

50/100

9

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 21/95
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet. OA-21/95 Pg. 1 to 7
2. Judgment/Order dtd. 13/11/97 Pg. 1 to 4 Dismissed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 21/95 Pg. 1 to 15
5. E.P/M.P. NIL Pg. to
6. R.A/C.P. NIL Pg. to
7. W.S. Pg. 1 to 12
8. Rejoinder. Pg. 1 to 14
9. Reply. NIL Pg. to
10. Any other Papers. NIL Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI -5.

ORIGINAL APPLICATION NO. 21/95

MISC PETITION NO. _____ (O.A.NO. _____)

REVIEW APPLICATION NO. _____ (O.A.NO. _____)

CONT. PETITION NO. _____ (O.A. NO. _____)

Sri Ajendra K. Mittal

APPLICANT(S)

VERSUS

Union of India

RESPONDENT(S)

In person

Advocate for the
Applicant.

Advocate for the
Respondents

Office Note

Court Orders

7.2.95

None is present. List for
admission tomorrow 8.2.1995.

Later on applicant appears in
person and requests to list the case
for admission on 7.3.1995.

List for admission accordingly
on 7.3.1995.

Member

Pg.

7.3.95

Applicant in person.

He is aggrieved by his super-
session. Grievance needs to be
examined. Prima facie case
disclosed. Application is
admitted. Issue notice to the
respondents. Eight weeks for
written statement. Adjourned
for orders to 10.4.95.

Member

Vice-Chairman

trd

This application is in
form but not in time.
Condonation petition is
filed / not filed. C. F.
for Rs. _____ deposited
vide IPO No. 803882903
dated 2.2.95.

[Handwritten signature]
Dr. Registrar
[Handwritten signature]

Order 2. 7.2.95

to applicant vide no. 697
2.8.95

[Handwritten signature]

Requisite memo not

received.

Order 2. 7.3.95 (same)

vide no. 1166

2.10.95

[Handwritten signature]

[Handwritten signature]

2
O.A. 21/95

OFFICE NOTE

COURT ORDERS

Requisites are made
on 31.3.95 & issued
vide no. 1484-89
dt. 4.4.95
31/3/95

10.4.95

Applicant in person.

No show cause reply has been
filed by the respondents. To be
listed for hearing on 2.6.1995.
Respondents are at liberty to file
written statement during that time.

Order dt. 10.4.95 issued
vide no. 1661 dt. 28.4.95
18/4

pg

hull
Vice-Chairman
bp
Member

9.5.95

2/5/95

Vide flag 'X' the
applicant prays that
both OAs. 21/95 and
75/95 be fixed on
the same date i.e.
on 12.6.95.

Laid before
the Bench for orders
as directed by the
Hon'ble Vice chairman
on 5.5.95 (note &
order dt. 5/5/95. at
file 'C' of OA 21/95)

Perused letter of applicant
received on 5.5.95.

Mr B.K.Sharma for the respondents
As desired in the letter since
the other O.A. of the applicant
(75/95) being fixed on 12.6.95 this
O.A. is also directed to be listed
on 12.6.95.

The applicant may be informed
immediately that both the cases may
not be heard on 12.6.95 as older
cases are in progress and these cases
may be ~~xxx~~ adjourned. Hence it is
not necessary for him to personally
remain present on 12.6.95 unless he
may so desire. The adjourned date
will be informed to him in due
course in both the matters.

bp
Member

hull
Vice-Chairman

bp
8/5/95
Order dt. 9.5.95 issued
to applicant vide
no. 2082 dt. 15.5.95 pg

Don't

bp
19/5

OA 21/95

OFFICE NOTE

Date

COURT'S ORDER

21.6.95

F/Hearings 1.8.95

12-7-95

Mr.B.K.Sharma for the respondents is present. He seeks time to file written statement. Time is extended by three weeks. Adjourned for orders to 2-8-95.

[Signature]

Vice-Chairman

[Signature]

Member

lm

Notice sent on

Re m. 1,5 & 6.

10/8/95

w/statements has not been filed

1/8

2.8.95

Applicant in person. No written statement is filed so far. Time extended by four weeks as last chance. O.A. to be listed for hearing on 16.10.95.

[Signature]

Vice-Chairman

[Signature]

Member

nkm

8.8.95

w/s on behalf

of the Respondents no.1

At page Nos 16-27

12/8/95

[Signature]
2/8/95

16.10.95

The applicant in person.

Mr.B.K. Sharma for the respondents.

Adjourned to 17.11.95 for hearing.

[Signature]

Vice-Chairman

[Signature]

Member

nkm

order of 16.10.95

V-N-4532

2.20/195

1/8/95

12-11-95

[Signature]
10.1.96

[Signature]

(H)
(3)
O.A. 21/95

OFFICE NOTE

Date

COURT'S ORDER


Service Reports are
still awaited

17.11.95

Applicant present in person.

Mr B.K.Sharma for the respondent
Copy of written statement is supplied
the applicant only today. He wants time
to consider the same. By consent adjourn
to 10.1.96 for hearing.


Member


Vice-Chairman

pg

22-2-96

Applicant has already filed a
rejoinder. By consent adjourned to 25-3-96.


Member


Vice-Chairman

lm

25.3.96

Applicant in person is present.
However, there is no Division Bench today.
Hearing adjourned to 27.5.96.


Member

27.5.96

Applicant is present in person.
Rejoinder has been submitted.
List for hearing on 2.7.96.


Member

pg

2/6
a/b

12.6.95

~~Rejoinder~~
to be listed
for hearing 21.6.95.

By order

1) Service Reports are
still awaited.

2) W/statement - has not
been filed.

2/6
20/6

Order 17-11-95

V.no. 6959 2.20/11/95 pg

2/11

QA/TA/CP/PA/MP No. 21 of 1995

OFFICE NOTE

DATE

ORDER

21.12.95

Rejoinder affidavit
has been submitted
by the applicant.
At page 28-43

PD

Notice duly served on
P. No. 1, 5 & 6.
w/statements - has been filed

10.1.96

to be listed
for hearing
on 22.2.96

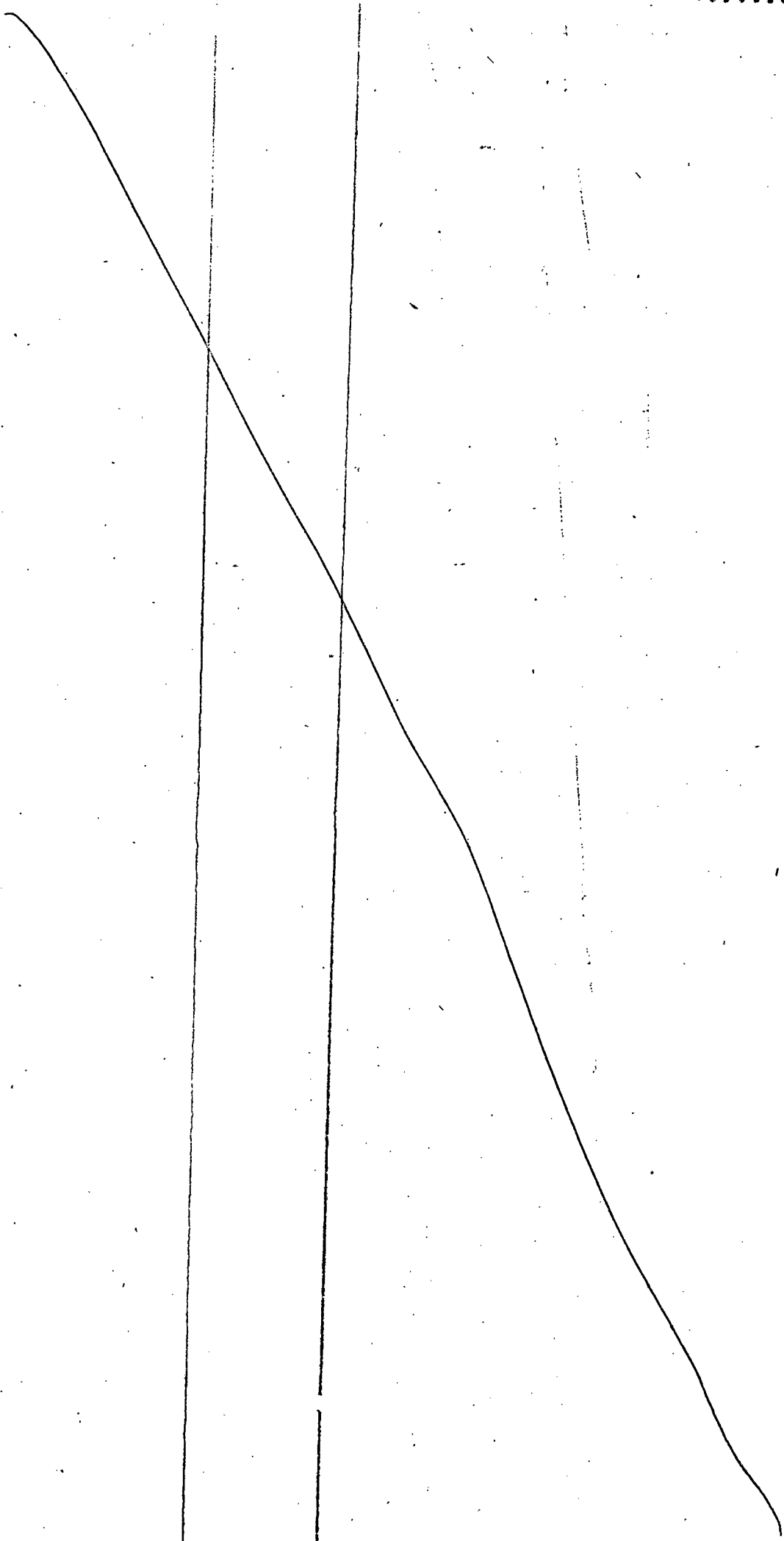
By order
BON

QA/TA/CP/PA/MP No. of 19

OFFICE NOTE

DATE

ORDER



2.7.96

Applicant in person. Mr D.S. Bhattacharya for Mr B.K.Sharma for the respondents.

List for hearing on 6.8.96.


Member

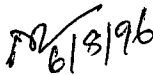
pg

6.8.96

Applicant in person. None for the respondents.

List for hearing on 10.9.96.


Member


6/8/96
pg

10-9-96

Applicant in person. Leave note of Mr.B.K.Sharma.

