

1

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed date-12/3/99

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GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::::::::: GUWAHATI

ORIGINAL APPLICATION NO. 81/96

MISC. PETITION/CONT EMPT PETITION/REVIEW APPLICATION NO. _____

(O.A.) _____

B. C. Kumar APPLICANT

VS.

H. O. I. Iam RESPONDENT(S)

Mr. D. Barua

Advocate for Applicant(s)

Mr. P. C. Mazumdar

Mr. B. K. Sharma

J. L. Sarkar
Advocate for Respondent(s)

OFFICE NOTE

DATE

O R D E R

26-2-96

Mr. P. C. Mazumdar for the applicant.
Mr. J. L. Sarkar for the respondents.

This application is in form and within time
S. F. of Rs. 50/-

deposited vide

PO/BB No. 211656

Dated 8/2/96

29/2/96

P.S.

Mr. Sarkar opposes the entertaining of this O.A. on the ground of delay and also opposes any interim order.

From Annexure II it appears that the seniority position of the applicant as H.S.K. Fitter Grade II (MW) as on 1-4-91 was the result of some corrections made on the basis of the date of his transfer ~~to~~ to WRS/PNO. The applicant has grievance against that change and prays that his seniority be corrected and he be allowed to appear at trade test for promotion to Grade I Fitter. The grievance of the applicant against the change of seniority was rejected by the General Manager on 8-1-94 vide Annexure III. Vide Annexure II dated 14-9-94 the applicant was informed by the Deputy CME ~~has informed the applicant that~~ the decision was corrected as confirmed by order dated 8-9-94. Although the applicant says that he has again filed an appeal to the General Manager on 6-10-94 and no reply is received.

contd/-

FIGE NOTE

DATE

26-2-96

Prima facie it appears to us that the limitation has to be counted from 8-9-94 and it would be of 1 year as the decision of the General Manager dated 8-9-94 is not subject matter of challenge. Whether transfer from one section of the Railway to another can result in loss of earlier seniority. Perhaps may be the question required to be examined. Hence leave to the applicant to apply for condonation of delay if so advised and the O.A. be placed for further orders in the light of order on such application when file.

Copy of this order be furnished to the counsel for each of the parties.

Member

Vice-Chairman

22.8.76

Copy of the order issued to the L/Adm of the parties vide No 2791 & 2792 of 28.8.96

lm

pl. comply order 26.2.97
11/3.

26.9.96

Mr. J.L.Sarkar, Railway counsel for the respondents.

List for consideration of admission together with M.P. 119/96 on 10.10.96.

[Signature]
Member

trd
m/2719

10.10.96

Mr J.P.Sarma for the applicant. None for the respondents.

Applicant has submitted M.P.119/96 and by order of today, the issue of condonation of delay as prayed for in the M.P. will be decided together with O.A.

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

List for written statement and further orders on 22.11.1996.

[Signature]
Member

pg

~~22-11-96~~

To be listed alongwith O.A. 31/96 on 20-12-96.

Member

22-11-96

None present. Written statement has not been submitted. List for written statement and further order on 20-12-96.

[Signature]
Member

lm
m/2711

Q. 11.96
Requisite/step yet to be taken by the applicant Advocate.

Box
written statement has not been filed

written statement has not been submitted.

27/11/96

15-1-97

Written statement has not been filed.

2a

20.12.96

Mr P.C.Mazumdar for the cant. Mr J.L.Sarkar for the respondents.

Written statement has not submitted.

List for written statement further orders on 16.1.1997.

62
Member

pg
M/
23/12

16.1.97

None for the applicant. Mr J.L. Sarkar for the respondents prays for time to submit written statement.

List for written statement and further orders on 13.2.1997.

62
Member

pg
M/
16/1

13-2-97

Adjourned for order on 5-3-97.

62
Member

JL
Vice-Chairman

lm
M/
20/2

5.3.97

In view of the order passed in Misc. Petition No.119/96 dismissing the petitioner for condonation of delay, the Original Application stands dismissed being barred by limitation.

62
Member

JL
Vice-Chairman

pg
M/
11/3

4.3.97

Written statement has not been filed by the respondents.

62
11/3/97

Copy of order has been sent to the detection for issuing the same to the parties.

62
11/3

1) Member appearance has not been filed by Mr. J.L. Sarkar.

2) Requisite has not been submitted.

3) W/ statement - has not been filed.

62
12/2

O.A.31/96

23-4-97

In view of the order passed on M.P.No.82/97 the Original Application is restored to file and fixed it on 6-5-97.


Member


Vice-Chairman

lm

~~fr~~
25/4

6.5.97 Division Bench is not sitting. Therefore, the case is adjourned to 13.5.97 for order.


Vice-Chairman

No W/S. has been filed.
Requisite has not been filed for issuing of Notices -
No appearance has been filed.

XXXXXXXX

13.5.97

Mr J.L. Sarkar, learned counsel for the respondents is present.

The application was filed after the expiry of the period of limitation. A condonation petition was also filed. As the applicant was not present on the date when the condonation petition came up for consideration the condonation petition was dismissed for default and thereafter, as the condonation petition was dismissed for default the original application was also dismissed as time barred. The Misc. Petition No.82/97 which was filed for restoration of the original application was allowed on 23.4.1997 and the original application was restored to file. However, the applicant did not take any steps for restoration of the condonation petition. As

6

13.5.97

there is no fresh prayer for condonation delay, we have no other alternative but hold that the original application barred by limitation. Therefore, the application is dismissed as time barred.

[Signature]
Member

[Signature]
Vice-Chairman

nkm

[Signature]
14/5

8-7-97

In view of the order passed in M.P. No.119/96 the Original Application No.31/96 is restored to file and the M.P.No.119/96 will be considered on the next date of hearing on 19-8-97.

[Signature]
Member

[Signature]
Vice-Chairman

15.5.97

Copy of the order has been sent to the D/Sec. for issuing the same to the parties along with the L/Advocates of the parties.

lm

[Signature]
15/5

Issued vide S.N. 1768 to 1772 & 16587

19-8-97

In view of the order passed in Misc.Petition No.47/97 the applicant to furnish a fresh application incorporating the amendment as indicated in the application for amendment, within two weeks.

Let this matter come up for orders on 3-9-97.

[Signature]
Member

[Signature]
Vice-Chairman

No. 10/5 and rejoinder has been filed.

[Signature]
8/8

No amendment - *[Signature]*
has been filed 3.9.97

5-9-97

In terms of order dtd. 19.8.97 passed in MP-47/97 amended Application filed on behalf of the applicant.

Consolidated application after amendment has been filed. Mr J.L.Sarkar, learned Railway standing counsel submits that copies have been received by the respondents.

List on 11.9.97 for further order.

[Signature]
Member

[Signature]
Vice-Chairman

(7)

O.A.No.31/96

X

11.9.97

In view of the order passed in Misc. Petition No.119/96 the delay is condoned.

Let this case be fixed on 27.10.97 for consideration of interim order.

Member

Vice-Chairman

nkm

MS
18/9

27.10.97

Heard Mr J.P. Sharma, learned counsel for the applicant and Mr J.L. Sarkar, learned Railway Counsel. Mr Sharma prays for an interim order to allow the applicant to appear in the Trade Test. Mr Sarkar submits that in the near future no Trade Test is going to be held. Considering all these we are not inclined to pass any interim order at this stage.

List the case for hearing on 6.1.1998.

Member

Vice-Chairman

nkm

MS
25/10

6-1-98

Case is ready for hearing.

List it on 2-4-98.

o/s has not been b/w

Member

Vice-Chairman

nkm

MS
7/1

o/s has not been b/w

2.4.98

Let the case be listed for hearing on 3.7.98.

Member

Vice-Chairman

pg

MS
31/9

8

3.7.98

There is no representation on behalf of the applicant. The applicant is also not found on repeated calls. The application is dismissed for default. Mr J.L. Sarkar, learned Railway Counsel, is present.

ba
Member

LB
Vice-Chairman

10.7.98

Copies of the order have been sent to the D/Sec. for issuing the same to the L/Advocate of the parties.

nkm

NS
BT

Received (copy)

J.P. Advocate
31.7.98
(J.P. Law. No. 2)

17.8.98

In view of the order passed in M.P. No. 198/98 the Original Application is restored to file.

List on 4.9.98.

ba
Member

LB
Vice-Chairman

~~No. Requisites
has been filed so
the Notices could
not be issued~~ trd

4.9.98

There is no Division Bench. Adjourned to 22.9.98.

By order

Requisites for issuing of notices has not submitted till now. 22.9.98

Division Bench is not available. List on 9.11.98 for hearing.

No w/s has been filed.

ba
Member

pg

Requisites has not been filed. 31.9
No w/s has been filed. 22.9.98
31.11.98

Division Bench is not available. Case is adjourned to 3.12.98.

