

7

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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B.D. 2017/2018  
SECTION OFFICER (JUDL.)

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

1. ORIGINAL APPLICATION No : 170 / 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : -----/2009 in O.A. No.-----
4. Contempt Petition No : -----/2009 in O.A. No.-----
5. Review Application No : -----/2009 in O.A. No.-----
6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : Santi Arundhati Kalita



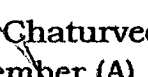
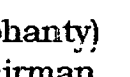
Respondent (S) : Union of India & ors.

Advocate for the : Mr. A. Sarma

{Applicant (S)} Mr. D. Sarma

Advocate for the : Dr. M.C. Sarma

{Respondent (S)} Rly. Counsel

Notes of the Registry	Date	Order of the Tribunal
<p style="text-align: right;">04.09.2009</p> <p>This application in form is filed in Form No. 30/- deposited with P.D. No. <u>396/22074</u> Dated <u>27-8-09</u></p> <p><u>N. Sarma</u> Dy. Registrar <u>28/8/09</u></p> <p><u>28.8.09</u> 4 (Four) Copies of Application with envelope received for issue notices to the Respondents No 1 to 4. Copy served. <u>28/8/09</u></p>	<p>/bb/</p> <p>/lm/</p>	<p>On the prayer of Mr.A.Sarma, learned counsel for the Applicant call this matter on 16.10.2009 for admission.</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  (M.K.Chaturvedi) Member (A)         </div> <div style="text-align: center;">  (M.R.Mohanty) Vice-Chairman         </div> </div> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  (M.K.Chaturvedi) Member (A)         </div> <div style="text-align: center;">  (M.R.Mohanty) Vice-Chairman         </div> </div> <p style="text-align: right;"><u>wndd/-</u></p>

O.A. 170/09

16.10.2009 A petition for amendment of the Original Application No.170 of 2009 has been filed by the Applicant and the same may be registered.

Heard. The learned counsel for the Applicant as prayed for amendment of the Original Application is allowed.

The Applicant is permitted to file consolidated Original Application incorporating the amendments together with four other copies of the amended Original Application by 30<sup>th</sup> October 2009.

Registry to issue notice to the Respondents along with the consolidated copies of the Original Application requiring them to file their written statement by 30<sup>th</sup> November 2009.

Contd/-

16.10.2009 A petition for amendment of the Original Application No.170 of 2009 has been filed by the Applicant and the same may be registered.

Heard. The learned counsel for the Applicant has prayed for amendment of the Original Application is allowed.

The Applicant is permitted to file consolidated Original Application incorporating the amendments together with four other copies of the amended Original Application by <sup>23<sup>rd</sup></sup> ~~30<sup>th</sup>~~ October 2009.

Registry to issue notice to the Respondents along with the consolidated copies of the Original Application requiring them to file their written statement by <sup>23<sup>rd</sup></sup> ~~30<sup>th</sup>~~ <sup>October</sup> November 2009.

The case will come up for Admission on 30<sup>th</sup> November 2009.

Send copies of this order to the Applicant in the address given in the O.A.

(M.K.Chaturvedi)  
Member (A)

(M.R.Mohanty)  
Vice-Chairman

/lm

16.10.2009

K.D.A)

19.10.09

Send copies of  
this order to the Applicant  
urgently.

19/10/09

Copies of notices  
along with order  
dated 16/10/2009 send  
to D/Sec. for issuing  
to the respondents by  
regd-A/D post.

Free copies of  
this order also handed  
over to the applicant.

DTN-12075-78

23/10/09. DT = 27/10/09.

23.10.09

Consolidated  
amendment petition  
has been filed by  
The Applicant.  
Copy served.

23/10/09

27-11-09

No reply filed.

10

A petition for amendment of the  
Original Application No.170 of 2009 has  
been filed by the Applicant and the same  
may be registered.

Heard. The learned counsel for the  
Applicant has prayed for amendment of  
the Original Application. Prayer is  
allowed.

The Applicant is permitted to file  
consolidated Original Application  
incorporating the amendments together  
with four other copies of the amended  
Original Application by <sup>23rd</sup> 30<sup>th</sup> October  
2009.

Registry to issue notice to the  
Respondents along with the consolidated  
copies of the Original Application  
requiring them to file their written  
statement by 30<sup>th</sup> November 2009.

The case will come up for  
Admission on 30<sup>th</sup> November 2009.

Send copies of this order to the  
Applicant in the address given in the O.A.

(M.K. Chaturvedi)  
Member (A)

(M.R. Mohanty)  
Vice-Chairman



30.11.2009

On the request of Dr.M.C.Sarma

Learned Railway counsel for the Railways case is  
adjoined to 12.01.2010.

No W/S filed.

(Madan Kumar Chaturvedi)

(Mukesh Kumar Gupta)

Member (A)

Member (J)

12.01.2010

Enabling the Respondents to file  
reply, time is extended by four weeks as  
prayed for. Case is adjourned to  
15.02.2010.

List the matter on 15.02.2010.

(Madan Kumar Chaturvedi)

(Mukesh Kumar Gupta)

Member (A)

Member (J)

15.02.2010

Reply has not been filed.  
Dr.M.C.Sarma, learned counsel for  
Respondents prays for further four weeks time  
to file reply.

List on 15.03.2010 granting time to  
Respondents to file reply as a matter of last  
chance.

(Madan Kumar Chaturvedi)

(Mukesh Kumar Gupta)

Member (A)

Member (J)

/bb/

15.03.2010

Dr.M.C.Sarma, learned counsel for  
respondents prays for further three weeks  
time to file. Since Sr. counsel for applicant is  
also absence, case is adjourned to  
07.04.2010.

(Madan K. Chaturvedi)

Member (A)

/bb/

N/S filed.

06.4.2010

5.4.2010  
W/S has been  
filed by 1st  
Respondent. Copy  
not served.  
29/4/2010

07.4.2010 Mr.D.Sarma, learned counsel for the Applicant seeks and allowed two weeks time to file reply.

List the matter on 23.4.2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/Lm/

23.4.2010 Extending time for filing rejoinder as prayed for.

List the matter on 7.5.2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/Lm/

O.A.88 of 2010

07.05.2010 Dr.J.L.Sarkar, learned counsel is present for Respondents. Thus service is complete. He seeks and allowed time to file reply.

List the matter on 14.6.2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

Lm

Rejoinder not  
filed.

22.4.2010

Rejoinder  
filed with under  
taking to serve a  
copy to the other party  
6.5.2010

0.4.170/09

07.05.2010

Rejoinder has been filed. Thus Pleadings are complete. Admit. Keep the question of limitation open.

The case is ready for hearing.

List the matter for hearing on 13.6.2010.

2.6.2010

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

1.2.2010

Lm

02.06.2010

On the request of Dr M.C.Sarma, learned counsel for the respondents case is adjourned to 4.6.2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

04.06.2010

For the reasons recorded separately, this O.A. stands allowed. No costs.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/PB/

09/06/10

M.C. Sarma

Dr 6-2010  
Judgment/Pinal order dated  
4-6-2010 Bhopal and sent  
to me. O/S. Chom. Or. issuing  
to R. NO. 3, 84 3y Post  
vide No-1269, 1270  
dated 9-6-2010, and  
Received copy and  
dtd. 04.06.2010.  
on behalf of the  
applicant.



# THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court Of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh)

PRINCIPAL SEAT AT GUWAHATI

Page No. 1

CASE NO : WP(C) 5351/2010

District : Kamrup

Category : 10057 (Order of the Appellate or Revisional authority. )

- 1 UNION OF INDIA & ORS  
REP. BY THE GENERAL MANAGER, N.F. RAILWAY,  
MALIGAON, GHY-11
- 2 THE CHAIRMAN,  
RAILWAY BOARD, RAIL BHAWAN, NEW DELHI.
- 3 THE GENERAL MANAGER,  
(PERSONNEL) N.F. RAILWAY, MALIGAON, GHY-11
- 4 THE DY. CHIEF PERSONNEL OFFICER  
(GAZETTED) OFFICE OF THE GENERAL MANAGER,  
(PERSONNEL), N.F. RAILWAY, MALIGAON

Petitioner/appellant/applicant

Versus

- 1 SMT.ARUNDHATI KALITA  
W/O SHRI ARUP KUMAR GOSWAMI. RAILWAY QR.  
NO.167/B, EAST MALIGAON, GHY-11

Respondent/Opp. Party

## Advocates for Petitioner/appellant

- 1 S SARMA
- 2 G GOSWAMI
- 3 B DEVI
- 4 H K DAS
- 5 SC, RAILWAY

## Advocates for Respondents

- 1 A SARMA

Summary Of Case And Prayer In Brief

## CERTIFIED COPY OF JUDGEMENT / ORDER

DATE OF FILING APPLICATION	DATE WHEN COPY WAS READY	DATE OF DELIVERY
27/09/2010	29/09/2010	29/09/2010

**BEFORE HON'BLE MR. JUSTICE AMITAVA ROY  
HON'BLE MR. JUSTICE H. BARUAH**

**DATE OF ORDER : 24/09/2010**

(Amitava Roy, J)

The judgment and order dated 04.06.2010 passed by the learned Central Administrative Tribunal, Guwahati Bench in O.A. No.170/2009 has been put to challenge in the instant proceeding.

We have heard Mr. S. Sarma, learned counsel for the Railways/petitioners. Mr. A. Sharma, learned counsel for the respondent who has entered appearance through a caveat. The caveat stands discharged.

The respondent, who at the relevant time was the Sr. Scientific Research Assistant in a Grade - D post to the Railways was promoted as Jr. Scientific Officer on adhoc basis vide order dated 05.12.1997. She was thereafter, reverted to her substantive post vide order dated 16.12.2003. The respondent having challenged the said decision before the learned Central Administrative Tribunal, Guwahati Bench, Guwahati(hereinafter for short referred to as the Tribunal) in O.A. No.294/2003, by its order dated 01.04.2004, the same was upheld. The petitioners' assailment of the said decision of the Tribunal passed in WP(C) No.5758/2004 was negated by this Court on 13.09.2005, whereafter, the respondent was promoted to the post of Jr. Scientific Officer, Grade - B again on adhoc basis. Before she approached the learned Tribunal with Original Application No.170/2009, again at the intervening stages she endeavoured to receive the benefits of the higher post for the interregnum. The learned Tribunal entertained her claim for her pay and allowances in the post of Jr. Scientific Officer during this interval, i.e. 16.12.2003 and 31.10.2005 and by the impugned judgment and order has directed the release thereof within a period of two months therefrom. Being aggrieved, the Railways are before this Court.

Whereas Mr. S. Sarma has persuasively argued that as admittedly the respondent has not discharged her duties in the post of Jr. Scientific Officer for the aforementioned period and that the Railways had to borrow the services of other incumbents to get the works relatable to the said post performed during the same and that thus her claim for pay and allowance is apparently misconceived, Mr. A. Sarma has maintained that as for all intents and purposes she had performed her duties as Jr. Scientific Officer during this period, the learned Tribunal was perfectly justified in directing the release of her entitlements relating to that post.

Upon hearing the learned counsel for the parties and on a consideration of the materials on record, we are inclined to sustain the finding of the learned Tribunal.

Though, in recording the conclusion of ours, we are aware of the pleaded stand of the petitioners/Railways that the respondent did not discharge her duties as Jr. Scientific Officer during the period of 16.12.2003 and 31.10.2005 and that hands from South-Eastern Railway and others were to be borrowed for the same, we are of the view having regard to the sequence of events that in the facts and circumstances of the present case the respondent ought not to be denied her pay and allowances for the period 16.12.2003 to 31.10.2005. As the factual background would demonstrate, immediately after she was reverted by the order dated 16.12.2003 she had approached the learned Tribunal with O.A. No.294/2003, which was decided in her favour. The challenge to the

Railways before this Court also failed whereafter, without questioning the legality and the validity of the determination made by this Court in WP(C) No.5785/2004, the respondent was again promoted to the post of Jr. Scientific Officer on adhoc basis. In the above factual premise, the plea of the respondent that as she had not discharged her duties for the post of Jr. Scientific Officer she would not be entitled to the difference of pay of the two posts does not appeal to us.

The respondent having been kept out of the post of the Jr. Scientific Officer by a decision which she had not accepted and eventually quashed by the learned Tribunal and this Court, the contention of the Railways of 'no work no pay' by way of justification of the denial of pay and allowances for the post of Jr. Scientific Officer to her for the period 16.12.2003 to 31.10.2010, in our opinion is not sustainable. The reasonings recorded by the learned Tribunal commend for acceptance.

In the above view of the matter, the instant petition lacks in merit and is dismissed. We, however, make it clear that the present determination in the facts of the present case would not be construed to be precedent in the near future. No costs.

Sd/- Amitava Roy  
Judge

Sd/- H. Baruah  
Judge

CERTIFIED TO BE TRUE COPY  
Anil Kumar  
Date: 29/9/10  
Superintendent (Copying Section)  
Gauhati High Court  
Authorised U/S 76, Act 1, 1872

SI-No. 150879

Dt. 27/9/10

Alhas  
29/9/10

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 170 of 2009

Date of Decision: 04.06.2010.

Smti Arundhati Kalita

..... Applicant/s.

Mr. A. Sarma along with Mr. D. Sarma

..... Advocates for  
the Applicant/s

- Versus -

U.O.I. & Ors.

..... Respondents

Dr. M.C. Sarma

..... Advocate for the  
Respondents


**CORAM:**

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A).

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

Judgment delivered by

  
Member (J).

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI --BENCH:**

**Original Application No.170 of 2009**

**Date of Decision: This, the 04<sup>th</sup> day of June 2010.**

**HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)**

**HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)**

**Smti Arundhati Kalita  
W/o Sri Arup Kumar Goswami  
Railway Qr. No. 167/B  
East Maligaon, Guwahati - 11.**

**...Applicant.**

**By Advocates: Mr. A. Sarma & Mr. D. Sarma.**

**-Versus-**

- 1. The Union of India  
Represented by the Secretary  
Ministry of Railway  
Govt. of India  
New Delhi - 1.**
- 2. The Chairman, Railway Board  
Rail Bhawan, New Delhi.**
- 3. The General Manager (P)  
N.F. Railway, Maligaon  
Guwahati - 11.**
- 4. The Deputy Chief Personal Officer (Gaz)  
Office of the General Manager (Personnel)  
N.F. Railway, Maligaon  
Guwahati - 11.**

**...Respondents**

**By Advocate: Dr. M.C. Sarma**

**ORDER (ORAL)**

**HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J):**

**Smti Arundhati Kalita, Senior Scientific Research  
Assistant, Gr.'B' was promoted as J.S.O. on adhoc basis vide order  
dated 05.12.1997. She had been reverted vide order dated 16.12.2003**



to her initial post i.e. Senior Scientific Research Assistant, which order was successfully challenged in O.A. No. 294 of 2003 decided on 1<sup>st</sup> April 2004 and the order of reversion was quashed and set aside.

2. Writ Petition (c) No. 5758/2004 was preferred by Union of India before Hon'ble Gauhati High Court, which was dismissed vide judgment & order dated 13<sup>th</sup> September 2005. Thereafter, vide order dated 31<sup>st</sup> October 2005/2<sup>nd</sup> November 2005 (Annexure - 7), pursuant to aforesaid orders; Applicant was again promoted to the post of JSO (Group - 'B') on purely adhoc basis and was also required to submit assumption report. This is the source of controversy. Thereafter, Applicant submitted her representation on 08.08.2006 which have been rejected by Respondent No.4 vide order dated 23.10.2006. Said order had been challenged vide O.A. No. 61 of 2007, which was disposed of vide order dated 22<sup>nd</sup> November 2007.

3. This Tribunal noticed in Contempt Petition No. 31 of 2004, Respondent's statement to the effect that pursuant to interim order dated 26<sup>th</sup> December 2003 in O.A. No. 294 of 2003 *"the applicant continues to occupy the post of JSO."* However, disposing of said O.A., Applicant was granted liberty to make representation with all details as well as requiring the Respondents to consider the same by passing reasoned orders. Review Application No. 5/2007 preferred in O.A. No. 61 of 2007, was dismissed vide order dated 17<sup>th</sup> September 2008 granting liberty to Applicant to put up her grievance in writing by taking into consideration all materials/points including the stand taken by the Railways in aforementioned C.P.

4. Pursuant thereto, Applicant once again made a representation on 01.10.2008 which had been rejected once again

vide order dated 12.12.2008. The Applicant, by present O.A. challenges orders dated 31<sup>st</sup> October 2005, 23.10.2006 and 12.12.2008. Vide later two orders/communications, her representation had been rejected.

5. Sole issue which basically arises for consideration is whether the Applicant is entitled to arrears of pay and allowances for the post of JSO from 16.12.2003 till 31<sup>st</sup> October 2005 or not. As per communication dated 23.10.2006 and 12.12.2008, Applicant has been denied pay and allowances for the period in question on the ground that no administrative order was issued empowering her to discharge duties of JSO.

6. Mr. A. Sarma, learned counsel for Applicant strenuously urged that once the order of reversion has been quashed and set aside by this Tribunal, which stood upheld by the Hon'ble High Court, and the fact that the Applicant, according to Respondent's own statement, continued to work and discharge functions & duties as JSO pursuant to interim order passed by this Tribunal in O.A. No. 294 of 2003, there remained no scope either to issue fresh order of promotion as well as to deny her pay and allowances, particularly when it is the own case of Respondents that in terms of interim order passed by this Tribunal on 26.12.2003 Applicant continued to discharge the function of the post in question and continued "to occupy the post of JSO".

7. The Respondents, by filing their reply, have virtually reiterated as what have been communicated and conveyed to her vide communications dated 23.10.2006 and 12.12.2008, besides the order dated 31<sup>st</sup> October 2005.

8. We have heard Mr. A. Sarma, learned counsel for Applicant and Dr. M.C. Sarma, learned Standing Counsel for Respondents, perused the pleadings and other materials placed on record.

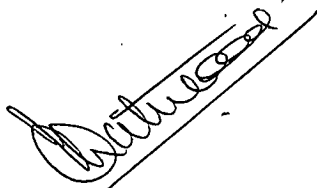
9. It is unfortunate that the Applicant has been coming to this Tribunal virtually for fifth rounds of litigation when as per Respondent's own understanding and in terms of interim order passed by this Tribunal passed on 26.12.2003, Applicant continued to occupy the post of JSO without pay and allowances of the said post. We may note that the aforesaid aspect had been noticed by this Tribunal while disposing of O.A. No. 61 of 2007 as well as other proceedings including C.P. When an order of reversion was quashed by court of law, the position as existed prior to the said order has to be restored. In other words, Status—quo ante has to be maintained for all purpose and it cannot be tinkered with. Respondents were not justified to either issue a fresh order of promotion or to deny her pay and allowances of the said post in question as the order of Tribunal was upheld by Hon'ble High Court & as such attained the finality.

10. Ultimately we hold that Respondents were not justified to issue order dated 31<sup>st</sup> October 2005 as well to deny her salary for the post in question, and the rejection of her representation vide communications dated 23.10.2006 and 12.12.2008 are also held to be illegal and unjust.

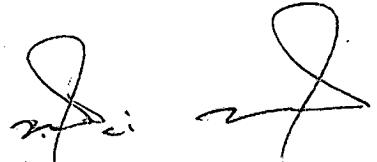
In conclusion, we quash the orders dated 31<sup>st</sup> October 2005, 23.10.2006 and 12.12.2008. Respondents are directed to release pay and allowances for the post of JSO from 16.12.2003 to

31.10.2005 within a period of two months from the date of receipt of this order.

In the result, O.A. is allowed. No costs.



(MADAN KUMAR CHATURVEDI)  
Member (A)



(MUKESH KUMAR GUPTA)  
Member (J)

PB

21

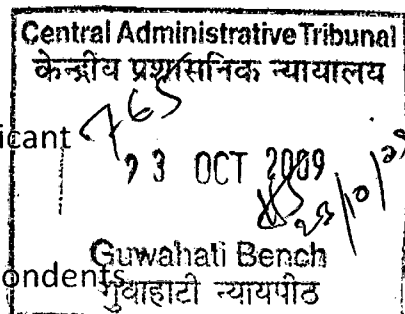
**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH::GUWAHATI**  
(An application U/s 19 of the Central Administrative Tribunals Act, 1985)

**CONSOLIDATED O.A. NO. 170 OF 2009**

Smti Arundhati Kalita  
-Versus-  
The Union of India & Ors

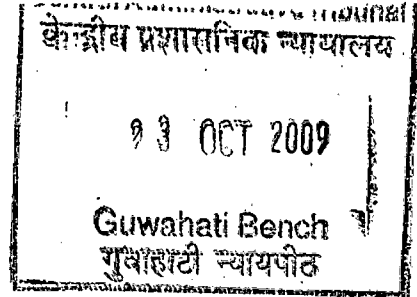
...Applicant

...Respondents



**SYNOPSIS**

The applicant has filed the consolidated O.A. in terms of the order dated 16-10-2009 passed by this Hon'ble Tribunal. The Applicant was initially appointed as Senior Scientific Research Assistant in N.F. Railway on 7-4-1997. Pursuant to creation of the post of J.S.O. as per order of the Railway Board, she was promoted to the post of J.S.O. on ad-hoc basis on 5-12-1997. However, the General Manager (P), by his order issued vide Memo No. E/283/82/Pt.XVII (O) dated 16-12-03, reverted the applicant back to the post of Sr. Scientific Research Assistant. Being aggrieved, the applicant preferred O.A.No. 294/2003 before this Hon'ble Tribunal. By an interim order dated 26-12-03, this Hon'ble Tribunal was pleased to direct the Respondents to maintain status-quo, and the applicant continued to discharge her duties as J.S.O. By order passed on 1-4-04, this Hon'ble Tribunal, while allowing the O.A. was pleased to set aside and quash the impugned order dated 16-12-03, inter-alia, observing that the General Manager cannot override the orders passed by the Railway Board and the applicant had the right to continue in the post of J.S.O. At the failure of the Respondents to comply with the aforesaid order dated 1-4-2004, the applicant preferred Contempt Petition No. 31/2004 before this Hon'ble Tribunal. In the meantime, the Respondents preferred WP(C) No. 5758/04 before the Hon'ble Gauhati High Court challenging the aforesaid order dated 1-4-04. The Hon'ble Gauhati High Court, vide Judgment & Order passed on 13-9-2005, dismissed the said writ petition, thereby upholding the order dated 1-4-04 passed by this Hon'ble Tribunal. The applicant thereafter, preferred a representation on 21-9-05 praying for release of



her arrear salaries w.e.f. 16-12-03. Meanwhile, the General Manager (P) issued the order No.32/2005 dated 31-10-05, re-promoting the applicant to the post of J.S.O., and, directed her to submit an assumption report in this regard. In response, the applicant submitted an application on 7-11-05, stating therein that as she was discharging her duties as J.S.O., in terms of her promotion to the said post vide order dated 5-12-1997 therefore submission of assumption report does not arise. As the Respondents did not consider the said application, the applicant preferred Contempt Petition No. 5/2006 before this Hon'ble Tribunal, and this Hon'ble Tribunal, vide order dated 1-8-06, granted liberty to the applicant to raise her grievances before the Respondents. Accordingly, on 8-8-2006, the applicant preferred a representation before the Respondents praying for release of her arrear salaries and other benefits as J.S.O. w.e.f. 16-12-2003, which was rejected by the Respondent No.4, vide his order dated 23-10-06. Being aggrieved, the applicant preferred O.A.No. 61/2007, which was disposed of on 22-11-2007 granting liberty to the applicant to submit a representation with all details.

Thereafter, the applicant preferred Review Application No. 5/2007, and, this Hon'ble Tribunal, while parting with the matter on 17-9-08, was pleased to grant liberty to the applicant to put up her grievances in writing to the Respondents. Further, direction was given to the Respondents to reconsider the grievances of the applicant. On 1-10-08, the applicant submitted a representation praying for releasing her arrear salaries and other benefits. However, the Respondent No. 3, vide his order dated 12-12-08, rejected the prayer holding that the materials stated therein were taken into consideration while issuing the order dated 23-10-06, thereby, giving finality to the issue. The applicant has therefore preferred the instant application for setting aside and quashing the Order No. 32/2005 dated 31-10-05 issued by the General Manager (P), re-promoting the applicant to the post of J.S.O. (Group-B)/HQ, Maligaon, as well as, the Order dated 23-10-06 issued by the Respondent No.4.

Filed by:

*Anupam Barua*  
Advocate  
23/10/09

• (An application U/s 19 of the Central Administrative Tribunals Act, 1985)

Central Administrative Tribunal  
केंद्रीय प्रशासनिक न्यायालय

23 OCT 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

...Applicant

**Guwahati Bench**  
গুৱাহাটী ন্যায়দণ্ড

...Respondents:

1. The applicant has filed the Consolidated O.A. in terms of the order dated 16-10-2009 passed by this Hon'ble Tribunal.

2. She was initially appointed as Senior Scientific Research Assistant in N.F. Railway on 7-4-1997 (ANNEXURE - I).

3. On 5-12-1997 she was promoted to the post of J.S.O. pursuant to creation of the post of J.S.O. as per order of the Railway Board(ANNEXURE - II).

4. The General Manager (P), by his order issued vide Memo No. E/283/82/Pt.XVII (O) dated 16-12-03, reverted the applicant back to the post of Sr. Scientific Research Assistant (ANNEXURE - III).

5. Being aggrieved, the applicant preferred O.A.No. 294/2003 before this Hon'ble Tribunal. By an interim order dated 26-12-03, this Hon'ble Tribunal was pleased to direct the Respondents to maintain status-quo (ANNEXURE - IV).

6. By order passed on 1-4-04, this Hon'ble Tribunal, while allowing the O.A. was pleased to set aside and quash the impugned order dated 16-12-03 (ANNEXURE - V).

7. At the refusal of the Respondents to comply with the said order dated 1-4-2004, the applicant preferred Contempt Petition No. 31/2004 before this Hon'ble Tribunal.

8. The Respondents preferred WP(C) No. 5758/04 before the Hon'ble Gauhati High Court challenging the aforesaid order dated 1-4-04.

9. The Hon'ble Gauhati High Court, vide Judgment & Order passed on

13-9-2005, dismissed the said writ petition, thereby upholding the order dated 1-4-04 passed by this Hon'ble Tribunal in O.A. No. 294/03 (ANNEXURE - VI).

10. The applicant preferred a representation on 21-9-05 praying for release of her arrear salaries w.e.f. 16-12-03 (ANNEXURE - VI A).

11. The General Manager (P) issued the order No.32/2005 dated 31-10-05, re-promoting the applicant to the post of J.S.O., and, directed her to submit an assumption report in this regard (ANNEXURE - VII).

12. The applicant submitted an application on 7-11-05, stating therein that as she was discharging her duties as J.S.O., in terms of her promotion to the said post vide order dated 5-12-1997 therefore submission of assumption report does not arise (ANNEXURE - VIII).

13. The applicant preferred Contempt Petition No. 5/2006 before this Hon'ble Tribunal, and, vide order dated 1-8-06, the applicant was granted liberty to raise her grievances before the Respondents (ANNEXURE - VIII A).

14. On 8-8-2006, the applicant preferred a representation praying for release of her arrear salaries and other benefits as J.S.O. w.e.f. 16-12-2003 (ANNEXURE - IX A).

15. The prayer was rejected by the Respondent No.4, vide his order dated 23-10-06 (ANNEXURE - IX). Being aggrieved, the applicant preferred O.A.No. 61/2007, which was disposed of on 22-11-2007 granting liberty to the applicant to submit a representation with all details (ANNEXURE - IX B).

16. Thereafter, the applicant preferred Review Application No. 5/2007, and, this Hon'ble Tribunal, by order dated 17-9-08, granted her liberty to submit her grievances in writing to the Respondents (ANNEXURE - IX D).

17. On 1-10-08, the applicant submitted a representation praying for releasing her arrear salaries and other benefits (ANNEXURE - X A).

