

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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21 11 11
M.P 31/2012 Petition copy 12-1623 SECTION OFFICER (Judl.)
Jahab
11.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 311/07
 2. M/s Petition No. _____
 3. Contempt Petition No. _____
 4. Review Application No. _____

Applicant(s) ... G.C. Borkotory (12) ... vs Union of India & Ors

Advocate for the Applicants ... B. Basumatary, Ms. J. Waru ...
Ms. B. Nath

Advocate for the Respondent(s) ... Railway Board, Mrs. Bhonali Devi

Notes of the Registry	Date	Order of the Tribunal
1. Application is in form is 1 copy F. for Rs. 50/- 4 post and vide IPC/20 No. 66F848137, 66F848138 Dated 9.12.07	20.12.2007	13 temporary Railway employees have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking regular entry to permanent establishment. By filing M.P. No.142/2007, they have sought for permission to prosecute their case jointly. A copy of the M.P. No.142/2007 has already been served on Dr.J.L.Sarkar, learned standing counsel for the Railways.

2. Registrar

②

Petitioners G.P.'s for
issue notices one received
with envelope: 6707
served.

R.A.P.
19/12/07

Having heard Mr.B.S.Basumatary,
learned counsel appearing for the
Applicants and Dr.J.L.Sarkar, learned
standing counsel for the Railways, the
plea of the 13 Applicants to prosecute
the O.A. 311/2007 jointly is allowed. M.P.
No.142/2007 accordingly stands disposed
of.

Contd.....

Contd
20.12.2007

Having heard learned counsel for the Applicants Mr.B.S.Basumatary and Dr.J.L.Sarkar, learned Railway Standing counsel; on whom a copy of this Original Application has already been served; notices are hereby directed to be issued to the Respondents requiring them to file reply by 29.01.2008.

Dt. 20.12.07.

Pl. issue notices to the respondents
Pl. send order copies to the respondents and free copies of this order be handed over to the learned counsels for both the parties.

20.12.07

Notwithstanding pendency of this case, Respondents should give due consideration to the grievances of the Applicants pertaining to their option to go over to the Ministerial cadre posts in the regular establishment of the Railways.

Call this matter on 29.01.2008.

Send copies of this order to the Respondents along with the notices and free copies of this order be handed over to the learned counsels for both the parties.

order dt. 20/12/07 with notice sent to D/Section for issuing to resp. nos. 1 to 8 Jay regd AID post.

And order issuing to learned advocates for both the parties.

/bb/

14
(M.R.Mohanty)
Vice-Chairman

4/12/07 D/NO-1907
29.01.2008
D/ 19.1.2008
26/1/07

Mrs. Bharati Devi, learned counsel undertakes to appear for the Respondents in this case. She also prays for some time to file written statement. On that prayer, this matter is adjourned and to be taken up on 14th March, 2008. Written statement, if any, to be filed by the Respondents well before 14th March, 2008.

Call this matter on 14.03.2008.

Khushiram
Member(A)

14
(M.R.Mohanty)
Vice-Chairman

Notice duly served on
R-5, 6, 7
11/08

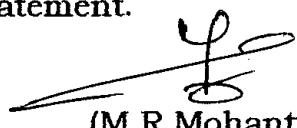
Notice duly served on
R-1, 2, 3

13-3-08

No W.S. Filed.

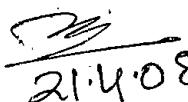
14.03.2008 No written statement has yet been filed in this case.

Call this matter on 22.04.2008 awaiting written statement.


(M.R. Mohanty)
Vice-Chairman

W/S not filed.

pg


21.4.08

22.04.2008 Mr. B.S Basumataqry, learned counsel appearing for the Applicant is present.

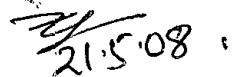
Counsel for the Respondents undertakes to file written statement (on behalf of the Respondents) in course of the day. Copy of the written statement has already served to the Applicant. Mr. B.S. Basumatary, learned counsel appearing for the Applicant seeks time to file rejoinder. Prayer is allowed.

Call this matter on 22.05.2008

23.4.08
W/S submitted
Any the Respondents.
Copy served.



Rejoinder not
filed.

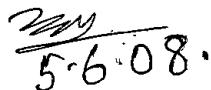

21.5.08

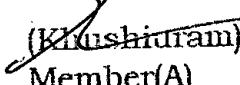

(M.R. Mohanty)
Vice-Chairman

lm

22.05.2008 On the prayer of Mr. B. S. Basumatary, learned counsel appearing for the Applicant, call this matter on 06.06.2008 awaiting rejoinder from the Applicant.

Rejoinder not
filed.


5.6.08


(K. K. Shridharan)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

06.06.2008 Mr.B.Basumatary, learned counsel appearing for the Applicant undertakes to file rejoinder in course of the day. He also undertakes to serve a copy of the said rejoinder on Mrs. Bharati Devi, learned counsel appearing for the Railways/ on the Respondents by 13.06.2008.

10.6.08

Rejoinder filed
by the Applicant.
Benching given
to Devi.

21

/bb/

Call this matter on 13.06.2008.

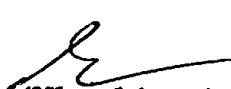

(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

13.06.08

In this case written statement and rejoinder have already been filed by the parties. This case is otherwise ready for hearing.

Subject to legal pleas to be examined at the hearing this matter is admitted and set for hearing 31.07.2008.

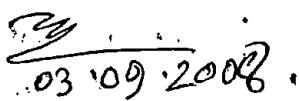

(Khushiram)
Member(A)

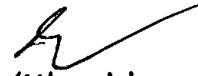

(M.R.Mohanty)
Vice-Chairman

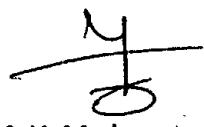
pg

31.07.2008

On the prayer of Ms. J. Wary, learned counsel appearing for the Applicant, hearing of this case is adjourned to be taken up on 04.09.2008.


03.09.2008


(Khushiram)
Member(A)


(M.R.Mohanty)
Vice-Chairman

lm

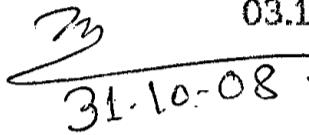
04.09.2008 On the prayer of counsels for both the parties, hearing of this case stands adjourned to be taken up on 03.11.2008.


(Khushiram)
Member(A)

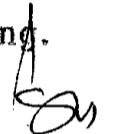

(M.R. Mohanty)
Vice-Chairman

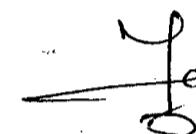
lm

The case is ready
for hearing.


31.10.08 03.11.2008 None appears for either of the parties.

Call this matter on 10.11.2008 for hearing.

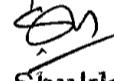

(S.N. Shukla)
Member (A)


(M.R. Mohanty)
Vice-Chairman

nk

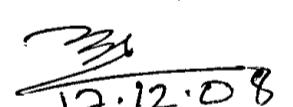
10.11.2008

Call this matter on 18.12.2008.


(S.N. Shukla)
Member(A)


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.


17.12.08 lm

18.12.2008

On the prayer of Ms.J.Wary learned counsel for the Applicant, call this matter on 11.02.2009 for hearing.

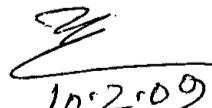

(S.N. Shukla)
Member(A)


(M.R. Mohanty)
Vice-Chairman

lm

The case is ready
for hearing.

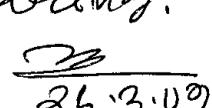
O.A. 311/07


11.02.2009

Call this matter on
27.03.2009 for hearing.


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.


26.3.09

pg

O.A. No. 311 of 2007

27.03.2009

On the prayer of Learned
Counsel appearing for the Applicant, case
is adjourned to be taken up on
20.05.2009.

The case is ready
for hearing.

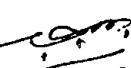

(Khushiram)
Member (A)


(A.K. Gaur)
Member (J)


18.5.09. /bb/

Copies of order dtd.
20.5.2009 sent to
D/Section for issuing
to the applicant &
Respondent by post.

Issued with memo
No. _____



10/6/09

20.05.2009

Heard learned counsel for the
parties. Hearing concluded.
For the reasons recorded
separately the O.A is disposed of.


(N.D. Dayal)
Member(A)


(M.R. Mohanty)
Vice-Chairman

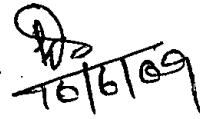
pg

16.6.09

order dated 20.5.09
sent to the D/Section
for issuing the same to
the applicant and Respondents.

D/No. 3035 to 3055

dtd 10/6/09


10/6/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 311 of 2007.

DATE OF DECISION: 20-05-2009.

Sri Ganesh Chandra Boro & 12 others.

.....Applicant/s

Mr B. S. Basumatary

.....Advocate for the
Applicant/s

-Versus-

Union of India & Ors.

.....Respondent/s

Miss Bharati Devi

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR N.D. DAYAL, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No.


Vice-Chairman/Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 311/2007.

Date of Order : This the 20th Day of May, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR N. D. DAYAL, ADMINISTRATIVE MEMBER

1. Shri Ganesh Chandra Boro
Technician Gr. I
2. Shri Ganesh Bazbaruah,
Technician Gr.III
3. Shri Gauri Kanta Goswami
Technician Gr.II
4. Shri Manoranjan Deka,
5. Shri Narianjan Talukdar
Technician Gr.III
6. Shri Rajendra Sonowal
Motor Driver
7. Shri Dharjya Ram Nath
Technician Gr.III
8. Shri Krishna Pada Ishore, MWM Gr.III
9. Shri saifuddin Ahmed
Technician Gr.I
10. Shri Ananta Kr. Bhattacharjee
MWM Gr.II
11. Shri Prabhat Kalita
Technician Gr.I
12. Shri Indrajit Medhi
Technician Gr.II
13. Shri Subal Medhi
Technician Gr.II

.....Applicants

All the applicants are working in the office of the
SSE/C&W/POH/Lumding, N.F.Railway,
Dist. Nagaon, Assam
Pin 782447.

By Advocate Mr B.S.Basumatary

-Versus-

1. Union of India
represented by the Secretary to the
Govt. of India, Ministry of Railways,
Rail Bhawan, New Delhi-110001.
2. The Chairman, Railway Board,
Rail Bhawan, New Delhi-110001.

18

3. The Director Establishment,
Railway Board, Rail Bhawan,
New Delhi-110001.
4. The General Manager (Personnel)
N.F.Railway, Maligaon,
Guwahati-781011.
5. The Divisional Railway Manager (Personnel)
N.F.Railway, Lumding Division,
Lumding-782447.
6. The Divisional Mechanical Engineer (Con)
N.F.Railway, Lumding-782447.
7. The Divisional Railway Manager,
N.F.Railway, Rangia Division,
Rangia-781354.
8. The Divisional Finance Manager,
N.F.Railway, Rangia Division,
Rangia-781354. Respondents

By Advocate Miss Bharati Devi.

O R D E R (ORAL)

N.D.DAYAL (MEMBER-A)

Mr B.S.Basumatary, learned counsel for the applicant has taken us through the documents annexed to the O.A and contended that the applicants who were initially surplus personnel, though absorbed against 'live posts' as per memo dated 28.4.1999 (Annexure-3) have been suffering for want of adequate future prospects both in terms of pay scales in hierarchy as well as in the absence of promotional avenues. As such even though they may not have been eligible in terms of Circular at Annexure-4, some of those who are working with them have been granted transfer with bottom seniority under Katihar Division as per Annexure-7. But the applicants are continuing in their original jobs with no future career prospects.

✓

2. Miss B. Devi, learned counsel for the Respondents submits that applicants have been enjoying promotional benefits of higher pay scale from time to time and the relief claimed by them in this O.A is not justified because they were not surplus but have already been absorbed in "live posts".

3. It is seen that the applicants have also prayed for any other relief deemed fit by the Tribunal. Learned counsel for the applicants submits at this stage that the Respondents should consider their future in service and if they make any request on the lines of the officials who were adjusted as per Annexure-7 for transfer subject to relevant conditions, then their cases should also be considered. Learned counsel for the Respondents submits that they would consider their representation, if any, in the normal course. We, therefore, dispose of this application by leaving it open to the applicants to prefer a representation in this regard as considered necessary by them in accordance with the rules and orders within a period of two months. The respondents shall consider the same and communicate the decision taken to the applicants within one month thereafter. No costs.



(N.D.DAYAL)
ADMINISTRATIVE MEMBER



20/05/09

(MANORANJAN MOHANTY)
VICE CHAIRMAN

18

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:
ORIGINAL APPLICATION NO. 311/67

1. Name Of the Applicant:- G.C. Boro Guwa (P)

2. Respondents:-Union of India & ors.

3. No. of Applicant(S):-

4. Is the application in the proper form:-Yes/No.

5. Whether name & description and address of the all papers been furnished in cause title:-Yes/No.

6. Has the application been duly signed and verified:-Yes/No.

7. Have the copies duly signed : Yes/No.

8. Have Sufficient number of copies of the application been filed:- Yes/No.

9. Whether English translation of documents in the language:-Yes/No.

10. Whether all the annexure parties are impleaded:-Yes/No.

11. Is the application in time:-Yes/No.

12. Has the Application is maintainable:Yes/No.

13. Has the Impugned orders original duly attested been filed:-Yes/No.

14. Has the Index of documents been filed all available:Yes/No.

15. Has the legible copies of the annexures duly attested filed:-Yes/No.

16. Has the required number of the enveloped bearing full address of the respondents been filed: Yes/No.

17. Has the declaration as required by 17 of the form:Yes/No.

18. whether the relief sought for arises out of the Single:-Yes/No.

19. Whether the interim relief prayed for:-Yes/No.

20. in case of condonation of delay is it supported:-Yes/No.

