

30/600  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 331/96

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO. 33/96	OF 1995
TRANSFER APPLN.NO.	OF 1995
CONT EMPT APPLN.NO.	OF 1995 (IN NO. )
REVIEW APPLN.NO.	OF 1995 (IN NO. )
MISC.PETITION NO.	OF 1995 (IN NO. )

S. K. D. B. .... APPLICANT(S)

U. O. A. - vs - O. A. .... RESPONDENT(S)

For the Applicant(s)	... Mr.
	Mr.
	Mr.
	Mr.
For the Respondent(s)	Mr.

OFFICE NOTE	DATE	ORDER
	28-2-96	Mr. M. K. Mazumdar for the applicant. Subject to objection as to limitation of O.A. is admitted. Issue notice to the respondents. 8 weeks for written statement. Adjourned to 10-4-96 for orders. As the applicant has prayed at the last moment. It is not possible to grant any ex-parte or interim order as prayed. The rights and contentions of the parties will be subject to the decision in the O.A. Hence no ad-interim order.
Requisites of notice one yet to receive from the applicant/Adv. of applicant.	1m	<i>60</i> Member
1) Service copy for notice has not been submitted 2) not submitted	10.4.96	No written statement. Mr S. Sarma for Mr B. K. Sharma seeks further time for filing written statement.
2) statement - is not b/w		List on 30.5.96 for written statement and further orders.
ad 994	pg	<i>60</i> Member

( contd. to Page No. 2)

OA/IA/GP/RA/MP No. 33 of 19 96

OFFICE NOTE	DATE	ORDER
1) Requisites for issuing notices not yet submitted till now. So Service incomplete.	30.5.96	Requisite has not been submitted. Written statement has not been filed. Inform the applicant for filing requisite within two weeks from today.
2) D/Statement has not b/w.		List for written statement and further orders on 2.7.96.
28/6		
27.6.96		
Memo of appearance Mr. J. L Sarla, R/s adt.	2.7.96	None present. Requisites have not been submitted by the applicant. Inform the applicant to submit the same if he desires. List for order on 31.7.96.
pg		
31.7.96		None present. No information regarding submission of requisites. List for order on 22.8.96.
pg		
22-8-96		None present. Written statement has not been submitted. List for written statement and further orders on 19-9-96.
pg		
19.9.96		None present. Written statement has not been submitted. List for written statement and further orders on 15.10.96.
15/10		

nkm  
15/10/96

(3)

O.A. 33 of 1996

15.10.96

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

Written statement has not been submitted.

Mr. Sarkar seeks time to file written statement.

List for written statement and further order on 27.11.1996.

69  
Member

trd  
M  
16/10

written statement has not been filed.

8 Time adjourned for w/s.

27.11.96

None present. Written statement has not been submitted.

List for written statement and further orders on 18.12.96.

69  
Member

nkm

written statement has not been submitted.

18.12.96

None present.

No counter has been submitted.

List for written statement and further orders on 6.1.1997.

69  
Member

3.1.97  
No requisite  
files till today  
by the applicant  
Advocate.

trd  
M  
18/12

6.1.97

Mr J.L.Sarkar for the respondents.

None for the applicant. It is noticed that requisites have not been filed by the applicant till date. The applicant is directed to submit the requisites within one month from today.

List for order on 6.2.97.

Send copy of this order to the applicant in his last known address at Dimapur as well as to the Advocates of the applicant.

69  
Member

Copy of order dtd  
6.1.97 issued to  
the applicant at  
Dimapur.

6.2.97 None is present on behalf of the applicant.  
 Mr J.L. Sarkar, appearing on behalf of the Railways,  
 is present.

5-2-97

- 1) Requisite for issuing notices not yet filed till now.
- 2) W/statement has not been filed.

✓

As per the office note dated 5.2.1997 the applicant has not taken steps for submission of the requisites for issuing the notices. It appears that several adjournments have been given. As per the earlier order dated 6.1.1997 the requisites were to be submitted within one month. One months time has expired, but no steps have been taken. It appears that the applicant is not interested in pressing the case. Accordingly it is dismissed.

12.2.97 *b*  
 Member

*SB*  
 Vice-Chairman

copy of order has  
 been issued to parties  
 alongwith L/bdm of the  
 parties vide d.no - 500-503  
 D. 14.2.97

nkm  
*AV*  
 10/2

*SL*

6  
Filed by

Arunabha Kanti Majumdar  
Advocate

Central Administrative Tribunal  
केन्द्रीय नियन्त्रित न्यायालय

27 FEB 1996

Guwahati Bench  
गुवाहाटी न्यायालय

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI  
BENCH, GUWAHATI.

CA NO. 33/96

Sri Sachindra Kumar Das

.....Applicant

ve.

1. North Frontier Railway, L.

... Respondents

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Signature of the Applicant

Sachindra Kumar Das

= 2 =

AN APPLICATION UNDER SECTION 19  
OF THE CENTRAL ADMINISTRATIVE  
TRIBUNAL ,ACT ,1995

DATE OF FILING :

REGISTRATION NO.-

Signature

Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,  
GUWAHATI BET

BETWEEN

Sri Sachindra Kumar Das

S/o Late Ganga Charan Das

R/O Rly. Colony, Qtr. No.-E-45/C(Block C)

P.O. & P.S. Dimapur, District Kohima, Nagaland

.....Applicant

vs.

Union of India & others

.....Respondents

contd...p/2

DETAILS OF APPLICATION

1. Particulars of the Applicant :-

i. Name Sri Sachindra Kr. Das.  
ii. F/Name Late Gonga Charan Das  
iii. Designation & Master Gratsman  
office in,whi- (Technical post) in the  
ch employed office of Dimapur Rly. Power House  
N.F. Rly.

iv. Office Mater Gratsman Dimapur Rly. Power  
Address House Dimapur P.O. - Dimapur  
District - Kohima, Nagaland.

v. Address for DO  
service of  
all Notices.

1. The Union of India  
represented by the General Manager,  
N.F.Railway, Maligaon, Assam  
2. The Divisional Railway Manager(p )  
N.F.Railway Lumding ,Assam,  
3. The Chief Electrical Engineer,  
N.F.Railway, Maligaon, Assam  
4. The Chief personnel officer,  
N.F.Railway, Maligaon, Assam  
5. The senior Executive Engineer EMU(Electrical Deptt)  
N.F.Railway ,Lumding, Assam.

3. PARTICULARS OF ORDERS/ACTION AGAINST WHICH THE APPLICATION IS MADE :

The present application is made against the following action :

1. Illegal and arbitrary action to pass any reasoned and justifiable order against his prayer for correction of the date of birth of the Applicant as per the materials produced by the Applicant while submitting his Appeal/Representation.
2. Illegal and arbitrary denial to dispose of the Appeal/Representations and keeping the same pending without any intimation to the Applicant.
3. Illegal and arbitrary refusal to correct the incorrect date of birth as per the available materials produced by the Applicant long back.
4. Illegal and arbitrary action compelling the applicant to go on 10 years early superannuation/Retirement purportedly w.e.f. 29-2-96.

**4. JURISDICTION OF THE TRIBUNAL :**

The Applicant declares that the subjectmatter of the action referred to above against which he is now praying for redressal, is with in the jurisdiction of this Hon'ble Tribunal.

**5. LIMITATION :**

The applicant further declares, that the present application is within the limitation of this Hon'ble

contd...p/4

Tribunal as prescribed in section 21 of the Central Administrative Tribunal Act, 1985.

**6. FACTS OF THE CASE :**

The facts of the case are given below :

- i. That the Applicant is a citizen of India and at present residing at Dimapur town in the district of Kohima, Nagaland and as such he is lawfully entitled to be protected under the Constitution of India.
- ii. That applicant an employee of the N.F.Railway. At present he is working as Master Craftsman at a scale of Rs.-1720/- to Rs.- 2400/- permonth. The said post is a technical post and since 1978 the Applicant has been the said post in the office of Dimapur Railway power House, Dimapur under N.F. Railway, Maligaon.
- iii. That in 1967, the Applicant was appointed as casual worker in the office of Divisional Manager, N.F. Railway at Lumding and he worked in the said capacity continuously and without any break.
- iv. That lateron, in 1972 he appeared in selection test duly conducted by the Authority for the purpose of regularisation of his service of all casual workers. The Applicant however, qualified himself and his service was accordingly regularised as Grade-I V. Khalashi.

