

14

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./TA/ NO. 237/2009 - ~~2008~~
R.A./CP/NO. 2015
E.P./M.P./NO. 8/11, 2015

MP 08/11 order sheet 2 pg - 1 to 3 ✓
do - 12/10 do - 3 pg 1 to 6 ✓
do - 145/10 do - 3 pg - 1 to 4 ✓

MP 8/11, 12/10, 145/10, MP 166/09,
MP 91/2011.

1. Order Sheets..... 9 pg to 13 ✓

do - 166/09 4 pg - 01 to 07 ✓
do - 91/2011 1 pg - 01 to 01 ✓

2. Judgment/ order dtd. 31.10.2011 pg..... 01..... to..... 03 ✓

3. Judgment & Order dtd..... received from H.C. /Supreme Court.

O.A. 237/09 An affidavit on behalf of Respon - 01 to 10

4. O.A. 237 page..... 01 to..... 29 ✓

O.A. 237/09 clarification on behalf of Respon - 01 to 09 ✓
do - do Adm. do - W.S. 01 to 03 ✓

5. E.P./M.P. 12/2010 page..... 01 to..... 10 ✓

166/09 vacation of interim order pg - 01 to 10 ✓
145/10 arbitrary unguar. pg 01 to 14 ✓

6. R.A./C.P. page..... to.....

7. W.S. filed on behalf of Respon Page..... 01 to..... 15 ✓

8. Rejoinder filed by the applicant page..... 01 to..... 08 ✓

9. Reply to applicat. against the clarification page..... 01 to..... 12 ✓

10. Any other papers page..... to.....

11 MP. 91/2011 arbitrary unguar pg - 01 to 06 ✓

27/7/2015

SECTION OFFICER (JUDL.)

27/7/2015

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

1. Original Application No : 237 / 2009

2. Misc. Petition No : ----- in O.A. No.-----

3. Contempt Petition No : ----- in O.A. No.-----

4. Review Application No : ----- in O.A. No.-----

5. Execution Petition No : ----- in O.A. No.-----

Applicant (S) : Shri Titendra Nath Barman

Respondent (S) : Union of Ind's Emps.

Advocate for the : Ms. U. Das.

{Applicant (S)} Mr. R. Debnath.

Advocate for the : -----

{Respondent (S)} Rly Counsel.

Notes of the Registry	Date	Order of the Tribunal
<p>Application No. 237/09 is filed for the purpose of depositing the amount of Rs. 396.44/100. Dated 12/11/09.</p> <p><i>[Signature]</i> Dy. Registrar 12/11/09</p> <p>12.11.09</p> <p>Four copies of application with envelope received for issue notices to the Respondent No. 1 to 4 with undertaking to serve a copy of the same to the Rly. Counsel.</p> <p><i>[Signature]</i> 12/11/09.</p>	13.11.2009	<p>Grievance of applicant is that on earlier occasion vacancies for the post of Assistant Law Officer had been notified, wherein one vacancy was reserved for SC and one vacancy for General category. Later said notification was cancelled and further notification dated 17.09.2009 has been issued only for one vacancy and that too for general category. His contention is that he is the seniormost supervisory staff (CLA) of legal cadre and he will lose his status as well as benefits enjoyed and conferred to his community, if he does not participate in said selection process and there is no justification not to notify all vacancies, particularly for SC Community, when respondents issued notification dated 17.09.2009 for the post of Assistant Law Officer, Group B. Learned counsel for applicant states that written</p>

2- O.A.N.O. 237/2009
examination, in terms of notification dated 07.09.2009 is scheduled for 23.11.2009. In view of above, admit.

Dr J.L. Sarkar, learned counsel for respondents, who is present in court, accepts notice. Thus, service of notice is complete.

Contention of applicant is that such written examination be stayed or be kept in abeyance. Respondents are directed to file their version on the subject within a period of two weeks. Till then, we expect respondents will not finalise the selection.

List on 03.12.2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkm

03.12.2009

Dr. M.C. Sharma, learned Railway Standing counsel for Respondents has submitted a written letter of absence for his personal difficulties.

List on 04th December, 2009

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

04.12.2009

Reply has been filed with copy to the applicant. In the meantime applicant may file rejoinder within 10 days.

List on 17.12.2009.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

Order copy sent
19.11.09
Applicant

Notice and order date
13/11/09 were received
on 24/11/09.
on behalf of Dr J.L. Sarkar
S.C. Railways.

No w/s filed.
2.12.09

4.12.09
w/s filed
by the Respondents.
Through Dr M.C.
Sharma, Rly. Counsel.
4/12/09.

No rejoinder filed.

16.12.09

under filed

17.12.2009 On the request of Ms. U.Das, learned counsel for the Applicant, case is adjourned to 29.1.2010.

List on 29.1.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

The case is ready
for hearing.

29.01.2010

Ms.U.Das, learned counsel for Applicant states that Dr.M.C.Sarma, learned Railway counsel is un-well. Therefore, adjourned to 03.02.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

The case is ready
for hearing.

03.02.2010

On the request of Ms.Usha Das, learned Addl. C.G.S.C., adjourned to 10.02.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

The case is ready
for hearing.

10.2.2010

List the matter on 17.2.2010.

(Madan Kumar Chaturvedi)
Member (A)

/lm/

22.2.2010

14-

O.A.237-09

17.02.2010

We notice that present Applicants have filed two other proceedings before this Tribunal, namely, O.A. Nos.22/2010 and 03/2010. Later is listed on 23.02.2010, while the earlier is listed on 19.03.2010. We are not inclined to grant longer adjournment and therefore, list on 23.02.210 along with both O.A.s.

she case is ready for hearing

22.2.2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

23.02.2010

Due to paucity of time this matter could not be taken up today.

List on 11.3.2010.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

11.03.2010

Due to non availability of Division Bench, this case could not be taken up today.

List on 25th March 2010.

(Mukesh Kumar Gupta)
Member (J)

/pb/

25.03.2010

Being Division Bench matter list on 21.04.2010.

(Madan Kr. Chaturvedi)
Member (A)

/pb/

she case is ready for hearing

10.3.2010

she case is ready for hearing

24.3.2010

she case is ready for hearing

20.4.2010

21.4.2010

Ms.U.Das, learned counsel for Applicant in O.A.237 2009 states that Mr.M.A.Sheikh learned counsel for Applicant in O.A.No.3 of 2010 and O.A.No.22 of 2010, is unwell and hospitalized, and prays for four weeks time. Dr.M.C.Sarma, learned counsel for Railways has no objection for adjournment of this case.

List the matter on 21.5.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

lm

21.05.2010

The basic grievance of the applicant is that vide communication dated 07.09.2009, respondents have cancelled notification dated 12.05.2006 inviting applications for 2 posts of Assistant Law Officer/Group B (one for UR and one for SC) in the pay scale of Rs.7500-12000/- without assigning any reason. Later, immediately thereafter, on 17.09.2009 the respondents issued notification for filling up one unreserved post. Thus, basic thrust of the applicant is that he being belonging to SC community has been debarred from appearing in selection against a post reserved for his category. This is violative of Article 14 and said exercise has been undertaken with collateral purpose.

Respondents have filed their affidavit stating that Railway Board issued RBE No.78/2007 dated 18.05.2007 and decided that the upgraded Group B posts of Law Officer to be filled by by seniormost Chief Law Assistant in scale of Rs.7450-11500/-, subject to the candidate being found fit for promotion to Group B, through a screening process consisting of written examination and

Contd...

O.A.237/2009

Contd.
21.05.2010

viva voce (including assessment of record of service) with the same qualifying marks as prescribed of Group B selections. It was further clarified that above procedure shall be followed for filling up only those Group B posts of Law Officer, which were upgraded in terms of Board's letter dated 09.03.2006 and not for the "normal vacancies" in the Group B posts, for which separate instructions would be issued. Thereafter another RBE no.19/2008 dated 04.02.2010 had been issued by the Railway Board, which again reiterated that normal vacancies for Group B, Assistant Law Officer excluding those Group B posts, which were upgraded vide letter dated 09.03.2006, may continue to be filled up as per extant Recruitment Rules, 1992 and hence, Chief Law Assistants with 3 years of regular service should be considered for promotion to Assistant Law Officer pending decision of further upgradation of posts of Chief Law Assistants to Group B.

Vide reply paras 5.6 with reference to O.A. para 4.9, it was stated that earlier notification dated 12.05.2006 was issued for 2 posts - one against the upgraded post of Assistant Law Officer and other against vacancy of construction organization. As far as upgraded post is concerned, the same will be regulated in terms of RBE No.78/2007. In the circumstances, only one vacancy remains for construction department, which has to be treated as unreserved.

We have heard Ms.U.Das, learned counsel for applicant and Dr.M.C.Sarma, learned counsel for the respondents.

Contd...

Contd.
21.05.2010

The precise question, which requires determination, is why the post which had been notified for SC community has been turned into general category, particularly when it was meant for SC in terms of roster so followed. If a roster vacancy was meant for SC community, how it can change colour to general category vacancy? This aspect has not been answered in the reply or during the course of hearing. Furthermore, if there is one vacancy of construction department, it has to be filled up by following normal procedure under Recruitment Rules, 1992. Question of reserved or unreserved vacancy will be meaningless.

Respondents are required to file affidavit clarifying all the aspects indicating:-

- (i) Why notification dated 12.05.2006 was cancelled only on 07.09.2009 virtually after passage of more than 2 years, when in the meantime RBE No.78/2007 as well as RBE no.19/2008 were issued on 18.05.2007 and 04.02.2010 respectively?
- (ii) What is the basic reason for canceling earlier notification dated 12.05.2006 as the communication dated 07.09.2009 did not assign any reason much less than plausible reason?
- (iii) What steps have been taken so that rights of candidates coming from SC community is protected and vacancy meant for reserved category is filled up?

Contd...

O.A.237/2009

Contd.
21.05.2010

This shall be done by way of affidavit to be filed within three weeks from today. Respondents should also place on record the roster and the manner in which same has been operated.

List on 22.06.2010. Copy of this order be made available to learned counsel for the respondents for necessary compliance.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

The case is ready
for hearing.

22.06.2010

Dr.M.C.Sarma, learned counsel for the respondents, prays for adjournment. List on 16.07.2010.

(Mukesh Kumar Gupta)
Member (J)

/bb/

The case is ready
for hearing.

16.07.2010

Ms.U.Das, learned counsel for the applicant states that Dr.M.C.Sarma, learned counsel for the respondents in not keeping well and has made a request through her for adjournment of the case.

List on 05.08.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

Additional w/s filed
on behalf of the
respondent.

4.8.2010

05.08.2010

Respondents have filed an affidavit in terms of order passed on 21.05.2010. On perusal of the same, we are not quite convinced with the reasons assigned as far as issue No.1 detailed therein in particular is concerned. Dr M.C. Sarma, learned counsel for the respondents after arguing for some time prays adjournment to obtain appropriate instructions and place on record the order vide which concerned post was created in construction Department and later due to depletion of work had to be reduced/abolished.

List on 24.08.2010.

Copy of order be made available to learned counsel for the respondents for compliance.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

ii

24.08.2010

Dr. M.C.Sarma, learned counsel appearing for the respondents has made a written request to adjourn this matter due to his health ^{condition} check up.

List on 20.9.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pg/

ii

Written request
filed by The respondents.

24.8.2010

The case is ready
for hearing.

17.9.2010

Had copy of order dt. 05/08/2010
received
12/08/2010
M.C. Sarma. nkm

O.A. No. 237 of 2009

20.09.2010

Proxy counsel for Ms. U. Das, learned counsel for Applicant prays for adjournment stating that she is unwell, even counsel for Respondents is not present.

List on 27th September 2010, as prayed for.

The case is ready
for hearing.

24.9.2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

27.09.2010

Ms. R. Borah, enters appearance, Proxy counsel for Ms. B. Devi, states that she has been engaged in this O.A. yesterday and prays four weeks time to go through the case. Request is not entertained. However, time is granted.

List on 30th September 2010.

Vakalatnama filed
by Mrs. B. Devi,
Rly. Adv.

29.9.2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pb/

30.09.2010 On the request of proxy counsel for respondents list on 5.10.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/pg/

05.10.2010 Present: Ms.U.Das for applicant

Ms.B.Devi for respondents

Being Division Bench matter and on the request of both sides, list on 08.11.2010.

(Mukesh Kumar Gupta)
Member (J)

The case is ready
for hearing.

4.11.2010

/bb/

08.11.2010 List before the Division Bench on
15.12.2010.

28-1-2011

① Reply filed by The
applicant, against
the clarification
submitted by The
respondants.

nkm

(Madan Kumar Chaturvedi)
Member (A)

15.12.2010 Place it before the Division Bench at the
earliest possible date. Adjourned sine die.

(Madan Kumar Chaturvedi)
Member (A)

② Reply filed by The
applicant, against
The Add. Clarificatory
wfs filed by The
respondants.

/bb/

The case is ready
for hearing.

25.2.2010

28.02.2011 On the request of Mr.M.U.Ahmed,
learned counsel for the applicant, matter is
adjourned to 01.03.2011.

(Bharati Ray)
Member (J)

(Madan Kumar Chaturvedi)
Member (A)

28.02.2011

On the request of Mr.M.U.Ahmed, learned counsel for the applicant, matter is adjourned to 01.03.2011.

(Madan Kumar Chaturvedi)
Member (A)

(Bharati Ray)
Member (J)

/bb/

01.03.2011

The matter is adjourned and posted before the next available Division Bench.

(Madan Kumar Chaturvedi)
Member (A)

(Bharati Ray)
Member (J)

/PB/

26.04.2011

On the joint request made by counsel on behalf of both the parties, list the matter on 03.05.2011.

(M.K.Chaturvedi)
Member (A)

(N.A.Britto)
Member (J)

/bb/

03.05.2011

None present for the applicant. Ms B. Devi, learned counsel for the respondents is present.

List on 19.05.2011. Affidavit filed by Ms B. Devi is kept on record.

(M.K.Chaturvedi)
Member (A)

(N.A.Britto)
Member (J)

19.05.2011

Mr.M.H.Choudhury, learned counsel on behalf of the applicant states that his senior Mr.M.A.Sheikh is unwell, and therefore, he is unable to appear before the Tribunal. Mrs.B.Devi, learned counsel for the respondents is present and has no objection for adjournment.

Fix the matter for final hearing on 07.06.2011. It is made clear that no further adjournment may be granted.

(M.K.Chaturvedi)
Member (A)

(N.A.Britto)
Member (J)

/bb/

17-3-11

The case is ready for hearing.

17/3/11

2.5.2011

The case is ready for hearing.

3-5-2011

An affidavit filed by The respondents at page-107 to 116.

13-

O.A.237/2009

07.06.2011

This is a Division Bench matter. Place it before the Division Bench at the earliest possible date. Adjourned sine die.

[Signature]

(Madan Kumar Chaturvedi)
Member (A)

/bb/

06.09.2011

Ms. B.R. Doloi, proxy counsel for Mr. M.A. Sheikh, learned counsel for the Applicant prayed for time on the ground of some personal difficulty of Mr. Sheikh. Mrs. B. Devi, learned counsel is present for the Respondents.

Place it before the next available Division Bench.

[Signature]

(S.K. Kaushik)
Member (J)

[Signature]

(M. K. Chaturvedi)
Member (A)

PB

13.09.2011

This is a Division Bench matter. Place it before the next available Division Bench. Adjourned sine die.

[Signature]

(Madan Kumar Chaturvedi)
Member (A)

/bb/

31.10.2011

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

[Signature]

(Manjula Das)
Member (J)

[Signature]

(Madan Kumar Chaturvedi)
Member (A)

/bb/

2/11/11

Final Order dtd. 31.10.11
issued to the parties
vide No. 1886-1890
Dtd. 4.11.11.

[Signature]

Received copy
on behalf of Ms. B. Devi
for Respondents,

Nava Kanta Das
Adv.
2/11/2011.

5-9-11
The case is ready
for hearing.

5/9

28-10-11
The case is ready
for hearing.

28/10

15

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 237 of 2009 with MPs

DATE OF DECISION: 31.10.2011

Sri J.N.Barman

.....Applicant/s.

Mr.M.A.Sheikh

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

- Versus -

U.O.I. & Ors

.....Respondent/s

Mrs.B.Devi, Railway counsel

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR M. K. CHATURVEDI, ADMINISTRATIVE MEMBER

THE HON'BLE MRS MANJULA DAS, JUDICIAL MEMBER

- | | | |
|----|---|--------------------|
| 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 (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.237 of 2009

With

Misc. Application Nos. 166/2009, 12/2010, 145/2010, 08/2011 & 91/2011

Date of Decision: This, the 31st day of October, 2011.

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

HON'BLE SMTI MANJULA DAS, JUDICIAL MEMBER

Shri Jitendra Nath Barman
Chief Law Assistant
N.F.Railway, Tinsukia
Son of Late Thaneswar Barman
Village Parakuchi,
P.O.Sondha
P.S. and District-Nalbari (Assam).

... Applicant

By Advocate: Mr.M.A.Sheikh

-Versus-

1. Union of India
Represented by the Secretary
Ministry of Railway,
Govt. of India
New Delhi-110001
2. The General Manager
N.F.Railway, Maligaon
Guwahati-781011
3. The General Manager (Personnel)
N.F.Railway, Maligaon
Guwahati-781011.
4. The Chairman
Railway Board, Rail Bhawan
New Delhi-110001.

... Respondents

By Advocate: Mrs. B.Devi, Railway counsel.



ORDER (ORAL)**MADAN KUMAR CHATURVEDI, MEMBER (A):**

By this OA applicant makes a prayer to set aside and quash the order dated 07.09.2009 by which notification for selection for the post of Assistant Law Officer (ALO) Group B was cancelled.

2. The general conspectus of the main plank of respondents' argument is that applicant did not give his willingness to appear in the selection process, as such he was not considered.

3. Mr.M.A.Sheikh, learned counsel for the applicant submitted that said post was notified for the Scheduled Caste community, but it has been turned into general category. As such, applicant declined to give his consent as required by the respondents.

4. Mrs.B.Devi, learned counsel for the respondents invited our attention on the letter dated 25.04.2011 wherein it was clarified that the competent authority accorded his consent to hold selection for forming a penal of 1 SC person for the upgraded post of Assistant Law Officer, Group B in the scale of pay of Rs.9300-34800/- + Rs.4800/-. It is further pointed out in the said letter that applicant is the seniormost Chief Law Assistant and is eligible to appear for the said post. Mr.Sheikh submitted that applicant did appear in the written examination held on 12.09.2011 and is awaiting for the result. It was further informed that applicant is retiring on attaining the age of superannuation on 31st December, 2011, as such, matter may be expedited.



12

5. Both the parties agreed that in order to render justice result of the aforesaid examination be declared within seven days from today.

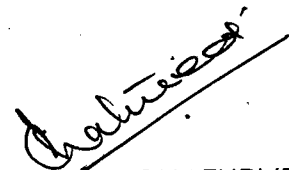
6. Without going into the merits of the case, we, hereby, direct the respondent no.3 to declare the result of the examination within seven days from today. OA stands disposed of accordingly. No costs.

7. MP Nos.12/2010, 145/2010, 08/2011 & 91/2011 stands disposed of. Stay granted vide order dated 13.11.2009 stands vacated. Accordingly, MP No.166/2009 stands allowed.



(MANJULA DAS)
MEMBER (J)

/BB/



(MADAN KUMAR CHATURVEDI)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Title of the case :

OA No. ²³⁷ of 2009

BETWEEN

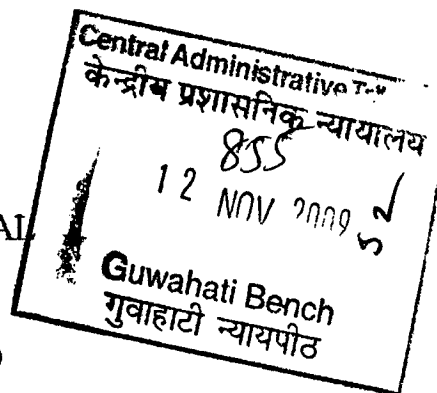
Shri Jitendra Nath Barman

.....Applicant

AND

UNION OF INDIA & ORS

.....RESPONDENTS



I N D E X

Sl No. Particulars Page No.

1. Original Application ----- 1-12,

2. Verification ----- 13,

3. Annexure-1 ----- 14,

4. Annexure-2 ----- 15,

5. Annexure-3 ----- 16-17.

6. Annexure-4 ----- 18,

7. Annexure-5 ----- 19,

8. Annexure-6 ----- 20,

9. Annexure-7 ----- 21,

10. Annexure-8 ----- 22,

11. Annexure-9 ----- 23,

12. Annexure-10 ----- 24,

13. Annexure-11 ----- 25-26

14. Annexure-12 ----- 27

15. Annexure-13 ----- 28-29.

16-

Filed by :

Usha Das

Advocate

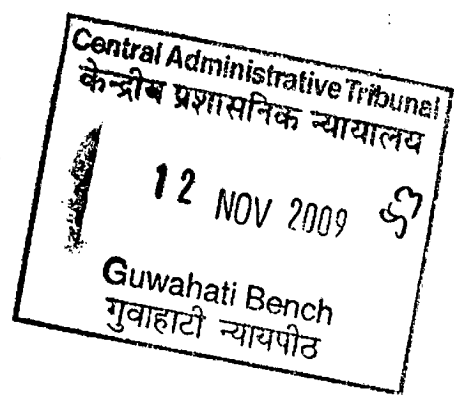
Usha Das

Date:

30-45
12/11/09

17. Refanda ----- 46-53

18. MP No 166/09 ----- 54-55



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

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

OA No. 237 /09

Shri Jitendra Nath Barman

.....applicant

-versus-

Union of India & ors

.....respondents

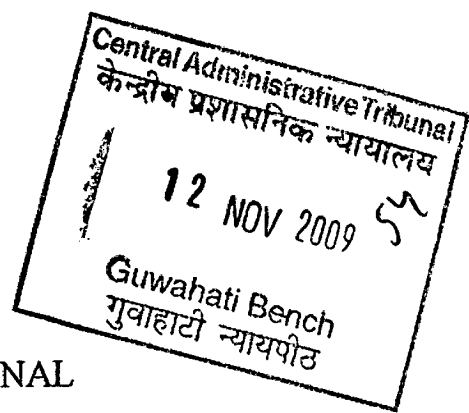
List of Dates

DATES

PARTICULARS

- 1) 01.10.1989: The applicant appointed as Law Assistant by the respondents
- 2) 01.11.1989: The applicant joined as Law Assistant at Maligaon
- 3) 17.8.1994: Promoted the applicant to the post of Chief Law Assistant by order date w.e.f. 01.3.1993
- 4) 12.5.2006: The respondents issued order advertising 2 (two) (SC=1 and UR=1) posts of Assistant Law Officer
- 5) 10.9.2008 : The applicant filed representation before the respondents.
- 6) 11.11.2008 : Reply submitted by the Public Information Officer
- 7) 06.8.2009: the applicant preferred representation before the concerned authorities.
- 8) 07.9.2009: The Respondents cancelled the earlier letter dated 12.5.2006
- 9) 16.9.2009 : The applicant field another representation before the respondents seeking information for cancellation of the order dated 12.5.2006

Filed by
Usha Das.
Advocate



1

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

An application under section 19 of the Administrative Tribunal Act, 1985

OA NO. 237/2009

BETWEEN

Shri Jiten Nath Barman

.....Applicant

VERSUS

1. Union of India

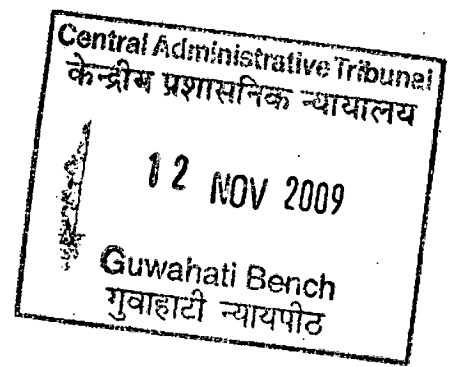
.....Respondents

SYNOPSIS

This application is made against the impugned order bearing No. E/254/III/16/(0)/Pt. 1 Dated 07.9.2009 issued by the GM (P)/ N. F. Railway, Maligaon, whereby order dated 12.5.2006 for selection to form a panel of 02 (UR=1 & SC=1) persons for the post of Assistant Law Officer/Group 'B' has been cancelled without assigning any valid reason and also against the order under No. E/354/III/16(0) dated 17.9.2009 passed by GM (P)/ N. F. Railway whereby it has been decided to hold a selection for forming a panel of 1 (one) person for the post of Assistant Law Officer Group- 'B' keeping the vacancy earmarked for SC candidate vacant without valid reason.

The applicant was selected and appointed by the concerned authority of N. F. Railway, Maligaon as Law Assistant vide the appointment letter dated 01.10.1989 and was posted at Maligaon, Headquarter, N. F. Railway. He joined the post by joining letter dated 01.11.1989

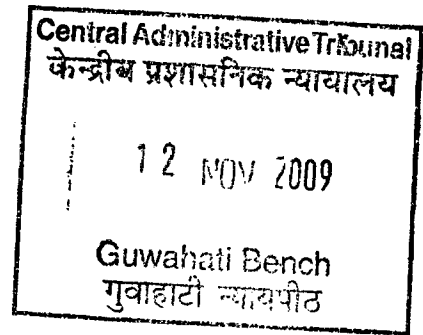
While he was working with the aforesaid capacity in the HQ N. F. Railway, Maligaon, he was promoted to the post of Chief Law Assistant by order dated



17.8.1994 passed by the concerned authority with effect from 01.3.1993 and posted in the aforesaid Head quarter itself.

The applicant was working at Rangia Division as Chief Law Assistant; the respondent No. 2 issued an order under No. E/254/III/16(0) dated 12.5.2006 whereby it was decided to form a penal of 02 (UR=1 & SC=1) persons for the post of Assistant Law Officer/ Group 'B'. With that order a list of Sr. Supervisory staff of legal cadre, who were eligible to appear for the said selection enclosed in the main list and in the standby list as Annexure- 1 in order of seniority. In the said Annexure- 1, the name of the applicant was placed in the SL No. 1 in main list as Sc candidate. In other words the applicant was the senior most supervisory staff (CLA) of legal Officer (Group- B). It was directed to the concerned officer to obtain willingness/unwillingness from the said enlisted candidates and to reach the same to the office of the respondent No. 3 by 12.6.2006 and on being asked by the authority concerned the applicant gave his willingness on the same before 12.6.2006 and he was waiting with legitimate expectation that necessary coaching would be given to him and he would be selected and would be appointed as Assistant Law Officer, Group- 'B'. His expectation for appointment was fortified on the ground that not only he was the senior most but he was the only SC candidate and out of two posts, one post was reserved for SC but the subsequent illegal and arbitrary action on the part of respondents has belied the entire legitimate expectation of the applicant.