21. whether this case can be heard by single Bench/Division Bench:-

22. Any other Point:-

23. Result of the Scrutiny with initial of the scrutiny clerk the application is in order:-
The application is in order.

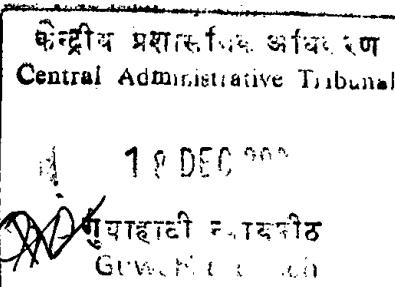
1/67/12/07
SECTION OFFICER(J)

REGISTRAR

9/1

20/12/07

DISTRICT : NOWGONG



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
BENCH : AT GUWAHATI.

O.A.NO

311

OF 2007

BETWEEN

Shri Ganesh Ch. Boro & 12 others

.....APPLICANT

- VERSUS -

The Union of India and Ors.

....RESPONDENTS

S Y N O P S I S

The applicants were initially appointed as Firemen in the Fire Wing of RPF on different dates against the substantive posts and their services were duly regularized. The Fire Wing of RPF was closed down in the year 1999. As such the applicants were declared surplus. Thereafter the applicants have been temporarily accommodated in Permanent Over Hauling (POH) Depot, Lumding against the year to year extended supernumerary posts. AS prescribed in the Master Circular on Absorption and Utilisation of Surplus Staff on the Railways the applicants deserve permanent absorbment against any "Live" posts. In the year 2005 options for posting as ministerial staff in the upcoming Raniga Railway Division from the mechanically de-categorized staff and surplus staff was invited. The applicants had duly applied for posting against the aforesaid "Live" posts of ministerial posts as the

(2)

19 DEC '07

गुवाहाटी न्यायपीठ
Guwahati J. T.

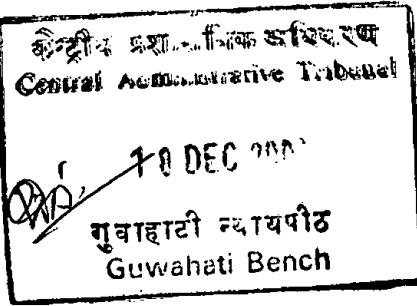
applicants have acquired minimum H.S.L.C. examination and also other vocational qualification. Curiously enough, the controlling authority of the applicants i.e. the Divisional Mechanical Engineer (Con), Lumding while forwarding their option paper had put a remark that if all the cases are considered then works of the POH depot, Lumding will suffer very much and targeted outturn of wagon POH depot, Lumding. It was further requested to examine the matter before recommendation and forwarding the cases to DRM (P), Lumding.

It is pertinent to mention here that on earlier occasion 6(six) similarly declared surplus Firemen, RPF holding supernumerary posts in the permanent Overhauling Depot, Lumding were inducted against the "Live" posts of clerk. Thereafter some more similarly situated persons have been given clearance for Division transfer so as to get absorbed against the "Live" posts on 25/04/2007. However, the cases applicants have not been discriminatorially, illegally and malafidely brushed aside. The action and inaction of the Respondents authorities ultra-vires the fundamental rights of the applicants and also violative of their own Master Circular.

Therefore, the indulgence of the Hon'ble Tribunal is prayed for interference and passing necessary orders directing the Respondents authorities to process the options of the applicants for permanent absorptions of the applicants against the aforesaid "Live" ministerial posts.

Filed by

Joyshree Waly
Advocate



LIST OF DATES

Sl. No.	Date	Particulars	Annex- ures	Page
1	07-07-1991	Date of appointment of Applicant No.1 in the post of Fireman, RPF	NIL	NIL
2.	04-08-1996	-DO-	NIL	NIL
3.	09.08.1996	-DO-	NIL	NIL
4.	06.11.1979	-DO-	NIL	NIL
5.	07.07.1991	-DO-	NIL	NIL
6.	07.07.1991	-DO-	NIL	NIL
7.	21-06-1980	-DO-	NIL	NIL
8.	06.11.1996	-DO-	NIL	NIL
9.	07.07.1991	-DO-	NIL	NIL
10.	04.08.1996	-DO-	NIL	NIL
11.	07.07.1991	-DO-	NIL	NIL
12.	07.07.1991	-DO-	NIL	NIL
13.	07.07.1991	-DO-	NIL	NIL

18 DEC 200

(2)

गुवाहाटी न्यायपीठ
Guwahati Bench

25X
PAGES

14. 27.03.1991 : Date of issuance of Master Circular on Absorption and Utilisation of surplus Staff on the Railways. ANNEXURE-2 — 21- 30

15. 20-05-1999 : Date of intimation about closing down Fire-wing of RPF and declaration of surplus of the applicants. ANNEXURE-1 — 20

16. 28-04-1999 : Date of temporary adjustment of the applicants against the supernumerary posts in the Permanent order hauling Deport, Lumding. ANNEXURE-3 — 31- 32

17. 31-12-2004/
03-01-2005 : Date of issuance of letter inviting options from the Mechanically decategorised and surplus staff for permanent posts of ministerial cadre in the upcoming Railway Division, N.F. Railway, Rangia. ANNEXURE-4 — 33

18. 28-01-2005 : Date of forwarding of applicants option papers by the Divisional Mechanical Engineer (Con), N.F. Railway, Lumding with adverse comments. ANNEXURE-5 — 34

18 DEC 2007

गुवाहाटी न्दायपीठ
Guwahati Bench

(3)

26 PAGES

19. 19-08-1999 : Date of giving clearance for ANNEXURE - 6 — 35

permanent absorption
against the "Live" post of
ministerial cadre in respect
of other similarly situated
surplus staff.

20. 25-04-2007 : Date of giving clearance for ANNEXURE - 7 - 36-37

permanent absorption by
way of Division transfer
against the "Live" posts in
respect of more other
similarly situated surplus
staff.

21. 05-10-2006: Date of issuance of letter by ANNEXURE - 8 — 38

the Divisional Finance
Manager, N.F. Railway,
Rangia about the
availability of vacancies in
different categories for
which option were invited.

22. 27-05-2007 : Date of acknowledgment of ANNEXURE - 9 — 39-42

SERIES

the applicants resubmitted
options papers in the office
of the G.M. (P), N.F.
Railway, Maligaon.

Filed by

Jyotshee Wary
Advocate

DISTRICT : NOWGONG

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

18 DEC 2007

गुवाहाटी न्यायालय
Guwahati Court

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
BENCH : AT GUWAHATI.

O.A.NO

311

OF 2007

BETWEEN

Shri Ganesh Ch. Boro & 12 others

.....APPLICANT

- VERSUS -

The Union of India and Ors.

....RESPONDENTS

I N D E X

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Joysree Wary
Signature of the Advocate

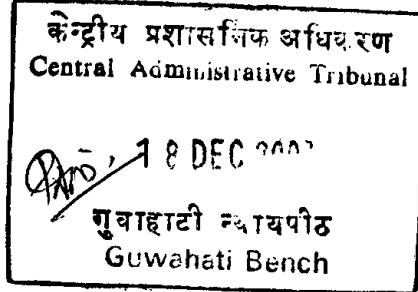
FOR USE IN THE TRIBUNALS OFFICE :

Date of filing :

Registration No. :

Signature :

DISTRICT : NOWGONG



Filed by the Applicants
Through
Joyshree Mary
Advocate
12.12.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI
BENCH : AT GUWAHATI.

O.A.NO 311 OF 2007

BETWEEN

1. Shri Ganesh Chandra Boro,
Technician, Gr.I, SSE/POH/
Lumding, N.F.Rly, Lumding,
Dist : Nowgong. Pin Code: 782447.
2. Shri Ganesh Bazbaruah,
Technician, Gr.III, SSE/IC/POH/
Lumding, N.F.Rly, Lumding,
Dist : Nowgong. Pin Code: 782447.
3. Shri Gauri Kanta Goswami,
Technician, Gr.II, SSE/C & W/
POH/Lumding, N.F.Rly, Lumding,
Dist : Nowgong. Pin Code: 782447.
4. Shri Manoranjan Deka, SSE/C&W/
POH/Lumding, N.F.Rly, Lumding,
Dist : Nowgong. Pin Code: 782447.
5. Shri Narianjan Talukdar,
Technician, Gr.III, SSE/POH/
Lumding, N.F.Rly, Lumding,
Dist : Nowgong. Pin Code: 782447.

Ganesh Ch. Boro

1 P DEC 2007

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Guwahati Bench

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6. Shri Rajendra Sonowal, Motor
Driver, Gr.I, SSE/C&W/POH/
Lumding, N.F.Rly, Lumding,
Dist : Nowgong. Pin Code: 782447.

7. Shri Dharjya Ram Nath, Technician,
Gr.III, SSE/POH/Lumding, N.F.Rly,
Lumding, Dist : Nowgong. Pin Code: 782447.

8. Shri Krishna Pada Ishore, MWM,
Gr.III, SSE/C&W/POH/Lumding,
N.F.Rly, Lumding, Dist : Nowgong
Pin Code: 782447.

9. Shri Saifuddin Ahmed, Technician,
Gr.I, SSE/C&W/POH/Lumding,
N.F.Rly, Lumding, Dist : Nowgong
Pin Code: 782447.

10. Shri Ananta Kr. Bhattacharjee,
MWM, Gr.II, SSE/C&W/POH/
Lumding, N.F.Rly, Lumding,
Dist : Nowgong. Pin Code: 782447.

11. Shri Prabhat Kalita, Technician, Gr.I,
SSE/POH/Lumding, N.F.Rly,
Lumding, Dist : Nowgong. Pin Code: 782447

12. Shri Indrajit Medhi, Technician,
Gr.II, SSE/C&W/POH/Lumding,
N.F.Rly, Lumding, Dist : Nowgong
Pin Code: 782447.

13. Shri Subal Medhi, Technician, Gr.II,
SSE/C&W/POH/Lumding, N.F.Rly,
Lumding, Dist : Nowgong.
Pin Code: 782447.

.....APPLICANTS.

18 DEC 2001

गुवाहाटी न्यायपीठ
Gauhati Bench

(3)

-AND-

1. THE UNION OF INDIA ,

Represented by the Secretary to the
Govt. of India, Ministry of Railway,
Rail Bhawan, New Delhi. Pin Code: 110001.

2. The Chairman, Railway Board, Rail
Bhawan, New Delhi. Pin Code: 110001.

3. The Director Establishment, Railway
Board, Rail Bhawan, New Delhi.
Pin Code: 110001.

4. The General Manager (Personnel)
N.F. Rly, Maligaon Divisional H.Q.,
Maligaon. Pin Code: 781011.

5. The Divisional Railway Manager
(Personnel), N.F. Railway, Lumding
Division, Lumding. Pin Code: 782447.

6. The Divisional Mechanical Engineer
(Con), N.F. Railway, Lumding. Pin Code: 782447.

7. The Divisional Railway Manager,
N.F. Railway, Rangia Railway
Division, Rangia. Pin Code: 781354

8. The Divisional Finance Manager,
N.F. Railway, Rangia Railway
Division, Rangia. Pin Code: 781354.

.....RESPONDENTS

General Ch. Benco

18 DEC 2007

(4)

गुवाहाटी बैठकाल
Guwahati Bench

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DETAILS OF THE APPLICATION :

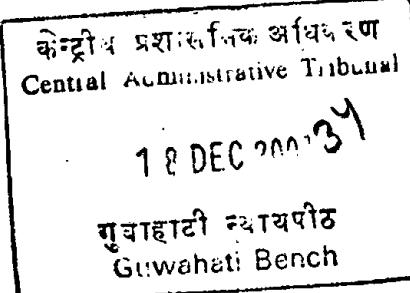
1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

This Application is made against the Memo No.G/59/ Staff/POH dated 28/01/2005 issued under the hand of Divisional Mechanical Engineer (Con) Lumding while forwarding option forms of the applicants to the Sr. Divisional Mechanical Engineer/IC, Lumding illegally, arbitrarily and malafidely hindering the permanent absorbment of the applicants being surplus staff against the available vacant live posts at the disposal of the Divisional Finance Manager, N.F. Railway upcoming Rangia Railway Division, Rangia.

-AND-

The applicants are discriminated not treating them at par with the similarly situated persons while rendering benefit of permanent absorbment of surplus staff against any live posts pursuant to the "Master Circular on Absorption and Utilization of Surplus Staff on the Railways" vide office order No. E (NG)11/90/RE-I/MASTER CIRCULAR dated 27/3/1991 and Memo No. E/283/I/LM/POH dated 25/04/2007 issued under the authority of the Divisional Railway Manager (P) Lumding.

General Ch. Boro



(5)

2. JURISDICTION :

The applicants declare that the subject matter of the applicants is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

The applicants declare that the application is within the period of limitation under Section 21 of the Administrative Tribunal Act, 1983.

4. FACTS OF THE CASE :

4.1 That the applicants are citizens of India and residents of Lumding in the District of Nowgong. The applicants as such are entitled to all the rights and privileges guaranteed under the Constitution of India and laws formulated thereunder.

4.2 That the applicants were initially appointed as Firemen in the Fire Wing of RPF against the substantive posts as shown below :

- a) The applicant No.1 was appointed on 07-07-1991 and subsequently his services was duly regularised.
- b) the applicant No.2 was appointed on 04-08-1996 and subsequently his services was duly regularised.

