

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-302/97 ordersheet Pg-1

Disposed date-18/11/97

M.P-208/97 ordersheet Pg-1

Disposed date-16/7/97

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

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

OA No. 278/96

S. P. L. Chandra vs. Applicant(s)

Union is Respondent(s)

M. M. Chanda, Advocates for Applicant(s)

M. J. L. Sarkar, Advocates for Respondent(s)

Office Notes Date Courts' Orders

3.12.96
469587
Dated ... 2.12.96

Learned counsel Mr. M. Chanda for the applicants.

Mr. J. L. Sarkar, learned Railway counsel for the respondent.

The 4 applicants seek permission to join in this single application under Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987. Heard counsel of both parties. Permission as prayed for is allowed as the condition laid down in the rule are fulfilled.

Perused the contents of the application and reliefs sought for and heard counsel of the parties for admission. Application is admitted.

Issue notice on the respondents by registered post. Written statement within six weeks.

List for written statement and further orders on 15.1.1997.

Heard counsel of the parties on the interim relief prayer. The applicants have prayed for stay of the selection proceeding for the posts of Office Superintendent Gr. II issued under Notification No. E/254/87 Pt. VI

Contd.....

2

278/76

M.P. No. 147 of 1996 (O.A. 243/95)

B.12.96

(T) dated 2.8.96, Annexure 2 to the application, and viva-voce test to be held on 4.12.1996 consequent to the letter No. E/254/87/Pt.VI (T) dated 28.11.1996, Annexure-3 to the application, till disposal of this O.A.

The prayers of the applicants as above are not allowed. However it is made clear that the result of the selection proceeding and consequential actions thereto shall be subject to the results of this Original Application. It is further made clear that pendency of this application shall not be a bar for the respondents to dispose of the representation dated 29.11.96, Annexure 4 to the application.

Member

trd

15.1.97

Mr. M.Chanda for the applicant.

Mr. J.L.Sarkar for the respondents seeks 4 weeks time to submit written statement. Allowed.

List for written statement and further orders on 14.2.1997.

Member

trd

15/1

14.2.97

On the prayer of Mr J.L.Sarkar learned Railway counsel time for filing written statement is extended. Mr.M.Chanda has no objection. No further adjournment will be granted.

List on 10.3.97 for written statement and further orders.

Member

Vice-Chairman

Notice issued to the concerned parties vide D.No-4595-4607 dt-31.12.96

8.1.97

Notice un served Respondant No-8,10

Notice duly served Respondant No-2,5,13

w/s has not been submitted

12-2-97

1/ Notice duly served on R.No-2,5,6,12 & 13.

2/ Notices on Respondant No-8 & 10 returned unserved

6.3.97

Notice unserved on Respondant Nos 8 & 10 as remarks "NOT KNOWN"

2) Written statement has not been submitted

3) Memo of appearance not yet filed

6/3

16.7.97

Written statement has been filed.

15-7-97

Written statement
filed on behalf of
The respondent No.
1 to 3 with a prayer
mp. No - 208/97.

nkm

Member

Vice-Chairman

Mr M. Chanda, learned counsel for the
applicant, prays for some time to file
rejoinder. The case is adjourned to
4.8.97. The applicant may file rejoinder
within one week.

by

1.8.97

Rejoinder has not
been filed by the
Applicant Advocate.

4.8.97

There is no sitting of
Division Bench today i.e. 8.8.97.
on 21.11.97.
By order

21.11.97

The Railway administration has not
been able to produce the documents as
directed. Mr J.L.Sarkar, learned Railway
standing counsel has prayed for a short
adjournment to enable him to produce the
documents. Prayer allowed.

Adjourned the case till 27.11.97.

Member

Vice-Chairman

12-11-97

Rejoinder filed
on behalf of the
applicant at page
36 to 44

pg

24/11

w/s and rejoinder
has been filed

26/11

27.11.97

Division Bench is not sitting
List on 9-12-97.
By order

9.12.97

There is no representation.
Adjourned to 19.12.97.
By order

w/s and rejoinder
has been filed

18/12

10-3-97

17-3-97

Fresh steps in respect
of Respondant No. 8 & 10
prepared and sent to
Despatch Section on
17-3-97.

On the request of Mr.M.Chanda
counsel for the applicant 10 days
time is extended to take further
steps.

Let this case be listed for
hearing on 20-3-97.

Member

Vice-Chairman

21/3 18-3-97

lm
W
11/3

Fresh steps issued
by R. post A.D. vide 20.3.97
J. NO- 832 & 833 of
18-3-97.

Let this case be listed for hearing on
12.5.1997.

- 21/3
- 1) Notice duly served
on op. Nos. 2, 5, 6, 12 & 13.
 - 2) Notice returned unserved
on R. No. 8 & 10.
 - 3) & Service Reports on op. trd
Nos. 1, 3, 4, 7, 9 & 11. over
still awaited.

Member

Vice-Chairman

- 4) Fresh notice sent to
Dispatch Sec. on 17-3-97
for Reports no. 8 & 10.
- 5) W/ statement has not been
fwd.

12.5.97

On the prayer of Mr M.Chanda, learned
counsel for the applicant the case is
adjourned to 16.6.97 for hearing.

Member

Vice-Chairman

- 6) No appearance has been
fwd.

16-6-97

List for hearing on 16-7-97.

Member

26.6.97
Notice duly served
on respondents No. 8, 10, 1m

16/6


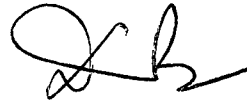






- 1) W/ statement has not been fwd.
- 2) Notice duly served on R. Nos.
8 & 10.
- 3) No appearance has been fwd.

19.12.97

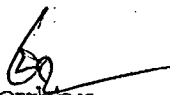
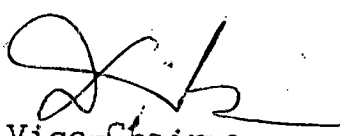
The case is ready for hearing. List
it for hearing on 24.3.1998.

By Order

- 1) W/ statement has been fwd on R. Nos 1-3.
 - 2) Repair order has been fwd.
- 27/3

Notes of the Registry	Date	Order of the Tribunal
<p>1) W/S has been filed on R-Mos 1-3.</p> <p>2) Rejoinder has been filed.</p> <p>26/8</p>	<p>24.3.98</p> <p>pg</p> <p>25/3</p>	<p>Let this case be listed for hearing on 25.6.98.</p> <p> Member</p> <p> Vice-Chairman</p>
<p>W/S and Rejoinder has been filed.</p> <p>10/8</p>	<p>25.6.98</p> <p>nkm</p> <p>26/8</p>	<p>Mr J.L. Sarkar, learned Railway Counsel, prays for a week's adjournment. Mr M. Chanda, learned counsel for the applicant has no objection. List it on 10.7.98.</p> <p> Member</p> <p> Vice-Chairman</p>
	<p>11.8.98</p>	<p>On the prayer of Mr. M.Chanda, learned counsel appearing on behalf of applicants the case is adjourned till Monday next. Records may be inspected by Mr. Chanda in presence of Mr. J.L.Sarkar or any other officer of this Tribunal.</p> <p>List on 17.8.98.</p> <p> Member</p> <p> Vice-Chairman</p>
<p>W/S and Rejoinder has been filed.</p> <p>31/8</p>	<p>trd</p> <p>12/8</p> <p>17.8.98</p> <p>trd</p> <p>29/8</p>	<p>Mr. M.Chanda, learned counsel appearing on behalf of the applicant prays for short adjournment as he needs instructions in this matter. Accordingly we grant 10 days time.</p> <p>List on 1.9.98.</p> <p> Member</p> <p> Vice-Chairman</p>

LH

Notes of the Registry	Date	Order of the Tribunal
<p>26.10.98</p> <p>Copies of the Judgment have been sent to the D/Sec. for issuing the same to the parties through Regd. with a/c.</p> <p>At. J. S. V. V. D. NO. 3113 to 3115 Dr. 26.10.98.</p> <p>UP</p>	<p>1-9-98</p> <p>lm</p>	<p>Heard counsel for both sides. Hearing concluded. Judgment pronounced in open Court. Kept in separate sheets. Application is dismissed. No order as to costs.</p> <p> Member</p> <p> Vice-Chairman</p>

8

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

O.A.No. 278 of 1996

DATE OF DECISION. 1-9-1998

Sri Patindralal Choudhury & Ors. (PETITIONER(S))

Mr. M. Chanda ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors. RESPONDENT(S)

Mr. J. L. Sarkar ADVOCATE FOR THE
RESPONDENTS.

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

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

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

Judgment delivered by Hon'ble VICE-CHAIRMAN.



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.278 of 1996

Date of Order: This the 1st day of September 1998.

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

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

1. Shri Patindralal Choudhury
S/O. Late N.R.Choudhury
Head Clerk,
Office of the Chief Commercial Manager/Rats
N.F.Railway, Maligaon,
Guwahati.
 2. Mrs. Brati Das
Wife of Shri S.Das
Head Clerk,
Office of the Chief Commercial Manager/Rats,
N.F.Railway, Maligaon,
Guwahati.
 3. Shri Pranayendra Kishore Choudhury
Son of Late R.K.Choudhury,
Head Clerk
Office of the Chief Commercial Manager(claims)
N.F.Railway, Maligaon,
Guwahati
 4. Shri Bhaben Haloi
Son of late Angad Halio
Head Clerk,
Office of the Chief Commercial Manager(claims)
N.F.Railway, Maligaon.
Guwahati.
- Applicants.

By Advocate Mr.M.Chanda,

-Vs-

1. The Union of India
(Through the General Manager(P)
N.F.Railway, Maligaon.
Guwahati.
2. The Chief Personnel Officer,
N.F.Railway
Maligaon, Guwahati.
3. The Chief Commercial Manager,
N.F.Railway,
Maligaon, Guwahati
4. Shri N.Patowari
5. Shri Bijoy Kalita
6. Md.Abdul Jabbar
7. Shri Sanjeev Das

contd/-

8. Shri A.Chakraborty
9. Shri A.C.Dey
10. Shri Hareswar Deka
11. Shri W.B.Marak
12. Shri B.Deka
13. Shri Subal Chandra Das Respondents.

By Advocate Mr.J.L.Sarkar.

O R D E R.

BARUAH J.(V.C.):

All the 4 applicants in the present application have challenged the selection of 27 posts of Office Superintendent held on 28-9-96 and also seek certain directions.

Facts are :-

The General Manager(P), N.F.Railway, Maligaon issued notification dated 2-8-96 for selection of 27 posts of office Superintendent Grade II in the scale of Rs. 1600-2660/-. Pursuant to the above notification the applicants applied for the said post as they were eligible to appear in the selection. They were asked to appear in written test held on 28-9-96. The applicants however, could not come out successful in the written test held on 28-9-96. This result was published on 28-11-96, wherein 31 candidates were declared successful in the written test and subsequently they were declared selected on the marks obtained in the written test. Their seniority was also fixed. A circular was issued by the Railway Board dated 11-11-94 prescribing 2 years minimum service in the Lower cadre to become eligible for such selection. However, in the event of non-availability of candidates this can be relaxed. According to the applicants

 contd/-

the entire process of selection was arbitrary vitiated because of manipulation, in the process of selection. Hence the present application.

In due course the respondents have entered appearance and filed written statement controverting the averments made in the petition.

