

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

O.A/T.A No. 0492/2007

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet..... O.A ..... Pg. 1 ..... to 84 .....  
*Common Judgment  
0492/2007 dated 26/09/2017  
in 321/06, 321/07 and  
321/08*
2. Judgment/Order dtd. 12.10.2007 ..... Pg. 1 ..... to 84 .....  
*Common Judgment  
0492/2007 dated 26/09/2017  
in 321/06, 321/07 and  
321/08*
3. Judgment & Order dtd. .... Received from H.C/Supreme Court
4. O.A. .... 92/2007 ..... Pg. 1 ..... to 59 .....
5. E.P/M.P. .... Pg. ..... to .....
6. R.A/C.P. .... Pg. ..... to .....
7. W.S. .... Pg. 1 ..... to 6 .....
8. Rejoinder ..... Pg. 1 ..... to 6 .....
9. Reply ..... Pg. ..... to .....
10. Any other Papers ..... Pg. ..... to .....
11. Memo of Appearance .....
12. Additional Affidavit .....
13. Written Arguments .....
14. Amendement Reply by Respondents .....
15. Amendement Reply filed by the Applicant .....
16. Counter Reply .....

SECTION OFFICER (JUDI.)

Salik  
26/09/17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 92/93/07  
2. Misc. Petition No. /  
3. Contempt Petition No. /  
4. Review Application No. /

Applicant(s) A. K. Gurnani & Ors vs Union of India & Ors

Advocate for the Applicant(s) M. Chanda, G.N. Chakrabarty  
S. Nath, M.S. Debnath

Advocate for the Respondent(s) Railway Advocate

Notes of the Registry	Date	Order of the Tribunal
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The application is in form.  
is filed/C.F. for Rs. 50/-  
deposited via IPO/BD  
No. 346625666  
Dated 24.3.07

By. Registrar  
*gdk*  
*Chak* *AS*  
*5.4.07*

5.4.2007 Present: The Hon'ble Mr. K.V. Sachidanandan  
Vice-Chairman.

The Applicants who are working as Junior Engineer, Grade-I, were called for selection to the post of Section Engineer (Workshop) earlier. But for some or other reason, according to the Respondents, the said selection has been cancelled by the impugned order. The Grievance of the Applicants is that impugned order dated 20.11.2006 was not communicated to the effected parties and the said order was manufactured subsequent to the filing of O.A. No.321/2006. Dr.J.L.Sarkar objected the allegation of the Applicants.

Considering the issue I direct the Registry to issue notice to the Respondents.  
Post the matter on 1.5.2007.

*30/4/07*  
*Vice-Chairman*

/bb/

1.5.07. This case will be heard alongwith O.A.  
No.321 of 06 on 23.5.07.

Liberty is given to the  
respondents to file written statement if any.  
Vice-Chairman

Steps taken on  
3/5/07

lm

Notice & order sent  
to D/Section for  
issuing To R-1,2 & 3 23.5.2007  
by regd. A/D post.

Conc D/No-443 to 445  
3/5/07 Dt = 7/5/07.

- ① Service report  
awarded.
- ② No W.O.S have been  
billed.

22.5.07

Dr.J.L.Sarkar, learned Railway  
Standing counsel submitted that Applicants  
had earlier filed another O.A. No.321/2006  
and in order to file reply statement in both  
the O.A.s he requires some more time.  
However, he submits that he has no  
objection in admitting the O.A.

Accordingly, O.A. is admitted. Three  
weeks' more time is allowed to the  
Respondents to file reply statement.

Post on 15.6.2007 along with  
O.A.321/2006.

Vice-Chairman

1/bb

15.6.07. At the request of learned counsel for  
the respondents six weeks time is granted  
to the respondents to file written  
statement. Post the matter of 31.7.07.

lm

Vice-Chairman

W.O.S. billed by  
the Respondents  
page 1 to 6. copy  
served.

Par

W.O.S. billed

30.7.07

CA 92/2007 -4-

26.9.2007

Call this matter on 08.10.2007 for  
final hearing.

The case is ready  
for hearing.

/bb/

23  
5.10.07.

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

8.10.07

Heard Mr M.Chanda, learned  
counsel appearing for the applicants and  
Dr. J.L.Sarkar, learned Standing counsel  
appearing for the Railways. Perused the  
materials placed on record. In course of  
hearing Dr. Sarkar produces certain  
departmental files.

Hearing concluded. Order reserved.

  
(Khushiram)  
Member(A)

  
(Manoranjan Mohanty)  
Vice-Chairman

pg

Received copy  
of judgment  
Ours  
22.10.07  
M.R.Mohanty

13

Notes of the Registry	Date	Order of the Tribunal
<u>29.8.07</u> Rejoinder not filed so far. 6	31.7.2007	Reply statement is filed by the Respondents. Four weeks time is granted to the Applicant to file reply statement, as requested. Post the matter on 30.08.2007.
	/bb/	Vice-Chairman
<u>Rejoinder not filed</u>	30.8.2007	Mrs.U.Dutta, learned counsel for the Applicant submitted that rejoinder is almost ready and same will be filed within a week. Let it be done. Post on 10.9.2007.
<u>29.8.07</u>	10.9.2007	Post the M.P. along with the O.A. before the Division Bench
<u>11.9.07</u> Rejoinder Submitted by Applicant, Copy served. page - 1 to 6.	/bb/	Vice-Chairman
<u>11.9.07</u>	/bb/	Vice-Chairman
<u>W/S and rejoinder filed by the parties.</u>	10.9.2007	Dr.J.L.Sarkar, learned Railway Standing counsel submitted that though the matter is connected with O.A. No.321/2006, he would like to file reply statement. Let it be done within two weeks. Post on 26.9.2007.
<u>25.9.07</u>	/bb/	Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.321 of 2006 & 92/2007.

Date of Order : This the 12th Day of October, 2007.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Sri Arun Krishna Goswami
2. Sri Jyoti Prasad Deori
3. Shri Jiten Saikia
4. Sri Abdur Rashid
5. Sri Ranjit Kumar Brahma
6. Sri Surya Bhan Pal
7. Sri Ranjan Kr. Bayan
8. Sri Ramendra Pal Singh
9. Sri a. Hakim
10. Sri Ikrami Hoque Mollick
11. Sri Subhamoy Das
12. Sri S. Purkayastha
13. Sri Sanjoy Das
14. Sri Akhil Ch. Paul
15. Sri pradip Kumar Choudhury
16. Sri Anirban Ganguly
17. Sri Samir Kumar Sarma

.....Applicants

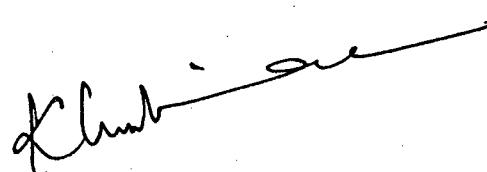
All the applicants are working as Junior Engineer, Grade-I in the office of the Chief Workshop Manager, Carriage and Wagon workshop, New Bongaigaon, N.F.Railway, Assam.

By Advocate Shri M. Chanda

-Versus-

1. The Union of India,  
represented by the General Manager,  
N.F.Railway,  
Maligaon, Guwahati-781011.
2. General Manager (P)  
N.F.Railway,  
Maligaon, Guwahati-781011.
3. Chief Workshop Engineer,  
N.F.Railway,  
Maligaon, Guwahati-781011.

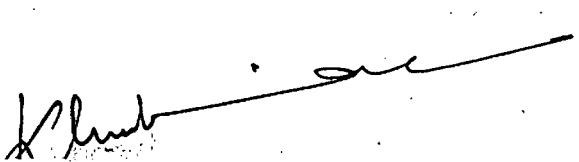
By Dr J.L.Sarkar, Standing Counsel for Railways.



ORDERKHUSHIRAM, (MEMBER-A)

Since the issue involved and reliefs sought for in these two Original Application Nos.321/2006 & 92/2007 are of similar nature, these two cases are taken up for disposal by this common order.

2. The Applicants are Junior Engineers in the Scale of pay of Rs. 5500-9000/-under the Chief of Workshop Manager, Carriage and Wagon Workshop of N.F.Railway/New Bongaigaon; whose next promotional avenue is Section Engineer in the scale of Rs. 6500-10500/-. In order to fill up the 36 nos. of vacancies of Section Engineers a notification was issued on 13.01.2006 calling upon 24 Junior Engineers to face a written test, which was to be held on 11.2.2006 and 18.2.2006. The said test was postponed/cancelled on 8.2.2006. The test was rescheduled to be held on 19.8.2006 and 26.8.2006. The Applicants, being called upon, appeared in the said test. As a result of restructuring (for efficient functioning of the Workshop) it was decided to merge various trades and as a result only two cadres (known as Workshop cadre and M&P cadre) remained in the field. The process for selection against those vacancies started with the issuance of notification dated 13.01.2006 and some discrepancies were detected in the calculation of the total number of vacancies available as on 01.11.2003. In view of this discrepancies the selection test (that was held had on 19.08.2006 and 26.08.2006) were cancelled on 20.11.2006. The cancellation was however, not intimated to the Applicants. As a result of restructuring, the vacancies available for modified selection were held on 30.11.2006 and 12 persons/Junior Engineers were selected. In the said premises, the Applicants filed the present O.A. No.321/2006 under Section 19 of the Administrative Tribunals Act 1985 and obtained an ad-interim order on 22.12.2006. It was noted that after selection of 12 persons there are still 24 vacancies available and therefore, Respondents were



directed not to take any action prejudicial to the Applicants. It is admitted that the 12 vacancies were filled up by a modified selection under restructuring scheme by departmental candidates as well as candidates from the open market. C.A. No.92/2007 was filed challenging the cancellation order dated 20.11.2006. The Applicants have sought a direction to the Respondents to declare the results of the selection test cancelled vide order dated 20.11.2006 and, therefore, consider promotion of the Applicants to the post of Section Engineer on the basis of performance in the selection test and to quash the impugned order dated 04.01.2007 notifying 31 fresh vacancies and also to set aside and quash the impugned order dated 04.12.2006 as well as order dated 27.12.2006 so far the promotion of G.C.Nath & Sri K. Mallick are concerned (this point, however, was not pressed by the learned counsel for Applicants during arguments).

2. The Respondents have filed detailed written statement admitting the facts on record regarding holding of selection process and its cancellation and justifying the selection for 12 vacancies against the cadre restructuring to avoid future complication. The allegation regarding unfair method, arbitrariness and mala fide were denied. It has been submitted that out of the total number of vacancies, 80% vacancies of the Section Engineer have to be filled up by departmental eligible staff from immediate lower grade i.e. Junior Engineer Gr.I and remaining 20% vacancies are recruited from the open market by Railway Recruitment Board. It was also been stated that the selected candidates have completed training and they could not have been kept waiting and, accordingly, have been posted. It has been clarified that the modified selection for the 12 vacancies have been made against the restructuring vacancies which were left out inadvertently earlier while notifying the vacancies for selection for departmental staff as some of the departmental staff have also appeared in the normal selection process which had created a peculiar situation resulting in

12.1.2007

anomaly. The Respondents had given the tabulation showing the assessment of 36 vacancies and the modified new assessment for 24 vacancies after taking into consideration the reservation for SC and ST etc. as under :-

	Existing vacancy	Anticipated vacancy	Total	Community wise break-up
WS cadre	8	19	27	SC- 04 ST- 03 UR- 20 Total-27
M&P Cadre	6	3	9	SC- 02 ST- Nil UR- 07 Total-09

	Existing vacancy	Anticipated vacancy	Total	Community wise break-up
WS cadre	Nil	19	19	SC- 02 ST- 01 UR- 16 Total-19
M&P Cadre	2	3	5	SC- 02 ST- Nil UR- 03 Total-05

They have also tried to explain the difficulties for cancellation of the selection process. It has also been stated that 12 candidates selected under modified selection would have failed in normal selection and this would have created complication. The selection for 12 vacancies has not affected the rights of the Applicants. (This fact also stands proved as the learned counsel for the Applicants, while arguing the case, did not challenge the selection and nor were they impleaded as Respondents in these O.As).

3. Heard Mr M.Chanda, learned counsel appearing for the Applicants and Dr J.L.Sarkar, learned Standing counsel for Railways at length and perused the materials placed on record.

4. Learned counsel for the Applicants has also cited the decision of Munna Roy vs. Union of India & Ors., reported in (2000) 9 SCC 283; wherein the

*Khurana* *su*

Hon'ble Supreme Court had held that selection process does not get vitiated just because that select list contained the name of a candidate who was over qualified (she was a graduate, as against required minimum qualification of Matriculation).

Similarly, in the case of Vinod Kumar Sangal vs. Union of India & Ors., reported in (1995) 4 SCC 246, it was held that separate selection for vacancies for each year ought to have been made as per the instructions directing the Department to convene a DPC to consider the Appellant for selection against the vacancies occurring in the years preceding the last of such years. Principles for promotion to Selection Posts is that 'in a number of cases the meetings of the DPC are not held annually as required even though there were vacancies resulting in the bunching of vacancies which in turn enlarged the field of choice and upset the relative seniority.' However, this decision is not directly applicable in the instant case.

He also cited the decision rendered in Union of India & Ors. Vs. Rajesh P.U. Puthuvalnikathu and another, reported in (2003) 7 SCC 285; wherein it was held that "recruitment process - selection - cancellation of, en bloc, wherefrom out of the selectees it was possible to weed out the beneficiaries of irregularities or illegalities, there was no justification to deny appointment to those selected candidates whose selection was not vitiated in any manner unless some infirmity could be found with reference to others.

In another decision rendered in A.P. Public Service Commission vs. P. Chandra Mouleesware Reddy and others, reported in (2006) 8 SCC 330; wherein "State Govt., by mistake, directed PSC to send recommendations for reduced number of vacancies, it was held that "candidates who had applied in response to such advertisement and appeared in written test and interview cannot be made to suffer for the mistake of the Govt."



4. The learned counsel for the Applicants tried to prove the arbitrariness on the part of the Chief Workshop Manager and other authorities. However, learned counsel for the Respondents vehemently denied these allegations and attracted the attention of this Tribunal to the fact the Applicants have not impleaded the 12 persons selected under the restructuring scheme of vacancies as Respondents. He also cited Rule 219(g) of IREM, which is reproduced as under :-

"Selection should be made primarily on the basis of overall merit, but for the guidance of Selection Board the factors to be taken into account and their relative weight are laid down below :-

E(NG) I-69/PM 1-126 dt. 18-9-69

	Maximum marks	Qualifying marks
(i) Professional ability	50	30
(ii) Personality, address, Leadership and academic Qualification	20	—
(iii) A record of service	15	—
(iv) Seniority	15	—

Note (i) The item 'record of service should also take into consideration the performance of the employee in essential Training Schools/Institutes apart from the examining CRs and other relevant records.

E(NG) 1.72/PM 1/192 dt. 27.6.73

(ii) Candidates must obtain a minimum of 30 marks in professional ability and 60% marks of the aggregate for being placed on the panel. Where both written and oral tests are held for adjudging the professional ability, the written test should not be of less than 35 marks and the candidates must secure 60% marks in written test for the purpose of being called in viva voce test. This procedure is also applicable for filling up of general posts. Provided that 60% of the total of the marks prescribed for written examination and for seniority will also be the basis for calling candidates for viva voce test instead of 60% of the marks for the written examination."

*Khurana*

On the basis of this selection process the case of the Applicants could be looked into and in case the Tribunal allows the Application, the process of selection will be started from the point where it has been cancelled. On the basis of the selection records he submitted that out of the Applicants, who appeared for written test, 9 have passed and remaining 8 have failed. He apprehended further litigation from those Applicants who have failed if the selection process is taken further.

5. The Respondents also produced the file containing the note sheet which resulted in cancellation of the tests held. The relevant portion of the note sheet dated 17.11.06 as appeared in PP-7 of File No./E/254/51(M)W.S Pt.I is as under :

1. A selection for the posts of SE/WS, both WS cadre and M&P cadre has been conducted and written test held.
2. In the meantime it has been detected that at the time of upgradation, some posts i.e. 15 in number have been left out and not taken into consideration.
3. Accordingly, a review has been made and case file processed for giving effect of restructuring effect against the left out vacancies.
4. Thus, in view of this the assessment of vacancies for the normal selection has been changed.
5. Hence, it is proposed that the above selection may be cancelled assessing the vacancies a new, after giving effect to the left out restructuring vacancies.
6. May kindly approve.

CPO	313 संमिति (Approved)	Sd/-
CWE.	Sd/-	17.11.06
	17.11.06	SPO/M"

6. As is apparent from the noting from the concerned file that the CWE did not apply his mind to the full implication of the proposal presented to him for approval. The situation noted above, does not make out a case where infirmity is pervasive and widespread enough to render entire selection process illegal and unworkable. Rather, the selection process should be taken to its finality and those who stand in merit, after following the proper procedure, must

*Kiran*

get their due. Obviously the process of selection has to begin from the point where it has been stopped.