The applicant filed another representation dated 06.08.2009 to the respondent No.3 whereby the applicant prayed that he might be informed about the probable date by which the selection for the post of ALO in pursuance of order dated 12.6.2006 would be held. A copy of the said representation was also sent to the Chairman, Railway Board, Rail Bhawan, New Delhi praying for supply of policy directives of Railway Board to the applicant which was referred in order dated 02.2.2009 and also prayed that the applicant may be intimated with the probable month by which the selection for ALO in Rangia Division (N. F. Railway) would be held but till date no response from the respondent No. 3 and 4 has been received by the applicant.



3

After more than 3 years the respondent No.3 most arbitrarily issued the impugned order under No. E/254/III/16(0)/Pt. I dated 07.9.2009 whereby the selection of ALO against one post as advertisement in the aforesaid notification dated 12.5.2006 was cancelled without any valid reason.

The applicant filed another representation dated 16.9.2009 to the Deputy General Manager, Guwahati, whereby the applicant *inter-alia* prayed for information of the reasons of cancellation of the order dated 12.5.2006 for holding the selection for the post of ALO Group 'B' by the order dated 17.9.2009, which is still pending.

The applicant is legally entitled for consideration, applicant's legitimate claim as SC candidate is not sustainable in the eye of law. Therefore finding no there alternative the applicant has approached the Hon'ble to the post of Assistant Law Officer on ad-hoc basis as per Railway Board's letter till completion of process of selection against the vacancy reserved for SC category is completed. Hence this Original Application.

Filed by
Alsha Das.
Advocate

1
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

An application under section 19 of the Administrative Tribunal Act, 1985

OA NO. /2009

BETWEEN

Shri Jitendra Nath Barman

Chief Law Assistant,

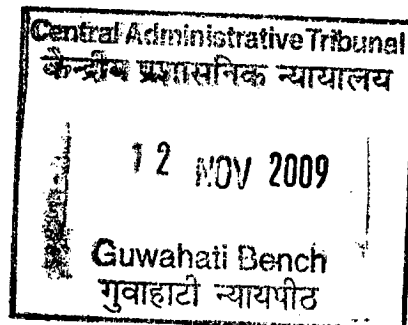
N. F. Railway, Tinsukia

Son of Late Thaneswar Barman

Village Parakuchi, P.O.- Sondha

P.S. and Dist- Nalbari (Assam)

.....Applicant



VERSUS

1. Union of India

Represented by the Secretary

Ministry of Railway, Govt. of India,

New Delhi-110001

2. The General Manger

N. F. Railway

Maligaon, Guwahati- 781011

3. The General Manager (Personnel)

N. F. Railway, Maligaon

Guwahati- 781011

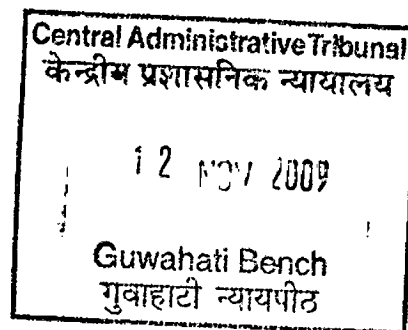
Shri Jitendra Nath Barman
Filed by
the applicant through
Asha Das,
Advocate
12/11/2009

4. The Chairman

Railway Board

Rail Bhawan, New Delhi-110001

2



12/11/09
12/11/09
12/11/09

.....Respondents

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:

This application is made against the impugned order bearing No. E/254/III/16/(0)/Pt. I Dated 07.9.2009 issued by the GM (P)/ N. F. Railway, Maligaon, whereby order dated 12.5.2006 for selection to form a panel of 02 (UR=1 & SC=1) persons for the post of Assistant Law Officer/Group 'B' has been cancelled without assigning any valid reason and also against the order under No. E/354/III/16(0) dated 17.9.2009 passed by GM (P)/ N. F. Railway whereby it has been decided to hold a selection for forming a panel of 1 (one) person for the post of Assistant Law Officer Group- 'B' keeping the vacancy earmarked for SC candidate vacant without valid reason.

2. JURISDICTION

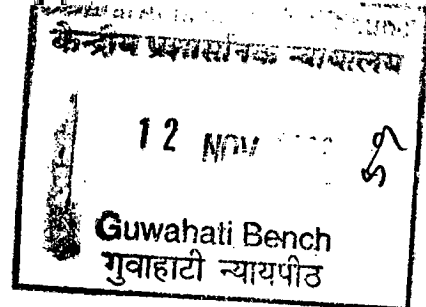
The applicant further declares that the subject matter of the instant application well is within the Jurisdiction of the Administrative Tribunal.

3. LIMITATION:

The applicant declares that the instant application is within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE:

4.1) That the applicant is a citizen of India and permanent resident of Village- Parakuchi, P.O. Sondha, P.S. & District - Nalbari, Assam. The applicant



Sri Jitendra Nath Barman

3

belongs to Scheduled Caste community of Assam. As such he is entitled to all the rights, privileges and protections as guaranteed under the Constitution of India and the relevant Laws framed there under.

- 4.2) That the applicant was selected and appointed by the concerned authority of N. F. Railway, Maligaon as Law Assistant *vides the appointment letter dated 01.10.1989* and was posted at Maligaon, Headquarter, N. F. Railway. He joined the post by joining letter dated 01.11.1989.

A copy of the appointment letter is enclosed herewith and marked as Annexure-1.

- 4.3) That while he was working with the aforesaid capacity in the HQ N. F. Railway, Maligaon, he was promoted to the post of Chief Law Assistant by order dated 17.8.1994 passed by the concerned authority with effect from 01.3.1993 and posted in the aforesaid Head quarter itself.

A copy of promotion order dated 17.8.1994 is annexed here with and marked as Annexure-2.

- 4.4) That the applicant gave option for transfer to Rangia Division, N. F. Railway as because the Head Quarter of Rangia Division is nearer to his residence than Maligaon, Head quarter. Accordingly, he was transferred by an order dated 01.4.2003 and he was released from Head Quarter by order dated 30.4.2003 and he joined at Rangia on 10.5.2003.

- 4.5) That the applicant begs to submit that while the applicant was working at Rangia Division as Chief Law Assistant, the respondent No. 2 issued an order under No. E/254/III/16(0) dated 12.5.2006 whereby it was decided to form a penal of 02 (UR=1& SC=1) persons for the post of Assistant Law Officer/ Group 'B'. With that order a list of Sr. Supervisory staff of legal cadre, who

12 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

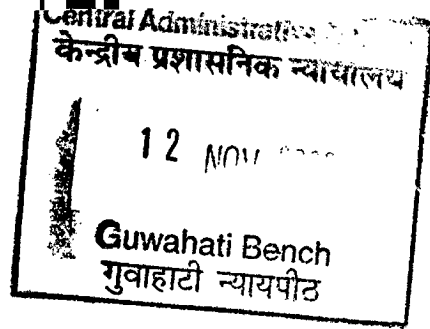
4

were eligible to appear for the said selection enclosed in the main list and in the standby list as Annexure- 1 in order of seniority. In the said Annexure-1, the name of the applicant was placed in the SL No. 1 in main list as SC candidate. In other words the applicant was the senior most supervisory staff (CLA) of legal Officer (Group- B). It was directed to the concerned officer to obtain willingness/unwillingness from the said enlisted candidates and to reach the same to the office of the respondent No. 3 by 12.6.2006 and on being asked by the authority concerned the applicant gave his willingness on the same before 12.6.2006 and he was waiting with legitimate expectation that necessary coaching would be given to him and he would be selected and would be appointed as Assistant Law Officer, Group- 'B'. His expectation for appointment was fortified on the ground that not only he was the senior most but he was the only SC candidate and out of two posts, one post was reserved for SC but the subsequent illegal and arbitrary action on the part of respondents has belied the entire legitimate expectation of the applicant.

A copy of the order dated 12.5.2006 is annexed herewith and marked as Annexure-3

- 4.6) That the applicant begs to submit that instead of holding of interview in pursuance of advertisement dated 12.5.2006, an order under No. E/254/84/Pt. VII (T) loose Dated 05.7.2006 was passed by the responded No. 4 whereby the applicant was transferred and posted under DRM (P), Tinsukia on administrative ground with immediate effect. The said transfer order was passed by variation one post of CLA attached to DRM (P), Rangia and one post of Law Assistant attached to DRM (P)/TSK and vice-versa for a period of one year from the date of operation till such time the post of ALO Group 'B' attached to Rangia Division is filled up whichever is earlier. The transfer order dated 05.7.2006 was initially for one year and subsequently by order under No. E/254/84/Pt. VII (T) Loose dated 24.10.2007 and by order under

60
Sri Jitendra Nath Barman



5

No. E/254/99/ Pt. VII (T) Loose dated 21.01.2009, the applicant was allowed to continue in the office if DRM (P)/TSK. The applicant after transfer has been working at the office of the DRM (P), Tinsukia till date.

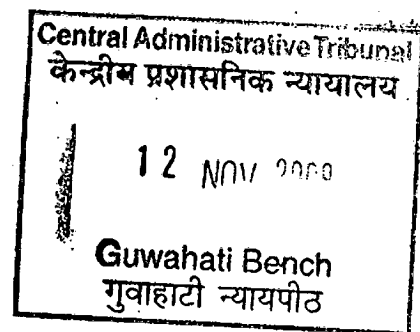
A copy of the order dated 05.7.2006 is annexed herewith and marked as Annxure-4

51
Sri Jitendra Nath Barman

- 4.7) That the applicant begs to submit that while working at Tisukia Division, the applicant filed a representation dated 10.9.2008 before the CPO, N.F. Railway and public information office, N. F. Railway, whereby the applicant inter-alia prayed for information for the reasons of keeping pending examination from the year 2006 for holding selection for the post of ALO (Group-B). In response to the said representation the Respondents prepared the reason by letter dated 24.10.2008 addressed to the Dy. DGM(G) cum Public Information Officer, Head quarter and by letter dated 11.11.2008 the said Deputy General Manager (G) Cum Public Information Officer communicated the said reasons to the applicant.

Copies of the representation dated 10.9.2008, letter dated 11.11.2008 and 24.10.2008 are annexed herewith and marked Annexure- 5, 6 and 7 respectively.

- 4.8) That the filed another representation dated 06.08.2009 to the respondent No.3 whereby the applicant prayed that he might be informed about the probable date by which the selection fro the post of ALO in pursuance of order dated 12.6.2006 would be held. A copy of the said representation was also sent to the Chairman, Railway Board, Rail Bhawan, New Delhi praying for supply of policy directives of Railway Board to the applicant which was referred in order dated 02.2.2009 and also prayed that the applicant may be intimated with the probable month by which the selection for ALO in Rangia Division



6

(N. F. Railway) would be held but till date no response from the respondent No. 3 and 4 has been received by the applicant.

Copy of the representation dated 06.8.2009 is annexed herewith and marked as Annxure-8

- 4.9) That te applicant begs to submit that after moiré than 3 years the respondent No.3 most arbitrarily issued the impugned order under No. E/254/III/16(0)/Pt. I dated 07.9.2009 whereby the selection of ALO against one post as advertisement in the aforesaid notification dated 12.5.2006 (Annexure-F) was cancelled without any valid reason.

A copy of the letter dated 07.9.2009 is annexed herewith and marked as Annxure-9

- 4.10) That the applicant begs to submit that by the order under No. E/254/III/16(0) dated 17.9.2009 passed by the respondent No. 3, it is decided to hold a section for forming a panel of 1 (one) person for the post of Assistant Law Officer 'Group-B' and no post is reserved for SC candidate, whereas the post reserved for SC is still lying vacant.

A copy of the order dated 17.9.2009 is annexed herewith and marked as Annxure-10.

- 4.11) That the applicant begs to state that the applicant filed another representation dated 16.9.2009 to the Deputy General Manger, Guwahati, whereby the applicant inter-alia prayed for information of the reasons of cancellation of the order dated 12.5.2006 fro holding the selection for the post of ALO Group 'B' by the order dated 17.9.2009, which is still pending.

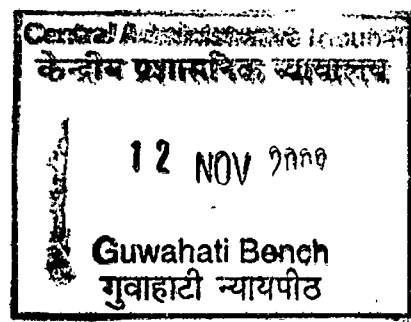
A copy of the letter dated 16.9.2009 is annexed herewith and marked as Annxure-11.

82
Sri Jitendra Nath Barman

- 4.12) That the applicant begs to states that there are instances in the N. F. Railway to allow the person in the post of ALO Group-'B' on ad-hoc basis as per the Railway Board's Letter No. 83-E(SCT)23/1 dated 19th September 1983. the case of the applicant is a fit case where the respondents can allow the applicant to work in a post of ALO Group 'B' on ad-hoc basis till vacancy earmarked for SC category is filled up. It is further stated that Smti. Arundhuti Kalita, has been working for about 7 year in a Group 'B' post on ad-hoc basis under N. F. Railway, Maligaon. Applicant being the SC category candidate as per Railway Board's letter to allow to work on ad-hoc basis in the post of ALO Group 'B' decision from the Railway Board.

A copy of the Railway Board's circular is annexed herewith and marked as Anxure-12.

- 4.13) That the impugned order dated 17.9.2009 has laced the applicant in a position, which is detrimental to his future service career. If he appears in the examination in pursuance of impugned order dated 17.9.2009, then the applicant will loss his SC status and in future his promotion will be considered as general category candidate. If he does not appear in the examination he will be deprived form the post of Assistant Law Officer (ALO), Group-'B'. Since the applicant is going to retire from service on 31.12.2011, so, there may not be further advertisement for the post of ALO before the date of retirement of the applicant. It is categorical statement of the applicant that as per letter No. E/254/III/16 (0) dated 12.5.2006 the post of Assistant Law Officer is still lying vacant. There can not be any cogent reason for cancellation of the same after more than three (3) years and confining to one (1) post leaving one post lying vacant. It is submitted that the respondents have cancelled the order-dated 12.5.2006 only to deprive the applicant to get the benefit of the status of SC provided by the Constitution of India.



64
Sri Jitendra Nath Barman

8

4.14) That the applicant begs to submit that the applicant being the eligible senior most SC candidate working in the post of Chief Law Assistant and he has acquired the valuable legal; right of consideration for promotion to the post of ALO against the SC vacancy but the respondents vide impugned order dated 07.9.2009 cancelled the selection against the vacancy reserved for SC candidate that too without assigning any valid reason. It is not a case of the respondents that there is no eligible SC candidate to the cadre of Chief Law Assistant waiting for promotion to the post of ALO against the one post reserved for SC candidate. But in spite of the fact that the applicant is eligible SC candidate working in the cadre of Chief Law Assistant and entitled to be considered for promotion against the one post earmarked for SC category, the respondents No. 3 most mechanically cancelled the advertisement dated 12.5.2006 for selection of one SC candidate against the SC vacancy. Be it stated that due to cancellation of selection against the SC vacancy, the proper representation of the SC candidate in a higher post of ALO has been rejected by the respondents. It is pertinent to mention here that the applicant is going to retire from service on 31.12.2011. The applicant has been promoted to the post of Chief Law Assistant w.e.f 01.3.1993 and since then for more than 15 year he has been continuing as such in the said post. The post of ALO has been lying vacant since 2006 hence the applicant being the SC category candidate he has got his right for consideration for promotion to the next higher grade. as such very basic principle of enshrines in the Article 16 (4A) of the Constitution of India has been frustrated by the respondents. More over the Railway Board have issued the letters from time to time to take care of the SC/ST candidates in the matter of promotion. It is therefore prayed that it is a fit case of the applicant wherein the Hon'ble Tribunal may be pleased to set aside and quash the impugned order dated 07.9.2009 and further be pleased to direct the respondent to consider the case of the applicant for promotion to the post of ALO earmarked for SC category candidate.

65-
Srijitendra Nath Barman

4.15) That the applicant begs to submit that due to the denial of promotion to the applicant to the post of Assistant Law Officer, which the applicant is legally entitled for consideration, the applicant will be deprived of service benefits. Moreover the applicant has been continuing for more than 15 years in the post of Chief Law Assistant and he will retire on 31.12.2011. Since 2 (two) post of Assistant Law Officer is still lying vacant since 2006 hence the action of the respondents in canceling the advertisement dated 12.5.2006 (for 2 posts) and issuing the new advertisement dated 07.9.2009 (for 1 post) keeping one (1) post lying vacant depriving the applicant's legitimate claim as SC candidate is not sustainable in the eye of law. Therefore finding no there alternative the applicant has approached the Hon'ble Tribunal by way of filing this Original Application for protection of his legal right for consideration of his case for promotion as SC category candidate by quashing the impugned order dated 07.9.2009 and further directing the respondents to consider promotion of the applicant against the one post of Assistant Law Officer reserved for SC candidate or to consider promotion of the applicant to the post of Assistant Law Officer on ad- hoc basis as per Railway Board's letter till completion of process of selection against the vacancy reserved for SC category is completed.

4.16) That the present application has been filed bonafide and to secure ends of justice.

5. ROUNDS FOR RELIEF WITH LEGAL PROVISION:

- 5.1. For that the action/ inaction on the part of the respondents are illegal and arbitrary and violative of Article 14 and 16 of the Constitution of India and hence same are liable to be set aside quashed.
- 5.2. For that the impugned order dated 07.9.2009 has arbitrarily and unfairly denied the applicant for consideration of promotion to the post of Assistant

28
Sri Jitendra Nath Barman

Law Officer (ALO) reserved for SC category* candidate hence same is arbitrary, illegal and violative of Article 16 of Constitution of India.

- 5.3. For that since in event of cancellation of the order dated 12.5.2006 the applicant will loss the statue of the SC category if he appears in the examination, the impugned order dated 07.9.2009 is not sustainable in the eye of law hence it is liable to be set aside and quash.
- 5.4. For that the applicant is a SC candidate working in the cadre of Chif Law Asisatnt and he is entitled to be considered for pormotiom to the post of ALO against the one vacancy reserved for SC candidate.
- 5.5. For that by transfer order under No. E/254/84/Pt./VII (T) Loose Dated 05.7.2006, a time frame for filling up ALO Group 'B' post than 3 years the said post s not filled up till date without any basis and reasons. This inordinate delay on the part of the respondents has caused financial hardship to the applicant as well as he has been deprived of office of higher positioning a candid manner.
- 5.6. For that the impugned order dated 07.9.2009 was passed canceling an advertisement after lapse of more than 3 years and the said impugned order fails to give any reason as to why the same was issued.
- 5.7. For that the impugned order dated 07.9.2009 has curtailed the right for consideration for promotion of the applicant against the SC vacancy, as such the very principle of framing Article 16 (4A) of the Constitution of India has been violated.
- 5.8. For that due to arbitrary cancellation of selection against the vacancy earmarked for SC candidate the proper representation of SC candidate

against the promotional post has been curtailed. As such the impugned order dated 07.9.2009 is not sustainable in the eye of law same is liable to be set side and quash.

5.9. For that the Railway Board's has issued various circulars for ad-hoc appointment of Sc category employee. But the respondents have not considered the case of the applicant for ad-hoc appointment till completion of the process for regular promotion. Hence the action of the respondents in not considering the case of the applicant for ad-hoc appointment till regular promotion is not sustainable hence liable to be set aside and quash.

5.10. For that in any view of the matter the action/inaction on the part of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance more ground both legal and factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

The applicant further declares that he has not filed previously any application, writ petition or any suit regarding the grievances in respect of which this application is made before any court or any other Bench of the Tribunal or any other authority not any such application, writ petition or suit is pending before any of them.

Sri Jitendra Nath Barman 69

8. RELIEF SOUGHT FOR:

Under the facts and circumstances narrated above, the applicant most respectfully prayed that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant: -

8.1) To set aside and quash the impugned order No. E/254/III/16 (0)/Pt. I Dated 07.9.2009.

8.2) To direct the respondents to consider the case of the applicant for promotion to the post of Assistant Law Officer (ALO) Group- B in pursuance to the order No. E/254/III/16 (0) dated 12.5.2006 passed by the respondents No. 3.

8.3) To direct the respondent to consider the case of the applicant for ad-hoc promotion till finalization of the process for regular promotion to the post of Assistant Law Officer as per Railway Board's Circular as the applicant Sc category candidate.

8.3) To direct the respondents to pay cost of the application.

8.4) Any other relief/reliefs that the applicant may be entitled to.

9) INTERIM ORDER PRAYED FOR:

The applicant in the facts and circumstances of the case the applicant prays for an interim order directing the respondents to keep the order dated 07.9.2009 in abeyance and to promote the applicant to the post of ALO on ad-hoc basis.

10)

11) PARTICULARS OF THE POSTAL ORDER:

- IPO No.: - 39 G 441331
- Issued from: - Guwahati, hpo.
- Payable at- Guwahati.

12) DETAILS OF INDEX:

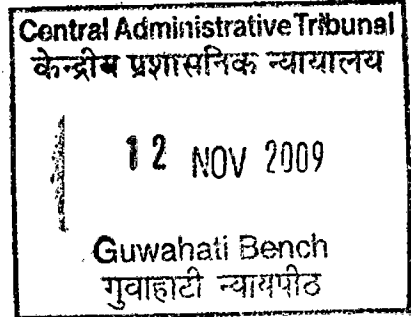
An Index showing the particulars of documents is enclosed.

Sri Jitendra Nath Barman
Gf

P.24

P.16

-13-



VERIFICATION

I, ~~AS~~ Sri Jitendra Nath Barman Son of Late J. Barman, aged about, 58 year, presently working as Chief Law Officer / TSK Divn, Assam, who applicant in the present application hence competent to sign the verification and so hereby solemnly affirm and state that the statement made in paragraph... 2, 3, 4'1, 4'13 to 4'16 are true to my knowledge and belief, those made in paragraph .. 1, 4'2 to 4'12 are matter of records, are true to my information derived there from and the rests are my submission before this Hon'ble Tribunal. I have not suppressed any material fact before the Hon'ble Tribunal.

And I sign this affidavit on this 12 day of November 2009 at Guwahati.

Sri Jitendra Nath Barman
DEPONENT

Identified by

Alsha Das
Advocate

N. E. Railway.

Annexure - 1

542E/1503 (T).

Malgach, dated

1-10-39.

To: Jatindra Nath Barman (SO).

Sub: - Temporary appointment as Law Asstt.
in scale B. 1600-2660/- (RP).

Ref: - CPO (Rectt.) / MLG's letter No. E/227/
168/3 (Rectt.) dt. 28.8.39.

On being found medically fit in category C/1 (one)
for the appointment as Law Asstt. in scale B. 1600-2660/- (RP)
you are hereby appointed as Law Asstt. on pay B. 1600/- in
scale B. 1600-2660/- with usual allowance under normal rules
and posted in the Court section under
CCO/MLG on the following terms and conditions:-

1. Immediate discharge without any notice on expiry
of temporary sanction of the post in which you are
appointed or as to your mental or physical or to
your removal or dismissal from service for misconduct.
2. If the termination of your service is due to some
other causes, you will be entitled to notice of 14
days or pay in lieu of thereof.
3. You will not be eligible to any benefit except that
admissible to temporary employees
in force from time to time.

No provision of Quarters is guaranteed.

Dy. Chief Comml. Superintendent (Claims)

No. 542E/1507 (T).

Malgach, dated

1-10-39.

Copy forwarded for information and necessary action to:-

1. FA & CAO/MLG (in duplicate.)
2. SDO/Claims/Malgach.
3. RT-Bill in duplicate.
4. CPO (Rectt.) / MLG in reference to his letter No. E/227/
168/3 (Rectt.) dated 21.09.39.
5. ET/Cadre Section in duplicate.
6. DGM(G).

Dy. Chief Comml. Superintendent (Claims)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

12 NOV 1939

Guwahati Bench
गुवाहाटी न्यायपीठ

Attested
L. S. Barman
Adm. Secy

ad. 30.10.39

Annexure 2

15 -

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

12 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

NORTHEAST FRONTIER RAILWAY.

MEMORANDUM.

Sub: Result of the suitability test for the post of Chief Law Asstt. in scale Rs. 2000-3200/- (RFS) restructuring of cadre w.e. from 1.3.93.

In continuation of this office memorandum of even number dated 14.10.93, the following Law Assistants in scale Rs. 1600-2660/- (RFS) have been found suitable for promotion to the post of Chief Law Asstt. in scale Rs. 2000-3200/- against the post available due to restructuring of cadre w.e. from 1.3.93 - vide GM(P)/MLG's Memorandum endorsed under No. E/41/271/(Comm1)/Rest/AGS(T) dt. 23.6.93, circulated in terms of Railway Board's letter No. PC-III/91/CRC/1 dt. 27.1.93 circulated under CFO/MLG's No. RP-482 dt. 3.2.93.

Sl. No.	Name	Community	Wkg. under
1.	Shri J.N. Barman	SC	COO (Asst) MLG.
2.	Shri P.C. Madhukar	SC	GM (Law) MLG.

The panel has been approved provisionally by the competent authority on 16.8.94 and the position of the staff in the panel may be re-arranged.

(S.R. Nandy)
Asstt: Personnel Officer (C).
for General Manager (P).
Maligaon, dt. 17-8-94.

283/172/III(T).

Forwarded for necessary information and necessary action to :

1. AG/MLG. 2. COO/MLG. 3. SR.DGM/MLG 4. COO/MLG.
5. Secy and ACM/Court/MLG. 7. Mrs.D.Roy, Hd. Clerk.
8. Asstt. Secy/ET (Bill) with 3 spare copies.

Forwarded through their respective Controlling Authorities for P/Case of each of the above

Attested
Lisha Ban
Advisal

GENERAL MANAGER (P).

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

Dated: 12.05.2006.

No.E/254/III/16(O)

To,
The General Manager (Construction)/Maligaon
DRM(P) s/KIR, RNY & IMG, CCO/Maligaon,
DGM(G)/Maligaon, Sr.DPO/KIR, Dy.CPO(COII)/IMG, Estate Officer/Maligaon,
Law Officer/Maligaon, DPOs/RNY & IMG, AYO/LC/Maligaon,
Asstt. Law Officer/Maligaon, ACM/Cour/Maligaon,

Subj:- Selection for the post of Asstt. Law Officer (ALO)/Group 'B'.

It has been decided with the approval of Competent Authority to form a

Panel of 02 (1 UR & 1 SC) persons for the post of Asstt. Law Officer/Group 'B'.
2. The selection will be based on candidates' performance both in written examination as well as Viva-voce test. The candidates, who qualify in the written examination, will only be eligible for the viva-voce test. The list of senior supervisory staff of Legal cadre, who are eligible to appear for the said selection are enclosed in the Main list and the Stand-by list under Annexure 'A' in order of seniority.

3. The written examination for said selection will consist of only one paper on the following subjects and maximum and minimum qualifying marks for the same are indicated as under:-

SUBJECT	MAXIMUM MARKS	QUALIFYING MARKS
Professional subject, Establishment & Financial Rules	150 (including at least 10% of the total marks on Official language Policy & Rules)	90

4. It may be noted that the question paper will be bi lingual, i.e., English & Hindi. It will be candidates' choice whether they write either in English or in Hindi.

