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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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

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SECTION OFFICER (Judl.)

Shahrukh  
05/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No. 196/07
2. Mise Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) P. Sen Gupta & Anr. vs. Union of India & Ors

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

Advocate for the Respondents: - Railways advocate  
Sudil Shome  
Ms. S. Bhattacharya for Respondents

Notes of the Registry	Date	Order of the Tribunal
1. The application is in form is filed/C. F. for Rs. 30/- deposited vide IPO/BD No. 940655652 Dated 23.7.07.	25.7.07.	<p>There are Two applicants. They are working as a Tech XI/Tool Room Workshop (M &amp; P) Cadre, in N.E. 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&amp;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 &amp; other Trades except Machine &amp; Millwright Trades and Workshop (M&amp;P) cadre comprising of Machine &amp; Millwright Trades. The contention of the applicant is that they are to be considered for the post.</p> <p>Contd/-</p>

Steps 2 order for  
R-1 received by  
Dr. J. L. Sarkar, Mys.  
S-2, on 6/8/07.

6/8/07.

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

6/8/07: D/No - 826 to  
828  
Dt: 17/8/07.

① Service report  
awarded.

3  
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

Post on 11.09.2007 along with the

M.P.

Vice-Chairman

/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

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.

Notice & order sent  
to D/Section for  
issuing to resp.  
nos. 5 to 12 day  
regd. A 10 post with  
the cost learned  
advocate's for  
applicant side as  
per order dt. 25/9/07. /bb/  
07.11  
lm

lm.

### **Vice-Chairman**

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.

Call the matter on 12.12.2007.

### Member (A)

is not bivalve.

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/

W/S filed copy the  
Respondents; copy served.

Wks 21b6f.

~~2008.11.12.07~~

Rejoinder not  
filed.

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.

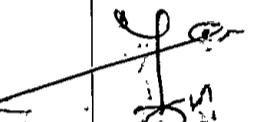
22.1.08

Rejoinder filed  
by the Applicant.  
Copy served.

QH

/bb/

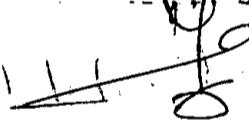
  
(Khushiram)  
Member (A)

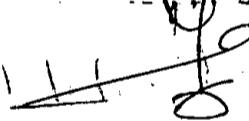
  
(M.R. Mohanty)  
Vice-Chairman

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

The case is ready  
for hearing.

15.2.08.

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

The case is ready  
for hearing.

18.02.2008

Call this matter on 04.04. 2008.

3.4.08.

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

Ln

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 judgment sent to the parties alongwith the A/HDR vide DR No. 3 2037 & 2042 dtd 5.5.08

/bb/

  
(Khushiram)  
Member (A)

  
(M.R.Mohanty)  
Vice-Chairman

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)

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.

O R D E R (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 Machine & Millwright Trades	UR=03, SC Nil & ST Nil-03
Total	UR 09, SC 01 & ST 01 11”

*Q*

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.”

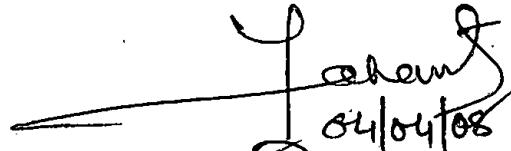
He argued that, in the common selection test, there was no provision to select candidates from one stream in the same stream only and hence, the selection of 8 candidates against the available 11 vacancies cannot be assailed by the Applicants at this belated stage on this ground in the absence of any 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 <sup>paper</sup> question 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

/pg/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH  
GUWAHATI

Amended Original Application No. 196 /2007

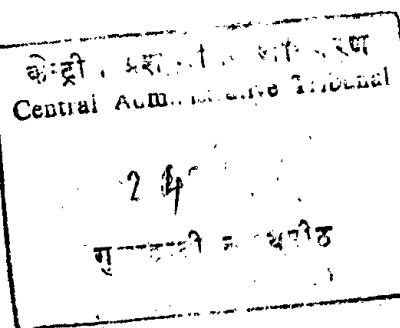
Shri Prodip Sen Gupta & another ..... Applicants  
Vs -

