

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO.....2015
R.A./CP/NO.....2015
E.P./M.P./NO.....2015

1. Order Sheets.....O.A......pg.....1.....to.....6.....
2. Judgment/ order dtd.11.02.2018.....pg.....1.....to.....13.....
3. Judgment & Order dtd.....received from H.C. / Supreme Court.
4. O.A.10.8.2017.....page.....1.....to.....50.....
5. E.P/M.P.page.....to.....
6. R.A./C.P.....page.....to.....
7. W.S.files.....Page.....1.....to.....6.....
8. Rejoinder....files.....page.....1.....to.....6.....
9. Replypage.....to.....
10. Any other papers Pay scale.....page.....7.....to.....11.....

C.A.O/M.C.A

SECTION OFFICER (JUDL.)

ORDER SHEET

108/07

1. Original Application No.

2. Mise Petition No.

3. Contempt Petition No.

4. Review Application No.

Applicant (S) Netai Sankar Bhattacharya Union of India & Ors

Advocate for the Applicant (S) Joy Das, P.K. Roy Chaudhury

Advocate for the Respondent (S) Railway advocate, J.L. Sarker

Notes of the Registry Date Order of the Tribunal

1. Application is in form
is File/C.F. for Rs. 50/-
deposited vide IPO/BB
No. 346 652161

Dated 19.3.07

Sheeb
Dy. Registrar

DR

DR 85107

Petitioner's application for
issue notices are
received with envelope.

DR

11.5.07 The case of the applicant is that the applicant was appointed in the Group - D Category in the Security Deptt. of the N.F.Railway, Maligaon and served for a quite a good number of years in the said capacity till his inter department transfer on own option to the Accounts Department in the year 1998 in Group 'D' employment. Vide implementation of the 4th Pay Commission the pay scale and capacity of the Constable in Railway Security Department were elevated to the cadre of Group 'C' in the pay scale of Rs.825-1200, now Rs. 3050-4590/- which was communicated to the vide Railway Board's Circular dated 30.10.87. But the Respondents N. F. Railway's Security Department neither implemented the

Contd/-

11.5.07

The case of the applicant is that the applicant was appointed in the Group - D Category in the Security Deptt. of the N.E.Railway, Maligaon and served for a quite a good number of years in the said capacity till his inter

DEPT. OF. LABOUR & INDUSTRIAL RELATIONS
COMMISSION OF INQUIRIES

ORDER PAPER SHEET

1. Original Application No. 108 /07

2. Mise Petition No. 1

3. Contempt Petition No. 1

4. Review Application No. 1

Applicant(s) N.S. Bhattacharya vs. Union of India & Ors

Advocate for the Applicant(s) Jay Pas.

Advocate for the Respondent(s) Railway Advocate

Notes of the Registry Date Order of the Tribunal

The application is in form
is File/C.F. 10/
deposited v/s. PT/BD
No. 3466.5.2161
Dated 19-3-07

Dy. Registrar

21.3.07

11.5.07. The case of the applicant is that the applicant was appointed in the Group - D Category in the Security Deptt. of the N.F.Railway, Maligaon and served for a quite good number of years in the said capacity till his inter department transfer on own option to the Accounts Department in the year 1998 in Group 'D' employment. Vide implementation of the 4th Pay Commission the pay scale and capacity of the Constable in Railway Security Department were elevated to the cadre of Group 'C' in the pay scale of Rs.825-1200, now Rs. 3050-4590/- which was communicated to the vide Railway Board's Circular dated 30.10.87. But the Respondents N. F. Railway's Security Department neither implemented the

Contd/-

11.5.07

2
said change of up gradation of cadre nor communicated the matter to its employees. Now applicant's contention is that as per order Annexure C it is mentioned that in the pay scale of Rs.825-1200 all the Group 'C' posts are entitled to get the benefit instead of Group 'D' posts by the parent department. The counsel for the applicant has also submitted that two identical employees have approached the Industrial Tribunal and that Industrial Tribunal was pleased to give correct discernment in favour of the two applicants.

I have heard Mr. Joy Das learned counsel for the applicant and Dr.J.L.Sarkar learned Railway counsel for the Respondents. When the matter came up for hearing the learned counsel for the respondents has submitted that he would like to take instructions. Six weeks time is granted to the counsel for the respondents. Post the matter on 22.6.07.

Vice-Chairman

Lm

22.6.2007

Four weeks' time is granted to Dr.J.L.Sarkar, learned Railway Standing counsel for filing of reply statement.

Post on 25.7.2007.

Vice-Chairman

/bb/

23
24.7.07

1.10.07 108/07

W/S filed by
the Respondents, copy
served, page 1 to 8.

R.H.

W/S filed,

27/11/07

26.12.07

Rejoinder submitted
by the Applicant, copy
served.

R.H.

W/S and rejoinder
filed by the parties.

20/1.08.

02.01.2008 In this case Written Statement and rejoinder have already been filed, the case is ready for hearing. Therefore, call this matter for hearing on 29th January, 2008 alongwith O.A.Nos. 109 of 07 and 111 of 07.

Mr. P.K. Roy Choudhury, learned counsel for the Applicant who has filed 'Vakalatnama' in this case on 24th December, 2007, undertakes to serve the copy of the rejoinder (that was filed on 24th December, 2007) on Dr. J.L. Sarkar, learned Railway Standing Counsel appearing for the Respondents by 4th January, 2008. Liberty is granted to the Respondents to file reply, if any, to the Rejoinder well before 25th January, 2008.

Call this matter on 29th January, 2008 for hearing.

Free copies of this order be sent to the Respondents in the address given in the O.A. and free copies of this order be sent to Dr. J.L. Sarkar, learned Standing counsel appearing for the Respondents.

(M.R. Mukherjee)

(Kishore Kumar
A. Committee)

ixx

25.7.07.

I have heard learned counsel for the parties. Considering the issue involved I am of the view that the application has to be admitted.

Pl. issue notices

Application is admitted. Issue notice on the respondents. Respondents are at liberty to file written statement. Post the matter on 27.8.07.

Notice & order
Received for Re-A/03
DeLA/epos/2c
22-8-07 Lm

Vice-Chairman

27.8.07.

Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 28.9.07

Vice-Chairman

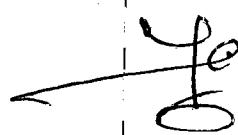
Notice & order sent to
D/Section for issuing
to R-1, 2 and 4 day
regd. A1D post and R-3
received by hand by
Law officer N.F. 28.8.07.

22/8/07. D/No- 852 to 854
Dt = 24/8/07.

On the request of Dr.J.L.Sarkar, learned Standing counsel for the Railways, call this matter on 8th November, 2007, awaiting reply.

Call on 8.11.07.


(Khushiram)
Member(A)


(Manoranjan Mahanty)
Vice-Chairman

① Service report
Accepted.

② W.O/B filed.

Lm


24.8.07. Lm

None is present for the applicant Dr.J.L.Sarkar learned Railway Standing Counsel has filed the written statement earlier. Call this matter for hearing on 02.01.2008.

Member(A)

W.O/B not filed.


27.9.07.


W.O/B filed. Undertaking
given for 5kron. (P.W.)

OA 108/07

20.01.2008 In this case Written Statement and rejoinder have already been filed, the case is ready for hearing. Therefore, call this matter for hearing on 29th January, 2008 alongwith O.A.Nos. 109 of 07 and 111 of 07.

Copy received for
Dr. J. L. Sarkar Rly. sc.

Ram
04/01/08

Mr. P.K.Roy Choudhury, learned counsel for the Applicant, who has filed 'Vakalatnama' in this case on 24th December, 2007, undertakes to serve the copy of the rejoinder (that was filed on 24th December, 2007) on Dr.J.L.Sarkar, learned Railway Standing Counsel appearing for the Respondents by 4th January, 2008. Liberty is granted to the Respondents to file reply, if any, to the Rejoinder well before 25th January, 2008.

Pl. send free copies of
this order to Respondents
& to Dr. J. L. Sarkar, RSC.

✓ 51108

Call this matter on 29th January, 2008 for hearing.

Order dt. 21/01/08 sent to
D/Section for issuing to
resp. nos. 1 to 4 by ~~air~~
post.

D/No. 44 to 47

4/01/08 Dt. 4/1/08.

Free copies of this order be sent to the Respondents in the address given in the O.A and free copies of this order be also supplied to Dr.J.L.Sarkar, learned Railway Standing counsel appearing for the Respondents.

K

(Khushiram)
Member(A)

4/08

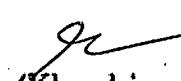
(M. R. Mohanty)
Vice-Chairman

29.01.2008 Heard Mr. P.K. Roy Choudhury,

learned Counsel for the Applicant and Dr. J.L. Sarkar, learned Standing Counsel for the Railways/appearing for the Respondents and perused the materials placed on record.

In course of hearing, Dr J.L. Sarkar disclosed that the applicant was in the pay scale of Rs.825-1200/- and on his own option he joined as a Group 'D' staff in the Accounts Wing of the Railways in the pay scale of Rs.750-940/-. Dr J.L. Sarkar has disclosed that the pay scale of Rs.750-940/- was revised to that of Rs.2550-3200/- under the recommendations of the Fifth Pay Commission and the benefits of the said revised pay scale is already being drawn by the Applicant in the Group 'D' post in the Accounts Wing of the Railways. It is also stated by Dr J.L. Sarkar that the previous pay scale of Rs.825-1200/- was revised to that of Rs.3050-4590/- after the Fifth Pay Commission Report. It is also the case of Dr J.L. Sarkar that by the time the Applicant opted to come to the Accounts Wing of the Railways, the pay scale of Accounts Clerk in the Accounts Wing of the Railways was Rs.950-1500/-.

Hearing concluded. Orders reserved.


(Khushiram)
Member (A)


(M. R. Mohanty)
Vice-Chairman

nkm

O.A. 108/2007

11.02.2008 Judgment pronounced in open court.

For the reasons recorded separately, this
O.A. is dismissed. No costs.

29.2.08
Copy send to
The D/See for
forward the same
to the parties
alongwith Copy to
the A/MOs for the
parties
S.S.

/bb/


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A.Nos.108, 109, 111 and 248 of 2007

DATE OF DECISION: 11-02-2008

Shri Shri Netai Sankar Bhattacharjee (O.A.108/07)

Shri Akram Ali Ahmed (O.A.109/07)

Shri Akash Basumatary (O.A.111/07)

Shri Jiten Ramchiary (O.A.248/07)

Applicant(s)

Mr Mr P.K. Roy Choudhury and
Mr Joy Das

Advocate(s) for the
Applicant(s)

- Versus -

Union of India and others

Respondent(s)

Dr J.L. Sarkar, Railway Standing Counsel

Advocate(s) for the
Respondent(s)

CORAM:

THE HON'BLE SHRI M.R. MOHANTY, VICE CHAIRMAN

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

Vice-Chairman/Member

✓

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.108 of 2007

Original Application No.109 of 2007

Original Application No.111 of 2007

Original Application No.248 of 2007

Date of Order: This the 11th day of February 2008

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri Khushiram, Administrative Member

O.A.No.108/2007

Shri Netai Sankar Bhattacharjee,
S/o Late Sukrite Sankar Bhattacharjee,
Railway Quarter No.D8/67(H), Rest Camp,
Guwahati-12.

.....Applicant

By Advocates Mr P.K. Roy Choudhury
and Mr Joy Das.

-versus-

1. Union of India, represented by the General Manager, N.F. Railway, Maligaon, Guwahati-781011.
2. Financial Adviser & Chief Accounts Officer, N.F. Railway, Maligaon, Guwahati-781011.
3. Chief Personnel Officer, N.F. Railway, Maligaon, Guwahati-781011.
4. Chief Security Commissioner, N.F. Railway, Maligaon, Guwahati-781011.Respondents

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



O.A.No.109/2007

Shri Akram Ali Ahmed,
 S/o Late Mohim Ali Ahmed,
 Railway Quarter No.2-B, West Maligaon,
 Guwahati-4.Applicant
 By Advocates Mr P.K. Roy Choudhury
 and Mr Joy Das.

-versus-

1. Union of India, represented by the General Manager, N.F. Railway, Maligaon, Guwahati-781011.
2. Financial Adviser & Chief Accounts Officer, N.F. Railway, Maligaon, Guwahati-781011.
3. Chief Personnel Officer, N.F. Railway, Maligaon, Guwahati-781011.
4. Chief Security Commissioner, N.F. Railway, Maligaon, Guwahati-781011.Respondents

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

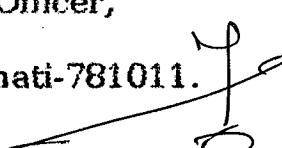
O.A.No.111/2007

Shri Akash Basumatary,
 S/o Shri Shib Charan Basumatary,
 Railway Quarter No.146-B, East Maligaon,
 Guwahati-12.Applicant

By Advocates Mr P.K. Roy Choudhury
 and Mr Joy Das.

-versus-

1. Union of India, represented by the General Manager, N.F. Railway, Maligaon, Guwahati-781011.
2. Financial Adviser & Chief Accounts Officer, N.F. Railway, Maligaon, Guwahati-781011.
3. Chief Personnel Officer, N.F. Railway, Maligaon, Guwahati-781011.



4. Chief Security Commissioner,
N.F. Railway,
Maligaon, Guwahati-781011.Respondents

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

O.A.No.248/2007

Shri Jiten Ramchiary,
S/o Late Ahin Ramchiary,
Maligaon, Guwahati-781011.Applicant

By Advocates Mr P.K. Roy Choudhury
and Mr Joy Das.

-versus-

1. Union of India, represented by the
General Manager, N.F. Railway,
Maligaon, Guwahati-781011.
2. Financial Adviser & Chief Accounts Officer,
N.F. Railway,
Maligaon, Guwahati-781011.
3. Chief Personnel Officer,
N.F. Railway,
Maligaon, Guwahati-781011.
4. Chief Security Commissioner,
N.F. Railway,
Maligaon, Guwahati-781011.Respondents

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

.....

ORDER

M.R. MOHANTY, VICE-CHAIRMAN

Applicant (Netai Sankar Bhattacherjee) in O.A.No.108 of 2007 was appointed as a Constable of Railway Protection Force (in short 'RPF') of N.F. Railway Security Department (under Chief Security Commissioner) and continued to serve as such with effect from 28.02.1993. On his prayer to be appointed as a Peon (Group



'D'/Class IV post) in FA&CAO Department of N.F. Railway, he was issued with the appointment order dated 14.05.1998. He, having been relieved from RPF on 28.05.1998, joined as a Peon in the Establishment of FA & CAO/N.F. Railway on 29.05.1998 in the pay scale of Rs.2550-3200/-.

(2) Applicant (Akram Ali Ahmed) in O.A.No.109 of 2007 was appointed as a Constable of RPF of N.F. Railway Security Department (under Chief Security Commissioner) and continued to serve as such with effect from 01.10.1991. On his prayer dated 02.05.1996 to be appointed as a Peon (Group 'D'/Class IV post) in FA & CAO Department of N.F. Railway, he was issued with the appointment order and, having been relieved from RPF, joined as a Peon in the Establishment of FA & CAO/N.F. Railway on 08.06.1998 in the scale of Rs.2550-3200/-.

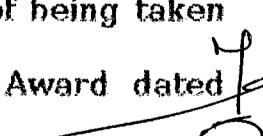
(3) Applicant (Akash Basumatary) in O.A.No.111 of 2007 was appointed as a Constable of RPF of N.F. Railway Security Department (under Chief Security Commissioner) and continued to serve as such with effect from 26.03.1996. On his prayer to be appointed as a Peon (Group 'D'/Class IV post) in FA & CAO Department of N.F. Railway, he was issued with the appointment order and he, having been relieved from RPF, joined as a Peon in the Establishment of FA & CAO/N.F. Railway on 15.05.2000 in the pay scale of Rs.2550-3200/-.

(4) Applicant (Jiten Ramchiary) in O.A.No.248 of 2007 was appointed as a Constable of RPF of N.F. Railway Security Department (under Chief Security Commissioner) and continued to serve as such with effect from 05.05.1993. On his prayer to be appointed as a Peon (Group 'D'/Class IV post) in FA & CAO Department of N.F. Railway, he

was issued with the appointment order and he, having been relieved from RPF, joined as a Peon in the Establishment of FA & CAO/N.F. Railway on 08.06.1996 in the pay scale of Rs.2550-3200/- . Later, he was empanelled in Group 'C' (Accounts Clerk) in pay scale of Rs.3050-4590/- on 20.04.2006 (as against 33^{1/3}% quota set apart for Matriculate Peons of Accounts Department) and has been promoted as Accounts Clerk with effect from 06.06.2007 by an order dated 11.06.2007.

(5) After joining as a Peon in FA&CAO Establishment, as it appears, the Applicants represented for being absorbed as Clerks (Group 'C' category/Class III category of staff) of said FA & CAO Establishment; which prayer was turned down, on 26.11.1999, in respect of Applicants in O.A.No.108/2007 and O.A.No.248/2007. Relevant portion of the said order dated 26.11.1999, by which the prayer of the said Applicants (and few others) were rejected, reads as under:

"Appeals for absorption in Class III category submitted by the staff who were posted in Class IV category in Accounts Department against interdepartmental transfer from Security Department are scrutinized with their original interdepartmental transfer applications. As per their clear option-they have been posted in Class-IV category in the grade of Rs.2550-3200/- as Office Peon. Hence their appeal for absorption in Class-III category as Accounts Clerk at this stage cannot be considered."

