

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Ball
25/11/18

DA No. 10/4/96

MP No. (DA)

RA No. (DA)

CP No. (DA)

Shri Anilendra Datta

VERSUS

APPLICANT(S)

MOG 2000

RESPONDENT(S)

Mr. H. Rahman
" N. Barua

Advocate for the applicant.

Mr. B. S. Datta, R. C. Advocate for the Respondents.

Office Notes

Court's Orders

18.6.96

Mr H. Rahman for the applicant

None for the respondents.

The applicant has impugned the seniority list of Clerk dated 1.1.1994 (Annexure 5) and the rejection order dated 17.2.95 (Annexure-4).

Heard Mr Rahman for admission. He has also submitted M.P.87/96 for condonation of delay. Perused the contents of the application and the reliefs sought. Application is admitted, ~~ISSUE NOTICE TO THE~~ ~~RESPONDENTS BY REGISTERED MAIL~~.

subject to the consideration and decision in respect of limitation at the time of final hearing. Issue notice on the ~~REGISTERED MAIL~~ respondents by registered post. Six weeks for written statement.

List on 2.8.96 for written statement and further orders.

Brw
15.7.96

Notice duly served on
Respondents No 1, 3, 6.

60

Member

pg

2.8.96 Mr N. Barua for the applicant. None for the respondents.

Written statement has not been submitted. List for written statement and further orders on 26.8.96

Brw
W/ statement has not
been filed.

1/8

60

Member

1) Notice duly served on
Respondents no '1, 3 & 6.

2) opposition has as well
sun & W:

50
1919

Notice duly served on
as. 1, 3 & 6.
plaintiff has not been
joined.

1510

✓ Pakist. is not sink'd.

110

(i) Notice duly served on
Respt. No - 2, 3 & 6.

3) written statement
has not been filed.

~~✓ 12.12~~

20-9-96 Learned counsel Mr.H.Rahman for the applicant. None for the respondents. Written statement has not been submitted. List for written statement and further order on 16-10-96.

Member

16.10.96 None present. Written statement has not been submitted.

~~14~~ Member

28.11.96
written statement
has not been filed.
~~V. 12~~
17.12

None present.

Written statement has not been submitted.

List for written statement and further on 18.12.1996

Member

2) w/statement has
not been filed.

None present.

No written statement has been submitted

List for written statement and further orders on 13.1.1997.

69

trd
m
18/12

15 1 97

None present. Written statement has not been submitted. List for written statement and further orders on 11.2.97.

69

km
1581

11.2.97 In view of the order passed in M.P.87/96 the O.A. is dismissed for default.

60
Member


Vice-Chairman

pg

13.2.97

Copy of order issued to the L/Advocates of the parties vide D.No. 509 to 570. D. 14.2.97

27.3.97 In view of the order passed in Misc. Petition No.49/97, O.A.No.94/96 is restored to file. Let this case be restored to file.

Heard Mr N. Baruah, learned counsel for the applicant and Mr B.K. Sharma, learned Railway Counsel. The application is admitted. Issue usual notices returnable within four weeks for filing of written statement.

List on 20.4.97.

60
Member


Vice-Chairman

nkm

g/m
31/3

24.4.97

9-5-97

Mr H.Rahman, learned counsel for the applicant is reported to be indisposed and therefore Mr S.Ali on behalf of Mr Rahman has prayed for two weeks adjournment. Prayer allowed.

List on 12.5.1997 for hearing.

60
Member


Vice-Chairman

pg

Tr
25/4

(4)

12.5.97

On the prayer of Mr S. Sarma on

behalf of Mr B.K. Sharma, learned Railway
counsel the case is adjourned to
26.6.97 for hearing.

Member

Vice-Chairman

pg

F 1315

26.6.97

Mr J.L. Sarkar, learned counsel for the
Railways, prays for a short adjournment. Mr H. Rahman,
learned counsel for the applicant, has no objection
for granting a short adjournment. Prayer of Mr Sarkar
is allowed.

List it on 1.8.97.

Member

Vice-Chairman

2/ written statement nkm
 3/ filed on behalf of 30th
 Respondents No 1 to 5,
 with a prayer mp- 1.8.97
 214/97.

Mr. H. Rahman, learned counsel
 appearing on behalf of the applicant, prays for
 short adjournment as he requires to receive
 more instructions. Mr. J.L. Sarkar, Rail Counsel
 has no objection. Accordingly the case is
 adjourned till 9.9.97.

List on 9.9.97 for hearing.

Member

Vice-Chairman

trd

M
11/8

9.9.97 Adjourned to 18.11.97

15

by order

18.11.97 Adjourned to 20.2.98.

16

by order

17/11

w/s his name b/w

19/12

Notes of the Registry	Date	Order of the Tribunal
W/S ms. b/w filed	20.1.98 17	Let the case be listed for hearing on 3.6.98. 6 Member
	pg 23/2	
	3.6.98 Adjourned to 28.7.98	There is no Division Bench. by Mr.
W/S ms. b/w filed	28.7.98 18	On the prayer of Mr B.K.Sharma on behalf of Mr J.L.Sarkar the case is adjourned to 12.8.98 for hearing. 6 Member
10.9.98 Copies of the Judgment have been sent to the D/Sec. for issuing the same to the parties through Regd. with A.O.	pg 30/7	
	12.8.98 trd	Heard learned counsel for the parties. Hearing concluded. Judgement delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs. 6 Member
88 Sear v/s D. Nos. 2675 to 2679 dt 14.9.98 48		

Notes of the Registry	Date	Order of the Tribunal

6

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

O.A.No.94 of 1996

12.8.1998
DATE OF DECISION.....

!! Shri Anirudha Dutta

(PETITIONER(S))

Mr N. Baruah

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others

RESPONDENT(S)

Mr J.L. Sarkar, Railway Counsel

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



CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 94 of 1996

Date of decision : This the 12th day of August, 1998.

