

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

9

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

BA No. 165/96

Mr. P. N. Prasad Applicant(s)

Union of India & Ors. Respondent(s)

Mr. G. Sarma S. Mukherjee Advocates for the applicant(s)

~~Mr. S. Mukherjee & Ors.~~ Advocates for the Respondent(s)
Mr. M. K. Choudhury

Office Notes | Date | Courts' Orders

16.8.96

Learned counsel Mr G.Sarma for the applicants. Learned Railway counsel Mr M.K.Choudhury for the respondents.

Mr Sarma requests that this O.A. ^{may} be taken up today unlisted on account of urgency on his personal convenience. Prayer allowed.

i) Issue notice on the respondents to show cause as to why this application should not be admitted and the relief sought allowed.

ii) Why an interim order as prayed for should not be issued.

Returnable on 30.8.1996.

List for disposal of show cause and consideration of admission on 30.8.96.

Pending disposal of the show cause and admission on 30.8.96, the respondents are directed not to implement the order No.E/254/28/Pt.VI(E) dated 27.6.96 (Annexure A.V).

This application is in form and within time C. P. of Ro. 50/- Deposited vide IPO No 346699 Dated 16.8.96

C.P. Registrar

16-8-96

Notice received and issued to the concerned parties on 19.8.96.

BW

1) Since Reports are still awaited
2) Show Cause has not been filed

29/8

Member

30.8.96

Mr. G.Sarma for the applicants.

Mr. M.K.Choudhury, Railway counsel for the respondents.

No show cause has been submitted. Mr. Choudhury submits that the application may be rejected on the ground of limitation as it is submitted very late. This matter may be dealt with by him in the show cause. Adjourn for consideration of show cause and admission on 12.9.96.

ba
Member

6-9-96

Notice duly served on Responders No. 1, 2, 3, 5.

17.9.96

Mr G.Sarma for the applicants. None for the respondents.

Vide order dated 17.9.96 in M.P.120/96 (O.A.165/96) the applicants have been allowed to ~~amend~~ amend this application in terms of the prayer & made in M.P.120/96. The applicant will take steps within one week.

List for consideration of show cause and admission on 25.9.96.

Steps within two days.

Copy of the amended application may be served on the respondents by the counsel of the applicant.

ba
Member

Case has not been...

Pl. comply the above order & noted.

M/18/9/96

19-9-96

W/s filed on behalf of pg

Responders at Pg 27-33

25.9.96

Learned counsel Mr G.Sarma for the applicant.

Show cause has been submitted by the respondents. Amendment petition has not been submitted by the applicant.

Adjourned to 30.9.96 for consideration of admission

ba
Member

show cause has not been filed. Amendment - Petition has not submitted.

24/9

pg
M/25/9

OFFICE NOTE

DATE

ORDER

30-9-96

As per order of 17-9-96 passed in MP no. 120/96 (CA 165/96), it has been allowed to file Amendment - petition.

None present for both sides. Amendment petition has been submitted on 27-9-96. Let copy be served on the respondents.

List for consideration of Admission on 15-10-96.

Member

Accordingly, the Advertiser's application has filed the same and logged in files.

lm
30/9

15.10.96

None present.

List for consideration of admission on 20.11.1996.

Member

27/9/96

7-10-96

trd.
26/10

Rejoinder of W/S filed by the Respondents at 14-6-66

20.11.96

Mr. G.Sarma, Addl.C.G.S.C. for the applicant.

Mr. M.K.Choudhury for the respondents.

Copy of amendment application has been served on him today only. Therefore adjourned for consideration of admission on 4.12.1996.

Member

W/S statement his son filed.

Notice served on Respondents 1-3. W/S statement & Rejoinder by Respondents.

trd.

Received by M.K. Choudhury R.A. 19/11/96

19.11.96

Notice duly served on Respondent No. 4, 5-6 (by hand received on behalf of above number by the Respondent Counsel. Vide D.No-3937 to 3939 Dt- 3.12.96

3.12.96

OFFICE NOTE

DATE

ORDER

DND receivedly served on op No. 1-6
w/ statement & rejoinder
as submitted
3/12

4.12.96

Learned counsel Mr G. Sarma for the applicants. Leave note of Mr M.K. Choudhury, learned Railway Counsel. It is considered that admission of this application needs not be adjourned.

The applicants have prayed for permission to allow them to join in this single application by invoking the provision under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987. Since the conditions mentioned in the aforesaid rule are fulfilled the applicants are allowed to join this single application.

Perused the contents of the application, the written statement and the rejoinder to the written statement. The application is admitted subject to consideration of limitation at the time of final hearing. The case is ready for hearing.

List for hearing on 30.12.96.

The respondents may file additional written statement, if desire.

Interim order dated 16.8.1996 shall continue with liberty to the respondents to apply.

Member

Pd. comply order dated 4.12.96 to the parties.
5/12

nkm

5/12

add. w/ statement as submitted
2/12

31-12-96

Leave note of Mr.G.Sarma for the applicant. Mr.M.K.Choudhury for the respondents.

List for hearing on 22-1-97.

Member

W/S and rejoinder has been filed.
The case is ready for hearing
21/1/97

lm

2-1-97

To be listed alongwith M.P.234/96 on 22-1-96.

Member

lm

2.1.97

5

OFFICE NOTE

DATE

ORDER

18.2.97

22.1.97

Three weeks time is granted to the respondents for filing counter affidavit.

List the matter on 19.2.97 for counter affidavit. No further adjournment shall be granted.

ba
Member

LB
Vice-Chairman

1) Written statement has been filed on behalf of the respondents.

nkm

nr
27/1

2) Rejoinder of the W/S filed by the respondents.

19.2.97

Written statement has been filed. Rejoinder has also been filed. Case is ready.

List on 26.2.97 for fixing a date of hearing.

ba
Member

LB
Vice-Chairman

3) Memo of appearance has not been filed.

nr
18/2

pg

nr
21/2

26-2-97.

Let this case be listed for further order alongwith M.P.234/96 on 12-3-97.

Member

LB
Vice-Chairman

lm

12.3.97

As called for by the applicant, Mr. B.K.Sharma has produced the documents under sealed ~~cover~~ envelope. He states that the sealed cover ~~documents~~ contains those documents called for.

Let this case be listed for hearing on 11.4.1997.

ba
Member

LB
Vice-Chairman

W/S statement - by Rejoinder has been filed -

SB
10/4

trd

nr
17/3

QA/TA/CP/RA/MP No. 165 of 1996

OFFICE NOTE

DATE

ORDER

11.4.97

On the prayer of Mr G. Sarma, learned counsel for the applicant let this case be listed on 16.5.97 for hearing.

Member

Vice-Chairman

nkm

16/11

W/S and Rejoinder has been filed

15/5

11/7/97

16.5.97.

Left over. List on 14.7.97. for hearing.

Member

Vice-Chairman

nkm

20/5

Memo of appearance not yet filed

11/7

25.7.97

14.7.97

Due to ref, the court is suspended after 12 noon. Adjourned to 25.7.97.

By order

Case is ready for hearing

28.7.97

On the prayer of the learned counsel for the parties let this case be listed on 30.7.97.

Member

Vice-Chairman

nkm

30.7.97

Passover on the day. By order.

31.7.97

Leftover. List on 26.8.97. By order.

26.8.97

Bench at Shillong. List on 16.9.97. By order.

16.9.97

Adjourn to 18.9.97.

18.9.97

Adjourn to 31.10.97 By order.

26.8.97

Due to circuit sitting at Shillong, Bench is not available today. 26/8

W/S and Rejoinder has been filed

15/9

O.A. 165/96

X

W/ statement and rejoinder has been filed.

31-10-97 There is no sitting of Division Bench. List on 18-11-97.

29/10

By Mr.

17-11-97

18.11.97

On the prayer of Mr B.K.Sharma, learned Railway standing counsel the case is adjourned till 25.11.97.

- 1) W/S and rejoinder has been filed.
- 2) No. memo of appearance filed.

Member

Vice-Chairman

24

pg 19/11

24-11-97

~~25.11.97~~

~~Heard the learned counsel for the parties. Hearing concluded. Judgment sheets. The application is disposed of.~~

- 1) Written statement and rejoinder has been filed.
- 2) No. memo of appearance

~~Member~~

~~Vice-Chairman~~

~~also~~

~~25.11.97~~

~~Heard the learned counsel for the applicants. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.~~

~~Member~~

~~Vice-Chairman~~

~~also~~

25.11.97

The application was filed on 16.8.1996 which was after the expiry of the period of limitation. However, the applicants have prayed for condonation of delay stating the grounds for which the applicants were prevented from approaching this Tribunal within the prescribed time.

We have heard the learned counsel for the parties. On hearing the counsel for the parties we are satisfied that the applicants were prevented from filing the applications within time for sufficient reason.

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.

[Signature]
Member

[Signature]
Vice-Chairman

- nkm
8/12
at 3 P.M.

12/12/97

Copy of the Judgment has been sent to the D/Sec. for issuing the same to the parties through Regd. W/E A/D. vide of. Despatch NO- 36896 3695 dated 16-12-97.

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

O.A.No. 165 of 1996

DATE OF DECISION... 25.11.1997.....

!! Shri Paras Nath Prasad and (PETITIONER(S))

Shri Mihir Kumar Paul

Mr G. Sarma

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India and others RESPONDENT(S)

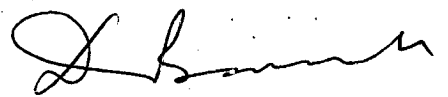
Mr B.K. Sharma, Railway Counsel.

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

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

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

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.165 of 1996

Date of decision: This the 25th day of November 1997

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

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

1. Shri Paras Nath Prasad,
PWI-II(HQ), N.F. Railway,
Maligaon, Guwahati.
2. Shri Mihir Kumar Paul,
PWI-II, N.F. Railway,
Panbari, Kamrup.Applicants

By Advocate Mr G. Sarma.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Railways.
New Delhi.
2. The Chairman,
Railway Board,
New Delhi.
3. The Executive Director(Vigilance)
Railway Board,
New Delhi.
4. The General Manager,
N.F. Railway, Maligaon.
5. The Chief Engineer,
N.F. Railway, Maligaon.
6. The Chief Personnel Officer,
N.F. Railway, Maligaon.Respondents

By Advocate Mr B.K. Sharma, Railway Counsel.

O R D E R

BARUAH.J. (V.C.)

The two applicants have approached this Tribunal
by filing the Original Application No.165 of 1996
seeking certain directions to the respondents.

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

At the material time the applicants were working as Permanent Way Inspectors in the office of the Chief Engineer, N.F. Railway- respondent No.5. On behalf of the General Manager(P) Annexure A-I Circular dated 2.8.1994 was issued intimating that the authority decided to appoint for filling up some vacant posts from Grade II to Grade I of Permanent Way Inspector. The names of the eligible persons were mentioned in the said Annexure A-I Circular. The names of the applicants appeared at serial Nos.20 and 22. As per the said circular a written examination and a viva voce test would be held. About 56 candidates were eligible for consideration for appointment. However, out of the 56 candidates only 42 appeared. However, 18 persons did not appear. These 18 persons could not appear because they were illiterate. The persons coming out successful in the written examination were required to appear in the viva voce test. In the list of successful candidates, the names of the applicants did not appear. According to the applicants the answer scripts were not evaluated properly, and therefore, their papers were unreasonably rejected showing that they became unsuccessful

in.....

12

in the written examination. Being aggrieved the applicants preferred Annexure A-II appeal dated 20.12.1994 before the 5th respondent. The matter was also taken up by the Association of Purbanchaliya Rail Karmi Parishad by Annexure A-III letter dated 26.7.1995. However, the 5th respondent did not dispose of the appeals. Hence the present application.

3. In due course the respondents filed written statement disputing the claim of the applicants.

4. We have heard Mr G. Sarma, learned counsel for the applicants and Mr J.L. Sarkar, learned Railway Counsel appearing on behalf of the respondents. Mr G. Sarma submits that their answer scripts were not properly evaluated, and therefore, the applicants were shown unsuccessful.

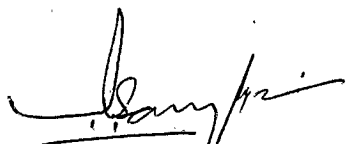
We directed Mr B.K. Sharma, learned Railway Counsel, to produce the answer scripts. However, he has not done it. We have, however, heard Mr J.L. Sarkar on this point.

5. On hearing the learned counsel for the parties, we are of the opinion that it will be expedient if we give a direction to the 5th respondent to dispose of the appeals. Accordingly, we dispose of this application with a direction


to.....

to the 5th respondent to dispose of the appeals by a reasoned order within fifteen days from the date of receipt of this order. If the applicants are still aggrieved they may approach the appropriate authority, if so advised.

6. The application is accordingly disposed of. However, in the facts and circumstances of the case we make no order as to costs.



(G. L. SANGLYINE)
MEMBER (A)



(D. N. BARUAH)
VICE-CHAIRMAN

667
15.9.1995
Guwahati Bench
K. J. Borah

Filed by
Golap Sarma
Advocate
24.9.96

THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Consolidated application as per order dated 17.9.96

in Misc Petition No.120/96

O.A.No.165/96

Shri Paras Nath Prasad & anotherApplicants.
- Versus -
Union of India & Ors. ... Respondents.

AND

An application under Section 19 of the Administrative Tribunal's Act, 1985

I N D E X

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| 2. | Verification | 11 |
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| 4. | Annexure A-II | |
| 5. | Annexure A-III | |
| 6. | Annexure A-IV | |
| 7. | Annexure A-V | |

For use in Tribunal's office :-

Date of filing : 27.9.96

Registration No. OA 165/96

Signature

Registrar

[Signature]

1. PARTICULARS OF THE APPLICANTS

1. Shri Paras Nath Prasad,
S/o Late Kanhaiya Prasad,
PWI-II(HQ), Maligaon,
Guwahati-11.
2. Shri Mihir Kanti Paul,
S/o Shri Dinesh Ch. Paul,
PWI-II, Panbari, Dist.Kamrup,
Assam.

