

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 24244/95.....

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SECTION OFFICER (Judl.)

Kalita
202-18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO. 244 OF 1995
 TRANSFER APPLN. NO. OF 1995
 CONT EMPT. APPLN. NO. OF 1995 (IN NO.)
 REVIEW APPLN. NO. OF 1995 (IN NO.)
 MISC. PETITION NO. OF 1995 (IN NO.)

..... A. Dimp. Krr. P. Paul .. APPLICANT(S)

..... -vs- 1. O. I. Toms ... RESPONDENT(S)

For the Applicant(s) ... Mr. P.K. Tiwari
 Mr. S. Sarma

Mr. .

Mr. .

For the Respondent(s) ... Mr. B.K. Shonomy, Lly. adv.

OFFICE NOTE	DATE	ORDER
This application is in form and within time C. F. of P. 50/- deposited vide IPO/BD No. 3283, 68 dated 16.10.95 <i>10/10/95 R.P. 10/10/95</i>	18.10.95	Mr. P.K. Tiwari for the applicant. Issue notice to respondent No. 3 to show cause as to why the application be not admitted and interim relief as prayed may not be granted. Applicant's Advocate to take immediate steps for service. Service by hand delivery permitted at the cost of the applicant. Returnable on 25.10.1995.
	P9	<i>6</i> Member
<i>1-11.95</i> <i>PPA on 3.11.95.</i>	25.10.95	Adjourned to 1.11.1995. <i>6</i> Member

(contd. to Page No. 2)

OFFICE NOTE	DATE	ORDER
	3.11.95	<p>The applicant and his Advocate are absent. Mr P.K.Tiwari and Mr S.Sarma are on record for the applicant.</p> <p>Application was argued earlier on 18.10.95 by Mr Tiwari. We see no good reason as to why Mr Tiwari should not be present. There is no leave note received on his behalf nor he has had the matter mentioned through another Advocate.</p> <p>The O.A. is dismissed for default.</p>
		<p><i>60</i></p> <p>Member</p> <p><i>W.L.</i></p> <p>Vice-Chairman</p>
	P9	
		<p><i>8/11</i></p>
	4-12-95	<p>Restored. Adjourned for admission to 12-12-95.</p>
		<p><i>60</i></p> <p>Member</p> <p><i>W.L.</i></p> <p>Vice-Chairman</p>
	12-12-95	<p>At the request of Mr.P.K.Tiwari adjourned to 2-1-96 for admission.</p>
		<p><i>60</i></p> <p>Member</p> <p><i>W.L.</i></p> <p>Vice-Chairman</p>
	1m	

(M)

O.A. 244/95

3

2-1-96

Mr. P. K. Tiwari for the applicant.

At the request of the learned counsel for the applicant adjourned to 16-1-96.


Member

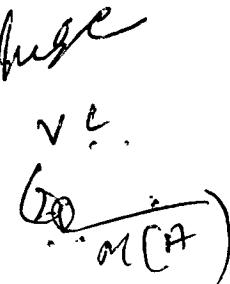

Vice-Chairman

lm

16-1-96. per Sirwai seeks to withdraw
the OA.

OA allowed to be
withdrawn. N.O.C.

The OA has been
restored vide M.P.
No. 121/95 d. 4-12-95.


M.C.A.

2-5-96.

W) is filed on behalf
of the Respects.

b2

650 17 OCT 1995

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: : GUWAHATI BENCH

Guwahati Bench

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

Title of the Case : O.A. No. 244 of 1995

Shri. Anup Kumar Paul ... Applicant

- Versus -

The Union of India & Ors. ... Respondents

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For use in Tribunal's Office

: Date of filing :
: Registration NO. :
:
:
:

REGISTRAR

Received (cp)
Bhawna
RAMPHY
16.10.95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

O.A. No. of 1995

BETWEEN

Shri Anup Kumar Paul,
son of Late Naresh Chandra Paul,
presently working as Cash Peon,
S. S.C, Silchar

... Applicant

AND

1. The Union of India,
represented by the Secretary,
Ministry of Railways,
New Delhi-110001.
2. The Railway Board,
represented by its Chairman,
Railway Board,
New Delhi-110001.
3. The General Manager, (P)
N.F. Railway,
Maligaon, Guwahati-781011.
4. The Chief Personnel Officer,
N.F. Railway,
Maligaon, Guwahati-781011.
5. The Chief Medical Director,
N.F. Railway,
Maligaon, Guwahati-781011.