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गुवाहाटी न्यायालय
Guwahati Bench

(6)

- c) The applicant No.3 was appointed on 09.08.1996 and subsequently his services was duly regularised
- d) The applicant No.4 was appointed on 06.11.1979 and thereafter his services was duly regularized.
- e) The application No.5 was appointed on 07.07.1991 and thereafter his services was duly regularised
- f) The applicant No.6 was appointed on 07.07.1991 and thereafter his services was duly regularised;
- g) The applicant No.7 was appointed on 21-06-1980 and subsequently his services was duly regularised.
- h) The applicant No.8 was appointed on 06.11.1996 and subsequently his services was duly regularised.
- i) The applicant No.9 was appointed on 07.07.1991 and thereafter his services was duly regularised;
- j) The applicant No.10 was appointed on 04.08.1996 and thereafter his services was duly regularised;
- k) The applicant No.11 was appointed on 07.07.1991 and subsequently his services was duly regularised.
- l) The applicant No.12 was appointed on 07.07.1991 and thereafter his services was duly regularised and
- m) The applicant No.13 was appointed on 07.07.1991 and thereafter his services was duly regularised;

Common Ch. Baro

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Guwahati Bench

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4.3 That the applicants respectfully state that the Government of India Ministry of Railways (Railway Board) decided to close down the Fire Wing of RPF over Indian Railways way back in the year 1999 with a further decision to merge the existing staff of Fire Wing of RPF with the Executive Branch of RPF. The aforesaid decision was circulated vide office Memorandum dated 20/05/1999 issued under the hand of the Asstt. Inspector General, RPF, Railway Board.

A photo copy of the aforesaid Office Memorandum dated 20-05-1999 is annexed herewith and marked as ANNEXURE-1 hereto.

4.4 That the applicants respectfully state that pursuant to the aforesaid decision the applicant were declared surplus as provided in the Master Circular on Absorption and Utilization of Surplus Staff on the Railways No.22 Circulated through No.E (NG)II/90/RE-1/MASTER CIRCULAR dated 27/03/1991

Be it also stated that in the aforesaid Master Circular it is also provided that the incumbents against such posts should be redeployed against other "Live" posts as far and as early as possible.

Guwahati Bench

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A true photostat copy of the aforesaid Master Circular No.22 is annexed herewith and marked as ANNEXURE-2 hereto.

4.5 That the applicants respectfully state that thereafter the applicants were temporarily accommodated in Permanent Over Hauling (hereinafter referred to as POH in short) Depot, Lumding against the year to year extended supernumerary posts as originally accorded sanction by the General Manager (P), NF Rly, Maligaon vide Memorandum No.E/41/82 (M)-Pt-I dated 28-04-1999 instead of redeploying them against the "live" posts as envisaged in the aforesaid Master Circular No.22.

A true photostat copy of the aforesaid Memo dated 28/04/1999 is annexed herewith and marked as ANNEXURE-3 hereto.

4.6 That the applicants respectfully state that all the applicants passed minimum H.S.L.C. Examination having other vocational training such as type writing and Basic Computer Course etc. Thereafter, they were pursuing the matter of their permanent absorption against any live "Posts" and thus wanted to get rid of from the stop gap arrangement as per the existing policy of the Railway Ministry to the effect.

General Manager, B.M.D.

11 DEC 2001

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

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(9)

4.7 That the applicants respectfully state that in the meanwhile the General Manager (P), N.F. Rly. Maligaon, vide his letter No.E/283/218 (HQ) (C) Pt-II dated 31/12/2004/3.1.05 addressed to the Divisional Railway Manager (P) Lumding and others inviting options from all the Divisions extra Divisional units and HQ (GM, Maligaon, Guwahati Office) for posting as ministerial staff in the departments Rangia Division from Mechanically decategorised staff and surplus staff.

A photostat copy of the aforesaid letter dated 31.12.2004/3.1.05 is annexed as ANNEXURE-4 hereto.

4.8 That the applicants respectfully state that pursuant to the aforesaid option invitation dated 31.12.2004/3.1.2005 the applicants being surplus staff duly submitted their options in the prescribed formats to the General Manager (P), N.F. Rly., Maligaon through proper channel. Curiously enough that while forwarding the applicants' option letters the Divisional Mechanical Engineer (Con), Lumding vide his letter No.G/59/ Staff/POH dated 28-01-2005 addressed to the Sr. Divisional Mechanical Engineer i/c, Lumding with comments inter alia, as follows –

.....
“In this condition if all the cases are considered them works of the POH depot, Lumding will suffer very much and targeted out turn of wagon POH depot, Lumding.”
.....

Concurred in

१०८८८, २००८

गुवाहाटी न्यायालय
Guwahati ৭৮১০০

(10)

So, it is requested to examine the matter before recommendation & forwarding the cases to DRM (P), Lumding prior to on or before 31.01.2005.

.....
Sd/- Illegible

28/1

DME (CON)/LMG

A photostate copy of the aforesaid letter dated 28.01.2005 is annexed herewith and marked as ANNEXURE-5 hereto.

4.9. That the applicants respectfully state that although their options papers have been forwarded to the Divisional Mechanical Engineer (CON) Lumding alongwith the Vigilance Clearance, however, his aforesaid negative report has perhaps created a big hurdle for the competent authority in taking proper action for applicatns' permanent absorption against the existing vacant "Live Posts" of Ministerial Cadre for which they have opted on the basis of invitation of the options by the Divisional Finance Manager, NF Railway, Rangia.

4.10 That the applicatns respectfully state that on earlier occasion 6 (six) similarly declared surplus Fireman, RPF and holding supernumerary post in the Permanent Over Hauling Depot, Lumding were inducted against the "Live Post" in Mech. Dept. as Clerk (G) on acceptance of bottom

Copy to Mr. Basu

18 DEC 2007

गुवाहाटी बायपीठ
Guwahati Bench

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seniority vide office order continued in Memo No.E/283/I/LM dated 19/8/1999.

A photostat copy of the aforesaid order dated 19/8/1999 is annexed herewith and marked as ANNEXURE-6 hereto.

4.11 That the applicants respectfully state that even thereafter

(1) Shri Tarun Sur, Tech/Gr.III /Fitter/POH/LMG (2) Shri Kinoo Panna, Tech/Gr.III Fitter/POH/LMG (3) Shri Sonam Lama, Tech/Gr.II/EOT Crane Operator/POH/LMG who were declared surplus from the RPF alongwith the applicatns and subsequently accommodated in the POH, Lumding against the year to year extended supernumerary posts; thereafter gave options for redeployment in the ministerial posts at the disposal of the Divisional Railway Manager, N.F. Rly, Rangia alongwith the applicants have now been vide Memo No. E/283/I/LM/POH dated 25/04/2007 given clearance for Division transfer against the "Live" posts under Katihar Division under the authority of the Divisional Railway Manager (P) N.F.Railway, Lumding in a very strange pick and choose manner during the pendency of the applicants' options for their redeployment in the ministerial posts lying vacant in upcoming Railway Division, Rangia. Some of the similarly situated persons have been allowed to go on transfer from one Division to other Division. Thus they have been discriminated.

General Ch. Banch

18 DEC 2007

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Guwahati Bench

(12)

A photostate copy of the aforesaid letter dated 25/04/2007 is annexed herewith and marked as ANNEXURE-7 hereto.

4.12 That the applicants respectfully state that the vacancies of Group-C ministerial posts at the disposal of Divisional Finance Manager, N.F. Railway, Rangia are still remaining unfilled up as reflected in the Memo No.RNY/DFM/AD/BOS/16/03 dated 5/10/2006.

A photostat copy of the aforesaid letter dated 5/10/2006 is annexed herewith and marked as Annexure-8 hereto.

4.13. That the applicants respectfully state that although in accordance with the extant Policy the applicants being surplus staff and presently put against the year to year extended supernumerary posts in POH, Lumding ought to have been redeployed against the "Live" posts of ministerial cadre at the disposal of the Divisional Finance Manager, N.F. Rly., Rangia as per their options. Curiously albeit cases of some similarly situated persons have been duly considered in positive manner, surprisingly the cases of the applicants have not been dealt properly as yet and an inordinate delay has been caused in taking decision to the effect. Thus, the rights and interest of the applicants have been put at jeopardy.

Geonex On Board

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गुवाहाटी न्यायपाठी
Guwahati Bench

4.14. That the applicants respectfully state that finding no response from the Respondents authorities in respect of their options they had again submitted their options in the prescribed forms to the General Manager (P), N.F. Railway, Maligaon through proper channel which were duly received and acknowledged by the office of the General Manager (P), N.F. Railway, Maligaon on 27/05/2007.

Copies of ^{the} same such acknowledgment dated 27/05/07 are annexed herewith and marked as Annexure-9 series hereof.

Unfortunately nothing has been yielded yet and the applicants have not reasons to believe that the Respondents authorities are not going to render opportunity to the applicants for their permanent absorption against the vacant 'Live' posts of ministerial cadre deliberately with malafide intention.

Deb
Ganesh Ch. Bora

16 DEC 2007

गुवाहाटी ब्राह्मण
Guwahati Bench

(14)

4.14. That the applicants respectfully state that as the applicants were holding substantive posts in their parent department at the time of declaration of surplus, hence they are entitled to be redeployed against the "Live" posts in terms of the Master Circular on absorption and utilisation of surplus staff on the Railways dated 27.3.1991.

5. GROUND FOR RELIEF :

- 5.1 For that, the action and inaction of the Respondents authorities in respect of absorption of the applicants against the "Live" posts after having been declared surplus from the substantive posts is most arbitrary, unjust and illegal.
- 5.2. For that the way of consideration of the option letters of the similarly situated persons by the Respondents authorities is not same and alike, hence discriminatory and violative of the applicants' Fundamental Rights as guaranteed under Articles 14, 16 and 21 of the Constitution of India.
- 5.3 For that the action and inaction of the Respondent authorities has violated their own formulated policy which is totally inconsistent with the law established.
- 5.4 For that by the action and inaction of the Respondents authorities have irrationally classified among the similarly situated persons singling out the applicants. Hence the Respondents are liable to set the things right.

Guwahati Bench

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Guwahati Bench

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Case No. C.M.B.200

- 5.5 For that the Respondents authorities have committed gross illegality by interpreting their own policy in different ways even in respect of similarly situated persons at their own suit will : to give benefits to their liking and thereby depriving others from same benefits, more particularly in respect of permanent absorption against the "Live" posts yet transferring to the other Divisions.
- 5.6 For that the Respondents authorities are not entitled to deprive the applicants from their permanent absorption against the "Live" and substantive vacant post on the ground of shortage of man power in the permanent Over Hauling Depot at Lumding.
- 5.7 For that the Respondents authorities being model employer are not entitled to exploit the applicants not only by depriving from their permanent absorption, yet also from the financial benefits etc. rendered to the other Workshop's staffs which is completely violative of the law established by the Apex Court of the country to the effect that "equal pay for equal work".
- 5.8 For that the Respondents authorities have most arbitrarily and illegally adopted dilly-dally tactics by not finalising the options given by the applicants for permanent absorption against the vacant "Live" ministerial posts at the disposal of the Divisional Financial Manager, N.F. Rly., Rangia upcoming Railway Division and as a result the vacancies are likely to be filled up in near future.

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(16)

गुवाहाटी न्यायालय
Guwahati Bench

Geonish Ch. Baru

5.9 For that the Respondents authorities have not filled up the existing vacancies of ministerial posts lying at the disposal of the Divisional Financial Manager, N.F. Rly., Rangia for which options were invited and the applicants had duly applied for.

5.10. For the in any view of the matter the action and inaction of the Respondents authorities for keeping pending of the applicants options for permanent absorption against the substantive and "Live" posts of the ministerial cadre lying still vacant at the disposal of the Divisional Financial Manager, N.F. Rly., Rangia is most illegal, arbitrary and malafide and as such this Hon'ble Tribunal is entitled to interfere with the matter.

6. DETAILS OF REMEDIES EXHAUSTED :

There is no remedy under any Rule and this Hon'ble Tribunal is the only forum for redressal of the grievances of the applicants.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicants declare that they had not filed any other case by their name in any Tribunal, Court or any other forum against the action and inaction of the Respondents authorities as impugned herein.

8. RELIEFS SOUGHT FOR :

Under the above facts and circumstances of the case, the applicants most respectfully pray for the following reliefs:

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गुवाहाटी बायपीठ
Guwahati Bench

Genus Ch. Basu

- 8.1. That the view given by the Divisional Mechanical Engineer (CM), N.F. Rly., Lumding while forwarding the applicants option papers vide his Memo No.G/59/Staff/POH dated 28/01/2005 to the Sr. Divisional Mechanical Engineer, IC, N.F. Rly. Lumding which has created the entire process stand still be declared illegal and bad in law and the same be either set aside and quashed or declared non est.
- 8.2. That the respondents authorities be directed not to put any barrier in their permanent absorption against any vacant substantive and live posts inasmuch as they are at present merely redeployed against the supernumerary posts as stop gap arrangement, more particularly in respect of their options for permanent absorption against the existing vacancies of the ministerial posts at the disposal of the Divisional Financial Manager, N.F. Rly. Rangia.
- 8.3. That the Respondents authorities be directed to process expeditiously the options of the applicants before the notified existing vacancies of the ministerial posts lying in upcoming Rangia Railway Division are filled by any other mode of process.
- 8.4. That the Hon'ble Tribunal may be pleased to grant any other appropriate relief or relieves as it deem fit and proper.

9. INTERIM RELIEF :

In the interim pending this application the Hon'ble Tribunal may be pleased to direct the Respondents authorities not to fillup the notified vacancies of the ministerial posts lying at the disposal of the Divisional Financial Manager, N.F. Rly., Rangia by any other mode of process.

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18 DEC 2007
गुवाहाटी न्यायपीठ
Guwahati Bench

10. This application has been filed through Advocate.

11. PARTICULAR OF POSTAL ORDER :

1. I.P.O. No. : 66F-848137; 66F-848138;
70E-048354; 70E-048355; 70E-048356

2. DATE : 09-12-2007

3. PAYABLE AT GUWAHATI :

12. LIST OF ENCLOSURE :

As stated in the "INDEX".