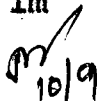
List for hearing on 8-10-96.


Member

W/Statint & Rejoinder has
been filed -

as to
7/10

lm


10/9

8.10.96

The appallicant, Mr A.K. Mitta is present. List for hearing on 19.11.96.


Member


nkm


9/10

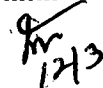
11.3.97

The case is ready for hearing. Let the case be listed for hearing on 3.4.97.


Member


Vice-Chairman

nkm


12/3

2-4-97

A prayer 2 in applicat-
is placed in person. OA 5/96
of the applicant filed on
17-4-97.

W/Statint has been
filed on R. No 1
in the case.

O.A. 21/95

3-4-97

Mr. A.K. Mittal is present in person.
Mr. B.K. Sharma is present for the respondents. List for hearing on 6-5-97.

5-5-97

Member

Vice-Chairman

An application in O.A.
21/95 submitted by
Shri A.K. Mittal in person,
prayer for not attending
on 6-5-97, further
prayer that the case
adjourned on 16-5-97 with
O.A. 50/96.

lm

214

6-5-97

Division Bench is not sitting.
Therefore, the case is adjourned to
20-6-97. for hearing.

Vice-Chairman

19.6.97

lm

215

1) Written statement
has been filed on
R-1 by Shri B.K. Sharma,
learned counsel.

20.6.97

2) Memo of appearance
not yet filed.

3) Notice duly served
on R-5 and 6.

19/6/97

Notice has been filed in R-1.
Notice duly served on R-5-6.

Mr B.K. Sharma, learned counsel
for the respondents, is not present and
on his behalf a mention has been made
for adjournment. The applicant appearing
in person is present before the
Tribunal. We find no justifiable ground
for adjournment due to the absence of
the counsel appearing on behalf of the
Railways. At the same time we also do
not like that the Railways should go
undefended in view of the fact that the
Railway Administration has engaged
several counsel to appear on behalf of
the Railway Administration. Considering
all these, for the ends of justice, we
grant adjournment till 24.7.97 for
hearing.

Member

Vice-Chairman

4-9-97

1) W/statement &
Rejoinder has been
filed.

nkm

25/6

24-7-97 Left over. List on 5-9-97.

5-9-97 Left over. List on 12-9-97.

(7)

Q.A. 21/95

Q

w/c and remainder
has been h'w

13.11.97

Heard the applicant in person.
Also heard Mr B.K. Sharma, learned Railway
Counsel. Hearing concluded. Judgment delivered
in open court, kept in separate sheets.
The application is dismissed. No order as
to costs.


Member


Vice-Chairman

12/52

Copy of the Judgment for the Applicant
long with the respondents have
been sent to the D/Sec. for
issuing the same through Regd.
with s/o vide Dispatch No.
dt. 3663 to 3669, dated

nkm


26/11

On 11-12-97.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A. NO. 21 of 1995
T.A. NO.

DATE OF DECISION 13.11.1997

Shri A.K. Mittal

(PETITIONER(S))

In person

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Mr B.K. Sharma, Railway Counsel

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.21 of 1995

Date of decision: This the 13th day of November 1997

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr. G. L. Sanglyine, Administrative Member,

Shri Ajendra Kumar Mittal,
Deputy Controller of Stores,
N.F. Railway, New Bongaigaon.

.....Applicant

The applicant appears in person.

- versus -

1. Union of India, through the
Secretary, Railway Board,
New Delhi.
 2. Shri Monohar Singh, Controller of Stores,
Construction Organisation, N.F. Railway,
Maligaon, Guwahati.
 3. Shri S.S. Agnihotri, Chief Material Manager,
N.F. Railway, Gorakhpur.
 4. Shri K.C. Trivedi, COS/MTR-Metre Project, CR,
Bombay.
 5. Shri A.K. Sanyal, COS
(Construction. S.E. Railway), Garden Reach,
Calcutta.
 6. Shri M.P. Juneja, Executive Director, Store Directorate,
Railway Board, New Delhi.
- By Advocate Mr B.K. Sharma, Railway Counsel.

.....Respondents

.....

O R D E R

BARUAH. J. (V.C.)

The applicant, in this application, has challenged the action of the respondents in not promoting him from Selection Administrative Grade. According to the applicant his name was in the seniority list of Indian Railways Store Service (for short IRSS) Officers at serial No.100, and therefore, he was in the zone of consideration. According to him there was no adverse remarks

B



made in the ACRs of the preceding five years of the selection, because he was not communicated any adverse remark. The grievance of the applicant is that his performance in the various years were not communicated to him to enable him to improve his performance in the next years. The applicant further submits that while writing the ACRs, the Reporting, Reviewing and the Accepting officers did not follow the instructions given in the ACR Forms. However, the applicant has not elaborated anything in this regard. His further grievance is that he was found suitable by the DPC for giving him the Selection Grade by the Railway Board vide Annexure-3 letter dated 7.5.1992. The DPC was held for the next selection after only about eight months in February 1993, where he was found not suitable for promotion to Senior Administrative Grade. Hence the present application.

2. In due course the respondents had entered appearance and filed written statement controverting the allegations and averments made by the applicant. A rejoinder was also filed by the applicant where he introduced certain new facts.

3. We have heard the applicant, appearing in person, and also Mr B.K. Sharma, learned Railway Counsel. The applicant submits that he was found unsuitable even though no adverse remarks had been communicated to him. He also emphasises that just eight months ago he was found suitable for promotion to the Selection Grade, but thereafter, on the basis of the same ACRs of five years, he was found unsuitable for promotion to the post of Senior Administrative Grade by the DPC. This, according to the applicant is contrary to the provisions of law. In both cases, as per the written statement of the respondents, he was given Bench Mark 'very good'. At least this indicates that he got the same standard in both the selections. Therefore, according to the applicant, his non-selection to Senior Administrative Grade was arbitrary, unreasonable and

unfair.....

3

unfair and thus cannot sustain in law. Mr. B.K. Sharma, learned Railway Counsel, on the other hand, refutes the submission of the applicant. According to Mr. Sharma there was no adverse remark, and therefore, there was no question of communicating any adverse remark to the applicant. The DPC after overall assessment found him suitable for promotion to Selection Grade, but, that does not mean that he was entitled to get further promotions on the same performance.

4. On the basis of the rival contentions of the parties, it is now to be seen whether the action of the respondents can sustain in law.

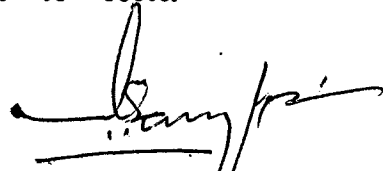
5. It is the Selection Committee or the DPC who is to make an overall assessment for the purpose of giving promotions. Therefore, it does not mean that if there is no adverse remark entered in the ACR a person is entitled to be promoted automatically. His promotion to a grade has to be decided on the basis of his overall performance and in comparison to others who are also eligible for consideration. The DPC after considering the entire records of all the incumbents may come to the conclusion about the promotion. Again, if a person is found suitable for promotion to one grade, that by itself will not indicate that he may be entitled to get further promotions, more so in the higher rank. In the present case it is true that the DPC found the applicant suitable for promotion to Selection Grade, but the DPC was not satisfied with his performance for the purpose of promoting him further because the Senior Administrative Grade requires more skill and efficiency. In all probability the DPC did not find qualities necessary to hold higher grade in the applicant. The applicant has not been able to point out any irregularities in the decision making process.

6. In view of the above we find no merit in the application. The application is accordingly dismissed. However, considering the

03

facts.....

facts and circumstances of the case we make no order
as to costs.


(G. L. SANGLYINE)
MEMBER (A)
(D. N. BARUAH)
VICE-CHAIRMAN

nk m

IN THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT GAUHATI.

ORIGINAL APPLICATION NO. 21 OF 1995

AND

ORIGINAL APPLICATION NO. 50 OF 1995

AJENDRA KUMAR MITTAL APPLICANT.

VERSUS

UNION OF INDIA DEFENDANTS.

MISCELLANEOUS APPLICATION.

The above named applicant do hereby solemnly
affirm on oath and state as under.

- 1) The next date for hearing/decision in the above
said applications have been fixed on 5.9.97 and 9.9.97
respectively.

- 2) The applicant faces inconvenience incoming from
(NBQ) to attend the cases at Gauhati.

- 3) PRAYER.

The applicant prays that both the above cases
may kindly be listed for hearing on one date, ^{preferably on} 5.9.97.

Date - 8.8.97.

Place- Gauhati.

Address.

R-34, Rly. Officers' Coloney,
N.F.Railway, New Bongaigaon, Assam.

A. Mittal
8.8.97
(AJENDRA KUMAR MITTAL)
APPLICANT IN PERSON.

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT GAUHATI.

WRIT PETITION O.A. NO. 21 OF 1995.

AJEMDRA KUMAR MITTAL PETITIONER.

VERSUS

U.O.I & OTHERSRESPONDANTS.

MISC. APPLICATION.

The abovenamed petitioner most respectfully
submits before the hon'ble tribunal, as under on oath:

The petitioner has a writ-petition(C) NO.111/97
in hon'ble Supreme Court, New Delhi and it was listed for
hearing ~~two~~ months back, on 5.5.97 for admission and it was
filed in person. The petitioner will not be in a position
to return back before 12.5.97 to New Bongaigaon, also due to
other engagement.

PRAYER:- The petitioner, therefore prays for permission
for not attending the hon'ble tribunal on 06.5.97.

The petitioner further prays that the case may kindly
be listed on 16.5.97 alongwith other writ-petition(50 of
1996).

New Bongaigaon.
21.4.97/25.4.97

A. Mittal
25.4.97
Ajendra Kumar Mittal
Petitioner- in -person.

.....

A. Mittal

*Pl. do the
needful.*

25/5/97.

*Please put up
on file - (Received by post)
h
5/5/97.*

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT GAUHATI.

WRIT PETITION O.A. NO. 21 OF 1995.

AJENDRA KUMAR MITTAL PETITIONER.

VERSUS

U.O.I & OTHERSRESPONDANTS.

MISC. APPLICATION.

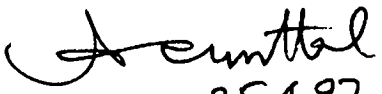
The abovenamed petitioner most respectfully submits before the hon'ble tribunal, as under on oath:

The petitioner has a writ-petition(C) NO.111/97 in hon'ble Supreme Court, New Delhi and it was listed for hearing two months back, on 5.5.97 for admission and it was filed in person. The petitioner will not be in a position to return back before 12.5.97 to New Bengaigaon, also due to other engagement.

