

0/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-335/97 order sheet pg-1
Disposed Date-07/01/98

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O.A/T.A No. 36/95

R.A/C.P No.

E.P/M.A No. 335/97

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI, 5

O.A.No.

36/95.

Misc. Petn.

C.P. No.

R. Appl:

Sri Syed. Jalamuddin Ali.....APPLICANT'S
frs.

U. O. I. S. ors.....RESPONDENT'S

Mr. G. K. Bhatia Charya.....FOR THE APPLICANTS

Mr. G. N. Das.....

Mr. B. Chakraborty.....
Mr. P. Sarma

Mr. B. K. Sharma.....FOR THE RESPONDENTS

OFFICE NOTE

DATE

ORDER

This application is in
form of a writ of habeas
corpus. The petitioner is
a citizen of India. C. F.
On 16.3.95, the learned
Vice-Chairman has
Dated 14.3.95...

16.3.95

None present for the applicant.

Adjourned to 22.3.95.

nk

Vice-Chairman

By, Reg. Strar

24.3.95

Mr G.N.Das mentioned that the
applicant's Advocate requests adjournment
till Tuesday. We are not happy with this
casual manner in which matter are postponed.
On the last occasion i.e. 16.3.95 the
learned Advocate for the applicant did not
appear, on our own we adjourned it till today.
We should have dismissed it but for avoiding
an embarrassment to Mr Das we do not give any
date, let the learned counsel for the applicant

contd...

24.3.95

make a request in writing for placing the matter on board whenever convenient to him. If no such application is made within 15 days matter be shown for dismissal on 7.4.1995.

hull
Vice-Chairman

bo
Member

pg

for - 28/3

28.3.95 Ref. order dt. 24.3.95

Mr. G.K. Bhattacharjee, Counsel for the applicant submitted the application (F.I.X) dtd. 28.3.95 with a prayer to fix the matter for admission on 31.3.95.

Laid for favour of perusal and orders.

Place for admission on 31.3.95 as prayed
hull
28/3/95

bo *28/3/95*

for
Co.
28/3/95

31.3.95

Mr. G.K. Bhattacharjee for the applicant.

Question of promotion is involved. Application admitted. Issue notice to the respondents. Eight weeks for written statement. Adjourned to 5.6.95 for orders.

bo
Member

hull
Vice-Chairman

trd

Requisites are sent to court vide no 1581-93 dt. 17-4-95

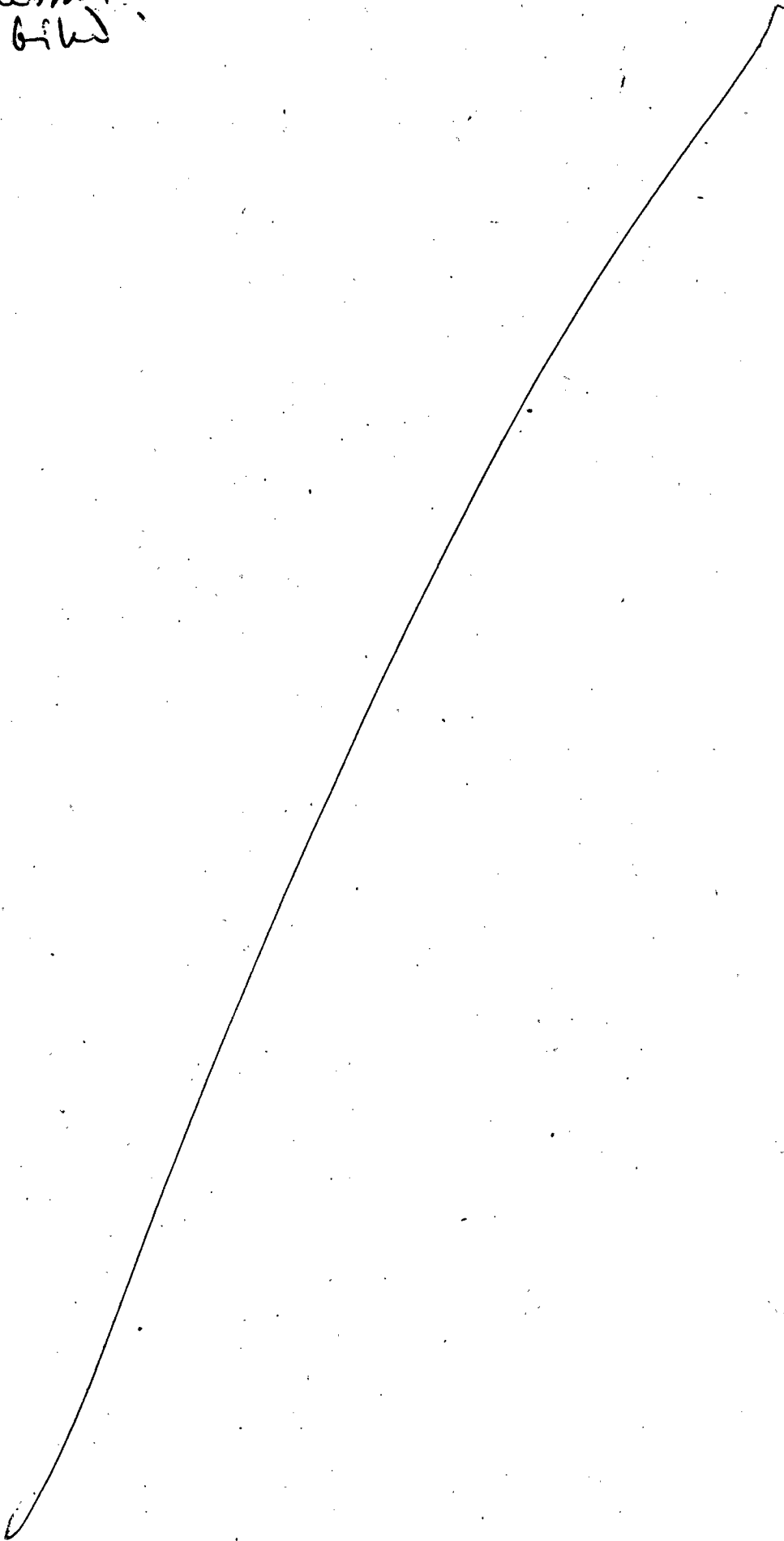
*Notice duly sent on R.M. 1, 2, 3, 4, 5, 8, 9, 12 & 13. *for* with *hull* notice sent back to R.M. 10.*

(5-6-95) To be listed for orders on 10.7.95
By order

(3) O.A. 36/95

w/ stationer - has not
been biled

50
7/7



OFFICE NOTE	Date	COURT'S ORDER
	10-7-95	Time to file counter extended 2 adjourned to 1-9-95 for further orders. Vice-Chairman <i>[Signature]</i> Member <i>[Signature]</i>
lm	4.9.95	None for applicant. Mr B.K.Sharma for respondents. Time to file written statement is extended by four weeks. Adjourned to 16.10.1995 for orders. Member <i>[Signature]</i> Vice-Chairman <i>[Signature]</i>
pg	17.10.95	Adjourned to 4.12.1995 for orders. Member <i>[Signature]</i> Vice-Chairman <i>[Signature]</i>
pg 4-12-95 lm	4-12-95	Adjourned for orders to 1-1-96. Member <i>[Signature]</i> Vice-Chairman <i>[Signature]</i>

W/ statement has not
been filed

AD
1/12

W/ statement has not
been filed

AD
27/12

1.1.96

for orders

on 6.3.96.

By order

OFFICE NOTE

Date 2-1-96

COURT'S ORDER
Adjourned for orders to 6-3-96.

Liberty to file counter.

Member

Vice-Chairman

lm

2-1-96

Adjourned for orders to 6-3-96. Liberty to file counter.

Member

Vice-Chairman

km

6.3.96 List on 3.4.96 for written statement and for orders.

Member (A)

3.4.96

Mr G.N.Das for the applicant. Written statement has not been submitted by the respondents.

List on 13.5.96 for written statement and further orders.

Member

pg

13.5.96

None for the applicant. Mr B.Mehta for Mr B.K.Sharma for the respondents. Written statement has not been submitted.

List on 19.6.96 for written statement and further orders.

Member

pg

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

O.A.36/96

OFFICE NOTE

DATE

ORDER

19.6.96

None is present. Written statement has not been submitted.

List for hearing on 17.7.96. Respondents may submit written statement if desire.

Member

pg

17.7.96

Mr G.N.Das for the applicant.

List for hearing on 16.8.96.

Member

pg

16.8.96

Mr. G.N.Das for the Applicant.

Mr. B.K.Sharma for the respondents.

The respondents have not submitted written statement till now. They are directed to submit the written statement within next date of hearing with a copy to the counsel of the opposite party.

List for hearing on 12.9.96.

Member

trd

17.9.96

None present.

List for hearing on 15.10.1996.

Member

trd

w/ statement has not been b/w

16/7

w/ statement has not been b/w

14/8

w/ statement has not been b/w

16/9

w/ statement has not been b/w

11/10

trd
17/9

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

OFFICE NOTE

DATE

ORDER

15.10.96

Mr. B.K.Sharma, Railway counsel for the respondents.

Written statement has not been submitted. Mr. Sharma seeks time to file the written statement. However list for hearing on 2.12.1996. In the meantime the respondents may submit written statement.

ba
Member

trd

2.12.96

Learned counsel Mr B. Chakraborty for the applicant. None for the respondents. No written statement has been filed.

List for hearing on 31.12.96. IN the meantime the respondents may submit written statement.

ba
Member

nkm

31-12-96

None present. Written statement has not been submitted. This is a case of 1995 which is to be disposed of immediately.

List for hearing on 23-1-97.

Respondents may submit written statement in the meantime.

ba
Member

lm

6.2.97

Let this case be listed on 25.2.97 for hearing.

ba
Member

ba
Vice-Chairman

trd

m
16/2

1) Notices duly served on Resp'ts. no 1-9, 12 & 13

2) Notice received back from Resp't no. 10.

3) W/statement - has not been filed.

SD
29/11

W/statement - has not been filed.

SD
30/12

2-1-97

W/s filed by Resp'ts.

ba

~~10/1/97~~

~~10/1/97~~

(7)

OA. 36/95-

X 9

24.2.97

25.2.97

Let this case be listed for hearing on

27.2.97.

1) Written statement has been submitted on behalf of the respondents.

nkm

Member

Vice-Chairman

27.2.97

Adjourned to 6.3.97 for hearing.

2) Notice duly served on 1 to 9 and 12.

3) Notice received back from R. 10 as remarks "refusal."

pg

5/3

Member

Vice-Chairman

4) Memo of appearance not yet filed it is a case of 1995.

6-3-97

Let this case be listed for hearing on 10-4-97.

24/2/97.

Member

Vice-Chairman

1m

11/3

1) Notice duly served on R. Nos. 1 to 9 & 13.

2) Notice recd. back from R. No. 10 as remarks "Refuse."

3) Wt statement has been filed

4) No appearance has been filed

9/4

10.4.97

Mr S. Sarma on behalf of Mr B.K. Sharma who is in charge of this case, prays for adjournment on the ground that Mr B.K. Sharma is unable to attend court for his personal reason.

Let the case be listed on 29.4.97 for hearing.

Member

Vice-Chairman

nkm

16/4

29.4.97

On the prayer of Mr S.Sarma on behalf of Mr B.K.Sharma, learned counsel for the respondents the case is adjourned to 1.5.97

Member

Vice-Chairman

1m

30/4

1.5.97

There is no representation of behalf of the applicant. For the ends of justice hearing is adjourned till 23.5.97.

Member

Vice-Chairman

trd

2/5

23.5.97

Mr G.K.Bhattacharya, learned counsel for the applicant prays for a short adjournment due to his personal difficulty as he could not prepare the case. Prayer allowed.

List for hearing on 27.5.97.

Member

Vice-Chairman

pg

27-5-97

Left over. List for hearing on 15-7-97.

Member

Vice-Chairman

lm

2/15

15.7.97

On behalf of Mr G.K.Bhattacharya Mr B.K. Sharma prays for adjournment. Accordingly the case is adjourned for two weeks.

List on 31.7.97 for hearing.

Member

Vice-Chairman

pg

16/7

31-7-97 Leftover. List on 28-8-97.

By order.

has been filed

has been filed

upt

24-7-97

Rejoinder filed on behalf of the applicant at page 54 to 63.

(19)

25.8.97

There is no representation. The Division Bench is not sitting.

Adjourned the case till 19.9.97 for hearing.

[Signature]
Vice-Chairman

pg

19.9.97 Adjourned to 22.9.97.
By order.

22.9.97 Adjourned to 24.9.97.
By order.

24.9.97 Adjourned to 19.11.97.
By order.

19.11.97 Adjourned to 25.11.97.
By order.

25.11.97

There is no representation on behalf of the applicant. Accordingly the application is dismissed for default.

[Signature]
Member

[Signature]
Vice-Chairman

7.1.98

In view of the order passed in M.P.335/97 the O.A. is restored to file. List on 2.3.98 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

pg

w/s and rejoinder
has been filed.

18/9

w/s and rejoinder
has been filed.

19/9

w/s and rejoinder
has been filed.

23/9

w/s and rejoinder has
been filed.

24/11

24-11-97

1) w/s and Rejoinder
has been filed.

2/ ~~memo~~ memo of appearance
has been filed. nkm

24/11

2/12/97

Copy of the order
has been issued to
the learned Advocates &
the parties.

3580 v 3581 dt
2.12.97

10

(10) 2A 36/95

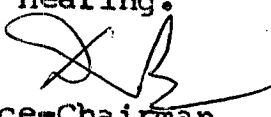
w/s and rejoinder
has been filed

29/2

2-3-98 On the prayer of learned Sr.
C.G.S.C. Mr.S.Ali on behalf of
Mr.B.K.Sharma ~~ix~~ prays for adjourn-
ment ~~ist~~ Mr.B.K.Sharma is unable
to attend the court to-day for his
personal reason. Mr.G.K.Bhattachar-
jee has no objection.

List on 10-3-98 for hearing.


Member


Vice-Chairman

lm
28
4/3

17-3-98

Addl. Rejoinder
filed on behalf
of the ~~rejoinder~~ applicant.

10-3-98 Leftover. List on 30-3-98.

By order.

30-3-98 Adjourned to 7-4-98

By order.

24
17/3

The case is ready
for hearing as
regard service.

7.4.98 On the prayer of the counsel for
the parties the case is adjourned
till 13.5.98.

24
27.3


Member


Vice-Chairman

The case is ready for
hearing as regards
w/s, rejoinder &
Addl. w/s.

13.5-98 Adjourned to 26.5-98
By order.

24

The case is ready for
hearing as regards
w/s, rejoinder &
Addl. w/s.

26.5-98 Adjourned to 5-6-98
By order.

24
12/5

The case is ready for hearing
as regards w/s & Rejoinder
& Addl. statement.
The case is ready
for hearing.

5.6.98 Heard in part.
Adjourned to 17-6-98.
By order.

24
25/5

24 4/6

11

O.A. 36/95

Notes of the Registry

Date

Order of the Tribunal

The case is ready for hearing as regards WTS, Rejoinder and Addl. WTS.

16/6

WTS, Addl. WTS and Rejoinder are before the court.

24/6

25.11.98

Judgment along with the files have been received by today.