5. The Controlling officers should notify this widely amongst the staff of each branch of this Railway mentioned in both the lists as per Annexure 'A' under their control and obtain their written WILLINGNESS/UNWILLINGNESS individually in the prescribed PROFORMA as enclosed at attached as Annexure 'B' of this notification and send the same to this office, so as to reach by 12.06.2006 without fail. If no option is received from any eligible staff from the Main list within the stipulated period mentioned above, it will be presumed that he/she is unwilling to appear in the above

(Contd. (2))

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय 12 NOV 2009 Guwahati Bench गुवाहाटी न्यायपीठ

Received from the executant.

Accepted

Accepted



(2)

advised to express their willingness or unwillingness. The Controlling Officer shall ensure that all staff under their control, whose names appeared in the Main list and the Stand-by list, have expressed their willingness/unwillingness in writing to enable this office to accelerate the selection process.

6. Since one post is meant for SC, a pre-selection coaching for willing SC/ST candidates will be arranged before commencement of the written examination. Hence, controlling officer(s) will have to ensure sparing of those SC/ST candidates to attend the said coaching without fail. If anyone refuses to undergo pre-selection coaching, a written undertaking should be obtained from him/her to this effect and sent to this office in due course of time.

7. If any representation is received from any staff against the Integrated seniority position shown in the Annexure or any other particulars therein, the same should be forwarded to this office immediately. No representation against the Integrated seniority position will be entertained on a later date.

8. The final list of eligible candidates under zone of consideration will be published immediately after expiry of the target date.

9. A copy of Syllabus published vide Railway Board's letter No.E(GP)2003/2/32 dated 10.12.2003 is enclosed as Annexure 'C' with this notification for wide circulation amongst the eligible staff concerned.

The receipt of this notification may please be acknowledged.

DA: As above.

(P.K. SINGH)
Dy.CPO/GAZ.
FOR GENERAL MANAGER(P)

*Attended
Lishan
Advocate*

Annexure

ANNEXURE-A

INTER-SE SENIORITY LIST OF CIA FOR THE SELECTION OF ALO/ GROUP-B

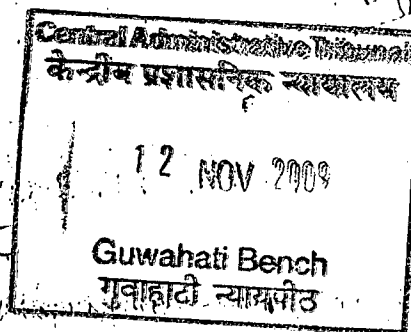
MAIN LIST

SN	NAME OF THE STAFF	WHETHER SC/ST/UR	DESIGNATION & STATION
01	SHRI J.N. DARMAN	SC	CLA/DIRM(P)/MILG ✓
02	MISS Y. AO	ST	CLA/CCO(COURT)/MILG
03	SHRI RAJAB ALI	UR	CLA/GM(COR)/MILG
04	SHRI B. TALUKDAR	UR	CLA/CCO(COURT)/MILG
05	SMT. DIPALI KALITA PAINE	UR	CLA/GM(LAW)/MILG
06	SHRI PANKAJ KUMAR NEOG	UR	CLA/CCO(COURT)/MILG
07	SHRI H.C. PRASAD	UR	CLA/CPO(LC)/MILG
08	SHRI S.A. AHMED	UR	CLA/CCO(COURT)/MILG ✓

STAND-BY LIST

SN	NAME OF THE STAFF	WHETHER SC/ST/UR	DESIGNATION & STATION
01	SHRI ARUP KUMAR ROY	UR	CLA/GM(LAW)/MILG
02	SHRI BASUDEB SARMA	UR	CLA/DIRM(P)/MILG
03	SHRI A. BHATTACHARJEE	UR	CLA/CCO(COURT)/MILG
04	SHRI A.K. DOLEY	ST	CLA/CPO(LC)/MILG
05	SHRI MANARANJAN SHARMA	UR	CLA/CCO(COURT)/MILG
06	SHRI T. TALUKDAR	UR	CLA/GM(LAW)/MILG
07	SHRI GHANASHYAM RAM	SC	CLA/DIRM(P)/MILG
08	SHRI SUNIL MUKHERJEE	UR	CLA/GM(LAW)/MILG

Attested
 Lohar Das
 Advocate



Received from the executant,

Accepted

Accepted



N.F.RAILWAY

OFFICE ORDER

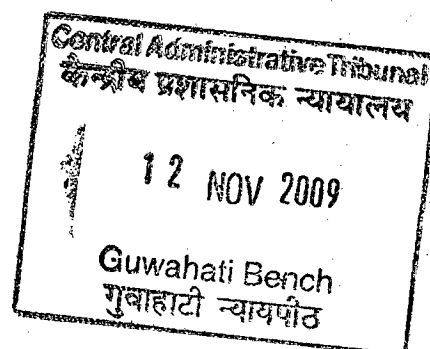
SDGM/Maligaon has accorded his sanctioned to the temporary variation of 1 (one) Post of CLA in scale of Rs- 7,450/-attached to DRM(P) and 1 (one) post of LA in Scale of RS- 6,500-10,500/- attached to DRM(P) Tsk have been variated Vice - Versa in the public interest for a period of one year from the date of operation or till such time the post of ALO (Group-B)in scale of Rs-7,500-12,000/-attached to Rangiya Division, created vide this office memorandum no.E/41/271/(Comm.) Rest/AGS(T) Legal Cadre dated 28.6.06 is filled up which ever is earlier. But the post of LA now variated to RNY will continue to be operated at RNY.

As soon as the post of ALO (Group-B) in scale Rs- 7,500 - 12,000/- attached to R NY Division is fill up, the Post of CLA in scale Rs-7,450 - 11,500/-attached to DRM(P) RNY now temporary variated to DRM(P) TSK will stand surrendered in terms this office memorandum no. E/41/271/(Comm.) Rest/AGS(T) Legal Cadre dated 7,6.06 and will be deleted from the BOS.

Consequent on above , Sri J.N. Barman (SC) CLA in scale Rs- 7,450 - 11,500 /-under DRM (P) RNY is hereby transferred in his existing pay & scale and posted under DRM(P)TSK on administrative ground with immediate effect . The above transfer order has been issued as per order of SDGM/MLG.

Sd/Illegible
(S.R.NANDY)
Senior personnel officer (T)
For General Manager (P) MLG

- No. E/254/84/Pt. VII (T) Loose dated 5.7.2006.
Copy forwarded for information & necessary action to :-
1.F.A.& CAO/MLG
2.SDGM/MLG.
3. DRM(P) RNY & TSK.
4. Dy. CPO (G) MLG
5. DFM/ RNY & TSK
6. Staff concerned through DRM (P) RNY.



Attested
Alha Das
Advocate

For General Manager (P) MLG.

20

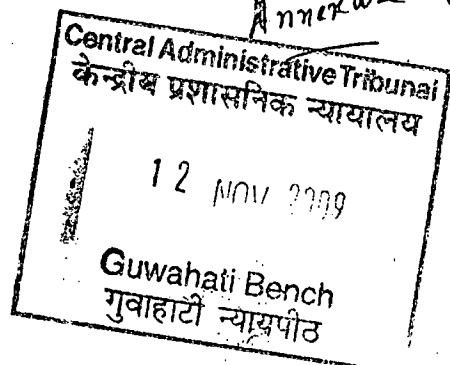
Annexure - 5

To,

The Chief Personnel Officer,
Hqtr/MLG/N.F. Railway,
Guwahati - 11

A N D

Public Information Officer,
Hqtr/MLG/N.F. Rly. GHY-11.



Sir,

Sub :- Prayer for furnishing information with regard to Memorandum No. E/41/277/Comm1/RE ST/AGS(T) legal cadre, date 28.6.06 for the Post of ALO(Group-B) in Scale of Rs.7500 - 12,000/- attached to RNY Divn. reserve for S/C Candidate under Right to Information Act, 2005 of which Examination is still pending.

Most respectfully, I beg to state that I need the following informations. That in the year, 2006, application was invited as per Seniority basis from Chief Law Assistant(Legal Cadre) for the 2(two) Post of ALO(Group B) one is for newly created Rangiya Divn. (S/C) and another for GM(Constraction) for General Candidate vide Office Memorandum No. E/41/277/Comm1./REST/AGS(T) Legal Cadre dtd. 28.6.2006.

In this regard, I submitted my application for the Post of ALO(Group-B) in the Scale of Rs.7500/- to 12,000/- and I am the only one S/C candidate for the Post of ALO for the RNY Divn. But Examination has not yet been held for the reason not known to me, Hence I may please be intimated as to -

- (1) When the Examination will be held ? and
- (2) Why the Examination from the year 2006 to till date has been kept pending ?
- (3) If the Examination is going to be held - When the Examination will be held ?

PARTICULARS :-

- (4) Name :- Sri Jitendra Nath Barman
- (5) Designation :- Chief Law Asstt.
- (6) Place of working :- Under DRM(P)/TSK Divn. TSK Personnel Branch.
- (7) Over all Incharge :- DRM/TSK Divn./N. Rly.
- (8) Address for communication. :- Sri Jitendra Nath Barman, CLA. Personnel Branch DRM(P)/TSK/N. Rly.
- (9) A fees of Rs.10/-only has been deposited in the form of Postal No. etc. issued in favour of A & CPO/N. Rly. (Original copy of the IPO is enclosed).

Encls :- 1(one) IPO.

Attention
Encls
Advocate

Signature of the applicant.
Sri Jitendra Nath Barman
10.9.08

(JITENDRA NATH BARMAN)
Under Law Asstt.
Office of the DRM(P)/TSK/Divn.
N.Rly. Guwahati.

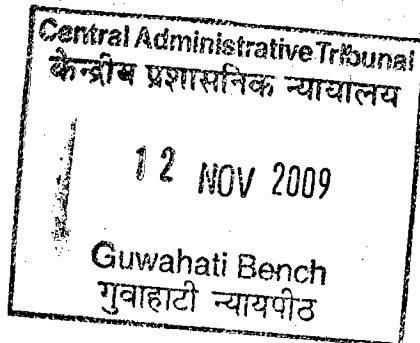
21 - Annex - 6

N.F.Railway



Office of the
General Manager
Maligaon, Guwahati-11.

No. Z/RTI Cell/HQ/493/2008



Date: 11-11-2008

To
Shri Jitendra Nath Barman
Chief Law Assistant
Office of the DRM(P)/TSK
NF Railway, Tinsukia.

Sir,

Sub :- Supply of information under the provision of RTI Act '05.
Ref :- Your application No. Nil dated 10.9.08.

With reference to the above, the "prescribed" information as you requested vide your application is sent herewith as per provision under RTI Act'05.

With this information above, your case is treated as disposed of. However, you may like to submit your first appeal within 30 days before the Appellate Authority for any further representation, whose address is given below:-

Shri A. Datta.
SDGM -cum- Appellate authority
Northeast Frontier Railway,
Phone & FAX No.- 0361-2676055.

We look forward to your co-operation

DA : One page.

Yours Sincerely,

Attended
Lisha Das
Advocate

(Khindu Ram)
Dy General Manager (G)
Cum
Public Information Officer
N.F.Railway, Maligaon

- 22 -

Northeast Frontier Railway

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

Annexure 7

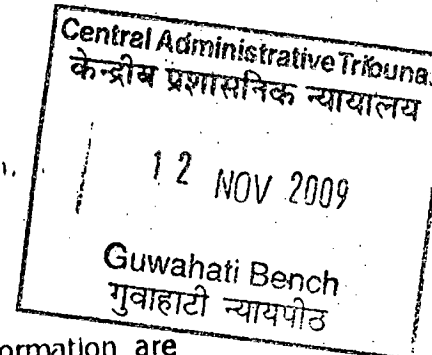
No. E/RTI Act 05/CON

Dated: 24.10.2008

To
DGM(G) cum PIO/HQ

Sub: Supply of Information as desired by - Shri Jitendra Nath Barman,
CIA/TSK under RTI Act 05.

Ref: Your letter No. Z/RTI Cell/HQ/493/2008 dated 06.10.2008



In reference to your letter quoted above, following para-wise information are furnished:-

Regarding item No. 1 & 3. It is mentioned that the exact date of written examination for the post of ALO (Group-'B') cannot be indicated. As soon as the Competent Authority decides to fix up a suitable date, it will be notified.

Regarding item No. 2. It is mentioned that on receipt of Board's letter regarding restructuring of law cadre of Indian Railways, a reference was made to Member (Staff)/Riy. Board by the then General Manager for streamlining the work of Legal Cadre, primarily processing in arbitration cases for empanelment/nomination of arbitrators etc, which is centralized with SDGM who is Head of the Department of Legal Branch may be allowed to continue instead of AGI, which has been prescribed by Railway Board.

Thereafter, a reference was also made to Railway Board, whether the composition of Selection Committee, which is in vogue, will continue or a separate order will be issued by Railway Board. Number of correspondences has been made to Railway Board for filling up the upgraded post of ALO in the Legal Cadre in regard to the operation of the post. So the examination could not be conducted in time.

The appellant may be informed accordingly.

(P. K. Singh)
Dy.CPO(Gaz.)

For General Manager (P)

पञ्चसूक्त का कागज

24/10

2008

24/10

Accepted
Shri Dhanu
Advocate

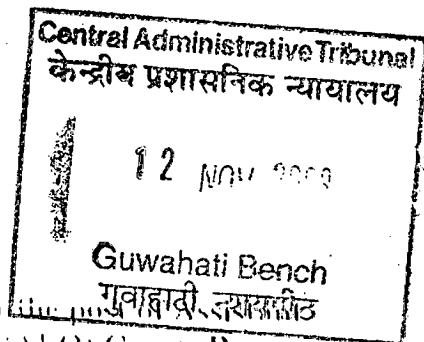
24/10

23
Annexure-8
Letter No. J.N.Barman/CLA/TSK/App/ AL G/ RNY/ dated 6.8.2009.

To

The General Manager (P)
N.E.Railway, Maligaon.
Gauhati-11.

Dated Tinsukia the 6th day of August 2009.
(Through proper channel)



Sub: Selection for the post
Law Officer (ALO) Group B.

Sir,

REF: No. E/283/IRT/DIVN/VIP-08(T) dated 2.2.2009

With reeference to the above, Most profound respect I beg to state that I am the Sr. Most Chief Law Assistant in N.E.Railway and have been working at Tinsukia Division after transferred from Rangiya Division dtd. 05.7.06.

That sir, your office had called for application from me for the post of Asstt. Law Officer at Rangiya Division (reserved for Schedule Cast candidate) for selection for the post of Asstt. Law Officer vide your letter no. E/254/111/16(0) dated 12.5.2006. Accordingly I submitted my application for the said selection before the last date i.e. 12.6.2006.

It is unfortunate that I was not called for the above selections as yet. Since passed three years (i.e. 12.6.2006) from the date of publication.

I will be grateful if you kindly let me know the probable date by which the above selection will be held. So that I may be prepared myself for the above selection.

With regards to-

Faith fully yours
Sri Jitendra Nath Barman
Sri Jitendra Nath Barman
Chief Law Assistant
Tinsukia division

Ministry of Rly.

Copy to - The Chairman, Railway Board, Rail Bhavan, New-Delhi for information please. A copy of GM(P) N.E.Rly. letter No.E/283/IRT/DIVN/VIP-08(T) dated 02.02.2009 addressed to me regarding holding of selection for Asstt. Law Officer (ALO) Group-B is enclosed herewith wherein mentioned as "The promotion to the post of Asstt. Law Officer is being done as per the directives of Railway Boards. You can appear in that selection when the same is held". As such the policy directives of Rly Board's adopted in regard to conducting examination/ selection for the post of ALO in the Division may be intimated to the applicant whether probable month by which the selection for ALO in Rangiya Division (N.E.Railway) will be held as prayed for please.

o/c
J.N. Barman/CLA/TSK/App/AL G/ RNY/ dated 6.8.09

Faith fully yours
Sri Jitendra Nath Barman
Sri Jitendra Nath Barman
Chief Law Assistant
Tinsukia division

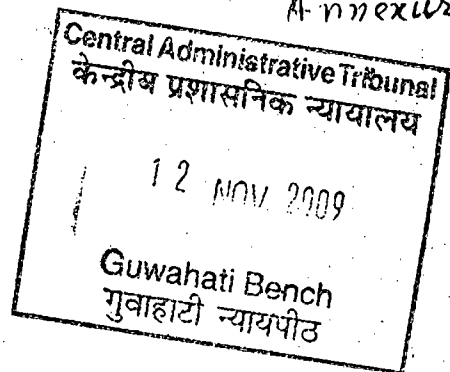
Attested
Signature
Advised

DRM(P)/L.1967 80

Annexure - 240

9

24



N.F. RAILWAY

Office of the
General Manager(P)
Maligaon, Guwahati-11
dated: 07.09.09.

No.E/254/III/16(O)/Pt.I

To
GM(Con)/MLG, DRM(P)'s - KIR, RNY & LMG : CCO/MLG, DGM(G)/MLG,
Sr.DPO/KIR, Dy.CPO/Con/MLG, Estate Officer/MLG, DPOs/RNY & LMG,
APO/LC/MLG, Asstt. Law Officer/MLG, ACM/Court/MLG

Sub : Selection for the post of Asstt. Law Officer(ALO)/Gr 'B'.

Ref : GM(P)'s notification No.E/254/III/16(O) Dtd. 12.5.2006.

The notification for selection for the post of Asstt Law Officer (ALO)
Gr. 'B' which was issued vide letter dtd. 12/5/2006 quoted above is hereby
cancelled.

This issues with the approval of Sr.DGM/Maligaon.

Attorney
Lokesh Das
Advocate

(P. K. SINGH)
Dy.CPO/GAZ
for General Manager (P)

DRM(P)/TSK

Annexure - 10/61

29.9.09

25

28

N.F./Railway

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

Dated: 17.09.2009

No.E/254/III/16(O)

To

The General Manager(Construction)/Maligaon;
Sr.DGM, CCM, CPO & CCM/FM/Maligaon,
DRM/TSK, DRM(P)/TSK,
DGM(G)/MLG, Dy.CPO(Con)/Maligaon, Estate Officer/MLG,
Law Officer/MLG, APO/LC/Maligaon, ACM/Court/Maligaon.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायपीठ

12 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Sub.- Selection for the post of Asstt. Law Officer(ALO)/Group-'B'.

It has been decided with the approval of Competent Authority to hold a selection for forming a panel of **01(One)** person for the post of Asstt. Law Officer/Gr.'B'

2. The selection will be based on candidates' performance in written examination, Viva-voce test and record of service. The candidates, who qualify in the written examination, will only be eligible for the Viva-voce test. The lists of senior supervisory staff of legal cadre, who are eligible to appear for the said selection, are enclosed in the main list and the stand by list under Annexure-'A' in order of seniority.

3. The written examination for said selection will consist of only one paper on the following subjects and maximum and minimum qualifying marks for the same are indicated as under:-

Subject	Maximum marks	Qualifying marks
Professional subject, Establishment & Financial Rules.	150(including at least 10% of the total marks on official language Policy & Rules)	90

4. It may be noted that the question paper will be bi-lingual, i.e., English & Hindi. It will be the candidates' choice to write in any one of the two languages.

5. The Controlling officers should notify this widely amongst the staff of Law Branch of this Railway mentioned in both the lists as per Annexure-'A' under their control and obtain their written Willingness/Unwillingness individually in the prescribed **PROFORMA** as enclosed as **Annexure-'B'** of this notification and sent the same to this office of Dy.CPO/Gaz./Maligaon; so as to reach by **21.10.2009**, without fail. The willingness/unwillingness options submitted by all the staff of the Main list and the Stand-by list within the target date, should be sent in a bunch with a forwarding letter to this office, certifying that no other options received by the Controlling officers are left behind at their end. No option should be sent to this office in a piece-meal manner. It is the primary duties of the controlling officers to obtain options(willingness/unwillingness) from each and every senior supervisory staff as per attached list and send the same to this office in time.

6. Since, no post is reserved for SC/ST communities, pre-selection coaching for SC/ST candidates need not be required.

Contd.....Page(2)

Approved for
Signature
Advocate - A.P. 01/14
29/9
A.P. 0.

82/

26 -

7. If any representation is received from any staff against the integrated seniority position shown in the Annexure or any other particulars therein, the same should be forwarded to APO/T of this office immediately. No representation against the integrated seniority position will be entertained on a later date.

8. The date of Written Examination and also the names of the eligible candidates will be issued after receipt of Willingness/Unwillingness from the candidates.

9. A copy of Syllabus published vide Railway Board's letter No.E(G)2003/2/32 dated 10.12.2003 is enclosed as Annexure-'C' with this office notification for wide circulation amongst the eligible staff concerned.

Please acknowledge receipt.

DA : As above.

S.P. Sengupta
17/09/19
(S.P. Sengupta)
SPO/Gaz.

For GENERAL MANAGER(P)

*Attended
Shiba Dm.
Advocate*

No. J.N. Barmain CL/V/TSK/RTI ACT.

To

The Dy. General Manager (C) C
Public Information Officer
N.F. Railway, Maligaon

Gauhati-11.

Sir,

Sub: Prayer for furnishing information with regard to case mentioned in B(P)'s notification no. E/254/11/16(0) dated 12.5.2006.
Ref: GM(P)'s letter no. E/254/11/16(0) dated 7.9.2009.

With most profound respect and humble submission, I would like to submit that the notification dated 7.9.2009 referred above does not indicate the cause for which the previous notification no. E/254/11/16(0) dated 12.5.2006 for selection for the post of ALO (Group-B) has been cancelled by the authority vide GM(P)'s letter no. E/254/11/16(0) dated 7.9.2009 though vacancy existed in the same has been done only to deprive me of the post. When one post is kept reserve for S/C candidate and I belong to S/C community having merit position of no. 1 in the composite seniority list of S/C & UR eligible candidate, though the vacancy has been lying unfilled since long. The circular of Railway board's as mentioned in GM(P)'s letter no. E/254/11/16(0) dated 02.02.2009 addressed to me like as, "the promotion to the post of ALO is being done as per policy directives of Railway board."

Therefore the policy directive of Railway board's for promotion to the post of ALO may kindly be intimated and the copy of the same may also be furnished to me. And whether the policy directives of Rly Bd's if any is applicable to this notification referred above?

With ref. to the GM(P)'s letter no. E/283/RT/DIVN/VP-08 (T) dated 02.02.2009, it may also be kindly intimated to me how many legal cases are pending at Rangya division at present and how many cases has been disposed during the year 2006-2009.

Further, the cause / ground for cancellation of notification No. E/254/11/16(0) dated 12.5.2006 for holding the selection for the post of ALO (Group-B) has not been disclosed in the notification dated 7.9.09. Please intimate me the reason for cancellation?

Further categorical mention of vacant post of ALO (Group-B) for newly created division for Rangya. Please intimate regarding not filling up of vacant post of ALO (Group-B) in Rangya division?

Further, I may kindly be intimated about the next date of examination for proposed selection?

Particulars

Name

Designation

Place of working

Over all in charge

Addressed for communication

DRM(P)/Tinsukia, N.F.Rly.

DRM/TSK Division / N.F.Rly.

Under DRM/TSK, Personal Branch.

Chief Law Assistant

Sri Jitendra Nath Barmain

Encls: (one) IPO

A fees of Rs. 10/- only has been deposited in the form of IPO No. 72E 126596 dated 14.9.09 issued in favour of FA & CAO/ N.F. Railway (original copy of IPO is enclose herewith).

DRM(P)/Tinsukia, N.F.Rly.

DRM/TSK Division / N.F.Rly.

Under DRM/TSK, Personal Branch.

Chief Law Assistant

Sri Jitendra Nath Barmain

In Jitendra Nath Barmain

Chief Law Assistant, N.F. Railway / Tinsukia

(Sri Jitendra Nath Barmain)

Chief Law Assistant, N.F. Railway / Tinsukia

/Assam

Advocate
Advocate
Advocate

Guwahati Bench
12 NOV 2009

Central Administrative Tribunal
12 NOV 2009

(iv) Whether pre-promotional training is necessary to be imparted to Scheduled Caste/Scheduled Tribe candidates who are required to appear for selection as per general seniority in which there is no reserved vacancy?

Not necessary.

(v) Whether pre-promotional training is required for Scheduled Caste/Scheduled Tribe candidates when they have to appear in a selection against reserved vacancies, though the selection is to be conducted for the next higher grade or the same category in which the Scheduled Caste/Scheduled Tribe employees are working where there is no difference in the working experience of lower and the higher grades for shouldering higher responsibility.

Yes, as the pre-promotional training would enable the Scheduled Caste/Scheduled Tribe candidates to qualify in the selection.

(vi) Whether relaxation of 10 per cent in the qualifying marks is to be given to Scheduled Caste/Scheduled Tribe candidates who are considered to fill up unreserved vacancies in seniority suitability posts or they have to secure the minimum marks for the general candidates for qualifying the test in the category where safety aspects are not involved.

The Scheduled Caste/Scheduled Tribe candidates have to obtain the minimum marks fixed for general candidates to fill up reserved vacancies. The concession in qualifying marks is granted only to fill up reserved vacancy.

(vii) At what point of time, the failed Scheduled Caste/Scheduled Tribe candidates earmarked for promotion on a basis for 6 months should be promoted?

As the promotion is to be ordered according to the seniority point, the failed Scheduled Caste/Scheduled Tribe candidates may be promoted against the reserved vacancies as per the points on ad hoc basis.

(viii) Whether the roster point will be treated as consumed in the circumstances mentioned below—

(a) A junior Scheduled Caste person was promoted against a roster point through mistake and later on a senior Scheduled Caste person is required to be promoted by reverting the junior person.

No. The senior Scheduled Caste candidate will be promoted against the same roster point against which the junior Scheduled Caste person was promoted earlier.

(b) A Scheduled Caste candidate has been promoted on ad hoc basis. However, shortly after his promotion, a senior Scheduled Caste candidate is found to be eligible for promotion on ad hoc basis.

Yes, the point on which promotion has been made on ad hoc basis will be treated as consumed but not the roster point on regular promotion.

(c) A person has been promoted being a Scheduled Caste/Scheduled Tribe. Subsequently, it is discovered that he is not a Scheduled Caste/Scheduled Tribe, and his claim was incorrect. He is reverted as he does not come up for his seniority as a general candidate.

No, the roster point will not be treated as having been operated or consumed. The next Scheduled Caste/Scheduled Tribe person should be promoted in his place.

(d) In the case mentioned at (c) above, if the candidate has become due for promotion as per his seniority as a general candidate and he is not required to be reverted on the date of considering his case.

No. The reserved roster point will remain unconsumed. Correct Scheduled Caste/Scheduled Tribe person should be promoted against the reserved point. The unreserved person wrongly promoted earlier as Scheduled Caste/Scheduled Tribe should be adjusted against subsequent Unreserved points.

