

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI - 5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

10/7/2015
3/7/2015

(9)

FORM NO. 4

[see Rule II (b)]

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

1. Original Application No. 55 / 2009

2. Mise Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(S) Shri Antargamini Batale
-VS-

Respondent(S) Union of India & Ors

Advocate for the applicant(S) Mr. D.K. Saumah, Ms. U. Das

Mr. P.S. Lahkar, Mr. K. Girosam, Mr. N. Bhatk

Advocate for the respondent(S) Railway advocate

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/BD No. <u>396404514</u> Dated <u>23.3.09</u>	<u>25.03.2009</u>	On being mentioned by Ms U. Das, learned Counsel appearing for the Applicant (in presence of Dr J.L. Sarkar, learned Standing Counsel for the Railways), this case is taken up.
<i>25.3.09</i> A copy of Application with envelope received for issue notice to the Respondents. Copy served.	<u>25.3.09</u> Dy. Registrar	2. Heard Ms U. Das, learned Counsel appearing for the Applicant, and Dr J.L. Sarkar, learned Standing Counsel for the Railways (to whom a copy of this O.A. has already been supplied) and perused the materials placed on record.
<i>25.3.09</i>		3. Admit. Issue notice to the Respondents requiring them to file their written statement by 20.05.2009.
		4. It is the positive case of the Applicant that promotional posting has not yet been given to the Respondent No.4; pursuant to the order under Annexure-J dated 29.05.2008. In the said premises, no

Copies of notices along with order dated 25/3/09 send to D/Sec. for issuing to respondents by post and three copies of this order issuing to applicant and counsel for both the parties.

Clos D/No-1479-82
26/3/09 Dt= 31-3-09

Issued vide S/No.

Notice copies duly served on R- 2,4,3

27.4.09

Copies of order dated 20/5/09 send to D/Sec. for issuing to respondents by post.

25/5/09 D/No-2711 to 2714
25/5/09 Dt= 26-5-2009

N/S not filed. lm

27.5.09

no N/S filed.
by 29/6/09

promotional posting should be issued in favour of Respondent No.4 and any action, taken pursuant to the said order under Annexure-J dated 29.05.2008, shall abide by the ultimate result of this case.

While passing this ad interim order, liberty is hereby given to the Respondents to put up their objection, if any, to this ad interim order on any day before the date fixed.

5. Call this matter on 20.05.2009.
6. Send copies of this order to the Applicant and to the Respondents (alongwith Notices) in the addresses given in the O.A.
7. Free copies of this order be also supplied to the learned Counsel for both the parties.

Y.S
 (M.R. Mohanty)
 Vice-Chairman

dkm

20.05.2009 Ms.U.Das, learned counsel for the Applicant is present. Despite notice, no written statement has yet been filed by the Respondents in this case.

Call this matter on 22nd July 2009 awaiting written statement from the Respondents.

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

Y.S
 (M.R. Mohanty)
 Vice-Chairman

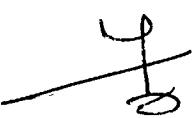
(N.D.Dayal)
 Member(A)

0/ 3
O.A.55 of 2009

22.07.2009 Ms.U.Das, learned counsel for the Applicant. No written statement has yet been filed by the Respondents/Railways.

On the prayer of Dr.J.L.Sarkar, learned Standing counsel for the Railways, call this matter on 03.09.2009 awaiting written statement from the Respondents.


(M.K.Chaturvedi)
Member (A)


(M.R.Mohanty)
Vice-Chairman

/bb/

03.09.2009 Ms.Usha Das, learned counsel for the Applicant, is present.

2. Dr.J.L.Sarkar, learned Standing counsel for the Railways, prays for more time to file written statement.

3. Prayer of Dr. Sarkar is allowed. Call this matter on 19.10.2009 awaiting written statement from the Respondents.

4. It is pointed out (by Ms.Usha Das, learned counsel for the Applicant) that despite interim restraint order dated 25.03.2009, the official Respondents have issued a posting order (in favour of the Respondent No.4) on 24.08.2009 in gross disregard to the said interim order dated 25.03.2009 of this Tribunal.

5. In fact, by order dated 25.03.2009, the official Respondents were restrained to issue any promotional posting order in favour Respondent No.4. They were restrained to act upon the order under Annexure-J dated

Contd...

245 PA-55/09

Contd.
03.09.2009

K. Das

Send copies of this order to the Applicant and to all Respondents and free copies to the advocate for both the parties.

SDO
3/9/09

1. 22/08/09
SDO

copies of order
dated 3/9/2009
send to the D/See.
for issuing to
the applicant and
to all the respondents
by post.

Free copies of
this order also
issuing to L/Counsel
for both the parties.
C/ No - 1183 - 1187
8/9/09, DT 11.9.09

7.9.09

WTS for Respondents
has been filed by
the Rly. Counsel Dr. M.C. Sarm.
Copy served and he also
filed Vakalatnama
at Regt is.
7/9/09 No wts filed.

26/10/09

29.05.2008 pertaining to Respondent No.4. Despite that, the official Respondents have issued a promotional posting order, on 24.08.2009, in favour of the Respondent No.4.

6. In the aforesaid premises, posting order dated 24.08.2009 (pertaining to Respondent No.4) is hereby stayed ad-interim and, as a consequence thereof, the official Respondents should not make payment (to the said Respondent No.4) in the pay scale of Rs.9300-34800/- plus Grade Pay Rs.4200/- without leave of this Tribunal.

7. Send copies of this order to the Applicant and to all the Respondents and free copies of this order be also supplied to the counsel appearing for both the parties.

D.
(M.K.Chaturvedi)
Member (A)

M.
(M.R.Mohanty)
Vice-Chairman

/bb/

19.10.2009 Ms.U.Das, learned counsel appears for the Applicant and Dr.J.L.Sarkar, learned counsel appears for the Respondents.

Learned counsel for the Respondents seeks further four weeks time to file reply in the O.A.. Learned counsel for the Applicant has no objection. In this regard, time is extended.

List on 23.11.2009.

D.
(M.K.Chaturvedi)
Member (A)

M.
(M.K.Gupta)
Member (J)

/bb/

O.A.55 of 2009

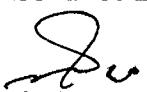
19.1.2010

Rejoinder has
been filed by the
Applicant through
his Advocate.
Copy served.
19/1/2010.

19.1.2010

Rejoinder is being filed to-day
and copy of the same will be served on the
learned counsel for the Respondents.
Pleadings are complete, as the matter was
admitted on 25.3.2009,

List the matter on 15.2.2010.

 
Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/lm/

The case is ready
for hearing.


12-2-2010

15.02.2010

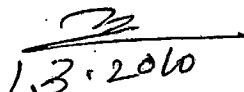
proxy counsel for Applicant prays for
adjournment, which is not opposed. List on
03.03.2010.

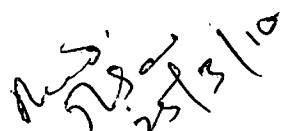


(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/bb/

The case is ready
for hearing.


13-2-2010


Madan Kumar Chaturvedi
Member (A)

/bb/

03.03.2010

For the reasons recorded separately,
O.A. stands disposed of. No costs.



(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

29-3-2010

Judgment /Final order
dated 3/3/2010 Prepared
and sent to the D/Section
for issuing the all the
Respondents by Post
vide A.O. 825 to 827
dated 7-4-2010

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 55 of 2009

DATE OF DECISION: 03.03.2010

Sri Antarzami Baral

.....Applicant/s.

Ms.U.Das

.....Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Dr.J.L.Sarkar, for Respondents 1-3.

.....Advocate for the
Respondents

CORAM

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

THE HON'BLE MR.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

Hon'ble Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 55 of 2009

Date of Decision: This, the 3rd day of March, 2010.

HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Sri Antarzami Baral
Motor Driver Grade-I
Under ADEN/Rangia Division
Rangia.

...Applicant

By Advocate: Ms.U.Das

-Versus-

1. The Union of India represented by the General Manager, N.F.Railway Maligaon, Guwahati-11.
2. The Chief Personnel Officer, N.F.Railway Office of the Comptroller and Maligaon, Guwahati-11.
3. The Divisional Railway Manager (Personnel) N.F.Railway, Rangia Division Rangia-781 354.
4. Sri Durga Prasad Sarma
Son of Thaneswar Sarma
Motor Driver Grade-I
Working under ADEN, N.F.Railway
Rangia Division, Barpeta Road
P.O: Barpeta Road
Dist: Barpeta, Assam. .. Respondents

By Advocate: Dr.J.L.Sarkar for Respondents Nos. 1 to 3.

ORDER (ORAL)

MUKESH KUMAR GUPTA, MEMBER (J):

By present O.A., Sri Antarzami Boral challenges revised seniority list dated 17.04.2008 (Annexure-I) of the cadre of Sr. Technical M.T.

Driver/MCM as on 01.04.2008 whereby he has been shown below respondent no.4. He also challenges the suitability test for further promotional post of MCM(MT Driver), conducted on 14.05.2008 as well as declaration of its result vide order dated 29.05.2008 besides seeking all consequential benefits. Furthermore, orders dated 15.10.2008 (Annexure-L) 21.10.2008 (Annexure-M), 01.12.2008 (Annexure-O), 27.02.2009 (Annexure-P) and 05.03.2009 (Annexure-R) respectively are also challenged.

2. Admitted facts are that Applicant initially joined as casual labour, regularized along with Respondent No.4 w.e.f. 01.01.1982 as Trolley man, promoted to the post of Senior Trolley Man w.e.f. 25.09.1987, and as Motor Trolley Driver Gr.III vide order dated 07.02.1996 (Annexure-B).

3. His grievance is that a provisional seniority list of Motor Trolley Driver Gr.III as on 01.04.2000 has been issued vide circular dated 12.02.2001 (Annexure-D), whereby he was shown at Sl.No.3 while Respondent No.4 appeared at Sl. No.4. Said circular in specific required submitting of representation in case there is any dispute about the seniority position, as reflected therein within a period of one month. According to Applicant, said seniority list has been disturbed without affording him any opportunity of hearing vide revised seniority list dated 17.04.2008. Immediately thereafter suitability test, for promotion to the post of MCM (MT Driver), was held on 14.05.2008, result of which had been declared on 29.05.2008. Three fold contentions raised by the Applicants are:-

- (i) Notice has been issued by this Tribunal to Respondent No.4. Despite service, neither appearance made nor any reply filed.

Therefore, all contentions raised against him which remain unrebuted/uncontroverted are deemed admitted.

- (ii) No show cause notice has been issued prior to issuance of revised seniority list dated 17.04.2008, and therefore, there has been infringement of principles of natural justice.
- (iii) Paragraph 305 of the IREM Vol-I is squarely covered his case in the facts and circumstances of the case in as much as specific contention raised at para 4.5 of O.A. to the effect that said Respondent No.4 joined the promotional post of Motor Trolley Driver Gr.III much later than the Applicant thought both of them were promoted by same order dated 07.02.1996.

Ms.U.Das, learned counsel for the Applicant forcefully contended that since records have not been produced by the Respondents Nos. 1-3 and the provisional seniority list dated 12.02.2001 did not indicate complete particulars of Respondent No.4, namely, his joining in the promotional post of Motor Trolley Driver Gr. III, said Respondent could not have been shown over and above than Applicant.

In the above backdrop, it was prayed that Applicant deserves complete reliefs and seniority is to be determined based on continuous length of officiation and date of entry/joining into service is determinative factor for finalizing seniority list.

Reliance was placed in **(1994) 2 SCC 622, Ram Janam Singh vs. State of U.P. and Another** to buttress the aforesaid contention.



4. At the outset we may note that neither appearance has been made by Respondent No.4 nor any reply filed despite service on said Respondent.

5. Official Respondents have filed their reply and contested the claims laid by Applicant stating that Respondent No.4 as well as Applicant were found suitable for promotional post of Motor Trolley Driver Gr.III vide order dated 05.02.1996 and were promoted vide order dated 07.02.1996. There had been clerical mistake in the seniority list dated 12.02.2001 which had been rectified vide revised seniority list dated 17.04.2008. Vide reply para 3 it was stated that Applicant joined the post of Sr. Trolley Man on 25.09.1987, while Respondent No.4 joined said post w.e.f. 01.01.1986. In the provisional seniority list issued on 12.02.2001, date of promotion of Respondent No.4 was not linked and as a result of which he was placed below the Applicant. Moreover, said seniority list was provisional in nature. Administrative error committed had been rectified by following due procedure affording reasonable opportunity of hearing and issuing notice to him. Strong reliance was placed on para 228 of IREM Vol-I vide which the Department has complete authority to rectify the mistake and put the entire facts in order including granting proforma promotion to the person who has suffered because of such administrative mistake.

Reliance was placed on **AIR 1985 SC 482, Arun Kumar Chatterjee vs. South Eastern Railway and Others.** Further reliance was

placed in Annexure R-2 order dated 19.12.1989 vide which Applicant as



well as Respondent No.4 were promoted, on creation of upgraded post of Sr. Gangman w.e.f. 25.09.1987 and 01.01.1986 respectively.

It was emphasized by Dr.J.L.Sarkar, learned Standing counsel for Respondent Nos.1-3 that said order dated 19.12.1989 has not been impugned and challenged till date and therefore, it had attained finality. Furthermore, perusal of said order dated 19.12.1989 would establish that Applicant was promoted as Sr. Trolley Man subsequent to promotion of Respondent No.4, and therefore, it is established that throughout his career, Applicant had been shown below said Respondent No.4.

6. We have heard Ms.U.Das, learned counsel for Applicant and Dr.J.L.Sarkar, learned counsel for Respondent Nos.1 to 3, perused the pleadings and other materials placed on record including paragraphs 228, 303, 304 and 305 of IREM Vol-I besides judgments in **Ram Janam Singh & Arun Kumar Chatterjee** (supra). We may note that much reliance has been placed on para 305 of IREM Vol-I, and therefore, it would be expedient to note complete text of said para, which reads as under:-

"305. When, however, a candidate whose seniority is to be determined under paragraphs 303 and 304 above cannot join duty within a reasonable time after the receipt of orders of appointment, the appointing authority may determine his seniority by placing him below all the candidates selected at the same examination/selection, who have joined within the period allowed for reporting to duty or even below candidates selected at subsequent examination/selection who have joined before him."

(emphasis supplied)



Bare perusal of above would reveal that said para has to be read along with paras 303 and 304 and it cannot be read in isolation, and therefore, it is imperative to notice the language employed vide paras 303 and 304, which also read as follows:-

303. The seniority of candidates recruited through the Railway Recruitment Board or by any other recruiting authority should be determined as under:-

- (a) **Candidates who are sent for initial** training to training schools will rank in seniority in the relevant grade in the order of merit obtained at the examination held at the end of the training period before being posted against working posts. Those who join the subsequent courses for any reason whatsoever and those who pass the examination in subsequent chances, will rank junior to those who had passed the examination in earlier courses.
- (b) In the case of candidate who do not have to undergo any training in training school, the seniority should be determined on the basis of the merit order assigned by the Railway Recruitment Board or other recruiting authority.

304. When two or more candidates are declared to be of equal merit at one and the same examination/selection, their relative seniority is determined by the date of birth the older candidate being the senior."

