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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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B2  
14.7.2015

SECTION OFFICER (JUDL.)

14.7.2015

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 104/2009

2. Miscellaneous Petition No                     

3. Contempt Petition No                     

4. Review Application No                     

Applicant(S) Tagat Ch. Bora

Respondant(S) M. O. I Bors

Advocate for the Applicant(S): S. N. Tamuli

Advocate for the Respondant(S): 6 Railway advocate

Notes of the Registrar	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs 50/- deposited vide IPO No. 396/4026/09 Dated 9.3.09</p> <p><i>[Signature]</i> Dy. Registrar 3.6.09</p> <p>Petitioners copy for issue notices are received with envelopes. And taking given for service copy.</p> <p>8/6/09.</p> <p>Copies of notices along with order dt. 4/6/09 send to D/Sec. for issuing to respondents by regd. A/D post. Free copies of this order handed over to counsel for both the parties. D/No - 2954 &amp; 2957 Dt. 16.6.09</p>	<p>04.06.2009</p>	<p>1. Heard Mr. S. N. Tamuli, learned counsel appearing for the Applicant, and Dr. J. L. Sarkar, learned Standing counsel for the Railways (to whom, a copy of this O.A. has already been supplied) and perused the materials placed on record.</p> <p>2. Issue notice to the Respondents, requiring them to file their written statement by 23.07.2009.</p> <p>3. Call this matter on 23.07.2009.</p> <p>4. Respondents are hereby directed to cause production of the records pertaining to selection of the Applicant as Junior Clerk and the records in which his name was asked to be deleted from the panel of Junior Clerks (leading to his reversion) by the next date; through their Standing counsel.</p> <p>5. Send copies of this order to the Applicant and the Respondents (along with notices) and free copies of this order be also supplied to learned counsel appearing for the parties.</p>

*[Signature]*  
(M.R. Mohanty)  
Vice-Chairman

23.07.2009

Mr.S.N.Tamuli, learned counsel for the Applicant is present. No written statement has yet been filed by the Respondents..

On the request of Dr.J.L.Sarkar, learned Standing counsel for the Railways, call this matter on 31.08.2009 awaiting written statement from the Respondents.

(M.K.Chaturvedi)  
Member (A)

(M.R.Mohanty)  
Vice-Chairman

17.6.09  
Notice served  
on R- 1, 2, 3 & 4.

17/6/09

No W/s filed.

23.7.09

13.8.09

lm/

W/s filed by  
The Respondents  
through their  
Advocate Dr.  
J.L. Sarkar,  
Copy served.

13/8/09

31.08.2009

In this case written statement and rejoinder have already been filed. Subject to legal pleas to be examined at the time of final hearing, this case is admitted.

Call this matter on 28.10.2009 for hearing

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

(M.K.Chaturvedi)  
Member(A)

(M.R.Mohanty)  
Vice-Chairman

25.8.09

Rejoinder has been  
filed by the Applicant  
through his Advocate  
Mr. S.N. Tamuli.

25/8/09

28-8-2009

/lm

W/s and rejoinder  
filed by the parties.

28

K.Das

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

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Copies of order dt. 31/8/09  
send to D/Sec. for issuing  
to the respondents by  
post. (C) D/No-9483-9980  
4/9/09: Dt 4/9/09.

The case is ready  
for hearing.

27.10.09

28.10.2009

Mr S.N.Tamuli, learned counsel has made written request to adjourn his case due to some personal difficulty. Dr J.I.Sarkar, learned Standing counsel has no objection.

List on 24.11.2009 for hearing.

The case is ready  
for hearing.

23.11.09

20/11/09  
Reply of the Refinder filed.  
23.11.09

/pg/

24.11.2009

On the request of Dr J.I. Sarkar, learned counsel for the applicant, adjourned to 15.12.2009.

Refinder (in reply)  
to the reply of the  
respondents to the  
applicant's original  
refinder has been  
filed by the L/Odr.  
for the Applicant. Copy  
served.  
23/11/09

Madan Kumar Chaturvedi  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

nkm

15.12.2009

List the matter on 27.1.2010.

The case is ready  
for hearing.

14.12.09

/lm/

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

The case is ready  
for hearing.

25.1.2010

27.1.2010

On the request of Mr.S.N.Tamuli, learned counsel for the Applicant, case is adjourned to 29.1.2010.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/Lm/

29.1.2010

Heard both sides. Reserved for orders.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

30.03.2010

Judgment pronounced in open court,  
kept in separate sheets.

The O.A. dismissed in terms of the  
order. No costs.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

6-4-2010  
Judgment / Final order  
dated 30-3-2010 before  
and sent to the J/Section  
for issuing the all the  
respondents by post /bb/  
and issued to the Advocate  
for the both sides  
vide no 850 to 853  
dated 8-4-2010

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. 104 of 2009

DATE OF DECISION: 30.03.2010

Sri Jagat Chandra Boro

.....Applicant/s.

Mr.S.N.Tamuli

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

- Versus -

U.O.I. & Ors

.....Respondent/s

Dr.J.L.Sarkr, Railway Standing counsel.

.....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)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.104 of 2009

Date of Decision: This, the 30<sup>th</sup> day of March, 2010.

HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Shri Jagat Chandra Boro  
S/O Shri Lakshmi Ram Boro  
Working as Khalashi under  
SSE/BR/PNO, N.F. Railway, Pandu.  
R/O Vill: Mikirghuli  
P.O.- Devkota Nagar  
West Boragaon  
Dist- Kamrup (M)  
Assam, Pin- 781011.

...Applicant

By Advocate: Mr. S. N. Tamuli

-Vs-

1. Union of India  
Represented by the General Manager  
N.F. Railway, Maligaon  
Guwahati - 11.
2. General Manager (P)  
N.F. Railway, Maligaon  
Guwahati - 11.
3. Chief Bridge Engineer  
N.F. Railway, Maligaon  
Guwahati - 11.
4. Dy. Chief Engineer  
Bridge Line  
N.F. Railway, Maligaon  
Guwahati - 11.

...Respondents

By Advocate: Dr. J.L.Sarkar.

**ORDER**

**MUKESH KUMAR GUPTA, MEMBER (J):**

Shri Jagat Chandra Bora in this O.A. filed under Section 19 of  
the Administrative Tribunals Act, 1985 challenges order dated 18.08.2008

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(Annexure-L) whereby competent authority has decided to delete his name from the panel for the post of Junior Clerk (Grade 'C' post) and to revert him to his original post i.e., Khalasi/Substitute with immediate effect. He also seeks direction to the Respondents to promote him to the post of Junior Clerk with all consequential benefits including costs.

2. Admitted facts are that in accordance with GM(P)MLG's letter dated 31.3.2004, vide letter dated 06.04.2004 (Annexure-A) Dy. Chief Engineer, Bridge Line, Maligaon appointed him as Khalasi/Substitute in the pay scale of Rs.2550-3200/- with usual terms and conditions. Vide communication dated 10.08.2004 (Annexure-B), he was granted: **"temporary status w.e.f. 05.08.2004 i.e.,** on completion of 120 days continuous satisfactory service from the date of his engagement as Substitute/Khalasi". Consequently he was made eligible to certain rights and privileges as admissible to temporary railway employees. Vide communication dated 24.08.2005, the office of Dy. Chief Engineer, Bridge Line, Maligaon decided to hold selection for forming a panel of Clerk (G) Grade 'C' in the pay scale of Rs.3050-4590/- which also provided a list of eligible candidates for written test to be notified shortly, against 16 2/3 % and 33 1/3 % quota for promotion from Grade 'D' to Grade 'C' in general Branch of Bridge Line unit. In the present case we are concerned with 33-1/3% quota, wherein only 2 vacancies one each for SC & ST were available. He was spared to appear in said examination and vide communication dated 09.11.2005 (Annexure-E), he came out successful. Consequently, vide order dated 21.11.2005 he was empanelled for promotion to said post. Vide order of even date he was promoted on ad-hoc basis and his pay was fixed vide memorandum dated 06.12.2005.



Consequently, vide order dated 01.05.2006 he was required to appear in suitability test of Clerk (G). Vide memorandum dated 11.05.2006 he was declared successful in the training programme and his date of promotion was notified as 22.11.2005. He also qualified the type writing speed test in English vide memorandum dated 14.11.2007.

3. His grievance is that vide impugned communication dated 18.08.2008 (Annexure-L) his name was deleted from the panel for the post of Junior Clerk and reverted as Khalasi/Substitute. His appeal preferred on 27.08.2008 (Annexure-M) followed by reminder dated 13.10.2008 had not been attended to. On the other hand, in screening test held on 10.02.2009, he was absorbed in the regular Group 'D' post as he has completed three years of continuous service (Annexure-O).

4. The contentions raised by Mr.S.N.Tamuli, learned counsel are manifold, namely:-

(i) The impugned order dated 18.08.2008 has been passed in total disregard to the principles of natural justice in a mechanical manner without any application of mind. He has passed selection test for the post of Junior Clerk besides successfully completing the training period. Once he was found suitable for promotion after being screened, the penalty stood exhausted and as such there was no penal from which his name could have been deleted.

(ii) That vide Order dated 10.8.2004 he was granted temporary status and conferred with certain rights and privileges as admissible to temporary railway employees. As such he had to be treated as



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**"temporary railway employee"** for all purposes including promotion to next higher post. Said term has been defined vide para 1501 of IREM Vol I which means: "a railway servant without a lien **on a permanent post** on a Railway or any other administration or office under the Railway Board. The term does not include "casual labour", including 'casual labour with temporary status', a 'contract' or 'part-time' employee or an apprentice". Reliance was also placed on definition of '**Substitute**'. Vide para 1512 which means person engaged in Indian Railway Establishments on regular scales of pay and allowances applicable to posts against which they are employed. These posts fall vacant on account of a railway servant being on leave or due to non-availability of permanent or temporary railway servant and which cannot be kept vacant.

(iii) Under the provisions of rules in vogue, for Group D & temporary railway servants certain posts were reserved for promotion. Rule 189 (a) deals with promotion to higher grades in Grade 'C' and provides that 33-1/3% of the vacancies in the lowest grade of Commercial Clerks, Ticket Collectors, Trains Clerks, Number Takers, Time Keepers, Fuel Checkers, Office Clerks, Typists and Stores Clerks etc. should be earmarked for promotion from Grade 'D' categories where no regular promotion exists. Reliance was also placed on IREC para 103 (43) which deals with definition of '**Railway Servant**'.

(iv) Citing Rule 222 of IREM it was contended that said rule provides automatic empanelment of staff in the higher grade selection and non-selection posts.

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(v) Lastly reliance was placed on para 220 of IREM Vol I, which deals with '**currency of panel**' and provides that life of panel is two years from the date of its approval by the competent authority or till the same is exhausted, whichever is earlier,

In the above backdrop it was contended that Applicant had been allowed regular pay scale vide order dated 06.04.2004; he was duly selected to next promotional post in Grade 'C'; and therefore, there was no justification at all to revert him from said post when he had already performed satisfactory duty in the higher promotional grade for a substantial period. Placing reliance on **(1982) 1 SCC 645 (L.Robert D'Souza vs. Executive Engineer, Southern Railway & Another)** para 12 it was contended that once the person acquired the status of temporary railway servant by operation of law, the conditions of his service would be governed as stated out in Chapter XXIII, IREM. Rule 2301 in said chapter defines "temporary railway servant". **(1985) 2 GLR 459 in Pradip Kumar Das and Others vs. U.O.I. & Ors.** was cited to contend that when a number of candidates appear at a examination under certain rules and regulations, there is an implied obligation on the part of those who conduct the examination not to deprive the examinees the fruits of it unless there is violation of rules or regulations by themselves. **(1996) 7 SCC 27 Prabhavati Devi vs. U.O.I. & Ors.** was relied upon to contend that having become a temporary railway servant, a person becomes entitled to service benefits. Lastly, reliance was placed in **(1992) 2 SCC 679 Union of India & Ors vs. Vasant Lal and Others** to contend that once a person is working



continuously for more than 120 days, he is entitled to status of temporary railway servant.

In the above background learned counsel contends that Applicant is entitled to relief, as prayed for.

5. By filing reply, the Respondents vehemently contested the claim laid by the Applicant stating that his name was erroneously included in the selection list as he was not given status of regular service on the date of notification under reference i.e. 24.8.2005. Therefore, his name was deleted from the panel with the approval of competent authority as it was detected that his selection was erroneous. The suitability test for regularization of the Applicant as Clerk (G) was done prior to his regularization in Group 'D'. Therefore, all steps taken in this regard are honest and further inconsequential in nature. He was screened for regularization in Group 'D' only on 10.02.2009 and found suitable vide memorandum dated 18.03.2009 (Annexure-O). Mere grant of temporary status did not make him eligible for promotion to Grade 'C' post. For selection to promotional post as departmental candidate, he should have acquired status of regular railway servant in Group 'D' post. In the circumstances, he was rightly reverted to his original post, namely, Khalasi/Substitute and his name was deleted from the selection panel. Said action did not require any prior show cause notice, particularly when entire selection procedure adopted for same was found to be erroneous and non-est. Placing on record a Master Circular dated 29.01.1991 dealing with 'Substitute', it was pointed out the specific circumstances under which the Substitute can be appointed besides the benefits enjoyed by such persons.

6. We have heard Shri S.N.Tamuli, learned counsel for Applicant and Dr.J.L.Sarkar, learned counsel for Respondents at length, perused the pleadings & other materials placed on record besides various judgments cited at Bar. We have given our thoughtful and anxious consideration to rival contentions raised by the parties.

7. The moot question, which arises for consideration, is whether Khalasi/Substitute, who had yet not been regularized in said grade (Grade 'D') is eligible for promotion to next higher post/grade of Junior Clerk (Grade 'C') or not.

8. Narration of facts, noticed hereinabove, would establish that Applicant was appointed as Khalasi/Substitute on 06.04.2004 and granted '**temporary status**' w.e.f. 05.08.2004. It is further not in dispute that he was screened for regularization in Grade 'D' on 10.02.2009. He claims that his empanelment to higher post vide order dated 21.11.2005 cannot either be recalled, modified or reversed. The basic reason for such a contention has been that once '**temporary status**' has been granted, he has to be treated at par with '**regular railway servant**' for all purposes, and therefore, he acquires a legal right for promotion. Furthermore, panel by which empanelled had a fixed duration of currency which has now expired, the said panel get extinct, and therefore, there remains no scope for amending/varying said panel. The term '**temporary railway employee**' has been defined vide para 1501 IREM Vol-I which has already been extracted vide para 4(ii). Similarly, the term '**substitute**' has also been defined vide para 1512. It is also expedient to note the definition of term '**railway servant**' from clause 43 of Chapter 1, IREC Vol-I which reads as under:-

"**Railway Servant** means a person who is a member of a service or holds a post under the administrative control of the Railway Board."


No rule or any law has been either produced, brought to our notice or placed on record to establish that a person who is appointed as '**substitute**' and conferred with '**temporary status**' for service purpose under the Rules in vogue has to be equated with 'regular railway servant'. Perusal of term '**substitute**' noticed hereinabove would establish that he is basically appointed on short term basis against a post which fell vacant on account of railway servant being on leave or due to non-availability of permanent or '**temporary railway servant**', and which post cannot be kept vacant. Similarly, definition of '**temporary railway servant**' would establish that he holds no lien on a post. Virtually he is neither 'regular railway servant' nor a '**temporary railway servant**'. He is merely holding temporary status. Person holding '**temporary status**' cannot be equated with aforesaid categories. The person holding '**temporary status**' itself is a category, who is employed not against any sanctioned post. In normal parlance, promotional channels are available only to person/official who is appointed on regular basis, against sanctioned post. Therefore, question of empanelment, its currency etc., itself would be of no consequence and the same has to be tested with reference to post held on regular basis. Applicant had been included in the list of eligible candidates and allowed to sit in the examination by oversight, which can be termed as administrative mistake. It is well settled law that administrative mistake can be rectified. This precisely had been done when his name was deleted from the panel drawn for the post of Junior Clerk and reverted as Khalasi/Substitute, a post held by him prior to passing of order dated 21.11.2005. The applicant had no legal right to

promotion. In the peculiar facts, the issuance of show cause notice would have made no difference to the findings recorded by the concerned authorities and as such it was useless formality.

