

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Kahita
22/9/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

C A D B R S H E E T

1. Original Application No. 53/07
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) P.K. Saikia vs Union of India & Ors

Advocate for the Applicant(s) B. Sauma, A. Chetoy, Mrs. B. Chakrabarty
Mrs. M. Das

Advocate for the Respondent(s) Railway Counsel, Mrs. Bharati Devi

Notes of the Registry	Date	Order of the Tribunal
Pl. application is filed. is filed/ K. F. for A.B. No.- deposited v.d.c. P. No. <u>3461651479</u> Dated <u>27.2.07</u>	<u>07.03.07.</u>	The applicant applied for the post of Electrical Technician Grade-III in response to Employment Notice dated 02.07.05 (Annexure 1) The minimum educational qualification prescribed for the said post was stated to be as follows:
<i>Sheet No. Dy. Registrar A.P.</i>		<p>successfully completed Act. Apprentices, ITI passed in any of the following trades (i) Fitter, (ii) Electrician, (iii) Electronics Mechanics and (iv) Wireman."</p>
<i>Sh. No.</i>		The applicant who had successfully completed the Diploma Course in Electronics, applied for the Electrical Technician Grade III and he was asked to appear in the examination. According to Annexure-3, the

petition's copy for issue notices are sealing without envelope.

contd/-

2
07.03.07.

applicant had successfully come out of the examination. Thereafter, he was called for document verification on 29.6.06 (Annexure 4). But the respondents has passed an order dated 9.01.2007 (Annexure 5) which is stated as follows:

"It has been reported by Railway Recruitment Board, Guwahati that Shri Pradeep Kumar Saikia had qualified in the written examination held for the post of Electrical Technician Gr. III under Employment Notice No.01/2005. He was called for documents verification. During verification of his original documents, it was found that Shri Pradeep Kumar Saikia possessed Diploma in Electronics & Telecommunication instead of ITI. The minimum education for this post was indicated in the Employment Notice No.01/2005 as "successfully completed Act Apprentices III passed in the trade of (i) Electrician (ii) Electronics Mechanics (iii) Fitter (iv) Wireman.

In terms of Railways Board's letter dated 3.8.2001, Act Apprenticeship/ITI in relevant trade is the only qualification and no other qualification including Diploma in Engineering should be accepted as an alternative qualification on the ground of being a higher qualification in the same line of training. As such, Shri Saikia was not empanelled to the post of Electrical Gr. III"

I have heard Mr. B. Sarma learned counsel for the applicant and Dr. J.L. Sarker learned counsel for the respondents. When the matter came

07.03.07

up for hearing the learned counsel for the applicant has submitted that another person is appointed in the same capacity. In Annexure 5 it is clearly stated that Shri Rinkumoni Baishya was appointed to the post of Technical Grade III only on compassionate ground.

In the facts and circumstances I am of the view that the application has to be admitted. Application is admitted. Issue notice on the respondents. Six weeks time is granted to the respondents to file written statement. Post the matter on 24.4.07.

In the meanwhile, I direct the respondents that if any appointment is made as per Notification that shall be subject to the outcome of this O.A.

Vice-Chairman

Received copies of
O.A. No. 2007
res. 12-03-07
M. Deo/epo's L/e
12-03-07

Notice duly served
on R-2.

12/3/07.

Notice of order sent
to D/Section for
issuing to R-1, 4
by regd. A/D post and
R-3 sent to received by
hand. D/Ho-290 to 292
12/3. Dt= 14/3/07.

24.4.07. Await the Service Report of Respondent No.4. Four weeks time is granted to file written statement. Post the matter on 28.5.07.

Member(A)

lm

General
Member(J)

Notice duly served
on R-1,2.

l/c
3/7/07.

28.5.07

No W/S filed
post on 20.6.07

V.C.

23-3-07

20.6.07.

- (1) Notice duly served on R- No- 1,2 & 3.
- (2) Service awaited from R- No- 4.
- (3) No W/S has been filed.

lm

23
23.4.07.

6.7.2007

At the request of learned counsel for the applicant two weeks further time is granted to file rejoinder. Post the matter on 6.7.07.

Vice-Chairman

Notice duly served
on R- No- 1,2 & 3,4.

l/c
30/4/07.

/bb/

Two weeks further time is granted to the Applicant to file rejoinder.

Vice-Chairman

No W/S has been filed.

25
25.5.07.

No W/S has been filed.

19
19.6.07.

26.7.07

Counsel for the applicant submitted that he has received copy of the reply. He wants to file rejoinder within two weeks.

Post on 14.8.07 for order. It is also directed that respondents shall produce the copies of the circulars dated 3.8.01 and 19.6.01 since they are mentioned above the same but not produced the copies.

Vice-Chairman

22-6-07
W/S filed by
the Respondents.
page no. 1 to 4. Copy 2.9.07
served.

pg

Let the case be listed on 28.9.07.

Vice-Chairman

Rejoinder not filed.

lm

25
25.7.07

Rejoinder not filed.

27
27.7.07

Notes of the Registry

Order of the Central

Rejoinder filed
by the applicant
at page 25-30.

28.9.07. In this case, rejoinder has been filed. The matter is ready for hearing and call for hearing on 08.11.07. The respondents ^{are to} produced the Circular dated 3.8.2001 and 19.6.2001 (as directed vide order dated 26.7.2007) on 08.11.07.

Call this matter on 8.11.2007.

Mu
27.9.07.

g
(Khushiram)
Member(A)

mf
(Manoranjan Mahanty)
Vice-Chairman

The case is ready
for hearing.

Lm

13.11.2007 Mr. B. Sharma, learned counsel for the Applicant is present.

M
12.11.07.

Call this matter on 15.11.2007.

mf
(M. R. Mohanty)
Vice-Chairman

Lm

15.11.2007 On the prayer of the learned counsel for the Respondents/Railways call this matter tomorrow i.e.

16.11.2007.

g
nkm

g
(Khushiram)
Member (A)

mf
(M. R. Mohanty)
Vice-Chairman

OA 53/07

Notes of the Registry

16.11.07 Heard Mr B.Sarma, learned counsel for the applicant and Ms B.Devi, learned counsel for the Respondents and perused the materials placed on record. Hearing concluded. Order reserved.


(Khushiram)
Member(A)


(M. R. Mohanty)
Vice-Chairman

pg

Mr.B.Sarma, learned counsel for
the Applicant is present
Call this matter on 15.11.2007.

13.11.2007 21.11.2007 Judgment pronounced in open court, kept in separate sheets.


The Original Application is dismissed in terms of the order. No order as to costs.


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

16.12.07
Judgment pronounced
in open court, kept in separate sheets.
Case No. 1651
Call this matter on 30.11.07.
The parties
to the parties.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.53/2007

DATE OF DECISION : 21-11-2007

Shri Pradeep Kumar Saikia

.....Applicant/s

Mr B. Sarma

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Ms B. Devi, Railway Counsel

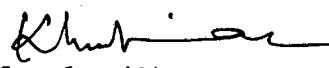
.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

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


Vice-Chairman/Mamber(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 53 of 2007.

Date of Order : This the 21st Day of November, 2007.

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN
THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

Sri Pradeep Kumar Saikia
Son of Sri Shymanta Bora Saikia,
Resident of Rupnagar, Lakhimi Path,
Guwahati-32, Assam

.....Applicant

By Advocate Shri B. Sarma

Versus -

1. Union of India,
represented by the General Manager,
N.F. Railway,
Maligaon, Guwahati-11.
2. General Manager (P),
N.F. Railway,
Maligaon, Guwahati-11.
3. The Railway Recruitment Board (Guwahati)
represented by its Chairman,
Station Road, Guwahati-1.
4. The Railway Board,
represented by the Executive Director Estt. (RRB),
Ministry of Railways, New Delhi. Respondents

By Ms B. Devi, Advocate for the Respondents.

ORDER

KHUSHIRAM, MEMBER(A)

The Applicant applied for the post of Electrical Technician
Grade-III in response to Annexure-1 Employment Notice dated
02.07.2005 prescribing minimum qualification for the post as under:

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"Successfully course completed Act. Apprentices, ITI passed in any of the following trades (i) Fitter, (ii) Electrician, (iii) Electronics Mechanics and (iv) Wireman."

The Applicant, after completion of diploma course in Electronics, applied for the above said post and he appeared in the test and was declared successful. He was called for verification of his documents on 29.06.06. On verification of his documents, the Respondents passed an order dated 09.01.2007 as under :-

"It has been reported by Railway Recruitment Board, Guwahati that Shri Pradeep Kumar Saikia had qualified in the written examination held for the post of Electrical Technician Gr.III under Employment Notice No.01/2005. He was called for documents verification. During verification of his original documents, it was found that Shri Pradeep Kumar Saikia possesses Diploma in Electronics & Telecommunication instead of ITI. The minimum educational qualification for this post was indicated in the Employment Notice No.01/2005 as "successfully course completed Act Apprentice, ITI passed in the trade of (i) Electrician, (ii) Electronics Mechanics (iii) Fitter (iv) Wireman.

