

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI, 5

O.A.No. 84/95

Misc. Petn.

C.P. No.

R.Appl:

.....A.K. Basu.....APPLICANT'S
frs.

.....U.O.I.I.M. RESPONDENT'S

Mr. G.K. Bhattacharyya...FOR THE APPLICANTS

Mr. G.N. Das., Mr. S. S. Sanyal

.....

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

| OFFICE NOTE | DATE | ORDER |
|---|----------------|--|
| <p>RECEIVED IS IN OFFICE OF THE SECRETARY DATED 24.4.95 No. 884/98 24.4.95 24.4.95 pg</p> | <p>25.4.95</p> | <p>Heard Mr G.K.Bhattacharyya, Advocate for the applicant. Application is admitted. Issue notice to the respondents. 8 weeks for written statement. Adjourned to 3.7.1995.</p> |
| <p>Requisites are sent & signed v. m. 19/9-22 S. 4.5.95 for Service reports are still missing. 14/ statements are not submitted. Notice duly sent on R. m. 1 & 2 27/7</p> | <p>3-7-95</p> | <p>Mr. G.N. Das for the applicant. Adjourned to 21-8-95 for counter.</p> |

25.4.95

Heard Mr G.K.Bhattacharyya, Advocate
for the applicant.

Application is admitted. Issue notice
to the respondents. 8 weeks for written
statement.

Adjourned to 3.7.1995.

Vice-Chairman

Member

pg

3-7-95

Mr. G.N. Das for the applicant. Adjourned
to 21-8-95 for counter.

Vice-Chairman

Member

29-8-95 To be listed for hearing on 25-10-95.

Liberty to filed counter.

[Signature]

Vice-Chaiman

[Signature]

Member

25/10.95

lm

for hearing ~
11.12.95

9.5.96

None is present. Counter has not been submitted.

List for hearing on 19.6.96. Respondents may submit counter in the meantime.

[Signature]

11.12.95

FFDH. 31.1.96

[Signature]
Member

By order

pg

18.3.96

19.6.96

Mr B.K.Sharma for the respondents. Written statement has not been submitted.

List for hearing on 18.7.96. Liberty to respondents to file written statement.

St Hearing
on 9.5.96

[Signature]
Member

By order

pg

w/ statement - has not been filed

18-7-96

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

List for hearing on 16-8-96. In the meantime respondents may submit written statement.

17/7

[Signature]
Member

w/ statement - has not been filed

lm

14/8

[Signature]

w/ statement - has not been filed

14/8

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

Learned counsel Mr S. Sarma for the applicant.

List for hearing on 14.10.96.

Member

nkm

14.10.96

Mr. G.K.Bhattacharyya for the applicant.

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

List for hearing on 2.12.1996.

Member

nkm

2.12.96

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.

Member

nkm

W/statmt - has not been
fild
16/9

W/statmt - has not been
fild
17/10

Notice duly served
on Respdnt no. 1 & 2.
W/statmt - has not
been fild
9/11

W/statmt - has not been
fild
30/12

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 23-1-96. Respondents may submit written statement in the meantime.

List on 7-2-97.

W 23/1

6-2-97

1/ Notice duly served in response No-2

lm

Member

2/ W/S has not been filed.

10.2.97

Let this case be listed on 25.2.97 for hearing.

W 6-2

24-2-97

nkm

Member

Vice-Chairman

Notice duly served on Rg 1 and 2.

25.2.97

Let this case be listed for hearing on 27.2.97.

Written statement has not been submitted till now.

Member

Vice-Chairman

Memo of appearance not yet filed. It is

a case of 1995. 27.2.97

Adjourned to 6.3.97 for hearing.

W 24/2

Member

Vice-Chairman

pg

6-3-97

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

Member

Vice-Chairman

25.3.97

W/S and Add. W/S filed on 4/4 & Response.

lm

W 11/3

10.4.97

Mr B.K. Sharma, learned Railway Counsel is not present. Let this case be listed on 24.4.97 for hearing.

Member

Vice-Chairman

1/ Notice duly served on R. Nos 1 & 2.
2/ W/S statement - has been filed.
3/ Add. W/S. has been filed.
4/ No. appearance has been filed.

nkm
16/4

W 9/4

(5) O.A. 84/95

1) W/s and Addl. W/s.
has been killed.
2) Notice duly served
on R.No. 102
3) No. appearance has
been killed.

SD
23/4

24.4.97

On the prayer of Mr.
G.K.Bhattacharyya, learned counsel appearing
on behalf of the applicant hearing is
adjourned to 6.5.1997.


Member


Vice-Chairman

trd


30/4


5-5-97

Division Bench is not sitting.
Therefore, the case is adjourned to
19-6-97. for hearing.

W/s. and Addl. W/s. has been
killed.

SD
18/6

lm


21/5

19-6-97

~~On behalf of Mr. G.K. Bhattacharyya, learned counsel for the applicant, no appearance has been made for~~

19-6-97

On behalf of Mr. G.K. Bhattacharyya, learned counsel for the applicant mention has been made that because of attend his personal difficulty, he is unable to attend the court to-day.

List for hearing on 29-7-97.



Member


Vice-Chairman

W/s. and Addl. W/s. has
been killed.

SD
23/7

lm


25/6

29.7.97

Mr B.K. Sharma, learned
Railway Counsel, submits that he has
recently entered appearance and prays
for a short adjournment. Mr G.K.
Bhattacharyya, learned counsel for the
applicant, has no objection in granting
adjournment. Accordingly the case is
adjourned till 27.8.97.


Member


Vice-Chairman

7.8.97

One to circuit sitting
at Shillong, bench is
not available today.

SD
27/8

nkml
23/8

6

C.A. 84/95

W/S and Addl. W/S by
B.K.W.

22/9

27-9-97 Bench at Shillong. To
be listed on 23.9.97.
By order

W/S and Addl. W/S by
B.K.W.

23-9-97 Adjourned to 10.12.97.
By order

21/12

10.12.97 There is no Revision Bench
Adjourned to 21.1.98.
By order

W/S and Addl. W/S by
B.K.W.

20/11

21-1-98

There is no representation
on behalf of the parties. Case is
adjourned till 5-3-98 for hearing.

Member

Vice-Chairman

lm

22/11

5.3.98

Part heard. List it for further
hearing on 12.3.98.

Member

Vice-Chairman

nkm

9/3

12.3.98

On the prayer of Mr G.K.
Bhattacharyya, learned counsel for the
applicant, the case is adjourned till
31.3.98. Mr B.K. Sharma, learned
Railway Counsel has no objection.

Member

Vice-Chairman

nkm

16/3

The case is ready
for hearing.

4/3

The case is ready for
hearing.

W/S and Addl. W/S by
B.K.W.

20/3


Notes of the Registry

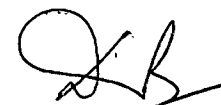
Date

Order of the Tribunal

31.3.98

After hearing at some length, Mr. G.K. Bhattacharyya, learned counsel for the applicant, submits that he needs some more study on the point of law. Therefore, he prays for some time. Mr. J.L. Sarkar, learned Railway Counsel, has no objection. This is a 1995 matter. Let the case be listed on 27.4.98 for further hearing.


Member



Vice-Chairman

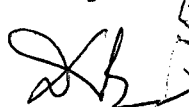
nkm

28/4

27.4.98

On the prayer of the learned counsel for the parties this case is adjourned till 30.4.98 for hearing.


Member


Vice-Chairman

nkm

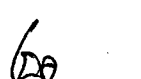
28/4


30.4.98

Adjourned to 6-5-98.
By order

6.5.98

Mr B.K. Sharma, learned Railway Counsel is not present. The case is adjourned till 14.5.98 for hearing.


Member


Vice-Chairman

nkm

28/5

14.5.98

Adjourned to 20-5-98.
By order

W/S and Addl. W/S

has been filed.

24/4

W/S and Addl. W/S has been filed.

28/5

W/S and Addl. W/S has been filed.

28/5

W/S and Addl. W/S has been filed.

28/5

23

Notes of the Registry

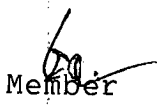
Date

Order of the Tribunal

2

20.5.98

Heard Mr G.K. Bhattacharyya, learned counsel for the applicant as well as Mr S. Sengupta, learned Railway Counsel. Hearing concluded. Judgment reserved.


Member



Vice-Chairman

nkm

28-8-98

Judgment delivered in open Court. Kept in separate sheets. Application is dismissed. No order as to costs.


Member


Vice-Chairman

lm

Received copy for the
Applicant.
Advocate
2-9-98.

8.9.98

Copies of the
Judgment have been
sent to the D/Sec.
for issuing the same to
the parties through Regd.
mail A/D.

Ht.

Copies of the judgment
has been receipt & issued
vide No. 2609 to 2613
dt. 10.9.98

21-9.

P

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

O.A.No. 84 of 1995

DATE OF DECISION...28-8-1998.....

Shri Aloke Kumar Basu

(PETITIONER(S))

Mr G.K. Bhattacharyya, Mr G.N. Das and
Mr S. Sarma

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

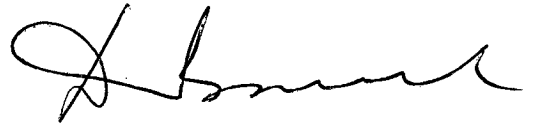
Mr B.K. Sharma, Railway Counsel.

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

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

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

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.84 of 1995

Date of decision: This the **28th** August 1998

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

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

Shri Aloke Kumar Basu,
T.T.E., N.F. Railway,
Lumding.

.....Applicant

By Advocates Mr G.K. Bhattacharyya,
Mr G.N. Das & Mr S. Sarma.

- versus -

1. The Union of India, represented by the Secretary to the Ministry of Railway, New Delhi.
 2. The General Manager (P), N.F. Railway, Maligaon, Guwahati.
 3. The Divisional Railway Manager (P), N.F. Railway, Lumding.
 4. The Chief Commercial Superintendent (P), N.F. Railway, Maligaon.Respondents
- By Advocate Mr B.K. Sharma, Railway Counsel.

.....

O R D E R

BARUAH.J. (V.C.)

In this application the applicant has challenged the Annexure X order dated 16.9.1987 and Annexure XI order dated 28.6.1988 and also the Annexure XIV provisional gradation list dated 24.3.1993 and the Annexure XVI order dated 14.2.1995. The applicant has also sought for direction to the respondents that his seniority be fixed at his original place.

2. The brief facts are:

The applicant, an employee of N.F. Railway was appointed Ticket Collector in November 1970. His service

was confirmed in the said post a year after. On 15.11.1978 the applicant was promoted to the rank of Leave Reserve Travelling Ticket Examiner. He was confirmed in the said post with effect from 1.4.1980. On being confirmed, according to the applicant, he acquired a lien in the post of Travelling Ticket Examiner (TTE for short) under the N.F. Railway under Rule 239 of the Indian Railway Establishment Code (IREC for short) Volume I.

3. At the material time the applicant was posted at Lumding. Due to certain personal difficulties he prayed before the authority to transfer him to Sealdah Division of Eastern Railways. The authority, after considering his difficulties, agreed to transfer him to the Eastern Railways and as per Railway Ministry's decision under Rule 226 of the IREC he was placed below all existing confirmed and officiating staff in the said grade under Eastern Railways. Pursuant to the said decision the applicant was released from N.F. Railway on 29.9.1984. Thereafter he joined Eastern Railways, but he was not confirmed and permanently absorbed in the Eastern Railways. According to the applicant he still has his lien to the post of TTE in N.F. Railway. Because of this he submitted an application for retransfer to his parent post in N.F. Railway. On his representation, the 2nd respondent by Annexure VI order dated 27.5.1987 confirmed that the applicant's lien in the N.F. Railway was yet to be terminated and so the applicant could be retransferred. Thereafter the authority passed necessary orders for posting him in his parent department, N.F. Railway. At the time of his retransfer it was agreed upon by the parties that the applicant would accept the bottom line seniority in the grade of TTE in the N.F. Railway. The applicant having no other alternative had

Rz signed.....

signed the declaration. However, the applicant, hoped that he would, in future, take up the matter with the authority and settle the matter after joining. The applicant further states that before joining his parent substantive post in the N.F. Railway he was made to sign a bond that he would accept the bottom seniority. This, according to the applicant, did not amount to waiver or estoppel as it would have resulted in leaving the applicant without a lien on the permanent post, which is contrary to the relevant rules of the IREC. Therefore, after joining the N.F. Railway on retransfer on the terms and conditions as stated above, the applicant submitted a representation against the action of the authority in making him sign the declaration to accept the bottom seniority. However, the representation was rejected by the authority. Hence the present application.