2. PARTICULARS OF THE RESPONDENTS.

1. Union of India represented by the
Secretary to the Govt. of India,
Ministry of Railways,
New Delhi.
2. The Chairman,
Railway Board,
New Delhi.
3. Executive Director(Vigilance),
Railway Board,
New Delhi.
4. General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
5. Chief Engineer,
N.F.Railway, Maligaon,
Guwahati-11.
6. Chief Personnel Officer,
N.F.Railway, Maligaon,
Guwahati-11.

3. PARTICULARS OF ORDERS AGAINST WHICH THIS
APPLICATION IS MADE.

This application is made against an order dated 3.10.94 under reference No.E/254/28/Pt.V(E) allowing 16 candidates to appear in viva-voce test and against the final selection list dated 12.11.94 issued by the respondent No.6 for promotion from Permanent Way Inspector Grade-II to Permanent Way Inspector Grade-I.

Contd/-.

i) Paras Nath Prasad
ii) Mihir Kumar Pal

4. JURISDICTION

The applicants declare that the subject matter against which they want redressal is within the jurisdiction of the Tribunal. The applicants pray for permission to file the application in a representative character as per sub section 5(a) of Section 4 of the Central Administrative Tribunal (Procedure) Rules.1987.

5. LIMITATION :

The applicants further declare that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal's Act, 1985.

6. FACTS OF THE CASE :

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

6.2 That the applicant No.1 is an employee working in the office of the Respondent No.5 at Maligaon and presently working as Permanent Way Inspector Grade-II (HQ) in short PWI-II(HQ).

6.3 That the applicant No.2 is also an employee of railways and presently working as Permanent Way Inspector Grade-II in short PWI-II at Panbari, Jagiroad under the Respondent No.5.

Contd/- .

i) Paras Nath Dasgupta
ii) Mihir Kumar Pal

6.4 That the Respondent No.6 made a circular for readiness for departmental examination for promotion to the post of PWI Grade-I and accordingly the readiness letter was circulated to all concerned.

A copy of the said readiness letter is annexed herewith and marked as Annexure A-I.

6.5 That in the said readiness letter it was decided that only PWI Grade-II are entitled to appear in the departmental examination and date of examination was fixed on 10.9.94.

6.6 That both the applicants offered their readiness to sit in the examination and accordingly they were allowed to sit in the written test held on 10.9.94. It is to be mentioned here that the numbers of PWI-II including the applicants were 56 but only 43 appeared in the test.

6.7 That the applicants begs to state that thereafter the respondents declared the selection list for viva-voce test for promotion to the post of PWI-I but to the utter surprise of the applicants the said list did not carry the names of both the applicants who did very excellent in the written test. This list containing the name of 16 candidates are not legally and validly prepared and the respondents followed pick and choose policy dropping the names of both the applicants from the list of the selected candidates for viva-voce test.

6.8. That the applicants strongly believe that the answer scripts were not properly evaluated and had it been properly evaluated, the applicants would have been declared successful.

In this

i) Paras Nath Pasrad
ii) Mihir Kumar Pal

In this connection, the applicants beg to state that proper remedy lies in examining the answer scripts of the candidates appeared in the written test.

6.9 That the applicants beg to state that had the answer scripts been evaluated on the basis of rule 30 appearing at page 213 of railway establishment rules, both the applicants would have been declared successful.

6.10 That out of these 16 candidates, 13 candidates appeared for viva-voce test held on 6.10.94 and rest 3 on a subsequent date. Out of these 13 candidates 11 candidates were declared passed vide letter No.E/254/28/Pt.V(E) dated 22.11.94 and out of these 3 i.e. absentees on 6.10.94, 2 were declared passed on another date. That selection of 13 candidates to the post of PWI-I is in violation of all relevant rules of the railways.

6.11 That both the applicants being aggrieved of the result for viva-voce test published on 3.10.94 and final list of 11 candidates published on 22.11.94 and 2 candidates selected on subsequent date, preferred a representation before the competent authority wherein the applicants mentioned that lots of irregularities have been committed by the office of the Respondent No.6 which were elaborately written in the said representation. This representation is made on 20.12.94 within two months from the date of final select list of 22.11.94. This provision is incorporated at (17) page 208 of Railway Establishment Rules and Labour Laws by B.S.Mainee - 1979 Edition which speaks thus - "Representation if any, against a panel should be submitted to the competent authority within a period of two months from the date of publication of the final panel...."

Contd/-.

D Paras Nath Passal
 in) Mihir Kumar Pal

A copy of the said representation is marked herewith as Annexure A-II.

6.12. That in the said representation the applicants clearly pointed out the irregularities done by the respondents and prayed for immediate intervention of the appropriate authority to remove the irregularities but nothing was done till date.

6.13. That the applicants beg to state that another glaring irregularity was committed by the respondents in promoting Shri Gautam Chakraborty, Shri S.K.Acharjee and Shri S.K.Paul (appeared at sl.12, 13 and 14 respectively of the said 16 selected list of 1993 and they were promoted to PWI-I in 1993 itself.

Copies of documents are annexed and marked as Annexure A-II(a) & A-II(b)

6.14. That the applicants beg to state that promoting these three persons for the 2nd time have blocked the way of promotion of both the applicants.

6.15. That the applicants beg to state that on the inaction of the respondents, the Purbanchaliya Rail Karmi Parishad, a registered trade Union of the employees of N.F.Railway took up the matter with the Respondent No.3 and requested for intervention in the matter. In the said letter, the General Secretary of the said Union unearthed as many as 6/7 irregularities in selection for promotion.....

D Paras Nath Prasad
 in) Mihir Kumar Pal

promotion to PWI-I and requested for immediate necessary action.

A copy of the letter is annexed herewith and marked as Annexure A-III.

That the said representation moved from Rail Bhawan, New Delhi to N.F. Railway Headquarters at Maligaon i.e. from Respondent No.3 to Respondent No.4 and the Vigilance Officer(Accounts) in the office of the Respondent No.4 took up the matter with the Chief General Secretary, Purbanchaliya Rail Karmi Parishad in October '95. And the applicants are in the firm believe that the vigilance will find out the irregularities/illegality committed in the written test.

A copy of the communication from the Vigilance Officer Accounts is annexed herewith and marked as Annexure A-IV.

6.16 That the applicants beg to state that while they were anxiously waiting for getting their representation dated 20.12.94 for disposal from the Respondent No.5 and also while the applicants were anxiously waiting for a fruitful action on the representation by the Purbanchaliya Rail Karmi Parishad, they received another readiness letter published on 27.6.96 asking for willingness from as many as 70 candidates for appearing in the written test for promotion to PWI-I from PWI-II. In this connection, the applicants begs to state that.....

S. Paras Nath Prasad
b) Mihir Kumar Pal

that while the result of 16 candidates dated 3.10.94 is agitated in this application and statutory representation is made to remove the irregularities, the present readiness letter dated 27.6.96 is uncalled for and not at all maintainable in the eye of law.

A copy of the readiness letter dated 27.6.96 is annexed herewith and marked as Annexure-V.

The applicants further beg to pray before this Hon'ble Tribunal to condone the delay in submitting the application under prevailing circumstances noted above.

6.17 That the applicants beg to state that this readiness letter dated 27.6.96 is issued after 2 years for remaining vacancy of 17 posts in 1994, ought to have filled up through the selection among 43 candidates after 6 months from the date of result declared by the respondents as per E.Rly Sl.No.7623 at page 296 of 'A Guide to Railwaymen on Establishment Rules and Labour Law'- 1982 edition, by K.B.Bhattacharjee which speaks thus " On a reference being made by the Eastern Railway, the Railway Board observed that in such cases a fresh test should be held after 6 months and such selection is held all the eligible candidates in order of seniority including those who did not get selected, should be called" The applicants further begs to clarify that remaining vacancy of 17 posts in 1994 means - Out of 56 candidates 43 appeared and out of 43, only 13 declared selected as PWI-I out of 30 posts, hence 17 posts were vacant.

Contd.....

i) Paras Nath Pasand
ii) Mihir Kumar Pal

6.18 That the applicants begs to state that they were in mind that the respondents will definitely dispose of the representation made by them as well as Purbanchaliya Rail Karmi Parishad and as such there is some delay in making this application before this Hon'ble Tribunal and further the applicants pray before this Hon'ble Tribunal that minor delay is not delay in the eye of law.

7. G R O U N D S

7.1 For that declaring of the 16 candidates selected for viva-voce test is illegal in view of improper evaluation of answer scripts.

7.2 For that had the above noted rule been followed, both the applicants would have been placed in the select list.

7.3 For that there will be clear violation of Article 14 of the Constitution of India if the readiness letter dated 27.6.96 is allowed to exist.

7.4 For that it is a fit case where the result declared for promotion from PWI Grade-II to Grade-I in respect of 13 candidates should contain the names of both the applicants as they were deleted by committing irregularities.

7.5 For that the result of written test of both the applicants be declared alongwith 16 candidates

on the.....

D Panna Nath Pansal
ii) Mihir Kumar Pal

on the basis of rule 30 at page 213 of Railway Establishment Rules.

8. RELIEFS SOUGHT FOR.

In view of the facts and circumstances of the case the applicants pray for the following reliefs:-

- i. That the result declared containing 16 candidates on 3.10.94 should also contain the names of both the applicants.
- ii. That the answer scripts of the applicants appeared in written test on 10.9.94 alongwith 16 candidates declared successful may kindly be called for scrutiny in the matter of evaluation.
- iii. That the document/communication containing the action of Respondent No.3 on the basis of Annexure A-IV may kindly be called for judicial scrutiny.
- iv. That the process/follow up actions of readiness letter (Annexure A-V) issued by the respondent No.6 should be quashed in view of the position as stated in para 6.17 above.
- v. Any other relief/reliefs as this Hon'ble Tribunal considers fit and proper.

Contd/-.

D Paras Nath Pasad
ii) Mihir Kumar Pat

9. INTERIM RELIEF PRAYED FOR.

i. That during pendency of disposal of the representation of both the applicants dated 20.12.94, the entire process on readiness letter dated 27.6.96 (Annexure A-V) may kindly be stayed.

ii. That during pendency of the disposal of the application, direction may be issued to the Respondents to promote the applicants to PWI Grade-I with immediate effect.

10. WHETHER ANY OTHER APPLICATION/PETITION FILED BEFORE ANY OTHER COURT/TRIBUNAL.

The applicants beg to state that they have not filed any other case application before any Court/Tribunal.

11. REMEDIES EXHAUSTED.

The applicants' begs to state that they have exhausted all the remedies available to them and there is no other alternative but to approach this non'ble Tribunal for justice.

12. PARTICULARS OF POSTAL ORDERS.

Postal Order No.

Date :

Issued by :

Payable at :

13. An Index with particulars of enclosures is enclosed.

14. PARTICULARS OF DOCUMENTS.

As per Index.

VERIFICATION.....

i) Paras Nath Prasad
ii) Mihir Kumar Pat

VERIFICATION

I, Shri Paras Nath Prasad, son of late Kanhaiya Prasad, aged about 38 years, at present working as Permanent Way Inspector Grade-II in the office of the Chief Engineer, M.F. Railway, Maligaon Guwahati-11, resident of Railway Qr.No.239/C, B.G.Colony, P.O. Bamunimaidan, Guwahati-21 do hereby solemnly affirm and Verify on my own behalf and also on behalf of Applicant No.2 being so authorised that the statements made in paragraph 1 to 6 and 8 to 14 of the O.A. are true to my knowledge and those made in paragraph 7 are true to my legal advice and I have not suppressed any material facts.

AND I sign this Verification on this 24th day of September, 1996 at Guwahati.

Paras Nath Prasad
Mihir Kumar Pal

N.E. Railway

Office of the
General Manager (P)
Maligaon: Guwahati-17.

No. L/254/28/Pt. IV (E)

Dt. 2/8/94.

To
GM/Con/Maligaon
DM (P) KR, APDJ, IMG & TSK
DM (W) KR, APDJ, IMG & TSK
DM/IRT.
DY. JE/TD/Maligaon.

Sub: - Selection for formation of a panel of PWI/Gr. I in scale B. 2000-3200/- (RP).

REF: - This office XCR NO. L/254/28/Pt. V (E) dt. 29.6.94

Vide this office XCR cited above it was notified that a selection of PWI/Gr. I in scale B. 2000-3200/- (RP) is under process for which you were requested to intimate all PWI/II to be in readiness for appearing in the written test on short notice.

It has now been decided to form a panel of 30 (UR-28, 3C-NII & ST-2) PWI/I in scale B. 2000-3200/-.

The selection will consist of written exam. and viva-voce test. In the written Exam. there will be two papers viz. one is technical (professional) paper and another is other than technical paper i.e. Stores & Establishment (Syllabus enclosed).

The following candidates may be directed to appear in the Written Examination to be held in the 4th week of Aug 1994. Exact date of Written Examination will be intimated shortly.

If any of the following candidates is on leave, he should be advised at his home address/leave address. If any candidate is unwilling to appear in this selection, his unwillingness in writing may be obtained and forwarded to this office. If there is any DM/SPE/Vig case is pending against the following candidates the same be intimated to this office in detail immediately. The service particulars of the following staff in the proforma enclosed and last three (3) years ACRs should be sent to the undersigned and copy to GM/Maligaon respectively by 31.8.94 certain.

