

X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

NP-11/97 ordersheet pg-1

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Disposed Date-28/01/97

O.A./T.A No. 270/95

R.A./C.P No.

E.P./M.A No. 11/97

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 270 OF 1995
 TRANSFER APPLN.NO. OF 1995
 CONTEMPT APPLN.NO. OF 1995 (IN NO. \)
 REVIEW APPLN.NO. OF 1995 (IN NO.)
 MISC.PETITION NO. OF 1995 (IN NO.)

S.S. Chakrabarty. APPLICANT(S)

-VS-

K. C. I. Tem. RESPONDENT(S)

For the Applicant(s)

Mr. P.K. Tiwari

Mr.

Mr.

Mr.

For the Respondent(s)

Mr. B. K. Sharma, Rly. advocate

ICE NOTE

DATE

ORDER

13-12-95

Question of alteration of settled seniority position is involved. Prima facie case for consideration disclosed. Application is admitted. Issue notice to the respondents. Written statement in 8 weeks. No interim relief at this stage. Liberty to apply with notice to the respondents. O.A. is adjourned for orders to 19-2-96.

Member

Vice-Chairman

lm

19-2-96

Adjourned to 2-4-96 for counter.

Member

Vice-Chairman

lm

2.4.96

As requested by Mr P.K.Tiwari for the applicant adjourned to 22.4.96 for orders.

Member

QA/TA/CP/RA/MP No. 27 of 1998

OFFICE NOTE

DATE

ORDER

Requisite are submitted
on 16.1.96 & closed
v. no. 175-181 & 181.96

22.4.96

Written statement has not been submitted.
As requested by Mr S.Sarma for the respondents
list on 27.5.96 for written statement and
further orders.

ba
Member

Notice send on R. no. 4
Notice send basis
from R. no. 7

pg

27.5.96

Written statement has not been
submitted.

List on 15.7.96 for written statement
and further orders.

ba
Member

W/statement has not
been submitted

pg

15-7-96

Learned counsel Mr. B.K. Sharma for the
applicant respondents is present. Written
statement has not been submitted.

List for written statement and further
order on 7-8-96.

ba
Member

W/statement has not
been submitted

lm

7.8.96

Mr S.Sarma for the applicant. None
for the respondents.

Written statement has not been sub-
mitted.

List for written statement and further
orders on 3.9.96.

ba
Member

W/statement has not
been submitted

pg

3.9.96

None present. No written statement has been submitted.

List for written statement and further orders on 30.9.96.

Member

pg

M
3/9

30-9-96

Mr. S. Sarma counsel for the applicant. Written statement has not been submitted.

List for written statement and further order on 14-11-96.

Member

lm

M
30/9

14-11-96

None is present. Written statement has not been submitted. List for written statement and further order on 5-12-96.

Member

lm

M
1/11

5.12.96

Mr. S. Sarma for the applicant.

Written statement has not been submitted.

List for written statement and further orders on 3.1.1997.

Member

trd

M
6/12

W/ statement - has not been

2/9

W/ statement - has not been

13/11

1) Notice duly served on Respondt no. 4.

2) W/ statement - has not been

W/ statement - has not been

4/12

Written statement has been filed on behalf of respondent by Mr. B. K. Sarma at page 33 to 43. 11.12.96.

W/ statement - has not been

2/97

(A)

36/012

A. 270/95

22-1-97

3.1.97

- 1) Notice duly served on Respondant No-4
- 2) Notices on Respondant No-7 returned unserved.
- 3) Written statement has been filed by The Respondant at page-33 to 43

Mr S.Sarma for the applicant.
Mr B.K.Sharma for the respondents.

Written statement has not been submitted. This is a case of 1995, which requires early disposal.

List for hearing on 27.1.97. In the meantime respondents may submit written statement.

be
Member

pg
m
e/i

27.1.97

19-2-97

Copy of the amendment application and order dt- 28-1-97. Issued to The Respondant No-1 to 7 vide - D.No- 548. Dt - 20.2.97.

pg
m
27/1

28.1.97

is
Mr S.Sarma for the applicant
List for hearing on 28.1.97.

J. B. ...
Vice-Chairman
be
Member

In view of the order passed in the Misc. Petition No.11/97 case be listed for hearing on 17.2.

be
Member

J. B. ...
Vice-Chairman

11-2-97

nk m

For terms of order dt. 28.1.97 passed in MP 81/97, Amendment/Consolidation petition filed & tagged.

17.2.97

Let this case be listed for hearing on 17.3.97.

be
Member

J. B. ...
Vice-Chairman

14-2-97

nk m

- 1) W/S has been filed in respondents at 33 to 43.
 - 2) NO appearance filed.
- M/A/2

m
20/2

17-3-95

One week time is granted as Mr.B.K. Sharma who was executing the case on behalf of the respondents has some difficulty to take up the matter for some reasons. Accordingly, Mr.S.Sarma prays for time to make an alternative arrangement.

27-3-97

1/ Notice duly served on Respondant No-3,4,26,
2/ w/s filed by The Respondent at page-33 to 43.

List for hearing on 31-3-97.

be
Member

J.Sarma
Vice-Chairman

273

lm
20/3

31.3.97

Let the case be listed for hearing on 2.4.1997.

be
Member

J.B
Vice-Chairman

2.4.97

On the request of Mr. J.L. Sarkar, learned Railway counsel for the respondents is present.

2.4.97

Mr. J.L. Sarkar, learned Railway counsel for the respondents is present.

2.4.97

Mr. J.L. Sarkar, learned Railway counsel for the respondents is present.

List on 9.5.1997 for hearing.

be
Member

J.B
Vice-Chairman

pg
2/4

9.5.97

Heard Mr. S. Sarma, learned counsel for the applicant and Mr J.L. Sarkar, learned Railway counsel for the respondents. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. Application is disposed of in terms of the order. No order as to costs.



Member


Vice-Chairman

pg

10.6.97

Copy of the Judgment has been sent to the D/sec. for issuing the same to the parties through Regd. mail A.D.


10/6

Issued vide J. No. 2122 to 2129 of 16.6.97



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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 270 of 1995.

Date of Order : This the 9th Day of May, 1997.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Shri Shyam Sundar Chakraborty,
son of late Nani Gopal Chakraborty,
Assistant Mechanical Engineer (Diesel),
Diesel Shade, New Guwahati,
Guwahati-21

. . . Applicant

By Advocate Shri S.Sarma.

- Versus -

1. Union of India
represented by the Secretary,
Ministry of Railways,
New Delhi-1.
2. The Railway Board,
represented by its Chairman,
Railway Board,
New Delhi-1.
3. The General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
4. The General Manager(P)
N.F.Railway, Maligaon
Guwahati-11.
5. The Chief Mechanical Engineer,
N.F.Railway, Maligaon,
Guwahati-11.
6. The Deputy Chief Personnel Officer(G)
N.F.Railway, Maligaon,
Guwahati-11.
7. Shri R.L.Das,
Asstt.Mechanical Engineer,
Carriage and Wagon,
C/O Chief Mechanical Engineer,
N.F.Railway,
Maligaon, Guwahati-11.

. . . . Respondents.

By Shri J.L.Sarkar, Railway counsel.

O R D E R

BARUAH J.(V.C)

In this application the applicant has challenged
Annexure-4 letter dated 19.1.95 issued on behalf of General
Manager(P) and also Annexure-7 letter dated 20.9.95. The

contd..2

facts for the purpose of disposal of the application are :

In August 1967 the applicant was appointed Trainee Chargeman (Electrician). In the next year on 24.8.68 on completion of one year, his services had been regularised. In June 1989 a seniority list was prepared. In the said list applicant's position was shown in sl.No.29 with a pay scale of Rs.2000-3200/- and the position of the respondent No.7 was shown in sl.No.46 in the same pay scale. The date of promotion of the applicant was shown as 5.3.82 whereas 7th respondent as 1.1.84. In October 1989 a panel for promotion was prepared for promotion of the employees to Group B services (Mechanical) and as per the panel the applicant was senior to 7th respondent. He was promoted with effect from 30.10.89 and 7th respondent was promoted with effect from 29.11.89.

2. In April, 1993 a seniority list prepared by the authority showing the position of the applicant at sl.No.17 and the 7th respondent at sl.No.18 as per Annexure-3. Later on in January 1995 it was revised by showing the date of promotion of the 7th respondent with effect from 27.2.82 instead of 1.1.82. The applicant was accordingly asked to make representation. The applicant submitted several representations. By Annexure-7 letter dated 20.9.95, the representation was disposed of stating that 7th respondent was senior to the applicant. The applicant, thereafter, by Annexure-8 letter dated 11.1.96 requested the respondents to supply certain documents to enable him to show that the decision was not correct. However, these documents were never supplied. Hence the present application.


3. We have heard Mr S.Sarma, learned counsel appearing on behalf of the applicant and Mr J.L.Sarkar, learned counsel appearing on behalf of the respondents (Railway administration). The contention of Mr Sarma is that in the

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earlier seniority list the applicant was shown senior to 7th respondent however, without giving any opportunity of hearing, this was altered putting 7th respondent above the applicant. This was done behind the back of the applicant, without affording any opportunity of hearing. Mr J.L.Sarkar very fairly conceded that the opportunity of hearing was not given. In view of the above, we are of opinion that applicant should have been given an opportunity of hearing before correction of the seniority list. As this was not done we are of opinion that the matter should be decided by the respondents after giving an opportunity of hearing to the applicant. In view of the above, we dispose of the application with a direction to the respondents to decide the matter of seniority after giving an opportunity of hearing to the applicant as well as 7th respondent. This must be done as early as possible, at any rate within a period of 2 months from the date of receipt copy of this order.

Considering the entire facts and circumstances of the case we however, make no order as to costs.


(G.L. SANGLIANE)
ADMINISTRATIVE MEMBER


(D.N. BARUAH)
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GAUHATI BENCH

O.A. No. 270 of 1995

Sri S.S. Chakraborty

...Applicant.

-Vs-

Union of India & Ors.

...Respondents.

L I S T O F D A T E S

24-8-67 :- The applicant was appointed as Trainee Chargeman (Electrician).

24-8-68 :- After completing one year service, he has been promoted to Regular Chargeman.

19-6-89 :- Respondent No.1 released an Integrated Seniority Annexure-1 Page-22. list in respect of staff promoted on or before 1.1.86, making it clear that each individual is to examine the position and satisfy and any objection to that effect should be submitted within 7 days of receipt of the same. In the said list applicant's position is at sl. No.29; pay scale to 3200/- 2000/- and date of promotion as on 5.3.82. Whereas Respondent No.7's Sl. No. at 46 ; pay scale 2000/- to 3200/- and date of promotion as on 1.1.84.

30-10-89 :- A panel for promotion was prepared for promotion to Gr. B services(Mechanical), and the applicant was shown senior to Respondent No.7. and the applicant was promoted w.e.f. 30.10.89. While respondent No.7 got promotion w.e.f. 29.11.89.

1-4-93 :- Seniority list was issued in respect of Gr. B

contd.p/2

officers where the position of the applicant is at Sl. No.17 whereas the position of the respondent No.7 was at Sl.No. 18 (Annexure-3) page-27.

19.1.95 :- The respondents issued a letter to the applicant
Annexure-4
Page-29. that they have decided to antedate the promotion of respondent No.7 w.e.f. 27.2.82 instead of 1.1.82. and the applicant was asked to make representation if any.

6.2.95 :- The applicant submitted a representation.
Annexure-5
Page-30.

7-9-95 :- The applicant filed yet another representation.
Annexure-6
Page-32.

20-9-95 :- Reply to the above representations of the appli-
Annexure-7.
Page-33. cant by the respondents.

11-1-96 :- The applicant wrote a letter to the respondents
Annexure-8.
Page-35. to provide certain documents.

CASE LAWS RELIED UPON :

1. 1991 (2) SLJ SC 14.
2. 1991 (2) SLJ SC 125.
3. 1991 (2) SLJ CAT Ah. 73.
4. AIR 1974 SC 2271.

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Filed my per
order
7-1-92

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL::GAUHATI BENCH.

O.A.No 270 of 1995.

Sri S.S.Charaborty
..Applicant.

-vs-

Union of India & ors.
..Respondents.

L I S T O F D A T E S.

24-8-67 :- The applicant was appointed as Trainee
~~xxxxxx~~
Chargeman (Electrician).

24-8-68 :- After completing one year service, he has been
Promoted to Regular Chargeman.

19-6-89 :- Respondent No.1 released an Integrated Seniority
Annexure-1.
Page-22. list in respect of staff promoted on or before
1-1-86, making it clear that each individual
is to examine the position and satisfy and
any objection to that effect should be sub-
-mitted within 7 days of receipt of the same.
In the said list applicant's position is at
sl No 29 ; pay scale 2000/ to 3200/ and date
of promotion as on 5-3-82. Whereas Respondent
No 7's sl No at 46 ; pay scale 2000/ to 32000
and date of promotion as on 1-1-84.

30-10-89 :- A panel for promotion was prepared for promo-
Annexure-2.
page-26. tion to Gr. B service (Mechanical), and the
applicant was shown senior to Respondent No 7.
and the applicant was promoted.w.e.f.30.10.89.
while respondent No 7. got promotion w.e.f.
29-11-89.

1-4-93 :- Seniority list was issued in respect of Gr. B

Officers where the position of the applicant is at
xsl No 17 whereas the position of the respondent
No 7 was at Sl No 18. (Annexure -3) page-27.

19-1-95 :- The respondents issued a letter to the applicant
Annexure-4.
page-29. that they have decided to antidate the promotion
of respondent No 7 w.e.f. 27-2-82 instead of 1.1.88.

6-2-95 :- The applicant submitted a representation.
Annexure-5.
page-30.

7-9-95 :- The applicant filed yet another representation.
Annexure-6.
page-32

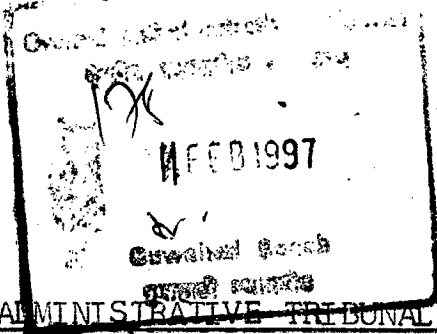
20-9-95 :- Relpy to the above representations of the applicant
Annexure-7.
page-33. by the respondents.

11-1-96 :- The applicant wrote a letter to the respondents
Annexure-8.
page-35. to provide certain documents.

CASE LAWS RELIED UPON :-

1. 1991 (2) SLJ SC 14.
2. 1991 (2) SLJ SC 125.
3. 1991 (2) SLJ CAT Ah. 73.
4. AIR 1974 SC 2271 .

* * * * *



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :

Title of the Case. O.A. No. 270..... of 1995

Mr. S.S. Chakraborty. Applicant

- Versus -

Union of India & Ors Respondents.

CONSOLIDATED APPLICATION

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6.	Annexure- 4	27
7.	Annexure- 5	28 + 29
8.	Annexure- 6	30
9.	Annexure- 7	31 + 32
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For use for Tribunal's Office

Date of filing
Registration No. <u>270</u> of 1995
Registration by Regd.

Handwritten signature and date:
28/1/97

5
Filed by
Disputed same
an
31/1/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A. No. 272 of 1995

BETWEEN

Mr. Shyam Sundar Chakraborty,
Son of Late Nani Gopal Chakraborty,
Assistant Mechanical Engineer (Diesel),
Diesel Shade, New Guwahati,
Guwahati-21.

..... Applicant

AND

1. The Union of India,
represented by the Secretary,
Ministry of Railways,
New Delhi-110 001.
2. The Railway Board,
represented by its Chairman,
Railway Board,
New Delhi-110 001.
3. The General Manager,
N.F. Railway, Maligaon,
Guwahati-781001.
4. The General Manager (P),
N.F. Railway, Maligaon,
Guwahati- 781011
5. The Chief Mechanical Engineer,
N.F. Railway, Maligaon,
Guwahati- 781011.
6. The Deputy Chief Personnel Officer (G)
N.F. Railway, Maligaon,
Guwahati-781011.
7. Shri R.L. Das,
Assistant Mechanical Engineer,
Carriage and Wagon,
C/O Chief Mechanical Engineer,
N.F. Railway,
Maligaon, Guwahati-781011.

