

3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 128/2015
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SECTION OFFICER (JUDL.)

Biju
10/7/2015

C.A.T.
10/7/2015

FROM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 128 /2009

2. Misc Petition No _____

3. Contempt Petition No _____

4. Review Application No _____

Applicant(S) Shri Bansi Sah

Respondent(S) Union of India & ors.

Advocate for the Applicant(S): Mr. M. Chanda,
Mr. S. Nath &
Mrs. C. Dutta

Advocate for the Respondent(S):

Rly. Standing Counsel

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited via. <u>17/7/09</u> No. <u>3964/0262</u> Dated <u>19.6.09</u>	02.07.2009	Heard learned counsel for the parties. For the reasons recorded separately, this O.A. stands disposed of.
<i>N. Dass 17/7/09 Dy. Registrar</i>		
<i>HS 17/7/09</i>	/bb/	
<i>1.7.09 4 (Four) copies of application received for issue notices to the Respondents 2 to 4. Copy served.</i>		
<i>HS 17/7/09</i>		

MR
(M.R.Mohanty)
Vice-Chairman

8.7.09

order dt. 2.7.09
send to D/S for issue
the same to the respondents
and applicant and
advocate for both the parties.

D/No. 3823 to 3829

dtd 20/7/09

8/7/09

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 128 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

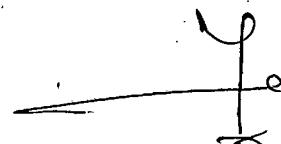
Dr. J.L. Sarkar, Railway Standing Counsel

..... Advocate for the
Respondents

CORAM

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

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



Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 128 of 2009

Date of Order: This is, the 2nd of July, 2009.

HON'BLE MR. 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 Secretary to the
Government of India
Ministry of Railway
Department of Railway
Rail Bhavan, New Delhi- 1.
2. The General Manager (Construction)
N.F. Railway, Maligaon
Guwahati- 781011.
3. The Dy. 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, Railway Standing Counsel

O.A.128/2009
ORAL ORDER
02.07.2009

MANORANJAN MOHANTY, (V.C.):-

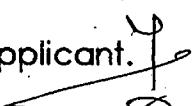
Applicant, who was engaged (w.e.f. 26.12.2001) as a
Substitute Emergency Peon, was granted Temporary Status on 15.01.2003.

He represented to the authorities (on 09.06.2005, on 26.05.2008 & on 02.09.2008) for being regularized as against a Group 'D' post. Without hearing from the Respondents, he has approached this Tribunal with the present Original Application filed 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 consider regular absorption of the applicant in a Group 'D' post in recognition of his long services for more than 7 years as Emergency Peon.
- 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."

2. Heard Mr. M.Chanda, learned counsel appearing for the Applicant and Dr. J.L. Sarkar, learned Addl. Standing Counsel for the Railways (to whom a copy of this O.A. has already been supplied) and perused the materials placed on record.

3. Since it is the positive case of the Applicant that his representations, as aforesaid, are still pending within the Respondents undisposed; without any waste of time; this case is hereby disposed of by remitting the matter to the Respondents with direction to them/Respondents to consider the case of the Applicant (pertaining to his prayer, to be regularized/absorbed as against Group 'D' post, as raised in his representations) expeditiously and to pass orders, as due and admissible under the Rules, within a period of six months from the date of receipt of the copies of this order, under intimation to the Applicant.



4. Send copies of this order (by Registered Post) to all the Respondents along with the copies of this O.A.
5. Free copies of this order be also sent to the Applicant and supplied to the Advocates of both sides.

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

/BB/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 128 /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 on 30.12.02.
- 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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Gauhati High Court
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 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 regularization of his service in group 'D' post. 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 consider regular absorption of the applicant in a Group 'D' post in recognition of his long services for more than 7 years as Emergency Peon.
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.

1 JUL 2009

गुवाहाटी न्यायालय
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. 128 /2009

Shri Bansi Sah. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

Malta
Advocate

Date:- 29.06.09

1 JUL 2009

गुवाहाटी बायार्ली
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 128 /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 Secretary to the
Government of India,
Ministry of Railway,
Department of Railway,
Rail Bhavan, New Delhi-1. ✓
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 against non-consideration of the case of the applicant for his regular absorption in a Group- D post.

Bansi Sah

Filed by the applicant
through L.Dutta, advocate
on 29.06.09

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गुवाहाटी न्यायालय
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.

