.03.66	24.03.87	15.02.02	④
12 Shri A.J. Pegu	ST	JE/WS/CS	Foundry	01.01.75	18.02.00	21.02.02	⑤
13 Shri G. Nath	UR	JE/WS/CS	Wagon	01.01.69	14.03.93	01.07.02	⑤
14 Shri Sanjoy Das	SC	JE/WS/CS	Carriage	01.04.67	01.11.91	25.01.03	⑥
15 Shri S.B. Yadav	UR	JE/WS/CS	B/Smith	12.02.55	09.04.76	27.02.03	
16 Shri Hiren Ch. Mech	ST	JE/WS/CS	Painting	01.05.48	02.01.70	01.11.03	
17 Shri S.R. Mahato	UR	JE/WS/CS	Errecting	19.09.46	26.03.70	01.11.03	
18 Shri A.R. Pathak	SC	JE/WS/CS	Wagon	03.12.46	03.03.75	01.11.03	
19 Shri S. Purokayastha	UR	JE/WS/CS	Carriage	23.12.60	23.11.84	01.11.03	⑦
20 Shri A.K. Chakraborty	UR	JE/WS/CS	Carriage	25.12.53	21.05.75	01.11.03	⑦
21 Shri M.K. Phukan	UR	JE/WS/CS	Carriage	01.06.65	03.02.89	01.11.03	⑧
22 Shri A.K. Goswami	UR	JE/WS/CS	Carriage	30.06.72	11.07.93	01.11.03	⑨
23 Shri Haque Mallick	UR	JE/WS/CS	Carriage	01.09.63	11.07.93	01.11.03	⑩

Attested
Anil
Advocate

Name	Category	Designation	Original trade	DOB	DOA	Date of promotion to JE/I	Remarks
✓ 24 Shri Suryanandan Paul	UR	JE/NEQS	Wagon	31.01.69	26.12.98	01.11.03	"
✓ 25 Shri S.K. Sharma	UR	JE/NBQS	Carriage	27.12.69	05.03.98	01.11.03	"
✓ 26 Shri R. Bayan	UR	JE/NEQS	Carriage	01.09.71	05.08.98	01.11.03	"
✓ 27 Shri A. Hakim	UR	JE/NBQS	Carriage	18.01.72	01.08.98	01.11.03	"
✓ 28 Shri Akhil Ch. Paul	UR	JE/NBQS	Carriage	26.01.67	01.01.99	01.11.03	"
✓ 29 Shri R.P. Singh	UR	JE/NBQS	Carriage	07.12.78	01.04.99	01.11.03	"
✓ 30 Shri A. Ganguly	UR	JE/NBQS	Welding	31.12.66	11.12.98	01.11.03	"
✓ 31 Shri S. Brahma	ST	JE/NEQS	Carriage	22.11.46	01.07.72	04.10.04	"
✓ 32 Shri S.C. Kar	UR	JE/NBQS	Carriage	18.03.46	21.09.63	04.10.04	"
✓ 33 Shri R.K. Basumatary	ST	JE/NEQS	Painting	22.08.47	29.05.75	04.10.04	"

N.B : Representation, if any, against the seniority position may be submitted within one month from the date of issue of this letter.

M. Misra
SPO/Mech
for General Manager (P)/MLG
Date :- 20.10.2005

No.E/263/59(M)

Copy forwarded for information and necessary action to :-

1. CME/MLG
2. FA&CAO/MLG
3. CME, CPO/AMLG
4. Dy.CPO/IR, CWMS/NBQS & DBWS
5. WM/NBQS & DBWS
6. APOs/NBQS & DBWS
7. GS/NFRMU & GS/NFREU

6. Staff concerned.

Mr
for General Manager (P)/MLG

Provisional interpolated security lists of J.S/I(w) in scale E.5500-9000/-,
(Machine & Millwright trades) in terms of GM(P) ALG. S. Memorandum No. 2/233/59(1) dated 29.06.2005, under WMDQS

E/I(WS) Workshop call

Sr.	T.K.Pattan,	ST	550C-90004	Wazen	ST 13.45	22.06.64	00.00.37	06.10.39
"	K.C.Das,	SC	J.E.2	-do-	Wazen	01.03.65	06.04.67	10.6.39
"	S.L.Prasad	SC	J.E.1	-do-	Smith	25.02.60	21.03.61	23.03.66
"	K.N.Patank		-do-	-do-	Carr	15.12.54	07.04.80	25.02.91
"	P.K.Choudhury		-do-	-do-	Carr	05.03.63	24.03.37	03.09.99
"	G.Nath		-do-	-do-	Wazen	01.01.69	14.09.93	15.3.2000
"	Sanjoy Das	SC	-do-	-do-	Carr	01.04.67	01.11.91	01.12.93
"	S.Purokavastha		-do-	-do-	Carr	23.12.60	23.11.34	03.09.99
"	A.K.Chakraborty		-do-	-do-	Carr	25.12.53	21.05.75	03.09.99
"	A.K.Goswami		-do-	-do-	Carr	30.06.72	13.07.93	27.1.2000
11.	J. I. I Haque Mallik		-do-	-do-	Carr	01.09.63	11.7.93	23.01.02
12.	Surabhan Paul		-do-	-do-	Wazen	31.1.63	23.12.33	01.12.02
13.	S.K.Lita		-do-	-do-	Paint	01.11.69	05.03.93	13.02.2000
14.	S.K.Sharma		-do-	-do-	Carr	27.12.69	05.03.93	13.02.2000
15.	R.Bryan		-do-	-do-	Carr.	01.09.71	05.03.93	13.02.2000
16.	A.Hakim		-do-	-do-	Carr.	13.01.72	05.03.93	13.02.2000
17.	Akhil Chandan Paul,		-do-	-do-	Carr	26.01.67	01.01.99	01.12.2000
18.	R.P.Singh		-do-	-do-	Carr	07.12.73	02.04.99	15.12.2000
19.	A.Ganguly		-do-	-do-	W.E.D	31.12.65	16.12.92	01.12.2000
20.	A.S.Dubas	ST	-do-	-do-	Carr	22.11.46	03.07.72	04.10.02
21.	S.C.Kar.		-do-	-do-	Carr	13.03.46	21.09.63	04.10.02
22.	R.K.Basumatary	ST	-do-	-do-	Paint	22.03.47	29.05.75	04.10.02

Contd... P/ 2

Mark
Int. Advocate

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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22

Employees (Kashish and MW-Tsukla)

Sri	W.C. Sarkar	JEW	6500-5000/-	Machine	07.11.45	01.04.66	08.07.93	21.06.2000
"	K. Milligan	SC	-do-	MW	21.3.70	15.01.93	27.1.2000	05.06.03
"	J.P. Dore	ST	-do-	Machine	01.07.72	14.07.93	14.07.93	23.04.93
"	J. Saikia	-do-	-do-	Machine	01.05.69	11.07.93	27.1.2000	01.11.93
"	Sukhdeo Bas	-do-	-do-	Machine	04.10.70	05.1.93	13.03.2000	01.11.93
"	Mauli Rashid	-do-	-do-	Machine	01.04.66	31.4.97.93	03.03.2000	01.11.93

Any objection or representation in respect of the above seniority list must be submitted within 1(One) month from the date of publishing of this list after which no appeal or representation will be entertained and it will be treated as final.

Mr 22.7.05

APC(WS)
for CWN/NEQS.

Dated 21.07.2005

Copy furnished for information and necessary action to:-

- 1. CM(P) ALG
- 2. PST/NEQS
- 3. CWN/NEQS
- 4. All SSEs/NEQS
- 5. Socy. M/F NEQS
- 6. PWU
- 7. Socy. SC/ST Association
- 8. Socy. OBC Employees Association
- 9. Staff concerned.

Mr 22.7.05

for CWN/NEQS.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 321 /2006

Sri Arun Krishna Goswami & Ors.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

All the applicants are working as Junior Engineer, Grade-I, in the office of the Chief Workshop Manager, Carriage and Wagon Workshop, New Bongaigaon, N.F. Railway, Assam. Next avenue of promotion of the applicants are to the cadre of Section Engineer (Workshop).