Ganesh Ch. 13/20

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

(19)

18 DEC 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I, Shri Ganesh Ch. Boro, aged about 39 years, S/o Late Rajani Boro, Technician, Gr.I SSE/POH/Lumding, N. F. Rly, Lumding, Assam; do hereby verify the contents of paragraphs 4.1; 7; 9 and 10 are true to the best of my knowledge and paragraphs 1; 4.2 (a - m); 4.3-4.13; 5.1-5.10, 6, 8.1-8.4 are true to my belief made on legal advice and that I have not suppressed any material facts.

And I set my hand in this verification this the 12th day of December, 2007.

Ganesh Ch. Boro

DECLARANT

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY Board)

New Delhi, dated: 20/05/1999.

No. 98-SEC (RAEB) / PST / 2

General Manager,

All Indian Railways including Production Units,

N. F. Railway, Maligaon, Guwahati

Sub: Closure of Fire Wing of RPF.

Ministry of Railways have decided to close down the Fire Wing of RPF over Indian Railways. Detailed memorandum of closure is being issued separately. It has further been decided to merge the existing staff of Fire Wing of RPF with the Executive Branch of RPF. The relevant extract of the minutes of the Board Meeting is enclosed herewith.

This is for your kind information.

E. H. C
(HARANANDA)

Asstt. Inspector General/RPF
Railway Board.

DA: Extract of the minutes of Board Meeting.

Certified to be true copy
Joyshree Waly
Secretary

Date: 20/05/1999
Place: Guwahati
Signature: Joyshree Waly
Official Seal: 619

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal
C. D. C
गुवाहाटी न्यायालय
Guwahati Law Court



भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
(रेलवे बोर्ड Railway Board)

फालतु कर्मचारियों के आमेलन तथा उपयोग पर
मास्टर चिरिय

Master Circular

ON

Absorption and Utilisation of Surplus
Staff on the Railways

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

18 DEC 2008

गुवाहाटी न्यायपीठ
Gauhati Bench

Certified to be true Copy
Joydeb Waly
Advocate

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GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS M.C. N. 22
(RAILWAY BOARD)
NO. E(NG)II/90/RE-1/MASTER CIRCULAR New Delhi dated 27.3.91

The General Managers,
All Indian Railways,
Production Units & Others.

केंद्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

18 DEC 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

Sub:- Absorption and utilisation of surplus staff.

Consequent on the change of traction and full or partial closure of steam loco sheds, marshalling yards, goods sheds and other redundant assets, Board have been issuing instructions from time to time about the absorption of staff rendered surplus on account of the above. They have now decided to issue a Master Circular consolidating the instructions issued so far, as below, for the information and guidance of all concerned.

I. IDENTIFICATION OF SURPLUS POSTS:

2. The Railway Board desire that suitable advance planning should be done by the Railways to identify areas in which the staff are likely to be rendered surplus. For this purpose, a Cell should be carved out of the existing Work Study Units on the Railways and the same entrusted with the specific task of carrying out studies with a view to locating surpluses. As soon as the posts are identified as surplus, a formal office order should be issued immediately surrendering such surplus posts. (The incumbents against these posts should be re-deployed against other 'live' posts as far and as early as possible.)

- i) The ban on filling of vacancies will not be attracted if they are utilised to absorb staff rendered surplus.
- ii) Surplus staff who have continuity of service should be allowed during the period of training pay and allowances as would be admissible to them in the post in which they are to be absorbed after training.
- iii) The surplus steam staff may also be given conversion training in Diesel/Electric Traction without insisting in any Educational Qualification and age restriction, but subject to the following conditions:-
 - a) The Surplus Steam Staff selected for the conversion training should be screened properly to ensure that they have basic intelligence and literacy to absorb the conversion training.
 - b) Illiterate or Semi-literate staff should first be given a special course (say for 3 months or so) to bring them to a minimum acceptable level of literacy. This opportunity need be given only once.
 - c) The staff should give an undertaking before being nominated for conversion training that they may be transferred to other stations within the division.

..... 2/-

d) The concerned staff should not be given more than three chances to pass the conversion training.

केन्द्रीय प्रशासनिक विभाग
Central Administrative T...
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Authority:

1. E(G) 66 EC2/7 dated 23.11.66
2. E(NG) II/81/RE 1/5 dated 15.1.82
3. E(NG) II/84/RE 1/10 dated 9.4.85
4. E(G) 66/EC 2-7 dated 11.4.67
5. E(NG) II/67/RE 1/47 dated 22.5.68
6. E(NG) I/88/PM 7-48 dated 15.3.90

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Guwahati Bench

3. No new activity should be started at the location where staff are likely to be rendered surplus merely for accomodating them at the same place without the prior approval/sanction of the Railway Board. Where special circumstance warrant the same, suitable proposals should be sent well in time to the Railway Board with the approval of the GM. The Railway Board expect that such cases are few and far between. In no case, Board's approval should be presumed.

(NO. E(NG) II/84/RE 1/10 dated 21.4.89)

4. The surrendered posts should be struck off from the relevant cadre registers, seniority check registers and other records based on the formal orders issued.

(NO. E(NG) II/81/RE 1/5 dated 15.1.82)

(NO. E(NG) II/84/RE 1/10 dated 21.4.89)

5. Normally, the junior-most of the employees should be rendered surplus, irrespective of the manner in which they had been recruited/entered to the post/Grade. However, where staff give their willingness to go on bottom seniority in recruitment grades to other deptts. such volunteers should be given preference depending upon the availability of vacancies in the other cadre and their suitability, including medical fitness.

The above do not, however, apply to SC/ST in respect of whom separate orders already exist.

(NO. E(NG) II/67/RE-1/49 dated 28.10.68)

(NO. E(NG) II/81/RE-1/5 dated 15.1.82)

(NO. E(NG) II/84/RE-1/10 dated 21.4.89)

6. The Railway Board desire that the recognised unions should also be advised in time, as far as possible, about the number of staff likely to be rendered surplus and the station where they are. Their views, as far as possible, may also be obtained regarding their re-deployment.

(NO. E(NG) II/84/RE-1/10 dated 21.4.89)

II. BANK OF SURPLUS POSTS:

To keep a proper account of surplus posts and their utilisation, the Railway Board have decided that a "Bank of surplus posts" should be maintained by each Railway as under:-

(a) The bank of surplus posts will be operative

..... 3/

from 1.4.87 and earlier bank net credit may be added as an opening balance of the new account as on that date;

(b) All posts (excluding posts which were/are created for specific short term purpose e.g. those created for summer rush) identified as surplus and surrendered on or after 1.4.87 will be imdedited to this Bank;

(c) Matching surrender already reckoned for creation of posts after 1.4.87 (including opening balance from the previous balance) and surrenders to be made in future, will be debited to the balance in the bank;

(d) The account in this bank will be maintained department-wise and grade-wise, though for matching surrender posts can be drawn from this bank irrespective of the department to which they pertain; and

(e) The account of the bank will be maintained by the CPLD or CPO (as per practice on the individual Railway) under the overall supervision of the Addl. G.M. (Exp. Control).

NOTE: In every proposal for the creation of posts, the CPLD/CPO will indicate the availability of surplus posts in the bank.

(No. E(NG) II/84/RE-1/10 dated 26.10.84)
(No. E(NG) II/84/RE-1/10 dated 31.3.87)

III. UTILISATION/RE-DEPLOYMENT OF SURPLUS STAFF:

8. When doing the advance planning for identifying the surplus posts referred to in para 2 above, appropriate scheme for providing training, wherever found necessary, in alternative jobs for staff rendered surplus should also be planned and developed. Utilisation and re-deployment of surplus staff should be given the highest priority and their absorption will have precedence over all other modes of recruitment including screening of casual labour and direct recruitment for filling up the vacancies so that the surplus staff can be first utilised at suitable locations including places where additional posts are created for operation/maintenance of additional/new assets.

(No. E(NG) II/81/RE-1/5 dated 15.1.82)
(No. E(NG) II/84/RE-1/10 dated 26.10.84)
(No. E(NG) II/84/RE-1/10 dated 9.4.85)
(No. E(NG) II/84/RE-1/10 dated 21.4.89)
(No. E(NG) II/60/RE-1/47 dated 31.7.68
(1.8.68)

9. There shall be no recruitment in those categories in which posts are likely to be rendered surplus and the categories in which surplus staff are likely to be re-deployed. Surplus staff can be absorbed in the4/-

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existing vacancies against new posts which are duly sanctioned.

IV. CREATION OF "SPECIAL SUPERNUMERARY POSTS":

10. When the posts were not vacant and staff are working against them, "Special Supernumerary" posts in the same grade should be created to accommodate the staff rendered surplus. Simultaneously the "special Supernumerary" posts should be credited to the "Bank of surplus posts" and maintained in the respective billing units.

✓ (NO. E(NG) II/81/RE-1/5 dated 15.1.82)
✓ (NO. E(NG) II/84/RE-1/10 dated 21.4.84)

11. Where the surplus staff are transferred and posted against the vacancies in the same or other departments, the question of creation of "special supernumerary" posts does not arise. Such posts will be directly credited as vacancies to the "bank of surplus posts".

✓ 12. The incumbents borne against such "special supernumerary" posts should be re-deployed quickly against other posts by re-training, if necessary.

13. The "special supernumerary" posts shall be personal to each incumbent and are to be surrendered as soon as the incumbent is absorbed in some other duly sanctioned posts or retires or vacates it for any other reason.

14. When these "special supernumerary" posts are surrendered, they should be credited as vacancies to the "Bank of surplus posts" and can be utilised as matching surrenders for creation of additional posts for maintenance and operation of additional/ new assets.

✓ 15. The staff, who cannot be immediately absorbed, even after training against other duly sanctioned posts, should be allowed to continue against "special supernumerary" posts in the same grade in which the incumbents were working. They will continue to have their liaison in their old cadre posts so as to keep their promotional prospects in tact.

16. The Railways should set up suitable machinery to review the utilisation/re-deployment of staff being borne against "special supernumerary posts".

V. SENIORITY OF STAFF RENDERED SURPLUS ON DEPLOYMENT:

17. When re-deploying the surplus staff to other Units/Departments, which constitute a different seniority unit, the following methods could be adopted:-

(i) If only a small number of staff are being rendered surplus and they have to be transferred to various Units of other departments against vacancies of duly

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sanctioned posts, they can be suitably adjusted in these units with their full seniority and merging their seniority in the respective units;

(iii) when a large number of staff are being transferred to new units that are being set up, they should be given their full seniority. No minimum educational qualifications should be prescribed. It should be sufficient if they pass the re-training/conversion training tests at the end of their training, subject of course their medical fitness.

(iii) Whenever a large number of staff have to be transferred to existing units against vacancies or additional sanctioned posts, the views of the Unions may be taken as to whether the seniority of the staff being shifted should be kept separate against the "special supernumerary" posts, so that their promotional prospects are kept separate and identical to what they would have achieved in the old Unit and it does not jeopardise the promotional prospects of the staff in the Units in which they are being inducted. In such cases, the application of percentage distribution of posts would be separate for the existing cadre posts and the surplus staff who have been brought into the cadre, the latter being controlled by the percentage as applicable to their previous cadre. However, as and when there is wastage through retirement, promotion etc. in the seniority unit of shifted staff charged against "special supernumerary" posts in the direct recruitment grades, the direct recruitment quota of the same should be merged with the existing cadre seniority of that unit, i.e. the Unit to which they had been re-deployed on being surplus.

NO. E(MG) II/84/RE-1/10 dated 21.4.89)

15. In cases, where the seniority of surplus staff is maintained separately, there could be cases where the few staff, who are left behind in the old seniority unit continue to get their promotion as per their seniority alongwith the other staff transferred to the new unit. It may happen in some cases, where the number of higher grade posts may have to be operated in excess of the percentage laid down to avoid transferring the staff left behind. However, it should be ensured that the total number of posts in each grade of the old unit, taking into account those both left behind and transferred to the new units, should not exceed the original sanction.

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Joyshree Wary
Advocate

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19. The pay of Railway servants rendered surplus and absorbed in alternative posts is fixed under the normal operation of rules and where the normal rules do not give sufficient relief, by grant of advance increments under Rule 2023 (F.R.27) - R II.

Since the above orders do not provide sufficient relief in fixation of pay to the staff rendered surplus and absorbed in alternative posts, it has been decided by the Board as under:-

(1) WHEN STAFF RECRUITED THROUGH RRB ARE RENDERED SURPLUS:

a. When appointment is from a higher to a lower or equivalent alternative post:

Increments equal to the number of years of service rendered in the post from which the Railway servant has been rendered surplus should be given in the post in which he has been absorbed.

b. If the appointment is to an alternative post carrying an identical time scale:

Pay should be fixed under the normal rules.

(2) WHEN STAFF NOT RECRUITED THROUGH RRB ARE RENDERED SURPLUS:

a. When appointment is from a higher to a lower or equivalent alternative post:

Pay may be fixed in accordance with Railway Board's letter No. F(E)53/PA 5(1) dated 11.6.53 as under:-

i) Transfer from a higher to a lower post:

Temporary Railway Servants:

In such cases, the benefit of completed years of service in the higher posts may be given for purposes of advance increment in the lower posts to which a Railway servant is appointed, provided of course, this does not exceed the pay drawn in the higher post at the time of transfer. In case the appointment in lower involves appointment to a regular cadre with immediate or future prospects of absorption as a permanent Govt. Servant care should be taken to see that the grant of advance increment does not come into conflict with the pay fixed for other Rly. servants in the cadre. In such cases, normally, it may be preferable to fix a railway servant's pay at the minimum of the time scale and to grant of a personal pay equal to the appropriate number of increments instead of fixing the pay at a higher stage in the time scale. The permanent pay will be determinable in future increments.

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ii) Permanent Railway Servants:

In the case of permanent Railway Servants officiating in a higher post and transfer to officiate in another post which is lower than the previous officiating post, provision exists under Rule 2022-R(FR).26 for the counting of this officiating service in the higher post for the purposes of increments. No further relaxation is normally necessary.