18. The Respondent No. 3, vide his order dated 12-12-08, rejected the prayer holding that the order dated 23-10-06 had given finality to the issue (ANNEXURE - X).

Filed by:

*Sarpani Sarma*  
*Advocate*  
*23/10/09*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH::GUWAHATI

(An application U/s 19 of the Central Administrative Tribunals Act, 1985)

CONSOLIDATED O.A. NO. 170 OF 2009

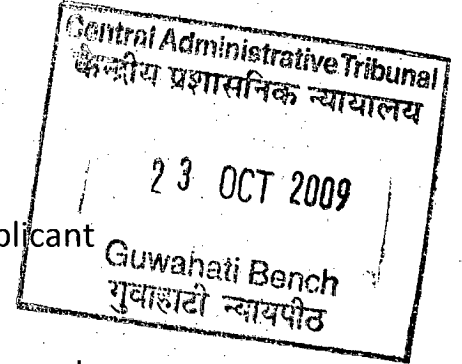
Smti Arundhati Kalita

-Versus-

The Union of India & Ors

...Applicant

...Respondents.



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*Anupam Sarma*

(Anupam Sarma)  
Advocate

Date: 23-10-2009

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

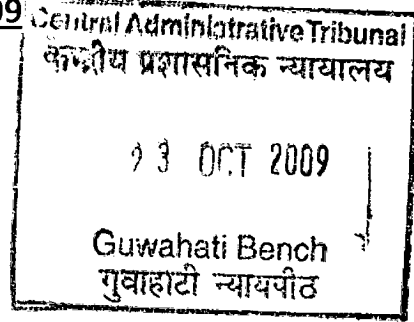
GUWAHATI BENCH::GUWAHATI

(An application U/s 19 of the Central Administrative Tribunals Act, 1985)

Filed By:

Ampan Janna  
Delhi  
23/10/09

CONSOLIDATED O.A. NO. 170 OF 2009



Smti Arundhati Kalita,  
W/o Sri Arup Kumar Goswami,  
Railway Qr. No. 167/B  
East Maligaon, Guwahati-11.

...Applicant.

-Versus-

1. The Union of India,  
Represented by the Secretary,  
Ministry of Railway, Govt. of India,  
New Delhi - 1.
2. The Chairman, Railway Board,  
Rail Bhawan, New Delhi.
3. The General Manager (P)  
N.F. Railway Maligaon, Guwahati-11.
4. The Deputy Chief Personal Officer (Gaz),  
Office of the General Manager (Personnel),  
N.F. Railway, Maligaon, Guwahati- 11.

...Respondents.

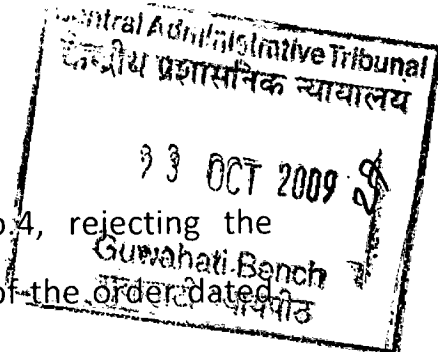
DETAILS OF THE APPLICATION

1. CAUSE OF ACTION FOR THE INSTANT APPLICATION:

The instant application has been preferred against:

- i) Order No. 32/2005 dated 31-10-05 issued by the General Manager (P), promoting the applicant to the post of J.S.O. (Group-B)/HQ, Maligaon.

Arundhati Kalita



ii) Order dated 23-10-06 issued by the Respondent No.4, rejecting the representation of the applicant submitted on 8-8-06 in terms of the order dated 1-8-06 passed by this Hon'ble Tribunal in C.P.No. 5/2006.

iii) Order dated 12-12-08 issued by the General Manager, N.F. Railway, Maligaon, i.e. the Respondent No. 3, rejecting the representation of the applicant submitted on 1-10-08 for arrear salaries and other benefits w.e.f. 16-12-03, in terms of the order dated 17-9-08 passed by this Hon'ble Tribunal in R.A.No. 5/2007.

*Adalah naik*

## 2. JURISDICTION OF THE TRIBUNAL:

The subject matter of the instant application has arisen at Guwahati, and, is well within the ordinary jurisdiction of this Hon'ble Tribunal.

## 3. LIMITATION:

The instant application is not time barred, and, has been preferred within the statutory period of limitation as per the provisions laid down by Sec 21 of the Administrative Tribunals Act.

## 4. FACTS OF THE CASE:

4.1 That the applicant is a citizen of India, presently residing at Railway Quarter No. 167/B, East Maligaon, Guwahati-11, Kamrup, Assam. She is, therefore, entitled to all the rights and privileges, as guaranteed under the Constitution of India, and, the laws framed there under, including the right to prefer the instant application before this Hon'ble Tribunal.

4.2 That on 7-4-1997, the applicant was appointed as Senior Scientific Research Assistant by the N.F. Railways. Pursuant to the creation of the post of J.S.O. as per order of the Railway Board, she was promoted to the post of J.S.O. on ad-hoc basis on 5-12-1997 and continued to serve therein to the satisfaction of all concerned. However, the General Manager (P), by his order issued vide Memo No. E/283/82/Pt.XVII (O) dated 16-12-03, reverted the applicant back to the post of Sr. Scientific Research Assistant.

Copies of the orders dated 7-4-1997, 5-12-97 and 16-12-03 are annexed herewith and marked as ANNEXURES – I, II & III, respectively.

4.3 That being aggrieved, the applicant preferred O.A. No. 294/2003 before this Hon'ble Tribunal. By an interim order dated 26-12-03, this Hon'ble Tribunal was pleased to direct the Respondents to maintain status-quo, and the applicant continued to discharge her duties as J.S.O. Finally, the Hon'ble Tribunal, vide an order passed on 1-4-04, was pleased to allow the O.A. by setting aside and quashing the impugned order dated 16-12-03, inter-alia, holding that the order of reversion was passed in an arbitrary manner as the post of J.S.O. was still in existence pursuant to its creation as per order of the Railway Board which was still in force. It was further held that the General Manager cannot override the orders passed by the Railway Board and the applicant had the right to continue in the post of J.S.O.

Copies of the orders dated 26-12-03 and 1-4-04 passed by this Hon'ble Tribunal are annexed herewith and marked as ANNEXURES – IV & V, respectively.

4.4. That, as the Respondents failed to comply with the aforesaid order dated 1-4-2004, the applicant preferred Contempt Petition No. 31/2004 before this Hon'ble Tribunal and, show-cause notices were issued upon the respondents.

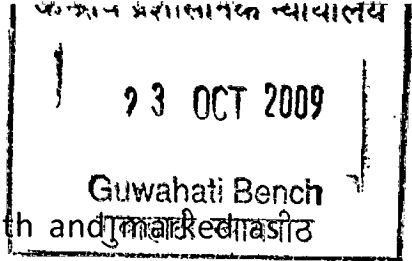
4.5 That, in the meantime, the Respondents filed WP(C) No. 5758/04 before the Hon'ble Gauhati High Court challenging the aforesaid order dated 1-4-04 passed by this Hon'ble Tribunal in O.A. No. 294/03. The Division Bench of the Hon'ble Gauhati High Court, vide Judgment & Order passed on 13-9-2005, dismissed the said writ petition, thereby upholding the order dated 1-4-04 passed by this Hon'ble Tribunal in O.A. No. 294/03.

A copy of the order dated 13-9-2005 passed by the Hon'ble Gauhati High Court is annexed herewith and marked as ANNEXURE - VI.

4.6 That, pursuant to the Hon'ble High Court's order dated 13-9-05, the applicant preferred a representation before the Respondents on 21-9-05 praying for release of her arrear salaries w.e.f. 16-12-03.

A copy of the representation dated 21-9-05 is annexed herewith and marked as ANNEXURE – VI(A)

4.7 That, meanwhile, the Respondent No. 3, i.e., the General Manager (P) issued his office order No.32/2005 dtd. 31-10-05, re-promoting the applicant to the post of J.S.O. (Group-B)/HQ, Maligaon. By the said order, the applicant was directed to submit an assumption report in this regard.



A copy of the order dated 31-10-05 is annexed herewith and marked as

ANNEXURE - VII.

4.8 That, in response to the aforesaid order dated 31-10-05, the applicant submitted an application on 7-11-05, inter-alia stating therein that since she was discharging her duties as J.S.O., pursuant to her promotion to the said post vide order dated 5-12-1997, therefore, submission of assumption report does not arise. She further stated that her promotion as J.S.O. was upheld by this Hon'ble Tribunal vide order dated 1-4-2004, as well as by the Hon'ble Gauhati High Court vide order dated 13-9-05 passed in WP(C) No. 5758/04.

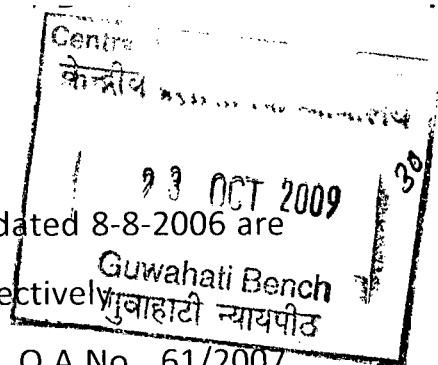
A copy of the application dated 7-11-05 is annexed herewith and marked as ANNEXURE - VIII.

4.9 That, as the Respondents did not consider her application dated 7-11-05, the applicant preferred Contempt Petition No. 5/2006 before this Hon'ble Tribunal, and this Hon'ble Tribunal, vide order dated 1-8-06, granted liberty to the applicant to raise her grievances before the Respondents.

A copy of the order dated 1-8-06 is annexed herewith and marked as ANNEXURE - VIII(A).

4.10. That, accordingly, on 8-8-2006, the applicant preferred a representation before the Respondents praying for release of her arrear salaries and other benefits as J.S.O. w.e.f. 16-12-2003. The Respondent No.4, vide his order dated 23-10-06, while rejecting the prayer of the applicant held that it is not correct that the applicant was rendering services as JSO in terms of this Hon'ble Tribunal's order dated 1-4-04, in view of the fact that the Respondents had preferred WP(C) No. 5758/2004, challenging the aforesaid order dated 1-4-04 passed by this Hon'ble Tribunal, and that the Hon'ble Gauhati High Court disposed of the said writ petition on 13-9-05. According to the said Respondent, the question of the applicant continuing and rendering duty as JSO w.e.f. 16-12-03 did not arise. He further observed that until the order promoting the applicant to the post of JSO was issued, she could not have performed the duty as JSO. In addition, the said respondent also stated that the official correspondences addressed to the applicant in respect of her posting as JSO were inadvertent and unintentional, in as much as she was already reverted to the post of Sr.SRA in terms of order dated 16-12-03.

Copies of the order dated 23-10-06 and representation dated 8-8-2006 are annexed herewith and marked as ANNEXURES – IX & IX(A), respectively.



4.11. That, being aggrieved, the applicant preferred O.A.No. 61/2007 before this Hon'ble Tribunal, which was disposed of on 22-11-2007 granting liberty to the applicant to submit representation with all details before the Respondents. The Hon'ble Tribunal also directed the Respondents to pass reasoned order on such representation of the applicant within 3 months from the date of submission of the representation.

A copy of the order dated 22-11-2007 is annexed herewith and marked as ANNEXURE – IX (B).

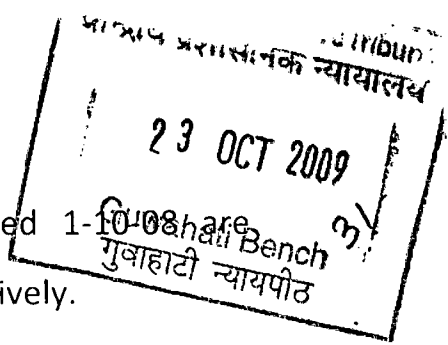
4.12. That, thereafter, the applicant preferred Review Application No. 5/2007 seeking review of the order dated 22-11-07 passed in O.A.No. 61/2007, and, this Hon'ble Tribunal, while parting with the matter on 17-9-08, was pleased to grant liberty to the applicant to put up her grievances in writing to the Respondents. Further, direction was given to the Respondents to reconsider the grievances of the applicant by taking in to consideration all materials/points; including the point that the Counsel for the Railways, on 17-2-05, conceded that the Applicant continued to occupy the post of JSO pursuant to the interim order dated 26-12-03 passed in O.A.No. 294/2003.

Copies of the order dated 17-2-05 passed in O.A. No. 294/03 and the order dated 17-09-08 passed in Review Application No. 5/2007 arising out of O.A. No. 61/2007 are annexed herewith and marked as ANNEXURES – IX (C) & IX (D), respectively.

4.13. That, accordingly, on 1-10-08, the applicant submitted a representation before the Respondents praying for releasing arrear salaries and other benefits to which she is entitled. However, the Respondent No. 3, vide his order dated 12-12-08, rejected the prayer holding that the materials stated therein were taken into consideration while issuing the order dated 23-10-06, thereby, giving finality to the issue. In addition, it is also stated that "the interim order dated 26-12-03 passed in O.A.No. 294/2003 was merged in subsequent interim orders followed by the final order". He categorically stated that as no administrative order was issued, the applicant is not entitled to any arrear benefit as JSO.

*Amalhati Unit*

Copies of the order 12-12-08 and representation dated 1-10-08 are annexed herewith and marked as ANNEXURES – X & X (A), respectively.



As such, having no other adequate or alternate remedy, the applicant has preferred the instant application.

5. GROUND FOR MAKING THE APPLICATION:

The applicant has preferred the instant application on the following amongst other grounds:

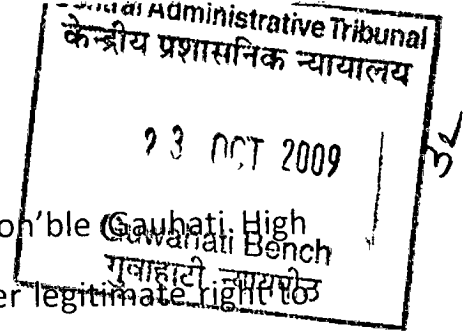
5.1. That, pursuant to the judgment and order dated 1-4-2004 passed in O.A.No. 294/2003 by this Hon'ble Tribunal, setting aside and quashing the order of reversion of the applicant dated 16-12-03, the initial order of promotion of the applicant to the post of JSO dated 5-12-1997 stands automatically revived by operation of law. As such, the impugned order dated 31-10-05 re-promoting the applicant amounts to abuse of the process of law and is liable to be set aside and quashed.

5.2. That, in terms of the order of status-quo dated 26-12-03 passed in O.A. No. 294/2003, the applicant continued to discharge her duties as JSO and the said order attained finality vide the Judgment & Order dated 1-4-2004, and, therefore, the applicant is entitled to the arrear salaries w.e.f. 16-12-2003, i.e. from the date of the impugned order of reversion.

5.3. That, the contention of the respondents in the impugned order dated 23-10-06, in response to the representation dated 8-8-06 preferred by the applicant, that as the Hon'ble Gauhati High Court disposed of WP(C) No. 5758/04 on 13-9-05, therefore, the continuation of the applicant as JSO did not arise, is high-handed and contemptuous, as the order dated 1-4-04 passed by this Hon'ble Tribunal in O.A.No. 294/2003, was upheld by the Hon'ble Gauhati High Court, and, as such, the same is liable to be set aside and quashed.

5.4. That, in issuing the impugned order dated 12-12-08, the General Manager, N.F. Railway, Maligaon, i.e. the Respondent No. 3, while rejecting the representation of the applicant submitted on 1-10-08, has observed that the materials in the said representation were considered and given finality vide the impugned order dated 23-10-06. In the said order, it is also contended that the interim order dated 26-12-03 passed by this Hon'ble Tribunal in O.A.No. 294/2003 "was merged in subsequent interim orders followed by the final order". By such statements, the Respondent No.3 has gone to the extent of superseding the

*Adalat. Khat*



authority of this Hon'ble Tribunal as well as that of the Hon'ble Gauhati High Court with the sole intention of depriving the applicant of her legitimate right to the arrear salary and other benefits. As such, appropriate orders may be passed by this Hon'ble Tribunal as regards the conduct and attitude of the said Respondent, and to set aside and quash the impugned order dated 12-12-2008.

5.5. That, the Division Bench of the Hon'ble Gauhati High Court, vide its order dated 13-9-2005 Passed in WP(C) 5758/2004, has categorically observed that the applicant had been empanelled for promotion to the post of JSO and that there is no indication in the order of promotion dated 5-12-1997 that the said promotion was on temporary basis and could be withdrawn at any point of time. From the Hon'ble Court's order, it can be presumed that the promotion of the applicant was without any pre-conditions. It was also held that the sanction of the Railway Board subsisted at the relevant point of time for promotion of the applicant to the post of JSO. In view of the Hon'ble High Court's order, the impugned order of re-promotion dated 31-10-05 is erroneous and liable to be set aside and quashed, thereby, giving the arrear salary and other benefits to the applicant as prayed for about.

5.6 That, the Hon'ble High Court, vide its order dated 13-9-2005 passed in WP(C) 5758/2004, has upheld the order dated 1-4-2004 passed by this Hon'ble Tribunal in O.A.No. 294/2003, that as the post of JSO had been created by the Railway Board, therefore, the General Manager, NF Railway had no authority to override the arrangement in issuing the order of reversion dated 16-12-2003. Viewed from this perspective, the impugned orders dated 23-10-06 and 12-12-08 are unsustainable and are liable to be set aside and quashed.

#### 6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the avenues, and there is no other alternative and efficacious remedy available to him.

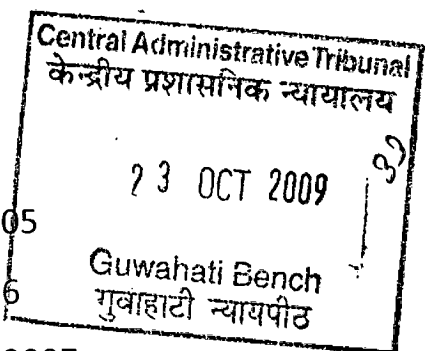
#### 7. MATTERS PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the applicant had approached this Hon'ble Tribunal, previously, and the particulars thereof are as follows:

<u>Sl. No.</u>	<u>Nature of Petition</u>	<u>Date of Disposal</u>
i.	OA No. 294/2003	1-4-2004



ii.	C.P. No. 31/2004	17-2-2005
iii.	C.P. No. 5/2006	1-8-2006
iv.	OA No. 61/2007	22-11-02007
v.	RA No. 5/2007 (in OA 61/2007)	17-9-08



In addition to the above, against the order dated 1-4-2004 passed by this Hon'ble Tribunal in OA 294/2003, the Respondents preferred WP(C) No. 5758/2004 before the Hon'ble Gauhati High Court, which was dismissed on 13-9-05.

Except as stated above, there is no other application, writ petition or suit regarding the grievances in respect of which this application is made, is pending before any Court or any other Bench of the Tribunal or any other authority.

#### 8. RELIEF SOUGHT FOR

8.1 The applicant most respectfully prays that this application maybe admitted, and, the records of the case be called for.

8.2 Notices be issued to the respondents to show cause.

8.3 To set aside and quash the impugned Order No. 32/2005 dated 31-10-05 issued by the General Manager (P), re-promoting the applicant to the post of J.S.O.

8.4 To set aside and quash the impugned Order dated 23-10-06 issued by the Respondent No.4, rejecting the representation of the applicant submitted on 8-8-06.

8.5 To set aside and quash the impugned Order dated 12-12-08 issued by the the Respondent No. 3, rejecting the representation of the applicant submitted on 1-10-08.

8.6 Order/orders to the effect that the applicant be deemed to have continued in the post of JSO from 5-12-97 including the period w.e.f. 16-12-03 to 31-10-05.

8.7 Direction to the respondents to give the arrear salary and other benefits to the applicant w.e.f. 16-12-03 to 31-10-05 forthwith.

8.8 Or may pass order for any other relief to which the applicant is found entitled to under the facts and circumstances of the case.

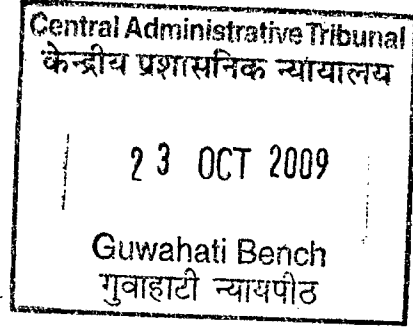
#### 9. INTERIM ORDER PRAYED FOR

In the interim, Your Lordship may be pleased to direct the respondents to give the arrear salary and other benefits to the applicant w.e.f. 16-12-03 to 31-10-05 forthwith.

10. This Application is filed through Advocate.

11. PARTICULARS OF I.P.O.

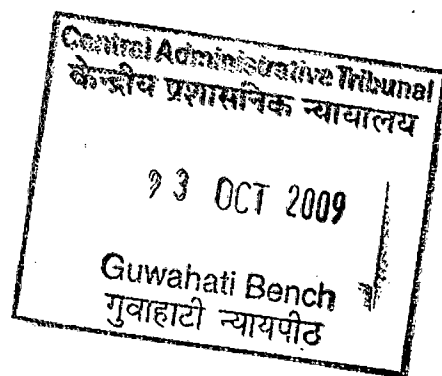
I.P.O NO :  
DATE of issue :  
Issued from : Guwahati, G.P.O.  
Payable at : Guwahati



12. LIST OF ENCLOSURES: As stated in the Index

....Verification

*Adalat Kalit*



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

I, Smti Arundhati Kalita, W/o Sri Arup Kumar Goswami, aged about 43 years, presently residing at Railway Qr. No. 167/B East Maligaon, Guwahati-11, Kamrup, Assam, do hereby solemnly affirm and declare that the statements made in the application in paragraphs 1 to 7

are true to the best of my knowledge and belief, and those made in paragraphs X X X being matter of records, are true to my knowledge and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact of the case.

And I sign this verification on this 19<sup>th</sup> Day of October, 2009 at Guwahati.

*Arundhati Kalita*  
(DEPONENT)

## NORTHEAST FRONTIER RAILWAY

OFFICE ORDER

Smti Arundhati Kalita on being found selected for the post of Sr. Scientific Research Asstt. in scale Rs. 1640-2900/-, whose case for appointment has been forwarded by SPO/HQ vide his office Note No.E/227/MISC/Pt.II(Rectt.) dated 30-3-94 and who has been found fit for appointment in B/One vide Sr. DMO/DM/CH/MLG's fit certificate No. 283 dt. 7-4-94 is hereby temporarily appointed as Sr. Scientific Research Asstt. on pay Rs.1640/- plus usual allowances etc. in scale Rs. 1640-2900/- against the permanent post created vide GM(P)'s memorandum No. R/41/195 Pt.III(T) dt. 22-6-95 and posted in Psycho Technical Cell under Chief Safety Officer at Maligaon w.e.f. the forenoon of 7-4-94.

She has to undergo a successful training in Psycho Technical Cell in the RDSO/Lucknow.

Other terms & conditions of her appointment shall remain same as envisaged in CPO(Rectt.)'s letter No. E/227/8/19(T) dated 31-3-94.

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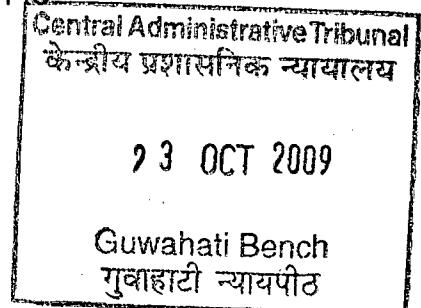
Dy. Chief Operational Manager (Planning)

No.E/285/59 Pt.IV(T)

Dated 7-4-94

Copy forwarded for information & necessary action to:-

- 1) FA&CAO/MLG.
- 2) CSO/MLG.
- 3) Dy.COM (Safety)/MLG.
- 4) CPO/Rectt.(SPO/HQ)/MLG.
- 5) OS/T(OPTG)/COM's office/MLG.
- 6) TI/Safety (Shri V I Jacob).
- 7) Smt. B. Bokolial, Clerk?ET/Bill (duplicate).
- 8) Smt. Arundhati Kalita, at office.



Sd/- illegible

For General Manager (P)/MLG

*certified to be  
true copy.  
Sampurn Samra  
23/10/09*

1957, dated 3-1-58.

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

By Chief Operations Manager

NO. 14208/53 dt. 10/10

SECRET

Copy furnished for information & necessary action to:

- (1) PACING/HQ.  
(2) CSM/HQ.  
(3) Sr. CON (Security)/H.Q.  
(4) CSM/ASST. (INFO/HQ)/HQ.  
(5) CSM/ASST. (INFO/HQ)/HQ.  
(6) Sr. ASST. (Info/HQ)/HQ.  
(7) Sr. ASST. (Info/HQ)/HQ.  
(8) Sr. ASST. (Info/HQ)/HQ.

Lawyer General K. J. ...

certified to be  
true copy of  
Himpam Larua  
Devo Cale  
23/10/09

N. F. RAILWAY.  
OFFICE ORDER NO. 202/97(MECH)

Dt. 5.12.97 ANNEXURE--II

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

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

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

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

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

This issues with the approval of Competent Authority.

*M. Brahme*  
( M Brahme )  
Dy.CPO/G  
for General Manager(P)

No.E/41/120/29(0)

MLG, dt. 5.12.97

Copy forwarded for information & n/action to :-

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

*M. Brahme*  
for General Manager(P)

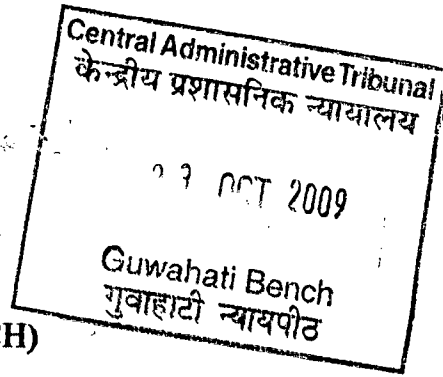
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*Certified to be  
true copy  
Anupam Jarma  
Advocate  
23/10/09*

(Typed Copy)

N. F. Railway

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



The following orders are issued with immediate effect: -

- 1) One regular Group 'B' post of AME of Mechanical Department which was variated for operation as AME (Safety) and subsequently as Jr. Scientific Officer vide GM(P)/MLG's Office Order No. 84/94(Traffic) dtd. 1/5-4-1994 and 202/97 (Mech) dtd. 5-12-1997 is hereby restored back to Mechanical Department with immediate effect.
- 2) As a consequence Smti. Arundhati Kalita, Sr. Scientific Research Assistant in Scale Rs. 1640-2900/5500-9000, who was promoted to the post of JSO (Gr.-B) purely on ad-hoc basis vide this Office Order dated 05-12-1997, is hereby reverted to her substantive post of Sr. Scientific Research Assistant in Scale Rs. 5500-9000/- under CSO/MLG with immediate effect.

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

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

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

Maligaon dated 16-12-2003

Copy forwarded for information &amp; necessary action: -

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

Sd/-  
(P.K. Singh)  
Dy. Chief Personnel Officer (Gaz)  
For General Manager (P).

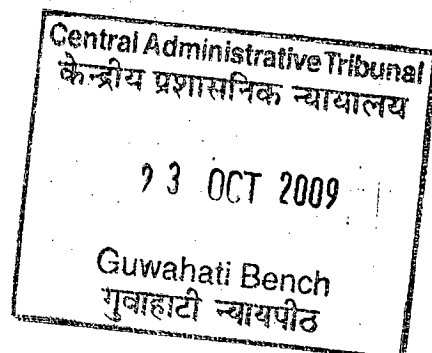
*certified to be  
true copy  
Anupam Kumar  
Advocate  
23/10/09*

FORM NO. 4  
(SEE RULE 42)

ANNEXURE-IV

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET



Original Application No:- 294/03

Misc Petition No: \_\_\_\_\_

Contempt Petition No: \_\_\_\_\_

Review Application No: \_\_\_\_\_

Name of the Appellant(s): Smt. Arundhati Kalita.