(e) In terms of Railway Board's letter No. E(SCT)70CM15/10 dated 29th April 1970 the vacancies filled on or after 25th March 1970 should be shown in the revised roster unless selection for filling recruitment/promotions vacancies were made prior to 25th March 1970. A clarification is required whether the names of such persons who were placed on panel prior to 25th March 1970 but promoted after 25th March 1970 are required to be shown in the revised roster.

The person placed on panel prior to 25th March 1970 but promoted after that date need not be shown in the revised roster.

Railway Board's letter No. 83-E(SCT)23/1 dated 19th September 1983.

Sub : Ad hoc promotions pending consideration of cases of Scheduled Castes and Scheduled Tribes employees in—

A copy of Ministry of Home Affairs, D. O. P. & A. R.'s O. M. No. 36011/14/83-E(SCT) dated 30th April 1983 on the above quoted subject is sent herewith for information and guidance. Instructions issued by the Ministry of Railways vide their letter No. E(SCT)68 CM15/12 dated 10th December 1971 already provide for reservations for Scheduled Caste and Scheduled Tribe employees in ad hoc promotions, lasting for 45 days or more pending selection/suitability tests. However, the above instructions of the Ministry of Home Affairs have made the following qualitative changes :—

(1) When the number of Scheduled Castes/Scheduled Tribe candidates found fit are less even after considering the additional Scheduled Castes/Scheduled Tribes candidates by going down

12 NOV 2009

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

Attul
Lisha Das
Advocate

seniority list than the number of vacancies reserved for that case formal de-reservation by the competent authority is not required before the post is filled up by others on *ad hoc* basis.

(2) No formal roster register is required for *ad hoc* promotions. However, a simple register is required to be maintained for the different categories of posts for which *ad hoc* appointments are made to facilitate the record being kept of the *ad hoc* appointments. For the above instructions of the D. O. P., the record of *ad hoc* promotions should also be kept in the roster register for *ad hoc* promotions as per the practice followed by South Eastern Railway. Circulated to the Divisions vide their letter No. P/RP/SGT/R dated 15th January 1977 (copy enclosed).

(3) At the time of regular promotions reversions of *ad hoc* appointees should take place strictly in the reverse order of seniority. No special concessions are to be given to Scheduled Caste/Scheduled Tribe candidates at the time of such reversions.

(4) Consideration of additional Scheduled Caste/Scheduled Tribe candidates by going down the seniority list will be applicable only when *ad hoc* arrangements are being made for more than 45 days. To this extent instructions issued so far on the subject should be treated as modified.

Ministry of Home Affairs, Department of Personnel and Administrative Reforms' Office Memorandum No. 36011/14/83-Estt. (SGT) dated 30th April 1983.

Subj: *Ad hoc* promotions—Consideration of cases of Scheduled Caste/Scheduled Tribes employees.

The undersigned is directed to refer to the Department of Personnel and Administrative Reforms' Office Memorandum No. 36021/7/78-Estt (SGT) dated 16th April 1979 on the above subject where Ministries and Departments were requested to resort to *ad hoc* promotions, only when it become inescapable in the public interest and that where such *ad hoc* promotions had to be resorted to, unavoidably, in the public interest, the claims of eligible officers belonging to Scheduled Caste/Scheduled Tribes should also be duly considered along with other eligible in the field, though there was to be no formal reservation for Scheduled Caste/Scheduled Tribes in such promotions. A number of Ministries/Departments have asked for clarification regarding the procedure to be followed and the guidelines, if any, prescribed for considering the claims of the Scheduled Caste/Scheduled Tribes candidates while making *ad hoc* promotions.

29. It is once again reiterated that the basic approach of this Department is that *ad hoc* promotions should be minimised, if not eliminated altogether. However, if such *ad hoc* promotions are made in exceptional circumstances, such as during pendency of court cases, protracted seniority disputes, non-framing of recruitment rules, unforeseen emergency direct recruitment or convening of D. P. C. S. for reasons beyond the control of the appointing authorities etc., the following guidelines may be followed so as to ensure that the claims of eligible officers belonging to Scheduled Castes/Scheduled Tribes are duly considered—

Guidelines.—(1) *Ad hoc* promotions should be considered only against vacancies in excess of 45 days.

(2) Since in cases where reservation order for Scheduled Castes and Scheduled Tribes are applicable, vacancies for periods in excess of 45 days are necessarily to be filled on the appropriate roster, the number of vacancies falling to the share of Scheduled Caste and Scheduled Tribe, if the vacancies were to be filled on regular basis should first be identified.

(3) Since *ad hoc* promotions are made on the basis of seniority-cum-fitness, all the Scheduled Caste and Scheduled Tribes candidates covered in the relevant seniority list within the total number of such vacancies against which *ad hoc* promotions are to be made, should be considered in the order of their seniority as per the promotion list, on the principle of seniority-cum-fitness and if they are not adjudged unfit, they should all be promoted on *ad hoc* basis.

(4) If, however, the number of Scheduled Caste/Scheduled Tribes candidates found fit within the range of actual vacancies is less than the number of vacancies identified as falling to their share, if the vacancies were filled on a regular basis vide (2) above then additional Scheduled Caste/Scheduled Tribes candidates to the extent required should be located by going down the seniority list, provided they are eligible and found fit for such *ad hoc* appointment. This procedure should be adopted on every occasion on which *ad hoc* appointment is resorted to.

(5) All *ad hoc* appointees have to be replaced by regular incumbents at the earliest opportunity. Accordingly, when regular promotions are made subsequently reversion of the *ad hoc* appointees should take place strictly in the reverse order of seniority, the junior-most candidate being reverted first. No special concessions are to be given to Scheduled Caste/Scheduled Tribes candidates at the time of such reversion.

(6) It will be clear from what is stated above that there is no need for maintaining any separate formal roster for *ad hoc* promotions. The concept of de-reservation, carrying forward of the reservation etc., will also not be applicable in the case of *ad hoc* appointments. However, a simple register called *ad hoc* Promotions Register may

Central Administrative
केन्द्रीय प्रशासनिक

12 NOV 1983

Guwahati Bench

गुवाहाटी बेंच

Attended
Shri D. S.
Adm. cell

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

4 - 4 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

-30-

Court on 4/12/09

mr
Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

O.A.237/2009

Shri Jitendra Nath Barman

...

Applicant

Versus

Union of India & Others

...

Respondents

AND

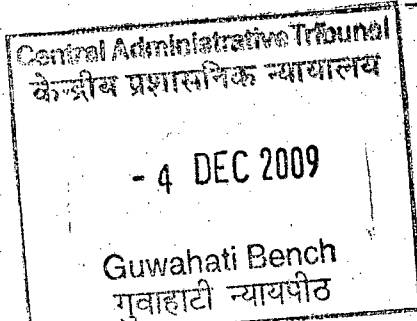
IN THE MATTER OF WRITTEN STATEMENT ON BEHALF OF RESPONDENTS

<u>INDEX</u>		
<u>Sl.No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Written Statement	1 to 5
2.	Verification	6
3.	Annexure A	7
4.	Annexure B	8
5.	Annexure C	9 to 12
6.	Annexure D	13 to 14
7.	Annexure E	15

Submitted

Dr. M.C. Sarma, 4/12/2009
Railway Advocate

Dr. M. C. Sarma
M.Com, Ph.D., LL.B.
Advocate, Gauhati High Court.
Railway Advocate, Central Administrative Tribunal,
Guwahati



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

O.A.237/2009

Shri Jitendra Nath Barman

...

Applicant

Versus

Union of India & Others

...

Respondents

AND

IN THE MATTER OF

Written Statements on behalf of respondents.

The answering respondents most respectfully SHEWETH:

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

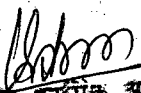
2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering respondents have confined their replies to those allegations/averments of the applicant which are found relevant for enabling the Hon'ble Tribunal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

3. That the respondents beg to submit with due respect that the cancellation of the notification dated 12.05.2006 for selection of Assistant Law Officers vide order dated 07.09.2009 was due to administrative reasons. Vide RBE:78/2007 Railway Board enunciated a new procedure for selection of upgraded posts of Assistant Law Officers and hence by cancelling the old notification dated 12.05.2006 the new notification dated 17.09.2009 had to be issued.

A copy of RBE:78/2007 dated 18.05.2007 is annexed herewith and marked as

ANNEXURE A

4. The notification dated 17.09.2009 included the name of the applicant, Shri J.N. Barman as one of the candidates (In Sl.No.1 of the main list) and required him to submit his willingness/unwillingness for the selection as per extant procedure outlined in Railway Board's letter No.E(GP)87/2/72 dated 11.01.1988. The applicant even acknowledged the letter addressed to him on 14.10.2009. As

By  Chief Personnel Officer (Gas)

पु. सी. रेलवे, मालीगान
M. F. Railway Maligaon

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

Filed by

Dr. M. C. Sarma

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

Advocate, Gauhati High Court.

Railway Advocate, Central Administrative Tribunal,

Guwahati

-32-

(2)

the applicant did not furnish his willingness/unwillingness by 24.10.2009 as required by the notification dated 19.09.2009 in spite of his acknowledging the letter dated 14.10.2009 he was treated as unwilling to appear in the selection as clearly indicated to him in advance.

A copy of the letter dated 14.10.2009 with the signature of the applicant dated 14.10.2009 is annexed herewith as Annexure B.

A copy of Railway Board's letter dated 11.01.1988 is annexed herewith as Annexure C.

It would be clear from the above submissions that adequate opportunity was given to the applicant to appear in the selection concerned. But for reasons best known to him the applicant did not give his willingness to appear in the selection process, for which he has to accept sole responsibility himself.

5. Parawise comments:

5.1. That as regards paragraphs 4.1,4.2,4.3,4.4 the respondents admit the statements as far as they are supported by records.

5.2. That as regards paragraph 4.5, the reason why the notification dated 12.05.2006 had to be cancelled has been explained in paragraph 3 hereinabove.

5.3. That as regards paragraph 4.6, the statements made therein are accepted to the extent that they are supported by the records.

5.4. That as regards paragraph 4.7, the respondents beg to state that all information under the RTI Act was furnished to the applicant as required.

5.5. That as regards paragraph 4.8, respondents beg to state the applicant's representation dated 06.08.2009 was not received at the Maligaon office of the respondents. However, a copy of the same was received from the Railway Board, which was supplied with the required comments. The matter of the representation is covered by this O.A.

5.6: That as regards paragraph 4.9, respondents beg to reiterate that the process of selection of ALO was initiated vide notification dated 12.05.2006 for two posts, i.e. one against upgraded post of ALO and the second against the vacancy of Construction Organisation. Subsequently Railway Board clarified vide their letter dated 18.05.2007 (Annexure A of this W.S.) that a separate procedure is to be followed for filling up Group 'B' posts of Law Officer that have been upgraded vide Board's letter dated 09.03.2006 referred to in Annexure A of this W.S. Board desired that Railways should

my wait further

Chief Personnel Officer (Gas)

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५० सी० डेल्ते, मालीगाँव

(3)

wait for further instructions in respect of normal vacancies.

Respondents further beg to submit that in February, 2008, Railway Board clarified that normal vacancies for Group 'B' post of ALO, i.e., excluding those posts which were upgraded vide Board's order dated 09.03.2006 may continue to ~~be~~ be filled as per recruitment rules notified in 1992. Hence Chief Law Assistants with 3 years of regular service may be considered for promotion as ALO, pending a decision on further upgradation of posts of Chief Law Assistants to Group 'B'.

A copy of Railway Board's letter RBE No.19/2008 dated 04.02.2008 is annexed herewith as ANNEXURE D.


The respondents beg to state that the question of upgradation of the cadre of Chief Law Assistants and the chain of posts under them is still developing and would take some further time for a final shape of the cadre due to various administrative and financial factors. This has no doubt affected and delayed the selection process of ALOs.

5.7. That as regards paragraph 4.10, respondents beg to state that notification for selection of ALO(Group 'B') for one post was issued under No.E/254/III/16(0) dated 17.09.2009 for filling up a retirement vacancy in the construction organisation. The single post came under "Unreserved" roster point. This however does not prevent the applicant to appear in the selection and he was therefore duly called to express his willingness. His cause was not helped by his refusal to submit his willingness in spite of repeated requests for the same to him by the respondents.

5.8. That as regards paragraph 4.11, respondents beg to state that the applicant himself has stated in paragraph 4.7 of the O.A. that he received from the Deputy General Manager, N.F. Railway the reasons for delay in holding the selection for the post of ALO and in this respect he has enclosed Annexure No.7 at page 22 of his O.A. It was made clear that the delay was due to and related with the larger question of restructuring of the Legal Cadre of the whole of Indian Railways on which work was continuing in the Railway Board involving other related Central Ministries.

5.9. That as regards paragraphs 4.12, 4.13 and 4.14, respondents beg to state that the applicant was wrong in stating at paragraph 4.13 of the O.A. that "If he appears in the examination in pursuance of impugned order dated 17.09.2009, then applicant will lose his SC status and in

Central Administrative Tribunal
- 4 DEC 2009
Guwahati Bench
অসম প্রশাসনিক আদালত

By: 
Chief Personnel Officer (Genl.)
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মালোগার

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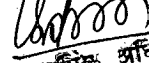
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future his promotion will be considered as general category candidate". Special provisions exist whereby SC/ST candidates promoted on their own merit and not owing to reservation are protected in their future promotions. In this regard respondents beg to state that vide RBE No. 128/2002, letter No. 99-E(SCT)I/25/13 dated 7.8.2002, paragraph (iii) it is mandated that "SC/ST candidates appointed on their own merit (by direct recruitment or promotion) and adjusted against unreserved points will retain their status of SC/ST and will be eligible to get benefit of reservation in future/further promotions, if any."

A copy of RBE No. 128/2002 dated 7.8.2002 is annexed herewith and marked as Annexure E.

Unfortunately the applicant refused to appear in the selection based on the notification dated 17.9.2009 as he has himself stated in paragraph 4.13. In this connection it is mentioned that the applicant along with five others in the main list was asked to express willingness to appear for the selection and the applicant's name figured at Sl.No.1. As per paragraph (iv) of Railway Board's letter No.E(GP)87/2/72 dated 11.1.1988 (Annexure C of this W.S.) it is the employee's responsibility to submit his/her willingness/unwillingness to take the selection and failure to respond provide the information within the period allowed will be treated as unwillingness on his/her part to take the selection. The applicant was issued letters addressed to him personally on 7.10.2009 and 14.10.2009 with clear advice that if he does not submit his willingness it will be treated as unwillingness and was requested to submit option by 21.10.2009. Letter dated 14.10.2009 was received by the applicant on 14.10.2009 as indicated clearly in Annexure B of this O.A. Yet the applicant refused to submit his option by the prescribed date. Consequently the written test was conducted on 23.11.2009 on the basis of willingness furnished by five seniormost Chief Law Assistants. All the five candidates who were called for the selection appeared in the written test. The selection is not finalised as directed by the Hon'ble Tribunal vide interim order dated 23.11.2009.

5.10. That as regards paragraph 4.15, respondents beg to state that the contention of the applicant that there are two posts of ALO is not correct. The post of ALO of the Construction organisation is no more in existence because the currency of the work-charged post has expired. The


Chief Personnel Officer (Railway)
S. P. Railway Mailman

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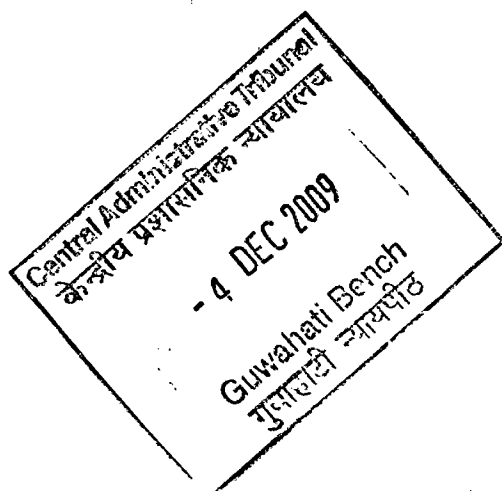
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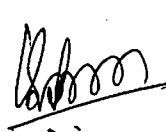
upgraded post of ALO exists, but the same cannot be filled up because of want of procedure order to be followed to be issued by the Railway Board. As and when the procedure order is received for filling up of the upgraded post, steps would be taken to conduct the selection. The applicant, being the seniormost CIA will surely be called for the selection in due course for the upgraded post.

From the submissions made in the remarks hereinabove, it would be clear that there was no malafide in cancelling the notification dated 12.05.2006, as alleged. The applicant being the seniormost CIA eligible was called for the selection, but perhaps because of a misunderstanding of the rules he did not express his willingness to take the selection test and thus forfeited his right to sit for the selection in question. It is clarified that his right for future selection is protected.

The respondents beg to state that there is urgent need to fill up the post of ALO in the Construction Organisation due to retirement of the incumbent. The respondents therefore urges that the interim order passed on 23.11.2009 be ~~reversed~~ vacated allowing respondents to fill up the post.

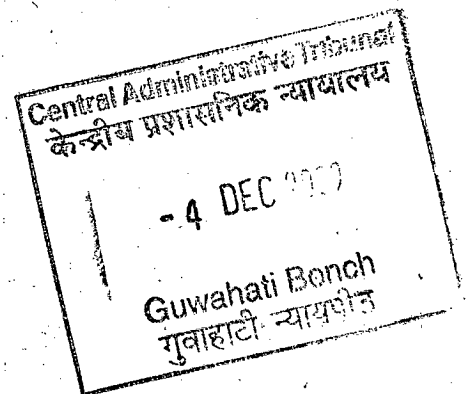
And for this act of kindness the respondents shall as in duty bound shall ever pray.




Officer (Gen.)
1. श्री. रेलवे, मालगोंद
2. P. Railway Maligaon

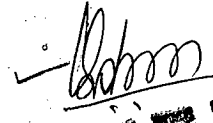
....Verification.

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VERIFICATION

I, Shri S. Behera, son of B.C. Behera,
aged about 38 years, at present working as Dy. CPO/Gazetted
N.F. Railway, Maligaon, do hereby solemnly affirm that the
statements made in paragraphs 1 to 5 of this W.S. are true
to the best of my knowledge based on records which I believe
to be true and the rest are my humble submissions before
the Hon'ble Tribunal.

And I sign this verification on this the 3rd day of
December, 2009.


Signature By Chief Personnel Officer (Gas)
By सी. पेल्ले, मालीगाँव
Designation D. Railway Maligaon

-37-
(7)

Annexure - A

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
15 DEC 2009
Guwahati Bench
RBE No.: 78-12007

No. E(GP)2005/2/26

New Delhi, dated 18.05.2007

The General Managers, N.F. Rly
All Indian Railways and Production Units.

Sub.: Selection for Promotion to Group 'B' post of Law Officer in scale Rs. 7500-12000.

Please refer to Board's letter No. 2003E(GC)12-14 Pt.I (06) dt.9/3/2006 regarding restructuring of the Gazetted cadre of the legal department of the new Zones and Divisions in terms of which 11 posts of Chief Law Assistants (Scale Rs. 7450-11500) have been upgraded to Group 'B' posts as Law Officer (scale Rs. 7500-12000).

SN-320

2.0 In this context, It has been decided by the Board that the upgraded Group 'B' post of Law Officer may be filled by the senior most Chief Law Assistant in Scale Rs. 7450-11500 subject to the candidate being found fit for promotion to Group 'B', through a screening process consisting of written examination and viva voce (including assessment of record of service) with the same qualifying marks as prescribed for Group 'B' selections.

3.0 It is further clarified that the above procedure is to be followed for filling up only those Group 'B' posts of Law Officer that have been upgraded in terms of Board's letter dated 9/3/2006 referred to in para 1 above and not for the normal vacancies in the Group 'B' posts, for which separate instructions may be awaited.

4.0 Please acknowledge receipt.

Chief Personnel Officer (GP)
Ministry of Railways
New Delhi

General Manager
1 JUN 2007
Date

Santosh Mittal
(SANTOSH MITTAL)
DY. DIRECTOR, ESTT. (GP)-II
RAILWAY BOARD

OFFICER	
CPO	Amul
CPOA	7/6
CPO/MB	

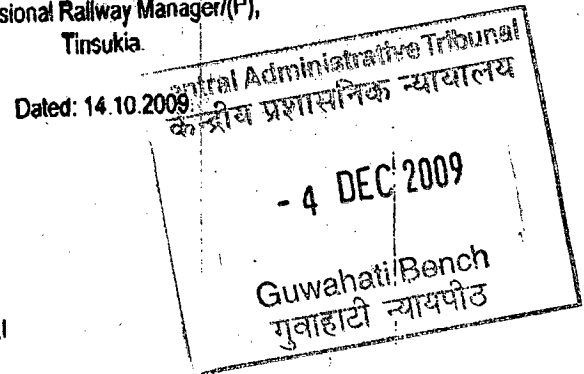
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Annexure - B
NORTHEAST FRONTIER RAILWAY

Office of the
Divisional Railway Manager/(P),
Tinsukia.

No.E/M-26/DPON/Con 1626

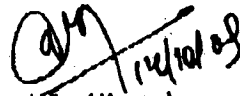
To
Shri J.N. Barman, CLATSK

Sub:- Selection for the post of ALO (Group 'B')
Ref:- GM(PY/MLG's letter No.E/254/III/16(0)/Pt.I
Dated October 14, 2009



I am enclosing herewith the HQ's letter No.E/254/III/16(0)/Pt.I Dated 14.10.09 with a request to submit your willingness / unwillingness in the proforma given to you with GM(PY/MLG's letter No. E/254/III/16(0) Dated 17/30.9.2009. Earlier ALO Group 'B' Selection Notification of No.E/254/III/16(0) Dated 12.5.2006 which has been referred by you in your above letter was already cancelled by HQ vide their letter No.E/254/III/16(0)/Pt.I Dated 7.9.09 (Copy enclosed). Therefore, you are requested to submit your fresh willingness /unwillingness in the proforma given to you with HQ's letter No. E/254/III/16(0) Dated 17/30.9.2009. It is brought to your notice that as per para 3 (iii) of Rly. Board's letter No.E(GP)87/2/72 dated 11.1.1988, it is employee's responsibility to submit willingness / unwillingness to take selection and failure to respond or provide information will be treated as unwillingness. You are therefore, requested to submit your willingness / unwillingness as per proforma attached by 21.10.09 positively.

DA / As stated.


(Vinod Kumar)
Divisional Personnel Officer,
N. F. Railway, Tinsukia.


Received

Barman

14.10.09

CLAT/TSK.

Attested


Chief Personnel Officer (Genl)
N. F. Railway Station

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535 (9) Annexure 'C'
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GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.E(GP)87/2/72

New Delhi, dated 11.11.1988

The General Managers,
All Indian Railways, including CLW, DLW,
ICF & N.F. Railway(Const.).

The G.M., Wheel & Axle Plant, Bangalore.

The G.M., Metro Railway, Calcutta.

The Chief Administrative Officers,
MTP, Bombay/Delhi/Madras.

The Chief Administrative Officers,
Central Organisation for Modernisation of
Workshops, Delhi & Diesel Component Works,
Patiala.

The Director General,
Research, Designs & Standards Organisation,
Lucknow.

The Railway Liaison Officer, New Delhi:

Subject:- Selection for promotion from
Group 'C' to Group 'B'.

As per extant instructions, selections for promotion to Group 'B' posts should be held in all the Departments once in 2 years and the vacancies for the selections should be assessed properly. It is essential that not only the schedule for holding the selections is maintained, but the assessment of vacancies is also done conforming to the instructions, so that regularly selected employees to the extent needed become available and ad hoc promotions are avoided. The field of consideration for the selection should be determined on the basis of sliding scale, as indicated in Board's letter No.E(GP)81/1/18 dated 9.2.1981. (9.2.81) (SW-8) (1/254/W/1) 90/1(0)

2. It has recently come to the notice of the Ministry that some of the employees, included in the field as per their eligibility and turn, for two successive Group 'B' selections on a Railway did not appear with the result the Administration could not secure the required number of qualified employees and there was substantial shortfall in empanelment. Instructions exist for calling extra employees

Chowdhury 387

Attested

11/11/88

Chief Personnel Officer (Gas 2/=)
Railway Liaison Officer
Railway Liaison Officer

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
- 4 DEC 2009
Guwahati Bench
गुवाहाटी न्यायालय

required to make up the field in the event of employees already included therein expressing their unconditional unwillingness to be considered at the selection. Instances have also come to notice of panels getting exhausted immediately after formation, leading to the necessity for making ad hoc promotions to Group 'B'. This could be due to a) a proper assessment of vacancies not having been made or b) due to services of officers having been spared on transfer/deputation/secondment, causing a depletion in the cadre, a factor not anticipated or known at the time of assessment.

3. The position has been examined. It has been decided as follows:-

i) The selection for Group 'B' posts should be held once every two years without fail. The work should be spread out evenly so as to cover half of the departments in the first year and the rest of the departments in the following year and the cycle repeated. The various processes connected with the selection should be commenced adequately in advance, so that the schedule for holding the selection is not disturbed. For this purpose, a suitable calendar may be drawn on the position on your system and the work monitored closely to ensure that the schedule is not tripped. The work in this regard should be reviewed periodically at the level of C.P.O.,

(depending)

ii) Vacancies for two years should be assessed properly with the aid of all known factors and possible anticipations. To the vacancies so assessed, an addition of 30% (thirty per cent) of the cadre of both Group 'B' and Junior Scale posts including Construction Reserve should be made. This is in modification of the existing instructions for providing the addition at 20%.

