

8

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A./T.A No. O.A. 196/2007

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SECTION OFFICER (Judl.)

Bahar  
05/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 196/07

2. Misc. Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) P. Sen Gupta & Ors -VS- Union of India & Ors

Advocate for the Applicants:- B.R. Dey, T. Roy, B. Sarikar, P. Sen

Advocate for the Respondents:- Railways advocate, Addl. Secy, Ms. S. Bhattacharya for Rptd. Nos. 5 to 12

Notes of the Registry

Date

Order of the Tribunal

Application is in form  
is filed/C.F. for Rs. 50/-  
deposited vide IPO/BD  
No. 346/655652  
Dated 23.7.07

Registrar

*[Signature]*

Petitioner's copies for  
some notices are received  
with envelopes.

*[Signature]*  
24/7/07

25.7.07.

There are Two applicants. They are working as a Tech XI/Tool Room Workshop (M & P) Cadre, in N.F. Railway, New Bongaigaon. The grievance of the applicants is that a Notification was issued on 15.12.2005 (Annexure 1) by the Respondent stating that the vacancies has been in two cadre i.e. workshop cadre and Workshop (M&P) cadre. Respondents have decided to hold the selection against 25% Intermediate Apprentice Mechanical D.P. quota for JE/II in Mechanical Wing Workshop cadre comprising of Carriage & other Trades except Machine & Millwright Trades and Workshop (M&P) cadre comprising of Machine & Millwright Trades. The contention of the applicant is that they are to be considered for the post

Contd/-

*[Signature]*

GA 196/07

Steps & order for  
R-1 received by  
Dr. J. L. Sarkar, Rly.  
S-C, on 6/8/07.

6/8/07

Notice & order sent  
to D/Section for  
issuing to resp.  
nos. 2, 3 and 4 by  
regd. A/D post.

13/8/07 D/No - 826 to  
828  
DE 17/8/07

① Service report  
awaited.

6.9.07

24.9.07

Amended petition  
submitted.

11.9.07

Notice duly  
served on

R-3, 4

24/9/07

lm

25.7.07.

of Workshop M&P cadre for which the  
selection was held. The applicant has filed  
this O.A. for cancellation of Notification of  
Selection dated 9.10.2006 and the order of  
this Tribunal vide order dated 9.3.07  
directed the respondents No. 3 or any other  
competent authority to consider their case  
and to dispose of the same and vide  
impugned order dated 9.5.2007 (Annexure  
VII) the Respondents has rejected the  
same and again the applicant has  
approached this Tribunal for seeking the  
reliefs.

Considering the facts and  
circumstances I am of the view that notice  
may be issued to the respondents.

Issue notice on the respondents.

Post the matter on 7.9.07.

Vice-Chairman

7.9.2007

Post on 11.09.2007 along with the

M.P.

/bb/

Counsel for the applicant is directed to carryout the  
petition and to file amended application within two weeks. Post  
the matter on 25.9.07.

Vice-Chairman

OA 196/07-3 =

25.9.07.

Miss B. Sarkar, learned counsel for the applicant, undertakes to file 8(eight) nos. of extra copies of consolidated/amended Original application (with Annexures) for service of notice on the newly added respondents, by tomorrow. She undertakes to file adequate postages for issuance of notices to the newly added respondents by Registered Post, by tomorrow.

Registry is directed to issue Notice on the newly added respondents requiring them to file reply by 7.11.07. Call the matter on 7.11.07.

  
Vice-Chairman

lm

07.11.2007

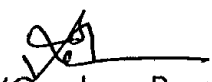
O.A. is admitted. Four weeks time is granted to file reply statement, as prayed. Call the matter on 12.12.2007.

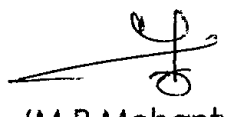
  
Member (A)

12.12.2007

In this case, written statement has already been filed by the Railways/Respondents. Mr. T. Roy, learned counsel appearing for the Applicant, seeks time to file Rejoinder.

Call this matter on 17.01.2008 awaiting rejoinder from the Applicant.

  
(Gautam Ray)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

/bb/

Notice & order  
received for R-NO-2  
Ashok Kr. Doley  
CLP/CPD's Legal Cell  
N.F. 217  
27-9-07

Notice & order sent  
to D/Section for  
issuing to resp.  
nos. 5 to 12 by  
regd. A/D post with  
the cost learned  
advocate's for  
applicant ~~vide~~ as

per order dt. 25/9/07. /bb/

Clerk  
27/9/07.

W/s not filed.

  
6.11.07.

Notice duly served  
on R. 5, 6 and 7 to 12.

Clerk  
13/11/07

14.11.07  
W/s filed by the  
Respondents. Copy served.

W/s filed.  
22.11.07

Rejoinder not  
filed.

ms  
16.1.08.

17.01.2008

Mr. Tapan Roy, learned counsel  
appearing for the Applicant, files a rejoinder in  
Court today with an undertaking to serve a  
copy thereof on the learned counsel for the  
Respondents.


Call this matter on 18.02.2008 for hearing.


Copy of the rejoinder should be served  
on the learned counsel for the Respondents by  
21<sup>st</sup> January, 2008; failing which rejoinder shall  
not be taken into consideration at the final  
hearing.

Rejoinder filed  
by the Applicant.  
Copy served.

22.1.08

ms

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

/bb/

25.01.2005 , Call this matter on 18.02.2008  
alongwith M.P No.12 of 2008.

The case is ready  
for hearing.

ms  
15.2.08.

(Khushiram)  
Member(A)

(M.R. Mohanty)  
Vice-Chairman


lm

The case is ready  
for hearing.

18.02.2008

Call this matter on 04.04. 2008.

ms  
3.4.08.

  
(Khushiram)  
Member (A)

ee-Chairman

Lim

04.04.2008


Heard Mr.B.R.Dey, learned counsel appearing for the Applicant; Dr.J.L.Sarkar, learned Standing counsel for the Railways and Mr.A.Ahmed, learned counsel for the private Respondents. Also perused the materials placed on record.


For the reasons recorded separately this O.A. stands dismissed. There shall, be no order as to costs.

11.6.08

Copy of the order  
sent to the parties  
alongwith the order  
vide D.O. 2037  
to 2042 dt 5.5.08  
AS

/bb/

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

.....

Original Application No. 196/2007

DATE OF DECISION : 04-04-2008

Shri Prodip Sen Gupta and another  
.....Applicant/s

By Advocate Shri B. R. Dey  
.....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.

  
Vice-Chairman/Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.196 of 2007.

Date of Order : This the 4th Day of April, 2008.


THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Shri Prodip Sen Gupta,  
Son of Sunil Ranjan Sen Gupta,  
Resident of Natunpara, College Road,  
P.O. & P.S. Bongaigaon,  
District Bongaigaon, Assam  
Pin 783380.
2. Shri Amulya Kumar Sarma,  
Son of Payodhar Sarma,  
Railway Quarter No. N/51/A West Colony,  
P.O. & Vill. New Bongaigaon,  
District Bongaigaon, Assam. ....Applicants

By Advocate Shri B.R.Dey

- Versus -

1. Union of India,  
represented by General Manager,  
N.F.Railway Head Quarters,  
Maligaon, Guwahati-781011.
  2. General Manager(P),  
MLG Head Quarter,  
Maligaon, Guwahati-781011.
  3. The Chief Workshop Manager Carriage and Wagon,  
Workshop, N.f.Railway,  
New Bongaigaon, District Bongaigaon,  
Assam.
  4. Assistant Personnel Officer,  
Workshop, New Bongaigaon,  
District Bongaigaon, Assam.
  5. Shri Gautam Dastidar  
MG/C.L.S (Metro Gauge/Carriage, Lifting shop)  
At present working/Training under supervisor  
Training Centre, N.F.Railway,  
New Bongaigaon, Dist. Bongaigaon, Assam.
  6. Shri Pradip Dey,  
C.B.S (Carriage Bougle shop) at present
- 



Working/training under supervisor Training Centre,  
N.F.Railway, New Bongaigaon,  
District Bongaigaon, (Assam)

7. Shri Manoj Baidya,
  8. Shri Uttam Kumar Sarkar,
  9. Shri Narendra Narayan Roy
  10. Shri Pankaj Chakraborty,
  11. Shri Javanath Basumatary,
  12. Shri Anukul Chandra Das,
- Sl. No.7 to 12 all are at present working/training  
Under Supervisor Training Centre,  
N.F.Railway, New Bongaigaon,  
District, Bongaigaon (Assam) .....Respondents

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

### ORDER (ORAL)

#### KHUSHIRAM, (MEMBER-A)

The Applicants, working as Tech XI/Machinist-Tool Room Workshop (M & P) Cadre in N.F.Railway at New Bongaigaon, applied for selection against 25% quota of Intermediate Apprentice (in Mechanical and Electrical Engineering Department) that was notified (on 15.12.2005 under Annexure-I) by Respondents. The Notification was as under :

"It is decided to hold the selection against 25% Intermediate Apprentice Mechanical D.P Quota for JE/II in Mechanical wing under CWM/NFR/NBQS for the following vacancies.

Workshop cadre comprising of Carriage & other Trades (except Machine & Millwright Trades).	UR=06, SC=01 & ST=01-08
Workshop(M&P) cadre comprising of Mechine & Millwright Trades	UR=03, SC=Nil & ST=Nil-03
Total	UR 09, SC 01 & ST 01 11"

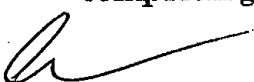
The Applicants appeared in the Limited Departmental Examination in question, along with others, on 26.08.2006. After the test the results were declared and the Applicants failed to make grade in the merit list published on 09.10.2006, wherein 8 persons were selected as per written test against the Departmental quota. Aggrieved by the selection, the Applicants had earlier filed O.A.59/07 before this Tribunal; which was disposed of on 09.03.2007 with direction to the Respondents to consider the representation of the applicants and to decide their cases within a period of 2 months from the date of receipt of the copy of the order. The Respondents in compliance with this direction of the Tribunal, passed a speaking order; a copy of which was sent to the Applicants vide letter dated 09.05.2007. The speaking order clarified that the selection was held "as per pre-revised qualification" on 23.06.2003. It also stated that "it is common selection open for notified trades/groups of the vacancies for which the selection was held. As such, there is no bar to allot the trade/group to a candidate other than his present trade/group in consequence of the selection." It further stated that the allotment of trades to the successful candidates has been made on the basis of recommendation of the selection committee and that the "case has also been examined by the vigilance department who has found the selection in order." Thus the representation of the Applicants ~~was~~ rejected by the Respondents. Aggrieved by this decision of the Respondents, the Applicants have filed the present Original Application under section 19 of the Administrative Tribunals Act, 1985.

2. The main objection to the selection by the Applicants is that, since three vacancies were available in Workshop (M&P) cadre

comprising of machine and millwright trades (to which the Applicants belong) and against which 2 persons selected from workshop cadre comprising of carriage and other trades except millwright trade), as per the select list, the selection was bad/not proper.

3. The Respondents have filed written statement clarifying therein that the selection from both the stream was common for notified groups and there were 11 vacancies against which only 8 candidates have been selected on the basis of the written test. The Applicants could not qualify in the common written test, hence there were/are no bar to place the successful candidates against the vacancies existing in either of trade on the basis of merits of the candidates and that the Applicants are raising the question of eligibility only after their failure in the written test and that all the selected candidates fulfilled the eligibility criteria as per notification.