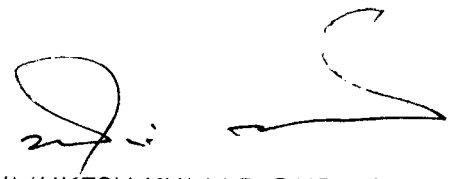
9. In our considered view law laid down in **(2008) 2 SCC 108, General Manager, North West Railway and Others vs. Chanda Devi** would squarely be attracted in the given facts and circumstances. Vide para 15 thereto, it was clarified that IREM was made for the purpose of simplification of various circular letters issued by the competent authority from time to time. It is divided into separate chapters. Indisputably railway servant, if appointed on regular basis, would enjoy a status having regard to the provisions contained in Article 309 of the Constitution of India. Their services are indisputably protected under Article 311(2) thereof. A clear-cut distinction was drawn between '**casual labour having temporary status**' and '**temporary railway servant**'. Though controversy considered and examined therein had been with reference to the claim regarding pension, however, the principle enunciated therein would be applicable in the present case with equal force. Indisputably applicant is not a '**temporary railway servant**'. He is only a casual labour having conferred temporary status. Entitlement and privileges admissible to casual labour holding temporary status are clearly mentioned under Rule 2005, which falls under Chapter XX thereof. Aforementioned Rule replaced an earlier rule being Rule 251 occurring in Chapter XXV of the previous publication, as earlier noticed in **Ram Kumar vs. Union of India (1988) 1 SCC 306**. Vide said judgment of Chanda Devi (supra) Gujarat High Court judgment in Rukhiben Rupabhai vs. Union of India decided on 05.05.2005 to the effect that casual labour with temporary status is entitled to pension was held to

be "bad in law". Casual labours have been excluded from the definition of permanent or temporary employee, he with temporary status could not have become so and there is no legal sanction thereof, was the observations made vide para 13 thereof. What was protected by conferring temporary status upon a casual employee was his service and by reason thereof, the promotion would not be available to him unless he becomes a '**regular railway servant**'. Recruitment to Govt. employment must be made strictly in terms of statutory rules. As observed hereinabove, no statutory rules have been pointed out vide which casual labour with temporary status, a status enjoyed by applicant, is made eligible for promotion to next higher post on regular basis. Thus, we are of the considered view that administrative mistake committed by the respondents in permitting him to appear in the examination, and therefore, his promotion was rightly rectified by the respondents. The question of currency of panel or otherwise as such loses its significance.

10. Taking a cumulative view of the matter and in ultimate analysis we are of the opinion that O.A. is bereft of any merits. All the judgments cited by applicant are not applicable in the peculiar facts and circumstances of present case, and therefore, totally distinguishable. Consequently O.A. is dismissed. No costs.



(MADAN KUMAR CHATURVEDI)  
MEMBER (A)



(MUKESH KUMAR GUPTA)  
MEMBER (J)

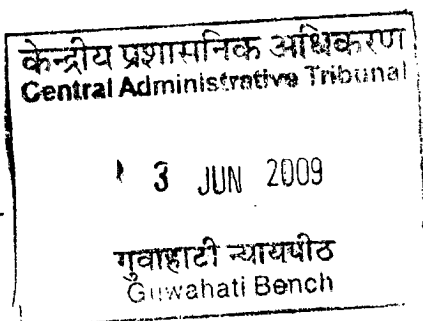
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,  
GUWAHATI.

( An application under Section 19 of the AT Act 1985 )



O. A. NO...104./09

Shri Jagat Chandra Bora

- Vs -

Union of India & Ors.

S Y N O P S I S

The applicant joined Railway service as substitute Khalashi, Gr. 'D' on 6.4.04 and was subsequently promoted to the post of clerk 'G' (Gr. 'C' Post) by office order dated 21.11.05 after due selection (written + Viva). Applicant passed suitability test and type writing speed test and became eligible for regularisation in Gr. C post. But most unfortunately by office order dated 18.8.08 applicant was reverted back from clerk (G) (Group 'C' post) to Khalashi (Substitute) Gr. D on the ground that he was not screened for khalashi. This order was issued without giving any show cause notice to the applicant and the order was vague. Applicant submitted representations dated 27.8.08 and 13.10.08 but no reply has been issued and orally told that he cannot be promoted and office order dated 18.3.09 he was screened as Khalashi. Applicant begs to state that he has already passed test for higher post and became eligible for promotion and work as Clerk G for more than two years, and as such screening test for

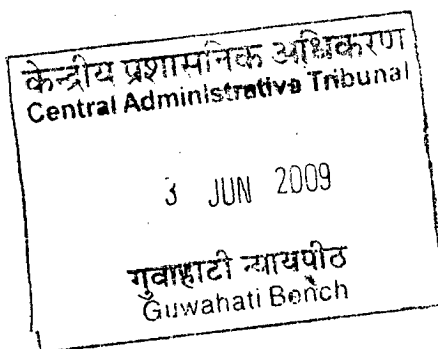
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I undertake to  
serve a  
copy of the OA  
on Counsel  
for Railways  
Dr. J. I. Sankar  
03/06/09.

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lower post should not be a cause for his deletion of name from panel and reversion. Moreover with the promotion to higher post panel worked itself out and exhausted and there was no scope for deletion from the panel which was not a live pommel as such his reversion by a vague order and without following the principles of natural justice is bad in law and void abinitio.

Applicant prays for promotion from 22.11.05 with arrears and other benefits.

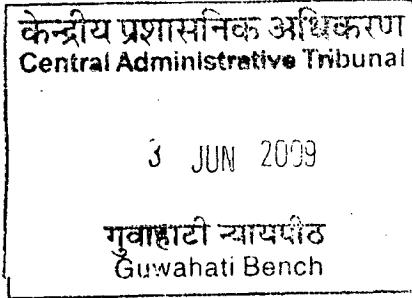


Filed by

S.N. Tamuli  
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,  
GUWAHATI.

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



Shri Jagat Chandra Bora

- Vs -

Union of India & Ors.

I N D E X.

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1.	'Original application	' Page 1 to 15...
2.	'Verification	' Page No. 17....
3.	'Appointment letter dated 6.4.04 'issued by Dy. CE/Br. Line/MLG.	' Page 18..... ' Annexure-A
4.	'Office order dated 10.8.05	' Page 19..... ' Annexure-B
5.	'Letter dated 24.8.05	' Page 20..... ' Annexure-C
6.	'Letter dated 22.9.05	' Page 21..... ' Annexure-D

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3 JUN 2009

गुवाहाटी ब्याचपीठ  
Guwahati Bench

-: 2 :-

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7.	Office Memorandum dated 9.11.05	Page...२३..... Annexure-E
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9.	Office order dated 22.11.05	Page ...२४..... Annexure-G
10.	Memorandum dated 6.12.05	Page ..२५..... Annexure-H
11.	Copy of the letter dated 1.5.06	Page ..२६..... Annexure-I
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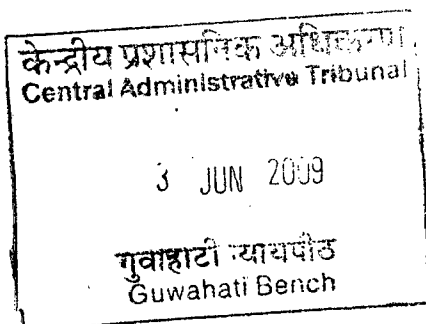
Filed by



S.N. Tamuli, Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,  
GUWAHATI.

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



Shri Jagat Chandra Bora

- Vs -

Union of India & Ors.

List of Dates.

SN.	Date	Particulars	Page No./para No. /Annexure
1.	6.4.04	'Applicant was appointed as 'substitute khalashi by letter 'dated 6.4.04 issued by Dy. 'Chief Engineer, Bridge line, 'Maligaon in scale of 2550-3200/- 'in Gr. D category.	, Para 4.3 , Annexure-A , Page ...18....
2.	10.8.05	, Applicant was granted temporary , status and vide letter dated , 10.8.05.	, Para 4.4 , Annexure-B , Page 19.....
3.	24.8.05	, Dy. CE/Br.Line, N.F. Railway, , Maligaon circulated the list of , eligible candidates for promot- , ion from Gr. D to Gr. C post , under 33 1/3% departmental quota , In the aforesaid letter applic- 'ants name was correctly listed 'with other ST candidates against 'Sl. No. 2 under headline B.	, Para 4.5 , Annexure-C , Page ...20.....

SN.	Date	Particulars	Page No./Para No /Annexure
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4.	22.9.05	By letter dated 22.9.05 applicant	Para 4.5
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केन्द्रीय प्रशासनिक अधिकरण  
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was asked to be spared for appearing in the selection test for promotion from Gr. D to Gr. C post to be held on 23.9.05. Applicant accordingly appeared in the said selection test.

Annexure-D  
Page. 31...

5.	9.11.05	By office memorandum dated 9.11.05	Para 4.5
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the result of the selection dated 23.9.05 was published. Applicant was declared pass and his name appears against head line B against 33 1/3% quota.

Annexure-E  
Page. 32.

6.	21.11.05	By order no. 21/05 dated 21.11.05	Para 4.6
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and order No. 22/05 dated 22.11.05 applicant was promoted(temporarily) in scale of 3050-4590/- and was posted under Dy. CE/Br. line, Maligaon as Clerk(G). There was a condition of three months training and successful completion of the training. After this promotion, the panel worked itself out and Exhausted and there was no live panel.

Annexure-F & G  
Page... 33.....

7.	1.5.06	By letter dated 1.5.06 applicant	<del>Contdxxxxxx</del>
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was asked to appear in the suitability test as regularisation as Clerk G on 4.5.06. Applicant Accordingly appeared in the said test.

Para 4.7  
Annexure-I  
Page .. 36...

SN.	Date	Particulars	Page No./Para No /Annexure
8.	11.5.06	By office memorandum dated 11.5.06 it was declared that applicant was found suitable for regularisation of service as Clerk G from the date of his promotion giving effect of the regularisation from 22.11.05.	Para 4.7 Annexure-J Page 27.....
9.	14.11.07	By Memorandum dated 14.11.07 it was declared that the applicant has qualified in the type writing speed test in English. ( Sl. No. 2 )	Para 4.8 Annexure-K Page 28
10.	18.8.08	By office Memorandum No. 27/08 dated 18.8.08 issued from the office of the Dy. CE/Br. line/MLG applicant has been reverted to khalashi (substitute) from Junior Clerk on the ground that his name was deleted from the panel by competent authority. The above order is vague as it did not disclose who the competent authority is and his name was deleted from a panel which worked itself out. Applicant was not served with any show cause in total violation of principles of natural justice.	Para 4.9 Annexure-L Page 29....

Contd....5

केन्द्रीय प्रशासनिक अधिकरण  
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SN.	Date	Particulars	Page No./Para No./Annexure
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11.	27.8.08	Applicant submitted representations to Chief Bridge Engineer, Maligaon, N. F. Railway, GHY-11 which stands rejected by oral order and there- after screening of the applicant in Gr. D.	Para 4.10 Annexure-M & N respectively Page 30-35..
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12.	10.2.09	Applicant was screened on 10.2.09	Para 4.11
	&	as substitute khalashi and memoran-	Annexure-0
	18.3.09	dum dated 18.3.09 was issued to that effect.	Page...36...

Applicant begs to state that his reversion on the ground that screening for khalashi was not done, after passing higher examination that too without giving show cause notice, in total violation of principles of natural justice and by passing a vague order is bad in law and void abinitio and he should be promoted to the post of Clerk G.

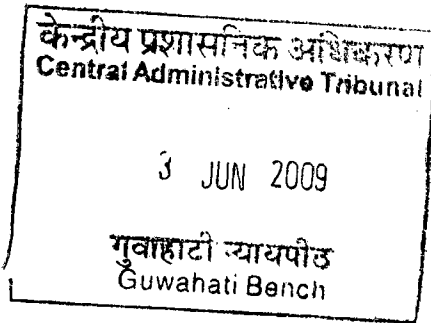
Filed by

  
S.N. Tamuli, Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,  
GUWAHATI.

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



O.A. No...104../2009

Shri Jagat Chandra Boro  
S/O Shri Lakshmi Ram Boro  
working as khalashi under  
SSE/BR/PNO, N.F. Railway,  
Pandu  
R/O Vill: Mikirghuli  
P.O. Devkota Nagar  
West Boragaon  
Dist. Kamrup(M)  
Assam, Pin: 781011

- Vs -

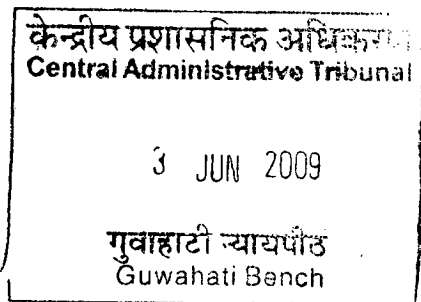
(1) Union of India  
Represented by the General  
Manager,  
N. F. Railway  
Maligaon  
GHY-11. ✓

(ii) General Manager(P)  
N. F. Railway  
Maligaon, Guwahati-11. ✓

Contd....2

Jagat Ch. Boro.

Filed by the Applicant-  
Through S. N. Tumuli  
Advocate Date..03/06/09



(iii) Chief Bridge Engineer

N. F. Railway

Maligaon

Guwahati-11. ✓

(iv) Dy. Chief Engineer

Bridge line

N. F. Railway

Maligaon

Guwahati-11. ✓

DETAILS OF THE APPLICATION:

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

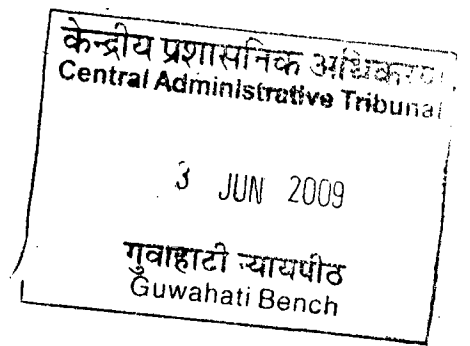
This application is made against the office order No. 27/08 dated 18.8.08 issued from the office of the Dy. Chief Engineer, Bridge line, Maligaon illegally deleting the name of the applicant from the panel of junior clerk in which he was promoted as per the panel and reverting him to khalashi substitute.

2. JURISDICTION :

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

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Jagat Ch. Boro.



3. LIMITATION :

The applicant declares that application is within the period of limitation prescribed by the Administrative Tribunal Act-1985.

FACTS OF THE CASE :

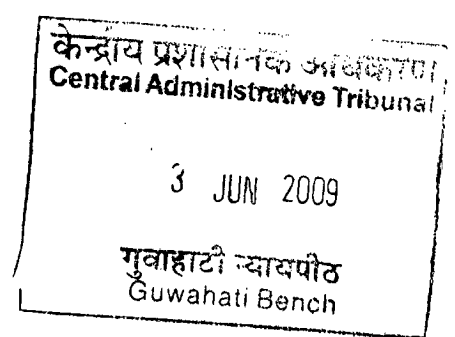
4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India. He belongs to Schedule Tribe Community.

