

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-39/2000 ordered sheet pg-1 to 4

INDEX

Dismissed Date-27/4/2001

O.A/T.A No. 2181.96.....

C.P-34/98 ordered sheet pg-1 to 3

R.A/C.P No. 341.98.....

Closed Date-23/3/99

E.P/M.A No. 39/2000.....

1. Orders Sheet O.A-2181.96..... Pg..... 1 to..... 4
2. Judgment/Order dtd. 04/5/98..... Pg..... 1 to..... 3 Disposed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 2181.96..... Pg..... 1 to..... 55
5. E.P/M.P..... 39/2000..... Pg..... 1 to..... 12
6. R.A/C.P..... 341.98..... Pg..... 1 to..... 12
7. W.S..... Pg..... 1 to..... 15
8. Rejoinder..... Pg..... 1 to..... 4
9. Reply & New cause in M.P-39/2000..... Pg..... 1 to..... 14
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CA No. 218/96

Smt. B. K. P. Gogoi
vs

Union of India & ors. Respondent(s)

Mr. B. Sarma, S. Bhattacharyya Advocates for the applicant(s)

Mr. B. Sarma & L. Advocates for the Respondent(s)

Office Notes	Date	Courts' Orders
--------------	------	----------------

This application is in form and within time

Cr. P. of Rs. 30/- deposited vide

IPO DD No. 644467

Dated 1-10-96

B. Sarma
D. Registrar, 3/10/96
11/10/96

10.10.96

Mr B. Sarma for the applicant.

None for the respondents.

Heard Mr B. Sarma for admission and perused the contents of the application and the reliefs sought. Application is admitted subject to determination of limitation at the time of final hearing. Issue notice on the respondents by registered post. Written statement within six weeks.

List for written statement and further orders on 21.11.96.

Heard Mr Sarma for the interim relief prayer. Pendency of this application shall not be a bar for the respondents to restore the applicant to TCI Grade-III and grant him consequential benefits as may be admissible as per rules.

62
Member

1) Service reports are still awaited.

2) W/ statement - hs not sum of W -

*8/8
20/11*

16.12.96

Notice duly served on
Report No. 3.

written statement has not been filed.

pg

21.11.96

None present.

Written statement has not been submitted.

List for written statement and further order on 18.12.1996.

62
Member

trd

anm

17.12

(2)

1) Notice duly served on respdt. no. 3.
2) w/statement - hs not been filed.

8/97

18.12.96

None present.

Written statement has not been submitted.

List for written statement and further orders on 9.1.1997.

6
Member

trd

W
18/12

10.2.97

9-1-97

None present. Written statement has not been submitted.

List for written statement and further orders on 11-2-97.

6
Member

1) Notice duly served on R-3.

2) NO written statement has been filed.

pg
W
9/1W
10/2

26.2.97

11.2.97

On the prayer of Mr B.K. Sharma, learned counsel for the respondents two weeks time granted for filing written statement.

List on 27.2.97 for written statement and further orders.

6
Member

Vice-Chairman

1) NO written statement has been submitted.
2) Memo of appearance filed.W
26/2

pg

27.2.97

One week time as prayed by Mr B.K. Sharma, learned counsel for the respondents is granted as last chance.

List on 6.3.97 for further orders.

6
Member

Vice Chairman

pg
W
6/3

6.3.97

Written statement has been filed by the respondents. Mr M. Chanda, learned counsel for the applicant, prays for time to file rejoinder. We allow one weeks time to file rejoinder.

Let the case be listed for hearing

13.3.97.

6
Member

Vice-Chairman

nkm

W
11/3

12-3-97

13-3-97

Mr. M. Chanda counsel for the applicant is present. Let this case be listed for hearing on 25-4-97.

Fresh Vacalet - manama
filed by Mr. M. Chanda & S. D. Vaidya.

6
Member

Resps.

lm

W
13/3

23-4-97

25.4.97

There is no representation. Case is adjourned till 9.6.97.

6
Member

Vice-Chairman

Rejoinder filed
on behalf of the
applicant, at page
71 to 74.

pg

Tr

25/4

1) w/o statement & Rejoinder
by Mr. K. W.

26/4

16.6.97

Circuit court at
Korima 20.6.97.
Adjourned to 27.7.97.

For order

2.7.97

Adjourned to 2.9.97 for
hearing

w/o and rejoinder
has been filed.

2.7.97
2.9.97

Bo
List on 27.10.97

80
119

27-10-97

On the prayer of learned counsel
Mr. S. Dutta case is adjourned till
13-11-97 for hearing.

Member

Vice-Chairman

lm
28/10

The case is ready
for hearing.

VVS
28/10/98

13.11.97 Adjournd to 5-1-98
By v.

5-1-98

Case is adjourned till 4-5-98.

Member

Vice-Chairman

lm
6/11/98

case is ready for
hearing as regards VVS
Rjunction.

4.5.98

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

Member

Vice-Chairman

nkm

15.5.98
copy of the Judgment
has been sent to the
D/Secy. for despatch the same
to the parties through
Regd. with A.O.D.

st.

Issued vide D.No.

1312 to 1317 d. 18.5.98.

st.

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

D.A. NO. 218 of 1996
T.A. NO.

DATE OF DECISION 4.5.1998

Shri B.K.P. Gupta

(PETITIONER(S))

Mr M. Chanda

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Mr B.K. Sharma, Railway Counsel

ADVOCATE FOR THE
RESPONDENT (S)

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 ?
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.218 of 1996

Date of decision: This the 4th day of May 1998

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

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

Shri B.K. Prasad Gupta,
WTM/l/TSK,
N.F. Railway, Tinsukia.
By Advocate Mr M. Chanda.

.....Applicant

-vs-

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

2. The Chief Signal &
Telecommunication Engineer,
N.F. Railway, Maligaon.

3. The Chief Personnel Officer,
N.F. Railway, Maligaon.

4. The Divisional Railway Manager(F),
N.F. Railway, Tinsukia.

5. The Divisional Signal Telecommunication
Service,
N.F. Railway, Tinsukia.Respondents

By Advocate Mr B.K. Sharma, Railway Counsel.

.....
O R D E R

BARUAH.J. (V.C.)

This application has been filed by the applicant
seeking certain directions.

2. Facts for the purpose of disposal of this
application are:

At the material time the applicant was working
as Wireless Telecom Maintainer (WTM for short) Grade
III. By Annexure III order dated 17.10.1989 he was
promoted to the post of Telecom Inspector Grade III and

82

as per the said order of promotion he joined at Mariani in that post. After joining at Mariani the applicant still continued to occupy the Quarter at Tinsukia. Accordingly a memorandum dated 25.9.1990 was issued to the applicant to show cause why action should not be taken against him. The applicant submitted his explanation to the aforesaid memorandum. However, the authority was not satisfied with the explanation given by the applicant. Accordingly by Annexure XI Order dated 31.12.1990 he was reverted to the post of WTM Grade I in the scale of pay of Rs.1320-2040 for a period of three months with non-cumulative effect. As per the said Annexure XI order after expiry of the period of three months the applicant ought to have been promoted to the post of Telecom Inspector Grade III. However, this was not done. Thereafter, there were certain communication between the Divisional Railway Manager(P) and the N.F. Railway, Headquarter. The applicant also prayed that he ought to be promoted to the original post of Telecom Inspector Grade III at Tinsukia as and when such post would fall vacant. However, in his request he made it clear that if that was not possible he should be immediately promoted to the post of Telecom Inspector Grade III. This was, however, not done. Hence the present application.

3, We have heard Mr M. Chanda, learned counsel for the applicant and Mr B.K. Sharma, learned Railway Counsel. Mr Chanda submits that as per Annexure XI order dated 31.12.1990 the authority was bound to promote the applicant after March 1991. According to Mr Chanda this promotion was denied arbitrarily and illegally. Mr B.K. Sharma, however, submits that

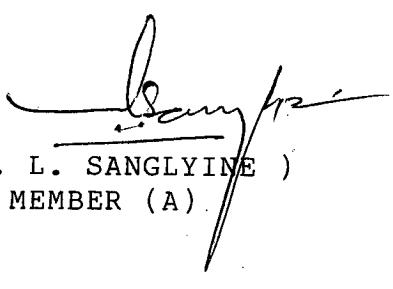
 because.....

because of the option given by the applicant the matter got delayed. Mr Sharma further submits that the matter is now pending in the Headquarter. However, nothing has been done.

4. On hearing the learned counsel for the parties it is now to be seen whether the applicant was entitled to get his original post of promotion after the expiry of the period mentioned in the Annexure XI order dated 31.12.1990. Annexure XI order is very clear that the applicant was reverted to the post of WTM for a period of three months with non cumulative effect. Therefore, in all fairness the authority ought to have promoted the applicant immediately after 31.3.1991. The denial of such promotion, in our opinion, is unreasonable and arbitrary.

5. In view of the above we dispose of this application with direction to the respondents to promote the applicant to the post of Telecom Inspector Grade III in terms of the Annexure XI order dated 31.12.1990, i.e. from 1.4.1991 and he shall get all the consequential benefits including his entitlement to be considered for promotion to the next higher grade.

6. The application is accordingly disposed of. However, considering the facts and circumstances of the case we make no order as to costs.


(G. L. SANGLYINE)
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN

Filed by
Mr. M. Chawla
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,

O. A. No. 218 of 1996.

Sri B.K. Gupta.

-Versus-

Union of India.

LIST OF DATES.

Sl.No.	Para.	Date.	Particulars.	Annexure.
1	2	3	4	5

6.2. 1966. That the applicant was initially appointed in the N. F. Ry. as Wireless ^{Trainee} Telecom Maintainer Grade-III in the year 1966.

6.4. 24.3.88. The applicant declared selected in the post of Telecom Inspector Grade III and promoted in the said grade and posted as TCI Gr. III at Rangia but the said promotion could not avail by the applicant as he was not spared to join in the promotional post in terms of order dated 24.3.88.

1	2	3	4	5
6.5.	17.10.89.	That the applicant promoted and posted to the post of TCI Gr. III at Mariani vide order dated 17.10.89.		Annexure - III.
6.6.,	17.8.90.	After joining on 16.12.89 in the promotional post in Mariani the applicant was placed on suspension suspension with effect from 17.8.90 for unauthorised retention of Rly. Gr. in the old station at Tinsukia and a departmental proceeding was initiated against the applicant.		Annexures, - IV, V, VI, VII.
6.8,	22.10.90.	The applicant submitted an appeal for revocation of suspension order, the Enquiry Officer also submitted his report before the disciplinary authority with its findings on 17.12.90 holding that the charges are established and further recommended to consider the appeal of the applicant dated 22.10.90 to allow the applicant to join his former post at Tinsukia.		Annexure - IX.
6.9.	17.12.90.			

1.	2.	3.	4.	5.
6.10.	17.12.90.	The suspension order against the applicant was revoked.		Annexure - X
6.11.	31.12.90.	The disciplinary authority imposed punishment of reversion from the post of TCI Gr.III to the post of WTM Gr. I. for a period of 3 (three) months with non-cumulative effect.		Annexure - XI.
6.12.	21.2.90.	The applicant after imposition of penalty vide order dated 31.12.90 allowed to join at Tinsukia in the reverted post of WTM Gr. I.		Annexure - XII.
6.13.	29.5.91.	The applicant has submitted an appeal before the Divisional Signal & Telecommunication Engineer, N. F. Ry., Tinsukia on 29.5.91, requesting to arrange his posting on promotion as TCI Gr. III at Tinsukia.		Annexure - XIII.
6.15.	2.2.95.	The applicant submitted another appeal for consideration of the promotion and restoration to his post.		Annexure- XV

1.	2.	3.	4.	5.
6.16.	22.2.96.	The applicant submitted another representation praying for restoration of his promotion. Be it stated that in the mean while many of his Juniors are further promoted to the post of TCI Gr. II.		Annex. XVI.
6.17.	7.2.96.	The General Manager (P) Maligaon on 7.2.96 ^{has} as written to the Divisional Rly. Manager, Tinsukia stating that the restoration of the post of the applicant shall have to be done by the divisional authority.		Annex. XVII.
6.18.	29.3.96.	The Divisional Rly. Manager(P) Tinsukia in reply to the letter dated 7.2.96 vide his letter dated 29.3.96 stated that applicant may now be restored as TCI Grade III in the scale of Rs. 1,400/- to 2,300/- if the post which has been allotted to Tinsukia Division is order to be operating by downgrading or or one additional post of TCI Gr. III be allotted to accommodate the applicant and sought approval for restoration from competent authority.		Annex. XVIII.

~~Exx~~
1. 2. 3. 4. 5.

