

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

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 12A 237/2007

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SECTION OFFICER (Judl.)

Kalita
09.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

O R D E R S S H E E T

1. Original Application No. 237/07

2. Mise Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) Monad Thapa VS- Union of India & Ors

Advocate for the Applicants:- R.Dhar, N.N.Upadhyay, H.Chetri, U.Deka

Advocate for the Respondents:- Railways advocate

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs 50/- deposited vide IP No. 326040696 Dated 7.8.07	10.9.2007	None present for the Applicant. Let the case be posted on 12.9.2007.
Regd.	/bb/	Vice-Chairman
Retition is being pr issue notices are received with envelope.	12.9.2007	Heard learned counsel for the parties. Judgment delivered in open court, kept in separate sheets.

The O.A. is disposed of at the
admission stage itself in terms of the order.
No costs.

Vice-Chairman

17.9.07
certified copy of the
order has been collected
by the L/SV. for the
applicant

26/9/07

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A. No.237 of 2007

DATE OF DECISION: 12.09.2007

Sri Narad Thapa Applicant/s
Mr.R.Dhar Advocate for the
..... Applicant/s.

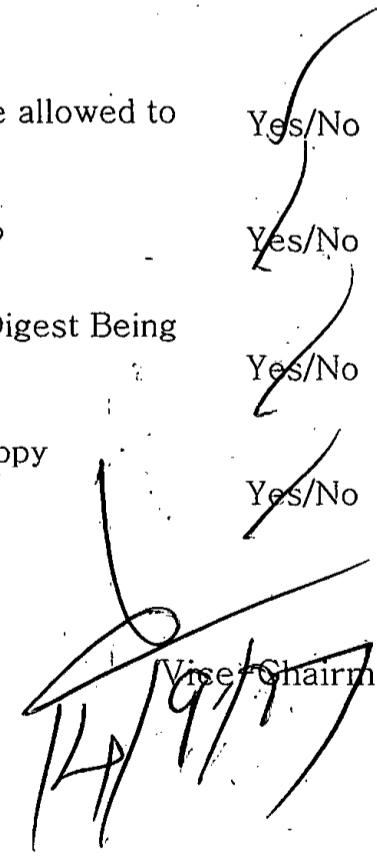
- Versus -
U.O.I. & Ors Respondent/s

Dr.J.L.Sarkar, Railway Standing Counsel Advocate for the
..... Respondents

CORAM

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

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 to be forwarded for including in the Digest Being compiled at Jodhpur Bench & other Benches ? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 237 of 2007.

Date of Order: This, the 12th day of September, 2007.

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

Sri Narad Thapa
Son of Purna Bahadur Thapa
Resident of Village: Fateki
P.O: Bokabil, Via: Sotia
Dist: Sonitpur, Assam.

...Applicant.

By Advocates S/Shri R. Dhar, N. Upadhyaya, H. Chetri & U. Deka.

- Versus -

1. The Railway Recruitment Board
represented by its Chairman
Station Road, Guwahati.
2. Chief General Manager
N.F.Railway, Maligaon.
3. Divisional Officer
N.F.Railway
Lumding.
4. Assistant Personal Officer
N.F.Railway
Lumding.

... Respondents.

By Dr.J.L.Sarkar, Railway Standing Counsel.



ORDER (ORAL)SACHIDANANDAN. K.V., (V.C.):

Pursuant to advertisement No.1/2003 for recruitment to the post of Group-D, Applicant applied for the said post. According to him, he had passed the written test/interview, physical efficiency test. After verification of original certificates he was subjected to medical examination and vide Annexure-3 certificate he was certified to be fit for Group D (class A/3) appointment. Applicant claimed that he was thereafter informed by the Respondents that appointment letter had already been issued vide issue No.1682 dated 18.11.2005, and therefore, he was waiting for appointment order but he has not yet received any such order. When approached the Respondents through representations and personal enquiry he was given assurances but no order was issued to him. Thereafter, he has filed reminders to the representations lastly on 08.03.2007 but to of no avail. Hence this O.A. seeking the following relief:-

"..... pleased to direct the respondents to consider appointment of the applicant to the post of Group D post for which he has been selected as well as he has been awarded fit and be appointed as Group-D post under i.e., B2) category and/or pass any other order or orders as to your Lordship may deem fit and proper."