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

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

Shri Anirudha Dutta,
Son of Late Sushil Kr. Dutta
working as Head Clerk in
Cash and Pay Office,
Maligaon

....Applicant

By advocate Shri N. Baruah.

-versus-

1. The Union of India,
represented by the General Manager,
N.F.Railway,
Maligaon, Guwahati-II.
2. The General Manager
N.F.Railway
Maligaon
3. The Chief Personnel Officer,
N.F.Railway,
Maligaon
4. The Chief Cashier,
N.F.Railway,
Maligaon, Respondents

By Advocate Shri J.L. Sarkar, Railway Standing Counsel.

O R D E R

BARUAH. J.V.C.

This application has been filed by the applicant challenging the seniority given to the 6th respondents over the applicant by the authority concerned. The facts are:

The applicant was appointed as substitute Peon in Cash and Pay Office in the year 1976. Thereafter in

BB Contd.....

the year 1980 applicant was promoted to Junior Clerk. In the month of March the 6th respondent was inducted as Peon in the Office of the Cash and Pay Office. On 4th August, 1980 a select list was prepared for the Class IV staff who had been selected for promotion to Class III category. The name of the applicant was shown in that select list at serial No. 4 and name of the respondent No. 6 was shown at serial No. 6. On 22.8.1980 the applicant was promoted to the post of Junior Clerk. In December, 1983 the applicant was further promoted as Senior Clerk. In December, 1988 a special pay of Rs. 70.00 per month was sanctioned to the 6th respondent showing the respondent No. 6 seniormost clerk in Cash and Pay Office, N.F. Railway. Applicant preferred an appeal on 28.5.93 against his grievances and the said appeal was disposed of by Annexure 4 in which a copy of the seniority list Annexure-5 was enclosed. It is an admitted fact that earlier the applicant was shown senior to the 6th respondent and the same was changed in the seniority list Annexure 5 whereby the name of the applicant was shown at sl. no. 7 and name of the 6th respondent was shown at sl. No. 6. The appeal of the applicant was disposed of as there was no merit in view of the seniority list published in 1994. Hence the present application.

2. We have heard Mr. N. Baruah, learned counsel appearing on behalf of the applicant and Mr. J.L. Sarkar, Railway Standing Counsel appearing on behalf of the respondents.

3. Main thrust of Mr. Baruah's contention is that once seniority list having been published and the applicant was shown senior to the 6th respondent, it was wrong on the part of the department to change the seniority list without giving any opportunity of hearing to the applicant, because as per the seniority list prepared earlier the applicant

acquired valuable right and this can be disturbed only after giving an opportunity of hearing. Unfortunately this was not done. Therefore we are of the opinion that the subsequent seniority list published on 1.1.94 cannot sustain in the eye of law. Accordingly we set aside the seniority list only in respect of the applicant and 6th respondent and in respect of others seniority shall remain undisturbed. However, respondents shall consider the seniority after giving full opportunity to the applicant and 6th respondent and the applicant may place his grievances at the time of hearing of the matter. It is further directed that the respondents shall give notice to the applicant and the 6th respondent and consider their submissions before fixing their seniority.

3. With the above observations the application is disposed of. Considering the facts and circumstances of the case we make no order as to costs.


(G.L.SANGLYINE)
Administrative Member


(D.N.BARUAH)
Vice-Chairman

trd

213
1 JUN 1996

COMMERCIAL BENCH
GUWAHATI BENCH

BEFORE THE ~~INDUSTRIAL~~ CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORIGINAL APPLICATION NO. 94 OF 1996.

Sri Aniruddha Dutta ... Petitioner.
Vs.
Union of India & Ors. ... Respondents.

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6.	Order dt. 17.2.95	Annexure-4	22
7.	Seniority List	Annexure-5	23-24.

DATE OF FILING :

FILED BY :

ADVOCATE

13

Mr. Baruah Advocate
Shreyas
Aniruddha Dutta
Applicant

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
G U W A H A T I B E N C H
AT GUWAHATI:ASSAM.

An application under section 19 of the Central
Administrative Tribunal Act, 1985.

Sri Aniruddha Dutta
son of Late Sushil Kr Dutta
working as Head Clerk in
Cash and Pay Office,
Maligaon.

... Applicant

-Versus -

1. The Union of India,
represented by the General
Manager, N.F.Railway,
Maligaon, Guwahati- 11.

2. The General Manager
N.F.Railway,
Maligaon.

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

4. The Chief Cashier,
N.F.Rly,
Maligaon.

cont.