6.19. 12.4.96. That the Divisional Rly. Manager Tinsukia on 12.4.96 has written to the General Manager (P) Maligaon regarding restoration of the applicant as TCI. Gr.III in the scale of Rs. 1400/- to 2300/-. The D. R. M. (P) Tinsukia also observed in paragraph IX of ^{Said} in the ~~send~~ letter that the ^{should get} applicant ~~get~~ proforma fixation of incremental benefit except the period from 1.1.91 to 31.3.91 subject to the condition if his restoration as TCI Gr. III in the scale of Rs. 1400/- to 2300/- recommended vide office letter date 29.3.96 is approved by the competent authority at Headquartet.

S U B M I S S I O N .

That the punishment imposed upon the applicant ^{whereby} ~~he was reverted only~~ ^{for} vide order dated 31.12.90 ~~he was reverted only~~ a period of 3 months that is with effect from 1.1.91 to 31.3.91

and the.....

and the said punishment was completed long back on 31st March, 1991 as the effect of punishment order is non-cumulative the applicant is entitled to be restored to the post of TCI Gr. III in the scale of Rs. 1400/- to 2300/- with effect from 1.4.91 the benefit of restoration has been wilfully denied to the applicant although the correspondences of Rly. authorities letter dated 7.2.96, 29.3.96, 12.4.96 strongly supported the case of the applicant. But even then the benefit of restoration is denied. The applicant is entitled to restoration with effect from 1.4.91 with all incremental and monetary benefit.

IN THE COURT OF ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
AT GUWAHATI

application Under Section 19 if the Administrative
Tribunal Act 1985.

O.A. No. 218 / 96

Sri B.K.P. Gupta,

Vs.

Union of India & others.

Biju Kishore Basumatary

I N D E X

S. I. No.	Annexure	Particulars	Page Nos.
1.		Application	1 to 15
2.		Verification	16
3.	I	Memorandum dated 24.3.85	17 to 18
4.	II	Officer's Order dated 24.3.88	19 to 20
5.	III	No. E/254/26(N) pt.III Office order dated dated 17.10.89	21 to 24
6.	IV	Office order of Unauthorised retention of Qtr. dated 16.7.90	25 to 26
7.	V	Suspension Order dated 17.8.90	27
8.	VI	Office order of Enquiry dated 5-12-90	28 to 29
9.	VII	Articles of charges	30 to 32
10.	VIII	Appeal filed 22-10-90	33 to 34
11.	IX	Enquiry Report submitted dated 17.12.90	35 to 36
12.	X	Revocation of suspension Order dated 21.12.90	38 to 39

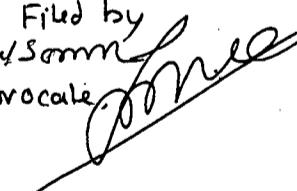
Received copy
of this sum. few
days ago
from B. K. S.
1-10-96.

Contd...

Brij Kishore Banerjee of Gupta

- 2 -

13.	XI	Punishment Order Dated 31.12.90	38 to 39
14.	XII	Joining order of Tinsukia	40
15.	XIII	Appeal 29-5-91	41 to 42
16.	XIV	Letter dated 29.5.91 No. E/T-39/N/V/pt (11) TCI	43
17.	XV	Appeal dated 22.2.96 advance copy	44 to 48
18.	XVI	Appeal dated 2.2.95	49 to 50
19.	XVII	Letter No. E/234/26(N) pt III 7.2.96	51
20.	XVIII	Letter of DRM No E/T-39 (V)(N) TCI - dated 29.3.96	52 to 53
21.	XIX	E/T-39/1 V(N) TCI 54 dated 17.4.96	54 to 55
22.	20	—	56-70
23.	Rejoinder	—	71-74

Filed by
Bipul Som
Advocate


1. Particulars of the Appellants

Sri B.K. Prasad Gupta

WFM/1/TSK

Tinsukia - P.O. Tinsukia

N.F. Railway,

Assam.

The applicant is working as WFM/1/ Tinsukia of the

N.F. Railway , Tinsukia ,

Applicant.

2. particulars of the Respondents

The Union of India

Through the General Manager,

N.F. Railway Maligaon,

~~N.F. Railway~~,

~~Guwahati~~, ~~Assam~~ - 11.

2. Chief Signal & Telecommunication Engineer

N.F. Railway/Maligaon, Guwahati - 11.

3. Chief Personnel Officer -

N.F. Railway Maligaon , Guwahati - 11.

4. Divisional Railway Manager (F)

N.F. Railway ~~Maligaon~~, Tinsukia.

5. Divisional Signal Telecommunication Service,

N.F. Railway , Tinsukia.

.. Respondents .

3. particulars for which the application is made

This application has been made for restoration of the promotion of ~~the~~ the applicant wherein he was promoted to TCI/III vide MLGS order N/o E /284/ 159 (M) Pt-IV the 17-10-89 And posted at Mariani (MxN)

But ...

But the applicant retain the ~~str. at~~ Tinsukia and he was placed under suspension by the Divisional signal Telecommunication Engineer/Tinsukia and proceeded with DAR. The applicant surrendered his promotion and accordingly the applicant was reverted WTM/1 for a period of 3(three) months holding DAR from 1-1-91 to 31-3-81 vide DSTE/TSK's L/No.N/ 55/Punishment /pt-11 /Ts. dt 31.12.90. But on expiry of the term of punishment on 1-4-91 the applicant was not restored to his post on TCI/G-III, The office of the General Manager (P) vide Memo No. E/254/26/PT-111 dated 7.2.96 has written to the Divisional Manager Tinsukia with a copy to DSTE/Tinsukia in regard to the posting of the applicant on TCI/III at Tinsukia. It is also stated that the applicant reverted for a period 3 months only. On expiry of 3 months the restoration of his post should have been done by the Divisional authority. But the ~~applicant~~ was not restored to his promotional post since 1-4-91, But most of his Junior was promoted and direct recruitment was also made in this period from 1-4-91 hence this application.

4. Limitation

That the applicant declare that this application is made within the prescribed time limit of the administrative Tribunal Act 1985.

5. Jurisdiction

That the applicants further declares that the cause action of this case has been arisen within the jurisdiction of this Hon'ble Tribunal.

6. Facts ...

Boij Kishore Basu/Gupta

6. Facts of the Case

6.1. That the applicant is a citizen of India and as such he is entitled to the rights and privileges guaranteed under the Constitution of India and the applicant presently serving in the N.F. Railway Tinsukia in the capacity of WTM/Gr-I.

6.2. That the applicant was appointed in the N.F. Railway in the year 1966 as a WTM GR-III/Wireless Telecom Maintainer in the initial appointment he ~~comes~~ of Joined Katihar ~~Under the~~ TCI/KIR. The date of joining is 4-12-66. That the applicant remained in the same post for six (6) years upto February 1972. After that he was on sick leave for three years, but this leave was not sanctioned so he was to stay as leave without pay from 1972 to 1975.

6.3. In the year 1975 the applicant was transferred to ~~Meading~~ as WTM GR III and joined Lumding on 15-2-1975. And on 30-3-1978 the applicant was promoted as ^W WTM Gr. - I and posted at Tinsukia and accordingly the applicant joined at Tinsukia. The applicant was selected as a TCI Gr. III in selection of 30% promotional quota on 24.3.88.

A copy of the selection order is enclosed herewith and marked as Annexure - I.

6.4. That ...

6.4. That the applicant was transferred to Rangia in view of the above selection held on 24-3-88 as TCI Gr.III - And accordingly a transfer, posting and promotion order was issued vide No.E/254/26(N) pt III dated 24.3.1988. But the applicant could not avail the same for want of separating.

A copy of the said promotion transfer or posting order is enclosed herewith and marked Annexure - II.

6.5. Subsequently the applicant was considered for promotion to TCI/III vide CSTE(P) MLG's order No. E/283/159(N) PT-IV - dated 17.10.89 and posted at Mariani.

A copy of the ~~same~~ said order is enclosed herewith and marked as Annexure - III.

6.6. The applicant joined at Mariani as TCI Gr III in pursuance to aforementioned order and retained his quarter at Tinsukia. But the respondent the Divisional Railway Manager Tinsukia has issued ~~order~~ ~~fax~~ notice for unauthorised retention of quarter at the old station and proceeded under the D A R (Discipline and Appeal Rules)

A copy of the notice issued by DRM Tinsukia is enclosed herewith as Annexure - IV.

6.7.

6.7. On 17.8.90 the applicant was placed under suspension vide Memo no. N/SS/Punishment /PT-II-T8 w.e.f. 17.8.90. And appointed a Board of Enquiry by issuing charge sheet. And started the proceeding against the applicant.

A copy of the suspension order along with notice of holding Enquiry and articles of charges are annexed herewith as Annexure V, VI & VII respectively.

6.8. That during the periods of suspension the applicant has submitted an appeal to the respondent with a prayer to revoke his suspension order and also request for reversion to his former post of WTM/HS. Gr. I at Tinsukia. As the applicant desired to retain the Qtr No.L/34 B at Tinsukia on the educational ground of his children till the availability of post of TCI/HI at Tinsukia.

A copy of the appeal dated 22.10.90 is enclosed herewith and marked as Annexure VIII.

6.9. The Enquiry officer on 17.12.90 ~~dated 22.10.90~~ has submitted its report before the Disciplinary ^{Authority} with its finding that the charges of Articles I, II and III are established. The Enquiry officer also made a recommendation to consider the appeal of the applicant dated 22-10-90 to allow the applicant to join his former post WTM Gr-I at Tinsukia.

A copy

A copy of the Enquiry Report is enclosed
herewith and marked as Annexure - IX.

6.10. That on 21.12.90 ^{the} respondents vide letter No.N/55/Punishment/Pt-11/TS has ~~revoke~~ the suspension order of the applicant w.e.f. 17.12.90 the copy of the letter also communicate to the applicant.

A copy of the revocation order is enclosed herewith as Annexure - X.

6.11. That the Disciplinary authority has issued notice informing applicant vide No. N-55 /Punishment/PT-11/95 dated 31.12.90 that the explanation in regard to the Memo No. N-/55/Punishment /PT_11/TS 25.9.90 is not satisfactory hence the following punishment order is passed -

" Quoted

" Shri B.K. Prasad Gupta, TCI/Gr-III/MXN in ~~seale~~ of Rs. 1400/- 2300/ (R P) is reverted to WTM/Gr-I In ~~seale~~ of Rs. 1320-2040 /~~Rs~~ (R P) for three months with non - cumulative effect"

A copy of the said order is enclosed
herewith and marked as Annexure XI.

6.12. That....

Brij Krishan Basak

6.12. That on 21.2.90 the applicant was allowed to join at Tinsukia as WTM/Gr-1 in the ~~existing~~ vacancy subject to the DAR proceeding.

A copy of the said order allowing the applicant to join as enclosed herewith as Annexure XII.

6.13. That the applicant ~~has~~ has submitted an appeal before the Divisional Signal & Telecommunication Engineer N.F. Railway/Tinsukia on 29.5.91. Stating all the facts and also requested the respondents to arrange of his posting of promotion as TCI-/III at Tinsukia.

A copy of the said appeal is enclosed herewith as Annexure XIII.

6.14. That the appeal of the applicant has forwarded by the Divisional Railway ~~Manager~~ Tinsukia to the CSTE(P) Maligaon for necessary action.

The copy of the said forwarding letter is enclosed herewith and marked as Annexure - XIV.

6.15. That on 2.2.95 the applicant has submitted an appeal to the DSTE/Tinsukia through proper channel and the DSTE/Tinsukia has forwarded the ~~same~~ to the Chief Signal Telecommunication Engineer Maligaon for consideration of his promotion and restoration to his post. But the respondent did not consider the appeal of the applicant.

Brij Krishan Basu

A copy of the appeal is enclosed herewith and marked as Annexure XV.

6.16. That Most surprisingly offer expiration of punishment period on 1.4.91 the applicant was not restored to promotion was TCI/III But on the other hand most of his juniors has been promoted. The applicant on 22.2.96 has submitted another appeal in reference to his previous ~~was~~ two appeals. In the said appeal it was prayed that the punishment period was expired on 1-4-91 and he should be restored his promotion. However they did not take any initiative to dispose off the appeal of the applicant.

A copy of the said appeal is enclosed herewith and mark as Annexure - XVI.

6.17. That the office of the General Manager (P) on 7.2.1996 vide Memo No.E/254/26/4/PT.III has written to the Divisional Railway manager Tinsukia with a copy to Divisional signal Telecommunication Engineer Tinsukia stating that the restoration of post of the applicant shall have to done by the Divisional authority and also stated in his letter that it was not understood for such correspondance.

The copy of the said letter is enclosed herewith as Annexure - XVII.