PRAYER:- The petitioner, therefore prays for permission for not attending the hon'ble tribunal on 06.5.97.

The petitioner further prays that the case may kindly be listed on 16.5.97 alongwith other writ-petition(50 of 1996).

New Bengaigaon.
21.4.97/25.4.97


25.4.97
Ajendra Kumar Mittal
Petitioner- in -person.

.....

IN THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI

WRIT PETITION O.A.NO. 21 OF 1995

AJENDRA KUMAR MITTAL PETITIONER.

VERSUS

UNION OF INDIA AND OTHER RESPONDANTS.

EXPEDITE APPLICATION.

The above said petitioner most respectfully
submits and affirm on oath as under:

- 1) That, in the above said petition counter and rejoinder affidavites have been exchanged for the past one year.
- 2) That, the writ petition had since been pending argument/hearing due to non-availability of both the honourable judges/members. Petitioner has filed the case in person and he expecting his transfer to Delhi very soon.

PRAYER.

The petitioner therefore prays that an early date may kindly be given for argument/hearing. The petitioner further prays that 17-4-97 may kindly be fixed as on this the petitioner has to attend one more writ petition (OA-50 of 1996) fixed in the honourable tribunal, Gauhati.

New Bongaigaon

18.3.97

Ajendra Kumar Mittal
18.3.97
Ajendra Kumar Mittal,
Petitioner in person.

Dy. Controller of Stores,
New Bongaigaon/N.F.Rly.

.....

DR
do (Jd).

Pl. Just up.

21/3/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.

Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायालय

3 FEB 1995

ORIGINAL APPLICATION NO. 65 OF 1995,
DISTRICT- NEW BONGAIGAON ASSAM Guwahati Bench

Ajendra Kumar Mittal 21/95 Applicant.

versus

union of India and others.....Respondents,

INDEX

SR.NO.	CONTENTS.	ANNEXURE.NO.	PAGES.
1.	Application u/s 19 of the CAT ACT.		1 to 8.
2.	Copy of order dt. 7.9. 1993.	A-1	
3.	Copy of Seniority List of IRSS	A-2	
4.	Copy of promotion order of the petitioner to S. G. dt. 7.5. 92.	A-3	
5.	Copy of appeal against Supersession dt. 14.9.94.	A-4.	
6.	Copy of last reminder on appeal dt. 12.9.94.	A-5.	
7.	Calculation sheet of loss of salary compiled by the petitioner.	A-6.	
8)	W/ Statement on behalf of Respondent no 1.		16-27
9)	Rejoinder filed by Applicant.		28-43

(APPLICANT)

NEW Bongaigaon.

Guwahati, dt. 3rd of Feb. 1995.

.....

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.

ORIGINAL APPLICATION NO. 21 OF 1995.
UNDER SECTION 19 OF THE A. T. ACT.

Ajendra Kumar Mittal

Son of late Narain Das
Dy. Controller of Stores(Dy.C.O.S.)
N.F.Railway, New Bongaigaon.
Resident of Bungalow NO.R-34.
Railway Officers Colony.

Applicant.

VERSUS

- ✓ 1. Union of India through the Secretary, Railway Board, Rail Bhawan New Delhi.
2. Sri Manohar Singh, Controller of Stores (COS), Construction Organisation, N.F.Railway, Maligaon, Guwahati.
3. Sri S.S. Agnihotri, Chief Material Manager (C.M.M.), N.F.Railway, Gorakhpur.
4. Sri K.C. Trivedi, COS/ MTP-Metro Project, CR, Bombay.
5. Sri A.K. Sanyal, COS (Construction, S.E.Rly., Garden Reach, Calcutta.
6. Sri M.P. Juneja, Executive Director, Store Directorate, Railway Board, New Delhi.

Respondents.

DETAILS OF THE APPLICATION.

1. Particulars of order against which the application is made.

That the above application under section 19 of the Central Administrative Tribunal Act is being filed against the order NO. E(O)III 93 PM/86 dt 07-09-1993 issued by the Ministry of Railway Railway Board, New Delhi. A copy of the order dt. 7.9.93 is enclosed as an Annexure-I to the compilation-I of the Writ petition. This order authorises promotion of five juniors from Selection Grade(SG) to officiate in senior Administrative Grade(SAG). The application has no disciplinary case against him and there is no adverse communication on his performance or worth during the concerned period. Thus the applicant's supersession is unjustified, illegal and full of malice.

2. JURISDICTION OF THE TRIBUNAL.

The application declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Hon'ble Tribunal.

Ajendra Kumar Mittal

3.0 LIMITATION.

The applicant further declares that the application is filed before 13.3.95 i.e. within the limitation period prescribed under section 21 of the Administrative Act 1985.

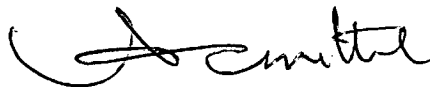
4.0 FACTS OF THE CASE.

- 4.1 That the petitioner is a Selection Grade Officer of Indian Railway Store Service (IRSS) in the pay scale of Rs. 4500-5700. The petitioner is presently posted as Dy. Controller of Stores, on N.F. Railway, New Bongaigaon, Assam.
- 4.2 That the name of the petitioner in the 'Seniority List' of IRSS Officers (as in October'1987) is at serial No. 100 whereas the names of the five persons promoted to Senior Administrative Grade (SAG) vide aforesaid order dt. 07.09.93 are between serial Nos. 104 to 108. In fact the applicant was recruited through U.P.S.C. Exams, 1973 whereas these five persons were recruited through 1974 Examination. An extract of the Seniority List is placed as an Annexure A-2 to the compilation II of the writ petition.
- 4.3 That there is no Seniority - List published by the Railway Administration and communicated to the petitioner which contained the position of the petitioner adverse to what has been submitted at Sl. No. 4.2 above. Thus the petitioner is senior to these five persons.
- 4.4 That the petitioner was promoted to Selection Grade (SG) in the pay scale of Rs. 4500-5700 vide Rly. Bds Authority No. E(O)III-92 PM/49 dt. 07.05.92. A copy of the letter is enclosed as an Annexure A-3 to the compilation II of the writ petition.
- 4.5 That there has been no disciplinary case pending against the petitioner w.e.f. May 1992 till date.
- 4.6 That there had been no adverse communication on petitioner's performance through Annual Confidential Reports w.e.f. May 1992 and even prior to this date. The petitioner therefore has all reasons to believe that he had been fit for promotion on the basis of the performance when juniors were promoted.

[Handwritten Signature]

Cont...3/-

- 4.7 That there has been no aspects whatsoever which has been communicated to the petitioner denying him the promotion in in Sept'1993.
- 4.8 That in the nutshell the petitioner has been :-
- i) in the Seniority - Zone.
 - ii) having fit annual confidential reports.
 - iii) No DAR case has been pending since last promotion in May 1992 and
 - iv) No communication on any aspect denying him promotion.
- 4.9 But the petitioner was ignored when five juniors were promoted from SG to SAG vide Rly. Bd's. order No. E(O)III 93 PM/86 dt. 07.09.93 a copy of which is enclosed as an Annexure A-I to the compilation -I of the application.
- That the petitioner made an appeal against his supercession, vide No. S/AKM/Dy.I/93 dts. 14.9.93 the copy of which is enclosed as an Annexure A-4 to the compilation II of the write petition.
- 4.10 That the petitioner followed up the appeal with the following reminders by without any communication from the respondent No. 1.
- i) No. S/AKM/Dy.I/93 dt. 22.11.93
 - ii) No. S/AKM/Dy.I/93 dt. 8.12.93
 - iii) No. S/AKM/Dy.I/93 dt. 12.1.94 and
 - iv) No. S/AKM/Dy.I/93 dt. 12.9.94
- 4.11 That the copy of the last reminder dt. 12.9.94 is enclosed as an annexure A-5 to the compilation II of the writ petition.
- 4.12 That in order to humiliate the petitioner the respondent No. I transferred and posted the petitioner for a period of six months from January'1994 to June '1994 directly under the junior viz. Mr. Manohar Singh, Chief Material Manager, Maligaon, Guwahati whose name in the 'Seniority List' is at SN 104.



Cent...4/

- Amittel*

cont...5/-

- 5.1 Because the petitioner on the basis of seniority list is senior to five persons viz. Mr. Manhar Singh and Mr. M.P. Tuneja and therefore the petitioner has the right to be considered at the time of promotion of the juniors.
- 5.2 Because, there had been no communication to the petitioner about any adverse change in the position of the petitioner ~~xxxxxxxxxxxxxxxxxxxxxxx~~ in the seniority-list, therefore the petitioner has always been senior to the five persons.
- 5.3 Because, the petitioner's performance and worth had never been adversely communicated from the date of his last promotion (i.e. 7.5.92) or even earlier, therefore the petitioner has been 'fit' for promotion from Sept'1993 i.e. the date of promotion of juniors.

- 5.4 Because there has been no disciplinary case against the petitioner from the date of his last promotion (i.e. 7.5.92) rather even till date, therefore the petitioner has been 'fit for promotion from Sept '1993 i.e. the date of promotion of juniors.
- 5.5. Because there has been no aspect, what soever communicated to the petitioner denying the promotion, therefore the petitioner has been 'fit' for promotion from Sept'1993 i.e. date of promotion of juniors.
- 5.6. Because, the petitioner's appeal dt. 14.9.93 followed by four reminders is uncared, unreplied and thus departmental channels have been exhausted without any favour from the respondent No. 1.
- 5.7 Because, the supersession of the petitioner in Sept'1993 and even thereafter is unjustified, arbitrary, illegal, full of malice and in gross violation of Art, 14 and Art. 16 of the constitution of India.
- 5.8 Because, the supersession of the petitioner has resulted into losses of :
- i) Dignity, status, prestige
 - ii) Physical discomfort
 - iii) Mental agony
 - iv) Salary
 - v) Traveling allowance and transfer grant etc.
- 5.9 Because, the supersession of the petitioner has resulted into petitioner's approach to this Hon'ble Tribunal and thereby making expenditure and Lawyer's consultation fee, tribunal -fee and stationer & typing chages etc.
- 5.10 Because the petitioner faced humiliation as a result of supersession when he was posted directly under a junior from January '1994 to June '1994.