(6) They, again and again, submitted representations seeking to be absorbed as Group 'C' staff in FA&CAO Establishment of N.F. Railway. Finally they submitted representations, individually, during 2005 wherein they prayed for the same relief on the ground that similarly placed two others were given such benefits (of being taken to Group 'C' Establishment) on the strength of an Award dated 

14.03.2005 of the Industrial Tribunal. The Applicant, Netai Sankar Bhattacherjee of O.A.No.108/2007 submitted a representation on 14.08.2006 (for the same relief, which was turned down on 26.11.1999); wherein he stated as under:

"..... the junior of this humble Applicant while in his parent department were given the benefit of Group C status and posted in other departments in the capacity of Junior Clerk and also given the necessary benefits whereas this Applicant inspite of his being quite senior to them has been forced to suffer to his lot by the Administration. Had it be known to this Applicant before his seeking in the inter-department-transfer, definitely in no circumstances he should have applied for and agreed to accept the catastrophics of his lot which was not known to him during the material time of his transfer, but quite known to the Administration and never disclosed the impact of such transfer in the event of its taken effect into."

(7) Applicants of other cases also went on representing to the authorities in the same way as that of the Applicant in O.A.No.108/2007.

(8) On 07.05.2007, Original Applications No.108/2007, 109/2007 and 111/2007, under Section 19 of the Administrative Tribunals Act, 1985, were filed with the following prayers:-

8.2 To promote the applicant in Group 'C' employment from the date of his absorption in the Accounts department on being transferred from his former department i.e. the Security department where he was in Group-'C' employment but not given the fruitful benefits in Group 'C' cadre in the capacity of Constable in spite of the Pay Commission's recommendation followed by Railway Board's mandatory direction for doing so.

8.3 To treat the Applicant at par with those staff of the Security department absorbed in other department mentioned in the application under paras 4.14, 4.15,

4.16 to give full back wage of pay, allowances etc. from the date of effecting the pay scale of the Constable in the Security department upgradation in Group 'C' cadre.

8.4 COST OF APPLICATION

8.5 Any other relief (s) to which the Applicant is entitled as the Hon'ble Tribunal may deem fit and proper."

9. On 12.09.2007, O.A.No.248/2007 was filed under Section 19 of the Administrative Tribunals Act, 1985 also with the same prayers as above. The said Applicant of O.A.No.248/2007 also filed O.A.No.110/2007; which was withdrawn, on 22.06.2007, with liberty to file another O.A.

10. By filing separate written statements, in each of these cases, the Respondents have disclosed that the Applicants were drawing salary in the pay scale of Rs.825-1200/- as a Constable of RPF; when they applied for the post of Peon. The Respondents also disclosed that "Shri Netai Sankar Bhattacherjee, Peon/CPB of Accounts Department of N.F. Railway, was appointed in the Security Department in the capacity of constable/RPF in the executive department of RPF on 28.02.1993 and that he applied for inter-departmental transfer to Accounts Department, at his own accord, in the capacity of Peon vide his application dated 07.03.1997. He wanted to be absorbed in Group-D category of Accounts Department as his mother had undergone a major brain operation at AIIMS/New Delhi two years back and she required regular check up and treatment at Central Hospital/Maligaon."



So far Applicant in O.A.No.109/2007, the Respondents stated that he was appointed as a Constable/RPF on 01.10.1991 in the pay scale of Rs.825-1200/- and applied for the post of Peon in Accounts Department on his own accord, on 02.05.1996, wherein he stated that, although a Matriculate, he accepted the job of the Constable of RPF to earn his livelihood in the hard day so unemployment and, finding no future prospect in RPF, he opted to go to Accounts Department even as a Peon; so that he may get opportunity to become a Clerk (on a future date) with aid of $33\frac{1}{3}$ vacancies of Clerk reserved for Matriculate Peons.

It has been stated that same was the reason for the Applicant in O.A.No.248/2007 to opt to join as a Peon in Accounts Department.

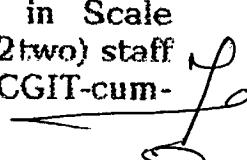
The Respondents disclosed that the Vth Central Pay Commission's reports was widely circulated by the Central Government of India/the Railways through various medias, and, as such, the question of ignorance about the IVth or Vth Pay Commission's award by any employee of any department does not arise and that such alleged ignorance is of no help.

It has also been disclosed by the Respondents, in the written statement, that implementation of Vth Pay Commission's awards to all employees of all departments of N.F. Railway, after announcement of the award, required a lot of time; for which lump-sum arrear amount was paid, to all employees of all departments of N.F. Railway, at a time, and that the Applicants while working in the capacity of Constable/RPF in the Security Department, received the same; that they were well aware of the award given by the Vth Pay Commission.

Central Pay Commission pertaining to the RPF constables (while they were serving in the executive wing of RPF) and that, therefore, their plea of ignorance (about the awards of Vth Central Pay Commission, for RPF Constables) is only intended to mislead this Tribunal.

Applicants finally appealed for being absorbed in the post of Accounts Clerk (in pay scale Rs.3050-4590/-) because one Sri Tapan Baishya (Peon/EGA) and another Md. Abul Naser (Peon/ENGA) were absorbed in the post of Accounts Clerk. In the written statement, the Respondents explained the matter by stating that on the basis of an Award of Hon'ble Central Govt. Industrial Tribunal-cum-Labour Court at Guwahati dated 13.07.05. Those two ex-Constables of RPF/Fire Wing were absorbed as Clerks. They have explained that these 2 (two) staff were initially appointed as Fireman/RPF (Fire Wing) of N.F. Railway and they joined in Accounts Department in the capacity of Peon; because they were going to be rendered 'surplus' in the said Fire Wing of RPF; but the Applicants were not declared 'surplus' in Fire Executive Wing of RPF nor they had any apprehension of being declared surplus or facing retrenchment from the post of Constable/RPF nor were they equally circumstanced like said Shri Baishya and Md. Naser and that, hence their appeal for being absorbed in the post of Accounts Clerk in Accounts Department was rightly rejected. Elaborating the matter, the Respondents (in O.A.No.108/2007) explained further as under:

"Sri Tapan Baishya, Peon and Md. Abul Naser, Peon were working in the Fire Wing of RPF (Security Department). They were rendered 'surplus' in Fire Wing of Security Department. They had applied to Accounts Department for absorption in Group-D category at their own accord. They were absorbed as Peon in Scale Rs.2550-3200/- in Accounts Department. Those 2(two) staff filed a Case No.4(C)/03 (9/04 New) in the CGIT-cum-



Labour Court, Guwahati. In the verdict, Hon'ble Presiding Officer, CGIT-cum-Labour Court, Guwahati opined "I find there was question of abolition of RPF Fire Wing and to be surplused. Being afraid to be surplused due to abolition of RPF Fire Wing the workmen joined in the category - D of the Accounts Department. Hence, the ground forwarded by the workmen about compelled circumstances has got force because no workman will select to be defuncted at the stage while they are earning their monthly salaries." As such, the Hon'ble Presiding Officer, CGIT-cum-Labour Court, Guwahati directed the management to arrange for their promotion to Category-C. The management promoted the above 2(two) staff to Accounts Clerk in scale Rs.3050-4590/- with effect from 13.07.2005 (Date of verdict)."

It has also been stated by the Respondents that "the Applicant had no scope of transfer as Accounts Clerk from Security Department"; as "the cadre of Accounts Clerk is separate and distinct with scope of direct recruitment and promotion from Group-D staff of Accounts Department" and, as such, there were "no scope of transfer of the Applicant as Accounts Clerk from RPF; as that "would cause irregularity and mass complaint from the staff of Accounts Department" and that "his case for promotion shall be considered in usual turn". In O.A.No.248/2007, the Respondents have disclosed that the Applicant has already been promoted as a Clerk from the post of Peon in Accounts Department (in due course) in $33\frac{1}{3}\%$ vacancy of Clerks earmarked for educated Peons.

(11) By filing Rejoinders, the Applicants have made an attempt to substantiate their case, as made out in the Original Applications.

(12) We have heard Mr P.K. Roy Choudhury, learned Counsel appearing for the Applicants and Dr J.L. Sarkar, learned Standing Counsel appearing for the Respondents in all these cases and perused the materials placed on record.



(13) The Applicants, while continuing as RPF/Constables in the pay scale of Rs.825-1200/- opted to join as a Group 'D' Peons in the Establishment of FA & CAO of N.R. Railway. At that time the pay scale of Peons in FA & CAO Establishment was Rs.750-940/- i.e. lower than the pay scale of the Constables/RPF. Being conscious of the fact that they have to be in a lower pay scale (that too at the bottom of the seniority of the Peons of the new establishment), the Applicants opted to join as Peons of the FA & CAO Establishment. In the meantime, the pay scale of Rs.825-1200/- had been revised as Rs.3050-4590 and the pay scale of Rs.750-940/- had been revised to that of Rs.2550-3200/-. Being conscious of all that, the Applicants left the job of Constables and joined the posts of Peon in the revised scale of Rs.2550-3200/-. After joining as Peons in FA & CAO Establishment, the Applicants submitted representations to be absorbed as a Group 'C'/Class III category of staff in FA & CAO Establishment of N.F. Railway and the said prayer was turned down on 26.11.1999. By the time the Applicants opted for the post of Peon in FA & CAO Establishment, they were in the pay scale of Rs.825-1200/- and at that point of time the pay scale of Clerks/Group 'C'/Class III staff of FA & CAO Establishment was at a higher rate i.e. Rs.950-1500/- and under, the Recruitment Rules in force, they could not have been, straight-way, taken to Group 'C'/Class III Establishment of FA & CAO. Thus, the rejection of the claim (on 26.11.1999) was just.

14. Despite such rejection in the year 1999, the Applicants went on representing to the authorities time and again. Law is well settled that successive Representations cannot save the delay and laches and, therefore, the present prayer (made in 2007) to absorb

27

them as Clerks (from the time they were absorbed as Peons) is also grossly bad for the reason of delay and laches.

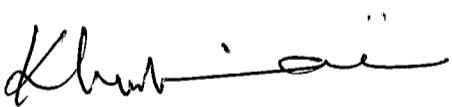
(15) That apart, the Applicants, only after joining the post of Peon, represented to go over to Clerk post. They applied for the post of Peon. They were free not to join as Peon and, before joining as Peon, they were free to repent and revise their stand to pray to go over to the post of Clerk (instead of going over the post of Peon); but once joined as Peon, they were estopped to make their revised prayer; just like the case of "resignation once accepted, is not available to be withdrawn". Thus rejection of their prayer to be absorbed as a Clerk in Accounts Department was just.

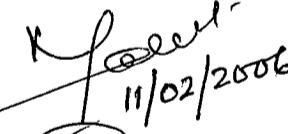
(16) By taking a new plea (that some others from RPF/Constable Establishment were taken as Clerks of other Departments of N.F. Railway) the Applicants filed representations (during 2006) to get the same relief; which was turned down on 26.11.1999. By giving a reply on 03.04.2007, the Respondents explained that some Constables of RPF/Fire-fighting wing (before being declared surplus/retrenched) opted to join as Group 'D' staff in other Departments of N.F. Railway and, when approached the Industrial Tribunal, the said Tribunal held that "on being found surplus they were entitled to be absorbed in Group 'C' Establishment and that, therefore, they should be absorbed in any Group 'C' post; notwithstanding the fact that they (in search of security of continuous employment) joined as Group 'D' Peons" and that since the Applicants were not apprehending any retrenchment they are not to get the same benefit, being of different class. On the face of the explanation given by the Respondents in their written statement, the

Applicants are not to get the benefit of being taken to Group 'C' Establishment straightway. As stated by the Respondents, they shall get chance to be considered to be promoted as Group 'C' staff in due course. In fact, the Applicant of O.A.No.248/2007 has got promotion (from the post of Peon) to the post of Accounts Clerk in due course.

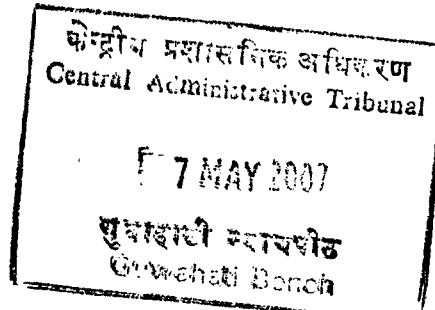
17. In the representations and in the O.A.s (and also in the Rejoinders) the Applicants have repeatedly said about their ignorance of law/Rules and that, taking advantage of the same, the Respondents placed them in difficult situation. During course of hearing, we repeatedly asked the Advocate for the Applicants as to which law/Rule was extending them the benefit but was not extended to them. He failed to point out the same at the hearing. In any event, ignorance of law/Rule shall not enure to their benefit in any manner. We have also not found any infirmity in the actions of the Respondents (in the cases) pertaining to the Applicants.

(18) Thus, judging from any angle, all the Original Applications of the Applicants are devoid of any merit and also suffer from delay and laches. Hence the Original Applications are dismissed. No costs.


 (KHUSHIRAM)
 ADMINISTRATIVE MEMBER


 11/02/2006
 (M. R. MOHANTY)
 VICE-CHAIRMAN

nkm



IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

(An applicant under section 19 of the Administrative Tribunal Act, 1985)

OA No.108.....of 2007

Netai Sankar Bhattacharjee
Sri.....Applicant

-VS-

Union of India & OthersRespondents.

SYNOPSIS

Initially appointed as Constable in Group -D Category in the Security Deptt. of the N.F. Railway, Maligaon and served for quite a good number of years in the said capacity till his inter department transfer on own option to the Accounts Department in the year 1998 and absorbed as Peon in the Group -D employment. But before the said transfer the Constable's pay, Scale, grade, capacity was elevated to the status of Group- 'C' employment at per with the Jr. Clerks in the Railways following the 4th Pay Commission's recommendation and Railway Board's categorical directives to the all Zonal Railways and Production Units. But the Respondent N.F Railway's Security Department neither implemented the said change of up-gradation of cadre nor communicated the matter to its employees and as a result of which the Applicant like his other fellow-mates remained quite in the dark. Had it been known to them prior to giving option, the question of seeking for transfer with bottom seniority and option for Peon in Group -D category should never had arisen. The Applicant had been enduring his lot; but it came to his knowledge that the Respondents have absorbed many of the Constables of the Security Deptt. in Group -'C' status as Jr. Clerk in other Department in spite of their seeking own transfer on own option, the references of which have been enclosed in this application. Series of representations have been given to the Respondents, but in vain. Hence, this Application to this Hon'ble Tribunal for justice.

Place : *Guwahati*

Filed by :

Date : *7/5/07*

JBD
Advocate

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

(An applicant under section 19 of the Administrative Tribunal Act, 1985)

OA No.108.....of 2007

Sri.....Ketai Sankar Bhatta Charjee
.....Applicant

-VS-

Union of India & OthersRespondents.

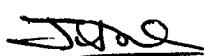
INDEX

SI No	Annexures	Particulars	Pages
1	-	Application	1-18
2	-	Verification	18
3	Annexure A	FA & CAO's Letter refusing Applicant's representation	19 -
4	Annexure - A/1	Order for promotion of two Peons as Jr. Clerk who came on transfer on own option	20
5	Annexure - B	Appointment letter	21
6	Annexure - C & C/1	Rly Bd's Circulars	22-27
7	Annexure-D	Letter of option	28
8	Annexure-E	Transfer Order	29
9	Annexure-F	Posting Order	30
10	Annexure-G	Representation	30
11	Annexure- H	FA & CAO's Letter not accepting representation	31
12	Annexures I,J,K,L	Representations	32-35
13	Annexure- M	Award given by Industrial Tribunal to promote two Peons in Group-C category following Pay Commission's Recommendation and Rly Bd's directives.	36- 43
14	Annexure- N & O	Copy of Office Order promoting Group-D staff as Jr. Clerks	44-45
15	Annexure- P	Comprehensive representation dated 14.8.2006	46-50
16	-	Vakalatnama	51
17	-	Acknowledgement Receipt of Service Copy	52

Place : Guwahati

Filed by :

Date : 7/5/07


Advocate

AC 950 - 1500f =

6th
825 - 1200, 7 2550 - 3200
750 - 940 ~~7~~ 3050 - 4590

2500 -

22

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

(An applicant under section 19 of the Administrative Tribunal Act, 1985)

OA No.108.....of 2007

Sri. *Netai Lankar Bhattacharjee*.....Applicant

-VS-

Union of India & OthersRespondents.