In terms of Railway Board's letter dated 3.8.2001 'Act Apprenticeship/ITI in relevant trade is the only qualification and no other qualification including Diploma in Engineering should be accepted as an alternative qualification on the ground of being a higher qualification in the same line of training.' As such, Shri Saikia was not empanelled to the post of Electrical Technical Gr.III."

Aggrieved by this decision, applicant approached this Tribunal with this Original Application filed under Section 19 of the Administrative Tribunals Act 1985. While issuing notices to the Respondents, an interim was passed to the following effect :-

"if any appointment is made as per Notification, that shall be subject to the outcome of this O.A."



2. The Applicant has contended that he was allowed to appear in the examination on the basis of his qualifications and after having been successful in the examination he was empanelled for appointment and, once empanelled, there were no scope to refuse employment to him.

3. The Respondents have filed a written statement stating that for the post of Electrical Technician Gr.III a candidate should be successfully course completed Act. Apprentices, ITI passed in any of the Trades such as (i) Fitter, (ii) Electrician, (iii) Electronics Mechanics and (iv) Wireman. It was also stressed that the Railway Board Circular dated 03.08.2001 has highlighted that "Act Apprentice/ITI in relevant trade is only qualification and no other qualification including Diploma in Engineering should be accepted as an alternative qualification on the ground of being a higher qualification in the same line of training" and this fact was detected at the time of verification of the original documents of the Applicant. It has also been contended that Shri Rinku Moni Baishya (whose appointment, with similar qualification, has been challenged by the Applicant) was appointed on 'compassionate ground' following to death of his mother; who was a railway employee and his (Sri Baishya) qualification was B.E in Civil Engineering but he could not come out successful in the suitability test held for the post of J.E/II and that, thereafter, he was offered the post of Technical Grade III in the scale of pay of Rs.3050-4590/- in terms of Railway Board's letter dated 19.06.2000. In the counter it has been stated that the minimum educational qualification, for the post of Skilled Artisan, is 10th pass



only and Sri Rinku Moni Baishya is 10th pass, which is the minimum qualification for a Skilled Artisan. The respondents, finally, prayed that the Original Application may be dismissed.

4. We have heard Mr B.Sarma, learned counsel appearing for the Applicant and Ms B. Devi, learned counsel appearing for the Respondents. Learned counsel for the Applicant vehemently argued that the qualification of the Applicant, if deemed higher than what is prescribed, cannot be treated as disqualification for the post. Learned counsel for the Respondents argued that the case of Shri Rinku Moni Baishya is on different footing (as he has been appointed on compassionate ground) and in that case relaxation of qualification was possible. She specifically pointed out that qualification prescribed in the Employment Notice No.01 of 2005 dated 02.07.2005 for the post of Electrician Technician Gr. III was as under :

“Successfully course completed Act. Apprentices, ITI passed in any of the following Trade : (i) Fitter, (ii) Electrician, (iii) Electronics Mechanics, (iv) Wireman”.

She also submitted the R.B.E No.152/2001 dated 03.08.2001 regarding educational qualification for recruitment of Group 'C' posts in Mechanical and Electrical Engineering Departments which is reproduced as under :

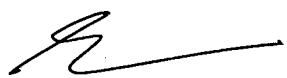
<u>S.No.</u>	<u>Post</u>	<u>Existing qualification</u>	<u>Revised qualification</u>
4.	Skilled Artisan (Rs.3050-4590)	Act Apprenticeship ITI in relevant trade	No Change Note:- Diploma in Engineering should not be considered as an alternative higher qualification

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Act Apprenticeship/ITI in relevant trade is the only qualification and no other qualification should be accepted on the ground of being a higher qualification in the same line of training."

Skilled Artisan include the post of Electrical Technician Gr.III, whose qualifications has been revised with "no change" "note; diploma in Engineering should not be recognized as an alternative higher qualification." Act Apprenticeship/ITI in relevant trade is the only qualification and no other qualification should be accepted on the ground of being a higher qualification in the same line of training." In view of this qualification she contended that the applicant does not have the requisite qualification i.e. Act Apprenticeship/ITI in the relevant trade and hence being not qualified, he cannot be appointed to the post.

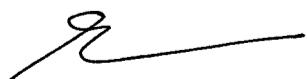
5. Learned counsel for the Applicant argued that this clarification regarding qualification goes in favour of the Applicant as the earlier qualification Act Apprenticeship/ITI in relevant trade has been revised "with no change" with a "Note "diploma in Engineering should not be considered as an alternative higher qualification" and that it strengthens the case of the applicant as he holds the diploma in Electrical Engineering which is not to be treated as an "alternative higher qualification" and hence he deserves to be appointed to the post advertised.



6. Looking to the rival contentions of the learned counsel, for both the parties and documents produced, we have carefully considered the entire situation and feel that the contention of the learned counsel for the Applicant is not acceptable. Had the Applicant possessed the minimum qualification prescribed (i.e. Act Apprenticeship/ITI in relevant trade) then his additional qualification (i.e. Diploma) would not have stood on his way.

7. The learned counsel for the Applicant also cited the decision of Munna Roy vs. Union of India, (reported in 2000 STPL(LE) 28383 SC) in support of his argument; wherein minimum qualification (in that case) was required to be Matriculation and the Applicant therein was Graduate. The Supreme Court held that cancellation of the selection by High Court was bad (and decision of this Tribunal, in favour of the said Applicant, was just) because the Degree was obtained undisputedly. The facts of the citation is not applicable in this matter, since the Applicant in the above case was a Graduate but obviously had the minimum qualification of Matriculation. But this is not the case in the instant O.A because the present Applicant had a Diploma; but without ITI.

8. We also feel that if the O.A is allowed, it will also go against the Constitutional rights of those who hold similar qualification but could not apply in response to the Employment Notice No.01 of 2005 dated 02.07.2005 as the qualification i.e. "Diploma Course in Electronics" was not mentioned as a minimum qualification and, obviously, they could not apply for the same and was thus deprived of

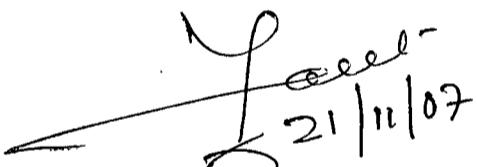


an opportunity of getting employment with the Railways. If O.A. is allowed this will be violative of the Article 14 and 16 of the Constitution.

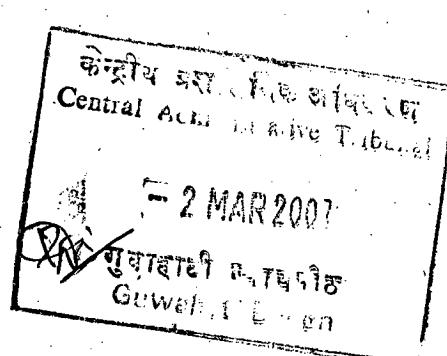
9. In the light of the foregoing discussion, the Original Application is dismissed. There will be no order as to costs.

10. By way of observation, we feel that as per R.B.E.No.152/2001 while fixing the minimum qualification for a Skilled Artisan, Diploma in Engineering should not be considered as an alternative higher qualification it need be clarified as to whether it is to be treated at par with the Act Apprenticeship/ITI in relevant trade or it is not to be treated as a qualification at all. In that case the note in R.B.E.No.152/2001 is creating confusion rather than clarifying the issue.


 (KHUSHIRAM)
 ADMINISTRATIVE MEMBER


 (MANORANJAN MOHANTY)
 VICE CHAIRMAN
 21/11/07

/pg/



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: AT GUWAHATI.

ORIGINAL APPLICATION NO. 53 /2007.

BETWEEN

Sri Pradeep Kumar Saikia

....Applicant.

VERSUS

The Union of India & Ors.

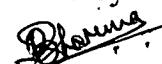
.... Respondents.

