

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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Smt Jiten Ram Choudhary

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SECTION OFFICER (JUDL.)

ORDER SHEET

1. Original Application No. 110/07

2. Miscellaneous Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(S) J. Ramchary VS Union of India & Ors

Advocate for the Applicant(S) Joy Das

Advocate for the Respondent(S) Railway Council

Notes of the Registry Date Order of the Tribunal

This application is in form
is filed for Rs. 50/-
deposited as IPO/DD
No. 346.652162
Dated 19.2.07

sd/-
Dy. Registrar

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

Contd/-

11.5.07

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

The O.A. is dismissed on withdrawal in terms of the order passed separately. No costs.

Vice-Chairman

bb

10.7.07

Copy of the order has been sent to the D/Sec for issue of the sum & in applicant as well as to the Rly. & by counsel.

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.110 of 2007

DATE OF DECISION:22.6.2007

Shri Jiten Ramchiary

.....Applicant/s

Shri J.Das

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Dr.J.L.Sarkar

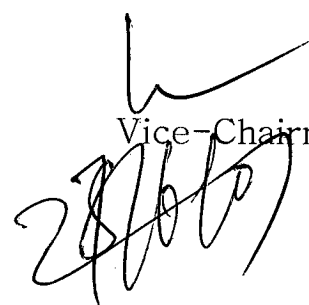
.....Advocate for the
Respondents

CORAM

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

- | | | |
|----|---|-------------------|
| 1. | Whether reporters of local newspapers may be allowed to see the Judgment? | Yes/No |
| 2. | Whether to be referred to the Reporter or not? | Yes/No |
| 3. | Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench & other Benches ? | Yes/No |
| 4. | Whether their Lordships wish to see the fair copy of the Judgment? | Yes/No |

Vice-Chairman



5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 110 of 2007.

Date of Order: This, the 22nd day of June, 2007.

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

Shri Jiten Ramchiary
Son of Late Ahin Ramchiary
Rly Quarter No.323-B
5 No FG Colony
Pandu, Guwahati-12.

...Applicant.

By Advocate Shri J.Das

- . Versus -

1. The 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.

~~DAKSH.~~

... Respondents.

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

L

ORDER (ORAL)

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

Heard Mr. J. Das, learned counsel for the Applicant and Dr.J.L.Sarkar, learned Standing counsel for the Respondents.

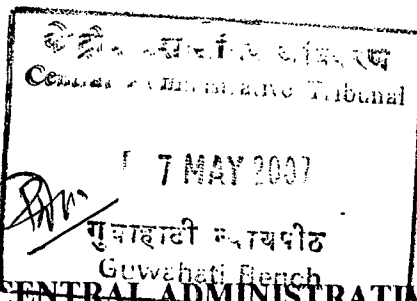
2. When the matter came up today for consideration learned counsel for the Applicant has produced a copy of the order dated 11.06.2007 copy of which is kept on record stating that much against his prayer the Applicant has been promoted as Accounts Clerk from a later date i.e., with effect from 06.06.2007. However, he submits that he is not pressing the O.A. and prays for grant of permission to withdraw the O.A. for filing a fresh O.A. with elaborate pleadings. His submission is recorded.

3. Accordingly, permission to withdraw the O.A. is granted to file fresh O.A. The O.A. is dismissed on withdrawal. No costs.



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

/BB/



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

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

OA No.110.....of 2007

Sri. Jiten Ramecharya Applicant

-VS-

Union of India & OthersRespondents.

SYNOPSIS

Initially appointed as Constable in Group -D Category in the Security Deptt. of the N.F. Railway, Maligaon and served for quite a good number of years in the said capacity till his inter department transfer on own option to the Accounts Department in the year ¹⁹⁹⁸ and absorbed as Peon in the Group -D employment. But before the said transfer the Constable's pay, Scale, grade, capacity was elevated to the status of Group- 'C' employment at 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

Date : 2/8/07

Filed by :

J. R. D.
Advocate

B

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

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

OA No.110.....of 2007

Sri...*Jiten Ramehary*...Applicant

-VS-

Union of India & OthersRespondents.