26.11.98

Copies of the Judgment have been sent to the D/Sec. for issuing the same to the applicant and Rejoinder Nos. 1 & 2 along with the Standby Counsel Railway.

18/11

17.6.98

Adjourned to 25.6.98
By order

17-6-98

67

Mr. G.K. Bhattacharjee learned counsel appearing on behalf of the applicant prays for adjournment for his personal difficulty. Mr. B.K. Sharma learned counsel has no objection.

List it on 25-6-98 for hearing.

Member

Vice-Chairman

1m

18/11

25.6.98

Heard Mr G.N. Das, learned counsel for the applicant and Mr S. Sengupta, learned Railway counsel for the respondents. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is dismissed. No costs.

Member

Vice-Chairman

pg

Notes of the Registry	Date	Order of the Tribunal
12		
<p>1. The Tribunal has received a request from the Government of the United States of America for the extradition of the following persons:</p> <p>2. The Tribunal has received a request from the Government of the United States of America for the extradition of the following persons:</p> <p>3. The Tribunal has received a request from the Government of the United States of America for the extradition of the following persons:</p>	<p>1. The Tribunal has received a request from the Government of the United States of America for the extradition of the following persons:</p> <p>2. The Tribunal has received a request from the Government of the United States of America for the extradition of the following persons:</p> <p>3. The Tribunal has received a request from the Government of the United States of America for the extradition of the following persons:</p>	<p>1. The Tribunal has received a request from the Government of the United States of America for the extradition of the following persons:</p> <p>2. The Tribunal has received a request from the Government of the United States of America for the extradition of the following persons:</p> <p>3. The Tribunal has received a request from the Government of the United States of America for the extradition of the following persons:</p>

14

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A.No. 36 of 1995.

DATE OF DECISION.....25-6-1998.....

!! Syed Jamaluddin Ali (PETITIONER(S))

Shri G.K.Bhattacharyya, G.N.Das. ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors. RESPONDENT(S)

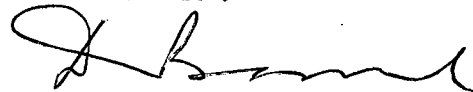
Shri S.Sengupta, Railway counsel ADVOCATE FOR THE
RESPONDENTS

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

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

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

Judgment delivered by Hon'ble Vice-Chairman.



5

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 36 of 1995.

Date of Order : This the 25th Day of June, 1998.

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

Shri G.L.Sanglyine, Administrative Member.

Syed Jamaluddin Ali
Confidential Stenographer
under Divisional Safety Officer,
N.F.Railway,
Lumding.

. . . Applicant

By Advocate Shri G.K.Bhattacharyya, G.N.Das.

- Versus -

1. Union of India,
represented by the General Manager,
N.F.Railway,
Maligaon, Guwahati-11.
2. The General Manager(P),
N.F.Railway,
Maligaon, Guwahati-11.
3. and 11 other respondents.

. . . Respondents.

By Advocate Shri S.Sengupta, Railway counsel.

O R D E R

BARUAH J.(V.C)

The applicant has approached this Tribunal by filing the present Original Application against the selection for promotion to the post of Assistant Personnel Officer. The applicant has also challenged Annexure-VII order dated 28.2.1995 and prays for an order quashing the said Annexure.

Facts are :-

Stenographer

The applicant was appointed in the month of October 1975 and was posted under the Divisional Railway Manager, Lumding. He was attached to the Assistant Personnel Officer-I, II and some other officers. While working as such he performed his duties efficiently and sincerely. Besides, he was also associated himself in editing, printing and publishing of a departmental

magazine 'Lunding News' for considerable length of time and through the said paper he expressed his views and made the other employees aware of their rights. The applicant states that these activities had caused annoyance to some of the officers including Shri Chanchal Kumar Dey-respondent No.7. His performance was good and accordingly his appreciation were entered in the ACR upto the year 1988. However, as the applicant felt from the grace of respondent No.7 who is to initiate the ACRs had started writing unfavourable remarks in the subsequent ACRs by grading him only average though till 1980-88 in his ACRs he was graded as 'outstanding'. At the material time Annexure-I Notification dated 23.2.1993 was issued for holding limited departmental competitive examination for forming penal for 6 persons for Group 'B' post of Assistant Personnel Officer against 30% vacancies. The applicant was also one of the eligible candidates and accordingly he was asked to appear in the written test alongwith others. He came out successful in the written test and thereafter he was asked to appear in the viva voce test. After the test a select list was prepared showing the name of 9 persons. In the said select list his name did not find place. Hence the present application.

2. In due course the respondents have filed written statement and additional written statement challenging the averments made in the application. In para 17 of the written statement the respondents have stated that the examination was conducted strictly in compliance with the rules and procedure prescribed and the applicant was not found fit for selection. We quote para 17 of the written statement as under :


..... the applicant has made some imaginary and baseless statements about the rules and procedures of conducting the selections against LDCE. In fact, the selection of APO on Limited Departmental Competitive Examination is being conducted

strictly in accordance with the rules and procedure communicated by the Railway Board and there was no departure from the orders/instructions laid down by the Railway Board. In fact, no such instructions are in vogue that selections against 70% and 30% should be conducted in the same year. It is provided in the procedure that the selection against 30% LDCE is to follow the Departmental Competitive Examination against 70% vacancies of a particular departmental selection for Group 'B' service. Altogether 126 eligible volunteers were called for the written examination, out of which 76 candidates appeared and finally 13 candidates qualified for the viva-voce. It is further stated that the said selection has been conducted strictly in compliance with the orders of Ministry of Rlys. (Railway Board) and there was no violation of the orders whatsoever."

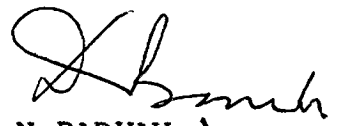
3. We have heard Mr G.N.Das, learned counsel appearing on behalf of the applicant and Mr S.Sengupta, learned Railway counsel for the respondents. The contention of Mr Das is that the applicant was graded outstanding prior to 1984. Suddenly, he was down graded to average and this is according to Mr Das, because, the 7th respondent was acting against the interest of the applicant. Mr Das further submits that the 7th respondent deliberately down graded him to average with an ulterior motive to deprive his legitimate rights with a malafide intention. The second ground that the ACRs of the subsequent years i.e. 1989-93 ^{were} down graded without recording any reason. Hence the ACRs did not reflect the true picture of the applicant. Mr Das also submits that the notification was only for 6 persons but subsequently it was raised to 9. Mr Sengupta on the other hand has strenuously argued before us supporting the action of the respondents that there was no down gradation whatsoever and the ACRs have reflected the correct picture. There is nothing for this Tribunal to interfere with the decision. Regarding the increase of appointment Mr Sengupta submits that this was not irregular and it did not violate any of the rules. Besides, the applicant having appeared in the test he submitted to the

jurisdiction and now he cannot challenge the same. and He was also not prejudiced in view of the fact that he was a candidate for appointment to the post. On the rival contentions of the parties now it is to be seen whether the selection of officers can sustain in law. An eligible candidate has a right to be considered for his appointment but that does not mean that he is entitled to get the appointment. Appointment will be made on the basis of the selection and the selection is made by the Departmental Promotion Committee (for short DPC). The applicant has not challenged the constitution of the DPC. The applicant also has not challenged that the DPC acted contrary to the rules and against the interest of the applicant. It is the DPC who is entrusted with the job of selecting candidates for appointment to the post, and they being an expert body, the Tribunal cannot interfere with the decision unless it is patent on the face of the record that it was done contrary to the rules and acted in a malafide manner. As no malafide is shown on the action of the DPC merely because the applicant earned grading outstanding in the earlier years cannot justify the claim that he ought to have been similarly graded in the subsequent years. Therefore we do not find any force in the submission of Mr Das. ~~About~~ His next contention that the 7th respondents acted against the applicant and wrote the ACR with the mala fide intention to deprive him from his legitimate claim for appointment to the post. It is an established principle of law that when malice in fact is alleged it has to be established. Mere ~~a~~ vague, indefinite allegations ^{are} not enough to prove the allegation of malice. On perusal of the record we find that the applicant has not been able to show anything that the respondent No.7 acted in a mala fide manner just to

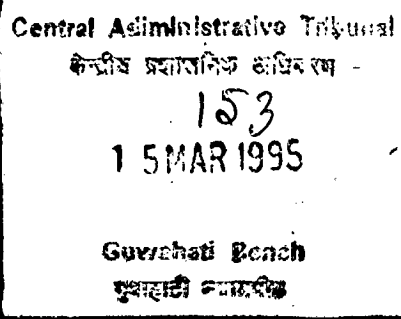
deprive him from his legitimate rights. Regarding the increase of the number of appointments we find that the applicant has already claimed appointment and he is not prejudiced if more appointments are made in view of the fact that he has already applied for the post. Therefore, we do not find any force in this contention. Considering all aspects of the matter we find no merit in the application. Accordingly, the application is dismissed however, without costs.



(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER



(D.N.BARUAH)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GAUHATI BENCH:

GUWAHATI.

O.A.No. 36 /95.

Shri Syed Jamaluddin Ali.

- Versus -

Union of India & Ors.

I N D E X

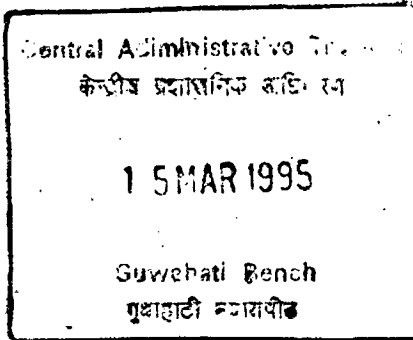
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Filed by -

L. M. Adv.
15.3.95.

I undertake to serve a
copy to Mr. B. J. Sharma
on my counsel.

Advocate



21
Filed by: Advocate
Jannat 15.3.95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :GAUHATI BENCH:
GUWAHATI.

(An application under section 19 of the Administrative
Tribunal Act, 1985)

O.A. No. 36 /95.

Shri Syed Jamaluddin Ali.

-Versus -

Union of India & Ors.

1. PARTICULARS OF THE APPLICANT.

- i) Shri Syed Jamaluddin Ali.
- ii) Son of Late Asghar Ali .
- iii) Aged about 39 years.
- iv) Confidential Stenographer under Divisional
Safety Officer N.F.Railway , Lumding
District Nagaon, Assam.

2. PARTICULARS OF THE RESPONDENTS.

1. Union of India .. Represented by the General
Manager N.F.Railway, Maligaon, Guwahati.
2. The General Manager (P) ,
N.F.Railway, Maligaon ,Guwahati.
3. Shri G.S. Loomba (then) Chief Personnel Officer
N.F.Railway, Maligaon, Guwahati.

contd...2.

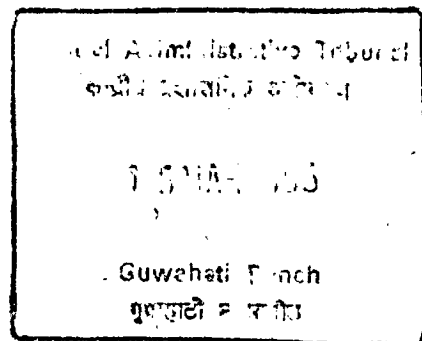
15 MAR 1993

Guwahati Bench
गुवाहाटी बेंच

2

4. Shri Subir Basu,
The Chief Signal and Telecommunication ^{Engineer} Officer,
N.F.Railway , Maligaon, Guwahati.
5. Sri C. Murry,
Chief Claims Officer,
N.F.Railway , Maligaon, Guwahati.
6. Divisional Railway Manager,
N.F.Railway , Lumding , District Nagaon, Assam.
7. Shri Chanchal Kumar Dey
Divisional Safety Officer,
N.F.Railway, Lumding , District Nagaon, Assam.
8. Shri N. Mishra,
Executive Asstt. to the Chief Personnel
Officer, Maligaon , Guwahati.
9. Shri Somesh Chakraborty,
Asstt. Personnel Officer
Commercial /HQ., N.F.Railway,
Maligaon, Guwahati.
10. Shri Ashutosh Chakraborty,
Asstt. Registrar, ~~P.R.B.~~ R.C.T.
Guwahati Bench.
11. Shri P.K. Ghosh,
Asstt. Personnel Officer (W/C)
N.F.Railway, Maligaon, Guwahati.

cont d...



12. Shri Ashok Seggupta,
Additional Deputy General Manager,
N.F.Railway, Maligaon, Guwahati.

13. Shri D.C. Bhattacharjee,
Asstt. Personnel Officer,
N.F.Railway, Tinsukia, Assam.

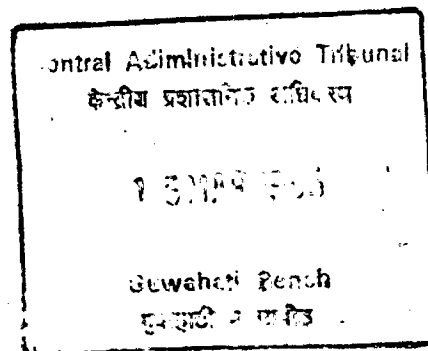
3. PARTICULARS OF THE ORDER AGAINST WHICH THIS
APPLICATION IS MADE .

This application is made against order No. 49/95 (PERSN) E/293/30 PXIV (O) dated 28.2.95 issued by General Manager (P), N.F.Railway, Maligaon ,Guwahati as well as the selection proceedings for the posts of Assistant personnel Officer Group 'B' against 30% vacancies in which the selection committee violated the rules to deny appointment to the applicant on promotion.

4. JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the application in which the applicant seeks relief is within the jurisdiction of this Hon'ble Tribunal .

5. The applicant further declares that the application is within the limitation period prescribed under the Act.



4.

6. FACTS OF THE CASE.

1. That your humble applicant before your Lordships is a citizen of India and at present a resident of Lumding in the district of Nagaon, Assam and as such he is entitled to all the rights and privileges guaranteed under the constitution of India and laws framed thereunder.
2. That your humble applicant was appointed in the railway service as a Stenographer in the scale 330-560(RS) on 3.10.1975 and posted under Divisional Railway Manager (Personnel), Lumding, where he was attached with Assistant Personnel Officer-I, II and P@ including attending to Senior Divisional Personnel Officer, Lumding from time to time.
3. That while working as such he not only performed his duties efficiently and sincerely but also associated himself in editing, printing and publishing a departmental magazine 'Lumding News' for considerable length of time on an honorary basis through which he rendered valuable service to the railwaymen in general and the department in particular in publicising the provisions of rules, latest developments in the railways and the constitutional provisions to create awareness. That his efforts were lauded by both the officers and the railway employees.

contd....

15 MAR 1995

Guwahati Bench
গুৱাহাটী মহানগরী

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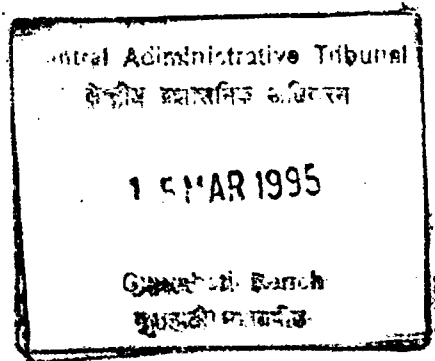
4. That your humble applicant during the course of his employment also earned a name for himself as a leading defence assistant in departmental inquiries in which he not only defended Group 'C' employees but also successfully defended some officers.

