

0/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

X

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 4/95.....

R.A/C.P No......

E.P/M.A No......

1. Orders Sheet.....OA.....Pg...1.....to...5.....
2. Judgment/Order dtd 24.5.95.....Pg...1.....to...11.....supra order withdrawn
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....4/95.....Pg...1.....to...2/.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg...1.....to...6.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Hahs
1.2.98

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI -5.

ORIGINAL APPLICATION NO. 4/95

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

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

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

D. Chakraborty & 7 Others APPLICANT(S)

VERSUS

Union of India & ors. RESPONDENT(S)

MR R. N. Dhar. Advocate for the Applicant.

Advocate for the Respondents

Rly Counsel.

Office Note

Court Orders

4-1-95

6-1-95

This application is filed along with one I.P.O. No. DD 514078 dated 31-12-94 for Rs. 50/- is in form.

Laid before the Bench for further orders.

N. L. Saha
4/1/95
Section Officer,
Central Administrative Tribunal
Guwahati Bench.
Guwahati-5.

The application has been moved by learned counsel Mr. R. N. Dhar on behalf of 8 applicants mentioned in the application. He has prayed for permission to allow the applicants to submit this joint application in terms of Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987. It is seen that the conditions given in the Rule are fulfilled. They are allowed to file this application jointly.

Learned Railway counsel Mr. J. Singh is present and has received a copy of the application.

Heard Mr. R. N. Dhar and Mr. J. Singh on the question of Admission. The applicants have impugned the letter No. E/254/84/Pt. V(T) dated 21-7-94 (Annexure J) and No. E/254/84/Pt. V(T) dated 14-11-94 (Annexure K) issued by the respondents for selection for the post of CI/CMI Gr. II in scale of Rs. 2000-3200/- in N.F. Railway.

Issue notice on the respondents to show cause as to why

O.A.4/95

OFFICE NOTE

COURT ORDERS

6-1-95

this application should not be admitted. List on 1-2-95 for disposal of show cause and consideration of admission.

Heard Mr. R.N. Dhar and Mr. J. Singh on the interim relief prayer. Action taken by the respondents on the basis of impugned letters will be subject to the result of this application.

6-1-95
Member

*Copies for notices
are received by Mr. J. Singh.
Rly. Adv. to send on record.*

lm

6/1/95

*lm
12/1/95*

1-2-95

Adjourned to 7-2-95.

lm
Vice-Chairman

lm
Member

lm

7.2.95

Counsel of the parties are present. Learned Railway counsel Mr J. Singh prays for further four weeks time to file the show cause. Time allowed.

List on 7.3.1995 for disposal of show cause and consideration of admission. The respondents are directed to submit the show cause in advance with copy to the applicant.

lm
Member

*Order of 7-2-95 (sm)
to all concerned vide
no. 698-702 dt. 8.2.95*

7/2 7.3.95

list on 10.3.95.

by order.

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

GUWAHATI CASE NO 4/95 OF 1987

Shri S.K. Bhattacharjee and Others

APPLICANT

- VERSUS -

Union of India & Ors.

RESPONDENT

FOR APPLICANT : Mr. R.N. Dhar

ADVOCATES.

FOR RESPONDENT: Mr. J. Singh

ADVOCATES.

Noting by Office or Advocate	Sl.	Date	Order of the Tribunal with Signatures.
		10-3-95	Heard Mr. R.N. Dhar for the appli-
			cants. Mr. J. Singh present for the res-
			pondents on notice. Perused the writt-
			en statement filed by the respondents.
			Prima facie we find it difficult to
			see that any legal right of the appli-
			cant has been denied having regard to
			the detailed position explained in
			the written statement. The relief
			sought by the applicant would require
			to examine the impact of restructuring
			of the posts done with the direction
			of the Railway Board. Moreover Para 15
			of the written statement shows that the
			respondents are making the avenue of
			promotion open to the applicant if
			they are eligible and qualified and
			they are being advised to keep them-
			selves in readiness to appear before
			the selection on short notice. With
			this assurance we find it difficult
			to understand the insistence of the
			learned advocate of the applicants to
			pursue the present application. We
			have made it clear to Mr. Dhar that in
			case he desires the application to be
			admitted then any promotion if there-
			after given to any of the applicants
			in view of paragraph 15 of the written
			statement, that will have to be sub-

P.T.O.

Noting by Office or Advocate	Sl. No.	Date	Order of the Tribunal with Signatures.
		10-3-95	<p>subject to the decision in this application and if the applicants fail to get promotion from an earlier date as claimed in the petition they will have to be reverted and it will not be open to them to make any grievance and they may be deprived of the fruits of promotion forever. This Tribunal cannot be used as a mechanism for seeking double advantage or whatever may be opportune. Hence although Mr. Dhar is prepared to take the risk and wants to press the application, we would not readily act according to it in the interest of the applicants themselves because we do not know as to whether the applicants have been apprised of the written statement and paragraph 15 thereof and consequences that will follow if the application is admitted which may lead to above stated situation.</p> <p>Hence we give opportunity to Mr. Dhar to produce a statement in writing from each of the applicants as to whether he desires to press for admission of the application leaving his promotion if given thereafter subject to the result of the petition or whether he desires to take benefit of the opportunity as would be available to him in terms of paragraph 15 of the written statement and would want to withdraw the application without prejudice to the right for being considered for promotion as the selection is proposed to be held. Mr. Dhar is giving such instructions in writing It is however made clear that until the application is further heard the respondents shall not deny the opportunity ^{to the applicants} to appear at the Selection to be held in the meantime as mentioned in paragraph 15 of the written statement and also consider promotion without prejudice to the pendency ^{of the} application. Thus they shall not be denied the benefit of selection merely on the ground that the</p>

contd/-

5

O.A.4/95

4

OFFICE NOTE

Date

COURT'S ORDER

10-3-95 application is pending.

Adjourned to 10-4-95.

Copy of the order be supplied to the counsel.

Order dt. 10.3.95 (8m)

to the counsel of parties

vide no. 1286-87

dt. 23.3.95

lm

21/3/95

[Signature]

Vice-Chairman

[Signature]

Member

32/3/95

24-4-95

Mr.R.N.Dhar for the applicant.

Mr.Dhar states that as the department is reviewing the matter the applicant does not desire to proceed with the application at this stage without prejudice to future remedies. The O.A. is allowed to be withdrawn in accordance with the above statement.

3.5.95

copy of order dtd. 24.4.95 issued to all concerned by Regd. Post vide no. 1936-1939 dtd. 5/5/95.

[Signature]

lm

29/4

[Signature]

Vice-Chairman

[Signature]

Member

2

OFFICE NOTE

Date

COURT'S ORDER

Application fee of Rs. 50/-

Paid vide Bank Draft.....

Postal Order No. PP 514078

Dated 3/12/94

8

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No 4 of 1995

Sri D.Chokraborty & 7 others ... Applicants

-versus -

Union of India & Others ... Respondents

AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT

Annexure	Particulars of reference	Page
A	Office Order No.E/283/139 P.VIII(T) dated 22.2.1993	12
B & C	-do- dated 2.3.93 and 10.5.93	13
D	Annexure C(ii) to Railway Board's letter dated 27.1.93	14
E	Office Order NoE/254/84 Pt.V(T) dated 11.10.93	15
F	Applicants representation dated 30/31.8.94 for promotion	16
G	General Manager(P)'s reply under letter No.E/254/84 Pt.V(T) dated 4/7.11.94	17-18
H	Office Order No.E/254/84 Pt.V(T) dated 4.8.94	19
I	Seniority list of CI/CMI in scale Rs 1600-2660 published vide No. E/254/84 Pt.V(T) dated 2.6.94	20
J	Selection Notification No.E/254/84 Pt.V(T) dated 21.7.1994	21
K	-do- dated 14.11.94	22

Date of filing or ... 4-1-95

Date of receipt or ...

Date of Registration ... O.A 4/95

Copy is being
Served on the Rly
Counsel

Andhy per
4/1/95

Registrar,
Central Administrative Tribunal
Guwahati.

Dilip Chokroborty
P.S. Dargah
Advocate

9

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH

Original Application No. of 1995

BETWEEN

1. Shri S. K. Bhattacharjee
C/O Chief Commercial Inspector
Chief Commercial Manager's office
N. F. Railway, Maligaon, Guwahati-11
2. Shri Mrityunjoy Das
C/O Chief Commercial Inspector
Chief Commercial Manager's office
N.F.Railway, Maligaon, Guwahati-11
3. Shri C. R. Dey
C/O Chief Commercial Inspector
Chief Commercial Manager's office
N.F.Railway, Maligaon, Guwahati - 11
4. Shri A. K. Chokroborty
C/O Chief Commercial Inspector
Chief Commercial Manager's office,
N.F.Railway, Maligaon, Guwahati - 11
5. Shri Dilip Chokroborty
Railway Qrs No.DS/74-B Rest Camp
P.O Guwahati - 12
6. Shri J. G. Singh
C/O Chief Commercial Inspector
Chief Commercial Manager's office,
N. F. Railway, Maligaon, Guwahati-11

7. Shri B.N. Deka

C/O Chief Comm. Inspector

Chief Commercial Manager's office

N.F. Railway, Maligaon, Guwahati-11

8. Shri Dilip Kumar Dey

Railway Qrs. No. 21/B, Accounts Colony

Guwahati-11

... Applicants

AND

1. Union of India represented through the
General Manager, N.F. Railway, Maligaon

2. The Chief Commercial Manager,
N.F. Railway, Maligaon, Guwahati - 11

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

Dist : Kamrup, Assam

... Respondents

1. Particulars of Orders against
which the application is filed

Against the Notification No. E/254/84/Pt.V(T) dated

and the Notification No. E/254/84/Pt.V(T) dated 14.11.94

Subject in brief : In disregard to Railway Board's order

dated 27.1.93, the notification for

holding positive act of selection

have been issued to fill 8 restructuring

resultant vacancies in scale Rs 2000-3200/-

2. Jurisdiction

The subject-matter of this application is within the
jurisdiction of this Hon'ble Tribunal.