7. Considering the submissions of the learned counsel of both the parties, the views of the Apex Court of the country in different cases and after going through the records produced by the Respondents, we are led to conclude that these Original Applications should be allowed and accordingly we direct the Respondents to complete the process of selection that was started by them (for selection as against 24 vacancies) after following the procedure prescribed.

8. The O.A. No. 321/2006 and O.A. No. 92/2007 are allowed to the extent indicated.

There will, however, be no order as to costs.

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

- 5 APR 2007

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 92/2007

Sri Arun Krishna Goswami & Ors.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

All the applicants are working as Junior Engineer, Grade-I, in the office of the Chief Workshop Manager, Carriage and Wagon Workshop, New Bongaigaon, N.F. Railway, Assam. Next avenue of promotion of the applicants are to the cadre of Section Engineer (Workshop).

17.01.2006- Respondent No. 3, pursuant to letter dated 13.01.06 issued by Respondent No. 2, issued a notice for holding selection for 36 Nos. of post of Section Engineer on 11.02.06 as well as on 18.02.06. The name of all the applicants figured in the notice dated 17.01.2006. (Annexure- 1)

08.02.2006- Respondent No. 2 informed that the date of selection for preparing panels for SF/WS in workshop and M & P, which was fixed on 11.02.2006 and on 18.02.2006 has been postponed due to unavoidable circumstances and the next date of written examination would be intimated soon. (Annexure- 2)

03.08.2006- Respondent No. 3 again informed all concerned that the selection for the post of Section Engineer (WS) has been fixed on 19.08.06 and on 26.08.06. Applicants appeared in the selection test held on 19.08.06 and on 26.08.06. (Annexure- 3)

04.12.2006- Respondent No. 1 promoted 12 persons all of a sudden to the cadre of Section Engineer, 5 persons of the memo dated 04.12.06 in fact appeared along with the applicants in the written examination held on 19.08.2006/26.08.2006. (Annexure- 4)

20.11.2006- N.F.R.E.U. New Bongaigaon Workshop requested Respondent No. 3 to expedite publication of result of selection of Section Engineer from Junior Engineer, Grade-I in order to avoid dispute in the matter of seniority between the direct recruits, Section Engineer and promotee Section Engineer. (Annexure- 5)

20.11.2006- Respondents, vide impugned letter dated 20.11.06, arbitrarily cancelled the selection held on 19.08.06 and 26.08.06 without informing the applicants or to the CWM/AFO, New Bongaigaon. Applicants have come to learn of the said impugned order from the M.P. No. 26/07 in OA No. 321/06 which is pending before this Hon'ble Tribunal. (Annexure- 6)

22.12.2006- Hon'ble Tribunal has passed interim order in OA No. 321/2006, directing the respondents not to take any action prejudicial to the interest of the applicants till the next date of hearing i.e. till 09.02.07. (Annexure- 7)

23.12.2006- Lawyer of the applicants communicated the interim order to the respondent No. 2. (Annexure- 8)

27/31.12.06- Applicants submitted representations communicating interim order passed by the Hon'ble Tribunal. (Annexure- 9)

22.12.2006- Respondent No. 2 in total violation of the interim order dated 22.12.06 issued impugned notification dated 04.01.07, deciding to hold another selection forming panel for consideration of promotion from the cadre of J.E.-I to the cadre of SE/workshop and M&P cadre of Mechanical department, which has caused serious prejudice to the applicants. (Annexure- 10)

27.12.2006- Sri Koushik Mallik arbitrarily shown to have been promoted w.e.f 05.06.04, he was not entitled to have been promoted to the cadre of SE on 01.11.03. (Annexure- 11)

29/3/7.06.05- GM (P) vide his memo dated 29/3/7.06.05 have merged the different trades into 2 distinct trade namely (A) workshop cadre and (B) workshop/M&P cadre. Thereafter, the Chief Workshop Manager, New Bongaigaon is not entitled to promote the aforesaid 5 persons against the individual trade to give undue benefit of promotion. (Annexure- 12)

22.01.2007- The Hon'ble Tribunal passed interim order in M.P. No. 8/07 in OA No. 321/06 staying operation of impugned order dated 04.01.07 (Annexure- 14)

28.03.2007- CWM/APO, New Bongaigaon office very specifically stated that no communication of impugned order dated 20.11.06 is received by the office of CWM/APO, Bongaigaon. (Annexure- 15)

PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No. E/254/51 (M)/WS Pt-I dated 20.11.2006 (Annexure-6).
2. Costs of the application.
3. Any other relief (s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

During pendency of the application, the applicants pray for the following interim relief:-

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned order bearing letter No. E/254/51 (M)/WS Pt-I dated 20.11.2006 (Annexure-6) till disposal of this Original Application.
2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents to provide the relief as prayed for.

29

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

*92*  
Title of the case

O.A. No. \_\_\_\_\_/2007

Sri Arun Krishna Goswami and others. : Applicants.

-Versus-

Union of India & Ors. : Respondents.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Application	1-27
2.	---	Verification	-28-
3.	1	Copy of letter dated 17.01.2006	29 - 30
4.	2	Copy of letter dated 08.02.2006	-31-
5.	3	Copy of notice dated 03.08.2006.	32 - 33
6.	4	Copy of memorandum dated 04.12.2006	- 34 -
7.	5	Copy of letter dated 20.11.2006.	- 35 -
8.	6	Copy of the impugned letter dated 20.11.06.	- 36 -
9.	7	Copy of the interim order dated 22.12.2006.	37 - 38
10.	8	Lawyer notice dated 23.12.2006.	39 - 40
11.	9	Representation dated 29.12.2006	- 41 -
12.	10	Copy of the impugned notification dated 04.01.2007	42 - 49
13.	11	Copy of the office order dated 27.12.2006	50 - 51
14.	12	Copy of the memorandum dated 29.06/8.7.2005	- 52 -
15.	13	Provisional seniority list of JE-1.	53 - 56
16.	14	Copy of order dated 22.01.07	57 - 58
17.	15	Copy of letter dated 28.03.07	- 59 -

Filed By:

*M. Dutta*  
Advocate

Date: 04.07

*Jyoti prasad Debnath*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 92 /2007

BETWEEN:

1. Sri Arun Krishna Goswami.
2. Sri Jyoti Prasad Deori.
3. Shri Jiten Saikia.
4. Sri Abdur Rashid.
5. Sri Ranjit Kr. Baruah. <sup>Brahmane S.</sup>
6. Sri Surya Bhan Pal.
7. Sri Ranjan Kr. Bayan.
8. Sri Ramendra Pal Singh.
9. Sri A. Hakim.
10. Sri Ikraml Hoque Mollick.
11. Sri Subhamoy Das.
12. Sri S. Purkayastha.
13. Sri Sanjoy Das.
14. Sri Akhil Ch. Paul.
15. Sri <sup>Pradip Kumar Choudhury</sup> Arun Krishna Paul.
16. Sri Anirban Ganguly.
17. Sri Samir Kumar Sarma.

...Applicants.

All the applicants are working as Junior Engineer, Grade-I, in the office of the Chief Workshop Manager, Carriage and Wagon Workshop, New Bongaigaon, N.F. Railway, Assam.

-AND-

1. The Union of India,  
Represented by the General Manager,  
N. F. Railway,  
Mafigaon, Guwahati-781011.

*Jyoti prasad Deori*

2. General Manager (P)  
N.F. Railway, Maligaon,  
Guwahati- 781011.

3. Chief Workshop Engineer,  
N.F. Railway,  
Maligaon, Guwahati-781011.

..... Respondents.

#### DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made against the impugned order bearing letter No. E/254/51 (M)/W.S Pt-I dated 20.11.2006 (Annexure-6) issued by the Respondent No. 1 arbitrarily cancelling selection for filling up the vacancies in the category of SE/Workshop both for Workshop cadre and M&P cadre, which has been initiated vide notification No. E/254/51 (M)/WS Pt. I dated 13.01.2006 and further be pleased to direct the respondents to follow the consequent.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

The applicants further declare that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case:

4.1 That all the applicants are presently working in the cadre of Junior Engineer, Grade-I, in the office of the Chief Workshop Manager, Carriage and Wagon Workshop, New Bongaigaon, N.F. Railway, Assam. The next promotional avenue of the applicants are available in the cadre of Section

*Joti prasad akar*

Engineer in the scale of Rs. 6500-10,500/-, promotion is made on the basis of selection from the feeder cadre of Junior Engineer, Grade-I provided 2 years regular service have been rendered in the feeder cadre of Junior Engineer, Grade-I. Be it stated that all the applicants have rendered 2 years regular service in the cadre of Junior Engineer Grade-I and well within the zone of consideration. Since the post of Section Engineers are selection post, therefore selection posts should be filled up by a positive act of selection, made with the help of selection boards from amongst the staff eligible for selection. The positive act of selection may consist of written test and/or viva voce test.

- 4.2 That the applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the relief's sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.3 That it is stated that the Chief Workshop Manager, N.F. Railway New Bongaigaon, pursuant to General Manager (P), Maligaon letter No. E/254/51(W)/W.S. Pt. I dated 13.01.2006 issued a notice for holding selection for 36 Nos. of post of Section Engineer on 11.02.2006 as well as on 18.02.2006 and it has been advised to the applicants to keep themselves in readiness to appear in the written test and also directed the concerned authorities to spare the applicants to appear in the said written test. The name of all the applicants figured in the notice bearing letter No. E/M/254/JE-II/Selection/Pt. II dated 17.01.2006.

Immediately after receipt of the letter dated 17.01.2006, many of the applicants taken leave for preparation for the written test, scheduled to be held on 11.02.2006 and undertaken hard labour to get themselves prepared for the written test.

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24

A Copy of the letter dated 17.01.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-1.

4.4 That your applicantis further beg to say that General Manager (P) vide letter No. E/254/51/(M) W.S. Pt. I dated 08.02.2006 informed that the date of selection for preparing panels for SE/WS in workshop and M & P cadre in the scale of Rs. 6500-10,500/-, which was fixed on 11.02.2006 and on 13.02.2006 has been postponed due to unavoidable circumstances and the next date of written examination would be intimated soon. Due to sudden cancellation of the written examination without disclosing any reason whatsoever, the applicants have been put to a great distress as because they have taken tremendous labour to get themselves prepared for the written examination scheduled to be held on 11.02.2006 and some of the applicants have in fact taken leave to prepare for the examination.

A Copy of the letter dated 08.02.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2.

4.5 That it is stated that the Chief workshop Manager, New Bongaigaon again vide letter bearing No. E/M/254/JE-II/Pt.II dated 03.08.2006 informed all concerned that the selection for the post of Section Engineer (WS) in the scale of Rs. 6500-10,500/- both for workshop cadre and also M & P cadre of Mechanical workshop has been fixed on 19.08.2006 and on 26.08.2006 pursuant to the direction of the General Manager (P)' s letter bearing No. E/254/51 M) WS. Pt. I dated 26.07.2006. It is to be noted here at this stage that the written examination now proposed to be held on 19.08.2006 after a lapse of more than 6 months from the date of initial notification dated 13.01.2006. However the present applicants who were very much interested for their career building accordingly appeared in the written examination held on 19.08.2006 and on 26.08.2006, many of the applicants again taken leave to get themselves prepared for the written test and taken tremendous labour to appear in the written examination. It is ought to be mention here

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that there is no viva voce and the selection is made only on the basis of written examination.

A Copy of the notice dated 03.08.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 3.

4.6 That your applicants when legitimately waiting for declaration of the select list, pursuant to the written examination held on 19.08.2006 and on 26.08.2006, but the Sr. Personnel Officer (Mech.) for and on behalf of the respondent No. 1 have issued a memorandum, promoting 12 persons to the cadre of Section Engineer, workshop in the scale of 6500-10,500/- w.e.f 01.11.2003, in addition to the staff already promoted earlier against restructuring. It is pertinent to mention here that out of the 12 persons who are now promoted, all of a sudden through memorandum bearing letter No. E/254/51 (M) W.S. Pt. I dated 04.12.2006, 5 persons namely Sri S.L. Prasad, K.Mallick, Kumud Das, G.C. Nath and Sri K.N.Pathak i.e. Sl. No. 3, 6, 8, 10 and 11 of the memo dated 04.12.2006 in fact they appeared alongwith the applicants in the written examination held on 19.08.2006/26.08.2006 and names of these 5 persons also would be evident from the notice dated 17.01.2006/03.08.2006. In the memo dated 04.12.2006 it is stated by the General Manager (P) that all these 12 persons have been left earlier are now found suitable in the modified selection held on 30.11.2006 for promotion to the post of Section Engineer workshop in the scale of Rs. 6500-10,500/- against restructuring w.e.f 01.11.2003 in addition to the staff already promoted earlier.

Therefore it appears that these 12 persons have been left out and therefore a modified selection held on 30.11.2006 and accordingly these 12 persons have been promoted following the modified selection held on 30.11.2006. It is pertinent to mention here that the applicants came to learn from a reliable source that one Sri Kumud Das have preferred an appeal long back during the year 2003 for consideration of his promotion under

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cadre restructuring and after consideration of his appeal, the respondent railway authority had held the modified selection and promoted the left out 12 persons to the cadre of Section Engineer, workshop. Be it stated that Sri Kumud Das also appeared in the written examination along with the applicants pursuant to the notice dated 03.08.2006, but he was promoted along with 11 others vide memo dated 04.12.2006.

A copy of the memo-dated 04.12.2006 is enclosed as Annexure-4.

4.7 That it is stated that when the present applicants are eagerly waiting for declaration of result of the selection test, at that moment the respondent railway authority issued the memorandum dated 04.12.2006 promoting 12 persons to the cadre of Section Engineer without publishing any notice/corrigendum to the effect that the vacancies which were notified for selection test vide General Manager's letter dated 13.01.2006 and 26.07.2006, where altogether 36 vacancies position has been shown for filling up by way of selection in the cadre of Section Engineer (workshop), but by promoting 12 persons through memo dated 04.12.2006, 12 vacancies have been filled up by the General Manager (P) out of the 36 vacancies, notified by the General manager (P) for written test and against those 36 vacancies, although written test has been conducted way back in the month of August, 2006, but thereafter promotion of the 12 persons have been made by holding a modified selection on 30.11.2006, without issuing any notice/corrigendum as such action of the respondents authority is highly arbitrary, illegal, unfair and such action of the railway authorities smacks malafide and it appears that the respondents authority is not transparent at all and deliberately made a departure from the rule of fairness while exercising administrative discretion.

It is well known to the General Manager (P) that he has issued a notification on 13.01.2006 and thereafter on 26.07.2006 proposing to hold selection test for consideration of promotion of the eligible employees

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including the applicants in the cadre of Section Engineer and more so when the said written test has been conducted by the Railway authority for filling up 36 vacancies in the cadre of Section Engineer and the employees who appeared in the selection are eagerly waiting for declaration of result of the selection test held on 19.08.2006 and on 26.08.2006, a duty cast upon the General manager (P) at least to issue a corrigendum/notice before holding the modified selection test on 30.11.2006 for consideration of promotion of the left out candidates if any against restructuring but in the instant case General Manager (P) even did not feel like to issue a corrigendum/notice before taking the decision of filling up 12 posts of Section Engineer (Workshop) by holding modified selection on 30.11.2006. As such decision of holding notified selection test is also arbitrary and the same is in violation of principle of natural justice and fair play.

4.8 That it is stated that the General Secretary of the N. E. Railway, Mazdoor Union, New Bongaigaon Workshop vide letter No. MU/NBQ/3/06 dated 20.11.06 requested Chief Workshop Engineer to expedite publication of result of selection of Section Engineer from Junior Engineer, Grade-I in order to avoid dispute in the matter of seniority between the direct recruits, Section Engineer and promotee Section Engineer as because some of the direct recruits section engineer are undergoing necessary training and awaiting for final posting in workshop. It is pertinent to mention here that these 36 vacancies for which written test was held in fact occurred during the year 2003, 2004 and 2005 and as such the applicants who are within the zone of consideration are entitled to be considered for promotion on priority basis at least from the date of occurrence of vacancies.

A copy of the letter-dated 20.11.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5.

4.9 That it is stated that even assuming if some candidates are left out genuinely left out for consideration for promotion under cadre

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restructuring due to administrative error in that event the railway administration definitely can review those cases of the left out candidates for promotion to the cadre of Section Engineer even after issuance of notification for holding written examination/selection test for filling up the vacancies in the cadre of Section Engineer (Workshop). But the Railway authorities could have conducted the modified selection test by issuing a notice/corrigendum to that effect by reducing 12 vacancies by modifying the General Manager (P)'s letter dated 13.01.2006 and 26.07.2006. But in the instant case the General Manager (P) did not take any corrective steps to that extent.

Even after promotion of the 12 persons through memorandum dated 04.12.2006 the applicants were eagerly waiting for declaration of their results of the selection test held on 19.08.2006 and on 26.08.2006 and also legitimately expecting their promotion to the cadre of section Engineer in the remaining 24 vacancies on the basis of the select list/merit list in terms of the selection conducted by the railway authorities. But to their utter surprise the railway administration without declaring the results of the selection test held on 19.08.2006 and 26.08.2006, has now cancelled the aforesaid selection test in a most arbitrary and unfair manner vide impugned letter bearing No. E/254/51 (M)/WS Pt-I dated 20.11.2006.

