

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW**

INDEX SHEET

CAUSE TITLE C.C.P. 07 OF 1990

Un. 6A 179/87

NAME OF THE PARTIES C.B. Gupta Applicant

Versus

Sri K.M. Ganpati Respondent

Part A.

Sl.No.	Description of documents	Page
1	Order sheet	A-1 ✓
2	Judgement Date 5-2-91	A-2 ✓
3	cont. Petition	A-3 to 13 ✓
4	Police	A-14 ✓
5	M.P. App. Regn. No. G.C. 179 of 1987	A-15 to 27 ✓
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		

CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Wrote & out

Dated 15/4/2011

B/C destroyed on 09-5-12

Counter Signed.....

R. G. S.

Section Officer/In charge

AK
Signature of the
Dealing Assistant

Contempt No. 7/90(1)

TA 179/97

8/1

Due to National Holiday
declared by Govt. of India,
adj. to 25.9.90

OR
The L/c for applicant
has c.m. No 7/90(1) for
Contempt. TA 179/97. on
26.4.90.

L
ROR

S. F-0

L
304

Hon. Justice Mr. K. Nath, V.C.,
Hon. Mr. K. Obayye, A.M.

This Contempt proceeding
have been ~~so~~ instituted on the basis
of the judgement, delivered by Guwahati,
Bench of this Tribunal. The question is
whether, Allahabad Bench/Circuit Bench
has jurisdiction to entertain the application to
commit for Contempt. ~~The question~~

On the request of the applicant's
counsel, the case be listed for orders on
11/5/90.

sp
A.M.

OR
V.C.

Hon. Mr. K.T. Raman. A.M.

Hon. Mr. D.K. Agarwal. J.M.

The counsel for the
applicant wants adjournment.
Allowed.

List it for order on

19-7-90.

De
J.M.

OR
A.M.

No sitting adj. to 9/8/90

OR
One letter has
been recd. from
CAI, P.B. N. Kellu
S.F.

No sitting adj. to 7.11.90

8/1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW

Cont. No. 7/90

O.A.No. ⁱⁿ 179/87

C.B. Gupta

Applicant.

versus

Union of India & others

Respondents.

Hon. Mr. Justice K. Nath, Vice Chairman.

Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice K. Nath, V.C.)

Case called. None present for the applicant.

In order dated 2.5.90 it was indicated that this Contempt Application was instituted on the basis of judgment delivered by the Guwahati Bench of this Tribunal and therefore, the question of jurisdiction of this Bench to entertain the application arises. There is no reason to hold that this Tribunal has jurisdiction in this matter. The application is, therefore, rejected for lack of jurisdiction. A copy of this application alongwith a copy of this order shall be sent to the Principal Bench in compliance of the Hon'ble Chairman's Order dated 3.8.90.


Adm. Member.


Vice Chairman.

Lucknow Dated: 5.2.91.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

O.A. NO. ... 179 ... of 1987 (C)

Contempt
C.M. Am. No. ~~436~~ 190(L) 7

(Handwritten signature)

Chandra Bhal Gupta, aged about 46 years son of Late Sri Jagannath Prasad Gupta, resident of village and Post Lal Kuan, District -Kheri presently posted as J.A.O. at G.M.Telecom U.P. Circle , Bhopal House , Lucknow

.....Applicant

Versus

1. Sri K.N.Ganpati, Assistant Director General , S.E.A. Telecom Directorate , Sanchar Bhawan , New Delhi
2. Mr. K.P.Rao, Member Finance , Telecom , Directorate, Sanchar Bhawan , New Delhi

....Opposite -parties

Application For Contempt

For the facts and circumstances narrated in the accompanying affidavit , it is most respectfully prayed that the opposite parties be summoned, tried and awarded such punishment as this Hon'ble Tribunal deems proper and just in the circumstances of the case for disobeying the orders of the Hon'ble Tribunal dated 27.6.1989 in G.C. 179 of 1987 .

It is further prayed that any other order or orders which this Hon'ble Tribunal ~~deems~~ deems proper and just in the circumstances of the case be also passed .