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Place : *Guwahati*

Date : *7/5/07*

Filed by :

[Signature]
Advocate

9

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

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

OA No.110.....of 2007

Sri. Jiten RamcharayApplicant

-VS-

Union of India & OthersRespondents:

LIST OF DATES & CHRONOLOGICAL EVENTS OF THE CASE


Sl No	Date	Particulars	Annexure	Page
1	5-3-1993	Appointed as constable in Group- D category in the N. F. Rly Security Department.	B	21
2	30-10-1987, 10-5-1999, 26-1-2000, 30-03-2000	Rly. Board's directive regarding 4 th Pay Commisison'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	
4	22-5-98 9-6-98	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, 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	43- 44

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	31- 34
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, 35
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	45- 49
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 : Guwahati

Date : 7/8/07

Filed by :


Advocate

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

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

OA No.110.....of 2007

ShriJiten.....Ranchhary
S/oLate.....Achin.....Ranchhary
P/o Quater No. 323-B, 5 NO FG ColonyApplicant
Pandu, Guwahati-12
-Vs-

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

.....Respondents.

1. Details of application against which the application is made.

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

Filed by the
applicant through
Jiten Ranchhary
P/o: 718101

Jiten Ranchhary

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 :**

- a. That the Applicant being a citizen of India is entitled to get all his legal, fundamental and statutory rights.
- b. That the Applicant has been serving the N. F. Railway Administration w.e.f. 5.3.93 with the entire satisfaction of his superior and with due diligence and sincerity and culminating sterling services to the cause of this Railway and is therefore a bonafide and deserving employee to be considered for getting his rightful "just dues" at par with others.
- c. 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 5.3.93 and discharged duties in the

contd. 3. Security

Jiten Ramcharya

Security Department till..22.5-98

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

Jiten Ramcharya

implementation in all Zonal Railways.

A photocopy of the above circular is enclosed as Annexure-C, ^{as per AIR PF's representation}
C/1, C/2, C/3.

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

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

contd. 5.. transfer

Jiten Ramchary

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. P/106/PK-VI/EB Dated

22-5-98 is enclosed as Annexure - E.

contd. 6. 4.9 that on being

Jiten Ramcharya

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. 3/478 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/-

Photocopy of above representations is enclosed as Annexure-G

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

Contd. 7 A photocopy

Jiten Ramchivory

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

12
Jiten Ramcherry

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

Jiten Ranchariya

-9-

E/254/2/Pt. III dated 24.3.99 *even while she was in Group-D cadre like this Applicant.*

Photocopy of the above office order is enclosed as Annexure -N

4. 16 That it is also pertinent to mention here that there are instances of such transfer of some other staff junior to this Applicant and served the same Security department in the capacity of Constable but absorbed by the Respondents, more particularly the Respondent No. 3 & 4, in the capacity of Junior Clerks and absorbed them in the Mechanical department under Divisional Railway Manager, N. F. Railway, Lumding vide office order No. E/283/1/LM dated 19. 8. 99.

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

- 4.16. That it is submitted that this humble Applicant who is one of the similar kind of 3(three) employees, deserve to be considered by the Respondents for giving the equal pay, scale and status to keep conformity and also keep parity in employment without making any discrimination of whatsoever nature.
- 4.17. That in this connection it is submitted that had it been known to the Applicant before seeking his Inter department transfer that there was the pay, scale and status of the Applicant in his former department with that of a Group - 'C' status, definitely in no circumstances he should have applied for and agreed to accept his transfer in Accounts Department for the Group-'D' posts for contd. 10. which the

Jiten Ramcharya

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

Jiten Rouchiam

-11-

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/^A the Applicant submitted a comprehensive representation dated 14.8.2006 to the Respondent No. 2 to consider his case on the same footing of those employees who have also been inducted in the Accounts Department on being transferred from the Security Department upon their own request and option.

