

100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed Date - 23/9/96

M.P-05/96 ordered sheet pg-1 to 2

✓ O.A/T.A No. 158/96.....

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

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SECTION OFFICER (Jud1.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

No. 1581/96

Smt. S. K. Bhattacharjee Applicant(s)
vs-

Union of India & Ors. Respondent(s)

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

Mr. B. N. Sarma, R.C. Advocates for the Respondent(s)

Office Notes	Date	Courts' Orders
This application is in form and within time C. R. of Reg. No. dated 1/9/96 IPO No. 343858 Dated 1.9.96 By D. P. Registrar 8/8	12.8.96	Mr. S. Sarma for the applicant Issue notice on the respondents before admission to show cause as to why this application should not be admitted and reliefs sought be allowed. Returnable on 16.9.96. List on 16.9.96 for show cause and consideration of admission.
<u>30.8.96</u> Notices received and issued to the concerned parties vide D. No. 3005 dt. 4.9.96	pg M/18 12/8	6 Member
<u>By</u> Service reports awaited.	16-9-96	Learned counsel Mr. S. Sarma for the applicant. Show cause has not been submitted. Service Report awaited. None for the respondents List for consideration of Admission on 23-9-96.
<u>By</u> Service reports are still awaited show cause has not been submitted	1m 16/9	6 Member

(2)

23.9.96

Mr S.Sarma for the applicant.

None for the respondents. Service report awaited. Show cause has not been filed.

List for consideration of admission on 30.9.96.

8

60
Member

pg

23/9

30-9-96

Mr.S. Sarma for the applicant.

None for the respondents. Show cause has not been submitted.

Application is admitted. List for written statement and further order on 12-11-96.

60
Member

lm

30/9

12.11.96

Mr B.Mehta for the applicant. None for the respondents. Written statement has not been submitted.

List for written statement and further orders on 10.12.96.

60
Member

pg

12/11

10.12.96

Mr. S.Sarma for the applicant.

Mr. B.K.Sharma for the respondents.

Written statement has not been submitted.

Mr.Sharma seeks one month time to file written statement.

List for written statement and further orders on 8.1.1997.

60
Member

OA/TA/CP/RA/MP No. 19 of 19 O.A.No.158/96

OFFICE NOTE	DATE	ORDER
<u>29-1-97</u> 1/ Notice duly served on Respondent No - 1, 2, 3, 4, & 5. 2/ w/statement has not been submitted.	8.1.97	Learned counsel Mr B.K. Sharma for the respondents seeks 3 weeks time to submit written statement. List for written statement and further orders on 30.1.97.
<i>29-1</i>		<i>60</i> Member
	nkm <i>W/811</i>	
	30.1.97	Mr S. Sarma, learned counsel appearing on behalf of the applicant, is present. No written statement has been filed though several adjournments had been granted. We are not inclined to grant any further adjournment. The case will proceed without the written statement. List for hearing on 1.4.97.
		<i>60</i> Member
		<i>60</i> Vice-Chairman
<u>31-3-97</u> A copy of document filed by the Respondents No. 1, 2, 3 & 5.	1.4.97	Mr J.L. Sarkar, learned Railway counsel submits that he has some difficulties because he received the brief only the day before yesterday and therefore he prays for short adjournment.
		Accordingly the case is adjourned till 13.5.97 for hearing.
<u>31-3-97</u> 1/ Notice duly served on R. No - 1 to 5. 2/ written statement has not been submitted.		<i>60</i> Member
		<i>60</i> Vice-Chairman
<i>813</i> 1) w/s. does not submit <i>80</i> <i>12/5</i>	pg <i>W/214</i>	

OFFICE NOTE

DATE

ORDER

13.5.97

At the request of Mr J.L. Sarkar, on behalf of Mr B.K. Sharma, learned Railway Counsel, let this case be listed on 13.6.97.

Member

Vice-Chairman

nkm

14-7-97

16-6-97

Adjourned, list on
25.7.97.

By order:

16/7

written statement
filed on behalf
of the Respondent

No. ~~1, 2, 3~~ 1, 2, 3

25. with a

prayer MP No. 202/97

25.7.97

On the prayer of Mr M. Chanda, learned counsel for the applicant the case is adjourned till 29.7.97.

28-7-97

Member

Vice-Chairman

Vakalatnama filed by pg
Mr. M. Chanda, Adv.
on behalf of the
applicant

29.7.97

Mr M. Chanda, learned counsel

for the applicant, submits that the written statement was filed by the respondents about three weeks back, and the applicant has not been able to file rejoinder because he is away from Guwahati. Mr Chanda therefore, prays for a short adjournment.

Let the case be listed on
10.9.97 for hearing.

Member

Vice-Chairman

nkm

8/30/97

10.9.97

28.11.97

Adjourned to 28.11.97.

There is no representation by any party
on 20.2.98 by any party.

The case is ready
for hearing as regards
service to WTS.

st/912

Notes of the Registry	Date	Order of the Tribunal
1) WPS has been filed on R. Nos 1, 2, 3 & 5. 2) Rejoinder has not been filed. SD 26	20.2.98	Let the case be listed for hearing on 3.6.1998. 6 Member Vice-Chairman
1) WPS has been filed. 2) Rejoinder has not been filed. SD 27	pg 23/2 3.6.98	There is no Division Bench. Advised to 2.7.98. By 6 or
1) WPS has been filed. 2) Rejoinder has not been filed. SD 28	2.7.98 18 14.8.98	Advised to 14.8.98. By 6 or There is no Division Bench. Advised to 4.9.98. By 6 or
1) WPS has been filed. 2) Rejoinder has not been filed. SD 29	4.9.98	There is no Division Bench. Advised to 23.9.98. By 6 or
1) WPS has been filed. 2) Rejoinder has not been filed. SD 29	23.9.98	Division Bench is not available. List on 19.11.98 for hearing. 6 Member
1) WPS has been filed on R. Nos 1, 2, 3 & 5. 2) No. Rejoinder has been filed. SD 18/11	1m 19/11/98	There is no representation. Advised to 18.12.98. By 6 or

Notes of the Registry	Date	Order of the Tribunal
<u>22-12-98</u> There was a Board of Enquiry on 18-12-98. Hence placed under b	1-1-99 1m 28 4/1/99	Case is ready for hearing. List for hearing on 4-1-99 for hearing.  Vice-Chairman
<u>20-1-99</u> 1) Written statement has been filed. 2) Rejoinder has not been filed.	12-1-99	Adjoined to 21-1-99. By Mr. b
<u>27-1-99</u> 1) Written statement has been filed. 2) Rejoinder has not been filed.	21-1-99 22-1-99 28-1-99	Parson Adjoined to 28-1-99. By Mr. b
<u>8-2-99</u> 1) Written statement has been filed. 2) Rejoinder has not been filed.	9-2-99 18.2.99	There was a respite adjourned to 18-2-99. On the prayer of Mr M. Chanda, learned counsel for the applicant, the case is adjourned till 22.2.99.  Member
<u>17-2-99</u> 1) Written statement has been filed has not been filed	24/2/99	 Vice-Chairman

(7)

OA 158/96

X

Notes of the Registry	Date	Order of the Tribunal
<p><u>19-2-99</u> 1) Written statement - hs been filed. 2) Rejoinder hs not been filed.</p> <p><u>19/2/99</u></p>	<u>22.2.99</u> <u>23.2.99</u> <u>pg</u> <u>24/2/99</u> <u>4.3.99</u> <u>10.3.99</u>	<p>Passover on 21 day. By and</p> <p>Heard in part. List on 4.3.99 for further hearing. Records shall be produced by the respondents.</p> <p><u>6</u> Member</p> <p><u>24/2/99</u> <u>4.3.99</u> <u>10.3.99</u></p>
<p><u>1-3-99</u> 1) Written statement - hs been filed. 2) Rejoinder hs not been filed.</p> <p><u>1/3/99</u></p>		<p>Adjourned to 10.3.99. By and</p> <p><u>Adjourned to 24.3.99.</u> By and</p>
<p><u>9-3-99</u> 1) Written statement - hs been filed. 2) Rejoinder hs not been filed.</p> <p><u>9/3/99</u></p>	<u>24.3.99</u>	<p>Adjourned to 26.3.99. By and</p>
<p><u>23-3-99</u> 1) Written statement - hs been filed. 2) Rejoinder hs not been filed.</p> <p><u>23/3/99</u></p>	<u>26.3.99</u>	<p>Heard in part. Fix it on 8.4.99 for further hearing.</p> <p><u>6</u> Member</p>
<p><u>7-4-99</u> 1) Written statement - hs been filed. 2) Rejoinder hs not been filed.</p> <p><u>7/4/99</u></p>	<u>8.4.99</u> <u>trd</u>	<p>On the prayer of Mr. N.Sengupta, on behalf of Mr. J.L.Sarkar, the case is adjourned till 20.4.99</p> <p><u>6</u> Member</p>

(8)

S.A. 158/96.

Notes of the Registry	Date	Order of the Tribunal
<p><u>7-4-99</u> 1) Writs Served by subd 2) Rejoinder is not been filed</p> <p>214</p> <p><u>19-4-99</u> Rejoinder is not been filed</p> <p>214</p> <p><u>20.1.2000</u> Copy of the Judg has been sent to The D/sec. for issue in same to the parties through RFO with AFD.</p> <p>SL</p> <p>205 to 210 vide D. No. 1 of 20.1.2000</p> <p>SL</p>	<p>20.4.99</p> <p>pg</p> <p>22.4.99</p> <p>nkm</p> <p>28/12/99</p>	<p>On the prayer of Mr M.Chanda, learned counsel for the applicant the case is adjourned to 22.4.99.</p> <p>6 Member</p> <p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.</p> <p>6 Member</p>

~~CENTRAL ASIAN TRIBUNAL~~
GUWAHATI BENCH

O.A. NO. 158 of 1996

DATE OF DECISION..... 22.4.1999

Shri S.K. Bhattacharjee

(PETITIONER(S)

Mr M. Chanda and Mr S. Sarma

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS -

Union of India and others

RESPONDENT(S)

Mr B.K. Sharma and Mr J.L. Sarkar,
Railway Counsel .

ADVOCATE FOR THE
RESPONDENTS.

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

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

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

Judgment delivered by Hon'ble Vice-Chairman

100

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.158 of 1996

Date of decision: This the 22nd day of April 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman
The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri S.K. Bhattacharjee,
IOW Grade-I under Senior DEN,
N.F. Railway,
Maligaon, Guwahati.Applicant
By Advocates Mr M. Chanda and Mr S. Sarma.

- versus -

1. The Union of India, represented by the
Secretary,
Ministry of Railways, Government of India,
New Delhi.
2. The General Manager,
N.F. Railway, Maligaon,
Guwahati.
3. The General Manager (P),
N.F. Railway, Maligaon,
Guwahati.
4. Shri Narayan Krishna Goswami,
IOW Grade-I under Senior DEN,
N.F. Railway, Maligaon,
Guwahati.
5. The Chief Personnel Officer,
N.F. Railway, Maligaon,
Guwahati.Respondents
By Advocates Mr B.K. Sharma and
Mr J.L. Sarkar, Railway Counsel.

.....
O R D E R

BARUAH.J. (V.C.)

In this application the applicant has challenged
Annexure 7 order dated 4.12.1995 putting private
respondent No.4 above the applicant in seniority and also
seeks certain directions.



