

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. _____

2. Miss Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

5/07 in O.A. 61/07

Applicant(S): ... Arundhati Koluta ... VS Union of India & Ors

Advocate for the Applicants... Adil Ahmed, Ms. S. Bhattacharjee

Advocate for the Respondent(S): ... K.K. Biswas, Rly. advocate

Notes of the Registry	Date	Order of the Tribunal
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This Review petition has been filed by the counsel for the Applicant u/s 22 (3) (f) of the Administrative Tribunal Act, 1985 read with Rule 17 of the CAT (Procedure) Rule, 1987 praying for review the Judgment and order dated 22.11.2007 passed by this Hon'ble Tribunal in O.A 61/07. The matter may be first placed before the Hon'ble V.C. for approval for circulation in same, laid before the Hon'ble V.C. for approval,

04.02.2008

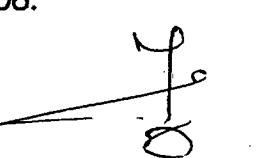
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1.03.2008

This Review Application is directed against the order dated 22.11.2007 rendered by this Tribunal in O.A. No. 61/2007. A copy of this R.A. was served on Mr.K.K.Biswas, learned Railway counsel; who seeks adjournment to file written objection.

Call this matter on 11.03.2008. Objection, if any, be filed by 5th March, 2008.

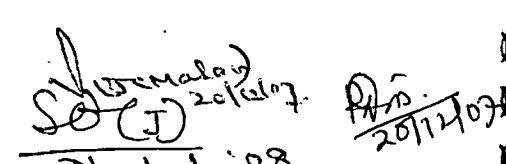

(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

Mr. A.Ahmed, counsel for the Applicant is present. Mr. K. K. Biswas, learned counsel appearing for the Railways seeks further time to file objection.

Call this matter on 11th April, 2008.


(M.R. Mohanty)
Vice-Chairman

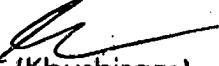

S. Bhattacharjee
20/12/07
20/12/07
Dr. 1-1-08
The RA is placed before
the Hon'ble V.C. for order.

11.04.2008 On the request of learned counsel for the Applicant call this matter on 08.05.2008.

Objection not filed.

3
10.3.08

/bb/


(Khushiram)
Member (A)

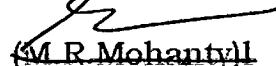
Y.C.
(M.R.Mohanty)
Vice-Chairman

10.4.08
08.05.2008

W.P.s. submitted
by the Respondents
undertaking given
for Service copy.

lm




(M.R. Mohanty)
Vice-Chairman
Member (A)


(Khushiram)
Member (A)
V.C.

W.P.s. filed.

3
10.4.08

26.06.08 Mr A.Ahmed, learned counsel appearing for the Applicant is present. Mr K.K.Biswas, learned Counsel for the Respondents seeks adjournment to take instruction on the rejoinder filed by the Applicant.

In the aforesaid premises call this matter on 11.08.2008 for giving consideration to the R.A.

Rejoinder filed
on behalf of
the applicant.

3
07.05.08

pg


(M.R. Mohanty)
Vice-Chairman

The case is ready.

3
25.6.08

The case is ready.

3
8.08.08

Notes of the Registry

Order of the Tribunal

11.08.2008

Reply to the rejoinder has already been filed.

On the prayer of learned counsel appearing for both the parties, call this matter on 17.9.2008.

WVS filed on behalf
of the respondents
against the Rejoinder
filed by the applicant.

22
8/08/2008


(M.R. Mohanty)

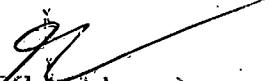
Vice-Chairman

The case is ready 17.09.2008
for hearing.

23
16.9.08

Heard Mr A. Ahmed, learned Counsel appearing for the Applicant, and Mr K.K. Biswas, learned Counsel for the Respondents/Railways and perused the materials placed on record.

For the reasons recorded separately, the R.A. stands dismissed.


(Khushiram)
Member(A)

nkm


(M.R. Mohanty)
Vice-Chairman

Received
R.A - No 5/07
final order date
17th Sept. 08
Dwarka Gaur
22.09.08

Recd: One copy of or
order on 25.09.08
Mr. Biswas
- 25/9/08
Advocate
R.C.T./Ghy

26.9.08

Copy of the order send
to the Office for issue the
same to the Respy. No 1103
and L/Adv. for the application.

Th.

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Review Application No.05 of 2007

(In O.A.No.61/2007)

Date of Order: This the 17th day of September 2008

The Hon'ble Sri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri Khushiram, Administrative Member

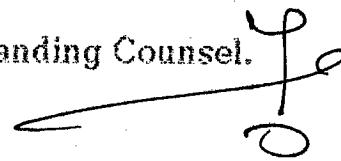
Smt Arunchati Kalita,
Wife of Shri Arup Kumar Goswami,
Railway Quarter No.167/B, East Maligaon,
Guwahati-781011. Review Applicant

By Advocates Mr A. Ahmed and Ms S. Bhattacharjee.

- versus -

1. Union of India, through the
General Manager,
N.F. Railway,
Maligaon, Guwahati-781011.
2. The General Manager (Personnel),
N.F. Railway,
Maligaon, Guwahati-781011.
3. The Deputy Chief Personnel Officer (Gaz),
Office of the General Manager (Personnel),
N.F. Railway,
Maligaon, Guwahati-781011. Respondents

By Advocate Mr K.K. Biswas, Railway Standing Counsel.



2
RA 5/2007
ORDER (ORAL)
17.09.2008

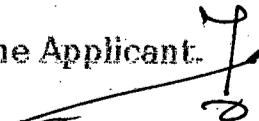
M.R. MOHANTY, VICE-CHAIRMAN

O.A.No.61 of 2007 was disposed of on 22nd day of November 2007 with grant of liberty to the Applicant to put up her case (in the shape of a representation with all details) before the Respondents; who should take the same into re-consideration and pass a reasoned order within three months from the date of receipt of the said representation.

2. Despite the aforesaid order (based on the prayer of the Advocate for the Applicant, made in course of hearing of the O.A.) the Applicant has filed the present R.A. A reply has also been filed by the Respondents/Railways in this R.A. The Applicant having filed a Rejoinder, a reply to the Rejoinder has also been filed by the Respondents/Railways in this R.A.

3. Heard Mr A. Ahmed, learned Counsel appearing for the Applicant, and Mr K.K. Biswas, learned Counsel for the Respondents/Railways, and perused the materials placed on record.

4. Some new materials were brought on record alongwith the Rejoinder filed in the O.A. Also some more new materials were shown to this Bench at the hearing of the O.A..In the said premises, liberty was granted to the Applicant to put all available materials before the Respondents/Railways for a re-consideration. The order was passed in the interest of the Applicant and without any prejudice to the Respondents; who were to re-consider the matter with reference to all materials to be placed by the Applicant.



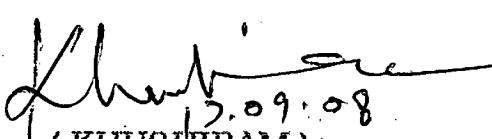
5. Nothing has been placed on record to warrant a Review of this case. All new materials were in possession of the Applicant. There are no scope to re-argue the O.A. in this Review.

6. In the above premises, this Review Application is dismissed. No costs.

7. While parting with this case, we again grant liberty to the Applicant to put up her grievances in writing (alongwith all supporting materials) to the Respondents. The Respondents (General Manager of N.F. Railway) to reconsider the grievances of the Applicant (by taking into consideration the representation to be filed by the Applicant) by taking into consideration all materials/points; including the point that the Counsel for the Railways, on 17.02.2005, conceded as under before this Tribunal:

"It is stated by the respondents that pursuant to interim order dated 26.12.2003 passed in aforesaid O.A. the Applicant continues to occupy the post of J.S.O."

Copies of this order be sent to the Applicant and the Respondents in the addresses given in the O.A. and free copies of this order be supplied to the Advocates appearing for both the parties.


 17.09.08
 (KHUSHIRAM)
 ADMINISTRATIVE MEMBER


 17/09/08
 (M. R. MOHANTY)
 VICE-CHAIRMAN

Guwahati Bench
Guwahati Bench

THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH ::::GUWAHATI

- 1 -

REVIEW APPLICATION NO. 5 OF 2007

IN ORIGINAL APPLICATION NO. 61 OF 2007.

Filed by
Smti Arundhati Kalita
Review Applicant
Gmt Arundhati Kalita
through
Abul Ahmed
Advocate

Smti Arundhati Kalita

... Applicant

-Versus-

The Union of India & others
... Respondents.

- AND -

IN THE MATTER OF :

An application under Section 22 of Sub Section (3) (f) of the Administrative tribunal Act, 1985 read with Rule 17 of the Central Administrative Tribunal (Procedure) Rule, 1987.

- AND -

IN THE MATTER OF :

Smti Arundhati Kalita,
Wife of Shri Arup Kumar
Goswami
Railway Quarter No. 167/B
East Maligaon, Guwahati -781
011.

