

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

DEPTT. OF EXCISE & CUSTOMS
COMMISSIONER OF EXCISE

ORDER SHEET

1. Original Application No. 109/07

2. Misc Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) Akram Ali Ahmed vs Union of India & Ors

Advocate for the Applicant(s) Jay DAD
P.K. Roy Chaudhury

Advocate for the Respondent(s) ... Railway advocate...

Notes of the Registry Date Order of the Tribunal

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/-

Petition copy
for issue of writ
received and noted.

P.D. 11
22/2/07

2
2
11.5.07

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.

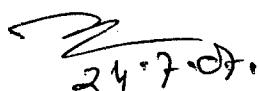

Vice-Chairman

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.


24.7.07.


Vice-Chairman

/bb/

Wts not filed.

109/07

02.01.2008

~~2007~~
7/1/07

Wts not filed.

~~2008~~
1.1.2008

Copy of the order dated
02/01/08 is received.

~~Recd.~~
04/01/08
for RYSC.

dt. 2.1.08.

Pl. send free order copies
to Dr. J.L. Sarkar, RSC and
to the Respondents.

Wts

order dt-2/1/08 sent to
D/Section for issuing to
resp. nos. 1 to 4 by post.

~~4/1/08~~ D/No-40 to 93

DT-4/1/08.

lm

24.1.08

Wts filed.
undertaking given
for service copy.

QD

No written statement has been filed in this case by the Respondents. However, Respondents have filed Written Statement in the connected O.A.No.108 of 07 and the Applicant therein has also filed the Rejoinder. Mr. P.K.Roy Choudhury, learned counsel for the Applicant states that Written Statement filed in O.A.No.108 of 07 may also cover the present case. The said O.A.No.108 of 07 has been posted to 29th January, 2008 for hearing.

In the present case last opportunity is hereby given to the Respondents to file their Written Statement well before 25th January, 2008.

Call this matter on 29th January, 2008 for hearing alongwith O.A. No.108 of 07.

Free copies of this order be supplied to Dr.J.L.Sarkar, learned Railway counsel for the Respondents and also to the Respondents in the address given in OA.

Q
(Krushiram)
Member(A)

Q
(M. R. Mohanty)
Vice-Chairman

04.109/07 -3-

25.7.07

Pl. issue Notices

✓

Notice & order

Received -

Res No-3

Rec'd/eposited

22-08-07 Lm

Steps taken on 22/8/07.

(cc)
22/8

Notice & order sent to
D/Section for issuing

to resp. nos. 1, 2 & 4

by regd. A/D post 28.9.07.
and resp. no-3 received
by hand by train
officer, N.F.Rly.

Co/s
22/8/07. D/No-849 to 851
Dt= 24/8/07.

① Service report awaited.
② WLS not bldg. 1.07.

24
24.8.07

Notice duly served
on R-1,4. (postal A/D
card at "C" File at
0-A 108/07.).

(cc)
7/9/07.

WLS not bldg.

24.9.07.

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.

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

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

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

Written statement has not been filed.
Dr.J.L.Sarkar, learned Railway Counsel for the
Respondents prays for six weeks time to file
written statement. Prayer is allowed. Call this
matter on 02.01.2008 for hearing.

✓
Member(A)

-5-

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

6
O.A. 109/2007

11.02.2008 Judgment pronounced in open court

For the reasons recorded separately, this

O.A. is dismissed. No costs.


(Khushiram)
Member (A)

/bb/


(M.R. Mohanty)
Vice-Chairman

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

.....Applicant

-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 Shub 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 Jiben 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

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 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:

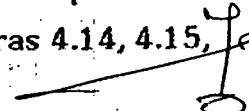
“..... the junior of this humble Applicant while in his parent department were given the benefit of Group C status and posted in other departments in the capacity of Junior Clerk and also given the necessary benefits whereas this Applicant inspite of his being quite senior to them has been forced to 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.

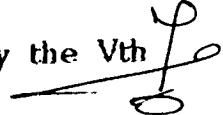
10. By filing separate written statements, in each of these cases, the Respondents have disclosed that the Applicants were drawing salary in the pay scale of Rs.825-1200/- as a Constable of RPF; when they applied for the post of Peon. The Respondents also disclosed that "Shri Netai Sankar Bhattacherjee, 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." *Y*

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



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:

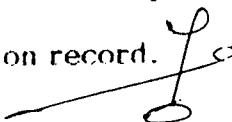
"Sri Tapan Baishya, Peon and Md. Abul Naser, Peon were working in the Fire Wing of RPF (Security Department). They were rendered 'surplus' in Fire Wing of Security Department. They had applied to Accounts Department for absorption in Group-D category at their own accord. They were absorbed as Peon in 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^{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.E. 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

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.