Contd. 12. A photocopy

Jiten Ranchariya

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

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

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

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

Contd. 13. on its true

Jiten Ravichandran

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 evectional 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 SC 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

Jiten Ranchharya

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

5. GROUND FOR RELIEF WITH LEGAL PROVISION :

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

GROUND

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

contd. 15. For that

Jiten Rana Chauriy

- 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.

Jiten Ram ching

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

Contd. 16. Details of

6. DETAILS OF REMEDIES EXHAUSTED

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'

26
Jiten Ramcharya

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 wages 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 *These* 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.

giten Ranching

10. Particulars of IPO.

- (1) IPO No. 34G 652162
- (2) Date of Issue 19-3-2007
- (3) Issued from Maligaon Hd: Qs: Po, Guwahati-11
- (4) Payable at HPO, Guwahati-781001

11. List of enclosures – As given in the Index

VERIFICATION

I Jiten Ramchiaray Son of Late Khin Ramchiaray aged about 33 years working as Peon under FA&CAO, N. F. Railway, Maligaon and residing at Reg: Qs: No. 323-B, 5th F.G Colony, Pandu, Guwahati - 781012 do hereby solemnly affirm and verify that the contents of this statements mentioned under paras 1 to 4.21 are true to the best of my knowledge, information and belief and the statements under paras 4.22 to are my respectful and humble submission and I have not suppressed any material facts.

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

Jiten Ramchiaray
Signature of the Applicant

Place : Guwahati
Date : 30.04.2007

To
The Deputy Registrar,
Central Administrative Tribunal,
GUWAHATI

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.

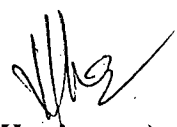
Sub: - Your Appeal Dt. 14-08-2006 and 17-08-2006.

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)/M.L.G, without mentioning whether she had applied for inter departmental transfer and absorption in Group 'C' or Group 'D' Category. It is stated that the above lady constable has specifically applied for absorption in category 'C' and was accordingly given the status whereas you have specifically applied for absorption in Accounts Department in Group 'D' Category.

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

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


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

*Certified to be
true copy
J.P. Adv.*



20

ANNEXURE - A/1

20

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

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

Dated. 28/07/2006.

In compliance to the order of Hon'ble Central Govt. Industrial Tribunal-cum-Labour Court [dt. 13.07.05 in Case No.4(C)/03(9/04 New) forwarded by GM (P)/MLG *[Guwahati]* 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/ Pl.-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.

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

*Certified to be
true
30.7.06
A.A.*

NORTHEAST FRONTIER RAILWAY

ANNEXURE-B

Office of the
Chief Security Commissioner
Maligaon:Guwahati-II.

No. P/254/RECT/Pt.I/EB.

Date 5-3-1993.

To.

Shri Jiten Ramchandra Go. Akin Ramchandra

Village Go. Ubarhi Boro, P.O. Maligaon, Maligaon

Post Office Maligaon

District Guwahati-II

Sub: Appointment as Constable/RPF.

On the basis of Selection held on 16.07.92 at Katihar/
Alipurduar Jn./Maligaon, you have been provisionally selected for
appointment as Constable/RPF subject to medical fitness, favourable,
police verification report and your certificates being found in
order. You are hereby advised to report to this office on 7.3
for medical examination and for completing other formalities. You
must bring the following certificates in original with you.

- (1) Proof of age.
- (2) Proof of educational qualification.
- (3) Proof of community/caste SC/ST etc.
- (4) Four copies of recent photograph of passport size.

You may have to stay for some days at Guwahati for medical
examination and completion of other formalities at your own cost.

In case of SC/ST candidates only :-

Railway Pass No. X is enclosed to cover your
journey from X to Guwahati and back.