4. In due course the respondents have entered appearance and also filed written statement and additional written statement. While answering the statements made in paragraphs 6.6. to 6.13 of the application the respondents have stated as follows:

".....the applicant was transferred from Eastern Railways to N.F. Railway accepting bottom seniority as per rule. Accordingly, his seniority has been assigned from the date he joined in the N.F. Railway. There is no scope to restore the seniority which the applicant had left behind at the time of his transfer to Eastern Railway on own request."

Again, in para 2 of the additional written statement the respondents have further stated as follows:

"That the applicant again in the year 1986 sought his transfer to N.F. Railway on his written request on acceptance of bottom seniority and he was placed below the temporary and permanent staff in the cadre of T.T.E. in Lumding Division. The lien stated to be acquired on N.F. Railway was terminated on his transfer to Eastern Railway against a permanent post. In terms of Rule 236 R-1, a Railway Servant cannot be appointed substantively to the permanent posts at the same time in two different railways, viz.

BE

Eastern Railway and N.F. Railway. The applicant was substantively appointed against a permanent post in Eastern Railway and acquired a lien on that post and thereby his lien in N.F. Railway was terminated."

5. We heard Mr G.K. Bhattacharyya, learned counsel for the applicant and Mr B.K. Sharma, learned Railway Counsel. Mr Bhattacharyya submitted before us that as the applicant's lien in the N.F. Railway was not terminated he continued to be a permanent servant of the N.F. Railway, and therefore, he would get the benefit of his seniority etc. in the N.F. Railway. His going to the Eastern Railway accepting the bottom seniority would not in any way affect his claim regarding seniority in the N.F. Railway as he held at the time of going to Eastern Railway on transfer. Mr Bhattacharyya further submitted that an employee cannot have lien under two Railways. Continuation of the applicant's lien would entitle him to claim his seniority in the N.F. Railway. The learned counsel also had drawn our attention to the official notes by which it was shown that the applicant still held the lien in N.F. Railway. His acceptance of the bottom seniority on his retransfer was under pressure and he was compelled to put his signature accepting the bottom seniority. This acceptance would not alter his position in the N.F. Railway. Mr Sharma, on the other hand, refuted the claim of the applicant. According to him the applicant having accepted the bottom seniority in the Eastern Railway and he having requested for retransfer to N.F. Railway accepting the bottom seniority in N.F. Railway was not entitled to claim seniority on the basis of the lien he had with the N.F. Railway. In this connection Mr Sharma also drew our attention to some of the relevant portions regarding lien and transfer.

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6. On the rival contention of the learned counsel for the parties, it is now to be seen whether the claim of the applicant is sustainable in law. Before we consider the rival contentions of the parties it will be apposite for this Tribunal to look to some of the relevant portions.

7. The applicant who was in the N.F. Railway submitted an application for his transfer to the Eastern Railway due to his personal reasons and the said transfer application and declaration accepting bottom seniority, submitted by the applicant, was sent by the General Manager, N.F. Railway to the General Manager (P), Eastern Railway by Annexure I letter dated 2.6.1983. On receipt of the same the Chief Personnel Officer, Eastern Railway, informed the General Manager of N.F. Railway by Annexure II letter dated 23.11.1983 that the application of the applicant for transfer to Eastern Railway was accepted. However, in the said Annexure II letter it was categorically mentioned that the applicant would have to accept bottom seniority as per rule in the grade of Ticket Collector in Sealdah Division. He would have no claim to his posting at his own choice, Railway Quarters out of turn, transfer- TA/DA/ and Joining time. It was further mentioned in the said Annexure II letter that the applicant might be spared early subject to the condition mentioned in the said letter. As the applicant accepted the terms and condition incorporated in the order of transfer, mainly accepting bottom seniority, the General Manager(P), N.F. Railway passed Annexure III order dated 11.9.1984 to the effect that as accepted by the Eastern Railway, Calcutta vide letter dated 23.11.1983, the applicant was transferred and posted under the Divisional Railway Manager, Sealdah in the initial grade of Ticket Collector, subject to the condition that the applicant would have to accept bottom seniority and he would have no claim.....

R

claim of Railway Quarter on out of turn, Transfer allowances,, TA/DA, joining time and choice of posting, and there should no cases pending against him. Accordingly he was transferred to Eastern Railway. On transfer he was placed at the bottom seniority which was one of the conditions for such transfer. This itself eloquently speaks that the authority transferred him permanently from N.F. Railway, may be a formal order was not passed cancelling the lien in his parent Railway. But the facts and circumstances appearing in the present case is sufficient to indicate that he ceased to have any lien in the N.F. Railway and became an employee of the Eastern Railway. Had there been a mere transfer the question of putting him in the bottom seniority in the grade of Ticket Collector would not have arisen. Thereafter, by Annexure V representation dated 4.9.1986 the applicant requested the General Manager(P), Eastern Railway, to retransfer him to his parent Railway (N.F. Railway) against his lien post of Travelling Ticket Examiner (TTE for short). On the same, Annexure VI letter dated 27.5.1987 was issued by the Division Railway Manager(P), N.F. Railway, Lumding, to the effect that the applicant's lien in the N.F. Railway was yet to be terminated. However, the General Manager(P), N.F. Railway had already transferred the applicant to the Eastern Railway with the condition mentioned above. It is not known under what authority the Divisional Railway Manager(P), Lumding could give an opinion that the applicant's lien was yet to be terminated. The facts and circumstances of the case would clearly indicate that lien had been terminated as mentioned above. In spite of the said Annexure VI letter the Chief Commercial Superintendent(P), N.F. Railway, wrote Annexure VII letter dated 18.8.1987 to the General Manager(P), Eastern Railway intimating that the applicant

B could.....

could be retransferred to the post of TTE in the scale of pay of Rs.1200-2040 subject to the condition that he would have to accept bottom seniority of all TTEs in Lumding Division, N.F. Railway from the date of his posting there. Thereafter Annexure VIII letter was written by the Chief Personnel Officer to the Divisional Railway Manager, Eastern Railway informing that the General Manager(P), N.F. Railway had agreed to transfer the applicant to Lumding Division, N.F. Railway on the condition of his accepting bottom seniority. Thereafter the applicant was spared from Sealdah Division of Eastern Railway to enable him to join in the Lumding Division of N.F. Railway. Annexure X letter dated 16.9.1987 was issued by the Chief Commercial Superintendent(P), N.F. Railway to the effect that the applicant had reported to the office on the date of writing of the letter in terms of Chief Personnel Officer, Eastern Railway's letter dated 1.9.1987 and DPO/SDAH's letter dated 10.9.1987 and accordingly he was directed to report to the Lumding Division of N.F. Railway for his posting. It was specifically mentioned in the said Annexure X letter that the applicant would be allowed to join in the Lumding Division of N.F. Railway only after his making a declaration accepting bottom seniority in the category of TTE. The applicant accepted the condition and submitted his declaration clearly indicating that he would accept the bottom seniority. After joining N.F. Railway he submitted a representation that as his lien had not been terminated he should be given seniority in the N.F. Railway which he had at the time of leaving N.F. Railway on transfer to the Eastern Railway. This was, however, turned down. After that also the applicant submitted several representations and appeals which were rejected by the authority. Ultimately,

the.....

the applicant submitted a detailed representation/appeal to the General Manager, N.F. Railway by Annexure XV. By Annexure XVI letter dated 13.2.1995 the General Manager(P), N.F. Railway intimated the Divisional Railway Manager(P), Lumding, that the applicant's representation had been rejected as his transfer was on the condition of his accepting bottom seniority.

8. Mr Bhattacharyya strenuously argued that the applicant's lien in the N.F. Railway was not cancelled, and therefore, it was not possible for him to obtain lien in the Eastern Railway. Therefore, his lien in the N.F. Railway continued. It was also submitted by Mr Bhattacharyya that a Railway employee could not have lien in two different Railways. As the applicant's lien in N.F. Railway was not cancelled he continued to be an employee of N.F. Railway. Mr B.K. Sharma, on the other hand, had vehemently opposed the submission of Mr Bhattacharyya. Mr Sharma submitted that the transfer of the applicant to Eastern Railway was given on his own request on the condition that he would accept bottom seniority there and the applicant having accepted the condition was allowed to join Eastern Railway on transfer. Thereafter he could not have any lien in the N.F. Railway. Besides, he is estopped from agitating the matter on the ground that officially his lien with the N.F. Railway was not formally cancelled. Even if the applicant had any right he was either estopped by conduct or he had waived his right to claim the lien in the N.F. Railway.

9. Mr Bhattacharyya drew our attention to Rule 239 of the Indian Railway Establishment Code (IREC for short). We quote the said rule.

"239. Lien- Unless in any case it be otherwise provided in these Rules a railway

R

servant on substantive appointment to any permanent post acquires a lien on that post and ceases to hold any lien provisionally acquired on any other post."

From the rule quoted above it is clear that an employee cannot have lien in two different Railways and unless an employee's lien in the parent Railway is cancelled he cannot acquire a lien in another Railway. But then, the cancellation of lien in our considered opinion need not be in writing. It can be presumed from the facts and circumstances available in a given case. In the instant case the applicant made a request for transfer from N.F. Railway to Eastern Railway and his request was acceded to by the authority on his acceptance of bottom seniority in the Eastern Railway. We find this is strictly in accordance with Rule 312 of the Indian Railway Establishment Manual (IREM for short). Rule 312 extracted below:

"312. TRANSFER ON REQUEST.- The seniority of railway servants transferred at their own request from one railway to another should be allotted below that of the officiating railway servants in the relevant grade in the promotion group in the new establishment irrespective of the date of confirmation or length of officiating or temporary services of the transferred railway servants."

This rule clearly shows that when a railway servant is transferred at his own request from one railway to another he has to accept bottom seniority and this is exactly what was done in this case. Transfer on his own request and acceptance of bottom seniority itself will indicate that the applicant had lost his lien in the N.F. Railway and he acquired a lien in the Eastern Railway. Again, thereafter, when he sought retransfer to N.F. Railway the same condition was imposed and he agreed to it and on his acceptance of bottom seniority in the N.F. Railway he was allowed to join the N.F. Railway. Only after joining the N.F. Railway, he made a representation claiming seniority on the ground that his lien in the N.F. Railway had not

B

been cancelled. The formal cancellation order might not have been passed, but that does not mean that he continued to hold his lien in the N.F. Railway after he joined Eastern Railway. Even assuming that he continued to have his lien in the N.F. Railway his very conduct of acceptance of bottom seniority would estop him from raising this plea. We find that the manner in which the applicant was allowed to join Eastern Railway itself eloquently speaks that his lien with the N.F. Railway had been cancelled and he acquired lien in Eastern Railway. Else joining with bottom seniority in the Eastern Railway by the applicant would be a myth and meaningless. Even if he had any lien his right to the lien was lost by waiver. The principle of Estoppel, in our opinion, is attracted. This doctrine is used as a rule of evidence. Section 115 of the Indian Evidence Act embodies the doctrine of estoppel which is somewhat different from the doctrine of equitable estoppel. Section 115 in essence, provides that if a person by his declaration, act or omission intentionally causes another person to believe a thing to be true and to act upon such belief, he cannot later on in any suit or proceeding be allowed to deny the truth of that thing. To invoke the doctrine of estoppel contained in Section 115, three conditions are necessary to be satisfied: (1) There must be a declaration, act or omission on the part of a person, (2) by the said declaration, act or omission that person must have intentionally caused or permitted another person to believe a thing to be true, (3) he must have intentionally caused or permitted the said another person to act upon such belief. The doctrine embodied in the section is a rule of evidence; whereas the doctrine considered earlier is a rule of equity, creating substantive rights in favour of the person to whom a representation.....



//

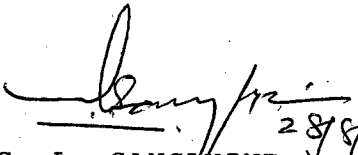
representation has been made or an assurance has been given. The latter is much wider than the former. The operation of the doctrine of estoppel was considered in Delhi University -vs- Ashok Kumar reported in AIR 1968 Delhi 131. In the said case a student after passing the secondary school certificate examination of the Gujarat Board was provisionally admitted to the B.A. I year course of the University. After over a year, the University informed him that he was ineligible to join the course because the Gujarat examination had been recognised by the University as equivalent to matric examination while the qualification to join B.A. I year was passing the higher secondary examination. During this period the student had continued to study in his class. He challenged the decision of the University through a writ petition. The question was whether estoppel could apply against the University for not taking any action for over a year. Against the plea of estoppel, it was argued by the University that there could be no estoppel against a statute and that mere silence on its part could not constitute estoppel against it. The High Court rejected the contention of the University. It pointed out that a distinction should be drawn between an ultra vires act and an irregular act. Estoppel may not apply in the former case, but would apply in the latter case. In the said case the doctrine of estoppel was available against the University.