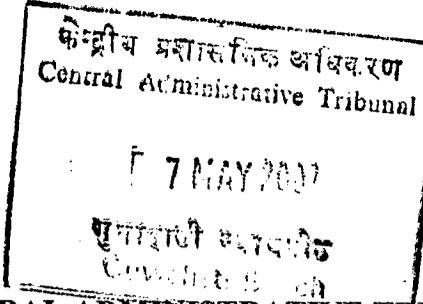
(16) By taking a new plea (that some others from RPF/Constable Establishment were taken as Clerks of other Departments of N.F. Railway) the Applicants filed representations (during 2006) to get the same relief; which was turned down on 26.11.1999. By giving a reply on 03.04.2007, the Respondents explained 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.

Sd/-
 Manoranjan Mohanty
 Vice Chairman
 Sd/-
 Khushiram
 Member (A)



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

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

OA No.109.....of 2007

Sh. Akram Ali Ahmed
S/o, Late Mehim Ali Ahmed, 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 1990 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 par 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 : 4/5/07

J. D. Deka
Advocate

✓

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

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

OA No.109.....of 2007

Sri.....Akram Ali Ahmed.....Applicant

-VS-

Union of India & OthersRespondents.

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Place : Guwahati

Filed by :


Advocate

Date : 7/8/07

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

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

OA No.109.....of 2007

Sri.....Akram Ali Ahmed.....Applicant

-VS-

Union of India & OthersRespondents.

LIST OF DATES & CHRONOLOGICAL EVENTS OF THE CASE

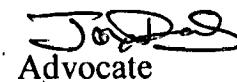
Sl No	Date	Particulars	Annexure	Page
1	20-12-1990	Appointed as constable in Group- D category in the N. F. Rly Security Department.	B	26
2	30-10-1987, 10-5-1999, 26-1-2000, 30-03-2000	Rly. Board's directive regarding 4 th Pay Commisson's Recommendations for implementation regarding elevating the Constable status to that of Jr. Clerks in Group-C Category by up-gradation of Constable's Pay & Scale.	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	25-5- 98 8-6- 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.	E & F	28, 29
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

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- 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/1, 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 : Gorakhpur

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.109.....of 2007

Shri AKzam Ali Ahmed.....
S/o, Late. Mahim Ali Ahmed.....
Rly. Q. No:- 2-B, West Maligaon
Civancheti - 6Applicant
-Vs-

1. Union of India, represented by 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.

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)

25
Filed be and
Applicant through
Tapan Baishya
Almora
10/07/2007
10/07/2007
10/07/2007
10/07/2007

Akram Ali Ahmed

Maligaon. (Annexure - A)

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 :

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

4.2. That the Applicant has been serving the N. F. Railway Administration w.e.f. with the entire satisfaction of his superiors 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.

4.3. 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 and discharged duties in the

contd. 3. Security

Aman Singh

Security Department till.....

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

4.4 That after rendering 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

S. K. Khan Sh. Ahmed

implementation in all Zonal Railways.

A photocopy of the above circular is enclosed as Annexure-C

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

Akram A. Ahmed

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. ...F.../...l.o.C./R...V.../E.B..... Dated 25.5.98 is enclosed as Annexure - E.
contd. 6. 4.9 that on being

4.9. That on being spared by the Security department the Applicant was absorbed by the Accounts department and given the the formal posting order vide FA&CAO, N. F. Railway, Maligaon's No. PNZ/AD/66/293 Pt XVII dated 8-6-98

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/-

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

Akram Ali Ahmed

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

AK manohar, Advocate

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, 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

E/254/2/Pt. III dated 24.3.99.

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

Dr. K. M. S. Khan

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

Shri K. Kumar - Shri Tapan - Shri 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.

Sh K. Ram S. & P. Phonsel

Contd. 12. A photocopy

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

Akram, A. Ahmed

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

Formerly
S. C. J.
Appraiser

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.

*Akram Bhai
Signed*

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 mala fide, arbitrarily and without jurisdiction.
- 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

A.K. Ram, M.A., Advocate

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'

Dharmendra Singh

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 ~~latter~~ 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. 18. particulars of IPO

10. Particulars of IPO.

(1) IPO No. 946 65 2161
(2) Date of Issue 19-3-2007
(3) Issued from Maligaon H.O. & P.O., Guwahati - 11
(4) Payable at H.P.O., Guwahati - 11

11. List of enclosures – As given in the Index

VERIFICATION

I, Akram Ali Ahmed, Son of Late Mahim Ali Ahmed, aged about 38 years working as Peon under FA&CAO, N. E. Railway, Maligaon and residing at Reg. No. 2-B, West Maligaon, 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 4.26 are my respectful and humble submission and I have not suppressed any material facts.