SYNOPSIS

That the applicant has by way of this Original Application raised a grievance against the arbitrary, illegal, discriminatory and malafide action on the part of the respondent authorities in denying to him his due appointment against the post of Electrical Technician Grade – III even though he was eligible and selected for being appointed against the said post. The respondent authorities vide issuance of Employment Notice dated 02.07.05 invited applications from eligible candidates inter-alia, for filling up of 77 (seventy seven) posts in the cadre of Electrical Technician Grade – III. The minimum education qualification prescribed for the said post was stated to be successfully course completed Act. Apprentices, ITI passed in any of the following trades: (i) Fitter, (ii) Electrician, (iii) Electronics Mechanics and (iv) Wireman. The applicant who had successfully completed the Diploma course in Electronics from the Prince of Wales Institute of Engineering and Technology (Jorhat) in the year 1998, being eligible applied for the post of Electrical Technician Grade – III advertisement vide the notification dated 02.07.05. Thereafter, on scrutiny and verification of the application submitted by the applicant, on being found to be eligible he was issued Admit

Card for appearing in the written examination to be held for selecting candidates for the posts advertised vide the notification dated 02.07.05. The applicant appeared in the said written examination and the results of the selection was published vide the notification dated 01.06.06. The Roll Number assigned to the applicant figured in the said notification dated 01.06.06 and he was selected for being appointed against the post of Electrical Technician Grade - III. Subsequently, the applicant was called for verification of his documents and testimonials and in the verification process nothing adverse was found against the applicant but to his shock and surprise his case was not recommended for appointment on the ground that he possessed qualification higher than what was prescribed vide the Employment Notice dated 02.07.05. Thereafter the applicant preferred legal notices before the respondent authorities highlighting his grievances, but apart from the respondent no. 2 there was no reply from the other respondents to the said legal notices the respondent no.2 vide his communication dated 09.01.07 reiterated the stand taken by them earlier that in view of the fact that the applicant possesses qualifications higher than what has been prescribed vide the notification dated 02.07.05, he is not entitled for being appointed against the post of Electrical Technician Grade - III. As such, this application praying urgent and immediate relief's.

Filed by



(B. Sharma)

Advocate

(19)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: AT GUWAHATI.

ORIGINAL APPLICATION NO. 53 /2007.

BETWEEN

Sri Pradeep Kumar Saikia

....Applicant.

VERSUS

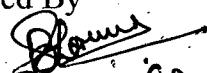
The Union of India & Ors.

.... Respondents.

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Filed By



(C.B. Sharma)

Advocate

(1)

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: AT GUWAHATI,**

ORIGINAL APPLICATION NO. 53 /2007.

BETWEEN

Sri Pradeep Kumar Saikia, son of Sri Shymanta Bora Saikia, resident of Rupnagar, Lakhimi Path, Guwahati - 32, Assam.

.....Applicant.

VERSUS

1. The Union of India, represented by the General Manager, North Eastern Frontier Railways, Maligaon, Guwahati.
2. The General Manager (P), N.F. Railway, Maligaon, Guwahati.
3. The Railway Recruitment Board (Guwahati) represented by its Chairman, Guwahati, Station Road, Guwahati.
4. The Railway Board, represented by the Executive Director Estt. (RRB), Ministry of Railways, New Delhi.

..... Respondents.

filed by:- the applicant
through → Briged Sharma
Advocate.

28/2/07

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

This application is directed against the arbitrary, illegal, discriminatory and malafide action on the part of the respondent authorities in denying to the applicant his due appointment against the post of Electrical Technician Grade - III even though he was eligible and duly selected for being appointed against the said post. This application is further directed against the communication bearing no. E (RRB)/ 2006/ 20/ 26 dated 09.01.07 issued by the Executive Director Estt. (RRB), Railway Board rejecting the claim of the applicant for his appointment against the aforementioned post on the ground that the educational qualification possessed by him is a higher qualification than what was prescribed vide the advertisement dated 02.07.05.

As a measure of abundant caution the instant application is also directed against the Railway Board's letter dated 03.08.01, which purportedly debars a candidate having higher qualification from being appointed against the post of Electrical Technician Grade - III, advertised vide notification No. 1/ 2005 dated 02.07.05.

2. **JURISDICTION:**

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

3. **LIMITATION:**

The applicant declares that the instant application has been filed within the limitation period prescribed under Section 21 of the Central Administrative Tribunal Act, 1985.

4. **FACTS OF THE CASE:**

4.1 That the applicant is a citizen of India by birth and as such is entitled to all the rights, protection and privileges guaranteed under the Constitution of India and the laws framed thereunder.

4.2 That the applicant states that the Railway Recruitment Board, Guwahati vide issuance of Employment Notice being Employment Notice No. 1/ 2005 dated 02.07.05 invited application from eligible candidate inter-alia, for filling up of 77 (seventy seven) numbers of post in the cadre of Electrical Technician Grade – III. Out of the said 77 (seventy seven) posts, 10 (ten) posts were earmarked for being filled up from amongst candidates belonging to the Scheduled Caste. The minimum educational/ technical qualification prescribed for the said post of Electrical Technician Grade – III was stated to be successfully course completed Act. Apprentices, ITI passed in any of the following trades: (i) Fitter, (ii) Electrician, (iii) Electronics Mechanics and (iv) Wireman. The last date of submission of applications for the posts mentioned in the said employment notice dated 02.07.05 was notified as 02.08.05. It is pertinent to mention here that the said advertisement dated 02.07.05 did not bar any candidate possessing higher qualification than the minimum qualification spelt out in the advertisement from applying for being considered against the posts advertised.

A copy of the employment notification dated 02.07.05 is annexed as Annexure – 1.

4.3 That the applicant states that he had successfully completed the 3 (three) years Diploma Course in Electronics from the Prince of Wales Institute of Engineering and Technology (Jorhat) in the year 1998 and he fulfilled the eligibility criteria's/ requirements spelt out in the said Employment Notice dated 02.07.05 and as such being an aspirant for appointment against the post of Electrical Technician Grade – III, applied for the same in the prescribed format for consideration of his case for selection and appointment against the post aforementioned. It is pertinent to mention here that the applicant is a candidate belonging to the Scheduled Caste category and being eligible for selection and

appointment against the posts earmarked for Scheduled Caste category candidates, in addition to offering his candidature for selection against the general category posts, he also applied for the posts earmarked for the Scheduled Caste category candidates and on being selected, he is eligible for being appointed against any one of the 10 (ten) posts earmarked for the Scheduled Caste category candidates.

4.4 That the applicant states that on expiry of the last date for submission of applications i.e. 02.08.05, necessary exercise was carried out by the Railway Recruitment Board for verifying and scrutinising the applications received from the various candidates and only those candidates who were found to have fulfilled the required eligibility criteria's including the minimum educational/technical qualification were called for appearing in the written examination held for selection of candidates for appointment against the notified posts. The application submitted by the applicant having found to be in conformity with eligibility/ requirements spelt out in said Employment Notice dated 02.07.2005 and he was vide issuance of Admit Card assigned the Roll No. being 27011321 and directed to appear in the written examination held on 22.01.2006 for the purpose of selecting candidates for appointment against the posts notified in the said Employment Notice dated 02.07.2005.

A copy of the admit card issued to the applicant is annexed as Annexure – 2.

4.5 That the applicant states that the results of the said written examination was published vide Notification dated 01.06.06 and the Roll No assigned to the applicant figured in the said list of successful candidates who cleared the written examination held on 22.01.2006. Subsequently, the applicant was issued with a Call Letter dated 28.05.2006 asking him to appear before the Railway Recruitment Board for necessary verification of his documents. As required of him, the applicant appeared before the said Board on the assigned date and all his documents including his certificates, testimonials were verified by the concerned authorities and nothing adverse was found against him in the said verification process. It may be mentioned here that the applicant was allowed to participate in the written examination held in pursuance to the advertisement dated 02.07.05, after the authorities of the Railway Recruitment Board had satisfied

themselves that he possessed the eligibility criteria's prescribed for the post against which he had applied.

A copy of the notification dated 01.06.06 and the call letter dated 28.05.06 are annexed as Annexure – 3 & 4 respectively.

4.6 That the applicant states that on completion of the verification process, the Railway Recruitment Board prepared a list of candidates recommending names for appointment against the posts notified in the said Employment Notice dated 02.07.2005. However, inspite of being within the zone of consideration for such appointment, it was reliably learnt by the applicant that his name was not recommended by the authorities of the Railway Recruitment Board only on the ground that he possessed qualifications higher than the prescribed minimum qualification.

4.7 That the applicant states that on being sought to be illegally and arbitrarily deprived of his right to be appointed against the post for which he was selected, he apprised the respondent authorities by way of preferring legal notices dated 05.10.06 to rectify the anomaly towards not recommending and appointing him against the post for which he has been selected, but to his utter shock and surprise, the respondent authorities except the respondent no. 2 did not even bother to acknowledge the receipt of those notices. However, the respondent no. 2 acknowledged the receipt and also replied to the said legal notice vide its communication dated 09.10.07 and rejected the claim of the applicant for appointment on the ground that the applicant possessed qualification that is higher than the prescribed one and in terms of Railway Board's letter dated 03.08.01 possessing of higher qualification is a bar for being appointed against the post of Electrical Technician Grade – III, which conclusion is perverse to the core of it. The advertisement dated 02.07.05 having not debarred candidates possessing higher qualification for applying and getting selected for the posts in question and the applicant having participated in the selection processed and having been selected for appointment, it was not open to the respondent authorities to deny to the applicant appointment on the ground of possession of higher qualification and

such a stand is not only arbitrary and illegal, but also in total violation of the law holding the field.