It is pertinent to mention here that, although 12 persons have been promoted as against the 36 vacancies of Section Engineer (workshop), but there was no bar or legal restriction for filling up the remaining 24 vacancies on the basis of the selection test held on 19.08.2006 and 26.08.2006 strictly on the basis of performance of the remaining candidates who appeared in the written examination conducted by the railway administration, therefore decision of the railway administration cancelling the said selection test held on 19.08.2006 and 26.08.2006 is highly arbitrary, unfair and illegal and opposed to public policy and on that score alone the impugned letter dated 20.11.2006 is liable to be set aside and quashed.

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Copy of the impugned letter dated 20.11.2006 is enclosed herewith  
for perusal of Hon'ble Tribunal as Annexure- 6.

4.10 That your applicants have approached this Hon'ble Tribunal by filing an O.A which was registered as O.A. No. 321/2006, due to non declaration of results of the selection test held on 19.08.2006 and on 26.08.2006 for consideration of promotion of the applicants from the cadre of J.E.-I to the cadre of SE/workshop and M & P cadre, apprehending, cancellation of the selection test held on 19.08.2006 and on 26.08.2006. The said O.A came up for consideration before the learned Tribunal on 22.12.2006. The Hon'ble Tribunal on perusal of the materials on record and also after hearing the arguments of the parties was pleased to pass an interim order upon the respondents, directing them not to take any action prejudicial to the interest of the applicants till the next date of hearing i.e. till 09.02.2007. The said interim order was duly communicated through lawyer's notice dated 23.12.2006 and also through representation dated 27/31.12.2006 by the applicants individually to the respondent No. 2.

Copy of the interim order dated 22.12.2006, the lawyer notice dated 23.12.2006 and representation dated 29.12.2006 are enclosed as Annexure- 7, 8 and 9 respectively.

4.11 That your applicants further beg to say that the respondent No. 2 in total violation of the interim order dated 22.12.2006 issued impugned notification bearing letter No. E/254/52(M)/W.S Pt.I dated 04.01.2007, whereby it has been decided to hold another selection forming panel for consideration of promotion from the cadre of J.E.-I to the cadre of SE/workshop and M&P cadre of Mechanical department in the scale of Rs. 6500-10,025/- which has caused serious prejudice to the applicants as because it would be implied that the earlier selection which was held on 19.08.2006 as well as on 26.08.2006 appears to have been cancelled; without any formal communication to the applicants regarding

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cancellation of the earlier selection test at that relevant point of time. Moreover, when the learned Tribunal is seized with the matter then the respondent No. 2 ought to have taken leave before issuance of the impugned notification dated 04.01.2007 proposing to hold another selection test on 03.02.2007 as well as on 10.02.2007. Therefore the Hon'ble Court be pleased to declare that the impugned notification dated 04.01.2007 is void-ab-initio.

A copy of the impugned notification dated 04.01.2007 is enclosed as  
Annexure- 10.

4.12 That it is stated that in the impugned notification dated 04.01.2007 the total vacancy shown against workshop cadre is 25 and 6 vacancies has been shown against M & P cadre, whereas in terms of earlier notification dated 13.01.2006 communicated through N.F. Railway dated 17.01.2006 the total vacancy under workshop cadre has been shown 27 and 9 vacancies are shown against M & P cadre. It is pertinent to mention here at this stage that out of total 36 promotional post of Section Engineer, 12 posts were filled up by the GM (P) by holding a modified selection on 30.11.2006, whereby 12 employees working in the cadre of J.E-I were promoted to the cadre of Section Engineer, workshop. Even after holding the selection test on 19.08.2006 and on 26.08.2006, without issuing any notification, communication, notice prior to holding of modified selection on 30.11.2006 and it is also interesting to note here at this stage that all the 12 employees who were promoted vide impugned memorandum dated 04.12.2006 in fact appeared in the selection test along with the applicants on 19.08.2006 and 26.08.2006. But they have been promoted against restructuring vacancies w.e.f. 01.11.2003 in addition to the staff already promoted earlier against re-structuring. In the memo dated 04.12.2006, it has been ordered that all the 12 persons have been promoted w.e.f. 01.11.2003 in terms of the scheme of re-structuring but surprisingly it

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would be evident from a subsequent office order No. 111/2006 dated 27.12.2006, wherein it has been stated that Sri S.L. Prasad (SC) and Sri G.C. Nath have been promoted w.e.f. 26.12.2006 instead of 01.11.2003 but no reason has been assigned by the railway authorities for such discrepancies with regard to date of promotion, how Sri S.L. Prasad and Sri G.C. Nath could be promoted w.e.f 26.12.2006 under the re-structuring vacancies. It is categorically submitted that Sri Kaushik Mallik and Sri C.C. Nath were not eligible for promotion to the cadre of SE w.e.f 01.11.2003. Therefore it appears that the competent authority deliberately made some manipulation in the modified selection test held on 30.11.2006 as because neither Sri Kaushik Mallick nor Sri G.C. Nath have completed 2 years service in the cadre of JE-I as on 01.11.2003. Therefore in order to give them undue advantage of promotion to the cadre of SE (Workshop) against re-structuring vacancies, they have been subsequently promoted w.e.f 26.12.2006 in order to rectify the irregularities and illegalities. It is also stated that Sri Koushik Mallik also shown to have been promoted w.e.f 05.06.2004 by the office order No. 111/2006 dated 27.12.2006, therefore he was also not entitled to have been promoted to the cadre of SE on 01.11.2003, but the same has been done by the administration with a malafide intention to give, undue advantage of promotion to certain employees working in the cadre of JE-I on pick and choose basis and surprisingly no corrigendum has been issued for rectification of the memo dated 04.12.2006.

It is pertinent to mention here at this stage that it would be evident from divisional interpolated seniority list of JE-I (Workshop), in Workshop cadre (carriage and others). The date of promotion of Sri S.L. Prasad has been shown on 23.08.1996, Sri G.C. Nath is shown on 01.07.2002 and Sri Kaushik Mallick also appears to have been promoted as JE-I in the year 2002, therefore it appears that Sri G.C. Nath, Sri K. Mallick were not even eligible for promotion on 01.11.2003 since Sri G.C. Nath and Sri K. Mallick did not complete 2 years regular service on 01.11.2003 but a

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vested circle in the Railway office in order to give undue advantage of promotion to Sr. G.C. Nath and Sri K. Mallick, shown to have been promoted w.e.f. 01.11.2003.

It is also may be noted here at this stage that by the order dated 27.12.2006, Sri S.L. Prasad, Sri K. Mallick, K. Das, K.N. Pathak and Sri G.C. Nath shown to have been promoted against different individual trade, whereas the CM (P) vide his memo bearing letter No. E/283/59/(M)/WS dated 29/8/7.06.2005 have merged the different trades into 2 distinct trade namely (A) workshop cadre and (B) workshop/M&P cadre. Thereafter, the Chief Workshop Manager, New Bongaigaon is not entitled to promote the aforesaid 5 persons against the individual trade to give undue benefit of promotion. It is relevant to mention here at this stage that even Sri Kaushik Mallick was promoted to the cadre of JE-I during the year 2002, thereafter Sri Mallick was also not eligible for promotion under restructuring vacancies w.e.f. 01.11.2003 but all this manipulations have been done to defeat the legitimate claim of promotion of the applicants to the cadre of SE (workshop), by way of diversion of vacancies of SE/WS on the pretext of restructuring. But surprisingly now, a damage is sought to be done, to the applicant by canceling the selection already held by the impugned order dated 20.11.2006 without any valid reason and on that score alone the impugned order dated 20.11.2006 is liable to be set aside and quashed.

Copy of the office order dated 27.12.2006, memorandum dated 29.06/6.7.2005 and provisional seniority list of JE-I is enclosed as Annexure- 11, 12 and 13 respectively.

4.13 That it is stated that by the impugned notification dated 04.01.2007 the zone of consideration have been extended/enlarged and there are variations in the vacancy position in the cadre of SE (Workshop). As per earlier notification of GM (P) altogether 36 posis have been shown

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available and 24 persons were declared eligible for appearing in the selection test but by the impugned notification as against 31 posts altogether 47 persons have been declared within zone of consideration. It is a settled position of law that panel for promotion is required to be prepared year wise and as such zone of consideration cannot be extended/or canceling by canceling the earlier notification dated 13.01.2006. The impugned notification dated 04.01.2007 have been issued in total violation of the relevant railway rules which are in force for consideration of promotion to the cadre of SE (Workshop) and on that score alone the impugned notification dated 04.01.2007 is liable to be set aside and quashed.

In such a situation the applicants approached the Hon'ble Tribunal by filing an Misc Petition No. 8/2007 in O.A. No. 321/2006 praying for stay of operation of the impugned notification dated 04.01.2007 whereby a fresh examination is proposed to hold on 03.02.2007 and 10.02.2007 for promotion to the post of Section Engineer (Workshop). However, the Hon'ble Tribunal vide order dated 22.01.2007 was pleased to direct the respondents to publish the result of the examination held earlier well before the examination as per notification dated 04.01.2007. If not, the selection will not be held on the fixed dates as notified by the aforesaid notification, but surprisingly result has not been published of the earlier selection till filing of this O.A. as per direction of this learned Tribunal.

Copy of the order dated 22.01.07 passed in M.P. No. 8/07 is enclosed herewith and marked as Annexure- 14.

4.14 That it is stated that the respondents, Railway Authority has issued the impugned letter No. E/254/51 (M)/W.S Pt-I dated 20.11.2006 canceling the selection for the post of SE/Workshop in the scale of Rs. 6500-10,500/- The impugned order dated 20.11.06 was never communicated to either to the applicants or to the respective Units where the applicants are serving,

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circulating/intimating that the selection test held on 19.08.2006 and on 26.08.2006 have been cancelled. The applicants have come to learn for the first time from the application filed by the Railway authority before this Hon'ble Court in M.P. No. 26/2007 and the said Misc. Petition is now pending before the Hon'ble Court in O.A. No. 321/2006 that the selection held for the post of SE/Workshop has been cancelled. It is further stated that the respective authorities to whom copy endorsed are also unaware to the cancellation of the selection test. It is further submitted that the letter dated 20.11.2006 is an after thought and well planned action of the Railway Authorities just to avoid declaration of result of the applicants as directed by the Hon'ble Tribunal. Therefore, the respondents are liable to strictest proof before this Hon'ble Court how they have circulated/communicated the letter No. E/254/51(M)/WS Pt. I dated 20.11.2006 to proof that the letter dated 20.11.06 has been published/circulated well before the interim order dated 22.12.2006. Moreover, no reason has been assigned by the Railway Authorities for cancellation of the selection test held on 19.08.2006 and on 26.08.2006 and most arbitrarily and unreasonably held that selection for SE/Workshop has been cancelled. It is also stated that the applicants have committed no fraud or manipulation in the selection held on 19.08.2006 and on 26.08.2006, therefore there is no justifiable reason for cancellation of selection for SE/Workshop.

It is further stated that ground assigned by the petitioner/respondents in Original Application, that due to wrong calculation of number of vacancies against restructuring of cadre is not tenable as because one selection test can only be cancelled on the ground of fraud/malpractice committed in the selection process or large scale manipulation in the selection process but no such reason assigned by the Railway Authority for cancellation of selection held on 19.08.2006 and on 26.08.2006 and due to wrong committed by the Authority the applicants cannot be made to suffer by cancelling the selection held on 19.08.06 and

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on 26.08.06. As such the impugned order dated 20.11.06 is arbitrary, unreasonable, malafide and the same is liable to be set aside and quashed.

4.15 That it is stated that in the Misc. Petition No. 26/2007 in O.A. No. 321/06, the petitioner Railway authority very specifically admitted in paragraph 3 of the stay vacation application as follows: -

"It is to be noted here that the previous examination/selection procedure was cancelled due to wrong calculation of number of vacancies against restructuring of cadre in terms of Board's letter No. PC/III/2003/ CRC/6 dated 09-01-2003, 06-01-2003 and 06-01-2004 w.e.f. 01-11-2003 because of clerical error, on 20-11-2006 vide GM (P)/MLG's letter No. E/254/51 (M)/W.S Pt-I dated 20-11-2006, well before the interim order passed on 22-12-2006 (Copy of the letter No. E/254/51 (M)/W.S Pt- I dated 20-11-2006, is enclosed)."

In view of the mistakes being admitted on the part of the Railway Authorities, the applicants are legally entitled to the relief prayed by the applicant in their Original Application. It is further submitted that the candidates/applicants should not suffer owing to the mistakes on the part of Railway authorities. Moreover, as a result of reduction of number of vacancies as already indicated in the Original Application, the Railway authorities, now, in view of the factual position required to fill up less number of vacancies only on the basis of the results of the selection already held on 19.08.2006 and 26.08.2006. Therefore there is no justification even on the part of the Railway administration to carry out a fresh exercise of rigorous selection process when the ultimate and net result will be the same. But in the event of permitting the Railway authorities to conduct a fresh selection will cause unnecessary harassment, mental agony, anxiety, further hard work, a fresh preparation for the examination and also in some cases to avail extra leave to appear in the examination sincerely without any fault on the part of the applicants. In

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the circumstances the Railway authority cannot be permitted to act unfairly. Moreover on a mere reading of the impugned order dated 20.11.2006, it would be evident that no step has been taken or instruction has been issued to the other Railway authorities to communicate the decision of cancellation of earlier selection to the effected parties i.e. to the present applicants who are directly effected due to such arbitrary decision of the Railway authorities. Therefore the action of the Railway authorities smacks malafide, apart from arbitrariness as such the impugned order dated 20.11.2006 is liable to be set aside and quashed.

It is further submitted that the Railway authorities did not disclose the ground for cancellation of the selection in the event of reduction of number of vacancies. More so when it is not the case of the Railway authorities that due to reduction of number of vacancies, the earlier selection is vitiated. The entire selection proceeding is available with the Railway authorities, and as such they are duty bound to publish the result of the earlier selection held on 19.08.2006 and on 26.08.06 on merit basis and thereafter to act upon the said select list to fill up the existing vacancies. There is no convincing reason assigned by the Railway authorities for holding the fresh selection or for modification, cancellation of the interim order passed by the Hon'ble Tribunal on 22.01.07 in O.A. No. 321/2006 rather the order of the Hon'ble Tribunal is in conformity with the law laid down by the Hon'ble Supreme Court in Civil Appeal No. 8307 of 2002 with Nos. 8310, 8308, 8311-12, 8314, 8313 and 8309 of 2002, decided on October 11, 2006 in case of Commissioner, Bangalore Development Authority - Vs- K.S. Narayan.

4.16 That it is relevant to mention here that in the impugned letter bearing No. E/254/51 (M)/WS Pt-I dated 20.11.2006 whereby the selection for filling up the vacancies in the category of SE/Workshop initiated in terms of notification dated 13.01.2006 has been cancelled. The said decision of cancellation appears to have been communicated to the Chief Workshop

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Manager, New Bongaigaon, since the letter have been addressed to CWM as well as APO, New Bongaigaon. Although it appears from the communication bearing letter No. E/M/254/Officer/Pt. III dated 28.03.07 that the decision of the Railway Authority regarding cancellation have been communicated to CWM/APO, New Bongaigaon, but in reality no such communication is made to CWM/APO, New Bongaigaon. In the letter dated 28.03.07, the office of the CWM, New Bongaigaon very specifically stated that no such communication regarding cancellation of selection held on 19.08.06 and 26.08.06 vide letter dated 20.11.2006, is received by the office of the CWM, New Bongaigaon whereas in the letter dated 20.11.06 despatch of the said letter has been indicated on the vary day of 20.11.2006. But when the applicants made an inquiry from their local office at New Bongaigaon after receipt of the letter dated 20.11.06 enclosed with the M.P. No. 26/2007, the local authority rather surprised and informed the applicants that no such communication bearing letter No. E/254/51 (M)/WS Pt-I dated 20.11.2006 has been received from the office of the General Manager (P), N.F. Railway, Maligaon, Guwahati. Therefore it appears that the cancellation of selection is made after passing of the interim order by the learned Tribunal on 22.01.07 in O.A. No. 321/2006. However, in any view of the matter the decision for cancellation of selection is highly arbitrary, unfair and in total violation of principle of natural justice and it is also surprised to note here at this stage that no communication is made to the applicants at any point of time, who are likely to be effected adversely due to such arbitrary cancellation and on that score alone the impugned letter dated 20.11.06 is liable to be dismissed with cost.

It further appears that the respondent Railway Authority, more particularly G.M (P) by issuing the impugned letter dated 20.11.06 on a date subsequent to the interim order passed by the learned Tribunal in order to mislead the Hon'ble Tribunal.

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A copy of the letter dated 28.03.07 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 15.