The Union of India & Others ..... Respondents

DATE AND SYNOPSIS OF THE CASE IN THE APPLICATION

<u>DATE</u>	<u>SYNOPSIS OF THE CASE</u>
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 working 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 Apprantine.
3. 8. 2006	Written test was held on 26.8.2006 vide Notification.
9. 10. 2006	Result of the written examination was declared according 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 intermediate apprentice mechanics list published on 09.10.06 on the basis of Notification 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



- 3 -

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 न्दायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
GUWAHATI.

Shri Prodip Sen  
Gupta & anj-  
Applicants  
Thongle &  
G. Sankey  
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.

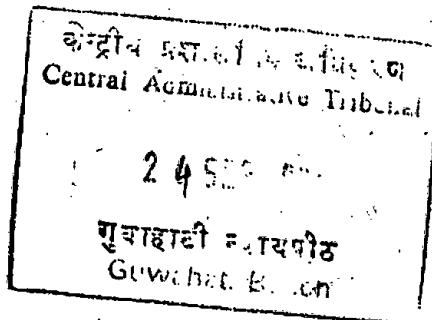
ORIGINAL APPLICATION NO. 196 OF 2006.

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. - Mallaon, Guwahati - 781011  
District - Kamrup, Assam.
- 2 General Manager (p) / MLG Head Quarter Mallaon  
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  
Assem. .... Respondent
- 5 Shri Gautam Dastidar  
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 Beldya
- 8 Shri Uttam Kumar Sarkar
- 9 Shri Narendra Nareyan Roy
- 10 Shri Pankaj Chakraborty
- 11 Shri Javonath Basumatary

Pradip Ben Guphi

12 Shri Anukul Chandra Das,

..3..

Sl. No 7 to 12 all are at present working/ Training under supervisor training Centre, N. F. Railway, New Bongalgaon, 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 Aprentices ( 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 Sen Gupta

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.

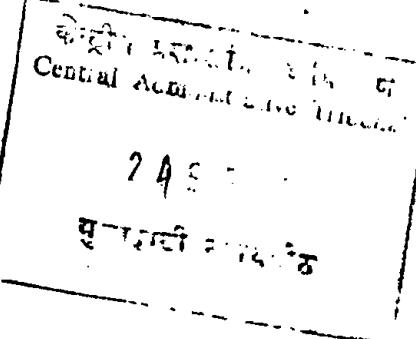
II)(a) That the applicants beg to state that applicant No . 1 Joined as a tech III/ turner on 24.3.88 and at present working as a tech I / turner / Tool Room/ at New Bongaigaon N. F. Railway and the applicant No 2. Joined as a tech III / mechanist on 28/12/88 and at present working as a Tech I / Mechanist/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

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

Brody Debnath



iv) That the applicants beg to state that the applicants submitted their application for the post of workshop ( M & P ) Cadre 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.

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 +

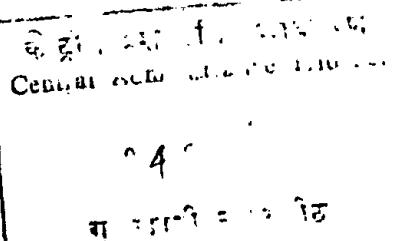
Pradip Sen Gupta

2 in Science Stream or III / Act Apprenticeship Passed and within the age of group of 45 years 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 Bongalgao ( 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.

Prodip Sen (mpb)



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 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

E/M/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 E/M/254/JE/ II / Selection / Pt b- II ( Annexme - I )

Issued by APOWS/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

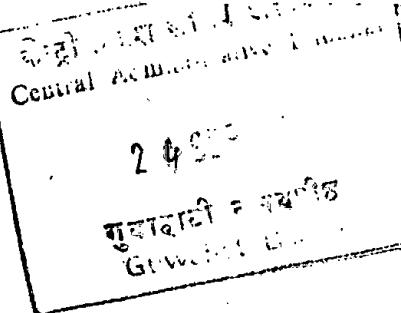
Applicants filled O.A No 59/07 before this Hon'ble Tribunal and the Hon'ble Tribunal

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 .