AND I sign this verification on this day of 20th April/2007.

Akram Ali Ahmed.

Place : Guwahati
Date : 20.04.2007

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.

*Certified to be
true copy
S. Saha*

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



ANNEXURE - A/1

11055

94

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.E/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 to be
true copy
S.Bose
AFA/AD

The President of India

In consideration of the President of India having agreed to appoint me as Constable R.P.F. in the Railway Protection Force, I Md. Akteem Ali Ahmed, son of MD. Mahim Ali Ahmed, hereby agree and undertake to :-

- (i) Serve in the Railway Protection Force for a period of not less than three years with effect from the date of my appointment in the Force,
- (ii) carry out all duties and functions entrusted to me and all lawful orders given to me by members of the Force superior to me in rank,
- (iii) refund all the cost of training imparted to me in the Force or a sum equal to three months pay and allowances whichever is less in the event of tendering my resignation from the Force for any reason or reasons whatsoever during the aforesaid period of three years; and if after three years I desire to resign, I shall submit my request in writing and will not withdraw from my duties until I am duly relieved.

2. I understand and agree that my services can be terminated by the Chief Security Commissioner/RPT without giving me any notice under sub-rule (2) of rule 67 or under the second proviso to sub-rule (2) of rule 57;

- (a) at any time during the period of my initial training or
- (b) on my failure to pass the final examination of initial training course; and

- (ii) the appointing authority under sub-rule (3) of rule 57 during the period of my probation or any extension thereof on issue of notice of one month's or the tender of one months pay and allowances in lieu of such notice.

Note : The term 'pay and allowances', used in Clause (iii) of para 1 and Clause (ii) of para 2 mean the usual pay and allowances paid to me immediately prior to the date of my resignation or termination from service.

Witness.

Signature Akteem Ali Ahmed Signature of the recruit
Designation Constable R.P.F. Designation Constable R.P.F.
Date 20/12/90 Date 20-12-90
Place Bamdar Place Bamdar

ACCEPTED.

For and on behalf of the President of India,

SEAL.

S. Ganguly
(Signature of the Accepting Authority)
20/12/90

Q. S. Ganguly
P. M. Secy / Officer
Central Electricity Commission
Q. M. Officer / Recorder

*Certified to be true copy
S. Ganguly
20/12/90*

22

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. 175/- 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.R.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 30.10.11.87

Reference this Ministry's letter No. PCII/73 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 Account Officers only and other posts of Officers in scale Rs. 2000-3500, (all Depts.)		
Group C	All posts in scales 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		

2nd June
Two copies
for Mr.

Group D

In scale Rs. 2375-3500 and excluding those men
posted for Groups 'A' and 'B'.
All posts in scale Rs. 750-940, Rs. 775-1025 and
Rs. 800-1150.

Notes : For the purpose of this notice

(i) 'Pay' has the same meaning assigned to it in Rule 4003 (1) (ii) (iii)
[PRY (21) (i)] 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 Asslt/Elec
tric Asslt, and Steam Shunter.

No. E(NG) 1-84-PM7-56, dated 3.1.1987

As the Railways are aware, the mode of filling up the vacancies in the
categories of Fireman 'A' /Diesel Asslt./Asslt. Driver (Elec.) has been laid
down in Board's letter No. E(NG) 111-75/RC1/69 dated 19.8.1981, read with
their letters No E(NG) 11-80/RC1/144 dated 30.1.1982 and 17.9.1982, in terms
of these orders these vacancies are to be filled as under :

(a) 30% 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 exami-
nation 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

ANNEXURE - C/1

32
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

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

30.3.2000.

The Chief Security Commissioner/RPF,
All Indian Railways.

The Chief Security Commissioner/DSBP,
Railway Board.

Sub: Fixation of pay of RPF/RPSF 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 desires 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 10.5.1993 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

DY. DIRECTOR/SECURITY (E)
RAILWAY BOARD.

DA: AS ABOVE.

21/11/99
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
RAILWAY BOARD

(5) P
ANNEXURE - C/2

S.No. PC-V/1/22
No. PC-V/9/9/G/4

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)11.B9/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(Para 2) (Amended Rule-1313 (I)(a)(ii) circulated as ACS No. 14 to IREC Vol. II, 1987 Edition vide Board's letter No. F(E)11.B9/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 stage 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 be 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 to be used.