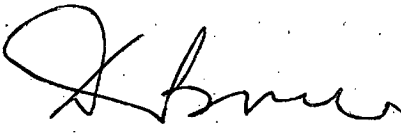
We have heard Mr.M.Chanda learned counsel appearing on behalf of the applicant and Mr.J.L.Sarkar for the Railway Administration. Mr.Chanda submits that the selection process was not properly made and notional seniority was given to the respondent Nos.10,12 and 13 in total violation of Railway Board Circular dated 11-11-94. Having statutory force Mr.J.L.Sarkar, learned Standing counsel for Railway Administration on the other hand he refuted the averments made by the applicant. According to him there was no anomaly in giving the notional seniority. Mr.Sarkar also submits that conditions of 2 years service should be fulfilled at the time of giving actual promotion to the post of office Superintendent II. Mr.Sarkar also very fairly submits that in case of applicant No.1, Shri Patindralal Choudhury, there had been some Arithmetical mistake in evaluating the marks. This occurred through inadvertence. However, in case of the others there was nothing wrong. We called for records and pursuant to our direction the respondents have produced the records. We allowed Mr.M.Chanda to inspect the records. To-day Mr.Chanda also informs us that there was no mistake.

Considering the submission of the learned counsel for the parties we find no merit in the application except the Arithmetical mistake that occurred through inadvertence in case of applicant No.1 Mr.Sarkar has informed that the


contd/-

Railway Administration has agreed to correct the mistake and also called the applicant Shri Patindralal Choudhury for the viva-voce test. Therefore, we dismiss the application with the above observation. No order as to costs.


(G.L. SANGLYINE)
ADMINISTRATIVE MEMBER


(D.N. BARUAH)
VICE-CHAIRMAN

LM

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

O.A. No. 278 of 1996

Sri P.L.Chowdhury, & Ors.

-vs.-

Union of India & Ors.

LIST OF DATES

Sl.No.	Date	Particulars	Page	Para
1	02.08.96	General Manager (P) N.F. Railway, Maligaon issued notification dt. 2.8.96 for selection to fill up 27 posts of Office Superintendent, Gr.II in the scale of Rs. 1600-2660 /- and in pursuance to the above notification, selection compri- sing written test held on 28.9.96 however applicant could not come out successful in the written test held on 28.9.96 (Annexure-2).	6-8	6.3
2	28.11.96	Result of the written test held on 28.9.96 published on 28.11.96 wherein 31 candidates declared successful in the written test and declared selected on the basis of marks obtained in the written test and on the basis of marks allotted on notional seniority basis (Annex.3).	8	6.4

3
Filed by the applicant -
through Manish Chandra.
2-9-98. (Nile Advocate)

1	2	3	4	5
3	11.11.94	Respondent Nos. 4-13 called for the written test held on 28.9.96 were ineligible in terms of the Railway Board Circular dated 11.11.94 wherein it is prescribed minimum 2 years of service in the minimum lower cadre, however persons with 1 year service may appear in the selection with the personal approval of General Manager in the event of non-availability of sufficient number of candidates.	9-10	6.5

Prayer : Applicants pray for quashing of the selection proceeding conducted in pursuance of the notification dated 2.8.96.

Submission : The entire selection proceeding is vitiated due to violation of statutory Railway Board Circular dated 11.11.94 which is circulated vide letter dated 21.12.94 issued by the General Manager (P), N.F. Railway, Maligaon and also on the ground of malafide, manipulation in the process of allotment of marks of notional seniority and in answer script.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

F.No.2

Presented By:

Applicant : Mr. M Chanda, A.

Respondent : J. Sarla.

Nature of grievances: Selection.

No. of application : 4 (for)

Diary No. 949

Date of representation:

2-12-96

No. of Respdts. 13

Deptt. Rly

1. Is the application in the proper Form : *Yn*
2. Whether name, description and address of all the parties been furnished in the cause title ? : *Yn*
3. (a) Has the application been duly signed and verified ? : *Yn*
- (b) Have the copies been duly signed ? : *Yn*
- (c) Have sufficient number of copies of the application been filed ? : *2 copies*
4. Whether all the necessary parties are impleaded ? : *Yn*
5. Whether English translation of documents in a language other than English or Hindi been filed ? : *NO*
6. Is the application in time ? : *Yn*
7. Has the Vakalatname/Memo. of appearance /authorisation been filed ? : *Yn*
8. Is the application maintainable ? : *Yn*
9. Is the application accompanied by IPO/BD for Rs.50/- ? : *1 PO M. 489587 dt. 2-12-96 L.B. 572*
10. Has the impugned orders original/duly attested been filed ? : *Yn*
11. Have legible copies of the annexures duly attested been filed ? : *Yn*
12. Has the index of documents been filed and pagination done properly ? : *Yn*
13. Has the applicant exhausted all available remedies ? : *Yn*
14. Has the declaration as required by item 7 of Form I been made ? : *Yn*
15. Have required number of enveloped bearing full addres of the respdts. been filed ? : *NO*
15. (a) Whether the relief sought for arise out of single cause of action : *Yn*
- (b) Whether any interim relief is prayed for : *Yn*
17. In case an MA for condonation of delay is filed, is it supported by an affidavit of the applicant? : *NA*
18. ~~xxxxxx~~ Whether this case can be heard by Single Bench : *NA*
19. Any other point :
20. Result of the Scrutiny with initial of the Scrutiny Clerk :

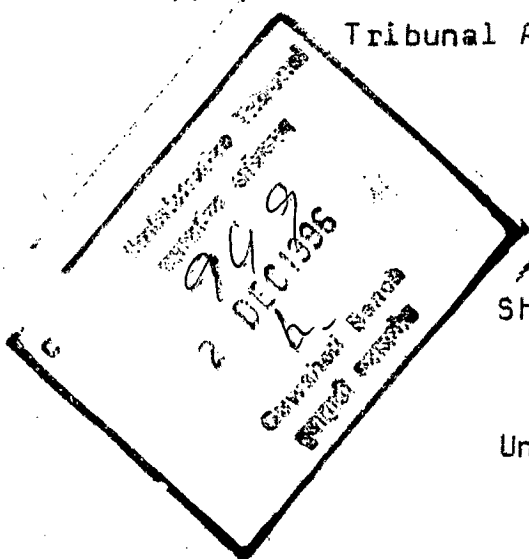
2/12/96
SECTION Officer

2/12/96
DEPUTY REGISTRAR

2/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

An Application under Section 19 of the Administrative Tribunal Act, 1985.



GA No. 278/1996

Shri Phanindra Lal Chaudhury & Ors.

Versus

Union of India & Ors.

I N D E X

S.No.	Annexure	Particulars	Page No.
1.	-	Application	1- 18
2.	-	Verification	19
3.	1	Railway Board Circular dt. 11.11.94	20-28.A
4.	2	Notification dt.2.8.96	21-23.
5.	3	Select List dt.28.11.96	24-25.
6.	3 A	A copy of Seniority List dt.1.7.96	26-29.
7.	3 B	A copy of select List dt. 28.11.96	30
8.	4	Representation dt.29.11.96	31-32.

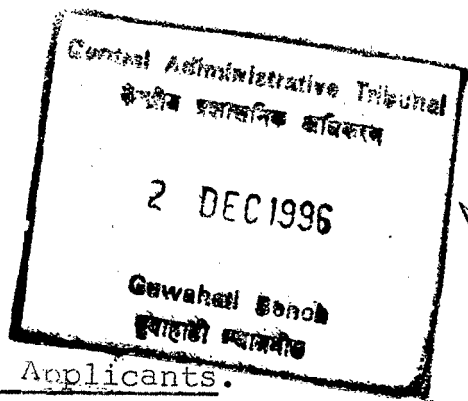
Dt. 2.12.96

Filed By :

(Signature)
Advocate.

*f. undertake,
to serve the copy
to Shri J. A. L. Sankar.
C.G.S.C.
(Signature)
Adv.
2.12.96*

*16
Filed by the applicant
through M. Chandra Sankar
2.12.96*



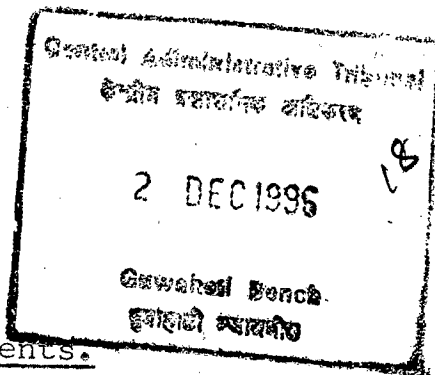
1. Particulars of the Applicants.

1. Shri Patindralal Choudhury
Son of late N.R.Choudhury
Head Clerk,
Office of the Chief Commercial Manager/Rats
N.F.Railway, Maligaon,
Guwahati
2. Mrs. Brati Das
Wife of Shri S. Das
Head Clerk,
Office of the Chief Commercial Manager/Rats,
N.F.Railway, Maligaon,
Guwahati.
3. Shri Pranayendra Kishore Choudhury
Son of late R.K.Choudhury,
Head Clerk,
Office of the Chief Commercial Manager(Claims)
N.F.Railway, Maligaon,
Guwahati
4. Shri Bhaben Haloi
Son of late Angad Halio
Head Clerk,
Office of the Chief Commercial Manager(Claims)
N.F. Railway, Maligaon,
Guwahati.

... .. Applicants

Contd....P/3

Phanindra Lal Choudhury.



2. Particulars of the Respondents.

1. The Union of India
(Through the General Manager (P)
N.F.Railway, Maligaon,
Guwahati).

2. The Chief Personnel Officer,
N.F.Railway
Maligaon,
Guwahati

3. The Chief Commercial Manager,
N.F.Railway,
Maligaon
Guwahati.

...xxx~~Respondents~~

4. Shri N.Patowari

5. Shri Bijoy Kalita

6. Md. Abdul Jabbar

7. Shri Sanjeev Das

8. Shri A.Chakraborty

9. Shri A.C.Dey

10. Shri Hareswar Deka

11. Shri W.B.Marak

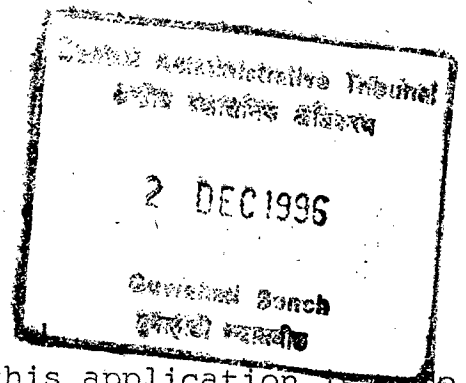
12. Shri B.Deka

13. Shri Subal Chandra Das

.....Respondents.

(Respondent No 4, 5, 6, 7 and 13 are working as Hd. Clerk in the office of the Chief Commercial Manager (General,) Maligaon, Guwahati and respondent Nos. 8 & 9 working as ~~Hd~~ Clerk in the office of the Chief Commercial Manager (Rats) & Respondents No. 11 & 12 are working as Hd. Clerk in the office of the Chief Commercial Manager (Claims), N.F.Railway, Maligaon).

Pharindra Lal Chowdhury



3. Particulars for which this application is made.

This application is made for quashing and setting aside of the entire selection proceeding conducted by the N.F. Railway, Maligaon, Guwahati in terms of Notification issued under letter No. E/254/87 Pt. VI (T) dated 2.8.96 whereby the Railway authorities initiated the selection proceeding for the post of Office Superintendent Grade II in the scale of Rs. 1600-2660 of Commercial Department of Head Clerk Unit in total violation of the statutory guidelines issued under Railway Board's letter No. E(NG)-94 Pt.1/17 dated 11.11.94 and also due to discrepancies and manipulations in the entire selection proceeding and also for a direction upon the respondents to constitute a fresh selection proceeding for filling up the existing vacancies of Office Superintendent Grade II in the Commercial Department of the Head Clerk Unit, N.F. Railway, Guwahati.

