

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (JUDL.)

24/7/2015

24/7/2015

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

1. ORIGINAL APPLICATION No : 247 / 2009

2. Transfer Application No : -----/2009 in O.A. No.-----

3. Misc. Petition No : -----/2009 in O.A. No.-----

4. Contempt Petition No : -----/2009 in O.A. No.-----

5. Review Application No : -----/2009 in O.A. No.-----

6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : Sri Sujit Kumar  
Union of India's Mops.

Respondent (S) : Mr. M. Chanda, Mr. S. Nahar  
Ms. U. Dutta

Advocate for the : Rhy.  
 {Applicant (S)}

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form          is filed. It is No. 20/-          dated <u>27.10.09</u>          No. <u>396/436986</u>          Dated <u>27.10.09</u></p> <p><i>N. Chanda          26.11.09          Dy. Registrar          26/11/09</i></p>	<u>27.11.2009</u>	<p>Heard Mrs.U.Dutta, learned counsel          appearing for Applicant. Dr.J.L.Saikar,          learned Standing counsel is present for the          Railways.</p> <p>Notice be issued to the Respondents          requiring them to file their reply to this case          by 22.01.2010.</p> <p>List on 22.01.2010.</p> <p><i>cancelled</i></p> <p><i>I/bb</i></p>
<p>Three copies of          application with envelope          received for issue          notices to the Respondent          No 1 to 3. Copy served.</p> <p><i>26/11/09</i></p>		<p>(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)          Member (A) Member (J)</p>

O.A. No. 247-09

5 days

Issue notice to  
the Respondents urgently,

Q/H  
30/11/09

Copies of notices  
along with order  
dt. 27/11/2009 send  
to D/Sec. for issuing  
to the respondents  
by speed - A/D post.

Q/H D/110-12775 to  
12777  
1/12/09. D/H = 03-12-2009

Issue Notice A.R. No. 1  
Duly served

12.12.09  
Notice for R.No-3  
received back as  
un-served with a postal  
remark "Not Known".

22/12/09  
No w/s filed.

22/12/2010

No w/s filed.

12.2.2010

No w/s filed.

15.3.2010

27.11.2009 Heard Mrs.U.Dutta, learned counsel appearing for Applicant. Dr.J.L.Sarkar, learned Standing counsel is present for the Railways.

Notice be issued to the Respondents requiring them to file their reply to this case by 22.01.2010.

List on 22.01.2010.

(Madan Kumar Chaturvedi)  
Member (A)

/bb/

12.01.2010 Enabling the Respondents to file reply, case is adjourned to 15<sup>th</sup> February, 2010.

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

/PB/

15.02.2010 Notice sent to Respondent No.3 has been returned un-served with remark, "not known". It seems that complete address of said Respondent had not been furnished. Mr.M.Chanda, learned counsel for Applicant seeks time to take appropriate steps to effect service on said Respondent. Dr.J.L.Sarkar, learned counsel appearing for Respondent Nos. 1 & 2 seeks and allowed four weeks time to file reply.

List on 16.03.2010.

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

/bb/

O.A. No. 247 of 2009

30.3.2010  
WTS has been  
forw by the Regd,  
Copy served.  
18/3/2010

16.03.2010 Service to the Respondent No.4 is complete. No written statement has been filed. Dr. J.L. Sarkar, learned Railway Standing Counsel made a prayer for four weeks time to file reply

List on 19.04.2010.

WTS b'leel.

18/4/2010

/pb/

  
(Madan Kumar Chaturvedi)  
Member (A)

19.4.2010 Enabling the Applicant to file rejoinder as prayed for, case is adjourned to 4.5.2010. Vide order dated 16.3.2010 there was a typographical mistake it was stated that service on Respondent No.4 is complete, instead of Respondent No.3.

List the matter on 4.5.2010.

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

/Lm/

14.5.2010

Rejoinder has  
been filed by  
the applicant  
with undertaking  
to serve a copy  
to the Ry. Counsel.  
18/5/2010

04.5.2010 It is stated that rejoinder will be filed <sup>bleeding</sup> within two days. Thus service would be completed.

List the matter for hearing on

19.5.2010.

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

The case is ready  
for hearing.

18/5/2010

Im

19.05.2010 Proxy counsel for respondents states that Dr J.L. Sarkar is unwell and, therefore, prays for adjournment.

The case is ready for hearing.

23  
16.6.2010

nkm

List on 02.06.2010.



(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

The case is ready for hearing.

23  
16.6.2010

nkm

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

17.06.2010

On the request of Dr.J.L.Sarkar, learned counsel for the respondents, adjourned to 30.06.2010.

The case is ready for hearing.

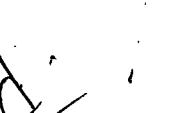
23  
29.6.2010

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

30.06.2010

Mrs. U. Dutta, learned counsel for Applicant prays for adjournment stating that she has taken consent of Dr. J.L. Sarkar, learned counsel appearing for Respondents.

List on 5<sup>th</sup> July 2010.



(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/pb/

O.A.No.247/2009

05.07.2010 None for the parties. List on  
07.07.2010 for hearing.

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

nkm

07.07.2010 On the written request of Dr J.L.  
Sarkar, learned counsel for the  
respondents, list on 09.07.2010.

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

nkm

09.07.2010 Heard Mrs.U.Dutta and Dr.J.L.Sarkar,  
learned counsel for the applicant and  
respondents respectively. Reserved for  
orders.

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

/bb/

14.07.2010 Judgment pronounced, kept in  
separate sheets.

O.A is dismissed.

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

/pg/

Received: Cenbyzah  
under dated 14.7.2010

Susit Kumar  
15.7.2010

Applicant

2017/2020  
Judgement filed  
order remitted to the  
A/S for issuing  
Recd of NO

Final judgement  
Order dt. 14-7-2010  
has been prepared  
to sent to A/S section  
for issuing to the  
All respondent by  
post

Memo no. 1592  
to 1594

At 20-7-2020

✓ 2017/2020 judgement remitted to the  
A/S section for issuing to the  
all respondent by post

At 20-7-2020 judgement remitted to the  
A/S section for issuing to the

1591

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.247 of 2009.

DATE OF DECISION: 14.07.2010

Shri,Sujit Kumar ..... Applicant/s.

Mrs.U.Dutta ..... Advocate for the  
..... Applicant/s.