13/5/99

(Koshy Thomas)

Dy. Director, Pay Commission
Railway Board.

Certified
True Copy
After

ALL INDIA RPF ASSOCIATION

(REGD. & RECOGNISED)

To : DG/RPF
Railway Board, New Delhi.

74-B-1, Moti 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.

RANK	PRE-REVISED PAY	REVISED PAY
Constable	825 - 1200 + 2 adv. Increments	2750 - 4000 + 2 adv. Increments
Naik	950 - 1500	3050 - 4590
Hd. 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 :

*Cast the x &
be X one Cast
be X one Cast
be X one Cast*

27

PRE-REVISED PAY

REVISED PAY

REPLACED PAY

Inst. &	825 - 1200 + (2 adv. Increments)	2750 - 4000 + (2 adv Increments)	3050 - 4590
Asst. Clerk	950 - 1500	3050 - 4590	3200 - 4900 (Nk. designated as HC)
Ad. Const.	975 - 1660	3200 - 4900	3200 - 4900 + Rs. 50 Spl. pay.
ASI	1320 - 2040	4000 - 6000	4000 - 6000
SI	1400 - 230	5000 - 8000	5500 - 9000
RPF Gr-II	1640 - 2900	5500 - 9000	6500 - 10500
RPF Gr-I	2000 - 3200	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. will go away with incumbent itself .

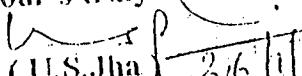
Para III of letter No. PC - V/ 97 / G / 4 dated 04.12.97 provides "The pay scales contained in serial No. 12 of annexure-B of the Rly. Board's letter No. PC - V / 97 / 1 /RS (RP) / 1 dated 16.10.97 for RPF staff will get modified to this extent ." This means that all other core instructions of aforesaid letter of the Rly. Board except serial No. 12 there of shall apply in toto to RPF/RPSF 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) 26/1/2002
General Secretary/AIRPFA

28

92

Office of the
Chief Security Commissioner
NF Railway: Maligaon

No. P/106/Pt.V/EB. dt. 25 - 3 - 98.

To

DSC/RPF/LMG,
NF Railway

Sub: Inter departmental transfer.

Ref: FA & CAC/MLG's office order No.
G/462 dated 4-3-98.

....

Md. Akram Ali Ahmed, Const/RPF/MLG(P) Post was issued with NO OBJECTION by CSC/MLG/HQ for inter departmental transfer and the above staff have been selected for Group-'D' post under FA & CAC/MLG. FA & CAC/MLG requested to spare the staff to report FA & CAC/MLG on Inter Departmental transfer and CSC has passed order to spare.

You are requested to spare the staff with an intimation to this office.

for CHIEF SECURITY COMMISSIONER
NF RAILWAY: MALIGAON

Copy forwarded for information and necessary action to :-

1. ~~Shri~~ Sr. CAC/NF Rly/LMG,
2. FA & CAC/Maligaon,
3. Staff concerned.
4. Seniority section at office to delete the names from seniority list.

for CHIEF SECURITY COMMISSIONER
NF RAILWAY: MALIGAON

Confidential
The Compt
A.M.

29

ANNEXURE - Fx 53

Office of the
PA to Chief Economic Officer,
R.T.Battalions/K-Lignan.

Office Order No.9/190

Dated 08.01.90.

In being agreed by 101/124/190(R.M.C.), R.T.B.
Battalions, with his letter No. 101/124/190 dated 10.1.90
in terms of this Office O.O. No. 1758 dated 10-5-78
that 'Capt. H.L. Bhambhani, Economic Officer reported to this
Office on 04.08.1981' as been in rank S. 2500/-200/-
and is posted under 101/124/190(R.M.C.)

With thanks with the arrival of the
concurrent authority.

for PA to Chief Economic Officer/190
R.T.Battalions/K-Lignan.

No. 190/124/101/190 R.M.C.

Dated 08.01.90.

Copy forwarded for information and necessary action to
1. CMO/R.C.Battalions/K-Lignan.

2. 101/190

3. 101/190

4. 101/190

5. 101/190

6. 101/190

7. Staff accountant.

8. 101/190 (Army 190).

for PA to Chief Economic Officer/190
R.T.Battalions/K-Lignan.

Certified to be
true copy
S. M. S. J.

20.

30

The 12th object parameter of 100
RPF railway / department.