6.0 DETAILS OF REMEDIES EXHAUSTED :-

The applicant declares that no remedy is available to the applicant excepting approaching this Hon'ble Tribunal.

Cont...6/-



7.0 MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

The applicant further declares that the matter regarding which this application has been made is not pending before any Court of Law and any other authority or any other Bench of the Tribunal.

8.0 RELIEFS SOUGHT :- ✓

8.1 That this Hon'ble Tribunal may kindly be pleased to declare the petitioner's super-session in Sep-t'1993 and even thereafter as full of malice, arbitrary, illegal and null and void.

8.2 That this Hon'ble Tribunal may graciously be pleased to direct respondent No. 1 to restore to the petitioner all the benefits which otherwise he would have enjoyed in absence of the aforesaid supersession.

8.3 That this Hon'ble Tribunal may be pleased to direct respondent No. 1 to make the following payment immediately to the petitioner. These payments are assessed up to Dec'94.

i) Loss of Dignity	-	Rs. 2,00,000/-
ii) Physical discomfort	-	Rs. 20,000/-
iii) Mental agony	-	Rs. 50,000/-
iv) Arrears of salary	-	Rs. 32,500/-
v) Loss of Travelling allowance & Transfer grant -	-	Rs. 3,000/-

Total Rs. 3,05,500/-

8.4 That the Hon'ble Tribunal may be pleased to direct respondent No. 1 to make also the following payment immediately to the petitioner.

i) Lawyer's Consultation fee	-	Rs. 1000/-
ii) Travelling & related expenditure (between New Bongaigaon & Guwahati)		Rs. 300/-

Total Rs. 1,300/-

8.5 That this Hon'ble Tribunal may be pleased to pass any other order in favour of the petitioner under the fact and circumstances of this case award cost of this petitioner.

Amit

Cont... 7/-

9.0 INTERIM ORDER, IF ANY PRAYED FOR :

No interim order is required.

10.0 The application is filed in persons to the applicant desires to have oral hearing at the admission stage. A self addressed inland is attached at which intimation regarding the date of hearing may please be sent.

11.0 PARTICULARS OF THE POSTAL ORDERS :

- | | | |
|-------------------------------------|---|--------------------|
| i) No. IPO : | - | 8-03-882903 |
| ii) Name of the issuing post Office | | Maligaon, Guwahati |
| iii) Date of issue : | - | 02.02.1995. |
| iv) Post Office at which payable - | | Guwahati. |

12.0 List of Enclosures :

The following six documents are enclosed to the writ petition.

- A-1 Promotion order of five Juniors from SG to SAG, date 7-9-1993.
- A-2 Seniority List of IRSS Officers as in Oct'1987.
- A-3 Promotion order of the petitioner to SG date 7-5-1992.
- A-4 Appeal against supersession, date 14-9-1994.
- A-5 Last reminder on appeal, date 12-9-1994.
- A-6 Calculation sheet of loss of salary.

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

I, the applicant, Agendra Kumar Mittal, Dy. Controller of Stores, N.F. Railway, New Bongaigaon do hereby verify that contents of paras Nos 4.5, 4.12 to 4.16 _____

are true to my personal knowledge, those of contents of paras Nos. 4.1 to 4.4 and 4.6 to 4.11 -----



Cont....8/-

X
✓

-:: 8 ::-

are based on perusal of records, those of contents of parás
Nos. 4.8 -----

are based on perusal of legal advice, which all I believe
to be true that no part of it is false and nothing
material has been concealed in it

So help me God.



(AJENDRA KUMAR MITTAL)

Place :

New Bongaigaon/Guwahati

Dated : 3rd of Feb' 1995.

--0--

9
28

RA1008

103002

ZCZC GKPWL X)))8 SVH GKPWLX

BBVTWT===COGXAXA===GKPWLX===PNOWLX===ERWLXX

A255/59

XXR TIME 2000 NDRB 6/9 IE

TO THE GENERAL MANAGER

C.RAILWAY BOMBAY

N.E.RAILWAY GORAKHPUR

N.F.RAILWAY GUWAHATI

S.E.RAILWAY CALCUTTA

THE PRINCIPAL RAILWAY STAFF COLLEGE /VADODARA ===

NO.E(O)III-93 PM/86 AAA MINISTRY OF RAILWAYS HAVE WITH THE APPROVAL OF THE PRESIDENT DECIDED THAT :-

- 1) SHRI MANOHAR SINGH. SELECTION GRADE OFFICER OF IRSS. NORTHERN RAILWAY SHOULD BE TRANSFERRED TO N.F.RAILWAY AND APPOINTED TO OFFICIATE IN SA GRADE OF IRSS,
- II) SHRI S.C.AGNIHOTRI, SELECTION GRADE OFFICER OF IRSS, AT PRESENT WORKING AS PROFESSOR/RAILWAY STAFF COLLEGE SHOULD BE TRANSFERRED TO N.E.RAILWAY AND APPOINTED TO OFFICIATE IN SA GRADE OF IRSS VICE SHRI P.C.GUPTA, UNDER ORDERS OF TRANSFER TO RE.
- III) SHRI K.C.TRIVEDI, SELECTION GRADE OFFICER OF IRSS, CENTRAL RAILWAY SHOULD BE APPOINTED TO OFFICIATE IN SA GRADE OF IRSS ON THE RAILWAY ITSELF AND POSTED AS COS/MTP, BOMBAY AGAINST AN EXISTING VACANCY?

IV) SHRI INDRA SWAROOP, SA GRADE OFFICER OF IRSS, NORTHERN RAILWAY, UNDER ~~XX~~ ORDERS OF TRANSFER TO CENTRAL RAILWAY AND POSTING AS COS/MTP, BOMBAY VIDE ITEM (I) OF MINISTRY OF RAILWAY WIRELESS NO.E(O)III-92 TR/240 DATED 12.10.92, SHOULD BE NOW RETAINED

ON NORTHERN RAILWAY ITSELF AGAINST AN EXISTING VACANCY :

V) SHRI A.K.SANYAL, SELECTION GRADE OFFICER OF IRSS, S.E.RAILWAY SHOULD BE APPOINTED TO OFFICIATE IN SA GRADE AND POSTED AS COS(CON)/S.E.RAILWAY BY REOPERATING THE POST IN SA GRADE., AND

VI) SHRI M.P.JUNEJA, SELECTION GRADE OFFICER OF IRSS, AT PRESENT WORKING AS DIRECTOR RS(F)/RAILWAY BOARD SHOULD BE TRANSFERRED TO RAIL CACH FACTORY AND APPOINTED TO OFFICIATE IN SA GRADE (.)

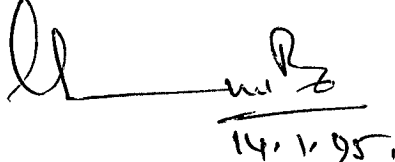
DATES ON WHICH THE ABOVE CHANGES TAKE PLACE MAY BE ADVISED AAA RAILWAYS

NDRB SENT 1040 7/9

===RBWLXCO007

RECEIVED ON 0709/10:28 HRS === TRANSMITTED ON 0709/10:28 HRS
NNNN

Attested.


14.1.95.

सहायक संचार नियंत्रक,
यू. सी. रेल्वे, न्यू बंगालौर।
Assistant Controller of Stores
S. F. Railway, New Bongaigaon.

10
29SENIORITY LIST OF IRSS OFFICERS

(OCT.1987)

S.NO.	Name	Rly on which lien is held	Date of birth	Date for increment on time scale (year of Exams.)	Working as on
100.	A.K. Mittal		2.4.44	6-12-74 (1973)	DY.COS/RE
101.	B.H. Alva		30.11.45	18.12.74	DY.COS/WAP
102.	Dhirendra		2.8.38	6.1.75 (1973)	DY.COS/COFMCW
103.	E. Illangova		9.10.49	19.10.74 (1973)	DY.COS/WAP
104.	Monohar Singh		6-12-48	30-9-75 (1974)	DY.COS/NR
105.	S.C.Agnihotri	NE	12-8-49	18-9-75 (1974)	DY. COS CVO/WR
106.	K.C.Trivedi	E	8-12-48	12-12-75 (1974)	DY.COS/CR
107.	A.K.Sanyal	SE	10-5-50	20-9-75 (1974)	DY.COS/SER
108.	M.P. Juneja	NE	9-9-50	20-9-75 (1974)	DY.COS/WR
109.	V.P.Raheja	NF	4-7-48	18-10-75 (1974)	DY.COS/

Attested.



14.1.95.
 सहायक भन्धार नियन्त्रक,
 पू. सी. रेलवे, न्यू बंगलौर.
 Assistant Controller of Stores,
 S. R. Railway, New Bangalore.

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)

THE GENERAL MANAGER,

WIRELESS/POST COPY
ISSUED ON: 07.05.92

NORTH EASTERN RAILWAY, GORAKHPUR

NO.E(O) III-92PM/49 (.) MINISTRY OF RAILWAYS HAVE DECIDED THAT
SHRI A.K.MITTAL, JA GRADE OFFICER OF IRSS, NORTH EASTERN
RAILWAY, SHOULD BE PLACED IN SELECTION GRADE OF IRSS ON THE
RAILWAY ITSELF (.)

TSILES YD (.)

Sd/

(R. L. AGARWALA)
DEPUTY SECRETARY (E)/RAILWAY BOARD

Attested.



प्रमुख सचिव निदेशक 14.1.95
श्री. सी. रेल्वे, न्यू बंगलोर
Assistant Controller of Stores
S. P. Railway, New Bongaiboo

NO.S/AKM/DY-1/93

Dated 14 - 9 - 93, 1

To

The Chairman,
Ministry of Railways,
Railway Board,
New Delhi.

THROUGH PROPER CHANNEL

Sub:- Appeal against ~~xx~~ supersession in Senior
Administrative Grade.


Dear Sir,

With due respect and humble submission, I beg to state the following few lines for your perusal and judicious consideration, please .