4.2 That, he passed the H.S.L.C. examination from Maligaon H.S. School, Maligaon, Guwahati-11 under SEBA.

4.3 That, for urgent necessity of family he was searching for employment and could not prosecute his higher studies. Under letter dated 6.4.2004 issued by the Deputy Chief Engineer Bridge/Line, Maligaon he was appointed as a khalasi (Substitute) in scale Rs. 2550-3200/- plus usual allowance as admissible from time to time on the terms and condition as applicable for temporary appointment in Gr. D service. The applicant was as such appointed in Gr. D category. It is stated that this appointment bears the reference of GM(P)/Maligaon's letter No. E/227/Rectt.(Con) Pt.II dated 31.3.2004. The applicant has not been given a copy of the said letter. On enquiry in office he was been informed that the terms and conditions mentioned in the said letter dated 31.3.04

Contd..... 4

Jayant Ch. Boro.



have been mentioned in the appointment letter itself dated 3.4.04. The terms and conditions interalia are as under :

- (i) The applicant shall be liable to be discharged without notice or terminated from service in the event of the expiry of temporary sanction of the post in which he was appointed reduction of establishment or his mental or physical incapacity or removal or dismissal from service for misconduct.
- (ii) If the termination of service is due to some other cases he will be entitled to a notice of 14 days or pay line thereof.
- (iii) The applicant will not be eligible for any benefit except those admissible to temporary employee under the Rules in force from time to time.

Copy of the letter dated  
6.4.04 is enclosed as  
Annexure-A.

4.4 That, applicant respectfully states that the appointment of the applicant was against a temporary post in Gr. D category. His appointment was as a substitute. It is also stated that the substitutes are appointed against posts falling vacant on account of a railway

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Jayant Ch. Bora.

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Guwahati Bench

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servant being on leave or due to non availability of permanent or temporary Railway servant and which cannot be kept vacant. Substitute can be appointed in Gr. C and D posts. As already stated the appointment of the applicant was in Gr. D category. It is further stated that the appointment of the applicant though in D category was not as casual labour. The appointment of the applicant entitled him to the benefits as admissible to temporary Railway servants in Gr. D category. It is stated that temporary railway servants do not include a casual labour or a contract or past time employee or an apprentice. Under no rules of the Railways substitute Gr. C or Gr. D Railway servants are excluded from terminology of temporary Railway servants. It is further stated that in the Railway schools teachers are appointed as substitute teachers in Gr. C category and given benefits as temporary Railway servants and subsequently taken as regular instead of substitute. Similarly in case of Gr. D also the substitute employee are treated as temporary railway servants. In the case of the applicant as his service continues for more than 120 days without any eventuality calling for termination as per rules of the Railways and the terms of appointment in the letter dated 6.4.04 he was also granted temporary status w.e.f. 5.8.04. The temporary status give the Railway employees better rights compared to substitutes. The order dated 10.8.05 also specifically mentions such rights as admissible to temporary railway servants (employees). The applicant was/is entitled to all the rights and privileges admissible

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Jagant Ch. Borra.

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to temporary Railway servants.

Copy of the order dated

10.8.05 is enclosed as

Annexure-B.

4.5 That, under the policy of welfare state and also under the laws laid down by Supreme Court and also the Central Pay Commissions Indian Railways is also alive to the cause of promotion of its employees and has also provided for elavation of Gr. employees to Gr. C employees keeping 33 1/3% quota of posts in Gr. C to be filled up by promotion from Gr. D, therein also maintaining reservation for S.C. and S.T. The railway department in the organization under Deputy Chief Engineer Bridge Line Maligaon were to fill up 33 1/3% quota of Gr.C, clerical by promotion from Gr. D post. For this purpose eligible candidates were listed out as per Railway Rules. It is stated that Rules of the Railways are prescribed in the Railway codes, Manuals and number of circulars issued by the Railway Boards from time to time, and these give the Railway authorities a ample scope including scope of relexation and duty to examine the matters and act upon for promotional causes. The Dy. CE/Bridge line, Maligaons office prepared the list of eligable Gr. D employees for the purpose of the aforesaid promotion and circulated the list of eligable candidates under letter dated 24.8.2005 in which applicants name was correctly listed as ST candidates against Sl. No. 2 under the headline B. The applicant was asked to keep in readiness to appear in the above selection at a short notice. Applicant is a matriculate and has a deep pain

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Jagat Ch. Boro.

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in his heart for not being able to make higher studies. He wanted to avail the opportunity of this promotion which would improve his financial condition also. He started reading very hard for the selection so that he may do well in the selection. In fact he contacted senior members of the staff including officers for acquiring knowledge about Railways, obtaining Rules and circulars, in fact he worked very hard to pass the selection. By letter dated 22.09.2005 he was asked to be spared on 23.9.05 (AN) for the selection (written test) for promotion from Gr. D to Gr. C (Clerical) and he appeared in the selection accordingly and did very well in the examination. The result of the aforesaid selection was published and circulated by memorandum dated 9.11.05. The applicants name appears against 1st position in headline B against 33 1/3%.

Copies of eligible list  
circulated by letter dated  
24.8.05 is enclosed as  
Annexure-C.

Copy of the letter dated  
22.9.05 is enclosed as  
Annexure-D.

Copy of the panel circulated  
by memorandum dated 9.11.05  
is enclosed as Annexure-E.

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Jagat Ch. Boro.

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4.6 That, by an office order No. 21/05 dated 21.11.05 and Order No. 21/5 dated 22.11.05 the applicant was temporarily promoted as clerk (G) in scale of Rs. 3050-4590/- and posted under Dy. CE/Bridge line, Maligaon as a result of the empanelment explained above. There was a condition of three months training and successful completion of the training. The above promotion was also acquiring the typing proficiency within two years of promotion. There after by memorandum dated 6.12.05 his pay was fixed as clerk(G) at Rs. 3050/-.. After the promotion the panel has exhausted and there is no panel now. Panel has worked itself out and there is no scope to delete the name from the panel.

Copies of the order dated  
21.11.05, 24.11.05 and 6.12.05  
are enclosed as Annexure-F & G.H

4.7 That during May, 2006 the case of the applicant was taken up for regularisation as clerk G and by letter dated 1.5.06 he was advised to appear in the suitability test on 4.5.06 in connection with regularisation. Accordingly he appeared in the suitability test. By memorandum dated 11.5.06 it has been declared and circulated that the applicant was found suitable for regularisation of service as clerk G from the date of their promotion giving effect of the regularisation from 22.11.05.

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Copies of the letter dated  
1.5.06 and 11.5.06 are enclosed  
as Annexure-I and J respectively.

4.8 That, by memorandum dated 14.11.07 it has been declared that the applicant has qualified in the type writing speed test in English. Name of the applicant is against Sl. No. 2 of the said memorandum.

Copy of the memorandum is  
enclosed as Annexure-K.

4.9 That, the applicant was continuing to work G very efficiently and to the satisfaction of his superior. But most unfortunately by an office order No. 27/08 dated 18.8.08 issued from the office of Dy. CE/Bridge line, Maligaon the applicant has been reverted to khalasi (Substitute) from Junior clerk. The ground given has been that the competent authority has decided to delete the name of the applicant from the panel and to revert him from the existing post of Jr. Clerk to khalasi(substitute). It is stated that said reason is not a good reason and is vague and abstract. The applicant was duly taken into the panel and the panel was duly acted upon by giving promotion and thereafter also following procedure in phases of suitability test, regularisation after passing a training, qualifying the type writing test earning increment. The panel has been exhausted and worked itself

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Jagat Ch. Boro.

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Guwahati Bench

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out. He is no more a man in the panel but an employee in the promoted post from the panel. There is no scope of deletion of his name from the panel. Such administrative decision to delete is hostile and perverse, without any authority of law. The reversion as said in the above order dated 18.8.08 as a result of such arbitrary decision to delete is bad in law and non-est such order is not just and fair. The applicant also states that he was not given any notice of alleged deletion or reversion not to speak of giving any hearing. The principles of natural justice was totally ignored. The action to revert him is most perfunctory and an eye wash for extrenious reasons not supported by any rules. The order dated 18.8.08 has been signed by ABE/Central Maligaon. The applicant states that for the purported deletion and reversion ABE is not the competent authority and this order has been issued under camouflage and with a vague term competent authority. The applicant humbly states that after promotion and actions in stage as narrated above his name cannot be deleted from the panel by any authority nor he can be reverted in the manner as has been done in the instant case.

Copy of the order dated 18.8.08  
is enclosed as Annexure-L.

4.10 The applicant submitted representation dated 27.8.08 and 13.10.08 to the Chief Bridge Engineer, Maligaon, N.F. Railway, Guwahati-11 through Dy. CE/Br./MLG requesting for restore him to the post of junior clerk

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Jagat Ch Boro.

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গুৱাহাটী ন্যায়পীঠ  
Guwahati Bench

and continue as such under Dy. CE/Br/MLG but without any result. He has been informed orally that as because he was not screened formally as khalasi substitute he cannot be promoted as junior clerk.

Copies of the representation dated 27.8.08 and 13.10.08 are enclosed as Annexures-M & N respectively.

4.11 That, the applicant has been found suitable in the screening test held on 10.2.09 as substitute khalasi and memorandum dated 18.3.09 has been issued and circulated.

Copy of the office memorandum dated 18.3.09 is enclosed as Annexure-0.

4.12 That, the applicant begs to state that after his selection by duly selection process and working for a considerable period there is no cogent reason for his posting back/reversion from junior clerk to khalasi. It is a common principle of service jurisprudence that if an employee is selected in higher scale by a due selection process he is deemed to be selected for any lower post selection. In the instant case the screening in Gr. D for suitability has become redundant/the applicant considered to be automatically selected/found suitable by the screening when he was selected for the post of

Contd....12

Jagat Ch. Baro

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junior clerk, a post in higher scale, and there should not be any scope for further screening/suitability test in the lower post i.e. khalashi. It is stated that in the Railways the principle is adopted in the event of selection in higher post. For example in the Personnel Branch when Welfare/Personnel Inspectors are selected for the post of Assistant Personnel Officer(APO in short) he/they shall get the benefit of automatic selection in intermediate post e.g. Senior Welfare Inspector(SLWI) same is the position in Law Branch. Where a Law Assistant on selection as Law Officer is automatically treated as selected in intermediate Gr. C post.

4.13 That, the applicant after a selection as junior clerk successfully completed his training which is a condition precedent for posting as junior clerk. The said training is for a period of three months. The applicant submits that passing of process of selection, The passing of the training is higher standard than the screening/suitability test of substitutes. By application normal principles of standards and also principle of automatic selection explained in the preceeding para, the applicant humbly submits he should be taken as already passed in the screening test. The applicant was also again asked to appear in the suitability test for regularisation as clerk which also he passed. Again he was asked to appear in the type writing speed test in which also he qualified.

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Jagat Ch. Boro.

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4.14 That, most unfortunately order of reversion has been passed with complete non application of mind. Mechanical administrative action is very clear in the facts of the case. Such administrative action is not just and fair. Even no scope by even a show cause notice was given, and principles of natural justice has been given gobye. The order of reversion dated 18.8.08 deserves to be set aside on that ground alone.

4.15 The name of the applicant has been deleted from the panel of the junior clerk without following the procedure of deletion and has not been done by the competent authority. The order dated 18.8.08 makes a vague statement that it has been done by the competent authority without disclosing who was the officer to decide the deletion.

4.16 That, the promotion as junior clerk is in the normal avenue of promotion of the applicant against 33 1/3%.

5. GROUND'S WITH LEGAL PROVISIONS :

5.1 For that order dated 18.8.08 has been passed in total disregard of principles of Natural Justice.

5.2 For that order of reversion has been passed most mechanically and without application of mind.

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Jagat Ch Boro.

3 JUN 2009

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Guwahati Bench

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5.3 For that deletion of name from the panel was not done by following procedure and also not by the competent authority.

5.4 For that the applicant passed the selection test for junior clerk (written, Viva with records of service), than successfully completed the training and passed suitability test, type speed test. He deserve to be automatically found suitable/screened for a lower post.

5.5 For that the applicant has been reverted and thereafter screening test held in the lower post. This has been most mechanical exercise of power. However after this he has been found suitable in the screening/suitability test. This order of suitability shall relate back to the date when he was declared suitable and taken in the panel in higher post i.e. junior clerk.

5.6 For that the order dated 18.8.08 is void ab-initio, passed without authority by incompetent officer de hors the Rules and violating principles of law. Panel was already exhausted and by promotion of the applicant it worked itself out and there was no scope delete the name from the panel.

5.7 This order dated 18.8.08 is not just and fair and is arbitrary violating Articles 14 and 311 of the

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Jagjit Ch. Boro.

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Guwahati Bench

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Constitution of India and as such is void ab-initio.

6. DETAILS OF THE REMEDIES EXHAUSTED :

The applicant declares that there is no other remedy left in any Rule and this Hon'ble Tribunal is the only remedy left. Applicant states that he has submitted representations. He has been told that this reversion cannot be revoked and he should be screened.

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

The applicant declare that he has not filed any application/petition any other court/Tribunal.

8. RELIEF SOUGHT FOR :

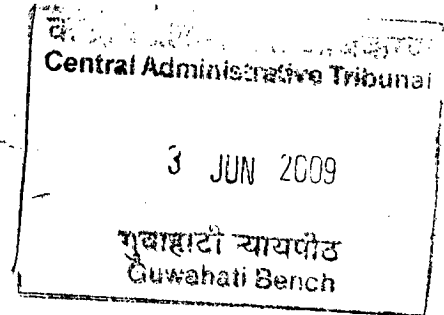
In the facts and circumstances of the case the applicant prays that the Hon'ble Tribunal will be please to call for the records of the case including records of selection as junior clerk, deletion of the name of the applicant from the panel of junior clerk (and) reversion, and prays for the following reliefs :

8.1 Setting aside and quashing office order No. 27/08 dated 18.8.08 (Annexure-L) issued from the office of Dy. CE/Bridge line, Maligaon.

8.2 Promotion of the applicant to the post of junior clerk/G from the date of his reversion and payment of

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Jagjit Ch. Boro.



consequential benefits including monetary benefits with arrears.

8.3 Cost of the case.

The above reliefs are sought on the grounds stated in para 5 above.

9. INTERIM RELIEF PRAYED FOR :

During the pendency of the case applicant prays for following relief :

The order dated 18.8.08 (Annexure-L) be suspended and applicant be allowed to work as junior clerk/G.

The above relief is sought on the grounds stated in para 5 above.

10. This application is filed through an advocate.

11. PARTICULARS OF THE POSTAL ORDER :

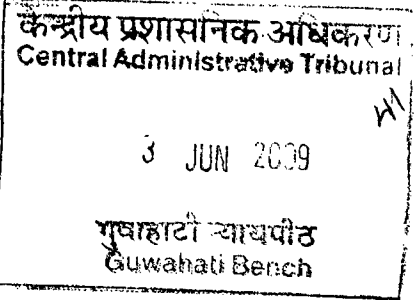
- (i) IPO No. 39G 402639
- (ii) Date : 9.3.09
- (iii) Payable at GPO/Guwahati.
- (iv) Issued from : GPO/GHY.

12. List of enclosures : as stated in Index.

Jagjit Ch. Bora.



-: 17 :-



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

I, Shri Jagat Chandra Boro, Son of Shri Lakhi Ram Boro, aged about 30 years presently working as khalashi (substitute), under Dy. CE/Bridge line, Maligaon, N. F. Railway and presently residing at Vill: Mikirghuli, P.O. Devkota Nagar, West Boragaon, GHY-11 do hereby verify that the statements made para 1, 4, 6 to 12 are true to my knowledge and those made in para 2, 3 and 5 are true as per legal advice and I have not suppressed any material facts.

AND I sign this verification on this <sup>31st</sup> 10th day of May, 2009 at Guwahati.

Guwahati

Date. 31.05.09

Jagat Ch. Boro.  
Signature

N.E. RAILWAY

OFFICE OF THE  
DY.CE/BRIDGE/LINE

NO. EW/227/1/Pl-V.

Dated: 6.04.2004

To  
Sri Jagat Chandra Boro,  
S/o. Sri L.R. Boro  
Ex. STM/Safety/MLG  
(at office)

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

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गुवाहाटी न्यायपीठ  
Guwahati Bench

Sub: -Temporary Appointment as Khalasi (Substitute) in scale  
Rs. 2550-3200/- RSRP.