2. Facts are:

The applicant was at the relevant time Inspector of Works Grade II. The seniority position of the applicant in Grade II was 13. The private respondent No.4 was also Inspector of Works Grade II and he joined in that grade later than the applicant and his seniority position in that grade was 19(a), that is, in that grade the private respondent No.4 was junior to the applicant. For the next promotion, i.e. Inspector of Works Grade I, written test and viva voce test was held. The applicant appeared in the said examination alongwith other candidates held on 29.2.1992 and 21.3.1992. However the applicant could not come out successful. In that year the private respondent No.4 was also eligible for examination. However because of administrative error he was not intimated. As a result he could not appear in the examination. The 4th respondent thereafter submitted a representation before the authority. As a result of the representation submitted by the 4th respondent he was informed by Annexure 3 order dated 30.7.1993 that he would get the benefit of seniority to the extent of his junior only if he passed the test prescribed and declared fit by the Departmental Promotion Committee. No such test was held for him. His case was considered in terms of a modified selection procedure in 1994. Pursuant to the Railway Board's letter dated 27.1.1993 both the applicant and the private respondent qualified in the selection and they were promoted. Respondent No.4 was not called in the earlier test due to mistake on the part of the respondents. Being aggrieved the applicant submitted representation requesting for assigning his seniority above respondent No.4. The said representation was disposed of rejecting the case of the applicant by Annexure 7 order dated 4.12.1995. Hence the present

DR

application.

3. The contention of the applicant is that it is true that the respondent No.4 was not called to appear in the examination for selection held on 29.2.1992. Grievance of the applicant is that the 4th respondent was unduly given seniority which is contrary to the provision of rule. The applicant submits that the nature of examination in which the applicant failed was quite different from the modified selection. In the earlier selection one had to appear in the written test and the viva-voce test and thereafter his case was considered. But in the modified selection promotion was given only on the basis of service records. The further contention of the applicant is that the private respondent No.4 was not asked to appear in the same type of examination and therefore there is discrimination. It is further contended by the applicant that if similar type of examination was held so far as the private respondent No.4 is concerned, then the result might not have been same.

4. We have heard Mr M. Chanda, learned counsel for the applicant and Mr J.L. Sarkar, learned Railway Counsel. Mr Chanda has drawn our attention to Rule 316 of Indian Railway Establishment Manual, Vol.I (in short IREM) which reads as follows:

"A railway servant who, for reasons beyond his control, is unable to appear in the examination/test in his turn along with others, shall be given the examination/test immediately he is available and if he passes the same, he shall be entitled for promotion to the post as if he had passed the examination/test in his turn.

"NOTE. 1. The expression 'reasons beyond his control' appearing above should be interpreted to include the following:

B

"(i) Sickness of the railway servant supported by the medical certificate of the authorised medical attendant;

(ii) Sickness of the members of a railway servant's family supported by the medical certificate of the authorised medical attendant, so serious that the railway servant could not be reasonably expected to take the test;

(iii) Proved non-receipt of intimation of the examination/test owing to being on leave or on duty elsewhere than at the headquarters or for any other reasons acceptable to the administration, and

(iv) Administration not relieving the railway servant for such examination or test."

The moment the mistake was detected a similar type of examination ought to have been held. If he had passed same type of examination, definitely he would be treated as candidate for that year. As this was not done in the case of private respondent No.4 seniority given to the private respondent No.4 is illegal, unfair and contrary to the rules. Mr Sarkar on the other hand refers to Rule 228 of the IREM, Vol.I which reads as under:

"Erroneous Promotions.-(I) Sometimes due to administrative errors, staff are overlooked for promotion to higher grades could either be on account of wrong assignment of relative seniority of the eligible staff or full facts not being placed before the competent authority at the time of ordering promotion or some other reasons. Broadly, loss of seniority due to the administrative errors can be of two types :-

"(i) Where a person has not been promoted at all because of administrative error, and
(ii) Where a person has been promoted but not on the date from which he would have been promoted but for the administrative error.

"Each such case should be dealt with on its merits. The staff who have lost promotion on account of administrative error should on promotion be assigned correct seniority vis-a-vis their juniors already promoted, irrespective of the date of promotion."

Mr Sarkar also relies on the decision of the Apex Court in the case of A.K. Chatterjee -vs- Eastern Railway and

others.....

RB

others, reported in 1985 (1) Labour & Industrial cases.

Para 12 of the said judgment reads as follows:

"We find no justification for the attitude adopted by the Railway Administration in depriving the appellant of his legitimate rights. Loss of seniority of a Government servant with consequent lose of promotional prospects, higher pay and emoluments is a matter of serious consequence to him. When the appellant by his representations drew the attention of the departmental authorities to the injustice done to him, it was their duty to have rectified the mistake and re-fixed the seniority of the appellant. It was precisely to meet a situation of this kind that the Railway Board's Circular dated October 16, 1964 was issued. It provides that if a person has been promoted but not on the date on which he should have been promoted due to some administrative error then the employees should be assigned correct seniority vis-a-vis his juniors already promoted irrespective of the date of promotion. It further provides that the pay of such employee in higher grade on promotion will be fixed proforma at the stage which he would have reached if he had been promoted at the proper time....."

5. On the rival contention of the parties it is now to be seen whether the authority was correct in giving the seniority to respondent No.4 above the applicant after coming to know about the administrative error. We have perused both rules cited by Mr Chanda and Mr Sarkar and also the decision of the Apex Court (Supra). Rule 316 of IREM says that in case of non-receipt of the intimation an employee should be given all the opportunities and if he is qualified on merit then he should be given due promotion. In 1992 when the selection was held the procedure of selection was by written and viva-vóce examinations. In the written examination the applicant failed, the respondent No.4 was not called. Definitely respondent No.4 was entitled to be called and when the mistake was detected, he should have been treated in the same way as if examination was held on the date

the.....

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the applicant appeared in the examination but failed. In that examination the respondent No.4 might have come out successful. But in the subsequent year 1994 the procedure had been changed and the promotion was given to the respondent No.4 on the assessment of service records. We agree that there was totally a different type of examination. In order to supersede, the 4th respondent must have passed the examination which was held in 1992 after the detection. Unfortunately, this was not done. Therefore we find sufficient force in the submission of Mr. Chanda. There is no dispute about the Rule 228. In the rule it is specifically stated that each case should be dealt with on its merits. The staff who have lost promotion on account of administrative error should on promotion be assigned the correct seniority. In this case also promotion in the year 1992 ought to have been given on the basis of examination but the 4th respondent was not called due to administrative error. He ought to have been called immediately after the mistake was detected. He should have been given same type of test and if he had qualified in that case, definitely he would be deemed to have passed in that year in which the applicant failed and in that case 4th respondent would be placed above the applicant. Decision cited by Mr. Sarkar also refers to the same view.

6. We therefore hold that the seniority of the 4th respondent above the applicant was not in accordance with the provisions of rule, but for that matter the 4th respondent should not suffer. The administration may hold an examination in the similar manner as was done in 1992

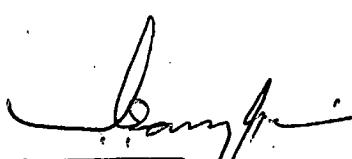
giving.....

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giving sufficient notice to the 4th respondents and if he qualifies in the examination then his position will be above the applicant.

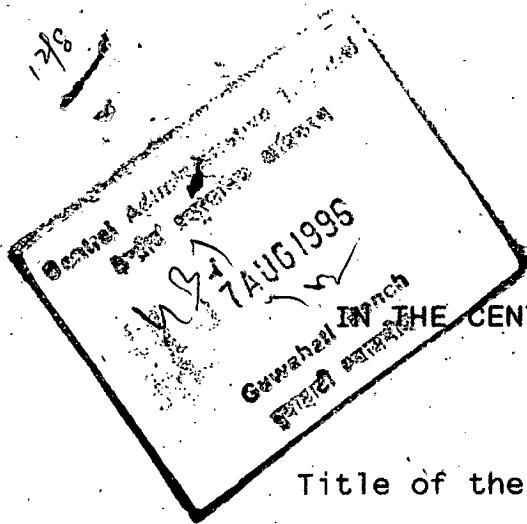
7. With the above direction the application is disposed of.

8. Considering the facts and circumstances of the case, we however make no order as to costs.


(G. L. SANGLYINE)
ADMINISTRATIVE MEMBER


(D. N. BARUAH)
VICE-CHAIRMAN

nkm



THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH
AT GUWAHATI

Title of the Case : O.A. No. 158 of 1996

Shri S.K. Bhattacharjee Applicant

-Versus-

Union of India & Others Respondents

I N D E X

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For use in Tribunal's Office :

Date of filing : 7-8-96

Registration No. : OA 158/96

D. Lawrence
REGISTRAR
7-8-96

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*Amrit
Sury
7-8-96*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

BETWEEN

Shri S.K. Bhattacharjee,
IOW Grade-I under Senior DEN,
N.F. Railway, Maligaon, Guwahati-11

..... Applicant

AND

1. The Union of India,
represented by the Secretary,
Ministry of Railways, Govt. of India,
New Delhi.
2. General Manager, N.F. Railway,
Maligaon, Guwahati-11
3. The General Manager (P),
N.F. Railway, Maligaon
Guwahati-11
4. Shri Narayan Krishna Goswami,
IOW Grade-I under Senior DEN
N.F. Railway, Maligaon,
Guwahati-11.
5. The Chief Personnel Officer,
N.F. Railway, Maligaon, Guwahati-11

..... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE :

The application under Section 19 of the Administrative Tribunals Act, 1985 is directed against :

- (i) Office Order dated 28.11.94 issued from the office of the General Manager (P), N.F. Railway, Maligaon, Guwahati-11 making promotion to the post of IOW Grade-I and allocating the senior ranking to the respondent No. 4 over the applicant.

Filed before 9
Gorakhpur (Senior)
7.8.96

(ii) Integrated seniority list of Senior Supervisory Staff of Civil Engineering Department dated 29.9.95 issued from the office of the General Manager (P), N.F. Railway, Maligaon, Guwahati-11 wherein the name of the respondent No. 4 has been shown over that of this applicant.

(iii) Letter No. 468-E/25(E) Loose dated 4.12.95 issued from the office of the General Manager (P) intimating the applicant that his representation dated 24.9.95 for correct assignment of seniority position has been rejected.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the instant case is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

The applicant declares that the information contained in the letter dated 4.12.95 issued from the office of the General Manager (P) Maligaon, Guwahati is in the form of final order. Since this application is being made within one year of the date of the aforesaid letter, therefore, it fulfills the requirement of limitation laid down in Section 21 of the Administration Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 The applicant is a citizen of India and is presently holding the post of IOW Grade-I in the office of the Senior DEN, Maligaon, Guwahati-11 in the N.F. Railway.

4.2 That this applicant and the respondent No. 4 Shri Narayan Krishna Goswami were working as Inspector of Works, Grade-II in the Department of Railways. In the said department as per the seniority list of IOW, Grade-II published vide GM(P), Maligaon's office order No. E-255/24/Pt-IV(E) dated 4.1.95 the seniority position of the applicant was shown at Sl. No. 30 whereas the seniority position of the respondent No. 4 was shown at Sl. No. 19(A). It is stated that the respective position of seniority shown in the aforesaid seniority list is absolutely undisputed and even the respondent No. 4 at no point of time disputed this position. It also bears testimony to the fact that the respondent No. 4 was junior to this applicant.

A copy of the seniority list of IOW Grade-II 4.1.95 is annexed herewith and marked as ANNEXURE-1

4.3 That on 25.8.92 vide General Manager(P)/Maligaon's order No.E-283/44/Pt.XXIV (E) selection was finalised for promotion to the post of IOW Grade-I on the basis of the written test held on 29.2.92 and 21.3.92 (for absentees) followed by viva-voce test held on 1.7.92 and 10.7.92 (for absentees). Those IOW, Grade-II who had appeared and secured minimum qualifying 60% marks in the prescribed tests were promoted to the post of IOW-I in the scale of Rs. 2000-3200/-. In the said examination this applicant also appeared but could not pass. The respondent No. 4 was also issued call letters but the concerned authority due to their mistake could not inform him. The net result of the whole episode that this applicant appeared in the selection test

which was conducted pursuant to the order dated 25.8.92 for promotion to the post of IOW-I, but he failed to pass the test. While the respondent No. 4 did not get the opportunity of appearing in the selection test as a result of this even he too could not be promoted to IOW-I.

A copy of the aforesaid order dated 25.8.92 is annexed herewith and marked as ANNEXURE-2.

