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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 12/08

2. M.P. Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) B. R. Singh VS Union of India & Ors

Advocate for the Applicants... M. Chanda, M. L. Datta

Advocate for the Respondent(s): Railway Counsel, J. L. Sarkar

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited via : PC/DD No. 346.653583	23.01.2008	Heard Mr. M. Chanda learned counsel appearing for the Applicant and Dr. J. L. Sarkar learned Standing Counsel for the Railways on whom a copy of this O.A has already been served.
Dated... 22.6.07		Issue Notice to the Respondents requiring them to file their reply by end of February, 2008.
By Registrar 22/1/08		Notwithstanding, pendency of this O.A the Respondents shall remain free to pass order on the appeal dated 18.01.2004 (Annexure-C) and, during the pendency of the said appeal, the Respondents should not implement (if it is not yet been implemented) penalty order dated 12.11.2003 (Annexure B).
<u>Pl. issue notices to the respondents.</u> <u>Pl. send copies of this order to the Respondents Free copies of this order be handed over to the coun- sel of both the parties.</u> <i>✓ 22/1/08</i>		Send copies of this order to the Respondents alongwith notices and free copies of this order be handed over to the counsel appearing for both the parties.
		Call this matter on 26.2.2008.
		<i>See</i> (Krushiram) Member(A)
		(M. R. Mohanty) Vice-Chairman

*R
Bun
For Dr. J. L. Sarkar
AC. & VY
29/01/08*

26.02.2008

Mr. S. Nath, learned counsel appearing for the Applicant and Dr.J.L.Sarkar, learned Railway Standing counsel appearing for the Respondents has filed written statement after serving the copy on the learned counsel for the Applicant. Counsel for the Applicant wants to file rejoinder by 28.02.2008.

Call this matter on 29.02.2008.

Khushiram
(Khushiram)
Member(A)

Notice & order sent to
D/Section for issuing
to resp. nos. 1 to 6
by regd. A/D post

and O.R. 2 copies of
order received by
hand by both the 29.02.2008
parties.

(of 1/108. D/No. 3206
29/11/08. D/No. 355
Dt. 30/11/08.

① Service report
awaited.

25.2.08.

26. 2. 08

W.L.S. filed by

Mr. M.Chanda learned counsel for the Applicant has stated that the penalty (after notice in this O.A has ^{served on Respondent} gone) has been implemented. He also urged that the records of the O.A and the M.P must also be summoned for scrutiny/reference. He also stated that the separate O.A. is being filed to challenge the implementation of the penalty order which must be heard alongwith this O.A. Dr. J.L. Sarkar, learned counsel appearing for the Respondents may ensure that records/DPC proceedings mentioned para 3 of the M.P. may be procured from the Respondents and ready for scrutiny as and when required.

Call this matter on 05.03.2008.

Khushiram
(Khushiram)
Member(A)

In Respondent Nos. 1 to 6.

copy served.

28.2.08

Rejoinder filed
by the Applicant;
copy served.

Rejoinder filed. *Ans.*
28.2.08

Notice
duly served
on - R-4,5.

Notes of the Registry

Date

Order of the Tribunal

This application is in form
is filed, F. B. I., 10-
deposited in
No. 66P871200.
Dated, 5/3/08.

By Registration

Rekt-L-Vis copy's
for issue notices
are enclosed with
envelopes. Copy service

80-11.

05.03.08

3 Heard Mr. M. Chanda, learned
counsel for the applicant and Dr. J. L. Sarkar,
learned Railway standing counsel for the
Respondents.

Learned counsel for the applicant has invited attention to Annexure-3 memo dated 3.1.08 in which the the Respondents have stated that the stoppage of increment without future effect for a period of 3 years was not implemented earlier and the punishment has taken effect from 1.1.2008 i.e. the date of his annual increment. This memo appears to be contrary to the Railway Board's instruction communicated vide letter No.E(D&A)92 RG-185 dated 12.2.93 (Annexure-4) wherein Railway Board has decided that "where the penalty of withholding of increment imposed on a Railway Officer is to become operative from a future date, the person concerned

09 + 2 + 8 = 4 =

Received
Datta
17/3/08

should be promoted in his turn prospectively with reference to his position in the earlier panel of the DPC and the penalty imposed in the promotion grade for a period which would not result in greater monetary loss." The above Annexures almost run contrary to each other and the learned counsel for the applicant has argued that the order of punishment has become ~~infructuous~~ ^{earlier} it could not be implemented ~~because~~ of the applicant being at the highest level of his scale.

Notice & order sent
to D/Section ~~for~~
inviting to R-1 to 6
by regd. A/ID post.

~~12/3/08~~ D/No- 1349 to 1344
DT 13/3/08.

~~R
18/3/08
J.V. Jankar~~

(J.V.)

Notice duly served
on R-1, 2, 4, 6

~~27/3/08~~

22-4-08

~~W/S filed by the
Respondents. Copy
served.~~

~~Q/Ho.~~

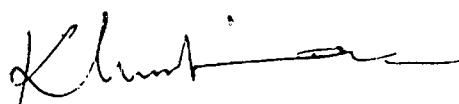
~~W/S filed.~~

~~23-4-08~~

In view of the above position the respondents are directed to clarify the same by next date. Meanwhile the impugned order dated 13.1.2008 (Annexure-3) is hereby stayed.

Call this matter on 24.4.2008 for written statement. Pendency of this application shall not be a bar for the respondents to consider promotion of the applicant if his name is already in the panel.

Copy of this order be furnished to all the respondents and free copies of order be also handed over to the counsel of both sides.



(Khushiram)
Member(A)

07/08/2008 - 3 -

24.4.2008

Written statement and rejoinder have

already been filed in this case. Subject to the legal pleas to be considered at the time of hearing, the Original

Application is admitted and to be shown ready for hearing. Records, as specified in M.P.No.45 of 08 be kept ready with the Standing counsel for Railways to be produced at the time of hearing.

Call this matter on 12.06.2008.

~~Order~~ copies of this ~~OA~~ be handed over to the learned counsel for both parties.



(M.R. Mohanty)
Vice-Chairman

order dt. 24/4/08
send to D/Section
for issuing to
learned counsel
for both the parties. Lm

12.06.2008 - D/Mo - 1991
1992
DT = 21/5/08.

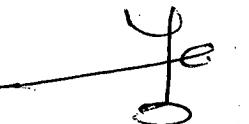
W/S and rejoinder
billed by the parties.
11.6.08. Lm

The case is ready
for hearing.

22.7.08.

The case is ready
for hearing.

19.08.2008


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

24.07.2008

Mrs. U. Dutta learned counsel for the Applicant seeks an adjournment on the ground of sickness of Mr. M. Chanda, learned counsel appearing for the Applicant. She is also reported that Dr.J.L.Sarkar, learned Standing counsel for the Railway/Respondents is ill.

Call this matter on 20.8.2008 for hearing


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

Lm

O.A. NO. 12/2008

20.08.2008 Heard Mr. M. Chanda, learned Counsel appearing for the Applicant and Dr. J.L. Sarkar, learned Counsel appearing for the Respondents/Railways, and perused the materials placed on record.

Hearing concluded. Orders reserved.


(Khushiram)
Member(A)

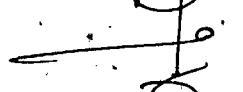

(M.R. Mohanty)
Vice-Chairman

nk

Mr. J.L. Sarkar
0/9/08
for 5.1.2008
Court of the Vice-Chairman
of the Commission
of Enquiry
of the Railways
of India

28.08.2008 Judgment pronounced in open Court.
Kept in separate sheets. Application is allowed. No costs.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

9.9.08

Copy of the
Judgment send to
the Office for
same the same
to the applicant
as well as to
the Railways
by post.

AK

D

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.12 of 2008

And

Original Application No.41 of 2008

DATE OF DECISION: 28.08.08

Shri Babul Ranjan Singh

.....APPLICANT(S)

Mr M. Chanda, Mr S. Nath & Mrs U. Dutta

ADVOCATE(S) FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

.....RESPONDENT(S)

Dr J.L. Sarkar, Railway Standing Counsel

ADVOCATE(S) FOR THE
RESPONDENT(S)

CORAM:

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

The Hon'ble Mr Khushiram, Administrative Member

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


Vice-Chairman/Member

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.12 of 2008

And

Original Application No.41 of 2008

Date of Order: This the 28th day of August 2008

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

The Hon'ble Shri Khushiram, Administrative Member

O.A.No.12/2008 & O.A.No.41/2008

Shri Babul Ranjan Singh
Working as Assistant Transportation
Manager (ATM) in the office of the
General Manager (Con),
N.F. Railway, Maligaon,
Guwahati-781011.

.....Applicant

By Advocates Mr M. Chanda, Mr S. Nath
and Mrs U. Dutta.

- versus -

1. Union of India, represented by the
General Manager,
N.F. Railway,
Maligaon,
Guwahati-781011.
2. General Manager (Construction)
N.F. Railway,
Maligaon, Guwahati-781011.
3. Chief Operational Manager
N.F. Railway,
Maligaon,
Guwahati-781011.
4. Chief Administrative Officer (Construction)
N.F. Railway,
Maligaon,
Guwahati-781011.



5. Chief Personnel Officer
N.F. Railway,
Maligaon,
Guwahati-781011.

6. Deputy Chief Personnel Officer (Construction)
Office of the General Manager (Con),
N.F. Railway,
Maligaon, Guwahati-781011.Respondents

By Advocate Dr J.L. Sarkar, Railway Standing Counsel.

.....

O.A.No.12/2008 & O.A.No.41/2008

ORDER

KHUSHIRAM, ADMINISTRATIVE MEMBER

O.A.No.12/2008

The Applicant, who was working as Assistant Transportation Manager in the N.F. Railway, was recommended (alongwith eight others) for promotion and was told that on promotion he will be posted at New Jalpaiguri/West Bengal. A minor penalty of stoppage of increment, without future effect, for a period of three years was imposed on the Applicant on 12.11.2003. By that time the Applicant had reached the maximum of his scale of pay of Rs.7500-12,000/- Subsequently, he was granted stagnation increment with effect from 01.09.2004. Thereafter, as a result of restructuring of the Railway Organisation, the Applicant was granted with upgraded pay scale of Rs.8000-13500/- with effect from 01.01.2005. That was granted after a DPC held on 05.10.2005. On 01.01.2006 and 01.01.2007, the Applicant was granted increments in the said new/ upgraded scale. Thereafter, DPC was held on 15.11.2007 for grant of

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ad hoc promotion (to the Sr. Scale in Transportation and Commercial Department); wherein, though the Applicant was recommended for promotion, but the same was withheld because of the penalty order dated 12.01.2003. He approached this Tribunal by filing O.A.No.12 of 2008 and, on 25.01.2008, this Tribunal passed an order to the following effect:

"..... the Respondents should not implement (if it has not yet been implemented) penalty order dated 12.11.2003".

O.A.No.41/2008

2. The Respondents issued an order dated 03.01.2008 implementing the penalty order dated 12.11.2003 with effect from 01.01.2008. The Applicant filed O.A.No.41 of 2008 citing Railway Board's instructions communicated vide letter No.E(D&A) 92 RG-6-185 dated 12.05.1993 (Annexure-4), wherein the Railway Board had decided that, "where the penalty of withholding of increment imposed on a Railway Officer is to become operative from a future date, the person concerned should be promoted in his turn prospectively with reference to his position in the earlier panel of the DPC and the penalty imposed in the promotion grade for a period which would not result in greater monetary loss". Since the order of the Respondents was contrary to the Railway Board's instructions and the fact that the penalty order had become infructuous since it could not be implemented because of the Applicant having reached the highest level of his scale of pay, and the fact that he was granted stagnation increments and upgradation of pay scale on the recommendation of the DPC, he obtained an interim order dated 05.03.2008 from this



Tribunal staying the operation of the impugned order dated 03.01.2008.

3. Since both the cases are interconnected and related to the same matter, both the cases were heard together/analogously and are being disposed of by this common order.

4. The Applicant has sought mainly the following reliefs in these O.A.s:

O.A.No.12/2008

- "(i) The applicant be promoted to the post of Senior Traffic Manager/Senior Commercial Manager/Divisional Traffic Manager/Divisional Commercial Manager/Area Manager (Group-B Senior Scale Officer) before promotion of Juniors in the panel made by the DPC.
- (ii) The order of Minor Penalty dated 12.11.2003 of withholding increment for three years without future effect shall not be given effect to in January 2008 and thereafter."

O.A.No.41/2008

- "(i) The order dated 3.1.2008 (Annexure-3) be set aside and quashed.
- (ii) This O.A. be heard with O.A.No.12/2008."