- Versus -  
U.O.I. & Ors. ..... Respondent/s

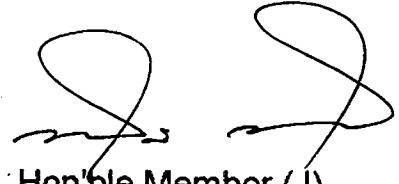
Dr.J.L.Sarkar ..... Advocate for the  
..... Respondents

CORAM

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

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

Judgment delivered by

  
Hon'ble Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 247 of 2009

Date of Order: This, the 14<sup>th</sup> Day of July, 2010

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

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

Shri Sujit Kumar  
Son of Late Late Sivji Roy  
C/o Monoj Kumar  
Rly. Qtr. No.271/B  
West Nambari, Maligaon  
Guwahati-11.

...Applicant

By Advocate: Mrs.U.Dutta.

-Versus-

1. The Union of India  
Represented by the General Manager  
N.F.Railway, Maligaon, Guwahati-11.
2. The General Manager (P)  
N.F.Railway, Maligaon  
Guwahati-781 011.
3. The Chief Workshop Engineer  
N.F.Railway, Maligaon  
Guwahati-781 011.

... Respondents

By Advocate: Dr.J.L.Sarkar

ORDER

MUKESH KUMAR GUPTA, MEMBER (J):

Sujit Kumar, Substitute Emergency Peon, in this O.A. challenges memorandum dated 30.04.2009 (Annexure-5), whereby he has been terminated w.e.f. 16.02.2009. He also seeks direction to respondents to allow him to function as Emergency Peon as well as to regularize his service in said capacity.

2. The facts, as stated, are that he was appointed in said capacity for a period of three months vide letter dated 19.05.2008

(Annexure-1) in the pay scale of Rs.2550-3200/- on various terms and conditions specified therein. He rendered satisfactory service for about ten months and submitted representation dated 02.04.2009 (Annexure-3) stating that he has discharged his duties with Sri A.K. Agarwal, Chief Workshop Engineer (CWE in short) till 20.03.2009 at his bungalow. Thereafter he proceeded for Vadodara. He has been reporting to Chief Office Superintendent/Mech. since 23.03.2009, but he has not been engaged. A prayer was made to absorb him in said capacity or in other Group-D post. SPO/E vide communication dated 30.03.2009 accorded approval of engaging Shri Suresh Maiti. It appears that applicant's services have been disengaged due to engagement of aforesaid Shri Suresh Maiti.

3. Mrs. U. Dutta, learned counsel contended that as the applicant rendered satisfactory service of ten months continuously without any break, he has acquired a legal right for regularization. He has completed probationary period of three months without any adverse report, and therefore, he was under legitimate expectation that his service would be regularized, which hope has been belied by the respondents. His services had been terminated only to accommodate Shri Suresh Maiti, which is unjust, illegal and arbitrary without serving any notice or complying with the provisions of Railway Manual, and therefore, order dated 30.04.2009 terminating his services cannot be sustained in the eyes of law.

4. By filing reply, respondents 1-3 have stated that Senior scale officers, Junior Administrative Grade officers and higher officers are entitled to emergency peon and necessity is recognized due to their

arduous nature of duties and long hours spent in dealing with official matters. The engagement of emergency peon is subject to satisfaction of the officer concerned. Appointment letter dated 19.05.2008 specified terms and conditions of engagement. He accepted said condition, which included the following condition:-

"2. You will be transferred with the officer with whom you are engaged as substitute Emergency Peon or you will be discharged in the event of the officer with whom you are engaged express his unwillingness to take you on transfer along with him."

The applicant was attached to Shri A.K. Agarwal, CWE. Said officer was transferred to Integral Coach Factory, Chennai on 16.02.2009 and he further expressed his unwillingness to take him (applicant) as emergency peon to Chennai, and therefore, applicant's services as emergency peon were not required w.e.f. 16.02.2009. As such, he was disengaged in terms of conditions prescribed vide his appointment letter. Shri R.C. Meena joined in place of Shri A.K. Agarwal, who had emergency peon in the name of Shri Shersing Meena. He wanted to continue with said Meena. As such, there was no scope for applicant's continuing to work as emergency peon with CWE. Applicant's termination has been done as per conditions of his appointment by giving one month's pay under Rule 301(1) of Indian Railway Establishment Code Vol.1. Emergency peon is considered for regularization after three years of service and he cannot acquire temporary status before completion of 120 days. The engagement of Shri Suresh Maiti has no reference in the matter of applicant's disengagement.

5. We have heard Mrs. U. Dutta, learned counsel appearing for the applicant and Dr. J. L. Sarkar, learned counsel for the respondents,

perused the pleadings and other material placed on record. Perusal of Annexure-A4 dated 30.03.2009 would indicate that OT(G) had made the following observations:-

"(1) I took over the charge of CWE from 16/2/09 FN.

(2) My Bungalow Peon Sh Shersingh Meena should be transferred & posted with CWE from the date 2/3/03.

(3) The E/Peon of Ex CWE has not reported to me for any duty from 16/2/09 should be marked absent." (emphasis supplied)

It is not in dispute that applicant has accepted the terms and conditions of his appointment offered on 19.05.2008, which in specific recited that the applicant can be transferred with the official with whom he was engaged as emergency peon or would be discharged in the event the officer expressed his unwillingness to take said person with him/her. It is also not in dispute that Shri A.K. Agarwal with whom he was engaged was transferred to Integral Coach Factory, Chennai on 16.02.2009 and he has also expressed his unwillingness to take him. Thus, termination of applicant was strictly in terms of terms and conditions contained in applicant's appointment order dated 19.05.2008. It is not in dispute that applicant has been paid one months' salary w.e.f. 17.02.2009 to 16.03.2009.