10. Again as per the general proposition of law a person can waive his right and that once he does so, he cannot claim it later. The only condition necessary for waiver of his right is that the person concerned can waive his right intentionally with the knowledge that he has such right. In Motilal Padampat's case the same view was taken. Waiver affects judicial review.



11. In the present case the applicant made a request for transfer and accepted the bottom seniority. This itself is sufficient to indicate that he had abandoned his lien in the N.F. Railway - in other words, by waiving his right, even if the circumstances do not indicate that the lien was not cancelled by implication.

12. In view of the above we find no force in the contention of Mr Bhattacharyya. We find no merit in the application. Accordingly the application is dismissed. However, in the facts and circumstances of the case we make no order as to costs.


(G. L. SANGHVI)
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GAUHATI BENCH

AT GUWAHATI

O.A.NO. 84 /95.

Shri Aloke Kumar Basu.

... Applicant.

- Versus-

Union of India & ors.

... Respondents.

I N D E X

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Filed by -

R
Cmaman
Advocate
24.4.95.

24
Filed by
Shamsher
advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI BENCH

AT GUWAHATI.

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

O.A. No. _____/95.

Shri Aloke Kumar Basu .

... Applicant.

- Vs -

Union of India & ors.

... Respondents.

1. PARTICULARS OF THE APPLICANT:

- i) Shri Aloke Kumar Basu.
- ii) Son of Shri Bhabotosh Basu.
- iii) Aged about 47 years .
- iv) T.T.E., Lumding , N.F.Railway.

2. PARTICULARS OF THE RESPONDENTS:

- i) Union of India represented by the Secretary to the Ministry of Railway, Railway Bhaban, New Delhi.
- ii) The General Manager (P)
N.F.Railway, Maligaon , Guwahati.
- iii) Divisional Railway Manager(P), Lumding
N.F.Railway.
- iv) Chief Commercial Superintendent(P)
N.F.Railway, Maligaon.

contd...

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

1. Order No.E.283/94/1-Pt.VII(T)Lmg.dt.16.9.87 passed by the Respondent No.4 ordering that declaration of acceptance of bottom seniority be furnished.
2. Order No.E.39-24(TC)Pt-III(T)dt.28.6.88 passed by Respondent No.2 informing that his seniority would be effective only from 18.9.87.
3. Provisional seniority list of T.T.E.as on 1.4.92 published by the Respondent No.3 vide No.E.39-20(SNY)dt.24.3.93.
4. Order No.195 G/4/2(T)Pt.II dt.14.2.95 passed by the Respondent No.2 informing the applicant that since he had accepted bottom seniority there was no question of restoring his original seniority as T.T.E.

4. JURISDICTION OF THE TRIBUNAL:

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

5. LIMITATION

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

6. FACTS OF THE CASE :

1. That the applicant was initially appointed as a Ticket collector under N.F. Railway on 27.11.70 and he was confirmed in the said post w.e.f. 27.11.71 . Thereafter the applicant was promoted to the rank of Leave Reserve T.T.E. w.e.f. 15.11.78 and he was confirmed

contd..

in the said post w.e.f. 1.4.80.

2. That, by 1984 the applicant was one of the seniormost Travelling Ticket Examiner (T.T.E.) in the scale of Rs.330 to Rs.560/- and due to restructuring^{ing} of the cadre of T.T.E. several vacancies of conductors in the scale of Rs.425-640/- arose and in view of his seniority, the applicant was entitled to be considered for promotion to one of the said posts of conductors in the Higher scale and many of his juniors had been so promoted in 1984 itself. Because of the subsequent events the same was held up and then his name was not considered.

3. That, unfortunately in the early part of 1983, the applicant, because of various difficulties including illness of his aged ailing parents, could not stay in Lumding and as such he prayed before the authorities for transferring him to the Sealdah Division of Eastern Railway. The Respondent No.2 by his letter dt.21.6.83 duly forwarded his application with the observation that the N.F.Railway did not have any objection in the event of his transfer to the Eastern Railway as prayed for. It will be pertinent to mention here that the applicant was confirmed as a T.T.E. w.e.f. 1.4.80 and he had acquired a lien on the said post. By accepting transfer to another Railway, the applicant would have

contd...

to forgo his seniority and accept the bottom seniority in the Lower grade of Ticket collector as per Rules.

A copy of the letter dated 21.6.83 is annexed herewith and marked as Annexure- I.

4. That on receipt of the said letter, the Chief personal Officer of Eastern Railway, by his letter No. E-1140/2/TC-11/T & C - L(R) dt.23.11.83, informed the Respondent No.2 that they were willing to accept the applicant as a Ticket Collector and that he would have to accept the bottom seniority in the grade of Ticket collector of Sealdah Division. By the said order it was requested that the applicant be spared with a certificate that no SPE/Vigilance /D.A. Case was pending against him. On receipt of the same the Respondent No.2, by his order No.E/283/94/1.P.VII(T) /LMG dt.11.9.84 transferred and posted the applicant under the Divisional Railway Manager, Sealdah, Eastern Railway, Calcutta, on the terms and condition set forth in the said letter. In pursuance to the above, the applicant was spared vide office order No.ES-172 A (TA) dt.29.9.84 and the applicant joined his new ~~post~~ of posting.

Copies of the aforesaid order dated 23.11.83, 11.9.84 and 29.9.84 are annexed herewith and marked as Annexure- II, III & IV respectively.

contd...

5. That after serving in Eastern Railway for some time, the applicant realised that the very purpose of his transfer had become meaningless as his ailing parents had to be shifted to Jalpaiguri and the climate of the place did not suit his family. Since the applicant had retained his lien in his parent post of T.T.E. at Lumding to which he could be retransferred, the applicant on 4.9.86 submitted an application to the general Manager (p) Eastern Railway, Calcutta stating the above facts and with the prayer that his case be considered and arrangements be made to send him to his parent and N.F.Railway where he had lien in the post of T.T.E.

A copy of the said letter is annexed herewith and marked as Annexure- V.

6. That, action on the said letter was taken and queries were made to the N.F.Railway authorities and the Respondent No.3, by his letter No.E.39-24(TC) pt-III/T dt.27.5.87, informed the Respondent No.4 that the applicants lien in the N.F.Railway was yet to be ~~terminated~~ and that the applicant could be accommodated in his division if his retransfer was considered.

A copy of the above letter dt.27.5.87 is annexed herewith and marked as Annexure- VI.

contd...

7. That the applicant begs to state that he was confirmed in the grade of T.T.E. and he had acquired a lien in the said post and he could always come back to his parent post so long as his lien was terminated. Surprisingly, the Respondent No.4 while agreeing to retransfer the applicant, laid down the condition that he would have to accept the bottom seniority of all T.T.E.'s of Lumding on the date of his posting and this was done by letter No.E.283-94/1 pt.VII (T) (LUMG) dt.18.8.87 addressed to the General Manager (P) Eastern Railway. The Chief personnel officer of the Eastern Railway, by his letter dated August, 1987, informed the D.R.M? Eastern Railway that the N.F.Railway had agreed to the transfer of the applicant and he was directed to spare the applicant conveniently and the station Superintendent, Sealdah, spared the applicant from the afternoon of 10.9.87.

Copies of aforesaid letter are annexed herewith and marked as Annexure VII VIII & IX respectively.

8. That the applicant thereafter reported for duty before the Respondent No.4 and the Respondent No.4 by his letter dt. 16.9.87, directed the applicant to report to the Respondent No.3 for his posting as T.T.E. in the Division. In the said letter it was also

contd...

mentioned that before the applicant was allowed to join, his declaration of acceptance of bottom seniority in the category of T.T.E. be obtained.

A copy of the said letter is annexed herewith and marked as Annexure- X.

9. That, the applicant had a lien on the post of T.T.E. from which he was transferred to the Eastern Railway at his request and since the lien existed. The applicant could easily be brought back and there was no justification for again making him accept the bottom ~~line~~ seniority. However, as the authorities would not see reason, the applicant was coerced into signing a declaration which was not required under the Rule and the applicant was confident that he would take up the matter with the authorities and would settle the matter after joining. The applicant had submitted a representation on 12.12.87 claiming seniority but he was informed by the Respondent No.3 by letter dt.28.6.88 that since he had been transferred back at his own request, his seniority would be effective only from 18.9.87.

Copies of the above order dt.28.6.88 is annexed herewith and marked as Annexure- XI.

contd...

10. That the applicant begs to state that he was transferred at his request from Lumding where he had lien in the post of T.T.E., N.F.Railway, and when he went to the Eastern Railway, he had to accept bottom seniority as per Rules. However, as the applicant was coming back to his original post on which he had a lien there could be no question of his again accepting bottom seniority and signing a declaration to that effect. ~~None~~ can not take away the rights of the applicant. The applicant, on 6.7.88, filed an appeal, stating the above facts with the prayer that his seniority be fixed in his original position. The aforesaid appeal was duly forwarded by the Respondent No.3 by his letter dt.16.8.88. Since there was no response, the applicant again on 14.5.89, submitted an appeal addressed to the Chief Personnel Officer, stating the facts with the prayer for fixation and regularisation of his seniority as T.T.E. in his original place. The Respondent No.3 again forwarded the same on 13.6.89 to the Respondent No.4 also referring to the earlier appeal forwarded and for which a reminder had also been sent.

Copies of the forwarding letters dt.16.8.88 and 13.6.89 are annexed herewith and marked as Annexure- XII & XIII respectively.

contd....

11. That there was no response ,whatsoever, on the appeals filed by the appellant and no decision regarding his seniority was taken on the appeals filed by him . The Respondent No.3 , meanwhile, on 24.3.93 circulated a provisional seniority list of TTEs as on 1.4.92 and in the said list the applicants name was shown at Sl.No.116 and his date of joining has been shown as 16.9.87 . The applicant submits that all the persons in the said list including serial No.1 are junior to him. By the said letter representations were called for .

Copies of the above gradation list is annexed herewith and marked as Annexure -XIV.

12. That the appellant, being highly aggrieved by the same , submitted a representation to the ~~R/A~~ *Resp.* No 2 on 26.4.93 referring to his earlier appeals and stating as to have a great injustice had been done to him, and referred to the relevant Rule of the Indian Railway Establishment Code and prayed that he be assigned the seniority which he ~~enjoyed~~ *enjoyed* originally in the cadre of T.T.E. with consequential benefit.

Copy of the above representaly is annexed herewith and marked as Annexure- XV.

contd...

10.

13. That the applicant has never received this impugned order No.195 G/4/2(T)p.II dt.14.2.95 from the ~~Depd. No 2~~ ~~whereby~~ the applicant has been informed that he was transferred to M.F.Railway an acceptance of bottom seniority and that there was no question to restore his original seniority as T.T.E.

Copy of the above order dt.14.2.95 is annexed herewith and marked as Annexure-XVI.

14.7. DETAILS OF REMEDIES EXHAUSTED:

The applicant does not have any remedy under the Rules but he had submitted a representation appeal to the authorities concerned but of no avail.

8. The applicant further declares that he has not previously filed any application/ writ petition or suit regarding the matter in respect of which this application has been made, before any Court of law or any other authority or any other Bench of this Hon'ble Tribunal and no such application/writ petition or suit is pending.

9. RELIEF SOUGHT AND GROUNDS :

i) For that admittedly the applicant retained his lien in the post of T.T.E. at Lumding to which post the applicant was re-transferred and the applicant was

contd....

entitled to get his seniority fixed at his original position and that not ^{having} been given, the action of the authorities is bad in law and liable to be set aside.

ii) For that the authorities, while retransferring the applicant back to his parent original post on which he had a lien, confused the matter and acted illegally by insisting on a declaration of acceptance of bottom seniority and as such the impugned action and order is bad in law and liable to be set aside.

iii) For that the applicant was transferred to the Eastern Railway at his own request and as per provisions of the Rule, he had to accept the bottom seniority which he did. During the pendency of his lien in his original post, ^{he} sought for re-transfer to his parent post on which he had a lien and since the authorities agreed to re-transfer him. The applicant is entitled to his original seniority in the post and that not having been given, the impugned action and order is bad in law and is liable to be set aside.

iv) For that the authorities have rejected the representation of the applicant only on the ground that he had accepted bottom seniority when he came back. As stated in the facts of the case, the

contd...

applicant was compelled to give the declaration but as under the Rules, the applicant is entitled to get his original position, ^{and} giving ~~the~~ declaration under compulsion can not take away the rights of the applicant to the post ~~of~~ to which he had lien and as such, the authorities committed on illegality and the applicant is entitled to all the benefits due to him.

v) For that in any view of the matter, the impugned action and order₃ of the authorities are bad in law and 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 opposite parties to show cause as to why the impugned letters/orders dated 16.9.89 (Annexure- X), 28.6.88 (Annexure -XI), provisional gradation list dt.24.3.93 (Annexure-XIV) and order dated 14.2.95 (Annexure-XVI) should not be set aside and as to why the applicant should not be assigned his correct seniority in the gradation list in the post of T.T.E. ,Lunding , and after perusing

contd...