A. Dutta

5. The Financial Advisor and
Chief Accounts Officer,
N.F.Railway,
Maligaon.

6. Sri Sheonath Prasad,
Head Clerk,
Cash & Pay Office
at Katihar,
N.F.Railway.

... Respondents

1. Particulars of the order against which this
Application is made :-

This application is made against the order
No.CP/EP/A.Dutta dated 17.2.95 [REDACTED]
[REDACTED] rejecting the prayer for correction
of seniority. (Annexure - 4)

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter
of the order against which this application is
made within the jurisdiction of this Tribunal.

3. Limitation:-

The applicant declares that the application is
barred by limitation under the Administrative
Tribunal Act, 1985 and so a separate application

cnt.

A. Dutta

for condoning the delay is filed along with this application.

4. Facts of the case:-

a). That your humble applicant is a citizen of India and is a permanent resident of Pandu Rest Camp, Pandu within the State of Assam and as such he is fully protected under the rights and privileges guaranteed by the Constitution of India.

b). That your humble applicant was initially appointed as Substitute Peon in the Cash & Pay Office at Maligaon on 11.6.76 and thereafter he was promoted as Junior Clerk on 22.8.80 under the same office and same department.

c). That your humble applicant begs to state that, your humble applicant was promoted from Junior Clerk to Senior Clerk on 15.12.83 and then he was promoted to the present post as Head Clerk in 1991.

d). That your humble applicant begs to state that in the selection of Junior Clerk from Substitute Peon which was held in the year 1980, the respondent No.6 Shri Sheonath Prasad was ~~also~~ also promoted along with your humble applicant as Junior Clerk and the said Sheonath Prasad was initially appointed as Cash Van Cleaner which is a separate

cont.

A. Dulle

cadre and the channel of promotion for Cash Van Cleaner is not like that of the applicant. It may be mentioned here that the Cash Van Cleaner is a separate cadre and they were treated in a separate channel of promotion under the Mechanical Deptt.

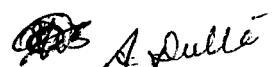
e). That your humble applicant begs to state that as the respondent No.6 was aware about the fact that he was appointed as Cash Van Cleaner and he could not go to the channel of promotion for Clerk, he applied for absorption and change his cadre from Cash Van Cleaner to Peon by his application dated 1st February, 1980.

A copy of the application of respondent No.6 dated 1st February, 1980 is enclosed herewith and marked as (Annexure -1).

f). That your humble applicant begs to state that as per the application dated 1st February '80 the prayer of the respondent No.6 was considered by the Chief Cashier and the respondent No.6 was allowed to change his category from Cash Van Cleaner to Peon by the Office Order No.CP/82 dated 27.3.80 issued by the Chief Cashier, N.F.Rly, Maligaon, Guwahati.

g). That your humble applicant begs to state that the respondent No.6 was allowed to change his category from Cash Van Cleaner to Peon at his own

cont.

A. Dulle

request and he was inducted in the category of Peon on 27.3.80 by the office order ~~dated~~ No.CP/82.

A copy of the said order is enclosed herewith and marked as (Annexure - 2).

h). That your humble applicant begs to state that the result of promotional examination from Class IV to Class III was circulated on 4th August 1980 by the Office order No.CP/91 dated 4th August 1980 and the name of your humble applicant was shown in Sl.No.4 and the name of the respondent No.6 was shown as Sl.No.6 in order of seniority.

A copy of the said order circulated by the Chief Cashier, N.F.Railway dated 4th August, 1980 is enclosed herewith and marked as (Annexure-3).

i). That your humble applicant begs to state that, your humble applicant as well as the respondent No.6 was promoted from Class IV to Class III by the same order and then Junior Clerk to Senior Clerk by the same order dated 10.11.83 and thereafter from Senior Clerk to Head Clerk in the same order.

j) That your humble applicant begs to state that as the Railway Authority has not circulated any seniority list of Clerk under Cash & Pay office

cont.

A. Dulal

prior to 1994. Your humble applicant was senior ~~then to~~ the Respondent No.6 in the year 1980 on promotion order and in fact your humble applicant is senior ^{to} ~~than~~ the Respondent No.6 as per the date of appointment in the cadre. It was not known to the applicant that the Respondent No.6 Sheonath Prasad was granted a special allowance of Rs.70/- per month as special pay from 28.12.88 as he was shown seniormost senior Clerk in the category of Clerk under cash and pay Office.

k) That your humble applicant begs to state that Sri Sheonath Prasad Respondent No.6 was posted at Katihar Division and your humble applicant was posted at Maligaon and so it was not known to the applicant that the Sheonath Prasad- Respondent No.6 was enjoying a benefit of special pay of Rs.70 per month from 28.12.88 in terms of the Railway Board's orders declaring him as senior most Clerk.

l) That your humble applicant begs to state that the matter of special pay granting to Respondent No.6 was detected by the applicant and your humble applicant raised his objection and filed a petition before the Chief Cashier, N.F.Railway, Maligaon pointing out that it is ^{not} correct that Shri Seonath Prasad Respondent No.6

cont...