17.01.2006- Chief Workshop Manager, N.F. Railway New Bongaigaon, pursuant to General Manager (P), Maligaon dated 13.01.2006 issued a notice for holding selection for 36 Nos. of post of Section Engineer on 11.02.2006 as well as on 18.02.2006. The name of all the applicants figured in the notice dated 17.01.2006. (Annexure- 1)

08.02.2006- General Manager (P) vide letter dated 08.02.06 informed that the date of selection for preparing panels for SE/WS in workshop and M & P, which was fixed on 11.02.2006 and on 18.02.2006 has been postponed due to unavoidable circumstances and the next date of written examination would be intimated soon. (Annexure- 2)

03.08.2006- Chief workshop Manager, New Bongaigaon again vide letter dated 03.08.06 informed all concerned that the selection for the post of Section Engineer (WS) has been fixed on 19.08.06 and on 26.08.2006. Accordingly applicants appears in the selection test held on 19.08.06 and on 26.08.06. (Annexure- 3)

04.12.2006- Respondent No. 1 vide memorandum dated 04.12.06 promoted 12 persons all of a sudden to the cadre of Section Engineer, 5 persons of the memo dated 04.12.2006 in fact appeared alongwith the applicants in the written examination held on 19.08.2006/ 26.08.2006. (Annexure- 4)

20.11.2006- N. F. Railway, Mazdoor Union, New Bongaigaon Workshop dated 20.11.06 requested Chief Workshop Engineer to expedite publication of result of selection of Section Engineer from Junior

Arun Krishna Goswami

Engineer, Grade-I in order to avoid dispute in the matter of seniority between the direct recruits, Section Engineer and promotee Section Engineer. (Annexure- 5)

Applicants are eagerly waiting for declaration of their results of the selection test held on 19.08.06 and on 26.08.06 and also legitimately expecting their promotion to the cadre of Section Engineer in the remaining 24 vacancies. But the Railway administration without declaring the results of the selection held on 19.08.06/26.08.06 has now decided to cancel the aforesaid selection test in a most arbitrary and unfair manner. Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to direct the respondents to declare the result of the selection test held on 19.08.06 and on 26.08.06 and thereafter to consider promotion of the applicants to the cadre of Section Engineer (Workshop) on the basis of performance in the said selection test with immediate effect, in terms of the decision communicated by the General Manager (P), N.F. Railway's letter dated 13.01.2006 and also in terms of letter dated 26.07.2006 as indicated in the Railway's letter dated 17.01.2006 as well as in letter dated 03.08.2006.
2. That the Hon'ble Tribunal be pleased to restrain the respondents in canceling the selection test held on 19.08.06 and on 26.08.06 and in the event of passing any order, canceling the aforesaid selection test, the same may be set aside and quashed.
3. That the Hon'ble Tribunal be pleased to direct the respondents to act upon the selection test held on 19.08.2006 and on 26.08.2006 pursuant to the direction of the General Manager (P), N.F. Railway for consideration of existing 24 vacancies of the Section Engineer (Workshop).
4. Costs of the application.
4. Any other relief (s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

Arun Krishan Goswami

During pendency of the application, the applicants pray for the following interim relief:-

1. That the Hon'ble Tribunal be pleased to direct the respondents, not to pass any order in canceling the selection test held on 19.08.2006 and on 26.08.06 and further be pleased to direct the respondents in the event of passing any such order, canceling the selection, the same may be kept in abeyance till disposal of this Original Application.
2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents to provide the relief as prayed for.

*A
Shri. Krishan Grewal*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 321 /2006

Sri Arun Krishna Goswami and others. : Applicants,

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

U. Dutta
Advocate

Date:- 22.12.06

Arun Krishna Goswami

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 321 /2006

BETWEEN:

1. Sri Arun Krishna Goswami.
2. Sri Jyoti Prasad Deori.
3. Shri Jiten Saikia.
4. Sri Abdur Rashid.
5. Sri Ranjit Kr. Baruah.
6. Sri Surya Bhan Pal.
7. Sri Ranjan Kr. Bayan.
8. Sri Ramendra Pal Singh.
9. Sri A. Hakim.
10. Sri Ikraml Hoque Mollick.
11. Sri Subhamoy Das.
12. Sri S. Furkayastha.
13. Sri Sanjoy Das.
Pradip Choudhury
- Sr. 14. *Sri Akhil Ch. Paul*.
15. Sri Arun Krishna Paul.
16. Sri Anirban Ganguly.
17. *Sri Samir Kumar Soren* Applicants.

All the applicants are working as Junior Engineer, Grade-I, in the office of the Chief Workshop Manager, Carriage and Wagon Workshop, New Bongaigaon, N.F. Railway, Assam.

-AND-

1. The Union of India,
Represented by the General Manager,
N. F. Railway,
Maligaon, Guwahati-781011.

File by the applicant
M. Dutta, advocate
through
on 22.12.06

Arun Krishna Goswami

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2. General Manager (P)
N.F. Railway, Maligaon,
Guwahati- 781011.
3. Chief Workshop Engineer,
N.F. Railway,
Maligaon, Guwahati-781011.

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is made not against any particular order but praying for a direction upon the respondents for declaration of result of the selection test held on 19.08.2006 and on 26.08.06, pursuant to the direction of the General Manager (P), N.F. Railway for consideration of promotion of the applicants to the cadre of Section Engineer (Workshop) and also for restraining the Railway authority from canceling the aforesaid selection test and further for a direction upon the respondents to act upon the selection test held on 19.08.2006 and on 26.08.2006.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

4.1 That all the applicants are presently working in the cadre of Junior Engineer, Grade-I, in the office of the Chief Workshop Manager, Carriage

Aren Krishna Goswami

and Wagon Workshop, New Bongaigaon, N.F. Railway, Assam. The next promotional avenue of the applicants are available in the cadre of Section Engineer in the scale of Rs. 6500-10,500/-, promotion is made on the basis of selection from the feeder cadre of Junior Engineer, Grade-I provided 2 years regular service have been rendered in the feeder cadre of Junior Engineer, Grade-I. Be it stated that all the applicants have rendered 2 years regular service in the cadre of Junior Engineer Grade-I and well within the zone of consideration. Since the post of Section Engineers are selection post, therefore selection posts should be filled up by a positive act of selection, made with the help of selection boards from amongst the staff eligible for selection. The positive act of selection may consist of written test and/or viva voce test.

- 4.2 That the applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.3 That it is stated that the Chief Workshop Manager, N.F. Railway New Bongaigaon, pursuant to General Manager (P), Maligaon letter No. E/254/51(W)/W.S. Pt. I dated 13.01.2006 issued a notice for holding selection for 36 Nos. of post of Section Engineer on 11.02.2006 as well as on 18.02.2006 and it has been advised to the applicants to keep themselves in readiness to appear in the written test and also directed the concerned authorities to spare the applicants to appear in the said written test. The name of all the applicants figured in the notice bearing letter No. E/M/254/JE-II/Selection/Pt. II dated 17.01.2006.

Immediately after receipt of the letter dated 17.01.2006, many of the applicants taken leave for preparation for the written test, scheduled to be

Arun Krishna Jamm

held on 11.02.2006 and undertaken hard labour to get themselves prepared for the written test.

(A Copy of the letter dated 17.01.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-1).

4.4 That your applicants further beg to say that General Manager (P) vide letter No. E/254/51/(M) W.S. Pt. I dated 08.02.2006 informed that the date of selection for preparing panels for SE/WS in workshop and M & P cadre in the scale of Rs. 6500-10,500/-, which was fixed on 11.02.2006 and on 18.02.2006 has been postponed due to unavoidable circumstances and the next date of written examination would be intimated soon. Due to sudden cancellation of the written examination without disclosing any reason whatsoever, the applicants have been put to a great distress as because they have taken tremendous labour to get themselves prepared for the written examination scheduled to be held on 11.02.2006 and some of the applicants have in fact taken leave to prepare for the examination.

(A Copy of the letter dated 08.02.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-2).