... Respondents

DETAILS OF APPLICATION

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

This application under Section 19 of the Administrative Tribunals Act, 1985 is made against :

- (i) Deemed refusal/failure of the respondents to invite the applicant for the purpose of selection to the post of Health & Malaria Inspector, Grade-IV against the rankers quota ;

(ii) Non-action of the respondents on the applicant's representation dated 7.7.95 wherein latter had requested the competent authority to look into the matter of cancellation of his candidature for the post of Health & Malaria Inspector, Gr-IV.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

The instant application is being filed under the extra-ordinary circumstances as once the appointments are made to the post of Health & Malaria Inspector, Gr-IV against rankers quota ^{if will} ~~which~~ seriously prejudiced the applicant's right of challenging the action of the respondents of not inviting him for the purpose of selection and claiming the consequential reliefs in the event of impugned action being held arbitrary, unreasonable and illegal by this Hon'ble Tribunal. It is thus stated that the instant application fulfils the legal requirements of limitation as laid down under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1. That in the instant case the applicant is aggrieved by the action of the respondents of not calling him for selection to the post of Health & Malaria Inspector, Grade-IV despite his possessing the requisite qualification for the same. The same was done merely

on the ground that the applicant is presently not working under the Medical Department, therefore, he is not entitled to be called for the selection to the post of Health & Malaria Inspector. The applicant's case is that not only he possesses the requisite qualification but he also worked in the Medical Department for long 7 years from 3.9.86 to 7.1.93, during which he also discharged the duties of Health Inspector in the absence of regular Health Inspector. Since the applicant is aggrieved by the action of the respondents of not calling him for selection to the post of Health & Malaria Inspector, Grade-IV, therefore, through the instant application, the applicant has come before this Hon'ble Tribunal for redressal of his grievances. The aforesaid, in brief, is the crux of the subject matter of the instant case.

4.2 That the applicant is a citizen of India. He was initially appointed as Malaria Mate under Medical Department, N.F. Railway at Silchar on 3.9.86. He worked in the said capacity from 3.9.86 to 7.1.93. Moreover, during this period, applicant also discharged ~~his~~ duties of a Health Inspector in the absence of a regular Health Inspector. It is pertinent to mention here that the applicant possesses a diploma in Sanitary Inspector and he ~~exercised~~ has rich experience of working in the field of Sanitation and Malaria programmes.

Due to shrinkage of the establishment in 1993 the applicant was deployed as Cash Peon under S.S.O. Construction, Silchar and was posted at Silchar. Since

then applicant has been continuing as Cash Peon in the office of the S.S.O., Silchar.

A certificate of Divisional Medical Officer N.F. Railway, Construction, Silchar to the effect that applicant also worked as Health Inspector during absence of Health Inspector is annexed herewith and marked as ANNEXURE-1.

4.3 That the office of the General Manager (P), N.F. Railway vide notice No. E/227/122/7(Med.)Pt.I dated 7.2.95 notified that it has been decided to fill up 4 posts (2-UR, 1-SU, 1-ST) of Health & Malaria Inspector, Grade-IV in the scale of Rs.1200 - 2040/- by holding selection from amongst the serving employees. It was specified in the said ~~selection~~ notice that the educational qualification which is required for the purpose of being eligible for theselection is Matriculation plus Sanitary Inspector's Certificate/Diploma issued by recognised Institution.

The aforesaid notice was sent to ~~various~~ various authorities of the Medical Departments all over the N.F. Railway and a request was made to the said authorities to give wide publicity of the notice amongst the Railway staff working under them and forward their applications in a bunch to the competent authority on 28.2.95 positively.

A copy of the aforesaid notice dated 7.2.95 is annexed hereto and marked as ANNEXURE-2.

4.4 That pursuant to the aforesaid notice, the applicant submitted his application through the proper

channel extending his candidature for selection to the post of Health & Malaria Inspector., Grade-IV. It is pertinent to mention that applicant's submission of application for the aforesaid post was absolutely in order inasmuch as the applicant not only possesses rich experience in the working field of Health & Malaria Inspector ; but he also worked in the said capacity for long seven years under Medical Department from 1986 to 1993 when he served as Malaria Mate. The applicant's application was duly accepted by the competent authority and it was forwarded through the proper channel.

Subsequently vide letter No.E/227/122/7(Med.)Pt.I dated 23.3.95, the office of the General Manager (P) intimated the competent authorities that this applicant alongwith three other employees have been short-listed for the purpose of selection for the post of Health & Malaria Inspector, Grade-IV. ~~The~~ In the said letter, the short-listed candidates were advised to keep themselves in readiness to appear in the selection within a short notice and they were further advised to bring the original certificates for the purpose of production before the Selection Committee.