A. Dalle

is a senior most senior Clerk, in cash and pay Office but your humble applicant is the senior most senior Clerk in the Cadre in order of actual seniority as published in the year 1980 in the initial appointment.

m) That your humble applicant begs to state that your humble applicant has submitted an application before the appropriate authority and the matter came up before the Audit Department and it was objected by the Office of the Principal Director of Audit, N.F.Rly., Maligaon. The Audit Office raised objection in the corresponding file No. MLG/1/1-57/IR/Pt-I/94-95/15001 dated 30.12.94. The original file may be called for for verification by the Hon'ble Tribunal.

n) That your humble applicant begs to state that he has filed an application before the appropriate authority for correction the seniority position and the matter was taken up by the Union with the administration, but the same was turned down by the order dated 17.2.95.

A copy of the order dated 17.2.95 is enclosed herewith as Annexure-4.

o) That your humble applicant begs to state that as per the establishment Rule, a person is senior in the category who has joined earlier and as the Respondent No. 6 was initially appointed in a separate cadre and he changed his category on 27.3.80 as your humble applicant was appointed in the category on 11.6.76, your humble applicant

is senior in the category of Peon. That your ~~app~~ humble applicant was initially appointed as Peon in Cash and Pay Office on 11.6.76 but the Respondent No.6 was inducted to the category of Peon only on 27.3.80 and both your humble applicant as well as the Respondent No.6 have applied for next promotion and the selection was held for the category of Class-III and the results were declared by the order dated 4th August, 1980.

In the said order of selection it is clearly shown that their names were shown in order of seniority and the name of your humble applicant was shown as Sl.No.4 and the name of Respondent No.6 was shown in Sl.No.6 and since then both the applicants as well as the Respondent were promoted from Junior Clerk to senior Clerk on the same date and from Senior Clerk to Head Clerk on the same date and as a result of which your humble applicant is senior than the Respondent No.6 in the category of Clerk in cash and pay Office.

p) That your humble applicant begs to state that the Respondent No.6 has enjoyed a benefit of Rs.70/- per month as special allowance as a senior most senior clerk in the Cash & Pay Office, but in fact he was junior to your humble applicant in all respects.

q) That your humble applicant begs to state that the seniority list of the Clerk Staff of Cash & Pay Office published on 1.1.1994 and in the list

the ...

A. Datta

list the name of your humble applicant was shown in Sl-No.7 where as the name of respondent No.6 was shown in Sl.No.6.

A copy of the said seniority list published by the department is enclosed herewith and marked as Annexure- 4.

q). That your humble applicant begs to state that the respondent No.6 cannot be senior than your humble applicant as the respondent No.6 initially appointed as Cash Van Cleaner On the other hand your humble applicant was appointed as peon in the office of the Cash & pay office.

r). That your humble applicant begs to state that the Cash Van Cleaner is a separate cadre and their channel of promotion is not with the Peon ,as a result of which the respondent No.6 changed his cadre from Cash Van Cleaner to Peon by his application dated 1st February '80 and he was absorbed in the cadre of Peon on 27.3.80.

s). That your humble applicant states that the respondent No.6 categorically stated that as ~~now~~ he is qualified enough he should get a chance of promotion in the cadre of peon in future

cont.

A. Palla

which is blocked in the cadre of Cash Van Cleaner because Cash Van Cleaner is a separate cadre and their channel of promotion is a driver under the Mechanical Department.

- u) That your humble applicant begs to state that as per the Railway Establishment Manhual, seniority of staff maintained in their own cadre and the Respondent is entitled for the seniority in the cadre of Clerk from the date of absorption as peon.
- v) That your humble applicant begs to state that although your humble applicant is senior than the Respondent No.6, the Respondent No.6 enjoying the benefit of special pay since 28.12.88 illegally and depriving the legitimate claim of your humble applicant.
- w) That your humble applicant begs to state that he has filed an appeal/representation before the Administration for redressal of his grievances which was not considered by the Department and his ultimate prayer was rejected. As such, your humble applicant has no other alternative but to

contd...

A. Dulla

file this application before this Hon'ble
Tribunal on the following grounds :

Grounds for relief with legal provisions.

- i.). For that the final order passed by the Chief Cashier rejecting the prayer of your humble applicant without application of his mind and without considering the record of the case is illegal and without jurisdiction.
- ii) For that your humble applicant is senior ~~than~~ the respondent No.6 as your humble applicant was initially appointed in the cadre of Peon on 11.6.76. On the other hand the respondent No.6 was inducted in the cadre of Peon 27.3.80. As such your humble applicant is senior most senior clerk and the respondent No.6 is not the senior clerk as senior most and he is not entitled for the special pay which was granted to the respondent No.6 ignoring legitimate claim of the applicant.

cont.

A. Dutté

iii). For that the cadre of Cash Van Cleaner of the Peon is completely separate and channel of promotion is also separate for peon and Cash Van Cleaner.

iv). For that a peon can be promoted as Clerk and the Cash Van Cleaner cannot be promoted as Clerk which is evident from the application of the respondent No.6 dated 1st February '80 whereas it was clearly stated that the respondent can go to further promotion from the post of Peon and so he wants to change his cadre from Cash Van Cleaner to Peon.

v). For that your humble applicant is senior than the respondent No.6. in the category of Clerk has circulated under office order No.CP/91 dated 4th August, 1980 and since then your humble applicant is always senior in the category , but the name of [REDACTED]

cont.