4. We have heard Mr B.R.Dey, learned counsel appearing for the Applicants and Dr J.L.Sarkar, learned Standing counsel for Respondents/Railways. The learned counsel for the Applicants while arguing the case stressed the fact that the examination held for 25% Intermediate Apprentice Mechanical departmental promotion quota for JE/II consisting of vacancies in two cadre i.e. workshop cadre and workshop (M&P) cadre but no candidates was selected from the workshop (M&P) cadre and, as such, the selection list has not been prepared as per terms and conditions of the vacancy notification and hence it is not justified. He also argued that in the common written test only two questions were set up by paper setter from workshop (M&P) stream, hence the test was tilted in favour of the workshop cadre comprising of carriage & other trades and thus not fair. He also stated



that 3 vacancies in workshop (M&P) stream should have been filled from candidates appearing from that stream. Dr J.L.Sarkar, learned Standing counsel for Railways has invited our attention to the procedure laid down in Indian Railway Establishment Manual Vol.I, relevant portion of which reads as under :-

“(vi) Mechanical and Electrical Engineering Departments

(i) Apprentice Mechanics

140.(1) 75% of the vacancies in the category of Chargeman 'B' in scale Rs.1400-2300 in Mech. & Elec. Eng., Deptts. & in the cadre of Draftsmen in these Departments will be filled by induction of Apprentice Mechanics as under :-

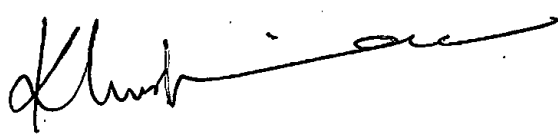
(i) 50% from open market through Railway Recruitment Boards ; and

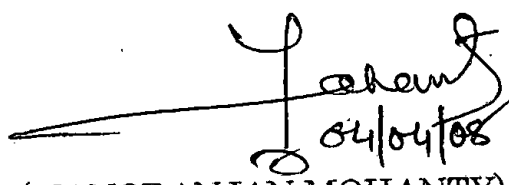
(ii) 25% from serving Matriculate employees with three years service in skilled grade(s) and below 45 years of age as Intermediate Apprentice Mechanics.”

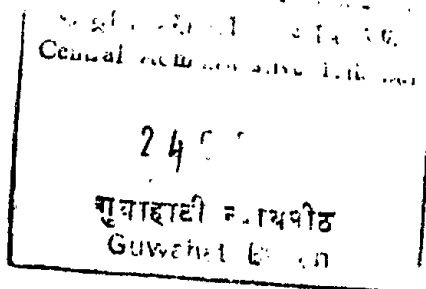
He argued that, in the common selection test, there was no provision to select candidates from one stream in the same stream only and hence, the selection of 8 candidates against the available 11 vacancies cannot be assailed by the Applicants at this belated stage on this ground in the absence of any specific rule/regulation; especially when all the selected candidates fulfilled the common eligibility criteria, as per notification and the selection was fair and as per rules/regulations. He, also, argued that since the Applicants have appeared for the selection test and did not raise any objection till the results were out (in which they did not figure in the merit list); they are estopped from raising any question of eligibility after the results.

5. Considering the rival contentions of both sides and on perusal of the materials placed on record, we feel that as per vacancy notification the vacancies were in two cadres Workshop cadre and

Workshop (M&P) cadre. Applicants appeared in the common selection test without even raising any objection till results were out; in which they could not come out successful. They have thus raised objection about the eligibility of the selected candidates only after declaration of the results. They have raised the question of improper setting of question<sup>paper</sup> long after the written test only after publication of results. Thus, they are estopped to raise those points at the belated stage. As common selection test was held for both the cadres, as per IREM (Vol.I) Rule No.140 (vi) & (i) & 140 (1) (ii), and results were declared. The selection was conducted as per rules and the Applicants cannot raise objection on eligibility long after their participation in the test, since the selection test was conducted as per the provision of Indian Railway Establishment Manual. Accordingly this Original Application, being devoid of any merit, is dismissed; but however; without any order as to costs.

  
(KHUSHIRAM)  
ADMINISTRATIVE MEMBER

  
(MANORANJAN MOHANTY)  
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH  
GUWAHATI

Ammended Original Application No. 196 /2007

Shri Prodip Sen Gupta & another

..... Applicants

- Vs -

The Union of India & Others

..... Respondents

DATE AND SYNOPSIS OF THE CASE IN THE APPLICATION

DATE

SYNOPSIS OF THE CASE

24. 3. 88

&

2. 12. 88

Applicant No. 1 Joined as a tech III / tuner and

Applicant No. 2 Joined as a tech III / Machinist

in N.F. rly New Bongaigaon and at present work-

ing as a Tech X I/ Tool Room workshop (M & P)

Cadre.

15. 12. 05

Notification published issued by Respondent No. 3

for selection against 25% intermediate Apprantice.

3. 8. 2006

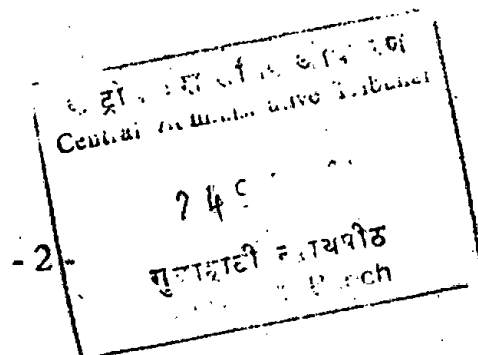
Written test was held on 26.8.2006vide Notification.

9. 10. 2006

Result of the written examination was declared acc-

ording to the selection list only 8 ( eight ) persons

were selected but examination was held for 11 ( eleven )



10.10.2006  
20.10.2006  
&  
24.10.2006

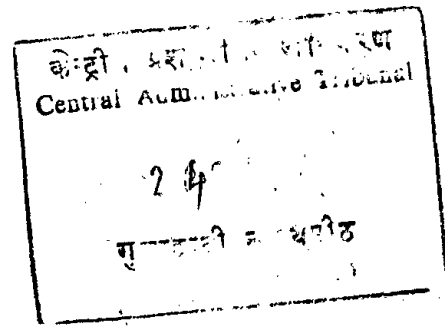
Applicants made representation to the chief works Manager, carriage and wagon workshop N.F. railway. Prayed for cancellation of selection of intermediate Apprentice mechanics list dated 9.10.06 but without received any reply the have been Applicants filed original Application being O.A. No59 of 2007. before the Hon'ble Tribunal for cancellation / modification of the selection of inter mediate apprentice mechanics list published on 09.10.06 on the basis of Nôtfication dated 15.12.2005 ( Annexme I & II )

9.3.2007

The Hon'ble Tribunal vide judgment and order dated 9.3.2006 passed in O.A. No. 59 of 2007 directed the Respondent No. 3 or any other competent authority to consider their case and to dispose of the same within two months from the date of receipt of this order .

9.5.2007

The respondent No. 3 vide memo No. E/M/283/1( I A) NBQ/ Pt. II dated has sent the speaking order to the Applicants. But in the speaking order dated 9.5.2007 The Respondents stated that it is a common selection



open for notified trades / groups of the vacancies, for which the selection is held. As such there is no bar to allot the trade/group to a candidates other than his present trade / group in consequence of the selection. It may be mentioned here that as per Notification dated 15.12.2005 it showed that the vacancies has been in two cadre i.e. workshop cadre and workshop ( M & P ) cadre. and, as such, the speaking order has not been prepared as per terms and condition of said notification dated 15.12.07.

Hence this Application before the Hon'ble Tribunal .

Prayer

Direction for Cancellation / Modification of the selection of intermediate Apprentices (mech) for the post of T- E/II in the scale of Rs. 5000/- Rs. 8000/- against 25% intermediate Apprentices quota published on 9/10/2006 issued by the CAPO/WS/NBQ for CWN/NBQS vide memo No. E/M/254/JE-II/selection/ Pt-II and also stay the training of the candidate who does not belonged to the Workshop ( M & P ) cadre and set aside the speaking order dated 09.05.07.



24 SEP 2007

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
GUWAHATI.

Shri Prodip Sen  
Gupta & anj-  
Applicants  
Through  
B. Sarma  
Advocate  
21.9.07

[ An application under section 19 of the Administrative tribunals Act., 1985].

AMMENDED ORIGINAL APPLICATION O.A. NO.196 OF 2007

Sri Prodip Sengupta & Ors.

-Vs-

Union of India & ors.

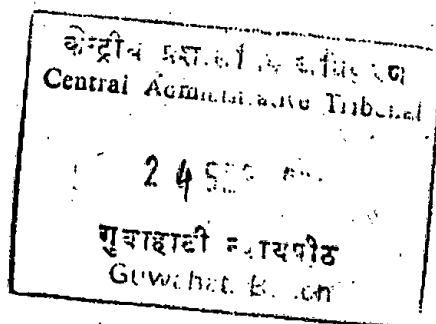
ORIGINAL APPLICATION NO. 196 OF 2006.

Between

1. Shri Prodip Sen Gupta, Son of Sunil Ranjan Sen Gupta, Resident of Natunpara, College Road, P.O. & P.S. Bongaigaon, District- Bongaigaon, Assam, Pin No. 783380, at Present Working as section Engineer/Tool Room/Work Shop New Bongaigaon, Rly., Work Show, P.O. New Bongaigaon, Dist. Bongaigaon, Assam.
2. Shri Amiya Kumar Sarma, Son of Payodhar Sarma, Railway Quarter No. N/51/A West Colony, P.O. & Vill. New Bongaigaon, Dist. Bongaigaon, Assam, at present working as Section Engineer/Tool Room/Workshop New Bongaigaon, Rly. Work Shop, P.O. New Bongaigaon, District-Bongaigaon, Assam.

— Petitioner/Applicants.

Prodip Sen Gupta



.... 2 ....

... Versus ...

- 1 Union of India, represented by General Manager, N.F. Railway  
Head Quarters, P. O. - Maligaon, Guwahati - 781011  
District - Kamrup, Assam.
- 2 General Manager (p) / MLG Head Quarter Maligaon  
Guwahati - 781011, District - Kamrup, Assam.
- 3 The Chief Workshop Manager Carriage and wagon  
Workshop N. F. Railway / New Bongaigaon  
District - Bongaigaon, Assam :
- 4 Assistant Personal officer /Workshop /New Bongaigaon  
Assam .  
.....Respondent
- 5 Shri Gautam Dasldar  
M.G./C.L.S (Metre Gauge/Carriage, lifting shop) at present  
working / Training under supervisor Training centre, N.F. Railway,  
Now Bongaigaon, District - Bongaigaon (Assam).
- 6 Shri Pradip Dey,  
C.B.S ( Carriage Bougle shop.) at present working / training under  
supervisor Training Centre, N. F. Railway, new Bongaigaon,  
District - Bongaigaon, ( Assam ).
- 7 Shri Manoj Baidya,
- 8 Shri Uttam Kumar Sarkar,
- 9 Shri Narendra Narayan Roy,
- 10 Shri Pankaj Chakraborty,
- 11 Shri Javanath Basumatary,

Pradip Sen Gupta

245. 7000?

शुभाशुद्धी मन्त्रालय  
पुणे, महाराष्ट्र

[illegible]

... 3 ...

12 Shri Anukul Chandra Das,

Sl. No 7 to 12 all are at present working/ Training under supervisor

training Centre, N. F. Railway, New Bongaigaon, District-

**Bongalgaon (Assam )..**

.....**Proposed Respondents**

**The humble application on behalf of the above named applicants.**

1. Particulars of the order (s) against which Application is made

The Applicants filed original Application being O.A. No 59 of 2007 before his Hon'ble Tribunal and made prayer for cancellation of Notification of selection of Inter - Mediate Apprentices (Mech.) for the post of J.E. / II in the Scale of Rs. 5000/- - Rs. 8000/- against 25% Intermediate Apprentices quota published on 9.10.2006 Issued by the (APO/WS/NBQ for CWM/NBQS) vide memo No. E/M/254/JE - II/Selection /Pt.II. and the Hon'ble Tribunal vide order dated 9.3.07 directed the Respondent No. 3 or any other Competent authority to Consider Their Case and to dispose of the same within two months from the date of receipt of this order .

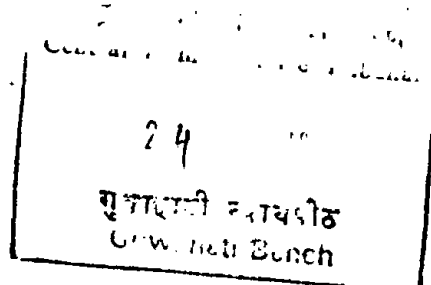
## 2. Jurisdiction of the Tribunal

**The applicant declare that the subject matter of the order against which they  
Want redressal is within the Jurisdiction of the Hon'ble Tribunal.**

### 3. Limitation

The applicants further declare that the application is within the limitation period in section 21 of the Administrative Tribunal Act, 1985.

Prodip Sein Aungs



4. Facts of the case

i) That the applicants are citizen of India and residing at New Bongaigaon in the District of Bongaigaon, Assam and, as such, the applicants are entitled to all the rights, privileges guaranteed under the constitution of India and others relevant rules framed there under. The applicants therefore crave leave of this Hon'ble Tribunal under rule 4 (5) (a) of the Central Administrative Tribunal (procedure) Rule, 1987 to file this Joint application.