5. The Respondents have filed written statements in both the cases stating that the Applicant was awarded the punishment of stoppage of increments without future effect for a period of three years vide order dated 12.11.2003 on the basis of irregularities in verification of the records for selection from Group 'D' to Group 'C' in the operating department. The Applicant had stated in the O.A. that he had appealed against the order, but according to the Respondents,



no representation was ever received by them. The Applicant has not highlighted anything about his appeal during the last four years. The Respondents have cited the Railway Board's instructions contained in Railway Board letter No.E (D&A) 95-RG 6-65 dated 17.01.1996 to the effect that "where the penalty of withholding of increments is imposed the officer/staff can not be promoted before expiry of the penalty". Since the punishment imposed on the Applicant has been made effective with effect from 01.01.2008, he was not considered for ad hoc promotion to Sr. Scale in terms of the Railway Board's letter cited above as the punishment of stoppage of increments for three years which was not implemented earlier, was ordered to be implemented with effect from 01.01.2008. The Respondents have also stated that a gazetted officer is expected to maintain professional and personal integrity as per Rule 3.1(i) of Railway Services (Conduct) Rules, 1966. The Respondents have also stated that the Applicant had not brought the fact of existing punishment order to the notice of the administration before availing the benefits of stagnation increments and upgradation of his pay scale to Rs.8000-13500/-, thus violating provisions of Railway Services (Conduct) Rules, 1966. His case (vis-à-vis his juniors) was not considered as the penalty of withholding of increments was already imposed with effect from 01.01.2008. In the reply filed by the Respondents in the O.A.No.41/2008, it has been stated that the Applicant was issued with a chargesheet for major penalty for (i) incorrect evaluation of answer sheets i.e. award of marks disproportionate to contents and awarding marks to wrong answers and (iii) under his supervision as Hall officer, unfair means were adopted by candidates in the written examination. As a member of the Selection Committee, the Applicant was responsible to ensure



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fair selection, wherein only the most suitable candidates should be empanelled. But due to the irregularities committed by the Applicant, the selection proceeding got vitiated and that the Disciplinary Authority had accordingly imposed a punishment of stoppage of increment without future effect for a period of three years. The Respondents also stated that the punishment order could not be implemented/reviewed because of "missing gap in communication between Open line and construction organization at the material time. But, this can not wash away his misdeeds or the punishments thereon". It is stated that the Applicant could have himself highlighted the fact that he had reached the maximum of the pay scale when the punishment was imposed, but instead of doing so, he enjoyed the benefit of stagnation increment from 01.09.2004 and that of upgradation in the pay scale to Rs.8000-13500/- with effect from 01.01.2005 and thus proving his conduct contrary to Railway Services (Conduct) Rules, 1966. It has also been stated that since the punishment of stoppage of increment was implemented from 01.01.2008, the question of violating the interim order dated 25.01.2008 passed by the Tribunal did not arise. It has also been stated that the Applicant, rather than seeking redressal of his grievances departmentally had filed the present O.A.s one after another, given the fact that the appeal dated 18.01.2004 was never received by the concerned authority. The Respondents, in the light of the above facts sought dismissal of the O.A.s.

6. The case of the Applicant was argued by learned Counsel, Mr M. Chanda, who pleaded that because of the fact that the Applicant had reached the maximum of the scale when the penalty of stoppage of increments was awarded to him and also the fact that the



Applicant was granted stagnation increment on 01.09.2004 and subsequently upgraded to the pay scale of Rs.8000-13500/- on 01.01.2005, the effect of the punishment order stands washed off. Learned Counsel also stated that the Applicant has been awarded by the Respondents for his good work in the years 1996, 1997, 2000 and 2003 before the punishment order. In support of his arguments, he cited the decision of the Apex Court rendered in the case of H.S. Bhalla Vs. State of Punjab and another (reported in 1995 (5) SLR 130), in para 9 of which, it was held as under:

"In Regional Manager v. Pawan Kumar Dubey, A.I.R. 1976 S.C. 1766 [1976(2) SLR 44 (SC)], the Supreme Court has applied the theory of wash off. It has been held by the Apex Court that once an employee is promoted on the next higher post, though on ad hoc basis, his adverse record will be deemed to have been washed off. Applying this principle to the case of the petitioner, it can reasonably be said that after the petitioner had been allowed to cross efficiency bar in the year 1984 and had been promoted on ad hoc basis in the year 1986, adverse remarks and the order of punishment were no more available to be taken into consideration by the respondent- Commission for adjudging the suitability of the petitioner. It must, therefore, be held that the decision of the Commission to declare the petitioner is to be unfit for promotion as Accounts Officer is arbitrary and unjust."

7. The learned Counsel for the Applicant also produced the Railway Servants (Discipline and Appeal) Rules, 1968, wherein, as per instructions of the Railway Board, it has been laid down as under:

"Withholding of increment when one is at the highest of his scale of pay. Such a penalty becomes infructuous as it cannot be enforced. In order to ensure proper application of such a penalty it is necessary that it should first be verified from the service sheet of the charged employee whether it is possible to implement the same. Where cases are referred to vigilance for its second stage advice this verification should be done and details of pay and pay scale be indicated." (emphasis supplied)



8. In the instant case, since the Applicant had reached the highest of his scale of pay, the punishment of withholding of his increments could not be implemented. It becomes infructuous.

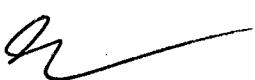
9. The case of the Respondents/Railways was argued by learned Standing Counsel, Dr J.L. Sarker, who produced the concerned file regarding promotion for perusal of the court. As per Note at page 24 of the said file, the DPC met on 15.11.2007 for forming a panel of 11 persons for promotion from JS/Group 'B' to Senior Scale on ad hoc basis in T(T) and C Department. At para 7 of the minutes of the proceedings (SN-164), it has been stated that, "..... there is one pending Major Penalty DAR case regarding stoppage of increment without future effect for a period of 3 years, which has been imposed on Shri B.R. Singh, ATM/CON/MLG vide L/No.E/41/GAZ/429/CON dated 12.11.03 as intimated by Dy.CPO/CON vide his confidential letter at SN-158. Dy. CPO/CON vide his letter at SN-161 also intimated that the punishment of Shri B.R. Singh will be implemented w.e.f. 01.01.2008 i.e. date of accrual of next annual increment. Therefore, his case can be considered for promotion to Sr. Scale on adhoc basis." This indicates that the Applicant was recommended by the DPC for the Sr. Scale. Annexure-'A' at page 162 of the file shows the Gradings of ACRs/Fitness for Ad hoc Promotion from Group-'B' to Senior Scale in T(T) & C Department. As per Annexure-'A', the Applicant (Shri B.R. Singh [ST], ATM/CON/MLG), who is at serial No.2, has been graded as, "2002-2003: VG/Fit; 2003-04: OS/Fit; 2004-2005: VG/Fit; 2005-06: OS/Fit and 2006-07: VG/Fit". This makes his record more or less above average.



10. The learned Counsel for the Respondents/Railways could not assign any specific reason for implementation of the punishment order belatedly and that too after the Applicant had been granted stagnation increment and upgradation of his pay scale.

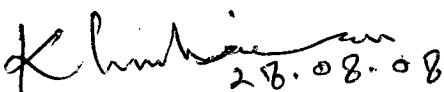
11. We have considered the contentions of the learned Counsel for both the parties and have perused the records placed before us. The memorandum 002/2008 dated 03.01.2008, communicating the implementation of the punishment order dated 12.11.2003 with effect from 01.01.2008, was issued without giving any notice to the Applicant for implementation of the punishment order dated 12.11.2003. In the light of the fact that the Applicant, from the date of initial punishment order, had been granted stagnation increment and upgradation in his scale of pay and the DPC had also recommended him for adhoc promotion, the order dated 03.01.2008 issued in the name of General Manager (Cons.) suffers from the vice of violation of the principles of natural justice and cannot be sustained. In the Railway Board's directive on withholding of increments when one is at the highest of his scale of pay issued on 04.01.1983 and the citation (1995 [5] SLR (Supra) submitted by the learned Counsel for the Applicant makes it clear that the punishment awarded to the Applicant could not have been implemented as he had reached the highest of his pay scale and was granted stagnation increment as well as upgradation in his scale of pay. Therefore, the punishment is not sustainable in the eyes of law.

12. In the facts and circumstances discussed above, the order dated 03.01.2008 (communicating the implementation of the order of punishment dated 12.11.2003 with effect from 01.01.2008) cannot be



sustained and is accordingly set aside. The Applicant will be entitled to all consequential benefits including ad hoc promotion from the date his juniors were promoted to the next higher grade.

13. The Application is accordingly allowed. There will be no order as to costs.


28.08.08
(KHUSHIRAM)
ADMINISTRATIVE MEMBER


28/08/08
(M. R. MOHANTY)
VICE-CHAIRMAN

nkm

File in Court on 20.08.08
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 12/2008

&

O.A. No. 41/2008

Shri B.R. Singh.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

19.11.2001 The applicant, after initial appointment as ASM, was promoted as Chief Controller and thereafter promoted as Assistant Transportation manager (ATM), Gr. B Gazetted in scale Rs. 7500-12000/- w.e.f 19.11.2001. (Para 4.3)

01.07.2002/12.11.2003/18.01.2004/01.09.2004 - Memorandum of charges was issued on 01.07.2002 with allegations in connection with irregularities in selection for Clerk which ended with imposition of penalty of stoppage of increment without future effect for a period of three years by an order dated 12.11.2003. The applicant submitted appeal dated 18.01.2004.

The applicant was in the maximum of scale i.e Rs. 12,000/- (on 01.09.2002) at the time of imposition of penalty. As per Railway Board's instruction the penalty became in fructuous not capable of implementation. The copy of the order of penalty dated 12.11.2003 was not endorsed to the bill preparing authorities for effecting the penalty. Thereafter given stagnation increments w.c.f 01.09.2004.

(Annexure-A, B and C) Para 4.4, 4.5 and 2 of the W.S.

01.01.2005 After DPC held on 05.10.2005 he was placed in higher scale of Rs. 8000-13,500/- w.e.f 01.01.2005. (Annexure-H), Para 4.7 and 4.8

up graded 01.01.2006/01.01.2007 Applicant was given ^{annual} increments in the higher scale of Rs. 8000-13,500/-.

(Para 2 of the written statement)

12.11.2007 DPC has been held for the ad-hoc promotion for the post of Senior scale in Transportation and commercial department. The applicant has not been promoted though his juniors have been promoted. He has been empanelled but promotion is being withheld for the penalty order dated 12.11.2003.

15.11.2007 - DPC

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Filed by the applicant
through a. Datta, advocate
on 20.08.08.

01.01.2008 The penalty order dated 12.11.2003 has been sought to be given effect w.e.f 01.01.2008. the applicant received the copy of the order dated 03.01.2008 with the written statement of the O.A. No. 12/2008.
 03.01.2008 - ~~This O.A. filed (O.A. 12/08)~~ (Annexure-R-1)
 23.01.08 - ~~This O.A. filed (O.A. 12/08)~~ (Annexure-R-1)
 03.03.08 - O.A. 41/08 filed challenging order dt. 03.01.2008.
 25.01.2008 The Hon'ble Tribunal passed order dated 25.01.2008 that the respondent should not implement (if it is not yet been implemented) penalty order dated 12.11.2003 in O.A.No. 12/2008.
 25/31.01.2008 - Promotion in respect of all Juniors. (Annex R/2 & 12/08)
O.A.No. 41/2008

03.03.2008 Applicant filed O.A.No. 41/2008 praying for setting aside of the order dated 03.01.2008.

The Hon'ble Tribunal was pleased to pass an interim order by which the order dated 03.01.2008 was stayed.

(i) The applicant submitted that the penalty order dated 12.11.2003 was infructuous.

(ii) The punishment was also washed away by stagnation increment and promotion to higher scale by DPC.

Applicant prays for promotion to Senior Traffic Manager on the basis of DPC which already held and applicant was empanelled w.e.f date of promotion of junior with payment of arrears and setting aside the order dated 03.01.2008 (Annexure-3 of the O.A. No. 41/2008).

(Para 5.6, 5.7 and 5.8 in O.A.No. 12/2008)

Cases relied upon:-

AIR 1976 SC1766 (Regional Manager -vs- Pawan Kumar)

1995 (3) SCT 550 (552) (H.S. Valla -vs- State of Punjab)

2000 (4) SCT 957: 2000 (9) JT 464:2000 (5) SLR 76 (Brij Nath Pandey -vs- State of U.P) - Principle of wash away.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

O.A. No. 12/2008.

Sri B.R. Singh

- Vs -

Union of India and Others.

List of dates.

Sl. No. Date Particulars Para/Page

1. 19.11.2001 Applicant was promoted as
Assistant Transportation Para-4.3
Manager, Group-B Gazetted in
Scale Rs. 7500-12000/-.
2. 1.7.2002 Chargesheet was issued to
applicant for Major Penalty
with the allegation that in
a selection for promotion to
Group-D to Group-C, the
evaluation of some answer
scripts were not done correct-
ly and he had not performed
his job of Hall Officer with
devotion and professional
integrity. Annexure-A
Page-16-20
3. 12.11.03 Minor Penalty of stoppage of
increment without future Annexure-B
effect for a period of 3 Page-21-22.
years was imposed.

Contd...2/-

Sl. No. I Date () Particulars I Para/Page

4. 18.1.2004 The applicant submitted appeal against the punishment, No. reply received, The penalty order was endorsed to the applicant only, and was not endorsed to other authorities for action as regards effecting the penalty. The applicant was in the maximum of his pay, i.e. Rs. 12,500/- (Scale Rs. 7500-12,000/-), as per instructions of Railway Board the penalty was ineffective/infructuous. The applicant was paid stagnation benefit equal to one increment after 2 years of stagnation as per scheme for the purpose.

Annexure-C
Page-23
Para 4.4 and 4.5

5. 1.1.2005 The applicant was promoted to the next higher scale of ATM, 8000-13500/- The stagnation benefit and this promotion washed off the penalty order dated 12.11.2003.

Annexure-H
Page-30

Sl. No. I Date I Particulars I Para/Page

6. 'January 'DPC has recommended the name of ' '2008 'the applicant for promotion to ' 'senior scale officer in scale of ' 'Rs. 10,000-15,200/- STM/SCM etc. ' 'The applicant's position is ' 'against Sl. No. 2 of the DPC ' 'recommended panel of 8 officers, ' 'for promotion to Senior Scale. ' 'Para 4.9, ' '4.10 ' 'The applicant has been ' 'told that the penalty of 2003 ' 'shall be implemented in January ' '2008. This will delay his ' 'promotion to Senior Scale and ' 'his junior will be promoted. ' ' ' 'Submission: Railway Board's ' 'letter dt. 12.02.1992 stipulates ' 'that the employee should not be ' 'subjected to greater monetary ' 'loss in case of withholding of ' 'increment. ' ' ' 'Awards received by the applicant: ' '(i) Award by COM/N.F. Railway- ' '21.11.1996. ' '(ii) Award by DRM/LMG- April '97. ' ' ' 'Annexure-I ' 'Page-31

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गुवाहाटी न्यायालय
Gauhati Bench

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Sl. No. I Date II II II Particulars II II II II Para/Page

(iii) Award by GM/Open Line -

April 2000

(iv) Award by GM/CON - Annexure-

April 2003(Before the D, E, F, G.
punishment order) Page 24 to

27

Applicant prays for Para 4.6

promotion to Senior Scale

before promotion of Juniors

and that the penalty order

of 1993 cannot be implemented

in 2008.


Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,
GUWAHATI.

O. A. No. 12/2008

Sri B.R. Singh

-Vs-

Union of India & Ors.

Synopsis

The applicant is a Group 'B' Gazetted Officer working as Assistant Transportation Manager under GM/CON/N. F. Railway/Maligaon. His name has been recommended by DPC for promotion to Senior Scale as STM/SCM/DTM/DCM/AM. The panel recommended is for 8 officers and his name is against serial No. 2. He has been told that he would be posted at New Jalpaiguri/West Bengal on promotion. The present Controlling Officer is also trying to keep him in construction office with promotion at Maligaon.

In such a position, a confusion has been raised as regards penalty order of past period, i.e. as back as of 12.11.2003 imposing minor penalty of stoppage of increments for three years without future effect. When the penalty was imposed, in 2003, the applicant was in the maximum of his scale of pay and as such, as per instructions of Railway Board, the penalty was infructuous/ineffective. The respondents treated the penalty accordingly, and also granted

him stagnation benefits after 2 years as per scheme. In 2005 the applicant was also promoted to the next higher scale. The Hon'ble Supreme Court has held that in similar circumstances the adverse records are treated as 'washed off'. The respondents also treated the penalty as ineffective. By operation of law also, the penalty order of 2003 has been washed off.

The applicant has been told that the old order of penalty of 2003 shall be given effect in January 2008. In such an event his promotion as a result of DPC recommendation is likely to be adversely affected. This is not covered by any rule. The applicant prays that the penalty order of 2003 which was treated as ineffective, can not be implemented in 2008 prospectively, and he should be promoted before his juniors in the DPC recommended panel are promoted.


Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,
GUWAHATI.

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

O. A. No. 12 /2008.

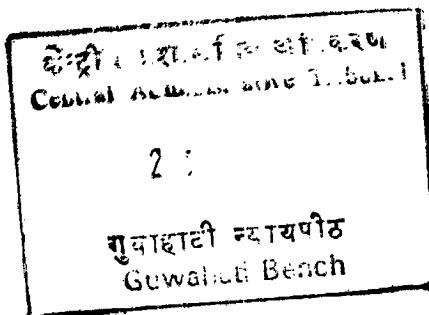
B. R. Singh Vs. U.O.I & Ors.

I N D E X.

<u>Sl. No.</u>	<u>Annexure</u>	<u>Particulars</u>	<u>Page</u>
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4.	Annexure- 'B'	Order of Penalty dated 12.11.2003.	21 - 22
5.	Annexure- 'C'	Appeal dated 18.1.2004 to GM/N.F.Rly.	23
6.	Annexure- 'D'	Award dated 21.11.1996	24
7.	Annexure- 'E'	Award of April 1997	25
8.	Annexure- 'F'	Award of April 2000	26
9.	Annexure- 'G'	Award of April 2003	27 - 29
10.	Annexure- 'H'	Order dated 17.10.05 of promotion to scale 8,000-13,500/-	30
11.	Annexure- 'I'	Rly. Board's letter dtd. 12.2.1993	31
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Mutta
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,
GUWAHATI.



O. A. No. 12/2008.

Shri Babul Ranjan Singh
working as Assistant
Transportation Manager(ATM)
in the office of GM(CON)/N.F.
Railway. Guwahati- 11.

... Applicant.

- Versus -

(i) Union of India

Represented by General
Manager, N.F. Railway
Maligaon, Guwahati-11.

(ii) General Manager/Construction

N. F. Railway, Maligaon
Guwahati-11.

(iii) Chief Operational Manager

N. F. Railway
Maligaon
Guwahati-11.

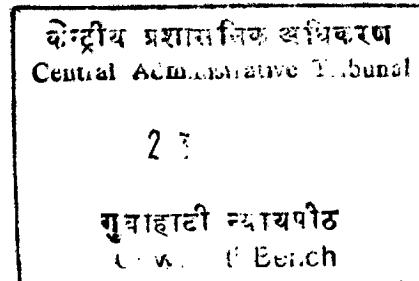
Contd.....2/-

Babul Ranjan Singh

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Filed by the applicant
through Mr. Datta,
Advocate on 22.01.08

(iv) Chief Administrative Officer



(Construction)

Office of the General
Manager(CON)

N. F. Railway

Maligaon

Guwahati-11.

(v) Chief Personnel Officer

N. F. Railway

Maligaon

Guwahati-11.

(vi) Deputy Chief Personnel

Officer(Construction)

Office of the General

Manager(CON)

N. F. Railway

Maligaon

Guwahati-11.

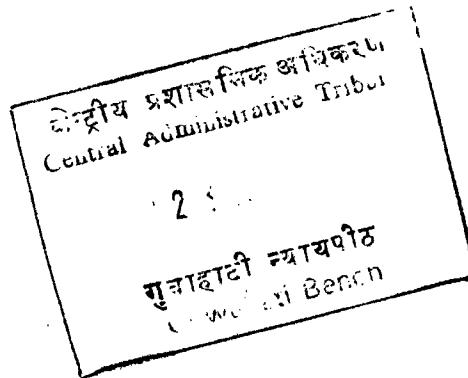
... Respondents.

DETAILS OF THE APPLICATION :1. PARTICULARS FOR WHICH THIS APPLICATION IS MADE :

This application is made for promotion of the applicant to the Senior Scale Gr. 'B' Gazetted Officer's post of STM/

Contd... 3/-

Babu Ranjan Singh



SCM/DCM/DTM/AM from the panel made by DPC before promotion of Juniors in the panel where the applicant's name is against Serial No. 2 in the panel of 8 persons, and for not giving wrong effect of minor penalty of withholding increment imposed on 12.11.2003.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicant further declare that this application is filed within the period of limitation prescribed under Section-21 of the Administrative Tribunal Act 1985.

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India.

4.2 That the applicant is at present working as Group B (Gazetted) Officer under General Manager(Construction), N. F. Railway as Assistant Transportation Manager(for short ATM) in scale of Rs. 8,000-13,500/-. His next promotion is to the senior scale in the transportation/traffic department (as senior Transportation Manager/Senior Commercial Manager/ Divisional Operating Manager/Divisional Commercial Manager/

गुवाहाटी न्यायपीठ
Guwahati Bench

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Area Manager) in scale of $\text{Rs. } 10,000 - 15,200/-$

4.3 That the applicant was initially appointed as Assistant Station Master and thereafter was promoted as Chief Controller(Non Gazetted). He was further promoted as Assistant Transportation Manager(for short, ATM) Gazetted, Gr. B in scale 7,500-12,500/- by selection w.e.f. 19.11.2001.

4.4 That while working as ATM the applicant was issued a memorandum of charges dated 1.7.2002 under Rule-9 (Major Penalty) of the Railway servants (Discipline and Appeal) Rules 1968 with the allegation that as a member of the selection committee for selection for promotion to the post of Gr. C(Clerk) from Gr. D(Peon) of COM, Maligaon's office the evaluation of some answer scripts were not done correctly and that he had not performed his job of Hall Officer with devotion and professional integrity as a result malpractices and unfair means had been adopted by the candidates. The inquiry was formally concluded and by an order dated 12.11.2003 the proceeding was treated under Rule 11 of the R.S.(D&A) Rules 1968 (Minor Penalty) and penalty of stoppage of increment without future effect for a period of 3(three) years was imposed. The applicant submitted appeal dated 18.01.2004 against the said penalty.

Copies of the memorandum
of charge sheet dated
01.7.2002(with enclosures),
Order of penalty dated
12.11.03 and the appeal
dated 18.01.2004 are enclosed

Contd....5/-

Babal Ranjan Singh

as Annexures A, B and C
respectively.

4.5 That it is stated that the order imposing minor penalty dated 12.11.03 was endorsed to the applicant. This order did not indicate copies endorsed to other officers with instructions for necessary action as regards effecting the penalty. It is stated that on the date of imposition of the penalty i.e. 12.11.03 the applicant was in the maximum of scale of pay i.e. Rs. 12,500/- in the scale of Rs. 7,500-12,500/-. In this connection it is stated that as per orders of the Railway Board in case of stagnation as a special measure the pay is increased by an amount equal to one increment after every two years. The applicant was being given the same benefit of increase of pay after stagnation.

In this connection it is stated that as per instructions of the Railway Board when an employee is at the highest of his scale of pay (i.e. maximum of pay scale) the penalty of withholding of increment becomes infructuous as it cannot be enforced and as such punishment become ineffective. The applicant did not receive any order on his appeal. As he was in the maximum of his scale of pay, there was no scope to stop the increment in terms of the order of penalty. He was given increase of pay after the stagnation as per scheme stated above. The penalty in reality became infructuous as per the orders of the Railway Board.

In this connection it is stated that the present application is not against the order of penalty, but the
Contd....6/-

Dabul Ronjan Singh

applicant gives the details for keeping the fact transparent. He had inquired in the office and he could learn that there has not been any order to deduct/stop any payment.

4.6 That the applicant begs to state that through out his service career from his initial appointment, in the repeated promotional posts his service has been very efficient and without any blemish or stigma, except the penalty explained above. He has received awards in recognition of his efficient works on number of occasions as under :

(i) Award by Chief Operating Manager in-21.11.1996
at Maligaon.

(ii) Award by Divisional Railway Manager, Lumding,
April, 1997.

(iii) Award by G.M (Open line) April, 2000.

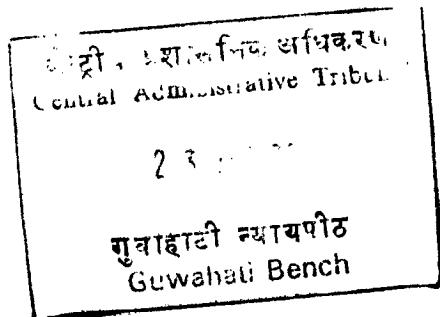
(iv) Award by G.M(CON), April, 2003(before punishment)

It is also stated that his name was also recommended for G.M. Award for the years 2005-06 and 2006-07 but he was not formally given the awards to avoid repetition and was given to others.

Copies of the certificates
of awards are enclosed as
Annexure- D, E, F and G
respectively.

Contd....7/-

Babu Ranjan Singh



4.7 That during 2005 the applicant was eligible for promotion in the next higher scale of Rs. 8,000-13,500/- as ATM and was granted the promotion to the said scale of Rs. 8,000-13,500/- w.e.f. 01.01.05. He has been now receiving his pay in the promotional scale of Rs. 8,000-13,500/-.

Copy of the order of 17.10.05 of promotion in scale Rs. 8,000-13,500/- is enclosed as
Annexure-H.

4.8 That in the circumstances explained above the order of penalty dated 12.11.03 was ineffective/infructuous. The respondents took conscious decision to promote him w.e.f. 01.01.05 after the order of penalty dated 12.11.03.

It is stated that as per instructions of the Railway Board in case of penalty of withholding of increment if any promotion becomes due to the Railway employee he should be promoted in his turn and the penalty imposed in the promotion grade for a period which would not result in greater monetary loss. The applicant states this to clarify the intention of the Railway Board that the employee should not be subjected to greater monetary loss in case of penalty of withholding of increment. The intention of the Railway Board that promotion should not be stopped is also clear from the Railway Boards instructions. However it is stated that these instructions do not apply in the case of the applicant, because in his case the penalty was ineffective/infructuous. He explains

Contd....8/-

Baba Ramjan Singh

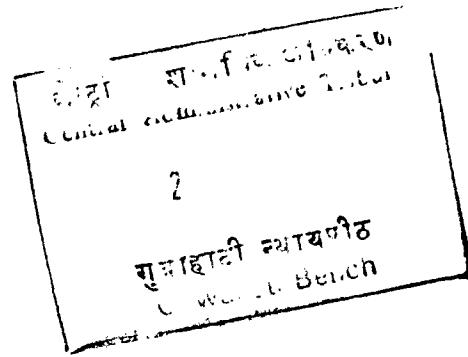
the above position to demonstrate the Railway Boards intention in cases of withholding of increment to avoid greater monetary loss to the employees. It is also stated that under the Rule 6, withholding of promotion is a separate penalty. The withholding of increment is another type of penalty listed separately. The respondents have given him promotion w.e.f. 2005 after the order of penalty dated 12.11.03 by correct application of the rules and laws. After the said promotion the penalty by the said order dated 12.11.03 has become non existent/ washed off.

Copy of the Railway Boards letter dated 12.2.1993 circulated by CPO/MLG's circular dated 3.5.93 is enclosed as Annexure-I.

4.9 That the applicant begs to state that his next promotion due is in the scale of Rs. 10,000..... to 15,200/- i.e. Senior Scale. The consideration for the said promotion by the Departmental Promotion Committee(DPC in short) has already ^{been} made. The D.P.C. has recommended eight(8) persons for promotion to senior scale in the traffic/transportation department. The applicant has come to know that his position is against serial No. 2 in the panel of 8 (eight) officers. No/ person has yet been given promotion. It is stated that such panels are not circulated but promotion orders are issued according to the position in the panel. As there are vacancies the promotions are under consideration of the respondents and the applicant has been told that he would be posted with

Contd....9/-

Babul Ranjan Singh



promotion as senior scale officer(STM/SCM etc.) at New Jalpaiguri, West Bengal. The applicant also came to know that the present office where he is working now viz. the Construction Office, N.F.Railway is trying to retain him with promotion in the said office i.e. Construction Office, N. F. Railway, Maligaon, Guwahati-11.