Pradip Ben Limpis



...8...

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 be stayed 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 section 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 staying order dated 9.5.07 has not be considered the notification dated 15.12.05 regarding selection of post apparent 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.

Prasip Sen Gupta

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(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 approached 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

Pradip Banerjee

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.

Relief 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 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.

Pradip Sen Gupta

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2007-14-78

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### VERIFICATION

Prodip Sen Gupta son of Sunil Ranjan Sen Gupta aged about 43 years, resident of Nutanpara, College Road, Bongaigaon P.S. Bongaigaon P.O. Bongaigaon District Bongaigaon Assam the applicants

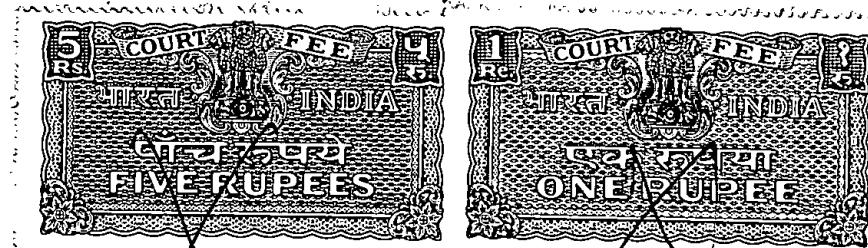
of the application do hereby verify that the Statement made in this Applications from paragraphs 2, 3, 4(i), (ii), (iv) are true to my knowledge and those are made in paragraphs 1, 4(iii), (v), (vii) <sup>(ix)</sup> are matter of records and rest are my humble submission before this Hon'ble Tribunal.

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

Guwahati.

Prodip Sen Gupta

SIGNATURE



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) & (VII) are true to my knowledge and those made in paragraphs 1, 4(II), (V), (VIII) & (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

*R. Sankar*

*21-9-07*

[Advocate]

*Prodip Sen Gupta*

[DEPONENT]

Annexure-I

Office of the  
Chief Workshop Manager  
New Bangalore

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

To,

SSEo/CB3-DG & No.CLS/DG & MG, WRB, FDY, BSB, CRB, IWS  
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/NPR/NBQS for the following vac-  
ancies.

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

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

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

*Certified to  
you copy  
by  
S. Veni  
Advocate*

ELIGIBILITY CRITERIA

1) Three years service in skilled Technician Gr.III and  
above as on 12/06/2002 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).

OR

Three years service in skilled Technician Gr. III and above as on 12/08/2002 with educational qualification Intermediate 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 : D.Y.CME, PSTC, CMTWM, AWM, APE of NBQs for information and wide circulation please.

for CWM/NBQs

- 14 -

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 SSE/CIS
2.	Sri Uttam Kr. Barker	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/CLS/MB
5.	Sri Pradip Dey	Tech/I	1742 Workshop M&P, Cadre SSE/CBS
6.	Sri Gautam Dastidar	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 1½ years. Their absorption as JE/II scale Rs.5000-8000/- is subject successful completion of training. They will draw 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 PSC/NBQ(2) All SSE/NBQ

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

Certified  
to be true  
Copy P. S. Roy  
Advocate

sd/  
(R. Roy)  
APQ/WS/NBQ  
for CWM/NBQs.

18/10/06

To :  
 The Chief Works Manager,  
 Carriage and Wagon Workshop  
 N.I.P. B.I.Y./How Dongaigaon

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 JR/II in scale of  
 Rs. 5000-8000/- against 25% of Intermediate  
 Apprentice quota vide letter No. E/H/254/JE-II/  
 Selection/PG-II dt. 15/12/05

S.I.C.

With due respect and humble submission to 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 IWP 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/requires  
 qualification on per advertisement which is not only beyond provision  
 of law with no service rule, and the Selection list was against  
 the fundamental right of employee.