3. Limitation

The application has been filed within the limitation
prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Brief facts of the case

Contd.... 3

4. Brief facts of the case

4.1. That the applicants are all citizen of India and at present working as Claims/Commercial Inspector under the Chief Commercial Manager, N.F. Railway in Head Qrs as well as in the Divisions and as such are entitled to all rights and privileges guranteed by the Constitution of India.

4.2. That the applicants state that all the applicants have been affected by a common action of the respondents and therefore, filed this application jointly. *Applicants pray for permission to file application jointly.*

4.3. That the applicants state that the avenue of promotion in the category of Claims/Commercial Inspectors in different grades are as under :-

- | | | |
|-------|--|------------------------------|
| (i) | Claims Tracer in scale Rs 1200-2040/- | |
| (ii) | Claims/Comm. Inspector in scale Rs 1400-2300/- | Selection |
| (iii) | -do- | Rs 1600-2660/- Non-Selection |
| (iv) | - do- | Rs 2000-3200/- Selection |
| (v) | -do- | Rs 2375-3500/- non-seoectio |

The initial posts of Claims Tracer is filled up on the basis of suitability from amongst the Goods Clerk, Commercial Clerk, Office Clerks in grade Rs 950-1500/-.

4.4 That the applicants state that the applicants having been empanelled was initially appointed as Claims Tracer and there-after according to classification of posts as Selection and Non-selection, the applicants got promotion upto the scale of Rs 1600-2660/-.

4.5 That the applicants state that the applicants were promoted as Claims/Commercial Inspector in a common Office Order vide No.E/283/139/P-VIII(T) dated 22.2.93. Altogather 15 persons were promoted to the post of Claims/Commercial Inspector by the same Office Order but from serial No.1 to 6 were promoted and the benefit of promoted ion was extended to the extent of their Junior promoted on 16.7.92. Serial

Serial No.7 was promoted against the existing vacancy and Serial No.8 to 15 were promoted against the ~~existing~~ downgraded posts of Claims/Commercial Inspector of scale Rs 2000-3200/-. In absence of any other separate order showing that they were adjusted against the cadre restructuring chain/resultant vacancies, the applicants were promoted in scale Rs 1600-2660/- on regular basis. The serial No. 8, 10 and 15 who were also promoted along with the applicants in scale Rs 1600-2660/- against the downgraded posts, later promoted in scale Rs 2000-3200/- on completion of one year vide Office Order No.E/254/84/Pt.V(T) dated 4.8.94 with effect from 22.2.94 and as such the applicants were also promoted in scale Rs 1600-2660/- on regular basis.

(A copy of Office Order No.E/283/139/P-VIII(T) dated 22.2.93 is annexed as Annexure -A .)

4.6 That the applicants state that the applicant No.8 who was also promoted in scale Rs 1600-2660/- by the same Office Order dated 22.2.93 (at serial No.14 of the Office Order) but later his promotion was cancelled vide Office Order No.E/283/139/P-VIII(T) dated 2.3.1993 and two months later he was again promoted by the Office Order No.E/283/139/Pt-VIII(T) dated 10.5.1993 .

(Copies of Office Order dated 2.3.1993 and 10.5.1993 are annexed as Annexure B and C)

4.7 That the applicants state that the Railway Board in their letter No.PC/III/CRC/1 dated 27.1.93 issued the Cadre restructuring Order and in Annexure 'C' of the letter revised the percentage of posts of Claims/Commercial Inspector in different grades. The revised percentage are as under :-

	Existing	Revised
1. Claims/Comm.Inspector in scale Rs 1400-2300/-	35	25
2. -do- in scale Rs 1600-2660/-	20	15
3. -do- in scale Rs 2000-3200/-	40.5	30
4. -do- in scale Rs 2375-3500/-	4.5	30

As a result of revision of percentage of posts under the Railway Board's aforesaid cadre restructuring order, the position of sanctioned strength in scale Rs 2375-3500 and 2000-3200 increased or decreased as under :-

<u>Existing Sactioned streth prior to 1.3.1993</u>	<u>Revised sanctioned strength after 1.3.1993</u>	<u>Increased or de- creased in number of posts</u>
Rs 2375-3500 . 5	33	+ 28
Rs 2000-3200 43	33	- 10

(Copy of Annexure 'C' to Railway Board's letter dated 27.1.93 is annexed as Annexure D)

4.8 That the applicants state that prior to the implementation of Cadre restructuring order, as against 5 sanctioned posts in scale Rs 2375-3500, there were 4 incumbents and one post was vacant. Similarly as against 43 sanctioned posts in scale Rs 2000-3200, there were 35 incumebts and 8 posts vacant.

4.9 That the applicants state that after the implementation of Cadre restructuring order dated 27.1.93, 28 posts were created in scale Rs 2375-3500 and total number of Inspectors promoted from scale Rs 2000-3200 to 2375-3500, 29. Of these 29 persons, one was promoted against the existing vacancy and 28 promoted against the newly created posts as a result of implementation of cadre restructuring order. With the promotion of 29 Inspectors from scale Rs 2000-3200 to 2375-3500, there were 6 incumebts left to remain in scale Rs 2000-3200. In the revised sanctioned, the posts of Inspectors in scale Rs 2000-3200 reduced from 43 to 33. Out of 6 existing incumbent in scale Rs 2000-3200, 5 persons were against the existing sanctioned strength, one against the ~~existing resultant~~ total 28 Chain/resultant vacancies, leaving 27 Chain/resultant vancancies released due to promotion of 29 persons in grade Rs 2375-3500/-

4.10 That the applicants state that out 27 Chain/resultant vacancies, 19 vacancies have been filled up by the modified selection procedure in terms of Railway Board's order contained in para 4 of their letter dated 27.1.93 and

8 vacancies proposed to be filled up by positive act of selection under the normal selection procedure.

(A copy of promotion order dated 11.10.94 is annexed as Annexure E)

4.11 That the applicants state that the applicants submitted a representation on 30/31.8.93 for promotion against the cadre restructuring chain/resultant vacancies in scale Rs 2000-3200 by the modified selection procedure but the respondents No.3 rejected the representation of the applicants under his letter No.E/254/84 Pt.V(T) dated 4/7.11.94 and stated in sub-para (b) of para vii that these 8 vacancies were existing on 28.2.93 i.e. prior to the implementation of cadre restructuring order with effect from 1.3.93. Even if these 8 vacancies were existing on 28.2.93, these vacancies came under the purview of para 4.1 of the cadre restructuring order dated 27.1.93 wherein the Railway Board stated as follows :-

- "4.1. Vacancies existing of 1.3.1993, except direct recruitment quota and those arising on that date from this cadre restructuring including chain/resultant vacancies should be filled in the following sequence :
- (i) from panel approved on or before 1.3.93 and current on that date; and
 - (ii) the balance in the manner indicated in para 4 above"

In para 4 the Railway Board indicated the existing classification and filling up of the vacancies under cadre restructuring order. So far selection posts are concerned, Railway Board stated : " However, for the purpose of implementation of these orders, if an individual Railway Servant become due for promotion to a post classified as a selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of service record and confidential reports without holding written or viva-voce."

(Copies of representation dated 30/31.8.94 and reply dated 4/7.11.94 are annexed as Annexure F & G)

4.12 That the applicants state that S/Shri C.R. Roy, S.K. Sinha R.C. Bhowmik, T.N. Bhattacharjee and S.K. Sarma who were promoted in scale Rs 1600-2660 by office order No.E/254/139 Pt.V(T) dated 22.2.93 along with the applicants, were extended the benefit of promotion with reference to their juniors promoted on 16.7.92. Shri G.K. Aneja and S.M. Basumatary were also promoted along with the applicants by the same office order dated 22.2.93, ~~xxxxxx~~ All of them have been promoted in scale Rs 2000-3200 by Office Order No.E/254/84 Pt.V(T) dated 4.8.94 and 11.10.94. Shri G.K. Aneja and S.M. Basumatary have been promoted in terms of Railway Board's letter No.PCIII/93/CRC/1 dated 18.3.93, to next higher grade in Rs 2000-3200 just on completion of one year on 22.2.94 by office order dated 4.8.94.