6. Thus, we do not find any illegality in his disengagement/termination. Finding no merits, O.A. is dismissed. No costs.

*M. Chaturvedi*  
(MADAN KUMAR CHATURVEDI)  
MEMBER (A)

*M. Gupta*  
(MUKESH KUMAR GUPTA)  
MEMBER (J)

/BB/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 247 /2009

**Sri Sujit Kumar  
-Vs-  
Union of India and Others.**

## SYNOPSIS OF THE APPLICATION

Applicant was appointed as Substitute Emergency Peon against existing vacancy under Chief workshop Engineer, N.F. Railway, Maligaon on 19.05.2008. However, General Manager (P), Maligaon intimated that a process has been initiated to accommodate one Sri Suresh Maiti in place of the applicant with the new incumbent Sri R. C. Meena, CWE who has been transferred and posted in place of Ex-CWE Sri A. K. Agarwal and approval has been sought for engagement of Sri Suresh Maiti as emergency peon. As a result of engagement of Suresh Maiti, the service of the present applicant is now sought to be terminated. Applicant submitted one representation addressed to GM (P), MLG, to allow him to continue in railway service as substitute emergency peon or in any other Grade D post. However, G.M. (P), N.F. Railway vide impugned office order dated 30.04.09 (Annexure- 5) terminated the services of the applicant w.e.f. 16.02.2009 with 1 months notice pay from 17.02.2009 to 16.03.2009 with the approval of the competent authority. It is stated that the applicant completed more than 6 months i.e. more than 120 days, therefore he is deemed to have acquired temporary status by operation of law. As such the service of the applicant cannot be terminated with a malafide intention to accommodate a stranger Sri Suresh Maiti and as such the impugned order dtd. 30.04.2009 is liable to be set aside and quashed.

## LIST OF DATES

19.05.2008      Applicant was appointed as substitute emergency peon under Chief workshop Engineer, N.F. Railway, Maligaon and accordingly he joined the service on 19.05.2008.

(Annexure-1 and 2)

30.03.2009-      GM (P)'s MLG intimated that a process has been initiated to accommodate one Sri Suresh Maiti in place of the applicant with the new incumbent Sri R. C. Meena, CWE who has been transferred and posted in place of Ex-CWE Sri A. K. Agarwal and approval has been

26 NOV 2009

Guwahati Bench  
गुवाहाटी न्यायालय

sought for engagement of Sri Suresh Maiti as emergency peon. As a result of engagement of Suresh Maiti, the service of the present applicant is now sought to be terminated.

(Annexure- 4)

02.04.2009- Applicant submitted one representation addressed to GM (P), MLG, wherein it has been stated that he was serving as substitute emergency peon with Sri A.K. Agarwal, EX-CWE, who has been transferred from Maligaon to Vadodara and left MLG on 21.03.09 and on 23.03.09 and he reported for duty to the office of the Chief Office Superintendent (M). As such applicant requested to absorb him in railway service as substitute emergency peon or in any other Grade D post.

(Annexure- 3)

30.04.2009- G.M. (P), N.F. Railway vide impugned office order dated 30.04.2009 terminated the services of the applicant w.e.f. 16.02.2009 with 1 months notice pay from 17.02.2009 to 16.03.2009 with the approval of the competent authority.

(Annexure- 5)

Hence this Original Application.

### PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned memorandum termination order bearing No. E/227/144 (M) dated 30.04.2009 (Annexure- 5).
2. That the Hon'ble Tribunal be pleased direct the respondents to allow the applicant to continue his service as Emergency Peon and to regularize his service.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

### Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief:-

1. That the Hon'ble Tribunal be pleased to observe that pendency of this application shall not be a bar to the respondents for considering the representation of the applicant and the prayers sought for.

\*\*\*\*\*

26 NOV 2009

Guwahati Bench  
গুৱাহাটী ন্যায়পীঠ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 247 /2009

Shri. Sujit Kumar. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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8.

M | S

15 - 20

Filed By:

Date:- 26.11.09,

S. Nabi  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 247 /2009

BETWEEN:

Shri Sujit Kumar,  
Son of Late Sivji Roy,  
C/o Monoj Kumar,  
Rly. Qtr. No. 271/B,  
West Nambari, Maligaon, Guwahati- 11.

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

26 Nov 2009  
Guwahati Bench  
गुवाहाटी न्यायपीठ  
.....Applicant.

-AND-

1. The Union of India,  
Represented by the General Manager,  
N.F. Railway, Maligaon, Guwahati-11
2. The General Manager (P),  
N.F. Railway,  
Maligaon, Guwahati- 781011.
3. The Chief Workshop Engineer,  
N.F. Railway, Maligaon,  
Guwahati-781011.

..... Respondents.

DETAILS OF THE APPLICATION

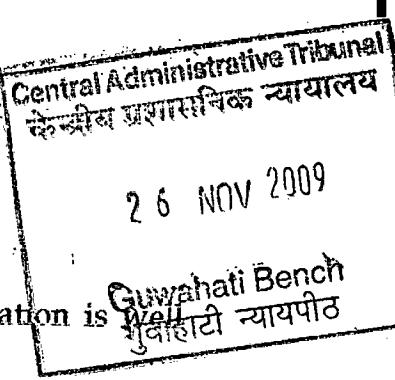
1. Particulars of the order (s) against which this application is made:

This application is made against the impugned office order of termination dated 30.04.2009 (Annexure- 5), whereby service of the applicant as Substitute Emergency Peon has been terminated w.e.f. 16.02.2009, and praying for a direction upon the respondents to re-instate the applicant as substitute emergency peon with all consequential service benefit.

2. Jurisdiction of the Tribunal:

Sujit Kumar

(Filed by the  
Applicant through  
S. Nalini, 26/11/09.  
Advocate)



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

**3. Limitation:**

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

**4. Facts of the case:**

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

4.2 That your applicant was initially appointed as Substitute Emergency Peon for a period of 3 months vide letter No. E/227/144(M) dtd. 19.05.2008 in the scale of Rs. 2550-3200 against existing vacancy under Chief workshop Engineer, N.F. Railway, Maligaon with the condition that his service is liable to be terminated without any notice or on medical ground or due to physical incapacity or in the event of posting of approved had or in the event of officer with whom he is engaged expressed his unwillingness to take him on transfer along with him and in such eventualities he would be discharged from service. Further, it was a condition of appointment that the applicant shall be probation for a period of 3 months and on receipt of a certificate from the controlling officer that the services of the applicant as emergency peon is satisfactory, he would be allowed to continue further. Pursuant to the above order the applicant joined in service on 19.05.2008 under CWE (MLG).

Copy of the offer of appointment letter dtd. 19.05.2008 and joining report dtd. 19.05.2008 are enclosed as Annexure- 1 and 2 respectively.

4.3 That it is stated that the applicant successfully completed the probationary period and the competent authority after being satisfied with the entire

Sujit Kumar

26 NOV 2009

Guwahati Bench  
न्यायपीठ

service of the applicant allowed to continue him without any break for about 10 months in the service.