It is pertinent to mention here that in the said legal notice, the applicant had cited example of one Rinkumoni Baishya who also possessed higher qualification i.e. B.E (Civil) and had applied for the post of Electrical Technician, Grade – III/TM advertised vide the Employment Notice dated 02.07.05 and in which case also the minimum educational qualification as prescribed was also similar to the post against which the applicant had applied and who was favoured with an appointment vide issuance of appointment order dated 28.08.06 issued by the XEN/ TT, N.F. Railways, Maligaon (HQ). It was replied that the said appointment was made on compassionate ground and as such, the relaxation was permissible, which conclusion is unsustainable in the eye of law inasmuch as the eligibility criteria for appointment against any post is always the same irrespective of the fact that the candidates may belong to different categories.

A copy of the communication dated 09.01.07 is annexed as Annexure – 5.

4.8 That the applicant states that the stand of the respondent authorities that the applicant is debarred from being appointed against the advertised post of Electrical Technician Grade – III on the ground of possessing higher qualification (i.e. Diploma in Electronics) is belied by their own communication bearing no. E/ 227/ 144 Pt – XIV (C) dated 17.01.07 issued by the General Manager (P) N.F. Railway which communicates the decision of the Railway Board to reduce the period of training for the Diploma holders from (2-3) years upto a period of 6 months. The communication dated 17.01.07 is ample testimony to the fact that there is no bar for Diploma holders for being appointed against the post advertised vide the notification dated 02.07.05 and that the applicant is qualified for being appointed against the post of Electrical Technician Grade – III. The said communication further reflects that all along Diploma holders are being appointed against the post for which the applicant has been selected and they are put on a higher pedestal than the candidates who have completed the Act Apprentices course or ITI passed candidates. The bar, if at all, envisaged by the Railway Board's letter dated 03.08.01 for appointment of candidates having Diploma in

25

Engineering is unsustainable and uncalled for and is liable to be set aside and quashed.

A copy of the communication dated 17.01.07 is annexed as Annexure – 6.

4.9 That the applicant states that until and unless a prescription to the contrary is made in an advertisement barring persons having qualifications higher than what has been prescribed in the advertisement from applying against any post, no person having a qualification higher than what has been prescribed can be kept away from consideration for appointment against the post in question. In the matter on hand the advertisement in question had only specified the minimum qualification required and there being no specifications that cases of persons having qualifications higher than the minimum qualification prescribed would not be considered, the respondent authorities now cannot take a stand contrary to the said position only for the purpose of depriving the applicant of his due appointment as Electrical Technician Grade-III.

4.10 That the applicant states that the action on the part of the respondent authorities in denying to him appointment on the ground that he possessed qualification higher than the minimum qualification prescribed in the advertisement, is in clear violation of all the cannons of Service Jurisprudence and also the law in this connection laid down by the Supreme Court in catena of Judgments. As such the denial of appointment to the applicant is clearly arbitrary, illegal and discriminatory. The said actions on the part of the respondent authorities has caused immense mental stress and agony to the applicant.

4.11 That the applicant states that out of the 77 (Seventy Seven) posts of Electrical Technician Grade – III advertised vide the notification dated 02.07.05 already 47 (forty seven) posts have been filed up. The applicant is well within the zone of consideration for being appointed against the aforementioned post and depriving him persons below him in terms of merit positions obtained in the selection held for the said post have already been appointed. It has been reliable learnt by the applicant that the remaining posts are being contemplated to be filled

up by the respondent authorities and as such, he has come under the protective hands of Your Lordship's seeking urgent and immediate relief (s).

4.12 That the applicant states that it is a fit case wherein Your Lordships would be pleased to pass an interim direction upon the respondent authorities as has been prayed for, failing which your petitioners stands to suffer irreparable loss and injury.

4.13 That in the event Your Lordships is pleased to pass an interim direction as has been prayed for, the balance of convenience would be maintained in favour of the applicant inasmuch as the applicant in terms of his selection is entitled to be appointed against the post of Electrical Technician Grade - III and the respondent authorities are yet to fill up the remaining 20 (twenty) posts of Electrical Technician Grade – III advertised vide the Employment Notice dated 02.07.05.

4.14 That the applicant states that the action/ inaction on the part of the respondent authorities in denying to him appointment against the post of Electrical Technician Grade – III even though he was duly selected for the same has resulted not only in the violation of the principles of Administrative Fair Play but also the Fundamental Rights of the applicant guaranteed under the Constitution of India and the laws framed there under

4.15 That the applicant states that he has no other appropriate, equally efficacious alternative remedy available to him and the remedy sought for herein when granted would be just, adequate, proper and effective.

4.16 That this application has been filed bonafide and to secure ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the impugned action/ inaction on the part of the respondent authorities in denying to the applicant appointment to the post of Electrical

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Technician Grade - III on the ground that he possesses higher qualification than the advertised one is bad in law as well as in facts.

5.2 For that the applicant cannot be denied appointment on the ground of possessing higher qualification inasmuch as the advertisement dated 02.07.05 did not bar candidates possessing higher qualification from applying and being appointed against the advertised posts.

5.3 For that the advertisement dated 02.07.05 spelt out the minimum qualification and eligibility criteria's for the post of Electrical Technician Grade - III and the applicant having fulfilled the same and his case having been considered in that light and he having been selected for being appointed against the aforementioned post, the respondent authorities cannot deny to him his due appointment and are required to issue necessary orders appointing him against the aforementioned post.

5.4 For that the higher qualification possessed by the applicant is in the same line of educational qualification as has been prescribed by the advertisement dated 02.07.2006 and such possession of higher qualification cannot be a ground for denying to the applicant appointment against the selected post.

5.5 For that the yardsticks as regards eligibility and qualification are one and the same for compassionate appointees as well as general candidates and the respondent authorities having appointed one Rinkumoni Baishya who possessed higher qualification (i.e. B.E. in Civil Engineering) against a similar post, they cannot adopt a different yardstick in case of the applicant and deny to him appointment on the ground of possessing higher qualification.

5.6 For that the communication dated 17.01.05 issued by the respondent authorities belies their own stand as regards disqualification of candidates possessing Diploma in Engineering from being appointed against the advertised posts inasmuch as the said communication dated 17.01.07. puts the Diploma holders on a higher pedestal than the candidates possessing lesser qualification and the said communication also bears ample testimony to the fact that Diploma

holders have all along been considered and appointed against the posts advertised vide the notification dated 02.07.05.

5.7 For that in view of the communication dated 17.01.07 issued by the respondent authorities, the Railway Board's letter dated 03.08.01, if at all envisaged any restriction on appointment of candidates possessing higher qualification against the advertised posts had become inconsequential and cannot stand the scrutiny of law and is liable to be set aside and quashed.

5.8 For that in any view of the matter, the impugned action/ inaction cannot stand the scrutiny of law and is required to be interfered with.

6. **DETAILS OF THE REMEDIES EXHAUSTED:**

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him. The urgent nature of the relief's as sought for in this application has forced the applicant to approach this Hon'ble Tribunal at the earliest possible instance.

7. **MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:**

The applicant further declares that he has not filed any application, writ petition or suit regarding the grievance in respect of which this application is made before any other Court or any other bench of this Tribunal or any other authority, nor any such application writ petition or suit is pending before any of them.

8. **RELIEF SOUGHT FOR:**

Under the facts and circumstances stated above, the applicant most respectfully prays that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be pleased to grant the following relief's to the applicant:

8.1 To set aside and quash the Railway Board's letter dated 03.08.2001.

8.2 To direct the respondent authorities to include the name of the applicant, in the select list prepared for the post of Electrical Technician Grade – III at the appropriate place in terms of the merit position as obtained by him in the selection.

8.3 To direct the respondent authorities to appoint the applicant against the post of Electrical Technician Grade III in terms of the merit position as obtained by him in the connected selection process held on 22.01.06.

8.4 And/ or to pass such further other order/ orders as Your Lordships may deem fit and proper.

9. INTERIM ORDER PRAYED FOR:

In the facts and circumstances of the case, pending disposal of this application, it is prayed that Your Lordships would be pleased to direct the respondent authorities to keep one post of Electrical Technician Grade – III vacant and/ or pass any other such further order/ orders as Your Lordships may deem fit and proper.

10.

11. PARTICULARS OF THE POSTAL ORDER:

- i) IPO No. :- 34G 651419
- ii) Issued from :- G.P.O, Guwahati
- iii) Payable at :- Guwahati.

12. DETAILS OF INDEX:

An Index showing the particulars of documents is enclosed

13. LIST OF ENCLOSURES:

As per Index.

VERIFICATION

I, Sri Pradeep Kumar Saikia, aged about 33 years, son of Sri Shymanta Bora Saikia, resident of Rupnagar, Lakhimi Path, Guwahati - 32, Assam, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraph 2, 3, 4¹ , 4¹² to 4¹⁶, 5 to 12 _____ are true to my knowledge; those made in paragraphs 1, 4² to 4¹¹ _____ are true to my information derived from the records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 26th day of February, 2007.

