

3

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

123/09  
O.A./TA/ NO. 142 2009-2008  
R.A./CP/NO. .... 2015  
E.P./M.P./NO. 142 2009

1. Order Sheets..... 1 .....pg..... 01 .....to..... 01 ✓
2. Judgment/ order dtd. 02.07.2009 pg..... 01 .....to..... 04 ✓
3. Judgment & Order dtd.....received from H.C. /Supreme Court.
4. O.A. .... 123/09 .....page..... 01 .....to..... 31 ✓
5. E.P./M.P. No any order in M.P. page..... 01 .....to..... 09 ✓  
142/09
6. R.A./C.P.....page.....to.....
7. W.S. ....Page.....to.....
8. Rejoinder.....page.....to.....
9. Reply .....page.....to.....
10. Any other papers .....page.....to.....

11. Sanction & Memorandum No. by. CE/Genl KIR 2009-2010  
pg 01 & 02 ✓

17/7/2015  
SECTION OFFICER (JUDL.)

17.7.2015

FORM NO. 4  
(See Rule 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:  
ORDERSHEET

1. Original Application No : 123 / 2009
2. Misc. Petition No : ----- in O.A. No.-----
3. Contempt Petition No : ----- in O.A. No.-----
4. Review Application No : ----- in O.A. No.-----
5. Execution Petition No : ----- in O.A. No.-----

Applicant (S) : Shri Bangsi Sah

Respondent (S) : Union of India & Ors.

Advocate for the : Mr. M. Chanda

{Applicant (S)} Mr. S. Nath & Mrs. U. Dutta

Advocate for the : -----

{Respondent (S)} -----

Rly Standing Counsel.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in torn, is filed/C. F. for Rs. 50/- deposited vide IPO/DD No. <u>395 409/25</u> Dated <u>28.5.09</u></p> <p><u>29.6.09</u> Dy. Registrar <u>26/6/09</u></p>	<p>02.07.2009</p> <p>/bb/</p>	<p>Heard learned counsel for the parties.</p> <p>For the reasons recorded separately, this O.A. stands disposed of.</p> <p><u>(M.R. Mohanty)</u> Vice-Chairman</p>
<p><u>26.6.09</u> 4 (Four) copies of application with envelope received for issue notices to the Respondents No. 1 to 4. Copy served.</p> <p><u>26/6/09</u></p>		

8.7.09

order at 2.7.09 send  
to DfS for issue the same  
to the Respondents (Registered) and  
to the Applicant and free  
Copy for both the Councils, vide  
No. 2830 & 3835 dated 20/7/09..

8/7/09

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 123 of 2009

Date of Decision : 02.07.2009

Shri Bansi Sah

..... Applicant/s

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

..... Advocate for the  
Applicant/s

- Versus -

U.O.I. & Ors.

..... Respondent/s

Dr. J.L. Sarkar, Railway Standing Counsel

..... Advocate for the  
Respondents

CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE-CHAIRMAN

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

  
Vice-Chairman

16

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.123 of 2009

Date of Order: This, the 2<sup>nd</sup> day of July, 2009.

HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

Shri Bansi Sah  
Emergency Peon  
Office of the Dy. Chief Engineer  
CON/KIR  
N.F. Railway, Maligaon  
Guwahati- 781011, Assam.

.....Applicant

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

-Versus-

1. The Union of India  
Represented by the General Manager  
N.F. Railway, Maligaon  
Guwahati- 781 011.
2. The General Manager (Construction)  
N.F. Railway, Maligaon  
Guwahati- 781 011.
3. The Deputy Chief Engineer (CON)  
Katihar Division  
N.F. Railway, Katihar
4. The Executive Engineer (CON)  
Katihar Division  
N.F. Railway, Katihar.

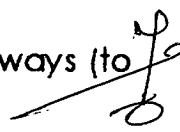
....Respondents

By Advocate: Dr.J.L.Sarkar, Standing counsel for the Railways.

**O.A.123/2009**  
**ORAL ORDER**  
**02.07.2009**

**MANORANJAN MOHANTY, (VICE-CHAIRMAN):-**

Heard Mr.M.Chanda, learned counsel appearing for the  
Applicant and Dr.J.L.Sarkar, learned Standing counsel for the Railways (to



whom a copy of this O.A. has already been supplied) and perused the materials placed on record.

2. Applicant (who was engaged as a Substitute Emergency Peon, on 26.12.2001, being attached to Respondent No.3) was transferred to Katihar, on 07.05.2002; when Respondent No.3 was transferred. He fell sick, on 30.12.2002, and obtained treatment from Railway Doctor; for which he could not report to duty. From the following day (31.12.2002) he was not allowed, to discharge duties, by the Respondent No.3. In the meantime, on 15.01.2003, the Applicant was granted temporary status w.e.f. 25.04.2002. After submitting a representation (on 25.02.2003) to the Respondent No.2 (to allow him to discharge duties), the Applicant approached this Tribunal with O.A. No.61/2003 with prayer to ask the Respondents to allow him (Applicant) to continue to discharge his duties as a Substitute Emergency Peon. The said case (O.A. 61/2003) was allowed on 21.01.2004 with direction (to the Respondents) to allow the Applicant to discharge in his duties as Substitute Emergency Peon with all consequential benefits. Along with his representation dated 04.02.2004, the Applicant submitted (before the Respondents) a copy of the order dated 21.01.2004 of this Tribunal. On 24.04.2004, the Applicant was charge-sheeted in a Departmental Proceeding, on the allegation of unauthorized absence from duty from 30.12.2002 onwards. On 05.05.2004, he (Applicant) submitted his reply to the charge-sheet. However, on 03.08.2004, the Respondent No.2 instructed (the Respondent No.3) to allow the Applicant to discharge his duties as Substitute Emergency Peon in terms of the orders of this Tribunal. Although allowed to join his duties during August 2004, the pay of the Applicant for the period from January

2003 to July 2004 were, however, not released; for which he submitted a representation on 09.06.2005 seeking payments for the period between January 2003 to July 2004. He also submitted representations, on 26.05.2009 and on 02.09.2008. No heed having been paid to his grievances, the Applicant has, again, approached this Tribunal with the present Original Application filed (on 26.06.2009) under Section 19 of the Administrative Tribunals Act, 1985; wherein he has prayed as under:-

- "8.1 That the Hon'ble Tribunal be pleased to direct the respondents to pay the salary of the applicant for the period from January, 2003 to July, 2004 in terms of the judgment and order dated 21.10.2004 in O.A. No.61/2003 passed by this Hon'ble Tribunal with interest @ 18% p.a.
- 8.2 Costs of the application.
- 8.3 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper."

3. It appears, the Applicant was not allowed to discharge his duties in a most arbitrary manner; which action of the Respondents was an act in gross violation of the principles of natural justice/Article 14 of the Constitution of India. In fact, in the earlier case (O.A. No.61/2003) of the Applicant, the Division Bench of this Tribunal (on 21.01.2004) held "that the Respondents are acting in an illegal manner in not permitting the Applicant to continue in his post of Substitute Emergency Peon." Having held thus, the Division of this Tribunal, while allowing the said case (O.A. 61/2003), directed the Respondents "to allow the Applicant to join the duties" and also declared that "the Applicant is entitled to all the consequential benefits."



4. Despite the above findings, directions and declarations dated 21.01.2004 of the Division Bench of this Tribunal, the Respondents only allowed the Applicant to be reinstated/allowed(during August, 2004) the Applicant to discharge his duties. Since the Respondents kept the Applicant out of duty/job (of Emergency Substitute Peon) in gross violation of the principles of natural justice/disregard to Article 14 of the Constitution of India, he was, certainly, entitled to "all the consequential benefits" and as such, his full back wages/salary for the entire period (from January 2003) ought to have been paid to him without any waste of time; unless very compelling reasons were there to deny the same.

5. Since it is the positive case of the Applicant that his representation, on the point in issue, is still pending with the Respondents unanswered, this case is hereby disposed of being remitted to the Respondents; who should act promptly on the prayers of the Applicant and do needful (relating to release the full back wages/salaries, as due and admissible) by end of October 2009 under intimation (in writing) to the Applicant.