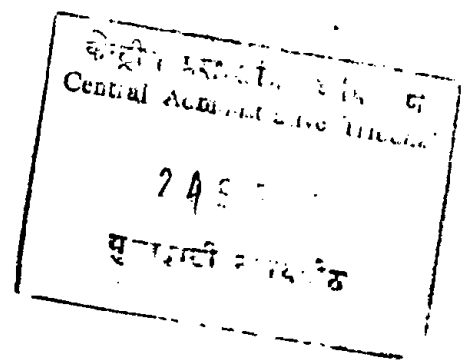
ii)(a) That the applicants beg to state that applicant No. 1 Joined as a tech III/turner on 24.3.88 and at present working as a tech I /turner / Tool Room/ at New Bongaigaon N. F. Railway and the applicant No 2. Joined as a tech III / machinist on 28/12/88 and at present working as a Tech I / Mechnist/ Tool Room / at New Bongaigaon N. F. Railway.

ii)(b) That the applicants beg to state that both are working in the tech I / Tool-Room / workshop ( M&P ) cadre at New Bongaigaon Railway workshop ( M & P ) cadre N. F. Railway and their Job are non- transferable.

iii) That the applicants beg to state that on 15. 12. 2005 vide memo No. EM/254/JE/II/Selection /Pt.- II Notification Published and Issued by APO/WS// NBQ For CWM/NBQS for Selection against 25% Intermediate Apprentice Mechanical wing under CWM/NFR/NBQS.

Copy of the Notification dated 15.12.2005 is annexed and marked as annexure - 1.

*Prody Sen Gupta*



iv) That the applicants beg to state that the applicants submitted their application for the post of workshop ( M & P ) Cader and accordingly they were directed to appear in the written test which was held on 28.8.2006 vide Notification dated 3.8.2006 and , as such , the applicants appeared in the Examination and when they got their question paper in the examination hall and they were totally surprised to see the question papers according to the applicants that the questions in the question papers were from the workshop cadre except questions 11 and 13 (1).

v) That the applicants beg to state that the result of the written examination was declared on 9.10.2006 and according to the Selection list only 8 ( eight ) persons were selected but examination was held for 11 ( Eleven ) Post i. e. 8 ( Eight ) for workshop cadre and 3 ( Three ) for workshop ( M & P ) Cadre.

Copy of the Selection List dated 9.10.2006 is annexed hereto and marked as annexure - II.

vi) That the applicants beg to state that according to the Notification dated 15.12.2005 the Eligibility Criteria is quoted as follows.

(1) Three Years service in Skilled technician Gr. III and above as on 12.8.2002 with educational qualification Matriculation or equivalent and within the age group below 45 Years of age as on 15.12.2005 ( Date of Notification ) .

Three Years service in Skilled Technician Gr. - III and above as on 15. 12. 2005 ( Date of Notification ) with education qualification 10 +

*Prodip Sen Gupta*

<p>4</p> <p>सु. नि. १४०८</p>
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2 In Science Stream or III /Act Apprenticeship Passed and within the age of group of 45 year as on 15.12.2005 (Date of Notification) etc. That according to the Applicants Knowledge that there were some candidates who were not eligible to sit in the following examination and also there were some candidates who were selected for the post of workshop (m & P) cadre they belonged to the workshop cadre and, as such, the Applicants desire / want that the examination and selection procedure to be cancelled or after modification / verification of the same it may be again held in its proper way that all the eligible candidates will be able to get chance to sit in the examination .

- vii) That the applicants State that the appellants along with other Staffs made representation dated 10. 10. 2006 addressed to the chief works manager, carriage and wagon workshop, N. F. Railway, New Bongaigaon (Respondent No. 2) prayed for cancellation of Selection of Intermediate Apprentice Mechanics List Published on 9.10.2006 and again vide reminder the same on 20.10.2006 but till today your applicants have not received any reply from the respondent No. 3 and at last your Applicants vide intimations dated 24.10.2006 intimated the respondent No.3 that due to nonreply received from their ends and there is no other alternative but to file the case for natural Justice.

copies to the letter dated 10.10.2006, remainder dated 20. 10. 2006, Remainder dated 20. 10. 2006 and intimation dated 24. 10. 2006 are annexed herewith and marked as Annexure - III, IV and V respectively.

Pradip Sen Gupta

... 7 ...

viii) That the Applicants beg to state that the Applicants filed original application being O. P. No 59 of 2007 before this Hon'ble Tribunal for cancellation modification the selection of Intermediate Apprentice mechanics list published on 9.10.2006 on the basic of Notification dated 15.12.2005 ( Annexme - I & II ) and this Hon'ble Tribunal vide order dated 9.3.2007 directed the Respondent No - 3 or any other authority to consider their case and to dispose & the same within two months from the date of receipt of the order .

Copy of the order dated 9.3.2007 is annexed hereto and marked as annexme - vi

ix) That the Applicants beg to state that the Respondent No - 3 vide memo no EM/283/ ( I A ) NBQ / Pt . II dated 9.5.2007 has sent the Speaking order to the Applicants .

Copy of the order dated 9.5.2007 is annexed hereto and marked as annexme - vii

x) That the Applicants humbly Submits that the Respondent No 3 In his Speaking order dated 9.5.2007 stated that It is a common Selection open for notified trader /groups of the vacancies, for which the selection is held. As such there is no bar to allot the trade \group to a candidates other then his present trade / group in consequence of the selection It may be mentioned here that the Notification dated 15.12.2005 vide memo No EM/254/JE/ II / Selection / Pt b- II ( Annexme - I ) Issued by APO/WS/NBQ/For CWN/NBQ showed that the vacancies has been in two cadre i.e workshop cadre and workshop ( M & P ) cadre and , as such , the Applicants filled O.A No 59/07 before this Hon'ble Tribunal and the Hon'ble Tribunal vide order dated 9.3.07 directed the respondents to considered the same but the respondent without going trough the Notification dated 15.12. 05 made reply it is a common selection.

Prodip Sen Gupta

xi That the applicants humbly beg to submit that Notification dated 15.12.05 Showed that the Selection was held for two cadre i.e workshop cadre and workshop (M & P) cadre but now the Respondents said that it is a common examination which does not comply and / or tally with the Notification dated 15.12.2005 and as per the selection list dated 9.10.06 the candidate / staffs who have selected in the panel have been undergone for a training for a period of one and half years and after successful completion of training they would join their post. And as such, if the training of such candidate / staffs as per selection list dated 9.10.06 is not to stay the Applicants will suffer irreparable loss and injury.

5. Grounds for present Application

- (a) For that according to the Notification dated 15.12.2005 vide Memo No. E/M/254/JE/II selection pt. II for Selection against 25% Intermediate Apprentice Mechanical D.P. quota for J.E / II in Mechanical under CWM / NFR / NBQS showed that the following vacancies has been in two cadre i.e. workshop cadre and workshop (M & P) cadre. But according to the selection list dated 9.10.2006 the candidate/staffs who were selected in the panel were not from the workshop (M & P) cadre and the two candidate / staff who had been placed under workshop (M & P) cadre not belong to the workshop (M & P) cadre and, as such the selection list has not been prepared as per terms and conditions of said notification and, as such, the said selection is liable to be set aside and quashed.
- (b) For that the keeping order dated 9.5.07 has not be considered the notification dated 15.12.05 regarding selection of post apprentice on the face of the records in its proper perspective as selection has to be made as per Notification and no deviation is not permissible other wise fresh Notification has to be issued and the alleged selection is liable to be set-aside and quashed.

*Pradip Sen Gupta*



- (c) For that the Applicants belong to workshop (M & P) cadre and they are senior according to their appointment and there are already 3 (Three) vacancies in the above mentioned advertisement / Notification and according to the knowledge of the Applicants none were selected from the workshop (M & P) cadre but other candidates have been selected in contravention of the advertisement and have effected the future of the applicants.
- (d) For that the Notification dated 5.12.2005 showed that the selection was held for 11 number of vacancies i.e. 8 (eight) Post for workshop cadre and 3 (Three) post for workshop (M & P) cadre and according to the selection list dated 9.10.2006 only 8 (Eight) candidate were Selected and, as such, there were 3 (Three) Vacancies left to be filled up.
- (e) For that if the training of the selected candidate / staff as per selection list dated 9.10.06 would not be stayed until final disposal of the case / clarification by the respondent No - 3 in regard to notification dated 15.12.2006 which showed that the examination has held in two cadre that it has not common examination. The applicants will suffer loss and injury and after completion of training it would be impossible to stop the candidate to join their post as per selection list.

#### 6. Details of Remedies Exhausted

That the Applicants declare that there is no other alternative efficacious remedy other than to approach this Hon'ble Tribunal for getting Justice. The applicants being the employees from the workshop (M & P) Cadre and vide representation dated 10.10.2006 and 20.10.2006 made prayer for cancellation of selection of Intermediate Apprentice Mechanics list published on 9.10.2006 to the respondent No.3 and without received any reply, they approached before this Hon'ble Tribunal and the Hon'ble Tribunal vide judgment / order dated 9.3.07 passed in O.A No 59/07 directed the Respondent No - 3 or any other competent authority to consider their case and dispose of the same within two months from the date of receipt of this order but the Respondent No - 3 without going through

Prodip Sen Gupta

... 10 ...

the Notification dated 15.12.2005 and without considering the Hon'ble Tribunal order's made their speaking order dated 9.5.2007 that it is a common selection and the speaking order dated 9.5.2007 has been not satisfactory reply. And hence the applicants again knock the door of the Hon'ble Tribunal to cancel the illegal selection or to direct the respondents to give appropriate order.

Matters not previously filed or pending with any other court

The applicants further declares that they had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

Reliefs Sought

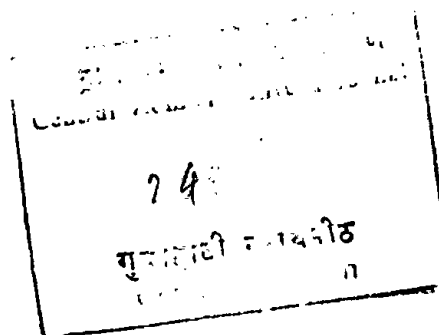
Under the facts and circumstances as narrated above, the applicants humbly pray that this Hon'ble Tribunal be pleased to admit this application and called for the records and after hearing the parties be pleased to pass an order directing the authority particularly respondents to give / submit valid and proper order after going through the selection of Intermediate Apprentice Mechanics list published on 9.10.2006 on the basis of notification dated 15.12.2006 (annexure I & II) and be pleased to pass such order or orders or any other further orders as to your Lordships may deem fit and Proper as per the speaking order's dated 09.05.07 is not as per notification dated 15.12.07.

9. Interim Relief if any

Stay of further proceeding regarding illegal selection of candidate who does not belong to the workshop (M & P) cadre or Stay the Training of the candidates who does not belong to the workshop (M & P) cadre or Stay the Training of the candidates.

Prodip Sen Gupta

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### VERIFICATION

I Prodig Ben Cuptis son of Sunil Ranjan Cuptis aged about 43 yrs.  
years, resident of Nutanpara, College Road, Bongaigaon P.S. Bongaigaon P.O. Bongaigaon

District Bongaigaon

Assam the applicants

of the application do hereby verify that the Statement made in this Applications

from paragraphs 2, 3, 4 (i), (ii), (vi) & (vii) are true to my knowledge and those are made

in paragraphs 1, 4 (iii), (v), (viii) & (ix) are matter of records and rest are my humble

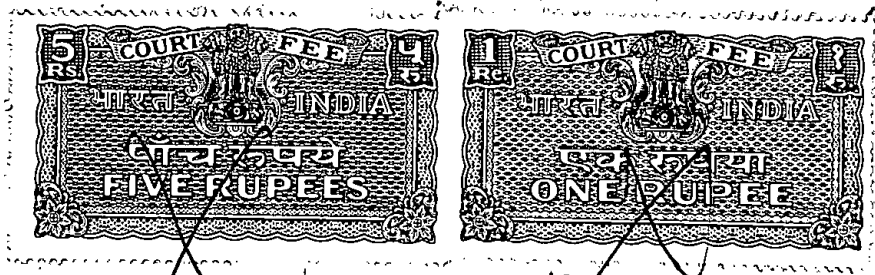
submission before this Hon'ble Tribunal.

