

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

1. ORIGINAL APPLICATION No : -----/ 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : -----/2009 in O.A. No.-----
4. Contempt Petition No : 9/2009 in O.A. No. 55/2009
5. Review Application No : -----/2009 in O.A. No.-----
6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : Shri Antarzami Baral

Respondent (S) : Shri Ashutosh Swami & ops.

Advocate for the : Mr. D.K. Sarmah  
{Applicant (S)} Miss U. Das & Mr. P.S. Lakkar.

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

Notes of the Registry

Date

Order of the Tribunal

1.9.2009

This Contempt Petition No. 9/2009 is filed by the Applicant through his L/Advocate with a prayer for punishment of the Contemnor/Respondents for non compliance /violation of the order dated 25.3.2009 passed by this Hon'ble Tribunal in OA No. 55/09.

Laid before the Hon'ble Court for favour of order.

Section Officer(S).  
15/9/09

03.09.2009

Violation of order dated 25.03.2009 of this Tribunal (rendered in O.A. No.55 of 2009) is the subject matter of allegation in this Contempt Application.

2. By order dated 25.03.2009 following restraint orders were passed:-

"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 promotional posting should be issued in favour of Respondent No.4".

3. Despite the aforesaid restraint order, the official Respondents have issued a posting order, on 24.08.2009, giving promotional posting to the Respondent No.4. The text of the order dated 24.08.2009 reads as under:-

Contd.  
03.09.2009

" Sri Durga Prasad Sharma, MT Driver Gr.I in scale Rs.5200-20200+ GP 2800/- under ADEN/BPRD has been found suitable for the post of MCM(M.T.Driver) in scale of Rs.9300-34800 + GP 4200/- as conducted by DEN/III/RNY on 14-05-08, vide Memorandum No.E/240(Rest-Engg) RNY/20/Loose dated 29-05-08 is now posted under ADEN/BPRD.

This issues with the approval of Sr.DEN/C/RNY on 21-08-09."

4. Ms. Usha Das, learned counsel appearing for the Applicant, submits that the Respondents/Officers named in this Contempt Petition having committed a definite contempt; a Contempt Proceeding should be initiated against them forthwith.

5. Ms. Usha Das is directed to supply a copy of this C.P. No.09/2009 to Dr.J.L.Sarkar, learned Standing counsel for the Railways; who should obtain instruction in the matter by the next date.

6. Call this matter on 19.10.2009 along with O.A. No. 55/2009.

7. Send copies of this order to the opposite parties of this C.P. along with copies of this C.P.

(M.K.Chaturvedi)  
Member (A)

(M.R.Mohanty)  
Vice-Chairman

/bb/

① Service report  
awaited.

31.10.09

Copies of notices  
along with order  
dated 3/9/2009  
send to D/Sec.  
for issuing to  
opposite parties  
by regd. A/D  
post.

D/No-1183 to 1187

8/9/09. Dt= 11-9-09

19.10.2009

Reply to C.P. by Respondent No.4

has been filed on 16.10.2009, which is not on record, though copy of same has been received by the Applicant. Ms.U.Das, learned counsel for Applicant seeks permission to file rejoinder to controvert the statement of Respondent No.4 whereby vide reply it has been stated that promotional order has been withdrawn prior to institution of C.P. which, she contends, is not correct.

23.10.09

Affidavit in opposition has been filed by the Respondent No.4 on 5.10.09 served.

23/10/09  
K. K. K. K. K.

20.11.09

Affidavit in opposition has been filed by the Respondents No. 1, 2, 3 & 5 separately, through Dr. J. L. Sarkar, Rly. Standing Counsel, with undertaking to serve a copy of each to the Applicant for the Applicant.

20/11/09  
K. K. K. K. K.

23.11.09

Rejoinder has been filed by the Applicant through his Advocate. Copy served. Page Nos. 51 to 53.

23/11/09  
K. K. K. K. K.

R

R

for Dr. J. L. Sarkar  
S.C. Railway  
25/11/09

Reply and rejoinder  
filed by the parties.

30/11/09  
K. K. K. K. K.

Dr. J. L. Sarkar, learned counsel for the Respondents seeks further time to file affidavit in respect of other Respondents.

List on 23.11.2009.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/bb/

23.11.2009

Order dated 24.08.2009 has been issued on behalf of the Divisional Railway Manager (P), Rangiya, which states that same has been issued "with the approval of Sr. DEN/C/RNY on 21-08-09".

Present C.P. has been filed by the Applicant alleging willful disobedience of our order dated 25.03.2009, whereby Respondents were restrained from issuing any promotional and posting order to Respondent No.4. In compliance affidavit filed by Respondent No.3 not even a word has been said as to whether order dated 24.08.2009 was passed with his approval. On the other hand, we have found certain averments have been made vide para 2 of affidavit, which on the face of it are contrary to and in violation of order dated 25.03.2009.

Let Respondent No.3 appear in person along with original records which led to passing of aforesaid order dated 24.08.2009.

List on 01.12.2009.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/bb/

C.P.9/09 (O.A.55/09)

26.11.2009

M.P.No.137/09 stands disposed of vide order dated 26.11.09, the C.P. to be listed on 17.12.09 instead of 1.12.09.

The case is ready.

17/12/2009

(Madan Kr. Chaturvedi)  
Member (A)

/pg/

17.12.2009

Pursuant to order passed by this Tribunal on 26.11.2009, Respondent No.3 Mr.R.K.Badal , Sr. Divisional Engineer @, N.,F.Railway has appeared in person. It is observed that Respondents No.2,3,4, & 5 filed their individual affidavit and tendered <sup>un</sup>conditional apology stating that interim order dated 25<sup>th</sup> March 2009, passed in O.A.No.55 of 2009 had been over looked unintentionally which led to issue of posting of Respondent No.4 vide order dated 24.8.2009. However, immediately when it came to their notice that interim order had been passed, the promotional order dated 24.8.2009 of Respondent No.4 was cancelled, with utmost urgency. On consideration of the matter we accordingly accept unconditional apology tendered by the Respondents.

Accordingly, contempt Petition is closed. Notices are discharged.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/lm/

17/12/09

Reply filed  
by the Respondent  
in the Court on  
17.12.09

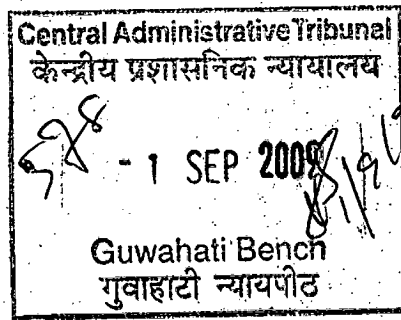
17/12/09

23-12-09

Final order dated  
17/12/09 sent to the  
Despatch Section for issuing  
the all the Contemners by  
post.

vide No -

dated -



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH; GUWAHATI

Title of the Case:

C. P. No. 9 /2009  
O.A. No. 55/2009

BETWEEN

Sri Antarzyami Baral

....Petitioner

-Vs-

Ashutosh Swami & Others.

...Respondents

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Filed by

*P.S. Lahkar*  
P.S. Lahkar  
ADVOCATE

Date: 01.09.09.

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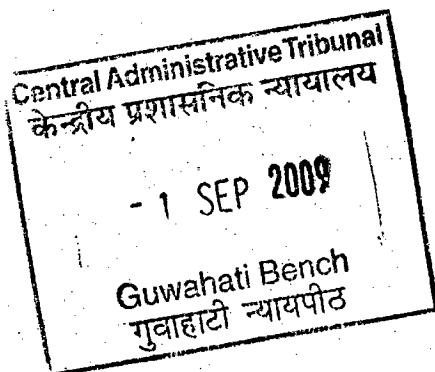
Filed by: The Petitioner  
Through Pranjit-Singh Lakkar  
AWG  
01.09.09

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH; GUWAHATI**

**CONTEMPT PETITION NO. 9 OF 2009**

**IN**

**ORIGINAL APPLICATION NO. 55 OF 2009**



**IN THE MATTER OF**

A petition under Section 17 of the Administrative Tribunal Act, 1985 praying for punishment of the Contemnors/ respondents for non compliance/violation of the order dated 25.03.2009 passed in O.A. No. 55/09 by this Hon'ble Tribunal.

**-AND-**

**IN THE MATTER OF**

O.A. No. 55/ 2009  
Sri Antarzyami Baral

**...Applicant.**

**-Versus-**

The Union of India & Others.

**...Respondents**

**-AND-**

**IN THE MATTER OF**

Sri Antarzyami Baral, Son of late Gopal Baral,  
Resident of Rangia, Ward No.1, Station Colony,  
Railway Quarter No. 149 (B), District- Kamrup,  
Assam, presently working as Motor Trolley  
Driver, Grade-I, under A.D.E.N., Rangia Division

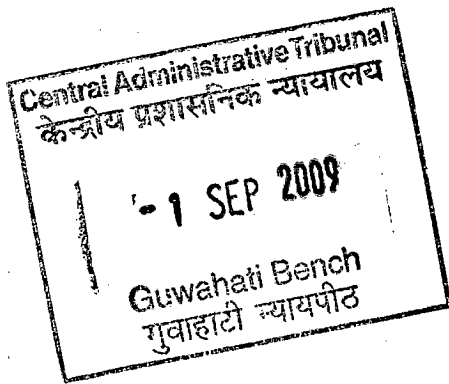
**...petitioner**

Antarzyami Baral.

**-VERSUS-**

1. Sri Ashutosh Swami, The General Manager,  
N.F. Railway, Maligaon, Guwahati-11.
2. Sri Ajoy Mahanti, The Chief Personal Officer,  
N.F. Railway, Maligaon, Guwahati- 11.
3. Sri ~~R.K. Badal~~, The Senior Divisional  
Engineer (C), N. F. Railway, Rangia Division.  
Rangia - 781354
4. Sri. Somesh Chakraborty, The Divisional  
Personal Officer, N.F. Railway, Rangia  
Division. Rangia - 781354
5. Sri. N.K.Sutradhar, The Assistant Personal  
Officer, N.F. Railway, Rangia Divison.  
Rangia - 781354

...Respondents/Contemnors

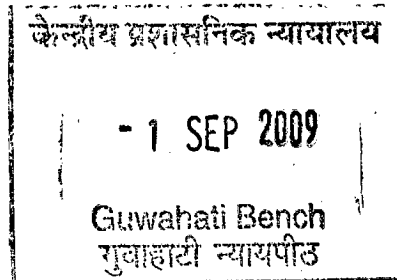


The humble application of the petitioner above named.

**MOST RESPECTFULLY SHEWETH :**

1. That the Petitioner of the instant Contempt petition had preferred an Original Application No. 55/09 before this Hon'ble Tribunal being aggrieved against the order issued under Memo No. E/240 (Rest Engg.)/ RNY/20 (Loose) dated 29.05.08 by the Divisional Railway Manager (Personal), i.e, the Respondent No. 3 published the result of suitability test for promotion to the post of Master Craps Man (MCM) / Senior/ Motor Trolley Driver showing the name of Sri 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 27.02.2009 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 05.03.09 finally rejecting the representation dated 03.03.2009

*Antarizami Baral.*



preferred by the applicant which was preferred against the decision of alteration of the Seniority position of the applicant.

2. That petitioner of the instant Contempt Petition had preferred the above mentioned Original Application before this Hon'ble Tribunal mainly praying for set aside and quash the order dated 29.05.08 (ANNEXURE-J to the O.A.) issued by the Respondent No. 3 i.e, The Divisional Railway Manager (Personal), N.F. Railway, Rangia Division of the Original Application and to promote the Applicant to the Post of MCM (MT/Driver) instead of the Respondent No. 4 by conducting the required suitably test apart from other prayers.

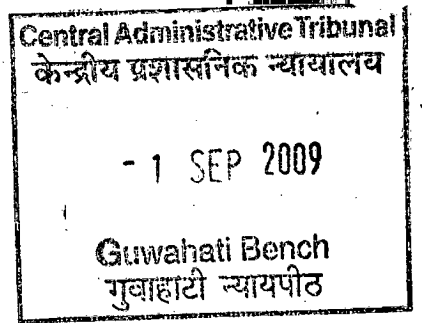
3. That the petitioner begs to state that the Hon'ble Tribunal upon hearing the Counsel for the Applicant as well as the Counsels for Respondents was pleased to pass an Interim Order dated 25.03.09 in O.A. No. 55/09, by staying the Order dated 29.05.08 by which the Respondent Authority declare the result of the suitability test for the post of MCM (MT/driver Grade) in favour of the Respondent No. 4 of the Original Application i.e, Sri Durga Prasad Sarma. In the said Interim Order it was also made clear that no promotional posting should be issued in favour of the Respondent No. 4.

4. That the petitioner begs to state that apart from serving the notices to all the respondents along with the copy of the aforesaid Interim Order dated 25.03.09 through the Registry of the Hon'ble Tribunal, the petitioner, on receipt of the copy of the aforesaid interim order, immediately furnished the same to the Respondent No. 3 i.e, the Divisional Personal Officer, N.F. Railway, Rangia Division which was duly acknowledged by the Office of the Respondent No. 3 on 27.03.09. It is also pertinent to mention herein that even after receiving the copy of the order dated 25.03.09 passed by the Hon'ble Tribunal, the Respondent Authorities have neither file any application for modification of the aforesaid interim order passed by the Hon'ble Tribunal nor file written statement against the Original Application No. 55/09.