...Review
Applicant /
Original
Applicant

- AND -

1. Union of India through the General Manager, N.F.

Arundhati Kalita

18 DEC 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

-2-

Railway, Maligaon, Guwahati-
781 011.

2. The General Manager (Personal), N.F.Railway, Maligaon, Guwahati-781 011.
3. The Deputy Chief Personal Officer, (Gaz). Office of the General Manager (Personal), N.F. Railway, Maligaon, Guwahati -781 011.

... Opposite Parties/
Respondents.

The Review Applicant /Original Applicant named above:

MOST RESPECTFULLY SHEWETH :

1. That the Review Applicant /Original Applicant had filed an Original Application No. 61 of 2007 before this Hon'ble Tribunal to set aside and quash the rejection letter No.E/170/LC/NS/690/06, dated 23.10.2006 issued by the Respondent No.3/Opposite Party No. 3 as well as Office Order No. 32/2005 (Traffic/Safety) dated 31.10.2005/2-11-2005 whereby the Review Applicant / Original Applicant was deemed to be promoted to the post of Junior Scientific Officer (in short J.S.O.), Group-B, Head Quarter-Maligaon on 31-10-2005 as ad-hoc basis which is in complete and total violation of the order dated 01-04-2004 passed in O. A. No.294 of 2003 by this Hon'ble Tribunal and the Review Applicant / Original Applicant also prayed before this Hon'ble Tribunal for a direction to the Respondents for granting her arrear salaries and consequential service benefits as J.S.O. Group-B from 16-12-2003 to 31-10-2005.
2. That the Review Applicant/Original Applicant begs to state that the Hon'ble Tribunal finally heard the matter on 22nd Day of November, 2007. The Hon'ble

Arundhati Kalita

16 DEC 2007

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गुवाहाटी नियायपीठ
Guwahati Bench

Tribunal vide its Order dated 22-11-2007 disposed the said Original Application No.61 of 2007 by way of granting liberty to the Applicant to put up her case (in shape of a Representation with all details) before the Respondents who should take the same into consideration and pass a reasoned order within three months from the date of receipt of the said Representation. Respondents need also grant personal hearing to the Applicant on her prayer, if any.

Photocopy of Judgment and Order dated 22nd day of November 2007 passed by the Hon'ble Tribunal in Original Application No. 61 of 2007 is annexed herewith and marked as Annexure-X.

3. That the Review Applicant/ Original Applicant begs to state that she has already submitted her Representation before the Respondent Authority with all details on 08.08.2006 as liberty was given to her by this Hon'ble Tribunal while disposing her Contempt Petition No. 5 of 2006 in earlier O.A. No. 294 of 2003. The instant Opposite party/ Respondent No.1 i.e. the Office of the General Manager, N.F. Railway vide their letter No. E/170/LC/NF/690/06 dated 23.10.2006 rejected the Representation of the Review Applicant/Original Applicant. The same has been stated by the Respondent in their written statement in paragraph 4.5 (page 3). In the said paragraph the Respondents have stated that after careful consideration of all aspects and denied the entitlement of arrear dues from 16.12.2003 to 31.10.2005 as J.S.O. adhoc as claimed by the Applicant.

4. That the Review Applicant/Original Applicant has prayed before this Hon'ble Tribunal in O.A No. 61 of

Arundhati Nahite,

11 DEC 2007

गुवाहाटी न्यायपाल
Gauhati Bench

2007 to set aside and quash the impugned rejection order dated 23.10.2006 and also for a direction to the Respondent to pay the arrear salary of the Review Applicant/Original Applicant from the period 16.12.2003 to 31.10.2005. Therefore, the Review Applicant/Original Applicant has not prayed before this Hon'ble Tribunal to grant her liberty to file another representation before the Respondent Authority to consider her case again as the Respondent Authority has already rejected the prayer of the Review Applicant/Original Applicant vide their letter dated 23.10.2006. The Applicant has not prayed before the Hon'ble Tribunal for her regularization of service as J.S.O. but for her continuation in the post of J.S.O. since 16.12.2003. It is to be stated that the learned Counsel of the Respondents have also admitted before this Hon'ble Tribunal on 17.02.2005 in C.P No. 31 of 2004 in O.A. No. 294 of 2003 that in pursuant to interim order dated 26.12.2003 passed in the aforesaid O.A. the Applicant continue to occupy the post of J.S.O.

5. That the Review Applicant / Original Applicant begs to state that the impugned order of reversion dated 16-12-2003 of the Applicant from the post of Junior Scientific Officer to Senior Scientific Assistant has already been settled by the Hon'ble Gauhati High Court, Guwahati as well as by this Hon'ble Tribunal vide its Orders dated 01-04-2004 and Order dated 13-09-2005 respectively. However, the Respondents have interpreted the same in different way, which is not sustainable in the eye of law as well as facts of the case.

6. That the Order dated 22-11-2007 passed by this Hon'ble Tribunal in Original Application No. 61 of 2007 is an error apparent face of the record. Hence, if the said order of this Hon'ble Tribunal is not reviewed then

Arundhati Kalita

18 DEC 2007

गुवाहाटी बैठकगृह
Guwahati Bench

the instant Review Applicant/ Original Applicant will suffer irreparable loss and injury.

7. That being aggrieved by this the Review Applicant / Original Applicant has filed the Review Application before this Hon'ble Tribunal for seeking Review of the aforesaid order on the following amongst grounds.

G R O U N D S:

- (a) For that the Review Applicant has already filed a detail representation on 08-08-2006 before the Respondent No.1 as per direction of this Hon'ble Tribunal in C.P.No.5 of 2006 in O.A.No.294 of 2003. The Respondents have already rejected the prayer of the Applicant for her arrear salaries from 16-12-2003 and 31-10-2005 vide Rejection letter No.E/170/LC/NS/690/06 dated 23-10-2006.
- (b) For that the Review Applicant has challenged the impugned Rejection Order dated 23-10-2006 issued by the Respondents before this Hon'ble Tribunal. Therefore, the Hon'ble Tribunal failed in to obvious error / mistake by directing the Review Applicant to file another representation before the Respondents to consider her case without setting aside the earlier Rejection Order dated 23-10-2006 by this Hon'ble Tribunal.
- (c) For that the Order dated 22-11-2007 passed in O.A.No.61 of 2007 is silent about the fate of the earlier impugned Rejection Order dated 23-10-2006 issued by the Respondents.
- (d) For that the impugned Order of the reversion of the Review Applicant has attained finality in the

Arundhati Kalita

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गुवाहाटी न्यायपीठ

Lower Bench

-6-

eye of law as the Respondents / Opposite parties have not approached in higher forum against the Order passed by this Hon'ble Tribunal and Hon'ble Gauhati High Court, Guwahati vide its Order dated 01-04-2004 and 13-09-2005.

- (e) For that in spite of details representations made by the Review Applicant and also submission made by the learned Counsel of the Respondents on 17-02-2005 before this Hon'ble Tribunal in C.P.No.31 of 04 in O.A.No.294 of 03, the Respondents have rejected the detail Representation of the Applicant on 23-10-2006.
- (f) For that the Hon'ble Tribunal has committed a mistake / an error apparent on the face of record by directing the Review Applicant to file a fresh Representation before the Respondents for consideration of her case without setting aside the earlier Rejection Order 23-10-2006 issued by the Respondents/Opposite parties which was impugned in the O.A.NO.61 of 2004.
- (g) For that in any view of the facts and circumstances and the provisions of law the order dated 22-11-2007 passed by this Hon'ble Tribunal may kindly be reviewed.
- (h) For that the Review Applicant states that the grounds details above are good grounds for review both on legal and factual aspects and if the Hon'ble Tribunal did not exercise power of review then the Review Applicant will suffer irreparable loss and injury.

Arunabhati Kaitla

18 DEC 2007

गुरुहाटी बारायणी
Guru Hati Beach

In the premises aforesaid it is respectfully prayed that your Lordships may be pleased to admit this Review Application and may be pleased to review the Judgment and Order dated 22-11-2007 passed by this Hon'ble Tribunal in Original Application No.61 of 2007 and also may be pleased to grant the relief / relief (s) as prayed for by the Review Applicant / Original Applicant and / or a passed such further order / orders as your Lordships deem fit and proper.

And for this act of kindness the Review Applicant / Original Applicant as in duty bound shall ever pray.

--- Affidavit

Arundhati Kalita

केंद्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

18 DEC 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

A F F I D A V I T

I, Smti Arundhati Kalita, aged about 41 years, wife of Shri Arup Kumar Goswami at present residing in Railway Quarter No.167/B, East Maligaon, Guwahati- 11, District-Kamrup, Assam do hereby solemnly affirm and state as follows :

1. That I am the original applicant in O.A. No. 61 of 2007 and also the applicant of the instant Review Application and as such I am acquainted with the facts and circumstance of the case.
2. That the contents of this affidavit and statements made in paragraph Nos. 1, 3 to 7 — Of the above petition are true to my knowledge and belief and those made in paragraph Nos. 2 — are being matters of records derived therefrom which I belief to be true and those made in the rests are my humble submission before this Hon'ble Tribunal.