LIST OF DATES & CHRONOLOGICAL EVENTS OF THE CASE

Sl No	Date	Particulars	Annexure	Page
1	19-8-93	Appointed as constable in Group- D category in the N. F. Rly Security Department.	B 82/260	21
2	30-10-1987, 10-5-1999, 26-1-2000, 30-03-2000	Rly. Board's directive regarding 4 th Pay Commissson's Recommendations for implementation regarding elevating the Constable status to that of Jr. Clerks in Group-C Category by up-gradation of Constable's Pay & Scale. & AIRPF's representation	C,C/1, C/2,C/3	22 - 27
3		Opted for inter-departmental transfer to the Accounts department when the Security Department did neither implement the Board's directives nor inform the Applicant regarding his elevation in Group -C category by way of up-gradation of the cadre of Constable	D	28
4	7-3-97 2-6-98	Transferred by the Security department and absorbed in the Accounts department as Peon vide FA & CAO/N.F. Rly/MLG's office order No. PNO/AD/66/293 dt XVII 1-6-98	E & F	292 30
5	26-3-99 2-13-7-99	After absorption in the Accounts Department it came to knowledge that the constables pay, scale and capacity were already upgraded in Group-C category while the applicant was in the security department and also other constables who came on transfer to other departments with their own options got promotional benefits of Group-C employment with their pay, scale of constable and posted as Jr. Clerks.	N & O	44 & 45

26

6	17-03-2000, 4-8-2000, 15-02-2001, 5-5-2005	Submitted series of representations to the FA & CAO/N.F. Rly/Maligaon, Respondent No. 2, for elevation of his status to the cadre in Group-C capacity in scale Rs. 3050-4590 and absorb/promote him as Jr. Clerk at par with others similarly situated Constables came on transfer with option.	I,J,K&L	32, 33, 34, 35
7	28-07-2006	2 Constables filed Court Case in Industrial Tribunal, got "Award" in their favour, and promoted as Jr. Clerk by the Respondent No. 2.	A/I, M	20, 36
8	14-08-2006	Applicant submitted a comprehensive Representation to the Respondent No. 2 stating that before opting for interdepartmental transfer from security department to accounts department it was not known to him nor disclosed by the Respondent that he was already there in group-C category following the up-gradation of constable's pay – scale in 1987 by the 4 th Pay Commission's recommendation and Rly Board's repeated directives for implementation, upon which the other Constables transferred on their own option to other departments got the pay, scale and capacity of Group-C category as Jr. Clerks.	P	46- 50
9	03-04-2007	FA & CAO/N.F. Rly/Maligaon, the Respondent No. 2, vide his letter No. PNO/AD/80/496/Pt. XI (Loose) dated 03-04-2007 refused to consider the prayer of the Applicant for elevation of his status by absorption /promotion as Jr. Clerk like other employees in similarly placed circumstances and at par with the Applicant in all respects.	A	19

Place : *Gurukul*

Filed by :

Date : *7/5/07*

Advocate



IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

(An application under section 19 of the Administrative Tribunal Act, 1985)

OA No.of 2007

Shri ...Narai Sankar Bhattacharjee,
S/o. Late ...Sankar Bhattacharjee
Rly. Quarter No. D8/67 (H), Rest Camp.Applicant
Guwahati - 12 -Vs-

1. Union of India, represented by General Manger, N.F. Railway, Maligaon, Guwahati – 781011.
2. Financial Adviser & Chief Accounts Officer, N.F. Railway, Maligaon, Guwahati – 781011.
3. Chief Personnel Officer, N.F. Railway, Maligaon, Guwahati – 781011.
4. Chief Security Commissioner, N.F. Railway, Maligaon, Guwahati – 781011.

.....Respondents.

1. Details of application against which the application is made.
 1. FA & CAO/ N.F. Railway, Maligaon's letter No. PMO/AD/80/496/Pt-XI (Loose) dated 03-04-2007 (signed by Dy. CAO/G/N.F. Railway/ Maligaon. (Annexure -A)
 2. FA & CAO/ N.F. Railway, Maligaon's Office Order No. G/024(06-07) communicated under No. PNO/AD/80496/Pt.XI dated 28.7.2006 for promotion to the post of Group 'C' Accounts Clerk in scale Rs. 3050- 4590 for promoting to Shri Tapan Baishya, Peon and Md. Abul Naser, Peon, both opted from their former cadre of constable under Chief Security Commissioner, N.F. Railway/Maligaon while they were in Group-D category like this applicant. (Annexure -A/1)

filed & be
applied at
Court of
Appeal
of
Assam
at
Guwahati
on 23
July 2007

Narai Sankar Bhattacharjee

2. Jurisdiction :

The Applicant declares that the subject matter of the Application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :

The Applicant submits that the Application has been filed according to the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts :

That the Applicant being a citizen of India is entitled to get all his legal, fundamental and statutory rights.

That the Applicant has been serving the N. F. Railway Administration w.e.f. 28.02.1993 with the entire satisfaction of his superior and with due diligence and sincerity and culminating sterling services to the cause of this Railway and is therefore a bonafide and deserving employee to be considered for getting his rightful "just dues" at par with others.

That this humble Applicant was appointed in the Railway Protection Force as Constable under the Chief Security Commissioner, N. F. Railway, Maligaon in the Group - D employment on 28.2.1993 and discharged duties in the

contd. 3. Security

Nelai Sankar Pathakcharjee

Security Department till... 31-5- 1998

A photocopy of Appointment letter of the applicant is enclosed as Annexure - B.

4.4 That after rendering 5 years service the applicant found that in spite of having his requisite qualification for being employed in the minimum capacity of any Group - C employment in the Railways' establishment, the said Security Department had not taken any initiative for promoting in any Suitable post for the elevation of the progression of the service carrier of the Applicant though in a welfare state like ours it is the cardinal duty of every employer to find scope and opportunities for employing his employees in suitable promotional grades if found fit in all respects and thereby take all necessary steps to ensure his promotional prospects.

4.5 That it is humbly submitted in this connection that following the recommendations of the 4th Pay Commission the pay scale and capacity of the Constable in Railway Security Department were elevated to the cadre of Group -'C' establishment prevailing then in the pay scale of Rs. 825-1200/-, now Rs. 3050-4590/- which was communicated vide Railway Board's circular No. PC-IV/86/IMP/46 date 30.10.87 for its

Contd. 4. implementation

Nelai Samkari Shastra Bhawan

implementation in all Zonal Railways.

With AIRPF's representation
A photocopy of the above circular is enclosed as Annexure-C,
C/1, C/2 & C/3

4.6. That the recommendation of the 4th Pay Commission mentioned in the forgoing para was not implemented in the Security Department of this Railway in the case of the Applicant nor he was, as matter of fact should have been, informed of the elevation of his status to the cadre in Group -'C' capacity in the pay scale of Rs. 825 - 1200/- now Rs. 3050 - 4590/-, which the Applicant feels was of imperative necessity and bounden duty of the Administration to communicate to this humble applicant and grant his necessary pay, scale and status in the capacity of Group - 'C' establishment in his parent department.

4.7. That it is submitted that being remained in the darkness of the radical changes of the pay scale and rank in the Group-'C' establishment in minimum of a Jr. Clerks' pay scale though a Constable the Applicant was then, it was found that it would be efficacious for the Applicant at least if he could interchange his cadre and department with that of the Accounts Department wherefrom at least he could try his destiny. Being compelled by the circumstances the Applicant sought for his

contd. 5.. transfer

Velai Sankar Chatterjee

transfer from the Security Department to the Accounts department accepting the bottom seniority in the capacity of a Peon under the Accounts department.

A photocopy of the letter of option dated by the Applicant is enclosed as Annexure - D

4.8. That it is humbly submitted that the authorities of the Security department knowing fully well that during the material period of his seeking transfer to the Accounts department the pay, scale, capacity of the Applicant was that of a Group - 'C' cadre and without communicating anything on this aspect the Security department transferred and spared the applicant as a Group - 'D' employee to the Accounts department only because of the option tendered by the Applicant and his faith was sealed then and there in the Security department without thinking of his progression of service by his former employer even on the face of the recommendations of the 4th Pay Commission and direction for implementation by the Railway Board the reference of which have been mentioned in the forgoing para 4.5.

A photocopy of the transfer order issued by the Security department vide No. 8/106/PL.V.1EB Dated 7.3.97 is enclosed as Annexure - E.
contd. 6. 4.9 that on being

Velai Sambar Oathtake ceremony

4.9. That on being spared by the Security department the Applicant was absorbed by the Accounts department and given the formal posting order vide FA&CAO, N. F. Railway, Maligaon's No. PND/AD/66/293 ff-XVII dated 1-6-98

A photocopy of the above office order is enclosed as Annexure -F

4.10 That it is submitted that right since the induction of the applicant in the Accounts department he has been representing to the Respondents - Railway administration, more particularly the Respondent No. 2, praying for allowing him to get the Pay Commission's recommendation followed by the Railway Board's direction and arrange elevation of his pay, scale & status in the minimum capacity of a Jr. Clerk i.e. Accounts Clerk in the Accounts department in scale Rs. 3050 – 4590/-

Photocopy of above representations is enclosed as Annexure-G

4.11. That it is submitted that the Respondents Railway administration, more particularly the Respondent No.2, without giving proper application of mind to the said representations of the Applicant and without following the Statutory Rules did not consider to give the "just dues" of the Applicant and gave a negative reply.

Contd. 7 A photocopy

Nelai Sanobar Chakrabarti.

A photocopy of the above is enclosed as Annexure - H

4.12. That although the Respondents observed mute silence since their above reply, the Applicant has been constantly pursuing his case with the Administration to yield the fruitful result by approaching both oral and written submissions.

Photocopies of some of his representations are annexed as Annexures - I, J, K, L.

4.13 That it is submitted in this connection that the two brethren sufferers like this Applicant, namely Shri Tapan Baishya and Md. Abul Naser, being disappointed by the Respondents' blatant attitude and arbitrary action approached the Court of Law in the Central Government Industrial Tribunal-cum-Labour Court, Guwahati and a case was registered under No. 4(C)/03(9/04-New) in the said Tribunal and the Hon'ble Tribunal was very much pleased to give correct discernment and Judicious order in favour of those two litigants mentioned above and considering all aspects and carefully examining the records produced by the Respondents in the Tribunal, the said learned Tribunal gave an award in the said case in favour of the two employees, initially deprived by the Security department and thereon arbitrarily

Contd. 8. prevented

prevented by the Respondents No. 2.

A photocopy of the above award is enclosed as Annexure -M.

4.14. That it is submitted that the Respondents' more particularly the Respondents No. 2, afterwards giving all careful consideration in the matter implemented the said order of the Tribunal and gave promotion to the above named two persons in the capacity of Accounts Clerk in the scale Rs. 3050 – 4590/- vide order No. PNO/AD/80 – 496/Pt.XI dated 28.7.2006, the reference of which has been cited under para-1 and a copy annexed under Annexure- A/¹ to take effect retrospectively from the date of issue of Court's orders and also to get payment all back wages of pay and allowances from the date of the Tribunals' order.

4.15. That incidentally the Applicant further submits that not only the above two transfers of the Security department, but also another named Smt. Kanika Saha, Constable in scale Rs. 3050 – 4590/- was also transferred and posted as Jr. Typist in the same pay, scale and capacity identical with that of the Constable in the Security department on being transferred by her own request and accepting the bottom seniority in the Personnel department under the Chief Personnel Officer, N. F. Railway, Maligaon, i.e. the Respondent No. 3, and posted under Divisional Railway Manager (P), N. F. Railway, Lumding vide office order No. Contd. 9 E/254/2

Netai Sankar Bhattacharjee

E/254/2/Pt. III dated 24.3.99. even while she was in Group-D cadre like this Applicant Photocopy of the above office order is enclosed as Annexure -N

4.16 That it is also pertinent to mention here that there are instances of such transfer of some other staff junior to this Applicant and served the same Security department in the capacity of Constable but absorbed by the Respondents, more particularly the Respondent No. 3 & 4, in the capacity of Junior Clerks and absorbed them in the Mechanical department under Divisional Railway Manager, N. F. Railway, Lumding vide office order No. E/283/1/LM dated 19. 8. 99.

A photocopy of the office order is enclosed as Annexure - O

4.16. That it is submitted that this humble Applicant who is one of the similar kind of 3(three) employees, deserve to be considered by the Respondents for giving the equal pay, scale and status to keep conformity and also keep parity in employment without making any discrimination of whatsoever nature.

4.17. That in this connection it is submitted that had it been known to the Applicant before seeking his Inter department transfer that there was the pay, scale and status of the Applicant in his former department with that of a Group - 'C' status, definitely in no circumstances he should have applied for and agreed to accept his transfer in Accounts Department for the Group - 'D' posts for contd. 10. which the

Shrikant
Sambor

Velai

which the sufferings now he has been put to. The Respondents administration did never disclose the impact of such transfer in the event of its taken effect into prior to release him from his former department where he was in Group-‘C’ cadre during the material time.

4.18. That it is submitted that albeit the Applicant sought for Inter department transfer to Accounts department by giving option in the Group – ‘D’ employment capacity, but it was not known to him during material time of giving his such option that he was in Group – ‘C’ employment, which was not disclosed to him by the Administration i.e. any of the above Respondents and hence, this cannot be a deciding factor to deprive a sincere and diligent employee of his rightful dues and also put to the strictest adversaries of his life and lot only on the technical spirit of the said letter of option to the consequence of which he was fully unknown.

4.19. That incidentally this Applicant further submit that there are glaring examples of many others, more particularly, Shri Manoj Kumar Thakur, RPF/Fireman, Alipurduar Junction, Shri Tapan Kumar Acharjee, RPF/Fireman, Alipurduar Junction, were

Contd. 11. absorbed as

Nestie Banikar Thakur Acharjee

absorbed as Clerk in scale Rs. 3050 – 4590/- under Divisional Railway Manager(P)/ Alipurduar Junction, the exclusive control of which is under the Respondent No. 3 i.e. Chief Personnel Officer, N. F. Railway, Maligaon, vide office order No. E/41/AP/S&T dated 24.12.98 and 23.3.99.

4.20. That it is humbly submitted that apprehending the outcome of the above Court case and also the Administration might take a lenient view to consider the case of this Applicant for causing disparity in employment by transferring the employees with their same pay, scale and capacity to other departments upon their own request and formal option mentioned the aforementioned paragraphs, i.e. paras 4.14, 4.15, 4.16, 4.20, this Applicant has been waiting so long. But the moment it is known that the Respondents have implemented the above Tribunal's Award vide order mentioned under para-1 and annexed as ANNEXURE-A, the Applicant submitted a comprehensive representation dated 14.8.2006 to the Respondent No. 2 to consider his case on the same footing of those employees who have also been inducted in the Accounts Department on being transferred from the Security Department upon their own request and option.

Contd. 12. A photocopy

Nelai Bankar Dhalabazar

A photocopy of the above representation is enclosed as Annexure – P.

4.22 That it is submitted that after submitting the above representation a considerable span of time has been elapsed. The Respondent No. 2 has since given a reply to the above representation vide its letter No.PNO/AD/80/496/Pt-XI (Loose) dated 03-04-2007 which is fully a matter of DISCRIMINATION and DISPARITY in respect of employment and thus hits the Constitutional safeguards for the employees, specially the Articles 14 and 16 (i) of the Fundamental Rights. A photo copy of the above is annexed Annexure –A. And finding no other alternative this humble Applicant has approached this Hon'ble Tribunal for redressal of his long standing grievances.

4.23 That it is submitted that in welfare state like India the importance of Directive Principles for promoting the welfare and upliftment of each employee is the imperative duty of the State and that is why the Constitution-makers have introduced the “ Directive Principles” in the Constitution of India and the Hon'ble Court also give their Celebrated Judgments keeping in conformity with the said Directive Principles in addition to Fundamental and other statutory rights of the citizens in respect of employment in the field of Service jurisprudence.

4.24 That in this connection it is also humbly submitted that in the celebrated judgement given by their Lordships of the Divisional Bench of this Hon'ble Tribunal in the case of Shri Durlabh Chandra Medhi reported in AISLJ Volume –53 Pt III page 447, 1994 pronounced that according to the State Labour Welfare Policy which is consistently with the Welfare Policy and in the Public interest, technical ground to deprive the rightful claim of employees of employment should not be over emphasized and the case be solved

Contd. 13. on its true

Nitin Somkar Dabholkar

on its true perspectives. The circumstances under which this Applicant was compelled to give option has already been explained in the forgoing para and it should not be and could not be a bar and a matter of policy for not considering him for the elevation of his carrier in Group-'C' employment when he has got the requisite qualifications and also in stagnant position for years together.

- 4.25. That in this connection it is further humbly submitted that the principle of equal protection of Laws under Article 14 shall have to be given and the state action cannot be evictional or discriminatory specially in the Administrative action.
- 4.26. That it is submitted that vide A. K. KRAIPOK's case, reported in AIR 1970 S.C. 150 the Hon'ble S C Opined that the Rules of Natural Justice applicable to all Administrative decision if they adversely effected the rights of a new or of a corporate or other body, preserve "Miss carriage of Justice" even where "the rules operates in the areas not covered by any Law validly made. No other wards they do not supplant the Law, but supplement it."
- 4.27. That the applicant most humbly and with suave submission begs to state that in spite of the aforementioned actions of the Respondents for absorbing and promoting the Group "D" employees who came on their option in the way of departmental transfer, eventually

contd. 14 absorbed

Nelai Bankar Lohitacharjee

absorbed in the different departments under the Respondents, it is utter surprise in spite of submitting series of representations (enclosed as ANNEXURES-I,J,K,L) and lapse of about decades, time did not feel it to be expedient that this humble Applicant who has got all eligibility and norms of having the promotion of Group 'C' employment with others which clearly postulates to be of clandestine notion which end comprises of the Respondent. That it is submitted that the Respondents have clearly proved their unfair play and have not shown any equitable justice to this Applicant for his culminating the sterling services rendered by him.