Lucknow ; Dated : 26.4.90

H.K. Bhatnagar
Counsel for the Applicant

Noted for 30/4/90

from N.K.B. 1/5/90 HZ

F.T. Sub 26/4/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

CIRCUIT BENCH, LUCKNOW

Contempt No 7/90

O.A. NO. 1.78. OF 1990 (L)

7/90



Chandra Bahl Gupta, aged about 46 years son of
Late Sri Jagannath Prasad Gupta resident of
village and Post Lal Kuan, District -Kheri
presently posted as J.A.O. (G.M., G.M. Telecom U.P.
Circle, Bhopal House, Lucknow

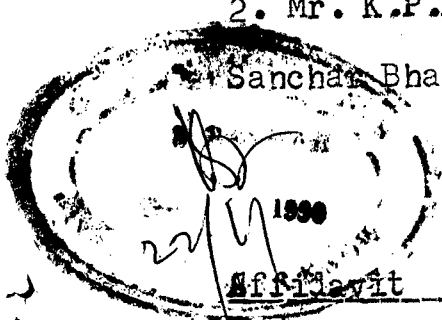
.....Petitioner-

Versus

Appx Applicant

1. Sri K.N.Ganpati, Assistant Director General,
S.E.A. Telecom Directorate Sanchar Bhawan, New Delhi
2. Mr. K.P.Rao, Member Finance Telecom, Directorate,
Sanchar Bhawan, New Delhi

.....Opposite parties



Affidavit in support of the Application for Contempt

I, Chandra Bhal Gupta aged about 46 years
son of Late Sri Jagannath Prasad Gupta resident of
village and post -Lal Kuan, District Kheri, U.P.
do hereby solemnly affirm and state on oath as under :-

1. That the deponent is applicant and
is well conversant with the facts deposed hereinunder.
2. That when the petition was posted as
Junior ~~Accountant~~ Accounts Officer at ~~Kheri~~ ^{Kanpur}
a criminal case was started against him and
later on he was acquitted in that case on 2.4.1987.

Chandra Bhal Gupta

The departmental proceedings were started against him for incorrect prechecking of the bill of Rs. 2000 vide memo no. 8/30/80-big-ii dated 18.1.1985 and inspite of the representations the departmental proceedings were lingered only to harass the applicant and to mar his chances of promotion and to supersede him malafidely and to injure and demoralise him without rhyme or reason .

3. That the applicant filed an application no. O.A. 179 of 1987 before the Hon'ble Tribunal at Gauhati Bench and the same was decided in favour of the petitioner .

4. That the applicant pleaded in the said application that the departmental proceedings were being deliberately prolonged with a view to deprive him of his due promotion. The applicant also pleaded that the petty departmental proceedings could not be a ground for withholding his promotion.



That the Hon'ble Tribunal after considering Full Bench decision in K. Ch. Venkata Reddy & others v Union of India and other, A.T.R. 1987(1) C.A.T. 547 and revised instructions issued by the Government of India from the Department of Personnel and Training under their Office Memo no. 22011/2/86-Estt.(A) dated 12 th January, 1988 came to the conclusion that the department has failed to observe the time ~~shex~~ schedule for completing of enquiry proceedings and had highly delayed the enquiry proceedings as the

Chandra Bhal Gupta

4
5/10/89

A chargesheet has been given as early as on 18.1.1985 and emphasised the desirability of early finalising the disciplinary proceedings and fixed a dead line that the enquiry proceedings must be completed within six months from the date of order i.e. from 27.6.1989.

6. That the department has failed to complete the said departmental proceedings against the applicant within the prescribed period of six months and had also failed to get any further extension of time for completing the departmental proceedings against the applicant.

7. That in the abovenoted circumstances the department has got no ~~right~~ right, jurisdiction or authority to presume that any departmental proceedings are pending against the applicant. In view of the orders of the Hon'ble Tribunal, the departmental proceedings come to an end and the applicant stands exonerated as the department failed to complete them within the time prescribed by the Hon'ble Tribunal and further department failed to get extension of time from the Hon'ble Tribunal.

8. That the Hon'ble Tribunal has also ordered that the opposite parties must consider the applicant for promotion by a duly constituted D.P.C. in the light of instructions



5
(Signature)

contained in ~~xxx~~ the office memorandum of Government of India dated 12.1.1988 and Full Bench decision of Venkata Reddy & others v Union of India & others, A.T.R. 1987 (1)C.A.T. 897

9. That inspite of the clear cut orders the opposite parties have not considered the applicant for promotion in deliberate and wilfull disobedience of the orders of the Hon'ble Tribunal dated 27.6.1989 causing thereby irreparable loss and damage to the prestige and image of the Hon'ble Tribunal and further causing the sentiments hatred, ridicule for the authority of the Hon'ble Tribunal in the minds of right thinking persons of the society generally .