6. Send copies of this order (by Registered Post) to the Respondents (along with copies of the present Original Application) in the addresses given in the O.A.

7. Free copies of this order be also sent to the Applicant and supplied to the Advocates appearing for both the parties.

  
(MANORANJAN MOHANTY)  
VICE-CHAIRMAN



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

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

O. A. No. 123 /2009

**Shri Bansi Sah.**

**-Vs-**

**Union of India and Others.**

**LIST OF DATES AND SYNOPSIS OF THE APPLICATION**

- 26.12.2001 Applicant was appointed as Substitute Emergency Peon, in the pay scale of Rs. 2550-3200/- and was attached with the respondent no. 3. (Annexure-I)
- 07.05.2002 Applicant was transferred to Katihar in the same capacity with respondent No. 3. (Annexure-II)
- 30.12.2002 Applicant fell sick and undergone treatment from the Railway health unit. He could not attend his duties.
- 31.12.2002 Respondent No. 3 did not allow the applicant to attend the duties and kept him out of service and marked absent in the attendance register w.e.f 30.12.2002.
- 15.01.2003 Applicant was granted temporary status w.e.f. 25.04.2002. (Annexure-III)
- 25.02.2003 Applicant submitted a representation to the respondent no. 2 and prayed to allow him to join his duties. (Annexure-IV)
- 2003- Applicant approached this Hon'ble Tribunal through OA No. 61 of 2003 with the prayer for a direction upon the respondents to allow him to continue in his post of Substitute Peon.
- 21.01.2004 Hon'ble Tribunal allowed the OA No. 61/2003 with the direction to allow the applicant to join the duties and he is entitled to all the consequential benefits. (Annexure-V)
- 04.02.2004 Applicant submitted a representation along with the judgment and order of the Hon'ble Tribunal.
- 24.04.2004 Memorandum of charge sheet was issued against the applicant for his alleged unauthorized absence from duty from 30.12.2002 and onwards. (Annexure-VI)
- 05.05.2004 Applicant submitted his written statement of defence narrating all the facts. (Annexure-VII)

03.08.2004 Respondent no. 2 instructed the respondent no. 3 to allow the applicant to join his duties as Emergency Peon in terms of the judgment of the Hon'ble Court. (Annexure-VIII)

August, 2004 - Applicant joined his duties but he has not been paid his salary from the period from January '03 to July, 04.

09.06.2005 Applicant submitted a representation for payment of his salary for the period of January, 2003 to July, 2004, and for regularization of his service in group 'D' post. (Annexure-IX)

26.05.08, 02.09.2008 - Applicant submitted representations addressed to the respondent No. 2 for payment of salary for the period from Jan, 03 to July '04. But to no result. (Annexure- X, XI)

Hence this O.A before this Hon'ble Tribunal.

### PRAYER

1. That the Hon'ble Tribunal be pleased to direct the respondents to pay the salary of the applicant for the period from January '03 to July '04 in terms of the judgment and order dated 21.10.2004 in OA No. 61/2003 passed by this Hon'ble Tribunal with interest @ 18% p.a.
2. Costs of the application.
3. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

### Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

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

\*\*\*\*\*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 123 /2009

Shri Bansi Sah. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

INDEX

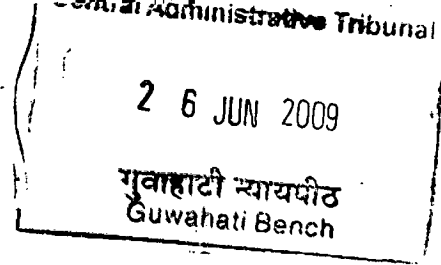
Sl. No.	Annexure	Particulars	Page No.
1.	—	Application	1-8
2.	—	Verification	-9-
3.	I	Copy of appointment letter dated 26.12.2001	- 10 -
4.	II	Copy of the office order dated 07.05.02	- 11 -
5.	III	Copy of the office order dated 15.01.03	- 12 -
6.	IV	Copy of representation dated 25.02.03	- 13 -
7.	V	Copy of the judgment and order dated 21.01.04 in OA No. 61/2003.	14-18
8.	VI	Copy of the charge sheet dated 24.04.04	19-22
9.	VII	Copy of written statement dated 05.05.04	23-24A
10.	VIII	Copy of letter dated 03.08.04	- 25 -
11.	IX	Copy of the representation dated 09.06.05	26-27
12.	X	Copy of the representation dated 26.05.08	28-29
13.	XI	Copy of the representation dated 02.09.2008.	30-31

Date:- 26.06.09

Filed By:

*[Signature]*

Advocate



23  
Filed by the applicant  
through U. Dulla, advocate  
on 26-06-09

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**GUWAHATI BENCH: GUWAHATI**

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

O.A. No. 123 /2009

**BETWEEN:**

**Shri Bansi Sah,**  
Emergency Pcon,  
Office of the Dy. Chief Engineer, CON/KIR,  
N.F. Railway, Maligaon,  
Guwahati-781011, Assam.

..... Applicant.

**-AND-**

1. The Union of India  
Represented by the General Manager,  
N.F. Railway, Maligaon,  
Guwahati-781011.
2. The General Manager (Construction),  
N.F. Railway, Maligaon,  
Guwahati-781011.
3. The Dy. Chief Engineer (CON),  
Katihar Division,  
N.F. Railway, Katihar. - 854105
4. The Executive Engineer (CON),  
Katihar Division,  
N.F. Railway, Katihar. - 854105

..... Respondents.

**DETAILS OF THE APPLICATION**

1. **Particulars of the order (s) against which this application is made:**  
This application is made not against any particular order but praying for a direction upon the respondents to pay the salary of the applicant for the period from January 2003 to July 2004 in terms of the judgment and order dated 21.10.2004 in OA No. 61/2003 passed by this Hon'ble Tribunal.

*Bansi Sah*

26 JUN 2009

गुवाहाटी आगरीठ  
Guwahati Bench

24

**2. Jurisdiction of the Tribunal:**

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

**3. Limitation:**

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

**4. Facts of the case:**

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicant was initially appointed as substitute emergency peon in the pay scale of Rs. 2550-3200 vide letter No. E/227/CON/I/Pt-IV dated 26.12.2001 and was attached to Shri S.P. Singh, Dy. Chief Engineer (Construction)/Katihar, N.F. Railway, Maligaon.

Copy of appointment letter dated 26.12.2001 is annexed hereto as Annexure- I.

- 4.3 That subsequently Shri S.P. Singh, Dy. CE/CON/D/MLG was transferred to Katihar as Dy. CE/CON/Katihar, consequent upon which the applicant was also transferred and attached to the Dy. Chief Engineer (Construction), Katihar in his same capacity of substitute Emergency Peon vide office order No. 48/2002 dated 07.05.2002. Accordingly, the Railway authority also issued free Railway pass for the applicant for his traveling from Guwahati to Katihar. He had since been working as Substitute Emergency Peon, attached to Dy. CE (Cons), Katihar.

Copy of office order dated 07.05.02 is annexed hereto and the same is marked as Annexure- II.

Bansisah

26 JUN 2009

গুৱাহাটী ব্যাংক  
Guwahati Bench

- 4.4 That on completion of his continuous satisfactory service for 120 days as on 24.04.2002, the applicant was granted temporary status w.e.f. 25.04.2002 vide office order No. 06/2003 dated 15.01.2003.

Copy of office order dated 15.01.03 is annexed hereto as Annexure- III.

- 4.5 That it is stated that the applicant suddenly fell sick and could not attend his duties on 30.12.2002. He took medical treatment from the Railway Health Unit, Katihar for his ailments. On 31.12.2002, when the applicant went to attend his duties in the Bungalow of Shri S.P. Singh, Dy. C.E, he was not allowed to attend his duties and Shri S.P. Singh told him that his services were not required by him. Shri S.P. Singh forced him out of the Bungalow and warned him not to enter his Bungalow any more else he would file FIR against the applicant. However, even thereafter, the applicant approached his controlling officer Shri S.P. Singh and made repeated prayers for allowing him to join his duties, but with no result whatsoever, and he was kept out of service and marked absent in the attendance register w.e.f. 30.12.2002.