- 1.0 I was promoted to J.A.Grade by Rly.Board and accordingly I joined as DY.COS in R.E. Allahabad in April, 1985.
- 2.0 All the Seniority lists issued and circulated so far by Railway Board shows that I am just below Mr.Amitab Dutta and just above Mr.B.H.Alva.
- 3.0 There is no communication on the subject that my seniority has ever been adversely affected by Rly.Admn.
- 4.0 There was a minor penalty D.A.R. case pending against me which resulted into CENSURE vide G.M./N.E.Rly. letter dated 21-01-1992.
- 5.0 During the pendency of above D.A.R. case, officer next junior to me viz. Sri Alva was promoted as per details given below :-
 - a) Selection Grade - w.e.f. 29-7-87 vide Rly.Board letter dated 26-2-88.
 - b) S.A.G. - vide Railway Board letter dated 28-10-91.
- 6.0 I was authorised to officiate in Selection Grade (Rs.4500-5700) w.e.f. 7-5-92 vide Rly.Board letter dated 7-5-92.
- 7.0 Right from 1985 when I was promoted to J.A.Grade only one Confidential Report for the year 1987-88 has been communicated as 'Average' report .
- 8.0 Excepting the above said report of 1987-88, there is no adverse communication on Confidential Reports upto the current year i.e. 1992-93.

Attested.

Contd.....2/-



सहायक सप्लायर नियंत्रक,
पू. सी. रेलवे, न्यू बंगालूर.
Assistant Controller of Stores,
N. E. Railway, New Bongaigaon.

14.1.95

213

- 9.0 It is learnt that reports are graded into 5 categories like outstanding, very good and good etc. etc. However, there has been no communication to me about the grading of the above said Annual Confidential Report earned by me (of course excluding the report of the year 1987-88).
- 10.0 No relative targets have ever been intimated at the start of the year, the achievement of which would earn the Annual Confidential Report of different grading. Therefore, at the end of the year to grade the report in any of the categories is purely arbitrarily unjustified and without any logic and legal authority.
- 11.0 It is also learnt that based upon the grading of the report for 5 years, candidates are picked up and choosen for promotion to Selection Posts.
- 12.0 My performance in Selection Grade i.e. with effect from 7-5-92 to the present day is also without any adverse communication to me.
- 13.0 In fact, the performance in Selection Grade alone should form the basis for promotion to S.A.G. leaving aside performance in earlier scales/grade/post, as because the post entries loose their values for future promotions.
- 14.0 It is also mentioned that to the best of my knowledge and belief there is no DAR case pending against me.
- 15.0 Officers junior to me by one batch (1975 Exam.) like Mr. Manohar Singh and Mr. S.C. Agnihotri etc. has also been promoted vide Railway Board Letter No.E(O)III-93/PM/86 dated 7-9-93.

APRIL

In the circumstances mentioned above, it is requested that - (i) reasons for ignoring my claim for promotion to SAG may be intimated for the sake of justice and (ii) it is also appealed that case of my promotion may be considered judiciously and sympathetically.

With regards,

Yours Sincerely,

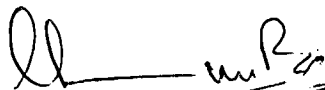
Sd/-

(A. K. Mittal)
Dy. Controller of Stores(1)
N. E. Railway/Gorakhpur.

& Advance copy to the Chairman, Railway Board, New Delhi.

.....

Attested.



14.1.95
श्री. सी. रेड्डी, न्यू बंगलूरु
Assistant Controller of Stores
N. E. Railway, New Bongaichan

14
27
Reminder No.4
Confidential.

NO.S/AKM/Dy.I/93.

Dt.12.9.94.

To
The Secretary,
Ministry of Railways,
Railway Board.,
New Delhi.

THROUGH PROPER CHANNEL.

Sub:- Appeal against supersession in Senior
Administrative Grade.

Ref:- My confidential L/No.S/AKM/Dy.I/93
dt.14.9.93 followed by three reminders.

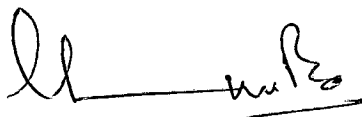
Dear Sir,

Kindly refer to above cited correspondence and
intimate the action taken on my appeal .

With best regards,

Yours sincerely,

A He sted.


14.9.94

सहायक सचिव,
पू. सी. रेलवे, न्यू बंगाईगाँव,
Assistant Controller of Stores,
N. F. Railway, New Bongaigaon

Sd/-
12.9.94

(A.K.Mittal)

Dy. Controller of Stores,
N.F. Railway, New Bongaigaon
Assam.

.....

24
ANNEXURE A-6
LOSS OF SALARY UPTO DEC. 94.

Effective Date.	DUE				DRAWN				DIFFERENCE (P.M)	Period	Amount Rs.
	Pay	DA	SDA	Total	Pay	DA	SDA	Total			
Oct.1993	5900	4307	-	10,207	4880	3504	-	8304	1903	4 months	7612
Feb 1994	5900	4602	738	11,240	4880	3744	600	9744	2496	3 "	6192
May 1994	5900	4602	738	11,240	4950	3861	619	9430	1810	5 "	9050
Oct.1994	6100	5100	763	11,963	4950	4208	619	9777	2186	3 "	6550

Total 29412

Interest on Rs.29,412 upto Dec. 1994 i.e. Interest for seven months @ Rs.
18% per annum

= 3088

Total

Loss Rs.32,500/-

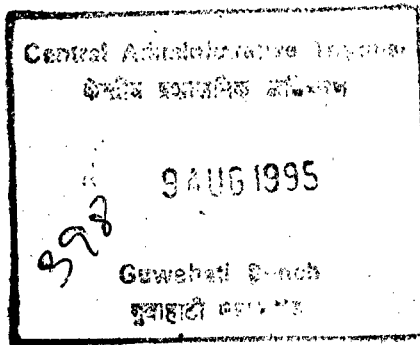
(Rs. Thirty two thousand & five hundred only).

Prepared by

Ammthal

(APPLICANT).

.....



18
25

18

25

Filed by
B K Sharma
Rt. Advo. Gen.
9.8.95

W. S. Choudhary (राज.)
का. मू. का. अधिकारी (का.)
का. मू. का. अधिकारी (का.)
By. Chief Personal Officer (का.)
ग. सी. पी. ओ. मालेगांव
N. F. Railway, Maligaon

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :-

O.A. No. 21 of 1995

Shri A.K. Mittal ... Applicant.

Vs.

Union of India & Ors. ... Respondents.

AND

IN THE MATTER OF :-

Written statement on behalf of
the respondent no. 1.

The answering respondent begs to state as follows :-

1. That the answering respondent has gone through the copy of the application on which the above case has been registered and numbered and have understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statement made in application are categorically denied. Further, the statements which are not borne out of records are also denied by the answering respondents.

Ctd.....2

17

- ou

RE

Chairman,
Rly. Board, who
is ex-officio
Principal Secy
to the Govt. of

2

18
26
N. F. Railway. Mumbai
Chief Person
By
गुप्त अधिकारी
W. B. Chavhan

rank of Secretary to the Government of India, and the recommendations of the Selection Committee are approved by the competent authority in the Ministry of Railways. The procedure for holding such selection is contained in Ministry of Railway's D.O. No. 89/289-B/Secy/Admn. dtd 26.9.89, copy of which is annexed as ANNEXURE R.I. It will be seen from that the minimum bench mark for promotion from JAG to SAG is 'very Good' and those graded as 'Outstanding' by the DPC are placed above those graded 'Very Good'.

2.6 The claims of the applicant, who is an officer of Indian Railway Stores Service were duly considered for empanelment to SAG by the Selection Committee along with other eligible officers for promotion in the panels approved on 15.2.93 and 10.3.94. However, the applicant was not selected on the basis of his performance.

3. That with regard to the statements made in paragraph 1 of the application, it is stated that the applicant was considered for empanelment to SAG in the panels approved on 15.2.93 and 10.3.94. However, he was not selected on the basis of his performance as reflected in his service record. Therefore, the allegations contained in this para are incorrect and are denied.

4. That with regard to the statements made in paragraph 2 and 3 of the application, it is denied that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985. It is stated that the application is clearly barred by limitation.

Ctd.....

19

Approved
by -

Ctd....

उपस्थित
राज्य कायदा अधिकारी (राज्य)
Chief Personnel Officer (State)
राज्य सेवा आयोग, दिल्ली
Office of the S.S. Railway, Malabar.

20
29

9. That with regard to the statements made in paragraphs 4.6, 4.7 and 4.8 of the application, the answering respondent states that the main criteria for selection of officers to the SAG is performance as reflected in their service records with particular reference to preceding five years ACRs. It is further stated that mere non-communication of any adverse remarks or absence of any adverse remarks in the ACRs does not confer any right on an officer to be got selected. As already stated, the posts in SAG are selection posts and all the officers considered by the DPC are classified as 'Very Good' or 'Outstanding'. The Officers classified as 'Outstanding' are placed above those who are classified as 'Very Good'. The applicant was duly considered for selection to SAG along with other eligible officers. However, he could not be selected on the basis of his performance. Officers who are junior to him but more meritorious and who were selected on the basis of their performance were promoted to SAG. The applicant should not, therefore, have any grievance due to promotion of his juniors because it is his own performance on the basis of which he did not merit empanelment.

It is further stated that the applicant having been considered but not selected, cannot have any legitimate claim for promotion in a selection post.

10. That with regard to the statements made in paragraphs 4.9, 4.10 and 4.11 of the application, the answering respondent does not admit anything contrary to the relevant records. The applicant was duly considered applying the

Ctd....

Handwritten notes and stamps in the top right corner:
- "21" written vertically.
- "✓" mark.
- Stamp: "Chief Personnel Officer, N.F. Railway, Mangalore".
- Other illegible handwritten notes.

criteria for selection of eligible officers. However, he could not be selected on the basis of his record of service. In this connection, the answering respondent reiterates and reaffirms the statements made above. The representations submitted by the applicant did not call for any action as no injustice was caused to the applicant.

11. That the answering respondent denies the statements made in paragraph 4.12 of the application. It is stated that transfers of officers are resorted to in administrative interest and ~~there~~ therefore, the presumption of the applicant is not correct.

12. That with regard to the statements made in paragraph 4.13 of the application, it is stated that the claim of the applicant for selection to SAG was considered in the panels approved on 15.2.93 and 10.3.94. However, the applicant was not selected based on his performance. Therefore, the contentions of the applicant that his claim for promotion has been ignored and his juniors had been promoted is not correct. The applicant having not been selected in the panel for SAG posts approved on 10.3.94, lost his seniority to Shri V.P. Raheja based on his performance.