The applicant thereafter, joined in the said post on 1-2-72 in the Engineering Deptt. N.F. Railway, Lumbding.

v. That in 1976 the Applicant was promoted to the Grade-II post of station Pump Attendant (SPA) in pursuance of a fresh selection conducted by the selection committee. The said selection was made on the basis of merits having due regard to the seniority.

vi. That again in 1981, another departmental selection, the Applicant was promoted to the Grade-II post of station Pump Attendant.

Subsequently, he was again promoted to the post of Grade-I (SPA). Thereafter the Applicant was further promoted to the post of Master Crafts Man (MCM). At present the Applicant is working as senior MCM (Technical post) in Dimapur Railway Power House Dimapur Control of senior Executive Engineer DMV (Electrical Deptt) N.F. Railway.

vii. That the present application is being preferred against the illegal and arbitrary action of the Respondents in denying to dispose of the Representation/Appeal as preferred by the Applicant from time to time since long where in the Applicant has made a prayer for correction of his date of Birth as recorded by the Authority in his service Book. The Respondents however, did not give any reason against the holding of

those Representations/Appeal mordid they communicate anything to the Applicant with regard to their decisions.

viii. That the service of the Applicant was regularised on 1-2-72 and at the time of regularisation of his service he was asked by the Respondents to produce the relevant documents in support of his educational qualification and age etc and the Applicant submitted the same informing the Respondents that his date of birth is 16-2-48. In support of the said date of birth, the Applicant produced an original copy of the school certificate issued by the Headmaster of the school where he studied.

v. That thereafter, on the basis of those certificates, the Applicant's service was regularised w.e.f. 1-2-72 and the Respondent had opened the service Book against the name of the Applicant on the basis of these certificates produced by him.

vi. ~~That thereafter on the basis~~

vi. That the Applicant states that as per the school certificate referred to above, his date of birth is 16-2-48 and as such at the time of regularisation of his service, he was aged about 24 years which the Applicant also mentioned in the Form submitted by him for the purpose of maintaining his service Records. The applicant had his impression that this date of birth was properly and correctly recorded by the Authority on the basis of certificate he produced and at no point of time, it had come to his notice that his Date of Birth was not

not properly and correctly recorded in the service Book. As result, he had no scope to make any Appeal or Representation at the intitial stage of making such wrong entry in the service book by the Respondents.

xi. That it is pertinent to mention that the service book so prepared and maintained by the Respondent authoritie has along been in their custody and there was hardly any scope for Applicant to go through or check up the same and thereby find out any such wrong entry made by the Respondents relating to his service. The said service Book was never made available to the Applicant to verify each and every entry made in therein with the original records and it was only because of that, the Applicant did not have any occasion to know anything about said in correct entry against the column of Date of Birth in the service Book. The refore, under no circumstances, the Applicant can be said to be negligent or in active to do anything what he is required to do in law.

xii. That the Applicant states that he was born on 16-2-48 and in support of the said date of birth, he had produced the school certificate at the time of regularisation of his service as directed by the Authorities and they ought to have recorded his date of birth in respective column of the service Book as 16-2-48 and not otherwise and his date of actual superanuation as per the said date of birth is 28-2-2006 and there is no question to go on early

superannuation prior to that date which otherwise would be absolutely illegal and unconstitutional apart from being without any authority of law effecting his legal and constitutional rights to work and livelihood.

xiii. That the Applicant states that it was only in 1977, he came to know that his date of birth was not correctly recorded in his service Book when the Divisional Regional Manager (Personnel), Lunding, published a provisional Gradation list vide circular No.-196-52 dated 1-4-77. In Sl.No.-137 of the said Gradation list, the date of birth of the Applicant was wrongly mentioned as 16-2-48 instead of 16-2-48. The said circular however, invited objection to be filed in respect of any incorrect entry of the same.

A copy of the relevant portion of Gradation List dated-1-4-77 is annexed as Annexure-I.

xiv. That the Applicant immediately thereafter, filed a representation before the Respondent No.-2, the DRM (p), N.F.Railway contending that his date of birth was not correctly recorded in the said Gradation list and the same is needed to be corrected on the basis of school certificate he produced at the time of regularisation of his service which otherwise would compel him to go on early retirement of 10 years before his actual date of superannuation jeopardising his right to work and livelihood.

A copy of the Representation dated-18-4-77 is annexed as Annexure-II.

xv. That the Respondent No.-2 however, did not bother to dispose of the said representation and kept the matter pending on the plea that in due course of time his prayer would be considered. The applicant yet pursued the matter sincerely by making representations after representations with a prayer for giving him an opportunity of hearing. The whole contention of the Applicant in those Representations was that his date of birth was not correctly figured and recorded in the service book and he may be allowed to verify the said service Book. The Applicant undertakes to produce all those Representations before Your Lordship as and when required.

xvi. That the applicant states that except a mere assurance there was total inaction on the part of the Respondent No.-2 and 3 to dispose of his Representations and/or to pass any reasoned order reasoned order rejecting his prayer. The Respondents also did not communicate the fate of those representations. The Applicant was all though verbally told by the concerned authorities that due to misplacing of official records, no immediate decision is feasible.

xvii. That the Applicant under the abovementioned facts and circumstances, had nothing to do but to wait with a reasonable legitimate expectation that his case would be duly considered by the Respondents in accordance with law.

xviii. That even after the lapse of certain considerable period, the Respondent authorities did not take any decision. The petitioner was however informed that he must have to wait for further period till an inquiry is duly conducted by the Department. On being acted on such bonafide and legitimate representation of the authorities, the Applicant waited for some more time expecting a reasoned order to be passed by the Respondents.

xix. That since there was no follow up action, the Applicant filed another Representation on 19-12-81 before the Respondent No. -2 with a copy to Respondent No.-1 making a prayer for immediate decision regarding the correction of his date of birth. The Respondent No. 2 however, purpose fully assured the Applicant like in all previous occasions that an immediate decision would be taken by the authorities.

xx. That despite the above-mentioned assurance, the Respondent No. -1 and 2 did not dispose of his Representations nor did they reject the same on the other hand, the Respondents had published another provisional Gradation/Seniority list vide Notification No. -E/255/ Seniority/ C-III dated-23-4-85 <sup>mentioning</sup> having the date of birth of the Application as 16-2-38 instead of 16-2-48 as claimed by the Applicant in his various Appeal/Representations. The Applicant however, inspite of his best efforts could not collect the said Notification dated-23-4-85

contd... p/11

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¶ 11 =

and as such the same can not be produced before Your Lordship. Therefore for the interest of Justice as well as for proper and judicious adjudication of the case, Your Lordship may be pleased to direct the Respondents to produce the said Notification and Cradation List before this Tribunal at the time of final hearing of the case.

xxi. That being aggrieved by the said action of the Department, the Applicant filed a Representation before the Respondent No.-1 contending that since the entire matter is pending for final decision and an inquiry was also sought to be conducted, no decision ought to have been taken fixing his seniority and date of birth and if the date of birth is not now corrected as per the materials he produced from time to time, he would have to go on early retirement 10 years prior to his actual retirement and the same would obviously jeopardise his legal and constitutional rights to work and livelihood and the entire family and all other depondents would have to face severe economic hardships.

A copy of the Representation dated-6-5-85 is annexed as Annexure-III.

xxii. That thereafter the Respondent No.-2 asked the Applicant to produce all relevant documents in support of age and date of birth alongwith a fresh Representation.