4. Jurisdiction

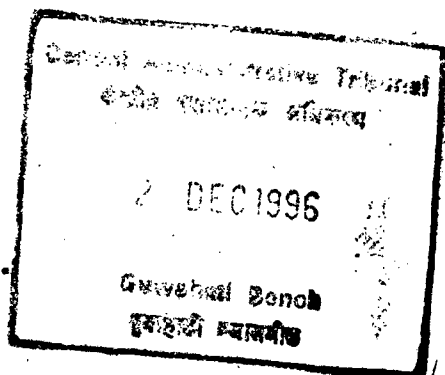
That the applicants declare that the subject matter of this Application is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation

That the applicants further declare that this application is filed before this Hon'ble Tribunal within the prescribed time in the Administrative Tribunals Act, 1985.

Contd...P/5

Phenindra Lal Chowdhury.



6. Facts of the Case.

6.1) That the applicants are citizen of India and as such they are entitled all the rights and privileges as guaranteed under the Constitution of India.

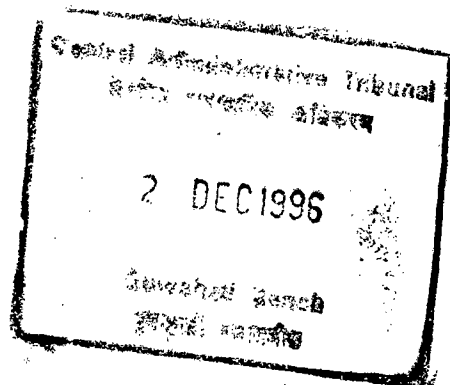
The applicants are presently serving in the grade of Head Clerk under the Office of the Chief Commercial Manager in the N.F. Railway, Maligaon, Guwahati and all the applicants are very senior in the cadre of Head Clerk of the Commercial Department of N.F. Railway. The detailed particulars of date of promotion and seniority position in the combined ^{notification} ~~seniority~~ list dated 2.8.96 of Head Clerk is furnished hereunder :

Sl.No.	Name	Date of promotion as Head Clerk	Seniority position in the combined ^{notification} seniority list _{selection}
1	Sri P.L.Choudhury	1.11.1991	4
2	Mrs. Brati Das	3.12.1992	9
3	Sri P.K.Choudhury	16.11.1993	18
4	Sri Bhaben Haloi	1.2.1994	26

All the above applicants are now serving as Head Clerk in the pay scale of Rs. 1400-2300. The next avenue of promotion of the applicants to the grade of Office Superintendent Grade II in the pay scale of Rs. 1600-2660. As per Railway Board's Circular No. E(NG)-94 Pt 1/17 dated 11.11.94 which is circulated vide letter No. E/234/0-Pt XII (C) dated 21.12.1994 issued by the General Manager (P), N.F. Railway, Maligaon. As per the above Railway Board

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Phanindra Lal Choudhury.



Circular for attaining eligibility for any promotion to the higher pay scale in the cadre of Group C a minimum period of 2 years service is required in the lower grade and it is further stated in the said Railway Board Circular in an exceptional case when lower grade candidates are not readily available for filling up the vacancies. The General Manager (P) made relaxation the eligibility criteria subject to minimum period of service of 1 year in the immediate lower grade. Be it stated that the Railway Board Circular has got statutory force and therefore the same cannot be violated by the Zonal Railways.

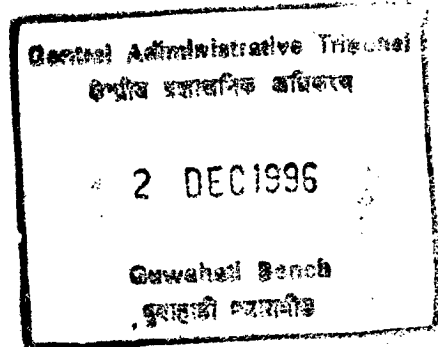
A copy of the Railway Board Circular dated 11.11.94 which is circulated vide letter dated 21.12.94 is annexed herewith as Annexure-1.

6.2) That the applicants pray before the Hon'ble Tribunal that as the grievance of the applicants are same they be allowed to file their grievances in a single Application under rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

6.3) That the General Manager (P), N.F. Railway, Maligaon issued a notification under letter No. E/254/87 Pt. VI (T) dated 2.8.96 for selection to the post of Office Superintendent Grade II in the scale of Rs. 1600-2660 of Commercial Department of Head Quarter Unit. In the said Notification it is stated that it has been decided to hold a selection

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Phanindra Lal Chowdhury.



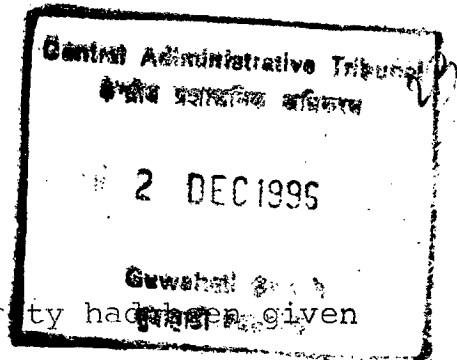
for forming a panel for Office Superintendent Grade II of Commercial Department of Headquarter Unit for 27 vacancies out of which 23 unreserved, 2 SC, 2 ST. It is also stated that the selection would consist of written test followed by viva voce test, with those who would qualified in the written test. In the 2nd paragraph it is stated that the following Head Clerks in the scale of Rs. 1400-2300 (RPS) are eligible to appear in the Selection and they should be asked to appear in the written test to be held on 7.9.96 at 10.00 hrs. in CCO MLG's Office. The relevant portion of paragraph 2 is quoted below :

" The following Head Clerks in scale Rs.1400-2300 (RPS) are eligible to appear in the selection and they should be asked to appear in the written test to be held on 07-09.96 at 10.00 hrs. in CCO/MLG's Office."

It is further stated in the said Notification that a absentee test will also be held if anybody is on leave and the same would be intimated immediately for enabling them to appear before the Aforesaid written test. In the said Notification names of 81 candidates has been declared eligible for appear in the written test as well as the viva-voce test in the event of their success in the written test. The names of the present applicants also found placed in the said Notification dated 2.8.96. In this connection it may be stated that the applicant No. 1 and 2 also appeared in the similar selection ~~xxxxxx~~ which was held in the year 1995 and they were declared successful in the written test examination. However they

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Phanindra Lal Chowdhury.



could not be empanelled as seniority had been given weightage for empanelment in the viva-voce test. However although ~~the~~ the railway authorities did not hold the selection test on 7.9.96 and the same was postponed and subsequently written test was held on 28.9.96 and all the applicants appeared in the written test. But unfortunately they could not come out successfully in the written test held on 28.9.96.

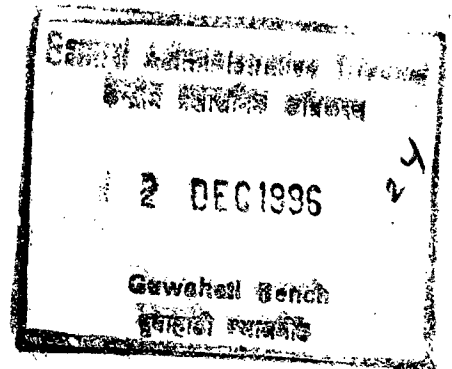
A copy of the Notification dated 2.8.96 is annexed herewith as Annexure-2.

6.4) That the General Manager (P), N.F. Railway vide his letter No. E/254/87/Pt VI(T) dt. 28.11.96 publishing the result of the selection i.e. written examination for promotion to the post of Office Superintendent Grade II in the scale of Rs. 1600-2660 (RPS) of Commercial Department of Head Quarter Unit. In the said Select List names of 31 candidates appeared and shown successful in the written examination and they have been based allowed to appear in the viva-voce test/on marks on written test and notional seniority. It is also stated in the note of the said select list dated 28.11.96 that the above selected candidates have been called for viva-voce test based on marks of written test and notional seniority and their empanelment will be subject to securing 60% marks in professional ability and 60% marks in aggregate.

A copy of the said select list dated 28.11.96 is annexed as Annexure-3.

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Phenindra Lal Chowdhury.

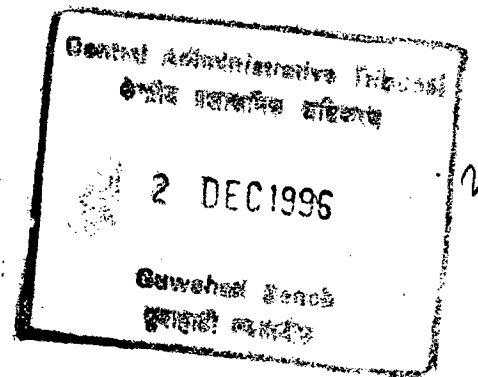


6.5 That your applicants came to know immediately after publishing of the result that some ineligible ~~candidates~~, namely respondent Nos. 4 to 13 have been called for the written test vide impugned Notification dated 2.8.96. Their position shown in the said Notification from serial Nos. 73-81 and thereafter the applicants immediately verified this fact after reconciling the seniority position and the date of promotion of the private respondents No. 4 to 13 and it would be evident from the provisional seniority list of Head Clerk in the scale of Rs.1400-2300 (RPS) published as on 1.7.1996 of Headquarter Unit of Commercial Deptt. and it is evident from the said seniority list that they have not completed even 1 year of service in the grade of Head Clerk whereas as per the statutory Circular dated 11.11.94 issued by the Railway Board stated that a minimum period of service immediate cadre of lower grade require 2 years. The detail service particulars of the private respondents are furnished below :

Names in order of seniority	Date of initial appointment	Date of promotion to Sr. Clerk	Date of promotion to Hd. Cl
1. N.Patowari	17.1.1978	22.5.89	2.8.95
2. Bijoy Kalita	2.4.1981	31.8.88	9.2.96
3. Abdul Jabbar	21.4.82	31.8.88	9.2.96
4. Sanjeev Kr.Das	19.5.82	31.8.88	9.2.96
5. A.Chakraborty	12.7.78	22.5.89	9.2.96
6. A.C.Das Dey ✓	2.1.79	26.5.89	9.2.96
7. Smt.Aparna Das	12.7.76	11.4.90	9.2.96
8. B.Chakraborty	27.9.96	11.4.90	9.2.96
9. W.V.Marak ✓	6.9.76	11.4.90	9.2.96
10. R.P.Rajbhar	4.6.1958	11.4.90	9.2.96
11. Hares Deka ✓	25.5.1985	1.11.90	9.2.96
12. B. Deka ✓	19.11.90	19.11.90	9.2.96
13. Subhal ch.Das ✓	19.11.90	19.11.90	9.2.96

W/line
Adv.

Phanindra Lal Choudhary

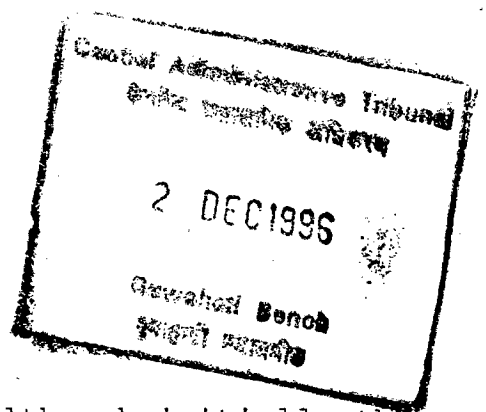


From above it appears that respondent No. 4 has not completed 2 years of service and the respondent Nos. 5 to 13 not even completed 1 year of service on the date of notification whereas by the impugned notification dated 2.8.96 it is declared by the ~~Railway~~ ^{local} authority that the respondent Nos. 4 to 13 are eligible for appearing in the written test as well as in the viva-voce test. In this connection it may be state that the present applicants came to know from a reliable source that a vested circulse is working against the present applicants and working in favour of these private respondents and although they are not eligible on the date of issuance of the Notification dated 2.8.96, to give undue advantage and benefit the local railway authority have declared them eligible for appearing in the written test as well as in the viva voce test in the event of their passing in the written test. It would be further evident from the select list dated 26.11.96 that the names of respondent Nos. 9, 10, 12 and 13 has been found placed at serial No. 29, 30, and 31 respectively. Therefore it is quite clear that private respondent Nos. 9, 10, 12 and 13 although ineligible but even then they are called for the written test as well as they have declared selected in the written examination and they have been allowed in the viva voce test. Therefore this has been done in total violation of the statutory rule as circulated under the Railway Board's Circular dated 11.11.1994 which cannot be permitted under the Law of the Land. Therefore the entire selection proceeding has been vitiated and therefore entire proceeding is liable to be set aside and quashed.