4.4 That the respondent No. 4 being aggrieved by the action of the Senior DEN/Maligaon for not informing him about the selection test preferred a representation to the General Manager (P) on 16.3.93 after expiry of more than a year. The said representation was entertained by the General Manager (P) vide his order No. 254/10/P/IV(E) dated 22/30-7-93 wherein it was stated that the seniority position of the respondent No. 4 will be restored next above to his junior Shri Pijush Kanti Roy who got promotion in the selection of IOW-I held on 29.2.92 subject to the condition that the respondent No. 4 would be declared fit by the Departmental Promotion Committee after clearing a duly prescribed test as of a test which was held on 29.2.92. It is, therefore, stated that the order of the General Manager (P) made it clear that if the respondent No. 4 clears a duly prescribed test similar to the test which was held on 29.2.92 where in he could not appear and if he is declared fit by the Departmental Promotion Committee after clearing such a test and then only the respondent No. 4 will get promotion to the grade of IOW-I and his position will be restored next above

22
S. No. 1

to his junior Shri Pijush Kanti Roy who got promotion in the selection of IOW-I held on 29.2.92.

Copy of the order of the General Manager (P) dated 22/30.7.93 is annexed herewith and marked as ANNEXURE-3.

4.5 That on 28/29.11.94 on the basis of the modified procedure of selection in order to fill up the selection post of IOW-I as a result of restructuring, some IOW-II were promoted in accordance with their seniority after scrutinising their records without holding any written and viva-voce test vide General Manager (P) Maligaon's office order No.E/283/44/Pt-XXIV (E). This applicant and the respondent No. 4 were also promoted to the post of IOW-I pursuant to this order. However, to the dismay of the applicant, the respondent No. 4 was put at S1. No. 1 in the aforesaid promotion order dated 28/29-11.94 whereas this applicant who otherwise was senior to the respondent No. 4 was put at S1. No. 7. Being aggrieved by his supersession and wrong assignment of the seniority position when this applicant made a grievance, he was told that the respondent No. 4 has been put at S1. No. 1 in pursuance of the decision of the General Manager (P) contained in his order dated 22/30.7.93 (Annexure-3).

A copy of the office order dated 28/29.11.94 is annexed herewith and marked as ANNEXURE-4.

4.6 That the S1. No. 1 assignment of the Respondent No. 4 in the Annexure-4 order and S1. No. 7 assignment to this

applicant in the aforesaid order was certainly not in conformity with the Annexure-3 order of the General Manager (P) inasmuch as in the Annexure-3 order, it was specifically stated by the General Manager (P) that seniority position of the respondent No. 4 will be restored next above to his junior Shri Pijush Kanti Roy only on respondent No. 4 clearing a duly prescribed test similar to the test held on 29.2.92 in which the respondent No. 4 could not appear. Since the respondent No. 4 never appeared in any test and he was promoted like this applicant without appearing in any selection test, therefore, the question of so called restoration of seniority to the respondent No. 4 had no meaning and the competent authority by placing the respondent No. 4 above this applicant in the office order dated 28/29.11.94 made a grave error and acted apparently in violation of the Annexure-3 order of the General Manager (P).

4.7 That on 29.9.95 an integrated seniority list of senior supervising staff of Civil Engineering Department who are eligible to appear in the selection of AEN Group B against 70% vacancy was published. In the seniority list, applicant's name appeared at Sl. No. 101 whereas the name of the respondent was placed at Sl. No. 56(A).

4.8 That on 6.1.96 a selection was held in Chief Engineer, Maligaon's office for the post of AEN, Group-B against 70% vacancies and the respondent No. 4 was called in the selection. In sharp contrast though this applicant was initially senior to the respondent No. 4 but due to his

position being down below the list he was not even called to appear for the aforesaid selection. However calling of respondent No. 4 in the aforesaid selection did not result in any prejudice to this applicant inasmuch as the respondent No. 4 failed to pass the selection test. It is pertinent to mention here that this applicant recorded his protest not only for placing his name down below the list at Sl.No. 101 lower than that of the respondent No. 4 but also for not calling him to appear in the selection test for the post of AEN Group-B.

Copy of the integrated seniority list dated 29.9.95 is annexed herewith and marked as ANNEXURE-5.

4.9 That this applicant has come to know that very soon there is a likelihood of the order of promotion being passed for the post of Chief Inspector of Works in the scale of Rs. 2375-3500/- . It is pertinent to mention here that the promotion to the post of Chief Inspector of Works depends entirely on the seniority position of IOW-I and other factors like scrutiny of service records and vigilance clearance etc. This applicant has come to know that the respondent No. 4 has been placed at Sl. No. 4 for consideration of his case for promotion to the Chief Inspector of Works and the name of this applicant does not come even within the zone of consideration. It is apparent that all this is primarily due to the wrong assignment of seniority position of the respondent No. 4 by the competent authority as a result of which the interest of the applicant has been severely prejudiced.

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4.10 That this applicant is highly aggrieved by the wrong assignment of seniority position to the respondent No. 4 by the competent authority and the consequent prejudice that has been caused to him. The favour that has been shown to the respondent No. 4 is not tenable in law and the same is in apparent contradiction of the Annexure-3 order of the General Manager (P) wherein it was made clear that only when the respondent No. 4 would clear the test similar to the test in which he could not appear then only he would be considered suitable for assignment of the seniority which the respondent No. 4 had lost by missing an opportunity to appear in the selection test held on 29.2.92.

4.11 That as early as on 20.4.95 the applicant filed a representation wherein he made a grievance for wrong assignment of seniority position and he challenged the correctness of the office order No. E-283/44/Pt dated 29.11.94. In this representation, the applicant strongly criticised his supersession in seniority position by the respondent No. 4 and made a prayer for correct assignment of the seniority position by making appropriate amendment in the office order dated 29.11.94.

A copy of the aforesaid representation of the applicant dated 20.4.95 is annexed herewith and marked as ANNEXURE-6.

4.12 That the Annexure-6 representation dated 20.4.95 was disposed of by the competent authority and the applicant was

intimated about the result of the same by letter No. 468/E/25 (E)/Loose dated 4.12.95 issued from the office of the General Manager (P) wherein it was stated that the case was duly examined by the Chief Personnel Officer and it has been decided that since the applicant had failed in the written test of the selection of IOW-I so his case cannot be compared with that of the respondent No. 4.

Copy of the letter dated 4.12.95 is annexed herewith and marked as ANNEXURE-7.

4.13 That being aggrieved by the Annexure-7 letter dated 4.12.95 the applicant filed this application bonafide and for securing the ends of justice.

5.GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That the respondents made a grave error in law by giving benefit of seniority to the respondent No. 4 over that of this applicant on the ground that this applicant failed to clear the written test held on 29.2.92 while the respondent No. 4 missed that opportunity because he could not appear in the same.

5.2 That it was made clear in the Annexure-3 order of General Manager (P) that the benefit of seniority would be given to the respondent No. 4 if he clears the selection test similar to the one held on 29.2.92. However, the respondent No. 4 never appeared in any such selection test and he was promoted to IOW-I like that of this applicant without any selection test. Therefore, no benefit of

shri

seniority can be given to the respondent No. 4 over that of this applicant.

5.3 That the Annexure-7 letter dated 4.12.95 is arbitrary and the reasons assigned therein are untenable.

5.4 That the Annexure-7 letter dated 4.12.95 reflects the total non-application of mind and ex-facie displays non-consideration of the Annexure-3 order of the General Manager (P) wherein it was specifically stated that the respondent No. 4 would have to clear the selection test similar to one in which he could not appear, in order to get the benefit of seniority position.

5.5 That the competent authority meted a preferential treatment to the respondent No. 4 without any intelligible differentia or rational or objective criteria.

5.6 That the action of the action of the Railway authority of assigning higher seniority position to the respondent No. 4 over that of this applicant is irrational, arbitrary and is based on a logic which is untenable and is wholly unacceptable.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicant declares that he has exhausted all the remedies available to him and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT :

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the grievances in respect of which this

application is made before any Court or any other Bench of the Tribunal, or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

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

8. 1 Direct the respondent Nos. 1,2,3 and 5 to correct the seniority position of applicant and restore his seniority over that of the respondent No. 4 in the office order dated 28.11.94 (Annexure-4)

8.2 Direct the respondent Nos. 1,2,3 and 5 to make appropriate correction in the annexure-5 integrated seniority list of senior supervising staff of Civil Engineering Department dated 29.9.95 and restore the seniority position of this applicant vis-a-vis that of the respondent No. 4.

8.3 Quash the letter dated 4.12.95 (Annexure-7) and direct the respondent Nos. 1, 2, 3 and 5 to resotre the seniority position of this applicant over that of the respondent No. 4 in the seniority list of IOW-I.

8.4 Pass such order or orders as may be deemed fit and proper under the facts and circumstances of the case.

4/20

9. INTERIM ORDER PRAYED :

During the pendency of this application, any promotion made to the post of Chief Inspector of Works shall be made subject to the result of this case.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

11.1 I.P.O. No. : 8 09 345858

11.2 Date : 14.5.96.

11.3 Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification



13.

VERIFICATION

I, Shri S.K. Bhattacharjee, presently working as IOW Grade-I under Senior DEN, N.F. Railway, Maligaon, Guwahati-11, the applicant, do hereby verify and state that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 5th day of August 1996.

Sushil Km. Bhattacharjee
(S.K. BHATTACHARJEE)

PROVISIONAL SENIORITY LIST AS ON 1-4-94 OF CIVIL ENGG. DEPTT.
 CATEGORY - INSPECTOR OF WORKS, GRADE-II SCALE OF PAY :- 1s.1600-2660/- (RP)
 CLASSIFICATION OF THE POST-NON-SELECTION.UNIT - N.F.RAILWAY.

Sl. No.	Name in order of seniority	Designation and place of posting	Date of birth	Date of appointment to the Railway	Date of promotion to the grade	confirmed/ officiating	Remarks
1	2	3	4	5	6	7	8
1.	Shri Gautam Deb	UR IOW/II/GM/Con/1 MLG	9-2-57	20-2-82	20-2-82	Offg.	
2.	" Ram Vijay Singh	UR -do- -do-	8-1-56	20-2-82	20-2-82	"	
3.	" K.C.Kurian	UR -do- Now Investing Officer /Railway Board.	8-11-37	7-1-63	1-1-84	"	
4.	" Dhiraj Kr. Moitra	UR -do- KIR Divn.	1-4-47	19-2-72	1-1-84	"	
5.	" B.N.Tiwari	UR -do- TSK Divn.	21-8-36	1-6-87	1-1-84	"	
6.	" N.I.Thomas	UR -do- APDJ Divn	22-3-41	17-2-60	23-9-85	"	
7.	" S.N.Banarjee	UR -do- CE(PL)MLG	1-2-38	8-4-60	3-1-87	"	
8.	" G.C.Roy	UR -do-/LMG divn	1-1-39	18-10-60	11-2-83	"	
9.	" Moni Mohan Konar	UR -do-/KIR Divn	7-7-43	22-12-66	8-7-87	"	
10.	" S.N.Bhatta- charjee	UR -do-/KIR Divn.	15-11-39	6-1-60	9-7-88	"	

Attested

Advocate. 07 AUG 1995

C. T. 1995

contd...2

(H) 61

1	2	3	4	5	6	7	8	9
33.	Shri Parikshit Deka	UR	IOW/Gr.II/LMG divn.	1-3-56	4-8-80	19-4-90	0 ^{sg.}	
34.	" Amrik Singh Danjal	UR	-do-/RCF/Kapurthala	10-4-56	2-2-81	19-4-90	"	
35.	" Rajsekhar Bhattachar jee.	UR	-do-/LMG divn.	30-5-57	12-9-80	19-4-90	"	
36.	" Ramesh Ch. Paul	UR	-do-/LMG divn.	3-3-55	4-8-80	19-4-90	"	
37.	" P. anab Kr. Das	UR	-do-/GM/Con/MLG	26-10-54	30-1-81	19-4-90	"	
38.	" Sanjeev Kharagharia	UR	-do-/APDJ divn.	28-9-59	15-8-80	19-4-90	"	
39.	" Biprajit Dutta	UR	-do- -do-	7-3-59	12-9-80	19-4-90	"	
40.	" Debjit Bardoloi	UR	-do- -do-	1-11-59	29-8-80	19-4-90	"	
41.	" Amalendu Dey	UR	-do- -do-	1-1-57	2-2-81	19-4-90	"	
42.	" Kaushik Sen Laskar	UR	-do- -do-/MLG	25-1-59	31-1-81	19-4-90	"	
43.	" Ratan Ch. Paul	UR	-do-/LMG divn.	17-9-56	30-1-81	19-4-90	"	
44.	" Dwijendra Barthakur	UR	-do-/GM/Con/MLG	2-12-54	29-8-80	19-4-90	"	
45.	" Promode Ch. Kalita	UR	-do-/LMG divn.	1-8-58	5-2-81	19-4-90	"	
46.	" Arun Chakraborty	UR	-do-/LMG divn.	1-1-58	30-1-81	19-4-90	"	
47.	" Sarbeswar Kumar	UR	-do-/APDJ divn.	1-6-59	14-5-81	25-8-90	"	
48.	" Ashish Baran Biswas	UR	-do-/Sr.DEN/MLG	1-4-55	14-7-81	19-4-90	"	

4
Anil Kumar Saha.....4

641/95

Attested.