2. Heard Mr. R. Dhar, learned counsel for the Applicant and Dr.J.L.Sarkar, learned Standing counsel for the Railways. When the matter came up for consideration, learned counsel for the Applicant submitted that he will be satisfied if the Applicant is permitted to file comprehensive representation before the Respondent No. 3 directing the said Respondent to consider and dispose of the same within a specified time. Learned counsel for the Respondents submitted that Respondents have no objection if such course of action is adopted.

3. Accordingly, in the interest of justice, this Court directs the Applicant to submit comprehensive representation before the Respondent No.3 along with copies of the O.A. and this order forthwith and on receipt of the same, the third Respondent or any other competent authority shall consider and dispose of the same by passing speaking orders thereon within a period of two months from the date of receipt of such representation.

4. The Original Application is disposed of as above. There shall, however, be no order as to costs.



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

30 AUG 2001

गुवाहाटी न्यायालय
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
BENCH GUWAHATI

C.A 237/07

Sri Narad Thapa,
S/o- Purna Bahadur Thapa
R/o- Village- Fateki
P/o- Bokabil, Via- Sotia
Dist. Sonitpur, Assam.

-VERSUS-

i] The Railway Recruitment Board
represented by its Chairman, Station
Road, Guwahati-1.

ii] Chief General Manager N.F.
Railway Maligaon.

iii] Dvisional Officer N.F. railway
Lumding.

iv] Assistant Personal Officer N.F.
Railway Lumding.

Filed by

A. K. Ray

Advocate

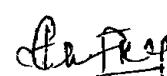
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
BENCH GUWAHATI

SYNOPSIS

The brief fact of the case is that the applicant after completion of his graduation was in search of a Govt. job. While he was searching as such he came across an advertisement published in the employment news paper being No.1/2003 for recruitment to the post of group-D. The applicant accordingly applied in pursuance to the said advertisement under category No.01. The applicant was called for in the written test as well as interview. Having done well in the said interview held on 12-12-04 he was called to appear for physical efficiency test which was held on 21-06-05.

The respondent authority thereafter issued a letter vide No.RRB/G/41/10, informed the applicant that he was qualified in the physical efficiency test and thus advised to attend the office of the RRB, station Road Guwahati on 22-06-05 at 10 a.m. for verification of original certificates/testimonials etc. he was also asked to bring all the original certificates including mark sheets. Thereafter the respondents authorities informed the applicant to appear for medical examination on 21-10-05. The Divisional Medical Officer, NF Railway, vide No.831/2005 dated 21-10-05 certified that the candidate (Applicant) has been medically examined for the post of group-D (Class A/3) and found to be fit and also considered him to be fit for such appointment. The applicant was thereafter informed that an appointment letter has already been issued vide issue No.1682 dated 18-11-05 as such he was waiting for receipt of the appointment letter, but to his utter dismay nothing as such came on his way. The applicant then made several representations but failed to invoke any response of the authority concerned in regard to consideration of his appointment to the post he was adjudged as qualified and fit for such appointment. Hence this application under section 19 of the Central Administrative Tribunal Act, for interference and prayer for necessary direction to the respondent authorities to consider his appointment.