(Through proper channel)

sub:- Changing of category and absorption in identical
category of accounts deptt.

sir,

With due respect, I would like to draw your kind attention to the following subjection for taking corrective measure in conformity with the instructions communicated through Rly. Ed's Letter No. PC 19/16/Imp/46 dt. 30.10.87 and also to ensure equal treatment.

That sir, I was working in the capacity of " constable " under In pre-revised scale of Rs. 825/- to 1200/- + 2 Adv. increment and applied for changing of category on

In consideration of my application, I was absorbed as peon in the office of FASCOM/RFC on

In this context I would like to refer the Rly Ed's letter No PC/85/Imp/46 dt. 30.10.87 wherein it is clearly instructed to classify all the posts of security deptt. in scale Rs. 825/- to 1200/- as Group 'C'. Accordingly constable in scale Rs. 825/- to 1200/- was Group 'C' and I am therefore eligible for absorption in any post of accounts deptt. which is classified as Group 'C'. As such, absorption in accounts deptt. as peon, does not appear to be in conformity with the existing rules.

Further the pre-revised scale of constable has now been replaced with revised scale of Rs. 2750/- to 4400/- w.e.f. 1-1-96 & subsequently scale Rs. 3050/- to 4590/- w.e.f. 4.12.97 the minimum scale for group 'C' awarded by 5th CPC and it is effective from 4.12.97. My pay was Rs. in scale Rs. 3050-4590/- as on 4.12.97 when I was absorbed as peon in scale Rs. 2550/- to 3200/-

Further I would like to add that some others staff of security deptt. who have also applied for changing of category and subsequently absorbed as clerk in other deptt. (except M/o deptt.) and I find it proper to refer the name of them to give your honour a clear picture on this subject. Sri Monoj Kr. Thakur of RPF/Fireman/ APDJ, Sri Tapon Kr. Acharjee RPF/Fireman/APDJ and Smt. Kanika Saha Constable/RPF/MLG (RPF) both in scale Rs. 3050/-4590/- were absorbed as Clerk-cum-typist vide O.R.(P)/APDJ's O.O.HD. E/41/AR/SAT dt. 24.12.98 and 31.3.99 and O.R.(P)'s O.O.HD. O.R.(P)/MLG/468E/18(W) dt. 23.3.99. and copies of which are enclosed herewith for your kind information.

From the above it is clear that disparity has resulted in processing my case at the time of absorption in accounts deptt. on changing of category and therefore needs regularisation.

In view of the above, I would request your honour to kindly look into the matter and to exercise your good offices to regularise issue by absorbing me as Clerk in scale Rs. 3050/- to 4590/- as it was done in the case of Sri H. Thakur, Sri T.K. Acharjee and Smt. Kanika Saha mentioned above and the instruction communicated vide Rly. Ed's Letter referred to above is also complied with.

With regards,

Yours faithfully,

AKRUM ALI KHAN, Date const.

Certified
Date
To be sent
for

31

ANNEXURE-H

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

No. PNC/AD/63/274 Pt. XIX

Dated 26.11.99

To

DAO/APDQ.../
SAC/PP & PN..
AAO/EGC.
AAO/Fin(S).
AAO/TA/CG..
AAC/PA/Coods.

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

...

Case
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 ~~also~~ 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. 2550-320/- 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 Nabajit De Ashya, Peon under Fin(S) SAC/Admin.
2. " Ultan Mazunder, Peon SAC/APDQ.
3. " Sukrata Panerjee, Peon, DAO/APDQ.
4. " Mohindra Nath Boro, AAO/TA/CG.
5. " Tapan Daichya, Peon/AAO/EGC.
6. " Chandan Kumar, Peon/TA/CG.
7. Md. Abdul Naser, Peon/SAC/Admin.
8. Shri Nitai Shankar Bhatta Chatterjee, Peon/SAC/P PN.
9. " Jitendra Banchiary, Peon/TA/Coods

Please intitiate the above staff accordingly.

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

*Certified to be
true copy
SAC
Achr.*

To

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

Through : Proper Channel

Sir,

17/1/00

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 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 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

Akram Ali Ahmed
Peon under FA&CAO/MLG
Section, N.F.Railway
17/1/2000

✓ 17/1/2000
Certified &
True Copy
A.A.

33

ANNEXURE - J

5X

To

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 17.1.2000

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,

Akram Ali Ahmed
Data Entry/PG

(418-2000
Peon under FA&CAO
N. F. Rly, Maligaon

(vi) 21
418/2000
be true
Cashed to
Credg
theatre

34

ANNEXURE - K

58

To

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

Through : Proper Channel

Sir,

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

Ref - My letter dated 17.1.2000, 4-8-2000

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,

Akram Ali Ahmed,
Saleemdar/MLG
Peon under FA&CAO
N. E. Rly, Maligaon
15.2.01

(V.S.) 01
15/02/01
K. B.
Centred
True Copy
S. S.
A. H.

