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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

123/09

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dy. 01/02/2015

SECTION OFFICER (JUDL.)

Biju 17/7/2015

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 Bansi Sah

Respondent (S) : Union of India & others

Advocate for the : Mr. M. Chanda
{Applicant (S)} Mr. S. Nath & Mrs. U. Dutta

Advocate for the : -----
{Respondent (S)}

By Standing Counsel

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/BD No. <u>395409/25</u></p> <p>Dated <u>28.5.09</u></p> <p><i>N. W. M.</i> <i>29.6.09</i> Dy. Registrar <i>26/6/09</i></p>	02.07.2009	<p>Heard learned counsel for the parties.</p> <p>For the reasons recorded separately, this O.A. stands disposed of.</p> <p><i>M.R. Mohanty</i> (M.R. Mohanty) 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><i>26/6/09</i> <i>K. G. (w)</i></p>	/bb/	

8.2.09

order at 2.7.09 send
to DFS for issue the same
to the Respondents (Plaintiff) and
to the Applicant and free
Copy for both the counsels, side
No. 3830 & 3835 dated 20/7/09..

8.2.09

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**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

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.123 of 2009

Date of Order: This, the 2nd 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.

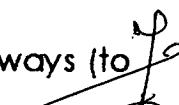
....Respondents

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

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

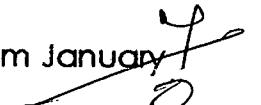
MANORANJAN MOHANTY, (VICE-CHAIRMAN):-

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



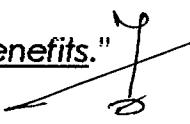
2003 to July 2004 were, however, not released; for which he submitted a representation on 09.06.2005 seeking payments for the period between January 2003 to July 2004. He also submitted representations, on 26.05.2009 and on 02.09.2008. No heed having been paid to his grievances, the Applicant has, again, 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.


02/07/09
(MANORANJAN MOHANTY)
VICE-CHAIRMAN

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Guwahati Bench

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)

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Central Administrative
Tribunal
Guwahati Bench

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.

26 JUN 2009

গুৱাহাটী আদমিনিস্ট্রেটিভ ট্ৰিভুনাল
Guwahati Bench

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.

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Filed By:

Dutta
Advocate

Date:- 26.06.09

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गुवाहाटी न्यायदीर्घ
Guwahati Bench

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 Peon,
 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 APPLICATION1. 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.

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

Bansi Sah

26 JUN 2009

गुवाहाटी बैचनी
Guwahati Bench

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.

Bansi Sah

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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.

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गुवाहाटी न्यायालय
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

Bansi Sam

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Guwahati Bench

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.



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Guwahati Bench

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

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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 saves 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 Sarker

26 JUN 2009

गुवाहाटी न्यायालयीय
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 I.P.O

i) I.P.O No.	: 39G 109125
ii) Date of issue	: 28.05.09
iii) Issued from	: G Po. Guwahati
iv) Payable at	: G Po. Guwahati

12. List of enclosures:

As given in the index.

Borhai Sali

केन्द्रीय प्रशासनिक अदायक
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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.E. 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 13th day of June 2009.

Bansi Sah

10
ANNEXURE - I

N. F. RAILWAY

Office of the
General Manager (Con),
Malignon

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

Dated :- 26/12/2001

To

✓ Shri Bansi Sah
S/o. Shri Mehan Sah.

केन्द्रीय प्रशासनिक नियमित
Central Administrative Trib.

26 JUN 2009

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

गुवाहाटी न्यायपीठ
Guwahati Bench

You are hereby engaged as substitute Emergency
peon on Pay Rs. 2550/- in scale Rs. 2550-8200/- attached
to Shri S. P. Singh, Dy. OE/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 Peon or you
will be discharged in the event of transfer of
the officer for whom you are engaged experiences
his unwillingness to take you on transfer along-
with 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.