4.17 That on a careful reading of various orders, letters issued by the Railway authorities from time to time regarding promotion in the cadre of SE (Workshop), it appears that there are large scale irregularities and manipulations in the matter of promotion and the present applicants who have sincerely appeared in the rigorous selection test are now likely to suffer due to irregularities, illegalities committed by the Railway authorities. There was absolutely no justification for cancellation of selection test held on 19.08.2006 as well as on 26.08.2006. In the circumstances stated above, it is a fit case for interference by the learned Tribunal to protect the rights and interests of the present applicants otherwise it will cause irreparable loss and injury to the applicants. Hence the impugned order dated 20.11.2006 is liable to be set aside and quashed and the Hon'ble Tribunal further be pleased to direct the respondents to publish result of the selection test held on 19.08.06 and 26.08.06 and to promote the applicants on the basis of the result of the selection test held earlier.

4.18 That it is stated that apparently there is no justifiable ground to cancel the selection test held on 19.08.2006 and on 26.08.2006, but it appears due to promotion of certain left out persons under restructuring in the cadre of Section Engineer, Workshop, 12 posts have been diverted for promoting those 12 left out persons, even then there are 24 clear vacancies are available in the cadre of Section Engineer and these vacancies are liable to be filled up only on the basis of a positive act of selection, since the eligible employees have been directed by the Railway administration to appear in the written examination pursuant to the decision of the General Manager (P), and the eligible employees including the applicants have prepared themselves for the rigorous examination and also appeared in the said

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examination, therefore there is no valid reason to cancel the selection test held on 19.08.2006 and on 26.08.06, more so in view of the fact that these employees have taken all the troubles and got themselves prepared for the examination even by taking leave, in such circumstances the Railway authorities should declare the result of the selection test and should take necessary steps to fill up the remaining 24 vacancies on the basis of merit list/scicet list. It is pertinent to mention here that when at least 24 posts of Section Engineer are very much available these posts shall have to be filled up only through selection, therefore justice demand that these posts should be filled up by declaring the result of the selection test. It is not the case of the Railway administration that there is any allegation of adoption of unfair means in the written examination by the applicants or it is also not the case of the Railway administration that there are no more vacancies available in the cadre of Section Engineer, as such it is obligatory on the part of the Railway administration to declare the result of the selection test and on the basis of the recommendation of the selection board these posts should be filled up on the basis of the result of the selection tests.

In the facts and circumstances stated above the decision of the competent authority in cancelling the selection test completely misdirected itself in taking such an extreme and unreasonable decision which is wholly unwarranted and unnecessary even on the factual situation and such decision of the Railway administration is irrational, therefore the impugned letter dated 20.11.06 is liable to be set aside and quashed otherwise it will cause irreparable loss and injury to the promotion prospect of the applicants.

4.19 That it is stated that selection was made strictly in accordance with the governing instruction as such decision of the Railway administration for canceling the entire selection is highly arbitrary, unreasonable and against the public interest and the said decision is not judicious, more so when

*Yoti prasad achari*

there is no grievance on the part of the Railway administration in adopting any unfair means by any of the applicants or other in the written examination held on 19.08.06 and on 26.08.06. Therefore decision of the Railway administration proposing to cancel the entire selection likely to cause irreparable loss and injury to the applicants who have appeared in the said examination and fared well in the written examination and legitimately expecting result of the selection test in their favour. The decision of cancellation of the selection taken by the Railway administration will cause harassment to the applicants for no fault on their part. It is well known to the Railway administration that there are 24 vacant posts have to be filled up only by way of selection test and a vacancy is liable to be filled up on the day when it is occurred. Therefore the impugned order dated 20.11.06 cancelling the selection test already held, is highly arbitrary, unfair and opposed to public policy. It should be the duty of the model employer like the Railway authority to cause minimum harassment, least inconvenience to its employees but the arbitrary decision of the Railway administration to cancel the entire selection will lead to maximum anxieties and harassment to the applicants.

In the circumstances this Hon'ble Tribunal be pleased to set aside the impugned order dated 20.11.06 and further be pleased to pass appropriate order directing the Railway administration to declare the result on the basis of performance of the employees and accordingly to fill up all the 24 vacancies of Section Engineer (Workshop) as early as possible.

4.20 That it is stated that the applicants have no alternative remedy but to approach the Hon'ble Tribunal for setting aside impugned order dated 20.11.06 cancelling the selection held on 19.08.06 and 26.08.06 and further praying for a direction upon the respondents for declaration of their results of the selection test for considering promotion from the cadre of Junior Engineer, Grade-I to the cadre of Section Engineer (Workshop) in

*Jyoti prasad Meoni*

the light of the interim order passed on 22.01.2007 in O.A. No. 321/2006 and further be pleased to make the interim order dated 22.01.2007 passed in O.A. No. 321/2006 absolute.

4.21 That the applicants beg to state that they have come to learn of the impugned order bearing letter No. E/254/51 (M)/WS Pt-I dated 20.11.2006 during pendency of the Original Application No. 321/2006 from the M.P. No. 26/2007 in O.A. No. 321/2006. Hence the said impugned order dated 20.11.2006 is challenged in this O.A. Therefore the applicants pray before this Hon'ble Tribunal that the present Original Application may be heard along with the O.A. No. 321/2006 as because some grounds taken in the original application and prayers made in this original application are co-related to the O.A. No. 321/2006.

4.22 That this application is made bona fide and for the cause of justice.

**5. Grounds for relief (a) with legal provisions:**

5.1 For that, the competent authority of the railway administration vide impugned order dated 20.11.06 completely misdirected itself in taking such an extreme and unwarranted decision of canceling the selection, wholly unwarranted and unnecessary even on the factual situation found too therein, and totally in access of the nature and gravity of what was at stake, thereby virtually rendering such decision to be irrational.

5.2 For that there is no allegation of irregularities or illegalities or adoption of unfair means in the process of conducting the selection test i.e. written examination held pursuant to the direction of the GM (P) issued on 26.07.06. As such cancellation of selection test issued vide impugned order dated 20.11.06 without any valid reasons when at least 24 post of Section Engineer (Wksp) are available is arbitrary, illegal and unfair and a deliberate attempt to cause harassment to the applicants who have taken all the troubles to appear in the rigorous process of selection test.

*Jyoti prasad deo*

5.3 For that, respondents railway authorities committed grave error by holding modified selection on 30.11.2006 without issuing any prior notice or corrigendum before diversion and filling up of 12 vacancies out of the 36 vacancies for which selection test held on 19.08.06 and on 26.08.06.

5.4 For that, even after promotion of 12 persons from the cadre of J.E Grade-I to the cadre of Section Engineer (Workshop) in the scale of pay of Rs. 6500-10500/-, at least 24 posts of Section Engineers (Wksp) are still remained vacant, as such those vacancies ought to have been filled up after declaring the results of the selection test conducted by the railway administration on 19.08.06 and on 26.08.06 from amongst the J.E Grade-I who appeared in aforesaid selection test.

5.5 For that when 24 vacancies are still available in the cadre of Section Engineer (Workshop) the same are liable to be filled up only by an act of positive selection, therefore there is no justification for cancellation of the selection test already held on 19.08.06 and on 26.08.06 and all the eligible candidates including the applicants have already appeared in the rigorous selection test, therefore there is no valid ground not to act upon the aforesaid selection proceeding and on that score alone the impugned order bearing letter No. E/254/51 (M)/WS Pt-I dated 20.11.2006 is liable to be set aside and quashed.

5.6 For that applicants cannot be made to suffer at the whims of the Railway administration when there is no fault on the part of the applicants, as such there is no valid ground of cancellation of selection test held on 19.08.06 and on 26.08.06.

5.7 For that non-declaration of result of the selection test held on 19.08.2006 and on 26.08.06 even after lapse of about 6 months will adversely effect the promotion prospect of the applicants who are eligible and within the

*Jyoti prasad deari'*

zone of consideration for promotion to the cadre of Section Engineer (Workshop).

5.8 For that, the result of the modified selection held subsequently on 30.11.06 has been issued within a period of 4 days and selectees have already been promoted to the cadre of Section Engineer (Workshop) within the said period of 4 days as such delay in publishing the result of the selection test held earlier is deliberate on the part of the Railway administration with the view of intention to cause injury to the promotion prospect of the applicants.

5.9 For that, inasmuch as 24 vacancies are still available in the cadre of Section Engineer (Workshop) even after diversion of 12 posts, as such respondents are duty bound to act upon the selection test held on 19.08.06 and on 26.08.06 as per decision of the railway administration, more so when the applicants appeared in the selection test and legitimately expecting their promotion to the cadre of Section Engineer (Workshop).

5.10 For that, cancellation of the selection test vide impugned order dated 20.11.06 will adversely effect the seniority position of the applicants in the cadre of Section Engineer (Workshop) with other direct recruits who are waiting for posting in the Railway Workshop at Bongaigaon shortly on completion of their training.

5.11 For that, cancellation of the selection test vide impugned order dated 20.11.2006 has caused irreparable loss and injury to the promotion prospect of the applicants. As such the Hon'ble Court be pleased to set aside the impugned order dated 20.11.06 and further be pleased to direct the respondents to act upon the aforesaid selection test held on 19.08.06 and 26.08.06 to consider promotion of the applicants to the cadre of Section Engineer (Workshop).

*Jyoti prasad akar*

5.12 For that, in cancellation of the selection test held on 19.08.06 and on 26.08.06 for filling up the vacancies in the cadre of Section Engineer (Workshop) is arbitrary and such cancellation is wholly unwarranted in the fact and situation of the case of the applicants and the said decision of cancellation of selection test of the Railway administration is not in public interest and opposed to public policy, and as such the Hon'ble Tribunal be pleased to set aside and quash the impugned order dated 20.11.2006.

5.13 For that, the impugned notification dated 04.01.2007 has been issued in total violation of the interim order passed by the learned Tribunal in the Original Application and as such the notification proposing holding of further selection test w.e.f. 03.02.07 and on 10.02.07 so far the applicants are concerned is liable to be set aside and quashed.

5.14 For that there is no irregularity or illegality in the earlier selection test which was held on 19.08.06 and on 26.08.06 following the notification of the GM (P) himself as such there is no justifiable reason for holding another selection test regarding the vacancies of SE/WS for which selection test already held.

5.15 For that, no communication or notification is issued informing the applicants who are actual effected parties, regarding cancellation of earlier selection test held on 19.08.06 and on 26.08.06, as such impugned order dated 20.11.06 is issued with a malafide intention and such action of the respondent No. 2 is illegal, arbitrary and opposed to public policy.

5.16 For that no reason has been assigned or communicated to the applicants for holding another selection test by the impugned notification dated 04.01.2007 and even while issuing the impugned notification dated 04.01.07, no leave was taken from this Hon'ble Court.

*Jyoti prasad Deore*

5.17 For that there are lot of discrepancies and irregularities deliberately committed by the Railway administration by holding modified selection test on 30.11.06 where ineligible persons have been considered and promoted to the cadre of SE/WS against restructuring vacancies, namely; Sri G.C. Nath, Kaushik Mallik along with others to give undue advantage of promotion under restructuring vacancies, while legitimate claim of promotion of the present applicants have been denied and delayed without any justifiable reasons, in spite of appearing in rigorous selection test.

5.18 For that, Railway authorities deliberately violating the relevant Railway rules in force in the matter of selection/modified selection by promoting the ineligible persons and also in violation of CM (P)'s own memorandum dated 29/8/7.06.05 as such the impugned memorandum dated 04.12.06 promoted 12 persons to the cadre of SE/WS is liable to be declared void-ab-initio.

5.19 For that, by the impugned notification dated 04.01.07, the Railway authorities have enlarged the zone of consideration in filling up vacancies in the cadre of SE/WS and also without preparing year wise panel as required under the rule and on that score alone, the impugned notification dated 04.01.07 is liable to be set aside and quashed.

5.20 For that the Railway authorities did not disclose the ground for cancellation of the selection, in the event of reduction of number of vacancies. More so, when it is not the case of the Railway authorities that due to reduction of number of vacancies, the earlier selection is vitiated, therefore, cancellation of selection held on 19.08.06 and 26.08.06 issued vide impugned order dated 20.11.06 is liable to be set aside and quashed.

6. Details of remedies exhausted.

*Joti prasad Deori*

That the applicants declare that they have exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicants further declare that save and except filing O.A. No. 321/2006, which is pending before this Hon'ble Tribunal, they had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicants humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No. E/254/51 (M)/WS Pt-1 dated 20.11.2006 (Annexure- 6).

8.2 Costs of the application.

8.3 Any other relief (s) to which the applicants are entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicants pray for the following interim relief: -

*Jpoti prased devar*

9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned order bearing letter No. E/254/51 (M)/WS Pt-I dated 20.11.2006 (Annexure-6) till disposal of this Original Application.

9.2 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents to provide the relief as prayed for.

10. ....

11. Particulars of the I.P.O

i) I.P.O No. : 34 G 652676  
ii) Date of issue : 29.03.07  
iii) Issued from : G.P.O Ghy  
iv) Payable at : G.P.O, Ghy.

12. List of enclosures  
As given in the index.

Yours sincerely  
[Signature]

28  
28

VERIFICATION

I, Sri Jyoti Prasad Deori, S/o- Shri Giyanta Deori, aged about 34 years, working as Junior Engineer-L in the office of Senior Section Engineer, N.F. Railway, Bongaigaon, applicant No. 2 in the instant application, duly authorized by the others to verify statements made in this Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 1st day of April 2007.

*Jyoti Prasad Deori*

~~Total 16 boxes~~

Page 9  
for 1988

N. F. RAILWAY.

No. E/M/25/45E-II/Selection/Pt.II

To

SSEs/WRS, S. CSE/PLG, CDS, PGS,  
CRS/MG, WTS, HS, CSE/CLS, CIS,  
WTS, HS, HS /PLG.Office of the  
Chief Workshop Manager  
N.F.Rly. New Bongaigaon.

Dated: 12/01/2006.

Note:- Selection for the post of SE in scale of 6500-10500/-

Ref:- GM/P/MLG's L/No. E/254/51 (W) /W.S.Pt.I dt. 13-1-06.

Written test in connection with the selection of SE in scale

of 6500-10500/- as per the programme mentioned below:-

1. Written Test - 11-02-2006
2. Absentee written Test - 13-2-2006
3. Venue - GM's Office/MLG

Time - At 09-30 Hrs.

Break of the post :-

Sl.No.	Centre	Panel for	UR	SC	ST
1.	WPSI Centre	27 posts	20	4	3
2.	MLG Centre	09 posts	7	2	III
		36	27	6	3

You are hereby requested to please advise the following staff, working under you to keep themselves in readiness to appear in the above test and also spare and direct them to appear in the said test on the above date.

Name	Designation	Working under
1. <del>Mr. K.C. Das,</del>	JE-I	SSE/WRS
2. " K.N. Pathak,	-do-	SSE/PLG
3. " P.K. Choudhury,	-do-	SSE/CLS/MG
4. " G. Nath,	-do-	SSE/WRS
5. " S. Purkayastha, <del>AO</del>	-do-	SSE/CLS/MG
6. " A.Y. Chakraborty,	-do-	SSE/PLG
7. " A.K. Goswami, <del>AO</del>	-do-	SSE/CDS
8. " I. H. Haque Mollick, <del>AO</del>	-do-	SSE/CDS
9. " Suresh Choudhury, <del>AO</del>	-do-	SSE/PJS
10. " S.K. Bhattacharya,	-do-	SSE/CDS
11. " R. Banerjee, <del>AO</del>	-do-	SSE/CLS/MG
12. " A. Sankim, <del>AO</del>	-do-	SSE/CDS
13. " Akhil Ch. Paul, <del>AO</del>	-do-	SSE/CRS/MG

Contd... 2.

Attested  
Biju  
Advocate

- : ( 2 ) : -

Name	Designation	Working under
✓ 14. Sri A. Ganguly, A-1b	JE/I	SSE/WEED
15. " C. Kar,	-do-	SSE/Insp.
✓ 16. " L. Prasad, A	-do-	SSE/PLG
17. " Ranjay Das, A1B	-do-	-do-
18. " .... Brahmo, A15	-do-	SSE/CPS/UG
19. " K.K. Basumatary,	-do-	SSE/CPS
✓ 20. " A. A. Perri, A-2	-do-	SSE/INSP.
21. " Taikia, A-3	-do-	SSE/WTS
22. " Sulaimy Das,	-do-	-do-
23. " Md. Alvi al Rashid, A4	-do-	SSE/MS
24. " K. Lalick,	-do-	SSE/MWS

If any candidate expresses unwillingness to appear in the selection, written declaration to that respect may kindly be obtained and sent to this office before the date to enable this office to intimate GM/P/MLG. in time.

( R. ROY )  
APO(W)/NBS  
For CWM/NBQS.

Copy ordered to :- GM(P)/MLG- He is informed that Shri H.C. Sarkar, JE/I, Serial No. 1 of M.P. Cadre has retired from service w.e.f. 30-11-05.

( R. ROY )  
APO(W)/NBS  
For CWM/NBQS.