Name of the Respondent(s): UOI, Lons.

Advocate for the Appellant:- Mr B. Sarma

H. D. K. Kalita

Advocate for the Respondent:- Rly Counsel.

Notes of the Registry

date

Order of the Tribunal



26.12.2003 Present: Hon'ble Mr Justice B. Panigraha, Vice-Chairman  
Hon'ble Mr K.V. Prahaladan, Administrative Member.

Heard Mr B. Sarma, learned counsel for the applicant. Mr S. Sarma, learned counsel for the respondents, has submitted that he will take necessary instructions from his client within a reasonable time. Since the applicant was kept incharge on ad hoc basis in the post of Junior Scientific Officer, let the present status quo as on today continue till the next date.

Let four copies of the application be served upon the

certified to be true copy  
Advocate Sarma  
23/10/09



Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

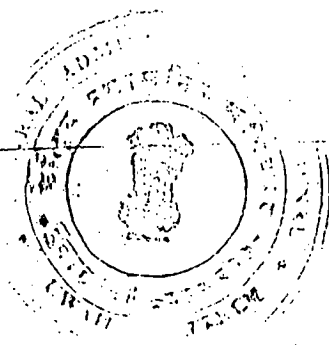
23-OCT-2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

O.A.No.294/2003

26.12.2003

learned counsel for the  
respondents in course of the day.  
The matter shall appear on  
27.1.2004 for hearing on  
admission.



Sd/ VICE-CHAIRMAN  
Sd/ MEMBER (A)

Certified to be true  
प्रमाणित प्रतिलिपि

*[Signature]*  
29/12/03  
Section Officer (J)  
C.A.T. GUWAHATI BENCH  
Guwahati 781005

## ANNEXURE-V

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 294 of 2003.

Date of Order : This the 1st Day of April, 2004.

The Hon'ble Shri Kuldip Singh, Judicial Member.

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

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

. . . Applicant.

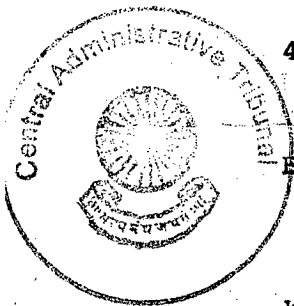
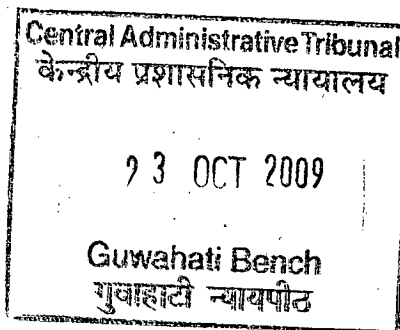
By Advocate Sri Bipul Sarma.

- Versus -

1. Union of India,  
through the General Manager,  
N.F.Railway, Maligaon,  
Guwahati-11.
2. General Manager (Personnel)  
N.F.Railway, Maligaon,  
Guwahati-11.
3. Deputy Chief Personnel Officer,  
(Gaz), Office of the General Manager,  
Personnel, N.F.Railway,  
Maligaon, Guwahati-11.
4. Dy. Director, Estt. Gaz (Cadre),  
Railway Board, Rail Bhawan,  
New Delhi.

. . . Respondents.

By Advocate (None present for the respondents)



ORDER

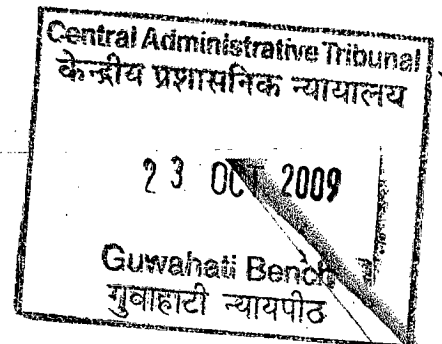
KULDIP SINGH, MEMBER (J)

Heard Sri B. Sarma, learned counsel for the applicant.

None present for the respondents. However, we proceed to hear the matter under the provision of Rule 15 of the Central Administrative Tribunal (Procedure) Rules 1987.

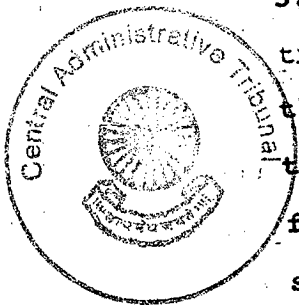
2. This application has been filed challenging the arbitrary reversion of the applicant from the post of Junior Scientific Officer (Gr.B) which she was holding purely on ad hoc basis to the post of Senior Scientific Research Assistant i.e. her substantive post. The applicant submitted that vide order dated 24.2.93 issued by the Railway Board a Junior Scale Group B post was created which was subsequently designated as Junior Scientific Officer. This <sup>could be</sup> may be filled up by transferring a regular post from

*certified to be true copy*  
*Saurabh Sarma*  
*Advocate*  
*23/10/09*



Traffic or Mechanical or Personnel Branch of their own Railway. The applicant belongs to Traffic branch and was <sup>thus</sup> posted to the post of Junior Scientific Officer. The applicant continued to work but suddenly the <sup>impugned</sup> order dated 16.12.2003 was issued by the General Manager(P), N.F.Railway, wherein it was mentioned that the post of JSO is restored back to Mechanical Department with ~~an~~ immediate effect and as a consequence thereof the applicant who was posted as JSO was ordered to be reverted to her substantive post of Sr. Scientific Research Assistant. The applicant thereafter filed an O.A. and this Tribunal vide order dated 26.12.2003 directed to maintain status quo. Notice was issued to the respondents.

3. The respondents filed their written statement contesting the case. In the affidavit the respondents pleaded that the post of JSO was created for operation in the psycho-technical cell by variation of a post of equivalent rank from the mechanical department and the said order also stated that the applicant who was working as Sr. Scientific Research Assistant was empanelled for promotion to the post of JSO Gr.B purely on ad hoc basis with the stipulation that this would not confer her any claims for regular promotion to Gr.B service and seniority. By the impugned order dated 16.12.2003 the post of JSO was restored back from the office of the Chief Safety Officer, N.F.Railway to the Mechanical Engineering department to which the post belonged. Consequently the order of reversion has been passed. Thus the respondents in the O.A. has taken a plea that the post of JSO is no more available to the applicant since the post has been restored to the mechanical department. Keeping in view the various considerations of administrative convenience the decision was taken to restore the post.



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Guwahati Bench  
गुवाहाटी न्यायापीठ

4. We have heard the learned counsel for the applicant at length. We find from the record that there was no order of abolition of the post of JSO. The post has been created by order dated issued by the Railway Board which is still in force and the General Manager cannot overriding the orders passed by the Railway Board. <sup>Abolish the post or refer it to Medical Branch.</sup> Though the respondents have denied the allegation that this order has been passed to accommodate some other person from Personnel department but the fact remains that the post has not yet been abolished by the Railway Board and continued till today. This fact has been established by letter dated 22.4.96 (Annexure-G) written by the Executive Director Traffic Research (Psych.), wherein it has been clearly mentioned that as regards post of JSO is concerned, the N.F. Railway may fill up the post on local basis from its own sources and the present arrangement of utilising a Calcutta based JSO is dispensed with.

Thus we find that the order of reverting the applicant to the post of Sr. Scientific Research Assistant has been passed in an arbitrary manner as the ~~post~~ post of JSO is still exist and has not been abolished and the applicant has a right to be continued to the post of JSO though purely on ad hoc basis. <sup>Since the houses to fill the post include the Traffic department to which the applicant belongs to</sup> Accordingly we allow the O.A. and quash and set aside

the order dated 16.12.2003 reverting back the applicant to the post of Sr. Scientific Research Assistant. <sup>on the same terms and condition as on Ad hoc basis</sup> No order as to costs.

Sd/MEMBER(J)  
Sd/MEMBER(Adm)

Certified to be true copy  
प्रमाणित प्रतिलिपि

Section Officer (J)  
C.A.T. GUWAHATI BENCH  
Guwahati-781005

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प्रतिवेदन के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फॉलोवो की अपेक्षित संख्या मूल्यांकन करने की तिथि तारीख Date fixed for notifying the requisite number of stamps and folios.	स्टाम्प और फॉलोवो देने की तारीख Date of delivery of the requisite stamps and folios.	कॉपी तैयार करने की तारीख Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देन की तारीख Date of making over the copy to the applicant.
17/9/05	17/9/05	17/9/05	17/9/05	17/9/05

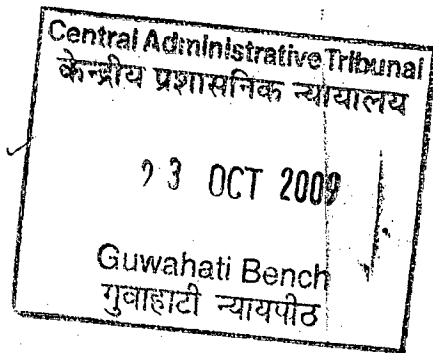
THE GAUHATI HIGH COURT

ANNEXURE--VI

(THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR:  
TRIPURA: MIZORAM AND ARUNACHAL PRADESH)

WP(C) 5758/04

1. Union of India,  
Represented by the General Manager, NF Railway,  
Maligaon, Guwahati.
2. The General Manager,  
NF Railway, Maligaon, Guwahati.
3. The Dy. General Manager (P),  
NF Railway, Maligaon, Guwahati.
4. The Dy. Director Estt. Gaz (Cadre),  
Railway Board, Rail Bhawan, New Delhi.



.... Petitioners

Versus

Smt. Arundhanti Kalita,  
W/o Shri Arup Kr. Goswami,  
Railway Quarter No. 167/B,  
East Maligaon, Guwahati-11, Assam.

...Respondent

BEFORE

THE HON'BLE MR. JUSTICE AH SAIKIA  
THE HON'BLE MR. JUSTICE AMITAVA ROY

For the petitioners: - Mr. S. Sharma,  
Ms. U Das, Standing Counsel, Railways.

For the respondent:- Mr. GK Bhattacharjee, Sr. Advocate.  
Mr. B. Choudhury, Advocate.

Date of hearing: 13/9/2005

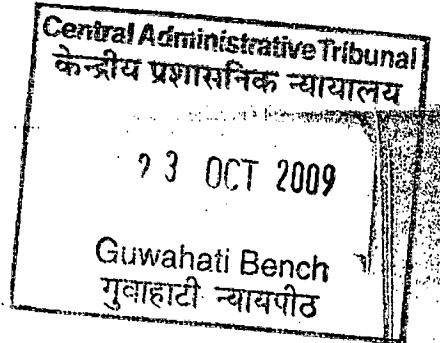
Date of Judgment: 13/9/2005

JUDGMENT & ORDER(ORAL)

Amitava Roy, J

The judgment and order dated 1/4/2004 passed by the  
learned Central Administrative Tribunal, Guwahati Bench, (hereafter

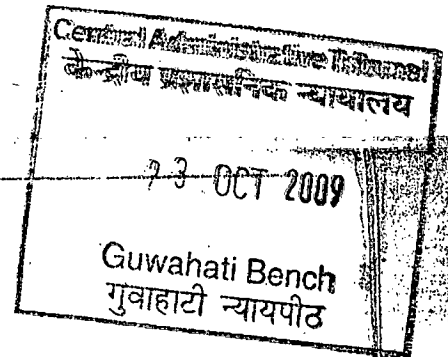
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true copy.  
Anupam Jarma  
Advocate  
23/10/09



referred to as the Tribunal) quashing the order dated 16/12/2003 issued by the General Manager (P), NF Railway has been called into question in this proceeding under Article 226 of the Constitution of India.

2. We have heard Mr. S Sharma, learned Standing Counsel, Railways for the petitioners and Mr. GK Bhattacharjee, Sr. Advocate assisted by Mr. B Choudhury, Advocate for the respondent/applicant.

3. A brief outline of the pleaded cases of the parties has to be made at the outset. The respondent/applicant approached the learned Tribunal being aggrieved by her reversion from the post of Junior Scientific Officer (Group 'B') held by her on adhoc basis to her substantive post of Sr. Scientific Research Assistant by the order dated 16/12/2003 impugned before the learned Tribunal. She had joined the services under the Railways on 7/4/1997 as Sr. Scientific Research Assistant in the office of the Chief Scientific Officer in the Operation Department, NF Railway. The Ministry of Railways, Government of India, in the year 1993 decided and recommended creation of Psycho-Technical Cell in the Zonal Railways with a view to conduct psychological tests of certain cadres of recruitment to effectively deal with accident exigencies. With that end in view, the Railway Board decided to create posts in the Zonal Railways and for the purpose 7 posts of Jr. Scientific Officer were earmarked. In the letter dated 24/2/1993 to the said effect issued by the Deputy Director, Estt. Gaz. (Cadre), Railway, inter alia, the Central, the Northeast Frontier, and South Central Railways were permitted to find out the post of Junior Scientific Officer from the Traffic or Mechanical or Personnel Branch of their own Railways. This arrangement was also reflected in the letter dated 22/4/1996 issued by the Executive Director, Traffic Research (Psych.) of the Research and Designs and Standards Organisation, Ministry of Railways addressed to Chief Safety Officer, NF Railway, Guwahati. It was mentioned therein that the matter of identifying the post of Junior



Scientific Officer by the Zonal Railways from within their own resources from the Traffic, Mechanical or personnel Department was within their competence for which the sanction of the Board existed. It underlined that no further reference to the Board was necessary for the said purpose. It was further indicated that other Railways, which were required to take similar steps, had already complied with the Board's order as above.

4. A post of Assistant Mechanical Engineer in the Mechanical Engineering Department, NF Railway was thereafter identified to be designated as Junior Scientific Officer (Group B) in the operating department in which the respondent applicant was serving. Accordingly she on being empanelled for promotion to the said post on adhoc basis was appointed thereto on 5/12/1997. At the relevant time, the respondent applicant was holding the post of Sr. Scientific Research Assistant in the substantive capacity. While she was continuing as such the order of reversion was passed.

5. In the written statement filed by the respondent Railways, it was inter alia contended that the transfer of the post of Assistant Mechanical Engineer from the Mechanical Engineering Department to the Psycho Technical Cell where the respondent applicant was serving, on purely temporary basis and that her adhoc promotion to the said post was only a stop gap arrangement which did not confer any right on her. While acknowledging the arrangement reflected in the letter dated 24/2/1993 authorizing the Zonal Railways to make their own arrangement to identify the required posts of Junior Scientific Officer (Group 'B') from their branches, it was sought to be contended that the order of reversion was necessitated by administrative requirements and, therefore, was unassailable.

6. The learned Tribunal on a consideration of the pleadings of the parties and other materials on record held that as the post of Junior Scientific Officer (Group 'B') held by the respondent applicant

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Guwahati Bench  
गुवाहाटी न्यायपीठ

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had been created by the Railway Board, the General Manager, NF Railway, who passed the order of reversion, had no authority to override the arrangement and consequently her reversion was unsustainable in law. While coming to the said conclusion, the learned Tribunal noticed the letter dated 22/4/1996 referred to above and conclude that in the facts and circumstances of the case, the order of reversion was passed in arbitrary exercise of power. Having held that the post of Junior Scientific Officer (Group 'B') continues to exist, the reversion of the respondent applicant was declared as nonest in law and quashed.

7. Mr. Sharma has argued that the promotion/appointment of the respondent applicant to the post of Junior Scientific Officer (Group 'B') transferred from the Mechanical Department of the NF Railway being per se illegal for lack of necessary approval of the Railway Board, she had no subsisting right to continue therein and, therefore, the learned Tribunal erred in law and on facts in interfering with her reversion. The transfer of the post from the Mechanical Department was purely temporary and consequent upon the administrative necessity thereof in the parent department, the respondent applicant who was holding the same on purely adhoc basis had to be reverted as the necessary corollary. As her adhoc promotion to the post of Junior Scientific Officer (Group 'B') by the very nature thereof did not confer any right on her, the order of reversion on administrative demand ought not to have been interfered with. Mr. Sharma further argued that the adhoc promotion of the respondent applicant had been against the relevant recruitment Rules.

8. Mr. Bhattacharjee in reply has submitted that it being apparent from the contemporaneous records that the identification of the post of Junior Scientific Officer (Group 'B') in the Psycho Technical Cell where the respondent applicant is serving had been made with the approval of the Board and she having been promoted



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Guwahati Bench  
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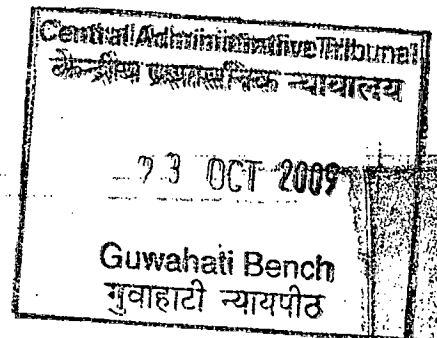
to the said post being one of the empanelled candidates therefor the order of reversion is per se illegal and, therefore, the learned Tribunal was perfectly justified in interfering therewith. According to him, the respondents having failed to plead want of Board's approval and violation of the recruitment rules in their written statement before the learned Tribunal, the contentions to the above effect ought not to be entertained by this Court. That the re-designation of the post brought from the Mechanical Engineering Department and adhoc promotion of the Respondent applicant had the approval of the Board, according to the learned Sr. Counsel is also borne out by the communication dated 10/2/2000, Annexure VII to the counter filed by the respondent applicant to the additional affidavit of the Railways and therefore no case having been made out for interference of the Court, the petition is liable to be dismissed.

GAUHAATI We have carefully considered the rival submissions. The authenticity of the communications dated 24/2/1993, 22/4/1996 and 10/2/2000 referred to in the above narration has not been disputed by the Railways and rightly so, being their own documents. The empowerment of the Central, Northeast Frontier and South Central Railways to identify posts by transferring regular posts from Traffic or Mechanical or Personnel Branch of their own Railways and to designate those as Junior Scientific Officer as contained in the letter dated 24/2/1993, which forms the standing plank of the case of the respondent applicant in our view needs to be extracted for ready reference.

" Jr. Scale/Group

7 posts i.e.

2 posts for RDSO, 1 post each for CR, NE, SC and SE Railways. RDSO at present has 4 posts at HQS (Lucknow). 2 should be retained with RDSO and 2 should be transferred, one each to NE and

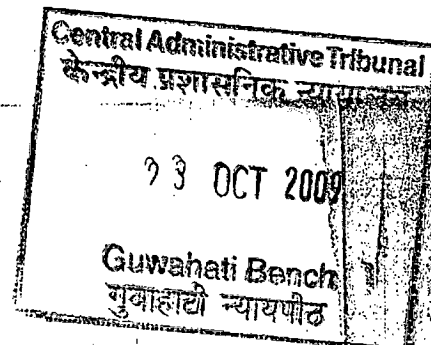


*SE Railways. The Central, Northeast Frontier and South Central Railways should find the post by transferring a regular post from Traffic or Mechanical or Personnel Branch of their own Railway. Personnel Branch of their own Railways should provide one post of Junior Scientific Officer by March 31, 1995). "*

10. The above quoted portion of the letter dated 24/2/2003 issued by the Railway Board makes it abundantly clear that the Railways referred to therein were authorized to identify posts from their branch to designate the same as Junior Scientific Officer to meet their administrative needs. No reservation as such is noticeable in such authorization. The letter dated 22/4/1996 is more categorical in its contents and tenor. It clearly discloses that in terms of the Board's sanction, the post of Junior Scientific Officer had to be allotted from the own resources of the Zonal Railways out of the cadres of Traffic, Mechanical or Personnel department to be identified as Group 'B' post. It is more than apparent therefrom that the Railways concerned were competent to do so for which the sanction of the Board subsisted. It is made clear therein that to effect the arrangement as indicated, no further reference to the Board was necessary and that other Railways similarly situated had in the meantime taken identical steps.

11. Obviously it was thereafter that by order dated 5/12/1997, the respondent applicant was promoted to the post of Junior Scientific Officer (Group 'B'), the post having been brought from the Mechanical department in conformity with the above authorization. The appointment order demonstrates that the respondent applicant had been empanelled for such promotion,

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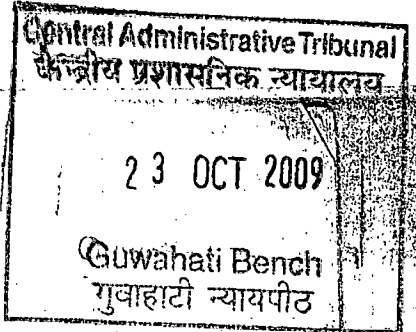


ad hoc though. There is no indication therein that the post against which the respondent applicant was promoted had been brought to the Psycho Technical Cell on temporary basis and that the same could be withdrawn at any point of time. In the letter dated 10/2/2000 issued by the Research Designs and Standards Organization, Govt. of India and forwarded to the General Managers (Safety) of all Railways, the above arrangement has been shown to be continuing.

12. On a joint reading of the communications referred to above, we are persuaded to hold that the arrangement of bringing the post of Assistant Mechanical Engineer from the Mechanical Department to the Psycho Technical Cell and providing ad hoc promotion to her was with the approval of the Board. Mr. Sharma has failed to bring to our notice any order of the Board rescinding the said arrangement or withdrawing its approval thereto.

13. The Railways in their written statement before the learned Tribunal had failed to take the plea that the respondent applicant's promotion to the post of Junior Scientific Research Assistant had been without the approval of the Board or that it was against the Recruitment Rules. There being no pleading to the above effect, we are not inclined to entertain the submissions bearing thereon. There being no indication in the order dated 5/12/1997 that the promotion of the respondent applicant was subject to the approval of the Board or that the post was liable to be withdrawn at any point of time, the contention to the said effect also does not appeal to us. On the other hand, the said order clearly indicates that the same had been issued with the approval of the competent authority.

14. It is a trite law that an order made by a public authority has to be construed on the basis of the contents thereof and cannot be allowed to be supplemented by additional pleadings.



15. On a consideration of the materials on record in their entirety we do not see any good or sufficient reason to interfere with the findings and/or conclusions of the learned Tribunal. There being no illegality or perversity in the decision making process and the deductions being based on the facts on record, no interference in exercise of power of judicial review is warranted.

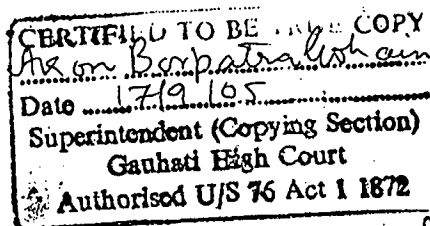
In course of the arguments, Mr. Sharma has informed this Court that as on date Recruitment Rules have not been framed though steps have been initiated for the said purpose. Be that as it may, in view of the determination on the issues raised before us, we do not find it to be a fit case to interfere with the conclusions recorded by the learned Tribunal. In view of the above, the petition being without merit fails and is, therefore, dismissed. No costs.

Sd/- Amitava Roy  
GAUHATI HIGH COURT AT GUWAHATI  
Judge

Sd/- A. H. Saikia  
Judge

P/No:- 40527

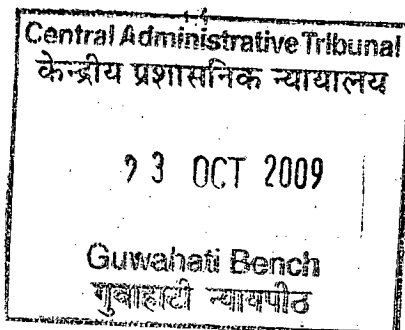
dttd 17/9/05



FAX - 1250 - 91. 0522 - 4456500

NO. T/2/48-P (part)  
To

The General Manager  
N.F. Railway, Maligaon  
Guwahati - 11



Date: 21/9/05

Sub: Appeal for payment of my salaries and other dues.

Ref: i) Order dt. 01.04.2004 passed by Hon'ble Central Administrative Tribunal, Guwahati Bench in O.A. 294 of 2003 (Arundhati Kalita -vs- Union of India & Ors ).

ii) Order dt. 13.09.2005 passed by Hon'ble Guwahati High Court in W.P.(C) 5758/04 (Union of India & Ors -vs- Arundhati Kalita).

Sir,

With honour and humble submission I beg to state that I joined N.F. Railway as Senior Scientific Research Assistant (S.S.R.A) in April 1994 and was promoted to the post of Junior Scientific Officer (JSO) on adhoc basis in December 1997. Since then I have been discharging my duties as JSO continuously and to the best of my knowledge and capacity. An office order however, was issued by the Dy. C.P.O (Gaz) on behalf of the G.M.(P) on dated 16.12.2003 under Memo No. E/283/82/Pt. XVII (O) reverting me to the post of S.S.R.A with immediate effect on the plea that the Gr. B post of the Mechanical Department which had been varied for operation as J.S.O vide Office Order No. 84/94 (Traffic) dt. 1/5-4-1994 and 202/97 (Mech) dt. 5-12-97 was restored back to the original department and consequently I was reverted.

Being aggrieved I filed an original application before the Hon'ble central administrative Tribunal (CAT) challenging the aforesaid order dated 16-12-2003 and the same was registered and numbered as O.A.294/2003.

The Hon'ble Tribunal on dt. 01-04-2004 after hearing the parties held that "...the order of reverting the applicant to the post of Sr Scientific Research Assistant has been passed in an arbitrary manner as the post of J.S.O. still exist and has not been abolished and the applicant has a right

certified to be  
true copy  
Simpaw Janna  
Advocate  
23/10/09

23 OCT 2009

गुवाहाटी न्यायापीठ

to be continued to the post of J.S.O. purely on adhoc basis". Accordingly the O.A. was allowed and the order Dt. 16-12-2003 quashed and set aside.

( A photocopy of the CAT's order is enclosed herewith for your perusal )

Thereafter, the Railway authorities went on appeal and filed a writ petition before the Hon'ble Gauhati High Court challenging the order of the CAT dated. 01-02-2004 and it was numbered as W.P.(C) 5758/04.

On 13.09.2005 the Hon'ble High Court after hearing both the parties and on consideration of the materials on record in their entirety held that there was no good or sufficient reason to interfere with the findings and /or conclusions of the learned Tribunal and the aforesaid writ petition "*being without merit fails and is therefore dismissed .*"

(A photocopy of the Hon'ble Gauhati High Court's Order is attached herewith for your perusal .)

Under the circumstances I pray before your goodself to pass necessary orders so that I can effectively render my duties as J.S.O. and that steps be taken for early release of my salaries and all other dues along with arrears from which I have been deprived of following the reversion order dt. 16-12-2003 inspite of the interim order dt. 26-12-2003 passed by the Hon'ble Tribunal and the fact that I am discharging my duties as J.S.O. till date.

With regards,

Date: 20-09-05

Yours faithfully,

Arundhati Kalita  
(Arundhati kalita)  
J.S.O. N.F.Rly  
Maligaon, Ghy-11

Copy to:

- 1) C.P.O. N.F.Rly/MLG
- 2) C.O.M.N.F.Rly/MLG ✓
- 3) C.S.O.N.F.Rly/MLG
- 4) ED Traffic/Psycho, R.D.S.O./LKO
- 5) Dy Director, Estt.Gaz(Cadre)  
Railway Board, New Delhi

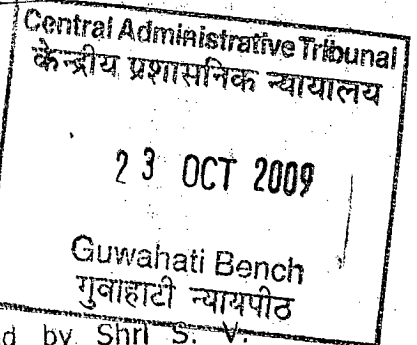
dispatched  
26-9-05  
(RDSO)

Desai  
22-9-05  
(CPO)

ANNEXURE--VII

Northeast Frontier Railway

OFFICE ORDER NO. 32/2005 (Traffic/Safety)



The following orders are issued with immediate effect: -

- 1) The JS/Group-'B' post of ACM/KIR, on being vacated by Shri S. V. Janabandhu, who has been promoted to Sr. Scale and posted as DOM/KIR vide GM(P)/MLG's office order No. 31/2005 (TT&CD) dated 31.10.2005, is temporarily varied for operation as JSO(Group-'B')/HQ (Maligaon).