4.5 That it is stated that the Chief workshop Manager, New Bongaigaon again vide letter bearing No. E/M/254/JE-II/Pt.II dated 03.08.2006 informed all concerned that the selection for the post of Section Engineer (WS) in the scale of Rs. 6500-10,500/- both for workshop cadre and also M & P cadre of Mechanical workshop has been fixed on 19.08.2006 and on 26.08.2006 pursuant to the direction of the General Manager (P)'s letter bearing No. E/254/51 M) W.S. Pt. I dated 26.07.2006. It is to be noted here at this stage that the written examination now proposed to be held on 19.08.2006 after a lapse of more than 6 months from the date of initial notification dated 13.01.2006. However the present applicants who were very much interested for their carrier building accordingly appeared in the written examination

Arun Krishna Gowar

held on 19.08.2006 and on 26.08.2006, many of the applicants again taken leave to get themselves prepared for the written test and taken tremendous labour to appear in the written examination. It is ought to be mention here that there is no viva voce and the selection is made only on the basis of written examination.

(A Copy of the notice dated 03.08.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-3).

4.6 That your applicants when legitimately waiting for declaration of the select list, pursuant to the written examination held on 19.08.2006 and on 26.08.2006, but the Sr. Personnel Officer (Mech.) for and on behalf of the respondent No. 1 have issued a memorandum, promoting 12 persons to the cadre of Section Engineer, workshop in the scale of 6500-10,500/- w.e.f 01.11.2003, in addition to the staff already promoted earlier against restructuring. It is pertinent to mention here that out of the 12 persons who are now promoted, all of a sudden through memorandum bearing letter No. E/254/51 (M) W.S. Pt. I dated 04.12.2006, 5 persons namely Sri S.L. Prasad, K.Mallick, Kumud Das, G.C. Nath and Sri K.N.Pathak i.e Sl. No. 3, 6, 8, 10 and 11 of the memo dated 04.12.2006 in fact appeared alongwith the applicants in the written examination held on 19.08.2006/26.08.2006 and names of these 5 persons also would be evident from the notice dated 17.01.2006/03.08.2006. In the memo dated 04.12.2006 it is stated by the General Manager (P) that all these 12 persons have been left earlier are now found suitable in the modified selection held on 30.11.2006 for promotion to the post of Section Engineer workshop in the scale of Rs. 6500-10,500/- against restructuring w.e.f 01.11.2003 in addition to the staff already promoted earlier.

Therefore it appears that these 12 persons have been left out and therefore a modified selection held on 30.11.2006 and accordingly these 12 persons have been promoted following the modified selection held on

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30.11.2006. It is pertinent to mention here that the applicants came to learn from a reliable source that one Sri Kumud Das have preferred an appeal long back during the year 2003 for consideration of his promotion under cadre restructuring and after consideration of his appeal, the respondent railway authority had held the modified selection and promoted the left out 12 persons to the cadre of Section Engineer, workshop. Be it stated that Sri Kumud Das also appeared in the written examination along with the applicants pursuant to the notice dated 03.08.2006, but he was promoted along with 11 others vide memo dated 04.12.2006.

(A copy of the memo-dated 04.12.2006 is enclosed as Annexure-4).

4.7 That it is stated that when the present applicants are eagerly waiting for declaration of result of the selection test, at that moment the respondent railway authority issued the memorandum dated 04.12.2006 promoting 12 persons to the cadre of Section Engineer without publishing any notice/corrigendum to the effect that the vacancies which were notified for selection test vide General Manager's letter dated 13.01.2006 and 26.07.2006, where altogether 36 vacancies position has been shown for filling up by way of selection in the cadre of Section Engineer (workshop), but by promoting 12 persons through memo dated 04.12.2006, 12 vacancies have been filled up by the General Manager (P) out of the 36 vacancies, notified by the General manager (P) for written test and against those 36 vacancies, although written test has been conducted way back in the month of August, 2006, but thereafter promotion of the 12 persons have been made by holding a modified selection on 30.11.2006, without issuing any notice/corrigendum as such action of the respondents authority is highly arbitrary, illegal, unfair and such action of the railway authorities smacks malafide and it appears that the respondents authority is not transparent at all and deliberately made a departure from the rule of fairness while exercising administrative discretion.

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It is well known to the General Manager (P) that he has issued a notification on 13.01.2006 and thereafter on 26.07.2006 proposing to hold selection test for consideration of promotion of the eligible employees including the applicants in the cadre of Section Engineer and more so when the said written test has been conducted by the Railway authority for filling up 36 vacancies in the cadre of Section Engineer and the employees who appeared in the selection are eagerly waiting for declaration of result of the selection test held on 19.08.2006 and on 26.08.2006, a duty cast upon the General manager (P) at least to issue a corrigendum/notice before holding the modified selection test on 30.11.2006 for consideration of promotion of the left out candidates if any against restructuring but in the instant case General Manager (P) even did not feel like to issue a corrigendum/notice before taking the decision of filling up 12 posts of Section Engineer (Workshop) by holding modified selection on 30.11.2006. As such decision of holding notified selection test is also arbitrary and the same is in violation of principle of natural justice and fair play.

4.8 That it is stated that the General Secretary of the N. F. Railway, Mazdoor Union, New Bongaigaon Workshop vide letter No. MU/NBQ/3/06 dated 20.11.06 requested Chief Workshop Engineer to expedite publication of result of selection of Section Engineer from Junior Engineer, Grade-I in order to avoid dispute in the matter of seniority between the direct recruits, Section Engineer and promotee Section Engineer as because some of the direct recruits section engineer are undergoing necessary training and awaiting for final posting in workshop. It is pertinent to mention here that these 36 vacancies for which written test was held in fact occurred during the year 2003, 2004 and 2005 and as such the applicants who are within the zone of consideration are entitled to be considered for priority basis at least from the date of occurrence of vacancies.

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A copy of the letter-dated 20.11.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-5.

4.9 That it is stated that even assuming if some candidates are left out genuinely left out for consideration for promotion under cadre restructuring due to administrative error in that event the railway administration definitely can review those cases of the left out candidates for promotion to the cadre of Section Engineer even after issuance of notification for holding written examination/selection test for filling up the vacancies in the cadre of Section Engineer (Workshop). But the Railway authorities could have conducted the modified selection test by issuing a notice/corrigendum to that effect by reducing 12 vacancies by modifying the General Manager (P)'s letter dated 13.01.2006 and 26.07.2006. But in the instant case the General Manager (P) did not take any corrective steps to that extent.

Even after promotion of the 12 persons through memorandum dated 04.12.2006 the applicants were eagerly waiting for declaration of their results of the selection test held on 19.08.2006 and on 26.08.2006 and also legitimately expecting their promotion to the cadre of section Engineer in the remaining 24 vacancies on the basis of the select list/merit list in terms of the selection conducted by the railway authorities. But to their utter surprise the railway administration without declaring the results of the selection test held on 19.08.2006 and 26.08.2006, has now decided to cancel the aforesaid selection test in a most arbitrary and unfair manner as learned by the applicants from reliable source.

It is pertinent to mention here that, although 12 persons have been promoted as against the 36 vacancies of Section Engineer (workshop), but there was no bar or legal restriction for filling up the remaining 24 vacancies on the basis of the selection test held on 19.08.2006 and 26.08.2006 strictly on the basis of performance of the remaining candidates who appeared in the written examination conducted by the railway

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administration, therefore decision of the railway administration proposed to cancel the said selection test held on 19.08.2006 and 26.08.2006 is highly arbitrary, unfair and illegal and opposed to public policy and on that score alone the respondents be restrained to take any such action, prejudicial to the interest of the applicants.

4.10 That it is stated that apparently there is no justifiable ground to cancel the selection test held on 19.08.2006 and on 26.08.2006, but it appears due to promotion of certain left out persons under restructuring in the cadre of Section Engineer, Workshop, 12 posts have been diverted for promoting those 12 left out persons, even then there are 24 clear vacancies are available in the cadre of Section Engineer and these vacancies are liable to be filled up only on the basis of a positive act of selection, since the eligible employees have been directed by the Railway administration to appear in the written examination pursuant to the decision of the General Manager (P), and the eligible employees including the applicants have prepared themselves for the rigorous examination and also appeared in the said examination, therefore there is no valid reason to cancel the selection test held on 19.08.2006 and on 26.08.06, more so in view of the fact that these employees have taken all the troubles and got themselves prepared for the examination even by taking leave, in such circumstances the Railway authorities should declare the result of the selection test and should take necessary steps to fill up the remaining 24 vacancies on the basis of merit list/select list. It is pertinent to mention here that when at least 24 posts of Section Engineer are very much available these posts shall have to be filled up only through selection, therefore justice demand that these posts should be filled up by declaring the result of the selection test. It is not the case of the Railway administration that there is any allegation of adoption of unfair means, in the written examination by the applicants or any other employees appeared in the written examination and it is also not the case of the Railway administration that there are no more vacancies available

in the cadre of Section Engineer, as such it is obligatory on the part of the Railway administration to declare the result of the selection test and on the basis of the recommendation of the selection board these posts should be filled up on the basis of the result of the selection tests.