A copy of the order dated 25.03.09 passed in O.A. No. 55/09 and the copy of the letter dated 27.03.09 are annexed herewith and marked as ANNEXURE- I & II respectively.

*Antarjami Barua.*





5. That the petitioner begs to state that during pendency of the Original Application and while the Interim Order passed by this Hon'ble Tribunal is in force, the Respondent Authority without filing any application for modification of the interim order, the Assistant Personal Officer (II), N.F. Railway, Rangia Division with the approval of the Senior Divisional Engineer (C ), N.F. Railway, Rangia Division, intentionally, and deliberately by ignoring the Interim Order passed by this Hon'ble Tribunal, issued the Order dated 24.08.09, by which Sri Durga Prasad Sarma i.e, the Respondent No. 4 of the Original application has been promoted to the post of MCM (M.T. Driver) and posted under AND/BPRD on the basis of the earlier suitable test held on 14.05.08 conducted by the DEN/III/RNY and pursuant to the Memorandum dated 29.05 2008 ( **Annexure- J to the O.A**)

A copy of the aforesaid promotion order dated 24.08.09 is annexed herewith and marked as **ANNEXURE-III**.

6. That the petitioner begs to state that the Respondent no. 5 has issued the aforesaid promotion order by ignoring the order dated 25.03.09 passed by the Hon'ble Tribunal intentionally & deliberately violating the clear/specific direction that no promotional posting should be issued in favour of the Respondent No. 4 to the Original application . i.e, Sri Durga Prasad Sarma. The promotional order issued by the Respondent No. 5 is against the direction/ order of the Hon'ble Tribunal and the petitioner having come to know about the order of promotion dated 24.08.09, finding no other alternative compelled to file this Contempt Petition before the Hon'ble Tribunal seeking Justice and praying for initiation of Contempt of Court Proceeding against all the Respondents/ Contemnors under the Contempt of Court Act as well as other acts.

7. That the petitioner begs to state that the Respondents/ Contemnors have shown disrespect, disregard, disobedience and willful and deliberate violation of the Order passed by the Hon'ble Tribunal as well as to the Hon'ble Courts itself. The Respondents/ Contemnors intentionally, deliberately and willfully have not followed the order dated 25.03.09 passed in the O.A. No. 55/09 by the Hon'ble Tribunal. As such the Respondents/ Contemnors deserve punishment from this

*Antarjami Baral.*

Hon'ble Tribunal for intentional, willful and deliberate disobedience/violation of the order passed by this Hon'ble Court.

8. That it is an unique and fit case for drawl of Contempt proceeding and the Respondents/ Contemnors may be directed to appear before this Hon'ble Tribunal to explain as to why they have shown disrespect to the Hon'ble Tribunal as well as its order and also to pass appropriate order as may be deem fit and proper under the facts and circumstances of the case.

9. That this petition has been filed bonafide and to secure the ends of Justice.

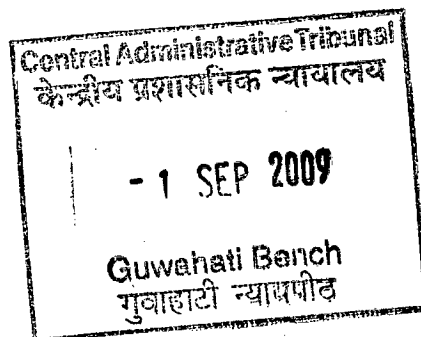
In the premises aforesaid, it is most humbly and respectfully prayed that your Lordship may be pleased to admit this petition and issue Contempt Notice to the Respondents/ Contemnors to show cause as to why they should not be punished under Section 17 of the Administrative Tribunal Act, 1985 or to pass such appropriate order/orders as this Hon'ble Tribunal deem fit and proper..

Further, it is also prayed that in view of the deliberate disrespect and disobedience to this Hon'ble Tribunal i.e, Order dated 25.03.09 passed in O.A. No. 55/09, Respondents/ Contemnors may be asked to appear in person before this Hon'ble Tribunal to explain as to why they should not be punished under the Contempt of Court Act, 1971.

AND for this act of kindness, your petitioner as in duty bound shall ever pray.

Draft Charge....

*Antarajami Baral.*

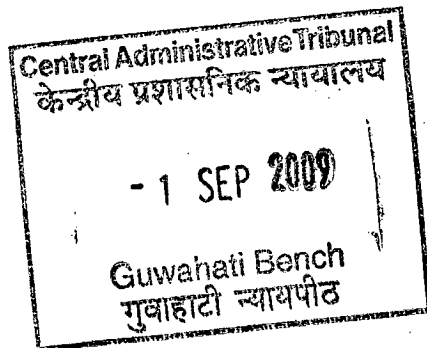


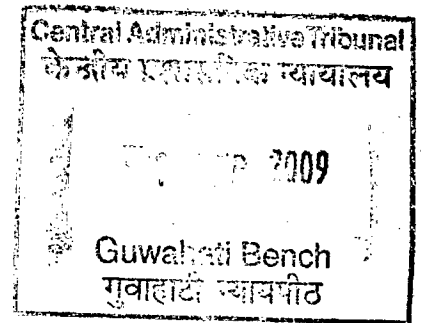
### DRAFT CHARGE

The petitioner is aggrieved for non-compliance/vilation of the order dated 25.03.09 passed by this Hon'ble Tribinal in O.A. No. 55/2009. The Contemnors/Respondents have willfully and deliberately did not follow/ comply with the order dated 25.03.09 passed by the Hon'ble Tribunal. Accordingly, the Respondents/ Contemnors are liable for Contempt of Court proceeding and deserve punishment thereof as provided. The Hon'ble Tribunal may be pleased to direct the Respondents/Contemnors to appear before this Hon'ble Tribunal and reply to the charges leveled against them.

*Antarjami Baral.*

Affidavit....





## AFFIDAVIT

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 solemnly affirm and declare as follows:-

1. That I am the petitioner in the instant Contempt petition and fully conversant with the facts and circumstances of the case, as such I am competent to swear this affidavit.
2. That the Statements made in this affidavit and in paragraphs 1.....are true to my knowledge, those made in paragraphs 2, 3, 4, 5, 6.....are being matters of records which I believe to be true and rest are my humble submission before this Hon'ble court.

And I sign this affidavit on this ~~1<sup>st</sup>~~ day of September' 2009, at Guwahati.

Identified by me

*Pragil-Singh Gokkar.*  
01.09.09.

Advocate.

*Antarzyami Baral.*  
DEPONENT

FORM NO. 4  
[ see Rule II (b) ]  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDERSHEET

1. Original Application No. 55 / 2009
2. Miscellaneous Petition No. \_\_\_\_\_
3. Contempt Petition No. \_\_\_\_\_
4. Review Application No. \_\_\_\_\_

Applicant(S) Shri Antargami Bireal

-VS-

Respondant(S) Union of India & Ors

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

Mr. P.S. Lahkar, Mr. K. Gurusami, Mr. N. P. Bhatia

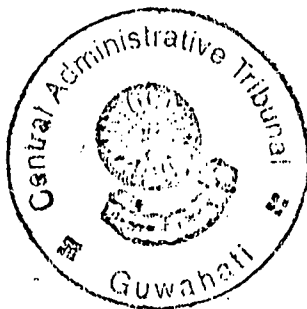
Advocate for the respondent(S) Railways advocate

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
- 1 SEP 2009
Guwahati Bench गुवाहाटी न्यायपीठ

Notes of the Registry	Date	Order of the Tribunal
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25.03.2009

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.



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.

3. Admt. 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

J

P.F.O.

Attended  
Pranjit Singh Lalton  
Advocate

O.A-No. 55/2009

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.

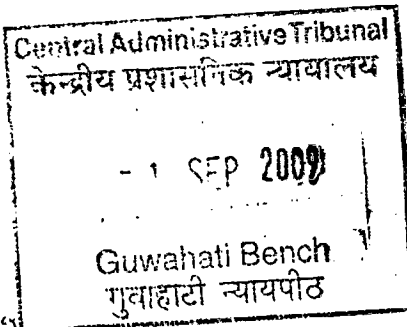
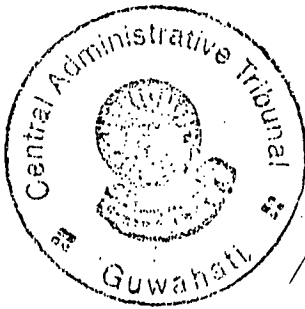
While passing this ad interim order, liberty is hereby given to the Respondents to put up their objection, if any, to this ad interim order on any day before the date fixed.

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.

Sd/-  
M.R. MOHANTY  
VICE CHAIRMAN



TRUE CO  
प्रतिनिधि  
अनुभाग अधिकारी  
Section Officer (Judl)  
Central Administrative Tribunal  
गुवाहाटी न्यायपीठ  
Guwahati Bench  
गुवाहाटी/Guwahati-7

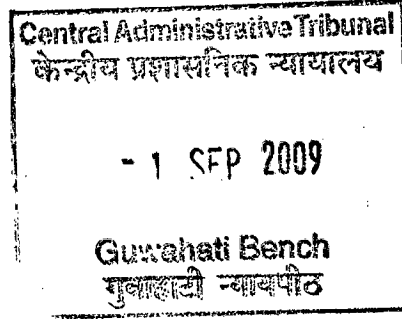
Attested  
Pravjit Singh Lakkar  
Advocate

**ANNEXURE- II**

(Type Copy)

Dated :- 27.03.09

To,  
The D.P.O.  
N.F. Railway, Rangia Division



Sub:- Order dated 25.03.09 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench in O.A. No. 55/09 (Sri Antarzami Baral -Vs- U.O.I. & Ors.).

Sir

Enclosed please find herewith a copy of the Order dated 25.3.09 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench in O.A. No. 55/09 (Sri Antarzami Baral -Vs- U.O.I. & Ors.) which is being furnished to you for your use and information.

Thanking You.

Yours faithfully

Antarzyami Baral

MT/Driver- Gr-I  
Under ADEN/Rny

*Attended  
Pranjit Singh Lalkar  
Advocate*

ANNEXURE-II

Dated :- 27.03.09

To,

The D.P.O.  
N.F. Railway, Range's Division

Sub :- Order dated 25.03.09 passed by The  
Honble Central Administrative Tribunal,  
Guwahati Bench in O.A. NO. 55/09  
(Shi Antargami Baral - Vs - U.O.P. & Ors.).

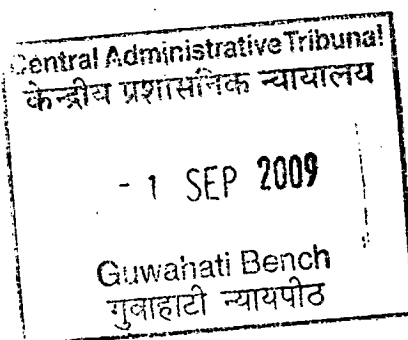
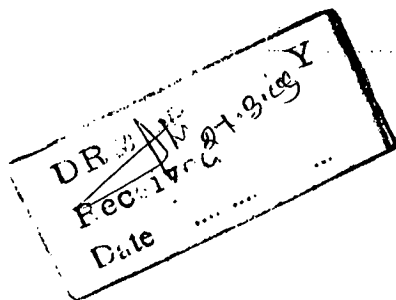
Sir,

Enclosed please find herewith a copy of the  
Order dated 25.3.09 passed by the Honble Central  
Administrative Tribunal, Guwahati Bench in O.A.  
NO. 55/09 (Shi Antargami Baral - Vs - U.O.P. & Ors.) which  
is being furnished to you for your use and  
information.

Thanking You.

Yours faithfully

Antargami Baral  
M. J. D. V. C. L. V. C.  
under K. D. S. R. V.



Attached  
Prof. Singh Lalita  
Advocate



ANNEXURE-III

Northeast Frontier Railway

Office of the  
Divisional Railway Manager (P)  
Rangiya

OFFICE ORDER

Sri Durga Prasad Sharma, M.T. Driver Gr.I in scale Rs. 5200-20200+ GP 2800/- under ADEN/BPRD has been found suitable for the post of MCM(M.T. Driver) in scale Rs. 9300- 34800+ GP 4200/- as conducted by DEN/III/RNY on 14-05-08, vide Memorandum No. E/240(Rest-Engg) RNY/20/Loose dated 29-05-08 is now posted under ADEN/BPRD.

This issues with the approval of Sr.DEN/C/RNY on 21-08-09

*24/8/09*  
(N.K. Sutradhar)  
APO/III/RNY

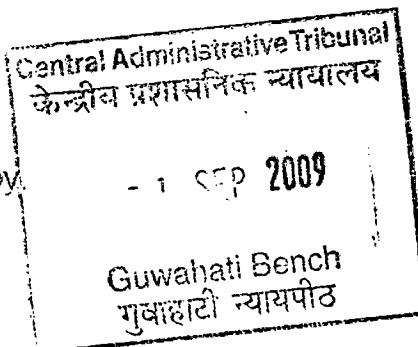
for Divl. Railway Manager (P)  
Rangiya

Date: - 24-08-09

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

Copy forwarded for information & necessary action to :-

- 1) Sr.DEN/C/RNY
- 2) DFM/RNY
- 3) ADEN/BPRD
- 4) OS/EE/BIII/RNY
- 5) Staff concerned
- 6) P/case & Office copy.