In pursuance of Hon'ble Guwahati High Court's judgment dated 13.09.2005 in WP(C) 5758/04, Smt. Arundhati Kalita, Senior Scientific Research Assistant in scale Rs.5,500-9,000/- is promoted to the post of JSO(Group-'B')/HQ (Maligaon), purely on ad hoc basis, against the varied post indicated vide Sl. No. 1 above, with the following conditions: -

- (i) The above promotion of Smt. Arundhati Kalita to the post of JSO(Group-'B')/HQ (Maligaon) is purely on ad hoc basis and this will not confer on her any claim for automatic regular promotion to Group-'B' service or for seniority.

- (ii) Smt. Kalita must submit an assumption report on her promotion to the above post of JSO (Group-'B') on ad hoc basis.

This issues with the approval of Competent Authority.

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

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

Maligaon, dated: 31.10.2005

02-11-2005

Copy forwarded for information and necessary action to: -

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

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

certified to be  
true copy.  
Smt. Arundhati Kalita  
date 23/10/09

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

3 OCT 2009

ANNEXURE-VIII

No- T/2/48/P(Unit)  
To  
CPO/MLG  
N.F. Railway, Maligaon.

Guwahati Bench  
गुवाहाटी न्यायपीठ

Maligaon  
Dated : 07-11-05

Sub : Assumption Report.

Ref : - Office Order No. 32/2005 (Traffic/Safety), circulated under GM(P)'s letter No. E/283/82/ Pt.VII(O) dt.31-10-2005.

Sir,

I beg to state that in regard to the Office Order No. 32/2005 (Traffic/Safety), circulated under GM(P)/MLG's No.E/283/82/ Pt.XVII (O) dated 31.10.2005, I have been continuously working as J.S.O since my joining in the post of J.S.O on dated 5-12-97. I further like to draw your attention to the fact that the Hon'ble CAT/GHY had already quashed and set aside the GM(P)/MLG's Office Order No. E/283/82/Pt.XVII(O) dated 16-12-03 in its verdict on the O.A.294 of 2003, dated 01-04-04 which has been upheld by the Hon'ble Gauhati High Court in its judgment on 13-09-05 on the Writ Petition (C) No 5758/04 and as such there no question of my assuming report again.

Further, that I have been continuously working as J.S.O has been admitted by the Rly authority in the Hon'ble CAT /GHY as will be apparent from Order dated 17-02-05 passed in the hearing of the C.P.No 31/2004.

The undersigned therefore likes to put forward a copy of her original joining report in regard to your Office Order No. 32/2005 (Traffic/Safety) dated 31.10.2005 for your kind consideration and necessary action.

I also pray before your goodself to kindly implement the judgment passed by the Hon'ble CAT/GHY, dt.1-04-2004 in OA 294/03 so that I am not compelled to revive the C.P No. 31/04 as allowed by the Hon'ble Tribunal.

Thanking you,

DA/

Yours faithfully

*Arundhati Kalita*  
(Arundhati Kalita)  
J.S.O/N.F.Rly

Copy forwarded for information and necessary action please

- 1) Secy to GM/N.F. Rly for information of GM please.
- 2) COM, CSO, SDGM & CME/MLG
- 3) FA & CAO/ EGA & PE/MLG
- 4) DGM (G)/Sr. EDPM/CPO/MLG
- 5) PS to GM/ SPO(T)/APO/W & APO/LC/MLG
- 6) DRMs/DRM(P)/N.F.Rly
- 7) Chief OS/ET & OS/EO-Bill for information.

*Arundhati Kalita*  
(Arundhati Kalita)  
J.S.O/N.F.Rly

*certified to be true copy*  
*Arundhati Kalita*  
*23/10/05*

*Desg*  
*9.11.05.*



-32-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Contempt Petition No. 5 of 2006  
in  
Original Application No. 294 of 2003

Date of Order : This the 1st August, 2006

The Hon'ble Sri K.V. Sachidanandan Vice Chairman,

The Hon'ble Sri Gautam Ray, Administrative Member.

Sri Arundhati Kalita

W/o Sri Arup Kr. Goswami

Railway Quarter No. 167/B

East Maligaon, Guwahati-11

..Petitioner

By Advocate Mr. G.K. Bhattacharyya, Sr. Advocate and Mr.

H. Choudhury and Mrs. B. Chakrabarty, Advocates.

-Versus-

1. Sri A.K. Sanwalka

General Manager

N.F. Railway, Maligaon, Guwahati-11.

2. S. Nuraal Islam

Chief Personal Officer,

N.F. Railway, Maligaon, Guwahati-11.

3. Sri P.K. Singh

Deputy Chief Personal officer,

(Gaz) Office of the General Manager,

(Personal) N.F. Railway, Maligaon, Guwahati-11.

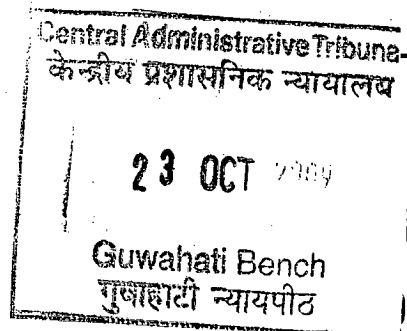
4. Sri L.C. Trivedi

Chief Safety Officer, N.F. Railway,

Maligaon, Guwahati-11.

..Contemners/Respondents

By Advocate Mr. S. Sarma and Ms. R. Devi

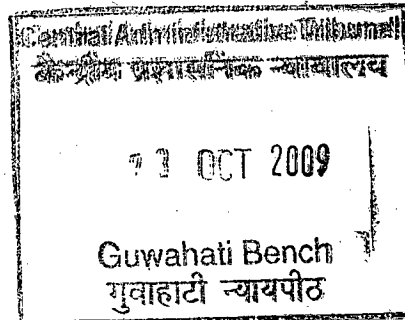


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[ 2 ]

ORDER(ORAL)



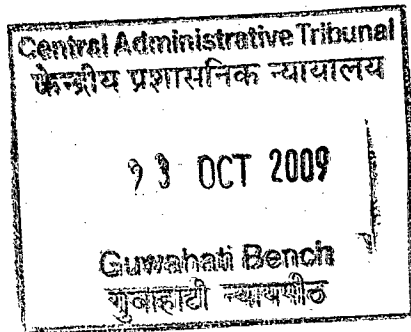
K.V.SACHIDANANDAN (V.C.)

This contempt petition has been filed by the petitioner for non compliance of the order dated 01.04.2004 passed by this Tribunal in OA No.294 of 2003. The grievance of the petitioner is that while she was working as Junior Scientific Officer on ad-hoc basis, she was reverted to the post of Senior Scientific Research Assistant which was challenged in OA No.294 of 2003. This Tribunal vide order dated 01.04.2004 allowed the said Application with the following observations:

"4. We have heard the learned counsel for the applicant at length. We find from the record that there was no order of abolition of the post of JSO. The post has been created by order dated issued by the Railway Board which is still in force and the General Manager cannot overriding the orders passed by the Railway Board abolish the post or restore it to Mechanic Branch. Though the respondents have denied the allegation that this order has been passed to accommodate some other person from personnel department but the fact remains that the post has not yet been abolished by the Railway Board and continues till today. This fact has been established by

-34-

[ 3 ]

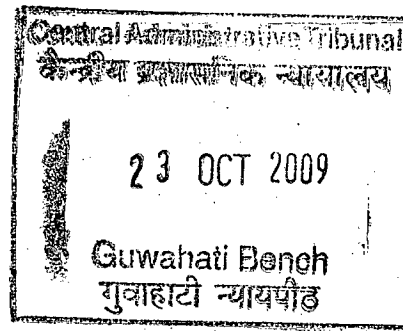


letter dated 22.04.96 (Annexure-G) written by the Executive Director Traffic Research (Psych), wherein it has been clearly mentioned that as regards post of JSO is concerned, the N.F.Railway may fill up the post of local basis from its own sources and the present arrangement of utilising a Calcutta based JSO is dispensed with. Thus we find that the order of reverting the applicant to the post of Sr. Scientific Research Assistant has been passed in an arbitrary manner as the post of JSO is still exist and has not been abolished and the applicant has a right to be continued to the post of JSO through purely on achoc basis. Since the sources to fill the post include the Traffic department in which the applicant belongs.

When the matter came up in Contempt Petition No. 31 of 2004, this tribunal vide order dated 17.02.2005 observed as follows:

"We have heard Mr. G.K.Bhattacharyya, learned, Sr. Counsel for the petitioner and Mr. S. Sarma learned counsel for the respondents. It is stated by the respondents that pursuant to interim order dated 26.12.2003 passed in the aforesaid O.A. the applicant continues to occupy the post of JSO.

-35-



[ 4 ]

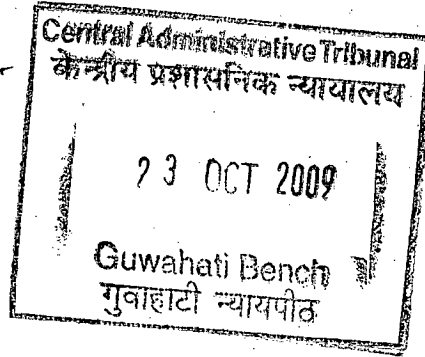
The Respondents approached the Hon'ble Gauhati High Court by way of filing Writ Petition (C) No. 5758/04, which has been dismissed on 13.09.2005.

2. Heard Mr. G.C. Bhattacharyya Sr. Counsel the petitioner and Mr. S. Sarma learned counsel for the Respondents.

3. Mr. S. Sarma, learned Counsel for the Respondents submitted that the order of the Tribunal has already been complied with and compliance report of the order dated 02.11.2005 has also filed at Annexure-VI to the Contempt Petition, wherein it is stated "The above promotion of Smt. Arundhati Kalita to the post of ISO(Group-B/HQ(Maligaon) is purely on adhoc basis and this will not confer on her any claim for automatic regular promotion to Group-B service or for seniority" Mr. G.K. Bhattacharyya, learned Sr. Counsel for the petitioner submitted that this is not full compliance of the order of the Tribunal so far as the benefit of intermediate period, i.e. from 16.12.2003 to till the date of granting the benefit is concerned.

However, on going through the order dated 02.11.2005 and materials placed on record we find that (sic) compliance of the order. Therefore the Contempt Petition will not stand. Accordingly, the Contempt Petition is dismissed. However, the Petitioner is given

-136-



[ 5 ]

liberty to submit representation to the concerned authority for redressal of her grievance, if any, regarding what she is claiming now and the Respondents shall consider the same.

The Contempt petition is dismissed as above.  
Notices, if any, are discharged.

sd/- Vice Chairman

sd/- Member CAT

## ANNEXURE--IX

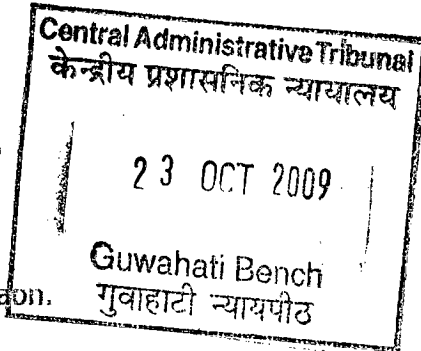
## NORTHEAST FRONTIER RAILWAY

Office of the  
General Manager (P)  
Maligaon, Guwahati - 11

October 23, 2006

No. E/170/LC/NS/690/06

To,  
Smt Arundhati Kalita,  
J.S.O/N.F. Railway/Maligaon.



Sub:- Disposal of your representation dt. 08-8-2006 in compliance  
with Hon'ble CAT/GHY's order dt. 01-8-06 in CP No.05/06.

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

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

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

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

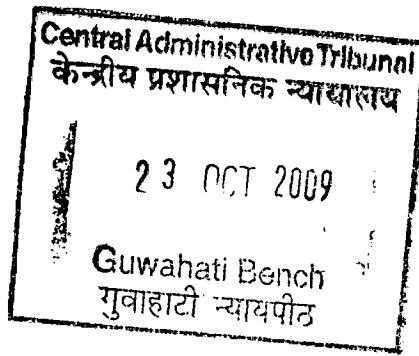
This is for your kind information please.

(P.K. Singh)

Dy. Chief Personnel Officer/Gaz  
for General Manager P/ MLG

certified to be  
true copy  
Anupam Sharma  
Associate  
23/10/09

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



Date :

**Sub:-** Representation for the benefits receivable by the undersigned as junior Scientific Officer as per

- (i) Order dated 1-04-04 passed by the Hon'ble Central Administration Tribunal in O.A. No. 294 / 2004.
- (ii) Order dated 13-9-05 passed by the Hon'ble Gauhati High Court in W.P. (C) No. 5758 / 04.

Sir,

I humbly beg to place the following before your Good self that I may not be deprived from my due benefits as junior Scientific Officer to which I am otherwise entitle pursuance to the Hon'ble tribunal order dated 1-4-04 in O.A. No. 294 / 04 and order dated 13-9-05 by the Hon'ble High Court in W.P. (C) No. 5758 / 04.

1. That I joined N.F. Railway service on 7-4-1997 as Senior Scientific Research Assistant and presently I am servicing as JSO.
2. That pursuance to Railway Board order dated 24-4-92 a Junior Scale Group "B" post designated as JSO was created in Psycho-Technical cell be variation a post from Mechanical Department. Accordingly, I was promoted to the said post of JSO on adhoc basis on 5-12-97. while working as such, I received an officer order dated 16-12-03 issued from the office of General Manager (P) vide memo No. E/ 283 / 82 / Pt. XVII (O) dated 16-12-03 whereby I was reverted back to my substantive post i.e. Sr. Scientific Group "B" post which was variated for operation as JSO vide office order No. 74 / 94 (Traffic) dated 12-4-94 and 202 / 97 (Mech) dated 5-12-97 was restored back to the original department.

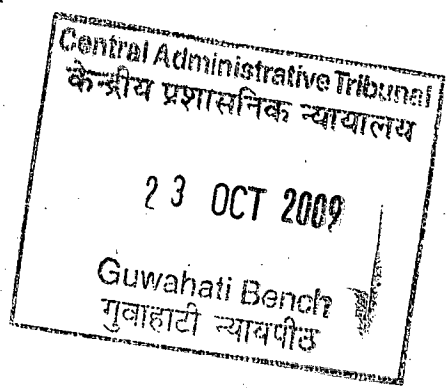
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Sampaw Janna  
Date  
23/10/09

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[2]



3. That being aggrieved, I filed an original application before the Hon'ble Central Administrative tribunal, Guwahati Bench challenging the order dated 16-12-03 and the same was registered and numbered as O.A. 294 / 03. The Hon'ble Tribunal on 26-12-03 after hearing the parties directed the authorities to maintain status quo.

On 01-04-2004, the Hon'ble tribunal after hearing the parties, issued a direction stating that the order of reversion was passed in an arbitrary manner as the post of JSO is still existing since the same has been created as per the order of the Railway Board which is still in force and no other authority can override the order passed by the Railway Board and as such I have a right to continue in the post and accordingly the reversion order was quashed and set aside.

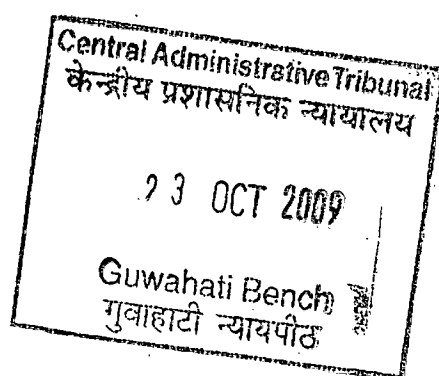
A Copy of the order dated 01-04-2004 is annexed herewith and marked as **ANNEXURE -I.**

4. That on 05-04-2004 I submitted the order dated 1.4.04 before the Chief personnel Officer which was duly acknowledge by him. Thereafter no official order was issued with regard to the implementation of the order dated 1.4.04 for a long time and the authorities began to call JSO's from other railways to conduct various psycho-test in N.F Railway inspite of the fact that I was continuing as J.S.O as per Hon'ble Tribunal's interim order dated 26.12.03.
5. That thereafter I filed a contempt petition before the Hon'ble Tribunal on 30.7.04 which was registered and numbered as C.P 31/04 and show cause notice of contempt was issued on 3.8.04 by the Hon'ble Tribunal.

Contd.....



[3]



During the pendency of contempt petition the Railway authorities filed a writ petition before the Hon'ble Gauhati High Court against the order of the Tribunal dated 1.4.04 and same was registered and numbered as WP © 5758/04.

On 13.8.2004 Hon'ble Gauhati High Court admitted the writ petition issued notice upon me on the interim prayer for stay of the order of Hon'ble Tribunal.

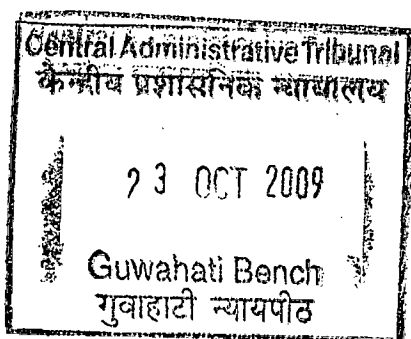
6. That on 17.2.05s when the CP No.31/04 came up for hearing before the Tribunal the counsel for the Railway Authorities submitted that the Railway Authorities have preferred a writ petition before the Hon'ble High Court against order dated 1.4.04 and the same was admitted. He also further submitted that pursuant to the interim order dated 26.12.03 passed in O.A 294/03, I still continue to occupy the post of JSO. The Hon'ble Tribunal thereafter closed the contempt petition by giving liberty to me to revive the same in case the aforesaid writ petition is dismissed.

A Copy of the order dated 17.2.05 is annexed herewith and marked as **ANNEXURE -II.**

7. That on 13.9.05 the Hon'ble High Court after hearing both sides and on consideration of the materials on record in its entirety dismissed the writ petition being without merit.

A Copy of the order dated 13.9.05 is annexed herewith and marked as **ANNEXURE-III.**

Contd.....



[4]

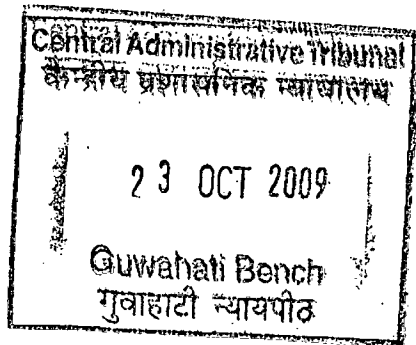
8. That on receiving a copy of the judgment and order dated 13.9.05 of the Hon'ble Gauhati High Court on 21.9.05, I had submitted a copy of before your goodself along with an appeal/representation for release of the salaries and other dues entitled to me as JSO from 16.12.03. Moreover the order of reversion dated 16.12.03 has been set-aside by the Hon'ble Tribunal and the same has been confirmed by High Court and as such I am entitled to salaries and other benefits from 16.12.03.

A Copy of the appeal/representation dated 21.9.05 is annexed herewith and marked as **ANNEXURE -IV**.

9. That after long time the office of the General Manager (P) issued office order No. 32/2005 (Traffic/Safety) dated 31.10.05/ 2.11.05 whereby surprisingly I was in pursuance to the Hon'ble High Court judgment and order dated 13.9.05 was promoted to the post JSO (Group 'B') H.Q. Maligaon on adhoc basis.

It will be pertinent to mention here that in view of the Hon'ble Tribunal's order dated 1.4.04 and judgment and order dated 13.9.05 passed by the Hon'ble Court I am in continuous service as JSO and I am entitled for the salaries and other dues also from date of reversion order which was set aside by the Hon'ble Tribunal and confirmed by Hon'ble Gauhati High Court. The fact that I am continuous service as JSO will also be apparent from the submission made by the counsel of the Railway Authorities in CP No. 31/04 and as such I am entitled to benefits of JSO.

Contd:.....



[5]

I further state that in view of the above facts was no requirement for the authorities to direct me to submit an assumption report when infect I am continuing as JSO as per Hon'ble Tribunal's order which was also admitted by the counsel for the Railway Authorities in CP No. 31/04. The authorities by issuing the order dated 31.10.05/ 2.11.05 has promoted me as fresh appointee depriving me from the benefits admission to JSO as per Hon'ble Tribunal's order dated 1.4.04. In spite of that I submitted assumption report on 7.11.05.

A Copy of the order dated 31.10.05/2.11.05 is annexed herewith and marked as **ANNEXURE-V.**

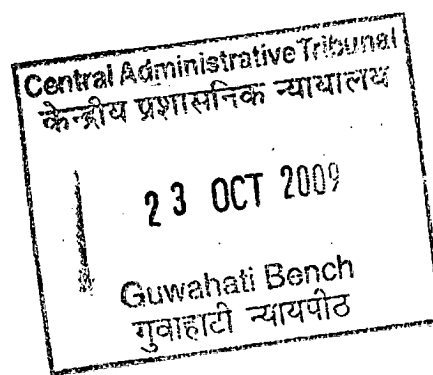
10. That thereafter the authorities did not take any steps for giving the salaries and other benefits due to me as JSO and therefore I was compelled to file a contempt petition before the Hon'ble Tribunal which was registered and numbered as CP 5/2006.

A Copy of the order dated 13.9.05 is annexed herewith and marked as **ANNEXURE-VI.**

11. That on 1.8.2006 the Hon'ble Tribunal after hearing the parties closed the contempt petition and further gave me the liberty to file a representation before Your Goodself for redressal of my grievances intermediate period and according I am submitting this representation for the due benefits to which I am entitled as order of reversion dated 16.12.03 has been set aside by Hon'ble Tribunal and the same has been

Contd.....

- 43 -



[6]

confirmed by the Hon'ble Gauhati High Court, thereby holding that I will be continuing as JSO on Adhoc basis as I was continuing before the order of reversion. But the authorities by issuing the order dated 31.10.05/2.11.05 (Annexure-V) has deprived me from the benefits of continuity in service and other dues admissible to me as JSO as per Hon'ble Tribunal's order dated 1.4.04. Rather by issuing the order dated 31.10.05/2.11.05. (Annexure-V) the authorities has allowed me to work as JSO as fresh appointee, with complete disrespect to the order dated 1.4.04 of Hon'ble Tribunal. As stated above, I am entitled to the arrears salaries and other benefits of JSO from the date of reversion order dated 16.12.03 (which has been set aside by C.A.T.) upto date 31.10.05/2.11.05 (the order by which I was reinstated as JSO.)

I, therefore, pray before Your Goodself to consider what is stated above and pass necessary orders for release of arrear salaries and other benefits to which I am entitled in view of setting aside of reversion order dated 16.12.03 till issuance of the order dated 31.10.05/2.11.05 (Annexure-V) and the fact that I was discharging my duties as JSO during that period and for this act of kindness I shall remain ever grateful to you.

Your faithfully

**ARUNDHUTI KALITA**

JSO, N.F. Railway

- 24

SL.No 212

ANNEXURE-IX(B)

69

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.61 of 2007

Date of Order: This the 22<sup>nd</sup> day of November 2007

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

The Hon'ble Shri Khusiram, Administrative Member

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

..... Applicant

By Advocates Mr Adil Ahmed and  
Smt Bhattacharjee

-versus -

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

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

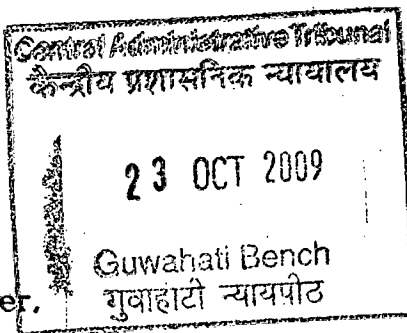
The Deputy Chief Personnel Officer (Gaz.),  
Office of the General Manager (Personnel),  
N.F. Railway, Maligaon,  
Guwahati-11.

..... Respondents

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

.....

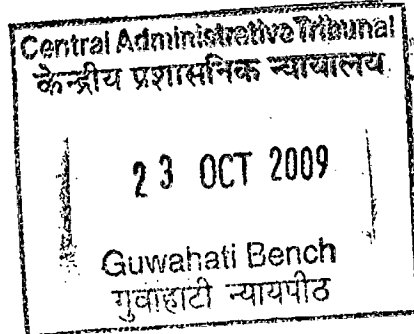
*[Signature]*



certified to be  
true copy  
Anupam Sarma  
Advocate  
23/10/09

ORDER

M.R. MOHANTY, VICE-CHAIRMAN



Applicant, a Senior Scientific Research Assistant, was given ad hoc promotion as Junior Scientific Officer (J.S.O.) on 05.12.1997 and was reverted back to her substantive post of Research Assistant on 16.12.2003. She challenged the said reversion order before this Tribunal (in O.A.No.294 of 2003) and by an interim order dated 26.12.2003, this Tribunal granted an order to maintain "status quo" and by final order dated 01.04.2004, this Tribunal allowed the said case of the Applicant. The said final order dated 01.04.2004 of this Tribunal was subject matter of challenge (by the Respondents/Railways) before the Hon'ble Gauhati High Court in Writ Petition No.5758 of 2004; which was dismissed on 13.09.2005. Thereafter, by an order dated 31.10.2005, the Applicant was granted promotion, as Junior Scientific Officer/JSO, on ad hoc basis. Now, by filing the present Original Application under Section 19 of the Administrative Tribunals Act, 1985, the Applicant has prayed as under:



"8.1 That the Hon'ble Tribunal may be pleased to set aside and quash the rejection letter No.E/170/LC/NS/690/06 dated 23.10.2006 issued by the Respondent No.3 as well as Office Order No.32/2005 (Traffic/Safety) dated 31.10.2005/2.11.2005 and the Respondent Authority may be directed to continue the service of the Applicant as Junior Scientific Officer Group-B vide appointment letter dated 5.12.1997 till her regularization in the aforesaid post.

8.2 That the Hon'ble Tribunal may be pleased to direct the Respondent Authority to give the service and consequential benefits including arrear salaries of the

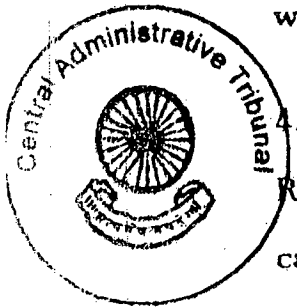
Applicant from 16.12.2003 to 31.10.2005 as Junior Scientific Officer Group-B.

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

8.4 To pay the cost of the application."

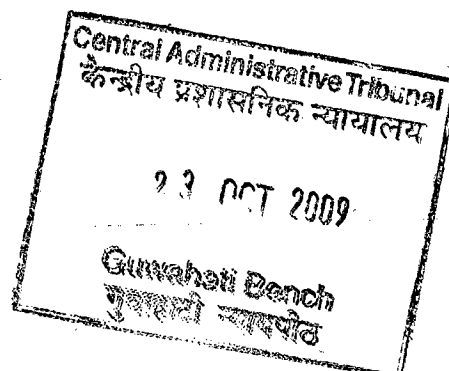
2. At the hearing, however, the Advocate for the Applicant has only pressed the prayer for a direction (to the Respondents) to pay her differential arrear salary (in the pay scale of J.S.O. minus the pay actually drawn as Sr. Scientific Research Assistant) for the period between 16.12.2003 and 31.10.2005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

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



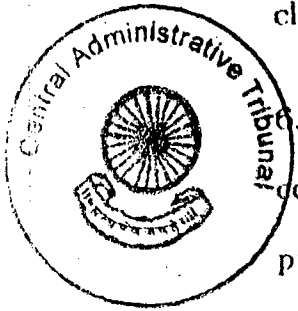
4. In order to counter the above said stand of the Respondents/Railways, the Applicant, who has filed a Rejoinder in this case, has pointed out that on a number of occasions, she was entrusted with the work of J.S.O. and on the basis of her recommendations (as J.S.O.) persons were appointed; that she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

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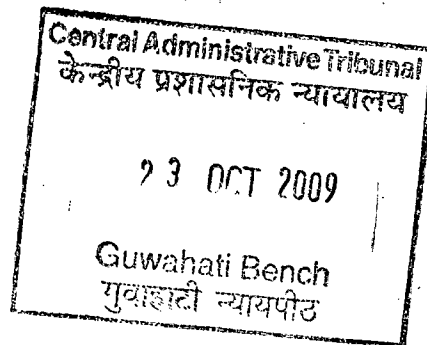
"It is stated by the respondents that pursuant to interim order dated 26.12.2003 passed in aforesaid O.A., the Applicant continues to occupy the post of J.S.O."