A copy of the letter dated 23.3.95 is annexed hereto and marked as ANNEXURE-3.

4.5 That the written examination for the purpose of selection to the post of Health & Malaria Inspector was to be held some time in the month of September 1995. However, in the first week of July 1995, the applicant came to

know that his candidature has been cancelled for the purpose of said selection and he will ~~be~~ not be invited to appear in the written examination. It was further learnt by the applicant that his candidature has been cancelled on the ground that at present he is not working directly under the Medical Department, N.F. Railway. As the ground on which the applicant's candidature was rejected appeared ~~ex-facie~~ specious to the applicant, therefore, the applicant being aggrieved by the said information which he learnt from reliable source, submitted a representation dated 7.7.95 to the General Manager, N.F. Railway, Maligaon. In the said representation, the applicant narrated in detail the background of his service career as to how he was initially appointed as Malaria Mate under Medical Department of Silchar Construction, N.F. Railway and worked as such from 3.9.86 to 7.1.93. Applicant also stated in his representation that as to how during this period he also discharged the duties of Health Inspector in absence of the Regular Health Inspector. It was stated by the applicant in his representation that the ground on which his candidature has been cancelled for selection to the post of Health & Malaria Inspector is highly unreasonable, arbitrary and therefore, the case of the applicant deserves consideration by the competent authority.

A copy of the representation dated 7.7.95 is annexed hereto and marked as ANNEXURE-4.

4.6 That no action was taken by the competent authority on the representation of the applicant. Subsequently, it was learnt by the applicant that the N.F. Railway authorities vide letter dated 30.8.95

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sent intimation to the other candidates (except this applicant) that the written examination for selection of Health & Malaria Inspector, Grade-IV is fixed to be ~~next~~ held on 12.9.95 in the office of the Chief Medical Director, Maligaon, Guwahati.

A copy of one such letter dated 30.8.95 sent to one of the candidates is annexed hereto and marked as ANNEXURE-5.

4.7. That from the Annexure-5 letter, it became apparent that the N.F. Railway authorities had cancelled the candidature of the applicant for the purpose of selection to the post of Health & Malaria Inspector, Gr-IV. As during the month of September 1995, applicant had fallen sick and he was bedridden for quite a long time, he could not immediately approach this Hon'ble Tribunal for redressal of his grievance. Moreover as the Hon'ble Tribunal subsequently in the month of September 1995 was closed, the applicant could not approach the Hon'ble Tribunal at an appropriate time. In the circumstances of the case, the instant application is being filed at the earliest possible opportunity.

Applicant craves leave of this Hon'ble Tribunal to produce the medical certificate to the effect that he was sick during September, 1995, at the subsequent stage of the case.

4.8. That para 163(1) of IREM lays down the qualification and the method of appointment to the post of Health

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& Malaria Inspector, As Grade-IV. It has been provided that 75% of the posts are to be filled up by direct recruits through Railway Recruitment Board and the remaining 25% of the posts through promotion ~~wide~~ by selected serving Railway employees. The qualification that has been prescribed for the purpose of recruitment is Matriculation or its equivalent examinations plus Sanitary Inspector's Certificate/Diploma issued by the recognised Institute. It is pertinent to mention that in the meeting held between the N.R. Railway Employees Union and N.F. Railway Administration at Headquarter, Maligaon on 1.3.93 and 2.3.93, the aforesaid decision in regard to the matter of recruitment to the post of Health & Malaria Inspector was reiterated and reaffirmed and the minutes of the said meeting were subsequently released through General Manager (P)/Maligaon No. E/301/33/67(U) dated 23.3.93.

A copy of the extract of the minutes of the said meeting dated 23.3.93 is annexed hereto and marked as ANNEXURE-6.

4.9 That in view of the fact that the applicant had worked in the capacity of Malaria Mate for long seven years under the Medical Department during which he also worked as Health Inspector in absence of regular Health Inspector coupled with the fact that applicant holds the diploma in Sanitary Inspector, it is apparent that applicant is eligible for appearing in the selection to the post of Health & Malaria Inspector and the cancellation of his candidature by the competent authority is unreasonable and arbitrary.

Contd...P/9.