5. **GROUND FOR RELIEF WITH LEGAL PROVISION :**

Being aggrieved and dissatisfied with the decision by the Respondents categorically mentioned under para - 1 above and / inaction on the part of the Respondents, the Applicant begs to move this application, inter alia, on the following :

GROUND

- 5.1 For that the Respondents have acted malafide, arbitrarily and without jurisdiction and caused DISCRIMINATION & DISPARITY in respect of employment.
- 5.2 For that the Respondent have violated the provisions of articles - 14, 16(I) and 21 of the Constitution of India.

contd. 15. For that

- 5.3. For that in any view of the matter, the action of the Respondents are not sustainable in the eye of Law as well as facts of the cause.
- 5.4. For that your humble Applicant submits that he has no other adequate, efficacious, alternative and speedy legal remedy and relieves prayed for, and, if granted, would afford complete relief to this aggrieved person.
- 5.5. For that the action / inaction of the Respondents violated the Fundamental rights guaranteed to the Applicant under articles 14, 16(1), 19, 21, 38, 39(d) and 309 of the Constitution of India.
- 5.6. For that this Application has made bonafide and for the cause of justice and also made with for abundant caution in the aforesaid circumstances of the case.
- 5.7. For that the Respondents violated the Pay Commission's recommendations followed by Railway Board's directives for implementation of the Constable's grade and status in Group 'C' cadre in the Security Department and for which reasons victimized the Applicants.

The Applicant craves leave of this Hon'ble Tribunal, to file additional Written Statement / Rejoinder, if necessary, which will offer further grounds at the time of hearing of this important application.

Contd. 16. Details of

6. DETAILS OF REMEDIES EXAUSTED

That the Applicant declares that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy available to him except the invoking the jurisdiction of this Hon'ble Tribunal under section 19 of the Administrative Tribunal, 1985.

7. MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT.

That the Applicant further declares that he has not filed any Application, Writ Petition or Suit in respect of the subject neither of the instant application before any other Court, authority, nor any such application, Writ Petition or Suit is pending before any of these.

8. RELIEF PRAYED FOR

- 8.1. In the premises aforesaid, it is most respectfully prayed that your Lordships may be pleased to call for the records of the case, issue notices to the Respondent as to why the relief (s) sought for by the Applicant may not be granted and after hearing parties may be pleased to direct the Respondents to give the following relieves.
- 8.2. To promote the applicant in Group-'C' employment from the date of his absorption in the Accounts department on being transferred from his former department i.e. the Security department where he was in Group-'C' employment but not given the fruitful benefits in

contd. 17. Group 'C'

Group 'C' cadre in the capacity of Constable in spite of the Pay Commission's recommendation followed by Railway Board's mandatory direction for doing so.

8.3. To treat the Applicant at par with those staff of the Security department absorbed in other department mentioned in the application under paras 4.14, 4.15, 4.16 to give full back wags of pay, allowances etc. from the date of effecting the pay scale of the Constable in the Security department upgraded in Group 'C' cadre.

8.4. **COST OF APPLICATION**

8.5. Any other relief(s) to which the Applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. **INTERIM ORDER PRAYED FOR :**

During pendency of the application, the applicant prays for the following interim relief's.

9.1. That the Hon'ble Tribunal may be pleased to direct the Respondents that during the pendency this application of shall not be a bar for the respondents for consideration of the case of the Applicant for providing relief as prayed for.

10. The Application is filed through Advocate.

Contd. 19. particulars of IPO

Nelai Sambar & Kalathaweedi

10. Particulars of IPO.

(1) IPO No. 344 652160
(2) Date of Issue 19-03-2007
(3) Issued from Maligaon Hd; Or: P.O, Guwahati-11
(4) Payable at H.P.O, Guwahati-781011

11. List of enclosures – As given in the Index

VERIFICATION

I Netai Sankar Bhattacharjee
Son of Late Sankar Bhattacharjee

about 35 years working as Peon under FA&CAO, N. F. Railway,
Maligaon and residing at P.O: Dr. No. DS/67 (H), Rest camp,
Guwahati – 781012

do hereby solemnly affirm and verify that the contents of this
statements mentioned under paras 1 to 4.21 are true to the best of my
knowledge, information and belief and the statements under paras
4.22 to are my respectful and humble submission and I have not
suppressed any material facts.

AND I sign this verification on this day of 7th May April/2007.

Netai Sankar Bhattacharjee

Place : Guwahati
Date : .04.2007

Signature of the Applicant

To
The Deputy Registrar,
Central Administrative Tribunal,
G U W A H A T I

Office of the
FA & Chief Accounts Officer
N.F.Railway/Maligaon.

No.PNO/AD/80/496/Pt-XI (Loose)

Dated. 03/04/2007.

To

1. Shri Chandan Kumar, J/Peon TA/Cg.
2. Shri Jiten Ramchiary, Peon, TA/Gds.
3. " Sushil Kalita, J/Peon, PF Section
4. " Chandan Gosh, J/Peon /ADMN.
5. " Nitai Sankar Bhattacharjee, Peon/CPB Section.
6. Akram Ali Ahmed, Peon DATA Centre.
7. Shri Akash Basumatary, J/Peon TA/M
8. " Santosh Chakraborty, Peon/XP Section,

Sub: - Your Appeal Dt. 14-08-2006 and 17-08-2006.

Your appeal cited above has been examined by Administration carefully and to state the following:-

1. That, at the time of your application for inter departmental transfer from Security Department to Accounts Department you were working in RPF Executive wing in the capacity of Constable and you had applied for transfer individually on your individual capacity duly accepting the pay scale and grade of Group 'D'.
2. That you were not working in the fire wing of Security Department which was abolished. Therefore, your appeal for treating your case, at par with the case of Shri Tapan Baishya and Md. Abul Naser who were working as fire Man in the Fire Wing in the Security Department and who have now been given the benefit of absorption in Group 'C' Category as Accounts Clerk at the instance of the order of CGIT- Cum- Labour Court, is not reasonable and acceptable.
3. That you have also cited the case of Smt. Kanika Saha, who has been absorbed as clerk cum typist in GM (P)/MLG, without mentioning whether she had applied for inter departmental transfer and absorption in Group 'C' or Group 'D' Category. It is stated that the above lady constable has specifically applied for absorption in category 'C' and was accordingly given the status whereas you have specifically applied for absorption in Accounts Department in Group 'D' Category.

In view of the above, your appeal cannot be considered as prayed for.

This has the approval of FA & CAO/F&B.

(A.S.Hopingson)
Dy.CAO/G
N.F.Railway/Maligaon.

Certified
True Copy
S.A.S.
1/4/07



ANNEXURE - A/1

20

Office of the
FA & Chief Accounts Officer
N.F.Railway/Maligaon.

Office Order No.G/ 024 (06-07)

Dated. 28/07/2006.

In compliance to the order of Hon'ble Central Govt. Industrial Tribunal-cum-Labour Court dt. 13.07.05 in Case No.4(C)/03(9/04 New) forwarded by GM (P)MLG vide No.170/LC/819/2000 dt. 2/6-9-2005, the following 2(two) Group-D staff (Peon) in scale Rs.2550-3200/- is promoted to Group-C Accounts Clerk in scale Rs.3050-4590/- w.e.f. 13.07.05 (Date of verdict) and posted where they are working at present.

1. Shri Tapan Baishya, Peon/EGA ✓
2. Shri Abul Naser, Peon/EN Suspense.

This issues with the approval of FA & CAO

(S.Bose)
Sr.AFA/AD
For FA & Chief Accounts Officer
N.F.Railway/Maligaon

No.PNO/AD/80496/ Pt.-XI

Dated. 28/07/2006.

Copy forwarded for information & necessary action to:-

1. GM(P)LC/MLG
2. Sr.AFA/EGA & ENGA (2 copies)
3. Sr.AFA/AD/Cadre
- ✓ 4. AFA/CPB (2 copies)
5. AFA/PF & PN
6. Staff concerned through Branch Officer.

(S.Bose)
Sr.AFA/AD
For FA & Chief Accounts Officer
N.F.Railway/Maligaon

*Certified
True Copy
A.D.W.*

26

ANNEXURE - B

21

	Date of Birth 19-02-56	
Signature of Card Holder	Date of Birth 19-02-56	Date of Superannuation 02-02-30
Attesting Officer		

No. 03036 RPF/F

N. F. RAILWAY.
RAILWAY PROTECTION FORCE

CERTIFICATE OF APPOINTMENT

(Rule 37 of RPF Rules and Section 7 (i) of RPF Act.)

Shri Prakash Bhatia has been appointed a member of the Railway Protection Force under the Railway Protection Force Act, 1957, and is vested with the powers, functions and privileges of a member of the Force with effect from 16-1-13.

SEAL

Date 16-2-13 (May specify)

(Signature of the Chief Security Officer
or such other Superior Officer as
the Unit Security Officer)

Copy of
original
document
sent
to
C.R.P.F.

III. Evaluation of Answer Books.	Rs. 2.75 uniformly for objective and mixed type.
IV. Stenography & Typing Test. Dictation in Stenography.	Rs. 25/- first dictation and Rs. 15/- for subsequent dictations subject to a maximum of Rs. 75/- per day.
A. Evaluation of Transcription of Stenographer's Test and Typescript for Typing Test.	
(a) Stenography Script	Rs. 2/- per script for stenography test and
(b) Typing Script	Rs. 1.50 per script for typing test.

The above rates will apply for all examinations conducted by the Railway Recruitment Boards viz. mass categories, technical and others.

The above has the sanction of the President and this issues with the concurrence of the Finance Directorate of the Ministry of Railways.

R.B.E. No. 268/87

Subject : Classification of Services—Change in the classification consequent on the introduction of the Railway Services (Revised Pay) Rules, 1986.

No. PCIV/86/Imp/46, dated 30.10.1.87

Reference this Ministry's letter No. PCII/75 PS-1/CS dated 21.5.1976.

Consequent upon the revision in the scales of pay on the basis of the recommendations of the Fourth Central Pay Commission, President is pleased to decide that with effect from 30.6.1987, all the posts under the Indian Railways shall, subject to such exceptions as Railway Ministry may, by any general or special order make from time to time be classified as follows :

Classification of posts	Description of Posts
1	2
Group A	All posts in scale Rs. 2200-4000 and above
Group B	Posts in scale Rs. 2375-3500 applicable to Accounts Officers only and other posts of Officers in scale Rs. 2000-3500, (all Depts.)
Group C	All posts in scale Rs. 825-1200 and above including posts of Post-graduate Teachers (Selection Grade)/Head-masters-Middle School (Selection Grade) in scale Rs. 2000-3500, Supervisors

Carth
P. S. O.
True
7/8/87

Group D

23

In scale Rs. 2375-3500 and excluding those men
allotted for Groups 'A' and 'B'.
All posts in scale Rs. 750-940, Rs. 773-1025 and
Rs. 800-1150.

Notes : For the purpose of this notice

(i) 'Pay' has the same meaning assigned to it in Rule 2003 (1) (will)
[PRY (21) (1)] R. 11.

(ii) The pay or scale of pay of a post means the pay or scale of pay
prescribed under the Railway Services (Revised Pay) Rules, 1986
as amended from time to time.

R.B.E. No. 269/87

Subject : Mode of filling up the post of First Fireman/Diesel Ass't/Elec.
Ass't and Steam Shunter.

No. E(NC) 8-84-PM7-36, dated 3.1.1987

As the Railways are aware, the mode of filling up the vacancies in the categories of Fireman 'A'/Diesel Ass't./Ass't. Driver (Elec.) has been laid down in Board's letter No. E(NC) 111-75/RCI/69 dated 19.8.1981, read with their letters No. E(NC) 11-80/RCI/144 dated 30.1.1982 and 17.9.1982, in terms of these orders these vacancies are to be filled as under :

(a) 50% by the usual selection procedure from erstwhile Firemen 'B' who have studied upto 8th Class and are below 45 years of age.

(b) 50% by departmental examination from erstwhile Firemen 'B' and 'C' who are Matriculates and have 3 years Railway service.

(c) If the departmental examination referred to in (b) above fails to provide enough Matriculates for the 50% quota in the case of Fireman 'A', and the usual selection and the departmental examination referred to in (a) and (b) above fail to provide enough candidates for the respective quota in the case of Diesel Assistant and Assistant Electric Drivers, direct recruitment to the extent of shortfall should be made through Railway Recruitment Boards.

(d) In the case of Assistant Electric Drivers, wherever the existing AVC provided for a modicum of vacancies being filled from amongst artisans 20% of the vacancies may be filled by selection from amongst artisans who are at least VIIIth Class pass and below 45 years of age, the mode at (a) and (b) above applying to the remaining 80% of the vacancies.

2. In the scales of pay notified on the recommendations of the 4th Pay Commission, the grades of Fireman 'B' and 'A' have been merged and placed into a single scale of Rs. 950-1500 and the posts in the merged scale of Rs. 950-1500 have been redesignated as First Fireman. The posts in the grade of erstwhile Fireman 'C' (Scales Rs. 210-270 and 260-350) have been allotted the single revised scale of Rs. 825-1200 redesignated as Second Fireman. The

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

NO.99/SEC(E)/PA-2/10, New Delhi, dated

30.3.2000.

11F/G/H/Y
The Chief Security Commissioner/RPF,
All Indian Railways.

The Chief Security Commissioner/RPSCF,
Railway Board.

Sub: Fixation of pay of RPF/RPSCF staff in
revised pay scales.

General Secretary, All India RPF Association vide
his letter dated 26.1.2000 (Copy enclosed) has drawn
attention towards anomalies in fixation of pay as
two increments in the revised pay scales w.e.f. 1.1.96
have not been given to Constables. He has mentioned
that bunching benefit has also not been given.

Director General/RPF desired that corrective
measures may be taken, if any wrong fixation has
been done. A copy of the Railway Board's Pay
Commission Directorate's letter dated 10.5.1999
is also enclosed. Any change, however, may be
done in consultation with FA & CAO and the
concerned department of the Railway.

Kindly acknowledge the receipt of the letter.

(S. G. GUPTA)
D.Y. DIRECTOR/SECURITY (E)
RAILWAY BOARD.

DA: AS ABOVE.

10.6.2000
Certified to be
true copy
S. Gupt

11-96
158
625 + 200
from 300 + 450

25

GOVERNMENT OF INDIA (DEPT. OF REVENUE)
MINISTRY OF RAILWAYS (DEPT. REVENUE)
RAILWAY BOARD

S.No. PC-V/1/77
No. PC-V/9/7/64

R.W.E. No. 94/99
New Delhi, dated 10.5.99.

The GMs/CAOs(R)s/OSDs

All Indian Railways &

Production Units etc.

(As per mailing list)

Sub: Fixation of pay of RPF/RPSF staff in revised pay scales.

Ref: (i) Board's letter of even number dated 07.10.98.
(ii) Board's letter No. F(E)D/89/FR-1/1 dated 12.12.91.

In suppression of the Board's letter dated 07.10.98 referred to above, it is clarified that the pay fixation of RPF/RPSF staff would be done in accordance with FR-23 (1317-IREC-Vol.II (1987 Edition) and FR-22(Annex) (Amended Rule-1313 (1)(a)(ii) circulated as ACS No. 14 to IREC Vol. II, 1987 Edition vide Board's letter No. F(E)D/89/FR-1/1 dated 12.12.91) read with Audit Instructions (1) below FR-22.

2. In other words, the pay of the incumbent would be fixed at the same of the time scale which is equal to his pay in respect of the old post held by him on regular basis, or, if there is no such stage, the stage next above his pay in respect of the old post held by him on regular basis. Provided further that in case where pay fixed at the same stage, the next increment will be drawn on the date of increment in the pre-revised V CPC scale and in cases where pay is fixed at the higher stage, he shall get his next increment on completion of the period when an increment is earned in the revised time scale. When pay is drawn at the maximum of the old scale and there is an equal stage in the revised scale Audit Instructions (1) below FR-22 will have to be taken care of while determining next increment in the revised scale.

3. Hindi version is enclosed.

(Koshy Thomas)
Dy. Director, Pay Commission
Railway Board.

*Confidential
Tang 3/3/99*

26

Annexure - C/3

ALL INDIA RPF ASSOCIATION
(REGD. & RECOGNISED)

To
The DG/RPF
Railway Board, New Delhi.

74-B-1, Motia Bagh, Rly. Colony
Delhi-54, Tel. 3972588

Reg:- Anomalies in the fixation of scales of pay of enrolled members of the Force.

Ref:- Memorandum of AIRPFA dated 06.12.1999 to MOSR(D) & Minutes of
Meeting of DG/RPF with RPF Association Officials on 22.12.99.

Respected sir,

Vide Rly. Board's letter No. PC-V/97/1/RS (RP/1/ dated 16-10-1997, the following scales of pay were recommended by the Vth Central Pay Commission for the ranks from Constable to Inspector Gr-I of RPF/RPSF.

<u>RANK</u>	<u>PRE-REVISED PAY</u>	<u>REVISED PAY</u>
Constable	825 - 1200 + 2 adv. Increments	2750 - 4000 + 2 adv. Increments
Naik	950 - 1500	3050 - 4590
Id. Constable	975 - 1660	3200 - 4900
ASI	1320 - 2040	4000 - 6000
SI	1400 - 2300	5000 - 8000
RPF Gr-II	1640 - 2900	5500 - 9000
RPF Gr-I	2000 - 3200	6500 - 10500

Accordingly the RPF department fixed the scales of pay mentioned against each rank and allowed the members of the Force to draw the arrears w.e.f. 01.01.1996.