Pradeep Kumar Saikia



RAILWAY RECRUITMENT BOARD : GUWAHATI
STATION ROAD, GUWAHATI - 781 001

EMPLOYMENT NOTICE No. : 01 of 2005

DATE OF PUBLICATION : 02 - 07 - 2005

DATE OF CLOSING : 02 - 08 - 2005

Applications are invited in the prescribed format enclosed (to be neatly typed on good quality A-4 size paper using one side only) from eligible Indian Nationals for the following posts in the North East Frontier Railway. Applications complete in all respects along with required enclosures should be sent to the ASSISTANT SECRETARY, RAILWAY RECRUITMENT BOARD, STATION ROAD, GUWAHATI-781001, ASSAM, by ordinary post only, so as to reach the Board's office on or before 02.08.2005. The applications can also be dropped in the Post Box kept in the RRB office up to 16:00 hours of 02.08.2005.

REMARKS: (1) The envelope containing the application should be clearly super-scripted in RED INK "Application for the Post of _____ Category No. _____ & Community, i.e., SC/ST/OBC/UR/ESM."

(2) Each candidate should send only one application for a Post. If a candidate submits more than one application for the same post, his/her candidature will be cancelled.

(3) Candidates must fill in the application form in their own handwriting and must sign themselves. Otherwise their candidature will be cancelled if detected at any stage.

(4) Applications sent by Registered Post / Courier or Speed Post will not be acknowledged.

(5) Last date of submission of application for candidates residing in Andaman, Nicobar and Lakshwadeep Islands will be 17.08.2005.

(6) RRB, Guwahati at the discretion may hold written examination for more than one category in a single session. RRB, Guwahati at the discretion may also hold a common examination for more than one category if considered necessary. RRB may hold additional written examination(s) or second stage written examination. In such cases the merit secured in subsequent examination alone will be the criteria for further recruitment process.

Cat. No.	Name of Post	Trades	Scale of Pay (RSRP)	Age as on 01.07.05	Medical Standard	No. of Vacancies					Exam. Fees (Rs.)	Minimum Education / Technical Qualification	
						SC	ST	OBC	ESM	UR			
1.	Goods Guard	--	4500 - 7000	18 - 33	A/2	16	9	32	12	47	118	60	A University Degree from a recognized University OR equivalent.
2.	Skilled Artisans/III (Diesel Sheds)	Fitter	3050 - 4590	18 - 30	B/1	4	2	0	2	11	25	40	Successfully course completed Act Apprentices, ITI Passed (Electronics trade desirable)
		Electrician				2	1	3	1	6	13		
		Electronics				2	1	3	1	5	12		
3.	Skilled Artisans / III (Workshop)	Welder	3050 - 4590	18 - 30	B/1	2	1	3	1	5	12	40	Successfully course completed Act Apprentices, ITI Passed.
		Fitter				4	2	8	2	12	28		
4.	Skilled Artisans / III (C & W)	Fitter	3050 - 4590	18 - 30	B/1	11	4	18	7	24	64	40	Successfully course completed Act Apprentices, ITI Passed.
		Welder				1	1	2	1	3	8		
5.	Assistant Loco Pilot	--	3050 - 4590	18 - 30	A/1	20	10	35	26	40	132	40	Matriculation pass plus (1) ITI in specified trades / Act Apprenticeship in any of the following trades : (i) Fitter (ii) Electrician (iii) Instrument Mechanic (iv) Mill Wright OR (2) Diploma in Mechanical / Electrical / Electronics Engineering recognized by AICTE in lieu of ITI.

Certified to be true Copy


Advocate

Cat. No.	Name of Post	Trades	Scale of Pay (RSRP)	Age as on 01.07.04	Medical Standard	No. of Vacancies						Exam. Fees (Rs.)	Minimum Education / Technical Qualification
						SC	ST	OBC	ESM	UR	TOTAL		
6.	Technician Gr. III / TM	—	3050 - 4590	18 - 30	A/3	2	1	3	0	6	12	40	ITI in specified trades / Act Apprenticeship in the trade : (i) Electrician (ii) Lathe-man (iii) Mechanical Fitter (iv) Shaper-man (v) Welder (vi) Machinist Serving employee, who have complete the course of Act Apprenticeship or ITI qualified could be considered.
7.	Electrical Technician Gr. III	—	3050 - 4590	18 - 30	A/3	11	11	6	4	41	77	40	Successfully course completed Act. Apprentices, ITI Passed in any of the following trade : (i) Fitter (ii) Electrician (iii) Electronics Mechanics (iv) Wireman
8.	App. Junior Engineer Gr. II (TM)	—	5000 - 8000	18 - 33	A/3	2	1	1	0	5	10	60	Diploma in Mechanical / Electronics / Production / Automobile / Instrumentation Engineering recognized by AICTE.
9.	Section Engineer (TM)	—	6500 - 10500	18 - 35	A/3	1	0	1	0	1	3	60	Degree in Mechanical / Electrical / Electronics Engineering recognized by AICTE.

GENERAL INSTRUCTIONS:

1.1 ABBREVIATIONS USED: SC = Scheduled Caste ST = Scheduled Tribe OBC = Other Backward Classes ESM = Ex Serviceman UR = Un Reserved Appr. = Apprentice IPO = Indian Postal Order RRB = Railway Recruitment Board RSRP = Railway Services Revised Pay

1.2 The posts are temporary and likely to be made permanent.

1.3 The monthly emoluments on successful completion of training, wherever applicable, will be on the minimum of the scale of pay plus DA as admissible from time to time. In addition employees will get House Rent Allowance and City Compensatory Allowance depending on the place of posting. New Pension System introduced from 01.04.2004 will be applicable, envisaging compulsory contribution @ 10% of Basic Pay & DA by Railway employees and matching contribution by Government would be deposited in a non-withdrawable pension account. During training period only stipend will be paid as applicable. The selected candidates are liable to be posted anywhere on Northeast Frontier Railway. Candidates will have to give security deposit and execute indemnity Bond wherever necessary.

1.4 There is no reservation for persons with disabilities in this Employment Notice. General Manager (P), Northeast Frontier Railway, will fill in the quota reserved for persons with disabilities separately.

1.5 The vacancies shown above are provisional and liable to vary. In case the vacancy position, for any category is reduced or even made nil, RRB is not liable to compensate the applicant for any consequential damage/loss.

1.6 Vacancies of Ex-Servicemen given in the table are not separate but included in the total number of vacancies.

1.7 Apart from signing on photograph, the candidate is required to sign below photograph at the place in Application Form. The signatures on Application Form, Answer Sheet, Question Booklet and other places should be identical. Signatures at the time of application, written examination, interview or document verification in different style may result in cancellation of candidature.

1.8 Before applying for the post the candidates should ensure that he/she fulfills all the eligibility norms. The candidate should have the requisite Educational/Technical qualifications from recognized University/Institute as on the date of submission of the application and should enclose with their application attested copies by gazetted officer, certificates, mark sheets in support of having the requisite qualification. The candidate must enclose the proof of qualification. Those awaiting results of the final examinations need not apply.

1.9 Serving Defence Personnel likely to be released within one year of the closing date can also apply against ESM Quota.

1.10 The candidates who have been debarred from all RRB examinations or the period of debarment such candidate is not completed, need not apply. Their applications will be rejected, whenever detected.

1.11 Any subsequent changes in the terms and conditions of this Employment Notice as per extant rules will stand good.

1.12 While all candidates irrespective of community/group will be considered against UR vacancies, against community/group quota vacancies only candidates belonging to that community/group will be considered. For this purpose, SC/ST/OBC candidates should furnish Caste Certificate from competent authorities. In case of OBC, the certificate should specially indicate that the candidate does not belong to the Persons/Sections (creamy layer) mentioned in Col. 3 of the Schedule of the Government of India, Department of Personnel and Training O.M. no. 36033/3/2004-Estt. (Pes) dated 09.02.2004 and the certificate should be in the prescribed form circulated by Ministry of Personnel and Training, Public Grievances and Pensions, Department of Personnel and Training.

रेल भर्ती बोर्ड गुवाहाटी

प्रवेश
पत्र



ADMIT
CARD

RAILWAY RECRUITMENT BOARD, GUWAHATI

STATION ROAD, GUWAHATI-1

स्टेट नं. 1/2005

ई.स्ट.नं.

