

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI, 5

Contemner = ORIGINAL APPLICATION NO. 39/2000 (O.A. No. 267/00)

Sri. D.K. Moghe Applicant.

versus

Union of India & Ors Sri. J. Guile Respondents.

For the Applicant(s) Dr. M. Pathan

For the Respondents. Mr. A. Deb Roy, Sr. BSL

NOTES OF THE REGISTRAR

DATE

ORDER

The applicant's Advocate has filed this Contemner-Petition for non-compliance of the order of the Tribunal passed on 18.9.2000 in O.A. No. 267/00.

Laid before the Hon'ble Court & for order.

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

Issue notice to the alleged contemner. Notice returnable on 18.12.2000. Mr. A. Deb Roy learned counsel for the alleged contemner is present.

Vice-Chairman

16.11.00

6.12.2000

This is an application under Section 17 of the Administrative Tribunals Act, 1985, for drawing a contempt proceeding for violation of the order of the Tribunal dated 18.9.2000. On 18.9.2000, the Tribunal passed an interim order in O.A.No.267/2000 in the following manner:

"Meanwhile the applicant shall continue to work at Shillong until further orders and the respondents shall make payment of his salary from Shillong."

The order itself was passed on the strength of the statement

Notice prepared and sent to D/Sec for issuing the Respondent No 1 & 2 by Regd A/D. vide DINo 15.11.00

28/11/00

6.12.2000

made by the counsel that the applicant was continuing to work at Shillong. In the O.A. it appears that the applicant was released long before the applicant reached this Tribunal. The order of the Shillong Bench and the Principal Seat of the High Court ^{also} indicates that.

In the circumstances I do not find any merit in this application. The Contempt Petition accordingly stands dismissed.

Vice-Chairman

nkm

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

Issue notice to the alleged
contemner. Notice returnable on
18.12.2000. Mr. A. Deb Roy learned
counsel for the alleged contemner is
present.

Vice-Chairman

trd

13.12.2000
Copy of the order
has been sent to the
D/Sec. for issuing the
same to the L/Advocate
for the parties.
H.S.

Boo 15 NOV 2000

গুৱাহাটী কেন্দ্রীয়
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :GUWAHATI BENCH
AT GUWAHATI

Filed by the Petitioner
Through:
Nangimshree Pathak
Advocate, 13/11/2000

(CIVIL CONTEMPT JURISDICTION)

Contempt Petition No. 39 of 2000

In O.A.No.267 / 2000

In the matter of :-

An application under Section 17 of the
Central Administrative Tribunal Act, 1985
read with Rule 24 of the C.A.T (procedure)
Rules, 1987.

- And -

In the matter of :-

Wilful and deliberate violation of the
Order dated 18.9.2000 passed in O.A. No.
267/2000(Sh. D.K. Moghe - vs - Union of
India & Others).

- And -

In the matter of :-

Shri D.K. Moghe
Laban, Kanches Trace
Shillong -4.

..... Petitioner

-versus -

(1)Shri T.Guite

Joint Director (N.E)
Subsidiary Intelligence Bureau
(Ministry of Home Affairs)
Drubendra Bhawan, Kances Trace
Shillong -4

(2) Shri B.R.Sharma

Asstt. Director (Admn)

Subsidiary Intelligence Bureau

(Ministry of Home Affairs)

Drubendra Bhwan, Kanches Trade

Shillong -4.

... Contemners/Respondents.

The humble petition of the abovenamed petitioner,-

Most Respectfully Sheweth :-

1. That the petitioner is a citizen of India and a permanent resident of Dadar, Mumbai, Maharashtra and at present is posted at Shillong, S.I.B Department as Assistant Technical Officer and resides at Laban, Shillong, East Khasi-Hills, Meghalaya.
2. That your petitioner joined in the Department of S.I.B as Assistant Central Intelligence Officer, Grade-I on 7.9.74 at Mumbai and has completed 27 years of service without any blemish.
3. That the petitioner was transferred from Mumbai to Shillong on 16.9.1996 and that for the last three years ten months has been serving at Shillong, Meghalaya.
4. That the Government of India, Ministry of Finance (Department of Expenditure) vide Office Memorandum No. 20014/3/83-E.IV dated 14.12.83 made some special provisions applicable to the civilian employees posted in the States and the Union Territories of North-East as a measure for improvement of conditions of service thereby fixing the tenure of posting in the North-East etc.
5. That the Department of Intelligence Bureau, Ministry of

... contd...p/3

Home Affairs, Govt. of India, vide their Circular Memo No. 4/c-6/98-(7)-9921-93 dated 22.11.99 brought out the guidelines to consider the case of transfer to plain stations. The petitioner falling under the category of hard stations, thus become eligible to be posted to a choice station.

6. That the petitioner had made several representations for his transfer to choice station as per the Circular dated 14.12.83 and 22.11.99. The petitioner sought transfer to his choice station, Mumbai. Although the representations of the petitioner was rejected, but the contemners/respondents wait listed his name to provide his transfer to choice station in future.