4.4 That the applicant submitted one representation dtd. 02.04.2009 addressed to GM (P), MLG, wherein it has been stated that he was serving as substitute emergency peon with Sri A.K. Agarwal, EX-CWE, MLG, who has been transferred from Maligaon to Vododara and left MLG on 21.03.2009 and on 23.03.2009 the applicant reported for duty to the office of the Chief Office Superintendent (M). Since then the applicant has been attending the office of the CME, MLG. However it was pointed out in the representation on 02.04.2009 that the Chief Ruling Stock Engineer (CRSE) has ordered to discontinue the applicant w.e.f. 16.02.2009 and in the said representation, the applicant requested to absorb him in railway service as substitute emergency peon or in any other Grade D post. But to no result.

A copy of the representation dtd. 02.04.2009 is enclosed as Annexure- 3.

4.5 That it would be evident from GM (P)'s MLG letter bearing No. E/227/144 (M) dtd. 30.03.2009 that a process has been initiated to accommodate one Sri Suresh Maiti in place of the applicant with the new incumbent Sri R. C. Meena, CWE who has been transferred and posted in place of Ex-CWE Sri A. K. Agarwal and approval has been sought for engagement of Sri Suresh Maiti as emergency peon. As a result of engagement of Suresh Maiti, the service of the present applicant is now sought to be terminated in terms of Rule 301 (1) of IREC Vol. I and accordingly the Rly. Authority by the impugned office order bearing letter No. E/227/144 (M) dtd. 30.04.2009 has sought to terminate the services of the applicant w.e.f. 16.02.2009 with 1 months notice pay from 17.02.2009 to 16.03.2009 with the approval of the competent authority. It would be evident from the impugned letter dtd. 30.04.2009 that the Secretary to CWE, MLG wrote two letters bearing No. M-77/Pt. XII ® dtd. 02.04.2009 and 21.04.2009. However the applicant does not know the contents of the letter dtd. 02.04.2009 and 21.04.2009. But it appears that the service of the applicant has been terminated due to engagement of Sri Suresh Maiti on the basis of the two letters aforesaid. It is relevant to

Sujit Kumar

20.4.2009

mention here that Sri Suresh Maiti should not have been engaged in place of the applicant who had already rendered about 1 year service as Substitute emergency peon with the legitimate expectation that he would be absorbed in service on regular basis. Moreover, in the impugned order dtd. 30.04.2009 no reason has been assigned for terminating the services of the applicant. And on that score alone the impugned termination order dtd. 30.04.2009 is liable to be set aside and quashed.

Copy of the letter dtd. 30.03.2009 and the impugned order dated 30.04.2009 are enclosed hereto and marked as Annexure- 4 and 5 respectively.

4.6 That it is stated that Sri Suresh Maiti is not an approved hand, so that the applicant could be replaced by Sri Suresh Maiti, rather Suresh Maiti has been engaged in place of the applicant, in supersession of the claim of the applicant for further engagement and continuation.

On a mere reading of the letter dtd. 30.03.2009 as well as the impugned letter dtd. 30.04.2009, it would be evident that no valid reason has been assigned for termination of the service of the applicant except than to accommodate Sri Suresh Maiti for which service of the applicant has been terminated. It is a settled position of law that one ad hoc employee cannot be replaced by another ad hoc. Therefore it was obligatory on the part of the Rly. Authority to allow the applicant to continue as emergency peon with the new CWE, MLG. But the respondents in violation of the rule in force, passed the impugned order of termination dtd. 30.04.2009. As such the impugned order dtd. 30.04.2009 is liable to be set aside and quashed.

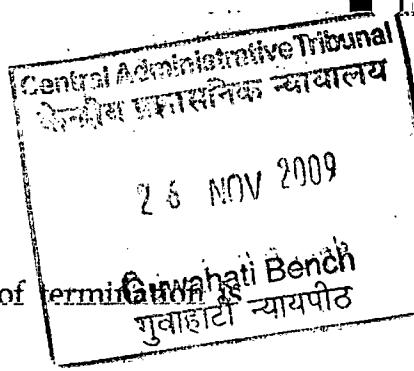
4.7 That it is stated that since the applicant completed more than 6 months i.e. more than 120 days, therefore he is deemed to have acquired temporary status by operation of law. As such the service of the applicant cannot be terminated with a malafide intention to accommodate a stranger Sri Suresh Maiti and as such the impugned order dtd. 30.04.2009 is liable to be set aside and quashed.

4.8 That it is stated that the applicant albeit is a casual labour, has however attained the status of 'temporary railway servant' after rendering

continuous service of more than 120 days or 6 months and as such the applicant is eligible for grant of temporary status. Under such circumstances, the termination of services of the applicant is shocking and unconscionable and such act of the respondents is arbitrary, malafide, unfair and opposed to the doctrine of rule of law.

4.9 That the applicant most respectfully begs to submit that it is not the case that the post of substitute emergency peon in which the applicant had been working, has been expired or abolished or the applicant has been found as medically incapacitated or the performance of the applicant has been reported to be unsatisfactorily by his controlling officer, which are the conditions precedent for termination of the services of the applicant as mentioned in his appointment letter dtd. 19.05.2008 (Annexure-I). But even thereafter, the respondents have terminated the services of the applicant only in order to accommodate Sri Suresh Maiti, taking advantage of the transfer of the Ex- CWE/MLG Sri A.K. Agarwal, under whom the applicant was engaged. Such acts of the respondents are arbitrary, discriminatory, unfair labour practice, malafide and opposed to the principle of natural justice. As such the impugned order of termination is liable to be set aside and quashed.

4.10 That the Apex Court in L.Robert D'Souza -Vs- Executive Engineer, Southern railway (AIR 1982 SC 854) has held that once an employee becomes a temporary railway servant by operation of law, his services cannot be terminated without complying with the minimum principles of natural justice and without following the mode, manner and methodology prescribed in Rule 2302 of the railway manual for terminating services of a temporary railway servant. It is relevant to mention here that the applicant although is a casual labour, but he is deemed to have attained the status of a temporary railway servant by operation of law after rendering continuous service of more than 120 days or 6 months as substitute emergency peon. As such the ruling of the Hon'ble Supreme Court as stated above is squarely applicable in case of this applicant and his service cannot be terminated in the manner it has been done, without complying with the



procedure laid down under rules. The impugned order of termination is therefore liable to be set aside and quashed.