For selections to the Group 'B' posts of AHO, Law Officer, APRO, AS(P&S), Assistant Chief Cashier, ACMT where the cadre is small and the incidence of vacancies is not regular, the assessment should be limited to the vacancies existing plus those anticipated to arise during the two years' period covered by the assessment. In other words, there will be no addition to the assessment as a percentage on the cadre strength;

iii) The Notice issued for the selection, besides containing the names of eligible employees constituting the field, should contain a reserve list carrying the names of extra eligible employees with the indication that the latter would be called for the written examination in the event of drop out of employees constituting the field;

Also in check
immediately
G M satisfied
Vid
5/11-12
MPT III
Bd's letter
22.10.91

Attested
Chief Personnel Officer (Gen.)
M. E. Railway Malleswara
3/=
अधिकारी (साम.)
मुख्य व्यक्तिगत अधिकारी (साम.)
रेलवे मल्लेश्वर

- iv) Employees constituting the field should be advised individually of the proposed selection with the clear stipulation, that they should on receipt of the notice, advise their willingness/unwillingness to take the selection. For this purpose, each individual notice should have a counterfoil which should be returned by the employees within a fortnight of receipt indicating willingness or unwillingness to take the selection. The notice should carry a clear indication that it is the employee's responsibility to advise his/her willingness/unwillingness to take the selection and failure to respond or provide the intimation within the period allowed will be treated as unwillingness on his/her part to take the selection. Depending on the position of unwillingness reported or non-receipt of any intimation, employees from the reserve list should be called to the extent necessary for taking the selection.
- v) Such employees who neither appear for the written examination nor indicate their unwillingness should be treated as having availed of an opportunity, for purposes of the instructions contained in para 1(ii) of Board's letter No.E(GP)85/1/78 dated 10.9.1986.
- vi) Paras (iii), (iv) and (v) will not apply to selections of APO for which the field is not determined with reference to the vacancies and all eligible volunteers in response to the notice are considered.
- vii) All ad hoc arrangements made should be terminated on the declaration of the panel. There should also normally be no need to resort to ad hoc arrangements before the next selection in view of the provision for a liberal assessment of vacancies taking into account 30% of the cadre of both Group 'B' and Junior Scale posts including Construction Reserve. If the panel is likely to be used up before the next selection becoming due after two years, steps should be initiated to hold the next selection without waiting for the 2-year period to be over, so that the next panel becomes available. In the event of ad hoc arrangements still becoming necessary, due to unavoidable contingencies like injunctions from Court of Law, consideration for such appointment should include those who although

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
- 4 DEC 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

SN-12

Modified
by
SN-9
of Pt III
fll

Assessed

[Signature]

स. प्र. का. अधिकारी (राज.)
Chief Personnel Officer (Gen)
1. ही. रेल. मालगंगा
M. E. Railway, Maligaon.

- 42 -

(42)

- 4 -

called, did not appear for the earlier selection and also those who failed to qualify in the written test or viva-voce or in the selection.

4. Every effort should be made to ensure that the number of employees taking the selection corresponds to the field without any shortfall.

5. Kindly acknowledge.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
- 4 DEC 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

(N. ANANTARAMAN)
JOINT DIRECTOR, ESTABLISHMENT (GAZ.)
RAILWAY BOARD

Attested

Chief Personal Officer (GAZ.)
H. E. Railway Station

Ann - D-43-
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

RBE No.: 19/2008

No. E(GP)2005/2/26

New Delhi, dated: 4.02.2008

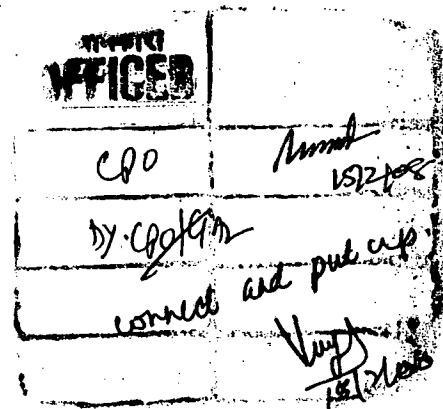
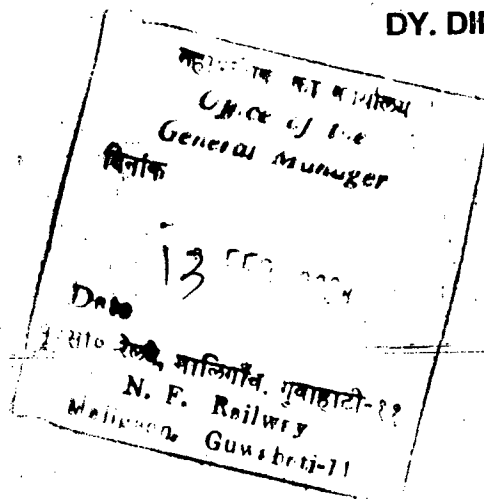
The General Managers,
All Indian Railways and Production Units.

Sub.: Selection for Promotion to Group 'B' post of Assistant Law Officer in scale Rs. 7500-12000.

In continuation of Board's letter of even number dated 18.05.2007 (RBE No.78/2007), it has been decided by the Board that the normal vacancies for Group 'B' post of Assistant Law Officer in scale Rs. 7500-12000 i.e. excluding those Group 'B' posts which were upgraded vide Board's letter No. 2003E(GC)12-14Pt.I(06) dated 09.3.2006, may continue to be filled as per the extant Recruitment Rules notified in 1992. Hence, Chief Law Assistants in scale Rs. 7450-11500 (revised scale) with 3 years of regular service in the grade may be considered for promotion as Assistant Law Officer, pending a decision on further upgradation of posts of Chief Law Assistants to Group 'B'.

2. Please acknowledge receipt.

Santosh Mittal
(SANTOSH MITTAL)
DY. DIRECTOR, ESTT. (GPHI)
RAILWAY BOARD



D.N. Chowdhury

A. Hestad

[Signature]

Chief Personnel Officer (Raj.)
N. F. Railway, Guwahati

- 2 -

14

No. E(GP)2005/2/26

New Delhi, dated: 4.02.2008

Copy for information and necessary action to

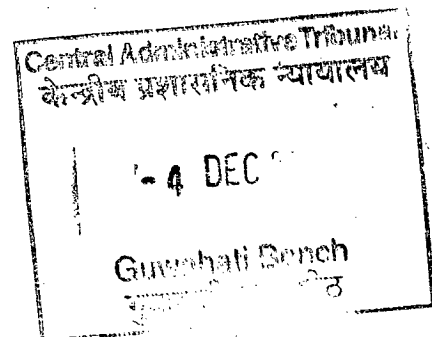
- (1) The Director General & ex-officio General Manager, R.D.S.O., Lucknow.
- (2) The CAO, DCW, Patiala
- (3) The CAO, MTP(Rlys.), Mumbai and Chennai
- (4) The Chairman, Railway Recruitment Board:
Allahabad/Ahmedabad/Ajmer/Bangalore/Bhopal/Bhubaneswar/Kolkata/
Chandigarh/Chennai/Gorakhpur/Guwahati/Jammu&Srinagar/Malda/
Mumbai/Muzaffarpur/Patna/Ranchi/Secunderabad/Trivendrum.
- (5) The Director General, Railway Staff College, Vadodara.
- (6) The Director IRISSET, Secunderabad/IRIMEE.
Jamalpur/IRIEE, Nasik,/IRICEN, Pune/IRCAMTECH, Gwalior.
- (7) The Railway Liaison Officer, Jeevan Tara Building, Parliament Street, New Delhi.
- (8) The General Secretary, IRCA, New Delhi.
- (9) The C.A.O, COFMOW, Rly. Offices Complex, Tilak Bridge, New Delhi-110002.
- (10) The Secretary, Railway Rates Tribunal (Chennai), 50 M.C. Nichola Road, Chetput, Chennai.
- (11) The Exec.Director, CRIS, Safdarjung Rly.Stn.Building, Chanakyapuri, New Delhi.
- (12) The Director (Movement), Railways 17 N.S.Road, Calcutta.
- (13) The Joint Director (Iron & Steel) 3, Koilaghat Street, Calcutta.
- (14) Chief Commissioner of Railway Safety, Lucknow.

Santosh Mittal
(SANTOSH MITTAL)
Dy. DIRECTOR, ESTT.(GP)-II
RAILWAY BOARD

Attest

[Signature]

मुख्य कार्यकारी अधिकारी (राज.)
Dy. Chief Personnel Officer (Gen)
पू. सी. रेलवे, भारतीय
R. P. Railway Maligaon.



R.B.E. No. 127/2002

Subject : Grant of another opportunity for revision of option by the Accounts staff due to inclusion of special allowance in pay or fixation of pay on promotion to next higher grade.

[No. E(P&A)II-2002/PP-3, dated 1.8.2002.]

Attention is invited to the instructions contained in Para 2 of Board's letter No. E(P&A)I-99/SP-1/Gen-2, dated 12.6.2001 (*Bahri's 110/2001, p. 140*) in terms of which the Special Allowance payable to employees of Accounts Department during the 1st year and the 2nd year onwards of passing Appendix IIIA examination is to be treated as part of the pay for the purpose of fixation of pay on promotion to the next higher grade. This decision was effective retrospectively from 1.8.1997 as a result of which references are being received from the Zonal Railways etc. seeking permission for allowing revision of option to the affected staff.

2. The matter has been examined in consultation with the Department of Personnel & Training and it has been decided that another opportunity to exercise option may be allowed to the Accounts staff mentioned in the above para, and, who were promoted on/after 1.8.1997 to the next higher grade. The option will have to be exercised by the employees within three months from the date of issue of these instructions and once exercised, shall be final.

3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

R.B.E. No. 128/2002

Subject : Reservation in promotion — Treatment of SC/ST candidates promoted on their own merit.

[No. 99-E(SCT)I/25/13, dated 7.8.2002.]

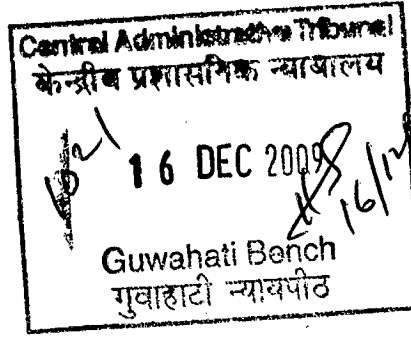
The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training vide their O.M. No. 36028/17/2001-Estt. (Res.), dated 11.7.2002 has considered the references from various Ministries regarding adjustment of SC/ST candidates promoted on their own merit in post based reservation rosters and clarified as under :—

- (i) The SC/ST candidates appointed by promotion on their own merit and not owing to reservation or relaxation of qualifications will not be adjusted against the reserved points of the reservation roster. They will be adjusted against unreserved points.
- (ii) If an unreserved vacancy arises in a cadre and there is any SC/ST candidate within the normal zone of consideration in the feeder grade, such SC/ST candidate cannot be denied promotion on the plea that the post is not reserved. Such a candidate will be considered for promotion alongwith other candidates treating him as if he belongs to general category. In case he is selected, he will be appointed to the post and will be adjusted against the unreserved point.
- (iii) SC/ST candidates appointed on their own merit (by direct recruitment or promotion) and adjusted against unreserved points will retain their status of SC/ST and will be eligible to get benefit of reservation in future/further promotions, if any.

A. H. S. H. S. H.

महानगर विकास आयोग (काठमाडौं)
 (Officer (Gen))
 काठमाडौं, नेपाल

Gurubhai Dorch
 10/10/2002



Filed by
the applicant through
Usha Das.
Advocate No. 102
16/12/2009.

1
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO. 237/2009

Shri Jitendra Nath Barman

.....Applicant

VERSUS

Union of India & others

.....Respondents

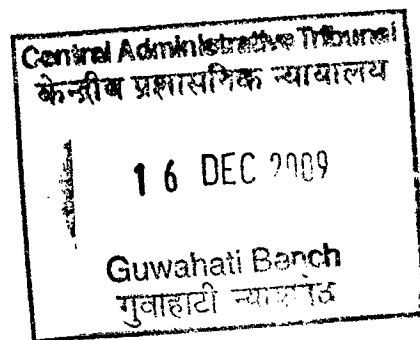
IN THE MATTER OF:

Rejoinder filed by the applicant

- 1) That the applicant has received a copy of the Written Statement and has gone through the same. Save and except the statements, which are admitted specifically herein below, rests may be treated as total denial. The statements, which are not borne on records, are also denied and the respondents are put to the strictest proof thereof.
- 2) That with regard to the statements made in paragraphs 1 and 2 of the Written Statement the applicant offers no comment.
- 3) That with regard to the statements made in paragraph 3 of the Written Statement the applicant begs to submit that the respondents have stated that the cancellation of the notification dated 12.5.2006 for selection of Assistant law officers vide order dated 07.9.2009 was due to administrative reasons. The respondents have not disclosed what are the administrative reasons for which a selection issued on 12.5.2006 had to be cancelled on 07.9.2009. Since "administrative reasons" is a

I undertake to
send a copy of rejoinder
on counsel for the
respondents as and when
available
Usha Das
Advocate
16/12/09.

Shri Jitendra Nath Barman



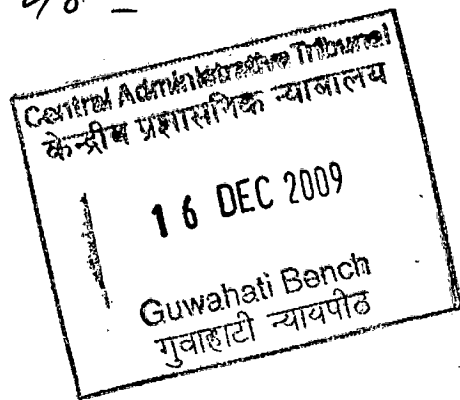
vague term the Hon'ble Tribunal may be pleased to call for the records of the case and decide the matter on merit.

It is also stated by the respondents that vide RBE No. 78/2007 Railway Board enunciated a new procedure for selection of upgraded posts of Assistant Law Officers and hence by cancellation of old notification dated 12.5.2006 the new notification dated 17.9.2009 had to be issued. It is submitted by the applicant that the above noted Railway Board's letter dated 18.5.2007 is still in file, which is yet to seen the fruitful action, now the respondents have taken shelter of that letter only to mislead the Hon'ble Tribunal and to deprive the applicant from his legitimate claim. The respondents have failed to explain as to why after more than 2 years of issuance of the RBE No. 78/2007 dated 18.5.2007 they have cancelled the earlier notification keeping the posts vacant without any reason.

It is noteworthy to submit that the applicant will be the first person who will get benefit if the REB No. 78/2007 dated 18.5.2007 is implemented because he is the senior most Chief Law Assistant in his cadre.

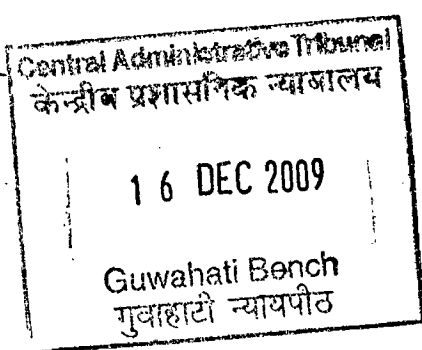
- 4) That with regard to the statement made in paragraph 4 of the Written Statement the applicant begs to submit that the applicant never stated in the OA that no opportunity was given to the applicant.
- 5) That with regard to the statement made in paragraph 5.1 of the Written Statement the applicant offers no comment.
- 6) That with regard to the statement made in paragraph 5.2 of the Written Statement the applicant reiterate and reaffirm the statements made in paragraph 3 of this rejoinder.

Sri Jitendra Nath Barman



- 7) That with regard to the statements made in paragraphs 5.3, 5.4 and 5.5 of the Written Statement the applicant offers no comment.
- 8) That with regard to the statements made in paragraph 5.6 of the Written Statement the applicant begs to submit that the respondents themselves have admitted that they are not taking due care in case of promotion of Assistant Law Officers. Delay in promoting an employee without any reason affects his service career. Every employee has got right for consideration for promotion to his next higher posts without delay. The respondents in the name of up gradation have been denying the legitimate and due expectation of promotion to all ALOs. The Hon'ble Tribunal may be pleased to call for the records of the case and take judicial notice of the action of the respondents taken in the name of up gradation of the cadre of Chief Law Assistants.
- 9) That with regard to the statements made in paragraph 5.7 of the Written Statement the applicant offers no comment.
- 10) That with regard to the statements made in paragraph 5.8 of the Written Statement the applicant begs to submit that as per Railway Board's letter the applicant can be promoted on ad- hoc basis till the larger question of restructuring of the Legal Cadre of the whole of Indian Railways on which work was continuing in the Railway Board involving other related Central Ministries is over. Being senior most Chief Law Assistant with SC status there is no hurdle in promoting the applicant on ad-hoc basis till completion of restructuring and General Manager, N. F. Railway has got power for officiating promotion when there is a permanent vacancy in the Group- B cadre or a permanent post is vacant in higher grade.

Shri J. L. S. Nath Berman



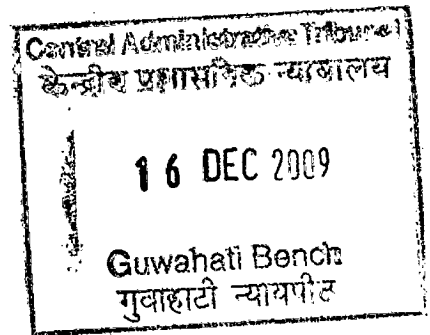
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Relevant portion of the General Conditions of Service is annexed herewith and marked as Annexure- 1

- 11) That with regard to the statements made in paragraph 5.9 of the Written Statement the applicant begs to submit that if the statement made in this paragraph is correct that the applicant is ready to participate in the selection process.
- 12) That with regard to the statements made in paragraph 5.10 of the Written Statement the applicant denies the contentions made therein that the post of ALO of the Construction organization is no more in existence because the currency of the work- charged post has expired and begs to submit that the Hon'ble Tribunal may be pleased to direct the respondents to produce the records of the case substantiate their statements.

Sri Jitendra Nath Barman

- 50 -



- 5 -

VERIFICATION

I, Jitendra Nath Barman, Son of Late , aged about, 58 year, presently working as Chief Law Assistant of N.E. Railways, Assam, who applicant in the present application hence competent to sign the verification and so hereby solemnly affirm and state that the statement made in paragraph..... 1 to 12are true to my knowledge and belief, those made in paragraphare matter of records, are true to my information derived there from and the rests are my submission before this Hon'ble Tribunal. I have not suppressed any material fact before the Hon'ble Tribunal.

And I sign this affidavit on this 13th day of December 2009 at Guwahati.

Sri Jitendra Nath Barman
DEPONENT

210. Promotion to Railway Services, Group B.—Promotions to Group B posts shall be made by the General Managers except in the Security Department provided that such promotions are made in the strict order of placement on the panel recommended by the Selection Board; if any supersession of that order is involved, the matter should be referred to the Railway Ministry. The posts of Assistant Accounts Officers shall ordinarily be filled by selection from Group C railway servants who have passed the departmental examination qualifying for promotion as Section Officer (Accounts), Inspector of Stores Accounts/Inspector of Station Accounts or are exempted from passing that examination.

211. Promotion by Limited Departmental Competitive Examination. 25% of the vacancies for which panel is required to be framed at any one time for Group B posts in (a) Civil Engineering Department (b) Mechanical Engineering Department (c) Electrical Engineering Department (d) Signal and Telecommunication Department (e) Transportation (Traffic) and Commercial Department (f) Stores Department (g) Accounts Department are reserved for being filled through Competitive Examination limited to departmental candidates.

Note.—The details of the scheme and other instructions covering the various aspects are contained in the letters issued by the Railway Ministry on the matter from time to time.

212. Conditions for making officiating promotions.—(1) The number of Groups A & B officers on duty in a department shall not exceed the permanent duty strength sanctioned for that department.

(2) If in the case of departments having their own leave reserve, the number of Group A & B officers on duty exceeds the number of working posts, due to the number of Officers on leave at any time being less than the leave reserve, the excess is permissible; but if it becomes frequent the matter may be referred to the Railway Ministry to examine the reduction of leave reserve in the cadre.

(3) If in any circumstances the number of officers on duty in permanent posts of grades higher than the Group B Service exceeds the sanctioned number of permanent working posts for these grades, no officiating promotion to the Group B Service shall be made so long as such excess exists.

213. Officiating promotions in Group B posts.—Subject to the provision of Rule 212 the General Manager may order officiating promotions in Group B in the following circumstances:—

- (1) When a Group B officer is absent on leave, deputation or foreign service of more than 3 months, a post in Group A (Senior Scale).
- (2) When a number of Group A & B railway servants available for duty falls below the number of duty posts sanctioned for each department, provided that in cases for which a leave reserve is sanctioned such deficiency is not caused by Group A & B officers in excess of the leave reserve being on leave.
- (3) When an officer belonging to a cadre mentioned in sub rule (2) above is absent on leave preparatory to retirement, or is under orders of transfer and takes leave before joining the railway to which he is transferred.

Attended
L. Chhabra
Advocate

Guwahati Branch
16 DEC 2011

Chapter 2]

GENERAL CONDITIONS OF SERVICE

(21)

(4) In departments in which the actual number of officers other than special officers in Group B is in excess of the total permanent cadre sanctioned to them, officiating promotion may be made to Group B Service in place of those officers absent on leave from such departments to the extent of the difference between 14 per cent of the actual number of such officers and the sanctioned leave reserve.

✓ (5) When there is a permanent vacancy in the Group B cadre or a permanent post is vacant in higher grade.

214. Powers of General Managers in making officiating promotions. — The General Manager may appoint

- (a) a Group C railway servant to officiate in Group B cadre;
- (b) a Group B officer to officiate in Group A, Senior Scale on ad-hoc basis for continuous period not exceeding one year on each occasion when circumstances warrant such course except to the posts of Security Officer, Law Officer, Hind Officer, Chemist and Metallurgist, Public Relations Officer and Superintendent (Printing & Stationery);

Railway Ministry's Decision: — "Group 'B' Officers will be considered for ad-hoc promotion to Senior Scale when Group 'A' (Junior Scale) Officers with 3 years of service in Junior Scale are not available."

- (c) an officer in Junior Scale Group A to officiate in Senior Scale, provided that such officer who has not passed the efficiency bar may be so appointed only, if
 - (i) an officer who has passed the E.B. is not available; or
 - (ii) the vacancy is not expected to exceed three months;

(d) a Senior Scale officer to officiate in Junior Administrative post —
 Provided that such appointments are made on ad-hoc basis upto two vacancies of 30 days each or one vacancy not exceeding 90 days; and

Provided that if the officer is promoted to this grade for the first time it shall require the approval of the Ministry of Railway.

- (e) Except for the first time, a Group A officer to officiate as Divisional Railway Manager or Additional Divisional Railway Manager, or Additional Head of Department;
- (f) Substantively, an Assistant Officer to the Divisional grade provided such promotions are made in strict order of seniority subject further to the condition that no officer shall be promoted unless he has rendered not less than eight years of total service and has been declared fit to cross the efficiency bar in the junior scale.

Note. — The period of 8 years of total service will also include the two years of training in the case of direct recruits. In respect of promoted gazetted railway servants who are shown in the Seniority list above the last direct result who fulfils the above condition will receive confirmation in their turn.

(2) Where, however, the authority competent to grant leave is not satisfied about the genuineness of a particular case, it will be open to such authority to secure a second medical opinion by requesting a Government Medical Officer/Railway Medical Officer not below the rank of Civil Surgeon/Medical Superintendent or Staff Surgeon/Divisional Medical Officer to have the applicant medically examined on the earliest possible date.

(3) It shall be the duty of the Divisional Medical Officer to express an opinion both as regards the facts of the illness and regards the necessity for the amount of leave recommended and for that purpose he may either require the applicant to appear before himself or before a Medical Officer nominated by himself.

(4) The grant of medical certificate under this rule does not in itself confer upon the railway servant concerned any right to leave. The medical certificate shall be forwarded to the authority competent to grant leave and orders of that authority awaited.

(5) The authority competent to grant leave may at its discretion, waive the production of medical certificate in case of application for leave for a period of not exceeding 3 days at a time. Such leave shall not, however, be treated as leave on medical certificate and shall be debited against leave other than on medical grounds.

521. Grant of leave on Medical Certificate to Group C & Group D Railway Servants.

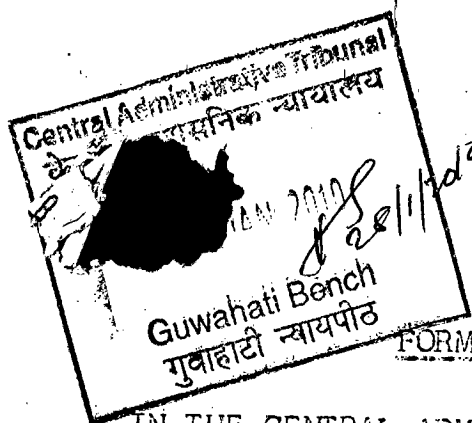
(1) Subject to the provisions contained in sub-rules (2) to (5) of rule 520, an application for leave on medical certificate made by a railway servant in Group C and Group D shall be accompanied by a medical certificate given by a Railway Medical Officer, defining as clearly as possible the nature and duration of the illness.

(2) When a Railway servant residing outside the jurisdiction of a Railway Medical Officer requires leave on medical certificate, he should submit, within 48 hours, a sick certificate from a registered medical practitioner. Such a certificate should be, as nearly as possible, in the prescribed form as given in Appendix III, and should state the nature of the illness and the period for which the Railway servant is likely to be unable to perform his duties. The competent authority may, at its discretion accept the certificate or, in cases where it has reasons to suspect the bonafides, refer the case to the Divisional Medical Officer for advice or investigation. The medical certificate from registered private practitioners produced by Railway servant in support of their application for leave may be rejected by the competent authority only after a Railway Medical Officer has conducted the necessary verifications and on the basis of the advice tendered by him after such verifications.

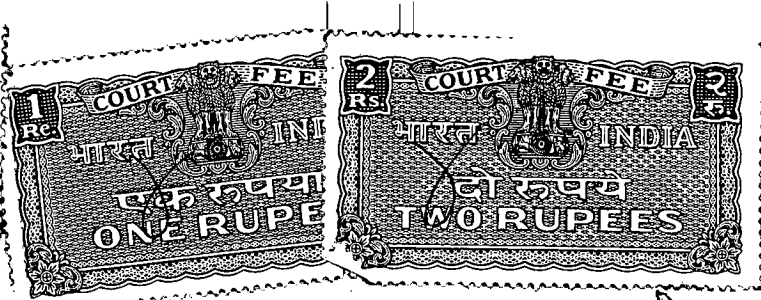
Note: Ordinarily, the jurisdiction of a Railway Medical Officer will be taken to cover Railway servant residing within a radius of 2.5 kilometres of the Railway hospital or health unit to which the doctor is attached, and within a radius of one kilometre of a Railway station of the doctor's beat.

Railway Ministry's decision 1.—Where a Railway employee remained on medical leave upto and including 3 days duration and reported back for duty with a fitness from the medical practitioner, he may be allowed to join duty without obtaining fitness certificate from the Railway Medical Officer subject to the condition that the employee furnished a declaration that he had not suffered during this period from any eye diseases. In the other cases where the duration of the sickness is more than 3 days, the railway employee should be put back to duty within 24 hours on his producing fitness certificate from a private medical practitioner, provided he is found fit by the competent railway medical officer. In case there is any delay beyond 24 hours in obtaining the fitness certificate from the competent Railway Medical Officer, the employee concerned will be deemed to have been put back to duty within 24 hours of his producing the medical certificate of the private medical officer.

(Rly. Ministry's letter No. E(G) 78LB 1-17 dt. 18-1-1979).



(See Rule 67)



FORM OF THE VAKALATHNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH, GUWAHATI.

O.A./R.A./C.P./M.A./P.T./ O.A. /No. 237 of 2009

Sri Jitendra Nath Barman /APPLICANT(S)

VERSUS

Union of India & others /RESPONDENT(S)

I, Sri Jitendra Nath Barman Applicant No 1

Respondent No. _____ in the above application/Petition do hereby appoint and Shri M. A. Sheikh, Mr. M. H. Choudhury

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 therefrom and applications for return of documents, enter into compromise and to draw any moneys payable to me/us in the said proceeding.