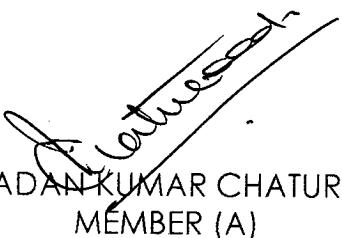
(emphasis supplied)

When read cumulatively it would be discernible that para 303 is relevant for determination of seniority of candidates recruited through Railway Recruitment Board or other recruiting authority and furthermore when candidates are sent for undergoing training in different batches. Similarly 304 would be relevant when two or more candidates are declared to be of equal merits at one and the same examination/selection. We may note

that Annexure-A order dated 05.02.1996 placed on record by the Applicant would reveal that in the suitability test held for the post of Motor Trolley Driver Gr.-III Applicant as well as Respondent No.4 were declared successful "**in order of seniority**". Applicant therein figured at Sl. No.3 while Respondent No.4 was placed over and above him at Sl. No.2. If the order of seniority is the determinative factor in declaring result as indicated that Respondent No.4 was senior to Applicant, paras 303 or 304 would have some relevance. Date of appointment of Respondent No.4 as Motor Trolley Driver Gr.-III has not been indicated by the Respondents in any of the communications issued and placed on record. As such, we will not be justified to make any observation on the said subject. Reliance of para 305 would be relevant only when respondent No.4 had not joined "within a responsible time after receipt of appointment". We may note at the cost of repetition that Applicant as well as Respondent No.4 were promoted by the same order dated 07.02.1996 to the post of Motor Trolley Driver Gr.-III. Specific contention were raised by the Applicant that no notice had been issued before the said seniority list issued on 12.02.2001 was altered by revised seniority list dated 17.04.2008. Faint attempt was made by the Respondents to contend that seniority of the Applicant had been refixed to his prejudice after giving notice to him, which contention has been refuted and rebutted by the Applicant. We may observe that no copy of the show cause notice, if any issued, had been placed on record to support the contention raised in reply filed. As such, we are groping in dark, as far as this aspect is concerned, and we will not be justified to render any final conclusion thereon.

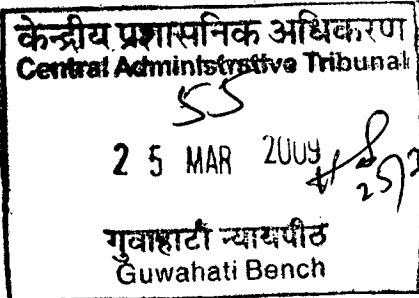


7. In the facts and circumstances of present case we are left with no other option but to remand the matter to the official Respondents requiring said Respondents to afford the Applicant an opportunity of hearing in the form of show cause notice before they act upon impugned seniority list dated 17.04.2008. On receipt of such notice, Applicant should take expeditious steps to raise all contentions including the contentions raised before this Tribunal as we have not rendered decision on merits. On receipt of such reply, if any, said Respondents shall pass reasoned and speaking order including the manner in which the seniority list dated 12.02.2001 has been determined and finalized. They should also indicate the date on which said Respondent No.4 joined the promotional post of Motor Trolley Driver Gr.-III as well as factum of his joining the promotional post "within a responsible time after receipt of the appointment" as prescribed under para 305 of IREM Vol-I, including any other relevant aspects. The aforesaid exercise shall be undertaken as expeditiously as possible but not later than two months from the date of receipt of this order. As we have not rendered decision on merits, the challenge made to the impugned seniority list dated 17.04.2008, same shall not be operative as already directed vide interim order dated 25.03.2009. The same shall be operative only after completion of aforesaid exercise in all respects. O.A. is disposed of. No costs.


(MADAN KUMAR CHATURVEDI)
MEMBER (A)


(MUKESH KUMAR GUPTA)
MEMBER (J)

/BB/



SYNOPSIS

The case of the applicant is that while he has been working in the different lower cadre since his date of appointment/regularization with effect from 1.1.1982, was promoted to the post of Motor Trolley Driver Grade-III as being found suitable for the same alongwith the respondent No. 4 and one namely Sri Gobinda Saha and posted in the office of the AEN/RNY vide order dated 7.2.1996, accordingly, joined in the said promotional post in 23.2.1996 spared by his Controlling Officer on 22.2.1996. Thereafter, a provisional seniority list has been prepared by the respondent authority on 12.2.2001, wherein the name of the applicant was figured at serial No. 3 and the respondent No. 4 at serial No. 4. Since nobody was disputed about the seniority position by filing any representation, the same was made final. Thereafter, the applicant as well as the respondent No. 4 were promoted to the post of M.T. Driver Grade II and Grade-I respectively and another provisional seniority list was prepared and published by the respondent authority on 29.10.2004, wherein the name of the applicant and the respondent No. 4 were figured at serial No. 57 and 58 respectively. Although the opportunity to file representations if any have been given to the person concerned, none of the candidate including the respondent No. 4 filed any representation disputing the seniority position in the said list. It is pertinent to mention herein that the respondent No. 4 had joined in his promotional post after the joining date which is much later than the applicant, while promoting to the post of MT Driver Grade III and Grade-I. While the aforesaid uncontroverted position of seniority was holding the field for about 13 years, the respondent No. 3 in a most arbitrary and illegal manner altered the position of the applicant vide letter dated 17.4.2008 placing the applicant below than the respondent No. 4 that too without giving the applicant any opportunity and conducted a suitability test on 14.5.2008 for promotion to the post of MCM (MT Driver) calling the respondent No. 4 and also declared the result of the same on 29.5.2008. Coming to learn about the said position, the applicant approached the Mazdoor Union and as the Mazdoor Union interfered with the matter, the respondent No. 3 issued a letter dated 21.10.2008 asking the applicant to submit representation within a period of 7 days to show the reason why he will not be placed below

Nabendu Pathak
Advocate.
25.03.09

25 MAR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

the respondent No. 4. On receipt of the said letter, the applicant preferred a detail representation on 30.10.2008, but the same has been rejected by the respondent No. 3 without any speaking order on 1.12.2008. Thereafter, the applicant preferred an appeal seeking some clarifications from the respondent No. 3 vide his letter dated 3.3.2009, which has also been rejected on 5.3.2009 stating that nothing new in the said representation. Hence, this application praying for interference of this Tribunal in the illegal, arbitrary and discriminatory action of the respondent authority.

Filed by : Nabendu Pathak

Advocate

25.03.09

25 MAR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

LIST OF DATES

5.2.1996: Result of the suitability test for the post of Motor Trolley Driver Grade-III approved and published.

7.2.1996: The applicant and respondent No. 4 promoted and posted to the post of MT Driver Grade-III.

23.2.1996: The applicant submitted his joining report before the AEN/Rangia.

12.2.2001: Provisional seniority list published.

Sl. No. 3
Sl. No. 4

29.10.2004: Result of the suitability test for the post of MT Driver Grade-I declared in order of seniority.

Sl. No. 58
Sl. No. 59

4.11.2004: Provisional seniority list for the post of MT Driver Grade-I alongwith other cadres prepared and published.

Sl. No. 55
Sl. No. 56

8.11.2004: Joining report submitted by the applicant before the ADEN/RNY to the post of MT Driver Grade-I.

4.4.2008: Corrigendum issued by the respondent No. 3 correcting the effecting date of promotion in respect of the applicant as well as the respondent No. 4.

Sl. No. 1
Sl. No. 2

17.4.2008: Impugned order of revised seniority list prepared confidentially.

14.05.08 — Selection

29.5.2008: Result of suitability test for promotion to the post of MCM (MT Driver) declared.

Rep. No. 4
Promoted

Nabendu Pathak
Advocate.
25.03.09

25 MAR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

5.6.2008 : Application from the NF Railway Mazdoor Union.

5.10.2008: Order of revised scale of pay fixation in respect of the applicant and the respondent No. 4.

15.10.08 - Anx - L - showing Applica to be jum & Rep. N 84

21.10.2008: Applicant has been given the opportunity to file representation why he not be placed below than respondent No. 4 to the post of MT Driver Grade-I.

30.10.2008: Representation preferred by the applicant.

1.12.2008: Representation dated 30.10.2008 disposed of.

11.2.2009: Another representation submitted by the applicant.

27.2.2009: Comparative statement furnished to the applicant without mentioning the date of joining in the promotional post in respect of the applicant and the respondent No. 4.

3.3.2009: Applicant preferred a representation seeking some clarification.

5.3.2009: Respondents convey the decision that "Sri Durga Prasad Sarma stands senior to Sri Antarzami Baral which stands final to ascertain to your seniority in the cadre of MT Driver Grade-I in Rangia Division."

Nabendu Pathak
Advocate
25.03.09

25 MAR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

DISTRICT:- KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. NO. 55 /2009

Sri Antarzami Baral

...Applicant

-VERSUS-

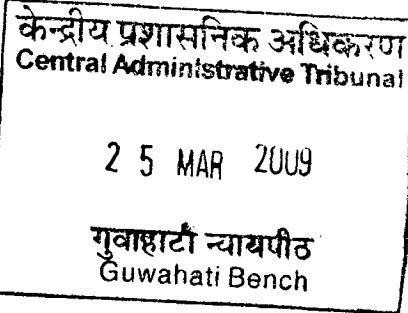
The Union of India & Ors.

...Respondents

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Filed by

Nabendu Pathak
25/03/09
Advocate



Filed by the Applicant
through Nobendu Pathak
Advocate
Date - 25.03.09

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

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

O.A. NO. 55 of 2009

BETWEEN

Sri Antarzami Baral, Motor Trolley Driver
Grade-I, under A.D.E.N./Rangia Division,
Rangia

...Applicant

- AND -

1. The Union of India, represented by the General Manager, NF Railway, Maligaon, Guwahati-11. ✓
2. The Chief Personal Officer, NF Railway, Maligaon, Guwahati-11. ✓
3. The Divisional Railway Manager (Personal), NF Railway, Rangia Division, Rangia.- 781354. ✓
4. Sri Durga Prasad Sarma, Son of Thaneswar Sarma, Motor Trolley Driver Grade-I, working under ADEN, NF Railway, Rangia Division, Barpeta Road, P.O. Barpeta Road, District- Barpeta, Assam.

... Respondents

Antarzami Baral.

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गुवाहाटी न्यायपीठ
Guwahati Bench**PARTICULARS OF THE APPLICATION****1. PARTICULARS FOR WHICH THE APPLICATION IS MADE :-**

That this application is made being aggrieved against the order issued under Memo No. E/240 (Rest Engg.)/RNY/20 (Loose) dated 29.5.2008 by the Divisional Railway Manager (Personal), hereinafter referred to as DRM(P) i.e. the respondent NO. 3 publishing the result of suitability test for promotion to the post of Master Craps man (MCM)/Senior Motor Trolley Driver showing the name of Durga Prasad Sarma i.e. the respondent No. 4, a person junior to the applicant, the order issued under E/240 (Post Engg)/RNY/20 dated 21.10.2008 holding Sri Durga Prasad Sarma i.e. the respondent No. 4 to be senior to the applicant; the order issued under No. E/240 (Rest Engg)/RNY/20 (Loose) dated 1.12.2008 by which the representation of the applicant rejected; Order issued under No. E/240(Rest Engg)/RNY/20 (Loose) dated 27.2.2009 by which Sri Durga Prasad Sarma i.e. the respondent No. 4 is hold to be senior than the applicant in the cadre of Motor Driver under Engineering Br./RNY and order issued under No. E/240 (Rest Engg)/RNY/20(Loose) dated 5.3.2009 finally rejecting the representation dated 3.3.2009 preferred by the applicant which was preferred against the decision of alteration of the seniority position of the applicant.

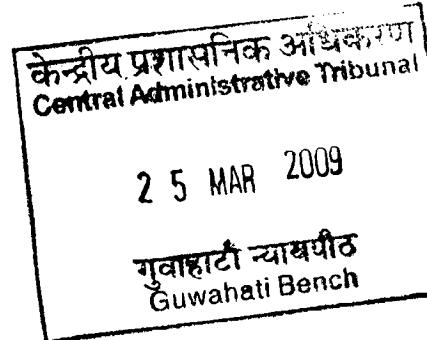
2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION:

The applicant further declares that the subject matter of this application is well within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

Antoranjani Baral.



4. **FACTS OF THE CASE:**

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, privileges and protections as guaranteed under the Constitution of India and laws framed thereunder.

4.2 That the applicant has a blemish free service career all throughout and has been rendering faithful, sincere and dedicated service to the satisfaction of all concerned, while working in different post under the Alipurduwar Division as well as Rangia Railway Division, NF Railway since last more than 28 years. The applicant who was initially engaged as a casual employee under the respondent authority, his services has been regularised by following all the required formalities as per provisions of relevant rules alongwith Sri Durga Prasad Sarma the respondent No. 4 with effect from 1.1.1982 as trolley man and promoted to the post of Senior Trolley Man with effect from 25.09.1987.

4.3 That while the applicant was working as senior trolley man, he appears in a suitability test for the post of Motor Trolley Driver/Gr.III in scale of Rs. 950-1500 conducted by the DEN/III/APDJ/ 29.9.1995 and fared well alongwith the respondent No. 4 and one Mr. Gobinda Sahu. The result of the said suitability test for the post of Motor Trolley Driver Gr.III has been approved by the competent authority and published under Memo No. 01-E/10-Pt.II dated 5.2.1996 issued by the DRM (P) APDJ wherein the name of the applicant has been figured at serial No. 3 in the penal just below the respondent No. 4.

A copy of the aforesaid letter dated 5.2.1996 is annexed herewith and marked as **Annexure-A**.

4.4 That pursuant to the aforesaid empanelment to the post of Motor Trolley Driver Gr.III, the applicant has been promoted and posted in the office of AEN/RNY vide office order No. 81-E/10/Pt.II dated 7.2.1996 issued by the Divisional Railway Manager (P), Alipurduar Junction, while the respondent No. 4

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has been posted in the office of the AEN/BPRD. It is pertinent to mention herein that by the aforesaid order dated 7.2.1996, four persons have been promoted and posted as MT Driver Gr.III, but joining time, transfer pass and packing allowance had been provided only to the serial No. 3 and 4, which includes the present applicant, the aforesaid facilities had not been extended to the serial No. 1 and 2, which includes the respondent No. 4 as because the serial No. 1 and 2 have been posted in the same place wherein they were working in the fitter post. As such the respondent No. 4 did not get any joining time while promoting to the post of MT Driver Gr.III and required to be resumed his duty to the promoted post forthwith.

A copy of the aforesaid office order dated 7.2.1996 is annexed herewith and marked as Annexure-B.

4.5 That the applicant begs to state that he submitted his joining report before the AEN/RNY on 23.2.1996 pursuant to his order of promotion dated 7.2.1996 as speared by the AEN/BPRD on 22.2.1996 and accordingly joined his new place of posting on that day. On the other hand, the respondent No. 4 Mr. Durga Prasad Sarma did not join in his promoted post for several months as per knowledge of the applicant. As such, the record relating to the joining of the respondent No. 4 to the post of MT Driver Gr.III as well as the date of payment of salary as MT Driver Gr.III is relevant and required to be called for.

A copy of the joining report dated 23.2.1996 of the applicant is annexed herewith and marked as Annexure-C.