4.10. That in the circumstances explained in the above paragraph, the applicant was eagerly waiting for and expecting the promotion to senior scale. While he was thus waiting for the promotion, he heard that a confusion has cropped up in the personnel office of the respondents in the matter of the order of penalty dt. 12.11.2003. A view was expressed that the penalty was not implemented wrongly and would be implemented now. Increment would be stopped from the salary of Jan'2008. The applicant has reasonable apprehension that his promotion to the senior scale as STM/SCM etc. consequent upon the recommendation of the DPC already held would be delayed. It is stated that his immediate higher officers in the construction organisation are sympathetic for the just cause of promotion of the applicant, and when he was asked as to whether he will be agreeable to deduction of amounts resulting from stoppage of three increments as per the penalty in the scale of Rs. 7,500-12,500/- as a deduction for the post period, he answered in the affirmative and has also expressed that if ordered, he would deposit the calculated amount. This he has done to ensure that his promotion is not delayed on his account. He submits before the Hon'ble Tribunal the factual position and without suppressing any

Contd....10/-

Baba Ranjan Singh

गुवाहाटी न्यायालय
Gauhati Bench

10

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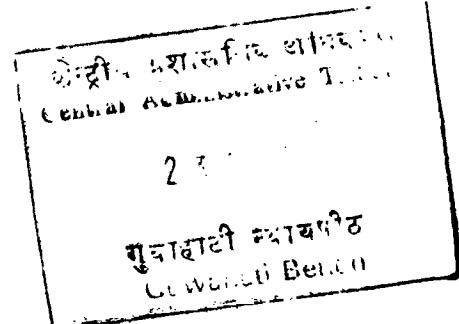
fact. He reiterates that his superior officers are conscious for his due promotion. The applicant also submits before this Hon'ble Tribunal that he is agreeable to deduction/deposit of amount as explained above and promotion to the senior scale as per DPC recommendation without delay, and the matter of deduction/deposit of amount if made as proposed above in the name of the penalty order of 12.11.03 be finally decided subsequently, as per rules. The humble submission of the applicant is that the promotion of the applicant to the senior scale as per DPC recommendation should not be/cannot be delayed. The applicant submitted letter dated 31.12.07 narrating the facts of the order of penalty dated 12.11.03 when he came to know of the result of the DPC and the confusion in office to make the positions clear and to be with clean hands and to keep his superior officers informed of the factual position.

Copy of the letter dated
31.12.07 is enclosed as
Annexure-J.

4.11 That it is stated that no disciplinary proceeding/ criminal case is pending against the applicant.

5. GROUND WITH LEGAL PROVISIONS.

(i) For that when there is recommendation by the DPC for promotion to senior scale, his promotion cannot be delayed on the wrong ^{Plea} place of an earlier penalty order as back as in 2003.



(ii) For that the order of penalty dated 12.11.03 for stoppage of increment for three years without future effect, when the applicant was in the maximum of the pay scale is ineffective, infructuous and not capable of being implemented. The Railway Board has also communicated such policy decision.

(iii) For that, there is no order of penalty for withholding of promotion of the applicant.

(iv) For that the order of penalty dated 12.11.03 has expired after three years and as such cannot be given effect to after such a distant period.

(v) For that in no circumstances the order of penalty can be implemented to result in greater monetary loss of the applicant.

(vi) For that the order of penalty was in 2003 and before expiry of three years the applicant was given promotion to the next higher scale. This has obliterated/washed off the penalty of 12.11.2003.

(vii) For that the Hon'ble Apex Court has held that adverse remarks in ACR in 1985-86 and 86-87 cannot come in the way of the employee for further promotion once he was allowed to cross the efficiency bar on 20.5.1992. In other words even allowing to cross efficiency bar washes off past adverse entries. In the case of the applicant he was given promotion after the ineffective order of penalty not to speak of efficiency bar.

Contd....12/-

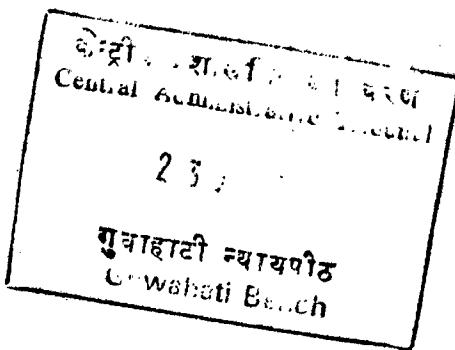
Babul Ranjan Singh

(viii) For that the Hon'ble Apex Court has decided in a case that the consideration of adverse remarks in ACRs for 1978-79, 1979-80 was impermissible because after the year 1980 employee was allowed to cross efficiency bar and was given ad-hoc promotion and was allowed proficiency step up w.e.f. 1.5.1986. It could not be accepted that the authorities had ordered promotion of the petitioner to the post of Accounts Officer without application of γ mind or without consideration of the service record of the petitioner. If the petitioner was found fit for promotion though on ad-hoc basis after consideration of records, which included adverse remarks in the two ACRs as well as the order of punishments, at a later point of time the commission could not rely on the adverse materials for holding the petitioner to be unfit for promotion. The applicant having already given promotion in 2005 his order of penalty in 2003 is washed off.

(ix) For that, for a minor penalty which was incapable of implementation, the applicant cannot be made to suffer heavy loss including loss of money and promotion.

(x) For that the applicant had in no way any hand in the matter of implementation of minor penalty and he cannot be made to suffer for inaction/appropriate action of the respondents.

(xi) For that, delay in the promotion to senior scale will be violative of Article 14 and 16 of the Constitution and shall not be just and fair, and there is no rule to promotion in such cases nor there is any rule to give effect to such order of penalty of the nature of the present case



from a prospective date.

6. DETAILS REMEDIES EXHAUSTED:

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

7. MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT.

The applicant declares that he have not filed any other application/petition in any Tribunal or court.

8. RELIEF(s) SOUGHT FOR:

Under the facts and circumstances the applicant pray for the following reliefs :

(i) The applicant be promoted to the post of Senior Traffic Manager/Senior Commercial Manager/Divisional Traffic Manager/Divisional Commercial Manager/Area Manager(Group-B Senior Scale Officer) before promotion of Juniors in the panel made by the DPC.

(ii) The order of Minor Penalty dated 12.11.2003 of withholding increment for three years without future effect shall not be given effect to in January 2008 or thereafter.

Contd...14/-

Babul Ranjan Sircar

(iii) Any other relief/reliefs the Hon'ble Tribunal may be pleased to grant.

The above reliefs are prayed for on the grounds stated in para 5 above.

9. Interim reliefs prayed for :

During the pendency of this application, the Hon'ble Tribunal may be pleased to grant the following interim reliefs :

- (i) The applicant be promoted to Senior Scale Officer implementing the DPC recommendations, before promotion of juniors in the panel.
- (ii) The order of Minor Penalty dated 12.11.2003 shall not be a bar for his promotion to Senior Scale.
- (iii) The order dated 12.11.2003 of Minor Penalty shall not be implemented prospectively in 2008/ after expiry of 3 years from the date of penalty.

10. The application is filed through Advocate.

11. Particulars of Postal Order :

- (i) Post office issuing the P.O. : G.P.O, Guwahati
- (ii) Date of the Postal Order : 22/06/07.
- (iii) Payable at : G.P.O, Guwahati. 346653533

12. Details of Annexures:

As per Index.

Babu Rajan Singh

VERIFICATION.

I, Babul Ranjan Singh aged about 50 years, son of Late Dinesh Chandra Singh, working as Assistant Transportation Manager, Construction, N.F. Railway under General Manager /CON/N. F. Railway, Guwahati-11, resident of Kahili Para, Guwahati-19, do hereby verify that the statements made in paragraphs 1, 4, 6, 7, 8, 9, 10, 11, and 12 are true to my knowledge and belief and those made in paragraphs 2, 3 and 5 are true as per legal advice and that I have not suppressed any material facts.

I sign this verification this 20th day of January 2008 at Guwahati.

Babul Ranjan Singh.
Signature.

STANDARD FORM NO.5 MEMORANDUM OF CHARGE SHEET UNDER
RULE 9 OF THE RS (D & A) RULES- 1968.

NORTHEAST FRONTIER RAILWAY

OFFICE OF THE
GENERAL MANAGER
GUWAHATI-781011.

NO. E/74/GAZ/429/Con.

DATE: 01-07-2002.

MEMORANDUM

The undersigned propose(s) to hold an inquiry against Shri B.R. Singh,
ATM/M/MLG under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The substance of the imputations of misconduct or misbehaviour in respect of which the inquiry is proposed to be held, is set out in the enclosed statement of articles of charge (Annexure-I). A statement of imputations of misconduct or misbehaviour in support of each articles of charge is enclosed (Annexure-II). A list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained are also enclosed. (Annexure-III & IV).

2. Shri Singh is hereby informed that if he so desires, he can inspect and take extracts from the documents mentioned in the enclosed list of documents (Annexure-III) at any time during office hours within ten days of receipt of this Memorandum. For this purpose he should contact DY. CPC/GAZ, N.F.Railway, maligaon, immediately on receipt of this Memorandum.

3. Shri Singh is further informed that he may, if he so desires, take the assistance of any other Railway servant (who satisfies the requirements of Rule 9(13) of the Railway Servants (Discipline & Appeal) Rules, 1968 for inspecting the documents and assisting him in presenting his case before the Inquiring Authority in the event of an oral inquiry being held. For this purpose, he should nominate one or more persons in order of preference. Before nominating the assisting Railway Servant(s), Shri Singh should obtain an undertaking from the nominee(s) that he(they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other cases if any, in which the nominee(s) had already undertaken to assist and the undertaking should be furnished to the undersigned, along with the nomination.

ATTESTED

19.1.08

Principal P.M. Secretary to
G.M.
N.F.Railway
Maliagon, Guwahati-781011

केन्द्रीय विधायिका
Central Administrative Council

23.II Contd to page -2.

गुवाहाटी न्यायालय
Bench

12

4. Shri Singh is hereby directed to submit to the undersigned a written statement of his defence within ten days of receipt of this Memorandum, if he does not desire to inspect any documents for the preparation of his defence and within ten days after completion of inspection of documents, if he desires to inspect documents, and also-

- (a) to state whether he wishes to be heard in person; and
- (b) to furnish the names and addresses of the witnesses, if any, whom he wishes to call in support of his defence.

5. Shri Singh is informed that an inquiry will be held only in respect of those articles of charge as are not admitted. He should, therefore, specifically admit or deny each article of charge.

6. Shri Singh is further informed that if he does not submit his written statement of defence within the period specified in para 4 or does not appear in person before the Inquiring Authority or otherwise fails or refuses to comply with the provisions of Rule 9 of the Railway servants (Discipline & Appeal) Rules, 1968, or the order/ directions issued in pursuance of the said rule, the Inquiring Authority may hold in the Inquiry ex- parte.

7. The attention of Shri Singh is invited to Rule 20 of the Railway services (conduct) Rules, 1966, under which no Railway Servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt with in these proceedings, it will be presumed that Shri Singh is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule 20 of the Railway Services (Conduct) Rules, 1966.

8. The receipt of this Memorandum may be acknowledged.

Enclo:- Annexures- I, II, III, & IV.


(Pankaj Malviya)
Chief Operation Manager, N.P.HLY

To

Shri/Smt. B.B. Singh

ATH/M/MIG

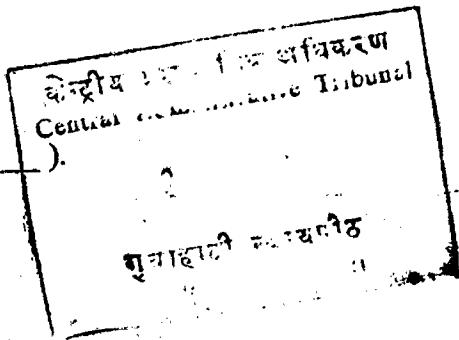
(Through

CDM/HLG

ATTESTED

Abga 19.1.08

Principal Part, Secondary to
C.
Mistaken, ~~misunderstood~~ 11



ANNEXURE-I

Statement of Article of charges framed against Shri B.R.Singh, ATM/M under COM/MLG, N.F.Railway

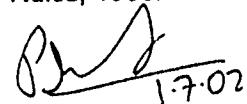
Article I

That the said B.R.Singh , ATM/M/MLG, was nominated by CPTM/MLG as one of the committee members in selection committee constituted for holding selection for promotion to the post of Gr. 'C' (Clerk) from Gr.'D' (Peón) of COM/MLG's office against 33/1/3% DP Quota. He was assigned the job to evaluate the answer-scripts and as well as ' Hall Officer' . The evaluation of answer-sheets of Shri Gautam Deka, Peon and Miss Jumi Saikia , Peon (who were declared passed in the Written Examination held on 31.10.2002) , were not done correctly . Evaluation of answer-scripts of others were also done incorrectly and marks disproportionate to contents were awarded. Marks were awarded even on the wrong answers. In the answer-scripts of Shri Gautam Deka on Maths-Question No.3. General Knowledge. (A) Qn No.8(ii),9 and 10,General Knowledge (B) (1), English (I) (2 & 4) and of Miss Jumi Saikia's answer-script General Knowledge -(A) (7),English-II, Maths-3, marks were awarded on wrong answers.

Article II

That the said Shri B.R.Singh,ATM/M/MLG while working as 'Hall Officer' in the said selection had not performed his job of 'Hall Officer ' with devotion and professional integrity as a result malpractices & unfair means had been adopted by the candidates in the written examination held on 31-10- 2002 which is noticed in the answers scripts of Shri Gautam Deka , Peon who has been declared passed in the written examination while he could not write a single correct complete sentence when he was asked to write a few sentences at the time of viva-voce on 05-03-2002.

By the aforesaid acts, Shri B .R .Singh ,ATM/M/MLG exhibited lack of integrity, devotion to duty and acted in a manner which is unbecoming of a Railway Servant and there by violated the provisions of para – 3(1) (i) , (ii) &(iii) of Railway Service (Conduct) Rules, 1966.


