

30/100
10
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

(1) M.P. 149/01 under P.R. 2-1
(2) M.P. 156/01 under P.R. 1
(3) M.P. 77/95 under P.R. 162

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NP. Patalin

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SECTION OFFICER (Judl.)

Brahma
6.2.18

ORIGINAL APPLN. NO.

TRANSFER APPLN. NO.

CONT EMPT APPLN. NO.

REVIEW APPLN. NO.

MISC. PETITION NO.

170 OF 1995

OF 1995

OF 1995 (IN

NO.)

OF 1995 (IN

NO.)

OF 1995 (IN

NO.)

~~Birendra Ch. Mukul~~
~~Pr Chandan Mukul~~

APPLICANT(S)

-vs-

Mr. O. I. T. S. N. D. RESPONDENT(S)

For the Applicant(s)

... Mr. M. K. Choudhury

Mr. B. Mehta

Mr. S. Sarma

Mr.

Mr. B. K. Sharma

Ph. Adv.

For the Respondent(s)

OFFICE NOTE	DATE	ORDER
5-95	4.9.95	<p>per B. Mehta for A. one Bind. Re stating to be witness & - Applicant in present</p> <p>Heard Question of applying test of handicapped person arises. Needs consideration.</p> <p>OA admitted.</p> <p>I. Give notice to respondents within 8 weeks for OA.</p> <p>II. In view of allegations contained in para 4(c) issue notice to persons mentioned therein viz, (1) Naren Das and (2) Sadananda Ganguly.</p> <p>to show cause and against the said allegations within 8 weeks. Copy of OA to be sent to both each of them with</p>
31/8/95 S. N. D.	Pass	

Central Office
Central Administrative Tribunal
Guwahati Bench
Guwahati - 781 006

OFFICE NOTE

DATE

ORDER

2
notice. Address of these premises supplied by applicants today. Service letter notice to be addressed to these addresses.

III. Applicant to supply relevant copies for respondents plus for above 2 persons within one week from today.

Adjs to — 3.11.95

60

MLL

17.8.95

Mr M.K.Choudhury for the applicant.

The applicant had filed O.A.716/94 at the Calcutta Bench of C.A.T. By order dated 19.7.95 the Calcutta Bench has returned the same to the applicant to be presented at this Bench for want of jurisdiction. Accordingly the applicant has now presented the O.A. alongwith the instant M.P. He seeks leave to carry out formal amendment therein. There is no necessity to issue notice to the respondents for the purpose of the instant M.P. As the O.A. is continuation of the O.A. that was filed in the Calcutta Bench the technical delay on its presentation in this Tribunal is purely accidental and the same is hereby condoned. It is made clear that the question of limitation if would be raised with regard to the O.A. on the date ^{on} of which it was filed in the Calcutta Bench is left open. The applicant is permitted to carry out necessary amendment in the O.A. within 2 weeks.

The O.A. to be registered and placed for admission on 4.9.1995.

M.P. accordingly disposed of.

A copy this order be placed in the file.

60
Member

Vice-Chairman

This may be passed
to Mr. P.C. Datta to
open file & to make ^{pg}
entry in the Register
for OA 716.

On 22/8 Mr. Datta
pl. take note.

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

✓ ORIGINAL APPLN.NO.	170	OF 1995
TRANSFER APPLN.NO.		OF 1995
CONT EMPT APPLN.NO.		OF 1995 (IN NO.)
REVIEW APPLN.NO.		OF 1995 (IN NO. 4)
DISC. PETITION NO.		OF 1995 (IN NO.)

Chandan Ukil

APPLICANT(S)

Union of India ^{vs} & ors.

RESPONDENT(S)

For the Applicant(s) ... Mr. M.K.Choudhury

Mr. B.Mehta

Mr. S.Sharma

Mr.

Mr. B.K.Sharma, Rly. Advocate.

RECE NOTE

DATE

ORDER

4-9-95

Mr. B.Mehta for Applicant. One Binod Kr. stating to be brother of applicant is present. Heard. Question of applying test of handicapped person arises. Needs consideration.

O.A. admitted.

I. Issue notice to respondents. 8 weeks for W/S.
 II. In view of allegations contained in para 4(n) issue notice to persons mentioned therein viz. (1) Naresh Das and (2) Sadananda Sengupta to show cause against the said allegation within 8 weeks. Copy of CA to be sent to each of them with notice. Address of these persons supplied by applicant's brother today. Notice to be addressed to these addresses.

III. Applicant to supply requisite copies for respondents plus for above 2 persons within one week from today.

Adjourned to 3-11-95 for orders.

Sd/-
Member (A)

Vice Chairman

Replies are due
on 14-9-95
Sd. 14-9-95

1379

(contd. to Page No. 2)

OFFICE NOTE

DATE

ORDER

3.11.95

Notice served on
R. no. 3 & 5Notice read back
from R. no. 6 & 7.

6/2/95

The applicant to take steps to effect service on Naresh Das and Sadananda Sen-Gupta afresh as the notices sent on the address supplied by his brother are returned unserved. The applicant to intimate fresh address to the office of this Tribunal within 4 weeks together with a written application for reissuing the notice to the aforesaid persons.

Adjourned to 11.12.95 for orders.

A copy of this directions should be sent to the applicant immediate

Order of 3.11.95

Case No. 4925
S. 6/11/95

pg

11-12-95

6/2
Member

Vice-Chairman

Adjourned to 22-1-96.

1m

12.3.96

6/2
Member

Vice-Chairman

Learned counsel Mr B. Mehta for the applicant.

List for hearing on 13.5.1996.

6/2
Member

Mr B. Mehta for the applicant.

List for hearing on 21.6.96.

6/2
Member

pg

13.5.96

Forest - Valakatnam
in re/o Mr. P K Tiwari,
Adv. filed.

4-6-96

21-6-96 None is present. List for hearing on 19-7-96.

6
Member

lm

19.7.96 Mr B.Mehta for the applicant. List for hearing on 19.8.96.

6
Member

1-8.76

pg

Notice issued No. 6/7.
due to respondents
non-availability.

as marked 19.8.96.

Mr. S. Sarma for the applicant.

List for hearing on 16.9.96.

6
Member

16.9.96

Mr. S. Sarma present for the applicant.

List for hearing on 10.10.1996.

6
Member

trd

16/9

10.10.96

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

List for hearing on 28.11.96.

6
Member

nkm

6
715

8-4-97

Learned counsel Mr. S. Sarma
for the applicant is present.

List for hearing on 8-5-97.

6

Member



Vice-Chairman

pg

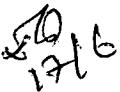


9/11

1) Reply to the Application
by 24-6-97 8.5.97

2) Rejoinder by 24-6-97.

3) Reply to the Rejoinder
by 24-6-97.



24/6/97

Left over. List on 18.6.97 for
hearing.

6

Member



Vice-Chairman

pg



9/15

18/6/97

~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~
~~xxxxRailwayxxxxxx. xxxxxxx~~
~~xxxxxxxxxxxxxxxxxxxxxx~~

19-6-97

Railway administration is not

represented by any counsel. No memo
of appearance has been filed. However, in the
interest of Railway administration and for
the ends of justice we adjourn the case
till 29-7-97.

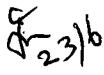
29

Member



Vice-Chairman

1m



8/23/97

1) W.S. Sharma by 24-6-97

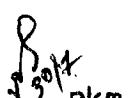
2) Rejoinder by 24-6-97.

3) Reply to the Rejoinder
by 24-6-97.

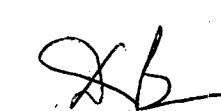
29.7.97

Mr B.K. Sharma, learned Railway
Counsel, due to certain difficulties
cannot take up the case. Accordingly the
brief has been transferred to Mr J.L.
Sarkar, another Railway Counsel.
Mr Sarkar prays for a short adjournment
as he is not prepared. Accordingly the
case is adjourned till 29.8.97.

Member



19/7/97
nkm



Vice-Chairman

29.8.97

Division Bench is not available

today.

List on 23.9.97 for hearing.

69
Member

pg

23.9.97

Mr B.K.Sharma, learned Railway standing counsel submits that he is not willing to take up the case because all the counsel appearing on behalf of the applicant are his juniors. The case has already been handed over to another counsel. However, formal letter has not yet been received. Mr P.K.Tiwari, learned counsel for the applicant has no objection.

Accordingly the case is adjourned to 12.12.1997 for hearing.

69
MemberJ.S
Vice-Chairman

pg

24/9

12.12.97 There is no sitting of Division Bench. Adorned to 11-2-98.

By order

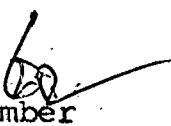
11.2.98

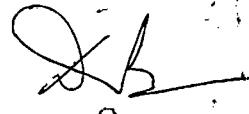
Mr B.K. Sharma, learned Railway Counsel is indisposed. In his place Mr J.L. Sarkar has entered appearance. Mr Sarkar submits that he could not go through the papers today. List the case tomorrow for hearing.

69
MemberJ.S
Vice-Chairman

nkm

12.2.98 Heard counsel of the parties.
Hearing concluded. Judgment delivered
in open court, kept in separate sheets.
The application is dismissed of.
No order as to costs.


