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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. O.A.165/2005

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SECTION OFFICER (Judl.)

G. Saha
03/11/17

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

165/05

original Application No.

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(s) Sri Prabash Deb Nain

Respondents Co 1 2018

Advocate(s) for the Applicant(s) Mr B. Boraogohain, M.S. A. Das.

Advocate(s) for the Respondents Railway Counsel.

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide IPD/BD No. 209/134055 Dated.... 17.6.05	27.6.2005	Heard learned counsel for the parties. The application is disposed of at the admission stage itself in terms of the order passed in separate sheets.
<i>ABP</i> Dy. Registrar Slops later. 24/6/05	mb	<i>ABP</i> Vice-Chairman

29.6.05
Copy of the first
letter been sent to
The office for issuing
the notice to the applicant
as well as to the Rly.
Standing Counsel.

3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./PLA NO. 165/2005

DATE OF DECISION 27.6.2005

Sri P. Deb Nath APPLICANT(S)

Mr. B. Buragohain Ms. A. Das ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

Union of India & Ors. RESPONDENT(S)

Mr. S. Sarma, Ms. B. Devi, ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.



4

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 165/2005

Date of Decision : This the 27th day of June, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.

Sri Prabash Deb Nath
Son of Sri Monoranjan Deb Nath
Resident of Medical Colony (Hojai)
P.O. Lumding, P.S. Lumding
District - Nagaon, Assam.

... Applicant.

By Advocates Mr. B. Buragohain, Ms. A. Das.

- Versus -

1. Union of India, through the Secretary to the Government of India, Ministry of Railways, New Delhi.
2. N.F. Railway, represented by the General manager, Maligaon, Guwahati - 11.
3. The President, Divisional Railway Sports Club, Lumding, N.F. Railway.
4. The General Secretary, Divisional Railway Sports Club, Lumding, N.F. Railway.

... Respondents

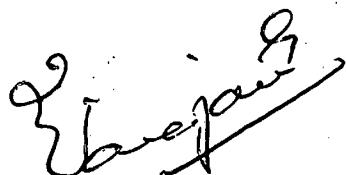
My Mr. S. Sarma, Railway Advocate, Ms. B. Devi, Advocate.

ORDER (ORAL)SIVARAJAN. J. (V.C.)

The applicant wanted appointment in sports quota. He approached this Tribunal earlier by filing O.A. No. 59/2003, which was disposed of by order dated 10.06.2003 (Annexure - A). This Tribunal clearly held that the application is barred by limitation and accordingly dismissed. It was however observed in the said order that "the dismissal of the application, however, shall not preclude the applicant to apply for any vacant posts under the respondents subject to fulfilling the eligibility criteria. If such application is made by the applicant the respondents shall consider such application of the applicant, as per law alongwith the persons similarly situated." Pursuant to the said observation the applicant filed representation (Annexures - B Series), latest on 09.01.2005.

2. Heard Ms. A. Das, learned counsel for the applicant and Ms. B. Devi, learned counsel on behalf of the Railway.
3. Since the applicant has submitted representations mentioned earlier pursuant to the observation made by this Tribunal there will be direction to the 3rd respondent to dispose of the annexures - B series representations within a period of three months from the date of receipt of this order.

The O.A. is disposed of as above at the admission stage itself.



(G. SIVARAJAN)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI

Central Administrative Trib.

Original Application No.

165/2005

2) 4 JUN 2005

BETWEEN

গুৱাহাটী আদায়কৰ্ত্তা

Guwahati Bench

Sri Prabash Deb Nath..... Applicant(S).

VS-

Union of India & Ors Respondent(S).