*24/8/09*  
for Divl. Railway Manager (P)  
Rangiya

Attended  
Pravil- Singh Lohar  
Advocate

Office Copy.

24/08/09

VAI

IN THE CENTRAL ADMINISTRATIVE  
GUWAHATI BENCH; GUWAHATI

0.A./R.A./C.P./M.A./P.T./.....C. P.....NO.....OF 2009

Sri Antargyami Baral

Appellant(S)

VERSUS

Sri Ashutosh Swami & Others.

Respondent(S)

I, Sri Antargyami Baral Applicant No...../Respondent.....No.....  
.....the above applicant/Petitioner do hereby appoint and Sri  
D.K. Sarma, U. Das, P. S. Lakshmi Advocate/s  
to appear, plead and act for me/us in the above application/petition and to conduct and  
prosecute all proceedings that may be taken in respect thereof including Contempt of Court  
Petitions and Review applications arising there from and applications, for return of documents,  
center into compromise and to draw any moneys payable to me/us in the said proceeding.

Place:- Guwahati

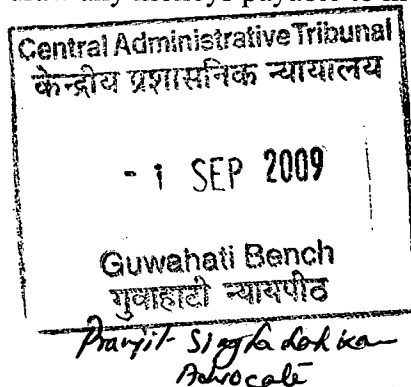
Date:- 01.09.09

Executed in my presence,  
\*Signature with date  
(Name and Designation)

Name and address of the  
Advocate for Service

\* The following Certification to be given when the party is unacquainted with the language  
of the Vakalath or is blind of illiterate:

The contents of the vakalath were truly and audibly read over/translated into  
.....Language known to the party executing the Vakalath and he seems to have  
understood the same.



Antargyami Baral.

Signature of the Party  
"Accepted"

Harshendra K. Sarma  
Signature with date  
(Name of the Advocate)

Accepted  
Usha Das  
Advocate

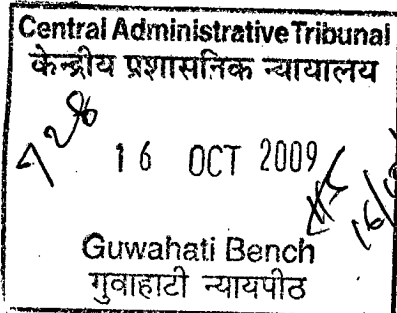
Signature with date  
(Name and Designation)

-13-

21

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**GUWAHATI BENCH  
CONTEMPT PETITION (CIVIL) NO 9 OF 2009  
In O. A. No 55 of 2008**



**Shri A Boral**

.....Petitioner

- versus -

**Shri Somesh Chakraborty**

.....Respondent No 4

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4.	Order dated 16.09.2009	4

*[Signature]*  
16/10/09  
Advocate

Received  
Usha Das  
Advocate  
16/10/09

- 14 -

In the Central Administration Tribunal Guwahati Bench: Guwahati.

CP No 9 / 2009  
IN  
OA No 55 / 2009

Shri A Boral-, Petitioner

- V -

Shri S Chakraborty, Respondent No 4

Affidavit in reply by the respondent No 4 in CP.

The humble respondent No 4 most respectfully begs to state as under: -

1. That the respondent No 4 has received the copy of the CP and understood the contents thereof. It is respectfully stated that he had received the information of the allegation of contempt through the standing Counsel Railways on 03.09.2009 itself over telephone, who immediately advised this deponent to examine the matter and advise him for remedial lawful action. The respondent No 4 immediately called for the official records and found as narrated below. This respondent respectfully begs to state that he is a law abiding person and has all respect for Judiciary, and has never worked with any intentional negligence of any order / direction of Hon'ble High Court / Tribunal.
2. That on 24.08.2009 the order was passed without any knowledge of the respondent No 4. The fact is that the officer who passed the said order dated 24.08.2009 had not noticed the order of the Hon'ble Tribunal dated 25.03.2009 in OA No 55 / 2009. However, when the matter came to the knowledge of the respondent No 4, he immediately advised cancellation order of the said order dated 24.08.2009, which was cancelled by office order dated 31.08.2009 endorsing copies to the applicant of the OA or CP and also Shri D P Sharma who received the same on 31.08.2009. The CP was filed on 01.09.2009. This deponent humbly submits that the order dated 24.08.2009 was cancelled before the filing of the CP. It is also stated that the officer who issued the order dated 24.08.2009, unintentionally, not knowing of the Hon'ble Tribunal's order has been asked to more vigilant in dealing with such cases. In the instant case the same officer has issued the cancellation immediately as explained above.  
Copy of the order dated 31.08.2009 is enclosed as Annexure - R - 1.
3. That it is stated that another order dated 16.09.2009 has been issued reiterating that Shri Sharma will not get any salary from 24.08.2009 to 31.08.2009 in the promotional post.  
Copy of the order dated 16.09.2009 is ordered as Annexure R - 2.
4. That the Contempt Petitioner, also knows that this deponent has not neglected any order of the Tribunal and that he did not pass any order, as is evident from the Contempt Petition. As already stated this deponent be is a law abiding person with full respect for Hon'ble Tribunal and prays that the Contempt against him may kindly be dropped / closed.
5. This affidavit is filed bonafide and for cause of Justice.

22  
Filed by the Respondent/  
opposite party through  
Dr. J. L. Sarban, S.C. Rm  
16/09/2009

महल कार्यालय अधिकारी  
Divisional Personnel Officer  
गु. सी. रेलवे, रंगिया  
N. F. Railway, Rangiya

*Done*

- 15 -  
- 2 -

**A F F I D A V I T**

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

16 OCT 2009

Guwahati Bench  
গুৱাহাটী বেঞ্চ

I, Shri Somesh Chakraborty, aged about 58 years, son of Late Sarada Charan Chakraborty, resident of Rangiya, Now working as Divisional Personnel Officer, Rangiya do hereby solemnly affirm and say that the statements made in Para 1 to 5 above are true to my knowledge and that I have not suppressed any material facts.

I sign this affidavit this 6th the day of October, 2009 at Guwahati.

*Somesh Chakraborty*  
Signature অপেক্ষক কর্মিক অধিকারী  
Divisional Personnel Officer  
পু. সী রেলবে, রংগিয়া  
P. S. Railway, Rangiya

Identified by me

*Sarajit Choudhury*  
Advocate

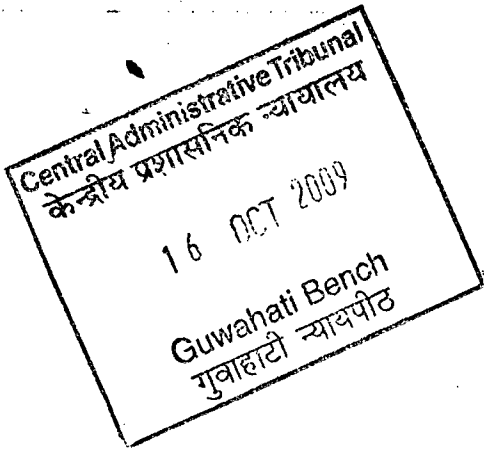
Solemnly affirmed and sworn  
on before me bring identified by  
*Sarajit Choudhury*, Advocate  
This 6th day of order,  
2009 at Guwahati.

*Anta*  
6.10.09  
Advocate

- 8 - 16 -

ANNEXURE

R-1



NORTHEAST FRONTIER RAILWAY

Office Of The  
Divl. Railway Manager (P)  
Rangiya

OFFICE ORDER

Promotion order in favour of Shri Durga Prasad Sharma, MT Driver Gr I under ADEN/BPRD issued vide this office order No. E/240/Rest-Engg/RNY/20 (Loose) dated 24.08.2009 is hereby cancelled due to injunction imposed by Hon'ble CAT / GHY against O A No. 55 / 2009 dated 26.03.2009.

*nk*  
31/8/09  
(N K SUTRADHAR)  
APO / II / RNY  
For DRM (P)/RNY

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

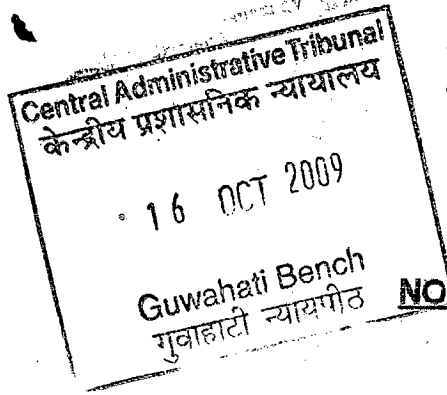
Dated: 31<sup>st</sup> August, 2009

Copy forwarded for information and necessary action to:

- |   |                       |
|---|-----------------------|
| 01. Sr. DEN/C/RNY.                                  | 02. DFM/RNY           |
| 03. ADEN/BPRD                                       | 04. OS/EE/Bill/RNY    |
| 05. Staff Concerned                                 | 06. P/Case & 5/ Book. |
| 07. Antanjami Baral, MT Driver Gr I under ADEN/RNY. |                       |

*Notified  
Under  
Adm*

*nk*  
31/8/09  
For Divl. Ry. Manager (P)  
N. F. Railway, Rangiya

**NORTHEAST FRONTIER RAILWAY**

Office of the  
Divisional Railway Manager (P)  
Rangiya

**OFFICE ORDER**

*R on 18/9/09*

In continuation to this office order of even No. dated 31-08-09 regarding cancellation of promotion order dated 24-08-09 in favour of Shri Durga Prasad Sharma, M.T. Driver Gr.I under ADEN/BPRD, it is further stipulated that the cancellation is ordered with retrospective effect, i.e. w. e. f. 24-08-09 and he will not get any salary for the period from 24-08-09 to 31-08-09 in scale Rs. 9300-34800 + GP 4200/-.

*16/9/09*  
(N. K. Sutradhar)  
APO / II / RNY

for Divisional Railway Manager (P)  
Rangiya

Date: - 16/09/2009

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

Copy forwarded for information and necessary action to:

01. Sr. DEN/C/RNY.      02. DFM/RNY
03. ADEN/BPRD      04. OS/EE/BIII/RNY
05. Staff Concerned      06. P/Case & S/ Book.
07. Shri Antarzami Baral, M.T. Driver Gr. I under ADEN/RNY.
08. Dr. J.L. Sarkar, Standing counsel /CAT/Guwahati.

*Collected  
Dutta  
How*

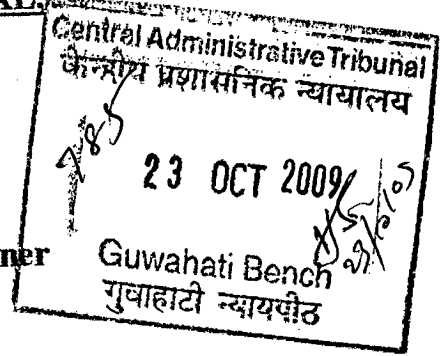
*16/9/09*  
for Divisional Railway Manager (P)  
Rangiya

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

**CONTEMPT PETITION (CIVIL) No.9 of 2009**  
**In OA. NO. 55 of 2009**

**Shri A. Borah**

..... **Petitioner**



**-Vs-**

**Shri N. K. Sutradhar** ..... **Respondent No.5**

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4.	Order dated. 31.8.2009	Annexure R-2
5.	Order dated 16.9.2009	Annexure R-3

**Advocate**

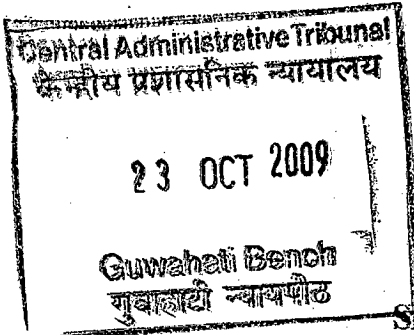
*Received copy.  
Hridip K. Das,  
for Usha Das.  
Advocate*



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**GAUWAHATI BENCH, GUWAHATI**

**CONTEMPT PETITION (CIVIL) No.9 of 2009**

**In OA. NO. 55 of 2009**



**Shri A. Boral**

**..... Petitioner**

**-Vs-**

**Shri N. K. Sutradhar**

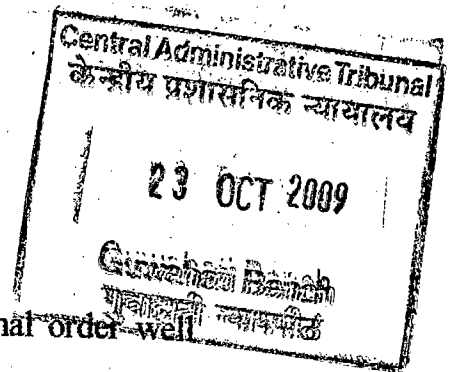
**.....Respondent No.5**

Affidavit in reply on behalf of all the five contemnors/respondents in Contempt Petition.