Consequent upon the rationalization of the Rank structure and pay scales of the non-Gazetted cadres of the CPOs by the Ministry of Home Affairs vide their letter No. 27012/1/97-PC-Cell/PF. I dated 10.10.97, Ministry of Railways also revised the existing scales of pay of members of the Force vide their letter No. PC-V/97/G/4(RBE No. 171/97) dated 04.12.1997 on par with the CPOs as under:-

*Certified
X be X
X be X
X be X
X be X*

PRE-REVISED PAYREVISED PAYREPLACED PAY

Const.	825 - 1200 + (2 adv. Increments)
Asst. Const.	950 - 1500
Ad. Const.	975 - 1660
ASI	1320 - 2040
SI	1400 - 230
RPF Gr-II	1640 - 2900
RPF Gr-I	2000 - 3200

2750 - 4000 + (2 adv Increments)
3050 - 4590
3200 - 4900
4000 - 6000
5000 - 8000
5500 - 9000
5500 - 9000
6500 - 10500
6500 - 10500 + Rs.200 Spl. pay

3050 - 4590
3200 - 4900 (Nk. designated as HC)
3200 - 4900 + Rs.50 Spl. pay.
4000 - 6000
5500 - 9000
6500 - 10500
6500 - 10500 + Rs.200 Spl. pay

From the above mentioned, replaced scales of pay which have been fixed w.e.f.04.12.1997 without giving bunching benefits of maximum five ensured increments, it is very clear that 90% of the Constables could not be benefited on rationalization of their scales of pay. Scales of pay of Ad. Constable and ASI have not been increased at all. Similarly, the scales of pay of RPF Gr.I have not increased. Since the post of Gr.I Inspectors has been abolished, the special pay of Rs. 100/- will go away with incumbent itself.

Para III of letter No. PC - V/ 97 / G / 4 dated 04.12.97 provides "The pay scales contained in serial No. 12 of annexure.B of the Rly. Board's letter No. PC - V / 97 / 1 /RS (RP) / 1 dated 16.10.97 for RPF staff will get modified to this extent." This means that all other core instructions of aforesaid letter of the Rly. Board except serial No. 12 thereof shall apply in toto to RPF/RPSF staff as they apply to other Rly. Employees while fixing their scales of pay.

As such the scales of pay of RPF/RPSF staff should be fixed w.e.f. 01.01.96 as per the instructions / guide lines / proforma contained in annexure-C of the afore said letter dated 16.10.97 of the Railway Board like that of the Clos.

Para.II of the Rly. Board's letter dated 04.12.97 can not have precedence over the core instructions / provisions of para-III. So para-II can only be interpreted to fix the replaced scales of pay of the members of the Force w.e.f.01.01.1996 giving the monetary benefits from 04.12.97, otherwise a lot of complications would arise in that every member of the Force could loose 2 to 3 increments, weightage of length of service in the form of ensured increments / bunching benefits etc.

The scales of pay of Artisan staff of the Railways were further revised in the November 1998 and given effect from 01.01.1996. We, therefore, request you to arrange to issue an order to pay the replaced scales of pay to the RPF/RPSF staff w.e.f. 01.01.96 as per the proforma contained in annexure.C of the Rly. Board's letter dated, 16.10.1997. We also request you to kindly see that the scales of pay of HC, ASI and Inspector Gr-I are hiked and justice done to them.

Your's truly

(U.S.Jha) 26/1/2001
General Secretary/AIRPRA

To:
 The FA & GAO
 NF Railway
Maligaon.

(Through proper channel)

Sir,

Sub:- Prayer for inter department transfer from Constable of Security Department to Peon of Accounts department in scale of Rs. 750 - 940/- (RP)

Understanding from reliable source that some posts of Peon are lying vacant under your kind control for which I beg to offer myself as a candidate for the same.

Necessary bio-data regarding my candidature are furnished below for your perusal please.

1. Name	:	Nelai Sankar Bhattacharjee
2. Father's name	:	Prakriti Sankar Bhattacharjee
3. Date of birth	:	
4. Date of appointment	:	28 - 02 - 1993
5. Present designation	:	Constable.
6. Present Pay.	:	Rs. 920/-
7. Whether SC/ST.	:	No.
8. Extra curricular activities	:	Type
9. Educational Qualification	:	Higher Secondary Passed

Yours faithfully,

Nelai Sankar Bhattacharjee
 Constable, ER-Sey
Maligaon, GHY - 11

True Copy
 Certified
 To be
 Sent
 To Sir

29

Office of the
Chief Security Commissioner
N.F.Railway:Maligaon

No/ P/106/Pt.V/EB.

dt. 7 - 3 - 97.

To
FA & CAO/MLG,
N.F.Railway

Sub: Inter departmental transfer of Shri
Nitai Shankar Bhattacherjee, Const/UR-Coy/MLG.
NETAI

Ref: Your letter No. Nil. dt.....

In reference to the above, the desired particulars are
furnished below :-

1. Regarding pending of
viz/SPE/UR case. : NIL.
2. Screening test. : Direct Recruit, screening
does not arise.

Service particulars:

- I. Name : NETAI
NITAI SHANKAR BHATTACHERJEE.
- II. Father's name : Sri S.S. Bhattacherjee.
- III. Date of birth : 29-02-1972.
- IV. Date of appointment : 28-02-1993.
- V. Educational Qualification : H.S.L.C.Examination passed.
6. Designation : Const/UR.
7. Present pay & scale : Rs. 920/-.
8. Other qualification : NIL.
9. Home address : Rly. Qrs. No. DS/67(II)
Rest Camp/Pandu,
Guwahati - 12.

Certified & Se
True Copy
S. S. D.

for CHIEF SECURITY COMMISSIONER
N.F.RAILWAY: MALIGAON

30

Office of the
FA & Chief Accounts Officer/AD
H.F. Railway/Maligon.

Office Order No. G/473

Dated: 01.06.1998.

On being spared by Company Commander,
H.F. Railway, Maligon vide his letter No. ED/PNO/C-2/98
dated 23.5.98 in terms of this office O.O. No. G/461
dated 14.5.98, Shri Nitai Sankar Bhattacharya, Constable/
S.P.F reported this office ~~as per~~ in scale R. 2550-3210/-
and is posted under SMO/AB against the existing vacancy.

29.5.98
(AN) This issues with the approval of the competent
Authority.

for FA & Chief Accounts Officer/AD
H.F. Railway/Maligon.

No. PNO/AB/66/293 Pt. XVII

Dated: 01.06.1998.

Copy forwarded for information
and necessary action to:-

- 1) CSC/H.F. Railway/Maligon.
- 2) SMO/CPB
- 3) SAD/AB/Cadre
- 4) ADO/BSA
- 5) SPC/PFEPH
- 6) DDC/ADP
- 7) Staff concerned

for FA & Chief Accounts Officer/AD
H.F. Railway/Maligon.

Centred To be
true copy
1/2

Office of the
FA & Chief A/cs. Officer,
N. E. Railway, Maligaon.

No. PNU/AD/65/274 Pt. XIX

Dated 26.11.99

To

DAC/APDJ..
SAC/PA & PA..
AAO/EGA.
AAO/Fin(S).
AAO/TA/CG..
AAO/PA/Goods.

Sub:- Appeal for absorption in the Group 'C' category.

...

Appeal for absorption in Class III category submitted by the staff who were posted in Class IV category in Accounts Department against interdepartmental transfer from Security Department ~~after~~ scrutinised with their original interdepartmental transfer applications. As per their clear option-they have been posted in Class-IV category in the grade of Rs. 2550-3200/- as Office Peon. Hence their appeal for absorption in Class-III category as Accounts Clerk at this stage cannot be considered.

The name of the applicants with section/ office of their posting are given below:-

1. Shri Brijilal Naiksha, Peon under Fin(S)
2. " Uttaq Mazunder, Peon SAC/Admn.
3. " Subrata Panerjee, Peon, DAC/APDJ.
4. " Mohindra Nath Boro, AAO/TA/CG.
5. " Tapen Naiksha, Peon/AAO/EGA.
6. " Chandan Kumar, Peon/TA/CG.
7. " Md. Abdul Naser, Peon/SAO/Admn.
8. Shri Nitai Shankar Bhatta chargee, Peon/SAO/P FPN.

9. " Jiten Panchariary, Peon/TA/Goods

Please intitiate the above staff accordingly.

for FA & Chief A/cs. Officer/AD.
N. E. Railway, Maligaon.

Confidential
True Copy
B.S.G

110

**The Financial Adviser & Chief Accounts Officer
N. P. Railway, Mallaon**

Through Proper Channel

Sir,

Sub - Appeal for absorption in the Group - 'C' Category.
Ref - Your letter No. PNO/AD/68/274 Pt. XIX dated 26.11.99.

With reference to your letter quoted above I beg to lay the following for your favour of your kind attention and sympathetic consideration please:

1. That it is admittedly true that I have come to the Accounts Department by way of inter department transfer from the Security Department with my own option. But Sir, if you be pleased to hear the background of lending my such option, I do verily believe your good heart would be melted with softness, sympathy and susceptibility.
2. That it was unfortunate that before seeking for such transfer from my former Department of Security Department I was completely kept in the dark by my employer there about elevation of my pay, scale & capacity as that of Group - 'C' cadre. Railway Board's directions following the pay commission's recommendation for the restructuring of Constable Cadres in the Security Department were neither implemented nor communicated to us.
3. That finding my fortune completely blocked in the Security Department, though, in fact, I was in the Group - 'C' Cadre of Constable capacity, I have no other efficacious way but for the option of the Accounts Department in Group - 'D' cadre.
4. That I do fervently hope that your good self would not take the technicality of my option so hardly which may be harsh and hassle for my service life.
5. That I have got the requisite qualification & credibility of 7 years service to become Group - 'C' Accounts Clerk.
6. That Sir, I assure you, I will discharge my Zenith Capability in the event of my being absorbed/promoted in the cadre of Group - 'C' Accounts Clerk under your kind control.

I would, therefore, hope and pray that you would be kind enough to look into my appeal and accord your orders for promoting me as Accounts Clerk.

With regards

Yours faithfully

Peon under EA&CAO/MLG
Section, NCR Railway

(v) ~~Confidential~~ ~~True Copy~~ ~~500~~

To

[REDACTED]

The Financial Adviser & Chief Accounts Officer
 N. F. Railway, Maligaon

Through : Proper Channel

Sir,

Sub - Appeal for absorption in the Group "C" Category.

Ref - My letter dated 17-01-2000

In inviting your kind attention I beg to state that the reply to my letter under reference is still awaited. I am passing my days with extreme mental and economical hardships. I would be obliged if you would kindly look into the matter personally and accord your administrative orders after going through the whole papers and records, the references of which I have cited in my above appeal. I have every reason to believe and hope upon the action of your goodself, Sir.

With regards,

Yours faithfully,

(Narine Sanjiv Bhattacharya
 Peon under FA&CAO, 04-08-2000
 N. F. Ry, Maligaon)

✓
 4/8/2000
 Certified to be
 true copy
 [Signature]

34

62

To

17361 F.I.I. 11

The Financial Adviser & Chief Accounts Officer
N. F. Railway, Maligaon

Through Proper Channel

Sir,

Sub - Appeal for absorption in the Group - "C" Category.

Ref - My letter dated 17-01-2000, 4-08-2000

In inviting your kind attention I beg to state that the reply to my letter under reference is still awaited. I am passing my days with extreme mental and economical hardships. I would be obliged if you would kindly look into the matter personally and accord your administrative orders after going through the whole papers and records, the references of which I have cited in my above appeal. I have every reason to believe and hope upon the action of your goodself, Sir.

Yours truly

With regards,

Yours faithfully,

Nutan Sankar Bhattacharjee
Peon under FA&CAO
N. F. Rly, Maligaon

15/02/01

*(N.S.B.)
15/02/01
Certified to be
true copy
S. S. S.*

To

35

Financial Adviser & Chief Accounts Officer,
N. E. Railway, Maligaon

Sir,

Sub - Appeal for absorption in Group - 'C'
category in the Accounts Department.
Ref - My letter dated 1.7.91 - 2.8.91.....
4.7.91 & 25.9.91 - 2.9.91.

I beg to state that it is really unfortunate for this poor and humble employee that neither I have been favoured with the absorption / promotion of Group - 'C' employment, i.e. Accounts Clerk under your kind control, nor a reply in response to my series of representations under references was given so long.

That Sir, it is pertinent to mention here that the Hon'ble Tribunal have given a favourable award vide its order dated in favour of the two of our sufferers transferred from the Security Department by giving option like this humble Applicant. By the said verdict it has been proved that no one gives option for his demotional post, and that too, from Group - 'C' to Group - 'D' category. Such exceptional cases arise only in exceptional circumstances. Survival of one's existence in the final say of any living being. This humble employee also had done the same thing when he was compelled by the Administration in remaining in the darkness about the future of his service carrier, which was deliberately stumbled by my former employer i.e. the Security Department by not implementing the Pay Commissions' recommendations followed by Railway Board's mandatory directives for elevation of the pay, scale, capacity & status of a constable in the Security Department.

Sir, I am already in stagnant position in my present capacity of a Peon and you would realize that it is how difficult for a poor employee like me to maintain a family in these days of severe economic hardships.

I would, therefore, fervently pray that you would be kind enough to review your decision communicated vide your No. PNO/AD/68/274 Pt. XIX dated 26.11.99 and accord a favourable order for promoting me as Accounts Clerk at the earliest.

With regards,

Yours faithfully

Netai Sankar Bhattacharjee

C.5 - C.5 - C.5

W. 01
05/10/02
C.5
Accounts Dept
Xmas 99

GOVT OF INDIA.
MINISTRY OF LABOUR,
ON THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, GUWAHATI -

labour court, Guwahati.

REFERENCE NO. 9 of 2001.

Present :- Shri H.A.Hazarika, LL.B.
Presiding Officer,
CGIT-Cum-Labour Court,
Guwahati.

In the matter of an Industrial Dispute between:

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

It is parties to note that after
represent of C.G.I.T. The Workmen, represented by the General Secretary, Rail Mazdur Union, Guwahati, N.F.Railway, 27/B, Rest Camp, Pandu.

Date of Award :- 14/03/05

written Statement:-

- A W A R D -

1. The Govt. of India, Ministry of Labour, New Delhi vide its Notification No.L-41011/27/2002-IR(B-1) dated 10.12.02 referred this Industrial dispute arose between the Management of N.F.Railway and the workman Sri T.K. Baishya and Abul Naser for adjudication and to pass order by exercising power conferred under Clause-6 of Sub-Sec.(1) and Sub-Sec.(2 A) of Section 10 of the I.D.Act, 1947 on the basis of the following Schedule.

SCHEDULE.

Indorse the decision of the management of N.F.Railway in not granting the Group-C post/category to

contd....p/2.

Contract
true copy
A.P.



✓ Shri Tapan Kr. Baishya and Abul Naser at the time of absorption to another Deptt. as surplus staff w.e.f. February 1998 is justified ? If not, what relief Shri Tapan Kr. Baishya and Abul Naser are entitled to ?"

2. On receipt of referred matter the State Industrial Tribunal, Guwahati issued notice to both the parties. Having receipt the Notices both the parties appeared before the State Tribunal.

3. It is pertinent to note here that after establishment of CGIT-Cum-Labour Court for North East Region at Guwahati, record of proceeding is received by the CGIT-cum-Labour Court at Guwahati.

4. Meanwhile both the parties have submitted their written statements, etc.

5. The case of the Workmen briefly from their written statement is that they were appointed in Group-D category post in N.F. Railway's Security Department of Fire Service wing in the year 1998 with all the benefits till their transfer in the Accounts Department on being rendered surplus due to freezing of the Fire Services Wing and at this stage their actual status was of Group-C Category. According to Board's revised policy and list of Group-C staff surplus was not available to them because of the non publishing of list by Management. As per Railway Board's policy relating to redeployment importance should be given to senior staff for absorption in the same pay and Scale comprising to their junior staff. But in case of the workmen the Management has done whimsically

violating the Railway Board's categorical instruction. They were Group-C employees enjoying the Scales of 4th as well as 5th Pay Commission but they were absorbed in Group-D category though their status was upgraded to Group-C and Scales with effect from 1.1.96. Both the workmen were working in the Fire Service Wing at Pandu and Guwahati respectively and those bases were closed in the year 1995. When an establishment is closed there ought to have been modality of redeployment. The Management has not complied of modality as a result of that they had to apply for their redeployment in the Accounts Department in Group-D Posts.

6. That for closure or freezing of particular Section of service the permanent employees are not responsible but Management is responsible.

7. That the Management did not try to settle all the claims of the workmen. Even before the Labour Commissioner the Management did not try to settle it.

8. That the inaction of the Railway Management has violated the principle of Natural Justice.

9. Hence, the workmen prayed to pass award to give them benefit of status of Group-C category with full protection of seniority and Pay and Allowances.

10. The case of the Management in brief is that the

contd.....p/4.

the claim of the workmen is not maintainable in law.

11. That this Tribunal has got no jurisdiction to adjudicate the referred matter as it ought to have been before the Hon'ble Central Administrative Tribunal u/s 14 (A) of the CAT's Act 1985.

12. That the workmen namely Sri Tapan Kr. Baishya and Abul Naser applied to absorb them respectively in Group-D category Post and Junior Clerk in the Accounts Department in Maligaon.