To

10/11/05

95

ANNEXURE-L

59

Financial Adviser & Chief Accounts Officer,
N. F. Railway, Malgaoon

Sir,

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

Ref - My latter dated 17.1.2005, 1.8.2005
..... & 5.5.2005

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 Appinabah. 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

AKram Ah'Amd

Rala Comtly/ACB

Sl: 56-2005

W.D.V
05/05/05
Certified to be true
CAB

GOVT OF INDIA.
MINISTRY OF LABOUR,
ON THE CENTRAL GOVT. INDUSTRIAL DISPUTE - CUM -
labour court, Guwahati.

REFERENCE NO. 9 of 2004.

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.

-vrs-

The Workman, represented
by the General Secretary,
Rail Mazdur Union,
N.F. Railway, 27/B, Rest Camp,
Pandu.

Date of Award :- 14.03.05.

- 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 1
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-1 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.

1. Initial action of the management of N.F.
Railway in not granting the Group-C post/category to

contd....p/2.



*Certified
True Copy
B. S. A.*

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 ?"

6)

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

contd....p/3.

violating the Railway Board's categorical instruction. They were Group-C employees enjoying the benefit 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 Nasar 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 -

- 1) That there seniority will be assigned
- ii) They can not seek retransfer to their parent.....
- iii) Their item 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.Choudhury, 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-D category but no 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-D post.

19. Heard the argument submitted by learned Advocate

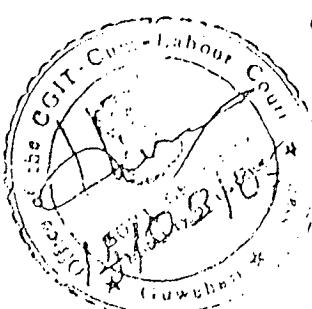
Mr. K.K. Biswas for the workman and Mr. S.N. Choudhury for the Management. Perused the evidence recorded by me and all other documents in the record.

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 ~~surplus~~^{redundant} 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 workman 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.



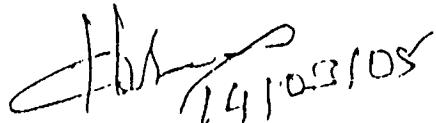
42
 24. After 5th Pay Commission of abolition of RPF Fire Wing and to be surplusised. Being afraid to be surplusised due to abolition of RPF Fire Wing the Workmen joined in the Category D of the Accounts Department. Hence, the ground forwarded by the workmen about compelled circumstances has got force because no workman will select to be defuncted at the stage while they are earning their monthly salaries. 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

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-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.


14/03/05

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



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ANNEXURE - N

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13 of 14 of Fig 3 is marked.

କାନ୍ତିକାଳୀଙ୍କ କର୍ମ ପରିବାର

Amount \$ 265.50

THIS AGREEEMENT IS APPROVED OF AND IS MADE
THIS TWENTY-THREE DAY OF APRIL, ONE THOUSAND EIGHT HUNDRED
AND EIGHTY-THREE.

VERVAL. RY. MOPACI (P)
R. RY. ZUMLOG.

NO. 37/254/1/166373

1989, 26(35) 99

Copy. Information may need to be deleted.

- 2) APPROVALS: The list of notes to be taken ref. No. 4055/10 (pt) dated 22.3.69.
- 3) REGULARS: To be submitted to State Govt. Kanika Sahi, Contable/Asst. Contable accordingly.
- 4) CASH/PTC.
- 5) SALARY/ALM.
- 6) EXPENDITURE.
- 7) EXPENDITURE.
- 8) Staff concerned at office.
- 9) Copy copy for reference.
- 10) Pending at office.

ଏହା ବିଲ୍କଳା କିମ୍ବା କିମ୍ବା କିମ୍ବା କିମ୍ବା କିମ୍ବା

True
George
Carl
B. F. W.

N.E. RAILWAY

OFFICE ORDER

The following ERF 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. Baisya, Fireman/PNO	Sri Pranab Kr. Baisya	Clerk
2.	Sri Khushi Lal Ornoon, (ST), Fireman/IMG	Sri Parasadi Ornoon,	Clerk
3.	Sri Pratip Kr. Deka, Fireman/MLG	Late Bhiniam Deka,	Clerk
4.	Sri Dwijen Sarma, F/MAN/NGC	" Sambhu Nath Sarma,	Clerk
5.	Md. Majit Ali, Fireman/PNO	" Ajiruddin Ahmed,	Clerk
6.	Sri Ganesh Ch. Baisya, Fireman/GHY	Late Santu Ram Baisya,	Clerk

for General Manager(P)/MLG

No.E/283/(M)/POH

Malgoun, Dt. -7-99.