In the facts and circumstances stated above the decision of the competent authority in cancelling the selection test completely misdirected itself in taking such an extreme and unreasonable decision which is wholly unwarranted and unnecessary even on the factual situation and such decision of the Railway administration is irrational, therefore respondents be restrained in canceling the selection test held on 18.08.06 and on 26.08.06 otherwise it will cause irreparable loss and injury to the promotion prospect of the applicants.

4.11 That it is stated that selection was strictly in accordance with the governing instruction as such decision, if any, of the Railway administration for canceling the entire selection is highly arbitrary, unreasonable and against the public interest and the said decision is not judicious, more so when there is no grievance on the part of the Railway administration in adopting any unfair means by any of the applicants or other in the written examination held on 19.08.06 and on 26.08.06. Therefore decision of the Railway administration proposing to cancel the entire selection likely to cause irreparable loss and injury to the applicants who have appeared in the said examination and fared well in the written examination and legitimately expecting result of the selection test in their favour. The decision of cancellation of the selection, if taken by the Railway administration the same will cause harassment to the applicants for no fault on their part. It is well known to the Railway administration that there are 24 vacant posts have to be filled up only by way of selection test and a vacancy is liable to be filled up on the day when it occurred. In such circumstances if the Railway administration decides to cancel the selection test already held, then the same will be highly arbitrary, unfair

and opposed to public policy. It should be the duty of the model employer like the Railway authority to cause minimum harassment, least inconvenience to its employees but the arbitrary decision of the Railway administration to cancel the entire selection will lead to maximum anxieties and harassment to the applicants.

In the circumstances this Hon'ble Tribunal be pleased to pass an appropriate interim order restraining the Railway authority in cancelling the selection test held on 19.08.06 and 26.08.06 and further be pleased to pass appropriate order directing the Railway administration to declare the result on the basis of performance of the employees and accordingly to fill up all the 24 vacancies of Section Engineer (Workshop) as early as possible.

4.12 That it is stated that the applicants have no alternative remedy but to approach the Hon'ble Tribunal for declaration of their results of the selection test for considering promotion from the cadre of Junior Engineer, Grade-I to the cadre of Section Engineer (Workshop) and further be pleased to restrain the respondents Railway authority in canceling the selection test held on 19.08.2006 and on 26.08.2006 and if any such decision is already taken the same be set aside and quashed.

4.13 That your applicants are apprehending that the Railway may cancel the selection test held on 19.08.2006 and also on 26.08.2006, at any moment. Moreover, results of the selection test has not yet been published even after a lapse of about 6 months as a result promotion of the applicant are being delayed due to administrative inaction and laches, therefore finding no other alternative, applicants are approaching before this Hon'ble Tribunal, for granting adequate reliefs to the applicants.

4.14 That this application is made bona fide and for the cause of justice.

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

- 5.1 For that, the competent authority of the railway administration completely misdirected himself in taking such an extreme and unwarranted decision of cancelling the selection, wholly unwarranted and unnecessary even on the factual situation found too therein, and totally in access of the nature and gravity of what was at stake, thereby virtually rendering such decision to be irrational.
- 5.2 For that there is no allegation of irregularities or illegalities or adoption of unfair means in the process of conducting the selection test i.e. written examination held pursuant to the direction of the GM (P) issued on 26.07.06. As such question of cancellation of selection test without any valid reasons when at least 24 post of Section Engineer (Wksp) are available would be arbitrary, illegal and unfair and would be a deliberate attempt to cause harassment to the applicants who have taken all the troubles to appear in the rigorous process of selection test.
- 5.3 For that, respondents railway authorities committed grave error by holding modified selection on 30.11.2006 without issuing any prior notice or corrigendum before diversion and filling up of 12 vacancies out of the 36 vacancies for which selection test held on 19.08.06 and on 26.08.06.
- 5.4 For that, even after promotion of 12 persons from the cadre of J.E Grade-I to the cadre of Section Engineer (Workshop) in the scale of pay of Rs. 6500-10500/-, at least 24 posts of Section Engineers (Wksp) are still remained vacant, as such those vacancies ought to have been filled up after declaring the results of the selection test conducted by the railway administration on 19.08.06 and on 26.08.06 from amongst the J.E Grade-I who appeared in aforesaid selection test.
- 5.5 For that when 24 vacancies are still available in the cadre of Section Engineer (Workshop) the same are liable to be filled up only by an act of positive selection, therefore there is no justification for cancellation of the

selection test already held on 19.08.06 and on 26.08.06 and all the eligible candidates including the applicants have already appeared in the rigorous selection test, therefore there is no valid ground not to act upon the aforesaid selection proceeding and on that score alone if there is any cancellation order the same is liable to be set aside and quashed.

- 5.6 For that applicants cannot be made to suffer at the whims of the Railway administration when there is no fault on the part of the applicants, as such there is no valid ground of cancellation of selection test held on 19.08.06 and on 26.08.06.
- 5.7 For that non-declaration of result of the selection test held on 19.08.2006 and on 26.08.06 even after lapse of about 6 months will adversely effect the promotion prospect of the applicant who are eligible and within the zone of consideration for promotion to the cadre of Section Engineer (Workshop).
- 5.8 For that, the result of the selection test held on 19.08.06 and on 26.08.06 has not been published even after a lapse of about 6 months due to inaction, laches and also due to negligence on the part of the Railway administration whereas the result of the modified selection held subsequently on 30.11.06 has been issued within a period of 4 days and selectees have already been promoted to the cadre of Section Engineer (Workshop) within the said period of 4 days as such delay in publishing the result of the selection test held earlier is deliberate on the part of the Railway administration with the view of intention to cause injury to the promotion prospect of the applicants.
- 5.9 For that, inasmuch as 24 vacancies are still available in the cadre of Section Engineer (Workshop) even after diversion of 12 posts, as such respondents are duty bound to act upon the selection test held on 19.08.06 and on 26.08.06 as per decision of the railway administration, more so when the

applicants appeared in the selection test and legitimately expecting their promotion to the cadre of Section Engineer (Workshop).

- 5.10 For that, delay in publishing the results of the selection test will adversely effect the seniority position of the applicants in the cadre of Section Engineer (Workshop) with other direct recruits who are waiting for posting in the Railway Workshop at Bongaigaon shortly on completion of their training.
- 5.11 For that, the applicants are apprehending that the respondents Railway authority may cancel the selection test at any moment, as learnt from the reliable source at this belated stage which will cause irreparable loss and injury to their promotion prospect in the event of such cancellation. As such the Hon'ble Court be pleased to restrain the respondent in canceling the selection test held on 19.08.06 and on 26.08.06 and further be pleased to direct the respondents to act upon the aforesaid selection test to consider promotion of the applicants to the cadre of Section Engineer (Workshop).
- 5.12 For that, in the event of cancellation of the selection test held on 19.08.06 and on 26.08.06 for filling up the vacancies in the cadre of Section Engineer (Workshop) shall be arbitrary and such cancellation would be wholly unwarranted in the fact and situation of the case of the applicants and the said decision of cancellation of selection test, if any, of the Railway administration would not be in public interest and opposed to public policy, and as such the Hon'ble Tribunal be pleased to restrain the Railway administration to pass any order of cancellation of the aforesaid selection test.