- 9 -

6.18. That the Divisional Railway manager (P) N. F. Railway Tinsukia vide letter No. E/T-39/V(N)TCI in replying to the letter of General Manager (P) the 7.2.96 (Annexure XVII) stated that the applicant may now be restored as TCI/111 in the scale of 1400 to 2300/- if the post JE/Tele /11 which has been allotted to the Tinsukia Division is ordered to be operating by down grading or one additional post of TCI/111 allotted under the DSTE/TSK to accommodate the applicant. And also request the authority to obtain approval for restoration of his post. The necessary comments of the said Letter is quoted below :

"quote

(2)

2. Regarding filling up the post of TCI/III no intent was placed with Hqrs. from this end for ~~or~~ candidates. But it has now been reflected in your letter ~~xxx~~ that the then DSTE/TSK placed indent for ~~or~~ candidates with Hqrs. Telephonically, though the restoration I Shri B.K. P. Gupta was due as TCI/III.

3. Shri B.K. P. Gupta may now be restored as TCI/III in scale of "s. 1400 to 2300 if the post of J.E. /Tele/11 which has been allotted this Division is ~~ordered~~ to be operated by down grading or one additional post of TCI/III allotted under DSTE/TSK to accommodate Shri B.K.P. Gupta"

Unquote.

A copy of the said letter is enclosed herewith and mark as Annexure XVIII.

Brij Kishore

6.19. That the Divisional Railway Manager Tinsukia on 17.4.96 vide memo No. E/T-39/1/V(N)TCI has written to the GM(P) MLG.N.F. Railway regarding posting of the applicant as TCI/III in the scale of Rs. 1400 to 2300 PM of Tinsukia . The letter also contains the observation and comments on the appeal of the this applicant and the clause IX of the said letter which is ~~self explanatory~~ is read as follows -

"Quote

"He will get proforma fixation of incremental benefit except the period from 1-1-91 to 31.3.91 subject to the condition if his restoration as TCI/ III at the scale Rs. 1400 to 2300/- as recommended vide this office letter of vide No dated 29.3.96 is approved by the competent authority at Hqrs"

unquote.

The copy of the said letter is enclosed herewith and marked as Annexure XIX.

6.20. That the ~~exempli~~ applicant is depriving of his legitimate right for consideration of his promotion which was ~~guranteed~~ by him at the time of reversion. And it is to be stated that on to expiry of the punishment period on 1-4-91 he was not considered for promotion as TCI/III. However his juniormost person has been

promoted....

promoted, without restoration of his post, which is the authority required to done on expiration of his punishment, and ~~was~~ thereby the applicant is subjected to victimise and ^{causes} un due financial loss due to the mistake committed by the then Divisional Railway Manager Tinsukia and Divisional Signall Telecommunication Engineer Tensukia respectively.

6. 20. That the applicant has submitted his last appeal on 18th August, 1996 ~~at~~ after failing to get proper response of his previous two ~~appeal~~ appeals dated 2-5-89 and 29.5.91. And it is stated that the comments and observation of his appeals forwarded by the Divisional Manager Tinsukia on 17.9.96. Vide Annexure XIX with a comment to consider his restoration since 1-4-91 with all necessary benefits of pay and allowances but the General Manager (P) Maligaon keeps silent over the issue of the applicant finding no alternative the ~~as such~~ applicant shall have to appear before this Tribunal for appropriate remedy.

A copy of the said appeal is enclosed herewith and marked as Annexure XX.

6.22. That it is to be mentioned that on 2-2-95 the applicant while submitting his application to the DSTE/ Tinsukia, It is was mentioned that a post ⁽¹⁾ of TCI Gr III has been occurred at Tinsukia on ~~as such~~ promotion of Sri J. Saikia TCI/Gr III with a posting order at Dibrugarh and the said post

Boij Krishnaswamy

was filled by Sri A.K. Das DR /TCI / III . But the the applicant was not considered. It is to be stated that the respondent could have considered the applicant on that post. But that was not done.

6.23. That there is no other alternative remedy except appearing this Hon'ble Tribunal for protection of the rights and interest and promotions of the applicant and this is a fit case where this Hon'ble's Tribunal be pleased to interfere declaring that the applicant is entitled to get restoration of his due promotion since 1-4-91 i.e. on expiration of the punishment and further be pleased to direct the respondents to restore the promotion with all necessary financial and other service benefit since 1-4-91.

6.14. That this application is made bonafide and in the interest of justice.

7. RELIEFS SOUGHT FOR::

In the facts and circumstances ~~take~~ stated above the applicant prayed for the following relief :

1. That the Hon'ble Tribunal be pleased to direct the respondent to restore the promotion of the applicant for which it was considered vide order No. - E/283/159(M) pt dated 17.10.89.
2. That the Hon'ble Tribunal be pleased to direct the respondent the present applican~~t~~ is entitled to restoration of his promotion since 1-4-91 with all

the ...

Boyle Krishnaswamy Gupta

the financial necessary benefit, in terms of the order No. E/284 /16 (N) Pt. III - dated 7.2.1996. and in ^{presence} to letter No. E/T-39/1/V (M) TCI dated 17.4.96 issued by the respondents.

3. That the Hon'ble Tribunal be pleased to direct the respondent to accomodate the applicant by making necessary arrangement with all consequential benefit. And also pleased be directed to clear the incremental and other necessary benefit arising out of his promotion since 1-4-1991.
4. That the respondent be further be pleased to directed not to promote any other person without accomodating the applicant in the post of T C I /Gr-III. And all the promotion as direct recruitment in the post TCI/ G III be restrained till the absorption of the applicant as TCI/Gr III.
5. To pass any other order or orders as deemed fit and proper under the facts and circumstances stated above.

The above relats are prayed on the following amongst other -

G R O U N D S

1. FOR that the applicant was deprived from his due and legitimate promotion.
2. For that original promotion order of the applicant No. E/283/159 (N) Pt - V dated 17.10.89 still not given effect to.

Boij Krishnaswamy

3. For that that the applicant promotion is automatically due on expiration of punishment period on 1.4.91.
4. For that the promotion of the applicant has been wrongly and intentionally withheld without any reasons since 1-4-91.
5. For that no steps has been taken by the authority to give the effect of the office order dated E/2 83/159 (N) Pt III dated 17.10.89 . In pursuance to office order dated E/T-39/V(N) TCI dated 29.3.96 .
6. For that comments on the appeal of the applicant made Divisional Railway Manager(P) Tinsukia - has not yet been considered by the respondent.
7. For that the applicant is depriving from his due promotion which was given to him as TCI ~~Exx~~ Gr III since 1-4-91.
8. For that the direction be given to the respondent to restore the promotion of the applicant since 1-4-91 as TCI Gr III with all incidental benefits .
8. Interim Reliefs prayed for;

During the pendency of this application the applicants pray for the following reliefs.

1. That

Boif Kishore Basu/fu

1. That the all further promotion of TCI/Gr III and direct Recruitment be stayed till disposal of this application of the applicant.
2. That Respondent be directed to make necessary arrangement to absorb the applicant as TCI /Gr III since 1 - 4 - 91.
3. That Respondent be directed to restore the promotion to the applicant with necessary financial benefit since 1.4.91.

9. Details of the Remedy Exhausted :
There is no other rule/law save and except filling this application before this Hon'ble Tribunal

10. That the matter is not pending before any court/Tribunal.
11. Particulars of the Postal order:

1. Postal order No.	8, 11, 444447
2. Date of issue	1-10-96
3. Issued from	Gr. P.O. Guwahati
4. Payable at	G.P.O. Guwahati.
12. Index of documents is enclosed :
13. Enclosures
As per index.

contd...

VERIFICATION

I, Sri B.K.P. Gupta son of Late Romleli shah.
aged about 49 years working as WTM/Gr. - 1 in the office of
Divisional Signal Telecommunication Engineer N.F. Railway
Tinsukia Assam, Applicat~~ta~~ in this application and am duly
verified this application as after going through the appli-
cation to hereby declares that the statements made in this
application are true to my knowledge and belief.

I have not suppressed any materials fact that I sign
this verification on this the day of ~~1st October~~ ^{September},
1996.

Brij Kishore Basu Gupta

NORTHEAST FRONTIER RAILWAY

MEMORANDUM

In the selection for promotion to the post of Telecommunication in respect of Gr. III in scale Rs. 1400-2300/- (RP) against 30% promotional quota held in STATE's office on 13/14 June, 87, 24/25th October/87, 7/8th Nov'87 and viva-voce on 15-2-88 the following candidates have been selected for the post of TCI/III in scale Rs. 1400-2300/- (RP) and their panel position shown against each.

<u>S.l.</u>	<u>Name</u>	<u>Designation.</u>	<u>Panel position</u>
1.	Shri I.B. Majumdar	TCM/I/MW	I
2.	Shri S.N. Sinha,	WTM/I/KTR.	II
3.	Shri Md. Ayub Khan	TCI/I/KTR.	III
4.	Shri B.K. Prasad Gupta	TCM/I/TSK	IV
5.	Shri Dipak Das (SC)	TCM/I/MW	V (He will be promoted on completion of 2 years services as TMC/I/)

The result has been approved by CSE on 16.3.88. The result is provisional subject to finalisation of supreme court's decision

Sd/- Illegible,

for C S T E (P) M I C.

Dated 24-3-88

NO. E/254/26(N) Pt. III.

Copy forwarded for information and necessary action to :

1. DRM(P) KIR, APDO, LMG, TSK.
2. DSTE do
3. DSTE/MW/Maligaon.
4. DSTE/TW/Maligaon.
5. DSTE/CTC/BNGN.
6. Y.CSTE/BG/CON.

*Addressed
Concise
Parakat
1/10/88.*

Contd. Annexure - 1

7. CCS/G/Maligaon (in quaduplicate) for publication in the next issues of fortnightly Gazette.

8. AHC (Translation) Maligaon. He is requested to get the above result be translated in Hindi version.

Sd/- Illegible,

for C.S. T.E. (P) MIC.

Allected
donee
as soon
1/10/96

N.F. RAILWAY.

OFFICE ORDER

The following transfer posting and promotion orders are issued to take immediate effect :-

1. Sri I.B. Majumder, TMC/I/MW Maligaon under DSTE/MW in scale Rs. 1320-2040/- (RP) on being declared approved as TCI/III in scale Rs.1400-2300/- is promoted and posted as TCI/III/MW/Lumding under DSTE/MW/Maligaon.
2. Shri S.N. Sinha, WTM/I/KIR in scale Rs.1320-2040/. (RP) under DSTE/KIR on being declared approved as TCI/ III/in scale Rs.1400-2300/- is promoted and posted as TCI/III/NBQ under DSTE/APDJ.
3. Md Ayub Khan, TCM/I/KIR under DSTE/KIR in scale Rs. 1320-2040/- (RP) on being declared approved is promoted and posted as TCI/III/KIR in scale Rs.1400-2300(RP) under DSTE/KIR.
4. Shri B.K. Prasad Gupta,TCM/I/TSK in scale Rs.1320-2040 (RP) under DSTE/TSK is promoted and posted as TCI/III/RNY under DSTE/APDJ against an existing vacancy.
5. Shri K.M. Chanda ,TCI/II/MW/IMG in scale Rs.1600-2660/- (RP) is transferred and posted as TCI/II/IMG under DSTE/TW/Maligaon in his same pay and scale against an existing vacancy for a period of six months after which he will be posted under DSTE/MW/Maligaon.
*Mr. M. D. Roy
Chairman
10/12/87*
6. Shri B.K. Kar, CTCI/IMG in scale Rs.2375-3500/- (RP) who was transferred under DSTE / TW's vide this office under No. E/254/26(N) Pt.VI dt. 16.12.87 in this same pay and scale may be treated as cancelled and retained at IMG as CTCI under DSTE/IMG.

Contd. Annex. II

This issues with the approval of and Dy.
DSTE/XMK. Tele.

Sd/- Illegible,

for CHIEF SIGNAL & TELE COMM. ENGINEER
(P)/MIG.

NO. E/254/26(N) Pt. III :::: Dated 24-3-1988.

Copy forwarded for information and necessary
action to :-

1. DRM/P/KIR, APDJ, IMG & TSK.
2. DSTE/IMG, TSK, APDJ & KIR.
3. FA& CAO / Maligaon.
4. DAO/IMG, TSK, APDJ, KIR,
5. DSTE/MW.
6. DSTE/TW/Maligaon.
7. DSTE/CTE/BNGN.

Sd/-

for C.S.T.E. (P) /MIG.

...