Sub. Ass.

for GENERAL MANAGER (CON)

26/12/01

Copy forwarded for information and necessary action to :-

1. FA & CAO/CON/MLG
2. Dy. OE/Con/KIR
3. DAD/CON/NJP
4. S/C for P/Caso.
5. OS/CON/MLG

*Attested
Dutta
Advocate*

for GENERAL MANAGER (CON)

37
ANNEXURE-II

M.F.RAILWAY

Office of the
General Manager/Com
Maligaon

OFFICE ORDER NO:43/2002

Consequent on transfer of Shri S.P.Singh, D.Y.C/ /
COM/D/MLG as M.C/COM/KIR Shri Banshi Chh. Suba.
Emergency Peon in scale Rs.2550-3200/- since attached to
M.C/COM/D/MLG is hereby transferred and posted
as M/Peon attached to M.C/COM/KIR in his existing
capacity, pay and scale.

(S.K. DOSE)

APO/COM

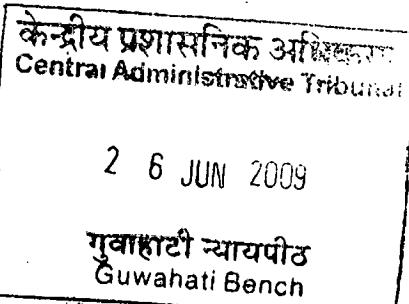
For General Manager/Com

DOE/227/COM/1/Pt. V(EP)

Dated 7.5.02

Copy forwarded for information and necessary action
to :-

1. PA & QAO/COM/MLG
2. M.C/COM/KIR
3. BAO/COM/RJP
4. OS/COM/RJP
5. Staff concerned
6. S/O for P/Com



*Attested
Munshi
Advocate*

7/5/02
(S.K. DOSE) 7/5/02
APO/COM

For General Manager/Com

Northeast
Frontier
Railway

OFFICE ORDER NO. 06 / 2003

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

Shri Bansi Sah, Subs. E/Peon attached to Dy. C/Off/CON/KIR
who was engaged as on 26.12.2001 vide this office letter No.
E/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 Rs.2550-3200/- on pay Rs.2550/-
w.e.f. 25.04.2002.

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

Subj.
(S. K. BOSE) 17/1
APO/CON
for General Manager/Con

No. E/57/Con/1(TSC)/Pt. III

Dated: 15.01.2003

Copy forwarded for information and necessary action to:-

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

केन्द्रीय प्रशासनिक अदायकारा
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायालय
Guwahati Bench

(S. K. BOSE)
APO/CON
for General Manager/Con

18.8.03
प्राप्त दिन तिथि अंकित
प्राप्त दिन तिथि अंकित
S. Div. Encl. 27
V. F. Rly. Pandu (West)
Health Unit

Attested
Maitta
Advocate

ANNEXURE-IV

To
The General Manager (Construction)
I.P.Railway, Maligaon.

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायालय
Guwahati Bench

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 Bunglow to join duty, Shri S.P.Singh, Dy.CE/CON/KIR did not allow me to perform duty in his Bunglow and told me that my services are not required by him and forcibly sent me from his Bunglow.

That Sir, the reason of such behaviour of my officer is not known to me. So, I used to attend his Bunglow 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 enter in the complex of his Bunglow 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,

Dated: Maligaon
25.06.2003.

Attested
Dutta
Advocate

Yours faithfully,

✓ Banshi Sah

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



ANNEXURE-V

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.

*Attested
Jyotika
Advocate*

02/01/04

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायालय
Guwahati Bench

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.....

केन्द्रीय प्रशासनिक अधीक्षा
Central Administrative Trainee

26 JUN 2009

गुवाहाटी न्यायालय
Guwahati Bench

: 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:

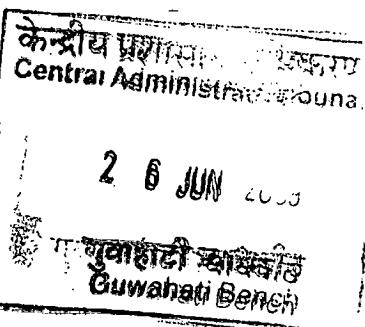
"2302. Termination of service and periods of notice. -

(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.....

05/01/04



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 principle 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."

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.