A. Dulla

But ignoring the claims of your humble applicant the Respondent No.6 was given extra benefit of special pay of Rs.70/- per month ignoring the correct position of seniority for the reasons best known to them.

vi) For that in the official record the Respondent ~~seeks as junior~~ is declared as junior than the applicant in the order dated 4th August, 1980 and suddenly in the year 1988 he was declared as senior most senior clerk suppressing the actual fact and he was allowed to draw the special allowance of Rs.70/- per month claiming to be senior most senior Clerk in the category which is not correct.

vii) For that your humble applicant has raised the objection immediately after detection of the case but the case was not examined although the Principal Director of Audit Department by his letter No. MLG/1/I-57/IR/H-1/94-95/15001 dated 30.12.94.

Contd...

A. Dutt

viii). For that the seniority is regulated under the Railway Establishment Manual and the provisions of law, but in the present case as per whims of the administration seniority list is published and a junior most person is allowed to draw the special pay and thus giving him undue benefit by violating the laws.

ix). For that your humble applicant is always senior in the cadre as per the letter dated 4th August 1980 which is evident from the records, but the respondent No.6 is allowed to draw the advantage of special pay ignoring the legitimate claim of the applicant.

x). For that the seniority is regulated as per the seniority of the cadre and while the respondent changed his cadre by his own request, he lost the seniority from the date of appointment and

cont

A. Dulla

he is entitled for the seniority from the date of absorption in the cadre. As such your humble applicant is senior in the cadre although the respondent No.6 was appointed in the Railway earlier than your humble applicant.

xi) For that in any view of the matter your humble applicant is always senior than the respondent No.6 and he is entitled for the benefit given to the respondent No.6 from the date of absorption.

5. Details of remedies exhausted:

Your humble applicant begs to state that your humble applicant has been availed all the opportunities under the Service Rule and he files this application after exhausting all the remedies available to him.

cont.

A. Datta

6. Matters not previously filed or pending with any other Court :

The applicant further declares that the matter regarding which this application has been made is not pending before any other Court of law or any other authority or any other bench of this Tribunal

7. Relief sought :

In the facts and circumstances above the applicant prays for the following relief :

- (a) To set aside and to quash the impugned seniority list published on 1.1.94 and to fix up correct seniority position of the applicant and to publish the seniority list correctly.
- (b) To direct the Respondents to grant the special pay of Rs.70/- per month to the applicant as per rule on and from the date of eligibility as your humble applicant is the seniormost senior Clerk in the department and in the cadre and/or any other appropriate relief as deemed fit and proper.

A. Deulla

7. Interim relief sought:

N I L

8. Particulars of the postal order:

I.P.O. No : 346255.

Date : 12.6.96

Amount : Rs. 50/-

Verification

cont.

A. Della

VERIFICATION

I, Shri Anirudha Datta, Son of Late Sushil Kumar Dutta, working as Head Clerk in the Cash & Pay Office, N.F.Railway, Maligaon, the applicant in the instant case do hereby solemnly affirm and verify that the statements made in the accompanying application are true to the best of my knowledge and belief.

And I sign this verification on this the 13th day of June, 1996 at Guwahati.

Anirudha Dutta
signature.

(ANIRUDHA DUTTA)

Annexure: 1

To
The Chief Cashier,
N.F.Rly Maligaon,

Thro: The Divisional Cashier/APDJ

The Divisional Accounts Officer/APDJ.

Dated APDJ the 1st Feb '80

Sir,

Sub: Prayer for absorption as Peon

I have the honour to submit that at present I am working as Cash van cleaner, but I am willing to work as a peon for which I am approved in the screening Test held on 12.11.77 at APDJ as per the pannel under letter No.PB/55/2/1 (SL 78) dt. 10.3.78 of DS(P)/ABDJ.

Apart from the fact of my being approved as 'Peon' I have got long working experience as 'Peon' as mentioned as hereunder:

'I joined in the service of cash deptt.N.F.Rly on & from 7.3.71 since then I worked under the kind administration as sub peon at MLG NMZ, NJP, KIR & APDJ upto 15.7.76. But subsequently I have been absorbed as a cash van cleaner.

Sir I read upto B.Com 1st year for which I believe that I shall get a better chance atleast from the cadre of 'Peon' and for which I earnestly pray that your honour would be kind enough to put me back to the post of peon for future rise in service uplift in course of time and oblige.

Thanking you sir,

Yours faithfully,

Sheonath Prasad,
Cash Van Cleaner/APDJ
Under Divil Cashier/APDJ

ATTESTED

Sh. B. M. Prasad
23/1

...

20
32
Annexure - 2

N.F.Rly

Office of the
Chief Cashier/N.F.Railway
Maligaon, Gauhati

0.0.No.CP/82

Dated 27.3.1980

1. Shri Seonath Prasad, Cash Van Cleaner attached to the Cash Van/APDJ is hereby transferred and posted as peon in the BCBM's Office at APDJ Shri Prasad may be attached with a Cashier.
2. Shri Sheo Prasad who is in the cash and pay Deptt as substitute peon is engaged as casual carb van cleaner for the cash van/APN.
3. Changes of category from cash van cleaner to ~~peon~~ that of peon for item 1 above and appointment of Cash van cleaner for item 2 above as the approval of Dy CAO(D) vide his... at 17 and of Chief Cashier's Case No.CP/65/ P III.

Chief Cashier
N.F.Railway

copy to:

Divl. Cashier/APDJ for information. The Cashier with whom Shri Seonath Prasad is attached may state to intimated to this officer for information.