The humble respondents most respectfully begs to state as under:-

1. That the Respondent No.5 has received the copy of the contempt petition and understood the contents thereof. It is respectfully stated that he had received the information of the allegation of contempt through the standing Counsel Railways on 03.9.2009, who immediately advised this deponent to examine the matter and advise him for remedial lawful action. The respondent No.4 i.e. the Divisional Personnel Officer (Rangia) who is the immediate superior officer of the deponent also received communication from the said Standing Counsel. The factual position is that this deponent have passed the order dated 24.8.09 when unfortunately order of the Hon'ble Tribunal dated 25.3.09 did not came to his notice. This unintentional administrative error happened due to oversight dealing with the case in dealing with the case. However, the respondent No.4 when came to know the fact of issue of the order dated 24.8.09 immediately called this deponent and informed him of the real position and immediately an order dated 31.8.09 was passed to rectify the mistake. This deponent offer apology for the unintentional error. It is submitted that the rectification of the

*File in respondent*  
*27*  
*See. dly. 19/10/09*  
*Nishi Kanti Sutradhar*  
*সহায়ক কামিং অফিসার*  
*Assistant Personnel Officer*  
*প.সী. রেঞ্জের রংগিয়া*  
*N. F. Rly, Rangia*



error was made to comply with the Hon'ble Tribunal order well before the contempt petition was filed.

Copy of the interim order of Hon'ble CAT, Guwahati dated 25.3.09 is enclosed herewith and marked as Annexure R-1

2. That the cancellation order dated 31.8.09 was also been endorsed to the applicant of the OA/CP, and Shri Durga Prasad Sharma who received the same on 31.8.09, the CP was filed on 01.9.09.

That the deponent is a law-abiding person and always has deep respect of judiciary and has never worked with any intentional negligence of any order/direction of any Court/Tribunal. In this connection it is humbly submitted that to ensure that no such error happened in future, necessary instructions have been given and also memorandum of charges has been issued for appropriate disciplinary action. The dealer concern Langa Choudhury, Hd.Clerk, DRM(P)/RNY has been issued charge sheet for filing of the case vide charge sheet No. EQ/RN/LC (Minor penalty dated 31.8.09). It is further stated that another memorandum dated 16.9.09 has been issued reiterating that Shri D. P. Sharma will not get any salary from 24.8.09 to 31.8.09 and other financial benefits in the promotional post.

Copies of the order dated 31.8.09 and 16.9.09 are enclosed as Annexure-R1 and Annexure-R2 respectively.

That in the circumstances the deponent prays that the Hon'ble Tribunal may kindly accept his apology and considering the totality of the fact may kindly be please to close/dropped the contempt proceedings is affidavit is filed bonafide and for cause of justice.

*Nishi Kaula Subramanian*

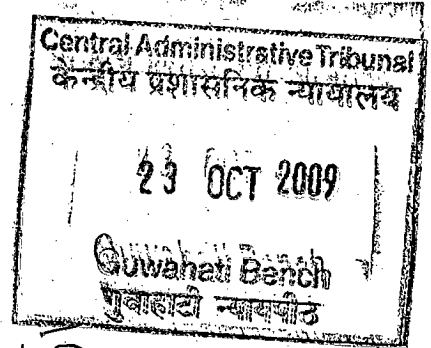
सहायक कार्मिक अधिकारी

Assistant Personnel Officer

पू. सी. रेखवे रंगिया

N. F. Rly, Rangia

-21-  
-2-



AFFIDAVIT

I, Sri N. K. Sutradhar, Son of Lali. R. C. Sutradhar  
aged about 49 years and at present a resident of Rangia, Assam  
and serving as Asstt. Personnel Officer, Rangia division, N. F.  
Railway, on behalf of all the five contemnners do hereby solemnly  
affirm and say that the statements made in para 1 to 3 above are  
true to my knowledge and that I have not suppressed any material  
facts.

I sign this affidavit.....19th..... the day of October,  
2009 at Guwahati.

Nishi Kanta Sutradhar  
Signature

सहायक कार्मिक अधिकारी  
Assistant Personnel Officer  
पू. सी. रोडवे रंगिया  
N. F. Rly, Rangiya

Identified by me

S.N. Tameuli  
Advocate

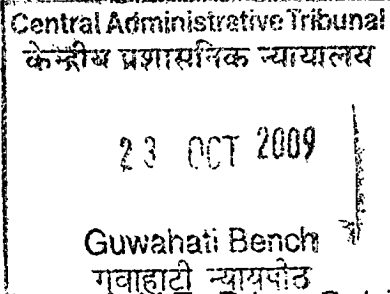
Solemnly affirmed and sworn  
on before me bring identified by  
U.P. Bhaxadwar, Advocate  
This ....19..... day of order,  
2009 at Guwahati

Utpalparna Bhaxadwar  
Advocate

- H-22-

Annexure R-1<sup>10</sup>

Northeast Frontier Railway



Office of the  
Divisional Railway Manager (P)  
Rangiya

OFFICE ORDER

Sri Durga Prasad Sharma, M.T. Driver Gr-I in scale Rs. 5200-20200+ GP 2800/- under ADEN/BPRD has been found suitable for the post of MCM(M.T. Driver) in scale Rs. 9300- 34800+ GP 4200/- as conducted by DEN/III/RNY on 14-05-08, vide Memorandum No. E/240(Rest-Engg) RNY/20/Loose dated 29-05-08 is now posted under ADEN/BPRD.

This issues with the approval of Sr.DEN/C/RNY on 21-08-09

*NK*  
24/8/09  
(N.K. Sutradhar)  
APO/III/RNY

for Divl. Railway Manager (P)  
Rangiya

Date: - 24-08-09

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

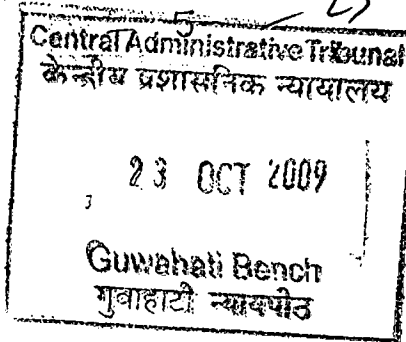
Copy forwarded for information & necessary action to :-

- 1) Sr.DEN/C/RNY
- 2) DFM/RNY
- 3) ADEN/BPRD
- 4) OS/EE/BIII/RNY
- 5) Staff concerned
- 6) P/case & Office copy.

*NK*  
24/8/09  
for Divl. Railway Manager (P)  
Rangiya

Office Copy.

Recommence  
24/08/09



Annexure R-2

NORTHEAST FRONTIER RAILWAY

Office Of The  
Divl. Railway Manager (P)  
Rangiya

OFFICE ORDER

Promotion order in favour of Shri Durga Prasad Sharma, MT Driver Gr I under ADEN/BPRD issued vide this office order No. E/240/Rest-Engg/RNY/20 (Loose) dated 24.08.2009 is hereby cancelled due to injunction imposed by Hon'ble CAT / GHY against O A No. 55 / 2009 dated 26.03.2009.

*new*  
31/8/09  
(N K SUTRADHAR)  
APO / II / RNY  
For DRM (P)/RNY

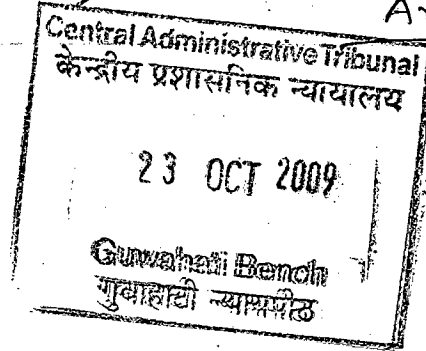
No. E/240/Rest-Engg/RNY/20 (Loose)

Dated: 31<sup>st</sup> August, 2009

Copy forwarded for information and necessary action to:

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|---|-----------------------|
| 01. Sr. DEN/C/RNY.                                  | 02. DFM/RNY           |
| 03. ADEN/BPRD                                       | 04. OS/EE/BIII/RNY    |
| 05. Staff Concerned                                 | 06. P/Case & S/ Book. |
| 07. Antarjami Baral, MT Driver Gr I under ADEN/RNY. |                       |

*new*  
31/8/09  
For Divl. Ry. Manager (P)  
N. F. Railway, Rangiya



**NORTHEAST FRONTIER RAILWAY**

Office of the  
Divisional Railway Manager (P)  
Rangiya

**OFFICE ORDER**

*Ran*  
*18/9/09*

In continuation to this office order of even No. dated 31-08-09 regarding cancellation of promotion order dated 24-08-09 in favour of Shri Durga Prasad Sharma, M.T. Driver Gr.I under ADEN/BPRD, it is further stipulated that the cancellation is ordered with retrospective effect . i.e. w. e. f. 24-08-09 and he will not get any salary for the period from 24-08-09 to 31-08-09 in scale Rs. 9300-34800 + GP 4200/- .

*16/9/09*  
(N. K. Sutradhar)  
APO / II / RNY  
for Divisional Railway Manager (P)  
Rangiya  
Date: - 16/09/2009

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

Copy forwarded for information and necessary action to:

01. Sr. DEN/C/RNY.      02. DFM/RNY
03. ADEN/BPRD      04. OS/EE/BIII/RNY
05. Staff Concerned      06. P/Case & S/ Book.
07. Shri Antarzami Baral, M.T. Driver Gr. I under ADEN/RNY.
08. Dr. J.L. Sarkar, Standing counsel /CAT/Guwahati.

*16/9/09*  
for Divisional Railway Manager (P)  
Rangiya

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

**CONTEMPT PETITION (CIVIL) No.9 of 2009**  
**In OA. NO. 55 of 2009**

**Shri A. Borai**

**..... Petitioner**

**-Vs-**

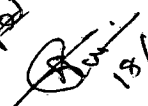
**Shri Ashutosh Swami**

**.....Respondent No.1**

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3.	Order dated. 16.9.2009	Annexure R-2 (6)
4.	Affidavit	4

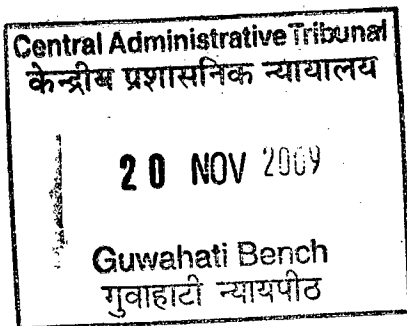
  
Advocate

As Smt V. Das  
is not available  
I undertake to  
serve a  
copy of this  
pet reply to her.  
  
13/11/09.

- 26 -

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**GAUWAHATI BENCH, GUWAHATI**

**CONTEMPT PETITION (CIVIL) No.9 of 2009**  
**In OA. NO. 55 of 2009**



**Shri A. Boral** ..... **Petitioner**

-Vs-

**Shri Ashutosh Swami** ..... **Respondent No.1**

Affidavit in reply of Respondent No.1 in contempt petition.

The humble respondents most respectfully beg to state as under:-

1. That the Respondent No.1 has received the copy of the contempt petition and understood the contents thereof. It is respectfully stated that he had received the information of the allegation of contempt through the standing Counsel Railways on 03.9.2009, who immediately advised this deponent to examine the matter and advised him for remedial lawful action.
2. The respondent respectfully begs to state that he is a law abiding person and has all respect for judiciary and has never worked with any intentional negligence of any order/direction of Hon'ble Court/Tribunal.
3. That the Group C category post of Motor Trolley Driver in Civil Engineering Department of Rangiya Division of N. F. Railway is a Divisional controlled post of Rangiya Division, Rangiya and Sr. DEN(Cord) of Rangiya Division is the overall incharge of Civil Engineering Department of Rangiya Division and is the controlling officer of Civil Engineering Establishment there. He works under the control of Divisional Railway Manager and also Addl DRM at Rangiya in Rangiya Division and promotes his staff, prepares their

1. WMA  
S. C. Railway  
General Manager  
Rangiya  
N. F. Railway

Filed by  
Dr. J. L. Sankar  
S. C. Railway  
Rangiya  
For Dr. J. L. Sankar



SHRI D. P. SHARMA  
General Manager  
N.E. Railway  
Guwahati

seniority list with the help of APO in Rangiya Division at Rangiya whereas the Respondent No.1 works in Zonal Railway HQ office at Maligaon having no knowledge of day to day affairs and orders of staff promotion, seniority list of Civil Engineering Department of Rangiya Division at Rangiya. The Respondent No 1 has given no order violating the order of Hon'ble Tribunal.

4. That on 24.8.09 the impugned order of promotion had been passed at Rangiya division office, at Rangiya without any knowledge of the Respondent No.1, by the Sr.DEN (Cord), Rangiya. The fact is that the officer who passed the said order dated 24.8.09 i.e, Sr DEN(Cord), Rangiya had not noticed the order of the Hon'ble Tribunal dated 25.3.09 in OA No. 55/2009, by oversight while giving order. However when the matter came to the knowledge of Respondent No.1 he immediately advised cancellation of the said impugned order dated 24.8.2009 and the impugned promotion order was also cancelled at Rangiya Division by their office order dated 31.8.2009 endorsing copies to the applicant of OA and CP and also Shri D. P. Sharma who received the same on 31.8.2009. But even then the contempt petition was filed by him on 01.9.2009.

