

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

C.P.(C) No. of 1998

(Arising out of O.A.No.1124 of 1997)

IN THE MATTER OF:

An application for drawing up of  
Proceedings of Contempt;

-AND-

IN THE MATTER OF :

An application under Article 215 of the  
Constitution of India;

-AND-

IN THE MATTER OF :

Contempt of Courts Act, 1971 and/or the  
Rules framed thereunder;

-AND-

IN THE MATTER OF :

Deliberate, wilful and contumacious  
violation of the order dated 6.2.1998  
passed by Their Lordships the Hon'ble  
Mr. Dr. B.C. Sharma, Administrative  
Member and the Hon'ble Mr. D. Purkayastha,  
Judicial Member in O.A.No.1124 of 1997

✓ in spite of having full knowledge of the  
contents, purport and meaning of the said  
order and due communications thereof.

-AND-

IN THE MATTER OF :

Sushanta Dey, son of Shri Sukhamoy Dey,  
residing at Post & Village - Molla  
Belia, Dist. Nadia and working for gain  
as Dy. Field Officer (Tele), Special  
Bureau, Govt. of India, P.O. Mohanpur,  
Dist. Nadia. ... Applicant.

-Versus-

1. Shri Arvind Dave,  
Secretary, Cabinet Secretariat,  
Govt. of India, Bikaneer (House Annex),  
Room No.7, Shahjahan Road, New Delhi 110  
011.

2. Shri B. G. Rawal,  
Jt. Secretary (Pers), Cabinet Secretariat,  
Govt. of India, Bikaner House(Annexe),  
Room No.7, Sahajan Road, New Delhi 110  
011

3. Shri S K. Tripathi,  
Commissioner, Special Bureau, Govt. of  
India, 48A, Syed Amir Ali Avenue,  
Calcutta 700 019.

4. Shri N. K. Singh,  
Addl. Commissioner, Special Bureau, Govt.  
of India, 48A, Syed Amir Ali Avenue,  
Calcutta 700 019.

5. Shri C. Sridhar  
Deputy Commissioner (Tele),  
Special Bureau, Govt. of India,  
Mohanpur, Dist. Nadia.

... Respondents-Contemners

The humble application of  
the applicant abovenamed

Most Respectfully Sheweth:

1. Your applicant is a citizen of India and holds a civil post the meaning Article 311 of the Constitution of India.
2. Your applicant states that your applicant joined in the service as Asstt. Field Officer (Tele) on 28.1.1987 and thereafter was promoted to the post of Dy. Field Officer (Tele) on 4.3.1992.
3. Your applicant states that since joining your applicant has had been discharging his due duties and functions, attached to the posts, diligently, sincerely, efficiently and honestly to the entire satisfaction of the authorities concerned and there was no complaint ever made and/or any adverse remarks made and/or communicated to the applicant during the long tenure of service and the service record of your applicant all throughout is clean and unblemished.
4. Your applicant states that the applicant is now posted at Hathikanda within the District of Nadia, West Bengal, and the said Hathikanda comes within the meaning of and territory of Calcutta Urban Agglomeration by the State of West Bengal and as such, the employees posted thereat are entitled to get and enjoy

the House Rent Allowance (in short HRA) and Compensatory City Allowance (in short CCA), at par with other Central Govt. employees posted at Calcutta inasmuch as the employees posted at Hathikanda are to be treated at par with Calcutta employees in terms of the Urban Land (Ceiling & Regulation) Act, 1976, duly gazetted by the Govt. of West Bengal in the Official Gazette.

5. Your applicant states that the staff working under the Central Govt. and posted at Hathikanda were accorded the said HRA/CCA at par with Calcutta rate but for the reasons best known to the authorities concerned, the same were sought to be denied and/or withdrawn in so far as the applicant and others are concerned.

6. Your applicant states that consequent upon such withdrawal and/or denial of the said HRA/CCA, one Shri P. K. Kaul, Ex-Field Officer (Tele), Hathikanda, ventilated his grievances before this Hon'ble Tribunal by filing an application u/s 19 of the A.T.Act, 1985, being O.A. no,1131 of 1994 which was disposed of by this Hon'ble Tribunal at the admission stage itself and was pleased to an order on 23.12.1994, inter alia, to the following effect:-

5. Accordingly we quash the orders dated 7.2.94 and 16.6.94 being Annexures A and E to the application and direct the respondents to, pay the HRA and CCA according to the Calcutta rates with effect from the date when he is entitled to get such CCA/HRA as per rules.

6. The application is disposed of at the admission itself without any order as to cost.

7. Your applicant states that against the said order dated 23.12.94, passed by this Hon'ble Tribunal in O.A.1131 of 1994, the Union of India, preferred a S.L.P. before the Hon'ble Supreme Court of India which was dismissed by the Hon'ble Supreme Court of India and upon such dismissal of the said S.L.P., the law down by this Hon'ble Tribunal became valid and binding upon the

authorities concerned and is applicable throughout the country and all similarly circumstanced employees were and/or are entitled to the said HRA/CCA by virtue of the said order and judgement dt.23.12.94 of this Hon'ble Tribunal.