10. ~~xx~~ That the applicant has served the copy of the order on the opposite parties by registered post ~~byxxregis~~ on 1.8.1989 and the opposite parties started ~~comxxx~~ committing contempt of the Hon'ble Tribunal since August , 1989 and are continuously committing it day -to-day and for which they must be held liable .



11. That it is in the ~~inter~~ interest of justice and fair play that the opposite parties be summoned and tried and after due trial they be punished for committing the Contempt of the Hon'ble Tribunal by awarding such punishment as this Hon'ble Tribunal deems proper ~~and~~ just in the circumstances of the case .

Charan Bhul Gupta
Deponent

6
40

12. That the opposite parties had got no regard for the authority and prestige of Hon'ble Tribunal and they are willfully and knowingly and continuously disobeying the orders of ~~the~~ the Hon'ble Tribunal and as they have failed to do departmental proceedings as they have got no material against the ~~pet~~ applicant still they are harassing the applicant for approaching this Hon'ble Tribunal .

13. That in the above circumstances the opposite parties deserve exemplary punishment to establish the authority and prestige of the Hon'ble Tribunal and the Courts in India , as the opposite parties have no regard for the Hon'ble Tribunal and judicial system.

Lucknow

Dated : 22-4-90

Chandra Bhal Gupta
Deponent

Verification

I, the ~~deponent~~ abovenamed deponent

do hereby verify that the contents of paras 1 to 10 of this affidavit are true to ~~me~~ my personal knowledge and the contents of paras 11 to 43 are believed to be true by me.

Nothing material has been concealed .

Signed and verified this 22 day
of April, 1990 in Lucknow .

Deponent

Lucknow. Dated : 22-4-90

Chandra Bhal Gupta

I know the deponent who has signed before me .



For Central Administrative Tribunal
Guwahati Bench
Chandra Bhal Gupta
Dated

7
(S/G)

27/6

Central Administrative Tribunal
Guwahati Bench

Regn.No.'G.C.179 of 1987 Date of Decision 27th June 87

Shri Chandra Bhal Gupta ... Applicant.

Vs.

The G.M.(T) Assam Guwahati ... Respondents.

For the applicant ... Shri B.Malakar,
Advocate.

For the respondents ... Shri G.Sharma,
Addl.C.G.S.C.

CORAM: Hon'ble Mr. J.C.Roy, Administrative Member.
Hon'ble Mr. T.S. Oberoi, Judicial Member.

JUDGEMENT

(Judgement of the Bench delivered by
Hon'ble Shri T.S.Oberoi, Member(Judl.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed on 18th November,1987 by applicant, Shri Chandra Bhal Gupta, who is presently serving as Junior Accounts Officer, in the office of General Manager (Telecom), Assam Circle, Ulubari, Guwahati.

2. The case of the applicant, briefly, is that he joined as Postal Clerk on 9.3.1967, in the office of SSPO, Lucknow, and after serving in various capacities and at different places, while he was posted as Junior Accounts Officer at Jabalpur, there was a case registered against him by the C.B.I., on certain allegations of disproportionate income and assets. This case was numbered as Case No.5 of 1983 and was tried in the court of Special Judge (Anti-corruption), Lucknow. He was, however, acquitted in the said case on 2.4.1987, but the department again issued a memorandum against him, in a departmental proceeding, vide memo No.8/30/80-Vig-II dated 18.1.1985, alleging

27/6

NOT INSURED
Amount of Stamps affixed Rs. 5577
Received a Registered
Addressed to
Signature of Postmaster

Chandra Bhal Gupta

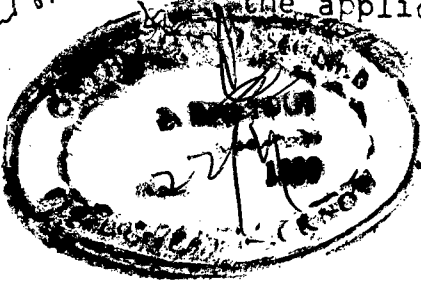
8
(S/L)

incorrect pre-checking of a bill of Rs.2000/- by him, while working as J.A.O. under G.M. (T), Kanpur, without the certificate of J.E. and A.E. and without approval of the competent authority and thus charging him with lack of devotion to duty. The applicant's further plea is that nothing substantial has taken place in the said proceedings which is virtually at a stand-still, and thus, has resulted in undue hardship and prejudice to him, inasmuch as the applicant has been denied departmental promotion as Accounts Officer, whereas persons junior to him have been so promoted. He also referred to letter No.86/1/85-Vig.-II dated 6th February, 1985 issued by the Deputy Director (Vig.) directing expeditious disposal of the disciplinary cases and also laying down a time schedule, for completion of various stages in the enquiry proceedings. He also stated that inspite of representations by him in this regard, precious little has been done and hence, this application with the prayer:

