

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI.5 (FORM NO.4)
(See Rule-42)

ORDER SHEET.

Contempt APPLICATION NO. 32/2000 (OA: 186/2000)

Applicant(s) *Sri Badri Sarma.*

Respondents(s) *Sri A.N.D. Kachari and another.*

Advocate for Applicant(s) *Mr. M. Chanda*
Mrs. N.D. Goudamoni.

Advocate for Respondent(s)

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

*The learned
applicant Advocate
has been filed this
Contempt petition
against the non
of the Tribunal order
dt. 7.6.2000 passed
by this Hon'ble
Tribunal.*

23.10.2000

Present : Hon'ble Mr. Justice D.N.
Chowdhury, Vice-Chairman

List the matter after two weeks
to enable Mr.A. Deb Roy, learned Sr.
G.G.S.C. to obtain necessary instruc-
-tions.

List on 7.11.00 for further
orders.

[Signature]
Vice-Chairman

mk

~~7.11.00~~

~~Let this case be listed on 23.11.00
for orders.~~

~~Vice-Chairman~~

7.11.00

Let this case be listed on
8.11.00 for orders.

[Signature]
Vice-Chairman

lm

8.11.00

Heard Mr.M.Chanda learned counsel for
the applicant and also heard Mr.A.Deb
Roy, Sr.C.G.S.C. for the respondents.

Mr.A.Deb Roy has produced a communi-
cation sent to him on behalf of the
Chief Postmaster General, Assam Circle.
Mr.A.Deb Roy, has referred to the inst-
ructions sent to him on behalf of the
respondents. The plea is not accepted.
The respondent No.2 is directed to
present before this Tribunal on 23.11.

[Signature]
Vice-Chairman

lm

Copy of the order be
furnished to the counsel for
the parties.

By Order

[Signature]

Order dt. 8/11/2000 Communicated
to Respondent No.2 and Counsel
for parties vide D.No. 2563
2564 dt 13/11/2000

Section officer

Bor

Inform 4/10/2000

23.11.00 As per the order dated 8.11.00 the alleged contemner No.2 was to appear in person. Mr A. Deb Roy, learned counsel appearing on behalf of the aforementioned contemner stated that the contemner No.2 is on leave since 2.11.2000 for 61 days. However, considering the prayer of the learned counsel and considering all aspects the time for appearing of the alleged contemner No.2 is extended upto 8.12.2000.

List on 8.12.2000 for further order.

Vice-Chairman

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8.12.00 The Respondent No.1 Sri A.N.D. Kachri, the Director of Postal Services, Assam Circle, Guwahati is present in Court today though no such order was there for his presence. On the other hand, the Court's order was for a direction that Shri R.S. Nataraja Murty, the Chief Post Master General, Assam Postal Circle, Guwahati is to be present in person in Court today.

Mr. A. Deb Roy, learned Sr. Central Govt Standing Counsel has referred to the letter earlier mentioned to the Tribunal issued on 20.11.00 as per order dtd 8.11.00 indicating that the Respondent No.2 was on leave since 2.11.2000 following the death of his relative for 61 days and had left for his home place on that day. His plea is not accepted.

However, further two weeks time is allowed to the said respondent to appear in Court in person.

List on 2.1.2001 for personal appearance and for further orders.