R.P. Singh A-8  
S. Das A-11

## Northeast Frontier Railway

Office of the  
General Manager (P),  
N.F. Railway, Maitigaon,  
Guwahati - 781 011

No.E/254/51(M)W.S Pt.I

Date :- 8.02.2006

To,  
CWM/NBQ & DBWS  
The PSTC/NBQ  
The ADME/TDII

**Sub : Forming the panels of SE/WS in scale Rs.6500-10,500/- in Workshop cadre and M&P cadre of Mechanical department**

The date of selection for forming panels for SE/WS in Workshop and M&P cadre in scale Rs.6500-10,500/- which was fixed on 11.02.2006 (written) and 18.02.2006 (absentee written) vide this office notification of even number dated 13.01.2006 is hereby postponed due to unavoidable circumstances. The next date for the written examination will be intimated soon.

Kindly inform the eligible candidates accordingly.

This is for your information please

(N. Misra)

Sr. Personnel Officer/Mech  
For General Manager (P)

Copy for information to :-

1. CWE/MLG
2. Dy.CME/WS
3. APO/NBQS & DBWS

(N. Misra)

Sr. Personnel Officer/Mech  
For General Manager (P)

No.E/M/254/JE/II/Selection/Pt.II

To,  
All SSEs of Mechanical department/NBQS.

**Sub : Forming the panels of SE/WS in scale Rs.6500-10,500/- in Workshop cadre and M&P cadre of Mechanical department.**  
Ref : GM(P)/MLG L/No. E/254/51(M)W.S Pt.I D.dte 8.02.2006

GM(P)/MLG's above letter is forwarded for information and action. Please refer to this office letter of even No. dated 17.01.2006 for sparing of the staff concerned accordingly.

Attested  
Bhutta  
Advocate

N. E. RAILWAY.

NO. E/M/254/JR-II/Pt. II

Office of the  
CME/NDQS

Dated: 03-08-2006.

To

PSTC/NDQ, SSE/WRS, PLG, CLS/MG, CBS,  
PGS, CRS/MG, WLD, INSP, CRS/DS, CPS,  
WTS, MS, MWS/NDQ. WLD.

Sub:- Selection for the post of SE(WS) in scale Rs. 6500-10500/-,  
both for Workshop cadre and also M&P cadre of Mech.

Ref:- GM(P)/MLG's L/NO. E/254/51(M) WS Pt. I Dated July 26, 2006.

Written test in connection with the selection of SE(WS) in scale  
Rs. 6500-10500/- will be held as per the programme mentioned below:-

1. Written examination - On 19-08-2006
2. Absentee written - On 26-08-2006
3. Venue - CME's Office, Malignon.
4. Time - 10-00 Hrs.

You are hereby requested to please advise the following staff  
working under you to keep themselves in readiness to appear in the said  
test and to spare and direct them to appear in the said test on the  
above date.

SN.	Name	Designation	Working under
✓ 1.	Sri K.C. Das,	JE/I	SSE/WRS
✓ 2.	" K.N. Pathak,	-do-	-do-/PLG
3.	" P.K. Choudhury,	-do-	-do-/CLS/MG
✓ 4.	" G. Nath,	-do-	-do-/WRS
5.	" S. Purkayastha,	-do-	-do-/CLS/MG
6.	" A.K. Chakraborty,	-do-	-do-/PLG
7.	" A.K. Goswami,	-do-	-do-/CBS
8.	" I. H. Haque Mallik,	-do-	-do-/CBS
9.	" Surabhan Paul,	-do-	-do-/PGS
10.	" S.K. Sharma,	-do-	-do-/CLS/MG
11.	" R. Deyan,	-do-	-do-/CLS/MG
12.	" A. Hukin,	-do-	-do-/CLS/MG
13.	" Akhil Ch. Paul,	-do-	-do-/CBS
14.	" R.P. Singh,	-do-	-do-/CRS/MG
✓ 15.	" S.L. Mandal,	-do-	PSTC/NDQ SSE/PLG
16.	" Sanjiv Das, -	-do-	-do-
17.	" A.S. Bhattacharya, -	-do-	SSE/CRS/DS
18.	" R.K. Bhattacharya, -	-do-	SSE/CPS
19.	" J.P. Dasti,	-do-	-do-/INSP
20.	" J. Sikia,	-do-	-do-/WTS
21.	" Subhamoy Das,	-do-	-do-
22.	" M.L. Abdul Rashid,	-do-	SSE/MS
✓ 23.	Sri K. Mallik,	-do-	-do-/MWS
24.	" A. Ganguly	-do-	-do-/WLD

Submitted  
Biju  
Advocate

*Jatin Bhamal*

*20/8/06*

A copy of the syllabus for the selection of ST(WS) are enclosed herewith, which may kindly be brought to the notice of the candidates.

If a candidate expresses unwillingness to appear in the above selection, written declaration to that respect may kindly be obtained and sent to this office before the date to enable this office to intimate GM(P)/MLG.

File No. 26  
APO(WS)/NBQ

For CWI/NBQS

Copy forwarded to :- GM(P)/MLG- He is informed that Sri S.C. Kar, J E/I, Serial No. 23 of workshop cadre has retired from service w.e.f. 31-03-06.

1/2  
Rao Sir. S. D.  
For CWI/NBQS.

Northeast Frontier Railway

MEMORANDUM

Further to this office memorandum No.E/254/11/Pl.III (M) dated 02.05.2005, the following candidates who have been left out earlier are found suitable in the modified selection held on 30.11.2006 for promotion to the post of SE/WS in scale Rs.6500-10,500/- against restructuring w.e.f 01.11.2003 in addition to the staff already promoted earlier against restructuring.

SN	Name	Comm unity	Designation	Trade	Place of working
1.	Shri N.C. Sarkar	UR	JE/I/WS	Machine	NBQS ✓
2.	Shri K. Sharma	UR	JE/I/WS	Machine	DBWS
3.	Shri S.L. Prasad	SC	JE/I/WS	BSS	NBQS ✓
4.	Shri B. Sonowal	ST	JE/I/WS	BSS	DBWS
5.	Shri Rajib Borah	UR	JE/I/WS	MW	DBWS
6.	Shri Kaushik Mallick	SC	JE/I/WS	MW	NBQS ✓
7.	Shri P. Changloy	ST	JE/I/WS	Welding	DBWS
8.	Shri Kumud Das	UR	JE/I/WS	Wagon	NBQS ✓
9.	Shri Bani Kanta Deka	UR	JE/I/WS	Wagon	HQ now WSI under SDGM/MLG
10.	Shri G.C. Nath	UR	JE/I/WS	Wagon	NBQS ✓
11.	Shri K.N. Pathak	UR	JE/I/WS	Carriage	NBQS ✓
12.	Shri S.N. Chakraborty	UR	JE/I/WS	Carriage	DBWS

The panel has been approved by CWE/MLG.

(J. Rabidas)  
Sr. Personnel Officer/Mech  
For General Manager (P)  
December 4, 2006

Copy forwarded for information and necessary action to :-

1. FA&CAO/MLG
2. CWE/MLG
3. CWM/DBWS & NBQS
4. Dy.CME/NBQS
5. ADME/IDH
6. Sr.DME/DsI/MLDT, SGUJ, NGC & LMG
7. GIS/NFRMU & NFREU
8. APO/NBQS & DBWS
9. Copy for P/case.

For General Manager (P)

# N. F. RAILWAY MAZDOOR UNION

REGD No: 425 (ASSAM)

Recognised by the N. F. Railway Administration

Affiliated to All India Railwaymen's Federation & Hind Mazdoor Sabha

HEAD OFFICE :- PANDU

BRANCH OFFICE :- NEW BONGAIGAON

Phone :- 23610 (Central Office)

Annexure-5

Phone :- 2544 (Rly)

L/NO ..... MU/NBQ/3/06

DATE ..... 20/11/06

To

Chief Workshop Engineer  
N.F. Railway /Maligaon

Sub:- Abnormal delay in publication of result of selection of SE in  
Scale of Rs.6500/- --- 10,000/- from JE-I in workshop cadre.

Ref:- 1. GM/P/MLG's L/No.E/254/51/(M) WS/Pt-I, dtd. 26.7.2006  
2. CWM/NBQ's L/No.E/M/254/JE-II/Pt-II, dt. 3.8.06.

D/Sir

I am constrained to bring your notice that the above selection has been held on 19.8.06 at Maligaon vide ref. above. Despite of repeated persuasion from this union result of the above selection has not yet been published which has created widespread resentment among the staff.

It is also learnt that some direct recruit SE from RRB is undergoing necessary training and awaiting for final posting in workshop. Their training is likely to be completed on 22<sup>nd</sup> November '06.

As such, this union urges your active intervention to publish the result of the subject selection without further delay.

You are also requested not to post any SE( Section Engineer ) recruited directly from RRB before the posting of SE going to be promoted departmentally from JE-I in workshop to avoid dispute in the matter of seniority and to maintain Industrial peace and harmony.

Thanking you

Yours faithfully

( T.S.RAHA )  
Br. Secretary  
NFRMU/NBQ(WS) Branch

Copy to :-

1. CWM/NFR/NBQ.... For information and necessary action please.
2. GS/NFRMU/PNO.... This is in apropos of our discussion over telephone on 16.11.06. Your active intervention is solicited in this regard.

Attested  
for  
Advocate

Yours faithfully

( T.S.RAHA )  
Br. Secretary  
NFRMU/NBQ(WS) Branch

Office of the  
General Manager (Personnel)  
Northeast Frontier Railway,  
Maligaon, Guwahati - 78

20/1/06  
SUBMITTED  
CONT'D OFFICE  
MISRA

No.E/254/51(M)/WS P.U.

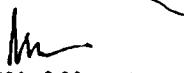
November 20, 2006

To,  
The CWMs/NBQS & DBWS  
The APOs/NBQs & DBWS

Reg : Selection for the post of SE/Workshop in scale Rs.6500-10,500/-

The selection for filling up the vacancies in the category of SE/Workshop in scale Rs.6500-10,500/-, both for Workshop cadre and M&P cadre, which has been initiated vide notification No. E/254/51(M)/WS P.U dated 13.01.2006, is hereby cancelled.

This issues with the approval of the competent authority.

  
(N. Misra)

Sr. Personnel Officer/Mech  
For General Manager (P)

Copy to :-

1. CWE
2. CPO/A
3. Dy.CPO/HQ
4. Dy.CME/WS
5. GS / NFRB& NFRMO

  
(N. Misra)

Sr. Personnel Officer/Mech  
For General Manager (P)

*Attested  
by Advocate*

321/2006

1. Application No. 321/2006  
2. Date of Birth  
3. Date of Birth  
4. Date of Birth

5. Name of (S) A. K. Gourave VS. Name of the Respondent  
6. Name of (S) Office

7. Name for the Appointee (S) Mr. M. Chandra Srinivasulu (1 year)  
8. M. S. C. Choudhury

9. Name for the Appointee (S) Factory (1 year)

10. Name of the Respondent  
11. Order No. of the T. Form  
12. 21.12.2006 Present: The Hon'ble Shri K.V.Sachidanandan  
13. Vice-Chairman.

14. The Applicants are working as Junior  
15. Engineer Grade-1 in the office of the Chief  
16. Workshop Manager, Carriage & Wagon  
17. Workshop, New Bongaigaon. Their next  
18. promotion is to the post of Section  
19. Engineer (Workshop) in the pay scale of  
20. Rs.6,600-10,600/- Originally a written  
21. test was conducted by the Respondents on  
22. 19.8.2008 and 26.8.2006 as per  
23. Annexure-3 in which all the 17 Applicants  
24. appeared. According to the Applicants,  
25. against the 36 vacancies vide Annexure-4  
26. order dated 4.12.2006, 12 persons have  
27. already been promoted to the post of  
28. Section Engineer who were left out earlier  
29. and were selected through a modified

Attested  
Biju  
Advocate

CONTD.

22.12.2006 selection held on 30.12.2006. Mr.M.Chanda learned counsel for the Applicants submits that even though 12 posts have been filled up there are still 24 posts vacant. The Applicants made representation through the Union but yielded no response. Six months time has already elapsed but the results of the selection test has not been published as yet which has caused prejudice to the Applicants.

Heard Mr.M.Chanda, learned counsel for the Applicants. He submitted that his specific instruction is that written test, already conducted, in which the Applicant appeared, is likely to be cancelled by the Respondents in which case the Applicants will be put to greatest hardship as because they had put very hard work in appearing in the said examination. Dr.J.L.Sarkar, Standing counsel for the Railways requests for time to obtain instruction in the matter. Let it be done.

Post the matter on 9.2.2007. By way of interim order it is clarified that no action prejudicial to the interest of the Applicants will be taken by the Respondents till the next date.



22.12.06  
22.12.06  
22.12.06

22.12.06  
22.12.06

22.12.06  
22.12.06

22.12.06  
22.12.06

22.12.06  
22.12.06

V.P. Chakraborty

Manik Chanda

Advocate  
Gauhati High Court

Phone : 2522998  
Bye Lane - 7  
Lachit Nagar  
Guwahati - 781 007

Ref. No.....

Date 23/12/2006

To.

The General Manager (P)  
N.F. Railway,  
Maligaon, Guwahati- 781.

Sub: - Intimation regarding interim order dated 22.12.2006 passed in O.A.  
No. 321/2006 (Sri A. K. Goswami and others v. C.I.T. and others.)  
passed by the Hon'ble Central Administrative Tribunal, Guwahati  
Bench, Guwahati.

My Clients: -

1. Sri Arun Krishna Goswami.
2. Sri Jyoti Prasad Deori.
3. Shri Jiten Saikia.
4. Sri Abdur Rashid.
5. Sri Ranjit Kr. Baruah.
6. Sri Surya Bhan Pal.
7. Sri Ranjan Kr. Rayan.
8. Sri Ramendra Pal Singh.
9. Sri A. Hakim.
10. Sri Kraml Hoque Mollick.
11. Sri Subhamoy Das.
12. Sri S. Purnayastha.
13. Sri Sanjoy Das.
14. Sri Ashil Ch. Paul.
15. Sri Arun Krishna Paul.
16. Sri Anirban Ganguly.
17. Sri Samir Kumar Sarma.

*Manik Chanda  
Advocate*

All are working as Junior Engineer, Grade-I, in the office of the  
Chief Workshop Manager, Carriage and Wagon Workshop, New  
Bongaigaon, N.F. Railway, Assam.

Sir.

I like to inform you that being highly aggrieved due to non declaration of  
the results of the selection test held on 19.08.2006 and on 26.08.2006 for filling up

**Manik Chanda**  
Advocate  
Gauhati High Court

2

Phone : 2522998  
Bye Lane - 7  
Lachit Nagar  
Guwahati - 781 007

60

Ref. No.....

Date 23/12/2006

vacancies in the cadre of Section Engineer (WS) and also on the apprehension of cancellation of selection test my above named clients have approached the learned CAT, Guwahati Bench by filing an Original Application under Section 19 of the Administrative Tribunal Act, 1985. The said Original Application has been registered as O.A. No. 321/2006, which came up for consideration for admission before the learned CAT on 22.12.2006 and the learned Tribunal after hearing the parties was pleased to pass the following interim order -

"Post the matter on 9.2.2007. By way of interim order it is clarified that no action prejudicial to the interest of the applicants will be taken by the respondents by the next date."

In view of the aforesaid interim order passed by the learned Tribunal, I do hereby request you not to take any action prejudicial to the interest of my above named clients and also request you to kindly comply with the order of the Hon'ble Tribunal. A copy of the interim order dated 22.12.2006 is enclosed herewith for your ready reference and necessary action thereof.

Enclo : Copy of the order dated 22.12.2006

  
(MANIK CHANDA)

To,  
The General Manager (P)  
N.F. Railway,  
Maligaon, Guwahati-11.

(Through Proper Channel)

Sub:- Submission of the interim order dated 22.12.2006 passed in O.A. No. 321/2006 (Sri A.K. Goswami and others -Vs. U.O.I and others.) passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Respected Sir,

I have the honour to inform you that being highly aggrieved due to non declaration of the results of the selection test held on 19.08.2006 and on 26.08.2006 for filling up vacancies in the cadre of Section Engineer (WS) and also on the apprehension of cancellation of selection test, I have approached the learned CAT, Guwahati Bench along with 10 others by filing an Original Application under Section 19 of the Administrative Tribunal Act, 1985. The said Original Application has been registered as O.A. No. 321/2006, which came up for consideration for admission before the learned CAT on 22.12.2006 and the learned Tribunal after hearing the parties was pleased to pass the following interim order:-

" Post the matter on 9.2.2007. By way of interim order it is clarified that no action prejudicial to the interest of the applicants will be taken by the respondents till the next date "

In view of the aforesaid interim order passed by the learned Tribunal, I do hereby request you not to take any action prejudicial to the interest of the undersigned and also request you to kindly comply with the order of the Hon'ble Tribunal. A Copy of the interim order dated 22.12.2006 is enclosed herewith for your ready reference.

Endo:- Copy of the order dated 22.12.2006.

Yours faithfully

*Firoz Ahmad Khan*  
junior Engineer, Grade-I,  
O/o- Chief Workshop Manager,  
Carriage and Wagon Workshop,  
New Bongaigaon, N.F. Railway.