7. That at this stage, the respondents transferred the petitioner from Shillong to Ahmedabad vide transfer order No. 4/c-6/2000(8)-932-990 dated 16.2.2000. The petitioner had never applied for his transfer to Ahmedabad. The petitioner's name being wait listed, he was expecting to get his posting at his choice station, Mumbai, but he has been transferred to Ahmedabad in violation of the terms of the aforesaid O.M. dt. 14.12.83 and the circular dt. 22.11.99.

8. That being aggrieved by the said order of transfer dated 16.2.2000, the petitioner had to approach this Hon'ble Tribunal by filing O.A.No.267/2000. In the said O.A.No.267/2000 the petitioner sought relief(s), amongst other, to direct the respondents, particularly the respondent No.2(in O.A.No.267/2000, respondent No.4) to release his salary from 1.7.2000 onwards. By the said order dated 18.9.2000, the Hon'ble Tribunal also passed in O.A.No.267/2000, allowed the applicant/petitioner to continue to work at Shillong untill further order directed the respondents to make payment of his salary from Shillong.

The copy of the said order was served on the respondents through Speed Post on 18.9.2000.

The copy of the said order dated 18.9.2000 along with the Postal receipt of Speed Post are annexed as Annexure-P1 and P2 respectively.

9. That inspite of receipt of the copy of the said order by the respondents, the respondents took no steps to pay the salary to the petitioner in violation of the Hon'ble Tribunal's order. Having no other alternative, the petitioner served a legal notice on the respondents through his advocate and the said notice was sent by registered post with A/D. But even ~~aga~~ after the lapse of month's time from the date of sending of the legal notice i.e. 9.10.2000 (neither the said legal notice nor the A/D card was returned) the respondents deliberately did not pay the salary to the petitioner without any reason or reply.

The copy of the legal notice dated 9.10.2000 alongwith the registered postal receipt are annexed as Annexure- P3 and P4 respectively.

10. That from the above facts and circumstances, it is very clear that the respondents have completely disregarded and disobeyed the order of the Hon'ble Tribunal for which they are liable for contempt of Court proceedings. In spite of the order of the Hon'ble Tribunal for payment of the salary to the petitioner from 1.7.2000 onwards the respondents have not paid the salary for which the petitioner is facing acute financial hardship to run his day to day life and his family.

11. That the petitioner states that this Hon'ble Court has the power to pass an appropriate order under Order 5, Rule 19A of the C.P.C. and to hold that the service is complete to secure the ends of justice. The petitioner further states that apart

... contdd...p/5

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from invoking the contempt jurisdiction, the Hon'ble Tribunal may also may invoke its power under Rule 24 of the C.A.T (Procedure) Rules, 1987 for appropriate relief.

12. That ~~that~~ this application has been made bonafide and to secure the ends of justice.

In the premises aforesaid, it is most respectfully prayed that the Hon'ble Tribunal may be pleased to issue notice calling upon the respondents to show cause as to why contempt of Court proceedings should not be drawn up against each and every one of them for willful and deliberate violation of the order dated 18.9.2000 passed in O.A.No.267/2000 and as to why appropriate order /direction shall not be issued towards compliance of the order dated 18.9.2000 passed in O.A.No.267/2000 and upon cause/causes that may be shown and on perusal of the records be pleased to punish the contemnors and further be pleased to pass appropriate order towards implementation of the said order and payment of salary from 1.7.2000 onwards and also be pleased to pass such further of other order/orders as the Hon'ble Tribunal may deem fit and proper.

And for ~~the~~is your petitioner, as in duty bound, shall ever pray.

A F F I D A V I T

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5(a)

DRAFT CHARGE

The applicant aggrieved for non-compliance of the Hon'ble Tribunal's interim order dated 18.9.2000 passed in O.A.No.267/2000 and also for not making the payment of salary from 1.7.2000 onwards from Shillong as directed by the Hon'ble Tribunal vide order dated 18.9.2000 passed in O.A.No.267/2000. The contemnors/ Respondents have wilfully and deliberately ~~xxx~~ violated the interim order dated 18.9.2000 passed in O.A.No.267/2000 by not implementing the direction contained therein till date. Accordingly, the Respondents/Contemnors are liable for contempt of Court proceeding and severe punishment thereof as provided under the law. They may also be directed to appear in person and reply the charge of this Hon'ble Tribunal.

... Affidavit...


9A

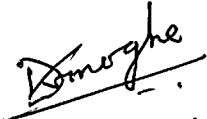
A F F I D A V I T

I, Shri Dilip Kumar Moghe, Son of Sh.K.S.Moghe, aged about 55 years, presently resident of Laban, Shilling, East-Khasi Hills District, Meghalaya, do hereby solemnly affirm and state as follows :-

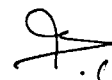
1. That I am the petitioner in the instant case and hence I am fully acquainted with the facts and circumstances of the case.
2. That the statements made in paragraph 1 to 7 — are true to my knowledge and belief and those made in para 8 — being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed or concealed any material facts.