(Copy of office order dated 4.8.94 annexed as Annexure-H)

4.13 That the applicants further state that Shri G.K. Aneja and S.M. Basumatary were promoted in scale 1600-2660 along with the applicants in downgraded posts but no other separate office order issued in their case showing that they were promoted either against the existing vacancies or adjusted against restructuring resultant vacancies. Since their ~~promoted in scale~~ promotion in scale Rs 1600-2660 was treated as regular promotion, they have been given the benefit of next promotion in scale Rs 2000-3200 against restructuring resultant vacancies by modified selection procedure. The applicants being placed in a similarly situated position are entitled to get promotion in scale Rs 2000-3200 in the same modified selection procedure .

4.14 That the applicants state that the respondents have artificially created a demarcation in the matter of promotion of the applicants against the restructuring resultant vacancies. The respondents in their reply in sub-para (a) of para vii of their letter dated 4/7.11.94 advised the applicants that on 19 vacancies are to be filled by modified selection against the restructuring resultant vacancies and under sub-para (b) advised that remaining vacancies as existing as on 28.1.93 are to be filled up by positive act of selection.

4.15 That the applicants state that the detailed cadre position of before and after implementation of Cadre restructuring order furnished under General Manager(P)'s letter dated 4/7.11.94 clearly indicates that prior to the implementation of cadre restructuring order, the sanctioned strength of Inspector in scale Rs 2000-3200 was 43. As against 43 sanctioned post, there were 35 incumbents on roll in scale Rs 2000-3200 and 8 posts were vacant. After restructuring the implementation of restructuring order, the sanctioned strength has been reduced from 43 to 33 but ~~of~~ 8 vacancies were adjusted against the reduction of sanctioned strength, and 35 posts allowed to continue till such time the restructuring order was completely implemented and 29 Inspectors (one against the existing vacancy and 28 newly created vacancies in scale Rs 2375-3500 as a result of restructuring order). Although altogether 29 vacancies were released as result of promotion of 29 person in scale Rs 2375-3500 but for reduction of sanctioned strength, 27 ~~xxxx~~ resultant vacancies were available for filling up by the modified selection procedure. Alternately clear vacancy position after implementation of restructuring order is found thus $33 - 6 = 27$ vacancies were released due to promotion of 29 existing inspectors ~~in~~ against the restructuring upgraded vacancies in scale 2375-3500. Although clear position has been furnished General Manager(P)' letter dated 4/7.11.94 but the applicants have been simultaneously advised that 19 vacancies are the resultant vacancies and the remaining 8 vacancies were existing as on 28.2.93 and therefore, not supposed to filled up by the modified selection procedure. The advice appears to be not in conformity with but in contravention to the restructuring implementation position.

4.16 That the applicants state that after implementation of Cadre restructuring order, the seniority list of Claim/Comm, Inspector in scale Rs 1600-2660 showing the position as on 1.4.94 has been published vide No.E/254/84 Pt.V(T) dated 2.6.1994. It transpires from seniority list that as against 16 sanctioned strength, the names of 17 Inspectors have been published. ~~xxxx~~ The names of

Shri G.K. Aneja and S.M. Basumatary at serial No.2 and 10 were erroneously included in the seniority list, since they have already been promoted in scale Rs 2000-3200. Shri S.B. Das at Serial No.1 of the seniority list, already considered for promotion in scale Rs 2000-3200 in modified selection procedure but for some allegations against him is still under investigation by the Vigilance Department. As such there are practically 14 persons are regular incumbents in the grade Rs 1600-2660. As per seniority position all the applicants are entitled to be promoted against these 8 restructuring resultant vacancies by modified selection procedure but the applicants have been denied the benefit of promotion in scale Rs 2000-3200 in modified selection procedure in violation of Railway Board Cadre restructuring order dated 27.1.93.

(A copy of seniority list dated 2.6.94 annexed as Annexure - I)

4.17 That the applicants state that a selection notice vide No.E/254/84 Pt.V(T) dated 21.7.1994 have been issued advising the applicants to keep themselves in readiness to appear in the positive act of selection on short notice and also 16 other juniors to the applicants have also been given similar notice under the same number dated 14.11.94.

(Copies of Notice dated 21.7.94 and 14.11.94 are annexed as Annexure - J & K)

4.18 That the applicants state that the notification dated 21.7.94 and 14.11.94 have been issued in complete violation of Railway Board's letter dated 27.1.93 for filling up the restructuring resultant vacancies by modified selection and therefore, the notifications are liable to be quashed and set aside. The Hon'ble Tribunal may be pleased to quash and set aside these two notifications.

4.19 That the applicant No.6 is retiring shortly attaining the age of superannuation. The proposed positive act of selection is likely to deny the promotion and deprive the retirement benefit.

5. Details of remedies exhausted :

With the disposal of applicants representation dated 30/31.8.1994 by the respondent No.3 under his letter dated 4/7.11.1994, there is no other alternative remedies available to the applicants.

6. Matter not previously filed or pending with any other Court.

The applicants declare that neither any case filed on the subject nor pending before any Court.

7. Relief sought :

In view of the facts and circumstances stated herein above, the applicants pray that the Hon'ble Tribunal may be pleased to quash and set aside the selection notification on 21.7.94 and 14.11.94 and be pleased to issue a direction for giving effect to promotion to the applicants, in grade Rs 2000-3200, since the vacancies said to have been in existing prior to the implementation of restructuring order and as per instruction contained in para 4 of the Railway Board's these vacancies are required to be filled up by the modified selection procedure.

8. Interim order, if any, prayed for :

The applicants pray that this application may be kept on record pending filing of reply by the respondents and on perusal of respondents reply, if the Hon'ble Tribunal is satisfied that there is no ground for admission, the application may not be admitted and in the mean time, the respondents may be directed to abstain from taking further action on the Selection notifications as mentioned herein above.

9. Particulars of Postal Order in respect of application fee.

- | | |
|-------------------------|-------------------|
| i. I.P.O. No. | : DD 514078 |
| ii. Issuing Post office | : Maligaon |
| iii. Date of issue | : 31.12.1994 |
| iv. Payabove at | : G.P.O/Guwahati. |

Contd....11.

V e r i f i c a t i o n

I, Shri Dilip Chokraborty son of late A.B. Chokraborty aged about 50 years at present working as Commercial Inspector in scale Rs 1600-2660 under the Chief Commercial Manager, N.F. Railway, Maligaon, do hereby verify and state that the statements made herein above are true to my information derived from the records.

Further I declare that I have not suppressed any material fact.

I sign this on 2nd day of January, 1995 at GUWAHATI.

Dilip Chokraborty
Signature of the applicant.

N. F. RAILWAY.

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

OFFICE ORDER

A. The following temporary promotion and posting are ordered to take immediate effect :-

S/No.	Name	Desig, scale & place of posting	Promoted as Desig. Place of posting	Scale	Remarks
1.	Sri C.R.Roy	CI/HQRS Rs 1400-2300/-	CI/HQRS	Claims Rs1600-2660	
2.	Sri S.K.Sinha	-do-	-do-	-do-	-do-
3.	Sri R.C.Bhowmik	-do-	-do-	-do-	-do-
4.	Sri S.K.Sarma	-do-	-do-	-do-	-do-
5.	Sri T.N.Bhattacharjee	-do-	-do-	-do-	-do-
6.	Sri S.K.Bhattacharjee	-do-	-do-	-do-	-do-
7.	Sri Mrityunjoy Das	-do-	CMI/HQ	Comm1 Genl	-do-
8.	Sri C.R.Dey	-do-	-do-	TSK	-do-
9.	Sri A.K.Chokroborty	-do-	-do-	-do-	-do-
10.	Sri G.K.Aneja	-do-	-do-	LMG	-do-
11.	Sri Dilip Chokroborty	-do-	-do-	KIR	-do-
12.	Sri J.G.Singh	-do-	-do-	-do-	-do-
13.	Sri B.N.Deka	-do-	-do-	APDJ	-do-
14.	Sri D.K.Dey	-do-	-do-	-do-	-do-
15.	Sri S.M.Basumatary	CMI/BNGN 1400-2300	-do-	-do-	-do-

Remarks (1) Item 1 to 6 will be fixed up proforma w.e.f. 16.7.92, the date their juniors were promoted.
(2) Item 7 against existing vacancy.
(3) Item 8 to 15 against the downgraded post of CMI in scale Rs 2000-3200 to Rs 1600-2660/-

No.E/283/139/P-VIII(T)

Dated 22.2.1993

Copy forwarded for information and necessary action to :-

- (1) x&x&x FA & CAO/PNO (2) DRM(P)/N.F.Rly/KIR, APDJ, LMG & TSK
- (3) DCM/N.F.Rly/KIR, ~~APDJ, LMG & TSK~~ APDJ & DBRT
- (4) SCM/Claims/HQS, (5) SCM(M&S), (6) SCM/Genl/HQRS, (7) Sr.DCM/LMG
- (8) Dy.COM(G)/HQRS, (9) Dy.CCM/Claims (10) Dy.CCM/R&M
- (11) Cadre dealing Assistants & Bill Preparing Asstt of E.T.Sec
- (12) OS/ET (13) Staff concerned- through their Controlling Officer.