*After 2/10
D. soon
Done
1/10/88*

Annexure - III

NORTHEAST FRONTIER RAILWAY

OFFICE ORDER

The following transfer, posting and promotions orders are issued to take immediate effect :-

1. Shri S.M. Chanda, TCI/II/MW/KIR on being found suitable and approved as TCI/I in scale Rs.2000-3200/- is hereby temporarily promoted and posted as TCI/I/MW/SGUJ under DSTE/MW/Maligaon against an existing vacancy.
2. Shri B.P. Sarkar, TCI/II/MLG on being found suitable and approved as TCI/I in scale Rs.2000-3200/- is hereby temporarily promoted and posted as TCI/I/Auto / Maligaon under DSTE/LMG against an existing vacancy.
3. Shri B.N. Paul, TCI/II/LMG on being found suitable and approved as TCI/I in scale Rs.2000-3200/- is hereby temporarily promoted and posted as TCI/I/LMG under DSTE/LMG against an existing vacancy.
4. Shri R.N. Nag, TCI/II/MW/Maligaon on being found suitable and approved as TCI/I in scale Rs. 2000-3200/- is hereby temporarily promoted and posted as TCI/I/MW/Maligaon under DSTE/MW/Maligaon against an existing vacancy.
*Approved by
for
1/6/26*
5. Shri K.M. Chanda, TCI/II/TW/LMG on being found suitable and approved as TCI/I in scale Rs. 3200/- is hereby temporarily promoted and posted as TCI/I/LMG /under DSTE/IMW /LMG against an existing vacancy.
6. Shri A.K. Chakraborty, TCI/BG/CON/GMY under Dy CSTE/BG/CON on being found suitable and appr ved as TCI/I in scale Field /Maligaon under DSTE/MW/Maligaon against an existing vacancy.

7. Shri C.R. Das Gupta TCI/II/KIR on being found suitable and approved as TCI/I in scale Rs. 2000-3200/- is hereby temporarily promoted and posted as TCI/I/GHY under DSTE/LMC against an existing vacancy.

8. Shri S.K. Bose, TCI/II now on deputation with GM/Metro Rly/ Calcutta on being found suitable and approved as TCI/I in scale Rs. 2000-3200/- is hereby temporarily promoted and posted as Field Controller in CSTE's office under CSTE/Mali aon.

9. Shri A.C. Moni (SC), TCI/II/MW/Maligaon on being found suitable and approved as TCI/I in Scale Rs. 2000-3200/- is promoted and posted as TCI/I/CON under Dy CSTE/BG/ COM vice vacancy of Sri Chakraborty Item No. 6 above .

10. Shri K. Deori (ST), TCI/II/DBRT on being found suitable and approved as TCI/I in scale Rs. 200-3200/- hereby temporarily promoted and posted as TCI/I/ACSR/ RPAN under DSTE/APDJ against an existing vacancy.

11. Shri B. Majumder, TCI/I/ACSR/NEQ under DSTE/APDJ is transferred and posted as TCI/I/BNGN under DSTE/CTC/ BNGN in his same pay and scale vice Shri B.C. Roy transferred.

12. Shri S. Kumar, TCI/II/MXN under DSTE/TSK is transferred and posted as TCI/II/DBRT under DSTE/TSK in his same pay and scale vice Shri Deori Sr. NO. 10 promoted and transferred.

13. Shri....

13. Shri B.K.P. Gupta, TCM/Gr.I on being approved as TCI/III is hereby promoted as TCI/III in scale Rs. 1400-2300/- and posted as TCI/III /RKN against and existing vacancy.

14. Shri Ananta Lal Chakraborty, TCI/II/MW/SGUJ is transferred and posted as TCI/II/KIR/~~unxter~~ MW/MLG under DSTE in his same pay & scale vice Shri S.M. Ghanda, Item No. 1 transferred on promotion.

15. Shri P.K. Roy, TCI/III/MW/MLG on being found suitable is promoted as TCI/II/MW/Lab /Maligaon in scale Rs. 1600-2600/- under DSTE/MW/Maligaon.

16. Shri S. Guha Roy, TCI/III/MW Lab; on being found suitable is promoted and posted as TCI/II MW Lab: Maligaon in scale Rs. 1600-2660/- under DSTE/MW/Maligaon against an existing vacancy.

17. Shri S. Chatterjee, TCI/III/NBG Exchange on being found suitable is promoted and posted as TCI/II/NBG under DSTE/CTC/BNGN.

*all cleared
Ananta Lal
1/10/26*
Note i) This issues with the approval of CSTE.

ii) Promotion of the above TCI/I & TCI/II is subject to condition that there is no SPE/Vig/ DAR Case pending against them and there is punishment effect as a bar against their promotion. The Controlling Officers should checkup the same before effecting their promotion orders.

iii) The above promotions are provisional and temporary subject to the final disposal of the Writ petition by the Supreme Court.

Sd/- Illegible,

No. E/283/159 (N) Pt. IV. Maligaon, dated the (7 - 10-1989)

Copy to 1) GM (Metro Rly.) /Calcutta, 33/A, Chowringhee Road,
Cal- 71.

2) Dy CSTE/Tele/Mali aon.

3) Dy CSTE/BG/CON Maligaon.

4) DRM (P) /KIR APDJ, LMG & TSK

5) DSTE/KIR APDJ, LMG & TSK.

6) DAO/KIR, APDJ, LMG & TSK,

7) DSTE/CTC/BNGN

8) DSTE/ MW/Maligaon

9) DSTE/TW/Maligaon.

sd/- Illegible,

for CHIEF SIGNAL & TELE COM . ENGINEER(P)

/MLG.

abled by
Sarkar
B. S. Soni
Parate
1/10/89

Annexure - IV

N.F. RAILWAY
No. N/2/1/5/pt.IV/TSK

OFFICE OF THE
DRM(S & T) TSK
Date : 16/07/90

To

Shri R. Prasad, SI/I/MXN
Shri B.K. P. Gupta, TCI/III/MXN
Shri D.C. Biswas, ESM/II/MXN under SI/MXN
Shri Narayan Kar, LM/III/TSK under TCI/TSK
Shri Sudhangshu Dey, LM/II/TSK under TCI/TSK

Sub: Unauthorised retention of Quarter

at Old Station by S & T Staff :

Ref : 38th Divisional PNM of NFRMU/TSK

Division:

It was discussed in details in the meeting regarding retention of Quarters unauthorisedly by the S & T staff at TSK Division. From record it is observed that following S & T staff are occupying quarter unauthorisedly at their previous place of posting and it is decided in the meeting that such defaulters are to be suspended with immediate effect if they do not vacate their quarter immediately and those who are under order of transfer to their previous place will not be allowed to carry out their transfer order till such time the said quarters are vacated.

Accordingly following action has been taken from this end indicated against each staff.

*2 days by
Loknath
10/7/90*

S.l.	Name & Desig No.	Q. No. Retained unauthorisedly	Unauthorising isition Date	Suspended w.e.f. of joining
------	---------------------	-----------------------------------	-------------------------------	-----------------------------------

1.	Sri R. Prasad, SI/I/MKN	18/A, Type-II at TSK	15.10.87	After handing over the charge of SI/MXN to Sri Y.P. Mistry, SI/I.
2.	Sri D.C. Biswas, ESM/II/MXN	15/A, Type -II at TSK	10.7.87	w.e.f. 16.8.90
3.	Sri Narayan Kr, LM/Gr.III/TSK	89/C, Type-I at MXN	1.11.88	w.e.f. 1.9.89 (Already noticed served earlier to vacate).

Contd. Annex. IV.

4. Sri Sudhangshu Dey, SE SE/5(K) LM/GR.II/TSK	at NXN	1.11.88	W.e.f.	16.8.90
5. Sri B.K.P. Gupta TCI/III/MXN	L/34(B) at TSK	21.12.89	W.e.f.	16.8.90

It is also observed that the above staff also did not obtain any permission to retain their Quater at Old station from the competent authority i.e. DRM/TSK as per extant rules.

All the above staff are advised once again to vacate their Quater immediately to avoid DAR actions.

Please treat this as Urgent.

Copy to : DRM/TSK, SI/MXN & TSK,
TCI/TSK

Sd/- Illegible,
16.7.90
(A. Sarkar)

DSTE/TSK

(A. SARKAR)

204
checked
for
Marolle
10/7/96
11/7/96

STANDARD FORM OF ORDERS OF SUSPENSION ~~FOR RAILWAYS~~

SERVANT : (DISCIPLINE AND APPEAL) RULES

No. N/55/Punishment /Pt.II/TB Date : 17/08/90

Name of Rly Admn : N.F. Railway

Place of issue : DRM (S & T) TSK's Office

Whereas a disciplinary proceeding ; Whereas a case against
against Shri B.K.P. Gupta, 'Shri
TCI/Gr.III/MEN (Design of the Rly servant
(Name & Desig. of the Rly
Servant) is contemplated/
pending. in respect of a criminal
offence is under investi-
gation/inquiry Trial.

Now, therefore, the undersigned (the authority
competent to lace the Rly servant under suspension in term
of the schedule appeared to RS(D & A) /Rules, 1968, in
exercise of the powers conferred by the rule 4 provision
to rule 5(1) of the RS (D & A) Rules, 1968 hereby place
the said Sri B.K.P. Gupta, TCI/Gr.III/MXN under suspension
w.e.f. 17.8.90

It is further ordered that during this order shall remain
inf ornce , the said Shri B.K. P Gupta TCI/Gr.III/MXN shall
not leave the Hqrs. without obtaining the previous of the
competent authority.

Sd/-

(A Sarkar),

DSTE/TSK

Signature (Name) , Designation
of the Suspending authority.

C/ B.K.P. Gupta, TCI/ Gr. III/MXN

Name & Designa. of the suspended Rly. Servanti order regard-
ing susbsistence allowance admissible to him during the
period of suspension will issue separately.

C/ DRM(P) S & T /TSK for information and necessary action.
TCI/TSK

Annexure - VI.

N.F. Railway

STANDARD FORM NO. 7 : FOR OF ORDER RELATING TO A PROINTMENT
OF NATURE OFFICER/BOARD OF ENQUIRY (RULES 9(2) OF RS (D & A) RULES
1968 .

N.F. RLY. (Name of Admn.) ORM (S & T) OFFICE /TSK (Place of issue)
No. N/55/PUNISHMENT /PT-II/TS dated 5-12-90

ORDER

There is an inquiry under Rule 9 of the Rly. Servant (Discipline and Appeal Rules, 1960 is being held against Shri B.K. Prasad Gupta TCI/III/MXN (Name & Design. of Rly. Servant) and whereas the undersigned consider(s) that a Board of Inquiry and Inquiry officer should be appointed to inquire into the charges framed against him. Now, therefore, the undersigned, in exercise of the powers conferred by Rule (2) of the said rules, hereby appoint(s).

A Board of Inquiry considering of

1. Sri B Pegu, TCI/I/TSK
2. Sri N N. Chatia, SI/I TSK
3. Sri

Here enter Names & Design. of Members of the Board of inquiry.

OR

Shri (Name & Design. of Inquiry Officer) and inquiry officer to inquire into the charges framed against the said Shri

Sd/- A Sarkar
DSTE/TSK
Signature (...)

...

C/- Shri B.K. Prasad Gupta, TCI/III/MXN (thro: TCI/TSK) (Name & Design. of the Rly. Servant). He will please refer the Memorandum No. N/55/PUNISHMENT/PT-II/ dt. 25-9-90 & send the names of Defence Counsels (at least 3 in order & preference with their consent letters within 7 days from the date of receipt of this, if he so desires to assist him in the inquiry and to enable this office to

contd...

Under
Procces
1/10/90

Contd. Anex. VI.

fix up the date of Inquiry. He should intimate the names of his witness, if any, to arrange their attendance accordingly.

C/- Sri B. Pegu, TCI/I /TSK Name/Design. of the Members of Board of Inquiry /Inquiry Officer.

Sri N.N. Chatia, SI/I/TSK

C/- Sri S. Sarkar, DSTE/TSK (Name / Design. of Landing Authority)

Name To be used wherever applicable, not to be inserted in the copy sent to the Rly. Servant.

19.9.90

altered by
S. N. Chatterjee
1/10/90

Annexure - VII.

Annexure - I

ARTICLE - I

SHRI B.K. Prasad Gupta, TCI/III/MXN has retained Railway Type - I (one) Quater Electrified No. L/34(B) at TSK W.e.f. 21.12.89 unauthorisedly till date which tantamounts to serious misconduct.

ANNEXURE - I

ARTICLE - II

Shri B.K. Prasad Gupta, TCI/III/MXN has retained Railway Qr. No. L/34(B), Type- I electrified at TSK till date without obtaining any prior sanction from the competent authority, which tantamounts to serious misconduct.

ANNEXURE - I

ARTICLE - III

Shri B.K. Prasad Gupta, TCI/III/MXN being Telecomm Inspector Incharge of Mariam, regardinly leaving his Head Quater Station, Mariam on Saturday & Sunday without intimation and prior permission from any body and made available in his Head Quater station only on Monday which tantamounts to serious misconduct.

*Not Re. by
Brook
Done
1/10/86.*

Sd/- Illegible,

(A Sarkar)

DSTE/TSK

...