(wv). A copy of seniority list enclosed.
as annexure - 3A -

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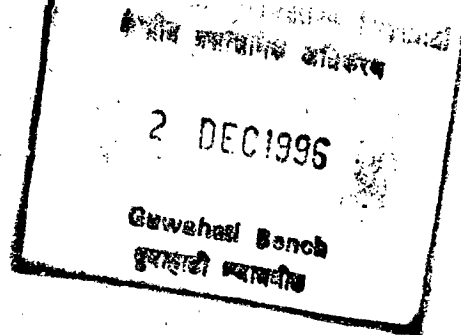
Phanindra Lal Chowdhury



6.6) Most surprisingly although initially the select list which was published on 28.11.96 figured names of 31 successful candidates in the select list and 1 Shrimati Pranita Mazumdar who is an eligible candidate and one of the seniormost Head Clerks serving under the Commercial Department who was declared eligible for appearing in the written test in the Notivication dated 2.8.96 placed at serial No. 56 appeared in the written examination on 28.9.96 but initially she was declared unsuccessful and her name was not found in the select list dated 28.11.96. It is learnt by the applicants from a reliable source that Shrimati P. Mazumdar lodged a verbal complaint to the Chief Personnel Officer, Maligaon claiming that her name has been intentionally deleted from the select list published on 28.11.96 and she also claimed that she did well in the written test. Immediately after on receipt of her complaint the Railway Authorities surprisingly issued a letter bearing No. E/254/87/Pt-VI(T) dated 28.11.96 on the same day declared her successful subsequently and whereby declared that Shrimati P. Mazumdar (SC) is allowed to appear in the viva-voce test to be held on 4.12.96 at 10.00 hrs. in the chamber of Deputy Chief Commercial Manager Claims, N.F. Railway in terms of note received from the Selection Committee vide letter No. E/254/Misc/Select/SPO/Pt dt. 28.11.96 but no reason has been given in the said letter except stating that a note has been received from the Selection Committee. Therefore it is surprising to note that without giving any satisfactory reason in the subsequent result sheet how the name of

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Phanindra Lal Chowdhury.

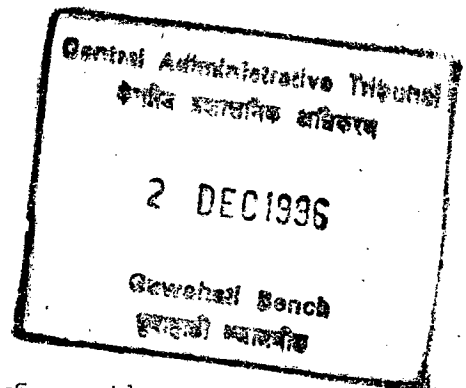


Mrs. Pranita Mazumdar is declared successful subsequently and this would be evident that the entire process is vitiated due to malpractice, manipulation and by violating the statutory rule of the Railway Board's Circular. It is also learnt reliably that answer script is also not properly evaluated and it is also learnt that manipulation has also been made in the matter of allotting of marks to the individual candidates and also in the matter of granting marks on the basis of notional seniority. Therefore Hon'ble Tribunal be pleased to direct the respondents for production of answer scripts of all the candidates appeared in the selection test including the answer scripts of the present applicants for the purpose of judicial review. Further be pleased to set aside the entire selection proceeding which cannot be sustained in the eye of law as the same has been done in total violation of the statutory rule of the Railway Board.

6.7) That as a result of discrepancies, manipulations violation of statutory rules, the entire proceeding is vitiated and the private respondent Nos. 4 to 13 who are ineligible for appearing in the written test/examination as well as in the viva-voce test for the purpose of promotion to the Grade of Office Superintendent Grade II as per Railway Board Circular dated 11.11.1994 granted undue favour by the local railway authorities and they have been allowed to appear in the viva voce test which is scheduled to be held on 4.12.1996. Therefore there is an apprehension that if these ineligible persons are finally declared selected in that event the present

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Pharindra Lal Chowdhury

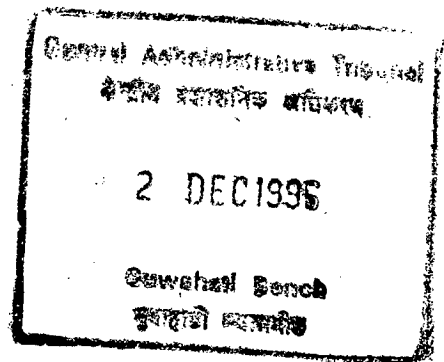


applicants would be deprived ~~from the prospect~~ in as much as their prospect for appearing in the next selection will be reduced to the extent of vacancies to the grade of Office Superintendent Gr. II being likely to be filled up by ineligible private respondents and their rights are definitely going to be prejudiced. Therefore it is a fit case where the Hon'ble ^{tribunal} should interfere and further be pleased to set aside the entire selection proceedings and the circumstance deserves that the proposed viva-voce test scheduled to be held on 4.12.96 should be stayed till final disposal of the application as an interim measure.

6.8) That the present applicants are very senior in the cadre of Head Clerk and due to arbitrary process of selection, manipulating, the entire proceeding, undue advantage are being granted to the respondent Nos. 4 to 12.13. Therefore it is a fit case for interference of the Hon'ble Tribunal as the entire selection proceeding is vitiated and malafide to protect the rights and interest of the applicants although they could not come out successfully in the written examination due to the unfair practice adopted by the vested circle of the authorities even then their chances for further promotion in the next selection is also going to be adversely affected in as much as vacancies is going to be filled up by ineligible candidates in total violation of the Railway Board's Circular dated 11.11.1994.

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6.9) That your applicants preferred a representation to the Chief Commercial Manager, N.F. Railway, Maligaon vide their representation dated 29.11.96 praying for review of the result of the written test for selection for Office Superintendent Grade II held on 28.9.96 on the ground of violation of statutory Railway Board Circular and also for granting undue favour to the ineligible candidates and for adopting unfair procedure in the matter of selection and also being aggrieved for non-evaluation of answer script in proper manner and prayed for re-evaluation of the answer scripts and also cited subsequent declaration of result of Shrimati Pranita Mazumdar as successful but the Railway authorities did not give any response to the representation dated 29.11.96 submitted by the applicants till filing of this application. Therefore finding no other alternative the applicants approaching this Hon'ble Tribunal for redressal of their grievances. (Copy of the representation dt. 29.11.96 is annexed as Annexure-4). *Copy of representation dt. 29.11.96. as annexure - 4.*

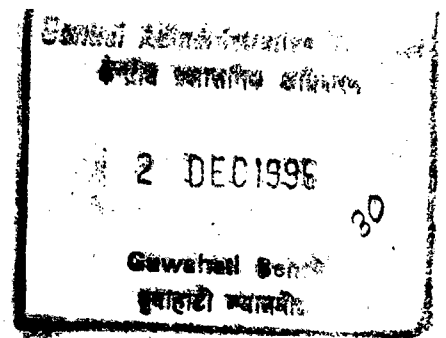
6.10) That this application is made bonafide and for the cause of justice.

7. Reliefs prayed for :

Under the facts and circumstances the applicants pray for the following reliefs :

1. That the Notification issued under letter No. E/254/87 Pt. VI (T) dt. 2.8.96 and the result of selection of the written examination for promotion to the post Office Superintendent Grade II published under letter No. E/254/87/Pt. VI(T) dated 28.11.96 be set

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aside and quashed, or alternatively the Hon'ble Tribunal be pleased to direct the respondents to review the entire selection proceeding particularly the written examination deleting the names of ineligible candidates for the selection of Office Superintendent Grade II held on 28.9.96 strictly in terms of Railway Board Circular dt. 11.11.94.

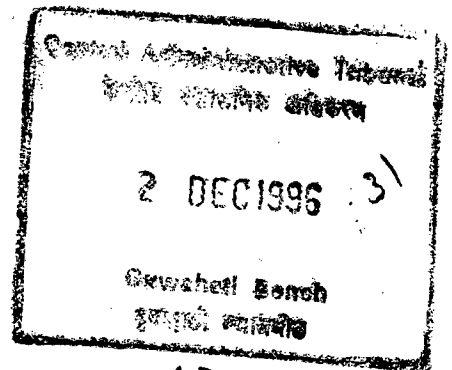
2. That the respondents be directed to hold a fresh selection of written examination for promotion to the post of Office Superintendent Grade II in the scale of Rs. 1600-2660 (RPS) of Commercial Department of Headquarter Unit, N.F. Railway, Maligaon against the existing 27 vacancies strictly in terms of Railway Board Circular dated 11.11.94.
3. To ~~pass~~ any other order or orders as deemed fit and proper under the facts and Circumstances of the case.

The above reliefs are prayed ~~in~~ the following amongst other-

-G R O U N D S-

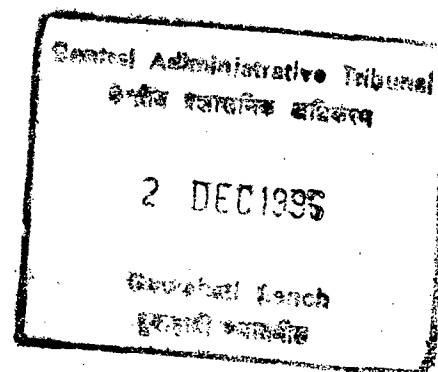
1. For that the Notification for selection for the post of Office Superintendent Grade II of Commercial Department of Headquarter Unit issued under letter dated 2.8.96 (Annexure- in total violation of statutory Railway Board Circular dated 11.11.94.

Phenindra Lal Chowdhury.



2. For that Respondent Nos. 4 to 13, has been declared eligible by the impugned notification dated 2.8.96 for appearing in the written test for selection for the post of Office Superintendent Grade II in violation of statutory Railway Board Circular dated 11.11.94.
3. For that the Private Respondents No. 10, 12, 13, has been declared successful in the written examination.
4. For that in the event of selection of private respondents No. 10, 12, 13 for the post of Office Superintendent Gr. II is definitely going to affect the applicants at this stage in as much as to the extent of vacancies being filled by the ineligible candidates for the selection of the Cadre of Office Superintendent.
5. For that the entire selection proceeding has be vitiated due to adoption of unfair practice, manipulation, malpractice, in the matter of evaluation of answer script and also in the matter of allotting marks in the notional seniority.
6. For that the subsequent inclusion of Shrimati P. Mazumdar in the viva voce test is clear evident of manipulation, malpractice in the matter of evaluation of answer script and allotment of marks.