36

the causes shown, if any, and hearing the parties, set aside the impugned orders and direct that the applicants seniority be fixed at his original place and/or pass such further order/orders as your Lordships may deem fit and proper.

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

10. INTERIM ORDER :- None.

~~Since the private~~

11. Particulars of I.P.O.

I.P.O. No. :- 03 - 884198

Date :- 24-4-95

Payable at :- Guwahati

12. LIST OF ENCLOSURES

As stated in the Index.

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

I, Shri Aloke Kumar Basu, Son of Shri Bhabotosh Basu, aged about 47 years, resident of Lumding, District Nagaon, Assam, at present working as T.T.E., Lumding, N.F. Railway, do hereby verify that the contents in paragraphs No....3..... are true to my knowledge; those made in paragraphs No....1 to 13..... are believed to be true to my knowledge and belief and I have not suppressed any material fact.

Aloke Kumar Basu.

.. SIGNATURE

Annexure - I.NORTHEAST FRONTIER RAILWAY

Office of the
General Manager(P).
Maligaon, dated,
2/6/83.

No.E/283/94 /1 Pt. VII(T)LMG.

To
The General Manager (P),
Eastern Ely
Calcutta.

Sub:- Inter Rly transfer of Shri Aloke Kr.Basu ,
TEE, Lumding to Sealdah Division of
Eastern Railway.

The transfer application and declaration
accepting bottom seniority submitted by the above named
staff for transfer to Sealdah Division of your Rly are
sent herewith.

His brief service particulars are furnished
as under :-

1. Name and Designation :- Shri Aloke Kr,Basu.
TEE /Lumding.
2. Date of birth :- 14.5.47
3. Date of Apptt. :- 27.11.70.
3. Date of promotion to :- 15.11.78.
TEE.
5. Scale of pay as TEE :- Rs.330-560/- .
6. Confirmed as TEE :- w.e.f.1.4.80.
7. Whether undergoing any:- NIL.
punishment.
8. Whether any DAR/SPE :- No.
(Vigilance case pending .

Attested
Lawyer
Advocate

This Rly has got no objection in the event of his
transfer to your Rly is being agreed to.

You are therefore, requested to let this office
know if the above named staff may be accommodated on
transfer to your Railway.

Sd/-

for GENERAL MANAGER (P) NFG.

(16)

ANX- II

3

Eastern Railway

No.E.1140/2/TC-II/T&C-L(R)

Calcutta, dt 23rd November 1983.

General Manager(P)
N.F.Rly, Maligaon,
Gauhati-11

Sub: Inter Railway transfer of Sri Aloke
Kr. Basu, TTE, Luning to Sealdah Divis-
ion, E.Rly.

Ref: Your letter No.E/283/94/1 Pt.VII(T)
LMG. dated 21.6.83

Shri Aloke Kumar Basu, whose application for transfer to this Railway has been received with your letter quoted above, may be accepted as a Ticket Collector in grade Rs-260-400(RS) in Sealdah Divisions of this Railway in terms of Board's letter No.E55 SR6/6/3 dated 19-5-55.

Sri Basu will have to ~~accept~~ accept bottom seniority as per rules in the lowest grade of T.C viz. Rs.260-400(RS) of Sealdah Division. He will have no claim to his posting at his own choice, Railway Quarters out of turn, transfer-TA/DA/Pass/Joining time etc.

Sri Aloke Kumar Basu may please be spared early subject to above conditions and that there is no SPE/Vigilance/DA case pending against him and he may ~~be~~ be directed to report to the DRM/Sealdah for further order of posting. His LPC, SR, P.File etc. may also be sent direct to DRM/Sealdah.

Sd/-
for Chief Personnel Officer.

Copy together with the declaration of Sri Aloke Kr. Basu regarding acceptance of the post of TC, bottom seniority etc. is sent to DRM/Sealdah for information and necessary action. He will please accommodate Sri Basu as a TC in scale 260-400 (RS) on usual condition of bottom seniority.

Sd/-
for Chief Personnel Officer.

DA/AS above.

*Attended
Lawyer
Advocate*

NORTHEAST FRONTIER RAILWAY.

As accepted by Eastern Railway, Calcutta vide their letter No. E/1140/2/TC-II/T&C-L(R) dated 23-11-83 Shri Alok Kr. Basu, TTE/LMG, is hereby transferred and posted under Divisional Railway Manager, Sealdah, E. Rly Calcutta in the initial grade of Ticket Collector of Rs.260-400/- subject to the following terms of conditions.

1. That he will have to accept bottom seniority as per extant rules in scale Rs. 260-400/- (RS)
2. That he has no claim of Rly. or out of turn, Transfer allowances, TA/DA, joining time and Choice of posting.
3. That there is no any vig. /SPE/DAR, cases pending against him.

for GENERAL MANAGER(P)/MLG.

No. E/283/ 94/1.P.VII(T)/(LMG) Dated. 11-9-84

Copy forwarded for information and necessary action to

1. DAO/LMG.
2. GM/P/E. Rly. Calcutta in reference to his letter no. quoted above.
3. DRM/P/LMG. He will please arrange to spare Shri Alok Kr. Basu, TTE/LMG on transfer after obtaining declaration in dup. on the points mentioned above and direct him to report to the Divisional Rly. Manager / Sealdah, under E/Rly, Calcutta along with a copy of declaration for further posting. Before sharing it should be confirmed that he has no SPE/VIG/DAR cases pending against him. The P/ case, S/Sheet, L/Accounts, LPC etc of Shri Basu may be sent to DRM/P/Sealdah Division, E./Rly.
4. Staff concerned.

for GENERAL MANAGER(P)/LMG.

*Attended
Lawyer
Advocate.*

N.F.Railway.Office Order.

In terms of GM(P)/E.Rly.Calcutta's letter No. E/1140/2/TC-11/T&C-L(R) dated 23-11-83 and GM(P)/MIG's letter No.E/289/94/1 P.VII(T) (IMG) dated 11-9-84, Shri Alope Kumar Basu, TTE/IMG is hereby transferred and posted under Divisional Railway Manager, Sealdah, E.Rly. Calcutta in the initial grade of Ticket Collector in scale Rs. 260-400/- on the following terms and conditions as accepted by him vide his letter dated 18-9-84.

- (1) That he will have to accept bottom seniority as per extant rules in scale Rs.260-400/-.
- (2) That he will not claim for Railway quarters out of turn, transfer allowances, TA/DA joining time and choice of posting.

Shri Basu on being spared by CTTI/Lunding should report to the Divisional Railway Manager/Sealdah, E.Rly. for duty immediately.

Sd/-
D.C.S./IMG.

NO.ES-172 A(TA) dated, 29-9-84.

Copy forwarded for information and necessary action to :-

1. Shri Alope Kumar Basu, TTE/IMG through, CTTI/IMG. He will please report to DRM/Sealdah/E.Rly., Cal. on being spread by CTTI/IMG with the endorsed declaration for further posting order. DA-2(two).
2. CTTI/IMG. He will please spare Shri Basu immediately advising this office.
3. DAO/IMG for information.
4. DRM/Sealdah/E.Rly.Calcutta in reference to GM(P)/E.Rly. Calcutta's letter No. quoted above
5. GM(P)/IMG in reference to his letter No.cited above. He is requested to arrange a relief immediately as this Division is running short of staff.
6. ET/Bill, EG, C Q & Stores at office.

rlm/

DRM(P)/Lunding.

*Attended
Serrinah
Advocate*

.....

Annexure - V

The General Manager (P),
E.Railway,
F.P.
Calcutta.

Through proper channel.

Re :- Re-transfer to my parent Railway (N.F.Rly).
against my lien post of TTE (Confirmed).

Sir,

With due respect and humble submission, I
have to submit the following few lines for favour of
your sympathetic consideration on humanitarian grounds.

2. That I have come on transfer from my parent
Railway (N.F.Railway) accepting the bottom seniority of
T.C. at Sealdah Division in your Railway vide GM(P)/MLG's
No.E/283/94/1/PVII(T) dt.19.9.84 and DRM(P)/LMG's No.
ES.172 A(T) dt.29.9.84.

2. That sir, I have been advised by the Physician
that the very climate of the place does not suit me and
my family including child . Since we could not adjust the
climate of this place over and above my future is also
blocked as there is no chance of getting promotion for
long period what to talk of near future .

3. That sir, I had come on transfer to look
after my ailing parents who were advised by my family
Doctor to take rest at their house at Jalpaiguri and
accordingly they have shifted themselves to Jalpaiguri

Attested
Sawana
Advocate.

contd...

Annexure- V.

at this juncture my very aim of my transfer has become useless at the cost of my sacrifices of old service and seniority accepting the bottom seniority.

4. In view of the circumstances stated above, I most fervently request your honour to be kind enough to consider my case on the humanitarian grounds sympathetically and arrange to send me back to my parent Railway (N.F.Rly) in my original place where I have got my lien in the post of TEE and oblige thereby.

Dated ,Sealdah, the
4.9.86.

Yours faithfully,

Sd/-Aloke Kumar Basu,
TC/Sealdah ,E.Rly.

*Forwarded
Advocate*

True Copy

N.F.Railway.

No. E 39-24(TC)Pt.III
(T).Office of the
Divil.Rly. Manager (P),
Lunding, dtd: 27-5-87To
The CCS(P)/MIG.Sub: - Transfer of Shri Alok Kr. Basu,
Ex.TTE/LMG.Ref: - Your letter No. E/283/94/1 P VII(T)
(LMG) dt. 1.4/5 87.

.....

With reference to your above cited letter this is to inform you that Shri Basu's lien on this Rly. is yet to be terminated. Shri Alok. Kr. Basu can be accommodated in this division if his retransfer is considered.

Sd/-

for Divil.Rly.Manager(P).
N.F.Railway. Lunding.

Gashu

(Bhatnagar)
18/6/87
महाराष्ट्र राज्य सरकार
महाराष्ट्र राज्य सरकार

SS/ET
Purpan M.
18/6/87
A.P.E. (T)
22/6/87

Attended
Journal
Advocate.

Annexure - VII.

N.F.RAILWAY

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

Nb.E/283/94/1 Pt.VII(T)(LMG) Dated 18.8.87.

To

The General Manager(P),
Eastern Railway,
Fairlie place,
CALCUTTA.

Sub - Inter Railway transfer of Shri Alope Kumar Basu,
Ticket collector/Sealdah Division in scale
Rs.950-1500/- RP) from Sealdah to N.F.Railway.

Ref - Your letter No.E.1140/2/2-TC/T & C -L(R)
dated 18.12.86.

Shri Alope Kumar Basu, TC/Sealdah Division
who was transferred from this Railway can be accommo-
dated on re-transfer to N.F.Railway in the post of
TEE in scale Rs.1200-2040/- subject to the condition that
he will have to accept bottom seniority of all TTEs in
Lunding Division/N.F.Railway on the date of his posting.

Sd/-Illegible,
for CCS (P).

*Accepted
Sd/-
Advocate*

Annexure - VIII.EASTERN RAILWAY

No.E.1140/2/8-TC/ T & C-L() Calcutta,dt 8.87.

To

The Divisional Railway Manager,
Eastern Railway ,
Sealdah.

Sub - Inter-mailway transfer of SriAloke Kr.Basu,
Ticket collector/SDAH Divn. in scale
Rs.950-1500/-(RP) from Sealdah to T.F.Railway.

Ref :- Your letter No. .142/Inter-Rly.Divl. Trfr/
T/Coll(F- 3) dt.12.9.86.

The General Manager (P) ,N.F.Railway, Maligaon
has agreed to the transfer of Sri Aloke Kumar Basu, TC/
SDAN division to N.F.Railway/Lumding division on usual
terms and contitions and asked spare Shri Aloke Kr. Basu,
TC to report to GM(P) /N.F.Railway Maligaon/Gauhati-II
for further order of posting vide his letter no.E/ 288/
94/1 pt.VII(T) (LMG) dated 18.8.87 (copy enclosed)
wherein it has been mentioned by the N.F.Railway that
Sri Basu can be accommodated on re-transfer to N.F.Rly,
in scale Rs.1800-2040-(RP) as TTE subject to accepting
bott m seniority.

There is no objection to the transfer of above
named TC in terms of Board's letter No.E.65 ..
dated 19.5.85.

contd....

Attested
Savannah
Advocate

contd. Annexure- VIII.

You will please spare Shri Aloke Kr.Basu conveniently to report to GM(P)/N.F.Rly./Maligaon Gauhati -II under advice to all concerned.