Ref: GM (P)/MLG's O/O. No. E/227/Rectt (con) Pt. II dt. 31.3.2004

\*\*\*\*\*

In terms of GM (P) MLG's letter No. E/227/Rectt (con) Pt. II dt. 31.3.2004 you are hereby appointed as Khalasi (Substitute) in scale Rs. 2550-3200/- plus usual allowance as admissible from time to time on the terms and condition as applicable temporary appointment in Group 'D' service as stated below and posted under SSE/Bri PND

1. You will be liable to be discharged without notice or terminated from service in the event of the expiry of temporary sanction of the post in which you are appointed on reduction of establishment or your mental or Physical In- capability of or removal or dismissal from service for misconduct.
2. If the termination of your service is due to some other cases you will be entitled to a notice of 14 days or pay in lieu thereof.
3. You will not be eligible for any benefit except those admissible to temporary employees under the Rules in force from time to time.
4. No provision of Railway Qrs. is granted.
5. You will remain liable to indemnify the Rly. Administration for any loss, which may be attributed due to your negligence.

DY.CE/BRIDGE/L/MLG.

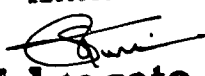
Copy forwarded for information and necessary action to: -

1. FA & CAO/MLG
2. GM (P) MLG - This has reference to his above quoted letter.
3. SSE/BRI PND - He will intimate the date of joining by the above named as soon as he reports for duty under him. The application together with its attested copies of certificates in support of Caste, Character, Educational qualification etc. and other letters of the above named are sent herewith for records.
4. Estt. Clerk at office.
5. S/Copy for P/Case.

6. Stab concern

6/4  
DY.CE/BRIDGE/L/MLG.

Attested

  
Advocate

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

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NORTHEAST FRONTIER RAILWAY

गुवाहाटी न्यायपीठ  
Guwahati Bench

Sri Jagat Ch. Boro, who was appointed as substitute Khalasi in scale of Rs.2550-3200/- w.e.f. 07-04-2004 under SSE/BR/PNO attached to Dy.CE/Br-Line/MLG is here by granted 'Temporary Status' w.e.f. 05-08-04 i.e. on completion of 120 days continuous satisfactory service from the date of his engagement as Sub/Khalasi. He is entitled to the right and privilege as admissible to temporary railway employee and his annual increment is granted on completion of one year qualifying service from the date of attaining of temporary status. ✓

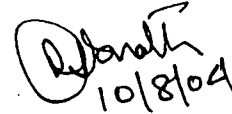
This issue with the approval of the Competent Authority.

ABE/MLG  
for Dy.CE/BR-Line/MLG  
date:

No: EW/BL/JWB/138

Copy forwarded for information and necessary action to:-

1. FA & CAO/MLG
2. SSE/BR/PNO
3. Staff concerned
4. S/C for P/Case
5. Chief OS/BL

  
10/8/04

ABE/MLG  
for Dy.CE/BR-Line/MLG

Attested

  
Advocate

N.F. RAILWAY

OFFICE OF THE  
DY.CE/BR/L/MLG

Dated 24.08.2005

NO. EW/254/1 (Loose) Pt. VIII

To,  
AWM/EWS/BNGN  
SSE/BR/PNO, LMG, RPAN, NJP, SGUJ,  
SE/BR/JPZ at BNGN.

Sub : Selection for promotion from Group 'D' to Group 'C' (Clerical)  
against 16% % & 33% under DY.CE/BR/L/MLG.

Ref : This office L/No. EW/254/1 (Loose) Pt. VIII dt. 28.07.2005

It has been decided to hold a selection for forming a panel of Clerk (G) Group 'C' in scale of Rs. 3050-4590/- RSRP under DY.CE/BR/Line Unit against 16% % & 33% quota for promotion from Group 'D' to Group 'C' in general Branch of Bridge Line Unit.

The following group 'D' staff are eligible to appear in the selection and they should be advised to keep themselves in readiness to appear in the above selection at short notice. The candidates who are on leave / sick list etc. they should also be informed in their respective address to keep themselves in readiness to appear before selection by their Controlling Officer / Sub-Ordinates. The date of written test will be notified shortly.

A. Junior Clerk in scale Rs. 3050 – 4590/- in 16 ⅓ % quota

No of Posts = 2 (UR)

Sn	Name of Candidate	Designation	Working under
1	Sri Bahadur Singh	Kha/Helper	SSE/BR/PNO
2	Sri Basudev Ghosh	Kha/Helper	- DO -
3	Sri Biswajit Sen	Kha/Helper	- DO -
4	Sri K.R. Singh	Kha/Helper	- DO -
5	Sri M. S. Brahamachari	Kha/Helper	- DO -
6	Sri Ratul Nath	Kha/Helper	- DO -
7	Sri Jhantu Mazumder (SC)	Kha/Helper	AWM/EWS/BNGN
8	Sri Pradip Chakraborty	Kha/Helper	- DO -
9	Sri Arindam Guha	Kha/Helper	- DO -
10	Sri Dipak Kr. Saha	Kha/Helper	- DO -
11	Sri E. Shyama Sundara Rao	Kha/Helper	- DO -
12	Sri Subrata Ghosh	Store Watchman	- DO -
13	Sri Pintu Dutta	Store Watchman	- DO -
14	Sri Gautam Das	Store Watchman	- DO -

B. Junior Clerk in scale Rs. 3050 – 4590/- in 33 ⅓ % quota. No of Posts = 2 (SC=1, ST=1)

Sn	Name of Candidate	Designation	Working under
1	Sri Bubul Ch. Das (SC)	Khalasi	AWM/EWS/BNGN
2	Sri Jagat Ch. Boro (ST)	Khalasi	SSE/BR/PNO
3	Sri Vijay Kumar (ST)	Khalasi	- DO -

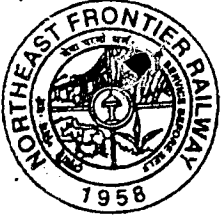
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

3 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Attested

Advocate



N.F. Railway.

OFFICE OF THE  
Dy. CE/BR/LINE/MLG

Date. 22.09.2005.

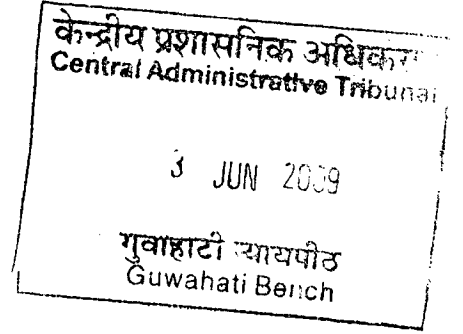
NO. EW/204/1 (Loose) Pt. VIII

TO.

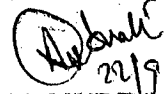
- 1) Sri Bahadur Singh, Kha/Helper
- 2) Sri Ratul Nath, Kha/Helper
- ✓ 3) Sri Jagat Ch. Boro, Khalasi ✓
- 4) Sri Vijoy Kumar, Khalasi

Attached to SSE/BR/ONO  
Working under DY. CE/BR/L/MLG's office.

Sub : Sparring on 23.09.2005 (AN).

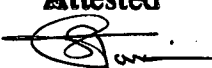


You are hereby spared on 23.9.2005 (AN) for attending, selection (written test) for promotion from group 'D' to group 'C' (Clerical) which will be held on 24.09.2005 at DY. CE/BR/L/MLG's office.

  
22/9  
DY. CE/BR/L/MLG

Copy to :-  
SSE/BR/PNO - For information please.

DY. CE/BR/L/MLG

Attested  
  
Advocate

N.F. RAILWAYOFFICE OF THE  
DY.CE/BR/L/MLGMEMORANDUM.

Dated: 9.11.2005

Sub: - Selection held in Connection with forming panel for promotion from group 'D' to 'C' post in Scale of Rs. 3050 - 4590/- RSRP of Clerk / G against 33 1/3 % and 16 2/3 % of Dy.CE/BR/Line/MLG Seniority unit.

\*\*\*\*\*

In the selection for promotion from group 'D' to group 'C' Category for the post Clerk / G of Rs. 3050 - 4590/- RSRP held on 24.9.05, the following candidates have come out successful.

**(A) Against 16-2/3 %**

Sri Bahadur Singh (UR) Khalasi Helper under SSE/BR/PNO

**(B) Against 33- 1/3%**

✓ Sri Jagat Boro (ST) ← Khalasi under SSE/BR/PNO

Sri Bubul Ch. Das (SC) Khalasi under SSE/BR/PNO

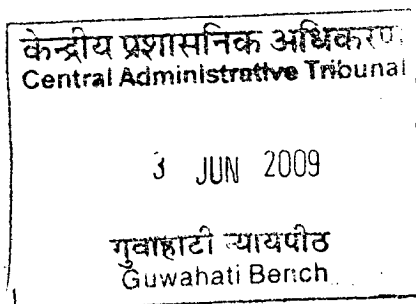
The panel has been approved by the Dy.CE/Bridge/Line/MLG on 08.11.2005.

ABE/West/MLG  
For Dy.CE/Bridge/Line/MLG

No. EW/254/1(Loose) Pt. VIII

Copy forwarded for information and necessary action to:-

- 1) FA&CAO/MLG.
- 2) SSE/BR/PNO, LMG, BNGN, RPAN, NJP, SGUJ.
- 3) SE/BR/JPZ.
- 4) AWM/EWS/BNGN.
- 5) Staff Concerned.



ABE/West/MLG  
For Dy.CE/Bridge/Line/MLG



Attested  
Advocate

N.F. RAILWAY

OFFICE OF THE  
DY.CE/BR/L/MLG

OFFICE ORDER NO: 21 / 05.

Dated: 21.11.2005

A) The following Group 'D' staff of DY.CE/BR/L/MLG office including WM/EWS/BNGN, who have been empanelled for promotion to the post of Clerk/G in scale of Rs. 3050-4590/- RSRP against 33½ % of departmental promotion quota vide this office Memorandum of even number dated 09.11.2005 are hereby temporarily promoted as Clerk/G in scale of Rs. 3050-4590/- and posted as mentioned below with immediate effect. There will be training for a period of 3 months. On successful completion of training, they will be posted as Clerk/G in scale of Rs. 3050-4590/- against existing posts.

SN	Name & Designation	Working under	Posted under
1	Sri Jagat Ch. Boro, (ST), Kha/Helper	SSE/BR/PNO	DY.CE/BR/L/MLG

B) The following Group 'D' staff of DY.CE/BR/L/MLG's Field Unit, who have been recommended best among the failed candidates for promotion as ad-hoc basis for the post of Clerk/G in scale of Rs. 3050-4590/- against 33½ % departmental promotion quota vide this office Memorandum of even number dated 9.11.05 are now promoted on ad-hoc basis purely on temporary basis for a period of 6 months on trial measure as mentioned below. His promotion is provisional and subject to review on receipt of satisfactory performance given by controlling officer and their continuance as Clerk/G will further depend on this review and his name will be included in the final panel after review and thereafter will be on training for 3 months period

SN	Name & Designation	Working under	Posted under
1	Sri Bubul Ch. Das, (SC), Khalasi	SSE/BR/PNO	SSE/BR/PNO

The promotion of the above staff is subject to acquiring the Typing proficiency shall within 02 (two) years from the date of their promotion.

This issue with the approval of competent authority.

NO : EW/254/1 (Loose) / Pt. VIII

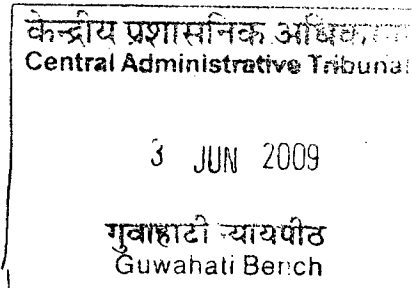
Copy forwarded for information and necessary action to:-

- 7) FA & CAO/MLG
- 8) AWM/EWS/BNGN
- 9) SSE/BR/PNO, BNGN, LMG, RPAN, SGUJ, NJP
- 10) Staff concerned
- 11) GS/NFREU/NFRMU
- 12) OS/EW

For DY.CE/BR/L/MLG

Dated 21.11.2005

Selection from Class IV to III - Jr. Clerk



For DY.CE/BR/L/MLG

Attested

Advocate

N.F. RAILWAY

OFFICE OF THE  
DY.CE/BR/L/MLG

OFFICE ORDER NO :- 23 / 05

Dated: 22.11.2005.

Vide DY.CE/BR/L/MLG's O.O. No. 22/05 & 21/05, endorsement No. EW/254/1/ (Loose) Pt. VIII dated 21.11.2005, Sri Bahadur Singh, Khalasi Helper and Sri Jagat Ch. Boro, Khalasi under SSE/BR/PNO, who were ordered for promotion to the post of Clerk/G in scale of Rs. 3050-4590/- is hereby promoted and posted as Clerk/G in the DY.CE/BR/L/MLG's office w.e.f. 22.11.2005 against existing vacancy.

SN	Name of staff and Designation	Place of working.
1	Sri Bahadur Singh, Clerk/G	Posted in Store Section of DY.CE/BR/L/MLG office.
2	Sri Jagat Ch. Boro, (ST) Clerk/G	Posted in Establishment Section of DY.CE/BR/L/MLG office.

For DY.CE/BR/L/MLG

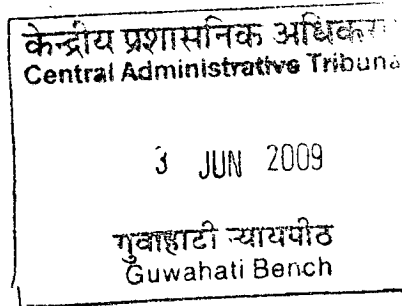
NO : EW/254/1 (Loose)/Pt. VIII

Dated: 22.11.2005

Copy forwarded for information and necessary action to:-

- 1) FA & CAO/MLG
- 2) SSE/BR/PNO
- 3) Staff concerned
- ✓ 4) OS/EW.
- 5) O.O. Boro

For DY.CE/BR/L/MLG



Attested

Advocate



N.F. RAILWAY

OFFICE OF THE  
DY.CE/BR/L/MLGMEMORANDUM

Dated: 06.12.2005

Consequent on promotion as Clerk/G in scale of Rs. 3050-75-3950-80-4590/- RSRP vide this Office Order No. 22/05,21/05 dt. 22.11.2005 circulated vide endorsement No. EW/254/1 (Loose)/Pt. VIII dt. 22.11.2005. The pay of Sri Bahadur Singh, Kha/Hel. in scale Rs. 2650-4000/- (RSRP) and Sri Jagat Ch. Boro, Khalasi in scale Rs. 2550-3200/- (RSRP) under SSE/BR/PNO is hereby fixed as Jr. Clerk/G in scale Rs. 3050-4590/- (RSRP) w.e.f. 22.11.2005 as per joining report.

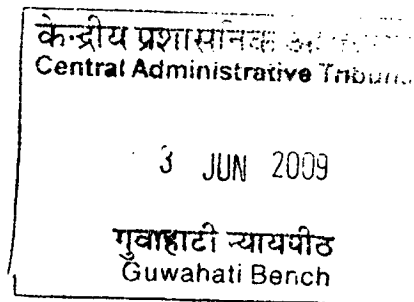
Name of staff and Designation	Pay fixed in scale of Rs. 3050-4590/- as for Clerk/G in terms of FR-22-2-11
1) Sri Bahadur Singh, Kha/Hel.  Pay on 22.11.2005 = Rs. 3580/-	As on 22.11.2005, as Jr. Clerk/G = Rs. 3725/-
2) Sri Jagat Ch. Boro, Khalasi  Pay on 22.11.2005 = Rs. 2605/-	As on 22.11.2005, as Clerk/G = Rs. 3050/-

NO : EW/205/1 Pt. V

DY.CE/BR/L/MLG  
Dated 06.12.2005

Copy forwarded for information and necessary action to :-

1. FA & CAO/MLG
2. SSE/BR/PNO
3. O.O. Book.
4. Staff concerned.
5. S/C for P/Case
6. E/Bill Clerk.



*Debnati*  
6/12/05  
DY.CE/BR/L/MLG

Attested  
*[Signature]*  
Advocate



N.F.RLY.