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

1 JUL 2009

গুৱাহাটী ন্যাবুংগেট
Guwahati Bench

- 3
- 13
- 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, Kathiar for his ailments. On 31.12.2002, when the applicant went to attend his duties in the Bunglow 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 Bunglow and warned him not to enter his Bunglow 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.

Bansi Sah

1 JUL 2009

गुवाहाटी आदायकोठ
Guwahati Bench

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

- 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.

F 1 JUL 2009

গুৱাহাটী আৰাধনাৰ
Guwahati Bench

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 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 most respectfully begs to submit that he was appointed as a substitute Emergency Peon w.e.f. 26.02.2001 and was granted temporary status w.e.f. 25.04.2002. Since then he has been rendering services as Emergency Peon for more than 7 (seven) years continuously and as such he is entitled for regular absorption in a Group 'D' post. In this connection it is relevant to mention here that the nature of duties of the

Bansi Lal

1 JUL 2009

Guwahati Bench

applicant regular in nature and Group 'D' post is very much available in the respondent department, therefore there is no difficulty on the part of the respondents to regularise service of the applicant.

- 4.14 That situated thus, the applicant approached the authorities time and again for regularization of his service in a Group 'D' post. The applicant also submitted one representation on 09.06.2005 to the respondent No. 3 praying for payment of his salary for the period from January '03 to July '04 and for regularization of his service in a Group 'D' post but to no result.
- 4.15 That the applicant further begs to submit that in view of his rendering continuous and satisfactory services as Emergency Peon for more than 7 (seven) years, and having been granted temporary status way back on 25.04.2002, he is entitled for absorption in a regular post in Group 'D' and non-regularisaiton of his service is unfair, opposed to the professed policy of the Government and violative of the principles of natural justice.
- 4.16 That due to non-regularisation of his service in a Group 'D' post, 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 to consider his case for regular absorption in a Group 'D' post. So far payment of allowances is concerned for the period from January 2003 to July 2004 applicant has preferred a separate Original Application.
- 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, the applicant has been rendering services as Emergency Peon continuously and satisfactorily for more than 7 (seven) years and has been

Bansi Sarh

granted temporary status way back w.e.f. 25.04.2002. As such he has acquired a valuable right for regular absorption in a Group 'D' post.

- 5.2 For that, the applicant is a poor low paid temporary status Group 'D' employee and he has been entrusted with permanent nature of works and as such he is entitled to be absorbed/regularised with immediate effect in recognition of his 7 years of long service as Emergency Peon.
- 5.3 For that, non-regularisation of his service in a Group 'D' post is arbitrary, illegal, unfair and against the professed policy of the Government and principles of natural justice.
- 5.4 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 regularisation of his service, but to no result.

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):

Bansi Singh

1 JUL 2009

गुवाहाटी न्यायालय
Guwahati Bench

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to consider regular absorption of the applicant in a Group 'D' post in recognition of his long services for more than 7 years as Emergency Peon.
- 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 410262 |
| ii) | Date of issue | : 29.06.09 |
| iii) | Issued from | : G.P.O, Ghy |
| iv) | Payable at | : G.P.O, Ghy |

12. List of enclosures:

As given in the index.

Bansri Sah

केन्द्रीय प्रशासनिक अधिकार अधिकारी
Central Administrative Tribunal

11 JUL 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.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 13th day of June, 2009.

Bansi Sah

N. F. RAILWAY

Office of the
General Manager (Com),
Malgach

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

Dated :- 26/12/2001

To

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

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.

for GENERAL MANAGER (COM)

Copy forwarded for information and necessary action to :-

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

for GENERAL MANAGER (COM)

केन्द्रीय प्रशासनिक आयुक्त
Central Administrative Tribunal

1. JU. 2009

मुख्यमंत्री परामर्शदाता
Guwahati, Assam

W.P. RAILWAY

Office of the
General Manager/Com
Waggon

OFFICE ORDER 10149/2002

Consequent on transfer of Shri S.P.Singh, IX.C/1/
COM/DMLG as W.CS/COM/KIR Shri Benu Singh, Subs.
Emergency Peon in scale Rs.2550-3200/- since attached to
W.CS/COM/DMLG is hereby transferred and posted
as W/Peon attached to W.CS/COM/KIR in his existing
capacity, pay and scale.