Member


Vice-Chairman

24.2.98
Issued notice
D. No. 455 to 460 pg
on 24.2.98.


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

O.A.No. 170 of 1995.

DATE OF DECISION.....12.2.1998.....

Shri Chandan Ukil

(PETITIONER(S))

Shri P.K.Tiwari, L.L.B.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Shri J.L.Sarkar, Railway
Standing counsel.

ADVOCATE FOR THE RESPONDENT

THE HON. JUSTICE SHRI D.N.BARUAH, VICE-CHAIRMAN
THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble Vice-Chairman.


18.2.98

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 170 of 1995.

Date of Order : This the 12th Day of February, 1998.

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

Shri G.L.Sanglyine, Administrative Member.

Shri Chandan Ukil
son of Shri Birendra Chandra Ukil
residing at Sibendra Narayan Road, (East)
North Side of Junior B.T.College,
Dist. Cooch Behar (West Bengal) Applicant.

By Advocate Shri P.K.Tiwari.

- Versus -

1. Union of India
through the Secretary,
Ministry of Railways, Rail Bhawan,
New Delhi.
2. The General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
3. The Chief Personnel Officer,
(Recruitment Section), N.F.Railway,
Maligaon, Guwahati-11.
4. The Employment Officer,
District Employment Exchange,
Government of West Bengal,
Cooch Behar, West Bengal.
5. The Superintendent,
M.J.N.Hospital,
Cooch Behar. Respondents.

By Advocate Shri J.L.Sarkar, Railway
standing counsel.

O R D E R

BARUAH J. (V. C)

This application has been filed by the applicant
praying inter alia for a direction to the respondents to
appoint him as a physically handicapped person. He is a
handicapped person of visual deformity. The claim of the
applicant was turned down by the Railway administration

AB

on the grounds stated in Annexure R1 circular annexed to the reply of the Railway administration. The applicant was not covered by the said circular and therefore he was not entitled to the benefits of physically handicapped person. Against that a representation was submitted by the applicant to the Railway Minister. However, there was no reply to that representation. The contention of the applicant that the Railway administration unreasonably denied the claim of the applicant even though he came very much within the provisions of the Annexure R1 circular to the reply of the respondents. We have perused the Annexure R1 circular and so far the definition is concerned the Blind is described as follows :

"The blind are those who suffer from either of the following conditions:-

- (a) Total absence of sight;
- (b) Visual acuity not exceeding 6/60 or 20/200 (Snellen in the better eye with correcting lenses;
- (c) Limitation of the field of vision subtending an angle of 20 degrees or worse."

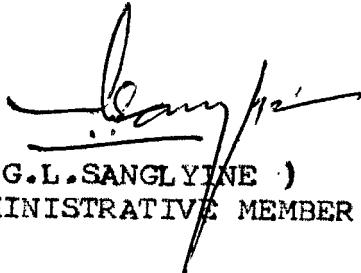
2. We have heard Mr P.K.Tiwari, learned counsel appearing on behalf of the applicant and Mr J.L.Sarkar, learned Railway standing counsel for the respondents. From the definition of blindness as per Annexure R1 to the written statement only a medical expert can ascertain about the visual acuity 6/60 or 20/200 (Snellen). Under the circumstances, we dispose of this application with a direction to the respondents to pass a reasoned order after ascertaining from a medical expert. The respondents shall allow the applicant to personally appear at the time of consideration of the matter if so advised. This must be done within 3 months from the date

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contd..3

of receipt copy of this order. If the applicant is still aggrieved he may approach this Tribunal.

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


(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER


(D.N.BARUAH)
VICE CHAIRMAN



15
APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE

TRIBUNAL ACT, 1985

O.A. No.

170

of 1993

of Granbali Behar

Title of the Case : Shri Chandan Ukil son of Shri Birendra Chandra Ukil residing at Sibendra Narayan (East), Junior Road, North Side of B.T. College, District Cooch Behar (West Bengal).

... Applicant.

: V E R S U S :

Union of India and Others.

... Respondents.

: I N D E X :

Sl.No.	Description of documents relied upon.	Page No.
1.	Application	1 to 11
2.	Copies of some documents being collectively marked as annexure "A" hereto.	12 to 13
3.	Copy of notice dated 18.6.1991. (being annexure "B" hereto).	14 to 15
3(a).	Copy of certificate being annexure "C" -	16 to 19
4.	Relevant extract of Brochure being annexure "D" hereto.	20 to 21
5.	Xerox copies of the Medical Report conducting examination of the nature and extent of the handicappedness being the annexure "E" hereto.	22 to 25
5.	Copy of the letter dated 4.9.1993 being the annexure "F" hereto.	26
6.	Copy of the finding of the Medical Board of the Railway Authorities being the annexure "G" hereto.	27

DATE OF FILING

14/9/93

OR

DATE OF RECEIPT

BY POST

REGISTRATION NO.

Sl. No. 2507.

Chandan Ukil
Signature of the applicant.

16

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Guwahati CALCUTTA BENCH

R.
Wales

R.
Wales

Shri Chandan Ukil son of Shri
Birendra Chandra Ukil residing
(East),
at Sibendra Narayan Road, North
Junior
Side of B.T. College, District
Cooch Behar (West Bengal).

... Applicant.

: V E R S U S :

1. Union of India Service through the
Secretary, Ministry of Railways, Rail
Bhawan, New Delhi.
2. The General Manager, North East
Frontier Railway, Maligaon, Guwahati-II.
3. The Chief Personnel Officer (Recruit-
ment Section), North East Frontier
Railway, Maligaon, Guwahati-II.
4. The Employment Officer, District
Employment Exchange, Government of
West Bengal, Directorate of Employment
Service, Department of Labour, Cooch
Behar, West Bengal.

continued.../

Chandan Ukil

4. The Superintendent, M.J.N.Hospital,
Cooch Behar.

... Respondents.

DETAILS OF APPLICATION :-

1. Particulars of the order against which the application is made.

The instant application is directed against the acts and activities of the respondents in not giving the applicant appointment to the post of Office Clerks/Commercial Clerks in spite of the fact that the applicant has been selected in a regular process of selection for grant of such appointment.

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. Limitation

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985.

continued.../

Chandan UKC

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-:: (3) ::-

4. Facts of the case :

(a) That by and under letter No. E/227/220/RECTT/PT-II dated 2.1.1991 the name of the applicant was sponsored by the Employment Officer, District Employment Exchange, Cooch Behar to the Chief Personnel Officer, Maligaon.

(b) That your applicant states that thereafter your applicant was required to appear in a written test on 17.3.1991. A viva-voce test was held thereafter on 30.4.1991 and on the same day on 30.4.1991 medical examination of the applicant was conducted by a Medical Board consisting eminent Railway Doctors. Copies of the documents are collectively marked as "A" Annexure "A" to the instant application.

(c) That your applicant states that your applicant is a physically handicapped person and the esteemed process of selection was exclusively meant for the physically handicapped person.

(d) That your applicant states that by and under notice No. E/RECTT/PLCY./Handicapped/1989 dated 18.6.1991 the result of selection was published in which the name of your applicant duly appeared for grant of appointment under the ^{due} Alipore Division under serial no.1 of the ~~xxxxxx~~ list of visually handicapped person. A copy of the said notice dated 18.6.1991 is marked as annexure "B" to the instant application. "B"

(e) That your applicant states that soon after publication of the result of selection as contained in the notice being ^{/the} annexure 'B' hereto all the candidates to/~~be~~ exclusion of the applicant have been granted appointment to the respective posts.

continued.../

Chandan UKal

-:: (4) ::-

The applicant made quarries as to the reason of the applicant not being granted appointment but no satisfactory reply could be had from the Railway Authorities.

(f) That thereafter in purported reference to a letter of the Chief Personnel Officer, North East Frontier Railway, Maligaon being no. E/227/220/RECTT/PT-III dated 30.7.1991 the employment officer, District Employment Exchange, Cooch Behar asked the applicant to appear before a fresh Medical Board. The Additional District Magistrate, Cooch Behar also advised the applicant to appear before a fresh Medical Board. Persuant to the directions given by the authorities a fresh Medical Board was constituted and the applicant was examined by the said newly constituted Medical Board for several days with effect from 22.8.1991 to 28.8.1991. The said Medical Board declared your applicant to be fit and also assessed the extent of disability to be 55% as against 50% assessed earlier and to that effect granted the applicant a certificate. A copy of the said certificate was duly sent to the Railway Authorities. A copy of the said certificate is marked as annexure "C" to the instant application.

(g) That your applicant states that thereafter your applicant has made several representations to the authorities but to no effect.

(h) That your applicant states that the local authorities being the Employment Officer, District Employment Exchange, Cooch Behar, the Additional District Magistrate, Cooch Behar, ^{District Vigilance} the ~~Chowkidar~~ Officer, ~~of Health~~, Cooch Behar have written

continued.../

Chandan UKil,

20

-:: (5) ::-

letters to the Railway Authorities requesting ^{to} him consider the case of the applicant sympathetically. The respective local authorities have also certified the fact of the applicant being physically handicapped.