By Order

pg

2-12-98
Written statement has not been filed. 3.12.98

On the prayer of Mr J.L. Sarkar, learned Railway counsel the case is adjourned to 11.12.98.

ba
Member

LB
Vice-Chairman

2/12/98

pg
31/12/98

Notes of the Registry	Date	Order of the Tribunal
<p><u>10-12-98</u></p> <p>No. requisites has been filed</p> <p>No. Written state- ment has been filed</p>	<p>11-12-98</p> <p>lm</p> <p>MS 22/12/98</p>	<p>There is no representation. Case is adjourned to 29-12-98 for hearing.</p> <p>BY order</p>
<p>No. Amendment Petition has been filed</p> <p>No. Rejoinder has been filed</p>	<p>29-12-98</p> <p>lm</p> <p>MS 30/12/98</p>	<p>There is no representation on behalf of the applicant. The applicant is absent on call. Mr. J.L. Sarkar learned counsel for Railway Administra- tion is present. Case is dismissed for default.</p> <p>Member</p> <p>Vice-Chairman</p>
<p><u>28-12-98</u></p> <p>No. Requisites filed in Notices.</p>	<p>12-3-99</p>	<p>In view of the order passed in Misc. Petition No. 23/99 the Original Application No. 31/96 is restored to file.</p> <p>List on 23-3-99 for hearing.</p> <p>Member</p> <p>Vice-Chairman</p>
<p>Amendment- Petition has been filed</p> <p>No. Written statement has been filed</p> <p>No. Rejoinder has been filed</p>	<p>23.3.99</p> <p>lm</p>	<p>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.</p> <p>Member</p> <p>Vice-Chairman</p>
<p><u>31.12.98</u></p> <p>Copies of the order have been sent to the D/S. for issuing the same to the L/Adm of the parties.</p> <p>Issued vide S. Nos. 14 & 15 of 4.1.99.</p>	<p>nkm</p>	

Notes of the Registry

Date

Order of the Tribunal

24.5.99

Copies of the
Judgment have been
sent to the D/Sec.
for issuing the same
to the parties through
RSD with A/O.
- vide Dispatch

No. 1746 to 1748 dated.

25-5-99.

12

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 31 of 1996

DATE OF DECISION. 23.3.1999.....

Shri B.C. Kumar (PETITIONER(S))

Mr J.P. Sarma, Mr D. Borua and

Mr P.C. Mazumdar ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India and others RESPONDENT(S)


Mr J.L. Sarkar, Railway Counsel ADVOCATE FOR THE
RESPONDENTS.

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



13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.31 of 1996

Date of decision: This the 23rd day of March 1999

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

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

Shri Biren Chandra Kumar

M/W Fitter-Grade II,

New Bongaigaon Workshop,

N.F. Railway, New Bongaigaon.Applicant

By Advocates Mr J.P. Sarma, Mr D. Borua
and Mr P.C. Mazumder.

- versus -

1. The Union of India, represented by the
General Manager,
N.F. Railway, Maligaon, Guwahati.

2. The Deputy Chief Mechanical Engineer,
Carriage & Wheel,
N.F. Railway, New Bongaigaon.Respondents

By Advocate Mr J.L. Sarkar, Railway Counsel.

.....

O R D E R

BARUAH.J. (V.C.)

In this application the applicant has challenged the
Annexure III seniority list dated 13.8.1991.

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

The applicant was appointed Khalasi and was posted at
New Bongaigaon under the Deputy Chief Mechanical Engineer,
Carriage and Wheel, N.F. Railway- 2nd respondent. He was
promoted to the post of Fitter Grade III in the year 1980.
Thereafter, in the year 1989 he was promoted to the post of
Fitter Grade II. At the time of filing of this application
he was Fitter Grade II. On 8.8.1991 a seniority list of
Fitter Grade II was published and the seniority of the



applicant was fixed alongwith others. The seniority list was published by the 2nd respondent. According to the applicant, as per the said seniority list he ought to have been promoted to the next higher grade, i.e. Fitter Grade I. The applicant while working as Fitter Grade II, the 2nd respondent issued Annexure II letter dated 14.9.1994 stating inter alia that the seniority of the applicant which was wrongly fixed earlier was corrected by downgrading his position in the seniority list. This had been done without giving any opportunity to the applicant. According to the applicant after the publication of the seniority list on 8.8.1991 he acquired a right and this ought not to have been disturbed and that too without giving any notice. Being aggrieved, the applicant submitted Annexure IV representation dated 6.10.1994 which is still pending. Hence the present application.

3. No written statement has been filed by the respondents.

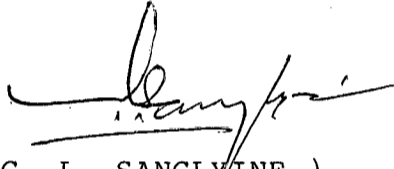
4. We have heard Mr J.P. Sarma, learned counsel for the applicant and Mr J.L. Sarkar, learned Railway Counsel. Mr Sarma submits that the applicant's seniority was disturbed unreasonably and that too without giving any notice. Mr Sarkar, however, tried to support the action of the respondents on the ground that he was transferred from Bongaigaon to Pandu at his own request and because of this the seniority position was changed.

5. Be that as it may, the applicant's seniority position having been once fixed by publishing the seniority list, in our view this ought not to have been disturbed without giving adequate opportunity. Besides, his representation has not yet been disposed of.




6. Considering the above we dispose of this application with direction to the respondents to dispose of the Annexure IV representation dated 6.10.1994 submitted by the applicant. The applicant may also file a fresh representation giving details of his grievances within fifteen days from the date of receipt of the order. If such representation is filed the respondents shall consider that also and dispose of the matter by passing a reasoned order. This must be done within two months from the date of receipt of this order. While taking a decision the authority may also issue notice to the other persons who are likely to be affected because of any change.

7. The application is accordingly disposed of. No order as to costs.



(G. L. SANGLYINE)
ADMINISTRATIVE MEMBER



(D. N. BARUAH)
VICE-CHAIRMAN

O.A. No.31 of 1996.

Shri B.C.Kumar

.. Applicant.

-Versus-

Union Of India

N.F.Railway & Others. Respondents.

16
Advocate
2-3-99
(J.P. Sarma) for Applicant

:LIST OF DATES:

- 27.5.75 Appointment of the applicant as Khalasi
(Date of Birth - 15.2.54)
- 01.4.80 Posted at Workshop at NBQS (New Bongaigaon)
- 17.09.80 Promoted to MW Fitter
- 08.10.80 Applicant was placed at Srl.No.7 of the Seniority
List of Khalasi.
- 8.4.86 CME/MLG asked for transfer of the applicant to
- 10.4.86 CME/NBQS transferred applicant from New Bongaigaon
to IRS/PANDUON administrative grounds.
- 21.4.86 Joined at Marine Workshop, AMG (Amingaon) Order
No.38
- 9.2.89 Applicant was sent back to CME/NBQS.
- 8.8.91 Provisional Seniority List of HSK/Fitter Grade-II
Scale of pay Rs1200-1800 under Dy.CME (C&W), NBQS
as on 1.4.91 published. Applicant was promoted to
Grade-II on 1-9-89 and placed at Srl.No.19
Below Dnireswar Boro ... Srl.No.18,
Above D.K.Dey ... Srl.No.20.
- 13.8.91 Provisional Seniority List MW Fitter in Scale
13.11.91 of pay Rs.950-1500 (RP) under Dy.CME/C&W/NBQS as
on 1.4.91
Applicant was placed at inserted entry by hand as
Srl.NO.4 A with countersigned initials on 19.8.94
and 20.8.94.
- 12.5.94 Applicant represented for due promotion as per
8.8.91 Grade -II List.
- 16.6.94 Representation
- 25.7.94 Representation.
- 8.9.94 G.M.(P), Maligaon with reference to his applicati
Dated 25.1.94 for fixation of seniority informed
that he would carry the seniority to NBQS which h
was having under AMS/MLG as per extent rules.
- A copy of this letter was enclosed alongwith le
letter Dated 14.9.94 including the alleged corre-
cted List Dated 13.8.91. received on 17-9-91.

14.9.94 Dy.Chief Mechanical Engineer, NBQS vide his letter under Memo No.E/M/255/Pt-II Dated with reference to the applicant's applications for promotion to Grade-I HSK/Fitter Dated 12.5.94, 16.5.94 and 25.7.94 informed that he was wrongly listed at Srl.No.19 as on 1.4.91 List for Grade-II published on 8.8.91. Co-rrected and placed at Srl.No.4A of Provisional List of HSK Fitter in Scale of Rs.950-1500 as on 1.4.91. Entry 4A by hand with initials Dated 13.8.91 and 20.8.94, being the date of correction.

... Any appeal to the Higher authority may be done personally as per extent rules.

6.10.94 Appeal before G.M.,N.F.Railway.

20.1.95 Reminder for disposal of appeal.

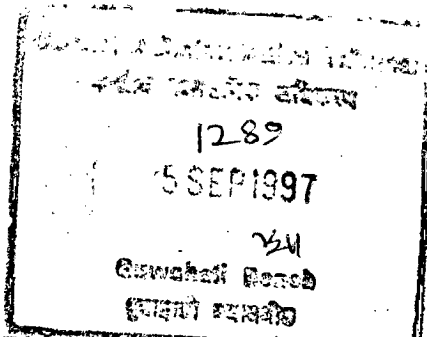
Advocate's Notice.

8.2.96 O.A.No.31/96 filed before the Hon'ble Tribunal.

26.2.96 Objection on the ground of delay raised. Lease to the applicant to apply for condonation (8.9.94 to 8.2.960

M.P. No.119/96 for Condonation of delay on the basis of order Dated 26.2.96.

10.10.96 the issue of condonation of delay prayed for in the M.P. will be decided together with O.A. on merit. Notice to Respondents by Regd. W.S. within 6 weeks.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.NO. 31/96

APPLICATION U/S 19 OF THE ADMN. TRIBUNAL ACT '89.

(AMENDED APPLICATION)

- B e t w e e n -

B.C.Kumar ... Applicant.