..... Respondents

Contd....P/2

DETAILS OF APPLICATION

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

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

- (i) Letter No. 340 E/1/326(O) dated 19.1.95 issued on behalf of General Manager (P), intimating the applicant the decision of Competent authority to antedate the promotion of respondent No.7 with effect from 27.2.82 instead of 1.1.84 to the post of Loco Inspector (Mechanical) and consequently revision of seniority position in the integrated seniority list of supervisory staff of Mechanical Department published by CME(P)/MLG's No.E/254/III/91 Pt. VI(O) dated 11.7.89 and as a result making respondent No. 7 senior to this applicant in the integrated seniority list of Loco Supervisory Staff.
- (ii) Order No. 340 E/1/326(O) dated 20th September 1995 passed by Dy. CPO(G) for General Manager (P) rejecting the applicant's representations dated 6.2.95 and 7.9.95.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

Since in the case a final order within the meaning clause (1) of sub-section (2) of Section 20 has been made vide order No. 340 E/1/326(O) dated 20th

September 1995 and the instant application is being filed within one year from the date on which the aforesaid final order was passed therefore, it is stated that the instant application fulfils the legal requirement of limitation as laid down under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 The crux of the grievance of the applicant for the redressal of which he has come before this Hon'ble Tribunal is as follows :

There is an integrated seniority list of supervisory staff of Mechanical Department dated 19.6.89. In the said list, the name of applicant was shown at Sl. No.29 with his date of promotion to the scale of Rs. 2000-3200/- being 5.3.82. While in the case of respondent No.7, in the aforesaid list, his name was shown at Sl.No.46 with his date of promotion to the scale of Rs. 2000-3200/- being 1.1.84. Subsequently, on 29.5.93 the seniority list of Group 'B' officers as on 1.4.93 was also published and in this seniority list the name of the applicant was shown at Sl.No.17 with his date of promotion to Group 'B' being 30.10.89 while in the case of respondent No.7, his name in the seniority list of Group 'B' officer was shown at Sl.No.18 with his date of promotion to Group 'B' being 29.11.89.

It was during November/December 1994 that the respondent No.7 chose to discover that his position in the integrated seniority list of 1989 and the

Seniority list of 1993 has not been shown correctly and that he was entitled to promotion to the post of Loco Inspector (Mech.) with effect from 27.2.82 instead of 1.1.84. Accordingly, respondent No.7 filed an appeal before the competent authority and requested to antedate his promotion to the post of Loco Inspector (Mech.) with effect from 27.2.82 instead of 1.1.84 and prayed for consequent changes in the seniority list of 1989 and 1993.

It is pertinent to mention that this realisation of being wronged was dawned upon respondent No.7 at a time when the officials upto the Sl.No.16 in the seniority list of 'Group 'B' officers were promoted to the rank of Divisional Mechanical Engineer and this applicant being at the Sl.No.17 was expecting his promotion to the rank of Divisional Mechanical Engineer.

This supposed injustice meted out to respondent No.7, filled the respondent No.4 with grief and remorse and accordingly, after the lapse of 13 years it was decided to antedate the promotion of respondent No.7 to the post of Loco Inspector (Mech.) with effect from 27.2.82 instead of 1.1.84 and consequently it was also decided to revise the seniority position in the integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' officers dated 29.5.93. The aforesaid decision was intimated to this applicant vide letter dated 19.1.95 against which applicant submitted representations dated 6.2.95 and 7.9.95. The respondent No.4 rejected both the representations vide order dated 20.9.95. Being thus aggrieved, the

applicant has come before this Hon'ble Tribunal through this original application.

The aforesaid is the crux of the subject matter of the instant case, the applicant now places the facts of the case in seriatim.

4.2 That the applicant holds a diploma in Electrical Engineering. He was initially appointed in the Railways as Trainee Chargeman (Electrical) on 24.8.67 and on completion of 1 year of training and on his clearing the prescribed examination, he was appointed as Regular Chargeman with effect from 24.8.68.

4.3 That in subsequent years this applicant climbed successive ladder of promotion. It was when this applicant was part of Loco and Diesel Supervisory Staff, that on 19.6.89 vide No.E/25A/III/91 Pt. VI(O), the respondent No.1 released the integrated seniority list of supervisory staff of Mechanical Department in respect of the staff promoted on or before 1.1.84. In the notice circulating the aforesaid seniority list, it was made clear that each individual is to examine the position assigned in the list and satisfy himself and any objection to the position in the list should be submitted through respective DMEs to APO(M) within 7 days of the receipt of the notice.

Copy of the Integrated seniority list of supervisory staff of Mechanical Department is annexed hereto and marked as ANNEXURE-1.

4.4. It is pertinent to mention that in Annexure-1 integrated seniority list the name of applicant was shown at Sl.No.29 with his date of promotion to the scale of Rs. 2000-3200/- being 5.3.82. While in the case of respondent No.7, in the aforesaid list his name was shown at Sl.No. 46 with his date of promotion to the scale of Rs. 2000-3200/- being 1.1.84.

It is stated that after circulation of the aforesaid list no objection was raised by respondent No.7 in regard to the position assigned to him in the said list therefore by necessary implication it followed that the position assigned to him in the integrated seniority list was acceptable to the respondent No.7 at that relevant point of time.

4.5 That on the basis of the Annexure-1 integrated seniority list, in the year 1989, itself a panel for promotion to Group 'B' service (Mechanical) was formed. The panel was formed vide office order No. 214/89 (MECH) dated 30.10.89 passed by the respondent No.4.

Copy of the office order dated 30.10.89 is annexed hereto and marked as Annexure-2.

4.6 That in the panel for promotion to Group 'B' service (Mechanical) which was formed pursuant to the Annexure-2 office order, the names of both this applicant as well as the respondent No.7 appeared. However, it is pertinent to mention that in the aforesaid office order,

Contd....P/7

the name of this applicant was shown ahead of respondent No.7. In the Annexure-1 integrated seniority list, this applicant was senior to the respondent No.7.

4.7 That on the basis of the panel formed vide Annexure-2 office order, this applicant was promoted to the post of Asstt. Mechanical Engineer (a group 'B' Post) with effect from 30.10.89 while in sharp contrast the respondent No.7 got his promotion to the post of Asstt. Mechanical Engineer on 29.11.89. Subsequently the seniority list of Group 'B' officers as on 1.4.93 was circulated vide order No.E/167/2/1(O) dated 29.5.93. While circulating the seniority list of Asstt. Mechanical Engineer as on 1.4.93, it was made clear that if any one is aggrieved by the position assigned to him, he can intimate the competent authority in regard to the same on or before 30.6.93. It is stated that in the aforesaid seniority list of Group 'B' officers, the name of this applicant was shown at Sl.No.17 while the name of the respondent No.7 was shown at Sl.No.18. On this occasion also, the respondent No.7 kept silence and did not make any objection. Hence it is stated that even this time, the position assigned to the respondent No.7 in the seniority list of Asstt. Mechanical Engineer was acceptable to him.

Copy of the seniority list of Group 'B' officer as on 1.4.93 is annexed hereto and marked as Annexure-3.

4.8 That on the basis of the seniority list of

Group 'B' officers, promotion to the post of Divisional Mechanical Engineer were made in regular intervals. It is stated that by now the officials upto Sl.No.16 in the seniority list of Group 'B' officers have been promoted to the post of Divisional Mechanical Engineer. It only when the promotion of this applicant to the post of Divisional Mechanical Engineer was round the corner that the respondent No.7 some time in November/December 1994 filed an appeal before the competent authority wherein he made a complainant that he was entitled to promotion to the post of Loco Inspector (Mechanical) with effect from 27.2.82 instead of 1.1.84. He thus requested the competent authority to antedate his promotion to the post of Loco Inspector (Mechanical) with effect from 27.2.82 instead of 1.1.84 and prayed for consequent changes in the integrated seniority list of 1989 and the seniority list of Group 'B' officers of 1993.

4.9 That the respondent No.4 on receipt of the appeal of the respondent No.7 discovered rather mysteriously that a great injustice has been meted out to the respondent No.7 in the matter of giving him promotion to the post of Loco Inspector (Mechanical). Therefore, the respondent No.4 vide letter No.34OE/1/326 dated 19.1.95 intimated the applicant that the competent authority has decided to antedate the promotion of the respondent No.7 to the post of Loco Inspector (Mechanical) with affect from 27.2.82 instead of

Contd....P/9

1.1.84. The applicant was also intimated that as a result of antedating the promotion of the respondent No.7 to the post of Loco Inspector (Mechanical) with effect from 27.2.82, the consequent revision of seniority position in integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 would be required showing respondent No.7 senior to the applicant. The applicant was further intimated that the seniority list of staff in scale Rs. 700-900/- and also in higher grade is required to be corrected assigning higher position to the respondent No.7 and thereafter published. The applicant is entitled to submit his representation in regard to the said matter.

A copy of the letter No.340E/1326(O) dated 19.1.95 is annexed hereto and marked as Annexure-4.

4.10 That being aggrieved by the Annexure-4 letter of respondent No.4, this applicant submitted representation dated 6.2.95. In his representation, the applicant described the reassigning of seniority position to the respondent No.7 as improper, unjustified and untenable on various grounds which were elaborately listed in the representation.

A copy of the representation dated 6.2.95 is annexed herewith and marked as Annexure-5.

4.11

That after filing of the Annexure-5 representation when for quite a long time, there was no response from the

from the respondents, the applicant filed yet another representation dated 7.9.95 wherein he sought clarification from the respondents and asked for expeditious disposal of his earlier representation.

Copy of the applicant's representation dated 7.9.95 is annexed hereto and marked as Annexure-6.

4.12 That the respondent No.4 vide letter No. 34E/1/326(O) dated 20.9.95 intimated the applicant that his representations have been examined at the appropriate level and the arguments advanced in his representations have not been found sufficiently cogent and sound so as to merit any change in the decision of the competent authority to antedate the seniority of the respondent No.7 to the post of Loco Inspector (Mechanical) with effect from 27.2.82. In the said letter, it was however conceded that the respondent No.7 did not submit any representation against the wrong placement of his seniority prior to his promotion to Group 'B' or even immediately after the publication of the said integrity seniority list circulated under GM(P)'s No.E 254/III/91/Pt.VI(O) dated 19.6.89. However while conceding this fact, a spacious plea was advanced that the respondent No.7 had been senior to this applicant as per his date of entry into the Railway service as well as the date of promotion to various comparable grades and that it was only in the case of promotion to Grade Rs. 700-900/- that the date of respondent No.7 was shown as 1.1.84, while this applicant was given the benefit with effect from

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from 5.3.82 resulting in the alleged wrong fixation of seniority of the respondent No.7 in the integrated seniority list of Mechanical Department and in the Gazetted Cadre of Asstt. Mechanical Engineer (AWM).

Copy of the letter dated 20.9.95 is annexed hereto and marked as Annexure-7.

4.12(a) That the Annexure-7 letter dated 20.9.95 referred to the Seniority List of LI(M)/FFO/MLF in the scale of Rs. 2000-3200/- published under GM(P)'s No.E/254/III/42(M) Pt.I dated 18.12.97 and No.GM(O)'s No.E/283/III/59(M), Pt.III dated 12/13.6.95. With the help of the aforesaid two documents it was stated by the respondent railway that the seniority position of the respondent No.7 as shown in the seniority list has already been published and corrected. Since the subject matter of the O.A. Primarily relates to the question of seniority between the applicant vis-a-vis, the respondent No.7, therefore, the copies of the aforesaid documents were necessary in order to challenge the legality of the aforesaid documents. However, despite the best efforts of the applicant, he was unable to procure the copies of the same. In this connection he wrote a letter dated 11.1.96 to the General Manager (P) Maligaon.

A copy of the letter dated 11.1.96 is annexed hereto as Annexure-8.

4.12(b) That despite the Annexure-8 letter of the applicant, the Railway Respondent has not responded. Though on quite few occasions, while assurance were given to the applicant

Contd....P/12

that the copies of the aforesaid documents would be made available to him, but till this very date, despite his best effort, he has failed to procure the copies of the same.

4.13 That in the instant case the respondent No.4 has acted arbitrarily in antedating the promotion of the respondent No.7 with effect from 27.2.82 inasmuch as the same resulted in unsettling the settled position which was continuing since last more than 13 years. The respondent No.7 during this long time got opportunities on different occasions to raise objection in regard to the fixation of his seniority but he kept silence on each occasion. It is pertinent to mention that when the integrated seniority list of supervisory staff (Mechanical) was circulated in 1989, the respondent No.7 did not make any objection in regard to the fixation of his seniority position therein. Moreover, in 1993 when the seniority list of Group 'B' officers was published, on that occasion too the respondent No.7 kept silence. It is, therefore, stated that after lapse of many years, it was not open for the respondent No.7 to question the settled matter and it was equally impermissible for the respondent No.4 to act on the appeal of the respondent No.7 and to unsettle the settled matter and to give the respondent No.4 the benefit of antedate promotion.

4.14 That after publication of the seniority list specific notice is given to the aggrieved officer to make

objection, if any, in regard to the fixation of his seniority position. For this purpose a specific time limit is prescribed within which the objection can be filed. If the concerned officer does not file any objection within the prescribed period by necessary implication it follows that the concerned officer does not have any grievance in regard to the fixation of his seniority position. In such cases, it is no longer open for such officer to make any grievance after the lapse of many years in regard to the fixation of his seniority when he could have filed objection in regard to the same within the prescribed limit. It is stated that if objections in regard to fixation of seniority are allowed after lapse of many years, chaos and confusion would prevail in the administration, unsettling the settled matter which is wholly impermissible.

4.15 That while rejecting the representations of the applicant, the respondent No.4 had advanced a specious plea that on 27.2.82, there was an existing vacancy in the post of Loco Inspector (Mechanical) and as the said post was a non-selection post, therefore, the promotion ought to have been given to the applicant on 27.2.82 itself. To support the aforesaid plea, the argument was also advanced that in case of this applicant also he was given promotion to the post of A.S.S. which is equivalent to Loco Inspector (Mechanical) with effect from 5.3.82 because on the said date, there was a clear vacancy of A.S.S which was a non-selection post. On the basis of the above, the argument was therefore advanced that the benefit which was extended

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to this applicant has also been extended to the respondent No.7 by antedating his promotion to the post of Loco Inspector (Mechanical) with effect from 27.2.82. It is submitted that the aforesaid argument is wholly unacceptable and unjust. It is not known whether the Railway administration carried out any exercise to find out whether on the date of 27.2.82 any vacancy really existed in the post of Local Inspector (Mechanical). In any case, after the lapse of many years, on a mere surmise and presumption, antedate promotion cannot be given and the benefit which was enjoyed by the applicant for so many years cannot be taken away in an arbitrary manner.

4.16 That one of the arguments advanced by the respondent No.4 while antedating the promotion of the respondent No.7 was that the respondent No.7 was appointed in the Railway service on 10.7.64 which is prior to the date on which this applicant was appointed. It is stated that the said argument is falacious inasmuch as the initial appointment of the respondent No.7 was as apprentice mechanic. The aforesaid appointment was for a temporary period of five years and on completion of the said period, his regularisation in the Railways was not guaranteed. Under the extant rules, the period of appointment as apprentice mechanic cannot be counted for the purpose of seniority. Be that as it may be in any event after the lapse of so many years, it is not open for the respondent No.4 to antedate the promotion of respondent No.7 on such a spacious ground and thus

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unsettle a settled matter.

4.16A That yet another argument advanced by the respondent No.47 while antedating the promotion of the respondent No.7 was that the respondent No.7 had been senior to the applicant in the matter of promotion to various comparable grades and that it is only in the case of promotion to grade 700-900 that his date of regularisation was treated as 1.1.84 while the applicant was given the benefit w.e.f. 5.3.82.

It is stated that the aforesaid reasoning of respondent No.4 is misconceived and not based on proper appreciation of facts. It is pertinent to mention that this applicant was appointed as regular chargeman after completion of training on 24.8.68 while the respondent No.7 was appointed as regular chargeman after completion of apprentice period of 5 years on 10.7.69. Moreover, the applicant's date of regularisation in the scale of Rs.700-900 is 5.3.82 while that of respondent No.7 is on 1.1.84. Further the applicant was promoted to Group 'B' service on 30.10.89 while the respondent No.7 got the promotion to Group 'B' service on 29.11.89, it was only in regard to promotion in the scale of Rs. 550-750/- that the respondent No.7 got the promotion to this applicant. This applicant got the promotion to the scale of Rs. 550-750 on 26.10.76 while the respondent No.7 got the said promotion on 12.6.76. Under what strange circumstances this happened except the Railway administration none can answer this.

Thus the bare perusal of promotions to comparable grades indicates that except on one occasion in all

other comparable grades this applicant got the promotion prior to the respondent No.7 and the statement to the contrary by the respondent No.4 is misconceived and not based on facts.

4.17 That para ~~204.4.10~~ 204.10 of the Indian Railway Establishment Manual, Vol. I provides that a panel approved by the General Manager cannot be amended or altered except without prior approval of the Railway Board. It is submitted that by antedating the promotion of respondent No.7, the respondent No.4 has done what he could not have done under the provisions of the Indian Railway Establishment Manual. It is submitted that as a result of antedating the promotion of the respondent No.7 by necessary implication change in the panel has taken place which is wholly impermissible under the extant rules.