And I sign this affidavit on this 10th day of November, 2000 at Guwahati.

Identified by me

Advocate.


DILIP KRISHNAJI MOGHE
Deponent.

Solemnly affirmed and declared
before me by the deponent, who is
identified by Shri Dr. M. Pathak
Advocate, on this 10th day of November,
2000 at Guwahati.


(M. Pathak).
Advocate.

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 267/2000 OF 199

Applicant(s)

Sri L. K. Mookhe

Respondent(s)

Union of India and ors.

Advocate for Applicant(s)

Mr. R. P. Sharma

Advocate for Respondent(s)

Mr. N. Patra

C. G. S. C.

Notes of the Registry

Date

Order of the Tribunal

18.9.2000

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

Heard Mr. R.P. Sharma, learned
counsel for the applicant and Mr. A. Deb Roy,
learned Sr. C.G.S.C. The application is admitted.
Issue usual notice. List on 21.11.00 for orders.
The respondents shall produce the connected
records.

Meanwhile the applicant shall continue
to work at Shillong until further orders. and
the respondents shall make payment of his
salary from Shillong.

Sd/VICE CHAIRMAN

TRUE COPY

Section Officer (Judicial)
Central Administrative Tribunal
Guwahati

Phone : 260121221946
Date : 18.9.2000

To,
The Assistant Director(Administration)
Subsidiary Intelligence Bureau
(Ministry of Home Affairs)
Drubendra Bhawan, Kanches Trace
Shillong -4.

Reg: Order passed by the Central Administrative Tribunal, Guwahati Bench on 18.9.2000/ O.A.No.267/00

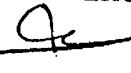
Dear Sir,

Please find enclosed herewith a copy of the order passed by the Hon'ble CAT, Guwahati Bench in O.A.No.267/2000 on 18.9.2000 in favour of Shri D.K.Moghe, the applicant.

As per said order, Shri Moghe may be allowed to continue to work in your Shillong Office and his salary from 1.7.2000 onwards shall also be paid. The next date of the case is fixed on 21.11.2000.

Encl: A copy of the
order dt.18.9.2000
passed in OA No.267/2000

Yours Sincerely,


(M.Pathak)
Advocate.

भारतीय डाक



GUWAHATI G.P.O. (781001)
SP EE000027715IN
Counter No:2, OP-Code:ROSE
To:ASST DIR, ADMN,
SHILLONG, PIN:792004
From:M PATHAK, GHY-5
Wt:10grams,
Amt:20.00 , 22/09/2000 , 13:08

SHIPRA PH: 0375-712195, 750021

To,
The Assistant Director(Administration)
Subsidiary Intelligence Bureau
(Ministry of Home Affairs)
Drubendra Bhawan, Kanches Trace
Shillong -4.

Date : 9.10.2000

Sub: Legal notice regarding non-compliance of
Court order passed by the CAT, Guwahati
Bench in OA No.267/2000

Dear Sir,

Under instruction and for and on behalf of my
client, Shri Dilip Kumar Moghe, I serve this notice on you
as under :-

1. That my client, Shri Dilip Kumar Moghe, who is the
Assistant Technical Officer serving under you, had filed
the abovenoted case in the CAT, Guwahati Bench and the said
Hon'ble Tribunal was pleased to admit the application and
also passed an ad-interim order on 18.9.2000. By the said
order dated 18.9.2000, the Hon'ble Tribunal allowed my
client to continue to work at Shillong untill further order
and directed you to make payment of salary from Shillong.

A photo copy of the said order dt.18.9.2000
is annexed as Annexure-1.

2. That the copy of the said order dated 18.9.2000 passed
in OA No.267/2000 was sent to you by me vide my letter
dt.18.9.2000 through 'Speed post'.

A copy of my letter dt.18.9.2000 along with the
copy of the Postal Receipt(speed post) is
annexed as Annexure-2.

... contd...p/2

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- 2 -

3. That inspite of the receipt of the said order and clear instructions from the Hon'ble Tribunal, you have deliberately and wilfully not complied with the said order and instruction contained therein and such action on your part has amounted to contempt of Court and for which you are liable to action as per law.

4. That as you have not complied with the aforesaid order of the Hon'ble Tribunal and deliberately and wilfully sitting upon it, now I for and on behalf of my client demand you to comply with the abovenoted order dated 18.9.2000 passed by the CAT, Guwahati Bench in OA No.267/2000, within a period of 15 days from the date receipt of this notice, failing which I have the instruction to initiate the contempt of Court proceeding against you by name without any further notice to you in this regard.

Encl: copies as stated
above.

Yours Sincerely


(M Pathak)
Advocate.



1-1

भारतीय डाक



ANNEXURE - P₄

14

<<GUWAHATI GPO >> Cnt. 4 INDIA POST

REG AD 648

NAME: THE ASSTT DIRECTOR,

CITY: SHILLONG 793

INS FOR RS. 0 / P-STAMP RS. 0

AMT: 21.00/ Gms. 20M / 09/10/2000 18

9c