कैट. और पोस्ट / CAT. No. & POST:

7 / ELECTRICAL TECHNICIAN GR. III

NAME AND ADDRESS OF THE CANDIDATE

PRADEEP KUMAR SAIKIA

VILL RUPNAGAR GUWAHATI

LAHKMIPATH

ASSAM

PIN - 781032

DUPLICATE



Control No. :
50706343

Signature of the Invigilator :

You are required to appear for the written examination at the place, date and time specified below:

ROLL NO.	Date & Time of Reporting	Name and Address of the Exam Centre
27011321	22 - 01 - 2006 - 09 : 30 Hours	GAUHATI COMMERCE COLLEGE R. G. BARUAH ROAD, GUWAHATI - 781003

To be collected at Exam Centre

22-12-2005

Date :

Signature

Please tear off along this line and retain for your record

Name of the Candidate & Address	Date No. & E.N. No.	Roll No.	Date of Examination
PRADEEP KUMAR SAIKIA VILL RUPNAGAR GUWAHATI LAHKMIPATH ASSAM	7 of 1/2005	27011321	22 - 01 - 2006
GAUHATI COMMERCE COLLEGE R. G. BARUAH ROAD, GUWAHATI - 781003			

Please read and follow the "Instruction" Overleaf.

NOTE : CANDIDATES WHO TICK MARK ANSWERS ON
THE QUESTION BOOKLET WILL BE DISQUALIFIED.

Signature

FREE RAILWAY PASS

FOR SCST CANDIDATES ONLY : On production of this letter you are entitled to free travel by railway in second class only

from : PALTANBAZAR	Stn. to : GUWAHATI	Stn. and back : ASST. SECY. / RRB / GHY.
31/01/2005		

This pass is available upto

Signature
ASST. SECY. / RRB / GHY.

Signature
सहायक सचिव / Asstt. Secy

(Authority : Railway Board's letter No. E (NG) II-84 / RSC / 122 dt. 23-11-84)

Certified to be true Copy

Signature
Advocate



RAILWAY RECRUITMENT BOARD
GUWAHATI
STATION ROAD; GUWAHATI-781 001

Result of Written Examination for Cat. Nos. 2, 3, 4, 6 & 7 of Employment Notice No. 1/2005.

On the basis of performance in the Written Examination held on 22.01.2006 for Cat. Nos. 2, 3, 4, 6 and 7 of Employment Notice No.1/2005, candidates bearing Roll Numbers as mentioned below are called for Verification of Documents to be held on **28th and 29th June, 2006**. Candidates should attend the office of RRB/Guwahati on the specified date at 09.30 hours along with original certificates/testimonials regarding date of birth, educational qualification, caste certificate and any other certificates attached to the application form. Call Letters for Document Verification have already been dispatched through Registered Post individually. RRB, Guwahati is not responsible for any postal delay or wrong delivery. However, if any candidate does not receive Call Letter, he/she may report to RRB, Guwahati on specified date and time along with counter foil of the Call Letter of Written Examination. The Roll Numbers are arranged in ascending order of last five digit (from left to right) but not in the order of merit.

Date for Document Verification = **28/06/2006**

23000071	42000536	23000658	26000775	47000811	27000850	44000867	27000970
44000990	43000997	22001294	47001358	37001556	12001587	46001615	47001641
47001681	17001812	24001911	43001919	43002086	23002171	42002174	23002211
27002237	44002377	46002413	47002567	47002606	22002804	34003003	27003031
42003056	42003058	17003067	34003086	27003199	47003241	36003252	46003293
47003333	13003430	22003562	47003711	47003746	44004179	22004360	44004391
47004466	44004520	13004524	47004794	16004849	44004850	24004855	47004878
27004879	22004947	44005024	43005025	42005031	47005077	22005123	22005124
42005156	47005162	43005363	22005376	13005533	47005597	42005618	27005685
14005735	14005902	44005905	27005969	17006011	24006152	43006163	32006206

TOTAL = 80

Date for Document Verification = **29/06/2006**

22006417	42006752	42006794	44006826	44006866	47006976	13007127	17007194
47007230	27007268	47007397	14007495	12007505	42007670	42007710	27007973
43008035	22008040	47008053	47008091	47008180	47008181	46008228	47008378
43008446	37008507	44008560	37008752	47008759	27008869	42009022	44009055
44009093	23009143	43009224	27009249	22009352	42009432	47009445	44009545
43009675	27009690	44009708	44009754	22009802	44009831	44009836	12009843
26010074	44010282	44010286	17010428	22010785	47010920	47010966	44010998
17011086	17011125	17011136	44011225	24011266	27011321	17011452	44011473
47011485	47011486	24011510	47011542	32011687	17011822	44012006	12012055
43012134	47012195	47012284	46012285	34012292	22012385	44012454	44012455

TOTAL = 80

This result is also published in RRCB official website www.railwayrecruitment.org.

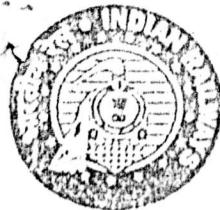
While every care has been taken in publishing the result this RRB is not responsible for any typographical error and reserves the right to make amendments to rectify any errors.

Guwahati
June 01, 2006.

(J. J. Borah)
Chairman,
RRB,
Guwahati.

Certified to be true Copy
Advocate

*Cleared
Date*



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

CALL LETTER for DOCUMENT VERIFICATION

No. RRB/G/41/10.

Date: 28/05/2006

By Registered Post

To,
PRADEEP KUMAR SAIKIA
VILL RUPNAGAR GUWAHATI
LAKHIMPATI

ASSAM, Pin - 781032.

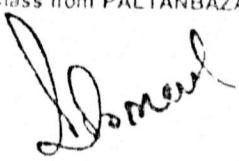
Roll No.: **27011321**



Sub.: Document Verification for the post of ELECTRICAL TECHNICIAN GR. III
under Category No. 7 of Employment Notice No. I/2005.

With reference to your application for the post mentioned above, in response to the Employment Notice cited, you are hereby advised to attend the office of Railway Recruitment Board, Station Road, Guwahati-781001, Assam, on 29/06/2006 at 09:30 hours for verification of original certificates, testimonials etc.

1. Candidates may please note that 20% more candidates are called, over and above the number of vacancies for Document Verification, primarily to avoid shortfall in the panel and that merely calling a candidate for Document Verification / Vision Test etc. does not, in any way, entitle him / her to an appointment in the Railways.
2. You should bring your original Certificate issued by the competent authority for verification of your date of birth, educational qualification etc. along with the original certificates and marks-sheets of Matriculation and onwards issued by the respective Board/Council/University and with experience, caste certificate, if any. In case originals of above certificates/marks-sheets have not been received from respective Board/Council/University, then provisional pass certificate and marks-sheets issued by the respective Board/Council/University should be produced.
3. Attested Photostat copies of all original certificates and marks-sheets and other certificates should also be submitted during Document Verification.
4. Your stay may be required for more than one day and you should come with preparation.
5. Request for postponement of the date / venue mentioned above will not be considered and no further chance will be given.
6. If you are in service please bring "No Objection Certificate" from your employer, failing which you will not be considered for the post.
7. Approaching Chairman, RRB and/or his Secretary directly or indirectly by a candidate or anybody on his/her behalf requesting undue consideration for the recruitment will render a candidate liable for disqualification.
8. (For SC/ST candidates only)
On production of this letter you are entitled to travel free by the Railway in Second Class from PALTANBAZAR Station to GUWAHATI Station and back. This pass will be valid up to 01/07/2006.
(Authority: Railway Board's letter no. E(RBS)/2003/25/39, dated 18/01/2006).


SECRETARY
For CHAIRMAN, RRB – GUWAHATI

Certified to be true Copy
Advocate

GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF RAILWAYS/RAIL MANTRALAYA
(RAIL WAY BOARD)

No. F(RRB)/2006/20/26

New Delhi, dated 11.01.2007

Shri Brijesh Sharma
Advocate,
High Court Bench Guwahati,
G.S. Colony,
Guwahati-781009.

Dear Sir,

Kindly refer to your letter dated 5th October, 2006 regarding selection of Shri Pradeep Kumar Saikia for the post of Electrical Technician Gr.III through RRB/Guwahati.

It has been reported by Railway Recruitment Board, Guwahati that Shri Pradeep Kumar Saikia had qualified in the written examination held for the post of Electrical Technician Gr.III under Employment Notice No.01/2005. He was called for documents verification. During verification of his original documents, it was found that Shri Pradeep Kumar Saikia possesses Diploma in Electronics & Telecommunication instead of TTI. The minimum educational qualification for this post was indicated in the Employment Notice No.01/2005 as "successfully course completed Act Apprentice, TTI passed in the trade of (i) Electrician (ii) Electronics Mechanics (iii) Fitter (iv) Wireman.

In terms of Railway Board's letter dated 3.8.2001, 'Act Apprenticeship/TTI in relevant trade is the only qualification and no other qualification including Diploma in Engineering should be accepted as an alternative qualification on the ground of being a higher qualification in the same line of training'. As such, Shri Saikia was not empanelled to the post of Electrical Technical Gr.III.