Advocate
07 AUG 1996

1	2	3	4	5	6	7	8	9
49.	Shri Izarul Hussain	UR	ION/Gr.II/TSK divn.	1-3-38	9-10-80	26-4-90	07-5-91	07-5-91
50.	" K.N.Sarkar	UR	32/ do /KIR divn.	20-10-36	15-8-60	19-4-90	"	"
51.	" P.R.Nahar	UR	2/ do /Sr.DEN/MLG	1-1-41	16-11-69	15-5-90	"	"
52.	" D.K.Kundu	TR	2/ do /APDJ divn.	22-6-36	7-10-63	7-5-90	"	"
53.	" Achinta Kr. Bose	UR	2/ do /Sr.DEN/MLG	1-2-42	1-7-64	15-5-90	"	"
54.	" Joydev Mandal	UR	2/ do /GM/Con/MLG	1-1-54	27-10-77	22-1-91	"	"
55.	" Santosh Kr. Ghosh	UR	2/ do / P) Divn.	17-12-41	16-3-65	15-2-91	"	"
56.	" P. Ramamurti	TR	2/ do /GM/Con/MLG	1-7-19	18-2-78	22-1-91	"	"
57.	" G.P.Sharma	TR	2/ do /KIR divn.	19-7-56	14-5-79	07-2-90	"	"
58.	" R.D.Biswas	UR	2/ do /Sr.DEN/MLG	27-1-37	5-2-67	07-5-91	"	"

for: G. F. AL M. M. A. T. R. (P)
H. P. T. I. L. Y. : H. L. G.

U.S. AIR FORCE
No. 255/24 Pt. IV (P) Malison, dated 4-1-65.
is forwarded for information and necessary action to: (Signature)

Note: Any representation of which the staff desire to take regarding their relative position in the Seniority list should be submitted to this Office. Within one month from the date of issue of Seniority List, no action will be taken on representation if any submitted after expiry of the target date mentioned above.

1. N.C. Talukdar	8. Suman Banerjee	-16-
2. P.K. Roy	9. Bijon M. Paul	10. N. I. Bhattacharya
3. A.K. Chatterjee	10. Nilmani Deb	11. P.K. Das
4. Bipanjit Datta	12. K.M. George	13. S.P. Bhattacharjee
5. Bipanjit Datta	14. C.P. Ramkrishna	15. R.C. Mandal (SC)
6. Bishwajit Saha		16. Sasanka Barma (SC)
7. Akbar Hussain		17. T.T. Bhutia (ST)
8. Anil Kumar		18. T.T. Bhutia (ST)

Annexure : 2

NORTHEAST FRONTIER RAILWAY.

MEMORANDUM.

In the selection for promotion to the post of Inspector of Works/Gr.I in scale Rs.2000-3200/- (RPS) held in Chief Engineer Maligaon Office on 29.2.92 (Written) 21.3.92 absentee Written 1.7.92 (Viva-Voce) 10.7.92 (Absentee Viva-Voce) The following Inspector of Works/Gr.II in scale Rs.1600-2660/- (RPS) have been selected for promotion to the post of IOW/Gr.I in scale Rs.2000-3200/- (RPS) and their names are placed in the panel of IOW/Gr.I in this Selection. Sincerity.

Sl. No.	Name	Designation & scale	Present place of posting
1.	Shri Niranjan Deb.	IOW/Gr.II- 1600-2660/-	Sr. DEN/MLG.
2.	Shri P.K. Das.	-do-	GM/Con/MLG.
3.	" D.K. Dey.	-do-	APDJ Division.
4.	" K.M. George.	-do-	GM/Con/MLG.
5.	" S.P. Bhattacharjee.	-do-	-do-
6.	" Santadhan Aich.	-do-	Sr. DEN/MLG.
7.	" A.K. Chatterjee.	-do-	CE/MLG.
8.	" C.P. Ramakrishna.	-do-	GM/Con/MLG.
9.	" Anilendu Saha.	-do-	MTP/Calcutta.
10.	" N.C. Talukdar.	-do-	GM/Con/MLG.
11.	" Akbar Hussain	-do-	IMG Division.
12.	" Pijush Kanti Roy.	-do-	GM/Con/MLG.
13.	" R.C. Mandal (SC)	-do-	-do-
14.	" Sasanka Barma (SC)	-do-	-do-
15.	" T.T. Bhutia (ST)	-do-	APDJ Division.

Contd.....2/-

Avocato

17/7/92

The above result has been provisionally approved by Competent authority on 20.8.92.

[Signature]
for GENERAL MANAGER (P).

No. E/254/18 Pt. V (E).

Maligaon, dt. 25-8-1992.

Copy forwarded for information and necessary action to :-

1. GM/Con/MLG.

2. GM/MTP/Calcutta.

3. DRM(P)/KIR, APDJ, IMG & TSK.

4. DRM(W)/KIR, APDJ, IMG & TSK.

5. SR.DEN/MLG.

6. DEN/DBRT.

7. Dy. CE/P&D/MLG.

8. Dy. CE/G/MLG.

9. PA to CE/MLG.

10. GM/Hindi/Maligaon with 7 spare copies of this publication are enclosed for translation and return the same for publication.

11. CCS(G)/Maligaon (in duplicate) for publication in the next issue of N.F. Railway Fortnightly Gazette.

[Signature]
for GENERAL MANAGER (P).

Annexure : 3

ANNEXURE - 3

H. F. RAY.

NO.E/254/10/Pt.V (B).

Office of the
General Manager (P),
Kaliyana, dated, 30-7-93.

To
Smti N. K. Goswami,
IGP/Gr.II/SMI,
Under Sr.DEN/MLG.

Sub: Selection for the post of
IGP/Gr.I in scale Rs.2000-3200/-
under 75% vacancies.

Re: Your representation dated
16-3-93.

In reference to your above quoted representation dated
16-3-93, it has been decided that your seniority position will be
restored next to your junior Shri Bijush Kanti Ray who got promotion in
the selection of IGP/Gr.I in scale Rs.2000-3200/- (II) held on 29-3-92
subject to the following condition.

Since you could not be informed by Sr.DEN/MLG to appear in
the selection for the post of IGP/Gr.I held on 29-3-92 you will get the
benefit of seniority to the extent of your junior only if you are declared
fit by the Departmental Promotion Committee after due test proscribed.

On 21/8/93
for GENERAL MANAGER (P)MLG.

AB/22-7.

Attest.ed.

Advocate

07 AUG 1993

ANNEXURE 4

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

Dated 28-11-94.

OFFICE ORDER

The following transfer posting and promotion order are issued to take immediate effect.

The following IOW/Gr.II in scale Rs.1600-2660/- (RP) have been found suitable for promotion to the post of IOW/Gr.I in scale Rs. 2000-3200/- (RP) in terms of this office memorandum No.E/283/44/Pt.XXIV(G) dated 28.11.94 are hereby temporarily promoted to officiate as IOW/Gr.I in scale Rs. 2000-3200/- (RP) against the posts available due to cadre restructuring w.e.f. 1.3.93 and chain existing vacancies in terms of 1.3.93 B.F.D's letter No.PC/III/91/CRC/1 dated 27-1-93 and posted as under :-

SN	Name	Designation, Scale & Place of posting	Now posted as
1.	Shri Narayan Krishna Goswami.	IOW/Gr.II/BB/AMJ/ Sr.DEN/MLG Rs. 1600-2660/-	IOW/Gr.I/PNO(U) Sr.DEN/MLG Rs.2000-3200/-
1-2-382.	" S.N.Banerjee	IOW/II/CE/PL/MLG -do-	IOW/I/CE/PL/MLG By temporarily variation on the post of IOW/Gr.I IOW/CE/PL/MLG -do-
1-1-39	3. " G.C.Roy	IOW/II/SPL/MLG/ Sr.DEN/MLG -do-	IOW/I/BOP/Sr.DEN/ KIR -do-
15-IV-394.	" S.N.Bhattacharjee	IOW/II/SGUT/Sr.DEN/KIR -do-	IOW/I/SGUJ/ Sr.DEN/KIR -do-
1-1-39	5. " Surajit Kr. Chakraborty	IOW/II/HJP/Sr.DEN/KIR -do-	IOW/I/KIR(G) Sr.DEN/KIR -do-
5-8-43	6. " Sarojindra Kr. Sinha	IOW/II/Sr.DEN/MLG -do-	IOW/I/MLF/Sr.DEN/ KIR -do-
7.	" S.K.Bhattacharyya	IOW/II/DNC/Sr.DEN/APDJ -do-	IOW/I/PNO(U) Sr.DEN/MLG -do-
8.	" R.B.Majumder	IOW/II/HBG/Sr.DEN/MLG -do-	IOW/I/DNR/ Sr.DEN/MLG vice Shri P.K.Roy/ IOW/I/DNR transferred to FCU/MLG. -do-
9.	" Subhash Chandra	IOW/II/TSK -do-	IOW/I/MLI/Sr.DEN/ TSK -do-
10.	" Golak Das	IOW/II/GM/Cn/MLG -do-	IOW/I/GV/Cn/MLG -do-
11.	" Dilip Kr. Dhar	IOW/II/GV/Cn/MLG -do-	IOW/I/GV/Cn/MLG -do-
12.	" Biswajit Roy	IOW/II/APDJ -do-	IOW/I/CE/Sr.DEN/ APDJ -do-
13.	" H.N.Sarma	IOW/II/SLGR/TSK -do-	IOW/I/NJN/Sr.DEN/ TSK -do-

28/11/94 contd...?

Altes ed.
Advocate

07 AUG 1995

14. Shri Arup Chakraborty	<u>IOI/II/ZTS/APDJ</u> -do-	<u>IOI/I/ZTS/APDJ</u> -do-
15. " Ashim Chakraborty	<u>IOI/II/MLG/KIR</u> -do-	<u>IOI/I/MLP/Sr.DEN/KIR</u> -do-
16. " Tarun Ch. Thakuria	<u>IOI/II/NGC/Sr.DEN/MLG</u> -do-	<u>IOI/I/NGC/Sr.DEN/MLG</u> -do-
17. " Ashok Chakraborty	<u>IOI/II/Sr.DEN/IMG</u> -do-	<u>IOI/I/NGC/Sr.DEN/IMG</u> -do-
18. " Krishnendu Bhattacharjee	<u>IOI/II/Sr.DEN/APDJ</u>	<u>IOI/I/APDJ-I/Sr.DEN/APDJ</u> -do-

This issues with the approval of competent authority.