That Sir, a point from selection list the candidates are  
 selected on IWP quota where it is found that candidates  
 were selected/peased from BOP quota however the same was done/made  
 by the component authority.

certified to  
 be true copy  
 P. Sen  
 Advocate

.... 2

- 11 -

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 plenned 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 cancellfresh interview for the sake  
of ends of justice.

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

Thanking you,

Yours faithfully,

Pradip Ben Gupta Tech

Paritosh Kr. Dablu

Dablu

Abdu Bhamla

Dated New Bongaliya

10th Oct. 2006. (10.10.06)

Copy to:

The Member of Personnel of Bdy. Board

2. General Manager (P) M&P

3. GM&P/M&P

4. GM&P/BIO

5. Bdy. M&P/ME&P/MEU.

Etc. Etc.

~~Ans~~ Ans - IV

With City Works Ministry,  
N.E. Railway, New Durgalgaon

10/10/06

Re: Our second memorandum dated 20/10/06 from M&P Odisha  
at New Durgalgaon workshop.

Re: Our first memorandum dated 10/10/06 from M&P Odisha  
at New Durgalgaon workshop for retraction of A.D.

Memorandum (Intermediate) 25% quota held on 26/9/2006  
Your L/Ho. #/do E/M/JE/II/Selection/PC-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 & environment of  
combination and dissatisfaction has raised among the staff  
resulting in un-healty work culture.

We shall, however be obliged if you reply the above  
mentioned memorandum at the earliest or our grievance may be  
left 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  
Yours faithfully

Dated: 20/10/2006

SD/-

Copy to : S/o, /NFRU/UPMU, for information (M&P Odisha/Workshop/UPMU)  
as necessary obtain please.

*certified to be  
true copy  
P. Seng  
Advocate*

Apprentice ✓

18

40

To,  
The Chief Works Manager,  
C & W Bhop/New Bongaigaon,  
W.B. Distt./W.

Sub: Intimation

Dear Sir,

With due regard this is to inform you that no reply is received from you till this regarding the selection of Apprentice Mechanic (Intermediate) 25% quota held on 26/9/06, your letter no vldn E/M/JE/II/SELECTION/ PE-II date 15/12/05. Though remainder was also served to you official 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 ~~the~~ natural justice, I am force to lay my grievance in front of law of justice.

With regards to your Intimation Please,

Thanking you

Yours faithfully,

- 1) Prodip Sen Gupta  
Tech 1/Tool Room
- 2) Amiya K. Barma  
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

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

9/3/07

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

1. Shri Pradip Son Gupta

Son of Sri Sunil Ranjan Son Gupta

Resident of Natunpara, College Road

P.C. & P.B. Bongaigaon

Distr. Bongaigaon, Assam

Pin No. 783380 at Present Working

as Section Engineer/Tool Room/Workshop

Now Bongaigaon, My Work Shop

P.O. Now Bongaigaon

Distr. Bongaigaon, Assam

2. Shri Amiya Kumar Barma

Son of Payodhar Barma

Railway Quarter No. N/51/A

West Colony

P.O. & Village - Now Bongaigaon

Distr. - Bongaigaon, Assam

At Present Working as

Section Engineer/Tool Room/Workshop

Now Bongaigaon

Rly. Work Shop,

P.O. Now Bongaigaon

Distr. - Bongaigaon, Assam

Certified to  
be true copy  
P. Sen  
Advocate

..... 2

..... 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.C. Maligaon, Guwahati - 781011  
Dist. - Kamrup (Assam)

2. General Manager (P)/M.G.C.,

Head Quarters Maligaon  
P.O. Guwahati - 781 011,  
District - Kamrup, Assam

3. The Chief Workshop Manager,

Carriage and Wagon Workshop  
N.F. Railway/New Dangaigaon  
District - Dangaigaon, Assam

4. Assistant Personal Officer/Workshop

New Dangaigaon, Assam

..... Respondent

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

ORDER (ORAL)