Names of the eligible candidates

| Sl. No. | Name | Designation | Posted in the division |
|------------------|-------------------------|-------------------------|------------------------|
| A 1. | Sh. Gautam Chakrabarty | PWI/II B.1600-2660/- | APDJ Divn. |
| A 2. | " S.K. Acharjee | -do- | -do- |
| A 3. | " Sunil Kr. Paul ✓ | -do- | IMG ✓ |
| A 4. | " Prabir Biswas | -do- | APDJ |
| A 5. | " Dipti Rabi Das (SC) | -do- | GM/Con/MLG |
| A 6. | " Khokan Ch. Roy (SC) | -do- | APDJ Divn. |
| A 7. | " Suresh Ch. Roy (SC) | -do- | IMG ✓ |
| A 8. | " Hirupam Das (SC) | -do- | GM/Con/MLG |
| A 9. | " P.K. Biswas (SC) ✓ | -do- | -do- |
| A 10. | " H.V.K. Kutty | -do- | KIR divn. |
| A 11. | " P.N. NANDA | -do- | IMG ✓ |

Conti.....2

Handwritten:
A-11
20/11/94

43

13

29

-: 2 :-

11. Sri T.Nanda

PWI/II
G.1600-2660/-

APD/Divn. LMG Divn.

| | | | | |
|-------|---|-------------------------|------|-------------|
| X 12. | " | Samiran Karnakar | -do- | APDJ " |
| X 13. | " | G.H.Biswas | -do- | KIR " |
| X 14. | " | Subodh Das | -do- | KIR " |
| X 15. | " | Notilal Prasad | -do- | CE/Con/ILG. |
| X 16. | " | B.C.Guha | -do- | KIR |
| X 17. | " | Tarak Ch. Das | -do- | APDJ " |
| X 18. | " | Alok Kr. Bose X | -do- | APDJ " |
| 19. | " | Siyamal Mitra | -do- | CE/ILG. |
| 20. | " | Mihir Kr. Paul | -do- | LMG Divn. ✓ |
| 21. | " | Halay Bhattacharjee | -do- | TSK " |
| 22. | " | P.N.Prasad | -do- | LMG " ✓ |
| 23. | " | H.K.Nag | -do- | APDJ " |
| 24. | " | Gopal Ch. Das | -do- | TSK " |
| 25. | " | Sajal Ananti Das (SC) ✓ | -do- | LMG " ✓ |
| 26. | " | S.Das (SC) ✓ | -do- | LMG " ✓ |
| 27. | " | S.S.Das (SC) ✓ | -do- | LMG " ✓ |
| 28. | " | Harj Singh (SC) ✓ | -do- | APDJ " |
| 29. | " | S.C.Saha | -do- | KIR " |
| 30. | " | D.P.Jaiswal | -do- | KIR " |
| 31. | " | Ram Prasad | -do- | KIR " |
| 32. | " | S.K.Joarder | -do- | KIR " |
| 33. | " | A.N.Kundu | -do- | KIR " |
| 34. | " | B.C.Das | -do- | APDJ " |
| 35. | " | G.C.Sarkar | -do- | APDJ " |
| 36. | " | B.K.Handique | -do- | APDJ " |
| 37. | " | Hakim Niah | -do- | APDJ " |
| 38. | " | Nambi Alwan K. | -do- | APDJ " |
| 39. | " | B. Chakraborty ✓ | -do- | KIR " |
| 40. | " | S.K.Raha | -do- | APDJ " |
| 41. | " | Lakhan Sai (SC) | -do- | KIR " |
| 42. | " | Tapan Kr. Saha | -do- | KIR " |
| 43. | " | Bimal Dey | -do- | APDJ " |
| 44. | " | S. Routh | -do- | KIR " |
| 45. | " | Sandip Deb | -do- | CE/ILG. |
| 46. | " | S.K.Acharjee | -do- | APDJ " |
| 47. | " | H.Wandi | -do- | -do- |
| 48. | " | Dipak Dastidar | -do- | KIR Divn. " |
| 49. | " | S.K.Verma | -do- | -do- |
| 50. | " | S.H.Deb ✓ | -do- | APDJ " |
| 51. | " | G.N.Kar | -do- | CE/ILG. |
| 52. | " | S.S.Sarkar | -do- | TSK divn. |
| 53. | " | S.K.Saha | -do- | KIR " |
| 54. | " | Irish Ekka (ST) | -do- | KIR " |
| 55. | " | B. Dewraja (ST) | -do- | LMG " ✓ |
| 56. | " | H.Hazarika (ST) | -do- | LMG " ✓ |

XXXXXXXX

02/8/54

contd...3

Note :- 1. Sl.No. 15,24,35,36,40,42,43,44,46,47,48,49,50,
51,52,53,54,55 and 56 above are eligible to appear
in the selection of PWI/I subject to the conditions
that they have got effect of promotion as PWI/II
(1600-2660/-).

2. Before sealing the above PWIs to appear before the
selection of PWI/I, GI/Con/ILG and respective Sr.DPO's
may please ensure that their promotion order as PWI/II
(1600-2660/-) have already been implemented.

(Signature)
(A.Saikia)

APO/Engg.
for General Manager (P)

Copy to :-

CA/CE he is requested to keep in readiness last
3 yrs. ACIs of above PWIs to put up before the
selection committee.

(Signature)
(A.Saikia)

APO/Engg.
for General Manager (P)

File
2/8

To,
CE/MLG,
H.F. Railway.

Through - Post channel.

Sub : Anomalies in the process of Selection for formation of Panel of PFI/1 in scale Rs. 2000-3200/-

Ref : GH(P) MLG's office letter No. E/254/28/Pt.V(E) Dt. 29/6/94.

Sir,

With immense displeasure, we like to draw your kind and sympathetic attention to the following points which has resulted in gross depression in our mind.

That sir, Lots of irregularities have been noticed in the process followed by Personnel Branch in connection with the subject selection. The irregularities which has yielded injustice on the career of P.F.I.S. can be understood from the system indicated below :-

1) Firstly, As much as 56 No. of PFI/II were called for written test. Out of which 43 No. candidates were appeared.

It is reliably learnt that extant rules as per Establishment nannual have not been followed in the process initiated to call for viva-voce test. While 43 No. of PFI/II appeared in the written test, assesment of seniority should be calculated on the basis of staff appeared in the written test. But in fact, seniority of all 56 Nos. of PFI/II was taken in view of calling staff for viva-vocat test. It is totally against the rules provided and detrimental to the staff. Some staff who could get opportunity for promotion have been thus deprived.

If the system was followed properly by way of taking the actual No. of staff appeared in the written test into the consideration to find out the eligibility of staff on the basis of marks obtained in the written test and seniority vide establishment manual, some of the staff were deleted from the list should have been called for written test.

Cont.....2/P

31

2. Secondly, Sri S.K. Paul PFI/II (SL.No. 3) has already been promoted to PFI/Gr.-I on upgradation. He has also been called for the concerned selection.

3. It is learnt that fraction of marks obtained by the candidate was not rounded up as per norms followed by another Railways. The system of rounding .5 or more to 1 mark has not been followed in the above selection.

We therefore, pray to your kind honour to take suitable action against the irregularities followed in the selection so that staff are not deprived.

With best regards.

Yours faithfully,

Copy to :- 1 ✓ GM (P)/MLG/S.F.RLY. for information and necessary action please.

forwarded to HEN/Geny

22/12/94
Permanent Way Inspector,
N.E. Railway, New Guwahati

1 P. M. Prasad
PMS/II/HGC
20/12/94
2 M. K. Pal
PMS/II/Geny

forwarded for necessary action please

22/12/94
Sd/-
Asst. Engineer
P.W. Section
N.E. Railway, Guwahati
গুৱাহাটী

Attested

20/12/94
Sd/-
Asst. Engineer
P.W. Section
N.E. Railway, Guwahati
গুৱাহাটী

NORTHEAST FRONTIER RAILWAY.

MEMORANDUM

Sub: Result of Modified selection for the post of FWI/Gr.I in scale Rs. 2000-3200/-.

In the modified selection for the post of permanent way Inspector/Gr.I in scale Rs. 2000-3200/- the following permanent way inspector/Gr.II in scale Rs. 1600-2660/- (RP) have been found suitable for promotion to the post FWI/Gr.I in scale Rs. 2000-3200/- (RP) against the post available due to restructuring of cadre w.e.from 1.3.93 as per Rly. Board's letter No. FC-III/91/CRC/1 dated 27.1.93 circulated under CPO/MLG's No. RP-482 (No. E/205/73 (FC) Pt. V dt. 3.2.93) and placed in the panel of FWI/Gr.I in scale Rs. 2000-3200/- in the following order as per seniority :-

| Sl. No. | Name | Designation & Place of posting | Working under |
|---------|------------------------------|--------------------------------|---------------------------|
| 1. | Shri P.Choudhury | FWI/Gr.II/BNGN | Sr.DEN/AFDJ. |
| 2. | Shri M.L.Majumder | FWI/Gr.II | " /LMG |
| 3. | Shri P.C.Sanyal. | FWI/Gr.II/RVK | " /AFDJ. |
| 4. | Shri M.S.Ganguli. | FWI/Gr.II/NMX | " /AFDJ. |
| 5. | Shri R.Sengupta | FWI/Gr.II/FLK | " /AFDJ. |
| 6. | Shri H.Mukharjee. | FWI/Gr.II/COB. | " /AFDJ. |
| 7. | Shri Gautam Banerjee. | FWI/Gr.II/HQ | CE/Maligaon. |
| 8. | Shri Namalendu Bhattacharjee | FWI/Gr.II/DTL | Sr.DEN/LMG. |
| 9. | Shri S.S.Chakraborty. | FWI/Gr.II/NJP | " /KIR. |
| 10. | Shri M.S.Sarkar, | FWI/II/SXX | " /AFDJ. |
| 12. | Shri Anup Kr.Das | - | Cifg.as AEN w.e.f.4.6.93. |
| ✓12. | Shri Gautam Chakraborty | FWI/II/BNGN(W/C) | Sr.DEN/AFDJ. |
| ✓13. | Shri S.K.Acharjee | FWI/II/NLP(E) | " /AFDJ. |
| ✓14. | Shri S.K.Pal. | FWI/II/NJN | " /LMG |
| 15. | Shri N.S.Singh | - | Cifg.as AEN w.e.f.31.5.93 |
| 16. | Shri U.C.Das (ST) | FWI/II/CFK | Sr.DEN/LMG. |

The above result has been approved by CTE on 7.10.93.

R.A. Singh
 (R.A. Singh) 11/10
 Asstt: Personnel Officer/Engg.
 for GENERAL MANAGER (P).

Maligaon, dt. 11-10-1993.

No.E/254/28/Pt.V (E).

- Copy forwarded to :
1. DRM(P)/KIR, AFDJ, LMG & TSK.
 2. DRM(W)/KIR, AFDJ, LMG & TSK. (3) DEN/DEPT.
 4. Dy.CE/TD/MLG.
 5. Dy.CPO/G.
- R.A. Singh*
 for GENERAL MANAGER (P) 11/10

Attested
 20/10/93

A 11-(6)

33

NORTHEAST FRONTIER RAILWAY

MEMORANDUM

In the selection for promotion to the post of Permanent Way Inspector/Gr.I in scale Rs. 2000-3200/- (RPS) held in Chief Engineer Office, Maligaon on 10.9.94 and 25.9.94 (Written Test) and 6.10.94 (Viva-voce Test), the following Permanent Way Inspector/Gr.II in scale Rs. 1600-2660/- (RPS) have been selected for promotion to the post of Permanent Way Inspector/Gr.I in scale Rs. 2000-3200/- (RPS) and placed in the panel of Permanent Way Inspector/Gr.I in scale Rs. 2000-3200/- in the following order as per seniority:-

| SN | Name | Designation & Scale | Working under |
|-----|---------------------------|--------------------------------|---------------|
| 1. | Sh. Gautam Chakraborty | PWI/II/BNGN Rs. 1600-2660/- | Sr. DEN/APDJ |
| 2. | " S.K. Paul | -do-/BPB | Sr. DEN/IMG |
| 3. | " Hirupam Das (SC) | -do-/GM/Con/MLG | GM/Con/MLG |
| 4. | " N.V.K. Kutty | -do-/BOE (W) | Sr. DEN/KIR |
| 5. | " T. Nanda | -do-/JMK | Sr. DEN/IMG |
| 6. | " Shamalendu Das (SC) | -do-/BPB | -do- |
| 7. | " Shambhu Sekhar Das (SC) | -do-/LIBR | -do- |
| 8. | " B. Chakraborty | -do-/BOE (S) | Sr. DEN/KIR |
| 9. | " D. Dasgupta | -do-/SM | -do- |
| 10. | " S.K. Verma | -do-/KHE | -do- |
| 11. | " S.S. Sarkar | -do-/SBE | Sr. DEN/APDJ |

Note -1. The above result has duly been approved by CTE on 7.10.94. The panel is provisional and partial subject to the finalisation of absentees test.

2. Sl.No.8 to 11 above will get promotion as PWI/I in scale Rs. 2000-3200/- on completion of their two years regular service as PWI/II (1600-2660/-).

(A. Saikia) 22/11/94
APO/E
for General Manager (P) MLG.

No. E/254/28/Pt. V (E)

Dated 22/11/94.

Copy forwarded for information and necessary action to :-

- | | |
|-----------------------------------|----------------------------------|
| (1) GM/Con/Maligaon | (5) GM/Hindi/MLG with 7 (seven) |
| (2) DRM (P) KIR, APDJ, IMG & TSK. | spare copies of this publi- |
| (3) DRM (W) KIR, APDJ, IMG & TSK. | cation are enclosed herewith |
| (4) Dy. CE/TD/Maligaon. | for translation in Hindi and |
| | return the same for publication |
| | in the fortnightly Gazette. |
| | (6) CCS/G/MLG (in quadruplicate) |
| | for publication in the next |
| | issue of N.F.Rly. fortnightly |
| | Gazette. |

for General Manager (P) MLG

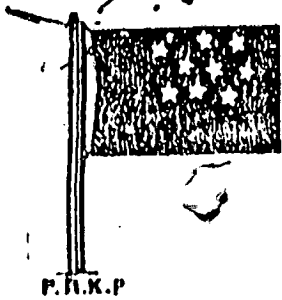
Attested
22/11/94

PURBANCHALIYA RAIL KARMI PARISHAD

(পূর্বাঞ্চলীয় রেল কর্মী পরিষদ)

H.O. MALIGAON :: GUWAHATI-781 011

REGISTRATION NO. TU/CR-K/48-82



P.R.K.P.