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= 12 =

It may be noted that applicant was a student of Kharikhana High School, Lauka and he was ~~studying in class~~ in class V at the time of issuing the transfer certificate where in his date of birth was recorded by the school authority as 16-2-48. The said certificate also shows that the Applicant left the school on 31-12-58 at the age of 10 years 10 months and 10 days.

xxii. That the Applicant thereafter submitted the said certificate alongwith a fresh Representation dated-12-2-87. The receipt of the said Representation was duly acknowledged by the Electrical Foreman N.F. Railway Dimapur vide o.p. No.-88 dated-13-2-87 who forwarded the same to the Respondent No.-1 for consideration.

Copies of the Age certificate dated-14-9-81 and of the Representation dated-12-2-87 are annexed as Annexures IV and V respectively.

xxiii. That inspite of his best efforts, the Applicant failed to evoke any response from the Respondents and accordingly he filed another representation dated-24-2-91 before the Respondent No.-1 requesting him to make an inquiry in to the matter and correct the date of birth on the basise of available materials. Since that did not yeild any result, the Applicant filed another representation dated-4-5-91 before the said Respondent No.-1

contd...p/13

= 13 =

informing him that he had a good number of representations since 1977 and none of those representations has been disposed of by the authorities and during the pendency of decision, published the seniority list basis of his incorrect date of birth which has seriously affected his existing legal and constitutional rights.

Copies of the Representations dated-24-2-91 and 4-5-91 are annexed as Annexure-VII and VII respectively.

xxiv. That the Applicant lateron filed another representation to the Respondent No.-1 on 24-11-92 informing him that the department had illegally and unjustifiably and also without applying its mind in to the materials, published the seniority on the basis of said inaccurate date of birth and except a mere acknowledgement and empty assurance, has not done anything so far and as such an immediate decision may be taken by the authorities after considering all the materials furnished by him from time to time.

A copy of the Representation dated-24-11-92 annexed as Annexure-IX. viii

xxv. That on being dishearted, the Applicant on the same day i.e. on 24-11-92, filed another representation before the secretary of Mazdur Union, N.F. Railway, Lumding requesting him to take up the matter with the

contd...p/14

Memorandum

the Authorities since he failed to evoke any response from the Respondents. It was contended there that unless his matter is considered, he would have to go to early retirement of 10 years before his actual superannuation. The said Secretary however, assured the Applicant to refer the matter so that it may be settled expeditiously.

The said matter was thereafter, referred by the said, secretary who asked the Applicant to pursue the matter personally. The Applicant accordingly pursued the matter regularly but without any result.

A copy of Representation dated-24-11-92 is annexed as Annexure-X.

xxvi. That from 1992 to 1995 on a number of occasions, he approached the Respondents and filed several representations. The last representation he had submitted was in the month of <sup>September</sup> July, 1995 contending that his date of retirement was directed to be fixed by the Authorities w.e.f. 29-2-96 on the basis of that wrong date of birth recorded in the service Book. Thus if no immediate action is taken in this regard, he would be made to go on premature retirement on 29-2-96 which would amount to unauthorised compulsory retirement.

*(Signature)*  
A copy of one of those Representations dated- 7-10-95 is annexed as Annexure-X.

= 15 =

xxvii. That the Applicant states that in support of his contentions, he has also submitted an Affidavit duly sworn by him before the Competent court alongwith a copy of Horoscope. It is need less to mention that the said Horoscope tallied the date of birth as recorded in the school certificate. According to the said Horoscope, the petitioner's date of birth is 16-2-48.

A photo copy of the Horoscope is annexed as Annexure-XIX.

xxviii. That the Applicant states that in order to get justice, he moved from petter to post. The Applicant made another representation in the month of December 1995 before the Respondent No.-1 with copies to all other Respondents contentting that he was denied opportunity of hearing and all those representation he had filed in 1977 on words. It was further contended that his seniority ought to have been determined after deciding the question of date of birth on the basis of the documents he furnished as per the direction of the authorities in as much as he is lawfully entitled to be considered in accordance with law and that right can not be taken away without reason and justification.

*(Signature)* 20-12-95  
A copy of the Representation is annexed as Annexure-XIX.

xxix. That the Applicant states that his eldest brother Sri Sudhanya Chandra Das is also a Railway

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= 16 =

employee who was born on 10-6-42 as it appears from Gradation/Seniority list dated-1-4-77(Annexure-I) and his brother would go on retirement on 30-6-2000. But the Applicant inspite of being younger to him was shown to have attained his superannuation age 6 years prior to the retirement of his eldest brother.

It may be noted that the age of superannuation of all the employees of Railway Deptt. is 58 years and since the Applicant was born on 16-2-48 ,his actual date of Superannuation should be 28-2-2006. In support of the said date of birth, the Applicant submitted a school certificate and Horoscope but the Respondents without any application of mind and reason, straight way discarded the same and illegally and arbitrarily recorded his date of birth as 16-2-38 in the Gradation listed dated-1-4-77 and 23-4-85.

xxx. That the Applicant states that his father Late Ganga Charan Das died leaving behind 5 sons including the Applicant and 1 daughters and the Applicant is the 3rd child. The Applicant begs to mention herein below geneology of late Ganga Charan Das showing their respective age.

*Original*

Ganga Ranjan Das      Age as on December, 1995

---

1. Sudhemya 2. Madan Mahan 3. Sachindra 4. Narayan 5. Monju Bala

Chandra      Das	Kumar Das	Chandra      Das
Das		Das
(54) years	(50 years)	(Since disceased
	48 years	46 years

6. Madav Ch.  
Das  
( 42 years)

Therefore under no circumstances, the Applicant can go on retirement before his eldest brother Sri Sudhanya Das which otherwise would amount to compulsory retirement affecting his legal and constitutional right to work and livelihood.

xxxii. That the Applicant states that the right to be considered is also a legal right and the Respondents are lawfully bound to consider his case by way of taking a reasonable decisions after affording a reasonable opportunity of personal hearing to the Applicant and denial of the said right amounts to denial of his legal and constitutional right to employment and livelihood as guaranteed under Articles 19 and 21 and the same is without jurisdiction.

xxxiii. That the applicant states that as per the S.R. 8(c), the Respondents are bound to hold an inquiry and dispose of the matter lawfully after giving the applicant a reasonable opportunity of hearing and as such the non-compliance with the said provisions of law, has taken away the legal and constitutional right of the applicant in an arbitrary and unfair manner and the entire action in fixing the date of birth and the seniority is vitiated seriously by the vice of arbitrariness and unfairness and the said action is liable to be struck down for violation of natural justice.

*Mulyadev*

xxxiii. That the applicant states that the entire action of the Respondents is illegal and arbitrary and it has affected his legal and constitutional right apart from vitiating the fairness of administrative function. Hence the proposed retirement of the applicant is liable to be struck down and quashed.

xxxiv. That the applicant states that the Respondents being a quasi judicial authority are under legal and constitutional obligation to act judiciously while dealing with the valuable rights of the Applicant and can not capriciously. It is a settled law that the executive no less than judiciary is also under general duty to act properly and in that regard fairness being the basis of their action and the said action can not go against the mandates of Article 14 and 16 of the Const. of India.

xxxv. That the Applicant states that since 1977 the Respondents have assured to consider his case and the Applicant has bona fide acted upon such assurance and waited with a reasonable and legitimate expectation that his case would be duly considered by the Respondents in accordance with law after giving an opportunity of hearing to him and as such denial of such bona fide, reasonable and legitimate has amounted to denial of his legal right.

xxxvi. That the Applicant states that the right to know is a fundamental right to freedom of speech as guaranteed under Article 19 of Const. of India and by virtue of that right, the Applicant is lawfully entitled

to know the reason against the non consideration or rejection of his case by the Respondents and the Respondents can not keep the matter under the veil of secrecy and/or to deny to disclose the reason their decisions and as such the entire action of the Respondents is liable to be struck down.