Vice-Chairman

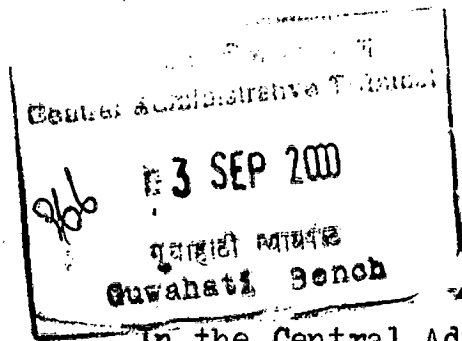
mk

Notes of the Registry	Date	Order of the Tribunal
	8.12.00	<p>Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>The Respondent No.1 Sri A.N.D. Kachri, the Director of Postal Services, Assam Circle, Guwahati is present in Court today though no such order was there for his presence. On the other hand, the Court's order directed Shri R.S. Nataraja Murty, the Chief Post Master General, Assam Postal Circle, Guwahati to be present in person in Court today.</p> <p>Mr. A. Deb Roy, learned Sr. Central Govt Standing Counsel has referred to the letter earlier mentioned to the Tribunal issued on 20.11.00 as per order dated 8.11.00 indicating that the Respondent No.2 was on leave since 2.11.00 following the death of his relative for 61 days and had left for his home place on that day. The same plea was also made earlier on 23.11.00 which was found not acceptable.</p> <p>However, further two weeks time is allowed to the said respondent to appear in Court in person.</p> <p>List on 2.1.2001 for personal appearance and for further orders.</p> <p style="text-align: right;"><i>[Signature]</i> Vice-Chairman</p>
<p>Order dtd 8/12/00 communicated the parties Counsel-ride No. <u> </u> dtd <u> </u></p> <p>12/12/00</p> <p>19.12.2001</p> <p>Copy of the order has been sent to the D/Sec. for Security ^{Security} in Shri ^{Shri} to the L/Advocate for IS parties.</p> <p><i>HS</i></p>	<p>nk</p> <p>NS 8/12/2000</p> <p>2.1.01</p> <p>lm</p> <p>NS 3/01/01</p>	<p>Mr. B.C. Pathak, learned Addl. C.G.S.C. has submitted that the judgment and order dated 7.5.2000 rendered in O.A.No.186 of 2000 is fully complied with. A copy of the order dated 19.12.2000 to that effect is produced before the Court. The copy of the order shall form a part of the records. Accordingly, C.P. is closed and all consequences ^{to order or orders thereon} to the proceedings also stand dissolved.</p> <p style="text-align: right;"><i>[Signature]</i> Vice-Chairman</p>

Notes of the Registry

Date

Order of the Tribunal



In the Central Administrative Tribunal

Guwahati Bench at Guwahati.

Filed by me applicant
through N.D. Goswami
Advocate.

Contempt Petition No. 32 /2000
In O.A. No. 186/2000

In the matter of:

Shri Badal Sarma

..... Petitioner.

- Vs -

Union of India and others.

..... Contempners.

-And-

In the matter of :

An application under Section 17 of the
Administrative Tribunal Act 1985 praying
for initiation of a ^{Contempt} ~~Concept~~ of proceeding
against the contempner for non -
compliance of the judgment and order
dated 7.6.2000 in O.A. No. 186/2000.

-And-

In the matter of :

Shri Badal Sarma

Working as Sub-Divisional
Inspector of Post Offices,
Dhubri, Assam.

-Versus-

1. Sri A.N.D. Kachri

Director of Postal Services
Assam Circle, Guwahati.

2. Shri R.S. Nataraja Murty

The Chief Post Master General

Assam Postal Circle, Guwahati. ✓

1. That your applicant being highly aggrieved approached this Hon'ble Tribunal for non-consideration of his promotion ~~of~~ to the post of Assistant Superintendent of post officers interms of promotion order issued under memo No. Staff/2-29/91 dated 12.6.98 through original application no. 186/2000 (B. Sarma Vs Union of India and others), this matter came up for admission before this Hon'ble Tribunal on 7.6.2000 and the Hon'ble Tribunal was pleased to dispose of this original application after hearing the argument of the parties and also taking into consideration the fact that promotion of the applicant has been deferred for a period of one year by the respondents/contemner vide their order dated 31.8.98 on the basis of request of the applicant, however, the Hon'ble Tribunal dispose of the matter with the following direction.

"2. Heard the learned counsel for the parties.

3. At the admission stage the OA is decided with a direction to the respondents to consider the two representations, Annexure -5 dated 22.11.1999 and the other representation dated 21.3.2000 in the light of the existing rules on the subject and the respondents shall promote the applicant in case any vacancy exists. The representations shall be decided within a period of one month from the date of receipt ~~of a copy~~

~~of one month from the date of receipt of a copy of this order.~~ The applicant shall send a copy of this order alongwith the copies of the representation, Annexure 5 dated 22.11.1999 and the subsequent representation dated 21.3.2000 to the respondents.