I signed this verification on this the 21<sup>st</sup> day of Sept' 2007 at

Guwahati.

Prodip Ben Cuptis

SIGNATURE



-12-  
AFFIDAVIT

I, Sri/Prodip Sen Gupta, Son of Sunil Ranjan Sen Gupta, aged about 43 years, resident of Natun Para, College Road, Bongaigaon, P.S. Bongaigaon, P.O. Bongaigaon, District-Bongaigaon, Assam, do hereby solemnly affirm and state as follows:-

1. That I am the applicant No.1 of the instant application and as such I am fully conversant with the facts and circumstances of the case.
2. That the statements made in paragraphs 2, 3, 4(i), (ii), (iv), (v) & (vi) are true to my knowledge and those made in paragraphs 1, 4(ii), (v), (vi) & (ix) are matters of records which derived therefrom are true to my knowledge and the rest are my humble submission before this Hon'ble Court.

I sign this affidavit on this 21st day of September, 2007 at Guwahati.

Identified by

*B. Sankar*

21.9.07

[Advocate]

*Prodip Sen Gupta*  
[DEPONENT]

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*Annexure-I*

Office of the  
Chief Workshop Manager  
New Bongaigaon

No. E/W/254/JE/II/Selection/Pt-II Dated 15/12/2005

To,

SBES/CD3-DG & No. CL3/DG & MG. WRB, FDY, BSB, CRS, MWS  
Welding TR MS, WIS CPS Inspection, PGS & PLG of NBQS.

Sub : Selection against 25% Intermediate Apprentice  
Mechanical D.P Quota for JE/II in Mechanical  
wing under CHM/NFR/NBQS for the following va-  
cancies.

It is decided to hold the selection against 25% Inter-  
mediate Apprentice Mechanical D P quota for JE/II in Mech-  
anical wing under CHM/NFR/NBQS for the following vacancies.

Workshop cadre comprising of Carringe & other Trades (except Mechanism Machine & Millwright Trades)	UR-06, SC- 01 & ST-01 -00
Workshop (M&F) cadre-Comprising of Machine & Millwright Trades	UR-03, SC- Nil & ST- Nil-03
Total	UR-09, SC-01 & ST-01-11

This is 2nd selection going to be held after 23/06/03

*Certified to  
be true copy  
A. Sen  
Advocate*

ELIGIBILITY CRITERIA

1) Three years service in skilled Technician Gr.III and  
above as on 12/08/2002 with educational qualification Mat-  
riculation or equivalent and within the age group below 45  
years of age as on 15/12/2005 (Date of Notification).

Contd - No 2

OR

Three years service in skilled Technician Gr. III and above as on 12/08/2002 with educational qualification MATRICULATION 10+2 in science stream or III/ Act Apprenticeship passed and within the age group 45 years as on 16/12/2005 (Date of notification).

II) The selected candidates for the post of Intermediate Apprentice Mechanic will have to undergo a training for a period of 18 (eighteen) months as directed by the administration and during the training period they will get stipend as admissible under rules.

III) The applications submitted by the eligible candidates should be sent to this office on or before 31/12/05 in a bunch. Applications submitted or forwarded after 31/12/2005 will not be entertained.

You are therefore advised for wide circulation among the staff and collect the applications and forward the same within the target date.

Format of application is enclosed.

( R ROY )

APD/WS/NBQ  
for CWM/NBQS

Copy to : DY.CME, PSTC, CMTWM, AWM, APE of NBQS for information and wide circulation please.

for CWM/NBQS

Annexure-II

N.F.Railway

Office of the Chief Working  
Manager, New Bongaigaon  
dated: 09/10/2006

Memorandum

In the Written test held on 26/08/06 in connection with the selection of Intermediate Apprentices (Mech for the post of JE/II in scale of Rs. 5000-8000/- against 25% intermediate Apprentices Quota the following staff are selected and placed in panel

S.No.	Name	Desig	T.No.	Trade Working under
1.	Sri Monoj Baidya	Tech/II	4918	Workshop cadre SSC/CIS
2.	Sri Uttam Kr. Sarker	Tech/I	3268	Workshop cadre SSE/CBS
3.	Sri Narendra N. Roy	Tech/II	2721	Workshop cadre SSE/NSP
4.	Sri Pankaj Chakraborty	Tech/I	1305	Workshop cadre SSE/CIS/Mb
5.	Sri Pradip Dey	Tech/I	1742	Workshop M&P. Cadre SSE/CBS
6.	Sri Gautam Mastider	Tech/I	1335	Workshop M&P Cadre SSE/CIS/Mb
7.	Jayanath Basumatary	Tech/G	4967	Workshop cadre SSE/CFS
8.	Anukul Ch. Das (SC)	Tech/II	2819	Workshop Cadre SSE/NSP.

They will have to undergo training at SIC/NBQ for a period of 1 1/2 years. Their absorption as JE/II scale Rs. 5000-8000/- is subject successful completion of training. They will... stipend... scale of Rs. 4500-125-4625/- or pay allowance of the post from which they were selected whichever is higher during the training period.

The panel has been approved by the competent authority on 7/10/06.

(R. Roy)

APQ/WS/NBQ  
for CWM/NBQS

No. E/M/254/JE/-II/Selection/Pt. II dated 9.10.2006

Copy forwarded for information to PSTC/NBQ (2) All SSE/NBQ

(3) Staff concerned (4) PTS/NBQ  
(5) Notice Board in office.

Certified  
to be true  
Copy P. Sen  
Advocate

sd/  
(R. Roy)  
APQ/WS/NBQ  
For CWM/NBQS.

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~~Am...~~ III American III  
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18/10/06

To  
The Chief Works Manager,  
Carriage and Wagon Workshop  
NIF. Rly/New Bongaigaon

Sub: Prayer for cancellation of selection of  
Intermediate Apprentice Mechanic list Published  
dated 9/10/06

Ref: Written Test held on 26/8/06 in connection with  
the selection of Intermediate Apprentice  
Mechanics for the post of JR/II in Scale of  
Rs. 5000-8000/- against 25% of Intermediate  
Apprentice quota vide letter No. E/H/254/JE-II/  
Selection/Pt-II dt. 15/12/05

Sir,

With due respect and humble submission, we the candidates  
of above referred examination/interview belong to M & P, beg to lay  
before you, hoping the vigilant attention and sympathetic action  
for the few lines please.

That Sir, we are few of M&P candidates applied for the above  
referred interview and also appeared for the same again 3 (three) nos.  
of vacancies out of 11 (Eleven) nos vacancies where in 8 (eight) nos  
are reserved for Workshop Cadre including SC & ST.

That Sir, surprising enough the so called Selection list  
already published on dated 9/10/06 where in it is found/seen that  
there are some candidates who were selected having below/require  
qualification as per advertisement which is not only beyond provision  
of law and also service rule, and the selection list was against  
the fundamental right of employees.

That Sir, a point from selection list the candidates are  
selected & elected on M&P quota where it is found that candidates  
were selected/passed from M&P quota however the same was done/made  
by the competent authority.

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certified to  
be true copy  
P. Sen  
Advocate



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under the above facts and circumstances it is  
humbly prayed before your administrator to look  
into the matter seriously by proper enquiry in all  
the documents/papers related to the selection of  
the selected candidates against the respective  
quota in connection with the selection list as the  
said list is illegal and irregular,

AND

Further it will be pleased enough to stay  
the operation and execution of the panel so prepared  
by you for under going training of the selected  
candidates till final inquiry is completed.

And upon then findings of the final inquiry  
the said selected list published on dated 9/10/06 is  
required to be cancelled fresh interview for the same  
ends of justice.

And for this act of your kindness, we the  
candidates of M&P Quota shall ever pray.

Thanking you,

Yours faithfully,

Pradip Sen Gupta Tachai  
Paritosh K. Datta  
Dablu  
Abu Bhusha  
Etc. Etc.

Dated New Bongaigaon

10th Oct. 2006. (10.10.06)

- Copy to
- The Member of Personnel of Hly. Board
- 2. General Manager (P) M&P
- 3. CME/M&P
- 4. CME/H&P
- 5. Secy. H&P/M&P.

MEMORANDUM

*Amesure - IV*

To: The Chief Works Manager,  
N.E. Railway, New Bongaigaon

From:

Sub: Second memorandum dated 20/10/06 from NWP Chennai  
at New Bongaigaon Workshop.  
Ref: Our first memorandum dated 10/10/06 from NWP Chennai  
at New Bongaigaon Workshop for selection of App.  
Mechanics (Intermediate) 25% quota held on 26/9/2006  
Your L/No. vide E/N/IE/II/Selection/Pt-II dated  
15/12/2005.

We like to draw your kind attention to our above  
memorandum at 10/10/2006, which was served from this since long  
but unfortunately no classification in the regard is received till  
date. At the same time due to the delay and environment of  
frustration and dis-satisfaction has arisen among the staff  
resulting in un-healthy work culture.

We shall, however be obliged if you reply the above  
mentioned memorandum at the earliest or our grievance may be  
core out. Please make note considered from your end. The first  
memorandum dated 10/10/2006 is enclosed herewith for your kind  
perusal.

We assure you in this connection of our attention at  
all things.

Thanking you in anticipation, we remain

Dated 20/10/2006

Yours faithfully  
ED/-

Copy to :  
SECY, /NWRU/HRMU, for information & necessary action please. (NWP Chennai/Workshop/HRMU)

*Certified to be  
true copy  
P. S. Advocate*

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Approved ✓  
19 ←

To,  
The Chief Works Manager,  
U & M Shop/New Bongaigaon,  
H.P. Daltong.

Sub: Intimations

SIR,

With due regard this is to inform you that no reply is received from you till that regarding the selection of Apprentice Mechanic (Intermediates) 25% quota held on 26/9/06, your letter no vide E/M/JE/II/SELECTION/ PE-II dated 15/12/05. Though remainder was also served to you (First memorandum dated 10/10/06 and second memorandum dt. 20/10/06).

This has created sense of humiliation & injustice in our mind so to get the natural justice, I am forced to lay my grievance in front of law of justice.

This is for your information please.

Respectfully,  
Sincerely,

Yours faithfully,

- 1) Pradip S en Gupta  
Tech: 1/Tool Room
- 2) Aniya Ks. Sarma  
Tech: 1/Tool Room

Dated: 24/10/06  
New Bongaigaon.

Certified to be  
true Copy  
P. Sen  
Advocate

## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 59 of 2007

9/3/07

Date of Order: This the 9th Day of March, 2007

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

## 1. Shri Pradip Son Gupta

Son of Sri Sunil Banjan Son Gupta

Resident of Natunpara, College Road

P.O. &amp; P.S. Bongaigaon

Dist. Bongaigaon, Assam

Pin No. 783380 at Present Working

as Section Engineer/Tool Room/Workshop

New Bongaigaon, Fly Work Shop

P.O. New Bongaigaon

Dist. Bongaigaon, Assam

## 2. Shri Aniya Kumar Barma

Son of Payodhar Sa rma

Railway Quarter No. N/51/A

West Colony

P.O. &amp; Village - New Bongaigaon

Dist. - Bongaigaon, Assam

At Present Working as

Section Engineer/Tool Room/Workshop

New Bongaigaon

Fly, Work Shop,

P.O. New Bongaigaon

Dist.- Bongaigaon, Assam

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Certified to  
be true copy  
P. Sen  
Advocate

..... Applicants

Advocate Mr. D.R. Dey, Ms. B. Sarkar, T. Roy, P. Sen

- Versus -

1. Union of India, represented by General Manager

N.F. Railway,

Head Quarters,

P.O. Maligaon, Guwahati - 781011

Dist. - Kamrup (Assam)

2. General Manager (P)/MLC,

Head Quarters Maligaon

P.O. Guwahati - 781 011,

Dist. - Kamrup, Assam

3. The Chief Workshop Manager,

Carriage and Wagon Workshop

N.F. Railway/New Bongaigaon

District - Bongaigaon, Assam

4. Assistant Personal Officer/Workshop

New Bongaigaon, Assam

..... Respondent

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

ORDER (ORAL)

SACHIDANANDAN, V.C. :

There are two applicants. The applicant No. 1 has

...

has joined as a Tech. III/tuner and Applicant No. 2 joined as a Tech. III/Machinist in N.F. Railway, New Bongaigaon and at present both are working as Tech I/Tool Room workshop (M & P) cadre. On 15/12/2006 vide Memo No. E/M/254/JE/H/Selection/Pt.II a Notification was issued by the respondents for selection against 25% of Inter-Mediate Apprentices (Mech.) II posts have been notified for the Post of J.E./II in Mechanical Wing under CWM/NFR/NDQS. The applicants have applied for the posts of workshop (M & P) They were directed to appear in the written test and accordingly they appeared in the written test. According to the selection list published on 09/10/2006, only 8 (eight) persons were selected but examination was held for 11 (eleven) Post i.e. 8 (eight) for workshop cadre and 3 (three) for workshop (M&P) cadre. Out of the 11 post vacancies none has been selected actually from M & P, though the two candidates/shall who had been placed under Workshop (M & P) cadre, they did not belong to their Workshop (M&P) cadre. Being aggrieved the applicant has filed this O.A. seeking for the following reliefs :-

" Under the facts and circumstances as narrated above, the applicants humbly pray that this Hon'ble Tribunal be pleased to admit this application and called for the records and after hearing the parties be pleased to pass orders directing the authorities particularly respondents to cancellation/modification the Selection

of Intermediate Apprentice Mechanics list published on 9/10/2006 on the basis of Notification dated 15/12/2005 (Annexure I & II) and be pleased to pass such other order or orders as to this Hon'ble Tribunal may deem fit and proper.