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7. For that notional seniority has been granted to respondent Nos. 10, 12, & 13 in total violation of statutory Railway Board Circular dated 11.11.94.
8. For that the rights of the applicants has been prejudiced in as much as the chances of their empanelment has been reduced to the extent of vacancies are being filled in the ~~xxxxxx~~ instant selection by the ineligible private respondents.
9. For that the entire proceeding has been vitiated and the entire process of selection is malafide and the colourable exercise of power of the local authorities.
10. For that the applicants have been discriminated in the matter of equal opportunity and equal treatment in the eye of law in as much as in the matter of evaluation of answer script and in the matter of allotment of marks for notional seniority.

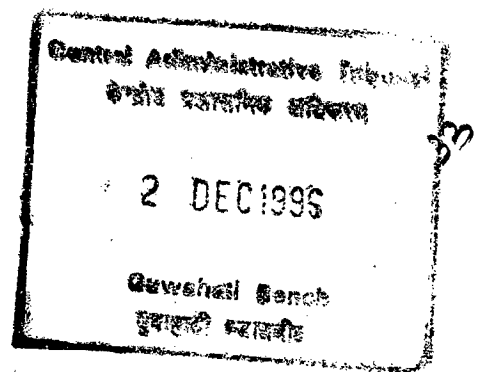
~~THE~~

8. Interim Reliefs prayed for :

During the pendency of this application the applicant prays for the following reliefs :

1. That the entire selection proceeding for selection of Office Superintendent Grade II in the pay scale of Rs. 1600-2660 of Commercial Department of Head-

Pharindia Lal Chowdhury.



quarter unit, N.F. Railway, Maligaon issued under Notification No. E/254/87 Pt.VI(T) dated 2.8.96 be stayed till final disposal of this application.

2. That the viva-voce test which is scheduled to be held on 4.12.1996 in the chamber of Deputy Chief Commercial Manager(Claims), Maligaon at 10.00 hrs. be stayed as proposed under letter No. E-254/87/PT VI(T) dated 28.11.96 till final disposal of this application.
3. To pass any other order or orders as deemed fit and proper as an interim ~~proper~~ measure to protect the rights and interests of the present applicants

The above reliefs are prayed on the grounds explained in paragraph 7 of this application.

9. Details of the remedy exhausted :

There is no other scope/remedy save and except filing this application before your Lordships.

10. That the matter is not pending in any Court/Tribunal.

11. Particulars of the Postal Order :

Postal Order No.	: DD 46 95 87.
Date of Issue	: 2-12-96.
Issued from	: GPO, Guwahati
Payable at	: GPO, Guwahati

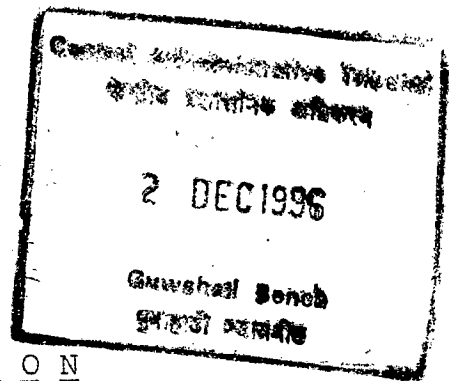
12. Details of Index

As Index showing the particulars of documents is enclosed.

13. List of enclosures

As per Index.

Phanindra Lal Chowdhury.



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

I, Shri *Phorindia Lal Chowdhury* son of *late Nagendra Lal Chowdhury* aged about 56 years, working as Head Clerk, in the office of the Chief Commercial Manager *retd. general*, N.F. Railway Maligaon, one of the applicants in this application and empowered and competent to swear this verification on behalf of the other applicants.

The statements made in this application are true to my knowledge and belief and I have not suppressed any material facts in this case.

And I sign this verification on this the *2-12-96* day of December, 1996.

Signature

Phorindia Lal Chowdhury
Head Clerk, CCM(Retd), N.F. Rly,
Maligaon.

Annexure — 1

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35

N.F RAILWAY

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

Dated 21.12.1996

No. ~~EP~~PS-379
E/254/0-Pt-XII (C)

To

All HODs
All DAOs WAOs/NBQ & DBWs.
All Controlling Officers of the
Non-Divisionalised Offices,
N.F.Railway

The General Secy. NFREU/ENG - with 50 spare copies
The General Secy NFRMU/ENG - with 40 spare copies.
The General Secy. AISCTREA/MLG - with 20 spare copies.

Sub : Relaxation of 2 years rule for promotion -
delegation of power to the General Managers.

A copy of Rly. Board's letter No. E(NG)I-94/Pt 1/
1 dated 11.11.94 regarding the above is forwarded herewith
for information and guidance. Board's earlier letter as
referred to in their present letter was circulated under
CPO's circular No. EPS -315 dt. 10.03.87.

DA/as above

for CHIEF PERSONNEL OFFICER/MLG

(Copy of Rly Board's letter No. e(NG)-94/Pt 1/17 dt.
11.11.94

Sub : Relaxation of 2 years rule for promotion-
delegation of power to the General Managers.

Pursuant to the recommendation of the Rly. Board's
reference Committee, instructions were issued under this
Ministry's letter No. E(NG)I/85/Pt.1/12 (RRC) dt.19.02.87
providing for 2 years' service in the immediate lower
grade for all promotions within Group 'C'. The 2 years'
rule also provides that if persons with 2 years' service
in the immediate lower grade are not available, the post
should be operated in a lower grade. However, it has been
noticed that in a number of cases persons with 2 years'
service in the lower grade are not readily available for
filling up vacancies in the higher grade, it is sometimes
not practicable to operate the posts in the lower grade.

In such case the Railways have been approaching the Board
for relaxation of the 2 years' rules in the interest of
administration.

The matter has been considered by the Board, and it
has been decided except in the case of running categories
the 2 years service condition may be relaxed by the Railways
with the personal approval of the General Manager whenever
such relaxation is found to be inescapable in the interest
of administration, subject to the conditions of minimum

Attended
@ 11.11.94
Adm.

NO: A/254/87 Pt. VI (T) ::

Dated 2-9-1996.

524

GM(407)/Calculation.

By: CCM(Clinical)/RHA.

50M(Gen)/1114, 50M(Intel)/1114.

Asst. Consultant/CC/HR

Sub : Selection for the post of Office Supdt./II in scale
Rs.1600-2600/- of Commercial Deptt. of Hd. &rs. Unit.

It has been decided to hold the selection for forming a panel of Office Asstt./SI in scale Rs.1600-2660/- of Commercial Deptt. of Md. rn. Unit for 27 (twenty seven) (UR-23, SC-2, ST-2) vacancies. The selection will consist of written test followed by viva-voce test with those who will qualify in the written test.

The following Head Clerks in scale 8.1400-2300 (HRS) are eligible to appear in the selection and they should be asked to appear in the written test to be held on 07.09.96 at 10-00 hrs. in CCO/WIC's office.

No absentee test will be held. If anybody is on leave he/she should be intimated immediately on his/her leave address to enable him to appear before the aforesaid written test. If anybody is not willing to appear the above written test, he/she should intimate his/her unwillingness in written through his/her immediate Sen rolling Officer.

<u>SN.</u>	<u>Names.</u>	<u>Community.</u>	<u>Working under.</u>
1.	Sri M.N. Moll	SC	COM(Claim)/MIG.
2.	Sri P.C. Das.	UR	-do- (Gen) mil
3.	Sri K. Dutta Choudhury.	UR	-do- (Claims) mil
4.	Sri P.L. Choudhury.	UR	COM/Notes/MIG.
5.	Sri Bishwanoy Roy.	UR	COM/Claims/MIG.
6.	Sri G.P. Dutta.	UR	-do-
7.	Sri T.C. Choudhury.	UR	-do- (now GM/MIF/Genl).
8.	Sri P.K. Sengupta.	UR	-do-
9.	Srimati Erata Das.	UR	COM/Notes/MIG.
10.	Smt. Arati Das.	SC	-do-
11.	Smt. Leena Talukdar.	SC	-do-
12.	Sri N. Barua.	UR	COM/Claims/MIG (now at ICT/GHY.)
13.	Sri R.C. Barua.	UR	COM/Claims/MIG.
14.	Smt. B. B. Talukdar.	UR	-do-
15.	Sri Kamala Kt. Das.	UR	-do-
16.	Sri H.K. Das.	UR	-do-
17.	Sri B.K. Roy Choudhury.	UR	-do-
18.	Sri P.K. Choudhury.	UR	-do-
19.	Smt. B.R. Chatterjee.	UR	-do-
20.	Smt. Bipali Roy.	UR	-do-
21.	Smt. K.C. Saha.	UR	-do-
22.	Smt. M. Purnanayatha.	UR	-do-
23.	Sri S.K. Roy.	UR	-do-
24.	Smt. Falguni Choudhury.	UR	-do-
25.	Sri Sanjib Mitra.	UR	-do-
26.	Sri B. Haloi.	UR	-do-
27.	Sri R. Kar.	UR	COM/Genl)/MIG.
28.	Smt. M. Paul.	UR	COM/Claims/MIG.
29.	Sri S.P. Roy.	UR	-do-
30.	Ms. T. Feikha.	UR	-do-

Attached.
Circular
p.p.

22 : 2 :
 SN. Name Community Working under.

31. Smt. Kalitara Das.	IR	CCM(Claims)/MLG.
32. " Asha Ganguly.	IR	-do-
33. Shri S.K. Choudhury.	IR	CCM(Rates)/MLG.
34. Shri S.K. Roy Choudhury.	IR	-do-
35. Smt. Anurupa Banerjee.	IR	-do-
36. Shri N.R. Choudhury	IR	-do-
37. Smt. Nani Sarker.	IR	-do-
38. Shri Jayananda Sarma.	IR	-do-
39. Shri Anish K. Roy.	IR	-do-
40. Smt. Porabi Day.	IR	CCM(Claims)/MLG.
41. Shri S. Banerjee.	IR	-do-
42. " K. Barman.	IR	-do-
43. Md. A. Rahman.	IR	-do-
44. Shri P.C. Barman.	IR	-do-
45. Shri M.C. Banishya.	IR	-do-
46. Shri Sakhar Sarker.	IR	-do-
47. Shri Tapan Dasak.	IR	-do-
48. " H.K. Kumar.	IR	-do-
49. Smt. Manju Das Choudhury.	IR	-do-
50. Shri S.P. Bhattacharjee.	IR	-do-
51. Smt. A. Dutta.	IR	-do-
52. Smt. Nipu Das.	ST	CCM(Rates)/MLG.
53. " Hiranya Brahma.	ST	-do-
54. " Dipali Bhowmik.	IR	-do-
55. " R. Khaklary	ST	CCM(Claims)/MLG.
56. Smt. P. Mazumdar.	SC	-do-
57. Shri P.K. Dutta.	IR	CCM(Cond)/MLG. ✓
58. Shri D.R. Dora.	ST	-do- ✓
59. " Chandra Das.	IR	-do- ✓
60. " P. Paria	IR	-do- ✓
61. " P. Rajbanshi.	IR	-do- ✓
62. " B. Das.	IR	-do- ✓
63. " P.C. Sarma.	IR	-do- ✓
64. " N.C. Kalita	IR	-do- ✓
65. Smt. A. Ghosh.	IR	CCM(Claims)/MLG.
66. " R.K. Roy.	IR	-do-
67. " S. Dasgupta.	IR	-do-
68. Shri S.K. Mazumdar.	IR	-do- (New PCT/CHY)
69. Md. Abdul Hossain	IR	-do-
70. Shri S.P. Chandra.	IR	-do-
71. Shri T.C. Barman	IR	-do-
72. Shri N. Patowary	IR	-do-
73. Smt. Bijaya Kalita.	IR	CCM(Cond)/MLG. ✓
74. Shri Abdul Jabbar.	IR	-do- ✓
75. " Sanjib Ch. Das.	IR	-do- ✓
76. Smt. C. Chakraborty.	IR	CCM(Claims)/MLG.
77. Shri A.C. Das.	IR	CCM(Rates)/MLG.
78. Shri W.D. Mook.	ST	CCM(Claims)/MLG.
79. Shri Hossain Deka.	SC	CCM(Rates)/MLG.
80. Shri B. Deka.	SC	CCM(Claims)/MLG.
81. Shri Subal Ch. Das.	SC	CCM(C)/MLG. ✓

Syllabus for the above selection is indicated below :-

1. Important rules regarding attendance of staff, travelling allowance and control of imprest cash.
2. Working knowledge of different rules of coaching, Goods, Road and Railway Tariff.