*Attested  
Muhammed  
Advocate*

-42-

Office of the  
General Manager (Personnel)  
N.E. Railway, Malignon,  
Guwahati - 781 011

ANNEXURE-10

NOTIFICATION

No.E/254/52(M)/W.S.P.t.I

Date :- 4.01.2007

To:  
The CWM/NBQS  
The CWM/DBWS  
The PSTC/NBQ  
The ADME/TDH

Sub :- Forming the panel of SE/WS in scale Rs.6500-10,500/- in Workshop cadre and M&P cadre of Mechanical department.

It has been decided to hold a selection forming panels for SE/WS in Workshop cadre and in M&P cadre in scale Rs.6500-10,500/- of Mechanical department. The break-up of the posts are as under :-

SN	Cadre	Panel for	UR	SC	ST
1.	Workshop cadre	25 posts	19	5	1
2.	M&P cadre	6 posts	05	01	Nil

The date of selection as scheduled to be held as under :-

Written test : 03.02.2007

Absentee written test : 10.02.2007

Venue :- CME's office, Malignon

Time:- At 09.30 hrs.

Therefore the following JE/I in scale Rs.5500-9000/- as available may be advised to keep themselves in readiness and also direct them to appear in the said selection on the above date. Their names are not in order of seniority.

For Workshop cadre

SN	Name	Comm.	Design. and stu.
1	Shri C. Roy	UR	JE/I/DBWS
2	Shri P.K. Choudhury	UR	JE/I/NBQS
3	Shri S.B. Yadav	UR	JE/I/DBWS
4	Shri S.R. Mahanta	UR	JE/I/DBWS

67  
Attested  
Mukta  
Advocate

1	Shri B. Bhattacharya	UR	JE/ENBQS
2	Shri A.K. Chakraborty	UR	JE/INBQS
3	Shri M.K. Phukan	UR	JE/IDBWS
4	Shri A.K. Gosewami	UR	JE/INBQS
5	Shri H. Haque Mallick	UR	JE/INBQS
6	Shri S. Saha	UR	JE/ENBQS
7	Shri B. K. Bhattacharya	UR	JE/INBQS
8	Shri R. Bagar	UR	JE/INBQS
9	Shri A. H. Karim	UR	JE/INBQS
10	Shri M. M. Choudhury	UR	JE/INBQS
11	Shri D. P. Dangol	UR	JE/INBQS
12	Shri K. K. Basumatary	ST	JE/INBQS
13	Shri G. C. Deka	UR	JE/INBQS
14	Shri G. K. Das	UR	JE/IDBWS
15	Shri K. P. Deka	UR	JE/IDBWS
16	Shri Dhiman Gogoi	UR	JE/IDBWS
17	Shri D. L. Deka	UR	JE/IDBWS
18	Shri Prabal Kr. Samanta	UR	JE/IDBWS
19	Shri D. Chakraborty	UR	JE/IDBWS
20	Shri Rudal Dasgupta	UR	JE/IDBWS
21	Shri D. L. Deka	UR	JE/IDBWS
22	Shri Prabul Kr. Samanta	UR	JE/IDBWS
23	Shri D. Chakraborty	UR	JE/IDBWS
24	Shri Rudal Dasgupta	UR	JE/IDBWS
25	Shri D. L. Deka	ST	JE/IDBWS
26	Shri Pradip Ch. Banerjee	ST	JE/IDBWS
27	Shri M. Kachowa	ST	JE/IDBWS
28	Shri Santosh Kr. Chakraborty	UR	JE/IDBWS
29	Shri Ranjoy Das	ST	JE/INBQS
30	Shri Pradip Das	ST	JE/IDBWS
31	Shri D. L. Deka	UR	JE/IDBWS
32	Shri Prabin Sonowal	ST	JE/IDBWS
33	Shri Z. J. Deka	ST	JE/IDBWS
34	Shri D. L. Deka	ST	JE/IDBWS
35	Shri A. Chanchal	UR	JE/INBQS
36	Shri A. Chanchal for M/S Pragya	ST	JE/IDBWS

USN	Name	Community	Designation & station
1	Shri D. Mukherjee	ST	JE/IDBWS
2	Shri P. Deka	ST	JE/INBQS
3	Shri D. P. Deka	UR	JE/IDBWS
4	Shri Kamaljit Singh	UR	JE/IDBWS
5	Shri Baldev Singh	UR	JE/IDBWS

243. All the concerned staff are advised that if anybody is unwilling to appear in the selection committee then he/she can write to the concerned head of the staff selected for the post and does not comply with the order will be dealt with as per provision contained at Para 22 of the MCA Act 1989).

The candidates will be allowed to appear in the abovementioned test due to sickness covered by medical certificate from Railway Doctor, non-intimation/ late intimation of date of written test, administrative failure to relieve the candidates for the selection. The reasons like attending a wedding ceremony or similar functions over which the candidates have control will not be entertained as per provision at para - 223 of U.P. M.C. Rule, 1997 edition, 1997.

...the controlling officer should ensure that the staff is advised, spared and directed to come for selection on the date mentioned above.

Respective controlling officer should also ensure that the SUST candidates should be made eligible pre-promotional training for appearing in the selection.

Respective Workshop In charges are requested to kindly send the ACRs of the eligible staff as listed out above pertaining to their Workshop for last three years to the PS In CME immediately.

Day (with him) (2)

*Peruadas*  
P. 37107  
(1. libidas)

Mr. Personnel Officer/Mech  
Engineering Manager (P)

Copy for a campaign and necessary action to be taken

- 1) CME/MLG
- 2) Dy.CME/WS
- 3) Copy to :- PS to CME/MLG - for information and necessary action. He is required to arrange and obtain ACRs of the above named candidates for fast processing. He should do so that selection can be finalized.

### For General Manager (P)

## Syllabus for SE (Mechanical) Workshop Selection

### Common for WS & M&P Cadre:

1. Mathematics:	Area, Volume, Percentage, Equations and Mensuration.
2. General Science	Definitions- Heat, Energy, Work & Electricity and its relation to Railways, System of Working.
3. Railway Working	PCO-Planning, Progress & Inspection its function, Man Power Planning, Work Orders- Repair & Manufacturing Procedure, Counting, Material Assessment, Material Management System.
4. Incentive	Chittaranjan pattern Incentive-in Railways & Function, Time Study Job Card, Route Card, Merits & Demerits of Incentive system.
5. Purchase	Procurement of Stock and Non stock items, Preparation of Stocking Application, Local Purchase, EAR, Condemnation Procedure of Rolling Stock/ Machines.
6. Establishment	Leave Rules, Pass Rules, D&AR Rules, Factory Act, HOER, Conduct of Enquiry.
7. Rajbhasha (Hindi):	Optional question upto 10% marks.

### WS Cadre:

1. Layout of Shop and its Activities.
2. Repair Procedure of Coach-Body, Under frame, and Trolley during POH in shop.
3. Underframe and Trolley Safety items of Coach, Roller Bearing and Air brake Maintenance Procedure.
4. Painting Schedule, Screen Painting, Colour Scheme.
5. Latest Alteration and Modifications
6. Wagon Maintenance, Maintenance of Draw Gear, Types of different Trolleys and their Repair Procedure in details.
7. Sketch/ Diagrams of Safety items, Definition on Fits, Tolerances, Clearances, IS & ASO, IRS Specification, Manufacturing Limits etc. Standard of Engineering Drawing and needs of Material Specifications.
8. Welding of Similar and Dis-similar Metals, Types of Welding, Pre-requisites of Welding.
9. Definition & Procedure for corrosion Repair in Condemn- body, Underframe, Trough Floor etc.
10. Heat treatment of Springs & load testing. Definitions- Annealing Normalizing Case Hardening, Ductility, Malleability.
11. Procedure for condemnation of rolling stock.

(अधिक विवर विवरण  
मुद्र्य कार्यालय इंजीनियर

Attested  
Fully  
Advocate

## Syllabus for SE (Mechanical) Workshop Selection

### Common for WS & M&P Cadre:

1. Mathematics: Area, Volume, Percentage, Equations and Mensuration.
2. General Science: Definitions- Heat, Energy, Work & Electricity and its relation to Railway System of Working.
3. Railway Working: PCO-Planning, Progress & Inspection its function, Man Power Planning, Work Orders- Repair & Manufacturing Procedure, Costing, Material Assessment, Material Management System.
4. Incentive: Chittaranjan pattern Incentive-in Railways & Function, Time Study, Job Card, Route Card, Merits & Demerits of Incentive Scheme.
5. Store: Procurement of Stock and Non stock items, Preparation of Stocking Application, Local Purchase, EAR, Condemnation Process of Rolling Stock/ Machines.
6. Establishment: Leave Rules, Pass Rules, D&AR Rules, Factory Act, HOER, Conduct of Enquiry.
7. Rajbhasha (Hindi): Optional question upto 10% marks.

### M&P Cadre:

1. Details of Machines & their Operation wise use, High Productive Machines and use in Railways.
2. Planning, Procurement and Commissioning of M&P.
3. Details about various type of Tools used in various Machine and its Process of Procurement.
4. Standard Life of Machine, Preventive schedule of Maintenance of Machine under Warranty & after Warranty.
5. Details about Lubricant that used for various Machines.
6. Break down Maintenance, Monitoring of Spares, AMCs, OEMs, Trouble Shooting of Compressor.
7. Hydraulics, Pneumatics, Electrical and Electronion Circuities.
8. Safety of Maintenance staff, Protective aids, Precaution while dealing with heavy electrical power machinery. Dos & DO Nots, Fire Fighting & First Aid.
9. Standards for Engineering drawing of Components, ISO, IS & IRS, needs of Material Specification.
10. Preparation of financial justification for repairing of machines.

संग्रहित अधिकारी  
प्रधा कार्यशाला द्वारा दिया

अधिकारी  
प्रधा

68

Annexure- 10

(Typed true copy)

Office of the  
General Manager (Personnel)  
N.F. Railway, Maligaon,  
Guwahati- 781 011

NOTIFICATION

No. E/254/52 (M)/W.S.Pt. I

Date: - 4.01.2007

To,  
The CWM/NBQS  
The CWM/DBWS  
The PSTC/NBQ  
The ADME/TDH

Sub: - Forming the panel of SE/WS in scale Rs. 6500-10,500/- in Workshop cadre and M&P cadre of Mechanical department.

It has been decided forming panels for SE/WS in Workshop cadre and in M&P cadre in scale Rs. 6500-10,500/- of Mechanical department. The break-up of the posts are as under: -

SN	Cadre	Panel for	UR	SC	ST
1.	Workshop cadre	25 posts	19	5	1
2.	M&P cadre	6 posts	05	01	Nil

The date of selection as scheduled to be held as under:-

Written test : 03.02.2007

Absentee written test : 10.02.2007

Venue :- CME's office, Maligaon

Time:- At 09.30 hrs.

Therefore the following JE/I in scale Rs. 5500-9000/- as available may be advised to keep themselves I readiness and also direct them to appear in the said selection on the above date. Their names are not in order of seniority.

For Workshop cadre

SN	Name	Comm.	Design. and sin.
----	------	-------	---------------------

1. Shri C. Roy UR JE/I/DBWS
2. Shri P.K. Choudhury UR JE/I/NBQS
3. Shri S.B. Yadav UR JE/I/DBWS
4. Shri S.R. Mahato UR JE/I/DBWS

Attested  
Bhutan  
ADM

5.	Shri S. Purkayastha	UR	JE/I/NBQS
6.	Shri A.K. Chakraborty	UR	JE/I/NBQS
7.	Shri A.K. Phukan	UR	JE/I/DBWS
8.	Shri A.K. Goswami	UR	JE/I/NBQS
9.	J.H. I Haque Mallick	UR	JE/I/NBQS
10.	Shri Suryanbhan Paul	UR	JE/I/NBQS
11.	Shri S.K. Sharma	UR	JE/I/NBQS
12.	Shri R. Bayan	UR	JE/I/NBQS
13.	Shri A. Hakim	UR	JE/I/NBQS
14.	Shri Akhil Ch. Paul	UR	JE/I/NBQS
15.	Shri R. P. Singh	UR	JE/I/NBQS
16.	Shri R.K. Basumatary	ST	JE/I/NBQS
17.	Shri S.C. Kar	UR	JE/I/NBQS
18.	Shri U.K. Das	UR	JE/I/DBWS
19.	Shri K.R. Bonman	UR	JE/I/DBWS
20.	Shri Dhiman Gogoi	UR	JE/I/DBWS
21.	Shri D.K. Mazumdar	UR	JE/I/DBWS
22.	Shri Prabal Kr. Sarmah	UR	JE/I/DBWS
23.	Shri D. Chakraborty	UR	JE/I/DBWS
24.	Shri Badal Dasgupta	UR	JE/I/DBWS
25.	Shri N.S. Boro	ST	JE/I/DBWS
26.	Shri Prdip Ch. Sonowal	UR	JE/I/DBWS
27.	Shri M. Kachowa	ST	JE/I/DBWS
28.	Shri Santosh Kr. Chakraborty	UR	JE/I/DBWS
29.	Shri Sanjoy Das	SC	JE/I/NBQS
30.	Shri Pankaj Das	SC	JE/I/NBQS
31.	Shri K.K. Das	SC	JE/I/DBWS
32.	Shri Prabin Sonwal	ST	JE/I/DBWS
33.	Shri A. J. Pegu	ST	JE/I/DBWS
34.	Shri Bipin Ch. Mech	ST	JE/I/DBWS
35.	Shri A. Ganguly	UR	JE/I/NBQS
36.	Shri Achut Borah	ST	JE/I/DBWS

For M&P cadre

SN	Name	Comm.	Design and stn.
----	------	-------	-----------------

1.	Shri D. Muchahari	ST	JE/I/DBWS
2.	Shri J. P. Deori	ST	JE/I/NBQS
3.	Shri B.B Sarker	UR	JE/I/DBWS
4.	Shri Kamaljit Singh	UR	JE/I/DBWS
5.	Shri Baldev Singh	UR	JE/I/DBWS
6.	Shri C.C. Thoumang	ST	JE/I/DBWS
7.	Shri J. Saikia	UR	JE/I/NBQS
8.	Shri Subhamay Das	UR	JE/I/NBQS
9.	Md. Abdul Rashid	UR	JE/I/NBQS
10.	Shri D.K. Sanwar	SC	JE/I/DBWS
12.	Shri A. K. Madal	SC	JE/I/DBWS

All the above candidates are informed that if anybody is unwilling to appear in the selection he should inform the same before the written test. The cases of the staff selected for the post and does not carry out the order will be dealt with as per provision contained at Para 224 of IREM/Vol-I (Rev. edition 1989).

The candidates will be allowed to appear in the absence written test due to sickness covered by medical certificate from Railway Doctors, non-intimation /late intimation of dates of written test, administrative failure to relieve the candidates for the selection. The reasons like attending a wedding ceremony or similar functions over which the candidates have control will not be entertained as per provision at para 223 of IREM/Vol-I (Rev. edition, 1989).

Respective controlling officers should ensure that the staff are advised, spared and directed to attend the selection on the date mentioned above.

Respective controlling officer should also ensure that the SC/ST candidates should be given adequate pre-promotional training for appearing in the selection.

Respective Workshop In charges are requested to kindly send the ACRs of the eligible staff as listed out above pertaining to their Workshop for last three years to the PS to CME immediately.

#### DA/Syllabus (2)

Sd/- Illegible  
(J. Rabidas)  
Sr. Personnel Officer/Mech  
For General Manager (P)

Copy for information and necessary action to:-

- 1) CWE/MLG
- 2) Dy. CME/WS
- 3) Copy to :- PS to CME/MLG - for information and necessary action. He is requested to arrange and obtain ACRs of the above named candidates for last three years well in advance so that selection can be finalized.

For General Manager (P)

In terms of GM/M/MLG'S office order issued under endorsement No. E/254/51(M) WS Pt.I dt. 12.12.06 who are found suitable for promotion to the post of SE/WS in scale Rs. 6500 - 10500/- vide GMP/MLG'S memorandum of even number dt. 04.12.2006 are hereby promoted to the post of SE/WS against restructuring vacancies w.e.f 01.11.2003 and posted in the same shop where they are presently working.

Name	Design.	Trade	Working under	Promoted as	Date of effect	Pay fixed
Sri N.C.Sarkar	Ex.JE-I	Machine	SSE/Machin	SE/Machine	01.11.03	Rs. 7300/- Rs. 7500/- on 01.11.04 (annual increment) Rs. 7700/- on 01.11.05 (annual increment)
Sri S.L.Prasad (SC)	JE-I	B/Smith	SSE/PLG	SE/B/Smith	26.12.06	Rs. 7700/-
Sri Kaushik Mallick (SC)	- do -	Mill wright	SSE/MWS	SE/MWS	05.06.04	Rs. 6500/-
Sri Kunud Das	- do -	Wagon	SSE/WRS	SE/Wagon	01.11.03	Rs. 7100/-
Sri K.N.Pathak	- do -	Carriage	SSE/PLG	SE/Carr.	01.11.03	Rs. 7100/-
Sri G.C.Nath	- do -	Wagon	SSE/WRS	SE/Wagon	26.12.06	Rs. 6900/-

Staff concerned may opt to have their pay fixed in the higher grade from the date of accrual of next increment in the lower grade within one month.