4.6 That the applicant begs to state that the Divisional Railway Manager (P), NF Railway, Alipurduar Junction vide No. E/255/1(E) dated 12.2.2001 had prepared a provisional seniority list for the post of MT Driver, Grade-I, MT Driver, Grade II and MT Driver Grade-III wherein the name of the applicant has been placed at serial No. 3 and the name of the respondent NO. 4 has been placed at serial No. 4. Although the opportunity to prefer appeal as regards the seniority position of the person concerned has been given to submit the same within a period of one month from the date of receipt of the said list had been given no

Antaranya Baral.

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such representation was received by the authority from any candidate disputing the seniority position and as such the said provisional seniority list had made final. It is to be mentioned here that the date of joining of the respondent No. 4 has not been reflected in the said provisional seniority list.

A copy of the aforesaid seniority list dated 12.2.2001 is annexed herewith and marked as **Annexure-D**.

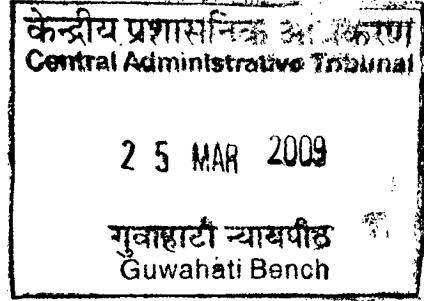
4.7 That the applicant begs to state that the result of the suitability test for the post of Motor Trolley Driver Grade-I has been declared and published by the Divisional Railway Manager (Personal)/Rangia vide Memo No. E/240 (Rest Engg.) RNY/20 dated 29.10.2004 and has been arranged in order of seniority wherein the name of the applicant has been placed at serial No. 58 while the name of the respondent No. 4 placed at serial No. 59.

A copy of the aforesaid letter dated 29.10.2004 is annexed herewith and marked as **Annexure-E**.

4.8 That the applicant begs to state that on the basis of the materials available on records pertaining to the service particulars of the promoted candidates and as a result of restructuring of cadre with effect from 1.11.2003, a provisional seniority list of different cadre has been prepared and published by the Divisional Railway Manager (Personal)/Rangia i.e. the respondent No. 3 with the approval of the competent authority vide office order No. E/240 (Rest Engg.) RNY/20 dated 4.11.2004. A copy of the said provisional seniority list has been circulated amongst all the staff concerned giving them opportunity to submit representations (if any) within a period of one month. In the said seniority list, the name of the applicant has been figured at serial No. 55 and the name of the respondent No. 4 Sri Durga Prasad Sarma has appeared at serial No. 56 in order of seniority, but the respondent No. 4 did not file any representation disputing the said seniority position. As such, the said provisional seniority list was made final.

A copy of the aforesaid provisional seniority list dated 4.11.2004 is annexed herewith and marked as **Annexure-F**.

Antaryami Barai.



4.9 That the applicant begs to state that after being promoted to the post of Motor Trolley Driver Grade-III, he has been promoted to the post of Motor Trolley Driver Grade-II as being found suitable in the suitability test conducted for the said purpose and also promoted to the post of Motor Trolley Driver Grade-I as he has been passed the suitability test conducted by the authority concerned. Upon successful completion of the suitability test, the applicant has been promoted and posted as Motor Trolley Driver Grade-I in the office of the ADEN/RNY. Accordingly, the applicant joined in his promotional post of Motor Trolley Driver Grade-I on 8.11.2004.

A copy of the joining report dated 8.11.2004 is annexed herewith and marked as Annexure-G.

4.10 That the applicant begs to state that the Divisional Personal Officer/II/Rangia has issued a corrigendum vide E/240 (Rest Engg.) RNY/20 dated 4.4.2008 by which the date of effecting the promotion to the post of Motor Trolley Driver has been corrected in respect of the applicant as well as the respondent No. 4, wherein also the name of the applicant has been shown above the respondent No. 4.

A copy of the said corrigendum dated 4.4.2008 is annexed herewith and marked as Annexure-H.

4.11 That the applicant begs to state that inspite of the aforesaid clear/ uncontroverted/undisputed seniority position of the applicant and respondent No. 4 revealed in the seniority list prepared and published in the year 2001 and 2004 since the promotion to the post of Motor Trolley Driver Grade-III in the year 1996, as the respondent No. 4 did not join in the promotional post of Motor Trolley Driver Grade-III within the joining time and has been joined in the said post after the date of joining of the applicant, the Divisional Railway Manager (Personal), Rangia in a most arbitrary and illegal manner tried to promote the respondent No. 4 to the post of next higher grade i.e. ACM in the scale of Rs.

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5000 – 8000/- and conducted a suitability test for said purpose. The applicant on enquiry came to know that without considering his case for promotion to the post of MCM and without calling for the suitability test, most confidentially the respondent No. 4 has been called for a so-called suitability test holding him senior than the applicant by publishing a revised seniority list dated 17.4.2008 most confidentially without furnishing the copy to the applicant and surprisingly the result of the same has also been published vide Memorandum No. E/240 (Rest Engg.)/RNY/20 (Loose) dated 29.5.2008. On coming to learn about the said memorandum which is yet to be communicated and awaiting clearance from the controlling officer inform the matter to the NF Railway Mazdoor Union with a request to take over the matter of illegality and arbitrariness.

A copy of the aforesaid seniority list dated 17.4.2008 and letter dated 29.5.2008 are annexed herewith and marked as

Annexure-I and J.

4.12 That the applicant begs to state that on receipt of his representation, the Divisional Convener of the NF Railway, Mazdoor Union, Rangia prepared an application dated 5.6.2008 before the DRM(P)/RNY with a request to inform why Sri Durga Prasad Sarma, the respondent No. 4 was called for the suitability test for promotion to the post of MCM (MT Driver) in scale of Rs. 5000-8000/- by depriving the applicant, who is admittedly senior than the respondent No. 4.

A copy of the aforesaid letter dated 5.6.2008 is annexed herewith and marked as **Annexure-K.**

4.13 That the applicant begs to state that on receipt of the aforesaid letter dated 5.6.2008 on the convenor/N.F. R.M.U./RNY, the DRMP i.e. the respondent No. 3 issued a corrigendum vide No. E/240/Rest Engg./RNY/20 dated 15.10.2008 to the earlier letter dated 4.4.2008 (Annexure-H) fixing the pay of the applicant as well as the respondent No. 4 in the post of MT Driver Grade-III, Grade-II and Grade-I showing the pay scale of the applicant lower than the respondent No. 4 in Grade-III and Grade-II for the reason best known to the authority concerned

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without speaking anything though the effect of the said fixation in the post of MT Driver Grade-III in respect of the applicant has been shown as 1.2.2003 and the respondent No. 4 is 1.9.2003 i.e. subsequent to the applicant.

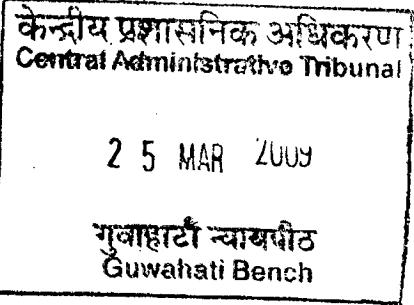
A copy of the aforesaid order of pay fixation dated 15.10.2008 is annexed herewith and marked as Annexure-L.

4.14 That the applicant begs to state that the respondent No. 3 i.e. the DRM/NF Rly/Rangia, most surprisingly issued a letter to the applicant vide letter No. E/240 (Post Engg.)/RNY/20 dated 21.10.2008 stating that "As per provision in the IREM/309, the penal drawn as per seniority in case of selection/suitable test/Trade test cannot be changed afterwards without any valid reason approved by the competent authority. There is no such records in this regard. Moreover going by the words i.e. date of birth, date of appointment, date of promotion and finally the penal position of MT Driver Grade-III in scale of Rs. 3050-4590/- Sri D.P. Sarma stands senior to Sri A. Baral.

The re-structuring order was issued by DRM(P)/RNY on 4.11.2004 based on the seniority list published by APDJ Division with incomplete information.

Considering the above, the revised seniority list of MT Driver Grade-I issued by this office No. E/225/2(E)/RMPT.I dated 17.4.2008 showing Sri D.P. Sarma senior to Sri A.J. Baral and 30 days time was given for representation if any. By the aforesaid letter, which has considered to be issued only on receipt of the letter dated 5.6.2008 from the Mazdoor Union, the respondent No. 3 allowed the applicant to submit his representation if any within 7 days from the date of receipt of the said letter to show cause as to why the applicant will not be placed below the respondent No. 4. It is pertinent to mention here that prior to this letter dated 21.10.2008, no copy of any revised seniority list dated 17.4.2008 was received by the applicant giving him any time to file representation as stated in paragraph 5 of this letter. As such, the revised seniority list dated 17.4.2008 prepared by the authority behind back to the applicant showing him junior to the

Antarzamee Baral.



respondent No. 4 is illegal and arbitrary and is violation to the principle of Administrative Fair play and is requiring to be set aside and quashed.

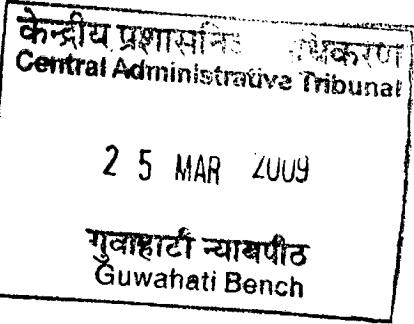
A copy of the aforesaid letter dated 21.10.2008 is annexed herewith and marked as Annexure-M.

4.15 That the applicant begs to state that on receipt of the aforesaid letter dated 21.10.2008 on 27.10.2008, the applicant preferred a representation dated 30.10.2008 stating that after promoting the applicant as well as the respondent No. 4 alongwith others, a seniority list dated 12.2.2001 (Annexure-D) has been prepared and published on the basis of date of joining to the promotional post i.e. MT Driver Grade-III showing the applicant senior than the respondent No. 4 as the date of appointment and promotion of both the applicant and respondent No. 4 ~~as the date of appointment and promotion of both the applicant and the respondent No. 4~~ was same. That criteria has also been followed in case of other persons of the same cadre and other cadres. The same seniority position has also been followed at the time of promotion from MT Driver Grade-III to Grade-II and Grade-II to Grade-I also. It is needless to say that although several opportunities have been given to the respondent No. 4 to prefer representations while publishing the provisional seniority list by the authority concerned; but the respondent No. 4 slept over the matter for last about 13 years and did not file a single representation during this 13 years period of time. Hence the applicant requested the respondent No. 3 to go through the matter and fixed the seniority of MT Drivers with justification and proof.

A copy of the aforesaid representation dated 30.10.2008 is annexed herewith and marked as Annexure-N.

4.16 That the applicant begs to state that the respondent No. 3 without going through the contents and averments made in the representation preferred by the applicant with a pre-determine mind rejected the representation holding the respondent No. 4 senior than the applicant vide order No. E/240 (Rest Engg.) RNY/20 (Loose) dated 1.12.2008. In fact the said order dated 1.12.2008 is not at

Antarz�ami Baral.



all a speaking order which is nothing but a total non-application of mind issued only with the intention to favour the respondent No.4. As such the same is required to be set aside and quashed.

A copy of the aforesaid order dated 1.12.2008 is annexed herewith and marked as **Annexure-O**.

4.17 That the applicant begs to state that the respondent No. 3 vide letter No. E/240 (Rest Engg.)/RNY/20/(Loose) dated 27.2.2009, tried to show the respondent No. 4 be senior than the applicant by preparing a comparative statement without showing the date of joining to the promotional post and also tried to show some adhoc promotion which has no relevancy in determining the seniority dispute between the applicant and the respondent No. 4.

A copy of the aforesaid letter dated 27.2.2009 is annexed herewith and marked as **Annexure-P**.

4.18 That the applicant begs to state that by collecting the copy of the said statement dated 27.2.2009 which was not communicated to him, the applicant preferred another representation dated 3.3.2009 seeking some clarification in the matter of re-fixation of seniority which was holding the field for about 13 years that too without giving him any opportunity to place his case prior to such revision.

A copy of the aforesaid representation dated 3.3.2009 is annexed herewith and marked as **Annexure-Q**.

4.19 That the applicant begs to state that his aforesaid representation dated 3.3.2009 has been straightway rejected by the respondent No. 3 vide letter No. E/240/(Rest Engg.)/RNY/20(Loose) dated 5.3.2009 stating that nothing new in the representation dated 5.3.2009 and the decision of holding the respondent No. 4 senior than the applicant has stands made final.

A copy of the aforesaid letter dated 5.3.2009 is annexed herewith and marked as **Annexure-R**.

Antarz�ami Baral.

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4.20 That the applicant begs to submit that the promotion of the respondent No. 4 to the post of MCM/MT Driver issued on the basis of the result of the suitability test dated 29.5.2008 (Annexure-J) is yet to be given effect to, which is awaiting clearance from the controlling office before issuing the posting order. As such, if the respondents authority has not prevented from issuing posting order in favour of the respondent No. 4 staying the said order dated 29.5.2008 and all the subsequent orders passed holding the respondent No. 4 senior than the applicant, the applicant would suffer irreparable loss and injury. The applicant have a good case in merit and as such all the impugned orders are required to be suspended till final disposal of this application.

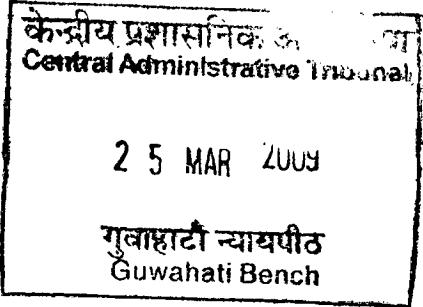
4.21 That the applicant begs to submit that the respondents are very much annoyed with the applicant for his representations. As a result of such annoyance, the respondents continued to discriminate the applicant which is arbitrary, discriminatory and against the principle of Administrative Fair play.

4.22 That the applicant begs to submit that the aforesaid action of the respondent authority is clear violation of the principle of natural justice.

5. **GROUND FOR RELIEF(S) WITH LEGAL PROVISIONS:**

5.1 For that the action on the part of the respondent authority i.e. alteration of the seniority position of the applicant after about 13 years vide revised seniority list of MT Driver Grade-I issued under Office order No. E/225/2 (E)/RNPT.I dated 17.4.2008 (Annexure-I) without any basis showing Sri D.P. Sarma, senior than the applicant in cadre of MT Driver Grade-I, that too without furnishing the copy of the same, giving him opportunity to file representation/objection is quite illegal, arbitrary, discriminatory and violation of the principle of Administrative Fair play. The copy of the aforesaid revisional seniority list is yet to be served upon the applicant. The applicant on coming to learn from the letter dated 21.10.2008 (Annexure-M) somehow collected a copy of the same.

Antaryami Baral.



5.2 For that the suitability test for promotion to MCM (MT)/Driver conducted by the DEN/3/RNY on 14.5.2008 and publication of the result of the same vide letter dated 29.5.2008 (Annexure-J) is illegal and arbitrary. Even it is assumed, but not admitted that the revised seniority list has been published on 17.4.2008 giving the applicant to file representation within a period of 30 days as has been stated in letter dated 21.10.2008 (Annexure-M), how the respondent No. 4 was called for to appear the suitability admittedly conducted on 14.5.2008 i.e. prior to the expiry of 30 days from the date of publication of so-called revised seniority list dated 17.4.2008.