4.18 That it is submitted that after the expiry of time limit prescribed, it is not permissible on the part of the Railway official to question the fixation of his seniority. In the instant case, the very fact of respondent No.7 filing his appeal questioning incorrect fixation of his seniority after lapse of 13 years is wholly unsustainable.

4.19 That within a short period, the Railway is going to publish the revised integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' officers dated 29.5.93 wherein the revised seniority position

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of the respondent No.7 would be shown. If such publication is allowed to be carried out, it would cause irreparable loss and injury to this applicant. Moreover, within a time now there is also likelihood of promotion being made to the post of Divisional Mechanical Engineer and since in the pre-revised seniority list of Group 'B' officers the name of the applicant appears at Sl.No. 17 it is now his chance to be promoted to the post of Divisional Mechanical Engineer. However as the seniority list of Group 'B' officers is allowed to be revised refixing the seniority position and thereby making the respondent No.7 senior to this applicant, this applicant would be deprived of the benefit which he was enjoying since last more than a decade. Hence the instant case is a fit case wherein t is Hon'ble Tribunal may be pleased to stay the operation of revised integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' officers dated 29.5.93. In the facts and circumstances of this case, This Hon'ble Tribunal may also be pleased to stay any move on the part of the Railway administration to make promotion to the post of Divisional Mechanical Engineer on the basis of the revised integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and seniority list of Group 'B' officers dated 29.5.93.

4.20 That this application has been filed bonafide and to secure the ends of justice.

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5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That the action of the respondents No.4 of antedating the promotion of the respondent No. 7 is in violation of the provisions of Indian Railway Establishment Manual.

5.2 That it is settled principle of service jurisprudence that the settled matter cannot be unsettled after the lapse of many years. In the instant case, the seniority position of the respondent No.7 has been fixed after lapse of 13 years which is wholly impermissible.

5.3 That the respondent No.7 by failing to exercise his right of raising objection in regard to fixation of his seniority position within the prescribed time limit has waived his right and it is no longer open to him to question the same at the belated stage.

5.4 That the grounds put forward by the respondents No.4 in his order of antedating promotion of respondent No.7 are spacious and untenable in the eye of law.

5.5. That the respondent No.4 by antedating the promotion of respondent No.7 and directing the refixation of his seniority acted arbitrarily and in contravention of the settled principles of service jurisprudence.

5.6 That the action of the respondents is illegal and violative of the provisions of the Indian Railway Establishment Manual in the matter of promotion and fixation of seniority.

[Handwritten signature]

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

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicant declares that there is no other alternative remedy is available to him.

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter for which he has come before this Hon'ble Tribunal, nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

- i) To set aside and quash the order No.340E/1/326(O) dated 20.9.95 passed by the Deputy CPO (G) for GM(P) rejecting the applicant's representations dated 6.2.95 and 7.9.95.
- ii) To set aside and quash the decision conveyed by the respondent No.4 in letter No. 340E/1/326(O) dated 19.1.95.
- iii) Issue direction to the respondents not to initiate any action to revise the integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' Officers dated 29.5.93 and not to change the seniority position as shown in the pre-revised integrated seniority list of supervisory staff

of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' officers dated 29.5.93.

- 2ii(a) Quash and set aside the General Manager (P)'s No.E. 254/III/42(M)/Pt.I dated 18.12.87 and GM(P)'s No.E/283/III/59(M)/Pt.III dated 12/13.6.95.
- iv) Pass any other or further order or orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- v) Asard cost of this application to the applicant.

9. INTERIM ORDER PRAYED FOR :

In the interim, be further pleased to direct the respondents not to publish the revised integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' Officers dated 29.5.93 and be further pleased to direct the respondents not to make any promotion to the post of Divisional Mechanical Engineer on the basis of any such reivsed seniority list.

10.

The application is filed through Advocate.

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

- i) I.P.O. No. : 09 344754
- ii) Date :
- iii) Payable at :

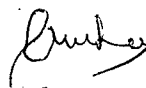
12. LIST OF ENCLOSURES :

As stated in the Index.

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

I, Shri Shyam Sundar Chakraborty, aged about 52 years, son of Late Nani Gopal Chakraborty, presently working as Asstt. Mechanical Engineer (Diesel), Diesel Shed, New Guwahati, do hereby solemnly affirm and verify that the statements made in the accompanying application in paragraphs 1 to 4 and 6 to 12 are true to my knowledge; those made in paragraphs 5 are true to my legal advice and I have not suppressed any materials facts.

And I sign this verification on this the day of November 19 at Guwahati.


(S. S. Chakraborty)





A N N E X U R E -1

Notice for AMF (Loco) Selection

No.E/254/III/91 Pt.VI(O)

Dated: 19.6.89

Notification for selection of AME(Loco Stream has been issued vide CPO's letter of even number dated 5.5.89. Names of those who are coming within the field of eligibility as also those who are proposed to be kept on reserved list was also circulated along with the said letter. On representation from individual staff it is noticed there has been some anomaly in the seniority list published.

On further examination integrated seniority list of Loco Supervisory Staff in Scale 2000-3200/- as also the Diesel, both Electrical and Mechanical, has been recast. Revised integrated seniority list is enclosed in supersession of earlier ones. In this list staff promoted to 2000-3200/- upto 1.1.84 have been included. Out of 92 names given in the seniority list staff upto Sl.No.33 are in the field of eligibility. In view of the large scale unwillingness, as is experienced in the past, it is proposed to keep sufficient reserved candidates. Owing to this Sl.No.34 to 92 will be the reserved list who should also indicate their willingness/unwillingness for appearing in the above selection and in case they come within the field owing to unwillingness of the eligible candidates, they will be called for written examination and such reserved candidates should also get prepared to sit in the written examination within short notice.

Each individual is to, examine the position assigned in the list and satisfy himself. Any objection to the position in the list should be submitted through respective DMEs to APO(M) by name (A.K. Baul) within 7 days of the receipt of this notice.

Tentatively the date of written examination for fixed on 23.7.89. Both willingness and unwillingness should be submitted to Dy.CPC(G) through respective controlling officers within 7 days. Each individual should acknowledge the seniority list as also this notice in the acknowledgement form enclosed.

for General Manager(P)

Integrated seniority list of loco and diesel supervisory staff in scale 2375-3500 & 2000-3200 in respect of the staff promoted on or before 1.1.84.

A-1 late 37

Name & designation	Dt. of promotion to 1660-2600	Dt. of promotion to 2000-3200.
1	2	3

1. Shri K.L.Chowdhury, SS/D/SGUJ		5.8.68
2. " N.B.Mallick, MI/Dsl/BLST		21.4.74(840-1040)
3. " S.K.Bose, MI/Dsl/HQ		18.5.73
4. " H.M.Majumdar, MI/Dsl/NCC		3.8.73
5. " Rameswar Prasad, BIC/KIR		7.5.76
6. " A.K.Banerjee, SS/D/SGUJ <i>promoted</i>		5.5.77
7. " T.K.Dey, SS/MG/E/SGUJ		18.10.77
8. " S.I.Nabi, -Go-		21.2.78
9. " A.K.G Acharyee, LIM/HQ	22.9.65	21.2.78
10. " B.B.Paul, Sr.PRC/MGC	5.5.67	21.2.78
11. " S.K.Dutta, LIM/HQ	12.5.73	21.2.78
12. " A.K.Mandal(SC)LIM/HQ	27.12.73	21.2.78
13. " M.K.Majumdar, LIM/NBQ	27.8.73	21.2.78
14. " S.P.Ambasta, LIM/TSK	27.8.73	21.2.78
15. " B.K.Chatterjee, SFI/IMG	5.5.67	18.12.79
16. " Sohan Singh, SLI/D/MGC	5.5.67	18.12.79
17. " B.D.Ekka, (ET), LIM/APDJ	27.8.73	20.3.80
18. " R.Khakka, (ET)LIM/IMG	12.2.76	20.3.80
19. " Bimal Mukherjee, MI/D/Ritesy		28.3.81
20. " S L.P.Verma, MI/D/MGC		28.8.81.
21. " B.P.Nag, MI/D/MGC		28.3.81
22. " G.Biswas, MI/D/SGUJ		28.3.81
23. " D.K.Sen, MI/D/SGUJ		28.3.81
24. " P.K.Chakraborty, BIO/FJP	21.8.81	
25. " K.K.Mitra, LE/KIR	27.2.82	
26. " R.H.Paul, SS/D/E/HQ	5.3.82	
27. " x Amiya Kr.Ghosh, SS/D/E/SGUJ	5.3.82	
28. " Sushil Kr.Sinha, SS/D/E/MGC	5.3.82	
29. " A.R.Das Roy, SS/D/E/MLDT	5.3.82	

Am 2

29.	Shri S.S.Chakraborty, ASS/D/E/NGC	- Passed	5.3.82
30.	" H. N. Prasad, (SC), ASS/D/E/MAC SGUJ	- 31	5.3.82
31.	" K.Kiro, (ST), ASS/E/E/SGUJ	=	5.3.82
32.	" N.K.Rasaily, (SC), SS/D/E/NGC	=	10.11.83
33.	" S.K.Das, SLI/APDJ	-19.12.69	1.1.84
34.	" N.K.Dasgupta, CPRC/NGC	28.2.73	1.1.84
35.	" Sukumar Chakraborty, SLI/KIR	28.2.73	1.1.84
36.	" A.T.Chakraborty, LF\$NJP	28.2.73	1.1.84
37.	" Subhan Mia, CPRC/HQ	28.2.73	1.1.84
38.	" Sarbananda Roy, CPRC/APDJ	28.2.73	1.1.84
39.	" N.B.Shome, CPRC/APDJ	28.2.73	1.1.84
40.	" S.K.Manungoo, SFI/D/NGC	28.2.73	1.1.84
41.	" J.C.Sarkar, CPRC/APDJ (SLI/Saf)	28.2.73	1.1.84
42.	" M.R.Deka, CPRC/HQ	28.2.73	1.1.84
43.	" R.C.Mandal, SFI/D/TSK	28.2.73	1.1.84
44.	" R.G.Basak, SS/MI/D/MLDT	25.8.75	1.1.84
45.	" P.R.Deka, BIO/DBWS	20.12.75	1.1.84
46.	" R.L.Das, LF/HBB	12.2.76	1.1.84
47.	" Sirajuddin, SS/MI/D/MLDT	Passed. 9.9.76	1.1.84
48.	" M.K.Majumdar, SS/D/E/MLDT	14.9.76	1.1.84
49.	" M.P.Misra, ASS/D/E/NGC	Passed. 14.9.76	1.1.84
50.	" Swapan Kumar Singh, ASS/d/SGUJ	14.9.76	1.1.84
51.	" S.N.Singh	14.9.76	1.1.84
52.	" S.K.Sengupta, LF/IMG	2.1.77	1.1.84
53.	" S.C.Majumdar, SFI/HQ	2.1.77	1.1.84
54.	" A.N.Chakraborty, CPRC/HQ	2.1.77	1.1.84
55.	" A.K.Roy, CPRC/KIR	2.1.77	1.1.84
56.	" T.P.Sen Sharma, CPRC/	2.1.77	1.1.84
57.	" Amalendu Majumdar, LI/S/HQ	2.1.77	1.1.84
58.	" B.K.Roy Mohuri, PRC/KIR	2.1.77	1.1.84
59.	" R.N.Guha, PRC/B'GN	2.1.77	1.1.84
60.	" Raghunath Singh, LI/S/KIR	2.1.77	1.1.84
61.	" N.G.Das, ASS/E/ /B/	1.2.77	1.1.84
62.	" S.K.Goswami, ASS/D/M/MLDT	1.2.77	1.1.84
63.	" A.N.Mukherjee, SS/MI/SGUJ	1.2.77	1.1.84
64.	" N.N.Sengupta, ASS/D/M/HQ	1.3.77	1.1.84
65.	" M.Z.Rahman, FFO/DBRT	21.3.77	1.1.84
66.	" N.B.Sarkar, MLF/NJP	15.6.77	1.1.84

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A-1 Contd.

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67.	Shri S.C.Basu, FFO/MLDT	15.6.77	1.1.84
68.	" D.K.Bhowmick, IF/AFDJ	15.6.77	1.1.84
69.	" B..F.Singh, IF/EXH	15.6.77	1.1.84
70.	" A.K.Pattadar, LHM/KIR	20.9.78	1.1.84
71.	" Sakti Kr.Datta, LHM/APDJ	20.9.78	1.1.84
72.	" D.D.Senapati, (SC), FFC/TEK	20.3.79	1.1.84
73.	" A.B.Pandi (ST), FFC/PBQ	20.3.79	1.1.84
74.	" S.C.Barkar, SE/MI/T/	17.4.79	1.1.84
75-	" D.K.Dhuyan (SC), SE/D/T/	17.4.79	1.1.84
76.	" J.Baroi, (SC), SE/D/M/	29.10.80	1.1.84
77.	" B.Doley (ST), ASE/D/B/FGC	29.10.80	1.1.84
78.	" H.C.Gope, PRC/IMG	6.5.81	1.1.84
79.	" S.C.Pandey, PRC/KIR	6.5.81	1.1.84
80.	" S.R.Chanda, PRC/BPB	6.5.81	1.1.84
81.	" D.K.Paul, PRC/IMG	6.5.81	1.1.84
82.	" S.C.Dabnath, PRC/IMG	6.5.81	1.1.84
83.	" S.Mossain, PRC/TEK	6.5.81	1.1.84
84.	" S.K.Choudhury, PRC/HQ	6.5.81	1.1.84
85.	" P.K.Barua, IF/ACUJ	5.1.82	1.1.84
86.	" C.E.Biswas, IF/EMF	15.9.82	1.1.84
87.	" ST Paul, FFC/KIR	11.11.82	1.1.84
88.	" R.K.Mandal, (SC), FFC/BPB	11.11.82	1.1.84
89.	" S.K.Chakraborty, SLI/KIR	17.11.82	1.1.84
90.	" A.K.Banerjee, SFI/D/TDM	17.11.82	1.1.84
91.	" K.K.Mukherjee, SFI/APDJ	17.11.82	1.1.84
92.	" B.K.Sinha, LF/FGC	1.1.84	1.1.84

Wherever date of promotion to 2000-3200 is the same seniority position is assigned according to date of promotion to 1660-2600 and panel position.

for C.P.O.(P)/MIG

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ANNEXURE -2.

Northeast Frontier Railway.

OFFICE ORDER NO.214/89 (MECH).

Shri A.K. Banerjee, MI/D/SGUJ who is empanelled for the post of Group 'B' service as AME against 75% in Loco Stream is temporarily appointed to officiate in Group 'B' and posted as Offg. AME(D)/SGUJ against the upgraded post sanctioned vide GM(P)/Maligaon's Memorandum No.5/89 circulated under No.E/304/2-G(O) dated 10.1.89.

Shri K.K.Mitra, LF/KIR who is empanelled for the post of Group 'B' service as AME against 75% in Loco Steam is temporarily appointed to officiate in Group 'B' and posted as Offg. AMS/PNO & Coaching Depot Officer/Pandu vice Shri S.C. Das.

Shri S.C. Das on relief is transferred and posted as Offg. AME/TDH vice Shri M.B. Sen posted as DCOS/KIR (ad hoc) in terms of office order No.187/89 (Mech) circulated under No.E/283/54 Ot.XII (O) dated 14.9.89.

Shri S.S. Chakraborty, SS(D)/E/NGO who is empanelled for the post of Group 'B' service as AME against 75% in Loco Steam is temporarily appointed to officiate in Group 'B' and posted as off.AME(D)/NGC against the upgraded post sanctioned vide GM(P)/Maligaon's memorandum No.5/89 circulated under No.E/804/2-G(O) dated 10.1.89

Shri R.L. Das, LF/NBQ who is empanelled for the post of Group 'B' service as AME against 75% in Loco Stream is temporarily appointed to officiate in Group 'B' and posted as Offg. AME(D)/LMG against the upgraded post sanctioned vide GM(P)/MEG's memorandum No.5/89 circulated under No.E/304/2-G(O) dt. 10.1.89.

Shri P. Mukherjee, SS/WRS/NBQ who is empanelled for the post of Group 'B' service as AME against 75% in workshop stream is temporarily appointed to officiate in Group 'B' and posted as Off.AME/MR/HQ vide Shri S.K. Halder superannuating on 31.10.89 (AN).

for General Manager (P): MLG.

No.E/283/54/Pt.XII(O)

Maligaon, dated 30.10.89.