- 4.6 That being unable to resume his duties in spite of all his efforts, the applicant submitted one representation on 25.02.2003 to the Respondent No. 2 narrating all facts and prayed for allowing him to perform his duties under Shri S.P. Singh, Dy. CE (Con).

Copy of representation dated 25.02.03 is enclosed herewith as Annexure- IV.

- 4.7 That having failed to get justice, the applicant approached this Hon'ble Tribunal by filing O.A. No. 61/2003 for redressal of his grievances. This Hon'ble Tribunal vide it's judgment and order dated 21.01.2004 in O.A. No. 61/2003, was pleased to allow the applicant to join the duties and further held that the applicant is entitled to all the consequential benefits.

Copy of the judgment and order dated 21.01.04 is annexed hereto as Annexure-V.

Bansi Sam

26 JUN 2009

গুৱাহাটী সাক্ষাৎ  
Guwahati Bench

4.8 That thereafter the applicant approached the authorities time and again and prayed for allowing him to join his duties in terms of the judgment and order dated 21.01.04 but he was not allowed to do so. Eventually the applicant submitted one representation to the respondent No. 2 on 04.02.04 forwarding therewith a copy of the judgment and order dated 21.01.04 of this Hon'ble Tribunal and prayed for necessary orders/directions allowing him to join his duties.

4.9 That thereafter, vide one letter No. E/74/DAR/CON/KIR/1561 dated 24.04.2004 a charge sheet was issued against the applicant in a surprising manner instead of complying with the judgment and order of this Hon'ble Tribunal aforesaid. The said charge sheet was however a revised one canceling the charge sheet issued earlier on 31.07.2003 on the same charges. Under the charge sheet dated 24.04.04 aforesaid a disciplinary proceeding was initiated against the applicant for his alleged charges of unauthorised absence from duty from 30.12.2002 and onwards and the applicant was further directed to submit his written statement of defence within ten days of receipt of the memorandum of charges.

Copy of the charge sheet dated 24.04.04 is annexed hereto as Annexure- VI.

4.10 That on receipt of the charge sheet, the applicant filed his written statement on 05.05.2004 wherein he denied the charges labeled against him. In his written statement the applicant stated that he could not attend his duties on 30.12.2002 due to his illness and thereafter he was not allowed to perform his duties w.e.f. 31.12.02 in spite of all his efforts. He also mentioned therein about the judgment and order dated 21.01.04 of the Hon'ble CAT on the matter and his representation dated 04.02.04 in the context and prayed for revocation of the charge sheet and to allow him to render his services.

Copy of written statement dated 05.05.04 is annexed hereto as Annexure- VII.

4.11 That thereafter the Respondent No. 2 vide his letter No. E/255 (Con)/DAR dated 03.08.2004 instructed the respondent No. 3 to allow the applicant to

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12 6 JUN 2009

গুৱাহাটী বেন্চ  
Guwahati Bench

29

join his duties as Emergency Peon in terms of the judgment and order dated 21.01.2004 in O.A. No. 61/2003 of this Hon'ble Tribunal. Pursuant to this, the applicant joined his duties under the respondent No. 3 w.e.f. August 2004.

Copy of letter dated 03.08.04 is annexed hereto as  
Annexure- VIII.

- 4.12 That the applicant submitted a representation on 09.06.2005 addressed to the respondent No. 3 praying for regularization in Group 'D' post and payment of arrear salaries w.e.f. January, 2003 to July 2004. He stated in his representation that he is receiving salaries w.e.f. August, 2004 but he has not been paid salaries w.e.f. January, 2003 to July, 2004 in terms of the order of this Hon'ble Tribunal. But the respondent No. 3 did not reply to the representation dated 09.06.2005 of the applicant, situated thus he submitted representations on 26.05.2008 and 02.09.2008 addressed to the respondent No. 2 praying for regularization in Group 'D' post and prayed for payment of arrear salaries w.e.f. January 2003 to July 2004 in terms of the direction passed in the judgment and order dated 21.01.2004 in OA No. 61/2003, but to no result.

Copy of the representation dated 09.06.05, 26.05.08 and 02.09.08 are enclosed herewith and marked as  
Annexure- IX, X and XI respectively.

- 4.13 That the applicant was not allowed to perform his duties from January, 2003 to July, 2004 for no fault of his which has been held as illegal by this Hon'ble Tribunal in it's judgment and order dated 21.01.04 and as such the respondents were directed to allow the applicant to join his duties with all consequential benefits, subsequently applicant joined his duties w.e.f. August, 2004. But the applicant has not been paid his salary for the period from January '03 to July '04 which is violative of the directions contained in the judgment and order dated 21.01.04 aforesaid.

*Bamsisah*



26 JUN 2009

गुवाहाटी न्यायापीठ  
Guwahati Bench

28

- 4.14 That situated thus, the applicant approached the authorities time and again for payment of his salaries for the period from January '03 to July '04 but to no result.
- 4.15 That the applicant most respectfully begs to state that he is entitled to get his salary for the period from January '03 to July '04 of this Hon'ble Tribunal passed in OA No. 61/2003 and non-payment of the same is illegal, arbitrary, malafide and violative of and contemptuous to the directions contained in the judgment and order dated 21.01.2004 aforesaid which attracts penal interest thereto.
- 4.16 That due to non-payment of his salary for the period from January '03 to July '04 the applicant has been suffering heavy financial loss as well as loss in his service prospects. As such finding no other alternative, the applicant is approaching this Hon'ble Tribunal for protection of his legitimate rights and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant directing the respondents for payment of pay and allowances of the applicant for the period from January 2003 to July 2004.
- 4.17 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

- 5.1 For that, this Hon'ble Tribunal has held in it's judgment and order dated 21.01.04 in O.A. No. 61/2003 that the respondents acted in an illegal manner in not permitting the applicant to continue in his post of Substitute Emergency Peon from 30.12.2002 and further held that the applicant is entitled to all the benefits for that period. As such the applicant is entitled to get his salary for the period from January '03 to July '04 and non-payment of the same is violative of and contemptuous to the directions contained in the judgment and order dated 21.01.04 aforesaid.
- 5.2 For that the Hon'ble Tribunal in judgment and order dated 21.01.2004 directed the respondents to allow the applicant to join the duties and the

Bansisah

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

applicant is entitled to all the consequential benefits. As such non-payment of salary for the period from January '03 to July '04 to the applicant is highly arbitrary, illegal and contemptuous to the directions contained in the judgment and order dated 21.01.2004.

5.3 For that, the applicant submitted representations on 09.06.05, 26.05.08 and 02.09.2008 addressed to the respondent No. 2 and 3 for payment of his salary for the period from January '03 to July, 2004 but failed to get justice.

5.4 For that, non-payment of the applicant's salary for the long 19 (nineteen) months is arbitrary, malafide, illegal, unfair and against the professed policy of the Government and principles of natural justice.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

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

The applicant declares that save and except filing O.A. No. 61/2003 he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

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

8.1 That the Hon'ble Tribunal be pleased to direct the respondents to pay the salary of the applicant for the period from January, 2003 to July, 2004 in terms of the judgment and order dated 21.10.2004 in OA No. 61/2003 passed by this Hon'ble Tribunal with interest @ 18% p.a.

Bansi Sah

26 JUN 2009

গুৱাহাটী অফিস  
Guwahati Bench

8.2 Costs of the application.

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

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

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

10. ....

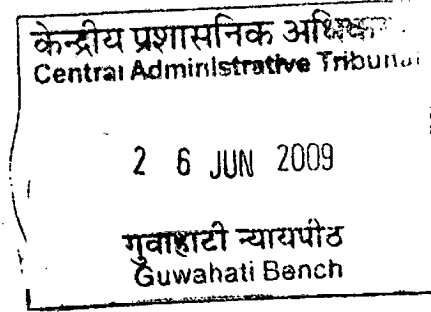
11. Particulars of the L.P.O

i)	L.P.O No.	:	396 409125
ii)	Date of issue	:	28.05.09
iii)	Issued from	:	SPO. Guwahati
iv)	Payable at	:	SPO. Guwahati

12. List of enclosures:

As given in the index.