(i) That your applicant states that your applicant could ascertain from the Office of the Railway Authorities that as if the applicant does not fall under the physically handicapped category. The applicant states that the examinations conducted for assessment of the nature of disability as also ~~to~~ quantum thereof shall reveal the testimony that the applicant is a physically handicapped person in terms of the standards specified in the Brochure on Reservations and Concessions for Physically Handicapped in Central Government Services. Relevant extracts of the said Brochure is marked as annexure "D" to the instant application. Xerox copies of the reports of the Medical Board conducting examination ~~to~~ of the nature and extent of the handicappedness are

"E" collectively marked as annexure "E" to the instant application.

(j) That your applicant states that thereafter by and under letter No.H/174/1(MED. ~~D~~d)). dated 4.9.1993 the applicant was asked by the Chief Hospital Superintendent, Maligaon ^{to appear} before a Medical Board for Examination on 24.9.1993 at Central

Hospital, N.F.Railway, Maligaon. A copy of the said letter dated 4.9.1993 is marked as annexure "F" to the instant application.

(k) That your applicant states that pursuant to the letter dated 4.9.1993 being annexure "F" hereto the applicant presented himself before the Medical Board of the Railway Authorities on 24.9.1993.

-:: (6) ::-

(l) That your applicant states thereafter ~~as~~ the applicant has been forwarded with a purported finding of the Medical Board of the Railway Authorities by which the applicant has been declined to be treated as a physically handicapped ^(blind) person allegedly in terms of Railway Boards Instructions Circular contained in letter no. E(HG) III-77/RCI/54 dated 8.1.1978. A copy of the said finding of the Medical Board of the Railway Authorities is marked as annexure "G" to the instant application.

(m) That your applicant states that on 8.3.1994 your applicant made a representation to the Hon'ble Minister of Railways, Government of India pointing out inter-alia that the finding of the Medical Board constituted ~~as~~ by the Railway Authorities as to the nature of disability and extent thereof of the applicant itself suggest the applicant to be a physically handicapped person within the declared policy of the Government and, therefore, rejection of the claim of the applicant for appointment under the Physically handicapped quota is, however, ^(blind) ~~inxxpx~~ improper.

(n) That your applicant states that your ~~his~~ applicant has a feeling in/mind that had the applicant could satisfied the illegal demand of ~~bribe~~ bribe of one N.F. Railway employee namely Sadananda Sengupta presently ^{under suspension} ~~working at~~ ~~Chandannagar~~ your applicant could not have faced any difficulty in getting the appointment. A ~~co~~cus of the employees of N.F. Railway put the applicant in a deliberate state of harrassment and humiliation to which the applicant had lodged diaries with the Police Station and the applicant had also to report the matter to the Vigilance Commission and the Vigilance Commission has also in their turn submitted their reports to the Railways Authorities at Maligaon.

contd...

Chandan UKil

-:: (7) ::-

5. Grounds for relief with legal provisions :

Being aggrieved by and/or dissatisfied with the purported acts and activities on the part of the respondent authorities in denying the applicant appointment under the quota meant for the physically handicapped persons your applicant begs to move Your ~~Excellency~~ Lordships on the following amongst other :-

: G R O U N D S :

- I. For that the acts and activities of the respondent in purporting to deny the applicant to be treated as a physically handicapped person is ~~an~~ wholly illegal, malafide opposed to all norms of procedural and other natural justices as also without any jurisdiction.
- II. For that the finding of the Medical Board of the Railway Authorities on the face of the same is perverse because of the reason that the nature of ~~xxx~~ disability ~~was~~ found by the Medical Board itself sufficient for treating the applicant to be in the category of the physically handicapped person under the declared policy of the Government and, therefore, intervention of this Hon'ble Tribunal is extremely urgent and emergent.
- III. For that the acts and activities of the respondents in purporting to refuse the applicant appointment in the facts and circumstances of the case are arbitrary whimsical and erroneous.

contd.../

Chandan UKil

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-:- (8) :-

IV. For that the applicant has suffered serious civil and other evil consequences.

V. For that the acts and activities of the respondents are violative of the guarantees enshrined under Articles 13(3), 14, 16, 19(1)(g), 21, ~~24~~ 39(d), 300A and also 311 of the Constitution of India.

6. Details of the remedies exhausted :

The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc.

7. Matters no previously filed or pending
with any other Court :

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of with this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief' sought :

In view of the facts mentioned in para 4 above the applicant prays for the following reliefs :-

(a) A declaration do issue declaring that the applicant is a Physically Handicapped person within the declared policy of the Government.

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-:- (9) :-:-

(b) A direction do issue upon the respondents to grant the applicant appointment with retrospective effect to the post of Commercial Clerk/Office Clerk forthwith ;

(c) A direction do issue upon the respondents to pay the applicant all the benefits attached to the post of Commercial Clerk/Office Clerk had the applicant been appointed in due time with all its accumulations together with an interest @ 18% per annum.

(d) And/or to pass such other or further order or orders as to Your Lordships may deem fit and proper ;

And your applicant as in duty bound shall ever pray.

9. Interim order, if any prayed for :

N i l

10. N i l

11. Particulars of the Indian Postal Order.

<u>No.</u>	<u>Date</u>	<u>Name of the issuing Post Office.</u>
874717	16/06/94	Town Hall Post Office, Calcutta - 1

Chandan UKil.

25

- :- (10) :-

12. List of Enclosures :-

1. Copies of some documents ~~xxxxxxxxxxxxxx~~ being annexure "A".
2. Copy of notice dated 18.6.1991.
3. Relevant extract of Brochure.
- 3(a) Copy of the Medical certificate.
4. Xerox copies of the Medical Report conducting examination of the nature and extent of the handicappedness.
5. A copy of the letter dated 4.9.1993.
6. A copy of the finding of the Medical Board of the Railway Authorities.

Chandan Ukil,

26

-:: (11) ::-

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

I, Shri Chandan Ukil son of Shri Birendra Chandra Ukil residing at Sibendra Narayan Road, North Side of B.T. College, District Cooch Behar, (West Bengal), aged about 31 years, by religion Hindu, by occupation unemployed, do hereby verify that the contents of paragraphs 1, 2, 3, 4, 6, 7 11 and 12 are true to my personal knowledge and those made in paragraphs 5, 8 and 9 are believed to be true on legal advice and that I have not suppressed any material fact and I have signed this verification at the Tribunal Premises on this the 14 th day of June, 1994.

Chandan UKil.

Date : 14.06.94 Signature of the applicant.
Place : Calcutta.

Attested.

Goutam Pathak Banerjee.
Advocate.

- 12 -

Annexure - A

27/3/91

2X

NORTHEAST FRONTIER RAILWAY.

Office of the
Chief Personnel Officer
(Recruitment Section)
Maligaon, Guwahati - 11.

No. E/227/220/Recrt/Pt. III

Dated 1 - 3 - 1991.

To

Shri/Smt Chandan Okil
SD coch Behar

YOUR ROLL NUMBER IS 75 (seven five) this is your
ADMIT CARD

RECRUITMENT OF CANDIDATES FOR THE POST OF
TR. OFFICE CLERK IN SCALE Rs. 950-1500/-,
COMML. CLERK IN SCALE Rs. 975-1540/- FOR
PHYSICALLY HANDICAPPED (ORTHOPAEDICAL/
VISUALLY/DEAF & DUMB) ON THE NORTHEAST
FRONTIER RAILWAY.

You are hereby advised to attend Netaji Vidyapith at
9.00 hrs on 17-3-91 1991 for written test (English,
General knowledge and Arithmetic). The candidates who qualify
in written test will be asked to appear in viva-voce at a later
date.

Rly. Higher Secondary School/Maligaon

You should bring your original certificates and mark-
sheets of your academic qualifications and proof of age.
Even if you are a Graduate or an under-Graduate you should
bring the original Matriculation/School Final/H. S. L. C/H. S. S. L.
certificates for verification of your date of birth. You should
also bring your original Marksheets. If you are member of the
Scheduled Caste/Scheduled Tribe community, you should bring
the original caste/Tribe certificates issued by the proper
authority.

No travelling expenses will be defrayed by the Railway.

Attested.

This Annexure - 'A' is the
true copy of the original
document.

for CHIEF PERSONNEL OFFICER

27/3/91

Goutam Pathak Banerjee
Advocate
14/06/94

28
- 13 -

NORTHEAST FRONTIER RAILWAY.

Office of the
Chief Personnel Officer
(Recruitment Section)
Maliagon, Gauhati - 781111.

No. E/227/220/Recr./Pt. III.

Dated 4-4-1997.

To

Shri/mt

Chandan Chet

East-Bihar

YOUR ROLL NUMBER IS

75 (seven five) this is your
ADMIT CARD

RECRUITMENT OF CANDIDATES FOR THE POST OF
TR. OFFICE CLERK IN SCALE RS. 950-1500/-,
COUNCIL CLERK IN SCALE RS. 972-1540/- FOR
PHYSICALLY HANDICAPPED (ORTHOPAEDICAL/
VISUALLY/DEAF & DUMB) ON THE NORTHEAST
FRONTIER RAILWAY.