Filed by


Advocat
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
BENCH GUWAHATI

CO.A 237/07

List Of Date

Date	Particulars	Page No.
12-12-2004	Written test conducted	
21-06-2005	Efficiency test	
22-06-2005	Certificate verification	
21-10-2005	Called for medical examination	
21-10-2005	Certified and considered fit for appointment	
18-11-2005	Issue of appointment letter	
27-11-2005	Representation of applicant	
29-12-2005	Representation of applicant	
02-02-2006	Representation of applicant	
06-05-2006	Representation of applicant	
08-03-2007	Reminder representation of applicant	

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Filed by

Hector

Advocate

Cont...page

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
BENCH GUWAHATI

6 A 237/07

IN THE MATTER OF:

An application under Section 19 of
Central Administrative Tribunal Act,
1985.

1] Particulars of the applicant : Sri Narad Thapa,
S/o- Purna Bahadur Thapa
R/o- Village- Fateki
P/o- Bokabil, Via- Sotia
Dist. Sonitpur, Assam.

2] Particulars of the Respondents: i] The Railway Recruitment Board
represented by its Chairman, Station
Road, Guwahati-1.
ii] Chief General Manager N.F.
Railway Maligaon.
iii] Dvisional Officer N.F. railway
Lumding.
iv] Assistant Personal Officer N.F.
Railway Lumding.

3] Particulars of order against
which application is made :
i] Medical certificate issued vide No.
831/05 dated 21-10-2005 declaring to
be fit for appointment under 'D'
category.
ii] An order bearing No.1862 dated 18-
11-2005 appointing the applicant as
grade- 'D' employee.

4] Jurisdiction of the Tribunal : The applicants declares that the

Sri Narad Thapa

subject matter of the present application is within this Hon'ble Tribunal.

5] Limitation

That this application is filed within the prescribe limitation period.

Facts of the case:

- 1] That the applicant is a citizen of India being the permanent residents of aforesaid locality and as such he is entitled the rights , privileges and protections available to a citizen of India guaranteed by the constitution of India.
- 2] That the applicants after completion of his academic carrier he was in search of appropriate job commensurate with his qualification. The same across an advertisement published in the employment Notice being No.1/2003 for recruitment for the post of group-D. although he is a graduate but having no other alternative have to go for participating for the appointment/ selection of group-D post, to shoulder the responsibility of family burden.
- 3] that the applicants states that he has applied for selection for the post of group-D under category No.01. the respondent authority after examination and or scrutinization of the applicants candidature found him to be eligible and as such he was called for, to appear in the written test an accordingly the applicant duly appeared in the written test.
- 4] The applicant states that, having found the applicant to be successful in the written test held on 12-12-2004 he was called to appear for physical efficiency test which was held on 21-06-2005.

A copy of call letter refer to above is annexed herewith as Annexure-A.

- 5] That the applicants states that the respondent authority issued a letter vide No. RRB/G/41/10, interalia inform the applicant that he has qualify in the physical efficiency test and accordingly he has been advised to attend the office of the RRB, Station Road, Guwahati on 22-06-2005 at 10 a.m. for

Sri. Morad Shafee

verification of original certificates, testimonials etc. by the said call letter it has also been informed to the applicant to bring all the original certificates and mark sheets for verification.

A copy of the letter refer to above as annexed herewith as Annexure-B.

6] That the applicants states that right from the written test itself, the applicant came across successfully. After examination/ verification of the original certificates the respondents authorities informed the applicant to appear before the medical examination. The authority accordingly fixed 21-10-2005 for medical examination. The applicant as such appeared for the medical examination on the said date.

7] That the applicants states that the Divisional Medical Officer N.F. Railway vide No.831/2005 date 21-10-2005 certified that the candidate was medically examine for fitness for appointment to a state management Railway and thereby certified that he has examined the candidate for the post of group-D (class A/3) and below in the D.R.M. (P) Lumding branch department. The Medical officer has also certified the applicant and considered him to be fit for such appointment.

A copy of the certificate issued by the Divisional Medical Officer N.F. Railway declare him to be fit for appointment is annexed herewith as Annexure-C.