13. That with regard to the statements made in paragraphs 4.14, 4.15 and 4.16 of the application, the answering respondent denies the same since the contentions and allegations contained in these paragraph are totally baseless. It is stated whenever promotion to a higher

Ctd....

Handwritten notes and stamps:
- 30 22
- N. F. Railway, Bangalore
- Chief Personnel Officer
- 30 22

post is made on the basis of merit, no officer can claim promotion on the higher post as a matter of right w.e.f. the date on which his juniors are promoted. The applicant should not have any grievance due to promotion of his juniors because it is his own performance on the basis of which he did not merit empanelment. The applicant having been considered but not selected could not have any legitimate right for promotion and consequential benefits in a selection post.

14. That with regard to the statements made in paragraphs 5.1 to 5.10 of the application, it is stated that the claims of the Officer for promotion to SAG were considered in the panels approved on 15.2.93 and 10.3.94. However, he was not selected on the basis of his performance. It is further submitted that whenever promotion to a higher post is made on the basis of merit, no officer can claim promotion on the higher post as a matter of right by virtue of his seniority alone w.e.f. the date on which his juniors are promoted. It is also stated that when promotion is made on the basis of merit alone, senior officers per se has no right to promotion and if promotion is made on merit, it cannot be said that a senior officer has been superseded.

In view of the above, there is no ground to claim any relief.

15. That with regard to the statements made in paragraphs 6 and 7 of the application, the answering respondents

Ctd....

referred

Chief Personnel

Officer

N. F. Rai

31

does not have anything to comment upon. However, as stated above, the application is barred by limitation.

16. That with regard to the statements made in paragraphs 8 and 9 of the application, it is stated that the claims of the officers for promotion to SAG were considered in the panels approved on 15.2.93 and 10.3.94. However, the applicant was not selected on the basis of his performance. It is stated that an officer has only a right for consideration for promotion and not to promotion itself. Therefore, the applicant having been considered for promotion and not selected based on his performance is not entitled to claim any relief.

17. That with regard to the statements made in paragraphs 10, 11, 12 of the application, I do not have anything to comment upon.

18. That under the ~~st~~ facts and circumstances stated above, the instant application is liable to be dismissed with cost.

Verification.....

VERIFICATION.

I, Maitreyee Brahmo, aged about 35 yrs.,
by occupation Railway Service, working as Deputy Chief
Personnel Officer of the Northeast Frontier Railway
Administration, Maligaon, Guwahati-11, do hereby solemnly
affirm and state that the statements made in paragraphs
1 to 17 are true to my information derived from the records
of the case which I believe to be true and the rests
are my humble submission before this Hon'ble Tribunal.

And I sign this Verification on this, the 8 th
of August, 1995.

MBrahmo
DEPUTY CHIEF PERSONNEL OFFICER
NORTHEAST FRONTIER RAILWAY
MALIGAON :: GUWAHATI
FOR & ON BEHALF OF
UNION OF INDIA.

জন মুখ্য ব্যক্তিগত অফিসারী (রাজ.)
By. Chief Personnel Officer (Gen)
পূ. র. মালোগাঁও
N. E. Railway, Maligaon.

...

10- ANNEX - R-I SN 71/VIN 25
Am. R.I.
89

GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)

A.N. SHUKLA
SECRETARY

D.O.No.89/289-B/Secy/Admn
Dated : September 26, 1989.

My dear

Sub : Procedure for promotion to Administrative
Grades in Railway Services.

Ministry of Railways have reviewed the present policy of promotions to various Administrative Grades in railway services with a view to streamlining the procedure and to ensure greater selectivity and thus strengthen the middle and senior management cadres. While merit has to be recognised and rewarded, advancement in an officer's career should not be regarded as a matter of course, but should be earned by dint of hard work, good conduct and result-oriented performance and potential for shouldering higher responsibilities, as reflected in the Annual Confidential Reports, and it should be based on a strict and rigorous selection process.

2. For promotions from Senior Scale to J.A. Grade, the Selection Committee shall consider all eligible officers and assess their fitness for promotion on merit and the selected officers shall be placed on the panel in the order of seniority.

2.1 In promotions to posts which carry an ultimate salary of Rs.5700/- p.m. in the revised scale, SC/ST Officers, who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be drawn up, would be included in that list provided they are not considered unfit for promotion.

3. For promotions from J.A. Grade to S.A. Grade and from S.A. Grade to Additional Secretary's Grade (Rs.7300-7600/-), the following principles will be followed :-

1) Field of Eligibility

For the purpose of determining the number of officers who will be considered from out of those eligible in the feeder grade, the field of choice

....2

will be restricted as under with reference to the number of vacancies proposed to filled in the year;

No. of vacancies	No. of officers to be considered.
1	5
2	8
3	10
4	Three times the number of vacancies.

ii) Assessment of Confidential Rolls.

Confidential Rolls are the basic inputs on the basis of which assessment is to be made by the Selection Committee. While evaluating the CRs, the following would be kept in view :-

- The Selection Committee will assess the suitability of the officers for promotion on the basis of their service records and with particular reference to the five preceding years.
- Where one or more CRs have not been written for a sufficient reason for a particular period the years preceding the period in question, would be considered. If this is not possible, all the available CRs should be taken into account.
- Where an officer is working against a higher grade and has earned CRs in that grade, his CRs in that grade would be considered by the Selection Committee only as an assessment of his work, conduct and performance and no extra weightage should be given merely on the ground that he has been officiating in the higher grade.
- The Selection Committee would not be guided merely by the overall assessment, if any, that may be recorded in the CRs, but will make its own assessment on the basis of the entries in the CRs.
- Before making the overall grading after considering the CRs for the relevant years, the Selection Committee would take into account whether the officer has been awarded any major or minor penalty or whether any displeasure of any superior officer or authority has been conveyed to him as reflected in the CRs.

- f) Due regard to the remarks recorded against the column on 'Integrity' would be given.

111) Selection Procedure

For the purpose of promotion from J.A. Grade to S.A. and S.A. Grade to Additional Secretary's Grade (Rs.7300-7600), the Bench Mark shall be 'Very good'. For this purpose, the Selection Committee will grade the officers who are considered suitable for promotion as 'very good' or 'outstanding'. Officers graded 'outstanding' will rank senior to all those who are graded 'very good' and placed in the select panel accordingly. Officers with the same grading will maintain their existing inter-se seniority.

4. This letter supersedes instructions contained in Confidential D.O. letters No.86/239-B/Secy/Admn dated 6.3.1986 and 15.5.87.

Yours sincerely,

Sd/-

(A.N. Shukla)

(IRSME)

SEE)

ISSE)

es

I
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GAUHATI

ORIGINAL APPLICATION NO. 21 OF 1995

DISTRICT- NEW BONGAIGAON, ASSAM

Ajendra Kumar Mittal- Applicant

VERSUS

Union of India and Others Respondents.

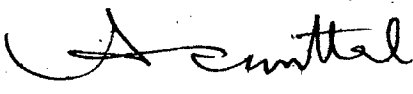
INDEX

(R. A.)

S/NO.	contents	Annexure No.	Page No.
1.	Title	----	1
2.	Introductory additional point given by the respondents.	-----	2 to 4
3.	Additional new facts to challenge non-empena l ment of the petitioner.	-----	2 to 4
4.	Facts based on the principle of natural justice.	-----	4 to 7
5.	Remarks on the contents of counter affidavit.	-----	7 to 9
6.	Additional grounds	-----	9 to 10
7.	Additional relief	-----	10 to 11
8.	Verification	1	11
9.	Annexure (i) Instruction	RA-1	---
	While writing CR.		
	(ii) Removal of record ded warning from CR folders.	RA-2	

New Bongaigaon,

dt. 21-12-95.


Signature of applicant

Filed in person.

TRIBUNALS - I Copy.

29

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GAUHATI.

ORIGINAL APPLICATION NO.

21 OF 1995 3X

UNDER SECTION 19 OF THE A.T. ACT.

(DISTRICT- NEW BONGAIGAON, ASSAM).

Ajendra Kumar Mittal, aged 51 yrs.

Son of (Late Narain Das

Dy. Controller of Stores(Dy.C.O.S.)

N.F.Railway, New Bongaigaon,

Resident of Bungalow No. R-34,

Railway Officers colony

New Bongaigaon

PIN- 783381 . - - - - - Applicant.

VERSUS

- 1) Union of India through the Secretary, Railway Board,
Rail Bhawan, New Delhi.
- 2) Sri Manohar Singh, Controller of Stores(COS), Construction
Organisation, N.F.Railway, Maligaon, Guwahati.
- 3) Sri S.S.Agnihotri, Chief Material Manager(C.M.M.),
N.E.Rly., Gorakhpur.
- 4) Sri K.C.Trivedi, COS/MTP-Metro Project, CR, Bombay.
- 5) Sri A.K.Sanyal, COS(Construction, S.E.Rly., Garden Reach,
Calcutta.
- 6) Sri M.P.Juneja, Executive Director, Store Directorate,
Railway Board, New Delhi. - - - - - Respondents.

Rejoinder Affidavit

The above named petitioner with respect and honour before the
Honourable Tribunal submits as under:

Ajendra Kumar Mittal

2/0
C
3

1.0 INTRODUCTORY ADDITIONAL POINTS GIVEN BY THE RESPONDANT.

1./ Parawise comments on the above points are submitted by the petitioner as under:-

1/1. That, In reference to point at Sr. No. 1 of the counter affidavit the petitioner has no comments to offer as the matter is regarding general acceptance/denial of the contents of the writ petition.

1/2-2.5. That in reference to points at Sr. No. 2 to 2.5 of the counter-affidavit regarding method of selection from Junior Administrative Grade (J.A.G.) to Senior Administrative Grade (S.A.G.) which is on the basis of confidential reports for five years, with bench mark-very Good, the petitioner submits that this procedure has never been conveyed to the petitioner in the past.

1/2.6 That, in reference to point 2.6 of the counter-affidavit the petitioner notes that his name was considered on two occasions and dropped on 15.2.93 and 10.3.94. The petitioner begs to challenge the legality of the petitioner's name not been empanelled on the ground of performance, the only criteria given against the petitioner by the ~~respondents~~ respondent. Passing over petitioner's name is unjustified and also against the principles of natural justice.