This issues with the approval of the competent authority.

R. Roy  
(R.Roy)  
APO/W  
For CWM/NEQS  
Dated-27.12.2006

No.EM/2S3/3/Pt.I

Contd-2

*Attested  
R.Roy*

Rd on  
28.12.06

W

Copy forwarded for information and necessary action to :-

- (1) GM/P/MLG
- (2) Dy CME/NBQS
- (3) WM/NBQS
- (4) AWM/APE/NBQS
- (5) WAO/NBQS
- (6) SSE/WRS
- (7) SSE/MWS
- (8) SSE/PLG
- (9) SSE/WRS
- (10) OS/Time office
- (11) E/bill
- (12) P/Case
- (13) Staff concerned
- (14) FS

10  
(R.Roy)

JAPOW

For CWM/NBQS

3

ANNEXURE-12

Northeast Frontier Railway

MEMORANDUM

The competent authority has accorded his approval towards merger of various trades of Technical supervisors of this Railway in to two distinct trades as under :-

Group - A Workshop cadre

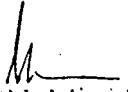
Workshop cadre (comprising trades of)

- i. Carriage
- ii. Foundry
- iii. Wagon
- iv. Boiler
- v. Painting
- vi. Black-smith
- vii. Erecting
- viii. Any trade
- IX Welding

Group - B Workshop/M&P

Workshop/M&P cadre (comprising trades of)

- i. Machine
- ii. Mill-Wright

  
(N. Misra)

Sr. Personnel Officer/Mech  
For General Manager (P)

2005/283/59/(M)/WS

Dated :- 29.06.2005

89

Copy forwarded for information and necessary action to :-

1. CME/MLG
2. EA&CAO/MLG
3. CWE, CPO/A/MLG
4. Dy.CPO/IR, CWMs/NBQS & DBWS
5. WM/NBQS & DBWS
6. APOs/NBQS & DBWS
7. GS/NFRMU & GS/NFREU

  
(N. Misra)

Sr. Personnel Officer/Mech  
For General Manager (P)

Attested  
Mulu Adv  
Sathy | NAB-WS

Name	Comm.	Designation	Original trade	DCE	DOA	Date of promotion to JE/I	Remarks
✓24 Shri Surjanbhan Patel	UR	JE/VM/EGS	Wagon	31.01.62	01.03.88	01.11.03	"
✓25 Shri S.K. Sharma	UR	JE/VNBQS	Carriage	27.12.69	01.03.93	01.11.03	"
✓26 Shri R. Bayan	UR	JE/VNEQS	Carriage	01.09.71	01.03.98	01.11.03	"
✓27 Shri A. Hakim	UR	JE/VNEQS	Carriage	18.01.72	01.03.98	01.11.03	"
✓28 Shri Akhil Ch. Patel	UR	JE/VNEQS	Carriage	26.01.67	01.01.99	01.11.03	"
✓29 Shri R.P. Singh	UR	JE/VNEQS	Carriage	07.12.76	01.04.99	01.11.03	"
✓30 Shri A. Ganguly	UR	JE/VNEQS	Welding	31.12.66	01.12.98	01.11.03	"
✓31 Shri S. Brahma	ST	JE/VNEQS	Carriage	22.11.46	01.07.72	04.10.04	"
✓32 Shri S.C. Kar	UR	JE/VNEQS	Carriage	18.03.46	21.09.63	04.10.04	"
✓33 Shri R.K. Basumatary	ST	JE/VNEQS	Painting	22.06.47	29.05.75	04.10.04	"

✓6. Representation, if any, against the seniority position may be submitted within one month from the date of issue of this letter.

*Mr.*  
 (R. Misra)  
 SPO/Mech  
 for General Manager (P)/MLG  
 Date - 20.10.2005

No.E/263/59(M)  
 Copy forwarded for information and necessary action to

1. CME/MLG	3. Staff concerned.
2. FA&CAO/MLG	
3. CME, CPCIA/MLG	
4. Dy.CPOAR, CWMS/1:BCS & DBAS	
5. WMNBQS & DBWS	
6. APOS/NSQS & DBWS	
7. GS/NFRMU & GS/NFREU	

*Mr.*  
 General Manager (P)/MLG

Final increments after 1st January, 1958, in scale Rs.5500-9000, Workshop cadre (Carriage & others) in terms of GM(P)/MLG's  
Memorandum No E/283/59(M) dated 23.06.1958.

ANNEXURE-13

JE/M/S (Carriage & others)		Commu nity	Designation	Original trade	DOB	DOA	Date of promotion to JE1	Remarks
No.	Name							
1	✓ Shri K.C. Das	UR	JE/NEGS	Wagon	01.03.63	06.04.87	19.02.96	1
2	✓ Shri B. Sonowal	ST	JE/DEWS	B/Smith	10.04.58	10.05.78	30.07.96	
3	✓ Shri S.L. Prasad	SC	JE/NEGS	B/Smith	26.02.60	21.05.81	23.08.96	2
4	✓ Shri Bani Kanta Deka	UR	JE/DBWS	Carriage	17.01.62	11.10.80	11.11.97	①
5	✓ Shri Satish Ch. Das	UR	JE/DEWS	Wagon	23.02.43	01.10.63	17.02.98	②
6	✓ Shri K.N. Patnaik	UR	JE/NEGS	Carriage	15.12.54	07.01.80	06.11.99	③
7	✓ Shri S.N. Chakraborty	UR	JE/DEWS	Carriage	01.01.56	27.03.80	26.04.01	④
8	✓ Shri Prabin Sonowal	ST	JE/DBWS	Carriage	01.09.53	27.03.80	26.04.01	④
9	✓ Shri P. Changoi	ST	JE/DBWS	Welding	25.01.66	11.11.91	26.04.01	
10	✓ Shri C. Roy	UR	JE/DEWS	Foundry	20.03.53	12.03.78	23.08.91	
11	✓ Shri P.K. Choudhury	UR	JE/NEGS	Carriage	05.03.66	24.01.87	15.02.92	⑤
12	✓ Shri A.J. Pegu	ST	JE/DBWS	Foundry	01.01.75	18.02.80	21.02.92	⑥
13	✓ Shri G. Nabi	UR	JE/NEGS	Wagon	01.01.69	14.01.93	01.07.92	⑤
14	✓ Shri Sanjoy Das	SC	JE/NEGS	Carriage	01.04.87	01.11.91	25.01.03	⑥
15	✓ Shri S.B. Yadav	UR	JE/DBWS	B/Smith	12.02.55	09.03.76	27.02.93	
16	✓ Shri Hiren Ch. Mehta	ST	JE/DBWS	Painting	01.05.46	02.01.70	01.11.03	
17	✓ Shri S.R. Mahato	UR	JE/DBWS	Errecting	19.09.46	26.03.70	01.11.03	
18	✓ Shri A.R. Pathak	SC	JE/DBWS	Wagon	03.12.46	03.03.75	01.11.03	⑦
19	✓ Shri S. Purokayastha	UR	JE/NEGS	Carriage	23.12.60	23.11.84	01.11.03	⑧
20	✓ Shri A.K. Chakraborty	UR	JE/NEGS	Carriage	25.12.53	21.05.75	01.11.03	⑨
21	✓ Shri M.K. Phukan	UR	JE/DBWS	Carriage	01.06.65	03.02.89	01.11.03	⑩
22	✓ Shri A.K. Goswami	UR	JE/NEGS	Carriage	30.06.72	11.01.93	01.11.03	⑪
23	✓ Shri Haque Maiti	ST	JE/NEGS	Carriage	01.09.63	01.07.93	01.11.03	⑫

*Collected  
Mukta  
JEW*

Am → 13

Provisional interpolated security lists or J.P/last in scale E.5500-3000/-,  
(Machine & Millwright trades) in terms of GM(P)MLG. S. McCormick No. 5/2005/501 dated 29.06.2005, with WINGS.

E/1(WS) Workshop Report

S.R.	NAME	ST	5500.0000/-	Yester	ST 15.15	ST 26.04	03.05.37	06.10.39	
"	K.C. Das		JD	-do-	Yester	01.03.63	06.04.37	10.6.38	19.6.36
"	S.L.Prasad	SC	JD/I	-do-	Cart	25.02.60	21.03.31	21.11.63	23.03.36
"	K.N.Patkar		-do-	-do-	Cart	15.12.54	07.04.30	25.02.91	06.11.39
"	P.K.Choudhury		-do-	-do-	Cart	05.03.63	24.03.37	03.09.39	15.02.32
"	G.Nath		-do-	-do-	Yester	01.01.69	14.09.93	15.3.3000	01.07.02
"	Sanjoy Das	SC	-do-	-do-	Cart	01.04.67	01.11.91	01.12.93	25.1.03
"	S.Purokavastha		-do-	-do-	Cart	23.12.60	23.11.34	03.09.39	01.11.03
"	A.K.Chakraborty		-do-	-do-	Cart	25.12.53	21.05.75	03.09.39	01.11.03
"	A.K.Goswami		-do-	-do-	Cart	30.06.72	13.07.93	27.1.3000	01.11.03
11.	I.I.Haque Mallik		-do-	-do-	Cart	11.09.63	11.7.93	23.01.02	01.11.03
12.	Surabhan Paul		-do-	-do-	Yester	31.1.63	23.12.33	01.12.02	01.11.03
13.	<del>S.Kalita</del>		-do-	-do-	Paint	01.11.63	05.03.93	13.02.300001.11.03	
14.	S.K.Sharma		-do-	-do-	Cart	27.12.63	05.03.93	13.02.300001.11.03	
15.	A.Banerji		-do-	-do-	Cart.	01.09.71	05.03.93	13.02.300001.11.03	
16.	A.Hakim		-do-	-do-	Cart.	13.01.72	05.03.93	13.02.300001.11.03	
17.	Akhil Chandram Paul		-do-	-do-	Cart	26.01.67	01.01.99	01.12.300001.11.03	
18.	A.P.Singh		-do-	-do-	Cart	07.12.73	02.01.99	15.12.300001.11.03	
19.	A.Ganguly		-do-	-do-	W.E.P	31.12.63	16.12.92	01.12.300001111.03	
20.	A.S.Bataban	ST	-do-	-do-	Cart	22.11.46	03.07.72	04.10.02	04.10.01
21.	S.C.Kar		-do-	-do-	Cart	13.03.46	21.09.03	04.10.02	04.10.01
22.	R.K.Basumatary	ST	-do-	-do-	Paint	22.03.47	29.05.75	04.10.02	04.10.01

Constit. P/ 3

Street 2  
Wurts  
Ston

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= 2 =

CEPES/Allegation and M/Tavelo

Sr.	Name	Designation	DOB	Category	Machine No.	From Date	To Date	Amount
1.	Sri. K. C. Sarkar	JE/1	05/01/1930	Machine	07.01.95	01.04.95	06.07.95	21.00.0000
2.	K. Mullick	SS	10-10-1930	MW	21.3.70	15.01.93	27.1.2000	05.00.02
3.	J. P. Dcor	ST	10-10-1930	Machine	01.07.72	14.07.83	14.07.93	23.00.03
4.	J. Shikha	ST	10-10-1930	Machine	01.06.69	11.07.93	27.1.2000	01.11.63
5.	Subhashov Das	ST	10-10-1930	Machine	04.10.70	05.1.93	13.02.2000	01.11.63
6.	Md. J. Rashid	ST	10-10-1930	Machine	01.04.66	31.07.93	03.03.2000	01.11.63

N.B. - Any objection or representation in respect of the above seniority list must be submitted within 1(One) month from the date of publication of this list after which no appeal or representation will be entertained and it will be treated as final.

Mr 22.7.05

APC (WS)  
for CWA/NDQS.

Dated 21.07.2005

Copy for information and necessary action to:-

- (1) GMCP/ALG
- (2) PST/NDQS
- (3) CWA/NDQS
- (4) All SSEs/KSQBs
- (5) Secy. FR/NDQS
- (6) AP/NDQS
- (7) Secy. SC&ST Association
- (8) Secy. OBC Employees Association
- (9) Staff concerned.

Mr 22.7.05

CCF of NDQS

16

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUJARATI BENCH:

ANNEXURE-14

22.12.2006

1. Original Application No. \_\_\_\_\_
2. Misc. Petition No. 8/07 ~~8/07~~ in O.A. 321/06
3. Contempt Petition No. \_\_\_\_\_
4. Review Application No. \_\_\_\_\_

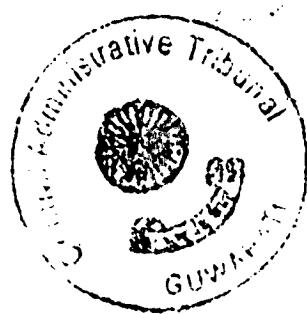
Applicant(s) A. K. Gajiwani & Ors vs Union of India & Ors

Advocate for the Applicant(s) M. Chander

S. Naik

Advocate for the Respondent(s) Rly. Counsel

Notes of the Registry	Date	Order of the Tribunal
	22.12.2007	<p>This Tribunal had passed an interim order in O.A. No.321/2006 on 22.12.2006 wherein it was made clear that all the 17 Applicants, working as Junior Engineer, appeared in the written test held on 19.8.2006 and 26.8.2006 for promotion to the post of Section Engineer (Workshop) in the pay scale of Rs.6,500/- to 10,500/- Against altogether 36 vacancies 12 persons have already been promoted selected through a modified selection test but still 24 vacancies are still there. After considering all the aspects this aspects this Tribunal passed the following order:-</p> <p>"By way of interim order it is clarified that no action prejudicial to the interest of the Applicants will be taken by the Respondents till the next date."</p>



Subtested  
Pls. file  
J.W.

Contd.  
22.1.2007

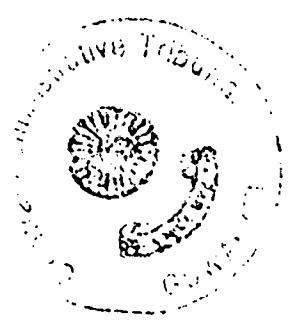
58

86

Now, the Applicants have come with this Misc. Petition praying for stay of operation of the impugned notification dated 4.1.2007 whereby a fresh examination is proposed to hold on 3.2.2007 and 10.2.2007 for promotion to the post of Section Engineer (Workshop) in which except one all the 16 Applicant are also called to appear.

Heard Mr.N.Chanda, learned counsel for the Applicants. Dr.J.L.Sarkar, learned Railway Standing counsel submitted that no action causing prejudice to the Applicant has been initiated. On the other hand, the notification may be to the persons who might not have passed in the earlier examination along with other fresh hands. Counsel for the Applicants submitted that Applicants' grievance is that the result of earlier examination held had not been published as yet, which has caused prejudice to them.

Considering these aspects this court made it clear that earlier order dated 22.12.2006 passed in Q.A.321/2006 will protect the interest of the Applicants. However, the Respondents are directed to publish the result of the examination held earlier well before the examination as per notification dated 4.1.2007. If not, the selection will not be held on the fixed dates as notified by the aforesaid notification. N.P. is closed.



23.1.07  
Case ready : 23.1.07  
Case received : 23.1.07  
Case ready  
Section Office 23.1.07  
C. A. T. Guwahati Bench  
Guwahati  
23.1.07  
H.S. 23.1.07

Sd/ VICE CHAIRMAN

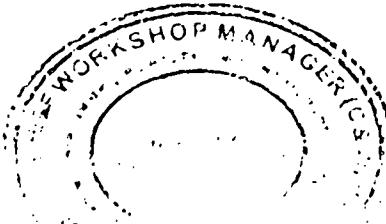
N.F. Railway

ANSWER-15

Office of the  
Chief Workshop Manager  
N.F. Railway, New Bongaigaon.

Dated:- 28-03-2007.

No. E/M/254/officer/pt. III



To,  
General Manager (P),  
N.F. Railway, Maligaon,

(For personal attention of APO (M)/ MLG)

Sub:- Selection for the post of SE(WS) in scale Rs.6500 - 10500/- both for workshop cadre and also M&P cadre of Mech. Workshop.

Ref:- Yours L/No. E/254/51(M) WS Pt.I dated 26.July/ 2006.

It is understood that selection for SE in scale Rs.6500-10500/- for which written test was held on 19.08.2006 has been canceled vide your letter no. E/254/51(M) WS Pt-I dated 20.11.2006. But this office has not received the copy of the above letter.

You are therefore hereby requested to send a copy of the same please.

Re 28.3.07

(R.ROY)  
APO(W)/NBO  
For **संस्थापक अधिकारी**  
Assistant Personal Officer  
मि. रेखा/न्यु बंगाइगाँव  
N.F. Railway/New Bongaigaon.



Attended  
R. Roy  
New

27 JUNE 2007  
27/6/07  
80

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI  
BENCH, GUWAHATI**

O.A. NO. 92/2007

Shri A.K. Goswami & ORS

- VS -

U.O.I. & Others

Written statement on behalf of the respondentS.