8] That the applicants states that after he was medically found to be fit for appointment as group-D employee he approached respondent No.3 as regard his position in the selection list. It is pertinent to mention here that although selection have been made but no selection list ^{was} published. The applicant on several occasion approached the respondent to publish the selection list so as to enable him to know the position in the selection list but to utter surprise no selection list what so ever has been published.

S/o Malaad Shaha

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9] That the applicants states that on further enquiry before the respondent No.3 the applicant has been informed that in pursuance to the selection for the group-D post to which he was found to be fit for appointment. An appointment letter has been issued in respect of him vide issue No.1682 date 18-11-2005. In view of the above, the applicant was waiting eagerly to receive the appointment letter so dispatch, but to his utter dismay no such appointment letter was received by him. On enquiry at the postal department also, he could find that no letter in his name was dispatched. Needless to state that all the letters that has been dispatched, the name of the applicant in his address for communication were received by him apart from the so called appointment letter.

10] That the applicants states that he again approached the respondent authority by way of representation as regard the ~~fact~~ of the appointment letter that was issued to him the respondent authority on received of such representation informed the applicant verbally that due to some anomalies the said appointment letter could not be dispatched. However, within a short period of time the appointment letter would be sent.

A copy of the representation as refer to
above annexed herewith as Annexure-
D.

11] That the applicants states in response to such assurance of the respondent authority he kept himself waiting and was awaiting received of appointment letter. But it is a matter of great surprise that the assurances of the respondent authority only remained as assurances and no step what so ever have been taken to appoint the applicant. In view of such illegalities and arbitrary by several representation felt to yield an effectful response.

A copy of the representations as refer
to above as annexed herewith as
Annexure-E.

GROUND

A] For that the action of the respondent authority is ex facie illegal, unjust, unfair and violative of Article 14, 16 and 21 of the constitution of India.

B] For that, the respondents ought to have acted in all fairness, on the ground that the applicant has been selected and Medical fitness as required under the Rules was conducted and accordingly Medical fitness certificate has been issued with an opinion that the applicant is fit to be appointed for the post.

C] For that, the respondent authorities after issue of appointment letter ought to have dispatched the same and is not doing so the respondents have acted illegally and arbitrarily.

D] For that the respondents ought not to have given false assurance of consideration of appointment of the applicant.

E] For that the respondents were duty bound to dispose of the representations of the applicant.

F] For that the non-disposal of the applicant's representation has resulted in violation of principle of natural justice and administrative fairness.

G] for that, in any view of the the action of the respondents are illegal, arbitrary unfair and unjust.

7] Details of the remedy existed: representations filed by the applicant is still pending disposal by the respondents.

8] Matter not previously filed or pending with any other court.

9] Relief sought for:

In the premises aforesaid it is therefore prayed that your Lordship may be pleased to admit this application, call for the records issue notice on the respondents, and thereafter be pleased to hear the parties and thereafter be further pleased to direct the respondents to consider appointment of the applicant to the post of Group-D post for which he has been selected as well as he has been awarded fit and be appointed as Group-D post under i.e. B2) category and/ or pass any other order or orders as to your Lordship may deem fit and proper.

10] Interim order prayed for

15
S/o Narend
Shah

Pending disposal of the application your Lordship may be pleased to direct the respondents to keep one post under B2 category vacant in respect of the applicant.

11] Particulars of I.P.O.

- a] I.P.O. amount :
- b] Date :
- c] Issuing office :
- d] Payable at :

12] List of Enclosures :

VERIFICATION

I Sri Narad Thapa, aged about 29 years Son of Purna Bahadur Thapa, resident of Village Fateki, P.o. Bokabil Mouza- P.S. Sotia, District Sonitpur, Assam, do hereby solemnly verify and declare that the contents of all the above paras are true to the best of my knowledge and belief.