-Vs -

Union of India & Ors. ... Respondents.

Filed by -
Sri B.C. Kumar
Applicant
Through -
Jai Prakash Sarma
Advocate
3.9.97

Sl.No.	Description	Page No.
1.	Application	1 to 9
2.	Annexure-I	10 -Seniority List of 8-8-91.
3.	Annexure-II	11 -Respondent No.2
4.	Annexure-III	12
5.	Annexure-IV	13 - representation.
6.	Annexure-V	14

For use in Tribunal Office.

Date of filing :

Regd. No.

Signature.

Registration.

Recd
S
31/9/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::

GUWAHATI

- BETWEEN -

1. Particulars of the applicant. : SHRI BIREN CHANDRA KUMAR
MW/Fitter-Grade.II,
New Bongaigaon Workshop,
N.R.Railway, New Bongaigaon.
2. Particulars of the Respondents. : 1. Union of India represented by
the General Manager, N.F.Rly,
Maligaon, Guwahati-12
2. The Deputy Chief Mechanical
Engineer, Carriage & Wheel,
N.F.Rly, New Bongaigaon.
3. Particulars of the order in respect of ~~xxx~~ which the application is made. : 1. Letter No.E/104/WB/94(Loose)
dt.8-9-94 by which the matter
of seniority has been intimated.
ii. Letter No.E/M/255/Pt-III dated
14-9-94 by which the Respondent
No.2 has communicated about
seniority List circulated
earlier under No.E/M/255/Pt-11
dt.8-8-91 and promoted the
Junior most candidate in higher
grade.
4. Jurisdiction of the Tribunal. : The applicant declares that subject
matter of the order against which
he has approached the Hon'ble
Tribunal is within the jurisdiction
of this Court.

contd....2

Shri Biren Chandra Kumar

19

5. Limitation : The applicant declares that the application is within the Limitation of the Central Administrative Tribunal at

6. Facts of the case : (1) That the applicant is a citizen India and as such is entitled to all the rights and protections as guaranteed by the Constitution of India.

(II) That the applicant was appointed as Khalashi and posted in New Bongaigaon under Respondent No.2 and thereafter promoted in 1980 to the Fitter Grade-III and presently promoted to the Fitter Grade -II in the year, 1989.

(III) That 8-8-91 a Seniority List of H.S.K. Fitter Grade-II was published fixing the seniority of the applicant along with others and circulated vide Letter No. E/M/255/Pt-II issued by the Respondent No.2 and accordingly your applicant ought to have been promoted to the next higher Grade i.e. Fitter Grade-I as per the Seniority List aforementioned.

A photostat copy of the aforesaid Seniority List dated 8-8-91 is annexed hereto and marked as ANNEXURE-11

contd....3

(IV) That the applicant while working at New Bongaigaon with full devotion and rendering satisfactory service, was surprised to receive a Communication No. E/M/255/Pt-III dated 14-9-94 issued by the Respondent No.2 by means of which intimated the applicant that his seniority was wrongly communicated under Letter No. E/M/255/Pt-II dated 8-3-91 (Annexure-1) and got corrected by placing seniority at Sl. 4 A of List E/M/255/Pt-II dtd. 13-3-91 as reflected in letter dated 14-9-94.

A photostat copy of the said letter dated 14-9-94 is annexed hereto and marked ✓ as ANNEXURE-II.

(V) That on bare perusal of the aforesaid letter (Annexure-II) it transpired that the seniority of the applicant was considered with the period of service at PNO thereby indicated for loss of seniority and thereby placed in the seniority list of M W Fitter in the scale of Rs.950 to Rs.1500 in place of earlier seniority List dated 1-4-91 circulated vide (Annexure-I) of HSK Fitter Gr.II (MW)

It may also be pertinent to mention here that the applicant has been paying ~~his~~ receiving his salary till date in the scale of Rs.1200-1300/- i.e. in pursuance of promotion made under Seniority List dtd. 8-3-91.

(VI) That on receipt of the aforesaid communication from the Respondent No.2 the applicant submitted series of representations and also served legal notices to the Respondent No.1 and after vigorous pursuation the respondent No.2 under his letter No.E/104/WB/94(Loose) dated 8-9-94 intimated that the applicant will carry the seniority to New Bongaigaon which he was having under AMS/MIG i.e. ring service tenure at Pandu.

A photostat copy of the aforesaid Order dated 8-9-94 is annexed hereto and marked as ANNEXURE-III.

VII) That the applicant thereafter on 6-10-94 made an appeal to the Respondent No.1 and subsequent reminder on 20-1-95 to review his decision and to give benefit of seniority list published as on 1-4-91 which is right list.

(Copies of letter dated 6-10-94 and reminder dt.20-2-95 have been annexed herewith and marked as ANNEXURE-IV)

Again thereafter served legal notice to that effect lastly on 29-11-95 but no response has so far been received.

(A photocopy of the legal notice has been annexed and marked as ANNEXURE-V).

VIII) That the applicant states that while he was working as Fitter Grade-II at New Bongaigaon, he has been transferred to the L.R.S. Pandu at Marine Workshop and thereafter again rebacked to New Bongaigaon for interest of service.

- (IX) That the applicant further states that his aforesaid transfer to Pandu was made purely on administrative ground and rebacked with the post to New Bongaigaon presently held by him and all other transfer benefit admissible to him has been granted to the applicant which is reflected in office Order No. E/M/41/3 dated 13-4-36 issued by the respondent No. 2 in this regard.
- (X) That during this period there was a proposal to conduct Trade Test of eligible candidates of MW/Fitter Grade-II to the promotion of Grade-I Fitter in which Test, the applicant was not allowed to appear and allowed the Junior most candidate namely Shri D.K. Dey and Sri S.B. Roy whose names appeared below the Seniority position of the applicant. It is relevant to mention here that the applicant belongs to Schedule Caste Community being reserved category.
- (XI) That the applicant states that the respondents by ignoring the appeals made from time to time have conducted the Trade Test for promotion of Grade-I Fitter from the junior most candidates of Grade-II Fitter warranting the interference by the Hon'ble Tribunal by the Respondents with malafide intention ignoring policy decision of the Central Government for Schedule caste have turned deaf ears to him for which he prays now

that he may be saved from such a situation by extending protective hands.

7. Grounds for relief with legal provision.

- (1) For that prima facie by not attending with appeals made and after turning down seniority of the applicant have amounted to denial which is legally not sustainable as much as the same is opposed to the policy decision of the Govt. in such matter.
- (ii) For that subsequent seniority list dtd. 13-8-91 prepared taking into consideration of transfer to PNO on administrative ground and information communicated on 14-9-94 is the result of deliberate arbitrary action of the respondents by which the basic purpose of up-growing in career has been frustrated.
- (iii) For that the applicant being allowed to draw salary by promoting to Grade-II in the year, 1989 as per seniority list dated 8-8-91 and it being pre-eminently a fit case of allowing to appear Trade Test of Grade-I Fitter which could not have denied to the applicant.
- (iv) For that there being no impediment for allowing Trade Test and to give effect of seniority list for the said Test could not have rejected or allow the junior most candidates.
- (v) For that the impugned order being non-speaking are legally not sustainable and liable to set aside with

contd....7

direction to set right the seniority list dated 8-3-91 and to allow to appear Trade Test for the promotion of Grade-I Fitter.

(vi) For that the impugned orders are violative of Article 14, 16 and 21 of the Constitution of India and existing policy decision of the Govt. and as such liable to be set aside so far applicant's seniority is concerned.

(vii) For that the provisions of various Govt. Circulars on the issue are in aid to the down-trodden class of people in society and the correction of the seniority list dated 8-3-91 have been done mechanically.

(viii) For that in any view of the matter the seniority list dtd.13-3-91 is not sustainable so far the applicant is concerned and liable to be quashed.

8. Interim Order if any prayed for :-

The applicant prays that pending disposal of this application, the Respondents may be directed to allow and/or permit the appellant to appear in Trade Test Examination of Grade-I Fitter.

9. Details of remedies already exhausted:-

The applicant preferred appeals before the General Manager (Respondent No.1) which stands unheeded till filing of this application.

10. Relief Sought :-

On the facts and circumstances stated above, the applicant prays for the following reliefs :-

(a) to set aside the seniority list dated 13-8-91 so far the applicant is concerned.

(b) to direct the respondents to allow the appellant to appear in Trade Test Examination for promotion of Grade-I Fitter till disposal of this application.

(c) cost of application.

(d) Any other relief or reliefs to which the applicant is entitled to under the facts and circumstances.

11. If any matter is pending in other Court.

No application is being preferred in any Court of competent jurisdiction.

12. Particulars of I.P.O.

(a) Number of the I.P.O. and date:-

(b) Name of the issuing office :-

(c) Post Office of which payable :-

13. Details of Index :

An Index in duplicate containing details of document to be relied upon is enclosed.

14. List of Enclosures:-

As indicated in the Index.

VERIFICATION.

I, Shri Biren Chandra Kumar, son of Sri Suren Chandra Kumar, a resident of New Bengaigaon in the district of Bengaigaon, Assam do hereby solemnly declare and affirm that the statements made in this paragraphs 1,2,3, 9 and 11 are true to the best of my knowledge, those made in paragraphs from 4 and 6 being the matter of records are true to my information derived from and the rests are my respectful submissions before this Hon'ble Tribunal which I believe to be true.

And I sign this Verification on this the 30th day of
of September, 1997 at Guwahati.

Sd/- Biren Chandra Kumar

Signature of Applicant.

