

GAHC010046342026



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1531/2026

SHRI RANJIT HORE
S/O LATE KHOKAN CH HORE,
RESIDENT OF RAILWAY QR. NO. 1019/B NEW INSTITUTE COLONY PO-
ALIPURDUAR JN.T. DISTRICT-ALIPURDUAR PIN-736123, WEST BENGAL.

VERSUS

1: THE UNION OF INDIA AND 4 ORS. SECRETARY TO THE MINISTRY OF
RAILWAYS, RAIL BHAWAN, NEW DELHI, PIN NO. 110001

2:GENERAL MANAGER NORTH EAST FRONTIER RAILWAYS
GUWAHATI-781011. KAMRUP (M) ASSAM

3:PFA AND CAO/AD
N. F. RAILWAY MALIGAON
GUWAHATI-781011 KAMRUP M ASSAM

4:DIVISIONAL FINANCIAL MANAGER
N. F. RAILWAY ALIPURDUAR JUNCTION
ALIPURDUAR PIN-736121

5:ADDITIONAL DIVISIONAL FINANCIAL MANAGER N. F. RAILWAY
ALIPURDUAR JUNCTION ALIPURDUAR PIN-73612

For the Petitioner(s) : Mr. B. Chakraborty, Advocate.
: Mr. S.P. Bhattacharjee, Advocate.
: Mr. A. Khasnobish, Advocate.

For the Respondent(s) : Mr. S.P. Choudhury, Standing Counsel, N.F. Railway.

- B E F O R E -
HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

20.05.2026

(Ashutosh Kumar, CJ)

The petitioner joined as a Substitute Emergency Peon and later promoted to the post of Accounts Clerk in the Northeast Frontier Railway, Alipurduar Division in the year 2003. After rendering approximately 176 days of service, he was abruptly discharged from service on 31.01.2004.

The order of discharge could not be sustained before the Central Administrative Tribunal, Guwahati Bench, Guwahati (*hereinafter to be referred as the "Tribunal"*), which, vide judgement dated 01.04.2008, declared the discharge of the petitioner to be illegal; set it aside and directed for restoration of the services of the petitioner as Substitute Emergency Peon.

The petitioner was reinstated in service on 11.02.2009. However, he was granted temporary status only with effect from 11.06.2009, i.e. when he had completed 4(four) months from the date of reinstatement. His reinstatement on 11.02.2009, by virtue of the order passed by the Tribunal, was taken as fresh appointment and 11.06.2009 as the date of his getting temporary status.

It further appears that in the meantime the Government introduced the New Pension Scheme (NPS) from 01.01.2004. Options were given to the employees to switch over to the Old Pension Scheme (OPS) under the Railway Services (Pension) Rules, 1993. The first of such Circulars was issued on 29.10.2014 putting the employees under Old Pension Scheme, who were granted temporary status before 01.01.2004 but may

have been regularized and absorbed after that date. The other Circular in that regard came out on 30.04.2022, which granted one-time option to the employees to switch over from New Pension Scheme to Old Pension Scheme but that was limited for such employees, who had entered service on or after 01.01.2004 but whose recruitment process was finalized before 01.01.2004.

When the petitioner was granted temporary status after his reinstatement on 11.06.2009, pursuant to the order passed by the Tribunal, it was not questioned by the petitioner that the temporary status ought to have been given to him from 2004 only. It was only later when the petitioner wanted to switch over to the Old Pension Scheme and which request was rejected by the respondents/Railway that he chose to approach the Tribunal, seeking his services to be governed by the Old Pension Scheme, which, according to the petitioner, was due to him for the reason of his discharge and his remaining out of service for 5(five) years till such discharge was declared illegal by the Tribunal.

The Tribunal promptly rejected the afore-noted prayer made by the petitioner in the Original Application on the ground that while directing for his reinstatement after setting aside the order of his discharge, there was a specific direction that no back-wages would be payable to the petitioner, which perhaps meant that the break in service for all practical purposes could be taken into account for pension purposes. Even otherwise, if the petitioner were to remain in service continuously since 2004, for him to be governed by the Old Pension Scheme, he had to be given a temporary status before 01.01.2004.

True it is that the petitioner was appointed on 05.08.2003 and was

engaged on 08.08.2003 but till the time he continued in service for about 176 days, before he was discharged, the temporary status had not been given to him.

In any view of the matter, we deem it appropriate to issue notice to the respondents/ Railway on the issue whether the reinstatement, without any further enquiry, would tantamount to holding the services of the petitioner to be continuous since the date of his first engagement, in which case, the decision of the Tribunal would be required to be given a re-look.

Notice to respondents/Railway is accepted by Mr. S.P. Choudhury, learned Standing Counsel, N.F. Railway, who seeks some time to file his response to this petition by the next date.

Re-notify on **29.07.2026**.

JUDGE

CHIEF JUSTICE

Comparing Assistant