5. That your applicant was in the meantime promoted as confidential Stenographer in scale Rs.1400-2600/- (^{APS} ~~PRS~~) on 22.12.87 which has been ante-dated later to 4.3.83.

6. That in the year 1989 the applicant was posted with Divisional Safety Officer, Lumding, in the same capacity and scale.

7. That on 1.11.89, one Shri Chanchal Kumar Dey joined the post of Divisional Safety Officer, ^mLumding (respondent No.7). That immediately thereafter the applicant found that Shri Dey (respondent No.2 7) did not like him for reasons best known to him. That several times hitches developed on minor matters and finding respondent No.7 implacable and his dislike for the applicant the applicant represented to Divisional Railway Manager (P), Lumding, for shifting him back to the Personnel Branch, his former place of posting where his work was recognised and appreciated. But his representation was ignored and the applicant continued to discharge his duties with all sincerity and devotion unperturbed by the tantrums of respondent No.7.

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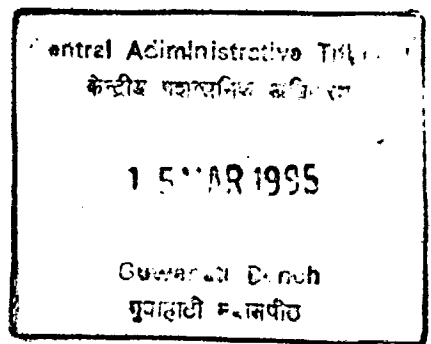
8. That while working as a confidential stenographer to Divisional Safety officer ~~was~~ the applicant was used only in typing out proceedings of railway accident enquiries, safety circulars and instructions, minutes of safety seminars etc. and that his services as a stenographer possessing the highest speed of 120 w.p.m. remained inutile as respondent No.7 could not give dictations.

9. That irrespective of personal relations of the applicant with respondent No.7, official work was never a casualty and the applicant never gave any cause for complaint or issue of any warning or reprimand by respondent no.7 which could be used against him for recording adverse remarks in the ACRs .Hence, the applicant was never given any communication about adverse remarks on his ACRs at the hands of respondent No.7.

10. That in the meantime General Manager(Personnel) N.F.Railway Maligaon vide its notification No.E/254/10/1(O) dated 19/23.2.93 notified its decision to hold a Limited Departmental Competitive Examination for forming a panel of 6(all unreserved)persons for Group 'B' posts of Assistant Personnel Officer in the scale Rs.2000-3500/- (RPS) against 30% vacancies in the gazetted cadre.

That in terms of the said notification all permanent Group 'C' employees holding posts in grade

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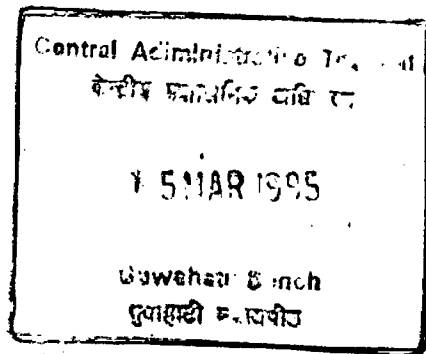
the minimum of which is Rs.1400/- per month or higher Group 'C' grade ^{with} five years' non-fortuitous service in the grade as on 21.1.93 were eligible for the said competitive examination. That the selection was declared to be open to volunteers fulfilling the above conditions from the categories of Group 'C' staff of personnel Branch, ministerial staff of General Administration, Medical Deptt., Cash and pay office, Security Deptt. other than Rly. protection Force etc.

That in terms of para 3(iv) of the said notification, permanent Group 'C' ministerial staff of stores, Statistical and compilation Branch and Commercial Departments were also eligible provided they submitted a written undertaking to the effect that they would seek their further advancement in Group 'B' service for the post of Assistant Personnel Officer only and not in Group 'B' service of their respective departments and that such option was to be final.

That in terms of para 4 of the said notification such staff who were required to exercise option for pursuing their career in the personnel Branch were to exercise this option within 30 days of the result of the selection.

That in terms of para 5 of the said notification, all the eligible volunteers were to be allowed to complete

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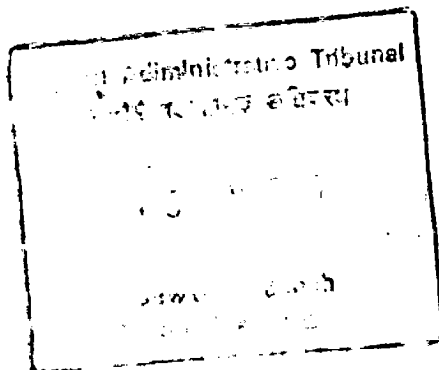
in the written examination of the said selection without any restriction to the number of candidates to be admitted for the examination.

That in terms of para 6 of the said notification, the selection was to be based on the candidates' performance both in the written test as well as viva voce and that the candidates who qualified in the written test would only be eligible for the viva voce.

That in terms of para 7 of the said notification the written test comprised of two papers of 150 maximum marks for each out of which the qualifying marks were 90 in each paper. That paper I consisted of Professional subjects and general knowledge and the paper II of professional subjects and Financial Rules. That marks for viva voce were not indicated in the notification.

That in terms of para 8 of the said notification the written examination was to be preceded by a pre-qualifying test for the eligible volunteers consisting of objective type questions and that those who secured 40% marks in the pre-qualifying test would only be eligible for the main written test.

That in terms of para 10 of the said notification a pre-selection coaching for eligible volunteers was to be arranged before pre-qualifying test, the date of which was to be announced in due course.



That in terms of para 11 of the said notification, the notification was to be given wide publicity by the controlling officers and applications received from volunteers were to be scrutinized and sent to Dy.Chief Personnel Officer/Gazetted/Maligaon latest by 15.3.93.

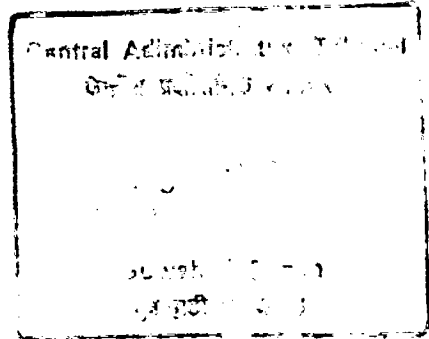
A copy of the said notification is annexed herewith and marked as Annexure-I.

11. That in response to the said notification your humble applicant, being eligible, volunteered for competing in the said examination, vide his application which was forwarded by Divisional Rly. Manager(P), Lumding under letter No.E/254/LMG (Q) dated 12.3.93 alongwith applications of other volunteers. That on being found eligible the applicant was called for written examination on 20.8.94 in terms of General Manager(P), Maligaon's letter no.E/254/10/1(O) dated 11.7.94 circulated under Divisional Railway, Manager(P), Lumding's letter No.E/264/KMG(O) dated 2.8.94, without observing the procedure regarding holding of pre-selection coaching and pre-qualifying test laid down in para 8 and 10 of the notification.

12. That your applicant as well as other volunteers of the Lumding Division objected to non-holding of pre-selection coaching and pre-qualifying test vide representation dated 4.8.94 without receiving any reply.

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A copy of DRM(P) /Lumding's letter dated 2.8.94 notifying the date of examination and objection date 4.8.94 are annexed hereto and marked as Annexure- II + II(A).

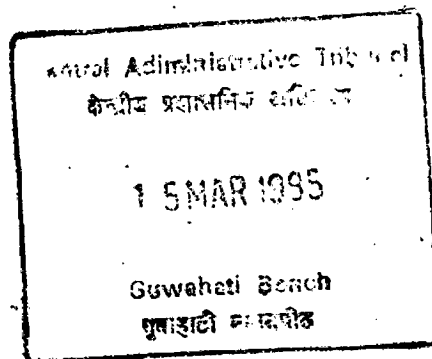
13. That your applicant appeared at the said written examination on 20.8.94 according to the schedule of examination.

14. That the results of the said written examination were declared by telegraphic message issued by General Manager (P), Maligaon vide No.E/254/10/1(O) dated 26.9.94 whereunder 14 candidates in all were declared as successful including your applicant. That by the same message Divisional Rly. Manager(P), Lumding was asked to direct the applicant to medical authorities for medical examination and to send the medical fitness certificate to Dy. CPO/Gaz. Maligaon by 3.10.94 ,and also to advise the candidates to keep themselves in readiness to attend the viva voce test at short notice.

A copy of the said telegraphic message is annexed hereto and marked as Annexure-III.

15. That the applicant was called for viva voce test on 10.11.94 at 10.00 hrs. in the chamber of Chief Personnel Officer, Maligaon in terms of General Manager(P), Maligaon's telegraphic message No.E/254/10/1(O) dated

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dated 11.10.94 and accordingly he was directed to attend the said viva voce test under Divisional Railway Manager (Safety), Lumding's letter No.T/Misc/LM(Spare) dated 28.10.94 .

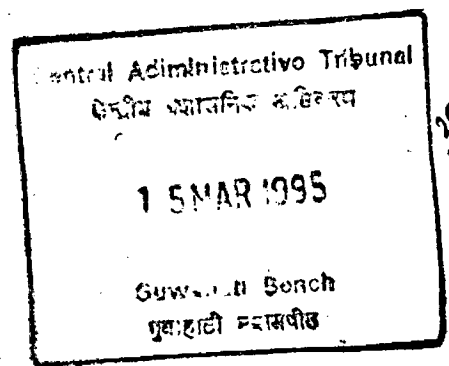
A copy of the letter dated 28.10.94 is annexed hereto and marked as Annexure- IV.

16. That while the applicant was preparing for taking viva voce test, Dy.Chief Personnel Officer(G), Maligaon through a fax message to Sr.Divisional Personnel Officer, Lumding ,dated 1.11.94 communicated the decision to treat the candidature of the applicant for the said examination as cancelled on the ground of non-fulfilment of 5 years non-fortuitous service criterion in grade 1400-2300/- on the cut off date of 21.1.93, claiming that the promotion of the applicant was effective from 1.11.88 and not 22.12.87 as mentioned by the applicant in his application and certified by the Divisional Railway Manager (P) , Lumding, while forwarding his application for selection for the post of APO/Group 'B'.

xxx A copy of fax message dated 1.11.94 is annexed hereto and marked as Annexure- V.

17. That the applicant submitted a representation dated 4.11.94 against the decision to cancel his

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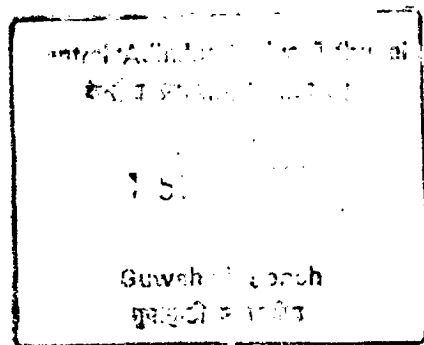
candidature whereupon his candidature was restored on 7.11.94 in terms of General Manager (P), Maligaon's letter No.E/254/10/1(O) dt.7.11.94 and the applicant was allowed to appear at the viva voce on 10.11.94 in the chamber of Chief Personnel Officer, Maligaon. Letter dt.7.11.94 is marked as Annexure-VI.

18. That Respondents No.3,4 and 5 were the Members of the interview Board which held the interview on 10.11.94.

Respondents No.8 to 13 were all candidates volunteers in the said interview and except Respondents No.9 and 11, all the other private *respondents* were Stenographers. Respondents No.8 and 12 were attached to the Respondent No.3 and Respondent No.9 and 11 were holding ranks of Inspectors.

19. That while the applicant alongwith the other candidates was waiting for taking viva voce test in the ante-room of Chief Personnel Officer, Maligaon a couple of office bearers of Purvottar Rail Karmchari Parishad stood on dharna in front of the door leading to the chamber demanding an interview with the members of the selection board comprising of Respondents No.3,4 and 5 namely s/Shri G.S.Loomba, Subir Basu and C.Murry. That the said persons had been alleging that a sum of Rs.35,000/- per head had been collected by Shri Loomba (Respondent No.3)

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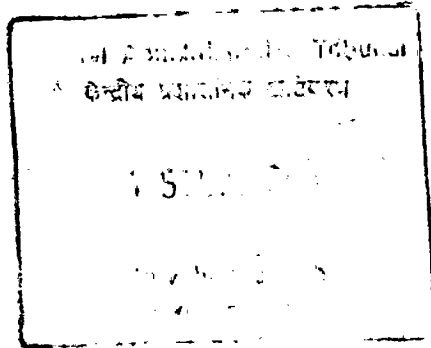
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from certain candidates and that they would not allow the viva voce to be held until the members of the selection board heard them out on the scandal.

That this drama went on for an hour and a quarter before the selection board members budged and granted them interview .

That thereafter the viva voce was started at 11.15 hrs. and at 11.45 hrs. the viva voce was postponed to 15.00 hrs. after interviewing 7 candidates. The viva voce resumed at 15.00 hrs. and the applicant whose turn was at 9th faced the interview board. He found that no papers for allotment of marks individually by the members of the selection board were placed before them. In the viva voce the applicant was asked questions on certain provisions of rules, his present place of posting etc. to which the applicant replied promptly and accurately. But before the viva voce concluded, Shri G.S.Loomba, CPO, expressing satisfaction over the performance of this applicant intimated to the applicant that inspite of being a very good candidate the applicant had little chance of making it to the select list as his confidential reports for the preceding five years were very bad inasmuch as they carried remarks adversely reflecting on his performance, his basic qualities as well as potential. That though this information came as a blow

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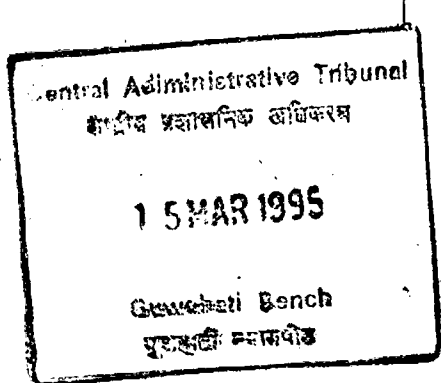
to your applicant as he had never been even warned for reprimanded during his entire service career nor was he ever communicated with any adverse remarks entered in his ACRs, he humbly informed this fact before the board and told them that communication of adverse remarks was a mandatory requirement if adverse remarks had been recorded and that in terms of rules uncommunicated adverse remark or remarks against which the officer did not get a chance to submit representation could not be taken into account to deprive somebody of promotion who was otherwise qualified .

20. That after completion of the viva voce of all 13 candidates on 10.11.94, the results were held up for long three and a half months and no panel was published , However, suddenly on 28.2.95, the applicant came to know that instead of publishing the panel of selected candidates which is a mandatory requirement under the rules, a posting order was issued by General Manager (P) Maligaon vide office order No.49/95(PERSN)-E /293/30 PXIV(O) dated 28.2.95 in favour of 9 persons out of which 6 were candidates in this selection.

A copy of the said office order dt.28.2.95 is annexed hereto and marked as Annexure-VII.