As regards para 7 of legal notice, Chairman, RRB/Guwahati has enquired the position from CPO Office, N.E.Railway and found that appointment of Shri Rinkumoni Baishiya to the post of Technical Grade-III was given on compassionate grounds. Compassionate appointments are not made through RRB.

B. C. Gupta
(H C Gupta)
Executive Director Estt.(RRB)
Railway Board

Certified to be true copy
Advocate

Post, higher qualified

N.F.RAILWAY

OFFICE OF THE

GENERAL MANAGER(P)

MALIGAON

dated: 17/01/07.

RECT- 993,
N.O.E/227/144 Pt-XIV(C)

To
GM/CON/MLG,AGM/MLG,
All PHODs,DRMs,ADMs,Sr.DPOs/DPOs,DFMs,CWM/NBQs,DBWS,WAO/NBQs,
DBWS,ADM/NJP,CHY All Area Managers,Sr.DME(D)s,AENs,APO/CHY,
APO/CH/MLG,APO/DBWS,NBQs & NJP,APO/CH/CHY,
All Non-divisionalized Units,DEN/DBRT,WM(EW)B/BNON,All CMS &
MS,Dy.CMM/PNO,Chairman/RIBA/HY,
DTE(WB)/PHO,Dy.CE/Br.Line/MLG,Dy.CSTE(TC)/MLG,DGM(O)/MLG,
Dy.CSTE/MW/MLG,Dy.CPO/CON/MLG,Dy.CAO/Cash & Pay/MLG,
Sr.DEN/MLG,Sr.EDPM/MLG,MD/CH/MLG,All SPOs & APOs of P.Branch/MLG,
The GS/NFREU,NFRMU,ASCREA,NFRBCEA,NFRFA/MLG.

Sub:- Training period of skilled Artisans.

A copy of Railway Board's letter No.E(MPP)2004/3/8 dated 5/12/2006(RBE No. 184/2006) on the above mentioned subject is forwarded for information and necessary action. Board's earlier letter No.E(MPP)2004/3/8 dated 31/12/2004 as referred to in their present letter was circulated under GM(P)/MLG's No.RECT-965-E/227/144 Pt-XII(C) dated 25/1/2005.

15/1/07
SAK(GEN)
BPO/MPP

For GENERAL MANAGER(P)/MALIGAON.

(Copy of Railway Board's letter No.E(MPP)2004/3/8 dated 5/12/2006)

Sub:- Training Period of skilled Artisans

In terms of the provisions contained in para 159(3) of Indian Railway Establishment Manual Volume I (1989 Edition), the training period of the skilled Artisans depending on the qualification is as under:-

- (i) Course completed Act Apprentices trained in Railway establishment : NIL
- (ii) Course Completed Act Apprentices trained in non-railway establishments : 6 months
- (iii) ITI passed candidate : 6 months
- (iv) Matriculates : 3 years

2. In terms of Board's letter No.E(MPP)2004/3/8 dated 31.12.2004 (RBE No.266/04), it was decided that the training period in respect of "Diploma Holders" being appointed as Skilled Artisan on compassionate ground should be 2 years instead of the existing training period of 3 years.

3. The matter was discussed during the meeting of DC/JCM held on 3rd and 4th April 2006 that the training period of Diploma Holders appointed as Skilled Artisans should be reduced since Diploma Holders possess better knowledge and qualification as compared to other candidates. The matter was also discussed during the Sub-Group of PREM on "Training" wherein the members of the Federation insisted

Motley
Certified to be true Copy

Advocate

*Deploma
Appointed -
42 days*

that the Diploma Holders are well versed in theoretical aspects as compared to ITI/Act Apprentices. Pursuant to these discussions, the Ministry of Railways have reviewed the matter and it has been decided that the training period of diploma holders either appointed through open market or through compassionate ground as Skilled Artisan be reduced to 6 months and practical training be undertaken in shop floor and not in classrooms or on tours.

4. The Indian Railway Establishment Manual Vol.I (1989 Edition) is accordingly amended as in Advance Correction Slip No. 190 enclosed.

5. The Ministry of Railways have decided that the Manual on Management of Training may be amended as per attached Advance Correction Slip No.4/2006.

Please acknowledge receipt

DA: as above

(Anil Wason)
Dy. Director (MPP)
Railway Board

No.E(MPP)2004/3/8

New Delhi, dated 5/12/06

Indian Railway Establishment Manual Vol.I (1989 Edition)

Advance Correction Slip No. 190

Insert the following sub-para(v) under para 159(3) of Sub-section-III of Section 'B', Chapter-I of the Indian Railway Establishment Manual Vol.I (1989 Edition).

"(v) Diploma Holder - 6 months"

(Authority: Railway Board's letter No.E(MPP)2004/3/8 dated 5.12.06)

Manual on Management of Training

(June 1998)

ADVANCE CORRECTION SLIP NO.4/2006

Item No.VII of Appendix II of the Manual on Management of Training (Edition 1998) may be replaced as under:-

(I) Course completed Act Apprentices trained in Railway establishment	: NIL
(II) Course Completed Act Apprentices trained in non-railway establishments	: 6 months
(III) Diploma Holders	: 6 months
(IV) ITI passed candidate	: 6 months
(V) Matriculates	: 3 years

(Authority: Railway Board's letter No.E(MPP)2004/3/8 dated 5.12.06)

22 JUN 2007

गुवाहाटी न्यायसिंह
Guwahati Bench

DIST.-KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH AT GUWAHATIOA No.53 of 2007Shri Pradeep Kumar Saikia.....Applicant
-Vs-

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. 53/07(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 statement 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 paragraphs 4.1, 4.2, 4.3, 4.4 & 4.5 to the application the answering respondent has no comment unless contrary to the records.
4. That in regard to the statements made in paragraph 4.6 & 4.7 to the application the answering respondent begs to state that as per advertisement the qualification for the post of Electrical Technician Grade III Category No.- 7 is successfully course completed Act Apprentice/ITI passed in any of the trades such as :
 - (a) Fitter.
 - (b) Electrician,
 - (c) Electronic Mechanics,
 - (d) Wireman.
5. That the answering respondent further begs to state that the Railway Board's Circular No. F(NG)II/2000/RR.4/47 dated 3.08.2001 has

21
 38
 Gibson John Borth
 CHAIRMAN
 2007/6/1
 C.A. Guwahati
 OA No. 53/07
 Filed by
 Borth
 P.A. Guwahati
 2007/6/1

22-

clearly highlighted that "Act Apprentice/ITI in relevant trade is only qualification and no other qualification including Diploma in Engineering should be accepted as an alternative qualification on the ground of being a higher qualification in the same line of training". However, this fact was detected at the time of verification of original documents of the applicant. As such the applicant Sri Pradeep Kumar Saikia having higher qualification was not empanelled to the post of Electrical Technician Grade III although he participated in the selection process which fact was clearly intimated to the applicant in reply to his legal notice vide *annexure-5* to the Application.

6. That the statements made in paragraph 4.8 to the application are not admitted and the same are hereby denied by the answering respondent. The answering respondent begs to state that the Railway Board's letter dated 17.1.2007 vide *annexure- 6* to the application is not relevant in the subject matter of the instant case and does not pertain to Railway Recruitment Board/Guwahati.

7. That the statements of allegation made in paragraph 4.9 & 4.10 to the application are not acceptable and the same are hereby denied by the answering respondent . In the advertisement vide *annexure -1* to the application it is categorically stated about the required qualification but it is nowhere stated about minimum as well as maximum qualification and as such the applicant's claim is out side the norms of eligibility criteria .

8. That the statements made in paragraphs 4.11, 4.12, 4.13, 4.14, 4.15 & 4.16 and the submissions made in the ground portions to the application are not admitted by the answering respondent which are chilly pleas only to attract the sympathy of the Hon'ble Tribunal.

9. That the answering respondent begs to state that Sri Rinku Moni Baishya was appointed on a compassionate ground against the death of his mother who was a railway employee. His qualification was B.E. in Civil Engineering but he could not come out successful in the suitability test held for the post of J.E./II. There after he was offered the post of Technical Grade III in the scale of Rs.3050 -4590/- In terms of Railway Board's Letter No. E(NG)II-2000/RX-I/ Gen/16/ICM/DC dated 19.06.2000 the minimum educational qualification to the post of skilled Artisan for appointment on

compassionate ground is 10th pass only. The training for such appointments is 3(three) years. As Sri Rinku Moni Baishya's qualification is more than 10th pass he was offered the post of skilled Artisan after being declared unsuccessfull for the post of J.E./II. In this connection it is pertinent to mention that the procedure of recruitment in cases of compassionate ground candidates is not same to the direct recruitment candidate from RRB and the same is not bridgeable.

10. That from the facts and circumstances quoted above, there is no reason of arbitrary, illegal and discriminatory exercise of power of the Railway Authority and no violation of fundamental rights as alleged by the applicant.