(S.K. BOSE)
APO/COM
For General Manager/Com

W.P.E/227/COM/1/PT.V(KP)

Dated 7.5.02

Copy forwarded for information and necessary action
to 1

1. PA & CMO/COM/DMLG
2. W.CS/COM/KIR
3. DAO/COM/IMP
4. DS/COM/MLL
5. Staff concerned
6. S/O for P/Grade

Ex-10920
(S.K. BOSE) 7/5/02
APO/COM
For General Manager/Com

Attested
Maita
ADM

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

1 JUL 2009

प्रमाणित दस्तावेज़
Authenticated Document

Northeast
Frontier
Railway

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

OFFICE ORDER NO. 06 /2003

Shri Banchi Sah, Subs. R/Peon attached to Dy. CG/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.

Subs.

(B. K. BOSE) 17/10
APG/CON
for General Manager/Con

No. 5/57/Con/1(TCC)/Pt. III

Dated: 15.01.2003

Copy forwarded for information and necessary action to:-

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

(B. K. BOSE)
APG/CCV
for General Manager/Con

18.3.03
नेत्र वेत फ्रिजन जनका
प्र० ट्र० १०२, निर्मला
3८. डिवि. एन्का ३४
V. F. Rly. "Pandu (Wes)"
Health Unit

Attested
Dutta
Adh

संस्थाय प्रशासनिक अधिकारी
General Administrative Officer

11 JUL 2003

The General Manager (Construction)
N.F. Railway, Maligaon.

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
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
The 25th Sept 2003.

Attested
Bansi Sah
Adv

Yours faithfully,
✓ Bansi Sah

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

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

1 JUL 2009

गुवाहाटी न्यायदीर्घ
Guwahati Bench

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 Bhushan, 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.

02/01/04

Attested
Mukta
AN

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

1. 2009

गुवाहाटी आधिकारी
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

02/01/04

he.....

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

1 JUL 2009

गुवाहाटी स्थायी बैठक
Guwahati Bench

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

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

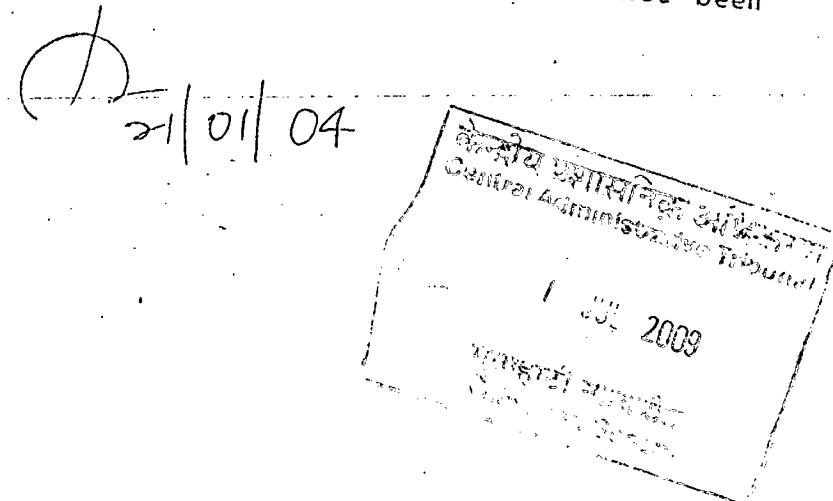
1 JUL 2009

गुवाहाटी न्यायालय
Guwahati Bench

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."

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.



: 5 :

5.1 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)

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

1 JUL 2009

गुवाहाटी न्यायालय
Guwahati Bench

- 19 -
ANNEXURE - VI

NORTHEAST FRONTIER RAILWAY
(Construction Organization)

No. E/74/DAR/CON/KIR/ 1561
Shri Banshi Sah
Emergency Peon under Dy. CE/CON/KIR.

Office of the
Dy. Chief Engineer/CON
Katihar
Date: 24.04.04

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.


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

DA:

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

Attested
Dutta
A.W.

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

2009

मुख्याधीनी सचिव
Guwahati Bench

STANDARD FORM NO. 5

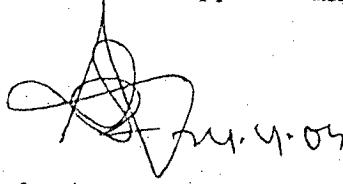
STANDARD FORM FOR CHARGE SHEET

(Rules of the Railway Servants (Discipline and Appeal Rules - 1968)
 No. E1.741.CORL.DAR.KIR.115.62...Dated....24.4.2004.....
 N.F. Railway (Name of Railway Administration)
 Place of IssueKatihar.....

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 XENICEN 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.