Berni Sah



### VERIFICATION

I, **Shri Bansi Sah**, Son of Late Mohan Sah, aged about 31 years, working as Emergency Peon, Office of the Dy. Chief Engineer, CON/KIR, N.F. Railway, Maligaon, applicant in the instant Original Application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 13<sup>th</sup> day of June 2009.

*Bansi Sah*

32

# ANNEXURE - I

N. F. RAILWAY

Office of the  
General Manager (Con),  
Maligaon

No. E/227/CON/I/Pt.IV

Dated :- 26/12/2001

To

✓ Shri Banshi Sah  
S/O. Shri Mohan Sah.

केन्द्रीय प्रशासनिक  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Sub :- Engagement of Emergency Poon attached  
to Shri S. P. Singh, Dy. CE/CON/KIR.

You are hereby engaged as substitute Emergency  
poen on Pay Rs. 2550/- in scale Rs. 2550-3200/- attached  
to Shri S. P. Singh, Dy. CE/CON/KIR subject to the  
following terms & conditions.

1. Your engagement will not confer upon any right  
to claim for further appointment in this Railway  
and you are liable to be discharged without any  
notice when your service will not be required  
by the Administration or on the expiry of the  
currency of the post against which you are engaged  
or on medical ground of physical incapacitation or  
in the event of availability of approved hand.
2. You will be transferred with the officer for whom  
you are engaged as casual emergency Poon or you  
will be discharged in the event of transfer of  
the officer for whom you are engaged experience  
his unwillingness to take you on transfer along-  
with him.
3. The engagement of substitute Emergency Poon at  
the first instance will be for a period of three  
months only and the same will be extended further  
on receipt of a certificate from the controlling  
officer that the service of the Emergency Poon is  
satisfactory and can be continued further.

This issues with the approval of GM/CON/MIG.

*Subor*  
for GENERAL MANAGER (CON)

Copy forwarded for information and necessary action to :-

1. FA & CAO/CON/MIG
2. Dy. CE/Con/KIR
3. DAO/CON/NJP
4. S/C for P/Caso.
5. OS/CON/Bill.

*Obtained  
Dutta  
Advocate*

for GENERAL MANAGER (CON)

N.F. RAILWAY

Office of the  
General Manager/Con  
Maligaon

OFFICE ORDER NO: 49/2002

Consequent on transfer of Shri S.P. Singh, IX.CE/  
CON/D/MLG as IX.CE/CON/KIR Shri Bansi Das, Suba.  
Emergency Peon in scale B.2550-3200/- since attached to  
IX.CE/CON/D/MLG is hereby transferred and posted  
as D/Peon attached to IX.CE/CON/KIR in his existing  
capacity, pay and scale.

( S.K. BOSE )

AFO/CON

For General Manager/Con

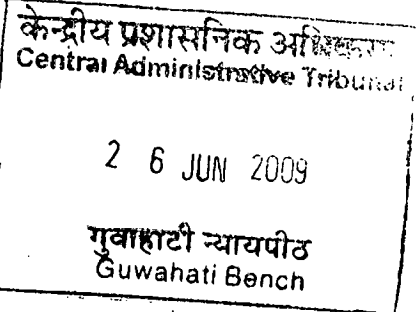
NO: E/227/CON/1/Pt. V (NP)

Dated 7.5.02

Copys forwarded for information and necessary action  
to :

1. PA & GAO/CON/MLG
2. IX.CE/CON/KIR
3. BAO/CON/NP
4. OS/CON/BILL
5. Staff concerned
6. S/O for P/Once

*Attended  
Mulla  
Advocate*



( S.K. BOSE )

AFO/CON

For General Manager/Con

Northeast  
Frontier  
Railway

ANNEXURE-III

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

OFFICE ORDER NO. 06 /2003

Shri Bansai Sah, Sube.E/Peon attached to Dy. CS/Con/KIR who was engaged as on 26.12.2001 vide this office letter No. F/227/Con/1(EP)/Pt. IV dated 26.12.2001 has completed 120 days continuous service as on 24.4.2002. Accordingly he is hereby granted temporary status in scale B.2550-3200/-on pay B.2550/- w.e.f. 25.04.2002.

He is entitled to get the benefit as laid down in Chapter-XXIII of IREM.

*Subje*  
( S. K. BOSE )  
APQ/CON  
for General Manager/Con

No. E/57/Con/ I (TSC)/Pt. III

Dated: 15.01.2003

Copy forwarded for information and necessary action to:-

- 1) FA & CAQ/Con/M.G
- 2) Dy. CS/Con/KIR
- 3) OS/Con/Bill
- 4) Staff concerned
- 5) S/C for P/case
- 6) SAC/Con/NJP

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

26 JUN 2003

गुवाहाटी ब्याचपीठ  
Guwahati Bench

( Z. K. BOSE )  
APQ/CON  
for General Manager/Con

*Attended*

*18-8-03*  
गुवाहाटी न्यायपीठ  
गुवाहाटी ब्याचपीठ  
31. Div. Medical Officer  
V. F. Bly. Pando (West)  
Health Unit

*Attended  
Walter  
Advocate*

13-  
To  
The General Manager (Construction)  
M.F. Railway, Maligaon.

ANNEXURE-IV

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Sub:- Prayer for joining on duty as  
Emergency Peon.

Respected Sir,

\*\*\*\*\*

At the very outset I beg apology for spilling your  
invaluable time to look into my cases explained below.

That Sir, I was engaged as substitute Emergency  
Peon on 26.12.2001 attached to Shri S.P.Singh, Dy.CE/CON/KIR and  
performed my duties more than 1(One) year with full satisfaction  
of my officer.

That Sir, due to my fever I could not attend duty  
on 30.12.2002. Next day on 31.12.2002 when I attended in the  
Bungalow to join duty, Shri S.P.Singh, Dy.CE/CON/KIR did not  
allow me to perform duty in his Bungalow and told me that my  
services are not required by him and forcibly out me from his  
Bungalow.

That Sir, the reason of such behaviour of my  
officer is not known to me. So, I used to attend his Bungalow  
and requested him to allow me for performing duty. But he did not  
consider my prayer and marked absent me in the attendance register  
w.e.f 30.12.2002. Further, my officer also warn me not to entere  
in the complex of his Bungalow otherwise he will file FIR against  
me.

That Sir, I have already completed more than one year  
service and also attained Temporary status on completion of 120  
days continuous service.

That Sir, Shri S.P.Singh, Dy.CE/CON/KIR without any  
reason has attempted to terminate me from service.

In view of above facts I beg to kind honour to  
kindly allow me to perform duty with Shri S.P.Singh, Dy.CE/CON/KIR.

Thanking you,

Yours faithfully,

✓ Banshi sah

( BANSHI SAH )  
E/Peon under  
Dy.CE/CON/KIR.

Dated: Maligaon  
25.12.2003.

Attested  
Banshi  
Advocate





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.61 of 2003

Date of decision: This the 21st day of January 2004

The Hon'ble Shri Bharat Bhusan, Judicial Member

The Hon'ble Shri K.V. Prahladan, Administrative Member

Shri Bansi Sah

Working as Emergency Peon attached to the  
Dy. CE/CON/Katihar.

.....Applicant

By Advocate Mr A. Chakraborty.

- versus -

1. The Union of India represented by the  
General Manager (CON),  
N.F. Railway,  
Maligaon, Guwahati.

2. The General Manager (CON)  
N.F. Railway/CON.,  
Maligaon, Guwahati.

3. The Deputy Chief Engineer (CON)  
Katihar Division,  
Katihar.

.....Respondents

By Advocate Mr J.L. Sarkar, Railway Counsel.

.....

O R D E R

BHARAT BHUSAN, MEMBER (J)

The applicant was appointed as Emergency Peon in  
the scale of pay of Rs.2550-3200 attached to the Deputy  
Chief Engineer/CON/Katihar with effect from 26.12.2001  
vide appointment letter dated 26.12.2001 (Annexure-A). The  
appointment letter reads as under:

"Shri Bansi Sah  
S/o Shri MOhan Sah.

Sub: Engagement of Emergency Peon attached to  
Shri B.P. Singh, Dy.CE/CON/KTR.