I sign this affidavit on the 17th day of December, 2007 at Guwahati.

Identified by me :
Advocate (Adil Ahmed)

Arundhati Kalita
Deponent

Solemnly affirmed before me
By the deponent who is
Identified by Mr. Adil
Ahmed, Advocate.

Suklita Das Chowdhury
Advocate

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

Original Application No.61 of 2007

18 DEC 2007

Date of Order: This the 22nd day of November 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri Khusiram, Administrative Member

Smt Arundhati Kalita,
Wife of Shri Arup Kumar Goswami,
Railway Qrs No.167/B,
East Maligaon, Guwahati-11.

..... Applicant

By Advocates Mr Adil Ahmed and
Smt Bhattacharjee

- versus -

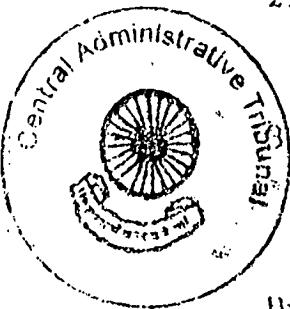
1. Union of India,
Through the General Manager,
N.F. Railway, Maligaon,
Guwahati-11.

2. The General Manager (Personnel)
N.F. Railway, Maligaon,
Guwahati-11.

3. The Deputy Chief Personnel Officer (Gaz.),
Office of the General Manager (Personnel),
N.F. Railway, Maligaon,
Guwahati-11.

..... Respondents

By Advocate Mr K.K. Biswas, Railway Standing Counsel.



"It is stated by the respondents that pursuant to interim order dated 26.12.2003 passed in aforesaid O.A., the Applicant continues to occupy the post of J.S.O."

5. Apart from the above details, given in the Rejoinder, the Advocate for the Applicant showed us some more materials, in course of hearing, in order to substantiate that she was actually in position (and discharging duties) of J.S.O. during the period between 16.12.2003 and 31.10.2005 and that, therefore, she was entitled to get the higher scale of pay of J.S.O. (minus the lower pay that has already been drawn by her) for the said period. The new materials that has been placed on record at a later stage with the Rejoinder (filed by the Applicant) and shown at the hearing are not available to be relied upon without giving adequate opportunity to the Respondents to have their say in the matter. It appears all these materials were never placed before the Respondents/Railways; while claiming higher pay to the scale meant for J.S.O.

Faced with the above situation, Mr Adil Ahmed, learned counsel for the Applicant, prayed to grant liberty to the Applicant to put up a comprehensive Representation (with all materials) before the Respondents claiming higher pay for the intervening period and for her regularization in J.S.O. post.

7. In the above premises, without entering into merits of the matter, this Original Application is hereby disposed of by way of granting liberty to the Applicant to put up her case (in shape of a Representation with all details) before the Respondents; who should

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

11 DEC 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

take the same into consideration and pass a reasoned order within three months from the date of receipt of the said Representation. Respondents need also grant personal hearing to the Applicant on her prayer, if any.

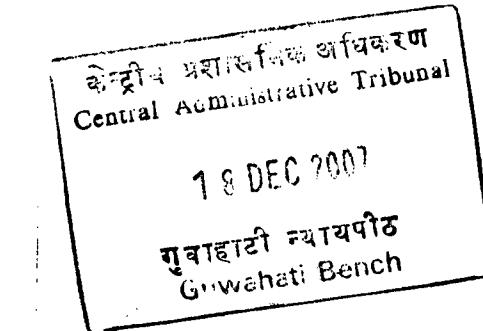
Sd/-
Khushiram
Member (A).

Sd/-
Manoranjan Mohanty
Vice-Chairman



Date of Application : 23.11.07
 Date on which copy is ready : 23.11.07
 Date on which copy is delivered : 23.11.07
 Certified to be true copy

Section Office (Judi) 23/11/07
 C. A. T. Guwahati Bench
 Guwahati



Applicant from 16.12.2003 to 31.10.2005 as Junior Scientific Officer Group-B.

8.3 To pass and other appropriate order or orders to which the applicant may be entitled and as may be deemed fit and proper in the facts and circumstances of the case.

8.4 To pay the cost of the application."

Central Administrative Tribunal

11.02.2007

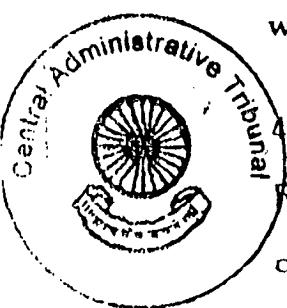
प्रतिक्रिया पत्रिका

5 Bench

2. At the hearing, however, the Advocate for the Applicant has only pressed the prayer for a direction (to the Respondents) to pay her differential arrear salary (in the pay scale of J.S.O. minus the pay actually drawn as Sr. Scientific Research Assistant) for the period between 16.12.2003 and 31.10.2005 and abandoned the other prayers made in the case, apparently, to get the same redressed from the higher authorities of the Applicant.

3. Respondents, who have filed a Reply in the case, have pointed out that, since the Applicant did not discharge the duties of J.S.O. during the period between 16.12.2003 and 31.10.2005, she was/is not entitled to the financial benefit in the post of J.S.O.

In order to counter the above said stand of the Respondents/Railways, the Applicant, who has filed a Rejoinder in this case, has pointed out that on a number of occasions, she was entrusted with the work of J.S.O. and on the basis of her recommendations (as J.S.O.) persons were appointed; that she was granted Railway Passes in the status of J.S.O. and that the Respondents (in a Contempt Proceeding, C.P.No.31/2004, that was initiated against the Respondents) disclosed before this Tribunal, on 17.02.2005, as under:



MP

10 APR 2008

गुवाहाटी न्दायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH. GUWAHATI

Review Application No. 5 of 2007
in O.A No. 61/2007

Smt. Arundhati Kalita Applicant

-Vrs-

Union of India and Ors..... Respondents

IN THE MATTER OF :

WRITTENSTATEMENT/OBJECTION PETITION BY
THE ANSWERING RESPONDENTS TO THE
REVIEW APPLICAOTN FILED BY THE ABOVE
NAMED APPLICANT

The answering Respondents most respectfully sheweth:

1. That the answering Respondents have gone through the copy of the Review Application filed by the above named Applicant and understood the contents thereof. Save and except the statements which have been specially admitted herein below or those which are borne on records all other averments/allegations made in the application are hereby emphatically denied and the application has put to the strictest proof thereof.
2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering Respondents confined their replies to those points/ allegations/ averments of the application, which are found relevant for enabling a proper decision on the matter.
3. That the respondents beg to state that for want of the valid cause of action for the Applicant the Review Application merits dismissal as the application suffers from wrong representation and lack of understanding of the basic principles followed in the matter as will be clear and candid from the statements made hereunder.

File by:
Ver. Dossy
164108
Advocate
Predeep Kumar Singh
Dy. Chief Personnel Officer / CAAZ
N.F. Re. May, 2011
Guwahati-11

10 APR 2009

गुवाहाटी न्दायपीठ
Guwahati Bench

4. That the brief fact of the case is submitted as under:

That in terms of Railway Board's Letter No. 8-E/GC/4-14(Dep)(33) dt. 24.02.1993 one post of Junior Scientific officer (herewith in short as JSO) was required to be operated by transferring a regular post from Traffic or Mechanical or Personnel Branch. Accordingly one post of Asstt. Mechanical Engineer from Mech. Dept. was transferred for operation of JSO and the Applicant Smt A. Kalita, Sr. Scientific Research Asstt. in scale Rs. 1640-2950/- Gr- 'C' was appointed as JSO on purely adhoc basis. Smt Kalita took charge of JSO on 05.12.97. The main function of the post of JSO was for conducting the Psychological test for direct recruitment and also selection i.e for the staff Station Master, Driver etc. Earlier JSO/Kolkata functioned as JSO/Guwahati. Due to over burden of work pressure of JSO/Kolkata the N.F. Rly authority had initiated operation of Psycho Test Cell at N.F. Rly/HQ/Maligaon and consequently, the post was transferred & Smt Kalita was appointed as JSO on adhoc basis with the approval of GM/N.F.Rly. The matter of appointment of Smt. Kalita as JSO was referred to RDSO/Lucknow for post facto approval, since the post of JSO is centrally controlled by the said organization. But RDSO/Lucknow disapproved the promotion of Smt. Kalita and directed to N.F. Rly authority to revert Smt. Kalita on the ground that the Zonal Rly has no power to appoint JSO on adhoc basis.

Consequent to the refusal of the proposal for promotion of Smt. Kalita as JSO, the N.F. Rly authority had reverted her to the substantive post of Sr. Scientific research Asstt. w.e.f 16.12.2003 as soon as the AME/Safety by which the post of JSO was operated by transferring the post of AME/Safety was also transferred back to Mechanical dept. on administrative exigencies.