No: EW/254/1(losse) Pt- VIII

Office Of The  
Dy.CE/BR/L/MLG.  
dt. 1.05.06

To

- 1) Sri Bahadur Singh, Clerk/G.  
2) Sri Jagat Ch. Boro, Clerk/G.  
(at office)
- Dy.CE/BR/L/MLG

Sub: - Suitability test of clerk/G in scale of Rs. 3050-4590/- RSRP for regularisation.

You are hereby advice for appearing in the suitability test held on 04-05-2006 in connection with the regularisation of service in clerk/G in scale or Rs. 3050-4590/- at 10 hrs. in the Dy.CE/BR/Line office.

  
for Dy.CE/BR/L/MLG

केन्द्रीय प्रशासनिक अधिकार  
Central Administrative Tribunal

3 JUN 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

0098413

Attested

  
Advocate

N.F. RAILWAY

OFFICE OF THE  
DY.CE/BR/L/MLG

MEMORANDUM

Dated: 11.05.2006

On successful completion of training of Trainee Clerk/G are found suitable in suitability test held on 04.05.2006 for regularisation of service as Clerk/G in scale of Rs. 3050-4590/- RSRP of the following staff under DY.CE/BR/L/MLG's office from their date of promotion.

	<u>Date of effect</u>
1) Sri Bahadur Singh	22.11.2005
2) Sri Jagat Ch. Boro	22.11.2005

Clerk/G, DY.CE/BR/L/MLG

This has been approved by Competent Authority.

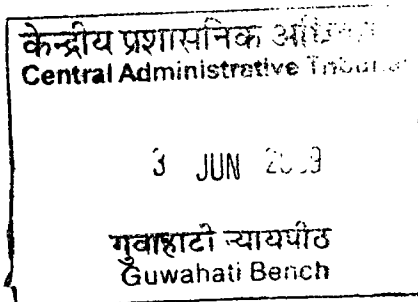
For DY.CE/BR/L/MLG

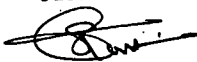
NO:- EW/254/1 (Loose) Pt. VIII

Dated: 11.05.2006

- 1) FA & CAO/MLG
- 2) Staff concerned.
- 3) OS / EW.
- 4) O.O. Book.
- 5) S/C for P/Case

For DY.CE/BR/L/MLG



Attested  
  
Advocate

N.F. RAILWAY

OFFICE OF THE  
DY.CE/BR/L/MLG

MEMORANDUM

Dated. 14.11.2007

As per GM (P)/MLG's letter No. EPS - 464 No. E/230/1 Pt. VI (C) dated 15.10.2003, the Type writing speed test in English for the following staff under this office has been tested on 14.11.2007 and found qualified.

- (1) Sri Bahadur Singh, Clerk/G
- (2) Sri Jagat Ch. Boro, Clerk/G

DY.CE/BR/L/MLG

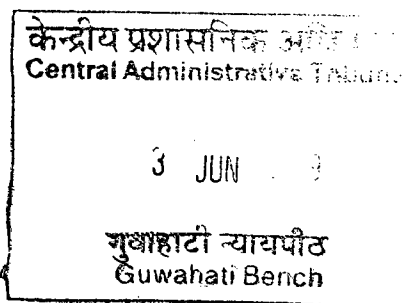
No : EW/254/1 (Loose) Pt. VIII

Date 14.11.2007

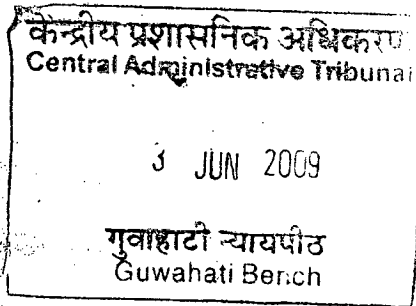
Copy to:

1. OS/EW
2. P/Case
3. O.O. Book.
- ✓ 4. Staff Concerned

DY.CE/BR/L/MLG



Attested  
  
Advocate



N.F. Railway

Office Of the  
Dy.CE/Bridge-Line  
Maligaon, Guwahati-11.

Office Order No.27/08

Date: 18/08/08

Sri Jagat Ch. Boro (ST), was appointed as Khalasi (Substitute) in scale of Rs. 2550-3200/- (RSRP) vide this Office letter No.EW/227/1/Pt.V dated 06.04.04.

Option were called for holding selection from Gr-'D' to Gr-'C' post for the vacant post of Jr.Clerk. Accordingly, Sri Jagat Ch. Boro submitted option for the selection and on being empanelled for Gr-'C' he was promoted to Gr-'C' and posted as Jr. Clerk under Dy.CE/Br-Line/MLG in scale of Rs.3050-4590 vide this letter No.EW/254/1 (loose)/Pt.VIII dt. 21/11/05.

Subsequently, on the scrutiny of the above case it has been noticed that Sri Jagat Ch. Boro appeared in the above selection without screening test in Gr-'D' category. Now, the competent authority has decided to delete the name of Sri Jagat Ch. Boro from the panel and to revert Sri Jagat Ch. Boro from existing post to the original post i.e Khalasi (Substitute).

In view of the above Sri Jagat Ch. Boro is hereby reverted to his original post i.e Khalasi (Substitute) in scale of Rs.2550-3200/- with immediate effect.

ABE/Central/MLG

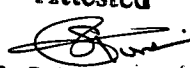
No.EW/41/2 (Loose)

Date: 18/08/08

Copy to:-

- 1) CBE/MLG
- 2) FA & CAO/MLG
- 3) Dy.CPO/HQ/MLG
- 4) XEN/Br-Line/MLG
- 5) Ch.OS/Bridge
- 6) OS/EW (Bill)
- ✓ 7) Staff concerned
- 8) P/Case

18/8/08  
ABE/Central/MLG

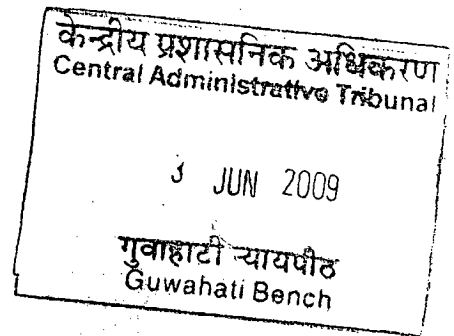
Attested  
  
Advocate

ANNEXURE

M

5m

To,  
Chief Bridge Engineer / Maligaon,  
N. F. Railway.  
Guwahati-781011.



Through proper channel (Dy.CE/Br-Line/MLG)

Sir,

Sub: - Appeal against Dy.CE/Br-Line/MLG's office Order  
No.27/08 circulated under latter No.-EW/41/2 (Loose)  
dated: 18.08.2008 and 26.08.2008.

Most respectfully I, Shri Jagat Chandra Boro son of Shri Lakshmi Ram Boro, Ex.STM/Safety/MLG, now reverted from Jr. Clerk/G to substitute khalasi under Dy.CE/Br-Line/MLG office, beg to state the following few lines for your kind perusal and consideration please.

1. That Sir, Originally I was appointed as substitute Khalasi (Group-D) on and from 07.04.2004 under GM's quota and I belong to Boro-Kachari of Scheduled Tribes community.
2. That Sir, I am surprised and sorry for removing my name from the panel of Jr.Clerk/G selection from group 'D' to group 'C' vide above office order dated:-18.08.2008 and 26.08.2008. In this connection, I have to say a few lines and request you for your kind review the above office order.
3. That Sir, I was allowed to appear in the selection of Jr.Clerk/G in scale of Rs.3050-4590/- against one ST reserved post vide Dy.CE/Br-Line/MLG office letter no.EW/254/1 (Loose) Pt.VIII dated: 24.08.2005 and promoted as Jr.Clerk/G vide office order dated: 21.11.2005. I joined as such on 22.11.2005.
4. In the Office Order it has been mentioned that no screening has done prior to appearing the selection for Jr.Clerk/G from group 'D' to group 'C' held on 24.09.2005. Sir, I could not understand then by whom I was allowed to appear in the selection of Jr. Clerk/G in scale of Rs.3050-4590/- under your control held on 24.09.2005, if I was not screened.

Continue to page-2

Attested



Advocate

# 2 #

5. I have been granted temporary status on completion of 120 days from the date of joining. Wherein it is clearly mentioned vide Dy.CE/Br-Line/MLG letter no.EW/BL/JCB/138 dated:10-08-2004 that I am entitled to all right and privilege as admissible to temporary railway employees.

6. As per para 1515 of IREM Vol.-I(1989), substitutes are afforded all the rights and privileges as may be admissible to temporary railway servants and their services are treated as continuous for all purposes except seniority on their eventual absorption against regular posts after selection.

As clearly mentioned in the above para, substitutes are selected in the approved manner for appointment to regular railway servant. In my case, the selection committee which was approved by competent authority and this committee has selected and promoted me from group 'D' to group 'C' post. About this selection process all kinds of document issued in favour of me was done by prior approval of competent authority.

7. As provided in Chapter I {Sub-Section-IV, I.-Procedure.-179} of IREM Vol.-I (1989), regarding substitute the following Para are mentioned:-

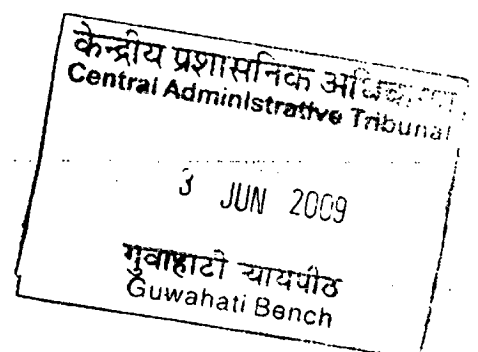
*"(xiii) Casual Labour, Substitutes and Temporary hands :-(a) Substitutes, casual and temporary workmen will have prior claim over others to permanent recruitment. The percentages of reservation for Scheduled Castes and Scheduled Tribes should be observed in recruitment to temporary or permanent vacancies.*

*(b) Substitutes, casual and temporary workmen who acquire temporary status as a result of having worked on other than projects for more than 120 days and for 360 days on projects or other casual labour with more than 120 days or 360 days service, as the case may be should be considered for regular employment without having to go through Employment Exchanges."*

8. Sir, it is also mentioned that the other ST candidate who appeared in the selection alongwith me, included in the list of group 'D' to group 'C' examination though his date of appointment was 07.04.2005 and his regular service was only 4-5 months, he has been allowed to appear in the said exam. Above mentioned date of appointment of ST candidate was taken as per seniority list published by Dy.CE/Br-Line/MLG No.EW/255/2/Pt.II in the year 2006.

Continue to page-3

Attested  
  
Advocate



# 3 #

9. Now, Sir, I am the only victim of this total selection process. Sir, it is not possible for me to give any kind of advice to a selection committee to do my screening before appear in the group 'D' to group 'C' examination. Now after doing 3(three) years continuous service in group 'C' post i.e. Jr. Clerk/G and also qualified in the initial training of Jr.Clerk/G for 3(Three) months and qualified in the type writing speed test held on 14.11.2007 vide memorandum dated: 11.05.2006 and 14.11.2007, the competent authority reverted me only showing cause about the screening not done before appearing in the selection, though it was not the fault on my part.

10. That Sir, as the above mentioned selection process not a single fault on my part only then I should not be victimised.

So, I would like to request your kind honour to look in to my case sympathetically for natural justice and allow me to continue as Jr.Clerk/G under Dy.CE/Br-Line/MLG and oblige thereby.

Dated: 27.08.2008.

You're faithfully,

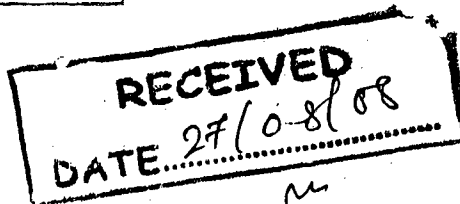
Jagat Ch. Boro.

(SRI JAGAT CHANDRA BORO)  
Ex.Jr.Clerk/G now reverted to  
Substitute Khalasi  
under SSE/BR/PNO.

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

3 JUN 2008

गुवाहाटी न्यायपीठ  
Guwahati Bench

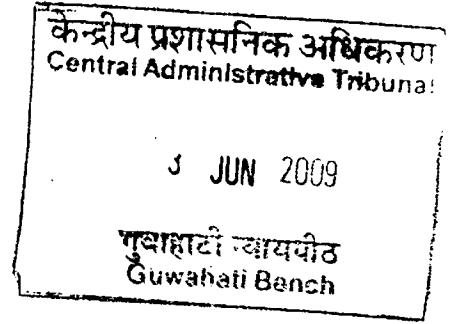


Attested  
  
Advocate





To,  
Chief Bridge Engineer / Maligaon,  
N. F. Railway.  
Guwahati-781011.



Through proper channel (Dy.CE/Br-Line/MLG)

Sir,

Sub: - Appeal against Dy.CE/Br-Line/MLG's office Order  
No.27/08 circulated under latter No.-EW/41/2(Loose)  
dated: 18.08.2008 and 26.08.2008.

Ref: - My Appeal dated 27.08.2008.

With due respect I would like to draw your kind attention to the following lines on the above subject for your perusal and sympathetic orders please.

That Sir, on being victimised by reversion from the post of Jr.Clerk/G (Rs.3050-4590/-) to Khalasi (Rs.2550-3200/-) vide Dy.CE/Br-Line/MLG's O.O. No.-27/08 under L/No.-EW/41/2(loose) dt.18.08.08, I had submitted an appeal dated 27.08.08 for your kind review the arbitrary reversion order as it was an injustice done to me in particular and ST employees in general. Till date, I have not yet received any response from your end.

That Sir, I was engaged as Sub. Khalasi (Rs.2550-3200/-) under your control on & from 07.04.04 and granted Temporary Status on completion of 120 day continuous service w.e.f. 05.08.04 and working as such against the regular Gr.-'D' vacant post for more than 1(One) year up to 24.08.05 i.e. the date of floating option for Jr.Clerk/G (Rs.3050-4590/-) against 33<sup>1/3</sup>% D.P. quota and opted for the selection accordingly.

That Sir, in terms of Rly. Board's letters No. E(NG)11-69REI/90 dated 18.12.70, the substitutes who have already been granted Temporary Status should immediately be screened for empanelment for Gr.-'D' post and special efforts are made to finalise the panel and make regular posting.

Continue to page-2

Attested

Advocate

# 2 #

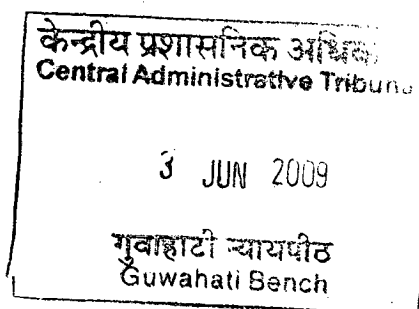
Moreover, that Sir, being matriculate having computer knowledge, I was shifted from the field unit of Bridge Line/PNO to Dy.CE/BR-Line/MLG's office w.e.f. 23.11.04 till my promotion to the post of Jr.Clerk/G against the backlog ST reserved quota on 21.11.05 and extracted good and satisfactory service of higher grade of clerical job from me.

That Sir, it will not be out of place to mention here that although there is a provision of screening of substitutes engaged as Bungalow Peon after completion of 3 years continuous service, but there is no such time framed provision of screening of the substitutes engaged other than bungalow peon. However, such substitutes who are granted temporary status should be screened for regular absorption in the regular Gr.-'D' post against the vacancies exist. Since I was engaged as substitute Khalasi by GM's special power against the regular Gr.-'D' vacant post, I should have been screened out after my attaining temporary status, which is a paper screening only and no interview or written examination required. If the screening was not done in time, it is not the fault on my part and for this I am also not responsible. Rather, this issue rests on the administration itself.