You are hereby advised to attend Chief Personnel
Officer's Office/Maliagon at 9.00 hrs on 30-4-1997

You should bring your original certificates and
of your academic qualifications and proof of age. Even if
you are a Graduate or an Under-Graduate you should bring the
original Matriculation/School Final/H.S.C. O/H.S.S.C. certificates
for verification of your date of birth. You should also bring
your original Marksheets. If you are member of the Scheduled
Caste/Scheduled Tribe community, you should bring the original
caste/tribe certificates issued by the proper authority.
No travelling expenses will be defrayed by the
Railway.

for CHIEF PERSONNEL OFFICER.

Attested.
This Annexure - A is the
true copy of the original
document.

Goutam Pathak Banerjee
Advocate.
14.06.97

NORTH EAST FRONTIER RAILWAY

No. E/Rect/Plcy. Handicapped/1989. Dated 18.6.1991.

Written test held on ... 17.3.91

Viva-Voce test held on ... 30.4.91 & 1.5.91

The following candidates have been selected for Group-C (Commercial Clerk & office clerk in scale Rs.950-1540 and Rs.950-1500/- respectively) against the Handicapped quota :

A. For Katihar Division :

a) Orthopaedically handicapped:

1). Shri Pradip Prasad

Roll No.

62

b) Visually handicapped :

1). Shri Sudhir Sharma

231

B. For Alipurduar Division :

a) Hearing handicapped :

1) Shri Mridul De

82

b) Visually handicapped :

1) Shri Chandan Ukil

75

2) Shri Ujjal Kumar Adhikari

6

c) Orthopaedically handicapped :

1) Smt. Basana Mallick

20

2) Shri Bikalpa Roy Choudhury

37

C. For Lumding/Tinsukia Division

a) Orthopaedically handicapped :

1) Smt. Raihana Khatoon

134

2) Shri Anil Barua

149

3) Shri Devendra Nath Thakur

143

4) Shri Nipen Chandra Goswami

138

5) Shri Dipak Chandra Bania

50

b) Hearing handicapped :

1) Shri Sambhu Ram Deka

216

2) Smt. Nabanita Mukherjee

117

3) Smt. Swapna Rani Dey

87

4) Smt. Tandra Acharjee

121

5) Shri Dipen Kumar Dutta

116

Attested.

This Annexure - B is the true copy of the original document.

Goutam Pathak
Bameri.
Advocate
14.06.94

contd....

80

N.F.Railway

= 2 =

c) Visually handicapped :

1) Smt. Keka Rani Das	158
2) Shri Chinmoy Bhattacharjee	110
3) Shri Uma Kanta Nath	202
4) Shri Dibakar Kalita	1
5) Shri Manik Choudhury	85
6) Smt. Rupa Das	183
7) Shri Riten Barua	109
8) Shri Chitta Narayan Barua	175

Sd/- Illegible.

Sr. Personnel officer(HQ),
NF Railway, Maligaon.

Aftered.

This Annexure - 'B' is the
true copy of the original
document.

Goutam Pathak Baruwal
Advocate
14.06.94

Annexure - 'C'

-16-

GOVERNMENT OF WEST BENGAL
DIRECTORATE OF EMPLOYMENT SERVICE
DEPARTMENT OF LABOUR

X-79



EXCHANGE

Dated 6.8.1991.

Dear Sir,

With reference to your letter dated Nil, you are requested to call at this office on any working day between 16.8.91 hours. Please bring with you originals or copies attested by a Government Gazetted Officer of your certificates regarding qualifications, experience, etc. A personal interview with you will enable this office to correctly record your qualifications, etc and to acquaint you with the ~~vacancy~~ position.

Please note that no travelling expenses are payable for this journey.

Pl. bring your physically
SSP (1984) Cal-56
standing certificate and Employment Officer
ex. card with you,

Attested.

This Annexure - 'C' is the true
copy of the original document.
Goutam Pathak Banerjee
Advocate

14.08.94

GOVT. OF WEST BENGAL
DEPARTMENT OF LABOUR
DISTRICT EMPLOYMENT EXCHANGE
COOCH BEHAR-736101

No. 300/40/1/91/286/86

Date: 29.8.91.

To
The Chief Personnel Officer,
(Recruitment Section)
Maligaon, Guwahati - 78111

Ref: Your no. 4/227/220 (Recrt) Pt- III, Dt- 30.7.91.
Sub: Verification of P.M. Certificate.

Dear Sir,

Reference your memo no. stated above, Sri Chandan Ukil was once again examined by the competent medical board and issued a fresh P.M. certificate on 29.8.91. It is certified by the medical board that disability of Sri Ukil is 55%. Attested copy of the certificate is enclosed herewith for your perusal. You are requested to consider candidature of Sri Chandan Ukil for the vacancy of clerk against which his name was sponsored from this Office.

Yours faithfully,

(P. K. JANA)
Employment Officer,
Cooch Behar.

✓ Copy forwarded to Sri Chandan Ukil &/o Sibendra Ch. Ukil
Sibendra Narayan road Vivekananda Palli, Paltan- Cooch Behar
for information.

Attested.

This Annexure - 'e' is the true copy
of the original document.

Ramam Natha Banerjee

Advocate

14.06.94.

(P. K. JANA)
Employment Officer
Cooch Behar
Employment Officer (Protemp)
District Employment Exchange
Cooch Behar.



Office of the Superintendent, M.J.N. Hospital
Cooch Behar



This is to certify that Sri/Smt. Chandan Kuri
Son/Daughter/Wife of Sri Birendra Chand Kuri
appeared before me and examined by me. He/She is PHYSICALLY
HANDICAPPED DUE TO Ein. Smith Bikanra RE : Enkay
Gan Cona Li and unable to
do normal work.

Disability fifty five
Percent now in P.S.

29/8/91

Superintendent
M.J.N. Hospital, Cooch Behar

Medical Officer, E.V.T. Surgeon
M.J.N. HOSPITAL

29/8/91
M.J.N. HOSPITAL
COUCH BEHAR

29/8/91
Medical Officer
(Orph. Surgeon, M.J.N.
Hospital, Cooch Behar

Attested
This Annexure 'C' is the true copy of
the original document.

Goutam Pathak Banerjee
Advocate. 14.06.94.

GOVERNMENT OF WEST BENGAL
OFFICE OF THE DISTRICT MAGISTRATE
COOCHBEHAR.

Memo No.

Date :

From : The Addl District Magistrate
Coochbehar.

To : 1) The General Manager
N.F. Railway,
Maligaon, Gauhati

2) The Chief Personal Officer
N.F. Railway
Maligaon, Gauhati-11.

Sub:-Appointment of Shri Chandan Ukil, Roll No. 75
against Physically Handicapped quota.

Sir,

With reference to the above, I am enclosing herewith
certificate given by the Supt. of M.J.N Hospital, Coochbehar certifying the
disability of Shri Ukil

I shall be grateful if Shri Ukil is given appointment
against the post for which he has been selected.

Yours faithfully,

Sd.
Addl District Magistrate
Coochbehar.

Memo No. 914 (2)/1 (2) Cm

Date : 29-8-91

Copy forwarded for information to :-

1. The Employment Officer, Coochbehar. He is requested to intimate General Manager, N.F. Rly, Maligaon, Gauhati about the genuineness of Shri Chandan Ukil's claim.

2. Shri Chandan Ukil.

Affested.

This Annexure - 'C' is the true
copy of the original document.

Goutam Pathak Banerjee
Advocate.

14.06.94

Sd/-
Addl District Magistrate
Coochbehar 29-8-91

ANNEXURE-II

(1) Visually Handicapped

The definition adopted for visual handicapped for extending the concession, scholarships, admission to Integrated education system, reservation in jobs, assistance for purchase/fitting of aids and appliances :—

The blind are those who suffer from either of the following conditions :—

- (a) Total absence of sight.
- (b) Visual acuity not exceeding 6/60 or 20/200 (snellen) in the better eye with correcting lenses.
- (c) Limitation of the field of vision subtending an angle of degree or worse.

Definition of Hearing Handicapped under various schemes

SCHOLARSHIPS

The deaf are those in whom the sense of hearing is non-functional for ordinary purposes of life. They do not hear/understand sound at all even with amplified speech. The cases included in this category will be those having hearing loss more than 70 decibels in the better ear (profound impairment) or total loss of hearing in both ears.

Assistance to Disabled Persons for Purchase/Fitting of Aids/Applications

The partially hearing are those falling under any one of the categories indicated below :—

Category	Hearing acuity
Mild impairment	More than 30 but not more than 45 decibels in better ear.
Serious impairment	More than 45 but not more than 60 decibels in better ear.
Severe impairment	More than 60 but not more than 90 decibels in better ear.

Reservation Orders Issued by Department of Personnel and Administrative Reforms

The deaf are those in whom the sense of hearing is non-functional for ordinary purposes of life. They do not hear/understand sounds at all even with amplified speech. The cases included in this category will be those having loss more than 90 decibels in the better ear (Profound impairment) or total loss of hearing in both ears.

Locomotor Handicapped

Similarly the definition adopted for orthopaedically handicapped is not uniform as all orthopaedically handicapped are eligible for getting a scholarship but only those orthopaedically handicapped person can get the facility of reservation in jobs have a minimum of 40% disability.