Sd/-

for GENERAL MANAGER (P)/MLG

Attested
by
Adv

N. F. RAILWAY.

Office of the
General Manager(P)/MLG
Guwahati-781011

OFFICE ORDER

(7) The promotion order of Sri D.K. Dey (SN-14) issued under this office referred to above is hereby cancelled.

Sd/-
for GENERAL MANAGER(P)
Maligaon

No.E/283/139/P-VIII(T)

Dated 02-3-1993

1. FA & CAO/N.F.Rly. 2. DRM(P)/KIR, APDJ, TSK/N.F.Rly
4. DCM/KIR, APDJ, DBRT/N.F.Rly. 5. SCM/CI., SCM/G, SCM/M&S/HQ
5. Dy.CCM(G)/HQ, Dy.CCM/CI/HQ, Sr.DCM/LMG. 6. DAO/KIR, APDJ, TSK
7. Cadre Sec & Bill Sec. of ET of this office. 8. OS/ET/PNO
9. Staff concerned through Controlling Officer.
10. Sri Pradip Das, HC/ET

Sd/-
for GENERAL MANAGER(P)
N.F.Railway/Maligaon.

ANNEXURE-C

Office order
No.E/283/139-PVIII(T)

Dated 10.5.1993

2. Shri D.K. Dey, CI/HQ in scale Rs 1400-2300/- of CCO's office, Maligaon is here by transferred and posted on promotion as CMI in scale Rs 1600-2660 under DRM(P)/LMG vice Sri G.K. Aneja, CI/HQ

Sd/-
for General Manager(P)

No.E/283/Pt-VIII(T)

Maligaon, dated 10.5.93

Copy forwarded for information and necessary action to :-

1. FA&CAO/MLG, (2) DRM(P)/LMG, (3) Sr.DCM/LMG
4. SCM/Claims & SCM/G/MLG. (5) Dy.CCM/G & Dy.CCM/Claims/MLG
6. DAO/LMG, (7) ET/Cadre & Bill
8. Staff concerned through OS/Claims/MLG

Sd/-
for General Manager (P)
Maligaon.

Attested
Amphan
Ad

ANNEXURE-D

Annexure (C)(ii)

Statement Regarding Restructuring of Group
'C' & 'D' Staff of Commercial Department.

Category	Grade (Rs)	Existing %age	Revised %age
Commercial Inspector	1400-2300	35	25
	1600-2660	20	25
Comm/Claims/Rates	2000-3200	40.5	30
R&D/Marketing	2375-3500	4.5	30

Attested
Am Shou
And v

448

Dy. CCM (Claims) with staff

- 15 -

N. F. RAILWAY.

ANNEXURE- E

OFFICE ORDER.

The following CI's/CML's, Gr.III in scale Rs.1600-2660/- (RPS) of Commercial Department who have been found suitable for promotion to the post of CI/CML, Gr.II in scale Rs.2000-3200/- (RPS) vide this office memorandum of even number dated 8.10.93 are hereby temporarily appointed to officiate as CI/CML, Gr.II in scale Rs.2000-3200/- (RPS), w.e.f. the date, as shown against each against the resultant vacancies available due to re-structuring of cadre w.e.f. 1.3.93, circulated vide GM(P)/MLG's Memo. No.E/41/271/ (Comm.) / Rest/AGS(T), dated 23.6.93 in terms of Railway Board's letter No.PC-III/91/CRC/1, dated 27-1-93, circulated vide CPO's letter No.RP-40 482, dated 3.2.93 and posted at the stations as shown against each subject to the conditions that there would be no change in their nature of duties they had hitherto been discharging and to which may be added such other duties and higher responsibilities as considered appropriate by their Controlling Officers.

Sl. No.	Name	Commu- nity	Working under	Posted under	With effect from
1. ✓	Sri P.T. Mukherjee	UR	CCM/Claims, MLG.	CCM/Claims /MLG	1.3.93
2. "	A.K. Sinha	UR	DCM/KIR	DCM/KIR	16.7.93
3. "	B.N. Sanyal	UR	DCM/APDJ	DCM/APDJ	16.7.93
4. ✓	S. Mukhopadhyay	UR	CCM/Claims, MLG.	CCM/Claims, MLG.	16.7.93
5. "	H.N. Sarma	UR	DCM/APDJ	DCM/APDJ	16.7.93
6. ✓	C.R. Roy	UR	CCM/Claims, MLG.	CCM/Claims, MLG.	16.7.93.
7. "	R.N. Roy Choudhury	UR	DCM/KIR.	DCM/KIR.	16.7.93.
8. ✓	S.K. Sinha	UR	CCM/Claims, MLG.	CCM/Claims, MLG.	16.7.93.
9. ✓	R.C. Bhowmick	UR	-do-	-do-	16.7.93.
10. ✓	S.K. Sarma	UR	-do-	-do-	16.7.93
11. ✓	T.N. Bhattacharjee	UR	-do-	-do-	16.7.93.
12. ✓	B.K. Das	SG	-do-	-do-	16.7.93.
13. ✓	B.J. Sangma	ST	-do-	-do-	16.7.93.
14. ✓	B.L. Baitha	SC	-do-	-do-	16.7.93.
15. ✓	Ranjit Das	SG	-do-	-do-	14.10.93
16. ✓	Amal Ch. Choudhury	UR	-do-	-do-	14.10.93.

contd....P/2....

Attested
[Signature]

- 2 -

The above mentioned staff may exercise their option for fixation of their pay from the date of next increment in their substantive grade within one month from the date of issue of this Office Order. Options received beyond that date shall not be entertained.

P. R. K. Thanga
P. R. K. Thanga
Dy. C. C. M. (R. & M.) / MLG.

No. E/254/84 Pt. V(T),

Dated: 11.10.93.

Copy forwarded for information and necessary action to:-

- 1) FA&CAO/ N.F.Rly./MLG.
- 2) CCM " "
- 3) CCO " "
- 4) DRM(P)'s, KIR, APDJ, LMG & TSK.
- 5) Sr.DCM/LMG, (6) DCM/KIR, APDJ, DBRT.
- 7) DAOs, KIR, APDJ, LMG & TSK.
- 8) Dy.CCMs; G, Claims, R&M, MLG. (9) Dy.CPO/IR/MLG.
- 10) Dy.CPO/NG.
- 11) SCMS - Catg., Gen., M&S, Claims, MLG.
- 12) SPO/E&PC/MLG. (13) EA to CPO-for kind information of CPO.
- 14) PA to Dy.CPO(A)- for kind information of Dy.CPO(A).
- 15) Mrs. D. Roy, HC/ET & Mrs. C. Banerjee, HC/ET.
- 16) Mrs. S. Laskar, HC/ET(Bill) - with 6(six) spare copies.
- 17) Staff concerned- through their respective Controlling Officers.
- 18) Spare copy - for personal case of each of the staff concerned.

S. R. Nandy
(S. R. Nandy)
Asstt. Personnel Officer(C),
for GENERAL MANAGER(P).

- 16 -

To:

The Chief Commercial Manager (P)
N.F. Railway, Maligaon
Guwahati-781011.

(Through Proper Channel)

Sir,

Re :- Filling up of resultant vacancies
occured in Scale Rs.2000-3200/-due
to restructuring of Cadre as on 1.3.93.

It is submitted as under :-

That due to cadre restructuring as on 1.3.93 in the Commercial Inspector the Nos. of additional posts created in scale Rs.2375-3500/-were 28.

That as on 1.3.93 existing out of 5 posts incumbents available were 4.

That the total Nos. of posts filled up in scale Rs.2375-3500/- were 28+1= 29 (giving benefits from 1.3.93 to 28 incumbents and one incumbent was granted benefit from the date of order).

/vacancies That in pursuance to the Board's letter on the restructuring issue all the resultant in scale Rs.2000-3200/- ~~was~~ within the purview of modified selection and also the bar for promotion reduced to one year qualifying service in scale Rs.1600-2660/-

That out of these 29 posts only 16 incumbents were promoted on modified selection procedure with relaxation limit.

That the Railway Board further clarified that where the posts were reduced due to restructuring the existing vacancies on as 1.3.93 would not come within the purview of modified selection and also relaxation on qualifying service in the next bottom scale.

That there were 8 vacancies, as I understand in scale Rs.2000-3200/- existing as on 1.3.93 and as such these vacancies do not come within the purview of the modified selection procedures including one year relaxation granted.

That the remaining 13 vacancies resultant were due to be filled up following the modified selection procedures including one year relaxation of qualifying services.

That I have completed one year service in scale Rs.1600-2660/- on 23.2.94 and also my seniority position permitted me for such promotion including payment of arrears in scale Rs.2000-3200/- following the modified selection procedure you may like to take appropriate action so that I do not suffer from my due promotion as stated above.

Yours faithfully,

Attest
Manager
Adv.

Through son/claim/m20.