- (i) the applicant may be given officiating promotion with effect from 19.10.1981 and regular promotion with effect from 16.12.1985, in the line when his juniors had been promoted; and
- (ii) all his personal claims such as TA, Medical, Children Education Allowance and leave cases pending with the G.M. (T), North-East Circle and G.M. (T) Assam Circle be settled.

3. The respondents, in their written statement/reply have stated that the departmental case has nothing to do with the earlier C.B.I. case in which, the applicant had since been acquitted, and that the departmental case is quite a different one, in which the applicant, besides some other retired officials,

Chandra Mohan Gupta



9
(10)

have been proceeded against under the CCS Pension Rules, 1972, after obtaining sanction of the President of India. It was further mentioned that after the receipt of the intimation about applicant's acquittal in the C.B.I. case, the department had reviewed the position regarding applicant's promotion, and he was twice considered by a duly constituted D.P.C. for his promotion as an Accounts Officer in Indian P & T Accounts and Finance Service Group 'B', but on account of the disciplinary case pending against him, findings of the D.P.C. have been kept in sealed cover. In the additional written statement filed on behalf of the Respondents, it was also contended that the applicant had forfeited his claim for officiating promotion, for his involvement in the Court cases and the departmental disciplinary proceedings drawn against him, including C.B.I. enquiry.

4. In the rejoinder filed by the applicant, while reiterating his assertions made in the application, many more instances of his juniors having been given officiating promotions, in short-term vacancies, which continued for years, were narrated. As regards departmental proceedings, it was alleged that the same were being deliberately prolonged, with a view to deprive him of his due promotion. Moreover, according to him, a petty departmental disciplinary proceedings could not be a ground for withholding his promotion.

5. During arguments, the learned counsel for the applicant did not press his case so far as it related to relief No. (ii), regarding settlement of his personal claims on account of T.A., Medical, leave, etc. As regards relief No. (i), the learned counsel for the

Chandra Bha Gupta



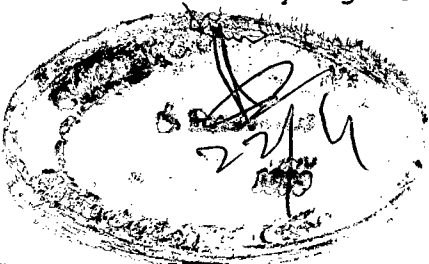
10
17/2

: 4 :

applicant referred to A.T.R. 1987(1) C.A.T. 547 (K.Ch.Vankata Reddy & Others v. Union of India & Others), decided by the Full Bench of Central Administrative Tribunal (Hyderabad), in which while discussing the conflicting views of various High Courts on the question of considering the case of an officer facing departmental enquiry proceedings/criminal case, it was held that there is no bar to the consideration of the case of such like officer for his adhoc promotion, by a duly constituted D.P.C., irrespective of the existence of departmental disciplinary proceeding/criminal case. The learned counsel also brought to our notice the revised instructions issued by the Government of India, Departmental of Personnel & Training, under their Office Memo.No.22011/2/86-Estt.(A) dated 12th January, 1988, dealing with cases of officers in the consideration zone for promotion.

6. We have carefully considered the plea put forth by the learned counsel for the applicant, together with ^{the} citation referred to, by him. We have also carefully perused copies of documents placed on record. The applicant's case, broadly speaking, has to be looked into from two aspects. Firstly, inspite of having been charge-sheeted as early as 18.1.85 that is more than four years ago, the same has not been finalised, and therefore, requires to be disposed of expeditiously. Secondly, his case for promotion as Accounts Officer with effect from the date his next junior was promoted be considered. As regards the first aspect, we feel that inspite of departmental instructions (Copy at Annexure-V to the application), laying down a time-schedule for completion of the