Situation in State Governments

Various State Governments have also adopted different sets of definition. For example, Govt. of Tamil Nadu declared one eyed persons in the same category as blind persons and have extended various concessions including the reservation in jobs under the State Government of one eyed person also. The Central Government on the other hand has declared that a one eyed person with one eye good vision is not medically unfit and can be considered for jobs which do not require a three dimensional vision to the specific requirement of the jobs.

Attested.

This Annexure - 'D' is the true
copy of the original document.

Goutam Patnaik Bamerjee

Advocate

14.06.94

ANNEXURE-III

**Visual Impairment disability Categories basis on its severity
and proposed disability percentages**

	All with corrections		Percentage impairment
	Better eye	Worse eye	
Category 0	6/9—6/18	6/24 to 6/36	20%
Category I	6/18—6/36	6/60 to Nil	40%
Category II	6/60—4/60 or Field of vision 110—20	3/60 to Nil	75%
Category III	3/60 to 1/60 or Field of vision 100	F.C. qt 1 ft. to Nil	100%
Category IV	F.C. at 1 ft. to Nil or Field of vision 100	F.C. ar 1 ft. to Nil	100%
One eyed persons	6/6	F.C. at 1 ft. to Nil	30%

The method of evaluation shall be the same as recommended in hand book of Medical examination.
Impairment of 20%—40% or less may only be entitled to aids and appliances.

Attested.
This Annexure 'D' is the
true copy of the original
document.

Goutam Pathak Banerjee
Advocate.

14.06.94

West Bengal Form No. 763.

8550

TICKET FOR OUT-ONCO PATIENTS

At the M. T. N. Hospital
Date of first visit 22/5/91 No. in O. P. Register
Name Chaudhuri
Age 29 Caste H. S. Birth S.
Disease

22/8/91	6/24 No. PL. PR
DTR	False Start. R.F. examined by Dr. S.K. S.
Dr. P. T. in of dr.	
Dr. S. B. M.	
Admitted in Radiology	
ACCT-A 80000-1071-78	2,00,000 2,00,000
On Sat night 10/8/91 at 10 AM Mr. S. K. S. Radi	

Attested

document
Goutam Pathak Banerjee
Advocate.

14.06.94.

18

Maculop-Rflex
Partly dull RE
Temporal pallor
of the Disc RE

Tonometry Report -

RE. 26. ¹ C mmWg.

WF. - 4:1.5 min ifg.

Wt. 5.5 gms.

R $+0.75(-)$ T L Reflex dull

Attested -

This Annexure 'E' is the true copy of the original document.

Qontam Pathak Banerjee.

Advocate:

14.06.94.

-24-

39

28/8/91

Ex. C - 0.50 Dh 6/18 (P)

No. PL. PL

Attested
This Annexure 'E' is the
true copy of the original
document.

Goutam Pathak Banerjee
Advocate
14.06.94

- 25 -

R

M. J. IV. HOSPITAL, YOGA
Name. Chandan. (Sl.)
DATE 28/8/94

	SPH	HTO	LEFT	PL. PR
DV	-0.60	-	RF	
NV	-	-	-	-

Method for Com. see
form other than circular.

28/8/94
কাফন বোর্ড
পর্যবেক্ষণ
প্রযোগ পালন বোর্ড
প্রদেশ প্রযোগ
বোর্ড

Attested -

This Annexure - E is the
true copy of the original
document.

Goutam Pathak Bawali

Advocate

14.06.94

Annexure - 'F'

- 26 -

BY REGD. POST.

NORTHEAST FRONTIER RAILWAY.

No: H/174/1 (Med.Bd).

Office of the
Chief Hospital Supdt: Maligaon.
Dated, 04-9-93.

To

Sri Chandan Ukil.
S/o- Sri Birendra Ch. Ukil.
Sibendra Narayan Road.
North Side of B.T. College.
Dist: Cooch Behar (WEST BENGAL).

Sub:- Medical Board for examination
on 24-09-93 at Central Hospital
N.F.Rly/Maligaon.

A Medical Board has been arranged to
examine you on 24.09.93 at Central Hospital/N.F.Rly/Maligaon.
As such, you are advised to report to the office of the
undersigned on 24-09-93 ^{as per} positively.

Maligaon 4/9/93
Dr. Y.C. Bhushanam.
Chief Hospital Supdt/Maligaon.

Attested.

This Annexure - 'F' is the
true copy of the original
document.

Goutam Pathak Banerjee.
Advocate.

14.06.94

Sub :- Applicant of Shri Chandan Ukil on N.F.Rly. against physically Handicapped quota :

Ref:- Board's letter No. E(REF)IL-91/5-5(18)/116 dated 12.3.93 and 1.10.93.

.....

As desired by the Board vide their letter dated 12.3.93 above, Shri Chandan Ukil was examined by a Medical Board at Central Hospital/Maligaon on 24.9.93. The opinion of the Medical Board is as below :

"Shri Chandan Ukil is blind in his left eye. There is no perception of light in the left eye. But his right eye is normal and he has visual acuity of 6/24 or it may be more. In terms of Railway Board's instruction circulated vide their letter No. E(NG) III-77/RCI/54 dated 8.1.78. Shri Chandan Ukil does not belong to the physically handicapped quota (blind) as his right eye is normal and has a visual acuity of 6/24".

The vindings and the opinion of the Medical Board have been accepted by the Chief Medical Officer/N.F.Railway.

Sd/- N.R.Chakraborty
Dy. Chief Personnel Officer/NG,
for General Manager (P).

Attested.

This Annexure - G¹ is the true copy of the original document.

Goutam Pathak Banerjee
Advocate
14.06.94

Central Admin.
Document
Dt. of
Issue
Ref. No.
12/1/1995
Recd. by
Beeper Officer

28
53
W. P. M.
49/9/95
Chief P. C.
N. F. Registry

43

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

REPLY TO ORIGINAL APPLICATION NO. 716 OF 1994

B E T W E E N

SHRI CHANDAN UKIL APPLICANT

: V E R S U S:

UNION OF INDIA AND OTHERS... RESPONDENTS

I N D E X

Particulars of the Papers

P a g e s

1. Parawise reply to the application 3 to 5

2. Annexures R- R-I and R-IIx 7 to 11

Prepared in the Office of

Mrs. Uma Sanyal (Misra)

Advocate

Bar Association: Room No. 6

High Court

Calcutta

...

29th September
54

67th Street
4. Chief Personnel Officer
N.E. Frontier Railway
IR

Reply made on behalf of the Respondents to the alleged facts
made out in the aforesaid application.

1. The undersigned is the Deputy Chief Personnel Officer (IR) Northeast Frontier Railway, (hereinafter referred to as the undersigned) having his office at Maligaon, Guwahati-11, and he is duly authorised to make this reply on behalf of the Respondents. He is well acquainted with the facts and circumstances of the case and he has the authority and competence to submit this reply on behalf of the Respondents.
2. The undersigned has read a copy of the application under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter referred to as the said application) including the copies of the annexures thereto made on behalf of Shri Chandan Ukil, the applicant, which was numbered as U.A. 716 of 1994 before the Hon'ble Tribunal and the undersigned has understood the contents and purport thereof.
3. The undersigned has been advised to traverse and/or deal with such allegations and/or statements made in the said application which are relevant for determination of the issues involved in the said application. Rest of the allegations and/or statements made in the said application may be deemed to have not been admitted.
4. The undersigned states that the said application has got no cause of action and as such the said application is liable to be dismissed with costs.

5. Without prejudice to the aforesaid objection, the undersigned craves leave to deal with the allegations and/or statements made in the said application.

6. Save and except what appears from records of the case, each and every statement contained in paragraphs 4(a), (b) and (d) of the said application is denied.

7. The undersigned states in reply to the statement made in paragraph 4(c) of the said application, that it is true that the concerned selection was exclusively for Physically handicapped. But the claim of Shri Ukil to be a physically handicapped person was found to be fake.

8. Regarding the statements contained in paragraph 4(e) of the said application, it is stated that after publication of result, a complaint was received that Shri Ukil is actually not handicapped. Accordingly, an investigation was conducted by the Railway Vigilance Organisation. Finally, it was proved that the handicapped certificate produced by Shri Chandan Ukil was fake. So he was not offered appointment. Later on as desired by Board vide letter No. E(REP)II-9/AE-5/18/118 dated 12. 3. 93, a xerox copy of which is annexed to this reply and marked with Annexure 'R', the candidate was examined by a Medical Board at Central Hospital, Maligaon on 24. 9. 93. The opinion of the Medical Board is as follows :-

"Shri Chandan Ukil is blind in his left eye.

There is no perception of light in the left eye.

But his right eye is normal and he has visual acuity of 6/24 or it may be more. In terms of Railway Board's

instruction...

instruction circulated vide their letter No.E(NG)III-77/RCT/54 dated 8. 1. 78, Shri Chandan Ukil does not belong to the physically handicapped quota (blind) as his right eye is normal and has a visual acuity of 6/24."

A xerox copy of the aforesaid Railway Board's letter No.E.(NG)III-77/RCT/54 dated 8. 1. 78 is annexed to this reply and marked with Annexure R-I.