21. From the said office order it is seen that serial No.1, 3,5,6,7 and 8 of the posting order

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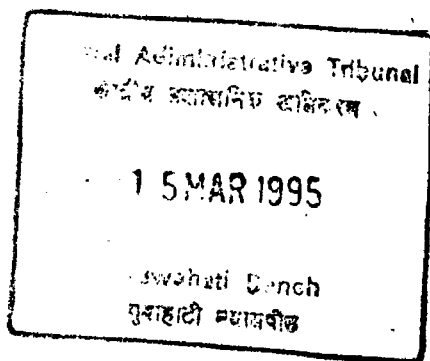
being candidates in this selected^{tion} had all hailed from Maligaon headquarters except serial No.6 viz. Shri P.K. Ghosh, CPI/Katihar and all of them have been posted at Maligaon headquarters except serial No.8 who has been posted at Tinsukia.

That it is also mentioned in the said posting order that their promotion in APO/Group 'B' service was subject to outcome of O.A.No.173/93 pending in CAT/GHY.

That from the said office order it is also evident that two of the stenographers from Chief Personnel Officer's office itself have been selected, two from the vigilance department, one stenographer of another head of department, COM/Maligaon, and the candidates who have been left out include your applicant as well as a stenographer from Katihar, another stenographer Shri M.N.R.C. Panikar of headquarters who has only a couple of years to retire, one office Supdt. from Tinsukia, another stenographer from headquarters, one Chief Labour Welfare Inspector, Shri Baneswar Sharma and one Samsul Haque, Law Assistant in the headquarters.

22. That according to the information of the applicant all of the said candidates carried out their posting orders on 1.3.95 i.e. the next day of the issue

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16.

of the said office order .

7. DETAILS OF REMEDIES EXHAUSTED.

The applicant does not have any effective remedy under the rules then to prefer the instant application under the facts and circumstances of the case.

8. MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT.

The applicant further declares that he has not previously filed any application writ application or suit regarding the matter in respect of which this application has been made before any Court of Law or any Bench of this Hon'ble Tribunal ~~Tribunal~~ nor any such application or writ petition or suit is pending.

9. RELIEF SOUGHT AND GROUNDS.

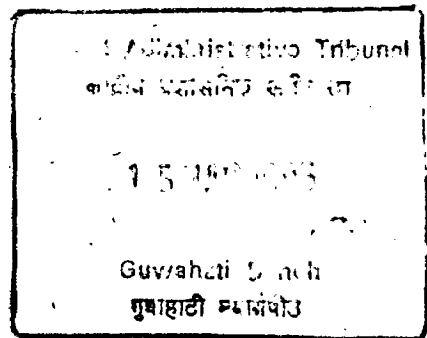
I) For that your applicant states that actions of the authorities in the entire selection process suffer from procedural infirmities and violations of statutory rules and laws . That the authorities did not observe the procedures notified in the notification for selection vide annexure- I. That your applicant further states that the non-holding of pre-selection coaching was a deviation from the notified procedure without publicising the changed procedure well in advance.

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II) For that your applicant further states that the procedure for holding the pre-qualifying test of the candidates volunteering for the examination was not followed. That the said procedure is aimed at reducing the unnecessary work that may arise for evaluation of a large number of answersheets in the examination of the eligible candidates where objective type questions on all the subjects prescribed in the limited departmental competitive examination were to be set and the answers evaluated with the help of computers and only such of the candidates who obtain 40% marks in this test were to be permitted to appear in the main written test. That the applicant further states that in terms of Railway Board's letter No.E(GP) 91/2/10 of 5.2.91, it was obligatory to conduct such a test to eliminate non-serious contenders but the respondents violated this obligatory provision for unspecified reasons.

III) For that your applicant further states that in terms of the ^{existing} ~~extant~~ rules, limited departmental competitive examination for filling up 30 % of the vacancies in the department was required to be held in the same year as that in which the normal selection was held for filling up 70% vacancies, and that the notice for LDCE should generally be issued alongwith the notice for the selection against 70% vacancies. That the applicant further states that although notification for LDCE for 30%

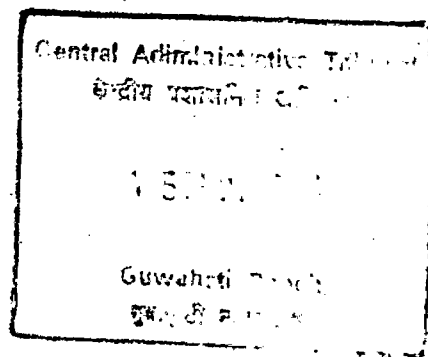
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vacancies was issued simultaneously with the notice for filling up 70% vacancies, yet the selection for filling up 70% vacancies was held in 1993 itself but the LDCE was kept pending for about 2 years for no reasons at all. That applicant further states that when the volunteers from outlying places like Katihar, Dibrugarh, Luming and Badarpur were waiting for a schedule of pre-selection coaching to be announced according to the notification, suddenly the General Manager (P) ,Maligaon announced the date of final written examination itself doing away with even the pre-qualifying test just 18 days ahead of the date of examination which caught the candidates of remote areas totally by surprise and that was the reason why a very small number of about 78 candidates appeared at the written test, and only 14 out of them qualified for the viva voce which was later reduced to 13 as one of the candidates was disqualified.

IV) For that your applicant further states that the LDCE, according to the extent orders of the Railway Board ,aims at a comprehensive assessment of knowledge of the candidates and has essentially to be in the nature of a rigorous test of their professional ability, and as such the written examination is comprised of 300 marks of two papers with 150 marks each and the qualifying marks have been set as 60% in both i.e.90 each.

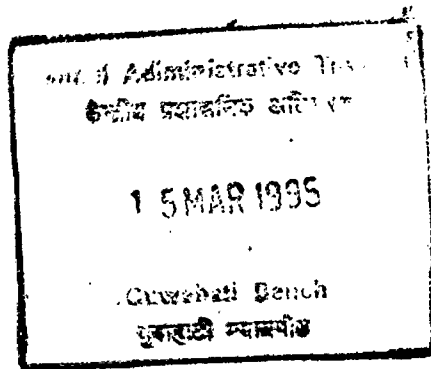
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That viva voce carries a total of 25 marks and the record of service 25 marks, both carrying a total of 50 marks out of which the candidates have to secure 30 marks including at least 15 marks in the record of service section. That the names of the candidates are to be arranged in the order of merit on the basis of the total marks obtained by each of the candidates. That the record of service is assessed on the basis of ACRs for the last 5 years, where marks are given subject to maximum of 25 marks covering 5 ACRs. That your applicant further states that in terms of rules framed by the Railway Board, the scheme of allotment of marks on ACRs is based on grading awarded by the reporting authority on the basis of remarks against different columns of the ACRs; that the highest grading of 'outstanding' gets 10 marks (5 in the normal selection for 70% vacancies), the grading of 'very good' is awarded 8 marks (4 for 70%), 'good' 6 marks (3 for 70%), average & 4 marks (2 for 70%).

That your applicant states that though he scored top marks in the written examination and should have fared equally well in the viva voce, but according to the intimation given by respondent No.3 during viva voce the adverse remarks in the ACRs of the applicant based on which gradings were given fetched lower marks which totalled to 11 marks i.e. 4 short of the necessary 15 marks. Your applicant apprehends that the selection

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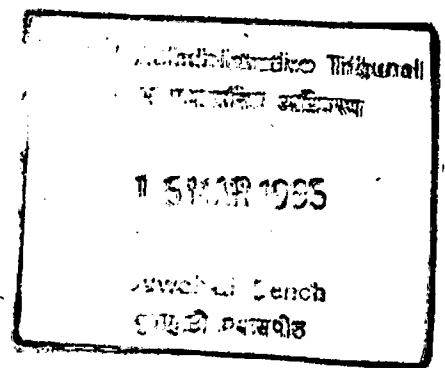
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committee^{committed} a grave error in allotting marks at the rate prescribed for the selection for filling 70% vacancies rather than doubling the marks applicable for LDCE and that had the marks on ACRs been awarded at the rate applicable to LDCE the applicant would have qualified for the final selection and his position would have been 2nd or third in the panel.

V) For that your applicant further states that the adverse remarks given by respondent No.7 in the ACRs for long five years without either letting the applicant know that he was nursing some grouse of dissatisfaction against the applicant or informing him of the adverse remarks so that he could seek proper relief or remedy, have been considered by the selection board in disqualifying the applicant from the purview of the selection in gross violation of Railway Board's orders on the subject as contained in their letters No.E(NG)I-81-CR 8 dt.31.8.81 /22.8.81 , and para 8 of Board's letter No.E(NG)1/90/CR/4 dated 17.6.91.

VI) For that the applicant further states that there were adverse remarks in his ACR came to the applicant as a total surprise and ~~that too in the~~ ^{in the} after long 5 years as the performance of the applicant has all along been immaculate and without any blemish. That prior to his attachment with respondent no.7 when he was in the Personnel Department he had been given good

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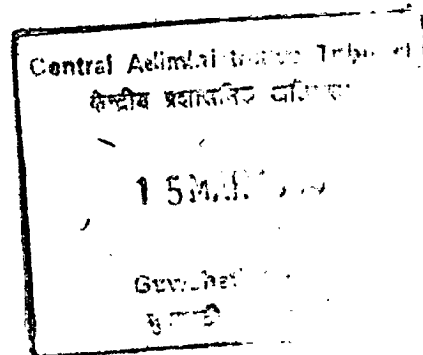
gradings and good remarks in ACRs.

VII) For that the applicant further stated that awarding of marks by the selection board on ACRs on the basis of gradations given on the basis of adverse remarks which were given in violation of rules and that too without communicating the same to the applicant is violative of principles of natural justice, fair play and the extent rules resulting in deprivation of the applicant from being selected.

VIII) For that the applicant further states that had the selection board acted in accordance with the rules and procedure framed by the Railway Board the applicant would not have been denied the promotion on the basis of merit.

(VIII-A) That your humble applicant further submits that the Hon'ble Supreme Court has declared the law in Ramlal Khurana Vs. State of Punjab, AIR 1989 SC 1985 that an adverse remark cannot be used against an employee for denying his promotional opportunity if it has not been communicated to him so as to give him an opportunity to make a representation. That the same view has been held by the apex Court in a plethora of judgments including Butail Vs. UOI, (1971) 2 SCR 55;

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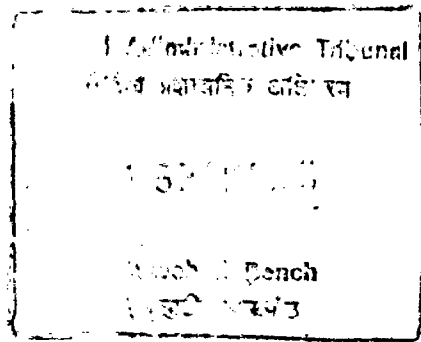
Brij Behari Vs. High Court, AIR 1981 SC 594 ; Baidynath^a Vs. State of Orissa, AIR 1989 SC 2218(para 6).

IX) For that the applicant further states that the selection board arbitrarily dispensed with the conditions laid down in the notification regarding holding of pre- selection coaching and pre-qualifying test before holding the written examination .

That the appellant further states that the selection was declared to be an open one but ended up being close as the results were not published in violation of rules.

X) For ~~that~~ the applicant further states that issuance of posting orders directly in favour of the said 6 persons without declaring the results of the examination is malafide and smacks of bias in their favour and the same is aimed at pre-empting judicial review of the matter .

XI) For that the applicant further states that the reliance of the selection board on uncommunicated adverse remarks and gradings awarded on the basis of such remarks in the ACRs of the applicant was biased, arbitrary and unlawful . The the rules were bent and the applicant ignored just to accommodate less meritorious candidates for extraneous considerations . Selection was unfair and malafide on this ground alone.



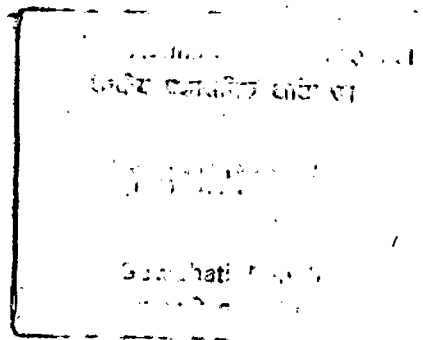
XII) For that the selection board was biased ab initio ~~against~~ the applicant as evident from the attempt to disqualify the applicant immediately before the viva voce on specious grounds .

XIII) For that the selection board deliberately ignored the statutory rules regarding recording of ACRs, adverse remarks , their communication and the procedure to be adopted when adverse remarks had not been communicated in order to ensure exclusion of the applicant from consideration on the ground of non-fulfilment of securing 60% marks criterion in the record of service section. That had the procedure regarding doubling of marks been followed the applicant would have automatically qualified for having secured more than 15 marks and he would have been placed in the second or third place of the select list.

XIV) For that the applicant states further that the selection was held with pre-conceived notion and as an empty ritual with foregone conclusion and as such the impugned order is bad in law and liable to be set aside .

XV) For that the applicant further states that the true merit of a candidate can only be judged from the answer sheets of the written examination only. That the reliance on confidential reports which is a document in

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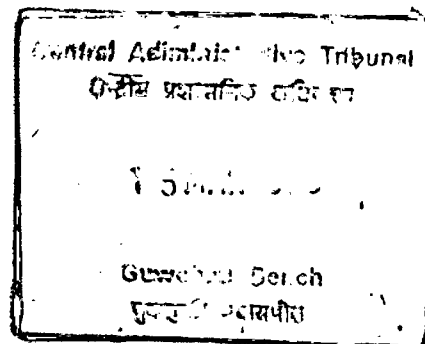


whose preparation the employee concerned has no hand nor is it a true, objective or dispassionate account of a person's true worth was misconceived. More so, it is obtained behind the back of the person adversely affected. That ACRs are the tools in the hands of the reporting officers to use it to satisfy their likes or dislikes for the person reported upon and it is generally misused for extraneous considerations.

XVI) For that gradings in the ACRs have to be based on the remarks against all the columns of the ACRs and if the remarks are untrue the grading based thereon has necessarily to be untrue and there is no objective and foolproof method to judge the truthfulness of remarks in ACRs.

XVII) For that the appellant further states that adverse remarks recorded without being communicated to the person concerned to enable him to exercise his right to represent against those remarks are liable to be ignored and the grading based thereon are liable to be revised in favour of the person so prejudiced. That if it is done the applicant would become automatically entitled to be empanelled based on his performance in written test as well as viva voce and as such the selection and the impugned order is bad in law and is liable to be set aside.

contd...



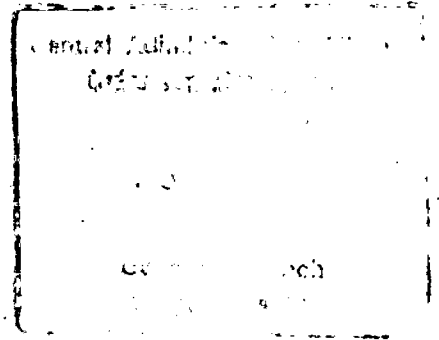
25.

XVIII) For that in any view of the matter . The impugned action of the authorities in amongst others, taking into consideration uncommunicated adverse remarks in his ACR and denying him promotion/appointments ~~otherwise~~ due to him ,is bad in law and is liable to be set aside.