Place :- Guwahati

Date :- 25/1/10 M. H. Choudhury
Advocate
25/1/10

Executed in my presence.

* Signature with date
(Name and Designation)

Name and address of the
Advocate for Service.

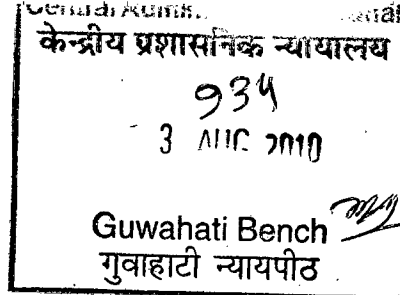
* The following Certification to be given when the party is unacquainted with the language of the Vakalath or is blind or illiterate :

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

Signature with date
(Name and Designation)

Sri Jitendra Nath Barman
Signature of the Party
'Accepted'

Mahammad Ali Sheikh
Signature with date 25/1/10
(Name of the Advocate)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

-56-
Filed by:
Munish
03/08/2010
D. M. C. Sarma
Rly. Advocate.
179

IN THE MATTER OF

O.A. 237/2009

Shri Jitendra Nath Barman Applicant

Versus

Union of India & Others Respondents

AND

IN THE MATTER OF

Additional Clarificatory Written Statement.

Shataghna Behera
Dy. Chief Personnel Officer (CA2)
N.F. Railway, Maligaon
Guwahati-11

As directed by the Hon'ble Tribunal during hearing of the case on 21.05.2010, respondents beg to respectfully submit the following clarifications :-

I. (A) That the reason why notification dated 12.05.2006 was cancelled after considerable delay lay in the fact that the process of upgradation/restructuring of the cadre of Law Assistants has not reached finality even now, mainly because a policy decision on the matter involves financial implication and inter-ministerial co-ordination at the centre. As far as the zonal Railway is concerned the guidance received from the Railway Board was tentative right from the initial sanction for restructuring / upgradation of the legal cadre of Zonal Railways. For example, the concerned sanctioning letter No.2003E(GC)12-14 Pt.I(06) dated 09.03.2006 stated in paragraph 5 "Change in the recruitment Rules wherever warranted will be notified separately in due course".

I undertake to serve
the service copy to the
applicant's advocate.

A copy of the letter dated 09.03.2006 from the Railway Board is enclosed herewith and marked as **Annexure-A**.

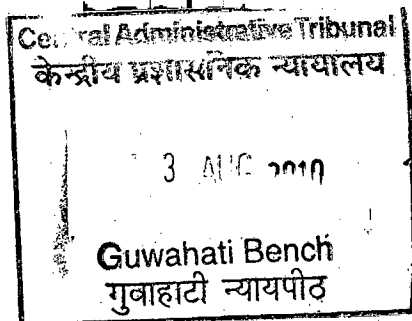
Munish
03/08/2010
D. M. C. Sarma
Rly. Advocate.

(B) The notification dated 12.05.2006 was issued for selection of two posts of Assistant Law Officers, one for SC and one for General candidates. There was however an unavoidable delay in processing the selection because Railway Board had to be approached for certain clarifications about recruitment/selection rules concerned.

In the mean time a reference was also made to the Railway Board to seek clarification as to whether the composition of selection committee which was in vogue will continue or a separate order would be issued on the matter. A number of correspondences were made to Railway Board for filling up of the upgraded posts of ALO in the legal cadre. Railway Board clarified vide RBE No.78/2007 dated 18/05/2007 (Annexure-A of respondent's W.S.) the procedure for filling up only those Group 'B' posts of ALOs that have been upgraded in terms of Board's letter dated 09.03.2006 and not for normal vacancies in Group 'B' posts for which separate instructions were to be awaited. In view of this the selection process initiated vide order dated 12.05.2006 had to be further kept on hold, awaiting further instructions.

(C) These further instructions were received vide Board's letter No.RBE 19/2008 dated 04.02.2008 (Annexure-D of respondents W.S.) which clarified that normal vacancies, excluding upgraded posts, may be filled up as per extant instructions/rules notified in 1992. At this stage however, it was found that the post of ALO in the construction organisation was no more in existence as the currency of the work-charged post had expired. This necessarily meant that instead of holding selection for two posts of ALOs (as notified vide order dated 12.05.2006) selection had to be held for only one post, thus requiring cancellation of the notification dated 12.05.2006. All this led to further delay in cancellation of the notification dated 12.05.2006 due to unavoidable administrative reasons.

Shatishna Behera
Chief Personnel Officer, 982
N.F. Railway, Maligaon
Guwahati-781001



58- 115

II. As regards the reasons for cancellation of the notification dated 12.05.2006 vide communication dated 07.09.2009, it is respectfully admitted that no reason was furnished considering that the new selection for one post of ALO was issued immediately thereafter (on 17.09.2009-Annexure 1- of the O.A.). To explain the full reasons as indicated in paragraphs I(A), I (B) and I (C) would have been too detailed to be included in the notification concerned and thus a long explanation was not indicated in the communication dated 07.09.2009.

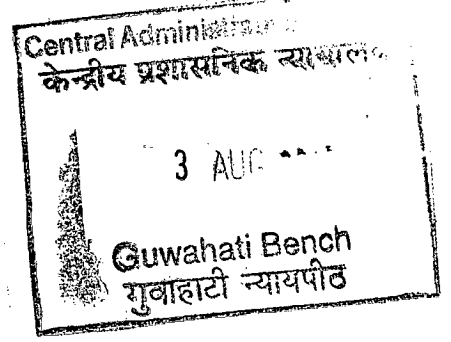
III. As regards steps taken to protect the rights of candidates from S.C. Community, it is respectfully submitted that as per the Post Based Roster maintained in the Zonal Headquarters, based on extant instructions, the post reserved for SC is one for two posts and none for one post.

The attested copy of the Post Based Roster in Group 'B' service is enclosed herewith and marked as **Annexure-B**.

With the kind permission of the Hon'ble Tribunal the original roster register maintained in the Zonal Headquarters would be submitted by the concerned official at the time of hearing.

Shataghna Bhowmik
Chief Personnel Officer, 1002
N.F. Railway, Maligaon
Guwahati-11

- 4 -



VERIFICATION

I Sri S. Behera, son of Shri B.C. Behera, aged about 39 years by occupation service and at present working as Deputy Chief Personnel Officer (Gazetted) under N. F. Railway, Maligaon, Guwahati-11, residing at Maligaon, Assam, do hereby solemnly affirm that the statements made in paragraphs I, II and III of this additional clarification written statement are true to the best of my knowledge based on records which I believe to be true and contain my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 3rd day of August, 2010.

Shatughna Behera

Signature: Chief Personnel Officer / 1002
N.F. Railway, Maligaon
Guwahati-11

Designation:

INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

New Delhi, dt. 9.3.2006.

No.2003E(GC)12-14 PLI(06)

The General Managers,
Central, Northeast Frontier,
South Central, South Eastern &
Western Railways and all the New Zones.

Sub : Restructuring of gazetted cadre of the Indian Railways for new Zones and new Divisions. Legal Department Creation of two posts in JA Grade and six posts in Sr.Scale and upgradation of 11 posts of CLAs in Grade 7450-11500 to Group 'B' in scale Rs.7500-12000.

Based on the Report/recommendations of the Departmental Committee for revamping and streamlining the legal set-up of Zonal Railways/Production Units, the gazetted cadre of Legal Department for the seven new Zones and eight new Divisions of Indian Railways has been reviewed with a view to restructuring and strengthening the set-up to cope with the increased workload and responsibilities and it has been decided to create 2 posts in JA Grade and 6 posts in Sr.Scale and upgrade 11 posts of Chief Law Assistants to Group 'B' by surrendering 12 posts of CLAs from the new Zones and new Divisions.

Accordingly, sanction of the Ministry of Railways is hereby accorded to the creation of 2 posts in JA Grade and 6 posts in Sr.Scale and upgradation of 11 posts of Chief Law Assistants to Group 'B' by surrender of 12 posts of CLAs in Grade Rs.7450-11500. Details of the posts to be created and upgraded are indicated in Annexure I to this sanction. The details of posts of CLAs to be surrendered are indicated in Annexure II.

The above posts which are permanent in existing grade shall be treated as permanent in the upgraded scale. The dates of operation of the newly created/upgraded posts may please be intimated to this Ministry in due course.

The Railway must ensure that the sanction orders for surrender of posts are issued before implementation of the upgradation and this office advised accordingly. The surrender of posts should be finalized duly vetted by FA&CAO.

The changed mode of working warrant that the Legal Officers and Sr.Legal Officers will attend the Court as and when required by the Court and give advisory work as required by the Departments. The increased workload and responsibilities and duty list of the legal cadre in the changed mode of working as envisaged in the Committee's Report are indicated in Annexure III & IV respectively. Change in the Recruitment Rules wherever warranted will be notified separately in due course.

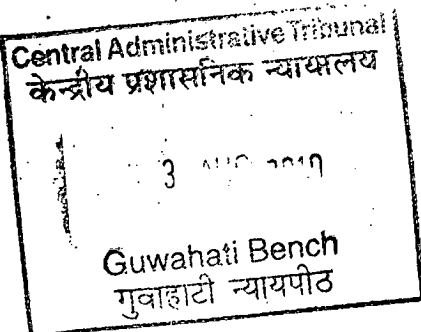
This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

Please acknowledge receipt.

DA : As above.
GZ/AMR

महोदय, को. प्र. 4
Office of
General Manager
11/11/06

(D.R. Mehra)
Director, Estt.(Gaz.Cadre)
Railway Board.



Accepted
RVA
31/8/06

Asst. Personnel Officer (Legal Cell) B-14
सी. ऐल. प्र. 4, मालिगा, गुवाहाटी-781001
Cell: 0361-2511000, Guwahati.

- 6 -

61-

118

REGD. 11/11/06

New Delhi dt. 3.2.2006

Forwarded to

The FA&CAOs : Central Railway, Mumbai, Northeast Frontier Railway, Guwahati, South Central Railway, Secunderabad, South Eastern Railway, Kolkata, Western Railway, Mumbai, East Central Railway, Hajipur, East Coast Railway, Bhubaneswar, North Central Railway, Allahabad, North Western Railway, Jaipur, South East Central Railway, Bilaspur, South Western Railway, Hubli & West Central Railway, Jabalpur

(D.R. Mehra)

Director, Estt. (Gr. Cadre)
Railway Board

003E(GC)12-14 PU(06)

New Delhi, dt. 3.2.2006.

Copy forwarded to :

The Principal Directors of Audit, Central, Eastern, Northern, North Eastern, Northeast Frontier, South Central, South Eastern & Western Railways.

The Dy. Comptroller & Auditor General of India (Railways), Room No. 224, All Bhavan, New Delhi.

for Financial Commissioner/Railways

For : Adm. (B), L.A. (B), L.A. (B), L.A. (B), L.A. (B), Legal Cell & P.F. Branch, Railway Board.

A. Hesteg
RWB
3/8/16

श्री: बालकृष्ण नायक (विभा. १०)
Asstt. Personnel Officer (Legal Cell B-11)
श्री: रमेश, मालिक, गुवाहाटी-781001
Railways Malik, Guwahati

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
3 AUG 2016
AIR
Guwahati Bench
गुवाहाटी न्यायपीठ

A. Posts to be created in JA Grade and Sr.Scale

Railway	JA Grade (By creation)	Sr.Scale (By creation)	Total	Postcodes (Respectively)
East Central	1	1	2	10777, 10778
East Coast	0	1	1	10779
North Central	0	1	1	10780
North Western	1	0	1	10781
South East Central	0	1	1	10782
South Western	0	1	1	10783
West Central	0	1	1	10784
Total	2	6	8	

B. Posts to be upgraded to Group 'B' in Grade Rs.7500-12000
from CLA in Grade Rs.7450-11500.

Railway	Group 'B'	Postcode
North Central	1	10785
South Western	1	10786
West Central	1	10787
Total	3	
New Divisions		
Pune/C.Railway	1	10788
✓ Rangiyā/N.F. Railway	1	10789
Nanded/S.C.Railway	1	10790
Guntur/ S.C.Railway	1	10791
Ranchi/S.E. Railway	1	10792
Ahmedabad/W.Railway	1	10793
Agra/N.C.Railway	1	10794
Rajpur/S.E.C. Railway	1	10795
Total	8	
Grand Total	11	

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
3 AUG 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

Asst. Personnel Officer (Legal Cell)
श्री. रेलवे, मालिगांव, गुवाहाटी-781006

Annexure-II to sanction
No. 2003E(GC)12-14 Pt.1(06)
dt. 9.3.2006

**Posts of Chief Law Assistants (Grade Rs.7450-11500)
identified for surrender.**

New Zones	No. of posts
East Central	1
East Coast	1
North Central	1
North Western	1
South East Central	1
South Western	1
West Central	1
New Divisions:	
Pune/C.Railway	1
Rangiya/N.E.Railway	1
Banded/S.C.Railway	1
Cumtur/S.C.Railway	1
Kanchi/S.E.Railway	1
Ahmedabad/W.Railway	1
Agra/N.C.Railway	1
Raipur/S.E.C.Railway	1
Total	12

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
3 AUG 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

Amesgd
RWS
3/8/10
Sd/- जॉयन्त बायबारी (निवि ००)
Asstt. Personnel Officer (Legal Cell 12/11)
सी: रेलवे, मालिगांव, गुवाहाटी-781001
e-mail: Maligaon, Guwahati

Implementation of Post based Roster in Group 'B' service
BOS = 04 including upgraded Post of
ALO/RNY.

SL No.	No. of post	Whether SC/ST/UR	Year of Selection	Name of the Incumbent	Date of Birth	Date of promotion
1	2	3	4	5	6	7
1	1	UR	1995	Shri Haramba Thakuria	01-12-49	28.03.95
2	2	UR	2003	" Manohar Kalita	01-07-61	18.04.2003
✓3	✓3	UR	2006			
✓4	✓4	SC	-do-			

Cancelled

Accepted

13/7/16

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
Guwahati Bench
गुवाहाटी न्यायपीठ

w.e.f. 01-04-2005

ANNEXURE-B

Name of the Post: - Asstt. Law Officer/Group-B

64- (36)

whether SC/ST/UR	whether promoted on seniority or quota	Short fall, if any	SC	ST	Date of approval of the panel	Date of vacation of post on promotion/retirement	Remarks
8	9	10	11	12	13	14	
UR	seniority				09-03-95		Promoted to ss (2003)
UR	-do-				April '03		
		NIL		NIL			

Officers promoted as per 40 Point Roster have been adjusted from Point No. 1 to 2 of PBR.

19/04/06
18/04/06

Up to pt No. 2, back-log of SC-NIL & ST-NIL
Sanction post - 4
No. of vacancy - 2
Point No. 3 & 4.

Break up - UR-NIL
SC-NIL
ST-NIL
Total - 2

Joint District Officer (Legal Cell)
Joint District Officer (Legal Cell)
Joint District Officer (Legal Cell)

5/5/08
5/5/08
5/5/08
5/5/08

Implementation of Post Based Roster in Group 'B' service

BOS = 02

No. P. R. 1-4-2005 - 65-

ANNEXURE B.

Name of the post: - Asstt. Law Officer/Group 'B'

37

33

SN	Post Point No.	SC/ST/UR according to Roster	Year of selection	Name of the Incumbents	Date of Birth	Date of promotion to Gr. B
1	2	3	4	5	6	7
1	1	UR	1995	Shri Hemanka Thakuria	01.12.49	28.03.95
2	2	UR	2003	" Manohar Kalita	01.07.61	18.04.03

Whether SC/ST/UR as per Roster	Whether seniority / Quota	Shortfall, if any	Date of approval of the panel	Date of vacation	Remarks
8	9	10	11	12	14
UR	Seniority	-	09-03-95	25.08.05	Working as LO in S.C. scale (noted).
UR	do	-	April 13		

Replacement

1 1st UR 2009

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
3 AUG 2010
Guwahati Bench
गुवाहाटी न्यायपीठ.

AK-2100

13/7/10

Asstt. Law Officer (Legal Cell)
Asstt. Law Officer (Legal Cell)
Asstt. Law Officer (Legal Cell)

26/8/09

Upto Point No. 2
Back-log of SC/ST RPH.

= NIL

Sanctioned post

= 02 (Two)

No. of vacancy =

01 (one)

Break-up

UR = 01

SC = NIL

ST = NIL

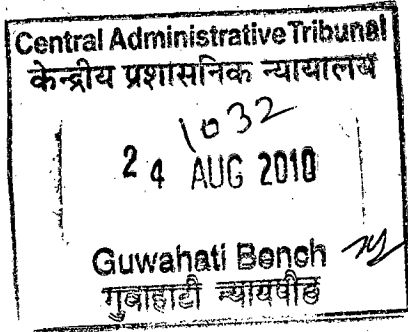
Print No.

Replacement

1st.

26/8/09
27/8/09
28/8/09
29/8/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
AT GUWAHATI BENCH



IN THE MATTER OF

OA NO.237 OF 2009

Shri Jitendra Nath Barman.....Applicant

-Vs-

Union of India & OthersRespondent

And

IN THE MATTER OF -

A clarification on behalf of the respondents to
the direction of the Hon'ble Central
Administrative Tribunal, Guwahati in order
dated 05/08/2010 passed in OA.

The humble respondents most respectfully Sheweth :-

1. That the Hon'ble Tribunal by their order dated 5/8/2010 passed in the original application has directed to the respondents to obtain instructions and clarifications in respect of creation of post of Assistant Law Officer in Construction Organisation and to place on record vide which the concerned post of Asstt. Law Officer was later abolished due to depletion of works.
2. That all the posts of Construction Organisation are work-charged post. The posts are created or currency is extended on the basis of the requirement of the organisation as well as availability of the adequate amount of direction and general charges available in the sanctioned estimates. The post of OSD/Construction/MLG (also called ALO/Construction) was extended upto 30/06/2009.

(A copy of memorandum dated 29/7/2008 is
placed at Annexure-A)

81
Filed by the respondent's
through Dr. K.C. Sommer
Railway Advocate / 39
23/8/2010.

Shambhushan Behera
उप मु. को. नि. क. अधिकारी (राज.)
By Chief P.E. Officer (Gaz)
पू. सी. रेशवे / मालीगाँव
N.F. Railway, M. Liganon

-2- 82-

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
24 AUG 2010
Guwahati Bench
30/06/2009
MP

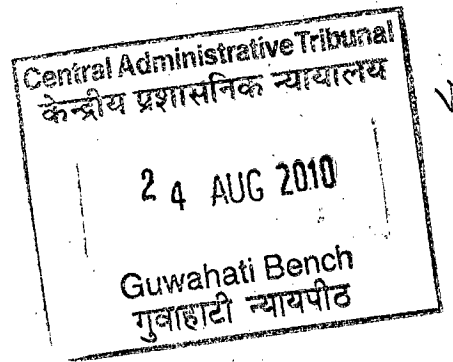
The currency of the above post was not extended beyond 30/06/2009 on the ground that the post was not filled up for last 5 years and there was no justification for further continuance of the above post. The post was abolished with the concurrence of the associate finance and approval of the GM/Construction. Hence, in the Memorandum No.217/09(Gaz.) circulated under GM/Construction/MLG's No.E/41/Con/G Pt.XIX dated 10/07/2009 that there was no mention of the post of ALO/Con. There is another Sr.Scale post of Law Officer/Construction which is fulfilling the requirement of the Construction Organisation. This is also emphasized here that the posts of Construction Organisation have been created and their currency extended for further period of 01/07/2010 to 30/06/2011, but in the Memorandum issued, there was no mention of the post of ALO/Construction meaning thereby that there is no requirement of the post of ALO/Construction.

Sh. Anurag K. Sengupta
उप म. को. के अधिकारी (सि.जि.न्याय)
By Chief Personnel Officer (Gaz)
प. सी. रेलवे / मालिगांव
N F. Railway, Maligaon

(Copies of Memorandum dated 10/7/2009 & 30/6/2010 are enclosed as Annexure-B & C respectively)

3. That this clarification has been filed bonafide for the end of justice.

3 → 83-
Verification



I, Sri S. Behera, son of Shri B.C. Behera aged about 39 years, at present working as Deputy Chief Personnel Officer/Gazetted, Northeast Frontier Railway do hereby solely affirm that the statement made in the paragraph.....1.....to.....2.....of this clarification/reply are true to best of my knowledge based on record which I believe to be true and contain my humble submission before the Hon'ble Tribunal.

And I sign this verification on this the 23rd day of August, 2010 at Guwahati.

Shatughna Behera
Signature

उप मु. कार्मिक अधिकारी (राज.)
Dy. Chief Personnel Officer (Gaz)
पू. सी. रेलवे / मालिगाँव
N. F. Railway, Maligaon

4-84 Annexure - 'A'

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

24 AUG 2008

Office of the
General Manager/Con
Guwahati Maligaon, Guwahati-11
গুৱাহাটী

MEMORANDUM No. 80 / 2008(Gaz)

General Manager/Con/N. F. Railway/Maligaon with the concurrence of FA&CAO/Con/Maligaon has accorded his sanction to the creation/extension of currency of the following Gazetted posts of General Administration, Personnel, Store, Operating and Medical department for the period from 01. 07. 2008 to 30. 06. 2009 as indicated below against the provisions available in sanctioned estimates.

	General Administration	Grade	Currency up to	Remarks
1	Dy. CVO/Open Line	JAG	30. 06. 2009	
2	Dy. CVO/Open Line	JAG	-do-	NEW CREATION
3	Secy. to GM/Con/MLG	JAG	-do-	
4	Law Officer/Con/MLG	SS	-do-	
5	Sr. PRO/Con/MLG	SS	-do-	
6	OSD/Con/Kolkata	SS	-do-	
7	Sr. VO/ Open Line	SS	-do-	
8	PPS to GM/Con/MLG	JS	-do-	
9	PS to CAO/Con/MLG	JS	-do-	
10	OSD/Con/MLG(ALO/Con)	JS	-do-	
11	Raj. Adhikary/Con/MLG	JS	-do-	
12	Asstt. Sports Officer	JS	-do-	
Personnel Department				
1	Dy. CPO/Con/MLG	JAG	-do-	
2	Dy. CPO/ Open Line	JAG	-do-	
3	Dy. CPO/ Open Line	JAG	-do-	
4	Dy. CPO/ Open Line	JAG	-do-	
5	SPO/Open Line	SS	-do-	
6	SPO/Open Line	SS	-do-	
7	SPO/Open Line	SS	-do-	
8	SPO/Open Line	SS	-do-	
9	SPO/Open Line	SS	-do-	New Creation
10	SPO/Open Line	SS	-do-	
11	SPO/Con/MLG	SS	-do-	New Creation in lieu of one post of APO/Con
12	APD/Con/MLG	JS	-do-	
Operating Department				
1	Dy. COM/Con/MLG	JAG	-do-	
2	Dy. COM/Open Line	JAG	-do-	
3	Dy. COM/Open Line	JAG	-do-	
4	Dy. COM/Open Line	JAG	-do-	
5	Dy. COM/Open Line	JAG	-do-	

Contd. P/2

12/08/08

-5-

-85-

143

24 AUG 2010

Gurukhuti Bench
गुरुकुटी बेंच

6	STM/Open Line	SS	-do-	Govt. of India गुजराती भाषा
7	STM/Open Line	SS	-do-	
8	STM/Open Line	SS	30. 06. 2009	
9	STM/Open Line	SS	-do-	
10	STM/Open Line	SS	-do-	
11	STM/Open Line	SS	-do-	
12	STM/Open Line	SS	-do-	
13	STM/Con/MLG	SS	-do-	
14	ATM/Con/MLG	JS	-do-	
15	ATM/Con/MLG	JS	-do-	
Medical Department				
1	Sr. DMO/Open Line	JAG	-do-	
2	DMO/Open Line	SS	-do-	
3	ADMO/Open Line	JS	-do-	New Creation
4	ADMO/Open Line	JS	-do-	
5	ADMO/Open Line	JS	-do-	
Stores Department				
1	Dy. CMM/Con/MLG	JAG	-do-	
2	SMM/Con/MLG	SS	-do-	
3	AMM/Con/MLG	JS	-do-	

(S. Behera)

Dy. CPO/Con

For General Manager/Con

Dated 29.7.2008

No. E/41/Con/G/Pl. IX

Copy forwarded for information and necessary action to:-

1. GM(P)/MLG
2. FA&CAO/Con/MLG
3. FA&CAO/MLG
4. COS/Con/MLG
5. CMD/MLG
6. COM/MLG
7. CVO/MLG
8. Dy. COM/Con/MLG
9. Secy. to GM/Con/MLG - for kind information of GM/Con
10. Sr. PRO/Con/MLG, LO/Con, OSD/Con/Kolkata
11. PPS to GM/Con
12. PS to CAO/Con
13. L/Bill

(S. Behera)

29/7/08

For General Manager/Con

-6-
-86-

NORTHEAST FRONTIER RAILWAY
(Construction Organization)

24 AUG 2010
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ
Office of the
General Manager/Con
Maligaon, Guwahati-781011

Memorandum No. 217 / 2009 (Gaz)

General Manager/Con, N. F. Railway, Maligaon with the concurrence of FA&CAO/ Con/1/Maligaon has accorded his sanction to the creation/extension of the following Gazetted posts of General Administration, Personnel, Store, Operating and Medical department for the period from 01.07.2009 to 30.06.2010 as indicated below against the provisions available in the sanctioned Construction estimates.