10 79

ANNEXURE - 1

Provisional seniority list of ISK/Fitter/Gr-II (MW) in scale Rs.1200-1800/-(RP) under Dy.CME(C&W)/NBQ as on 1.8.91.

Criteria = Length of service in the grade.

Sl. No.	Name	Designation	T/No.	Working in shop	Date of birth	Date of appointment	Date of promotion to grade	Remarks
1	2	3	4	5	6	7	8	9
1.	Sri M.K.Mitra(UR)	MW/Fitter Gr-II	2469	MWS	01/8/44	10.10.63	01.5.86	
2.	" K.P.Narasingham	SC-do	2511	"	09.4.46	11.8.67	01.6.86	
3.	" B.B.Baruah(UR)	-do-	2477	"	28.01.40	01.4.60	01.6.86	
4.	" M.C.Chowdhury(UR)	-do-	2416	"	24.12.40	12.5.64	01.6.86	
5.	" C.C.Nath(UR)	-do-	2727	PCS	16.10.44	24.12.63	01.6.86	
6.	" M.L.Dhattacharjee(UR)	-do-	2467	MWS	02.11.43	01.4.65	01.6.86	
7.	" P.Kandaya(SC)	-do-	2520	"	14.02.57	02.9.76	01.6.86	
8.	" R.N.Gokur(JR)	-do-	2422	"	02.01.48	01.10.57	01.6.86	
9.	" S.K.Sharma(UR)	-do-	2486	"	17.3.48	01.10.67	01.10.86	
10.	" D.C.Ghosh(UR)	-do-	2499	"	24.12.44	04.6.68	01.10.86	
11.	" Kamaleswar Boro, ST	-do-	2428	"	15.5.56	28.5.75	01.10.86	
12.	" Baban Thakur(UR)	-do-	2504	"	19.8.46	12.6.68	01.8.87	
13.	" K.Demroo(SC)	-do-	2493	"	22.01.44	27.12.65	01.9.87	
14.	" E.K.Misra(UR)	-do-	2439	"	06.7.48	16.11.71	01.4.88	
15.	" D.C.Boro(ST)	-do-	2426	"	31.7.46	22.9.75	01.4.88	
16.	" R.B.Sharma(UR)	-do-	2433	"	10.9.54	07.02.77	01.01.89	
17.	" B.C.Narmay(ST)	-do-	2423	"	11.02.44	20.7.76	01.9.89	
18.	" Dhireswar Boro(ST)	-do-	2448	"	07.4.55	07.02.77	01.9.89	
19.	" D.C.Kumar(SC)	-do-	2407	"	15.02.54	27.5.75	01.9.89	
20.	" D.K.Dey(UR)	-do-	2437	"	21.6.53	02.7.77	01.01.90	
21.	" D.N.Pam(SC)	-do-	2484	"	03.02.58	10.11.78	01.01.90	
22.	" S.C.Mishra(UR)	-do-	2459	"	19.3.31	01.5.78	01.01.90	
23.	" S.N.Roy(UR)	-do-	2450	"	20.10.53	27.6.77	01.01.90	
24.	" H.L.Prasad(UR)	-do-	2481	"	29.11.48	22.11.70	01.01.90	
25.	" A.Kalam(UR)	-do-	2438	"	05.5.56	24.6.77	01.01.90	
26.	" R.P.Jirahon(ST)	-do-	2501	"	28.7.56	28.02.81	01.01.90	
27.	" P.Sutradhar(SC)	-do-	2446	"	10.11.56	30.8.77	01.01.90	
28.	" U.N.Sarkar(UR)	-do-	2482	"	31.12.45	25.10.78	18.10.90	
29.	" B.Rabha(ST)	-do-	2447	"	14.8.58	7.02.77	28.01.91	
30.	" Dipak Dey(UR)	-do-	2429	"	11.7.59	11.4.80	22.3.91	

For Dy. CME(C&W)/NBQs

No. P.1/255/Pt. II dated 3.8.91

Copy forwarded for information and necessary action to:-

- 1) Secretary, N.F.F.U/N.F.M.U/ SC-ST
- 2) SS/MWS/NBQs
- 3) SS/PLG/NBQs
- 4) Staff concerned.

Any complain may please be sent to this office within one month on receipt of this seniority list for scrutiny and correction. Representation received after expiry of stipulated period of one month will not be entertained.

For Dy. CME(C&W)/NBQs

Attested

Signature

8/21/91

ANNEXURE-II

Office of the
Dy. Chief Mech. Engineer,
New Bongaigaon.

(12)

No. E/M/255/Pt. III
Dated: 14.9.94.

To
Shri B.C. Kumar,
Gr. II MW Fitter
T/No. 2467.

(Through: SS/MNS/NBQS).

Sub: ~~Request~~ Promotion in HSK Fitter
Gr. I (MW).

Ref: Your application dated 12.5.94, 16.6.94 and
29.7.94.

In reference to your above it is to inform you that your name was wrongly enlisted at SL No. 19 of the provisional seniority list of HSK Fitter Gr. II (MW) as on 1.4.91 published under this office L/No. E/M/255/Pt. II dated 8.8.91. Your seniority position has been corrected and your name has been placed correctly at SL No. 4A i.e. below Shri N.L. Sharma and above Shri H. Baidya in the provisional seniority list of MW Fitter in scale Rs. 950-1500/- as on 1.4.91 published under this office L/No. E/M/255/Pt. II dt. 13.8.91. (copy enclosed)

17/9/94
17/9/94

In the above seniority the date of your transfer to WRS/PNO i.e. 12.4.89 was taken into consideration for fixing up of your seniority as MW Fitter under this establishment. In terms of GM(P)/MLG's L/No. E/283/62 (M) Pt. V dated 29.3.94 the matter was intimated to you previously under this office letter No. E/M/255/Pt. III dt. 3.5.94. Prior to receipt of the decision from GM(P)/MLG you were given permission as HSK Fitter (MW) in scale Rs. 1200-1800/- which was not in order in terms of GM(P)/MLG's above letter and your name was included in the seniority list of HSK Fitter Gr. II (MW) in scale Rs. 1200-1800/- at SL No. 19 published under this office No. E/M/255/Pt. II dt. 8.8.91 which was also not in order.

L. B. Somaiya

GM(P)/MLG vide his letter No. E/104/WB/94 (Loose) dt. 8.9.94 has communicated his decision wherein it has been clearly mentioned that you will carry seniority to NBQ which you were having under AMS/MLG as per extant rule (copy of which is enclosed).

However your promotion as HSK Fitter Gr. I (MW) will be considered in due course when your seniority position will come. Any appeal to higher authority may be done personally and this office will not entertain any matter in this regard.

Dy. Chief Mech. Engr.

for Dy. CME/NBQS.

Copy to: SS/MNS/NBQ. He is requested to kindly hand over the copy to Shri B.C. Kumar and send the acknowledgement of the letter to this office at the earliest.

for Dy. CME/C&W/NBQS.

Attended
J.M.
Admission

Principal seniority list of MW fitter in scale B 950-1500/- (Hr)
under Dy. CME/C&M/NBQS as on 1.3.91

12

Criteria - Length of service in the grade.

Sl No.	Name	Designation	T.No.	Working in shop	DOB	DOA	Dt. of promotion to grade	Remarks
1	2	3	4	5	6	7	8	9
1.	Sri M.C.Deka (UR)	MW/Fitter	2400	MWS	7.1.55	11.3.78	23.5.35	
2.	" S.C.Sutradhar (SC)	"	2435	"	30.9.56	10.2.81	1.7.85	
3.	" S.Mandal (SC)	"	2487	"	6.3.49	1.10.19	1.3.86	
4.	" Nandalal Sharma (UR)	"	2488	"	11.7.51	15.3.78	14.3.86	
5.	" Bibhash Baidya (UR)	LC driver	2491	"	1.6.83	23.11.31	15.12.87	
6.	Md. R.Hussain (UR)	-do-	2455	"	7.7.58	23.11.31	1.6.88	
7.	Sri Chandan Nath (UR)	MW fitter	2413	"	1.1.81	24.11.64	1.6.89	
8.	" R.K.Bhagabati (UR)	LC driver	2490	"	5.2.61	1.12.81	1.3.89	
9.	" U.C.Branma (ST)	"	2513	"	31.1.59	3.12.84	1.6.88	
10.	" P.K.Dutta (UR)	ME fitter	2406	"	1.10.63	23.12.84	3.1.89	
11.	" P.C.Das (UR)	"	2454	"	30.11.58	25.11.82	9.5.89	
12.	" S.Ancharjee (UR)	L.T.Driver	2402	"	16.2.61	23.11.84	1.3.89	
13.	" B.C.Das (SC)	M-W.fitter	2415	"	24/1/63	29.11.84	1.3.90	
14.	Md. Saaved Ali (UR)	"	2444	"	21.8.57	27.12.84	1.3.90	
15.	Sri K.K.Singha (UR)	"	2443	"	31.3.62	27.12.84	1.3.90	
16.	" B.C.Basumatary (ST)	"	2442	"	1.7.62	27.12.84	1.3.90	
17.	" P.Chakraborty (UR)	"	2440	"	1.2.65	27.12.84	1.3.90	
18.	Md. Arafat Ali (UR)	"	2425	"	23.7.57	23.12.84	1.3.90	
19.	Sri K. Chakraborty (UR)	"	2432	"	1.10.61	24.5.85	1.3.90	
20.	" S.C.Ray (UR) (SC)	"	2424	"	13.5.57	23.5.85	1.3.90	
21.	" D.K.Das (UR)	"	2430	"	22.6.55	31.5.85	1.3.90	
22.	" K.S.Brahma (ST)	"	2405	%	31.1.63	13.3.78	1.3.90	Transferred from PWI w.e.f 31.5.35.
* 4/A	" B.C. Kumar	"	2407		15-2-54	1.12.84	1.3.90	
	No. E/M/255/Pt.II					27-5-75	12-4-86	

Copy forwarded for information and necessary action to -
1. Secretary NERED/NERMU/SC-ST/NBQ, 2. SS/MWS/NBQ, 3. SS/Plg.-NBQ
4. Staff concerned.