2. I have heard Mr. B.R. Dey, Learned Counsel for the applicants and Mr. B.N. Tamuli, learned Counsel appearing on behalf of Dr. J.L. Sarkar, learned Standing counsel for the Railways. When the matter came up today, the learned Counsel for the applicants has submitted that the applicants have filed representations dated 10/10/2006 (Annexure III), dated 20/10/2006 (Annexure - IV) before the Respondent No. 3. But there is no response. He also submitted that the Applicants will be satisfied if direction is given to the Respondent No. 3 to consider their representations and to dispose of the same with appropriate orders within the time frame. Counsel appearing on behalf of the respondent's counsel submitted he has no objection if such direction is given. In the interest of justice, this Court directs the Respondent No. 3, or any other competent authority, to consider their case and to dispose of the same within two months from the date of receipt of this order.

O.A. is disposed of accordingly. There will be no order as

Sd/- Vice-Chairman

Annexure - VII

23 24 - 95

N. F. Railway

Office of the

Chief Workshop Manager  
New Bongaigaon.

No. F/M/283/1(1A)NBQ/Pl.II

Dated : 09/05/2007

To,

- 1) Sri Pradip Sengupta, Tech. I. T/No.623 under SSE/TR/NBQS.
- 2) Sri Aniya Sharma, Tech, I. T/No. 616 under SSE/TR/NBQS.

Sub : Compliance with judgement/order dated 09/03/07 in OA No.59 of 2007 by the Hon'ble CAT/Guwahati.

Ref : Representation dated 10/10/2006 and 20/10/2006 of Sri Pradip Sengupta and Sri Anlyn Sharma respectively for cancellation of Selection for the post of JE/II in scale Rs. 5000-8000/- against 25% Intermediate Apprentice Quota.

The competent authority has gone through the judgement/order dated 09/03/07 in OA No. 59 of 2007 passed by the Hon'ble Central Administrative Tribunal, Guwahati Branch as well as the representations of dated 10/10/06 & 20/10/06 submitted by Sri Pradip Sengupta, Tech.I, T/No. 623 and Anlyn Sharma, Tech.I, T/No.616 both under SSE/TR/NBQS respectively in detail and passed orders. The copy of speaking order is enclosed herewith.

*Certified to be  
true copy  
P. Sen  
Advocate*

(R. K. Mondal)  
Asstt. Production Engineer  
for Chief Workshop Manager  
N. F. Railway  
New Bongaigaon



Sub : Compliance with Judgement/order dated 09/03/2007 in OA No.59 of 2007 by the Hon'ble CAT/Guwahati.

Ref : Representation dated 10/10/2006 and 20/10/2006 of Sri Pradip Sengupta and Sri Amiya Sharma respectively for cancellation of Selection for the post of JE/II in scale Rs. 5000-8000/- against 25% Intermediate Apprentice Quota.

I have gone through the judgement/order dated 09/03/2007 in OA No. 59 of 2007 passed by the Hon'ble Central Administrative Tribunal, Guwahati branch as well as the representations dated 10/10/2006 and 20/10/2006 submitted by Sri Pradip Sengupta, Tech. I, T/No.623 and Sri Amiya Sharma, Tech. I, T/No. 616 both under SSE/TR/NBQ respectively in detail and after examining all the points raised there in the following order is passed,

" Railway Board's instructions are there vide L/No. E( NG ) 1/2003 PM/14 23/06/2003 circulated under GM(P)/MLJ's L/No.469E/33(C )M Pl. IV dated 10/07/03 to allow existing eligible staff in service as on 12/08/2002 to appear in the selection of Intermediate Apprentice with pre- revised qualification for two consecutive selection held after 23/06/2003.

The selection as mentioned in the above representations was conducted as per Pre- revised qualification.

The selection was 2<sup>nd</sup> selection in row conducted after 23/06/2003 as per Pre-revised qualification.

All the eight candidates have the requisite qualifications for the selection of JE-II in scale Rs. 5000-8000/- against 25% Intermediate Apprentice Quota.

It is common selection open for notified trades/groups of the vacancies, for which the selection is held. As such, there is no bar to allot the trade /group to a candidate other than his present trade /group in consequence of the selection.

The allotment of trades to the successful candidates has been made on the basis of recommendation of the selection committee.

The case has also been examined by the vigilance department who has found the selection in order.

Hence, representations dated 10/10/06 and 20/10/06 of the applicants for cancellation of selection for the post of JE-II in scale Rs. 5000-8000/- against 25% Intermediate Apprentice Quota is considered but not found fit to be cancelled.

This complies with the Hon'ble CAT / Guwahati's judgement / order dated 09/03/2007 in OA No. 59/07".

The applicant may be communicated accordingly.

( CHETRAM )  
Chief Workshop manager  
N. F. Railway  
New Bongaigaon.

26/08/06  
09/10/06 - Result -  
10/10/06  
20/10/06  
24/10/06

11/11/07

OA (Rule 24 & 25) 2/2 190 & Envelops is filed by  
Ms. Bipasa Sainkay, Advocate, To be passed on 48  
25.7.07

23/7/07

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

24 JUL 2007

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH  
GUWAHATI

Original Application No. 196 /2007  
Shri Prodip Sen Gupta & another

..... Applicants

- Vs -

The Union of India & Others

..... Respondents

DATE AND SYNOPSIS OF THE CASE IN THE APPLICATION

DATE

SYNOPSIS OF THE CASE

24. 3. 88

&

2. 12. 88

Applicant No. 1 Joined as a tech III / tuner and

Applicant No. 2 Joined as a tech III / Machinist

in N.F. rly New Bongaigaon and at present work-

ing as a Tech X I / Tool Room workshop (M & P)

Cadre.

15. 12. 05

Notification published issued by Respondent No. 3  
for selection against 25% intermediate Apprantice.

3. 8. 2006

Written test was held on 26.8.2006 vide Notification.

9. 10. 2006

Result of the written examination was declared acc-  
ording to the selection list only 8 ( eight ) persons  
were selected but examination was held for 11 ( eleven )

Prodip Sen Gupta

10. 10. 2006  
20. 10. 2006  
&  
24. 10. 2006

Applicants made representation to the chief works manager, carriage and wagon workshop N.F. railway. Prayed for cancellation of selection of intermediate Apprentice mechanics list dated 9. 10. 06 but without received any reply the ~~have been~~ Applicants filed original Application being O.A. No59 of 2007. before the Hon'ble Tribunal for cancellation / modification of the selection of inter mediate apprentice mechanics list publishes on 09.10.06 on the basis of Notification dated 15. 12. 2005 ( Annexme I & II )

9. 3. 2007

The Hon'ble Tribunal vide andgment and order dated 9. 3. 2006 passed in O.A. No. 59 of 2007 directed the Respondent No. 3 or any other competent authority to consider their case and to dispose of the same within two months from the date of receipt of this order .

9. 5. 2007

The respondent No. 3 vide memo No. E/M/283/1( I A) NBQ / Pt. II dated has sent the speaking order to the Applicants. But in the speaking order dated 9. 5. 2007 The Respondents stated that it is a common selection

*Pradip San Gupta*

open for notified trades / groups of the vacancies, for which the selection is held. As such there is no bar to allot the trade/group to a candidate other than his present trade / group in consequence of the selection. It may be mentioned here that as per Notification dated 15.12.2005 it showed that the vacancies have been in two cadres i.e. workshop cadre and workshop ( M & P ) cadre. and, as such, the speaking order has not been prepared as per terms and condition of said notification dated 15.12.07.

Hence this Application before the Hon'ble Tribunal .

Prayer

Direction for Cancellation / Modification of the selection of intermediate Apprentices (mech) for the post of T- E/II in the scale of Rs. 5000/- Rs. 8000/- against 25% intermediate Apprentices quota published on 9/10/2006 issued by the CAPO/WS/NBQ for CWN/NBQS vide memo No. E/M/254/JE-II/selection/ Pt-II and also stay the training of the candidate who does not belong to the Workshop ( M & P ) cadre and set aside the speaking order dated 09.05.07.

*Prodip Sen Gupta*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH, GUWAHATI

( An Application under Section 19 of the administrative  
Tribunal Act, 1985 )

For use in Tribunal office

Date of Filing

or

Date of Receipt by Post

Registration No.

Signature  
for Registrar

Original Application No. 196 Of 2006

Between

1. Shri Pradip Sen Gupta Son of Sunil Ranjan Sen Gupta  
Resident of Natunpara, College Road P.O. & P.S. Bongaigaon  
District - Bongaigaon, Assam Pin No. 783380, at Present  
Working as section Engineer. Tool Room/Work shop New  
Bongaigaon, Rly work Show, P. O. - New Bongaigaon,  
District :- Bongaigaon, Assam .
2. Shri Amiya Kumar Sarma Son of Payodhar Sarma  
Railway quarter No. N/51/A west Colony P.O. & Village -  
New Bongaigaon, District - Bongaigaon, Assam  
at present working as Section Engineer/ Tool Room/ Work-  
Shop New Bongaigaon, Rly work shop P. O. :- New  
Bongaigaon, District :- Bongaigaon, Assam

Pradip Sen Gupta

Pradip Sen Gupta & another  
- Applicant  
through: Pranoy Sen  
Advocate  
22/7/07

.... 2 ....

... Versus ...

1 Union of India, represented by General Manager, N.F. Railway  
Head Quarters, P. O. - Mallgaon, Guwahati - 781011  
District - Kamrup, Assam.

2 General Manager (p) / MLG Head Quarter Mallgaon  
Guwahati - 781011, District - Kamrup, Assam.

3 The Chief Workshop Manager Carriage and wagon  
Workshop N. F. Railway / New Bongaigaon  
District - Bongaigaon, Assam.

4 Assistant Personal officer, <sup>N.F. Railway</sup> Workshop / New Bongaigaon  
Assam.

.....Respondents

1. Particulars of the order (s) against which  
Application is made

The Applicants filed original Application being O.A. No 59 of 2007 before his Hon'ble Tribunal and made prayer for cancellation of Notification of selection of Inter - Mediate Apprentices (Mech.) for the post of J.E. / II in the Scale of Rs. 5000/- - Rs. 8000/- against 25% Intermediate Apprentices quota published on 9.10.2006 Issued by the (APO/WS/ NBQ for CWM/ NBQS) vide memo No. EM/254/JE - II/Selection /Pt.II. and the Hon'ble Tribunal vide order dated 9.3.07 directed the Respondent No. 3 or any other Competent authority to Consider Their Case and to dispose of the same within two months from the date of receipt of this order.

Proslip Ben Amphi

2. Jurisdiction of the Tribunal

The applicant declare that the subject matter of the order against which they  
Want redressal is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation

The applicants further declare that the application is within the limitation  
period in section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case

i) That the applicants are citizen of India and residing at New Bongaigaon  
in the District of Bongaigaon, Assam and, as such, the applicants are  
entitled to all the rights, privileges guaranteed under the constitution of  
India and others relevant rules framed there under. The applicants therefore  
crave leave of this Hon'ble Tribunal under rule 4 (5) (a) of the Central Admini-  
strative Tribunal (procedure) Rule, 1987 to file this Joint application.

ii)(a) That the applicants beg to state that applicant No . 1 Joined as a tech III/  
turner on 24.3.88 and at present working as a tech I / turner / Tool Room/  
at New Bongaigaon N. F. Railway and the applicant No 2. Joined as a tech  
III / machinist on 28/12/88 and at present working as a Tech I / Mechnist /  
Tool Room / at New Bongaigaon N. F. Railway.

ii)(b) That the applicants beg to state that both are working in the tech I / Tool-  
Room / workshop ( M&P ) cadre at New Bongaigaon Railway workshop  
( M & P ) cadre N. F. Railway and their Job are non- transferable.