Ref No. P.R.K.P./SL/16/95

Date 26.2.1975

To

The Executive Director, Vigilance
Railway Board, Rail Bhawan,
New Delhi.

Sir,

Sub:- Irregularities in the process of selection
for formation of panel for promotion to
PWI/I in scale Rs.2000-3200/- on N.F.Railway.

1. This organisation begs to enclose a representation dated 20-12-94 from one of the aggrieved staff on the aforesaid subject, for your information and immediate necessary action.

2. The core points of the above staff representation are epitomised below for your perusal.

i) GM(P)/Maligaon notified, vide his No.E/254/Pt.V (B) dt. 29-6-94, 2/4-8-94 and 11-8-94, that PWI/II in scale Rs.1600-2660/- be directed to appear in the written test to be held for formation of panel for promotion to PWI/I in scale Rs.2000-3200/- in CE/N.F.Rly/Maligaon's office.

ii) 56 Nos. of PWI/II were called for written test. Out of which 43 Nos. of aspirants had appeared in the written test held on 10-9-94 and 25-9-94.

iii) Viva-voce was held on 6-10-94.

iv) 11 Nos. of PWI/II were placed in panel for promotion to PWI/I in scale Rs.2000-3200/- vide GM(P)/Maligaon's Memorandum No. E/254/28/Pt.V(E) dt. 22-11-94.

v) The absentees test was not finalised before forming the panel as mentioned under para 2(iv) above.

Contd....2/

President :

SHRI THANESWAR BORO, MLA
Ex Revenue Minister, Assam

Working President :

SHRI A. M. PATGIRI

Chief General Secretary :

SHRI P. C. BARMAN

Attested

20/16/96
R. P. B. BARMAN
R. P. B. BARMAN
R. P. B. BARMAN

20
35

PURBANCHALIYA RAIL KARMi PARISHAD

(পূর্বাঞ্চলীয় রেল কর্মী পরিষদ)

H.O. MALIGAON : GUWAHATI-781 011

REGISTRATION NO. 10-CH-K-48-82

1 2 1

P.R.K.P

Rel No.....

Date.....19

IRREGULARITIES.

vi) Action taken before Viva-voce test has been violated as stipulated under sub-para(1) page-169 of IREM by not following the instructions laid down for allotment of marks under different heads.

vii) As per IREM, the assessment of seniority marks should have been calculated on the basis of 43 Nos. of PWI/II appeared in the written test but not of all 56 Nos. of staff (PWI/II) called for written test. This is not in accordance with the spirit of the rules. This kind of wrong allotment of seniority marks have deprived some eligible candidates to get promotion.

viii) It has been represented that one Sri S.K.Paul, PWI/II(Sl. No.3 of list of eligible candidates) was already promoted to PWI/I in scale Rs.2000-3200/- on upgradation. He should have not been called for written test and empanelled in the final selection list. If the fact is so, it is a gross irregular.

(ix) It has also be alleged that the system of rounding .5 or more to 1 mark has not been followed in the above selection.

x) It is said that some of the candidates influenced the members of the Board(except SPO(B)) by money power and they could manage to get more concessional marks from 50 + 40 = 90. This is corrupt practice.

This Parishad, therefore requests you kindly to take actions as prayed for below :-

1) The entire lot of answer scripts may very kindly be seized and thorough checked be exercised to find out the faults committed by the Members of the Selection Board (except SPO/B).

Contd....3/

President :

SHRI THANESWAR BOBO, MLA
Ex Revenue Minister, Assam

Working President :

SHRI A. M. PATOIRI

Chief General Secretary

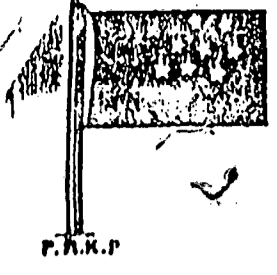
SHRI P. C. BARMAN

PURBANCHALIYA RAIL KARMI PARISHAD

(পূর্বাঞ্চলীয় রেল কর্মী পরিষদ)

H.O. MALIGAON : GUWAHATI- 781 011

REGISTRATION NO. 10/CH.K.40-82



P.R.K.P.

Ref No..... 1 3 1 Date..... 19

ii) Before (i) above, the promotion already effected should be annuled.

iii) After taking action as under (i) and (ii) above, CE should be asked to hold fresh selection.

iv) The members of the selection Board who have indulged into corrupt practice in the said selection should be removed from service after following D.A.R. action against them so that such thing does not occur.

An early action is requested.

DD:- As above

Date: 26-7-95.

P. C. Barmann
(P.C. BARMAN) 26/7/95
Chief General Secretary,
P.R.K.P.

President :
SHRI THANESWAR DORPO, M.A.
Ex Revenue Minister, Assam

Working President :
SHRI A. M. PATGIRI

Chief General Secretary
SHRI P. C. BARMAN

ANNEXURE - A, IV

N.F. Railway

Office of the
Chief Vigilance Officer
Maligaon:GUWAHATI-781011

No. 2/VIG/68/3/6/95

Dated: -10-95

To,
Sri P.C. Barman,
Chief General Secretary,
Purbanchaliya Rail Karmi Parishad,
P.O. Maligaon
GUWAHATI-781011

Sub: Irregularities in the process of selection
for formation of penal for promotion to PWI-
Gr. I in scale 2000-3200 on N.F. Rly.

Ref: Your letter No. PRKP/Staff/95
dated 26-7-95

Receipt of the above complaint forwarded under
your letter No. PRKP/Staff/95 dated 26-7-95 is hereby
acknowledged. Kindly confirm that the above complaint
was forwarded under your signature.

(Handwritten signature)

(K.K. Neogi)

Vigilance Officer/Accounts
for Chief Vigilance Officer

Attested

(Handwritten signature)
16/8/95
B. P. ...
...

NORTHEAST FRONTIER RAILWAY.OFFICE OF THE
GENERAL MANAGER (P),
MALIGAON :: GUWAHATI-11.

No. E/254/28/Pt. VI (E)

Dated : -06-1996.

To
The General Manager/CON/MLG,
DRM (P)/KIR, APOJ, LMG & TSK,
DRM (W)s/KIR, APOJ, LMG & TSK,
Dy. CE/TU/Maligaon, ACMT/MLG,
Sr. DEN/MALIGAONSub: Selection for formation of a panel of PW I/Gr. I
in scale Rs.2000-3200/- (R.P.).It has been decided to hold a selection to form a panel of
32 (UR-25, SC - 5 & ST - 2) of PW I/Gr. I in scale Rs.2000-3200/- (R.P.).The selection will consist of written examination and viva-
voce test.In the written examination there will be two papers viz.
one is technical (Professional) paper and another other than
technical paper i.e. stores and establishment (syllabus enclosed)
for 100 marks each. It should be ensured that a copy of the syllabus
is given to each and every eligible candidates in your division
immediately by deputing special messenger so that there is no
procedural laps on this account.The following PWIs may be advised to keep themselves in
readiness for written test on short notice.If any one of the following candidates is on leave, he
should be advised at his home address/leave address. If any
candidate is unwilling to appear in this selection, his unwilling-
ness in writing may be detained and forwarded to this office.If there is any DAR/SPE/VIG case is pending against the
following candidates the same may be intimated to this office in
detail immediately.The service particulars of the following staff in the
proforma enclosed should be sent to this office by 10-07-96 certain.

| SNo | Name of candidates | Designation | Working under |
|-----|--------------------------|-------------|---------------|
| 1 | 2 | 3 | 4 |
| 1 | Sri Prabin Biswas, | PW I/II | Sr. DEN/APOJ. |
| 2 | Sri Dipti Rabi Das. (SC) | -do- | GM/CON/MLG. |
| 3 | Sri Suresh Ch. Roy, (SC) | -do- | Sr. DEN/LMG. |

Contd...2.

A.H. Stek
17/07/96Lau
MLG

| 1 | 2 | 3 | 4 |
|----|--------------------------|---------|---------------|
| 4 | Sri P.K. Biswas (SC) | PJ I/II | GM/CON/MLG. |
| 5 | Sri Samiran Kamakar, | -do- | Sr. DEN/APDJ. |
| 6 | Sri Subodh Das, | -do- | Sr. DEN/KIR. |
| 7 | Sri Motilal Prasad, | -do- | Sr. DEN/KIR. |
| 8 | Sri B.C. Guha, | -do- | Sr. DEN/KIR. |
| 9 | Sri Tarak Ch. Das, | -do- | Sr. DEN/APDJ. |
| 10 | Sri Shyam Mitra, | -do- | CE/Maligaon. |
| 11 | Sri Mihir Kr. Paul, | -do- | Sr. DEN/LMG. |
| 12 | Sri Malay Bhattacharjee, | -do- | Sr. DEN/TSK. |
| 13 | Sri P.N. Prasad, | -do- | CE/Maligaon. |
| 14 | Sri M.K. Nag, | -do- | Sr. DEN/APDJ. |
| 15 | Sri Hari Singh (SC) | -do- | Sr. DEN/APDJ. |
| 16 | Sri S.C. Saha, | -do- | Sr. DEN/KIR. |
| 17 | Sri D.P. Jaiswal | -do- | Sr. DEN/KIR. |
| 18 | Sri S.K. Joarder, | -do- | Sr. DEN/KIR. |
| 19 | Sri A.N. Kundu, | -do- | Sr. DEN/APDJ. |
| 20 | Sri G.C. Sarkar, | -do- | Sr. DEN/APDJ. |
| 21 | Sri B.K. Handique | -do- | Sr. DEN/APDJ. |
| 22 | Sri Hakim Miah | -do- | Sr. DEN/APDJ. |
| 23 | Sri Nambi Alwan K | -do- | Sr. DEN/APDJ. |
| 24 | Sri S.K. Raha, | -do- | Sr. DEN/APDJ. |
| 25 | Sri Tapan Kr. Saha, | -do- | Sr. DEN/KIR. |
| 26 | Sri Bimal Dey, | -do- | Sr. DEN/APDJ. |
| 27 | Sri S. Routh, | -do- | Sr. DEN/KIR. |
| 28 | Sri Sandip Deb, | -do- | CE/Maligaon. |
| 29 | Sri S.K. Acharjee, | -do- | Sr. DEN/APDJ. |
| 30 | Sri N. Nandi, | -do- | Sr. DEN/APDJ. |
| 31 | Sri S.N. Dev, | -do- | Sr. DEN/APDJ. |
| 32 | Sri G.N. Kar, | -do- | CE/Maligaon. |
| 33 | Sri S.K. Saha, | -do- | Sr. DEN/KIR. |
| 34 | Sri Irish Ekka (ST) | -do- | Sr. DEN/KIR. |
| 35 | Sri B. Dewaraja (ST) | -do- | Sr. DEN/LMG. |
| 36 | Sri H. Hazarika (ST) | -do- | Sr. DEN/LMG. |
| 37 | Sri S. Panda, | -do- | Sr. DEN/LMG. |
| 38 | Sri P. Dutta, | -do- | Sr. DEN/APDJ. |

Contd...3.

Handwritten signature/initials

| 1 | 2 | 3 | 4 |
|----|-----------------------------|---------|------------------|
| 39 | Sri S.C. Pramanik | PW I/II | Sr. DEN/KIR. |
| 40 | Sri Govinda Paul, | -do- | Sr. DEN/APDJ. |
| 41 | Sri S.N. Chaudhury, | -do- | Sr. DEN/TSK. |
| 42 | Sri Sibnath Paul, | -do- | Sr. DEN/KIR. |
| 43 | Sri P. Bhattacharjee, | -do- | Sr. DEN/KIR. |
| 44 | Sri Prabir Biswas, | -do- | Sr. DEN/LMG. |
| 45 | Sri T.K. Saha, | -do- | Br. DEN/APDJ. |
| 46 | Sri Parthasarathi Roy, | -do- | Sr. DEN/KIR. |
| 47 | Sri Santanu Nath, | -do- | Sr. DEN/LMG. |
| 48 | Sri Sujit Sankar Dey, | -do- | CE/Maligaon. |
| 49 | Sri Swapan Kr. Bagchi, | -do- | CE/Maligaon. |
| 50 | Sri Suhās Rn. Deb, | -do- | Sr. DEN/KIR. |
| 51 | Sri Amit Kr. Bhattacharjee, | -do- | Sr. DEN/KIR. |
| 52 | Sri H.K. Nath, | -do- | Sr. DEN/KIR. |
| 53 | Sri G.C. Saha, | -do- | Sr. DEN/APDJ. |
| 54 | Sri D. Chakraborty, | -do- | Sr. DEN/LMG. MLC |
| 55 | Sri B. Laskar, | -do- | Sr. DEN/LMG. |
| 56 | Sri S. Sarkar, | -do- | Sr. DEN/LMG. |
| 57 | Sri Dipankar Chatterjee, | -do- | Sr. DEN/LMG. |
| 58 | Sri P.K. Sarmah, | -do- | Sr. DEN/TSK. |
| 59 | Sri J.B. Guha, | -do- | Sr. DEN/APDJ. |
| 60 | Sri A. Datta, | -do- | Sr. DEN/APDJ. |
| 61 | Sri S.K. Dey, | -do- | Sr. DEN/APDJ. |
| 62 | Sri M.G. Bhaskar, | -do- | Sr. DEN/KIR. |
| 63 | Sri Biswanath Dasgupta, | -do- | Sr. DEN/LMG. |
| 64 | Sri Nripendra Bhatta, | -do- | Sr. DEN/LMG. |
| 65 | Sri Sobha Saikia, | -do- | Sr. DEN/TSK. |
| 66 | Sri S.K. Banik, | -do- | CE/Maligaon. |
| 67 | Sri N.R. Mitra, | -do- | CE/Maligaon. |
| 68 | Sri Hrishikesh Roy, | -do- | Sr. DEN/KIR. |
| 69 | Sri A Majumder (SC) | -do- | Sr. DEN/LMG. |
| 70 | Sri S. Basumatary (ST) | -do- | Sr. DEN/TSK. |

Contd...4.

20/11/76

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NOTE : The above candidates are eligible to appear in the selection of PW I/I (P.2000-3200) subject to the conditions that they get effect of promotion as PW I/II (P.1600-2650/-).