Note - Any complain may please be sent to this office withing onemonth on receipt of this seniority list for scrutiny and correction. Representation recd. after expiry of stipulated period of one month will not be entertained.

for Dy. CME/C&M/NBQS

for Dy. CME/C&M/NBQS

7/8/94
20/8

AM
DM
AM

13

ANNEXURE - III

LH
12-9-94

13

S. F. RILITAY.

Office of the
General Manager (P),
Maligaon, dated, 8-9-94.

NO.E/104/NS/94(Lesse).

✓ To
Shri B. C. Kumar,
Bell Wright Fitter, U.E.E.,
Under DY.CME/NS.

Sub: Fixation of seniority.

Ref: Your application dated
25-7-94.

Your representation is examined thoroughly from this office. In this connection, this is for your information that you will carry the seniority to NSQ which you were having under NS/NSQ as per extant rules.

J. K. Sanyal
8/9/94
for GENERAL MANAGER (P) M/G.

Copy to :- DY.CME/NSQ for information and necessary action please.

for GENERAL MANAGER (P) M/G.

14/9/94
AB/9

AB/9-9.

Attested
Jim
Adm

Apo
14/9

To

The General Manager,
N.F. Railway/Maligaon

(Through proper channel)

Sub:- Appeal for the restitution
of my seniority.

- Sir,

With due respect and humble submission I beg to state that earlier I was submitted a good number of appeal to Dy.CME/NBQS for the restitution of my seniority, but it produced no justifiable result.

That Sir, in terms of CME(P)/MLG's office Order endorsement No.E/233/III /62(M)PV of 3.4.86 and Dy.CME/NB.'s Office Order No.164/endorsement No.E/M/233/5Pt.II dt.10.4.86 I was transferred from NBQ N.F.Rly. to LRS/PNO. But I joined at Marine Workshop/PNO on 21.4.86 vide AMS/MLG's office order No.33 endorsement No.E/233/III/E Pt.IV dt.21.4.86.

That Sir, I was transferred along with post on administrative ground. At the time of carrying the order of transfer I was favoured with all the facilities of transfer such as allowances, joining time, transfer pass, packing allowance which are only applicable and admissible in case of employee transferred on administrative ground.

After working 3 years in Marine Workshop due to closure of Marine workshop again administration back me and advised to report to Dy.CME/NBQ vide AMS/MLG's L/No.E/M/233/3/PNO Pt.III dt.9.2.89 as administrative ground with my original seniority.

That Sir, it is emphatically mentioned for your kind attention that I have got the promotion to the post of HSE Gr-II MWS Fitter after joining under SS/MWS/NBQS on Feb/89 on the basis of my original seniority list No.E/M/255/Pt.II dated 3.8.91.

That Sir, it is very mournful to me that I have been received a letter from Dy.CME/NBQS vide his L/No.E/M/255/Pt.III dt.14.9.94 that my seniority will be fixed from the date of joining at AMS/MLG and also advised my any appeal to be sent to higher authority personally. I am very sorry to inform you that I am not satisfied in this answer and also I compelled to appeal again for a good solution of my seniority to a poor employee.

In fine I beg to pray that your honour will kindly go through my case favourably for fixation of my original seniority of MWS Fitter under Dy.CME/NBQS in the eventually of my re-transfer and posting under SS/MWS/NBQS.

With regards,

Yours faithfully,

Dated, New Dongaigaon

the 6th October '94

S. B. ...

MW/Fitter Gr-II E/No. 207
under SS/MWS/NBQS.

Received in triplicate
on 06.10.94

E. 100/100 14

The General Manager,
Railway/Calcutta

Annexure - IV

.....

Subject: appeal for the restitution
of my seniority.....

18

Sir,

With due respect and humble submission I beg to state that earlier I was submitted a good number of appeal to Dy. GM/NBGS for the restitution of my seniority, but it produced no justifiable result.

That Sir, in terms of Dy. GM's office Order endorsement No. 2/233/III/620 dt. of 3.1.56 and Dy. GM's office Order No. 164 endorsement No. 1/233/5 dt. 19.4.56 I was transferred from to but I joined at Marine Workshop/WNO on 21.1.56 vide Dy. GM's office order No. 23 endorsement No. 3/233/III/1 dt. 21.1.56.

That Sir, I was transferred along with post on administrative ground. At the time of carrying the order of transfer I was favoured with all the facilities of transfer such as allowances, joining time, transfer pass, packing allowance which are only applicable and admissible in case of employee transferred on administrative ground.

After working 3 years in Marine Workshop due to closure of Marine Workshop and re-allocate for back me and advised to report to Dy. GM/NBGS vide Dy. GM's L/No. 5/233/3/WNO Pt. III dt. 9.2.59 as administrative ground with my original seniority.

That Sir, it is emphatically mentioned for your kind attention that I have got the promotion to the post of HSK Gr-II NWS after joining under Dy. GM/NBGS on Feb/59 on the basis of my original seniority list No. 1/233/Ft. II dated 3.8.51.

That Sir, it is very painful to me that I have been received a letter from Dy. GM/NBGS vide Dy. GM's L/No. 1/233/Ft. III dt. 14.5.51 that my seniority will be fixed from the date of joining at and also advised my any appeal to be sent to Higher Authority personally. I am very sorry to inform you that I am not satisfied in this answer and also I am compelled to appeal again for a good solution of my seniority to a poor employee.

In fine I beg to pray that your honour will kindly go through my case favourably for fixation of my original seniority of HSK Gr-II under Dy. GM/NBGS in the eventuality of my re-transfer and posting under Dy. GM/NBGS.

With regards,

Yours faithfully,

[Signature]

Dated, New Barracks

the 6th October 54

Dy. GM/NBGS

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N.B.S

Maintenance
3/2/59
9.2.59

9.89
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P.C.Mazumdar M.A.LL.M.
Advocate.

15 34
Annexure-V

Phone No.541449

J.P.Agarwala Road,
Bharalumukh, Guwahati-9.

To

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

Sub:- Notice under section 80 of the code of
Civil Procedure demanding to uphold the
seniority and proposed litigation thereof.

Sir,

Under instructions from my client Shri Biren
Chandra Kumar, MW/Fitter, Gr.-II New Bongaigaon Workshop
residing at New Bongaigaon in the district of Bongaigaon
(Assam) I serve you this notice and state as follows :-

- 1) That my client has been working as a MW-Fitter
Grade-II at New Bongaigaon under establishment of Deputy
Chief Mechanical Engineer, Carriage & Wheel with full
devotion since appointment .
- 2) That as per seniority list as on dated 1-4-91
circulated under No.E/M/255/Pt-II dtd. 3-8-91 by the
Dy.CME, the position of my client was at serial No.19 and
accordingly he was eligible for Trade Test Examination
conducted by your organisation for HSK Fitter Grade-I and
also other admissib le benefits.
- 3) That my client was not allowed for the said
test inspite of repeated requests and eventually the Dy.
CME, New Bongaigaon by his letter No.E/M/255/Pt-III dtd
14-9-94 intimated that the name of my client was wrongly

contd...2

Attested
Advocate

enlisted in the said seniority list on 1-4-91 and corrected in separate seniority list of MW-Fitter published under No.E/M/255/Pt-II dated 13-8-91 placing him at serial No.4A in the scale of Rs.950-1500/- taking into consideration of Seniority accrued after transfer to AMS,MLG.

4) That the transfer under AMS/MLG was on administrative ground with post and accordingly all benefit of such transfer have been effected in case of my client as such there is no question of counting seniority of AMS/MLG.

5) That my client has made a series of representations regarding the fixation of seniority and to get set aright the seniority list of HSK-Fitter, Grade-II published under letter dated 8-8-91 so that all benefits accrued thereon be availed of but his prayer was not attended.

Under the circumstances, I demand you to uphold the seniority list published under letter dated 8-8-91 and allow to appear my client in forthcoming trade test for selection of Grade-I Fitter within 60 (sixty) days from the date of the receipt of this notice, failing which an appropriate legal action would be taken for the relief sought for.

Thanking you,

Yours faithfully,

Sd/- P. C. Mazumdar ,
Advocate.

Attested
J. M.
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: AT GUWAHATI.

O.A.No. 31 of 1996.

Sri B.C.Kumar .. Appellant.

-Vs-

Union of India & Others
... Respondents.

In the matter of :

Hearing of petition for restoration of
Misc.Petition No.47 of 1997

Fixed on: 13-5-97

The humble petition on behalf of the
petitioner abovenamed

Most Respectfully Sheweth :-

- 1) That the petition filed by the petitioner for restoration of Miscellaneous Petition No.47/97 alongwith the main case has been fixed for hearing to-day, 13-5-97.
- 2) That on account of sudden illness of the petitioner's counsel who is suffering from gastric problem with stomach-up set for the last two days is not in a position to appear to-day.