- 17 -

ANNEXURE -G, 75

NF RAILWAY

No.E/254/84/Pt.V(I)

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

November 04, 1994

✓ Sh. D.Chakraborty
CI/HQ
at Office

Sub: Filling up of resultant vacancies
occured in scale Rs.2000-3200/- due
to re-structuring of cadre as on
1.3.93.

Ref: Your representation dt.30/31-8-94.

Your representation dt.30/31-8-94
addressed to CCM/P/MLG has been thoroughly examined
and the following clarifications are offered. "

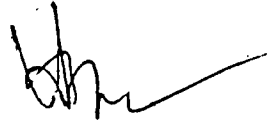
- (i) Sanctioned strength in scale Rs.2000-3200/- prior to re-structuring. = 43 ✓
- (ii) Existing vacancies in the above scale as on 1.3.93 = 08 ✓
- iii) Total no. of incumbents available in scale Rs.2000-3200/- (i - ii) = 35
- 33 iv) Total no. of incumbents promoted from Rs.2000-3200 to scale Rs.2375-3500/- = 29 ✓ (28 against addl.posts + 1 against existing vacancy)
- v) Total no. of CI/CMI in scale Rs.2000-3200/- remaining after promotion (iii - iv) = 6
- vi) Snctd. strength of CI/CMI in scale Rs.2000-3200/- after restructuring = 33 //
- vii) Vacancy of CI/CMI to be filled up after restructuring = 27 //
- (vi - v) (a)
- (a) To be filled by modified selection = 19 (against resultant vacancies)
- (b) Vacancies to be filled up by positive act of selection = 8 (vacancies as existing on 28.2.93)

Attested
Anshu
Adv.

2. From the above position it is very clear that only 19 vacancies in scale Rs.2000-3200/- were to be filled up by modified selection and in terms of railway Bd's letter No.PC/III/91/CRC/1 dt.18.3.93. For the remaining 8 vacancies, which were already existing in scale Rs.2000-3200/- were not supposed to be filled up by modified selection inasmuch as there has been a reduction in the sanctioned strength in the CI/CMI in scale Rs.2000-3200/-.

3. In view of the above, 16 staff have already been promoted in scale Rs.2000-3200/- from 1.3.93 or from the date they completed one year qualifying service in the lower grade vide GM/P/MLG's office Order No.E/254/84/Pt.V(T) dt.11.10.93. Further, two staff were also promoted vide GM/P/MLG's office order of same number dt.4.8.94. Remaining one candidate's case is under consideration. Your seniority do not permit for consideration of promotion against the above referred 19 posts of CI/CMI in scale 2000-3200. As such, you will have to appear in a positive act of selection for your promotion to the next higher grade from Rs.2000-3200/-.

4. Your representation as referred to above is disposed.



(AK BRAHMO)
Dy.CPO/IR
for General Manager(P)

Attested
[Signature]
[Signature]

456

N. F. RAILWAY

OFFICE ORDER

The following CI/CMI Gr.III in Scale Rs.1600-2660/-(RPS) of Commercial Deptt. who have been found suitable for promotion to the post of CI/CMI Gr.II. in Scale Rs.2000-3200/-vide this office Memorandum of even number dated 4-8-94 are hereby temporarily appointed to officiate as CI/CMI Gr.II in Scale Rs.2000-3200/-(RPS) w.e.from the date as shown against each against the resultant vacancies available due to re-structuring of cadre w.e.from 1.3.93 circulated vide GM(P)/MLG's Memo No.E/41/271(Comml/Rest/AGS(T) dt.23.6.93 in terms of Railway Board's letter No.PC-III/91/CRC/1 dt.27.1.93 circulated vide CPO's letter No.RP-482 dt.3.2.93 and posted at the stations as shown against each subject to the conditions that their would be no change in their nature of duties they had hitherto been discharging and to which may be added such other duties and higher responsibilities as considered appropriate by their Controlling Officers.

SN.	Name :	Community:	Working under	Posted under	With effect from.
1.	Sri G.K.Aneja.	UR	CCM/CI/MLG.	CCM/CI/MLG.	22.2.94
2.	S.M.Basumatary,	ST	Sr.DCM/APDJ	Sr.DCM/APDJ	22.2.94

The above mentioned staff may exercise their option for fixation of their pay from the date of next increment in their substantive grade within one month from the date of issue of this office order. Option received beyond that date shall not be entertained.

(G. G. Phulpagar)
Dy.Chief Comml.Manager/Claims
N.F.Railway/Maligaon.

U.E/254/84/Pt.V(T)

Dated 4-8-1994

Copy forwarded for information and necessary action to:-

1. FA&CAO/Maligaon/N.F.Rly.
2. CCM/Maligaon/N.F.Rly.
3. COO/Maligaon/N.F.Rly.
4. DRM(P)/APDJ/N.F.Rly.
5. Dy.CCM/CI/Maligaon.
6. Sr.DCM/APDJ/N.F.Rly.
7. DRM(P)/APDJ.
8. DAO/APDJ/N.F.Rly.
9. Staff concerned through their respective Controlling Officer.
10. ET/Bill of CPO's Office/Maligaon.
11. Spare copy for P/case.

for General Manager(P)
N.F.Railway/Maligaon.

Attested
Manager
Ad ✓

:: 3 ::

1 2 3 4 5 6 7 8 9

PROVISIONAL SENIORITY LIST OF CI/CMI GR. III IN SCALE Rs. 1600-2660/-(RPS)
AS ON 1.4.94 OF COMMERCIAL DEPARTMENT.

			TOTAL NO. OF POSTS : 16		
1. Sri SB Das.	SC	CI/CMI Gr. III.	1.2.59	5.10.82	16.7.92
2. Sri GK Anuja.	UR	-do-	13.11.40	13.1.62	22.2.93
3. Sri SK Bhattacharjee	UR	-do-	9.3.39	8.6.63	22.2.93
4. Sri M. Das.	UR	-do-	15.1.41	9.8.63	22.2.93
5. Sri C.R. Dey.	UR	-do-	1.7.44	2.6.66	22.2.93
6. Sri AK Chakraborty	UR	-do-	1.6.38	2.8.58	22.2.93
7. Sri D. Chakraborty	UR	-do-	1.7.43	19.7.62	22.2.93
8. Sri J.G. Singh.	UR	-do-	28.10.37	8.8.62	22.2.93
9. Sri B.N. Deka.	UR	-do-	1.7.38	26.9.62	22.2.93
10. Sri S.L. Basumatary	ST	-do-	1.4.57	10.12.82	22.2.93
11. Sri D.K. Dey.	UR	-do-	1.3.44	22.2.63	10.5.93
12. Sri K.P. Deb	UR	-do-	1.3.42	18.3.63	16.7.93
13. Sri S. Sengupta.	UR	-do-	1.11.66	22.7.93	22.7.93
14. Sri H. Sarma	UR	-do-	30.9.66	22.7.93	22.7.93
15. Sri SI Banerjee.	UR	-do-	16.8.42	6.9.62	14.10.93
16. Sri S.S. Saha.	SC/	-do-	15.9.55	7.7.63	22.10.93
17. Sri I. Dhar.	SC	-do-	20.6.59	24.10.83	11.1.94
		DCM/KIR		11.1.94	
		DCM/LMG			

(S.R. Nandy)
Asstt. Personnel Officer/C.
for GENERAL MANAGER ()/MLG.

Contd. ...4/-

Attested
by
Ad

79
:: 4 ::

NO: E/254/84 Pt.V (T)

Dated 2-8-1994.

Copy forwarded for information and necessary action to :-

1. DRM(F)/KIR, AIDJ, IMG, TSK. 2. CCM/Genl/MIG. 3. Dy.CCM/Claims/MLG,
4. Sr.DCM/AIDJ. 5. DCM/KD, IMG, DERT.
6. The GS/NFRMU & NFRMU/ENO with 10 spare copies each.
7. Staff concerned through their respective Controlling Officer(s). They are at liberty to prefer representation, if any, within one month from the date of issue of this seniority list through their respective controlling officer(s). Representation received beyond the aforesaid target date shall not be entertained.

for GENERAL MANAGER(F)/MIG.

hb/-

N. F. Railway

No.E/254/84/Pt.V(T)

Office of the
General Manager (P)
Maligaon, dt. 14.11.94
21.7.94

To
The CCM/MLG
Sr.DCM/KIR & LMG

Sub : Selection for the post CI/CMI Gr.II
in scale Rs 2000-3200/-

It has been decided to hold selection for the post of Claims/Commercial Inspector in scale Rs 2000-3200 to fill 8 vacancies. The following Claims/Commercial Inspectors working under you may be advised to keep themselves in readiness to appear in above selection on short notice. There will be no absentee selection. The staff on leave may be advised to appear in the above selection.

S.No.	Name	Community	working under
1.	Shri S.K.Bhattacharjee	UR	CI/HQ/MLG
2.	" M. Das	"	-do-
3.	" C.R.Dey	"	-do-
4.	" A.K.Chokraborty	"	-do-
5.	" Dilip Chokraboty	"	-do-
6.	" J.G.Singh	"	-do-
7.	" B.N.Deka	"	-do-
8.	" D.K.Dey	"	-do-
9.	" K.P.Deb	"	-do-
10.	" S. Sengupta	"	-do-
11.	" H.Ax Sarma	"	-do-
12.	" S.P.Banerjee	"	-do-
13.	" S.S.Saha	SC	CMI/KIR
14.	" P.Dhar	SC	CMI/LMG

This has the approval of competent authority.