5. This deponent humbly submits that the staff promotion order dated 24.8.2009 was cancelled by Rangiya division authority concerned before the filing of the contempt petition. It is also stated that the officer who issued the order dated 24.8.2009 unintentionally and as an oversight of the Hon'ble Tribunal's order, has been counselled to be more vigilant in dealing with Court cases and the dealing staff L. Choudhury, concerned has been taken up under the RS (D & A) Rules 1968 for his negligence and his mistake. In the instant case the same officer i.e Sr. DEN (Cord.) Rangiya has issued the cancellation order of the impugned promotion order immediately as explained above.

Copy of the order of cancellation of staff promotion dated 31-8-2009 of Rangiya Division is enclosed as Annexure R-1.

Central Administrative Tribunal  
দ্রষ্টব্য প্রশাসনিক ন্যায়ালয়  
20 NOV 2009  
Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

36

ASST. Secy. to Govt.  
General Manager  
P. S. Railway

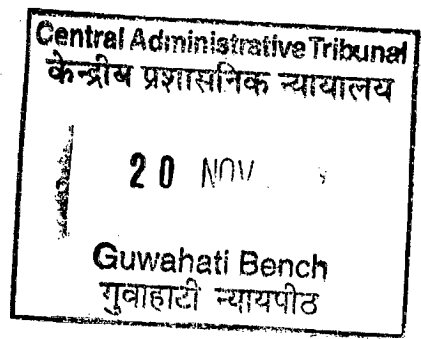
(3)

6. That it is stated that another order dated 16.9.2009 has also been issued by Rangiya Division authority controlling the establishment matter concerned reiterating and clarifying that Shri D. P. Sharma will not get any salary or financial benefits for the said sub-judice period from 24.8.2009 to 31.8.2009 in the concerned promotional course.

Copy of the order dated 16.9.2009 is enclosed as Annexure R-2.

7. That the contempt petitioner, also knows that this deponent has not willfully neglected the order of the Tribunal and that he has not passed any order, as is evident from the contempt petition. As already stated this deponent is a law-abiding person with full respect for Hon'ble Tribunal and prays that the contempt against him may kindly be dropped/closed and his name deleted from the list of respondents from the OA No.55/2009.
8. This affidavit is filed bonafide and for cause of justice.

29-4



3x

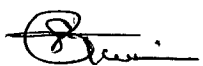
AFFIDAVIT

I, Shri Ashutosh Swami, Son of Late Sudhakar Prakaash Swami aged about 59 years and at present a resident of Maligaon, Guwahati, Assam and serving as General Manager, N. F. Railway at Maligaon Guwahati do hereby solemnly affirm and say that the statements made in para 1 to 8 above are true to my knowledge and that I have not suppressed any material fact.

I sign this affidavit..... 17th ..... the day of November, 2009 at Guwahati.

Signature  
ASHUTOSH  
महा प्रबन्धक  
General Manager  
पु. सी. रेलवे  
N.F. Railway,

Identified by me



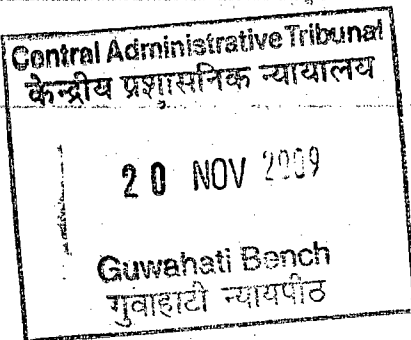
Advocate

Solemnly affirmed and sworn  
on before me being identified by  
S. N. Tomukhi, Advocate

This 17th day of order, Nov.  
2009 at Guwahati



Advocate



5-36-

EXHIBIT

R-1 38

NORTHEAST FRONTIER RAILWAY

Office Of The  
Divl. Railway Manager (P)  
Rangiya

OFFICE ORDER

Promotion order in favour of Shri Durga Prasad Sharma, MT Driver Gr I under ADEN/BPRD issued vide this office order No. E/240/Rest-Engg/RNY/20 (Loose) dated 24.08.2009 is hereby cancelled due to injunction imposed by Hon'ble CAT / GHY against O A No. 55 / 2009 dated 26.03.2009.

*new*  
31/8/09  
(N K SUTRADHAR)  
APO / II / RNY  
For DRM (P)/RNY

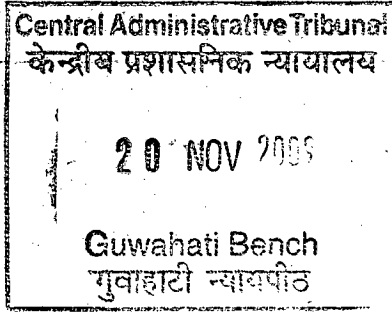
No. E/240/Rest-Engg/RNY/20 (Loose)

Dated: 31<sup>st</sup> August, 2009

Copy forwarded for information and necessary action to:

- |   |                       |
|---|-----------------------|
| 01. Sr. DEN/C/RNY.                                  | 02. DFM/RNY           |
| 03. ADEN/BPRD                                       | 04. OS/EE/Bill/RNY    |
| 05. Staff Concerned                                 | 06. P/Case & 5/ Book. |
| 07. Antanjami Baral, MT Driver Gr I under ADEN/RNY. |                       |

*new*  
31/8/09  
For Divl. Rly. Manager (P)  
N. F. Railway, Rangiya



- 31 - ANNEXURE R-2

**NORTHEAST FRONTIER RAILWAY**

Office of the  
Divisional Railway Manager (P)  
Rangiya

**OFFICE ORDER**

R. on  
18/9/09

In continuation to this office order of even No. dated 31-08-09 regarding cancellation of promotion order dated 24-08-09 in favour of Shri Durga Prasad Sharma, M.T. Driver Gr.I under ADEN/BPRD, it is further stipulated that the cancellation is ordered with retrospective effect . i.e. w. e. f. 24-08-09 and he will not get any salary for the period from 24-08-09 to 31-08-09 in scale Rs. 9300-34800 + GP 4200/- .

16/9/09  
(N. K. Sutradhar)  
APO / II / RNY

for Divisional Railway Manager (P)  
Rangiya

Date: - 16/09/2009

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

Copy forwarded for information and necessary action to:

01. Sr. DEN/C/RNY.      02. DFM/RNY
03. ADEN/BPRD      04. OS/EE/BIII/RNY
05. Staff Concerned      06. P/Case & S/ Book.
07. Shri Antarzami Baral, M.T. Driver Gr. I under ADEN/RNY.
08. Dr. J.L. Sarkar, Standing counsel /CAT/Guwahati.

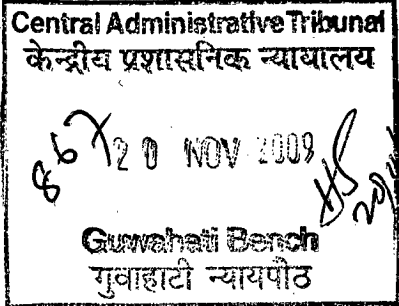
16/9/09  
for Divisional Railway Manager (P)  
Rangiya

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

**CONTEMPT PETITION (CIVIL) No.9 of 2009**  
**In OA. NO. 55 of 2009**



Shri A. Borai

..... Petitioner

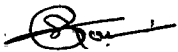
-Vs-

Shri Ajay K. Mohanty .....Respondent No.2

**Index**

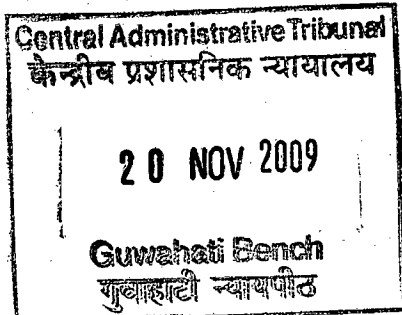
<u>Sl No.</u>	<u>Particulars</u>	<u>Page</u>
1.	Affidavit in reply	1-3
2.	Order dated. 31.8.2009	Annexure R-1 -(5)
3.	Order dated. 16.9.2009	Annexure R-2 -(6)
4.	Affidavit	———— (4)

As Smt. U. Das  
is not available  
in the court  
premises & undertake  
to serve a copy  
of this petition  
to her.  
18/11/09

  
Advocate

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**GAUWAHATI BENCH, GUWAHATI**

**CONTEMPT PETITION (CIVIL) No.9 of 2009**  
**In O.A. NO. 55 of 2009**



Shri A. Boral

..... Petitioner

-Vs-

Shri Ajay K. Mohanti

.....Respondent No.2

Affidavit in reply of Respondent No.2 in contempt petition.

The humble respondents most respectfully beg to state as under:-

1. That the Respondent No.2 has received the copy of the contempt petition and understood the contents thereof. It is respectfully stated that he had received the information of the allegation of contempt through the standing Counsel Railways on 03.9.2009, who immediately advised this deponent to examine the matter and advised him for remedial lawful action.
2. The respondent respectfully begs to state that he is a law abiding person and has all respect for judiciary and has never worked with any intentional negligence of any order/direction of Hon'ble Court/Tribunal.
3. That the Group C category post of Motor Trolley Driver in Civil Engineering Department of Rangiya Division of N. F. Railway is a Divisional controlled post of Rangiya Division, Rangiya and Sr. DEN(Cord) of Rangiya Division is the overall incharge of Civil Engineering Department of Rangiya Division and is the controlling officer of Civil Engineering Establishment there. He works under the control of Divisional Railway Manager and also Addl DRM at Rangiya in Rangiya Division and promotes his staff, prepares their

Filed by the opposite party

Through Dr. J.L. Sarker

S.C. Railway

For Dr. J.L. Sarker

✓ Admitted

Chief Personnel Officer  
N.F. Railway, Maligaon  
Gauhati-781001

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
20 NOV 2009  
Guwahati Bench  
गुवाहाटी न्यायपीठ

seniority list with the help of APO in Rangiya Division at Rangiya whereas the Respondent No.2 works in Zonal Railway HQ office at Maligaon having no knowledge of day to day affairs and orders of staff promotion, seniority list of Civil Engineering Department of Rangiya Division at Rangiya. The Respondent No 2 has given no order violating the order of Hon'ble Tribunal.

That on 24.8.09 the impugned order of promotion had been passed at Rangiya division office, at Rangiya without any knowledge of the Respondent No.2, by the Sr.DEN (Cord), Rangiya. The fact is that the officer who passed the said order dated 24.8.09 i.e, Sr DEN(Cord), Rangiya had not noticed the order of the Hon'ble Tribunal dated 25.3.09 in OA No. 55/2009. by oversight while giving order. However when the matter came to the knowledge of Respondent No.2, he immediately advised cancellation of the said impugned order dated 24.8.2009 and the impugned promotion order was also cancelled at Rangiya Division by their office order dated 31.8.2009 endorsing copies to the applicant of OA and CP and also Shri D. P. Sharma who received the same on 31.8.2009. But even than the contempt petition was filed by him on 01.9.2009.

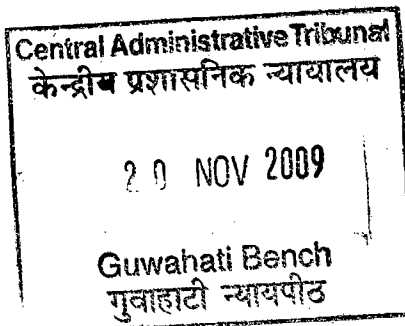
Adhikari

Chief Personnel Officer  
Zonal Railway, Maligaon

5. This deponent humbly submits that the staff promotion order dated 24.8.2009 was cancelled by Rangiya division authority concerned before the filing of the contempt petition. It is also stated that the officer who issued the order dated 24.8.2009 unintentionally and as an oversight of the Hon'ble Tribunal's order has been counseled to be more vigilant in dealing with Court cases and the dealing staff concerned has been taken up under the RS (D & A) Rules 1968 for his negligence and his mistake. In the instant case the same officer i.e Sr. DEN (Cord.) Rangiya has issued the cancellation order of the impugned promotion order immediately as explained above.

Copy of the order of cancellation of staff promotion dated 31-8-2009 of Rangiya Division is enclosed as Annexure R-1.





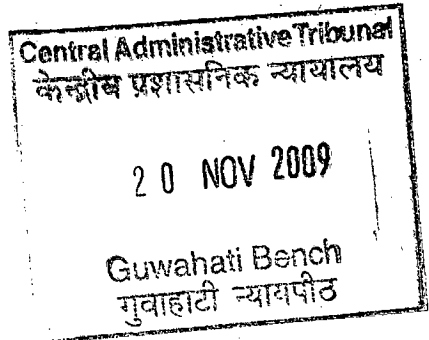
6. That it is stated that another order dated 16.9.2009 has also been issued by Rangiya Division authority controlling the establishment matter concerned reiterating and clarifying that Shri D. P. Sharma will not get any salary or financial benefits for the said sub-judice period from 24.8.2009 to 31.8.2009 in the concerned promotional course.