[Handwritten Signature]

(KS KUMARAN)
APO/ENGG.

for GENERAL MANAGER (P)/MLG.

Copy forwarded for information and necessary action to :

- 1) Secy. to CE/Maligaon.
- 2) CA/CE/Maligaon.
- 3) OS/W-6A/Maligaon.

[Handwritten Signature]

for GENERAL MANAGER (P)/MLG.

[Handwritten Signature]
27.6.76

ab/-

1. PARTICULARS OF THE APPLICANTS

1. Shri Paras Nath Prasad,
S/o late Kanhaiya Prasad,
PWI-II(HQ), Maligaon,
Guwahati-11.
2. Shri Mihir Kumar Paul,
S/o Shri Binesh Chandra Paul,
PWI-II, Panbari, Dist. Kamrup,
Assam.

2. PARTICULARS OF THE RESPONDENTS.

1. Union of India represented by the
Secretary to the Govt. of India,
Ministry of Railways,
New Delhi.
2. The Chairman,
Railway Board,
New Delhi.
3. Executive Director(Vigilance),
Railway Board,
New Delhi.
4. General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
5. Chief Engineer,
N.F.Railway, Maligaon,
Guwahati-11.
6. Chief Personnel Officer,
N.F.Railway, Maligaon,
Guwahati-11.

3. PARTICULARS OF ORDERS AGAINST WHICH THIS
APPLICATION IS MADE.

This application is made against an
order dated 3.10.94 under reference No.E/254/28/Pt.V(E)
allowing 16 candidates to appear in viva-voce test
and against the final selection list dated 12.11.94
issued by the respondent No.6 for promotion from

Permanent.....

Paras Nath Prasad
Mihir Kumar Paul

Permanent Way Inspector Grade-II to Permanent Way Inspector Grade-I.

4. JURISDICTION.

The applicants declare that the subject matter against which they want redressal is within the jurisdiction of the Tribunal. Both the applicants have the common grievance. (45)

5. LIMITATION.

The applicants further declare that the application is within the limitation prescribed under Section 21 of the Administrative Tribunal's Act, 1985.

6. FACTS OF THE CASE.

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

6.2 That the applicant No.1 is an employee working in the office of the Respondent No.5 at Maligaon and presently working as Permanent Way Inspector Grade-II (HQ) in short PWI-II(HQ).

6.3 That the applicant No.2 is also an employee of railways and presently working as Permanent Way Inspector Grade-II in short PWI-II at Panbari, Jagiroad under the Respondent No.5.

Contd/.

Paras Nath Pasraal
Mihir Kumar Pal

6.4 That the Respondent No.6 made a circular for readiness for departmental examination for promotion to the post of PWI Grade-I and accordingly the readiness letter was circulated to all concerned.

A copy of the said readiness letter is annexed herewith and marked as Annexure A-I.

6.5 That in the said readiness letter it was decided that only PWI Grade-II are entitled to appear in the departmental examination and date of examination was fixed on 10.9.94.

6.6 That both the applicants offered their readiness to sit in the examination and accordingly they were allowed to sit in the written test held on 10.9.94. It is to be mentioned here that the numbers of PWI-II including the applicants were 56 but only 43 appeared in the test.

6.7 That the applicants beg to state that thereafter the respondents declared the selection list for viva-voce test for promotion to the post of PWI-I but to the utter surprise of the applicants the said list did not carry the names of both the applicants who did very excellent in the written test. This list containing the name of 16 candidates are not legally and validly prepared and the respondents followed pick and choose policy dropping the names of both the applicants from the list of the list of the selected candidates for viva-voce test.

6.8 That the applicants are strongly believe that
the.....

Panas Nath Prasad
Mihir Kumar Pal

the answer scripts were not properly evaluated and had it been properly evaluated, the applicants would have been declared successful. In this connection, the applicants beg to state that proper remedy lies in examining the answer scripts of the candidates appeared in the written test.

6.9 That the applicants beg to state that had the answer scripts been evaluated on the basis of rule 30 appearing at page 213 of railway establishment rules, both the applicants would have been declared successful.

6.10 That out of these 16 candidates, 13 candidates appeared ~~appeared~~ for viva-voce test held on 6.10.94 and rest 3 on a subsequent date. Out of these 13 candidates 11 candidates were declared passed vide letter No.E/254/28/Pt.V(E) dated 22.11.94 and out of these 33 absentees on 6.10.94, 2 were declared passed on another date. That selection of 13 candidates to the post of PWI-I is ⁷ in violation of all relevant rules of the railways.

6.11 That both the applicants being aggrieved of the result for viva-voce test published on 3.10.94 and final list of 11 candidates published on 22.11.94 and 2 candidates selected on subsequent date, preferred a representation before the competent authority wherein the applicants mentioned that lots of irregularities have been committed by the office of the Respondent No.6 which

James Nath Prasad
Minir Kumar Pal

which were elaborately written in the said representation. This representation is made on 20.12.94 within two months from the date of final select list of 22.11.94. This provision is incorporated at (17) page 208 of Railway Establishment Rules and Labour Laws by B.S. Mainee - 1979 Edition which speaks thus "Representation if any, against a panel should be submitted to the competent authority within a period of two months from the date of publication of the final panel...".

A copy of the said representation is marked as Annexure A-II.

6.12 That in the said representation the applicants clearly pointed out the irregularities done by the respondents and prayed for immediate intervention of the appropriate authority to remove the irregularities but nothing was done till date.

6.13 That the applicant begs to state that another glaring irregularity was committed by the respondents in promoting Shri Gautam Chakraborty, Shri S.K. Acharjee and Shri S.K. Paul (appeared at sl.12, 13 and 14 respectively of the said 16 selected list of 1993 ^{and} though they were promoted to PWI-I ~~long back~~ ^{in 1993} itself. Copies of documents are annexed and marked as Annexure A-11 (a) and A 11 (b)

6.14 That the applicants beg to state that promoting these three persons for the 2nd time have blocked the way of promotion of both the applicants.

Contd/.

Panas Nathi Pasal
Mihir Kumar Pal

6.15 That the applicants beg to state that on the inaction of the respondents, the Purbanch-aliya Rail Karmi Parishad, a registered trade Union of the employees of N.F.Railway took up the matter with the Respondent No.3 and requested for intervention in the matter. In the said letter, the General Secretary of the said Union unearthed as many as 6/7 irregularities in selection for promotion to PWI-I and requested for immediate necessary action.

A copy of the letter is annexed herewith and marked as Annexure A-III.

That the said representation moved from Rail Bhawan, New Delhi to N.F.Railway Headquarter at Maligaon i.e. from Respondent No.3 to Respondent No.4 and the Vigilance Officer(Accounts) in the office of the Respondent No.4 took up the matter with the Chief General Secretary, Purbanchaliya Rail Karmi Parishad in October '95. And the applicants are in the firm believe that the vigilance will find out the irregularities/illegalities committed in the written test.

A copy of the communication from the Vigilance Officer Accounts is annexed herewith and marked as Annexure A-IV.

6.16 That the applicants beg to state that while they were anxiously waiting for getting their representation dated 20.12.94 for disposal from the Respondent No.5 and also while the applicants were anxiously waiting
for.....

Paras Nath Pasraol
Mihir Kumar Pal

for a fruitful action on the representation by the Purbanchaliya Rail Karmi Parishad, they received another readiness letter published on 27.6.96 asking for willingness from as many as 70 candidates for appearing in the written test for promotion to PWI-I from PWI-II. In this connection, the applicants begs to state that while the result of 16 candidates dated 3.10.94 is agitated in this application and statutory representation is made to remove the irregularities, the present readiness letter dated 27.6.96 is uncalled for and not at all maintainable in the eye of law.

A copy of the readiness letter dated 27.6.96 is annexed herewith and marked as Annexure A-V

6.17 That the applicants beg to state that this readiness letter dated 27.6.96 is issued after 2 years for remaining vacancy of 17 posts in 1994, ought to have filled up through the selection among 43 candidates after 6 months from the date of result declared by the respondents as per E.Rly Sl.No.7623 at page 296 of A Guide to Railwaymen on Establishment Rules and Labour Law - 1982 edition by F.B.Bhattacharjee which speaks thus "On a reference being made by the Eastern Rly, the Railway Board observed that in such cases a fresh test should be held after 6 months and such selection is held all the eligible candidates in order of seniority including those who did not get selected, should be called..." The applicants further begs to clarify that remaining
vacancy.....

Parag Nath Tassad
Mihir Kumar Pal

vacancy of 17 posts in 1994 means - Out of 56 candidates 43 appeared and out of 43, only 13 declared selected as PWI-I out of 30 post, hence 17 posts were vacant.

6.18 That the applicants begs to state that they were in mind that the respondents will definitely dispose of the representation made by them as well as Purbanchaliya Rail Karmi Parishad and as such there is some delay in making this application before this Hon'ble Tribunal and further the applicants pray before this Hon'ble Tribunal that minor delay is not delay in the eye of law.

7. G R O U N D S

7.1 For that declaring of the 16 candidates selected for viva-voce test is illegal in view of improper evaluation of answer scripts.

7.2 For that had the above noted rule been followed, both the applicants would have been placed in the select list.

7.3 For that there will be clear violation of Article 14 of the Constitution of India if the readiness letter dated 27.6.96 is allowed to exist.

7.4 For that it is a fit case where the result declared for promotion from PWI Grade-II to Grade-I in respect of 13 candidates should contain the names of both the applicants as they were deleted by committing irregularities.

Contd/.

Paras Nath Pasad
Mihir Kumar Pal

7.5 For that the result of written test of both the applicants be declared alongwith 16 candidates on the basis of rule 30 at page 213 of Railway Establishment Rules.

8. RELIEFS SOUGHT FOR

In view of the facts and circumstances of the case the applicants pray for the following reliefs:-

- i. That the result declared containing 16 candidates on 3.10.94 should also contain the names of both the applicants.
- ii. That the answer scripts of the applicants appeared in written test on 10.9.94 alongwith 16 candidates declared successful may kindly be called for scrutiny in the matter of evaluation.
- iii. That the document/communication containing the action of Respondent No.3 on the basis of Annexure A-IV may kindly be called for for judicial scrutiny.
- iv. That the process/follow up actions of readiness letter (Annexure A-V) issued by the respondent No.6 should be quashed in view of the position as stated in para 6.17 above.
- v. Any other relief/reliefs as this Hon'ble Tribunal considers fit and proper.

Contd/.

Panas Nath Pansal
Mihir Kumar Pal

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9. INTERIM RELIEF PRAYED FOR :

i. That during pendency of disposal of the representation of both the applicants dated 20.12.94, the entire process on readiness letter dated 27.6.96 (Annexure A-V) may kindly be stayed.

ii. That during pendency of the disposal of the application, direction may be issued to the Respondents to promote the applicants to PWI Grade-I with immediate effect.

10. WHETHER ANY OTHER APPLICATION/PETITION FILED BEFORE ANY OTHER COURT/TRIBUNAL.

The applicants beg to state that they have not filed any other case application before any Court/Tribunal.

11. REMEDIES EXHAUSTED.

The applicants begs to state that they have exhausted all the remedies available to them and there is no other alternative but to approach this Hon'ble Tribunal for justice.

12. PARTICULARS OF POSTAL ORDERS.

Postal Order No. 346697 '
 Date : 16.8.96
 Issued by : GPO, Guwahati.
 Payable at : — do —

13. An Index with particulars of enclosures is enclosed.

14. PARTICULARS OF DOCUMENTS.

As per Index.

VERIFICATION.....

Paras Nath Prasad
 Mihir Kumar Pal

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

I, Shri Paras Nath Prasad, son of late Kanhaiya Prasad, aged about 38 years, at present working as Permanent Way Inspector Grade-II in the office of the Chief Engineer, M.F.Railway, Maligaon Guwahati-11, resident of Railway Qr. No.238/C, B.G.Colony, P.O. Bamunimaidan, Guwahati-21 do hereby solemnly affirm and Verify on my own behalf and also on behalf of Applicant No.2 being so authorised that the statements made in paragraph 1 to 6 and 8 to 14 are true to my knowledge and those made in paragraph 7 of the O.A. are true to my legal advice and I have not suppressed any material facts.

AND I sign this Verification on this 16th day of August, 1996 at Guwahati.

Paras Nath Prasad

M.E. Railway

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

No. E/254/28/Pt. IV (E)

Dt. 2/8/94.

To
GM/Con/Maligaon
DRM (P) KIR, APDJ, IMG & TSK
DRM (W) KIR, APDJ, IMG & TSK
DEN/IRT.
DY. CE/TD/Maligaon.

Sub:- Selection for formation of a panel of PWI/Gr. I
in scale B. 2000-3200/- (RP).

Ref:- This office XIR NO. E/254/28/Pt. V (E) dt. 27.6.76

Vide this office XIR cited above it was notified that a selection of PWI/Gr. I in scale B. 2000-3200/- (RP) is under process for which you were requested to intimate all PWI/II to be in readiness for appearing in the written test on short notice.

It has now been decided to form a panel of 30 (UR-28, SC-Nil & ST-2) PWI/I in scale B. 2000-3200/-.

The selection will consist of written exam. and viva-voce test. In the written Exam. there will be two papers viz. one is technical (professional) paper and another is other than technical paper i.e. Stores & Establishment (Syllabus enclosed).

The following candidates may be directed to appear in the Written Examination to be held in the 4th week of Aug 1994. Exact date of Written Examination will be intimated shortly.

If any of the following candidates is on leave, he should be advised at his home address/leave address. If any candidate is unwilling to appear in this selection, his unwillingness in writing may be obtained and forwarded to this office. If there is any DAV/SPE/Vig case is pending against the following candidates the same be intimated to this office in detail immediately. The service particulars of the following staff in the proforma enclosed and last three (3) years ACRs should be sent to the undersigned and Secy to GM/Maligaon respectively by 31.8.94 certain.