Note No. (1) The promotees shown against Sl.No. 2 to 3 only one eligible for retrospective promotional benefit i.e. f. 1.3.93 against restructuring and Sl.No. 4 to 13 will get promotional benefit with immediate effect.

(2) The promotees shown against Sl.No. 1 Shri N.K. Goswami, IOI/II/Sr.DEN/MLG will get prforma benefit to the extent of his junior Shri Pijush Kanti Roy posted to the post of IOI/Gr.I v.o.f. 29.9.92 since he was overlooked in the last selection of IOI/I(2000-3200) finalised on 25-8-92 and promotion and posting order issued wide N.O.E/233/44 Pt.XXIV(E) dated 24/25-9-92.

(3) Sl.No. 4 Shri S.H.Bhattacharjee, IOI/II/SGUJ who is under order of promotion as IOI/I/SGUJ will take over charge from Shri S.G.Sivani, CIO/SGUJ who is going to be retired v.o.f. 31.12.94 till regular CIO posted. Sl.No. 5 Shri S.K.Chakraborty, IOI/II/MLP who is under order of promotion as IOI/I/KIR(B) will take over charge from Shri B.K.Halder, CIO/I/KIR who is going to be retired v.o.f. 31.12.94 till regular CIO posted.

On 23/11/94
(A. SAIKIA)

Asstt. Personnel Officer/En.s.
for General Manager(P)/MLG

N.O.E/233/44 Pt.XXIV(E) Dated 24/25-9-94
Copy furnished for information and necessary action to :-

1) GM/Ch/MLG.	6) DIN/TBT
2) FA&CAO/N.F.Railway/IMG.	7) DAO/KIR, APDJ, IMG & TSK.
3) CPDE/MLG.	8) DY.CE/PD/MLG.
4) DRM(P)/KIR, APDJ, IMG & TSK.	9) SBN/FOV/MLG
5) Sr.DEN/KIR, APDJ, IMG, TSK & MLG.	10) PA to CE/MLG.

On 28/11/94
(A. SAIKIA)
Asstt. Personnel Officer/En.s.
for General Manager(P)/MLG

28/11/94

Office of the
General Manager(P)
Maligaon: Gauhati-11.

18/1

40

No. E/254/17-Pt.VIII(0).

Dated, the 29-9-95.

To

The General Manager(Construction)/Maligaon.
CE, CVO/Maligaon, CE(Con)/Maligaon,
DRM(P)s/KIR, APDJ, LMG & TSK, Sr.DENs/KIR, APDJ, LMG & TSK
Dy. CE(Con)/Silchar, Dy. CE/Br. Line/Maligaon, Dy. CE(Con) NJP,
Dy. CE(Con)/CJ/JFZ, Sr.DEN/Maligaon, Dy. CE(Con)/MLPT, MI/ENS/BHGN,
DEN/DBRT, SEN/FCW/Maligaon, AENS/NBQ, RNY, AFAN, SGJJ & NJP
Principal, ZTC/APDJ...

General Manager, Metro Railway, Metro Rail Bhawan, 33/1 Chawringhee Road, Calcutta-71, Chief Administrative Officer/Metropolitan Transport Project(Railways), 2nd Floor, Church Gate Station Building, Bombay-400020, Chief Engineer(Con), N.E.Railway, Gorakhpur (UP), APO(Con)s/SCL, NJP & JPZ.

Sub:- Selection for the post of AEN/
Group-'B' against 70% vacancies.

It has been decided to hold a selection for forming a panel of 24(19 URs, 3 SC & 2 ST) persons for AEN(Group-'B') against 70% vacancies shortly.

The selection will be based on candidates' performance both in written test as well as viva-voce test. The candidates who qualify in the written test will only be eligible for viva-voce test. The list of senior Supervisory staff of Civil Engg. Deptt. including stand-by list who are eligible to appear in the said selection are enclosed in Annexure-'A' and 'B' respectively.

As per Railway Board's extant instructions, the written test for Departmental selection (against 70% vacancies) will consists of only one paper on the following subjects, the maximum and qualifying marks of which are indicated against each:-

Subject.	Maximum Marks	Qualifying marks.
Professional subject, Establishment and Financial Rules.	150	90

It should be ensured by the Controlling Officers whether the eligible candidates are willing to appear for the written test or not. In case any one of the candidates in Annexure-'A' is not willing to appear in the said selection, the next eligible candidates from the list of Annexure-'B' will be called to appear for the written test.

Attest.

Advocate

07.11.1995

(Contd.....2/-)

However, the Controlling Officers should notify this widely amongst the staff of Civil Engineering, Least sub mentioned in both the lists vide annexure-'A' & 'B' under their control individually and their willingness/unwillingness to appear in the said written test should be obtained in a prescribed proforma (as enclosed) and sent to the undersigned to be ready by 30.10.95 without fail. If no option is received from any eligible candidates (as per annexure-'A') within the stipulated period mentioned above, it will be deemed that he is not willing to appear in the selection, and the willing candidates from the stand-by list will be called in his place as per seniority.

It may be noted that only SC/ST eligible candidates, on receipt of their willingness to appear in the selection examination of AEN/Group-'B' (70%), will be given pre-selection coaching, the date and venue of which will be notified later on. The said coaching is mandatory for SC/ST candidates only as per Board's instruction vide their letter No. E(GP)91/2/10 Dated 20.10.93 circulated under GM(P)/Maligaon's No. E/254/90/1 Pt. III(O) dated 14.12.93. The Controlling Officers will also ensure that the SC/ST candidates are spared by the incharge of the sub. office to attend pre-selection coaching well in time. The SC/ST candidate are also advised to insist their Sr. Subordinate in their own interest so, that they may be spared to undergo such training, failing which they will bring this matter to the notice of their Controlling Officer well in advance. No such appeal to this effect will be entertained by GM(P)/MLG after the pre-selection coaching is over. If any body is unwilling to take pre-selection coaching, a written declaration should be obtained from him and sent to this office.

If anyone is on leave/training/transfer/deputation, he should be advised at his address of leave/training/new place of working/deputation by the Controlling Officer without fail. It will be the responsibility of the Controlling Officer to inform the candidates at their present place of working, obtain their willingness/unwillingness in the prescribed proforma and forward the same after verification to this office well in advance so that the candidates from the stand-by list may be called against unwilling candidates. The need to stress upon the foregoing is to avoid representation/complication from the staff in future.

Please acknowledge receipt.

Da.: As above

M. Brahma
(M. Brahma)
Dy. Chief Personnel Officer (G)
for General Manager (P): MLG.

ad/-22.9.95

10/25/95

1. Name (In full block letter) : 90

2. Designation & Station. :

3. Working under. :

4. Date of birth. :

5. Educational & Technical Qualification. :

6. Pay & Scale. :

7. Whether the candidate is willing/unwilling to appear in Departmental selection. :

8. Whether the candidate belongs to SC/ST communities. :

9. Choice of language to answer the questions for the candidate in case, is willing to appear in the selection (English/Hindi) Please indicate either of the above two languages. :

10. Date of submission of option to the Controlling Officer. :

Declaration by the candidate.

I do hereby declare that the above particulars furnished by me are true to the best of my knowledge and belief. I shall be fully responsible in case submission of any incorrect informations, particularly against item No. 4, 5 and 8 above.

Signature of the candidate.

Certificate to be furnished by the Controlling Officer/Establishment Officer :-

It is certified that the above particulars has been submitted within the target date and service particulars furnished by the candidate, Shri Designation has been verified and found correct and forward accordingly.

(A) Signature of the Controlling Officer/Office with Office Seal & date.

(B) Signature of the Establishment Officer/Office with Office Seal & date.

ad/-22.9.95

07 AUG 1996

INTEGRATED SENIORITY LIST OF SENIOR SUPERVISORY STAFF
OF CIVIL ENGINEERING DEPARTMENT WHO ARE ELIGIBLE TO
APPEAR IN THE SELECTION OF SEN/ GROUP 'B' AGAINST 70%
VACANCIES.

STAND BY LIST

1. Sri B. R. Mishra
2. " S. C. Barman (SC)
3. " Ram Samuj (SC)
4. " Ajay Mazumder
5. " Subir Roy
6. " Abhijit Nag
7. " Hiranya Kalita
8. " Pallab Bordoloi
9. " S. Sengupta
10. " Dharmananda Das (SC)
11. " S. S. Tomer
12. " Rana Kumar Das (SC)
13. " Anup Kr. Sarma
14. " D. K. Das
15. " Dafadar Das (SC)
16. " S. Chakraborty
17. " A. K. Chanda
18. " Sanat Roy
19. " S. K. Karmakar
20. " B. S. Sidhu
21. " D. R. Bose
22. " P. K. Ghosh
23. " T. George
24. " M. K. Mazumder
25. " A. K. Dey
26. " K. K. Singh
27. " D. Mukhopadhyay
28. " K. N. Dutta

Attest ed.

Advocate

ANNEXURE B

SN	Name	Designation & Division under whom posted
1. X	1. B. R. Mishra	BRI/NJP/KIR. He will be at Sr. No. 99 of main list in place of C IOW/A PDJ. Sr. No. 60.
	2. S. C. Barman (SC)	-do-/GM/CON.
	3. Ram Samuj (SC)	BII/I/GM/CON.
	4. Ajay Mazumder	-do- -do-
	5. Subir Roy	C IOW/GM/CON.
	6. Abhijit Nag	-do- -do-
	7. Hiranya Kalita	BRI/I/GM/CON.
	8. Pallab Bordoloi	-do- -do-
	9. S. Sengupta	PWI/I/CE/MLG.
	10. Dharmananda Das (SC)	-do- -do- PWI/I/LMG
	11. S. S. Tomer	C IOW/SR.DEN/MLG.
	12. Rana Kumar Das (SC)	PWI/I/KIR.
	13. Anup Kr. Sarma	-do-/TSK
	14. D. K. Das	-do-/A PDJ.
	15. Dafadar Das (SC)	-do- -do-
	16. S. Chakraborty	-do- -do-
	17. A. K. Chanda	-do-/KIR.
	18. Sanat Roy	PWI/GM/CON.
	19. S. K. Karmakar	-do-/KIR.
	20. B. S. Sidhu	-do-/KIR.
	21. D. R. Bose	-do-/CE/MLG.
	22. P. K. Ghosh	-do-/LIG.
	23. T. George	-do-/CE/MLG.
	24. M. K. Mazumder	-do-/TSK.
	25. A. K. Dey	
	26. K. K. Singh	
	27. D. Mukhopadhyay	
	28. K. N. Dutta	

1. " X	2. X	3. X
29. Sri T. N. Singh		PWI/LMG.
30. " P. S. Rabindram		-do-/LMG.
31. " Paramananda Ram (SC)		-do-/LMG.
32. " C. C. Mali (SC)		-do-/TSK.
33. " A. A. Deka (ST)		-do-/APDJ.
34. " S. N. Brahma (ST)		-do-/TSK.
35. " B. Chakraborty		CDM/GM/CON/MLG.
36. " B. K. Chakraborty		-do-/LMG.
37. " A. K. Banerjee		-do-/KIR.
38. " Pradip Kr. Ghatak		-do-/GM/CON/MLG.
39. " U. K. Guha		CDM/GM/CON/MLG.
40. " N. S. Choudhury		CDM/APDJ.
41. " Bimal Dey		-do-/CE/MLG.
42. " M. M. Nath		-do-/APDJ.
43. " M. C. Swargiary (ST)		-do-/GM/CON/MLG.
44. " Sandip Kr. Guha		-do- -do-
45. " K. C. Majumder (SC)		-do-/CE/MLG.
46. " N. K. Chakraborty		-do-/CE/MLG.
47. " Kanika Das (SC)		-do-/CE/CON.
48. " S. R. Das (SC)		-do-/CE/MLG.
49. " B. D. Baruwa (SC)		-do-/CE/MLG.
50. " B. K. Das (SC)		-do-/CE/MLG.
51. " P. K. Das		-do-/LMG.
52. " D. K. Dey		IO/I/GM/CON.
53. " S. R. Bhattacharjee		IO/APDJ.
54. " A. K. Chatterjee		CIOW/GM/CON.
55. " A. Malendu Saha		-do-/CE/MLG.
56. " Akbar Hussain		-do-/AGM/CON.
57. " Pijush Kanti Roy		-do-/SR. DEN/MLG.
58. " R. C. Mandal (SC)		-do-/LMG.
59. " Sasanka Barman (SC)		IO/I/GM/CON.
60. " Ramendra Ch. Paul		-do- -do-
61. " Biswajit Datta		-do-/APDJ.
56.(A) " N. K. Goswami		-do-/LMG.