It is, therefore, prayed that
Your Lordships may be pleased consider reasons
for the absence of petitioner's counsel Sri
J.P.Sharma and be pleased to grant an
adjournment in the case to a future date,
and/or pass any other necessary order as
Your Lordships may deem fit and proper,

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

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FILED BY -
Jai Prakash Sharma
Advocate.
for the appellant. 13/5/97

19
33

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: AT GUWAHATI.

O. A. No. 31 of 1996.

Sri B.C. Kumar

.. Appellant.

-Vs-

Union of India & Others

... Respondents.

In the matter of :

Hearing of petition for restoration of
Misc. Petition No. 47 of 1997

Fixed on: 13-5-97

The humble petition on behalf of the
petitioner abovenamed

Most Respectfully Sheweth :-

- 1) That the petition filed by the petitioner for restoration of Miscellaneous Petition No. 47/97 along with the main case has been fixed for hearing to-day, 13-5-97.
- 2) That on account of sudden illness of the petitioner's counsel who is suffering from gastric problem with stomach-upset for the last two days is not in a position to appear to-day.

It is, therefore, prayed that
Your Lordships may be pleased consider reasons
for the absence of petitioner's counsel Sri
J.P. Sharma and be pleased to grant an
adjournment in the case to a future date,
and/or pass any other necessary order as
Your Lordships may deem fit and proper,

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

Filed by -

Jai Prakash Sharma,
Advocate

For the Appellant.

20

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI.

O. A. No. 31 of 1996.

Sri B.C. Kumar

.. Appellant.

-Vs-

Union of India & Others

... Respondents.

In the matter of :

Hearing of petition for restoration of
Misc. Petition No. 47 of 1997

The humble petition on behalf of the
petitioner abovenamed

Most Respectfully Sheweth :-

- 1) That the petition filed by the petitioner for restoration of Miscellaneous Petition No. 47/97 alongwith the main case has been fixed for hearing to-day, 13.5.97.
- 2) That on account of sudden illness of the petitioner's counsel who is suffering from gastric problem with stomach-up set for the last two days is not in a position to appear to-day.

It is, therefore, prayed that
Your Lordships may be pleased consider reasons
for the absence of petitioner's counsel Sri
J.P. Sharma and be pleased to grant an
adjournment in the case to a future date,
and/or pass any other necessary order as
Your Lordships may deem fit and proper,

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

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

89
fikesthand
D. Sankar
C.P. Masamuni
Advocate
22/2/96

APPLICATION U/S 19 OF THE ADMV. TRIBUNAL ACT, 89

CA 31/96
B E T W E E N

B.C. Kumar Applicant.

- Vs -

Union of India & Ors ... Respondents.

Sl.No.	Description	Page No.
1.	Application	1 to 9
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3.	Annexure -II	11
4.	Annexure -III	12
5.	Annexure -IV	13
6.	Annexure -V	14

For use in Tribunal Office.

Date of filing 22/2/96

Regd. No. CA.

Signature . *[Signature]*

Registration.

*Recd.
D. Sankar
(for B.C. Kumar)
Adv. Sec. 22/2/96*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI

*filed by
Sh. Biren Chandra Kumar
through
P. C. Masumdar
Advocate
2/12/94*

BETWEEN

1. Particulars of the applicant. : SHRI BIREN CHANDRA KUMAR ,
MW/Fitter -Grade-II,
New Bongaigaon Workshop,
N. F. Railway, New Bongaigaon.
2. Particulars of the Respondents. :
 1. Union of India represented by the General Manager , N.F.Rly, Maligaon, Guwahati-12.
 2. The Deputy Chief Mechanical Engineer, Carriage & Wheel, N.F.Rly, New Bongaigaon.
3. Particulars of the order in respect of ~~xxx~~ which the application is made. :
 1. Letter No.E/104/WB/94(Loose) dtd. 8-9-94 by which the matter of seniority has been intimated.
 - ii. Letter No.E/M/255/Pt-III dated 14-9-94 by which the Respondent No.2 has communicated about seniority list circulated earlier under No. E/M/255/Pt-II dtd. 8-8-91 and promoted the Junior most candidate in higher grade.
4. Jurisdiction of the Tribunal . : The applicant declares that subject matter of the order against which he has approached the Hon'ble Tribunal is within the jurisdiction of this Court.

5. Limitation

: The applicant declares that the application is within the limitation of the Central Administrative Tribunal Act-

Sri Ram Chandra

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6. Facts of the case : (I) That the applicant is a citizen of India and as such is entitled to all the rights and protections as guaranteed by the Constitution of India.

(II) That the applicant was appointed as Khalashi and posted in New Bongaigaon under Respondent No.2 and thereafter promoted in 1980 to the Fitter Grade-III and presently promoted to the Fitter Grade -II in the year ,1989 .

(III) That 8-8-91 a Seniority List of H-S.K. Fitter Grade-II was published fixing the seniority of the applicant along with others and circulated vide letter No. E/M/255/Pt-II issued by the respondent No.2 and accordingly your applicant ought to have been promoted to the next higher Grade i.e. Fitter Grade -I as per the Seniority List aforementioned .

A photostat copy of the aforesaid ~~seniority~~ Seniority List dated 8-8-91 is annexed hereto and marked as ANNEXURE:I.

contd....3

- 3 -

(IV) That the applicant while working at New Bongaigaon with full devotion and rendering satisfactory service, was surprised to receive a communication No. E/M/255/Pt-III dated 14-9-94 issued by the Respondant No.2 by means of which intimated the applicant that his seniority was wrongly communicated under letter No. E/M/255/Pt-II dated 8-8-91 (Annexure-I) and got corrected by placing seniority at Sl.4 A of List E/M/255/Pt-II dtd. 13-8-91 as reflected in letter dated 14-9-94.

A photostat copy of the said letter dated 14-9-94 is annexed hereto and marked as ANNEXURE-II.

(V) That on bare perusal of the aforesaid letter (Annexure-II) it transpired that the seniority of the applicant was considered with the period of service at PNO thereby indicated for loss of seniority and thereby placed in the seniority list of M W Fitter in the scale of Rs.950 to Rs.1500 in place of earlier seniority List dated 1-4-91 circulated vide (Annexure-I) of HSK Fitter Gr.II (MW).

It may also be pertinent to mention here that the applicant has been paying his salary till date in the scale of Rs.1200 - 1800/- i.e. in pursuance of promotion made under seniority List dtd.8-8-91 .

contd....4

(VI) That on receipt of the aforesaid communication from the Respondent No.2 the applicant submitted series of representations and also served legal notices to the Respondent No.1 and after vigorous persuasion the respondent No.2 under his letter No.E/104/WB/94 (Loose) dated 8-9-94 intimated that the applicant will carry the seniority to New Bongaigaon which he was having under AMS/MLG i.e. ring service tenure at Pandu.

A photostat copy of the aforesaid Order dated 8-9-94 is annexed hereto and marked as ANNEXURE-III.

(VII) That the applicant thereafter on 6-10-94 made an appeal to the Respondent No.1 and subsequent reminder on 20-1-95 to review his decision and to give benefit of seniority list published as on 1-4-91 which is right list .

(Copies of letter dated 6-10-94 and reminder dtd. 20-2-95 have been annexed herewith and marked as ANNEXURE-IV)

Again thereafter served legal notice to that effect lastly on 29-11-95 but no response has so far been received .

(A photocopy of the legal notice has been annexed and marked as ANNEXURE.V).

(VIII) That the applicant states that while he was working as Fitter Grade-II at New Bongaigaon , he has been transferred to the L.R.S. Pandu at Marine Workshop and thereafter again rebeked to New Bongaigaon for the interest of service.

(IX) That the applicant further states that his aforesaid transfer to Pandu was made purely on administrative ground and rebacked with the post to New Bongaigaon presently held by him and all other transfer benefit admissible to him has been granted to the applicant which is reflected in office Order No.E/M/41/3 dated 18-4-86 issued by the respondent No.2 in this regard.

(X) That during this period there was a proposal to conduct Trade Test of eligible ~~conditions~~ candidates of MW/Fitter Grade-II to the promotion of Grade-I Fitter in which Test, the applicant was not allowed to appear and allowed the Junior most candidate namely- Shri D.K.Dey and Sri S.B.Roy whose names appeared below the Seniority position of the applicant. It is relevant to mention here that the applicant belongs to Schedule Caste Community being reserved category.

(XI) That the applicant states that the respondents by ignoring the appeals made from time to time have conducted the Trade Test for promotion of Grade-I Fitter from the junior most candidates of Grade-II Fitter warranting the interference by the Hon'ble Tribunal by the Respondents with malafide intention ignoring policy decision of the Central Government for

John C/one
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Schedule caste have turned deaf ears to him for which he prays now that he may be saved from such a situation by extending protective hands .

Dr. B. M. Chatterjee

7. Grounds for relief with legal provision.

(1) For that prima facie by not attending with appeals made and after turning down seniority of the applicant have amounted to denial which is legally not sustainable as much as the same is opposed to the policy decision of the Govt. in such matter.

(ii) For that subsequent seniority list dtd. 13-8-91 prepared taking into consideration of transfer to PNO on administrative ground and information communicated on 14-9-94 is the result of deliberate arbitrary action of the respondents by which the basic purpose of upgrowing in career has been frustrated .