ANNEXURE I II

Shri B.K. Prasad Gupta, TCI/III/MXN was transferred to Mariani on promotion vide DRM(P) TSK's Office order No. Nil dtd. 28.11.89 and spared from TCI/TSK w.e.f. 20.12.89 and spared from TSK and accordingly joined at MXN on 21.12.89. But after joining at MXN he did not vacate his Railway Quater at Tinsukia No. L/34(B), Type-I Electrified till date and retained the said Railway Quater under his occupation at the previous station of posting at Tinsukia unauthorisedly, which tantamounts to serious misconduct.

ANNEXURE I II

ARTICLE II

Shri B.K. Prasad Gupta, TCI/III/MXN has retained the Railway Qr. No. L/34(B), Type - I electrified at TSK under his occupation w.e.f. 20.12.89 without obtaining any prior sanction from the competent Authority. Hence Sri B.K. Prasad Gupta, TCI/III/MXN is held responsible for such intentional unauthorised occupation of Railway Quater which tantamounts to serious misconduct.

*Written by
advocate
J. B. D.
11/10/96.*

ANNEXURE - II

ARTICLE - III

Shri B.K. Prasad Gupta, TCI/III/MXN has retained his Railway Qr. No. L/34(B), Type - I, Electrified at Tinsukia, Shri Gupta, TCI/III /MXN regularly leaving HQ station i.e., MXN on holidays without any information and prior permission from his superiors and staying at his residence at Tinsukia. He was also advised to take over one Rly Qr.

No. 12/B, Type - II electrified at MXN being vacated by Sri S. Kumar, Ex. TCI/III/MXN vide this Allotment order No. N/2/1/5/pt. III /TSK dt. 28.5.90 which was also not taken over by him intentionally.

For such unauthorised absence from HQ he was being advised from time to time not to behave in such manner. One of such communication to him was by this office. L/No. No /55/staff /pt. II dt./- 11.7.90 . Hence Sri B.K. Prasad Gupta, TCI/III/MXN is also held responsible for leaving his HQ station i.e., MXN without prior permission which tantamounts to serious misconduct.

Sd/- Illegible,

(A Sarkar),

DST /TSK.

Ables No 1
Dorothy
Done
11/10/96

To

The Divisional Signal & Tele. Engineer,
N.F. Railway: Tinsukia.

Thru: Proper Channel :

Sub: Prayer for revocation of suspension
order and retention at TSK on reversion
to WTM HS Gr. I.

Ref : Your order No. N/55/Punishment /Pt.II/Ts
dated 17.08.90.

Sir,

Respectfully I beg to state you the following for
your perusal and kind consideration please.

That Sir, I was under suspension from 17.08.90
vide your order referred above. I was promoted as TCI/III
and posted at ~~MTM~~ independently from 21.12.89. I was
having my quarter at Tinsukia.

*attested by
Bhawal
11/10/86*

Due to education facility of my children I
could not vacate Qrt. No. L 34 B Type I in TSK Railway
colony as three of my children reading in College,
Central School and Hindi High School/Tinsukia.

At Mariani there is no such educational facility
like Tinsukia and for future and education of children
I am ready to forego my promotion as TCI.

RNA ~~permitted~~ I hereby request your honour to revert me
to former post of WTM HS Gr. I till a post of TCI/III
is available at TSK. On availability of post of TCI/III
at TSK I may be given the promotional benefits.

The period of suspension from 17.8.90 22.8.90 may
please be sanctioned as due ~~RNA~~ LAP so that financially I may
be not be suffered.

For this act of kindness I will remain grateful to you
please.

T

Thanking you.

Yours faithfully,

B.K. Prasad Gupta,
(B.K.P. Gu pta),

Dated 22.10.90

TCI/III/ MXN

*With my
best regards
B.K.P. Gu pta*

Annexure -IX.

REPORT OF THE DAR ENQUIRY AGAINST SHRI B.K. PRASAD GUPTA

TCI/Gr.III/MXN HELD AT SI/TSK's OFFICE ON 17 - 12 - 88 90 :

1. Date of Enquiry : 17-12-90
2. Member Present : (i) Shri N.N. Chetia, SI/I/TSK, Inquiry Officer,
(ii) Shri B. Pegu, TCI/I/TSK,
(iii) Shri B.K. Prasad, Gupta, TCI/III/MXN.
3. Defence Counsel : No Defence counsel attended. Sri B.K. Prasad, Gupta, TCI/III/MXN has submitted his written consent to defend his case himself without any defence counsel.
4. Brief history of the case :- Sri B.K. Prasad Gupta, TCI/III/MXN spared from TCI/TSK's Office on 20/12/89 to join as TCI/III/MXN on promotion and did not vacate the Railway Quater No. L/34(B) at Tsktik till date. He was suspended by DSTE/TSK on 17/8/90 and Major Penalty chargesheet No. N/55/Punishment/Pt.II/TS dt/-25/9/90 was issued accordingly.
*attested by
advocate
Om Prakash
11/10/96.*
5. Authority of conducting Enquiry :
Undersigned were jointly nominated to Enquire into the DAR case vide DRM(S&T) TSK's L/No.N/55/Punishment/Pt.II/TS/TS dt/- 5/12/90.
6. Cross Examination of the party and the records conducted during the Enquiry and enclosed herewith.
7. Findings
Charges included in Annexure - 1 in the Article - I, II & III are established.
8. Recommendation :

Sri ...

8. Recommendation:

Sri B.K. Prasad Gupta, TCI/III/MXN has submitted one appeal dated 22/10/90 to GM (S & T) MIG for allow him to Join as WTM/Gr. I at TSK in his former post which may be consider.

Sd/-

(B) Pegu
TCI/Gr. I /TSK
Inquiry Officer

Sd/-

(N.N. Chatia),
SI/Gr. I /TSK

Inquiry Officer.

Ans No. 7
Date 1/1/96
Copy

STANDARD FORM NO. 4

STANDARD FORM OF ORDER FOR REVOCATION OF ...

ORDER 5(5) OF R.S. (D & A).

No. N/ 55/Punishment /pt-II/TS Date 21.12.90. A

N.F. RLY : Name of the Rly. Adm.

DRM (S & T) /TSK Office : Place of Issue.

ORDER

WHEREAS an order placing Shri B.K.P. Gupta TCI/GR-II/MXN

(Name and designation of the Rly. Servant under ...

made/was to have been made by DSTE/TSK on 17.8.90.

Now, therefore, the undersigned (the authority which

to have made the order of suspension or any other authority
which that authority is subordinate) in exercise of the powers cover
referred by clause (C) of the Sub-Rule(s) of Rule - 5 of the
RS (D & A.R) 1968, hereby revokes the said order of
suspension with immediate effect w.e.f. 17.12.90.

Sd/- Illegible,

(A Sarkar),

Signature (Name , Designation
of the authority Making
order.

Copy to : Shri B.K.P. Gupta TCI/Gr. III/MXN (Name & Designation
of suspended Rly Servant).

Through

C/- DRM (P) /TSK for information and necessary action.

C/- TCI/TSK for information & necessary action.

ACKNOWLEDGEMENT

TO BE RETURNED TO THE OFFICE OF ISSUE

To
Received 'Order for Revocation of Suspension' Order

Dt/ _____ issued by _____

the contents of which have been explained by

Date :

Signature of Thumb

Annexure - XI

N.F. RAILWAY

NOTICE OF IMPOSITION OF PENALITIES UNDER ITEM (i) , (ii) & (iii)
RULE 6(i) & ITEM (i) , (iii) OF RULES 6(v) OF R.S. (D.A.) RULES , 1968.

No.N/55/PUNISHMENT /PT.14 TS

Dated 31/12/90

To

Shri B K Prasad Gupta,
DESIGNATION TCI /Gr. III/MXN
THRO; TCI/TSK

With reference to your explanation to the Memorandum No. N/55/Punishment pt.11/TS Dt. 25.9.90 you are hereby informed that your explanation is not considered satisfactory and the undersigned has passed the following orders :

(1) Gone through the enquiring report in details.

(2) All the charges are established.

(3) The following order is passed :

"Shri B.K. Prasad Gupta, TCI /Gr. III/MXN in scale of Rs.1400/-
2300Rs- (RP is reverted to WTM/Gr.I in scale of Rs. 1320/-2040/- (RP)
for three months with non-cumulative effect.".

Sd/- A Sarkar

DSTE/TSK

SIGNATURE & DESIGNATION OF
DISCIPLINARY AUTHORITY

C/- DRM(P) S & T/TSK (for information and necessary action)

D/- TCI /TSK (for information and necessary action)

When the notice is issued by an authority than the disciplinary authority, here quote the authority passing orders.

Here quote the authority/acceptance/rejection of explanation if penalty imposed.

AN APPEAL AGAINST THIS LIST TO

THE AUTHORITY PASSING THE ORDERS. (THE NEXT IMMEDIATE)

SUPERIOR.

ACKNOWLEDGEMENT

THIS PORTION MUST BE DETACHED, SIGNED & RETURNED TO THE
OFFICE OF ISSUE : DRM (E & T) / TSK.

I hereby acknowledge receipt of four (N.I.P.) No.
Dt. conveying the orders passed on my explanation
to the chargesheet No.

Station

Date :

Signature of Thumb Impression
of Employee and Designation.

Abdul Majeed
Parale
Gomar
1/10/26

Annexure XII

N.F. RAI LWAY

No. N/55/punishment/pt. II/TS

OFFICE

DRM'S & T) TSK

Date : 21/12/90

To

Shri B.K.Prasad Gupta,
TCI/III/MXN at Office,

Sub: Joining at Tinsukia

Ref: This office Revocation of

suspension order no. N/55/

Punishment /pt. II/TS date 21/12/90:

With reference to the above said Revocation Order quoted under reference you are hereby allowed to join at WTM/Gr. I at TSK in the existing vacancy for the time being subject to DAR proceedings.

Sd/- A. Sarkar,

21.12.90

(A Sarkar),

DSTE/TSK

Copy to :

(i) CSTE(P) MIG-for information please.

(ii) DRM(P) /TSK- for information necessary action formal office order may be issued in this connection. This has got the approval of CSTE(P) /MIG intimated vide his L/No. E/283/159(N) Pt. IV dt/ - 28/29-11-90.

iii) TCI TSK - for information & necessary action.

iv) Staff concer at DSTE's office to record in the staff case of this office.

(A Sarkar),

DSTE/TSK

Annexure- XIII

To

The Divisional & Telecommunication Engineer,
N.F. Railway / TINSUKIA.

Sub: Promotion of TCI/III in Scale Rs. 1400 - 2300/-.

Sir,

With due respect I beg to state under the following few lines for your kind attention and favourable consideration please.

That Sir, on being selected, myself resumed on promotion as TCI/III at MXM on 21-12-89 on administrative interest. But sorry to regret that I could not vacat my Rly Quarter at TSK Rly Colony due to education of my son and daughter which I have already intimated vide my earlier letter dt. 30-7-90 seeking permission to retain my quarter at TSK.

*Allowance
Private
Leave
11/10/90*

But instead of consideration of my application, I have been placed under suspension, imposed punishment holding DAR enquiry and reverted to my former post w.e.f. 1.1.91 vide your letter no. N/55/punishment/Pt-11 /TS dt. 31-12-90 for 3(three) months noncommulative effect. due to non-vacation of the Rly Quarter at TSK.

In view of the above I have been compelled to accept the above and accepted accordingly due to educational facilities of my children with a request to arrange my position as TCI/III at TSK as an which vacancy arise. Now it is learnt that Sri J. S. Sainikia, TCI /III/TSK is under order of transfer to DBRT on promotion.

I, therefore like to request you kindly arrange my posting on promotion as TCI/III at TSK for which I shall be highly obliged.

Thanking you,

Yours faithfully

- 42 -

Yours faithfully,

B.K. P. Gupta,

(B.K.P. Gupta),

Date : 29th May 1991.

Ex. TCI/III MXN.

Copy to :-

1. The CSTE/P/MLG for information and necessary action
please.

(B.K.P. Gupta),

Ex-TCI/III/MXN.

addressed
already
done
1/10/91

Annexure - XIV

N.F. RAILWAY

No.E/T-39/M/V/Pt.11 (TCI)

OFFICE OF THE

DHM(P) /TSK

Dt. 29.5.91

To

CSTE/(P) /MLG
N.G. Railway.

Sub: Appeal submitted by Shri B.K.P. Gupta,
now WTM/Gr.I/TSK.

Sending herewith appeal submitted by Shri B.K.P. Gupta Ex TCI/111/MXN now WTM/Gr.1/TSK for his for their promotion as TCI /III/ in scale Rs. 1400-2300/- at TSK for your necessary action.

It is mentioned here in that Shri B.K. P. Gupta WTM/Gr.1 TSK was promoted earlier as TCI/Gr.III in scale Rs. 1400-2300/- in terms of your office order No. E/283/159(N)/Pt.IV dt. 17/10/89 and he resumed at MXN on 21/12/89.