IO/I/Sr. Contd. P/3
27/V/MLG.

1.	2.	3.
62. Sri Pulin Kr. Das (SC)		IOW/I/SR.DEN/MLG.
63. " S. S. Sen		EWI/I/KIR.
64. " P. C. Choudhury		-do-/APDJ.
65. " Smritimoy Nag		IOW/MTP/CAL.
66. " P. C. Sanyal		EWI/I/APDJ.
67. Md. Ali		-do-/APDJ.
68. Sri M. S. Ganguli		-do--do-
69. " P. K. Kar		IOW/I/MTP/CAL.
70. " S. B. Dey		CDM/MTP/CAL.
71. " A. K. Bhattacharjee		-do-/GM/CON.
72. " Diganta Phukan		-do- -do-
73. " Dilip Kr. Chanda		-do- -do-
74. " Amal Kr. Naha		-do-/X/XMKX.APDJ.
75. " B. N. Chakraborty		-do-/CB/MLG.
76. " M. I. Hussain		-do- -do-
77. " G. Papachen		CDM/MTP/Bombdy.
78. " B. R. Saikia		-do-/CE/MLG.
79. " S. C. Deb		-do-/LMG.
80. " S.N. Banerjee		IOW/I/CE/MLG.
81. " G. C. Roy		-do-/LMG.
82. " Arabinda Dutta		CDM/CE/MLG.
83. " T. Dastidar		CDM/KIR.
84. " U. C. Paul		-do- -do-
85. " S. K. Nag		CDM/CE/MLG.
86. " P. K. Gogoi		EWI/I/TSK.
87. " R. Sengupta		-do-/APDJ.
88. " D. Bandyopadhyay		-do-/LMG.
89. " H. Mukherjee		-do-/APDJ.
90. " Gautam Banerjee		-do-/LMG.
91. " Dipankar Bhattacharjee		-do- -do-
92. " Kinkar Das (SC)		CDM/KIR.
93. " Anil Daimary (ST)		CDM/CE/MLG.
94. " Kamalendu Bhattacharjee		-do- -do-

Contd..... P/4

Attest.
Advocate.

07 AUG 1996

1.	2.	3.
95. Sri S. S. Chakraborty		EWI/I/KIR.
96. " M. S. Sarkar		-do-/APDJ.
97. " U. C. Das (ST)		-do-/CE/MLG.
98. " S. K. Bhattacharjee		IOW/I/KIR.
99. " S. K. Chakraborty		-do-/KIR.
**100. " S. K. Sinha		-do-/LMG.
101. " S. K. Bhattacharjee		IOW/SR. DEN/MLG.
102. " R. B. Mazumder		-do-/LMG.
103. " Golok Das		IOW/I/GM/CON.
104. " Dilip Kr. Dhar		-do- -do-
105. " Biswajit Roy		-do-/APDJ.
106. " Narendra Nath Sarma		-do-/TSK.
"		
107. " Arup Chakraborty		-do-/F.S/APDJ.
108. " Ashim Chakraborty		-do-/KIR.
109. " Tarun Ch. Thakuria		-do-/SR.DEN/MLG.
110. " Ashok Chakraborty		-do-/APDJ.
111. " Krishnendu Bhattacharjee		-do-/APDJ.
**99(a)" B.C. Salia		CD.A/CE/MLG.
99(b)" S.A. Basak		CD.A/GM/CON/MLG.

N.B. ; In case of any dispute in the above seniority lists (both in Main List & stand by list), it should be represented by the candidates with supporting evidence, within 15 days of receipt of the notification.

25/9/95

ANNEXURE- 6

To

The General Manager (P),
 N.F. Railway, Maligaon,
Guwahati- 781 011.

wt

(THROUGH PROPER CHANNEL)

Sub:- Prayer for correct assignment of Seniority Position.

Ref:- GM(P)/MLG's promotion Office Order No. E/283/
44/Pt. XXIV(E) dated 29.11.94.

Sir,

With due respect and humble submission, I have preferred this appeal against an anomaly appearing in showing the Seniority Position of Shri N.K, Goswami during the promotion of IOW/Gr-I vide your above quoted Office Order dated 29.11.94 to get the natural justice thereon.

1. That the above modified selection of IOW/Gr-I (Rs.2,000/- Rs. 3,200/-) which is purporated to be based on seniority position published in the seniority list of IOW/Gr-II (Rs. 1,600/- - Rs. 2,660/-). As no written examination was conducted for the same, and hence no outstanding or any other extra ordinary promotional benefit can be given out of turn, to any one ignoring the existing list of IOW/Gr-II, in such modified selection against the up-graded resultant vacancy by superseding the existing norms of the Railway, therefore placing of Shri N.K. Goswami above me by the aforesaid order dated 29.11.94 was contrary to the rules and principles of natural justice, in as much as he was Junior to me in the Seniority List of IOW/Gr-II.

2. That as per Seniority List of IOW/Gr-II Published vide GM(P)/MLG's O.O. No.E/255/24/Pt.IV(E) dt. 4.1.95, my Seniority Position was shown against Sl. No.13 and that of Shri Goswami at Sl. No.19(a), which revealed that I am ~~not~~ Senior to Shri Goswami.

3. That, in the above quoted promotion order Shri N.K. Goswami, IOW/Gr-II has been favoured violating all norms of modified selection and his name has been placed at Sl.No.1

Contd. ... 2

Attested.

Advocate.

07 AUG 1996

showing the plea that he was overlooked in the last selection of IOW/Gr-I finalised on 25.8.92 and thus gave undue advantage to Shri Goswami superseding his senior one including me. It may be noted that Shri N.K. Goswami was called for the examination held in 1992, as he did not appear in the said examination, therefore his name was, not included in the list finalised on 25.8.92. As he did not sit in the examination and did not appear at all, he cannot be given the benefit of passing the examination, for which minimum qualifying marks was 60%. It cannot be presumed that if he would have appeared, he would have obtained a minimum of 60% marks. Such a presumption would be highly illogical.

4. That, the last selection of IOW/Gr-I which was finalised on 25.8.92 was based on a written examination of 100 Marks which was followed by a Viva-Voice test. The qualifying marks for being successful one must have secured 60%, otherwise he will be declared as failed. Therefore, the modified selection vide above quoted promotion order is not similar to that of a selection post finalised on 25.8.92 and hence the position of Shri N.K. Goswami shown in the above order dated 28.11.94 at Sl. No.1 totally was unjustified and also was in violation of natural justice to his senior ones.

5. That if the authorities felt that Shri N.K. Goswami was prejudiced in appearing in the examination held in 1992, on the basis of which the promotion order dated 25.8.92 was passed, in that case the entire examination and the promotion order dated 25.8.92 should have been cancelled. Just because he did not appear, it cannot be held that if he would have appeared, he would have qualified by obtaining 60% or more marks. Shri N.K. Goswami also should have appealed against the said order for not affording him opportunity for seating in the examination. Mr. N.K. Goswami was aware of the promotion order dated 25.8.92, in as such as some of his colleagues, even junior to him were promoted to IOW/Gr-I. At that time and even now, Mr. Goswami has been working in Maligaon itself under Senior DEN/MLG and he was staying at a stone through from Head Quarter Office.

Attest.ed.

Advocate

11.11.1995

Contd. ... 3

6. That, if Shri Goswami submitted his appeal timely, the administration could have conducted another written test before finalised the list of IOW/Gr-I dated 25.8.92, since nobody could predict at that stage that Shri Goswami definitely would have passed securing 60% marks, like some other's, he might have failed also if he would have appeared in the written selection test. Therefore, it is very much astonishing why the administration had waited, such a long time of over two years to give him a very much undue advantage superseding his senior ones by passing all the norms of Rly. without conducting written and viva-voice test as stated above. As Mr. Goswami did not agitate his grievances timely, he forfeited his right of getting any benefit.

In view of the fact and circumstances stated above, I, therefore, do hope and pray to benign authority that your magnanimity would exercise your good will to review the whole case on merit for taking judicious decision so as to redress me of my grievances and thereby issue just and equitable orders by placing my position above Shri Goswami so that I may not be forced to take the shelter of Court of Law in the Hon'ble 'CAT' Guwahati.

And for this act of kindness, I shall remain ever grateful.

Date: 20.4.95.

Yours faithfully,

S. K. BHATTACHARYYA, 20.4.95.

(S. K. BHATTACHARYYA)
IOW/Gr-I/East/PNO

Copy to :-

1. General Manager, N.F. Raly, Maligaon for information and kind N/A please.
2. Chief Engineer, N.F. Raly. Maligaon for information and kind N/A please.
3. General Secretary, N.F. Raly. Employee's Union, He is requested to intervene the matter with the appropriate authority to get the justice.

Attested.

Received
J. C. M. G.
J. C. M. G.

(S. K. BHATTACHARYYA)
IOW/Gr-I/East/PNO

Advocate.

07 AUG 1996

G. R. (P) M. G.
Copy received
S. K. BHATTACHARYYA

- 26 -

ANNEXURE- 7

N. F. RAILWAY.

NO. 468-E/25(F)Loose.

Office of the
General Manager.(P).,
Maligaon, dated, 27-12-95.To
Shri S. K. Bhattacharyya,
IOW/Gr.I, Pandu/East.Sub: Prayer for correct assignment of
seniority position.Ref: Your representation No. Nil dated
20-4-95.

...

with reference to your representation this is
intimated for information that the case has been examined
by CPO. It has been decided that since you have failed in
the written test of the selection of IOW/Gr.I finalised
on 20-8-92, so your cases can not be tagged with that of
Shri N. K. Goswami and also your case do not stand on the
same footing with that of Shri Goswami.

Ans/145

(A. SAIKIA)
ASSTT. PERSONNEL OFFICER. (ENG)
for GENERAL MANAGER. (P)MLG.

AB/

Attested.
Advocate.
07 AUG 1996

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

O.A. NO. 158/96

Shri S.K. Bhattacharjee

- Versus -

Union of India & Ors.

The Counsel for the Respondents No. 1, 2, 3 & 5 humbly files the copy of the following letter which will be relied upon, in particular paragraph 4, during hearing. Para 4 is enclosed separately duly typed.

Particulars of letter :- Railway Board's letter No. PC III/91/CRC/1 dated 27.1.93 circulated by Chief Personnel Officer, North East Frontier Railway's Circular No. RP-482

E/205/73(PC) Pt.V dated 3.2. 1993 (Para 4 of the Railway Board's letter dated 27.1.93 is enclosed duly typed).

J.L. Sarkar
31/3/97
(J.L. Sarkar)

Advocate.

Received copy
S. K. Bhattacharjee
31-3-97

Para 4 of Railway Board's letter No. PC-III/91/CRC/1
dated 27.1.93 circulated by Chief Personnel Officer,
N.F. Railway, Maligaon's Circular No. RP-482
E/205/73(PC)Pt.V
dated 3.2.93.

Sub:- Restructuring of certain Group- 'C'
& 'D' cadres.

...

EXISTING CLASSIFICATION AND FILLING
UP OF THE VACANCIES

4. The existing classification of the posts covered by these restructuring orders as Selection and non-selection as the case may be remain unchanged. However, for the purpose of implementation of these orders, if any individual Railway servant become due for promotion to a post classified as a Selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be limited only on scrutiny of service records and Confidential Reports without holding any Written and or Viva Voce test. Similarly for posts classified as non-selection at the time of this restructuring the same procedure as above will be followed. Naturally under this procedure the categorisation as 'Outstanding' will not figure in the panels. This modified selection procedure has been decided upon by the Ministry of Railways as a one time exception by Special dispensation, in view of the numbers involved, with the objective of expeditious implementation of these orders.