5.3 For that the rejection of the representation dated 30.10.2008 of the applicant without going through the contents/averments made therein and also without applying mind that too without any speaking order is nothing but a mere formality to regularize the illegal action of the respondent authority in a pre-determine mind. As such, the order of rejection of representation dated 1.12.2008 (Annexure-O) is arbitrary and illegal.

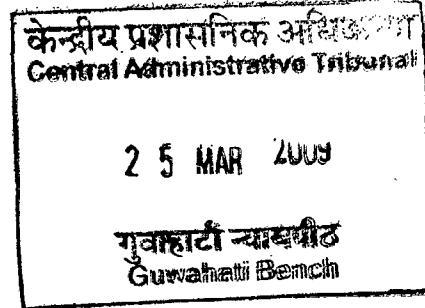
5.4 For that the action on the part of the authority to hold the respondent No. 4, senior than the applicant by preparing a comparative statement without mentioning the date of joining to the promotional post vide letter dated 27.2.2009 (Annexure-P) is arbitrary, illegal and discriminatory.

5.5 For that non-consideration of the last representation of the applicant dated 3.3.2009 and rejection of the same vide letter dated 5.3.2009 (Annexure-R) is arbitrary which caused extreme pre-judice to the applicant.

5.6 For that the respondents more particularly the respondent No. 3 has displayed a very callous negligent, discriminatory, apathetic attitude towards the applicant.

5.7 For that the respondent authority violated the settled principle of law and the relevant rules and procedure holding the respondent No. 4 senior than the applicant and violated the principles of Service Jurisprudence.

Antarz�ami Baral.



6. **DETAILS OF REMEDY EXHAUSTED:**

6.1 That the applicant begs to state that he has filed representations before the respondents authority which have been disposed of by rejecting the prayer of the applicant; without proper speaking order/decision. Further, the applicant declares that he has exhausted all the remedies available to him and he has no other alternative and efficacious remedy than to file this application.

7. **MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT/TRIBUNAL:**

The applicant further declares that he has not previously filed any application, writ petition or suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, writ petition, or suit is pending before any of them.

8. **RELIEF(S) SOUGHT FOR:**

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

8.1 That the revised seniority list dated 17.4.2008 (Annexure-I) so far it relates to the applicant and respondent No. 4, may be set aside and quashed.

8.2 The suitability test for the promotion to the post of MCM (MT/Driver) conducted by the DEN/III/RNY on 14.5.2008 and declaration of result of the same vide letter dated 29.5.2008 (Annexure-J) may be set aside and quashed. The respondent may be directed to restore the seniority of the applicant to the

Antaryami Baral.

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Guwahati Bench

post of MT Driver Grade-I holding him senior than the respondent No. 4 and too promote the applicant to the post of MCM (MT/Driver) by conducting the required suitability test instead of the respondent No. 3.

8.3 The order dated 15.10.2008 (Annexure-L) order dated 21.10.2008 (Annexure-M) order dated 1.12.2008 (Annexure-O), order dated 27.2.2009 (Annexure-P) and order dated 5.3.2009 (Annexure-R) may be set aside and quashed.

8.4 If any other further steps is being taken in pursuance to the aforesaid orders that may also be set aside and quashed.

8.5 Cost of the application.

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

9. **INTERIM RELIEF(S) PRAYED FOR:**

During pendency of this application, the applicant prays for the following relief(s).

9.1 The revised seniority list of MT Driver Grade-I issued under the office order No. E/225/2(E)/RNPT.I dated 17.4.2008 by the respondent No. 3 (Annexure-I) and all the subsequent orders passed/steps taken thereafter regarding determination of seniority and promotion to the post of MCM(MT/Driver) in the scale of Rs.5000-8000/- may be stayed/suspended.

9.2 Not to issue the posting order to the respondent No. 4 pursuant to declaration of result vide letter dated 29.5.2008 (Annexure-I).

10. **PARTICULARS OF THE I.P.O.**

Antaryami Baral.

केंद्रीय प्रशासनिक अधिकारण Central Administrative Tribunal
25 MAR 2009
गुवाहाटी न्यायपीठ Guwahati Bench

(I) I.P.O. NO. : 39 G 404514

(II) Date : 23/3/2009

(III) Payable at : GPO, Guwahati

12. **LIST OF ENCLOSURES:**

As given in the index.

Antaryami Baral.

25 MAR 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

VERIFICATION

I, Sri Antarzami Baral, aged about 51 years, son of Late Gopal Baral, resident of Railway Quarter No. 149 (B), Station Colony, Ward No. 1, Rangia Division, Rangia in the district of Kamrup, Assam do hereby verify that the statements made in paragraphs 1 and 4 are true to my knowledge and those made in paragraphs 2, 3, 5, 6, 7, 8 and 9 are believed to be true are legal advise and that I have not suppressed any material fact.

And I sign this verification on this 24 th day of March, 2009 at Guwahati.

Antarzami Baral

DEPONENT

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Guwahati Bench

N.E. RAILWAY

ANNEXURE - A

OFFICE OF DIVISIONAL
MANAGER (P)
ALLPURDWA JUNCTION
DATED: 5.3.96

MEMORANDUM

The result of the Dexterity Test for the post of Motor Trolley Driver/Sc. TII in scale 950-1500/- conducted by DIB/TII/APDN on 29.3.95 are furnished below in order of seniority.

The result has been approved by the Competent authority.

NAME & DESIGNATION

TESTING UNDER

RESULT

1. Sri Golindra Samu, Sr. T/Man (825-1200/-)	APN/ALP	Passed
2. " Durga Deka, Sr. T/Man (825-1150/-)	APN/ALP	Passed
3. " Arunajati Boroi, -	-	Passed

FOR DIV. ELY. MANAGER (P),
ALLPURDWA JUNCTION.

DATED: 5.3.96

DO: 01 - 2/10-Part II

Copy for information & necessary action to:

1. DIB/TII/APDN. (2). APN/ALP, NIP
2. Staff Concerned. (4). P/Office.
3. Dealing Agent.

FOR DIV. ELY. MANAGER (P),
ALLPURDWA JUNCTION.

ac:9296.

Alleged
of the
whole

N.F.RAILWAY.

OFFICE ORDER.

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

25 MAR 2009

गुवाहाटी न्यायालय
Guwahati Bench

ANNEXURE - B

OFFICE OF THE
DIVL.RLY.MANAGER(P),
ALIPURDUAR JUNCTION

DATED 07/2/96.

Driver in scale Rs.950-1500/- vide memorandum No.81-E/10/Loose of 13.4.95 and 81-E/10/Pt.II of 5.2.96 respectively, the following promotion, transfer and posting order are hereby issued to take immediate effect.

SN^o Name & Desig.

Station.

Promoted as
in scale.

Posted under.

S/Shri

1. Gobinda Sahu,
Sr.T/man(825-1200/-)

AEN/NLP

M.T.Driver/Gr.III
(950-1500/-)

AEN/NLP

2. Durga Prasad Sarma,
Sr.T/man(800-1150/-)

AEN/BPRD

-do-

AEN/BPRD

3. Antarjami Baral,
Sr.T/man(800-1150/-)

-do-

-do-

AEN/RNY

4. Lal Bahadur Routh,
Sr.T/man(800-1150/-)

DRM(W)/APDJ.

-do-

AEN/MBZ

NOTE:- 1) This issues with the order of Sr.DEN/APDJ.

2) It should be issuance clearance of DAR/SPE/Vig. before

implementing the promotion order.

3) Joining time, transfer pass, and transfer and packing allowance is admissible to item No.3 & 4 only.

4) The staff concerned may submit option to get their pay fixed under Rule 1313 RII FR22(c) from the date of accrual of next increment in lower scale of pay within one month from the date of issue of this promotion order, after which no option will be entertained.

for DIVL. RLY. MANAGER(P),
ALIPURDUAR JUNCTION.

Dated 07/2/96.

No.81-E/10/Pt.II.

Copy forwarded for information and necessary action to :-

1) Sr.DEN/APDJ, AEN/NLP, BPRD, RNY, MBZ. 2) DAO/APDJ.

3) Staff concerned. 4) P/cases. 5) OS(EE)Bill.

6) Dealing Asstt.

for DIVL. RLY. MANAGER(P),
ALIPURDUAR JUNCTION.

Attested
Rakesh
Advocate

(us/7ii96.)

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

25 MAR 2009

गुवाहाटी न्यायालय
Guwahati Bench

ANNEXURE - C

AEV/RM

Sir

Sub: Joining report - As Motor Trolley
Driver in Scale Rs 950-1500

In terms of DRM(P) & Dps. D.O NO 81-E/10 (Pr. II) dt. 7 $\frac{2}{96}$
and on being Spared by AEV(BPRD) is letter NO D-E/8/BP-1001
on 22.2.96 myself report on the F.N. of 23.2.96
as Motor Trolley Driver under your unit.
Kindly accept and do needful.

Yours faithfully

Antarjami Baral
M.T. Driver.

(SRI. ANTRJAMI BARAL)

Attested
Bishak
advocate

Rec'd.
Sri
23/2/96
AEV/RM

N. F. Railway. KEN (Simpl.)
Provisional seniority list of Sr. Technician (Motor Trolley Driver) in scale Rs. 5000-8000/- under
Alipurduar Jn. Division as on 1.4.2000. Department: Engineering Division: - Alipurduar Jn.
with length of service to the grade & Post. Classification: Divisional.

Name	F/Name	Working under	Date of birth	It. of apptt.	D. of Apprt.	Confid.	Heather	Remarks
2	3	4	5	6	7	8	9	10

By Shri.

1. Sandhuri Sha Lt. Rusan Sha AEN/RFAN 24.7.46 1.8.67 1.3.93 Confid.

Provisional seniority list of Technician (Motor Trolley Driver Gr.-I) in scale Rs. 4500-7000/- under APDJ Division as on 1.4.2000. = 4

1. Beguni Hajhi	Lt. Hajhi	DEN/APDJ	30.12.41	19.1.68	1.3.93	Confid.	-
2. Santi Ranjan Kar	N. G. Kar	-do-	15.9.44	9.5.66	4.7.95	-do-	-
3. Joy Bahadur	Kancha	-do-	15.3.47	16.5.71	25.7.95	-do-	SC
4. Sisaj Kr. Prasad		AEN/APIJ	27.3.48	25.4.59	1.3.96	-do-	-

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

25 MAR 2009

गुवाहाटी न्यायपाल
Guwahati Bench

Provisional seniority list of Technician (Motor Trolley Driver Gr.-II) in scale Rs. 4000-6000/- under AEN Division as on 1.4.2000. = 4

1. Jagadis Roy		DEN/APDJ	15.5.52	19.3.74	1.3.96	Confid.	-
2. Purasajit Borai	Bhaglu Borai	AEN/NCB	15.1.45	1.8.65	21.7.97	-do-	-
3. Rajendra Mandal	N. Mandal	DEN/APDJ	1.6.51	23.6.76	21.7.97	-do-	SC

4. Provisional seniority list of Technician (Motor Trolley Driver Gr-III) in scale Rs. 3050-4550/- under APDJ Division as on 1.4.2000. = 3

1. Lalbahadur Routh Lt. I. Routh AEN/MBZ 1.10.48 13.7.73 9.2.96 Confid.

Service No. 19-07

Attested
By
Advocate

25 MAR 2008

गवाहाटी न्यायालय
Guwahati Bench

1	2	3	4	5	6	7	8
2.	Gobinda Sahu	Lt. Mangloo Sahu	ASV/NLP	2.8.43	16.3.65	13.2.96	Confd.
3.	Antaryami Boral	Gopal Boral	" RNY	15.8.58	1.1.82	23.2.96	BB
4.	Durga Pd. Sarma	Thaneswar Sarma	" BPRD	30-9-57	1-1-82	↔	

R-4

No. E/255/1 (E) sp Dated; 12.2.2001

Copy forwarded for information and necessary action to :-

1. All DEN's of ALW Division. (2) All AEN's of ... Division. (3) Divi. Secy./AISCTREA/6PDS
4. Br. Secy./NFR&U/ALW, MBZ, NCB, BNGN, RNY, RPA, RLF (5) Br. Secy./NFR&U/ALW, MBZ, NCB, BNGN, RNY, RPA, RLF
6. staff concerned and spare copy for p/case.

Any appeal as regards seniority position should be submitted to this office within one month from the date of receipt of this list.

1251201.

Affected
Abhijit
Advocate

1251201

for Divi. railway manager (E)
D. E. Railway/Alipurduar En.



केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

- 22 -

ANNEXURE - E

25 MAR 2009 N.E. Railway

गुवाहाटी न्यायपीठ
Guwahati Bench

Office of the
Divl. Rly. Manager(P)
Rangiya.
Dt. 29.10.2004.

MEMORANDUM

Result of the suitability test in favour of the following staff are given below:-

Name of the successful candidates are arranged in order of seniority.

SN	Names (S/Sltr)	Design & Station	Suitability test for the post and scale	Result
1	Faunder Routh	Carpenter/I SE(W)/MJBT 4500-7000/-	MCM Carpenter 5000-8000/-	Suitable
2	Hiralal Biswas	SE(W)/BNGN	-do-	-do-
3	Mangal Doro (ST)	SE(P.Way)BG/RNY	-do-	-do-
4	Ram Pyari Hajjan (SC)	SE(W)/MJBT	-do-	-do-
5	Maheswar	Carpenter/II 4500- 7000-	Carpenter/I 4500-7000/-	-do-
6	Kartick Mandil (SC)	SE(W)/BNGN	-do-	-do-
7	Babul Ch. Das (SC)	SE(W)/BNQ	-do-	-do-
8	Basudeb Biswas (SC)	SE(W)/BNGN	-do-	-do-
9	Mani	SE(W)SDE	-do-	-do-
10	Musafir Das	SE(W)/BNGN	-do-	-do-
11	Kapildeo Prasad	SE(W)/BNGN	-do-	-do-
12	Arabinda Das	SE(W)/RPAN	-do-	-do-
13	Nazimuddin	SE(W)/RNY	-do-	-do-
14	Dhitala Biswas	SE(W)/BPRD	-do-	-do-
15	Padam Saikia	SE(W)/DME	-do-	-do-
16	Nareswar Basumatary (ST)	SE(W)/BNGN	-do-	-do-
17	Bikram Palta Singh	SE(W)/BPRD	-do-	-do-
18	Samindra Nath Sivargiary (ST)	SE(W)/RPAN	-do-	-do-
19	Mulchand	B/Smith/I 4500- 7000/- SE(P.Way)/MJBT	MCM B/Smith 5000-8000/-	-do-
20	Ghanshyam	SE(P.Way)/BG/RNY	-do-	-do-
21	Rajgiri Sharmin	SE(W)/BG/RNY	-do-	-do-
22	Kedar Prasad Rabidas (SC)	SE(P.Way)/MG/RNY	-do-	-do-

(Contd....)