4. The O.A. is decided as per the direction given above. No costs."

From above it is Quite clear that although the Hon'ble Tribunal directed to dispose of ~~this~~ representation of the applicant dated 22.11.99, 21.3.2000 and also made categorical direction that the respondents shall promote the applicant in case any vacancy exists, therefore their is no ambiguity in the judgement and order dated 7.6.2000 ~~in~~ passed in O.A. No. 186/2000 that the Respondents/Contemners are duty bound to promote the applicant to the post of Assistant Superintendent of Post Offices in case there is any vacancy exists.

Copy of the judgement and order dated 7.6.2000 in O.A. No.186/2000 is enclosed as Annexure -1.

2. That your applicant immediately after receipt of ~~the~~ judgement and order dated 7.6.2000 served upon the same to the contemner no.1 and 2 along with his letter dated 12.6.2000 by registered post with A/D and the same were duly received by the contemner no. 1 and 2. In the letter dated 12.6.2000 the applicant requested the ~~director~~ ^{Director}

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of postal services as well as to the Chief Post Master
@ General Assam Circle Guwahati for implementation of
the judgement and order dated 7.6.2000 passed in O.A.
No. 186/2000. In the said letter dated 12.6.2000 the
applicant in paragraph 3 stated categorically that there
are two vacant post of A.S.P.O. are available, it is also
pointed out that one such vacancy is available at Dhubri
and other due is available at Jorhat.

Copy of the letter dated 12.6.2000 is enclosed
as Annexure -2.

3. That most surprisingly the Director of Postal
services/contemner no.1 issued the letter bearing no.
Staff/1-441/88 dated 5.7.2000 whereby it is informed
to the applicant that the matter of promotion to the
cadre of A.S.P.O. has been further examined taking into
account the aspect of foregoing promotion and intimated
that the case of promotion of the applicant will come
under the Zone of consideration in due course under the
provision of existing rules when vacancy arises. It is
further intimated that there is no clear vacancy in
A.S.P.O.'s cadre for regular absorption on promotion the
aforesaid letter dated 5.7.2000 has been passed mechani-
cally and without application of mind and also without
taking into consideration the real contents of the order
passed by the Hon'ble Court. It is categorically stated
that there are two clear vacancy of A.S.P.O. are still
available under the Chief Postmaster General Assam Circle.

The statement made by the contemner no.1 in his letter dated 5.7.2000 that there is no clear vacancy in A.S.P.O's cadre for promotion on regular basis is totally false, misleading and the said statement has been made by Shri A.N.D. Kachari contemner no.1 with an ulterior motive to mislead the Hon'ble Tribunal and also with a view of intention to avoid implementation of the Hon'ble order dated 7.6.2000 passed in O.A. No. 186/2000 as such, non-consideration of promotion of the applicant with the pretext that there is no clear vacancy is incorrect . And not based on factual position . There-fore non implementation of the order dated 7.6.2000 passed in O.A. No. 168/2000 is willful violation of the Tribunal order mention above which is amount to contempt of court.

A copy of the letter dated 5.7.2000 is enclosed as Annexure - 3.

4. It is further stated that the alleged contemner no. 1 be put into strictest proof that there is no clear vacancy, Hon'ble Tribunal be pleased to direct the Respondent/contemner no.1 to produce the total cadre strength of ~~xxxxxx~~ A.S.P.O's under the Assam Circle with the list of Officers serving on regular basis in the cadre of A.S.P.O's through out the circle and further be pleased to direct the contemnners to produce the list of officer who are promoted on regular basis in terms of promotion order issued under 12.6.98.

It is further categorically submitted that the vacancy of A.S.P.O. at Dhubri is vacant till date after transfer of Shri T.K. Choudhury A.S.P.O. from Dhubri to Guwahati in the month of January, 2000 and since then the said post is lying vacant. As such there is no difficulty on the part of the respondents/contemner to consider the promotion of the applicant at Dhubri against the available vacant post of A.S.P.O. in terms of the judgement and order dated 7.6.2000.

That the contemner No.1 did not take any action deliberately to implement the judgement and order dated 7.6.2000 and wilfully disobeyed the same, therefore the action of the contemner is ^{amount to} ~~amount to~~ the contempt of the Hon'ble Tribunal. Therefore, the Hon'ble Tribunal be pleased to initiate contempt proceeding against the contemner for willful non-compliance of the judgement and order dated 7.6.2000 in O.A. No. 186/2000.