DA/as above.

for Chief Personnel Officer.

Copy to GM(P) /N.F.Railway , Maligaon, Gauhati-II for information in reference to his letter No.E/883/94/1/pt.VII (T) (LMG) dated 18-8-87.

Copy to :- DRM/N.F.Rly./Lumding divn. for information.

Copy to - Sri Aloke kumar Basu,TC/SDAH for information.

S/D.

for Chief Personnel Officer.

*Saunder
Advocate*

(24) ANY-IX
Eastern Railway

Dated: 10.9.87.

No. EG/TC/87

From: SS/Sealdah

To: Sri Aloke Kr. Basu, TC/SDAH.

Sub: Transfer & Posting.

Ref: DPO/SDAH's letter No. EG 142/Int. "ly Divn. Trd./T. Coll
(E/3) dated 10.9.87.

In terms of DPO/SDAH's above letter you are hereby spared from
afternoon of date (10.9.87) to effect your transfer to ~~XXX~~ N.F. Railway/
Lunding Division.

[Signature]
Station Supdt/Sealdah.

Copy to DRM/N.F. Railway/Lunding for information. Sri Basu availed
8 days C.L. in this year. He has taken 1½ set of Pass and No. P.T.Os in
this year.

Copy to DPO/SDAH (E/3) for information.

Scd/-
Station Supdt/SDAH.

*Attested
Lawyer
Advocate*

(25)

ANNEX-X

48

N. F. RAILWAY.

No.E/283/94/1 Pt.VII(T)DMG

Maligaon, dtd 16.9.87.

DRM(P)/DMG.

Sub:- Inter Railway transfer of Shri Alak
Kr.Basu, TC/SDAH division of Eastern
Railway to DMG Division of N.F.Railway.

Ref:- Your L/No.E-39-24(TC)PIII(T) dtd 31.7.87.

!!!!

Shri Alak Kr.Basu, TC/SDAH division of Eastern Railway
who has reported to this office to day in terms of CPO/
E.Rly's letter No.E-1140/2/2-TC/T&C-L(R) dtd 1.9.87 and
DPO/SDAH's letter No.EG-142/Int.Rly.Division/Trd/TC(E/S)
dtd 10.9.87 is hereby directed to report to you for his
posting as TTE in your division. Before he is allowed to
join, his declaration of acceptance of bottom seniority in
the category of TTE may be obtained.

This transfer is arranged as per approval of competent
authority.

Sd/-

for Chief Comm. Supdt. (P)/MLG.

Copy to:-

1. Chief Personnel Officer, Eastern Railway for
information.
2. Divisional Rly. Manager, Eastern Railway, Sealdah. He
is requested to send the L.P.C. P/File service record
etc. of Shri Basu direct to DRM/Landing under advice
to this office.
3. Shri Aloke Kr.Basu, TC/SDAH division at office. He is
directed to report to DRM(P)/Landing for further
posting orders.

*Attested
General
Advocate*

Sd/-

for General Manager(P)/MLG.

Attested.

22.12.93

*Y. M. M. (P)
Y. M. M. (P)*

(26)
N. F. Railway.

NO. E39-24(TC)Pt-III(T)

Office of the
Divisional Railway Manager(P)
Ludding.

Dt. 28.6.88

To
Shri Alokn Kr. Basu, TTR/LMG,

Through :- CTTI/LMG.

Subject :- Seniority.

Reference:- Your representation dt. 12.12.87.

Since you have been transferred back to this Railway at your own request accepting bottom seniority vide your declaration dt. 18.9.87 . Hence the question of fixing up seniority will be effective in scale Rs. 1200-2040/- only from 18.9.87.

DRM(P)/LMG.

Copy forwarded to CCS(P)/MIA for information in reference to his letter NO. E/283/94/1 Pt.VII(T) LMG dt. 16.9.87.

DRM(P)/LMG.

*Accepted
S. Kumar
Advocate.*

(27)
N. F. Rly.

NO. E39-24(TC)/Pt-III(T)

Office of the Divisional
Railway Manager (P)/LMG
Date. 16.8.88

TO
CCS(P)/MLG,

Sub :- Appeal submitted by Shri Aloke Kr. Basu, TTE/LMG
for fixation of usual seniority and Promotion.

The brief case history of Shri Aloke Kr. Basu, TTE/LMG is narrated below for your information and necessary decision from your end.

(1) Shri Aloke Kr. Basu was appointed as TC in scale Rs. 110-180 (A.S) on 27.11.70 and promoted as LR TTE in scale Rs. 330-560/- (R.S) w.e.f. 15.11.78. He was provisionally confirmed as TC w.e.f. 27.11.71 and TTE w.e.f. 1.4.80.

(2) Shri Basu, TTE/LMG in scale Rs. 330-560/- (R.S) was transferred to E.Rly, Calcutta in terms of GM(P)/MLG's letter NO. E/289/94/1 PV11 (T)(LMG) dt. 11.9.84 and this office order NO. ES172A(T) dt. 29.9.84 and accordingly he joined in the E.Rly. on 8.10.84 in the initial Grade of TC (250-400/-) on acceptance of bottom seniority as per extant rules.

(3) Shri Basu has been retransferred to this division as TTE in Scale Rs. 330-560/- (R.S) on acceptance of bottom seniority vide Rs. 1200-2040/- (R.P) CPD/E Rly's letter NO. E1140/2/2-TC/T&C -L(R) dt. 01.9.87.

(4) On being spared by SS/SDAH, Shri Basu reported to CCS(P)/MLG on 16.9.87 who directed him to this office for his posting as TTE subject to the condition that before his joining, his declaration of acceptance of bottom seniority in the category of TTE should be obtained vide CCS(P)/MLG's letter NO. E/283/94/1 Pt VII(T) LMG dt. 16.9.87 and accordingly Shri Basu reported to this office on 17.9.87 and as per his declaration of acceptance of bottom seniority dt. 18.9.87, he was posted as TTE/LMG vide this office order NO. E39-24(TC) Pt. III(T) dt. 22.9.87.

(5) On resumption as TTE/LMG in squad Shri Basu preferred a representation dt. 12.12.87 to fix-up his original seniority of TTE of Lumding Division and in reply Shri Bose has been informed that his seniority will be effective in scale Rs. 1200-2040/- only from 18.9.87 as he has been retransferred to this Division at his own request accepting bottom seniority.

Now Shri Bose has again preferred an appeal dated 6th July/88 for fixation of his original post of TTE in Lumding Division which is forwarded herewith in original for your decision as the retransfer of Shri Bose to this Division has been considered from your end.

DA:- Appeal in original
in two sheets.

DRM(P)/LMG.

Copy forwarded to Shri A.K. Bosu, TTE/LMG
Through CTTI/LMG for information.

DRM(P)/LMG.

Attested
Sd/-
Advocate

(28)

ANY 8011
5

N. F. Rly.

NO. E39-24(TC)Pt.III(T)

Office of the Divisional
Railway Manager (P)/LMG.
Date. 13.6.89

To
CCS(P)/MLG,

Sub :- An appeal addressed to CPO/MLG submitted by
Shri Aloke Kr. Basu, TTE/LMG, for fixation and
regularisation of his seniority in his lien
post of TTE in LMG Division and promotional
benefit with retrospective effect.

An appeal dt. 14.5.89 addressed to CPO/MLG submitted by
Shri Aloke Kr. Basu, TTE/LMG for fixation and regularisation of
his seniority as TTE in his lien Post of TTE in Lunding Division
and Promotional benefit with retrospective effect is forwarded
herewith in original with enclosures for your decision as the
retransfer of Shri Basu to this Division has been considered
from your end.

Further, it is stated that Shri Basu Preferred appeal
dt. 6.7.88 on the same issue which was already forwarded to you
for decision detailing the brief case history vide this office
letter of even number dt. 16.8.88 and subsequently a reminder
was also issued vide this office letter of even number dt. 1.2.89
but reply of which is still awaited.

DA= 5(Five) Sheets only.

DRM(P)/LMG.

Copy forwarded to Shri A.K. Basu, TTE/LMG
Thro: CTTI/LMG for information.

DRM(P)/LMG.

*Attested
General
Adventer*

14/11/89
14/11/89
14/11/89

Sanction:- 99

Provisional Seniority list as on 1/4/92
 Category:- TTE Scale of pay Rs. 1200-240/-
 Deptt. Tfc. Unit- Lumding, Classification of post:- Divil. Control.
 Criterion:- As per Panel Position of LR TC for TTE,

| Sl. No. | Name | Design. & Stn. | Dt. of birth | Dt. of apptt. | Dt. of approval of panel for LR TC for TTE. | Dt. of promo. to the grade. | Whether SC/ST | Con fd. or Offg. | Remarks. |
|---------|------------------------|--------------------|--------------|---------------|---|-----------------------------|---------------|------------------|--------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 1. | Shri Chandeswar Sarma, | TTE/GHY | 22/1/38 | 15/8/63 | 30/3/79 | 21/12/79 | UR | Offg. | Ad-hoc Cond. |
| 2. | " Tarun Ch. Deke | " / GHY | 31/12/54 | 1/3/78 | " | 3/5/79 | " | " | " |
| 3. | " Rakesh Ch. Chandra | " / LMG | 15/2/43 | 8/4/78 | " | 23/9/79 | " | " | " |
| 4. | " Drup Singh Konwar | TTE/LMG | 1-2-46 | 26/4/78 | " | 4/7/79 | ST | " | " |
| 5. | " Ashit Acherjee | " / BPB | 1/1/53 | 23/5/78 | " | 1/8/79 | UR | " | Ad-hoc HTTE. |
| 6. | " Dinanath Brahma | " / GHY | 11/9/54 | 22/7/73 | " | 26/5/79 | ST | " | " |
| 7. | " Ganesh Singh | " / GHY | 17/1/39 | 13/10/78 | " | 24/3/79 | UR | " | " |
| 8. | " Bimalendu Das | " / GHY | 23/12/56 | 24/2/73 | 10/4/79 | 6/2/80 | UR | " | " |
| 9. | " Hiralal Aine | " / GHY | 17/9/42 | 11/4/73 | " | " | " | " | " |
| 10. | " A.K. Nandy | " / LMG | 15/2/41 | 3/9/73 | " | 6/1/79 | " | " | Ad-hoc Cond. |
| 11. | " Babul Kanti Dey | " / BP | B1/7/49 | 24/9/76 | 6/6/80 | 1/7/80 | " | " | Ad-hoc HTTE |
| 12. | " S.C. Kabiraj | " / LMG | 29/12/58 | 20/3/79 | " | 3/7/80 | " | " | " |
| 13. | " Anup Barua | " / BP | B25/10/59 | 15/3/79 | " | 2/7/80 | " | " | Ad-hoc Cond. |
| 14. | " Haripada Goala | " / BPB | 1/4/46 | 24/3/79 | " | 3/7/80 | " | " | " |
| 15. | " Mesood Ahmed Khan | " / GHY | 14/1/54 | 14/4/79 | " | 2/3/80 | " | " | Adh-hoc HTTE |
| 16. | " M.S. Dhundla | " / | 20/4/54 | 10/6/79 | " | 17/7/80 | " | " | " |
| 17. | " Zamal Seikh | " / LMG | 1/12/55 | 21/6/79 | " | 20/7/80 | " | " | " |
| 18. | " Dilip Kr. Pal | Ex-TTE/KIR now LMG | 2/2/45 | 17/2/65 | - | 4/2/81 | " | " | -do- Tfd from KIR. |
| 19. | " Ashish Acherjee, | TTE / GHY | 19/1/57 | 20/6/79 | 6/4/80 | 15/5/81 | UR | " | Adh-hoc Cond. |