Copy forwarded for information and necessary action to:

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

*Confidential
Be True
Be Fair*

for General Manager(P)/MLG

for General Manager(P)/MLG

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

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ANNEXURE P

20

Through Proper Channel

Sir,

Sub:- Representation for giving promotion in Group-C employment in the capacity of Junior Clerk i.e. Accounts Clerk in the Accounts Department vis-à-vis the orders issued by the Administration in the cases of Md. Abul Naser and Sri Tapan Baishya, Peon in the Accounts Department vide FA&CAO, N.F.Rly/MLG's office Order No. PNO/AD/80-196/Pt.XI dt. 28-07-2006.

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.

1. That this humble me moralist was appointed in the capacity of RPF- Constable the Chief Security Commissioner, N.F. Rly/MLG 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 IVth 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 then in the pay scale of Rs. 825-1200/-, now Rs. 3050-4590/- which was communicated vide Railway Board's circular No. PCIV/86/Imp/16 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. 825-1200/-, now Rs. 3050-4590/- 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 IVth & Vth Pay Commissions

Contd., P/2

*Certified &
by the Compt
S. S. S.
A. H.*

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 of 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 in a well-wisher of his under staff.

A photo copy of the Transfer order issued by the Security Department vide No. P/106/Pt. V/EB, Dated 25.5.98 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. No. G/480 dated 08.06.98

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. ~~Non-Group C~~ in the Accounts Department in Scale 3.05.C. - 4.59.C/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..

by the Administration, more particularly the then Dy. EA & 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.

11. That incidentally it is humbly submitted that 2 of our sufferers, namely Md. Abul Naser and Sri ~~Abul~~ 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 ~~Asst. Secy. etc.~~ in the Scale Rs..... vide order 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.

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 catastrophies 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...

15. 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.....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.13/41/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/1681/18(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 post, 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.

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....

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:- 14.8.06

Akram Al Ahmed
Data centre/pea/448.
deg. peon

24 JAN 2007

गुवाहाटी न्यायपोठ
Guwahati Bench

In the Central Administrative Tribunal

Guwahati Bench : Guwahati

O.A.No. 109/2007

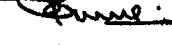
Shri Akram Ali Ahmed

- Vs -

U.O.I. & Others

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Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,
GUWAHATI.

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

24 JAN 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

O. A. No. 109/2007

Akram Ali Ahmed

... Applicant

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U. S. I. & Ors.

... Respondents

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. grossly barred by limitation and deserves to be dismissed on that court 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.

3. That the brief facts are as under:-

Sri Akram Ali Ahmed, Peon/EDP Centre 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 01.10.1991. He applied for

Contd.....2/-

Deputy Chief Accounts Officer (G.I.)
G.I. Div. Maligaon. Guwahati-11

24 JAN 1997

गुवाहाटी = गुवाहाटी
Guwahati Branch

2

inter-departmental transfer to Accounts Department at his own accord in the capacity of Peon in scale Rs. 2550-3200/- vide his application dated 02.05.96. He had applied specifically for absorption in Group-D category of Accounts Department. He stated in his application that finding no other employment on those hard days he had to accept the post of Constable being a matriculate to earn his livelihood. He also stated that there was no further prospect of promotion in the category. Hence, he wanted to change his category. Further he stated that if he is absorbed in Accounts Department, he may have the opportunity to come out to the category of clerk by appearing the selection against 33-1/3% vacancy. He joined in Accounts Department on 08.06.98 as Peon in scale Rs. 2550-3200/-.

The Vth Central Pay Commission's reports have also been widely circulated by the Central Government of India including 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. Implementation of Vth Pay Commission's awards to all employees of all departments of N.F. Railway after announcement of the awards required a lot of time for which a lump-sum arrear amount to all employees of all departments of N. F. Railway have been paid at a time which Sri Ahmed while he was working in the capacity of Constable/RPF in the Security Department received. Sri Ahmed was well aware of the awards given by the Vth Central Commission to the RPF constables while he was serving in the executive wing

Contd....3/-


नियन्त्रित प्रशासनीक नियन्त्रण
नियन्त्रित सीमा रेखा, मालेगाँव गुवाहाटी-१
Deputy Chief Accounts Officer (G)
Dr. Malicherni, Guwahati-1

24 JAN 2007

गुवाहाटी न्यूयर्क
Guwahati Bench

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.