Contd.P.2


(A. Kumar)

केन्द्रीय प्रशासनिक अधिकारी (नियमित)

Executive Engineer (CON)

N. F. Railway, Katihar

(Dep. Disciplinary authority)

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

1 Jul 2009

गुवाहाटी न्यायालय
Guwahati Bench

5. Shri Banshi Sah, El Peon is informed that enquiry will be held only in respect of these articles of charges are not admitted, i.e. he therefore, specifically admit or done each articles of charge.
6. Shri Banshi Sah, El Peon if further informed that he does not submit his written statement of defense within the period specified in Para 5 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 held the enquiry expert.
7. The attention of shri Banshi Sah, El Peon invited to Rules 20 of the Railway Servants (Conduct) Rules 1968, under which no Railway servant shall be or attempt to be any political or to their influence to bear upon any superior's 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:

24.4.04
 By order and the name of the
 CA Kumar President
 कार्यपालक अधिकारी (निमित्त)
 Executive Engineer (CON)
 N.E. Railway, Ratibar
 Competent authority
 (Disciplinary authority)

Copy to:-

1. Shri Banshi Sah
Emergency Peon/CON/KIR
 (Designation & Place)
2. Shri S. P. Singh, Dyer/CON/KIR Name & Designation of the leading authority for information.
- 3.
- 4.
- 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.

केन्द्रीय प्रशासनिक अधिकारी
 Central Administrative Tribunal
 1 JU 2009
 उपायकारी अधिकारी
 General Secretary

24.4.04
 (A. Kumar)
 कार्यपालक अधिकारी (निमित्त)
 Executive Engineer (CON)
 N.E. Railway, Ratibar
 (Disciplinary authority)

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

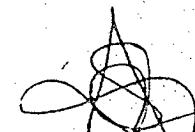
List of documents by which the article of charges framed against Shri Banshi Sah while functioning as Emergency Peon under Dy. CE/CON/KIR are proposed to be sustained

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


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

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

1 JUL 2009

गुवाहाटी न्यायालय
Guwahati Bench

To

Date of letter

The Executive Engineer (Com)
N.E. Railway, Katihar.Sub: Reply to Charge Sheet No F/74/COM/DR/2004
KLR/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 charges 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 Sir B.P. Bhattacharya, D.Y.O.C.C.O.R. with whom I was attached. I made a representation on 28.02.2003 to the General Manager (Com) of N.E. Railways praying for allowing me to join on duties.

3. That, when no communication was received by me in regard to 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 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 21.01.04 in original for allowing me to join on duties and to pass necessary orders/directions in this regard.

*Attested
Dulla
A.W.*

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

2009

मुख्यालय
Guwahati Bench

In view of the above facts and circumstances I request Your Honour to withdraw the above Charge Sheet dated 05.05.2004 and take my services.

Thanking you,

Yours faithfully

Bansilal
TRANST. BULLY

EMERGENCY PERIOD

Places Guwahati

Date 05.05.2004

1 JUL 2005

(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
Mukta
Adw*

सेनानीय अधिकारी अधिकारी अधिकारी
Central Administrative Tribunal

2009

प्राप्ति कार्यालय
सेनानीय अधिकारी अधिकारी

NORTHEAST FRONTIER RAILWAY

No.E/255/Con/DAR

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

Dated: 03/02/2004

To

Dy.CE/Con/KIR

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

Re: 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/

3/8/04
For General Manager/Con

Collected
Mukta
Adv

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

2009

गुवाहाटी न्यायालय
Guwahati Bench

ANNEXURE - IX

- 26 -

Date: - 9-6-05

To
The Dy. CE/CON
Katihar

Subs: i) Prayer for regularisation in Group-B 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.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., R.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 04.02.2003 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/223/Con/DAK 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
Bulka
APW

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

1 JUL 2009

मुख्यमंत्री कार्यालय
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/205/07/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 of 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:



केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

1 JUL 2009

गवर्नर बैच
Governor 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.

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, Cuwahati 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

Attested
Maitta
Adw

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

1. JU. 2009

गुवाहाटी न्यायालय
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/C/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.

Endo:- (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



केन्द्रीय प्रशासनिक अदालत
Central Administrative Tribunal

1 JUL 2009

गुवाहाटी न्यायालय
Guwahati Bench

ANNEXURE-XI

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,

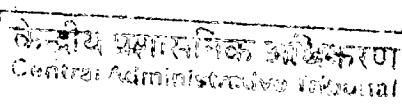
With reference to the above most humbly I beg to state that I submitted a representation on 26.05.2008 to Your Honour on the subject mentioned above, however finding no response on my above mentioned representation, I once again submitting before Your Honour the following few lines for your kind consideration.

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."

*Collected
Dutta
Adh*



1 JUL 2009

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.

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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

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