Names of the eligible candidates

| Sl. No. | Name | Designation | Posted in the division |
|---------|------------------------|-------------------------|------------------------|
| A 1. | Sh. Gautam Chakraborty | PWI/II B.1600-2660/- | APDJ Divn. |
| A 2. | " S.K. Acharjee | -do- | -do- |
| A 3. | " Sunil Kr. Paul | -do- | IMG ✓ |
| A 4. | " Prabir Biswas | -do- | APDJ |
| A 5. | " Dipti Rabi Das (SC) | -do- | GM/Con/MLG |
| A 6. | " Khokan Ch. Roy (SC) | -do- | APDJ Divn. |
| A 7. | " Suresh Ch. Roy (SC) | -do- | IMG ✓ |
| A 8. | " Nirupam Das (SC) | -do- | GM/Con/MLG |
| A 9. | " P.K. Biswas (SC) | -do- | -do- |
| A 10. | " H.V.K. Kutty | -do- | KIR divn. |
| 23. | " P.N. NANDA | -do- | IMG ✓ |

contd.....2

Attested
16/8/94

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A. 11. Sri T.Nanda

PVI/II
G.1600-2660/-

APPENDIX IMG Divn.

| | | | | |
|-------|---|-------------------------|------|-------------|
| X 12. | " | Samiran Karnakar | -do- | APDJ " |
| X 13. | " | G.H.Biswas | -do- | KIR " |
| X 14. | " | Subodh Das | -do- | KIR " |
| X 15. | " | Motilal Prasad | -do- | CE/Con/MLG |
| X 16. | " | B.C.Guha | -do- | KIR |
| X 17. | " | Tarak Ch. Das | -do- | APDJ " |
| X 18. | " | Alok Kr. Bose X | -do- | APDJ " |
| 19. | " | Siyamal Mitra | -do- | CE/MLG. |
| 20. | " | Mihir Kr. Paul | -do- | IMG Divn. ✓ |
| 21. | " | Malay Bhattacharjee | -do- | TSK " |
| 22. | " | P.N.Prasad | -do- | IMG " ✓ |
| 23. | " | M.K.Nag | -do- | APDJ " |
| 24. | " | Gopal Ch. Das | -do- | TSK " |
| 25. | " | Sajal Ananti Das (SC) ✓ | -do- | IMG " ✓ |
| 26. | " | S.Das (SC) ✓ | -do- | IMG " ✓ |
| 27. | " | S.S.Das (SC) ✓ | -do- | IMG " ✓ |
| 28. | " | Hari Singh (SC) ✓ | -do- | APDJ " |
| 29. | " | S.C.Saha | -do- | KIR " |
| 30. | " | D.P.Jaiswal | -do- | KIR " |
| 31. | " | Ram Prasad | -do- | KIR " |
| 32. | " | S.K.Joarder | -do- | KIR " |
| 33. | " | A.N.Kundu | -do- | KIR " |
| 34. | " | B.C.Das | -do- | APDJ " |
| 35. | " | G.C.Sarkar | -do- | APDJ " |
| 36. | " | B.K.Handique | -do- | APDJ " |
| 37. | " | Hakim Miah | -do- | APDJ " |
| 38. | " | Nambi Alwan K. | -do- | APDJ " |
| 39. | " | B. Chakraborty ✓ | -do- | KIR " |
| 40. | " | S.K.Raha | -do- | APDJ " |
| 41. | " | Lakhan Sai (SC) | -do- | KIR " |
| 42. | " | Tapan Kr. Saha | -do- | KIR " |
| 43. | " | Binal Dey | -do- | APDJ " |
| 44. | " | S. Routh | -do- | KIR " |
| 45. | " | Sandip Deb | -do- | CE/MLG. |
| 46. | " | S.K.Acharjee | -do- | APDJ " |
| 47. | " | N.Wandi | -do- | -do- |
| 48. | " | Dipak Dastidar | -do- | KIR divn. " |
| 49. | " | S.K.Verma | -do- | -do- |
| 50. | " | S.N.Deb ✓ | -do- | APDJ " |
| 51. | " | G.N.Kar | -do- | CE/MLG. |
| 52. | " | S.S.Sarkar | -do- | TSK divn. |
| 53. | " | S.K.Saha | -do- | KIR " |
| 54. | " | Inish Ekka (ST) | -do- | KIR " |
| 55. | " | B. Dewraja (ST) | -do- | IMG " ✓ |
| 56. | " | H.Hazarika (ST) | -do- | IMG " ✓ |

XXXXXXXX

03/8/54

contd....3

14- 41
Note :- 1. Sl.No. 15,24,35,36,40,42,43,44,46,47,48,49,50, 51,52,53,54,55 and 56 above are eligible to appear in the selection of PWI/I subject to the conditions that they have got effect of promotion as PWI/II (1600-2660/-).

2. Before sending the above PWIs to appear before the selection of PWI/I, GM/Con/HLG and respective Sr.DPO's may please ensure that their promotion order as PWI/II (1600-2660/-) have already been implemented.

(A. Saikia)
(A.Saikia)

APO/Engg.
for General Manager (P)

Copy to :-

CA/CE he is requested to keep in readiness last 3 yrs. ACRs of above PWIs to put up before the selection committee.

(A. Saikia)
(A.Saikia)

APO/Engg.
for General Manager (P)

10/3/8

5

To,
CE/MLG,
N.F. Railway.

Through - Paper channel.

Sub : Anomalies in the process of Selection for formation of Panel of PFI/1 in scale Rs. 2000-3200/-

Ref : GM(P) MLG's office letter No. E/254/28/Pt.V(E) Dt. 29/6/94.

Sir,

With immense displeasure, we like to draw your kind and sympathetic attention to the following points which has resulted in gross depression in our mind.

That sir, Lots of irregularities have been noticed in the process followed by Personnel Branch in connection with the subject selection. The irregularities which has yielded injustice on the career of P.F.I.S. can be understood from the system indicated below :-

1) Firstly, As much as 56 No. of PFI/II were called for written test. Out of which 43 No. candidates were appeared.

It is reliably learnt that extant rules as per Establishment nannual have not been followed in the process initiated to call for viva-voce test. While 43 No. of PFI/II appeared in the written test, assesment of seniority should be calculated on the basis of staff appeared in the written test. But in fact, seniority of all 56 Nos. of PFI/II was taken in view of calling staff for viva-vocat test. It is totally against the rules provided and detrimental to the staff. Some staff who could get opportunity for promotion have been thus deprived.

If the system was followed properly by way of taking the actual No. of staff appeared in the written test into the consideration to find out the eligibility of staff on the basis of marks obtained in the written test and seniority vide establishment mannual, some of the staff were deleted from the list should have been called for written test.

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2. Secondly, Sri S.K. Paul PWI/II (SL.No. 3) has already been promoted to PWI/Gr.-I on upgradation. He has also been called for the concerned selection.

3. It is learnt that fraction of marks obtained by the candidate was not rounded up as per norms followed by another Railways. The system of rounding .5 or more to 1 mark has not been followed in the above selection.

We therefore, pray to your kind honour to take suitable action against the irregularities followed in the selection so that staff are not deprived.

With best regards.

Yours faithfully,

Copy to :- 1 ✓ GM (P)/MLG/W.F.RLY. for information and necessary action please.

forwarded to NEN/Geny

22/12/94
Permanent Way Inspector,
N.F. Railway, New Guwahati

P. N. Prasad
PWII/NGC
22/12/94
M. K. Pal
PWII/NGC

Forwarded for necessary action please

22/12/94
ASST. ENGINEER
N.F. Ry. Guwahati
সহকারী ইঞ্জিনিয়ার
ন.ফ. রেল, গুৱাহাটী

Attested

20-12/96
[Signature]

NORTHEAST FRONTIER RAILWAY.

MEMORANDUM

Sub: Result of Modified selection for the post of FWI/Gr.I in scale Rs. 2000-3200/-.

In the modified selection for the post of permanent way Inspector/Gr.I in scale Rs. 2000-3200/- the following permanent way inspector/Gr.II in scale Rs. 1600-2660/- (RP) have been found suitable for promotion to the post FWI/Gr.I in scale Rs.2000-3200/- (RP) against the post available due to restructuring of cadre w.e.from 1.3.93 as per Rly.Board's letter No.FC-III/91/CRC/1 dated 27.1.93 circulated under CPO/MLG's No.RP-482. (No.E/205/73 (FC) Pt.V dt.3.2.93) and placed in the panel of FWI/Gr.I in scale Rs. 2000-3200/- in the following order as per seniority :-

| Sl. No. | Name | Designation & Place of posting | Working under |
|---------|------------------------------|--------------------------------|---------------------------|
| 1. | Shri P.Choudhury | FWI/Gr.II/BNGN | Sr.DEN/AFDJ. |
| 2. | Shri M.L.Majumder | FWI/Gr.II | " /LMG |
| 3. | Shri P.C.Sanyal. | FWI/Gr.II/RVK | " /AFDJ. |
| 4. | Shri M.S.Ganguli. | FWI/Gr.II/NMX | " /AFDJ. |
| 5. | Shri R.Sengupta | FWI/Gr.II/FLK | " /AFDJ. |
| 6. | Shri H.Mukharjee. | FWI/Gr.II/COB. | " /AFDJ. |
| 7. | Shri Gautam Banerjee. | FWI/Gr.II/HQ | CE/Maligaon. |
| 8. | Shri Mamalendu Bhattacharjee | FWI/Gr.II/DTL | Sr.DEN/LMG. |
| 9. | Shri S.S.Chakraborty. | FWI/Gr.II/NJP | " /KIR. |
| 10. | Shri M.S.Sarkar, | FWI/II/SXX | " /AFDJ. |
| 12. | Shri Anup Kr.Das | - | Cfig.as AEN w.e.f.4.6.93. |
| ✓12. | Shri Gautam Chakraborty | FWI/II/BNGN(W/C) | Sr.DEN/AFDJ. |
| ✓13. | Shri S.K.Acharjee | FWI/II/NLP(E) | " /AFDJ. |
| ✓14. | Shri S.K.Pal. | FWI/II/NJN | " /LMG |
| 15. | Shri N.S.Singh | - | Cfig.as AEN w.e.f.31.5.93 |
| 16. | Shri U.C.Das (ST) | FWI/II/CFK | Sr.DEN/LMG. |

The above result has been approved by CTE on 11.10.93.

R.A. Singh
 (R.A. Singh) 11/10
 Asstt: Personnel Officer/Engg.
 for GENERAL MANAGER (P).

Maligaon, dt. 11-10-1993.

No.E/254/28/Pt.V (E).

- Copy forwarded to :
1. DRM(P)/KIR, AFDJ, LMG & TSK.
 2. DRM(W)/KIR, AFDJ, LMG & TSK. (3) DEN/DEPT.
 4. Dy.CE/TD/MLG.
 5. Dy.CPO/G.
- R.A. Singh*
 for GENERAL MANAGER (P) 11/10

Alister
 16/10/93

NORTHEAST FRONTIER RAILWAY - 18-

MEMORANDUM

In the selection for promotion to the post of Permanent Way Inspector/Gr.I in scale B. 2000-3200/- (RPS) held in Chief Engineer Office, Maligaon on 10.9.94 and 25.9.94 (Written Test) and 6.10.94 (Viva-voce Test), the following Permanent Way Inspector/Gr.II in scale B. 1600-2660/- (RPS) have been selected for promotion to the post of Permanent Way Inspector/Gr.I in scale B.2000-3200/- (RPS) and placed in the panel of Permanent Way Inspector/Gr.I in scale B.2000-3200/- in the following order as per seniority:-

| SN | Name | Designation & Scale | Working under |
|-----|---------------------------|------------------------------|---------------|
| 1. | Sh. Gautam Chakraborty | PWI/II/BNGN B.1600-2660/- | Sr. DEN/APDJ |
| 2. | " S.K.Paul | -do-/BFB | Sr. DEN/IMG |
| 3. | " Nirupam Das (SC) | -do-/GM/Con/MLG | GM/Con/MLG |
| 4. | " N.V.K.Kutty | -do-/BOE(N) | Sr. DEN/KIR |
| 5. | " T.Nanda | -do-/JMK | Sr. DEN/IMG |
| 6. | " Shanalendu Das (SC) | -do-/BFB | -do- |
| 7. | " Shambhu Sekhar Das (SC) | -do-/LIBR | -do- |
| 8. | " B.Chakraborty | -do-/BOE(S) | Sr. DEN/KIR |
| 9. | " D.Dastidar | -do-/SM | -do- |
| 10. | " S.K.Verma | -do-/KNE | -do- |
| 11. | " S.S.Sarkar | -do-/SBE | Sr. DEN/APDJ |

- Note -1. The above result has duly been approved by CTE on 7.10.94. The panel is provisional and partial subject to the finalisation of absentees test.
2. Sl.No.8 to 11 above will get promotion as PWI/I in scale B.2000-3200/- on completion of their two years regular service as PWI/II(1600-2660/-).

(A. Saikia) 22/11/94
APO/E
for General Manager (P) MLG.

No.E/254/28/Pt.V(E)

Dated 22/11/94.

Copy forwarded for information and necessary action to :-

- | | |
|-----------------------------------|----------------------------------|
| (1) GM/Con/Maligaon | (5) GM/Hindi/MLG with 7 (seven) |
| (2) DRM (P) KIR, APDJ, IMG & TSK. | spare copies of this publication |
| (3) DRM (W) KIR, APDJ, IMG & TSK. | are enclosed herewith |
| (4) Dy. CE/TD/Maligaon. | for translation in Hindi and |
| | return the same for publication |
| | in the fortnightly Gazette. |
| | (6) CCS/G/MLG (in guarduplicate) |
| | for publication in the next |
| | issue of N.F.Rly. fortnightly |
| | Gazette. |

for General Manager (P) MLG

Attested

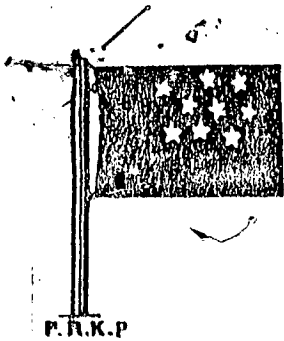
16/9/96

PURBANCHALIYA RAIL KARMİ PARISHAD

(পূর্বাঞ্চলীয় রেল কর্মী পরিষদ)

H.O. MALIGAON :: GUWAHATI-781 011

REGISTRATION NO. TU/CR-K/48-82

6146
19-

President :

SHRI THANESWAR BORO, MLA
Ex Revenue Minister, Assam

Working President :

SHRI A. M. PATGIRI

Chief General Secretary :

SHRI P. C. BARMAN

Ref No. P.R.K.P./S.L.16/95

Date...26.2.....1995

To

The Executive Director, Vigilance
Railway Board, Rail Bhawan,
New Delhi.