13. That the applications of the workmen were accepted by the Competent authority for absorption in Scale of Rs.2550-3200/- for the Post of Peon vide office order No. G/454 dated 13.5.1999 and G/459 dated 13/14.05.98 with certain terms and conditions such as :-

- i) That their seniority will be assigned
- ii) They can not seek retransfer to their parent....
- iii) Their lien will be maintained in their Parent....
- iv) Their option to seek transfer as Peon in scale...
- v) No. T.A, D.A, Transfer grant
- vi) Their pay will be fixed as per extent Rules..
- vii) They can not seek transfer within one and

14. That the above terms and conditions are accepted by the workmen and there is no scope to reopen the matter as such Management prayed to dismiss the claim of the workmen.

15. The workmen Abul Naser appeared as W.W.1 and Tapan Kr. Baishya appeared as W.W.2. Both of them are cross examined by the learned Advocate Mr. S.N.Chowdhury, for the Management.

16. Both the workmen deposed that at the time of their transfer to Accounts Section they were working in Group-C category having scale of 4th and 5 th Pay Commission.

17. That they were told by the Management that Fire Wing will be abolished and to apply elsewhere as on abolition they will be surplus. Finding no other alternative they were compelled to apply in Group-B category but the surplus list was shown by the Management.

18. That their names are apparent in the seniority list. In cross-examination W.W.1 deposed that he has not received any letter about abolition of Fire Wing of RPF. That in his application he has not mentioned that for being surplus in Fire Wing RPF, he had to apply for the post of Junior Clerk.

So also in cross-examination W.W.2 deposed as regards the surplus, he was getting information from his office, but he has not received any written notices. He knows 6 workers junior to him were absorbed in Category-C which he objected. They denied in their deposition that Management has not committed any injustice to them by giving them Group-B post.

19. Heard the argument submitted by learned Advocate

Mr. K.K. Biswas for the workman and Mr. S.N. Choudhury for the Management. Perused the evidence recorded by me and all other documents in the record.

20. The workmen claimed that they were enjoying the benefits of scale etc. of Group-C of 4th and 5th Pay Commission prior to their absorption in Category-D in Accounts Department. Afraid of the abolition of RPF Fire Wing and to be ~~displaced~~ they complied the direction of the Management and under compelled circumstances they applied to get absorption in Accounts Department. Accordingly under compelled circumstances they joined.

21. The Management denied the ground agitated by the workmen that due to abolition and being surplus they were absorbed in the Accounts Department.

22. On perusal of evidence of solitary Management witness I find the MW is evasive about the abolition of Railway Fire Wing and about surplus. The MW is also evasive about the exact status of workmen at the stage of absorption from RPF Security to accounts department. Categorically the MW could not say that there was no question of abolition, surplus and that they were not the workmen under Group-C category.

23. What I find both the workmen were enjoying the benefits of Pay and Status of the Category-C at the time of their absorption in Accounts department. Admittedly they were absorbed in Category-D in Accounts Department.

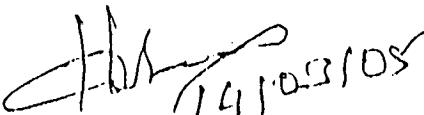


42
 20
 1. Workmen and abolition of abolition of P.W.F
 Fire Wing and to be surplus. Being afraid to be surplus due to abolition of I.P.F Fire Wing the Workmen joined in the Category D of the Accounts Department. Hence, the ground forwarded by the workmen about compelled circumstances has got force because no workman will select to be defuncted at the stage while they are earning their monthly salaries. On the other hand it is to be seen that no workman who is enjoying benefit of Pay of 4th and 5th Pay Commission will choose to come to join in Category of low salary. So the ground of compelled circumstances is quite natural. During these sky high price rising days no workman will prefer to join in low salary leaving the high salary.

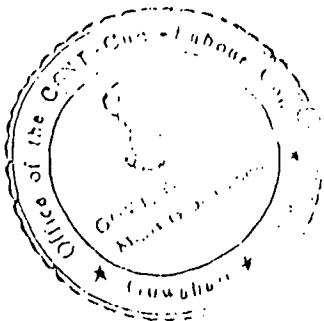
25. There ought to have been modality for abolition of a Wing for redeployment, I find no such procedure is followed by the Management. So also there is no list of surplus. The workmen claimed that 6 persons junior to them were promoted to Group-C. The answer of the MW in this connection is also evasive. So what I find the claim of the workmen has got legal force that they are deprived from legitimate entitlement. As per the MW there is presently no existence of vacancy in Group-C. What I find workmen are in continuous service in the N.F. Railway Management, Maligaon. For ends of Natural Justice, the Management can not deny the legitimate claim of the workmen in present circumstances of the case. It is the responsibility of the Management to give proper justice for the welfare of the workmen by way of promotion. I find both the workmen are

-8-

entitled to get the promotion to Category-C. The Management is to arrange for their promotion. Accordingly this Schedule (Issue) is decided in favour of the workmen. Prepare the Award and transmit it to the Government urgently as per procedure,


14/03/08

Presiding Officer,
CCIT-cum-Labour Court, Guwahati.



卷之三

କବିତାକାବିନୀ

ಜಾತಿಗಳ ಮತ್ತು ಜಾತಿಯ

19. The author with the approval of competent
members of the faculty.

νέαντινα. ΟΙΚΥ' Χαροπαίας (σ)
ετοίμαστη, Ευαγγελίας.

150 600 254 11 663 11

1369 9 2633558

Copy furnished the information and emergency action

- 2) ~~RECORDED~~ THIS IS IN ACCORDING TO HIS LETTER NO. 4655/24 (P) PREVIOUSLY ISSUED ON 20.6.1948.
- 3) CASE FILES TO BE PRESENTED TO MR. AND MRS. KENYA ON 11.7.1948.
- 4) CONFIDENTIAL.
- 5) SECTION 21, 1946.
- 6) 500/1948/WHITE/1145.
- 7) PROBLEMS.
- 8) STAFF ORGANISED AT OFFICE.
- 9) HIGHEST COPY FOR OFFICE.
- 10) DRAFTS AT OFFICE.

100-11113-179
Fog at 0600 hrs. May 10, 1944. (2)
M.A.R.N.Y. Landing.

~~Coffee~~

N.E. RAILWAY

OFFICE ORDER

The following RPF personnel who were declared surplus and holding the supernumerary posts applied for their induction in the Mechanical Department on acceptance of bottom seniority are hereby posted against the post mentioned against each. Their seniority etc. will be decided as per rule.

<u>S/No.</u>	<u>Name & Design.</u>	<u>Father's Name</u>	<u>Inducted as</u>
1.	Sri Ajit Kr.Baishya, Sri Puran Ram Baishya Fireman/PNO		Clerk
2.	Sri Khushi Lal Orson, Sri Parasadi Orson, (ST), Fireman/LMG		Clerk
3.	Sri Pradip Kr.Deka, Late Bhniam Deka, Fireman/LMG		Clerk
4.	Sri Dwijen Sarma, F/mam/NGC	" Sambhu Nath Sarma,	Clerk
5.	Md.Majit Ali, Fireman/PNO	" Ajiruddin Ahmed,	Clerk
6.	Sri Ganesh Ch.Baishya, Late Santu Ram Baishya, Clerk Fireman/GHY		

for General Manager(P)/MLG

No.E/283/(M)/POH

Maligon, Dt. -7-99.

Copy forwarded for information and necessary action to:

- 1) ASC/Fire/MLG. He is requested to spare and direct them to report of Sr.DME(C&W)/LMG for further posting/duty.
- 2) FA&CAO/MLG
- 3) DRM(P)/LMG
- 4) DAO/LMG
- 5) CWE/MLG
- 6) Sr.DME(C&W)/LMG

for General Manager(2)/MLG

*Certified
True Copy
5/8/99
S. S. S.*

The F.A. & C.A.O,
N.F.Railway, Maligaon,

Through proper channel.

Sir,

Sub: Representation for giving promotion in Group-C employment in the capacity of Junior Clerk i.e. Account Clerk in the Accounts Department vis-à-vis the orders issued by the Administration in the cases of Md. Abul Naser and Sri Tapas Baishya, Peon in the Accounts Department vide FA & CAO, N.F.Rly/Maligaon's Office Order No. PNO/A.D/30-196/16-XI dt. 28-5-2006.

With due respect and humble submission I beg to lay the following lines for favour of your kind perusal, sympathetic consideration and equitable justice please.

RPF - Constable

1. That this humble memorialist was appointed in the capacity of under the Chief Security Commissioner, N.F.Railway, Maligaon in Group-D employment and discharged my duties to the entire satisfaction of all of my superiors.
2. That after rendering sterling services in the Security Department I found that inspite of having my requisite qualification for being employed in the minimum capacity of any Group-C employment in the Railways establishment I was mentally perplexed and as a result of which I had to pass the days in severe economic hardships with the members of my family.
3. That it is submitted in this connection that following the recommendations of the IV th Pay Commission the Pay Scale and capacity of the Constable in the Railway Security Department were elevated to the Cadre of Group-C establishment prevailing in the Pay Scale of Rs..... Which was communicated vide Railway Board's Circular No..... Dated..... 30-10-1987
4. That the recommendations of the Pay Commission mentioned in the foregoing para was not implemented in the Security Department in my case neither I was informed of the elevation of my status to the cadre in Group-C capacity in the Pay Scale of Rs....., which I feel was a bounden duty of the Administration to communicate me and grant me the necessary Pay Scale and the status of capacity in Group-C establishment in my parent department.
5. That having remained in the quite darkness of the radical changes of the Pay Scale and the capacity following the recommendations of the IV th & V th Pay Commissions

Contd....P/2...by...

and the capacity following

by which my position was elevated in the rank of the Group-C establishment minimum of a Junior Clerk's Pay Scale, which I was neither given nor proposed to be effected to while I was in the Security Department and resultantly I had to be succumbed to the inevitable lot my destiny.

6. That finding no other alternative I found that it would be efficacious at least if I interchange my cadre and department with that of the Accounts department whereupon at least I can combat with my destiny. Consequently I had applied for transferring me from the Security department to the Accounts department accepting the bottom seniority in the capacity of a Peon under the Accounts department.

7. That it is pertinent to mention here that the authorities in the Security Department knowing fully well that during the material period my Pay-Scale-capacity was that of a Group-C cadre and even then spared me as a Group-D employee to the Accounts department on the basis of my application. The future consequences for such transfer were completely unknown to me then nor my Controlling Officer of my parent department cared for disclosing it to me at least as an well-wisher of his under staff.

A photo copy of the Transfer order issued by the Security Department vide ER/PND/E-2/98 dated 28-5-98 is enclosed as ANNEXURE-I.

8. That on being spared by the Security Department I was absorbed by the Accounts Department and given the formal posting order vide FA & CAO's, Maligaon, No. G/673 PND/A-B/66/293 Pt. XVII dated 01-06-1998
A photo copy of the above office order is enclosed as ANNEXURE-II.

9. That right since my induction in the Accounts Department I have been representing to this Administration for considering my case for allowing me to get the Pay Commission's recommendation and arrange elevation of my Pay-Scale and status in the minimum capacity of a Junior Clerk i.e. Accounts clerk in the Accounts Department in Scale 3.05.C-457c/2.

The photo copy of my above representation is annexed as ANNEXURE-III for your kind perusal.

10. That it is a matter of peculiar grief and grave concern that without giving proper application of mind to my aforementioned representation my prayer was turned down

Contd.....P/3...by..

// 3 //

by the Administration, more particularly the then Dy. FA & CAO, NE.Railway, Maligaon, with his high hand brazen decision and blatant attitude and my case was not considered and I had to suffer a lot till date. (ANNEXURE - V),

11. That incidentally it is humbly submitted that 2 of our sufferers, namely Md. Abul Naser and Sri ~~Naresh~~ Baishya having lost their hopes and aspirations for any susceptible response from the Administration, approached the Court of Law and the Hon'ble Court was very much pleased to their cases and gave correct discernment and judicious orders considering all aspects and gave the Award in Ref. Case No.9 of 2004 in the CGIT-cum-Labour Court in favour of the Workman, above named.

12. That the Administration, however, afterwards giving all careful considerations in the matter implemented the said Court's order and gave promotion to the above named two persons in the capacity of ~~Attendant, Clerk~~ in the Scale Rs..... vide order P.No/A-D/30-196/Pt-2 dated 28.07.2006 No..... Dated to take effect retrospectively from the date of issuance of Court's order and also to get payment of all backwages of Pay and Allowances from the date of the Court's order. (ANNEXURE - IV).

13. That this humble memorialist, who is also one of the similar kind of sufferer like these two employees, and therefore deserve to be considered by the Administration for getting the justice from the Administration's end in fulfilling that conception of "equal Pay for equal Work" to honour mandatory provisions of Articles 14 and 16(1) guaranteed by the Constitution of India. Incidentally it is submitted that this humble memorialist, though by designation Peon i.e. the Group-D employee under your control, but, infact, has been discharging the duties of a Group-C employee right since his induction in your establishment.

14. That in this connection it is also submitted that the Junior of this humble Applicant while in his parent department were given the benefit of Group-C status and posted in other departments in the capacity of Junior Clerk and also given the necessary benefits whereas this Applicant inspite of his being quite senior to them has been forced to suffer to his lot by the Administration. Had it be known to this Applicant before his seeking in the inter-department-transfer, definitely in no circumstances he should have applied for and agreed to accept the catastrophes of his lot which was not known to him during the material time of his transfer, but quite known to the Administration and never disclosed the impact of such transfer in the event of its taken effect into ".

Contd.....P/4.....That...

5. That it is also humbly submitted that the application submitted by this employee for transfer to the Accounts department for his absorption by accepting the Group-D employment-capacity, although during the material time he was in the Group-C employment which was not disclosed to him by the administration, can not be taken so much technical spirit to deprive him of his rightful claim and to be succumbed to all his adversaries of life and lot.

16. That incidentally this Applicant may be permitted to mention that in my representation dated 9/1/2000 to you it was mentioned that Sri Monoj Kumar Thakur, RPF/Fireman/APDJ, Sri Tapan Kumar Acharjee, RPF/Fireman/APDJ were absorbed as Clerk in scale Rs.3050-4590/- under DRM(P)/APDJ vide Office Order No.E/41/AP/S & T dt. 24.12.98 and 23.3.99 & Smti. Kanika Saha, Constable/RPF/MLG(HQ) was absorbed under GM(P)/MLG as Clerk-cum-Typist in scale Rs.3050-4590/- vide GM(P)/MLG/468E/18(W) Pt.V dt.23.3.99 respectively in Group-C establishment on being spared by the Security Deptt. on acceptance of bottom seniority which postulates to be of their volition for inter-department transfer. Under such pretext of having glaring precedence of sparing and absorbing of the security personnel, of Group-C status in other department on their same pay, scale and capacity even on their own declaration of such transfer like those two of the subject mentioned cases, why the prayer of this Applicant was not considered by the Administration as yet and made to suffer in countless sufferings. This is but a sheer DISCRIMINATION and deserves to be eliminated by no further loss of time. A photo copy of the above is enclosed as ANNEXURE - VI.

17. That in this connection it is also humbly submitted that in the Celebrated Judgment given by their Lordships of the Division Bench of Central Administrative Tribunal, Guwahati in Sri Durlav Ch. Medhi's Case, Reported in AISLJ, Vol-53 Pt.3 page 447,1994 that according to State's Labour Welfare Policy and in the public Interest, technical ground to deprive the rightful claim of employment to another employee should not be over emphasized and the case be solved on its true perspective.

18. That in this connection it is also humbly submitted that the principle of **Equal protection of law under Article-14** between one person and another shall have to be given under equal circumstances and the action must not be arbitrary but must be based on some valid principles which itself must not be irrational or discriminatory specially on the administrative action mentioned in the above case.

Contd.....P/5....That....

// 5 //

19. That it is hoped that non-arbitrariness and fairness in the administrative action amongst its employees will be taken by your good office and magnanimity. In furtherance of my submission I beg to state that every government servant has a right to be considered for promotion and elevation of his service-career and this should not be jeopardized simply by a technical ground or caused because of the ignorance of the employee. In this connection this humble Applicant respectfully submit the crux of the celebrated judgment given by their Lordships in the Hon'ble Supreme Court of India in Shew Dayal sinha's Case, reported in 1982 (1) SCC 378 which is reproduced ad verbatim

" Every management must provide realistic opportunities for promoting employee to move upward. The organization that fails to develop a satisfactory procedure for promotion is bound to pay the service penalty in terms of administrative cost, mis-allocation of personnel low, morale and insufficient performance, among employees and their Supervisors."

In the premises above, it is, therefore, humbly prayed that you would be gracious enough to examine the case on its proper perspective and assess correct discernment after careful consideration of all aspects and also from the cardinal principle of "equal pay for equal work" for "equal protection of laws" to arrest discrimination and miscarriage of justice amongst employees and thereby safeguard the infringement of Constitutional provisions guaranteed under Articles 14 and 16(1) and also the cardinal principle of Natural Justice for the ends of justice to deal the representation of this humble employee so as to redress his long standing grievances.

And for this act of your kindness I shall pray and remain ever grateful and be obliged.

With all regards.

Yours faithfully,

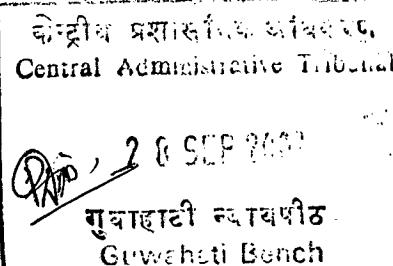
D.A : As above.