*Attested
for the
Advocate*

25 MAR 2009

गुवाहाटी न्यायालय
Guwahati Bench

(2)

23	Benudhar Goru	B/Smith/II 4000-6000/- SE(W)/BNQN	B/Smith/I 4500-7000/-	-do-
24	Kashi	SE(W)/SBE	-do-	-do-
25	Rajendra Prasad	SE(W)/NLP	-do-	-do-
26	Sahati Harijan (SC)	SE(P.Way)/RPAN	-do-	-do-
27	Atul Ch. Gogoi	SE(P.Way)/E/NLP	-do-	-do-
28	Dinu Bandhu Naik	B/Smith/II 4000- 6000/-	-do-	-do-
29	Rajendra Sharma	SE(W)/BPRD	-do-	-do-
30	Dandi Charan Boro (ST)	SE(P.Way)/MG/RNY	-do-	-do-
31	Gopal Sharma	SE(P.Way)/BPRD	-do-	-do-
32	Gakul Ch. Nath	SE(W)/SBE	-do-	-do-
33	Prabudu Ch. Ray	SE(W)/BNE	-do-	-do-
34	Ran Prasad	Painter/I 4500-7000/- SE(W)/MJBT	MCM/Painter 5000-8000/-	-do-
35	Birendra Nath Medhi	Painter/II 4000-6000/- SE(W)/DMC	Painter/I 4500-7000/-	Working report not received
36	Anil Roy	SE(P.Way)/VNE	-do-	Suitable
37	Chandan Sengupta	SE(P.Way)/RPAN	-do-	-do-
38	Mrinal Kanti Dey	SE(P.Way)/BG/RNY	-do-	-do-
39	Haren Boro (ST)	SE(P.Way)/W/NLP	-do-	Un-suitable
40	Boga Ram	Fitter/I 4000-6000/- SE(P.Way)/RNY	Fitter/I 4500-7000/-	Working report not received
41	Banarashi Singh	SE(P.Way)/DMC	-do-	Suitable
42	Soma (ST)	SE(P.Way)/MJBT	-do-	-do-
43	Joga Ram Baishya	SE(P.Way)/BPRD	-do-	-do-
44	Bhikoo	SE(W)/RPAN	-do-	-do-
45	Ram Lal Paswan	Mason/I 4500-7000/- SE(W)/NLP	MCM/Mason 5000-8000/-	-do-
46	Pradok Mushahary (ST)	Mason/II 4000-6000/- SE(W)/BNQN	Mason/I 4500-7000/-	-do-
47	Ram Deo Paswan (SC)	- do -	-do-	-do-
48	Ram Singh Boro (ST)	- do -	-do-	-do-
49	Joy Prakash (SC)	- do -	-do-	-do-
50	Girish Ch. Das (SC)	S/Mason/II 4000-6000/- SE(W)/RNY	S/Mason/II 4500-7000/-	-do-

Contd...3

Attested
Shrikant
Advocate

25 MAR 2009

गुवाहाटी न्यायालय
Guwahati Bench

		(3)		
51	Ramesh Narzary (ST)	SE(W)/DMC	S/Mansori/I 4500-7000/- MCM(SPA) 5000-8000/-	Working report not received
52	Jogendra Nath Sharma	SPA/I 4500-7000/- SE(W)/NLP	SPA/I 4500-7000/-	Suitable
53	Bhubaneshwar Routh	SPA/II 4000-6000/- SE(W)/DMC	SPA/I 4500-7000/-	-do-
54	Rabi Ram Boro (ST)	FPO/I 4500-7000/- SE(W)/DMC	FPO(MCM) 5000-8000/-	-do-
55	Kaneshwar Gogoi		-do-	-do-
56	EK Bahadur Rai	Vehicle Driver/II 4000-6000/- GM(Con)/MLG	Vehicle Dr./I 4500-7000/-	-do-
57	Sukumar Prudhun	ADEN/RPAN	-do-	-do-
58	Antar Yami Baral	M/T/Driver/II 4000-6000/- ADEN/RNY	M/T Driver/I 4500-7000/-	-do-
59	Durga Pd. Sarma	ADEN/BPRD	-do-	-do-

This issues with the approval of the competent authority.

No.E/240(Rest Engg)RNY/20

For DRM(P)/RNY
Dated 29.10.04.

Copy forwarded for information and necessary action to:-

1. DRM/Rny. 2. Sr.DEN/C/RNY. 3. DRM(W)/RNY.
4. All DEN/RNY. 5. ADEN/RNY, RPAN, LNP, BPRD, NBQ, GLPT.
6. SSE(W & P.Way)/RNY, MJBT, RPAN, VNE, NLP, DMC, BPRD, SBE, BNGN, NBQ, GLPT, GCON.
7. Staff concerned. 8. P/Case.
9. Divl.Seccy/NFREU/RNY. 10. Divl. Seccy/NIRMU/RNY.
11. Divl.Seccy/AISCI/REA/RNY. 12. COS/DLU/RNY & APDI.

For DRM(P)/RNY.

Attested
Bishakha
Advocate

Office order.

in terms of Railway Board's letter No. PC-III/2003/CRCC/6 (RRB No. 177/2003) Dated 9.10.03 circulated under GM(P)MLG's letter No. E/3040 Restructuring (C) dated 30.10.03 as well as DRM(P)/RNY's Memorandum E/240/ (R est. Engg) RNY/20 dated 6.10.04 the following candidates who have been found suitable for promotion to the post and scale as indicated below against the vacancies from as result of restructuring of cadre w.e.f. 01.11.03 as well as resultant/existing vacancies as 01.11.03 are hereby ordered to take effect promotion from the date of mentioned against each.

Accordingly to GM(P)MLG's letter No E/340/0 Restructuring (c) dated 9.7.04 staff will be posted in promotion as in where is based. Category Tech MCM, Carpenter, B/Smith, Painter, Mason, S/Mason, Fitter, SPA, FPO, Vehicle Driver and M/T Driver in scale Rs. 4500-7000/-

SL	Name of candidate or S/S/ Shri	Whether SC/ST/	Working under scale	Present pay & post of & scale designation	Promoted to the Date of in which promotion effected.	Place of posting	Whether promotion against normal seniority	Remarks.
25 MAR 2009								
1	Faunder Rauth	UR	SEWM/JBT	4500-7000/-	Carpenter MCM 5000-8000/-	01.11.03	SEWM/JBT	NS
2	Hirallal Biswas	UR	SEWMBGN	Carpenter G.I. 4500-7000/-	-DC-	01.11.03	SEWMBGN	NS
3	Mangal Boro	ST	SEW/Way/BG/RNY	-DO-	-DC-	SEW/Way/BG/RNY	NS	From the date of
4	Ram Dyan Aanjan	SC	SEWM/WJB/T	-DC-	DC	SEWM/WJB/T	DC	
5	Hakeshwar	UR	SEWM/RNY	Carpenter Grill 4500-7000/-	Carpenter Grill 4500-7000/-	01.11.03	SEWM/RNY	NS
6	Kanick Mandal	SC	SEWM/RGN	-DC-	DO-	01.11.03	SEWM/RGN	NS
7	Babul Ch. Das	SC	SEWM/BQ	-DO-	DO-	01.11.03	SEWM/BQ	NS
8	Basudeb Biswas	SC	SEWM/BGN	-DC-	DO-	01.11.03	SEWM/BGN	NS
9	Moni	UR	SEWM/BGE	-DC-	DO-	01.11.03	SEWM/BGE	NS
16 Feb 2009								
10	Sec Prasad	UR	SEWM/RGN	-DC-	-DC-	SEWM/RGN	NS	NS

12	Abinanda Das	UR	SEWIRPAN	DO	-DO-	SEWIRPAN	NS	-DO
13	Nazimuddin	UR	SEWIRNY	DO	-DO-	SEWIRNY	NS	-DO
14	Chiratul Biswas	UR	SEWBPRD	DO	-DO-	SEWBPRD	NS	-DO
15	Pastam Saikia	UR	SEWDMC	DO	-DO-	SEWDMC	NS	-DO
16	Nareswar Basumatary	ST	SEWBPN	DO	-DO-	SEWBPN	RG	-DO
17	Bikram Patta Singh	UR	SEWBPRD	DO	-DO-	SEWBPRD	NS	-DO
18	Samindra Nath Swargiary	ST	SEWRPAN	-DO-	-DO-	SEWRPAN	RG	-DO
19	Guashyam	ST	SEP.Way/BG/RNY	B/Smith Gr.II	B/Smith MCM	01.11.03	SEP.Way/BG/RNY	NS
20	Kedur Prasad Rabi Das	SC	SEP.Way/MGRNY	4500-700/-	5000-300/-	-DO-	01.11.03	SEP.Way/MGRNY RG
21	Mukundan	UR	SEWMBT	-DO-	-DO-	SEWMBT	NS	From the date of joining
22	Rajgiri Sharma	UR	SEF.Way/BPRD	-DO-	-DO-	SEF.Way/BPRD	NS	-DO-
23	Fendhur Gour	UR	SEP.Way/BNGN	B/Smith Gr.II	4000-500/-	01.11.03	SEP.Way/BGN	NS
24	Kashi	UR	SEW/SEE	-DO-	-DO-	SEW/SEE	NS	
25	Fajendra Prasad	UR	SEW/ALP	-DO-	-DO-	SEW/ALP	NS	
26	Atul Ch. Gogoi	UR	SEW/ENP	-DO-	-DO-	SEW/ENP	NS	
27	Saheli Harjani	SC	SEP.Way/RPN	-DO-	-DO-	01.11.03	SEW/ALP	NS
28	Dinu Bandhu Naik	UR	SEW/NE	-DO-	-DO-	SEW/NE	NS	From the date of joining
29	Fajendra Sharma	UR	SEWBPRD	-DO-	-DO-	SEWBPRD	NS	-DO
30	Dardi Chann Boro	ST	SEP.Way/MGRNY	-DO-	-DO-	SEP.Way/MGRNY	NS	-DO
31	Gopal Sharma	UR	SEWBPRD	-DO-	-DO-	SEWBPRD	NS	-DO
32	Gakul Ch. Bath	UR	SEW/SE	-DO-	-DO-	SEW/SE	NS	-DO
33	Prafudh Ch. Roy	UR	SEWBPN	-DO-	-DO-	SEWBPN	NS	-DO
34	Ranu Prasad	UR	SEWBAPT	Painter Gr.I 45	Painter MCM 50	01.11.03	SEWBAPT	NS
35	Anil Ch. Roy	UR	SEWBNE	Painter Gr.I 45	Painter MCM 50	01.11.03	SEWBNE	NS
36	Chandan Sengupta	UR	SEWBPN	-DO-	-DO-	01.11.03	SEWBPN	NS
37	Minu Kanti Dey	UR	SEWBG/RNY	-DO-	-DO-	SEWBG/RNY	NS	-DO
38	Haren Boro	ST	SEW/ALP	-DO-	Painter Gr.I 45	4000-500/-	SEP.Way/MBT	NS
39	Sanarash Singh	UR	SEWDMC	Filter Gr.II	Filter Gr.I 4500	01.11.03	SEWDMC	NS
40	Some	UR	SEW/MAPT	4000-600/-	700/-	-DO-	01.11.03	
41	Jogaram Baishya	UR	SEWBPRD	-DO-	-DO-	SEWBPRD	NS	
42	Ehikoc	UR	SEWRPAN	-DO-	-DO-	SEWRPAN	NS	-DO
	RAILWAY							
	Guwahati Divisional Paswan	UR	SEW/ALP	4500-700/-	5000-500/-	01.11.03	SEW/ALP	NS
		UR	SEW/ENP	4500-700/-	5000-500/-	01.11.03	SEW/ENP	NS

Approved
Pethak
P. D. G. C. &
Mushakary

45	Hanedee Paswar	SC	-DO-	-DO-	-DO-	01.11.03	-DO-	NS
46	Ram Singh Boro	ST	-DO-	-DO-	-DO-		-DO-	-DO
47	Joy Prakash	SC	-DO-	-DO-	-DO-		-DO-	-DO
48	Girish Ch. Das	SC	SEW/WRNY	S/Mason Gr.I 4000-6000/-	S/Mason Gr.I 4500-7000/-	01.11.03	SEW/WRNY	NS
49	Ramesh Narzary	ST	SEW/DMC	-DO-	-DO-		SEW/DMC	NS
50	Bhubaneswar Rauth	UR	SEW/DMC	SPA Gr.II 4000-6000/-	SPA - Gr.I 4500- 7000/-	01.11.03	SEW/DMC	NS
51	Rabi Ram Boro	ST	SEW/DMC	FPO Gr.I 4500 7000/-	FPO Gr.I/MOM 5000-8000/-	01.11.03	SEW/DMC	NS
52	Kameswar gogal	UR	DO-	-DO-	-DO-		DO-	NS
53	EK Bahadur Rai	UR	GM/ComMLG	Vehicle Driver.Grl 4000-6000/-	Vehicle Driver Gr.I 4500-7000/-	01.11.03	GM/ComMLG	NS
54	Sukumar Pradhar	UR	ADEN/VRPAN	-DO-	-DO-	01.11.03	ADEN/VRPAN	NS
55	Antar Yami Baral	UR	ADEN/VRNY	MT/Driver Gr.II 4000- 6000/-	MT/Driver/Gr.I 4500-7000/-	01.11.03	ADEN/VRNY	NS
56	Durga Rd. Sarma	UR	ADEN/BPRD	-DO-	-DO-	01.11.03	ADEN/BPRD	NS

Staff concerned may submit option within one month from the date of the order for getting fixation of pay are promotion from the date of accrual of the next increment on the lower grade.

This issue's with the approval of the competent authority.

No.: E240 (Rev1 Engg) S19/23

For DRYER EX. EASY

केन्द्रीय प्रायोगिक अधिकारी बोर्ड for information and necessary action to
Central Administeration Tribunal
1) Sri. D. G. MURTHY
4) S. C. G. MURTHY, B. E. E., SEE, B. G. N., NBC, CGCII
25 MAR 2009) Staff concerned
In P/Case

गुवाहाटी चालकपाल
Guwahati Bench
ROATL

Low
Miller

Attested to this
10th day of August
A.D. 1861

For DRAFT

ANNEXURE - 6

To,

ADEN/RNY

Sub:- Joining Report - As M/Trolley Driver Gr-I
in Scale Rs 4500 - Food/-

Sir,

In terms of DRM(P) RNY NO. E/240
(Rest Engg) RNY 20 Date 06/10/04. My Self
Report on the 08/11/04 as M.T/Driver Gr-I
under your unit.

Kindly accept and do need full.

Date - 08/11/04

200
10/11/04

Your's Faithfully
Antarzamei Baral.

M.T/Driver Gr-I.

Rangiva.

Prakash
Pethkar
Advocate

NORTHEAST FRONTIER RAILWAY

Office Of The

Divl. Rly. Manager (P)

Rangiya

केंद्रीय प्रशासनिक अधिकारी
Central Administrative Officer

CORRIGENDUM

The following Tech MT/Drivers who were working as Tech MT/Driver Gr. 5 MAR 2004
 III in scale Rs. 3050 - 4590/- were promoted to the post of Tech MT/Driver Gr. I
 in scale Rs. 4500 - 7000/- vide memorandum No. E/240 (Rest Engg) RNY/20 dt. 04.11.04 consequent on modified selection due to restructuring of cadre from 01.11.2003.

But on scrutiny of BOS & seniority list of MT Driver it is seen that the persons were actually working as MT Driver Gr. III in scale Rs. 3050 - 4590/-.

After restructuring of cadre no additional post accrued in the MT Driver Gr. II in scale Rs. 4000 - 6000/-, additional one post accrued in MT Driver Gr. I in scale Rs. 4500 - 7000/-. As such the promotion is to be regularised as under.