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



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

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





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

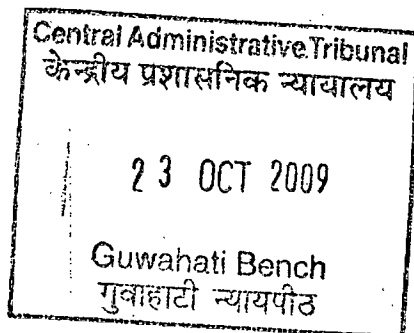
Sd/-  
Khushiram  
Member (A)

Sd/-  
Manoranjan Mohanty  
Vice-Chairman



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

Section Officer (Judl) 23/11/07  
C. A. T. Guwahati Bench  
Guwahati 5  
23/11/07



OTHER STATE

31/04

1. Name of the Applicant/Respondent/ Petitioner/ ...

In P.A. 29/4/03

Applicant (S) Smt. Ailundhiti Katila  
Respondent (S) Sri Shyam Kumar and others

Advocate for the Applicant Mr. G.K. Bhattacharyya, Mr. B. Choudhary  
D. Ghoshan  
Counsel for the Respondent S. S. Sarma, B. Choudhary  
Pratap

DATE 17.2.2005 ORDER OF THE TRIBUNAL

17.2.2005 Present: Hon'ble Shri M.K. Gupta,  
Judicial Member.  
Hon'ble Shri K.V. Prahladan,  
Administrative Member.

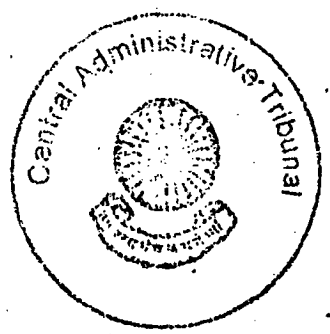
Wilful breach of directions issued by this Tribunal on 1.4.2004, disposing of O.A.No.294 of 2003 is alleged in the present C.P.

If it is contended by Mr S. Sarma, learned counsel for the respondents that a Writ Petition No.5758 of 2004 has been preferred against the aforesaid judgment and order of this Tribunal, and the same was admitted vide order dated 13.8.2004. Thereafter the said Writ Petition has not been listed till date, despite the fact that the reply has been filed by the applicant herein.

We have heard, Mr G.K. Bhattacharyya, learned counsel for the petitioner and Mr S. Sarma, learned counsel for the respondents. It is stated by the respondents that pursuant to interim order dated 26.12.2003 passed in the aforesaid O.A. the applicant continues to occupy the post of JSO.

Since the matter is under consideration before the High Court, we are of the view that it cannot be viewed that there was a wilful disobedience on the part of the respondents. Therefore, the present Contempt Petition is closed with liberty to the applicant to revive the same in case the aforesaid Writ Petition is dismissed.

Sd- Member (J)  
Sd- Member (A).



Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
23 OCT 2009  
Guwahati Bench  
गुवाहाटी न्यायपीठ

Notified to be true copy  
न्यायिक प्रमाणित

Section Officer (J)  
C.A.T. GUWAHATI BANCH  
GWAHATI-781005  
18/2/05

verified to be true copy  
Amraram Sarma  
Advocate  
23/10/09

Annex-D

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Review Application No.05 of 2007

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

Date of Order: This the 17<sup>th</sup> day of September 2008

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

The Hon'ble Shri Khushiram, Administrative Member

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

..... Review Applicant

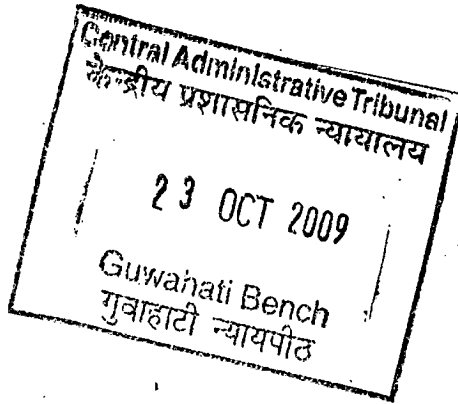
By Advocates Mr A. Ahmed and Ms S. Bhattacharjee.

- versus -

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

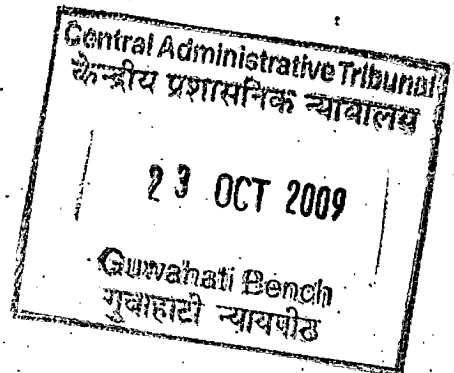
..... Respondents

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



certified to be  
true copy  
Anupama Janna  
Advocate  
23/10/09

2  
RA 5/2007  
**ORDER (ORAL)**  
17.09.2008



**M.R. MOHANTY, VICE-CHAIRMAN**

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

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

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

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

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

23 OCT 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

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

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

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

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

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

Sd/-  
Manoranjan Mohanty  
Vice Chairman  
Sd/-  
Khushiram  
Member (A)



TRUE COPY  
22/9/08  
Central Administrative Tribunal  
Guwahati Bench  
Guwahati

ANNEXURE-X

NORTHEAST FRONTIER RAILWAY

OFFICE OF THE  
GENERAL MANAGER  
MALIGAON

Dated-12-12-08

No.E/170/LC/NS/855/07

Smt. Arundhati Kalita  
JSO/Adhoc/N. F. Railway  
Maligaon (HQ)

Sub:- Disposal/Consideration of representation dated 01.10.08  
filed by Smt A.Kalita, J.S.O/Adhoc/N. F. Railway/MLG(HQ).

Ref:- Hon'ble CAT/GHY's order dt. 17.09.08 in RA No. 05/07.

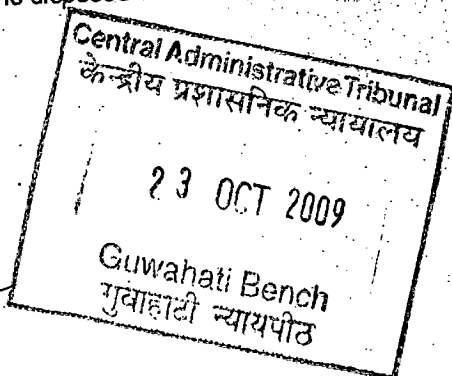
The Review Application filed by Smt A. Kalita was dismissed by the Hon'ble CAT/GHY on merit with liberty to the applicant to put up her grievances in writing along with all supporting material facts to the respondents for consideration.

In pursuance to the above direction, the applicant, Smt A. Kalita has submitted her grievances in writing dtd. 1.10.08 to the Railway administration. The applicant, Smt Kalita has brought out as many as nine (9) material facts in support of her claim for arrear benefit. The issues raised by Smt Kalita in her representation have been examined thoroughly as per direction of the Hon'ble Tribunal. It is seen that the applicant has failed to project any new material fact in her representation, which warranted reconsideration of her representation, especially, the entitlement of arrear benefits right from 16.12.03 to 31.10.05. All these material facts brought out by her were considered taking into account the administrative parameters laid down in this regard and as a result, the order dt. 23.10.06 was passed, giving finality to the issue. Moreover Smt Kalita had raised all these issues in OA No. 61/07 RA-No. 5/07 before the Hon'ble Tribunal but failed to sustain them for want of merit.

The applicant Smt Kalita had also preferred her claim on the observation of the Hon'ble Tribunals in order dt. 17.2.05 in CP No. 31/04 at para-3. The claim of the applicant will also fail because of the dismissal of the said CP on merit. In fact, by an interim order of the Hon'ble Tribunal, the respondents were given liberty to give effect to the reversion order dt. 16.12.03. As such, the interim order dated 26.12.03 in OA.294/03 was merged in subsequent interim orders followed by the final order.

It is categorically and repeatedly stated that Smt Kalita, JSO/Adhoc is not entitled to any arrear benefit as JSO Adhoc, as no administrative order was issued, empowering her to discharge the duties of JSO.

Under the above deliberation and discussion, her representation, after giving due consideration, is disposed of.



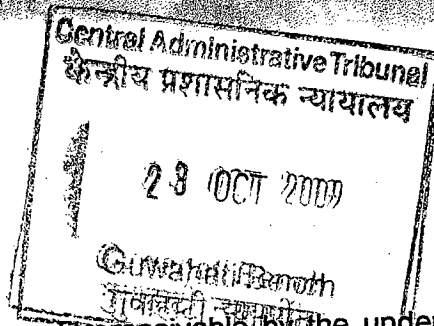
(ASHUTOSH SWAMI)  
GENERAL MANAGER

certified to be  
true copy  
Anupam Barua  
Advocate  
23/10/09

No-T/2/48/P-UNIT

To,

The General Manager  
N.F. Railway/Maligaon,  
Guwahati-11.



Dated : 01.10.2008

Sub: Representation for the benefits receivable by the undersigned as J.S.O. as per 1) Order dated 1.4.2004 passed by Hon'ble CAT in O.A. 294/2004.  
2) Order dated 13.9.2005 passed by Hon'ble Gauhati High Court in W.P.(C) No. 5758/04.

Sir,

With honour and humble submission, I beg to draw your attention to the following few points and pray for your kind consideration.

1) Sir, with reference to the subject cited above, I beg to inform you that I made an appeal to your good-self on 8.8.2006 praying for releasing all my dues i.e. salary & arrear to which I am entitled vide Hon'ble CAT's order dated 1.4.2004 and Hon'ble Gauhati High Court's order dated 13.9.2005.

(A copy of the application dated 8.8.2006 has been attached herewith for your attention and marked as Annexure-A)

2) My appeal was however rejected vide letter No. E/170/LC/NS/690/06 dated 23.10.2006 in spite of the fact that I was working as J.S.O. following the 'status-quo' order dated 26.12.2003 granted by the Hon'ble CAT. The Counsel for the Rly. Authorities also admitted the same in the floor of the Hon'ble Tribunal on 17.2.2005.

(A copy of the Rejection letter is attached herewith and marked as Annexure-B)

3. Finding no other alternative I made an appeal in the CAT to quash and set aside the letter dated 23.10.2006, No. E/170/LC/NS/690/06 and it was admitted as O.A. 61/2007. After hearing both the parties the Hon'ble CAT passed an order on 22.11.2007 granting me the liberty to file a fresh representation to your Goodself.

(A copy of the order dated 22.11.2007 has been attached herewith as Annexure-C)

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MALIGAON MDG <781011>  
SP E5500013904IN  
Counter No:1, OP-Code:1  
To: M JOHN, SCY/R B  
New Delhi, PIN:1  
From: A KALITA, JSO/NFR/MLG  
Wt: 315 grams,  
Amt: 79.09, 13/10/2008, 11:49  
Taxes: Rs. 9.00 <Have a nice day>



certified to be  
true copy  
Anupam Sarma  
Associate  
23/10/09

4. The undersigned, instead of giving any fresh representation to the Rly. Authorities filed a Review application in the Hon'ble Tribunal which was numbered as RA No.5/07. On 17.9.2003, the Hon'ble Tribunal however dismissed it with a direction to the applicant to file a fresh representation to the Rly. Authorities along with all supporting materials, and your good-self was to reconsider the grievances of the applicant by taking into consideration all materials/points including the point that the Counsel for the Rly., on 17.2.2005 conceded as under before this Tribunal.

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

(A copy of the order of the CAT on R.A. 5/07 dated 17.9.2003 has been attached herewith and marked as Annexure-D)

5. Sir, in regard to my prayer cited above in the subject, I beg to state before you that during the period from 16.12.2003 to 31.10.2005, I was discharging my duties and responsibilities as JSO as had been entrusted on me by the appropriate authorities from time to time.

I conducted psycho tests for several times during this period and based on the psycho tests conducted by me promotion were also given to the successful candidates. It is pertinent to mention here that only JSO/SSO are eligible to conduct psycho tests as per guidelines of RDSO.

As J.S.O. N.F. Railway I was also allowed to participate in the meetings of JSO's held at LKO more than once and 'A' Class pas was issued to me for this purpose.

As JSO I was also allowed to avail different facilities including telephone service, Identity Card etc. and Dy. CSTE/MW/MLG was informed to provide the connection of Rail net through LAN to my chamber i.e. the Chamber of JSO/H.Q. by the letter No. T/2/48/Pt-II dated 6.8.2004.

(A Set of documents have been attached herewith as Annexure-E).

Contd.....3



23 OCT 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

-3-

6. Sir, I also beg to draw your attention to the fact that the post of SSRA was advertised for recruitment after my promotion to the post of JSO (ad hoc). Written test was held, a candidate was selected and the date for Document Verification was fixed on 7.1.2004 and 9.2.2004 respectively, and lastly on 9.7.2007 the candidate was again called for Document Verification following an order of the Hon'ble Gauhati High Court.

During the period, the D.G./Traffic (Psycho) RDSO, through her letter No. PT/PP/3.1 dated 01.06.2004 drew the attention of the Chief Safety Officer (CSO), N.F. Railway to expedite the process of filling up the posts of CSRAs/SSRAs which had not been filled except on Eastern Railway. The CSO marked the letter to me as JSO for discussion in this regard.

(A copy of the said letter from RDSO is annexed herewith and marked as Annexure-F).

7. Sir, I have already mentioned in Para 4 of my representation dated 8.8.2006 to your Goodself that in spite of my continuation as JSO, Railway authorities invited JSO from other Railways to conduct Psycho tests here at N.F. Railway.

But it is a total deviation from the truth that he was given salary here at N.F. Railway for his work which has been claimed by the Rly. Authority in the letter dated 23.10.2006 No. E/170/LC/NS/690/06 that "for performing the same job, two persons cannot be paid the salary of JSO".

(A copy of the letter annexed and marked as Annexure-B, for your kind attention.)

8. Sir, I also beg to inform you that in response to the Office Order 32/2005 (Traffic/Safety), circulated under GM(P)'s letter No. E/283/82/Pt-VII(O) dt. 31.10.2005 I instead of submitting any new assumption report put forwarded a copy of my original joining report as JSO for your consideration since I was continuously working as JSO following the status-quo order granted by the Hon'ble CAT.

Contd.....4

23 OCT 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

-4-

Your Goodself also accepted the same without any objection as the Rly. Authority had already admitted the same through your counsel before the CAT on 17.2.2005.

(A copy of my letter together with the letter dated 31.10.2005 annexed herewith and marked as Annexure-G)

9. Under the above circumstances Sir, I pray your Goodself to pass necessary orders for release of arrear salaries and other benefits to which I am entitled in view of setting aside the reversion order dated 16.12.2003 till issuance of the order dated 31.10.2005 / 2.11.2005 and the fact that I was discharging my duties as JSO during that period.

Your kind consideration will make me highly obliged.

With regards,

DA - A, B, C, D, E, F & G.  
Page - 58

Yours faithfully,

*Arundhati*  
( Sri Arundhati Kalita )  
J.S.O., N.F. Railway  
Maligaon, Guwahati-11

Copy to:-

- 1) COM, N.F. Railway, Maligaon, Guwahati-11.
- 2) The Secretary, Railway Board, New Delhi.

( Sri Arundhati Kalita )  
J.S.O., N.F. Railway  
Maligaon, Guwahati-11

*Deputy*  
*3.10.08*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH::GUWAHATI

(An application U/s 19 of the Central Administrative Tribunals Act, 1985)

ORIGINAL APPLICATION NO. 170 OF 2009

Smti Arundhati Kalita ...Applicant

-Versus-

The Union of India & Ors ...Respondents.

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Filed by:

*Anupam Sarma*  
(Anupam Sarma)  
Advocate  
Date: 27/08/09

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

(An application U/s 19 of the Central Administrative Tribunals Act, 1985)

ORIGINAL APPLICATION NO. 170 OF 2009

Smti Arundhati Kalita

...Applicant

-Versus-

The Union of India & Ors

...Respondents.

**SYNOPSIS**

The applicant is a citizen of India, and, a permanent resident of Railway Quarter No. 167/B, East Maligaon, Guwahati-11, Kamrup, Assam. She was initially appointed as Senior Scientific Research Assistant in N.F. Railway on 7-4-1994. Pursuant to creation of the post of J.S.O. as per order of the Railway Board, she was promoted to the post of J.S.O. on ad-hoc basis on 5-12-1997. The General Manager (P), by his order issued vide Memo No. E/283/82/Pt.XVII (O) dated 16-12-03, reverted the applicant back to the post of Sr. Scientific Research Assistant. Being aggrieved, the applicant preferred O.A.No. 294/2003 before this Hon'ble Tribunal. By an interim order dated 26-12-03, this Hon'ble Tribunal was pleased to direct the Respondents to maintain status-quo, and the applicant continued to discharge her duties as J.S.O. By the order passed on 1-4-04, this Hon'ble Tribunal, while allowing the O.A. was pleased to set aside and quash the impugned order dated 16-12-03, inter-alia, observing that the General Manager cannot override the orders passed by the Railway Board and the applicant had the right to continue in the post of J.S.O. At the failure of the Respondents to comply with the aforesaid order dated 1-4-2004, the applicant preferred Contempt Petition No. 31/2004 before this Hon'ble Tribunal. In the meantime, the Respondents preferred WP(C) No. 5758/04 before the Hon'ble Gauhati High Court challenging the aforesaid order dated 1-4-04. The Hon'ble Gauhati High Court, vide Judgment & Order passed on 13-9-2005, dismissed the said writ petition, thereby upholding the order dated 1-4-04 passed by this Hon'ble Tribunal in O.A. No. 294/03. Pursuant to the Hon'ble High Court's order dated 13-9-05, the applicant preferred a representation on 21-9-05 praying for release of her arrear salaries w.e.f. 16-12-03. Meanwhile, the General Manager (P) issued

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the order No.32/2005 dated 31-10-05, re-promoting the applicant to the post of J.S.O., and, directed her to submit an assumption report in this regard. In response, the applicant submitted an application on 7-11-05, stating therein that as she was discharging her duties as J.S.O., in terms of her promotion to the said post vide order dated 5-12-1997 therefore submission of assumption report does not arise. As the Respondents did not consider her application dated 7-11-05, the applicant preferred Contempt Petition No. 5/2006 before this Hon'ble Tribunal, and this Hon'ble Tribunal, vide order dated 1-8-06, granted liberty to the applicant to raise her grievances before the Respondents. Accordingly, on 8-8-2006, the applicant preferred a representation before the Respondents praying for release of her arrear salaries and other benefits as J.S.O. w.e.f. 16-12-2003, which was rejected by the Respondent No.4, vide his order dated 23-10-06. Being aggrieved, the applicant preferred O.A.No. 61/2007, which was disposed of on 22-11-2007 granting liberty to the applicant to submit a representation with all details.

Thereafter, the applicant preferred Review Application No. 5/2007, and, this Hon'ble Tribunal, while parting with the matter on 17-9-08, was pleased to grant liberty to the applicant to put up her grievances in writing to the Respondents. Further, direction was given to the Respondents to reconsider the grievances of the applicant. On 1-10-08, the applicant submitted a representation praying for releasing her arrear salaries and other benefits. However, the Respondent No. 3, vide his order dated 12-12-08, rejected the prayer holding that the materials stated therein were taken into consideration while issuing the order dated 23-10-06, thereby, giving finality to the issue. The applicant has therefore preferred the instant application for setting aside and quashing the Order No. 32/2005 dated 31-10-05 issued by the General Manager (P), re-promoting the applicant to the post of J.S.O. (Group-B)/HQ, Maligaon; the Order dated 23-10-06 issued by the Respondent No.4, rejecting the representation of the applicant submitted on 8-8-06; and the Order dated 12-12-08 issued by the Respondent No. 3, rejecting the representation of the applicant submitted on 1-10-08, and, prays for her arrear salaries and other benefits w.e.f. 16-12-03. There is no other adequate or alternate remedy, available to the applicant.

FILED BY :

Sri Sampaw Jarua  
Advocate  
27/08/09

Contd.....

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH::GUWAHATI

(An application U/s 19 of the Central Administrative Tribunals Act, 1985)

ORIGINAL APPLICATION NO. 170 OF 2009

Smti Arundhati Kalita

...Applicant

-Versus-

The Union of India & Ors

...Respondents.

**LIST OF DATES**

1. The applicant is a citizen of India, and, a permanent resident of Railway Quarter No. 167/B, East Maligaon, Guwahati-11, Kamrup, Assam.
2. She was initially appointed as Senior Scientific Research Assistant in N.F. Railway on 7-4-1994.
3. On 5-12-1997 she was promoted to the post of J.S.O. pursuant to creation of the post of J.S.O. as per order of the Railway Board.
4. The General Manager (P), by his order issued vide Memo No. E/283/82/Pt.XVII (O) dated 16-12-03, reverted the applicant back to the post of Sr. Scientific Research Assistant.
5. Being aggrieved, the applicant preferred O.A.No. 294/2003, before this Hon'ble Tribunal. By an interim order dated 26-12-03, this Hon'ble Tribunal was pleased to direct the Respondents to maintain status-quo.
6. By order passed on 1-4-04, this Hon'ble Tribunal, while allowing the O.A. was pleased to set aside and quash the impugned order dtd 16-12-03.
7. At the refusal of the Respondents to comply with the said order dated 1-4-2004, the applicant preferred Contempt Petition No. 31/2004 before this Hon'ble Tribunal.
8. The Respondents preferred WP(C) No. 5758/04 before the Hon'ble Gauhati High Court challenging the aforesaid order dated 1-4-04.
9. The Hon'ble Gauhati High Court, vide Judgment & Order passed on 13-9-2005, dismissed the said writ petition, thereby upholding the order dated 1-4-04 passed by this Hon'ble Tribunal in O.A. No. 294/03.
10. The applicant preferred a representation on 21-9-05 praying for release of her arrear salaries w.e.f. 16-12-03.

Contd.....

- C2 87
11. The General Manager (P) issued the order No.32/2005 dated 31-10-05, re-promoting the applicant to the post of J.S.O., and, directed her to submit an assumption report in this regard.
  12. The applicant submitted an application on 7-11-05, stating therein that as she was discharging her duties as J.S.O., in terms of her promotion to the said post vide order dated 5-12-1997 therefore submission of assumption report does not arise.
  13. As the Respondents did not consider her application dated 7-11-05, the applicant preferred Contempt Petition No. 5/2006 before this Hon'ble Tribunal.
  14. This Hon'ble Tribunal, vide order dated 1-8-06, granted liberty to the applicant to raise her grievances before the Respondents.
  15. On 8-8-2006, the applicant preferred a representation praying for release of her arrear salaries and other benefits as J.S.O. w.e.f. 16-12-2003.
  16. The prayer was rejected by the Respondent No.4, vide his order dated 23-10-06.
  17. Being aggrieved, the applicant preferred O.A.No. 61/2007, which was disposed of on 22-11-2007 granting liberty to the applicant to submit a representation with all details.
  18. Thereafter, the applicant preferred Review Application No. 5/2007, and, this Hon'ble Tribunal, by order dated 17-9-08, granted her liberty to submit her grievances in writing to the Respondents.
  19. On 1-10-08, the applicant submitted a representation praying for releasing her arrear salaries and other benefits.
  20. The Respondent No. 3, vide his order dated 12-12-08, rejected the prayer holding that the order dated 23-10-06 had given finality to the issue.

Filed by:

*Anupam Sarma*  
(Anupam Sarma)  
Advocate 27/08/09

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FILED BY: Smt. ARUNDHATI KALITA  
THROUGH: Arup Kumar Goswami  
Date: 27/08/09

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

(An application U/s 19 of the Central Administrative Tribunals Act, 1985)

**ORIGINAL APPLICATION NO. 170 OF 2009**

Smti Arundhati Kalita,  
W/o Sri Arup Kumar Goswami,  
Railway Qr. No. 167/B  
East Maligaon, Guwahati-11.

...Applicant.

-Versus-

1. The Union of India,  
Represented by the Secretary,  
Ministry of Railway, Govt. of India,  
New Delhi - 1.
2. The Chairman, Railway Board,  
Rail Bhawan, New Delhi-1.
3. The General Manager (P)  
N.F. Railway Maligaon, Guwahati-11.
4. The Deputy Chief Personal Officer (Gaz),  
Office of the General Manager (Personnel),  
N.F. Railway, Maligaon, Guwahati- 11.

...Respondents.

**DETAILS OF THE APPLICATION**

**1. CAUSE OF ACTION FOR THE INSTANT APPLICATION:**

The instant application has been preferred against:

- i) Order No. 32/2005 dated 31-10-05 issued by the General Manager (P), re-promoting the applicant to the post of J.S.O. (Group-B)/HQ, Maligaon.
- ii) Order dated 23-10-06 issued by the Respondent No.4, rejecting the representation of the applicant submitted on 8-8-06 in terms of the order dated 1-8-06 passed by this Hon'ble Tribunal in C.P.No. 5/2006.
- iii) Order dated 12-12-08 issued by the General Manager, N.F. Railway, Maligaon, i.e. the Respondent No. 3, rejecting the representation of the applicant submitted on 1-10-08 for arrear salaries and other benefits w.e.f. 16-

Arundhati Kalita.



12-03, in terms of the order dated 17-9-08 passed by this Hon'ble Tribunal in R.A.No. 5/2007.

2. JURISDICTION OF THE TRIBUNAL:

The subject matter of the instant application has arisen at Guwahati, and, is well within the ordinary jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

The instant application is not time barred, and, has been preferred within the statutory period of limitation as per the provisions laid down by Sec 21 of the Administrative Tribunals Act.

4. FACTS OF THE CASE:

4.1 That the applicant is a citizen of India, presently residing at Railway Quarter No. 167/B, East Maligaon, Guwahati-11, Kamrup, Assam. She is, therefore, entitled to all the rights and privileges, as guaranteed under the Constitution of India, and, the laws framed there under, including the right to prefer the instant application before this Hon'ble Tribunal.

4.2 That on 7-4-1994, the applicant was appointed as Senior Scientific Research Assistant by the N.F. Railways. Pursuant to the creation of the post of J.S.O. as per order of the Railway Board, she was promoted to the post of J.S.O. on ad-hoc basis on 5-12-1997 and continued to serve therein to the satisfaction of all concerned. However, the General Manager (P), by his order issued vide Memo No. E/283/82/Pt.XVII (O) dated 16-12-03, reverted the applicant back to the post of Sr. Scientific Research Assistant.

Copies of the orders dated 7-4-1994, 5-12-97 and 16-12-03 are annexed herewith and marked as ANNEXURES – I, II & III, respectively.

4.3 That being aggrieved, the applicant preferred O.A.No. 294/2003 before this Hon'ble Tribunal. By an interim order dated 26-12-03, this Hon'ble Tribunal was pleased to direct the Respondents to maintain status-quo, and the applicant continued to discharge her duties as J.S.O. Finally, the Hon'ble Tribunal, vide an order passed on 1-4-04, was pleased to allow the O.A. by setting aside and quashing the impugned order dated 16-12-03, inter-alia, holding that the order of reversion was passed in an arbitrary manner as the post of J.S.O. was still in existence pursuant to its creation as per order of the Railway Board which was still in force. It was further held that the General

Amal Kati Contd.....

Manager cannot override the orders passed by the Railway Board and the applicant had the right to continue in the post of J.S.O.