SUBMISSIONS OF THE APPLICANT

i. That the applicant submits that his date of birth is 16-2-48 on basis of school certificate he produced before authorities at the time of regularisation of his service. But the said date of birth was denied to be recorded correctly by the Respondents as per the said school certificate and directed the applicant to go on superannuation w.e.f. 29-2-96 on the basis of said incorrect date of birth. As such the action of the Respondents is illegal and without authority of law being violative of the mandatory of provisions of F.R. and S.R. and of Railway Regulations in as much as no enquiry was held by the Respondents before taking the impugned action.

ii. That the Applicant submits that in view of provisions of S.R. 8(c), the Respondents ought to have made an inquiry in to the correctness of the date of birth. But the Respondents without holding any such inquiry and also without giving opportunity of hearing, took the impugned action in directing early retirement of the applicant which has rendered the entire action to be illegal and without authority of law.

iii. That the Applicant submits that S.R. (C) contemplates that if there is any dispute regarding the date of birth recorded in the service book and there is some *prima facie* evidence, the competent authority should hold an inquiry in the matter for a decision and in such enquiry, the principles of Natural Justice should be followed. Thus in view of said provisions of S.R. 8(c), the Respondents have committed a serious illegality in not holding any enquiry before passing the impugned order of early retirement and the same is liable to be set aside and quashed.

iv. That the applicant submits that the action of the Respondents in not rectifying or correcting the date of birth on the basis of the materials or evidence on record has amounted to punishment of compulsory retirement as held by Apex court and the said action is liable to be struck down.

v. That the applicant submits that he came to know about the said incorrect date of birth in 1977 when the impugned provisional Gradation List was published by the Respondents and the applicant had immediately thereafter filed representation and as such the prayer for correction of date of his birth was made within stipulated period of 3 years prior to the date of Superannuation and the Respondents are lawfully bound to entirgain the said prayer of the Applicant and the denial of the same has amounted

to denial of his legal and constitutional rights.

vi. That the applicant submits that the principles of Natural Justice demands that in cases where a dispute has raised with regard to the age of Govt. servant, he should have been an opportunity of hearing to prove his correct age. In the instant case, when the applicant was denied such opportunity, the action of the Respondents has violated Article 311 of the Const. of India.

vii. That the applicant submits that the right to work has been recognised by the constitutional makers as well as the Apex court and all the High Court to be one of the highest legal constitutional right directing the State and its instrumentalities not to take away the said right except in appocedure established by law. Thus when the applicant's right to work and livelihood has been taken away in an arbitrary wasy having no sanction under law, the same is violative of Articles 19 and 21 of Const. of India.

viii. That the applicant submits that the equal opportunity and equal treatment in the matter of employment is one of the basic fundamental rights of the citizens and the same can not be taken away, except in a procedure established by law as guaranteed under Article 14 and 16 of the Const. of India.

ix. That the applicant submits that the entire action of the Respondents -being-illegal-unjust-improper,

" contd...p/22

ix. That the applicants<sup>submits</sup> that the impugned retirement order having been passed in violation of provisions of law, amounts to illegal removal and/or dismissal from service and the said removal or dismissal order having directed be issued without giving any opportunity of hearing or notice, is a serious violation of Article 311(2) of the Const. of India. Hence the same is liable to be set aside and quashed.

x. That the applicant submits that the entire action of the Respondents being illegal unjust improper, unconstitutional and discriminatory as apparent on the face of the records causing a serious injustice to him. the impugned action is liable to be struck down.

xi. That the Appellant submits that denial to hold enquiry and/or to dispose of the Appeal/representation in accordance with law amounts to serious abuse of power resulting into glaring miscarriage of justice. Thus on that score alone, the impugned action is liable to be struck down.

xii. That the Appellant submits that the impugned action is not innocuous or an order simplicitor in as much as the Respondents have acted malafidely and arbitrarily with malafide intention to achieve oblique motive to accomodate another person and also against all well settled principles of law and procedure taking away the

legal and constitutional right of the Applicant. Hence the impugned action is liable to be struck down.

xiii. That the Applicant submits that the action of the Respondents is a serious violation of principles of Natural Justice and Administrative Fair play for not giving minimum opportunity of hearing to the Applicant and on that point of view , the impugned action is liable to struck down.

xiv. That the applicant submits that the impugned action of the Respondents in compelling him to go on 10 years early retirement without giving him any opportunity of hearing is discriminatory being hit by Articles 14 and 16 of the Const. of India.

xvi. That the Applicant submits that the impugned action was taken with out considering the records and the same is not sustainable in law..

xvii. That the in any view of the matter impugned action is otherwise bad in law and the same is liable to be struck down .

xviii. That there is no afficacious alternative remedy available to the Applicant and the remedy sought for would be just proper adequate and complete.

That this petition has been filed bonafide and for ends of justice.

7. RELIEFS SOUGHT FOR :

In view of the facts and circumstances made in paragraph 6 above, the Applicant prays for the following reliefs.

- a. Quashing the impugned action directing the Applicant to go on retirement w.e.f. 29-2-96.
- b. Quashing the impugned action in refusing to dispose of the various Representations /Appeal and/or to consider the Applicant's case and to pass a reasoned order.
- c. Quashing the impugned provisional Gradation list dated 1.4.77 respectively showing the date of birth of the Applicant as 16-2-28 instead of 16-2-48.
- d. Quashing or striking of the in correct date of birth of the service Book.
- e. a direction to the Respondents to correct the incorrect date of birth of the Applicant in the service Book and also in the Gradation list dated
- f. direction to the Respondents to dispose of the Representations/Appeal as filed by the Applicant from time to time and to pass a reasoned and speaking order after hearing the Applicant.

= 25 =

g. a direction to the Respondents to withdraw the order of retirement if any has already been passed by them.

h. a direction to the Respondents not to pass any order of retirement and to allow the Applicant to continue his service upto 29-2-2006 as per the exact date of birth on the basis of record and to pay his salary and all other service benefits as admissible under Rules and/or grant of any other appropriate relief or reliefs so as to render full justice to your applicant.

3. INTERIM ORDERS IF PRAYED FOR :

The applicant states that he is a regular employee of Railway department. He was born on 16-2-48 and he produced school certificate before the Respondents at the time of regularisation of his service subsequently in 1977, the Applicant came to know that his date of birth was not correctly recorded by the department. The applicant since then submitted representations before the Respondents alongwith the relevant documents in support of date of birth and age. But the Respondents did not dispose of any of those representation and the Applicant was not also communicated anything regarding the fate of those representation. Now as per the date of birth recorded by the Respondents, the applicant would go on retirement w.e.f. 29-2-96.

*(Signature)*

The Applicant therefore, prays for an interim order directing the Respondents not to reove the Applicant from service w.e.f. 29-2-96 and/or not to give effect to the purposed retirement of the Applicant and/or to allow the Applicant to continue in his service with salary and all service benefits as admissible under Rules pending final disposal of the case before this Hon'ble court.

9. DETAILS OF REMEDIES EXHAUSTED :

The Applicant had filed 1st representation on 18-4-77 before Respondent No.-3 immediately after he came to know about the Gradation list dated 1-4-77 (Annexure I). But the said representation was kept pending for indefinite period without taking any decision what-so-ever.

The Applicant again on 19-12-81 filed another representation before the Respondent No.-2 with a copy to Respondent No.1 making a prayer for immediate decision regarding the correction of date of birth. The Respondent No.-1 and 2 did neither dispose of those representations nor did intimate anything to the applicant and published another Notification on 23-4-85 mentioning the said incorrect of date of birth.

Against the said notification, the Applicant filed a fresh representation before the Respondent No.1 on 6-5-85 praying for correction of the said date of birth

contd.... p/27

= 27 =

Since there was no disposal, the applicant filed another representation on 12-12-87 before the Respondent No.-1 for consideration of his case on the basis of the available records.

Having failed to evoke any response the applicant filed a fresh representation on 24-2-91 before Respondant No.1 requesting him to make an enquiry into the matter and pass a reasonable order.

Again on 4-5-91 the applicant filed a reminder before the said Respondent No.-1 informing him that all those Representations are kept pending without any decision and pending decision the date of superannuation has been fixed on the basis of incorrect date of birth.

Similarly on 24-11-92 the applicant filed 2 seperate representation before Respondant No.-1 and the secretary of the Mazdoor Union N.F. Railway Luming requesting to take up the matter with the manangement, but without any result.