EA TO CHIEF SECURITY COMMISSIONER
N.F.R. MALIGAON

Confidential to be
true copy
Sd/-
Mr.

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

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

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

R.B.E. No. 268/87

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

No. PC17/86/Imp/46, dated 30.10.1987

Reference this Ministry's letter No. PC11/75 PS-1/CS dated 21.5.1976.

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

Classification of posts	Description of Posts
1	2
Group A	All posts in scale Rs. 2200-4000 and above
Group B	Posts in scale Rs. 2375-3500 applicable to Accounts Officers only and other posts of Officers in scale Rs. 2000-3500, (all Depits.)
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

Confirmed
to be true
A.M.
19.8.87

Group D

In scale Rs. 2375-3500 and excluding those mentioned 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 order:

- (i) 'Pay' has the same meaning assigned to it in Rule 2003 (1) (iii) [FR9 (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 Asstt./Electric Asstt. and Steam Shunter.

No. E(NG) 1-84-PM7-56, dated 3.11.1987

As the Railways are aware, the mode of filling up the vacancies in the categories of Fireman 'A'/Diesel Asstt./Asstt. 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) 50% by the usual selection procedure from erstwhile Fireman 'B' who have studied upto 8th Class and are below 45 years of age.
- (b) 50% by departmental examination from erstwhile Fireman 'B' and 'C' who are Matriculates and have 3 years Railway service.
- (c) If the departmental examination referred to in (b) above fails to provide enough Matriculates for the 50% quota in the case of Fireman 'A', and the usual selection and the departmental examination referred to in (a) and (b) above fail to provide enough candidates for the respective quota in the case of Diesel Assistant and Assistant Electric Drivers, direct recruitment to the extent of shortfall should be made through Railway Recruitment Boards.
- (d) In the case of Assistant Electric Drivers, wherever the existing AVC provided for a modicum of vacancies being filled from amongst artisans 20% of the vacancies may be filled by selection from amongst artisans who are at least VIIIth Class pass and below 45 years of age, the mode at (a) and (b) above applying to the remaining 80% of the vacancies.

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

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ANNEXURE - C/174

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

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

30.3.2000.

The Chief Security Commissioner/RPF,
All Indian Railways.

The Chief Security Commissioner/RPF,
Railway Board.

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

General Secretary, All India RPF Association vide
his letter dated 20.1.2000 (Copy enclosed) has drawn
attention towards anomalies in fixation of pay as
two increments in the revised pay scales w.e.f. 1.1.06
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 10.5.1999
is also enclosed. Any change, however, may be
done in consultation with FA & CAO and the
concerned department of the Railway.

Kindly acknowledge the receipt of the letter.

DA: AS ABOVE.

(96 GANDHI)
BY. DIRECTOR/SECURITY (G)
RAILWAY BOARD.

10/2/02
Certified to be
true copy
Asst.

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GOVERNMENT OF INDIA (URTI ZERIDPR)
MINISTRY OF RAILWAYS (205 JETIR521)
(RAILWAY BOARD)

ANNEXURE - C/2

S.No. PC-V/477
No. PC-V/97/C/4

R.W.E. No. 91/99
New Delhi, dated 10.5.99.

The GME/CAO(R)/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)M/89/FR-1/1 dated 12.12.91.

In suppression of the Board's letter dated 07.10.98 referred to above, it is clarified that the pay fixation of RPF/RPSF staff would be done in accordance with FR-23 (1317-IREC-Vol. II (1987 Edition)) and FR-22 (1144-2) (Amended Rule-1313 (i)(a)(ii) circulated as ACS No. 1-F to IREC Vol. II, 1987 Edition vide Board's letter No. F(E)M/89/FR-1/1 dated 12.12.91) read with Audit Instructions (1) below FR-22.

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 is no such stage, the stage next above his pay in respect of the old post held by him on regular basis. Provided further that in case where pay fixed at the same stage, the next increment will be drawn on the date of increment in the 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.

Hindi version is enclosed.