Chandra Mohan Gunda

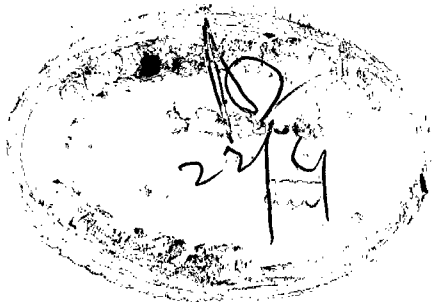


enquiry proceedings, the same has not been adhered to, in this case. The respondents, in their written statement, have attributed the delay in procuring the documents to be supplied to the applicant, besides some others, charged alongwith him, for purpose of their defence. Whatever be the reasons, in view of the time-lag already involved and in view of the departmental instructions issued on the subject, the desirability of early finalising the disciplinary enquiry proceedings cannot be over-emphasised, and we direct that the enquiry proceedings may be completed within six months from the date of this order.

As regards the second aspect, para 6 of the Government of India, O.M. dated 12.1.88, referred to by the learned counsel for the applicant, lays down a clear guideline on the subject. The applicant has since been acquitted in the Criminal case against him. Since the departmental proceedings against him have not concluded even after expiry of two years from the date of meeting the first D.P.C., his case for purely adhoc promotion, in terms of para 6 of the O.M. earlier referred to, irrespective of the continuation of the departmental enquiry proceedings, be considered, by a duly constituted D.P.C., and after the conclusion of the enquiry proceedings, depending upon the result of the proceedings, his case be re-examined on the basis of sealed-cover procedure, in the light of the instructions contained in the

O.M. dated 12.1.1988, and also as held in the Full Bench ruling, referred to above.

Chandrasekhar



: 6 :

7. Thus, while declining the relief No. (13),
in terms as it was sought for by the applicant, the
application is decided, with the directions, as
indicated above. We make no order as to costs.

Sd/- J.C.Roy
27.6.89
MEMBER (ADMN)

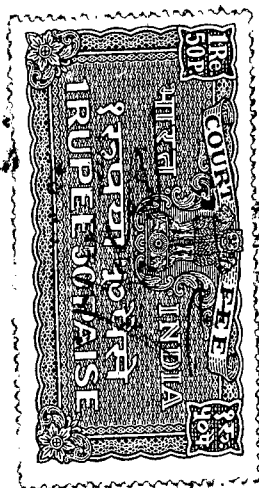
Sd/- T.S.Oberoi
MEMBER (JUOL)

Chand on Bond Copy



27.6.89

27.6.89



श्रीमान

CAT

महोदय

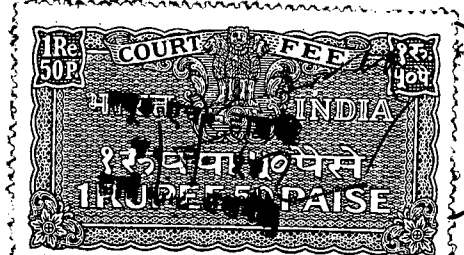
गान्ठ

श्री

का

वकालतनामा

पान्देन्ट]



मुकदमा नं०

सन्

पेशी की ता०

१६

ई०

ऊपर लिखे मुकदमा में अपनी ओर से श्री

वकील

महोदय

एडवोकेट

नाम बकायत	मुकदमा नं० नाम	बनाम
फरीकन		

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकदमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकदमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगी मैं यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकदमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Chandrabhal Gupta
हस्ताक्षर

साक्षी (गवाह)

साक्षी (गवाह)

दिनांक

महीना

सन् १६ ई०

(1/2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

M.P. No. 1802/1990

IN

O.A. No. 179/1987
(Gowahati Bench)

IN THE MATTER OF:

Sh. Chandre Bhel Gubte

-----APPLICANT(S)

VERSUS

The G.M(T) Assam (Gowahati)

-----RESPONDENT(S)

INDEX.

S.No.	Particulars.	Pages.
1.	M.P. 0/525	1-5
2.	vacat at name.	
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

NEW DELHI,
Dt. 27-7-90

UPPAL

Sunil Kr. Sharma
[SUNIL KUMAR SHARMA]
Advocate for the applicant
SIGNATURE FOR APPLICANT/
RESPONDENT.

A/C

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

M.P. No. 1802/1990

IN

O.A. No. 179/1987
of Guwahati Bench.

IN THE MATTER OF:

Shri Chandra Dhal Gupta. -----Applicant

Versus

The G.M. (T) Assam Guwahati -----Respondent.

MISC. APPLICATION U/S 25 OF A.T. ACT.