(iii) For that the applicant being allowed to draw salary by promoting to grade -II in the year, 1989 as per seniority list dated 8-8-91 and it being pre-eminently a fit case of allowing to appear Trade Test of Grade -I fitter which could not have denied to the applicant.

(iv) For that there being no impedient for allowing Trade Test and to give effect of seniority list for the said Test could not have rejected or allow the junior most candidates.

St. Blum Cur/son/...

(v) For that the impugned order being non-speaking are legally not sustainable and liable to set aside with direction to set right the seniority list dated 8-8-91 and to allow to appear Trade Test for the promotion of Grade-I Fitter.

(vi) For that the impugned orders are violative of Article 14, 16 and 21 of the Constitution of India and existing policy decision of the Govt. and as such liable to be set aside so far applicant's seniority is concerned.

(vii) For that the provisions of various Govt. Circulars on the issue are in aid to the down-trodden class of people in society and the correction of the seniority list dtd. 8-8-91 have been done mechanically.

(ix) For that in any view of the matter the seniority ~~xxx~~ List dt. 13-8-91 is not sustainable so far the applicant is concerned and liable to be quashed.

8. Interim Order if any prayed for :-

The applicant prays that pending disposal of this application, further Trade Test examination to the promotion of Grade-I Fitter be stayed from junior most candidates of seniority list dtd. 8-8-91.

9. Details of remedies already exhausted :-

The applicant preferred appeals before the General Manager (Respondent No.1) which stands

unheeded till filing of this application.

10. Relief sought :-

On the facts and circumstances stated above, the applicant prays for the following reliefs :-

(a) to set aside the seniority list dated 13-8-91 so far applicant is concerned.

(b) to direct the respondents not to conduct any Trade Test for promotion of Grade-I Witter from the Junior most candidates of seniority list dated 8-8-91 till disposal of this application or alternatively allow ~~the~~ ^{to} appear the applicant in T.T. as stated above.

(c) cost of application.

(d) Any other relief or reliefs to which the applicant is entitled to under the facts and circumstances.

11. If any matter is pending in other Court.

No application is being preferred in any Court of competent jurisdiction.

12. Particulars of I.P.O.

(a) Number of the I.P.O. and date :- 311656 dt 8.2.96

(b) Name of the issuing office :- Gankohi Head Post Office

(c) Post office at which payable :- Gankohi G.

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Dr. Bhanu Chandra

13. Details of Index

An Index in duplicate containing details of documents to be relied upon is enclosed.

14. List of enclosures :-

As indicated in the Index.

VERIFICATION.

I, Shri Biren Chandra Kumar , son of Shri Suren Chandra Kumar, a resident of New Bongaigaon in the district of Bongaigaon , Assam do hereby solemnly declare and affirm that the statements made in paragraphs 1 to 5^a 7 to 14 are true to the best of my knowledge , those made in paragraph from 6 being the matter of records are true to my information derived therefrom which I believe to be true.

And I sign this Verification on this the

08 th day of February, 1996 at Guwahati.

Sh. Biren C. Kumar
Signature of Applicant.

48
Sh. Biren C. Kumar

Provisional seniority list of ISK/Fitter/Gr-II (AW) in scale Rs. 1200-1800/- (RP) under Dy. CME (C&W)/NBS on 1.5.91.

Criteria - Length of service in the grade.

Sl. No.	Name	Designation	T/No.	Working in shop	Date of birth	Date of appointment	Date of promotion to grade	Remarks
1	2	3	4	5	6	7	8	9
1.	Sri M. K. Mitra (UR)	MW/Fitter Gr-II	2469	MWS	01/8/44	10.10.63	01.5.86	
2.	" K. P. Narasingham (SC)	-do-	2511	"	09.4.46	01.9.67	01.6.86	
3.	" B. J. Baruah (UR)	-do-	2477	"	28.01.40	01.4.60	01.6.86	
4.	" M. C. Chowdhury (UR)	-do-	2416	"	24.12.40	12.5.64	01.6.86	
5.	" C. C. Nath (UR)	-do-	2727	PIS	16.10.44	24.12.63	01.6.86	
6.	" M. L. Dhattacherjee (UR)	-do-	2467	MWS	02.11.43	01.4.65	01.6.86	
7.	" P. Kandaya (SC)	-do-	2520	"	14.02.57	02.9.76	01.6.86	
8.	" R. N. Bhaskar (UR)	-do-	2411	"	07.01.46	01.10.67	01.9.86	
9.	" S. K. Sharma (UR)	-do-	2486	"	17.3.48	01.10.67	01.10.86	
10.	" B. C. Ghosh (UR)	-do-	2499	"	24.12.44	04.6.68	01.10.86	
11.	" Kamaleswar Doro (ST)	-do-	2428	"	15.5.56	28.5.75	01.10.86	
12.	" Baban Thakur (UR)	-do-	2504	"	19.8.46	12.1.68	01.8.87	
13.	" K. Demro (SC)	-do-	2493	"	22.01.44	27.12.65	01.9.87	
14.	" L. K. Mitra (UR)	-do-	2439	"	06.7.48	16.11.71	01.4.88	
15.	" D. C. Doro (ST)	-do-	2426	"	31.7.46	23.9.75	01.4.88	
16.	" R. B. Sharma (UR)	-do-	2433	"	10.9.54	07.02.77	01.01.89	
17.	" B. C. Narzary (ST)	-do-	2423	"	11.02.44	20.7.76	01.9.89	
18.	" Dhireswar Doro (ST)	-do-	2448	"	07.4.55	07.02.77	01.9.89	
19.	" B. C. Kumar (SC)	-do-	2407	"	15.03.54	27.5.75	01.9.89	
20.	" D. K. Dey (UR)	-do-	2437	"	21.6.53	02.7.77	01.01.90	
21.	" D. N. Das (SC)	-do-	2484	"	03.02.58	10.11.78	01.01.90	
22.	" S. C. Majumdar (UR)	-do-	2459	"	19.3.34	01.5.78	01.01.90	
23.	" S. D. Das (UR)	-do-	2450	"	20.10.53	27.6.77	01.01.90	
24.	" B. L. Prasad (UR)	-do-	2481	"	29.11.48	22.11.70	01.01.90	
25.	" A. Kalan (UR)	-do-	2438	"	06.5.56	24.6.77	01.01.90	
26.	" R. P. Brahma (ST)	-do-	2501	"	28.7.56	28.02.81	01.01.90	
27.	" P. Sathadhar (SC)	-do-	2446	"	10.11.56	30.8.77	01.01.90	
28.	" U. N. Sarkar (UR)	-do-	2482	"	11.12.45	25.10.78	18.10.90	
29.	" B. Babha (SC)	-do-	2447	"	14.8.58	17.02.77	28.01.91	
30.	" Dipak Dey (UR)	-do-	2429	"	11.7.59	11.4.80	22.3.91	

For Dy. CME (C&W)/NBS

No. FOM/255/91, D. 11.10.90, Sec. B.S.S.

Copy forwarded for information and necessary action to:-

- 1) Secretary, N.T.F.J./N.F.M.U/ SC-ST
- 2) SS/MWS/NBS
- 3) SS/PLG/NBS
- 4) Staff concerned.

Any complain may please be sent to this office within one month on receipt of this seniority list for scrutiny and correction. Representation received after expiry of stipulated period of one month will not be entertained.

attested
Dy. Adv. Secy

For Dy. CME (C&W)/NBS

[Handwritten signature]

8/2/91

Office of the
Dy. Chief Mech. Engineer,
New Bongaigaon.

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No. E/M/255/Pt. III
Dated: 14.9.94.

To
Shri B.C. Kumar,
Gr. II MW Fitter
T/No. 2407.

(Through: SS/MNS/NBQS)

Sub: ~~Request~~ Promotion in HSK Fitter
Gr. I (MW).

Ref: Your application dated 12.5.94, 16.6.94 and
25.7.94

In reference to your above it is to inform you that your name was wrongly enlisted at SL No. 19 of the provisional seniority list of HSK Fitter Gr. II (MW) as on 1.4.91 published under this office L/No. E/M/255/Pt. II dated 8.8.91. Your seniority position has been corrected and your name has been placed correctly at SL No. 4A i.e. below Shri N.L. Sharma and above Shri H. Baidya in the provisional seniority list of MW Fitter in scale Rs. 950-1500/- as on 1.4.91 published under this office L/No. E/M/255/Pt. II dt. 13.8.91 (copy enclosed).

In the above seniority the date of your transfer to WBS/PNO i.e. 12.4.89 was taken into consideration for fixing up of your seniority as MW Fitter under this establishment. In terms of GM(P)/MLG's L/No. E/283/62 (M) Pt. V dated 29.3.94 the matter was intimated to you previously under this office letter No. E/M/255/Pt. III dt. 3.5.94. Prior to receipt of the decision from GM(P)/MLG you were given permission as HSK Fitter (MW) in scale Rs. 1200-1800/- which was not in order in terms of GM(P)/MLG's above letter and your name was included in the seniority list of HSK Fitter Gr. II (MW) in scale Rs. 1200-1800/- at SL No. 19 published under this office No. E/M/255/Pt. II dt. 8.8.91 which was also not in order.

GM(P)/MLG vide his letter No. E/104/WB/94 (Loose) dt. 8.9.94 has communicated his decision wherein it has been clearly mentioned that you will carry seniority to NBQ which you were having under AMS/MLG as per extent rule (copy of which is enclosed).

However your promotion as HSK Fitter Gr. I (MW) will be considered in due course when your seniority position will come. (Any appeal to higher authority) may be done personally and this office will not entertain any matter in this regard.