In terms of your letter No.E/283/169/(M) Pt.IV dt. 28/29-11-90 and DSTE/TSK's reverted to his former post is WTM/Gr.1 in scale. Rs.1320-2040/- w.e.f. 1.1.91 for period of 2 (Three) months (NC).

DA/1(one)

For DAM/P/TSK

Copy forwarded for information and necessary action to:

DSTE/TSK This is in reference to his office note No. N/55/Staff/Pt.I/TSK dt. 29.5.91.

For DEM(P)/TSK

Annexure - XV

ADVANCE COPY BY REGD. POST WITH A/D

To

The Divisional Signal and Telcommunication Engineer
North East Frontier Railway, Tinsukia.

Through : Proper channal

Sub P Appeal for Submission of documents in the Court
of Law in connection with my promotion as TCI/
Gr. III as well as TCI/Gr.II.

Ref : My earilier appeal dated 2-5-89 and 29.5.91.

Sir,

With regards, I do hereby like to request you into foll-
owing few lines for your kind consideration please.

That Sir, interms of my earlier appeal cited above, on
going through the preliminary enquiry with the record,
the following facts come to my notice, which has shown
para wise as given below :-

(i) That Sir, in terms of CSTE(P) MLG's order No. E/254/26
(N) Pt - III dated 24-3-88, I have been selected for the
post of TCI/III in scale of Rs. 1400-2300/-

(ii) That Sir, in terms of CSTE(P)MLG'S order No. E/254/
26(N) Pt- III dated 31-3-88, I have been transferred from
TSK to RNY on promotion as TCI/III in scale of Rs. 1400-~~2300~~
2300/- But for want of sparing I could not avail the same.

(iii) That sir, though the post of TCI/III was vailable at
TSK due to transfer of Sri P.K. Adhikari, TCI/III/TSK
to NBQ, was filled by Hd. Qrs.vide CSTE(P) MLG'S order
No. E/254/26(N) Pt-III dt : 6-1-89.

(iv) That

(iv) That Sir, subsequently I was considered for promotion to TCI/III vide CSTE(P) MLG'S order No. E/284/159(N) Pt-IV dt. 17.10.89 and posted at MXN, I have applied for retainion of my Qr. at TSK, on educationalground of my children, while I was enjoying my promotion at MXN, but without any permission of retainion of my Qtr. at TSK the then DSTE/TSK placed me under suspension and proc-
essed DAR against me. Considering no other alternative I was compelled to surrender my promotion with a request that if vaccancy may available at TSK may I consider for the same.

*all legal by
S. S. S.
1/10/96*

(v) That sir, my request was consider for the same and I was reverted accordingly for a period of three month holding DAR from 1-1-91 to 31-3-91 Vide DSTE/TSK'S L/No. N/55 punishment /Pt-II/TS dated 31.12.90. But though the vaccancy of TCI /III was available at TSK w.e.f. 1-4-91, I was not restored with my promotion as TCI/III.

(vi) That sir, it is learned that CSTE(P) MLG vide his letter No. E/283/159 (N) Pt-Iv dated 28/29-11-1990 allowed me to retain beyond my punishment period, which I cannot agreed as there is no such records of the letter is available neither at CSTE(P) MLG's office nor at DSTE/TSK's office and not at DRM(P) TSK's office.

(vii) That sir,during the period from 31-03-88 to till the date of my appeal dt. 29-05-91, so many junior's to me have already been promoted superseeding my own legimetic claim.

In ...

In view of the above facts, it reveals, though I have been selected for the post of TCI/III by the Hon'ble committee members of selection board of Hd. Qrs. I have intensionally deprived due to the leak of dealers from Hq. Qrs. as well as the then executive of Tsk Division, but the competent authority not yet regreated my selection proceedings for the discontinuation or disachievement of my carrier.

*After my
advice before
1/10/96*

(Viii) That Sir, Since the administration fails to comply with my genuine claim of promotion and neither replied my appeal nor yet restore consi ering the justice delayed and judgment denied. I would like to call DANIEL into the subject and request you to accord your permission to proceed to submit the documents to the court of Law.

I also like to add herein if no reply into the subject may I get within 15 days, deem to have permitted. I will compeilled to submitt thedocument to the court of Law so that may I get compensation from the person involved into the subject for loss of prestige and peace of family as well as monitoring bene-fit.

(ix) That sir, the benefift of my promotion of TCI/III as well as TCI/II will be viewed seriously on my pensionery benefift for the above ill justice of administration. A copy ofstatement for monitory benefitt is enclosed.

Under the above circumstances I request your to kindly examine the depth of the issue and arrange

my due ...

my due promotion with full monitory benefit as well as seniority accordingly for which I shall be obliged.

Dated 22-02-1996

Yours faithfully,

B.K. Prasad Gupta,
(B.K Prasad Gupta),
Ex. TCI/III/MXN
Now WTM/I/TSK

Copy forwarded for information and necessary action

to :-

1. Hon'ble General Manager /North East Frontier Railway/
Maligaon

2. Hon'ble Chief Vigilance Officer (Sr. Dy. Gr. Manager
N.F. Raily/Maligaon.

3. Hon'ble Chief Signal & Telecommunication Engineer
N.F. Rly/Maligaon.

4. Hon'ble Chief Communication Engineer/N.F. Rly/Maligaon

5. Hon'ble Chief personal Officer/N.F. Rly/Maligaon

6. Hon'ble Chief Personal Officer/Administrative/N.F. Rly/
Maligaon

7. Hon'ble Dy Chief Signal & Telecommunication Engin.
(Tele) N.F.Rly/Maligaon.

8. Hon'ble Officer on Special Duty/Indian Rly/N.F. Rly/
Maligaon.

9. Hon'boe Divisional Railway Manager/N.F. Rly/Tinsukia.

10. Hon' le Divisional personal officer/N.F. Rly/Tinsukia.

Dated 22-02- 1996.

Yours faithfully,

N/TC/SBL/Pt.2/TSK(2054)

Sd/-

Forwarded for forwarable
consideration please.

(B.K. Prasad Gupta)
Ex. TCI/III/MXN
Now WTM/I/TSK

Seal. Sign

(1) Promoted to TCI/III Dated : 31-03-89
B. K. Prasad Gupta 01-03-89 Due increment
and others 01-03-90 Do

- (1) I. B. Mazumdar
- (2) S. N. Sinha
- (3) Md. Ayub Khan
- (4) Dipak Das

Promotion with J. Saikia TCI/II/DBRT

(2) Due Promotion as TCI/II Dated : 14-02-1991 Due increment
with Junior Sri J. Saikia 14-02-1992 Do
as ordered vide CSTE/P/MLG's 14-02-1993 Do
order No. E/254/26(N) Pt:VI 14-02-1894 Do
Dt. 14-02-1991 14-02-1996 Do

*After my
advice
On 11/10/91*
Further Sri J. Saikia TCI/II/DBRT called to appear in the
selection of TCI/I in scale of Rs. 2000-2300/-

Sri Shivaji Das, TCI/III/MLG Junior to me promoted and posted
as TCI/II at Tsk in PRS.

Annexure - XVI

ADVANCE COPY BY POST

To
The Divisional Signal & Telecomm.
Engineer,
N.F. Railway,
Tinsukia(Assam).

Through : Proper Channel.

Sub: Promotion of TCI/Gr.III.

Ref : CSTE(P) MLG's Office Order No. E/283/150(N) pt.
IV. Dated 17-10-1989, and DRM(P) /Tsk's office
order No. E/192/i/v/s & T (pt.-I) dated 28-11-89

Sir,

With due respect I beg to state that vide above cited letter I was promoted as TCI/Gr.III with the posting at MXN and I resumed my duty on 21-12-1989.

*With my
Sincerely
Parbat
1/10/91*
But due to till luck as I was not vacated my Rly. Quarter at TSK (due to education of my children) I was put under suspension w.e.f 17-08-1990 and compelled to submit tundillingness for the post of TCI/Gr.III at MXN with a request for posting at TSK. as TCI/Gr. III.

But the then DSTE/TSK revoked suspension w.e.f. 21-12-1990 and after DAR reverted in my formal post for a period of 3(three) months w.e.f 1st January, 1991 only.

Subsequently the post of TCI/Gr. III has been occurred at TSK on promotion order of Sri J. Saikia TCI /Gr.III with posting order at DBRT as TCI/Gr. II was filled up by Sri A.K. Das, DR /TCI/Gr. III.

Though my 3(three) months punishment has been coupted on 31st March, 1991, I have not yet restore as TCI/Gr. III for which I applied in the month of May, 1991 but no response has been received till now.

In

In view of the above you are therefore requested to arrange my promotion as TCI/Gr.III w.e.f. 1st April, 1991 as ordered N. Qrs. considering the post was available at TSK. accordingly with monitoring benefit as well as surety for which I shall be highly oblige.

Yours faithfully,

Copy to

(B.K. Prasad Gupta),

1. / MLG. For your fair
CSTE/MLG. judgement please.

Ex-TCI/Gr.III/MXN. Now
WFM/I/TSK.

Yours faithfully,

address by
advent
11/10/96

place : Tinsukia(Assam), (B.K. Prasad Gupta),

Dated : 2.2.95

Ex-TCI/Gr. II /MXN/Now
WFM/I/TSK.

Annexure - XVII

N.F. Railway.

NO. E/254/26(N) Pt. III

Office of the
General Manager(P)

To

Dated 7.2.96

DRM/P/TSK.

C/DSTE/TSK.

Sub: Posting of Shri B.K. P. Gupta as TCI/II
at TSK in scale of Rs. 1400-2300/-.

Ref: Your No. E/T/39/V(N) TCI dt. 1.2.96.

Ans by
work
done
1/10/96

From your above quoted letter, it is understood that Shri B.K.P. Gupta, TCI/III was reverted to his former post as WTM/I for a period of 3 months w.e.f. 1.1.91, as per the order of Divisional Authority. Therefore, restoration of his formal post as TCI/III should have been done by the Divisional authority. Why this has not been done may be informed to this office and reason of correspondance with the HQ is also not understood.

Regarding filling up of vacancy of TCI/III now TCI/II was also done as per the phonical requisitions by the then, DSTE/TSK to Dy. CSTE/Tel. Shri Ambika Das was posted as TCI/III now TCI/II in the year 1992 i.e. after 1 year or so after completion of Shri Gupta's punishment.

Regarding filling up of the vacant posts i.e. , JE/Tel/II and TCI/I selection has already in process, If DRM /P/TSK and DSTE/TSK at all feels that for absorption of Shri Gupta any of the above posts are to be down graded . In that case justification may be sent to CSTE for his approval please.

Xmas Sd/- Illegible,
(A. Saikia),
SPO/ E & PC.

for General Manager/P.

Annexure - XVIII

N.F. Railway.

NO E/T-39/V(N)/ TCI

Office of the
Divl. Railway Manager(P),
Tinsukia, dt. 29.3.96.

To
GM(P) /MIG,
N.F. Railway.

Sub: Posting of Shri B.K.P. Gupta, WFM/TSK

At TCI/III in scale Rs. 1400-2300/- at CSK.

Ref: Your Letter No. E/254/26 (N) Pt. III
dated 7.2.96.

In reference to your letter quoted above para wise
remarks are as under.

*Answn by
order of
1/10/96*

1) Though restoration of Shri B.K.P. Gupta, as TCI/III
in scale Rs. 1400-2300/- was due by the Divisional authority
he was not considered by the then DSTE/TSK. Shri B.K.P.
Gupta was allowed to continue as WFM/TSK beyond his
punishment period as per CSTE(P) MLC's L/No. E/283/159(N) Pt.
IV dt. 28/29/11/91 as quoted in DSTE/TSK Office Note No.
N. 55/staff/ Pt. II/TSK dt. 29/5/91 copies of which are
enclosed herewith for your ready reference please.

2) Regarding filling up the post of TCI/III no indent was
placed with Hqrs. from this end for DR Candidates. But
it has now been reflected in your letter that the then ^{DSTE} TFE/
TSK placed indent for DR candidates with H Qrs. telephonically
though the restoration of Shri B.K.P. Gupta was due as TCI/III.

3) Shri B.K.P. Gupta may now be restored as TCI/III in
scale Rs. 1400-2300/- if the post of JE/Tele/II which has
been allotted to this division is ordered to be operated by

down....

down granding or one additional post of TCI/III allotted under DSTE/TSK to accordance Shri B.K.P. Gupta.

Since the case is more then 4 years. old you are requested to obtain approval from the competent authority for restoration of Shri B.K.P. Gupta as TCI/III at TSK.

This has the recommendation of DRM.

DA Two(2)

For Div.. Railway Manager(P).
N.F. Railway, Tinsukia.

Copy to DSTE/TSK for information
please.

for Divl. Railway Manager(P),
N.F. Railway, Tinsukia.