2. Divisional A/ Officer/N.F.Rly/APDJ for information.
3. A.A.O.Admn./N.F.Rly MLG for information
4. Staff concerned
5. Order copies for F.File

Chief Cashier
N.F.Railway.

...

ATTESTED
R. B. SARKAR
Advocate

North East Frontier
Railway

Office of the
Chief Cashier (J.A./N.F.Rly
Maligaon, Gauhati 11

0.0.No.CP/91

Dated 4th August 1980

The following Class IV staff have been selected for promotion to Class III category. Their names are given in order of seniority.

1. Shri K.P.Bhattacharjee
- 2 " Ganeswar Kumar
- 3 " Nepal Chandra Dey
- 4 " Anirudha Dutta
- 5 " Jogeswar Kumar
- 6 " Sheonath Prasad

The following Class IV staff have been promoted to Class III category as per their option in the category of Shroff in scale Rs. 260-400(RS).

1. Shri K.P.Bhattacharjee
- 2 " Ganeswar Kumar
- 3 " Nepal Chandra Dey
- 4 " Jogeswar Kumar

They are required to deposit Rs.200/- each as caution money to the Administration. They will also be required to send for re-medical examination in category B-P.

The following Peons have been promoted as Jr clerk in the scale of Rs. 260-400(Rs) as per their option.

- 1 Shri Anirudha Dutta
- 2 Shri Sheonath Prasad

They will also have to deposit a sum of Rs.200/- as caution money to the administration.

Sd/- Chief Cashier (JA)
N.F.Railway

copy to: 1. AAO/AD

2 AAO/EN

3 Staff concerned

4 DAO/APDS

5 DC/APDI

Sd/- Chief Cashier (JA)
N.F.Railway.

ATTESTED
R.B. Bhowmik &
Advocate
23/8/80

...

N.F.Railway

Office of the
Chief Cashier /JA
Maligaon/Guwahati 11

No.CP/EP/A.Dutta

Dt. 17.02.95

To

Shri Aniruddha Dutta
Hd.Clerk/Cash & Pay Office
N.F.Rly
Maligaon.

Sub: Seniority position

Ref: Your appeal dt. 28.05.93

Your appeal has been examined carefully and
corrigendum is issued vide O.O.No.CP/MLG/383 dt.
17.2.95(copy enclosed). The case is hereby closed.

Sd/.

Chief Cashier/JA/Maligaon

copy to:

1. O.S./Estt for information with the advice to record the above in the service sheet where necessary
2. P.Case
3. A.A.O./ADMN/Maligaon
4. A.A.O./EN/Maligaon
5. Sr., D.A.O./Katihar

for information

Sd/ Chief Cashier/JA
N.F.Railway/Maligaon.

RETESTED
Ranu
1/5

-23-

No. CP/MIG/Gratuation/Seniority/Confirmation.

Dated: 1.1.84.

This seniority list shows the seniority position of the clerical staff of the Cash & Pay Office of the U.P.Railway/Maliagan as on 1.1.1984.

Any representation which the staff may desire to make regarding their position in the seniority list should be submitted to this office within a month from the date of receipt of this seniority list. No representation after the target date will be entertained.

Dated; Maliagan
The 1st January 1984.

Q.C.O.
Asstt. Chief Cashier
U.P.Railway/Maliagan.

COPY forwarded for information and necessary action to:-
 1) DC/HJP, (2) DC/KIR (3) DC/APDJ (4) DC/IMG (5) DC/TIK (6) DC/R
 7) DC/P (7) DC/CAI/MIG (8) FA & CAO/MTP/CAL. (9) OS/G/MIG

Q.C.O.
Asstt. Chief Cashier,
U.P.Railway/Maliagan.

m/s
1.1.84

ATTESTED
Abdul Adnan
 23/1/84

105

U.D.Railways

Seniority List of M.G.Clerks in scale Rs. 1200-2600/- (RS) as on 1.1.94.

SL No.	No. in order of seniority.	Date of Posting.	Date of Birth.	Date of App't.	Date of promotion to Grade.	Category	Remarks.
1.	2.	3.	4.	5.	6.	7.	8.
1.	Sri A.K.Dey	MLG	22.11.44	5.4.62	14.3.69	Conf.	
2.	" P.K.Dhar	"	1.4.37	11.10.61	10.2.69	"	
3.	" A.T.Banerjee	Cal.	28.12.53	18.12.74	8.12.87	Offg.	
4.	Syed A.Ali	MLG	29.1.59	17.3.81	29.12.88	"	Deputation in MRTB/Cal.
5.	Sri S.K.Das	IMG	1.11.57	17.5.82	28.12.88	"	0.0.Ms.CP/446 dt.2.12.87
6.	" S.H.Prasad	HR	12.7.49	10.7.76	27.3.91	"	
7.	" A.Datta	MLG	10.6.54	11.6.76	27.3.91	"	

Seniority list of Sr.Clerks in scale Rs. 1200-2600/- (RS) as on 1.1.94.