2.0 ADDITIONAL NEW FACTS TO CHALLENGE NON-EMPANELMENT OF THE PETITIONER.

2.1 Violation of instruction while writing of confidatial Report.

That instructions regarding writing of CR issued by Railway Administration and also attached with the CR form itself are enclosed as an annexure R.A.2.1 to the rejoinder affidavit. The instructions have been violated by the respondents as detailed below:

2.1.1 That, the resopdents have graded the petitioners performance below 'Very Good' and justified the petitioner's

Amittel

supersession. It means that petitioner's performance has been graded by the ~~max~~ respondents as 'Good' or lower. If further means that the grading 'Good' or lower are in fact adverse to the petitioner's career and in true sense 'Good' or lower grading for all purposes have been equated to adverse entries. As such even 'Good' or lower gradings must have been communicated to the petitioner. But, the respondents have ~~x~~ confirmed in para 9 of their counter affidavit that no communication regarding the performance of the petitioner has been conveyed to the petitioner. Therefore the standard procedure regarding communication of the adverse entry has been violated in this case and the petitioner has been given no chance to represent against the alleged adverse entries/reports.

2.1.2 That the reporting Officer did little in setting quantitative/physical/financial target in the beginning of the years in consultation with the petitioner. Also no relative targets were fixed so as to earn CR of five gradings - Outstanding/Very good, good, average and below average. The action by the respondent is ~~in~~ contravention of instruction mentioned at serial no. 6. The petitioner, however submits before the Hon'ble Tribunal that the petitioner on his own has been fixing targets in the background of previous years' figures and has been achieving always better results when compared to previous years' corresponding figures. The targets so fixed by the petitioner ~~as~~ on his own initiative and their achievement was never challenged rather appreciated by superiors. The achievements were with corresponding reduction in man-power from year to year. The petitioner's performance if considered on merit ~~than~~ it deserves 'outstanding' grading.

2.1.3. That, as the targets were not fixed as per the instruction therefore, the question of priority been given to different items does not arise. This action on the part of respondent contravenes ~~at~~ serial no. 7 of the above said instructions.

2.1.4. That, there is no dispute from the respondent regarding the fact that there has been no communication to the petitioner about the performance (Reference Para 9 of the C.A.). As there had been

Amittel

no communication to the petitioner therefore in all fairness it means that his performance had been satisfactory, ~~and~~ as such petitioner needed no advice/direction to improve his performance. Confidential report is a tool for human resource development and ⁱⁿ the petitioner's case the superiors had been fully satisfied with the petitioner's performance. But, on the contrary Confidential Reports in case of petitioner have become at such a later stage a fault finding process without any justification. The action by respondent therefore is against the instruction given at serial No. 2.

2.1.5. That, the petitioner's performance has now been alleged to be not suitable for his empanelment. The petitioner dares to state that the reporting officers have given all along best report but the reviewing authority/superiors might have reduced the ~~xx~~ grading of the report without mention of lack and attention in the C.R. of the reporting officers. This is against the instruction mentioned at serial no. 4. The Honourable Tribunal may kindly call ~~for~~ for the reports of the petitioner and also the concerned reporting officers to ~~xxx~~ verify the mala-fide intention of the superiors/respondants and also the violation of instructions.

2.2 MORE FACTS BASED ON THE PRINCIPLES OF NATURAL JUSTICE

2.2.1 That, the petitioner earned his last promotion in May '92 when the petitioner was promoted to the Selection Grade (Pay scale Rs. 4500/- - 5700/-). This promotion was based on the performance assessed through confidential reports of which the latest was of the year ending March '92. Empanelment for S.A.G. was approved on 15-2-1993 and, at this time also the latest C.R. was of the same year (i.e. year ending March '92). This is gross injustice that on the basis of same set of C.R. promotion to S.G. is given and promotion ~~to~~ to S.A.G. is denied. The petitioner fears* that his name was not at all considered for empanelment.

Submitted

33

2.2.2. That, in fairness petitioner's performance only after May'92, when the petitioner was promoted to S.G., deserves to be considered for future promotion (i.e. promotion to S.A.G.) Further, the performance prior to ~~April~~^{May}'92 is treated as without any blemish. As such all the C.R.s upto year ending March'-92 be graded as outstanding. Under these circumstances in the back ground of all the outstanding C.R.s petitioner's supercession is unjustified and against the established law.

2.2.3. That, if the performance of the petitioner in any year was less than very good (rather outstanding) and petitioner was to be ignored from empannelment then, in all fairness the performance being adverse for empennelment the petitioner must have been intimated the grading of the C.R. then and there so that the petitioner could have taken due care at right time to improve his performance. But it has not been so ~~by~~^{done} by the respondents.

2.2.4. That, the various grading of C.R. or any creteria/attribute of the performance during the five years can not be accurately aggregated to assess overall performance. By way of illustration if an officer earns five reports as outstanding, below average, very good, average and good it is difficult to assess overall performance whether it will be good, average or any other grading. The respondence have not yet given any criteria to assess overall performance under different gradings. Therefore the overall assessment would be at the sweetwill of the respondent without any logic and merit.

2.2.5. That likewise the overall grading will also depend the performance graph (i.e. trend of the performance). Just by way of same illustration three officers can earn following equal gradings in their reports.

C.R. for	Officer A	Officer B	Officer C
Year- 5 (oldest)	Out-standing	Verygood	Below average
Year-4	Verygood	Below aver-age.	Average
Year- 3	Good	Outstanding	Good
Year- 2	Average	Very Good	Very Good
Year- 1	Below	Good	Outstanding

Amittel

TREND Falling Fluctuating Rising

In this case overall performance of three officers can not be assessed to ^{be} ~~the~~ same as because the trends of performance are different. In all fairness the current performance is given more waightage when compared to old performance. This fact is true also in day to day life when old performance gets superseded automatically under the current performance. The respondants have given no such criteria to assess overall performance of the petitioner.

2.2.6. That, the contents of the letter (Annexure-I of the counter affidavit) was never given to the petitioner, as such the letter not ^{to} be applied adversely to the petitioner's career/interest. It is otherwise unfair.

2.2.7. That, the petitioner begs to mention that ~~in~~ the recorded warning letter No. E/74/Gaz/Con/Pt, VII dt. 25.7.94 has been removed from the C.R. dossier as per the General Manager, N.F. Railway decision Vide Letter No. E/74/Gaz/Con/Pt. VII dt. 14.11.95 (copy annexure - R.A. -2). Under such circumstances this recorded warning has lost its value and it should not ~~not~~ contribute to the alleged adverse performance of the petitioner on the basis of doctrine of fair-play.

2.2.8. That, the petitioner has learnt that officers who have earned even 'good' overall grading have been empanelled for promotion to S.A.G. But in petitioner's case 'very good' is alleged to be minimum bench mark. The Honourable Tribunal may please call for the necessary papers to verify discrimination of the petitioner.

2.2.9. That, there is also a 'fitness' column in the C.R. The petitioner begs to submit that petitioner might have been declared 'Fit' for promotion but, might have been given contradictory grading (i.e. good or lower). The Hon'ble Tribunal is requested to kindly call for the reports to verify the injustice caused to the petitioner.

2.2.10. That, the confidential report with grading-outstanding, very good, good and average have not been communicated to the petitioner

(A. Senthil
21.12.95)

33 35

at any future date these past reports can be put into any grading as per the sweet will of the respondents and thus performance can be assessed at all times purely in an arbitrary way as a result of malice towards the petitioner.

- 2.2.11 That, the confidential report form has two leaves containing ~~xxxx~~ Bio-data/ Self-Appraisal and remarks given by superiors, respectively. These two leaves are easily detachable. Thus the leaves are changeable with the leaves of C.R. of other Officer. Hence, Bio-data of officers 'A' and remarks against officers 'B' can form the C.R. of Officer 'A'. This shows that original C.R. of Officer can be changed as per the choice of the respondent to favour or injure anybody.

3.0 REMARKS ON THE CONTENTS OF COUNTER- AFFIDAVIT.

That, para-wise comments on the counter affidavit are submitted below. The petitioner also clarified that reference given here-with shows relevant serial No. of the counter affidavit in numerator and serial no. of the writ petition in the denominator.

- 3.1 (Ref: 3/1.0) That, the petitioner begs to state that superse-
ssion is unjustified in all respects.
- 3.2 (Ref: 4/2.0 and 3.0) That, the petitioner further reteirates that cause of action accrued on 7-9-93 when juniors were promoted. Considering the period of six months for appeal before the respondents the case was to be filed in the Hon'ble Tribunal within a further period of one year i.e. before 6-3-95(7-9-93+ 18 months). The case was filed on 3.2.95 i.e. within limitation time. The respondents is challenging it with no valid ground & purposely to confuse the Honourable Tribunal.
- 3.3 (Ref: 5/4.1) That, the petitioner accepts the facts regarding ~~positing~~ posing of the petitioner.
- 3.4 (Ref: 6/4.3) That, the respondents accepted the seniority of the petitioner above the five persons, in J.A. grade.
- 3.5 (Ref: 7/4.4) That, the respondents have no dispute regarding petitioner's promotion to Selection Grade, (pay scale Rs.4500/- to 5700/-).

Submitted
21.12.95

- 3.6 (Ref: 8/4.5) That ~~the~~ without going into the merit of the case the petitioner admits that the recorded warning was served on the petitioner. On appeal the GM/N.F.Rly has removed this letter from the confidential report folder. As such, this letter has adverse effect in no manner and at no time on the petitioner's career. A copy of the letter is annexed as an annexure R-A 2 to the rejoinder affidavit.
- 3.7 (Ref: 9/4.6, 4.7 and 4.8) That the respondents have not disputed the facts that
- (i) There was no adverse communication on the petitioner's performance,
 - (ii) There had been no aspect adversely communicated to the petitioner and
 - (iii) There had been no D.A.R. case pending against the petitioner.
- 3.8 (Ref: 10/4.9, 4.10 and 4.11) That the respondents have stated that representation made by the petitioner did not call for any action as because in the opinion of the respondent no injury has been caused to the petitioner. It is submitted here that petitioner's career has been affected but on the contrary no reason whatsoever was communicated by the respondents. This is purely against the principle of natural justice and it kept the petitioner in dark for all times so that he may not improve his performance in near future time.
- 3.9 (Ref: 11/4.12) That the petitioner in this petition denies the contents of the respondents regarding transfer to N.F.Rly.
- 3.10 (Ref: 12/4.13) That the petitioner submits that ~~th~~ his claim on subsequent occasion was also ignored without any justification.
- 3.11 (Ref: 13/4.14, 4.15 and 4.16) That the petitioner reiterates the various losses suffered by him on accounts of his unjustified supersession.