Copy of the order dated 16.9.2009 is enclosed as Annexure R-2.

7. That the contempt petitioner, also knows that this deponent has not willfully neglected the order of the Tribunal and that he has not passed any order, as is evident from the contempt petition. As already stated this deponent is a law-abiding person with full respect for Hon'ble Tribunal and prays that the contempt against him may kindly be dropped/closed and his name deleted from the list of respondents from the OA No.55/2009.
8. This affidavit is filed bonafide and for cause of justice.

✓  
Asst. Secy.  
Chief Personnel Officer  
Railway, Maligaon  
Guwahati-11

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AFFIDAVIT

I, Shri Ajay K. Mohanty, Son of Late P. K. Mohanty aged about 53 years and at present a resident of Maligaon, Guwahati, Assam and serving as Chief Personnel Officer, Head Quarter Office, N. F. Railway, at Maligaon Guwahati do hereby solemnly affirm and say that the statements made in para 1 to 8 above are true to my knowledge and that I have not suppressed any material fact.

I sign this affidavit.....16th.....the day of <sup>Nov</sup> October, 2009 at Guwahati.

  
Signature

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

Identified by me

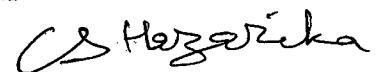


Advocate

Solemnly affirmed and sworn  
on before me being identified by

.....S.N. Torwala, Advocate

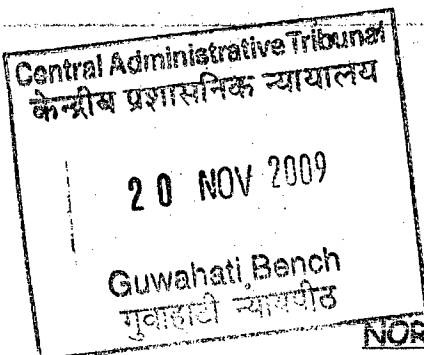
This .....16th.... day of ~~order~~ Nov  
2009 at Guwahati



Advocate

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ANNEXURE R-1



NORTHEAST FRONTIER RAILWAY

Office Of The  
Divl. Railway Manager (P)  
Rangiya

**OFFICE ORDER**

Promotion order in favour of Shri Durga Prasad Sharma, MT Driver Gr I under ADEN/BPRD issued vide this office order No. E/240/Rest-Engg/RNY/20 (Loose) dated 24.08.2009 is hereby cancelled due to injunction imposed by Hon'ble CAT / GHY against O A No. 55 / 2009 dated 26.03.2009.

*new*  
31/8/09  
(N K SUTRADHAR)  
APO / II / RNY  
For DRM (P)/RNY

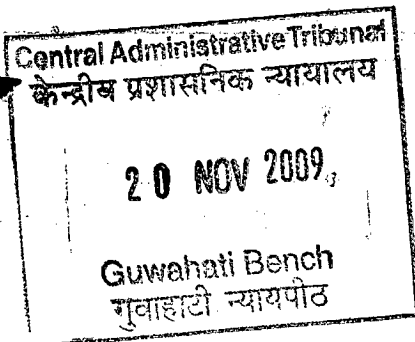
No. E/240/Rest-Engg/RNY/20 (Loose)

Dated: 31<sup>st</sup> August, 2009

Copy forwarded for information and necessary action to:

- |   |                       |
|---|-----------------------|
| 01. Sr. DEN/C/RNY.                                  | 02. DFM/RNY           |
| 03. ADEN/BPRD                                       | 04. OS/EE/BIII/RNY    |
| 05. Staff Concerned                                 | 06. P/Case & S/ Book. |
| 07. Antarjami Baral, MT Driver Gr I under ADEN/RNY. |                       |

*new*  
31/8/09  
For Divl. Rly. Manager (P)  
N. F. Railway, Rangiya



NORTHEAST FRONTIER RAILWAY

Office of the  
Divisional Railway Manager (P)  
Rangiya

OFFICE ORDER

*R on 18/9/09*  
In continuation to this office order of even No. dated 31-08-09 regarding cancellation of promotion order dated 24-08-09 in favour of Shri Durga Prasad Sharma, M.T. Driver Gr.I under ADEN/BPRD, it is further stipulated that the cancellation is ordered with retrospective effect, i.e. w. e. f. 24-08-09 and he will not get any salary for the period from 24-08-09 to 31-08-09 in scale Rs. 9300-34800 + GP 4200/-.

*16/9/09*  
(N. K. Sutradhar)  
APO / II / RNY

for Divisional Railway Manager (P)  
Rangiya

Date: - 16/09/2009

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

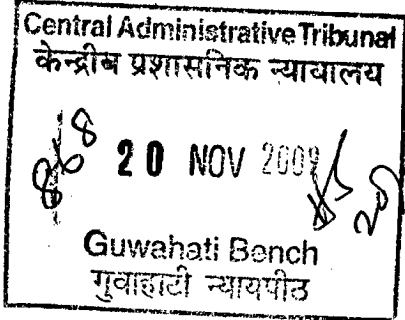
Copy forwarded for information and necessary action to:

01. Sr. DEN/C/RNY.
02. DFM/RNY
03. ADEN/BPRD
04. OS/EE/BIII/RNY
05. Staff Concerned
06. P/Case & S/ Book.
07. Shri Antarzami Baral, M.T. Driver Gr. I under ADEN/RNY.
08. Dr. J.L. Sarkar, Standing counsel /CAT/Guwahati.

*16/9/09*  
for Divisional Railway Manager (P)  
Rangiya

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

**CONTEMPT PETITION (CIVIL) No.9 of 2009**  
**In OA. NO. 55 of 2009**



**Shri A. Boral**

**..... Petitioner**

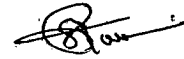
**-Vs-**

**Shri R. K. Badal**


**.....Respondent No.3**

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2.	Affidavit	3
3.	Order dated. 31.8.2009	Annexure R-1 (4)
4.	Order dated 16.9.2009	Annexure R-2 (5)



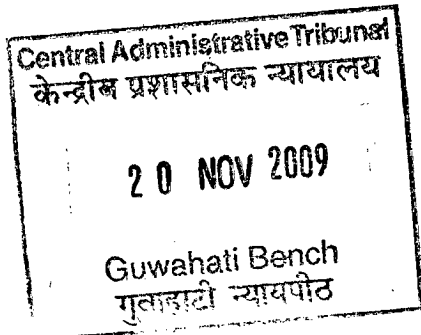
**Advocate**

As Smt. V. Das  
is not available  
I undertake to  
serve a copy of this  
petition to her.  
  
18/11/09.

- 40 -

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**GAUWAHATI BENCH, GUWAHATI**

**CONTEMPT PETITION (CIVIL) No.9 of 2009**  
**In OA. NO. 55 of 2009**



**Shri A. Boral**

**..... Petitioner**

-Vs-

**Shri R. K. Badal**

**.....Respondent No.3**

**Affidavit in reply by the respondent No.3 in Contempt Petition.**

**The humble respondent No.3 most respectfully begs to state as under:-**

1. That the Respondent No.3 has received the copy of the contempt petition and understood the contents thereof. It is respectfully stated that he had received the information of the allegation of contempt through the standing Counsel Railways on 03.9.2009, who immediately advised this deponent to examine the matter and advise him for remedial lawful action. This respondent respectfully begs to state that he is a law abiding person and has all respect for judiciary and has never worked with any intentional negligence of any order/direction of Hon'ble Court/Tribunal.
2. That on 24.8.09 the order was passed without any knowledge of the respondent No.3. the fact is that the officer who passed the said order dated 24.8.09 had not noticed the order of he Hon'ble Tribunal dated 25.3.09 in OA No.55/2009. However when the matter came to the knowledge of Respondent No.4, he immediately advised cancellation order of the said order dated 24.8.2009 which was cancelled by office order dated 31.8.2009 endorsing copies to the applicant of OA and CP and also Shri D. P. Sharma who received the same on 31.8.2009. The contempt petition was filed on 01.9.2009. This deponent humbly submits that the order dated

वरिष्ठ सहायक इंजीनियर (सम्बन्ध)  
श्री सी. रेल, रंगिया  
Sr. Divisional Engineer (Co-Ord)  
M.F. Railway, Rangiya

Ram Kumar Badal ✓

Filed by  
Dr. J. L. Senkar  
S. C. Railways  
for Dr. J. L. Senkar

24.8.2009 was cancelled before the filing of the contempt petition. It is also stated that the officer who issued the order dated 24.8.2009 unintentionally and as an oversight of the Hon'ble Tribunal's order has been asked to be more vigilant in dealing with Court cases. In the instant case the same officer has issued the cancellation order immediately as explained above.

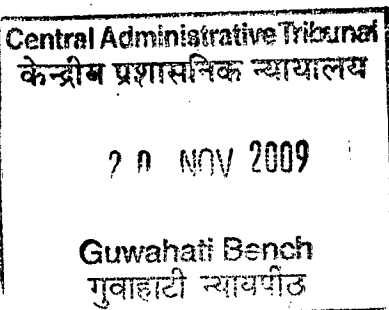
Copy of the order dated 31.8.2009 is enclosed as Annexure R-1.

3. That it is stated that another order dated 16.9.2009 has been issued reiterating that Shri D. P. Sharma will not get any salary from 24.8.2009 to 31.8.2009 in the promotional course.

Copy of the order dated 16.9.2009 is enclosed as Annexure R-2.

4. That the contempt petitioner, also knows that this deponent has not neglected the order of the tribunal and that he did not pass any order, as his evident from the contempt petition. As already stated this deponent is a law abiding person with full respect for Hon'ble Tribunal and prays that the contempt against him may kindly dropped/closed.

5. This affidavit is filed bonafide and for cause of justice.



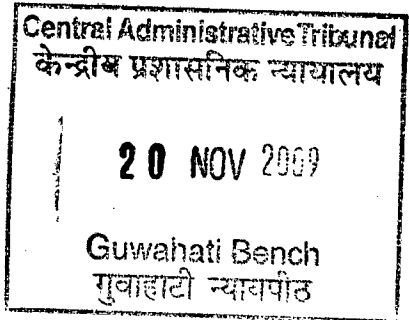
प्रतिपक्ष प्रमुख न्यायाधीश (सदस्य)  
श्री सी. रेल्, मिया  
Sr. Divisional Engineer (Co-06)  
N.E. Railway, Ranaghat

Ram Kumar Baid

Ram Kumar Baid

Ram Kumar Baid

-2-42-



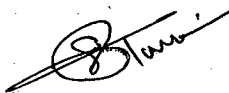
## AFFIDAVIT

I, Sri R. K. Badal, Son of Sri Ram Bachan Prasad aged about 39 years and at present a resident of Rangia, Assam and serving as Sr. Divisional Engineer(C), Rangia division, N. F. Railway do hereby solemnly affirm and say that the statements made in para 1 to 5 above are true to my knowledge and that I have not suppressed any material facts.

I sign this affidavit.....16th..... the day of October, Nov 2009 at Guwahati.

*Ram Kumar Badal*  
Signature

Identified by me



Advocate

वरिष्ठ मंडल इंजीनियर (समन्वय)  
डु. सी. रेल, रंगिया  
Sr. Divisional Engineer (Co-Ord)  
N.F. Railway, Rangia

Solemnly affirmed and sworn  
on before me bring identified by

S. N. Tumbi, Advocate

This .....16th.... day of October, Nov .

2009 at Guwahati

*S. N. Tumbi*

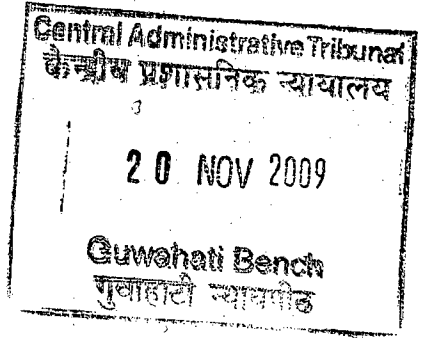
Advocate



-K-47- ANNEXURE

R-1

NORTHEAST FRONTIER RAILWAY



Office Of The  
Divl. Railway Manager (P)  
Rangiya

**OFFICE ORDER**

Promotion order in favour of Shri Durga Prasad Sharma, MT Driver Gr I under ADEN/BPRD issued vide this office order No. E/240/Rest-Engg/RNY/20 (Loose) dated 24.08.2009 is hereby cancelled due to injunction imposed by Hon'ble CAT / GHY against O A No. 55 / 2009 dated 26.03.2009.