1.7.02

(Pankaj Malviya)
Chief Operation Manager
N.F.Railway, Maligaon

ATTESTED

19.1.08

Principal P.M. Secretary (O)
G.O.
Maligaon, Guwahati 781 011

देशी ल.र. फैसलाबाद
Central Administrative Tribunal

23

प्राप्ति एवं विवरण

ANNEXURE-II

Statement of Imputation of Misconduct /Misbehaviour in support of Article of Charges framed against Shri B.R. Singh, ATM/M/MLG under COM/MLG

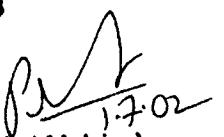
Article 1

In the selection for promotion to the post of Clerk(G) from Group 'D' under COM/MLG for two posts (1UR & 1 ST), a Selection Committee was constituted by CPTM/MLG nominating ATM/M, ATM/FOIS and APO/T from 'P'. Branch side from CPO/Admn. ATM/FOIS was assigned the job of setting the question paper. ATM/M was assigned the job of evaluating the answer-scripts and to act as 'Hall officer'. Shri B.R. Singh, holding the post of ATM/M conducted the written examination acting as Hall officer on 31.01.2002. The Viva-voce test was held on 05.03.2002 after declaring the result of written examination where only two candidates, Shri Gautam Deka and Miss Jumi Saikia, both Peons under COM/MLG were declared passed, out of total seven candidates who appeared in the written examination. At the time of Viva-voce, ATM/FOIS was replaced by ATM/Rule because the post of ATM/FOIS was vacant. The Selection Committee submitted the Proceeding of Selection for approval of CPTM, recommending the name of one eligible candidate for empanelment. The approving authority, i.e., CPTM noticed some irregularities and called for the answer-scripts where he noticed that the evaluation of answer-scripts were not done properly and marks were awarded on wrong answers. In the case of Shri Gautam Deka marks were awarded on wrong answers on Maths-Question No.3. General Knowledge.(A)-Qn No.8(ii), 9 and 10, General Knowledge (B) (1), English (I) (2 & 4) and of Miss Jumi Saikia in , Maths-Qn No 3, General Knowledge -(A) (7), English-II

Article- II

Shri B.R. Singh , ATM/M was responsible to conduct the written examination as he was assigned the job of "Hall Officer" in the said selection. According to the answer-scripts, Shri Gautam Deka, Peon who secured 61½ % marks in the written examination ,which required the candidate to give descriptive answers to some questions , could not write even a single complete sentence correctly and legibly ,when asked to write a few sentences on the subject "What is the duty of a peon ?" during the viva-voce. This shows that he was not capable of independently, writing correct sentences and that malpractice's have been adopted in writing the answer-scripts in the written examination held on 31.01.2002 .

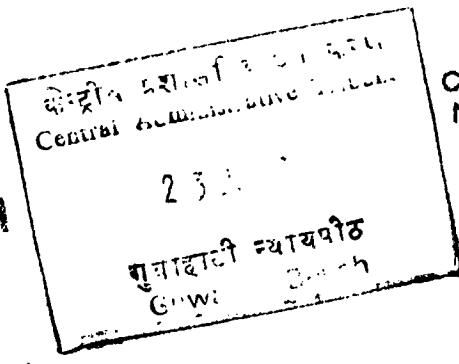
By the aforesaid act Shri B.R.Singh, ATM/M/MLG exhibited lack of integrity, devotion to duty and acted in a manner which is unbecoming of a Railway Servant and thereby violated the provisions of para 3(1) (i), (ii) & (iii) of Railway Service "Conduct Rules", 1968


17.02
Pankaj Malviya
Chief Operation Manager
N.F.Railway, Malig

ATTESTED

19.1.08

Principal Pmt. Secretary to
G.M.
Malluon, Guwahati



ANNEXURE-III

List of documents under which charge framed against Shri B.R.Singh, ATM/M/MLG are proposed to be sustained.

Article - I

1. GM(P)/MLG's confidential letter No.E/254/CON/SUITABILITY/3r.DC/T(LOOSE) date 10.01.2002 and 21.02.2002.
2. Answer-scripts of Shri Gautam Deka and Smt. Jumli Salla, both Peon under COM/MLG
3. ATM/M's letter No. NIL dated 20.02.2002 (Result of written test held on 31.01.2002).
4. Question paper of the written test held on 31.01.2002.

Article - II

1. Paper pertaining to matter written by candidates when asked for during the Viva-voce test held on 05.03.2002 of Shri Gautam Deka,

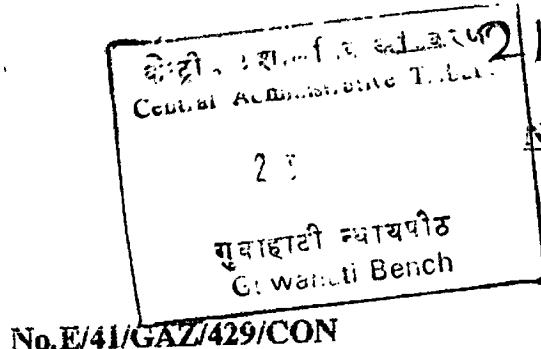
ANNEXURE - IV.

List of witnesses - Nil.

क्र.द्री.सं 1.21.4261	Central Examination Bureau
23	
गुदाहाटी नायपीठ	


1.7.02
(Pankaj Malviya)
Chief Operation Manager
N.F.Railway

ATTESTED
19.1.06
R. J. Malviya



N.F. Railway

Annexure - B

Office of the
Chief Operations Manager,
Malligaon, Guwahati 11
Date: 12.11.03

No. E/41/GAZ/429/CON

ORDER

Whereas disciplinary proceedings under rule 11 of Railway Servants (Discipline & Appeal) Rules, 1968 were instituted against Shri B.R. Singh Ex-ATM /M /MLG, now ATM/CON /MLG vide issue of charge memorandum No. E/ 41/GAZ/429/CON dtd. 01.07.2002.

And whereas the said Shri B.R. Singh submitted his final defence dtd. 05.08.03. in response to the aforesaid memorandum.

1. Now, therefore, I, the disciplinary Authority, have gone through the papers in this case. The CO has been charged with (i) Incorrect evolution of answer sheets i.e. award of marks disproportionate to contents and awarding marks as wrong answers and (ii) under his supervisions as Hall Officer, unfair means were adopted by candidates in the written examination.

2. In respect of charge in article 1, the CO and D.C. have based their defence on the fact that one of the passed candidates, who reappeared in the re-conducted examination, again passed. It has also been guessed that, had the other passed candidate appeared in the re-conducted examination, he would have also passed. The defence is based on this assumption. The relevance of second examination having been taken into account is just not there. Instead of defending specific charges quoting questions number, the C.O. has preferred to point out lacunae in the examination process and also taken into account and compared the performance in a subsequent examination. I shall comment as follows :- The non provision of model questions and syllabus to officer setting the paper has been mentioned, which is irrelevant. As there were a very few answer sheets, the question of examining the answer sheets in a heavy or under pressure from APO(T) or any higher official is not pertinent. The C.O. has failed to evaluate the answer sheets correctly, even to the extent of awarding wrong answers in questions on Mathematics, where model answers have little role to play.

3. The C.O. admits that he had left the Hall on two occasions during the course of examination. Although, it has not been clarified by I.O. from APO(T), as to why he refused to seek some clarifications from the officer setting the paper, ATM(FOIS), it is established that the reasons for his leaving the examination hall were genuine. Clarifications had to be sought. It has not been directly established, that any unfair means have been adopted in the examination, though there is evidence in the answer scripts of one of the candidates, who could not write a single correct complete sentence during the interview. The matter requires investigation separately.

ATTESTED

15.11.06

Principal P.R. Secretary to
G.M. (Ex-ATM /M /MLG)
Malligaon, Guwahati 11

(2)

4. I agree with the contention of C.O. that he had worked for only three months or so in gazetted cadre before the conduct of the examination, and was not experienced enough.

5. Keeping all the above facts in view, the case has been reviewed and the penalty of stoppage of increment without future effect for a period of 3(three) years is here by imposed.

6. The said Shri B.R. Singh, is required to acknowledge receipt of this order of punishment.

7. Shri B.R. Singh, has the right to prefer an appeal against this order in writing to the General Manager within 45 days of receipt of this order in terms of R.S.(D & A)Rules,1968.

PM
12/11/3

(Pankaj Maivya)
Chief Operations Manager

To

Shri B.R. Singh,
ATM /CON /MLG

ATTESTED

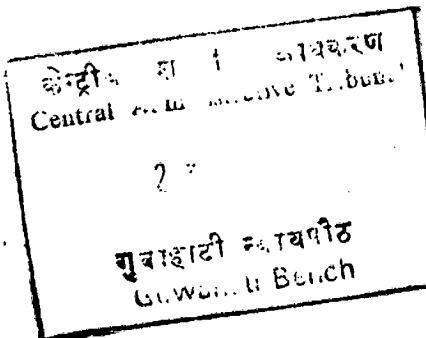
19/1/08
Principal P.M. Secretary to
G.M.
Mahanagar Gas Limited

केन्द्रीय सरकार Central Govt. of India 2
मुख्यमंत्री = रायपीठ M. Ch.

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

Dated 18th January '04.

Sub: A humble appeal
Ref: COM/MLG'S order no.E/41/GAZ/429/CON-dt12.11.03.



Respected Sir,

In reference to above quoted letter which was received on 05th December '03.
I beg to submit the following appeal for kind consideration of your honour please:

That Sir, I have been charged with I) Incorrect evaluation of answer sheets and ii) under my supervision as Hall officer, unfair means were adopted by candidates in the written examination of group 'D'. However it seems that learnt D.A vide his above order satisfied with my explanation against charge no (ii). Further D.A agrees that 3-months after being promoted in gazette cadre it was my first time to conduct any examination and was not experienced enough. Moreover matter requires separate investigation

Against charge no (i) I have been punished with stoppage of increment for 3 years without future effect.

In respect of the above charge my defense was based on the fact that out of 2(two) passed candidates, one candidate who appeared in the re-examination conducted by a wiser committee again passed and another passed candidate did not appear in the re-examination hence nothing can be commented about his ability. This was not agreed by learnt D.A. stating relevancy of second examination was not taken into account. But fact was that during prolong enquiry it has came to light that selection was conducted with the best ability and no complain (F.I.R) was received from any corner regarding irregularities of examination. On the comment of learnt D.A my explanation is as under:-

I have asked for model answer not question as it plays an important role for evaluation of answer sheets irrespective of its number. My nature of duty does not permit spare time even then pressure was created for early evaluation, which was pointed out by me. However answer sheets were evaluated sincerely with best of knowledge In case awarding marks to mathematics it was given only when sum was solved properly and correctly from very beginning to end and at the end answer was written wrong. That awarded mark was also 25% less then the total marks.

It is my humble prayer that Sir I have been stagnant in salary since 2002 having reached the maximum pay. The above punishment of stoppage of increments for 3 years will stop my increment for 5 years and fixation and promotion too.

Therefore considering all facts judicious kind honour will surely be gracious enough to pass necessary order exonerating me from the charges so that I may feel that justice prevails and be able to serve as ever with peace in mind.

With regards.

Yours faithfully.

B.R. Singh - 18.1.04

(B.R.Singh.)
A.T.M/Con-Maligaon,
N.F.Railway.

ATTESTED

Mo 2 19.1.08



पूर्वोत्तर सीमा रेलवे
Northeast Frontier Railway

केन्द्रीय प्रशासनीय दाखिला
Central Administration Tribunals

23

गुवाहाटी न्यायपोठ
Gauhati Bench

ता. सप्ताह, 1996 RAILWAY WEEK, 1996.

योग्यता प्रमाण - पत्र

Certificate of Merit

वर्ष 1995-96 की अवधि में उत्कृष्ट कार्य के लिए

For outstanding work during the year 1995-96

श्री/श्रीमती बी. आर. सिंह, सी.एच.सी./लामाडिंग को प्रदान किया जाता है।

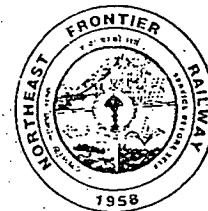
Awarded to Shri/Smt. B. R. Singh, CHC/LMS.....

ATTESTED

180a 19108

दिनांक/Date 21st Nov' 96

मुख्य परिचालन प्रबंधक
Chief Operations Manager



पूर्वोत्तर सीमा रेल

NORTHEAST FRONTIER RAILWAY

रेल सप्ताह/RAILWAY WEEK, 1997

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

23

गुवाहाटी न्यायपीठ
Guwahati Bench

योग्यता प्रमाण-पत्र
CERTIFICATE OF MERIT

वर्ष 1996-97 की अवधि में उत्कृष्ट कार्य के लिए

For outstanding work during the year 1996-97

श्री/श्रीमती बी. आर. सिंह, उप नियंत्रक/लामडिंग को प्रदान किया जाता है।

Awarded to Shri/Smt.

ARRESTED

19.1.97

Principal Pvt. Secretary to
G.M./N.F. Railway
Malligaon, Guwahati

अप्रैल, 1997

April, 1997

DOOR NO. 1
मडल रेल प्रबंधक
DIVISIONAL RAILWAY MANAGER



पूर्वोत्तर सीमा रेल
NORTHEAST FRONTIER RAILWAY

रेल सप्ताह / RAILWAY WEEK, 2000

सेंट्रल अम्लिनेट ऑफिस
Central Administration Office

23

गुवाहाटी न्यायपीठ
Guwahati Bench

योग्यता प्रमाण-पत्र
CERTIFICATE OF MERIT

वर्ष 1999-2000 की अवधि में उत्कृष्ट सेवा के लिए
For meritorious service during the year 1999-2000

श्री/ श्रीमती

को प्रदान किया जाता है।

Awarded to Shri/Smt. Babul Ranjan Singh, CHC/GHY

Princip
G.
M.
191-08
1 P.R. Secretary to
Northeast Frontier Railway (Con)
Guwahati-11

अप्रैल/April, 2000

RAJENDRA NATH
GENERAL MANAGER

Nath
M.A.