It is therefore prayed that your Lordships would be pleased to admit this application, call for the entire records of the case,ask the respondents to show cause as to why ~~the~~ impugned orders dated 28.2.95 (Annexure-VII) should not be set aside and as to why the applicant should not be deemed to have been duly selected and promoted and after perusing ~~the~~ ^{the} causes shown, if any, and hearing the parties, set aside the impugned orders and direct that the applicant be promoted to one of the 'Group B' posts for which the applicant appeared in the interview with all consequential benefits and/or pass any other order /orders as your Lordships deem fit and proper.

And for this act of kindness , the applicant as in duty bound, shall ever pray.

contd....

10. INTERIM ORDER

Since the private respondents have already joined, the applicant prays that the appointments made be directed to be subject to the outcome of this application.

11) Particulars of I.P.O.

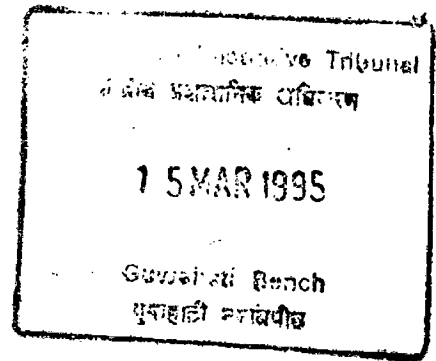
I.P.O.NO. :- 03 883806

Date :- 14.3.95

Payable to :- *gumaleti*

12. LIST OF ENCLOSURES

As stated in the Index.



VERIFICATION

I, Shri Syed Jamaluddin Ali, son of Late Asghar Ali, aged about 39 years, at present working as the confidential Stenographer Under Divisional Safety Officer N.F.Railway, Lumding, District Nagaon, Assam, do, hereby, verify that the statements made in paragraphs No. 1 to 22 are true to my knowledge and belief and I have not suppressed any material fact.

Syed Jamaluddin Ali
SIGNATURE

....

N.F. Railway.

№ 254/10/1(0).

Office of the
General Manager (P),
Guwahati 781011
dtd: 19/2/93.

To
DRM(P) / LMG and others.

Subj: - Limited Departmental Competitive Examination for selection of 400/Group-'B' against 30% vacancies.

It has been decided to hold a limited Departmental competitive Examination for forming a panel of 6 (all URS) persons for Group 'B' post of Assistant Personnel Officer against 30% vacancies.

2. - All permanent Group 'C' employees holding posts in grade the minimum of which is Rs. 1400/- per month or higher group - 'C' ~~grade with five years non-fortuitous service in the grade as~~ on 21/1/93 are eligible to appear for the said LDCE.

3. The selection is open to the volunteers from the following categories of permanent Group 'C' staff who fulfil the above mentioned conditions of eligibility:-

-1) Permanent Group 'C' staff of personnel Department.
11) Permanent Group 'C' Ministerial staff of personnel Department.

11) Permanent Group 'C' Ministerial staff of:-

a) General Administration, (b) Medical Dept.

c) Cash and pay Office (d). Security

Other than railway ☒ ☐

iii) Permanent Group 'C' Ministerial staff excluding
Drawing office staff - (a) Civil

Drawing office staff:- (a) Civil Engineering
b) Mechanical Engineering

(b) Mechanical Engg. (c) Electrical Engg. (d) Operating and (e) Signal and Telecommunication Engg. department.

iv) Permanent group 'C' Ministerial staff of: -

at Stores (b) Statistical & Compilation Branch

(including Computer Centre) (c) Commercial Department

provided they submit the written undertaking to the effect that they will seek to ensure that the

effect that they will seek their further advancement in Group - 'B' service for the

in Group - 'B' service for the post of Asstt. Personnel Officer only, not in Group - 'B' service.

Officer only, not in Group - 'B' service of their respective departments.

respective departments.

Option once exercised should be treated as final.

Group - 'C' permanent employees of Law Department 18

CLAs/ LAs provided they opt their further advancement in Group 'B' service.

in Group 'B' service for the post of Asstt. Personnel Officer only.

Officer only, not in Group - 'B' Service of Asstt. Law

Officers of Asstt. Commercial Manager of their concern

department. Asst. Commercial Manager of their concern.

4. - In case of the employees of the above departments (items No. iv & v) who volunteer for the said LDCE, Option can be exercised after an employee get settled for the post of 40 or any of the above mentioned Gazetted cadre, such an option should be exercised within 30 days of the result of the above mentioned selection by the employees in writing and option once exercised should be treated as final.

5. All the volunteers who fulfil the above mentioned conditions of eligibility will be allowed to compete in the written examination of the said selection without any restrictions to the number of candidates to be admitted for the examination.

6. Selection will be based on the candidates' performance both in written test as well as viva-voce test. Candidates who qualify in the written test will only be eligible for the viva voce test.

7. The written test will consist of the following subjects, the maximum and qualifying marks of which are indicated against each.

<u>Subject.</u>	<u>Maximum marks</u>	<u>Qualifying marks.</u>
Professional paper-I (professional subjects and General-Knowledge)	150	90
Professional paper-II (Professional subjects and Financial Rules)	150	90
		(Out of 150 marks the Professional subject will come at least 100 marks each.

8. Before commencing written test, a pre-qualifying test will be held for the eligible volunteers. The question for pre-qualifying test will generally be objective type in nature covering all the subjects prescribed for LICE. Those who qualifying with 40% marks in pre-qualifying test will only be eligible for main written test.

9. Candidates should also be notified that the question papers will be bi-lingual, i.e. Hindi and English. It will be open to the candidates to write in either of the above two languages. While applying each candidate would indicate his choice of language for answering question.

10. It is also notified that a pre-selection coaching for eligible volunteers will be arranged before pre-qualifying test, the date of which will be announced in due course.

11. Controlling Officers should give wide publicity of the notification amongst staff posted under their control. The applications in prescribed proforma (specimen copy enclosed as Annexure - 'A' received from the volunteers should be scrutinised properly and send the same to Dy.CPO(GAZ)/Maligaon latest by 15/3/93 certain with the indication that the particulars submitted by the volunteers have been scrutinised and found correct. Applications received after the target date will not be entertained.

12. While forwarding the applications a certificate should be furnished to the effect that all application of the eligible candidates received within the target date have been forwarded duly verified and no application is left over. Incomplete applications and the applications received without certification by the Controlling Officers and also the applications not submitted in prescribed proforma mentioned above will be summarily rejected.

Contd..3-

(29)
controlling officer to inform the candidates at their present place of posting. If anyone is on leave/ deputation/ transfer he should be advised that his address of leave/ training/ deputation present place of posting. If anyone represents later on, for non-receipt of the intimation about the said LDCE, such representation will not be entertained.

14. The staff concerned who volunteer may please be advised to keep themselves in readiness to attend the test at short notice.

The receipt of this office notification may please be acknowledged.

Sd/-
General Manager, (P),

DA/ As above.

No.E/254/LM(Q) Dt. 11.3.93.

Copy forwarded for information & N/action to:

1. Sr.DME(P) Sr.DOS Sr.DEN DEM/I,II & III/LMG
2. Sr.DCM DSO DSTE Sr.DEE DME(C&W) CMS/LMG
3. AEE/MLG APO/GHY AM/GHY DCM/NGC
4. Sr.DMO AM/BPB AENS/BPB HGS GHY LMG
5. CLWI/LMG CC/Statistical Cell/LMG Principal Rly. H.S.S.School BPB
6. OS to DRM OS(P)ET EM S&T ET Bill EM/Bill Med.
7. OS/II/EE Elect. Incharge of Uniform cell OS(W)/I,II & III
OS/Elect. OS/S&T OS/Comm./OPTG. OS/Med. OS(M).
OS/Compuser/Dr.Ta. ...

They will give wide publicity of the notification amongst all candidates and send the applications(in duplicate) to this office 14-3-93 certain duly verified for onward transmission to Hd.Qrs.

for DRM(P)/I

Handwritten:
Belonging
Self

Handwritten:
12/13
P. 12/13

30
N. F. Railway.

CS & DSO
10/8

ANX-II

II

No. E/264/IMG(Q).

DRM(P)'s office
Luding, dated 02-8-94.

To : S/Shri

1. Ambika Prasad Sarma, CFI/APO/GHY.
2. Monó Mohan Rudra Paul, OS/II/Sr.DEN/IMG.
3. B.K. Sen Gupta, Hd. Clerk(E)/AM/BPB.
4. Matiman Bhattacharjee, OS/II/AM/BPB (Stat. Cell/BPB).
5. Syed Jamaluddin Ali, CS/DSO/IMG.
6. B.K. Pramanik (SC), HC/AEN/IMG.
7. Amaresh Ranjan Das, HC/Sr.DEN/IMG.
8. P.C. Roy (SC), Ex. CS/DSTE/IMG now under Dy.CME/NBQ.
9. R.K. Das Gupta, OS/II/DPO/IMG.
10. Khageswar Das (SC), OS(E)/II/DPO/IMG.
11. Niróde Baran Das (SC), OS(P)/DPO/IMG.
12. S.C. Deb, Ex. CFI/IMG now EI/CVO/MLG.
13. A.R. Das, OS/II/DPO/IMG.
14. P.B. Dhar, OS/II/DPO/IMG.
15. S.R. Nandy, OS/II/DPO/IMG.
16. M.L. Chakraborty, CS/AM/BPB.

Sub :- Limited Departmental competitive Examination
for selection of APO/Group-'B' against 30%
vacancies.

Ref :- GM(P)/MLG's letter No. E/254/10/1(0) dtd. 11-7-94.

The date of written test for above LDCE has been fixed
on 20-8-94 as per programme given below by GM(P)/MLG.

Date of Exam :- 20.8.94

From 10.00 Hrs. to 13.00 Hrs. :- Professional Paper-I
(Professional subject and General
Knowledge).

From 14.00 Hrs. to 17.00 Hrs. :- Professional Paper-II
(Professional subject, Estab-
lishment & Financial Rules).

In terms of GM(P)/MLG's letter cited above, you are hereby
advised to report to Dy.CPO/G/MLG at 9.00 Hrs. to appear in the
above mentioned written test.

It may kindly be noted that there will be no absentee
selection in any circumstances since it is purely competitive
Examination. If any candidate is on leave/transfer/promotion or
deputation to other places he should be advised by his Controlling
officers to attend the selection in time. Further, if anybody is
unwilling to attend the selection, he should submit his written
declaration immediately for onward transmission of the same to
Dy.CPO/G/MLG.

Copy to :-

for DRM(P)/Luding.

1. GM(P)/MLG in reference to his letter no. quoted above.
2. Sr.DEN/IMG, AM/BPB, DSO/IMG, DSTE/IMG, AEN/IMG.
3. CVO/MLG, APO/GHY & Dy.CME/NBQ. They are requested to ensure
their sparing for attending the above written test fixed to be
held on 20-8-94 at MLG at least one day ahead.

To
Chief Personnel Officer,
N. F. Railway, Maligaon,
Guwahati-11.

Dated, 4.8.94

Through proper channel.

Dearsir,

Sub: Denial of equality of opportunity in the
matter of selection for APO/Group 'B' to
candidates appearing from LMG Division.

Ref:-GM(P)/MLG's L/No.E/254/10/1(0) dt.11.7.94.

In terms of GM(P)/MLG's letter referred to above the date of
Written Test for the Limited Departmental Competitive Examination (LDCE)
for Group 'B'/APO against 30 per cent vacancies has been fixed on
20.8.94.

The fixation of date on 20.8.94 is in transgression of two of the
conditions set out for the selection in terms of GM(P)/MLG's L/No.
E/254/10/1(0) dt.19.2.93. I invite your attention to paras 8 and 10
of the said letter wherein two conditions were set out as a condition
precedent on holding written test viz. (i) it was laid down vide
para 8 "Before commencing written test, a pre-qualifying test will
be held for the eligible volunteers. The question for pre-qualifying
test will generally be objective in nature covering all the subjects
prescribed for LDCE. Those who qualify with 40% marks in pre-qualifying
test will only be eligible for main written test." (ii) "It is also
notified that a pre-selection coaching for eligible volunteers will be
arranged before pre-qualifying test, the date of which will be
announced in due course." (Para 10).

2. Not only ~~was~~ no pre-selection coaching was arranged for UR
candidates from LMG, but also the pattern of examination notified in
terms of para 8 of the letter dt.19.2.93 i.e. a pre-qualifying test
before the written test, has been changed.

3. Thus, the letter under reference transgresses the conditions laid
down in para 8 inasmuch as it has changed the pattern of examination
by dispensing with a pre-qualifying test which would have separated
the ~~the~~ riff raff from the genuine contenders.

Dispensing with a pre-selection coaching especially for eligible
UR candidates from Lumding Division is iniquitous inasmuch as such pre-
selection coaching has been imparted to SC/ST candidates from 18.7.94
to 22.7.94 at Maligaon HQ and to our knowledge to candidates of
Maligaon HQ's as well.

4. It must be conceded without much ado that making a deviation from
a proclaimed course of action would only taint the ensuing selection
with considerable degree of malafides where a section of contenders
have been treated unequally and discriminately.

It is needless to say that fixation of the date without conforming
to the conditions of para 8 and 10 of GM(P)'s circular dt.19.2.93 is
denial of right to equality of opportunity in the matter of employment
under the Government and as such it is violative of Article 16(1) of
the Constitution.

5. I, therefore, request you to kindly reconsider your decision to
hold written test on 20.8.94 without conforming to the conditions laid
down in paras 8 and 10 of GM(P)/MLG's letter dt.19.2.93 and further
request you to fix the date after holding pre-selection coaching and
also stick to the pattern of examination announced in para 8, ibid.

Thanking you,

Yours faithfully,

(E. J. Ali) c/skno

(32)

ANY - 111

7020, LMG, XA0069 SVH LM XXA
180 XA0000 TSK XXA

59

NR NIL PNO 26

TO DRM P XIR LMG TSK SR DPO KI LMG TSK DCM KIR DSO LMG

THE FOLLOWING CANDIDATES HAVE QUALIFIED IN WRITTEN TEST
OF APO GROUP 'B' AGAINST 30% VACANCIES (LDCE) IN LD ON 20.8.94.
ARUN KR MUKHERJEE CS DCM KIR M N R C PANIKAR CS DSTE MLG P K
GHOSH SPI KIR ASHUTOSH CHAKRABORTY CS DCM MLG SUBIMAL MUKHOPADHYAY
CS P TSK SOMESH CHAKRABORTY CYI EVO ML ARABIND KR CHATTERJEE
S DSTE MLG S J ALI S DSO LMG N WISHA CS DPO ML BANESWAR SARGHA
CLVI MLG D C BHATTACHERJEE CS DY CVO (E) MLG GOURN A GPAL DAS
CS II ECO MLG ASHOK SENGUPTA PA DPO MLG AND MD SANGUL HAQUE
LA ECO MLG. THEY MAY BE DIRECTED TO THEIR RESPECTIVE MEDICAL
AUTHORITIES FOR MEDICAL EXAMINATION. MEDICAL FITNESS CERTIFICATE
OBTAINED BY THE CANDIDATES SHOULD REACH TO DY-CPO SAZ BY 3.10.94
POSITIVELY. WITHOUT MEDICAL FITNESS CERTIFICATE, NONE WOULD BE
ALLOWED TO APPEAR IN VIVA-VOCE TEST WHICH IS BEING FIXED SHORTLY
CANDIDATES MAY BE ADVISED TO KEEP THEMSELVES IN READINESS TO
ATTEND THE VIVA-VOCE TEST AT SHORTLY ENSILE

NR P
PHORT00021

ISO RPT FROM TELETYPE LN0067 B
RECEIVED ON 2709 11:17 HRS TRANSMITTED ON 2709 11:25 HRS

Handwritten signature

33

XXX - IV

N. F. Railway

No.T/Misc/LM(Spare)

Office of the
Divisional Rly. Manager(S),
Lumding.