Aggrieved by the action of the authority the applicant filed OA No. 294/2003 for setting aside and quashing of the reversion order dt. 16.12.2003. The Hon'ble Tribunal by their order dt. 01.04.2004 set aside and quashed the reversion order 16.12.2003 and declared right to be continued by the applicant to the post of JSO on the same terms & conditions as adhoc

Mr. Biju Singh
Advocate
N.F. Rly
Guwahati
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D. J. Chief Personnel Officer (Exco)
N.F. Rly
Guwahati
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Central Administ. Act, 1954.

basis. The Respondent Rly assailed the matter by filling Writ petition being registered as WPC No. 5758/2005 against the impugned order of the learned Tribunal. The Hon'ble High Court, Guwahati vide their order dt. 13.09.05 upheld the impugned order of the Tribunal on the ground of factual development in regard to the arrangement of regular posting/promotion of Smt. Kalita by the RDSO/Lucknow.

In pursuance of the Hon'ble High Court's judgement dt. 13.09.05, Smt Kalita has been re-promoted vide order dt. 31.10.05/02.11.05 as JSO/Adhoc and accordingly Smt. Kalita resumed her duties as JSO adhoc on 07.11.05

After resuming her duties as JSO adhoc Smt Kalita filed the Contempt Case No. 5/2006 before the Hon'ble Tribunal against the Respondents for not complying the learned Tribunal's order dt. 01.04.04 under the directive of the Hon'ble Gauhati High Court, dt. 13.09.05 in WPC No. 5758/05.

The contempt petition was meticulously examined by the Rly contemners as that the Hon'ble High Court judgement dt. 13.09.05 read with the learned Tribunal's order dt. 01.04.04 were honourably compiled with in toto without leaving any residue undone, as a result Smt.Kalita has been re-promoted as JSO adhoc. On 31.10.2005. But her arrear pay as JSO adhoc from 16.12.2003 to 31.10.2005 was not paid because during the period she had not shouldered the duties of the JSO adhoc due to her reversion order dt. 16.12.2003, to Sr. Scientific Research Asstt. was in operation. No administrative order empowering her the capacity of JSO adhoc was issued in favour of Smt. Kalita. More so without administrative order one cannot claim arrear benefit in adhoc arrangement.

The Hon'ble Tribunal vide their order dt. 01.08.06 was pleased to dismiss the CP No. 05/06. However, the Hon'ble Tribunal in the said order had given a liberty to the applicant to submit a representation before the competent authority for redressal of her grievance if any.

Contd....p/4.....Accordingly....

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Guwahati Bench

Accordingly Smt. Kalita submitted her representation dt. 28-08-06 addressed to GM/N.F. Rly for consideration of her grievance for redressal. The synopsis of her grievances are mentioned as in the following:-

- (1) That as per the Hon'ble CAT/GHY's order dt. 01-04-04 in OA No. 294/04 she was continued to occupying the post of JSO/Adhoc and the same was upheld by the Hon'ble Gauhati High Court/Guwahati in their order dt. 13.09.05 in WP(C) No. 5758/04.
- (2) That in pursuance to the Hon'ble CAT/GHY's order dt. 17.02.2005 in CP No. 31/04, Smt. Kalita was still occupying the post of JSO after her reversion to the substantive grade on 16.12.03. Smt Kalita filed CP No. 31/04 for not complying the order dt. 01.04.04 in OA No. 294/04. During the pendency of the WP(C) No. 5758/04 filed by the Respondent Rly. The contempt petition No. 31/04 was dismissed by the Hon'ble Tribunal with the view that the matter under consideration before the Hon'ble High Court, Guwahati and that cannot be viewed as willful disobedience on the part of the Respondents. Since the Hon'ble CAT/GHY quashed and set aside the reversion order dt. 16-12-03 and the same was upheld by the Hon'ble High Court/GHY, Smt Kalita is not entitled to any arrear salary/benefit from 16.12.03 till issuance of the promotion order dt. 31.10.05 which was purely on adhoc basis.

The representation dt. 28.08.06 of Smt Kalita has been disposed of by GM/N.F.Rly vide speaking order dt. 23.09.06. Still being aggrieved with the impugned speaking order, Smt Kalita filed OA No.61/07 before the Hon'ble CAT/GHY and the OA was again disposed of by the Hon'ble Tribunal on 22.11.07 by way of granting liberty to the applicant to put her case (in shape of a representation with all details) before the respondents who should take the same into consideration and

Pradeep Kumar Singh
Dy. Chief Personnel Officer / G.O.
N.F. P. Halligan
Guwahati-11

Ref. No. 5
Date 10/4/08
Advocate

10 APR 2008

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Guwahati Bench

pass a reasoned order within 3 months from the date of the said representation.

But, instead of submitting such a representation as per direction of the Hon'ble Tribunal, the Review Applicant preferred for filing the Review Application being numbered as Review Application No. 05/07 for modification of the order dt. 22.11.07 passed in OA No. 61/07 mainly on the ground that the Order dt. 22.11.07 in OA No. 61/2007 is silent about the fate of the impugned rejection order dt. 23.10.2006 issued by the Respondents.

5. That it is submitted that reversion of the Applicant order dt. 16.12.03 has got the finality in view of the order dt. 01.08.06 in C.P.No. 05/06 and as soon as the judgement dt. 13.09.05 in WP(C) No. 5758/05 of the Hon'ble High Court/GHY read with the order dt. 01.04.04 has been complied with on 30.10.06, and so, the Review Application has no valid ground against reversion order dt. 16.12.03 for setting aside the same or sustain any legal claim for arrear benefits out of the reversion period, more so, the period she did not shoulder the duties of JSO/Adhoc officially. The Rly Respondents have complied with the Hon'ble Gauhati High Court's order dt. 13.09.2005 in WP (C) No. 5758/05 read with the order dt. 01.04.04 in OA No. 294/05 the question of approaching the higher court against order does not require or necessary in the event of the said exercise by the Respondents.

6. That it is submitted that in the present context, the order dt. 17.02.05 in C.P No 131/04 in OA No. 294/03 is incongruous and irrelevant in the event of dismissal of the CP by the Hon'ble Tribunal.

It is to be mentioned that the applicant filed C.P.No. 31/04, for not complying the order dt. 01.04.04 in OA No. 294/03 and the Hon'ble Tribunal was pleased to close the CP on the observation as that since the matter was under consideration before the High Court it could not be viewed

Pladeep Kumar Seal
Dy. Chief Personnel Officer / G.O.M.
N.F. Railway, Maitigaon
Guwahati-11
15/4/08
Advocate

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Guwahati Bench

that it was a willful disobedience on the part of the Respondents and accordingly the CP was closed.

7. That during pendency of the WP (C) No. 5758/05 filed by the Respondents Rly, the Review Applicant filed the above CP though she knew the fact by filing caveat and receiving a copy of notice in the WP (C).

8. That in re-iterating the earlier submission by the Respondents in the O.A it is respectfully submitted that the Applicant Smt. Arundhati Kalita having no right to hold the Post of JSO on Adhoc basis for a period about more than 7 years according to her capricious act. The Respondents honoured the Hon'ble Court's verdict for giving the benefits mentioned in the above O.As and Writ petition as JSO on adhoc but not at all for the interest of the administration exigencies more than a period of her initial promotion of the JSO/Adhoc mentioned in the Officer Order.

9. That it is re-iterated in pursuance of the Hon'ble Tribunal's direction, the representation dt. 28.08.2006 submitted by the applicant had been examined on every pros-and-con and considered the same on administrative point of view and on the prevailing system of the Respondents' set of Rules and Orders the authority did not find any arrear salary/ benefits to be entitled by Smt. Kalita, JSO/Adhoc from 16.12.03 to 31.10.05. Accordingly GM/N.F. Rly had disposed of the representation dt. 28.08.06 vide his speaking order dt. 23.10.06

10. That it is submitted that the present Review Application has no merit on legal point as well as factual point of view. The grievance of the applicant was already been considered by the GM/NFR and after due consideration GM/NFR has passed the impugned order dt. 23.10.06, rejecting her entitlement to arrear salary/benefit as JSO/ Adhoc from 16.12.03 to 30.10.05 as mentioned above.

11. That it is to mentioned-worthy that the C.P. No. 5/06 filed by the applicant was contested by the Respondents by filing written reply and the

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N F. Railway, Morigaon
Guwahati-11
Chief Personnel Officer (CPO)
N F. Railway, Morigaon
Guwahati-11

Pladew Kumar Singh
Advocate
N.F. Railway, Maligaon
Guwahati-11

Hon'ble Tribunal was pleased to dismiss the Contempt Petition on merit. Therefore the matter has been given a finality by the Hon'ble Tribunal.