You are hereby engaged as substitute  
Emergency Peon on Pay Rs.2550/- in scale Rs.2550-  
3200/- attached to Shri S.P. Singh, Dy.CE/CON/KTR  
subject to the following terms and conditions.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Attested  
by  
Advocate

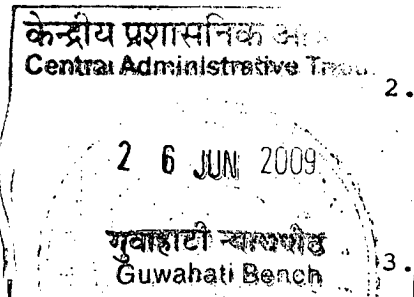
21/1/04

1. Your engagement will not confer upon any right to claim for further appointment in this Railway and you are liable to be discharged without any notice when your service will not be required by the Administration or on the expiry of the currency of the post against which you are engaged or on medical ground of physical incapacitation or in the event of availability of approved hand.
2. You will be transferred with the officer for which you are engaged as casual emergency Peon or you will be discharged in the event of transfer of the officer for which you are engaged experiences his unwillingness to take you on transfer alongwith him.
3. The engagement of substitute Emergency Peon at the first instance will be for a period of three months only and the same will be extended further on receipt of a certificate from the controlling officer that the service of the Emergency Peon is satisfactory and can be continued further.

This issues with the approval of GM/CON/MLG."

2. The applicant thereafter was directed to appear before the Railway Medical Examiner for medical test and in the medical test on 6.2.2002 he was found medically fit (Annexure-D). Consequent upon the transfer of his controlling officer, Shri S.P. Singh, Deputy CE/CON/D/ Maligaon as Deputy CE/CON/Katihar the applicant was also transferred and posted as Emergency Peon attached to respondent 3 and in that capacity he had also been issued Free Railway Pass for travelling from Guwahati to Katihar. His case is that he had fallen ill on 30.12.2002, as a result of which he could not attend office and when on the subsequent date i.e. 31.12.2002 he attended the Bungalow of respondent 3 to join duty, the respondent 3 told the applicant that his service was not required by him. Thereafter he had been representing the authorities to allow him to join on duty but to no effect. He also emphasised the fact that he had already been granted temporary status with effect from 25.4.2002 by Office Order No.06/2003 dated 15.01.2003 and as a result of which

he.....



*[Handwritten signature]* 11/04

: 3 :

he had become entitled to get all the benefits laid down in Chapter XXIII of the Indian Railway Establishment Manual (IREM for short). He has annexed the copy of the Office Order regarding grant of temporary status at Annexure-K. The learned counsel for the applicant submitted very vehemently that since the applicant had been granted temporary status with effect from 25.4.2002, so, obviously, the conditions of his service would be governed as set out in Chapter XXIII of IREM and thus his service can't be dispensed with in the manner it has been done in this case.

3. Rule 2301 of IREM in Chapter XXIII defines the temporary Railway servant as follows:

"2301. Definition- A 'temporary railway servant' means a railway servant without a lien on a permanent post on a Railway or any other administration or office under the Railway Board. The term does not include 'casual labour', a 'contract' or 'part-time' employee or an 'apprentice'."

Further Rule 2302 clearly prescribes the mode, manner and methodology of terminating services of a temporary railway servant. The relevant portion of the said Rule, required for our purpose reads as under:

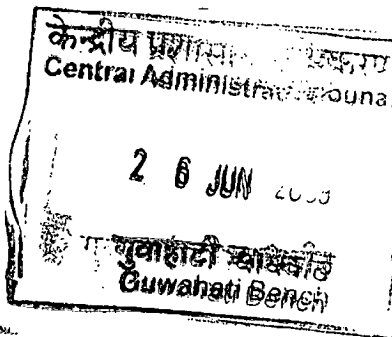
"2302. Termination of service and periods of notice. -

- (1) Service of a temporary railway servant shall be liable to termination on 14 days' notice on either side provided that such a railway servant shall not be entitled to any notice of termination of his service- ....."

The learned counsel for the applicant submitted that the applicant is thus entitled to continue work on the post he had been working, as, admittedly the procedure therein prescribed had not been carried out, thus rendering this deemed termination to be void and invalid. In this regard reliance has also been placed upon an Apex Court judgment in L. Robert D'Souza Vs. Executive Engineer, Southern

Railway.....

21/01/04



Railway (AIR 1982 SC 854), wherein it had been held in paragraph 21 as under:-

"Once it is held that by operation of statutory rule in the Manual, the appellant had acquired a status of temporary railway servant and assuming, as contended by Mr Francis, that the termination of service in the circumstances alleged does not constitute retrenchment stricto sensu, would the termination be still valid? The answer is an emphatic no. On the admission of the Railway administration, service was terminated on account of absence during the period appellant was on fast. Absence without leave constitutes misconduct and it is not open to the employer to terminate service without notice and injury or at any rate without complying with the minimum principal of natural justice. Further, Rule 2302 clearly prescribes the mode, manner and methodology of terminating service of a temporary railway servant and admittedly the procedure therein prescribed having not been carried out, the termination is void and invalid. Accordingly, the same conclusion would be reached even while accepting for the purpose of the facts of this case simultaneously rejecting it in law that the termination does not constitute retrenchment yet nonetheless it would be void and inoperative."

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

2 6 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

4. Though the learned counsel for the respondents has contended very vehemently that the applicant had acquired no right to be regularised on the post, yet, in our view the aforesaid Supreme Court Ruling is squarely applicable to the facts and circumstances of the instant case. ~~because~~ Herein, ~~too~~ the applicant, even after the grant of temporary status (Annexure-K) have been disallowed to continue in the service, though, of course no formal order of either termination or disengaging him from service has been issued. Obviously, in view of the law laid down by the Hon'ble Supreme Court as mentioned above, the termination, if any, of the applicant could be carried out only in the mode, manner and methodology as prescribed in Rule 2302 in respect of temporary railway servants and admittedly, in this case the procedure therein prescribed has not been carried out.

21/01/04

: 5 :

5. In this circumstances, we are of the opinion that the respondents are acting in an illegal manner in not permitting the applicant to continue in his post of Substitute Emergency Peon. Consequently, the O.A. is allowed and the respondents are directed to allow the applicant to join the duties and the applicant is entitled to all the consequential benefits.

No order as to costs.

SD/MEMBER (A)

SD/MEMBER (J)

RECEIVED IN THE COURT OF  
JUDICIAL MAGISTRATE

15/6/09  
C.A. 1000/09

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal  
26 JUN 2009  
गुवाहाटी ब्याच  
Guwahati Bench

19- ANNEXURE-VI

**NORTHEAST FRONTIER RAILWAY**  
**(Construction Organization)**

Office of the  
Dy. Chief Engineer/CON  
Katihar

Date: 24.04.04

No. E/74/DAR/CON/KIR/ 1561

Shri Bansshi Sah

Emergency Peon under Dy. CE/CON/KIR.

Sub : S.F-5 issued vide letter no. E/74/Con/DAR/KIR/631 dated 31.07.03 and dated 12.08.03

The SF-5 issued vide above memorandum is hereby cancelled since all the annexure were not enclosed with the memorandum. The charges charge sheet is issued herewith. This is without any prejudice to the administration.