MOST RESPECTFULLY SHOWETH:-

1. That the applicant above named had filed an Application Under Section 19 of the Administrative Tribunals Act, 1985 before the Hon'ble Central Administrative Tribunal, Guwahati Bench on 18th November, 1987.
2. That at the time of moving the application, the applicant was serving as a Junior Accounts Officer, in the Office of General Manager (Telecom) Assam Circle, Ulubari, Guwahati.
3. That on 20.6.1989, the applicant was transferred

Contd., 2/-

by the department to Lucknow, while his case was still pending for disposal before the Hon'ble Guwahati Bench.

4. That by the time of applicant could get his case transferred to the Hon'ble Lucknow Bench, it was disposed of by the Hon'ble Guwahati Bench on 27.6.1989, in favour of the applicant.

5. That in its judgement, the Hon'ble Guwahati Bench directed the General Manager (Telecom), Assam Circle, ULUBARI, GUWAHATI, to hold enquiry proceedings which may be completed within six months from the date of passing of the order. (i.e. from 27.6.1989). A copy of the said Judgement is annexed here and is marked as Annexure A-1.

6. That the judgement was delivered on 27.6.1989 but till date no enquiry proceedings have been initiated/conducted although more than one year has elapsed.

7. That due to non-compliance of the judgement of the Hon'ble C.A.T. Guwahati Bench, the applicant moved a Contempt Petition before the Central Administrative Tribunal, Lucknow Bench

Contd....3/-

under whose jurisdiction, the applicant is now working.

8. That, the Hon'ble Lucknow Bench was gracious enough to admit the same and it directed the applicant to arrange for and produce his file before the Lucknow Bench, so that his Contempt Petition may be decided expeditiously.

9. That the applicants case file bearing O.A. No. 179/87(Guwahati Bench) is with Guwahati Bench at present and the same is needed by the Lucknow Bench of the Hon'ble C.A.T. for speedy disposal of the Contempt Petition.

Prayer:

- I) 1a. That your Lordships may be gracious enough to pass an order transferring the case file bearing O.A. No. 179/1987(Guwahati) from Guwahati Bench to Lucknow Bench so that the contempt petition filed by the applicant be disposed of expeditiously.
- II) That the applicant is not in a position to file his Contempt Petition before Guwahati Bench, as this would involve a huge expenditure.

Contd..

which is beyond to the applicant
who has a meagre income and is
drawing very small ~~any~~ salary.

- iii) Pass any other/ or further
orders as this Hon'ble Tribunal
may deem fit and proper in the
light of the facts and
circumstances of the case.

AND FOR THIS ACT OF YOUR
THE PETITIONER SHALL
AS IN DUTY BOUND
SHALL EVER PRAY.

Contd.....5/-

VERIFICATION;

Verified that the contents of the above
paras are true and correct to the best of
my knowledge and legal pleas believed to be
true on legal advice.

Verified at New Delhi on 27-7-90

Chandra Bhal Gupta
APPLICANT

6

Central Administrative Tribunal
Guwahati Bench

.....

Regn. No. G.C. 179 of 1987

Date of Decision 27th June 88

Shri Chandra Bhal Gupta

... Applicant.

Vc.

The G.M.¹(T) Assam Guwahati • ... Respondents,

For the applicant

... Shri B. Malakar,
Advocate.

For the respondents

... Shri G. Sharma,
Addl. C. G. S. C.

CORAM: Hon'ble Mr. J. C. Roy, Administrative Member.
Hon'ble Mr. T. S. Oberoi, Judicial Member.

JUDGEMENT

(Judgement of the Bench delivered by
Hon'ble Shri T. S. Oberoi, Member(Judl.))

This is an application under Section 19 of the Administrative Tribunals Act, 1985, filed on 18th November, 1987 by applicant, Shri Chandra Bhal Gupta, who is presently serving as Junior Accounts Officer, in the office of General Manager (Telecom), Assam Circle, Ulubari, Guwahati.