6. Details of remedies exhausted.

That the applicants declare that they have exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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

The applicants further declare that they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicants humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to declare the result of the selection test held on 19.08.06 and on 26.08.06 and thereafter to consider promotion of the applicants to the cadre of Section Engineer (Workshop) on the basis of performance in the said selection test with immediate effect, in terms of the decision communicated by the General Manager (P), N.F. Railway's letter dated 13.01.2006 and also in terms of letter dated 26.07.2006 as indicated in the Railway's letter dated 17.01.2006 as well as in letter dated 03.08.2006.
- 8.2 That the Hon'ble Tribunal be pleased to restrain the respondents in canceling the selection test held on 19.08.06 and on 26.08.06 and in the event of passing any order, canceling the aforesaid selection test, the same may be set aside and quashed.

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8.3 That the Hon'ble Tribunal be pleased to direct the respondents to act upon the selection test held on 19.08.2006 and on 26.08.2006 pursuant to the direction of the General Manager (P), N.E. Railway for consideration of existing 24 vacancies of the Section Engineer (Workshop).

8.4 Costs of the application.

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

9. Interim order prayed for:

During pendency of the application, the applicants pray for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents, not to pass any order in canceling the selection test held on 19.08.2006 and on 26.08.06 and further be pleased to direct the respondents in the event of passing any such order, canceling the selection, the same may be kept in abeyance till disposal of this Original Application.

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

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11. Particulars of the I.P.O

i) I.P.O No. : 28G 933223
 ii) Date of issue : 18.12.2006
 iii) Issued from : G.P.O, Guwahati
 iv) Payable at : G.P.O, Guwahati

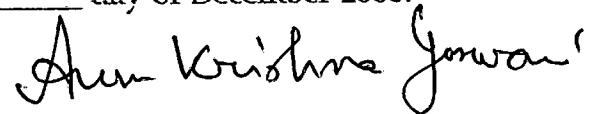
12. List of enclosures :
 As given in the index.

Arun Krishna Goswami

VERIFICATION

I, Smti Arun Krishna Goswami, S/o- Late Prassanna Goswami, aged about 34 years, working as Junior Engineer-I, in the office of Senior Section Engineer, N.F. Railway, Bongaigaon, applicant No. 1 in the instant application, duly authorized by the others to verify statements made in this Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 21st day of December 2006.



N. F. RAILWAY.

u.. E/M/254/TE-II/Selection/Pt.II

To

SSEs/WRS, CLS/MG, CBS, PGS,
CRS/MG, WIS, HISP, CRS/BG, CPS,
WPS, MS, M/100.

-Office of the
Chief Worksop Manager
N.F.Rly. New Durgapur

Dated: 12/01/2006.

Suresh Ray

Sub:- Selection for the post of SE in scale n. 6500-10500/-

Ref:- GM/P/MLG's L/No. E/254/51 (W) /W.S.Pt. I dt. 13-1-06.

Written test in connection with the selection of SE in scale
n. 6500-10500/- as per the programme mentioned below:-

1. Written Test - 11-02-2006
2. Absentee Written Test - 18-2-2006
3. Venue - CME's Office/MLG

Time:- At 09:30 Hrs.

Break up of the post :-

Sl.No.	Cadre	Panel for	UR	SC	ST
1.	Werkshop cadre	27 posts	20	4	3
2.	M&P cadre	02 posts	7	2	111
		36	27	6	3

You are hereby requested to please advise the following staff, working under you to keep themselves in readiness to appear in the above test and also spare and direct them to appear in the said test on the above date.

Name	Designation	Working under
1. Sri K. S. Das,	JE-I	SSE/WRS
2. " K.N. Pathak,	-do-	SSE/PLG
3. " P.K. Choudhury,	-do-	SSE/CLS/MG
4. " G. Bhattacharya	-do-	SSE/WRS
5. " S. Mukayashtha,	-do-	SSE/CLS/MG
6. " A.P. Bhattacharya,	-do-	SSE/PLG
7. " A.P. Bhattacharya,	-do-	SSE/CLS
8. " T. H. Deque Mollick,	-do-	GLE/PLG
9. " S. S. Bhattacharya,	-do-	SSE/CLS
10. " S. K. Bhattacharya,	-do-	SSE/CLS/MG
11. " R. Bhattacharya,	-do-	SSE/CLS
12. " A. Bhattacharya,	-do-	SSE/CLS
13. " Akhil Ch. Paulin	-do-	SSE/CRS/MG

Contd...

*Attested
Suryit Chakraborty
Advocate*

Called Mr
W. per

11/26/6

36 Port

(2) :-

Name	Designation	Working under
14. Sri A. Ganguly,	JE/I	SSE/WELD
15. " " C. Kar,	-do-	SSE/Insp.
16. " S.L. Prasad,	-do-	SSE/PLG
17. " Sanjay Das,	-do-	-do-
18. " A. Brahma,	-do-	SSE/CPS/UG
19. " R.K. Basumatary,	-do-	SSE/CPS
20. " J. P. Diori,	-do-	SSE/INSR.
21. " A. Saikia,	-do-	SSE/WPS
22. " Subhamoy Das,	-do-	-do-
23. " Md. Abdul Rashid,	-do-	SSE/MS
24. " K. Tallick,	-do-	SSE/MS/UG

If any candidate expresses unwillingness to appear in the examination, written declaration to that respect may kindly be obtained and sent to this office before the date to enable this office to intimate GM/P/MLG in time.

(R. ROY)
APO(W)/NBO
For CWM/NBQS.

Copy forwarded to 1- GM(P)/MLG- He is informed that Shri H.C. Sarkar, JE/I Serial No. 1106 of Map Cadre has retired from service w.e.f. 30-11-05.

(R. ROY)
APO(W)/NBO
For CWM/NBQS.

AB

Northeast Frontier Railway

**Office of the
General Manager (P),
N.F. Railway, Morigaon,
Guwahati - 781 011**

No.E/254/51(M)W.S Pt.I

Date :- 8.02.2006

To,
CWM/NBQ & DBWS
The PSTC/NBQ
The ADME/TDH

**Sub : Forming the panels of SE/WS in scale Rs.6500-10,500/- in Work shop
cadre and M&P cadre of Mechanical department.**

The date of selection for forming panels for SE/WS in Workshop and M&P cadre in scale Rs.6500-10,500/- which was fixed on 11.02.2006 (written) and 18.02.2006 (absentee written) vide this office notification of even number dated 13.01.2006 is hereby postponed due to unavoidable circumstances. The next date for the written examination will be intimated soon.

Kindly inform the eligible candidates accordingly.

This is for your information please.

(N. Misra)
**Sr. Personnel Officer/Mech
For General Manager (P)**

Copy for information to :-

1. CWE/MLG
2. Dy.CME/WS
3. APO/NBQS & DBWS

(N. Misra)
**Sr. Personnel Officer/Mech
For General Manager (P)**

No.E/M/254/JE/II/Selection/Pt.II

Dated : 08/02/2006

To,
All SSEs of Mechanical department/NBQS.

**Sub : Forming the panels of SE/WS in scale Rs.6500-10,500/- in Work shop
cadre and M&P cadre of Mechanical department.**
Ref : GM(P)/MLG L/No. E/254/51(M)W.S Pt.I Date 8.02.2006

GM(P)/MLG's above letter is forwarded for information and take necessary action. Please refer to this office letter of even No. dated 17/01/2006 for sparing of the staff concerned accordingly.

*After read
Sangit Chandra
Advocate*

B.P.O. No. 11
for G.M. (P)

N. E. RAILWAY.

Office of the
CWM/NDQS

NO. E/M/254/JE-II/Pt.II

Dated: 03-08-2006.

TO

PSTC/NDQ, SSE/WRS, PLG, CLS/MG, CDS,
PGS, CRS/MG, WLD, INSP, CBS/DO, CPS,
WTS, MS, MWS/NDQ, WLD.

Sub:- Selection for the post of SENIOR WORKS SUPERVISOR in scale M. 6500-10500/-, both for Workshop cadre and also M&P cadre of Mech. Workshop.

Ref:- GM(P)/MLG's L/N^o. E/254/51(M)WS Pt. I Dated July 26, 2006.

Written test in connection with the selection of SENIOR WORKS SUPERVISOR in scale M. 6500-10500/- will be held as per the programme mentioned below:-

1. Written examination - On 19-08-2006
2. Absentee written - On 26-08-2006
3. Venue - CME's Office, Malignon.
4. Time - 10-00 Hrs.