That 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 Executive Wing of RPF. Since the applicant was not rendered surplus in Executive Department of RPF 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 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

मुख्य अधिकारी का अधिकार
नियंत्रित कीमा रेल्वे, मालोगाँव फैसला ४/-
Deputy Chief Accounts Officer (No. 4/-)
D-11, Maligaon, Guwahati-11

24 JAN 2009

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गुवाहाटी न्यायपाठी
Guwahati Bench

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.

Copy of the application dated
21/5/96... enclosed as
Annexure-R-1.

4. That in reply to the statements in para 4.4 to 4.9 the respondents reiterates 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 the statements in 4.10 to para 4.14 the statements in para 3 above are reiterated. The case of the applicant has been duly considered and there is no scope to grant promotions claimed.
6. That in reply to the statements in para 4.15 to 4.27 it is stated that the cadre of Accounts clerk is separate and distinct with scope of direct recruitment. There is no

W/S 10 अक्टूबर 2009
प्रतिक्रिया देखें, मालेश्वर नगरपाली, गुवाहाटी-781009
भारत सरकार के द्वारा संचालित गुवाहाटी न्यायपाठी
Chief Accounts Officer Copy No. 1/105/-
Guwahati-781009

24 JAN 2019

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गुवाहाटी न्यायपीठ
Guwahati Bench

scope of transfer of the applicant as Accounts clerk from RPF. This would cause irregularities 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.



न्यायपीठ अधिकारी
द्वितीय सीधा रेलवे, मालीगाँव गुवाहाटी-१
Deputy Chief Accounts Officer (G)
D.D.O. Railways, Guwahati-1

24 JAN 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION.

I, A.S. Horing, son of
late A.S. Satalasing, aged about 47 yrs.
years, working as D.A.O./S. do hereby
say that I am conversant with the facts of the case,
and have been authorised by respondent No.
to verify and sign this verification. Accordingly I
verify that the statements in paragraphs 1 to
are true to my knowledge and that I have not suppressed
any material facts.

I sign this verification this 23rd day of Jan
, 2008 at Guwahati


Signature.

न्यायपीठ अधिकारी (स.)
प्रतिनिधि खाता रेलवे, मालीगाँव गुवाहाटी-१
Deputy Chief Accounts Officer (G)
P.M. Maligaon, Guwahati-1



16 FA & Chief Accounts Officer,
Guwahati Railway/Maligaon,
Guwahati : 781 011.

(Through Proper Channel).

Sub:- Prayer for transfer from Security Department to Accounts Department as Office Peon.

Annexure R1

Annexure A

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

24 JAN 2008

गुवाहाटी बायपाठ
Guwahati Bench

Respected Sir,

With due respect I beg to state that the following few lines for favour of your consideration and necessary order please.

That Sir, I have joined in the Security department as Constable in the year 1991. Finding no other employment on this hard days I have to accept the same being a Matriculate to earn my livelihood. There is no further prospect of promotion in my category hence, I have to change my category. It would indeed be prospective if your honour arrange for my transfer and posting in the identical scale like that of Office Peon in the Cash Office under Accounts Department so that I can have the opportunity to come out to the category of Clerk by appearing the selection against 23^{1/2} vacancy and I hereby do agree to accept the bottomseniority in Class-IV category in the event of transfer is accepted by your greatness.

I enclosed herewith my application the photostatic copy of Matriculate certificate, Admit Card, Marksheets and No-objection Certificate also.

My full particulars and biodatas are given below:-

- 1) Name : Md. Akram Ali Ahmed.
- 2) Father's Name : Mol. Matiur Rehman Ahmed.
- 3) Present Employment : R.P.A.
- 4) Designation : Constable
- 5) Date of Appointment : 26.7.91.
- 6) Scale of pay : Rs 25 - 1200/-
- 7) Present Basic Pay : 92/-
- 8) Date of Birth : 1.1.69
- 9) Educational Qualification: H.S.L.C. Pass
- 10) Office Address : IPA/ML & HQ (Ply)

I shall be highly obliged if you kindly arrange for my posting as prayed for Attest

Thanking you.

Akram Ali Ahmed.

Yours faithfully,

24 JAN 2008

नमूल लेखा बोधन न (लाल) 8/2008/5122
सिर सीमा रेलवे, मालीगाँव गुवाहाटी-१
Deputy Chief Accounts Officer (G)
Mr. Md. Akram. Guwahati-1

2.5.96