Date:- 14-08-06.

Netaji Bankar Bhattacharjee
Pcon/epB.

*Juridical to
Sr AFA/FA
on a pleasure
basis
14/8/06
AFA/epB
80 PM/FA/FA/FA
A.F.R.M. till 14/8/06
Pcon/epB.*

*W.H.M
14/8/06*



Filed by the respondent
U.K. Ha, advocate
through
on
29.09.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATI.

O. A. No. 108/2007

Shri N.S. Bhattacharjee

- Vs -

U. O. I & Ors.

Written statement filed by the respondents.

The respondents most respectfully begs to
state as under :

1. That the respondents have received the copy
of the O.A. and understood the contents thereof:
2. That the O.A. ^{is} grossly barred by limitation and
deserves to be dismissed on that count alone.

The application also deserves to be dismissed
on the ground of suppression of material facts that
he applied for the post of peon when he was drawing
salary in scale of Rs. 825-1200/- which is a group C
post. The O.A. is also barred by the law of estoppel
and waiver.

Contd....2/-

W/S

3. That the brief facts are as under :

[Sri Netai Sankar Bhattacherjee, Peon/CPB of Accounts Department, N.F. Railway, Maligaon was appointed in the Security Department in the capacity of constable /RPF in the executive department of RPF on 28.02.93. He applied for inter-departmental transfer to Accounts Department at his own accord in the capacity of Peon vide his application dated 07.03.97. He wanted to be absorbed in Group-D category of Accounts Department as his mother had undergone a major brain operation at AIIMS/New Delhi two years back and she required regular check up and treatment at Central Hospital/ Maligaon. He joined in Accounts Department on 25.05.98. The Vth Central Pay Commission's reports have also been widely circulated by the Central Government of India and the Railways and also through various medias, so the question of ignorance about the IVth or Vth Pay Commission's awards by any employee of any department does not arise and such alleged ignorance is of no help. Implementation of Vth Pay Commission's awards to all employees of all departments of N.F. Railway after announcement of the award required a lot of time for which a lump-sum arrear amount to all employees of all employees of all departments of N. F. Railway have been paid at a time which Sri Bhattacherjee while he was working in the capacity of Constable/RPF in the Security Department received. Sri Bhattacherjee was well aware

Contd....3/-



28 SEP 2007

गुवाहाटी न्दायपीठ
Guwahati Bench

3

of the awards given by the Vth Central Commission to the RPF constables while he was serving in the executive wing of RPF. So his plea of ignorance about the awards of Vth Central Pay Commission to RPF Constables is to mislead the Hon'ble Tribunal. [The applicant had appealed for promotion to the post of Accounts Clerk in scale Rs. 3050-4590/- since Sri Tapan Baishya, Peon/EGA and Md. Abul Naser, Peon/ENGA(Susp) were promoted to the post of Accounts Clerk on the basis of verdict of Hon'ble Central Govt. Industrial Tribunal-cum-Labour Court, Guwahati dated 13.07.05 in Case No. 4(C)/03(9/04)New) forwarded by GM(P)/MLG vide No. E/170/LC/819/2000 dated 2/6.9.2005. These 2 (two) staff were initially appointed as Fireman/RPF, Fire Wing of N.F.Railway. They joined in Accounts Department in the capacity of Peon being rendered 'surplus' in Fire Wing of RPF but the applicant was not declared 'surplus' in Fire Executive Wing of RPF, he was not equally circumstanced like Shri Baishya and Md. Naser, and hence his appeal for promotion to the post of Accounts Clerk in Accounts Department was rejected vide FA & CAO/N. F. Railway/Maligaon's letter No. PNO/AD/80/496/Pt.XI(Loose) dated 3.4.07.

Sri Tapan Baishya, Peon and Md. Abul Naser, Peon were working in the Fire Wing of RPF (Security Department). They were rendered 'surplus' in Fire Wing of Security Department. They had applied to Accounts Department for

Contd....4/-

28 SEP 2005

गुवाहाटी न्यायपीठ
Guwahati Bench

4

absorption in Group-D category at their own accord. They were absorbed as Peon in Scale Rs. 2550-3200/- in Accounts Department. These 2(two) staff filed a Case No. 4(C)/03 (9/04 New) in the CGIT-cum-Labour Court, Guwahati. In the verdict, Hon'ble Presiding Officer, CGIT-cum-Labour Court, Guwahati opined "I find there was question of abolition of RPF Fire Wing and to be surplused. Being afraid to be surplused due to abolition of RPF Fire Wing the workmen joined in the category - D of the Accounts Department. Hence, the ground forwarded by the workmen about compelled circumstances has got force because no workman will select to be defuncted at the stage while they are earning their monthly salaries." As such, the Hon'ble Presiding Officer, CGIT-cum-Labour Court, Guwahati directed the management to arrange for their promotion to Category-C. The management promoted the above 2(two) staff to Accounts Clerk in scale Rs. 3050-4590/- with effect from 13.07.2005 (Date of verdict).

Copy of application dated 01/07/2005 of the applicant is enclosed as Annexure - I

4. That in reply to the statement in para 4.4 to 4.9 the respondents reiterate the statements in para 3 above and say that the applicant had no scope of transfer as Accounts Clerk from Security Department .

5. That in reply to statement in para 4.10 to 4.14 the statements in para 3 above are reiterated. The case

Contd... 5/-



28 SEP 2011

गुयाहाटी न्यायालय
Gauhati Bench

of the applicant has been duly considered and there is no scope to grant promotion as claimed.

6. That in reply to statements in paras 4.15 to 4.27 it is stated that the cadre of Accounts Clerk is separate and distinct with scope of direct recruitment and promotion from Group D staff of Accounts Department. There is no scope of transfer of the applicant as Accounts Clerk from RPF. This would cause irregularity and mass complaint from the staff of Accounts Department. His case for promotion shall be considered in usual turn.
7. That the O.A. is misconceived and misconstrued.
8. That under the circumstances the O.A. is liable to be dismissed with cost.



28 SEP 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

6

VERIFICATION

I, Shri *A. S. Hopenson*
aged about 48. years do hereby verify
that the statements in the above are
true to my knowledge.

25.9.2007.

Guwahati

✓ *✓*
Signature

न्यायपीठ
नियन्त्रित सीमा रेलवे, मालीगाँव गुवाहाटी-१
Deputy Chief Accounts Officer (G)
N.F. Date: Mahadeon, Guwahati-11



Annexure 1

SN-2

Annexure-1

294

Office of the
Chief Security Commissioner
N.F.Railway : Maligaon.
dt. 7 - 3 - 97. (8)

p/106/Pt. V/EB.

CAO / MIG,
Railway

Sub.: Inter Departmental transfer of Shri Netai Sankar
Bhattacharjee; Const./ER-Coy/MIG.

Ref.: Your letter No. Nil. dt.

In reference to the above, the desired particulars are
furnished below :-

Regarding pending
of viz/SPE/DAR case.

: NIL.

Screening test.

: Direct Recruit, screening
does not arise.

Service particulars :

Name

: NETAI SANKAR BHATTACHARJEE.

Father's name

: Sri S.S.Bhattacharjee.

Date of birth

: 29 - 02 - 1972.

Date of appointment

: 28 - 02 - 1993.

Educational Qualification

: H.S.S.L.C. Examination passed

Designation

: Const./RPF.

Present pay & scale

: Rs. 920/-.

Other Qualification

: NIL.

9. Home Address

Attested
D. M. G/19
N.F.Railway
Guwahati-12

: Rly. Qrs. No. DS- 67 (H)

Rest Camp. Pandu.

Guwahati - 12.

Asst. Financial Advisor for CHIEF SECURITY COMMISSIONER
N.F.RAILWAY : MALIGAON

To
The Financial Adviser and Chief Accounts Officer
N F Railway : Maligaon.
(Through : Proper Channel)

SUB : Prayer for absorption in Group -D category
as 'Change of category' .

Sir,

With due respect and humble submission I beg to lay before you the following few lines for favour of your kind and sympathetic consideration please .

That sir, I have been working as a Constable/RPF on this railway since 28.02.93 with entire satisfaction of my all superiors . My brief bio-data is as under :-

1. Full Name : NETAI SHANKAR BHATTACHARJEE .
2. Date of birth : 29.02.1972
3. Qualification : Passed Higher Secondary (Arts)
4. Date of apptt. as Constable/RPF : 28.02.1993
5. Present pay and scale : Rs.920/- in scale Rs.825 - 1200/- .

That sir, I beg to mention here that my mother had undergone a major brain operation at AIIMS/New Delhi two years back . She is now in her growing age and requires regular check-up and treatment at Central Hospital /Maligaon, besides periodical check-up at AIIMS/New Delhi and rushing for treatment there when situation calls for . That sir, my present job is an emergent nature and mobile one .. Therefore, I am required to move out of home frequently, leaving my ailing mother alone and uncared .

That sir, due to above compelling circumstances, I earnestly pray for my absorption in a Group-D category under your control, as a change of category, which may practically ease my problems . Further, I like to add that my present Department has no objection to my seeking an absorption in other Group-D category and sparing me in the event of my case is considered for the same . A copy of the 'No objection certificate' issued by my department, is enclosed for kind perusal please .

Under the above circumstances, I fervently pray to your honour kindly to consider my case sympathetically and pass necessary orders for my absorption in a Group-D post in your department, for which act of your kindness, I shall remain ever grateful and obliged to you . I also further declare that I shall abide by the terms and conditions prevailing in such a transfer on change of category .

Thanking you in anticipation of a favourable orders please .

DA/ As above . Only .

Yours faithfully,

Dated, Maligaon,
the , 1997

Netai Shankar Bhattacharjee
(Netai Shankar Bhattacharjee)

Constable/RPF/ER-COY/Maligaon
under CSC/NF Rly.

Netai Shankar Bhattacharjee
Asstt. Financial Advisor
C. Asstt. Financial Advisor
Rly. Maligaon, Guwahati-781011.

To
Shri J. Das
Advocate

CA. no 108/07
(8m. N. S. Block 24-
V.O.I 2m.)

Dear Sir,

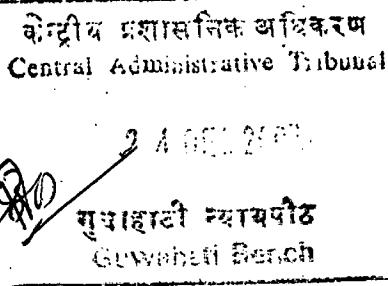
Please receive a copy of
the w.s. in the above case.

28/9/07.

Yours aff.
J. Das
sc/phys

I am intender to
serve the copy of the
P.C. application to the advocate.

Hand over
to Shri Das
28/9/07



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

O.A No. 108 of 2007

Sri Nitai Sankar Bhattacharjee.....Applicant.

-Vs-

Union of India and Others.....Respondents.

IN THE MATTER OF :

**RE-JOINDER BY THE APPLICANT AGAINST THE
WRITTEN STATEMENT FILED BY THE RESPONDENT.**

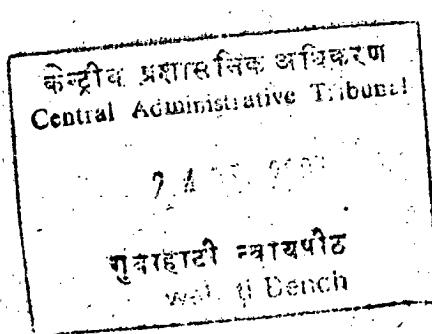
The Applicant above named most respectfully sheweth:

1. That the Applicant has received a copy of the Written Statement filed by the Respondents. Having gone through the same the Applicant has understood the contents thereof.
2. That save and except what are specifically admitted here in below all other statements made in the Written Statements are denied. Further, the statements not borne out of records and also denied and the Respondents are put to the strictest proof thereof.
3. That in response to the averments made under paragraph-1 of the Written Statement the Applicant offers no comments.
4. That with regard to the statements made under paragraph-2 of the Written Statement the Applicant denies the allegations. The instant O.A. has been filed only after receiving the reply from the Respondents on the comprehensive representation dated 14.8.06 made by the Applicant and against the impugned letter dated 3.4.07. So the question of barred by limitation does not arise at all. The Applicant repeatedly as mentioned in his Original Application that he had been persistently requesting the administration for giving him his rightful dues of the Group-C status from the date of Railway Board's letter for implementation of the 4th Pay Commission's recommendations regarding elevation of the Constable status to that of Junior Clerk in Group-C category by up-gradation of Constable's Pay and Scale in the Security Department as per Railway

Contd....P/2..Board's...

File No.
The applicant
Hansh
Date 29/12/07

Nitai Sankar Bhattacharjee



112/11

Board's directive given vide letter dated 30.10.1987 followed by subsequent instructions dated 10.5.99, 26.1.2000 and 30.3.2000. The copies of which have been annexed to the Original Application under ANNEXURES-C, C/1, C/2, C/3 at pages 22 to 27. Thus the suppression of the materials facts, as alleged under Paragraph-2 of the Written Statement does not arise at all, rather, it was the administration, more particularly, the Respondent No.4 under whose control the Applicant had been serving the administration before his transfer and posting in the Accounts Department, so caused and thereby put the Applicant into catastrophies in the assured progression of his career and elevation of the status. The Applicant rather had stated in the Original Application that had the Pay Commission's recommendation as advised by the Railway Board been implemented by the Respondents on time, the question of seeking transfer accepting the bottom seniority in Group-D cadre by the Applicant in the Accounts Department could not have arisen at all. It was for the inaction and wrong action of the Respondents that the Applicant was jeopardized physically, mentally and economically and suffered a lot.

5. That with regard to the statement made under paragraph-3 of the Written Statement it is stated that the said statement was partially true and admitted by the Applicant but so far the implementation of the 4th and 5th Pay Commission recommendations as stated therein were not made by the Respondents at all prior to 2000 although a lump sum arrear amount as mentioned by the Respondents were paid to the Applicant and other Constables in the Security Department. The Applicant's main contention is against such non-implementation of the 4th and 5th Pay Commission's recommendation widely circulated by the Railway Board and as mentioned in the annexed ANNEXURES of the Original Application mentioned in the foregoing paragraphs and as such the suppression of the fact does not arise at all. The moment the Applicant came to know about such elevation of the status in Group-C recommended by the Pay Commission and instructed by the Railway Board to be implemented by the Respondents, more particularly, the Respondent No.4 of this Zonal Railway, thence the applicant has been persistently submitting representations to the concerned authorities, both written and oral by personal approaches, and to give him the Group-C status by promoting to the Post of Accounts Clerk in the Accounts Department in which the Applicant has been posted and presently working.

So far the question of joining and getting promotion by the two staff namely Sri Tapan Baishya, Peon/EGA and Md. Abul Naser, ENGA(SUSP), it is admitted that they

Contd....P/3..were..

विद्याधारी न्यायपीठ
Central Administrative Tribunal
विद्याधारी न्यायपीठ
Vidhyadhar Nyay Peeth

were in the Fire Wing of the Security Department but they were not declared "surplus" as mentioned by the Respondents in this paragraph. Before the contemplation of the above two staff that following the Railway Board's direction they would be rendered surplus and that was why they also, like this Applicant, offered acceptance of Group-D Post in bottom seniority in the Accounts Department and because of the loopholes of the Respondents for non-implementation of the Pay Commission's recommendations as directed by the Railway Board mentioned above before the learned Industrial Tribunal-cum-Labour Court, Guwahati's correct discernment for the cases filed by the above named two staff to give an 'award' and make the Respondents to elevate their posts in the promotion as Account Clerk right from the date they joined in the Accounts Department. Had there been no Court cases in the CGIT filed by the above two staff, it is sure, the Respondents could not have given the due benefit of rightful promotion to those two staff in the Group-C cadre and posted them in the Accounts Clerk in Scale Rs.3050-4590/- in which post they had been in the Security Department like the present Applicant but for non-implementation of the Pay Commission's recommendations there they like this Applicant has also opted for their transfer in the Accounts Department accepting the bottom seniority in Group-D category. Thus the Respondents in their averment have tried to mislead this Hon'ble Tribunal from right picture and because of promoting the above named two staff. It is rather being inspired by the same promotion and award given by the CGIT, the present Applicant, who is similarly placed and were in the similarly placed circumstances prior to his transfer to the Accounts Department, has approached this Hon'ble Tribunal for justice, after his hopelessly failure in his present department under the Respondents for getting his rightful claim in the elevation of promotion as Accounts Clerk and by thence get the Group-C cadre status.

The Applicant respectfully submits that for the making of evidence of the Respondent's submission made in this paragraph the Applicant will file a Misc. petition praying for submission of the relevant documents so as to prove the veracity of the statement/averment made by the Respondents in their Written Statement. In this connection it is mentioned that the learned Presiding Officer of the CGIT-cum-Labour Court was convinced by the above named two workmen's submission that on contemplation of they were being rendered surplus they had to opt for their transfer in the Accounts Department in Group-D category accepting the bottom seniority in the said department, but the administration could not furnish any relevant document in the said Tribunal rather, denied in their earlier submission in the Industrial Tribunal that they

Contd.....P/4..were..