- 4.11 That due to illegal termination of his service, the applicant has been deprived of his livelihood and he has been denied his right to live which is opposed to the principle laid down under Article 21 as enshrined in the Constitution of India.
- 4.12 That situated thus, and finding no other alternative, the applicant is now approaching this Hon'ble Tribunal for protection of his legitimate rights and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant directing the respondents to allow the applicant to continue in his present post of substitute emergency peon and to regularize his service with all consequential benefits.
- 4.13 That this application is made bona fide and for the cause of justice.

**5. Grounds for relief (s) with legal provisions:**

- 5.1 For that, the applicant has served as Substitute Emergency Peon on casual basis for about 10 months continuously without any break and has attained a valuable legal right for regularization in the post.
- 5.2 For that, the applicant has completed his probationary period of 3 months and on the basis of his satisfactory performance, he has been allowed to continue in his post. As such he is a legitimate expectant for his regularization in the post of Substitute Emergency Peon as per the doctrine of legitimate expectation.
- 5.3 For that, on completion of his service for 120 days 6 months, the applicant has attained eligibility for grant of temporary status and he is deemed to have attained the eligibility of temporary railway servant by operation of law.
- 5.4 For that, the applicant has been working against a regular post and his claim against the post is bonafide and deserves priority over that of the stranger.

23 NOV 2009

Guwahati Bench  
जुड़ावीटी न्यायपीठ

5.5 For that, the applicant has been sought to be terminated in order to accommodate one Shri Suresh Maity which is malafide, arbitrary, unfair labour practice and opposed to the principle of natural justice.

5.6 For that, the applicant has been sought to be terminated without serving any notice or without complying with the mode, manner, methodology prescribed in the Railway Manual for termination of temporary railway servant. As such, the impugned order of termination dated 30.04.2009 is liable to be set aside and quashed.

5.7 For that, the applicant has been sought to be terminated without assigning any reason thereof and in violation of the terms and conditions precedent to his termination as contained in his appointment letter. As such the order of termination is liable to be set aside and quashed.

5.8 For that, the applicant submitted representation against the impugned order of termination but of no avail.

5.9 For that the Hon'ble Apex Court has held that once an employee is entitled to temporary status by operation of law, he cannot be terminated without complying with the minimum principle of natural justice or without following the procedure prescribed in the railway manual for terminating a temporary railway servant. This ruling is squarely applicable in case of the applicant.

6. **Details of remedies exhausted.**

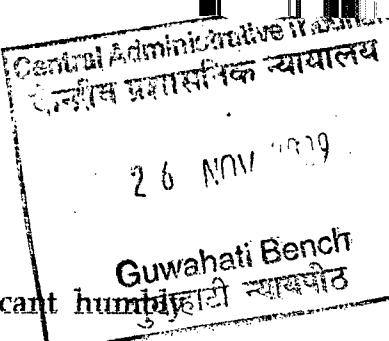
That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. **Matters not previously filed or pending with any other Court.**

The applicant further declares he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. **Relief (s) sought for**

Sujit Kumar



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

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned memorandum termination order bearing No. E/227/144 (M) dated 30.04.2009 (Annexure- 5).
- 8.2 That the Hon'ble Tribunal be pleased direct the respondents to allow the applicant to continue his service as Emergency Peon and to regularize his service.
- 8.3 Costs of the application.
- 8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

**9. Interim order prayed for:**

During pendency of the application, the applicant prays for the following interim relief: -

- 9.1 That the Hon'ble Tribunal be pleased to observe that pendency of this application shall not be a bar to the respondents for considering the representation of the applicant and the prayers sought for.

10. ....

**11. Particulars of the I.P.O**

i) I.P.O No.	: 396 436486.
ii) Date of issue	: 27.10.09.
iii) Issued from	: G.P.O, Guwahati
iv) Payable at	: G.P.O, Guwahati

12. List of enclosures : As given in the index.



### VERIFICATION

I, Shri Sujit Kumar, son of Late Sivji Roy, aged about 24 years, resident of C/o Monoj Kumar, Railway Qtr. No. 271/B, West Nambari, Guwahati- 11, Assam, applicant in the instant original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 25<sup>th</sup> day of November, 2009.

Sujit - Kumar

## ANNEXURE - 1

Office of the  
General Manager (P)  
N.F. Railway, Malabar Administrative Tribunal  
Guwahati - 781011  
নেতৃত্বাধীক্ষিক ন্যায়ালয়

No.E/227/144(M)

To,  
Shri Sujit Kumar,  
Sub. Emergency Peon  
(at office)

26 N.C. Date 19/05/2008

Guwahati Bench  
গুৱাহাটী ন্যায়পোষণ

Sub : Engagement of fresh face as Substitute Emergency Peon in scale  
Rs.2550-3200/-

You are hereby engaged as Substitute Emergency Peon in pay Rs.2550/- P.M plus other allowances as admissible in scale Rs.2550-3200/- against existing vacancy under CWE/MLG on the following terms and conditions :-

1. Your engagement will not confer upon any right to claim for further appointment on this Railway and you are liable to be discharged without any notice when your service will not be required by the administration or on the expiry of the currency of the work charge post against which you are engaged or on medical ground or physically incapacity or in the event of posting of approved hand.
2. You will be transferred with the officer with whom you are engaged as substitute Emergency Peon or you will be discharged in the event of the officer with whom you are engaged express his un-willingness to take you on transfer along with him.
3. You will be on probation for a period of three months and your continuation as Emergency Peon will be extended further on receipt of certificate from the controlling officer that the services of the substitute emergency Peon are satisfactory and can be continued further.

(S. S. Das)

Asstt. Mechanical Engineer/Loco/T LG

Copy for information & necessary action to :-

1. FA&CAO/MLG
2. CME/MLG
3. Secy to CME
4. APO/Bill
5. Chief OS/Mech
6. Bill Clerk/CPO's office/ Mech deptt.

For General Manager/ P.M.T. LG

Attested  
S. K. Das  
Advocate

26/5/08

- 1 -

ANNEXURE - 2

To  
CME/MLG

Date: 19.05.08

Central Administrative Tribunal  
गणराज्यीय न्यायालय

26 NOV 2009

Guwahati Bench  
गुवाहाटी न्यायालय

Sir,

I have the honour to state that I would like to join my duty as per referred office order mention above on 19.05.08(FN) as a Emergency Peon in scale Rs. 2550-3200/- under CWE/MLG.