Sri Narad Thapa

- 8 -
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Annexure-A

Railway Recruitment Board Guwahati-781001

Name of the candidate and Address	Catg No. & EN No.	Roll No.	Date of Examination	Exam. centre
Narad Thapa Vill. Fateki, P.o. Bokabil (Sotia) Dist Sonitpur, Assam. Pin. 784175	1 of 1/03	43654375	12-12-2004	Mangaldoi Girls HS School, Mangaldoi, Darrang.

Please read and follow the "Instruction over"

Note: candidates who Tick Mark Answers on.

The Question Booklet Will Be Disqualified.

Free Railway Pass:

For SC/ST Candidates only on production of this letter you are entitle to free travel by Railway in second class only.

From: Not Applicable Sin to: Not Applicable

This pass available upto: Not Applicable (Authority Railway Board's Letter No.E(NG)II-84/RSC/122 dated 23-11-1984).

Sd/-

Assistance Secretary

Certified to be
true copy
Subrata
Advocate

18/11/05



-9-8-

ANNEXURE - 'B'

RAILWAY RECRUITMENT BOARD – GUWAHATI STATION ROAD; GUWAHATI-781 001

18

CALL LETTER for DOCUMENT VERIFICATION

No. RRB/G/41/10.

To,
NARAD THAPA
VVILL FATEKI
PO BOKABILL
SONITPUR
SOOTEA SONITPUR ASSAM Pin - 784175.

Roll No.: **43654375**



Sub.: Recruitment/Selection for the post of Group – D
under Category No.01 of Employment Notice No. 1/2003.

Narad Thapa

As you have qualified in the Physical Efficiency Test, you are hereby advised to attend the office of Railway Recruitment Board, Station Road, Guwahati-781001, Assam, on 22/06/2005 at 10:00 A.M. for verification of original certificates, testimonials etc.

1. This Call Letter does not in itself entitle you for selection.
2. You should bring your original VIII Standard or above Certificate issued by the competent authority for verification of your date of birth, educational qualification etc. You should also bring all of your original certificates and marks-sheets of Matriculation and onwards issued by the respective Board/Council/University along with experience and other certificates, caste certificate, if any. If the originals of above certificates/marks-sheets have not been received from respective Board/Council/University, then provisional pass certificate and marks-sheets issued by the respective Board/Council/University should be produced.
3. You are also directed to bring the Attested Photostat copies of all original certificates and marks-sheets and other certificates along with the originals.
4. You may be subjected to re-examination during the process of verification of documents etc. and you should come prepared for the same.
5. Your attendance may be required for more than one day (i.e. date as mentioned above) and you should come prepared for that.
6. Request for postponement of the date / venue mentioned above will not be considered and no further chance will be given.
7. If you are in service please bring "No Objection Certificate" from your employer, failing which you will not be considered for the post.
8. Approaching Chairman, RRB and/or his Secretary directly or indirectly by a candidate or anybody on his/her behalf requesting undue consideration for the recruitment will render a candidate liable for disqualification.
9. (For SC/ST candidates only)
On production of this letter you are entitled to travel free by the Railway in Second Class from NOT APPLICABLE Station to GUWAHATI Station and back. This pass will be valid up to NOT APPLICABLE.
(Authority: Railway Board's letter no. E(NG)II-84/RSC/122, dated 23/11/84).

*Certified to use
three copy
Anup
Advocate*

K. S. Dey
ASSISTANT SECRETARY
For CHAIRMAN, RRB – GUWAHATI

Annexure-C

NF Railway-2/NF/M-2-Appendix III, Annexure(6)

Form of certificate to be used when a candidate is medically examined for fitness for appointment to a state-managed Railway.

Hospital- Lumding No. 831/05, Dispensary.

I do hereby certify that I have examined (Name) Sri Narad Thapa, date of birth- 09-11-76 a candidate for appointment as designation Group-D class A/3 and below in signature the DRM(P) CMS branch/department whose.....thumb impression has been appended below in my presence. I consider him fit/ unit for such appointment. B-2 (Bee two)

Signature of Railway Medical Examiner

Designation- Divl. Medical Officer

N.F.Railway

1-10-05

Signature of candidate

Thumb impression,

Date: 21-10-05

Certified to be
true copy

Surjit Singh
Advocate

Annexure-D

Sai Narad Thapa 2

To,

The Divisional Officer NF Railway, Lumding.