SN	General Administration	Grade	Currency up to	Remarks
1	Dy. CVO/Open Line	JAG	30.06.2010	
2	Dy. CVO/Open Line	JAG	-do-	
3	Secy. to GM/Con/MLG	JAG	-do-	
4	Law Officer/Con/MLG	SS	-do-	
5	Sr. PRO/Con/MLG	SS	-do-	
6	OSD/Con/Kolkata	SS	-do-	
7	Sr. VO/Open Line	SS	-do-	
8	PPS to GM/Con/MLG	JS	-do-	
9	PS to CAO/MLG	JS	-do-	
10	Rajbhasa Adhikary/Con/MLG	JS	-do-	
Personnel Department				
1	Dy. CPO/Con/MLG	JAG	-do-	
2	Dy. CPO/Open Line	JAG	-do-	
3	Dy. CPO/Open Line	JAG	-do-	
4	Dy. CPO/Open Line	JAG	-do-	
5	SPO/Open Line	SS	-do-	
6	SPO/Open Line	SS	-do-	
7	SPO/Open Line	SS	-do-	
8	SPO/Open Line	SS	-do-	
9	SPO/Open Line	SS	-do-	
10	SPO/Open Line	SS	-do-	
11	SPO/Con/MLG	SS	-do-	
12	APD/Con/MLG	JS	-do-	
Operating Department				
1	Dy. COM/Con/MLG	JAG	-do-	
2	Dy. COM/Open Line	JAG	-do-	
3	Dy. COM/Open Line	JAG	-do-	
4	Dy. COM/Open Line	JAG	-do-	
5	Dy. COM/Open Line	JAG	-do-	

Contd. P/2

Pgt
16/8/10
C/Acc

[Signature]

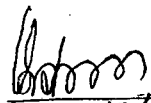
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

24 AUG 2009

Guwahati Bench
गुवाहाटी

6	STM/Open Line	SS	30.06.2010	
7	STM/Open Line	SS	-do-	
8	STM/Open Line	SS	-do-	
9	STM/Open Line	SS	-do-	
10	STM/Open Line	SS	-do-	
11	STM/Open Line	SS	-do-	
12	STM/Open Line	SS	-do-	
13	STM/Con/MLG	SS	-do-	
14	ATM/Open Line	JS	-do-	
15	ATM/Con/MLG	JS	-do-	
16	ATM/Con/MLG	JS	-do-	
Stores Department				
1	Dy. CMM/Con/MLG	JAG	-do-	
2	SMM/Con/MLG	SS	-do-	
3	SMM/Con/MLG	SS	-do-	(New creation)
Medical Department				
1	Sr. DMO/Open Line	JAG	-do-	
2	DMO/Open Line	SS	-do-	
3	ADMO/Open Line	JS	-do-	
4	ADMO/Open Line	JS	-do-	
5	ADMO/Open Line	JS	-do-	
6	ADMO/Open Line	JS	-do-	(New creation)

(FA&CAO/Con/1/MLG's concurrence at PP/12 & 13 of the case)


(S. Behra)
10/7/09

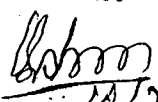
Dy. CPO/Con
For General Manager/Con

Dated : 10.07.2009

No. E/41/Con/G/Pl. IX

Copy forwarded for information and necessary action to :-

1. Secy. to GM/Con for kind information of GM/Con, 2. CAO/Con/MLG, 3. CPO/MLG,
4. FA&CAO/Con/1 & 2/MLG, 5. FA&CAO/MLG, 6. COS/Con/MLG, 7. CMD/MLG,
8. COM/MLG, 9. CVO/MLG, 10. Dy. COM/Con/MLG, 11. Sr. PRO/Con/MLG,
12. Law Officer/Con/MLG, 13. OSD/Con/Kolkata, 14. PPS to GM/Con, 15. Rajbhasha
- Adhikary/Con/MLG, 16. PS to CAO/Con, 17. E/Bill & Cadre at office


10/7/09
For General Manager/Con

Annexure C
প্রশাসনিক ন্যায়ালয়

24 AUG 2010

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

(16)

NORTHEAST FRONTIER RAILWAY
(Construction Organization)

Office of the
General Manager/Con
Maligaon, Guwahati-781011

Memorandum No. 71 / 2010 (Gaz)

General Manager/Con, N. F. Railway, Maligaon with the concurrence of FA&CAO/Con/1/Maligaon has accorded his sanction to the creation/extension of the following Gazetted posts of General Administration, Personnel, Store, Operating, Security and Medical department for the period from 1.7.2010 to 30.6.2011 as indicated below against the provisions available in the sanctioned Construction estimates.

SN	General Administration	Grade	Currency up to	Remarks
1	Secy. to GM/Con/MLG	JAG	30.6.2011	
2	Dy. CVO/Open Line	JAG	-do-	
3	Dy. CVO/Open Line	JAG	-do-	
4	Dy. CVO/Open Line	JAG	-do-	
5	DGM/Rajbhasha/Con/MLG	JAG	-do-	
6	Law Officer/Con/MLG	SS	-do-	
7	Sr. PRO/Con/MLG	SS	-do-	
8	OSD/Con/Kolkata	SS	-do-	
9	Sr. VO/Open Line	SS	-do-	
10	PPS to GM/Con/MLG	JS	-do-	
11	PS to CAO/Con/MLG	JS	-do-	
12	Rajbhasha Adhikary/Con/MLG	JS	-do-	
Personnel Department				
1	Dy. CPO/Con/MLG	JAG	-do-	
2	Dy. CPO/Open Line	JAG	-do-	
3	Dy. CPO/Open Line	JAG	-do-	
4	Dy. CPO/Open Line	JAG	-do-	
5	SPO/Open Line	SS	-do-	
6	SPO/Open Line	SS	-do-	
7	SPO/Open Line	SS	-do-	
8	SPO/Open Line	SS	-do-	
9	SPO/Open Line	SS	-do-	
10	SPO/Open Line	SS	-do-	
11	SPO/Con/MLG	SS	-do-	
12	SPO/Con/MLG	SS	-do-	
Operating Department				
1	Dy. COM/Con/MLG	JAG	-do-	
2	Dy. COM/Open Line	JAG	-do-	
3	Dy. COM/Open Line	JAG	-do-	
4	Dy. COM/Open Line	JAG	-do-	
5	Dy. COM/Open Line	JAG	-do-	

Contd. P/2

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

24 AUG 2010

Guwahati Bench
गुवाहाटी न्यायालय

6	STM/Open Line	SS	30.06.2011		
7	STM/Open Line	SS	-do-		
8	STM/Open Line	SS	-do-		
9	STM/Open Line	SS	-do-		
10	STM/Open Line	SS	-do-		
11	STM/Open Line	SS	-do-		
12	STM/Open Line	SS	-do-		
13	STM/Con/MLG	JS	-do-		
14	ATM/Open Line	JS	-do-		
15	ATM/Con/MLG	JS	-do-		
16	ATM/Con/MLG				
	Stores Department				
1	Dy. CMM/Con/MLG	JAG	-do-		
2	SMM/Con/MLG	SS	-do-		
3	SMM/Con/MLG	SS	-do-		
	Medical Department				
1	Sr. DMO/Open Line	JAG	-do-		
2	DMO/Open Line	SS	-do-		
3	ADMO/Open Line	JS	-do-		
4	ADMO/Open Line	JS	-do-		
5	ADMO/Open Line	JS	-do-		
6	ADMO/Open Line	JS	-do-		
	Security Department				
1	Security Commissioner/Con	SS	-do-		

(FA&CAO/Con/1/MLG's concurrence at PP/26 & 27 of the case)

(P. K. Das)
SPO/Con/1

For General Manager/Con
Dated : 30.06.2010

No. E/41/Con/G/Pt. IX

Copy forwarded for information and necessary action to :-

1. Secy. to GM/Con for kind information of GM/Con, 2. CAO/Con/MLG, 3. CPO/Con/MLG, 4. FA&CAO/Con/1 & 2/MLG, 5. FA&CAO/MLG, 6. COS/Con/MLG, 7. CMD/MLG, 8. COM/MLG, 9. CVO/MLG, 10. Dy. COM/Con/MLG, 11. DGM/Con/Rajbhasha/MLG, 12. Sr. PRO/Con/MLG, 13. Law Officer/Con/MLG, 14. OSD/Con/Kolkata, 15. PPS to GM/C, 16. PS to CAO/Con, 17. E/Bill & Cadre at office

For General Manager/Con

In the Central Administrative Tribunal
Gwahati

OA 237/2009

24 AUG 2010

Gwahati Bench
गुवाहाटी बेंच

Shri Jitendra Nath Barman
— Applicant

— Vs —

Union of India & Ors
— Respondents.

From:—

Arupjit Bhattacharjee
Advocate

To —

Usha Das.
Advocate

Sir,

Kindly take notice of 1 copy of OA 237/2009
and acknowledge the same.

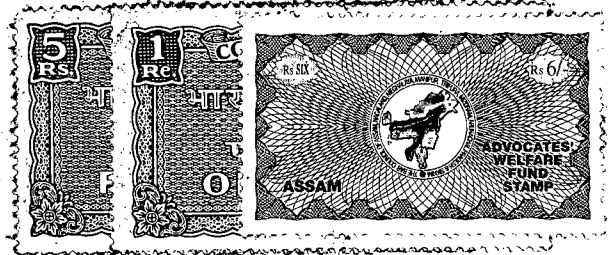
Undertake

From.

Arupjit Bhattacharjee
Advocate

On behalf of Dr M. C. Sharma

24/8/2010



VAKALATNAMA

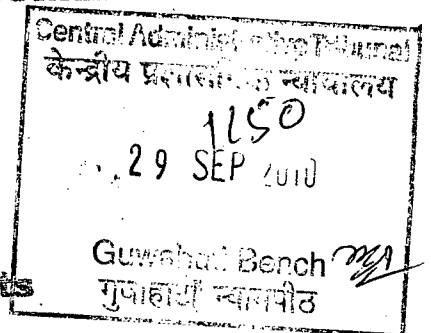
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH AT GUWAHATI

OA No. 237/2009

Sri J N BarmanApplicant

-Vs-

Union of India & OrsRespondents



I/We Shri S Behera, Dy CPO/Gaz of the Northeast Frontier Railway Administration, do hereby appoint and authorize Smt Bharati Devi Railway Advocate, CAT/Guwahati, to appear, act, apply, plead in and prosecute the above described to file and take back documents, to accept processes of the court to appoint and instruct Counsel, Advocate, Pleader to withdraw and deposit moneys and generally to represent the undersigned in the above described _____ and to do all things incidental to such appearing, applying, pleading and prosecuting for the undersigned SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf as previously been obtained from the undersigned, the Govt. Pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the _____ against all or any of the opposite parties or enter into any agreement settlement or compromise whereby the case is/ are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Govt. of India and an omission to settle or compromise should be definitely prejudicial to the interest of the opposite parties the said Advocate/Pleader/Counsel may enter into any agreement, settlement or compromise thereby the Civil Rule/proceedings is/ are wholly or partly adjusted and in every such case the said Advocate/Pleader/ Counsel shall record and communicate forthwith to the undersigned the special reasons for entering into the agreement, settlement or compromise.

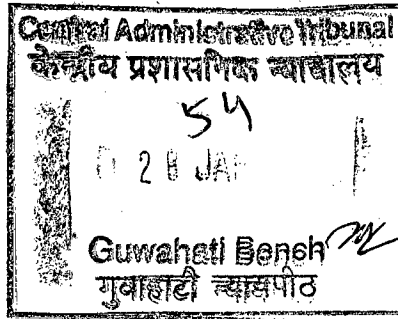
I/ We, hereby agree to ratify all acts done by the aforesaid Smt Bharati Devi, Railway Advocate, CAT/Ghy in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed on this 27th day of Sept, 2010.

Shanti R/A - N. F. Rly
27.09.10

Rashmi Borkh
27/09/10

Shatughna Behera
FOR AND ON BEHALF OF UNION OF INDIA
(महोदय के नाम पर)
Dy, Chief Personnel Officer (Gaz)
स. सी. रेलवे, मालिगाँव
N.F. Railway, Maligaon



Filed the Petition
Sri Jitendra Nath Barman
through
Lasha Day
23.1.2011 AD 10:00 AM

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI
GAUHATI BENCH

mw/

O.A.No. 237 / 2009

Sri Jitendra Nath Barman.....Applicant

- VS -

Union Of India & Others.....Respondents

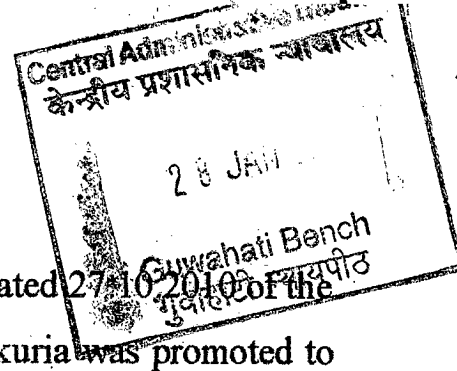
IN THE MATTER OF

Reply of the Applicant against the clarification
submitted by Respondents on 23.8.2010
in pursuance of order dated 5.8.2010

The applicant begs to state as follows :-

1. That, as regard the statement made under para 2 of the said clarification the applicant states that it is not true that the post of A L O / construction was a work charge post. It is fact that Sri H.Thakuria has been working as CLA under G. M / Law /Mlg and subsequently he was promoted and appointed to the post of A L O (Group-B) in the G M / Construction / Mlg on 28.3.95 and after completion of TEN (10) years service as ALO in the GM/CONSTRUCTION thereafter he was promoted to the higher post of Law officer on 25. 8. 2005 in the GM/ Construction and after completion of more than 4 years service as LAW OFFICER in GM/CONSTRUCTION / Mlg he

-91-



was retired on 30.11.2009 as Law Officer as per letter dated 27.10.2010 issued by the railway authority addressed to the applicant. Sri H.Thakuria was promoted to the post of ALO Group-B on 28.3.1995 vide office order No. ALO / CON/GM/ NFRly. Thereafter on 25.8.2005 said Mr. H.Thakuria was promoted to the post of Law Officer and thereby from 25.8.2005 the post of ALO fallen vacant at GM/Construction/MLG/N.F.Rly. Thereafter Mr.H.Thakuria retired from the post of Law Officer on 30.11/2009 .The post of Law Officer of GM/Construction office has been down graded as ALO after retirement of Sri H.Thakuria . Thereafter Dr.Monohar Kalita who was a CLA under GM(P)/MLG and promoted to the post of ALO and appointed as ALO in GM/Law who was transferred from GM/Law to GM/Construction and he has been posted as ALO/Construction on 01.12.2009 after retirement of Mr. Thakuria . Dr. Kalita joined the post on 1.12.2009 itself by his joining letter dated 1.12.2009.

Thereafter Dr. Kalita was promoted to the higher post of Law Officer /Construction w.e.f. 03. 09. 2010 and he has been working as Law Officer in the GM/Construction till date which fact is reflected in the letter dated 19. 11.2010 issued by Railway authorities to the applicant.

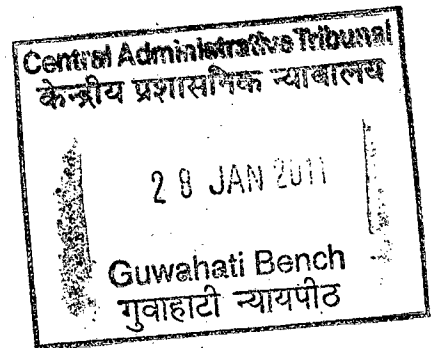
It is pertinent to mention here that before said transfer Dr. Kalita was working as ALO at GM/Law/Mlg. Now the position of vacancy of ALO post are as follows :-

(A) One (1) post of ALO has been lying vacant at GM/Law
/MIG. W.E.F. 30. 11.2009.

(B) One (1) post of ALO has been lying vacant at GM/CONS/
MIG w.e.f. 03 .9. 2010 till date.

(C) One (1) post of ALO has been lying vacant at Rangiya
Division (New) till date.

Sri Jitendra Nath Barman



So presently 3 nos of ALO posts has been lying vacant under the N.F.Railway. The applicant further states that from 25.8.2005 to 30. 11.2009 for FOUR (4) years 3 months 5 days the post of ALO/Con/Mlg was lying vacant and the applicant could be appointed there as ALO on ad -hoc basis but the authorities did not do so. After 9.3.2006 TWO (2) posts of ALO were lying vacant under N.F.Railway. **One at G.M / Construction and One at RANGIYA DIVISION (New)** and to fill-up the aforesaid two posts the advertisement dated 12.5.2006 was issued but subsequently the same was cancelled vide order dated 7.9.2009.

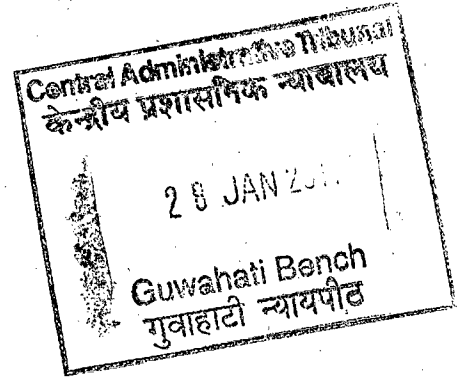
And thereafter the impugned advertisement dated 17.9.2009 was issued showing vacancy for one (1) post of ALO-Group B which is completely perverse as per relevant records . It is seen from the stand of the Railway authorities that a post is up graded just for the promotion of Mr.H.Thakuria and on his retirement the post is down graded to transfer Dr. Kalita from GM/Law which is against the known service jurisprudence

Copies of joining letter of Dr. Kalita dated 01.12.2009, letter dated 27.10.2010 and Letter dated 19. 11. 2010 are annexed herewith and marked as annexure No. 19, 20, 21 respectively.

Sri Jitendra Nath Barman

93 -

153



VERIFICATION

I, Sri Jitendra Nath Barman S/O, late Thaneswar Barman, aged about 59 years resident of village : Parakuchi , P.O. Sondha , PS & Dist. Nalbari, Assam do hereby verify the contents of the statements are all true to the best of my knowledge and belief as well as records and I sign this verification to day on 28 th day of January , 2011 at Gauhati.

Sri Jitendra Nath Barman
Signature of the applicant

94-

Annexure - 19

-5-
154

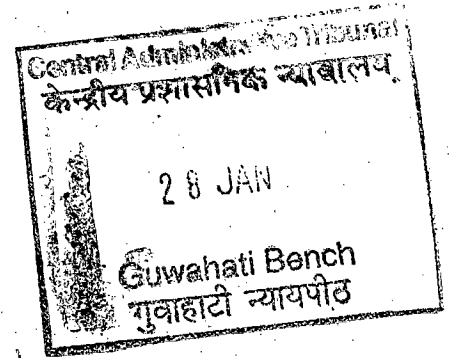
To

The Chief Engineer/Con-1
N.F. Railway, Maligaon.

Date -01-12-2009

Sub: Joining Report.

Sir,



In terms of office order No.45/2009(Mangg) issued under case file No.E/283/30/3(O) dated 26.11.2009(copy enclosed) the undersigned has been transferred to construction organization under GM/CON/MLG and posted as Assistant Law Officer in the same grade vice Sri H. Thakuria, Law Officer/Con/MLG who has retired with effect from 30.11.2009 (AN).

On being spared by Law Officer, N.F. Railway, Maligaon on 30.11.2009(AN) vide letter No.Z/208/35/NG/Pl.XI dated 30.11.2009 (Copy enclosed) I have assumed the charge of Assistant Law Officer/Con N.F. Railway on 01.12.2009.

DA : As above.

Yours sincerely

m
Dr. Manohar Kalita
(Dr. Manohar Kalita)
Assistant Law Officer/Con
N.F. Railway, Maligaon.

Copy to:

1. Secretary to GM/Con/MLG
 2. Dy.CPO/Con/MLG
- } For kind information please.

(Dr. Manohar Kalita)
Assistant Law Officer/Con
N.F. Railway, Maligaon.

Attested
M.A. Cherkh
Advocate

पूर्वोत्तर सीमा रेल
(निर्माण संगठन)

Regd. with A/D.

Annexure NO- 20

महाप्रबंधक/निर्माण
का कार्यालय
मालीगांव गुवाहाटी-11
Dated: 27.10.2010.

NO: W/70/CON/RTI/Bill/2005/112

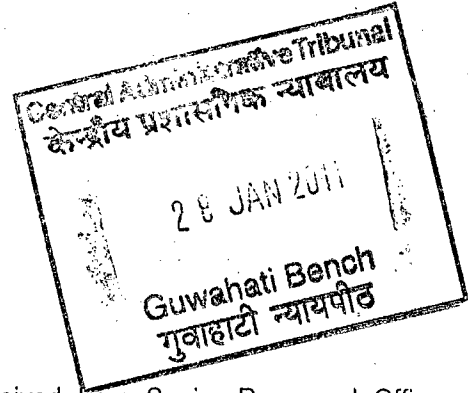
To,
Sri Jitendra Nath Barman,
Chief Law Assistant,
DRM(P)/RNY, N.F. Railway,
P.O. Rangiya,
Dist. Kamrup (Assam).

Sub:- Supply of information under RTI Act'05.

Ref:- Your application No. Nil dated 12.10.2010.

Sir,

Reference above the item wise information as received from Senior Personnal Officer (Construction) N.F. Railway, Maligaon is furnished below as desired please.



SL. NO.	Information sought by the applicant	Railway's reply
1	Please furnish the date of appointment order of Haramba Thakuria as Asstt. Law Officer appointed by GM(P)/ MLG, N.F. Railway, his date of joining as ALO in the GM (CONST), date of retirement from GM (CONST).	Date of appointment on promotion to Gr.'B' Service of shri H. Thakuria ss ALO/CON is 28.03.1995 and date of retirement is 30.11.2009.
2	Date of order of promotion of Sri H. Thakuria to the post of Law Officer and date of order posting as Law Officer of GM (Const).	Date of promotion and pasting of Sri Thakuria is 25.08.2005.
3	Whether after retirement of Sri H. Thakuria, the post which he was holding is lying vacant till date if the post is filled up then from which date it is filled up and the date name of the person who is holding the post.	After retirement of Sri H. Thakuria, on 30.11.2009 the post of LO/CON has been downgraded and Dr. M. Kalita has been posted as ALO/CON on 01.12.2009
4	Date as to when Dr. Monohar Kalita was posted as ALO at GM/LAW/MLG.	Not pertaining to Construction Organisation.
5	Date as to when Dr. Monohar Kalita was transferred in the past of ALO at GM (Const)/MLG, N.F. Railway his date of joining as ALO at GM (Const)/MLG and as to whether Dr. Kalita is working as ALO in the said office.	Date of transfer of Dr. M. Kalita is 30.11.2009.
6	Please furnish photo copy of ORDER, No. and date with name of issuing authority by which the post of ALO was created at GM (Const)/MLG.	Copy of office order No. 61/09 (Managing) dated 01.12.2009 is enclosed.

Contd. 2.

Abhishek
M.A. Sheikh
Advocate

96-

-: 2 :-

Control Sheet
 20 JAN
 Guwahati Bench
 গুৱাহাটী ন্যায়পীঠ

SL. NO.	Information sought by the applicant	Railway's reply
7	Whether the existing post of ALO at GM(Const) MLG was abolished at any point of time, if so, please furnish photo copy of the notification and the date of order. No of order Name of issuing authority who abolished the post.	No specific period has been mentioned in the question. Hence information can not be furnished as asked for.
8	As per record submitted in the Addl. clarification (WS) on 24.8.2010 by the Respondents Railway in O.A. No. 237/2009 of the Hon'ble CAT/GHY, the N.F. Rly. did not filled up the post of ALO for 5 years since 30.6.2003. Please inform the reasons why the post was not filled for 5 years.	Not pertaining to Construction Organisation.
9	As per information by A.K. Chhapalia, DY.CPO/HQ, N.F. Rly. Maligaon vide ref. DGM(G) cum PIO/Hd.Qtr's letter No. Z/RTI/Cell/Hqtr./920/2009 dated 28.12.2009 that one post of ALO has been lying vacant at newly created Rangiya Division at N.F. Rly. No. PERSON HAS BEEN UPGRADED till date 12.01.2010 and whether it is a reserved post for S/C. Please inform the reasons why the post of ALO was not upgraded from the senior most CLA till date.	Not pertaining to construction organization.
10	Please inform the name of persons who has been working as ALO at GM(CONST) MLG order of date of posting, date of joining as ALO.	Dr. M. Kalita is working as ALO/CON w.e.f. 01.12.2009 vide office order No. 61/09(Managing) dated 01.12.2009.
11	Please furnish the particulars of the persons who are holding the post of law officer and Assistant Law Officers at Hd.Quarter/MLG last 5 years and also the parent cadre of the incumbents.	Not pertaining to Construction Organization.

Contd. ... 3.

-: 3 :-

12	Under what rule the post of ALO can be filled up by the incumbent officers other then from Law Cadre that as a candidate so selected from APO will have to given an option within 30 days of the result of the selection of LDC by the employee in writing. Whether Mrs. Amish Gogoi has submitted her option as ALO till date.	Not pertaining to Construction Organization.
----	---	--

This is for your information please.

DA:- 1(One) As above.

Yours faithfully,

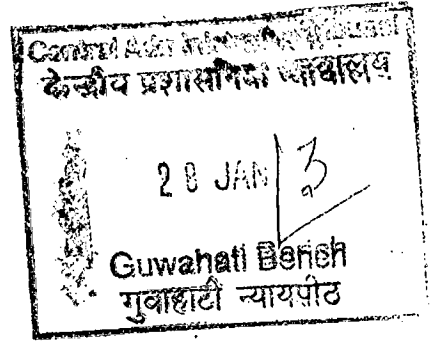
(एस. पी. देशमुख)

उप मुख्य इंजीनियर/निर्माण/सामान्य
एवं जन सूचना अधिकारी
कृते महाप्रबन्धक/निर्माण
पू.सी. रेल, मालीगांव

Copy to:- Public Information Officer, NFR – HQ, Maligaon for information in reference to his letter No. NFR/RTI Cell/2010/1471 dated 12.10.2010. He is requested to furnish the information to the applicant in respect of item No. 4, 8, 9, 11 & 12 since these items are pertains to open line.

कृते महाप्रबन्धक/निर्माण
पू.सी. रेल, मालीगांव

98-
पूर्वोत्तर सीमा रेल
(निर्माण संगठन)



महाप्रबंधक/नि
का कार्यालय
मालीगांव, गुवाहाटी-11

कार्यालय आदेश सं: 61 /09(Managing)

The following posting orders are issued with immediate effect:

1. On superannuation Shri H. Thakurta, LO/Con retired on 30-11-2009, the post of LO/Con is down graded to Asstt. Scale as ALO/Con
2. In terms of GM(P)/MLG's office order No.E/283/30/3(O) Dt.26-11-2009 Shri M.Kalita, ALO/MLG who reported on 30-11-2009 is posted as ALO/Con/MLG against the above downgraded post.

This issues with the approval of General Manager/Construction.

(पी. के. दास) 1-12-09
वरिष्ठ कार्मिक अधिकारी/नि.
कृते महाप्रबंधक निर्माण

सं: E/283/Con/G/(Managing)

दिनांक : 01-12-2009

Copy forwarded for information and necessary action to:

1. Secy to GM/Con/MLG for kind information to GM/Con/MLG
2. CAO/Con/MLG
3. COS/Con/MLG
4. FA & CAO/Con/1 & 2/MLG,
5. CE/Con/1,2,3,4,5,6,7 & 8/MLG
6. CSTE/Con/1 & 2/MLG
7. All JA Grade officers of Construction Organization
8. PPS to GM/C/MLG, PS to CAO/Con/MLG
9. Officers concerned
10. E/Bill(Gaz)/Cadre
11. P/Case

कृते महाप्रबंधक निर्माण 1-12-09

R-04
25-11-10

CLA/RNY

N.F.Railway



99 Annexure No. 24
Office of the
General Manager
Maligaon, Guwahati-11.
Date: 19.11.2010.



No. NFR/RTI Cell/ 2010/1471

Sri Jitendra Kumar Barman/CLA,
DRM/P/Rangiya Division/N.F.Railway,
PO- Rangiya, Distt- Kamrup(Assam).

Sir,

Sub: - Supply of information under RTI Act'05
Ref: - Your application dated 12.10.10.

With reference to the above, it is to inform you that the information as sought for under RTI Act'05 is received from Personnel department of this Railway. The information however as received is enclosed herewith to comply with your request under RTI Act'05.