D
21/01/04

: 5 :

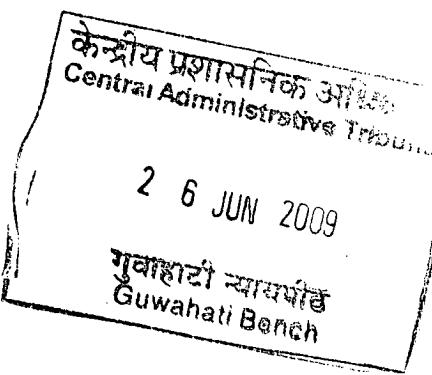
5. In this circumstances, we are of the opinion that the respondents are acting in an illegal manner in not permitting the applicant to continue in his post of Substitute Emergency Peon. Consequently, the O.A. is allowed and the respondents are directed to allow the applicant to join the duties and the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

No order as to costs.

Sd/MEMBER (A)

Sd/MEMBER (C)

DISPENSED BY THE COURT
C.A. NO. 151/2009
C.A. BENCH



NORTHEAST FRONTIER RAILWAY
(Construction Organization)

Office of the
Dy. Chief Engineer/CON
Katihar

Date: 24.04.04

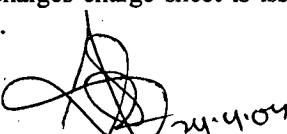
No. E/74/DAR/CON/KIR/ 1561

Shri Banshi 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

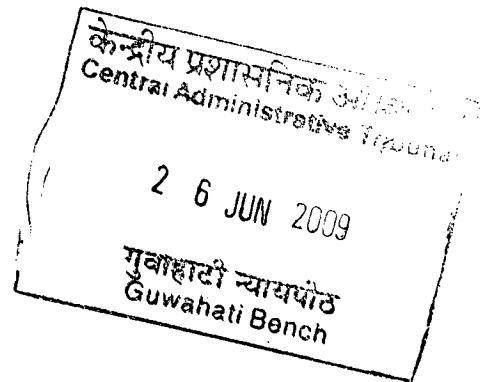
The SF-5 issued vide above memorandum is hereby cancelled since all the
annexure were not enclosed with the memorandum. The charges charge sheet is issued
herewith. This is without any prejudice to the administration.


24.4.04
(ANIL KUMAR)
XEN/CON/KIR
(Disciplinary authority)

DA:

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

Attested
Mitali
Advocate



STANDARD FORM NO. 5

STANDARD FORM FOR CHARGE SHEET

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

No. E/74/CCN1/DAR/KIR/1562....Dated....24.4.2004.....

N.F. Railway (Name of Railway Administration)

Place of IssueKaziranga.....

केन्द्रीय रेल
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी बायपाट
Guwahati Bench

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 is 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/CCN/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 nominees 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.

Contd.P/2


A. Kumar

कार्यालय अधिकारी (निमित्त)

Executive Engineer (CON)

N. F. Railway, Katihar

(Disciplinary authority)

Attest
A. Kumar

5. Shri Banshi Sah, E/ Peom is informed that an enquiry will be held only in respect of those articles of charges are not admitted. He should therefore specifically admit or done each articles of charge.

6. Shri Banshi Sah, E/ Peom is further informed that if he does not submit his written statement of defense within the period specified in Para 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 expert.

7. The attention of shri Banshi Sah, E/ Peom 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 superior 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 section 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:

21.4.04
By order and the name of the
A. Kumar President,
कार्यपालक अधियंता (निमित्त)

21.4.04
Executive Engineer (CON)
N.F. Railway, Katihar
Competent authority.

(Disciplinary authority)

21.4.04
Shri Banshi Sah
Emergency Peom/CON/KIR
(Designation & Place)

21.4.04 Shri S. P. Singh, Dyer/CON/KIR Name & Designation of the lending authority for information.

4.1

5.

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.

Central/State

21.4.04
6 JUN 2000
Guwahati Bench

21.4.04
A. Kumar

कार्यपालक अधियंता (निमित्त)

Executive Engineer (CON)

N. F. Railway, Katihar

(Disciplinary authority)

ANNEXURE-IStatement 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-IIStatement 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/KIRArticle-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.