DA: Oms. [Signature]

14.9.94
for Dy. CME/NBQS.

Copy to: SS/MNS/NBQ. He is requested to kindly hand over the copy to Shri B.C. Kumar and send the acknowledgement of the letter to this office at the earliest.

for Dy. CME/C&W/NBQS.

Handwritten notes and signatures on the left margin, including "17/9/94" and "NBQ".

5) Periodical seniority list of MW fitter in scale R 850-1500/- (hr) under Dy. CME/C&M/NBQS as on 1.3.91

Criteria - Length of service in the grade.

Sl No.	Name	Designation	T.No.	Working in shop	DOB	DOA	Pt. of promotion to grade	Remarks
1	2	3	4	5	6	7	8	(9)
1.	Sri M.C.Deka (UR)	MW/Fitter	2400	MWS	7.1.55	11.3.78	23.5.85	
2.	" S.C.Satradhar (SC)	"	2435	"	30.9.56	10.2.81	1.7.85	
3.	" S.Mandal (SC)	"	2487	"	6.3.49	1.10.19	1.3.86	
4.	" Nandalal Sharma (UR)	"	2433	"	12.1.51	15.8.78	14.8.86	
5.	" Bibhash Daidya (UR)	..C driver	2491	"	1.6.83	23.11.81	13.12.87	
6.	Mr. R.Hussain (UR)	-do-	2455	"	7.7.58	23.11.81	1.6.88	
7.	Sri Chandan Nath (UR)	MW fitter	2413	"	1.1.61	21.11.81	1.6.88	
8.	" R.K.Bhagabati (UR)	..C driver	2489	"	5.2.61	1.12.81	1.3.88	
9.	" U.C.Brahma (SI)	"	2515	"	31.1.59	3.12.81	1.6.88	
10.	" P.A.Dutta (Ob)	MW fitter	2406	"	1.10.66	23.12.81	3.1.88	
11.	" P.C.Das (UR)	"	2451	"	30.11.58	26.11.81	6.6.89	
12.	" S.Ancharjee (UR)	L.T.Driver	2402	"	10.2.61	23.11.81	1.3.89	
13.	" B.C.Das (SC)	M-W.fitter	2415	"	24/1/63	29.11.81	1.3.90	
14.	Mr. Saaved Ali (UR)	"	2444	"	24.6.57	27.12.81	1.3.90	
15.	Sri K.K.Singha (UR)	"	2413	"	31.3.61	27.12.81	1.3.90	
16.	" S.C.Basumatory (SC)	"	2442	"	1.7.62	27.12.81	1.3.90	
17.	" P.Chakraborty (UR)	"	2410	"	1.2.65	27.12.81	1.3.90	
18.	Mr. Arif Ali (UR)	"	2425	"	23.7.57	23.12.81	1.3.90	
19.	Sri K. Chakraborty (UR)	"	2432	"	1.10.61	24.5.85	1.3.90	
20.	" S.C.Ray (UR)	"	2424	"	13.5.57	23.5.85	1.3.90	
21.	" D.K.Das (UR)	"	2430	"	22.6.55	31.5.85	1.3.90	
22.	" K.S.Brahma (OT)	"	2405	%	31.1.63	1.12.81	1.3.90	
4/A	" B.C. Kumar	"	2407	"	15-2-54	27-5-75	17-2-86	

No. E/M/255/Pt.II Dt. 13.3.91
 Copy forwarded for information and necessary action to -
 1. Secretary NERED/NERMU/SC-ST/NBQ, 2. SS/MWS/NBQ, 3. SS/Plg.-NBQ
 4. Staff concerned.

Note - Any complain may please be sent to this Office withing onemonth on receipt of this seniority list for scrutiny and correction. Representation recd. after expiry of stipulated period of one month will not be entertained.

Transferred from PWI w.e.f 31.5.35.
 for Dy. CME/C&M/NBQS

Dy. CME/C&M/NBQS

Handwritten signature

19/8/94

20/8

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ANNEXURE - III

10-9-94

B. F. RAILWAY.

Office of the
General Manager (P),
Maligaon, dated, 8-9-94.

NO. E/104/MB/94 (Loose).

✓
Shri B. C. Kumar,
Mill Wright Fitter, G.M.,
Under DY.CMS/MB.

Sub: Fixation of seniority.

Ref: Your application dated
25-7-94.

Your representation is examined thoroughly from this office. In this connection, this is for your information that you will carry the seniority to BBQ which you were having under CMS/MLG as per extant rules.

J. K. Choudhary
8/9/94
for GENERAL MANAGER (P) M/G.

Copy to :- DY.CMS/MB for information and necessary action please.

for GENERAL MANAGER (P) M/G.

10/9/94
AD/MB

AB/8-9.

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10/9

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13

Armani - IV

The General Manager,
S.P. Railway/Maligaon

through proper channel

Sub: appeal for the restitution
of my seniority

Sir,

With due respect and humble submission I beg to state that earlier I was submitted a good number of appeal to Dy. CMR/MBJS for the restitution of my seniority, but it produced no justifiable result.

That Sir, in terms of CMR/MLC's office Order endorsement No. E/233/III /626/IV of 3.4.36 and Dy. CMR/MBJS's Office Order No. 164 endorsement No. A/233/3rt. II dt. 19.4.36 I was transferred from MBW E. Jally. to LMS/MC. But I joined at Marine Workshop/FNO on 21.4.36 vide CMR/MLC's office order No. 38 endorsement No. E/233/III/1 Pt. IV dt. 21.4.36.

That Sir, I was transferred along with post on administrative ground. At the time of carrying the order of transfer I was favoured with all the facilities of transfer such as allowances, joining time, transfer pass, packing allowance which are only applicable and admissible in case of employee transferred on administrative ground.

After working 3 years in Marine Workshop due to closure of Marine Workshop again administration back me and advised to report to Dy. CMR/MBJS vide MS/MLC's L/No. E/M/233/3/FNO Pt. III dt. 9.2.39 as administrative ground with my original seniority.

missed

That Sir, it is emphatically mentioned for your kind attention that I have got the promotion to the post of MSK Gr-II after joining under Dy. CMR/MBJS on Feb/39 on the basis of my original seniority vide No. E/235/Pt. II dated 3.3.39.

That Sir, it is very grateful to me that I have been received a letter from Dy. CMR/MBJS vide his L/No. E/M/235/Pt. III dt. 14.9.41 that my seniority will be fixed from the date of joining at MS/MLC and also advised my any appeal to be sent to higher authority personally. I am very sorry to inform you that I am not satisfied in this answer and also I compelled to appeal again for a good solution of my seniority to a poor employee.

In view I beg to pray that your honour will kindly go through my case favourably for fixation of my original seniority of MSK Pitter under Dy. CMR/MBJS in the eventuality of my re-transfer and posting under MS/MLC/MBJS.

With regards,

Yours faithfully,

Dated, New Bongaigaon

the 8th October 1944

[Signature]

MS/Pitter Gr-II T/No. 2207
under MS/MLC/MBJS.

Received in triplicate
on 06.10.1944
[Signature]

P. C. Mazumdar M.A., L.L.M.
Advocate

Phone No. : 541449

J. P. Agarwala Road
Bharalumukh, Guwahati-9

Regd. with
A/D

Date... 29/11/95

Ref.

To

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

Sub.: Notice under section 80 of the Code of
Civil procedure demanding to uphold the
seniority and proposed litigation thereof.

Sir,

Under instructions from my client Shri Biren
Chandra Kumar, MW/Fitter, Gr.-II New Bongaigaon
workshop residing at New Bongaigaon in the District
of K Bongaigaon(Assam) I serve you this notice and
state as follows :-

1. That my client has been working as a MW-Fitter
Grade-II at New Bongaigaon, under establishment of
Deputy Chief Mechanical Engineer, carriage & wheel
with full devotion since appointment.
2. That as per seniority list as on dated
1.4.91 circulated under No. E/M/255/Pt-II dtd.
8.8.91 by the Dy. CME, the position of my client
was at serial No.19 and accordingly he was eligible
for Trade Test Examination conducted by your
organisation for HSK Fitter Grade -I and also other
admissible benefits.

Contd...2.

Attended
AB
29/11/95

3. That my client was not allowed for the said test inspite of repeated requests and eventually the Dy. CME, New Bongaigaon by his letter No. E/M/255/Pt-III dated 14.9.94 intimated that the name of my client was wrongly enlisted in the said seniority list on 1.4.91 and corrected in separate seniority list of MW-Fitter published under No. E/M/255/Pt-II dated 13.8.91 placing him at serial No. 4A in the scale of Rs. 950-1500/- taking into consideration of Seniority accrued after transfer to AMS, MLG.

4. That the transfer under AMS/MLG was on administrative ground with post and accordingly all benefit of such transfer have been effected in case of my client as such there is no question of counting seniority of AMS/MLG.

5. That my client has made a series of representations regarding the fixation of seniority and to set right the seniority list of W*8 HSK-Fitter, Grade -II published under letter dated 8.8.91 so that all benefits accrued thereon be availed of but his prayer was not attended.

Under the circumstances, I demand you to uphold the seniority list published under letter dated 8.8.91 and allow to appear my client in forthcoming trade test for selection of Grade-I Fitter within 60(Sixty) days from the date of the receipt of this notice, failing which an appropriate legal action would be taken for the relief sought for .

Thanking you,

Yours faithfully,



(P.C. Mazumdar)
Advocate.