26

-27-

Annekurz



पूर्वोत्तर स्थीमारेल NORTHEAST FRONTIER RAILWAY

150 GLORIOUS YEARS

रेल सप्ताह RAILWAY WEEK, 2003

केंद्रीय विद्यालय आ॒ दृष्टि
Central Academy आ॒ दृष्टि

23. 23

गुनाह्यटीस्यायैर्मुखः

Gewaltfrei Befreiung

CERTIFICATE OF MERIT

CERTIFICATE OF MERIT

वर्ष 2002-2003 की अवधि में उत्कृष्ट सेवा के लिए
For meritorious service during the year 2002-03

१० श्री/श्रीमती/सूश्री

Awarded to Shri/Smt./Kum. Babu Ram Singh, ATM/Cor

को प्रदान किया जाता है

19.1.08
19.1.08
April, 2003
April, 2003
Guwahati-11

N. RAMA SUBRAMANIAN
GENERAL MANAGER
(CONSTRUCTION)

NORTHEAST FRONTIER RAILWAY

কেন্দ্ৰীয় রেল ফান্ডেশন
Central Administrative Fund
2

Office of the
General Manager/Con
Maligaon, Guwahati-11

MEMORANDUM

গুৱাহাটী নথায়পোঠ

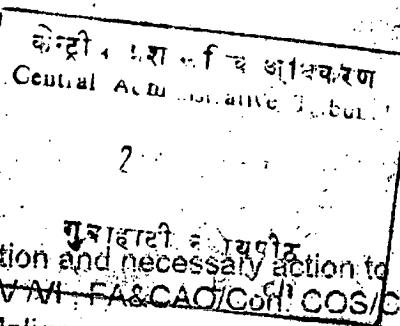
General Manager/Con/N. F. Railway, Maligaon has accorded his sanction to the grant of cash award to be given during the 48th Railway Week celebration to be held on 10-04-2003 in appreciation of dedicated services and devotion to duty in favour of the under mentioned Officers/staff to the amount as shown against each.

S. No	Name	Designation	Unit	Amount
1	M. S. Chauhan	Dy. CE/Con/I/APDJ	CE/Con-II	1,100/-
2	D. K. Mukhopadhyay	XEN/Con/APDJ	Dy. CE/Con/I/APDJ	1,100/-
3	Anil Kumar	XEN/Con/KJR	Dy. CE/Con/KJR	1,100/-
4	Aloke Kr. Saha	SSTE/Con/MLG	CSTE/CON/MLG	1,100/-
5	T. George	AXEN/Con/NBQ	Dy. CE/Con/I/APDJ	1,100/-
6	Krishana Prasad Dey	AXEN/Con/Lumding	Dy. CE/Con/Lumding	1,100/-
7	Anup Kr. Sarma	AXEN/Con/Ambassa	Dy. CE/Con/Agartala	1,100/-
8	A. M. Choudhuri	AXEN/CON/Dhemaji	Dy. CE/Con/DBRT	1,100/-
9	Sallendra Kr. Mitra	ASTE/Con/MLG	Dy. CSTE/Con/F/MLG	1,100/-
10	Babul Rajan Singh	ATM/Con/MLG	Dy. COM/CON/MLG	1,100/-
11	Parimal Bhowmik	Sr SE(W)/Con/Agartala	Dy. CE/Con/Agartala	1,100/-
12	K. Deori	SSE/TC/TSK	Dy. CSTE/Tele/Con	1,100/-
13	Asitbaran Saha	SSE/Signal	Dy. CSTE/Con/NJP	1,100/-
14	Sanjib Sora	SE/W/Con/Lumding	Dy. CE/Con/Lumding	1,100/-
15	Krishan Kant Dey	SE/P Way/Con/Lumding	Dy. CE/Con/Lumding	1,100/-
16	Pallab Purkayastha	SE/Con/Design	Dy. CE/Con/Design/MLG	1,100/-
17	Syed Munir Ahmed	SE/Drg/Estimate/Con	Dy. CE/Con/PL/MLG	1,100/-
18	Bijoy Hazarika	SE/Drg/Con	Dy. CE/Con/PL/MLG	1,100/-
19	Chinmay Dey	SE/Con	Dy. CE/Con/Tender	1,100/-
20	Golak Das	SE/W/MLG	Dy. CE/C/MLG	1,100/-
21	Sandip Kumar Singha	SE/W/Con/Gazole	Dy. CE/Con/I/MLDT	1,100/-
22	P. K. Sinha	SE/W/Gangarampur	Dy. CE/Con/I/MLDT	1,100/-
23	R. B. Singh	SE(W)/Con/RGJ	Dy. CE/Con/I/MLDT	1,100/-
24	Pradip Sarker	SE(Works)Con/NMZ	Dy. CE/Con/I/MLDT	1,100/-
25	Dulal Chandra Saha	SE(Works)Con/NJP	Dy. CE/Con/NJP	1,100/-
26	Ajit Das	SE/Drg/JPZ	Dy. CE/Con/NJP	1,100/-
27	Gautam Narzar	SE/Con/Drawing	Dy. CEE/Con/MLG	1,100/-

ATTESTED

16/4/03
Principal Pmt. Secretary to
G. M. /N.F. Railway (Con)
Maligaon, Guwahati-11

28 A.R. Leiyopam	JE/Gr.I	Dy. CE/Con-I/APDJ	1.100/-
29 Golap Ch. Das	JE(W)/Gr.I	Dy. CE/Con/KIR	1.100/-
30 Sunil Kumar. Verma	JE/II/CON/SCL	Dy. CE/Con/SCL	1.100/-
31 Ujjal Ch. Saha	JE/II/DRG/CON/SCL	Dy. CE/Con/SCL	1.100/-
32 Binoy Krishna Baia	JE(W)/Con/DBRT	Dy. CE/Con/TSK	1.100/-
33 S.K. Afrejul Haque	JE/W/Con/PD/MLDT	Dy. CE/Con/II/MLDT	1.100/-
34 Dibosh Barua	JE/II/CON/SCL	Dy. CE/Con/SCL	1.100/-
35 Nishit Ranjan Mitra	JE/Sig/II/Con/APDJ	Dy. CSTE/Con/APDJ	1.100/-
36 Kangkan Hazarika	JE/Sig/Con/Gr.II	Dy. CSTE/Con/F/MLG	1.100/-
37 Hare Krishna Bhatta	Hd. Clerk/Con	Dy. CE/Con/Agartala	1.100/-
38 Sibendra Kishore Mondal	Hd. Clerk	Dy. CE/Con-II/APDJ	1.100/-
39 Sushil Ch. Das	Hd. Clerk	Dy. CE/Con/II/MLDT	1.100/-
40 Biplab Bose	Steno/Gr.III	Dy. CE/Con/Gr.III	1.100/-
41 Smt. Malaya Das	Hd. Clerk/Con	COS/CON/MLG	1.100/-
42 Jayanta Maitra	Accounts Assistant	FA&CAO/CON/MLG	1.100/-
43 Anil Bongiang	Accounts Assistant	FA&CAO/CON/MLG	1.100/-
44 Govinda Saha	ELF-III/Lumingding	Dy. CEE/Con/MLG	1.100/-
45 Arun Kumar Ach	D/Courier	Secy. To GM	1.100/-
46 Shyamal Ch. Gupta	Khalasi	Dy. CE/Con/Agartala	1.100/-
47 Sushanta Dhar	Khalashi	Dy. CE/Con/Survey	1.100/-
48 S.C. Neogi	Peon	COS/CON/MLG	1.100/-
49 Diwakar Choubey	Peon	Secy. To GM	1.100/-
50 Dharmaswar Das	Peon	Dy. CPO/Con/MLG	1.100/-



No.E/91/Con/Confld/6/Pt.II

(S.K.Bose) 2/4/03
APO/Con

For General Manager/Con
Dated: 2.04.2003

Copy forwarded for information and necessary action to:

1. CEs/Con/ I/ II /III /IV /V /VI /FA&CAO/Con/ COS/CON, CSTE/I & II/Con MLG.
2. Secy. To GM/Con, Maligaon.
3. Dy.CEs/Con /APDJ I & II, Agartala, DBRT I & II, KIR, Kumarghat, MLDT I & II, MLG, NJP, LMG, TSK, SCL I & II, Tuniel.
4. Dy.CEE/ Con/ MLG, Dy. COM/ CON/ MLG, Dy. CSTE/ CON/ NJP, Dy. CSTE/ CON/ APDJ
5. OS(P)/CON, OS(G)/CON.

ATTESTED

18/2/08
Principal P.R. Secretary to
G.M./N.F. Railway (Con)
Mallgaon, Guwahati-11

(S.K.Bose)
APO/Con

For General Manager/Con

Shri B.R. Singh, ATM/CON/IV under GMD/CON/MLG

Northeast Frontier Railway

MEMORANDUM

In terms of Railway Board's notification No. 69/2003 dated 25.04.2003 and instructions contained in Para - 7.0 of Board's letter No. E(GP)2003/2/22 dated 16.06.2003, the following eligible Group-'B' officers in scale Rs.7,500-12,000/- of T(T) & C Department, on being empanelled for placement in higher Group-'B' scale of Rs.8,000-13,500/- by the DPC held on 05.10.2005 against 80% upgradation are placed in the higher Group-'B' scale Rs.8,000-13,500/- w.e.f. 01.01.2005: -

SN	Name & Designation
1	Shri Arindam Dutta, ATM/CON/MLG
2	Shri A. K. Sarma, Ex. AOM/RNY (now on sick list)
3	Shri B. R. Singh (ST), ATM/CON

2. (a) The above named officers, even after their placement in the higher scale Rs.8,000-13,500/- will be classified as Group-'B' only.

(b) All the Group-'B' officers, whether in scale Rs.7,500-12,000/- or in scale Rs.8,000-13,500/- will continue their seniority in the order of their original seniority in Group-'B' for the purpose of consideration for promotion to Group-'A'/Jr. Scale or for promotion on adhoc basis to Senior Scale.

(c) The pay of the Group-'B' officers placed in scale Rs.8,000-13,500/- will be fixed in the higher scale w.e.f. 01.01.2005, by applying the principle of Rule 1313 (I)(a)(I)/RII.

3. The officers concerned may exercise option for re-fixation of pay in scale Rs.8,000-13,500/- from the date of accrual of next increment in scale Rs.7,500-12,000/- within one month from the date of issue of this memorandum, if the same is beneficial.

4. The proceedings of the DPC and placement of the above named officers in higher scale Rs.8,000-13,500/- has been approved by the General Manager/N. F. Railway on 10.10.2005.

On.

17. x. 05

(S. K. Chowdhury)

AGO(Gaz)

for General Manager (P).

Maligaon, dated: 17.10.2005

Guwahati - No. E/254/DPC/CON/TT&CD

Guwahati Copy forwarded for information and necessary action to: -

- 1) GM/CON/MLG.
- 2) COM, CCM, CPTM, CFTM, CCO; CVO/MLG & CAM/GHY.
- 3) FA&CAO/EGA & PF/MLG & FA&CAO/CON/MLG.
- 4) DRM(P) & DFM/RNY.
- 5) Dy.CPO/CON/MLG, Dy. Secy. to GM, PPS to GM & ASY to AGM/MLG.
- 6) Officers concerned.
- 7) GS/NFROA, NFRPOA, NFRMU & NFREU/MLG.
- 8) OS/EO/Bill/CON & Cadre Dealer.

ATTESTED

17. x. 05
Principal P.M. Secretary to
G.M./N.F. Railway (Con)
Maligaon, Guwahati-11

On.

17. x. 05

for General Manager (P).

- 31 -
- 29 -

Annexure-3A 119

N. F. RAILWAY.

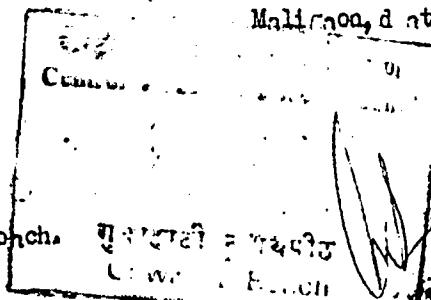
DAC 514
No. 74/0/Pt.XV(C).

To
All Heads of Dep'tt.
All DRMs.
All Distt. & Asstt. Officers of
Non-divisionalised Offices.

Goals. Socy. / NFREU. PNO-40 & copies each. 3. 5. 93
" " / NERU.

CS/USCTRE/N.F.ZONE/Maligon.
Gwahati-11.
with 20 spare copies.

Maligon, dtd, 3. 5. 93.



Sub: Promotion of officers who have been imposed
penalty of withholding of increments.

A copy of Railway Board's letter No. E (I&A) 92RG-6-185 dt. 12-5-93
above noted subject is forwarded herewith for information and necessary action.
Against the earlier letter No. E (I&A) 92RG-6-14(B) dt. 24-4-93 as referred to in their
present letter was circulated under this office circular No. DAC-513 No. E/74/0/Pt.XV(C).
dt. 30-4-93.

As stated

Annexure-4/493
for CHIEF PERSONNEL OFFICER

(Copy of Railway Board's letter No. E (I&A) 92RG-6-185 dt. 12-5-93) (SNP) (26)

Sub: Promotion of officers who have been imposed
penalty of withholding of increments.

Attention is invited to Board's letter No. E (I&A) 92RG-6-14(B) dtd
24-4-93 with respect to the procedure and guidelines to be followed in the matter of
promotion from Group 'B' to Group 'A' and within Group 'A' of Railway Officers against
whom disciplinary/court proceedings are pending. It has been laid down, inter alia,
that in para 3.2 thereof, that officers imposed with the minor penalties of court-m
or pay of passes/PTOs, recovery from pay and withholding of increments may be
promoted prospectively in their turn with references to their position in the earlier
panel(s) of the DPC, but where the penalty of withholding of increment is imposed they
can not be promoted before expiry of the penalty.