SACHIDANANDAN, V.C. :

There are two applicants. The applicant No. 1 has

- 3 -

has joined as a Tech. III/tuner and Applicant No. 2 joined as a Tech. III/Machinist in N.F. Railway, New Dengaigaon and at present both are working as Tech I/Tool Room workshop (M & P) cadre. On 16/12/2008 vide Memo No. E/M/264/JE/II/Selection/Pt.II a ~~Notification~~ Notification was issued by the respondents for selection against t 25% of Inter-Modiate Apprentices (Mech.) II posts have been notified as for the Post of J.E./II in Mechanical Wing under CWM/NFR/NEQS. 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 09/10/2008, 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 them 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

-23-

-22-

- 4 -

of Intermediate Apprentice Mechanics list  
 published on 0/10/2006 on the basis of  
 Notification dated 16/12/2005  
 (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 ~~answering~~ 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 on

Sd/- Vice-Chairman

95  
23/24 -

Annexure-VII

N. E. Railway

Office of the

Chief Workshop Manager  
New Bongaigaon.

No. E/M/283/1(1A)NBQ/PLH

Dated : 09/05/2007

To,

- 1) Sri Pradip Sengupta, Tech. I, T/No. 623 under SSE/TR/NBQS.
- 2) Sri Amiya 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/Guwnhati.**

**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/HI 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, Guwnhati 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 Amiya 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  
S. Sen  
Advocate*

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

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

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( NO ) 1/2003 PMI/14 23/06/2003 circulated under GM(P)/MLG's L/No.4691/B/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.

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 Dibrugarh.

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

11/11/2007 VII

OA (inc 2+4 sets) & 120 e Envelops is filed by  
 Mr. Bipasa SARKAR, Advocate, ~~For the parties on 48~~  
 25.7.07

*Received  
23/7/07*

केन्द्रीय प्रशासन आदायक बचत बोर्ड
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

<u>DATE</u>	<u>SYNOPSIS OF THE CASE</u>
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 working 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 Apprantine.
3. 8. 2006	Written test was held on 26.8.2006 vide Notification.
9. 10. 2006	Result of the written examination was declared according to the selection list only 8 ( eight ) persons were selected but examination was held for 11 ( eleven )

*Prodip Sen Gupta*

10. 10. 2006	Applicants made representation to the chief works
20. 10. 2006	manager, carriage and wagon workshop N.F. railway.
&	
24. 10. 2006	Prayed for cancellation of selection of intermediate Apprentice mechanics list dated 9. 10. 06 but without received any reply the <del>have been</del> 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

Prosopis ~~lanceolata~~

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 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 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 & another  
- Applicat<sup>ns</sup>  
through Pranoy Sen  
Advocate  
28/7/07

.... 2 ....

... Versus ...

1 Union of India, represented by General Manager, N.F. Railway

Head Quarters, P. O. - Mallingon, Guwahati - 781011

District - Kamrup, Assam.

2 General Manager (p) / MLG Head Quarter Mallingon

Guwahati - 781011, District - Kamrup, Assam.

3 The Chief Workshop Manager Carriage and wagon

Workshop N. F. Railway / New Bongalgaon

District - Bongalgaon, Assam.

4 Assistant Personal officer, Workshop / New Bongalgaon

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. 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.

Prasip Sen Gupta

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 Bongalgaon in the District of Bongalgaon, 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 Bongalgaon N. F. Railway and the applicant No 2. Joined as a tech III / mechanist on 28/12/88 and at present working as a Tech I / Mechanist / Tool Room / at New Bongalgaon 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 Bongalgaon Railway workshop ( M & P ) cadre N. F. Railway and their Job are non- transferable.

Prasidip Banerjee

III) That the applicants beg to state that on 15.12.2005 vide memo No. E/M/254/JE/I?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. ) Cadre 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.