SYNOPSIS

This instant application under Section 19 of the Administrative Tribunal Act, 1985 is directed against the arbitrary, discriminatory and malafide action /inaction on the respondent part in not appointing ^{the} applicant in any Group-D post in sports quota on the basis of the interview held in the year 1995 under N.F. Railway as per direction of the Hon'ble Tribunal (Annexer-A). As per direction of the Hon'ble Tribunal in O.A. 59/2003 the applicant has been been submitted duly filled up applications for appointment in any ~~one~~ Group-D post of ~~one~~ sports quota. The respondent authority up till now has not filled up the post and therefore the claim for the same is still subsists on the basis of his test/interview held ^{is qualified for appointment against} in the year 1995. The applicant sports quota under Group -D, Category for the discipline of badminton and the respondent authority is still not filled up against the Group-D category and the same has been stopped since 1995. Hence this application praying for appropriate orders/ directions from this Hon'ble Tribunal seeking redress of his grievances.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH:
GUWAHATI:

Original Application No. 29/165/ 2005

Application under Section 19 of the Administrative Tribunal
Act, 1985.

Sri Prabash Deb Nath.....Applicant(S)

-VS-

Union of India & Ors Respondants.

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3.	Representations	B' Series	11 to 15
4.			

Date:- 24.6.2005

Place:- Guwahati.

Prabash Deb Nath
Signature of the Applicant.

120 JUN 2005

গুৱাহাটী বিধুৰণ
Guwahati Bench

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

An application under Section 19 of
the Administrative Tribunal Act' 1985.

- AND -

O.A. No. 165 /2005

Sri Prabash Deb Nath,
Son of Sri Monoranjan Deb Nath,
Resident of Medical Colony,
P.S. Lamding, P.O. Lamding,
Dist - Nagaon, Assam.

- VERSUS -

UNION OF INDIA & ORS.

DETAILS OF THE APPLICATION:

1. PARTICULARS OF THE APPLICANT:

Sri Prabash Deb Nath,
Son of Sri Monoranjan Deb Nath,
Resident of Medical Colony (Hojai),
P.O. Lamding, P.S. Lamding,
District - Nagaon, Assam.

2. PARTICULARS OF THE RESPONDENTS:

1. Union of India,
through the Secretary to the Govt. of
India, Ministry of Railway, New
Delhi.

Contd.../-

Filed by
Prabash Deb Nath
Through
Anjali Das
29.6.05

2. N.F. Railway,
represented by the General Manager,
Maligaon, Guwahati-11.

3. The President,
Divisional Railway Sports Club,
Lumding, N.F.Railway.

4. The General Secretary,
Divisional Railway Sports Club,
Lumding, N.F. Railway.

3. **PARTICULARS FOR WHICH THE APPLICATION IS MADE.**

I. Order passed on 10-06-2003 in original application No.59/2003 by this Hon'ble Tribunal.

II. Representation dated 23-06-2003 submitted by the applicant before the President (DRSC/ Lumding) Divisional Raolway Manager for appointment in Group-D category in sports quote.

III. Representation dated 29-07-2003 submitted by the applicant before the President (DRSC/ Lumding) Divisional Railway Manager, N.F. Railway, Lumding.

IV. Representation dated 05-09-2003 submitted by the applicant before the President (DRSC / Lumding) Divisional Railway Manager, N.F. Railway Lumding.

Pabalash Deb nahi

V. Representation dated 19-01-2005 submitted by the applicant before the President (DRSC / Lumding) Divisional Railway Manager, N.F. Railway.

4. **JURISDICTION OF THE TRIBUNAL:**

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

5. **LIMITATION:**

The applicant further declare that the application under Section 19 is not govern by Section 21 in as much as, the same is not against any order of the authority concerned but its in-action.

6. **FACTS OF THE CASE:**

- (a) That in order to filled up the sports quota in Group-D category post under N.F. Railway as per direction of this Hon'ble Tribunal.
- (b) This Hon'ble Tribunal on 10-06-2003 passed an order in original Application No.59/2003 whereby directed the applicant to apply for any vacant post under the respondent subject to fulfilling the eligibility criteria. If such application is made by the applicant the respondent shall consider such application of the applicant, as per law alongwith the persons similarly situated.

Dabash Debnath

A copy of the order dated 10-06-2003 passed in O.A.No.59/03 is annexed herewith as ANNEXURE - A.