From 1992 to 1995 on several occassions the applicant filed several representation before the Respondents and last representation was filed on 20-12-95 but those representation did not yield any result and Respondents without hearing the applicant and also without disposing the representations fixed the date of Superannuation

contd...p/28

on 29-2-36. Hence this application.

10. That applicant further declares that, the matter regarding which this application is made is not pending before any court of law or any other authority or any other branch of tribunal.

11. That the particulars of Bank Draft/Postal order in respect of application fee.

i. Nos of Indian Postal order -

ii. Name of Issuing post office -

iii. Date of Issue

iv. Name of post office at which payable -

12. LIST OF DOCUMENT (S)

1. Circular No. 196-52 dated issued by DMR  
C per Luming dated-1-4-77 publishing  
gradation List wherein the date of birth of  
the applicant is wrongly mentioned on 16-2-38  
in state of 16-2-48 Annexure(i)

2. Representation dated-18-4-77 submitted  
by applicant to Respondent No.2 praying  
for correction of wrong date of birth on  
the basis of certificate he produced at  
the time of regularisation of his  
service Annexure(ii)

= 29 =

2. Representation dated-18-4-77 submitted by applicant to Respondant No.-2 praying for correction of wrong date of birth on the basis of certificate he produced at the time of regularisation of his service Annexure-ii-

3. Representation dated-6/5/85 submitted before Respondant No.1 with a prayer for correction of date of birth Annexure-iii.

4. Scheet certificate dated14-9-81 issued by Head Master of knowledge High Court school Lonka,specifying the date of Birth as 16-2-48 — Annexure-IV

5. Representation dated 12-2-87 filed before the Respondant No.1 praying for correction of date of birth Annexure V

6. Representation dated-24-2-93 and 4-5-91 respectively mode before said Respondent No.1 praying for dispach of the respresentation of the gicing him an oppertinity for hearing AnnexureVI & VII

7. Representation dated 24-11-92 made before Respondant No.1 for correction of the wrong date of birth Annexure-VIII

contd...p/30

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= 30 =

8. Representations date 24-11-92 made before the Secretary of the Union NF Railway Lumding requesting him to takeup the matter with the authority so that early andcision may be taken by the authoosity

Annexure-IX

9. Representation dated-7-10-95 filed before the Respondants contending that the date of birth was wrongly recorded by the authority as a result he would have to go on pre-mative retirement and as such the same in needed to be corrected as per law Annexure-X

10. Horoscope specifying the date of birth of the date-of-birth- petitioner

16-2-48

Annexure-XI

11. Representation dated20-12-95 filed before Respondant No.1 contending that he was denied opportunity to hearing and either of his sepresentation was disposed of and he wasa not communicated with the result of the representation so a immediate decision may be taken.

Annexure-XII

contd...p/31

VERIFICATION

I, Sri Sachindra Kumar Das do hereby verify that the paragraphs made in this application are true to my knowledge, belief and information and I sign this verification on this 27th day of February 1996.

Sachindra Kumar Das  
Signature

Selfie

## ANNEXURE - I

1967-52/- (3) as on 1.4.77.

Dept. of Electricty

Signed by Lt. Col. of Malati (1) for  
Unauthorised sub-1 rank

S/N	Name	Station	D/Birth	D/Appt.	Confid.	Whether Offc. or Offg.	SC/ST	Length of service			Remarks
								Y	M	D	
1.	"	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.
14.	Sri Kowaki Rn Nag,	IMG	25.11.25	25.11.50	Confid.	-	26	1	6	Offg. ELF(1)	
15.	" Lalathan Das,	BFB	11.7.36	21.4.57	-do-	-	19	11	10	Now W/Man	
21.	" Niranjan Chakraborty	BFB	8.10.33	2.5.58	-do-	-	16	10	25		
31.	" Keki M. Chakraborty	IMG	25.3.38	6.7.58	-do-	-	13	8	25	Offg. L/M/P.	
41.	" Ke	BFB	22.8.42	10.6.67	-do-	-	17	8	25	-do-. Appointed direct as ETM/ELF, service adjusted to the extent of his junior.	
51.	" Sudhansu Saha										
6.	" Subal Ch Dey,	IMG	1.3.36	6.7.59	-do-	-	17	6	15	Offg. ELF.	
7.	" Sadijan Ch Debrath,	IMG	17.7.38	16.6.59	-do-	-	17	6	10		
8.	" Hari Jeswara,	IMG	1.7.41	21.9.59	-do-	-	16	1	0		
9.	" Parimal Kanti Roy,	IMG	1.1.37	1.3.61	-do-	-	14	8	6	Service adjusted to the extent of juniors.	
10.	" Sailesh Ch Das,	KJ	28.8.35	28.7.62	-do-	SC	14	8	6		
11.	" Chitta Rn Chakraborty	BHE	30.4.38	25.8.62	-do-	-	14	8	6	Offg. M/P(1)	
12.	" Nalini Kanta Gogoi,	IMG	1.11.38	25.7.62	-do-	SC	14	8	6	Offg. L/Man.	
13.	" Anup Kr Roy,	DD	1.4.39	25.7.62	-do-	-	14	3	6		
14.	" Sanatan Singh,	YJ	1.4.39	25.7.62	-do-	-	14	3	6	Offg. M/R.	
15.	" Paresh Ch Dey,	BFB	18.9.38	25.7.62	-do-	-	14	8	6	Offg. L/Man. Service le-	
16.	" Parimal Ch Singhar,	DMV	28.9.38	25.7.62	-do-	-	14	8	6	lled down to the ex- tent of juniors.	
17.	" Somendra K Achherjee	BAB	30.6.39	24.7.62	-do-	-	14	4	0		
18.	" Sunil Ch Chakraborty	IMG	9.5.40	1.12.62	-do-	-	14	3	29	Now SPA.	
19.	" Falakdhar,	B.B	1.1.37	2.12.62	-do-	-	14	2	6	-do- L/Man	
20.	" Prafulla Kr Singh,	IMG	3.5.41	25.1.63	-do-	-	14	2	6		
21.	" Bhupesh Ch Duttagupta,	"	28.12.41	25.1.63	-do-	-	14	2	1	Offg. L/Man.	
22.	" R.L.Bhattacherjee,	SCL	3.5.41	31.1.63	-do-	-	14	1	25		
23.	" Gopal K Chakraborty,	BFB	26.8.35	6.2.63	-do-	-	14	1	25	SPA/Offg.	
24.	" Krishna Mohan Datta,	IMG	7.6.39	6.2.63	Offg.	-	13	11	12	Stipend	
25.	" Anil Kr Dey,	IMG	2.5.44	19.4.63	Confid.	-	13	11	5		
26.	" Manik,	DMV	6.7.43	26.4.63	-do-	-	13	10	21		
27.	" Jitendra N Das,	IMG	3.7.42	10.5.63	-do-	-	13	10	10		
28.	" Dhirendra Kr Dey,	IMG	6.7.37	21.5.63	-do-	-	13	10	10		

A.K. Purkayash Ray  
Advocate  
27.2.91

(contd....2)