4.10 That the written examination and viva voce for the purpose of selection to the post of Health and Malaria Inspector has already been held in the month of September 1995 but till now the result of the same has not been declared. The instant case is a fit case wherein this Hon'ble Tribunal may be pleased to direct the N.F. Railway Administration to keep one post out of 4 posts, vacant till the disposal of this case inasmuch as if all the four posts of Health & Malaria Inspector, Grade-IV are filled up, then the interest of the applicant would be severely prejudiced and he would be deprived of his right of asserting his claim for the purpose of selection to the post of Health & Malaria Inspector.

4.11 That the applicant files this application bona fide and to secure the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That the action of the respondents of not inviting the applicant for the purpose of selection to the post of Health & Malaria Inspector is arbitrary and unreasonable and violates the equality clause of the Constitution enshrined under Article 14.

5.2 That in view of the fact that the applicant worked in the Medical Department for long seven years in the capacity of Malaria Mate and during this period he also looked after the works of Health Inspector in absence of the regular Health Inspector bears testimony to the fact that the applicant is eligible to appear for selection to the post of Health & Malaria Inspector and

he could not have been denied such an opportunity on the spacious plea that presently he is not working under the Medical Department.

5.3 That the applicant possesses the diploma in Sanitary Inspector and he has all the requisite qualifications as prescribed under the Paragraph 163(1) of IREM. Therefore, the action of the N.F. Railway Administration of not inviting the applicant for the purpose of selection of Health & Malaria Inspector is illegal.

5.4 That the very purpose behind the selection is to ensure that best possible person who has the requisite qualifications is selected to the post. The interpretation given by the N.F. Railway Administration to the selection criteria that only those who are presently working under the Medical Department are eligible for said selection is highly unreasonable and militates against the constitutional scheme of public employment guaranteed under Article 16.

5.5 That the action of the respondents is irregular illegal and violates the provisions of IREM in the matter of recruitment to the post of Health & Malaria Inspector.

5.6 That the action of the respondents is violative of canons of service jurisprudence and deserves interference by this Hon'ble Tribunal.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that no other appropriate alternative remedy is available to him.

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

The applicant further declares that he has not filed any application, writ petition or suit ~~before any~~ in respect of which this application has been made before any authority or any other Bench of this Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

- 8.1 Direct the respondents to hold a fresh selection in accordance with law specifically in regard to this applicant for the purpose of assessing his merit for being appointed to the post of Health & Malaria Inspector, Grade-IV.
- 8.2 Pass any other or orders as may be deemed fit and proper in the facts and circumstances of the case for ends of justice.
- 8.3 Award cost of this application to the applicant.

9. INTERIM ORDER PRAYED FOR :

In the interim, be further pleased to direct the respondents to keep one post of Health & Malaria Inspector, Grade-IV vacant till disposal of this case.

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The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

(i) I.P.O. No. : 8. 09. 328368.
(ii) Date : 16.10.95.
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

VERIFICATION

I, Shri Anup Kumar Paul, son of Late Naresh Chandra Paul, presently working as Cash Peon, S.S.O., Silchar, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge; those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the day of October 1995 at Guwahati.

Anup Kumar Paul

TO WHOM IT MAY CONCERN

This is to certify that Sri Anup Kumar Paul, son of Late Naresh Chandra Paul worked under medical department of construction organisation Silchar as Malaria Mate with effect from 3.9.86 to 7.1.93.

He also worked as HI/CON/SCL. During absence of Health Inspector.

His work as Malaria Mate and as Health Inspector Construction Silchar was satisfactory.

He bears a good moral character and I wish him success in every sphere of his life.

Sd/-

(Dr. S.S. ROY LASKAR)

Divisional Medical Officer
N.F. Rly/Const/Silchar.

With thanks
W. S. Roy Laskar

N.F. Railway

Office of the
GENERAL MANAGER (P)
Guwahati-11

No. E/227/122/7 (Med) Pt. I

Dated 7.2.1995

To

CMD/MLG, MD/CH/MLG
DRM(P)/Med/KTR, APDJ, LMG & TSK
CMS/DBRT LMG APDJ
MS/KIR BPB RFAM, MLQ NJT.

Sub : Selection for filling up of 4 posts of
Health and Malaria Inspector Gr.IV in scale
of Rs. 1200-2040/- against 25% Rankers quota.

It has been decided to fill up 4 posts (2UR, 1SC,
1ST) of H&MI/Gr.IV in scale Rs. 1200-2040/- by holding
selection from amongst the serving employees on the
following terms and conditions :

1. Educational qualification : Matriculation + Sanitary
Inspector's Certificate/Diploma
issued by recognised institution.
2. The candidates selected will be given Indusition Course
training for a period of 6 months.

The employees fulfilling the above conditions
working under you may apply for the post of H&MI/Gr.IV
in scale Rs. 1200-2040/-.