Sd/-
for General Manager(P)

No.E/254/84 Pt.V(T)

Dated 21.7.1994

Copy forwarded to for information and necessary action to :-

1. CCM/MLG etc etc

Attended
R. Jha
Adm

for General Manager (P)
Maligaon.

N. F. Railway

No.E/254/84/Pt.V(T)

Office of the
General Manager (P)
Maligaon dt. 14.11.94

Sub : Selection for the post CI/CMI Gr.II
in scale Rs 2000-3200/-

In continuation to this office letter even number dated 21.7.94, the following CI/CMI's Gr.III in scale Rs 1600-2660(RPS) are also eligible to appear in the above selection and should be asked to keep themselves in readiness to appear in the written test within short notice.

No absentee test will be held. If anybody is on leave he should be intimated immediately to his leave address to enable him to appear before the above test. If anybody is not willing to appear before the aforesaid written test he should his unwillingness in written through his immediate controlling officer.

<u>S.No.</u>	<u>Name</u>	<u>community</u>	<u>working under</u>
1.	Sbi A. C. Dey	UR	CMI/TSK DCM/DBRT
2.	" V. P. Srivastava	UR	CI/HQ CCM/CI/MLG
3.	" B. K. Roy Mughari	UR	-do- -do-
4.	" K. K? Sen Chowdhury	UR	-do- -do-
5.	" T. K. Ghose	UR	-do- -do-
6.	" B. K. Nag	UR	-do- -do-
7.	" S. R. Bhattacharjee	UR	-do- LMG Sr.DCM/LMG
8.	" A. Chokrobarty (now VI/HQ)	UR	CI/HQ CCM/CI/MLG
9.	" M. K. Dey	UR	-do- -do-
10.	" M. R. Bose	UR	-do- -do-
11.	" P. R. Dey	UR	-do- -do-
12.	" B. C. Talukdar	UR	-do- -do-
13.	" D. K. Das	UR	-do- -do-
14.	" N. C. Majumdar	UR	-do- -do-
15.	" D. K. Bhowmik	UR	-do- -do-
16.	" A. Nandy	UR	CMI/APDJ Sr.DCM/APDJ

This issue with the approval of competent authority

Sd/-
for General Manager (P)

No.E/254/84 Pt.V(T)

Dated 6.10.1994

Copy forwarded for information and necessary action to :-

1. CCM/MLG, (2) CCO/MLG, (3) DRM/APDJ, KIR, LMG, TSK
4. Sr.DCM/LMG (5) Dy.CCM/Claims/MLG (6) DCM/KIR, APDJ, DBRT
7. Staff concerned through their respective controlling officer.

sd/-
for General Manager (P)
Maligaon.

Attested
Anshu
Ad. V

In the Central Administrative Tribunal, Gauhati Bench.

O.A. no. 4/95.

Shri S.K. Bhattacharjee and
others.

.. applicants.

versus

Union of India and others.

... Respondents.

In the Matter of :

Written statement on behalf of the
Respondents.

1. That there is no cause of action for the present application. The same is not maintainable either in law or on facts. As such liable to be dismissed in limine.
2. That the statements made in the application, unless specifically admitted here-in-below, may be deemed to have been denied by the Respondents. Further, the statements made in the application which are contrary to and inconsistent with the records may also be deemed to have been denied by the Respondents.
3. That the crux of the matter is that the petitioners seek promotion in grade Rs. 2000-3200 (i.e. grade II). The ~~sa~~ posts in the said grade are selection posts. The Railway Board vide letter

Received copy
17/3/95
Adv.

28
3
V.P. Railway, Gauhati
Chief Personnel Officer
17/3/95
148
1985
Gauhati Bench

Filed by
J.S.P. Adv.
7/3/95

27.1.93 revised the percentage of Commercial Inspectors of the Commercial Department with effect from 1.3.93. Thus the posts in all the grades of Commercial Inspectors were re-structured. Resultantly there were 19 posts because of re-structuring and those have been filled by method as enjoined in Rly. Board's letter dt. 27.1.93. There are still 8 vacancies to be filled up existed as on 28.2.93 i.e. prior to restructuring. These posts the Respondents intend filling up by way of positive act of selection and more particularly in terms of Rly. Board's letter dt. 18.3.93 which is clarification to the Rly. Board's earlier letter dated 27.1.93.

A copy of Rly. Board's letter dt. 27.1.93 is enclosed and marked as Annexure- 1.

A copy of Rly. Board's letter dt. 18.3.93 /

is enclosed and marked as Annexure- 2.

A copy of memorandum regarding strength of posts before & after restructuring is enclosed & marked as Annex 3.

4. That with regard to para the statements made in para 4.1, 4.3, 4.4, 4.7, 4.8 4.9 4.10 and 4.17, the Respondents do not dispute the same unless the same are contrary and to and inconsistent to the records.

5. That with regard to the statements made in para 4.2, of the application, the Respondent do not admit the same. and further state that necessary orders were issued in accordance with the Board's instructions. It is further stated that no irregular order was issued.

6. That with regard to the statements made in para 4.5 of the petition, the same are partially admitted and the Respondents further state that it is true that a total

The applicants belong to UR community and junior to Shri G.K. Aneja. So the applicants could not be promoted in scale of Rs. 2000- 3200/- w.e.f. 22.2.94 since their seniority position did not cover for the purpose.

7. That with regard to the statements made in para 4.6. of the application, the same are partially admitted and the Respondents further state that it is a fact that the promotion order of Shri D.K. Dey as CI in scale of Rs. 1600-2660/- issued under this Office order no. E/283/139/P.VIII (T) dt. 22.2.93 was cancelled vide this Office order of even number dt. 2.3.93 in order to accommodate Shri AK Sinha, CI on promotion in scale of Rs. 1600-2660/- who is senior to Shri Dey but over looked for promotion. Subsequently, Shri Dey was ordered to be transferred and posted on promotion as CMI/ LMG vide Office order of even number dt. 10.5.93 (Annexure- 'C' to the application). But he did not carry out the transfer and promotion order dated 10.5.93.

9. That with regard to the statements made in para 4.12 of the p application, the same are not admitted and the Respondents further state that S/Shri Aneja (UR) and Basumatary (ST) on the basis of their seniority followed by communal roster were promoted as CI/CMI in scale of Rs. 2000- 3200/- by modified procedure against the 19 resultant vacancies available due to re-structuring w.e.f. 1.3.93. But the promotion of the above two staff were given effect w.e.f. 22.2.94 i.e. from the date of completion of one year service in immediate lower grade.

10. That with regard to the statements made in para 4.13 of the application, the same are partially admitted and the Respondents further state that S/ Shri GK Aneja and Basumatary were promoted in scale of Rs. 1600-2660/- against

down graded post of CI/CMI from scale of Rs. 2000-3200/- to Rs. 1600-2660/- . Again they have been promoted in scale of Rs. 2000- 3200/- against the vacancies available due to restructuring.

11. That with regard to the statements made in para 4.14 of the application, the same are denied and the Respondents further state that allegation brought in this para by the petitioners are without any basis. It is stated that 19 vacancies were filled up by modified selection as per Board's instructions and 8 vacancies of CI/CMI proposed to be filled up by positive act of selection in terms of Board's letter dt. 18.3.93 (annexure ~~1~~ 2 to the w.s.)

12. That with regard to the statements made in para 4.15 of the petition, the same are denied and the Respondents further state that detailed position of the cadre of CI/CMI in scale of Rs. 2000- 3200/- may be seen from Annexure 'G' to the application. From which it is obvious that 8 vacancies of CI/CMI were existing on 28.2.93 which are required to be filled up by positive act of selection in accordance with the Board's instruction/letter dated 18.3.93 (Annexure -2 to the w.s.). It is rightly mentioned by the applicants that there were 27 vacancies of which 8 vacancies were existing on 28.2.93. But in view of Rly. Board's letter dated 18.3.93 (annexure- 2) the said posts cannot be filled up by modified procedure.

22
N. E. Railway, Maligaon
By: Chief Secy. (Genl. Secy.)
Date: 18.3.93
13

88
8
N. F. Railway, Mailroom
Chief Post Office, Secy, Secy
Secy (M) Secy (M) Secy (M)
Secy (M) Secy (M) Secy (M)

13. That with regard to the statements made in para 4.16 of the application, the same are clarified. One Shri P. Dhar, Commercial Apprentice was absorbed on first appointment as CMI in scale of Rs. 1600- 2660/- w.e.f. 11.1.94 against the higher grade vacancies. There are 19 eligible candidates in scale of Rs. 1600- 2660/- for promotion to the grade of CI/CMI in scale of Rs. 2000- 3200/- and all of them were promoted. Remaining 8 existing vacancies of CI/CMI will be filled up by conducting selection.