Ans
Ans
11/10/94

...

N.F. Railway

No.E/T-39/1/V(N) TCI .

Office of the
Divl. Railway Manager(F)
Tinsukia, dt. 17.4.96

To

GM(P)/MIG
N.F. Railway

Sub: Posting of Shri B.K. P. Gupta, WFM/TSK as
TCI /III in scale Rs. 1400-2300/- at TSK.

Ref: Your letter No. E/254/26 (N) Pt. III
dated 11.3.96.

In reference to your letter quoted above, parawise comments on the appeal of Shri B.K.P. Gupta, STM/TSK and reply towards the observations of STO/S & PC are furnished below.

*Amulya
admit
Ans
11/10/96*

(A) Comments on the appeal of Shri B.K.P. Gupta.

- i & ii) In terms of GSTE(P)/MIG's Memorandum No.E/254/26(N) Pt.III dt. 24.5.88 and CSTE(P) /MIG's Office order No. E/254/26 (N) Pt.III dt. 31.3.88, Shri B.K. P. Gupta, WFM/TSK was promoted to the post of TCI/III in scale Rs. 1400-2300/- and posted at RNY but he was not spared by DSTE/TSK.
- iii) No comments being H Qrs. controlled Post.
- iv) In terms of CSTE(P)/MLG's Office Order No. E/283/159 (N) Pt. IV dt. 17.10.89, Shri B.K.P. Gupta, WFM/TSK was posted at MXN on promotion as TCI/III in scale Rs. 1400-2300/-
- v) Though the restoration as TCI/III was due w.e.f. 1.4.91, he was not considered by then DSTE/TSK. In this connection this office letter of even No. dt. 29.3.96, may kindly be referred to.
- vi) Copy of the CSTE(P) /MIG's letter No. E/283/159 (N) Pt. IV dt. 28/29.11.90 which is self explanatory is

is enclosed for ready reference.

- vii) No comments being HQrs. controlled post.
- viii) Reply is awaited to communicate to Shri B.K.P. Gupta, WFM/TSK.
- ix) He will get proforma fixation of incremental benefit except the period from 1.1.91 ~~subject~~ to 31.3.91 subject to the condition of his restoration as TCI/III in scale Rs. 1400-2300/- recommended vide this office letter of even No. dt. 29.3.96 is approved by the competent authority at HQrs.

*and DS by
adviser
Parash
1/10/96*
(B) Parawise remarks against observation.

- 1) Shri B.K. P. Gupta, TCI/III/MXN was reverted as WFM/Gr. I at TSK as a result of DA R.
- 2) In terms of CSTE(P) /MLG's Office order No. E/283/159 (N) Pt. IV dt. 17.10.89, Shri B.K.P. Gupta was posted at MXN on promotion as TCI/III.
- 3) Copy of this office letter of even No. dt. 29.3.96 is enclosed.

DA. One appeal

Sd/- Illeible.

...

.....

304
12 MAI 1997

Filed by
Bijoy Kumar Jorani Advocate
for: B.K. Gupta
C. S. No. 5-3-97

कानूनी विविकारी (असाम)
Dr. Om Prakash Patowari Officer (M.A.)
रोड नं. 2, गुवाहाटी-781011.
G. P. M.Y., Gourishankar-781012.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :-

O.A. No. 218 of 1996

Sri B.K.P. Gupta ... Applicant.

Vs.

Union of India & Ors. ... Respondents.

AND

IN THE MATTER OF :-

Written statements for and on
behalf of the respondents.

The answering respondents beg to state as follows :-

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

2. That save and except the statements which are specifically admitted here-in-below, other statements made in the application are categorically denied. Further, the statements which are not borne on records are also denied and the applicant is put to the strictest proof thereof.

Shri
कार्यालय कार्यालय (अरावण)
Chief Personnel Officer (N.C.O.)
रोड, गुवाहाटी-781011
F. R. No. F. R. No. 781011
F. R. No. F. R. No. 781011

3. That with regard to the statements made in paragraphs 6.1 to 6.15 of the O.A., the answering respondents do not admit anything contrary to relevant records of the case.

4. That with regard to the statements made in paragraph 6.16 of the application, it is stated that the cadre of Telecommunication Inspector, Gr.III is dealt at HQs. at Maligaon's Office and copies of appeal dated 22.2.96 of the applicant were enclosed to different officers at HQs. at Maligaon. As per Head-quarter's order, the Division had sent the necessary parawise remarks against the appeal dtd 22.2.96. Later, on receipt of his further appeal dtd 18.7.96, the applicant was apprised vide letter No. E/T-39/1/V(N)TCI dtd 13.8.96 that as he submitted his appeal after a long interval of four years, his case has been referred to Head-quarters for decision. The case is under consideration at HQs. Maligaon's level. Further, it is pointed out that his prayer for restoration to the promotional post of TCI/G.III was conditional with his specific place of posting at Tinsukia which indicates his vested interest in remaining silent for more than four years. Besides this, it is also noted that Dist. Signal and Tele-communication Engineer, Tinsukia, vide his Office Note No. N/55/Staff/Part-II/TSK dtd 29.5.91 to Asstt. Personnel/II/Tinsukia, copy endorsed to the applicant, clearly mentioned that Shri Gupta was allowed to continue as WTM/Gr.I/Tinsukia beyond his punishment period as per

Chief Signal & Tele-comm. Engineer(P), Malignon's letter No. E/283/159(N)Pt.IV dt 28/29.11.90 issued against the appeal of the applicant.

Copies of CSTE(P)/Malignon's letter dtd 28/29.11.90 and Office note dtd 29.5.91 are annexed herewith as ANNEXURE 'A' & 'B' respectively.

5. That with regard to the statements made in paragraphs 6.17 and 6.18 of the O.A., the answering respondents do not admit anything contrary to relevant records of case.
6. That with regard to the statements made in paragraph 6.19 of the O.A., the answering respondents state that applicant's restoration to the post of Tele-Communication Inspector/III, will be a completely discretionary decision of competent authority in view of surrender of the promotion of Tele-communication Inspector/III by the applicant vide his letter dtd 22.10.90 which was forwarded to Head-quarter vide letter No. N/55/Staff/Pt.II/TSK dtd 22.10.90. It is further mentioned that nowhere in this Office letter No. E/T-29/1/V(N)TCI dt 17-24/4/96 the place of posting at Tinsukia on restoration was recommended. In fact, there is no relevancy of his punishment due to surrender of promotion.
7. That with regard to the statements made in Paragraph 6.20 of the application, it is stated that not

to speak about the punishment but before imposition of the punishment to reduction to lower post of WTM/Gr.I for a period of three months Shri Gupta's appeal dtd 22.10.90 was considered in bringing him to Tinsukia in his former post of WTM/Gr.I/Tinsukia. The decision of competent authority may please be seen from CSTE(P)/ Malignon's letter dtd 28-29/11/90, which was also made known to the applicant by Dist. Signal Tele-comm. ~~Engineering~~ Engineer, Tinsukia vide his office note dtd 29.5.91. As the applicant's appeal dtd 22.10.90 was conditional about place of posting at Tinsukia only, in accordance with rule 312 of IREM Volume No. 1(1989 edition) his restoration was not considered by competent authority, as there is element of direct recruitment in the cadre of Tele-Communication Inspector/III in the scale of Rs. 1400-2300/- against 50% direct recruitment quota through Railway Recruitment Board vide para 148(1) of IREM Vol.1 1989 edition.

Extract copies of Rule 312 of IREM Vo.I and Rule 148(1) of IREM Vol.1 are annexed herewith as ANNEXURE 'C' & 'D' respectively.

8. That with regard to the statements made in paragraph 6.21 of the O.A., the answering respondents state that no appeal dtd 2.5.99 and 29.5.91 were received as per records but his appeal stated 22.2.96 and 24.7.96 are being dealt at HQs Malignon's Office for disposal.

60
Ans

9. That with regard to the statements made in paragraph 6.22 of the O.A., it is stated that in view of the applicant's appeal dtd 22.10.90 about his conditional reversion from the post of Tele-Communication Inspector/III to WTM/Gr.I, he was not considered by the competent authority to promote him again, instead directed available direct recruited TCI/Gr.III who were awaiting for posting after completion of training.

10. That with regard to the statements made in paragraph 6.23 of the O.A., the answering respondents state that in view of disposal of the applicant's appeal dtd 22.10.90 vide CSTE(P)/Malgao's letter dt 28-29.11.90 communicated to the applicant vide Office Note dtd 29.5.91, the entire case of the applicant is to be termed as of a case of refusal of promotion and to be dealt in accordance with para 224 of IREM Vol.1 (1989 edition), where he is to appear again in the selection for promotion to TCI/Gr.III against 30% departmental quota as the currency of the panel in which he was selected, has already expired long before.

An extract copy of para 224 of IREM Vol.1 (1989 edition) is annexed herewith and marked as ANNEXURE 'E'.

11. That the answering respondents submit that the instant O.A. has not been filed bonafide.

12. That the answering respondents submit that in terms of General Manager(P)/Malignon's Office Order No. E/284/159(N)Pt.IV dt 17.10.89 the applicant was promoted as Tele-Communication Inspector/Gr.III and posted at Mariani. He carried out his promotion order but did not vacate his quarter at old station (Tinsukia). For his unauthorised retention of quarters at old station, he was suspended and proceeded under DAR. As a result of finalisation of DAR proceeding he was reverted to his former post of WTM/I in scale Rs.1320-2040/- for a period of three months with posting at his former station Tinsukia. On 29.5.91, the applicant preferred a conditional appeal to Dist. Signal & Tele-comm. Engineer/Tinsukia, praying for his posting at Tinsukia as and when the vacancy would arise. A copy of the appeal dt 29.5.91 is annexed herewith as ANNEXURE 'F' which will speak for itself.

13. That the answering respondents submit that the applicant's promotion to Tele-Communication Inspector, Gr.III now JE(Tele)II cannot be restored on the ground of refusal of promotion and expiry of the selection panel of TCI/Gr.III.

14. That the answering respondents submit that the applicant is not entitled for restoration of his

Contd....7

कामिकारी (कर्मान्वयन)

प्रो. पर्सनल ऑफिस (प्र०पर्सनल)

प्र०पर्सनल ऑफिस-781814

प्र०पर्सनल ऑफिस-781805

प्र०पर्सनल ऑफिस-781806

(62)

कालिकराम अधिकारी (असामी)
CHIEF Personnel Officer (N.G.)
सी. ए. रेल्वे, गुवाहाटी-781011.
C.R. Rly., Guwahati-781011

promotion since 1.4.91 as he surrendered his promotion before imposition of the penalty of reduction to lower post to WTM/Gr.I. In fact, the punishment imposed by DSTE/Tinsukia reducing him to the post of WTM/Gr.I for a period of three months vide NIP No. N/55/Punishment/Pt.II/TSD dt 31.12.90 was at all not effected in his service carrier as the applicant was brought back to his former place of posting to Tinsukia on surrendering promotion of TCI/Gr.III/Mamiani vide decision of competent authority conveyed under CSTE(P)/Malignon's letter dtd 28-29.11.90 in disposing his appeal dated 22.10.90.

15. That the answering respondents submit that the promotion of the applicant w.e.f. 1.4.91 does not arise as the punishment was not at all effected in his service carrier rather he surrendered the post of TCI/Gr.III conditionally for staying at a particular place, i.e. Tinsukia.

16. That the answering respondents submit that the cadre of TCI/Gr.III now JE(Tele)II is a HQs. Malignon's controlled post and planning is made by HQs. Malignon for all such post in entire N.F. Railway. So, for the applicant's case, induction of direct recruits in the cadre cannot be stayed as the applicant was promoted against the 30% of promotional quota on the basis of his inter-se seniority as highly Skilled Grade I Artisan of Tele-Communication Section of S&T Department of N.F. Railway. The applicant may again be absorbed as TCI/Gr.III (JE/Tele/Gr.II) if he come out successful in further selection for such post against 30% promotional quota.

17. That the answering respondents submit that the appeal preferred by the applicant are in the process of disposal at the HQs. Morigaon's level.

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

VERIFICATION.

I, Shri C. Saikia, aged about 32 years, by occupation Railway Service, working as Deputy Chief Personnel Officer of the N.F. Railway administration, do hereby solemnly affirm and state that the statements made in paragraphs 1 and 2 are true to my information, those made in paragraphs 3 to 10 are true to my information derived from the records of the case which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal.

Chakraborty

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

कार्यालय अधिकारी (अराज.)
Dy. Chief Personnel Officer (NG)
१० मी. रोड, गुवाहाटी-781011.
N.F. Rly., Guwahati-781011.

N. F. RAILWAY.

No. E/285/159(N) Pt.IV. Maligaon, dtd 28/29.11.1990.

To
DSTE/TSK.
C/ DRM(P)/TSK.