  
24.4.04

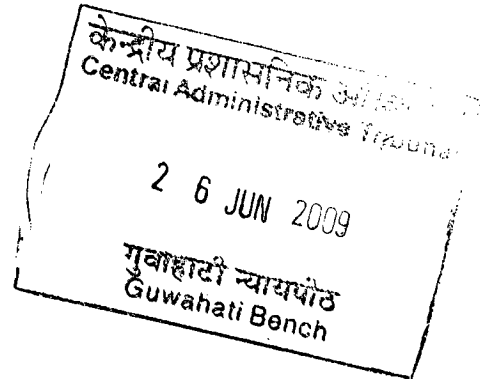
(ANIL KUMAR)  
XEN/CON/KIR

(Disciplinary authority)

DA:

1. Memorandum No. E/74/DAR/CON/KIR/1562 Date: 24.04.04

*Attended  
Mulla  
Advocate*



- 20 -

**STANDARD FORM NO. 5**

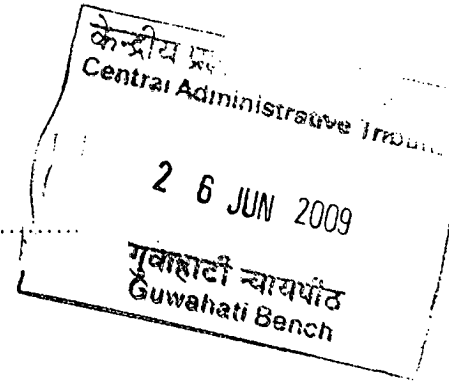
**STANDARD FORM FOR CHARGE SHEET**

(Rules of the Railway Servants (Discipline and Appeal Rules - 1968)

No. E/74/CML/DAR/KIR/1562 Dated 24.4.2009

N.F. Railway (Name of Railway Administration)

Place of Issue Katihar



**MEMORANDUM**

1. The undersigned proposes (s) to hold an Enquiry against Shri Banshi Sah, E/Recm under rule -9 of the Railway Servants (Discipline and Appeal Rules, 1968). The substance of the imputations of misconduct or miss - behavior in respect of which the enquiry in proposed to be held is set out in the enclosed statement of article of charge (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) and (IV). Further, copies of documents mentioned in the list of documents as per Annexure - III are enclosed.
2. Shri Banshi Sah, E/Recm 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) are any time during office hours within 10 days of receipt of this Memorandum. For this purpose he should contact XEN/CML/KIR Immediately in respect of this Memorandum.
3. Shri Banshi Sah, E/Recm is further informed that the may, if he so desires, take the assistance of any other Railway servant an official of Railway Trade Union (who satisfies the requirements of rule (13) of the Railway Servants (Discipline and Appeal) Rules, 1968 and Note 1 and or Note 2 there under as the case may be for inspecting the documents and assisting him in presenting his case before the enquiring authority in the event of an oral enquiry being held. For this purpose he should nominate one or more persons in order to preference. Before nominating the assisting Railway servant(s) of Railway Trade Union Officials (s) Shri Banshi Sah, E/Recm should obtain an undertaking from the nominates that he (they) is (are) willing to assist him during the disciplinary proceedings. The undertaking should also contain the particulars of other case (s) if any in which the nominee(s) and already undertaking to assist and the undertaking should be furnished to the undersigned Railway along with the nomination.
4. Shri Banshi Sah, E/Recm is hereby directed to submit the undersigned ( ) a written statement of his defense which should reach the said within ten days of receipt of this memorandum, if he does not require to inspect any documents for the preparation of the defense 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 further the names and addresses of the witnesses if any whom he wishes to call in support of his defense.

24.4.09

(A. Kumar)

कार्यपालक अभियंता (निर्माण)

उप-निर्माण अधिकारी

Executive Engineer (CON)

N. F. Railway, Katihar

(Disciplinary authority)

Contd.P/2

Attended  
Mulla  
Sah

5. Shri Banshi Sah, E/Room is informed that an enquiry will be held only in respect of these articles of charges are not admitted. He shall therefore, specifically admit or deny each article of charge.
6. Shri Banshi Sah, E/Room if further informed that if he does not submit his written statement of defense within the period specified in Paragraph 3 or does not appear in person before the Enquiring authority or otherwise fails or refuses to comply with the provisions of rules -9 of the Railway servant (Discipline and Appeal) Rules, 1968 on the orders / direction issued in pursuance of the said rules, the enquiring authority may hold the enquiry ex-parte.
7. The attention of Shri Banshi Sah, E/Room is invited to Rules -20 of the Railway Servants (Conduct) Rules 1968, under which no Railway servant shall be or attempt to bring any political or to their influence to bear upon any superiors authority to further his interest in respect of matters pertaining to his service under the govt. 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 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 Rules -9 of the Railway Service Conduct Rules - 1968.

8. The receipt of this memorandum may be acknowledged.

Encl:

By order and the name of the  
A. Kumar President.  
कार्यपालक अध्यक्षता (निर्माण)

Executive Engineer (CON)  
N. F. Railway, Katihar  
Competent authority.

(Disciplinary authority)

Copy to:-

1. Shri Banshi Sah  
Emergency Room / CEN/KIR  
(Designation & Place)

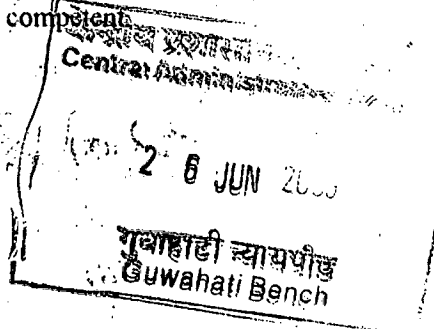
2. Shri S. P. Singh, Dy. CEN/KIR Name & Designation of the lending authority for information.

Strike out whichever is not applicable.

To be deleted if copies are given / not given with the memorandum as the case may be.

Name of the authority (This would imply that whenever a case is referred to the disciplinary authority the investigation authority or any authority who are in the custody of the documents or who would be arranging for inspection of documents to enable that authority being mentioned in the draft memorandum.

Whereas the president is the disciplinary authority. To be retained wherever President or the Railway Board is the competent authority.



By order and the name of the  
A. Kumar President.  
कार्यपालक अध्यक्षता (निर्माण)  
Executive Engineer (CON)  
N. F. Railway, Katihar  
(Disciplinary authority)



22

44

**ANNEXURE-I**

**Statement of article of charges framed against Shri Banshi Sah, Emergency Peon under Dy. CE/CON/KIR.**

**Article-I**

That, the said Shri Banshi Sah while functioning as Emergency Peon under Dy. CE/CON/KIR during the period from 18.11.02 and onwards has left Head quarter on 30.12.02 without any sanctioned leave or without any permission of Dy. CE/CON/KIR and remained unauthorized absent till date.

This tantamount to his serious misconduct which violate service conduct rule no. 3(1)(I), (II), (III) of 1966

**ANNEXURE-II**

**Statement of imputations of misconduct in support of the article of charges framed against Shri Banshi Sah while functioning as Emergency Peon under Dy. CE/CON/KIR**

**Article-I**

That, the said Shri Banshi Sah while functioning as Emergency Peon under Dy. CE/CON/KIR during the period from 18.11.02 and onwards has left Head quarter on 30.12.02 without any sanctioned leave or without any permission of Dy. CE/CON/KIR and remained unauthorized absent till date.

This tantamount to his serious misconduct which violate service conduct rule no. 3(1)(I), (II), (III) of 1966

**ANNEXURE-III**

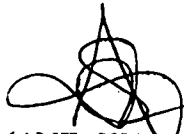
**List of documents by which the article of charges framed against Shri Banshi Sah while functioning as Emergency Peon under Dy. CE/CON/KIR are proposed to be sustained**

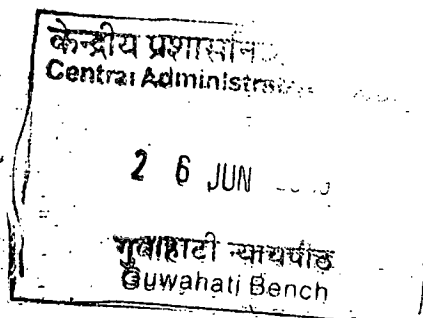
1. Muster Sheet No. 10 of Shri Bhattacharjee Banshi sah

**ANNEXURE-IV**

**List of Witness**

1. Shri G.R. Jaswara, Jr. Clerk dealing with establishment

  
(ANIL KUMAR)  
XEN/CON/KIR  
(Disciplinary authority)



ANNEXURE-VII

केंद्रीय प्र  
Central Administrative Tribunal

Date: 05.06.2009

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

To

The Executive Engineer (Con)  
N.F. Railway, Katihar.

Sub: Reply to Charge Sheet No. F/74/CON/0047/  
KIR/1562/24.4.2004

Dear Sir,

I have received the above mentioned Charge Sheet dated 24.4.2004. In this connection I beg to state the following lines for your kind and sympathetic consideration please.