You are requested to give wide publicity of the
above amongst the Railway staff working under you and
forward the applications in a bunch to TO/T&Med/Maligaon
on 28.2.95 positively. No application received after
28.2.95 will be entertained.

The selection will be conducted by HQrs.

Sd/-
for GENERAL MANAGER (P)/MLG.

Copy forwarded to the GS/NFREU & NERMU/PNO for
information.

Sd/-

For GENERAL MANAGER (P)/MLG.

R. Khan

NORTHEAST FRONTIER RAILWAY

Office of the
General Manager (P)

No. E/227/122/7 (Med) Pt.I Maligaon, dated 23.3.95.

To
MD/EG/Maligaon.
SSO/CON/Silchar
AEN/PMG
CMS/LMG.

Sub : Selection for filling up of 4 posts of H & MI/Gr.IV
in scale Rs.1200- 2040/- against 25% Rankers quota.

Ref : This office letter No. E/227/122/7 (Med) Pt.I
dated 7.2.95.

In order to fill up 4 (four) vacancies of H & MI Gr.IV
in scale Rs.1200- 2040/-, it has been decided to hold a
selection in the form of written followed by viva-voce
test shortly.

As such the following staff working under you are
hereby advised to keep themselves in readiness to appear
in the above selection with a short notice and also they
may be advised to bring the original certificates to
produce to the Selection Committee.

If any candidate is on leave he should be informed
in his leave address. If any candidate is unwilling to
appear in the above selection his written declaration
should be obtained and forwarded to the undersigned.

CR/Working report of the following candidates for
last 3 (three) years may be sent to CA to CMD/MLG
early.

1. Shri Gali Raja Rao, HA Under MD/CH/MLG
2. " Anup Kr. Paul, Cash Peon under SSO/A/C/CON/
Silchar
3. " Bapi Ch. Dey Gangman under AEN/LMG
4. " B. Kamaraju S/Cleaner under H & MI/LMG.

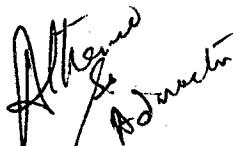
Sd/-

for GENERAL MANAGER (P).

Copy to CMD/MLG for information

Sd/-

for GENERAL MANAGER (P).



To
The General Manager (P),
N.F. Railway,
Maligaon.

(Through proper channel)

Sub : Appointment of H & MI/Gr.IV

Respected sir,

With reference to your letter No.E/227/122/7(Med) Pt. I Maligaon, dated 23.3.95, I most respectfully beg to state the following few lines for your kind consideration and immediate action.

That Sir, I was initially appointed as Maligaon Mate under Medical Department of Silchar construction & worked from 3.9.86 to 7.1.93.

That sir, since my appointment from 3.9.86 to 7.1.93 I was discharging the duty of Health Inspector in absence of regular HI (the Health Inspector/Const./SCL). A certificate by DMO, Silchar is enclosed herewith for your kind reference.

That sir, due to shrinkage of the establishment I was redeployed and redesignated as cash peon, under SSO/A/C/Const/SCL and posted at Silchar.

That sir, in response to your circular No.E/227/122/7(Med) Pt.I Maligaon, dated 23.3.95, I would have been called to appear in the Selection for the post of H/MI in scale Rs. 1200-2040/-.

That sir, as per your letter cited above, I am one among the four candidates who have fulfilled the criteria selection as, I possess a diploma in Sanitary Inspectors (certificate enclosed).

That sir, from reliable sources, I came to know that my candidature has been cancelled on the plea that at present I am not working directly under CMS/MS. But sir, that is not my fault as unfortunately with a technical diploma I have had to work in unskilled category and subsequently my fate was destined in the Accounts as Cash Peon.

That sir, I believe you will look into the matter personally with a sympathetic view that I can come into the zone of consideration as I have already served Rly in the Medical department for last about 7 yrs. with my devoted service.

Contd....

Alleged / Annexure

I would also request you that your consideration and application will determine the career of a young man groping in the dark.

An early action from your honour is earnestly expected.

With regards,

Yours faithfully,

Silchar
Dated 7.7.95.

Sd/-
(Anup Kumar Paul)
Cash Peon/SSO/ACS/SCL.

Copy to :

- (1) The General Manager/N. Rly., Maligaon for his kind information please.
- (2) The General Manager/Const/N.F. Rly, Maligaon for his kind information please.
- (3) The Dy. CPO/IR/N.F. Rly., Maligaon for his kind information and necessary action please.

(Anup Kumar Paul)

...