8. Your applicant states that being embolden by the said order dated 23.12.94, passed by this Hon'ble Tribunal in O.A.No.1131 of 1994, your applicant made several representations on diverse dates, stating therein the entire facts and circumstances of the case and further praying therein for extension of the benefits of the said order and judgement dated 23.12.94, passed by this Hon'ble Tribunal, by paying the HRA/CCA to the applicant being a similarly circumstanced employee as that of the said Sri Kaul, to which your applicant craves reference at the time of hearing and further treat the same as part hereof.

9. Your applicant states that vide Memorandum dated 12.3.96, Under Secy.(Pers.VI), Govt. of India, Cabinet Secretariat, rejected the representation of the applicant and others, inter alia, to the following effect : -

2. In this context, it may be mentioned that decision has already been communicated to SB, Calcutta, vide our TPM No.19/26/91-Pers.15 dated 20.10.95 that the payment of HRA/CCA at Calcutta rates be given to Shri P.K.Kaul, ex-F0(T) only not to repeat to others. This decision was communicated with the concurrence of Legal Cell which was in conformity with DP&T's ruling given vide Cab.Sectt.No.31/14/93-EA.III-271 dated 19.1.95, circulated vide memo No.4/19/93-Pers.5 dated 6.2.95.

3. Accordingly, all the representations in question stand disposed off. Suitable reply may please be given to the concerned officials.

4. Applications of 23 Telecom Officials sent vide your memo dated 30.1.96 are also returned in original.

Your petitioner further states that vide memorandum dated

28.3.96, the Section Officer, SB, Hathikanda, informed, inter alia, to the following effect :-

Please refer to Hqrs. memo No.19/26/91-Pers.15 dated 12.3.96, returning therewith the application of officials posted at Hathikanda requesting for granting of HRA/CCA at Calcutta rates.

2. The payment of HRA/CCA at Calcutta rates was to be given to Shri P.K.Kaul, Ex-FO(T) only and not to others as per Hqrs. instructions. In this regard the observation of DP&T is as under :-

"It is a Govt. policy not to extend benefit of CAT/Court judgements to non-petitioners who are similarly placed."

3. The official may be briefed suitably.

10. Your applicant states that your applicant again made representation on 28.3.96 reiterating his earlier contentions but to no effect.

11. Your applicant states that the Section Officer, Hathikanda, vide circular dated 22.10.1996 informed your applicant and other similarly circumstanced employees, inter alia, to the following effect :-

A matter regarding payment of HRA/CCA to the staff of SB, Hathikanda, at par with rates prevailing at SB, Calcutta, was taken up with Hqrs. through SB Calcutta on the basis of representations of some officials of the station.

2. SB, Calcutta has intimated on 09.10.96 that the matter had been taken up with Hqrs. once again and their reply is awaited.

3. All the staff members are therefore advised to wait the decision of Hqrs. in this matter.

12. Your applicant states that since nothing was communicated by the authorities concerned even after lapse of two months, your

applicant again made a representation on 24.4.97, followed by reminder dt.30.6.97 but to no effect and as such, your applicant having had no other alternative had to come before this Hon'ble Tribunal for redressal of his genuine grievances and filed an application u/s 19 of the Administrative Tribunal Act, 1985, being O.A.No.1124 of 1997 though the fact remains that this Hon'ble Tribunal has settled the issue regarding payment of HRA/CCA vide its order and judgement dated 23.12.94 passed in O.A.No.1131 of 1994 but the authorities concerned unnecessarily dragged the applicant before this Hon'ble Tribunal.

13. Your applicant states that this Hon'ble Tribunal was pleased to dispose of the said application alongwith other similar applications, being O.A.Nos.1123 and 1125 to 1130/97, vide composite order & judgement dated 6.2.1998, inter alia, to the following effect :

6. In view of the above position, all the applications are allowed. The respondents are directed to give benefit of H.R.A. and C.C.A. at Calcutta rates to the applicants from their dates due along with the arrears within 2(two) months from the date of communication of this order. No Order is passed as regards costs. A copy of the said order dated 6.2.1998 is annexed hereto and marked with letter "X" and your applicant craves leave to refer to the said O.A.No.1124/97 alongwith its annexures, as annexed thereto, at the time of hearing, if necessary.

14. Your applicant states that the said order and judgement dated 6.2.98 was duly communicated to the respondents-contemners herein by the 1d.advocate of your applicant vide letter dated 13.2.1998, a copy whereof is annexed hereto and marked with letter "X-1".

15. Your applicant states that in spite of due and full knowledge of the aforesaid order, passed by this Hon'ble Tribunal and communication thereof, the respondents-contemners herein sat tight over the matter by not implementing the said order by

paying the said HRA/CCA including the arrears thereof to your applicant till today and thereby, the respondents-contemners herein have deliberately, wilfully and contumaciously disobeyed the said order dated 6.2.1998 by committing gross violation of this Hon'ble Tribunal's order.