1. That, I deny the alleged imputation of charge of absence from duty since 30.12.2002.
2. That, I humbly beg to state that I could not attend duty on 30.12.2002 on medical ground. I took my medical treatment from the Railway Health Unit, Katihar. Unfortunately, I was not allowed to perform my duties since 31.12.2002 by Secy. Dy. CE/CON/KIR with whom I was attached. In this connection representation on 25.02.2003 to the General Manager (CON), N.F. Railways praying for allowing me to join on duties.
3. That, when no communication was received by me from said representation, I filed an OA. NO. 61/2003 before the Hon'ble Central Administrative Tribunal, Guwahati Bench. The Hon'ble Tribunal has been pleased to allow my said application by its order dated 21.01.2004.
4. That thereafter, I have filed a prayer before the General Manager (CON) dated 04.02.2004 with a certified copy of the Judgement & Order of the Hon'ble Tribunal dated 21.01.04 original for allowing me to join on duties and to pass necessary orders/directions in this regard.

*Attested  
Dutta  
Advocate*

\*\* 2 \*\*

In view of the above facts and circumstances I request  
Your Honour to withdraw the above Charge Sheet dated 20.05.2004  
and take my services.

Thanking you,

Yours faithfully,

Place: Guwahati

Date: 05.05.2004

*Bangisah*  
(RANST SELL)

EMERGENCY PPH

केन्द्रीय प्रशासनिक अ  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी ब्याच  
Guwahati Bench

22 - 24A -

Central Administrative Tribunal
26 JUN 2009
গুৱাহাটী ন্যায্যপীঠ Guwahati Bench

(Typed true copy)

ANNEXURE- VII

To,

The Executive Engineer (Con)  
N.F. Railway, Katihar.

Sub:- Reply in Charge Sheet No. E/74/CON/DAR/KIR/  
1562/24.4.2004.

Dear Sir,

I have received the above mentioned Charge Sheet dated 24.4.2004.

In this connection I beg to state the following few lines for your kind and sympathetic consideration pleas.

1. That, I deny the alleged imputation of charge of absence from duty since 30.12.2002.
2. That, I humbly beg to state that I could not attend duty on 30.12.2002 on medical ground. I took my medical treatment from the Railway Health Unit, Katihar. Unfortunately, I was not allowed to perform my duties since 31.12.2002 by Sri S.P. Singh, Dy.CE/CON/KIR with whom I was attached to. I filed representation on 25.02.2003 to the General Manager (CON), N.F Railway praying for allowing me to join the duties.
3. That, when no communication was received my me of the said representation, I filed an OA No. 61/2003 before the Hon'ble Central Administrative Tribunal, Guwahati Bench. The Hon'ble Tribunal has been pleased to allow my said application by order dated 21.01.2004.
4. That thereafter, I have filed a prayer before the General Manager (CON) dated 04.02.2004 with a certified copy of the judgment and order of the Hon'ble Tribunal dated 21.01.04 in original for allowing me to join on duties and to pass necessary orders/directions in this regard.

In view of the above facts and circumstances I request your Honour to withdraw the above charge sheet dated 24.04.2004 and take my services.

Thanking you,

Yours faithfully

(BANSI SAH)  
EMERGENCY PEON

Place: Guwahati  
Date: 05.05.2004

collected  
Bansi  
Adm

ANNEXURE VII

NORTHEAST FRONTIER RAILWAY

केन्द्रीय प्रशासनिक अदालत  
Central Administrative Tribunal

26 JUN 2004

गुवाहाटी न्यायपीठ  
Guwahati Bench

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

Dated: 03/08/2004

No.E/255/Con/DAR

To

Dy.CE/Con/KIR

Sub: OA No.61/2003(Shri Banshi Sah – Vs-UIO & others.

Ref: CAT/GHY's judgement order dated 21.01.2004 against  
OA No.61/2003.

Hon'ble CAT/GHY in its judgement against above OA has directed to allow the  
applicant Shri Banshi Sah, Substitute Emergency Peon to join the duty.

Hence Shri Sah should immediately be allowed to join duty as Emergency Peon  
under you with an intimation to this office.

This issues with the approval of competent authority.

( A. K. Sinha)

APO/Con

For General Manager/Con

Copy forwarded for information and necessary action to:-

- 1) FA & CAO/Con/MLG
- 2) ALO/Con/MLG
- 3) SAO/Con/NJP
- 4) Shri Banshi Sah, Subs.E/Peon attached to Dy.CE/Con/KIR(Through Dy.CE/C/KIR).
- 5) S/C for p/case/

Affected  
Route  
Advocate

For General Manager/Con

26-

# ANNEXURE-IX

केन्द्रीय प्रशासनिक  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

To

The Dy. CE/CON  
Katihar

Date: -9-6-05

Sub: i) Prayer for regularisation in Group-D Post.  
ii) Payment of Arrear Salaries w.e.f.  
Jan.2003 to July,2004.

Dear Sir,

With due respect I humbly beg to state that I was appointed as Subs. E/Peon w.e.f. 26.12.2001 vide Office letter No.E/227/con/1(EP)/Pt.IV dated 26.12.2001. I was granted temporary status in scale Rs.2350-3200/- w.e.f. 25.04.2002 by Office Order No.06/2003 of the General Manager/Con, Maligaon, Guwahati dated 15.01.2003.

That, I beg to state that I could not attend duty on 30.12.2002 on medical ground. I took my medical treatment from the Railway Health Unit, Katihar. Unfortunately, I was not allowed to perform/join my duties since 31.12.2002. I filed a representation on 25.02.2003 to the General Manager/Con, N.F. Rly praying for allowing me to join duties but without any reply. Being aggrieved, I moved the Hon'ble Central Administrative Tribunal, Guwahati Bench through OA. NO.61/2003. The Hon'ble Tribunal has been pleased to allow my said application by an order dated 21.01.2004 with the direction, inter-alia as under:

"In this circumstances, we are of the opinion that the respondents are acting in an illegal manner in not permitting the applicant to continue in his post of Substitute Emergency Peon. Consequently, the O.A. is allowed and the respondents are directed to allow the applicant to join the duties and the applicant is entitled to all the consequential benefits."

That, thereafter, I filed a prayer before the General Manager/Con dated 04.02.2004 with a certified copy of the Judgement & Order of the Hon'ble Tribunal dated 21.01.2004 for allowing me to join duties. The Hon'ble General Manager/Con has been pleased to order for my joining duties by office order No.E/225/Con/DAR dated 03.08.2004. I reported for joining duties on 06.08.2004.

That sir, I have been receiving salaries w.e.f. August,2004. But I have not been paid my salaries w.e.f. January,2003 to July,2004 in terms of the order of the Hon'ble Tribunal.

Attested  
Mulla  
Advocate

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

:: 2 ::

That sir, I have also completed my 3(three) years of service on 26.12.2004 without any blemish and hence apply for regularisation in Group-D post under the Circular No.E/205/G/RP-Emergency Peon/FC/CON dated 15.02.1999 issued by the General Manager(P)/MLG.

Under the above facts & circumstances, I therefore, pray that Your Kind-self would be pleased to regularise my service w.e.f. 26.12.2004 and be further pleased to disburse my arrears salaries w.e.f. Jan,2003 to July,2004 for which I shall remain grateful for ever.

Thanking You,

Yours Faithfully,

*Bansi Sah*

(Bansi Sah)  
Emergency Peon

Date:



To,

General Manager/CON,  
N.F. Railway, Maligaon,  
Guwahati-781011.

(Through proper channel)

Sub:- (i) Prayer for regularization in Group 'D' Post.

(ii) Payment of arrear salaries w.e.f. January 2003 to July 2004 in terms of the direction passed in the judgment and order dated 21.01.2004 in O.A No. 61/2003 (Shri Banshi Sah -Vs- U.O.I & Ors.) by the Hon'ble CAT, Guwahati Bench.

Sir,

Most humbly I beg to state that I was appointed as Subs. E/Peon w.e.f. 26.12.2001 vide office order No. E/227/Con/1 (EP)/Pt. IV dated 26.12.2001. I was granted temporary status in scale of pay of Rs. 2550-3200/- w.e.f. 25.04.2002 by the Office Order No. 06/2003 of the General Manager/Con., Maligaon, Guwahati dated 15.01.2003.