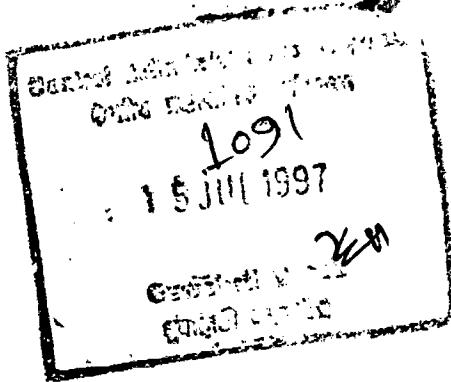
1.	Sri B.Lata	MLG	17.10.57	20.2.82	24.2.82	Offg.	
2.	Mr. R.Haque	"	9.9.60	20.6.83	24.2.82	"	
3.	Sri L.C.Patur	MLG	1.2.60	4.8.87	9.10.90	"	Working under FA&CAO/C/MIG
4.	Ltd. G.Sund	"	1.6.64	13.11.90	13.11.90	"	
5.	Sri G.Kalita	"	1.3.45	22.4.62	26.2.92	"	
6.	" Subrata Ghosh	HR	10.9.49	11.12.69	"	"	
7.	" H.C.Das	MLG	10.2.70	8.9.89	"	"	
8.	Mr. M.M.Murtaza	"	30.9.68	20.9.89	"	"	
9.	Sri ILK.Karunakar	HR	10.5.57	13.11.81	2.11.93	"	

Seniority list of Jr.Clerks in scale Rs. 950-1500/- (RS) as on 1.1.94.

1.	Sri Prabuddha Datta	MLG	30.1.62	27.11.89	27.11.90	Offg.	
2.	" R.R.Kakoti	"	1.1.72	14.8.90	14.8.90	"	
3.	" J. Bhattacharjee	"	14.9.62	5.1.90	5.1.90	"	
4.	" Akhil Goswami	APD	18.2.80	10.12.81	29.7.91	"	
	" C.K.Sen	APD	11.8.58	14.11.92	14.11.92	"	

TESTED

ABDUL HAKEM
R/S/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 94/96.

Shri Aniruddha Dutta

- Vg -

Union of India & Ors.

In the matter of :-

Written Statement filed
on behalf of the Respondent
No.1, 2, 3, 4 and 5.

The humble Respondents most respectfully
beg to state as under :-

- 1) That the Respondents have gone through the application and understood the contents thereof.
- 2) That the Respondents beg to state that both the applicant and Shri Sheonath Prasad (Respondent No.6) joined the Railway as Substitute in Class-IV category. It is stated that the Cash & Pay Office is under the Chief Cashier who is of Junior Administrative rank. The Head of the Department is the Financial Adviser and Chief Accounts Officer. The seniority and promotion of the staff under Cash & Pay Office is a separate Unit

under the control of Financial Adviser and Chief Accounts Officer. The Class-IV staff are recruited in the Cash & Pay Office and for convenience of the department, they are employed in different categories in office as Peon, Cash Van Cleaner etc. All the staff of Class IV category constitute one Seniority unit and these employees are interchangeable according to the convenience of the department and for this the applications of the employees are also considered but changing from one post to another within the Class-IV category does not alter the seniority position and prospect of promotion. It is also stated that the Cash Van belongs to Accounts Department under the Financial Adviser and Chief Accounts Officer as Head and the seniority and promotion prospects of the Cash Van Cleaner is also in the Cash & Pay Office alongwith other employees of the said office. This has no link with the Mechanical Department which is a different and distinct department under another Head of the Deptt. known as Chief Mechanical Engineer. The Class-IV employees of the Cash & Pay Office have avenue of promotion to Junior Clerk in the Cash & Pay office. The applicant and the Respondent No.6 had common avenue of promotion to Junior Clerk in Cash & Pay Office and both of them were promoted to the said post. In the Class-IV category, Respondent No.6 is senior to the applicant.

The Respondent No.6 was screened on 9.3.78.

The Applicant was screened on 9.5.78.

The employees absorbed after screening and the seniority given from the date of screening. Therefore, the Respondent No.6 is senior to the applicant in the Class-IV category. It is stated that while both of them were promoted to Class-III category by Office Order dated 4.8.1980, the applicant was wrongly shown as senior to Respondent No.6. This was an administrative error. This has been subsequently corrected and the applicant has, therefore, no cause of action and he has no reason to be aggrieved. With the above background the Respondents ~~similarly~~ deny the contentions of the applicant.

• Copy of the Office Order No.CP/90/ Dated 12.6.78 is enclosed as Annexure- 'R1'.

Copy of the Order No.PB/SS/2/1(Screening-78) dated 10.3.78 is enclosed as Annexure- 'R2'.

- 3) That in reply to the statement in Para-4(b), (c), (d), (e), (f) and (g), the Respondents re-iterate the facts explained in the Para-2 above. It is denied that Cash Van Cleaner is a separate cadre with separate channel of promotion in the Mechanical Department. It is also denied that there has been any change of cadre due to change from Cash Van Cleaner to Peon.
- 4) That in reply to the statement in Para-4(h) & (i) it is stated that the applicant was shown senior to Respondent No.6 in the order dated 4.4.80 as a result of administrative error, which has been subsequently corrected.