6. That this application is made bonafide and for the ends of justice.

Under the facts and circumstances stated above the Hon'ble Tribunal be pleased to initiate contempt proceeding against the contemner for wilful non-compliance of the judgement and order dated 7.6.2000 passed in O.A. No.186/2000 and further be pleased to impose punishment in accordance with law ;
-And -
for this act of kindness Your petitioner as in duty bound shall ever pray.

A F F I D A V I T

I, Shri Badal Sarma, working as Sub-Divisional Inspector of Post - Offices, in the District of Dhubri, Assam, petitioner in the above contempt petition do hereby solemnly affirm and declare as follows :-

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in para 1-6 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal Judgement and order dated 7.6.2000 passed in O.A. No. 186/2000.

And I sign this affidavit on this 5th day of August 2000 at Guwahati.

Shri Badal Sarma

Deponent

Identified by me

N.D. Goswami
Advocate.

Solemnly affirmed and declared before me by the deponent who is identified by Mrs. N.D. Goswami, Advocate on this 5th day of August, 2000

Mamir K Chouda
Advocate.

DRAFT CHARGE

Laid down before the Hon'ble Central -
Administrative Tribunal, Guwahati Bench, Guwahati
to initiate contempt proceeding against the alleged
contempners/respondents for wilful and deliberate
non-compliance of judgement and order dated 7.6.2000
passed in O.A. No. 186/2000 and further be pleased
to impose punishment upon the Contemners/Respondents
for wilful and deliberate non-compliance of judgement
and order dated 7.6.2000 passed in O.A. No. 186/2000.

- 9 - Annexure - 1
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.186 of 2000

Date of decision: This the 7th day of June 2000
(At Admission Stage)

The Hon'ble Mr D.C. Verma, Judicial Member

Shri Badal Sarma,
Working as Sub-divisional Inspector of Post Offices,
Dhubri, Assam.Applicant

By Advocates Mr M. Chanda, Mrs N.D. Goswami,
Mr G.N. Chakrabarty and Mr S.K. Ghosh.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Communication,
Department of Post,
New Delhi.
2. The Chief Postmaster General,
Assam Postal Circle,
Guwahati.
3. The Director of Postal Services,
Assam Circle,
Guwahati.
4. Shri A.N.D. Kachari,
Director of Postal Services,
Assam Circle,
Guwahati.Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

ORDER

D.C. VERMA (JUDICIAL MEMBER)

The applicant's case is that by order, Annexure 2, dated 12.6.1998 the applicant was promoted to the post of Assistant Superintendent of Post Offices on regular basis. However, due to personal problem, the applicant sent a representation, Annexure 3 dated nil for deferment of his promotion for one year. The said representation was accepted by the respondents vide Annexure 4 dated 31.8.1998 and it was provided that the applicant would not be promoted for one year from the date of refusal and will loose seniority on eventual promotion under the existing rules. After completion

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of the one year period the applicant made representation, Annexure 5 dated 22.11.1999. Subsequent thereto, another representation was sent on 21.3.2000. Copy of the representation dated 21.3.2000 is not on record. Mr M. Chanda, learned counsel for the applicant, states that none of the two representations have been decided by the respondents till date. The submission of the learned counsel for the applicant is that though two vacancies, one at Dhubri and one at Jorhat, are available still the respondents have not considered the representations of the applicant for promotion to any of the two posts.

2. Heard the learned counsel for the parties.

3. At the admission stage the O.A. in favour of the applicant was issued in the direction to the respondents to consider the representations, Annexure 5 dated 22.11.1999 and the other representation dated 21.3.2000 in the light of the existing rules on the subject and the respondents shall promote the applicant in case any vacancy exists. The representations shall be decided within a period of one month from the date of receipt of a copy of this order. The applicant shall send a copy of this order alongwith the copies of the representation, Annexure 5 dated 22.11.1999 and the subsequent representation dated 21.3.2000 to the respondents.