That Sir, I could not attend duty on 30.12.2002 on medical ground. I took my medical treatment from the Railway Health Unit, Katihar. Unfortunately, I was not allowed to perform/join my duties since 31.12.2002. I approached the General Manager/Con., N.F. Railway through my representation dated 25.02.2003 praying to allow me to join duties but without reply. Situated thus, I approached the Hon'ble CAT, Guwahati Bench through O.A. No. 61/2003. The Hon'ble Tribunal after detail scrutiny of the matter and after going through the records and hearing the Counsels of the parties was pleased to allow the O.A. No. 61/2003 on 21.01.2004 with the direction as follows:

"5. In this circumstances we are of the opinion that the respondents are acting in an illegal manner in not permitting the applicant to continue in his post of Substitute Emergency Peon. Consequently, the O.A. is allowed and the respondents are directed to allow the applicant to join the duties and the applicant is entitled to all the consequential benefits.

No order as to costs."

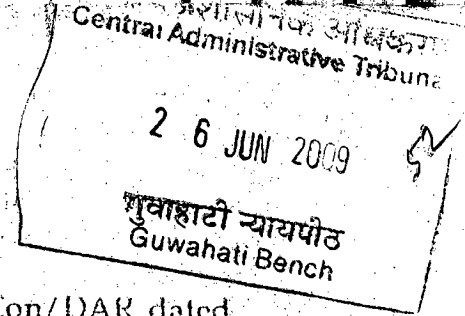
That Sir, thereafter, I filed a prayer before the Hon'ble General Manager/Con dated 04.02.2004 with a certified copy of the judgment and order dated 21.01.04 in O.A. No. 61/2003 for allowing me to join duties. The Hon'ble

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench





General Manager has been pleased to issue order No. E/225/Con/DAR dated 03.08.2004 allowing me to join duty. Accordingly I joined duty on 06.08.2004.

That Sir, I am receiving salaries w.e.f. August 2004. However, my arrear salaries w.e.f. January 2003 to July 2004 has not been paid till date although the Hon'ble CAT Guwahati Bench in O.A. No. 61/2003 directed in judgment and order dated 21.01.04 to the authority that I am entitled to all the consequential benefits. As such non payment of arrear salaries w.e.f. January 2003 to July 2004 is in violation of the judgment and order dated 21.01.04 in O.A. No. 61/2003 which amounts to contempt of Court.

That Sir, I have also completed 6 (six) years of service on 26.12.2007 without any blemish and hence I am entitled to be regularized in Group 'D' post under the circular No. E/205/G/RP-Emergency Peon/FC/CON dated 15.02.1999 issued by the General Manager (P), Maligaon.

That Sir, I submitted a representation on 09.06.2005 addressed to the Dy. CE/CON, Katihar with the same prayer, but to no result. As such I am once again praying before Your Honour to regularize my service w.e.f. 26.12.2004 and further be pleased to disburse my arrear salaries w.e.f. Jan' 2003 to July' 2004 for which I shall remain grateful to you.

Encl:- (1) Judgment and order dated 21.01.04 in O.A. No. 61/2003.  
(2) My representation dated 09.06.05.

Date: 26.05.2008

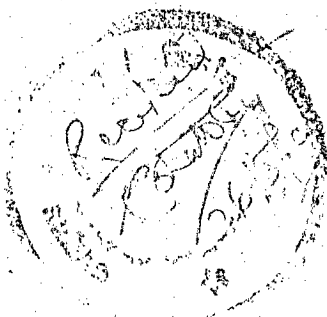
Yours faithfully

*Bansi Sah*

Shri Bansi Sah,

Emergency Peon,

Office of the Dy. Chief Engineer,  
CON/KIR, N.F. Railway.



To,

General Manager/CON,  
N.F. Railway, Maligaon,  
Guwahati-781011.

(Through proper channel)

Sub:- (i) Prayer for regularization in Group 'D' Post.

(ii) Payment of arrear salaries w.e.f. January 2003 to July 2004 in terms of the direction passed in the judgment and order dated 21.01.2004 in O.A No. 61/2003 (Shri Banshi Sah -Vs- U.O.I & Ors.) by the Hon'ble CAT, Guwahati Bench.

Ref: - My representation dated 26.05.2008.

Sir,

With reference to the above most humbly I beg to state that I submitted a representation on 26.05.2008 to Your Honour on the subject mentioned above, however finding no response on my above mentioned representation, I once again submitting before Your Honour the following few lines for your kind consideration.

That Sir, I was appointed as Subs. E/Peon w.e.f. 26.12.2001 vide office order No. E/227/Con/1 (EP)/Pt. IV dated 26.12.2001. I was granted temporary status in scale of pay of Rs. 2550-3200/- w.e.f. 25.04.2002 by the Office Order No. 06/2003 of the General Manager/Con., Maligaon, Guwahati dated 15.01.2003.

That Sir, I could not attend duty on 30.12.2002 on medical ground. I took my medical treatment from the Railway Health Unit, Katihar. Unfortunately, I was not allowed to perform/join my duties since 31.12.2002. I approached the General Manager/Con., N.F. Railway through my representation dated 25.02.2003 praying to allow me to join duties but without reply. Situated thus, I approached the Hon'ble CAT, Guwahati Bench through O.A. No. 61/2003. The Hon'ble Tribunal after detail scrutiny of the matter and after going through the records and hearing the Counsels of the parties was pleased to allow the O.A. No. 61/2003 on 21.01.2004 with the direction as follows:

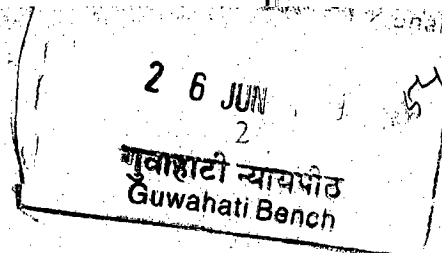
"5. In this circumstances we are of the opinion that the respondents are acting in an illegal manner in not permitting the applicant to continue in his post of Substitute Emergency Peon. Consequently, the O.A. is allowed and the respondents are directed to allow the applicant to join the duties and the applicant is entitled to all the consequential benefits.  
No order as to costs."

ANNEXURE-XI

केन्द्रीय प्रशासनिक अदालत  
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench



That Sir, thereafter, I filed a prayer before the General Manager/Con dated 04.02.2004 with a certified copy of the judgment and order dated 21.01.04 in O.A. No. 61/2003 for allowing me to join duties. The Hon'ble General Manager has been pleased to issue order No. E/225/Con/DAR dated 03.08.2004 allowing me to join duty. Accordingly I joined duty on 06.08.2004.

That Sir, I am receiving salaries w.e.f. August, 2004. However, my arrear salaries w.e.f. January 2003 to July 2004 has not been paid till date although the Hon'ble CAT Guwahati Bench in O.A. No. 61/2003 directed in judgment and order dated 21.01.04 to the authority that I am entitled to all the consequential benefits. As such non payment of arrear salaries w.e.f. January 2003 to July 2004 is in violation of the judgment and order dated 21.01.04 in O.A. No. 61/2003 which amounts to contempt of Court.

That Sir, I have also completed 6 (six) years of service on 26.12.2007 without any blemish and hence I am entitled to be regularized in Group 'D' post under the circular No. E/205/G/RP-Emergency Peon/FC/CON dated 15.02.1999 issued by the General Manager (P), Maligaon.

That Sir, I submitted a representation on 09.06.2005 addressed to the Dy. CE/CON, Katihar with the same prayer, but to no result. As such I am once again praying before Your Honour to regularize my service w.e.f. 26.12.2004 and further be pleased to disburse my arrear salaries w.e.f. Jan' 2003 to July' 2004 for which I shall remain grateful to you.

- Encl:- (1) Judgment and order dated 21.01.04 in O.A. No. 61/2003.  
(2) My representation dated 09.06.2005.  
(3) My representation dated 26.05.2008.

Yours faithfully

*Bansi Sah*

Shri Bansi Sah,

Emergency Peon,  
Office of the Dy. Chief Engineer,  
CON/KIR, N.F. Railway.

Date: 02/09/2008

NOT DESPATCHED  
Date: 02/09/08