Sub: Appeal of Shri B.K.P. Gupta, TCI/III/MXN.

Ref: Your letter No. N/55/Staff/Pt.II/TSD dtd Nil.

The appeal of Shri B.K.P. Gupta, TCI/III/MXN along with your suggestions were put up to the competent authority who has passed the following orders.

"Shri B.K.P. Gupta may be posted at TSK as WTNG/C-I against an existing vacancy as praycd by him. The vacancy at MXN occurred due to reversion and transfer of Shri Gupta, will be filled up on availability of selected candidates".

You are requested to kindly issue necessary orders on the above line.

Sd/- Illegible.
for C.S.T.E.(P)
Northeast Frontier Railway.

Ans

कामिनी श्रीकार (असम)
Dy. Chief Personnel Officer (NCF)
सी. ए. रेलवे, गुवाहाटी-781011.
प. एस. ए. गुवाहाटी, 781011.

- 10 -

ANNEXURE 'B'.

H.P. RAILWAY.

OFFICE NOTE.
No. E/55/Staff/Pt.II/TSK

Office of the
DRM(S&T)/Tinsukia
Dated 29.5.91.

Sub: Appeal of Shri B.K.P. Gupta, WTM/Gr.I/TSK
to DST/TSK copy to CSTE(P)/MLG dated
29th May, 1991.

Shri B.K.P. Gupta, WTM/Gr.I/TSK (Ex.TCI/III/MXN) was reverted to WTM/Gr.I and posted at TSK in the existing vacancy for 3 (three) months with (N.C.) effect vide this NIP No. N/55/Punishment/Pt.II/TS dt 31.12.90 after holding DAR enquiry for non vacation of Qrs. at his old station of posting at Tinsukia, unauthorisedly.

He was allowed to continue as WTM/Gr.I/TSK beyond his punishment period as per GSTE(P)/MIG's L/No.E/283/159(N) Pt.IV dtd 28/29.11.90 issued against the appeal of Shri B.K.P. Gupta.

Now Shri B.K.P. Gupta, W.T.M./Gr.I/TSK has appealed for his promotion to TCI/Gr.III for the post of TSK vice Shri J. Saikia, TCI/III/TSK who is under of transfer to D BRT on promotion.

The two copies of the above said appeal are enclosed herewith for onward transmission to CSTE/MLG for consideration.

Sd/- Illegible.
(A. Sarkar)
DSTE/TSK.

Copy to:-

Shri EKP Gupta, WTM/Gr.I/TSK
(through TCI/TSK) for information.

Alvin
Perry

Extract Copy.

RULE 312 OF INDIAN RAILWAY ESTABLISHMENT MANUAL VOL. No. (1)
(Revised Edition- 1989)

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 existing confirmed, temporary and officiating railway servants in the relevant grade in the promoting group in the new establishment irrespective of the date of confirmation or length of officiating or temporary service of the transferred railway servants.

NOTE :- (i) This applies also to cases of transfer on request from one cadre/division to another cadre/division on the same railway.

(Rly. Bd. No. E(NG) I-95 SR 6/14 of 21.1.1986)

(ii) The expression 'relevant grade' applied to grade where there is an ~~mixmash~~ element of direct recruitment. Transfer on request from railway employees working in such grades may be accepted in such grades. No such transfers should be allowed in the intermediate grades in which all the posts are filled entirely by promotion of staff from the lower grades and there is no element of direct recruitment.

(No. E(NG) I-69 SR 6/15 dated 24.6.1969 - AGC-14)

Attn: T.M.

Extract Copy.

RULE 148(1) OF INDIAN RAILWAY ESTABLISHMENT MANUAL VOL. No.(1)
(Revised Edition - 1989)

TELECOMMUNICATION INSPECTOR :- The vacancies in the category of Tele-communication Inspector Grade III in scale Rs.1400-2300 will be filled as under :-

- (i) 50% by direct recruitment through the Railway Recruitment Board;
- (ii) 20% by induction of Intermediate Apprentices from amongst Maintainers possessing the qualification of Matriculation with three years service and below 45 years of age; and
- (iii) 30% by promotion by selection from Maintainers in the immediate lower grade.

*Alam
P.M.*

Extract Copy.

RULE 224 of INDIAN RLY. ESTABLISHMENT MANUAL, VOL. No. (1)
(Revised Edition - 1989)

REFUSAL OF PROMOTION :-

I. Selection Posts.

(i) The employee refusing promotion expressly or otherwise (i.e. that he does not give in writing his refusal but also does not join the post for which he has been selected) is debarred for future promotion for one year but he is allowed to be retained in the same station in the same post, promotion after one year will be subject to continued validity of the panel in which he is, born otherwise he will have to appear again in the selection.

E(NG)I-64-RM 1-56 dt 21.1.86 & E(NG) I-71 PM 1-108 dt 15.12.71.

(ii) at the end of one year if the employee again refuses promotion at the out station, his name may be deleted from the panel, deletion being automatic requiring no approval from any authority and the administration may transfer him to out-station in the same grade. He will also have to appear again in the selection notwithstanding the fact that he is in the mean time, has officiated non-fortuitously against short term vacancy based on his panel position.

(iii) Seniority will be from the date of effect of promotion and he will be junior to all the persons promoted earlier than him from the same panel irrespective of his panel position. He will not however, lose seniority to another employee promoted to the same promotion category during the one year period of panelty as a result of a fresh selection subsequently held.

E(NG) I-66 SE-6/41 dt 14.10.66.

II Non-Selection posts :

(i) Such an employee should be debarred for future promotion for one year but not be transferred away from that station for one year if unavoidable domestic reasons exists. He should again be debarred for promotion for one year in case he refuses promotion again after the first year of debarment or refusal of promotion for second time, the administration can however transfer him to out-station in the same grade and the employee has again to appear for a suitability test when his turn for promotion comes. .

► (Continuation sheet - Annexure 'E')

(ii) He will rank junior to all promoted during the period he was allowed to refused promotion irrespective of his relative seniority. He will not however lose seniority to another employee promoted to the same category during the one year period of penalty as a result of fresh suitability test subsequently held.

E(NG) I-66 SR 6/41 dt 14.10.66.

NOTE 1. Administration can, however, entertained request from employee for postponement of promotion for very short period on account of grave domestic difficulties or other humanitarian considerations. The employee concerned will be promoted after the period provided there is a vacancy and he will take his seniority from the date of the promotion.

2. Refusal of promotion has relevance to a particular grade at any station and not to a particular post at the particular station.

3. In case of selection officer (A/Cs) Inspector of Station/Stores, Accounts who refused promotion, their panel position is maintained for that particular year i.e. they do not lose in seniority.

4. Penalty for refusal of promotion applies to case of seeking of reversion in the grade after being once promoted.

(iii) In the case of promotion at the same station -

E(NG) I-73 R(1-120 dt 2.2.74 & E(NG) I/79 PM 1-147 dt 31.1.81.

E(NG) I-79/PM 1-139 dt 27.10.79.

E(NG) I-71/PM 1-141 dt 21.8.71.

Whether in long term or short term vacancies, any refusal to officiate or promotion should be taken as refusal to work inviting disciplinary action.

*Attn
R.W.*

To

The Divisional Signal & Tele-communication Engincer,
N.F. Railway, Tinsukia.

Sub: Promotion of TCI/III in scale Rs. 1400-2300/-

Sir,

With due respect I beg to state under the following few lines for your kind attention and favourable consideration please.

That Sir, on being selected, myself resumed on promotion as TCI/III at MXN on 21.12.89 on administrative interest. But sorry to refret that I could not vacate my Rly. Qrs. at TSK Rly. Quarter at TSK Rly. Colony due to education of my son and daughter which I have already intimated vide my carlier letter dt 30.7.90 seeking permission to retain my quarter at TSK.

But instead of consideration of my application, I have been placed under suspension, imposed punishment holding DAR enquiry and reverted to my former post w.c.f. 1.1.91 vide your letter No. N/55/Punishment/Pt.III/TS dt 31.12.90 for 3 (three) months non-cumulative effect, due to non-vacation of the Rly. Qrs. at TSK.

In view of the above, I have been compelled to accepted the above and accepted accordingly due to educational facilities of my children with a request to arrange my posting ~~maxfx~~ as TCI/III at TSK as on which vacancy arise. Now it is learnt that Shri J. Saikia, TCI/III/TSK is under order of transfer to DERT on promotion.

I, therefore, like to request you kindly arrange my posting on promotion as TCI/III at TSK for which I shall be highly obliged.

Thanking you,

Yours faithfully,

Dated 29th May, 1991.

Sd/-

(B K P Gupta)
Ex. TCI/III/MXN.

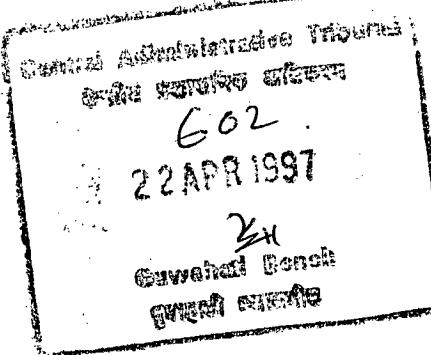
Copy to:-

The CSTE(P)/MLG for information and necessary action please.

Sd/-

(B K P Gupta)
Ex. TCI/III/MXN.

John
to P. Gupta



THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI.

Filed by the applicant
through manik chand
22.4.97

In the matter of -

O. A. No. 218/96.

B. K. Gupta.

..... Applicant.

-Versus-

Union of India and others.

..... Respondents.

-And-

In the matter of -

Rejoinder submitted by the applicant.

The applicant abovenamed -

Most humbly and respectfully states as under :-

1. That with regard to the statements in paragraphs 3, 4, 5, 6 and 7 of the written statement, the applicant categorically denies the correctness of the same and further begs to state that the applicant did not receive any letter dated 13.8.96 as mentioned in paragraph 4 of the written statement, in this connection this may be stated that restoration of his

promotion.

R
Concurred
S.C. 121
23.4.97.

promotion to the post of TCI Gr. III is a normal consequence as the punishment order as the period of punishment completed on 31st March, 1991, therefore question of discretion of the Rly. authorities hereof arise. The applicant categorically denies that he has surrendered his promotion to the post of TCI Gr. III at any point of time. The Respondent is put to be strictest proof thereof. The applicant in some of his representations only prayed for his posting at Tinsukia however the posting of the applicant at Tinsukia is absolutely at the discretion of the Rly. authorities but the benefit of restoration has been denied to the applicant arbitrarily and with an ulterior motive. The applicant further categorically denied that he remained silent rather he approached the concerned authorities for restoration of his promotion on several occasions and also the approached through the recognised Union for restoration to the promotional post , it is further stated that no intimation as stated in para 7 regarding the decision of his appeal intimated to the applicant the statements are deliberate false and misleading and the respondents are put to strict proof thereof.

2. That with regard to the statements made in para 8, 9, 10, 11 and 12 the applicant categorically denies the correctness of the same and further begs to state that the appeal dated 2.5.89, 29.5.91 were duly served upon the Rly. authority. The statement made in paragraphs 9 and 10 is contrary to the prevailing laws and rules of the Rly. department. The statements are being made by the respondent are ~~categorically~~ contrary to their own rules. It would be evident from the letter dated 20.5.91 issued by the DSTE/TSK of the letter being number N/55/Staff/PT.II/TSK. dated 29.5.91 where there is an acknowledgment of the applicant's appeal dated 29.5.91 and the applicant also urged to produce the original copy of letter dated 8.2.5.89 where the stamp received of the Telecommunication Inspector Office Tinsukia. Therefore all statements in the written statements are false and misleading, copy of letter dated 29.5.91 and photo copy dated 2.5.89 are enclosed as Annexure - 19 and 20.

3. That with regard to the statements made in paragraphs 13,14,15,16,17 and 18 the applicant denies the correctness of the same and further begs to state that the applicant never submitted any appeal with condition and the applicant never refused his order of promotion rather he has carried out the promotional posting order to the post of TCI Gr.III and joined there at Moriani on 16.12.89. Therefore the statement and the ground of refusal of the promotion is nothing but an attempt to cover up lapses of the respondents, and also an effort to mislead the Hon'ble Tribunal.

In the facts and circumstances the application deserves to be allowed with cost, and for this act of your kindness, your applicant shall ever pray.

VERIFICATION.

- I, Sri Brij Kishore Prasad Gupta, son of Late Ram Lal Sah, aged about 53 years, WTM/Gr.-I in the office of Divisional Signal Telecommunication Engineer, N. F. Rly. Tinsukia, Assam, Applicant in this Rejoinder and am duly verified this Rejoinder as after going through the rejoinder, do hereby declare that the statement made in this rejoinder are true to my knowledge and belief.

✓ Brij Kishore Prasad Gupta.

Signature.