Copies of the orders dated 26-12-03 and 1-4-04 passed by this Hon'ble Tribunal are annexed herewith and marked as ANNEXURES – IV & V, respectively.

4.4. That, as the Respondents failed to comply with the aforesaid order dated 1-4-2004, the applicant preferred Contempt Petition No. 31/2004 before this Hon'ble Tribunal and, show-cause notices were issued upon the respondents.

4.5 That, in the meantime, the Respondents filed WP(C) No. 5758/04 before the Hon'ble Gauhati High Court challenging the aforesaid order dated 1-4-04 passed by this Hon'ble Tribunal in O.A. No. 294/03. The Division Bench of the Hon'ble Gauhati High Court, vide Judgment & Order passed on 13-9-2005, dismissed the said writ petition, thereby upholding the order dated 1-4-04 passed by this Hon'ble Tribunal in O.A. No. 294/03.

A copy of the order dated 13-9-2005 passed by the Hon'ble Gauhati High Court is annexed herewith and marked as ANNEXURE - VI.

4.6 That, pursuant to the Hon'ble High Court's order dated 13-9-05, the applicant preferred a representation before the Respondents on 21-9-05 praying for release of her arrear salaries w.e.f. 16-12-03.

4.7 That, meanwhile, the Respondent No. 3, i.e., the General Manager (P) issued his office order No.32/2005 dtd. 31-10-05, re-promoting the applicant to the post of J.S.O. (Group-B)/HQ, Maligaon. By the said order, the applicant was directed to submit an assumption report in this regard.

A copy of the order dated 31-10-05 is annexed herewith and marked as ANNEXURE - VII.

4.8 That, in response to the aforesaid order dated 31-10-05, the applicant submitted an application on 7-11-05, inter-alia stating therein that since she was discharging her duties as J.S.O., pursuant to her promotion to the said post vide order dated 5-12-1997, therefore, submission of assumption report does not arise. She further stated that her promotion as J.S.O. was upheld by this Hon'ble Tribunal vide order dated 1-4-2004, as well as by the Hon'ble Gauhati High Court vide order dated 13-9-05 passed in WP(C) No. 5758/04.

A copy of the application dated 7-11-05 is annexed herewith and marked as ANNEXURE - VIII.

(26)

a)

4.9 That, as the Respondents did not consider her application dated 7-11-05, the applicant preferred Contempt Petition No. 5/2006 before this Hon'ble Tribunal, and this Hon'ble Tribunal, vide order dated 1-8-06, granted liberty to the applicant to raise her grievances before the Respondents.

4.10. That, accordingly, on 8-8-2006, the applicant preferred a representation before the Respondents praying for release of her arrear salaries and other benefits as J.S.O. w.e.f. 16-12-03. The Respondent No.4, vide his order dated 23-10-06, while rejecting the prayer of the applicant held that it is not correct that the applicant was rendering services as JSO in terms of this Hon'ble Tribunal's order dated 1-4-04, in view of the fact that the Respondents had preferred WP(C) No. 5758/2004, challenging the aforesaid order dated 1-4-04 passed by this Hon'ble Tribunal, and that the Hon'ble Gauhati High Court disposed of the said writ petition on 13-9-05. According to the said Respondent, the question of the applicant continuing and rendering duty as JSO w.e.f. 16-12-03 did not arise. He further observed that until the order promoting the applicant to the post of JSO was issued, she could not have performed the duty as JSO. In addition, the said respondent also stated that the official correspondences addressed to the applicant in respect of her posting as JSO were inadvertent and unintentional, in as much as she was already reverted to the post of Sr.SRA in terms of order dated 16-12-03.

A copy of the order 23-10-06 is annexed herewith and marked as ANNEXURE - IX.

4.11. That, being aggrieved, the applicant preferred O.A.No. 61/2007 before this Hon'ble Tribunal, which was disposed of on 22-11-2007 granting liberty to the applicant to submit representation with all details before the Respondents. The Hon'ble Tribunal also directed the Respondents to pass reasoned order on such representation of the applicant within 3 months from the date of submission of the representation.

4.12. That, thereafter, the applicant preferred Review Application No. 5/2007 seeking review of the order dated 22-11-07 passed in O.A.No. 61/2007, and, this Hon'ble Tribunal, while parting with the matter on 17-9-08, was pleased to grant liberty to the applicant to put up her grievances in writing to the Respondents. Further, direction was given to the Respondents to reconsider the grievances of the applicant by taking in to consideration all materials/points; including the point that the Counsel for the Railways, on 17-2-05, conceded that the Applicant continued to occupy the post of JSO pursuant to the interim order dated 26-12-03 passed in O.A.No. 294/2003.

Amalendu Nath. Contd.....  
Amalendu Nath.

4.13. That, accordingly, on 1-10-08, the applicant submitted a representation before the Respondents praying for releasing arrear salaries and other benefits to which she is entitled. However, the Respondent No. 3, vide his order dated 12-12-08, rejected the prayer holding that the materials stated therein were taken into consideration while issuing the order dated 23-10-06, thereby, giving finality to the issue. In addition, it is also stated that "the interim order dated 26-12-03 passed in O.A.No. 294/2003 was merged in subsequent interim orders followed by the final order". He categorically stated that as no administrative order was issued, the applicant is not entitled to any arrear benefit as JSO.

A copy of the order 12-12-08 is annexed herewith and marked as ANNEXURE - X.

As such, having no other adequate or alternate remedy, the applicant has preferred the instant application.

5. GROUND FOR MAKING THE APPLICATION:

The applicant has preferred the instant application on the following amongst other grounds:

5.1. That, pursuant to the judgment and order dated 1-4-2004 passed in O.A.No. 294/2003 by this Hon'ble Tribunal, setting aside and quashing the order of reversion of the applicant dated 16-12-03, the initial order of promotion of the applicant to the post of JSO dated 5-12-1997 stands automatically revived by operation of law. As such, the impugned order dated 31-10-05 re-promoting the applicant amounts to abuse of the process of law and is liable to be set aside and quashed.

5.2. That, in terms of the order of status-quo dated 26-12-03 passed in O.A. No. 294/2003, the applicant continued to discharge her duties as JSO and the said order attained finality vide the Judgment & Order dated 1-4-2004, and, therefore, the applicant is entitled to the arrear salaries w.e.f. 16-12-2003, i.e. from the date of the impugned order of reversion.

5.3. That, the contention of the respondents in the impugned order dated 23-10-06, in response to the representation dated 8-8-06 preferred by the applicant, that as the Hon'ble Gauhati High Court disposed of WP(C) No. 5758/04 on 13-9-05, therefore, the continuation of the applicant as JSO did not arise, is high-handed and contemptuous, as the order dated 1-4-04 passed by this Hon'ble Tribunal in O.A.No. 294/2003, was upheld by the Hon'ble Gauhati High Court, and, as such, the same is liable to be set aside and quashed.

*Amalendu Kalita* Contd.....

5.4. That, in issuing the impugned order dated 12-12-08, the General Manager, N.F. Railway, Maligaon, i.e. the Respondent No. 3, while rejecting the representation of the applicant submitted on 1-10-08, has observed that the materials in the said representation were considered and given finality vide the impugned order dated 23-10-06. In the said order, it is also contended that the interim order dated 26-12-03 passed by this Hon'ble Tribunal in O.A.No. 294/2003 "was merged in subsequent interim orders followed by the final order". By such statements, the Respondent No.3 has gone to the extent of superseding the authority of this Hon'ble Tribunal as well as that of the Hon'ble Gauhati High Court with the sole intention of depriving the applicant of her legitimate right to the arrear salary and other benefits. As such, appropriate orders may be passed by this Hon'ble Tribunal as regards the conduct and attitude of the said Respondent, and to set aside and quash the impugned order dated 12-12-2008.

5.5. That, the Division Bench of the Hon'ble Gauhati High Court, vide its order dated 13-9-2005 Passed in WP(C) 5758/2004, has categorically observed that the applicant had been empanelled for promotion to the post of JSO and that there is no indication in the order of promotion dated 5-12-1997 that the said promotion was on temporary basis and could be withdrawn at any point of time. From the Hon'ble Court's order, it can be presumed that the promotion of the applicant was without any pre-conditions. It was also held that the sanction of the Railway Board subsisted at the relevant point of time for promotion of the applicant to the post of JSO. In view of the Hon'ble High Court's order, the impugned order of re-promotion dated 31-10-05 is erroneous and liable to be set aside and quashed, thereby, giving the arrear salary and other benefits to the applicant as prayed for about.

5.6 That, the Hon'ble High Court, vide its order dated 13-9-2005 passed in WP(C) 5758/2004, has upheld the order dated 1-4-2004 passed by this Hon'ble Tribunal in O.A.No. 294/2003, that as the post of JSO had been created by the Railway Board, therefore, the General Manager, NF Railway had no authority to override the arrangement in issuing the order of reversion dated 16-12-2003. Viewed from this perspective, the impugned orders dated 23-10-06 and 12-12-08 are unsustainable and are liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the avenues, and there is no other alternative and efficacious remedy available to him.

7. MATTERS PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the applicant had approached this Hon'ble Tribunal, previously, and the particulars thereof are as follows:

<u>Sl. No.</u>	<u>Nature of Petition</u>	<u>Date of Disposal</u>
i.	OA No. 294/2003	1-4-2004
ii.	C.P. No. 31/2004	17-2-2005
iii.	C.P. No. 5/2006	1-8-2006
iv.	OA No. 61/2007	22-11-02007
v.	RA No. 5/2007 (in OA 61/2007)	17-9-08

In addition to the above, against the order dated 1-4-2004 passed by this Hon'ble Tribunal in OA 294/2003, the Respondents preferred WP(C) No. 5758/2004 before the Hon'ble Gauhati High Court, which was dismissed on 13-9-05.

Except as stated above, there is no other application, writ petition or suit regarding the grievances in respect of which this application is made, is pending before any Court or any other Bench of the Tribunal or any other authority.

8. RELIEF SOUGHT FOR

8.1 The applicant most respectfully prays that this application may be admitted, and, the records of the case be called for.

8.2 Notices be issued to the respondents to show cause.

8.3 To set aside and quash the impugned Order No. 32/2005 dtd. 31-10-05 issued by the General Manager (P), re-promoting the applicant to the post of J.S.O.

8.4 To set aside and quash the impugned Order dated 23-10-06 issued by the Respondent No.4, rejecting the representation of the applicant submitted on 8-8-06.

8.5 To set aside and quash the impugned Order dated 12-12-08 issued by the Respondent No. 3, rejecting the representation of the applicant submitted on 1-10-08.

8.6 Order/orders to the effect that the applicant be deemed to have continued in the post of JSO from 5-12-97 including the period w.e.f. 16-12-03 to 31-10-05.

8.7 Direction to the respondents to give the arrear salary and other benefits to the applicant w.e.f. 16-12-03 to 31-10-05 forthwith.

8.8 Or may pass order for any other relief to which the applicant is found entitled to under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR

In the interim, Your Lordships may be pleased to direct the respondents to give the arrear salary and other benefits to the applicant w.e.f. 16-12-03 to 31-10-05 forthwith.

10. This Application is filed through Advocate.

11. PARTICULARS OF I.P.O.

I.P.O NO : 396 422074  
Date of issue : 27-8-09.  
Issued from : Guwahati, G.P.O.  
Payable at : Guwahati

12. LIST OF ENCLOSURES: As stated in the Index

....Verification

*Shalini Khatun*

91 96

9

VERIFICATION

I, Smti Arundhati Kalita, W/o Sri Arup Kumar Goswami, aged about 43 years, presently residing at Railway Qr. No. 167/B East Maligaon, Guwahati-11, Kamrup, Assam, do hereby solemnly affirm and declare that the statements made in the application in paragraphs 2, 3, 5(i) to 5(vi), 6, 7 and 8 to 12 are true to the best of my knowledge and belief, and those made in paragraphs 1(i) to 1(iii), 4.1 to 4.13 being matter of records, are true to my knowledge and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact of the case.

And I sign this verification on this 27<sup>th</sup> Day of August, 2009 at Guwahati.

*Arundhati Kalita*  
(DEPONENT)



**NORTHEAST FRONTIER RAILWAY****OFFICE ORDER**

Smti Arundhati Kalita on being found selected for the post of Sr. Scientific Research Asstt. in scale Rs. 1640-2900/-, whose case for appointment has been forwarded by SPO/HQ vide his office Note No.E/227/MISC/Pt.II(Rectt.) dated 30-3-94 and who has been found fit for appointment in B/One vide Sr. DMO/DM/CH/MLG's fit certificate No. 283 dt. 7-4-94 is hereby temporarily appointed as Sr. Scientific Research Asstt. on pay Rs.1640/- plus usual allowances etc. in scale Rs. 1640-2900/- against the permanent post created vide GM(P)'s memorandum No. R/41/195 Pt.III(T) dt. 22-6-95 and posted in Psycho Technical Cell under Chief Safety Officer at Maligaon w.e.f. the forenoon of 7-4-94.

She has to undergo a successful training in Psycho Technical Cell in the RDSO/Lucknow.

Other terms & conditions of her appointment shall remain same as envisaged in CPO(Rectt.)'s letter No. E/227/8/19(T) dated 31-3-94.

Sd/- illegible

Dy. Chief Operational Manager (Planning)

No.E/285/59 Pt.IV(T)

Dated 7-4-94

Copy forwarded for information & necessary action to:-

- 1) FA&CAO/MLG.
- 2) CSO/MLG.
- 3) Dy.COM (Safety)/MLG.
- 4) CPO/Rectt.(SPO/HQ)/MLG.
- 5) OS/T(OPTG)/COM's office/MLG.
- 6) TI/Safety (Shri V I Jacob).
- 7) Smt. B. Bokolial, Clerk?ET/Bill (duplicate).
- 8) Smt. Arundhati Kalita, at office.

Sd/- illegible

For General Manager (P)/MLG

## WATKINS AND WILSON RAILWAY.

11/4

## OFFICE ORDER.

Sgt. Arundhati Malika on being found selected for the post of Sr. Scientific Research Asst. in Rank B.1640-2900/-, whose name for appointment has been forwarded by SPO/SG vide his office memo no.B/22/1123/Pt.III(Recd.) dated 30-3-94 and who has been found fit for appointment in B/Cas vide Sr.SPO/SG/CA/16's fit certificate no.203 dt.7-4-94, is hereby temporarily appointed as Sr. Scientific Research Asst. in Rank B.1640-2900/- plus usual allowances etc. in scale B.1640-2900/- against the permanent post created vide G.O.'s memorandum no.B/41/195 Pt.III(2) dt.22-4-93 and posted in Psycho Technical Cell as Sr. Clinical Safety Officer at Bellary, V.C.E. the date from 7-4-94.

She has to undergo a successful training in Psycho Technical Cell in the ADG/Lucknow.

Other terms & conditions of her appointment shall remain same as mentioned in G.O.(Recd.)'s letter no.B/22/195(2) dated 31-3-94.

By: Chief Operations Manager, Planning.

no.B/253/99 Pt.IV(2)

Dated 7-4-94.

8.

Copy forwarded for information & necessary action to:-

- (1) Sr. SPO/SG.
- (2) SPO/SG.
- (3) Sr. SPO (Safety)/SG.
- (4) SPO/Recd. (SPO/SG)/SG.
- (5) SPO/SG/CA/16's office/SG.
- (6) SI/Safety, Area VI (Secd).
- (7) Sgt. B. Lakshmi, Clerk/SG/SG (Duplicate).
- (8) Sgt. Arundhati Malika, as officer.

Certified to be true copy  
Alipen Sarma.

Advocate

For: Chief Operations Manager (P)/SG.

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12-4-94

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-11-

N. F. RAILWAY.

OFFICE ORDER NO. 202/97(MECH)

Dt. 5.12.97 ANNEXURE-II

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

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

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

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

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

This issues with the approval of Competent Authority.

*M Brahme*  
( M Brahme )  
Dy.CPO/G  
for General Manager(P)

No.E/41/120/29(0)

MLG, dt. 5.12.97

Copy forwarded for information & n/action to :-

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

*M Brahme*  
for General Manager(P)

.....

Certified to be true copy  
*Alipen Sarma*  
Advocate

ANNEXURE - III

(Typed Copy)

N. F. Railway

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

The following orders are issued with immediate effect: -

- 1) One regular Group 'B' post of AME of Mechanical Department which was vacated for operation as AME (Safety) and subsequently as Jr. Scientific Officer vide GM(P)/MLG's Office Order No. 84/94(Traffic) dtd. 1/5-4-1994 and 202/97 (Mech) dtd. 5-12-1997 is hereby restored back to Mechanical Department with immediate effect.
- 2) As a consequence Smti. Arundhati Kalita, Sr. Scientific Research Assistant in Scale Rs. 1640-2900/5500-9000, who was promoted to the post of JSO (Gr -B) purely on ad- hoc basis vide this Office Order dated 05-12-1997, is hereby reverted to her substantive post of Sr. Scientific Research Assistant in Scale Rs. 5500-9000/- under CSO/MLG with immediate effect.

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

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

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

Maligaon dated 16-12-2003

Copy forwarded for information & necessary action: -

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

*Certified to be true copy*  
*As per Sama*  
*Advocate*

Sd/-  
(P.K. Singh)  
Dy. Chief Personnel Officer (Gaz)  
For General Manager (P).

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Form No. 4  
(SEE RULE 42)

-13-

ANNEXURE-IV

CENTRAL ADMINISTRATIVE TRIBUNAL  
CORRUPT PRACTICES

ORDER SHEET

Original Application No: 294/03

Misc Petition No:

Contempt Petition No:

Review Application No:

Name of the Applicant(s): Sri Arundhiti Kalita

Name of the Respondant(s): Leo Luns

Advocate for the Applicant:- Mr B. Sarma

Advocate for the Respondant:- H.A. D.K. Kalita

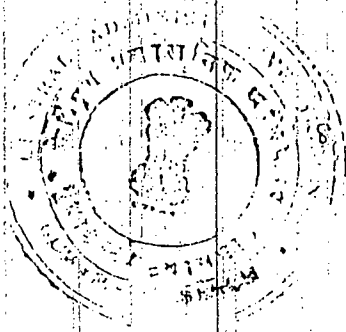
Rly Counsel

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

26.12.2003	Present: Hon'ble Mr Justice B. Panigraha, Vice-Chairman Hon'ble Mr K.V. Prahaladan, Administrative Member.
------------	---

Heard Mr B. Sarma, learned counsel for the applicant. Mr S. Sarma, learned counsel for the respondents, has submitted that he will take necessary instructions from his client within a reasonable time. Since the applicant was kept incharge on ad hoc basis in the post of Junior Scientific Officer, let the present status quo as on today continue till the next date.

Let four copies of the application be served upon the



Certified to be true copy  
Sper Sarma  
Advocate

14  
O.A.No.294/2003

26.12.2003

learned counsel for the  
respondents in course of the day.  
The matter shall appear on  
27.1.2004 for hearing on  
admission.

Sd/ VICE-CHAIRMAN  
Sd/ MEMBER (A)

Certified to be true copy  
of the original

*[Signature]*  
29/12/03  
Section Officer (I)  
C.B.T. GUWAHATI RANCH  
Guwahati 781003

Certified to be true copy

Advocate

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ANNEXURE-V

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 294 of 2003.

Date of Order : This the 1st Day of April, 2004.

The Hon'ble Shri Kuldip Singh, Judicial Member.

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

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

... Applicant.

By Advocate Sri Bipul Sarma.

- Versus -

1. Union of India,  
through the General Manager,  
N.F. Railway, Maligaon,  
Guwahati-11.
  2. General Manager (Personnel)  
N.F. Railway, Maligaon,  
Guwahati-11.
  3. Deputy Chief Personnel Officer,  
(Gaz), Office of the General Manager,  
Personnel, N.F. Railway,  
Maligaon, Guwahati-11.
  4. Dy. Director, Estt. Gaz (Cadre),  
Railway Board, Rail Bhawan,  
New Delhi.
- ... Respondents.

By Advocate (None present for the respondents)

O R D E R

KULDIP SINGH, MEMBER (J)

Heard Sri B. Sarma, learned counsel for the applicant.  
None present for the respondents. However, we proceed to hear  
the matter under the provision of Rule 15 of the Central  
Administrative Tribunal (Procedure) Rules 1987.

2. This application has been filed challenging the  
arbitrary reversion of the applicant from the post of  
Junior Scientific Officer (Gr.B) which she was holding  
purely on ad hoc basis to the post of Senior Scientific  
Research Assistant i.e. her substantive post. The applicant  
submitted that vide order dated 24.2.93 issued by the  
Railway Board a Junior Scale Group B post was created which  
was subsequently designated as Junior Scientific Officer.  
This may be filled up by transferring a regular post from

K. S.

**Certified to be true copy**  
*Bipul Sarma*  
**Advocate**



- 16 -

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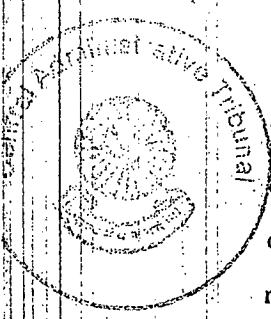
Traffic or Mechanical or Personnel Branch of their own Railway. The applicant belongs to Traffic branch and was <sup>thus</sup> posted to the post of Junior Scientific Officer. The applicant continued to work but suddenly the <sup>impugned</sup> order dated 16.12.2003 was issued by the General Manager(P), N.F. Railway, wherein it was mentioned that the post of JSO is restored back to Mechanical Department with ~~x~~ immediate effect and as a consequence thereof the applicant who was posted as JSO was ordered to be reverted to her substantive post of Sr. Scientific Research Assistant. The applicant thereafter filed an O.A. and this Tribunal vide order dated 26.12.2003 directed to maintain status quo. Notice was issued to the respondents.

3. The respondents filed their written statement contesting the case. In the affidavit the respondents pleaded that the post of JSO was created for operation in the psycho-technical cell by variation of a post of equivalent rank from the mechanical department and the said order also stated that the applicant who was working as Sr. Scientific Research Assistant was empanelled for promotion to the post of JSO Gr.B purely on ad hoc basis with the stipulation that this would not confer her any claims for regular promotion to Gr.B service and seniority. By the impugned order dated 16.12.2003 the post of JSO was restored back from the office of the Chief Safety Officer, N.F. Railway to the Mechanical Engineering department to which the post belonged. Consequently the order of reversion has been passed. Thus the respondents in the O.A. has taken a plea that the post of JSO is no more available to the applicant since the post has been restored to the mechanical department. Keeping in view the various considerations of administrative convenience the decision was taken to restore the post.

Ku  
contd..3



4. We have heard the learned counsel for the applicant at length. We find from the record that there was no order of abolition of the post of JSO. The post has been created by order dated issued by the Railway Board which is still in force and the General Manager cannot overriding the orders passed by the Railway Board. <sup>Abolish the post as stated in Member's order</sup> Though the respondents have denied the allegation that this order has been passed to accommodate some other person from Personnel department but the fact remains that the post has not yet been abolished by the Railway Board and continued till today. This fact has been established by letter dated 22.4.96 (Annexure-G) written by the Executive Director Traffic Research (Psych.), wherein it has been clearly mentioned that as regards post of JSO is concerned, the N.F. Railway may fill up the post on local basis from its own sources and the present arrangement of utilising a Calcutta based JSO is dispensed with. Thus we find that the order of reverting the applicant to the post of Sr. Scientific Research Assistant has been passed in an arbitrary manner as the ~~post~~ post of JSO is still exist and has not been abolished and the applicant has a right to be continued to the post of JSO though purely on ad hoc basis. <sup>Since the houses to fill the post include the Traffic department to which the applicant belongs to</sup> Accordingly we allow the O.A. and quash and set aside the order dated 16.12.2003 reverting back the applicant to the post of Sr. Scientific Research Assistant. <sup>on the basis of terms and conditions of an Ad hoc basis</sup> No order as to costs.



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of the original

Sd/MEMBER(J)  
Sd/MEMBER(Adn)

Section Officer (A)  
C.A.T. BENCH, CALCUTTA  
Dated: 2/4/07

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Aripen Sarma  
Advocate

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आवेदन की तिथि Date of application for the copy.	रजिस्ट्रार को प्रेषित करने की तिथि Date fixed for bottling the requisite number of stamps and follow.	रजिस्ट्रार को प्रेषित करने की तिथि Date of delivery of the requisite stamps and follow.	-18- Date on which the copy was ready for delivery.	आवेदन का प्रमाणित करने की तिथि Date of making over the copy to the applicant.
17/9/05	17/9/05	17/9/05	17/9/05	17/9/05

THE GAUHATI HIGH COURT

ANNEXURE-VI

(THE HIGH COURT OF ASSAM: NAGALAND: MEGHALAYA: MANIPUR: TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

WP(C) 5758/04

1. Union of India,  
Represented by the General Manager, NF Railway, Maligaon, Guwahati.
2. The General Manager,  
NF Railway, Maligaon, Guwahati.
3. The Dy. General Manager (P),  
NF Railway, Maligaon, Guwahati.
4. The Dy. Director Estt. Gaz (Cadre),  
Railway Board, Rail Bhawan, New Delhi.

.... Petitioners

Versus

Smt. Arundhati Kalita,  
W/o Shri Arup Kr. Goswami,  
Railway Quarter No. 167/B,  
East Maligaon, Guwahati-11, Assam.

...Respondent

BEFORE

THE HON'BLE MR. JUSTICE AH SAIKIA  
THE HON'BLE MR. JUSTICE AMITAVA ROY

For the petitioners: - Mr. S. Sharma,  
Ms. U Das, Standing Counsel, Railways.

For the respondent: Mr. GK Bhattacharjee, Sr. Advocate.  
Mr. B. Choudhury, Advocate.

Date of hearing: 13/9/2005

Date of Judgment: 13/9/2005

JUDGMENT & ORDER(ORAL)

Amitava Roy, J

The judgment and order dated 1/4/2004 passed by the learned Central Administrative Tribunal, Guwahati Bench, (hereafter

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Dipen Sarma  
Advocate

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referred to as the Tribunal) quashing the order dated 16/12/2003 issued by the General Manager (P) NF Railway has been called into question in this proceeding under Article 226 of the Constitution of India.

2. We have heard Mr. S Sharma, learned Standing Counsel, Railways for the petitioners and Mr. GK Bhattacharjee, Sr. Advocate assisted by Mr. B Choudhury, Advocate for the respondent/applicant.

3. A brief outline of the pleaded cases of the parties has to be made at the outset. The respondent/applicant approached the learned Tribunal being aggrieved by her reversion from the post of Junior Scientific Officer (Group 'B') held by her on adhoc basis to her substantive post of Sr. Scientific Research Assistant by the order dated 16/12/2003 impugned before the learned Tribunal. She had joined the services under the Railways on 7/4/1997 as Sr. Scientific Research Assistant in the office of the Chief Scientific Officer in the Operation Department, NF Railway. The Ministry of Railways, Government of India, in the year 1993 decided and recommended creation of Psycho-Technical Cell in the Zonal Railways with a view to conduct psychological tests of certain cadres of recruitment to effectively deal with accident exigencies. With that end in view, the Railway Board decided to create posts in the Zonal Railways and for the purpose 7 posts of Jr. Scientific Officer were earmarked. In the letter dated 24/2/1993 to the said effect issued by the Deputy Director, Estt. Gaz. (Cadre), Railway, inter alia, the Central, the Northeast Frontier, and South Central Railways were permitted to find out the post of Junior Scientific Officer from the Traffic or Mechanical or Personnel Branch of their own Railways. This arrangement was also reflected in the letter dated 22/4/1996 issued by the Executive Director, Traffic Research (Psych.) of the Research and Designs and Standards Organisation, Ministry of Railways addressed to Chief Safety Officer, NF Railway, Guwahati. It was mentioned therein that the matter of identifying the post of Junior

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Scientific Officer by the Zonal Railways from within their own resources from the Traffic, Mechanical or personnel Department was within their competence for which the sanction of the Board existed. It underlined that no further reference to the Board was necessary for the said purpose. It was further indicated that other Railways, which were required to take similar steps, had already complied with the Board's order as above.