*nk*  
31/8/09  
(N K SUTRADHAR)  
APO / II / RNY  
For DRM (P)/RNY

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

Dated: 31<sup>st</sup> August, 2009

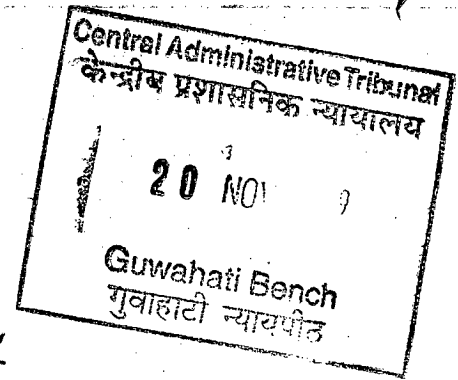
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|---|-----------------------|
| 01. Sr. DEN/C/RNY.                                  | 02. DFM/RNY           |
| 03. ADEN/BPRD                                       | 04. OS/EE/Bill/RNY    |
| 05. Staff Concerned                                 | 06. P/Case & S/ Book. |
| 07. Antarjami Baral, MT Driver Gr I under ADEN/RNY. |                       |

*nk*  
31/8/09  
For Divl. Rly. Manager (P)  
N. F. Railway, Rangiya

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ANNEXURE R-2



**NORTHEAST FRONTIER RAILWAY**

Office of the  
Divisional Railway Manager (P)  
Rangiya

**OFFICE ORDER**

*R. on 18/9/09*  
In continuation to this office order of even No. dated 31-08-09 regarding cancellation of promotion order dated 24-08-09 in favour of Shri Durga Prasad Sharma, M.T. Driver Gr.I under ADEN/BPRD, it is further stipulated that the cancellation is ordered with retrospective effect, i.e. w. e. f. 24-08-09 and he will not get any salary for the period from 24-08-09 to 31-08-09 in scale Rs. 9300-34800 + GP 4200/-.

*16/9/09*  
(N. K. Sutradhar)  
APO / II / RNY

for Divisional Railway Manager (P)  
Rangiya

Date: - 16/09/2009

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

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01. Sr. DEN/C/RNY.
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07. Shri Antarzami Baral, M.T. Driver Gr. I under ADEN/RNY.
08. Dr. J.L. Sarkar, Standing counsel /CAT/Guwahati.

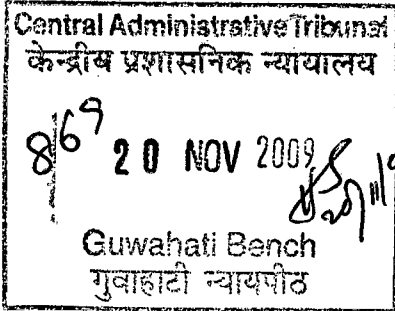
*16/9/09*  
for Divisional Railway Manager (P)  
Rangiya

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

**CONTEMPT PETITION (CIVIL) No.9 of 2009**  
**In OA. NO. 55 of 2009**



**Shri A. Boral**

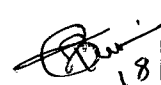
**..... Petitioner**

**-Vs-**

**Shri N. K. Sutradhar .....Respondent No.5**

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2.	Affidavit —→	3
3.	Order dated. 31.8.2009	Annexure R-1 (4)
4.	Order dated 16.9.2009	Annexure R-2 (5)

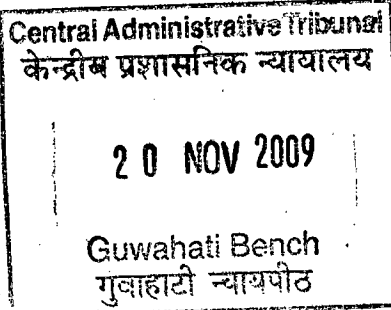
  
18/11/09  
Advocate

I undertake  
to serve a copy of  
this petition  
on Smt U. Das  
Counsel for the  
petitioner.  
18/11/09.

- 46 -

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**GAUWAHATI BENCH, GUWAHATI**

**CONTEMPT PETITION (CIVIL) No.9 of 2009**  
**In OA. NO. 55 of 2009**



**Shri A. Boral**

..... Petitioner

-Vs-

**Shri N. K. Sutradhar**

.....Respondent No.5

Affidavit in reply by the respondent No.5 in Contempt Petition.

The humble respondent No.5 most respectfully begs to state as under:-

1. That the Respondent No.5 has received the copy of the contempt petition and understood the contents thereof. It is respectfully stated that he had received the information of the allegation of contempt through the standing Counsel Railways on 03.9.2009, who immediately advised this deponent to examine the matter and advise him for remedial lawful action. The respondent No.4 i.e. the Divisional Personnel Officer (Rangia) who is the immediate superior officer of the deponent also received communication from the said Standing Counsel. The factual position is that this deponent have passed the order dated 24.8.09 when unfortunately order of the Hon'ble Tribunal dated 25.3.09 did not came to his notice. This unintentional administrative error happened due to communication gap in dealing with the case. However, the respondent No.4 when came to know the fact of issue of the order dated 24.8.09 immediately called this deponent and informed him of the real position and immediately an order dated 31.8.09 was passed to rectify the mistake. This deponent offer apology for the unintentional error. It is submitted that the rectification of the error was made to comply with the Hon'ble Tribunal order well before the contempt petition was filed.

Nishi  
Kanti Sutradhar  
Filed by the opposite party through  
S. N. Karmacharya  
Dr. J. L. Sarkar  
P. C. 2/10

Assistant Personnel Officer  
P. N. Karmacharya  
R. F. Railway, Rangia

2. That the cancellation order dated 31.8.09 was also been endorsed to the applicant of the OA/CP, and Shri Durga Prasad Sharma who received the same on 31.8.09, the CP was filed on 01.9.09.

That the deponent is a law-abiding person and always has deep respect of judiciary and has never worked with any intentional negligence of any order/direction of any Court/Tribunal. In this connection it is humbly submitted that to ensure that no such error *will* happen in future, necessary instructions have been given and also memorandum of charges has been issued for appropriate disciplinary action. It is further stated that another memorandum dated 16.9.09 has been issued reiterating that Shri D. P. Sharma will not get any salary from 24.8.09 to 31.8.09 in the promotional post.

Copied of the order dated 31.8.09 and 16.9.09 are enclosed as Annexure-R1 and Annexure-R2 respectively.

That in the circumstances the deponent prays that the Hon'ble Tribunal may kindly accept his apology and considering the totality of the fact may kindly be please to close/dropped the contempt proceedings.

3. This affidavit is filed bonafide and for cause of justice.

Nishi Kaula Subra Das

सहायक कार्यालय अधिकारी  
Assistant Personnel Officer  
प. सी. रेलवे, रंगिटा  
N. F. Railway, Rangit

-3-48-

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
20 NOV 2009  
Guwahati Bench  
गुवाहाटी न्यायपीठ

AFFIDAVIT

I, Sri N. K. Sutradhar, Son of Late R. C. Sutradhar  
aged about 49 years and at present a resident of Rangia, Assam  
and serving as Asstt. Personnel Officer, Rangia division, N. F.  
Railway do hereby solemnly affirm and say that the statements  
made in para 1 to 3 above are true to my knowledge and that I have  
not suppressed any material facts.

I sign this affidavit.....16th..... the day of October, Nov  
2009 at Guwahati.

*Nishi Karli Sutradhar*

Signature

सहायक कार्मिक अधिकारी  
Assistant Personnel Officer  
प. सी. रेलवे, रंगिया  
N. F. Railway, Rangiya

Identified by me



Advocate

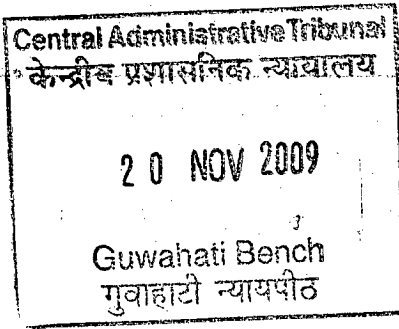
Solemnly affirmed and sworn  
on before me bring identified by

S. N. Tamuli, Advocate

This .....16th.... day of order, Nov  
2009 at Guwahati

*S. N. Tamuli*

Advocate



NORTHEAST FRONTIER RAILWAY

Office Of The  
Divl. Railway Manager (P)  
Rangiya

**OFFICE ORDER**

Promotion order in favour of Shri Durga Prasad Sharma, MT Driver Gr I under ADEN/BPRD issued vide this office order No. E/240/Rest-Engg/RNY/20 (Loose) dated 24.08.2009 is hereby cancelled due to injunction imposed by Hon'ble CAT / GHY against O A No. 55 / 2009 dated 26.03.2009.

*new*  
31/8/09  
(N K SUTRADHAR)  
APO / II / RNY  
For DRM (P)/RNY

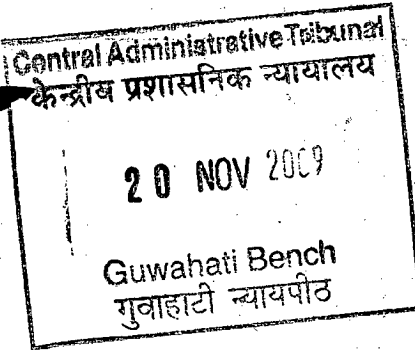
No. E/240/Rest-Engg/RNY/20 (Loose)

Dated: 31<sup>st</sup> August, 2009

Copy forwarded for information and necessary action to:

- |   |                       |
|---|-----------------------|
| 01. Sr. DEN/C/RNY.                                  | 02. DFM/RNY           |
| 03. ADEN/BPRD                                       | 04. OS/EE/Bill/RNY    |
| 05. Staff Concerned                                 | 06. P/Case & S/ Book. |
| 07. Antanjami Baral, MT Driver Gr I under ADEN/RNY. |                       |

*new*  
31/8/09  
For Divl. Ry. Manager (P)  
N. F. Railway, Rangiya



NORTHEAST FRONTIER RAILWAY

Office of the  
Divisional Railway Manager (P)  
Rangiya

OFFICE ORDER

R on  
18/9/09

In continuation to this office order of even No. dated 31-08-09 regarding cancellation of promotion order dated 24-08-09 in favour of Shri Durga Prasad Sharma, M.T. Driver Gr.I under ADEN/BPRD, it is further stipulated that the cancellation is ordered with retrospective effect . i.e. w. e. f. 24-08-09 and he will not get any salary for the period from 24-08-09 to 31-08-09 in scale Rs. 9300-34800 + GP 4200/- .

16/9/09  
(N. K. Sutradhar)  
APO / II / RNY

for Divisional Railway Manager (P)  
Rangiya

Date: - 16/09/2009

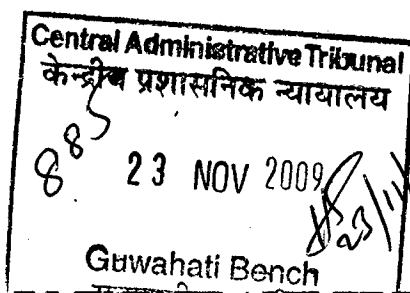
No. E/240/Rest-Engg/RNY/20 (Loose)

Copy forwarded for information and necessary action to:

01. Sr. DEN/C/RNY.
02. DFM/RNY
03. ADEN/BPRD
04. OS/EE/BIII/RNY
05. Staff Concerned
06. P/Case & S/ Book.
07. Shri Antarzami Barai, M.T. Driver Gr. I under ADEN/RNY.
08. Dr. J.L. Sarkar, Standing counsel /CAT/Guwahati.

16/9/09  
for Divisional Railway Manager (P)  
Rangiya





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI

C.P. No. 9/2009  
In O.A No. 55/2009  
Sri Antaryami Baral

... Petitioner

-Versus-

Sri Ashutosh Swami & Others

.... Contemnors/Respondents

-AND-

IN THE MATTER OF

Re-joinder on behalf of the Petitioner to the  
Affidavit filed by the respondent in the above  
mentioned case.

THE PETITIONER MOST RESPECTFULLY SHEWETH:

1. That the Deponent has gone through the copy of the Affidavit-in-reply filed by the Respondent No. 5 in the above noted Contempt Petition 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 Affidavit are denied in toto and the respondent authority is put to the strictest proof thereof.

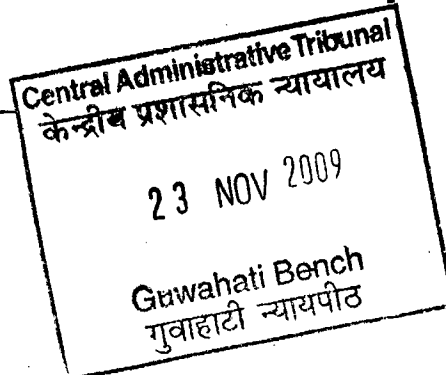
2. That the Deponent instead of giving a parawise replies likes to make a consolidated reply to the contention of the Affidavit-in-reply filed by the Respondents as follows-

i. That the deponent begs to state that while the order of promotion dated 29.05.2008 of the Respondent No. 4 in the Original Application i.e, Sri Durga Prasad Sarma has been stayed by its order dated 25.03.09 passed by this Hon'ble Tribunal until the ultimate result of the Original Application No.55/09, and even after receipt of the copy of the said Order dated 25.03.2009 passed by this Hon'ble Tribunal, the Respondent no. 5 of the instant Contempt petition had issued the promotional order in favour of Sri Durga Prasad Sarma by issuing Officer order dated 24.08.09 and knowing the same the deponent immediately approached this Hon'ble Court by way of filing this Contempt petition on 01.09.09.

Antaryami Baral.