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

Certified to be
true copy
Sd/-
Akr

ALL INDIA RPF ASSOCIATION

(REGD. & RECOGNISED)

TO
THE DG/RPF
Railway Board, New Delhi.

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

Reg:- Anomalies in the fixation of scales of pay of enrolled members of the Force.
Ref:- Memorandum of AIRPFA dated 06.12.1999 to MOSR(D) & Minutes of
Meeting of DG/RPF with RPF Association Officials on 22.12.99.

Respected sir,

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

<u>RANK</u>	<u>PRE-REVISED PAY</u>	<u>REVISED PAY</u>
Constable	825 - 1200 + 2 adv. Increments	2750 - 4000 + 2 adv. Increments
Naik	950 - 1500	3050 - 4590
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/PE. I dated 10.10.97, Ministry of Railways also revised the existing scales of pay of members of the Force vide their letter No. PC-V/97/G/4(RBE No.171/97) dated 04.12.1997 on par with the CPOs as under :-

Certified to
be true
Sd/-
Adv.

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	<u>PRE-REVISED PAY</u>	<u>REVISED PAY</u>	<u>REPLACED PAY</u>
Const.	825 - 1200 + (2 adv. Increments)	2750 - 4000 + (2 adv Increments)	3050 - 4590
Stk	950 - 1500	3050 - 4590	3200 - 4900(Nk. designated as HC)
M. Const.	975 - 1660	3200 - 4900	3200 - 4900 + Rs. 50 Spl. pay.
ASI	1320 - 2040	4000 - 6000	4000 - 6000
	1400 - 2300	5000 - 8000	5500 - 9000
IPF Gr-II	1640 - 2900	5500 - 9000	6500 - 10500
IPF Gr-I	2000 - 3200	6500 - 10500	6500 - 10500 + Rs. 200 Spl. pay

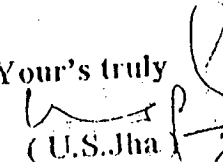
From the above mentioned, replaced scales of pay which have been fixed w.e.f. 04.12.1997 without giving bunching benefits of maximum five ensured increments, it is very clear that 90% of the Constables could not be benefited on rationalization of their scales of pay. Scales of pay of old Constable and ASI have not been increased at all. Similarly, the scales of pay of IPF 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 staff. 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 others.

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)
 General Secretary/AIRPFA

26/11/2002

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ANNEXURE-E³¹

OFFICE OF THE CSC/RPF
N.F. RAILWAY: MALIGAON:

No.P/106/Pt.VI/EB.

Dated:- -5-98.

DSC/RPF/LMG
N.F. Railway.

Sub:-Inter Departmental transfer.

Ref:-FA & CAO/MLG's letter No.G/461
Dt.14-5-98.

The following staff have been selected for Inter Departmental transfer from Security Deptt. to FA & CAO/MLG vide his letter No.referred above. CSC has passed order to release the staff observing all formalities directing them to report FA & CAO/MLG.

1. Sri Jiten Ramchiary, Const/RPF/LMG(S)
2. " Chandan Kumar, Const/RPF/MGC(P) Coy
3. " Om Prakash Yadav, Const/RPF/MLG(P) Post.

/CHIEF SECURITY COMMISSIONER.

No.P/106/Pt.VI/EB.

Dt. 22-5-98.

Copy forwarded for information and necessary action to:-

1. FA & CAO/MLG in reference to his office Order No.G/461 dt.14-5-98.
2. Staff concerned, through respective IPF.

/CHIEF SECURITY COMMISSIONER.

Certified to be true
9/12/98
ADG
AN

29
Chief Secy. to Govt.
M.P. Railway, Maligaon.

Office Order No.6/478

Dated 08.06.98

On being alerted by Inspector-in-Charge, M.P. Railway, Maligaon vide his letter No.1822/4-3/98, dated 7.5.98 in terms of this office O.O.No. 451 dated 14-5-98. Shri Jitan Nathiary, Constable/MT reported this office on 8.6.98 (PX) as taken in scale Rs. 2550-3200/- and is posted under SAG/I.