That Sir, I was selected by a duly constituted selection committee for the selection of Jr.Clerk/G from Gr.-'D' to Gr.-'C' against the backlog ST reserved quota and worked as Jr.Clerk/G under Dy.CE/Br-Line/MLG w.e.f.22.11.05 till my reversion i.e. 18.08.08 which comes to 2 years 8 months 26 days as continuous Gr.-'C' service with full satisfaction to my superiors including the officers. Moreover, I had successfully passed the 3 months initial training and also typewriting speed test in English within 2 years vide Dy.CE/BR-Line/MLG's Memorandum No.-EW/254/1(loose) Pt.VIII dt.11.05.06 and 14.11.07 respectively as required.

That Sir, it may also be mentioned here that as I had been selected for Clerk/G through a positive act of selection conducted by a selection committee comprising 3 officers, it is not less than the screening committee through which screening of substitutes is done and thus I should have been allowed to continue in Clerk/G.

Continue to page-3



Attested  
  
Advocate

# 3 #

Having all these criteria fulfilled, I should not be victimised by reversion from the post of Jr.Clerk/G in scale of pay Rs.3050-4590/- due to the administrative lapses.

Under the above circumstance, I would fervently like to request your kind honour once again for your intervention in this issue and pass a favourable order restoring me to the post of Jr.Clerk/G, without loss of time, for which act of your kindness, I shall ever remain grateful to you.

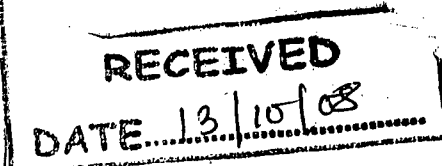
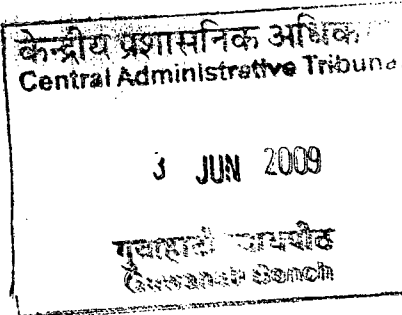
Thanking you Sir.

Yours faithfully

Jagat Ch. Boro.

Dated: 13<sup>th</sup> october, 2008

(Jagat Chandra Boro)  
Ex. Jr.Clerk/G now reverted  
to substitute Khalasi  
under SSE/BR/PNO.



Attested  
  
Advocate

19.3.09

-36-

ANNEXURE...

N.F.RAILWAY

MEMORANDUM

Sri Jagat Chandra Boro (ST), Substitute Khalasi working under SSE/BR/PNO has been found suitable in the Screening test held on 10/02/2009 for regular absorption against Group 'D' post after completion of 3 of continuous service.

The result of screening in the case of Sri Sontosh Sonar, Substitute Khalasi working under SSE/BR/PNO is been kept withheld for verification of his educational qualification.

This has been approved by CBE/MLG on 16-03-2009.

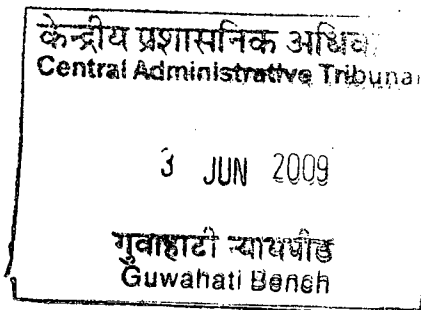
(S.C. Banerjee)  
SPO/Engg.  
For GENERAL MANAGER (P)  
MALIGAON  
Dated 18-03-09.

No. E/283/45(E) Loose

Copy forwarded for information and necessary action to:-

1. CBE/MLG
2. DY. CE/Bridge-Line/MLG
3. Secy. to Pr. CE/MLG
4. SSE/BR/PNO
5. Staff concerned thro. SSE/BR/PNO

For GENERAL MANAGER (P)  
MALIGAON



Attested  
  
Advocate

(37)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH  
GUWAHATI.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

13 AUG 2009

गुवाहाटी ब्याचपीठ  
Guwahati Bench

O. A. No. 104/2009

Shri Jagat Ch. Boro

- Vs -

Union of India & Ors.

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4.	Circular dated 28.7.2005 from Dy. CE/Br-Line/MLG's Office.	Annexure- R-2	
5.	Request letter <sup>for serving</sup> <del>serving</del> from applicant.	Annexure- R-3	

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(38)

O. A. No. 104/2009

- VS -

*Done*  
 ॐ पुनः स्थितः/१०/१९७७  
 (पुनः स्थितः) पुनः स्थितः  
 By: Chief Engineer/BK (Mined)  
 M. V. P. M. Mangun. Contact-11.

✓

Contd.....2

13 AUG 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

-: 2 :-

Ch. Boro. On completion of 120 days continuous service as per the existing guideline he was granted temporary status vide Dy. CE/Br-Line/MLG's letter No. EW/BL/JCB/138 dated 10.08.2004.

A notification was issued vide Dy. CE/Br-Line/MLG's letter No. EW/254/1 (loose) Pt.VIII dated 28.07.2005<sup>for</sup> calling for option for holding selection for Departmental promotion against 33.33% vacancies for 2 nos. posts (UR-NIL, SC-1, ST-1) of Gr. 'C' (Clerical) from Gr-'D' staff having minimum educational qualification of Class-VIII standard and above. The applicant opted and appeared in the selection and passed the written examination and also selected from Gr. 'D' to Gr. 'C' (Clerical). He was promoted and posted as Jr. Clerk (G) in Scale of Rs. 3050-4590/- under Dy. CE/B-Line/MLG's Office as per Memorandum EW/254/1 (loose) Pt. VIII dated 11.05.2006. The name of the applicant was erroneously included in the said selection List as he was not given status of regular employee/Railway Servant on the date of notification for selection under reference. Therefore his selection was also erroneous. Therefore, his name from the panel has been deleted with approval of Competent Authority when it was detected that his selection was erroneous. The suitability test for regularisation of the applicant as Clerk (G) was done prior to detection of his selection as erroneous. Therefore, his regularisation as Jr. Clerk (G) was done as if his selection ~~was~~ in order but later on when his selection was found to be erroneous he has been reverted to his original post i.e. Khalasi/Substitute and his name from the panel has also been deleted. The applicant was called for typing test considering his selection in order and when it was detected that his selection was erroneous, he has been

Contd....3

Dr. Chief Engineer/RR (Line)  
U.P. Dy. Malgoun. Contd-11

40

Center Administrative Division

13 AUG 2009

गुवाहाटी ब्रांच  
Guwanadi Branch

Very at your service, per. 10/10/44  
 10/10/44, 10/10/44, 10/10/44  
 Dr. Chief Engineer RR (June)  
 W. W. McHorse, 10/10/44

reverted back to his original post(Khalasi/Substitute).

Copies of letter dated 31.3.2004, circular dated 28.7.2005 and letter of applicant for serving are enclosed as Annexure-R-1, R-2 and R-3 respectively.

3. That in reply to statements in para 4.9, 4.10 it is stated that when it came to notice that screening of the applicant was not done in Gr-'D' post prior to selection for the post of Jr. Clerk and thus he was not a regular employee, the case was examined by Personnel Branch on 15.05.2008. After examining the case, Dy. CPO/HQ advised on 01.07.2008 that the selection of applicant is erroneous and advised to delete his name from the panel and affect his reversion to his original post i.e. Khalasi/Substitute. Accordingly, the Competent Authority (Principal Chief Engineer, N.F. Railway, Maligaon) accorded approval for deletion of his name from the panel and reversion to his original post prior to selection as Jr. Clerk, i.e. Khalasi/Substitute. The reversion has been done as per provisions of Establishment Manual Para 228. The reversion order has been communicated to the applicant through ABE/Central/MLG which is in order. The applicant submitted appeal against the above order which has been considered by the Administration deciding that as his selection as Jr. Clerk had been found to be erroneous and therefore he was reverted.

4. That in reply to statement in para 4.11, 4.12, 4.13, 4.14, 4.15 and 4.16 it is stated that the applicant requested for conducting his screening test vide his application received on 20.08.2008 and accordingly his screening test

Contd...4



- 4 -

was done on 10.02.2009 in which he has been found suitable for regular absorption against Gr-'D' post only, after completion of 3 years continuous service vide Dy. CE/Br-Line/MLG's Memorandum No. EW/283/45 (E) Loose dated 18.03.09. For a Railway employee, there is a process for acquiring any higher stage by gradual stepping up. Railway employee is required to serve for definite minimum period at any stage before any promotion to higher grade or being eligible for any departmental selection. In the case of the applicant he was appointed as Khalasi/Substitute and after serving 120 days continuously he was granted temporary status as Khalasi Gr-'D' then he should have been under gone screening test for regularisation of his service in Gr-'D' but the applicant had not under gone screening test and hence he was not regular Railway employee, at the time of selection from Gr-'D' to Gr-'C'. While opting for selection of any higher grade, Railway employee should be a regular Railway Servant in Gr-'D' but as he was not a regular Railway employee at the time of appearing in the selection, his selection was erroneous. Therefore, later on, when it was detected, he was reverted back to his original post of Khalasi/Substitute and his name was deleted from the panel. Sri Jagat Ch. Boro being selected for Gr-'C' from Gr-'D' cannot be considered as regular employee in Gr-'D' service of Railway for any departmental selection on the date of Notification for selection. As explained above selection from Gr-'D' to Gr-'C' (Clerical) is a departmental selection for which applicant should have acquired status of regular Railway Servant in Gr-'D' at the time of opting for such selection but he was

Contd...5

being

13 AUG 2008

not regular Railway employee hence his selection for the post of Jr. Clerk, G-'C' was erroneous and all the other post-selection activities like imparting training holding suitability test, type writing speed test etc. cannot make him as regular Railway employee at the time of selection from Gr-'D' to Gr-'C'(clerical). On screening of the case of the applicant it was found that his promotion is erroneous and it was decided that he should be reverted back to his original post in Gr-'D' and his name from the selection panel should be deleted with the approval of competent authority i.e. Principal Chief Engineer, N.F. Railway, Maligaon, It does not require any prior show cause notice. Moreover, he had been intimated regarding the action taken to revert him from his existing post to the original post i.e. Khalasi/ substitute vide Dy. CE/Br-Line/MLG's Office Order No. 27/08 circulated vide No. EW/41/2 (loose) dated 18.08.2008. His name has been deleted from the panel of Jr. Clerk as advised by Dy. CPO/HQ/MLG who examined the case as per the provisions of Indian Railways Establishment Manual Volume-I Para 228 with approval from the Competent Authority (Principal Chief Engineer)

5. That in the circumstances explained above the O.A. deserves to be dismissed with cost.

13 AI 2009

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

I, .....*Dev. Raj*..... son of  
.....*Sri. Lakshmi. Rami*....., working as *Dy. C.E./Mr. Cene/MLG*  
aged about *.37.* years, say that I am conversant with  
the facts of the case, and have been authorised by the  
respondents to verify and sign this verification which  
I do accordingly. I verify that the statements in para  
1 to 5 are true to my knowledge and that I have not  
suppressed any material facts. I sign this verification  
this *11<sup>th</sup>* day of August, 2009 at Guwahati.

Signature.

Signature: \_\_\_\_\_  
 Chief Engineer, RR (Hind)  
 C. P. MANSINGH, Engineer

CONFIDENTIAL

NF RAILWAY

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

No. E/227/Rectt(Con)Pt.II

March 31, 2004

To  
The Dy.CE/Br.Line  
NF Railway  
Maligaon

sub: Engagement of fresh face as Substitute Gr.'D'.

General Manager/NF Railway has approved the engagement of  
Shri Jagat Chandra Boro, S/o Shri LR Boro as Substitute Gr.'D'  
Xerox copies of his application with GM's endorsement, Age, EQ and  
Medical fitness certificates are sent herewith.

He is directed to report to you for further necessary action.  
Original certificates in support of age, qualification, caste etc. may also  
be verified before offering engagement letter.

DA: As above.

( N. MISRA )

Sr. Personnel Officer/Mech  
For Sr. Personnel Officer/Rectt

OS/EW

for put up for 12 months

54.04

dy. CE

Attested

Asst. Personnel Officer (Legal Cell)  
Off: 1st, Maligaon, Guwahati-781001  
B Bellary Maligaon Guwahati-781001

केन्द्रीय प्रशासनिक आधिकारिक  
Central Administrative Tribunal

13 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench





N.F. RAILWAY

EW/254/1 (Loose) Pt VIII

To  
AWM/EWS/BNGN,  
SSE/BR/LMG, PNO, BNGN, SGUJ, RPAN, NJP  
SE/BR/JPZ

OFFICE OF THE  
DY.CE/BR/L/MLG

Dated: 28/07/2005

Sub: Selection for promotion from Group 'D' to Group 'C' (Clerical) against 33.33 % vacancies of DY.CE/BR/L/MLG including WM/EWS/BNGN.

No of Posts = 2 Break up = UR = NIL  
SC = 1  
ST = 1

A selection for promotion from Class - IV to Class - III (Clerical) will be held shortly and as such options are invited from class - IV staff having minimum educational qualification class - VIII standard and above who are willing to appear in the said selection.

Staff belonging to SC / ST community will send attested true copy of his caste certificate along with option. Option of the staff duly forwarded must reach the office by 15.8.2005 positively. This should be widely circulated among the staff and should be posted on the notice board. Earlier Notification dated 10.8.2005 has been treated as cancelled. Willing Candidates may be opted within 15.8.05.

Copy to

For DY.CE/BR/L/MLG

Chief OS of DY.CE/BR/L/MLG :- He is requested to display in the Notice Board for widely circulation.

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

13 JUL 2009

गुवाहाटी ख्यायपीठ  
Guwahati Bench

For DY.CE/BR/L/MLG


Attested

Joint Secretary (Legal Cell)

Joint Secretary (Legal Cell)

Joint Secretary (Legal Cell)

OS/



Reed on - 9  
20-8-08 SN-48  
70

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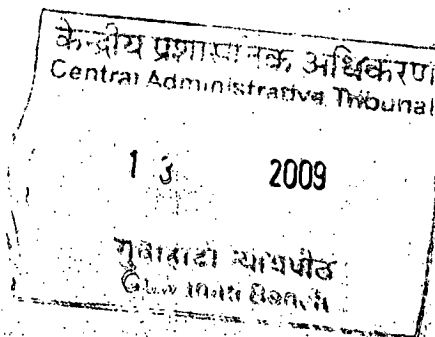
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Jagat Ch Boro  
(Jagat Chandra Boro)

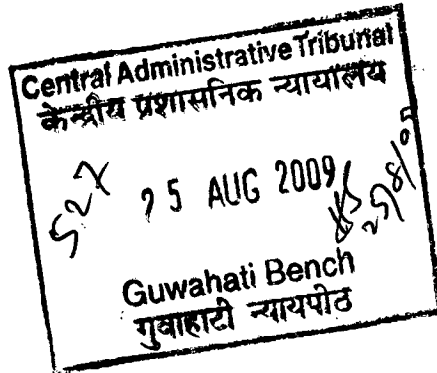
Attest  
S. 9/8/09

[illegible]

(47)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI



O.A No 104/2009

Shri Jagal Ch. Boro

- v -

U.O.I & Ors

Filed by the applicant  
Through S.N. Tamuli  
Advocate 25/8/09

Rejoinder by the applicant to the Written Statements of Respondents.

The applicant most respectfully begs to state as under :

1. That he has received copy of the Written statements and has understood the contents thereof.

2. That in reply to statements in paras 2 and 3 of the W.S. the applicant begs to state that the Respondents have been very fair in holding the selection for promotion to Jr Clerk, and have taken due care to fill up the quota for ST and correctly made the selection following due procedure and promoted the applicant as Jr Clerk. The applicant passed all the Tests/Requirements after the Selection as stated in the O.A. The Substitutes are temporary Railway Servants, Group D or Group C. The applicants appointment was in Group D. The requirement of screening is a technical necessity to finally check the qualifications and fitness which is no bar for promotion for filling up the prescribed quota mandated, including Quota for S.T. in the present case. The promotion of the applicant and his working in the higher post (Jr Clerk) was not erroneous. Moreover after his promotion the panel no more was alive, there was no scope of deletion of his name from the Panel and revert him on that reason, which in humble submission of the applicant was not good/tenable reason. Prior to reversion no notice etc. was given, and principle of natural justice was not followed, and if the same was done the applicant could explain the position. The applicant has in the meantime passed the screening test conducted by the respondents.