Pabresh Dabral

(c) The applicant in pursuance of the said order passed by this Hon'ble Tribunal has been submitted his duly filled up applications for appointment in any Group-D post of sports quota. In as much as the applicant has been submitted numbers of representations for appointment against sports quota in Group-D category post under N.F. Railway.

Copies of the representations are annexed herewith and marked as ANNEXURE - B series.

(d) The respondent authority up till now the post concerned is not filled up and therefore his claim for the same is still subsists on the basis of his test / interview in the year 1995.

(e) The applicant is duly qualified for appointment against sports quota under Group-D category for the discipline of Badminton and the respondent authority is still not filled up against the Group-D category and the same has been stopped since 1995.

7. RELIEF SOUGHT FOR:

In the aforesaid facts and circumstances the applicant prays for the following reliefs:

Contd.../-

Pabash Dels Rath-12

- I. to direct the respondents to appoint the applicant against sports quota of Group-D category as per law of the land.
- II. to direct the respondents to dispose of the representations submitted by the applicant within a specific period of time by speaking order.

8. **INTERIM RELIEF SOUGHT FOR:**
NO

9. **DETAILS OF REMEDIES:**
This Hon'ble Tribunal may be pleased to direct the respondents to dispose of the representation submitted by the applicant within a specific period of time by speaking order and take necessary action to appoint the applicant against sports quota of Group-D category post.

10. **MATTERS FILED IN ANY OTHER COURT:**
No application or petition has been filed before any other court.

11. **PARTICULARS OF THE POSTAL ORDER:**
Dt. 17.6.05 , 20 G 134055 at Head office
Meghdoot Bhawan , Panbazar.

12. **LIST OF DOCUMENTS:**
As per index.

VERIFICATION

I Sri Prabash Deb Nath, son of Sri Monoranjan Deb Nath, aged about 31 yearsresident of Medical Colony, Lumding, P.O. & P.S. Lumding, District: Nagaon, Assam, do hereby verify that the contents of paragraph 1-3, 6, 7 & 11 are true to my personal knowledge and paragraph 4 & 5 are believed to be true on legal advice and that I have not suppressed any material facts.

Prabash Deb Nath

Date: 24th June '1985

Signature of the applicant

Place: Guwahati

To,

The Registrar,
Central Administrative Tribunal,
Guwahati Branch, Bhangagarh,
Guwahati-1.

Prabash Deb Nath 3

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCHORDER SHEETOriginal Application No. 59/03Misc. Petition No. /Contempt Petition No. /Review Application No. /Applicant (s) Probabash Deb Nath

- Vs. -

Respondent (s) W.O. T. FormAdvocate for the applicant (s) Dr. C. Phukan, Mr. R. Basujiayi
Mr. S. SenguptaAdvocate for the respondent (s) Railway Counsel

Notes of the Registry

Date

Orders of the Tribunal

10.6.2003

Present : The Hon'ble Mr. Justice D.
N. Chowdhury, Vice-Chairman.The Hon'ble Mr. R.K. Upadhyaya,
Member (A).

The application is mainly directed against the selection process that was initiated as far back as 20.4.1995. By notification cited in the annexure-1 the respondent authority invited applications for recruitment of sportsman against sports quota in group 'D' category. According to the applicant he applied for that but the result was not announced nor any appointments were made. Thereafter, another advertisement was issued for fresh selection. The applicant objected to it, but under protest he appeared in the selection test. The result was also announced but his name did not appear in the list of eligible candidates.



*Certified to be true copy
John
Advocate*

In the year 1999, the applicant preferred a writ petition before the Hon'ble High Court assailing the action of the respondents for not considering his case as per law. The High Court by judgment and order dated 11.12.2002 disposed the writ petition which was numbered as W.P.(C) No.66/99. The High Court dismissed the application for want of jurisdiction with liberty to the applicant to approach the Central Administrative Tribunal. Hence this application under section 19 of the Administrative Tribunals Act,1985.