Attended
 Advocate

Amo

30

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---------------------------|----------|---------|---------|------------|---------|----|-------|---------------|----|
| 20. Sri Dulal Ch. Das | TTE/GHY | 28/3/59 | 30/6/79 | 6/6/35 | 23/4/31 | UR | Offg. | Ad-hoc HTTE. | |
| 21. " Ash'm Kr. Dey | "/LMG | 1/6/60 | 5/7/79 | " | 25/4/31 | " | " | " | |
| 22. " R.K. Tamuly | "/GHY | 1/9/59 | 13/7/79 | " | 4/5/81 | " | " | Ad-hoc Cond. | |
| 23. " T.K. Das Gupta | "/LMG | 23/9/50 | 6/7/79 | " | 20/7/82 | " | " | Adhoc - HTTE | |
| 24. " S.K. Kayesthagir | "/BPB | 1/2/51 | 12/7/79 | " | 3/3/31 | " | " | " | |
| 25. " Samarjit Kr. Nath | "/BPB | 1/2/58 | 14/7/79 | " | 4/3/31 | " | " | " | |
| 26. " G.P. Srivastava | "/GHY | 2/1/39 | 21/5/79 | " | 27/7/80 | " | " | " | |
| 27. " Mahangoo | "/FS/PNO | 1/7/56 | 11/7/79 | " | 24/9/81 | " | " | Adhoc HTTE. | |
| 28. " S.N. Ghose | TTE/LMG | 1/3/43 | 14/3/63 | 30/6/81 | 21/7/81 | " | " | Ad-hoc Cond. | |
| 29. " Arabinda Das | "/BPB | 1/3/55 | 9/3/79 | " | " | " | " | " | |
| 30. " U.K. Roy Nandy | "/LMH | 7/1/60 | 23/3/79 | " | 21/2/82 | " | " | " | |
| 31. " M.P. Adhikary | "/GHY | 24/3/54 | 20/7/79 | " | 24/7/82 | " | " | " | |
| 32. " Mrinmoy Bhowmick | "/GHY | 3/4/52 | 21/7/79 | " | 21/2/82 | " | " | " | |
| 33. " Ranjit Biswas, | "/BPB | 27/1/61 | 1/8/79 | " | 27/7/82 | " | " | Ad-hoc HTTE | |
| 34. " B.C. Dutta | "/GHY | 1/1/57 | 2/8/79 | " | 26/7/82 | " | " | Ad-hoc HTTE. | |
| 35. " M. Sarker | "/LMG | 22/3/59 | 2/8/79 | " | 20/7/82 | " | " | " | |
| 36. " Ratul Deka | TTE/GHY | 1/5/60 | 2/8/79 | " | 2/8/82 | " | " | " | |
| 37. " Ujjal Kr. Sinha | "/LMG | 1/1/57 | 4/8/79 | " | 21/2/83 | " | " | Adhoc Cond. | |
| 38. " Prabir Kr. Majumder | TTE/LMG | 1/1/61 | 13/8/79 | 30/6/31 | 20/7/82 | " | " | Ad-hoc. HTTE. | |
| 39. " Khokan Acherjee | "/BPB | 29/4/60 | 2/8/79 | 29/9/32 | 3/8/34 | " | " | " | |
| 40. " Ramaswar Palita | "/GHY | 18/7/57 | 8/8/79 | " | 3/4/84 | " | " | Adhoc Cond. | |
| 41. " Pijush Kt. Majumder | "/BPB | 23/2/54 | 9/3/79 | " | 22/1/84 | " | " | " | |
| 42. " B.C. Nath | "/LMG | 1/7/57 | 9/3/79 | " | 1-2-33 | " | " | Adhoc Cond. | |
| 43. " Md. M. Alam | "/LMG | 7/1/59 | 15/8/79 | " | 15/1/86 | " | " | " | |
| 44. " D. Hira | "/LMG | 22/6/43 | 17/3/71 | " | 21/1/84 | " | " | " | |
| 45. " T.K. Mukherjee | "/BPB | 20/7/55 | 10/3/79 | 4/6/33 | 26/2/84 | SC | " | " | |
| 46. " Bhimsen Bhagat | "/GHY | 1/3/57 | 13/7/79 | " | 17/4/84 | UR | " | Adhoc HTTE. | |
| 47. " Satyendra Ch. Das | "/BPB | 30/6/53 | 4/9/79 | " | 7/3/34 | " | " | " | |
| 48. " Ranjit Mukherjee | "/LMG | 6/2/54 | 10/3/72 | 21-22/3/34 | SC | " | " | Adhoc HTTE. | |

Appd.
Sub.
porter

19/10/31 TC

" 2/10/36

UR

B/man in scale
Rs. 225-303/-

Contd..3-/-

Signature
Advocate

Signature

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|-----|---------------------------|---------|---------|--------------------|---------|----------|------|------|--------------------------------|
| 49. | Shri Hiralal Acharjee | TTE/LMG | 3/5/46 | 3/7/73 Sub. porter | 4/6/33 | 14/3/38 | UR | Offg | Due to punish- ment of WIT. |
| 50. | " Santimay Dey | "/BPB | 17/1/46 | 14/4/66 Gang mand | -do- | 3/5/37 | " | " | -do- |
| 51. | " Samir Rn.Dey | "/LMG | 12/9/47 | 3/10/69 PTR | -do- | 2/10/36 | " | " | - |
| 52. | " Sunil Ch.P. aul | "/GHY | 1/7/41 | 10/6/63 Gang man | -do- | 1/10/86 | " | " | - |
| 53. | " Sunil Ch.P. aul | "/LMG | 15/7/44 | 15/10/70 PTR | -do- | 2/10/86 | " | " | - |
| 54. | " Indrajit Ghose | "/LMG | 20/7/42 | 28/6/64 | -do- | -do- | -do- | -do- | -do- |
| 55. | " Sunil Kr. Chowdhury | "/LMG | 20/3/44 | 18/9/64 | 4/6/83 | 03/10/86 | " | " | - |
| 56. | " Rakhal Ch.Dey | "/BPB | 1/1/41 | 28/5/66 | " | 2/10/86 | " | " | - |
| 57. | " Binode Kr.Das | "/LMG | 28/2/58 | 31/5/82 | " | 9/10/86 | SC | " | Ad-doc HTTE. |
| 58. | " Haren Ch.Das | "/GHY | 1/3/58 | 5/6/82 | " | 14/12/86 | SC | " | Ad-hoc Cond. |
| 59. | " Deben Ch.Das | "/GHY | 1/11/62 | 3/6/82 | " | 22/11/86 | SC | " | - |
| 60. | " Ramdeo Thakur | TTE/" | 1/7/51 | 15/8/79 | 29/5/85 | 23/10/86 | UR | " | - |
| 61. | " Sudhish Prasad | -do- | 2/5/56 | 15/8/79 | " | 3/10/86 | " | " | - |
| 62. | " Samarendra Das | TTE/LMG | 10/9/57 | 15/3/79 | " | 2/10/36 | " | " | - |
| 63. | " S.N. Singh | "/GHY | 24/2/60 | 15/8/79 | " | 3/10/36 | " | " | - |
| 64. | " Manindra Mohan Majumder | "/LMG | 1/3/45 | 12/2/66 kha | " | 4/10/36 | " | " | - |
| 65. | " Sachin Rn.Sarkar | "/LMG | 20/3/51 | 7/6/73 kha | " | 23/10/36 | " | " | - |
| 66. | " Mahi Kanta Konwar | "/LMG | 1/9/54 | 2/5/76 | " | 17/10/36 | ST | " | Adhoc HTTE. |

Soren
Advocate

Conda

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|--------------------------|---------|----------|------------|----------|----------|----|-------|---|--|
| 67. Shri A.R. Chowdhury, | TTE/GHY | 12/7/55 | 2/12/78 | 29/5/85 | 2/10/86 | UR | Offg. | | Tfd. from TSK. |
| 68. " Abhiram Deka | " | 1/10/49 | 3/2/80 | 3/10/86 | 23/11/86 | ST | " | | Adhoc Cond. |
| 69. " Biman Ch. Kar | "/BPB | 27/12/43 | 4/6/66 | 14/10/86 | 15/10/86 | UR | " | | Redesignated as TTE on 1/10/87 in terms of CPO/MLG's D.O. No. E/210/46/ Pt. III(T) dtd.: 12/9/89 |
| | | | 11/7/80 | 29/7/87 | | | | | |
| 70. " Shah Md. Quamar | "/GHY | 18/9/42 | 7/4/81 | 3/10/86 | 10/11/86 | UR | " | | |
| 71. " Dilip Mohanta | "/GHY | 1/9/55 | 13/8/32 | | 1/8/87 | UR | " | | Due to punishment redesignated as TTE in terms of CPO/MLG's D.O. No. E/210/46/ Pt. III(T) dtd.: 12/9/89 |
| 72. " Indrajit Kr. Deb | TTE/GHY | 1/1/58 | 17/7/82 | 30/12/36 | 1/7/84 | UR | " | | - |
| | | | | 1/1/37 | | | | | |
| 73. " Arun Sonowal | "/GHY | 16/12/59 | 1/6/32 | 3/10/36 | 3/1/36 | ST | " | | - |
| 74. " Dandi Ram Boro | -do- | 1/1/52 | 5/6/82 | " | 5/11/36 | ST | " | | - |
| 75. " Dinesh Ch. Das | -do- | 1/9/61 | 25/3/32 | " | 10/11/36 | UR | " | | - |
| 76. " G.B. Chhetri | -do- | 24/6/59 | 17/7/32 | 14/10/36 | 13/11/36 | UR | " | | Redesignation as TTE vide CPO/MLG's D.O. No. E/210/46/Pt. III (T) dtd. 12/9/89 |
| | | | | 29/7/37 | | | | | |
| 77. " Tapash Chakraborty | -do- | 3/11/61 | 5/3/82 | 15/11/39 | 20/10/37 | UR | " | | -do- |
| 78. " R.N. Bora | TTE/LMG | 1/9/53 | 24/1/34 | 15/11/39 | 21/11/36 | UR | " | | -do- |
| 79. " M. Mistry, 29/7/87 | "/BPB | 30/11/58 | 20/4/84 | 14/10/36 | 17/8/87 | SC | " | | - |
| | | | | 29/7/87 | | | | | |
| 80. " Debendra Hira | -do- | 30/6/46 | 12/8/71 | - | 16/1/87 | SC | " | | Redesignation -do- |
| | | | 18/6/84 TC | | | | | | |
| 81. " Rupen Ch. Bordoloi | -do- | 1/5/56 | 12/3/76 | - | 23/5/91 | ST | " | | Redesignation -do- |
| | | | 12/7/84 | | | | | | |

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|--|-----------------------|----------|----------|----------|----------|----|-------|---|----|
| 102. Sri Soumen Guha | TTE/BP B | 8/9/66 | 18/3/85 | 1/1/87 | 17/8/87 | UR | Offg. | | |
| 103. " Sunil Kr. Biswas, | " /BPB | 20/4/55 | 4/7/85 | " | 14/2/87 | SC | -do- | | |
| 104. " Kumdev Das | " /GHY | 1/9/55 | 18/6/85 | " | 12/3/87 | " | -do- | | |
| 105. " Dharmeswar Brahma | " /LMG | 30/10/56 | 1/7/85 | 15/11/80 | 5/2/87 | ST | -do- | Redesignated as TTE | |
| 106. " Jayanta Chowdhury | " /GHY | 20/4/64 | 9/1/86 | 1/1/87 | 27/1/87 | UR | -do- | on 1/2/80 | |
| 107. " Barun Kr. Das | -do- | 1/3/65 | 12/1/86 | " | " | SC | -do- | | |
| 108. " Avijit Ghose | LR TTE /GHY | 11/7/63 | 13/1/86 | " | " | UR | -do- | | |
| 109. " Rakesh Kumar | -do- | 15/7/61 | 23/3/86 | " | 22/2/87 | UR | Offg. | | |
| 110. " Mono Rn. Sarma | LR TC for TTE /GHY | 7/7/56 | 29/7/82 | 13/8/90 | - | UR | " | TTE /BPB | |
| Joined from TSK on 2/6/86 LR TC for TTE 3/9/87 | | | | | | | | | |
| 111. " Jagdeep Singh | TTE /GHY | 12/12/63 | 11/8/36 | 1/1/87 | 22/2/87 | UR | " | | |
| 112. " Naresh Kumar | -do- | 1/7/66 | 11/8/36 | " | " | UR | " | | |
| 113. " Samir Sengupta | TTE /LMG | 25/10/52 | 22/3/36 | 13/3/90 | 3/2/87 | UR | " | | |
| 114. " B.B. Chanda | TTE /BPB | 30/11/53 | 4/11/36 | " | 14/2/87 | UR | " | | |
| 115. " Malay Bhattacharjee | " /LMG | 8/3/54 | 11/11/36 | " | 6/2/37 | " | " | | |
| 116. " Aloke Kr. Basu | " /LMG | 14/5/47 | 27/11/77 | 16/9/37 | 22/9/37 | UR | " | Joined at LMG on 22/9/37 as TTE on accept- ance of bottom seniority vide CCS(2)'s MLG's No. E/293/94/1/Pt. VII(T) LMG dt. 16/9/37. | |
| 117. " P.K. Guha | TTE /LMG | 1/3/41 | 17/11/36 | 13/3/90 | 22/11/39 | UR | " | | |
| 118. " Ranulal Saha | " /LMG | 4/1/55 | 23/12/86 | " | 24/11/39 | UR | " | | |
| 119. " Arabindo Boro | TC /FS /MLG | 3/3/66 | 2/1/87 | " | - | ST | " | | |
| 120. " Rajat Kr. Bhattachick | -do- | 3/3/67 | 2/1/87 | " | - | UR | " | | |
| 121. " Pradip Rakshit | LR TC for TTE/ BPB | 30/4/60 | 15/3/87 | " | - | UR | " | | |
| 122. " Jagannath Bherali | TTE /GHY | 26/6/58 | 14/4/87 | " | 31/10/90 | SC | " | | |
| 123. " Remen Hazarika | LR TTE /LMG | 28/4/65 | 15/5/87 | " | " | SC | " | | |
| 124. " Swapn Kr. Das | TTE /LMG | 31/12/61 | 8/11/83 | " | " | SC | " | | |
| 12/9/87 TC | | | | | | | | | |
| 125. " Gopinath Das, | " /BPB | 21/9/80 | 14/11/83 | PTR | " | SC | " | | |
| 21.9/87 TC | | | | | | | | | |