S. Transfer from one post to another equivalent post:

i) Temporary Railway Servants:

In such cases, temporary railway servants may be given the advantage of the completed years of service in the former post for higher fixation of pay in the latter, provided that there is a reasonable prospect for former post to continue for long period and that the Railway servants would have continued to hold that post. In this case also, if the transfer is to a regular service or cadre or a post on which chances of immediate or ultimate confirmation exist it may be necessary in the interest of service of other Railway servants to grant a personal pay instead of a higher start. This personal pay will be absorbed in future increments.

ii) Permanent Railway servants:

In the case of permanent Railway servants officiating in a post and transferred to officiate in another post of equivalent status, the proviso to R. 22(2017).R applies where the time scales are the same or identical. The rules for permanent Railway servants should not normally be relaxed except in individual cases or hardship. In such cases, it should be closely examined as to whether the railway servant would have continued in his former post for any length of time, say 2 or 3 years. If he would not have continued, it would weaken the case of higher fixation of pay under rule 2023.R (FR.27).

iii) Transfer from a lower to a higher post. The cases should be continuing to be regulated under the orders contained in Railway Board's letter No. F(E)/40/PA 4/1 dated 29.11.60.

.....0/-

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(3) The above provisions were further clarified vide Board's letter No. E(NG) II/67/RE 1/58 dated 29.4.68 as under:-

(i) When staff recruited through Railway Service Commission are rendered surplus:

(a) When appointment is from a higher to a lower or equivalent alternative post:

increments equal to the number of years of service rendered in the post, from which the railway servant has been rendered surplus, should be given in the post in which he has been absorbed.

(b) If the appointment is to an alternative post carrying an identical time scale:

Pay should be fixed under the normal rules.

(ii) When staff not recruited through Railway Service Commission are rendered surplus:

(a) When appointment is from a higher to a lower or equivalent alternative post:

pay may be fixed in accordance with Railway Board's letter No. F(E) 53/PA 5(1) dated 11.6.53 as at present.

(b) If the appointment is to an alternative post carrying an identical time scale:

pay should be fixed under the normal rules.

(4) The above changes will have effect from 15.4.66.

VI GENERAL:

20.

a) While referring to this circular, the original letters referred to herein should be read for a proper appreciation. This circular is only a consolidation of the instructions issued so far and should not be treated as a substitution to the originals. In case of doubt, the original circular should be relied upon as authority.

b) The instructions contained in the original circulars referred to have only prospective effect from the date of issue unless specifically indicated otherwise in the concerned circular. For dealing with old cases, the instructions in force at the relevant time

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should be referred to; and

c) If any circular on the subject, which has not been superseded, has not been taken into consideration while preparing this consolidated letter, the said circular, which has been missed through oversight should be treated as valid and operative; Such a missing circular, if any, may be brought to the notice of the Railway Board.

DA: as above

P
X-N-f
(P.L.N. SARMA)
Deputy Director Establishment/N
Railway Board.

The consolidation has been done from the following letters:-

1. E(NG) 57/RE-1/49 dated 20.10.68.
2. E(NG) II/61/RE-1/5 dated 15.1.82.
3. E(NG) II/84/RE-1/10 dated 26.10.84.
4. -do- dated 9.4.85
5. -do- dated 31.3.87.

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Central Administrative Tribunal

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Joseph Waly
Advocate

ANNEXURE

N. F. RAILWAY
MEMORANDUM

Sanction of the General Manager/N. F. Rly/Maligaon for creation of the undermentioned 226 posts in the grade indicated against each is hereby communicated for the P.O.H. depot at LMG for a period of one year from the date of sanction as concurred in by F&CAO/F&B vide J.O. No. FL/277/1/1 pt. VII dated 17.2.99.

The creation is sanctioned with the concurrence of F&CAO/MLG but without matching surrender of posts of equal money value as stipulated in the Board's letter No. E(6)98 EC2-3 dt. 12.7.94 reiterated from time to time but with specific approval of CM with stipulation that all these posts are to be filled up only by the surplus personnel borne on supernumerary posts. The posts are, therefore, not available for filling up by promotions or transfer of any staff who are otherwise borne on any regular sanctioned cadre or to be filled up by fresh entrants including compassionate ground appointments.

In order to ensure that the stipulation is complied with strictly and Sr. DME/LMG, Sr. DDO/LMG and Sr. DAO/LMG the number of posts covered by this sanction are not to be clubbed with the book of sanction and they are to be accounted separately for control. A post covered under this sanction becomes operative only on and from the day it is filled up by a surplus staff borne on supernumerary post which is of equal money value. In case the supernumerary post is not a post of equal money value, but is in lower grade or when it is intended to be filled up by a staff other than surplus personnel borne on supernumerary post, matching surrender of the difference of equal money value as the case may be should be provided by issuing of memorandum.

In order to ensure proper account of the post covered under this sanction becoming effective to be added to the BOS, a separate memorandum is to be issued notifying that the post in the relevant grade has become operative either having been filled up by a surplus person borne on supernumerary post with matching of difference wherever required or by providing matching surrender of post of equal money value if to be filled up by other than surplus person borne on supernumerary post.

SN.	Category	Scale of pay.	No. of posts.
1.	SEE	Rs. 7450-11500/-	1
2.	SE	6500-10500/-	2
3.	JE/I	5500-9000/-	2
4.	JE/II	5000-8000/-	8
5.	MCM	do-	3
6.	HSK/Gr. I	4500-7000/-	8
7.	HSK/Gr. II	4000-6000/-	49
8.	HSK/Gr. III	3050-4590/-	57
			162
			48

Contd. 2/-

Certified to be true copy
Jyoti Shekhar Waly
Advocate

For DME (K) may be

03-05-59

केन्द्रीय प्रशासनिक विभाग, राज
Central Administrative Service, Govt. of India

गुजराती न्यायालय
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SN.	Category	Scale of Pay	No. of posts
9.	Khalasi Helper.	2650-4000/-	30
10.	Khalasi.	1250-3200/-	7
11.	Sr. S/Cleaner.	2610-3540/-	3
12.	S/Cleaner.	2550-3200/-	1
13.	Office. Supdt./II	1500-9000/-	1
14.	DSK/Gr. I	6000-12600/-	2
15.	DSK/Gr. II	1500-9000/-	2
16.	Sr. Clerk.	4500-7000/-	1
17.	Jr. Clerk.	1050-4590/-	2
18.	Steno.	5500-9000/-	4
19.	Peon.	2550-3200/-	15
20.	Jdr. Peon.	2650-4000/-	20
21.	Sr. Clerk(E).	4500-7000/-	1
			226
Chkd 28/4/99			

for GENERAL MANAGER(P)/MLG.

NO: E/41/82 (M)-P I

Dated 28-4-1999.

Copy forwarded for information and necessary action to :

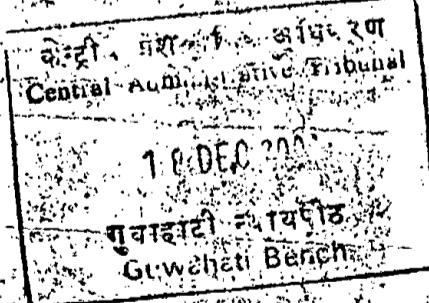
1. FASAO/Finance/MLG. This is in ref. to his L.O. No. F.P/247/12-17 Pt. VII dt. 17-2-99.
2. CWE/MLG.
3. DRM(P)/LMG.
4. DAO/LMG.
5. APO/GHY.
6. ADAO/GHY.
7. Director of Audit/MLG.
8. SPO/HQ (in dupl.)
9. Sri D. Lakhkar, H. Clerk/EM Section.
10. CLWI/MPP Cell/MLG.
11. S. DME/LMG.

Chkd 28/4/99
for GENERAL MANAGER(P)/MLG.

hb/-

Contra d
28/4/99

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Joydeepee Waliy
Advocate



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ANNEXURE-4

62

N F Railway.

Office of the
General Manager (P)
Majlgaon, Guwahati-11

No- E/203/21G(HQ) (C) PI-II

Dated 31.12.2004
3.1.05

To
PRM(P)/Lumding and others

Sub:- Option for up coming RNY Division from all the Division,
Workshops and HQ (GM/MLG's office)

Options are invited from all the Divisions, extra divisional units and HQ (GM/MLG's office) for posting as ministerial staff in the department's RNY division only from Medically de-categorised staff and surplus staff they will be considered for posting in same pay and scale provided they are found suitable for ministerial posts. Employees should possess minimum qualification of pass in matriculation. Terms and conditions for re-deployment and posting will be as per Railway Board's instructions. Application/option from willing staff must reach to this office by 31.1.05 positively in a bunch.

Sd/-
(R. Aalv)
Dy. Chief Resposnible Officer/HQ
for General Manager (P)

No., E/Misc/217(O) PI.XI Dtd: 07.01.2005
10

Copy forwarded for information and n/tion to:-

- 1) Sr. DPO, DPO, APO, APO/CHY, AM/BRB
- 2) All BMs
- 3) All Sr. Sub of Engg. And Mech. Deptt.
- 4) All Cadre Sec. Incharges
- 5) All SS & SMS of LMG Division.

(N. F. Das APO/II/1ms)
for Divl. Rly. Manager (P)
N.F.Railway, Lumding.

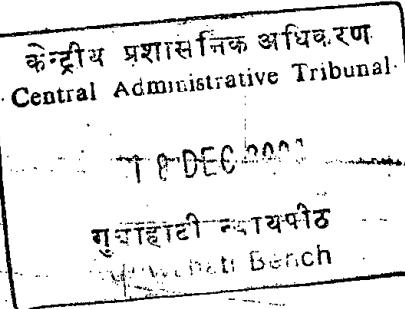
for Divl. Rly. Manager (P)

Contra

10/11/05

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Jyoti Wary
Advocate



OFFICE OF THE
DME(CON)/LMG
Date: 28.01.05

NO.G.59/Staff/POH

To,
Sr. DME/IC/LMG

Sub: - Option for up coming RNY Division from all the Division,
Workshops and HQ(GM/MLG)'s office.

Ref: - 1. DRM(P)/LMG's L. No. E/Misc.217(O) pt XI dt. 07.1.05.
2. GM(P)/MLG's L. No. E/283/218(HO) (G) Pt II Dt 31.12.04/03.1.05.

In reference to the above, find herewith option for up coming RNY Division, which have been submitted by the following staff of POH depot LMG.

It is stated that most of the staff are seeking option for transferring to RNY division. In this condition if all the cases are considered then works of the POH depot Lumding will suffer very much & targeted cut turn of wagon POH depot Lumding.

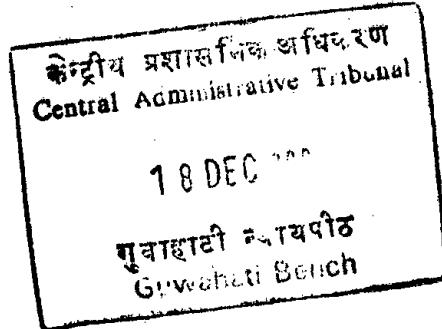
It is also to mention that present BOS is 226, OR- 198 & net short is 28. Sri. S. Bhattacharjee Sr. Tech. will be retired on 31.3.05.

So, it is requested to examine the matter before recommendation & forwarding the cases to DRM(P)/LMG prior to on or before 31.1.05.

Name of staff given below

1. Sri Jayanta Kalita, Tech. Gr. I	21. Shri Sonam Lama, Tech. Gr. II
2. " Mono Ranjan Deka, Tech. Gr. I	22. " Digvijay Kr. Ojha, Painter Gr. II
3. " B. Narzary, Tech. Gr. I	23. " Pradip Kr. Nath, Tech. Gr. III
4. " Ganesh Bezbarua, Tech. Gr. III	24. " Indrajit Medhi, Tech. Gr. II
5. " Mukut Ch. Das, Tech. Gr. I	25. " Ranjit Malakar, Tech. Gr. I
6. " Subal Medhi, Tech. Gr. II	26. " Krishna Kanta Nath, Tech. Gr. II
7. " G. Boro, Tech. Gr. I	27. " Niranjan Talukdar, Tech. Gr. II
8. " Madan Ch. Baishya, Tech. Gr. I	28. " Kinoo Panna, tech. Gr. III
9. " Gauri Kanta Goswami, Tech. Gr. II	29. " Rajendra Sonowal, Motor Driver Gr. I
10. " K. Basumatary, Tech. Gr. I	30. " Dharani Dhar Das, Welder Gr. I
11. " D. R. Nath, Tech. Gr. III	
12. " Laba Kanta Injal, Tech. Gr. I	
13. " Arun Daimari Tech. Gr. I	
14. " Pranab Das, Tech. Gr. II	
15. " Patras Kisku, Tech. Gr. I	
16. " Ananta Kr. Bhattacharjee, Gr. II	
17. " Krishna Pada Ishore, Gr. III	
18. " Tarun Sur, Tech. Gr. III	
19. " Jyotish Das, Tech. Gr. II	
20. MD. S. Ahmed, Tech. Gr. I	

DA: As above.



E. Bhattacharjee
DME(CON)/LMG

Certified to be true copy
Joyashree Wary
Advocate

R
28/1/05

76

N. F. RAILWAY.

Office of the
Divisional Rly. Manager(P),
Lumding.

64

OFFICE ORDER

In terms of GM(P)/MLG's O.O.No.E/283/(M)/POH dtd 13.7.99 and L/Mo. E/283/M/POH dtd 10.8.99, the following 6(six) RPF personnel who have been declared surplus and holding supernumerary posts have reported to this office on 17.8.99 for their induction in Mech. Dept. as Clerk (G) in scale Rs.30504590/-, on acceptance of bottom seniority are hereby posted at MG POH depot under SSE/C&W/LMG SR.DME(IC)/LMG against the newly created posts as per GM(P)/MLG's memorandum No. E/41/82/(Pt.I dtd 28.4.99.