12. That it is submitted on careful perusal of the ground for Review Application, it transpires that the Review Applicant has failed to bring any new fact or error on the face of records or any law point to which her present Review Application deserves Reviewing by the Hon'ble Tribunal. The grounds made in the Review Application has already been submitted in details in Contempt Petition. No. 31/06, Contempt Petition No: 5/06 and O.A No. 61/07.
13. That the present Review Application is being mere inculcation the grounds taken in the earlier Contempt Petition /OAs and the light of this finality given by the Hon'ble Tribunal, the Review Application is being infructuous and as such has no legal force and therefore deserves dismissal with cost.
14. That the averments made in the Review Application by the applicant except the positive statement on the basis of records all are emphatically denied and these are not sustainable in the eyes of administrative point of view and law and hence, denied.
15. That with regard to the grounds mentioned by the Review Application in various sub-paras of the Para-7 the Respondents respectfully submit that there had been no cause of actions caused to the Review Applicant. In reiterating the earlier submissions made in the foregoing paras the Respondents submit that all actions were taken by the Respondents in accordance with the provisions of the Railways' own set of Rules and other Statutory provisions and being the *model employer* has no-where caused any injustice to the Applicant as alleged and contemplated by her in the aversion in the O.A as well as in the Review Application, and the application has no merit at all and is, therefore, liable to be dismissed.

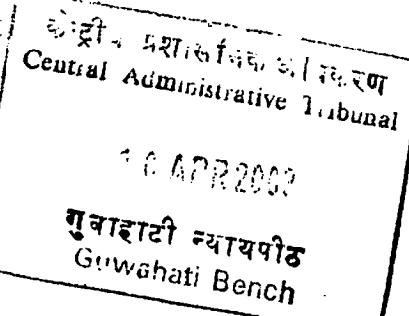
16. That the Hon'ble Tribunal was magnanimous enough to dispose the above O.A on 22-11-2007 after deciding and detailing all the pros and cons on merit of the OA, the copy of which has been annexed with the Review Application as Annexure -X and in view of the same there has been no commission or mistake by the Hon'ble Tribunal and no error apparent on the face of record as alleged by the Review Applicant under sub para (f) of para -7 of the instant Review application.

17. That the respondents crave leave of this Hon'ble Tribunal for exhibiting all relevant records pertaining to the Review application as mentioned in the foregoing paras, if necessary, for the ends of justice.

18. That in view of the above facts and circumstances, the present Review application , it is prayed for, is fit for dismissal with cost.

✓ pradeep Kumar Singh
Dy. Chief Personnel Officer / G.A.2
N F. Railway, Maligaon
Guwahati-11

VERIFICATION



I, Pradeep Kumar Singh, son of Bhup Lal Singh, aged about 43 years, working in the capacity of D.Y.C.P.O./G.A. at N.F. Railway, Maligaon, do hereby solemnly affirm and verify that the contents of paragraphs 4 to 12 are derived from the records and I believe them to be true to my knowledge & information and that I have not suppressed any material facts and the rest all are my humble and respectful submission before this Hon'ble Tribunal.

And I sign this VERIFICATION on this 10th day of April, 2008

Place : Guwahati

Date: 10 /04/2008

✓ *Pradeep Kumar Singh*
 SIGNATURE OF THE DEPONENT
 D.Y. Chief Personnel Officer / G.A.
 N.F. Railway, Maligaon
 Guwahati-11

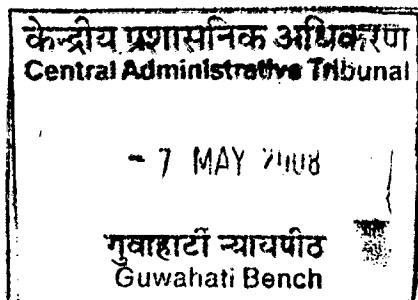
To

The Registrar,
 Central Administrative Tribunal,
 Guwahati Bench, Guwahati.

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

FILED BY

Smti Arundhati Kalita
Review Applicant
through J. G. [Place-Attested Advocate]



IN THE MATTER OF :

R.A. No. 5 of 2007
In O.A. No 61 of 2007
Smti Arundhati Kalita

...Review Applicant
Original Applicant

- Versus -

The Union of India & Ors.

... Opposite Parties
Respondents.

- AND -

IN THE MATTER OF:

Rejoinder filed by the
Review Applicant/Original
Applicant to the written
statement filed by the
Opposite Parties/respondents
in R.A. No 5 of 2007 in O.A.
No 61 of 2007.

The humble Review Applicant submits
this rejoinder as follows:

1. That I am the Review Applicant/Original Applicant of the Review Application No. 5 of 2007 in O.A. No 61 of 2007 and the Opposite Parties/Respondents have filed written statement in the aforesaid R.A. No 5 of 2007. A copy of the same has been served upon me through my Counsel. I have gone through the written statement filed by the Opposite Parties/Respondents and understood the contents thereof and I emphatically deny each and every

Arundhati Kalita

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Government Bench
which are

averment made therein except those specifically admitted herein.

2. That with regard to the statements made in paragraphs 1 and 2 of the written statement, the Review Applicant/Original Applicant have no comment to offer.
3. That with regard to the statements made in paragraph 3 of the written statement the Review Applicant/Original Applicant begs to state that they are false and misleading to this Hon'ble Tribunal.
4. That with regard to the statements made in paragraph 4 of the written statement the Review Applicant /Original Applicant begs to state that Junior Scientific Officer (J.S.O. in short) Kolkata (i.e. from South Eastern Railway) was invited by the General Manager, North East Frontier Railway (in short N. F. Railway) to conduct psychological test in N.F. Railway, Maligaon. Due to overburden with works he failed to come on several occasions for conducting Psychological test under N. F. Railway, Maligaon. Therefore the said arrangement was termed as "impractical arrangement" by the Executive Director (Psycho) Research Design and Standard Organization (in short R.D.S.O.) in his letter No PTC/PP/111/5 dated 09-04-1996 to the then Chief Safety Officer (C.S.O. in short) of this Railway. The overburden of works of J.S.O. of Kolkata is also admitted by the opposite parties/ respondents in the instant written statement submitted by them.

The Opposite parties /respondents has made a reference to the objection /disapproved of R.D.S.O. to the promotion of the Review Applicant/Original Applicant to the post of JSO from the post of Sr. Scientific Research Assistant (SSRA) on the ground that "Zonal Railway has no power to appoint JSO on ad-hoc basis.

Arundhati Kalita

This submission on the part of the Opposite Parties/respondents is total deviation from the truth. The General Manager N.F. Railway is fully empowered to make ad-hoc arrangements as has been stated by the ED/Traffic, R.D.S.O. by D.O. No PT/PP/31 dated 16-07-2004 to the then C.P.O., N.F. Railway.

It is also not true that the Review Applicant/Original Applicant assumed her duties as J.S.O. (ad-hoc) on 07-11-2005 as stated by the opposite parties/respondents. Because she have been discharging her duties as J.S.O. followed by the order of the Hon'ble Tribunal dated 26-12-2003 as the same has been admitted by the opposite parties/respondents in this Hon'ble Tribunal on 17-02-2005. As such there is no question of resuming her duties as J.S.O. on 07-11 2005 and which is proved by her letter to the C.P.O. dated 07-11-2005 in reference to the office order No 32/2005 circulated on dated 31-10-2005.

The Review Applicant/Original Applicant emphatically states that during the period of 16-12-2003 to 31-10-2005 the Review Applicant/Original Applicant was shouldering all the responsibilities of J.S.O. and discharged her duties as had been entrusted by the appropriate authorities .

The Review Applicant/Original Applicant begs to reiterate that the liberty was given to Review Applicant/Original Applicant to submit a representation before the competent authority for redressal of her grievances, if any, in C.P. No 5 of 2006 dated 01-08-2006 and followed by the direction of the Hon'ble Tribunal the Review Applicant/Original Applicant has submitted a representation to General Manager, N.F. Railway dated 08-08-2006 and which was rejected by the opposite parties/respondents on 23-09-2006 by a letter

Arundhati Kalita

No E/170/LC/NS/690/06 from the office of the
GM(P), Maligaon, Guwahati.

The Review Applicant/Original Applicant having no other alternative had filed an Original Application No.61 of 2007 before this Hon'ble Tribunal which was numbered as O.A. No 61 of 2007 challenging the said rejection order of 23-10-2006. The Hon'ble Tribunal disposed of the said Original Application after hearing both the parties by giving liberty to the Review Applicant/Original Applicant to put the case in the shape of a representation with all details before the Opposite parties/respondents who should take the same into consideration and pass a reasoned order within three months from the date of the said representation.

The rejection letter dated 23-10-2006 issued by the opposite parties/ respondents has been challenged by the Review Applicant/Original Applicant in her earlier O.A. No 61 of 2007 and the same is in force till date, therefore the Hon'ble Tribunal may be pleased to set aside and quashed the rejection letter dated 23-10-2006 issued by the opposite parties/ respondents . Further, the Hon'ble Tribunal may also be pleased to direct the opposite parties/respondents to pay the arrear salaries of the Review Applicant/ Original Applicant from 16-12-2003 to 31-10-2005 as J.S.O. Group B including service and other consequential benefits .

5. That with regard to the statements made in paragraph 5 and 6 of the Written Statement the Review Applicant/original Applicant begs to state that the order of this Hon'ble Tribunal dated 17-02-2005 in C.P. No 31 of 2004 in O.A. No 294 of 2003 is not at all incongruous and irrelevant in the present context.