4. The O.A. is decided as per the direction given above.
No costs.

Certified to be true Copy

प्रमाणित प्रतिलिपि

[Signature]
9/6/2000

Section Officer (J),

बानुपारा जमिंदारी (न्यायिक) ब्रांच
Central Administrative Tribunal.

केन्द्रीय प्रशासनिक अधिकरण

Guwahati Bench, Guwahati

गुवाहाटी बेंच, गुवाहाटी

[Signature]
9/6/2000

Sd/MEMBER (J)

11- Annexure-2
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F.B.O. No.

Shri. Badal Sarma,
Inspector of Post Offices, Rnub.
at Ward No. 111,
P.O. Bilashipara - 783348

dt. 12th June, 2000

- 2 (a) Chief Inspector General, Assam Rail, Guwahati.
(b) Deputy Chief Inspector General, Assam Rail, Guwahati.
(c) Asst. Inspector General (Staff) Guwahati.

Subj: Prayer for implementation of the Guwahati
Tribunal Judgement and Order dt. 7/6/2000
passed in O.A.No.186/2000 (Shri Badal Sarma
-vs-Union of India & others) promoting the
undersigned to the post of Asstt. Supdt. of
Post offices in the Existing vacancies either
at Rnubri or at Jorhat.

Respected Sir,

I would like to draw your kind attention on the subject
cited above and further say to state that I approached the
Hon'ble Tribunal for my promotion to the post of Asstt. Supdt.
of Post offices by filing an Original application which was
registered as O.A.No.186/2000.

2. The Hon'ble Tribunal was pleased to dispose of the said
representation with the direction to consider my representation
dt. 22/11/99, 21/03/2000 and also with a clear direction to
promote the undersigned to the post of Asstt. Supdt. of Post offices
in case any vacancy exists.

3. I humbly submit at present there are two vacant post
available of the Cadre of Assistant Supdt. of Post offices one
at Rnubri and other at Jorhat under your kind disposal. As such
I am requesting you to promote me to the post of Asstt. Supdt. of
Post offices in any of the aforesaid vacancy.

contd....2

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4. I am enclosing copy of the representation dt.22/11/99, 21/3/2000 and also a copy of the Judgment & Order dt.7/6/2000 passed in O.A.126/2000 for your ready reference .

5. The relevant portion of the Judgment in para 3 says as follows:

" And the Respondents shall promote the applicant in case any vacancy exists."

In view of the aforesaid direction of the Hon'ble Tribunal to implement the same portion the undersigned to the post of Assistant Supt.of Post offices as early as possible .

With profound regards,

Yours faithfully,

~~Prakash Chandra~~
(BIMAL SARKAR)

Ward No.111,

~~Alipore~~

Enclosed

Cited in para - 4

- 13- *Annexure 3*

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL, ASSAM CIRCLE, GUWAHATI-1

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To ✓

Regd

Shri Badal Sarma
Inspector of Post Offices, Dhubri
at Ward No. III
P.O. Bilashipara-783348.

No. Staff/1-441/88

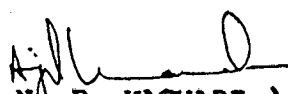
Dated at Guwahati the 5/7/2000

Sub :- Promotion to the cadre of ASPOS - case of Shri Badal Sarma IPOS/Dhubri vide CAT/Guwahati OA No.186/2000 (Badal Sarma Vs Union of India).

Ref :- Your representation dtd. 12-6-2000 on above.


With reference to your representation on above and CAT/Guwahati verdict OA No.186/2000 (Badal Sarma Vs Union of India) regarding your promotion to ASPOS cadre, the matter has been further examined taking in to account the aspect of your forgoing promotion vide your representation dtd. 12-6-98 and it is intimated that your case of promotion to that cadre will come under the zone of consideration in due course under the provision of existing rules when vacancy arises.

It may further be stated that at present, there is no clear vacancy in ASPOS cadre for regular absorption of ASPOS on promotion as indicated in your representation referred to above.


(A. N. D. KACHARI)
Director of Postal Services
O/O The Chief Postmaster General
Assam Circle, Guwahati-1.

Copy to :-

The Supdt. of P.Os, Dhubri for information


For Chief Postmaster General
Assam Circle, Guwahati-1.

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