SN	Name S / Shri	Designation	To be promoted to	W. E. F.
01	Antar Yami Baral	MT Driver Gr. III	MT Driver Gr. II	01.11.03
02	Durga Pd. Sarma	MT Driver Gr. III	MT Driver Gr. II	01.11.03

Since they were already found suitable for the higher grade post of MT Driver Gr. I in scale Rs. 4500 - 7000/- as such they need not subjected to suitability test again. But the date of promotion to MT Driver Gr. I in scale Rs. 4500 - 7000/- will be as under.

SN	Name S / Shri	Designation	To be promoted to	W. E. F.
01	Antar Yami Baral	MT Driver Gr. II	MT Driver Gr. I	01.11.05
02	Durga Pd. Sarma	MT Driver Gr. II	MT Driver Gr. I	01.11.05

(G. K. DEY)
 APO / II / RNY
 For DRM (P)/RNY

No. E/240 (Rest Engg) RNY/20

Date: - 04.04.2008

Copy forwarded for information and necessary action to: -

1. Sr. DEN/C/RNY.
2. Sr. DEN/I/RNY.
3. DFM/RNY.
4. ADEN/RNY & BPRD.
5. Staff concerned.
6. P / Case.
7. Divl. Secy/NFREU/RNY.
8. Divl. Convenor/NFRMU/RNY.

For Divl. Rly. Manager (P)
 N. F. Rly. Rangiya

Attested
 D. K. Dutt
 Advocate

4/2/08

ANNEXURE - I

Revised seniority list of Sr. Tech. M.T. Driver in scale Rs.5000-8000/- and M.T. Driver Encl. II & III in scale Rs.45/-7000/-, 4000-6000/- and 305/-590/- under Sr. DEN/C/RNY as on 01.04.08

Deptt. Engineering

A) MT Driver MCM - BOS=01- On Roll: M.L.

E) M.T. Driver Gr. I

SN	Name S/Shri	PF No	Station	Caste	D.O.B.	D.O.A	D.O.P.
1	Durga Pd. Sarma		ADEN/RNY	UR	03.09.57	01.01.82	01.11.05
2	Antor Yamini Baral		ADEN/RNY	UR	15.08.58	01.01.82	01.11.05

MT Driver Gr I BOS=01- On Roll: NIL

MT. Driver Gr III BOS=01 On Roll=03

SN	1. Tarun Pathak 2. Milon Ch. Boro 3. Hirakal Saha	P.F. NO	ADEN/NBGP ADEN/RPAN ADEN/NBGP	UR ST UR	01.01.56 25.2.65 16.04.51	01.01.84 13.02.83 23.02.79	17.04.07 17.04.07 17.04.07
							17/4/08
							DRM/HB/RNY
							Dt. 17.04.08

No. E/2201/(E)RNY/PTI

1. forwarded to information and necessary action to -

Sr. DEN/C/RNY 2. DEM/ET 3. EN/RNY 1. D.O. TLE, RPAN, DR. RNY

Staff Concerned

2. P/Case 3. D.O. TLE, RPAN, DR. RNY

केन्द्रीय प्रशासनिक अधिकारा
Central Administrative Tribunal

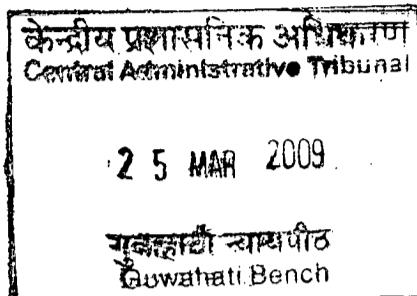
25 MAR 2009

गुवाहाटी न्यायालय
Guwahati Bench

Attested
that he is
Advocate

ANNEXURE - J

NORTHEAST FRONTIER RAILWAY



Office of the
Divl. Rly. Manager (P)
Rangiya

MEMORANDUM

The result of suitability test of MT/Driver Gr. I in scale Rs. 4500-7000/- for promotion to the post of MCM (MT/Driver) in scale Rs. 5000-8000/- as conducted by DEN/III/RNY on 14.05.2008 is here by published as under :

SN	NName	Cust	Desig. & Scale	Promotional Grade & scale	Remarks
01	Durga Prasad Sarma	UR	MT/Driver/I Rs.4500-7000/-	MCM (MT/Dri). Rs. 5000-8000/-	Passed

Before issue of posting order their DAR/SPE/VIG clearance to be obtain from controlling officer.

This has the approval of competent authority.

For Divisional Railway Manager (P)
N. F. Railway, Rangiya.

No. E/240 (Rest Engg.)/RNY/20 (Loose)

Dated 29-05-2008

Copy forwarded for information and necessary action to:

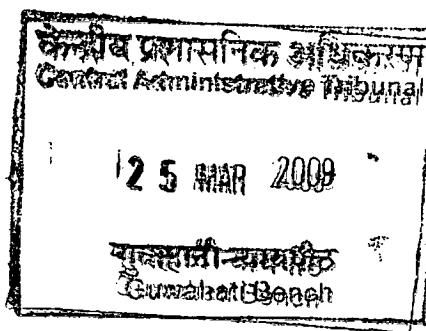
1. Sr. DEN/C/RNY 2. Sr. DEN/I, II & DEN/III/RNY
3. DFM/RNY 4. ADEN/RNY, BPRD
5. Staff concerned 6. P/ Case

For Divisional Railway Manager (P)
N. F. Railway, Rangiya.

Attested
Matthew
Selwood

MU/Engg/08

To,
DRM(P)/Rangiya.



05.06.08

Sub :- Deprive of Sri Antarjami Baral, MT Driver Gr.I for getting promotion to the post of MCM(MT/Driver) in scale of Rs. 5000-8000/-.

Dear Sir,

It is represented by Sri Antarjami Baral, MT Driver Gr.I, that one Sri Durga Pd. Sarma MT Driver Gr. I junior to him was called for suitability test for promotion to the post of MCM(MT Driver) in scale Rs. 5000-8000/- and accordingly he has been empanelled for promotion vide your letter No. E/240(Rest Engg)/RNY/20 (Loose) dt. 29.05.2008.

But it is seen from the record that his name was placed at SI No. 55 as senior than Sri Durga Pd. Sarma (at SI No. 56) in the cadre restructuring order no E/240(Rest Engg)RNY/20 dt. 04.11.04. Again in your corrigendum letter No. E/240(Rest Engg)RNY/20 dt. 4.4.08 for promotion due to restructuring of cadre w.e.f. 01.11.03 the name of Sri Antarjami Baral was shown as senior at SI No. 1 than Sri Durga Pd. Sarma (at SI No. 2.) for the promotion to MT Driver Gr.II and Gr. I.

Hence this union request your honour to let this undersigned, why Sri Durga Pd. Sarma was called for suitability test for promotion to the post of MCM(MTDriver) in scale Rs. 5000-8000/- by depriving Sri Antarjami Baral.

Thanking you.

Yours Sincerely
Divl. Com/ce/NFRMU/RNY

Attested
At the
desire of

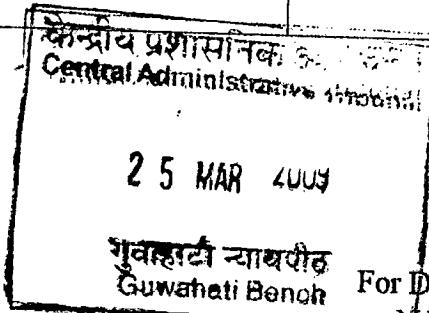
NORTHEAST FRONTIER RAILWAY

Office of the
Divl. Railway Manager (P)
Rangiya

OFFICE ORDER

In terms of Corrigendum No.E/240/Rest Engg/RNY/20, dt.04/04/08 the
pay of the following staffs are fixed as under:-

S N	Name (S/Shri)	Pay as MT Driver Gr.III in scale Rs.3050-4590/-	Promotional pay as MT Driver Gr.II in scale Rs.4000-6000/-	Promotional pay as MT Driver Gr.I in scale Rs.4500-7000
1	Durga Pd. Sharma <i>Under</i> ADEN/BPRD	01.09.03 = Rs.4030/-	01.11.03 = Rs.4200/- 01.11.04 = Rs.4300/-	01.11.05 = Rs.4500/- 01.11.06 = Rs.4625/- 01.11.07 = Rs.4750/-
2	Antar Yami Baral <i>Under</i> ADEN/ RNY	01.02.03 = Rs.3725/-	01.11.03 = Rs.4000/- 01.11.04 = Rs.4100/-	01.11.05 = Rs.4500/- 01.11.06 = Rs.4625/- 01.11.07 = Rs.4750/-



No.E/240/Rest Engg/RNY/20

Copy forwarded for information & n/a to :-

1. DFM/RNY
2. ADEN/RNY,BPRD
3. Staff concerned
4. P/case.

For Divl. Railway Manager(P)

N.F. Railway/Rangiya

Date :- 15/10/08

From 15/10/08
For Divl. Railway Manager(P)

N.F. Railway/Rangiya

*Accepted
Ritha K
Advocate*

NORTHEAST FRONTIER RAILWAY

No. E/240 (Post Engg)/RNY/20

Office Of The
Divl Rly Manager (P)
Rangiya

Dated: 21st October, 2008

To
Shri Antarjami Baral
MT Driver Gr. I
ADEN / RNY

25 MAR 2008

गुवाहाटी न्यायालय
Guwahati Bench

Sub: - Seniority of MT Driver Gr. I under DRM (W)/RNY.

1. In the panel position of MT Driver Gr. III in scale Rs. 3050-4590/- vide Memorandum No. E/10/Pt. II dtd. 05/02/96 Durga Prasad Sarma stands senior to Shri A. Baral.
2. In the promotion orders to the post of MT Driver in scale Rs. 3050-4590/- vide O.O. No. E/10/Pt. II dtd. 07/02/96 Shri D. P. Sarma stands senior to Shri A. Baral.
3. In the seniority list issued by APDJ division, vide O. O. No. E/255/1 (E) AP dtd. 12/02/01 Shri A. Baral has been shown senior to Shri D. P. Sarma respectively, no bio data i. e. D O B, D O A & date of promotion of Shri D. P. Sarma are record in the seniority list.

As per provision in the IREM/309 the panel drawn as per seniority in case of Selection/Suitable Test/ Trade Test cannot be changed afterwards without any valid reason approved of the competent authority. There is no such records in this regard. Moreover, going by the records i.e. date of birth, date of appointment, date of promotion & finally the panel position of MT Driver Gr. III in scale Rs. 3050-4590/- Shri D. P. Sarma stands senior to Shri A. Baral.

4. The restructuring orders was issued by DRM (P)/RNY on 04/11/2004 based on the seniority list published by APDJ Division with incomplete information.
5. Considering the above the revised seniority list of MT Driver Gr. I was issued by this office No. E/225/2 (E)/RN Pt. I dtd. 17/04/08 showing Shri D. P. Sarma senior to Shri A. J. Baral and 30 days time was given for representation if any.
6. You may however allowed to submit representation if any within 7 days on receipt of this letter. Why you will not be placed below Shri Durga Prasad Sarma.

from 21/10/08
(G. K. DEY)
APO / II / RNY

For DRM (P)/RNY

Copy to: - Concern/NFRMU/RNY. This has the reference to your letter No. MU/Engg/08
dtd. 05/06/08.

for Divl Rly Manager (P)
N.F. Rly, Rangiya

Received on
27-10-08

Attested
for the
Advocate

To,

DRM(P)/RNY
N. F. Railway.

Respected Sir,

Sub: Seniority of MT Driver Gr. I under DRM(W)/RNY.

Ref: Your office letter no. E/240(Post Engg)/RNY/20 dtd. 21.10.08

With due respect and humble submission, I would like to draw few lines in reference to your letter cited above for your kind consideration please.

1. The panel of Trolleyman issued vide DRM(P)/APDJ vide letter no. E/10/Pt.II dtd. 07.02.96, I stood junior to D. P. Sharma during initial appointment as Sr. Trolley man under APDJ.
2. Then Sir, after promotion to MT Driver Gr. III, the seniority list again published by DRM(P)/APDJ on 12.02.2001 which was completely based on the date of joining to the promotional post, i.e. MT Driver Gr. III where I stood senior to D. P. Sharma as I joined earlier to Shri Sharma. Not only I, that also happened in case of others and they availed benefits accordingly e.g. Lalbahadur Routh, the then Sr. Trolleyman (Scale Rs. 800-1150/-), who was most junior during the initial appointment as Sr. Trolleyman vide APDJ's letter no. E/10/Pt.II dtd. 07.02.96, stood seniormost amongst the MT Drivers Gr. III as he was joined first to the promotional post whereas the seniormost employee Gobinda Sahu, the then UPG Trolleyman (Scale Rs. 825-1200/-) stood junior to Lalbahadur Routh in MT Driver Gr. III.
3. After bifurcation of APDJ division the same seniority list has been followed for MT Drivers during promotion from Gr.III to Gr.II and Gr.II to Gr. I. But It is regret to say that during the promotion to Gr.I MT Driver to MCM, suddenly and surprisingly, changes has been noticed in the seniority list where I stood junior to D. P. Sharma who is junior to me and seems to be got promotion order for MCM which is only a harassment to me.
4. Sir, I therefore request your honour kindly go through the matter and fix the seniority of MT Drivers with justification/proof so that everything comes to light and in future no body will suffer for that as I am.

Thanking you in anticipation.

Encl: Related documents (03)
Date. 30 /10/2008.

Antaryami Baral.

[Antaryami Baral]
MT Driver Gr. I
renders ADEN/RNY.

Dr. 30-10-08
Antaryami
S. P. Baral
Advocate

R
08/12/08

N.E. Railway

Office of the
Divl. Railway Manager (P)
Rangiya
Date: - 01/12/08

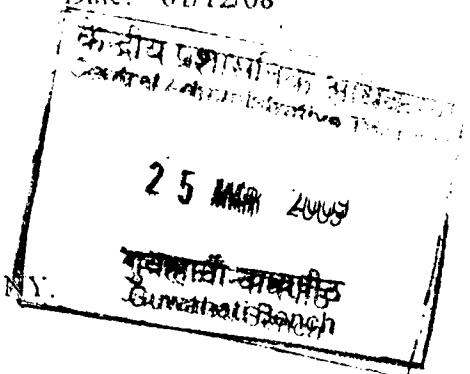
No. E/240(Rest Egg) RNY/20(Loose)

To

✓ Shri Antarjami Baral, MT Driver Gr.I
Under DRM (W)/RNY
(D.P. Dey)

Sub: - Seniority of MT Driver Gr.I under DRM (W)/RNY.

Ref: - Your application No. NIL, dated. 30/10/08



- 1) In the promotion orders to the post of MT Driver Gr.III in scale Rs.3050-4590/- issued vide DRM (P)/APDJ's O.O.No.81-E/10/Pt.II, dated 07/02/1996 Shri Durga Prasad Sharma stands senior to Shri Antarjami Baral.
- 2) In the seniority list issued by APDJ Division, Shri A. Baral has been shown senior to Shri D.P. Sharma but mysteriously, no bio-data, i.e. DOB, DOA & date of promotion of Shri D.P. Sharma are recorded in the seniority list.