You are hereby requested to please advise the following staff, working under you to keep themselves informedness to appear in the said test and also spare and direct them to appear in the said test on the above date.

SN.	Name	Designation	Working under
1.	Sri K.C. Das,	JE/I	SSE/WRS
2.	" K.N. Pathak,	-do-	-do-/PLG
3.	" P.K. Choudhury,	-do-	-do-/CLS/MG
4.	" G. Nath,	-do-	-do-/WRS
5.	" S. Purkavastha,	-do-	-do-/CLS/MG
6.	" A.K. Chakraborty,	-do-	-do-/PLG
7.	" A.K. Goswami,	-do-	-do-/CDS
8.	" I. H. Haque Mullick,	-do-	-do-/CDS
9.	" Suryabhan Paul,	-do-	-do-/PGS
10.	" S.K. Sharma,	-do-	-do-/CLS/MG
11.	" R. Davan,	-do-	-do-/CLS/MG
12.	" A. Hakim,	-do-	-do-/CDS
13.	" Alchij Ch. Paul,	-do-	-do-/CRS/MG
14.	" R.P. Singh,	-do-	PSTC/NDQ
15.	" S.L. Prasad,	-do-	SSE/PLG
16.	" Sanjiv Das, -	-do-	-do-
17.	" A.S. Dyrhia, -	-do-	SSE/CRS/DO
18.	" R.K. Basumatary, -	-do-	SSE/CPS
19.	" J.P. Doori,	-do-	-do-/INSP
20.	" J. Saikia,	-do-	-do-/WTS
21.	" Subhamoy Das,	-do-	-do-
22.	" Md. Abdul Rashid,	-do-	SSE/MS
23.	" Sri K. Mallik, -	-do-	-do-/MWS
24.	" A. Ganguly	-do-	-do-/WLD

Attested by
Surjith Chandy
Advocate.

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A copy of the syllabus for the selection of SW(WS) are enclosed herewith, which may kindly be brought to the notice of the candidates.

If a candidate expresses unwillingness to appear in the above selection, a written declaration to that respect may kindly be obtained and sent to this office before the date to enable this office to intimate GM(P)/MLG at the time.

18/3/66

APO(WS)/NDQ

For CWM/NDQS

Copy forwarded to :- GM(P)/MLG. He is informed that Sri. S.C. Kar, J.E/I, Serial No. 23 of workshop cadre has retired from service w.o.f. 31-03-66.

For CWM/NDQS.

Attested
Advocate

Northeast Frontier Railway

MEMORANDUM

Further to this office memorandum No. E/254/44/PLH (M) dated 02.05.2005, the following candidates who have been left out earlier are found suitable in the modified selection held on 30.11.2006 for promotion to the post of SE/WS in scale Rs.6500/- 10,500/- against restructuring w.e.f 01.11.2003 in addition to the staff already promoted earlier against restructuring.

SN	Name	Community	Designation	Trade	Place of working
1.	Shri N.C. Sarkar	UR	JE/I/WS	Machine	NBQS ✓
2.	Shri K. Sharma	UR	JE/I/WS	Machine	DBWS
3.	Shri S.L. Prasad	SC	JE/I/WS	BSS	NBQS ✓
4.	Shri B. Sonowal	ST	JE/I/WS	BSS	DBWS
5.	Shri Rajib Borah	UR	JE/I/WS	MW	DBWS
6.	Shri Kaushik Mallick	SC	JE/I/WS	MW	NBQS ✓
7.	Shri P. Chungloy	ST	JE/I/WS	Welding	DBWS
8.	Shri Kumud Das	UR	JE/I/WS	Wagon	NBQS ✓
9.	Shri Bani Kanta Deka	UR	JE/I/WS	Wagon	IIQ now WSI under SDGM/MLG
10.	Shri G.C. Nath	UR	JE/I/WS	Wagon	NBQS ✓
11.	Shri K.N. Pathak	UR	JE/I/WS	Carriage	NBQS ✓
12.	Shri S.N. Chakraborty	UR	JE/I/WS	Carriage	DBWS

The panel has been approved by CWE/MLG.

(J. Rabidas)

Sr. Personnel Officer/Mech
For General Manager (P)
December 4, 2006

No. E/254/51(M) WS Pt.I

Copy forwarded for information and necessary action to :-

1. FA&CAO/MLG
2. CWE/MLG
3. CWM/DBWS & NBQS
4. Dy. CME/NBQS
5. ADME/TDH
6. Sr.DME/DsI/MLDT, SGUJ, NGC & LMG
7. GS/NFRMU & NFREU
8. APO/NBQS & DBWS
9. Copy for P/case.

Restrictive

*10/12/06
11/12/06
12/12/06*

*Attested
Sugit Choudhury
Advocate*

For General Manager (P)

*J. Rabidas
12/12/06*

24-

N. F. RAILWAY MAZDOOR UNION ¹⁰⁰

REGD No: 425 (ASSAM)

Recognised by the N. F. Railway Administration

Affiliated to All India Railwaymen's Federation & Hind Mazdoor Sabha

HEAD OFFICE :- PANDU

Phone :- 23610 (Central Office)

BRANCH OFFICE :- NEW BONGAIGAON

Phone :- 2544 (Rly)

Annexure-5

L/NO. MU/NBQ/3/06

DATE: 20/11/06

To

Chief Workshop Engineer
N.F. Railway/Maligaon

Sub:- Abnormal delay in publication of result of selection of SE in
Scale of Rs.6500/- to 10,000/- from JE-I in workshop cadre.

Ref:- 1. GM/P/MLG's L/No.E/254/31/(M) WS/Pl-I, dtd.26.7.2006
2. CWM/NBO's L/No.E/M/254/JE-II/Pl-II, dt.3.8.06.

D/Sir

I am constrained to bring your notice that the above selection has been held on 19.8.06 at Maligaon vide ref. above. Despite of repeated persuasion from this union result of the above selection has not yet been published which has created widespread resentment among the staff.

It is also learnt that some direct recruits SE from RRB is undergoing necessary training and awaiting for final posting in workshop. Their training is likely to be completed on 22nd November '06.

As such, this union urges your active intervention to publish the result of the subject selection without further delay.

You are also requested not to post any SE(Section Engineer) recruited directly from RRB before the posting of SE going to be promoted departmentally from JE-I in workshop to avoid dispute in the matter of seniority and to maintain Industrial peace and harmony.

Thanking you

Yours faithfully

(T.S.RAHA)

Br. Secretary

NFRMU/NBQ(WS) Branch

Copy to :-

1. CWM/NFR/NBQ.... For information and necessary action please.
2. GS/NFRMU/PNO.... This is in apropos of our discussion over telephone on 16.11.06. Your active intervention is solicited in this regard.

Yours faithfully

(T.S.RAHA)

Br. Secretary

NFRMU/NBQ(WS) Branch

36 Park
12 Park Street
12 Park Street
12 Park Street
12 Park Street

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
BENCH, GUWAHATI

O.A. NO. 321/2006

Shri A.K. Goswami & ORS

- VS -

U.O.I. & Others

Written statement on behalf of the respondentS.

That respondent MOST RESPECTIVELY SHEWITH:

(i) That the respondents have gone through the O.A. and understood the contents thereof.

(ii) That in reply to the statements made in para 4.1 that the applicants are presently working as Junior Engineer Gr.I in scale Rs.5500-9000/- in C&W Workshop, New Bongaigaon. In terms of avenue of promotion, their next promotion is to the post of Section Engineer in scale Rs.6500-10,500/. Railway Board have classified the post of Section Engineer in scale Rs.6500-10,500/- as "Selection Post" and accordingly the post of Section Engineer is required to be filled by positive act of selection. The post of Section Engineer / workshop is a safety category supervisory post and very important for effective maintainance of coaches / wagons with direct bearing on the safety and puncuality of train operation.

(iii) That in reply to the statements made in para 4.3 initially after merger of trades for filling up of vacancies in the cadres of Section Engineer (Workshop) and Section Engineer (M & P) in scale Rs.6500-10,500/- a notification for 27 posts in Workshop cadre and 09 posts in M & P cadre vide No. E/254/51 (M) W.S. Pt. I dated 13-01-2006. But, the above selection was postponed as it has been decided to make a review of the impact of the merger of trades and its efficiency in the functioning of workshops.