Copy forwarded for information and necessary action to :-

1. CME/MLG (2) CRSE, CWE & CME(P)HQ. (3) Secy. to GM (4) DRM/WRR, APDJ, LMG & TSK. (5) DAO/KIR, APDJ & LMG (6) WAO/NBQS & DBRT. (7) Sr. DME(D) SGUJ, MLDT. (8) DME/D/NGC (9) DRM(P) KIR, APDJ, LMG & TSK (10) Dy.CME/NEQ. (11) AMS/PNO (12) Sr. DME (C&W)/KIR (13) DME(P) APDJ (14) APO/M/MLG. (15) Officers concerned.

for General Manager (P) MLG.

A. K. Banerjee

M. F. F. ILL. ILL.

ANNEX-3

SENSIBILITY LIST OF GROUP 11 OFFICIALS 01-04

01-06-1692

2

M. F. F. ILL. ILL.

ANNEX-3

Con't. 2/-

Sl. No.	Name	Grade	10-12-47	01-04-66	19-06-90	Wkg. in Group 'B'.
20.	Sri L.K. Pattadar.	ME	10-12-47	01-04-66	19-06-90	-
21.	Sri P.H. Eswans.	ME	26-12-51	13-10-71	04-02-90	-30-
22.	Sri G.D. Kannayya	MA/AMM	01-10-53	21-10-76	24-02-90	-30-
23.	Sri E. Ghosh.	ME	04-05-53	04-03-72	21-02-90	-30-
24.	Sri S.P. Ambanta.	ME	30-10-47	10-06-69	02-11-90	-30-
25.	Sri I. Chakraborty.	ME	01-11-40	27-02-61	02-10-90	-30-
26.	Sri J. Lakra.	ME	01-01-50	12-02-79	18-10-90	-30-
27.	Sri K. K. Dey.	ME	08-02-55	31-10-81	21-01-91	-30-
28.	Sri S.D. Chowdhury.	ME	01-01-53	13-08-72	27-02-91	-30-
29.	Sri D Dhar.	ME	07-06-51	12-10-76	12-06-91	-30-
30.	Sri A.K. Roychowdhury.	ME	01-01-47	21-05-71	01-07-91	-30-
31.	Sri S.K. Debchowdhury.	ME	01-01-50	10-11-67	11-02-92	-30-
32.	Sri D.K. Chakraborty.	ME	24-12-58	20-06-65	12-02-92	-30-
33.	Sri B.K. Majumder.	ME	27-10-45	17-8-61	14-02-92	-30-
34.	Sri F.L. Chakraborty.	ME	05-08-40	23-02-61	12-02-92	-30-
35.	Sri S.K. Iqbal.	AMM	03-01-51	02-03-79	02-03-92	-30-
36.	Sri Srinajada.	ME	11-07-44	08-04-64	17-02-92	-30-
37.	Sri M.L. Mishra.	ME	27-06-45	24-08-67	11-02-92	-30-
38.	Sri B.N. Das.	DOO	17-03-50	13-08-79	16-05-92	-30-in Stores Deptt.

FD-302 (Rev. 11-27-60)

For General K. H. G. (e) / H.C.

1503-1504

1. CC/IT.

[illegible]

1. CC/IT.

[illegible]

0.0154 mgC

100-300693
NY 30-06-93
This office
is instructing
to investigate
this case
for information
to the
100-300693

THE UNIVERSITY OF CHICAGO
LIBRARY

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Dr. J. H. H. Medical Co. Philadelphia, Pa.

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ANNEXURE -4

(NORTHEAST FRONTIER RAILWAY)

Office of the
General Manager(P)
Maligaon/Guwahati-11
Dated, 19/01/1995

No. 340E/1/326(O)

To

Shri SS Chakraborty,
AME/NGC/

Sub: Revision of seniority list (Integrated).

Adhoc promotion in your favour to the post of ASS in scale Rs. 700-900(RS) was ordered w.e.f. 2.2.82 which was subsequently regularised w.e.f. 5.3.82 vide CME(P)/MLG's letter No.E/254/49/DSL/Elec(M) dated 18.1.85, as there was a clear vacancy of ASS as on that date, which was a non-selection post.

2. Shri RL Das, LI(M)(now AME) was also promoted on adhoc basis w.e.f. 18.3.80 with subsequent regularisation in scale Rs. 700-900(RS) w.e.f. 1.1.84.

While preparing an integrated seniority list for the purpose of promotion to the post of Group 'B', Shri RL Das was accordingly shown junior to you, as his promotion was regularised w.e.f. 1.1.84.

3. Shri Das thereafter, preferred an appeal to antedate his promotion as on that particular date, when there was a vacancy and the post was non-selection one. The case was examined and the Competent Authority has decided to effect his promotion w.e.f. 27.2.82 instead of 1.1.84.

4. Above decision of giving effect of promotion of Shri RL Das to the post of LI(M) in scale Rs. 700-900(RS) will also require revision of seniority position in the integrated seniority list of Supervisory staff of Mech. Deptt, published vide CME(P)/MLG's No.E/254/III/91 Pt.VI(O) dated 11.7.89 and Shri Das will now be senior to you in scale Rs. 700-900(RS) and also in higher grade posts.

5. Before the above seniority list of staff in scale Rs. 700-900(RS) and also in higher grades are corrected (assigning higher position to Sri RL Das) and published, you are advised to submit your representation, if any, in the matter, which should reach this office within 15 days from the date of receipt of this letter, to enable this office to take necessary action, if required any.

6. Please acknowledge receipt of this letter.

(A.K. SEN)
AMO/Mech
for GENERAL MANAGER(P)

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A N N E X U R E - 5

To
The General Manager(P)
N.F. Railway, Maligaon,
Guwahati-11

Sir,

Sub: Revision of seniority list (Integrated).

Ref: Your L/No.340E/1/326(O) dt. 19.1.95.

I regret having to note the contents of your letter in which a proposal has been mooted to reassign the seniority position of Sri R.L. Das in the integrated seniority list in scale Rs. 700-900/- (RS) which is inappropriate, unjustified and untenable on grounds mentioned below.

- a) Sri R.L. Das was promoted on ad-hoc basis w.e.f. 18.3.80 and subsequently regularised w.e.f. 1.1.84. The letter date must have appeared on anumber of occasiom prior to his promotion to Group 'B', but he had never submitted any representation against wrong placement of his seniority.
- b) Even on the eve of selection to Group 'B' in 1989 when the integrated seniority list was finally circulated after rectifying the position on the basis of individual representation under GM/P's Notice No.E/254/III/91/Pt-VI(O) dt. 19.6.89, the Administration also allowed 7 days time for submission of representation, if any. Sri Das did not avail of this opportunity and the select list of Group 'B' (AME's) was published with approval of GM on the basis of the same list. The representation of Sri Das at this distant date this has no logs to stand upon.
- c) The promotion of Sri R.L. Das to scale Rs. 700-900/- (RS) was regularised by the competant authority w.e.f. 1.1.84. AS such, his suitability was adjudged by the competant authority as from 1.1.84 which is the crucial date for determining seniority. It is not understood how he is now being declared suitable from an earlier date, viz. 27.2.82. According to Board's L/No.E(NG)1/90P?L/26 dt. 14.5.92 the "Select list/Trade Test panel shall be treated as effective from the date of approval by the competant authority". When the panel of Sri R.L. Das on scale Rs. 700-900/- (RS) was approved as on 1.1.94, there could not be any scope of antidating it from a date a couple of years earlier.

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- d) It may be added that the senior Supervisors of the mechanical department were mostly promoted on ad-hoc basis initially and later regularised and the latter date has been adopted as the criterion for determining the seniority. In my own case and of quite a few others as well, regular vacancies were available from a much earlier date while we were promoted on ad-hoc basis first and later regularised, which date had been adopted for all purposes. If the case of Sri Das is resuscitated after an interregnum of one and a half decades, I may also claim for identification of a clear vacancy of ASS (Rs.700-900/-) in my own stream and seek for antidating my promotion from an earlier date, so also is the position of many of my confreres I am sure that with such reassignment of seniority in my case I will stand senior to many other candidates, some of whom have already been promoted to senior scale in Gazzeted Cadre.
- e) All these points apart, my position was correctly shown in the classified list published by the Rby. Board over the years and any change at this distant date will lead to very adverse repercussion on a number of other incumbents similarly placed.

2. In fine, I beg leave to say that on grounds mentioned in para-I supra which are all cogent there is no point on reopening of the case of Sri Das now in the interest of fair play, Justice and equity and I pray that the proposal may kindly be dropped.

Yours faithfully,

Dated, New Guwahati
6th Feb'1995.

(S.S. Chakraborty)
AME/Diesel/NGC

A. S. Chakraborty

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A N N E X U R E - 6

To

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

Sir,

Sub: Revision of seniority list (Integrated)

Ref: Your L/No.340E/1/326(O) dt. 19.1.95 and
my representation dt. 6.2.95.

It is astonishingly noticed that administration after receiving my representation on the proposed revision of seniority list vide above remain silent for a long period.

It is assumed that the administration has dropped the idea to favour particular candidate for giving him undue benefit violating all rules and regulations existing in the railways in regard to fixing up seniority of railway man. At the same time I am afraid that my representation against any change of seniority on the basis of which the selection of Group-B was held and the candidates were empaneled, might have been over ruled and administration on their own violation might have been trying to change my seniority position in the panel. If it is so I may pray to the Court of Law for getting justice against the arbitrary decision of the administration.

This appeal of mine may be treated as notice to get reply from the administration within fifteen days otherwise I will be free to move to the Court of Law.

Thanking you in anticipation.

Yours faithfully,

Dated : New Guwahati,
the 7th September, 1995.

(S.S. Chakraborty)
AME(Diesel)/NGC

Agm

ANNEXURE -7NORTHEAST FRONTIER RAILWAY

No. 34OE/1/326(O)

Office of the
General Manager (P).
Maligaon, Guwahati-11, 20-9-95

To

Shri SS Chakraborty,
AME(D)/New Gauhati.

Sub : Revision of seniority list (integrated).

Ref : Your representations dated 6.2.95 and 7.9.95.

Your representations under reference in response to this office letter of even number dated 19.1.95 have been examined at the appropriate level. The arguments advanced in your representation that Sh. RL Das did not submit any representation against wrong placement of his seniority prior to his promotion to Group 'B' or even immediately after the publication of the said integrated seniority list, circulated under GM(P)'s No.E/254/III/91 Pt-VI(O) dated 19.6.89 are correct. However, the fact remains that Sh. RL Das had been senior to you as per dates of entry to Rlu. service as well as date of promotion to various comparable grades. It is only in the case of promotion to grade 700-900(RS) that his date of regularisation was treated as 1.1.84 while you ~~xxx~~ were given the benefit w.e.f. 5.3.82, resulting in the alleged wrong fixation of seniority of Sh. RL Das in the integrated seniority list of Mechanical Supervisors and in the Gazetted cadre of AME/AWN.

The contention of your appeal as mentioned in para(c) of your representation dated 6.2.95 does not appear to be justified correct as because similar considerations were made in your personal case giving you the benefit of regularisation of promotion in grade Rs. 700-900/- from a back date, viz. 5.3.82, while the decision was taken only in the year 1985. As such, your ~~arg~~ argument quoting Board's ~~ex~~ circular No.E(MG)I/90 PM1/26 dated 14.5.92 is not tenable.

As far as the question of considering the claim of Sh. RL Das after lapse of a considerably long period is concerned, it is to be stated that the case was examined in great details at the level of CPO and CME and only after examining the merit of the case, the decision to antedate the regularisation of promotion of Sh. RL Das in grade Rs. 700-900/- ~~wkskfk~~ w.e.f. 27.2.82 instead of 1.1.84 was taken.

A. K. M.

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Accordingly, Sh. Das has been given the benefit of regularisation of promotion to grade 700-900/- vide GM(P)'s order No.E/283/III/59(M) Pt.III dt.12/13.6.95. His seniority position has also been corrected in the seniority list of LI(M)/FFO/MLF in scale Rs. 2000-3200/- published under GM(P)'s No.E/254/III/42(M). Pt.I dated 18.12.87, in terms of GM(P)'s No.E/283/III/59(M) Pt.III dated 12.13.6.95.

In view of the above, Sh. RL Das, with his revised seniority position in the non-gazetted cadre, stands senior to you in the integrated seniority list of Mechanical Supervisors which was taken into consideration at the time of the selection of AMF/AWM held in the year 1989 in which both Sh. Das and you were empanelled and as a sequel to the above, Sh. Das stands senior to you in the Gazetted cadre also.

This is for your information.

Please acknowledge receipt.

(M. Brahmo)
Dy. Chief Personnel Officer(G),
for General Manager (P)

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N. F. RLY.

Office of the
Sr. DME(DIESEL)/NGC

No. SSC/P/96/2

Dated 11.1.96

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

Sub:- Revision of seniority list(integrated)

Ref:- Your Office letter No.340E/1/326(O)
dated 20.9.95.

This is in regard to your statement made in the letter dated 20.9.95 vide No.340E/1/326(O) wherein you had stated that the seniority position of Sri R.L. Das as shown in the seniority list of LI(M)/FFO/MLF in the scale of Rs.2000-3200/- published under GM(P)'s No.E/254/III/42(M)Pt.I dated 18.12.87, has been corrected and published in terms of GM(P)'s No.E/283/III/59(M)Pt.III dated 12/13.6.95.

I have enquired and looked for the copy of the aforesaid corrected seniority list but failed to get one.

I hereby kindly request you to please furnish me with the copy of the following documents.

(a) GM(P)'s No.E/254/III/42(M)Pt.I dated 18.12.87

(b) GM(P)'s No.E/283/III/59(M)Pt.III dated 12/13.6.95.

Please forward me copy of the above letters latest by 23.1.96 as required in connection with the case filed by me in CAT against the revision of seniority list communicated vide letter under reference.

Yours faithfully,

Dated
New Guwahati
The 11th Jan'96

(S. S. Chakraborty)
Sr. DME(DIESEL)/NGC

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :

O.A.N. 270 of 1995.

VERSUS:

Union of India & ors Respondents.

Sl No.	Particulars	Page No.
1.	Application	1 to 18
2.	Verification.	19.
3.	Annexure 1.	20. to 23.
4.	Annexure 2.	24. to
5.	Annexure 3.	25. to 26.
6.	Annexure 4.	27.
7.	Annexure 5.	28. to 29.
8.	Annexure 6.	30.
9.	Annexure 7.	31 to 32.

For use for Tribunal's Office

* * *

Date of filing.....

Registration No.....

Registration By. Regd.

* 666 *

*	*	*	*	*	*	*
1	1	1	1	1	1	1

O.A. No. 270 of 1995

BETWEEN

Mr. Shyam Sundar Chakraborty,
Son of Late Nani Gopal Chakraborty,
Assistant Mechanical Engineer (Diesel),
Diesel Shade, New Guwahati,
Guwahati-21.

... Applicant

AND

1. The Union of India,
represented by the Secretary,
Ministry of Railways,
New Delhi - 110 001.
2. The Railway Board,
represented by its Chairman,
Railway Board,
New Delhi - 110 001.
3. The General Manager,
N.F. Railway, Maligaon,
Guwahati-781001.
4. The General Manager (P),
N.F. Railway, Maligaon,
Guwahati-781011
5. The Chief Mechanical Engineer,
N.F. Railway, Maligaon,
Guwahati-781001
6. The Deputy Chief Personnel Officer (G)
N.F. Railway, Maligaon,
Guwahati-781011.
7. Shri R.L. Das,
Assistant Mechanical Engineer,
Carriage and Wagon,
C/O Chief Mechanical Engineer,
N.F. Railway,
Maligaon, Guwahati-781011.

... Respondents

DETAILS OF APPLICATION

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

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

- (i) Letter No. 340 E/1/326(O) dated 19.1.95 issued on behalf of General Manager (P), intimating the applicant the decision of Competent authority to antedate the promotion of respondent No. 7 with effect from 27.2.82 instead of 1.1.84 to the post of Loco Inspector (Mechanical) and consequently revision of seniority position in the integrated seniority list of supervisory staff of Mechanical Department published by CME(P)/MLG's No.E/254/III/91 Pt.VI(O) dated 11.7.89 and as a result making respondent No. 7 senior to this applicant in the integrated seniority list of Loco Supervisory Staff.
- (ii) Order No. 340 E/1/326(O) dated 20th September 1995 passed by Dy. CPO(G) for General Manager (P) rejecting the applicant's representations dated 6.2.95 and 7.9.95.