11. That the application filed by the applicant is devoid of merit and the applicant is not entitled to any relief as claimed by him.

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

13. That the respondent has rightly disqualified the candidature of the applicant at the time of verification of the original documents as per the Railway Board's guidelines dated 3.8.2001 and there is no impediment, infirmity and illegality to be interfered by the Hon'ble Tribunal. The Railway Board's guideline is binding on the RRB in the matter of appointment which is sustainable in law.

14. 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

I, Shri... Jibon Jyoti Baruah... Son of ... Late B.C. Baruah
 resident of ... Morigaon
 at present working as the ... Chairman ... Railway
 Recruitment Board ... Guwahati ... Guwahati being
 competent and duly authorised to sign this verification do hereby
 solemnly affirm and state that the statements made in paragraph
 1 to 10 & 13 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 13th day of
 June, 2007 at Guwahati.

Jibon Jyoti Baruah

DEPONENT

CHIRMAN

..... अती शोष

Board
 Date : 13/06/2007 - 781091
 Jibon Jyoti Baruah

19 SEP 2007

গুৱাহাটী ন্যায়পীঠ

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: AT GUWAHATI

O. A. No. 53/ 2007

Sri Pradeep Kumar Saikia

.....Applicant

Versus

Union of India and ors

.....Respondents

-AND-

IN THE MATTER OF :

A rejoinder against the written statement filed by the respondents in the above noted original application.

AFFIDAVIT -IN- REPLY

1. That your applicant states that the Original Application No. 53 of 2007 was preferred by him assailing the arbitrary, illegal and discriminatory action on the part of the respondent authorities in not appointing him against the post of Electrical Technician Grade – III as advertised vide the notification dated 02.07.05 even though he was selected for the same only on the ground that he possessed qualification higher than the minimum qualification prescribed vide the said advertisement dated 02.07.07.
2. That save and except the statements that are specifically admitted to herein below all the averments as made in the written statement, under reply, are denied. The applicant further does not admit anything that is contrary and/ or inconsistence with the records of the case.

Filed by :- the applicant
through → Brijesh Sharma.
Advocate.

3. That with regard to statements made in paragraph 1 & 2 of the written statement, under reply, your applicant declains to offer any comments.

4. That with regard to statements made in paragraph 3 of the written statement, under reply, your applicant reiterates and reaffirms the statement made in paragraphs 4.1 to 4.5 of the Original Application.

5. That with regard to statements made in paragraph 4 & 7 of the written statement, under reply, your applicant reiterates and reaffirms the statement made in the Original Application and further states that the Employment Notice No. 1 of 2005 dated 02.07.05 had in categorical terms prescribed the minimum educational qualification for the post of Electrical Technician Grade – III (Category No. 7) as “successfully course completed Act apprentice/ ITI Passed in any of the trades such as :

- (a) Fitter
- (b) Electrician
- (c) Electronic Mechanics
- (d) Wireman”

and the said advertisement dated 02.07.05 did not bar incumbents having higher qualification than the minimum prescribed, from participating in the selection process and being considered for appointment against the advertised posts. As such, the applicant having successfully qualified in the selection process and incumbents placed much below the applicant in the merit list prepared by the respondent authorities on the basis of the selection test held pursuant to the advertisement dated 02.07.2005, having been appointed against the advertised vacancies, the denial meted out to the applicant on the respondent's part in not appointing him against the advertised post on the ground of possession of higher qualification is illegal and arbitrary and interference is called upon from this Hon'ble Tribunal directing the respondent authorities to forthwith appoint the applicant against the post he has been selected against in terms of the advertisement dated 02.07.05.

23 44

6. That with regard to statements made in paragraph 5 & 6 of the written statement, under reply, your deponent denies the same and states that the advertisement dated 02.07.05 having not barred incumbents having higher qualification for participating in the selection process the respondent authorities cannot deny to the applicant his due appointment on being selected for appointment against the advertised post. In so far as the Railway Board's circular dated 03.08.01 is concerned there is no restriction and/ or bar imposed by any such circular debarring incumbents possessing higher qualification from being appointed against the posts advertised vide the notification dated 02.07.05, which fact bears ample testimony in the Railway Boards letter dated 17.01.07 wherein diploma holders being possessors of higher qualification with regard to the minimum qualification prescribed for the advertised post have been placed at a higher pedestal inasmuch as the training period for diploma holders have been reduced in comparison to the incumbents having qualifications lesser than Diploma holders. It is stated that it was only after being satisfied that the applicant was eligible to participating in the selection process, that the respondent had permitted him to appear in the selection and now the applicant cannot be denied his due appointment basing on his merit.

7. That with regard to statements made in paragraph 8 of the written statement, under reply, your applicant denies the same and reiterates and reaffirms the statements made in the corresponding paragraphs of the Original Application.

8. That with regard to statements made in paragraph 9 of the written statement, under reply, your applicant denies the same and reiterates and reaffirms the statement made in paragraph 7 of the Original Application and further states that the Sri Rinku Moni Bashya who is a degree holder in Engineering and possessor of qualification higher than the minimum qualification prescribed vide the advertisement dated 02.07.2005 was appointed against the post of Technician-Grade - III, which is of the same status and rank as the post of Electrical Technician Grade - III against which the applicant has been selected for appointment and the minimum educational qualification prescribed for the said posts also being same as advertised vide the notification dated 02.07.05, the applicant cannot be denied his due and

legitimate appointment against the post for which he has been selected. The standard of educational/ technical qualification for any post is same irrespective of the category to which an incumbent might belong. It is pertinent to mention here that Sri Rinku Moni Baishya has been appointed against the post of Technician Grade – III vide issue of appointment letter dated 28.08.06 and the period of training prescribed for his such appointment is 6 (six) months and not 3 (three) years as stated in the written statement under reply, which would go to substantiate the statement made in the Original Application that the Railway Board's communication dated 17.01.07 imposes no bar for Diploma Holders for being appointed against the posts advertised vide the notification dated 02.07.05 and in fact, incumbents possessing higher qualification (i.e. Diploma and/ or Degree in the relevant trade) are put on a higher pedestal than the candidates who have completed the Act Apprentices Course or ITI Passed candidates and as such the period of training of said Sri Rinku Moni Baishya has been reduced from 3 (three) years to 6 (six) months. The respondent authorities have misrepresented before this Hon'ble Tribunal in so far as the training period of Sri Rinku Moni Baishya is concerned with the sole intention of misleading this Hon'ble Tribunal into a wrongful conclusion in so far as relevance/ applicability of the Railway Board's communication dated 17.01.07 is concerned in the case on hand.

A copy of the appointment order dated 28.08.06 is annexed as Annexure – A.

9. That with regard to statements made in paragraph 10, 11, 12, 13 & 14 of the written statement, under reply, your applicant denies the same and states that the applicant has made out a *prima facie* case of discrimination, arbitrariness and illegality calling for interference of this Hon'ble Tribunal towards redressal of his genuine and bonafide grievances.

.....Verification/-

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VERIFICATION

I, Sri Pradeep Kumar Saikia, aged about 33 years, son of Sri Shymanta Bora Saikia, resident of Rupnagar, Lakhimi Path, Guwahati - 32, Assam, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraph 1, 2, 3, 4, 5, 6, 7 & 9 are true to my knowledge; those made in paragraph 8 is true to my information derived from the records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 12th day of September, 2007 at Guwahati.

Pradeep Saikia

DEPONENT

N.E.R.RAILWAY

No. E/274/1/06

Office of the
General Manager (P)
Maliyagan Guwahati - 781
Date: 01.08.2006
A.C.

To

Sri Rinkumari Borichya

Sub: Temporary appointment as Trainee Technician Grade III/ITM

On being declared medically fit in class A/3 and having executed an arrangement, you are hereby appointed as Trainee Technician Gr.III/ITM on stipend Rs. 13050/- p.m. plus usual dearness allowance for a six(6) months w.e.f. the date you physically report for training as Trainee Technician Gr. III/ITM. For the purpose of training you are attached to Dy.CE/TMC/HQ. After passing the examination on completion of six(6) months training you will be posted for working post of Trainee Technician Gr.III/ITM in scale of Rs 3050 - 4390/- on availability of vacancy. The terms and conditions of your appointment of service will be the same as stated in GM(P)/MLG's letter No.93/PTII dated 12.07.2006.

(Curjil Singh) 25/8
XEN/TT

(N.E. Railway/Maliyagan HQ)

Copy forwarded to:-

1. CTE/MLG
2. Dy. CE/TMC/MLG for necessary arrangement may be made to impart training for a period of six (6) months as per syllabus.
3. XEN/TT/MLG He is requested to take necessary arrangement to impart training as per the syllabus.
4. Principal/ZTC/APPD
5. SPO/REC/T/MLG

6/2/2006

(S DEVI)

For General Manager (P)
N.E.Railway/Maliyagan