Prasip 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 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 Bongalgao ( Respondent No. 2 ) prayed for cancellation of Selection of Intermediate

Praship San Gupta

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 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 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 & 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 ( 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

Pradip 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 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 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 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.

x) 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>fully 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 sucessful completion of training they would be hold/joined their post. And as such, If the training of such candidate / staffs as per selection list dated 9.10.06 is not to Steyed the Applicants will suffer irreparable loss and injury.

Pradeep Sen Gupta

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 section 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 staying 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 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.

Pradip 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 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 approached 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 Judymen / 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.

Prasip Sen Gupta

**Matters not previously filed or pending with any other court**

The applicants Futher 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 recoreds 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 Mechanicslist published on 9.10.2006 on the basis of Notificationdated 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 deen fit and Proper. As per the Speaking order dated 9.5.07 is not as per notification dated 15.12.06.

9. Interim Relief if any

**10. Particulars of the I.P.O.**

- (a) I.P.O. No. 3462 655652 Date 23.7.07 for Rs. 50/-
- (b) Envelopes with acknowledgement
- (c) Vokaleftnama
- (d) Material papers per Index

Prostip San Anophis

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

I, Pradip Sengupta Son of Sunil Ranjan Sengupta age/about 23 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  
S I G N A T U R E

Pradip Sen Gupta

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% Intermediate Apprentice Mechanicale D P quata for JE/II in Mechanichal wing unaer CHM/NPR/NBQS for the following vacancies.

Workshop cadre comprising of Carringe & other Trades except <del>Mechanica</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

Certified to  
be true copy  
P. Sen  
Advocate

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

ELIGIBILITY CRITERIA

II 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).

(2)

OR

Three years service in skilled Technician Gr. III and above as on 12/08/2002 with educational qualification MAXIMUM 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

-14-

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 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/ETS
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
✓ 6.	Gautam Dastidar	Tech/I	1335	Workshop 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

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

*Certified to be true copy*  
Certified by the competent authority during the training period.

The Panel has been approved by the competent authority

*P. Roy  
Advocate*  
on 7/10/06

(R. Roy)  
APO/WS/NPC  
for CWM/NBQS

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

dated 9/10/2006

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

44 - 376 X 9114

### Geography - 7th

\* \* \* m b r i c k e s .

the 80's and 90's in Canada. The first was the 1980s, when the Canadian government, under Prime Minister Brian Mulroney, introduced the North American Free Trade Agreement (NAFTA). This agreement, which included the United States and Mexico, aimed to reduce trade barriers and promote economic integration between the three countries. The second was the 1990s, when the Canadian government, under Prime Minister Jean Chrétien, introduced the Canadian Environmental Protection Act (CEPA). This act, which replaced the former Canadian Environmental Protection Act of 1990, aimed to protect the environment and human health by regulating the production, use, and disposal of toxic substances.

### Long-Run Decisions

Wij zijn uiteraard blij dat u ons een bezoek brengt en wij hopen dat u een goede dag heeft.

80\c:\V1\line 1-1

## II. *fq\root{3}(\alpha)\oplus\mathbb{Z}[\alpha^2]\oplus\mathbb{Z}\alpha*

To,

The Chief Works Manager,  
Carriage and Wagon Workshop  
N.F. Bly/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. 6000-8000/- against 25% of intermediate  
Apprentice quota vide letter No. E/M/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 can also service rule, and the selection list was against  
the fundamental rights of employee.

That Sir, a part from selection list the candidates are  
notified 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 component authority.

Verified to  
be true L.P.X  
T. Roy Advocate

Verified to be  
true L.P.X  
T. Roy Advocate

.... 2

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 undergoing 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 cancellfresh interview for the ends xefxj 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 Tech#1

Paritosh Kr. Dutta

Bablu

Ablu Dhumic

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. CWF/MIG

5. Sec. II NFRBU/IRMU.

## REMINDER

To:  
The Chief Works Manager,  
NFRM/NFIMU, New Dangalgon

Sir:

Sub: Second memorandum dated 20/10/06 from M&P Cadres  
at New Dangalgon workshop.