On reconsideration, the Railway Board have decided that where the
penalty of withholding of increment imposed on a Railway Officer is to become operative
from a future date, the person concerned should be promoted in his turn prospectively
with reference to his position in the earlier panel of the DPC and the penalty imposed
in the promotion grade for a period which would not result in greater monetary loss.

My (Pc. (iv)) - 27/5

My (Pc. (iv)) - (Ac)

(Pc. (iv)) - (Ac)

(Pc. (iv)) - (Ac) 7.5.93

ATTESTED

MoA Secretary to

30
- 32 -
Confidential.

Annexure - J

No.BRS/1/App/07.

To,
The General Manager/Con,
N. F. Railway,
Maligaon.

केंद्रीय नियन्त्रण
Central Administrative T. Bureau

2

Dated : 31 -12-2007

(Through Proper Channel)

Sub:- A humble appeal.

Ref:-COM/MLG 'S order no. E/41/GAZ/429/CON-12.11.03.

गुवाहाटी न्यायपाल
G. W. L. T. Bench

Respected Sir,

In reference to above quoted letter I beg to put the following few lines for your kind consideration please.

That sir, recently I have come to know that against penalty of stoppage of my increment for 3 years without future effect dated 12.11.03 my appeal although submitted in time, either it has not reached or considered. But, punishment not yet implemented and propos to effect from 01 st January .08. This will result more mental agony, economical suffering and above all effecting punishment in bigger way then it was imposed.

- v) At the time of punishment during 2003 I was stagnant in pay and was getting stagnation pay every after two year. Thus punishment of 3 years without future effect would have a lesser impact in my service. Probably it was the motive of disciplinary authority.
- vi) Implementation of punishment after delay of 4 years will held up my due promotion in senior scale for unlimited period which was perhaps not judgment of disciplinary authority.
- vii) I have already gone through a long period with mental agony/suffering and have got a excellent record in service at this organization.
- viii) Above all against charges of incorrect evaluation of answer sheets for which penalty was imposed nothing has been proved and no complain (F.I.R) was received from any corner.

Therefore considering all facts judicious kind honor will surely be gracious enough to pass necessary order exonerating me from the charges so that I may fell justice prevails and to serve as ever with peace of mind.

With kind regards.

Yours faithfully,

राम सिंह
31-12-07
(B.R.Singh.)

A.T.M/Con-Maligaon.

ATTESTED

Principal P.R. Secretary to
G.M./N.F. Railway (Con)
Maligaon, Guwahati-11

File in Court on..... 20/2/08
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

OA No. 12/2008

SHRI B. R. SINGH

-Vs-

U.O.I. and Others

(Written statement filed on behalf of Respondents No. i, ii, iii, iv, v and vi)

The above Respondents most respectfully beg to state as under :

1. That the Respondents No. i, ii, iii, iv, v and vi have gone through the O.A. and understood the contents thereof.
2. That Shri B. R. Singh was posted as ATM/Con/MLG on 27.03.2002.

While working as such the Chief Operating Manager/MLG issued him charge sheet on 01.07.2002 for irregularities done during his Open line tenure, and imposed punishment of stoppage of increment

(NC) for a period of 3 (three) years on 12.11.2003. Shri B. R. Singh had acknowledged the NIP on 05.12.2003. He had reached the maximum of the pay scale of Rs. 7500 – 12000/- on 01.09.2002. The 1st stagnation increment was given on 01.09.04. He was given benefit of 80% upgradation in scale Rs. 8000 – 13500/- w. e. f. 01.01.2005 with the approval of GM / N. F. Railway vide GM (P) / MLG's

Contd. p/2 ... memorandum ..

Received
Jit Acharjee
21/09/08.

File No. 12/2008
Dy. Ch. Personnel Officer
Guwahati Bench
N.F. Railway, N.F. Railway
Sec. P.M. 20/2/08
File No. 12/2008

Guwahati Bench
N.F. Railway, N.F. Railway
Sec. P.M. 20/2/08
File No. 12/2008

memorandum issued under No. E/254/DPC/Con/TT & CD dated 17.10.2005 (Annexure-H of OA). He has earned annual increments in the scale Rs. 8000-13500/- thereafter on 01.01.2006 & 01.01.2007. The punishment of stoppage of increment for 3 years was not implemented. The same has been implemented w. e. f. 01.01.2008 vide Memorandum No. 002/2008 circulated under No. 202E/Con/1(BRS) dated 03.01.2008 and a copy of the said memorandum endorsed to officer concerned i.e. Shri B. R. Singh, ATM/Con/MLG (Annexure R-1). A promotion, transfer and posting order has been issued by GM(P)/MLG vide office order No. 002 / 2008 (Transportation & Commercial) circulated under No. E/283/82/Pt.XVII(O) dated 25.01.2008. The name of Shri B. R. Singh, ATM/Con/MLG does not appear in the said order. The copy of the said order dated 25.01.2008 is annexed as Annexure R-2.

3. That in reply to statements in Para 4.3, 4.4, 4.5, 4.6, 4.7 and 4.8 it is stated that Shri B. R. Singh joined as Assistant Transportation Manager (Gr. B) on 21.09.2001. The Chief Operation Manager (COM) Imposed a punishment of "Stoppage of Increment without future effect for a period of 3 years." vide letter No. E/41/GAZ/429/CON Contd. p/3.. dated 12.11.2003 on the

dated 12.11.2003 on the basis of irregularities in verification of the records for selection from Gr. D to Gr. C in the operating department.

Shri Singh has stated in his OA that he had appealed against the order. But the representation dated 18.01.2004 was never received by GM/P/MLG. Moreover Shri Singh had not highlighted anything about his appeal in last 4 yrs. However it is mentioned that the punishment has been made effective from 01.01.08 by memo. No. 202E/Con/1(BRS) dated 03.01.2008 with intimation to the applicant. As per Railway Board's instruction contained in the letter No. E(D&A)95-RG6-65 dated 17.01.96 where the penalty of withholding of increment is imposed the officer / staff can not be promoted before expiry of the penalty (Annexure R-3).

4. That in reply to statement in Para 4.9 and 4.10 it is stated that DPC for promotion to Sr. Scale in Transportation and Commercial department on ad-hoc basis was conducted on 15.11.2007. On the basis of the recommendations as approved by General Manager, 4 (four) Gr. B officers have been promoted to Sr. Scale on ad-hoc basis. As Shri Singh has been imposed the punishment w. e. f. 01.01.2008, his case

Contd. p/4 . was not

was not considered for ad-hoc promotion to Sr. Scale in terms of Railway Board's letter dated 17.01.1996. It is stated that the applicant's increment has already been stopped w. e. f. 01.01.2008 with intimation to him. Regarding deposit of overpayments (for not implementing the punishment) by Shri Singh, it is stated that there is no record to this effect. Shri Singh has never given any application or letter or intimating his willingness to deposit the overpayment on account of punishment imposed i.e. for non - implementation of punishment. He has mentioned this only in the OA.

5. That in reply to statement in Para 5(iv) and Para 5 (vi) it is stated that the punishment order imposed by disciplinary authority was not implemented earlier, hence has been implemented w. e. f. 01.01.2008. Punishment imposed has to be implemented. Shri Singh had acknowledged the punishment order. A gazetted officer is expected to maintain professional and personal integrity. Para 3.1(i) of Railway Services (Conduct) Rules, 1966 clearly stipulates that every Railway Servant shall at all times maintain absolute integrity. Shri B. R. Singh was expected to have brought the fact of existing punishment order to the administration before availing the benefits of stagnation increment and 80% upgradation to the

Contd. p/5. scale Rs. 8000-13500/-

M. A. Khan
M. A. Khan
Ch. P.M.O. (Con.)
N.R. Railway, Maligonj
6/11

scale 8000-13500/- Therefore Shri Singh, has violated the relevant and important provision of Railway Services (Conduct) Rules, 1966. No violation has been done as per Railway Board's directive as Shri Singh has already been placed in higher scale of Gr. B or Rs. 8000-275-13500/- in due time. Moreover, he has been benefited by getting the scale which he would not have got if the penalty would have been implemented in time.

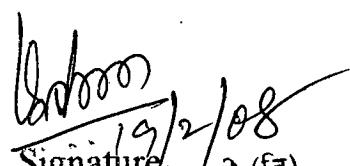
6. That in reply to statements in Para 6 & 8 it is stated that the applicant should have first exhausted the departmental channels of grievance redressal. Orders for promotion to Sr. Scale on ad-hoc basis of Shri Singh's seniors and juniors have been implemented and his case was not considered as the penalty of withholding of increment has already been imposed w. e. f. 01.01.2008. He can be considered for promotion to Sr. Scale only after he completes the punishment subject to his suitability at the relevant time.
7. That in the circumstances explained above the OA deserves to be dismissed with Costs.

xxx

VERIFICATION

I, S. BEHERA son of B. C. BEHERA aged about 37 years, working as Dy. CPO/Con/MLG N. F. Railway, Maligaon, Guwahati-11, do hereby say and state that I am conversant with the facts and circumstances of the case, and Competent to sign this verification, and that I have been authorized by the Respondent No. i, ii, iii, iv, v and vi to sign this verification which I do accordingly, and verify that the statement made in Paragraphs 1, 2, 3, 4, 5, 6 & 7 are true to my knowledge, and I have not suppressed any material facts.

I sign this verification this 19th day of February, 2008 at Maligaon, Guwahati-11.


Signature 19/2/08
S. Behera (সু. বেহেরা)
Dy. Chief Personnel Officer (Con.)
N.F. Railway, Maligaon
Guwahati- 781011

पूर्वतर सीमा रेल

महाप्रबंधक/निर्माण
का कार्यालय
मालीगांव, गुवाहाटी-781011

MEMORANDUM 002 /2008

COM/MLG vide his letter No. E/41/GA/429/Com dt. 12.11.2003 has imposed one punishment of "Stoppage of increment without future effect for a period of 3 yrs" against Shri B. R. Singh, ATM/Com/MLG. The same was not implemented earlier. The punishment has taken effect w.e.f. 01.01.2008 i.e. the date of his annual increment. Due to the implementation of punishment the pay of Shri B. R. Singh, ATM/Com/MLG is fixed as under : -

01.01.2008 Rs. 13,225/-
01.01.2009 Rs. 13,225/-
01.01.2010 Rs. 13,225/-
01.01.2011 Rs. 13,500/- + 275/- stagnation increment

3F-सिटी 3.1.08

(ए. के. सिन्हा)

सहायक कार्मिक अधिकारी/नि/।
कृते महाप्रबंधक/निर्माण

No. 202 E/Con/1 (BRS)

Date: 03.01.2008

Copy forwarded for information and necessary action to:-

- 1) FA & CAO/Con/MLG
- 2) COM/Con/MLG
- 3) Secy. to GM/Con for kind information of GM/Con
- 4) Officer Concerned
- 5) OS/E/Bill
- 6) P/Case

कांगड़ा निवास विभाग (नि)
कांगड़ा निवास विभाग (नि)
Dy. Chief P. Officer (Con.)
प्रभाव विभाग
N. 11
11-78/1011

अ.स्त्री 3.1.08
कृते महाप्रबंधक/निर्माण

899
30/11/08
-8- Annexure P-2
The following promotion, transfer and posting orders are issued with immediate effect: -

1) Shri A. Dutta, ATM/Con, who has been empanelled for promotion to Senior Scale on adhoc basis is posted under GM/Con/MLG. 31.1.08

2) The Sr. Scale element of the post of DOM/G/LMG is temporarily transferred to HQ and the post of ATM/Rules/HQ is upgraded for operation as STM/Rules/HQ under CSO/MLG.

Shri A. K. Deori, ATM/Rules/HQ, who has been empanelled for promotion to Senior Scale on adhoc basis is posted as STM/Rules/HQ under CSO against the above arrangement.

3) Shri P. S. Seal, SM(Gaz)/NJP, who has been empanelled for promotion to Senior Scale on adhoc basis is transferred and posted as SM(Gaz)/GHY in Sr. Scale vice Shri Sudip Ranjan Roy.

4) Shri Nilanjan Roy, AOM/APDJ is transferred and posted as SS(Gaz)/NJP in Group-B vice Shri P. S. Seal (Item No. 3 above).

5) Shri Tek Bahadur, who is working as ACM/NJP against the downgraded post of DCM/NJP is transferred and posted as Vice Principal/ZRTI/APDJ vice Shri Sukumar Das.

6) Shri Sukumar Das, Vice Principal/ZRTI/APDJ, who has been empanelled for promotion to Senior Scale on adhoc basis is transferred and posted as DCM/NJP by restoring the post in Sr. Scale.

7) Shri B. K. Mishra, ACM/KIR is transferred and posted as ACM/GHY (LMG DIVISION) vice Shri K. N. Boro.

8) Shri Alakananda Sarkar, Instructor(Commercial)/ZRTI/APDJ, who has been empanelled for promotion to Group-B as ACM against 30% LDCE, is appointed to officiate in Group-B and posted as ACM/KIR vice Shri B. K. Mishra (Item No. 7 above).

9) Shri K. N. Boro, ACM/GHY is transferred and posted as ACM/PS by utilizing the vacant element of ACM/TC.

10) The Senior Scale post of Area Manager/RPAM, which is now in operation as Junior Scale/Group-B is temporarily transferred to HQ for operation as STM/Chg/MLG.

Shri Sudip Ranjan Roy, SM(G)/GHY is transferred and posted as STM/Chg/HQ against the above arrangement.