2. The case of the applicant, briefly, is that he joined as Postal Clerk on 9.3.1967, in the office of SSPO, Lucknow, and after serving in various capacities and at different places, while he was posted as Junior Accounts Officer at Jabalpur, there was a case registered against him by the C.B.I., on certain allegations of disproportionate income and assets. This case was numbered as Case No. 5 of 1983 and was tried in the court of Special Judge (Anti-corruption), Lucknow. He was, however, acquitted in the said case on 2.4.1987, but the department again issued a memorandum against him, in a departmental proceeding, vide memo No. 8/30/80-Vig-II dated 18.1.1985, alleging

incorrect pre-checking of a bill of Rs.2000/- by him, while working as J.A.O. under G.M. (T), Kanpur, without the certificate of J.E. and A.E. and without approval of the competent authority and thus charging him with lack of devotion to duty. The applicant's further plea is that nothing substantial has taken place in the said proceedings which is virtually at a stand-still, and thus, has resulted in undue hardship and prejudice to him, inasmuch as the applicant has been denied departmental promotion as Accounts Officer, whereas persons junior to him have been so promoted. He also referred to letter No.86/1/85-Vig.-II dated 6th February, 1985 issued by the Deputy Director (Vig.) directing expeditious disposal of the disciplinary cases and also laying down a time schedule, for completion of various stages in the enquiry proceedings. He also stated that inspite of representations by him in this regard, precious little has been done and hence, this application with the prayer:

- (i) the applicant may be given officiating promotion with effect from 19.10.1981 and regular promotion with effect from 16.12.1985, in the line when his juniors had been promoted; and
- (ii) all his personal claims such as TA, Medical, Children Education Allowance and leave cases pending with the G.M. (T), North-East Circle and G.M. (T) Assam Circle be settled.

3. The respondents, in their written statement/ reply have stated that the departmental case has nothing to do with the earlier C.B.I. case in which, the applicant had since been acquitted, and that the departmental case is quite a different one, in which the applicant, besides some other retired officials,

have been proceeded against under the CCS Pension Rules, 1972, after obtaining sanction of the President of India. It was further mentioned that after the receipt of the intimation about applicant's acquittal in the C.B.I. case, the department had reviewed the position regarding applicant's promotion, and he was twice considered by a duly constituted D.P.C. for his promotion as an Accounts Officer in Indian P & T Accounts and Finance Service Group 'B', but on account of the disciplinary case pending against him, findings of the D.P.C. have been kept in sealed cover. In the additional written statement filed on behalf of the Respondents, it was also contended that the applicant had forfeited his claim for officiating promotion, for his involvement in the Court cases and the departmental disciplinary proceedings drawn against him, including C.B.I. enquiry.

4. In the rejoinder filed by the applicant, while reiterating his assertions made in the application, many more instances of his juniors having been given officiating promotions, in short-term vacancies, which continued for years, were narrated. As regards departmental proceedings, it was alleged that the same were being deliberately prolonged, with a view to deprive him of his due promotion. Moreover, according to him, a petty departmental disciplinary proceedings could not be a ground for withholding his promotion.

5. During arguments, the learned counsel for the applicant did not press his case so far as it related to relief No. (ii), regarding settlement of his personal claims on account of T.A., Medical, leave, etc. As regards relief No. (i), the learned counsel for the

Ken

applicant referred to A.T.R. 1987(1) C.A.T. 547 (K.Ch.Vankata Reddy & Others v. Union of India & Others), decided by the Full Bench of Central Administrative Tribunal (Hyderabad), in which while discussing the conflicting views of various High Courts on the question of considering the case of an officer facing departmental enquiry proceedings/criminal case, it was held that there is no bar to the consideration of the case of such like officer for his adhoc promotion, by a duly constituted D.P.C., irrespective of the existence of departmental disciplinary proceeding/criminal case. The learned counsel also brought to our notice the revised instructions issued by the Government of India, Departmental of Personnel & Training, under their Office Memo.No.22011/2/86-Estt.(A) dated 12th January, 1988, dealing with cases of officers in the consideration zone for promotion.

6. We have carefully considered the plea put forth by the learned counsel for the applicant, together with the citation referred to, by him. We have also carefully perused copies of documents placed on record. The applicant's case, broadly speaking, has to be looked into from two aspects. Firstly, inspite of having been charge-sheeted as early as 18.1.85 that is more than four years ago, the same has not been finalised, and therefore, requires to be disposed of expeditiously. Secondly, his case for promotion as Accounts Officer with effect from the date his next junior was promoted be considered. As regards the first aspect, we feel that inspite of departmental instructions (Copy at Annexure-V to the application), laying down a time-schedule for completion of the

enquiry proceedings, the same has not been adhered to, in this case. The respondents, in their written statement, have attributed the delay in procuring the documents to be supplied to the applicant, besides some others, charged alongwith him, for purpose of their defence. Whatever be the reasons, in view of the time-lag already involved and in view of the departmental instructions issued on the subject, the desirability of early finalising the disciplinary enquiry proceedings cannot be over-emphasised, and we direct that the enquiry proceedings may be completed within six months from the date of this order.