This issue with the approval of the Competent authority.

for SA & Chief Secy. Officer/DO.
M.P. Railway, Maligaon.

Encl.

Dated 8.6.98

Copy forwarded for information and necessary action etc:-

1. CAG/M.P.Rly./M.C.
2. SAC/LMO.
3. SAG/STB.
4. SAG/MGA.
5. SAG/PT & PH.
6. SAG/DO/DOs.
7. SAG/I.
8. Staff concerned.

for SA & Chief Secy. Officer/DO.
M.P. Railway, Maligaon.

29

Confirmed to be true
Copy 309
Atr.

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

No. PNC/AD/68/274 Pt. XIX

Dated 26.11.99

To
DAC/ADP... ✓
SAC/PE & PN..
AAO/EGA.
AAO/Fin(S).
AAO/TA/CG..
AAO/TA/Coops.

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

...

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 ~~and~~ scrutinised with their original interdepartmental transfer applications. As per their clear option they have been posted in Class-IV category in the grade of Rs. 2550-3200/- as Office Peon. Hence their appeal for absorption in Class-III category as Accounts Clerk at this stage cannot be considered.

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

1. Shri Anil Das Das, Peon under Fin(S)
2. " Uttam Mazumder, Peon SAC/Admn.
3. " Sukrata Banerjee, Peon, DAC/ADP.
4. " Mohindra Nath Boro, AAO/TA/CG.
5. " Tapan Dasgupta, Peon/AAO/EGA.
6. " Chandan Kumar, Peon/TA/CG.
7. Md. Abul Naser, Peon/SAC/Admn.
8. Shri Nitai Shankar Bhattacharya, Peon/SAC/P & PN.
9. " Jiten Samchary, Peon/TA/Coops

Please intimate the above staff accordingly.

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

Confirmed to be
true
Jag
Adm.

31

ANNEXURE-I 41

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 - 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 3... 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

(Jitendra Ramchandra)
(21/12/2000)

Peon under FA&CAO/M.L.G. 17-1-2000
Section, N.F. Railway

WJ. 2001
12/12/2000
Certificate to be
true copy
SDS
Adv.

32

ANNEXURE - J²

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

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,

Jiten Ramchandra
Maligaon

Peon under FA&CAO
N. E. Rly, Maligaon

4-8-2000

W.B.O.N.
4.8.00

Certified to be
true copy
322
Atr.

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,
Jiten Ramcharya
1 A/goods

Peon under FA&CAO
N. E. Rly, Maligaon 15-2-2001

Wilson
15.2.01
Certified to be
true copy
322
Adv.

34

To

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

Sir,

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

Ref - My letter dated 17.11.99, P.O. No. 199/9000
..... & 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 Applicant. By the said verdict it has been proved that no one gives option for his demotional post, and that too, from Group - 'C' to Group - 'D' category. Such exceptional cases arise only in exceptional circumstances. Survival of one's existence in the final say of any living being. This humble employee also had done the same thing when he was compelled by the Administration in remaining in the darkness about the future of his service carrier, which was deliberately stumbled by my former employer i.e. the Security Department by not implementing the Pay Commissions' recommendations followed by Railway Board's mandatory directives for elevation of the pay, scale, capacity & status of a constable in the Security Department.

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

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

With regards,

Yours faithfully

Jiten Ramchandra
27/1/2005

5-5-2005

Wb. PM
5.5.2005
Certified to be
true
Sd/-
Adv.

35

ANNEXURE - M 45

GOVT OF INDIA.
MINISTRY OF LABOUR,
ON THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, 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 10.12.02 referred this Industrial dispute arose between the Management of N.F. Railway and the workman Sri T.K. Balahya and Abul Naser for adjudication and to pass order by exercising power conferred under Clause-D or 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.