With this information above, the case is now treated as disposed off at this level.

However, you may like to submit your first appeal against the supplied information within 30 days of the receipt of this letter before the Appellate Authority for further representation, if any, whose address is given below:-

(Alok Dave)
SDGM -cum- Appellate authority
Northeast Frontier Railway,
Phone & FAX No.- 0361-2676055.

We look forward to your co-operation.

DA: - 04 (Two Four Pages).

Yours Sincerely,

(Khindu Ram)
DGM(G) cum P.I.O
N.F.Railway/Maligaon.

Attest
M.A. Sheikh
Advocate

100-
N.F.RAILWAY

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

No.E/RTI Act'05/Con/Pt.I

To
DGM/G cum P.I.O/HQ.

Dated: 18.11.2010

28 JAN

Guwahati Bench
गुवाहाटी न्यायपीठ

Sub : Information sought by Shri J. N. Barman, CLA/RNY.
-seeking information under RTI Act'05.

Ref : NFR/RTI Cell/2010/1471 dtd.12.10.10, 08.11.10 & 16.11.10.

Enclosed please find herewith information/remarks in prescribed format
as sought for vide your letter quoted under reference.

DA : As above.

(K. P. Singh)
Dy. Chief Personnel Officer/HQ
for General Manager(P)

CP/A, on leave

RSC

19/1/11

Final Format for Reply

Subject : Information sought by Shri Jitendra Nath Barman, CLA/RNY.
 Ref : Case No. NFR/RTI Cell/2010/1471 dtd.12.10.10, 08.11.10 & 16.11.10.
 seeking information under RTI Act.
 Marked to : CPO/Admn.
 File No. : E/RTI Act'05/Con/PLI.

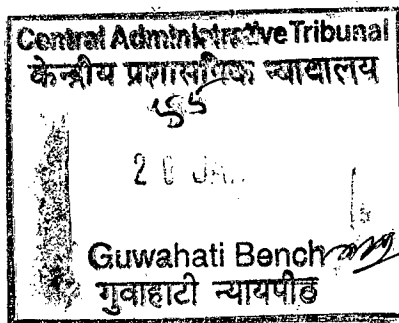
-12

101-

Central Administrative Tribunal
 केन्द्रीय प्रशासनिक न्यायापीठ
 29 JAN 2011
 Guwahati Bench
 गुवाहाटी न्यायपीठ

Sl. No.	Item No.	Information sought by the party	Department's response(reply text)	Annexure (Certificate No. detailed file noting)
1.	9.	As per information by A.K. Chhapolia, Dy.CPO/HQ, N.F.Rly, MLG vide Ref. DGM(G) cum PIO/Hd.qtr's letter No. Z/RTI Cell/Htqr./920/2009 dated 28.12.2009 that one post of ALO has been lying vacant at newly created RNY Div. in N.F.Rly. NO PERSON HAS BEEN UPGRADED till date 12.01.2010 and whether it is a reserved post for S/C. Inform the reasons why the post of ALO was not upgraded from the Senior Most CLA till date.	Clarification of the Rly. Board in regard to detail procedure for filling up of upgraded post of ALO was awaited.	
2.	10.	Inform the name of persons who has been working as ALO at GM/Con/MLG. Order of date of posting, date of joining as ALO.	Shri. Manohar Kalita, ALO/MLG was posted as ALO/Con/MLG on 30.11.09. Subsequently he has been promoted as LO/Con/MLG w.e.f. 03.9.2010.	
3.	11.	Furnish the particulars of the persons who are holding the posts of Law Officer & Asstt. Law officers at Hd.Qtr./MLG last 5 yrs & also the present cadre of the incumbents.	(1) Shri J. Mandal, LO, (Retd.on 31.01.2008). (2) Smt. S.R.Roy, LO since 16.10.2008. (3) Shri M. Kalita, (now LO/Con/MLG) (4) Smt. Amish Gogoi, present ALO since 29.7.2010.	
4.	12.	Under what Rule the post of ALO can be filled up by the incumbent officers other than from Law Cadre that as a candidate so selected from APO will have to given an option within 30 days of the result of the selection of LDC by the employee in writing. Whether Mrs. Amish Gogoi has submitted her option as ALO till date.	The order of posting of APO as ALO is temporary, till finalisation of selection of ALO which is subjudice.	

18/11/2010
 (S. Behera)
 Dy.Chief Personnel Officer/GAZ
 for General Manager(P)



-102-

Filed the petition

North Barman

Sri Jitendra

through

Usha Das

28.1.2011

Advocate

102

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI
GAUHATI BENCH

O.A.No. 237 / 2009

Sri Jitendra Nath Barman.....Applicant

- VS -

Union Of India & Others.....Respondents

IN THE MATTER OF

Reply of the Applicant against the
additional Clarificatory Written
Statements filed on 03.8.2010
By the Respondents.

The Applicant begs to state as follows :-

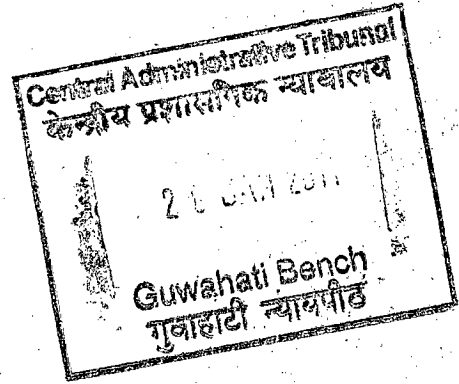
1. That, the Hon'ble Tribunal by order dated 21.5.2010 directed to the respondents to file affidavit clarifying some aspects mentioned in the same order. But instead of filing affidavit the respondents filed written statements which amounts to violation of Tribunal's order or not complying in its proper perspective. As such the said written statements may not be accepted by the Tribunal and may be directed to submit the same in affidavit forming total compliance of the Tribunal's order dated 21.5.2010. The applicant states that the Respondents are playing hide and seek with the Hon'ble Tribunal. As per law there is vast difference between adducing something through affidavit and stating some thing as written statement.

- 103-
2. That, as regard the statement made in the para 1 (B) of the said written statements the applicant states that the delay was due to negligence of the Respondents just to deprive the applicant from his legitimate promotion. The applicant is going to retire by dated 31.12.2011 which is within the knowledge of the Respondents and the delay was completely intentional. The date after lapse of more than four (4) years the process of selection is halted taking the plea of further instruction which is not a cogent reason of delay in selection process
 3. That, as regard the statement made in the para 1 (C) of the written statement it is not true that the post of A L O in the construction organization is not in existence as per record of the Respondents.
 4. That, as regards the statements made in para II. Of the said written statements the applicant states that as the Respondents admitted that cancellation of notification dated 12.5.2006 was without any reasons so the said cancellation is liable to be cancelled by the Hon'ble Tribunal. In the interest of justice no authority can be allowed to do something without any reasons.
 5. That, as regard the written statement made under para III of the said written statements the applicant states that the Respondents First cancel the notification dated 12. 5. 2006 which was for Two (2) posts and now taken the plea that the applicant cannot claim reservation because there is only one (1) post. It shows that the Respondents moulded the thing at their sweet will to deprive the applicant from his promotion.

Sri Jitendra Nath Barman

104

3
104

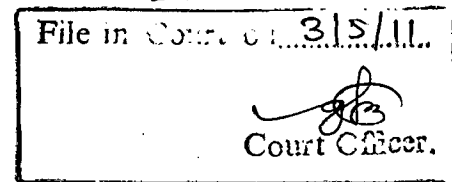
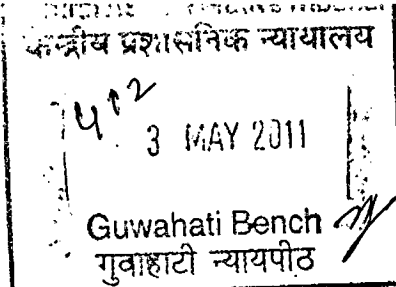


VERIFICATION

I, Sri Jitendra Nath Barman S/O, late Thaneswar Barman, aged about 59 years resident of village : Parakuchi , P.O. Sondha , PS & Dist. Nalbari, Assam do hereby verify the contents of the statements from para 1 to 5 are all true to the best of my knowledge and belief as well as records and I sign this verification to day on 28 th day of January , 2011 at gauhati.

Sri Jitendra Nath Barman

Signature of the applicant



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

OA NO. 237 OF 2009

Sri Jitendra Nath Barman.

.....Applicant.

-Vs-

Union of India & Ors.

.....Respondent

IN THE MATTER OF:

An affidavit on behalf of the respondents.

I Shri S. Behera, Son of B. C. Behera, aged 40 years (about), occupation Railway service, resident of Guwahati (Assam) do hereby solemnly declare and affirm as follows:-

1. That presently I am working as Dy. Chief Personnel Officer/Gaz., N.F. Railway, Maligaon and as such I am conversant with the facts of this case. Further I am authorised to swear this affidavit on behalf of the Respondent.

2. That the applicant filed the aforementioned OA bearing No.237/2009 before this Hon'ble Tribunal praying for setting aside the order dated 07.09.2009 vide office memo No.E/254/III/16 (O) Pt.I issued from this office of the GM(P)/MLG whereby the respondent authority has cancelled its earlier notification issued on 12.5.2006 vide office memo No.E/254/III/16(0) pertaining to selection for the post of Asstt Law Officer (ALO) Group-B.

Received by
K. Singh
for Mr. M. A. Sheikh
Advocate for applicant
Dt. 02.05.2011.

Filed by
Nava Kanta Das
Advocate,
on behalf of Respondent. 107
3-05-2011.

Charuugma Behera
Dy Chief Personnel Officer/Gaz
N.F. Railway, Maligaon
Guwahati-11

3. That the further prayer of the Applicant before this Hon'ble Tribunal is to consider the promotion of the Applicant to the post of ALO group-B in pursuance of the order dated 12.5.06 and/or to direct the official respondent to consider the case of the applicant for ad-hoc promotion till finalization of the process for regular promotion to the post of ALO.

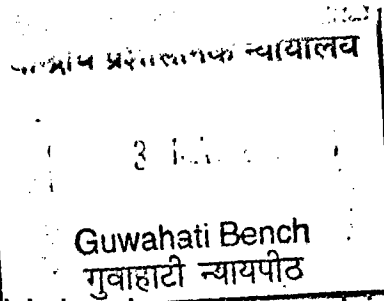
4. That the official respondent filed written statements on the said OA averting the contentions of the applicant.

5. That during the course of hearing the Hon'ble Tribunal desired certain clarification on the pretext of which cancellation of the order dated 12.5.2006 was stated to be cancelled without any reason.

6. That as per direction of this Hon'ble Tribunal dated 21.5.2010 and 05.08.2010 the respondent has clarified the fact by replying the same which is available on record.

7. That as per Railway Board's letter dated 18.5.2007 vide Annexure -A endorsed in the written statement it has been categorically stated that in terms of the Railway Board's letter dated 9.3.2006 for reorganisation of Gazetted cadre of the legal department of the new Zones and divisions in terms of which 11 posts of C.L.A (Scale 7450-11500/-) have been upgraded to group-B as A.L.O (scale Rs 7500-12000/-) subject to the candidate being found fit for promotion through screening process consisting of written test, viva-voce and assessment of record of service. It was further clarified that the above procedure is not applicable for the normal vacancies in the Group-B post as explained in the said letter.

Charatoghna Behera
Chief Personnel Officer, 16A2
N.F. Railway, Maligaon
Guwahati-11



8. That due to administrative reason which has been fully explained from the respondent side the notification issued earlier dated 12.5.2006 has been cancelled vide office order dated 7.09.2009. By another notification dated 17.9.2009 for selection for the post of ALO/Gr-B the applicant was asked to submit his willingness /Unwillingness. But the applicant did not submit his willingness.

9. That now the administration has decided to hold selection for upgraded Gr-B post of Asstt Law Officer, N.F Railway for forming a panel of 01(SC) person and for that purpose the Respondent has issued a notification dated 25.04.2011 which is self explanatory circulating to all its divisions including the applicant notifying him to be the senior most C.L.A and eligible for appearing in the said selection.

A copy of the aforesaid letter of the respondent dated

25.4.2011 is enclosed herewith and marked as Annexure-I.

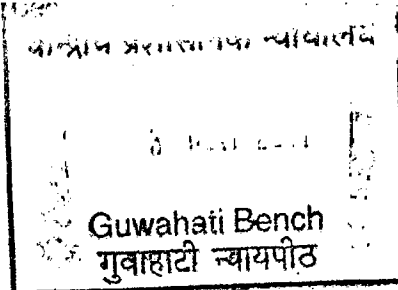
10. That in this context the humble respondent begs to submit for the appreciation of the Hon'ble Tribunal that the applicant has been granted financial upgradation under MACP (Modified assured career progression scheme) to the grade pay of Rs 5400/- on completion of 20 years of service. The financial upgradation of the applicant under MACP is one step higher than the grade pay of Asstt Law Officer i.e grade pay 4800/-. As such even if the applicant is promoted to the post of Asstt Law Officer (Group-B) he would not be benefited financially. The applicant has been granted financial upgradation of grade pay of Rs 5400/- which is evident from the letter of DRM (P)/RNY dated 26-11-2010.

A copy of the aforesaid letter dated 26.11.2010 is

enclosed herewith and marked as Annexure-2

Shatoughna Behera
 Dy Chief Personnel Officer/6A2
 N.F. Railway, Maligaon
 Guwahati-11

-4-



-110-

130

11. That it is respectfully submitted that there is urgent need to fill up the post of Asstt Law Officer (ALO). Assistant Law Officer is required to perform a lot of important duties e.g dealt with court cases in different courts in different matters related to Railway workings, processing of legal matters concerning arbitrations, commercial etc and providing legal opinion to executive departments of the Railways. Due to non filling of the vacancy of Assistant Law Officer, the Administrative works are being adversely affected. It is therefore , in the interest of the Railway working that the post of Assistant Law Officer is filled up at the earliest.

12 That in view of the facts set forth the application may be kindly closed in the interest of justice.

13 That this affidavit is filed bonafide and for the end of justice.

And I sign this affidavit on this 29th th day of April, 2011 at Guwahati.

Identified by

Shatrughna Behera
DEPONENT

By Chief Personnel Officer/GA2
N.F. Railway, Maligaon
Guwahati-11

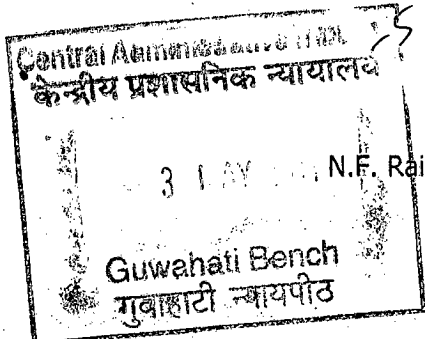
Advocate

Solemnly declared and affirmed

before me who is identified by

Smti Bharati Devi,

Advocate, Guwahati



Annexure - 1

111-

(9)

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

No.E/254/III/16(O)/Pt.I

Dated:25.04.2011.

To
Sr.DGM, CCM,CPO & CCM/FM/MLG; DRMs/KIR,APDJ,RNY,LMG & TSK ;
DRM(P)s/ KIR,APDJ,RNY,LMG & TSK; DGM(G)/MLG, Dy.CPO/Con/MLG, Estate Officer/MLG;
Law Officer/MLG, APO/LC/MLG, ACM/Court/MLG.

Sub: Selection for the upgraded Gr.'B' post of Asstt. Law Officer, N.F.Railway.

In terms of Railway Board's letter No.E(GP)2005/2/26 dated 18.5.2007 and further clarified vide their letter No. E(GP)2005/2/26 dated 24.9.2010, it has been decided with the approval of Competent Authority to hold a selection for forming a panel of **01(SC)** person for the upgraded post of Asstt. Law Officer/Gr.'B' in scale Rs.9,300-34,800/- + Rs.4,800/-. As per Rly. Board's instruction, in the eventuality of the senior most candidate failing in the screening test held for selection to the upgraded post of Asstt. Law Officer, the next senior most willing candidate may be called for screening and for that purpose a stand-by list can be notified.

2. **Shri J. N. Barman(SC), CLA under DRM(P)/RNY** who is seniormost Chief Law Assistant (CLA) is eligible to appear for the said selection.

• Stand-by List may be published subsequently in case Shri J.N. Barman gives his unwillingness for appearing in the screening test or fails in the same.

2.1 The selection will be based on candidates' performance both in Written Examination, Viva-voce test and record of service.

3. The written examination for the said selection will consists of only one paper on the following subjects with maximum and minimum qualifying marks shown below:-

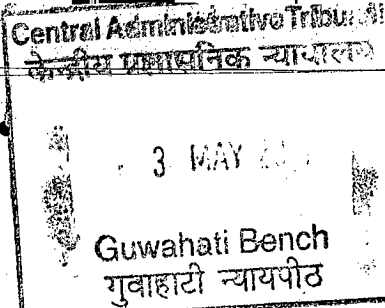
Subject	Maximum marks	Minimum Qualifying marks
Professional subject, Establishment, Financial Rules.	150 (including at least 10% of the total marks on official language Policy & Rules)	90

4. It may be noted that the question paper will be bi-lingual, i.e., English & Hindi. It will be the candidate's choice to write in any one of the two languages.

5. DPO/RNY should notify this to Shri J. N. Barman, CLA/RNY and obtain his written Willingness/Unwillingness individually in the prescribed **PROFORMA** (enclosed as **Annexure-'A'**) by 10.05.2011 and send the same to Dy.CPO/Gazetted/Maligaon; so as to reach this office by 15.05.2011.

6. A Pre-selection coaching for the willing staff belonging to SC/ST community will be imparted by Law Officer, Maligaon for a period of 3 to 4 weeks. If the staff concerned is not willing to appear in the Pre-selection coaching, he should intimate this in writing.

25/4/2011



- 6 -


- 112 -

132

7. A copy of Syllabus published vide Railway Board's letter No. E(G)2003/2/32 dated 10.12.2003 is enclosed as **Annexure-B'** for circulation amongst the eligible staff concerned.

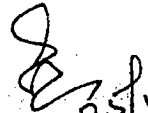
8. The staff concerned should be asked to keep himself in readiness for appearing in the selection at short notice. The date of written test will be intimated subsequently.

DA: As above.


(S. A. Ahmed)
Asstt. Personnel Officer/LC
for GENERAL MANAGER(P)

Copy forwarded for information and necessary action to :-

- (1) The General Secretary -NFRMU, NFREU/N.F.Railway,Pandu.
- (2) PS to CPO.
- (3) All Notice Boards.
- (4) All concerned.

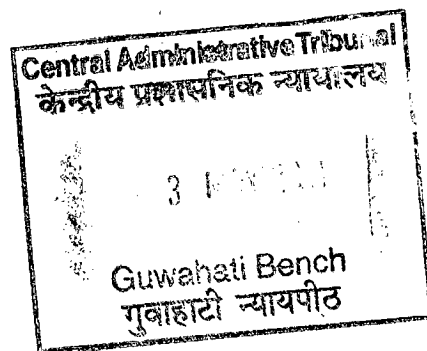

(S. A. Ahmed)
Asstt. Personnel Officer/LC
for GENERAL MANAGER(P)

-7- 113- 193

ANNEXURE-'A'

**PROFORMA OF APPLICATION TO BE FILLED UP BY THE VOLUNTEER FOR THE POST
OF ASSTT. LAW OFFICER(Group-'B')**

1. Name in full (in Block letter) :-
2. Designation & Station :-
3. Working under :-
4. Educational qualification :-
5. Date of Birth :-
6. Date of Appointment :-
7. Date of Regular promotion to the grades :-
- (i) in Scale Rs. 6,500 – 10,500/- (5th CPC) :-
- (ii) in Scale Rs. 7,450 – 11,500/- (5th CPC) :-
8. P.F. No./New Pension AC.No. :-
9. Whether the candidates belongs to SC/ST community (attach caste certificate duly attested by the Gazetted officer) :-
10. Whether **Willing/Unwilling** to appear in the selection :-
11. Choice of language to answer the question (English/Hindi) :-



DECLARATION BY THE CANDIDATE:-

I do hereby declare that the above particulars furnished by me are true to the best of my knowledge and belief and I further undertake that in the event of any entry above is incorrect or not in order, my candidature shall liable to be cancelled at any stage during tendency of the above SELECTION.

Date:-

SIGNATURE OF THE CANDIDATE

Forwarding of application(filled-in) furnished by the candidate to the cadre (Personnel Branch) officer by his Controlling officer:-

The proforma of Bio-data filled-in by the candidate, Shri/Smt. _____, Designation _____, received within the target date is hereby forwarded to his respective Cadre(Personnel Branch) officer for verification with the service record available in his office and for onward transmission to the General Manager(P)/Maligaon.

Signature of the Controlling Officer
(with Official Seal & Date)

Certificate to be furnished by the Cadre Controlling Officer/(Personnel Branch) officer:-

It is certified that the service particulars furnished by Shri/Smt. _____, Designation _____, through the above proforma(Bio-data), have been verified with his/her service record and found correct and it has been forwarded to GM(P)/Maligaon for further necessary action.

Signature of the Cadre Controlling (Personnel Branch) Officer
(with Official Seal & Date)

Syllabus for Selection to the post of Asstt. Law Officer (Group-'B') prescribed by Railway Board vide their letter No.E(G)2003/2/32 Dated : 10.12.2003

1. Constitution of India

Fundamental Rights and Directive Principles in general
Directive Principles of State Policy
Union and State Judiciary with Special emphasis on Article 285, 299, 300, 309, 310 and 311

2. Contract Act

Formation of contract.
Special emphasis on Sections -
56 - Agreement to do impossible act.
73 - Compensation of loss caused by breach of contract
74 - Compensation for breach of contract where penalty stipulated for.

3. Arbitration & Conciliation Act, 1996 - Part-I

Special emphasis on sections 1, 8, 9, 10, 11, 14, 28, 30, 33, 34 and 36

4. Land Acquisition Act

Special emphasis on sections 4, 5, 6 and 23

5. Railway Claims Tribunal Act

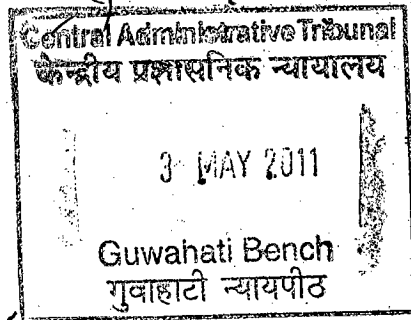
Special emphasis on sections -
13 - Jurisdiction, Powers and authority of Claims Tribunal
16 - Application to Claims Tribunal
17 - Limitation,
23 - Appeals

6. Indian Railways Act

Special emphasis on Sections -
123 - Definitions
124 - Extent by liability
124 A - Compensation on account of untoward incident
125 - Application for compensation,
126 - Interim relief by Railway Administration
127 - Determination of Compensation
Railway Accidents (Compensation) Rules, 1990

7. Civil Procedure Code

1. Sections 9, 10, 11, 20, 79, 80, 96, 97, 100, 113, 114 and 115
2. Order IV
3. Order VI - Rule 1, 1A, 2, 3, 4 and 5
4. Order VIII - Rule 1, 2, 3, 4, and 5
5. Order XXVIII - Rules 1 and 2
6. Order XLI - Rule 1, 2, and 3 A



7. Order XLXLIII- Rule 1 and 2
8. Order XLVII - Rule 1 and 3
9. Railway Servants (Discipline & Appeal) Rules, 1968.
9. Indian Railway Establishment Manual -
Revised Edn. 1990 Chapter -1
10. Indian Railway Establishment Code.

NORTHEAST FRONTIER RAILWAY

Office of the
Divisional Railway Manager (P)
Rangiya

केन्द्रीय प्रशासनिक न्यायालय

3 MAY 2011

OFFICE ORDER

The following staff working under RNY Division in PB-1 Rs. 5200-20200 + GP 1800 and in PB-2 Rs. 9300-34800 + GP 4600, 5400 are found suitable for granting financial up gradation under MACP scheme, vide this office memorandum No. EQ/2009/MACPs/RN Dated 25-11-10 and their pay are hereby fixed as under:

SN	Name of the staff	Pay scale and Grade pay
1	J.N. Barman, CLA under DPO/RNY	Pay scale Rs. 9300-34800 + GP 4600 Rs. 19430 + 4600 w.e.f 01.07.08 Rs. 20160 + 4800 w.e.f 01.09.08 1st MACP Rs. 20910 + 5400 w.e.f 01.09.08 2 nd MACP Rs. 21700 + 5400 w.e.f 01.07.09 Rs. 22520 + 5400 w.e.f 01.07.10
2	Khajer Ali, Khalasi under DMM/RNY	Pay scale Rs. 5200-20200 + GP 1800 Rs. 8060 + 1800 w.e.f 01.07.08 Rs. 8360 + 1900 w.e.f 01.09.08- 1st MACP Rs. 8670 + 2000 w.e.f 01.09.08 - 2 nd MACP Rs. 8990 + 2000 w.e.f 01.07.09 Rs. 9320 + 2000 w.e.f 01.07.10
3	Milon Brahma, Kh under DPO/RNY	Pay scale Rs. 5200-20200 + GP 1800 Rs. 7060 + 1800 w.e.f 01.07.08 Rs. 7330 + 1900 w.e.f 01.09.08 - 1st MACP Rs. 7610 + 1900 w.e.f 01.07.09 Rs. 7900 + 1900 w.e.f 01.07.10
4	Khargeswar Boro, Tailor cum Store issuer	Pay scale Rs. 5200-20200 + GP 1900 Rs. 7630 + 1900 w.e.f 01.07.08 Rs. 7920 + 2000 w.e.f 01.09.08- 2 nd MACP Rs. 8220 + 2000 w.e.f 01.07.09 Rs. 8530 + 2000 w.e.f 01.07.10
5	Sharma Kanta Deori, Khalasi under DMM/RNY	Pay scale Rs. 5200-20200 + GP 1800 Rs. 7600 + 1800 w.e.f 01.07.08 Rs. 7890 + 1900 w.e.f 01.09.08- 1st MACP Rs. 8190 + 2000 w.e.f 01.09.08- 2 nd MACP Rs. 8500 + 2000 w.e.f 01.07.09 Rs. 8815 + 2000 w.e.f 01.07.10
6	Suren Kalita, OS under DPO/RNY	Pay scale Rs. 9300-34800 + GP 4200 Rs. 14910 + 4200 w.e.f 01.07.10 Rs. 15140 + 4600 w.e.f 30.08.10- 2nd MACP

This has the approval of competent authority.

(L. Rajak)
APO/II

For Divl. Railway Manager (P)/RNY
Date : 26-11-10

No. EQ/2009/MACPs/RN

Copy forwarded for information & necessary action to:

- 6) Sr. DFM/RNY
- 7) DMM/RNY
- 8) Staff concerned
- 9) P/Case
- 10) OS/EQ-Bill/RNY

For Divl. Railway Manager (P)/RNY