As per provision in the IREM the panel drawn as per seniority in case of Selection/Suitability test/Trade test can not be changed, afterwards without any valid reason to be approved by the authority higher than who approved the panel. There is no such records in this regard. Moreover, going by the records i.e. date of birth, date of appointment, date of promotion & finally the panel position of MT Driver Gr.III in scale Rs.3050-4590/- Shri D.P. Sharma stands senior to Shri A. Baral.

This dispose off your representation date 30/10/2008.

Dec. 1/12/08

(G.K. Dey)
APO/H/RNY

For Divl. Railway Manager (P)
Rangiya

Copy forwarded for information & N/A to:-

- 1) Sr.DEN/C/RNY
- 2) DEN/III/RNY
- 3) Convener NFRMU/RNY
- 4) Divl. Secy. NFRMU/RNY
- 5) DEN/RNY

For Divl. Railway Manager (P)
Rangiya

Attested
Smt. K
Advocate

Northeast Frontier Railway

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

25 MAR 2009

Office of the
Div. Railway Manager (P)
Rangpur

গুৱাহাটী রায়পুর
Guwahati Bench

To

Sri Antarjani Baral
M.T. Driver Gr.I
under ADEN/NBQ

Sub : Seniority of M.T. Driver Gr.I under DRM(W)/RNY

Ref: - Representation dated 11/02/09 submitted by Sri Antarjani Baral.
M.T. Driver Gr.I under ADEN/RNY.

In connection with your representation dated 11/02/09, the Service sheet & P/case are verified for both Durga Prasad Sharma, M.T. Driver Gr.I under ADEN/BPRD and Antarjani Baral, M.T. Driver Gr.I under ADEN/RNY and the recorded dates in connection with appointment, promotion etc. are shown below :-

1) Shri Durga Prasad Sharma, M.T. Driver Gr.I under ADEN/BPRD

i)	Date of Birth	- 30.09.1957
ii)	Date of Appointment	- 01.01.1982
iii)	Date of promotion as Trolleyman	- 01.01.1884 (as Adhoc)
iv)	Date of promotion as Sr. Trolleyman (Vide DRM (P) APDJ's O.O. No.E/59/5 BG (E) AP dtd.19.12.89)	- 01.01.1986 ✓
v)	Date of officiating promotion as M.T. Driver Gr.III (Vide DRM (P) APDJ's O.O. No.E/281/I (E) AP Pt.II, dtd.24.09.87)	- 26.09.87
vi)	Regular promotion as M.T. Driver Gr.III (Vide DRM (P) APDJ's O.O. No.81-E/10/Pt.II, dtd. 07.02.96)	- 07.02.96
vii)	Date of promotion as M.T. Driver Gr.II	- 01.11.03
viii)	Date of promotion as M.T. Driver Gr.I (Vide DRM (P)/RNY's Corrigendum No.E/240(Rest) Engg/RNY/20, dtd.04.04.08)	- 01.11.05

2) Shri Antarjani Baral, M.T. Driver Gr.I under ADEN/RNY

i)	Date of Birth	- 15.08.1958
ii)	Date of Appointment	- 01.01.1982
iii)	Date of promotion as Trolleyman	- 01.01.1884 (as Adhoc)
iv)	Date of promotion as Sr. Trolleyman (Vide DRM (P) APDJ's O.O. No.E/59/5 BG (E) AP dtd.19.12.89)	- 25.09.87 ✓
v)	Date of promotion as M.T. Driver Gr.III (Vide DRM (P) APDJ's O.O.No.81-E/10/Pt.II, dtd.07.02.96)	- 07.02.96
vi)	Date of promotion as M.T. Driver Gr.II	- 01.11.03
vii)	Date of promotion as M.T. Driver Gr.I (Vide DRM (P)/RNY's Corrigendum No.E/240(Rest) Engg/RNY/20, dtd.04.04.08)	- 01.11.05

3) In the panel for promotion to the post of M.T.Driver Gr.III issued by DRM (P)/APDJ vide O.O. S1-E/10/ Pt.II, dtd. 07.02.96 Sri Durga Prasad Sharma showed senior to Antarjani Baral.

4) Hence, from the recorded data in S/Sheet, P/Case and office order No.E/105/2(E) AP Pt.V, dtd 07.02.96 it is clear that Sri Durga Prasad Sharma is senior than Sri Antarjani Baral in the cadre of Motor Driver under Engg Br./RNY.

This is for your information.

27/2/09
(G.K. Dey)

For Divl. Railway Manager (P), RNY
Dates: - 24/02/09

No.E/240(Rest Engg)/RNY/20 (Loose)
Copy to:-

- 1) OS to DRM RNY - for information please
- 2) Sr.DEN/C/RNY & ADEN RNY/BPRD
- 3) Staff concerned
- 4) Seniority of the above in P/CASE of M.T. Driver Gr.I and Gr.II

Allected
Ranjan
Advocate

27/2/09

Annexure - Q

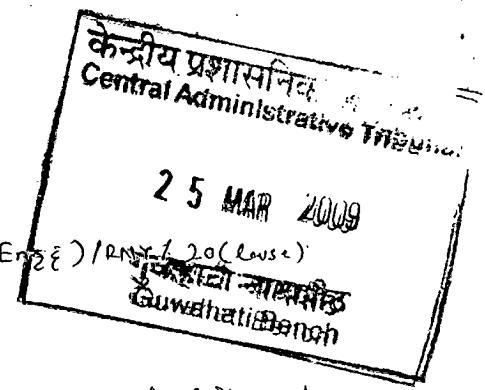
To,

Divisional Railway Manager (P)
Ranegaon Division, N. F. Railway.
[For kind attention of APO/II/RNY]

Scb: Representation.

Ref: Your letter NO. E/1240 (Rst Engg) / RNY/120 (Laws) dated 27.02.09.

Respected Sir,



With humble Scbmission, I would like to say that Sir, before knocking the door of honorable court for justice, I want some early clarifications from your end.

- In 1996, DRMC/1/ADJ prepared seniority list of MT Driver and since then, that seniority has been followed by ADJ as well as RNY divisions. 02 out of a panel of 04, have already been retired from Rly. service after availing the benefit in Gr. II / I / MEM. Sir, don't you think that I have been deprived?
- Being the competent authority, DRMC/1/ADJ issued seniority. Sir, do you think that they were followed wrong way or they were unaware of the rules for fixing seniority?
- To fix up the seniority of MT driver of a panel of 04 persons, administrative ~~was~~ already taken 12/13 yrs. Sir, don't you think that it is already too late to rectify a mistake if occurred 12/13 yrs ago?
- You have compared the service particulars of ~~G. P. Babbar~~ ^{with me} MT Driver Gr. I since the critical appointment. Sir, don't you think that service particulars of a panel of 04 persons (Panel of MT Driver) should be compared?
- Without any representation, you have revised the seniority of MT driver (Gr. I) after 12/13 years and neglected me. Sir, don't you think that the administration has misutilized its power for humiliating the individual?

Thanking you in anticipation.

Yours faithfully,

Antaryami Baral.

[ANTARYAMI BARAL]

MT Driver Gr. I
andor A.N.F.N / RNY

DATE - 03/03/09

Attested
S. K. Baral
Advocate

NORTHEAST FRONTIER RAILWAY

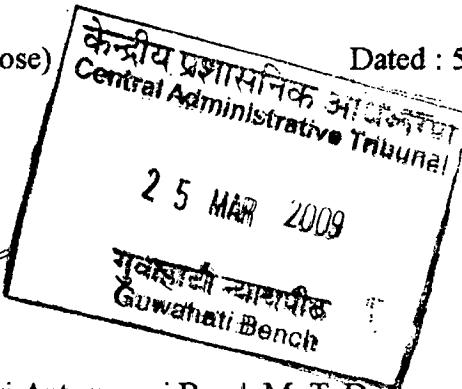
Office of the
Divl. Rly. Manager (P)
Rangiya

No.E/240(Rest. Engg)/RNY/20 (Loose)

Dated : 5th March. 2009.

To,

Shri Antarzyami Baral
M. T. Driver Gr. I
Under ADEN/RNY



Sub :- Representation of Shri Antarzyami Baral, M. T. Driver under ADEN/RNY
vide application dated 03-03-2009.

1. Your earlier representation dated 11-02-2009 was already replied vide this office letter No.E/240(Rest. Engg.)/RNY/20 (Loose) dated 27.02.2009.
2. There is nothing new in your representation at 03-03-2009
3. With reference to your letter quoted above, it is inform you that (in terms of Para-301 to 309 IREM Vol-I) panel drawn as per Seniority/Suitability test/Trade test can not be changed afterwards without any valid reason to be approved by the authority higher than approved the penal.
4. The promotion order to the post of M. T. Driver Gr. III in scale Rs. 3050-4590/- issued vide DRM(P)/APDJ's office order No. 81-E/10/Pt-II dated 07-02-96 Shri Durga Prasad Sharma stand senior to Shri Antarzyami Baral which stands final to assertion your seniority in the cadre of M. T. Driver Gr. I in Rangiya Division.

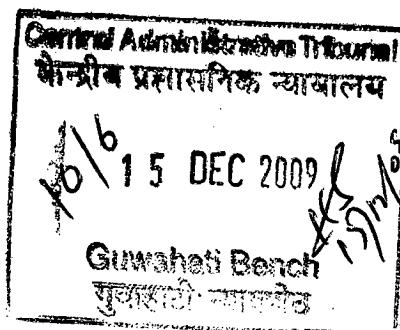
5/3/09
(G. K. Dey)
APO/II/RNY

For Divl. Rly. Manager (P)
N. F. Railway, Rangiya.

*Alleged
Attahk
Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

OA No.55 of 2009



Shri A. Boral Petitioner

-Vs-

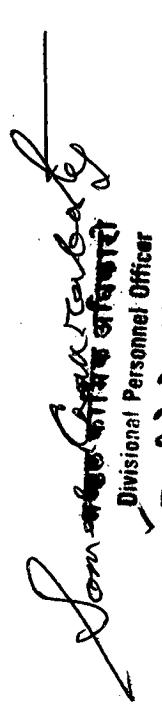
Union of India & Ors Respondent

Index

<u>Sl No.</u>	<u>Particulars</u>	<u>Annexure</u>	<u>Page</u>
1.	Written statement		1-4
2.	Verification		5
3.	Copy of order dated 24.9.1987	Annexure R-1.	6
4.	Copy of order dated 19.12.1989	Annexure R-2.	7


Advocate

*Received
Usha Das
Advocate
15/12/09.*


Divisional Personnel Officer
N. F. Railway, Rampura
N. F. Railway, Rampura

1
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

OA No.55 of 2009

Shri A. Boral Petitioner

-Vs-

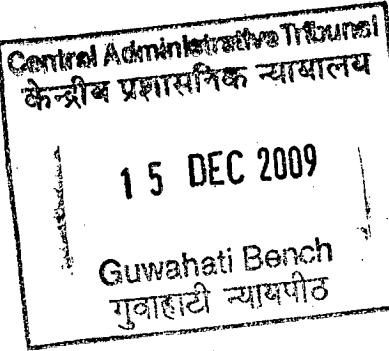
Union of India & Ors Respondent

Written statement of Respondent No. 1, 2 & 3.

The Respondent numbers 1, 2 & 3 most respectfully beg to state as under:-

1. That the respondents have gone through the OA and understood the contents thereof.
2. That both the applicant and the respondent No.4 were initially appointed w.e.f. 01.1.1982. the date of birth of Respondent No.4 is 30.9.1957, as against 15.8.1958 of the applicant, the Respondent No.4 has been treated as senior to the applicant w.e.f 01.1.1982. Both were promoted as Trolleyman w.e.f 01.1.1984 as Trolleyman (Adhoc), maintaining same seniority.
3. That the respondent No.4 was promoted as Sr. Trolleyman w.e.f. 01.1.1986 and further promoted as M. T. Driver, Gr.III (officiating) w.e.f. 26.9.1987 and against the resultant vacancy of Sr. Trolleyman, the applicant was promoted as Sr. Trolleyman. The position of both as Sr. Trolleyman is as under:-

Respondent No.4 w.e.f. 01.1.1986
→ Applicant w.e.f. 25.9.1987



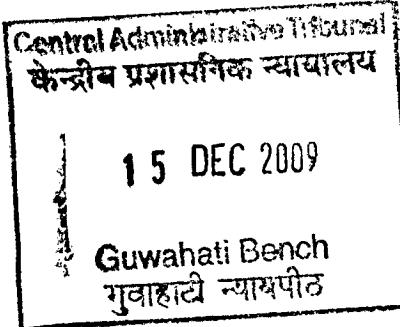
Divisional Personnel Officer
N. F. Railway, Rangiya
✓ श. सी. लोडे, र. फिरा

✓

N. F. Railway, Rangiya

On Application
of T. L. Sarker
15/12/2009

File
M



- 62 -

2
Copies of office orders dated 27.9.1987 and 19.12.1989 are enclosed as Annexures R-1 and R-2.

Divisinal Personnel Officer
N. F. Railway, Rangia
प. भी रेलवे, रंगिया

4. That in reply to statements in Para 4.2 to 4.5 it is stated that promotion to the post of M.T. Driver, Gr.III is given on suitability test, i.e. seniority cum suitability. Both Respondent No. 4 & Applicant were found suitable and as per seniority regular promotion order was issued by order dated 07.2.1996 (Annexure-B of the OA). As already stated Respondent No.4 was already working as M.T. driver, Gr.III on officiating basis.

5. That in reply to statements in Para 4.6 to 4.9 it is stated that there had been an administrative error and the clerical mistake in seniority list dated 12.2.2001(Annexure D of OA).

In the seniority of M.T. Driver, Gr.III the date of promotion of the Respondent was not linked, and as a result he was put below others i.e. bottom, below the applicant. This was an administrative error. The seniority was provisional. The Respondent No.4 is senior to the applicant which has been rectified subsequently following procedure i.e. giving notice to the applicant.

Promotion as M.T. Driver Gr.I was on suitability basis i.e. seniority cum suitability, both were found suitable. As result of wrong seniority as explained above, the applicant was shown as senior to Respondent No.4 in the promotion order dated 29.10.2004 (Annexure-E, Page 22-24 of OA). It is respectfully stated that the error in seniority list dated 12.2.2001 resulted in the subsequent errors in seniority. After restructuring/cadre review, promotion was given effect to on paper seniority, as a result the mistake in seniority list dated 12.2.2001(Annexure -D of OA), caused the mistake in the promotion and seniority as M.T. Driver

Gr.I, and applicant has been wrongly shown senior to respondent No.4. With the correction of the original seniority in seniority list dated 12.2.2001 which was provisional, the consequent correction in promotion and seniority of both has been made after giving notice to the applicant.

15 DEC 2009

Guwahati Bench
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It is stated that the corrigendum dated 04.04.2008 (Annexure H of OA) to regularize the promotion of both as M.T. Driver Gr.II w.e.f. 01.11.2003, and thereafter promotion as M.T. Driver Gr.I w.e.f. 01.11.2005, the seniority was corrected by rectifying the administrative error by notification dated 17.4.2008 (Annexure-I to OA) and Respondent No.4 was given correct seniority over the applicant, date of promotion was not affected i.e. both from same date as M. T. driver Gr.I, w.e.f 01.11.2005.