- 1. Sri Ajit Baishya, Fireman/PNO.
- 2. " Khushi Lal Orson, Fireman/LMG.
- 3. " Pradip Kr. Deka, Fireman/LMG.
- 4. " Dwijen Sarma, Fireman/NGC.
- 5. " Majit Ali, Fireman/PNO.
- 6. " Ganesh Ch. Baishya, Fireman/GHY.

This issues as per order of competent authority.

bacon 19/8/99
for Divisional Rly. Manager(P),
N. F. Railway : Lumding.

No. E/283/I/LM. Dtd, LMG 19/8/99.

Copy forwarded for information and necessary action to:-

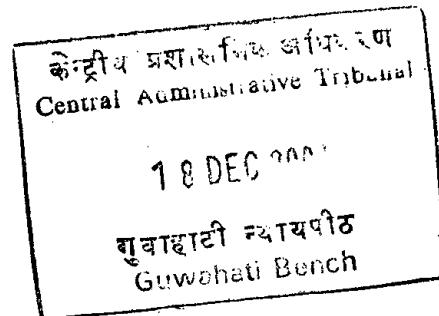
- 1. GM(P)/MLG. This is in ref. to his O.O.No.E/283(M)/POH dtd 13.7.99 & 10.8.99.
- 2. DAO/LMG. 3) SR.DME(IC)/LMG. 4) ~~SR.DME(IC)/LMG~~ 5. OS/EM Bill.
- 6) ASC(Fire)/MLG in ref. to his letter No.E/3/F/Pt. VII dtd 12.8.99. He is requested to send the P/cases & service Books alongwith leave account, LPCs of the aforesaid to this office immediately.
- 7. Staff concerned. 8) S/copy for P/case.

bacon 19/8/99
for Divisional Rly. Manager(P),
N. F. Railway : Lumding.

br 19/8

'naha'
19899

Certified to be true Copy
Jyoti Kanta Warang
Advocate



NORTHEAST FRONTIER RAILWAY

Office of the
Div. Railway Manager(P)
N.F.Rly., Lumding.
Dated 25.04.2007.

No.E/283/1/LM/POH.

To
GM(P)/Maligaon,
N.F.Railway. (For personal attention of SPO/M/MLG).

**Sub:- Applications received from the staff of POH/Depot/LMG
for their transfer to ROH/NJP or any department in NJP
under KIR division , N.F.Railway.**

The following staff has submitted their declaration to transfer from LMG POH to ROH/NJP or in any department at NJP under Katihar Division of N.F.Railway on accepting bottom seniority and grade are sent herewith for your disposal please.

Since these cases of transfer from one division to other, these will require PHOD's approval as per latest SOP. As such you are requested to obtain PIHOD's approval and communicate the same to this office for further action at the earliest.

The bio-data of the following staff are furnished below:-

1) Sri Monojit Pal, Tech/Gr.III/Fitter/POH/LMG.

1	Name :-	Sri Monojit Pal.
2	Designation :-	Tech/Gr.III/Fitter/POH/LMG.
3	Rate of pay :-	4200/-
4	Scale :-	Rs.4000-6000/-
5	Date of birth :-	02.08.1969
6	Date of Apptt. :-	07.07.1991
7	Date of promotion :-	-
8	Educational qualification :-	H.S.Passed
9	Permanent or Temporary :- .	Permanent.
10	Whether SC/ST :-	UR.
11	Whether any SPE/VIG/DAR :- case is pending.	No.
12	Medical category :-	B/1.

2) Sri Tarun Sur, Tech/Gr.III/Fitter/POH/LMG. ✓

1	Name :-	Sri Tarun Sur.
2	Designation :-	Tech/Gr.III/Fitter/POH/LMG.
3	Rate of pay :-	3650/-
4	Scale :-	Rs.3050-4590/-
5	Date of birth :-	14.12.1973
6	Date of Apptt. :-	21.08.1996
7	Date of promotion :-	-
8	Educational qualification :-	H.S.Passed
9	Permanent or Temporary :- .	Permanent.
10	Whether SC/ST :-	UR.
11	Whether any SPE/VIG/DAR :- case is pending.	No.
12	Medical category :-	B/1.

RAILWAY

Contd. to P.M.C. 2

*Certified to be true Copy
Josephee Watky
Advocate*

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

18 DEC 2007

गुवाहाटी न्यायालय
Guwahati Bench

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6

3) Sri Kinoo Panna, Tech/Gr.III/Fitter/POH/LMG.

1	Name :-	Sri Kinoo Panna.
2	Designation :-	Tech/Gr.III/Fitter/POH/LMG.
3	Rate of pay :-	4200/-
4	Scale :-	Rs.4000-6000/-
5	Date of birth :-	26.11.1969
6	Date of Appt. :-	07.07.1991
7	Date of promotion :-	-
8	Educational qualification :-	H.S.Passed
9	Permanent or Temporary :-	Permanent.
10	Whether SC/ST :-	ST.
11	Whether any SPE/VIG/DAR :- case is pending.	No.
12	Medical category :-	B/1.

4) Sri Sonam Lama, Tech/Gr.II/EOT Crane Operator/POH/LMG.

1	Name :-	Sri Sonam Lama.
2	Designation :-	Tech/Gr.II/EOT Crane Operator/POH/LMG.
3	Rate of pay :-	4500/-
4	Scale :-	Rs.4000-6000/-
5	Date of birth :-	01.01.1969
6	Date of Appt. :-	06.09.1996
7	Date of promotion :-	29.05.2001
8	Educational qualification :-	B.A.Passed
9	Permanent or Temporary :-	Permanent.
10	Whether SC/ST :-	ST.
11	Whether any SPE/VIG/DAR :- case is pending.	No.
12	Medical category :-	B/1.

This issues with the approval of ADRM/LMS.

08/12/2007

(P.K.Das)
APO/PC/LMG.
for Divl.Railway Manager(P)
N.F.Railway,Lumding.

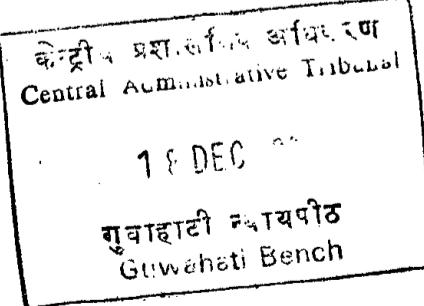
Copy to:-

1) Sri Monojit Pal, Tech/Gr.III/Fitter/POH/LMG.
 2) Sri Tarun Sur, Tech/Gr.III/Fitter/POH/LMG.
 3) Sri Kinoo Panna, Tech/Gr.III/Fitter/POH/LMG.
 4) Sri Sonam Lama, Tech/Gr.II/EOT Crane
Operator/POH/LMG.

} Thro' SSE/IC/POH/LMG.

for Divl.Railway Manager(P)
N.F.Railway,Lumding.

Certified to be true copy
Joyshree Waluj
Advocate



38
ANNEXURE - 8
95
68

Office of the
Divisional Finance Manager
N.F.Railway, Rangiya

Date: October 5, 2006.

No. RNY/DFM/AD/BOS/16/03.

W.A.O. (A),
N.F.Railway, Rangiya.

Sub: Position of Staff under DEM/RNY.

Position of Staff viz. B.O.S, On Roll, Shortfall and details of
incumbent are hereby forwarded.

(A) Comparison between B.O.S & On Roll.

Designation	B.O.S	On Roll	Shortfall
St. Section Officer	04	04	Nil
Section Officer	04	02	(-) 02
Accountant Assistant	22	13	(-) 09
Asst. Accountant Assistant	12	10	(-) 02
Accountant Clerk	16	09	(-) 07
Stenographer	01	Nil	Nil
Jr. Record Shorter	01	01	Nil
Peon	02	01	(-) 01
Driver	02	01	(-) 01
Total	66 Nos.	41 Nos.	(-) 25 Nos

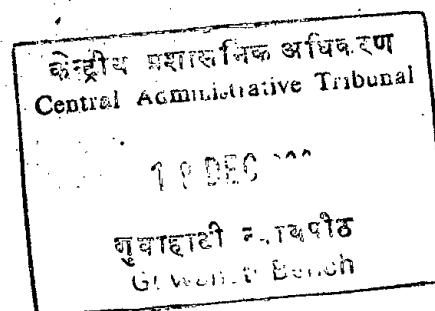
Note: Including 17 Nos of staff temporary transfer from APPD
Division.

(B) Statement showing incumbent.

Div. Fin. Manager
N.F.Railway, Rangiya
Dated 6/10/06

C:\My Documents\BOS\Incumbent.doc

Certified to be true copy
Joyshree Waly
Advocate



To
The General Manager
N. F. Railway; Maligaon.

महाप्रबन्धक का कार्यालय
Office of the
General Manager

दिनांक 27 MAY 2015

(Through: Proper Channel)

प्र० स० रेलवे, मालिगाँव, गुवाहाटी-२

Sub:- Option to work RNY Division.

GM(P)/MLG's L/No.E-283/218(HQ)(C) Pt.II dt.31.12.04 and 03.01.05
and DRM(P)/MLG's L/No. E/Misc/317(O) Pt-XI dt.7/10-01-05.

Ref:- My application No. Nil Dated 28-01-2005

Sir,

With profound respect, I beg to state that I have been applied (Opted) for working in RNY Division as per above GM(P)/MLG's circular No E-283/218(HQ)(C) Pt-II dated 31.12.04 and 03.01.05. I have not received any intimation from your end up-till now.

My necessary particular are given below:-

1. Name (in block letter)	:-SRI GANESH CHANDRA BARO.
2. Father's/Husband name	:- Late Rajani Ram Baro
3. Designation, Station and working under.	:- Technician Gr-I under SSE/POH/Lumding
4. Departments	:- Mechanical
5. Present place of posting	:- SSE/POH/Lumding
6. P.F.No.	:- 01925090 (NC)
7. Present Pay & Scale	:- Rs.4625/- (in scale Rs.4500-7000/-)
8. Date of birth	:- 16-08-1968
9. Date of appointment	:- 07-07-1991
10. Educational qualification	:- Higher Secondary Passed
11. Technical qualification	:- Computer & Typist Diploma (enclosed herewith)
12. Knowledge of Computer	:- MS Office Suite, Internet & Adobe Page Maker.
13. Wheather ST/SC/UR	:- ST

I therefore requested to your honour for kind consideration and sympathetic order's to work in RNY Division as per above circular.

DA :-
1. Option Circular
2. Applied option form.
3. Surplus copy.

Ganesh Ch. Baro

Signature of Applicant.

Copy to :-

1. DRM(P)/LMG
2. DRM(P)/RNY
3. Copy to MP(Lok Sava/ Rajya Sava, Assam)

For their information and kind intervention

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

Signature of Applicant.

18 DEC 2005

गुवाहाटी न्यायपीठ
Gauhati Bench

*Certified to be true copy
Joydevee Waru
Advocate*

To

Office of the
General Manager
N. F. Railway M.L.G.,
1 MAY 2005

(Through : proper Channel)

Sub : Option to working RNY Division,
GM(P)MLG's L/NO. E-283/218(HQ)(C) 04
and 3-1-05 and DRM (P)LMG's L/NO. E/Misc/317(0)Pt-XL
Dt. 7/10-01-05.

Ref :- My application NO. Nil, dated. 28-1-05.

Sir,

With profound respect, I beg to state that I have been applied (Opted) for working in RNY Division as per above GM(P)MLG's circular NO-E-283/218(HQ)(C)Pt-II Dated 31.12.04 and 3-1-05. I have not received any intimation from your end up-till now.

My necessary particular are given below :-

1. Name in block letter	- SRI GAURI KANTH Goswami
2. Father's / Husband name	- Late Narayan Ch. Goswami
3. Designation, Station and working under	- MAMU (D-11), SSE/CSCE/104/2004
4. Departments	- Mechanical
5. Present Place of Posting	- SSE/CSCE/104/2004
6. PF NO.	- C-936021-28
7. Present Pay & Scale	- 6400/- (1400/- + 600/-)
8. Date of birth	- 01-07-1955
9. Date of appointment	- 10-08-1996
10. Educational Qualification	- H.S.C. passed
11. Technical qualification	- " "
12. Knowledge of Computer	- NIL
13. Wheather ST/SC/UR	- U/K

केन्द्रीय प्रशासनिक अधिदळ
Central Administrative Tnd.

18 DEC 2005

ग्रीवाहाटी न्यायपीठ
Grewahati B.C.

I therefore requested to your honour for your kind consideration and sympathetic order's to work in RNY Division as per above circular.

DA =

- 1) Option Circular.
- 2) Applied option form.
- 3) Surplus copy.

Gauri Kanta Goswami
Signature of Applicant

Copy to : 1) DRM(P)LMG,
2) DRM(P) RNY,
3) Copy to MP (LOK Sava/Rajya Sava ASSAM) for their information and kind intervention.

4) CPO/MLC

Certified to be true copy
Joydev Wary
Advocate

Signature of Applicant

To

The G.M. (P)/MLG,
N. F. Railway/MLG

বঙ্গ রেল কর্মসূল
Officer of the
General Manager

(Through proper channel)

Sub : Option to working RNY Division, M.

GM(P)'MLG'S L/NO. E-283/218(HQ)(C) PT. II. DT. 31.12
and 3-1-05 and DRM (P)MLG'S L/NO. E-MLG/218/Misc/317(O) PT
DT. 7/10-01-05.

Ref : - My application NO. Nil, dated. 28-1-05.

Sir,

With profound respect, I beg to state that I have been applied (Opted) for working in RNY Division as per above GM(P)MLG's circular NO-E-283/218(HQ)(C)PT-II Dated 31.12.04 and 3-1-05. I have not received any intimation from your end up-till now.