Re: Our first memorandum dated 10/10/06 from M&P Cadres  
at New Dangalgon 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 classification in the regd is received till  
date & at the same time due to the delay and environment of  
frustration and dissatisfaction has arised among the staff  
resulting in un-healty 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.

Thinking you in anticipation, we remain

Dated: 20/10/2006

Yours faithfully

SD/-

Copy to :  
SAC, /NFRM/NFIMU, for information & necessary action please.

*✓ To be sent to  
SAC, NFRM/NFIMU  
same copy  
T Roy Adhole*

Amrapur - 2

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- 18 -

To,  
The Chief Works Manager,  
C & W Shop/ New Dangrigon,  
N.E. RAILWAY

Sub: Intimations

Sir,

With due regard this is to inform you that no reply is received fr. om 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 datec 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 ~~same~~ natural justice, I am force to lay my grievance in front of law of justice.

This is for your information please.

Thanking sir

Yours faithfully,

Dated 26/12/06  
New Dangrigon.

1) Pradeep S. on C & W  
Tech 1/Tool Room

2) Jyoti K. on C & W  
Tech 1/Tool Room

Collected to  
be forwarded  
by my Advisor

Ameanre VI

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. &amp; 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. &amp; 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  
 S. Sen  
 Advocate

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..... 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,

Dis t.- 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

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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 15/12/2005 vide Memo No. E/M/254/JE/H/ Selection/Pt.II a ~~Notification~~ 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 ~~selected~~ 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

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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 ~~respondeat~~ 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 Amiya 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 Amiya 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 09/03/07 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 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.

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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 बैच  
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  
प. सी. रेलवे/न्यु बंगालगाँव  
Chief Workshop Manager  
N. F. Railway/New Bongaigaon

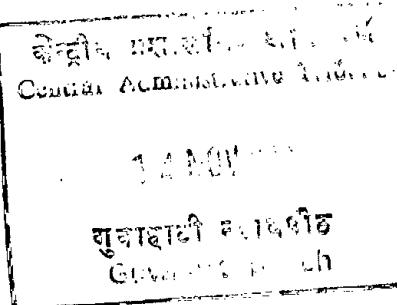
**Written Statement of the respondents.**

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.

..Contd-P/2

Filed by the respondents  
Through S. N. Tamuli (Adv)  
25 NOV 2007  
SC. 14/10/07



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**VERIFICATION**

I, Shri Mandikumar S. Ganvir aged about 45  
years 15 do hereby verify that the statements 1 to  
15 above are true to my knowledge.

15/10/2007

  
15/10/07

Signature

मुख्य शारखाली एवं न्यूक  
Chief Workshop Manager  
पू. सी. रेलवे/न्यू गोपालगঞ্জ  
N. F. Railway/New Gopalganj

File in Court on 17/11/08.

  
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI.

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 & J.L. Sarkar  
17/10/08  
Mitra

Filed by

Pradip Sengupta  
Applicant  
B. Sarker  
Attor  
17.11.08

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

(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 fulfill 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.....

Prakashan Gupta, 99

Praship Sen Gupta 80

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".

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

may also.....

केंद्रीय नियन्त्रण आयोग  
Central Administrative Tribunal

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गुरुवार २२ दिसंबर  
वर्ष १९८८  
वर्ष १९८८

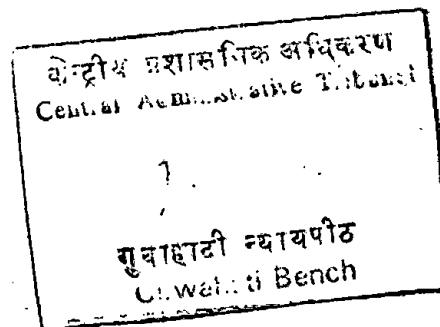
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may also kindly be called for as in the question papers only two question were set for workshop (M & P) cadre.

VERIFICATION:

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 bumble submission made before this Hon'ble Tribunal.

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



Prodip Sen Raychaudhury

S I G N A T U R E