14. That the contentions made in para 4.18 of the application are denied and not in conformity to Board's directives dt. 18.3.93.

15. That with regard to the statements made in para 4.10, the same are denied and the Respondents further state that the post of CI/CMI is classified as selection. As such it has been proposed to conduct the selection in order to extend the benefit of promotion to all the eligible qualified candidates and not to deprive the eligible candidates. Accordingly, all the petitioners have been advised to keep themselves in readiness to appear before the selection on short notice. Hence the application of the applicant is liable to be dismissed with cost.

contd...

Verification.

I, Shri A. K. Baul aged about 58 years, by occupation railway service, working as Dy. Chief Personnel Officer of N.F. Railway Administration do hereby solemnly affirm and state that the statements made in para 1 to 15 are true to my informations derived from the records of the case, which I believe to be true and rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this th day of March, 1995.

Baul

(A.K. BAUL)

एव मुख्य कार्मिक अधिकारी (राज.)
Dy. Chief Personnel Officer (Gen)
पू. सी. रेलवे, मालोगांव
N. F. Railway, Maligaon

For and on behalf of
U.O. 1

: 2 :

Ministry of Railways Board's letter No. PC-III/91/000 dated 27.1.93.)

Subj: Restructuring of certain Group C&D cadres.

.....

The Ministry of Railways have had under review Cadres of certain Groups of C&D staff in consultation with the staff side in the Committee of the Departmental Council of the JCM(Rlys) for some time. The Ministry of Railways with the approval of the President have decided that the Group C&D categories of staff as indicated in the Annexure (Department wise) to this letter be restructured in accordance with the revised percentages indicated therein. While implementing these orders the following detailed instructions should be strictly and carefully adhered to:

Date of effect.

1. This restructuring of cadres will be with reference to the sanctioned cadre strength on 1.3.93. The staff who will be placed in higher grades as a result of implementation of these orders will draw pay in higher grade w.e.f. 1.3.93.

Applicability to various cadre.

2. These orders will be applicable on the regular cadres of the Open Line establishments including Workshops and Production Units and will include Rest Giver & Leave Reserve posts.

2.1 These orders will not be applicable to ex-cadre & work-charged posts which will continue to be based on worth of charge.

2.2 These instructions will also not be applicable to construction Units and Projects. However, for creation of posts in these Units the percentage distribution may be generally kept in view, taking into account the availability of funds.

Pay fixation (FR-22-C)

3. Staff selected and posted against the additional higher grade posts as a result of restructuring will have their pay fixed under Rule 1316(FR-22-C)RII w.e.f. 1.3.93 with necessary option for pay fixation as per extant instructions.

Revised note P- 4/83 dt. 17.3.93

(Sd-13)

(Contd. 2/1-2)

: 2 :

Copy of Railway Board's letter No. PC-LII/91/CRC-I dated 27.1.93.)

Subj: - Restructuring of certain Group C&D cadres.

.....

The Ministry of Railways have had under review Cadres of certain Groups of C&D staff in consultation with the staff side in the Committee of the Departmental Council of the JCM(Rlys) for some time. The Ministry of Railways with the approval of the President have decided that the Group C&D categories of staff as indicated in the Annexure (Department wise) to this letter be restructured in accordance with the revised percentages indicated therein. While implementing these orders the following detailed instructions should strictly and carefully adhered to:

te of
fect.

aplica-
ity to
vious
re.

ation
-22-C)

1. This restructuring of cadres will be with reference to the sanctioned cadre strength on 1.3.93. The staff who will be placed in higher grades as a result of implementation of these orders will draw pay in higher grade w.e.f. 1.3.93.
2. These orders will be applicable on the regular cadres of the Open Line establishments including Workshops and Production Units and will include Rest Giver & Leave Reserve posts.
 - 2.1 These orders will not be applicable to ex-cadre & work-charged posts which will continue to be based on worth of charge.
 - 2.2 These instructions will also not be applicable to construction Units and projects. However, for creation of posts in these Units the percentage distribution may be generally kept in view, taking into account the availability of funds.
3. Staff selected and posted against the additional higher grade posts as a result of restructuring will have their pay fixed under Rule 1316(FR-22-C)BII w.e.f. 1.3.93 with necessary option for pay fixation as per extant instructions.

Revised note RP-493 dt. 19.3.93
(9/11) (ntd.... 2/1-2)

-9- 1/2

: 3 :

existing classi-
fication and
filling up of
the vacancies.

4. The existing classification of the posts covered by these restructuring orders as selection and non-selection as the case may be remain unchanged. However for the purpose of implementation of these orders, if any individual Railway servant become due for promotion to a post classified as a selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of services records and Confidential Reports without holding any written and or viva voce test. Similarly for posts classified as non-selection at the time of this restructuring the same procedure as above will be followed. Naturally under this procedure the categorisation as 'outstanding' will not figure in the panels. This modified selection procedure has been decided upon by the Ministry of Railways as a one time exception by special dispensation, in view of the numbers involved, with the objective of expediting the implementation of these orders.

4.1. Vacancies existing on 1.3.93 except direct recruitment quota and those arising on that date from this cadre restructuring including chain/resultant vacancies should be filled in the following sequence:

i) from panels approved on or before 1.3.93 and current on that date; (ii) and the balance in the manner indicated in para 4 above.

4.2 Such selections which have not been finalised by 1.3.93 should be cancelled/abandoned.

4.3 All vacancies arising from 2.3.93 will be filled by normal selection procedure.

4.4. Extant instructions for D&A/Vigilance clearance will be applicable for effecting promotions under these orders with the critical date being 1.3.93.

minimum years
of service in
each grade.

5. While implementing the restructuring orders, instructions regarding minimum period of service for promotion with Gr. 'C' issued under Board's letter No. B(NG)I/85/PM-I/12(RRC) dated 19.2.87 and Board's letter No. B(NG)I/75/PM-I/44 dated 26.5.84 will stand modified to the extent that the minimum eligibility period for the first promotion for filling up vacancies covered in Para 4.1 would be reduced to one year as a one time exception. Thereafter the normal minimum eligibility condition of 2 years will apply.

(Contd.....4/-)

Also
see 1(a)
of AL-485
at SN-24

Basic functions
duties and
responsibilities.

6. In all categories covered by this letter even though more posts in higher scales of may have been introduced as a result of restructuring the basic functions, duties and responsibilities attached to their posts at present will continue, to which may be added such other duties and responsibilities as considered appropriate.

Excess No. of
posts.

7. If prior to issue of this letter the number of posts existing in any grade in any particular cadre exceeds the number admissible on the revised percentages, the excess may be allowed to continue to be phased out progressively with the vacation of the posts by the existing incumbent.

Specific instructions given in
the foot-note of
Annexure.

8. While implementing these orders specific instructions given in the foot note if any, under each category in the enclosed annexure should be strictly and carefully adhered to.

Annual review.

9. Annual reviews should be suspended till further instructions from this Office.

Provision of
reservation.

10. The existing instructions with regard to reservation of SC/ST will continue to apply while filling additional vacancies in the higher grades arising as a result of restructuring.

Retired
Employees.

11. Employees who retire/resign in between the period from 1.3.93 i.e. the date of effect of this restructuring to the date of actual implementation of these orders, will be eligible for the fixation benefits and arrears under these orders w.e.f. 1.3.93.

Direct recruitment
percentages.

12. Direct recruitment percentages will not be applicable to the additional vacancies arising out of these restructuring orders as on 1.3.93. The percentage will apply for normal vacancies arising on or after 2.3.93. Also the direct recruitment quota as on 28.2.93 will be maintained.

Pin pointing of
posts.

13. Excepting the highest grade posts in each category, the promotion should be effected as is where is basis, as a result of the restructuring. However the administrative later on pin-point these posts as per administrative requirement, as and when the incumbent vacates the post on retirement, promotion transfer etc.

Provisions of rest givers.

Refusal of promotion.

Provision of funds in the Budget.

14. As a measure of rationalisation the Railways should provide rest givers staff in the appropriate grade most convenient to the administration at any particular location and need not necessarily be in the same grades.
15. Such of the Staff as had refused promotion before issue of these orders and stand debarred for promotion may be considered for promotion, in relaxation of the extant orders as a one time exception, if they indicate in writing that they are willing to be considered for such promotion against the vacancies existing on 1.3.93 and arising due to restructuring. This relaxation will not be applicable to vacancies arising after 1.3.93.
16. Instructions for improvement of productivity, rationalisation and economy are being issued separately.
17. The Railways will carefully assess requirement of funds on account of this restructuring for the year 1993-94 and include the same in the Revised Estimate for 1993-94. Payment due to staff on account of the restructuring should be made and booked in the Financial Year 1993-94. The Board desire that the restructuring and posting of staff after due process of selection should be completed expeditiously.

.....

- 125

11/11

From pre-page:-

ANNEXURE - C(ii).

STATEMENT REGARDING RESTRUCTURING OF GROUP 'C' & 'D' STAFF
OF COMMERCIAL DEPARTMENT.

