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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

C.P.18 of 2005. (In O.A.No.33 of 1997)

Date of Decision: This the 9th Day of March, 2006.

HON'BLE MR.B.N.SOM, VICE-CHAIRMAN(A)
HON'BLE MR.K.V.SACHIDANANDAN, VICE-CHAIRMAN(J)

1. Shri Vim Kharkhonger
Formerly Driver,
Office of the Commissioner,
Customs & Central Excise,
Shillong. Petitioners.

By Advocate Mr.M.Chanda,
Mr.G.N.Chakraborty,
S.Nath.

-versus-

1. Shri A.K.Singh,
The Chairman,
Central Board of Central Excise & Customs.
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
2. Shri Karnail Singh,
Commissioner of Central Excise,
Morello Compound,
Shuillong-793001. Alleged contemniers.

By Advocate Mr.G.Baishya, Sr.C.G.S.C.

O R D E R (ORAL)

K.V.SACHIDANANDAN: (V.C)

The Contempt Petition has been filed by the applicant for non-implementation of the order dated 20.8.1999 passed in O.A.No.33 of 1997. The counsel for the applicant Mr.M.Chanda drawn our attention of the operative part of the judgment which reads as follows:

" Under the circumstances the termination of the applicant without following the procedure prescribed under Article 311 is illegal and liable to be set aside.

Accordingly we set aside the order of termination as well as the order passed by the appellate authority. The applicant shall be deemed to be in service with all consequential service benefits."

The applicant further draw our attention to the order dated 28.12.99 passed by the commissioner of central excise. The same is reproduced below:

**"CUSTOMS AND CENTRAL EXCISE , SHILLONG
ESTABLISHMENT ORDER No.144/1999
DATED, SHILLONG THE 28TH DECEMBER, 1999.**

In pursuance of Hon'ble CAT's Order No.CAT/GHY/JUDL/3083 dated 27.09.99 Shri Vim Kharkongor, Driver reported for duty on 25.10.1999(f/N). As such, Shri Vim Kharkongor, Driver may be allowed to draw his salary w.e.f. 25.10.99(F/N). He may also be allowed to draw his arrear salary from the date when he was terminated from service, after making necessary calculations.

(Z.TOCHHAWNG)
COMMISSIONER
CENTRAL EXCISE , SHILLONG."

He further draw our attention to the order dated 6.9.2005 passed by the Additional Commissioner P&V). The same is also quoted below:

**"OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
MORELLO COMPOUND, M.G.ROAD, SHILLONG-793001.**

**ESTABLISHMENT ORDER NO.121/2005
DATED , SHILLONG, THE 6TH SEPTEMBER, 2005.**

The CAT, Guwahati Bench vide order dated 20.8.1999 in O.A.No.33/1997 filed by Shri Vim Kharkonger, Driver set aside the order of termination as well as the order passed by the appellate authority. The CAT also directed that the applicant shall be deemed to be in service with all consequential service benefits. Against the CAT's order, the department filed appeal before the Guwahati High Court. The appeal was dismissed vide order dated 3.2.2005 with a direction to comply with the

order of the learned Tribunal. In compliance with the CAT's order dated 20.8.1999 and the order of the Guwahati High Court, an Establishment order No. 110/2005 dated 13.8.2005 was issued wherein, Shri Vim Kharkhonger, Driver was directed to report for duty immediately. Accordingly, Shri Vim Kharkhonger, Driver reported for duty on 16.8.2005.

As such, Shri Vim Kharkhonger, Driver may be allowed to draw his salary w.e.f. 16.8.2005. The period from the date of his termination till the date of his joining may be regularised by way of grant of extra ordinary leave. However, No pay shall accrue to him for the period of extra ordinary leave.

(J.P.MAMGAIN)
ADDITIONAL COMMISSIONER.(P&V)"

It appears that two contradictory orders has been passed in compliance of the order dated 20.08.1999 passed in O.Ano.33/1997.

The learned counsel for the applicant submits that although petitioner has been reinstated in service but he has not been paid consequential benefits as per direction of the Tribunal. On the other hand Mr. G. Baishya Sr. CGSC however, submits that there is a substantial compliance ~~is made~~ and also drawn our attention to the order dated 10.3.2000 passed in C.P.40/99. Mr. Baishya also relied on the Judgment of the Supreme Court passed in J.S.Parihar vs. Ganpat Duggar reported in 1996 6(SCC),291. The learned counsel for the applicant in support of his contention relied on the 1990(1) SLJ (1) page, 637 , ATC 1992 Vol.19. Page 365 G.Nancharaiah Vs. K.Pillai and others and also on the decision of Union of India vs. A.K.Mittal decided on 25.11.1983 by the Delhi High Court on the question of entitlement of consequential benefits. Be that as it may, it appears that there is substantial compliance of the order passed by the learned Tribunal. Therefore, we drop the contempt proceeding



with, liberty to the contempt petitioner to approach the appropriate authority for the redressal of his grievances and he is also at liberty to approach the appropriate forum if, so advised.



(K.V.SACHIDANANDAN)
VICE-CHAIRMAN(J)



(B.N.SOM)
VICE-CHAIRMAN(A)

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