To
Shri S.J.Ali,
C/Steno to DSO/LMG
at office.

Dated, 28.10.94

Sub:- Viva voce test for LDCE 30% selection
of APO/Group 'B'.

Ref:- GM(P)/MLG's XNR No.E/254/10/1(0)
dated 11.10.94.

The viva voce test for LDCE 30% selection of APO/Group 'B'
has been fixed to be held on 10.11.94 at 10.00 hrs. in CPO/MLG's
chamber. Accordingly, you are spared and directed to attend
the above viva voce, w.e.f. AN of 8.11.94.

[Signature]
28/10/94
for DRM(Safety)/Lumding.

Copy to:

1. GM(P)/MLG in ref. to their XNR referred to above, for inf.
2. DRM(P)/LMG for inf.
3. E/Pass at office for issuing one set of 1st class pass(duty)
ex.LMG to KYQ and back to cover his journey.

/

for DRM(Safety)/Lumding.

[Handwritten signature]
Bulwara
Sant

(34)

NE RAILWAY

BY FAX

DY.CPO(G)

M.BRAHMO
DY.CPO(G)

DO. No. E/254/10/1 (0)

Maligaon, dt. 01/11/94

My dear Barua,

Sub: LDCE for selection of APO/Gr. 'B' against 30% vacancies.

Ref: DRM/P/LMG's letter No.E/254/LMG (Q) dt. 12.3.93.

In terms of this office notification of even number dated 19/23-2-93, applications were invited from all permanent Gr. 'C' employees who are in grade of minimum of which is Rs.1400/-p.m. or higher, with 5 years non-fortutous service in the grade as on 21.1.93.

2. Vide your letter quoted under reference, 10 applications were forwarded to this office which were certified to be fulfilling the eligibility criteria as laid down in our notification mentioned in para-1 above. While cross-checking the service particulars with the available records of this office, it has been detected that Sh.SJ Ali, Contn.Steno to DSO/LMG was promoted to the grade of Rs.1400-2600/- on a regular basis only wef. 4.11.88 and as such he had not completed 5 years non-fortutous service as on 21.1.93, the cut off date mentioned in the notification. As per seniority list published by CPO/MLG vide No.E/55/103/4(Q) dt. 31.1.89 as on 1.4.89, the date of regular promotion of Sh.SJ Ali is 01.11.88 and not 22.12.87 as mentioned by Sh.Ali against item No.9 of the application form, signed by him and forwarded vide your letter under reference and the length of service (non fortutous) mentioned against item 10 was also incorrect.

3. In view of the above it has been decided to treat the candidature of Sh.SJ Ali for the LDCE of Gr. 'B' as cancelled unless he himself or the office of the DRM/P/LMG forward any documentary evidence in support of his regular promotion to the grade minimum of which is Rs.1400/- wef. 22.12.87 and having completed 5 yrs of non-fortutous service as on 21.1.93.

4. Please treat this as most urgent.

With best wishes,

Yours sincerely,

Sh.AP Braua
Sr.DPO/LMG

M.BRAHMO

APB/II
Pl. verify & furnish
the position call
2/11/94

Sh. AP Braua
Sr. DPO/LMG

(35)

ANX-VI

NORTHEAST FRONTIER RAILWAY

Office of the
General Manager (P),
No.E/254/10/1(O). Maligaon, Guwahati-11, 7-11-94.

DRM(P)/LMG.

Sub:- LDC for selection of APO(Gr.B)
against 30% vacancies.

Ref:- 1) This office D.o. reference of
even number dated 1.11.94.

ii) Your D.o. reference No.ES-628-S(T)
dated 4.11.94.

...

On receipt of the records enclosed with your letter under reference, the case has been examined further and it is found that Shri S.J. Ali, C/Steno. to DSO/LMG is eligible to appear in the viva-voce for the LDC for selection of APO(Gr.B) to be held on 10.11.94. Since Shri Ali was exonerated from the charges brought against him vide Memo. No.ES-481-S(T) dated 26.11.79, in terms of DRM(P)/LMG's letter No.ES-481-S(T) dated 24.9.87 and the period of suspension from 16.11.79 to 11.6.81 was regularised as duty for all purposes, he is deemed to have completed 5 yrs. non-fortutous service in grade Rs.1400-2300/- as on 21.1.93 to the extent of his junior Shri PC Saikia, CS/RFB/GHY promoted to grade 1400-2300 w.e.f. 29.7.83, vide seniority list as on 1.4.89, circulated under CPO/MLG's No.E/55/103/1(Q) dated 31.1.89.

Shri Ali may be advised to appear in the viva-voce to be held on 10.11.94 at 10.00 hrs. in CPO's office positively.

Please treat this as MOST URGENT.

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

Copy to : Shri SJ Ali, CS to DSO/LMG for information.
This disposes his representation ~~dated 4.11.94~~
No. Nil.dated 4.11.94. addressed to CPO/MLG.

M. Brahmo
for General Manager (P),
N.F. Rly., Maligaon.

Shri Ali
B. Sanyal

(31)

AN X - VII

NORTHEAST FRONTIER RAILWAY.

OFFICE ORDER NO.49/95(PERSN)

Headquarters Office
Maligaon/Guwahati-11
Dated, 28/2/1995.

1. Shri N. Misra, CS to CPO/MLG who has been empanelled for promotion to Group -B service against 30% LDCE of APO Group 'B' is appointed to officiate in Group-B service and posted as EA to CPO/MLG vice Shri K.Sreekumaran.
2. Shri K.Sreekumaran, EA/CPO on relief, is posted as APO/G&S vice vacancy of Shri AK Mitra, promoted as SPO/Union.
3. Shri Somesh Chakraborty, CVI/MLG under SDGM who has been empanelled for promotion to Group-B service against 30% LDCE of APO/Group-B, is appointed to officiate in Group-B service and posted as APO/Comm/HQ vice Shri SR Nandi.
4. Shri SR Nandi, APO/C on relief, is transferred and posted as APO/GHY vice Shri K.Sherpa, who is under order of posting as SPO/Mech/HQ.
5. Shri Ashutosh Chakraborty, CS to COM/MLG who has been empanelled for promotion to Group-B service against 30% LDCE of APO/Group-B, is appointed to officiate in Group-B service and transferred and posted as Asstt.Registrar/~~RECT~~ RCT/Guwahati Bench against the existing vacancy temporarily.
6. Shri PK Ghosh, CPI/KIR who has been empanelled for promotion to Group-B service against 30% LDCE of APO/Group-B is transferred and appointed to officiate in Group-B service and temporarily posted as ~~Asstt.Registrar~~ APO(W/C)/MLG attached to Central Hospital/Maligaon, against the W/C post created under No.E/42/15/Pt.IV(0)(Loose) dt.17.2.95.
7. Shri Ashok Sengupta, PA to CPO(A)- who has been empanelled for promotion to Group-B service against 30% LDCE of APO/Gr.B is appointed to officiate in Group-B service and posted as ADGM/Maligaon vice Smt. P.Lakra, who is under order of posting as SPO(E&PC).
8. Shri DC Bhattacharjee, CS to DY.CVO(E)/MLG who has been empanelled for promotion to Group-B service against 30% LDCE of APO/Gr.B, is appointed to officiate in Group-B service and transferred and posted as APO/I/TSK vice Shri Ashim Kr. Dey, transferred.
9. Shri Ashim Kr. Dey, APO/I/TSK on relief, is transferred and posted as APO/LMG vice Shri SN Roy, proceeding on leave.

The promotion of Sr.Nos: 1,3,5,6,7 &8 above in APO/Group-B service shall be subject to outcome of OA No.173/93 pending in CAT/GHY.

The dual charge arrangement of Sr.Nos: 8 & 9 of Office Order No. 41/95(PERSN) dt. 20/2/95 will stand cancelled.

This issues with the approval of Competent Authority.

Sd/4
(AK BAUL)
for GENERAL MANAGER(P)

Handwritten signature
13/2/95

No.E/293/30 PXIV(0)

Maligaon, dt. 28/2/95.

Copy forwarded for information and n/action to :-

- 1) GM(CON)/MLG
- 2) All PHODs
- 3) FA&CAO(EGA)&(PF)/MLG
- 4) All DRM(P)
- 5) All DAOs
- 6) MD/CH/Maligaon
- 7) Secy.to GM
- 8) PS to GM
- 9) Dy.CVO/E
- 10) Dy.CPO/IR & NG
- 11) ADRM/GHY
- 12) DGM/G
- 13) EO/Bill
- 14) Officers concerned
- 15) Spare copies for M/File and P/cases.

Sd/-

(AK BAUL)
for GENERAL MANAGER(P).

do not admit anything contrary to relevant records of the case.

4. That with regard to the statements made in paragraphs 6.7 and 6.8 of the application, it is stated that these are nothing but the tale of personal glorification and appreciation. The fact remains that as a Confidential Stenographer the applicant is duty bound to co-operate with his officer in day-to-day working and he should carry out the orders passed by his controlling officer. As a subordinate staff and being a Stenographer has ~~was~~ had no authority to criticise and comment upon the efficiency and abilities of his officer who has been posted as a Divisional Safety Officer by the railway administration. From the statements of the applicant, it reveals that he is over-confident about his working capability at the same time tends to undermine and denigrate his officer with whom he is attached as Confidential Stenographer. Therefore, the activities of the applicant as Govt. servant, are unbecoming of a subordinate staff posted under Divisional Safety Officer.

5. That with regard to the statements made in paragraph 6.9 of the application, it is stated that the Annual confidential Report is a vital tool for assessing the overall performance of an officer/staff. The Reporting/Reviewing Officer, therefore, undertake the duty of filling up the forms with high sense of responsibilities. The ACRs are used as an instrument of Human Resource Development. Thus, the Reporting Officer, while writing the ACR, does so with the

Contd....3

objective to develop employees' true potential. The exercise of writing ACR is certainly not to find fault with the staff, demoralise him, but to help him ^{to} develop. As such, the Reporting/reviewing authorities cannot shirk their responsibilities and shy away from reporting deficiencies and shortcomings on the part of the staff concerned, his over-all attitude and characteristics. It is pertinent to mention here that at the time of writing ACRs of the applicant, the reporting officer was not even aware about the holding of the selection for Asstt. Personnel Officer (Gr. 'B'). He has written the ACRs on the basis of his real assessment on the performance of the applicant. In fact, the reporting officer of the applicant ranked him as 'Average' on the basis of his performance, which shall not be construed as an 'adverse' remarks and there is no necessity to communicate the same to the applicant. The respondent craves leave of the Hon'ble Tribunal to produce the relevant rules/instructions of the Ministry of Railways (Railway Board) at the time of hearing, if need be.

6. That with regard to the statements made in paragraph 6.10 of the application, it is stated that even though in para 8 of the notification of the said selection, it was mentioned that a pre-qualifying test would be held for the eligible volunteers, the said provision has had subsequently been dispensed with in terms of ~~the~~ Railway Board's letter No. E(GP)91/2/10 dtd 19.11.93, which has been circulated to all concerned vide GM(P)'s letter No. E/254/90/1 Pt.III(0) dtd 9.8.94. Therefore, the question of conducting pre-qualifying test for the said Limited Departmental Competitive Examination, as raised by the applicant, did not arise and the final test

has been conducted on 20.8.94 as per GM(P)'s Wireless Message No. E/254/10/1(0) dtd 9.8.94. It is pertinent to mention here that in the aforesaid Wireless Message, circulated to all concerned, it was specifically mentioned that the pre-qualifying test of all the Limited Departmental Competitive Examinations has been dispensed with in terms of Railway Board's letter *ibid*. Therefore, the written test for the post of Asstt. Personnel Officer (Gr. 'B') has been conducted strictly in compliance with the instructions of the Ministry of Rlys. (Railway Board), received from time to time.

As for imparting pre-selection coaching for the eligible volunteers as mentioned by the applicant, it is stated that Rly. Board vide their letter No. E(GP)91/2/10 dt 20.10.93 have advised that pre-selection coaching classes for Group 'B' selection should no longer be treated as 'mandatory' except for SC & ST candidates. Since the applicant does not belong to SC/ST Community, the question of imparting coaching did not arise. However, the volunteers belonging to SC/ST communities were imparted pre-selection coaching before conducting the main examination as mentioned ~~before~~ in the foregoing paras. Railway Board's letter No. E(GP)91/2/10 dtd 20.10.93 was circulated vide GM(P)'s letter No. E/254/90/1 Pt.III(0) dtd 14.12.93. Therefore, the contention of the applicant that he was not imparted pre-selection coaching and also that the pre-qualifying test was not conducted has got no foundation, rather it indicates that the applicant was not keeping any information and track about the instructions issued by the GM(P) from time to time in connection with the selection of Group 'B'. Further more, it is not affected due to the

pre-qualifying test not being held, before the main test, without requiring to appear and qualify in the pre-qualifying test, in which he qualified.

The answering respondents crave leave of this Hon'ble Tribunal to produce copies of letters dtd 20.10.93, 9.8.94 and 19.11.93 at the time of hearing of the instant case.

7. That with regard to the statements made in paragraph 6.11 of the application, it is further reiterated that Railway Board vide their letter No.E(GP)91/2/10 dtd 20.10.93 have already advised that the pre-selection coaching classes for Group 'B' selection should no longer be treated as mandatory except for SC/ST and also that Board vide their letter No. E(GP)91/2/10 dt 19.11.93 have dispensed with the conducting of pre-qualifying test for Group 'B' selections. Therefore, the contention of the applicant that the selection has been conducted without observing the procedure regarding holding of pre-selection coaching and pre-qualifying test is baseless. This speaks of his ignorance of the instructions of the Railway Board circulated from time to time.

8. That with regard to the statements made in paragraph 6.12 of the application, it is stated that DRM(P)/Lunding vide letter No. E/254/LMG(Q) dtd 5.8.94 has forwarded some representations of the staff of Lunding Division in connection with the procedural lapses as stated by them against 30% vacancies of LDCE for the selection of APO/Group 'B'. On receipt of the same, reply of the representation has been sent to DRM(P)/Lunding by the GM(P)/Maligaon vide letter No. E/254/10/1(0) dt 8.8.94.

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In view of the above instructions, the question of pre-selection coaching for UR candidates as well as holding of pre-qualifying test did not arise. Therefore, the alleged allegation as stated by the applicant is not based on facts.