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

contd.....p/2.



*Certified true
true copy
Asst.*

36

96

-2-

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

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

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

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

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

contd....p/3.



violating the Railway Board's categorical instruction. They were Group-C employees enjoying the Scale 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 Nasor applied to absorb them respectively in Group-D category Post and Junior Clerk in the Accounts Department in Maligaon.

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

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

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

contd....p/5.



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.

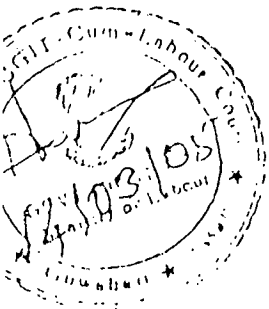
17. That they were told by the Management that Fire Wing will be abolished and to apply elsewhere as on abolition they will be surplus. Finding no other alternative they were compelled to apply in Group-D category as no surplus list was shown by the Management.

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.

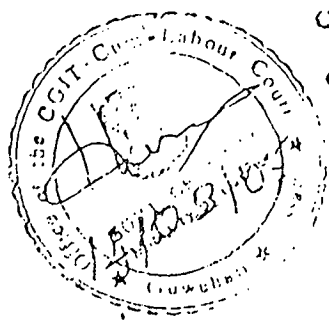
20. The workmen claimed that they were enjoying the benefits of scale etc. of Group-C of 4th and 5th Pay Commission prior to their absorption in Category-D in Accounts Department. Allying the abolition of RPF Fire Wing and to be ~~displaced~~ they complied the direction of the Management and under compelled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

21. The Management denied the ground agitated by the workmen that due to abolishment 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 abolishment, 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.

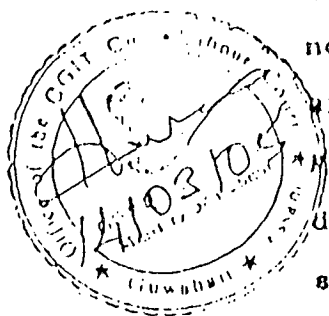
contd....p/7.



that there was question of abolition of RPF Fire Wing and to be surplus. Being afraid to be surplus 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 modelity 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

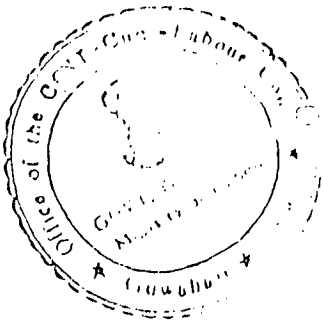
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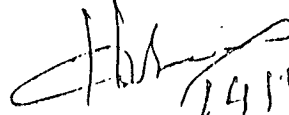


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-8-

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.




14/03/08
Presiding Officer,
CCIT-cum-Labour Court, Guwahati.

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ANNEXURE-N^o

H.S. 10071-0000

SECRET

Office of the
RAN(P) / LMG

Date : 26.3.99

In view of G.O. 10071-0000, 26.3.99, Constable / LMG
in G.O. 10071-0000, 26.3.99, Constable / LMG
has been transferred and posted as 26.3.99
in compliance of letter number against the vacant
post of 26.3.99.

This Annexure with the approval of competent
authorities.

Attnl. Dy. Manager (P)
R.P. Dy. Manager.

NO. 154/1/10071

Date : 26.3.99

Copy forwarded for information and necessary action
to :-

- 1) Dy. Manager / LMG. This is in ref. to his letter no. 4655/10 (P)
dated 26.3.99.
- 2) G.O. / LMG. It is requested to spare Constable / LMG accordingly.
- 3) G.O. / LMG.
- 4) G.O. / LMG.
- 5) G.O. / LMG.
- 6) G.O. / LMG.
- 7) Staff concerned at office.
- 8) Spare copy for P.O.
- 9) Monitor at office.

Attnl. Dy. Manager (P)
R.P. Dy. Manager.

Certified to be
True Copy
322g
Adv.