Anup Kumar Paul

N.F. RAILWAY

No. H/268/LM/Pt.IX

Dt. 30.8.95.

To

Shri B. Kamraju
S/Cleamer under H & MI/LMG
Through H & MI/I/LMG.

Sub : Selection of H & MI Gr.IV in scale
Rs. 1200 - 2040/-.

GM(P)/MLG under his XXR No.E/227/122/7(MED) dt.
25.8.95 has intimated that the written examination for
the above is fixed to be held on 12.9.95 at 10.00 hrs. in
CMD's office/Maligaon.

You are spared on the afternoon of 10.9.95 and
directed to appear in the selection on scheduled date,
time and place.

Sd/-

(Dr. S.C. Das) 30.8.95
MS/IC/LMG.

Copy to GM(P)/MLG for information in reference to his
above XXR messages.

Copy to DRM(P)/Med/LMG for information.

Copy to H & MI/I/LMG for information. He will please
issue necessary duty pass in favour of the
above named employee.

(Dr. S.C. Das)
MS/IC/LMG.

*Altam
B. Kamraju*

GM(P)/MLG's No.E/301/33/67(U) Dated 23.3.1993.

To - DRMs/KIR, APDJ, LMG & TSK and others.

Sub ; Minutes of 68th qrlly.PNM meeting held between N.F. Railway Employee's Union and N.F. Rly. Administration at Hqrs. level/MLG on 1.3.93 and 2.3.93.

An extract of Minutes - S/No.43 Item No. 68/4.

SN ITEM No.

4 68/4 Filling-up of the post of Health and Malaria Inspector in Grade Rs. 1200-2040/- against rankers quota.

As per para 163(i) of IREM, posts of H & MI/IV in scale Rs.1200-2040/- are to be filled up :

- i) 75% by direct recruitment through RRB.
- ii) 25% by promotion by selecting serving Rly employee possession qualifications prescribed for direct recruitment i.e. Matriculation or its equivalent with sanitary Inspector certificate or Diploma issued by recognised Institute.

Accordingly, all the divisions have been instructed vide letter No.E/227/122/7(Med) Pt. I dated 11.2.92 to keep a side the 25% of vacant post of quota of 25%. As the provision of promotion quota i.e. 25% is already provided for in the IREM the above instructions by this office are considered sufficient.

The union wanted that the necessary correction may be issued to the AVC of H & MI which has been reflected in the AVC booklet printed in 1991. This was agreed to after showing the new AVC to other Union also.

(Finalised)

*Afterwards
for union*

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22 MAY 1996
✓
Guwahati Bench Assam Legislative Assembly

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Fees by
Bikasharma
Standing Counsel
P/Ts 22.5.96

22.5.96
Bikasharma
Dy. Chief Personnel Officer (IR)
P.O. Chirang, Guwahati, Assam 781011

IN THE MATTER OF :-

O.A. NO. 244 of 1995.

Anup Kr. Paul ... Applicant.

Vs.

Union of India & Ors. ... Respondents.

AND

IN THE MATTER OF :-

Written statement on behalf of
the respondents.

The answering respondents beg to state as follows :-

1. That the answering respondents have gone through a copy of the written application filed by the applicant in the above-noted case and have understood the contents thereof.
2. That save and except the statements admitted here-in-below, other statements made by the applicant are categorically denied. Further, the statements which are not borne on records are also denied, and the applicant is put to the strictest proof thereof.

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कार्मिक अधिकारी (राज.)
Chief Personnel Officer
सौ. रमेश राज
N. F. Ry., Guwahati-781011

3. That with regard to the statements made in paragraphs 4.1 and 4.2 of the application, it is stated that the applicant was not called to appear in the selection for promotion to the post of H & MI Gr.IV in scale Rs.1200-2040/-, as he was not eligible to be called for. In the letter No. SCL/CON/A/CL/4-Estt/Pt.VII/515 dt 24.2.95 issued by Sr. Accounts Officer, Con., N.F. Railway, it has been clearly mentioned that the applicant is working as CL/CPC Cash Peon under SAO/CON/Silchar. In terms of Railway Board's letter No. E(NG)I/91/PN 10/5 dtd 19.11.92, on the subject filling up of the post of H & MI in scale Rs. 1200-2040/- from rankers, the Board have explicitly mentioned that 25% of the post of H&MI in scale Rs.1200-2040/- are to be filled by promotion of serving employees of Medical Department only. In the instant case of the applicant it is seen from the letter of SAO/Con/Silchar as well as the application submitted by the applicant that he is not working in the Medical Deptt. Therefore, the applicant does not come in the field of eligibility for promotion to the post of H&MI against departmental promotional quota.