DY-CPO/CD
APD/C-2
11/12/08
Ranjan Roy
23/11/08
Dy. Chief P.M. Officer (Con.)
D.F. Officer, Section
Guwahati- 781011

(Contd. 2)

23
- 9 -
11) The permanent post of AOM/APDJ on being released by Shri Nilanjan Roy, item No. 4 above is transferred temporarily to RPAN for operation as Asstt. Area Manager (Gr.B).

Shri T. K. Dutta, Asstt. Area Manager/RPAN will continue to work as Asstt. Area Manager against the above arrangement.

Shri Alakananda Sarker (Item No. 8 above) may exercise option within one month from the date of his appointment in Group 'B' for fixation of pay in the new post or with effect from the date of appointment of the new post or with effect from the date of increment in the old post in terms of Railway Board's letter No. E(P&A)II/81/PP-4 dated 13.11.81, 16.01.85 & 31.10.2007.

This issues with the approval of General Manager.

*Govt. of
25/01/08*
(S. P. Sengupta)

APO(Gaz)
for General Manager (P).

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

Maligaon, dated: 25.01.2008

Copy forwarded for information and necessary action to:-

1. GM/CON/MLG
2. COM, CCM, CSO, CCM/PM, CCM/FM, CTPM, FA&CAO & SDGM/MLG
3. All DRMs, DRM(P)s & DFM's/N. E. Railway.
4. Principal Director of Audit/MLG
5. FA&CAO/EGA & PF/MLG.
6. Dy. GM & Secy. to GM, DGM(G), CPRO, Sr. EDPM, Dy.CPO/HQ, Dy.CPO(CON), SPO/Traffic, Sr.AFA/NJP, APO/GHY.
7. ASY to GM, PPS to GM & ASY to AGM/MLG.
8. Principal-ZRT/APPD
9. GS/NFROA, NFRPOA, NFRMU & NFREU/MLG.
10. Officers concerned.
11. OS/EO-BIII.

for General Manager (P)
(S. P. Sengupta)

APO(Gaz)

- 10 -

10

RAILWAY BOARD ORDERS 1993.

Copy of Government of India,
Department of Pension & Pensioner's Welfare
O.M. No. 43/4/95-P&PW(G) dated 30.10.1995

OFFICE MEMORANDUM

Subject : Nomination facility to pensioners/family pensioner for drawing life-time arrears of pension/family pension under payment of arrears of pension (Nomination) Rules, 1963—Clarification thereon.

Suggestions have been received in the Department of Pensions & Pensioners Welfare for extending the nomination facility to family pensioners in respect of Life-Time Arrears (LTA) of family pension on the lines of provisions for pensioners contained in Payment of Arrears of Pension (Nomination) Rules, 1983.

2. The matter has been considered by the Government. Family pension unlike pension is granted by the Government for the sustenance of the family of the deceased Government servant/pensioner and is in the nature of a welfare measure, whereas pensioner is granted pension for the past services rendered by him. Accordingly, it is not considered necessary to provide the facility of nomination facility for family pension. In the event of death of a family pensioner, the right to receive any arrears of family pension would automatically pass on to the eligible member of a family next in line in accordance with Rule 54 of CCS (Pension) Rules.

3. The requirement of succession certificate for payment of any arrears should be required only in cases, where there is no eligible family member as defined in the above Rule 54, after the death of a family pensioner.

4. These instructions may be brought to the notice of all disturbing authorities.

R.B.O. No. 7/96

Subject : Promotion from Group 'B' to Group 'A' and within Group 'A' of Railway Officers, post which disciplinary/Court proceedings are pending—Procedure and guidelines to be followed.

[No. E(D&A)95 RG 6-63, dated 17.1.1996]

Attention is invited to para 3.2 of Board's letter No. E(D&A)92 RG 6-149(B) dated 21.1.93 (Bahri's RBO 1993 Vol. I, P-25) on the above subject and the partial modification contained in Board's letter No. E(D&A) 92 RG 6-185 dated 12.2.93 (Bahri's RBO 1993, Vol. I, P-48).

2. The above provisions are applicable only to cases where any of the minor penalties of censure, stoppage of passes/PTOs, recovery of less from pay or withholding of increments is imposed.

3. These provisions have been reconsidered by the Board and it has been decided to make these provisions applicable also to cases where the minor penalty of reduction to a lower stage in the time scale of pay for a period not exceeding three years, without cumulative effect and not adversely affecting the pension is imposed. Accordingly the existing para 3.2. of Board's letter No. E(D&A) 92 RG 6-149(B) dated 21.1.93 may be substituted by the following paragraph, which also incorporates the modification already issued under Board's letter dated 12.2.93 referred to in para 1 above:—

মুক্তি প্রদান করা হবে। (১২) (১৩)
Dy. Chief Pensions Officer (Con.)
Dy. Pensions Officer
11.11.1996
Guwahati- 781011

"However in the case of *ad hoc* promotions from Group 'B' to Group 'A' and promotions within Group 'A' (Upto and including promotions to SA Grade), those imposed with *minor* penalties of Censure, stoppage of passes/PTOs, recovery from pay, reduction to a lower stage in the same scale of pay and withholding of increments may also be promoted prospectively in their turn with reference to their position in earlier panel(s) of the DPC. In the case of those imposed with *minor* penalty of reduction to a lower stage in same scale of pay or withholding of increment they cannot, however, be promoted before the expiry of the penalty. However, where the penalty of withholding of increment is to become operative from a future date, the person concerned should be promoted in his turn prospectively with reference to his position in the earlier panel of the DPC and the penalty imposed in the *promotional period* for a period which would not result in greater monetary loss. The *partial promotion* in all these cases should be fixed under the normal rules with reference to the date of actual promotion."

4. The above modification shall take effect from the date of issue of the instructions.

R.B.E. No. 8/96

Subject : Percentage distribution to the WMs (WTMs), in par with ESRS
[No. PC-III/93/REP/1/3, dated 17.1.1993]

The demand for allotment of the same percentage structure of the ESRS/MSMS/TCMs for the category of WMs (WTMs) of the Signal and Telecom Department has been under consideration of the Board for sometime past.

2. After careful examination of the duties, responsibilities, recruitment qualifications and direct induction criteria of the above categories, Board have decided that categories of the WMs(WTMs) may be allowed the same revised percentage as indicated above in the restructuring orders contained in Board's letter dated 17.1.93 as indicated below :--

Grades (Rs.)	Percentage
(Rs. 950-1500)	15%
(Rs. 1200-1800)	25%
(Rs. 1320-2040)	50%
(Rs. 1400-2300)	10%

3. The benefit of promotion now to be effected in the above scale may be given to the WMs (WTMs) categories on proforma basis with effect from 1.3.93 and cash benefit from the date of issue of orders. Other conditions of the Board's letter No. PC-III/91/CRC/1 dated 27.1.93 (Bahril's RBO 1993 Vol. 1, P-30) will continue to apply in this case.

This has the sanction of the President.

W. D. G. (F.E.)
Dy. Commr. (Cont.)

10/11

26
Filed by the applicant
through M. Bhatta, advocate
on 28.02.08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. No. 12/2008

Shri B.R. Singh

-VS-

U.O.I and others

(Rejoinder to the written statement of the respondents)

The applicant most respectfully begs to state as under :

Reed w.m.
28/2/08.

1. That, he has gone through the written statement and understood the contents thereof.
2. That, in reply to the statements in Para 2, 3 and 4 of the written statement the applicant reaffirms the Statements made in the O.A.. It is stated that when he was in the maximum of the Scale on 01-09-2002 (admitted by the respondents) there was no scope to implement the punishment of Stoppage of increment. As per instruction of the Railway Board, the punishment was infructuous and not capable of implementation. Therefore copy of the penalty order was also not given to other authorities including bill preparing authority. Also, punishment being infructuous he was given increase of pay (equal to one increment) on 01-09-04 for stagnation benefit. For the same reason he was also given promotion by D.P.C. to next higher scale w.e.f. 01-01-05 and thereafter was given increments in the scale 8,000/- to 13,500/

It is stated that the order of penalty dated 12-11-2003 became irrelevant for further purposes for the following reasons :-

- i. The punishment was infructuous.
- ii. The punishment was also washed away by future increase of pay (stagnation benefit/increment) and promotion to next higher scale by Departmental promotion Committee (D.P.C).

Contd..2

Babul Ranjan Singh

2 FEB 2008

-2-

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

In respect of the memo dated 03-01-2008 mentioned in the W.S. the applicant humbly states that he has known of the same only after receipt of the W.S. He was never informed or served with any such memo earlier. The so-called call implementation of the order of penalty dated 12-11-2003 by the said order dated 03-01-2008 i.e. after more than 4 (four) years is not permissible under any rule or procedure of the Railways. There is no such rule. This order dated 03-01-2008 is void ab-initio. The said order has been issued by an in Competent Officer and has not any support of DAR rules 1968 of the Railways. It is mentioned that the said order dated 03-01-2008 seeks to stop increment in a higher Scale, i.e. Rs. 8,000/- to 13,500/- (punishment was in Rs. 75,00/- to 12,000/-). This is not permissible under any rule or law.

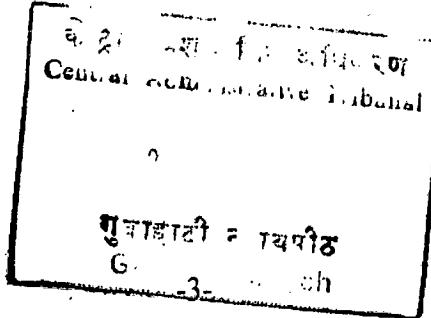
Moreover, increment in the scale of Rs. 8000/- to 13500/- is Rs. 275/- and therefore total loss (N.C) of money would be Rs. 9900/- where as increment in the scale of Rs. 7500/- to 12000/- is 250/- and total loss would have been 9000/-. In other words there would be greater monetary loss of the applicant which is not also permissible under instruction of Railway Board. The order dated 03-01-2008 is result of non-application of mind and whimsical and as such void ab-initio and nonest.

Moreover, while the salary of the applicant has been paid in bank on 31-01-2008 the stoppage of increment could be said to be implemented by the respondents on the date i.e. 31-01-2008 whereas the Honble Tribunal was pleased to pass an interim order not to implement the order (If not implemented.) It is humbly submitted that after the receipt of the interim order dated 25-01-2008 the respondents should have stopped the order dated 03-01-2008 so that the same could not have taken actual effect, i.e. implemented on 31-01-2008.

The order dated 03-01-08 being void ab initio and non-est cannot ~~had have~~ affect in his promotion to senior scale when his juniors have been promoted

Contd..P/3

Babul Ranjan Singh



and his name is in the panel recommended by D.P.C. as is clear from the W.S. It is also stated that the order of promotion of juniors dated 25-01-08 and order dated 03-01-08 does not show that there is any order from the competent authority (G.M/PHOD) with holding promotion of the applicant.

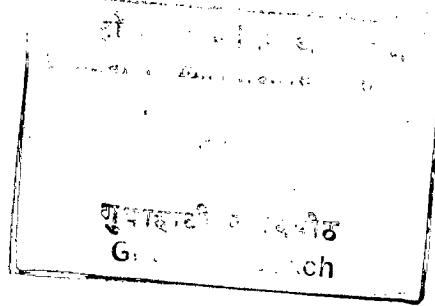
3. That, in reply to statements in para 5 the applicant begs to state that the penalty order dated 12-11-03 is in-fructuous as per Railway Board's instruction and therefore the respondent could not give effect to the same.

There was no ground for the applicant to write to the respondent for that. It is not understood how Railway service conduct Rule 1966 is violated by applicant. On the other hand the office of the respondents acted correctly and by not implementing the order of penalty, but after 4 (four) years issued order dated 03-01-08 in the name of implementing punishment order dated 12-11-03 which, in violation of all rules and procedure and is malicious. The applicant prayed that the honorable tribunal be pleased to order an inquiry in the matter to find out negligence and misconduct by the person in violation of the rules and procedure, Violating Railway Service conduct Rule 1966.

4. That, in reply to statements in para 6 of the W.S it is stated that the applicant has already submitted an appeal dated 31-12-07 duly acknowledge, which is pending.

5. That in reply to statements in para 7 of the W.S. it is humbly submitted that the honorable tribunal be pleased to allow the O.A. with costs.

Babul Ranjan Singh



VERIFICATION

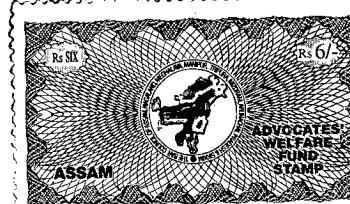
I, Babul Ranjan Singh aged about 50 years, son of Late Dinesh Chandra Singh, resident of Kahilipara, Guwahati-19 do here by verify that the statements made in paragraphs 1 to 5 above are true to my knowledge and that I have not suppressed any material fact.

I signed this verification this ^{28/V}.....day of February, 2008 at Guwahati.

Babul Ranjan Singh

Signature

FORM No. #1
(See Rule 62)



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A/R.A./S.P.M./N.Y/1/12/2008

Sri B. R. Singh

Applicant(S)

-VS-

U.O. I & ORS

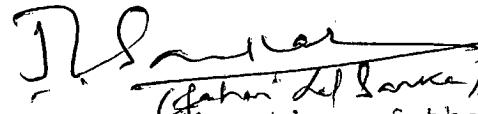
Respondant(S)

M E M O OF APPEARANCE

I, Dr. J. L. SARKAR, having been authorised
... by... Railway. Respondent no. (i) to (vi).....
(here furnish the particulars of authority)
by the Central/State Government/Government Servant/..... Authority/
corporation/Society notified under Sec. 14 of the Administrative
Tribunals Act, 1985, hereby appear for applicant No. / Respondant
No. and undertake to plead and act for them in all matters in
the aforesaid case.

Place: Guwahati

Date: 21/2/08


(Signature)
Signature and Designation of the
Counsel.

Address of the Counsel for Service.

Dr. J. L. Sarkar

— Joymoti Nagar
Adabari Guwahati—12