4. A post of Assistant Mechanical Engineer in the Mechanical Engineering Department, NF Railway was thereafter identified to be designated as Junior Scientific Officer (Group B) in the operating department in which the respondent applicant was serving. Accordingly she on being empanelled for promotion to the said post on adhoc basis was appointed thereto on 5/12/1997. At the relevant time, the respondent applicant was holding the post of Sr. Scientific Research Assistant in the substantive capacity. While she was continuing as such the order of reversion was passed.

5. In the written statement filed by the respondent Railways, it was inter alia contended that the transfer of the post of Assistant Mechanical Engineer from the Mechanical Engineering Department to the Psycho Technical Cell where the respondent applicant was serving on purely temporary basis and that her adhoc promotion to the said post was only a stop gap arrangement which did not confer any right on her. While acknowledging the arrangement reflected in the letter dated 24/2/1993 authorizing the Zonal Railways to make their own arrangement to identify the required posts of Junior Scientific Officer (Group 'B') from their branches, it was sought to be contended that the order of reversion was necessitated by administrative requirements and, therefore, was unassailable.

6. The learned Tribunal on a consideration of the pleadings of the parties and other materials on record held that as the post of Junior Scientific Officer (Group 'B') held by the respondent applicant

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had been created by the Railway Board, the General Manager, NF Railway, who passed the order of reversion, had no authority to override the arrangement and consequently her reversion was unsustainable in law. While coming to the said conclusion, the learned Tribunal noticed the letter dated 22/4/1996 referred to above and conclude that in the facts and circumstances of the case, the order of reversion was passed in arbitrary exercise of power. Having held that the post of Junior Scientific Officer (Group 'B') continues to exist, the reversion of the respondent applicant was declared as nonest in law and quashed.

7. Mr. Sharma has argued that the promotion/appointment of the respondent applicant to the post of Junior Scientific Officer (Group 'B') transferred from the Mechanical Department of the NF Railway being per se illegal for lack of necessary approval of the Railway Board, she had no subsisting right to continue therein and, therefore, the learned Tribunal erred in law and on facts in interfering with her reversion. The transfer of the post from the Mechanical Department was purely temporary and consequent upon the administrative necessity thereof in the parent department, the respondent applicant who was holding the same on purely adhoc basis had to be reverted as the necessary corollary. As her adhoc promotion to the post of Junior Scientific Officer (Group 'B') by the very nature thereof did not confer any right on her, the order of reversion on administrative demand ought not to have been interfered with. Mr. Sharma further argued that the adhoc promotion of the respondent applicant had been against the relevant recruitment Rules.

8. Mr. Bhattacharjee in reply has submitted that it being apparent from the contemporaneous records that the identification of the post of Junior Scientific Officer (Group 'B') in the Psycho Technical Cell where the respondent applicant is serving had been made with the approval of the Board and she having been promoted



to the said post being one of the empanelled candidates therefor the order of reversion is per se illegal and, therefore, the learned Tribunal was perfectly justified in interfering therewith. According to him, the respondents having failed to plead want of Board's approval and violation of the recruitment rules in their written statement before the learned Tribunal, the contentions to the above effect ought not to be entertained by this Court. That the re-designation of the post brought from the Mechanical Engineering Department and adhoc promotion of the Respondent applicant had the approval of the Board, according to the learned Sr. Counsel is also borne out by the communication dated 10/2/2000, Annexure VII to the counter filed by the respondent applicant to the additional affidavit of the Railways and therefore no case having been made out for interference of the Court, the petition is liable to be dismissed.

9 GAUH/Wel have carefully considered the rival submissions. The authenticity of the communications dated 24/2/1993, 22/4/1996 and 10/2/2000 referred to in the above narration has not been disputed by the Railways and rightly so, being their own documents. The empowerment of the Central, Northeast Frontier and South Central Railways to identify posts by transferring regular posts from Traffic or Mechanical or Personnel Branch of their own Railways and to designate those as Junior Scientific Officer as contained in the letter dated 24/2/1993, which forms the standing plank of the case of the respondent applicant in our view needs to be extracted for ready reference.

*Jr. Scale/Group*

*7 posts i.e.*

*2 posts for RDSO, 1 post each for CR, NE, SC and SE Railways. RDSO at present has 4 posts at HQS (Lucknow). 2 should be retained with RDSO and 2 should be transferred, one each to NE and*

*SE Railways. The Central, Northeast Frontier and South Central Railways should find the post by transferring a regular post from Traffic or Mechanical or Personnel Branch of their own Railway. Personnel Branch of their own Railways should provide one post of Junior Scientific Officer by March 31, 1995). "*

10. The above quoted portion of the letter dated 24/2/2003 issued by the Railway Board makes it abundantly clear that the Railways referred to therein were authorized to identify posts from their branch to designate the same as Junior Scientific Officer to meet their administrative needs. No reservation as such is noticeable in such authorization. The letter dated 22/4/1996 is more categorical in its contents and tenor. It clearly discloses that in terms of the Board's sanction, the post of Junior Scientific Officer had to be allotted from the own resources of the Zonal Railways out of the cadres of Traffic, Mechanical or Personnel department to be identified as Group 'B' post. It is more than apparent therefrom that the Railways concerned were competent to do so for which the sanction of the Board subsisted. It is made clear therein that to effect the arrangement as indicated, no further reference to the Board was necessary and that other Railways similarly situated had in the meantime taken identical steps.

11. Obviously it was thereafter that by order dated 5/12/1997, the respondent applicant was promoted to the post of Junior Scientific Officer (Group 'B'), the post having been brought from the Mechanical department in conformity with the above authorization. The appointment order demonstrates that the respondent applicant had been empanelled for such promotion,

ad hoc though. There is no indication therein that the post against which the respondent applicant was promoted had been brought to the Psycho Technical Cell on temporary basis and that the same could be withdrawn at any point of time. In the letter dated 10/2/2000 issued by the Research Designs and Standards Organization, Govt. of India and forwarded to the General Managers (Safety) of all Railways, the above arrangement has been shown to be continuing.

12. On a joint reading of the communications referred to above, we are persuaded to hold that the arrangement of bringing the post of Assistant Mechanical Engineer from the Mechanical Department to the Psycho Technical Cell and providing ad hoc promotion to her was with the approval of the Board. Mr. Sharma has failed to bring to our notice any order of the Board rescinding the said arrangement or withdrawing its approval thereto.

13. The Railways in their written statement before the learned Tribunal had failed to take the plea that the respondent applicant's promotion to the post of Junior Scientific Research Assistant had been without the approval of the Board or that it was against the Recruitment Rules. There being no pleading to the above effect, we are not inclined to entertain the submissions bearing thereon. There being no indication in the order dated 5/12/1997 that the promotion of the respondent applicant was subject to the approval of the Board or that the post was liable to be withdrawn at any point of time, the contention to the said effect also does not appeal to us. On the other hand, the said order clearly indicates that the same had been issued with the approval of the competent authority.

14. It is a trite law that an order made by a public authority has to be construed on the basis of the contents thereof and cannot be allowed to be supplemented by additional pleadings.



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15. On a consideration of the materials on record in their entirety we do not see any good or sufficient reason to interfere with the findings and/or conclusions of the learned Tribunal. There being no illegality or perversity in the decision making process and the deductions being based on the facts on record, no interference in exercise of power of judicial review is warranted.

In course of the arguments, Mr. Sharma has informed this Court that as on date Recruitment Rules have not been framed though steps have been initiated for the said purpose. Be that as it may, in view of the determination on the issues raised before us, we do not find it to be a fit case to interfere with the conclusions recorded by the learned Tribunal. In view of the above, the petition being without merit fails and is, therefore, dismissed. No costs.

Sd/- Amitava Roy  
JUDGE

Sd/- A. H. Saikia  
JUDGE

P/No:- 40527  
dtd 17/9/05

CERTIFIED TO BE TRUE COPY
As on 17/9/05
Date 17/9/05
Superintendent (Copying Section)
Gauhati High Court
Authorized U/S 76 Act 1 1872

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Dipen Sarma  
Advocate

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ANNEXURE-VII

Northeast Frontier Railway

OFFICE ORDER NO. 32/2005 (Traffic/Safety)

The following orders are issued with immediate effect: -

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

This issues with the approval of Competent Authority.

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

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

Maligaon, dated: 31.10.2005

Copy forwarded for information and necessary action to: -

02-11-2005

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

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

*Certified to be true copy*  
*As per Sarma*  
**Advocate**

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ANNEXURE-VIII

No- T/2/48/P(Unit)  
To  
CPO/MLG  
N.F. Railway, Maligaon.

Maligaon  
Dated : 07-11-05

Sub : Assumption Report.

Ref : - Office Order No. 32/2005 (Traffic/Safety), circulated under GM(P)'s letter No. E/283/82/ Pt.VII(O) dt.31-10-2005.

Sir,

I beg to state that in regard to the Office Order No. 32/2005 (Traffic/Safety), circulated under GM(P)/MLG's No.E/283/82/Pt.XVII (O) dated 31.10.2005, I have been continuously working as J.S.O since my joining in the post of J.S.O on dated 5-12-97. I further like to draw your attention to the fact that the Hon'ble CAT/GHY had already quashed and set aside the GM(P)/MLG's Office Order No. E/283/82/Pt.XVII(O) dated 16-12-03 in its verdict on the O.A.294 of 2003, dated 01-04-04 which has been upheld by the Hon'ble Gauhati High Court in its judgment on 13-09-05 on the Writ.Petition (C) No 5758/04 and as such there no question of my assuming report again.

Further, that I have been continuously working as J.S.O has been admitted by the Rly authority in the Hon'ble CAT /GHY as will be apparent from Order dated 17-02-05 passed in the hearing of the C.P.No 31/2004.

The undersigned therefore likes to put forward a copy of her original joining report in regard to your Office Order No. 32/2005 (Traffic/Safety) dated 31.10.2005 for your kind consideration and necessary action.

I also pray before your goodself to kindly implement the judgment passed by the Hon'ble CAT/GHY, dt.1-04-2004 in OA 294/03 so that I am not compelled to revive the C.P.No. 31/04 as allowed by the Hon'ble Tribunal.

Thanking you,

DA/

Yours faithfully

*Arundhati Kalita*  
(Arundhati Kalita)  
J.S.O/N.F.Rly

Copy forwarded for information and necessary action please

- 1) Secy to GM/N.F. Rly for information of GM please.
- 2) COM, CSO, SDGM & CME/MLG
- 3) FA & GAO / EGA & PF/MLG.
- 4) DGM (G)/Sr. EDPM/CPR/MLG
- 5) PS to GM/SPO(T)/APO/W & APO/LC/MLG
- 6) DRMs/DRM(P)/N.F.Rly
- 7) Chief OS/ET & OS/EO-Bill for information.

*Arundhati Kalita*  
(Arundhati Kalita)  
J.S.O/N.F.Rly

Certified to be true copy

*Lipen Sarma*

*Associate*

11-11-05

*Des 27*  
9.11.05.

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ANNEXURE--IX

NORTHEAST FRONTIER RAILWAY

Office of the  
General Manager (P)  
Maligaon, Guwahati - 11

No. E/170/LC/NS/690/06

October 23, 2006

To,  
Smt Arundhati Kalita,  
J.S.O/N.F. Railway/Maligaon.

Sub:- Disposal of your representation dt. 08-8-2006 in compliance  
with Hon'ble CAT/GHY's order dt. 01-8-06 in CP No.05/06.

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

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

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

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

This is for your kind information please.

(P.K. Singh)

Dy. Chief Personnel Officer/Gaz  
for General Manager P)/ MLG

Certified to be true copy  
Deipen Sarma  
Advocate

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ANNEXURE-X

NORTHEAST FRONTIER RAILWAY

OFFICE OF THE  
GENERAL MANAGER  
MALIGAON

No.E/170/LC/NS/855/07

Dated-12-12-08

Smt. Arundhati Kalita  
JSO/Adhoc/N. F. Railway  
Maligaon (HQ)

Sub - Disposal/Consideration of representation dated 01.10.08  
filed by Smt A.Kalita, J.S.O/Adhoc/N. F. Railway/MLG(HQ).

Ref:- Hon'ble CAT/GHY's order dt. 17.09.08 in RA No. 05/07.

The Review Application filed by Smt A. Kalita was dismissed by the Hon'ble CAT/GHY on merit with liberty to the applicant to put up her grievances in writing along with all supporting material facts to the respondents for consideration.

In pursuance to the above direction, the applicant, Smt A. Kalita has submitted her grievances in writing dtd. 1.10.08 to the Railway administration. The applicant, Smt Kalita has brought out as many as nine (9) material facts in support of her claim for arrear benefit. The issues raised by Smt Kalita in her representation have been examined thoroughly as per direction of the Hon'ble Tribunal. It is seen that the applicant has failed to project any new material fact in her representation, which warranted reconsideration of her representation, especially, the entitlement of arrear benefits right from 16.12.03 to 31.10.05. All these material facts brought out by her were considered taking into account the administrative parameters laid down in this regard and as a result, the order dt. 23.10.06 was passed, giving finality to the issue. Moreover Smt Kalita had raised all these issues in OA No. 61/07 RA-No. 5/07 before the Hon'ble Tribunal but failed to sustain them for want of merit.

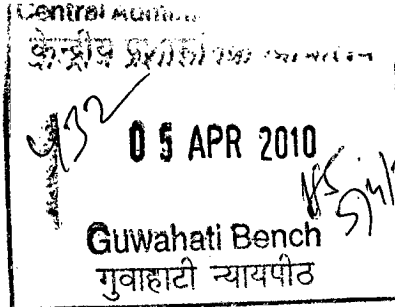
The applicant Smt Kalita had also preferred her claim on the observation of the Hon'ble Tribunals in order dt. 17.2.05 in CP No. 31/04 at para-3. The claim of the applicant will also fail because of the dismissal of the said CP on merit. In fact, by an interim order of the Hon'ble Tribunal, the respondents were given liberty to give effect to the reversion order dt. 16.12.03. As such, the interim order dated 26.12.03 in OA 294/03 was merged in subsequent interim orders followed by the Final order.

It is categorically and repeatedly stated that Smt Kalita, JSO/Adhoc is not entitled to any arrear benefit as JSO Adhoc, as no administrative order was issued, empowering her to discharge the duties of JSO.

Under the above deliberation and discussion, her representation, after giving due consideration, is disposed of.

(ASHUTOSH SWAMI)  
GENERAL MANAGER

Certified to be true copy  
Aipen Sarma  
Advocate



30-

93

Filed by

Wally

Dr. M. C. Sarma

M. Com, Ph.D., LL.B.

Advocate, Gauhati High Court.

Railway Advocate, Central Administrative Tribunal, Guwahati

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH.

IN THE MATTER OF

O.A.170/2009

Smt.Arundhati Kalita

...

Applicant

Versus

Union of India & Others

...

Respondents

AND

IN THE MATTER OF

Written statement on behalf of respondents.

The answering respondents respectfully SHEWETH :

1. That they have gone through the copy of the application filed and have understood the contents thereof. Save and except the statements which have been specifically admitted hereinbelow or those which have been borne on records all other averments/allegations made in the application are hereby denied and the applicant is put to the strictest proof thereof.

2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering respondents have confined their replies to those allegations/averments of the applicant which are found relevant for enabling the Hon'ble Tribunal to take a just and fair decision on the matter.

3. That the respondents beg to respectfully submit that the application suffers from want of a valid cause of action and hence merits to be dismissed on that count alone. This would be clear from the facts of the case described below:-

Facts of the case:

i) The applicant was reverted from the Group B post of JSO/Ad hoc to the substantive post of Senior Scientific Research Assistant vide order dated 16.12.2003(Annexure III of O.A.) due to withdrawal of the post of Assistant Mechanical Engineer on administrative exigencies. Being aggrieved, the applicant filed O.A.294/04 in this Hon'ble Tribunal, who allowed the application vide order dated 01.04.2004(Annexure IV). The respondents had assailed the order dated 01.04.2004 before the Hon'ble Gauhati High Court through WP(C)5758/04. Vide order/judgment dated 13.09.2005 the Hon'ble High Court dismissed the WP(C)5758/04, thereby refraining from interfering with the order of the Hon'ble Tribunal dated 01.04.2004 (Annexure VI of the O.A.) In consequence of the Hon'ble High Court's order dated 13.09.2005, the respondents issued Office Order No.32/2005(Traffic/Safety) dated 31.10.2005 promoting the applicant as JSO(Group B) on Ad hoc basis, asking the applicant to submit assumption report.

....P.2.....

Copy received  
by  
D. Sarma  
Advocate  
07/04/10.

Shatougha Beteja  
Chief Personnel Officer / 942  
N.F. Railway, Maligaon



05 APR 2010

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

In the mean time and during pendency of the Writ Petition in the High Court the applicant filed C.P.5/2004 which was dismissed by the Hon'ble Tribunal vide order dated 01.08.2006, (Annexure VIII-A of O.A.) granting liberty to the applicant to represent her case. On receipt of the representation dated 01.08.2006, respondent No.2 by speaking order dated 23.10.2006 (Annexure IX of O.A.) intimated the applicant to the effect that "Under the facts and circumstances above, I don't find any justification that any arrear salary/benefits are entitled to Smt. Kalita as JSO/Adhoc from 16.12.03 to 31.10.05 and therefore her grievance for releasing the arrear salary/benefit cannot be considered". Full facts and circumstances have been described in the body of the communication dated 23.10.2006 (Annexure IX of the O.A.)

Being aggrieved by the order/communication dated 23.10.2006, the applicant filed O.A.61/2007 which was disposed of on 22.11.2007 granting liberty to the applicant to represent again. However, instead of exercising the liberty to represent, the applicant filed Review application No.5/2007 which was also disposed of by the Hon'ble Tribunal vide order dated 17.09.2008 (Annexure IX-D of O.A.) again granting liberty to the applicant to submit her representation. The applicant submitted her representation on 01.10.2008 on receipt of which the respondent No.1 issued a speaking order on 12.12.2008 (Annexure X of the O.A.) thereby disposing of the representation, stating inter alia, "It is categorically and repeatedly stated that Smt. Kalita, JSO/Adhoc is not entitled to any arrear benefit as JSO Adhoc, as no administrative order was issued, empowering her to discharge the duties of JSO".

Therefore, from the facts of the case described in detail above, it would be clear that reliefs sought by the applicant in paragraph 8 of the O.A. cannot be granted and that the O.A. merits dismissal for want of merit.

#### 4. Parawise comments

4.1. That as regards paragraphs 4.1, 4.2 and 4.3 the respondents have no remarks to offer as the facts stated therein are part of the records which the applicant is put to the strictest proof.

4.2. That as regards paragraph 4.4, respondents beg to respectfully submit that respondents did not fail to comply with the order of the Hon'ble Tribunal but waited till disposal of the WP(C) 5758/04 pending before the Hon'ble High Court of Gauhati. The Hon'ble Tribunal's order was complied with on the disposal of the writ petition by the Hon'ble High Court.

Shabouh Behera  
Chief Personnel Officer  
N.F. Railway, Maligaon

05 APR 2010

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(3)

Guwahati Bench

4.3. That as regards paragraphs 4.5, 4.6, 4.7 and 4.8, respondents beg to state that they had complied with the order of the Hon'ble Tribunal and the Hon'ble Gauhati High Court by issuing the order dated 31.10.2005 (Annexure VII of the O.A.).

4.4. That as regards paragraph 4.9, respondents beg to state that the contempt petition No.5 of 2006 was dismissed by the Hon'ble Tribunal vide penultimate para of their order dated 01.08.2006 thus : "However, on going through the order dated 02.11.2005 and materials placed on record we find that (sic) compliance of the order. Therefore the Contempt Petition will not stand. Accordingly, the Contempt Petition is dismissed." (Annexure VIII(A) of the O.A.)

4.5. That in regard to paragraph 4.10, respondents beg to state that the order dated 23.10.2006 enclosed with the O.A. as Annexure IX explains in detail as to why the applicant was not entitled to any arrear salary/benefits from 16.12.2003 to 31.10.2005.

4.6. That as regards paragraph 4.11, respondents beg to state that the O.A.61/2007 was disposed of by the Hon'ble Tribunal vide order dated 22.11.2007 by granting liberty to the applicant to put up her case before the respondent. It is noteworthy that in course of hearing of the matter, the Hon'ble Tribunal quoted in para 3 of the order dated 22.11.2007 the reply of the respondents to the effect that "....since the Applicant did not discharge the duties of J.S.O. during the period between 16.12.2003 and 31.10.2005, she was/is not entitled to the financial benefit in the post of J.S.O.". Respondents beg to reiterate that the applicant is not entitled to any financial benefit as J.S.O. during the period from 16.12.2003 to 31.10.2005 as she had not discharged the duties associated with that post and also as there was no administrative order allowing the applicant to discharge the duties of J.S.O. during the period in question.

4.7. That as regards paragraph 4.12, respondents beg to state that the Review Application No.05/2007 was dismissed by the Hon'ble Tribunal vide order dated 17.09.2008 and granted liberty to the applicant to represent her case before the respondent (General Manager, N.F. Railway). In this connection, respondents beg to state that the applicant submitted her representation dated 01.10.2008 (Annexure X(A) of the O.A.)

....P. 4.....

Chief Personnel Officer  
N.F. Railway, Maligaon  
Guwahati 781 001



which was duly received and examined by the respondents.

4.8. That as regards paragraph 4.13, respondents beg to state that after going through the details of the representation submitted by the applicant, the respondent (General Manager, N.F. Railway) intimated the applicant vide his letter dated 12.12.2008 that the applicant is not entitled to any arrear benefit as JSO Adhoc as no administrative order was issued, empowering her to discharge the duties of JSO.

Under the circumstances and for the detailed reasons furnished on behalf of the respondents in the aforementioned paragraphs, the respondents beg to state that the application under consideration is devoid of any merit and deserves to be dismissed with costs.

And for this act of kindness the respondents shall as in duty bound ever pray.

#### VERIFICATION

I, Shri S. Behera, son of B. C. Behera, aged about 39 years, and at present working as By. CAO/GA3, N.F. Railway, Maligaon, do hereby solemnly affirm that the statements made in paragraphs 1 to 4 are true to the best of my knowledge and based on records which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 24<sup>th</sup> day of March, 2010.

*Shatoughna Behera*

Signature By. Chief Personnel Office/GA2  
N.F. Railway, Maligaon  
Designation. Guwahati-11

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

CONSOLIDATED O.A. NO. 170 OF 2009

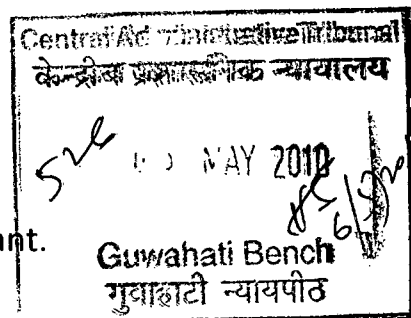
Smti Arundhati Kalita

...Applicant.

-Versus-

The Union of India & Ors

...Respondents.



(Rejoinder by the Applicant to the written statement by the respondents)

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2.	Verification	6
3.	Annexure – I Series	7 - 17

Filed by:

A. Sarma.

(Anupam Sarma)

Advocate

Date:

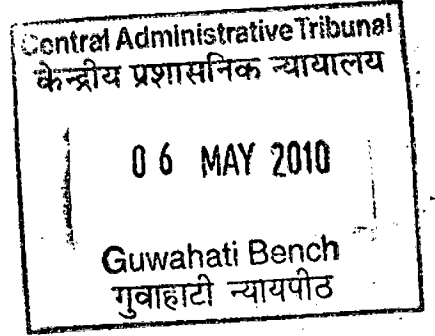
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

CONSOLIDATED O.A. NO. 170 OF 2009



Smti Arundhati Kalita

...Applicant.

-Versus-

The Union of India & Ors

...Respondents.

(Rejoinder by the Applicant to the written statement by the respondents)

LIST OF DATES

1. Letter dated 23-01-2004 to the Dy. CPO, Rectt. NF RLY Maligaon by the Applicant as JSO.
2. Appointment letter of Sri Mukul Ch Kumar dated 03-02-2004.
3. Letter dated 13-02-2004 by the Applicant as JSO.
5. Chart dated 24-03-2004 showing the revised telephone number of the Applicant serving as JSO.
6. Minutes of meeting of Zonal Psychologists dated 19-05-2004. referring to the Applicant as JSO.
7. Letter dated 27-05-2004 addressed to the Applicant as JSO.
8. Duty pass dated 02-06-2004 issued to the Applicant as JSO.
9. Letter dated 27-07-2004 issued to the Applicant as JSO.
10. Letter dated 06-12-2004 issued to the Applicant as JSO.
11. Duty Pass dated 02-06-2004 issued to the Applicant as JSO.
12. Letter dated 21-02-2005 by the Applicant .

Filed by:

A. Sarma

(Anupam Sarma)  
Advocate

Date:

Contd.....

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

CONSOLIDATED O.A. NO. 170 OF 2009

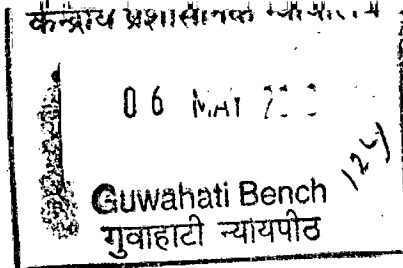
Smti Arundhati Kalita

...Applicant

-Versus-

The Union of India & Ors

...Respondents.



FILED BY  
The Applicant  
through  
D. Arundhati Kalita  
16/5/10  
Arundhati Kalita

IN THE MATTER OF:

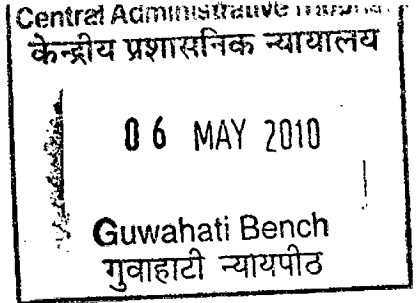
Rejoinder by the Applicant to the written  
statement by the respondents.

I, Smti Arundhati Kalita, W/o Sri Arup Kumar Goswami, aged about 43 years, presently residing at Railway Qr. No. 167/B East Maligaon, Guwahati-11, Kamrup, Assam, do hereby solemnly affirm and state as follows:

1. That I am the Applicant in the in the instant application, and, as such, I am fully acquainted with the facts and circumstances of the instant case, and, therefore, competent to file this rejoinder.
2. That a copy of the written statement filed by the respondents has been served upon me, and, having gone through the same understood the contents thereof.
3. That at the outset, I repeat, reiterate and confirm the statements and averments made in the O.A. and Consolidated O.A., and, and deny all that is contrary thereto and/or inconsistent therewith. I crave the leave and indulgence of this Hon'ble Tribunal to treat this Rejoinder filed by me as part of the Consolidated O.A., and that nothing contained in the written statement be deemed to be admitted by me unless expressly done so. With regard to those statements / averments, made in the written statement under reply which are matters of records of the case, the Applicant do not admit any statement made therein, which is inconsistent with or contrary to the said records.

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Amalaki Kaitis 125

4. That the statements made in paragraphs 3 (i) of the written statement under reply are matters of records of the case, and the Applicant do not admit any statement made therein, which is inconsistent with or contrary to the said records.

In the aforesaid paragraph under reply, the Respondents have merely referred to and quoted certain extracts from the impugned orders dated 23-10-2006 and 12-12-2008 (ANNEXURES – IX and X to the Consolidated OA). However, there are no specific comments to indicate and justify the same. The statements under reference donot address the issues assailed in the Consolidated OA.