Therefore sir, kindly allow me to resume my duty on date for the same.

Sujit Kumar  
Your's Faithfully  
Shri Sujit Kumar.

Attest for  
S. Kumar  
Advocate

ANNEXURE - 3

Central Administrative Tribunal  
Delhi, New Delhi, India  
संघातीय नियन्त्रण नियन्त्रण नियन्त्रण

To  
GM(P)/MLG

(Through proper channel)

Gowahati Banchi

Sub:- Prayer for engagement in the post of Sub-E/Peon.

Sir,

With due respect I beg to state that I was engaged as Sub-E/Peon attached to then CWE Sri A.K. Agarwal w.e.f. 19-05-2008 vide GM(P)/MLG's letter No.E/227/144(M) dated 19-05-2008. Accordingly I have been performing my duty with entire satisfaction to my immediate Boss. But Sri A.K. Agarwal, Ex-CWE has been transferred to Vadodara and left Maligaon on 21-03-09.

That Sir, although transfer order of Sri A.K. Agarwal, Ex-CWE has been issued a few days ago but he detained at Maligaon till 20-03-09 for which I was doing my duty under him till 20-03-09 at his Bungalow. Sri Agarwal proceeded for Vadodara on 21-03-09 from Maligaon with bag and baggage.

That Sir on 22-03-09 is a sun day for which I have reported to Chief Office Supdt./Mech. in the office on 23-03-2009 for duty and since 23-03-09 to till date I have been giving my attendance in CME's Office/MLG.

That Sir, although I have been giving my attendance in the office but yet no permanent solution has been done in respect of my engagement as Sub-E/Peon and on the other hand, CRSE has ordered to absent me w.e.f. 16-02-09.

That Sir, I am belonging to a very poor family and I am the only earning person in the family who have been looking after my family from all side. My Rly. service was the only earning source and this earning source is also about to dismiss.

That Sir, in the circumstances as stated above, I earnestly request you to kindly look into my problem and arrange to absorb me in Rly. Service as Sub-E/Peon or in any other Group-D post taking a sympathetic view so that I may save my poor family from distress and oblige thereby.

Yours faithfully,

Sujit Kumar  
( Sujit Kumar )  
Ex-Sub-E/Peon  
Under Ex-CWE/MLG

Date: 02/04/09

Attest  
S. N. N. N.  
Advocate

DESPATCHED WITH  
ENCLOSURES  
INITIAL.....  
OEH

SC

N. E. RAILWAY

No. E/227/144 (M)

Guwahati Bench  
Office of the General Manager (P)  
Maligaon : Guwahati - 11.

Dated : 30-03-2009.

To  
Sccy. To CME

Sub: Engagement of E/Peon under CRSE/MLG.

To engage Sub. E/Peon under CRSE/MLG the case has been processed and put up to Dy. CPO/HQ, who has observed the following :-

To accorded approval for engagement of Shri Suresh Maity after compliance of following observations :-

- I) E/Peon of Shri R.C. Meena, Ex. CRSE is to be transferred and to be attached with CWI (Shri Meena) with issuing transfer order.
- II) What is present position of E/Peon attached with Shri A.K. Agarwal, the then CWE, presently transferred to N. Railway.

In view of the above you are requested to issue transfer order of E/Peon attached to the then CRSE now CWE from your end and send a copy to GM (P)/MLG and simultaneously let this office know the present position of Sub. E/Peon attached to the then CWE/MLG so that the case may be put up to GM/MLG for his kind approval.

OT(G)

① I took over the charge of CWE from 16/2/09 FN.

30/03/09  
(P.G. Johnson)

SPO/E  
for GENERAL MANAGER (P)/MLG.

② My Bungalow Peon SK Sher Singh Meena should be transferred & posted with CWE from the date 21/3/09.

③ The E/Peon of Ex. CWE has not reported to me for any duty from 16/2/09. Should be marked absent.

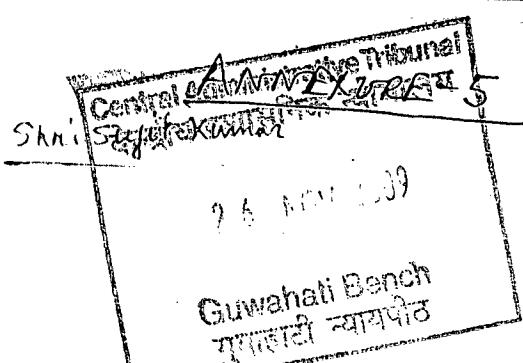
Attested  
S. Nata  
Advocate

B. M. J.  
17/4/09

-14-

N. F. RAILWAY

OFFICE ORDER



In terms of Rule 301(1) of Indian Railway Establishment Code Vol.I, the service of Shri Sujit Kumar, Substitute Emergency Peon in scale Rs.2550-3200/- (pre-revised) attached to the then CWE, Sri A.K. Agarwal, is hereby terminated w.e.f 16.02.2009 with one month's Notice pay from 17.02.2009 to 16.03.2009.

This has been issued with approval of the Competent authority.

(P.K. HIRA)  
Asstt. Mechanical Engineer (Loco)/MLG

No. E/227/144(M)

Date : 30/04/2009

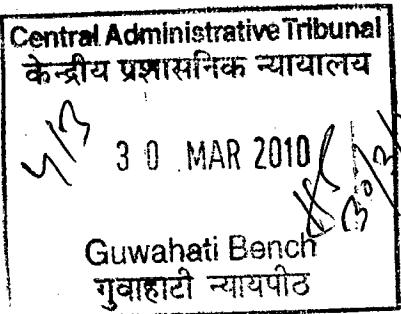
Copy forwarded for information and necessary action to :-

1. Secy to CME/MLG for information in reference to his letter No.M-77/Pt.XII (R) dtd. 02.04.2009 & dtd. 21.04.2009. He is also requested to obtain acknowledgement from Shri Sujit Kumar in the duplicate copy of the termination order and return it back to this office for office record please.
2. FA&CAO/MLG
3. CWE/MLG
4. SPO/Mech for information.
5. APO/BILL, OS/E(Bill) in duplicate. He is requested to take necessary in regard to 1(one) month's Notice pay from 17.02.2009 to 16.03.2009 to Sri Sujit Kumar. Overpayment if any in this regard may be deducted. ✓
6. Dy.FA.(Cash & Pay)/MLG
7. Ch.OS/Mech/CME's office/MLG
8. P/Case
9. Shri Sujit Kumar through Ch OS/Mech/CME's office.