Sub: Prayer for appointment as Group-D under class-A/3

Date: 27-11-05

Sir,

With due respect I inform you that I passed written test thereafter I called for interview . I was successful in the interview than medical test conducted and in medical test I was found fit for appointment under class-3/A but no appointment letter issued to me. Other persons who were selected given appointment but I am not. Therefore I pray to issue appointment letter to me. I also requested many time but I was told that my appointment letter is sending shortly.

Therefore I request please consider and issue my appointment letter.

Thanking You

Your's faithfully

Sd/- Narad Thapa.

Certified to be
true copy
Naray
Advocate

Annexure-E(series)

Sd/- Narad Thapa

To,

The Divisional Officer NF Railway, Lumding.

Sub: Prayer for appointment as Group-D under class-A/3

Date: 29-12-05

Sir,

With due respect I would like to inform you that I passed written test thereafter I called for interview. I was successful in the interview than they call me for medical test and in medical test I was found fit for appointment under class-3/A but no appointment letter issued to me. Other persons who were selected given appointment but I am not. Therefore I pray to issue appointment letter to me. I also requested many time but I was told that my appointment letter is sending shortly.

Therefore I request please consider and issue my appointment letter.

Thanking You

Your's faithfully

Sd/- Narad Thapa.

Certified to be
three copy
Parley
Advocate

To,

The Divisional Officer NF Railway, Lumding.

Sub: Prayer for appointment as Group-D under class-A/3

Date: 02-02-06

Sir,

With due respect I would like to inform you that I passed written test thereafter I called for interview . I was successful in the interview than they call me for medical test and in medical test I was found fit for appointment under class-3/A but no appointment letter issued to me. Other persons who were selected given appointment but I am not. Therefore I pray to issue appointment letter to me. I also requested many time but the authority told me that my appointment letter will be sending very soon.

Therefore I request please consider and issue my appointment letter.

Thanking You

Your's faithfully

Sd/- Narad Thapa.

To,

The Divisional Officer NF Railway, Lumding.

Sub: Prayer for appointment as Group-D under class-A/3

Date: 06-05-06

Sir,

With respected sir I would like to inform you that I passed written test thereafter I called for interview. I was successfully pass the interview than they call me for medical test and in medical test I was found fit for appointment under class-3/A but no appointment letter issued to me, I write and sent them four representations but the authority remained me only assurances. But other persons who were selected given appointment but I am not. Therefore I pray to issue appointment letter to me. I also requested many time but they were told me that they have been taking step for my appointment letter and will be posted very soon.

Therefore I request please consider and issue my appointment letter.

Thanking You

Your's faithfully

Sd/- Narad Thapa.

Reminder

To,

The Divisional Officer NF Railway, Lumding.

Sub: Prayer for appointment as Group-D under class-A/3

Date: 08-03-07

Sir,

With respected sir I would like to inform you that I passed written test thereafter I called for interview . I was successfully pass the interview than they call me for medical test and in medical test I was found fit for appointment under class-3/A but no appointment letter issued to me, I write and sent them four representations but the authority remained me only assurances. But other persons who were selected given appointment but I am not. Therefore I pray to issue appointment letter to me. I also requested many time but they were told me that they have been taking step for my appointment letter and will be posted very soon.

Therefore I request please consider and issue my appointment letter.

Thanking You

Your's faithfully

Sd/- Narad Thapa.

A handwritten signature in black ink, appearing to read "Narad Thapa", is written diagonally across the page. It is positioned below the typed "Your's faithfully" and "Sd/- Narad Thapa." and above the handwritten "24".