...

AM
10
Day

Li. S. Haffey

Office of the
Chief Parliamentarian
Malta Parliament

NO. RF-182
E/205/73 (PC) P.L.V.

United, the 3rd, 1851.

To
All Heads of Departments,
All DRMs with HQs abroad,
By, CME/NBQS & DBWJ,
All DACs, WAO/NBQS and DBWJ,
All District and Assistant Officers
in Non-divisionalised Offices,
All Cadre SP(b)/AP(b) of HQs.

General Secy./HERM/PHO with 40 spare option lines
General Secy./HERM/PHO

General Secy./ADVISER/MLG with 20 offices throughout.

Subj - Re-arrangement of certain groups
in 'U' & 'D' orders.

Agony of Rly. Board's letter No. 20111/91/0180/1 dated 11.1.80
on the above subject together with its envelop remain in next room
for information, guidance and necessary action early the following
day of the hearing.

4. Hd. Qrs. should immediately take up the work of implementation of the present of the categories involved in these up-gradations in accordance with the instructions contained in Appendix I, in consultation with the Associated Engineers.

A pre-emptive report of the implementation of the new
order should be sent to SPO/HQ in the pre-emptive period
along with the monthly PONO for the month ending March 31.

卷一百一十五

Quantitative

Dinner 20.00

Copy of Railway Board's Letter No. P.O-111/91/010/1 dated 27.1.91

Sub:- Restructuring of certain Group 'D' orders.

The Ministry of Railways have had under review orders of certain Groups of O&D staff in consultation with the officers of the Committee of the Departmental Council of the Ministry at the same time. The Ministry of Railways with the approval of the P.C. have decided that the Group 'D' orders of letter of Instruction No. 13/6(DP-22-0) dated 13.3.91, shall be restructured in accordance with the revised pay structure indicated therein. After implementing these orders the following detailed instructions shall be strictly and faithfully adhered to:

Date of effect. 1. This restructuring of orders will be effective from the date of issue of this letter, i.e. 27.1.91, which will be followed in future period on a monthly basis. Implementation of these orders will draw par to par grade w.e.f. 1.3.93.

Applicability to various orders. 2. These orders will be applicable on the revised order of the existing establishment including stations and Project Units and will include Railways & Air Force Reserve par to par.

2.1 These orders will not be applicable to ex-servicemen whose pay scale will continue to be based on width of charge.

2.2 These instructions will also not be applicable to construction Units and Projects. However, for implementation of projects in these Units the percentage distribution will be generally kept in view, taking into account the availability of funds.

Pay fixation (FR-22-0) 3. Staff selected and paid against the old 11th and 12th grade posts as a result of restructuring of the posts will have their pay fixed under Rule 13/6(DP-22-0) dated 13.3.91 with necessary revision for pay fixation of par to par basis. Instructions.

(Dated.....)

DIN
DS
PZ

existing eligible 4. The existing classification of the posts covered by selection and those restructuring orders of 1990 and 1993. The list of the same may be revised subsequently. However, for the purpose of implementation of these orders, it will be individual Railway service having due to procedure of classification of a post by post, the selection procedure will be modified to make it simpler. ~~to implement the following procedure~~ ~~in which case the authority of service regarding classification of post will be held by the post holder only except in case of~~ ~~simply the post holder will be held by the post holder only at the time of the restructuring order. The post holder will be~~ ~~will be revised. Naturally under this procedure the~~ ~~classification as 'existing' will not figure in~~ ~~post. This modified selection procedure will be~~ ~~decided upon by the Ministry of Railways in a due~~ ~~exception by special dispensation in view of the~~ ~~minimum involved, with the objective of expeditious~~ ~~implementation of these orders.~~

4.1. Vacancies existing on 1.3.93 except those created by restructuring and those arising on that date. The posts created by restructuring including short/medium term posts should be filled in the following sequence:
1) from posts vacant on or before 1.3.93 on that date (i.e.) and the balance in the order indicated in mark 4 above.
4.2. Such selections which have not been completed by 1.3.93 should be completed/revised.
4.3. All vacancies arising from 2.3.93 will be filled by normal selection procedure.
4.4. Existing instructions for classification of posts will be applicable for effecting promotion and other orders with the exception that on 1.3.93.

minimum years of service in the grade 5. While implementing the restructuring orders, instructions regarding minimum period of service in connection with Cr. 101 issued under Dated to Letter No. B(MO) I/85/RM-1/12(MO) dated 19.2.87 and issued by Letter No. B(MO) I/79/RM-1/11 dated 26.5.81 will be modified to the extent that the minimum of 18 months period for the first promotion for filling up posts created in Part 4.1 should be reduced by one year as a maximum except that the minimum of 2 years will be maintained.

(contd....1/2)

D. H. S. D. S.

38

4

Basic functions, duties and responsibilities

Excess No. of posts

Specific instructions given in the foot-note of Annexure

Annual review

Revision of reservations

Retired employees

Direct recruitment percentage

Pin pointing of posts

6. In all categories covered by this letter even though more posts in higher grades may have been introduced as a result of restructuring the basic benefit for duties and responsibilities attached to the posts at present will continue to be added with additional and more suitable or consolidated apprentices.

7. If prior to issue of this letter the sum of posts existing in my grade in my particular cadre exceeds the number indicated in the revised percentage, the excess may be allowed to continue to be absorbed progressively with the reduction of the by the existing documents.

8. While implementing the uniform revised instructions given in the Circular D.O. under each category in the grade concerned should be steadily and carefully reduced.

9. Annual reviews should be suspended till further instructions from this office.

10. The existing implementation with regard to reservation of 80/85 will continue to apply while fixing additional quota for the higher grades arising out of restructuring.

11. Employees who retire/revert to below the norm fixed on 1.3.93 i.e. the date of effect of this restructuring to the date of future implementation of these norms, will be eligible for the fixation benefit as per under these orders W.O.P. 1.3.93.

12. Direct recruitment percentage will be applicable to the additional vacancies created out of these restructuring orders on 1.3.93. The percentage will apply for recruitments arising on or after 2.3.93. After the direct recruitment quota as on 28.2.93 will be maintained.

13. Excepting the highest quota posts in each category, the promotion should be effected as is already laid down in a series of the restructuring. However the additional posts in pin-pointing these posts may be treated as separate posts and which innumerate vacancies the posts will be converted on tenure, etc.

Refusal of
rent givers.

Refusal of
promotion.

Provision of
funds in the
Budget.

15

14. As a measure of rationalisation the Railways should provide rent givers staff in the appropriate grade most convenient to the administration at any one time. Promotion and need not necessarily be in the same year.

15. Such of the staff as had refused promotion before issue of these revised and revised instructions for promotion may be considered for it at the time of the extent referred to in the time exception if they indicate in writing that they are willing to be considered for such promotion again, the year of issue of such an order and willing due to reorganisation on 1.3.93 and willing due to reorganisation. This relaxation will not be applicable to vacancies arising after 1.3.93.

16. Instructions for improvement of productivity, rationalisation and economy are being issued separately.

17. The Railways will specifically mention requirement of funds in amount of the contribution for the year 1993-94 and include the same in the Revised Estimates for 1993-94. Payment due to staff on account of the restructuring should be made and booked in the financial year 1993-94. The Board agrees that the restructuring and posting of staff after due process of talk should be completed expeditiously.

20/3.2.93

20/3/93

TYPE OF INVESTIGATION OF CASES PERTAINING TO
BOARDS. LETTER NO. 2011/91/CEC/1 DATED 27-1-93.

1660
14.3.1997

Guwahati Bench
গুৱাহাটী বেচেন্স

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 158/96

Shri S.K. Bhattacharjee

-Vs.-

Union of India & Ors.

In the matter of :-

Written statement filed

on behalf of the Respondent

No. 1, 2, 3 & 5.

The Respondent No. 1, 2, 3 & 5 most
respectfully beg to state as under :-

1) That the Respondents have received the copy
of the application and have understood the contents
thereof.

2) That in reply to the statement in para 4.3,
4.4 and 4.5 it is stated that due to administrative
error, the Respondent No.4 could not appear in the
Selection because he could not be informed of the
selection. There was no selection held after 29.2.1992.

- 2 -

The Respondent No. 4 was found suitable by conducting modified procedure of selection against post available after restructuring as per Railway Board's letter No. PC.III-91-CRC/1 dated 27.1.1993. As a result of he was assigned seniority above the junior who qualified in the selection held on 29.2.1992 and was promoted and the Respondent No. 4 could not be promoted in that selection due to administrative error and the applicant failed in the selection.

3) That in reply to the statement in para 4.6, it is stated that while the case for the Respondent No. 4 for promotion of regularisation consequent upon administrative error was pending, the selection procedure was modified by Railway Board due to restructuring, and as such no selection could be held as per the old procedure, but the Respondent No. 4 passed in the modified selection. This was his first chance after the selection in which he could not appear due to administrative error. Therefore the Respondent No. 4 was given seniority above his junior who was promoted in earlier selection.

Copy of the Railway Board's letter dated 27.1.1993 is enclosed as Annexure-R1.

4. That in reply to the statement in para 4.7, 4.8 to 4.13 it is stated that the seniority of the Respondent No. 4 has been rectified and correctly fixed by giving him appropriate place in reference to his junior and the applicant cannot claim for any benefit because he has failed in the selection.

- 3 -

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

VERIFICATION

I, Shri C. Saikia

by profession Railway service working as Dy. Chief Personnel Officer (N.G) aged about 32 years do hereby verify that the statements made in paragraph 1 to 5 are true to my knowledge derived from the records which I believe to be true.



Guwahati

Signature

Dated 28.6.57.

• दूसरे कार्यकारी विवर
• Dy. Personnel Officer (N.G)
• सी. सैकिया, गुवाहाटी-781011.
• P.O. No. Guwahati, 781011.

Annexure - R-1.

S-2

35

Annexure R-1

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N. F. Railway.

Office of the
Chief Personnel Officer
Maligaon: Gauhati-11.

NO.RF-482
E/205/73(PO)Pt.V.

Dated, the 3 -2-93.

To
All Heads of Departments.
All DRMs with 10 spare copies.
Dy. CMO/NBQS & DBWS.
All DAOs, WAO/NBQS and DBWS.
All District and Assistant Officers
on Non-divisionalised Offices.
All Cadre SPOs/APOs of Hd.Qrs.

General Secy./NFRMU/PNO with 40 spare copies, to each.
General Secy./NFRMU/PNO

General Secy./AISOTREA/MLG with 20 spare copies.

Sub:- Re-structuring of certain group
'O' & 'D' cadre.

A copy of Rly. Board's letter No. PCIII/91/CRC/1 dated 27.1.93
on the above subject together with its enclosures is sent herewith
for information, guidance and necessary action early for implementation
of the orders.

The Controlling Officers of the Divisions/Units as well as
Hd.Qrs. should immediately take up the work of implementation in
respect of the categories involved in these up-gradation orders in
accordance with the instructions contained in Board's letter in con-
sultation with the Associated Finance.

A progress report of the implementation of the up-gradation
orders should be sent to SPO/HQ in the prescribed proforma enclosed
along with the monthly PCDO for the month ending March/93.

for Chief Personnel Officer: MLG.

(Contd.....2/-)

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2

(Copy of Railway Board's letter No. PO-III/91/ORG/1 dated 27.1.93.)

Sub:- Restructuring of certain Group C&D cadres.

The Ministry of Railways have had under review Cadres of certain Groups of C&D staff in consultation with the staff side in the Committee of the Departmental Council of the JCM(Rlys) for some time. The Ministry of Railways with the approval of the President have decided that the Group C&D categories of staff as indicated in the Annexure (Department wise) to this letter be restructured in accordance with the revised percentages indicated therein. While implementing these orders the following detailed instructions should be strictly and carefully adhered to:

Date of effect. 1. This restructuring of cadres will be with reference to the sanctioned cadre strength on 1.3.93. The staff who will be placed in higher grades as a result of implementation of these orders will draw pay in higher grade w.e.f. 1.3.93.