My necessary particular are given below :-

1. Name in block letter - AMANTA KUMAR BHATTACHARJEE
 2. Father's / Husband name - Late Wangzhab Nath Bhattacharjee
 3. Designation, Station and Working under: - Tech - G21-II, POK/DMEL (on) LMG
 4. Departments - Mechanical
 5. Present place of posting - SSE/ POK (e & ee) LMG
 6. PF NO. - 04223408NC
 7. Present pay & scale - 4450/-
 8. Date of birth - 30-10-71
 9. Date of appointment - 14-8-96
 10. Educational Qualification - HSLC Passed
 11. Technical qualification - NIL
 12. Knowledge of computer - NIL
 13. Whether ST/SC/UR - U.R

কেন্দ্ৰীয় সশ-কাৰ্য অধিদফন
Central Administrative Tribunals

18 DEC 2005

গুৱাহাটী ন্যায়পৌঁঁ
Guwahati Bench

I therefore requested to your honour for your kind consideration and sympathetic order's to work in RNY division as per above circular.

DA -

- 1) Option circular.
- 2) Applied option form.
- 3) Surplus copy.

Ananta Kumar Bhattacharjee
Signature of applicant

Copy to : 1) DRM(P)LMG,
2) DRM(P) RNY,
3) Copy to MP (Lok Sava/Rejya Sava ASSM)

for their information and kind intervention.

Qualified to be true copy
Joyshree Warff
Advocate

Ananta Kumar Bhattacharjee
Signature of applicant.



19
 F. Railway/MLG.

महाराष्ट्र राज्य का अधिकारी
 Office of the
 General Manager

Through proper channel) 7/10/05
 Date

b : Option to working RNY Division,
 GM(P)MLG'S L/NO. E-283/218(HQ)(C) PT-II dt. 31.12.04
 and 3-1-05 and DRM(P)LMG'S L/NO. E/Misc/317(O)PT-XI
 Dt. 7/10/05.

Ref : - My application NO. Nil, dated. 28-1-05.

Sir,

With profound respect, I beg to state that I have been applied (Opted) for working in RNY Division as per above GM(P)MLG's circular NO-E-283/218(HQ)(C)PT-II Dated 31.12.04 and 3-1-05. I have not received any intimation from your end up-till now.

My necessary particular are given below :-

1. Name in block letter - BRIJ SINGH PRAKASH
2. Father's / Husband name - Dr. B. K. PRAKASH
3. Designation, Station and Working under - Tech. Asst. II, SC/CEA/POH/EPD
4. Departments - Mechanical
5. Present Place of Posting - Asst. SC/CEA/POH/Engineering
6. PF NO. - 04201115-NC
7. Present Pay & Scale - 4400/- (4,000/- to 6,000/-)
8. Date of birth - 07-03-1970
9. Date of appointment - 07-07-1971
10. Educational Qualification - H.S.L.C Passed.
11. Technical qualification - Nil
12. Knowledge of Computer - Nil
13. Wheather ST/SC/UR - UR

केंद्रीय विधायिका विधायिका
 Central Administrative Tribunal

18 DEC 05

I therefore requested to your honour for your kind consideration and sympathetic order's to work in RNY Division as per above circular.

DA -

- 1) Option Circular.
- 2) Applied option form.
- 3) Surplus copy.

Subrat Prajapati
 Signature of applicant

COPY TO : 1) DRM(P)LMG,
 2) DRM(P) RNY,
 3) Copy to MP(LOK Sava/Rajya Sava ASSAM)

for their information and kind intervention.

Certified to be true copy
 Joydeepee Wary
 Advocate

Signature of applicant

22 APR 2008.

गुवाहाटी न्यायपीठ
Guwahati Bench

DIST. - NAGAON.

Filed by the Respondent
by: Meenakshi
Meenakshi Kumar Boro
Advocate.

Ashutosh Chakraborty
प्रशासनिक अधिकारी
सौ. डॉ. अशुतोष
Chakraborty
Personnel Officer,
N.F. P. Pvt. Limited

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH AT GUWAHATI**

O.A. NO. 311 / 2007

**SRI GANESH CHANDRA BORO & OTHERS
.....APPLICANT.**

-Vs-

**THE UNION OF INDIA & OTHERS
.....RESPONDENTS.**

**WRITTEN STATEMENTS ON BEHALF OF THE
RESPONDENTS.**

**The Written statements of the Respondents are as
follows :-**

1. That a copy of the Original Application No. 311/2007 (herein after referred to as the "application" has been served upon the respondents. The respondents have gone through the same and understood the contents thereof.
2. That save and except the statements which are specifically admitted by the respondents, the rest of the statements made in the application may be treated as denied.
3. That the statements made in paragraph 4.1 to the application the answering respondent has no comment.
4. That the statements made in paragraphs 4.2 & 4.3 to the application the answering respondent has nothing to comment unless contrary to the record.
5. That in regard to the statements made in paragraph 4.4 & 4.5 to the application the deponent begs to state that the applicants being surplus staff were redeployed against the 'LIVE POST' of Periodical Over Hauling (POH)/Luring following the guide line and they have been enjoying the promotional benefits of higher pay scale as admissible from time to time. The aforesaid posts were created for operation of POH depot/LMG and are not

गुवाहाटी न्यायपीठ
Guwahati Bench

supernumerary one and currency of which can be extended on necessity and the said posts are live post. The memorandum enclosed by the applicant is self explanatory.

6. That the statements made in paragraph 4.6 to the application are untrue allegation in the context of the fact that all the applicants were absorbed against live posts of POH/LMG. The surplus staffs were redeployed on the basis of their options against the different categories of different grade considering academic eligibility vide DRM(P)/LMG letter No. E/283/1/LMC(POH)Dt. 14.10.99.

7. That in regard to the statements made in paragraph 4.7 to the application the answering respondent begs to state that factually the options were sought for by a communication contained in the letter of GM(P)/MLG dated 31.12.04/3.01.05 . But the applicants were neither surplus nor medically de categorized at the time of inviting option by the GM(P)/MLG. Since the applicants had already been redeployed and regularly enjoying their service benefits against live posts of POH/LMG since 1999-2000 to till date and as such they are not covered by the criteria of option as embodied in the GM(P)/MLG letter dated 31.12.04/3.1.05.

8. That the statements made in paragraph 4.8 & 4.9 to the application are baseless and the same are hereby denied by the deponent. It is again reiterated that the surplus staffs were redeployed on the basis of their option and qualification against the different categories/grade of live posts vide DRM(P)/LMG letter dated 14.10.99. The instant applicants had already been absorbed in the Live Post of POH/LMG and they have not been declared as medically decategorized and/or surplus staff as prescribed by GM(P)/MLG's letter dated 31.12.04/3.1.05. No employee can claim to be surplus after redeployment against either in permanent or in temporary post. The authority is not bound to fulfill any desire of his employee in the plea of option causing administrative crisis which is not warranted by law.

The DME(CON)/LMG by his communication contained in the letter dated 28.1.05 intimated the Sr.DME i/c/LMG the fact of suffering of works of the POH/Depot/LMG if all the cases are considered. The aforesaid letter is the internal communication of the department itself requesting the Sr. DME

22 APR 2013

गुवाहाटी न्यायपीठ
Guwahati Bench

Almora Clerks
N S Rly. L. 1000
Dvt. Personnel C. 1
N S Rly. L. 1000

LMG to examine the matter before recommendation the cases to DRM(P)/LMG and the applicant should not have made any comment/challenge thereon. However the DRM(P)/LMG forwarded the applications of 32 staff including the applicants vide DRM(P)/LMG letter No. E/283/i/LM(POH) dated 10.8.05

9. That in regard to the statements that averred in paragraph 4.10 to the application the answering respondent begs to submit that the post of POH/LMG were created including the posts of Ministerial category and accordingly the incumbents as mentioned by the applicants had been redeployed against those posts by the HQ vide GM(P)/MLG letter No. E/283/M/POH dated 10.8.99 on acceptance of bottom seniority.

10. That the allegations set forth in paragraph 4.11 to the application are not admitted by the deponent. The incumbents covered by the annexure-7 to the application were also redeployed along with the applicants against the sanctioned posts in the respective stream of POH/LMG on being opted along with other employees. There is no bar to any employee who sought transfer either inter Rly transfer or inter divisional transfer at his own request on accepting bottom seniority and thus incompatible with the claim of the applicants. Hence the question of discrimination on the part of the authority concerned is out of tune.

11. That the statements made in paragraph 4.12 to the application are irrelevant with the instant case

12. That the statements made in paragraph 4.13, 4.14 & 4.15 to the application are baseless and not tenable in law and the same are denied by the deponent. The deponent begs to state that the applicants' cases were dealt with in a proper way. It is further stated that no redeployment staff of POH/LMG has been considered for further re deployment at Rangiya Division under the concept of redeployment. The concept of transfer and redeployment are not synonymous. Since the applicants had already been redeployed in the permanent live post of POH/LMG their rights and interest have not been jeopardized as contended by the applicants. Further the deponent begs to submit that the applicants do not come under the zone of consideration as per prescribed criteria (Medically de-categorised or

22 APR 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

Sub-Office of
Guwahati Bench
Central Administrative Tribunal
Guwahati
Assam
India
Pin-781001
Phone: 0361-2322222
Fax: 0361-2322222
E-mail: guwahati@cait.nic.in
Web: www.ca-tribunal.nic.in

surplus). The applicants were redeployed against the sanctioned posts of POH/LMG and further redeployment of these applicants against live post do not arise.

13. That the instant applicants being the surplus staff were permanently absorbed in the various streams of POH/Depot/LMG way back in the year 1999 and they have been enjoying the promotional benefit in their respective stream. As such by the letter dated 28.1.05 issued by the DME(CON)LMG addressed to the Sr.DME i/C/LMG can not in any way affected the applicants which can not be termed as illegal, arbitrary, malafide and/or bad in law. The instant applicants are legally not entitled to any relief as claimed by them. The authority is not required to mitigate the option intended by the applicants as reflected in the application.

14. That your deponent begs to submit that the Divisional Finance Manager/RNY by a communication contained in the letter vide memo No. RNY/ACCOUNTS/AD/COURT/104/07 dated 07.01.08 intimated the Law Officer ,N.F.Rly./Maligaon stating inter alia that on Rangiyia Division the sanctioned strength was 66. This was decided at a time when the computerization was not there and the Division was not in existence physically. With the computerization of entire activity from July,2006 the necessity is not more than the present one. Presently the office of the Divisional Finance Manager does not have any additional requirement of ministerial staff. In the instant case the applicants were absorbed in the permanent post of POH/Depot/LMG and they can not have any claim for absorption in the ministerial cadre in any Division not only in Rangiyia Division.

A copy of the aforesaid letter of DFM/RNY dated 07.01.2008 is enclosed herewith and marked as ANNEXURE-I

15. That the application is barred by limitation and the applicant has not explained the delay in filing the application before the Hon'ble Tribunal praying for setting aside the office letter dated 28.1.05 issued by the DME©/LMG to Sr. DME/LMG..

16. That the respondent has not committed any infirmity, illegality and irregularity not considering the option of the applicant and as such the interference of the Hon'ble Tribunal is unwarranted for the ends of justice.

17. That the submissions made in the ground portion are not admitted by the answering respondent. The applicant is not entitled to any relief as claimed by them. The application is not maintainable at all and liable to be dismissed.

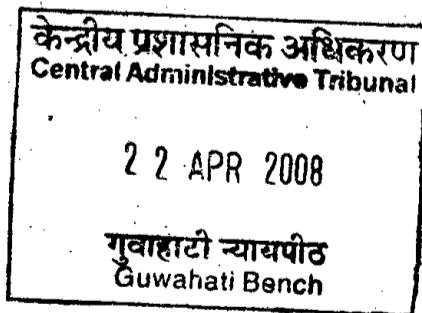
18. That the application filed by the applicant is baseless and devoid of merit and as such not tenable in the eye of law and liable to be dismissed.

19. That the respondent craves the leave of the Hon'ble Tribunal to produce any relevant documents at the time of hearing of the case.

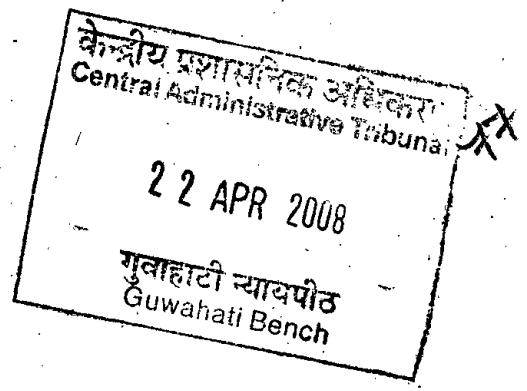
20. That in any view of the matter raised in the application and the reasons set forth thereon, there cannot be any cause of action against the respondents at all and the application is liable to be dismissed with cost.

In the premises aforesaid, it is, therefore, prayed that Your Lordships would be pleased to peruse the records and after hearing the parties be pleased to dismiss the application with cost. And pass such other orders/orders as to the Hon'ble Court may deem fit and proper considering the facts and circumstances of the case and for the ends of justice.

And for this the humble respondent as in duty bond shall ever pray.



VERIFICATION



VERIFICATION

I, Shri Ashutosh Chakraborty Son of Late H. M. Chakraborty resident of Lumding at present working as the Divisional personnel officer, N.F.Ry., Lumding, Guwahati being competent and duly authorized to sign this verification do hereby solemnly affirm and state that the statements made in paragraph 1 to 13 & 14 are true to my knowledge and belief, and the rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 21st day of April, 2008 at Guwahati.

Ashutosh Chakrabarty

DEPONENT

N.F.Railway

Office of the
Divl. Finance Manager
N. F. Railway/Rangiya

Date: 07/01/2008

No: RNY/ACCOUNTS/AD/COURT/104/07

To
Law Officer.
N. F. Railway/Maligaon.

Sub: - Reply against O.A No.311 of 2007

May kindly find a copy of the O.A

The following remarks are offered.

Against item S.L.No. 4.9 it has been recorded that options were invited by the Divl. Finance Manager, N. F. Railway/Rangiya.