*Pradip San Gupta*



.... 4 ....

- III) That the applicants beg to state that on 15.12.2005 vide memo No. E/M/254/JE/II?Selection /Pt.-II Notification Published and Issued by APO/WS/ / NBQ For CWM/ NBQS for Selection against 25% Intermediate Apprentice Mechanical wing under CWM/NFR/NBQS.

Copy of the Notification dated 15.12.2005 is  
annexed and marked as annexure - 1.

- IV) That the applicants beg to state that the applicants submitted their application for the post of workshop ( M & P ) Cader and accordingly they were directed to appear in the written test which was held on 26.8.2006 vide Notification dated 3.8.2006 and , as such , the applicants appeared in the Examination and when they got their question paper in the examination hall and they were totally surprised to see the question papers according to the applicants that the questions in the question papers were from the workshop cadre except questions 11 and 13 (1).
- v) That the applicants beg to state that the result of the written examination was declared on 9.10.2006 and according to the Selection list only 8 ( eight) persons were selected but examination was held for 11 ( Eleven ) Post i. e. 8 ( Eight ) for workshop cadre and 3 ( Three ) for workshop ( M & P ) Cadre.

Copy of the Selection List dated 9.10.2006 is  
annexed hereto and marked as annexure - II.

*Pradip Sen Gupta*

vi) That the applicants beg to state that according to the Notification dated 15.12.2005 the Eligibility Criteria is quoted as follows.

- (1) Three Years service in Skilled technician Gr. III and above as on 12.8.2002 with educational qualification Matriculation or equivalent and within the age group below 45 Years of age as on 15.12.2005 (Date of Notification) .

Three Years service in Skilled Technician Gr. - III and above as on 15.12.2005 (Date of Notification) with education qualification 10 + 2 in Science Stream or III / Act Apprenticeship Passed and within the age of group of 45 year as on 15.12.2005 (Date of Notification) etc. That according to the Applicants Knowledge that there were some candidates who were not eligible to sit in the following examination and also there were some candidates who were selected for the post of workshop ( m & P ) cadre they belonged to the workshop cadre and, as such, the Applicants desire / want that the examination and selection procedure to be cancelled or after modification / verification of the same it may be again held in its proper way that all the eligible candidates will be able to get chance to sit in the examination .

- vii) That the applicants State that the appellents along with other Staffs made representation dated 10. 10. 2006 addressed to the chief works manager, carriage and wagon workshop, N. F. Railway, New Bongaigaon ( Respondent No. 2 ) prayed for cancellation of Selection of Intermediate

*Proship San Gupta*

.... 6 ....

Apprentice Mechanics List Published on 9.10.2006 and again vide reminder the same on 20.10.2006 but till today your applicants have not received any reply from the respondent No. 3 and at last your Applicants vide intimations dated 24.10.2006 intimated the respondent No.3 that due to nonreply received from their ends and there is no other alternative but to file the case for natural Justice.

copies to the letter dated 10.10.2006, remainder dated 20. 10. 2006, Remainder dated 20. 10. 2006 and Intimation dated 24. 10. 2006 are annexed herewith and marked as Annexure - III, IV and V respectively.

viii)

That the Applicants beg to state that the Applicants filled original application being O.P. No 59 of 2007 before this Hon'ble Tribunal for cancellation modification the selection of Intermediate Apprentice mechanics list published on 9.10.2006 on the basis of Notification dated 15.12.2005 (Annexure - I & II) and the Hon'ble Tribunal vide order dated 9.3.2007 directed the Respondent No - 3 or any other authority to consider their case and to dispose of the same within two months from the date of receipt of the order.

Copy of the order dated 9.3.2007 is annexed hereto and marked as annexure - VI

ix)

That the Applicants beg to state that the Respondent No - 3 vide memo no E/M/283/I (I A) NBQ / Pt. II dated 9. 5. 2007 has sent the Speaking order to the Applicants.

Copy of the order dated 9. 5. 2007 is annexed hereto and marked as annexure - VII

Prodip Sen Gupta

- x) That the Applicants humbly Submits that the Respondent No 3 in his Speaking order dated 9.5.2007 stated that It is a common Selection open for notified trader /groups of the vacancies, for which the selection is held. As such there is no bar to allot the trade \ group to a candidates other than his present trade /group in consequence of the selection It may be mentioned here that the Notification dated 15.12.2005 vide memo No E/M/254/JE/ II / Selection / Pt b- II ( Annexme - I ) Issued by APO/WS/NBQ/For CWN/NBQ showed that the vacancies has been in two cadre I.e workshop cadre and workshop ( M & P ) cadre and , as such , the Applicants filed O.A No 59/07 before this Hon'ble Tribunal and the Hon'ble Tribunal vide order dated 9.3.07 directed the respondents to considered the same but the respondent without going through the Notification dated 15.12. 05 made reply It is a common selection.
- xi) That the applicants humbly beg to submit that Notification dated 15.12.05 Showed that the Selection was held for two cadre I.e workshop cadre and wrokshop (M & P) cadre but now the Respondents said that It is a common examination which does not comply <sup>tally with</sup> and/or the Notification dated 15.12.2005 and as per the selection list dated 9.10.06 the candidate/staffs who have been selected in the panel have been undergone for a training for a period of one and half years and after suceessful completion of training they would be ~~hold~~ <sup>joined</sup> their post. And as such, If the training of such candidate / staffs as per selection list dated 9.10.06 is not to Stayed the Applicants will suffer Irrepurable loss and Injury.

*Pradip Kumar Singh*

5. Grounds for present Application

- (a) For that according to the Notification dated 15.12.2005 vide Memo No. E/M/254/JE/II/ selection pt. II for Selection against 25% Intermediate Apprentice Mechanical D. P. quota for J.E /II in Mechanical under CWM /NFR /NBQS showed that the following vacancies has been in two cadre i.e. workshop cadre and workshop ( M & P ) cadre. But according to the selection list dated 9.10.2006 the candidate/staffs who were selected in the panel were not from the workshop ( M & P ) cadre and the two candidate /staff who had been placed under workshop ( M & P ) cadre not belong to the workshop ( M & P ) cadre and, as such the selection list has not been prepared as per terms and conditions of said notification and, as such, the said selection is liable to be set aside and quashed.
- (b) For that the keeping order dated 9.5.07 has not been considered the notification dated 15.12.05 regarding selection of post apprentice on the face of the records in its proper perspective as selection has to be made as per Notification and no deviation is not permissible otherwise fresh Notification has to be issued and the alleged selection is liable to be set-aside and quashed.
- (c) For that the Applicants belong to workshop ( M & P ) cadre and they are senior according to their appointment and there are already 3 ( Three ) vacancies in the above mentioned advertisement / Notification and according to the knowledge of the Applicants none were selected from the workshop ( M & P ) cadre but other candidates have been selected in contravention of the advertisement and have effected the future of the applicants.

Poojip Sen Gupta

(d) For that the Notification dated 15.12.2005 showed that the selection was held for 11 number of vacancies i.e. 8 ( eight) Post for workshop cadre and 3 ( Three) post for workshop ( M & P ) cadre and according to the selection list dated 9.10.2006 only 8 ( Eight ) candidate were Selected and, as such, there were 3 ( Three ) Vacancies left to be filled up .

(e) For that If the training of the selected candidate / staff as per selection list dated 9.10.06 would not be stayed untill final disposal of the case / clarification by the respondent No - 3 In regard to notification dated 15.12.2006 which showed that the examination has held in two cadre that it has not common examination. The applicants will suffer loss and injury and after completion of training it would be impossible to stop the candidate to join their post as per selection list.

6. Details of Remedies Exhausted

That the Applicants declare that there is no other alternative efficacious remedy other than to approach this Hon'ble Tribunal for getting Justice. The applicants being the employees from the workshop ( M & P ) Cadre and vide representation dated 10.10.2006 and 20.10.2006 made prayer for cancellation of selection of Intermediate Apprentice Mechanics list published on 9.10.2006. to the respondent No.3 and without received any reply, they approached before this Hon'ble Tribunal and the Hon'ble Tribunal vide vide judgment / order dated 9.3.07 passed in O.A No 59/07 directed the Respondent No -3 or any other competent authority to consider their case and dispose of the same within two months from the date of receipt of this order but the Respondent No - 3 without going through the Notification dated 15.12.2005 and without considering the Hon'ble Tribunal order's made their speaking order dated 9.5.2007 that it is a common selection and the speaking order dated 9.5.2007 has been not satisfactory reply. And hence the applicants again knock the door of the Hon'ble Tribunal to cancel the illegal selection or to direct the respondents to give appropriate order.

Pradip Sen Gupta

.... 10 .....

Matters not previously filed or pending with any other court

The applicants Further declares that they had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

Reliefs Sought

Under the facts and circumstances as narrated above, the applicants humbly pray that this Hon'ble Tribunal be pleased to admit this application and called for the records and after hearing the parties be pleased to pass an order directing the authority particularly respondents to give / submit valid and proper order after going through the selection of Intermediate Apprentice Mechanics list published on 9.10.2006 on the basis of Notification dated 15.12.2006 ( annexure I & II ) and be pleased to pass such order or orders or any other further orders as to your Lordships may deem fit and Proper. As per the speaking order dated 9.5.07 is not as per notification dated 15.12.07.

9. Interim Relief if any

Stay of further proceeding regarding illegal selection of candidate who does not belonged to the workshop ( M & P ) cadre or Stay the Training of the candidates who does not belonged to the workshop ( M & P ) cadre or Stay the Training of the candidates who does not belonged.

10. Particulars of the I.P.O.

- (a) I.P.O. No. 346 655652 Date 23.7.07 for Rs. 50 /—
- (b) Envelopes with acknowledgement
- (c) Vokatnama
- (d) Material papers per Index

Pradip Sen Gupta

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- 11 -

- VERIFICATION -

I, Pradip Sengupta Son of Sunil Ranjan Sengupta age about 43 years,  
resident of Nutanpara, collage Road P. S. Bongaigaon P. O. Bongaigaon  
District Bongaigaon Assam the Applicants of the Application do hereby  
verify that the statement made in this Applications from paragraphs 2: 3, 4(i), 4(ii)  
4(iv), 4(vi) & 4(vii)  
are true to my knowledge and those are made in paragraphs 4(iii), 4(v), 4(viii) & 4(ix)  
are matter of records and rest are my humble submission before this Hon'ble  
Tribunal.

I a signed this verification on this the 19<sup>th</sup> day of July 2007 at  
Guwahati.

Pradip Sen Gupta  
SIGNATURE

Pradip Sen Gupta



-12-

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Annexure - I

Office of the  
Chief workshop Manager  
New bongaigaon

No. E/M/254/JE/II/Selection/Pt-II Dated 15/12/2005

To,  
SSEs/CBS-BG & No.CLS/DG & MG.WRS,FDY,BSS,CRS,MWS  
Welding TR MS,WTS CPS Inspection,PGS & PLG of NBQS.

Sub : Selection against 25% Intermediate Apprentice  
Mechanical D.P Quota for JE/II in Mechanical  
wing under CWM/NFR/NBQS for the following va-  
cancies.

It is decided to hold the selection against 25% Inte-  
rmediate Apprentice Mechanicale D P quota for JE/II in Mech-  
anical wing under CHM/NPR/NBQS for the following vacancies.

Workshop cadre comprising of Carringe & other Trades expect <del>XXXXXX</del> Machine & Millwright Trades	UR=06, SC= 01 & ST=01 =08
Workshop(M&P) cadre-Comprising of Machine & Millwright Trades	UR=03, SC= Nil & ST= Nil=03
Total	UR 09, SC 01 & ST 01 11

This is 2nd selection going to be held after 23/06/03

*Certified to be true copy  
P. Sen  
Advocate*

ELIGIBILITY CRITERIA

- 1] Three years service in skilled Technician Gr.III and above as on 12/08/2002 with educational qualification Matriculation or equivalent and within the age group below 45 years of age as on 15/12/2005 (Date of Notification).