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 :

Since in this case a final order within the meaning clause (1) of sub-section (2) of Section 20 has been made vide order No.340 E/1/326(O) dated 20th

September 1995 and the instant application is being filed within one year from the date on which the aforesaid final order was passed therefore, it is stated that the instant application fulfils the legal requirement of limitation as laid down under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 The crux of the grievance of the applicant for the redressal of which he has come before this Hon'ble Tribunal is as follows :

There is an integrated seniority list of supervisory staff of Mechanical Department dated ^{19.} 2.6.89. In the said list, the name of applicant was shown at Sl. No. 29 with his date of promotion to the scale of Rs.2000-3200/- being 5.3.82. While in the case of respondent No. 7, in the aforesaid list, his name was shown at Sl. No. 46 with his date of promotion to the scale of Rs.2000-3200/- being 1.1.84. Subsequently, on 29.5.93 the seniority list of Group 'B' officers as on 1.4.93 was also published and in this seniority ~~list~~ list the name of the applicant was shown at Sl. No. 17 with his date of promotion to Group 'B' being 30.10.89. While in the case of respondent No. 7, his name in the seniority list of Group 'B' officer was shown at Sl.No.18 with his date of promotion to Group 'B' being 29.11.89.

It was during November/December 1994 that the respondent No. 7 chose to discover that his position in the integrated seniority list of 1989 and the

seniority list of 1993 has not been shown correctly and that he was entitled to promotion to the post of Loco Inspector (Mech.) with effect from 27.2.82 instead of 1.1.84. Accordingly, respondent No. 7 filed an appeal before the competent authority and requested to antedate his promotion to the post of Loco Inspector (Mech.) with effect from 27.2.82 instead of 1.1.84 and prayed for consequent changes in the seniority list of 1989 and 1993.

It is pertinent to mention that this realisation of being wronged was dawned upon respondent No. 7 at a time when the officials upto the sl. No. 16 in the seniority list of 'Group 'B' officers were promoted to the rank of Divisional Mechanical Engineer and this applicant being at the Sl. No. 17 was expecting his promotion to the rank of Divisional Mechanical Engineer.

This supposed injustice meted out to respondent No. 7, filled the respondent No. 4 with grief and remorse and accordingly, after the lapse of 13 years it was decided to antedate the promotion of respondent No. 7 to the post of Loco Inspector (Mech.) with effect from 27.2.82 instead of 1.1.84 and consequently it was also decided to revise the seniority position in the integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' officers dated 29.5.93. The aforesaid decision was intimated to this applicant vide letter dated 19.1.95 against which applicant submitted representations dated 6.2.95 and 7.9.95. The respondent No. 4 rejected both the representations vide order dated 20.9.95. Being thus aggrieved, the

Contd...P/5.

applicant has come before this Hon'ble Tribunal through this original application.

The aforesaid is the crux of the subject matter of the instant case, the applicant now places the facts of the case in seriatim.

4.2 That the applicant holds a diploma in Electrical Engineering. He was initially appointed in the Railways as Trainee Chargeman (Electrical) on 24.8.67 and on completion of 1 year of training and on his clearing the prescribed examination, he was appointed as Regular Chargeman with effect from 24.8.68.

4.3 That in subsequent years this applicant climbed successive ladder of promotion. It was when this applicant was a part of Loco and Diesel Supervisory Staff, that on 19.6.89 vide No. E/254/III/91 Pt. VI(0), the respondent No. 4 released the integrated seniority list of supervisory staff of Mechanical Department in respect of the staff promoted on or before 1.1.84. In the notice circulating the aforesaid seniority list, it was made clear that each individual is to examine the position assigned in the list and satisfy himself and any objection to the position in the list should be submitted through respective DMEs to APO(M) within 7 days of the receipt of the notice.

Copy of the Integrated seniority list of supervisory staff of Mechanical Department is annexed hereto and marked as ANNEXURE.1

Contd....P/6.

4.4 It is pertinent to mention that in Annexure-1 integrated seniority list the name of applicant was shown at Sl. No. 29 with his date of promotion to the scale of Rs.2000-3200/- being 5.3.82. While in the case of respondent No. 7, in the aforesaid list his name was shown at Sl. No. 46 with his date of promotion to the scale of Rs.2000-3200/- being 1.1.84.

It is stated that after circulation of the aforesaid list no objection was raised by respondent No. 7 in regard to the position assigned to him in the said list therefore by necessary ^{implication} ~~application~~ it followed that the position assigned to him in the integrated seniority list was acceptable to the respondent No. 7 at that relevant point of time.

4.5 That on the basis of the Annexure-1 integrated seniority list, in the year 1989, itself a panel for promotion to Group 'B' service (Mechanical) was formed. The panel was formed vide office order No. 214/89 (MECH) dated 30.10.89 passed by the respondent No.4..

Copy of the office order dated 30.10.89 is annexed hereto and marked as ANNEXURE-2.

4.6 That in the panel for promotion to Group 'B' service (Mechanical) which was formed pursuant to the Annexure-2 office order, the names of both this applicant as well as the respondent No. 7 appeared. However, it is pertinent to mention that in the aforesaid office order,

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the name of this applicant was shown ahead of respondent No. 7. In the Annexure-1 integrated seniority list, this applicant was senior~~er~~ to the respondent No. 7.

4.7 That on the basis of the panel formed vide Annexure-2 office order, this applicant was promoted to the post of Asstt. Mechanical Engineer (a group 'B' post) with effect from 30.10.89 while in sharp contrast the respondent No. 7 got his promotion to the post of Asstt. Mechanical Engineer on 29.11.89. Subsequently the seniority list of Group 'B' officers as on 1.4.93 was circulated vide order No.E/167/2/1/(D) dated 29.5.93. While circulating the seniority list of Asstt. Mechanical Engineer as on 1.4.93, it was made clear that if any one is aggrieved by the position assigned to him, he can intimate the competent authority in regard to the same on or before 30.6.93. It is stated that ~~the~~ in the aforesaid seniority list of Group 'B' officers, the name of this applicant was shown at Sl. No. 17 while the name of the respondent No. 7 was shown at Sl. No. 18. On this occasion also, the respondent No. 7 kept silence and did not make any objection. Hence it is stated that even this time, the position assigned to the respondent No. 7 in the seniority list of Asstt. Mechanical Engineer was acceptable to him.

Copy of the seniority list of Group 'B' officer as on 1.4.93 is annexed hereto and marked as ANNEXURE-3.

4.8 That on the basis of the seniority list of

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Group 'B' officers, promotion to the post of Divisional Mechanical Engineer were made in regular intervals. It is stated that by now the officials upto Sl. No. 16 in the seniority list of Group 'B' officers have been promoted to the post of Divisional Mechanical Engineer. It is only when the promotion of this applicant to the post of Divisional Mechanical Engineer was round the corner that the respondent No. 7 some time in November/December 1994 filed an appeal before the competent authority wherein he made a complainant that he was entitled to promotion to the post of Loco Inspector (Mechanical) with effect from 27.2.82 instead of 1.1.84. He thus requested the competent authority to antedate his promotion to the post of Loco Inspector (Mechanical) with effect from 27.2.82 instead of 1.1.84 and prayed for consequent changes in the integrated seniority list of 1989 and the seniority list of Group 'B' officers of 1993.

4.9 That the respondent No. 4 on receipt of the appeal of the respondent No. 7 discovered rather mysteriously that a great injustice has been meted out to the respondent No. 7 in the matter of giving him promotion to the post of Loco Inspector (Mechanical). Therefore, the respondent No. 4 vide letter No.340E/1/326 dated 19.1.95 intimated the applicant that the competent authority has decided to antedate the promotion of the respondent No. 7 to the post of Loco Inspector (Mechanical) with effect from ~~19~~ 27.2.82 instead of

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1.1.84. The applicant was also intimated that as a result of antedating the promotion of the respondent No. 7 to the post of ~~the~~ Loco Inspector (Mechanical) with effect from 27.2.82, the consequent revision of seniority position in integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 would be required showing respondent No. 7 seniority to the applicant. The applicant was further intimated that the seniority list of staff in scale Rs.700-900/- and also in higher grade ^{is required to be} ~~are~~ corrected assigning higher position to the respondent No. 7 and thereafter published. The applicant is entitled to submit his representation in regard to the said matter.

A copy of the letter No. 340E/1/326(0) dated 19.1.95 is annexed hereto and marked as ANNEXURE-4.

4.10 That being aggrieved by the Annexure-4 letter of respondent No. 4, this applicant submitted representation dated 6.2.95. In his representation, the applicant described the reassigning of seniority position to the respondent No. 7 as ~~not~~ ^{im-}proper, unjustified and untenable on various grounds which were elaborately listed in the representation.

A copy of the representation dated 6.2.95 is annexed herewith and marked as ANNEXURE-5.

4.11 That after filing of the Annexure-5 representation when for quite a long time, there was no response

from the respondents, the applicant filed yet another representation dated 2.9.95 wherein he sought clarification from the respondents and asked for ~~acceptance~~ expeditious disposal of his earlier representation. Copy of the applicant's representation dated 7.9.95 is annexed hereto and marked as ANNEXURE-6.

4.12 That the respondent No. 4 vide letter No. 340E/1/326(0) dated 20.9.95 intimated the applicant that his representations have been examined at the appropriate level and the arguments advanced in his representations have not been found sufficiently cogent and sound so as to merit any change in the decision of the competent authority to antedate the seniority of the respondent No. 7 to the post of Loco Inspector (Mechanical) with effect from 27.2.82. In the said letter, it was however ^{Conceded} ~~considered~~ that the respondent No. 7 did not submit any representation against the wrong placement of his seniority prior to his promotion to Group 'B' or even immediately after the publication of the said integrity seniority list circulated under GM(P)'s No.E. 254/III/91/Pt.VI(0) dated 19.6.89. However while ~~reads~~ conceding this fact, a spacious plea was advanced that the respondent No. 7 had been senior to this applicant as per his date of entry into the Railway service as well as the date of promotion to various comparable grades and that it was only in the case of promotion to Grade Rs.700 - 900/- that the date of respondent No. 7 was shown as 1.1.84, while this applicant was given the benefit with effect from

the name of this applicant was shown ahead of respondent No. 7. In the Annexure-1 integrated seniority list, this applicant was senior~~er~~ to the respondent No. 7.

4.7 That on the basis of the panel formed vide Annexure-2 office order, this applicant was promoted to the post of Asstt. Mechanical Engineer (a group 'B' post) with effect from 30.10.89 while in sharp contrast the respondent No. 7 got his promotion to the post of Asstt. Mechanical Engineer on 29.11.89. Subsequently the seniority list of Group 'B' officers as on 1.4.93 was circulated vide order No.E/167/2/1/(D) dated 29.5.93. While circulating the seniority list of Asstt. Mechanical Engineer as on 1.4.93, it was made clear that if any one is aggrieved by the position assigned to him, he can intimate the competent authority in regard to the same on or before 30.6.93. It is stated that ~~the~~ in the aforesaid seniority list of Group 'B' officers, the name of this applicant was shown at Sl. No. 17 while the name of the respondent No. 7 was shown at Sl. No. 18. On this occasion also, the respondent No. 7 kept silence and did not make any objection. Hence it is stated that even this time, the position assigned to the respondent No. 7 in the seniority list of Asstt. Mechanical Engineer was acceptable to him.

Copy of the seniority list of Group 'B' officer as on 1.4.93 is annexed hereto and marked as ANNEXURE-3.

4.8 That on the basis of the seniority list of

Contd...P/8.

4.4 It is pertinent to mention that in Annexure-1 integrated seniority list the name of applicant was shown at Sl. No. 29 with his date of promotion to the scale of Rs. 2000-3200/- being 5.3.82. While in the case of respondent No. 7, in the aforesaid list his name was shown at Sl. No. 46 with his date of promotion to the scale of Rs. 2000-3200/- being 1.1.84.

It is stated that after circulation of the aforesaid list no objection was raised by respondent No. 7 in regard to the position assigned to him in the said list therefore by necessary ^{implication} ~~application~~ it followed that the position assigned to him in the integrated seniority list was acceptable to the respondent No. 7 at that relevant point of time.

4.5 That on the basis of the Annexure-1 integrated seniority list, in the year 1989, itself a panel for promotion to Group 'B' service (Mechanical) was formed. The panel was formed vide office order No. 214/89 (MECH) dated 30.10.89 passed by the respondent No. 4.

Copy of the office order dated 30.10.89 is annexed hereto and marked as ANNEXURE-2.

4.6 That in the panel for promotion to Group 'B' service (Mechanical) which was formed pursuant to the Annexure-2 office order, the names of both this applicant as well as the respondent No. 7 appeared. However, it is pertinent to mention that in the aforesaid office order,

Contd...P/7.

4.16A That yet another argument advanced by the respondent No. 4 while antedating the promotion of the respondent No. 7 was that the respondent No. 7 had been senior to the applicant in the matter of promotion to various comparable grades and that it is only in the case of promotion to grade 700-900 that his date of regularisation was treated as 1.1.84 while the applicant was given the benefit w.e.f. 5.3.82.

It is stated that the aforesaid reasoning of respondent No. 4 is misconceived and not based on proper appreciation of facts. It is pertinent to mention that this applicant was appointed as regular chargeman after completion of training on 24.8.68 while the respondent No. 7 was appointed as regular chargeman after completion of apprentice period of 5 years on 10.7.69. Moreover, the applicant's date of regularisation in the scale of Rs. 700-900 is 5.3.82 while that of respondent No. 7 is on 1.1.84. Further the applicant was promoted to Group B service on 30.10.89 while the respondent No. 7 got the promotion to Group B service on 29.11.89. It was only in regard to promotion in the scale of Rs. 550-750/- that the respondent No. 7 got the promotion to this applicant. This applicant got the promotion to the scale of Rs. 550-750 on 26.10.76 while the respondent No. 7 got the said promotion on 12.6.76. Under what strange circumstances this happened except the Railway and administration none can answer this.

Thus the bare perusal of promotions to comparable grades indicates that except on one occasion in all other comparable grades this applicant got the promotion prior to the respondent No. 7 and the statement to the contrary by the respondent No. 4 is misconceived and not based on facts.

14.

4.17 That para 204.10 of the Indian Railway Establishment Manual, Vol. I provides that a panel approved by the General Manager cannot be amended or altered except without prior approval of the Railway Board. It is submitted that by antedating the promotion of respondent No. 7, the respondent No. 4 has done what he could not have done under the provisions of the Indian Railway Establishment Manual. It is submitted that as a result of antedating the promotion of the respondent No. 7 by necessary implication change in the panel has taken place which is wholly impermissible under the extant rules.

4.18 That it is submitted that after the expiry of time limit prescribed, it is not permissible on the part of the ~~respondent~~ Railway official to question the fixation of his seniority. In the instant case, the very fact of respondent No. 7 ~~making~~ filing his appeal questioning incorrect fixation of his seniority after lapse of 13 years is ~~not~~ wholly unsustainable.

4.19 That within a short period, the Railway is going to publish the revised integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' officers dated 29.5.93 wherein the revised seniority position of the respondent No. 7 would be shown. If such publication is allowed to be carried out, it would cause irreparable loss and injury to this applicant. Moreover, within a

time now there is also likelihood of promotion being made to the post of Divisional Mechanical Engineer and since in the pre-revised seniority list of Group 'B' officers the name of the applicant appears at Sl. No. 17 it is now his chance to be promoted to the post of Divisional Mechanical Engineer. However as the seniority list of Group 'B' officers is allowed to be revised refixing the seniority position and thereby making the respondent No. 7 senior to this applicant, this applicant would be deprived of the benefit which he was enjoying since last more than a decade. Hence the instant case is a fit case wherein this Hon'ble Tribunal may be pleased to stay the operation of revised integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' officers dated 29.5.93. In the facts and circumstances of this case, this Hon'ble Tribunal ~~may~~ may also be pleased to stay any move on the part of the Railway administration to make promotion to the post of Divisional Mechanical Engineer on the basis of the revised integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and seniority list of Group 'B' officers dated 29.5.93.

4.20 That this application has been filed bonafide and to secure the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That the action of the respondent No. 4 of antedating the promotion of the respondent No. 7 is in violation of the provisions of Indian Railway

Establishment Manual.

5.2 That it is settled principle of service jurisprudence that the settled matter cannot be unsettled after the lapse of many years. In the instant case, the seniority position of the respondent No. 7 has been refixed after lapse of 13 years which is wholly impermissible.

5.3 That the respondent No. 7 by failing to exercise his right of raising objection in regard to fixation of his seniority position within the prescribed time limit has waived his right and it is no longer open to him to question the same at the belated stage.

5.4 That the grounds put forward by the respondents No. 4 in his order of antedating promotion of respondent No. 7 are spacious and untenable in the eye of law.

5.5 That the respondent No. 4 by antedating the promotion of respondent No. 7 and directing the refixation of his seniority acted arbitrarily and in contravention of the settled principles of service jurisprudence.

5.6 That the action of the respondents is illegal and violative of the provisions of the Indian Railway Establishment Manual in the matter of promotion and ~~refix~~ fixation of seniority.