As regards the second aspect, para 6 of the Government of India, O.M. dated 12.1.88, referred to by the learned counsel for the applicant, lays down a clear guideline on the subject. The applicant has since been acquitted in the Criminal case against him. Since the departmental proceedings against him have not concluded even after expiry of two years from the date of meeting the first D.P.C., his case for purely adhoc promotion, in terms of para 6 of the O.M. earlier referred to, irrespective of the continuation of the departmental enquiry proceedings, be considered, by a duly constituted D.P.C., and after the conclusion of the enquiry proceedings, depending upon the result of the proceedings, his case be re-examined on the basis of sealed-cover procedure, in the light of the instructions contained in the O.M. dated 12.1.1988, and also as held in the Full Bench ruling, referred to above.

: 6 :

11
H/5

7. Thus, while declining the relief No. (13),
in terms as it was sought for by the applicant, the
application is decided, with the directions, as
indicated above. We make no order as to costs.

Sd/- J.C.Rey
27.6.89
MEMBER (ADMN)

Sd/- T.S.Oberoi
MEMBER (JUDL)

COPIES
X.P.A.M. 29/6/89

To cc
29.6.89

3.8.1990

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

5/29

M.P.-1802/90 in
O.A.-179/87 (Guwahati Bench)

The prayer made in this MP is rather strange. The applicant had filed the O.A. before ~~the~~ Guwahati Bench of the Tribunal, which was decided in his favour. The applicant, meanwhile, has been transferred from Guwahati. Since the order of the Tribunal has not been implemented, he filed a contempt petition against the respondents for non-implementation of the order of the Tribunal at Lucknow. He has now prayed that the relevant record may be transferred to the Lucknow Bench from Guwahati Bench of the Tribunal.

I have considered the matter. A copy of the CCP has not been sent here. Presumably, the allegation is that the respondents have committed contempt of court by non-implementing the order of the Guwahati Bench of the Tribunal. In that event, the CCP would lie before the Bench of the Tribunal where the O.A. was decided.

Let an intimation be sent to Lucknow Bench of the Tribunal to send a copy of the CCP for ~~xxx~~ perusal of the Chairman as well as copy of the order passed by ~~xxx~~ Lucknow Bench of the Tribunal. This may be supplied to this Tribunal and the case be listed on 31.8.1990 for orders..

CERTIFIED TRUE COPY

Dt.....

[Signature]

Section Officer

(AMITAV BANERJI)

Central Administrative Tribunal
Principal Bench New Delhi

CHAIRMAN
3.8.1990



SRD

12.12.87

Regal. AD

(27)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Faridkot House,
Copernicus Marg,
New Delhi-110001

Dt: 8.8.90

FROM:

Deputy Registrar(J)
Central Administrative Tribunal,
Principal Bench, Faridkot House,
NEW DELHI.

To,

The Deputy Registrar,
Central Administrative Tribunal,
Lucknow Circuit Bench,
Gandhi Smarak Nidhi,
Gandhi Bhavan,
Lucknow (U.P)

36

11620
Received
29.8.90

Judr
29.8

MP 1802/90

REGN NO.OA- 179/87 (Guwahati Bench)

Chandra Bhal Gupta

VERSUS

G.M.(T) Assam Guwahati

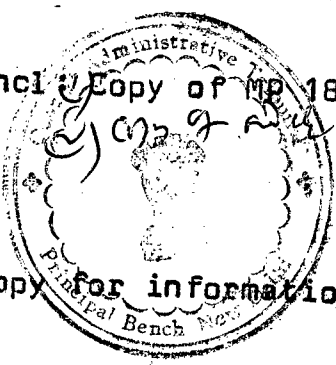
*****APPLICANT(S)

*****RESPONDENT(S)

Sir,

I am directed to forward herewith a copy of ~~XXXXXXX~~ Order Dt:
3.8.90 passed by this Tribunal in the above mentioned
Case for information and necessary action, if any,
Please acknowledge the receipt.

Encl: Copy of MP 1802/90



YOURS FAITHFULLY,

(B.K.SHARMA)
SECTION OFFICER(Judl-II)
FOR REGISTRAR.

Copy for information to:-

The Deputy Registrar, Central Administrative
Tribunal, Guwahati Bench, Rajgarh Road,
GUWAHATI- 781 005.

Guwahati