Applicability to various cadre. 2. These orders will be applicable on the regular cadres of the Open Line establishments including Workshops and Production Units and will include Rest Giver & Leave Reserve posts.

2.1 These orders will not be applicable to ex-cadre & work-charged posts which will continue to be based on worth of charge.

2.2 These instructions will also not be applicable to construction Units and Projects. However, for creation of posts in these Units the percentage distribution may be generally kept in view, taking into account the availability of funds.

Pay fixation (FR-22-C) 3. Staff selected and posted against the additional higher grade posts as a result of restructuring will have their pay fixed under Rule 1316(FR-22-C)RII w.e.f. 1.3.93 with necessary option for pay fixation as per extant instructions.

Ans
120
B/S

existing classification and selection and filling up of the vacancies.

4. The existing classification of the posts covered by these restructuring orders as selection and non-selection as the case may be remain unchanged. However for the purpose of implementation of these orders, if any individual Railway servant become due for promotion to a post classified as a selection post, the existing selection procedure will stand modified in such a case to the extent that the selection will be based only on scrutiny of services records and Confidential Reports without holding any written and/or *viva voce* test. Similarly for posts classified as non-selection at the time of this restructuring the same procedure as above will be followed. Naturally under this procedure the categorisation as 'outstanding' will not figure in the panels. This modified selection procedure has been decided upon by the Ministry of Railways as a one time exception by special dispensation, in view of the numbers involved, with the objective of expediting the implementation of these orders.

4.1 Vacancies existing on 1.3.93 except direct recruitment quota and those arising on that date from this cadre restructuring including chain/resultant vacancies should be filled in the following sequence:

i) from panels approved on or before 1.3.93 and on that date; (ii) and the balance in the manner indicated in para 4 above.

4.2 Such selections which have not been finalised by 1.3.93 should be cancelled/abandoned.

4.3 All vacancies arising from 2.3.93 will be filled by normal selection procedure.

4.4 Existing instructions for D&V/Vigilance clearance will be applicable for effecting promotions under these orders with the critical date being 1.3.93.

minimum years service in the grade.

5. While implementing the restructuring orders, instructions regarding minimum period of service for promotion with Gr. 'O' issued under Board's letter No. E(NG)I/85/RM-I/12(RRC) dated 19.2.87 and Board's letter No. E(NG)I/75/PM-I/44 dated 26.5.84 will stand modified to the extent that the minimum eligibility period for the first promotion for filling up vacancies covered in Para 4.1 would be reduced to one year as a one time exception. Thereafter the normal minimum eligibility condition of 2 years will apply.

(Contd....4/-)

*D. M. S.
J. S.
D. S.*

Basic functions
duties and
responsibilities.

6. In all categories covered by this letter even though more posts in higher scales of pay may have been introduced as a result of restructuring the basic functions, duties and responsibilities attached to their posts at present will continue, to which may be added such other duties and responsibilities as considered appropriate.

Excess No. of
posts.

7. If prior to issue of this letter the number of posts existing in any grade in any particular cadre exceeds the number admissible on the revised percentages, the excess may be allowed to continue to be phased out progressively with the vacatin of the post by the existing incumbent.

Specific instruc-
tions given in
the foot-note of
Annexure.

8. While implementing these orders specific instructions given in the foot note if any, under each category in the enclosed annexure should be strictly and carefully adhered to.

Annual review.

9. Annual reviews should be suspended till further instructions from this Office.

provision of
reservation.

10. The existing instructions with regard to reservation of SC/ST will continue to apply while filling additional vacancies in the higher grades arising as a result of restructuring.

Retired
Employees.

11. Employees who retire/resign in between the period from 1.3.93 i.e. the date of effect of this restructuring to the date of actual implementation of these orders, will be eligible for the fixation benefits and arrears under these orders w.e.f. 1.3.93.

Direct recruitment
percentages.

12. Direct recruitment percentages will not be applicable to the additional vacancies arising out of these restructuring orders as on 1.3.93. The percentage will apply for normal vacancies arising on or after 2.3.93. Also the direct recruitment quota as on 28.2.93 will be maintained.

pin pointing of
posts.

13. Excepting the highest grade posts in each category, the promotion should be effected as is where is basis, as a result of this restructuring. However the administration later on pin-point these posts as per administrative requirement, as and when the incumbent vacates the post on retirement, promotion transfer etc.

(Contd.. 5/r. 1-)

*R.K.
29/AT*

Provisions of
rest givers

14. As a measure of rationalisation the Railways should provide rest givers staff in the appropriate grade most convenient to the administration at any particular location and need not necessarily be in the same grades.

Refusal of
promotion

15. Such of the Staff as had refused promotion before issue of these orders and stand disbarred for promotion may be considered for promotion, in relaxation of the extant orders as a one time exception, if they indicate in writing that they are willing to be considered for such promotion against the vacancies existing on 1.3.93 and arising due to restructuring. This relaxation will not be applicable to vacancies arising after 1.3.93.

Provision of
funds in the
Budget

16. Instructions for improvement of productivity, rationalisation and economy are being issued separately.

17. The Railways will carefully assess requirement of funds on account of this restructuring for the year 1993-94 and include the same in the Revised Estimate for 1993-94. Payment due to staff on account of the restructuring should be made and booked in the Financial Year 1993-94. The Board desire that the restructuring and posting of staff after due process of selection should be completed expeditiously.

dl/-3.2.93



REPORT OF IMPLEMENTATION OF CADRE RE-STRUCTURING
BOARD'S LETTER NO. PCIII/91/CR/1 DT. 27-1-93.

SN.	Name of the category/grade.	Existing cadre.	Revised cadre.	Addl. posts upgraded.	No. & % age of Col.5 for which promotion ordered.	No. & % age of fixation completed out of Col.5.	No. & % age of arrears paid out in regard of Col.5.	Progress of implementation	Progress report in regard to payment of arrears indicating No. of posts filled.	Progress report in regard to payment of arrears indicating No. of posts due for payment.
1	2	3	4	5	6	7	8	9	10	11

DRB
ASR

(Q)

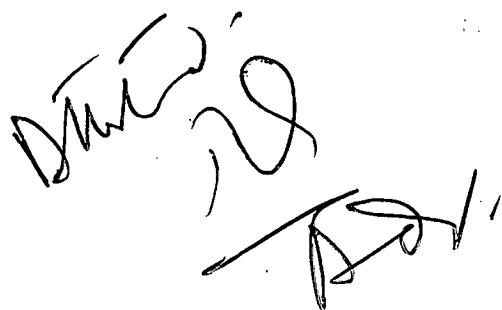
ANNEXURE 'D'

Statement Regarding Restructuring of Gr. 'C' & 'D'
Staff of Medical Department.

Board's letter No. BCI/91/CRC/1 dtd. 27-1-93.

<u>Category</u>	<u>Grade</u>	<u>Existing % age.</u>	<u>Revised % age.</u>
Health &alaria Inspector.	1200-2040	35	25
	1400-2300	30	30
	1600-2660	25	30
	2000-3200	10	15
Pharmacist	1350-2200	40	30
	1400-2600	40	30
	1640-2900	20	40
Lab. Staff	1320-2040	30	20
	1400-2300	30	30
	1640-2900	40	50
Nurses	1400-2600	40	30
	1640-2900	2000	85
	2000-3200	30	35
X-Ray	975-1540	30	20
	1350-2200	56	50
	1400-2600	5	15
	1640-2900	9	15
Dresser/OT Asstt.	800-1150	50	40
	825-1200	47.5	55
	950-1400	2.5	5

* Footnote: The 80% x 5% posts in Rs. 950-1400/- grade of Dresser/OT Asstt. will be admissible if 2.5% posts in Rs. 950-1400/- grade/confirmed to Board enclosing authority for allotting grade of Rs. 950-1400/- to Dressers/OT Asstt. presently available in the cadre. This may be



STATEMENT REGARDING RESTRUCTURING OF GR. 'C' & 'D' STAFF
OF ALL ENGINEERING DEPARTMENTS INCLUDING WORKSHOPS.

Annexure to Board's letter No. P.C.III/91/OPC/1 dt. 27.1.93.

<u>Category</u>	<u>Grade (Rs.)</u>	<u>Existing % age</u>	<u>Revised % age</u>
Technical Supervisor.	1400-2300	33	30
	1600-2660	30	25
	2000-3200	27	28
	2375-3500	10	17
Artisan staff.	950-1500	35	30
	1200-1800	35	35
	1320-2040	27	5
	1400-2300	3	
Artisan Khilasi	750-940	30	20
	800-1150	70	80
*Drawing/ Design/ Estimating Staff.	1200-2040	20	20 ✓
	1400-2300 (SVA)	30	20 ✓
	1600-2660	25	25
	2000-3200	25	35

Footnote: *The existing posts in scale Rs.2375-3500 in Production units at IOF, DIW & OEW will continue as a part of the percentage provided for posts in scale Rs.2000-3200.

D.S.

NORTHEAST FRONTIER RAILWAY.

MEMORANDUM.

In the selection for promotion to the post of Inspector of Works/Gr.I in scale Rs.2000-3200/- (RPS) held in Chief Engineer Maligaon Office on 29.2.92 (Written) 21.3.92 absentee Written 1.7.92 (Viva-Voce) 10.7.92 (Absentee Viva-Voce) The following Inspector of Works/Gr.II in scale Rs.1600-2660/- (RPS) have been selected for promotion to the post of IOW/Gr.I in scale Rs.2000-3200/- (RPS) and their names are placed in the panel of IOW/Gr.I in the following order.

Sl. No.	Name	Designation & scale	Present place of posting
1.	Shri Nishnand Doh.	IOW/Gr.II- 1600-2660/- -do-	SR.DEN/MLG. <u>PN</u>
2.	Shri P.K.Das.	-do-	GM/Con/MLG.
3.	" D.K.Dey.	-do-	APDJ Division.
4.	" K.H.Gorbo.	-do-	GM/Con/MLG.
5.	" S.P.Bhattacharjee.	-do-	-do-
6.	" Santoshan Ach.	-do-	SR.DEN/MLG. <u>PN</u>
7.	" A.K.Chatterjee.	-do-	GM/MLG.
8.	" C.P.Ramakrishnan.	-do-	GM/Con/MLG. <u>PN</u>
9.	" Anilendu Beha.	-do-	MTP/Calcutta.
10.	" N.O.Talukdar.	-do-	GM/Con/MLG.
11.	" Akbar Hussain	-do-	IMG Division.
12.	" Pijush Kanti Roy.	-do-	GM/Con/MLG. <u>PN</u>
13.	" R.C.Mandal (SC)	-do-	-do-
14.	" Biswajit Darma (SC)	-do-	-do-
15.	" T.T.Bhutia (ST)	-do-	APDJ Division.

Contd.....2/-

25/6/92

D. S. D.

The above result has been provisionally approved by
Competent authority on 20.8.92.

Ans
for GENERAL MANAGER (P).

No. E/254/18 Ph. V (E).

Maligaon, dt. 25-8-1992.

Copy forwarded for information and necessary action to :-

1. GM/Com/MLG.
2. GM/ITP/Calcutta.
3. DGM(P)/KIR, APDJ, IMD & TSK.
4. DGM(W)/KIR, APDJ, IMD & TSK.
5. DR, DGM/MLG.
6. DGM/DPUT.
7. Dy. GM/MB/MLG.
8. Dy. GM/G/MLG.
9. PA to GM/MLG.
10. GM/MB/MLG with 7 spare copies of this publication
are enclosed for translation and return the same for
publication.
11. CCS(G)/Maligaon (in duplicate) for publication in the next
issue of N.E. Railway Fortnightly Gazettee.

Ans
for GENERAL MANAGER (P).

Dinesh *Ans*