It is also pertinent to mention here that the applicant is only a CL/CPC holder and he is not a regular employee. In accordance with the extant rules CL/CPC holders are not eligible to appear in any selection or posting against regular vacancies in the open line. The applicant is working in work-charged establishment, i.e. Construction Organisation which is entirely a separate organisation. The selection to 25% promotional quota is confined to the departmental candidates only. Moreover, the applicant is yet to be regularised after screening.

Copies of the letters dtd 24.2.95 and 19.11.92
are annexed as ANNEXURES R/1 and R/II respectively

कार्यकारी अधिकारी (राजा)
Dy: Chief Personnel Officer (P.P.)
पू. सी. रोड, गुवाहाटी-781011
N. F. Rly., Guwahati-781011

4. That with regard to the statements made in paragraphs 4.3 of the application, it is stated that GM(P)/Maligaon vide his letter No. E/227/122/7(Med) Pt.I dt 7.2.95 floated a notice inviting options from the service employees of Medical Deptt. indicating therein that 4 posts of H&MI Gr.IV (Rs.1200-2040/-) will be filled. This letter was addressed to the Medical and other Officer concerned to Medical Deptt. of Open line only and not to any Officers of Construction Organisation. The staff working in the Medical Department of Open Line are to apply only for this post.

5. That with regard to the statements made in paragraph 4.4 of the application, it is stated that since the letter dt 7.2.95 was not addressed to any of the Medical or other Officers of the Construction Organisation, the applicant had no reason to apply against this notification, that too, he being only a CL/CPC holder. It is stated that GM(P)/Maligaon issued letter No. E/227/1222/7/Med/Pt.I dt 25.3.95 addressed to SMO/Con/Silchar and other directing to advise the applicant along with other to keep themselves in readiness to appear in the selection within a short notice. It is mentioned here that the issuance of this letter was an unintentional mistake. Subsequently when this mistake was detected, the papers were accordingly put up and brought to the notice of the competent authority suggesting to delete the name of the applicant along with another similar candidate.

5. That with regard to the statements made in paragraphs 4.5 and 4.6 of the application, it is stated that as already pointed out above, letter No. E/227/122/7/Med/Pt.I dt 23.3.95 was mistakenly issued and no sooner it was detected that the applicant does not belong to the Medical Branch of Open Line and he is only a CL/CPC holder working in the Construction organisation and also Railway Board in their letter No. E(NG)I/91/PM 10/5 dt 19.11.92 very specifically stipulates that 25% posts of H&MI Gr.IV (Rs.1200-2040/-) is to be filled by departmental serving employees, the case of the applicant along with other non-medical departmental candidates were deleted from the list of eligible candidates to be called to appear in the selection. Therefore, it is very clear that not only the applicant but also other candidates of Engineering Deptt. was also not called to appear in the selection. Further, the applicant has stated that he made a representation dt 7.7.95 to the General Manager. The records were thoroughly checked. However, no such application has been received in this office. The cancellation/deletion of the applicant from the selection of H&MI Gr.IV has been done in accordance with the provision of Railway Board's instruction and provision of I.R.E.M.

6. That with regard to the statements made in paragraph 4.7 of the application, while reiterating and reaffirming the statements made above, the answering respondents do not admit anything contrary to relevant records of the case.

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Subrahmanyam

7. That with regard to the statements made in paragraph 4.8 of the application, it is stated that 25% provision made in para 163(1) of IREM is meant for serving Rly. employees of the Medical Deptt. of Open Line only. This cannot be quoted as a right by employees of other than Medical Deptt. for promotion against departmental quota. Therefore, the claim of the applicant cannot be entertained and is not in accordance with the rules. This 25% promotional quota is meant for departmental candidate only and it is not an Open competitive examination.

8. That with regard to the statements made in paragraph 4.9 of the application, the ARs beg to state that the applicant being only a CL/CPC and not screened for regular absorption and working as CL/CPC Cash Peon under SAO/CON/Silchar, he does not come in the field of eligibility for consideration, for departmental promotion in the Medical Deptt. of Open Line. He can only be considered once he is screened and found fit for regular absorption, that too in Medical Branch.

9. That the answering respondents deny the correctness of the statement made in paragraph 4.10 of the application. In this connection it is stated that the result of written examination has already been published on 13.11.95 and the viva-voce was held on 19.12.95. The result of the selection was published and the candidates qualified in the selection has also been posted under Office Order No. E/90/5/2(Med) Pt.II dt 24.1.96.