10. That with regard to the statements made in paragraphs 6.16 and 6.17 of the application, it is stated that a FAX message was sent to Sr.DPO/Lumding by Dy.CPO/G/Malignon vide D.O. No. E/254/10/1(0) dt 1.11.94. In the said letter it was reflected that the applicant was promoted to the grade of Rs. 1400-2300/- on a regular basis only w.e.f. 4.11.88 as furnished by the applicant in the prescribed form for the

very bright

The applicant was placed under suspension from 16.11.79 to 11.6.81 and a major penalty chargesheet was issued to him on 26.11.79. However, the Discipline and Appeal proceedings against the applicant was settled up and his period of suspension was regularised as duty vide DRM(P)/Lunding's letter No. ES-481-S(T) dt 24.9.87. As a result of the

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Discipline and Appeal proceedings pending against the applicant, he could not be promoted in grade Rs.1400-2300/- in due time and his junior was promoted w.e.f. 29.7.88, whereas the applicant was regularly promoted w.e.f. 4.11.88. Since the applicant has been working in Lunding Division, the relevant papers regarding his exoneration from the charges could not be linked. In case his date of promotion is taken as 4.11.88 in grade Rs. 1400-2300/-, the applicant did not fulfill the eligibility criteria of completing 5 years service in grade the minimum of which is Rs.1400/- as on 21.1.93 as per notification dtd 19/23.2.93. However, on further verification of records and on careful consideration of his case, the applicant has been allowed to appear before the viva-voce test on 10.11.94. This has in no case affected him.

11. That with regard to the statements made in paragraph 18 of the application, the answering respondents state that there was no 'dharna' as stated by the applicant before starting of the viva-voce test for the post of APO/Group 'B'. However, three Railway employees working in the Rly. Hqs. Office came and saw the Chief Personnel Officer and then went away within a few minutes. In fact, their interview with the CPO had no link with the viva-voce test of the APO/Group 'B'. In fact, staff contact and grievance mitigation is one of the important functioning of the CPO. It is a pity that the applicant sought to scandalise the CPO by making use (suitably) of the innocuous meeting of the 3 railwaymen with the CPO. The ~~ma~~ Story narrated by the applicant regarding collection of Rs.35000/- per head by Shri GS Loomba, the then Chief Personnel Officer is nothing but the figment of his imagination and it

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reflects of his perverted and vitiated mind. It is curious enough that the applicant has chosen to come up with this cock and bull story before the Hon'ble Tribunal only after the selected officers had been posted against the working posts and the applicant could not come out successful in the selection finally. The respondent crave to pray before the Hon'ble Tribunal to issue necessary direction to the applicant for strictest proof of this sort of serious allegation and character assassination of a very highly placed and responsible officer like that of the Chief Personnel Officer, as very cleverly and cunningly indulged in by the applicant.

No comments from the respondents are required to be furnished on the para as the statements of the applicant are the reflection of his vitiated and perverted mind. The petitioner is given an impression that as if he appeared before the selection Board for viva-voce test by the members of the Selection Board, consisting of three very senior officers, who are also head of the Deptts. viz. CPO, CSTE and CCO. The above mentioned members of the selection Board are very highly placed and responsible officers of the administration, who are very experienced and have conducted many such selections in their career and are well aware as to how to conduct an Interview aiming at selecting the officers for the Gazetted posts of the Govt. of India. Incidentally, it may also be mentioned that one of the members of the said Selection Board also had the experience of working as the Chief Vigilance Officer of N.F. Railway.

In is in this background, the imaginary story that one of the ~~Ska~~ Selection Board Members, i.e. Shri G.S. Loomba, the then Chief Personnel Officer, during the course of interview, indulged in silly talking - sympathising with the applicant that his ACRs for the last five years

were very bad etc. etc. as coined by the applicant, has to be seriously viewed. The Hon'ble Tribunal would appreciate that a no responsible, highly placed and experienced officer, at least while acting as member of the selection Board, in his senses, will involve himself and indulge in such silly and childish talking. Therefore, the alleged conversation between the applicant and one of the Selection Board Member is baseless, motivated designed to build up a bad notion on him.

12. That with regard to the statements made in paragraph 6.20 of the application, it is stated that the selection was finalised with the approval of the competent authority i.e. the General Manager in February, 1995 and the selected officers were posted against the working post as per available vacancies. It is not understood as to how the applicant contended that the posting orders of the officers were issued 'suddenly', when he himself has confessed that the result was held up for $3\frac{1}{2}$ months from the date of viva-voce test. Further, results are always declared 'suddenly' in these selections, no date is pre-determined of declaration of result. It may also be mentioned that there is no mandatory provision that the selection panel is to be published before issuing the posting orders of the officers - which is guided by the administrative exigencies, depending upon the availability of vacancies.

13. That with regard to the statements made in paragraphs 6.21 of the application, it is stated that the selection itself was a Limited Departmental Competitive Examination in which the candidates are selected exclusively on the basis of

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OF
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&
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GOVT. OF INDIA
NEW DELHI
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N.F. BY: Guwahati-781011

their merit as reflected in the written examination consisting of two papers of 150 marks each as well as viva-voce test for another 50 marks. Accordingly, all the six candidates have been selected for the post of Asstt. Personnel Officer strictly as per their merit and this has got no relevance and bearing with their non-gazetted posting. It is not clear as to what suggestion the applicant wants to put by his statements made in this para. However, in the said posting orders, it has been mentioned that promotion of the officers was subject to the out-come of O.A. No. 173/93 pending before this Hon'ble CAT/Guwahati, as per directive of the Hon'ble Tribunal.

14. That with regard to the statements made in paragraph 6.22 of the application, the answering respondents state that it is quite natural that the selected candidates ~~would~~ would be eager to join immediately in the new posts on promotion when vacancies exist and there is no bar otherwise in this respect, as this involved financial benefits and other attendant perks. Thus, it would be naive to think otherwise and trying to read too much into it whereas technically this is quite in conformity with the existing rules and regulations. From the administrative's point, it cannot keep a number of important posts like that of Asstt. Personnel Officer vacant when selected candidates for these posts are available.

15. That with regard to the statements made in paragraph 9.1 of the application, it is stated that the railway administration has conducted the LDCE for the post of APO strictly as per procedure laid down by the Railway Board from time to time and there was no violation of the existing rules/

orders/instructions of the Railway Board, It is further added that the provision of holding pre-selection coaching, which was introduced by the Railway Board in the year 1991, have been dispensed with vide Railway Board's letter No. E(GP)91/2/10 dt 20.10.93 for the Unreserved (UR) candidates, but made it compulsory for the candidates belonging to SC/ST communities only.

16. That with regard to the statements made in paragraph 9.2 of the application, it is stated that the Railway Board vide their letter No. E(GP)91/2/10 dt 19.11.93 have also dispensed with holding of pre-qualifying test for all the Group 'B' Selections. From the statements of the applicant, it is crystal clear that he was not keeping updated information about the changes made by the Railway Board in conducting the Group 'B' selections which has been circulated to all concerned, especially when he has decided to volunteer for the said examination. It is seen that the applicant is aware about the instructions issued by the Railway Board introducing the pre-qualifying test in the year 1991, but he did not keep any information about the subsequent development that the Railway Board had dispensed with the mandatory provision of holding pre-qualifying test vide their letter dated 19.11.93.

27. That with regard to the statements made in Paragraph 9.3 of the application, the answering respondents state that the applicant has made some imaginary and baseless statements about the rules and procedures of conducting the selections against LDCE. In fact, the selection of APO on

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18. That with regard to the statements made in paragraph 9.4 of the application, it is stated that the written examination for LDCE is composed of 300 marks comprising two papers of 150 each and qualifying marks are 60% i.e. 90 marks in each paper. The viva-voce test is of 50 marks (25 marks for record of service and 25 marks for viva-voce including personality, leadership, address etc.). The qualifying marks for viva-voce test is 30, out of which 15 marks is required to be secured against record of service. The panel of selected candidates is made strictly on the basis of overall performance of the candidates i.e. marks for written test as well as viva-voce test. The contention of the applicant in

regard to awarding of marks against Annual Confidential Reports is completely baseless and not in conformity with the existing rules framed by the Ministry of Rlys. (Rly. Board). In regard to ACRs, there are five prescribed gradings or classifications viz.,

Outstanding -
Very good -
Good -
Average -
Below Average -

The marks prescribed are -

Outstanding - 5
Very good - 4
Good - 3
Average - 2
Below Average - 1

In fact, there is no provisions for multiplying the scheduled marks by two, in other words doubling the marks, as contended by the applicant in this para. However, the applicant may be directed to produce such authenticity of doubling the marks scored against gradings of Annual Confidential Reports as contended by the applicant. Even if the doubling of mark is resorted to, would not give any additional benefit to the applicant since it would be applicable ^{to} all the 13 candidates and it would field the same result. All the six candidates empanelled ^{of} as per merit would rank higher than that ^{of} the applicant as it stands as person.

Further, it is pointed out that the contentions of the applicant that he scored top marks in the written examination is a travesty of truth - a wishful thinking, ~~based~~ based on his imagination, perhaps stem from his inflated ego and over-estimation of himself and the administration has got nothing

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to do with it. But, the records reveal a different story. As per records, the applicant could not qualify in the viva-voce test and therefore, he could not be empanelled in the select list on the basis of marks obtained by all the 13 candidates who appeared in the viva-voce test.

19. That with regard to the statements made in paragraphs 9.5 to 9.7 of the application, it is stated that the contention of the applicant is based on his imagination that his ACRs for the last 5 years were full of adverse remarks. In fact, there were no adverse remarks but the assessment of the reporting officer as well as reviewing officer were either 'Good' or 'Average' varying from year to year strictly on the basis of his performance. It will be well neigh to mention here that the ACR is a vital tool for assessing the overall performance of an officer/staff. Accordingly, the reporting/reviewing officers undertake the duty of filling up the ACR forms with high sense of responsibilities treating it as an instrument of Human Resource Development. The reporting/reviewing authority cannot shirk their responsibilities and shy away from reporting the true potentiality, deficiencies, short-comings etc. as the case may be. In case any 'average' assessment is recorded in the ACR, there is no necessity to communicate the same since 'average' cannot be termed as 'adverse remarks' in its true sense. Therefore, there was no violation of rule in any way in respect to writing the ACRs of the applicant as well as awarding of marks by the Selection Board on the basis of last 5 years ACRs for which the applicant is craving.

20. That with regard to the statements made in paragraph 6.8 of the application, it is stated that the Selection Board did not violate any rule while conducting the viva-voce test and the selection in question has been conducted strictly in accordance with the rules prescribed by the Ministry of Rlys. (Railway Board) from time to time. Further, the applicant is placing his argument only on imaginary contention that the adverse remarks has not been communicated to him without knowing as to whether there were any such adverse remarks in the ACRs which required to be communicated to him. Therefore, the cases cited by the applicant as appeared in the AIR cannot have any link with the subject matter of the applicant. All the cases cited by the petitioner have got independent merit.

21. That with regard to the statements made in paragraphs 9.9 to 18 of the application, it is stated that the applicant has filed the case before the Hon'ble Tribunal based on his imaginary contention which has got no relation with the rules framed by the Ministry of Rlys. (Railway Board). The respondents categorically deny the statements made in the petition. In fact, the selection of Asstt. Personnel Officer, Group 'B' against 30% LDCE has been conducted strictly in compliance with the Rules framed by the Ministry of Rlys. (Railway Board) from time to time and there was no violation of such rule/instructions. Since the applicant could not secure qualifying marks in the viva-voce test, he could not be empanelled as per merit. It is pertinent to mention here that the selection against 30% vacancies is done strictly on merit and accordingly,

the petitioner could not come out successful in the selection. The selection panel for 6 has been formed strictly on merit and there was no violation of rules/instructions.

In view of the above, it is prayed that the application ~~application~~ may be dismissed since the arguments put forward by the applicant have got no relation with the rules/instructions communicated by the Ministry of Rlys. (Railway Board) and the selection panel has been formed strictly in compliance with the rules.

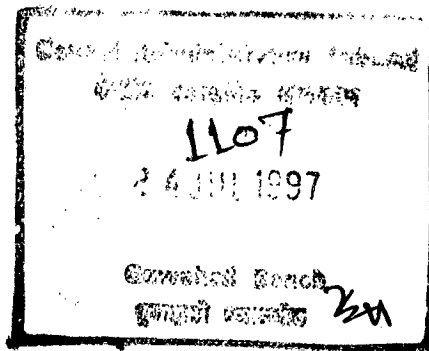
22. That in view of the facts and circumstances stated above, the instant application is not maintainable and liable to be dismissed.

VERIFICATION.

I, Maitreyee Brahma, aged about 36 years, by occupation Railway Service, working as Deputy Personnel Officer of the Northeast Frontier Railway, do hereby solemnly affirm and state that the statements made in paragraphs 1 and 2 are true to my knowledge, those made in paragraphs 3 to 21 being matter of records are true to my ~~ka~~ information derived therefrom and the rests are my humble submission before this Hon'ble Tribunal.

u. Brahma
DEPUTY CHIEF PERSONNEL OFFICER
NORTHEAST FRONTIER RAILWAY
MAILGAON :: GUWAHATI
FOR & ON BEHALF OF
UNION OF INDIA.

उप मुख्य कार्मिक अधिकारी ()
Chief Personnel Officer
मेलगाँव, गुवाहाटी-781011.
A. S. No. 100-781011,



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :GUWAHATI BENCH.
GUWAHATI.

O.A. 36/95.

Shri S.J.Ali ... Applicant .

- Versus-

Union of India and others.

... Respondents.

A REJOINDER ON BEHALF OF THE APPLICANT.

THE APPLICANT BEGS TO STATE AS FOLLOWS:-

1. That the applicant had challenged order No. 49/95 (PERSON) dated 28.2.95 issued by the General Manager (P) , N.F. Railway , Maligaon, Guwahati whereby the private respondents were promoted to the post of Asstt. Personnel Officer, Group- B against 30 pc vacancy filled up by limited departmental competitive examination (L.D.C.E.) as well as the whole selection process by which the private respondents were selected .

2. That the selection was challenged , amongst others, on the ground that the selection was made in violation of the procedure laid down by the Railway Board for which the applicant did not get the qualifying mark in the record of service .

contd..

*Learned am
L. D. Desai, J. Desai
For B.K. Sharma
24-7-97*

As per the existing guidelines for L.D.C.E., a written test is held on two papers with 150 marks each and the qualifying mark is 90 in each paper. The second part consists of the record of service and viva-voce carrying 25 marks each and the qualifying mark being 15 in each part .

The Railway Board, vide letter No. E(GP) 87/2/123 dated 19.9.88, had laid down the procedure for awarding marks for records of service . The aforesaid procedure relates to both selection against 70% vacancy and also for L.D.C.E. In the note it had been specified that for L.D.C.E., the marks should be doubled . The above procedure has been reiterated by the Railway Board by their letter No. E(GP) /88/2/111 dated 20.8.91 and the said procedure is still in force to the best of the applicant's knowledge .

3. That the applicant begs to state that he had done quite well in the written examination and had secured good marks but that in the record of service, the Selection Committee, following a wrong procedure, awarded him only 11 marks and disqualified him when, in fact, the applicant ought to have been given atleast 22 .

4. That the respondents have filed a written statement wherein, in paragraph 18, it has been denied that there was no provision for doubling the marks and had shifted the burden of producing the guidelines and as such it has become essential to file this rejoinder .

contd..

The applicant states that the provision for doubling the marks is laid down in Railway Board's circular dated 19.9.88 which has been further reiterated in Railway Board's letter dated 20.8.91 .

Copies of circulars dated 19.9.88, 20.4.89 and 20.8.91 are annexed herewith and marked as Annexure- VIII, IX and X respectively.

5. That the applicant begs to state that the records of the selection will show that the applicant received qualifying higher marks in the written test and had the marks in the record of service being given as per existing procedure, the applicant would have received the qualifying marks and selected for appointment .

contd..