9. As regards the statements contained in paragraph 4(f) of the said application, it is stated that it is true that vide deponent's office letter No.E/227/220/Rectt./Pt.III dated 30. 7. 91, a xerox copy whereof is annexed to this reply and marked with Annexure 'R-II, District Employment Officer, Cooch Behar was informed about the fake certificate produced by Shri Ukil. Fresh certificate from Employment Officer regarding constitution of a Medical Board by them and finding him a handicapped was also received. In the meantime all the particulars were sent to the Railway Board and ultimately on its advice, a Railway Medical Board was constituted whose opinion has already been quoted in reply to Para 4(e) above.

10. It is stated in reply to paragraph 4(g) of the said application, that the candidate represented before the Railway Board, on the basis of which Railway Medical Board was constituted which confirmed him as 'Not handicapped'.

11. Save and except what appears from records of the case, each and every statement made in paragraph 4(h) of the said application is denied.

12. In reply to the statement made in paragraph 4(i) of the said application, the undersigned states that as stated in reply to Paragraph 4(e) above, the applicant was examined by a Medical Board of Railway Doctors and it was found that he cannot be classified as Physically handicapped as per laid down norms.

13. The statements contained in paragraphs 4(j), (k) and (l) of the said application is matters of record.

14. The contentions of the applicant in paragraph 4(m) of the said application is denied. It is stated that the finding of the Railway Medical Board confirms that Shri Ukil cannot be considered as Physically handicapped. Hence, his rejection is in order.

15. The statement made in paragraph 4(n) of the said application is denied.

16. The grounds contained in different sub-paragraphs of paragraph 5 of the said application are misconceived, malafide, misleading, vague, irrelevant, baseless and not sustainable in law and hence, are denied.

17. Save and except what appears from records of the case, each and every statement made in paragraphs 6 and 7 of the said application is denied.

18. The reliefs sought for in different sub-paragraphs of Paragraph 8 and interim orders prayed for under paragraph 9 of the said application are strongly denied.

19. In the premises it is submitted that the instant application of the applicant should be dismissed with costs.

VERIFICATION

I, A.K. BRAHMO

Son of Late S.K.

Brahmo aged about 36 years, working as Dy Chief Personnel officer (IR) Northeast Frontier Railway, having my office at Maligaon, Guwahati-11 do hereby verify that the statements made in paragraphs 1 to 4 hereinabove are true to my knowledge and those in paragraphs 5 to 18 hereof are true to my information derived from records of the case which I verily believe to be true and rest paragraph is my humble submissions before the Hon'ble Tribunal.

Place:- Maligaon

Name:- ()

Date:-

Designation:-



On behalf of the Respondents.

To

The Registrar,

Central Administrative Tribunal,

Calcutta Bench, Calcutta.

अमेरिका का अधिकारी (राज्य),
Dy. Chief Personnel Officer (IR)

पूर्ण सेवा बोर्ड, नेत्रेन्द्री
N. F. Railway, Maligaon

106 1913192 -7- 3459
गोप्य भूमि GOVERNMENT OF INDIA
रेल नियंत्रण MINISTRY OF RAILWAYS
(Indian Railway Board)

MOST IMMEDIATE

गोप्य भूमि-110003, नियंत्रण
रेल नियंत्रण, New Delhi/10003, dated 12.03.1993.

No. E(REP)II.91/AE-5/(18)/118

The General Manager(P),
Northeast Frontier Railway,
Guwahati.

CPD

Sub:- Appointment of Shri Chandan Ukil on Northeast
Frontier Railway against Physically handicapped
quota.

Ref:- Your Railway's letter No. E/227/220(Recd.)Pt.III
dated 28.5.1992

The Board have decided that the candidate be examined
by a Medical Board duly constituted by your Railway and outcome
advised to enable further examination.

Chand
(Jagdish Chand)
Deputy Director, Estt. (R)II
Railway Board.

Date 18 MAR 1993

Office of the General Manager
N. E. RAILWAY BOARD
Guwahati-781 071

701

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

8-1-1978
New Delhi, dated 8-1-1978.

O.E(NG)III-77RCI/54.

General Managers,
Indian Railways, ICF, CLW & DLW.

The Director General,
R.D.S.O., Lucknow.

Sub:- Reservation of posts for the physically
handicapped persons in Groups C&D posts
services on the Railways.

The Ministry of Home Affairs, Deptt. of Personnel &
Administrative Reforms have communicated Government's decision
for reservation in group C&D posts/services for the physically
handicapped persons as given below:

The Blind	1%
The deaf	1%
The Orthopae- dically handi- capped.	1%

The categorisation of the physically handicapped for purpose of
reservations is given in the Annexure.

The reservation of posts is to be made separately for
each of the aforesaid categories of physically handicapped
persons but if candidates belonging to a category of persons
is not available or if the nature of vacancies is such that
given category of persons cannot be employed there is a provision
for taking persons belonging to the other categories. In order
to implement these reservation orders the jobs which can be
performed by various categories of physically handicapped persons
without loss of productivity should be identified. Where it is
not possible to provide for the physically handicapped persons
handed over to the

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- 2 -

xtent of reservations in view of the nature of duties expected to be performed by the employees in such posts could be partly or fully exempted from the reservation orders, but the grant of such exemption is to be decided by an Inter Departmental Committee.

The Ministry of Railways desire to know how best their directives could be implemented on the Railways, ... In certain categories as in the case of line staff, partial exemption may have to be asked for. Your views and recommendations may kindly be sent in about a fortnights time.

It may also be pointed out that various associations for the Blind are recommending consideration of Blind persons for appointment as Announcers. On some Railways blind persons are reported to have been taken as Announcers. While formulating your views, these aspects should also be kept in view.

Dwarka Dass
(Dwarka Dass)
By: Director, Establishment,
Railway Board.

ONE.

113
6/11/11ANNEXURE

Definitions of the categories of the Handicapped for purposes of reservation in employment.

THE BLIND

The blind are those who suffer from either of the following conditions:-

- (a) Total absence of sight;
- (b) Visual acuity not exceeding 6/60 or 20/200 (Snellen) in the better eye with correcting lenses;
- (c) Limitation of the field of vision subtending an angle of 20 degrees or worse.

THE DEAF :

The Deaf are those in whom the sense of hearing is non-functional for ordinary purposes of life. They do not hear ordinary sounds at all events with amplified speech. The cases included in this category will be those having hearing loss more than 90 decibels in the better ear (profound impairment) or total loss of hearing in both ears.

THE ORTHOPAEDICALLY HANDICAPPED:

The Orthopaedically handicapped are those who have a physical defect or deformity which causes an interference with the normal functioning of the bones, muscles and joints.

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NORTHEAST FRONTIER RAILWAY.

72

Office of the
Chief Personnel Officer
(Recruitment Section)
Maligaon, Guwahati-11.

No. E/227/220 (Rectt) Pt. III. Dated 30-7-91.

To
Shri P. K. Jana,
Employment Officer,
District Employment Exchange,
Coochbehar- 736101.

Dear Sir,

Ref :- This office letter No. E/227/220/
Rectt/Pt. II dated 2.1.91.

The name of Shri Chandan Ukil along with
15 other candidates was forwarded to this office
vide your letter No. IOA/CG/1/91/54 dt. 22.1.91
for consideration for appointment against
Physically handicapped quota. On verification,
It is seen now that the Medical certificate of
Shri Chandan Ukil is not genuine and as such
action may please be taken at your end as you
deem fit.

Yours faithfully,

for CHIEF PERSONNEL OFFICER.

69

3

NORTHEAST FRONTIER RAILWAY.

12

Office of the
Chief Personnel Officer
(Recruitment Section)
Maligaon, Guwahati- 11
E/227/220 (Rectt) Pt. III, Dated 30-7-91.

P. K. Jana,
Employment Officer,
District Employment Exchange,
Bihar- 736101.

Sir,

Ref :- This office letter No. E/227/220/
Rectt/Pt. II dated 2.1.91.

The name of Shri Chandan Ukil along with
other candidates was forwarded to this office
in your letter No. IOA/CG/1/91/54 dt. 22.1.91
for consideration for appointment against
a specifically handicapped quota. On verification,
it is seen now that the Medical certificate of
Shri Chandan Ukil is not genuine and as such
action may please be taken at your end as you
see fit.

Yours faithfully,

W
for CHIEF PERSONNEL OFFICER.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

REJOINDER TO THE ORIGINAL APPLICATION

BEING C.A. No. 716 of 1994.

BETWEEN

Sri Chandan Ukil son of Sri Birendra
Chandra Ukil residing at Sibendra
Narayan Road(East), North Side of B.T.
College, District Coochbehar (West
Bengal).

-- Applicant.

and

1. Union of India service through the
Secretary, Ministry of Railways, Rail
Bhavan, New Delhi.
2. The General Manager, North East
Frontier Railway, Maligaon, Guwahati-11.
3. The Chief Personnel Officer (Recruit-
ment Section), North East Frontier
Railway, Maligaon, Guwahati-11.
4. The Employment Officer, District
Employment Exchange, Government of West
Bengal, Directorate of Employment
Service, Department of Labour, Coochbehar,
5. The Superintendent, M J N Hospital,
Coochbehar.

-- Respondents.

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2.