OFFICE ORDER

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

<u>S/No.</u>	<u>Name & Design.</u>	<u>Father's Name</u>	<u>Inducted as</u>
1.	Sri Ajit Kr. Baishya, Fireman/PNO	Sri Santu Ram Baishya	Clerk
2.	Sri Khushi Lal Oraon, (ST), Fireman/IMG	Sri Parasadi Oraon,	Clerk
3.	Sri Pradip Kr. Deka, Fireman/MLG	Late Bhairam 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. Baishya, Fireman/GHY	Late Santu Ram Baishya,	Clerk

for General Manager(P)/MLG

Maligaon, Dt. - 7-99.

Copy forwarded for information and necessary action to:

- 1) ASC/Fire/MLG. He is requested to spare and direct them to report of Sr. DME(C&W)/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

for General Manager(P)/MLG

Confirmed to be
true copy
S.D.
Adv.

To

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

Through proper channel.

Sir,

Sub: Representation for giving promotion in Group-C employment in the capacity of Junior Clerk i.e. ~~Accounts Clerk~~ in the Accounts Department vis-à-vis the orders issued by the Administration in the cases of Md. Abul Naser and Sri ~~Tapax~~ Baishya, Peon in the Accounts Department vide FA & CAO, N.F.Rly/Maligaon's Office Order No. PNO/AD/30-196/Pt-81 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 memorialist was appointed in the capacity of ^{RPF - Constable} under the Chief Security Commissioner, N.F.Railway, Maligaon in Group-D employment and discharged my duties to the entire satisfaction of all of my superiors.
2. That after rendering sterling services in the Security Department I found that inspite of having my requisite qualification for being employed in the minimum capacity of any Group-C employment in the Railways establishment I was mentally perplexed and as a result of which I had to pass the days in severe economic hardships with the members of my family.
3. That it is submitted in this connection that following the recommendations of the IV th Pay Commission the Pay Scale and capacity of the Constable in the Railway Security Department were elevated to the Cadre of Group-C establishment prevailing in the Pay Scale of Rs. ^{825-1200/-, now Rs 3050-4590/-} Which was communicated vide Railway Board's Circular No. ^{PE IV/86/Imp/46} 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 IV th & V th Pay Commissions

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

Copy to be sent to the concerned authorities for their consideration.

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

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

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

A photo copy of the Transfer order issued by the Security Department vide...*no. P/106/P.I.VI/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...*ca/478*... 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. *Accounts clerk* in the Accounts Department in Scale. *3050-4570/-*.

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. FA & CAO, NF.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 ~~Th. P. V.~~ 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 ~~Account clerk~~ in the Scale Rs. 3050-4590/- vide order PNO/A-D/80-196/Pt-21 dt: 28.07.2006 No. Dated to take effect retrospectively from the date of issuance of Court's order and also to get payment of all backwages of Pay and Allowances from the date of the Court's order.

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

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

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

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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.E/41/AP/S & T dt. 24.12.98 and 23.3.99 & Smti. Kanika Saha, Constable/RPF/MLG(HQ) was absorbed under GM(P)/MLG as Clerk-cum-Typist in scale Rs.3050-4590/- vide GM(P)/MLG/468E/18(W) Pt.V dt.23.3.99 respectively in Group-C establishment on being spared by the Security Deptt. on acceptance of bottom seniority which postulates to be of their volition for inter-department transfer. Under such pretext of having glaring precedence of sparing and absorbing of the security personnel, of Group-C status in other department on their same pay, scale and capacity even on their own declaration of such transfer like those two of the subject mentioned cases, why the prayer of this Applicant was not considered by the Administration as yet and made to suffer in countless sufferings. This is but a sheer DISCRIMINATION and deserves to be eliminated by no further loss of time.

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....

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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.

D.A : As above.

Date:- 14-8-06

14/8/06

Yours faithfully,

Jiten Ranchharya
peon/21/8.2006