		3.	4.	5.	6.	7.	8.	
1	2							
111.	sri H. Jayashu Bipul Chowdhury,	B.G	1.7.45	1.9.39	Confd.	7	7	0
112.	" Haren Bezbarua,	D.W	3.2.47	1.10.39	Offg.	7	6	0
113.	" Cheddilal,	D.W	1.3.50	1.10.39	SC	7	6	0
114.	" Bikash Kr Dey,	L.G	1.1.45	1.10.39	"	7	6	0
115.	" Rabindra Nabi Dutta,	B.G	22.1.46	1.10.39	"	7	6	0
116.	" Bankim Chandra Paul,	B.G	1.3.47	1.10.39	"	7	6	0
117.	" Narayan Ch Das,	D.W	20.4.48	1.10.39	"	7	6	0
118.	" Haripada Das.	L.G	1.7.49	1.10.39	"	7	6	0
119.	" Biswanath Mukherjee,	B.G	1.2.50	1.10.39	"	7	6	0
120.	" Swaran Kanjilal,	BIB	18.2.50	1.10.39	"	7	6	0
121.	" Major Ch. N. Mitra,	D.W	2.1.43	1.10.39	SC	7	6	0
122.	" Adhir Ranjan.	BIB	1.5.45	1.10.39	"	7	6	0
123.	" Tej Prakash,	L.G	5.9.45	1.10.39	"	7	6	0
124.	" Ashok Kumar Das Datta,	B.G	2.7.48	13.3.70	"	7	0	18
125.	" Hriday Ranjan Chakraborty,	L.G	1.7.47	13.3.70	"	7	0	4
126.	" Gopal Chandra Ghosh,	B.G	29.5.50	27.3.70	"	7	0	4
127.	" Ajit Sarker,	L.G	1.9.47	22.7.69	"	7	0	4
128.	" Anil Kumar Dey,	BFB	26.4.49	16.3.70	"	7	0	4
129.	" Radheshyam Datta,	L.G	1.3.48	19.3.70	"	7	0	4
130.	" Vilay Kanta Dey,	L.G	5.10.50	21.3.70	"	7	0	4
131.	" Hriday Ranjan Dhar,	BIB	8.3.51	26.3.70	"	7	0	4
132.	" Saral Kr Ganguly,	B.G	23.5.48	25.3.70	"	7	0	4
133.	" Satya Ranjan Acharyee,	L.G	4.4.49	25.3.70	"	7	0	4
134.	" Manik Ch Das,	BIB	18.5.50	5.5.70	SC	6	10	26
135.	" Nikhilesh Datta,	L.G	4.7.48	18.6.70	"	6	9	13
136.	" Kiran Ch Hazarika,	BIB	25.1.44	1.4.71	"	6	0	0
137.	" Sachindra Kr Das.,	D.W	16.2.38	1.2.72	do-	SC	5	2
138.	" Ram Prasad Mandal,	L.G	5.2.46	12.5.72	"	4	10	19
139.	" Rabindra N Bhattacharyee,	UG	23.2.55	5.5.73	"	3	10	26
140.	" Aswini Kr Roy,	D.W	20.1.30	4.7.73	"	3	8	27
141.	" Subodh Ch Dey,	BFB	19.1.50	18.8.73	"	3	7	13
142.	" Bimal Kr Sarker,	UG	15.1.46	31.12.55	"	1	8	10
				21.7.75				
143.	" Bimal Ch Ghosh,	BFB	15.1.35	4.4.63	"	1	0	15
				16.3.76				
144.	" Harendra Ch Mukherjee,	BIB	30.3.51	4.11.73	"	1	0	11
		SCL		20.3.76	SC			

attested by  
A. K. Puntadasinha  
Advocate  
27-2-96

POSE

for Divisional Subdt. (P.)  
N.F.Railway/Lending

contd. .... 5/-

## ANNEXURE-II

To

The Divisional Railway Manager(Personnel)  
 N.F. Railway, Lumding, Assam

Dated-18-4-77

Sub : Prayer for correction of the date of birth  
 as recorded in the gradation list  
 dated-1-4-77.

Sir,

With respect of above-mentioned subject matter, I most respectfully state that I was born on 16-2-48 and at the time of regularisation of my service, I was asked to produce the relevant documents in support of my qualification age and date of birth and accordingly I submitted the necessary documents before the authority and on the basis of those documents, my date of birth was recorded as 16-2-48 in the service book.

Subsequently, on 1-4-77, the department has issued a Gradation list wherein my date of birth was wrongly recorded as 16-2-38 instead of 16-2-48 and on the basis of said wrong date of birth, the date of superannuation was fixed to be 29-2-96. While publishing the said Gradation list, the authority has also invited objection from the concerned person in respect of any entries made in the said Gradation list.

contd... p/2

Attested by  
 Mitali Mitali

## ANNEXURE - II

= 2 =

Accordingly, I am now submitting the present representation with a prayer for correction of the said date of birth which otherwise would force him to go on early retirement of 10 years before the actual date of retirement. In that regard I would further like to state that as per the statements I made in the original application as well as on the basis of the school certificate and other relevant documents I submitted at the time of regularisation of my service as directed by the authorities, my date of birth should have been recorded as 16-2-48 and not as 16-2-38 and if the same is not now corrected by the Your Honour, I would suffer immense loss and hardships and my reight to work and livelihood would serious be jeopardised.

It is therefore, prayed that your Honour may be pleased to consider this representation after hearing me in person and issue necessary direction to the concerned authority to correct the said uncorrect date of birth in accordance with law.

For this act of kindness, I shall ever pray.

Yours faithfully,

Sachindra Kumar Das  
18-4-77

Akash  
Nalghat

## ANNEXURE - III

To,  
The General Manager,  
N.F. Rawlway, Maligaon Assam

6-5-85

Sub :- Prayer for correction of date of birth  
as recorded on the Gradation List  
dated-1-4-77.

Sir,

With respect of above on 16-2-48 and as per the rules, at the time of regularisation of my service. I produced the relevant documents including original school certificate in support of my age, date of birth and qualification before the authority and on the basis of these certificates, my date of birth was recorded as 16-2-48 in the service book since then I have been in continuous service without any blamish being raised against me from any counter,

Later in 1977, the department issued a Gradation list dated 1-4-77 wherein my date of birth was wrongly recorded as 16-2-38 in place of 16-2-48 and the basis of that wrong date of birth, the date of my superannuation was fixed to be 16-2-96. It may be noted that while publishing the Gradation list, the authority also had invited objection from the concerned persons in respect of any anomalies regarding the date of birth as recorded in the said Gradation list.

Accordingly I submitted representation before the authorities praying for immediate correction of said incorrect date of birth. I also prayed for correction of date of my superannuation. In support of my contentions I submitted

contd... p/2

## Annexure-III

= 2 =

necessary and relevant certificate before the authorities. But till to date nothing was done by them. I was not also intimated anything about the fate of my representation. Despite repeated reminders, the authorities kept the matter pending without any reason and justification.

I further beg to state that if the date of birth is not corrected and/or no immediate direction is issued by Your Honour directing the authorities to dispose of my representation and pass a reasoned order and thereafter correct date of birth which otherwise would compel him to go on premature retirement of about 10 years jeopardising his livelihood.

It is therefore prayed that Your Honour may be pleased to pleased to consider this representation after hearing me in person and issue necessary direction to the concerned authority to correct the said date of birth on accordance with law.

For this act of kindness, I shall ever pray.

Yours faithfully

Sachindra Kumar Das

6-5-85.

Albert Das  
Sachindra

Assam Schedule XII (Part I) Form No. 68

ANNEXURE-IV

## Transfer Certificate

CERTIFIED that Shri/Miss Sachindra Kr. Das.son/daughter of Kiranga Charan Das an inhabitant of Lunka  
in the district of Nowgoan left theSchool on 31.12.1958 His/Her age at that date  
according to the Admission Register was 10 (ten) years,  
10 (ten) months 15 (fifteen) days. Date of Birth was 16.2.48.He/She was reading in class V and had/had not passed the  
examination for promotion to classAll sums due by him/her have been paid viz. fees, fines etc.  
upto Dec/1958, (date)Character - good

Reasons for leaving : 1. Unavoidable change of residence.  
 2. Ill health.  
 3. Completion of the school course.  
 4. Minor reason.  
 5. Guardian's option.

Attested by  
 A. K. Pathayettha  
 Advocate  
 24.2.96

Dated 14/9/1981

N. D. Li  
 Headmaster,

Headmaster School.

Kharikhana High School  
 Date .....

## ANNEXURE-V

To  
The Divisional Railway Manager(P)  
N.F. Railway/Lumding.

(Through proper channel)

Sir,

Sub: Record of incorrect date of birth

Ref: Prov. Seniority list of SPA.

Your kind attention is drawn to the previsonal seniority list issued under No. E/255/Seniority/CIII dtd. 23/4/85. It is seen that my date of birth has been shown as 16-2-38 vide item 34 of the said list. But as per my school leaving certificate the same was 16-2-48 (Prtestat copy enclosed) I shall be obliged if you kindly look in to the matter and set right the discripancy at the early date.