PARAWISE STATEMENT TO THE REPLY :

I, Sri Chandan Ukil son of Sri Birendra Chandra Ukil residing at Sibendra Narayan Road, North Side of B.T. College, District Coochbehar (West Bengal), aged about 31 years, by religion Hindu, by occupation Unemployed, do hereby solemnly affirm and say as follows -

2. That a part reply made on behalf of the respondents to the application under section 19 of the Administrative Tribunal Act, hereinafter referred to as the said reply, has been served upon the learned Advocate and on going through the same I have understood the meaning, contents and purport thereof.
3. In order to enable this Hon'ble Tribunal to render effective adjudication into the matter in controversy making of certain further statements and/or bringing of some documents relevant to the matters in controversy are necessary and hence the instant REJOINDER is being made.
4. It appears from the respective paragraphs of the said reply that the respondents are purported to take a stand to the effect, inter alia, that myself being an one-eyed person and having suffered in loss of eye sight of 55% is not coming under the definition, purview and mischief of physically handicapped category for being employed in the railways. The said stand point of the railway authorities is wholly unjust, unreasonable, unconscionable and unfair which will be evident from the following statement of facts -

3.

i) that one Ujjal Kumar Adhikari an one-eyed person has been employed with the railways. Sri Ujjal Kumar Adhikari is presently posted as Office Clerk at Alinurduar Junction. Be it stated further that in the panel where the name of myself appeared under serial No.1 under the visually handicapped category name of Ujjal Kumar Adhikari appeared in the said panel under serial no.2. The physically handicapped certificate and the letter of appointment of Sri Ujjal Kumar 'A' Adhikari are collectively marked as Annexure 'A' to the instant Rejoinder.

ii) That one Miss Keka Rani Das who is an one-eyed lady has been declared to be physically handicapped due to complete loss of vision of her left eye has been appointed as Office Clerk and presently she is posted at Maligaon. Be it stated further that in the panel in which my name has duly appeared name of Miss Keka Rani Das has appeared in the said panel under Column-C (for Lumbding/Tinsukia Divisions) under the visually handicapped category under serial No.1.

'B' The physically handicapped certificate of Miss Keka Rani Das is marked as Annexure-B' to the instant Rejoinder.

5. In addition to what have been stated by me in the just preceding paragraph and myself respectfully stated before this Hon'ble Tribunal that all the candidates names of whom are appearing in the visually handicapped category in the panel in which my name has appeared are all one-eyed persons and all such candidates except myself have already been appointed in the respective posts at the respective Divisions. The Railway authorities may be directed to produce the records relating to appointment of all those candidates from where abundantly clear that the assertion of myself that

that all the candidates named in the panel who are visually handicapped are all one eyed persons like me.

6. That in view of the statements made in the instant Rejoinder this Hon'ble Tribunal will be pleased to find the actions of the respondent authorities in purporting to refuse me to be a physically handicapped is, however, unjust unfair, unconscionable and opposed to all norms of procedural and other natural justices.

7. That this Hon'ble Tribunal will be pleased to hold being similarly circumstanced that the ~~other~~ other candidates who are visually handicapped myself ought to have granted appointment at par with all those candidates.

8. That this Hon'ble Tribunal will be pleased to reject the contentions of the respondent authorities purportedly agitated in the said reply.

9. That this Hon'ble Tribunal will be pleased to grant the reliefs prayed for in the application under section 19 of the Administrative Tribunal Act.

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B
5.

VERIFICATION

I, Sri Chandan Ukil son of Sri Birendra Chandra Ukil
residing at Sibendra Narayan Road, North Side of B T College,
District Coochbehar (West Bengal), aged about 31 years, by
religion Hindu, by occupation Unemployed, do hereby verify
that the contents of paragraphs 1, 2, 3, 4 and 5
are true to my personal knowledge and those made in
paragraphs 6, 7, 8 and 9 are believed to be
true on legal advice and that I have not suppressed any
material fact and I have signed this verification at the
Tribunal Premises on this the 17th day of January,
1995.

Sd/- Chandan Ukil.

Date: 17-01-1995

Signature of the applicant.

Place: Calcutta.

Attested.

Goutam Patnaik B.A.M.Sc
Advocate

Annexure A (collectively)

جعفری، ۱۹۶۰

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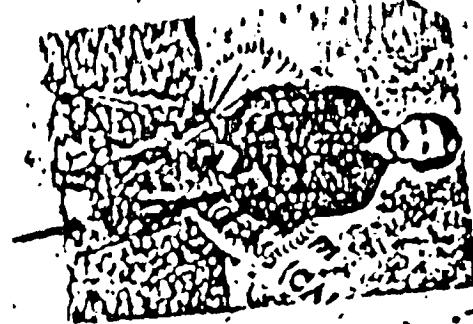
59

NO. A20

To whom it may concern: Attest, I do
certify that Sir Wm. U. D. W. - such a
This is to certify that Sir Wm. U. D. W. - such a
This is to certify that Sir Wm. U. D. W. - such a

2011/0 serials

He has the opinion
of NRPD in (P)
that he can't see anything but his
right eye is totally blind
and right physically handicapped
(less 40%)



سی و دو
سی و سه
سی و چهار

~~CONFIDENTIAL~~ (A)

NEAR EAST FRONTIER RAILWAY.

OFFICE OF THE
DIVL. HLY. MANAGER (P)
(Recruitment Section)
ALIPURDAR JUNCTION.

No. WB/II/16-PH 6/7

DATED: 10. 09. 51.

To:
Shri/Cmt-/Md. Ujjal 2. S. Sankaran
S/o Chaita R. Sankaran
Kashinagar, P.O. Alipurduar
Dist. Jalpaiguri (West B).

Sub:- Temporary appointment as Tr. Office Clerk on
a stipend of Rs. 950/- per month in scale Rs. 950-1500/- (P)
plus usual Dearness Allowance as admissible
from time to time.
Ref: G. I. H. R. S. B. No. E/247/224 (P. C.)
DATE OF SELECTION BY : Officer for appointment as Tr. Office
MERIT FIGURE 24 (Two Four).

I am pleased to offer you a post in grade of and rate
of pay specified plus usual Dearness allowance subject to your
passing the prescribed Medical Examination by an authorised Medical
Officer of pay of the Indian Railways and on production and satisfactory
proof in support of your age much on Matriculation or its
equivalent Certificate. In case of non-availability of Matriculation
or its equivalent Certificate from the University/Board, the
following certificates (in original) may be accepted provisionally.

- (a) Matriculation Mark Sheet;
- (b) Matriculation Admit Card.
- (c) School Leaving Certificate from the Headmaster/
Headmistress.

2. You will have to undergo training for a period of
three/four months during which time you will be given the chance
to pass the Examination. If you fail in the Examination within the
stipulated period, you will be discharged. During training period
you will receive a stipend of Rs. 950/- per month plus usual Dearness
allowance applicable from time to time.

3. On satisfactory completion of training and passing the
prescribed examination/test you will be eligible for appointment
as Temporary Clerk on a stipend of the scale Rs. 950-1500/- (P) plus
usual allowance admissible from time to time, but no guarantee of
appointment can be given. Appointment will be temporary in the
first instance under term and condition available Class-III
Temporary Railway service but you may look forward for confirmation
in accordance with your seniority on fulfillment of the condition
by me when.

4. (1) On completion of your training, if you get yourself
qualified for appointment permanent a workman next you will have to
serve the following minimum period of five years, if required.

6. the non-payment of your instalment of studies or conduct on
7. payment of your study in a period exceeding from the duration of
8. refused to contribute to pay if it is not required your central by
9. if you do not continue to pay the interest you will be liable
10. to pay and refund payment to the Govt on your demand and
11. without demand to pay all money exacted on your account in
12. respect of your training course as stated above together with
13. interest on the said money calculated at the rate in force for
14. Government loans.

(11) Before you start your training you will be required to produce an indemnity bond binding yourself and Government jointly and severally to refund, in the event of your failing to satisfy the conditions stipulated above, the cost of training and all money paid to you in the manner detailed above together with interest on the said monies calculated at the rate in force for Government loans.

5. It must be clearly understood the appointment is terminable on 14 (fourteen) days notice on other side except that no such notice is required if the termination of service is due to the expiry of the sanction to the post if you held or on return to duty of the absentee in whose name you may be engaged, in which case, your service will be automatically terminated from the date of expiry of the sanction or from the date of the former resumption of duty as the case may be. Also no such notice will be required if the termination of service is due to your mental or physical incapacity or to your removal or dismissal as a disciplinary measure after compliance with the provision of clause 11 Article 311 of the Constitution of India.

6. You will not be eligible for any pension or benefit under the State Railway Provident Fund or Gratuity Rules or to any absentees allowances beyond those admissible to temporary orh by you under the rules in force from time to time temporary service.

7. You will be responsible for the charge and care of Government money, goods and stores and all other properties that may be entrusted to you and all other properties that may be entrusted to you.

8. In all matters not specifically provided for herein or in the Recruitment Rules, you will be governed by the provisions of the Indian Railway Code and other extant or proposed as amended from time to time.

You will be required to take an oath of allegiance or make an affirmation therefor indicated below:

" SO HELP YE GOD "

(Cont'd. . . . 3. . .)

NOTE : Conscientious objectors to taking Orth-ray
make a similar affirmation in the unscripted
form indicated above.