Mr. G.C. Phukan, learned counsel for the applicant stressed on the policy as introduced by the Railways for recruitment of sportsman. Learned

Contd...2

C. Bongar



- 2 -

Notes of the Registry

Date

Orders of the Tribunal

counsel for the applicant also referred to the advertisement which was meant to encourage the sports persons. Mr. Phukan, further submitted that the applicant represented the junior and senior level inter division met in Badminton and naturally he is entitled for consideration of his case for appointment.

We have heard Mr. S. Sengupta, learned counsel for the respondents. Admittedly, the matter relates to recruitment that took place in the year 95 and the other was in 97. At such a long distance of time we are not inclined to accept this application on the ground of delay.

Mr. Phukan, learned counsel for the applicant argued on the delay. Referring to the averment made in the condonation application, learned counsel for the applicant submitted that the applicant should not be penalised. There was no laches on the part of the applicant, submitted Mr. Phukan, learned counsel for the applicant. At the available opportunity the applicant instituted writ petition which was finally dismissed on 11.12.2002. The time spent in the Court cannot defeat the claim of the applicant contended Mr. Phukan, the learned counsel for the applicant.

We have bestowed our anxious consideration on the subject. On consideration of all aspects of the matter we are not inclined to exercise our discretion for consideration of the

Contd...3

- 3 -

Date

Orders of the Tribunal

delay on the ground that the matter pertains to recruitment in the year 95-97. No rationale is found to rake up a stale claim. It would not be appropriate for us to interfere with the recruitment process that took place in 95 & 97. "Vigilantibus non dormientibus leges subvenunt" - The vigilant, not the sleeping are aided by the laws.

In the circumstances, the application is dismissed. The dismissal of the application, however, shall not preclude the applicant to apply for any vacant posts under the respondents subject to fulfilling the eligibility criteria. If such application is made by the applicant the respondents shall consider such application of the applicant, as per law alongwith the persons similarly situated. No order as to costs.

Sd/ vice-CHAIRMAN

Sd/ MEMBER (A)

Certified to be true Copy
সত্যিই প্রতিক্রিয়া

20/6/03
Signature

Section Officer (J)

C.A.T. GUWAHATI BRANCH

Guwahati-781005

8
8
8

To
The President (DRSC)/Lumding.
Divisional Railway Manager,
N.F.Railway - Lumding.

Respected Sir,

Sub:- Appointment in Group 'D'
Category against Sports
Quota.

With your respect I once again seek
apology for disturbing you in the matter for
your consideration and sympathetic orders please.

That Sir, as per directives of Hon'ble CAT/
Guwahati in the O.A. No. 59/03, I submitted an
appeal to your goodself on 25th June/03 and having
no response after lapse of a long period of time,
I again brought the matter to your kind notice
with my reminder application dated 29th July/03.
but it is my ill-luck that till to-day, nothing
has been heard from your good office.

In the above circumstances, I pray your kind
honour to decide my case and earliest and for the
same I shall remain ever grateful to you.

Yours faithfully,

Prabash Debnath

(PRABASH DEBNATH)
C/O. Mane Ranjan Debnath,
Medical Colony Private
P.O. Lumding, Lt.Nagaon
(ASSAM) FINR 782447.

Copy to:-

1. Genl.Secy/ DRSC/LMC } for kind information and
2. Sr.DPO/LMC } necessary action please.

copy

Certified to be true
Asstt
Advocate

To,

The President (DRSC)/Lumding,
Divisional Railway Manager,
N.F. Railway - Lumding.

Respected Sir,

Sub : Appointment in Group 'D'
category against sports
quota.

At the very outset, I once again beg apology
to disturb you in this manner with my humble prayer
for your kind consideration and sympathetic action
please.

That sir, as per directives of Hon'ble CAT/
GUWAHATI in OA No. 59/03, I submitted my appeal to
your goodness on 23rd June '03 but nothing has been
heard as yet though a long period of time has been
passed by now.

Under the above circumstances, I pray your
kind honour to decide my case at the earliest and
absorb me in Group 'D' category against SPORTS QUOTA
for which act of kindness, I shall remain ever grateful
to you.