*Suman
Adhikari*

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| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|--|--------------------------|---------------|----------|------------------------|---------|----------|----|------|--|
| 126. | Sri Dulal Ch. Dutta | TTE/LMG | 1-2-56 | 17/11/83 26/8/87 TC | 13/8/90 | 31/10/90 | UR | Offg | |
| 127. | " Madhusudan Das, | LR TTE /LMG | 1-2-58 | 8/11/83 20/9/87 TC | " | " | SC | " | |
| 128. | " Dinesh Ch. Das, | TC/BPB | 1/7/57 | 25/1/76 17/9/87 TC | 13/8/90 | | ST | " | Reverted to PTR for a period of 3 yrs(NC). |
| 129. | " Lohit Ch. Sarma | TTE/LMG | 1/3/57 | 11/3/32 7/9/37 TC | " | 30/10/90 | UR | " | |
| 130. | " Premeswar Deor | LR TTE/GHY | 1/3/61 | 5/4/32 21/3/37 TC | " | " | ST | " | |
| 131. | " Kishore Rn. Dey | TTE/LMG | 25/3/53 | 20/4/79 24/3/37 TC | " | " | UR | " | |
| 132. | " Ranjit Kr. Dey | -do- | 3/2/43 | 10/11/33 24/3/37 TC | " | 29/10/90 | UR | " | |
| 133. | " Khokan Chanda | LR TTE/LMG | 16/1/63 | 17/1/33 21/8/37 TC | " | 31/10/90 | UR | " | |
| 134. | " Golap P. atar | LR TTE/GHY | 30/12/58 | 20/11/87 | " | 1/11/90 | ST | " | |
| 135. | " Jyotish Kr. Narjary | -do- | 28/6/60 | 19/11/87 | " | 15/11/90 | ST | " | |
| 136. | " Ratan Roy | TC/HJI | 1/1/59 | 7/11/88 | " | " | SC | " | |
| 137. | " Awajit Kr. Das | LR TTE/LMG | 10/9/56 | 14/2/86 1/3/89 | " | 26/12/91 | SC | " | |
| Reported this division on 1/3/89 from TSK. | | | | | | | | | |
| 138. | " Rathindra Chakraborty, | TTE/FS MLG | 1/4/64 | 14/8/87 24/4/89 | " | | UR | " | |
| 139. | " Md. Samsher Ali | TC/FS/MLG | | 4/5/89 | " | | UR | " | LR TTE/BPB |

Samsher Ali

Contd...8/ *Am*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---------------------------------------|---------|----------|---------|----------|----|-------|---|---|----|
| 140. Sri K.C. Malakar, LR TTE/GHY | 1/3/58 | 19/11/86 | 13/8/90 | 26/10/90 | SC | Offg. | | | |
| Reported at LMG on 20/10/89 from TSK. | | | | | | | | | |
| 141. " Gopinath Rabha LR TTE/LMG | 25/1/65 | 17/1/90 | " | 17/1/92 | ST | " | | | |
| 142. " Linus Soreng -do- /LMG | 18/9/63 | 14/2/90 | " | 14/2/92 | ST | " | | | |
| 143. " Dipen Brahma -do- /BPB | 1/1/70 | 15/3/90 | " | 15/3/92 | ST | " | | | |

N:B- Representation if any regarding seniority position in the Provisional seniority list should be submitted within one month from the date of issue of this list. Representation received after that date will not be entertained and this seniority list will be treated as final.

for DRM(P)/Lumding.
N.F.Rly.

No. E 39-2) (SNY) dtd: 24/3/93.

Copy forwarded for information and necessary action to:-

- 1) Staff concerned thro Proper channel.
- 2) SS/ GHY, LMG, GHY, BPB.
- 3) CTTI/LMG, GHY, BPB.
- 4) AM/ BPB, GHY.
- 5) Div'l. Secretary, NFREU & NFRMU/LMG with three spare copies.
- 6) GM(P)/MLG
- 7) GS/ NFREU & NFRMU/PNO with 3 (three) spare copies.

for DRM(P)/Lumding.
N.F.Rly.

TKM/11392,

Annexure - XV.

From :- A.K.Basu,
TTE/Lumding.

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

Sir,

Sub :- Appeal under Rule 18(iv) (b) of RS(D&A) Rules 1968, against interpreting to my disadvantage the provisions of rules on absorption to my parent cadre and loss of seniority on retransfer from E.Rly to N.F.Rly.

Ref :- DRM(P)/LMG's L/Nb.E.39-24(TC) pt.III(T) dated 28.6.88 r/w CCS(P) /MLG's L/Nb. E/283/94 /1 pt.VII(T) LMG dt.16.9.87 and DRM(P) /LMG's L/Nb.E.39-20(SNY). dt.24.3.93 .

Being aggrieved by the order of DRM(P)/ LMG r/w CCS(P) /MLG's letter referred to above in regard to fixation of seniority in the cadre of TTE as well as denial of promotion to the post of Hd.TTE in scale 425-640/- w.e.f. 1.1.84 as a result of restructuring of cadre and CCS(P)/LMG's inaction in considering my case in accordance with the provisions of rules, I am compelled to come in appeal in you. I submit below (A) a brief history of the case (B) material statements and arguments in support of the claim, and (C) submissions for your kind and judicious consideration and favourable orders.

contd...

Attested
Advocate.

(A) Brief history of the case :-

1. I was appointed as Ticket collector in scale 110-180 (AS) on 27.11.70, and promoted as Lr.TTE in scale ;.330+560/- (RS) w.e.f. 15.11.78. I was confirmed as TC w.e.f. 27.11.71 and as TTE w.e.f. 1.4.80.
2. That for reasons of personal hardships I sought my transfer to Eastern Railway, Sealdah division, on acceptance of bottom seniority, such inter railway transfers on ones own request being permissible only on condition of acceptance of bottom seniority in the recruitment grade of Ticekt collector. I was accordingly spared from my headquarters Lumding Division, on 3.10.84.
3. That prior to my transfer to Eastern Railway my promotion by virtue of my seniority and penel position had become due to the posts of Hd.TTE/ conductor in scale 425-640/- (RS) w.e.f. 1.1.84 as a result of restructuring of cadre.
4. That on being spared from Lumding Division I joined at Sealdah division as TC on 8.10.84.
5. That owing to aggravation of personal problems due to material change in the grounds for which I had sought my transfer to E.Rly, I again applied for my re-transfer back to Lumding divn. N.F.Railway on 4.9.86 .CCS/E.Rly, Calcutta vide his L/No. E.1140/2/2 /TC/T & C -L(B) dt. 8.87 addressed to DRM/Sealdah, with a copy to me, stated

contd...

*Lawyer
Advocate*

that GM(P)/N.F.Rly/MLG had agreed to my transfer to N.F.Rly/ LMG Divn, on usual terms and conditions with the further condition that I would be accommodated on re-transfer to N.F.Rly as TTE subject to acceptance of bottom seniority.

6. That I accepted the transfer back to LMG with the hope of convincing the authorities in the light of provisions of rules that such condition was arbitrary and ultra vires the rules and hence the same could not be enforceable.

7. That on my reporting to CCS(P)/MLG's office on being spared from Sealdah, I was directed to Lumding by CCS(P)/MLG with a direction to DRM(P)/LMG that my declaration of acceptance of bottom seniority should be a condition precedent to my joining as TTE at LMG. As one with a Hobson's choice, with bleak future in E.Rly staring in the face if I stood on my right, I was concered into submitting to this unlawful order under protest on 18.9.87.

8. That immediately on my posting as TTE at LMG I preferred appeal on 12.12.87 to DRM(P)/LMG praying for restoration of my original seniority. I was informed by DRM(P) /LMG vide its letter dated 28.6.88 that since I had been transferred back to this Railway at my own request accepting bottom seniority the question of fixing my seniority would be effective in scale 1200-2040/- (RPS) corresponding to revised scale of 330-560/- only from 18.9.87.

contd...

*Sarun
Advocate*

9. I again preferred an appeal dt.6.7.88 whereupon DRM (P)/LMG vide its L/No."39/24(TC) /pt.III(T) dt. 16.8.88 made a reference to CCS(P)/LMG for deciding the matter. DRM(P) /LMG then sent reminders to CCS(P)/MLG again on 1.2.89 and 13.6.89. But CCS(P)/MLG neither confirmed DRM(P)/MLG 's order dt.28.6.88 fixing my seniority in the cadre of TTE w.e.f. 18.9.87 ,nor decided the matter otherwise . However, my pay on re-transfer to this railway was fixed taking into account my pay at the time of transfer to E.Rly and also taking into account the service rendered in E.Rly as TC for the purpose of grant of annual increments.

10. That DRM(P)/LMG vide its letter No.E.39-20(SNY) dt.24.3.93 published a seniority list of the category of TTEs in scale 1200-2040 /- wherein the criterion for fixation of seniority was mentioned as "as per panel position of LR TC for TTE". In this seniority list my name figures at Sl.No.116 and in column 6 thereof (for date of approval of panel for LR TC for TTE) the date has been shown as 16.9.87. In col.7, ibid, (for date of promotion to the grade) the date has been shown as 22.9.87. In the Remarks' column(No.10) "Joined at LMG on 22.9.87 as TTE on acceptance of bottom seniority " etc. has been mentioned . When the matter of fixation of my correct seniority on my re-transfer to this railway/division was appealed against and the same was pending disposal with CCS(P)/MLG ,DRM(P) LMG should not have decided my seniority as it did without any confirmation from CCS(P)/MLG. Hence this appeal.

contd..

*Srinivas
Advocate*

B. Material statements and arguments in support of my claim

1. The above facts and circumstances raise material questions in regard to Rules 226, 227, 228 ~~and~~ 238 and 239 of Indian Railway Establishment code, volume I.

2. Rule 226, IREC-RI, empowers GM or a lower authority to exercise the power of transfer of a Group C or D staff to any other department or railway or railway establishment. Rly. Ministry decision vide its L/No.E.55 SR/6/6/3 dt.19.5.55 provides for favourably considering the request of a group C or D staff for transfer from one railway to another on grounds of special cases of hardships and the staff so transferred are to be placed below all existing confirmed and officiating staff in the relevant grade in the promotion group in the new establishment irrespective of date of confirmation or length of service of the transferred employee.

In terms of the provisions of this rule and above decision of the Rly. Ministry, while my transfer to E.Rly was covered by it, my re-transfer to N.F.Rly, my old establishment where my lien existed against the permanent post of TTE on being confirmed on 1.4.80, was not covered inasmuch as my transfer back to my parent railway/division was not in terms of the above decision of the Rly/Ministr. Hence, my re-transfer to N.F.Railway was to my own old establishment to which I came back and as such the condition of acceptance of bottom seniority imposed by the authorities below was arbitrary, unjust and without the authority of rule.

contd :....

*Suman
Advocate*

3. In terms of Rule 227-RI, a competent authority may transfer a railway servant from one post to another provided that except on account of inefficiency or misbehaviour or on his own request a railway servant should not be transferred substantively to or, except in a case of dual charge, appointed to officiate in a post carrying less pay than the pay of the permanent post on which he holds a lien. Clause (b) of Rule 227(a) is an exception to the above provision which provides that nothing contained in clause (a) of this rule or in clause 28 of Rule 103 should operate to prevent the re-transfer of a railway servant to the post on which he holds a lien. Clause 28 of Rule 103 defines lien as "the title of a railway servant to hold substantively, either immediately or on the termination of a period of absence, a permanent post, including a tenure post to which he has been appointed substantively."

As is evident from clause (b) of Rule 227-RI, re-transfer of a railway servant to the post on which he holds a lien cannot be prevented merely because the railway servant had made a request for the same .

From BRM(P)/LMG's L/No.E-39-24 (TC) Pt.III dt.27.5.87 addressed to CCS(P)/MLG, it is clear that my lien to the post of TTE had neither been suspended nor terminated on my transfer to E.Rly.

contd...