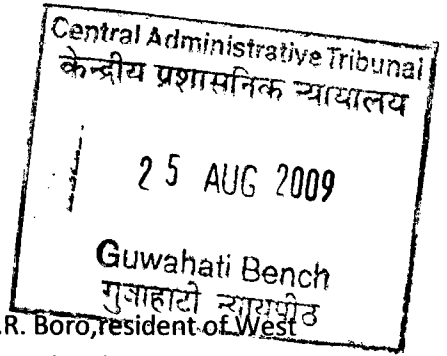
3. That in reply to statements in Para 5 of the W.S the applicant humbly states that his selection and promotion as Jr Clerk were not erroneous and he is entitled to the reliefs prayed for in the O.A. He has also passed the screening test and this confirms his initial appointment. He has already been granted temporary status.

4. That the applicant begs to state that the Respondents as authorities of the welfare state have been maintaining reservation quota for welfare of SC/ST etc. The Quota for S.T. as Jr. Clerk is still vacant and he deserves to be promoted to the said post.

5. That in the circumstances, the O.A. deserves to be allowed.

Jagal Ch. Boro.

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Verification

I Jagat Ch. Boro , aged about      years, son of Shri L.R. Boro, resident of West Boragaon, Guwahati – 11, say that I am the applicant in the above case and Conversant with the facts of the case and verify that the Statements in para 1 to 5 above are true to my knowledge and that I have not suppressed any material facts.

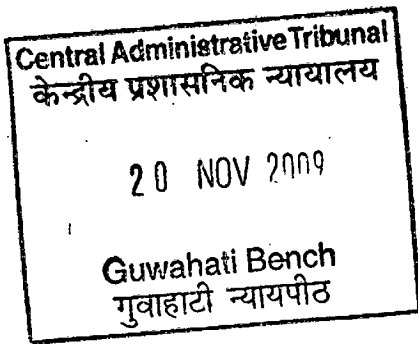
I sign this verification this 18<sup>th</sup> day of August, 2009 at Guwahati.

Jagat Ch. Boro  
Signature



(49)

IN THE GAUHATI CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH:  
GUWAHATI



O.A.NO 104/ 2009

Sri Jagat Ch. Boro

VERSUS

U.O.I. & Ors.

Reply to the rejoinder filed by the applicant

The respondents most respectfully beg to state as under:

1. That in reply to the statements in para 2 and 3 of the rejoinder it is stated that substitutes become regular employee after screening by a duly constituted screening committee (Para 5 of the master circular). The applicant was appointed as substitute Khalasi on 7.4.2004 and screened on 10.2.2009, approved by competent authority on 16.3.2009. As such his selection for Junior Clerk / G on 24.08.05 was an administrative error.

2. That at the material period of selection the applicant was not screened, as such his selection was erroneous and though it remains vacant after his reversion, i.e. the ST vacancy, the applicant cannot be considered.

Copy of the Master Circular regarding substitute, dated 29/01/1991 is enclosed as Annexure R-4

3. That in the circumstances explained above the O.A. deserve to be dismissed

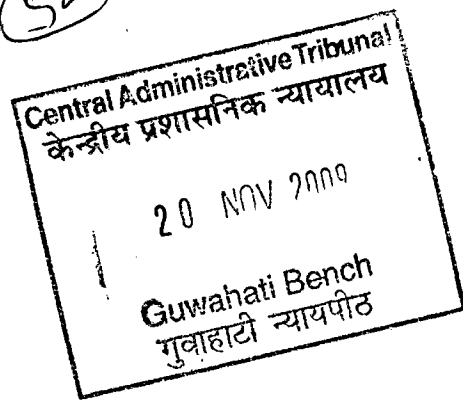
Dy. C.P.O./HQ.  
पं. सी. रेड्डी, मालीगाँव.  
N. F. Rly/Mlg.  
गुवाहाटी/सुवाहाटी  
20/11/09

Dy. C.P.O./HQ.  
पं. सी. रेड्डी, मालीगाँव.  
N. F. Rly/Mlg.  
गुवाहाटी/सुवाहाटी  
20/11/09

R  
18/11/09  
(Circular for the applicant.)

50

34



VERIFICATION

I, Sri/Smt A. K. Chhapotia, son/wife of Om Prakash Chhapotia aged about 38 years, resident of Maligaon, P.O. Maligaon, District Kamrup and working as Dy. CPO/HQ solemnly affirm and verify that the statements made in para 1 to .... Of this Ry are true to my knowledge and belief and I have not suppressed any material facts.

AND I sign this verification on this 17<sup>th</sup> day of November 2009 at Guwahati.

✓ [Signature]  
Signature

प्रमुख कार्मिक अधिकारी/मुख्यालय  
Dy. C.P.O./HQ.  
ए. सी. रीय, पाटलीगंज.  
N. F. Rly/Mlg.  
दुर्गाबाई/Guwahati - 781011

R.B. No. 12/91

NO. E(NG) II/90/SB/Master Circular

New Delhi dated 29.01.91

The General Managers,  
All Indian Railways,  
Production Unit & Others.

Sub: - Substitute.

Instructions on the subject "Substitutes" are contained in Chapter 23-A (ii) IREM 1968 and also in various letters and circulars issued from time to time from Railway Board. The question of issue of consolidated instructions has been engaging the attention of the Railway Board for quite some time. It has now been decided by them to issue consolidated instructions in the form of a Master Circular on the subject "Substitutes" as below for the information and guidance of all concerned.

2. Definition:

"Substitutes" refer to persons engaged in Indian Railway Establishments on regular scales of pay and allowances applicable to posts falling vacant because of absence on leave or otherwise of permanent or temporary Railway Servant and which cannot be kept vacant.

[No. E(NG)65 LR 1-1 dated 01/09/1965]

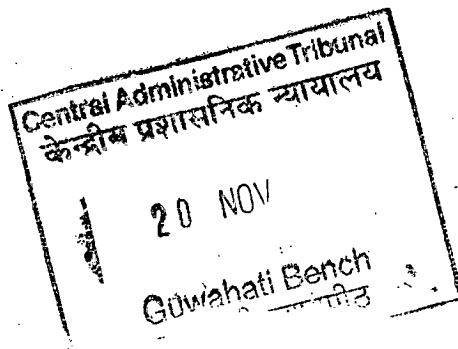
3. Circumstances under which "Substitutes" can be appointed:

Ordinarily, there should be no occasion to engage "Substitutes" having regard to the fact that practically in all categories of Railway Servants leave reserve has been provided for. Occasions may, however, arise when owing to an abnormally high rate of absentees, the leave reserve may become inadequate or ineffective, e.g., heavy sickness etc. or where leave reserve is available but it is not possible to provide the same, say, at a wayside, station. On such occasions, it may become absolutely necessary to engage substitutes even in vacancies of short duration as otherwise the Railway service may be adversely affected.

3.1. Substitutes should, as far as possible, be drawn from a panel of suitable candidates selected for Group 'C' (Class III) and Group 'D' (Class IV) posts should be engaged up to the age of 28 years only, subject to the observations made above, only in the following circumstances:

i) Against regular vacancies of unskilled and other categories of Group 'D' (Class IV) staff requiring replacement for which arrangements cannot be made within the existing leave reserve;

Attended



13/11/91  
Asst. Personnel Officer (Legal Cell)  
Mr. P. K. Mahanta, Guwahati-781006

ii) Against a chain vacancy in the lower category of Group 'D' (Class IV) arising out of the incumbent in a higher Group 'D' (Class IV) category being on leave, where it is not possible to fill the post from within the existing reserve and when otherwise the Railway service will be affected;

iii) Appointment of substitute school teachers on ad-hoc basis on the Railways should normally be avoided and where it becomes inescapable, it should be for short periods and that too with the personal and prior approval General Managers.

Adequate panel has to be maintained to fill regular vacancies of teachers and adequate waiting list for appointing substitute teachers therefrom so that the tail end of the panel can be treated as a waiting list for the purpose. Therefore, there should be no separate panel (waiting list) for substitute teachers. In cases where due to any compelling reasons a waiting list is not available or the wait listed candidate is not forthcoming and the post cannot be left unfilled till a regular incumbent is available, the post may be temporarily manned by recruiting a substitute, who should be selected through a procedure of calling for applications locally and making a selection from out of these applications. Such an arrangement should not be extended beyond six months within which time a regular panel for appointing substitute teachers should be formed;

iv) Substitutes in the lowest grade may be engaged to fill vacancies arising on account of the Railway Territorial Army Unit personnel called up by the Army for training or for military duty in emergency of 30 days duration or more.

v) Against vacancies in other circumstances specified by the Railway Board from time to time.

Note: 1. The Phrase "as far as possible" occurring at the beginning of this para is not intended to confer unfettered discretion to appoint substitutes from outside. Substitutes should be appointed only from the panel. However, in special circumstances persons not in panel may be appointed but this should be for a very short period and only in urgent cases.

Note: 2. Persons proposed to be appointed as substitutes are to be clearly warned that their appointment is only as substitutes and services will be terminated immediately on return of the persons on leave or regular selected candidates become available.

- (No. E(NG)65 LR 1-1 dated 01/09/1965)  
 (No. E(NG)II 68 SB/1 dated 29/06/1968)  
 (No. E(NG)II 69 SB/12 dated 25/11/1969)  
 (No. E(NG)II 68 SB/1 dated 31/03/1970)  
 (No. E(NG)II-68/SB/1 dated 08/07/1970)  
 (No. E(NG)III 75 RC 1/121 dated 09/01/1976)  
 (No. E(NG)III 77 RC 1/43 dated 12/08/1977)

Central Administrative Tribunal  
 केन्द्रीय प्रशासनिक न्यायालय

20 11/71  
 Guwahati Bench  
 गुवाहाटी न्यायाधीश

Attested

Cont....3

Joint Personnel Officer (Legal Cell)  
 श्री: रज्जु, बालिगांव, गुवाहाटी-78101

(53)

- (No. E(NG)III-78 RC 1/4 dated 25/07/1978)  
(No. E(NG)III-78 RC 1/4 dated 24/08/1978)  
(No. E(NG)II/80 RC 1/42 dated 19/06/1980)  
(No. E(NG)II/79/CL/5 dated 29/09/1980)  
(No. E(NG)II/89/RC3/2 dated 22/02/1989)  
(No. E(ML)69/ML3/30A dated 25/09/1969)

f. Benefits:

4.1. Substitutes engaged should be paid regular scales of pay and allowances admissible to the post against which they have been appointed irrespective of the nature or duration of the vacancy.

4.2. They should be allowed all the rights and privileges as are admissible to temporary Railway employees on completion of four months continuous service.

4.3. Substitute school teachers may, however, be afforded temporary status after they have put in continuous service of three months. Their services to be treated as continuous for all purposes except seniority on their eventual absorption against regular posts after selection.

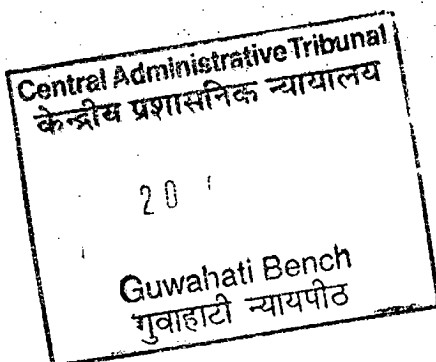
4.4. The conferment of temporary status after completion of four months continuous service in the case of others and three months continuous service in the case of substitute teachers mentioned in paras 4.2 and 3 above does not entitle them to automatic absorption/appointment to Railway service unless they are selected in the approved manner for appointment or absorption to regular posts.

4.5. Service of substitutes will count for pensionary benefits from the date of completion of four months (3 months in the case of teachers) continuous service provided it is followed by absorption in regular Group 'C' (Class III)/Group 'D' (Class IV) service without break.

4.6. Age limit for recruitment to Group 'D' (Class IV) service may be relaxed to the extent of their total service rendered as substitute which may be either continuous or in broken periods.

The above provision of age relaxation applies equally to such cases of regularisation in Group 'C' (Class III) skilled or highly skilled grades also.

4.7. Substitutes as have put in 3 years' service (at a stretch or in broken spells) who are matriculate/Diploma holders and who wish to apply for the posts advertised by the Railway Service Commissions (now Railway Recruitment Boards) may be given relaxation in age to the extent of service put in by them, continuous or in broken spells subject to age of 35 not being exceeded.



Attended

22/11/09

कायदा अधिकारी (विधि)  
कायदा अधिकारी (विधि)  
कायदा अधिकारी (विधि)  
कायदा अधिकारी (विधि)

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4.8. Festival/Flood advances: The substitutes who have attained temporary status and have put in three years' continuous service should be treated on par with the temporary status Railway servants and granted these advances on the same conditions as are applicable to temporary Railway servants, provided they furnish two surities from the permanent Railway servants.

4.9. Substitutes are eligible for medical facilities for self only in the out-patient Department. The service cards etc. of the employee may be utilised as identification cards for this purpose.

4.10. When substitutes selected for absorption in regular service and sent for medical examinations, the standard of medical examination should be of a relaxed standard as prescribed for re-employment during service.

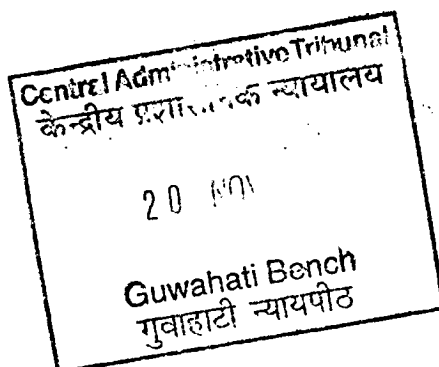
- (No. E(NG)65 LR 1-1 dated 01/09/1965)
- (No. E(NG)II-73 SB 1/14 dated 06/03/1974)
- (No. F(E)III/69/PN1/21 dated 22/07/1970)
- (No. E(NG)58 RC 1/61 dated 31/01/1961)
- (No. E(NG)II-74 CL/26 dated 18/06/1974)
- (No. E(NG)II-74 CL/26 dated 25/02/1975)
- (No. E(NG)II-75 CL/85 dated 03/01/1976)
- (No. E(NG)II/78/CL/14 dated 22/11/1978)
- (No. E(NG)II/78/CL/14 dated 27/12/1978)
- (No. E(NG)II/79/CL/17 dated 28/04/1979)
- (No. E(NG)I 73 PM 1/315 dated 20/11/1976)
- (No. E(NG)II 77 CL/2 dated 03/05/1978)
- (No. E(NG)II 77/CL/2 dated 16/05/1979)
- (No. E(NG)II-71CL/84 dated 13/12/1972)
- (No. E(NG)II-71 CL/84 dated 10/05/1973)
- (No. E(NG)II-71CL/84 dated 01/08/1973)
- (No. E(NG)II/88/CL/34 dated 14/04/1988)

## 5. Screening of the substitutes for their absorption in regular service:

5.1. Substitutes, who have acquired temporary status should be screened by a Screening Committee and not by selection Boards, constituted for this purpose before being absorbed in regular Group 'C' (Class III) and Group 'D' (Class IV) posts.

Such a Screening Committee should consist of at least three members, one of whom should belong to the SC/ST Communities and another to minority communities.

[Board's letter No. E(NG)II-83/RRI/7(1) dated 01/06/1983]



Attache d

E-1009

Joint Personnel Officer (Local Cell)  
जॉइंट पर्सनल ऑफिसर (लोकल सेल)  
६ वी: फ्लो, मालिगांव, गुवाहाटी-781001

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5.1. A Screening/empanelment of Casual Labour/Substitutes for purpose of absorption in regular employment be restricted to only those who are in the current casual labour/ substitutes Registers except such of them as are absent on two occasions when called for such screening. For this purpose the said 'Register' should be maintained in duplicate.