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

Contd....:P/17.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicant declares that there is no other alternative remedy is available to him.

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter for which he has come before this Hon'ble Tribunal, nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

- (i) To set aside and quash the order No. 340E/1/326(0) dated 20.9.95 passed by the Deputy CPO (G) for GM(P) rejecting the applicant's representations dated 6.2.95 and 7.9.95 ;
- (ii) To set aside and quash the decision conveyed by the respondent No. 4 in letter No. 340E/1/326(0) dated 19.1.95.
- (iii) issue direction to the respondents not to initiate any action to revise the integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' Officers dated 29.5.93 and not to change the seniority ~~list~~ position as shown in the pre-revised integrated

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seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' officers dated 29.5.93.

- (iv) pass any other or further order or orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- (v) Award cost of this application to the applicant.

9. INTERIM ORDER PRAYED FOR:

In the interim, be further pleased to direct the respondents not to publish the revised integrated seniority list of supervisory staff of Mechanical Department dated 11.7.89 and the seniority list of Group 'B' officers dated 29.5.93 and be further pleased to direct the respondents not to make any promotion to the post of Divisional Mechanical Engineer on the basis of any such revised seniority list.

10.

The application is filed through Advocate.

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

- (i) I.P.O. No. : 09 344754
- (ii) Date : 21/11/95
- (iii) Payable at : G.P.O. GUWAHATI

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification....

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

I, Shri Shyam Sundar Chakraborty, aged about 52 years, son of Late Nani Gopal Chakraborty, presently working as Asstt. Mechanical Engineer(Diesel), Diesel Shed, New Guwahati, do hereby solemnly affirm and verify that the statements made in the accompanying application 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 30th day of November 1995 at Guwahati.

Shyam Sundar Chakraborty

ANNEXURE- 1

(20)

Notice for AEE (Loco) Selection

No.E/254/III/91 Pt.VI(C)


dated, 19.6.89.

Notification for selection of AEE (Loco Stream) has been issued vide CPC's letter of even number dated 5.5.89. Names of those who are coming within the field of eligibility as also those who are proposed to be kept on reserved list was also circulated along with the said letter. On representation from individual staff it is noticed there has been some anomaly in the seniority list published.

On further examination integrated seniority list of Loco Supervisory Staff in scale 2000-3200/- as also the Diesel, both Electrical and Mechanical, has been recast. Revised integrated seniority list is enclosed in supersession of earlier ones. In this list staff promoted to 2000-3200/- upto 1.1.84 have been included. Out of 92 names given in the seniority list staff upto Sl.No.33 are in the field of eligibility. In view of the large scale unwillingness, as is experienced in the past, it is proposed to keep sufficient reserved candidates. Owing to this Sl.No.34 to 92 will be the reserved list who should also indicate their willingness/unwillingness for appearing in the above selection and in case they come within the field owing to unwillingness of the eligible candidates, they will be called for written examination and such reserved candidates should also get prepared to sit in the written examination within short notice.

Each individual is to, examine the position assigned in the list and satisfy himself. Any objection to the position in the list should be submitted through respective DMEs to APO(M) by name (A.K. Baul) within 7 days of the receipt of this notice.

Tentatively the date of written examination is fixed on 23.7.89. Both willingness and unwillingness should be submitted to Dy.CPC(G) through respective controlling officers within 7 days. Each individual should acknowledge the seniority list as also this notice in the acknowledgement form enclosed.



for General Manager(P)

Attested.

Advocate.

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56 (21)

Integrated seniority list of loco and diesel supervisory staff in scale 2375-3500 & 2000-3200 in respect of the staff promoted on or before 1.1.84.

Name & designation	Dt. of promotion to 1660-2600	Dt. of promotion to 2000-3200.
1	2	3

1. Shri K.L.Chowdhury, SS/D/SGUJ		5.8.68
2. " N.B.Mallick, MI/Dsl/BLST		21.4.74 (840-1040)
3. " S.K.Bose, MI/Dsl/HQ		18.5.73
4. " H.M.Majumdar, MI/Dsl/NGC		3.8.73
5. " Rameswar Prasad, BIO/KIR		7.5.76
6. " T.K.Dey, SS/MI/E/SGUJ		5.5.77
7. " S.I.Nabi, -do-		18.10.77
8. " A.K. & Acharjee, LIM/HQ	28.9.65	21.2.78
9. " B.B.Paul, -Sr.PRC/NGC	5.5.67	21.2.78
10. " S.K.Dutta, LIM/HQ	12.5.73	21.2.78
11. " A.K.Mandal(SC) LIM/HQ	27.12.73	21.2.78
12. " M.K.Majumdar, LIM/NGC	27.8.73	21.2.78
13. " S.P.Ambasta, LIM/TSK	27.8.73	21.2.78
14. " B.K.Chatterjee, SFI/IMG	5.5.67	18.12.79
15. " Sohan Singh, SLI/D/NGC	5.5.67	18.12.79
16. " B.D.Ekka, (ST), LIM/APDJ	27.8.73	20.3.80
17. " E.Khakka, (ST) LIM/IMG	12.2.76	20.3.80
18. " Bimal Mukherjee, MI/D/Rites		28.3.81
19. " & L.P.Verma, MI/D/NGC		28.8.81.
20. " B.P.Nag, MI/D/NGC		28.3.81
21. " G.Biswas, MI/D/SGUJ		28.3.81
22. " D.K.Sen, MI/D/SGUJ		28.3.81
23. " P.K.Chakraborty, BIO/NJP		21.8.81
24. " K.K.Mitra, LF/KIR		27.2.82
25. " R.H.Paul, SS/D/E/HQ		5.3.82
26. " & Amiya Kr.Ghosh, SS/D/E/SGUJ		5.3.82
27. " Sushil Kr.Sinha, SS/D/E/NGC		5.3.82
28. " A.R.Das Roy, SS/D/E/MLDT		5.3.82

Attested.

Advocate.

1	2	3
29.	Shri S.S.Chakraborty, ASS/D/E/NGC	5.3.82
30.	" H. N.Prasad, (SC), ASS/D/E/NGC SGUJ	5.3.82
31.	" K.Kiro, (ST), ASS/E/E/SGUJ	5.3.82
32.	" N.K.Rasaily, (SC), SS/D/E/NGC	10.11.83
33.	" S.K.Das, SLI/APDJ	19.12.69 1.1.84
34.	" N.K.Dasgupta, CPRC/NGC	28.2.73 1.1.84
35.	" Sukumar Chakraborty, SLI/KIR	28.2.73 1.1.84
36.	" A.T.Chakraborty, LF\$NJP	28.2.73 1.1.84
37.	" Subhan Mia, CPRC/HQ	28.2.73 1.1.84
38.	" Sarbananda Roy, CPRC/APDJ	28.2.73 1.1.84
39.	" N.B.Shome, CPRC/APDJ	28.2.73 1.1.84
40.	" S.K.Manungoo, SFI/D/NGC	28.2.73 1.1.84
41.	" J.C.Sarkar, CPRC/APDJ (SLI/Saf)	28.2.73 1.1.84
42.	" M.R.Deka, CPRC/HQ	28.2.73 1.1.84
43.	" R.C.Mandal, SFI/D/TSK	28.2.73 1.1.84
44.	" R.G.Basak, SS/MI/D/MLDT	25.8.75 1.1.84
45.	" P.N.Deka, BIO/DBWS	20.12.75 1.1.84
46.	" R.L.Das, LF/NBQ	12.2.76 1.1.84
47.	" Sirajuddin, SS/MI/D/MLDT	9.9.76 1.1.84
48.	" M.K.Majumdar, SS/D/E/MLDT	14.9.76 1.1.84
49.	" M.P.Misra, ASS/D/E/NGC	14.9.76 1.1.84
50.	" Swapan Kumar Sinha, ASS/d/SGUJ	14.9.76 1.1.84
51.	" S.N.Singh	14.9.76 1.1.84
52.	" S.K.Sengupta, LF/IMG	2.1.77 1.1.84
53.	" E.C.Majumdar, SFI/HQ	2.1.77 1.1.84
54.	" A.N.Chakraborty, CPRC/HQ	2.1.77 1.1.84
55.	" A.K.Roy, CPRC/KIR	2.1.77 1.1.84
56.	" T.P.Sen Sharma, CPRC/	2.1.77 1.1.84
57.	" Amalendu Majumdar, LI/S/HQ	2.1.77 1.1.84
58.	" B.K.Roy Mohuri, PEC/KIR	2.1.77 1.1.84
59.	" R.E.Guha, PRC/B'GN	2.1.77 1.1.84
60.	" Raghunath Singh, LI/S/KIR	2.1.77 1.1.84
61.	" N.G.Das, ASS/E/ /B/	1.2.77 1.1.84
62.	" S.K.Goswami, ASS/D/M/MLDT	1.2.77 1.1.84
63.	" A.N.Mukherjee, SS/MI/SGUJ	1.2.77 1.1.84
64.	" R.N.Sengupta, ASS/D/M/HQ	1.3.77 1.1.84
65.	" M.Z.Rahman, FFO/DBRT	21.3.77 1.1.84
66.	" M.B.Sarkar, MLF/NJP	15.6.77 1.1.84

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56 (21)

Integrated seniority list of loco and diesel Supervisory staff in scale 2375-3500 & 2000-3200 in respect of the staff promoted on or before 1.1.84.

Name & designation	Dt. of promotion to 1660-2600	Dt. of promotion to 2000-3200.
1	2	3

1. Shri K.L.Chowdhury, SS/D/SGUJ	x	5.8.68
2. " N.B.Mallick, MI/Dsl/BLST	x	21.4.74(840-1040)
3. " S.K.Bose, MI/Dsl/HQ	x	18.5.73
4. " H.M.Majumdar, MI/Dsl/NGC	x	3.8.73
5. " Rameswar Prasad, BIO/KIR		7.5.76
5A. " <u>A.K.Banerjee, SS/D/SGUJ</u> <i>passed</i>		5.5.77
6. " T.K.Dey, SS/MC/E/SGUJ		5.5.77
7. " S.I.Nabi, -do-		18.10.77
8. " A.K.E Acharjee, LIM/HQ	<i>passed 1984</i>	23.9.65
9. " B.B.Paul, -Sr.PRC/NGC		5.5.67
10. " S.K.Dutta, LIM/HQ		12.5.73
11. " A.K.Mandal(SC)LIM/HQ		27.12.73
12. " M.K.Majumdar, LIM/MBQ	<i>passed 1992</i>	27.8.73
13. " S.P.Ambasta, LIM/TSK		27.8.73
14. " B.K.Chatterjee, SFI/IMG		5.5.67
15. " Sohan Singh, SLI/D/NGC		5.5.67
16. " B.D.Ekka,(ST), LIM/APDJ		27.8.73
17. " H.Khakka,(ST)LIM/IMG		12.2.76
18. " Bimal Mukherjee, MI/D/Rites		-
19. " S.L.P.Verma, MI/D/NGC		-
20. " B.P.Nag, MI/D/NGC		-
21. " G.Biswas, MI/D/SGUJ		-
22. " D.K.Sen, MI/D/SGUJ	<i>passed</i>	-
23. " P.K.Chakraborty, BIO/NJP	<i>passed 1992</i>	-
24. " K.K.Mitra, LF/KIR	<i>passed 1989</i>	-
25. " R.N.Paul, SS/D/E/HQ		-
26. " x Amiya Kr.Ghosh, SS/D/E/SGUJ		-
27. " Sushil Kr.Sinha, SS/D/E/NGC		-
28. " A.R.Das Roy, SS/D/E/MLDT		-

Attested.

Advocate.

1	2	3
29.	Shri S.S.Chakraborty, ASS/D/E/NGC	5.3.82
30.	" H. N.Prasad, (SC), ASS/D/E/NGC SGUJ	5.3.82
31.	" K.Kiro, (ST), ASS/B/E/SGUJ	5.3.82
32.	" N.K.Rasaily, (SC), SS/D/E/NGC	10.11.83
33.	" S.K.Das, SLI/APDJ	1.1.84
34.	" N.K.Dasgupta, CPRC/NGC	1.1.84
35.	" Sukumar Chakraborty, SLI/KIR	1.1.84
36.	" A.T.Chakraborty, LF\$NJP	1.1.84
37.	" Subhan Mia, CPRC/HQ	1.1.84
38.	" Sarbananda Roy, CPRC/APDJ	1.1.84
39.	" N.B.Shome, CPRC/APDJ	1.1.84
40.	" S.K.Manungoo, SFI/D/NGC	1.1.84
41.	" J.C.Sarkar, CPRC/APDJ (SLI/Saf)	1.1.84
42.	" M.R.Deka, CPRC/HQ	1.1.84
43.	" R.C.Mandal, SFI/D/TSK	1.1.84
44.	" R.G.Basak, SE/MI/D/MLDT	1.1.84
45.	" P.N.Deka, BIO/DBWS	1.1.84
46.	" R.L.Das, LF/NBQ	1.1.84
47.	" Sirajuddin, SE/MI/D/MLDT	1.1.84
48.	" M.K.Majumdar, SE/D/E/MLDT	1.1.84
49.	" M.P.Misra, ASS/D/E/NGC	1.1.84
50.	" Swapan Kumar Sinha, ASS/d/SGUJ	1.1.84
51.	" S.N.Singh	1.1.84
52.	" S.K.Sengupta, LF/IMG	1.1.84
53.	" E.C.Majumdar, SFI/HQ	1.1.84
54.	" A.N.Chakraborty, CPRC/HQ	1.1.84
55.	" A.K.Roy, CHRC/KIR	1.1.84
56.	" T.P.Sen Sharma, CPRC/	1.1.84
57.	" Amalendu Majumdar, LI/S/HQ	1.1.84
58.	" B.K.Roy Mohuri, PRC/KIR	1.1.84
59.	" R.H.Guha, PRC/B'GN	1.1.84
60.	" Raghunath Singh, LI/S/KIR	1.1.84
61.	" N.G.Das, ASS/E/ /B/	1.1.84
62.	" S.K.Goswami, ASS/D/M/MLDT	1.1.84
63.	" A.N.Mukherjee, SE/MI/SGUJ	1.1.84
64.	" N.N.Sengupta, ASS/D/M/HQ	1.1.84
65.	" M.Z.Rahman, FFO/DBRT	1.1.84
66.	" N.B.Sarkar, MLF/NJP	1.1.84

67.	Shri S.C.Basu, FFO/MLDT	15.6.77	1.1.84
68.	" D.K.Bhowmick, IF/AFDJ	15.6.77	1.1.84
69.	" B..N.Singh, IF/LXH	15.6.77	1.1.84
70.	" AaK.Pattadar, LIM/KIR	20.9.78	1.1.84
71.	" Sakti Kr.Datta, LIM/APDJ	20.9.78	1.1.84
72.	" D.D.Senapati, (SC), FFC/TSK	20.3.79	1.1.84
73.	" A.B.Fandi (ST), FFC/MBQ	20.3.79	1.1.84
74.	" S.C.Sarkar, SS/MI/E/	17.4.79	1.1.84
75-	" B.K.Bhuyan (SC), SS/D/T/	17.4.79	1.1.84
76.	" J.Baroi, (SC), SS/D/W/	29.10.80	1.1.84
77.	" B.Doley(ST), ASE/D/B/FGC	29.10.80	1.1.84
78.	" M.C.Gope, PRC/IMG	6.5.81	1.1.84
79.	" S.C.Pandey, PRC/KIR	6.5.81	1.1.84
80.	" S.R.Chanda, PRC/BPB	6.5.81	1.1.84
81.	" D.K.Paul, PRC/IMG	6.5.81	1.1.84
82.	" S.C.Dabnath, PRC/IMG	6.5.81	1.1.84
83.	" S.Hussain, PRC/TSK	6.5.81	1.1.84
84.	" S.K.Choudhury, PRC/HQ	6.5.81	1.1.84
85.	" P.K.Barua, IF/SCUJ	5.1.82	1.1.84
86.	" C.K.Biswas, IF/NJP	15.9.82	1.1.84
87.	" S.Paul, FFC/KIR	11.11.82	1.1.84
88.	" R.K.Mandal, (SC), FFO/BPB	11.11.82	1.1.84
89.	" S.K.Chakraborty, SLI/KIR	17.11.82	1.1.84
90.	" A.K.Banerjee, SPI/D/TDI	17.11.82	1.1.84
91.	" K.K.Mukherjee Vij, SPI/APDJ	17.11.82	1.1.84
92.	" B.K.Sinha, LF/FGC	1.1.84	1.1.84

Wherever date of promotion to 2000-3200 is the same seniority position is assigned according to date of promotion to 1660-2600 and panel position.

Attested.
Advocate.

for C.P.D(P)/MIG

Northeast Frontier Railway.