16. Your applicant states that in spite of several perusal and requests, besides representations and communications, the respondents-contemners herein sat tight over the matter and did not take any steps to show the least and/or minimum regards to the order dated 6.2.1998, passed in the O.A. No.1124/97 by this Hon'ble Tribunal.

17. Your applicant states that it would be evident from the facts and circumstances, stated hereinbefore, that the respondents-contemners herein have deliberately, wilfully and contumaciously disobeyed the order dated 6.2.1998, passed by this Hon'ble Tribunal, and thereby deliberately committed gross violation of the said order dated 6.2.1998.

18. Your applicant state the respondents-contemeners herein have no respect in regard to the order passed by this Hon'ble Tribunal in aggravated form and have flouted the order dated 6.2.1998.

19. Your applicants submits that the respondents-contemners herein have committed gross contempt of court and unless they are properly dealt with and/or punished suitably, the majesty and dignity of this Hon'ble Tribunal cannot be upheld any more.

20. Your applicant submits that now a days on each and every occasion the respondents-contemners herein show their utter disregard to the order of this Hon'ble Tribunal, as in the instant case, and as such, unless a proper order is passed by this Hon'ble Tribunal for their deliberate, wilful and contumacious violation of the order dated 6.2.1998 of this Hon'ble tribunal, the dignity and majesty of this Hon'ble

Tribunal may be dismayed.

21. Your applicant submits that the respondents-contemners herein have committed gross contempt of court and in the premises, the assets and/or properties of the said respondents-contemners herein should be directed to be sequestered and further they should be punished and/or committed to prison for their committing gross contempt of this Hon'ble Tribunal.

23. Your applicant submits that the order, prayed for, should be passed in the interest of justice, equity and fairplay and to uphold the dignity and majesty of this Hon'ble Tribunal.

24. That this application is made bonafide and for the ends of justice, equity and fairplay.

In the premises, the applicant most humbly prays that this Hon'ble Tribunal would be graciously pleased to :

- i) Issue Rule calling upon the respondents-contemners herein to show cause as to why they should not be committed to prison and/or punished suitably in accordance with the provisions of Contemt of Courts Act, 1971 and/or the rules framed thereunder for their deliberate, wilful and contumacious violation and disobedience of the orders passed by Their Lordships the Hon'ble Dr. B. C. Sharma, Administrative Member and the Hon'ble Mr. D.Purkayastha, Judicial Member, in O.A. No.1124/97, for not implementing the order and not

making the payment of HRA/CCA within the stipulated period, as specified by this Hon'ble Tribunal vide order dated 6.2.1998 till today.

ii) Issue an Order and/or direction for sequestration of the assets and/or properties of the respondents-contemners herein, calling upon them to show cause as to why their assets and/or properties should not be sequestered for their utter disobedience and gross violation of the Order dated 6.2.1998 passed by this Hon'ble Tribunal in O.A.No.1124/97.

iii) Rule in terms of prayers (i) and (ii) above and to make the same absolute if the respondents-contemners herein fail to show any cause and/or any insufficient cause is shown by them.

iv) An Interim order of Injunction do issue directing the respondents-contemners herein to make the payment HRA/CCA alongwith the arrears thereof in implementation of the said order 6.2.1998 forthwith.

v) And to pass such further or other Order or Orders and/or Direction or Directions as to this hon'ble Tribunal may deem fit and proper.

And your applicant, as in duty bound, shall ever pray.

A E E I D A V I I

I, Sushanta Dey, son of Shri Sukhamoy Dey, aged about 37 years by occupation service and residing at Post & Village Molla Belia. <sup>Abu</sup> Dist. Nadia, do hereby solemnly affirm and say as follows :-

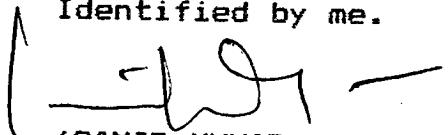
1. I am the applicant in the instant application and as such I am well acquainted with the facts and circumstances of the case.
2. That the statements made in paragraphs 1 to 18 are true to my personal knowledge and those made in paragraphs 19 to 24 and the rest are my humble submissions before this Hon'ble Tribunal.

Place : Calcutta

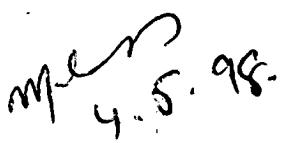
Dated, April . . . , 1998.

DEPONENT

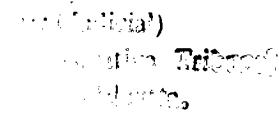
Identified by me.

  
(SAMIR KUMAR GHOSH)

ADVOCATE.

  
4.5.98.

Solemnly affirmed  
& signed on Identification

  
(Samir Kumar Ghosh)  
Advocate.