Mundhah halits

6. That with regard to the statement made in paragraph 7 of the written statement the Review Applicant/ Original Applicant begs to state that the Hon'ble High Court has not granted any stay in W.P. (C) No 5758 of 2005 to the judgement and order dated 01-04-2004 passed in O.A. No 294 of 2003 by this Hon'ble Tribunal. Therefore there is no bar in filing Contempt Petition No 31 of 2007 by the Review Applicant/ Original Applicant before this Hon'ble Tribunal.

7. That with regard to the statements made in paragraph 8 of the Written Statement the Review Applicant/Original Applicant begs to state that she has been discharging her duties as J.S.O. as per the order issued by the opposite parties/ respondents and the same was followed by the order of this Hon'ble Tribunal dated 26-12-2003. The Review Applicant/Original Applicant has not holding the J.S.O. post by any capricious act.

It is to be stated that the Railway Board is always insisting on strengthening the psycho cell of this N.F. Railway like all other Zonal Railways by appointing a Senior Scientific Research Assistant and a Chief Scientific Research Assistant (C.S.R.A.) and in this regard communication has been continued by the Railway Board since after the Review Applicant/Original Applicant's promotion to the post of J.S.O. from the post of Senior Scientific Research Assistant. The N. F Railway undertook certain steps to fill up the post of Senior Scientific Research Assistant including holding written test for the same on 29-06-2003 and document verification of the successful candidates on 07-01-2004 and 09-02-2004.

8. That with regard to the statements made in paragraphs 9 to 18 of the written statements the Review Applicant/Original Applicant beg to state that they are not fully correct and misleading to this Hon'ble

Arundehak Nahar

Tribunal. In this connection, the Applicants beg to that the promotion given to the applicant was on the basis of the empanelment done by the N. F. Railway following the request of Research Designs and Standard Organisation (in short R.D.S.O.) to make arrangement "locally so that post of Junior Scientific Officer on your Railway becomes available early and the present impractical arrangement of utilizing a Calcutta based Jr. Scientific officer is dispensed with. The reversion order dated 16-12-2003 of the Review Applicant/ Original Applicant from the post of Junior Scientific Officer- Group-B was set aside and quashed by this Hon'ble Tribunal on 01-04-2004 and the Hon'ble Gauhati High Court also upheld the order of the Hon'ble Tribunal. Thus, the Order of the Hon'ble Tribunal attains finality in the eye of law. As per the Hon'ble Court's order she was continuing as Junior Scientific Officer (in short J.S.O.) and discharging her duties as J.S.O. as per instruction given to her by the Competent Authorities. The Respondents have been depriving her legitimate dues in spite of rendering her duties as Junior Scientific Officer during the period 16-12-2003 to 31-10-2005 and even after the same had been admitted by the Respondents before this Hon'ble Tribunal.

Therefore, the Written Statement filed by the opposite parties/respondents is wholly bereft of substance and no credence ought to be given to it. Thus, in view of the abject failure of the Respondents to refute the contentions, averments, questions of law and grounds made by the Applicants in the Review Application filed by the Applicants deserved to be allowed by this Hon'ble Tribunal.

Arundhati Rahtis

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गुवाहाटी न्यायपीठ
Guwahati Bench

V E R I F I C A T I O N

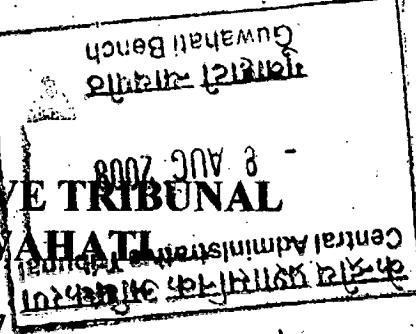
I, Smti Arundhuti Kalita, wife of Sri Arup Kumar Goswami, aged about 41 years, at present residing in Railway Quarter No. 167/B, East Maligaon, Guwahati-11 do hereby solemnly verify that statements made in paragraph Nos. 1, 2, 3, 4 (Partly), 5, 6, 7, 8 are true to my knowledge, those made in paragraph Nos. 4 (Partly) being matters of records are true to my information derived there from which I believe to be true and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this Verification on this the 7th day of May 2008 at Guwahati.

Arundhuti Kalita
DECLARANT

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

Review Application No. 5 of 2007
In O.A. No. 61 of 2007



Smti Arundhati Kalita Review Applicant
Original Applicant

-Versus-

Union of India & Others Opposite Parties
Respondents

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Filed by:

KK Biswas
8/8/08
(K. K. Biswas)
Advocate

Filed on: 08/08/08

Smti Arundhati Kalita
Union of India & Others
Dy. C.P.O./HQ.
N. F. Rly/M.
Guwahati/Guwahati - 781011

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI गुवाहाटी
Guwahati Bench

RA NO. 5 of 2007
O.A. NO. 61 of 2007

Smt. Arundhati Kalita

Review Applicant
Original Applicant

VERSUS

UNION OF INDIA & OTHERS

Opposite party
RESPONDENTS

IN THE MATTER OF :-

Affidavit – in – Reply to the
Rejoinder submitted by the
Review Applicant/ Original
Applicant.

Most respectfully sheweth:

I, Sriniloy Narayan, S/O Lalcharan Mohan Shakoor, aged about 57 years, working as Deputy Chief Personnel Officer (Gazetted), N.F. Railway, Maligaon, Guwahati 781011, do hereby solemnly affirm and declare as under:-

1. That I am fully conversant with the facts and circumstances of the case as per the official records and duly authorized to swear this affidavit in my official capacity.
2. That I have gone through the contents of the Rejoinder in the Review application filed by the Review applicant/ original applicant and at the very outset deny the contents, contentions, assertions, averments and allegations as contained in the Review Application/ Original Application in its entirety, save what has been specifically admitted hereinafter and are matter of fact and records.
3. It is submitted that in re-iterating the earlier submission in the written statement to the above mentioned O.A. the answering Respondent is filing this Reply statement for the purpose of highlighting certain important and

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relevant facts on record against the contents of the Rejoinder which are not new points and discussed in rem by the Respondents, in dealing with the facts of the Original Application parawise and in detail. In fact the answering Respondents denies the facts stated in the Review Application/Original Application save and except those, which are specifically admitted by them. However, the answering Respondent craves leave of this Hon'ble Tribunal to file further and detailed reply statement, if found necessary, at a later stage of the proceedings.

4. It is respectfully submitted that the above Review Application is not maintainable either in law or on facts and circumstances of the case. It is liable to be dismissed as devoid of any merit.
5. It is stated that before answering to the parawise- reply to the Review Application the Crux of the case is submitted as under:

That there were no such office order enabling the applicant to act as JSO during the reversion period from 16-12-2003 to 31-10-2005. As such an officer assuming office without an administrative order, is void ab initio and has no legal force.

However, in regard to the statement of the applicant in Review Application it is to be stated that due to unintentional and unawareness of the fact and situation the concerned authority had issued first class A duty pass to Smt. A. Kalita to attend the JSO's meeting held at RDSO/Lucknow. The unintentional and inadvertent error made in issuing the passes twice, as alleged, is, however, regretted. And this however cannot be a ground for entitlement of the claim prayed for by the Review Applicant/ Original Applicant. The whole episode was under the misrepresentation and misleading act prompted by the applicant to her vested interest only.

That during the reversion period from 16-12-2003 to 31-10-2005 Smt. Kalita was not in the capacity of JSO nor she was empowered by any administrative order to discharge duty as JSO instead the administrative

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Guwahati Bench

order of reversion was in operation and as such her claim of benefit out of the period cannot be sustained under the administrative purview.

The Office order no. E/41/120/29 (0) dt. 05-12-1997 and E/283/82 Pt. – XVII (0) dt. 16-12-2003 and dt. 31/10/2005 and fixation of Pay made and issued by General Manager (P), N.F. Railway, Maligaon are very much clear and comprehensive and, hence, the Review Applicant's claim under the above Review Application is not tenable.

Photocopies of above office orders & Pay fixation are enclosed as Annexures R/1, R/2, R/3 & R/4.

6. That with regard to the statements made under paras 1, 2 & 3 of the Rejoinder the answering Respondents submit that they have made submission in their written statement based on the facts and records of the case and stick to it.
7. That with regard to the statement made under para – 4 of the Rejoinder it is stated that the facts of the case behind creation of the post of JSO/ Group – B on ad hoc basis and giving promotion to the Review Applicant/ Original Applicant have already been detailed under para – 4 of the written statement and the Respondents respectfully re-iterate their said submission and state that the Review Application has no valid cause of action against reversion order dt. 16-12-2003 to Sr. Scientific Research Assistant was in operation. The Review Applicant/ Original Applicant is trying to camouflage the court and get the undue and unlawful benefit. Her representation dated 08-08-2006 to the General Manager, N.F. Railway, Maligaon was suitably disposed of vide No. E/170/LC/NS/690/06 dated 23-10-2006 rejecting her claim.