6. That in reply to the statement in para 4.10 to 4.21 the Respondents respectfully state that the respondent was already working as M. T. driver Gr.III (Officiating) w.e.f. 26.9.1987, and the same was regularized by order dated 05.2.1996(Annexure-A of OA). Date of joining has no relevance, the seniority is determined as per panel position however as stated the respondent No.4 was already working in the said post.

It is stated that under Rule 228 of IREM the administrative errors are to be rectified following the rule and Hon'ble Supreme court in the judgement in Arun Kumar Chatterjee -Vs- S.E. Railway, (AIR 1985 SC 482) directed such rectification. The official Respondents have rectified the administrative error in the seniority list dated 12.2.2001 (Annexure-D of the OA) and restored the Respondent No.4 to his correct position and accordingly the position in subsequent orders have also been corrected. The revised seniority list dated 17.4.08 (Annexure-I to OA) has been issued correctly showing Respondent No.4 senior to Applicant. The result of suitability test for M. T. Driver Gr.I

Sonakshali
सोनक्षल रेलवे कार्यालय
Divisional Personnel Officer
S. C. रेलवे, रंगिया
N. F. Railway, Rangiyा

has been published by order dated 29.5.2008 (Annexure-J of OA) following correct seniority. The applicant being the next person in the seniority shall also get his scope when the next vacancy arises without any demur and as per Rule. The allegation in Para 4.20 is denied. The respondent No.3 in fact issued letter dated 21.10.2008 (Annexure-M to OA) to the applicant giving clear and factual position and also asking him to submit representation, which he submitted and the same was replied to (Annexure-O to OA). Another letter dated 27.2.2009 was also issued addressed to the applicant (Annexure-P to the OA), clarifying the comparative position of both the Respondent No.4 and the applicant. There is no question of annoyance of the official respondents and another reply dated 05.3.2009 (Annexure-R to the OA) has also been given.

From the above, it would be seen that the rectification of administrative error has been done following Rules and procedure, and laws laid down by the Hon'ble Supreme court, and after affording scope of representation by the applicant disclosing details complying principles of natural justice.

7. That in the circumstances explained above the OA deserves to be dismissed.

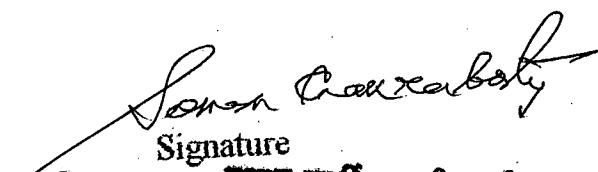
15 DEC 2009

5
Verification

Guwahati Bench
गुवाहाटी न्यायालय

I, Sri Somesh Chakraborty aged about 58 years, son of Lt. Sarada Charan Chakraborty now working as Divisional Personnel Officer/Rangiya, do hereby say that I am conversant with the facts of the case, and that I have been authorised by the official respondent to verify the statements in this WS, which I do accordingly. I verify that the statement in para 1 to 7 above are true to my knowledge and I have not suppressed any material facts.

I sign this verification the day of November, 2009 at Guwahati.


Signature
निम्नलिखित कार्यकारी अधिकारी
Divisional Personnel Officer
N. F. Railway, Rangiya
N. F. Railway, Rangiya

Office order.

Office of the
Divl. Rly. Manager(P)
Alipurduar Junc.

Dated 24 / 9/87.

1). Sri Joy Bahadur, Sr/Trolley man in scale Rs. 800-1150/- under AEN/R/APDJ is hereby appointed to officiate as M.T. Driver as a purely temporary measure in scale Rs. 950/- ~~1500/- (EP)~~ and posted under DEN/II/APDJ against ~~work charge~~ post for driving M/Trolley between NOQ to NBQ section, sanctioned through Sr. DEN/II's ELR No. V/E/MISC/ART/AP/W-8 dt. 18.8.87.

2). Sri Durga Prosad Srama, T/Man in scale Rs. 775/-1025/- ~~1500/- (EP)~~ under AEN/BPRD is hereby appointed to officiate as M.T. Driver in scale Rs. 950-1500/- (EP) and posted under AEN/BPRD against ELR post for driving M/Trolley in AEN/BPRD section sanctioned through DEN/I/APDJ ELR No. E/285/55(E)AR. dt. 25/6/87.

This has the approval of Sr.DEN/II/APDJ.

for Divl. Rly. Manager(P)
Alipurduar Junc.

No. E/281/11(E)/6-PTII

Dated 24 / 9/87.

Copy of the above is forwarded for information and necessary action to :-

- 1). DAO/APDJ
- 2). AEN/~~E~~, R/APDJ, BPRD
- 3). Staff concerned.
- 4). OS/EE/Bill.
- 5). S/Copy for P/Case.
- 6). Sr.DEN/II & DEN/II.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

15 DEC 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

for Divl. Rly. Manager(P)
Alipurduar Junc.

16.9.87. a.a.

951/88/16/9/87

Approved
3/12/99
Sarpanch का पात्र का अधिकारी
Assistant Personnel Officer
P. S. S. R. Ranghava, R. Ranghava
N. F. Railway, Ranghava

24-9-87

24-9-87

ANNEXURE

R-2

N.F.RAILWAY.

OFFICE ORDER

Office of the
Divl.Rly.Manager(P),
N.F.Rly:Alipurduar Jn.

Dated 19/12/89.

Consequent on creation of up-graded posts of Sr.Gangman, Sr.Trolleyman & Khalasi Helper in scale Rs.800-1150/- vide this office Memorandum No.E/281/10(E) AF dated 13-9-88 in terms of Rly.Board's letter No. FC/III/80/UPG/19 dated 29-7-83 circulated under CPO/MLG's No.RP/375-E/205/73(PC)Pt.III dated 6-8-83 and Rly.Board's letter No.E(P&A)1-82/JC-1 of 10-7-85 circulated under CPO/MLG's No. M-isc/1285-E/203/II/Pt.IV(C) dated 24-7-85, the following Khalasis & Trolleymen under AEN/BPRD are hereby promoted as Khalasi Helper and Sr.Trolleyman in scale 800-1150/- w.e.f. 1-1-86 or from any later date on which any individual has joined in the open line under AEN/BPRD.

S/No.	Bane,	Father's name	Design.	From promoted as w.e.f. from
1.	Shri Dhiralal Biswas	B.Biswas	Khalasi	Khalasi Helper w.e.f. 1-1-86
2.	Shankar J.Paul	M.Paul	-do-	-do-
3.	Durga Pd.Sharma	T.Sharma	Trolleyman	Sr.Trolleyman w.e.f. 1-1-86 to 25-9-87.
4.	Ranjit Halder	A.C.Halder	-do-	Sr.Trolleyman from 1-1-86
5.	Antaryami Baral	G.Baral	-do-	Sr.Trolleyman from 25-9-87.

B:- The staff concerned will have an option to get their pay fixed under Rule 2017(a)(i)R-II F.R 22(a)(i) from the date of promotion and again pay refixed on the basis of the provision of Rule 20 18(B)R II F.R. 22(C) on the date of accrual of next increment in the lower scale of pay. This option can be exercised within one month from the date of promotion. Option once exercised shall be final.

Received 19/12/89
for Divl.Rly.Manager(P),
N.F.Rly:Alipurduar Jn.

No. E/59/5/BG(E)AF Dated 19/12/89.

Copy forwarded for information and necessary action to :-

1. Sr.DAO/APDJ.
2. Engg.Bill.
3. AEN/BPRD.
4. Staff concerned.
5. S/copy for P/cases.

NB:- AEN/BPRD is requested to send the S.Rs of staff early.

Received 19/12/89
for Divl.Rly.Manager(P)/APDJ.

(nd/18)

Attested

Advocate

19/12/89 19/12/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

O.A. No. 55/2009

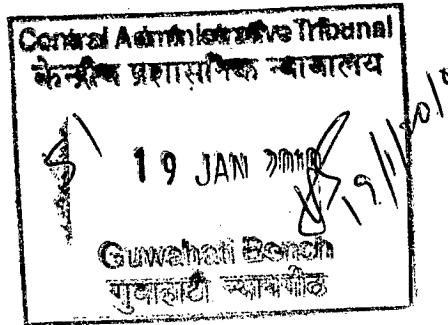
Sri Antarzyami Baral

.....Applicant

-Versus-

Union of India & Others

.....Respondents



IN THE MATTER OF

Re-joinder on behalf of the Applicant to the written statement filed by the Respondent No. 1, 2 and 3 in the above mentioned case.

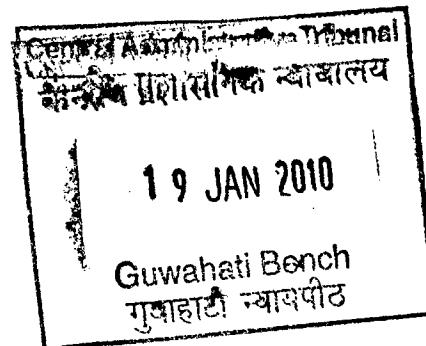
THE APPLICANT MOST RESPECTFULLY SHEWETH:

1. The applicant have gone through the copy of the written statement filed by the respondent No. 1, 2 and 3 in the above noted Original Application and understood the contents thereof. Save and except the statements which have been specifically admitted herein below or those which are born on records, all other statements and counter made in the written statement are denied in toto and the respondents' authority is put to the strictest proof thereof.
2. That the Deponent instead of giving a parawise reply likes to make a consolidated reply to the contention of the written statement filed by the Respondents as follows :-
 - (i) That the Deponent begs to state that after promoting him as well as the Respondent No. 4 along with others, a seniority list dated 12.2.2001 (ANNEXURE- D of the O.A.) has been prepared and published on the basis of the date of joining to the promotional post i.e. MT Driver Grade-III showing the Deponent as Senior than the Respondent No.4 as the date of appointment and promotion of the Deponent and Respondent No. 4 was same. The same criteria has also been followed in case of other persons of the same cadre and other cadres and the same Seniority position has also been followed at the time of promotion from MT Driver Grade III to Grade II and Grade II to Grade I also.

Antarzyami Baral.

Filed by : The Applicant
Through : Pranjit Singh Lallan
Date : 20/01/2010

19.1.2010



(ii) That the Deponent begs to state that there had not been any Administrative error and Clerical mistakes in preparing the seniority list dated 12.2.2001 (ANNEXURE- D to the O.A.) as it was completely based on the date of joining to the Promotional Post i.e., M.T Driver Grade-III. It is also to be mentioned herein that the date of joining of the Respondent No. 4 has not been reflected in the Seniority List whereas the Deponent submitted his joining report before the AEN/RNY on 23.2.1996 to the post of MT Driver Grade-III pursuant to the promotion order dated 07.02.1996. If it is assumed but not admitted that if there is any error in preparing the Seniority List dated 12.2.2001, even though no one had preferred any appeal disputing the seniority position within the stipulated period of one month from the date of receipt of the said list, no such representation was received by the authority from any candidates disputing the seniority position specially from the Respondent No. 4 i.e. Durga Prasad Sarma who slept over the matter since years together. More so, the averment of rectifying seniority position by following due procedure cannot be accepted as no notice regarding such rectifications was served to the applicant. Hence, the case in hand does not fall under the purview of Rule 228 of IREM as there is no Administrative error at all, the position of seniority of the respondent No. 4 as well as the applicant have been rightly put in proper position on the basis of the date of joining in the promotional post.

(iii) That the Deponent begs to state that at the time of promotion to the post of MT Driver Grade-II and Grade-I respectively, another two provisional seniority list was prepared and published by the respondent authority on 29.10.2004 and 04.11.2004, wherein the name of the deponent and Respondent No 4 was figured at serial no. 58, 59 and 55, 56 respectively. Thereafter although several opportunity had been given to the person concerned to file representation if any, disputing the seniority position, none of the candidate including the respondent no 4 filed any representation and slept over the matter for last about 13 years. It is pertinent to mention herein that the Respondent No. 4 had joined his promotional post after the joining date which is much later than the deponent, while promoting to the post of MT Driver Grade- III and Grade- I. As per the established procedure and relevant rules, the appointing authority may determine the seniority of a person who could not join duty within the stipulated time on receipt of the orders of appointment/promotion by placing him below all the candidates selected at the same time and/or at subsequent selection who have joined before him.

(iv) That the deponent begs to state that as mentioned above, the seniority list of M.T. Driver Grade III published by DRM (P)/APDJ on 12.02.2001 was totally based on the date of joining to the promotional post i.e. M.T. Driver Grade III conducted on 29.9.1995 to which the promotion order issued by the DRM(P)/APDJ promoting the deponent and Respondent

Antaryami Baral.

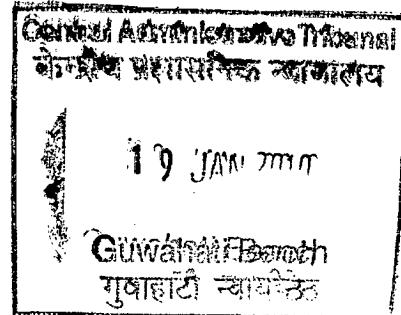
19 JAN 2010

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গুৱাহাটী ন্যায়পীঠ

No 4 to the aforesaid post on 07.02.1996 as soon as receiving the promotion order, the deponent submitting his joining report on 23.02.1996 whereas the Respondent No. 4 has not joined his post within the stipulated time limit. Inspite of the aforesaid fact, by stating that the date of joining has no relevancy as the Respondent No. 4 was working in the said post on officiating basis w.e.f 26.09.1987 in nothing else but the arbitrary/illegal action on the part of the respondent authority just to harass the deponent from getting his legitimate right by issuing a revised seniority list dated 17.04.08 showing the Respondent No. 4 senior than the deponent in the name of rectifying the administrative error in the seniority list dated 12.02.2001 after a laps of 13 years that is too without serving any notice to the applicant.

v. That the deponent begs to state that the Divisional Officer/II/Rangia has issued a corrigendum dated 04.04.2000 (Annexure- H) of the O.A. by which the date of effecting the promotion to the post of M.T. Driver has been corrected in respect of the deponent as well as Respondent No. 4, wherein also the name of the deponent has been shown above the Respondent No 4 but inspite of the aforesaid clear/uncontroversial/undisputed seniority position of the deponent and the Respondent No. 4 as revealed in the seniority list since the promotion to the post of MT Driver Grade III in the year 1996, the Division Railway Manager (Personal), Rangia intentionally and deliberately by ignoring the interim order passed by the Hon'ble Tribunal by its order dated 25.03.09, most arbitrarily promoting the respondent no 4 of the Original Application by issuing order dated 24.08.09 to the post of MCM (MT Driver) which was also quashed by the this Hon'ble Tribunal by its order dated 3.09.09 in Contempt Petition (C) No. 9/2009. It is pertinent to mention herein that such type of intentional arbitrary action on the part of the respondent authority has been made again and again in the name of administrative error.

Antarz-Jami Baral.



VERIFICATION

I, Sri Antarzyami Baral, son of Late Gopal Baral, aged about 51 years, Resident of Rangia, Ward No.1, Station Colony, Railway Quarter No. 149 (B), in the District of Kamrup, Assam do hereby verify that the Statements made in paragraphs142..... are true to my knowledge and belief and the rest of all are my humble and respectful submission and I have not suppressed any material facts.

AND I sign this verification on this ...19..,th day of January, 2010 at Guwahati.

Antarzyami Baral

Signature of the Applicant.