For General Manager (M),  
N.F. Railway, Maligaon

*Attested  
S. Datta  
Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,  
GUWAHATI.



O. A. No. 247/2009

Sri Sujit Kumar

vs.

Union of India & Ors.

नगर कार्यालय/मुद्रारूप  
Dy. C.P.O./HQ  
N. F. RIV/M/s. 011  
सो. ३०३, मालिगाँव  
गुवाहाटी/गुवाहाटी

Written statement on behalf of Respondent  
No. 1 to 3.

1. That the respondents have gone through the O.A. and understood the contents thereof.
2. That in reply to the statements made in para 4.1 to 4.3 it is stated that the Senior scale officers, Junior Administrative Grade officers and higher officers are entitled to emergency peon and necessity is recognised due to their arduous nature of duties and long hours spent in dealing with official matters, due to which the officers cannot attend to their personal requirements at home. The employment of such emergency peon is subject to the satisfaction of the officer concern that the service of the emergency peon is satisfactory. It is stated that the appointment letter of the applicant dated 19.5.2008 was issued with specified condition. It is stated that as explained above the emergency peon is attached to the particular officer.

The applicant joined as emergency peon accepting

Contd.....2

Copy to Mr. Ch. Dr.  
30/3/2010  
S. S. S. S.

the conditions in the letter dated 19.5.2008. Condition No. 2 of the engagement letter specifically stipulates as under :

"2. You will be transferred with the officer with whom you are engaged as substitute Emergency peon or you will be discharged in the event of the officer with whom you are engaged express his unwillingness to take you on transfer along with him."

The applicant joined as per referred conditions in the order dated 19.5.2008. The applicant was attached with Sri A.K. Agarwal, Chief Workshop Engineer (in short, CWE) as Emergency Peon. Sri Agarwal, CWE was transferred from N.F. Railway to Integral Coach Factory (in short, ICE) Chennai w.e.f. 16.2.2009. It is stated that Sri Agarwal expressed his unwillingness to take the applicant as Emergency Peon to Chennai. Therefore the service of the applicant as emergency peon was not required w.e.f. 16.2.2009 as such he was disengaged as Emergency Peon as per condition of the engagement letter (Annexure-1 of the O.A.) as quoted above.

3. That in reply to para 4.4 to 4.8 it is stated that after Sri A.K. Agarwal Ex CWE, N. F. Railway Sri R.C. Meena joined as CWE, N. F. Railway, Sri Meena before joining as CWE was working in the capacity of CRSE, N. F. Railway and he had Emergency Peon (Bangalow Peon) Sri Shersing Meena. He wanted to continue the said Shri Shersing Meena as his emergency peon as CWE, Maligaon also and as such the said

केन्द्रीय प्रशासनिक न्यायालय  
Central Administrative Tribunal  
Guwahati Bench  
30 MAR 2010  
पुस्तकालय अधिकारी/सुन्दरालेख  
Dy. C.P.O./HQ.  
क. श. नालिगांव  
N. F. Railway

Shri Shersing Meena had been continuing as Emergency Peon attached to Sri R.C. Meena, C.W.E. and the applicant had no scope to be continued as emergency peon with CWE. It is further stated that the applicant did not report to Shri R.C. Meena, when he took over as CWE, Maligaon from 16.2.2009. As stated by the applicant he was working with Sri A. K. Agarwal unofficially and the Respondents have no knowledge of the same. From period from 16.2.2009 he was shown as absent from duty.

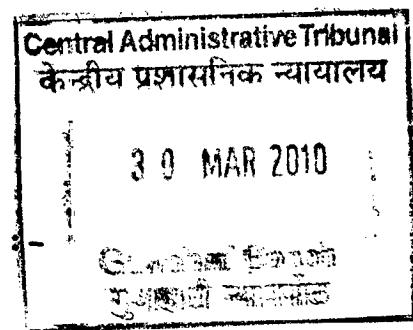
It is also stated that the applicant did not complete one year service. That termination has been made as per the conditions of appointment and giving one months pay under Rule 301 (1) of Indian Railway Establishment Code Vol. 1. It is also stated that the Emergency peons are also called Bangallow Peon attached to particular officers according to the willingness of the particular officers, and they are not like other substitutes in Railways for which separate Rules are there. The emergency peon are considered for regularisation after three years of service, and they do not get temporary status before 120 days.

Copy of the letter dated 2.4.2009 from office of Chief Mechanical Engineer, Maligaon is enclosed as Annexure-R-1.

4. That in reply to statements in para 4.9 to 4.12 it is stated that the emergency peons are not like other

Contd.....4

कार्यकारी/प्राप्ति  
Dy. C.P.O./M.Q.  
गुवाहाटी



-- 4 --

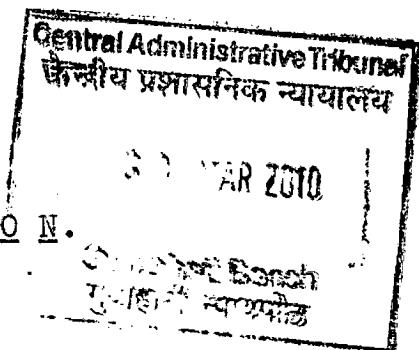
केन्द्रीय प्रशासनिक न्यायालय  
कार्यालय अधिकारी/मुख्यमंत्री  
Dy. C.P.C./HQ.  
संभ. राजू, अधिकारी  
N. F. KIV/M/B.

substitutes in Railways. It is also stated that Shri Suresh Maiti has no relevance in the matter of disengagement of the applicant. It is also stated that the emergency bungalow peon are not substitutes of Railways for which different rules applies and the decision of L. Robert D' souza Vs. Executive Engineer, S. Railway (AIR 1982 SC 854) is not applicable in the instant case and the termination has been made following Rule 301(1) of Indian Railway Establishment Code Vol 1, a Rule under Article 309 of the Constitution of India.

5. That this W.S. has been filed bonafide and in the interest of justice.

6. Under the circumstances explained above the O.A. deserves to be dismissed.

- 5 -



VERIFICATION.

I, Sri Anil Kr. Chapolia..... aged about ..38.. years, son of Lt. Om Prakash Chapolia - presently working as Dy. C.P.O/HQ..... N. F. Railway Maligaon, do hereby verify that the statements made in para 1 to ..6.. of this W.S. are true to my knowledge and I have been authorised by other Respondents to verify the same on their behalf. I have not suppressed any material facts.