(iv) That in reply to the statements made in para 4.4 subsequently it has been decided to make a review of the recently done merger of the trades and its efficacy and impact on the functioning of the Workshops, the above selection was kept in abeyance. It may not be out of place to mention here that hitherto, in the Mechanical (C&W) Workshops, the seniority, selections etc. were used to be done separately trade wise only. He cannot be given promotion against a post vacant in any

other trade even if he is senior in overall consideration. Subsequently, it has been decided to merge the different trades into two broad groups i.e. workshop cadre and M & P cadre. Previously, a supervisor say in a particular trade has to wait for his promotion till a vacancy is caused, even if he is initially pretty senior while a much junior person initially, may get promotion earlier because of the position of his own trades. After consulting the recognized trade unions, the various trades have been merged in to two distinct trades i.e. WS cadre and M & P cadre. Thereafter, for selection the said notification was issued. But, as it has been decided to review the impact of the trades merger, the said selection was kept in abeyance.

(v) That in reply to the statements made in para 4.6 subsequently for holding the selection, notification was issued on 13-01-06 fixing the date of written examination has been held. But immediately after that, it has been detected that at the time of restructuring of cadre in terms of Board's letter No. PC / III / 2003 / CRC / 6 dated 09-10-03 & 06-01-04 w.e.f. 01-11-2003, a number of vacancies were left out and taken into consideration in advertantly for promotion of staff against restructuring vacancies because of clerical error. When this came to notice, immediately the selection had to be cancelled on 20-11-06. For this error the responsible official has been takep up. The selection had to be cancelled since the promotion against restructuring, was done on the basis of modified selection and the normal selection is to be done by positive act of selection by holding written examination. Had the selection not been cancelled a lot of complicity would have arisen regarding seniority position etc. As such, the normal selection was cancelled and the modified selection against the left out vacancies which were available consequent on restructuring was done as per seniority.

(vi) That in reply to the statements made in para 4.7 modified selection against the left out vacancies against the cadre restructuring had to be held first by cancelling the normal selection to avoid future complications and there is nothing arbitrary, unfair and mela fide in it.

(vii) That in reply to the statements made in para 4.8 in terms of extant instructions of Railway Board, in the cadre of Section Engineer, 80% of the vacancies are filled up through departmental promotion from the eligible staff from immediate lower grade i.e. Junior Engineer Gr. I and remaining 20% vacancies are recruited from the open market by Railway Recruitment Board. The open market candidates after their empanelment are subjected to requisite initial training, and on their successful completion of training, are posted. Since they have already completed their training, they cannot be kept waiting and as such they have been posted.

(viii) That in reply to the statements made in para 4.9 as has been already mentioned, the

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Nitin Prasad Talukdar
C. I. C. : 103
W/M/S. 103

(3)

selection which was under way, had to be cancelled as the modified selection was to be conducted against the restructuring vacancies which were left out inadvertently earlier, in order to avoid future complication as same as candidates who were considered against the restructuring vacancies, has also been and appeared in the normal selection and thus a peculiar situation would have arisen resulting in anomaly.

(ix) That in reply to the statements made in para 4.13 the selection is question has already been cancelled on 20-11-2006.

(x) That in reply to the statements made in para 4.13 A and 4.13 B it is stated that the earlier selection was cancelled by letter dated 20/11/2006 for administrative error as explained in the preceding paragraphs. It is denied that the cancellation is an after thought and well planned action as alleged. The ground for cancellation has been disclosed in the preceding paragraphs i.e. for wrong calculation of vacancies.

(xi) That in reply to the statements made in para 4.13 C, 4.13D and 4.13E respondents denies the correctness of the statements and the allegations made in the petition. It is stated that Railway Board under takes periodical review of cadres and up grades some post in the cadre and such up gradation benefits are given with retrospective effects as mentioned in the scheme with transparency. This is done looking to the welfare needs of the senior persons in the cadre. Under such restructuring said twelve employees were given promotion under restructuring up gradation. The allegation of manipulation is denied and the applicants be put strict proof of the same. The allegation of malafide is also unfounded and not supported by facts. Persons named in the said paragraphs has been promoted as they were eligible. Applicants in a camouflaged manner has brought some baseless allegations and have never represented pointing any irregularity to the authorities and they

24-16 Pans \rightarrow 4 to modt
8-faster

17-18 Pans \rightarrow 95
8-faster
6-Pans

95

104
Plitgandhali

(4)

know that there is no case against the employees named in these paragraphs and as such has not impled them in the OA.

That as already explained above it is a case of assessment of wrong vacancy which is an administrative error. Necessary administrative action against the officer concerned have also been initiated. Factual position is that the number of vacancies (existing participated) should be 24 while was wrongly taken as 36. Reservation for SC & ST also varied according to the number of vacancies assessed.

Two tabulation showing wrong assessment of 36 and current assessment of

24 vacancies are appended below:-

	Existing vacancy	Anticipated vacancy	Total	Community wise break-up
WS cadre	8	19	27	SC- 04 ST- 03 UR- 20 Total-27
M&P cadre	6	3	9	SC- 02 ST- Nil UR- 07 Total-09

	Existing vacancy	Anticipated vacancy	Total	Community wise break-up
WS cadre	Nil	19	19	SC- 02 ST- 01 UR- 16 Total-19
M&P cadre	2	3	5	SC- 02 ST- Nil UR- 03 Total-05

Therefore, wrong assessment of vacancies resulted in procedural irregularities in the selection. Even if respondents had gone ahead with the selection and finalised panel, there would have been procedural irregularities in the panel and therefore, liable to be cancelled subsequently under para-(e) of Rule- 219 of (IREM, Vol-I).

Not only the assessment of vacancies would have been changed, also the community wise breakup would have changed resulting in violation of reservation

(5)

rules.

If the 12 candidates who were given promotion against modified selection, would have failed in the normal selection, this would have created further complication since such candidates were being denied the benefit of modified selection for which they were entitled under rules. Moreover, it would give rise to seniority disputes amongst these 12 candidates and other successful candidates of the normal selection.

Moreover the number of vacancies cannot be altered once the notification is issued and vacancies meant for general and reserved candidates should be clearly indicated while issuing the notification. There was, therefore, no option but to cancel the selection.

Under the facts and circumstances stated above the OA deserve to be dismissed with cost.

VERIFICATION

I, Sri... Nityananda Chakraborty aged about56 years, Son of Late ... Pram... Mohan Chakraborty working as Dy. EPO/HQ/NFL, do hereby verify that statements made in para1..... to ...X1..... are true to my knowledge and belief and I have not suppressed any material facts.

AND I sign this verification on this ...20th.... day of ...June..., 2007 at
Guwahati

Date: 20/6/07

Place: Guwahati

Nityananda Chakraborty

Signature

নিত্যনন্দ চক্ৰবৰ্তী
Dy. C.P. I. C.
পু. সী. এল্পি. পার্ক, বি.
প. এ. ই/মি.গ.
গুৱাহাটী/১

NOTICE

From Dr. J. L. Sarker
S.C. Railways
CAT, Guwahati

Date: 26/6/07

To
Mr M. Chanda
Advocate

Sub: O.A. No 321/07

Shri A.K. Goswami & Ors. vs. U.O. & Ors.

Sir,

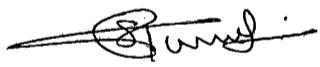
Please find enclosed herewith a copy of the W.S. in the abovementioned O.A. which is being filed today.

This is for your kind information and necessary action.
Please acknowledge the receipt.

Received

Sel.
Advocate
26/6

Yours sincerely



for Dr. J.L. Sarker
S.C. Railways

13 SEP 2007

गुवाहाटी बायादी
Guwahati Bench

• IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

• GUWAHATI BENCH: GUWAHATI

Filed by the applicants 100
Lokangeli, S. N. Gohain
13/09/07

In the matter of:

O.A. No. 321/2006

Sri Arun Krishna Goswami & Others.

-Versus-

U.O.I and Others.

-And-

In the matter of:-

Rejoinder submitted by the applicants
against the written statement submitted
by the respondents.