OFFICE ORDER NO.214/89 (MECH).

ANNEXURE- 2

Shri A.K.Banerjee, MI/D/SGUJ who is empanelled for the post of Group 'B' service as AME against 75% in Loco Stream is temporarily appointed to officiate in Group 'B' and posted as Offg.AME(D)/SGUJ against the upgraded post sanctioned vide GM(P)/Maligaon's Memorandum No.5/89 circulated under No.E/304/2-G(O) dated 10.1.89.

Shri K.K.Mitra, LF/KIR who is empanelled for the post of Group 'B' service as AME against 75% in Loco Stream is temporarily appointed to officiate in Group 'B' and posted as Offg. AMS/PNO & Coaching Depot Officer/Pandu vice Shri S.C.Das.

Shri S.C.Das on relief is transferred and posted as Offg. AME/TDH vice Shri M.B.Sen posted as DCOS/KIR(adhoc) in terms of office order No.137/89(Mech) circulated under No.E/233/54 Pt.XII (O) dated 14.9.89.

Shri S.S.Chakraborty, SS(D)/E/NGC who is empanelled for the post of Group 'B' service as AME against 75% in Loco Stream is temporarily appointed to officiate in Group 'B' and posted as offg.AME(D)/NGC against the upgraded post sanctioned vide GM(P)/Maligaon's memorandum No.5/89 circulated under No.E/304/2-G(O) dated 10.1.89

Shri R.L.Das, LF/NBQ who is empanelled for the post of Group 'B' service as AME against 75% in Loco Stream is temporarily appointed to officiate in Group 'B' and posted as Offg.AME(D)/LMG against the upgraded post sanctioned vide GM(P)/MLG's memorandum No.5/89 circulated under No.E/304/2-G(O) dt.10.1.89.

Shri P.Mukherjee, SS/WRS/NBQ who is empanelled for the post of Group 'B' service as AME against 75% in workshop stream is temporarily appointed to officiate in Group 'B' and posted as Offg.AME/MR/HQ vice Shri S.K.Haldar superannuating on 31.10.89 (AN).

for General Manager (P):MLG.

No.E/283/54/Pt.XII(O).

Maligaon, dated 30-10-89.

Copy forwarded for information and necessary action to :-

1.CME/MLG. (2)CRSE, CWE&CME(P)HQ. (3)Secy.toGM. (4)DRM/FRR, APDJ, LMG & TSK.

5.DAO/KIR, APDJ & LMG. (6)WAO/NBQs&DBRT. (7)Sr.DME(D)SGUJ, MEDT.

8.DME/D/NGC. (9)DRM(P)KIR, APDJ, LMG&TSK. (10)Dy.CTR/HQ.

11.AMS/PNO. (12)Sr.DME(C&W)/KIR. (13)DME(P)APDJ. (14)AEO/M/MLG.

15.Officers concerned.

Shri S.S.Chakraborty

SS(D)/E/NGC

for General Manager (P):MLG.

ad/-27.10.89

C/O DME / D/NGC

Attested.

Advocate.

25

ANNEXURE-3

N. F. R. I. W. A. Y.

MECHANICAL DEPARTMENT

SENIORITY LIST OF GROUP 'B' OFFICERS AS ON 01-04-1993

SN	N A M E	Designation	Date of birth	Date of appt. to service	Date of promotion to Group 'B'	When the SC/ST	REMARKS
1.	Sri F.R. Das.	AME	06-03-35	01-12-58	29-02-80	SC	Wke. in Group 'B'
2.	Sri M.K. Halder.	Pa/CME	01-93-43	02-01-62	29-03-82	SC	Wke. in Sr. Scale on adhoc basis.
3.	Sri M.H. Sarkar.	DME	15-02-43	02-01-62	02-04-82	SC	Wke. in Sr. Scale on adhoc basis.
4.	Sri S. Chakraborty.	S&SO	15-11-43	19-08-67	30-03-82	SC	Wke. in Sr. Scale on adhoc basis.
5.	Sri B.K. Chakraborty.	DME	10-01-43	21-06-73	10-06-82	SC	Wke. in Sr. Scale on adhoc basis.
6.	Sri N.K. Das.	DME	07-01-50	09-06-69	31-07-84	ST	Wke. in Sr. Scale on adhoc basis.
7.	Sri J. K. Aditya.	DME	16-06-49	25-05-71	30-04-86	SC	Wke. in Sr. Scale on adhoc basis.
8.	Sri R.N. Roy.	SME	02-02-50	09-06-69	31-08-88	SC	Wke. in Sr. Scale on adhoc basis.
9.	Sri R.N. Sharma.	DME	02-04-39	25-01-65	10-05-88	SC	Wke. in Sr. Scale on adhoc basis.
10.	Sri A.R. Chakraborty.	AUO/Mech	07-01-47	03-04-69	29-11-88	SC	Wke. in Sr. Scale on adhoc basis.
11.	Sri L.P. Biswas.	AME	15-04-46	01-04-66	17-11-88	SC	Wke. in Group 'B' in Managing Department.
12.	Sri B.K. Biswas.	AME	04-08-48	24-09-74	05-11-88	SC	Wke. in Group 'B'.
13.	Sri J.N. Brahma.	AME	24-12-49	23-10-76	04-08-89	ST	Wke. in Group 'B'.
14.	Sri S. Mandal.	AME	01-08-46	22-04-66	18-07-89	SC	Wke. in Group 'B'.
15.	Sri A.K. Banerjee.	AME	23-02-45	20-05-67	31-10-89	SC	Wke. in Group 'B'.
16.	Sri K.K. Mitra.	AME	11-10-48	01-04-66	06-12-89	SC	Wke. in Group 'B'.
17.	Sri S.S. Chakraborty.	AME	05-01-44	24-08-67	30-10-89	SC	Wke. in Group 'B'.
18.	Sri R.E. Das.	AME	09-11-44	10-07-64	29-11-89	SC	Wke. in Group 'B'.
19.	Sri F. Mukherjee.	AME (on Dep.)	25-02-40	17-07-64	13-11-89	SC	Wke. in Group 'B'.

Arrested

Advocate.

Contd.2/-

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1	2	3	4	5	6	7	8
20. Sri A.K. Pattadar.	AME	10-12-47	01-04-66	19-06-90	-	-	-
21. Sri R.N. Biswas.	AME	26-12-51	13-10-71	04-02-90	-	-	-
22. Sri G.D. Kanunyu	AWM	01-10-53	21-10-75	24-02-90	-	-	-
23. Sri P. Ghosh.	AME	04-05-53	04-08-72	21-02-90	-	-	-
24. Sri S.P. Ambanta.	AME	30-10-47	14-06-69	02-11-90	-	-	-
25. Sri I. Chakrabarty.	AME	01-11-40	27-02-61	02-10-90	-	-	-
26. Sri J. Lakra.	AME	01-01-50	12-02-79	18-10-90	ST	-	-
27. Sri M. K. Dey.	AME	03-02-55	31-10-81	21-01-91	-	-	-
28. Sri S.D. Chowdhury.	AME	01-01-53	05-08-72	27-02-91	-	-	-
29. Sri D. Dhar.	AME	07-06-51	12-10-76	12-06-91	-	-	-
30. Sri A.K. Roychowdhury.	AME	01-01-47	21-05-71	01-07-91	-	-	-
31. Sri S.K. Debchowdhury.	AME	01-03-39	26-04-67	11-02-92	-	-	-
32. Sri D.K. Chakrabarty.	AME	24-12-39	20-06-65	12-02-92	-	-	-
33. Sri M.K. Majumdar.	AME	27-10-45	17-08-64	14-02-92	-	-	-
34. Sri F.I. Chakrabarty.	AME	09-08-40	23-02-61	12-02-92	-	-	-
35. Sri S.K. Das.	AME	03-01-51	02-03-78	02-03-92	-	-	-
36. Sri Sirajuddin.	AME	18-07-44	03-04-64	17-02-92	-	-	-
37. Sri M.I. Mithra.	AME	27-06-45	24-08-67	11-02-92	-	-	-
38. Sri D.N. Das.	-COS	27-03-50	13-09-79	16-05-92	-	-	-

-do- in Stores Deptt.

NO: E/167/2/1(2)

for GENERAL M.N. GER(=)/MIG.

- Copy forwarded for information and necessary action to:
1. CH/ MIG.
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for GENERAL M.N. GER(=)/MIG.

Adm.

(NORTHEAST FRONTIER RAILWAY)

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

No.34OE/1/326(0)

Dated, 19/01/1995

To

Shri SS Chakraborty,
AME/NGC/Direct.

Sub : Revision of seniority list(Integrated).

.....

Adhoc promotion in your favour to the post of ASS in scale Rs. 700 - 900(RS) was ordered w.e.f. 2.2.82 which was subsequently regularised w.e.f. 5.3.82 vide CME(P)/MLG's letter No.E/254/49/DSL/Elec(M) dated 18.1.85, as there was a clear vacancy of ASS as on that date, which was a non-selection post.

2. Shri RL Das, LI(M)(now AME) was also promoted on adhoc basis w.e.f. 18.3.80 with subsequent regularisation in scale Rs. 700 -900(RS) w.e.f. 1.1.84.

While preparing an integrated seniority list for the purpose of promotion to the post of Group-B, Shri RL Das was accordingly shown junior to you, as his promotion was regularised w.e.f. from 1.1.84.

3. Shri Das thereafter, preferred an appeal to antedate his promotion as on that particular date, ~~xxxx~~ when there was a vacancy and the post was a non-selection one. The case was examined and the Competent Authority has decided to effect his promotion w.e.f. 27.2.82 instead of 1.1.84.

4. Above decision of giving effect of promotion of Shri RL Das to the post of LI(M) in scale Rs.700 -900(RS) will also require revision of seniority position in the integrated seniority list of Supervisory staff of Mech.Deptt, published vide CME(P)/MLG's No.E/254/III/91 Pt.VI(0) dated 11.7.89 and Shri Das will now be senior to you in scale Rs.700 - 900(RS) and also in higher grade posts.

5. Before the above seniority list of staff in scale Rs.700 -900(RS) and also in higher grades are corrected (assigning higher position to Sri RL Das) and published, you are advised to submit your representation, if any, in the matter, which should reach this office within 15 days from the date of receipt of this letter, to enable this office to take necessary action, if required any.

6. Please acknowledge receipt of this letter.

(A 11554 41195)
SEN
ANO/Mech
for GENERAL MANAGER(P)

Attested.
Advocate

.....

ANNEXURE- 5

To
The General Manager(P)
N.F.Railway, Maligaon,
Guwahati-11

A 119

Sir,

Sub:- Revision of seniority list(Integrated).

Ref:- Your L/No.340E/1/326(O) dt.19.1.95.

I regret having to note the contents of your letter in which a proposal has been mooted to reassign the seniority position of Sri R.L. Das in the integrated seniority list in scale Rs.700-900/-(RS) which is inappropriate, unjustified and untenable on grounds mentioned below.

- a) Sri R.L. Das was promoted on ad-hoc basis w.e.f. 13.3.80 and subsequently regularised w.e.f. 1.1.84. The latter date must have appeared on a number of occasion prior to his promotion to Group 'B', but he had never submitted any representation against wrong placement of his seniority.
- b) Even on the eve of selection to Group 'B' in 1989 when the integrated seniority list was finally circulated after rectifying the position on the basis of individual representation under GM/P's Notice No.E/254/III/91/Pt.VI(O) dt.19.6.89, the Administration also allowed 7 days time for submission of representation, if any. Sri Das did not avail of this opportunity and the select list of Group 'B' (AME's) was published with approval of GM on the basis of the same list. The representation of Sri Das at this distant date thus has no legs to stand upon.
- c) The promotion of Sri R.L. Das to scale Ps.700-900/-(RS) was regularised by the competent authority w.e.f. 1.1.84. As such, his suitability was adjudged by the competent authority as from 1.1.84 which is the crucial date for determining seniority. It is not understood how he is now being declared suitable from an earlier date, viz. 27.2.82. According to Board's L/No.E(NG)1/90PM1/26 dt.14.5.92 the "Select list/Trade Test panel shall be treated as effective from the date of approval by the competent authority". When the panel of Sri R.L. Das on scale Rs.700-900/-(RS) was approved as on 1.1.84, there could not be any scope of antidating it from a date a couple of years earlier.

- d) It may be added that the senior Supervisors of the mechanical department were mostly promoted on ad-hoc basis initially and later regularised and the latter date has been adopted as the criterion for determining the seniority. In my own case and of quite a few others as well, regular vacancies were available from a much earlier date while we were promoted on ad-hoc basis first and later regularised, which date has been adopted for all purposes. If the case of Sri Das is resuscitated after an interregnum of one and a half decades, I may also claim for identification of a clear vacancy of ASS(Rs.700-900/-) in my own stream and seek for anti-dating my promotion from an earlier date, so also is the position of many of my confreres I am sure that with such reassignment of seniority in my case I will stand senior to many other candidates, some of whom have already been promoted to senior scale in Gazzeted Cadre.
- e) All these points apart, my position was correctly shown in the classified list published by the Ply. Board over the years and any change at this distant date will lead to very adverse repercussion on a number of other incumbents similarly placed.

2. In fine, I beg leave to say that on grounds mentioned in para-I supra which are all cogent there is no point on reopening of the case of Sri Das now in the interest of fair play, Justice and equity and I pray that the proposal may kindly be dropped.

Dated, New Guwahati
6th Feb'1995.

Yours faithfully,

S. S. Chakraborty
6/2/95
(S. S. Chakraborty)
AME/Diesel/NGC

Attested.

Advocate.

To
The General Manager(P)
N.F.Railway, Maligaon
Guwahati-11.

Sir,

Sub:-Revision of seniority list(Integrated)

Ref:-Your L/No.340E/1/326(O),dt.19.1.95. and
my representation dt.6.2.95

It is astonishingly noticed that administration after receiving my representation on the proposed revision of seniority list vide above remain silent for a long period.

It is assumed that the administration has dropped the idea to favour a particular candidate for giving him undue benefit violating all rules and regulations existing in the railways in regard to fixing up seniority of railway man. At the same time I am afraid that my representation against any change of seniority on the basis of which the selection of Group-B was held and the candidates were empaneled, might have been over ruled and administration on their own violation might have been trying to change my seniority position in the panel. If it is so I may pray to the Court of Law for getting justice against the arbitrary decision of the administration.

This appeal of mine may be treated as notice to get reply from the administration within fifteen days otherwise I will be free to move to the Court of Law.

Thanking you in anticipation.

Yours faithfully,



(S. S. Chakraborty)
AME(Diesel)/NGC

Attested:

Advocate.

Dated: New Guwahati,
the 7th September, 1995.

- 3 -

Annexure: 7

ANNEXURE- 7

NORTHEAST FRONTIER RAILWAY

No. 340E/1/326(0).

Office of the
General Manager (P),
Maligaon, Guwahati-11, 20-9-1995.

To
Shri SS Chakraborty,
AME(D)/New Gauhati.

Sub:- Revision of seniority list (integrated).

Ref:- Your representations dated 6.2.95
and 7.9.95.

...
Your representations under reference in response to this office letter of even number dated 19.1.95 have been examined at the appropriate level. The arguments advanced in your representation that Sh. RL Das did not submit any representation against wrong placement of his seniority prior to his promotion to Group-B or even immediately after the publication of the said integrated seniority list, circulated under GM(P)'s No.E/254/III/91 Pt.VI(C) dated 19.6.89 are correct. However, the fact remains that Sh. RL Das had been senior to you as per dates of entry to Rly. service as well as date of promotion to various comparable grades. It is only in the case of promotion to grade 700-900(RS) that his date of regularisation was treated as 1.1.84 while you were given the benefit w.e.f. 5.3.82, resulting in the alleged wrong fixation of seniority of Sh. RL Das in the integrated seniority list of Mechanical Supervisors and in the Gazetted cadre of AME/AMN.

The contention of your appeal as mentioned in para(c) of your representation dated 6.2.95 does not appear to be correct as because similar considerations were made in your personal case giving you the benefit of regularisation of promotion in grade Rs.700-900/- from a back date, viz. 5.3.82, while the decision was taken only in the year 1985. As such, your argument quoting Board's circular No.E(NG)I/80 Pt.1/26 dated 14.5.92 is not tenable.

As far as the question of considering the claim of Sh. RL Das after lapse of a considerably long period is concerned, it is to be stated that the case was examined in great details at the level of CFO and CME and only after examining the merit of the case, the decision to antedate the regularisation of promotion of Sh. RL Das in grade Rs.700-900/- w.e.f. 27.2.82 instead of 1.1.84 was taken.

Accordingly, Sh. Das has been given the benefit of regularisation of promotion to grade 700-900/- vide GM(P)'s order No.E/283/III/59(M) Pt.III dt. 12/12.6.95.

contd.....2.