And I sign this verification on this 30<sup>th</sup> day of March, 2010 at Guwahati.

Place : Guwahati.

Date : 30/3/2010

Signature

न्युक्त कार्मिक अधिकारी/भुक्ति

Dy. C.P.O./HQ..

१. सी रेल, नालीगाँव.

N. F. Rly/Mlg.

गुवाहाटी/Guwahati 011

-6-

N.F.Railway

Office of the  
Chief Mech. Engineer  
Maligaon, Guwahati-11

No.M-77/L/Pt.XII(R)

Date: 02-04-2009

To  
SPO/E,  
N.F.Railway, Maligaon

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

30 MAR 2010

Sub:- Engagement of Sri Sujit Kumar, Sub-E/Peon of  
Ex-CWE Sri A.K. Agarwal.

Ref:- Your letter No.E/227/144(M) dated 30-03-09.

With reference to the above, the following remarks of CWE in  
connection with Sri Sujit Kumar, Sub-E/Peon under Ex-CWE Sri A.K. Agarwal is  
appended below:-

1. I look over the charge of CWE from 16-02-09.
2. My bungalow peon Sri Shersing Meena should be posted with CWE from the date of  
02-03-09.
3. The E/Peon of Ex-CWE has not reported to me for any duty from 16-02-09 should be  
marked absent.

This is for your information and necessary action please.

26/3/2010  
02/04/09

Secy. to CME cum SME/HQ.

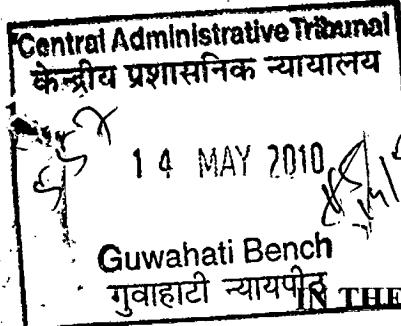
o/c

Attestd

30.3.10

Asst. Personnel Officer (Legal Cell)  
G.O.M: अस्ट. पर्सनल ऑफिसर (लेगल कॉल)  
N.D. Railways, Maligaon, Guwahati-781018  
Date: 30.3.10

914



1 21 -

GUWAHATI BENCH: GUWAHATI

Filed by the applicant  
through U. Dulla, advocate  
on 14.05.10

In the matter of: -

O.A. No. 247 of 2009

Shri Sujit Kumar

..... Applicant.

-Vs-

Union of India and Others.

..... Respondents.

-AND-

In the matter of: -

Rejoinder submitted by the applicant against the  
Written Statement submitted by the  
respondents.

The humble applicant above named most humbly and respectfully states as  
under: -

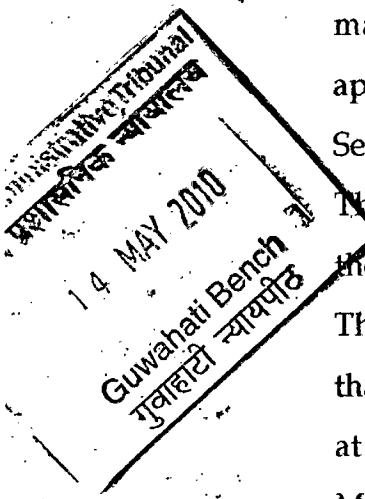
MOST RESPECTFULLY STATES:-

1. That the applicant has received the written statement submitted by the respondent No. 1 to 3. The applicant has gone through the same and understood the contents thereof. Further, the applicant denies the statements thereof, save and except which are borne out of records.
2. That with regard to the statements made in Para 2 & 3 of the W.S. the applicant begs to state that in the appointment letter dated 19-05-2008 itself, it is stated, in para 3 that the applicant will be on probation for 3 months and his continuation as emergency peon will be extended further on receipt of certificate from the Controlling Officer if his services as substitute emergency peon is satisfactory, can be continued further. Therefore, as per the appointment letter, after completion of probationary period, the competent authority being satisfied with the service of the applicant

3. UnderTake to  
give a copy to  
Dr. J. L. Sarkar, R.P.S.C.

allowed him to continue without any break for 10 months. As such the applicant has completed more than 6 months of service i.e. more than 120 days of service. Therefore, he is deemed to have acquired temporary status by operation of law. Under these circumstances the termination of service of the applicant is unconscionable and such act of the respondents is arbitrary, malafide, unfair and opposed to the doctrine of the rule of law.

3. That it is specifically admitted in paragraph 3 of the W.S., that the emergency peons are considered for regularization after 3 years of service and entitled to get temporary status after 120 days. Therefore, as the applicant has completed more than 120 days, he is deemed to have acquired temporary status and his service cannot be terminated with a malafide intension to accommodate a stranger Sri Suresh Maiti. The applicant reiterates his statement made in Para 4.5 of the O.A. that the Secretary to CWE, MLG, wrote two letters dated 02-04-2009 and 21-04-2009. The respondents in their W.S. have enclosed the letter dated 02-04-2009 but the applicant still does not know the contents of the letter dated 21.04.2009. The applicant has specifically stated in his representation dated 02-04-2009, that he was doing his duty under Sri A.K. Agarwal, Ex. CWE till 20-03-2009 at his bungalow. Sri Agarwal proceeded for Vadodara on 21-03-2009 from Maligoan. 22-03-2009 was a Sunday for which the applicant reported the Chief Office Superintendent/Mechanical on 23.03-2009 for duty and since then he has been giving his attendance in CME's office/MLG. But the respondents have marked him absent from duty since 16-02-2009.
4. That with regard to the statements made in para 4 of the W.S., the applicant reiterates his statement made in para 4.10 of the original application.
5. That this rejoinder has been filed bonafide and in the interest of justice.
6. That under the facts and circumstances stated above the O.A. deserves to be allowed.





**VERIFICATION**

I, Shri Sujit Kumar, Son of Late Sivji Roy, aged about 24 years, resident of C/o Manoj Kumar, Railway Qtr. No. 271/B, West Nambari, Guwahati-11, Assam do hereby verify that the statements made in Paragraph 1, 2, 3, 4, & 5 of the rejoinder are true to my knowledge and legal advice and I have not suppressed any material fact.

And I sign this verification on this the 9<sup>th</sup> day of May, 2010.

Sujit Kumar