Sir,

Sub:- Irregularities in the process of selection
for formation of panel for promotion to
PWI/I in scale Rs.2000-3200/- on N.F.Railway.1. This organisation begs to enclose a representation
dated 20-12-94 from one of the aggrieved staff on the
aforesaid subject, for your information and immediate
necessary action.2. The core points of the above staff representation
are epitomised below for your perusal.i) GM(P)/Maligaon notified, vide his No.E/254/Pt.V
(E) dt. 29-6-94, 2/4-8-94 and 11-8-94, that PWI/II
in scale Rs.1600-2660/- be directed to appear in
the written test to be held for formation of panel
for promotion to PWI/I in scale Rs.2000-3200/- in
CE/N.F.Rly/Maligaon's office.ii) 56 Nos.of PWI/II were called for written test.
Out of which 43 Nos.of aspirants had appeared in
the written test held on 10-9-94 and 25-9-94.

iii) Viva-voce was held on 6-10-94.

iv) 11 Nos.of PWI/II were placed in panel for pro-
motion to PWI/I in scale Rs.2000-3200/- vide GM(P)/
Maligaon's Memorandum No.E/254/28/Pt.V(E) dt.22-11-94.v) The absentees test was not finalised before for-
ming the panel as mentioned under para 2(iv) above.

Contd....2/

Attested
 [Signature]
 16/8/96
 [Stamp]

PURBANCHALIYA RAIL KARMI PARISHAD

(পূর্বাঞ্চলীয় রেল কর্মী পরিষদ)

H.O. MALIGAON : GUWAHATI-781 011

REGISTRATION NO. TU-CHK-48-82

: 2 :

62-20-97

P.R.K.P

Ref No.....

Date.....19

IRREGULARITIES.

vi) Action taken before Viva-voce test has been violated as stipulated under sub-para(1) page-169 of IRKM by not following the instructions laid down for allotment of marks under different heads.

vii) As per IRKM, the assessment of seniority marks should have been calculated on the basis of 43 Nos. of PWI/II appeared in the written test but not of all 56 Nos. of staff (PWI/II) called for written test. This is not in accordance with the spirit of the rules. This kind of wrong allotment of seniority marks have deprived some eligible candidates to get promotion.

viii) It has been represented that one Sri S.K.Paul, PWI/II(Sl. No.3 of list of eligible candidates) was already promoted to PWI/I in scale Rs.2000-3200/- on upgradation. He should have not been called for written test and empanelled in the final selection list. If the fact is so, it is a gross irregular.

(ix) It has also be alleged that the system of rounding .5 or more to 1 mark has not been followed in the above selection.

x) It is said that some of the candidates influenced the members of the Board(except SPO(E)) by money power and they could manage to get more concessional marks from 50 + 40 = 90. This is corrupt practice.

This Parishad, therefore requests you kindly to take actions as prayed for below :-

1) The entire lot of answer scripts may very kindly be seized and thorough checked be exercised to find out the faults committed by the Members of the Selection Board (except SPO/E).

Contd....3/

President :

SHRI THANESWAR BORO, MLA
Ex Revenue Minister, Assam

Working President :

SHRI A. M. PATGIRI

Chief General Secretary

SHRI P. C. BARMAN

PURBANCHALIYA RAIL KARMi PARISHAD

(পূর্বাঞ্চলীয় রেল কর্মী পরিষদ)

H.O. MALIGAON : GUWAHATI- 781 011

REGISTRATION NO. TU/CH.K.40-82



P.R.K.P.

Ref No..... : 3 : Date.....19

ii) Before (i) above, the promotion already effected should be annuled.

iii) After taking action as under (i) and (ii) above, CE should be asked to hold fresh selection.

iv) The members of the selection Board who have indulged into corrupt practice in the said selection should be removed from service after following D.A.R. action against them so that such thing does not occur.

An early action is requested.

DA:- Asabere

Date: 26-7-95.

P.C. Barman
(P.C. BARMAN) 26/7/95
Chief General Secretary,
P.R.K.P.

President :
SHRI THANESWAR BORO, M.L.A.
Ex Revenue Minister, Assam

Working President :
SHRI A. M. PATGIRI

Chief General Secretary
SHRI P. C. BARMAN

ANNEXURE - A, IV

N.F. Railway

Office of the
Chief Vigilance Officer
Maligaon:GUWAHATI-781011

No. Z/VIG/68/3/6/95

Dated: -10-95

To,
Sri P.C. Barman,
Chief General Secretary,
Purbanchaliya Rail Karmi Parishad,
P.O. Maligaon
GUWAHATI-781011

Sub: Irregularities in the process of selection
for formation of penal for promotion to PWI-
Gr.I in scale 2000-3200 on N.F.Rly.

Ref: Your letter No. PRKP/Staff/95
dated 26-7-95

Receipt of the above complaint forwarded under
your letter No. PRKP/Staff/95 dated 26-7-95 is hereby
acknowledged. Kindly confirm that the above complaint
was forwarded under your signature.

K.K. Neogi

(K.K. Neogi)
Vigilance Officer/Accounts
for Chief Vigilance Officer

Attested
[Signature]
16/9/95

-2350

NORTHEAST FRONTIER RAILWAY.

OFFICE OF THE
GENERAL MANAGER (P),
MALIGAON :- GUWAHATI-11.

No. E/254/28/Pt. VI (E)

Dated : -06-1996.

To
The General Manager/CON/MLG,
DRM (P)/KIR, APDJ, LMG & TSK,
DRM (W)s/KIR, APDJ, LMG & TSK,
Dy. CE/TD/Maligaon, ACMT/MLG,
Sr. DEN/MALIGAON

Sub: Selection for formation of a panel of PW I/Gr. I
in scale Rs.2000-3200/- (R.P).

It has been decided to hold a selection to form a panel of
32 (UR-25, SC - 5 & ST - 2) of PW I/Gr. I in scale Rs.2000-3200/-(R.P).

The selection will consist of written examination and viva-
voce test.

In the written examination there will be two papers viz.
one is technical (Professional) paper and another other than
technical paper i.e. stores and establishment (syllabus enclosed)
for 100 marks each. It should be ensured that a copy of the syllabus
is given to each and every eligible candidates in your division
immediately by deputing special messenger so that there is no
procedural laps on this account.

The following PWIs may be advised to keep themselves in
readiness for written test on short notice.

If any one of the following candidates is on leave, he
should be advised at his home address/leave address. If any
candidates is unwilling to appear in this selection, his unwilling-
ness in writing may be detained and forwarded to this office.

If there is any DAR/SPE/VIG case is pending against the
following candidates the same may be intimated to this office in
detail immediately.

The service particulars of the following staff in the
proforma enclosed should be sent to this office by 10-07-96 certain.

| SNo | Name of Candidates | Designation | Working under |
|-----|--------------------------|-------------|---------------|
| 1 | 2 | 3 | 4 |
| 1 | Sri Prabin Biswas, | PW I/ II | Sr. DEN/APDJ. |
| 2 | Sri Dipti Rabi Das (SC) | -do- | GM/CON/MLG. |
| 3 | Sri Suresh Ch. Roy, (SC) | -do- | Sr. DEN/LMG. |

Contd...2.

Handwritten signature/initials

Attested
16/9/96

51 24-

| 1 | 2 | 3 | 4 |
|----|--------------------------|---------|-------------------|
| 4 | Sri P.K. Biswas (SC) | PW I/II | GM/CON/MLG. |
| 5 | Sri Samiran Kamakar, | -do- | Sr. DEN/APDJ. |
| 6 | Sri Subodh Das, | -do- | Sr. DEN/KIR. |
| 7 | Sri Motilal Prasad, | -do- | Sr. DEN/KIR. |
| 8 | Sri B.C. Guha, | -do- | Sr. DEN/KIR. |
| 9 | Sri Tarak Ch. Das, | -do- | Sr. DEN/APDJ. |
| 10 | Sri Shyam Mitra, | -do- | CE/Maligaon. |
| 11 | Sri Mihir Kr. Paul, | -do- | Sr. DEN/LMG. |
| 12 | Sri Malay Bhattacharjee, | -do- | Sr. DEN/TSK. |
| 13 | Sri P.N. Prasad, | -do- | CE/Maligaon. |
| 14 | Sri M.K. Nag, | -do- | Sr. DEN/APDJ. |
| 15 | Sri Hari Singh (SC) | -do- | Sr. DEN/APDJ. |
| 16 | Sri S.C. Saha, | -do- | Sr. DEN/KIR. |
| 17 | Sri D.P. Jaiswal | -do- | Sr. DEN/KIR. |
| 18 | Sri S.K. Joarder, | -do- | Sr. DEN/KIR. |
| 19 | Sri A.N. Kundu, | -do- | Sr. DEN/APDJ. |
| 20 | Sri G.C. Sarker, | -do- | Sr. DEN/APDJ. |
| 21 | Sri B.K. Handique | -do- | Sr. DEN/APDJ. |
| 22 | Sri Hakim Miah | -do- | Sr. DEN/APDJ. |
| 23 | Sri Nambi Alwan K | -do- | Sr. DEN/APDJ. |
| 24 | Sri S.K. Raha, | -do- | Sr. DEN/APDJ. |
| 25 | Sri Tapan Kr. Saha, | -do- | Sr. DEN/KIR. |
| 26 | Sri Bimal Dey, | -do- | Sr. DEN/KIR. APDJ |
| 27 | Sri S. Routh, | -do- | Sr. DEN/KIR. |
| 28 | Sri Sandip Deb, | -do- | CE/Maligaon. |
| 29 | Sri S.K. Acharjee, | -do- | Sr. DEN/APDJ. |
| 30 | Sri N. Nandi, | -do- | Sr. DEN/APDJ. |
| 31 | Sri S.N. Dev, | -do- | Sr. DEN/APDJ. |
| 32 | Sri G.N. Kar, | -do- | CE/Maligaon. |
| 33 | Sri S.K. Saha, | -do- | Sr. DEN/KIR. |
| 34 | Sri Irish Ekka (ST) | -do- | Sr. DEN/KIR. |
| 35 | Sri B. Dewraja (ST) | -do- | Sr. DEN/LMG. |
| 36 | Sri H. Hazarika (ST) | -do- | Sr. DEN/LMG. |
| 37 | Sri S. Panda, | -do- | Sr. DEN/LMG. |
| 38 | Sri P. Dutta, | -do- | Sr. DEN/APDJ. |

Contd...3.

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| | | | |
|----|-----------------------------|---------|------------------|
| 39 | Sri S.C. Pramanik | PW I/II | Sr. DEN/KIR. |
| 40 | Sri Govinda Paul, | -do- | Sr. DEN/APDJ. |
| 41 | Sri S.N. Choudhury, | -do- | Sr. DEN/TSK. |
| 42 | Sri Sibnath Paul, | -do- | Sr. DEN/KIR. |
| 43 | Sri P. Bhattacharjee, | -do- | Sr. DEN/KIR. |
| 44 | Sri Prabir Biswas, | -do- | Sr. DEN/LMG. |
| 45 | Sri T.K. Saha, | -do- | Br. DEN/APDJ. |
| 46 | Sri Parthasarathi Roy, | -do- | Sr. DEN/KIR. |
| 47 | Sri Santanu Nath, | -do- | Sr. DEN/LMG. |
| 48 | Sri Sujit Sankar Dey, | -do- | CE/Maligaon. |
| 49 | Sri Swapan Kr. Bagchi, | -do- | CE/Maligaon. |
| 50 | Sri Suhas Rn. Deb, | -do- | Sr. DEN/KIR. |
| 51 | Sri Amit Kr. Bhattacharjee, | -do- | Sr. DEN/KIR. |
| 52 | Sri H.K. Nath, | -do- | Sr. DEN/KIR. |
| 53 | Sri G.C. Saha, | -do- | Sr. DEN/APDJ. |
| 54 | Sri D. Chakraborty, | -do- | Sr. DEN/LMG. MLC |
| 55 | Sri B. Laskar, | -do- | Sr. DEN/LMG. |
| 56 | Sri S. Sarkar, | -do- | Sr. DEN/LMG. |
| 57 | Sri Dipankar Chatterjee, | -do- | Sr. DEN/LMG. |
| 58 | Sri P.K. Sarmah, | -do- | Sr. DEN/TSK. |
| 59 | Sri J.B. Guha, | -do- | Sr. DEN/APDJ. |
| 60 | Sri A. Dutta, | -do- | Sr. DEN/APDJ. |
| 61 | Sri S.K. Dey, | -do- | Sr. DEN/APDJ. |
| 62 | Sri M.G. Bhaskar, | -do- | Sr. DEN/KIR. |
| 63 | Sri Biswanath Dasgupta, | -do- | Sr. DEN/LMG. |
| 64 | Sri Nripendra Bhatta, | -do- | Sr. DEN/LMG. |
| 65 | Sri Sobha Saikia, | -do- | Sr. DEN/TSK. |
| 66 | Sri S.K. Banik, | -do- | CE/Maligaon. |
| 67 | Sri N.R. Mitra, | -do- | CE/Maligaon. |
| 68 | Sri Hrishikesh Roy, | -do- | Sr. DEN/KIR. |
| 69 | Sri A Majumder (SC) | -do- | Sr. DEN/LMG. |
| 70 | Sri S. Basumatary (ST) | -do- | Sr. DEN/TSK. |

Contd...4.