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

I, Shri Syed Jamaluddin Ali, son of Late Asghar Ali, aged about 41 years, at present working as the Confidential Stenographer under the Divisional Safety Officer, N.F. Railway, Lumding in the District of Nagaon (Assam) do, hereby, verify that the statements made in paragraphs 1, 2, 3 and 5 are true to my knowledge and those made in paragraph 4 are, being matters of record, true to my information derived therefrom and that I have not suppressed any material fact.

Place : Guwahati.

Date : 24.7.97.

Syed Jamaluddin Ali

Signature of the applicant

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

ANNEXURE - VIII

No. F(SP)87/2/123 New Delhi, dated: 19-9-1988.

The General Managers,
All Indian Railways including CLW, DLW, ICF,
and Wheel & Axle Plant.

SUB: - Promotion from Class III to Class II.
Service - Awarding of marks against
'Record of Service'.

The Board have issued instructions from time to time bearing on the procedure to be followed in regard to Class II selections on Railways. They have recently had under consideration the question of amplifying these instructions so as to ensure that there are no material variations in the practices followed on various Railways in awarding marks for Records of Service. They have, accordingly, decided that the undermentioned procedure should be followed:-

Assessment: i) Assessment should be based on confidential reports for the last five years.

ii) Marks should be given as under for maximum of 25 marks covering five CRs.

Outstanding	: 5 marks
Very Good	: 4 "
Good	: 3 "
Good/Not fit	: 2.5 "
Average	: 2 "
Below Average	: 1 "

Note: i) The classification 'Not fit/Not yet fit' in the last 3 CRs will earn 2.5 points but in the first two CRs such classification will earn 3 points.
ii) The above criteria/procedure for awarding marks is applicable to the selections against 75% of the vacancies. For LDCE the marks will be doubled.

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3. In order to be classified as 'Fit for promotion' an employee must get a minimum of 15 marks from the last 5 CRs and should have been rated as 'Fit for promotion' in the last CR. Also 'average' or 'Not fit' rating in the last CR should be treated as 'Grey area' irrespective of the points obtained.

4. It has also been decided that the marks should not be allotted just based on the final gradings given, but the whole C.R. should be read by the Committee and the gradings arrived at for giving the marks.

Please acknowledge receipt.

R.R. Kori
(R.R. Kori)

Joint Director, Establishment (Gaz)
Railway Board.

*Attn: Adm
Gill
Adm*

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GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.E(GP)87/2/123

New Delhi, dated 20.4.1989

The General Manager,
Southern Railway,
MADRAS

ANNEXURE - IX

Sub:- Promotion from Group 'C' to Group 'B'
services - Awarding of marks against
'Record of Service'.

Ref:- 1) This office letter of even number
dated 19.9.1988.

11) Your Dy. CPO(G)'s letter No.
P(G)134/P dated 17.11.1988.

The matter has been considered and it is noted that in the Confidential Reports upto the year 1986-87 which would be in the old format, the instructions issued vide Board's letter of even number dated 19.9.1988 can be applied without any difficulty. The remarks against the Column 'fitness for promotion' may, however, be ignored.

The Confidential Reports for 1987-88 and later years have to be filled in the revised proforma. (There is no column for 'fitness for promotion' in the revised proforma). The marks for these reports can be assigned on the basis of weighted average of the five attributes against which gradings are provided in Section II of the CRs to arrive at overall rating and points computed on that basis.

However, in allotting marks, instructions contained in Para 4 of this office letter of even number dated 19.9.1988 should be kept in view.

9c
Kohli
(R. R. KOHLI)
JOINT DIRECTOR, ESTABLISHMENT(GAZ.)
RAILWAY BOARD

No.E(GP)87/2/123

New Delhi, dated 20.4.1989

Copy alongwith a copy of D.O. letter referred to above forwarded to General Managers, all Indian Railways, CIM, DLW, ICF & WAP for information and necessary action.

Kohli
(R. R. KOHLI)
JOINT DIRECTOR, ESTABLISHMENT(GAZ.)
RAILWAY BOARD

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ANNEXURE-X

87

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

New Delhi, 1st.20 -8-91

E(GP)88/2/111

General Managers,
Zonal Railways
including CLW, DLW, ICF & W&AP.

Sub: Selections/LDCEs for promotion
from Group 'C' to Group 'B'.

Ref: Board's letters No:

- i) E(GP)74/2/44 dated 22/23.6.74 & 8.5.91
- ii) E(GP)76/2/96 dated 3.6.77, 3.8.77 & 31.8.78.
- iii) E(GP)79/2/25 dated 4.5.79.
- iv) E(GP)87/2/61 dated 23.6.88, 27.6.90 & 13.11.90.
- v) E(GP)87/2/123 dated 19.9.88 and 29.9.88
- vi) E(GP)86/2/61 dated 10.1.90.
- vii) E(GP)88/2/111 dated 15.3.89.

In their letters quoted above, the Board have issued orders from time to time laying down procedure for selection to Group 'B' both in the selection against 75% and LDCE.

The matter has been reviewed with a view to rationalising the procedure and in partial modification of the instructions contained therein, the Board have decided that the following procedure should be followed in the written tests, viva-voce and evaluation of record of service.

WRITTEN TEST

L.D.C.E.

<u>Prescribed papers</u>	<u>Max.Marks</u>	<u>Qualifying Marks</u>
Professional paper-I (Professional subjects and Genl.Knowledge)	150	90
Professional Paper-II (Professional subjects and Estt. & Financial Rules)	150	90

Contd...2/-

Attd.
Sd/-
Hd/-

NOTE: (i) Out of 150 marks, the questions relating to professional subject will carry atleast 100 marks in each paper.

(ii) In case of Accounts Department Paper-I will cover General Knowledge & English and subjects of paper II(A) circulated under Board's orders dated 3.8.77 and Paper-II will cover the subjects of papers II(E) & III of this office letter dated 3.8.77 and clarified in Board's letter No. 78-AC III/20/49 dt. 9.9.78.

(iii) The main examination mentioned above shall be preceded by a pre-qualifying test in all subjects in terms of orders contained in Board's letter No.E(GP)86/2/111 dated 15.3.89.

(iv) Apart from the minimum qualifying marks stated above, there will be no separate minimum qualifying marks for any subject.

II. SELECTION

<u>Prescribed papers</u>	<u>Max.Marks</u>	<u>Qualifying Marks</u>	<u>Remarks</u>
One paper on Professional subject and Estt. and Financial Rules.	150	90	(Out of 150 marks, the professional subject will carry atleast 100 marks).

NOTE: (i) In the case of S&T Department, the portion relating to professional subject shall be equally divided between (i) Mechanical, Signalling and Land line communications and (ii) Electrical Signalling and Wireless communications as per the instructions contained in Board's letter No.E(GP)79/2/25 dated 4.5.79 and the syllabus circulated therewith shall be followed.

(B) RECORD OF SERVICE AND VIVA-VOCE (both for selection and LDCE)

	<u>Max.Marks</u>	<u>Qualifying Marks</u>
(i) Viva-voce	25)	30
(ii) Record of service	25)	(including atleast 15 marks in the record of service).

The record of service will be evaluated in terms of the instructions contained in Board's letters No.E(GP)87/2/123 dated 19.9.80 and 29.9.80.

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3. The Board have also decided that the papers on non-professional portions i.e. Establishment and Financial Rules, General Knowledge and General English etc. shall also be set and evaluated by the PHCDs/HCDs of the concerned department and not necessarily by FA & CAO and Chief Personnel Officer.

4. These instructions come into force after 15 days from the issue thereof and the examinations and the viva-voce conducted and record of service evaluated before that date as per earlier instructions will not be affected.

Please acknowledge receipt.

(Hindi version will follow).

R.R. Kohli

(R.R. Kohli)

Director, Establishment (Gen. P.)
Railway Board.

Attested
Gill

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1998
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Filed by-
the respondents
Atro:- B K Sharma
Standing Counsel
Railways
17.3.98

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :-

O.A. No. 36 of 1995

Syed J. Ali ... Applicant,

Vs.

Union of India & Ors.... Respondents.

AND

IN THE MATTER OF :-

Additional written statement in
respect of the rejoinder filed by
the applicant.

The answering respondents beg to state as follows :-

1. That with regard to the statements made in paragraph 1 of the rejoinder, it is stated that all the private respondents had been promoted exclusively on the basis of their merit in the L.D.C.E. against 30% vacancies of Asstt. Personnel Officer.

2. That the answering respondents deny the contentions raised in paragraph 2 of the rejoinder. In this

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connection, it is stated that the selection was conducted strictly in accordance with and compliance of the rules/instruction proscribed by the Ministry of Railways. The written test is held in 2 papers with 150 marks each. Out of 150 marks, the questions relating to professional subject will carry at least 100 marks in each paper. The viva-voce and records of service carry 25 marks each, (total 50), out of which qualifying marks is 30 and one must earn at least 15 marks in the records of service. While dealing with the letter of one of the Zonal Railway, Railway Board clarified vide their letter dated 14.5.92 that the instructions contained in the Railway Board's earlier letter dt. 20.8.91 are to be followed and there will be no doubling in marks for record of service in L.D.C.E. (copy annexed).
as ANNEXURE-A & B respectively.

3. That with regard to the statements made in paragraph 3 of the rejoinder, it is stated that panel of selected candidates had been made strictly on the basis of over-all performance of the candidates in compliance with the relevant rule/instructions as explained above.

4. That with regard to the statements made in paragraph 4 of the rejoinder, while denying the contentions,

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made by the applicant, the answering respondents submit reiterate and reaffirm the statements made here-in-above.

5. That the answering respondents submit that in view of the above and also in view of the statements made in the written statement, the O.A. filed by the applicant deserves to be dismissed with cost. The applicant has preferred the O.A. entirely on a wrong notion of the matter and for taking a chance for favourable consideration. Same is not maintainable.

VERIFICATION.

I, Maitreyee Brahmoo, aged about 37 years, by occupation Railway Service, working as Dy cpo (Cazetted) of the N.F. Railway, Maligaon, Guwahati-11, do hereby solemnly affirm and state that the statements made in paragraphs are true to my knowledge, those made in paragraphs 1 to 4 are true to my information being matters of records of the case which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal.

uBrahmoo 12/3/98
DEPUTY CHIEF PERSONNEL OFFICER
NORTHEAST FRONTIER RAILWAY
MALIGAON :: GUWAHATI-11
FOR & ON BEHALF OF
UNION OF INDIA.

Annexure A
30-206
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GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

NO.E(GP)88/2/111

New Delhi, dt. 14-5-92

The General Manager,
South Central Railway,
Secunderabad.

Attn: (Sh. P. Murugan, C.P.O.)

Sub: Selections/LDCEs for promotion from
Group 'C' to Group 'B'.

Ref: S.C. Railway's letter No. P.Gaz.562-Class III to
II, Pt. III., dated 13.4.92.

A doubt was raised by S.C. Railway with regard to Board's letter
of even number dated 20.8.91 on the above subject. The doubt was
that whether the maximum and qualifying marks in regard to record
of service will be doubled for LDCE in pursuance of Board's letter
No. E(GP)87/2/123 dt. 19.9.88 (Para 2 Note(11)).

It is hereby clarified that the instructions contained in this
office letter of even number dt. 20.8.91 are in modification of
earlier orders and there will be no doubling of marks for record of
service in LDCE.

Please acknowledge receipt.

*R. Ind. the
letter instruction
is put up for perusal
22/9/92*

(R.R. Kohli)

Director, Establishment (GP)
Railway Board.

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*500/118
DH CPO/6*

*Important
Chowdhury
pl. note carefully
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ANNEXURE - B

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GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

New Delhi, dt. 20-8-91

E(GP)88/2/111

General Managers,
Zonal Railways
including CLW, DLW, ICF & W&AP.

Sub: Selections/LDCEs for promotion
from Group 'C' to Group 'B'.

Ref: Board's letters No:

- i) E(GP)74/2/44 dated 22/23.6.74 & 8.5.91
- ii) E(GP)76/2/96 dated 3.6.77, 3.8.77 & 31.8.78.
- iii) E(GP)79/2/25 dated 4.5.79.
- iv) E(GP)87/2/61 dated 23.6.88, 27.6.90 & 13.11.90.
- v) E(GP)87/2/123 dated 19.9.88 and 29.9.88
- vi) E(GP)86/2/61 dated 10.1.90.
- vii) E(GP)88/2/111 dated 15.3.89.

In their letters quoted above, the Board have issued orders from time to time laying down procedure for selection to Group 'B' both in the selection against 75% and LDCE.

The matter has been reviewed with a view to rationalising the procedure and in partial modification of the instructions contained therein, the Board have decided that the following procedure should be followed in the written tests, viva-voce and evaluation of record of service.

(A) WRITTEN TEST

L.D.C.E.

<u>Prescribed papers</u>	<u>Max. Marks</u>	<u>Qualifying Marks</u>
Professional paper-I (Professional subjects and Genl. Knowledge)	150	90
Professional Paper-II (Professional subjects and Estt. & Financial Rules)	150	90

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- NOTE: (i) Out of 150 marks, the questions relating to professional subject will carry atleast 100 marks in each paper.
- (ii) In case of Accounts Department Paper-I will cover General Knowledge & English and subjects of paper II(A) circulated under Board's orders dated 3.8.77 and Paper-II will cover the subjects of papers II(B) & III of this office letter dated 3.8.77 and clarified in Board's letter No. 78-AC III/20/49 dt. 9.9.78.
- (iii) The main examination mentioned above shall be preceded by a pre-qualifying test in all subjects in terms of orders contained in Board's letter No.E(GP)88/2/111 dated 15.3.89.
- (iv) Apart from the minimum qualifying marks stated above, there will be no separate minimum qualifying marks for any subject.

II SELECTION

<u>Prescribed papers</u>	<u>Max.Marks</u>	<u>Qualifying Marks</u>	<u>Remarks</u>
One paper on Professional subject and Estt. and Financial Rules.	150	90	(Out of 150 marks, the professional subject will carry atleast 100 marks).

NOTE: (i) In the case of S&T Department, the portion relating to professional subject shall be equally divided between (i) Mechanical, Signalling and Land line communications and (ii) Electrical Signalling and Wireless communications as per the instructions contained in Board's letter No.E(GP)79/2/25 dated 4.5.79 and the syllabus circulated therewith shall be followed.

(B) RECORD OF SERVICE AND VIVA-VOCE (both for selection and LDCE)

	<u>Max.Marks</u>	<u>Qualifying Marks</u>
i) Viva-voce	25)	30
ii) Record of service	25)	(including atleast 15 marks in the record of service).

The record of service will be evaluated in terms of the instructions contained in Board's letters No.E(GP)87/1/123 dated 19.9.88 and 29.9.88.

Contd...3/-

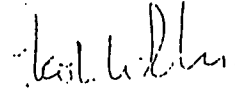
-: 3 :-

3. The Board have also decided that the papers on non-professional portions i.e. Establishment and Financial Rules, General Knowledge and General English etc. shall also be set and evaluated by the PHODs/HODs of the concerned department and not necessarily by FA & CAO and Chief Personnel Officer.

4. These instructions come into force after 15 days from the issue thereof and the examinations and the viva-voce conducted and record of service evaluated before that date as per earlier instructions will not be affected.

Please acknowledge receipt.

(Hindi version will follow).



(R.R. Kohli)
Director, Establishment (Gen. F.)
Railway Board.