Attested.
Advocate.

65-2

: 32 :

His seniority position has also been corrected in the seniority list of LI(M)/FFC/MLF in scale Rs.2000-3200/- published under GM(P)'s No.E/254/III/42(M) Pt.I dated 18.12.87, in terms of GM(P)'s No.E/283/III/59(M)Pt.III dated 12/13.6.95.

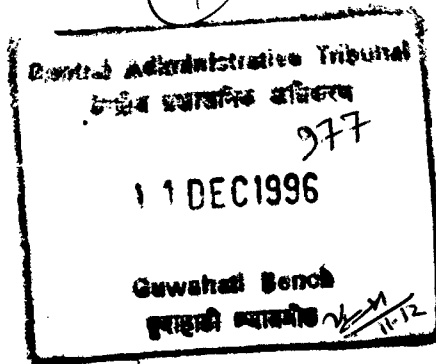
In view of the above, Sh. RL Das, with his revised seniority position in the non-gazetted cadre, stands senior to you in the integrated seniority list of Mechanical Supervisors which was taken into consideration at the time of the selection of AME/AMM held in the year 1989 in which both Sh. Das and you were empanelled and as a sequel to the above, Sh. Das stands senior to you in the Gazetted cadre also.

This is for your information.

Please acknowledge receipt.

M. Brahmo
(M. Brahmo)
Dy.Chief Personnel Officer (G),
for General Manager (F)

31/12/95
Admitted.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :

O.A. No. 270 of 1995.

Shri S.S. Chakraborty ... Applicant.

Vs.

Union of India & Ors. ... Respondents.

AND

IN THE MATTER OF :

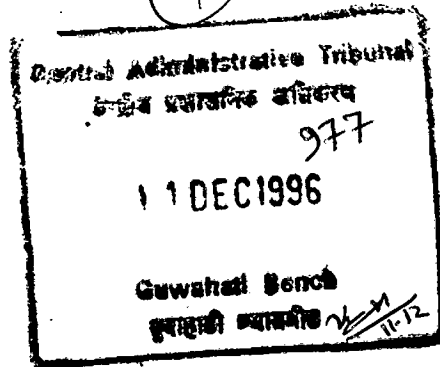
Written statement for and on
behalf of the respondents.

The answering respondents beg to state as follows :-

1. That the answering respondents have gone through a copy of the application filed by the applicant and have understood the contents thereof.

2. That save and except the statements which are specifically admitted here-in-below, other statements made in the application are categorically denied. Further, the statements which are not borne on records are also denied by the respondents.

Ctd....2



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :

O.A. No. 270 of 1995.

Shri S.S. Chakraborty ... Applicant.

Vs.

Union of India & Ors. ... Respondents.

AND

IN THE MATTER OF :

Written statement for and 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 application filed by the applicant and have understood the contents thereof.

2. That save and except the statements which are specifically admitted here-in-below, other statements made in the application are categorically denied. Further, the statements which are not borne on records are also denied by the respondents.

Ctd....2

Received Copy
3-2-97

3. HISTORY OF THE CASE :

In non-gazetted services the applicant was working in the cadre of ASS (Rs.2000-3200/-) in Diesel Shed and the respondent No. 7, Sri RL Das belonged to the cadre of Loco Inspector(M) in scale Rs. 2000-3200/-. They were working in two separate seniority units. The applicant was promoted to the post of ASS/Diesel (Rs.2000-3200/-) on ad-hoc basis on 2.2.82 against the available vacancy. The post of ASS/Diesel at the material time was a non selection post. The ad-hoc promotion of the applicant was subsequently regularised w.e.f. 5.3.82 under the orders of competent authority vide GM(P)/Maligaon's No. E/254/49/DSL/Elect(M) dt 18.1.85. Sri RL Das (Respondent No. 7) was also promoted to the post of Loco Inspector (M) in grade Rs.2000-3200/- which is a separate cadre, on adhoc promotion basis w.e.f. 18.3.80 against available vacancy. The post of LI(M) in grade Rs.2000-3200/-at the time of his ad-hoc promotion was a non-selection post. With the restructuring of cadre w.e.f. 1.1.84 Sri RL Das was promoted on regular basis w.e.f. 1.1.84 as LI(M) in scale Rs.2000-3200/- in continuation of adhoc promotion. Subsequently the ad-hoc promotion of Sri RL Das was also regularised by the competent authority w.e.f. 27.2.82 against regular post vide GM(P)/Maligaon's corrigendum No. E/255/III/42(M) Pt.I dt 12/13.6.95.

While filling up of Group 'B' posts of a particular discipline, interse seniority of staff of different stream and seniority group of a department is prepared. Criteria for determining the seniority position is the total length of non-fortutious service in grade Rs. 2000-3200/- equivalent to

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group in terms of para 203/5 of the Mechanical Deptt. in 1989 as per the seniority position so prepared the seniority position of the applicant was shown at Sl. No. 29 and the name of Shri RL Das, respondent no. 7 at Sl. No. 46 in the integrated seniority list published on 11.7.89 according to the length of non-fortutious service in grade Rs. 2000-3200/-. While selection was held in 1989 the ad-hoc service of Shri RL Das prior to 1.1.84 was pending for regularisation and as such his non-fortutious service for the purpose of selection was taken as 1.1.84 where-as the date of regular promotion of the applicant was taken as 5.3.82 since his ad-hoc promotion was regularised earlier i.e. before holding the selection for the post of Asstt. Mechanical Engineer (in short AME). As a result of selection both the applicant and Shri Das were empanelled for the post of AME and were promoted w.e.f. 30.10.89 and 29.11.89 respectively.

A seniority list of AME Group 'B' was published vide GM(P)/Maligaon's No. E/167/2/1(0) dt 28.5.93 wherein the name of the applicant was shown at Sl. No. 17 and the name of Shri RL Das, respondent No. 7 at Sl. No. 18 as the issue regarding regularisation of ad-hoc services of Shri RL Das as LI(M) in scale Rs. 2000-3200/- was finalised at a latter stage i.e. only during May'95 and the competent authorities approved regularisation of adhoc service of Shri RL Das w.e.f. 27.2.82. Consequent on regularisation of ad-hoc promotion of Shri RL Das as LI(M) in scale Rs. 700-900/- (Rs.2000-3200/-) w.e.f. 27.2.82, the date of regular promotion as LI(M) of Shri Das in the seniority list of LI(M) published vide CME(P)'s No. E/255/III/42(M)/Pt.II dtd 18.12.87 was modified vide corrigendum issued under GM(P)'s letter No. E/255/III/42(M)Pt.I dtd 12/13.6.95

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as well as the position of Shri Das in the integrated seniority list of Supervisors of the Mech. Deptt. for the purpose of selection of AME Group 'B' was also refixed placing Shri Das above Shri Chakraborty vide GM(P)/Maligaon's O.O. No. 340/E/1/326(0) dt 19/20.6.95. As a result, seniority of Shri RL Das in the cadre of AME Group 'B' was also placed above the applicant.

4. That with regard to the statements made in paragraphs 4.1 and 4.2 of the application, ~~xxx~~ while denying the contentions made by the applicant, the answering respondents reiterate and re-affirm the statements made above.

5. That with regard to the statements made in paragraph 4.3 of the application, it is stated that in the integrated seniority list of Supervisors of the Mech. Deptt. for the purpose of selection for the post of AME Group 'B' which was circulated vide GM(P)/Maligaon's No. E/254/III/94 Pt.VI(0) dtd 19.6.89, the date of non-fortutious service of promotion of respondent No. 7 was shown as 1.1.84 as per position prevailing at the time of holding the selection for AME. The respondent No. 7 had nothing to represent against the position reflected therein since his ad-hoc service as LI(M) in grade Rs.2000-3200/- prior to the grade of 1.1.84 was yet to be regularised at that time.

6. That with regard to the statements made in paragraph 4.4 of the application, the answering respondents do not admit anything contrary to relevant records of the case. The respondent no. 7 had nothing to represent against the inte-grated

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seniority position at that material point of time since his ad-hoc service prior to 1.1.84 was not regularised at that time.

7. That with regard to the statements made in paragraphs 4.5 and 4.6 of the application, the answering respondents do not admit anything contrary to relevant records of the case.

8. That with regard to the statements made in paragraph 4.7 of the application, it is stated that the applicant was promoted to the post of AME Group 'B' w.e.f. 30.10.89 and Shri RL Das (respondent no. 7) was also got promotion to the post of AME on 29.11.89 as envisaged from the seniority list of Group 'B' of Mech Deptt. as on 1.4.93 published under GM(P)/Maligaon's letter No. E/167/2/1(0) dt 28.5.93. An administrative error can always be rectified. In the instant case, the benefit to which the respondent no. 7 was actually entitled to under the facts and circumstances, has been granted to him and the applicant ought not to have made grievance against the same.

9. That with regard to the statements made in paragraph 4.8 of the application, it is stated that the officers upto Sl. No.16 of the seniority list of Group 'B' Officers published on 28.5.93 i.e. Shri KK Mitra was considered for promotion to the post of senior scale of Mech Deptt. by D.P.C. The applicant being at Sl. No. 17 of the aforesaid seniority list, whose position was very much offing as per his turn for consideration of promotion for the post of Sr. Scale of Mech. Deptt. by the D.P.C.

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Regularisation of ad-hoc promotion of an employee is the liability of the administration and depend upon the consideration of the competent authority as per availability of regular vacancy and not on the application of ad-hoc promotees. The applicant was also promoted on ad-hoc basis and his ad-hoc promotion was regularised much earlier by the competent authority. Regularisation of ad-hoc promotion of Shri RL Das was delayed on administrative ground and ultimately competent authority approved the regularisation in May '95 on merit of the case. Shri RL Das made representation to the Chief Mech. Engineer, on 8.4.92 to antedate the date of his regular promotion after regularising the period of ad-hoc promotion which he rendered prior to 1.1.84. His case for regularisation of ad-hoc promotion which was left unattended was examined by the competent authority and a decision arrived at. Accordingly, ad-hoc service of Shri Das was regularised w.e.f. 27.2.82 the date of regular promotion was antedated as well as seniority position refixed.

10. That with with regard to the statements made in paragraphs 4.9 to 4.12 of the application, the answering respondents do not admit anything contrary to relevant records of the case.

11. That with regard to the statements made in paragraph 4.13 of the application, it is stated that there was no arbitrary or unlawful action on the part of the railway administration in regularising the ad-hoc promotion and antedating the date of regular promotion of the respondent no. 7 from 1.1.84 to 27.2.82 and effecting consequential change

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change in the seniority position which was reflected in the integrated seniority list of Loco Supervisors for the purpose of selection of AME(Group 'B') and also in the seniority position of AME (Group 'B') published in 1983. Both the applicant and the respondent no. 7 were initially promoted on ad-hoc measure (fortutious). Due to exigencies of service though not in the same cadre in seniority group the ad-hoc promotion of the applicant to the non-selection post of ASS (Rs.700-900/-) was regularised by the competent authority w.e.f. 5.3.82 at a latter stage vide GM(P)/Maligaon's letter No. E/254/39/Diesel(Elect)(M) dt 18.1.85. Similarly, the ad-hoc service of Shri Das, respondent no. 7 was also regularised w.e.f. 27.2.82 by the competent authority ~~at~~ at latter stage in the year 1995. Had the ad-hoc promotion of Shri Das be regularised prior to the selection for the post of AME(Group B), according to length of non-fortutious service Shri Das's position would have been above the applicant in the integrated seniority list. When the case of regularisation of ad-hoc promotion of Shri Das was left unattended he approached the Rly. adms. on 8.4.92 for a similar treatment i.e. for regularisation for this ad-hoc service prior to 1.1.84. His case was examined at the appropriate level and the competent authority considered his regular promotion by regularising the period of ad-hoc service w.e.f. 27.2.82 on merit of the case. The principle which was applied in the case of the Applicant was not applied initially in the case of Shri Das and as a result he ranked junior to the applicant in the integrated seniority list published on 11.7.89 and this position continued to be reflected in the seniority of AME (Group 'B') also.

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Being a similar nature of case, regularisation of ad-hoc service of Shri Das (respondent no. 7) was considered for similar justice.

12. That with regard to the statements made in paragraph 4.14 of the application, it is stated that although as per para 321(b) of IREM a representation against the seniority position of seniority list is acceptable within the period of 1 yrs. but the basic case of Shri RL Das is regularisation of his ad-hoc promotion against the available regular vacancy prior to 1.1.84. Recasting of seniority position at a latter stage was the consequential affect against a non selection regular vacancy. The seniority position of Shri Das was an un-settled fact.

13. That with regard to the statements made in paragraph 4.15 of the application, the answering respondents do not admit anything contrary to relevant records of the case. It is stated that the ad-hoc promotion of Shri Das against the non-selection regular post was subsequently regularised. Prior to regularisation of his ad-hoc service Shri Das was given regular promotion w.e.f. 1.1.84 against the up-graded post, which was available due to restructuring of cadre.

14. That with regard to the statements made in paragraph 4.16 of the application, it is stated that Shri RL Das respondent no. 7 was appointed as App. Ch. Man 'B' on 10.7.64 regular Ch. Man 'B' w.e.f. 10.7.69 and was promoted to the post of Ch.Man 'A' w.e.f. 12.2.76 and thereafter he was promoted to the post of LI(M) in grade Rs.2000-3200/- w.e.f. 18.3.80 (on ad-hoc basis). On the otherhand, the applicant

was appointed as Ch.Man'B' w.e.f. 26.10.76 and thereafter to the post of ASS in grade Rs.2000-3200/- w.e.f. 2.2.82 on ad-hoc basis. They were in two different seniority groups and for the purpose of selection to the post of AME (Gp.B) integrated seniority position on the basis of non-fortutious length of service was prepared.

15. That with regard to the statements made in paragraph 4.16 of the application, it is stated that the promotion of Shri Das, resondant no. 7 to the post of LI(M) in grade Rs.2000-33200/- on ad-hoc measure was given effect from 18.2.80. The post at the material time was a non selection post which is filled up based on seniority and record of service. Before refularisation of ad-hoc Shri Das was given regular promotion against restructured post w.e.f. 1.1.84. Since regular clear vacancy was available from 27.2.82 benefit of regular promotion to that grade was extended to him from 27.2.82. Service particulars other than the grade Rs.2000-3200Rs- has no relevancy in detemining the integrated seniority list for the purpose of selection of AME. Such integrated seniority list is prepared on the basis of length of non-fortutious service in grade Rs.2000-3200/-. The seniority position of Shri Das which was fixed initially was subsequently revised due to antedating ~~the~~ of promotion to grade Rs.2000-3200/- w.e.f. 27.2.82.

161 That with regard to the statements made in paragraph 4.17 of the application, it is stated that no order amending the approved panel for the post of AME

has been issued. It is only the seniority position in the integrated seniority list of Supervisors as well as seniority position in the seniority list of AME(Gr.B) was changed due to change in the length of non-fortutious service of Shri RL Das, respondent no. 7 vide GM(P)/Maligaon's corrigendum No. E/255/III/42(M) Pt.I dt 12/13.6.95 and O.O. No. 34OE/1/326(0) dt 19/20.6.95 after giving notice to the applicant vide DM(P)/Maligaon's No. 34OE/1/326(0) dt 19.1.95 and explaining the ground and circumstances for revision in the seniority position vide GM(P)/Maligaon's letter No. 34OE/1/326(0) dt 20.9.95.

17. That with regard to the statements made in paragraph 4.18 of the application, it is stated that the claim of Shri Das for antedating and date of promotion was examined at the apex level of CPO and CME and only after examining the merit of the case decision to regularise his period of ad-hoc promotion and to antedate to the date of regular promotion of Shri Das in scale Rs.2000-3200/- w.e.f. 27.2.82 instead of 1.1 .84 was taken.

18. That with regard to the statements made in paragraph 4.19 of the application, it is stated that the revised position of the applicant in the integrated seniority list as well as in the seniority position as AME (Group 'B') has already been communicated to him.

19. That the instant application has been filed by the applicant entirely on a wrong notion of the matter and no judicial interference has been called for. The

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answering respondents crave leave of the Hon'ble Tribunal to produce the relevant records if necessary at the time of hearing of the instant case. ..

2.0. That under the facts and circumstances stated above, the instant application is not maintainable and liable to be dismissed.

VERIFICATION.

I, Shri C. Saikia, aged about 32 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 and those made in paragraphs 3 to 18 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.

C. Saikia
6/12/96

(C. Saikia)

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

অধ্যক্ষ কর্মকর্তা (অসম)
Dy. Chief Personnel Officer (AG)

পূঃ পিঃ রেলওয়ে, গুৱাহাটী-781011.
C. P. Rly., Guwahati-781011