Da/1

Dtd. the 12th Feb./87

Yours faithfully  
Sachindra Kr. Das

SPA under EF/DMV

Abhaya  
Mukundar

## ANNEXURE-VI

To

24-2-91

The D.R.M. (P)  
 N.F. Railway  
 Lumding

Sub : Rectification of date of birth

Dear Sir,

This to bring to your notice that I am an employee of S.P. A. under Sr. EF/DMV at Dimapur.

That Sir, as per circular No. 196-52 (....)

Sl. No.137 dt. 1-4-77 I came to know that my date of birth is written as 16-2-38 instead of 16-2-48. The date which was recorded in my service book differs from my actual date of birth which will make me trouble at the time of retirement.

I hope you will understand my problem and make the necessary correction

Dated-24-2-91

Yours faithfully

Copy to

Sachindra Kr. Das.

Secretary,

Sri Sachindra Kr. Das

Mazdoor Union for information

SPA/Sr/EF/DMV

only Dimapur.

After  
In  
Aug/mauder

## ANNEXURE- VII

4-5-91

To

The D.R.M. (P)  
 N.F.Rly.  
 Lumding.

Respected Sir,

Enclosing herewith a copy of my previous letter dt. 24-8-91 requesting you to rectify the records in your office with regard to my date of birth, I request you to kindly let me know the action taken in the matter as I am greatly worried about the same.

You will surely appreciate my concern as I find in the circular No. 196 -52( ) sl. No. 137 dt. 1-4-77 that my date of birth has been recorded as 16-2-38 instead of 16-2-48.

I hope you will not spare to extend your good office to rectify the same at the best possible convenience.

Dated 4-5-91

Yours faithfully

Copy to:

The Secretary  
 Mazdoor Union  
 N.F.Rly.  
 Lumding Assam

Schindur Kumar Das

SPA/Sr. Ef/DMV

## ANNEXURE-VIII

To 24-11-92

The General Manager,  
 N.F.Railways,  
 Maligaon, Assam

Respected Sir,

Sub.: Rectification of date of birth in  
 service record.

I regret to up on your valuable time in a very  
 tiny but a serious matter. That Sir, Made some correspon-  
 dence regarding the rectification of my date of birth in  
 my service record which was recorded as 16-2-38 instead of  
 16-2-48. But I regret to mention here that a series of  
 letter written to D.R.M.(P) Lumding but unfortunately no  
 reply as yet been received by me. I fail to understand the  
 silence of D.R.M.(P) to communicate the fate of my letter.

As such I have' no other alternative but to write  
 you regarding the fact. I also like to request you to look  
 into the matter and do the necessary arrangement to  
 rectify the date.

*Abhishek  
 Maligaon*  
 Yours faithfully

Sachindra Kumar Das  
 (Sachindra Kumar Das)

dated-24-11-92

MCM/SPA/DMV

## ANNEXURE - IX

To, 24-11-92  
 The Secretary  
 Mazdoor Union  
 N.F.Rly.  
 Lumding

Dear Comrade,

I regret to intimate you that I am a vatern member of Mazdoor union but I don't understand why I am being de from getting my genuine demand.

That I am not a defaulter member and regularly attend the office and remain pzesent in different occation of the union activitie.

Often I requested the unti authority that date of birth was wrongly recorded as 16-2-38 instead of 16-2-48 There is a difference of 10 years. I also have requested the unit authority to take proper intitiative to rectify the date. But till today I have got no response,moreover no action so far been taken to do the necessary correction.

Since I am a member of this union, so this is my genuine demand from the union,I have decided to chage the membership from the Mazdoor union to Employees union to sort out my the probelm if it becomes impossible from your end.

I therefore expect that you will not provide me any opportunity to change my membership and take the necessary step to do the same.

Dated-24-11-92

Comradely yours

(Sachindra C  
 Sachindra kr das  
 k. a

After 59  
 11/11/92

ANNEXURE-X.

To,

The Divisional Railway Manager, (P),  
N.F. Railway, Lumding.

Sub.: - Prayer for consideration of my case.

Sir,

With regard to above-mentioned subject matter, I beg to state that at present I am working as Master Craftsman in Dimapur Railway Power House, Dimapur.

I was born on 16-2-48 and at the time of my appointment and also at the time of regularisation of my service I submitted relevant documents including the school certificate in support of my date of birth, age and qualification etc. and my date of birth was duly and correctly recorded by the authority as 16-2-48 on the basis of the said school certificate in my service book. At no point of time, I was told anything regarding the said date of birth and the service book was all-along in actual possession of the authority.

It was only on 1-4-77, the authorities had for the first time informed me that my date of birth was recorded as 16-2-38 and not 16-2-48 and as per the said date of birth, ~~was xxxxxx~~ the age of my superannuation ~~and~~ was fixed to be 29-2-96 which has now forced me to go on early retirement of 10 years and that too in an arbitrary and unfair manner. In that regard, I was however, asked to submit representation.

-2-

Immediately thereafter, I filed representation against such illegal fixation of age superannuation and prayed for correction of my date of birth on the basis of school certificate I submitted before the authorities at the time of regularisation of my service.

In that representation I contended that my date of birth is 16-2-48 as it appears from the school certificate and difference of 10 years between actual date of birth and recorded date of birth has not only taken away my legal and constitutional right to work and livelihood, but has also compelled to be ousted from service 10 years before my actual superannuation. I also contended that on the basis of school certificate which I was asked to submit at the time of regularisation of service, my date of birth was recorded by the authorities and as such the fixation of age of super-annuation other wise beyond the said date of birth is absolutely illegal and contrary to record.

I further beg to state that since 1977, I have been continuously pursuing the matter by way of making representation after representations but due to some unknown ~~xxxxx~~ reasons, I could not work any response from the authorities. Except a mere assurance, nothing has been done till to date. Now if no immediate necessary action is taken by the authorities, I would sustain irreparable loss and injury and my valuable rights including the right to work and livelihood would seriously

- 3 -

be jeopardised. On the other hand, the authorities ~~xxgxx~~ ought to have disposed of my representation and taken a reasonable decision intimating me the same in view of the legal responsibility and duty being last on them. The authorities do not have any jurisdiction either not to decide the matter nor to fix the age of superannuation before disposing of those representations.

It is therefore, prayed that, your Honour may be pleased to consider my representation and hear me in person and dispose of my representation in accordance with law and thereafter direct the authorities to correct the date of birth and fix the age of superannuation on the basis of actual date of birth and allow me to continue my service till my actual age of superannuation as per my actual date of birth i.e. 16-2-48 and/or pass any other or further order or orders as your Honour may deem fit and proper.

And for this act of kindness, I shall ever pray.

Yours faithfully,

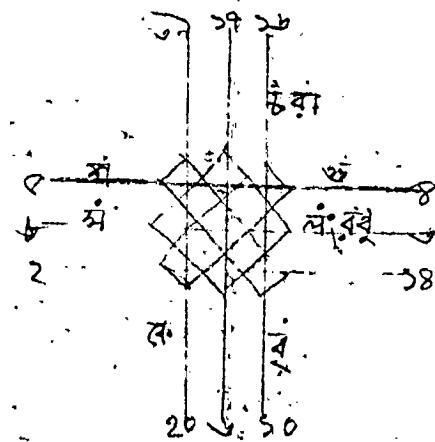
Sachindra Kumar Das,  
7-10-95.