(Cont'd....)

N.F.RAILWAY

Office of the
Divl.Rly.Manager (P),
Alipunduar Jn.

HO: 13/82/EO

Dated: 18-9-91.

CCG
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To
Shri/Smt. Ujjal Kumar Sethi, Kanpur
Thurs me chauri/B.

Sub:- Temporary appointment as Clerk (E) p.t. of post -
in scale Rs.950-150/- (L) with effect from 1-9-91.

Ref:- CPO (RECTT)/MLG's letter No: 13/27/257 (L-147), - 11/

1991 - v. 91 - Dated 15.8.91, - re 13/27/4/16-114
11/1, - dt. 10-9-91

13/27/257 (L-147), - 11/

in terms of CPO (RECTT), MLG's letter mentioned above,
you are hereby appointed as Clerk (E) to pay Rs.950-150/-
in scale of Rs.950-150/- (L) with effect from 1-9-91
12.5% allowance as admissible under ruling of Govt. of India
from time to time and per ad. order. - 13/27/257 (L-147), - 11/

(a) You will be on probation for a period of 2 (two) years and during this period you will have to undergo a course of training for 4 months and on completion of your training you will have to pass an examination. Should you fail in this examination you will be discharged from service without notice.

(b) You will be liable to be discharged without notice in the event expiry of the temporary sanction on the part in which you are appointed or your mental or physical incapacity or removal or dismissal from service for misconduct.

(c) If the termination of your service is due to some other causes you will be entitled to a notice of 14 days or pay in lieu thereof.

(d) You will not be eligible for any benefit except those admissible to temporary employees under the rule in force from time to time.

(e) No provision of quarters ~~is~~ guaranteed.

(f) That you must be prepared to accept transfer at any station of this Railways as and when necessary.

for Divl.Rly.Manager (P),
Alipunduar Jn.

Copy to:-

1. CPO/MLG. (2). Sr.DAO/APD.
3. osdy/EO-Bill. (4).

Parul

for Divl.Rly.Manager (P),

TO WHOM IT MAY CONCERN

Certified that I have examined Miss Koka Banir Das and found that she is physically handicapped due to complete loss of vision of left eye since her childhood.

Chief Medical & Health Officer
Chittagong Medical & Health Officer
Kamrup : Gauhati.

A copy is served
Uma Sanyal
Advocate

Calcutta Bench
Document.....
Dt. of Receipt.....
Initial.....

78
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For the Office
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

REPLY TO REJOINDER FILED IN O.A. NO. 716 OF 1994

B E T W E E N

SHRI CHANDAN UKIL APPLICANT

: V E R S U S:

UNION OF INDIA AND OTHERS ... RESPONDENTS

I N D E X

Particulars of the Papers

Page

1. Parawise reply to the rejoinder

3 to 4

Prepared in the office of

Mrs. Uma Sanyal (Misra)

Advocate

Bar Association: Room No.6,

High Court

Calcutta

Sl. No. 2507

Reply made on behalf of the respondents to the Rejoinder filed by the applicant in O.A. No. 716 of 1994.

1. The undersigned is the Deputy Chief Personnel Officer (NG), Northeast Frontier Railway, Maligaon (hereinafter referred to as the undersigned) having his office at Maligaon, Guwahati-781011, Assam, and he is duly authorised to make this reply on behalf of the respondents. He is well acquainted with the facts and circumstances of the case and he has the authority and competence to submit this reply on behalf of the respondents.
2. The undersigned has read a copy of the Rejoinder which was filed in connection with O. A. No. 716 of 1994 on behalf of Shri Chandan Ukil, the applicant before the Hon'ble Tribunal and the undersigned has understood the contents and purport thereof.
3. The undersigned has been advised to traverse and/or deal with such allegations and/or statements made in the said Rejoinder which are relevant for determination of the issues involved in the said application. Rest of the allegations and/or statements made in the said rejoinder may be deemed to have not been admitted.
4. The undersigned states that the said rejoinder has got no cause of action and as such the said rejoinder is liable to be dismissed.

5. Without prejudice to the aforesaid objection, the undersigned craves leave to deal with the allegations and/or statements made in the said rejoinder.

6. Save and except what appears from records of the case, each and every statement made in paragraphs 1, 2 and 3 of the said application is denied.

7. With regard to the statements made in paragraph 4 of the said rejoinder, it is stated that the applicant was examined by the Railway Medical Board at Central Hospital/Maligaon and according to Medical Board's opinion he does not belong to the category of Physically handicapped person as per Board's instructions. In this connection Railway Medical Board's opinion has already been furnished at Para 8 of the counter reply filed by the respondents. Also Railway Board's Circular No. E(NG)III-77RCI/54 dated 8. 1. 78 defining the categories of the Handicapped has been annexed to the counter reply as Annexure R-I. All other factual positions are admitted to the extant they are supported by records and the rests are denied.

8. In reply to the statement made in paragraph 5 of the said Rejoinder, the undersigned states that it has already been mentioned in the counter reply that on the event of a complaint being received against the applicant's physically handicapped certificate an investigation was conducted and all the particulars in connection with his Physical infirmity and other relevant papers of not giving him appointment were sent to the Railway Board, and finally, in view of Board's order he was examined by a specially constituted Medical

Board...

Board of N. F. Railway Central Hospital and found that he does not come within the purview 'Physically Handicapped Person'. Hence his appointment on Physically Handicapped quota was not considered.

9. With regard to the statements made in paragraphs 6 and 7 of the said Rejoinder, it is reiterated that after examination by a Medical Board of N. F. Railway's Central Hospital at Maligaon, it was found by the said Medical Board that the applicant, as per Railway Board's instructions, does not belong to the category of Physically handicapped person and, accordingly, his case could not be treated at par with others for whom he alleged his grievances.

10. In reply to paragraphs 8 and 9 of the said Rejoinder, the undersigned states that in view of the submissions mentioned above it is, therefore, submitted that the application filed by the applicants is liable to be dismissed.

Verification....

VERIFICATION.

I, Maitreyee Brahma

Aged about 35 years working as Deputy
Chief Personnel Officer/Gaz in the Northeast
Frontier Railway, Maligaon, Guwahati, Assam
do hereby verify that the statements made in
the above para are true to my knowledge and
information derived from the records of the
case which I believe to be true and sign this
verification under my own hand and seal on this
day of June 30, 1995.

Maligaon,
Dated:

..... Brahma
Deputy Chief Personnel Officer
Northeast Frontier Railway,
Maligaon: Guwahati - 781011

ASSAM असम
Gaz. Chief Personnel Officer (Gaz)
Oy. Chief Personnel Officer
N. K. Brahma
N. K. Brahma

To

The Registrar,
Central Administrative Tribunal,
Calcutta Bench, Calcutta.

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. O.A. 716 of 1994.

83/86
Date of order: 6.2.95. 10

REPRESENT : Hon'ble Dr. B.C. Sarma, Administrative Member

Hon'ble Mr. Paritosh Dutta, Judicial Member

Mr. G.P. Banerjee, 1d. counsel, appearing for the applicant argues his case. Ms. U. Sanyal, 1d. counsel, appearing for the respondents opposes the application. After hearing both sides and going through the materials on record, we are satisfied and it is a fit case for adjudication and we admit this application for hearing. As reply has already been filed, the matter is fixed for hearing on 5.4.95.

2. Applicant files his rejoinder today. Liberty is given to the respondents to file a reply to the rejoinder, if they so desire. Respondents are directed to produce the relevant records including the medical examination reports, if any, on the next date of hearing.
3. Let a plain copy of this order be handed over to both the counsel.

CERTIFIED TO BE TRUE COPY

Sdr

(P. Dutta)
MEMBER (J)

Sdr

(B. C. Sarma)
MEMBER (A)

28/2/95

88457

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. 716 of 94

Date of Order : 19-7-95

Present

Hon'ble Dr. B.C. Sarma, Member (A)

Hon'ble Mr. P. Dutta, Member (J)



For Applicant

CHANDAN UKIL

-Vs-

UNION OF INDIA & ORS

For Respondents

Mr. Sadhan Roy Choudhury, Counsel.

Ms. U. Sanyal, Counsel.

When the matter was taken up for hearing, it appeared that the impugned order by which the applicant is aggrieved, was passed on behalf of General Manager, N.E.F. Railway at Maligaon. As per provisions of Rule 6 of C.A.T Procedure Rules, 1987, this Tribunal does not have any jurisdiction in the matter as the cause of action had arisen at Maligaon which is within the jurisdiction of Guwahati Bench of the Tribunal. Mr. Roy Choudhury, Id. counsel for the applicant fairly agrees to this position. Therefore, the application is returned to the applicant for presentation in the appropriate forum.

Sdr.
(P. Dutta)
Member (J)

Sdr.
(B.C. Sarma)
Member (A)

(a) S/ No of the "Appln	2507
(b) Name of the applicant	G. P. Banerjee & Adv.
(c) Dt. of presentation of application for copy	21.7.95
(d) No. of pages	one
(e) Copying fee charged/ urgent or ordinary	free of cost.
(f) Dt. of preparation of copy	21/7/95
(g) Dt. of delivery of the copy to the applicant	21.7.95