Yours faithfully,

Prabash Debnath

Dated, Lumding
the 29th July '03.

(PRABASH DEBNATH)

C/o. Mono Ranjan Debnath
MEDICAL COLONY PRIVATE
P.O. Lumding, Dist. Nagaon (Assam)
Pin - 782447

Copy to :-

1. G.S./DRSC/Lumding. for kind information and necessary
2. Sr. DPO/Lumding. action please.

copy
be true
Certified to
Advocate

To,

The President(D.R.S.C./Lumding).
Divisional Railway Manager.

Respected Sir,

Sub:-APPOINTMENT IN Group-D Category against
Sports Quota.

I the undersigned beg apology to district you
in this manner with my humble appeal, which I hope will be
considered sympathetically & judiciously.

That sir, in reference to notification dtd. 20.4.95
for recruitment of sportsman against Sports quota, I appeared for
the same against quota fixed for Badminton but unfortunately the
result was not announced now any recruitment were made. Thereafter,
re-advertisement was made for fresh Selection. I appeared the said
Selection in the year 1997 with protest but surprisingly my name
did not appear in the list of eligible candidates.

That sir, considering the injustice meted out to
me, I had no alternative but to approach the Hon'ble High Court,
Guwahati for consideration of my candidature as per law. The said
W.P(C)No:66/99, was disposed by the said Hon'ble High Court, I
approached before Central Administrative Tribunal under Section 19
of the Administrative Tribunals Act, 1985. original Application
No:59/03. has been disposed of by Hon'ble CAT/GUWAHATI with orders
dtd. 10/06/2003. Xerox copy of the judgement dtd. 10/06/2003 is enclosed
herewith which is self explanatory.

That sir, as per directions of the Hon'ble CAT/
GUWAHATI, I beg to submit that since no recruitment against SPORT'S
QUOTA for Badminton has been made in 'D' Category, it is believed
that vacancy still exists and I fervently request your kindness
to consider my grievance sympathetically and absorb me in Group-D
Category against Sports quota, for which act of kindness I shall
remain ever grateful to you.

Enclo:-AS ABOVE.

Dated/Lumding,
The 23rd June/03.

~~Prabash Debnath~~

Copy to:-

1. G.S/DRSC/Lumding | for information
2. Sr.DPO/LMG | & necessary
action please.

Yours faithfully,

Prabash Debnath

(PRABASH DEBNATH)
C/O: MONORANJAN DEBNATH
MEDICAL COLONY PRIVATE
PO: LUMDING - 782447
DIST: NAGAON (ASSAM)

True copy
Certified to be true copy
Advocate

To,

The President (DRSC) Lumding,
Divisional Railway Manager,
N.F. Railway, Lumding.

Dated: 19-01-2005

Sub: Appointment in Group-D category against the sports quota.

Sir,

With due respect I beg to state that I am a sportsman specially in Badminton and has own numbers of prize in various competitions in the district and inter-districts level. In the year 1995 the Railway authority was made as advertisement for recruitment against sports quota and accordingly interview was held but till date no appointment has been made against Group-D category of sports quota.

In view of this above I approached before the Central Administrative Tribunal by filing an original Application which was numbered as O.A.59/0. The Hon'ble Tribunal after hearing the applicant to apply for any vacant post under the respondents subject to fulfilling the eligibility criteria. If such application is made by the applicant the respondent shall consider such application of the applicant, as per law alongwith the persons similarly situated.

Thereafter in view of the order passed by the Hon'ble Tribunal I duly submitted an application by fulfilling all criteria for recruitment in Group-D category against sports quota. The said application is still pending before the authority concerned but till date the post of Group-D category against sports quota has not been filled up.

Contd.../-

*Certified to be true copy
Aban Advocate*

- 2 -

Therefore, I humbly request your honour to consider my case sympathetically by absorbing me against Group-D sports quota.

Yours faithfully
Prabash Deb Nath

Sd/- Eligible.