Contd.....2/-

Attended
 Adv.

3. Working knowledge of Commercial Manual, Manual of Station Accounts and Conference Rules.
4. Procedures for opening of New station, Halt stations and Out Agencies.
5. Market Activities.
6. Working knowledge of Catering/Loading at stations, in trains, ticket checking.
7. CCI Rating, station to station rate and fixation of classification of commodities.
8. Load Licensing, Handling Contracts both for Goods and Parcel.
9. Computerised Reservation.
10. Procedure for resistance of cash and system of Travelling cash etc.
11. Function of ZRMC, Policy regarding Passenger amenities at station.
12. Delegation of Powers for settlement of compensation and refund claims.
13. Working knowledge of Article 35 and 31, section 80 and 82 CPC, Claims prevention, outstation accident claims.
14. Rules and procedure for disposal of unconnected and unclaimed consignments.
15. Rules regarding open and shipment delivery procedure of assessment of damaged goods.
16. Rules regarding shortage, Demurrage and write off and permission thereof.
17. Rules regarding diversion, interception and re-booking of Goods.
18. Rules regarding delivery of Goods/Parcels on indemnity notes.
19. Rules of lost property office and auction.
20. Railway Claims Tribunal.
21. Fixation of staff responsibility and inter Railway liability in claims cases.

(S. Chakraborty)
APO/C
for GENERAL MANAGER (P).

Copy forwarded for information and necessary action to OS/Claims/M.C. He is requested to make the sitting arrangement for the above written test accordingly.

for GENERAL MANAGER (P).

RM/1.3.96.

Attended
Chakraborty
AdV.

- 28 - 24 24

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

Dated 28-11-96

No. E/254/87/Pt. VI(T)

To
GM(P) Metro Railway,
33/1, Chowringhee Road,
Calcutta - 700071

GM (Gen)/Maligaon

~~GM (Gen)/Maligaon~~

Dy. CGM (Claims)/Maligaon

SCM (Rates)/Maligaon

Asstt. Registrar/RCT/GHYL

Sub: Result of the selection (written examination)
for promotion to the post of Office Supt./II
in scale Rs. 1600-2660/- (EPS) of Commercial Deptt.
of Md. Qrs. Unit.

The following Head Clerks of Commercial department who
appeared in the selection held on 28-9-96 (written test) and
22-11-96 (absentee) respectively for promotion to the post of
OS/II in scale Rs. 1600-2660/- are allowed to appear in the Viva-
voce test to be held on 4.12.96 at 10.00 hrs. in the Chamber
of Dy. CGM (Claims)/Maligaon.

Sl	Name	Community	Working under
1.	Sh. Sudhoney Dey,	UR	HC/Claims
* 2.	Sh. Dilip Kr. Sengupta,	UR	HC/Claims
3.	Smt. Arati Das,	ST	HC/Rates
4.	Smt. Leena Talukder,	SC	HC/Rates
* 5.	Sh. Harenindra Barua,	UR	HC/RCT
* 6.	Sh. Rajendra Ch. Barua,	UR	HC/Claims
* 7.	Smt. Biraju Dola Talukder,	UR	HC/CCO
8.	Sh. Kamala Kanta Das,	UR	HC/CCO
9.	Sh. Hari Kanta Das,	UR	HC/CCO
10.	Sh. B.K. Roy Choudhury,	UR	HC/CCO
11.	Smt. M. Purakayastha,	UR	HC/CCO
12.	Smt. A.C. Saha,	UR	HC/CCO
13.	Sh. S.K. Roy,	UR	HC/CCO
14.	Sh. Palguni Choudhury,	UR	HC/CCO
15.	Smt. Kalitara Das,	UR	HC/CCO
* 16.	Smt. Asha Ganguli,	UR	HC/CCO

Contd. 2

Assd
Chdler
Adv.

17. Smt. Anurupa Banerjee,	UR	ES/Rates
18. Smt. Bani Sarkar,	UR	ES/Rates
19. Smt. Purabi Dey,	UR	ES/CCO
20. Sh. S. Banerjee,	UR	L/CCO
21. Md. A. Rahman,	UR	ES/CCO
22. Sh. P.C. Barman,	UR	HC/CCO
23. Sh. S. Sarkar,	UR	HC/CCO
24. Smt. Minu Das	ST	ES/CC/Rates
25. Smt. H. Brahma,	ST	ES/Rates
26. Smt. Dipali Bismah,	UR	HC/Rates
27. Smt. R. Khakhar,	SC	ES/CCO
28. Sh. P. K. Dutta,	UR	HC/CC(C)
29. Sh. B. Deka,	SC	ES/Rates
30. Sh. B. Deka,	SC	HC/CCO
31. Sh. S.C. Das,	SC	ES/CC(C)

H. B.

No. 2, G. I. 16

They have been called for Viva-voce test based on marks of written test and revisional seniority. Their empanelment will be subject to the candidates securing 60% marks in professional ability and 60% marks in aggregate.

No further chances Viva-voce test will be held. If any body on leave, duty etc. may be intimated at his/her address.

[Signature]
for General Manager(P)

Copy forwarded for information and necessary action to :

1. PA to CC/HQ : They are requested to connect the HRs for the last three years of the above staff immediately in connection with the above selection.
2. PA to CCO/HQ
3. PA to Dy.CM/HQ

[Signature]
for General Manager(P)

*Attached
While
Adv.*

N. F. Railway.

Sanctioned Strength.
(1) CCM (Claims)/MLG = 71
(2) CCM (Genl)/MLG = 16
(3) CCM (Rates)/MLG = 16
= 103.

Provisional seniority list of Head Clerk in scale Rs. 1400-2300/- (RPS) as on 01-07-96 of Id. rs. Unit of Commercial Department.

SN	Name in order of seniority.	Comm. Designation.	Working under	Date of Birth.	Date of Appointment.	Date of Promotion to Sr. Clerk.	Date of Promotion as Head Clerk.	Remarks.
1.	Sri M. R. Mehl	SC Head Clerk.	CCM (CL)/MLG.	30-11-38	04-10-63 as Peon 05-01-78 As Clerk.	12-05-82	07-01-86	
2.	P. G. Des	UR	CCM (Genl)/MLG	30-06-40	11-09-63	27-02-82	01-09-89	
3.	K. Dutta Choudhury	UR	CCM (CL)/MLG.	07-06-39	13-09-58	01-10-80	01-02-90	
4.	N.C. Mazumder	UR	CCM (Rates)/MLG	15-7-38	06-10-58	01-10-80	18-06-90	
5.	P.L. Choudhury	UR	CCM (Rates)/MLG	30-01-40	28-03-64	01-10-80	01-11-91	
6.	Sudhanoy Dey.	UR	CCM (CL)/MLG	01-02-41	16-03-63	10-03-82	23-11-92	
7.	G.P. Dutta	UR	CCM (CL)/MLG	01-12-39	22-03-63	10-03-82	23-11-92	Now working at GM (MFP)/Cal.
8.	S.G. Choudhury	UR	CCM (CL)/MLG	11-02-44	21-03-63	10-03-82	23-11-92	
9.	D.K. Sengupta	UR	CCM (CL)/MLG	01-08-40	16-03-63	10-03-82	01-12-92	
10.	Prati Das	UR	CCM (Rates)/MLG	26-09-43	16-08-65	01-10-80	03-12-92	
11.	Ardi Das	ST	CCM (CL)/MLG	16-03-41	10-12-65	01-10-80	03-12-92	
12.	Leena Talukdar	SC	CCM (CL)/MLG	01-03-39	20-05-82	11-12-85	01-01-93	Now Mfg. at RCT/GR.
13.	N. Baruah	UR	CCM (CL)/MLG	01-08-43	20-03-63	10-03-82	01-03-93	
14.	R.C. Baruah	UR	CCM (CL)/MLG	01-01-40	20-03-63	10-03-82	01-03-93	
15.	Smt. B.B. Talukdar	UR	CCM (CL)/MLG	01-01-44	20-03-63	10-03-82	01-03-93	
16.	Sri Kamala Kt. Das	UR	CCM (CL)/MLG	01-01-40	04-04-63	10-03-82	16-11-93	
17.	H. K. Das	UR	CCM (CL)/MLG	01-03-42	05-08-63	10-03-82	16-11-93	
18.	B.K. Roychoudhury	UR	CCM (CL)/MLG	01-08-43	26-08-63	10-03-82	16-11-93	
19.	P.K. Choudhury	UR	CCM (CL)/MLG	31-12-40	12-07-64	10-05-82	16-11-93	
20.	Smt. B.R. Chatterjee	UR	CCM (CL)/MLG	16-09-45	22-10-64	10-05-82	16-11-93	Contd. P/2
21.	Dipali Roy,	UR	CCM (CL)/MLG	01-03-45	20-02-65	10-05-82	13-12-93	

16/11/86

1	2	3	4	5	6	7	8	9	10
52. Smt. A. Dutta	UR	Head	CC (CL) / MLG	10-02-54	24-01-73	08-08-86	19-08-94		
X 53. " Minu (Swarciary) Das	ST	Chief Clerk (Rates) / MLG	30-04-59	15-1-54	02-07-82	12-04-89	19-08-94		
X 54. " Hiranya Drahma	ST	-do-	18-03-61	12-07-82	26-05-89	19-08-94			
X 55. " Dipali Biswas	UR	-do-	01-06-63	10-08-89	10-08-89	19-08-94			
X 56. " R. Khalidary	ST	CC (CL) / MLG	01-10-62	13-02-87	11-04-90	19-08-94			
57. Smt. P. Mazumder	SC	-do-	25-09-99	15-04-85	15-04-85	23-08-94			
X 58. Sri F.K. Dutta	UR	CC (Genl) / MLG	01-07-40	20-03-59	30-09-85	23-08-94			
59. " D.R. Boro	ST	-do-	11-10-59	17-03-69	18-08-86	23-08-94			
60. " Chandan Das	UR	-do-	22-11-44	26-08-65	21-01-87	23-08-94			
61. Sri P. Parial	UR	-do-	01-04-53	10-08-79	21-01-87	23-08-94			
62. " R. Rajbanshi	UR	-do-	01-04-52	19-12-80	21-01-85	23-08-94			
63. " B. N. Das	UR	-do-	01-09-63	04-05-88	04-05-88	23-08-94			
64. " F. C. Sarma	UR	-do-	31-12-38	20-03-59	31-08-88	23-08-94			
65. " N. C. Kalita	-do-	-do-	30-06-52	25-09-73	15-12-86	16-12-94			
66. Smt. A. Bhawal	UR	CC (CL) / MLG	29-10-54	23-09-74	09-09-87	16-12-94			
67. " R. K. Roy	UR	-do-	26-11-52	19-10-74	09-09-87	16-12-94			
68. " S. Dasgupte	UR	-do-	25-01-52	01-09-72	02-08-88	16-12-94			
69. " S. K. Mazumder	UR	-do-	01-04-49	01-09-67	02-08-88	20-04-95			
70. " Abdul Inassein	UR	-do-	05-03-53	19-07-77	02-08-88	23-05-95			
71. " S. P. Chanda	UR	-do-	01-11-44	26-04-66	22-05-89	07-07-95			
72. " T. C. Barmen	UR	-do-	01-06-44	17-01-78	22-05-89	02-08-95			
73. " N. Patowary	UR	-do-	02-07-62	02-04-81	31-08-88	09-02-96			
74. Smt. Bijaya Kelita	UR	CC (CL) / MLG	01-07-58	21-04-82	31-08-88	09-02-96			
75. Sri Abdul Jabbar	UR	-do-	28-11-56	19-05-82	31-08-88	09-02-96			
76. " Sanjib Kr. Das	UR	-do-	13-09-51	12-07-78	22-05-89	09-02-96			
77. Smt. A. Chakraborty	UR	CC (CL) / MLG	01-04-53	02-01-79	26-05-89	09-02-96			
78. Sri A. C. Dey	UR	-do-	22-05-54	12-07-76	11-04-90	09-02-96			
79. Smt. Aparna Das	UR	-do-	01-08-52	27-09-76	11-04-90	09-02-96			
80. Sri B. Chakraborty	UR	-do-							

Contd...F/4

Now working at RCT/GRV.