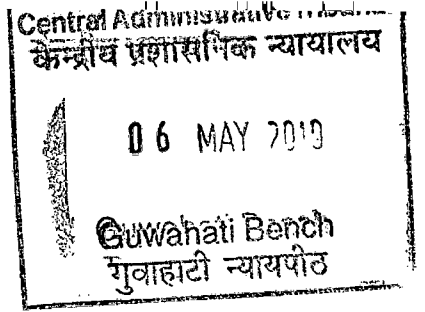
It may be pertinent to mention herein that in paragraph 5. 1 of the Consolidated OA the Applicant had categorically averred that, pursuant to the judgment and order dated 1-4-2004 passed in O.A.No. 294/2003 by this Hon'ble Tribunal, thereby, setting aside and quashing the order of reversion of the applicant dated 16-12-03, the initial order of promotion of the applicant to the post of JSO dated 5-12-1997 stands automatically revived by operation of law. It is also averred that the impugned order dated 31-10-05 re-promoting the applicant amounts to abuse of the process of law, and is, therefore, liable to be set aside and quashed.

Further, in paragraph 5.2 of the Consolidated OA, the Applicant while referring to the order of status-quo dated 26-12-03 passed in O.A. No. 294/2003, averred that she continued to discharge her duties as JSO and the said order attained finality vide the Judgment & Order dated 1-4-2004. The Applicant, therefore contended that she is entitled to the arrear salaries w.e.f. 16-12-2003, i.e. from the date of the impugned order of reversion.

Besides at paragraph 5.3 of the Consolidated OA, the Applicant while addressing the impugned order dated 23-10-06, issued by the Respondents in response to her representation dated 8-8-06, wherein, it is stated that

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as the Hon'ble Gauhati High Court disposed of WP(C) No. 5758/04 on 13-9-05, the continuation of the applicant as JSO did not arise, has specifically averred that is high-handed and contemptuous, in the absence of any order to the contrary. It is further contended that the order dated 1-4-04 passed by this Hon'ble Tribunal in O.A.No. 294/2003, was upheld by the Hon'ble Gauhati High Court.

At paragraph 5.4 of the Consolidated OA, the Applicant refers to the impugned order dated 12-12-08, issued by the General Manager, N.F. Railway, Maligaon, i.e. the Respondent No. 3, whereby, the representation of the Applicant dated 1-10-08 was rejected with the observation that the materials in the said representation were considered and given finality vide the impugned order dated 23-10-06. In the said order, the respondent has also contended that the interim order dated 26-12-03 passed by this Hon'ble Tribunal in O.A.No. 294/2003 "was merged in subsequent interim orders followed by the final order".

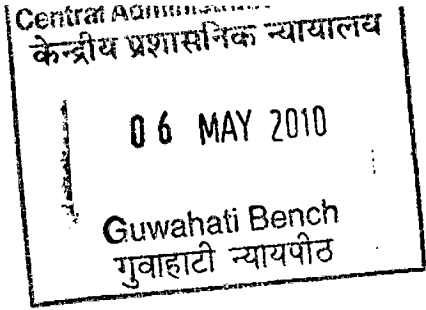
The Applicant also states that this Hon'ble Tribunal had specifically observed in its order dated 17-02-2005, passed in C.P. No. 31/2004 that the Applicant was discharging her duties as JSO. The said observation was recorded by this Hon'ble Tribunal on the submissions of the counsel for the respondents

In the written statement, the Respondents have neither addressed the aforesaid issues in the Consolidated OA, nor have they adduced reasons for issuing the impugned orders, or for that matter depriving the applicant of her legitimate right to the arrear salary and other benefits. It is crystal clear that the Respondents have superseded the authority of this Hon'ble Tribunal as well as that of the Hon'ble Gauhati High Court.

5. That the statements made in paragraphs 4. 1 to 4.8 of the written statement under reply are matters of records of the case, and the Applicant do not admit any statement made therein, which is inconsistent with or

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contrary to the said records. Besides the same having being replied in the preceding paragraph, no further reply is considered necessary to the same by the Applicant.

However, at paragraph 4.6 of the written statement under reply, the Respondents seek to justify their stand by relying upon an extract from the Judgment and Order dated 22-11-2007 passed by this Hon'ble Tribunal in O.A. No. No. 61/2007, to the effect that the Applicant is not entitled to arrear salaries and other benefits, w.e.f. 16-12-03.

The Applicant categorically states that she has all along discharged her duties as JSO. This aspect is apparent from various orders, communications, etc., in this regard. Random copies of the these have been annexed herewith and the Applicant undertakes to submit any other document as and when directed by these Hon'ble Tribunal

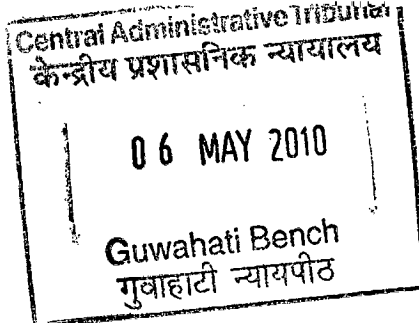
Random copies of orders and communications in this regard are annexed herewith and marked as ANNEXURE – I Series.

6. That the Applicant submits that she preferred O.A. No. 294/2003 before this Hon'ble Tribunal inter-alia, challenging the order issued vide Memo No. E/283/82/Pt.XVII (O) dated 16-12-03, reverting her back to the post of Sr. Scientific Research Assistant. In terms of the order of status-quo dated 26-12-03 passed by this Hon'ble Tribunal in the afore O.A., the applicant continued to discharge her duties as JSO and the said order attained finality vide the Judgment & Order dated 1-4-2004. As such, the applicant is entitled to the arrear salaries w.e.f. 16-12-2003, i.e. from the date of the impugned order of reversion.

7. That, being aggrieved the Respondents preferred WP(C) 5758/2004 before the Hon'ble High Court against the order dated 1-04-2004. The Hon'ble High Court vide its order dated 13-9-2005 has upheld the order dated 1-4-2004 passed by this Hon'ble Tribunal in O.A.No. 294/2003, that as the post of JSO had been created by the Railway Board, therefore, the

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Shahab Khatir

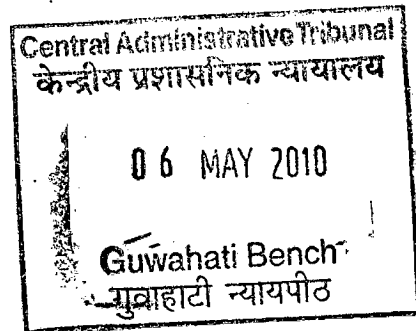
General Manager, NF Railway had no authority to override the arrangement in issuing the order of reversion dated 16-12-2003. The Hon'ble Gauhati High Court, in the order dated 13-09-2005, has categorically observed that the applicant had been empanelled for promotion to the post of JSO and that there is no indication in the order of promotion dated 5-12-1997 that the said promotion was on temporary basis and could be withdrawn at any point of time. It was also held that the sanction of the Railway Board subsisted at the relevant point of time for promotion of the applicant to the post of JSO.

8. That, the Applicant submits that pursuant to the judgment and order dated 1-4-2004 passed in O.A.No. 294/2003 by this Hon'ble Tribunal, setting aside and quashing the order of reversion of the applicant dated 16-12-03, the initial order of promotion of the applicant to the post of JSO dated 5-12-1997 stands automatically revived by operation of law. Further, the impugned order dated 31-10-05 re-promoting the applicant amounts to abuse of the process of law in as much as the subordinate authority could not supersede the superior authority and re-promote the Applicant.

Accordingly, the impugned orders dated 23-10-06 and 12-12-08 are also unsustainable and are liable to be set aside and quashed, and, to allow the benefits of arrear salary and other benefits to the applicant w.e.f. 16-12-2003.



VERIFICATION



I, Smti Arundhati Kalita, W/o Sri Arup Kumar Goswami, aged about 43 years, presently residing at Railway Qr. No. 167/B East Maligaon, Guwahati-11, Kamrup, Assam, do hereby solemnly affirm and declare that the statements made in the Rejoinder and in paragraphs

are true to the best of my knowledge and belief, and those made in paragraphs being matter of records, are true to my knowledge and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact of the case.

And I sign this verification on this 6<sup>th</sup> Day of May, 2010 at Guwahati.

*Arundhati Kalita*  
(DEPONENT)

106-7-

ANNEXURE - I (Series)

13

SN-168

E/12

No.T/2/48/Pt-VIII

Office of the  
General Manager(Safety)  
III Paltan, Bhubaneswar  
751 001

To  
Dy CPO, Rectt  
N F Rly Maligaon

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
06 MAY 2016  
Guwahati Bench  
गुवाहाटी न्यायपीठ

Ref: Your letter No E/Rectt/Comp/93/Pt.II dated. 16/01.04.

In reference to the above, the Psycho-test result of Shri Mukul Kumar has been evaluated and enclosed herewith as Mark List for your necessary information & action please. As the revised model of Aptitude- test has not yet been prepared by the RDSO/LKO the extent Psychological-test battery is being used to conduct the Psycho-test as per advise of RDSO/LKO.

DA: as above.

A.Kalita  
Jr Scientific Officer  
HQ/MLG

Copy for information: CPO/IR/N.F.Rly.

A.Kalita  
Jr Scientific Officer  
HQ/MLG

o/c

25/11/04

Only CPO copy  
dispatched  
on 25-11-04

107 - 8 -

Central Administrative  
केन्द्रीय प्रशासनिक न्यायालय  
06 MAY 2010  
Guwahati Bench  
गुवाहाटी न्यायपीठ

NORTHEAST FRONTIER RAILWAY

OFFICE OF THE  
CHIEF PERSONNEL OFFICER  
MALIGAON GUWAHATI-11

DATED 03.02.2002

NO. E/RCH/Comp/93/Pt. II

Shri/Smt/Md. Mukul Ch. Kumar  
(Now at office)

Sub-Temporary appointment as Asst. Station Master

on pay Rs. 15700-2000 p.m. in scale

Rs. .... (RF) plus travel allowances at

admissible from time to time

On being found eligible in category A11 & below you are hereby

directed to report to SPT NFRailway immediately for further orders.

The terms and conditions of your service will be the same as stated in this

office letter No. E/RCH/Comp/93/Pt. II dated 28.1.04

Please acknowledge receipt.

Half set 2<sup>nd</sup> Class Pass No. 4

[Signature]  
for CHIEF PERSONNEL OFFICER

Copy forwarded for information and necessary action to:-

1) SPT The candidate prescribed RRB application form along with a  
enclosures and medical fit certificate is attached herewith for record. He will please note that in  
the terms and conditions as laid down in the copy of appointment letter (enclosed) are  
completed with. The date on which the candidate is reported should be intimated to Chief  
Certificate attested by Magistrate is attached along with attestation form.

(2) The candidate has selected against competition

[Signature]  
for CHIEF PERSONNEL OFFICER

(3) 10/10/01

Mukul Chandra Kumar  
04/10/01

-108-9-

132

SN-169

N.F.Railway

Office of the  
General Manager(Safety)  
N.F.Railway/Maligaon  
Date: 13-02-2004

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
06 MAY 2010
Guwahati Bench गुवाहाटी न्यायपीठ

16/T/2/48/PI-VIII

DPO/TSK  
Tasukia division

Sub: Psycho-test result of compassionate ground ASM of TSK division, which was held on 11-02-2004 at HQ.  
Ref: Your letter No. E/105/Misc/TSK(W)/Apptt.(o).dated-4-02-2004.

In reference to the above, the psycho-test result of Shri Subrota Choudhary (ASM compassionate ground) of TSK division which was held on 11-02-2004 has been evaluated and enclosed here with as Mark List for your information and necessary action please. As the revised model of Aptitude-test has not yet been prepared by RDSO/LKO the extent Psychological-test battery is being used to conduct the psycho-test as per advice of RDSO/LKO.

Kindly acknowledge the receipt of the same

DA: One

A. Kalita  
Junior Scientific Officer  
N.F.Railway/Maligaon

Copy for information: DSO/TSK

etc.

13-2-04

N. F. Railway

Office of the  
General Manager ( Safety )  
Maligaon, Guwahati-781011  
Date: 24-03-2004

No.T/ 308/O/Misc/S

To  
CRS/ N.F. Circle, Kolkata

Director /Safety-II, Railway Board

Fax No. 033-22105514

Fax No. 011-23389987

Sub: Revised Telephone Number of N.F. Railway HQ. Safety Cell

Revised Telephone Number of N.F. Railway HQ. Safety Cell w.e.f.  
29-03-2004 is given below for your kind information

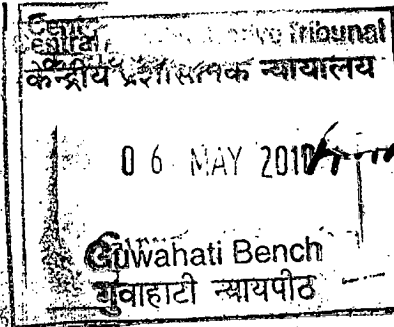
Designation	Name	Railway		BSNL	
		Office	Residence	Office	Residence
CSO	L.C. Trivedi	23350	23351	2570494	2570126
Dy.CSO/E	S.K. Nagarwal	23354	23355	9864028505 (M) (Reli)	
Dy.CSO/T	H Tawna	23356	23357	2673045	2570611
SSO/Traffic		23360	23361		
SSO/S&T		23362	23363		2672380
ASO/Rule	A.K. Deori	23364	23365		2573659
TJ/ Rule	D. Kakati	23366	23367		2572702
JSO	Mrs. A. Kalita	23368	23369		2671922
SC/T-I	R.K. Goswami	23370	23371		
SC/T-II	M.C. Barman	23372	23373		2670309
SC/Eng.	S. Deb	23374	23375		2673344
SC/Loco	D.K. Mukharjee	23376	9864079310 (M)		2573289
SC/C&W	P.C. Bhuyan	23378	23379		
SC/S&T		23380			2571419
OS/Safety	Mrs. D. Sonowal	23382			2574784
OS/ Accident	A.K. Parial	23384			2574684
OS/ Rule	T. Bora	23386			2573098
P/ Secy/CSO	S. Sen	23350			2673675
Steno/Dy.CSO	Miss G. Kumari	23354			2700096
Driver	B. Ali		23395		
CRS/		27060	23399	033-	033-
N.F.Circle	Balbir Singh	(R)	55759	22481493	24630633
Kolkata.			(Metro Rly)		(R.H. No.)

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

06 MAY 2004

Guwahati Bench  
गुवाहाटी न्यायपीठ

(L.C. Trivedi)  
CSO / Maligaon



Minutes of the meeting of Zonal Psychologists held on  
19<sup>th</sup> May 2004

Present

Railway Board

Shri Nikhil Pandey, Dir./Safety

RDSO

Smt. Ashima Singh/EDPT

Dr. C.P. Srivastava, SSO (P)

Shri Awadhesh Kumar, JSO (P)

Zonal Railway

Shri P.K. Basu, SSO(P)/ER

Shri A.T. Sami, SSO(P)/SR

Shri Vijay Singh, SSO(P)/NR

Shri N.N. Sharma, JSO(P)/SEER

Shri P.K. Sinha, JSO(P)/NER

Shri Arundhati Kalita, JSO(P)/NFR

Note: Smt. B. Sanketh, SSO(P)/WR and Shri S.K. Pant, JSO(P)/SCR could not attend the meeting.

1. Executive Director/Traffic reviewed the progress of testing and pass percentage, which was found to be satisfactory. It emerged during the discussions that the letters sent by RDSO are received very late by the zonal psychologist, resulting in delay in compliance. It was reiterated that regional officers should try to get Internet connection and open their e-mail account so that the copies of the letters could be sent to them through e-mail. As far as RDSO is concerned, all important letters are sent through registered post.
2. The issue regarding case studies, provisions of air-conditioning of OMR rooms and clearance of procedure for Aptitude Testing by Board were discussed with Director/Safety, Railway Board. He desired that a fresh reference may be made to him on these issues so that action could be expedited.
3. It was noted that action for filling up non-gazetted posts at zonal railways is also pending. Board has not yet issued any order for combined recruitment of CSRA/SSRA on zonal railways. Director/Safety desired that the indents for the vacancies may be placed on FRBs so that these could be pooled together for single advertisement.

[illegible]

1344 26-05-2004

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

06 MAY 2010

Guwahati Bench  
गुवाहाटी न्यायपीठ

$$H_{\text{eff}}(t) = H_0 + H_1(t) + H_2(t) + \dots$$

(डॉ० ओ०पी० श्रीवास्तव)  
कृषि महानिदेशक / मनोतकजी की

प्रतिदिन

श्रीमती बंकादेव कदियल,  
कनिष्ठ वैधानिक अधिकारी / मनो.,  
राज्य मन्त्रालय संरक्षा अधिकारी,  
पूर्वोत्तर सीमान्त रेलवे,  
मालीगांव, गुवाहटी !

डॉ० ओमनाथ शर्मा  
नं० महाविद्यालय / नं० १००

# Duty Pass - 2-6-2004

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
06 MAY 2010  
Guwahati Bench  
गुवाहाटी न्यायापीठ  
वर्तमान यात्रा/Outward journey  
वापसी यात्रा/Return journey

AC COUPE OR 1ST AC OR 2AC OR  
OR 3AC TWO BERTHS BY RAJCHANI EXP.  
SIGNATURE OF PASS  
ISSUING AUTHORITY

016670



यात्रा विराम को  
अनुमति/Permission  
Break journey

फॉर्म नं० 8/G. P. 8 (सं०/Rev.)

पूर्वोत्तर मोमा रेलवे/NORTHEAST FRONTIER RAILWAY  
द्वितीय श्रेणी के एक परिवार सहित और इसके अंतर्गत प्रत्येक वयस्क 140 कि० ग्राम सामान निःशुल्क ले जा सकता है  
अवयस्क इसके आधा वजन सामान और परिवार 50 कि० ग्राम सामान निःशुल्क ले जा सकता है  
With one attendant free in Second Class and with 140 Kilograms luggage free  
for each adult and half the quantity for each child and 50 kilograms for the  
attendant.

निःशुल्क पास/FREE PASS  
विभाग/Dept. O.P.L. स्टेशन/Station Maligaon दिनांक/Date 24-05-2004

पास/Pass Smt. A. Kalita only

पदनाम/Designation SDO, N.F. Railway, Maligaon  
From Guwahati तक/To Litchanoo

वापसी होकर/and return Via  
रेलों पर यात्रा करने की अनुमति है/Railways

कब से कब तक चाहिए/Available upto  
वापसी यात्रा/Return journey 02-06-2004

पास किस लिए दिया गया/Why granted Duty

किसी भी सवारी डाक गाड़ी से  
By any Passenger train/Mail train

जारी करने वाले अधिकारी के मोहर सहित हस्ताक्षर एवं पदनाम  
Signature & Designation of the Issuing Officer with seal

मुख्य परिवारिक प्रमुख  
पु. सी. रेलवे, गुवाहाटी-११  
Chief Operations Manager

स्टेशन का नाम/Name of the Station	यात्रा विराम/Break journey availed जाते हुए outward	वापसी वापस inward
1.	(क) पहुंचने की तारीख (a) Date of arrival (ख) रवानगी की तारीख (b) date of departure	
2.	(क) पहुंचने की तारीख (a) date of arrival (ख) रवानगी की तारीख (b) date of departure	
3.	(क) पहुंचने की तारीख (a) date of arrival (ख) रवानगी की तारीख (b) date of departure	
4.	(क) पहुंचने की तारीख (a) date of arrival (ख) रवानगी की तारीख (b) date of departure	
5.	(क) पहुंचने की तारीख (a) date of arrival (ख) रवानगी की तारीख (b) date of departure	



- 14 - 113

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A-111-5(2)

फैक्स/Fax 91-0522-450921  
तार 'रेलमानक' लखनऊ  
Telegram 'RAILMANAK', Lucknow  
टेलीफोन/Tele 91-0522-450921 (Direct)  
91-0522-451200 (PBX)  
91-0522-450567 (DID)



परमप्रेम जयते

भारत सरकार - रेल मंत्रालय  
अनुसंधान अभिकल्प और मानक संगठन  
लखनऊ - 226011  
Government of India-Ministry of Railways  
Research Designs & Standards Organisation  
Lucknow - 226011

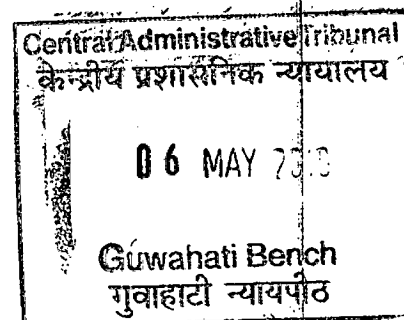
By registered post



No.PT/PP/1.3

Smt. Arundhati Kalita,  
Junior Scientific Officer/Psych.  
C/o- Chief Safety Officer,  
NF Railway,  
Maligaon, Guwahati-7810 11.

Confidential  
Dated: 20.07.2004



Sub: Norms for selection on new pattern (Direct and In-service).

Norms for selection of ASMs, Asstt. Drivers and Motormen (Direct and In-service) have been prepared. The hard copy of norms and Floppy disk are enclosed. You are requested to copy all files of floppy disk to C:\OPTIMO\BIN directory of your computer. The old norms shall be applicable when the result is being processed by multiple cut-off method. These norms are to be implemented with immediate effect.

Kindly acknowledge the receipt.

DA: Norms and Floppy disk

*Sd/*  
(Dr. C.P. Srivastava)  
for Director General Psych.

फैक्स/Fax : +91-522-2450921  
तार : रेलमनक-लखनऊ  
Telegram : "RAILMANAK" - Lucknow  
टेलीफोन/Tele : +91-522-2450921



भारत सरकार - रेल मंत्रालय  
अनुसंधान अधिकल्प और मानक संगठन  
लखनऊ - 226 011  
Government of India - Ministry of Railways  
Research Designs & Standards Organisation  
Lucknow - 226 011

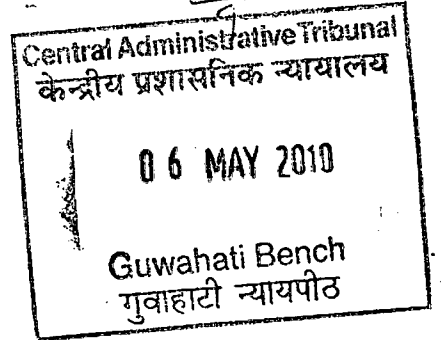


SN-97

No. PT/CM/3.1

The Chief Safety Officer,  
North East Frontier Railway  
Maligaon,  
Guwahati.

Dated: 08.12.2004



Sub: Meeting of Zonal Psychologists.  
\* \* \*

Meeting of Zonal Psychologists with Executive Director/Psychology, RDSO scheduled to be held on 15 & 16 December at RDSO, Lucknow has been postponed as per order of EDPT due to engagement of Zonal Psychologist at RRB testing. Now the new date for the meeting is 12<sup>th</sup> January & 13 January 2005. You are requested to kindly depute Senior Scientific Officer/Junior Scientific Officer (Psychology)/In-Charge with assistant attached to your railway to attend this meeting. Agenda for meeting will remain same. is enclosed.

Encl: As above.

(Awadhesh Kumar)  
for Director General/Psychology

Copy to: Senior/Junior Scientific Officer(Psychology) for information.

✓ To, Smt A. Kalita  
Junior Scientific Officer  
Chief Safety Officer  
North East Frontier Railway  
Maligaon,  
Guwahati

(Awadhesh Kumar)  
for Director General/Psychology

175 - 16 -

28-12-2004

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
06 MAY 2010  
Guwahati Bench  
गुवाहाटी न्यायपीठ

010727

जी० पी० ८/G. P. 8 (सं०/Rev.)

पूर्वोत्तर सीमा रेलवे/NORTHEAST FRONTIER RAILWAY

द्वितीय श्रेणी के एक परिचर सहित और इसके अंतर्गत प्रत्येक वयस्क 140 कि० ग्राम सामान तथा

अवयस्क इसके आधा मात्र सामान और परिचर 50 कि० ग्राम सामान निःशुल्क ले जा सकता है

With one attendant free in Second Class and with 140 Kilograms luggage free for each adult and half the quantity for each child and 50 kilograms for the attendant.

निःशुल्क पास/FREE PASS

प्रथम श्रेणी 'ए' /First Class 'A'

विभाग/Dept. OPtg स्टेशन/Station Maligaon

पास/Pass Emt A. Khatia only

दिनांक/Date 29-11-2004

नाम/Designation Asst. Secy Rly Maligaon

From Guwahati तक/To Lucknow

and back to Guwahati

कर/Via Guwahati

कर/Over Guwahati

वापसी होकर/and return Via Guwahati

रेल पर यात्रा करने की अनुमति है/Railways

Available upto 28-12-2004

वापसी यात्रा/Return journey

पास किस लिए दिया गया/By grant of OPtg

किसी भी सवारी डाक गाड़ी से

By any Passenger train/Mail train

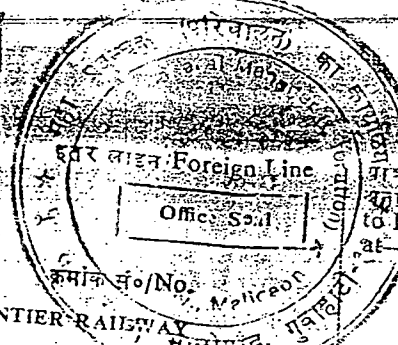
जारी करने वाले अधिकारी के मोहोर/Signature & Designation of the Issuing Officer with seal

मुख्य पर्यवेक्षण प्रबन्धक

पू० सी० रेलवे, गुवाहाटी-११

Chief Operations Manager

N. P. Rly. Guwahati-11



यात्रा विवरण/Details of Journey

परमिशन/Permission to Break Journey

व्यहिया/Outward journey

वापसी यात्रा/Return journey

\*यात्रा विवरण/Details of Journey

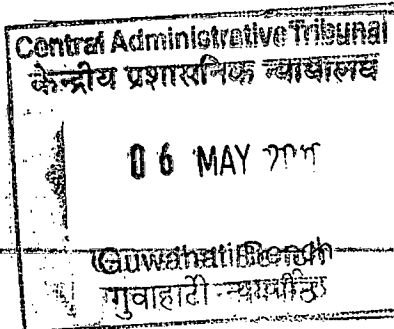
स्टेशन का नाम/Name of the Station

जति दूर/Distance

आगमन/Arrival

वापसी/Return

- (क) पहुंचने की तारीख  
(a) Date of arrival  
(ख) रवानगी की तारीख  
(b) date of departure
- (क) पहुंचने की तारीख  
(a) date of arrival  
(ख) रवानगी की तारीख  
(b) date of departure
- (क) पहुंचने की तारीख  
(a) date of arrival  
(ख) रवानगी की तारीख  
(b) date of departure
- (क) पहुंचने की तारीख  
(a) date of arrival  
(ख) रवानगी की तारीख  
(b) date of departure
- (क) पहुंचने की तारीख  
(a) date of arrival  
(ख) रवानगी की तारीख  
(b) date of departure



N.F. RAILWAY

No.T/2/48/Psy/Psycho-Test

Office of the  
General Manager (Safety)  
N.F. Railway, Maligaon  
Date :21-02-05

To,  
Sr.Scientific Officer/ RDSO  
Manak Nagar, Lucknow.

Sub : Requisition for Test material of ASM selected through GDCE.

Ref : - No.SFY/RRB/PSYCHO/PT-11 dated 01-02-05.

In reference to the letter mentioned above the Aptitude Test for 6 ASM (G.D.C.E.) Category, to be held on 11-03-2005, at Maligaon, and the test paper should be handed over to Shri U.S. Behara, Hd./Clerk, working under in this office, in sealed covered in advance on the said occasion.

Please arrange to send the same at the earliest.

The specimen signature of the office bearer is attested below.

Yours faithfully

*Arundhati Kalita*  
( Arundhati Kalita )  
J.S.O./ N.F.Rly

Signature of Shri U.S Behara, Hd/ Clerk, Psycho-Cell

*U.S. Behara*  
( U.S. Behara )  
J.S.O./ N.F.Rly

( Arundhati Kalita )  
J.S.O./ N.F.Rly