A. Smith
21.12.95

15 37

- 3.12 (Ref: 14/5.0) That the petitioner challenges the action of the respondents in superseding the petitioner and reiterates the ~~grounds~~ grounds so mentioned in the writ petition.
- 3.13 (Ref: 15/6.0 and 7.0) That the respondents have not disputed the details of remedies exhausted and matter not filed elsewhere in any other court.
- 3.14 (Ref: 16/8.0 and 9.0) That the petitioner reiterates what was earlier stated in the affidavit regarding reliefs sought.
- 3.15 (Ref: 17/10.0, 11.0 and 12.0) That the petitioner offers no comments on these undisputed matters regarding postal order and enclosures etc.
- 3.16 (Ref: 18/NIL) That the petitioner seeks relief as already prayed in the affidavit with further amendment as given hereafter.

4.0 ADDITIONAL GROUNDS

4.1 Because, the confidential reports have been ^{written} against the contents at serial no 6, 7, 2 and 4 of the instructions so mentioned therefore the reports are vague, unjustified, illegal and these can not assess performance of the petitioner on merit.

(i) Good and lower grading C.R. were equated to adverse entries but not intimated to the petitioner.

(ii) No targets were set in the beginning of the year and petitioner was never told what to do to earn C.R. of various grading.

(iii) The petitioner was never told the priorities of targets as these were not fixed.

(iv) That there had been no adverse communication on the petitioner's performance. ~~of the~~

(v) It is understood that reporting officer's grading was lowered by the reviewing officer but, no such mention was

Deantel
21.12.95

38
ub

made in the C.R. of the reporting officer.

4.2 Because, the confidential reports have been written and supported against the principles of natural justice therefore the reports are illegal and have no worth for any consequential penal action against the petitioner.

(i). On the basis of same C.Rs. the petitioner was on one hand promoted to selection grade but on the other hand superseded to S.A.G.

(ii) Performance after last promotion in May 92 can be considered for next promotion to S.A.G. Performance prior to May 92 can not contribute adversely for promotion to S.A.G.

(iii) Any unacceptable grading in the C.R. was not intimated then and there.

(iv) The respondents have given no criteria to assess overall grading based on five year's C.R.

(v) The respondents have also given no criteria to assess overall grading based on the trend of the performance of five years.

(vi) Letter regarding procedure for selection (Annexure -I of C.A.) was never given/shown to the petitioner.

(vii) Recorded warning has since been removed from the C.R. folder as per decision of the G.M. N.F. Rly.

(viii) It is understood that officers with overall performance-Good have been promoted but in petitioner case-very Good performance is insisted upon-discrimination,

(ix) It is understood that 'fitness' column and grading of the C.R. have contradictory remarks.

5.0 ADDITIONAL RELIEF

5.1 That the Honble Tribunal may kindly be pleased to direct the respondents to grade the petitioner's overall performance prior to Sept '93 (i.e. date of supersession)

Amittel
21.12.95

3.9

as outstanding and also the grading of C.R. for the year ending March/93 may please be declared also outstanding.

5.2 The petitioner further requests the Honble Tribunal to call for the relevant C.R. of the petitioner and also of the reporting officer ~~and~~ to verify the legality also of the ~~s~~ection procedure which resulted into ~~supere~~section of the petitioner.

6.0 LIST OF ANNEXURES

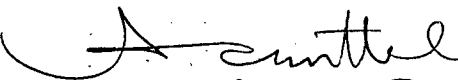
1. Instructions while ^{writing} ~~writing~~ of confidential reports -R.A.1.
2. G.M. N.F. Railway letter No. E/74/Gaz/Con/Pt VII
Dt. 14.11.95. ~~R.A.~~ -R.A.2.

7.0 VERIFICATION

I, the applicant, Ajendra Kumar Mittal, Dy. Controller of Stores, N.F. Railway, New Bongaigaon do hereby verify that contents of Paras Nos 3.3, 3.9 to 3.13 and 3.16

are true to my personal knowledge, those of contents of paras Nos. 1, 2.1, 3.1, 3.4 to 3.7, 3.15 and 4.1 are based on perusal of records, and those of contents of paras Nos. 2.2, 3.2, 3.8 and 4.2 ----- are based on perusal of legal advice, which all I believe to be true that no part of it is false and nothing material has been concealed in it.

So help me God.


21.12.95

Place: New Bongaigaon.

(Ajendra Kumar Mittal)

Dated: 21.12.95

INSTRUCTIONS

1. The Confidential Report is an important document. It provides the basic and vital inputs for assessing the performance of an officer and for his/her further advancement in his/her career. The officer reported upon, the Reporting Authority, the Reviewing Authority and the Accepting Authority should, therefore, undertake the duty of filling out the form with a high sense of responsibility.
2. Performance appraisal through Confidential Reports should be used as a tool for human resource development. Reporting Officers should realise that the objective is to develop an officer so that he/she realises his/her true potential. It is not meant to be a fault-finding process but a developmental one. The Reporting Officer and the Reviewing Officer should not shy away from reporting shortcomings in performance, attitudes or overall personality of the officer reported upon.
3. The columns should be filled with due care and attention and after devoting adequate time. Any attempt to fill the report in a casual or superficial manner will be easily discernible to the higher authorities.
4. If the Reviewing Authority is satisfied that the Reporting Authority had made the report without due care and attention, he shall record a remark to that effect in Part-V, Item 2. The remark shall be recorded in the Confidential Report of the Reporting Authority.
5. Every answer shall be given in a narrative form except where box has been provided. The space in each column indicates the desired length of the answer. Words and phrases should be chosen carefully and should accurately reflect the intention of the authority recording the answer. Please use unambiguous and simple language.
6. The Reporting Officer shall, in the beginning of the year, set quantitative/physical/financial targets in consultation with each of the officers with respect to whom he is required to report upon. Performance appraisal should be a joint exercise between the officer reported upon and the Reporting Officer. The targets/goals shall be set at the commencement of the reporting year, i.e. April. In case an officer takes up a new assignment in the course of the reporting year, such targets/goals shall be set at the time of assumption of the new assignment.
7. The targets should be clearly known and understood by both the officers concerned. While fixing the targets, priority should be assigned item-wise, taking into consideration the nature and the area of work and any special features that may be specific to the nature or the area of work. As far as possible, the indices used should be relevant and measurable.
8. Although performance appraisal is a year-end exercise, in order that it may be a tool for human resource development, the Reporting Officer and the officer reported upon should meet during the course of the year at regular intervals to review the performance and to take necessary corrective steps. Review should confirm understanding of goals and targets.
9. It should be the endeavour of each Appraiser to present the truest possible picture of the Appraisee in regard to his/her performance, conduct, behaviour and potential.
10. Assessment should be confined to Appraisee's performance only during the period

P.T.O.

vi) 5
of report. This will be possible if the Report is submitted soonest after the concerned period.

11. Some posts of the same rank may be more exacting than other. The degree of stress and strain in any post may also vary from time to time. These facts should be borne in mind during appraisal and should be commented upon appropriately.
12. Extra items are provided for RPF and Medical Officers. In these items, the Appraisers should include all points particular to their services.

Note :- (To be followed while filling up the item concerning integrity)

- (i) If the officer's integrity is beyond doubt, it may be so stated.
- (ii) If there is any doubt or suspicion, the item should be left blank and action taken as follows :-
 - (a) A separate secret note should be recorded and followed up. A copy of the note should also be sent together with the Confidential Report to the next superior officer who will ensure that the follow up action is taken expeditiously. Where it is not possible either to certify the integrity or to record the secret note, the Reporting Officer should state either that he had not watched the officer's work for sufficient time to form a definite judgement, or that he has heard nothing against the officer, as the case may be.
 - (b) If, as a result of the follow up action, the doubts or suspicions are cleared, the officer's integrity should be certified and an entry made accordingly in the Confidential Report.
 - (c) If the doubts or suspicions are confirmed, this fact should also be recorded and duly communicated to the officer concerned.
 - (d) If, as a result of the follow up action, the doubt or suspicions are neither cleared nor confirmed, the officer's conduct should be watched for a further period and thereafter action taken as indicated at (b) and (c) above.

Attest

20/12
तहासक मन्दा विमान,
१० सी. रेलवे, न्यूगार्डन,
Assistant Controller of Stores,
Railway, New Bonga.

Annexure - R.A. 2

N. F. RAILWAY.

No. E/74/GAZ/Con/Pt.VII.

Maligaon, dated 14-11-95.

Shri A.K. Mittal,
Dy.COS/N.F. Railway,
New Bongaigaon.

Sub: Representation against Recorded
Warning.

Ref: Your letter No. ARW/33 dt.27.9.95.
.....

General Manager has considered your representa-
tion dated 27.9.95 and passed the following orders :-

"The letter stands. However it need not be
kept in his CR folder".

W. B. Bhabha
(H. B. Bhabha)
DY.C.P.O.(G).
for GENERAL MANAGER(P).

Copy to PS to GM. The warning letter issued
to Shri Mittal, Dy.COS/NB, by COS/N.F. Rly. vide No.
E/74/GAZ/Con/Pt.VII dated 25.7.94 need not be kept in
the ACR folder of the officer concerned.

Attested

for GENERAL MANAGER(P).

W. B. Bhabha
सहायक मन्त्री, न्यू बंगाईगाँव
१० सी० रेलवे, न्यू बंगाईगाँव
Assistant Controller of Stores
N. F. Railway, New Bongaigaon

43
15
N. F. RAILWAY.

No. E/74/GAZ/Con/Pt.VII.

Malgaoon, dated 14-11-95.

Shri A.K. Mittal,
Dy.COS/N.F. Railway,
New Bongaigaon.

Sub: Representation against Recorded
Warning.

Ref: Your letter No. ARW/33 dt.27.9.95.
.....

General Manager has considered your representa-
tion dated 27.9.95 and passed the following orders :-

"The letter stands. However it need not be
kept in his GR folder".

W. Brahmo
(H. BRAHMO)
DY.C.P.O.(G).
for GENERAL MANAGER(P).

Copy to PS to GR. The warning letter issued
to Shri Mittal, Dy.COS/NR, by COS/N.F. Rly. vide No.
E/74/GAZ/Con/Pt.VII dated 25.7.94 need not be kept in
the ARW folder of the officer concerned.

for GENERAL MANAGER(P).