*Personal
Advocate*

4. In terms of Rule 228-RI, providing for retention of lien on transfer, the lien of a permanent staff transferred to another railway would be retained by the transferring railway till he is finally absorbed on the other railway. Since I had not been permanently absorbed in the E. Railway my lien was retained by N.F. Railway, as is evident from DRM(P)/LMG's letter dt. 27.5.87 referred to in the preceding paragraph.

5. Rule 239-RI states that a railway servant acquires a lien on a permanent post to which he has been substantively appointed. Rule 238 states that (a) two or more rly. servants can not be appointed substantively to the same permanent post at the same time, (b) a railway servant cannot be appointed substantively to two or more permanent posts at the same time and (c) a railway servant cannot be substantively appointed to a post on which another railway servant holds a lien.

The fact that I had been substantively appointed to the permanent post on which I acquired and retained the lien even in my absence on transfer to E. Railway, no other railway servant could be appointed to that permanent post of TTE in terms of rule 228-RI, it is sufficient enough ground to reinstate me to the post of to which I held title from the date of my confirmation w.e.f. 1.4.80. I maintain that no railway servant can be 'de-confirmed'

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*Saurabh
Advocate*

on transfer to another railway as it would leave him without a lien which is prohibited in the rules. Hence assignation of my seniority from 16.9.87 or 22.9.87 is without any basis , and ultra vires the rules .

The authorities below have laid great emphasis on acceptance of bottom seniority as provided for in the case of inter-railway transfer in Railway Ministry's L/No.E. 55SR/6/6/3 dt.19.5.55 for applying the same to my re-transfer to this railway. Had my re-transfer been construed as a transfer in terms of the letter of the Rly. Ministry I should have been transferred to the post of Ticket collector and not to an intermediate grade post of TTE where there is no element of direct recruitment , as laid down in Rly. Board's letter No.E(NG) I-69 SR 6/15 dt.24.6.69. However, once the transfer is treated as a re-transfer to my former post there can be no question of assigning seniority below all the confirmed and officiating staff in the grade of TEE. Assignation of seniority in the manner as has been done by DRM(P)/LMG is not authorised by any rule.

6. I had been making representations against the ~~cause~~ in regard to acceptance of bottom seniority on my re-transfer to this railway and DRM(P)/LMG has also been referring the matter to CCS(P) MLG for decision from time to time. From this I had been under the impression that the issue of my seniority was open.

contd..

Lawyer Advocate

But DRM (P).LMG vide its L/No. 39-20 (SNY) dt.24.3.93 has assigned me seniority at sl.No.116 and in the column meant for date of approval of the panel for LR TC for TTE which has been the stated criterion for assignation of seniority ,16.9.87 has been mentioned, whereas no panel for LR TC for TTE was approved on that date. In col.7 as well the date of promotion to the grade has been shown as 22.9.87 on the ground mentioned col. 10 i.e. that I had joined at LMG on that date on my re-transfer from E.Rly . All these criteria militate against all the provisions of relevant rules as well as any sound logic or reason . If my re-transfer to NF Railway has to be construed as a transfer on my own request meriting loss of seniority etc. and absorption in the recruitment grade of TC on NF Rly. I could not be absorbed in the cadre of TTE or if my re-transfer is treated as a transfer back to my old establishment there can be no loss of seniority. It may also be joined out that even those who joined at LMG later than 22.9.87 have been shown to be senior to me , such as sl.No.101 (promoted on 1.2.90), sl.No.81 (promoted on 23.5.91), sl. no.77 (promoted on 20.10.87), sl.No.49 (promoted on 14.8.88).

7. I have mentioned above that prior to my transfer to E.Rly my promotion had become due to the post of Hd.TTE/conductor in scale Rs.425-640/- (RS)

contd..

*Sareen
Admiral*

w.e.f. 1.1.84 as a result of restructuring of cadre.

Incidentally, my name had featured in one of the promotion orders but it was held up till the time

I was not spared and then striking off my name

one of my juniors M.L.Chakraborty was promoted

w.e.f.1.1.84 as LR Conductor in scale Rs.425-640/-

Giving effect of promotion from a prescribed

retrospective date means that the eligible staff

would have been promoted from that ~~retrospective~~

date .As suc, I being one of the eligible staff

was entitled to promotion w.e.f. 1.1.84 itself

had the orders been made earlier on or around

1.1.84 and had I been given effect of the promotion

on 1.1.84 I would have been working as Hd.TTE/

conductor at the time I sought my transfer or

carried out the transfer order . It certainly

could have changed the circumstances materially

in which I might not have opted to go on inter

railway transfer . Hence delayed issuance of the

promotion order after receipt of Rly. Board's

instructions and directions thereon from N.F.Railway

headquarters was aimed at facilitating promotional

chances for the said M.L.Chakraborty at my cost.

In any case, when I came back to my former post

and on the relevant date I was working as TTE

i.e. on 1.1.84 I was entitled to be promoted to

the post of Hd.TTE or conductor instead of

M.L.Chakraborty.

*Savina
Advocate*

contd..

C. Submissions .

In view of the foregoing , I appeal to you to kindly consider the above facts and circumstances judiciously and would be judiciously pleased to issue directions to the authorities below for assigning me seniority which I enjoyed originally in the cadre of TTE and ordering for my promotion to the post of Hd.TTE or conductor w.e.f. 1.1.84 instead of M.L.Chakraborty. And for which I shall ever be grateful.

Thanking you.

Yours faithfully,

Sd/-Alike Kumar Basu,
TTE/Lumding,

26.4.93.

*Lawrence
Advocate*

Annexure -XVI.

N.F.RAILWAY

No.195 G/4/2 (T)P.II.

Office of the
General Manager,
(Personnel Branch).

To

DRM (P)/LMG.

Sub - Representation of Shri A.K.Basu,
TTE/LMG for loss of seniority on
re-transfer from E.Rly. to N.F.
Rly.

Ref- Your letter No.ES/10-A(T)dated
22.12.93.

With reference to above, it is to
inform that since Shri A.K.Basu, TTE/LMG had already
joined E.Rly. on acceptance of bottom seniority
and was later transferred to N.F.Rly. again on
acceptance of bottom seniority. There is no question
to restore his original seniority as TTE.

Shri A.K.Basu, TTE/KMG may be informed
accordingly.

Sd/-Illegible, 13.2.95.

for GENERAL MANAGER (P).

*Attested
Saxena
Advocate*

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(10/11/95)
N. F. P. J.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :-

O.A. No. 84 of 1995

A.K. Basu ... Applicant.

Vs.

Union of India & Ors... Respondents.

AND

IN THE MATTER OF :-

Written statement on behalf of
the respondents.

The answering respondents beg to state as follows :-

1. That the answering respondents have gone through the copy of application on which the above-noted case has been registered and have understood the contents thereof.
2. That save and except the statements which are specifically admitted here-in-below, other statements made in the application are categorically denied. Further, the statements which are not borne on records are also denied, and the applicant is put to the strictest proof thereof.
3. That with regard to the statements made in paragraph 6.1 of the O.A., the answering respondents do not admit anything contrary to relevant records of the case.

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N.F. Railway
Chennai
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4. That with regard to the statements made in paragraphs 6.2 and 6.3 of the application, it is stated that the applicant applied for transfer to Eastern Railway on 17.2.83. Accordingly, as per rule, on bottom seniority in the grade of Ticket Collector he was transferred to Sealdah Division of Eastern Railway vide GM(P)/Maligaon's letter dtd 2.6.83 (Annexure '13 to the O.A.).

As regards the question of confirmation of the applicant as TTE and the lien on that post, it is stated that on acceptance of bottom seniority in the grade of Ticket Collector, the applicant was transferred to Eastern Railway. Hence, the confirmation and lien has automatically foregone as per rule.

5. That with regard to the statement made in paragraph 6.4 of the application, it is stated that the statements made by the applicant are self-explanatory and need no further comments.

6. That with regard to the statements made in paragraph 6.5 of the application, it is stated that since the applicant had accepted transfer to the Eastern Railway as per his own request and in acceptance of bottom seniority, the lien has been forfeited automatically.

7. That with regard to the statements made in paragraphs 6.6 to 6.13 of the application, the answering respondents state that the applicant was transferred from Eastern Railway to N.F. Railway accepting bottom seniority as per rule. Accordingly, his seniority has been assigned from the date he joined in

the N.F. Railway. There is no scope to restore the seniority which the applicant had left behind at the time of his transfer to Eastern Railway on own request.

8. That the answering respondents state that the instant application has been preferred on a wrong notion of the matter. The application is also bad for non-joinder of necessary parties and hit by the principles of waiver, estoppel and acquiescence.

9. That in view of the circumstances stated above, the instant O.A. is not maintainable and liable to be dismissed.

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

I, Shri A.K. BRAHMO aged about 37 years, working as Deputy Chief Personnel Officer of the N.F. Railway administration, do hereby solemnly affirm and state that the statements made in paragraphs 1 and 2 are true to my knowledge, those made in paragraph 3 to 7 are true to my information derived from the records of the case and the rests are my humble submission before this Hon'ble Tribunal.

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

(सहो)
ग. उ. र. (Gas)
Dy. Ch.
N. F. Railway Maligaon.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :-

O.A.-No. 84 of 1995

Shri A.K. Basu ... Applicant.

Vs.

Union of India & Ors.... Respondents.

AND

IN THE MATTER OF :-

Additional written statements on
behalf of the respondents.

The answering respondents beg to state as follows :-

That the answering respondents have already filed a written statements in the above-noted O.A. The instant additional statement by way of additional written statement has been filed for proper appreciation of the matter and the same is in continuation and in add of the earlier written statement.

1. That in the year 1984, the applicant was transferred to Eastern Railway, Sealdah Division, on his request on acceptance of bottom seniority. In terms of para - 227 R-1, a railway servant on transfer from one

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railway to another railway on his written request shall forfeat his lien in the transferring railway.

2. That the applicant again in the year 1986 sought his transfer to N.F. Railway on his written request on ~~accept~~ acceptance of bottom seniority and he was placed below the temporary and permanent staff in the cadre of T.T.E. in Lunding Division. The lien stated to be acquired on N.F. Railway was terminated on his transfer to Eastern Railway against a permanent post. In terms of Rule 238 R-1, a Railway Servant cannot be appointed substantively to the permanent posts at the same time in two different railways, viz. Eastern Railway and N.F. Railway. The applicant was substantively appointed against a permanent post in Eastern Railway and acquired a lien on that post and thereby his lien in N.F. Railway was terminated.

3. That in terms of para 239R-1, the applicant on his transfer to Eastern Railway on his written request to acceptance of bottom seniority acquired a lien on the post of T.C. in Eastern Railway. Para 238R-1 also states that a Railway servant cannot be appointed substantively to two permanent post at the same time in the different railways and as such, his lien was terminated in N.F. Railway.

4. That Divisional Railway Manager(P), Lunding's statement communicated under letter No.E/29-24(TC)/Pt.III/T dtd 27.5.57 was in contrary to the provision of Rule 238 and 239R-1 and not accepted. Subsequently request of the applicant on acceptance of bottom seniority was agreed to

and communicated to DRM(P)/Lunding under CCS(P)/Maligaon's letter No. E/283/94/1 Pt.VII(T)/LMG dtd 16.9.87.

5. That the transfer of the applicant was considered on his written request on acceptance of bottom seniority below all the temporary and permanent staff in the cadre of TTE in the Lunding Division in N.F. Railway. He cannot be restored to his original position assigned to him prior to his transfer to Eastern Railway as his lien automatically stands terminated with his transfer to Eastern Railway.

6. That on the eve of his joining to the post of T.T.E. on 18.9.87 on re-transfer to N.F. Railway, the declaration of acceptance of bottom seniority was obtained from the applicant which was in order and in accordance with condition prescribed in the letter addressed to DRM/Eastern Railway/Sealdah.

7. That DRM(P)/Lunding was intimated to communicate the decision of GM(P)/Maligaon vide letter No. 195E/4/2(T) Pt.II dt 14.2.95 that the claim to restore the applicant in the pre-transferred seniority position of N.F. Railway is not tenable.

8. That the circumstances does not warrant any special consideration under the coverage of Rule 225-RI which clearly inter-alia states that the railway servant cannot claim as a matter of right for transfer of his service to another railway.

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VERIFICATION.

I, Shri A.K. BRAHMO, aged about 37 years, by occupation Railway Service, working as Deputy Chief Personnel Officer of the N.F. Railway administration, do hereby solemnly affirm and state that the statements made in paragraphs 1 to 8 are true to my information derived from the records of the case which I believe to be true.

I sign this Verification on this 12 th day of March/97

A.K. Brahma

DEPUTY CHIEF PERSONNEL OFFICER
NORTHEAST FRONTIER RAILWAY
MALIGAON :: GUWAHATI
FOR & ON BEHALF OF (राज.)
UNION OF INDIA. (Gaz)

N F Railway, Maligaon.