**That respondent MOST RESPECTIVELY SHEWITH:**

- (i) That the respondents have gone through the O.A. and understood the contents thereof:
- (ii) That in reply to the statements made in para 4.1 that the applicants are presently working as Junior Engineer Gr.I in scale Rs.5500-9000/- in C&W Workshop, New Bongaigaon. In terms of avenue of promotion, their next promotion is to the post of Section Engineer in scale Rs.6500-10,500/- Railway Board have classified the post of Section Engineer in scale Rs.6500-10,500/- as "Selection Post" and accordingly the post of Section Engineer is required to be filled by positive act of selection. The post of Section Engineer / workshop is a safety category supervisory post and very important for effective maintainance of coaches / wagons with direct bearing on the safety and puncuality of train operation.
- (iii) That in reply to the statements made in para 4.3 initially after merger of trades for filling up of vacancies in the cadres of Section Engineer (Workshop) and Section Engineer (M & P) in scale Rs.6500-10,500/- a notification for 27 posts in Workshop cadre and 09 posts in M & P cadre vide No. E/254/51 (M) W.S. Pt. I dated 13-01-2006. <sup>was issued</sup> But, the above selection was postponed as it has been decided to make a review of the impact of the merger of trades and its efficiency in the functioning of workshops.
- (iv) That in reply to the statements made in para 4.4 subsequently it has been decided to make a review of the recently done merger of the trades and its efficacy and impact on the functioning of the Workshops, the above selection was kept in abeyance. It may not be out of place to mention here that hitherto, in the Mechanical (C&W) Workshops, the seniority, selections etc. were used to be done separately trade wise only. He cannot be given promotion against a post vacant in any

other trade even if he is senior in overall consideration. Subsequently, it has been decided to merge the different trades into two broad groups i.e. workshop cadre and M & P cadre. Previously, a supervisor say in a particular trade has to wait for his promotion till a vacancy is caused, even if he is initially pretty senior while a much junior person initially, may get promotion earlier because of the position of his own trades. After consulting the recognized <sup>Trade</sup> unions, the various trades have been merged in to two distinct trades i.e. WS cadre and M & P cadre. Thereafter, for selection the said notification was issued. But, as it has been decided to review the impact of the trades merger, the said selection was kept in abeyance.

(v) That in reply to the statements made in para 4.6 subsequently for holding the selection, notification was issued on 13-01-06 fixing the date of written examination has been held. But, immediately after that, it has been detected that at the time of restructuring of cadre in terms of Board's letter No. PC / III / 2003 / CRC / 6 dated 09-10-03 & 06-01-04 w.e.f. 01-11-2003, a number of vacancies were left out and taken into consideration inadvertantly for promotion of staff against restructuring vacancies because of clerical error. When this came to notice, immediately the selection had to be cancelled on 20-11-06. For this error the responsible official has been takep up. The selection had to be cancelled since the promotion against restructuring, was done on the basis of modified selection and the normal selection is to be done by positive act of selection by holding written examination. Had the selection not been cancelled a lot of complicity would have arisen regarding seniority position etc. As such, the normal selection was cancelled and the modified selection against the left out vacancies which were available consequent on restructuring was done as per seniority.

(vi) That in reply to the statements made in para 4.7 modified selection against the left out vacancies against the cadre restructuring had to be held first by cancelling the normal selection to avoid future complications and there is nothing arbitrary, unfair and melafile in it.

(vii) That in reply to the statements made in para 4.8 in terms of extant instructions of Railway Board, in the cadre of Section Engineer, 80% of the vacancies are filled up through departmental promotion from the eligible staff from immediate lower grade i.e. Junior Engineer Gr. I and remaining 20% vacancies are recruited from the open market by Railway Recruitment Board. The open market candidates after their empanelment are subjected to requisite initial training, and on their successful completion of training, are posted. Since they have laready completed their training, they cannot be kept waiting and as such they have been posted.

(viii) That in reply to the statements made in para 4.9 as has been already mentioned, the

81  
Chittaranjan Haldar  
31-12-2010  
C. Secy. MFO

92  
Letter Hand Taken  
13

selection which was under way, had to be cancelled as the modified selection was to be conducted against the restructuring vacancies which were left out inadvertently earlier, in order to avoid future complication as same as candidates who were considered against the restructuring vacancies, has also been and appeared in the normal selection and thus a peculiar situation would have arisen resulting in anomaly.

(ix) That in reply to the statements made in para 4.13 the selection is question has already been cancelled and 20-11-2006.

(x) That in reply to the statements made in para 4.10 and 4.11 it is stated that the earlier selection was cancelled by letter dated 20/11/2006 for administrative error as explained in the preceding paragraphs. It is denied that the cancellation is an after thought and well planned action as alleged. The ground for cancellation has been disclosed in the preceding paragraphs i.e. for wrong calculation of vacancies.

(xi) That in reply to the statements made in para 4.12, 4.13 respondents denies the correctness of the statements and the allegations made in the petition. It is stated that Railway Board under takes periodical review of cadres and up grades some post in the cadre and such up gradation benefits are given with retrospective effects as mentioned in the scheme with transparency. This is done looking to the welfare needs of the senior persons in the cadre. Under such restructuring said twelve employees were given promotion under restructuring up gradation. The allegation of manipulation is denies and the applicants be put strict proof of the same. The allegation of malafide is also unfounded and not supported by facts. Persons named in the said paragraphs has been promoted as they were eligible. Applicants in a camouflaged manner has brought some baseless allegations and have never represented pointing any irregularity to the authorities and they know that there is no case against the employees named in these paragraphs and as such has not impled them in the O.A.

(xii) That in reply to the statements made in para 4.14 and 4.15 respondents states that the earlier selection was cancelled by letter dated 20/11/2006 for administrative error as explained in the preceding paragraphs. It is denied that the cancellation is an after thought and well planed action as alleged. The ground for cancellation has been disclosed in the preceding paragraphs i.e. for wrong calculation of vacancies.

(xiii) That in reply to para 4.16 the respondents denies the allegations that the cancellation of the selection made after passing of the interim order by the Hon'ble Tribunal on 22/12/06 in OA No. 321/06. The factual position is that the selection was cancelled on 20/11/06 and the interim order was passed on 22/12/06 because fact of cancellation could not be placed before the Hon'ble Tribunal

(xiv) That in reply to the statements made in para 4.17 it is stated the applicants have

made vague allegation of large scale irregularities and manipulation without pointing out anything in the matter.

In fact there has been administrative error in accessing the vacancies and the allegation of irregularity and manipulations is denied.

(xv) That in reply to the statements made in para 4.18, 4.19 and 4.20 the respondents reiterated the statements made in the preceding paragraphs and say that cancellation of the selection by letter dated 20/11/06 for bonafide administrative error.

(xvi) That in reply to statements in para 4.21 respondents have no objection if the present O.A is heard along with the OA No.321/06.

That as already explained above it is a case of assessment of wrong vacancy which is an administrative error. Necessary administrative action against the officer concerned have also been initiated. Factual position is that the number of vacancies (existing participated) should be 24 while was wrongly taken as 36. Reservation for SC & ST also varied according to the number of vacancies assessed.

Two tabulation showing wrong assessment of 36 and current assessment of 24 vacancies are appended below:-

	Existing vacancy	Anticipated vacancy	Total	Community wise break-up
WS cadre	8	19	27	SC- 04 ST- 03 <u>UR- 20</u> Total-27
M&P cadre	6	3	9	SC- 02 ST- Nil <u>UR- 07</u> Total-09

	Existing vacancy	Anticipated vacancy	Total	Community wise break-up
WS cadre	Nil	19	19	SC- 02 ST- 01 <u>UR- 16</u> Total-19
M&P cadre	2	3	5	SC- 02 ST- Nil <u>UR- 03</u> Total-05

Nitha and others v. DSC, 1983  
Dy. C. J. / 15

Therefore, wrong assessment of vacancies resulted in procedural irregularities in the selection. Even if respondents had gone ahead with the selection and finalised panel, there would have been procedural irregularities in the panel and therefore, liable to be cancelled subsequently under para-(e) of Rule- 219 of (IREM, Vol-I).

Not only the assessment of vacancies would have been changed, also the community wise breakup would have changed resulting in violation of reservation rules.

If the 12 candidates who were given promotion against modified selection would have failed in the normal selection, this would have created further complication since such candidates were being denied the benefit of modified selection for which they were entitled under rules. Moreover, it would give rise to seniority disputes amongst these 12 candidates and other successful candidates of the normal selection.

Moreover the number of vacancies cannot be altered once the notification is issued and vacancies meant for general and reserved candidates should be clearly indicated while issuing the notification. There was, therefore, no option but to cancel the selection.

Under the facts and circumstances stated above the OA deserve to be dismissed with cost.

## VERIFICATION

I, Sri Nitja Nanda Ghakhr... aged about ...56... years, Son of Late Pran Mohan Ghakhr..... working as ~~Asst. C.P.O./H&S/NP~~ <sup>Asst.</sup> do hereby verify that statements made in para ...i..... to ~~xvi~~... are true to my knowledge and belief and I have not suppressed any material facts.

AND I sign this verification on this 20<sup>th</sup> day of June, 2007 at Guwahati.

Date: 20/6/07

Place: Guwahati

*Nityanand Thakur*

Signature

*Q.P.O. / H&S / N.P.*  
*Guwahati*  
*Assam*  
*India*

१०.१.२००७

गुवाहाटी न्यायालय  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

४८

Filed by the applicant  
through Mr. Biju  
Advocate on 10.09.07

O.A. No. 92/2007

In the matter of:

Sri Arun Krishna Goswami & Others.

-Versus-

U.O.I and Others.

-And-

In the matter of:-

Rejoinder submitted by the applicant  
against the written statement submitted  
by the respondents.

The above named applicant most respectfully begs to state as under:-

1. That with regard to the statements made in para II, III, IV and V, it appears that the selection have been postponed at the instance of the Railway authorities, inspite of availability of vacancies in the promotional post of Section Engineers (SE) as admitted in the above paragraphs. The statements made in para V of the written statements, to the effect that selection had to be cancelled on 20.11.2006 due to clerical error as because some of the vacancies pertaining to cadre restructuring have been taken into consideration inadvertently while issuing notice for selection and it is alleged that due to such administrative error the selection had to be cancelled on 20.11.2006. It is relevant to mention here that without issuing any corrigendum as required under the rule, in as much as 12 vacancies have been filled up, of different trades against restructuring vide

memorandum dated 04.12.2006 i.e after the selection was over on 19.08.2006 and 26.08.2006 conducted following the direction of the GM (P), where all the applicants have participated after taking lot of hard work and rigorous preparation for the said selection even, by taking leave on their personal account and also in anticipation that they will be promoted to the cadre of SE in the event of passing of the examination. As a result of filling up of 12 vacancies out of 36 vacancies pertaining to restructuring, the rest 24 vacancies are exclusively meant for the present applicants, which are liable to be filled up by an act of positive selection. Since the applicants have already participated in the selection proceeding that too held by the competent Railway authority, therefore the remaining 24 vacancies are liable to be filled up on the basis of the selection held on 19.08.2006/26.08.2006. Moreover, the present applicants are not aggrieved by the reduction of number of vacancies due to administrative error if any. But the present applicants are highly aggrieved by the non declaration of results on the basis of the selection/examination held on 19.08.2006/26.08.2006 and the applicants are also aggrieved due to alleged cancellation of the examination on 20.11.2006 as stated in para V of the written statement. It is humbly submitted that there is no cogent reason or justifiable reason for cancellation of the examination held on 19.08.2006 and 26.08.2006, only on account of reduction of number of vacancies of SE's from 36 to 24, moreso when the administrative error has occurred due to the fault of the railway authorities, which is a curable defect and very often such defects are being cured by issuing necessary corrigendum. But cancellation of the whole examination that too without any intimation to the applicants is highly arbitrary, unfair and illegal and such action is not sustainable in the eye of law. Due to such arbitrary decision of the railway authorities, all the applicants have been adversely effected and it will cause irreparable loss and injury to the applicants as because the applicants shall be required to undergo a fresh set of rigorous selection only at the whims and fancies of the railway authorities. The decision of

cancellation of the examination is nothing but a colourable exercise of power and as such law cannot be permitted to act unfairly and arbitrarily by the railway authorities more so when the mistake have been committed by the railway authority. It is further submitted that in the facts and circumstances as stated above, Railway authority cannot have valid or legal objection in setting aside the impugned order of cancellation of selection passed by the Railway Authority.

The order of cancellation was issued in a hide and sick manner as because no opportunity was provided to the applicants before cancellation of the examination, since the applicants have adversely effected persons, as such they are entitled to the notice before cancellation of the exam/selection. Moreover, the interim order was passed by the Hon'ble Tribunal on 22.12.2006, and further interim order was passed on 22.01.2007 directing the respondents to declare the results of the selection held earlier in the Misc. Petition no. 8/07 in O.A No. 321/2006 when a prayer is made by the applicants for stay of the impugned notification dated 04.01.2007, whereby a fresh examination is proposed to be held on 03.02.2007 and 10.02.2007. Therefore it appears that when further interim order was passed on 22.01.2007, long thereafter the railway authority preferred a Misc. petition for vacating the interim order dated 22.01.2007 contending that examination has already been cancelled on 20.11.2006, which makes it abundantly clear that the order of cancellation have been passed in an hide and sick manner without any intimation even to the concerned railway authorities, although in the order of cancellation, it appears that a copy has been marked for communication to Chief Workshop Manager, New Bongaigaon, which also addressed to APO, New Bongaigaon, but no such copy in fact communicated to CWM/APO New Bongaigaon as evident from APO's letter No. E/M/254/officer/Pt. III dated 28.03.2007. Therefore, it appears that no intimation was given to the other railway authorities, although the same is shown to have been

communicated in the impugned letter dated 20.11.2006, and as such the same smacks malafide and the Hon'ble Court be pleased to direct the Railway authority to produce the relevant file/records cancelling the selection held on 19.08.2006 and 26.08.2006, and also the relevant dispatch register through which impugned letter dated 20.11.2006 have been despatched to the other Railway authorities as indicated in the letter dated 20.11.2006. The relevant record is also necessary to ascertain the reasons of cancellation of the selection held on 19.08.2006 and 26.08.2006. There is no railway rule directing cancellation of the entire selection proceeding, when the same is simply on the ground of reduction of number of vacancies initially notified, rather issuing a corrigendum to that effect is the right course of action on the part of the Railway administration in order to remove the discrepancies in the number of vacancies which is caused due to administrative error at the instance of the railway authorities and for the wrong caused by the railway authorities, the applicants should not be made to suffer and moreover there is no scope for any sort of complicity as alleged in para 5 in the event of issuing a corrigendum which was the right course of action available to the Railway administration. It is pertinent to mention here that even for the modified selection which was held after taking away the 12 number of vacancies out of the 36 vacancies initially notified that too without issuing any corrigendum. Therefore it appears that the Railway authority have committed one after another irregularities, without any corrigendum railway authority also held the modified selection against the restructuring vacancies and till date the said modified selection and memorandum issued on 04.12.2006 appears to be valid in the eye of the railway authorities But on the alleged ground of administrative error in computing the vacancies the entire selection is now sought to be cancelled by the administration which is not permissible under the law in force.

2. That with regard to the statements made in para I, VII, VIII, IX, X, XI and XII of the written statement are categorically denied, save and except, which are borne out of records. So far contention raised in para VI is concerned it is categorically denied and further submitted that the applicants are not standing on the way of modified selection, which is already been done by the railways and applicants have no grievance against such modified selection and also has no grievance even for the reduction of number of vacancies. The contention raised in para VII is not at all relevant in the instant case of the applicant. So far statement made in para VII, IX X, XI and XII are concerned, has been elaborately replied in the preceding paragraphs.
3. That with regard to the statements made in para XIII, XIV, XV and XVI of the written statement, the applicants deny the correctness of the statements, save and except which are specifically admitted and further beg to say that there is no justifiable reason for cancellation of the entire selection proceeding held on 19.08.2006 and 26.08.2006 on the ground of reduction of vacancies from 36 to 24, that too on the ground of administrative error. Therefore the impugned order of cancellation of selection dated 20.11.2006 is liable to be set aside and quashed. Moreover, no reason has been assigned for cancellation of the selection in the impugned order dated 20.11.2006 and on that score alone the impugned order dated 20.11.2006 is liable to be declared void and the order of cancellation is liable to be set aside and quashed.

In the circumstances stated above, the original application is deserves to be allowed with costs.

VERIFICATION

I, Sri Arun Krishna Goswami, S/o- Late Prassanna Goswami, aged about 34 years, working as Junior Engineer-I in the office of Senior Section Engineer, N.F. Railway, Bongaigaon, applicant No. 1 in the instant application, duly authorized by the others to verify statements made in this Petition in Paragraph 1 to 3 are true to my knowledge and legal advice and I have not suppressed any material fact.

And I sign this verification on this the 2nd day of September, 2007.

*Arun Krishna Goswami*