*Abesha  
Sachindra*

## ANNEXURE XI

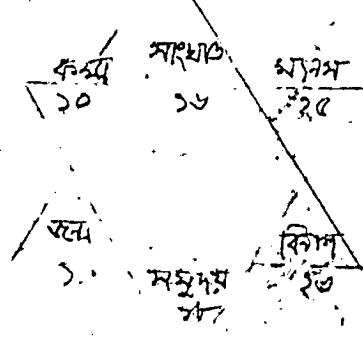
বিষ্ণু বিমান সর্বকল্পন হইবে সাবকৃতি প্রয়োগ সিদ্ধ  
দোজ গননাস্থ নমঃ। অক্টোবর ১৪ মুহূর্ত ৮/১৪/১০। তেজস্বিন্দ্র  
০১৪২৮০, মুহূর্ত উত্তোলন ১৪১১০। প্রত্যক্ষলক্ষ্য বৃহাদিত্যমাস রাত্ৰি  
মগ্নি কুণ্ডো অস্তিত্বালয়ের পৰিকে নথুম্বুন ৮/২২/১৪৪। নথুত্যোগ্যম্বুন  
১০/১৪/১০। অস্তিত্বালয়ে নাথার্থ নামৰ আদ্যাত্মৰ নোগান ৮।

### পতাকাচিত্ত



৮/৮/৮/১১/৩৪/১৭ এবং দিন মাস, বর্ষে জ্যোতির্বিজ্ঞপ্তি তাকৌ রিষ্ট  
স্লোগ্ন হইবে অতিবার অস্তিত্বালয়ে প্রিয়া রাত্ৰি নথুন কুণ্ডুর সাতিব্যাব

### কলাচিত্ত



১। অন্তিমীনথ্য ১৩ জ্যোতি নথ্য ১৩ বৃহাদী  
নথ্য ১৪। ২। অর্ধজ্যোতি নথ্য ১৩ বৃহাদী  
নথ্য ১৫। ৩। অস্তিত্বালয় জ্যোতি সর্ব  
প্রবার প্রতি কর্মাদি বৃত্তিনীয়

### বিপুলবিপুলবৰ্ষ

বৰ্ষচিত্ত	৩। ৫০। ১৬। ২০। ২৬। ৭৪। ৭৮।
বৰ্ষচিত্ত	৩৭। ৪৬। ১২। ২৫। ২৮। ৭০। ৭২।
কলাচিত্ত	কে সো মন কে সো গু
কলাচিত্ত	ব। শ। ম। ব। ম। ব। ম।
কলাচিত্ত	কে কে শ। ম। কে ব। ম।
	৪। ৪। ৪। ৪। ৪। ৪। ৪।

\* প্রতিবৰ্ষ ১। ১০। ১৬। ২০। ২৬। ৪৪। ৭৫। ৭১। ৪৬। ১২। ৬। ৮। ১০  
৭। ১২। ১৪। বিপুল বিপুল বৰ্ষ অর্থনাল সোক কার্ম বার্ষা এবং  
জ্যোতি প্রতি কর্মাদি প্রতিবৰ্ষ অস্তিত্বালয় বৃহাদী বৰ্ষ বৰ্ষ বৰ্ষ বৰ্ষ

### কলাচিত্ত

ট ১৪৪ ক্ষ ২৭

卷之二十九

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卷之三

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১০/১/১১/১৯৭১/০১ মন ১৭৫৪। পুরী থানের পদ্মন বাড়ি। ইংরেজী সন ১৮৪১।  
১১। ইংরেজী সন ১৮৪১। একটি কুকুর স্টেডি বুরগাদি। দিয়ামন ২৮। ধূৰ্ণ।

ମିଶରନ୍ ୨୪/୧୯୨୮୦ | ପିଥାଯାନ୍ତରାମ ୧୦/୮୬୨୨୧ ମିଶରନ୍  
ମାତ୍ର ୪/୮୦/୮୯୧୮୦ | ପିଥାଯାନ୍ତରାମ ୨୪/୧୯୮୧୮୦ | ମିଶରନ୍

याज्ञे वैश्यवर्ण-मतार्थे शापधिकर्त्ता देवगन अर्थयुक्तोऽस्तु उस्तु त्वा  
विंश्चोत्तीया केतु य शत्रुदशात्ते प्राचिनामन्त्रीमाम लक्ष्मिः कुमारपाप

ବିଶ୍ୱାସକୀୟ ବିଭାଗରେ ପରସ୍ପର ଆତି । ୨୧୭୧୯

কেন্দ্ৰ মহাদেশা- কেন্দ্ৰীয় বৰ্ষ	বঙ্গোপস্থিৰ মাস-দিন	২	৭	১৬	বাল্মীকি পিতৃমূর্তি অৱস্থা শ্ৰীকৃষ্ণ কিংবৰ শোভা
কেন্দ্ৰ মহাদেশা- কেন্দ্ৰীয় বৰ্ষ		২০	০	০	
		২২	৭	১৬	বেদ্যাবাচ উচ্চতি শুশ্ৰ পাত
		৬	০	০	
ব্ৰাহ্মদেশা (অসম) বৰ্ষ		১৬	৭	১৬	কঞ্চনাত বিদ্যাই ঘোষণা
		৩০	০	০	
চান্দ্ৰ ব্ৰহ্মদেশা (অসম) বৰ্ষ		১৮	৭	১৬	বিদ্যুৎ জৰুৰি সুইচ পৰ্যবেক্ষণ কৰ্মসূচি প্ৰদাতৃক বাস্তু পৰ্যবেক্ষণ
		৭	০	০	
মহাদেশ দেশ (অসম) বৰ্ষ		৪৮	৭	১০	অৰ্পণালাভ পথ কৰনোৱা পৰ্যবেক্ষণ পৰ্যবেক্ষণ বৰ্ষ
গুৰু ব্ৰহ্মদেশা (অসম) বৰ্ষ		১৮	৭	২৫	এক অনুকূল কৰ্মসূচি বিপৰীত কৰ্মসূচি - পৰ্যবেক্ষণ

## ANNEXURE-XII

Date- 20-12-95.

To

The General Manager,

N.F. Railway, Maligaon, Assam

Sub :- Prayer for correction of date of  
birth.

Sir,

With regard to above mentioned subject matter, the petitioner begs to state that at present I am working as Master craftsman.

I was born on 16-2-48 and at the time of regularisation of my service, I submitted relevant documents including school certificates in support of my date of birth, age and qualification etc and the authorities had recorded my date of birth as 16-2-48 in service book on the basis of the said school certificate and I was all along made assured that the date of birth was properly recorded as per the school certificate and up to 1977 the authorities did never communicate anything regarding such anomalies.

It was only on 1-4-77, the authorities had for the first time, informed me that my date of birth was 16-2-38 and not 16-2-48 and as per the said of birth, fixed my age of superannuation on 29-2-96 which had compelled me to go on early retirement 10 years. However, the authorities asked me and all other persons to submit objection against any such anomalies of the said Gradation list.

contd... p/2

## Annexure XII

Immediately thereafter I filed a representation before the authorities contending that I was born on 16-2-48 and not on 16-2-38 and at the time of regularization of my service, I submitted school certificate as directed by the appointing authority and my date of birth was accordingly recorded in the service book as 16-2-48. Moreover, in the application form also, I mentioned to be my exact date of birth and prayed for correction of the same. I further contended that at subsequent stage of all, I was asked to submit the school certificate which I submitted before the authorities for taking necessary action to the matter.

But the said representation was kept pending and nothing was informed to me regarding the said representation. In that regard, I submitted several reminders to all the concerned authorities in charging your Honour and except a mere verbal assurance, nothing was done by the authorities. Now because of such inaction, I will have to go on 10 years early retirement which the authorities had fixed in an illegal and arbitrary manner frustrating my livelihood and valuable rights since I have filed representation challenging the action of the authorities, my representation ought to have been disposed of by them and they ought to have passed a reasoned order. On the other hand, the authorities have no jurisdiction to fix my seniority and/or age of my superannuation without disposing of my representation and if no immediate action is taken by your honour I will sustain immense loss and injuries and my livelihood will be seriously affected.

contd... p/3

Abdul Salam  
Mughalpur

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Annexure XII

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It is therefore prayed that your Honour may be pleased to consider my representation and hear me in person and dispose of my representation in accordance with law and thereafter direct the authorities to correct the said incorrect date of birth and allow me to continue my service till my actual age of superannuation as per my actual date of birth i.e. 16-2-48 and/or pass any other order or orders as Your Honour may deem fit and proper.

And for this act of kindness, I shall ever pray.

Yours faithfully,  
Sri Sachindra Kumar Das

20-12-95

Abdul SM  
Malgundar