Handwritten signature and date 27/6

NOTE : The above candidates are eligible to appear in the selection of PW I/I (Rs.2000-3200) subject to the conditions that they get effect of promotion as PW I/II (Rs.1600-2650/-).

[Signature]
27/11
(KS KUMARAN)
APO/ENGG.

for GENERAL MANAGER (P)/MLG.

Copy forwarded for information and necessary action to :-

- 1) Secy. to CE/Maligaon.
- 2) CA/CE/Maligaon.
- 3) OS/W-6A/Maligaon.

[Signature]
27/11

for GENERAL MANAGER (P)/MLG.

[Signature]
27.6.96

....

db/-

Central Administrative Tribunal
19 SEP 1996
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

27

14

69

Filed by - M. K. Choudhury
Advocate

IN THE MATTER OF :

O.A. 165/96

Shri P.N. Prasad & Anr.

... Applicants

- Versus -

Union of India & Ors.

... Respondents

WRITTEN STATEMENT OF THE RESPONDENTS

The Written Statements of the respondents are as follows :

1. That the application of the applicants is not maintainable both in law as well as in facts.
2. That all the statements made in the O.A. which are not specifically admitted herein, may be denied and the further statements which are not borne out of records are also denied in toto.
3. That before dealing with the ~~contentions raised~~ contentions raised in the O.A., the respondents beg to take a preliminary objection on the point of limitation. The application has been filed by the applicants against the order dated 3.10.94. According to the own admission of the applicants, they preferred a representation against the order impugned in the O.A. on 20.12.94. The further averments of the applicant are that the representation has not been replied by the authorities. As such, under the

Recd
Total 122/145C
19/9/96

Contd.....P/2.

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law they could wait for six months from 20.12.94 and the O.A. was ~~fixed~~ to be filed within one year thereafter. Thus even if the submission of the representation dated 20.12.94 is admitted, the limitation for filing the O.A. expired on 20.6.96. Thus the O.A. is hopelessly barred by limitation and on this score alone, the O.A. is liable to be dismissed in limine.

4. That the respondents further state that no application has been filed for condonation of delay in filing the O.A. As such, condonation of delay in filing the O.A. does not arise. Moreover, no cause has been shown or no averments have been made showing sufficient cause for delay in filing the O.A.

5. That the applicants have not filed any application under Section 4 of the C.A.T. (Procedure) Rules, 1987 praying for leave to file the application jointly. On this score alone, the application is liable to be rejected.

6. That the respondents state that the application is not in proper form.

7. That as regards the statements made in paragraphs 6.1, 6.2 and 6.3 of the O.A., the respondents have nothing to comment upon.

8. That with regard to the statements made in paragraph 6.4, the respondents admit that a notification for selection for the post of PWI, Grade-I was issued on 2/4.8.94. In the Written Test of the selection held for the post of PWI, Gr-I

aj 56 11

in the scale of Rs. 2000 - 3300/- on 10.9.94 and the absentee written test held on 25.9.94. Only 16 candidates out of a total of 42 candidates qualified for viva voce test.

Accordingly, the result of the written test was published vide letter No. E/CON/64/PWIs(Engg.Deptt) dated 3.10.94. All the 16 candidates who could qualify in the written test appeared in the viva voce. Out of these 16 candidates, 14 could finally qualify and accordingly, they were empanelled and promoted to PWI, Grade-I.

9. That with regard to the statements made in para graph 6.5, the respondents admit that only PWI, Grade-II in the scale of Rs. 1600 - 2660/- were eligible to ~~be~~ appear in the said selection and the date of written test was fixed on 10.9.94.

10. That with regard to the statements made in paragraph 6.6, the respondents state that those statements are substantially correct except that only 42 candidates appeared and not 43 as averred.

11. That the averments made in paragraph 6.7 are denied and disputed. The allegations made in this paragraph are not at all based on facts. The applicants could not secure the required minimum qualifying marks i.e. 60% in the written test. They could not qualify upon addition of their share of notional seniority marks, their seniority positions being at 28th and 22nd respectively. The question of their eligibility for viva voce does not arise.

5772

12. That the averments made in paragraph 6.8 are denied. The allegations have been made on surmises and conjectures. It is not true to say that the answer scripts were not properly evaluated. Other allegations made in this paragraph are denied.

13. That with regard to the statements made in paragraph 6.9, the respondents reiterates and reaffirms what have already been stated in the preceding paragraph. The answer scripts have been evaluated correctly keeping in view the relevant rules and procedures.

14. That as regards the statements made in paragraphs 6.10, the respondents state that the same are substantially correct. However, a total number of candidates who qualified is 14 and not 13 as averred. In the viva voce test held on 6.10.94, 13 out of 16 eligible candidates appeared. Out of these, 11 qualified and the remaining two failed and accordingly, the provisional panel has been published on 22.11.94 vide No.E/254/28/Pt-V(E). In the absentee viva voce test held on 9.1.95 all the three absentees appeared and came out successful and thus the total number of candidates finally empanelled was 14 (11 + 3). All the 14 candidates in the said selection empanelled have since been promoted and the panel has completely been exhausted.

15. That the averments made in paragraph 6.11 are denied. The representation stated to have been submitted on 20.12.94 could not be traced out in the office record and it appears that same has not been received.

16. That as regards the statements made in paragraph 6.12, the respondents state that since there was no irregularity in the selection, procedure and since the representation stated to have been made by the applicants was not received, the question of replying to the representation does not arise.

17. That as regards the statements made in paragraph 6.13, the respondents state that S/Shri Gautam Chakraborty, S.K. Acharjee and S.K. Paul initially promoted to PWI/I (2000-3200) w.e.f. 1.3.93 against restructured posts as per instruction from Railway Board, by modified selection procedure. But subsequently, on receipt of revised instructions from Railway Board some of the senior PWI/II to the above three staff who were declared unsuitable in the earlier modified selection were later on found suitable on review of their cases. As a result of above their Junior staff (viz. Gautam Chakraborty, S.K. Acharjee and S.K. Paul) were reverted to PWI/II. They were thereafter subjected to the aforesaid fresh normal selection.

18. That as regards the statements made in paragraph 6.14, the respondents state that it is not a fact that due to promotion of the above 3 candidates in the fresh selection, the prospect of promotion of others including the two applicants were blacked. In fact the two applicants have failed in the written test stage of the said selection.

19. That with regard to the statements made in paragraph 6.15, the respondents beg to state that the representation

submitted by PRKS (Annexure-IV) was addressed to the Executive Director, Vigilance, Railway Board without endorsing any copies to any Zonal Railway Authority. In fact on going through the letter of Chief General Secretary/ RRKS annexed, it is found that none of the points raised therein deserved consideration,

20. That with regard to the statements made in paragraph 6.16, the respondents beg to reiterate and reaffirm the statements made hereinabove and state that the action of the Administration for calling the 70 candidates in the fresh selection notified vide I/No. E/254/28/Pt.VI(E) dated 27.6.96 is found to be in order in all respects.

21. That with regard to the statements made in paragraph 6.17, the respondents state that the delay caused in filing up the existing vacancies of 1994 was due to time taken in obtaining GM's approval to the relaxation of 2 years service to one year for promotion in the case of following 4(four) candidates in the said panel :

- (i) Shri B. Chakraborty, PWI/II/BCE
- (ii) Shri D. Dastidar, , -do-/Samsai
- (iii) Shri S.K. Verma, -do-/KNE
- (iv) Shri S.S. Sarkar -do-/SEE.

The respondents state that the rules relied on by the applicant are not authentic and as such, the same are denied by the respondents.

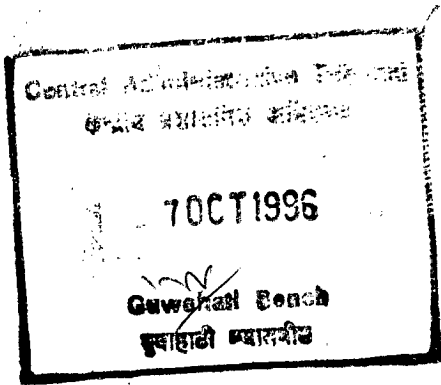
Verification.....

VERIFICATION

I, Shri C. Saikia, the
Dy. EPO (NC) of the N.F. Railway Administration,
do hereby verify and state that the statements made in
the accompanying written statement are true to my knowledge
and I have not suppressed any material facts.

And I sign this verification on this the 16th
day of September 1996 at Guwahati.

C. Saikia
16/9/96
(C. Saikia)



(51)

76 by
Gopal Samanta
Docket
7.10.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of :

O.A.No.165/96

Shri P.N.Prasad & another ...Applicant.

-Versus-

Union of India & Ors. ...Respondents.

-AND-

In the matter of :

Re-joinder of the Written Statement
filed by the Respondents.

Forward copy
to Mr. K. Choudhury
for Mr. K. Choudhury
7-10-96

I, Shri Paras Nath Prasad, the applicant
No.1 in the above noted O.A.No.165/96 on behalf of
myself and also on behalf of other applicant No.2, being
authorised do hereby solemnly affirm and declare as
follows :-

1. That a copy of written statement has been
served upon me through our counsel and same being
explained to us I have understood the contents thereof.

After.....

1) Paras Nath Prasad
2) Mihir Kumar Pal

After going through the written statement, I find it necessary to file re-joinder before this Hon'ble Tribunal as the Written Statement is not legally and properly made by the Respondents.

2. That with regard to the contents made in paragraph 1 of the written statement, I beg to state that the O.A. is maintainable both in law as well as on facts.

3. That with regard to the contents made in paragraph 3 of the written statement I beg to state that the preliminary objection as to the point of limitation is not tenable in view of the fact that in the amended petition prayer has been made to condone the delay which is still pending.

4. That with regard to the contents made in paragraph 4 of the written statement I beg to state that in the amendment petition prayer has been distinctly made to condone the delay and this amendment is sought to be made of the O.A. in persuance of the order dated 17.9.96 in M.P.No. 120 /96.

5. That with regard to the contents made in paragraph 5 of the written statement, I beg to state that this statement is not maintainable in view of the amendment petition where the matter is pending before this Hon'ble Tribunal.

Contd/-.

1) Paras Nath Prasad
11) Mihir Kumar Pal

6. That with regard to the contents made in paragraph 6 I beg to state that the application is very much in proper form.

7. That with regard to the contents made in paragraph 11 of the written statement, I beg to state that the statement is not based on fact rather it is surmise conjecture. It is also denied that the applicants could not secure the required qualifying marks of 60% in the written test. Regarding qualifying marks, I beg to state that 60% marks which is the qualifying marks in the written test plus notional marks. That as stated in the written statement that the seniority position of the applicants are wrongly made as as 28th and 22nd respectively. In view of the fact that only 43 candidates appeared out of 56, the absentees being 13, in calculating the seniority, so far the applicants are concerned, their seniority will be above 20 and 22 as per rules and not 28 as stated by the respondents in their written statement so far the applicant No.2 is concerned.

That the seniormost candidate will get 15 marks as notional marks while the next senior will get 15 - '23 i.e. 14'77 and 3rd senior will get 14'54 and so on.

8. That with regard to the contents made in paragraph 12 I beg to state that the answer scripts are not properly evaluated. Had it been evaluated as per existing....

i) Paras Nath Prasad
ii) Mihir Kumar Pal

existing rules, the applicants would have been declared passed in the written test.

9. That with regard to the contents made in paragraph 13 I beg to state that the answer scripts had not at all evaluated correctly and as such the applicants compelled to file this application.

10. That with regard to the contents made in paragraph 14 I beg to state that the final list should be published in one list in one day and not by separate lists on separate dates. This is the clear violation of the existing rules.

11. That with regard to the contents made in paragraph 15 I beg to state that the statements are totally false.

12. That with regard to the contents made in paragraph 16 of the written statement, I beg to state that grave irregularity was committed by the respondents in selection procedure for which representation was made as per law and same being received, the respondents had shown utter irresponsibility in replying the same and non-consideration of the said representation has resulted miscarriage of justice and multiplicity of proceedings.

13. That with regard to the contents made in paragraph 18, I beg to state that the applicants are

greatly.....

i) Paras Nath Pasraol
ii) Mihir Kumar Pal

greatly disturbed when the original selected candidates were again found in the examination hall.

14. That with regard to the contents made in paragraph 19 I beg to state that the representation made by the Chief General Secretary, PRKP, direct to the Executive Director (Vigilance) is not illegal at all. Moreover, the letter itself speaks of the irregularities of the examination in question.

15. That with regard to the contents made in paragraph 20 of the Written Statement I beg to state that the notification dated 27.6.96 is highly irregular, illegal and not maintainable and is liable to be stayed till disposal of the present application.

16. That with regard to the contents made in paragraph 21 of the written statement, I beg to state that the contentions are not at all maintainable and should be discouraged as two years time for getting approval from the Respondent No.4. If this kind of two years time is permitted, the administration will go to hell, law of jungle will prevail and rule of law will be a mockery.

17. That the respondents have failed to find out any case in their favour & as such the written statement is nil help to this Hon'ble Tribunal and same may kindly be rejected.

18. That this re-joinder is filed bonafide and in the interest of justice.

VERIFICATION.....

D Paras Nath Prasad
11) Mihir Kumar Pal

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

I, Shri Paras Nath Prasad, son of late Kanhaiya Prasad, aged about 40 years, at present working as Permanent Way Inspector Grade-II in the office of the Chief Engineer, N.F.Railway, Maligaon Guwahati-11, resident of Railway Qr.No.239/C, B.G.Colony, P.O.Bamunimaidan, Guwahati-21 do hereby solemnly affirm and Verify on my own behalf and also on behalf of Applicant No.2 being so authorised that the statements made in paragraph 1 of this re-joinder are true to my knowledge and those made from paragraph 2 to 16 are derived from records which I believe to be true and those made in paragraphs 17 and 18 are humble submissions before this Hon'ble Tribunal.

AND I sign this Verification on this day
of October, 1996 at Guwahati.

Paras Nath Prasad

Mihir Kumar Pal

D E P O N E N T