Filed by the petitioner  
through Kabita Gami  
Advocate  
23.11.09

Recd.  
23/11/09  
5.5/1409



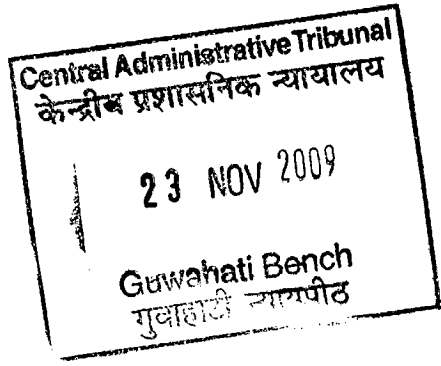
ii. That the Deponent begs to state that the statement made by the Respondent No. 5 in his Affidavit-in-reply that the Order of Promotion of Sri Sarga Prasad Sarma was cancelled on 31.08.09 before filing of the Contempt Case which is completely false. The fact is that the Contempt petition was moved on 03.09.09 before this Hon'ble Court and the Hon'ble Court was pleased to issued show cause notices upon all the respondents by its order dated 03.08.09. On receipt of the Contempt Notice & information from the departmental counsel, the Respondent No.5 immediately cancelled the promotional order dated 24.08.09 issued by him putting a back date i.e, on 31.08.09 on 4.09.09 and the deponent was also called for by the Respondent No. 5 to his office on 04.09.09 in the evening and he was asked to receive the cancellation of the promotional order issued by the Respondent No.5, in back dated i.e, on 31.08.09, but the deponent refused to do so.

iii. That the Deponent while denying the contention made in Para No.2 of the Affidavit-in- reply, begs to state that all the statements made in paragraph no.2 is completely false and making. So far the punishment of the dealing clerk is concerned, he has no comments to offer and the same is liable to the strictest proof thereof but it is submitted that the respondent no. 5 is liable to be punished under the aforesaid circumstances. To ascertain the actual truth about issue and despatch of the order of cancellation dated 31.08.09, the relevant records of issue and despatch may be called for.

3. That the Deponent begs to submit that the Respondents have deliberately and intentionally violated the order passed by this Hon'ble Tribunal and on coming to about the Contempt case and its order of show cause notice, they had immediately cancelled/ recalled the promotional order by putting a back date i.e, 31.08.09 only to save from the Contempt proceeding and they are liable to be punished for the Criminal activities committed by the respondent no. 5.

4. That the deponent begs to submit that in a Contempt proceeding all the Respondents/ Contemnors are required to file individual reply separately to the show cause notices issued by the Hon'ble Court. But in the instant case Respondent No. 5 have filed the show cause reply/ Affidavit-in-reply on behalf of all the respondents, which is not the appropriate procedure.

*Antarajami Baral*



**VERIFICATION**

I, Sri Antarzami 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 paragraphs 1 to 3 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. 23<sup>rd</sup> day of November, 2009 at Guwahati.

*Antarzami Baral.*

**Signature of the Petitioner.**

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH - GUWAHATI

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

1032  
17 DEC 2009

Guwahati Bench  
गुवाहाटी न्यायपीठ

File in Court on... 17/12/09  
Court Secy.

C.P.No.9/2009

Shri A.Baral

-Vs-

A. Swami & Ors

Reply to the rejoinder filed by the applicant.

The respondent No5/Opposite Party No5 most respectfully begs to state as under:-

- 1) That the Respondent No5/Opposite party No5 have gone through the rejoinder filed by the applicant and understood the contents thereof.
- 2) That in reply to the statements in para 2.i, 2.ii and 2.iii the deponent begs to state that;

The promotion order was issued due to oversight which was subsequently cancelled and no promotional benefit as well as financial benefit was given to the promotee. The promotion order was issued on 24.08.2009 and was subsequently cancelled on 31.08.2009 ( Copy of the despatch register is enclosed ) Respondent No.5 has never physically seen the applicant ( Shri A. Baral) since his joining at Rangiya . There is no reason to call the applicant personally to receive any letter since the procedure of delivering the official letters through receipt and despatch system, cases where employees come to office of their own, office hands over letters with acknowledgement. The allegation is denied and the applicant deserves to be dealt with under process of law for making false statement.

It is also respectfully stated that disciplinary action was initiated against the concerned Head clerk for processing the case of promotion of Sri D.P. Sarma without linking the interim order of stay granted by this Hon'ble Tribunal. For this the order of promotion was issued which has been a mistake and has been cancelled . The concerned Head clerk has been imposed with minor penalty of withholding of two sets of privilege passes by order dated 9/10/09

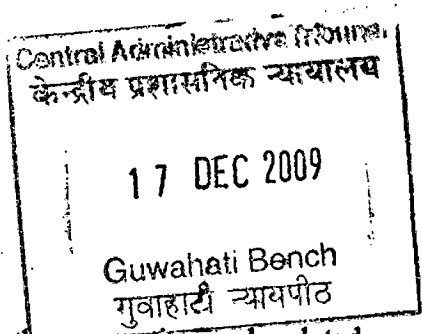
Copy of the despatch register is enclosed as Annexure CP-1

Copy of the order dated 9/10/09 is enclosed as Annexure CP-2

Filed by Respondent/OP 82  
No 5 through Dr. J. Santhan  
S. C. Railways.  
17/12/09

Nishi  
सहायक निदेशक  
Assistant Personnel Officer  
पू. सी. रेलवे रंगिया  
N. F. Rangiya

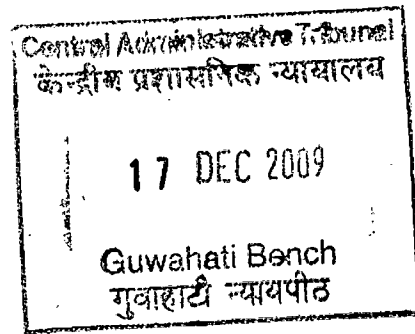
Received  
Usha Das  
Advocate  
17/12/09.



- 3) That in reply to statements in para3 it is stated that the promotion order dated 24.08.2009 was issued due to oversight which was cancelled on 31.08.09. There was no deliberate intention to issue the promotion order violating the Hon'ble CAT/GHY's order. The deponent is a law abiding person and has highest respect for judiciary, Hon'ble court, and Tribunals and tenders apology for the unintentional mistake as explained above.
- 4) That in reply to statement made in para 4 it is stated that individual affidavits in reply of all the respondents have been filed before the Hon'ble Tribunal.
- 5) That in the circumstances explained above, Hon'ble Tribunal may be pleased to dismiss/close the CP, for which the deponent shall remain ever grateful.

Nixi  
सहायक न्यायाधीश  
Assistant Personnel Officer  
प. सी. रे. कुवे. र. गंगा  
N. F. Rly, Rangiya

AFFIDAVIT



I, Sri N. K. Sultra Shau....., son of Sri H. R. C. Sultra Shau aged about 49..... years, a resident of Rangiya P.O. Rangiya..... District: Kamrup and presently working as Assistant Personnel Officer N.F. Railway Rangiya Division do hereby solemnly affirm and say that:

1. That I am the opposite party No5 in the aforesaid C.P. and as such is acquainted with the facts and circumstances of the case.
2. That the statements made in para 1 to 5 of this reply are true to my knowledge and belief and I have not suppressed any material facts.

AND I sign this affidavit on this 15<sup>th</sup> day of December.2009 at Guwahati.

Nisli Kaola Sultra Shau

DEPONENT  
সহায়ক কামিস ক অধিকারী  
Assistant Personnel Officer  
প.সি. রেলবে রংগিয়া  
N. F. Rly, Rangiya

Identified by

Advocate

Solemnly affirm and declare before me by the deponent who is identified to me by Sri S.N. Tamuli, advocate on this 15<sup>th</sup> Day December 2009.

DATE: 24-08-2009

01	No. E/Dist. Works/RN/2009 Dt. 24-08-09 Sub: Vetting of Reservation roster	Dy. CPO/RN केन्द्रीय प्रशासनिक न्यायालय
02	O/O No. EM/227/IDT/Loco/RNY/08 Dt. 21-08-09 Shri Krishna Kumar, ALP/NBA is hereby transferred from RNY Division to Katihar Division	GM(R)/MLG 17 DEC 2009 CME(R) Guwahati Bench DRM(R)/RNR
03	O/O No. EM/210/RNY/LP(Pass) Dt. 20-08-09 one year increment (NC) was imposed against Shri Pradip Gogoi, Sr. LPG/NBA	DME/NBA SSE/LOCO/NBA
04	O/O No. EM/210/RNY/LP(Pass) Dt. 20-08-09 Shri Sanatan Barman, Sr. LPG/NBA who was promoted to the post of 2P(Pass).	DME/NBA SSE/LOCO/NBA
05	O/O No. EM/283/RNY/Transition/Loco Dt. 20-08-09 Shri Pooresh Ch. Nath, Sr. Clerk/G under SSE/LOCO/NBA is transferred and temporarily posted under DSO/RNY	DME/NBA SE/LOCO/RPON
06	No. ET/142 Dt. 24-08-09 Sub: Leave, (Shri Rakesh Taki, ASM/NLP)	SS/NLP & Staff Concern
07	O/O No. E/220/Ext-Engg/RNY/20 (Loose) Dt. 24-08-09 Shri Durga Prasad Sharma, M.T. Driver Gr-1 under ADEN/BPRD has been found suitable for the post of MCM (M.T. Driver)	ADEN/BPRD & Staff Concerned
08		
09		

सहायक कार्यालय अधिकारी

Assistant Personnel Officer

पु. बी. रेड्डी, रंगिया

N. F. Railway, Rangia

DATE: 31-08-09

66

01	O/O No. E/280/RN(T)/MISC/34 Dt. 20-08-09 Shri Ravi Prakash, TTE/NBA is hereby transferred from Rangpur Division, N.F. Ry. to Dampuri Divn.	CCM/MLG	02	No. E.
02	DO -	GM(R)/MLG	03	No. E.
03	No. EM/227/YRT/Loce/RNY Dt. 31-08-09 Sub: Transfer 1) Shri Kaushal Kishan, ALP/NBA 2) Shri Abrar Ahmed, ALP/NBA	SS/Loco/NBA	04	No. E.
04	No. ET/17282 Dt. 28-8-09 Sub: Regularisation of RMC, PMC period Shri Jitu Barah SR PTR/NLP, SS/NLP	SS/NLP	05	No. E.
05	No. ET/174/DAR/09/Opt/RN Dt. 23-07-09 Sub: DAR ACTION Shri Udhav Koh, Ex. PTR/RPAN	SS/RPAN	06	No. E.
06	No. E/228/RN/Redeployment Pt-VI/09 Sub: Monthly Report regarding redeployment of Medically decategorised staff.	SPO/MPP/MLG	07	No. E.
07	No. E/PAO/Rest Engg/RNY/20(Loose) Dt. 31-08-09 Cancellation of promotion order in favour of Shri Dwaga Prasad Sharma M.T. Driver Gr-1 under ADEN/BPRD	Shri Antarzami Boroi MT Driver under ADEN/RNY	08	No. E.

DATE: 02-09-2009

01	O/O No. EM/210/RN/LP (Para) Dt. 01-09-09 Shri Monirul Hasan Memon, SR LPO/NBA was empanelled for promotion to the post of LP (Para)	SS/Loco/NBA & Staff concern.	02	No. E.
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केन्द्रीय सामयिक न्यायालय

7 DEC 2009

Guwahati Bench

सहायक कार्यालय अधिकारी  
Assistant Personnel Officer  
प. बी. रेडवे, रंगिया  
N.F. Railway, Rangiya



## NORTHEAST FRONTIER RAILWAY.

Office of the  
Divisional Railway Manager(P),  
Rangiya.

## MEMORANDUM

The undersigned being the Disciplinary Authority has gone through statement of defence dt. 8-9-09 submitted by the Charged Official against the Minor Penalty charge-sheet No. EQ/RN/LC(Minor Penalty) dt. 31-8-09, relied upon documents and all other facts and circumstances of the case.

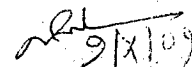
Charged Official has mentioned in his defence dt. 8-9-09 that the promotion case was put up as the existence of interim order was not known to him. The undersigned on going through the noting of promotion in case No. E/240/(Rest Engg.)/RNY/20(Loose) discussed with C.O. two times and enquired if there is any order against the OA No. 55/2009 but C.O. replied that there is no order. The undersigned also asked the C.O. to discuss the issue with the court case dealer but C.O. put up the case clearly mentioning that there is no injunction. The promotion case was processed based on C.O.'s noting. Had the C.O. been more careful and sincere in his duty the mistake in issuing the promotion order could have been avoided.

However, keeping in view of C.O.'s ignorance about the interim order, a lenient view is taken and to meet the ends of justice, a penalty of withholding of two sets privilege passes for the year ending 08-09 is imposed.

Appeal, if any, lies to next higher authority which may be preferred to within 45 days from the receipt of this order.

To  
Shri Lauga Choudhury,  
Hd. Clerk/E at Office

No. No. EQ/RN/LC(Minor Penalty)

  
(N. K. Sutradhar)  
Asstt. Personnel Officer/II  
N.F. Railway, Rangiya  
सहायक कामि क अधिकारी  
Assistant Personnel Officer  
पू. झी. रेडवे, रंगिया  
N. F. Railway, Rangiya

dt. 9-10-09

Copy to :

1. E/Pass
2. S/Copy