The above named applicants most respectfully beg to state as under:-

1. That with regard to the statements made in Para II, III, IV and V, it appears that, the selection have been postponed at the instance of the Railway authorities, in spite of availability of vacancies in the promotional post of Section Engineers (SE) as admitted in the above paragraphs. The statements made in para V of the written statements, to the effect that selection had to be cancelled on 20.11.2006 due to clerical error as because some of the vacancies pertaining to cadre restructuring have been taken into consideration inadvertently while issuing notice for selection and it is alleged that due to such administrative error the selection had to be cancelled on 20.11.2006. It is relevant to mention here that without issuing any corrigendum, as required under the rule, in as much as 12 vacancies have been filled up, of different trades against restructuring vide memorandum dated 04.12.2006 i.e. after the selection was over on 19.08.2006 and 26.08.2006 which was conducted following the direction of the GM (P), where all the applicants have participated after taking lot of hard work and rigorous preparation for the said selection even by the

taking leave on their personal account and also in anticipation that they will be promoted to the cadre of SE in the event of passing of the examination. As a result of filling up of 12 vacancies out of 36 vacancies pertaining restructuring, the rest 24 vacancies are exclusively meant for the present applicants, which are liable to be filled up by an act of positive selection. Since the applicants have already participated in the selection preceding that too held by the competent Railway authority, therefore the remaining 24 vacancies are liable to be filled up on the basis of the selection held on 19.08.2006/26.08.2006. Moreover, the present applicants are not aggrieved by the reduction of number of vacancies due to administrative error if any. But the present applicants are highly aggrieved by the non declaration of results on the basis of the selection examination held on 19.08.206/26.08.2006 and the applicants are also aggrieved due to alleged cancellation of the examination on 20.11.2006 as stated in para V of the written statements. It is humbly submitted that there is no cogent or justifiable reason for cancellation of the examination held on 19.08.2006 and 26.08.2006, only on account of reduction of number of vacancies of SE's from 36 to 24, more so when the administrative error has occurred due to the fault of the railway authorities, which is a curable defect and very often such defects are being cured by issuing necessary corrigendum. But cancellation of the whole examination that too without any intimation to the applicants is highly arbitrary, unfair and illegal and such action is not sustainable in the eye of law. Due to such arbitrary decision of the railway authorities all the applicants have been adversely effected and it will cause irreparable loss and injury to the applicants as because the applicants shall be required to undergo a fresh set of rigorous selection only at the whims and fancies of the railway authorities. The decision of cancellation of the examination is nothing but a colorable exercise of power and as such law cannot be permitted to act unfairly and arbitrarily by the railway authorities more so when the mistake have been committed by the railway authority. It is further submitted that in the facts and circumstances as stated above, Railway authority cannot have valid or legal objection in setting aside the impugned order of cancellation of selection passed by the Railway Authority.

The order of cancellation was issued in a hude and sick manner as because no opportunity was provided to the applicants before cancellation of the examination, since the applicants are effected persons, as such they are entitled to the notice before cancellation of the exam. Moreover, the interim order was passed by the Hon'ble Tribunal on 22.12.2006, and further interim order was passed on 22.01.2007 directing the respondents to declare the results of the selection held earlier in the Misc. Petition no. 8/07 in O.A No. 321/2006 when a prayer is made by the applicants for stay of the impugned notification dated 04.01.2007, whereby a fresh examination is proposed to be held on 03.02.2007 and 10.02.2007. Therefore it appears that when further interim order was passed on 22.01.2007, long thereafter the railway authority preferred a Misc. petition for vacating the interim order dated 22.01.2007 contending that examination has already been cancelled on 20.11.2006, which makes it abundantly clear that the order of cancellation have been passed in an hude and sick manner without any intimation even to the concerned railway authorities, although in the order of cancellation, it appears that a copy has been marked for communication to Chief Workshop Manager, New Bongaigaon, which also addressed to APO, New Bongaigaon, but no such copy in fact communicated to CWM/APO New Bongaigaon a evident from APC's letter No. E/M/254/officer/Pl. III dated 28.03.2007. Therefore, it appears that no intimation was given to the other railway authorities, although the same is shown to have been communicated in the impugned letter dated 20.11.2006, and as such the same smacks mala fide and the Hon'ble Court be pleased to produce the relevant file/records canceling the selection held on 19.08.2006 and 26.08.2006, and also the relevant dispatch register through impugned letter dated 20.11.2006 have been dispatched to the other Railway authorities as indicated in the letter dated 20.11.2006. The relevant record is also necessary to ascertain the reasons of cancellation of the selection held on 19.08.2006 and 26.08.2006. There is no railway rule directing cancellation of the entire selection proceeding when the same the same is over on the ground reduction of number of vacancies initially notified, rather issuing a corrigendum to that effect is the right course of action on the part of the

Railway administration in order to remove the discrepancies in the number of vacancies which is caused due to administrative error at the instance of the railway authorities and for the wrong caused by the railway authorities, the applicants should not be made to suffer and moreover there is no scope for any sort of complicity a alleged in the para 5 in the event of issuing a corrigendum which was the right course of action available to the Railway administration. It is pertinent to mention here that even for the modified selection which was held after taking away the 12 number of vacancies out of the 36 vacancies initially notified that too without issuing any corrigendum. Therefore it appears that the Railway authority have adopted one after another irregularities ad without any corrigendum railway authority also held the modified selection against the restructuring vacancies and till date the said modified selection and memorandum issued on 04.12.2006 appears to be valid in the eye of the railway authorities But on the alleged ground of administrative error in computing the vacancies the entire selection is now sought to be cancelled by the administration which is not permissible under the law in force.

2. That with regard to the statements made in para VI, VII, VIII, IX, X, and XI of the written statement are categorically denied, save and except, which are borne out of records. So far contention raised in para VI is concerned it is categorically denied and further submitted that the applicants are not standing on the way of modified selection which is already been done by the railways and applicants have no grievance against such modified section and also has no grievance even for the reduction of number of vacancies. The contention raised in para VII is not at all relevant in the instant case of the applicant. So far statement made in para VII, IX X, XI and XII is concerned, has been elaborately replied in the preceding paragraphs.
3. That with regard to the statements made in para XII, XIII XIV, XV and XVI of the written statement, the applicants deny the correctness of the statements, save and except which are specifically admitted and further

beg to say that there is no justifiable reason for cancellation of the entire selection proceeding held on 19.08.2006 and 26.08.2006 on the ground of reduction of vacancies from 36 to 24, that too on the ground of administrative error. Therefore the impugned order of cancellation of selection dated 20.11.2006 is liable to be set aside and quashed. Moreover, no reason has been assigned for cancellation of the selection in the impugned order dated 20.11.2006 and on that score alone the impugned order dated 20.11.2006 is liable to be declared void and the order of cancellation is liable to be set aside and quashed.

It is relevant to mention here that the said selection has been cancelled under para (e) of Rule 219 of IREM Vol. I as contended in paragraph XVI of the written statement is categorically denied as because the Sub rule (e) of 219 has no relevancy with the instant case, since clause (e) deals with the confidential reports and other relevant dates of the candidates and the qualification prescribed for the particular post, hence the railway authorities cannot take shelter of clause (e) of the Rule 219 of IREM Vol. I. Moreover, reduction of vacancies cannot be a ground for cancellation of entire selection process which was already conducted way back on 19.08.06 and 26.08.06. Moreover, there was no circulation of the impugned cancellation order dated 20.11.06 and the said cancellation has been done in a hide and seek manner even without disclosing the same before the learned Tribunal when the notice was issued in OA No. 321/2006, as such the entire action of the respondents smacks malafide. It is specifically stated that the alleged administrative error is curable and there is no rule in railways imposing any sort of restriction in curing the administrative error, if any, that too at the instance of the railway administration itself. Moreover, due fault on the part of the railway administration the employees cannot be made to suffer.

In the facts and circumstances stated above, the original application deserves to be allowed with costs.

VERIFICATION

I Sri Arun Krishna Goswami, S/o- Late Prassanna Goswami, aged about 34 years, working as Junior Engineer-I, in the office of Senior Section Engineer, N.F. Railway, Bongaigaon, applicant No. 1 in the instant application, duly authorized by the others to verify statements made in this Petition in Paragraph 1 to 3 are true to my knowledge and legal advice and I have not suppressed any material fact.

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