(2)

OR

Three years service in skilled Technician Gr. III and above as on 12/08/2002 with educational qualification ~~XXXXXXXXXXXX~~ 10+2 in science stream or III/ Act Apprenticeship passed and within the age group 45 years as on 15/12/2005 (Date of notification).

II) The selected candidates for the post of intermediate Apprentice Mechanic will have to undergo a training for a period of 18(eighteen) months as directed by the administration and during the training period they will get stipend as admissible under rules.

III) The applications submitted by the eligible candidates should be sent to this office on or before 31/12/05 in a bunch. Applications submitted or forwarded after 31/12/2005 will not be entertained.

You are therefore advised for wide circulation among the staff and collect the applications and forward the same within the target date.

format of application is enclosed.

( R ROY )

APO/WS/NBQ  
for CWM/NBQS

Copy to : DY.CME, PSTC, CMTWM, AWM, APE of NBQS for information and wide circulation please.

for CWM/NBQS

Annexure - II

Memorandum

N.F. Railway

Office of the  
Chief Working  
Manager, New Bongai-  
gaon  
dated: 09/10/2006

In the written test held on 26/08/06 in connec-  
-tion with the selection of Intermediate Apprentices (Mech  
for the post of JE/II in scale of Rs. 5000-8000/- against  
25% intermediate Apprentices Quota the following staff are  
selected and placed in panel

S.No.	Name	Desig	T.no.	Trade Working Under
1.	Sri Monoj Baidya	Tech/II	4918	Workshop cadre SSC/GTS
2.	Sri Uttam Kr. Sarkar	Tech/I	3268	Workshop cadre SSE/CBS
4.	Sri Pankaj Chakraborty	Tech/I	1305	Workshop cadre SSF/CLS/MG
3.	Sri Narendra N. Roy	Tech/II	2721	Workshop cadre SSE/NSP
2.	Gautam Dastidar	Tech/I	1335	Workshop <sup>M&amp;P</sup> cadre SSE/CIS/MG
5.	Sri Pradip Dey	Tech/I	1742	Workshop M&P cadre SSE/CBS
7.	Jayanath Basumatary	Tech/G	4967	Workshop cadre SSE/CFS
8.	Anukul Ch. Das (SC)	Tech/II	2819	Workshop Cadre SSE/NSP

*E. Sarkar  
Adv.*

They will have to undergo training at STC/NBQ for a period  
of 1½ years. Their absorption as JE/II scale Rs.5000-8000/- is  
subject successful completion of training. They will .....  
stipend.....scale of Rs.4500-125-4625/-or pay allowance of  
the post from which they were selected whichever is higher during  
the training period.

*Certified to  
be true copy  
P. Sen  
Advocate*

The Panel has been approved by the competent authority  
on 7/10/06

(R. Roy)  
APO/WS/NPC  
for CWM/NBQS  
dated 9/10/2006

No. E/M/254/JE/-II/Selection/pt.II

Copy forwarded for information to : PSTC/NBQ.(2) All SSE/NBQ  
(3) Staff concerned (4)  
PTS/NBQ(5) Notice Board  
in Office.

11 - 100X/100

11 - 100X/100

11 - 100X/100

Office of the  
Chief of Police  
New York City  
100-100X/100

In the written test held on 10/18/60 in connection with the selection of immediate appointees (which for the post of 100X/100 in case of 100-100X/100 - 100X/100) the following were the following:

100-100X/100

100-100X/100

100-100X/100

100-100X/100

100-100X/100

100-100X/100

100-100X/100

100-100X/100

100-100X/100

100-100X/100

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100-100X/100

100-100X/100

100-100X/100

To,

The Chief Works Manager,  
Carriage and Wagon Workshop  
M.F. Rly/New Bongaigaon

Sub: Prayer for cancellation of selection of  
Intermediate Apprentice Mechanics list Published  
dated 9/10/06

Ref: Written Test held on 26/8/06 in connection with  
the selection of Intermediate Apprentice  
Mechanics for the post of JE/II in scale of  
Rs. 5000-8000/- against 25% of Intermediate  
Apprentice quota vide letter No. E/M/254/JE-II/  
Selection/P6-II dt. 18/12/06

Sir,

With due respect and humble submission we the candidates  
of above referred examination/interview belong to M & P, beg to lay  
before you, hoping the vigilant attention and sympathetic action  
for the few lines please.

That Sir, we are few of M&P candidates applied for the above  
referred interview and also appeared for the same again 3(three) nos.  
of vacancies out of 11 (Eleven) nos vacancies where in 8 (eight) nos  
are reserved for Workshop Cadre including SC & ST.

That Sir, surprising enough the so called Selection list  
already published on dated 9/10/06 where in it is found/seen that  
there are some candidates who were selected having below/require  
qualification as per advertisement which is not only beyond provision  
of law but also service rule, and the selection list was against  
the fundamental right of employee.

That Sir, apart from selection list the candidates are  
mentioned as selected on M&P quota where it is found that candidates  
were selected/passed from M&P quota however the same was done/made  
by the competent authority.

*Verified to  
be true copy  
T. Roy Advocate*

*Verified to be  
true copy  
T. Roy Advocate*

under the above facts and circumstances it is humbly prayed before your administrator to look into the matter seriously by proper enquiry in all the documents/papers related to the selection of the selected candidates against the respective quota in connection with the selection list as the said list is illegal and irregular,

AND

Further it will be pleased enough to stay the operation and execution of the panel so prepared by you for under going training of the selected candidate till final inquiry is completed.

And upon then findings of the final inquiry the said selected list published on dated 9/10/06 is required to be cancelled fresh interview for the same ends of justice.

And for this act of your kindness, we the candidates of M&P Quota shall ever pray.

Thanking you,

Yours faithfully,

Pradip Sen Gupta Techzi

Paritosh Kr. Datta

Bablu

Ablu Bhumi

Etc. Etc.

Dated New Bongaigaon  
10th Oct. 2006.

Copy to:

The Member of Personal of Rly. Board  
2. General Manager (P) MIG

3. CME/MIG

4. CMF/MIG

5. Sec. H NFRMU/ARMU.

Approved (1✓)

- 17 -

REMINDER

To: The Chief Works Manager,  
N.E. Railway, New Bongaigaon

Sir,

Sub: Second memorandum dated 20/10/06 from M&P Cadre  
at New Bongaigaon Workshop.

Ref: Our first memorandum dated 10/10/06 from M&P Cadre  
at New Bongaigaon workshop for selection of App.  
Mechanics (Intermediate) 25% quota held on 26/9/2006  
Your L/No. vide E/M/JE/II/Selection/Pt-II dated  
15/12/2005

We like to draw your kind attention to our above  
memorandum at 10/10/2006, which was served from this since long  
but unfortunately no clarification in the regard is received till  
date. At the same time due to the delay and environment of  
frustration and dis-satisfaction has arisen among the staff  
resulting in un-healthy work culture.

We shall, however be obliged if you reply the above  
mentioned memorandum at the earliest or our grievance may be  
sort out. Please make note considered from your end. The first  
memorandum dated 10/10/2006 is enclosed herewith for your kind  
perusal.

We assure you in this connection of our attention at  
all times.

Thanking you in anticipation, we remain

Date: 20/10/2006

Yours faithfully

Copy to :

SA/-

Secy, /NFRU/NFRU, for information (M&P Cadre/workshop/NBQ)  
& necessary action please.

*certified to be  
true copy  
T Roy Adhikari*

*Amrapur*

*18*

To,  
The Chief Works Manager,  
C & W Shop/New Bongaigaon,  
N.E. Railway

Sub: Intimations

Sir,

With due regard this is to inform you that no reply is received from you till that regarding the selection of Apprentice Mechanic (Intermediate) 25% quota held on 26/9/06, your letter no vide E/M/JE/II/SELECTION/ Pt-II dated 15/12/05. Though reminder was also served to you (first memorandum date 10/10/06 and second memorandum dt. 20/10/06).

This has created sense of humiliation & injustice in our mind so to get the natural justice, I am forced to lay my grievance in front of law of justice.

This is for your information please.

Thanking Sir

Yours faithfully,

- 1) Paddy 3 on 1000  
Techs 1/Tool Room
- 2) Paddy 3 on 1000  
Techs 1/Tool Room

DEPT OF P.W. 100  
New Bongaigaon.

*Handwritten notes:*  
~~Handwritten text~~  
~~Handwritten text~~  
~~Handwritten text~~  
Certified to  
be true  
i. Roy Adhikari



Annexure - V

-19-

69

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 59 of 2007

Date of Order: This the 9th Day of March, 2007

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

1. Shri Pradip Sen Gupta

Son of Sri Sunil Ranjan Sen Gupta  
Resident of Natunpara, College Road  
P.O. & P.S. Bongaigaon  
Dist. Bongaigaon, Assam  
Pin No. 783380 at Present Working  
as Section Engineer/Tool Room/Workshop  
New Bongaigaon, Rly Work Shop  
P.O. New Bongaigaon  
Dist. Bongaigaon, Assam

2. Shri Amiya Kumar Sarma

Son of Payodhar Sarma  
Railway Quarter No. N/51/A  
West Colony  
P.O. & Village - New Bongaigaon  
Dist. - Bongaigaon, Assam  
At Present Working as  
Section Engineer/Tool Room/Workshop  
New Bongaigaon  
Rly, Work Shop,  
P.O. New Bongaigaon  
Dist. - Bongaigaon, Assam

certified to  
be true copy  
P. Sen  
Advocate

- 2 -

..... Applicants

Advocate Mr. B.R. Dey, Ms. B. Sarkar, T. Roy, P. Sen

- Versus -

1. Union of India, represented by General Manager  
N.F. Railway,  
Head Quarters,  
P.O. Maligaon, Guwahati - 781011  
Dist. - Kamrup (Assam)
2. General Manager (P)/MLC,  
Head Quarters Maligaon  
P.O. Guwahati - 781 011,  
Dist. - Kamrup , Assam
3. The Chief Workshop Manager,  
Carriage and Wagon Workshop  
N.F. Railway/New Bongaigaon  
District - Bongaigaon, Assam
4. Assistant Personal Officer/Workshop  
New Bongaigaon , Assam  
..... Respondent

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

O R D E R ( ORAL )

SACHIDANANDAN, V.C. :

There are two applicants. The applicant No. 1 has

has joined as a Tech. III/tuner and Applicant No. 2 joined as a Tech. III/Machinist in N.F. Railway, New Bongaigaon and at present both are working as Tech I/Tool Room workshop ( M & P ) cadre. On 15/12/2006 vide Memo No. E/M/254/JE/H/Selection/Pt.II a ~~National~~ Notification was issued by the respondents for selection against 25% of Inter-Mediate Apprentices (Mech.) II posts have been notified & for the Post of J.E./II in Mechanical Wing under CWM/NFR/NBQS. The applicants have applied for the posts of workshop (M & P ) They were directed to appear in the written test and accordingly they appeared in the written test. According to the selection list published on 09/10/2006, only 8 (eight) persons were ~~was~~ selected but examination was held for 11 (eleven) Post i.e. 8 (eight) for workshop cadre and 3 (three for workshop (M&P) cadre. Out of the 11 post vacancies none has been selected actually from M & P, though the two candidates/shall who had been placed under Workshop ( M & P ) cadre, they did not belong to their Workshop (M&P) cadre. Being aggrieved the applicant has filed this O.A. seeking for the following reliefs :-

" Under the facts and circumstance as narrated above, the applicants humbly pray that this Hon'ble Tribunal be pleased to admit this application and called for the records and after hearing the parties be pleased to pass orders directing the authorities particularly respondents to cancellation/modification the Selection

of Intermediate Apprentice Mechanics list published on 9/10/2006 on the basis of Notification dated 15/12/2005

(Annexure I & II) and be pleased to pass such other order or orders as to this Hon'ble Tribunal may deem fit and proper.