This record/statement is not a fact. Divl.Finance Manager, N. F. Railway/Rangiya had never invited any options for filling up of vacancies.

There is a difference in between "live vacancy" & "vacancy".

A "live vacancy" is one where an incumbent was there and still in requirement, where as a "vacancy" denotes vacancy which may be lying either because of being surplus than requirement or for want of incumbent. On Rangiya Division the vacancies are lying for being surplus & redundant.

On Rangiya Division, the sanctioned strength was 66. This was decided at a time when the computerization was not there and the Division was not in existence-physically. With the computerization of entire activity from July 2006 the necessity is not more than the present one.

For the information of honourable court, presently the office of the Divisional Finance Manager does not have any additional requirement of ministerial staff.

May kindly reply to the honourable court. The reply needs to be sent to honourable court by 29-01-08.

D.A: I) A copy of O.A No. 311 of 2007

Divl. Finance Manager
N. F. Railway/Rangiya

Copy to:

I) PA&CAO/N.F.Railway/Maligaon
II) Chief Personnel Officer/ N.F.Railway/Maligaon

Divl. Finance Manager
N. F. Railway/Rangiya

APRIL 2008
A. K. Doley C.R.A.

10.11.2008

गुवाहाटी न्यायालय
Guwahati Bench

File in Court on..... 6/6/08

Court Officer.

DISTRICT : NAGAON

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. No. 311/2007

Sri Ganesh Chandra Boro & Ors

.....Applicants

-VERSUS-

The Union of India & Ors

.....Respondents

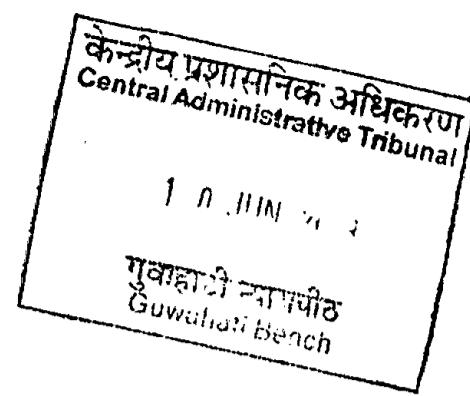
REJOINDER TO THE WRITTEN
STATEMENTS FILED BY THE
RESPONDENTS

The Rejoinder of the applicants to the
Written Statements of the Respondents
are as follows :

1. That the applicants have received a copy of the Written Statements filed by the Respondents in connection with the above noted O.A. through their Counsel. Having gone through the same understood the contents thereof and found it expedient to file rejoinder as under.
2. That as regards the statements and contentions made in Paragraph-5 in Written Statements filed by the Respondents with regard to the reply to paragraph 4.4 and 4.5 of the Original

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Filed by -
Ganesh Chandra Boro
Brough -
Bhakun Singh
Applicant
6/6/2008

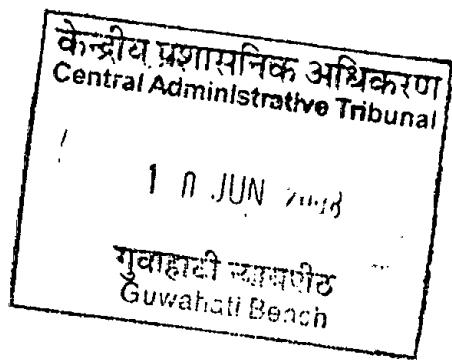


(2)

Application, the applicants beg to state that the Respondents have misinformed this Hon'ble Court by saying that the applicants are redeployed against the "LIVE POSTS" after declared surplus and presently redeployed in periodical overhauling (POH) Lumding. As a matter of fact periodical over hauling, Lumding is a bank of Surplus Staff and applicants are redeployed against the supernumerary year to year extended posts which has no perpetuity of the life. There is no question of effecting promotion to the higher posts of the applicants having been redeployed against such posts created for temporary adjustment of the surplus staff like the applicants until their redeployment is regularized against the substantive posts. It is pertinent to mention here that although the applicants are redeployed against those posts created and reserved in the account of bank of surplus staff under POH, Lumding having been designated as technical Grade-I, II & III, however, their services are not interchangeable with those posts of technical Grade-I, II & III existing under the workshop at Dibrugarh. Besides the applicants are not given similar financial incentives and other benefits as that of the similarly designated as Technician Grade - I, II and III of the workshop, Dibrugarh. This prevalent situation itself suffice to prove that they are not alike to that of the workshop employees of Dibrugarh which further proves that their redeployment as Technician Grade-I, II & III is not at all ^{as}.

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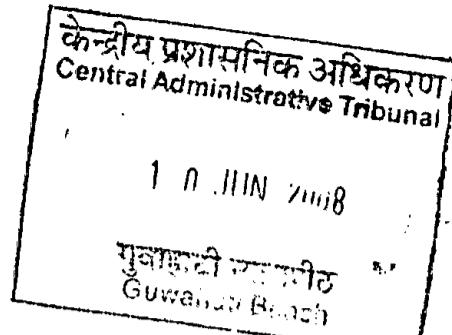


(3)

redeployment against the Live posts/substantive posts. Hence the plea of the Respondents is liable to be rejected by the Hon'ble Court and justice may be dispensed in favour of the applicants by allowing the O.A. and directing the Respondents to materialise the redeployment of the applicants without further delay against the live/substantive posts, more particularly, against the Ministerial posts available under the upcoming Railway Division at Rangia as per their invitation of option to fill up such vacancies.

3. That as regards the contents of paragraph-6 of the Written Statement filed by the Respondents, the applicants respectfully state that they were merely redeployed against the different categories of technical grades commensurate with their academic qualification as well as scale of pay drawn in their Parent Department which were created and reserved as bank of surplus staff placing under the control of periodical over hauling, Lumding. The claim of the Respondents that applicants are redeployed against the Live Posts on the basis of their options is out and out false and misleading. Hence the same has no legal footing.

4. That as regards the contents of paragraph-7 of the Written Statements filed by the Respondents the applicants respectfully state that so long the applicants are redeployed and observed against the substantive/ Live posts they are always surplus. Since



(4)

they were declared surplus from the substantive posts held by them in their Parent Department, they are entitled to be redeployed against the substantive/Live Posts. As has already been stated above the present redeployment of the applicants is merely a stop gap arrangement to utilise their services by the Respondents, therefor, they are put in periodical overhauling, Lumding which is purposely created as a bank of surplus staff. Moreover, the posts against which they have been redeployed are year to year extended which itself is clear proof that those posts are not at all substantive/Live Posts. Thus the stand taken by the Respondents that the applicants are not covered by the criteria of options as embodied in the GM (P)./MLG letter dated 31.12.04/3.1.05 (Annexure-4 to O.A.) is totally unfounded and belying statement. Besides the Respondents have suppressed vital material by saying that the applicants are enjoying their service benefits against Live posts of POH, Lumding till date since the date of their redeployment there.

5. That as regards the contents of paragraph-8 of the Written Statements filed by the Respondents the applicants respectfully state that the Respondents again have stated falsely that they have already been redeployed on the basis of their option and commensurate with academic qualification against the different categories/grade of Live posts of POH, Lumding, thus the applicant

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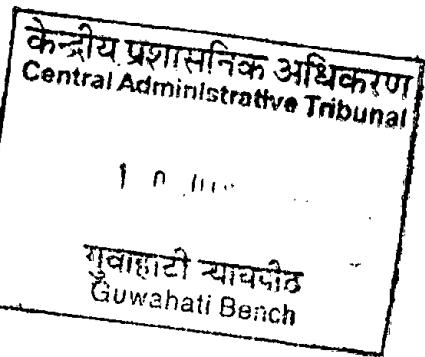
Gauhati Ch.Bench

are not surplus staff. It appears that the Respondents with a view to mislead the Hon'ble Court stated that the applicants are not entitled to claim for redeployment in permanent or temporary posts. Moreover, they have assertedly stated that the Respondents are not bound to fulfill any desire of their employee causing administrative crises, it is, therefore, expedient to clarify here that the stand taken by the Respondents is totally biased, arbitrary, malafide, most harmful and violative of Constitutional mandate as well as the principles of justice. The present practice of the Respondents in so far as utilisation of services of the applicants is a glaring example of dealing of unfair labour which is prohibited by the law established by the Hon'ble Supreme Court as well as the Hon'ble Gauhati High Court. Hence such type of stand of the Respondents is not only ~~amenable~~ in the eye of law, but at the same time they are liable for suitable direction to set the things right as established by the law.

6. That as regards the contents of paragraphs-6, 7 & 8 of the Written Statements filed by the Respondents the applicants respectfully state that the Respondents have been harping on the same string to cause damage the rights and interests of the applicants with certain ill design, ulterior motive, malafide intention and extraneous consideration. In this regard the applicants have already given some instances how the Respondents have biasly favoured certain set of similarly situated employees. In other

words the Respondents have not applied the same yard stick to all similarly situated employees while dealing with the cases of redeployment of surplus staff. The Respondents have specially favoured some employees and the applicants, though similarly situated have been singled out and disfavoured. As such the action and non-action on the part of the Respondents while dealing with the redeployment of the applicants being surplus staff the Respondents have clearly violated the Constitutional mandate, committed gross illegality and thus they have put the applicants at most disadvantageous position. Further the allegation made against the applicants at paragraph 8 of the said Written Statement that the applicants are not entitled the copy of the letter bearing No.E/283/i/LM(POH) dated 10/8/05 and cannot impugned is surprising and against the statutory provisions as provided by the Right to Information Act, 2005.

7. That as regard the submission made by the Respondents in Paragraph-9 of their Written Statements is a paradox inasmuch as the similarly declared surplus employees having been redeployed in different categories like that of the applicants and reserved in POH, Lumding were subsequently redeployed against the Live Posts/Substantive post of Ministerial Cadre. In this regard the applicants assert that they are also acquainted with the law relating to redeployment against substantive/Live Posts of any cadre having been declared surplus. Thus they have no



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Gamer Ch. Baru

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objection in respect of accepting the bottom seniority in the particular cadre of the posts if they are redeployed by the Respondents.

8. That as regards the statements made in Paragraph 10 by the Respondents in their Written Statement the applicants respectfully state that the Respondents themselves have admitted that the employees enlisted in Annexure-7 to O.A. are similarly situated surplus and redeployed in POH, Lumding. As a matter of fact during the pendency of their option for redeployment against the Ministerial posts under the upcoming Rangia Railway Division illegally, biasly and with ulterior motive those employees were chosen to have benefit of inter railway transfer/inter divisional transfer following the back door policy merely to give them special favour ignoring any administrative inconvenience. Such action clearly indicates the biasness of the Respondents and also causing discrimination against the applicants inasmuch as no same yard stick has been used in dealing with the same subject matter by the Respondents.

9. That as regards the statements made in Paragraph 11 of the Written Statement of the Respondents the applicants emphatically state that the Respondents by making statements that the statements of the applicants in Paragraph 4.12 of the O.A. are irrelevant with the instant case has clearly established

Concurred in - B.

the ill motive and malafide intention of the Respondents. It is reiterated that the taking positive action in respect of applicants' option for redeployment against the Live/Substantive posts of Ministerial cadre under upcoming Rangia Railway Division has direct nexus with their redeployment against the Live/Substitutive posts.

10. That as regards the contents of paragraphs-12 & 13 of the Written Statements the applicants respectfully state that for the sake of bravity and precision they do not beg to repeat their statements redundantly, however, it is assertedly stated that the applicants have never been redeployed against any Live/Substantive posts as claimed by the Respondents. Their services have been redeployed to meet up the exigency of the situation and thus applicants' services have been reserved in the bank of surplus staff having place under the control of POH, Lumding.

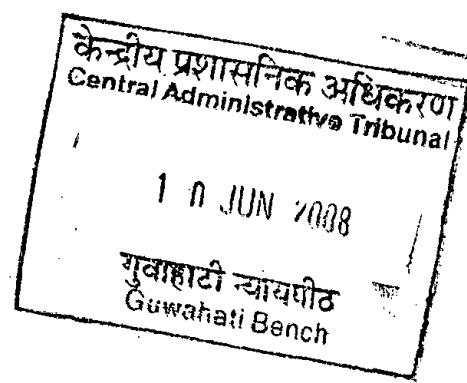
11. That as regards the contents made in Paragraph-14 of the Written Statements the applicants respectfully state that the stand taken by the Respondents is misleading and not in accordance with the administrative policy. This is a clear picture of inconsistency and a game plan merely to defeat the right and interests of some genuine claimants. However the present vacancies time to time shown by the concerned authorities of the upcoming Rangia Rail Division has no conformity with the facts of the said letter.

12. That as regards the contents made in Paragraph-15 of the Written Statements the applicants respectfully state that the present O.A. has been filed within the time limit as prescribed under Section 21 of the Administrative Tribunal Act, 1983. Hence no elaborate explanation for condonation of delay as alleged by the Respondents is not necessary.

In the premises, it is, therefore, most respectfully prayed that Your Lordships would be pleased to make it convenient to take consideration of all aspects of the matter as narrated in O.A. as well as in this Rejoinder and may be pleased to allow the O.A. directing the Respondents to materialise their option for redeployment against Live/Substantive Ministerial Posts for the ends of Justice.

And for this the applicants as in duty bound shall ever pray.

(10)



VERIFICATION

I, Shri Ganesh Ch. Boro, aged about 39 years, S/o Late Rajani Boro, by profession Technician, Gr.I SSE/POH/Lumding, N.F.Rly, Lumding, Assam, do hereby verify the contents of Paragraphs.....1..... are true to the best of my knowledge and belief and paragraphs 2,3,4,5,6,7,8,9,10,11,12, are true to my information made on legal advice and that I have not Suppressed any material facts.

And I set my hand in this verification this the 5th day of June, 2008.

Ganesh Ch. Boro

DECLARANT/APPLICANT