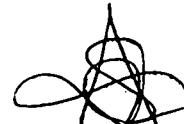
This tantamount to his serious misconduct which violate service conduct rule no. 3(1), (I), (II), (III) of 1966

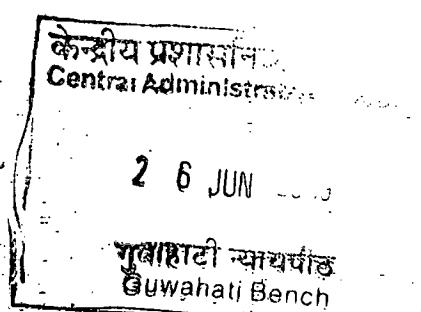
ANNEXURE-IIIList of documents by which the article of charges framed against Shri Banshi Sah while functioning as Emergency Peon under Dy. CE/CON/KIR are proposed to be sustained

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

ANNEXURE-IVList of Witness

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


 24.4.04
 (ANIL KUMAR)
 XEN/CON/KIR
 (Disciplinary authority)



ANNEXURE-VII

केन्द्रीय प्रा.
Central Administrative Tribu...

Date: 05.06.2009

26 JUN 2009

गुवाहाटी न्यायालय
Guwahati Bench

To

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

Sub: Reply to Charge Sheet No. E/24/04/Order
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 join 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. M.J. DIXIT/DEE/CINRER with whom I was attached. I made a written representation on 25.02.2003 to the General Manager (Com) N.F. Railways praying for allowing me to join on duties.
3. That, when no communication was received by me on 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 representation by an order dated 21.01.2004.
4. That, thereafter, I have filed a prayer before the General Manager (Com) dated 04.02.2004 with a certified copy of the Judgement & Order of the Hon'ble Tribunal dated 21.01.2004 for original for allowing me to join on duties and to pass necessary orders/directions in this regard.

*Attested
Butta
Advocate*

*** 2 ***

In view of the above facts and circumstances I request Your Honour to withdraw the above Charge Sheet dated 26.5.2004 and take my services.

Thanking you,

Yours faithfully,

Bansi Lal

TRANST. BENCH

EMERGENCY PERM

Places: Guwahati

Dates: 05.05.2004

केन्द्रीय प्रशासनिक अ
Central Administrative T...

26 JUN, 2004

गुवाहाटी न्यायपाल
Guwahati Bench

- 24A -

26 JUN 2009

গুৱাহাটী ন্যায়পৌঠ
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 by 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 Sah

ANNEXURE VIII

25-

NORTHEAST FRONTIER RAILWAY

No.E/255/Con/DAR

To

Dy.CE/Con/KIR

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

26 JUN 2004

गुवाहाटी न्यायालय
Guwahati Bench

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

Dated: 03.08.2004

Sub: OA No.61/2003(Shri Banshi Sah – Vs-UOI & 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
Duty
Advocate*

26/08/04
For General Manager/Con

केन्द्रीय प्रशासनिक बोर्ड
Central Administrative Tribunal

26 JUN 2009

Date: -9-6-05

To

The Dy. CE/CON
Katihar

गुवाहाटी न्यायघीट
Guwahati Bench

Sub: i) Prayer for regularisation in Group-D Post
ii) Payment of Arrear Salaries w.e.f. 1 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.2550-3200/- 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 O.A. 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.

*Shri S. N. Mitra
Advocate*

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

26 JUN 2009

** 2 **

गुवाहाटी न्यायालय
Guwahati Bench

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/C/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)

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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

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26 JUN 2009

গুৱাহাটী চায়পোর
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/PC/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.

Enclo:- (1) Judgment and order dated 21.01.04 in O.A. No. 61/2003.

(2) My representation dated 09.06.05.

Yours faithfully

Bansi Sah

Shri Bansi Sah,

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

Date: 26.05.2008

ANNEXURE XI

केन्द्रीय प्रशासनिक अफ़सोस
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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."

- 31 -

26 JUN

গুৱাহাটী ন্যায়পোর্ট
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.

Enclo:- (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

3/EM/1/DESPATCHED
Date: 02/09/2008
2/9/08