2. I have heard Mr. B.R. Dey, Learned Counsel for the applicants and Mr. S.N. Tamuli, learned Counsel appearing on behalf of Dr. J.L. Sarkar, learned Standing counsel for the Railways. When the matter came up today, the learned Counsel for the applicants has submitted that the applicants have filed representations dated 10/10/2006 (Annexure III), dated 20/10/2006 (Annexure - IV) before the Respondent No. 3. But there is no ~~respondent~~ response. He also submitted that the Applicants will be satisfied if direction is given to the Respondent No. 3 to consider their representations and to dispose of the same with appropriate orders within the time frame. Counsel appearing on behalf of the respondent's counsel submitted he has no objection if such direction is given. In the interest of justice, this Court directs the Respondent No. 3, or any other competent authority, to consider their case and to dispose of the same within two months from the date of receipt of this order.

O.A. is disposed of accordingly. There will be no order as

Sd/- Vice-Chairman

**N. F. Railway**

Office of the

Chief Workshop Manager  
New Bongaigaon.

No. E/M/283/1(IA)NBQ/Pt.II

Dated : 09/05/2007

To,

- 1) Sri Pradip Sengupta, Tech. I. T/No.623 under SSE/TR/NBQS.
- 2) Sri Aniya Sharma, Tech. I. T/No. 616 under SSE/TR/NBQS.

**Sub : Compliance with judgement/order dated 09/03/07 in OA No.59 of 2007 by the Hon'ble CAT/Guwahati.**

**Ref : Representation dated 10/10/2006 and 20/10/2006 of Sri Pradip Sengupta and Sri Aniya Sharma respectively for cancellation of Selection for the post of JE/II in scale Rs. 5000-8000/- against 25% Intermediate Apprentice Quota.**

The competent authority has gone through the judgement/order dated 09/03/07 in OA No. 59 of 2007 passed by the Hon'ble Central Administrative Tribunal, Guwahati Branch as well as the representations of dated 10/10/06 & 20/10/06 submitted by Sri Pradip Sengupta, Tech.I, T/No. 623 and Aniya Sharma, Tech.I, T/No.616 both under SSE /TR / NBQS respectively in detail and passed orders. The copy of speaking order is enclosed herewith.

*Certified to  
be true copy  
P. Sen  
Advocate*

**( R. K. Mondal )  
Asstt. Production Engineer  
for Chief Workshop Manager  
N. F. Railway  
New Bongaigaon**

Sub : Compliance with judgement/order dated 09/03/2007 in OA No.59 of 2007 by the Hon'ble CAT/Guwahati.

Ref : Representation dated 10/10/2006 and 20/10/2006 of Sri Pradip Sengupta and Sri Amiya Sharma respectively for cancellation of Selection for the post of JE/II in scale Rs. 5000-8000/- against 25% Intermediate Apprentice Quota.

I have gone through the judgement/order dated 09/03/2007 in OA No. 59 of 2007 passed by the Hon'ble Central Administrative Tribunal, Guwahati branch as well as the representations dated 10/10/2006 and 20/10/2006 submitted by Sri Pradip Sengupta, Tech. I, T/No.623 and Sri Amiya Sharma, Tech. I, T/No. 616 both under SSE/TR/NBQ respectively in detail and after examining all the points raised there in the following order is passed.

" Railway Board's instructions are there vide L/No. E( NG ) 1/2003 PMI/14 23/06/2003 circulated under GM(P)/MLG's L/No.469E/33(C )M Pt. IV dated 10/07/03 to allow existing eligible staff in service as on 12/08/2002 to appear in the selection of Intermediate Apprentice with pre- revised qualification for two consecutive selection held after 23/06/2003.

The selection as mentioned in the above representations was conducted as per Pre- revised qualification.

The selection was 2<sup>nd</sup> selection in row conducted after 23/06/2003 as per Pre-revised qualification.

All the eight candidates have the requisite qualifications for the selection of JE-II in scale Rs. 5000-8000/- against 25% Intermediate Apprentice Quota.

It is common selection open for notified trades/groups of the vacancies, for which the selection is held. As such, there is no bar to allot the trade /group to a candidate other than his present trade / group in consequence of the selection.

- 3 -

The allotment of trades to the successful candidates has been made on the basis of recommendation of the selection committee.

The case has also been examined by the vigilance department who has found the selection in order.

Hence, representations dated 10/10/06 and 20/10/06 of the applicants for cancellation of selection for the post of JE-II in scale Rs. 5000-8000/- against 25% Intermediate Apprentice Quota is considered but not found fit to be cancelled.

This complies with the Hon'ble CAT / Guwahati's judgement / order dated 09/03/2007 in OA No. 59/07".

The applicant may be communicated accordingly.

( CHETRAM )  
Chief Workshop manager  
N. F. Railway  
New Bongaigaon.

14 NOV 2007

गुवाहाटी न्यायपीठ  
Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH, GUWAHATI**

**O.A No. 196/2007**

**Sri P. Sengupta & Anr.**

**-Vs-**

**Union Of India & Ors.**

15.10.07  
मुख्य कारखाना प्रबन्धक  
Chief Workshop Manager  
पू. सी. रेलवे/न्यू बंगालगोव  
N. F. Railway/New Bongaigaon

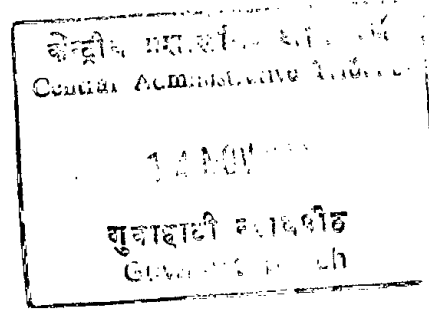
**Written Statement of the respondents.**

The respondents most respectfully beg to state as under:

1. That the respondents have gone through the O.A. and understood the contents thereof.
2. That in reply to the statements in para 4(iii), 4(iv) and 4(v) the respondents state that selection was notified for 25% Departmental promotion quota (Intermediates Apprentice). The selection is common for notified groups. 11 (eleven) vacancies were there, but only 8 (eight) candidates qualified for selection on the basis of written test. The applicants have not qualified in the written test.
3. That in reply to statements in paras 4(vi-I) and (vii) it is stated that the candidates called for selection fulfilled the norms of eligibility and 8 (eight) candidates have passed in the common selection and there is no bar to place in either trade on the basis of merits. The applicants are raising the question of eligibility after their failure, which is not correct. All the selected candidates fulfilled the eligible criteria as per notification.
4. That in reply to statements in para 4(viii), 4(ix), 4(x) and 4(xi) it is stated that the speaking order on the representation has been passed correctly and there is no violation of rules, norms or procedure in the selection.
5. That, in the facts and circumstances of the case the application deserves to be dismissed with cost.

Filed by the respondents  
through S.N. Tanti (adv)  
for Rly SC 14/11/07





-2-

**VERIFICATION**

I, Shri Anandkumar S. Ganvir aged about 45  
years \_\_\_\_\_ do hereby verify that the statements 1 to  
5 above are true to my knowledge.

15-10-2007

  
15/10.07  
Signature

मुख्य कारखाना प्रबन्धक  
Chief Workshop Manager  
पू. सी. रेलवे/न्यू बंगलगेन  
N. F. Railway/New Bongaigaon

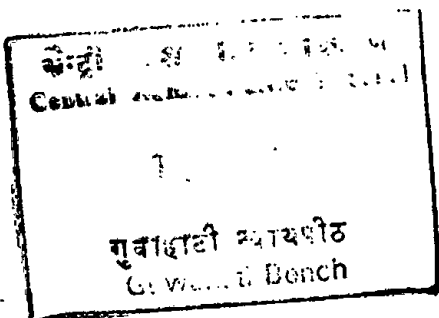
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*[Signature]*  
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI.

Filed by:-

*Pradip Sen Gupta*  
--- APPLICANT  
Through :- B. Sankar  
Advocate 17.1.08



O.A.NO.196 OF 2007

Shri Pradip Sengupta & another.

... Applicants

«Versus»

Union of India & Others.

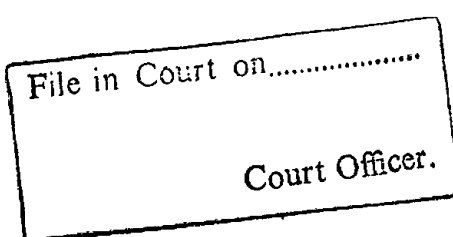
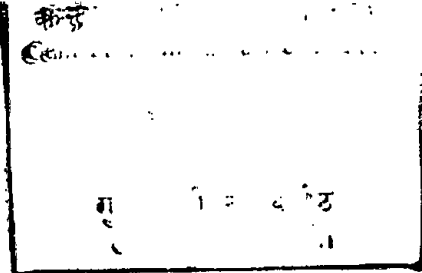
... Respondents

An Objection/rejoinder on behalf of the above  
named Applicants (to the written statement filed  
by the respondents) (Signed by the Respondent No.3).

The Applicants most respectfully beg to state  
as under-

1. That the Applicants have gone through the written statement and understood the contents thereof.
2. That the Applicants denies the correctness of the statements made in paragraph 2 of the Written Statement and re-iterate and re-affirm the statements made in paragraphs 4(iii), 4(iv) and 4(v) of the original application and the ground setout therein in paragraph 5 of the Original Application.
3. That with regard to the statements made in paragraphs 3 and 4 of the Written statement the Applicants denied the correctness of the same and beg to state that the selection has to be made as per Notification dated 15.12.2005 and no deviation is permissible and has not followed.....

*Received copy  
on behalf of B. Sankar  
17/01/08  
[Signature]*



- 2 -

followed the notification regarding selection of post apparent on the face of the records in its proper perspective, the Applicants further beg to state that the speaking order dated 9.3.2007

*Prashant Singh* 79

(Annexure-VII of the Original Application) has been passed without considering the notification dated 15.12.05 apparent on the face of records as per notification the selection was held in two cadre one is workshop cadre and another is workshop (M & P) cadre and once condition of selection is laid down then all candidates have to fulfill the same and no departure from that is possible and, as such, there is violation of rules, norms or procedure and re-iterate and re-affirm the statements made in paragraphs 4(VI-I) and (VII) of the Original Application.

4. That Your Applicants humbly submit that in Civil Appeal No.865-867 of 2005 (R.S.Jayakumar & Ors -Vs- State of Kerala & Ors.) decided on 12.10.2007) the Hon'ble Supreme Court has held, inter-alia, as under more particularly para 20 of the said Judgment has stated that conditions laid down in the Advertisement have to be fulfilled by all the candidates said para 20 is quoted hereunder:-

"20. However, the conditions laid down by the Public Service Commission in their advertisement have to be fulfilled by all the candidates. As it is more than apparent that the.....

File in Court of.....

Court Officer.

- 3 -

that the respondents except Jose Mathew did not fulfil the condition required in the advertisement issued by the Public Service Commission for sending the candidates for training at Dehradun. Therefore, their selection cannot be sustained. But they were sent for training and they have undergone the training and sufficient amount has been spent on their training. But they were not eligible to be sent for the training. It is declared that they will not be entitled to avail benefit of their training qua the petitioners/appellants. We allow these Appeals and set aside the order of the High Court and hold that the selection of the respondents for sending them for training was bad and that cannot be used in the service career vis a vis the petitioners/appellants. However, the training undergone by them cannot be withdrawn but they will not get the benefit of it vis a vis the petitioners/appellants and this will not permit them to have a march over the petitioners/appellants".

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

गुवाहाटी न्यायपीठ  
Guwahati Bench

5. That Your Applicants humbly submits that records of the case including question papers and answer script may also.....

File in Court on.....

Court Officer.

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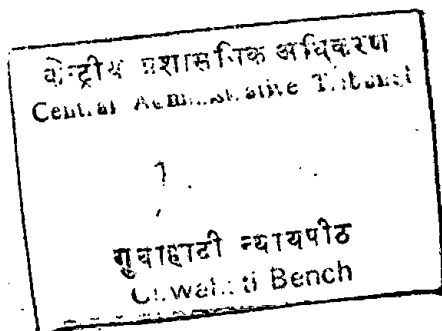
may also kindly be called for as in the question papers  
only two question were set for workshop (M & P)  
cadre.

V E R I F I C A T I O N :

I, Prodip Sengupta, Son of Sri Sunil Ranjan Sengupta  
aged about 43 years resident of Natunpara College Road,  
P.S. Bongaigaon, P.O. Bongaigaon, District Bongaigaon, Assam  
do hereby verify that the statements 2 and 3

above are true to my knowledge and the rest are  
bungle submission made before this Hon'ble Tribunal.

I signed this verification on this 13th day of  
January, 2008 at Guwahti.



Prodip Sen Sengupta

S I G N A T U R E