16/11/96

Annexure - 3A

1. X	2.	3.	4.	5.	6.	7.	8.	9.	10.
81.	Sri R.P. Rajbhar	UR	Head	CCM/CL/MLG.	07-10-39	04-06-53	11-04-90	09-02-96.	
82.	" K.B. Chetri	UR	Clerk.	-do-	01-12-59	01-07-80	11-04-90	09-02-96	
83.	Smt. A. Choudhury	UR	-do-	-do-	03-07-53	02-07-80	11-04-90	09-02-96	
84.	" Arati Das	UR	-do-	-do-	18-01-58	30-07-80	11-04-90	09-02-96	
85.	Sri T. Hamarika	UR	-do-	-do-	29-10-58	30-07-80	11-04-90	09-02-96	
86.	" W.B. Marak	ST	-do-	-do-	28-02-54	06-09-76	11-04-90	09-02-96	
87.	" Hemendra Ch. Das	UR	-do-	-do-	01-02-63	29-08-85	26-06-90	09-02-96	
88.	" M. Gogoi	UR	-do-	-do-	19-10-59	22-07-80	23-07-90	09-02-96	
89.	Smt. D. Saikia	UR	-do-	-do-	21-01-53	02-08-80	25-07-90	09-02-96	
90.	" S. Banerjee	UR	-do-	-do-	23-01-52	02-08-80	25-07-90	09-02-96	
91.	" Hareswar Deka	UR	-do-	CCM(Rates)MLG	01-05-53	25-05-85	01-11-90	09-02-96	
92.	" B. Deka	SC	-do-	CCM(CL)/MLG	25-07-65	19-11-90	19-11-90	09-02-96	
93.	" Subal Ch. Das	SC	-do-	CCM(Generl)MLG	17-01-62	19-11-90	19-11-90	09-02-96	
94.	" Jadab Ch. Das	SC	-do-	CCM(CL)/MLG	05-01-64	07-12-90	07-12-90	09-02-96	
95.	Smt. Ovina Vashum	ST	-do-	CCM(CL)/MLG	01-02-64	06-04-87	13-02-91	09-02-96	
96.	" N. C. Baro	ST	-do-	-do-	01-10-65	11-06-89	03-09-90	09-02-96	
97.	" R. Medhi	SC	-do-	CCM(Generl)MLG	01-01-69	11-06-90	11-06-92	09-02-96	
98.	" R. Das	SC	-do-	CCM(CL)/MLG	27-01-59	11-06-90	22-06-92	09-02-96	
99.	" R. Das	SC	-do-	-do-	01-09-63	20-02-91	20-02-93	09-02-96	
100.	" R. Das	ST	-do-	-do-	10-09-58	06-02-91	10-12-93	09-02-96	
101.	Ganimi Baruah.	SC	-do-	-do-	02-01-67	20-02-93	10-12-93	09-02-96	
102.	Smt. Chitra Das	SC	-do-	-do-	29-10-59	31-03-88	24-12-93	09-02-96.	

(S. CHAKRAVARTY)
APO (C)
FOR GENERAL MANAGER (P)/MLG:
Maligaon, dt. 30.07.96.

For information and necessary action to :-
(1) G.I. (NTP)/Cal. (2) G.I. (NTP)/MLG. (3) G.I. (NTP)/MLG. (4) SCM(G)/ILG. (5) SCM(G)/MLG.
(6) Asstt. Registrar/RUP/CH. (7) General Secy. NERU & NERU/PNO. - with/special reference to
8. Staff concerned through their respective Controlling Officer.
They are at liberty to prefer representation, if any, within one month from the date of issue of this seniority list through their respective controlling officer. Representation received beyond the aforesaid target date shall not be entertained.

30
SN. 97
Annexure - 3B.
E. F. Railway.

No. E/254/87 Pt-VI (T).

Maligaon, dt. 28-11-1996. *46*

To,
DY. CCM(Claims)/MLG.
SCM(Rates)/MLG.
SCM(Genl)/MLG.

Sub: - Result of the selection (Written examination) for promotion to the post of Office Supdt/II in scale Rs. 1600-2660/- (RPS) of Commercial Deptt. of Hd. Qrs. Unit.

In continuation of this office letter of even number dated 26-11-96 Smt. Pranita Mazumder (SC), Hd. Clerk in scale Rs. 1400-2300/- under CCO/Maligaon who appeared in the written test held on 28-09-96 for promotion to the post of OS/II in scale Rs. 1600-2660/- is allowed to appear in the viva-voce test to be held on 4-12-96 at 10.00 hrs. in the Chamber of Dy. CCM(Claims)/MLG in terms of Note received from the selection committee vide their No. E/254/Misc/Select/SFO/MLG dated 28-11-96.

She may be advised accordingly.

This issues with the approval of competent authority.

28/11/96
(S. Chakrabarty)

A.P.C. (C)

For GENERAL MANAGER(F)

Copy forwarded for information and necessary action to :-

Recd
28/11/96
OS/R-1
PA to CCO/Maligaon. ~~for~~ He is requested to connect the ACRs for the last three years of the above staff immediately in connection with the above selection.

Recd
28/11/96
OS/R-1
For GENERAL MANAGER(F)/MLG:

Attended
Chakrabarty
Adv

- 35 - ~~scribble~~ Annexure - 2. 31

To:
The Chief Commercial Manager, (
Northeast Frontier Railway,
Maligaon, Guwahati-781011.

47

Dated Guwahati, the 29th. Nov/1996.

Sir,

Sub:- Review of the result of the
Written Test for the selection
of Office Supdt-II held on 28.9.96

We, the following staff of the Commercial Department under your esteemed disposal, beg to state the few lines that follow for your kind consideration and favourable orders.

That we all appeared in the above written test and have been disappointed at the very much unexpected result of ours for the reasons we may seek the liberty to cite here.

(a). That the unsuccessful candidates have been variously on senior positions discharging their official functions with efficiency while exhibiting their knowledge of the job and have been legitimately expected to get through the test :

(b). That there are some discrepancies in the manner in which some of the candidates have been entertained by inviting them to appear in the test; that such candidates have been promoted to their present posts as Head Clerk just within the last few months not exceeding in any case twelve months, though the hether to practice as auctioned by rules has been to find a candidate eligible to be called to appear in such test only after two years in the minimum have had elapsed since their last promotion; that such selective treatment is in direct violation of rules and does promote discrimination among the prospective candidates and that such selective and preferential treatment to those candidates has vitiated the selection procedure itself and is seem to be potentially benefiting them at the cost of us.

(c). That in the result sheets we have found certain candidates to be given notional credit for a pass in their favour which is surprising as it is practised to favour a few though the number of candidates appearing in the test was large and all of them can legitimately claim equal treatment as these few; and moreover that these few have been mostly on lower positions in the seniority list that many of us below.

That, generally speaking we have been confident of doing well upto the requisite mark and even higher in the test and have been aggrieved at the evaluation of the answer scripts, that only a review of the results by necessary re-evaluation of the answer scripts and affirmation of equal treatment as to the eligibility to be called to appear in the notional credit and liability under the service conducted rules can remove the doubt as to the propriety and fairness of the written test from our minds.

Under the circumstances we beg that you would kindly take necessary early steps to mitigate our above grievances and be pleased to do justice to us considering the urgency of the matter.

Contd...2

Attached
@file
Adv

That one Shrimati Pranita Majumdar, whose name was not included in the list of successful candidates No. 8/254/87/1170 dt. 26.11.96. But subsequently, when she met CPO and claimed that she is a successful candidate but her name is not included in the list of successful candidates, CPO vide No. 8/254/87/1170 dt. 28.11.96 declared her passed. This is a burning instance to prove that the list of successful candidates published under No. dt. is an incorrect list and as such there is every possibility of dropping the names of many other successful candidates from the list.

Yours faithfully,

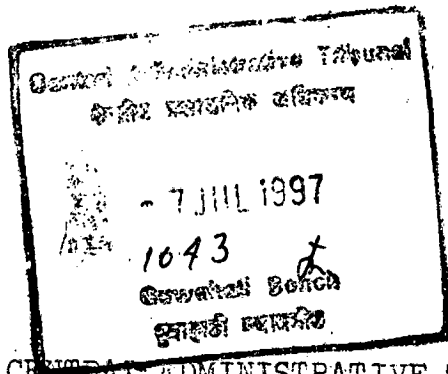
- 1). Sanjay Kr. Mishra
- 2). Bhabha Halder
- 3). Shiba Prasad Chandra
- 4). Sushanta Kr. Roy
- 5). Karun Bhowmik
- 6). Kalyani Dutta Choudhury
- 7). Bhavati Rani Chatterjee
- 8). Dipali Roy
- 9). Archana Dutta
- 10). Biswajit Kar
- 11). Bidya Khatun
- 12)

Copy to:

- 1). Chief Vigilance Officer/N.F. Railway, Maligaon for kind information and judicious action please.
- 2). Chief Comml. Manager/Genl. N.F. Rly, Maligaon for information and necessary action please.

- 1). Sanjay Kr. Mishra
- 2). Bhabha Halder
- 3). Shiba Prasad Chandra
- 4). Sushanta Kr. Roy
- 5). Karun Bhowmik
- 6). Kalyani Dutta Choudhury
- 7). Bhavati Rani Chatterjee
- 8). Dipali Roy
- 9). Archana Dutta
- 10). Biswajit Kar
- 11). Bidya Khatun

Attended
Chakraborty
A.V.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. No. 278/96

Shri P.E. Chowdhury & Ors.

-Vs.-

Union of India & Ors.

In the matter of :-

Written statement on behalf
of the Respondent No.1, 2
and 3.

-That the Respondent No.1, 2 and 3 most
respectfully beg to state as under :-

- 1) That the Respondents have gone through
the Original Application and understood the
contents thereof.
- 2) That in reply to statement made in para
6.5 of the application it is stated that for filling
up of 27 vacancies (UR-23, SC-2 & ST-2) candidates
have been called under 3X formula that is 3 times the

9

ben

...3

allegations of the applicants are baseless and unfounded. The candidates have been called for the selection following selection rules with consideration of qualifying marks for SC and ST candidates. It is also stated that the candidates have been promoted to the next higher post after 2(two) years working in the lower posts. As such there has not been violation of any rule.

In this connection it is stated that the applicants have appeared in the said selection but have failed in the written test. After their failure they have come out with the unfounded pleas as an after thought. They took a chance and after their failure have raised the issues and in humble submission of the Respondents they are not entitled to do the same under the process of law and their application deserves to be dismissed on that ground alone.