Photocopy of the above letter is enclosed as Annexure – R/5

8. That with regard to the statement made under Paras – 5, 6, 7 & 8 the Respondents re-iterating their earlier submissions in the written statement

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गुवाहाटी न्यायपीठ
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respectfully state that Smti. Kalita has been re-promoted as JSO/ ad hoc Group – B vide order dated 31-10-05/ 02-11-05 which post she has resumed her duties only on 07-11-05 and is not eligible for getting the benefit as JSO ad hoc from 16-12-2003 to 31-10-2005. In this connection the Rly's codal provision under para – 228 (a) of IREM, Vol – I, 1989 edition, is also very much clear that no arrears of Pay & allowances shall be payable should an employee actually does not discharge his/her duties and responsibilities in the higher post.

Photocopy of the above is annexed as Annexure – R/6.

9. That it is stated that the Respondent's have nowhere and never addressed Smt. A. Kalita as Junior Scientific Officer during her revision period mentioned in the forgoing para. All letters were addressed to designation of JSO; but a designation does not categorically signify and mean the name of an individual. The letters signed by her as Junior Scientific Officer and annexed to the Rejoinder were of her own manufacture, which by holding a responsible post of senior scientific Assistant she should not have made, done and acted during her above reversion period, and in doing so, she has committed an offence under the Service Conduct Rules. The Passes received by her twice were by her own capricious act of placing requisition to the Pass Issued Section. The reasons for issuance of such pass have been stated by the Respondents in the Para-5 of this Reply and the Revised Telephone Number Index (Annexure – x² of the RA) was an inadvertent error which is liable to be rectified at any time. More so, this was not an *office order* issued by the Administrative competent authority. The Respondents' admission , before this Hon'ble Tribunal, as alleged under Para - 8 of the Rejoinder, that they have admitted the review Applicant/Original Applicant rendering her duties as Junior Scientific Officer during the period 16-12-2003 to 31-10-2005, were not true and rather misrepresentation and misleading to this Hon'ble Tribunal.
10. That it is further stated that there has been no commission or mistake by the Hon'ble Tribunal and no error apparent on the face of the record and no new point cropped up in the review Application and the Review Application, being devoid of any merit, is fit for dismissal.

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11. That the statements made in paragraphs 5 to 9 are true to my knowledge and the statements made in remaining paragraphs are my humble submissions before this Hon'ble Tribunal. That taking into consideration the aforesaid submissions, the Hon'ble Tribunal may be pleased to dismiss the Review Application.

Netya Nand Talukdar

DEPONENT

द्व्यक्ति कार्यकारी/भुव्यालय

Dy. C.P.O./HQ.,

प. सी. रेल्वे, ग्रामीणाच.

N. F. Rly/Mlg.

गुवाहाटी/Guwahati-781011

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8 AUG 2008

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VERIFICATION

Verified and signed on this 8th day of August, 2008 at Guwahati that the contents of the above Affidavit-in-Reply have been read over and explained to me and the contents of the same are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

K. K. Biswas and Tareen

DEPONENT

क. क. बिश्वास कानूनी अधिकारी/भूत्यालय
Dy. C.P.O./HQ..

क. क. बिश्वास, नामांकन
N. F. Rly/Mtg.

गुवाहाटी/Guwahati - 78 011

Identified by

K. K. Biswas
8/8/08
Advocate

The deponent duly identified by Sri K. K. Biswas, Advocate, has solemnly affirmed and verified the contents before me.

M. K. Majumdar

Advocate

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

5 AUG 2008

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Guwahati Bench

N F RAILWAY.

OFFICE ORDER NO.202/97(MECH)

Dt. 5.12.97

1. Sh. A. K. Roy Chowdhury, AME/Safety/HQ is transferred in the same capacity and posted as AME/DSI/HQ against the existing vacancy.

2. On vacation of the post of AME/Safety/HQ by Sh. Roy Chowdhury, the post is re-designated as Jr. Sci. Scientific Officer (JSO)/HQ, for operation in Psycho-technical Cell/HQ under CSO/NF Railway.

3. Smt. Arundhati Kalita, Sr. C. Scientific Research Asstt. in scale Rs. 1640 + 2900/- on being empanelled for promotion to the post of JSC/Gr.B purely on adhoc basis, is appointed to officiate as JSC/Gr.B/HQ on adhoc basis, against the arrangement vide Sr. No. 2 above.

The promotion of Smt. Kalita to JSO/Gr.B will on adhoc basis will not confer on her any claim for regular promotion to Gr.B service and seniority.

4. Sh. MK Majumder, AME/DSI/SGUJ is temporarily transferred alongwith his post to HQ/MLG for a short time only.

This issues with the approval of competent authority.

M. Brahmo
(M. Brahmo)
By CPO/C
for General Manager(P)

MLG, dt. 5.12.97

Approved
07/08/08
कर्मिक अधिकारी (राज.)
Raj. Personnel Officer (Gaz.)
N. R. राज. सामित्र
Railway Manager
41/120/29(0)

Copy Forwarded for information & n/a to :-

- 1) CME, CRSE, CMPE(D), CWE, SDGM, FA&CAO, COM & CSO/MLG
- 2) FA&CAO(EGA) & (PF)/MLG (3) All DRMS & DRM(P)/NF Rly
- 3) SPO/T (5) PS to GM/MLG (6) EO/Bill
- 7) DAO/KIR (8) Sr. DME/DSI/SGUJ (9) DGM/G
- 10) E/Pass (11) Officers concerned

M. Brahmo
for General Manager(P)

केन्द्रीय प्रशासनिक अधिकारी Central Administrative Tribunal

5 8 AUG 1960

गुवाहाटी न्यायपीठ
Guwahati Bench

OFFICE ORDER NO.34/2003(TTC & MECH)

The following orders are issued with immediate effect:-

(1) One regular Group 'B' post of AME of Mechanical Department, which was vacated for operation as AME(Safety) and subsequently as Jr. Scientific Officer vide GM(P)/MLG's Office Order No.84/94(Traffic) dtd.1/5-4-1994 and 202/97(Mech) dtd.5-12-1997 is hereby restored back to Mechanical Department with immediate effect

(2) As a consequence, Smt.Arundhati Kalita, Sr.Scientific Research Asstt. in Scale Rs.1640-2900/5500-9000, who was promoted to the post of JSO(Gr.'B') purely on adhoc basis, vide this office order dated 05-12-1997, is hereby reverted to her substantive post of Sr.Scientific Research Asstt. in Scale Rs.5500-9000/- under CSO/MLG with immediate effect

This issues with the approval of General Manager/N. F. Railway.

(P. K. Singh)

Dy. Chief Personnel Officer(Gaz).
For General Manager (P)

Maliqaon, dated 16-12-2003

E/283/82/Pt.XVII(O)

Copy forwarded for information & necessary action to:

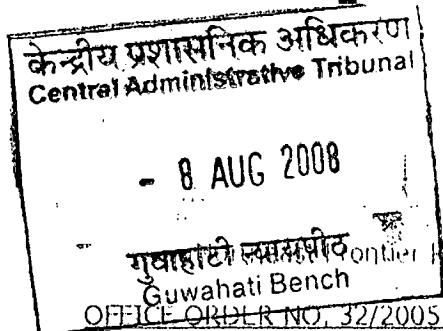
(1) Secretary, Railway Board, New Delhi-110001.
(2) DG/TR(P)//RDSO/Lucknow-226011.
(3) All PHOD/HOD/DRM/CWM/NFR
(4) FA&CAO(EGA&PF)
(5) CPRO/DGM(G)
(6) PS to GM, ASY to AGM
(7) NFRQA/NFRPOA/NFRMU/NFREU/MLG
(8) OS(EO/BILL)/MLG
(9) Officer concerned

SHT. A. KALITA,
JSO | HQ

LL/MLG
concerned.
A,
associated with CSD.
Action plan has to be
(1) prepared by CSD
Dy. Chief
For C

Dy. Chief Personnel Officer (Gaz)
For General Manager (P)

Dry CPO (Stage 2)
what is the plan for
conducting the test
on NFR



9

Amesworth 2/3

The following orders are issued with immediate effect: -

- 1) The JS/Group-'B' post of AOM/KIR, on being vacated by Shri S. V. Janabandhu, who has been promoted to Sr. Scale and posted as DOM/KIR vide GM(P)/MLG's office order No. 31/2005 (TT&CD) dated 31.10.2005, is temporarily variated for operation as JSO(Group-'B')/HQ (Maligaon).
- 2) In pursuance of Hon'ble Guwahati High Court's judgment dated 13.09.2005 in WP(C) 5758/04, Smt. Arundhati Kalita, Senior Scientific Research Assistant In scale Rs.5,500-9,000/- Is promoted to the post of JSO(Group-'B')/HQ (Maligaon), purely on adhoc basis, against the variated post indicated vide Sl. No. 1 above, with the following conditions: -
 - (i) The above promotion of Smt. Arundhati Kalita to the post of JSO(Group-'B')/HQ (Maligaon) is purely on adhoc basis and this will not confer on her any claim for automatic regular promotion to Group-'B' service or for seniority.
 - (ii) Smt. Kalita must submit an assumption report on her promotion to the above post of JSO (Group-'B') on adhoc basis.

This issues with the approval of Competent Authority.

31.X.05
S. K. Chowdhury
APO(Gaz)
for General Manager (P).