CATEGORY	GRADE (Rs.)	EXISTING %AGE	REVISED %AGE.
Commercial	1400-2300	35	25
Inspector	1600-2660	20	15
Commercial/ Claims/Rates/ R&D/Marketing Inspectors.	2000-3200	40.2	30
	2375-3500	4.5	30
Catering- Inspector	975-1540	30	20
	1200-2040	20	20
	1400-2300	20	25
	1600-2660	20	20
	2000-3200	10	15
*** Bill Issuer/ Catering Stores Clerk	825-1200	66 2/3	55
	975-1540	33 1/3	45
Group 'D' Staff (Commercial)	750-940	50	35
	775-1025	50	65

***Footnote :- Instructions contained in Board's letter No. PCIII/81/JCM-DC/1 dtd. 17-7-1984 may be kept in view while restructuring the cadres of the Bill Issuers/Catering Stores Clerk.

Contd.....P/

-13- 25
Annexure 2
25

NORTHEAST FRONTIER RAILWAY.

Office of the
Chief Personnel Officer
Maligaon: Guwahati-11.

NO.RP- 485
No.E/RS/93/GC(PC).

Dated: 29-03-1993.

To.
All Heads of Departments,
All DRMs with 10 spare copies.
Dy.CME/NBQS and DEWS,
All Dy.District/Asstt. Officers of
non-divisionalised offices,
All Cadre SPOs/APOs of Hd. Qrs.,
General Secy./NFREU with 40 spare copies.
General Secy./NFRMU
General Secretary/AISCTREA/MLG with 20 spare copies.

Sub: Clarifications of Cadre restructuring
of Gr. 'C' & 'D' employees.

A copy of Board's letter No.PC.III/93/CRC/1,
dated 18.3.93 on the above subject is forwarded herewith
for information, and guidance and necessary action please.
Board's earlier letter dated 27.1.93 as mentioned in
their present letter were circulated to all concerned
under CPO's Circular letter No.RP-482, dt.3.2.93.

for Chief Personnel Officer.

(Copy of Board's letter No.PC.III/91/CRC/1, dt.18.3.93)

Sub: Clarifications of cadre restructuring
of Gr. 'C' & 'D' employees.

Zonal Railways/Production Units have raised a number
of queries regarding correct implementation of Cadre
restructuring orders issued vide Board's letter of even
number dt.27.1.93. The following clarifications/explanations
are issued in order to ensure the correct implementation of
Cadre Restructuring Orders:

(1) Minimum service for promotion:

(a) As per Rly. Board's letter No.E(NG)I/85/PM-I/12(RRC)
dated 19.2.87 and Board's letter No.E(NG)I/75/PM-I, dt.26.5.84,
a minimum period of 2 yrs. has been stipulated in lower grade
before promotion to the higher grade. This condition has been
relaxed to one year as per Para-5 of Board's orders under

Contd...2/-

reference dated 27.1.93 as an one time exception.

Doubt has been raised whether as on 1.3.93 an eligible employee who has not completed one year service on that date will be promoted as and when he completes 1 year service or will he miss his chance for promotion since has not completed 1 year as on 1.3.93.

It is clarified that the reduction in eligibility in terms of time is related to posts covered by para-4.1 of the Board's orders and therefore staff should be promoted as and when they complete one year on the old post on 1.3.93 or thereafter. Railways/Production Units should draw up panels of employees who become eligible for promotion as per guidelines given in Board's cadre restructuring letter dated 27.1.93 and promote the eligible staff as per panel as and when they complete one year service (Refer item C also).

(b) Further it is clarified that this relaxation is applicable for the first promotion only, which means if a railway servant becomes due for two promotions as a result of cadre restructuring then the first promotion will be given on 1.3.93 or thereafter subject to completion of one year service in the existing promotion grade and the second promotion will be given after completion of normal two years in the first promotion grade. This means that no Railway servant will be entitled to double promotion even if vacancies are available. For second promotion the normal selection procedure will be applied and modified selection procedure will be applicable to the first promotion only.

(c) The relaxation of one year as referred in Para-5 of Board's letter under reference does not apply to such categories where the stipulated minimum length of service for promotion to the next higher grade is more than two years such as Staff Nurse, Lab.Asstt., Accounts Asstts., SO(A/cunts)/ISA/TIA, Master Craftsman etc. and in these cases the prescribed period will continue to apply.

(ii) Filling up of vacancies where no restructured posts are available.

Doubt has been raised that in cases where percentages have been reduced in the lower grade and no new posts become available as a result of restructuring but existing vacancies are available as on 1.3.93 whether such vacancies also be filled up by modified selection procedure. It is clarified that in such cases vacancies existing on 1.3.93 should not be filled up by modified selection procedure.

(iii) Date of promotion for existing and restructured vacancies.

All vacancies arising out of the restructuring should be filled up by senior employees who should be given benefit of promotion and arrears w.e.f. 1.3.93 whereas for the normal vacancies existing on 1.3.93 junior employees should be posted by modified selection procedure but they will get promotion and higher pay from the date of taking over the post as per normal

Contd...3/-

2/6
ut

~~12/1~~
- 15 -

rules. Thus, the special benefit of promotion w.e.f. 1.3.93 is available only for vacancies arising out of restructuring and for other vacancies, the normal rule of prospective promotion from the date of filling up of vacancy will apply.

(iv) Percentage distribution of Technical Supervisors.

A question has also been raised whether the posts of Mistries are to be aggregated with the posts of Technical Supervisors for percentage distribution. The terms Technical Supervisors refer to the categories in which there is substantial recruitment of Engg. Diploma Holders such as IOW, PWI, BRI, Chargeman, Signal Inspector, Telecom Inspectors etc. As the posts of Mistries are filled fully by promotion, Mistries are not to be included in the category of Technical Supervisors for percentage distribution. In any case the restructuring orders indicate the revised percentages vis-a-vis existing percentages only and as Mistries are not clubbed with Technical Supervisors in the existing distribution, there is no question of their inclusion with the Technical Supervisors in the restructured distribution.

(v) Revised ratios for Accounts staff:

The additional posts of SO(A/cs) that may be generated as a result of revised ratios laid down in Annexure F(1) of Board's letter dated 27.1.93 should be created by surrendering equal number of posts of Accounts Clerks in scale Rs.950-1500/-.

Hindi version will follow.

Sd/- S.K.Sharma
Executive Director, Pay Commission
Railway Board.

.....

N.F. RAILWAY.

M E M O R A N D U M.

Annexure 3

CCM has accorded his sanction to the creation and abolition of posts as per revised percentage as shown in the table below of the Commercial Inspectors of Commercial Department available due to re-structuring of Commercial Inspectors' Cadre w.e. from 1.3.93. as per Board's letter No. PC-III/91/CRC/1 dated 27.1.93, circulated vide CPO's circular No. RP-482 dated 3.2.93, as concurred in by FA & CAO/MLG vide his U.O. No. FE/2/II/1/Pt. III dated 18.6.93.

SN	Category	Scale	Sanctioned strength as on 28.2.93			Revised percentage	Revised sanctioned strength as on 1.3.93			Creation as on 1.3.93			Abolition as on 1.3.93.		
			Perm	Temp	Total		Perm	Temp	Total	Perm	Temp	Total	Perm	Temp	Total
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1.	CI/CMI Gr. I	Rs. 2375-3500/-	5	-	5	30%	33	-	33	(+)28	-	(+)28	-	-	-
2.	CI/CMI Gr. II	Rs. 2000-3000/-	43	-	43	30%	33	-	33	-	-	-	(-)10	-	(-) 10
3.	CI/CMI Gr. III	Rs. 1600-2660/-	21	-	21	15%	16	-	16	-	-	-	(-) 5	-	(-) 5
4.	CI/CMI Gr. IV	Rs. 1400-2300/-	40	-	40	25%	27	-	27	-	-	-	(-)13	-	(-) 13
T O T A L -			109	-	109	100%	109	-	109	(+)28	-	(+)28	(-)28	-	(-)28

Distribution of posts will follow.

No. E/41/271 (Comm)/Rest/AGS(T)

Dated 23.6.93.

Copy forwarded for information and necessary action to:-

1. DRM(P)KIR, APDJ, LMG, TSK (2). CCM/MLG (3), CCO/MLG (4) FA & CAO/MLG in reference to his U.O. No. FE/2/II/1/Pt. III dated 18.6.93 (5) Sr. DCM/LMG (6) Dy. CCM (G), Claims), (R&M)NLG (7) DCM/KIR, APDJ, DBRT (8) The GS/NFREU & NFRMU/MLG with 10 copies each, (9) EA to CPO for kind information of CPO (10) EA to CPO(A) for kind information of CPO(A) (11). Dy. CPO/ML for kind information (12) SPO/HQ/MLG (13) Dy. CPO (MG) (14) SPO(KPC) (15) ET/Cadre (16) ET/Bill.

(17) SCM / General (M+), claims / maligaon.

G.C. Bhattacharjee
(G.C. Bhattacharjee)
Asstt. Personnel Officer (C)
for GENERAL MANAGER (P)

Bhattacharjee
for GENERAL MANAGER (P)
N.F. RAILWAY/MALIGAON.