[Board's letter No. E(NG)II 78/CL/2 dated 21/02/1984]

5.2. Though no roster is required to be maintained, still the intake of SC/ST while engaging substitutes against each individual category in the various departments should not be below the prescribed percentage of reservation in favour of the two communities.

5.3. The Screening Committee should make good the shortfall, if any, by resorting to direct recruitment from the open market in each Group 'D' (Class IV) category before the panel is published. Ordinarily, the question of shortfall in non-technical categories should not rise.

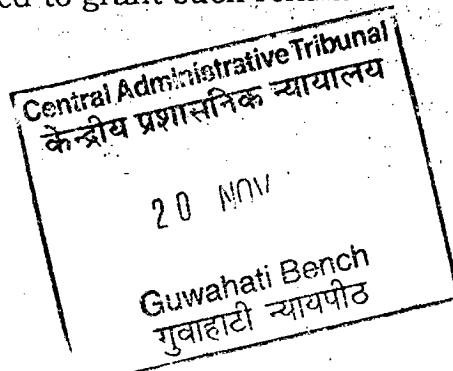
5.4. So far as technical categories in Group 'D' (Class IV) are concerned, if there is any shortfall the matter should be reported to the Railway Board with the detailed remarks giving reasons for shortfall and also the steps taken by the Railway Administration to make good the shortfall.

5.5. Screening of substitutes for absorption in regular employment may be made by the Screening Committee with reference to the vacancies available at present and the vacancies likely to arise due to normal wastage up to the end of next one year and available for absorption of Casual Labour. The number to be called for screening will continue to the number assessed in the aforesaid manner plus 25% thereof. In other words, the number to be kept in the panel should be the number assessed, although 25% more are called to cater against the absentees in terms of Board's letter No. E(NG)II-79/CL-2 dated 03/03/1982.

[Board's letter No. E(NG)II/88/CL/18 dated 01/11/1988 (RBE 251/1988)]

5.6. As long as it is established from records that the substitutes have been enrolled within the age limit, relaxation at the time of actual absorption should be automatic.

5.7. In old cases where the age limit was not observed, relaxation of age at the time of regular absorption should be considered sympathetically. CPOs/DRMs are empowered to grant such relaxation in hard cases.



Attended  
S. K. Das  
Legal Officer  
Personnel Officer (Legal)  
Guwahati-781005

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5.8. In the case of vacancies in the Elec./Mech. and S&T Departments, substitutes will be eligible for absorption in regular employment only if they have the minimum educational qualifications of ITI or they are course completed Act Apprentices.

5.9 Subject to what is stated at para 5.8 above and with exceptions like compassionate appointments, recruitment to Diesel/Elec. loco sheds and workshops etc. all Group 'D' (Class IV) vacancies that may become available up to 31.12.1989 or till further instructions in the matter are issued, whichever is earlier, will be filled by the screening and empanelment of substitutes.

5.10 When called for screening, substitutes will be issued passes for their journeys and the period treated as on duty.

5.11. Gaps, which may occur in service of Substitutes between two engagements, should be ignored for the purpose of temporary status on completion of four months service, and in case of Teachers, on completion of 3 months' service.

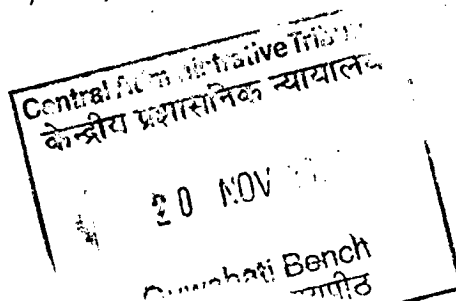
[Board's letters No. E(NG)II-82/SB/8 dated 06/01/1983 & 12.03.1983]

5.12 The practice of entrusting establishment work to the casual labour/substitute Khalasis in executive offices wherever exists, should be stopped forthwith and they should be utilised only on the work, they are meant for.

[Board's letter No. E(G)82 AL 1-9 dated 20/08/1985]

- (No. E(NG)II-70/CL/28 dated 20/07/1970)  
(No. E(SCT)70 CM 15/15/2 dated 19/11/1970)  
(No. E(NG)II-RC/90 dated 18/12/1970)  
(No. E(SCT)74 CM 15/7 dated 27/04/1974)  
(No. E(NG)II-74 CL/26 dated 18/06/1974)  
(No. E(SCT)74 CM 15/7 dated 09/10/1974)  
(No. 79-E(SCT)15/1 dated 10/03/1979)  
(No. E(NG)II/79/CL/16 dated 27/04/1979)  
(No. E(NG)II 77/CL/2 dated 16/05/1979)  
(No. E(NG)II/79/CL/5 dated 29/09/1980)  
(No. E(NG)II/79/CL/5 dated 10/10/1980)  
(No. E(NG)II-82/CL-18 dated 03/03/82)  
(No. E(NG)II/82/CL/W/5 dated 21/04/1983)  
(No. E(NG)II/82/CL/W/5 dated 23/07/1983)  
(No. E(NG)II-84/CL/85 dated 27/12/1984)  
(No. E(NG)II/84/CL/85 dated 31/07/1985)  
(No. E(NG)III/84/CL/85 dated 13/09/1985)  
(No. E(NG)II/84/RR1/26 dated 04/09/1986)  
(No. E(NG)II/84/CL/85 dated 17/06/1988)  
(No. E(NG)II-88/CL/18 dated 01/10/1988 & 01.11.1988)  
(No. E(NG)II-84/RR-1/26 dated 15/12/1988)

Cont....7



Attended  
S. S. S. S. S.  
- 11/09  
● कालिका नाथकाटा (Local Co.)  
Asstt. Personnel Officer (Local Co.)  
६ भा. गज्जे, मालिगांव, गुवाहाटी-781006



(No. E(NG)II-83/RRI/7(1) dated 01/06/1983)  
 (No. E(NG)II 78/CL/2 dated 21/02/1984)  
 (No. E(NG)II-79/CL-2 dated 03/03/1982)

## 6. Date of appointment

The date of appointment of a substitute to be recorded in the Service Book against the column "Date of appointment" should be the date on which he/she attains temporary status after a continuous service of four months if the same is followed by his/her regular absorption. Otherwise, it should be the date on which he/she is regularly appointed/absorbed.

This applies to substitute teachers also who attain the temporary status after a continuous service of three months only.

## 7. Break in service.

The following cases of absence will not be considered as "break in service" for determining the four months continuous service for the purpose of absorption in regular employment:

- The periods of absence of a substitute who is under medical treatment with injury sustained on duty covered by the provisions of workman's Compensation Act;
- Authorised absence not exceeding 20 days during the preceding six months.

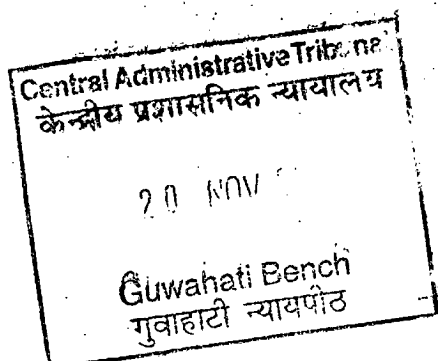
NOTE : i) The term "authorised absence" for this purpose covers permission granted by the Supervisory Official in-charge to be away from the work for the period specified.

ii) Unauthorised absence or stoppage of work will be treated as a break in continuity of employment.

c. Days of rest even under HOER or under the statutory enactments and the days on which the establishment employing the substitutes remains closed will not be counted against the limit of 20 days authorised absence, and

d. Period involved in journeys for joining the post on transfer from one station to another or within the same stations itself but not exceeding in any case, normal period of joining time permissible under the Rules.

e. The recommendations of the Task-Force on Vigilance regarding the observance of rules to avoid artificial breaks in service of Casual Labour/Substitutes should be ensured and responsibility in the matter should be fixed on the concerned Senior Subordinate/Officer.



Attended  
 27/11/84  
 J. S. Dasgupta (Legal Officer)  
 J. S. Dasgupta, Guwahati-781005

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[(Board's letter No. E(NG)II/77/CL/2 dated 31/03/1979)  
(E(NG)II/65 LR 1-1 dated 01/09/1965)  
(E(NG)II/77/SB/37 dated 24/10/1978)]

## 8. Re-engagement of Substitutes:

8.1. Substitutes who have been discharged during the strike of 1974, and have not been re-employed will be re-engaged against future requirements in the order of priority on the basis of their total period of service prior to their discharge.

8.2. When forming panels, substitutes in question should be allotted seniority by reckoning their previous spells of employment and on the basis of such cumulative aggregate service.

8.3. The substitutes who have not been engaged so far will also be considered based on the length of their employment prior to their discharge.

8.4. The substitutes in question will not be subjected to any additional disability for the purpose of any limit on account of their break in service.

8.5. Substitutes who worked during the 1974 strike and are continuing as such should be given protection at the time of retrenchment. Those who were engaged after the strike was over would not be eligible for any special considerations.

8.6. In the case of retrenchment of substitutes the Rule "last come first to go" may not be applied but the reasons for the same have to be recorded by the Railway.

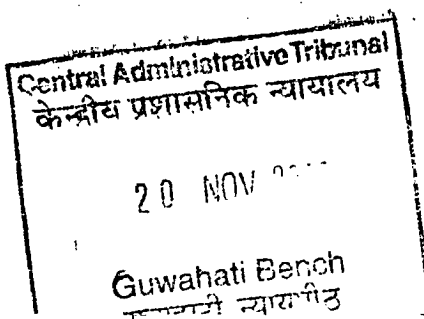
[No. E(NG)II-74 CL/99 dated 25/08/1975)  
(No. E(NG)II 74 CL/99 dated 10/09/1976)  
(No. E(NG)II/74/CL/99 dated 16.10.76)  
(No. E(NG)II-74 CL/99 dated 09/11/1976)  
(No. E(LL)76 AT/ID/1-16 dated 17/02/1978)]

## 9. Service Register.

9.1. In view of economy measures and ban on recruitment, no fresh face of substitutes should be engaged without the prior personal approval of the General Manager concerned.

9.2. It is not, however, the intention that the services of the existing substitute should be dispensed with merely because of the Railway Board's ban orders.

9.3. A register should be maintained for recording the names of all "Substitutes" whenever employed according to the Unit of recruitment, e.g.. Divisions, Workshop etc. strictly in the order of their up employment at the time of their initial engagement. The names of such of those Casual Labours/Substitutes who were discharged from employment at any time after January, 1981 on completion of work or for want of further productive work, can continue to be borne on the Live Casual Labour Register.



Attended  
S. S. S. S. S.  
Genl. Personnel Officer (Legal Cell)  
Genl. Secy, Railway Board, New Delhi-110001

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[Board's letter No. E(NG)II/78/CL/2 dated 25/04/1986 (RBE 82/1986)]

9.4. If a substitute who was earlier discharged from service on completion of work or on return of the person against whose post he/she was engaged as substitute has not booked again in the preceding two complete calendar years, his/her name should be struck off the register.

9.5. If a substitute retrenched on completion of work or return of the person against whose post he/she was working does not accept subsequent offer made on availability of a vacancy, he/she loses the benefit of the previous spell of employment as such.

9.6. The register should be reviewed and updated annually. The register should be scrutinised by a senior Gazetted Officer preferably both at the beginning and closing of the year and also sign the register in token of scrutiny.

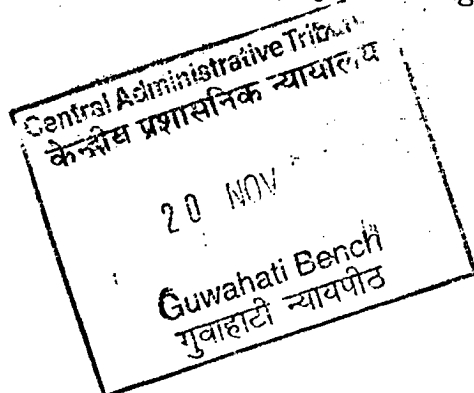
[No. E(NG)65 LR 1-1 dated 01/09/1965,  
No. E(NG)II-84/CL/43 dated 07/06/1984,  
No. E(NG)II/84/SB/8 dated 21/11/1984,  
No. E(NG)II/78/CL/2 dated 22/11/1984]

#### 10. General:

a. While referring to this circular, the original letters referred to herein should be read for a proper appreciation. This circular is only a consolidation of the instructions issued so far and should not be treated as a substitution to the originals, in case of doubt, the original circular should be relied upon as authority.

b. The instructions contained in the original circulars referred to have only prospective effect from the date of issue unless specifically indicated otherwise in the concerned circular. For dealing with old cases, the instructions in force at the relevant time should be referred to.

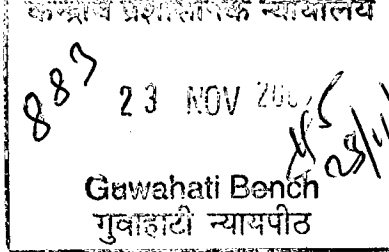
c. If any circular on the subject, which has not been superseded, has not been taken into consideration while preparing this consolidated letter, the said circular, which has been missed through oversight should be treated as valid and operative. Such a missing circular, if any, may be brought to the notice of the Railway Board.



(K.B. LALL)  
Joint Director Establishment/N  
Railway Board.

Attended

27/11/89  
अ. शासन न्यायालय (अ. शासन)  
अ. शासन, गुवाहाटी-781001  
अ. शासन, गुवाहाटी-781001



IN THE CENTREL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH- GUWAHATI

O.A. No . 104/2009

Shri Jagat Ch. Boro.

-Vs-

U.O.I. & Ors

Filed by the applicant:  
through S.N. Tamuli  
Advocate  
23/11/09

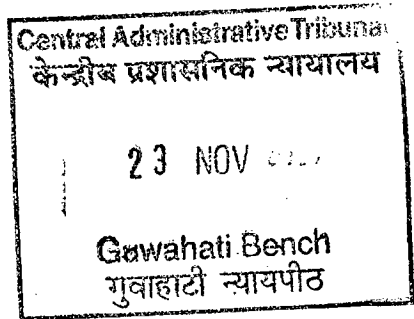
Rejoinder (In reply ) to the reply of the respondents to applicant's original rejoinder.

The applicant most respectfully begs to state as under:

1. That in reply to the statement in Para 1 of the reply to the rejoinder it is stated that applicant has been appointed as substitute ~~vacancy~~ ,in regular vacancy, in regular pay scales , and condition of substitutes is as stated in Para 4.4 of the O.A . After 120 days ,he has become temporary servant in the manner as in **Para 1515 IREM,1989 EDITION ,( Para 2318-1968 second edition )** , as held by Hon'ble Supreme Court in **Prabhabati Devi -v- U.O.I in (AIR 1996 SC 7532)**, he is entitled to the promotions ~~of~~ as available to temporary Railway Servant . It is stated that promotions to Railway Servants , are considered as per Rules and Procedures and the applicant was promoted following Rules. There was no administrative error. The eligibility after 120 days continuous service as substitute, Railway Servant is well settled law by the Hon'ble Supreme Court also.
2. That the applicant as ST employee is entitled to concession and relaxation but in the present case he has fully qualified in all test and eligibility condition. The ST quota is still vacant and the applicant has a right for the post under Article 16 of the Constitution.
3. That under the applicant humbly submits that the OA deserves to be allowed with cost.
4. These statements are filed bonafide and in the interest of justice.

Jagat Chandra Boro.

VERIFICATION



I, Sri Jagat Chandra Boro, son of Shri Lakhi Ram Boro aged about 29 years, a resident of Mikirghuli, P.O. Devkota Nagar, District : Kamrup (M) and working as Khalasi substitute solemnly affirm and verify that the statements made in para 1 to 4 of this reply are true to my knowledge and belief and I have not suppressed any material facts.

AND I sign this verification on this 20th day of Nov. 2009 at Guwahati.

Jagat Chandra Boro.  
Signature