No. E/283/82 Pt.XVII (O)

Maligaon, dated: 31.10.2005

Copy forwarded for information and necessary action to: -

- 1) COM, CSO, CME, CPÖ & SDGM/MLG.
- 2) DRMs/DRM(P)S/N. F. Railway.
- 3) FA&CAO/EGA & PF/MLG
- 4) Secy. to GM/CPRO/Sr.EDPM/DGM(G)/MLG
- 5) PPS to GM & ASY to AGM/MLG
- 6) SPO(T), APO/W & APO/LC/MLG
- 7) Chief OS/ET and OS/EO-Bill
- 8) GS/NFRPOA, NFREU & NFRMU/MLG
- 9) Smt. Arundhati Kallta, Senior Scientific Research Assistant/HQ.

~~31.X.6~~
(S. K. Chowdhury)
APO(Gaz) -
General Manager (

junior scientific officer
2.11.05

05/08/08 (राज.)
पा.०२२४८ मालिगांव
पा.०२२४८ मालिगांव
पा.०२२४८ मालिगांव

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

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No. 545E/1/547 (O)

To 05-EO-Bill-P. Branch.

10

Annexure - R/4

N.E.RAILWAY

Guwahati
N.E.Railway
C.G.C. - 11
Mallgaon

Headquarters Office,
(Personnel Department),
Mallgaon, Guwahati -11.

Dated 23 - 11 - 2005.

Sub: Fixation of pay of Shri/Smt./Dr. Arundhati Kalita, JSU/HQ (on Purely adhoc basis)
Ref: This office order No: 32/2005 (Traffic Safety) dated 31-10-2005.

In terms of this office above quoted order, Shri/Smt./Dr. Arundhati Kalita, Senior Scientific Research Assistant/11th on being promoted/placed to higher scale Rs. 7500 - 12000 has taken over charge/placed in higher scale w.e.f. 02-11-2005.

His/her pay is hereby fixed as under:

1. Date of promotion/placement in higher scale
2. Rate of pay in existing scale as on date of promotion/placement in higher scale.
3. Add one increment in existing scale
4. Pay fixed in scale Rs. 7500 - 12000 under FR-22(C)/R-II.

- 02-11-2005
- Rs. 7250/- w.e.f. 1-4-2005?
in scale Rs. 5500 - 9000?
- Rs. 7250/- + Rs. 175/- = Rs. 7425/-
(i) Pay Rs. 7500/-
(ii) w.e.f. 02-11-2005.

- 4.1 Date of next normal increment will fall due on
5. Whether opted for fixation/re-fixation after accrual of next increment in lower grade.
6. Date of next increment and rate of pay in lower grade.
- 6.1 Pay fixed in scale Rs. under FR-22(B)/R-II
- 6.2 Add one increment in the existing scale after accrual of next increment in lower grade.
- 6.3 Pay fixed in scale Rs. under FR-22(C)/R-II.
- 6.4 Date of next normal increment will fall due on

- 01-11-2006
- YES/NO
(i) Date _____
(ii) Pay _____
Rs. _____
From _____ to _____
Rs. _____
w.e.f. _____

Implementation of above procedure is as per joint Personnel and Accounts Branch circular No. E/332(O) dated 18.02.2004.

The pay of the officer concerned may be drawn as per Item No. 4 above.
D.A/

for General Manager (P).

Copy forwarded for information and necessary action to:-

1. FA&CAO/EGA/DFMAWAO (in "duplicate"). He is requested to return one copy duly vetted to this office early and latest within 02 months for record at this end. An extract of non-gazetted service sheet, leave account/"Option" of the officer concerned is enclosed. D.A/ As above.
2. Shri/Smt./Dr. Arundhati Kalita, Design. JSU/HQ (on Purely adhoc basis)

for General Manager (P).

23.11.05

Attested
Bengaluru
07.08.08 (G. C. 2008)
N.E.Railway, Mallgaon
11.08.08 (G. C. 2008)
N.E.Railway, Mallgaon

Guwahati
N.E.Railway
C.G.C. - 11
Mallgaon
23/11/05

NORTHEAST FRONTIER RAILWAY

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative TribunalOffice of the
General Manager (P)
Maliagon, Guwahati - 11

No. E/1/0/LC/NS/690/06

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October 23, 2006

To,
Smt Arundhati Kalita,
J.S.O/N.F. Railway/Maliagon.गुवाहाटी न्यायपीठ
Guwahati BenchSub:- Disposal of your representation dt. 08-8-2006 in compliance
with Hon'ble CAT/GHY's order dt. 01-8-06 in CP No.05/06.

The representation for redressal of grievances submitted by you was examined alongwith the relevant material in record and after due consideration General Manager, N.F. Railway has passed the following orders:-

"Smt Kalita was reverted to the post of Sr. SRA on 16-12-03 with immediate effect as soon as the post of AME/Safety, against which the post of JSO/ Adhoc (Group "B") was operated, was re-transferred to its parent cadre i.e. Mechanical Deptt. on administrative exigencies. Immediately after she was redesignated as Sr. SRA and her pay was fixed at her substantive post of Sr. SRA till when she was re-promoted to JSO/Adhoc vide O.O. dt. 31-10-05 in pursuance of the Hon'ble Gauhati High Court's judgement dt. 13-9-06 in WP(C) No.5758/04.

It is not correct to state that the Smt Arundhati Kalita was rendering service as JSO by virtue of the Hon'ble Tribunal's order dt. 01.04.04. Against the Hon'ble Tribunal's judgement order the respondents availed the matter before the Hon'ble High Court in which the petitioner had filed her counter affidavit and the matter was disposed of by the Hon'ble Court on 13.09.05. Therefore, any question of her continuation and rendering the duty as JSO does not arise. Moreover, her pay was fixed at her substantive post of Sr. SRA after her reversion. It is also stated that after her reversion, to conduct Psycho tests for candidates of N.F. Railway, assistance of Scientific Officer, from S.I.R. Railway was taken. For performing the same job, two persons cannot be paid the salary of JSO, more so, when administrative order of reversion of the applicant was in operation. Till the order of promoting her to the post of JSO is issued by the Administration, she could not have performed the duty of JSO. However, it is possible that certain administrative officials of N.F. Railway may have made some official correspondence addressed to Smt. Arundhati Kalita as JSO, Psycho-technical cell under CSO/MLG which was inadvertent and unintentional. However, she did not take any action thereon in her capacity as JSO since she was already reverted to her substantive post on 16.12.03.

Under the facts and circumstances above, I don't find any justification that any arrear salary/benefits are entitled to Smt Kalita as JSO Adhoc from 16-12-03 to 31-10-05 and therefore her grievance for releasing the arrear salary/benefit cannot be considered."

This is for your kind information please.

Very
P.K. Singh
(P.K. Singh)Dy. Chief Personnel Officer/Gaz
for General Manager P/ MLGAffixed
F. No. 07/00/06 (R.A.)
Dy. Chief Personnel Officer/Gaz
G. S. P. 2006, 10/10/2006
Dy. Chief Personnel Officer/Gaz
Dy. Chief Personnel Officer/Gaz

8 AUG 2008

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

३८८ श्रीमद्भागवतः

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long assignment of relative seniority of the eligible staff or full facts not being placed before the competent authority at the time of ordering promotion or some other reasons. Broadly, loss of seniority can be of two types :—

तो, यदि गत

जन्म चारे द्वारा (i) Where a person has not been promoted at all because of administrative error; and

उत्तर में जिनका उत्तर दिया गया है वह ताकि वित्तीय त्रुटी के बिना नियमित हो।

(ii) Where a person has been promoted but not on the date from which he would have been promoted but for the administrative error.

In the case, however, of a railway servant, who has been erroneously promoted and appointed to a post in a substantive capacity, procedure prescribed in Board's letter No. E50/RCI/16/3 dt. 23-7-1954 for rescinding the irregular confirmation of a railway servant should be followed/and only thereafter the railway servant concerned should be brought down to the position which he would have held but for the erroneous promotion/ appointment by the issue of orders as mentioned above. Service rendered by the Railway Servant concerned in the post to which he was wrongly promoted/appointed, as a result of the error should not be reckoned for the purpose of increments or for any other purpose in that grade/post to which he would not formally be entitled but for the erroneous promotion/appointment.

(b) Any consequential promotion or appointments of other railway servants made on the basis of the incorrect promotion or appointment of a particular railway servant will also be regarded as erroneous and such cases also will be regulated on the lines indicated in the preceding paragraph.

(c): Except where the appointing authority is the Railway Board or the President, the question whether promotion/appointment of a particular railway servant to a post was erroneous or not should be decided by an authority next higher than the appointing authority in accordance with the established principles governing promotions/appointments. Where the appointing authority is the Railway Board or the President, the decision should rest with the President and shall be final.

(d) Cases of erroneous promotion/appointment in a substantive or officiating capacity should be viewed with serious concern, and suitable disciplinary action should be taken against the officers and staff responsible for such erroneous promotion or appointment. Circulars refixing the pay should be issued expressly under Rule 2927-R-II.