- 4 -

5) That in reply to the statement in Para 4(j), (k) and (l) it is stated that as back as 1988 the Respondent No.6 was given the allowance of Rs.70/- per month because he was senior to applicant. This was known to the applicant and as such he aquiesced to the same. He is barred by limitation to raise the matter of seniority after lapse of so many years. If he was aggrieved he ought to have agitated ^{by} ₁₇ filing appropriate application before this Hon'ble Tribunal at that time. On his subsequent application in 1993, he has been given the reply on 17.2.1995 enclosing the formal seniority list continuing the seniority on the basis of which the payment of Rs.70/- per month was given. The said letter dated 17.2.95 does not, therefore, save limitation.

6) That in reply to the statement in para-4(m), it is stated that the Audit Department does the function of Statutory Audit under the Comptroller and Auditor General of India which is quite independent of the Railway Ministry and the Respondents are bound to reply to the objections raised by the Audit Department. This matter is under correspondence with Audit Department and before finalising the same the applicant has filed the application. This, in the humble submission of the respondents have nothing to do with the question of seniority.

7) That in reply to the statement in para-4(n), it is stated that the reply dated 17.2.95 has been given enclosing the seniority on the basis of which the Respondent No.6 was paid Rs.70/- per month from 1988 because the

- 5 -

Respondent No.6 was senior to the applicant.

8) That the Respondents deny the correctness of the statement in para-4 (o), (p), (q), (r), (s), (t), (u), (v) and (w) and re-iterate the statements in Para-2, 3, 4, 5, 6 and 7 above.

9) That in the facts and circumstances of the case the applicant is ~~now~~^{not} entitled to any relief and the application deserves to be dismissed with costs.

VERIFICATION

I, Shri . . . D. R. Basu
 by profession Railway Service, working as ^{Defunct} ~~Chief Account Officer~~ /G, aged about 45 . . years
 do hereby verify that the statements made in Para,
 1, 2, 3, 4, 5, 6 and 7 are true to my information
 derived from the records which I believe to be
 true and the rests are my humble respectful submission
 before this Hon'ble Tribunal.



Signature

** गुवा राज्य विधानसभा (एस.)
 उपायर दीपा रेलवे, मालिगाँव, गुवाहाटी-७,
 Deputy Chief Accounts Officer(स.)
 D.B. Rly, Maligaon, Guwahati-7

ANNEXURE- R-1.

N.F. Railway.

S.O.O. No. CP/190

Dated : 12.6.78

S/Sri D.N. Paul, P.B. Chettri, U.C. Kumar and A. Dutta of Cash & Pay Office working as Substitute Peon having been approved for appointment in Class-IV category as a result of Screening test held on 17th, 18th & 20th Feb/78 and 4th April/78 at Hd.Qrs. Maligaon by the Screening Committee vide CPO/PNO's letter No. E/227/Class-IV/Recrtt. dt. 9.5.78 and on being found medically fit in 'C' category are appointed as temporary Peon in scale Rs. 196 - 232 plus usual allowances as admissible from time to time w.e.f. 9.5.78 pending their Police verification.

(Autho : AAO/Admin's O.O. No.G/393 dt. 24.5.78)

Chief Cashier.

Copy to AAO/ADMN and staff concerned
for information.

Sd/-

Chief Cashier

N.F. Railway, Maligaon.

A. DUTTA
12/6/78

ANNEXURE- R-2.

No. PB/SS/2/1(Screening-78).

Dated 10-3-78.

As a result of screening held on 12-11-77 at APDJ for screening of Class IV staff attached to different branches of DS's office, the following persons are placed on the panel for regular absorption against regular, permanent/Temporary vacancies.

The panel has been approved by DPO on 9-3-78.

S/Shri -

1. D.C. Chakraborty,	Peon/Rly. School/DOI
2. Gangaya,	Fero Khalasi, DS(W)/APDJ
3. Utpal Kumar Paul,	Sub-peon/DAO/APDJ
4. Tapan Karmakar,	Sub-Farash/DAO/APDJ.
5. Sewnath Prosad,	Peon/Cash Office/APDJ
6. Remedhira Dutta,	Sub-peon/DAO/APDJ.
7. Rarimal Ch. Dey,	Sub-peon/DAO/APDJ
9. Debabrata Das,	Peon/DPO/APDJ.
10. Nimai Ch. Paul,	Sub-peon/DAO/APDJ
11. Nani Gopal Chakraborty,	Peon/Rly. School/APDJ
12. Bhanu Sarker,	Sub-peon/DAO/APDJ
13. Ananta Kr. Mahanta,	Peon/DPO/APDJ
14. Nani Gopal Roy,	Sub-peon/WAO/NBQ
15. Brahmadeo,	Chowkider/DS(W)/APDJ.
16. Mohit Ch. Boro,	Sub-peon/WAO/NBQ
17. Geeta Das,	Lab. Attdt./Rly. School/APDJ
18. Kishore Singh,	Bungalow Peon/APDJ(DS)
19. Deonarayan,	Trolleyman, DEN/III/APDJ attached to office.

for Divl. Supdt.(P),
Alipurduar Junction.

Copy forwarded for information and necessary action to :-

*ADM
DJS
BJS*

1. Hd. Master/Rly.School/DOI.
2. DAO/APDJ.
3. DPM/APDJ.
4. Hd. Master/Rly.School/APDJ.
5. WAO/NBQ.
6. Hd. Clerks - E.E., ET/Commr. EQ.
7. Hd. Clerk/E/Recruitment.
8. CS.

*d/-
for Divisional Superintendent(P),
Alipurduar Junction.