Copy of the order dt 13.11.95 declaring the result of the written test and Office Order dt 24.1.96 are annexed as ANNEXURE R/III and R/IV respectively.

10. That under the facts and circumstances stated here-in-above, the instant application is liable to be dismissed.

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A. K. Brahma
N. F. Rly., Guwahati-781011

दस्तावेज कार्मिक अधिकारी (राज०)
Dy. Chief Personnel Officer (R.O.)
N. F. Rly., Guwahati-781011

VERIFICATION.

I, Shri A. K. Brahma, aged about 35 years, by occupation Railway Service, working as Deputy Chief Personnel Officer of the N.F. Railway administration, do hereby solemnly affirm and state that the statements made in paragraphs 1 and 2 are true to my knowledge, those made in paragraphs 3 to 9 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.

✓ *A. K. Brahma*
DEPUTY CHIEF PERSONNEL OFFICER
NORTHEAST FRONTIER RAILWAY
MALIGAON :: GUWAHATI
FOR & ON BEHALF OF
UNION OF INDIA .

दस्तावेज कार्मिक अधिकारी (राज०)
Dy. Chief Personnel Officer (R.O.)
पू० सी० रेलवे, गुवाहाटी-781011.
N. F. Rly., Guwahati-781011.

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ANNEXURE - R-III

Northeast Frontier Railway.

M E M O R A N D U M.

As a result of the written test held on 12.9.95 for promotion to the post of H&MI Gr.IV in scale Rs. 1200-2040/- of Medical deptt. against 25% Ranker quota, the following candidates have qualified in the written test.

1. Shri K. B. Adhikari, FW(M)/KIR.
2. Shri Gali Raja Rao, HA under MD/CH/MLG.
3. Shri B. Kan Raj, SC under CMS/LMG.

The candidates may be asked to keep themselves in readiness to appear in the viva-voce test within a short notice.

Sd/-
for General Manager(P)/MLG.

NO. E/90/5/2(Med)Pt.II Maligaon, dated 13.10.95.

Copy to:- 1. CMD/MLG.
 2. MD/CH/MLG.
 3. DRM(P)s/LMG/KIR.
 4. CMS/KIR/LMG.

for General Manager(P)/MLG.

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N.F. RAILWAY.

ANNEXURE R-IV.

OFFICE ORDER.

The following transfer and promotion are ordered to take with immediate effect :-

1. On being declared selected for promotion to the post of H&MI, Gr.IV in scale Rs. 1200-2040/-, Sh. B Ram Raj, S/C is scale Rs. 750/- 940/- under MS/Ic/LMG, is hereby temporarily promoted to officiate as H&MI/Gr.IV in scale Rs.1200-2040/- and posted under MS/MXN vice Sh. Phatic Ch. Bhrali, H&MI/Gr.III, transferred on own request and posted under MD/CH/MLG.
2. On being declared selected for promotion to the post of H&MI/Gr.IV in scale Rs. 1200-2040/-, Sh. Gali Raja Rao, H/A in scale Rs. 750-940/- working under MD/CH/MLG, is hereby promoted to officiate as H&MI/Gr.IV in scale Rs.1200-2040/- and posted at JID under MS/Ic/LMG vice Sh. Surabi Choudhury, H&MI/Gr.IV transferred on his own request and posted at HGC under MD/CH/MLG.
3. On being declared selected for promotion to the post of H&MI/Gr.IV in scale Rs.1200-2040/-, Sh. KB Adhikari, FW/KIR in scale Rs.950-1400/- working under CMS/KIR is hereby promoted to officiate as H&MI/Gr.IV in scale Rs.1200-2040/- and posted at KGN under CMS/NJP vide Sh. D. Sarkar, H&MI/Gr.IV transferred and posted at NJP under CMS/NJP.

All the above promotion are ordered/issued subject to further verification of the certificates etc. submitted by the above staff, in case any candidate is found ineligible subsequently he is liable to be reverted to his former post.

This issues with the approval of competent authority.

Sd/-
for GENERAL MANAGER(P)

No. E/90/5/2(Med) Pt.

Maligaon, dt 24.1.96.

Copy to:-

1. QMD/MLG.
2. MD/CH/MLG.
3. DRM(P)/KIR APDJ LMG & TSK.
4. CMS/KIR NJP AND APDJ.
5. MS/IMG & DBRT.
6. MS/MXN & JPD.
7. Staff concerned.

Sd/-
for GENERAL MANAGER(P).