Nefti Sonika Chakraborty

were not rendered surplus. So as to honour the judicious decision and the correct discernment of the said learned Tribunal, the copy of whose Award has been annexed by the Applicant under ANNEXURE-M annexed in the O.A at page 36 of the O.A upon which the Respondents had to promote the two litigants mentioned therein as well as mentioned above, vide Office Order dated 28.7.2006. The photo copy of which has been annexed to the O.A as ANNEXURE-A/1 at Page 20.

6. That with regard to the statement made under paragraph-4 of the Written Statement filed by the Respondents it is submitted that this averment also is not correct. Had it been so then under what circumstances and what ground and/or for what reason Sri Munindra kumar Das, Constable, ER-COY/Security Department, N.F.Railway, Maligaon in the Security Department like this humble Applicant was transferred directly as Accounts Clerk from the Security Department of the Accounts Department vide Office Order No G/024(07-08) dated 5.7.2007 communicated under No.PNO/AD/66/275/Pt-IX Dated 05.07.2007. The copy of which is annexed as ANNEXURE-R/1. In this submission also the Respondents are trying to give false depiction before this Hon'ble Tribunal and thereby misleading the Tribunal from the right track to put a barrier in the rightful claim of the Applicant. The Applicant most humbly prays before this Hon'ble Tribunal that the Tribunal may be pleased to examine the said Office Order at par with the contention and statement made by the Respondents in this paragraph and thereby accord justice.

7. That with regard to the statement made under paragraphs 5 to 8 of the Written Statement filed by the Respondents the Applicant re-iterate his humble submission made in the Original Application in various paragraphs for considering his rightful claim to give the just dues of getting promotion in the Group-C status in the capacity of a Junior Clerk i.e. Accounts Clerk in the Accounts Department in Scale Rs.3050-4590/- like those of Sri Tapan Baishya, Md. Abul Naser, Sri Munindra Kr. Das mentioned in the foregoing paras who also came to the Accounts department and absorbed there from the Security Department as Group-D employee like that of the present Applicant and at par with the other Constables of the Security Department who opted for being posted in other departments and were duly considered by the Respondents and posted as Junior Clerks and Junior Clerk-cum-Typist on the same pay, scale and capacity identical with that of the Constable in the Security Department on being transferred by their own request and

Contd....P/5..accepting...

115/1

accepting the bottom seniority of the Department they were posted, some of the names of them are Smti Konika Saha, Sri Monoj Kr.Thakur, Sri Tapan Kr. Acharjee, as mentioned in the ANNEXURES- N & O at pages 44 and 45 annexed with the O.A. It was clear discriminating policy of the Respondents by not implementing the Pay Commission's recommendation as directed by the Railway Board and elevate the status of the Applicant in Group -C cadre by promoting him as Accounts Clerk at per with the above named staff who were also similarly placed circumstances like that of the present Applicant.

8. That the Applicant humbly states that the ground taken in the Original Application are valid and tenable grounds and it is, in fact, the callousness and ignorance and inactions and miscarriage of justice of the Respondents, which has made the Applicant suffered for about two decades and this Hon'ble Tribunal in exercise of its jurisdiction, will call for the Original Records of the case and after kind perusal of the same would be pleased to pass necessary orders in the matter so as to enable and prevail the justice.

9. That this humble Applicant, in the premises above, therefore prays, that this Hon'ble Tribunal may be pleased to discern the correct decision of the case after examining the records forwarded by both the parties and disseminating justice so that the long standing grievances of this humble Applicant are redressed.

Netra Dandkar Bhattacharya

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

२१८८/२००८

गुवाहाटी बायपोर्ट
Westeri Bench

-VERIFICATION-

I, Nitai Sankar Bhattacharjee, s/o Late S. Sukanta Sankar Bhattacharjee aged 36 years, a resident of Rest Camp, Pauron, Guwahati-12 do hereby solemnly affirm and verify that the contents of paragraphs 1 to 7 are the facts of the case and true to my knowledge and information and belief and that I have not suppressed any material facts and paras 8 & 9. Are my humble and most respectful submission before this Hon'ble Tribunal.

And I, sign this verification on this 24th day of Dec. 2007.

Place: Guwahati

Date: 24/12/07

Nitai Sankar Bhattacharjee
SIGNATURE OF THE APPLICANT

ANMBAURB-R/1

94

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

24 DEC 2007

गुवाहाटी न्यायपाठ
Guwahati Bench

Office Order No.G/024 (07-08)

Office of the
FA & Chief Accounts Officer
N.F.Railway/Maligaon

Dated: 05.07.2007

In terms of CSC/MLG's letter No.P/106/SEC/Pt.VIII/EB dt. 11.06.07 as per acceptance of FA & CAO/MLG and approval by GM/NF Railway/MLG for change of category from RPF Deptt. to Group-C category of Accounts Deptt. as released and directed by Divisional Security Commissioner/RPF/NF Railway/RNY vide No.P/222/PFR/RNY/SEC/07/490 dt. 22.06.2007, Shri Munindra Kumar Das, Constable, ER-Coy/MLG in scale Rs. 3050-4590/- is absorbed in Accounts Deptt. of NF Railway as Accounts Clerk in scale Rs. 3050-4590/- with effect from 03.07.2007(FN) and posted in Admin. Section temporarily under Sr.AFA/AD/MLG.

His pay as Accounts Clerk in scale Rs.3050-4590/- may be fixed as per extant rule of inter-departmental transfer and change of category.

He is put to working post for one month to require the back ground of the Railway working thereafter he will be imparted training for a period of two months in terms of Rly. Board's letter no.F/55 YR/61/3 dt. 15.06.66. In terms of Rly. Board's letter No. 73 AC III/20/2 dated 29.01.79, the following shall be the syllabus for training of the newly recruited Clerk in Accounts Department.

1. Railway Organisation and function of each department
2. Office Procedure and drafting
3. Elements of book-keeping
4. Structure of Railway Accounts
5. Study of any two branches in Accounts Office in which the employee is liable to be posted in immediate future.

On completion of the training he will be examined and his service will be retained only on his passing the Trainee Test examination successfully.

In terms of Rly. Board's letter No.E(NG)II/9/RC-I dated 20.05.94 he will be required to pass Typing proficiency of 30 w.p.m. in English or 25 w.p.m. in Hindi with period of 2(two) years from the date of his absorption. His absorption will be provisional subject to acquiring the prescribed typing qualification within stipulated period.

(S.Bose)

Sr.AFA/AD

For FA & Chief Accounts Officer

N.F.Railway/Maligaon.

Dated: 05.07.2007

No.PNO/AD/66/275 Pt.IX

Copy forwarded for information and necessary action to :-

1. CSC/MLG. This is in reference to his letter No. P/106/Sec/Pt.VIII/EB dated 11.06.07
2. DSC/RPF/RNY/NF Railway- This is in reference to his letter No.P/222/TFR/RNY/SEC/07/490 dated 22.06.2007.. He is requested to send his P/Case & Service Book to FA & CAO/CPB, NF Railway, Maligaon early.
3. Sr.AFA/AD/Cadre
4. AFA/ENGA
5. AFA/PF & PN
6. AFA/CPB - 5(five) documents.
7. Staff concerned.

✓ *new*
05/7/07

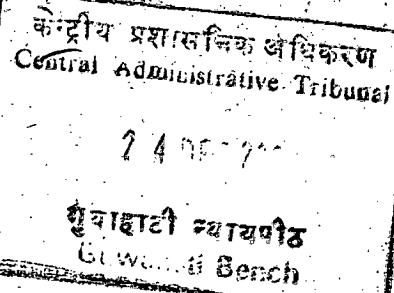
(S.Bose)

Sr.AFA/AD

For FA & Chief Accounts Officer

N.F.Railway/Maligaon

*Confidential to be
kept Confidential*



To
FA & CAO
No. F-RNY. Maligaon

Sub: Joining Report.

Ref: DSC/RNY/S/190. P/222/TFR/RNY/SEC/
07/490, dtd. 22/06/07.

Sir,

In terms of DSC/RNY's letter, dtd. 22/06/07, as referred above regr. change of category from RPF/Security deptt. to Group 'C' category of accounts deptt. I would like to join on my duty in accounts department on to day.

Hence, you are requested kindly to grant necessary permission for the same.

See AD

① Permitted to

② Temporarily, such
keep in Adm. for
of process for final
order.

③ Pending by
7/2/07

Your's faithfully
Manindra K. Das
02/07/07

As for my educational qualification I declare that I have passed B.A. Exam from Gauhati University in the 19

Certified to be
true copy
J. K. S.

Manindra K. Das
4/07/07

24 DEC 1

Last Pay Certificate

Department: Security

Office of the Guwahati Bench

Divl. Security Commissioner/RPF

N.E.Railway, Rangia.

Last pay certificate of Shri Munindra KR. Das, proceeding on department transfer from security/RNY/Division to FA & CAO/MLG/HQ certified that Shri Munindra KR. Das, Const/ER-Coy/MLG, has made over charge of his duties in the 2nd July/07 and he received his pay and allowances at the following rates upto and for the month of June/2007 and the necessary deduction from his pay on account of service and other funds have been made as follows up to on for the 31/06/2007.

D.O.A : 07.12.1973

D.O.B.: 26.03.1997

Rate of pay and allowances other than Traveling allowances			Deduction from Pay service funds and provident fund including the postal life insurance Endowment assurance and monthly allowances fund		
Earnings	Rate	Name of Fund	Rate		
	Rs.	P.	Rs.	P.	
BASIC PAY	3725	00	PF	466	00
P.P.	1863	00	VPF	300	00
D.A.	1956	00	GIS	30	00
W/ALL *	30	00	DURGA	150	00
CONY/ALL	75	00			
SCA	80	00			
RATION ALL *	722	00			
HRA	838	00			

The P.F. Account No. of the Employee is 01110706.

Station: Rangiyā

Dated: 04.07.2007

1. D.P. Advance of Rs. 300/- should be recovered at your end @ Rs. 150/- P.M.

Signature

Designation:

पंडित रमेश आचार्य ५/०७/००

Divl. Secy. & Commissioner
of P.W. N.E. Callow/Barrow

Central Ave
true Crp
Supt



Exempted from
1958 Tax
Income Assessment.

Income Tax and Surcharged recovered.

Last Pay certificate of Shri
Munindra Kr. Das. Const/ER-
Coy/MLG proceeding under

No.P/106/SEC/Pl-VII/EB

Dt. 11,06,07

No.E/34/LPC/OG/SEC/06 1544

Dated: 04.07.2007

Forwarded to VFA & CAO/MLG

Signature: मंडल प्रधान अधिकारी
Designation: र. सु. ब. प. मी. लेटे राज्या ५९७०७

Divl. Security, www.mississinet.org
R.P.F. N.F. www.mississinet.org/Rangiy*

Copy to: 13

1. CSC/MLG
2. DFM/RNY
3. Staff Concerned.
4. Spare copy

Signature: धंडल सुरक्षा आयोग
Designation: ई.सु.व०.प०. सी. रेलवे/रंगीना

Divl. Security Cdr. missleper
R.P.F. N. E. Railways/Rangoon

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal

240512

गुवाहाटी न्यायपीठ Gauhati Bench

No. ER/PN/ E-2/02
Dated: 02/2/02

N.F. Rly

केन्द्रीय प्रशासनिक आ
Central Administrative

Office of
CS/CR-COY

NE
Date

To

गुदाहाटी न्यायपीठ
Wati Bench

74/2002

29/11/02
OK

Sri Mymindia K.
Designation : const. RPF/ER-coy/mus.
Division : RPF division.

Basic Pay $\frac{1}{3}$ Rs. 3725/-

Scale of Pay $\frac{1}{3}$ Rs. 3050/- 1500/-

P.F. No. $\frac{1}{3}$ = 03163910.

C/L due $\frac{1}{3}$ 15 days CL due.

Pass due $\frac{1}{3}$ Full set due.

Rly Qrs $\frac{1}{3}$ NO Rly Qr is under his occupation.

Sub $\frac{1}{3}$ Released for joining in Accounts Department
Maligaon HQ.

Ref $\frac{1}{3}$ CSC/MG's L/No 9/106/Sec Pt - VIII/EB. Date
11/6/02, communicated via C/Sec CSC/Rly, St
P/222/TRP/Rly/Sec/02/90-500 dated
22/6/02 and 26/6/02.

In terms of CSC/MG and CSC/Rly's letter no dated above,
you are hereby released from this Coy as well as from this de-
partment w/c 03/7/02 and directed to report to Account
Department, Maligaon HQ on/1st of 03/7/02 without fail.

Since, after releasing from this department you will
no longer be an enrolled member of Railway Protection force
(RPF), hence before reporting to your new department, you
must deposit your items, uniform/accouterments sup-
plied to you by this department along with the Kit book,
Identity Card and Medical Card etc.

Certified &
True Copy
S. P. R.
Date

Copy to: ① CSC/MG

② CSC/Rly

③ F.

Ref: ER/ER/2002/MG

2. गुदाहाटी न्यायपीठ/वालोगाँव
3. R.P.F./ER-Coy./Maligaon

4. दो: रेलवे/N. F. Rly,

OFFICE ORDER



98

In terms of CSC/MLG's L.No.- P/106/SEC/Pt-VIII/RB, dated -11-06-07 as per acceptance of FA & CO /Maligaon and approval by GM/N.F.Railway /Maligaon for change of category from RPF Department to Group 'C' category of accounts Department, Sri Munindra Kr. Das Constable ER-Coy/MLG is hereby released for joining in accounts department with immediate effect. (292)

This has the approval of competent authority.

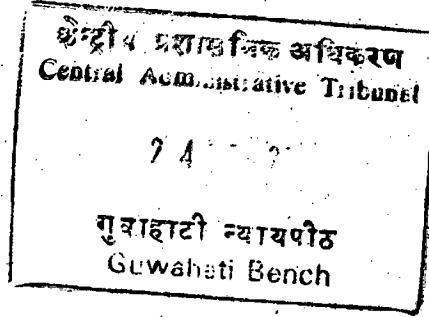
Divl. Security Commissioner/RPF
N.F.Railway: Rangiya.

No.-P/222/TER/RNY/SEC/07/490

Date: 22/06/2007

Copy forwarded for information and necessary action to:

1. GM/MLG
2. CSC/MLG
3. GM (P) /MLG
4. FA & CAO/MLG
5. DFM/RNY
6. DPO/RNY
7. IFF/ER-Coy /MLG
8. Staff concerned
9. E/Bill at Office
10. O.O. Book
11. S/Copy for record.



Divl. Security Commissioner/RPF
N.F.Railway: Rangiya

FAT/ab

for n.a. Pls discuss

2/3

02/07/07

Sr. Sec/AD

by AB/AB

Constable
The C.R.P.
Date

99

Notice

From: Jay Das
Advocate
Gadkari High Court

dt: 24/12/04

To: C.G.S.C. S.C. Raikwad
CAT.
Aurangabad Bench.

Sir,
please find enclosed herewith Copy of
the rejoinder filed in O.A. 108/2004 before
this Hon'ble Tribunal.

Kindly acknowledge the receipt of
the same.

Yours faithfully

Jay Das
Advocate

Copy Received

A.C.G.S.
CAT.

9, Under take to send
the Copy of the Rejoinder to
C.G.S.C. CAT. Aurangabad Bench

Yours faithfully

Jay Das
Adv.

24 DEC 2007

गुवाहाटी बैठक

Gauhati Bench FORM OF THE VAKALATHNAI

FORM NO. 12
(See Rule 67)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUAHATI BENCH, GUWAHATI:

No. 108 of 2007

Sri. Netai Sankar Bhattacharyya ... Applicant (S)

... Union of India Respondent (S)

I, Netai Sankar Bhattacharyya, Applicant No. / Respondent No.

in the above application/Petition do hereby appoint and Shri.
Advocate's
to appear, plead and act for me /us in the above application/petition
and to conduct and prosecute all proceedings that may be taken in
respect thereof including Contempt of court petitions and Review
applications arising therefrom and applications/ enter into compromise
and to draw any moneys payable to me /us in the said proceeding.

Place:- Gauhati

Date:- 24/12/07

Signature of the Party
"Accepted"

P. K. Roy Choudhury
Dt: 24/12/07

Signature with date
(Name of the Advocate)

Executed in my presence.

* Signature with date

(Name and Designation)

Name and address of the
Advocate for Service

* The following Certification to be given when the party is
unacquainted with the language of the Vakalath or is blind or
illiterate:

The contents of the Vakalath were truly and audibly read over/
translated into _____ language known to the party executing
the Vakalath and he seems to have understood the same.

Signature with date
(Name and Designation)

Netai Sankar Bhattacharyya

FORM NO. #1

(See Rule 62)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

O.A/R.A./C/P.M.A/DT/ 108 107

Shri N.S. Bhattacharjee

Applicant(S)

-VS-

U.O.I & ORS

Respondent(S)

M E M O. OF APPEARANCE

I, Dr. J.L. Sarker having been authorised
by the Respondents i.e., Railway Respondents No. 1, 2, 3 and 4...
(here furnish the particulars of authority)

by the Central/State Government/Government Servant/..... Authority/
corporation/Society notified under Sec. 14 of the Administrative
Tribunals Act, 1965, hereby appear for applicant No..... Respondant
No. 1, 2, 3 and 4 and undertake to plead and act for them in all matters in
the aforesaid case.

Place: Guwahati

Date: 18/12/07

Signature and Designation of the
Counsel. *Dr. J.L. Sarker*

Address of the Counsel for Service.

Dr. J.L. Sarker

Jaynati Nagar

Adabari

Guwahati - 12