- 5) That in the facts and circumstances explained above the application deserves to be dismissed.


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

I, Shri C. ... Saikia by profession
Railway service working as Deputy Chief Personnel Officer
about 32 years do hereby verify that the statements
made in paragraph 1 to 5 are true to my knowledge derived
from the records which I believe to be true.

Guwahati

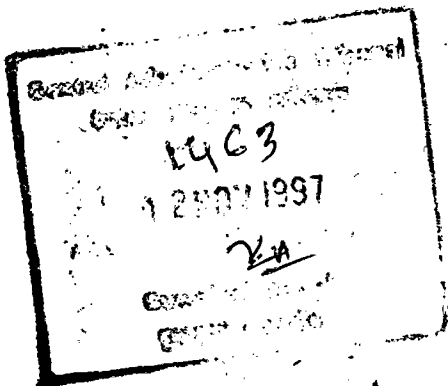
Dated 28.6.97

Signature


Deputy Chief Personnel Officer
28.6.97

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



O.A. No. 278 of 1996

Shri P.L.Chowdhury & Ors.

-versus-

Union of India & Ors.

In the matter of :

Rejoinder submitted by the applicants

Theat the humble applicants most respectfully begs to
state as under :

1. That a copy of written statement filed on behalf of the official Respondents has been received by the applicants, gone through it carefully and understood the contents thereof. The applicants in thier respectful submission states that the statements made in the written statement which are not specifically admitted, are denied.
2. That the truth of ^{the} statements made in paragraph 2 of the written statement are denied and reaffirm the statements made by the applicants in paragraph 6.5 of the application. In this connection the applicants further state that (1) Railway Board in their letter dated 11.11.94 (a copy of which annexed as Annexure A-I page 20 of the application) specifically laid down that relaxation of 2 years can be granted only on personal sanction of the General Manager but in the instant case the candidates from serial No. 78-81 were included in the Notification knowingly well by the Railway Authorities that they are

Contd...

Filed by me applicant
through N.D. Goswami
Adv.
11-11-97

Recd
J.S.
R.A.
11/11/97

-2-

not within the eligibility zone in terms of Railway Board's letter dated 11.11.94, which was issued regarding relaxation of two years for promotion.

(Annexure-I of the Original Application)
in-

Even then the eligible candidates were also called for the selection by the Railway authorities to show undue favour to them by a vested circle working in the Railway Office in total violation of the Railway Board's Statutory Rule as stated above. The applicant subsequently came to know after appearing in the examination that no sanction of the General Manager is obtained for ineligible candidates who appeared in the said selection for promotion to the post of Supdt. Grade II, as a result of allowing in the ~~selection process~~ ineligible persons to appear in the selection process the scope and possibility for the applicants for the purpose of success in the said selection, have widened and as a result of this manipulation the applicants in the selection process have been excluded in the stage of written examination in a very well planned manner as designed by a vested circle in the Railway office. Therefore scrutiny of relevant records as well as the selection proceedings is necessary for proper adjudication of the case of the applicant and the Hon'ble Tribunal be pleased to direct the respondent for production of the relevant records, Answer Scripts and selection proceeding. Be it stated that on the date of issue of notification for the selection on 2.9.96 (Annexure-2) the candidates belong to serial Nos. 78-81 have completed only 6 months 17 days and therefore they cannot appear in the examination.

Contd...

It is clearly mentioned in Railway Board's letter dated 11.11.94 that on completion of one year service in the grade, General Manager may relax the rule prescribed for 2 years service in the grade for declaring a candidate eligible to get a call in the written examination as a part of Selection process for promotion in the next higher grade. Therefore, violation of Railway Board's order dated 11.11.94 is conclusively proved on the basis of record. It is further submitted that the procedure adopted for grant of notional seniority marks is contrary to the procedure laid down by the railway board but their letter dated 5.12.84 as per the modified procedure for allotment of notional seniority marks the object laid down by the Railway Board to make the senior persons eligible for the entire selection. Therefore, the ~~notional~~ notional seniority marks ought to have been allotted in progressive order from serial No. 1 to 12 but in the instant case the notional seniority marks is allotted on pick and choose basis. Therefore entire selection is vitiated due to manipulation in the process of allotment of marks as well as for violation of statutory railway board circular dated 11.11.94.

3. That with regard to the statements made in paragraphs 4 and 5 of the written statement, the applicant denies the truth of the statements and re-affirm the statements made in paragraphs 6, 7, 6.8 and 6.9 of the application.

4. That the applicants further submit that out of 81 candidates, 31 were declared pass in the written examination (vide Annexure 3 page 24 of the application) It is indicated

in page 25 of result sheet that serial 2, 5, 6, 7 and 16 have been awarded notional seniority marks to make them eligible to call for in the interview. In this connection the applicants submit that the Railway Board in their letter No.E(NG)1-83-PM 1-65(PNM)/NFIR) dated 5.12.84 circulated the modified procedure for calling of staff in the interview ^{enable the} with a view to/selection committee to consider some of the senior candidates, who would under the existing rules, would not be eligible to be called for in the interview and also circulated a statement showing the implication of the proposed rules for selection.

A copy of Railway Board's letter dated 5.12.84 together with its enclosures are annexed and marked as Annexure-5)

5. That the applicants submit that for better appreciation of their case, the applicants state the detailed procedure of Selection. The Selections are held on (1) Professional ability (2) Personality leadership etc and (3) Record of service viz. Seniority. The Marks allotted for Professional ability 50, for Personality, Leadership are 25 and for Record of service 25. The maximum and minimum marks have been prescribed for only professional ability. On account of professional ability maximum marks allotted 50 and minimum 30 marks prescribed as qualifying marks. On account of Personality, Leadership etc. 25 marks have been allotted but no minimum qualifying marks have been prescribed. Similarly on account of Record of Service viz Seniority 25 marks have been allotted. It is further mentioned that Professional ability consists of written test and 15 marks for Viva-voce test, ~~Thix~~ and out

of 50 marks 35 allotted for written test and 15 marks for Viva-voce test. This position appears from column 3 of Annexure to Ministry of Railways letter dated 5.12.84 annexed as Annexure 5 of this rejoinder. In this connection a detailed guide line has been issued confidentially and the same are not in the possession of the applicants but the applicants are aware of the guide line. In the written ~~test~~ ^{exam} if an employee obtained 21 out of allotted 35 marks, he will be declared as pass in the written test and will be eligible for Viva voce test.

6. That the applicants state that the Ministry of Railways laid down the modified selection procedure for awarding marks of seniority on notional basis in regressive order from serial 1 to 12 irrespective of fact whether an employee obtained qualifying marks of 21 or not. The purpose of awarding of marks of seniority on notional basis is to provide an opportunity to the senior employees who failed to obtain prescribed 21 marks in the written examination to declare them eligible to call for in the Viva Voce test. But in the instant case, the selection Committee adopted pick and choose policy in the complete disregard to the Ministry of Railways instruction contained in their letter dated 5.12.84. The specific instances of discriminatory application of rule are enumerated herein below :-

- a) Serial 4 has been denied the benefit of awarding marks of seniority on notional basis whereas serial 8 has been given the benefit.
- b) Serial 13 and 14 though outside the purview of awarding marks of seniority on notional basis but have been given in preference to serial 9 and 11.

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As per instruction the marks of seniority on notional basis can be awarded from serial 1 to 12. Since the Selection Committee adopted a pick and choose policy in awarding the marks of seniority on notional basis, have awarded the marks of seniority on notional basis to Serial 13 and 14 in complete violation of instruction.

(c) Serial '32 though completely outside the purview of awarding marks of seniority on notional basis but the Selection Committee awarded the marks only to prove their malafide of their action. The Selection Committee have acted in complete violation of rule laid down by the Ministry of Railways in their letter dated 5.12.84 for modified selection procedure.

These are the glaring instances of discriminatory application of Railway Ministry's instructions contained in the letter dated 5.12.1984 in regard to the modified selection procedure. The discriminatory application of rule conclusively proved on the basis of record and therefore, entire selection proceedings vitiated and are liable to be quashed and set aside.

Under the facts and circumstances state herein above, the application is deserves to be allowed with costs.

VERIFICATION

I, Sri Phanindra Lal Choudhury, son of late N.R.Choudhury, Head Clerk, working in the office of the Chief Commercial Manager/rats N.F.Railway Maligaon applicant in the above case and I have been duly authorised by all other applicants to sign this verification as am well acquainted with the facts and circumstances of the case and accordingly I do hereby verify and declare that the statements made in paragraphs 1 to 6 in this rejoinder are true to my knowledge and belief and I have not suppressed any material facts.

I, sign this verification on this the 11th day of NOV 1997.

Phanindra Lal Choudhury

Signature

Maligaon, dated the 22nd Nov '85.

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Pt. XI (C).

Head of Departments.

DAGs.

DAGs. WAOs/NBQ & DBWS.

Distt. & Asstt. Officers of

Divisionalised Offices.

Genl. Secy./NFRMU/PNO. with 40 spare copies.

Genl. Secy./NFRMU/PNO. with 50 spare copies.

Sub: 'Selection Posts'-Written Examination as part of
selection process - ~~Appx~~ Determination of eligi-
bility for interview. ---

A copy of Railway Board's letter No. E(NG)I-83-PMI-65(PNM/NFIR) dt. 5-12-84 on the above subject is forwarded herewith for information & guidance.

As per Rly. Board's earlier letters dt. 29-10-66 and 12-12-73, as mentioned in 1st para of their present letter, instruction on the subject were circulated to all concerned under CPD's circular EPS-48/E/254/O P.VI (C) dt. 24-12-66 & EPS-168/E/254/O P.VIII (C) dt. 24-12-66.

For Chief Personnel Officer.

Copy of Rly. Board's letter No. E(NG)I-83-PMI-65(PNM/NFIR) dt. 5-12-84.

Sub: As above.

As the Railway Administrations are aware, in terms of this Ministry's letter No. E(NG)I/65/PMI/5 dated 29-10-1966 read with their letter No. E(NG)I/72/PMI/138 dated 12-12-1973, where both written and oral tests are held for assessing the professional ability of staff a selection for promotion to a selection post, the marks for the written test should not be less than 35 (thirty five) out of 50 and a candidate must secure a minimum of 60% marks in the written test for the purpose of being called for the viva-voce test. Further a candidate must secure not less than 60% (30 out of 50) marks in the oral ability and not less than 60% in the aggregate to be eligible to be empanelled.

These instructions, in so far as they relate to the eligibility of a candidate in a selection (where a written test is held) to be called for viva-voce test, have been reviewed by this Ministry pursuant to a demand made in the PNM Meeting held between the NFIR and the Board on 16/17-9-1983 and again on 27/28-9-1984. Both the recognised federations were also consulted. On the basis of this view, the Ministry of Railways have now decided that 60% of the total of the marks prescribed for written examination and for viva-voce test (interview) instead of 60% of the marks for the written examination only as at present. ---

Contd. ... 2.

EPS/297

EPS/325

[illegible]

Item	20	15	35	Yes	10
A	16	14	No	Yes	10
B	15	13	No	Yes	14
C	22	12	No	No	-
D	24	11	Yes	Yes	8
E	21	10	Yes	Yes	6
F	18	9	Yes	Yes	9
G	23	8	No	No	-
H	22	7	Yes	Yes	2
I	16	5	Yes	Yes	8
J	23	4	No	No	-
K	19	3	Yes	Yes	7
L	23	2	No	No	-

- 1) Number of persons eligible for interview under present rules
- ii) Number of persons who will be eligible for interview under modified rules

Recall in the statement